START

FIRST

SIDE


REEL
NO.
44.26

5C-152

Ft. Ticonderoga, N.Y.

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

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

(1. RP 37(4) (d).)

C2. The charge(s) on which accused pleaded GUILTY are read to him (them) again, and the trial is continued by using paras D1 to D5 of Record Form D above.(1) (2)

(1. Under S3 such parts only of the [summary of facts] are read as relate to the charges dealt with under C2. If any plea is changed to Not Guilty, trial charges continue by complying with paras D1 to D8 inclusive of Record Form D on p 3 and making an appropriate record thereof on a separate sheet.)

C3. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 5.

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

RECORD FORM E—

CHARGE SHEET

The accused, D.42901, Pte. Walter GREENWOOD, C.I.C. on strength of No. 2 Cdn. Gen. Reinf. Unit, a soldier of the Cdn. Army Overseas, is charged with:-

FIRST CHARGE
Sec. 15 (1)
Army Act.

WHEN ON ACTIVE SERVICE
ABSENTED HIMSELF WITH-
OUT LEAVE

in that he

In the Field, did absent himself without leave from 1700 hrs. 14 Sep 45, until he surrendered to the Cdn. Provost Corps at Brigade H.Q. 4 Bde. at Haverlee/Zonnebeke Road (Ref. Sheet 28 1/40,000 Sq. 7 & 8 E.)

In the Field.

14 Sep 45.

(W.A.Townsley) Col.,
Commanding Officer,
No. 2 Cdn.Gen.Reinf.Unit.

To be tried by Field General Court Martial

Brigadier
Commanding 4th Brdg, Cdn Northwest Europe
(Convening Officer)

17 Sep 45
Bordon, Hants.

FIELD GENERAL COURT-MARTIAL

(Whether the accused to be tried is under his comd or not, a FGCM may on application to him be convened by any offr of Can Army Overseas, or of any other force, if authorized in law, in immediate comd of troops on active service, subject to RP 103(C) and restrictions imposed by appropriate orders. AA 45, 50, RP 104-107, 114. As to the duties and privileges of the Convening Offr in dealing with the application see MML Chap V paras 20 and 23. RP 87(b).

There should be a separate Convening Order for each person to be tried separately by the same Court. RP 71(C), 109. As to separate charge sheets see RP 16, 109. As to separate trial on charges in the same charge sheet see RP 108. As to two or more accused charged jointly see RP 16, 109. see RP 63, and as to separate trial on charges in the same charge sheet see RP 108. As to two or more accused charged jointly see RP 16, 109. As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, Fn. KR Can 308, 328, 330.)

ACCUSED.

Number (a) Permt R (b) Appmt, A/R or A/Appmt Full Christian Names Surname Unit

D-82901 Pte Walter GRUNDLAND 2 CGHQ

CONVENING ORDER.

1. And whereas it appears to me that the undersigned, that the person named above in the accused Charge Sheet has committed the offences set forth in the Charge Sheet, and ought to be tried by Field General Court-Martial.

2. And whereas I am of opinion that it is not practicable that such offences should be tried by an ordinary General Court-Martial;

(Delete part in brackets when not required for compliance with RP 106(C).)

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

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

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

PRESIDENT.

Lt-Colonel (Rank) Dale Cedano, VD (Must be named. RP 106.) (Unit)

MEMBERS.

Captain To be detailed by CO 1 CGHQ

Lieutenant (Rank) To be detailed by CO (Named or detailed. RP 106.) (Unit)

WAITING MEMBER.

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

JUDGE-ADVOCATE.

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

On Active Service in the Fd

In ENGLAND (Country)

Dat 17 Sep 45

(Signed personally. RP 103 (n 2)) Jon Brownfield Brigadier (Rank)

Commanding 2nd Group, Cdn Reinf Units Convening Officer

CONVENING OFFR WILL INITIAL ALL DELETIONS AND ALTERATIONS

4/38A (See overleaf for oaths and notes for use on trial.)

leniency, and consideration on this soldier, for the mess he has got himself into, due to a few reckless moments

SUMMARY OF EVIDENCE

In the case of D.82903, Pte. Walter GREENWOOD, C1C. on strength of No. 2 Cdn. Gen. Reinf. Unit, a soldier of the Cdn. Army Overseas.

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

First Witness Capt. W.C. Mathews, 2 CGRU, on strength having been duly Prosecution. sworn, states as follows:-

"I am Capt. W.C. Mathews, 2 CGRU, and I produce the following documents pursuant to Overseas R.O.82/42, which have been read over and shown to the accused and which are attached hereto as exhibits:-

Exhibit "A":- Absentee Report, signed by Sgt. J.E. Lambert, R.C.A.S.C. & L.Wang, 2 CGRU, showing D.82903 Pte. Greenwood, W. AWL from 1700 hrs. on Aug 45.

Exhibit "B":- Certificate in report, with P.C. 2797, showing D.82903, Pte. Greenwood, W. was arrested at Brighton by the Cdn. Provost Corps at 0040 hrs. 7 Sep 45.

Exhibit "C":- Expense Voucher showing costs of apprehension & return of D.82903, Pte. Greenwood, W. to his unit in the amount of £0-7-11.

Which above exhibits pertain to the accused herein."

The accused declines to cross-examine this witness.

Capt.
(W.C.Mathews)

The accused was cautioned as follows:-

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

The accused declines to make a statement and reserves his defence.

I certify that the foregoing Summary of Evidence consisting of one page was taken down by me in the presence and hearing of the accused, and that Rules of Procedure 4 (C) (D) (E) and (F) have been complied with.

In the Field,
14 Sep 45.

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

Exh

ABSENTEE REPORT

No 4 CIDB { Squadron / Battery / Company } RECEPTION & DESPATCH WING ..... 19 Aug 45

Serial No	Rank & Name	When Absent	Hour of Return	In What State	Remarks
-82903	Pte GREENWOOD W	AWL FROM MUSTER PARADE AT 4 CIDB W/Chillington Camp 1700 hrs 14 Aug 45			

3/Gp HQ 279
4A/7 & S/391 (6208)

J. L. Lambert Capt
Orderly Officer
2 i/c R.& D. Wing, 2 CIDB.

CERTIFICATE IN ACCORDANCE WITH F.O. A797 OF 10 APR 45. EXHIBIT

I HEREBY CERTIFY NO. D-88903 Rank Pte. Name Greenwood, W.

was arrested at Brighton (place)

by No.4.C.I.T.H. on 7-Sept-45. (Date) and that at the time of his

arrest (Hour) he was wearing (Military uniform/Civilian clothing). Signature of

person who arrested the above named person (Provost-Marshal, or other officer or NCO commanding Provost-Marshal, Assistant Provost-Marshal, or other officer or the officer, warrant officer or NCO in charge of the detachment of Provost Corps, or non-commissioned officer in charge of the detachment of Canadian Provost Corps, Canadian Army, into whose custody the above named person was taken on arrest. (Strike out part inapplicable)

CAPT.

A.P.M. C.M.H.Q.

(R.J.Stinson)

8-Sept-45

EXH- C

Expense Voucher Re—

Ref: KR & O (Can) 539

Reg No. D-82903 Rank Pte. Name Greenwood, W. Unit "4 C.I.R.

The following expenses were incurred in apprehending and returning the M/N Soldier to his Unit from London from Brighton

Date	Particulars (Via London)	Amount	
7 Sept 45	Escorts return fare from LONDON To Brighton	4	
	Prisoners single fare to LONDON From Brighton	3	11
	Prisoners fare from to		
	Escorts & Prisoners expenses for Bed, Meals, Bus fares		
	Total £	7	11

I certify that the above statement of Expenses is Correct, and that the amounts are fair and just.

R. Bateman Capt.

Officer Issuing Railway Warrant and Expense monies
No. 6 Area Provost Company, Canadian Provost Corps, London

1/35 CMHQ 100-35
40-T-R-S/443 (6782)

LIST OF WITNESSES

In the case of D.82903, Pte. Greenwood, W.
CIC, on strength of 2 CGRU a soldier of the Cdn. Army Overseas.

(For Prosecution)

1. Capt. W.C.Mathews. 2 CGRU

(For Defence)

NIL.

LIST OF EXHIBITS

(For Prosecution)

Exhibit "A":- Absentee Report, signed by Capt. J.L.Lambert, showing accused AWL from 1700 hrs. 14 Aug 45.

Exhibit "B":- Certif. in accord. with P.C. 2797, showing accused arrested at 0040 hrs. 7 Sep 45.

Exhibit "C":- Expense Voucher showing costs of apprehn and return of accused to his unit in amt of £0-7-11.

(For Defence)

NIL.

REQUEST FOR DEFENDING OFFICER

I, D.82903, Pte Greenwood, W. hereby request that the Convening Officer appoint an English Speaking Officer to represent me at my forthcoming trial by Court-Martial, should he be available.

In the Field,
14 Sep 45.

W. Greenwood
(W. Greenwood) Pte.

RECEIPT FOR DOCUMENTS

I, D.82903, Pte, Greenwood, W. hereby acknowledge that I have received a true copy of the Summary of Evidence taken in England preliminary to my Court-Martial, and I further acknowledge receipt of a true copy of the charge sheet under which I am being brought to Court-Martial.

14 Sep 45.

W. Greenwood
(W. Greenwood) Pte.

Name [illegible]

Date	Date of Offense	Basis	Date of Restoration	OFFENSE	Name of Witness	Punishment awarded	Date of action or if none given, date this DSP	By whom awarded	Remarks
[illegible]									
Field 19 Jul [illegible]	40			Sec.15(1) AWL 1 day 6 hrs 40 min.	C.O. Detat'y	5 days Corf [illegible]	22 Jul 40	Capt. Kingston.	1. H.T. 4 days pay Pvt 1 149(1)(a)
Field 19 Feb [illegible]	40			Sec.15(1) AWL 8 hrs.20 min.	C.O. Detat'y	5 days CB	21 Feb 40	Capt. Kingston.	

Certified True Copy consisting of one page

14 Sep 40.

[illegible]-Lt.
Officer having custody of original.

ARMY FORM B.295 (W.A.)

Statement as to Character and Particulars of Service of Accused.

(For Use at Trials by Field General Courts-Martial only).

Number.	Rank.	Name.	Regiment (or as the case may be).
D.82903.	Pte.	Greenwood, W.	2 CORU

1. The following is a fair and true summary of the entries in the Field Conduct Sheet of the accused, exclusive of convictions by a court martial or a civil court :—

For Sec.15(1) ..... 2 times.

For ..... times.

For ..... times.

For ..... times.

Date of first entry in Field Conduct Sheet 19 Jul 43.

Date of last entry in Field Conduct Sheet 20 Feb 44.

2. Previous convictions of the accused by a court martial or a civil court are set out in the Schedule overleaf.

3. The present is the present time he is under sentence for

4. The accused has been awaiting trial on the present charge for N/L days in civil custody; and for 12 days in military custody, i.e., N/L days in open arrest, N/L days in close arrest; of which N/L days were spent in hospital.

5. The present age of the accused is 21 yrs.

6. The date of his attestation 1 Jul 41.

7. The service to which the accused is allotted on enlistment

8. The accused is in possession of CYSK & Clasp.

9. (If the accused is a warrant officer or N.C.O.) The accused has served continuously without reduction, to the present date

Date of Promotion.

In the substantive rank of

In the war substantive rank of

In the acting rank of

INSTRUCTION.—*If any matter in any of the above paragraphs cannot be stated from the regimental books the paragraph must be struck through.*

EYB

PMY

SCHEDULE OF CONVICTIONS BY A COURT-MARTIAL OR CIVIL COURT.

Description of Court by which tried.	Date and Place of Trial.	Charges upon which convicted.	Sentence of the Court.	Punishment remitted or sentence suspended.

I HEREBY CERTIFY that the foregoing particulars, which have been extracted from the regimental books in my custody, are correct to the best of my knowledge and belief.

Signed this 20th day of Sept 45

J R Matthews Lt.
Officer having custody of Regtl. Book

Z-78

SPR GREER S.A

Correspondence to be PINNED here.

App. "A"
G.J.C.
Pl05.

120/Cour S41(J 2-78

Army Form A.8.

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

PROCEEDINGS.

A.

Order convening the Court.

On Active Service, this twenty-third day of February, 1943.

Whereas it appears to me, the undersigned, an officer in Command of H.Q.N. FIRST CDN ARMY TPS, CANADIAN ARMY, on active service, that the persons named in the annexed Schedule, being subject to Military Law, have committed the offences in the said Schedule mentioned.

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

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

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

*[I am unable to appoint:—

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

*(2. A Field Officer as President.)

for the following reasons, namely:—]

* Omit if not applicable.

President.

Rank.	Name.	Regiment.
Major	G.J. COTE	3 Bn RCR

Members.

Rank.	Name.	Regiment.
A Capt to be detailed by C.O. 3 Bn RCR		
A Lieut to be detailed by C.O. 3 Bn RCR		
officers above [illegible]		
A Lieut to be detailed by C.O. 3 Bn RCR		
A Lieut to be detailed by C.O. 3 Bn RCR		

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

*Signed [illegible]
Commanding [illegible] First Can Army Troops
Convening Officer.

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

SCHEDULE.

Number, Rank (*a*), Name and Unit of Accused (*b*)	Offence charged	*Plea	Finding, and if Convicted, Sentence (*c*)	How dealt with by Confirming Officer (*d*)
B29653 Spr Greer, S.A. 4 Bn RCE	FIRST CHARGE. A.A.Sec 15(1) Absence without leave	Guilty	Guilty	I confirm the findings of the Court on the First and Fifth Charges and the Sentence of the Court, but do not confirm the findings of the Court on the Second and Third Charges on the advice of the A.J.A.G., HQ, First Cdn Army. I hereby remit 177 days of the sentence.
	SECOND CHARGE A.A. Sec 10(3) Resisting an escort.	Not Guilty	Guilty	
	THIRD CHARGE A.A. Sec 22 Escaping while in lawful custody.	Not Guilty	Guilty	
	FOURTH CHARGE A.A. Sec 40 Conduct to the prejudice	Not Guilty	Not Guilty	
	FIFTH CHARGE A.A. Sec 24(2) Losing by neglect See charge sheet attached	Not Guilty	Guilty	
	Sentence of the Court: 205. days detention Sentence of the Court 27 Feb 43			C.R.E. Cdn. Army Tps. 28 FEB 43 Lt-Col. (A) 3rd Fd. Sqn. RCE

* Question to be asked of accused, if he pleads not guilty (R. of P. 89 (A)):—
"Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity for preparing your defence?"
Answer (to be recorded on separate sheet if necessary):—

(Signed) ..... (Signed) .....
(D.S.O., M.C.) Lt-Col.
Commanding 4th Fd. Sqn. RCE
Convening Officer (*e*)

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

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

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

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

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

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

B. Certificate of President as to proceedings.

I certify that the above Court assembled on the 27th day of February 1943, and duly tried the persons named in the Schedule, and that the plea, finding, and sentence in the case of each such person were as stated in the third and fourth columns of that Schedule.

I also certify that:—

1. The members of the Court
~~2. The witnesses~~ 2. The witnesses
~~3. The interpreter~~)
*(4. The officers under instruction)

were duly sworn.

* Omit if not applicable.

Signed this 27th day of February 1943.

Lieut.-Col. (A)
President of the Court Martial.

C. Certificate in case of death sentences.

* See footnote (b) on page 762 M.M.I. Act.

~~I certify that the terms of *A.C.I. 370 of 1918 have been complied with.~~

~~Signed this~~ ~~day of~~ ~~19~~

~~*President of the Court Martial.*~~

D. Confirmation.

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

~~*(I direct that the soldier named in the margin be put out-lawed to prison or detention barrack until further orders.)~~

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

Signed this FIRST day of MARCH 1943.

LT-COL.
Confirming Officer CAS. I CDN A. TPS.

Promulgated and extracts taken in the case of B-29653 SPR GREER, S.A. 4 Bn R.C.E.

(a) (Dated) 1 MAR 43 (Signed) COMMANDING 4TH BATTALION, R.C.E.

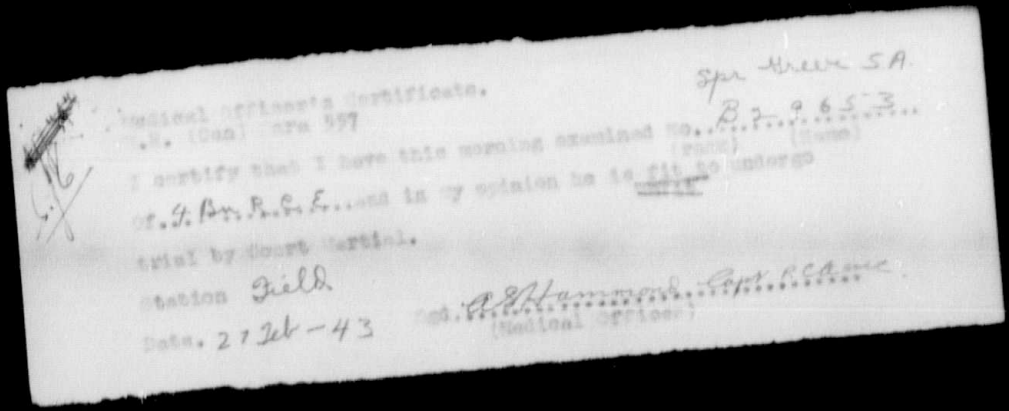
Promulgated and extracts taken in the case of

(Dated) ..... (Signed) .....

Promulgated and extracts taken in the case of

(Dated) ..... (Signed) .....

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



Medical Officer's Certificate.

U.S. (Can) Army 597

Spr Greer SA

B-7-9-6-5-3

(Rank) (Name)

I certify that I have this morning examined No. [illegible] and in my opinion he is fit to undergo

trial by Court Martial.

Station Field.

Date. 27 Jul - 43

Capt. R.C.Hammond, Capt. R.C.Army

(Medical Officer)

AF "B" 6 [illegible]

CHARGE SHEET

THE ACCUSED B29653 SAPPER GREER, S.A. OF THE 4 BATTALION, R.C.E., A SOLDIER OF THE CANADIAN ARMY OVERSEAS, ON ACTIVE SERVICE, IS CHARGED WITH

FIRST CHARGE
SEC 15(1) A A

ABSENTING HIMSELF WITHOUT LEAVE

in that he

in the Field, absented himself from his quarters from 2400 hours 7 FEB 43 until apprehended by the Military Police at 2215 hours 15 FEB 43 at READING. (Total absence 8 days 22 hours 15 minutes) (Cost of apprehension £0-13-2.)

SECOND CHARGE
SEC 10(3) A A

RESISTING AN ESCORT WHOSE DUTY IT WAS TO APPREHEND HIM

in that he

in the Field, on 11 FEB 43 at READING struck No. 7687514 L/Cpl. S.J. Allman of 159 H.Q. Provost Coy in the face when being apprehended by him.

THIRD CHARGE
SEC 22 A A

WHEN IN LAWFUL CUSTODY ESCAPING

in that he

in the Field, at 1845 hours 11 FEB 43, when proceeding under escort to the Civil Police Station, READING, broke away from his escort and escaped.

FOURTH CHARGE
SEC 40 A A

CONDUCT TO THE PREJUDICE OF GOOD ORDER AND MILITARY DISCIPLINE

in that he

in the Field, at 2215 hours 16 FEB 43, was found to be in improper possession of an M.B.M. 1, the property of B23363 Spr. Rivard, Ernest, of the 3 BN R.C.E.

FIFTH CHARGE
SEC 24(2) A A

LOSING BY NEGLECT HIS EQUIPMENT AND REGIMENTAL NECESSARIES

in that he

in the Field, on 18 FEB 43, was deficient equipment and Regimental necessaries to the value of £3-8-9½ - less 25% equals £2-11-7½. (Overseas R.O. 1398)

IN THE FIELD
20 Feb 43

(D.K. Black) Lt.-Col.,
Commanding 4 BN R.C.E.

IN THE FIELD
23 Feb 43

To be tried by Field General Court Martial

Lt-Col., RCE
(D.H. STORRS)
CRE First Cdn Army Troops

Proceedings of a F.G.C.M. in the case of:-

Accused R.206[illegible] Spr. S.A. Greer, 4th Battalion R.C.E.
(Number) Rank (Christian Name) Surname (Unit)

Held in the Field in England on 27th Feb 43.
(Country) (Date)

	Rank	Name	Unit
PRESIDENT:	Major	G.J. COTE	3rd Bn R.C.E.
MEMBERS:	Capt.	J.W.F. HUSSEY,	1st Bn R.C.E.
	Lieut	R.G. RAY,	3rd Bn R.C.E.
OFFICERS UNDER INSTRUCTION:	Lieut. C.H.A. St.Louis,		3rd Bn R.C.E.
	Lieut W.J. St Angelair,		1st Bn R.C.E.
PROSECUTING OFFICER:	Capt G.L.Y. WHITE	Lawyer? Ans	No.
DEFENDING OFFICER:	Lieut R.M.P. JONES,	Lawyer?Ans	No.

In closed court The President produced the convening Order, Charge sheets and Summary of Evidence.
Rules of Procedure 22,23, and 106 have been complied with-

The accused is brought before the Court put at 1010 hrs the trial commences-

The prosecuting officer produces a Medical Certificat under N.D. (Can) 567 that the accused is fit to undergo trial by Court Martial - The Certificate is initiable by the President and attached to the Proceedings-
The convening order is read in the hearing of the Accused. The names of the President and members of the Court are read to the accused (R.P.10)

Q.: President the Accused:-
If you object to be tried by me as President or by any of the officers whose name you have heard read over?

Ans. Accused: No. Sir. I have not objection.

The President, members and Officers under instructions are duly sworn, (R.P. 26-27)-

The Prosecuting Officer informed the court that the accused has not elected trial by Court Martial (And was remanded for Court Martial by his C.O.)

Q2:- The Charge sheets are read to the accused ~~taxxmaxk~~ -
A2:- The accused pleads:
1st Charge:- Guilty 4th Charge: Not Guilty
2nd Charge:- Not Guilty 5th Charge: Not Guilty
3rd Charge:-Not Guilty

R.P.36(2) is complied with the First Charge

Q.3:- Do you mind to apply for an ajournment?

A).:- No sir, I don't.

(R.F. 39(A) is complied with:-

Prosecution, Documentary Evidence-
(Second Charge and third charge are dealt concurently)-
The prosecutor submits to the Court a charge against the accused by 7687514 L/Cpl. AKKNAB S, and by 4030[illegible]7 L/Cpl.CLAYDONE, 159 H.Q. Provost Coy

Q.4:- President to Prosecutor:
Why were not the proper witnesses called?
A.4:- Witnesses being in Reading were not sent for on account of the expenses involved - Their evidence were read to the accused who declined to cross examine the witnesses -

marked exhibit 'C' attached to proceedings. The accused made no further evidence under
Documentary evidence admitted by the court again and the President explained the consequences fully-
The accused is sworn in and testified as follows: I am B-29653 Spr. Greer, S.A.

At 1930 hrs another soldier and I were going down the street in Reading when Provosts came across the street to check the soldier with me for not having a pass. An argument started so I stepped in to help the soldier with me. I was fairly drunk at the time and I am not quite sure what happened after that. When all was quiet I was left with two Provosts and my friend had gone. I do not know what happened for another couple hours. Then I found myself alone in the Pub between 2000 hrs and 2100 hours.

Q.5:- President - to Accused. Do you not recall escaping custody of the two Provosts?
A.5:- Accused:- No Sir, because I was rather drunk. I had been drking surgical ~~spirit~~) spirits or ~~methyle alch~~ or wood alcohol, a fifteen Ozs. bottle between the two of us. I got the alchool from a soldier I was with.

Q.6:- Defence to Accused:- Do you usually fight with British Army Provosts
A.6:- Accused: No Sir never before.

Q.7:- Defence to accused Were you correctly dressed at the time?
A.7:- I was wearing a Highland ~~trail~~ tam which belong to my friend.

Prosecutor declines to cross examine the witness.

Prosecution - Documentary evidence
(4th charge is dealt with)

Prosecution produced as documentary evidence M.P.B.1 (Part I) property of B-23363, Spr. RIVARD, E. , 3rd Bn R.C.E. and stated that the accused was found in improper possession of the Pay Book.
The Pay Book is accepted by the Court, Marked Exhibit "D" initialled by the President and attached to the proceedings.

The accused upon oath testified as follows:

Accused:- This Pay Book was given to me by a soldier who knew I was in the 4th Bn as it belong to a Sapper who used to be in the 4th Bn. I never looked at it then but the following day I noticed in the Book that me had transferred to the 3rd Bn. As I didn't know what to do with it I thought I would bring it back to the Unit for a check.

Q.8:- President to accused: Did you have ~~your Pay Book at time~~, your own Pay Book with you at the time?
A.8:- Accused:- Yes Sir.

Prosecutor declines to cross examine the witness

~~Charge No:5~~ ~~is dealt with~~:-

Charge No.5:-

The list of missing equipment is given to the court by the prosecutor and initialled by the President as Appendix "E"

The prosecutor calls as a witness C.Q.M.S. Hamilton, who duly sworn states:-

Q.9:- Prosecutor: to C.Q.M.S. Will you please verified this list of equipment.
A.9:- C.Q.M.S. It is verified correct.

Q.10:- Defence to C.Q.M.S. Did accused tell you anything about his kit
A.10:- C.Q.M.S. The accused told me, his kit was checked at the Service Clubb in Reading, but the Provosts inquired at all service Clubs without being able to find it. Sapper MacLaren who had been with him claimed that a single check from the Service Club included both his and Spr GREENE, kits. No kit was found belonging either of them.

Q.11:- President to C.Q.M.S.who made the investigation ?
A.11:- C.Q.M.S. The Provosts at Reading.

Q.12:Defence to accused, Where exactly did you leave your kit?.
A.12:- Accused-Spr. MacLaren's kit and mine where tied together and checked in at the Service Club(W.V.S.) London Road. I seem to have no more questions.

The defence declined to cross examined the witness.

The Defence Counsel make a further statement on Charge 2 and three quoting M.M.L. Chap. III, Sec. 46 Objection of Prosecutor maintained by the Court.

The Court closed at 1110 hrs for deliberations.

The Court being re-Opened at 1120 hrs. the accused marched in and the findings of the Court was read as follows:
"The accused is not guilty" on charge No. 4 "Conduct to the Prejudice of Good Order. ....." (Pay Book).

The Charge No. 1, Absent without leave, to which the accused pleaded guilty is read to the accused.
Q.13:- Do you wish to make any statement on that charge?
A.13:- No Sir, I don't.

President reads alound in the presence of the accused the summary of the evidence pertaining to the 1st Charge:-
It is initialled by the President, Marked exhibit "F" and attached to the proceedings (M.F.37 (B)

Q.14:- President to the Accused:-
Do you wish to make any statement in mitigation of punishment?
A.14:- Yes my defence counsil will
Address by the Defence councils:- Spr Green is married and has a child of 3 years old and a F of 12 yrs.
Q.15:- Pres. to the Accused:-
Do you wish to give evidence yourself or call witnesses as to character?.
A.15:- Yes Sir, I do.

Witnesses as to Character-

B-2346961/Cpl. Hunt, M.L. having been duly sworn is examined by the Defence.
Q.16:- How long have you known the accused?
A.16:- About three months at the Training Center in Pe awawa, we crossed on the same ship and we were in C.E.M.U. together, altogether about eight months.

Q 17:-Would you considered he were prone to comgit acts of violence?
A 17:-I would not think so. We used to chum around together he was very quiet. On the ship coming over, he was entrusted with some military papers (Orderly Room papers) and later we were both offered a stripe at the Holding Unit which he refused.

The prosecutor declined to crossexamine the witness.

Statement of Charecger and Service (A.F.B.2961) and Field Conduct Sheet (MFM.6) are produced to the court, read, marked exhibit "J", initialled by the President and attached to the proceedings (R.P.46)

Q.18:- President to Accused:-
Do you wish to address the Court on the Statements of Character Service and conduct and in mitigation of punishment (R.P.46(D).
A.18. My Defence Counsil with Address the Court-
The accused has a bad record of A.W.L. but has never committed any serious offences and has never been in jail.

The Court is now closed to conside the sentence.

.....
(Gaetan J. Cote, A/Major, R.C.E.)
President.

27 Feb 43.

Appendix "C" MP/R/144.

CHARGE 6/6 Army Form B 252
(See King's Regulations)

4th Bn., Royal Canadian Engineers Regiment
Battery
Squadron
Troop or
Company

CHARGE against No. B.29633 Rank Sapper

Name GREER S.A.

Place FARNBOROUGH Date of Offence ?

OFFENCE A.W.O.L.D. (1) Absent from ? until apprehended by the Military Police in St. Mary's Butts, Reading, on the 16 Feb 43 about 22.15 hours. (2) Striking a Military Policeman in Broad Street, Reading, on the 11 Feb 43 about 1845 hours. (3) Breaking escort (4) Stating a falsehood to a Military Policeman (5) Being in possession of an M.B. M.1 other than his own.

Names of Witnesses :— 70879st L/Cpl Allman S.
409047 L/Cpl Claydon E. 159
H.Q. Provost Coy.

Major,
O.C. Provost Coy.

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

Punishment Awarded

By whom Awarded

Adjutant.

P.T.O.

(8927) W1 W4489/122. 1,500,000. 1/42. K. & M., Ltd. G.627/47.

Statement of **EVIDENCE** in the case of

B.29653 Spr Greer S.A.,
4th Bn., Royal Canadian Engineers,
North Camp,
Farnborough.

Sir,

At Reading on the 10th February 1943 about 2215 hours I was on duty in St. Mary's Butts where I saw the a/n Sapper. I recognised him as being one of two Canadian Soldiers who I had checked in Broad Street, Reading, on the 11th February 1943 about 1845 hours. On that occasion he became very violent when I asked to see his pass, striking me in the face. I then arrested him but he broke escort whilst being conducted to the Civil Police Station, Reading.

Upon recognising him on the 10th Feb 1943 I again arrested him and conducted him to the Civil Police Station, Reading, to be detained pending the arrival of an escort. On the way there he kept repeating, "I don't know this policeman. I am stationed at Eastnortoke." He later admitted being an Absentee from his Unit. He was also found to be in possession of an M.B.M.I in the name of No. 3 27363 Spr Rivard Ernest.

Reading
16 Feb 43.

A Allman L/Cpl.
153 H.A. Pro Coy.

REMARKS

Sir,

I have read over and corroborate the above statement.

Reading.
16 Feb 43.

E Clapham L/Cpl.
153 H.A. Provost Coy.

Certificate in accordance with Army Act. section 105(1) (a)

I certify that No. [illegible] Rank [illegible] Name [illegible]

Unit [illegible] was arrested at [illegible]

at 22.15 Hours on the 16th FEBRUARY 1943

[signature]

Major.

169(H.A.) Provost Coy.

Appendix 'D'

File No. 16/187. . . .

Officer Comma ding,

R.C.E. 4th Btn. C." Coy.
Ref:- Reg.No: B-29653 Spr. GRIMER A.S.
Unit : R.C.E. 4th. Btn. C Coy.

The a/m soldier was apprehended by the British Corps of Military

Police at 2115 hrs. . on 16. Feb.43. . . . place . . at [illegible]

London
17 Feb.43

No Complaints

Capt.
(Adjt) D.A.P.M.
London Area.

APPENDIX "E"

KIT DEFICIENCY
D29693 Spr.Greer S.A.

The a/m man was found to be deficient, on 18 FEB 43, of the following kit:

ARTICLE	NO.	COST £	s	d
Badge, cap,	1			5
Braces, pr.	1		1	3½
Brushes, button,	1			8½
" Shaving, $	1		1	4
" boot, polish,	1			9
" tooth,	1			4½
Comb, hair,	1			2
Drawers, under, cotton,	2		4	1
Dressing, First Field,	1		1	1
Fork, table,	1			5
Hold-all,	1			9
Sweater, cardigan,	1		6	9
Knife, table,	1			9½
Shirts, under, cotton,	2		4	8
Spoon, table,	1			4½
Bags, ration,	1			1½
Braces, W.S. left,	1		3	3
" " right,	1		2	11½
Covers, mess-tin,	1			4½
Haversack, W.E.,	1		10	5
Straps, shoulder, left,	1		3	4
" " right,			3	4
Mess Tin,	1		3	1
Detectors, gas, sleeve,	2			5
Eyeshields, (pkgs)	1			4½
Haversack, respirator, Mk.7.	1		6	6
Outfit, A/Dim,	1			2½
Shirt, P.T.,	2		3	
Shorts, P.T.,	2		3	10
Cap, P.S.,	1		1	8
		Total	£3-8-	9½

Signed: J.N.HAMILTON, C.S.M.S.

Certified True Copy.

Capt

App. "F"
S. 46
Pres.

SUMMARY OF EVIDENCE in the case of No.B29653, Spr.GREER S.A., on the strength of 'C'Coy, 4 Bn. R.C.E., a soldier of the C.A.O.

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

FIRST WITNESS for the prosecution

No.L-74155 Spr.WALDNER S., on the strength of 'C' Coy, 4 Bn. R.C.E., a soldier of the C.A.O., having been duly sworn states:
" At Basingstoke on 7 FEB 43, Spr.Greer asked me to take over his duties as fireman in 'C' Coy lines, from 1800 hrs to 2400 hrs. I agreed to this. At 2400 hrs. Spr. Greer did not turn up to relieve me so I continued to carry out his duties until 0600 hrs.8 FEB 43, when I went to bed, not having been relieved."

S Waldner

The accused declines to cross-examine this witness.

SECOND WITNESS for the prosecution

No.B-23092 Cpl.CARSON H.A., on the strength of 'C' Coy, 4 Bn.R.C.E., a soldier of the C.A.O., having been duly sworn states:
" At Basingstoke on 8 FEB 43 at 0745 hrs., I called the roll of No.7 Section, 'C'Coy, 4 Bn. R.C.E. Spr. Greer was absent from that roll call."

H A Carson.

The accused declines to cross-examine this witness.

THIRD WITNESS for the prosecution

No.B-23008 C.Q.M.S.HAMILTON J.W., on the strength of 'C' Coy, 4 Bn.R.C.E., a soldier of the C.A.O., having been duly sworn states:
" As C.Q.M.S. of 'C' Coy, 4 Bn. R.C.E., I kit-inspected the accused on 18 FEB 43 and found him deficient of the following articles of kit, the value of which I give at vocabulary rates(see Appendix E). The total amounts to £3-8-9½."

J Hamilton

The accused declines to cross-examine this witness.

FOURTH & FIFTH WITNESSES for the prosecution

No.787514 L/Cpl.ALLMAN S. and No.403047 L/CPL. CLAYDON E., of the 159(H.Q.) Provost Coy,British Corps Of Military Police.
A written statement of these witnesses' evidence purported to be signed by them has been read to the accused and is included in this summary of evidence.(Appendix A).

Having regard to the expense and loss of time involved the attendance of these witnesses cannot be readily procured.

The accused does not demand the attendance of these witnesses for cross-examination.

SIXTH WITNESS for the prosecution

Capt. W.FERN, D.A.P.M., London Area, British Corps of Military Police.
Written statements of this witness's evidence purported to be signed by him have been read to the accused and are included in this summary of evidence; (Appendix B,C, and D).

Having regard to expense and loss of time involved the attendance of this witness cannot be readily procured.

The accused does not demand the attendance of this witness for cross-examination.

The accused after having been duly cautioned in accordance with Rules of Procedure 4(e) declined to make a statment or give evidence on oath.

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

Field,
19 FEB 43

(G.W.W.WHITE)Capt., R.C.E.

(R.O 20 Aug 42) Old sheet destroyed 27 June 42 Wadsworth Lines

No. B2963 Name Greer S.H. Rank Battery or Company [redacted] Corps R.A.S.C. Date of enlistment 3-7-41 O.C. Battery Service or Proficiency Pay Signature O.C. Company, etc. K.H. Chesterfield Capt. O.C.

Date of last entry in Company Conduct Sheet 9-10-41 No. and date of last drunk N/K Period not reckoning towards freedom from extra fine Sheet No. one

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Name of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Aldershot	24-5-42	Spr.		K.R. Sec 40 driving a M.V. in such manner as to cause an accident		7 days pay A.A. 46-2	16 Jun 42	Col White	
				Refused in accordance with O.A.R.O. 2044			3 Sept 42	F.E. Robinson Lieut.	
Cove-Hants	16 Sep 42	Spr		A.A. 15(1) AWL from 2359 16 Sep 42. until 1010 hrs 19 Sep 42. Absent:- 2Day 10 hrs 10 mins. A.A. 10(4) Breaking Out of Barracks. A.A. 15(1) AWL from 1330 hrs 18 Sep 42 Until 21 Sep 42 0900 hrs. Absent:- 2 Days 18 hrs.		10 Days F.F. Forf. 6 Days Pay.	22 Sep 42	Lt.Col V.E. Mitchell.	Detail Forf: by A.C. Days Pay F.S.R.1.

AJ 76.

Field	Date of offence	Rank	Cause of Unsatisfactoriness	Offence	Name of Witnesses	Punishment awarded	Date of award or of W.C.'s Report being made	By which awarded	Remarks
COVE HA	CHE/11Apr. 1942			A.A.15 (1) A Soldier of the C.A.C.I. W.O.A.T. is charged with being absent without leave from 2300hrs. 1 NOV,42 until 0745 hrs. 2 NOV,42. Absent 8 hrs. 45 min.	Documentary Admn. Evi.		2/11/42	Lt. Col. D.K.Black	Forf. 1 days pay [illegible] 11 Nov 1-14 Apr
Field	29 NOV Spr			A.W.L. 21 hrs 59 min.	Cpl.Goode	10 days pay	Forf.30 NOV	Lt-Col Black	Auto.forf. 1 days pay.
Field	17 DEC 42 Spr.			A.A. Sec 15(1) A.W.L. from 0200 hrs. 17 DEC 42 to 0745 hrs. 17 DEC 42(Absent: 5 hrs. 45 min)	B23084 L/C. Bower J.W.	7 days C.B.	18 DEC 42	Major Webster	
Field	25 DEC Spr			AWL from 0630 hrs 25 DEC to 2300 hrs 27 DEC 42 (Abs. 2 days 16½ hrs)	L/Cpl.Sawyer Cpl. Noel	Forf. 28 days pay	28 DEC42	Lt-Col D.K.Black	Forf. 3 days pay for awl.

Att "G" S/16.

ARMY FORM B.296.

Statement as to Character and Particulars of Service of Accused.

Number.	*Rank.*	*Name.*	*Regiment (or as the case may be).*
B29653	SAPPER	GREER, S.A.	4 BN R.C.E.

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

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

The medal sheet(s) mentioned should be produced in court with this statement but not inserted in the proceedings.

† See para. 677, K.R., 1940.

* The complete service stated should commence with the first entry in the list of periods of enlisted service, pre-enlistment being given in the usual section (Militia in each entry), and to any recognized special acts of gallantry, etc., or distinguished conduct.

Instructions as to the charges for drunkenness, the rubrics for drunkenness must be stated separately and dated.

	* Within last 12 months.	*Since Enlistment.
For Absence without leave	6 times	7 times.
For Breaking out of Barracks	1 time	1 times.
For Conduct to the Prejudice	1 time	1 times.
For	times	times.
For	times	times.
For	times	times.

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

or

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

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

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

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

~~imprisonment, etc. (as the case may be), for a period of~~ ..... ~~day of~~ .....

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

5. The present age of the accused according to his ~~XXXXXXXXX~~ attestation paper is 24 years

6. The date of his ~~XXXXXXXX~~ attestation specified in his ~~XXXXXXXXX~~ attestation paper is 3 JUL 41

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

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

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

10. The accused is in possession of, or entitled to, no military decoration or military award ~~which he is entitled to (state any military decoration or award).~~

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

12. (*In the case of an officer.*) The accused holds in the army the rank of ..... dated .....

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

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

No. B29653 Rank SAPPER Name GREER, S.A. of 4 BN R.C.E. Regiment (*or as the case may be*).

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

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

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

Signed this 21st day of February 1943

D.E. Finlayson

(D.E. Finlayson) Lieut.,
A/Adjt., 4 BN R.C.E.

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

Date of Promotion

years

In the rank of

years

In the rank of

years

In the rank of

(Instructions—If any exception to any of the above paragraphs cannot be stated from the regimental books the paragraph must be struck through, and the reason entered accordingly.)

(Instructions—If the case is of a trial by field general court martial the information may be collected from such records as are available and entered accordingly.)

Appendix B

Expense Voucher No—: Ref. K.R. & O. (Can) 539

Reg. No. B-29653 Rank Spr. Name Grieve, A.S. Unit 4 Bde RCE

The following expenses were incurred in [illegible]ending and returning the M/N Soldier to his Unit From London

Date	Particulars	Amount		
18 Feb 43	Escorts single fare from LONDON To Basingstoke (½ portion)		3	9
	Prisoners single fare to LONDON From			
	Prisoners fare from London To Basingstoke		3	9
	Escorts & Prisoners expenses for Bed, Meals, Bus fares			
	Total £		7	6

I certify that the above statement of Expenses is Correct, and that the amounts are fair and just.

Officer Issuing Railway Warrant and Expense monies
No. 6 Provost Company, Canadian Provost Corps, London.

C.M.H.Q. 1000-43
40/P & S/483

Appendix C

Expense Voucher Re—: Ref: K.R. & O. (Can) 539

Reg. No B-29653 Rank Spr. Name Green, S.A. Unit 4 Stn-BCE

The following expenses were incurred in apprehending and returning the A/N Soldier to his Unit From London from Reading

Date	Particulars	Amount	
18 Feb 43	Escorts return fare from LONDON To Reading (2 portions	2	10
	Prisoners single fare to LONDON From Reading	2	10
	Prisoners fare from To		
	Escorts & Prisoners expenses for Bed, Meals, Bus fares		
	Total £	5	8

I certify that the above statement of Expenses is Correct, and that the amounts are fair and just.

[signature] Capt

Officer Issuing Railway Warrant and Expense monies
No. 6 Provost Company, Canadian Provost Corps, London.

C.M.H.Q. 1000-55
40/P & S/483

TT-145 (Cam #2)

SPR GREER S/A

<u>See Z-78 for 1st cam</u>

TT-145

FIELD GENERAL COURT-MARTIAL

CP(Aus) (In lieu of AFA81) 40, 2 P.R. 1808 (2804)

Convened by Order of H. R. Tyner Col A/Comd "B" Sp C.R.U. dated 25 Oct 43.

ACCUSED.

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

Number	(a) Prmnt R. (b) Apptmt, A/R or A/Apptmt.	Full Christian Names.	Surname.	Unit.
B-29683	Spr.	Stanley Arthur,	GREER,	1 CER RU.

R. Dean Wills. 17 Mar 43. Capt. Adjutant

PROCEEDINGS OF TRIAL.

Held at [illegible] Fd in (country) England on (date(s)) 26 Oct 43.

RECORD FORM A—OPENING PROCEEDINGS AND ARRAIGNMENT.

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

(PRINTED MATTER, NOT IN ITALICS FOR GUIDANCE, WILL BE DELETED IF NOT USED OR APPLICABLE, AND INITIALLED BY PRES OR JA. The Schedule referred to throughout is on p 4. Citations do NOT include all relevant fnns ROs. For guidance on procedure when a variation in this form arises, see Form for GCM in MML pp 741 to 759. A brief record of such variation will be made and given a number having reference to appropriate or preceding para number herein. See back of Convening Order. CF A95, for oaths and instrs on how to record addresses, evidence, etc, which instrs are hereafter called "Notes". As to general provisions for conducting the trial see AA 53, RP 56, 63-70, 72, 74, 94, 103, 119, 122.)

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

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

A3. The Court is opened. The accused is ~~were~~ brought before the Court. As 1000 hours trial commences. FDI.

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

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

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

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

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

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

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

Ans N.O.(2)

(1. RP 110. 2. If no objection, waiting member retires. RP 68(8). If objection, see procedure AA 51, RP 25, 71, 98, MML p 742.)

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

President	Lt Col.	J. U. Ingram.	H.Q. CRU.
Member	Capt.	E. C. D. Stuart	1 CA FRU.
Member	Lieut.	H. D. Hoch	1 CER RU.
Judge-Advocate			
Prosecutor	Lieut	W. R. McEwan	1 CER RU.
Defending Offr	"	J. A. Grundy	1 CER RU.

Questions by President: Is the Prosecutor a lawyer? Ans Yes. Is the Defending Offr a lawyer? Ans Yes. (3)

(1. RP 26, 27, 109, 111. List of offrs under instr will be returned separately with proceedings for information of Conv Offr(s). 2. If Pros a lawyer and Def Offr not, accused is entitled to an adjournment when RP 89 (5) and fn 2 were not followed. See DI p 33.)

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

(1. If a special plea is made for separate trial see one or more charges (RP 62(E), 108), or as to the jurisdiction of the Court (RP 34, 35(A), 113), or in bar of trial (RP 36), or as to accused's mental fitness to stand trial (AA 136, RP 57), or by one of several accused charged jointly to be tried separately (RP 16, 71), such plea, the addresses made in support or opposition, the evidence, if any, and finding are recorded per Notes. For forms of record see references in fns to RoP cited. Arrest in AB rank and name of the accused making the plea.)

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

(1. RP 31, 112. See para 1 of Instrs p 2. Where Leave Was see Charge Sheet see RP 62; when several accused to be tried jointly, refer sec RP 71(C), and see separate copies of CF A96 to record proceedings. 2. RP 32, RP 33. If otherwise, amend and make appropriate record per Notes.)

A10. The Court is cleared and, ~~complying with the Instrs on Procedure after Arraignment as to R.P.~~ the proceedings are continued as in Form ~~.....~~ FDI.

~~proceedings are continued as Record Form .....~~

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS FDI.

4

SCHEDULE.

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

Accused: .....

Charge. (Insert "alternative" where applicable.)	Plea. (See Instrs p 2.)	Finding. (See note below.)	(Space for use as required for further charges, accused charged jointly, special findings, etc.)
1st	Not guilty	Not guilty of desertion, but guilty of absence without leave.	
2nd			
3rd			
4th			
5th			
6th			

(Note: As to findings for lesser offences see AA 56, RP 44; findings on alternative charges see MML p 462 fn 4 para 2, RP 44; special findings see RP 44 and MML p 752, and in lieu of kit see RP 44 fn 8.)

~~At present under sentence for~~ ..... Beginning on (date) ..... FDI.

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

Time in confinement awaiting present trial—a total of 18 days, of which Nil days were spent in hospital.(1)

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

Sentence Awarded by the Court:

To undergo detention for 180 days.

(Sgd) ..... 26 Oct 43. (Sgd) J. U. Ingram Lt Col.

Judge-Advocate, if any. Date awarded. President. (RP 45, 50.)

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

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

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

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

(For duties and powers see AA 54, 57, RP 37(D) fn 6.46(A), 51-56, 120, MML pp 739-761, KR Can 567-577. Acquittals require no confirmation and cannot be revised: AA 54(2). Sending back finding or sentence for revision by Court: AA 54(2), RP 120(G). If not confirmed, accused may be tried again: AA 157, MML p 64. Minute of confirmation or non-confirmation may be altered before promulgation: RP 53, MML p 65. Quashing after promulgation: KR Can 573. Duties and powers of reviewing offrs: AA 57, 57A, RP 53A, 54. The Confirming Offr must sign here personally. AA 172 fn 1.)

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

Confirmed

~~I direct that the accused be not committed to prison or detention barracks until further order.~~(*)

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

(Sgd) H. R. Tyner Col ~~Deputy Assistant Adjutant General~~

Date 27 Oct 43 Commanding ~~A~~/Commander, "B" Group, Cdn. ~~Base Troops~~ Confirming Officer.

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

Accused. Date. Signature of Offr.

B-29683 Spr GREER, S.A. 28 Oct 43. Authorised

ENTERED PART II ORDERS

DATE 2 Dec 43 ORDER No. 288

No. 1 Cdn. Engineer Training Depot, C.A.

ALL DELETIONS AND ALTERATIONS WILL BE INITIALLED BY OFFICER AUTHORISED

INSTRUCTIONS ON PROCEDURE AFTER ARRAIGNMENT.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

C2. The charges on which accused pleaded GUILTY are read to him (them) again, and the trial is continued by using paras B1 to B5 of Record Form B above.(1)
(1. Under B5 such parts only of the Summary of Evidence are read as relate to the charges dealt with under C1. If any plea is changed to Not Guilty, trial thereon proceeds by complying with paras D1 to D8 inclusive in Record Form D on p 3 and making an appropriate record thereof on a separate sheet.)

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

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

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

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

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

D3. The evidence for the Prosecution is taken.(1) See Note D. 1, 2 & 3.
(1. RP 39(C), 114, KR Can 555. Record evidence per Notes. As to Prosecutor giving evidence himself see RP 39(D) (E).)

D4. The Prosecution is closed.(1) ~~The Defending Offr submits that the evidence for the Prosecution does not~~ establish a prima facie case against the accused on the _____ charge(s).(2) The Court is closed, and considers the submission.(3) The Court is reopened, and the President announces that the submission is disallowed on the _____ charge(s), and allowed on the _____ charge(s), and that, accordingly, the trial will proceed on the former, but the accused is (are) found Not Guilty on the latter charge(s).(4)
(1. Delete remainder of this para, if submission not made. 2. Arguments on submission, answer and reply are recorded per Notes. 3. RP 40 fn 1. See MML p 72 paras 12-14 and p 81 para 42. 4. Delete part not used. If accused acquitted on all charges, use second alternative in para D6.)
NB : If trial proceeds, accused must be allowed great latitude in making his defence, and the Court should not stop his defence solely on ground of irrelevance. (RP 60(C), 114, 115.)

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

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

D6. Consequent on the answers recorded in para D5 the appropriate procedure for the defence is followed.(1)
(1. RP 114, 115, 116. For procedure see Notes on back of Convening Order, CF 495. Evidence for accused as to his character should, if in his interest, be given before the finding. See RP 46(A) fn 1, 86(C). Note the further opportunity in para E1 of Record Form E. Record per Notes addresses, statement, evidence and any summing up by the JA under RP 42, 103(a).) See Record Form B, C or D.

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

D8. The President ~~announces the finding(s), if any, of Not Guilty, and~~ states to the accused that the finding(s) of the Court on the _____ charge(s), being subject to confirmation, will be promulgated later.(1) ~~Or, The President announces that the accused is found Not Guilty on all charges and is to be released forthwith, and that the proceedings are accordingly terminated.~~ Part I of the Schedule is dated and signed.(2)
(1. AA 54(3) (4), RP 45, 120(A). 2. AA 54(7), RP 45, 117. This alternative announcement is not applicable when there are pleas of Guilty outstanding and dealt with under Record Form B or C.)

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

RECORD FORM E—PROCEEDINGS ON CONVICTION BEFORE SENTENCE.

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

E2. The Prosecutor produces Statement~~s~~ as to Character and Particulars of Service(1), and certified true copy ~~(copies)~~ of Conduct Sheet~~s~~(2), purporting to refer to the accused, which he submits to the Defending Offr for examination, and then to the Court for admission in evidence. The Court is satisfied that those documents refer to the accused, because (i) they purport to be signed in the manner required by AA 163(1) (g) (h), and (ii) they purport to refer to (a) soldier~~s~~ having the same number, rank, name and corps as the accused. Admitted in evidence and marked Ex C and Ex D. respectively.(3)
(1. MFB 255 or AFB 296. 2. MFM 6. 3. RP 46, KR Can 558. If above documents not produced, see RP 46 fn 1 para 1.)

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

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

E5. The Court considers the sentence.(1) The President records the sentence in Part I of the Schedule, which is dated and signed by him ~~and the J.A. if any~~.(2) 7.10.7.
(1. Where several accused tried separately see RP 7(D). One sentence only, comprised of the punishment or punishments laid down in AA 41, 44 and the proviso, is to be awarded to cover all charges on all charge sheets on which accused found guilty. RP 48. As to sentences see AA 44, 136, 137, RP 46-52, 89, 118, 119, 120(A), KR Can 308, 330, 343-346, Overseas RO 3019, 3023, MML p 90, 737-759. As to sentences consequent on court offences by the law of England see AA 41(2), MML p 130. Where accused already under sentence of imprisonment or detention see AA 44(1)(b), 68(1), KR Can 364. 2. RP 50. As to release from arrest by Confirming Offr see KR Can 367. As to assembly and dispersal of record after trial see Instrs on back of Convening Order.)

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

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

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

Date of promotion.

In the rank of ..... years.

In the rank of ..... years.

In the rank of ..... years.

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

SCHEDULE

Of convictions by a court-martial or civil court, of summary awards under Section 47 of the Army Act, and of cases in which trial has been dispensed with of accused, Number R-29653 Rank Sgt Unit Name [redacted], S.A., of No. 1 C.W.R.U. Regiment

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

Description of Court by which tried	Date and Place of Trial	Charge upon which convicted	Sentence of the Court	Punishment Remitted
F.G.C.M.	In the Field	(1) A.A.15(1) (2) A.A.10(3) (3) A.A.22 (4) A.A.40 (5) A.A.24(2)	205 days Detention 1st & 5th charged Confirmed. 2nd & 3rd not confirmed (4) not guilty	177 days

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

Signed this 26 day of October 1943

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

M.F.S. 355
2234—5-41 (372-3)
H.Q. 1772-39-628
A.F.B. 296

STATEMENT AS TO CHARACTER AND PARTICULARS OF SERVICE OF ACCUSED

Number	Rank	Name	Regiment (or unit)
D-29653	Spr	[illegible] R, S.A.	No. 1 C.E.M.U.

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

	Within last 12 months	Since enlistment or appointment
For A.A. 15(1)	3 times	6 times
For	Nil times A.A.40	1 times
For	Nil times A.A.20(4)	1 times
For	Nil times	Nil times

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

or,

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

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

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

~~or~~

Previous convictions of the accused by a court-martial or a civil court, of summary awards under ~~Air Force Act~~ A.F.A.-70- Section 47 of the Army Act and dispensations with trial under A.A. 73 are set out in the Schedule annexed to this statement.

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

~~or~~

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

4. The accused has been in confinement awaiting trial ~~on~~ for the present charges, for 0 days in civil custody, and 18 days in ~~Air Force~~ military custody, making a total of 18 days in custody, of which Nil days were spent in hospital.

5. The present age of the accused according to his ~~record of service~~ service & casualty form - attestation paper is 25 7/12 yrs.

6. The date of his ~~enrolment~~ attestation specified in his ~~record of service~~ service & casualty form - other than paper is 3 Jul 41

7. The service which the accused is allowed to reckon towards discharge is 2 3/12 yrs

8. The accused is entitled to reckon 2 3/12 ~~yrs~~ service for the purpose of determining his pension, etc.

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

~~10.—If the accused is a warrant officer.—The accused before he was made a warrant officer was held the regimental rank of~~

"C" Echelon HQ C.E.
4 Mar 43.

M.F.M. 6
(A.F. B.122)
60/F & C./8206 (2965)

Original destroyed 29 Jun 42 in accordance with Overseas R.O.

No. R-29653 Name GREER S.A. | Sqn., Battery, or Company | Corps R.C.E. | Date of enlistment 3 Jul 41 | G.C. Badges 2064 | Service or Proficiency Pay | Signature O.C. Company, etc. ?????? Capt | Character

Date of last entry in Company Conduct Sheet 9 Oct 41 | No. and date of last drunk | Period not reckoning towards freedom from extra fine | Sheet No. 1.

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order directing trial	By whom awarded	Remarks
Field	1942 25 May	Spr		Sec 40 AA driving M.V. vehicle in such manner as to cause an accident	Doc Evidence	Forf 7 days pay.	16 June 42	Col White	
Field	16 Sep	Spr		Sec 15(1) AWL, from 2359 hrs 16 Sep 42 to 1015 hrs 18 Sep 42 (1 day 10 hrs.16 mins)	Doc Evidence	Forf 10 days pay	22 Sep 42	Lt Col Mitchell	Forf 5 days pay for AWL
				(2) Sec 10(4) Breaking out of barracks					
				(3) Sec 15(1) AA AWL from 1330 hrs 18 Sep 42 to 0800 hrs 21 Sep 42. (2 days 18 hrs.)				????? Lieut.	

D to Sheaffe 16 Oct 43

Released from Detention Barracks???? Mar 23, 1943. Remission earned 4 days.

(ETO)

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Field	2 Nov	Spr		Sec 15(1) AA, AWL from 2200 hrs 1 Nov to 0745 hrs 2 Nov 42 (9 hrs 45 mins)	Doc Evid.	Admonished	2 Nov 42	Lt-Col Mitchell	Forf 1 days pay
Field	29Nov	Spr		Sec 15(1) AAA.W.L.21 hrs 59 mins	Cpl Goode	Forf 10 days pay	30 Nov	Lt-Col DK Black	Forf 1 days pay
Field	17Dec	Spr		Sec 15(1) AA A.W.L. from 0200 hrs 17 Dec to 0745 hrs 17 Dec 42 (5 hrs 45 mins)	L/C Bower JW	7 days C.B.	18 Dec 42	Major Webster	
Field	25Dec	Spr		Sec 15(1) AA A.W.L. from 0630 hrs 25 Dec 42 to 2300 hrs 27 Dec 42 (2 days 16 hrs 30 mins)	Cpl Sawyer H.B. Cpl Noel	Forf 28 days Pay	28 Dec 42	Lt-Col DK Black	Forf 3 days pay
Field	9 Sep 43	Spr		AA 15(1) AWL from 0030 hrs 9 Sep 43 to 2015 hrs 21 Sep 43 (Absent 12 days 8 hrs 45 mins)	Doc	21 days F.P.	23 Sep 43	Major AE Chalmers	Forf 13 days Pay FAA 149(1)(a)

Place	Date of offence	Rank	Cause of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order directing trial	By whom awarded	Remarks
Released from Detention Barracks(Field)on Jun 1-1943. (2)					Remission earned NIL			??????Lieut.	
Field	pte	Apr Spr		AA 15(1)WOAS AWL from 0600 hrs 24 Apr 43 until app by Civil Pol, Oldham, 1745 hrs 6 May 43. (Absent 13 days 11 hrs 45 mins) A.A.40 Offence	Doc	27 days Det. Forf 27 days pay FR&I 149 (1) (b) Forf 14 Days pay FR&I 149(1) (a)	Lt. Col C.N. Mitchell		Total Forf 41 days pay with stoppages of £ 1-14-2 to cover cost of apprehension.

Certified true copy of the original document in my custody

Officer having custody of the original document

26 Oct 1943

M.F.M. 6
(A.F. B.122)
40/P & /B188 (2965)

No. B-29653 Name GREER B.A. | Sqn., Battery, or Company | Corps R.C.E. | Date of enlistment 9 Jul 41 | G.C. Badges | Service or Proficiency Pay

Date of last entry in Company Conduct Sheet 9 Oct 42 | Nil and date of last drunk | Period not reckoning towards freedom from extra fine | Sheet No. 2, | Signature O.C. Company, etc. ????? Capt. | Character

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Field	7 Feb 43	Sgr		Sec 15(1)AA A.W.L. from 2400 hrs 7 Feb 43 until apprehd by R.P. at 2215 hrs 15 Feb 43(8 days 22 hrs 15 mins) (2)Sec 24(2) AA Losing by neglect clothing, equipment & regimental necessaries to amount of 3/8/9½ less 25%(O.S.1398)		28 days Detention	25 Feb 43		Forf 9 days pay under FR&I 149(1)(a) 11 days pay under FR&I 149(1)(c) 28 days pay under FR&I 149(1)(b)
Field	24 Apr 43	Sgr	(1) (11)	AA 15(1)AWL 13 days 11 hrs 45 mins AA40 Cond to the Prej etc, i.e. being in possession of a doc purporting to be a genuine leave pass, well knowing it to be false	Doc	27 days Detention	18 May 43	Lt-Col VS Thompson	Forf 14 days pay FR&I 149-1-a Cost of apprehn £1-14-2 (PTO)

JAG BRANCH - REVIEW RECORD

Accused

13 24613 Spl. Green, S A.
1 C K R U.

S-H-1

Jag Rev

Remarks	Date
Trial in (Country) Eng.	26 Oct.
Charges 12.	
Sentence 180 dys.	26 Oct.
Rec'd from CR at JAG Branch	11 Nov.
To DW for ~~(use)~~ (post) rev	11 Nov.
Recommendations by DW	
(1) Pass and record.	
~~(2) Up on irregularities.~~	
~~(3) Punish~~ charge(s).	
~~(4)~~	
Ret'd to JAG Rev 1 by DW	11 Nov.
Passed to	
Passed to	
To AG 5 for Review	18 Nov 43
Ret'd from AG 5 to JAG Rev 1	19 Nov 43
Instrs by JAG Rev 1 on disposal	
Instrs completed by	

CHARGE SHEET

The accused B-29653 Spr GUEST, Stanley, Arthur, Royal Canadian Engineers, No. 1 Canadian Engineer Reinforcement Unit, a soldier of the Canadian Army (Overseas) is charged with:-

FIRST CHARGE
AA 12

WHEN ON ACTIVE SERVICE, DESERTING HIS MAJESTY'S SERVICE

in that he

after being duly warned to proceed on draft, with intent to avoid so proceeding, did avoid said draft by absenting himself without leave from 2200 hrs 29 Sep 43 from No. 1 Canadian Engineer Reinforcement Unit, until apprehended by the Canadian Provost Corps., in Reading at 1730 hrs 7 Oct 43.

In the field
11 Oct 43

(G.W. WHITE) COLONEL
Commanding Officer
No. 1 Cdn Engr Reinf Unit,
Canadian Army (Overseas)

To be tried by Field General Court Martial.

A.D.J.

25 Oct 1943

(H.R. Tyner) Colonel
A/Cond "B" Gp
Cdn Rft Units

MEDICAL CERTIFICATE

R.A.F. (Ord) Form 257

I certify that I have this morning examined

No. B.29453 Spr. Greer S.A.

of No.1 C.C.R.S.A. and in my opinion he

is ~~unfit~~ fit to undergo Trial by Court Martial.

Station Cove

Date 26 Oct 1943

R.S. Burke Capt
Medical Officer.

I.D. Treated
Fit
D.

FIELD GENERAL COURT-MARTIAL

CFA95 (In lieu of AFAB) 40/Pam/1697 (1968)

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

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

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

ACCUSED.

Number.	(a) Prmnt R. (b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
B-29683	Spr	Stanley Arthur	GREEN	1 CERU

CONVENING ORDER.

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

2. And whereas I am of opinion that it is not practicable that such offence(s) should be tried by an ordinary General Court-Martial ; (~~and that it is not practicable to delay the trial for reference to a superior qualified offr.~~) 7
(Delete part in brackets when not required for compliance with RP 105(C).)

3. I hereby convene a Field General Court-Martial to try the said person(s), and to consist of the Offrs appointed or detailed hereunder. 7

4. ~~I am unable to appoint (a) three Offrs to form the Court, (b) a Fd Offr as President, for the reasons I have attached hereto.~~ 7
(AA 49, RP 106(B), 107(A). Delete the whole or part, if not applicable.)

5. ~~I also appoint the Judge Advocate thereinafter named hereunder.~~ 7
(RP 106(E). Delete, if none appointed.)

PRESIDENT.

(Rank.)	(Must be named. RP 106.)	(Unit.)
Lt-col	F.D. Tweedie	HQ CERU

MEMBERS.

(Rank.)	(Named or detailed. RP 106.)	(Unit.)
Capt	to be detailed by	1 CASCERU
Lieutenant	to be detailed by	1 CERU

WAITING MEMBER.

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

JUDGE-ADVOCATE.

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

On Active Service in the Fd

in England (Country.)

Date 25 Oct 43

H.R. Tyner (Signed personally.) Col (Rank.)

A/ Commanding (H.R. Tyner) Colonel
3rd Gp CRU Convening Officer.

CONVENING OFFR WILL INITIAL ALL DELETIONS AND ALTERATIONS
(See overleaf for words and notes for use on trial.)

1 DJ.

26 OCT 1943

Note D 1.

First Witness for prosecution.

B-28774 A/Sgt. Eveleigh, H.F, 1 CERU being duly sworn states:

I am in charge of draft H Coy 1 CERU & was present at 0800 hrs 29 Sep 43 when Maj. Knapp, O.C. H Coy at that time, called the roll and Spr. Green answered his name and was warned that though missing any draft parades from being a W.L. a failing to appear on the final draft parade at 0600 hours 30 Sept 43 would leave himself liable to a charge of desertion. The circumstances of the charge of desertion was explained to the whole draft. I was present at 0600 hours, the final draft parade on 30 Sep. 43, when Maj Knapp mustered the draft. Spr Green did not answer to his name and he failed to proceed on draft from his 1 CERU. I dont remember seeing Spr. Green's face on the parade of 29 Sep 43. but we took a body count on the parade and the correct number of bodies were present.

Cross exam:

I had been in H. Coy for approximately a year. There were 89 on the movement order. The warning parade was held between hrs 1 & 2 o'clock. I cannot say I saw the face of the accused on that parade. There were several

fol.

D 2.

parades on 29 Sep. 43. I do not know anything about later roll call at 2200 hours 29 Sep 43

By the Court:

I am N.C.O. in charge of draft administration for H.Q. 1 CERU and was acting as such on 29 Sep. 43. Maj Hagg is in the field now. The Spr. Green I mention in my evidence is the accused. All I know is that his name was answered to on the parade at 1700 hours 29 Sep. 43. Maj Hagg told the parade they were warned for draft. Spr. Green was not present at the parade at 0600 hours 30 Sep 43. I don't know whether or not Spr. Green was on leave at 0700 hours 29 Sep. 43.

The evidence is read over to the witness.

The prosecutor offers in evidence extracts from Part II Orders # 234 Sep 30.43, and Pt II O.O. # 237 Oct 4/43, on one sheet. No objection by Defending Officer. The extracts are read aloud, received in evidence and marked "A".

The prosecutor offers in evidence certificate of apprehension of B 29652 Spr Green, J.A. 1 CERU by Lt. Sellers of No 7 Pro Coy. Can Pro Corps at 1730 hours 7 Oct 43, dated 8 Oct 43 and signed by R.C. Sellers for C.H. Ker, Capt commanding No 7 Provost Company Canadian Provost Corps. It is noted that the certificate is signed by a lieutenant for the officer commanding No 7 Pro. Coy. The Defending Officer

D3

however, states that he has no objection to the certificate being put in evidence. The certificate is received in evidence and marked 'B' and read aloud.

The case for the prosecution is closed.

D-4.

First Witness for Defence:

B-29653 Sgt. Green, J.A. 1 CERU sworn states:

I was glad to go on draft because I wanted to go to the Field. I had been there before and liked it better than the holding unit. I was to go to 1st Fd Sqdn and I was glad to go, because my former unit in the field had been attached to the fifth division. After pay parade on 28 Sept 43. I took a train to Reading. At six o'clock we started drinking. I met a friend of mine who had some spirits. We started drinking that will been. When it came time to return to camp the drink I had had made be stupefied and I didnt realize what time it was. Therefore I missed my train to camp. I had no other means of getting back. In the morning I figured it was no use to come back as I was too late for the draft and I knew I would be charged with jumping the draft and I could face it right then. I figured if I came back in a few days I would be charged with A.W.L. and I would serve my sentence and have another chance to go to the field as possibly an overseas draft. I had no intention of deserting while I was away.

Cross Exam:

I was present at parade of 0800 hours 27 Sept 43. I left camp at about 1600 hours 27 Sept 43. I was present for other parades of the draft that day. I was aware

Sgt.

that I was on draft and my only excuse is that I was drinking.

By the Court:

It is about 12 to 15 miles from the Camp to Reading. I was not in a condition to walk back that night.

The evidence is read over to the accused.

The prosecution makes its final address.

The defending officer in his final address says:

Calls attention to necessity of "intent" which was not present. Drunk was cause of absence and he was a victim of circumstances. Would a deserter remain within 15 miles of his camp in a military uniform? He is not a deserter.

E-1.

Address by Defending Officer in Mitigation

Punishment should be light because:

The accused wanted to go on draft.

The accused was not C.B. and is intended to return that night. His staying away a few days is understandable.

FOL.

SUMMARY OF EVIDENCE

Summary of Evidence in the case of B-29653 Spr GREER, Stanley, Arthur, Royal Canadian Engineers, on the strength of No. 1 Canadian Engineer Reinforcement Unit, a soldier of the Canadian Army (Overseas).

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

FIRST WITNESS
For the prosecution B-28724 Sgt EVELEIGH, H.F., on strength of No. 1 Canadian Engineer Reinforcement Unit, a soldier of the Canadian Army (Overseas) having been duly sworn, states as follows:-

B-28724 Sgt EVELEIGH, H.F., in charge of draft section "B" Coy. I was present at 0800 hrs Sept 28/43 when Major MAGGS, O.C., of "B" Coy. called the draft section roll and B-29653 Spr GREER, Stanley, Arthur, was present, and answered his name, and was warned by Major MAGGS, that failing to be present on the final draft parade at 0600 hrs Sep 30/43 through being A.W.L. would leave himself liable for a charge of desertion. I was also present at 0600 hrs Sep 30/43 when Major MAGGS, called the final draft roll, and B-29653 Spr GREER, Stanley, Arthur, did not answer his name and through being absent without leave failed to proceed with the draft from No. 1 C.E.R.U.

The accused declines to cross examine the witness.

H Eveleigh Sgt.
B-28724 Sgt EVELEIGH, H.F.

SECOND WITNESS
For the prosecution DOCUMENTARY - Certified true copies of Daily Orders Pt II #234 p.15, 17A(c) and (d) dated 30 Sep 43 and Pt II order #237 para 5A(a) marked Exhibit "A".

THIRD WITNESS
For the prosecution DOCUMENTARY - Certificate of apprehension signed by an officer of the 7 Cdn Provost Coy. marked Exhibit "B".

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

The accused reserves his defence.

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

In the Field
10 Oct 43

(A.R. SHERMAN) Lieut.,
Officer detailed to take the Summary of Evidence.

Pt. II D/order #234 Sept 30 Exhibit "A"

(c)

The u/m received first warning for draft at 0800 hrs 29 Sep 43 in accordance with C.R.U.R.O. 568 Para 2 (d) & (c) d/20 Jul 43, and that the u/m Nominal Roll was certified by Major P.J. MACGS, and in the presence of B-28724 A/Sgt EVERLEIGH, H.F.

B-29653 Spr GREER, S.A.,

(d) The u/m having been warned by Major P.J. MACGS, in the presence of B-28724 A/Sgt EVERLEIGH, H.F., that final draft parade would be at 0600 hrs on the Parade Square on 30 Sep 43, and that absence from this parade and failure to proceed on draft would leave offenders liable to charge of desertion. The seriousness of a desertion charge, and the penalty involved were also explained.

B-29653 Spr GREER, S.A.,

Certified true copy of an extract from Pt. II D.O. #234 dated 30 Sep 43.

Records Officer
1 C. Eng. R.U.

Pt. II D.O. #237 Oct 4/43

Para 5-A

(a) Reported A.W.L. wef times and dates indicated.

B-29653 Spr GREER, S.A., 2200 hrs 29 Sep 43

Certified true copy of an extract from Pt. II D.O. #237 dated 4 Oct 43.

Certified true copy

Records Officer
1 C. Eng. R.U.

LIST OF WITNESSES

List of witnesses in the case of H-29653 Spr [illegible]KER, S.A., Royal Canadian Engineers, No. 1 Canadian Engineer Reinforcement Unit, a soldier of the Canadian Army (Overseas).

FOR THE PROSECUTION

1. B-28724 A/Sgt EVERLEIGH, H.F.

2. DOCUMENTARY - Certified true extract of Pt. II orders No 234 and 237 d/30 Sep 43. Marked Exhibit "A".

3. DOCUMENTARY - Certificate of apprehension by the 7 Cdn. Provost Coy. Marked Exhibit "B".

FOR THE ACCUSED.

Nil.

LIST OF EXHIBITS.

Exhibit "A" - Certified extract of Pt. II orders #234, 237.

Exhibit "B" - Certificate of Apprehension by No. 7 Cdn Provost Coy.

Para 15
17-A
(a)

Pt. II D/order #234 Sept 30 Exhibit "A"

The u/m received first warning for draft at 0600 hrs 29 Sep 43 in accordance with C.R.U.R.O. 568 Para 2 (d) & (e) d/20 Jul 43, and that the u/m Nominal Roll was certified by Major P.J. MAGGS, and in the presence of B-28724 A/Sgt EVERLEIGH, H.F.

B-29653 Spr GREER, S.A.

(a)

The u/m having been warned by Major P.J. MAGGS, in the presence of B-28724 A/Sgt EVERLEIGH, H.F., that final draft parade would be at 0600 hrs on the parade square on 30 Sep 43, and that absence from this parade and failure to proceed on draft would leave offenders liable to charges of desertion. The seriousness of a desertion charge, and the penalty involved were also explained.

B-29653 Spr GREER, S.A.

Certified true copy of an extract from Pt. II D.O. #234 dated 30 Sep 43.

Records Officer.
1 C. Engr R.U.

Pt. II D.O. #237 Oct 4/43

Para 5-A

(a) Reported A.W.L. wef times and dates indicated.

B-29653 Spr GREER, S.A., 2200 hrs 29 Sep 43

Certified true copy of an extract from Pt. II D.O. #237 dated 4 Oct 43.

Records Officer.
1 C. Engr R.U.

'A'
to Inquest
21 Oct 43.

H Coy

No. 7 Provost Company
Canadian Provost Corps

EXHIBIT "B"

5-7-6
2 Oct. 43

I certify that Reg. No. B-20853 Spr. Greer, S.A., 1 C.T.D.U. was apprehended by Set. Schlosser, of No. 7 Provost Coy., Can. Provost Corps., in Reading on the 7th. day of October 1943, at 1930 hours.

At the time of his apprehension he was wearing a Military Uniform.

"B"
7 Provost Co Can
26 Oct 43

(O.M. Greer) Corporal
No. 7 Provost Company
Canadian Provost Corps

APPLICATION FOR DEFENDING OFFICER

In the event of a trial the accused states he wishes an Officer to be assigned by the Convening Officer to represent him at the trial.

B-29653 Spr Kraus S A
B-29653 Spr KRAUS, S.A.,

YY-89

TPR GREESON L.

4

SCHEDULE.

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

Accused : Tpr Lloyd Greeson.

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

(Note : As to findings for lesser offences see AA 56, RP 44 ; findings on alternative charges see MML p 483 fn 4 para 2, RP 44 ; special findings see RP 44 and MML p 752, and in lieu of kit see RP 44 fn 6.)

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

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

Time in confinement awaiting present trial—a total of 21 17 days, of which ~~nil~~ days were spent in hospital.(1)

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

Sentence Awarded by the Court :

To undergo Detention for 10 months + to be put under stoppages to pay costs to the tune of £20-7-11. in respect of Court's Expenses + Victim

(Sgd) W.O. Judge-Advocate, if any. 17 Dec 43 Date awarded. (Sgd) President. (RP 45, 50.)

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

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

Date (Sgd) Commanding

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

(For duties and powers see AA 54, 57, RP 37(D) fn 6, 46(A), 53-56, 120, MML pp 759-761, KR Can 567-577. Acquittals require no confirmation and cannot be revised : AA 54(7). Sending back finding or sentence for revision by Court : AA 54(2), RP 120(C). If not confirmed, accused may be tried again : AA 157, MML p 64. Minute of confirmation or non-confirmation may be altered before promulgation : RP 53, MML p 65. Quashing after promulgation : KR Can 573. Duties and powers of reviewing offrs : AA 57, 57A, RP 53A, 54. The Confirming Offr must sign here personally. AA 172 fn 1.)

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

The finding and Sentence is confirmed

I direct that the accused be not committed to prison or detention barracks until further orders.(1) 774

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

(Sgd) F.F. Worthington

Date Commanding D.O.C. 4 Cdn Armd Div

DEC 20 1943 Confirming Officer.

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

Accused. Date. Signature of Offr.

K 1143 Tpr Greeson L. 21 Dec 43 J.H. Kelly Major

ALL DELETIONS AND ALTERATIONS WILL BE INITIALLED.

YY-89

FIELD GENERAL COURT-MARTIAL (CFA86 (In lieu of AFA2) KO (P) Ss 35 (1908) (2004))

Convened by Order of Maj Gen F.F. Worthington Comd 4 Cdn Armd Div dated 17 Dec 43

ACCUSED.

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

Number	(a) Prmnt R. (b) Apptmt, A/R or A/Apptmt.	Full Christian Names.	Surname.	Unit.
K 1143	Tpr	Lloyd	Greeson.	HQ Sqn 4 Cdn Armd Div

PROCEEDINGS REVIEWED

Clear and 13 Jan 44

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

PROCEEDINGS OF TRIAL.

Held in the Fd in (country) England on (date(s)) 15 Dec 43

RECORD FORM A—OPENING PROCEEDINGS AND ARRAIGNMENT.

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

(PRINTED MATTER, NOT IN ITALICS FOR GUIDANCE, WILL BE DELETED, IF NOT USED OR APPLICABLE, AND INITIALLED BY PRES OF JA. The Schedule referred to throughout is on p 4. Citations do NOT include all relevant fmn ROs. For guidance on procedure when a variation in this form arises, see form for GCM in MML pp 741 to 759. A brief record of such variation and procedure will be made and given a number having reference to appropriate or preceding para number hereon. See back of Convening Order, CF A95, for oaths and instrs as how to record addresses, evidence, etc., which instrs are hereafter called "Notes". As to general provisions for conducting the trial see AA 53, RP 56, 63-70, 73, 74, 94, 103, 109, 132.)

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

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

A3. The Court is opened. The accused is ~~are~~ brought before the Court. At 0730 hours trial commences. WOSY

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

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

A5. President to accused : ~~Do you object to~~ an interpreter ? Ans ~~No~~ WOSY

~~The Interpreter is sworn.~~(1) Do you object to 411436 S/Sgt E Mills shorthand writer ? Ans No WOSY The shorthand writer is sworn.(1)

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

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

Ans No (2)

(1. RP 110. 2. If no objection, waiting member retires. RP 60(B). If objection, see procedure AA 51, RP 25, 71, 18, MML p 742.)

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

President	Major	F.A. Marshall 13 Cdn Fd Amb
Member	Capt	J.H. Crichton 29 Cdn Armd Recce Regt.
Member	Lt	S.G. Wright 4 Cdn Armd Div Sigs
Judge-Advocate	Major	W.A.D. Gunn HQ 4 Cdn Armd Div
Prosecutor	Lt	J.H. Gordon 1 Cdn Sqn 4 Cdn Armd Div
Defending Offr	Capt	J.H. Kelly 13 Cdn Fd Amb

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

(1. RP 26, 27, 109, 111. List of offrs under instr will be returned separately with proceedings for information of Conv Offr.) (2. If Pros a lawyer and Def Offr not, accused is entitled to an adjournment when RP 89 (5) and fn 2 were not followed. See ~~50~~ p 3.)

A8. The accused Tpr Lloyd Greeson before arraignment makes(s) (no) ~~no~~ plea WOSY (2)

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

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

(1. RP 31, 112. See para 1 of Instrs p 2. When more than one Charge Sheet see RP 62 ; when several accused to be tried separately see RP 71(C), and use separate copies of CF A95 to record proceedings. 2. RP 32, RP 33. If otherwise, delete and make appropriate record per Notes.)

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

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

INSTRUCTIONS ON PROCEDURE AFTER ARRAIGNMENT.

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

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

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

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

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

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

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

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

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

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

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

President to accused : Do you wish to make a statement ? Ans NO Sir (5)
(1. *RP 37(B).* 2. *RP 37(D) fn 6.* 3. *RP 35(B) fn 5 para 3, MML p 54 para 47.* 4. *See para L3 of Record Form E.* 5. *Statement, if any, recorded per Notes.*)

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

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

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

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

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

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

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

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

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

Fill here Loose Sheets of Record.

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

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

D2. The Prosecutor makes (an) (no) opening address.(1)
(1. *RP 39(B), 66(A) (B), 90, 92(C) (D). Record address per Notes, subject to RP 95(C).*)

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

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

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

President to accused : Do you wish to give evidence yourself as a witness, make a statement, or do neither ?
Ans .....
Do you intend to call witnesses on your behalf ?
Ans .....
Are they witnesses as to character only ? Ans .....
(1. *RP 39(C).* 2. *RP 40(A), see 80(D).* 3. *RP 40 fn 10.* 4. *RP 40 fns 2, 9.*)

D6. Consequent on the answers recorded in para D5 the appropriate procedure for the defence is followed.(1)
(1. *RP 114, 115, 116. For procedure see Notes on back of Convening Order, CF A91. Evidence for accused as to his character should, if in his interest, be given before the finding. See RP 46(A) fn 1, B5(C). Note the further opportunity in para E1 of Record Form E. Record per Notes addresses, statement, evidence and any summing up by the JA under RP 42, 103(4).*)

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

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

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

RECORD FORM E—PROCEEDINGS ON CONVICTION BEFORE SENTENCE.

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

E2. The Prosecutor produces Statement(s) as to Character and Particulars of Service(1), and certified true copy (copies) of Conduct Sheet(s)(2), purporting to refer to the accused, which he submits to the Defending Offr for examination, and then to the Court for admission in evidence. The Court is satisfied that these documents refer to the accused, because (i) they purport to be signed in the manner required by AA 165(2) (g) (h), and (ii) they purport to refer to (a) soldier(s) having the same number, rank, name and corps as the accused. Admitted in evidence and marked Exs X and Ex Y respectively.(3)
(1. *MFB 355 or AFB 296.* 2. *MML p 6.* 3. *RP 46, KR Can 558. If above documents not produced, see RP 46 fn 1 para 1.*)

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

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

E5. The Court considers the sentence.(1) The President records the sentence in Part I of the Schedule, which is dated and signed by him and the JA, if any.(2)
(1. *When several accused tried separately see RP 98a. One sentence only, comprised of the punishment or punishments laid down in AA 43, 44 and its proviso, to be awarded to cover all charges in all charge sheets on which accused found guilty, RP 46. As to sentences see AA 44, 138, 182, RP 46-50, 89, 118, 119(A), KR Can 308, 330, 363-366, Overseas RO 369, 1325, WRR D 60, 735-739. As to sentences imposed for civil offences by the law of England see AA 41(3), MML p 130. When accused already under sentence of imprisonment or detention see AA 44(1)(b), 66(1), KR Can 364.* 2. *RP 50. As to release from arrest by Confirming Offr see KR Can 567. As to assembly and disposal of record after trial see instrs on back of Convening Order.*)

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

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

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

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

Description of court by which tried, or status of officer disposing of the charge or dispensing with trial	Date and place of trial, or summary award under A.A. 47, or of order dispensing with trial	Charges upon which convicted, or in respect of which trial was dispensed with	Sentence of the court or authority disposing of the charge, or order of the dispensing authority	Punishment remitted
Oxyfordshire Summer Assizes	19 May 42	Sec 23(1) - Armed Robbery	6 months imprisonment with hard labour.	

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

Signed this 18 day of Dec 1943

form

Capt

O/C H & Sq 4003

(2) The accused had served as a non-commissioned officer continuously without reduction to the present date.

Date of Promotion

In the rank of ..... years ..... months

In the rank of ..... years ..... months

In the rank of ..... years ..... months

(Instruction—If any entry under this paragraph cannot be made from the regimental books the paragraph must be struck through. State why in the case of a trial by field general court-martial the information may be obtained from each accused.)

(3) Paragraphs (1) and (2) are not applicable to the case of (state name and rank of accused).

Lt. + Prosecutor Hqs C
President
Witness
Judge Advocate

ARMY FORM B 296.

Statement as to Character and Particulars of Service of Accused.

Number.	*Rank.*	*Name.*	*Regiment (or as the case may be).*
K-1143	Trooper	Lloyd GREESON	HQ SQN 4 CDN ARMD DIVISION

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

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

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

[See para. 677, K.R., 1940.

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

Instruction.—If the charge is for drunkenness the entries for drunkenness must be stated separately and fully.

	* Within last 12 months.		*Since Enlistment.	
For	AA Sec 15(1)	Four times	Five	times.
For	AA Sec 23(1)	One times	One	times.
For	--------	times	------	times.
For	--------	times	------	times.
For	--------	times	------	times.

Number of instances of gallantry or distinguished conduct, Nil

There are 6 entries in the conduct sheets of the accused.

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

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

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

~~beginning on the day of~~

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

5. The present age of the accused according to his ~~record of service~~ attestation paper is ~~24 years old~~ 19 YEARS

6. The date of his ~~enrolment~~ attestation specified in his ~~record of service~~ attestation paper is 12 July 1941

7. ~~The service which the accused is about to enclose toward discharge or transfer to the reserve~~

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

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

10. The accused is in possession of, ~~or entitled to~~, no military decoration or military award ~~or is in possession of or entitled to (state any military decoration or award).~~

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

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

(Signature) (Appointment) (Unit) (Date) A.A.G. 1st Cdn Corps
(Initials) (Appointment) (Unit) (Date)

No K-1143 Name GREESON, L. Sqn, Battery, or Company — Corps CAC — Date of enlistment 12 Jul 41 — Service or Proficiency Pay — MFM 6 (AFB 122) 40/PAY/156 (1438)

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

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order (Appreciations with Trial)	By whom awarded	Remarks
				SHEET DESTROYED 5 Feb 43 . ??????? Lieut.					
Field	13-2-42	Spr.		(1) AA 15(1) WOAS. AWL from 1300 hrs 13-2-42 to 0115 hrs 23 Feb 42 (2) When apprehended wearing rank chevrons to which he was not entitled. (3) Making false statement to an NCO	Documentary	28 days Det 28 days Pay FR&I 149(1)(b)		Lt.-Col. Larocque	
On 19 May 42 sentenced to 6 months imprisonment with hard labour by Oxfordshire Summer Assizes for armed robbery contrary to Sec 23(1) A. Larceny Act 1916. Held in Civil Custody from 0845 hrs 1 Apr 42 to 1000 hrs 19 May 42. 48 days 1 hr, 15 mins). Forfeits 48 days pay FR&I 149(c)(i). Forfs 184 days pay FR&I 149(1)(b). Total forf 232 days pay. AWL from 1300 hrs, 30 Mar 42 until taken into civil custody at 0845 hrs 1 Apr 42. (Absent 1 days 19 hrs 45 mins).									
Field	10-2-43	Spr.		AA 15(1) WOAS AWL from 2200 hrs 10-2-43 to 0955 hrs 18-2-43. Absent 7 days 11 hrs 55 mins).	Sgt. Cathcart Documentary	14 dys Det	19-2-43	Lt-Col CM Mitchell	Forfs 8 days FR&I 149(1)(b)

(PTO)

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Field 29	Jun43	Tpr.		AA Sec 15(1) WOAS AWL from 0730 hrs, 29 Jun 43 to 1500 hrs, 29 Jun 43 (Absent 7 hrs 30 Mins).	A/Cpl. Green, L/Cpl Thompson.	7 dys F.P. Forfs 7 dys pay FR&I 149(1)(b).	30 Jun43	Col G.W. Little	Forfs 1 days pay FR&I 149(1)(2).
Field 3 Jul43		Tpr.		AA Sec 15(1)WOAS AWL from 1400hrs 3 Jul43 until 0430hrs 9 Jul43. (Absent 5 dys, 14 hrs 30 mins).	Documentary (Capt Fern)	28 days Det	14 Jul43	Lt-Col H M Sharp	Forfs 6 dys pay FR&I 149(1)(a) Forfs 28 dys pay FR&I 149(2)
Field 12	Nov43	Tpr.		AA Sec 15(1). AWL from 2359hrs 10 Nov 43 until 1727 hrs, 12 Nov 43. (Absent: 1 days, 15hrs,28mins).	SSM Patterson L/Cpl Mercer	Forfs 2 dys pay FR&I 149(1)(a) Forfs 25 dys pay FR&I 149(2) 14 days C.B.	16 Nov 43	Major T.B. Nash	

CERTIFIED TRUE COPY.....

(C L Wilson) Captain
T/OC HQ Sqn 4 Cdn Armd Division

HQ Sqn 4 Cdn Armd Div
"In the Field"
7 Dec 43

Summary of Evi... ...se of K-1143 Tpr Greeson, L. charged with:

Charge: ...G HIMSELF WITHOUT LEAVE
AA Sec 15(1)

"In the Field" was A...what he
apprehended in civilian c... 30 hrs 20 Nov 43 until
at 2230 hrs, 20 Nov 43; there... the civilian police
apprehension in the amount of £0:... ring charges of
absent 9 days 9 hrs). ...tal time

The Commanding Officer directs that all eviden... be
taken on oath.

First Witness: D-26123 SSM Patterson, J E, Sqn Sjt-Major, HQ Sqn 4 Cdn Armd Div having been duly swern states: -

"I am D-26123 SSM Patterson, J E, of HQ Sqn 4 Cdn Armd Div. On the afternoon of the 18th of Nov, I instructed Tpr Greeson to tend the fire at Div HQ from 0600 hrs to 2130 hrs daily until his term of CB had been completed. At approximately 1400 hrs 20 Nov, I received a call from Div HQ stating that the radiators were cold. I checked and found the fire nearly out. I searched the area for Tpr Greeson but could not find him. I then went to the transport lines where Tpr Greeson sleeps. He was not there. I instructed the despatcher at transport lines to report to me when Tpr Greeson returned. Returning to orderly room I laid a charge against Tpr Greeson for being AWL from 1430 hrs 20 Nov 43."

(D-26123 SSM Patterson, J E)

The accused declined to cross examine the witness.

Absent Witness: "I certify that in my opinion the attendance of P S 42 sp" James Jeffrey is, owing to expense and exingencies not readily procurable and a written statement of his evidence signed by him has been read to the accused and is attached hereto as exhibit "A".

(J H Gordon) Lt
HQ Sqn 4 Cdn Armd Div

Second Witness: H-32057 Sjt Birch, H W, DR Sjt, HQ Sqn 4 Cdn Armd Div having been duly swern states: -

"I am H-32057 Sjt Birch, H W, DR Sjt HQ Sqn 4 Cdn Armd Div. At approximately 1300 hrs 1 Dec 43 as a result of instructions received from Adjt HQ Sqn, I proceeded to West Heathly railway station and accepted Tpr Greeson into my custody from Provost escort. On meeting the 1610 train the Provost escort turned over to me Tpr Greeson who I recognized as a member of HQ Sqn. With Army Form O1617, Army Form B252 and an expense voucher for the sum of £0:7:11. These forms referred to Tpr Greeson, L K-1143. I hereby turn over Army Form O1617, Army Form B252 and an expense voucher for the sum of £0:7:11 which I received at the day and date mentioned".

(H-32057 Sjt Birch, H W)

HQ Sqn 4 Cdn Armd Div
"In the Field"
7 Dec 43

Summary of Evidence in the case of K-1143 Tpr Greeson, L. charged with: -

Charge:
AA Sec 15(1)

ABSENTING HIMSELF WITHOUT LEAVE

in that he

7 "In the Field" was AWL from 1430 hrs 20 Nov 43 until apprehended in civilian clothes by the civilian police at 2230 hrs, 20 Nov 43; thereby incurring charges of apprehension in the amount of £0:7:11 (total time absent 9 days 9 hrs).

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

First Witness: D-26123 SSM Patterson, J E, Sqn Sjt-Major, HQ Sqn 4 Cdn Armd Div having been duly sworn states: -

"I am D-26123 SSM Patterson, J E, of HQ Sqn 4 Cdn Armd Div. On the afternoon of the 18th of Nov, I instructed Tpr Greeson to tend the fire at Div HQ from 0600 hrs to 2130 hrs daily until his term of CB had been completed. At approximately 1400 hrs 20 Nov, I received a call from Div HQ stating that the radiators were cold. I checked and found the fire nearly out. I searched the area for Tpr Greeson but could not find him. I then went to the transport lines where Tpr Greeson sleeps. He was not there. I instructed the despatcher at transport lines to report to me when Tpr Greeson returned. Returning to orderly room I laid a charge against Tpr Greeson for being AWL from 1430 hrs 20 Nov 43."

(D-26123 SSM Patterson, J E)

The accused declined to cross examine the witness.

Absent Witness: "I certify that in my opinion the attendance of P S 42 "P" James Jaffrey is, owing to expense and exingencies not readily procurable and a written statement of his evidence signed by him has been read to the accused and is attached hereto as exhibit "A".

(J H Gordon) Lt
HQ Sqn 4 Cdn Armd Div

Second Witness: H-32057 Sjt Birch, H W, DR Sjt, HQ Sqn 4 Cdn Armd Div having been duly sworn states: -

"I am H-32057 Sjt Birch, H W, DR Sjt HQ Sqn 4 Cdn Armd Div. At approximately 1300 hrs 1 Dec 43 as a result of instructions received from Adjt HQ Sqn, I proceeded to West Heathly railway station and accepted Tpr Greeson into my custody from Provost escort. On meeting the 1610 train the Provost escort turned over to me Tpr Greeson whom I recognized as a member of HQ Sqn. With Army Form 01617, Army Form B252 and an expense voucher for the sum of £0:7:11. These forms referred to Tpr Greeson, L K-1143. I hereby turn over Army Form 01617, Army Form B252 and an expense voucher for the sum of £0:7:11 which I received at the day and date mentioned".

(H-32057 Sjt Birch, H W)

The accused declined to cross examine the witness

Note: Army Form O1617, Army Form B252 and the expense voucher are attached as Appendices B, C & D.

(J H Gordon) Lt
HQ Sqn 4 Cdn Armd Div

The accused was cautioned as follows: -

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

The accused declined to make any statement or to give evidence on oath.

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

Taken before me in the field this seventh day of Dec 43.

(J H Gordon) Lt
HQ Sqn 4 Cdn Armd Div

EXHIBIT D

Expense Voucher Re—

Ref: K.R. & O. (Can) 539

Reg. No. K1143 Rank Spr Name Greeson, L Unit Hqrs. 4 Corps Tps

The following expenses were incurred in apprehending and returning the M/N Soldier to his Unit From London

Date	Particulars	Amount £	s	d
1 Dec 43	Escorts return fare from LONDON To West Hoadly		5	3
	Prisoners single fare to LONDON From			
	Prisoners fare from London West Hoadly		2	8
	Escorts & Prisoners expenses for Bed, Meals, Bus fares			
	Total £		7	11

I certify that the above statement of Expenses is Correct, and that the amounts are fair and just.

L. Simpson Capt.

Officer Issuing Railway Warrant and Expense monies
No. 6 Area Provost Company, Canadian Provost Corps, London.

C.M.H.Q. 1000/45
40(F & S/44)(3287)

CHARGE EXHIBIT 'C'

Army Form B 252
(See King's Regulations)

H.Q. 4th Cdn. Div. — Regiment / Battery / Squadron / Troop or / Company

CHARGE against No. [illegible] Rank Tpr.

Name GREEN, L.

Place BROMLEY RD., LONDON Date of Offence 29 Nov. 43.

OFFENCE W.O.A.A.S. was A.W.L. when arrested by the Civil Police at BROMLEY RD., LONDON, at about 2330 hrs. 29 Nov. 43.

L.B. Grayson
CAPT.
L.B. GRAYSON D.A.P.M.
LONDON AREA

Names of Witnesses:—

48 P.S. Jeffery Catford Civil Police.

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

Punishment Awarded

By whom Awarded

Adjutant.

P.T.O.

Army Form O.1617
R.A.F. Form 1617

I CERTIFY that the man whose personal description is given below was arrested by P.S. 42nd P. Jeffrey.
at 499.A. Bromley Road. at (hour) 11-30pm. on
the 29th day of November 43 as being No. K.1145
(Rank and Name) Trooper Lloyd Greeson
a deserter ~~[illegible]~~ without leave) from 4th Canadian Armoured Division, East Grinstead, and it appears to me from his confession that he is a deserter or absentee without leave.

*After the word "by" to be inserted the name and rank of the police officer concerned.

Age 19 Height 6 Feet 1 Inches
Complexion fresh Hair dark brown
Eyes blue
Marks scar on left elbow.
In uniform or plain clothes plain clothes

Probable Date and Place of Attestation	12/7/41.
Probable Date of Desertion or beginning of absence, and from what place	18/11/43.

A Shenton Sth.P.S. 7nd P.
Signature of Officer of Police in charge of Catford Station.
30/11/43. Date of Signature.

PART 2.

This portion of the Form should be completed and forwarded to the Officer Commanding the man's unit to whom Part 1 of this Form is sent, as soon as all expenses have been ascertained.

(It should not be detached from Part 1 unless delay in completion is unavoidable.)

The refund of expenses incurred by the Police applies only in the case of the Police Authorities in Northern Ireland, the Isle of Man and the Counties of Orkney and Shetland.

Statement of Expenses chargeable to Army or Air Force Funds incurred by the Police in the case of No.
who surrendered to the Police at on
Payable to

CERTIFIED that this statement of expenses is correct.

Superintendent or Officer in charge of Police Station at

Date of Signature.

EXHIBIT "B"

IMMEDIATE.

Army Form O.1617
R.A.F. Form 1617

PART 1.

CERTIFICATE OF SURRENDER TO THE CIVIL POLICE OF A DESERTER OR ABSENTEE WITHOUT LEAVE.

This Form is ONLY applicable where a person surrenders to a Constable as being a Deserter or Absentee.

Instructions for the Guidance of the Police.

When a person surrenders himself to a constable as being a deserter or absentee without leave, the officer of police in charge of the police station to which he is brought shall forthwith inquire into the case, and if it appears to him from the confession of that person that he is a deserter or absentee without leave he may cause him to be delivered into military or Air Force custody without bringing him before a court of summary jurisdiction.

In such a case a telegram should be despatched to the Officer Commanding the Man's Unit*† in the case of soldiers and in the case of airmen the O.C. the station at which the airman last served, notifying that he has surrendered, and stating the number, rank, name and unit of the man, and that officer will at once arrange to send an escort for the man to be taken into military or Air Force custody. Where an absentee's unit is stationed overseas (outside Great Britain, Northern Ireland District and the Channel Islands) the telegram will be despatched to the O.C. Regimental Depot in the case of a soldier and in the case of an airman to the O.C. No. 1 R.A.F. Depot, Uxbridge, who will arrange escort. This certificate will be handed to the escort on arrival.

---

* Stations of Units and Depots are shown in the Monthly Army List.

† NOTE.—Special instructions apply in war for the disposal of absentees and deserters from the Army, who surrender to the civil police; e.g., such personnel will be taken over from the civil authorities by the O.C. the nearest military unit or the O.C. Troops at the nearest military station. (A.C.I. 480/1940).

(22744) W.13500 131 25,000 10/41 A.& E.W.Ltd. Gp.698
(23450) W1.48526 1250 40,000 2/42 " " Forms/O.1617/19

CHARGE SHEET

The accused, K-1143 Trooper Lloyd GREESON, Headquarters Squadron 4 Canadian Armoured Division, a soldier of the Canadian Army Overseas, is charged with:-

First Charge
Sec 15(1), A.A.

WHEN ON ACTIVE SERVICE ABSENTING HIMSELF WITHOUT LEAVE

In that he

in the field on 20 November 43, absented himself without leave from his unit, Headquarters, Squadron 4 Canadian Armoured Division, from 1430 hours on said 20 November 43 until picked up by the Civil Police at Bromley Rd., London, at 2330 hours 29 November 43, thereby incurring charges of apprehension to the amount of £0-7-11. (Total absence 9 days, 9 hours).

In The Field

10 December 1943

(C L Wilson) Captain
A/OC, HQ Sqn 4 Cdn Armd Div

To be tried by FGCM

In The Field

17 Dec 43

(FF WORTHINGTON) Maj Gen
GOC 4 Cdn Armd Div

Trial
Witness
Judge Advocate

FIELD GENERAL COURT-MARTIAL

CFA95 (In lieu of AFA95 40) Publication (2008)

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

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

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

ACCUSED.

Number.	(a) Prmnt R.	(b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
K 1143	Tpr		Lloyd	GREESON	HQ Sqn 4 Cdn Armd Div

CONVENING ORDER.

1. Whereas complaint has been made to me, the undersigned, that the person(s) named above as the accused, being subject to military law, has ~~(have)~~ committed the offence(s) set forth in the Charge Sheet(s) attached and on (date) 17 Dec 43 endorsed by me, ~~(or by an offr of my staff for me)~~, To be tried by Field General Court-Martial ;

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

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

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

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

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

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

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

PRESIDENT.

(Rank.)		(Must be named. RP 106.)	(Unit.)
Maj	F.A. Minshull		15 Cdn Fd Amb

MEMBERS.

(Rank.)		(Named or detailed. RP 106.)	(Unit.)
Capt	J.H. Crichton		29 Cdn Armd Recce Regt
Lt	S.G. Wicks		4 Cdn Armd Div Sigs

WAITING MEMBER.

(Rank.)		(Named or detailed, if any. RP 106.)	(Unit.)
Lt	S.W. Tischler		4 Cdn Armd Bde Coy RCASC

JUDGE-ADVOCATE.

(Rank.)		(Must be named, if any. RP 106.)	(Unit.)
Major	W.A.D. GUNN		HQ 4 Cdn Armd Div

On Active Service in the Fd

in England (Country.)

F.F. Worthington (F.F. WORTHINGTON)

Maj-Gen (Rank.)

Date 17 Dec 43

Commanding 4 Cdn Armd Div (Convening Officer.)

CONVENING OFFR WILL INITIAL ALL DELETIONS AND ALTERATIONS

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

MEDICAL OFFICER'S CERTIFICATE

K.R. (Can) Para 557

I certify that I have this morning examined No K-1143 Greeson, L. of HQ Sqn 4 Cdn Armd Div and in my opinion he is fit to undergo trial by court-martial.

Station In the Field

Date 18 December 1943

K. Bruce Capt.
Medical Officer

First Witness for the Defence

D 26123 SSM Patterson, HQ Sqn, 4 Can Armd Div being duly sw is examined by the Defence

Q.1 Will you identify yourself to the court?
A.1 I am D 26123 Sqn Sgt Major Patterson, HQ Sqn 4 Can Armd Div
Q.2 Will you tell the court the substance of the conversation we had with reference to the financial status of the accused?
A.2 Actually this is heresay evidence, I was informed by the Paymaster that this man has $25.00 assigned to his wife per months and there is also a payment of $10.00 marriage allowance and he has bought a war bond which takes $6.00 per month leaving him just over a $1.00 a month.

In the opinion of the court and the judge advocate it is not necessary to comply with the provisions of R.P. 83(b)

THE WITNESS WITHDRAWS

Mitigation by the Defence.

Mr. President and Gentlemen I would first like to point out that the accused came from California to join the Can Army as a volunteer at the age of 16. He was shortly boarded out of the army on medical grounds having very severe pneumonia and what was been described as one lung, this was in 1940. In Jan 41 he again volunteered and was accepted and has served ever since. He has recently become married, his wife is an A.T.S. and is now pregnant. Pregnancy to a medical man does not present the same mysteries and terrors it does to a layman, and those of you who are fathers will appreciate that fear which one anticipates particularly in ones own wife. They are partly natural fears and partly brought about. These fears were doubly present in the case of the accused who is at present only 19 years of age. His wife cannot find a hospital and is not feeling to well. I have here part of a letter from her which states "I have seen the Dr. again and she said she would try and book me up to Lewisham Hospital and if I cannot get in there I can be evacuated away to the country". That in itself would be cause for great alarm, let alone to a boy of 19. There would be expenses attached at the best of times which would put a severe strain on the finances of any enlisted man. In the case of the accused it has been pointed out that he has assigned $25.00 a month, and $10.00 for a war bond and $10.00 for some other thing. and he is now receiving $1.00 for himself. He has stated to me that previously he applied for a 48 hrs pass to see hiw wife and discuss this with her and for one reason or another this leave was not granted for a period of two weeks. He was worried and his wife was writing him every day, so he went A.W.L. to see her and to see if he could help straighten out the difficulties which I have mentioned, and which I maintain is perfectly natural on the part of anyone, particularly in the case of a 19 year old boy who missed that interesting period of growing up from the age of 16 to 19. I submit this man should never have been allowed to apply $10.00 of his pay towards a war bond and it is foolish to expect his to exist on $1.00 a month. I also submit that when he re-enlised there was certainly a definite lack of investigation at that time or he should not have been allowed to join until a year after that time so I think there is a definite blame for his period of A.W.L. In respect to the civilian clothing, that is something he has in mind, and that was to apply for work or acquire employment and in so doing get more money, and he has not intention of leaving the service of the crown.

(over)

First Witness for the Defence

D 26123 SSM Patterson, HQ Sqn, 4 Can Armd Div being duly sworn is examined by the Defence

Q.1 Will you identify yourself to the court?
A.1 I am D 26123 Sqn Sgt Major Patterson, HQ Sqn 4 Can Armd Div.
Q.2 Will you tell the court the substance of the conversation we had with reference to the financial status of the accused?
A.2 Actually this is heresay evidence, I was informed by the Paymaster that this men has $25.00 assigned to his wife per months and there is also a payment of $10.00 marriage allowance and he has bought a war bond which takes $8.00 per month leaving him just over a $1.00 a month.

In the opinion of the court and the judge advocate it is not necessary to comply with the provisions of R.P. 83(b)

THE WITNESS WITHDRAWS

Mitigation by the Defence

Mr. President and Gentlemen I would first like to point out that the accused came from California to join the Can Army as a volunteer at the age of 16. He was shortly boarded out of the army on medical grounds having very severe pneumonia and what has been described as one lung, this was in 1940. In Jan 41 he again volunteered and was accepted and has served ever since. He has recently become married, his wife is an A.T.S. and is now pregnant. Pregnancy to a medical man does not present the same mysteries and terrors it does to a layman, and those of you who are fathers will appreciate that fear which one anticipates particularly in ones own wife. They are partly natural fears and partly brought about. Those fears were doubly present in the case of the accused who is at present only 19 years of age. His wife cannot find a hospital and is not feeling to well. I have here part of a letter from her which states "I have seen the Dr. again and she said she would try and book me up to Lewisham Hospital and if I cannot get in there I can be evacuated away to the country". That in itself would be cause for great alarm, let alone to a boy of 19. There would be expenses attached at the best of times which would put a severe strain on the finances of any enlisted man. In the case of the accused it has been pointed out that he has assigned $25.00 a month, and $10.00 for a war bond and $10.00 for some other thing, and he is now receiving $1.00 for himself. He has stated to me that previously he applied for a 48 hrs pass to see his wife and discuss this with her and for one reason or another this leave was not granted for a period of two weeks. He was worried and his wife was writing him every day, so he went A.W.L. to see her and to see if he could help straighten out the difficulties which I have mentioned, and which I maintain is perfectly natural on the part of anyone, particularly in the case of a 19 year old boy who missed that interesting period of growing up from the age of 16 to 19. I submit this man should never have been allowed to apply $10.00 of his pay towards a war bond and it is foolish to expect him to exist on $1.00 a month. I also submit that when he re-enlisted there was certainly a definite lack of investigation at that time or he should not have been allowed to join until a year after that time so I think there is a definite blame for his period of A.W.L. In respect to the civilian clothing, that is something he had in mind, and that was to apply for work or acquire employment and in so doing get more money, and he had not intention of leaving the service of the crown.

Exhibit "A"

Any communication on this subject should quote the date and number hereon. Postage must be prepaid.

No. 506A (Unruled)

METROPOLITAN POLICE.

"P" DIVISION Oatford STATION

30th November 194 5.

REPORT for the information of the Officer Commanding, 4th Canadian Armoured Divisi East Grinstead.

respecting Trooper K.1145. Lloyd Greeson.

CONFIDENTIAL REPORT

(The information given is supplied on the clear understanding that it will be regarded as confidential, the source from which it is obtained not being disclosed to the persons concerned.)

P.S. 49"P" James Jeffrey, reports at 11-30pm. on the 29th Novemb 1945, in consequence of information received he went to No 499.A. Bromley Road, Oatford, S.E.6. a dwelling house where he saw the above named perso The P.S. challenged him as to his identity. Greeson who was in plain cloth produced for the Officer's inspection a Merchant Navy Certificate of Discharge in the name of K. Brooks. On inspecting the description form attached the P.S. noticed that the height shown had been 5ft 7ins and this had been altered to 5ft 9ins. and after further questioning Greeson said:- " All right I give up, I was in the Canadian Army". Greeson then admitted to the P.S. that he met Brooks in Manchester a few days previously to whom he gave his uniform in exchange for the certificate of discharge.

The P.S. then apprehended Greeson and brought him to this station where he was detained pending the arrival of the escort.

Statement of P.S. Jeffrey attached.

A Shenton ..Stn.P.S. 7

A

69-1

[p.t.o.

Exhibit "A"

METROPOLITAN POLICE.

No. 992.

STATEMENT OF WITNESS.

Penge *Station.* 'P' *Division.*

30th November 1943.

Name James Jeffery, P.S.42.'P'.

Address Penge Police Station.

Age . Occupation Police Sergeant.

Statement: At 10.45pm on 29th November 1943, in consequence of what I was told, I went to No.499a Bromley Road, Catford, S.E.6, where I saw Trooper Lloyd Greeson, age 21, Regt No.K.1143, of 4th Canadian Armoured Divisional H.Q., stationed at East Grinstead, Sussex, who had been absent from his Unit since 18.11.43.

I told him that I had reason to believe that he was an absentee and he said, "No I'm a Merchant Seaman". He then produced a Merchant Seaman's Continous Discharge Papers No.R.209380 in the name of Keith Brooks, born in Blayney, N.S.W., and he stated that they referred to himself and said, "I have been up to the Pool to-day to get another boat and a new Identity Card as I have lost mine". I questioned him for several minutes, during which time he insisted that he was a Merchant Seaman and the Papers produced were his own, but finally said, "All right I give up, I was in the Canadian Army".

I then told him that I should detain him and took him to Catford Police Station, on the way he said, "I went to Manchester about a week ago where I met a fellow in the Y.M.C.A. and we changed places, I gave him my uniform and he gave me his clothes and discharge I haven't the faintest idea who he was". When I questioned him about the Discharge Papers he said, "I admit altering the height from 5' 7" to 5' 9". Greeson was in civilian clothes.

Signature J. Jeffery P.S.42.'P'.

Signature witnessed by [illegible] S.P.S.2.'P'.

M.P. 19155/200,000 Oct./1939 96 (8)

This is Exhibit "A" referred to in the summary of evidence in the case of K-1143 Tpr. Lloyd Greeson taken before me this 7th day of December 1943.

(J H Gordon) Lieut.
Officer Taking Summary

Any communication on this subject should quote the date and number hereon. Postage must be prepaid.

Exhibit "A"

METROPOLITAN POLICE. No. 506A (Unruled).

"P" DIVISION, Catford STATION

30th November 194 3.

REPORT for the information of the Officer Commanding, 4th Canadian Armoured Divisi
East Grinstead.
respecting Trooper K.1143. Lloyd Greeson.

CONFIDENTIAL REPORT

(The information given is supplied on the clear understanding that it will be regarded as confidential the source from which it is obtained not being disclosed to the persons concerned.)

P.S. 42"P" James Jeffrey, reports at 11-30pm. on the 29th Novemb
1943, in consequence of information received he went to No 499.A. Brockley
Road, Catford. S.E.6. a dwelling house where he saw the above named perso
The P.S. challenged him as to his identity. Greeson who was in plain cloth
produced for the Officer's inspection a Merchant Navy Certificate of Dis-
charge in the name of K. Brooks. On inspecting the description form attached
the P.S. noticed that the height shown had been 5ft 7ins and this had been
altered to 5ft 9ins. and after further questioning Greeson said:- " All right
I give up, I was in the Canadian Army". Greeson then admitted to the P.S.
that he met Brooks in Manchester a few days previously to whom he gave his
uniform in exchange for the certificate of discharge.
The P.S. then apprehended Greeson and brought him to this station
where he was detained pending the arrival of the escort.
Statement of P.S. Jeffrey attached.

A

69-1

A Shenton ..... Stn.P.S. 7

E. Dowles. SD. Inspector.
1st December 1943

Superintendent.
194

Forwarded by direction of the Commissioner of Police of the Metropolis in reply to the application (No.)

P11/2094 1st December 1943. J Cole ~~Chief Constable~~ Secretary or Superintendent.

Documents returned ( )

460/40,000 Nov./1942 w85 (2)



47-92

Tpr. Greeson L. D.

SCHEDULE.

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

Accused: K-1143 Tpr Lloyd Donald GREESON 3 Tp Regt

Charge. (Insert "alternative" where applicable.)	Plea. (See instrs p 2.)	Finding. (See note below.)	(Space for use as required for further charges, accused charged jointly, special findings, etc.)
1st AA Sec 15(1)			
2nd			
3rd			
4th			
5th			
6th			

(Note: As to findings for lesser offences see AA 56, RP 44; findings on alternative charges see MML p 683 fn 4 para 2, RP 44; special findings see RP 44 and MML p 753, and in lieu of kit see RP 44 fn b.)

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

Time in confinement awaiting present trial—a total of 7 days, of which 0 days were spent in hospital.(+)
(+. See RP 46(A) fn 2. Information should be found on MF B355 or AF B296 admitted in evidence under E2.)

Sentence Awarded by the Court:

To undergo detention for eight (8) months

(Sgd) ..... 13 Feb 45 (Sgd) .....
Judge-Advocate, if any. Date awarded. President. (RP 45, 50.)
(See back of Convening Order as to assembly and disposal of record after trial.)

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

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

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

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

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

I confirm the finding but ~~confirm~~ the sentence to read "To undergo detention for six 6 months" and I confirm the sentence so mitigated.

~~I direct that the accused be not promoted to prisoner of detention (corrective) until further ordered.~~ (*. AA 57A. Delete if not used.)

Date 15 Feb 45 (Sgd) J Rutherford
Commanding 2 Bde G.R.U.
Confirming Officer.

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

Accused. Date. Signature of Offr.

K1143 TPR. GREESON-L.D 18 Feb 45 R. T. Davis CAPT. ADJUTANT 3 C.A.G.R.U.

ALL DELETIONS AND ALTERATIONS WILL BE INITIALLED

RECEIVED 18 Feb 45 3 CAGRU

RECORDED AT CMHQ IN AB 160, 47-92

FIELD GENERAL COURT-MARTIAL

CFAB6 (In lieu of AFAB) 40/P.A.R./1688 (1/44) 4/388

Convened by Order of Brig T J Rutherford Comd "2" Gp CRU dated 10 Feb 45

ACCUSED.

(As to the trial of two or more charged jointly see RP 16, 71, 109. As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Can 208, 228, 230.)

Number.	(a) Prmnt R. (b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
K-1143	Tpr	Lloyd Donald	GREESON	3 CAGRU

PROCEEDINGS REVIEWED Brigadier Comd 7 Mar 45
REVIEWING OFFICER, JAG BRANCH C.M.H.Q.

PROCEEDINGS OF TRIAL.

Held in the Fd in (country) Belgium on (date(s)) 13 Feb 45

RECORD FORM A—OPENING PROCEEDINGS AND ARRAIGNMENT.

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

(PRINTED MATTER, NOT IN ITALICS FOR GUIDANCE, WILL BE DELETED IF NOT USED OR APPLICABLE, AND INITIALLED BY PRES OF JA. The Schedule referred to throughout is on p 4. Cautions do NOT include all relevant fns KRs. For guidance on procedure when a variation in this form arises, see form for GCM in MML pp 741 to 758. A brief record of such variation will be made and given a number having reference to addendum or preceding para number herein. See back of Convening Order, CF 495, for oaths and instrs on how to record addresses, evidence, etc., which instrs are hereafter called "Instrs". As to general provisions for conducting the trial see AA 33, RP 36, 43-70, 73, 74, 94, 103, 119, 132.)

A2. The President initials and lays before the Court the Convening Order and Charge Sheet(s) attached thereto.(*) The Court is satisfied that it is properly convened and constituted(†), accused is (are) amenable to military law, and each charge discloses an offence.(‡)
(*. As to use of Summary of Evidence see RP 17 f. 2. †. AA 49, 50, RP 125-127. ‡. RP 11-13, 23, 24.)

A3. The Court is opened. The accused is (are) brought before the Court. At 0915 hours trial commences.

A4. The Prosecutor produces a Medical Certificate that accused is (are) fit to undergo trial by court-martial.(*) The Prosecutor informs the Court that accused elected to be tried by court-martial instead of being dealt with summarily by the CO.(†)
(*. KR Can 557. 2. AA 46(8), RP 60 fn 1. For effect see KR Can 562(c). Delete, if not applicable.

A5. President to accused: Do you object to ..... as interpreter? Ans .....
The Interpreter is sworn.(*) Do you object to ..... as shorthand writer? Ans .....
The shorthand writer is sworn.(*)
(*. RP 72. Delete, if none employed.)

A6. The Convening Order and names of the President and Members of the Court are read to the accused.(*)
President to accused: Do you object to be tried by me as President or by any of the Members of the Court?
Ans .....(†)
(*. RP 110. 2. If no objection, waiting member returns. RP 68(8). If objection, see procedure AA 51, RP 25, 71, 78, MML p 742.)

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

President	Brig T J Rutherford	2 Bde
Member	Lt Col G F Leonard	1 R Hamps
Member	Lt Col C R Head	1 C Scots
Judge-Advocate	Capt C F Gerard	3 Cdn Inf Bde
Prosecutor	Capt C F Gerard	3 Cdn Inf Bde
Defending Offr	Capt [illegible]	3 Cdn Inf Bde

Questions by President: Is the Prosecutor a lawyer? Ans No Is the Defending Offr a lawyer? Ans No (†)
(*. RP 26, 27, 109, 111. List of offrs under instr will be returned separately with proceedings for information of Conv Offr.)
(†. If Pros a lawyer and Def Offr not, accused is entitled to an adjournment when RP 89 (5) and fn 2 were not followed. See DI p 2.)

A8. The accused ..... before arraignment make(s) (no) (a) plea. (*)
(*. If a special plea is made for separate trial on one or more charges (RP 62(E), 109), or as to the jurisdiction of the Court (RP 34, 35(A), 118), or in bar of trial (RP 36), or as to accused's mental fitness to stand trial (AA 130, RP 37), or by one of several accused charged jointly to be tried separately (RP 14, 71), such plea, the addresses made in support or against, the evidence, if any, and finding are recorded per Notes. For forms of record see references in fns to RoP cited. Insert in AB rank and name of the accused making the plea.)

A9. The accused is (are) arraigned (separately) on all charges in the charge sheet.(*) The accused does (do) not object to any charge.(†) There is no amendment to be made to the Charge Sheet.(‡) The President records the pleas in Part I of the Schedule.
(*. RP 31, 112. See para 1 of Instrs p 2. When more than one Charge Sheet see RP 62; when several accused to be tried separately see RP 71(E), and use separate copies of CF 495 to record proceedings. †. RP 32, RP 33. If otherwise, delete and make appropriate record per Notes.)

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

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

INSTRUCTIONS ON PROCEDURE AFTER ARRAIGNMENT.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

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

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

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

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

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

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

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

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

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

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

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

RECORD FORM E--PROCEEDINGS ON CONVICTION BEFORE SENTENCE.

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

E2. The Prosecutor produces Statement(s) as to Character and Particulars of Service(1), and certified true copy (copies) of Conduct Sheet(s)(2), purporting to refer to the accused, which he submits to the Defending Offr for examination, and then to the Court for admission in evidence. The Court is satisfied that these documents refer to the accused, because (i) they purport to be signed in the manner required by AA 163(1) (g) (h), and (ii) they purport to refer to (a) soldier(s) having the same number, rank, name and corps as the accused. Admitted in evidence and marked Ex B and Ex ..... respectively.(3)
(*1. AFB 255 or AFB 296. 2. MFM 6. 3. RP 46, KR Can 558. If above documents not produced, see RP 46 fn 1 para 1.*)

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

E4. The President states that the Court is closed to consider the sentence, and that the sentence to be awarded by the Court, being subject to confirmation, will not be announced, but will be promulgated later, and the proceedings in open court are accordingly terminated.(1)
(*1. AA 54(4), RP 120(A).*)

E5. The Court considers the sentence.(1) The President records the sentence in Part I of the Schedule, which is dated and signed by him and the J.A. if any.(2)
(*1. When several accused tried separately see RP 71 (D). One sentence only, comprised of the punishment or punishments laid down in AA 41, 44 and its proviso, is to be awarded to cover all charges in all charge sheets on which accused found guilty. RP 46. As to sentences see AA 44, 128, 182, RP 46-50, 69, 118, 119(A), KR Can 836, 3361, 563-566. Overseas RO 309, 2223, MML p 60, 737-738. As to sentences consigned for civil offences by the law of England see AA 41(5), MML p 130. When accused already under sentence of imprisonment or detention see AA 44(1)(b), 68(1), KR Can 564. 2. RP 50. As to release from arrest by Confirming Offr see KR Can 567. As to assembly and disposal of record after trial see notes on back of Convening Order.*)

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

LIST OF WITNESSES IN THE CASE OF

K.1143 Tpr Greeson, L.D.

FOR THE PROSECUTION

1. B.147109 L/Cpl Nadeau, R.J. 3 CACRU
2. Lt E.J. Williams 3 CACRU

FOR THE DEFENCE

1. K.1143 Tpr Greeson, L.D. 3 CACRU

(G. Dodds) Capt
Officer detailed to take
Summary of Evidence

I, K.1143 Tpr. Greeson, L.D., do desire
~~do not desire~~

the services of an officer to defend me at my trial by Field General Court Ma rtial.

I desire the services of .....

L.D. Greeson

(K.1143 Tpr. Greeson, L.D.)

LIST OF EXHIBITS IN THE CASE OF

K-1143 Tpr Greeson L.D.

Exhibit "A". Certificate of apprehension.

G Dodds.

(G. Dodds) Capt.
Officer detailed to take
The Summary of Evidence

MFM 6
(AFB 122)

No K.1143 Name Greeson L.D. Sqn, Battery, or Company — Corps C.A.C. — Date of enlistment — GC Badges — Service or Proficiency Pay — Character

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

	Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order directing with this	By whom awarded	Remarks
							14 days det.	22 Dec 41		Forf.14 dys pay
	Field		Tpr		A.A.40		14 days det.	30 Dec 41		Forf.14 dys pay
	Field		Tpr		A.A.40		28 days det.	10 Mar 42		Forf.40 dys pay
	Field		Tpr		A.W.L.					
	Field		Tpr		A.W.L. (1 day 19 hrs 45 min) Taken into civil custody, Sentenced 6 Mos for Armed Robbery A.A.23(s)		6 Months det.	12 Jun 42		
							14 days det	22 Feb 43		Forf.22 dys pay
	Field		Tpr		A.A.15(1) A.W.L.		7 days F.P.	5 Jul 43		Forf. 8 dys pay
	Field		Tpr		A.A.15(1) A.W.L.		28 days det.	15 Jul 43		Forf.[illegible]7dys pay
	Field		Tpr		A.A.15(1) A.W.L.		7 days F.P.	23 Oct 43		Forf. 8 dys pay
	Field		Tpr		A.A.15(1) A.W.L.		10 mos det	31 Dec 43		Forf.333 " pay
	Field		Tpr		A.W.L.		Admonished	11 Jul 44		Stoppage of pay 21-18-11
FGCM	Field		Tpr		A.A.24(2)					
	Field		Tpr		A.A.15(1) A.W.L.		15 days F.P.	27 Jul 44		Forf.22 dys pay (PTO)

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Name of Witnesses	Punishment awarded	Date of award or of order directing trial	By whom awarded	Remarks
						Admonished.	9 Aug 44		Forf. 1 days pay
Field		Tpr		A.A. 15(1)		7 days CB.	17 Aug 44		Patient,RW Can Hosp
Field		Tpr		A.A. 15(1)					
Field	24 Aug 44	Tpr		A.W.L. 2200 hrs 24 Aug 44 C/A.W.L. on surrender to MP HQ Cherburg, France 29 Aug 44			28 Nov 44		
						1 days F.P.	8 Dec 44		Forf.66 days pay
Field		Tpr		A.W.L.					
Field		Tpr		A.W.L. from 1800 hrs 5 Dec 44 Still A.W.L. 22nd day, 27 Dec 44			30 Dec 44		

Certified True Extract From MFM 2.

Signed.....
(R.A.C. Johnson) Maj.
Offr. Having Custody of Documents
Record Office
C.M.H.Q.

OF EXTRACTS

Certified True Copy taken from
Certified true copy of MFM 2, held
in my custody.

.....Capt. R.A.S.C.
(J.T. Davies) Capt & Adj.
3 C.A.C.H.U.

SCHEDULE OF CONVICTIONS BY A COURT-MARTIAL OR CIVIL COURT.

Description of Court by which tried.	Date and Place of Trial.	Charges upon which convicted.	Sentence of the Court.	Punishment remitted or sentence suspended.
(Civil Charge) FC C.M.	12 Jan 42	Armed Robbery A.A. sec 2(a)	6 mos det'n	
F.G.C.M.	31 Dec 43	A.A. 15 (1)	10 mos detn	

I HEREBY CERTIFY that the foregoing particulars, which have been extracted from the regimental books in my custody, are correct to the best of my knowledge and belief.

Signed this 1 day of Feb 45

J. T. Davis

Statement as to Character and Particulars of Service of Accused.

ARMY FORM B.296 (WAR).

(For Use at Trials by Field General Courts-Martial only).

Number.	*Rank.*	*Name.*	*Regiment (or as the case may be).*
K.1143	Tpr.	GREESON, L.D.	3 CAC RU

NOTE.—The Field Conduct Sheet is to be produced in Court with this statement but is not to be shown to the prosecutor. The numbers here stated should correspond with the number of Entries in the Field Conduct Sheet, precedence being given to the most serious offence or most recent entry. If the charge is for drunkenness or absence without leave, the entries for drunkenness or absence, as the case may be, should be stated separately. Any mention of special acts of gallantry or distinguished conduct recorded on the Field Conduct Sheet should also be inserted here.

1. The following is a fair and true summary of the entries in the Field Conduct Sheet of the accused, exclusive of convictions by a court martial or a civil court :—

For	A.A. 15 (1)	Twelve times.
For	A.A. 40	Twice times.
For	A.A. 24 (2)	Once times.
For	A.A. 23(a)	Once times.

Date of first entry in Field Conduct Sheet 22 Dec 41

Date of last entry in Field Conduct Sheet 30 Dec 44

2. Previous convictions of the accused by a court martial or a civil court are set out in the Schedule overleaf.

*Strike out if not applicable.

XXXX

CERTIFICATE IN ACCORDANCE WITH A.C. 9797 of 10 APR 42. EXHIBIT "B"

I certify that No. K-1143 Rank Tpr. Name Greeson.L.D.

Unit No.3.C.A.C.R.U. (C.R.U.) was arrested at London. Place

2150 hrs. (Hour) on 19-Jan-45. (Date) and that at the time of his arrest he was wearing (Military Uniform) xxxxxxxxxxxxxxxxxxx, Signature of Provost Marshal, Assistant Provost-Marshal, or other Officer or the Commanding Officer of the portion of His Majesty's Forces or the Officer, Warrant Officer, or non-commissioned Officer in charge of the detachment of the Canadian Provost Corps, Canadian Army into whose custody the above named person was taken on arrest. (Strike out part inapplicable).

Certified that the accused is the man described in the above certificate of apprehension.

J.T. Davies
(J.T. Davies) Capt
Adjt 3 CACRU

R.T. Birch
(R.T. Birch), Capt.
[illegible]

20-Jan-45.

This certificate has been shown to the accused, marked by me as Exhibit "A" for the prosecution and attached to the summary of evidence.

(G. Dodds) Capt
Officer detailed to take the Summary of Evidence

The accused was cautioned as follows:-

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

Answered by the accused.

"Yes, I'll make a statement."

The accused having been duly sworn states:-

"I wish to state that I am still willing in all ways to return to the front lines and join a fighting unit."

The accused does not call any witnesses for the defence.

(K.1143 Tpr. Greeson, L.D.)

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

(G. Dodds) Capt
Officer detailed to take Summary of Evidence

In the Field
8 Feb 45

SUMMARY OF EVIDENCE in the case of K.1143 Tpr. Greeson, L.D., a soldier of the Canadian Army Overseas, on the strength of X-4 List and attached to No 3 Canadian Armoured Corps Reinforcement Unit.

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

First Witness for the Prosecution

B.147109 L/Cpl Nadeau, R.J.A., of No 3 Canadian Armoured Corps Reinforcement Unit Regimental Provost, on the strength of No 3 Canadian Armoured Corps Reinforcement Unit, a soldier of the Canadian Army Overseas, having been duly sworn, states:-

At 1830 hrs 17 Jan 45, I was detailed to take a party of prisoners to clean up Regimental Headquarters. The party consisted of three troopers, Tpr. Burke, Tpr Eaton-Shore, and Tpr Greeson. I had Tpr Greeson and Tpr Eaton-Shore working in the Commanding Officer's office. Tpr Burke was in the Adjutant's office. I was standing in a place where I could see both doors to see that no prisoners could come out without my seeing them. I went to the Adjutant's office to see if Tpr Burke was working. I was only gone a matter of seconds and then returned to the Commanding Officer's room and found Tpr Eaton-Shore and Tpr Greeson, whom I now recognize as the accused, had escaped. I immediately notified L/Cpl Pearo who was in the Guard Room and we notified all our provost staff and proceeded to make a search for these men. The time of the escape was approximately 1900 hrs, in the de...

Tpr Greeson was being held in lawful custody in the Unit Guard Room on apprehension for A.W.L. from his Unit in France and was awaiting return to his unit.

The accused declines to cross-examine this witness.

B.147109 L/Cpl Nadeau, R.J.A.

Second Witness for the Prosecution

Lt E.J. Williams, on strength of No 3 Canadian Armoured Corps Reinforcement Unit, an officer of the Canadian Army Overseas, having been duly sworn, states:-

I hereby produce as documentary evidence in the case of K.1143 Tpr Greeson, L.D. certificate of apprehension in accordance with PC 2797 of 10 Apr 43, purporting to be signed by Capt R.E. Birch, RAPM CMHQ, relating to the apprehension of K.1143 Tpr Greeson, L.D., whom I now recognize as the accused, in London at 2150 hrs 19 Jan 45.

The accused declines to cross-examine this witness.

Lieut E.J. Williams

CHARGE SHEET

The accused, K 1143 TPR LLOYD DONALD GREESON, on strength "X-4" List, attached to No 3 Canadian Armoured Corps Reinforcement Unit, a soldier of the Canadian Army Overseas, is charged with:

FIRST CHARGE ABSENTING HIMSELF WITHOUT LEAVE

AA SEC 15(1)

in that he

at No 3 CACRU, when in custody, absented himself without leave from 1900 hrs 17 Jan 45 until apprehended on Tottenham Court Road, London, by No 6 Area Canadian Provost Company, Canadian Provost Corps, at 2150 hrs 19 Jan 45 (Total time absent, 2 days 2 hrs 50 mins).

(R.E.A. Morton) A/Colonel
Commanding Officer
3 CACRU

In the Field
24 Jan 45

To be tried by Field General Court-Martial.

(J.J. RUTHERFORD) Brig
Comd "E" Gp, CRU

In the Field
10 Feb 45

FIELD GENERAL COURT-MARTIAL

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

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

ACCUSED.

Number.	(a) Prmnt R.	(b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
K-1143	Tpr		Lloyd Donald	GREEN	3 CACRU

CONVENING ORDER.

1. Whereas complaint has been made to me, the undersigned, that the person(s) named above as the accused, being subject to military law, has (have) committed the offence(s) set forth in the Charge Sheet(s) attached and on (date) 10 Feb 45 endorsed by me, (authority of any part of me), " To be tried by Field General Court-Martial ".

2. And whereas I am of opinion that it is not practicable that such offence(s) should be tried by an ordinary General Court-Martial ; ~~[and that it is not practicable that such offence should be tried by a Field General Court-Martial because of the exigencies of service]~~

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

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

~~4. [and unable to appoint A/J Advc Offr to act at the Court, I] a FIELD GENERAL Officer to be President, of the rank of Major attached hereto.~~

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

5. ~~[also appoint as Judge Advocate a Barrister, Advocate or Solicitor of not less than five years standing.]~~

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

PRESIDENT.

(Rank.)		(Must be named. RP 106.)	(Unit.)
Maj	E M Miller, ED		HQ CRU

MEMBERS.

(Rank.)		(Named or detailed. RP 106.)	(Unit.)
	Capt to be detailed by OC 1 CGRU		
	Lt to be detailed by OC 1 CGRU		

WAITING MEMBER.

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

JUDGE-ADVOCATE.

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

On Active Service in the Fd

in England
(Country.)

Date 10 Feb 45

(Signed personally. RP 105 fn 2.)
(T J RUTHERFORD)
Commanding "E" Gp CRU
Convening Officer.

Brig
(Rank.)

CONVENING OFFR WILL INITIAL ALL DELETIONS AND ALTERATIONS

4/38A CFAMS (120 lines of AFA3)
40/F & S/1497 (4681)

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

Medical Officers' Certificate
KR(Can) para 555.

I certify that I have this morning examined:-

Regt'l No. K1143. Rank TPR Name GREESON, L.D.

of 3CACRV. (unit) and in my opinion he is

~~Unfit~~ Fit to undergo trial by Court Martial.

#(cross out one N/A and initial)

Station: IN THE FIELD.

Date (of Court Martial) 13 Feb 43

Sgd. [illegible] (Rank)
Unit
Medical Officer, RCAMC.

CASE OF

E-1 K-1143 TROOPER GREESON, L.D., TOS "X-4" List, att No. 3 Cdn Armd Corps Rft Unit.

The accused, duly sworn, states:-

Sir, my age is 20 years of age. I was born on the 30th Aug 24. I joined the army, stating I had two years older than I was but I later in 42 declared my correct age when I was with the BC Dragoons in England. I was then sent to No. 3 CACRU. In Aug 44, I was sent to Roman Way Convalescent Hospital and I went AWL from there and I went over to France on my own. I surrendered myself to the American MP in Cherbourg: I was turned over to the Cdn MP and sent to No. 9 Prov and sent to CBRG at La D'Evremont. I was held in the guard-room under close arrest for sixty-four days without a trial. I was then taken before the OC of CBRG who sentenced me to one day FP and forfeiture of pay for the time I was under arrest. I was then sent to a forward unit which was the 4th Brig HQ. There I was driving an ammn truck. I was there three weeks when I received a letter from my wife, stating that my baby son was desperately ill. I went to the Sqn OC and asked him for compassionate leave. He said he'd see what he could do. I never heard a thing and I took things in my own hands and I went AWL. I arrived in England in Dec. I went immediately to Hethergreen Hospital. The doctor consulted me right away. He said the baby was on the dangerous list, and that he had not much chance. My wife was in a very nervous state and I sent her home right away. I stayed by the baby's bed until Dec 21 in the afternoon, when the baby died. My wife had a nervous break-down. In the meantime, I got a certificate from the doctor stating the baby's condition. I wrote that to the 4 Brig HQ 's OC and told him that as soon as everything would be cleared up, I would surrender myself. I gave my home address, 499A Bromley Rd, Downham Way, Bromley, Kent, and I have received no answer. I then surrendered myself to the police on the 5th Jan 45 and was sent to No. 3 CACRU. I was held there under close arrest. In the meantime, I received a letter from my wife, stating that I would probably get three years penal servitude for what I did and she was all folded up over that. I was working that evening and I escaped to go and see her. I realize now my great mistake and still wish to return to my unit and carry on with my job as a soldier. I am a Dvr IC Wheels, Painter Class 3 and Cook Class C. While at CBRG I asked the OC there if it was possible to be sent to the inf but I was sent to 4 Brig HQ Armd. My reason for wanting to transfer from armd is that in four years I have never been inside a tank. I have had two years inf trg with the United States Reserve Army.

Mr. President and Members of the Court:-

It might be of some interest before passing sentence on the accused to bear in mind a few details concerning his life.

As you know he is only ~~22~~ 20 years old and enlisted at the age of sixteen after he left his home in San Diego, California to join the Canadian Army. He married in 1943 in this country.

It has happened in the past that in some cases some innocent people had in an indirect way to suffer on account of a sentence passed by a Court.

In connection with this particular case I wish to make a special plea asking the mercy of the court on the accused for the a/m reason.

As I said before the accused married in 1943. On the 1 Jul 44 his wife gave birth to a child. Her state of health has been very poor since that date. As a matter of fact she is shortly due to undergo an operation at Lewisham Hospital and to make things worse she had the misfortune to lose her child on the 21 Dec 44.

There is no need to tell the court that the loss of her child was surely a shock for this young wife and it did affect her moral to a great extent. However she is doing all in her power to get through those difficult circumstances. She is working at the Queens Hall Cinema in Catford as an usherette. For her services she receives the sum of £1-4-0 per week and has to pay the sum of £1-0-0 a week for her room and board leaving her four shillings net. It is only with the help of the Cdn Government that she can manage to live.

In accordance with the Finance Regulations of the Cdn Army a soldier undergoing sentence, the Dependants Allowance is paid up to six months only. It is for all the above reasons that I am asking this Court again to bear in mind what will be the position of his wife if her Dependants Allowance is cut off. I feel sure that you will take this plea into consideration as a plea of mercy on behalf of the accused.

J. Sturgeon

5Y-131 Spec. Freeson, L.D. Hospital DNDLg AGSA

5 R-105

Jpr. Lueson, L.D.

5R-105

FIELD GENERAL COURT-MARTIAL

CFA66 (To face of AFA67) 30/P AC 61/1898 40000 4/38B

Confirmed by Order of Maj-Gen D.C.Smy, DSO Comd 6th Bft Units dated 31 July 45.

RECEIVED 22 AUG 1945 JAG BRANCH G.H.Q.

ACCUSED.

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

(a) Prmnt R.	(b) Apptmt, A/R or A/Apptmt.	Full Christian Names.	Surname.	Unit.
X.1143	Tpr	Lloyd Donald	GIBSON	C&C 2 CGRU

PROCEEDINGS REVIEWED 22 Aug 45 [illegible] Capt. REVIEWING OFFICER, JAG BRANCH G.H.Q.

PROCEEDINGS OF TRIAL.

Held in the Fd in (country) England on (date(s)) 2 Aug 45

RECORD FORM A—OPENING PROCEEDINGS AND ARRAIGNMENT.

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

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

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

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

A3. The Court is opened. The accused is (are) brought before the Court. At 1100 hours trial commences.

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

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

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

~~The Interpreter is sworn.~~(1) Do you object to F29126 SGT AH SINCLAIR as shorthand writer ? Ans NO CPL(T) S/HAND WRITER

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

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

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

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

President	Lt-Col	D.L. Redman	HQ CBH
Member	Capt	J.B. CURRAN	1 CGRU
Member	Lieut	G.A. PARRY	1 CGRU
~~Judge-Advocate~~			
Prosecutor	LT	J.D. ALLEN	2 CBRD
Defending Offr	LT	P.D. McGREGOR	2 CGRU

Questions by President: Is the Prosecutor a lawyer ? Ans NO. Is the Defending Offr a lawyer ? Ans NO YES

(1. RP 26, 27, 109, 111. List of offrs under instr will be returned separately with proceedings for information of Conv Offr.)
(2. If Pros a lawyer and Def Offr not, accused is entitled to an adjournment when RP 89 (B) and fn 2 were not followed. See DI p 32.)

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

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

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

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

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

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

SCHEDULE.

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

Accused K1143 TPR GREESON, L. D., CAC., 2 C.R.U.

Charge. (Insert "alternative" where applicable.)	Plea. (See Instrs p 2.)	Finding. (See note below.)	(Space for use as required for further charges, accused charged jointly, special findings, etc.)
1st A/Secno	NOT GUILTY	GUILTY	
2nd			
3rd			
4th			
5th			
6th			
7th			

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

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

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

Time in confinement awaiting present trial—a total of 45 days, of which NIL days were spent in hospital.(*)

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

Sentence Awarded by the Court:

To undergo detention for a period of ninety (90) days.

(Sgd) ..... Judge-Advocate, if any. 4 Aug 45 Date awarded. ..... President. (RP 45, 50.)

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

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

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

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

(For duties and powers see AA 54, 57, RP 37(D) fn 6,46(F), 51-56, 120, MML pp 759-761, KR Con 567-571. Acquittals require no confirmation and cannot be revised: AA 54(3). Sending back finding or sentence for revision by Court: AA 54(2), RP 120(G). If confirmation and cannot be revised: AA 54(3). Sending back finding or sentence for revision by Court: AA 54(2), RP 120(G). If not confirmed, accused may be tried again: AA 157, MML p 64. Minute of confirmation or non-confirmation may be altered before promulgation: RP 53, MML p 65. Quashing after promulgation: KR Con 573. Duties and powers of reviewing offrs: AA 57, 57A, RP 53A, 54. The Confirming Offr must sign here personally. AA 172 fn 1.)

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

Confirmed.

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

Date 10 Aug 45 (Sgd) D C Spry Commanding (D C SPRY) MAJ-GEN COMD-CON RET UNITS.

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

Accused.	Date.	Signature of Offr.
K1143 Tpr Greeson L.D.	15 Aug 45	J C Smith MAJOR ADMIN. OFFR 2 C.R.U.

ALL DELETIONS AND ALTERATIONS WILL BE INITIALLED.

No. K.1143 Name GREESON L.D. | Sqn, Battery, or Company | Corps C.A.C. | Date of enlistment | QC Badges | Service or Proficiency Pay | 3/17 MFM 6 (AFB 122) 40/Pam 136 (7919)

Date of last entry in Company Conduct Sheet | No. and date of last drunk N/A | Period not reckoning towards freedom from extra fine | Sheet No. One | Signature OC Company, etc | Character

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Field		Tpr		A.A.40		14 days det.	22 Dec 41		Forf.14 dys pay
Field		Tpr		A.A.40		14 days det.	30 Dec 41		Forf.14dys pay
Field		Tpr		A.W.L.		28 days det.	10 Mar 42		Forf. 40 dys pay
Field		Tpr		A.W.L. (1 day 19 hrs 45 min) Taken into civil custody. Sentenced 6 Mos for Armed Robbery A.A. 23(a)		6 Months det.	12 Jun 42		
Field		Tpr		A.A.15(1) AWL		14 days det	22 Feb 43		Forf. 22 dys pay
Field		Tpr		A.A.15(1) AWL		7 days det	5 Jul 43		Forf. 8 dys pay
Field		Tpr		A.A.15(1) AWL		28 days det.	15 Jul 43		Forf. 29 dys pay
Field		Tpr		A.A.15(1) AWL		7 days F.P.	23 Oct 43		Forf. 8 dys pay
Field		Tpr		AWL		10 mos det	31 Dec 43		Forf. 333dys pay
NQCM Field		Tpr		A.A.24(2)		Admonished	11 Jul 44		Stoppage of pay £1-18-11
Field		Tpr		A.A.E (1) AWL		15 days F.P.	27 Jul 44		Forf.22 dys pay

(PTO)

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order determining with trial	By whom awarded	Remarks
Field		Tpr		A.A. 15(1)		Admonished	9 Aug 44		Forf. 1 days pay
Field		Tpr		A.A. 15(1)		7 days CB.	17 Aug 44	Patient. R.W. Cdn Hy	
Field	24 Aug	Tpr		A.W.L. 2200 hrs 24 Aug 44 C/A.W.L. on surrender to MP HQ Cherbourg, France 29 Aug 44		1 days F.P.	28 Nov 44 8 Dec 44		Forf. 66 days pay
Field		Tpr		A.W.L.			30 Dec 44		
Field		Tpr		A.W.L. from 1800 hrs 5 Dec 44 Still A.W.L. 22nd day, 27 Dec 44					

Certified True Extract From MFM 2.

Signed.....
(R.A.C. Johnson) Maj.
Offr. having Custody of Documents
Record Office
C.M.H.Q.

Certified True Copy of Extracts taken from Certified true copy of MFM 2 , held in my custody.

Signed (J.F. Davies) Capt & Adj.
2 C.A.C.R.U.

No. K1143 Name GREESON, L.D. Sqn, Battery, or Company — Corps C.A.C. — Date of enlistment — GC Badges — Service or Proficiency Pay — 3/17 MFM 6 (AFB 122) 40/P&S/136 (7010)

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

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order directing trial	By whom awarded	Remarks
Field	17 Jan 45			A.A.Sec.15(1) WOAS AWL from 1900 hrs 17 an 45 until apprehended at 2150 hrs 19 Jan 45. Absent 2 dys 2 hrs 50 mins.)	Documentary	6 months detn.	13 Feb 45	FGCM	Forf 181 dys pay FRI 149 (1) (b). Forf 3 dys pay FRI 149 (1) Forf 24 dys pay for close arrest. FRI 149 (1) (c)

Certified True Copy of Particulars, in my custody.

K.W.G. Doull Capt

(K.W.G. Doull) Capt & Adj.
4 Cdn. Mil. Prison & Det. Dke.

Sgd. J.T. Davies. Capt. Adjt.

(P10)

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Name of Witnesses	Punishment awarded	Date of award or of order disposing with trial	By whom awarded	Remarks

SCHEDULE OF CONVICTIONS BY A COURT-MARTIAL OR CIVIL COURT.

Description of Court by which tried.	Date and Place of Trial.		Charges upon which convicted.	Sentence of the Court.	Punishment remitted or sentence suspended.
Civil	12 Jun Field	42	A.A. 23(a) - Armed Robbery	6 Months Det., civil custody.	No reco rd
FGCM	31 Dec Field	43	A.A. 15(1) - AWL	10 Months Det.	100 days
FGCM	13 Feb Field	45	A.A. 15(1) - AWL	6 Months Det.	60 days

I HEREBY CERTIFY that the foregoing particulars, which have been extracted from the regimental books in my custody, are correct to the best of my knowledge and belief.

Signed this 27th day of July, 1945

(A.G. Doull) Capt & Adj

Adj. Comnt.

ARMY FORM B.213 (WAR)

Statement as to Character and Particulars of Service of Accused.

(For Use at Trials by Field General Courts-Martial only).

Number.	*Rank.*	*Name.*	*Regiment (or as the case may be).*
K-1143	Tpr.	GREESON, L.D.	CAC

NOTE.—The Field Conduct Sheet is to be produced to Court with this statement but is not to be shown to the proceedings. The numbers herein stated should correspond with the number of Entries in the Field Conduct Sheet, prominence being given to the most serious offence in each entry. If the charge is for drunkenness or absence without leave, the entries for drunkenness or absence, as the case may be, should be stated separately. Any recognized special acts of gallantry is distinguished conduct recorded on the Field Conduct Sheet should also be inserted here.

1. The following is a fair and true summary of the entries in the Field Conduct Sheet of the accused, exclusive of convictions by a court martial or a civil court :—

For AA 40 — 2 times.

For AA 15(1) A.W.L. — 11 times.

For AA 24(2) — 1 times.

For ____ — ____ times.

Date of first entry in Field Conduct Sheet 22nd Dec., 1941.

Date of last entry in Field Conduct Sheet 13th Feb., 1945.

2. Previous convictions of the accused by a court martial or a civil court are set out in the Schedule overleaf.

*Strike out if not applicable.

*3. The accused at the present time is under sentence for N/A

beginning on the ____ day of ____.

4. The accused has been awaiting trial on the present charges for NIL days in civil custody; and for 248 days in military custody, *i.e.*, NIL days in open arrest, 248 days in close arrest; of which NIL days were spent in hospital.

5. The present age of the accused is 23 Years, 17 Days.

6. The date of his attestation is 12 July 41.
ENLISTED AT MORETON

7. The service which the accused is allowed to reckon is 5 Years, 15 Days.

†State the military operations (if any) last by accused.

8. The accused is in possession of: C.V.S.M. & Clasp.

9. (*If the accused is a warrant officer or N.C.O.*) The accused has served continuously, without reduction, to the present date—

N/A *Date of Promotion.*

In the substantive rank of ____

In the war substantive rank of ____

In the acting rank of ____

EX B

INSTRUCTION.—*If any matter in any of the above paragraphs cannot be stated from the regimental books the paragraph must be struck through.*

(20566) Wt.42128/4399 4/45 G 11/44 A.& E.W.Ltd. Gp.693 Form B.213 (War).

CHARGE-SHEET

The accused, N.C. K-1143, Tpr. Lloyd Donald GREESON, CAC, is charged with:-

AA Sec 40

When on Active Service, conduct to the prejudice of good order and military discipline,

in that he

on the 8th, 9th and 10th May, 1945, whilst a soldier under sentence at No. 1 Cdn. Detention Barracks, was concerned in a disturbance which occurred in the said Detention Barracks.

In the Field
27th July, 1945.

H.A. Bumsley COL
Commanding

To be tried by Field General Court Martial.

D.C. Spry

In the Field
31 July 45

(D.C.Spry) Maj-Gen
Comd
Cdn Rft Units.

FIELD GENERAL COURT-MARTIAL

CFA85 (In lieu of AFA23)
40/FA23/697 (2668)

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

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

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

ACCUSED.

Number.	(a) Prmnt R.	(b) Apptnt. A/R or A/Apptnt.	Full Christian Names.	Surname.	Unit.
K.1143	Tpr		Lloyd Donald	GRENSON	CAC R COHU

CONVENING ORDER.

1. Whereas complaint has been made to me, the undersigned, that the person(s) named above as the accused, being subject to military law, has ~~(have)~~ committed the offence(s) set forth in the Charge Sheet(s) attached and on (date) 31 July 45 endorsed by me, (or by an offr of my staff for me), " To be tried by Field General Court-Martial ".

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

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

4. ~~I am unable to appoint (a) three Offrs to form the Court, (b) a Fd Offr as President, for the reasons~~ attached hereto.
(AA 49, RP 106(8), 107(A). Delete the whole or part, if not applicable.)

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

PRESIDENT.

(Rank.)	(Must be named. RP 106.)	(Unit.)
Lt-Col	D.L. Redman VD	HQ CHU

MEMBERS.

(Rank.)	(Named or detailed. RP 106.)	(Unit.)
Capt	to be detailed by CC	1 CORU
Lieut	to be detailed by CO	1 CORU

~~WAITING MEMBER.~~

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

~~JUDGE ADVOCATE.~~

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

On Active Service in the Fd

in England — (Signed personally. RP 105 fn 2.) — Maj-Gen.
(Country.) (Rank.)

Date 31 July 45. Commanding Cdn Frt Units.
Convening Officer.

CONVENING OFFR WILL INITIAL ALL DELETIONS AND ALTERATIONS.

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

MEDICAL CERTIFICATE

I certify that (K 1143, Tpr. GREESON L.D. is fit to undergo trial by Court-Martial.

In the Field
4 Jan 45.

MO

MEDICAL CERTIFICATE

Above on the date examined

I certify that K 1143, Tpr. GREESON L.D. is fit to undergo trial by Court-Martial.

In the Field
4 Aug 45.

Lt Col
MO 600 # 3CORPS CAV

TRIAL OF

K.1143 Tpr GREESON LD 2 CGRU

PROSECUTION

FIRST WITNESS

D.82755 S/Sgt ASTON, Cdn Dtn Bks, ALTON, having been duly sworn, states:

On the 8-9-10 May I was on duty in Headley Dtn Bks, and at approx 1700 hrs 8 May, VE celebrations as they the SUS called it, started, with a bunch of SUS coming out of No. 3 Living Hut in "A" Compound. They headed towards No 1 Cell Block, and then More SUS joined them from Living Huts 2 and 1. These SUS proceeded down the steps toward Cell Block 1 and the parade then broke off and proceeded towards Cpl Gavins and Sgt Simmons in search of keys. I don't know if they were successful in procuring any keys off these two, but the parade then headed over towards me.

Q. Was the accused in this parade?
A. I cannot say, Sir.

Q. Would you go ahead?
A. Otherwise from apprehended SUS that were going over the fence there was no other disturbance that night, and up until midnight things were in a kind of an uproar, with SUS running here and there, and also the staff chasing them trying to get them to their huts, and with the exception of one SUS that did an immense amount of hollering there was very little damage done on the 8th. On the morning of the 9th my shift was dismissed and sent to breakfast and while at breakfast, [redacted] we had a call to return to the Compound immediately. Upon returning to the Compound we met a parade of SUS, approx 100-125, marching towards the Ord Room in columns of threes. They were given an order to return by Col Shankland, which they ignored and continued to the East Gate of "C" Compound. Myself and a number of the other men were given an order to proceed up the rd and try to cut them off. Upon reaching the staff quarters these SUS had gotten out and managed to disperse when they saw us coming but we managed to apprehend a few. On [redacted] returning to "A" Compound there was a considerable running around and milling about of SUS, and it was approx 11.30 A.M. was the first time and only time on the 9th that I came in contact with the accused, whom I now recognize. I was given an order to get the SUS into their huts to give them their mail and I then saw the accused. They ignored my order and the accused approached me and said "I'm the RSM, I'll call the parade". He had a stick under his arm which he was carrying in a regimental order. After the Mail Sgt brought the mail down and undertook to hand the mail out, in which manner I don't know. Then Maj-Gen Spry paid the SUS a visit and gave them a talk. Then after he gave his speech there was considerable running around here and there and everywhere in rather a disorderly manner, but personally I saw nothing broken. In the evening about 1730 hrs I saw a SUS gather a parade of other SUS on the Parade Square around him and he delivered a speech. After this SUS delivered the speech the remaining body headed for the Tower which was located on Cell Block 4. They started gathering WD eqpt, broken bed boards, paliases and material and they proceeded to pile them around the base of the Tower. I gave the alarm that they were about to set fire to the Tower and when I returned it had been lit. We got the Trailer Pump out and proceeded to uncoil the hose and after considerable interruption by SUS, myself and another

Sgt managed to put the fire out. There was considerable rumming around that night as well, SUS running out and coming back in, numerous things were broken and it carried on until approx 2300-2330 hrs. The next morning, the 10th, we took a number of SUS to Redding Prison.

CROSS-EXAMINED

Q. You stated the only time you actually saw the accused was around 1130 hrs on 9 May when he formed up a parade; was that done in an insolent manner?
A. No, Sir, it appread to me as if he wanted to help me; that was the only time I saw him.

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

SECOND WITNESS

M.11852 Sgt ENG YT, Headley Dtn Bks., having been duly sworn, states:

During the evening of 8 May I was standing by Cell Block 1 and I noticed the accused, whom I now recognize, [redacted] pushing broken bed boards and eqpt out through the iron bars of his window. He was in Cell Block 4 at the time. Next morning after daylight, on the 9th May, I took a walk around the Cell Blocks and I passed the accused's cell and there was a pile of bed boards outside of his window and he asked me if I wanted to buy this stuff but I just ignored it and passed on.

CROSS-EXAMINED

Q. How far is Cell Block 1 from Cell Block 4?
A. I would guess about 50-60 yds.

Q. What would the size of the windows be in Cell Block 4?
A. Roughly 3 x 3.

Q. How far apart are the bars?
A. About 8 inches.

Q. What time was this?
A. I don't know, I didn't have a watch, but I was in the Compound between 5.30 and 8 o'clock.

Q. Did you actually see the accused through the window?
A. Yes, I know the accused as I was IC of Living Hut 1 and the accused was talking to me before he was moved to Cell Block that morning.

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

THIRD WITNESS

K.67057 Cpl GAVINS J, 4 Cdn Mil Prison & Dtn Bks., Redding, having been duly sworn, states:

On the 8 May at approx 1830 hrs I returned to Cell Block 4, to the accused's cell, and gave orders for all eqpt to be turned out except paliases and blankets. When I arrived at his cell the only things he handed out were his [redacted] steel helmet and his pail; the remainder of his stuff was not in his cell and I went outside his cell and picked it up from below his window. I picked up a broken bed board, a broken stool and all his eqpt.

CROSS-EXAMINED

Q. At the time did you enter his cell?
A. No, I stood at the door.

Q. Was there any other damage to the cell itself?
A. There was nothing broken in there, Sir.

Q. Had you a good view of the interior of his cell through the door?
A. The door was open, Sir.

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

FOURTH WITNESS

H-13196, SGT SIMMONS, A., Provost Corps, sworn, states:-

Q. Will you tell the Court what happened on 8 May at Headley Detn Bks?
A. On 8 May 45 I was i/c of Nos 1, 2, 3 and 4 cell blocks. At 1830 hrs we were down at No 4 cell block taking the eqpt, the bedding and bed out of the cells; when I came to the accused's cell, his bed-board had been broken up and his kit had been put out through the window. The accused was locked in and no one else could have gone in.

Q. Could anyone except the accused have put those articles through the window?
A. No, Sir.

Q. Did you have any talk with him?
A. I asked him where his bed-board was. He said, "They wanted it out so I put them out through the window

Q. Did you see the accused do anything else wrong that evening?
A. No, Sir.

NO CROSS-EXAMINATION

FIFTH WITNESS

C-18345 SGT WILSON DH, Provost Corps, sworn, states:-

Q. Would you tell the Court what happened at Headley Detn Bks on 9 May?
A. On 9 May 45 general disorder took place and continued until very late at night. It was in the afternoon of 9 May that I saw the accused walking with another SUS man. I gave him the order to return to his own location. That order was not carried out. He was walking quite a lot after that. I didn't hear what he said but he was talking around. There was a crowd there. I didn't see him do anything else wrong. There was no crowd around when I ordered him to return to his location.

NO CROSS-EXAMINATION

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

SIXTH WITNESS

B-87086 PTE VILLENEUVE TP, sworn, states:-

Q. Were you a soldier undergoing sentence at Headley Detn Bks on 8, 9 and 10 May 45?
A. Yes, Sir.

Q. Would you tell the Court what happened on those three days?
A. The whole camp was in a riot all the time. The SUS were shouting, some were singing and yelling.

Q. Were you yourself in cell block 4?
A. Yes, Sir.

Q. How were things there?
A. Everything was alright in that cell block.

Q. Did you see the accused do anything?
A. I saw him pull the radiator off the wall in his cell. There was a gang of SUS that came and let us all out of block 4. Some were let loose by breaking the locks or unscrewing them.

CROSS-EXAMINED

Q. At what time did this take place?
A. In the morning after breakfast.

Q. Before the people came from the other block or after?
A. Before we were released.

Q. What is your cell number?
A. Cell no. 3, Sir.

Q. How far is it from cell No 9?
A. 7 or 8 feet, Sir.

Q. How could you see into it?
A. I was the orderly's helper and I was in the hall-way when I saw him do this.

Q. Who was the orderly?
A. SUS Doll.

Q. At that time the accused was locked in his cell?
A. Yes, Sir, he was in a condemned cell and his door was locked.

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

THE PROSECUTOR STATED THAT THE WITNESS, PTE SMITH, WAS NOT AVAILABLE AS HE WAS IN CANADA. THE PROSECUTOR ALSO STATED THAT THE WITNESS, S/SGT NELSON, HAD NOT ARRIVED AND WAS NOT AVAILABLE. THE PROSECUTOR ALSO STATED THAT HE DID NOT CONSIDER IT NECESSARY TO CALL PTE STAPLETON.

THE DEF OFFR SAID THAT HE WOULD LIKE PTE STAPLETON TO BE CALLED AND THAT HE WOULD LIKE SGT GAVAN RECALLED SO THAT HE MAY CROSS-EXAMINE HIM FURTHER BUT OTHERWISE HE HAD NO FURTHER OBJECTIONS.

SEVENTH WITNESS

F-29765 PTE STAPLETON TF, sworn, states:-

DEF OFFR

Q. Were you a soldier undergoing sentence at Headley Detn Bks on 8,9,10 May 45?
A. Yes, Sir.

Q. Your cell was in cell block 4?
A. Yes, Sir.

Q. On the morning of 9 May when were you allowed out of your cell?
A. After breakfast, Sir, by SUS Doll the orderly.

Q. Are you certain of that?
A. Yes, Sir.

Q. Was anyone else allowed out of his cell after breakfast?
A. Everybody was in except the Orderly, SUS Doll, Sir.

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

THIRD WITNESS

(RECALLED AT THE REQUEST OF THE DEF OFFR
FOR FURTHER CROSS-EXAMINATION)

K.67057 SGT GAVINS J, 4 CDN MIL PRISON & DTN BKS, Reading, already sworn, states:-

Q. On the morning of 9 May, did you serve breakfast to the men in cell block 4?
A. Yes, Sir.

Q. What men would be out of their cell before you gave breakfast?
A. The orderly, Sir.

Q. Did you have occasion to look into the accused's cell that morning?
A. Yes, Sir, I brought his kit in.

Q. Was the radiator broken at that time?
A. No, Sir, everything was as the night before.

Q. After breakfast was served was anyone allowed out of their cells?
A. I can't say, Sir, I was attending to my duties. As soon as the meals are served everyone is locked in his cell except the orderly and there wouldn't be an SUS who is assistant to the orderly left out of the cell.

THE PROSECUTION IS CLOSED

SUBMISSION BY THE DEFENDING OFFICER

I'd like to move that no offence has been shown; all the evidence has shown that good order and military discipline didn't exist at the time of any action. There was no good order and military discipline existing anywhere in that detn bks. Hehas been held now for some time waiting for this Court Martial. I don't want to object to the charge as he has been waiting fifty-one days. I refer you to the note of Section 40 of the MML (Def Offr reads the note). I'd like to move that the charge be dismissed against the accused.

REPLY BY THE PROS OFFR TO THE SUBMISSION

In regard to the statement of the defence; good order and military discipline didn't exist at that time; the prosecution maintains that the existence of good order and military discipline in any particular spot at any particular time is quite immaterial. The fact is that the behavious was going on which was to the prejudice of good order and military discipline and the prosecution feels that the evidence produced by its witnesses clearly shows that there were actions made by the accused which constitute conduct to the prejudice of good order and military discipline.

THE COURT CLOSES TO CONSIDER THE SUBMISSION

THE COURT IS RE-OPENED

THE PRESIDENT ANNOUNCES THAT THE SUBMISSION IS DISALLOWED

- DEFENCE -

DEF OFFR

The accused will not give evidence or make a statement and the defence will not call any witness.

STATEMENT BY THE PROS OFFR ON THE FINDINGS

I have nothing to addto what I said on the submission by the Def Offr.

STATEMENT BY THE DEF OFFR ON THE FINDINGS

The only evidence brought out against the accused that I can see is where, one, when he was to go to his location after being ordered to do so by an officer who didn't know where his location was and who said that he didn't go to his location; two, the damage to his eqpt; insofaras the damage to his eqpt goes, he is not charged with that nor for the damage to his cell block; such evidence is immaterial in a charge to the conduct to the prejudice of good order and military discipline. Any damage that hemay have done was done priorly while locked in his cell.

THE COURT IS CLOSED
THE COURT IS RE-OPENED

PLEA IN MITIGATION OF PUNISHMENT BY THE DEF OFFR

The accused has a fairly lengthy MFM 6. He joined the Army at the age of 16 in 41. He came overseas in Oct 41. His past record is one of AWL mainly; no crimes but conduct which is to be expected of a lad of his age. He has paid for all that. He is now broughtup for his part in the disturbances at the Headby Detn Bks. To my knowledge he is the first one to be court-martialled, out of approx 500 SUS who were there at that time. The evidence has shown that his part was very minor. He was locked in his cell for part of the time and there is no evidence that he was a leader, in fact he cooperated with the

staff. It was his misfortune that he was in cell block 4 as all the men from that block were transferred to Reading. While many of the others escaped, the accused had only some six weeks to run on his sentence to be set in bounds. I also would ask the Court to remember that this disturbance occurred on VE-Day, when everyone feels like celebrating, that the accused was one of the 500 and not a leader, that since he finished his former sentence on 16 Jun 45; that he has been held 48 days waiting his CM under close arrest in Reading Jail, while the charges have been decreased from mutiny to the charge he was up for to-day. I feel that theman has been punished enough merely by having to wait for this CM, and may I ask the Court to be as lenient as it feels it possible when awarding punishment in this case.

SUMMARY OF EVIDENCE

In the case of

K 1143 Tpr GREESON L.D.

(CAC)

By order of the Commanding Officer,

all evidence is taken on oath.

In the Field

3 July 45.

FIRST WITNESS:

D 82755, S/Sgt. ASTON J., on strength No. 4 Cdn. Mil. Prison & Detn. Bks., having been duly sworn states:

I am D 82755, S/Sgt. ASTON J., on strength No. 4 Cdn. Mil. Prison & Detn. Bks. On 8, 9, and 10 May, 1945, I was on strength No. 1 Cdn. ~~Mil. Prison &~~ Detn. Bks., employed as a Warden. At approximately 1700 hrs, 8 May 45, I saw a group of about thirty SUS walking down the steps towards No. 1 Cell Block. They proceeded on to the Parade Square where they stopped Sgt. SIMMONS. Two SUS, whom I cannot identify, searched him. I heard someone shout, "Get the keys from ASTON." As I had the keys for No. 7, 8, 9, and 10 Cell Blocks, I ran away from the Parade Square and deposited these keys in safe-keeping, returning at once to the Parade Square. The balance of the evening was spent in apprehending SUS who were wandering around in the Compound. There was considerable shouting and yelling going on until about 2400 hrs. While at breakfast on 9 May 45, I was called to the Compound, at approximately 0845 hrs. On the way to the Compound I met a large group of about one hundred SUS, marching in order towards "C" Compound. They were ordered to turn back by Lt. Col. SHANKLIN, but ignored this order. We proceeded, by order of Lt. Col. SHANKLIN, to the East Gate to head them off. At least one of these SUS struck at a member of the Staff who was apprehending him. The balance of the day was spent in apprehending SUS who were trying to escape. At approximately 1130 hrs., I went to "A" Compound to try to get the SUS into their living quarters for distribution of mail. I saw the accused, who said that he would fall in the parade as he was R.S.M. He was carrying a stick under his arm. At approximately 1800 hrs. I saw SUS GRAVELLE standing on a hand-cart, talking to a large group of SUS. As soon as he finished talking, they all headed for the look-out tower, located on top of No. 4 Cell Block. Numerous SUS were carrying palliases, stools, blankets, and bed-boards. I saw GRAVELLE proceed to the top of the tower with a palliase. Immediately after this, the fire in the look-out tower started. While I was helping to put out the fire, I noted various SUS attempting to cut the hose, and interfere in any way they could. I did not see nor hear the accused break anything, disobey any direct order, threaten anyone nor address or lead any body of men. I did not see nor hear the accused do or say anything to attempt to settle any of the disorders.

The accused questions this witness;

1. Question - At the time that I told you I would form a parade, would you say that this was being meant as a helping gesture to you and the Staff?

1. Answer - Yes.

_____ Sgt.
(J.Aston)

The accused declines to question this witness further.

SECOND WITNESS:

M 11852, Sgt. ENG Y.T., on strength No. 3 Cdn. Mil. Prison & Detn. Bks., having been duly sworn, states:

I am M 11852, Sgt. ENG Y.T. on strength No. 3 Cdn. Mil. Prison & Detn. Bks., employed as Warden. On 8, 9, and 10 May, I was on strength No. 1 Cdn. Detn. Bks., employed as a Warden. On 8 May 45, I had just been dismissed from duty at 1700 hrs. when the alarm bell rang. I went back and stood by for any emergency. During the course of the evening there was continuous shouting and noise throughout the Compound. It was during this evening that I saw the accused throwing some articles out of the window. On morning of 9 May 45, when I walked by the Cell Block No. 4, the accused asked me if I wanted to buy some stuff, and pointed at equipment and broken bed-boards lying on the ground outside his cell. I ignored this, and kept on walking.

_____ Sgt.
(Y.T. Eng)

THIRD WITNESS:

K 67057, Cpl. GAVINS J., on strength No. 4 Cdn. Mil. Prison & Detn. Bks., having been duly sworn, states:

I am K 67057, Cpl. GAVINS J., on strength No. 4 Cdn. Mil. Prison & Detn. Bks., employed as Warden. On 8, 9, and 10 May 45, I was on strength No. 1 Cdn. ~~Prison &~~ Detn. Bks., employed as a Warden. On 8 May 45, at approximately 1700 hrs., I was standing beside No. 1 Cell Block when I saw a group of SUS leave Living Hut No. 3 and head for the fence. They were joined by a group from Living Hut No. 2 . I went back into No. 4 and 5 Cell Blocks to check that all doors were properly locked. Everyone in these Cell Blocks was shouting and making a noise. I left the Cell Blocks and met a group of SUS, one of whom shouted, "Let's get them." Thinking they referred to the keys, I disposed of them on the roof of No. 4 Cell Block. I walked out to the centre of the Parade Square where I was surrounded by about thirty SUS, who asked me for the keys. I told them that I had not the keys and they left me. They then approached Sgt. SIMMONS, and I saw one SUS grasp him by the shoulder. After this they dispersed and returned to the fence. I then went around the Compound, apprehending several SUS and turning them over to S/Sgt. ASTON. By order, I returned to Cell Blocks No's. 1, 2, 3, 4, and 5 to remove all equipment from the cells excepting blankets and palliases. When I came to the Cell occupied by the accused, I found that only his bowl and steel helmet were left in the Cell. After completing this check, I went outside and found that the small pack, respirator, shaving kit, clothing, bed-boards and stool of the accused were outside the window of his cell. The bed-boards and stool were broken. At about 1830 hrs., I saw a group of SUS run out from Cell Block No. 8 and head for the fence. I went over to assist in apprehending these SUS. After this , things quietened down for the night.

The accused questions this witness:

1. Question - At the time you served breakfast 9 May 45 and up until you were releived, was the radiator on the wall of my cell broken?
1. Answer - No.
2. Question - After breakfast was finished, was everyone locked in his cell except SUS DOLL who was orderly?
2. Answer - Yes.

_____ Cpl.
(J. Gavins)

The accused declines to question this witness further.

FOURTH WITNESS:

H 13196, Sgt. SIMMONS A., on strength No. 4 Cdn. Mil. Prison & Detn. Bks., having been duly sworn states:

I am H 13196, Sgt. SIMMONS A., on strength No. 4 Cdn. Mil. Prison & Detn. Bks. On 8, 9, and 10 May 45, I was on strength No. 1 Cdn. Detn. Bks., employed as a Warden. On the 8 May 45, I was in charge of Nos. 1,2, 3, 4, 5 Cell Blocks. At approximately 1700 hrs., 8 May 45, I saw a group of SUS break out of No. 3 Living Hut. Some of this group had blankets and ran to the fence. I then saw two or three SUS run away from the fence on the outside. After this, some of these SUS came back past No. 1, 2, 3, and 4 Cell Blocks and I heard someone say, "There they are! Let's get the Keys." I then went to the Parade Square, where these SUS surrounded me and searched me for the keys. One SUS made a threatening gesture with his fist at me. some of them held my arms while the remainder ran their hands over me in search of the keys. After this, they scattered towards the fence. Cpl. GAVINS pulled one man down off the fence. The table from No. 4 Cell Block was standing up against the fence. We took this table back into the Cell Block. By this time, most of the SUS had been brought back to their living hut by the Staff. We then bedded them down in the

FOURTH WITNESS (CONTINUED):

Cell Blocks, having first removed everything except blankets and palliases. Up to 2400 hrs., I could hear sounds of shouting round the Compound. Bowls, a bench, and some bars were thrown out of the window of No. 3 Living Hut. On the morning of 9 May 45, I was put on duty with Staff SEARS on No. 4 and 5 Cell Blocks, getting the men up and giving them their breakfast. At approximately 0830 hrs., we started to go to the Sgts. Mess for breakfast. Immediately after breakfast were called back to the Compound. I got as far as the Orderly Room when I saw a large body of SUS come from "A" Compound through "C" Compound, and out the East Gate. I went with all the Staff, out of the Main Gate to head them off. When the SUS saw us coming they scattered and made for the bush, and we chased them. I returned at approximately 1100 hrs. and was sent to bed for the night. When I went to saw the M.O. and was sent to the cells, I found that the bed-board get the equipment out of the cells, I found that the grill from the cell of the accused was broken, and lying outside the window, together with his other kit and equipment. The grill on his door was loose. He said, "They wanted it out, so they've got it out." I did not hear or see the accused disobey any direct order nor make any threatening gesture, no did I see the accused outside the Cell Block.

Sgt.
(A. Simmons)

The accused declines to question this witness.

FIFTH WITNESS: G 18345, Sgt. WILSON, D.H., on strength No. 4 Cdn. Mil. Prison & Detn. Bks., having been duly sworn, states:

I am G 18345, Sgt. WILSON D.H., on strength No. 4 Cdn. Mil. Prison & Detn. Bks. On the 8, 9, and 10 May, I was employed at No. 1 Cdn. Detn. Bks., at approximately 1700 hrs., the first trouble started. I was in charge of Living Hut No. 2, "A" Compound when I heard a noise of someone shouting, "Come on you fellows. What are you waiting for?" Immediately after this, about thirty SUS under my charge, rushed for the hut door and escaped me outside the door. These SUS joined up with SUS who had left out of a total of fifty-four. I remained at this Hut until 0300 hrs. of 9 May, during which time no further trouble occurred in Hut No. 2. I could hear shouting from other parts of the compound. I did not see the accused at any time on 8 May 45. I stayed in the Compound all night and found twenty-one of the SUS at 0730 hrs., 9 May 45. I started towards the Sgts. Mess for breakfast, but was called back to the Compound before I reached the Mess. On arriving in "A" Compound I found a large body of SUS forming up on the Parade Square. This was being done without direction or orders of the Staff. I heard members of the Staff give various breaking of windows and cell furniture. The body of SUS on the Parade Square marched through "C" Compound and out the East Gate which they smashed open. I heard nothing further. I saw a group of these orders to these men, which were ignored. The remainder scattered through the bush. He followed them and picked up a number of SUS SUS take a W.D. vehicle and drive away. The remainder scattered tunics. Disorders continued during the whole day. At about 1800 hrs. SUS GRAVELLE standing in a hand-cart speaking to a body of SUS. I heard GRAVELLE make some reference to the look-out tower, and immediately after this, the tower was set on fire. During these disorder continued until very late that night. During these occurrences, I saw the accused at various times, walking around accompanied by SUS CLARKE. I did not see the accused damage anything. I ordered the accused at one time to return to his location, but he ignored this order. I saw some SUS make a threatening gesture at Sgt. SIMMONS, but I do not remember whether occurred on 8 May or 9 May. The accused did not make any threatening gestures, as far as I know. I did not see the accused do anything to try to stop these disturbances. Troops were brought in and stationed around the perimeter of the Camp. On the I

The accused declines to question this witness.

I saw

FOURTH WITNESS (CONTINUED):
Cell Blocks, having first removed everything except blankets and palliases. Up to 2400 hrs., I could hear sounds of shouting around the Compound. Bowls, a bench, and some bars were thrown out of the window of No. 3 Living Hut. On the morning of 9 May 45, I was put on duty with Staff SEARS on No. 4 and 5 Cell Blocks, getting the men up and giving them their breakfast. At approximately 0830 hrs., we started to go to the Sgts. Mess for breakfast. Immediately after breakfast were called back to the Compound. I got as far as the Orderly Room when I saw a large body of SUS come from "A" Compound through "C" Compound, and out the East Gate. I went with all the Staff, out of the Main Gate to head them off. When the SUS saw us coming they scattered and made for the bush, and we chased them. I returned at approximately 1100 hrs. and had dinner. At 1630 hrs., I reported back for duty saw the M.O. and was sent to bed for the night. When I went to get the equipment out of the cells, I found that the bed-board from the cell of the accused was broken, and lying outside the window, together with his other kit and equipment. The grill on his door was loose. He said, "They wanted it out, so they've got it out." I did not hear or see the accused disobey any direct order nor make any threatening gesture, no did I see the accused outside the Cell Block.

Sgt.
(A. Simmons)

The accused declines to question this witness.

FIFTH WITNESS:
G 18345, Sgt. WILSON, D.H., on strength No. 4 Cdn. Mil. Prison & Detn. Bks., having been duly sworn, states:

I am G 18345, Sgt. WILSON D.H. on strength No. 4 Cdn. Mil. Prison & Detn. Bks., On the 8, 9, and 10 May, I was employed at No. 1 Cdn. Detn. Bks. On 8 May 45, at approximately 1700 hrs., the first trouble started. I was in charge of Living Hut No. 2, "A" Compound when I heard a noise of someone shouting, "Come on you fellows. What are you waiting for?" Immediately after this, about thirty SUS under my charge, rushed for the hut door and pushed me outside the door. These SUS joined up with SUS who had escaped from Hut No. 3 and marched along towards the fence past No. 1 Hut. I then returned to No. 2 Hut and found twenty-one SUS left out of a total of fifty-four. I remained at this Hut until 0300 hrs. of 9 May, during which time no further trouble occurred in Hut No. 2. I could hear shouting from other parts of the compound. I did not see the accused at any time on 8 May 45. I stayed in the Compound all night and took the sick parade of the SUS at 0730 hrs., 9 May 45. I started towards the Sgts. Mess for breakfast, but was called back to the Compound before I reached the Mess. On arriving in "A" Compound I found a large body of SUS forming up on the Parade Square . This was being done without direction or orders of the Staff. I both saw and heard the breaking of windows and cell furniture. The body of SUS on the Parade Square marched through "C" Compound and out the East Gate which they smashed open. I heard members of the Staff give various orders to these men, which were ignored. I saw a group of these SUS take a W.D. vehicle and drive away. The remainder scattered through the bush. We followed them and picked up a number of SUS tunics. Disorders continued during the whole day. At about 1800 Hrs. I saw ~~xxxx~~ SUS GRAVELLE standing in a hand-cart speaking to a body of SUS. I heard GRAVELLE make some reference to the look-out tower, and immediately after this, the tower was set on fire. General disorder continued until very late that night. During these occurrences, I saw the accused at various times, walking around accompanied by SUS CLARKE. I did not see the accused damage anything. I ordered the accused at one time to return to his location, but he ignored this order. I saw some SUS make a threatening gesture at Sgt. SIMMONS, but I do not remember whether this occurred on 8 May or 9 May. The accused did not make any threatening gestures, as far as I know. I did not see the accused do anything to try to stop these disturbances. Troops were brought in and stationed around the perimeter of the Camp. On the 10 May
The accused declines to question this witness.

FIFTH WITNESS (CONTINUED) :
the SUS from "A" Compound were moved to No. 4 Cdn. Mil. Prison and Detn. Bks.

Sgt
(D.H. Wilson)

The accused declines to question this witness.

SIXTH WITNESS:
F 29765, Pte. STAPLETON T.F., a soldier under sentence at No. 4 Cdn. Mil. Prison & Detn. Bks., having been duly sworn, states:

I am F 29765, Pte STAPLETON T.F., undergoing sentence at No. 4 Cdn. Mil. Prison & Detn. Bks. On 8, 9, and 10 May I was at No. 1 Cdn. Detn. Bks. At approximately 1300 hrs., 8 May, 45, I heard the accused read out the news of VE Day. Everybody started to cheer. I saw nothing of any disturbances on 8 May 45, as I remained in my cell all the time. I could hear a lot of shouting and banging. On the morning of 9 May, one of the Staff released me from my cell. Shortly before this, most of the rest of the inmates of No. 4 Cell Block were released by a body of SUS. I could hear these SUS smashing the furnishings while releasing the other inmates. During the balance of this day and night, SUS were wandering around. I did not see the accused do anything to break any furnishings, disobey any direct order, or threaten any member of the Staff. After Maj. Gen. SPRY's speech, I saw someone whom I cannot identify, break windows in the out-door lavatory.

The accused questions this witness.

1. Question - Is it true that before the body of SUS entered No. 4 Cell Block to release the men therein, everyone was locked in his cell?
1. Answer - Yes; with the exception of the Orderly, SUS DOLL.

Pte
(T.F. Stapleton)

SEVENTH WITNESS:
D 71190, Pte. SMITH, G.F., soldier under sentence at No. 4 Cdn. Mil. Prison & Detn. Bks ., having been duly sworn, states:

I am D 71190, Pte SMITH G.F., undergoing sentence at No. 4 Cdn. Mil. Prison & Detn. Bks. On the 8, 9, 10 May I was at No. 1 Cdn. Detn. Bks. in No. 4 Cell Block. When the news that the war was over was given out on 8 May, shouting and cheering occurred all over the Compound. I could hear an uproar all over the Compound all day long. No disturbance occurred in No. 4 Cell Block. On the morning of 9 May, a group of SUS came in and opened the cell-doors by removing the locks. General disorder continued during the day. I did not see the accused disobey any direct order, threaten any member of the STAFF, nor break anything. I heard the accused tell some SUS to be quiet when we were forming up for roll-call in the morning of 9 May 45.

The accused questions this witness:

1. Question - Is it true that everyone was locked in their cell except the orderly who is SUS DOLL before the body of SUS entered and broke the locks from the doors, releasing everyone?
1. Answer - Yes.

Pte
(G.F. Smith)

EIGHTH WITNESS:

B 87086, Pte VILLENEUVE T.P., soldier under sentence at No. 4 Cdn. Mil. Prison & Detn. Bks., having been duly sworn, states:

I am B 87086, Pte. VILLENEUVE T.P. undergoing sentence at No. 4 Cdn. Mil. Prison & Detn. Bks. On 8, 9, 10 May I was at No. 4 Cdn Detention Bks. in No. 4 Cell Block. Right after dinner on 8 May I was in the cell block when I heard a lot of shouting. During the balance of the day, I saw groups of SUS wandering around in the Compound. There was no disturbance in No. 4 Cell Block during the balance of the day. On the morning of 9 May, I saw the accused break the radiator off the wall of his cell. Just before dinner, a group of SUS released us from No. 4 cell blocks, by smashing the locks on the cell doors. General disorder continued all this day. To my knowledge, the accused did not disobey any direct order, threaten any of the Staff, or try to lead any body of men. I did not see him do anything to try to stop the disorders.

_____ Pte
(T.P. Villeneuve)

The accused declines to question this witness.

NINTH WITNESS:

STATEMENT OF:
Regt. No. U 1889, S/Sgt. NELSON F.R., S.I.S., Cdn. Provost Corps, C.M.H.Q.

STATES:

I am Regt. No. U 1889, S/Sgt. NELSON F.R. of S.I.S. On 1 Jun 45, having duly cautioned the Accused in accordance with R.P. 4(E), I took down the U/M statements made by him.

_____ S/Sgt.
(F.R. Nelson)

The statements in question are marked Exhibit "A" and attached hereto. I certify, according to R.P. 4(G) that this witness cannot attend owing to the exigencies of the service.

_____ (Lieut)
(J.B. Allen)

Having been duly cautioned according to R.P. 4(E), the accused declines to make any statement or to give evidence upon oath, and reserves his defence.

This Summary of Evidence taken down by me in the presence and hearing of the accused and in accordance with R.P. 4(C),(D),(E),(F) and (G), on this third day of July, 1945.

(J.S. Allen) Lieut.

Officer detailed to take the Summary.

Exhibit 7

COPY

SPECIAL INVESTIGATION SECTION
CDN. PROVOST CORPS C.M.H.Q.

1 June 45.

STATEMENT OF:

Regt. No. K-1143 GREESON L.D. (B.C. DRAGOONS)
S.U.S. No. 1 Cdn. Det. Bks. (A.C. 4 Cell 9)

BEGINS:

I have been cautioned by S/Sgt. NELSON of S.I.S., that I do not have to say anything unless I wish to do so., but that whatever I do say will be taken down in writing, and may be given in evidence.

To show that I understand this caution, I sign my name here.

(SGD) L.D. GREESON

STATES:

On 8 May 45 after lunch I was talking to the fellow in Cell 8 (AC4) but was not making a big noise. Just after supper on 8 May 45 Sgt. SIMMONS and Cpl. GAVINS and Cpl. BROWN (attached) came around the cells to get our kit and cell furnishings. I did not damage any of my kit or cell furnishings and put them all out the Cell Door when and as instructed. I did not smash or break anything in my cell, which was No. 9. I had my palliase and blankets and went to bed immediately. I was not making any noise and heard nothing being smashed at any time in our cell block (AC4).

On Wednesday morning, 9 May 45, at about 0900 or 0930 hrs I heard Major GRAYSON instruct Sgt SIMMONS and Cpl. GAVINS to release us in AC4, which they did. Major GRAYSON instructed us not to commit any damage such as was done in other cell blocks. I went up with S.U.S. DOLL to AH 2 and sat on the grass outside. We ate up there and after dinner I was talking for some time to the S.P.O. I did not carry a club at any time, nor was I creating any disturbance.

At supper-time we returned to AC 4 and had to eat outside because things had been smashed inside and there was water all over the floor. Sgt. SEARS was there at the time. We slept that night in AH 2. S/Sgt. THOROLD sent us up there, and I was there when the fire took place below. At no time was I concerned in any trouble.

I have read over the above statement which has been made voluntarily and it is true. ENDS.

(SGD) L.D. GREESON

(WITNESSED) F.R. NELSON S/Sgt. S.I.S.

Summary of Evidence

in the case of

K1143 Pvt. Gracia L.P.
(CAC)

By order of the Commanding Officer,
all evidence is taken on oath

In the field 3 July 45

First Witness

D.82755 S/Sgt. Aston J., on strength #4 Cdn Mil Prison & Detn Blks, having been duly sworn, states —

I am D.82755 S/Sgt Aston J., on strength #4 Cdn Mil Prison & Detn Blks. On 7, 8 & 9 May 45, I was on strength #1 Cdn ~~Mil Prison~~ Detn Blks, employed as a Warden. At approximately 1700 hrs., 8 May 45, I saw a group of about thirty (30) SHS walking down the steps towards #1 Cell Block. They proceeded on to the Parade Square where they stopped. Sgt Simmons, two SHS, whom I cannot identify, searched him. I had come on shift - "to the keys from Aston". As I had the keys for #7, 8, & 9 Cell Blocks I ran away from the Parade Square and deposited these keys in safe keeping, returning alone to the Parade Square. The balance of the evening was spent in apprehending SHS who were wandering around in the Compound. There was considerable shouting and yelling going on until about 2400 hrs. Until breakfast on 9 May 45, I was called to the Compound, at approximately 0845 hrs. On the way to the Compound I met a large group of about one hundred (100) SHS, marching ~~in~~ in order towards 'C' Compound. They were ordered to turn back by Lt/Col Shanklen, but ~~ignored~~ this order. We proceeded, by order of Lt/Col Shanklen to the East Cab to head them off. At least one of these SHS struck at a member of the Staff who was ~~apprehending~~ him. The balance of the day was spent in apprehending SHS who were

trying to escape. At approximately 1930 hrs I went to A Compound to try to get the 345 into their living quarters for celebration & mail. I saw the accused who said that he would fall in the parade as he was R.S.M. He was carrying a table under his arm. At approximately 1800 hrs I saw 345 Gravelle standing on a hand-cart, talking to a large group of 345. As soon as he finished talking they all headed for the look-out tower, located on top of #4 Cell Block. Various 345 were carrying pallasses, stools, blankets, and cut-boards. I saw Gravelle proceed to the top of the tower with a pallasse. Immediately after this, the fire in the look-out tower started. While I was helping to put out the fire, I noticed various 345 attempting to settle down, and interfere in any way they could. I did not see nor hear the accused break anything, disobey any direct order, threaten anyone nor address or lead any body of men. I did not see nor hear the accused do or say anything to attempt to settle any of the disorders.

The accused questions the witness,-

1. Question - At the time that I told you I would form the parade, would you say that this was being meant as a helping gesture to you and the staff?
1. Answer - Yes.

J. Foster

The accused declines to question this witness further.

Second Witness

11 11852 Sgt. Eng G.T., on strength #3 Cdn. W.C. Prison & Detn Bks., having been duly sworn, states,-

I am M11852 Sgt. Eng G.T., on strength #3 Cdn W.C. Prison & Detn Bks, employed as Warden. On 8, 9, 10 May, I was on strength #1 Cdn. Detn. Bks., employed as a Warden. On 8 May 45, I had just been dismissed from duty at 1700 hrs when the alarm bell rang. I went back and stood by for any emergency. During the course of the evening there was continuous shouting and noise throughout the compound. It was during this evening that I saw the accused throwing ~~equipment out~~ articles of kit out of the window. On morning of 9 May 45, when I was called by the Cell Block #4, the accused asked me if I wanted to buy some stuff, and points at equipment & broken bed boards lying on the ground outside his cell. I ignored this, and kept on walking.

G. T. Eng
Gt. Engh Sgt.

Thos. H. Jones

K 67057 Cpl. Cairns J., on strength #4 Cdn Mil Prison & Detn. Blks., having been duly sworn states,-

I am K 67057 Cpl. Cairns J., on strength #4 Cdn Prison & Detn. Blks., employed as Warden. On 8, 9, & 10 May 45, I was on strength #1 Cdn ~~Prison~~ Detn. Blks., employed as a Warden. On 8 May 45, at approximately 1700 hrs I was standing beside #1 Cell Block when I saw a group of SHS leave living hut #3 and head for the fence. They were joined by a group from living hut #2. I went back into #4 Cell Blocks to check that all doors were properly locked. Everyone in these Cell Blocks was shouting and making a noise. I left the Cell Blocks and met a group of SHS, one of whom shouted, "- hat's get them". I thinking they referred to the keys, I disposed of them on the roof of #4 Cell Block. I walked onto the centre of the Parade Square where I was surrounded by about thirty (30) SHS, who asked me for the keys. I told them that I had not the keys and they left me. They then approached Sgt. Simmons, and I saw the SHS grasp him by the soldier. After this they dispersed and returned to the fence. I then went around the Compound, approached several SHS and turning them over to W/Sgt. Aston. By order, I returned to Cell Blocks #1, 2, 3, 4, 25 to remove all equipment from the cells excepting blankets and palliasses. When I came to the Cell occupied by the accused, [illegible]

found that only his towel and steel helmet were left in the cell. After completing this check, I went outside and found that the small pack, respirator, shaving kit, clothing, bed boards and stool ~~of the~~ accused were outside the window of his cell. The bed boards and stool were broken. At about 1330 hrs, I saw a group of SS men out from cell blocks and head for the fence. I went over to assist in apprehending these SS. After this things quietened down for the night.

The accused puts no questions this witness.

1. Question - At the time you served breakfast 7 May 45 and up until you were relieved, was the radiator at the wall of my cell broken?

1. Answer - No.

2. Question - After breakfast was finished ~~was everyone~~ was locked in his cell except SS Doll who was orderly?

2. Answer - Yes

J. Gains
J. GAINS.

The accused declines to question this witness further.

RMJ

Fourth Witness

#13196 Sgt. Simmons A, on strength #4 Cda. Mil Prison & Detn. Blks, having been duly sworn states, -

I am #13196 Sgt. Simmons A, on strength #4 Cda Mil Prison & Detn. Blks. 2nd, 3rd, 4th, & 10th May 45, I was on strength #1 Cda Mil. Prison & Detn. Blks, employed as Warder. On the 8th May 45, I was in charge of #1, 2, 3, 4, & 5 Cell Blocks. At approximately 1200 hrs, 8 May 45, I saw a group of SHS break out of #3 living Hut. Some of this group had blankets and ran to the fence. I then saw two or three SHS men away from the fence on the outside. After this some of these SHS came back passed #1, 2, 3 & 4 Cell Blocks and I heard someone say, "Here they are, hats get the keys". I then went to the Parade Square, where three SHS surrounded me and searched me for the keys. One SHS made a threatening gesture with his fist at me. Some of them held my arms while the remainder ran their hands over me in search of the keys. After this they scattered towards the fence. At 1200 hrs pulled one man down off the fence. The table from #4 Cell Block was standing up against the fence. We took this table back into the Cell Block. By this time, most of the SHS had been brought back to their living Hut by the Staff. We then locked them down in their Cell Blocks, having first removed everything except blankets and palliasses up to 1400 hrs, I could hear sounds of shouting around the Compound. Broke a bench, and some bars were thrown out of the window of #3 living Hut on the morning of 9 May, I was put on [illegible]

with Staff Sears in #4 Cell Block, getting the men up and giving them their breakfast. At approximately 0830 hrs., we started to go to the Cook House for breakfast. Immediately after breakfast, we were called back to the Compound. I got as far as the Orderly Room when I saw a large body of men come from "A" Compound through "C" Compound and on the East Gate. I went with all the Staff, out of the Main Gate to head them off. When the SAS saw us coming they scattered, and made for the bush, and we chased them. I returned at approximately 1100 hrs and had dinner. At 1630 hrs, I reported back for duty, saw the N.C.O. and was sent to bed for the night. When I went to get the equipment out of the cells, I found that the bed board from the cell of the accused was broken and lying outside the window, together with his ~~coat~~ kit and equipment. The grille on his door was loose. He said they wanted it out so they've got out. I did not hear or see the accused disobey any direct order, nor make any threatening gesture, nor did I see the accused outside the Cell Block.

A Simmons

A. Simmons

The accused declines to question this witness

PM

Exh H Holmes

G. 18345 Sgt Wilson D.H., on strength of 4 Cdo Mtl Prison & Detn Bks, having been duly sworn, states, -

I am G. 18345 Sgt Wilson D.H., on strength of 4 Cdo Mtl Prison & Detn Bks. On the 8, 9 & 10 May, I was employed at #1 Cdo Mtl Prison & Detn Bks. On 8 May 45, at approximately 1700 hrs, the fire alarm bell started. I was in charge of Living Hut #2, 'A' Compound when I heard a noise of someone shouting. "Come on you fellows. What are you waiting for?" I immediately after this, about thirty (30) S.S. under my charge, rushed for the hut door and pushed in order to the door. I saw S.S. ~~ground~~ running up with S.S. who had escaped from Hut #3 and marched along towards the fence past #1 Hut. I then returned to #2 Hut and found twenty-one (21) S.S. left out of a total of sixty-four (64). ~~I then went to my~~ The I remained at this hut until 0300 hrs of 9 May, during which time no further trouble occurred in #2. I could hear shouting from other parts of the compound. I did NOT see the accused at any time on 8 May 45. I stayed in the Compound all night and took the sick parade of the S.S. at 0730 hrs 9 May 45. I started towards the Sgts Mess for breakfast, but was called back to the Compound before I reached the Mess on arriving at 'A' Compound I found a large body of S.S forming up on the Parade Square. This was being done without direction or orders of the Staff. I both saw and heard the breaking of windows and call for attack

A large body of SUS on the Parade ground marched through 'C' Compound and out the East Gate which they remained open. I heard a number of the Staff give various orders to these men, which were ignored. I saw a group of these SUS take a K.D. vehicle and drive away. The remainder scattered through the block. We followed them and picked up a number of ~~them~~ SUS turning Disorders continued during the whole day. At about 15 o'clock I saw SUS Cpl Carelle standing in a hand-cart speaking to a body of SUS. I heard Carelle make some reference to the look-out towers, and immediately after this, the towers were set on fire. General disorder continued until very late that night. During these occurrences, I saw the accused at various times, walking around accompanied by SUS Clarke. I did not see the accused damage anything. I ordered the accused at one time to return to his location, but he ignored this order. I saw some SUS make a threatening gesture at Sgt Simmons, but I do not remember whether this occurred on 8 May or 9 May. The accused did NOT make any threatening gestures, as far as I know. I did NOT see the accused do anything to try to stop these disturbances. Troops were brought in and stationed around the perimeter of the Camp. On the 10 May 45, Maj Gen Spry addressed the troops at about 1000 hrs. After lunch at 1200 hrs on 10 May 45, the S.S.W.3 from 'A' Compound were moved to No 4 Cdn Int Pris Camp and Pris Sgt [illegible]
D.H. Wilson D.H. Wilson

The accused declines to question this witness

Sixth Witness

F 29765 Pte Stapleton T.F., soldier under sentence at #4 Cdn Mil Prison & Det Blks, having been duly sworn, states, -

I am F 29765 Pte. Stapleton T.F., undergoing sentence at #4 Cdn Mil Prison & Detn Blks. On 8, 9, 10 May, I was at #1 Cdn Mil Prison & Detn Blks. At approximately 1300 hrs, 8 May 45, I heard the accused read out the news of VE Day. Everybody started to cheer. I saw nothing of any disturbance on 8 May 45, as I remained in my cell all the time. I could hear at all times and I can identify [illegible] on the morning of 9 May one of the guards released me from my cell. Shortly before this most of the rest of the inmates of #4 Cell Block were released by a body of SHS. I could hear these SHS [illegible] releasing the other inmates. During the balance of the day and night SHS were wandering around. I did not see the accused do anything to break any fire-arms being discharged or threaten any member of the Staff. After May. (an Sgt's speech) I saw someone whom I cannot identify break windows in the out door factory. The accused [illegible] these witness. -

T.F. Stapleton

1. Question - I will now that before the body of SHS entered #4 Cell Block to release the men therein, everyone was locked in his cell?

1. Answer - Yes, with the exception of the Orderly SHS Doll.

T.F. Stapleton

The accused declines to question this witness further.

Eighth D. Cases

B37036 Pfc Villeneuve T. P., soldier, under sentence at #4 Cdn. M.C. Prison & Detn. Hosp., Aldershot, Ontario, states, -

I am B37036 Pfc. Villeneuve T. P., undergoing sentence at #4 Cdn. M.C. Prison & Detn. Hosp. Aldershot, Ont. On 8th May, I was at #1 Cdn. M.C. Prison & Detn. Hosp. in #4 Cell Block. Right after dinner on 8th May, I was in the Cell Block when I heard a lot of shouting. During the balance of the day, I saw groups of SWS wandering around in the Compound, but there was no disturbance in #4 Cell Block during the balance of that day. On the morning of 9th May, I saw the accused break the shelf off the wall of his cell. Just before dinner, 4 groups of SWS released us from #4 Cell Block, by smashing the locks on the cell doors. General disorder continued all this day. To my knowledge, the accused did NOT disobey any direct order, threaten any of the staff, or try to lead any body of men. I did not see him do any thing to try to stop the disorders.

T. P. Villeneuve

T. P. Villeneuve

The accused declines to question this witness.

North Atlantic

28 JUN 45
13:45 hrs.

STATEMENT of:
Regt. No. U-1888, S/Sgt. NELSON, F.R.,
S.I.S., Cdn. Provost Corps, CMHQ.
STATES:

I am Regt. No. U-1888, S/Sgt. NELSON F.R. of S.I.S. On 1 JUN 45, having duly cautioned the Accused in accordance with R.P. 4(E), I took down the following statements made by him

Fred R. Nelson

The statements in question are marked Exhibit "A" and attached hereto.
I certify, according to R.P. 4(6), that the witness cannot attend owing to the exigencies of the service.

J.B. Allen (Lieut)

Having been duly cautioned according to R.P. 4(b), the accused declares to make any statement or to give evidence upon oath, and reserves his defence.

This Summary of Evidence taken down by me in the presence and hearing of the accused and in accordance with R.P. 4(c), (d), (e), (f), 7(b), on this third day of July 1945

(J B Allen) Lieut.
Officer detailed to take the Summary

Exhibit "J"

SPECIAL INVESTIGATION SECTION

CDN. PROVOST CORPS, CMHQ

STATEMENT OF:

Regt. No. K-1143 Name GREESON L.D. Date 1 JULY 45

Time 15:40 hrs.

S.U.S. No.1 Cdn. Det. Bks. Parent Unit: B.C. Dragoons.

Where Quartered A.C. 4 (Cell 9) (Period - 8, 9, 10 May 1945).

BEGINS:

I have been cautioned by S/Sgt. NELSON of S.I.S., that I do not have to say anything unless I wish to do so, but that whatever I do say will be taken down in writing, and may be given in evidence. To show that I understand this caution, I sign my name here.

(SGD) L.D. Greeson

1. What, in your opinion, lead to the trouble which occurred at No.1 Cdn. Detention Barracks on 8, 9, and 10 May 45? Victory news.

2. Who were the instigators of this trouble? Living North, 'A' Coy.

I couldn't say as to A.C. 4.

3. What did they hope to achieve? Organize issue for V-day.

4. Give the names of any S.U.S. you saw damaging property or disobeying orders? I didn't see any damage done.

5. Give the names of any S.U.S. you saw whose conduct was exemplary? I couldn't say their names.

6. Did you refrain from all participation? YES.

7. Did you go with the crowd? NO - I was in front of AHZ with two other guys waiting to be let out.

8. Many S.U.S. were seen disobeying orders, damaging property, or trying to induce others to do so. Were you one of these? NO.

9. Do you wish to make a fuller statement on any of the above points? YES. (Cont'd Over)

(Date June 1/45 (SGD) L.D. Greeson

(WITNESSED) [illegible] S.I.S.

Exhibit "J"

SPECIAL INVESTIGATION SECTION

CDN. PROVOST CORPS, CMHQ

STATEMENT OF: Date 1 JULY 45

Regt. No. K-1143 Name GREESON, L.D Time 15:40 hrs.

S.U.S. No.1 Cdn. Det. Bks. Parent Unit: B.C. Dragoons.

Where Quartered AC 4 / Cell 9 (Period - 8, 9, 10 May 1945).

BEGINS:

I have been cautioned by S/Sgt. NELSON of S.I.S., that I do not have to say anything unless I wish to do so, but that whatever I do say will be taken down in writing, and may be given in evidence.
To show that I understand this caution, I sign my name here.

(SGD) L.D. Greeson

1. What, in your opinion, lead to the trouble which occurred at No.1 Cdn. Detention Barracks on 8, 9, and 10 May 45? Victory news.

2. Who were the instigators of this trouble? Living Huts 'A' Compound. I couldn't say as to AC 4.

3. What did they hope to achieve? Cigarette issue for V-day.

4. Give the names of any S.U.S. you saw damaging property or disobeying orders? I didn't see any damage done.

5. Give the names of any S.U.S. you saw whose conduct was exemplary? I couldn't say their names.

6. Did you refrain from all participation? YES.

7. Did you go with the crowd? NO - I was in for 7 AHZ with the other guy Eating in the S.P.C.

8. Many S.U.S. were seen disobeying orders, damaging property, or trying to induce others to do so. Were you one of these? NO.

9. Do you wish to make a fuller statement on any of the above points? YES. (Cont'd Over)

(Date) June 1/45 (SGD) L.D. Greeson

(WITNESSED) Nelson S/Sgt. C.I.S.

STATES:

On 8 MAY 45 after lunch I was talking to the fellow in Cell 8 (AC4) but was not making a big noise. Just after supper on 8 MAY 45 Sgt. SIMMONS and Cpl. DAVIS and Cpl BROWN attached came round the cells to get our kit and cell furnishings. I did not damage any of my kit or cell furnishings and put them all out the Cell door, as instructed. I did not smash or break anything in my cell, which was No 9. I had my palliass and blanket and went to bed immediately. I was not making any noise and heard nothing being smashed at any time in our cell block (AC4).

On Wednesday morning 9 MAY 45 at about 9:00 or 09:30 hrs. I heard Major GRAHAM instruct Sgt. SIMMONS and Cpl. DAVIS to release us in AC4, which they did. Major GRAHAM instructed us not to commit any further damage such as was done in our Cell blocks. I went up with BOB DOLL to AH2 and sat in the grass outside. We ate up there, and after dinner I was talking for some time to the SPO. I did not carry a chat at any time, nor was I creating any disturbance.

At supper time we returned to AC4 and had to eat outside because things had been smashed inside and there was water all over the floor. Sgt. SEARS was there at the time we slept that night in AH2. S/Sgt. THOROLD sent us up there, and I was there when the fire took place down below. At no time was I concerned in any trouble.

I have read over the above statement which has been made voluntarily and it is true.

R D Jesson

June 1/45

(Witnessed) Geo L Gibson S/Sgt.

REQUEST FOR DEFENDING OFFICER

I, K 1143 Tpr. GREESON, L.D., request that an officer be appointed to defend me.

In the Field

5 July 45.

L.D. Greeson
(L.D. Greeson)

RECEIPT FOR SUMMARY AND CHARGE SHEET

I, K 1143 Tpr. GREESON, L.D., certify that I have received a copy of the Summary of Evidence and of the Charge Sheet.

In the Field
13 July 45.

L.D. Greeson
(L.D. Greeson)

LIST OF WITNESSES

WITNESSES FOR PROSECUTION

1.	D 82755	S/Sgt.	ASTON J.
2.	M 11852	Sgt.	ENG.Y.T.
3.	K 67057	Cpl.	GAVINS J.
4.	H 13196	Sgt.	SIMMONS A.
5.	G 18345	Sgt.	WILSON D.H.
6.	F 29765	Pte.	STAPLETON T.F.
7.	D 71190	Pte.	SMITH G.F.
8.	B 67086	Pte.	VILLENEUVE T.P.
9.	U 1889	S/Sgt.	NELSON F.R.

WITNESSES FOR DEFENCE

NIL

In the Field. July 45.

LIST OF EXHIBITS

1. Statement of Accused - Exhibit "A"

00-3
PTE GREGOIRE J.

Correspondence to be PINNED here.

00-3

Army Form A.3.

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

PROCEEDINGS.

A.

Order convening the Court.

On Active Service, this THIRTEENTH day of AUGUST, 1943.

Whereas it appears to me, the undersigned, an officer in Command of EIGHTH CANADIAN INFANTRY BRIGADE, on active service, that the persons named in the annexed Schedule, being subject to Military Law, have committed the offences in the said Schedule mentioned.

And whereas I am of opinion that it is not practicable that such offences should be tried by an ordinary General Court Martial; * [redacted]

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

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

* [redacted]:—

*Omit if not applicable.

*[redacted]

*[redacted]

Judge Advocate - Capt. A.C. Hall, A.D.J.A., 3 Cdn Inf Div.

148

President.

Rank.	Name.	Regiment.
Major	S.M. Lett	QOR of C

Members.

Rank.	Name.	Regiment.
Capt.	J.M. Berry	HQ 8 Cdn Inf Bde
Lieut.	R. Gosselin	R de Chaud
Waiting Member Lieut.	D.D. Owen	QOR of C

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

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

*Signature of Commanding 8 Cdn Inf Bde Officer Convening Officer.

SCHEDULE

Number, Rank (a), Name and Unit of Accused (b)	Offence charged	*Plea	Finding, and if Convicted, Sentence (c)	How dealt with by Confirming Officer (d)
D-135619 Pte. Jean GREGOIRE, R DE CHAUD First Charge Section 8 (a) Army Act	USING INSUBORDINATE LANGUAGE	Not Guilty	Not Guilty	
Second Charge Section 8 (a) Army Act	OFFERING VIOLENCE TO A SUPERIOR OFFICER	Not Guilty	Guilty	Confirmed G. B. Lockwood Major A/Asst & Pay Sqn 17 Aug 43.
Third Charge Section 8 (1) Army Act	STRIKING HIS SUPERIOR OFFICER	Not Guilty	Not Guilty	
Section 15 Army Act	DRUNKENNESS	Not Guilty	Guilty.	To undergo detention for 9 months. A/Lt Major Pres. 17 Aug 43

(See Charge Sheet Attached)

*Question to be asked of accused, if he pleads not guilty (R. of P. 39 (a)) —
"Do you wish to apply for an adjournment on the ground that any of the provisions [illegible] before trial have not been complied with, and that you have been prejudiced thereby or on the ground that you have not had sufficient opportunity for preparing your defence?"
Answers to be recorded on separate sheet if necessary) —

(Signed) G. Blackader Brig. (Signed) A/Lt Major.

Commanding Eight Canadian Infantry Brigade
Convening Officer (c)

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

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

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

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

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

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

B. Certificate of President as to proceedings.

I certify that the above Court assembled on the 17th day of August 1943, and duly tried the persons named in the Schedule, and that the plea, finding, and sentence in the case of each such person were as stated in the third and fourth columns of that Schedule.

I also certify that :—

1. The members of the Court
2. The witnesses
*(3. The Interpreter)
*(~~Officers under instruction~~) Judge Advocate

*Omit if not applicable.

Inl

were duly sworn.

Signed this Seventeenth day of Aug 1943

A/Lt Major.
President of the Court Martial.

C. Certificate in case of death sentence.

*See footnote (d) on page 762 M.M.L. 1939.

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

Signed this ~~day~~ day of Aug 19 .

President of the Court Martial.

D. Confirmation.

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

~~(1) That [illegible] the soldier named in the margin be not committed to a prison or detention barrack until [illegible]~~

~~until to prison or detention barrack until [illegible]~~

G.B.L.

Signed this 17th day of Aug 1943.

G. B. Lockwood Major
Confirming Officer.

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

Promulgated and extracts taken in the case of

(a) (Dated) 18 August (Signed) J.B. Rousseau Lt and Adjt

Promulgated and extracts taken in the case of

(Dated) 4 October 43 (Signed) P.F. Boucher Lieut & Adjt

Promulgated and extracts taken in the case of

(Dated) (Signed)

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

(27617) 50-4678-500 (6,000) (542) A.B.E.W. Ltd. Gp.272
(24356) 40-11896-71 (60,000) (542)

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

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

In the rank of ..... years.

In the rank of ..... years.

In the rank of ..... years.

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

SCHEDULE

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

Name ..... of .....

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

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

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

Signed this 16th day of August 1943.

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

J. R. Bourgeault Capt
R de Chaud.

Y

M.F.H. 355
40/P & S. 6/15

STATEMENT AS TO CHARACTER AND PARTICULARS OF SERVICE OF ACCUSED

Number	Rank	Name	Regiment (or unit)
D 135 619	Pte	Jean Gregoire	R de Chaud.

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

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

Number of instances of gallantry or distinguished conduct N/A

~~or~~

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

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

2. The accused has not been previously convicted

~~or~~

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

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

~~or~~

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

4. The accused has been in confinement awaiting trial on the present charges, for N/A days in civil custody, and 13 days in military custody, making a total of 13 days in custody, of which NIL days were spent in hospital.

5. The present age of the accused according to his record of service is ~~attestation paper is~~ 20 years 1 month

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

7. The service which the accused is allowed to reckon towards discharge is 1 year 4 months

8. The accused is entitled to reckon 1 year 7 months service for the purpose of determining his pension, etc.

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

10. ~~(If the accused is a Warrant Officer.) The accused before he was made a warrant officer (or) held the regimental rank of~~

M.F.M. 6
(A.F. B.127)
40/P.& /3139 825000

No. D-12619 Name GREGOIRE J.J.O. Sqn., Battery, or Company Corps R.C.A.A.C. Date of enlistment 14.4.42 G.C. Badge Service or Proficiency Pay Character

Date of last entry in Company Conduct Sheet n/a No. and date of last drunk n/a Period not reckoning towards freedom from extra fine Sheet No. 1 Signature O.C. Company, etc.

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks

P.T.O.

B-2.

Lt.

CHARGE SHEET

The accused, D 135619 Pte Jean GREGOIRE, 1st Battalion Le Regiment de la Chaudiere, a soldier of the Canadian Army Overseas on Active Service, is charged with:

First Charge Army Act Section 8 (3)

USING INSUBORDINATE LANGUAGE TO HIS SUPERIOR OFFICER

in that he,

in the field, on the 2nd of August, 1943, at about 2320 hours, when given an order replied: "Fuck you."

Second Charge Army Act Section 8 (2)

OFFERING VIOLENCE TO A SUPERIOR OFFICER

in that he,

in the field, on the 2nd of August, 1943, at about 2320 hours, discharged a service rifle blank .303 ammunition at an N.C.O. with view of intimidation.

Third Charge Army Act Section 8 (1)

STRIKING HIS SUPERIOR OFFICER

in that he,

in the field, on the 2nd of August, 1943, at about 2320 hours, struck with his fist in the face Sgt L. Lewis.

Fourth Charge Army Act Section 19

DRUNKENNESS

in that he,

in the field, on the 2nd of August, 1943, at about 2320 hours, was drunk.

Paul Mathieu

(PAUL MATHIEU) Lt.-Col.,
Commanding,
Le Regiment de la Chaudiere.

IN THE FIELD
9th day of August, 1943.

To be tried by F.G.C.M.

10 Aug 43.

[illegible] Brig
8 Can Inf Bde.

Regt. de la Chaudiere
Aug. 17, 1943

I have this A.M. examined 135619 PC
Gregoire J. and in my opinion he is
fit to undergo trial.

J. Allen Capt.

A Army Form A 9.

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

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

Proceedings of a ~~Field~~ General Court-Martial held at Enfield.

on the 17th day of August 1943 by order of

Brigadier R. G. Blackader.

Commanding 8th Elder Inf. Bde

dated the 13th day of August 1943.

President.

Comajor J. M. Sett. C.O.R. of Can

Members.

Capt J. M. Berry. H.Q. 8th Elder Inf. Bde

Lieut R. Gosselin. R. de Chaud.

Capt G. C. Hall, A.D.J.A, 3 Elder Inf Bde, Judge Advocate.

Trial of* D-135619 Pte Jean Bergeron.
R. de Chaud.

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

~~All the members of the Court are present.~~ ~~A new member takes his place as a member of the Court.~~

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

The accused is brought before the Court.

Prosecutor,† ~~Comajor~~ Lieut A. P. Leduc R. de Chaud.

~~Counsel~~ defending officer† Major L. J. Dugal R. de Chaud.

At 10.01 o'clock the Trial commences.

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

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

Question by the President to the accused. Do you object to be tried by me as President, or by any of the officers whose names you have heard read over? Answer.

No.

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

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

B

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

~~The following officers under instruction are duly sworn.~~

Charge-Sheet.

Instruction. If the accused has elected to be tried under Army Act, sec. 40 (3), the fact should be here recorded.

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

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

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

not guilty. *Answer.*

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

not guilty. *Answer.*

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

not guilty *Answer.*

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

not guilty *Answer.*

~~The accused having pleaded Guilty to charge; the~~

~~Memorandum of Record of Proceedings (3) (D) are here omitted.~~

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

C

Proceedings on Plea of Not Guilty.

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

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

Answer. No.

A.C.C. ~~The prosecutor makes an opening address [hands in a written address which is read by the prosecutor] [signed by the President and attested by the proceedings]~~

The prosecutor proceeds to call witnesses.

First witness for prosecution. ~~L 29886 Sgt. Arnott~~ A.C.C. ~~Scots Guards~~

being duly sworn, is examined by the prosecutor.

#27836. Sgt Linsell Lewis. 1st Battalion

Q. Sgt identified himself and prisoner also swore to accuracy of place of offence.

At the moment I cannot state exactly what happened but do know the accused came on making a noise I told him to get to bed. He answered "Suck you Sgt." I then stated "You are under arrest go to bed." He then went upstairs and about fifteen minutes later he came back down stairs with his rifle and fixed bayonet. He asked me. "I am up for office". I told him to go to bed and save himself any further trouble. He went out and I pushed the door shut then he shoved the door open and fired his rifle. we grappled with him and held him until the Provost came.

The Defending officer questions the witness

Q. What makes you think the prisoner was under the influence of liquor?

A. His behavior was very unusual.

Q. What was his usual behavior on previous occasions.

A. Good.

Q. Had you taken an Alcoholic beverage that night yourself.

A. I might have I don't recall.

The Judge Advocate questions witness

Q. Did you receive a direct hit from the accused during the scrimmage.

A. No. Scratches and such but no direct hit.

Q. Was the accused on the bayonet when he came in the room.

A. No the bayonet was not on it.

Witness statements were the same as his statement previously taken.

D. 3034 Sgt. H. D. Croucher 7 Rifle Regt 2nd Witness.

Sgt H.D. Croucher proceeded to verify the identification of the accused and the statement he had previously made. was born out by his statements.

The Defence offers questions the witness.

Q. What was the normal behaviour of accused

A. As good as anyone.

Q Did you see him when he is reported to have fired the shot.

A. Yes. he was outside the door.

President of Court Questions witness.

Q. Did you hear the accused ordered to go to bed.

A. Yes Sgt Lewis ~~the~~ ordered him to, ~~it could not be specifically under~~.

Q. You were unable to see the accused from the time he went out of the room till after the shot was fired.

A. That is right.

Q. What was the appearance of the accused during these happenings.

A. I would say he had had quite a few drinks he was not normal his time was open, he acted in an undecided manner didn't seem to know quite what he was going to do. his face was drawn

Q. Why if this man was drunk was he not placed under close arrest to protect himself.

A. It was not up to me. Sgt Lewis was the N.C.O in charge.

3rd Witness

B. - 3153 Sgt. Pte. A Sutherland 17th Duke of York.

Q. You saw the accused on the night in question what was his condition.

A. It was not normal he appeared to have had quite a few drinks.

Q. If had happened.

A. There was a lot of noise and heard the remarks "Fuck you Sgt." we went outside and saw the accused who had been creating a disturbance. the guard told me he would take care of him so we went back to bed. a few minutes later there was a shot fired and another disturbance I went out of my room again and found Sgt Lewis and Sgt Gooches holding the accused. the accused then sat down for a few minutes after which time he became abusive to us we had a little tussle then he quietted down again after this the Provost came and took him away.

By President of the Court questions the witness.

Q. Did you see accused actually strike Sgt. Lewis.

A. no.

Q. You said you heard the noise when the accused came in did you hear Sgt Lewis order the accused to bed.

A. Yes I heard him order the accused to bed and tell him he was up for office in the morning.

Q. Was accused Drunk.

A. I would say he was under the influence of alcohol.

3rd witness 7683763 L/Sgt. S.D. Bombi Brighton & Hove No. 1

On the 3rd of Aug. 43 I went to Brighton Police Station and questioned accused as regards to the alleged shooting after being warned accused made the statement wich I now present to the court. marked as exhibit A. and attached.

5th witness not called.

D

The prosecution is closed.

Defence.

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

Answer. ~~No~~. Yes.

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

Answer. Yes.

(Question. ~~Is the witness (will) to character only? Answer.~~

INSTRUCTIONS TO THE COURT.

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

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

(Where any evidence is given for the defence.)

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

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

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

Answer. The accused in his defence says† ~~Hands in a written address which is read. Is signed by the President and attached to the proceedings.~~

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

D. 135619. Jean Gregoire R. de Chaud being duly sworn makes the following statement:-

On the morning of Aug. 9 was off the whole afternoon I asked my fellow companion if he would come with me to I could go to the pub. I left the pub. when it closed changed my clothes and went to Brighton. In Brighton I went and had drinks somewhere I don't know where. Then about 10 hrs I went to another Pub. I stayed there till about ten thirty then went home with my chum to go to bed I went to the kitchen and sat down to the table as I wanted to eat. I decided to go to bed. and saw my rifle in the corner of the room decided to take it up with me. I looked at the rifle and left with my chum who was going to put me to bed. As I passed by Sgt. Lewis's room. I was talking to my friend probably a little loud. and Sgt Lewis told me to go to bed. I replied a little loudly. He told me he would place me under close arrest the next morning. I went upstairs took off my tunic and ankletts then I started thinking he was going to place me under close arrest and it made me sore. I took what I had in my hand my rifle. I went down stairs and asked him if he would remove the charge against me. He harranged for about ten minutes then I said good night. I left my room and I was on my way to go to bed. I then changed my mind. I had some noise in the room and thought if they are trying to scare me I will scare them. I took my rifle and fired the shot a few seconds later Sgt Lewis took it away from me we shuffled about and they lifted me up between two of them and held me. Then the third Sgt came in

... then the Provost came
... When I was on the floor I received blows on the back.
These blows were apparently given by the third Sgt. If I
did this it is only because I was under the influence of
liquor: my conduct has always been good. my chiefs
will prove this.
The Prosecution questions the accused
Q. Have you any reason to hate Sgt. Lewis
A. I have no reason. I never spoke to him or him to me.
Q. Do you remember saying if it took twenty years you
would get back at him.
A. Let him give me twenty years I don't care.
Q. You say you heard noise when you left the room what sort
of noise?
A. Like chairs being moved
Q. Did you have a bayonet on your rifle ~~today~~ when you
went to the room.
A. I am not sure.
Q. When the Sgt said you would be placed under arrest
did he say close arrest or open arrest.
A. I don't know.
Q Did you strike Sgt Lewis in the face with your fist.
A. I don't know. It was dark. I tried to hit him I scuffled
with him.

EXHIBIT. X

E

Finding.*

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

The Court is closed for the consideration of the finding.

The Court find that the accused not guilty of the first & second charges and guilty of the second & fourth charges

Proceedings on Conviction *before Sentence.*

*When the Court is already open this sentence will be struck out. Evidence of character, &c.

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

Lieut. A. P. Ladas R.A. Chaud. is duly sworn.

Question by the President.

Have you any evidence to produce as to the character and particulars of service of the accused? *Answer by the Witness.* Yes

Produces no 2 no 6 of annual 4 M F B 36-5

The above statement [with the schedule of convictions and of cases in which trial has been dispensed with] is read, marked Y 47, signed by the President, and annexed to the proceedings.

Question by the President.

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

Question.

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

Question.

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

Answer. Yes

~~Cross-examined by the accused:~~

accused does not wish to cross-examine witness.

[Substitute, for the words of the report of the service of the accused in a detachment (&c.) of Sharpshs., the finding of the Court, subject here (also) to any exceptional punishment or allowance to that to be awarded by the Court, the prosecutor and the witnesses of the Court in the last, and the Court must inquire into the nature and amount of that additional punishment.]

Question to the accused.

Do you wish to address the Court? *Answer.* ~~Yes.~~ No I submit

The Court is closed for the consideration of the sentence.

EXHIBIT B

CHARGE. Army Form B 252
(See King's Regulations)

Regt de Chaudiere — Regiment
Support Coy. 5 Div. — Battery / Squadron / Troop or / Company

CHARGE against No. D.135819 Rank Pte

Name GREGORIE J.

Place HOVE Date of Offence 3/8/43

OFFENCE WOAS (1) did fail to comply with an order given by an NCO at about 2330 hrs i.e. that he (Pte Gregorie) should go to bed (2) did make an improper remark to an NCO at about 2330 hrs i.e. when given an order replied "Fuck you". (3) Conduct to the prejudice of good order and military discipline at about 2330 hrs i.e. did disobey a service rifle containing [illegible] .303 ball at an NCO with a view to intimidation (4) did strike an NCO [illegible] about 2330 hrs.

Names of Witnesses :— * [illegible]
Sgt Lewes Regina Rifles Regt.
Lt Croucher " "C D N."
Lt.Rillie 7 Recce 17 Duke of Yorks Ryl. Hussars.

J. L. Blackwell major

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

Punishment Awarded

By whom Awarded

Adjutant.

28188. W.N.&S.(H.Q.) 1,250,000 10/42. E. & H. Ltd. (6274) P.T.O.

S T A T E M E N T.

3rd August,1943.

Sir,

At Brighton on the 3rd August 1943 about 0945 hrs I saw No.D135619 Pte.Gregorie,J. of the Support Company, Regiment Chaudiere, 3rd Cdn.Division, detained at Brighton Police Station.

I said to him " I am a Company Sgt.Major of the Military Police stationed at Brighton and I am enquiring into the alleged shooting at your billet at 45 Holland Road,Hove, at about 2320 hrs on the night of the 2nd August,1943".

He replied"I would like to tell you all about it".

I then cautioned him and took a statement down in writing.

In consequence of his statement I charged him with discharging firearms in a Barrack-Room.

He replied "I understand".

He was placed under close arrest to await an escort from his unit.

19 Old Steine,
Brighton.
3rd August,1943.

C.S.M.
(C.S.M.Crosbie,S.D.)
Brighton and Hove Military Police.

STATEMENT of evidence against Pte.Gregorie,J.
by Sgt.Lewis,A. No.L.27836 Regina Rifles Regiment.

Sir,

At approximately 2320 hrs Pte.Gregorie, J. entered the billets very noisy and under the influence of liquer. I told him to make less noise and get to bed, which he replied "Fuck you,Sgt".

He continued to make a noise for a few minutes on his way upstairs.

Between 10 or 15 minutes later, he came to my room with his rifle and fixed bayonet and asked me if he was up for orders.

I told him to save himself a lot of trouble, he had better go up to bed. I was in bed at the time when I ordered him to go to bed, he then challenged me to come outside, which I ignored him.

He went out of the room himself, and while outside I heard him say that he had one round in his rifle and four in his pockets, and threatened to kill me.

I got up and pushed my door to and waited for him, thinking he would enter my room again.

He did, and fired a round and I immediately wrestled with him. Sgt.Croucher,who was with me at the time, immediately came to my assistance.

We then deprived him of all his belongings.

He then told me he did'nt care if it took him 20 years he would get me.

He then started to shout in French, but I could not understand him.

Sgt.Sutherland understanding French and not liking what he was saying, started to scuffle with him and threw him on the floor, where he laid until the Military Police arrived.

..Sgt.....Lewis..A...
(Sgt.Lewis, A.)

STATEMENT

3 Aug 43

No. 21356 Pte Gregorie J. Support Coy.
Chaudiere Sgt. 3 Cdn Div.
Stationed at 45 Holland Rd. Hove Sussex

Pte Gregorie entered No. 45 Holland Rd at approx 2320 hrs in an intoxicated condition. He was rather noisy and Sgt Lewes who was in charge of discipline, ordered the abovementioned to keep quiet and go to bed.

When Gregorie persisted in causing a disturbance, Sgt. Lewes quickly put him under arrest. The a/m went to his room, procured his rifle, with bayonet attached and came downstairs to challenge the Sgt.

After making threatening remarks the a/m waited outside the Sgt's room with rifle and bayonet.

After a short consultation between Sgt Croucher and Sgt Lewes both occupants of the room, it was decided to open the door and rush Gregorie for the purpose of disarming him.

Gregorie fired a shot, then Sgt Lewis rushed him and disarmed him.

Sgt Sutherland, on hearing the scuffle, came out of his room and the hit the a/m with his fist, knocking the latter out.

I was notified of the occurrence and immediately called the Military Police in Brighton.

When they arrived on the scene, Gregorie was still on the floor and order had been restored.

J.A. Rillis Lieut
(J.A.RILLIS Lt)

STATEMENT.

EXHIBIT 'A'

3rd August,1943.

Statement of No.D135619 Pte.Gregorie,J. Support Company,Regt.Chaudiers,3rd Cdn.Div. Stationed at 45 Holland Road, Hove, Sussex.

I have been cautioned by C.S.M.Crombie Corps of Military Police, in company with Cpl.Marcolin,No.8 Cdn.Provost Company, that I need say nothing unless I wish, but anything I do say will be taken down in writing and may be used in evidence.

To shew that I understand the caution I sign my name:-

Jean Gregoire

On the evening of the 2nd August,1943,I was off duty and went out into Brighton and visited several Public Houses and had several drinks. I cant remember how many, I had, but I know that I spent £3. 0. 0.

After the Public Houses had closed I went back to my billet,which is at 45 Holland Road,Hove, at about 2300 hrs, I then went to the cookhouse, where I am employed as a cook,picked up my rifle,had a good look at it,then carried it up to my room. On my way to my room I had to pass Sgt.Lewes' room.

I saw him standing in the doorway, he said to me "Gregorie,go to bed". I replied "Fuck you,if you want a fight,come here and I am ready". The Sgt.then closed the door. I then took one round of .303 ammunition out of my tunic and loaded the rifle. I went to Sgt.Lewes' bedroom and opened his door with my bayonet, and there saw Sgt.Lewes. I lifted my rifle to my shoulder and fired, aiming at a glass jug.

I did not intend to harm him or cause any injury, but I did it because I don't like Sgt.Lewes and thought it would just scare him.

After I had fired,Sgt.Lewes rushed at me and took the rifle from me, and while he was trying to get the rifle from me I hit him in the face.

I wish to say that I am very sorry for what I did last night and I know it would not have happened if I had been sober.

I further wish to state that I knew the round of .303 was a blank.

Jean Gregoire

I have read over this statement and it is true, and I made it of my own free will.

Jean Gregoire

SUMMARY OF EVIDENCE

In the case of D 135619 Pte Jean, GREGOIRE of the Canadian Army, 1st Battalion "Le Regiment de la Chaudiere" placed on Active Service.

The C.O. directed that the evidence be taken by oath.

1st WITNESS

L 27836 Sgt Ansell, LEWIS, Bn H.Q. Regina Rifle Regiment, having been duly sworn, states:-

In the 2nd day of August 1943, at about 2320 hrs, Pte GREGOIRE, J. that I now recognize, came in our billets under the influence of liquor. He was making noise and I told him to be quiet and to go to bed. His reply was: "Fuck you Sgt". I placed him under open arrest; he then went upstairs. About 10 or 15 minutes later he came in my bedroom with a rifle and fixed bayonet asking me if he was up for orders. I told him to save himself a lot of trouble, to go to bed, He went out of my room and made a statement that he had one round in his rifle and four more in his pocket. He said that, when he was just outside the room and the door was opened. He also said he would shoot me or words to that effect. Finally he was about to enter my room and fired a blank. I immediately wrestled with him, while doing so Sgt Croucher who sleeps in my room and was there all the time came to my assistance. We searched Pte GREGOIRE, taking away his personal belongings but did not find the rounds he mentioned. One of the boys phoned for the Provost. While we were waiting Pte GREGOIRE said to me he would get me if it was one, two or twenty years. He then started to shout in what I think was French: Sgt Sutherland then wrestled with the accused. He threw him to the floor where he remained until the Provost Police arrived.

Questioned by the accused.

1-Q. Who kicked me in the back while I was laying down, I still have marks in the back?

A. I never saw anybody kicking him.

2-Q. Who is the 3rd person who arrived when you and another Sgt were holding me?

A. I don't know who you ~~turn~~ as the 3rd person but after the shot was fired a lot of the boys came downstairs.

Questioned by Officer taking summary of evidence.

1-Q. When the accused arrived did you order him to go to bed or simply tell him?

A. I simply told, I never ordered him.

2-Q. Did you challenge him or said anything that could be called provocation?

A. I did not.

Sgt Ansell Lewis.
(L 27836 Sgt Ansell LEWIS)
Bn H.Q. Regina Rifle Regt

2nd WITNESS

D 3034 Sgt CROUCHER, H.D., C. Squadron, 7th Recce Regt, having been duly sworn, states:-

On the 2nd day of August, at about 2320 hrs, Pte GREGOIRE, J. whom I now recognize, entered the house making quite a lot of noise. Sgt Lewis told him to go to bed. GREGOIRE told him: "Fuck you Sgt"or words of the kind. We were both in the room when GREGOIRE came back, he had a rifle with a fixed bayonet on. GREGOIRE asked Sgt Lewis if he was up for orders in the morning and Lewis did not reply directly to his question. Instead Lewis told him to save himself a lot of trouble, he had better go to bed. Then GREGOIRE went out and I heard him talking to himself saying he had one round in the rifle and four in his pocket. Lewis closed the door, The next thing that happened is that the door was pushed opened, a shot fired almost immediately and Sgt Lewis went out the door and wrestled with GREGOIRE. Then I went to Sgt Lewis'assistance. We took the rifle from him and searched him and took everything out of his pockets. A lot of the boys came downstairs when they heard the shot. Then GREGOIRE said he will get Lewis in a month, 2 years or 20 years. He then exactly spoke in French for a minute or two and Sgt Sutherland replied to him in French and then wrestled with him and threw him to the floor where he staid till Provost arrived.

The accused does not wish to question the witness.

(D 3034 Sgt CROUCHER, H.D.)
C. Squadron, 7th Recce Regt

3rd WITNESS

C.S.M. CROMBIE, S.D. 7683963, 157th Provost Coy, South Eastern Army, having been duly sworn, states:-

On the 3rd of August, 1943, at about 0945 hrs, I saw Pte GREGOIRE detained at BRIGHTON POLICE STATION. I said to him: " I am making an inquiry into allege shooting at a Sgt at 45, Holland Rd, HOVE, on the night of the 2nd". He replied: " I'll tell you all about it". I cautioned him and took his statement in writing which he read over and signed. I then charged him with discharging fire arm in his barrack room. When charged he replied: " I understand".

The accused does not wish to question the witness.

(C.S.M. CROMBIE, S.D. 7683963)
157th Provost Coy,
South Eastern Army

4th WITNESS

D 3153 Sgt SUTHERLAND, W.W., A Squadron, 17th Duke of York Royal Can. Hussars, having been duly sworn, states:-

On the 2nd day of August, 1943, at about 2320 hrs, somebody came in the billet making a lot of noise. Somebody else from a room asked him to be quiet and go to bed.

4th WITNESS (Cont'd)

The reply was: " Fuck you Sgt". I then heard more noise. I went out and saw the accused, whom I now recognize, he was with a friend who said it was O.K., he would take him to bed. A few minutes after that a shot was fired. I came down and tried to reason GREGOIRE but he would not and I had to wrestled with him.

Questioned by the accused.

1-Q. What did you tell me to reason me?

A. I told him in French to be quiet and everything would be O.K.

(D 3153 Sgt SUTHERLAND, W.W.)
A Squadron,
17th Duke of York Royal Can
Hussars.

5th WITNESS

B 50693 Cpl MARCOLIN, C. having been duly sworn, states:-

I read C.S.M. Sutherland's statement which I corroborate.

(B 50693 Cpl MARCOLIN, C.)

QUESTION TO THE ACCUSED

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

ANSWER BY THE ACCUSED

No, sir.

(D136619 Pte GREGOIRE, J.)
Le Regiment de la Chaudiere

The foregoing Summary of Evidence consisting of three pages was taken by me in writing, this 7th day of August, 1943 in the presence of the accused. Certified that Rules of Procedure 4 (c) (d) (e) (f) (g) have been complied with.

(A. LETARTE)Lieut.
Attached to R de Chaud

IN THE FIELD,
This 7th day of August 1943

DDD-114

PTE GREGOIRE J.A.L

SCHEDULE.

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

Accused: D56567 Pte Joseph Antoine Leon Gregoire R de Marco

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

(Note: As to findings for lesser offences see AA 56, RP 44; findings on alternative charges see MML p 482 fn 4 para 2, RP 44; special findings see RP 44 and MML p 753, and in lieu of kill see RP 44 fn b.)

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

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

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

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

Sentence Awarded by the Court:

To undergo detention for a period of 120 days.

(Sgd) ..... 9 Feb 44 (Sgd) A.G. Stevenson Maj

Judge-Advocate, if any. Date awarded. President. (RP 45, 50.)

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

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

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

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

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

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

Confirmed.

~~I direct that the charge(s) of which [illegible] be quashed.~~ (1)

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

(Sgd) J.C. Jefferson Brig

Date ..... Commanding ..... Confirming Officer.

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

Accused. Date. Signature of Offr.

D56567 Pte Grégoire J.A.L. 11 Feb 44 Capt & Adjt

FIELD GENERAL COURT-MARTIAL

Convened by Order of J.C. Jefferson Brig. Comd 5 Cdn Inf Bde dated 8 Feb 44

ACCUSED.

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

Number.	(a) Prmnt R. (b) Apptmt, A/R or A/Apptmt.	Full Christian Names.	Surname.	Unit.
D 56567	Pte	Joseph Antoine Leon Gregoire,	R de Marco	

PROCEEDINGS REVIEWED

J. Rutiguelano Capt.

10 Mar 44.

REVIEWING OFFICER, JAG BRANCH CMHQ

PROCEEDINGS OF TRIAL.

Held in the Fd in (country) United Kingdom on (date(s)) 9 Feb 44

RECORD FORM A—OPENING PROCEEDINGS AND ARRAIGNMENT.

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

(PRINTED MATTER, NOT IN ITALICS FOR GUIDANCE, WILL BE DELETED, IF NOT USED OR APPLICABLE, AND INITIALLED BY PRES OR JA. The Schedule referred to throughout is on p 4. Columns do NOT include all relevant fins KRs. For guidance as procedure when a serviceman in this form arises, see form for GCM in MML pp 741 to 759. A brief record of such proceedings will be made and given a number having reference to appearance or preceding form number hereon. See back of Convening Order, CF 885, for duties and instrs on how to record witnesses, evidence, etc., which instrs are hereafter called "Notes". As to powers, provisions for conducting the trial see AA 52, RP 36, 62-70, 73, 74, 84, 103, 118, 132.)

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

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

A3. The Court is opened. The accused is ~~not~~ brought before the Court. At 1015 hours trial commences.

A4. The Prosecutor produces a Medical Certificate that accused is ~~not~~ fit to undergo trial by court-martial. The Prosecutor informs the Court that accused elected to be tried by court-martial instead of being dealt with summarily by the CO.(2)

(1. KR Can 557. 2. AA 46(B), RP 80 fn 1. For effect see KR Can 563(c). Delete, if not applicable.)

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

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

The shorthand writer is sworn.(1)

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

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

(1. RP 110. 2. If no objection, waiting member retires. RP 68(B). If objection, see procedure AA 51, RP 25, 71. (R7MML p 742.))

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

President	A.G.	Stevenson	Major	RHC.
Member	W.H.	Hayland	Capt.	Calg. Highrs.
Member	G.B.	Knox	Lieut.	RHC.
Judge-Advocate				
Prosecutor	J.G.	Lonergan	Lieut.	R de Mars
Defending Offr	J.A.	McCreary	Lieut.	R de Mars

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

(1. RP 26, 27, 109, 111. List of offrs under instr will be returned separately with proceedings for information of Conv Offr.) (2. If Pros a lawyer and Def Offr not, accused is entitled to an adjournment when RP 89 (B) and fn 2 were not followed. See DI p 32.)

A8. The accused D56567 Joseph Antoine Leon Gregoire Pte 1 R de Mars before arraignment make(s) (no) ~~no~~ plea. (1)

(1. If a special plea is made for separate trial on one or more charges (RP 62(E), 108), or as to the jurisdiction of the Court (RP 34, 35(A), 112), or as to accused's mental fitness to stand trial (AA 130, RP 57), or be one of several accused charged jointly to be tried separately (RP 16, 71), such plea, the addresses made in support or against, the evidence, if any, and finding are recorded per Notes. For forms of record see references in fns to RoP cited. Insert in AB rank and name of the accused making the plea.)

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

(1. RP 35, 112. See para 1 of Instrs p 2. When more than one Charge Sheet see RP 62; when several accused to be tried separately see RP 71(C), and use separate copies of CF 886 to record proceedings. 2. RP 32, RP 33. If otherwise, delete and make appropriate record per Notes.)

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

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

ALL DELETIONS AND ALTERATIONS WILL BE INITIALLED.

INSTRUCTIONS ON PROCEDURE AFTER ARRAIGNMENT.

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

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

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

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

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

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

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

3. *As to responsibility of President to accused see RP 29, 60(C); powers and duties of JA see RP 103; duty of Prosecutor see RP 60(A) (B); duty and privileges of accused and Defending Offr see RP 60(C), 87(C), 91, 92; assisting and withdrawal of witnesses from Court see RP 81, 82; questioning of accused see RP 91, 87(C), 92(f); and of witnesses see RP 85-86; calling or recalling of witnesses by Court etc see RP 75-79, 80, 116; use of Summary of Evidence at Trial see RP 17(E) fn 6; and responsibility of JA or Pros to record proceedings see RP 94, 95.*

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

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

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

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

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

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

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

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

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

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

C2. The charges on which accused pleaded GUILTY are read to him (them) again, and the trial is continued by using paras B1 to B3 of Record Form B above.(1)
(*1. Under B5 such parts only of the Summary of Evidence are read as relate to the charges dealt with under C2. If any plea is changed to Not Guilty, trial thereon proceeds by complying with paras D1 to D8 inclusive in Record Form D on p 3 and making an appropriate record thereof on a separate sheet.*)

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

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

Pin here Loose Sheets of Record.

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

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

D2. The Prosecutor makes (an) (no) opening address.(1)
(*1. RP 39(B), 40(A) (B), 90, 92(C) (D). Record address per Notes, subject to RP 95(C).*)

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

D4. The Prosecution is closed.(1) The Defending Offr submits that the evidence for the Prosecution does not establish a prima facie case against the accused on the ..... charge(s).(2) The Court is closed, and considers the submission.(3) The Court is re-opened, and the President announces that the submission is disallowed on the ..... charge(s), and allowed on the ..... charge(s), and that, accordingly, the trial will proceed on the former, but the accused is (are) found Not Guilty on the latter charge(s).(4)
(*1. Delete remainder of this para, if submission not made. 2. Arguments on submission, answer and reply are recorded per Notes. 3. RP 40 fn 1. See MML p 72 para 12-14 and p 81 para 42. 4. Delete part not used. If accused acquitted on all charges, use second alternative in para D8.*)
NB: If trial proceeds, accused must be allowed great latitude in making his defence, and the Court should not stop his defence solely on ground of irrelevance. (*RP 90(C), 114, 115.*)

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

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

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

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

D8. The President announces the finding(s), if any, of Not Guilty, and states to the accused that the finding(s) of the Court on the ..... charge(s), being subject to confirmation, will be promulgated later.(1)
Or The President announces that the accused is found Not Guilty on all charges and is to be released forthwith, and that the proceedings are accordingly terminated. Part I of the Schedule is dated and signed.(2)
(*1. AA 54(3) (6), RP 45, 120(A). 2. AA 54(3), RP 42, 117. This alternative announcement is not applicable when there are pleas of Guilty outstanding and dealt with under Record Form B or C.*)

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

RECORD FORM E—PROCEEDINGS ON CONVICTION BEFORE SENTENCE.

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

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

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

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

E5. The Court considers the sentence.(1) The President records the sentence in Part I of the Schedule, which is dated and signed by him and the JA, if any.(2) 7/6/43
(*1. When several accused tried separately see RP 120. One sentence only, comprised of the punishment or punishments laid down in AA 41, 44 and its proviso, is to be awarded to cover all charges in all charge sheets on which accused found guilty. RP 48. As to sentences see AA 44, 138, 182, RP 46-50, 69, 118, 119(A), KR Can 306, 330, 563-566, Overseas RO 309, 2323, MML p 90, 757-759. As to sentences assigned for civil offences by the law of England see AA 41(3), MML p 130. When accused already under sentence of imprisonment or detention see AA 44(3), 68(1), KR Can 564. 2. RP 50. As to release from arrest by Confirming Offr see KR Can 567. As to assembly and disposal of record after trial see instrs on back of Convening Order.*)

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

Exh B

Substitute Form
AFW 29% or WD 555

Statement as to Particular and character of service of accused

No. D-56567 RANK Private NAME Grégoire J.A.L. UNIT R.de MAIS.

AGE 30 MARRIED OR SINGLE Single No. of DEPENDANTS Nil

DATE OF ATTESTATION 16 Sept. 1939

No. of days spent in close arrest (To date of trial) 2

Dates of promotions, appointments and confirmations of rank, if any

---

Dated this 8 day

of Feb. 1944.

Cyril Chadsley Capt
Officer I/c Records
Regt. de Maisonneuve

Plate	Date of offence	Rank	Cause of detention	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or if after trial date sentence was confirmed	By whom awarded	Remarks
Field	17-8-43	Pte.		from 1800 hrs 7 Aug. to 1440 hrs. 10 Aug. 43 (2 days 20 hrs. 40 m.	L/Cpl. Dauphin	7 days C.B.	27 Aug.	Major Lonergan	Fort. 7 days pay
Field	6-10-43	Pte.		A.A. 15/1 N.O.A.S. A.W.L. from 2230 hrs. to 2200 hrs. 8 oct. 43 (2 days 23 hrs. 30 min.)	L-Cpl. Godard	7 days pay	9 oct. 43.	Lt. Col. Hamilton	Fort. 3 days pay
Field	21 Oct. 43	Pte.		A.A. 15/1 N.O.A.S. A.W.L. from 0400 hrs to 1215 hrs. 24 oct. 43 (3 days 8 hrs. 15 min)	CSM Berube Sgt. Fatry				Fort. 4 days pay
	20 oct. 43	Pte.		A.A. 15/1 N.O.A.S. A.W.L. from 1030 hrs. to 2200 hrs. 30 oct. 43 (12 hrs. 30 min.)		27 days F.P.	26 oct. 43	Lt. Col. Hamilton	Fort. 1 day pay

Certified True Copy of Original

C.Cuddihy Capt, Adjt
Officer i/c Records
Le Regiment de Maisonneuve CA(AF)

MFM 6
(AFB 122)
AUTHORISED (5458)

No. 56567 Name Grosjoire L. Sqn, Battery, or Company H.Q.Coy Corps C.I.C. Date of enlistment 18-9-39 GC Badges Service or Proficiency Pay

Date of last entry in Company Conduct Sheet 6-3-42 No and date of last drunk 6-3-42 Period not reckoning towards freedom from extra fine Sheet No 4 Signature OC Company, etc Character

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order directing trial	By whom awarded	Remarks
Field	17-7-42 Pte.			A.A.15/1 H.C.A.C. A.W.L.from 1115 hrs. 17-7-42 to 2145 hrs. 17-7-42 (10 hrs 30 min.)	Sgt. Dagbery Opl.Lavoie	for both charges 27 days F.P.	10 AUG.42	Lt. Col. Bellome	Fort. 2 days pay FRI 149 (A)
Field	5-8-42 Pte.			A.A. 15/1 H.C.A.C. A.W.L.from 0800 hrs to 1615 hrs 5-8-42 (8 hrs. 15 min.)	do	27 days forfeiture of pay			
Field	12-10-42 Pte.			A.A. 15/1 H.C.A.C. A.W.L. from 2230 hrs. 10-10-42 to 2310 hrs. 10-10-42 (40 min.)	1-Opl.Godard	15 days F.P. 15 days forf. of pay	10 Oct. 42	Lt.Col. Bellome	Fort. 149 (a)
Field	17-8-43 Pte.			A.A.15/1 H.C.A.C. from					

(PTO)

MFM 6
(AFB 122)

No. 56567 Name Gregoire L. Sqn, Battery, or Company H.Coy Corps C.I.C.

Date of last entry in Company Conduct Sheet | No and date of last drunk | Period not reckoning towards freedom from extra fine | Date of enlistment 18-9-39 | Sheet No 3 | GC Badges | Signature OC Company, etc | Service or Proficiency Pay | Character

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order directing trial	By whom awarded	Remarks
Normans Bay	2-12-41	Pte.		A.O.A.D. A.A. 15 /1. A.W.L. from 0745 hrs. 2-12-41 to 1200 hrs 4-12-41 (2 days 4 hrs.)	P.S.M. Parizeau	20 days pay	8-12-41	Capt. Lupien FRI	Dort. 23 days pay 149/1
Pevensey	1-1-42	Pte.		A.O.A.D. A.A. 15 /1 A.W.L. from 2245 hrs. 1-1-42 to 1330 hrs. (1 day 14 hrs. 45 min.)	PSM Parizeau Lt. Parizeau	16 days pay	5-1-42	Major L. Per	18 da Perpareau pay 149/1
Mill Hill	31-5 1942	Pte.		A.O.A.D. A.A. 15/1 A.W.L. from 1100 hrs to 1500 hrs. A.O.A.D escaping custody A.A.22 A.O.A.D. A.W.L. from 1800 hrs. to 1630 2a	Sgt. Mech Spl. Dunbery	20 days F.P.	9 June	Lt-Col Hoche	Fort. 1 day pay

(FTO)

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or if under close arrest, when tried	By whom awarded	Remarks
Pevensey	15-1-42	Pte.	2	A.A. 19 W.O.A.S. Drunkenness at 0800 hrs was drunk	RSM Berube Sgt.Parizeau	$5.00 fine 2nd.offence	16-1-42	Major A. Brosseau	Fort. $5.00 FMC 112
Pevensey	4-2-42	Pte.		A.A.15 /1 W.O.A.S. A.W.L.from 2300 hrs. 31-1-42 to 2300 hrs. 1-2-42 (1 day)	Pte. Parizeau Sgt. Parizeau	both charges	5-2-42	Lt-Col Roche	Fort. 15 days pay FMC 149-1
Pevensey	4-2-42	Pte.		A.A.40 W.O.A.S. Neglect to the prejudice etc. neglected to take his guard duty	Sgt. Parizeau Cpl.Desjardins	15 days det.	5-2-42	Lt.Col Roche	
Pevensey	6-3-42	Pte.		A.A.19 W.O.A.S. Drunkenness on march 6th was drunk	Cpl.Dumbery Sgt.Roch	$10.00 fine 3rd offence	9 march 1942	Major Archambault	

No 3-56567 Name Gregoire L. Sqn, Battery, or Company 3.Coy Corps C.I.C. Date of enlistment 28-9-39 GC Badges Service or Proficiency Pay MFM 6 (AFB 122)

Date of last entry in Company Conduct Sheet 4-1-41 No and date of last drunk Period not reckoning towards freedom from extra fine Sheet No 2 Signature OC Company, etc Character

Place	Date of offence	Rank	Cases of drinking-bouts	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order discontinuing with trial	By whom awarded	Remarks
Aldershot	7-1-41	Pte.		A.A. sec 40 conduct to the prejudice etc, refused to accept a punishment awarded by Lt. Massue	G.MS Marcotte	7 days C.B.	11-1-40	Lt. Massue Lt-Col. Crosseau	
Aldershot	18-1-41	"		A.A. 15 /2 failing to appear at the place of parade for P.D. and C.B.	Cpl. Genesal Cpl. Doucette	120 hours detention	14-1-41	Major. Contpetit	Fort. 5 days pay
Brighton Patcham	31-1-41	"		A.A. 15 / 1 A.W.L. from 2230 hrs. 31-1-41 to 10000 hrs. 1-2-41	G.S.M. Vaillancourt	168 hours detention	6-2-41	Lt.Col. Crosseau	Fort. 1 day pay

Place	Date of offence	Rank	Cause of (broken-line)	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order (dupes)	By whom awarded	Remarks
Aldershot	15-4-41	Pte.		W.O.A.S. A.A. 15 / 1 A.W.L.from 0700 hrs 16-4-41 to 2030 hrs same day 13 hrs. 30 min.	Sgt. Landry Cpl.Roch	7 days C.B.	22-4-41	Major L. Crosseau	
Aldershot	24-4-41	Pte.		W.O.A.S. A.A. 15 /1 A.W.L. from 2245 hrs. 24-4-41 to 2245 hrs 25-4-41 1 day	Sgt. Landry Cpl.Roch	7 days F.P. 7 days Pay	28-4-41	Lt. Col. Crosseau	Fort. 8 days pay KRI 149(1)
Pevensey	14-7-41	Pte	1	W.O.A.S. A.A. 19 Drunkenness	Cpl.Gaudreau	reprimande	15-7-41	Major G. Montpetit	
Aldershot	18-8-41	Pte.		W.O.A.S. A.A. 15 /1 A.W.L. from 2245 hrs 18 Aug 41 to 1700 hrs 19 Aug. 41 (18 hrs 15 min)	Sgt. Roch	14 days F.P.	23-8-41	Lt. Col. Crosseau	1 day pay
Normans Bay	2-11-41	Pte		W.O.A.S. Failed to appear on guard duty at 2200 hrs. A.A.15/1	[illegible] Parizeau [illegible] Lagube	3 days pay 3 days C.B.	3-11-41	Lt. Ellis	

Ex C

No. D-56567 Name Gregoire L. Sqn, Battery, or Company C.Co. Corps C.I.C. Date of enlistment 18-9-39 GC Badges Service or Proficiency Pay MFM 6 (AFB 122)

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

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Name of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Montreal	18-2-40	Pte.		A.W.L.2245 hrs.18-2-40 to1630 hrs. 24-2-40 A.A.15 sec.1	1-Cpl. Marchand	12 days C.B.	26-2-40	Major L. Brosseau	For. 5 days pay
"	15-4-40	"		A.W.L. 2245 hrs.15-4-40 to 2100 hrs. 16-4-40 A.A. 15 sec. 1	Cpl. Gamache	14 days C.B.	17-4-40	do	1 day pay
"	22-4-40	"		A.W.L. 0630 hrs. 22-4-40 to 2320 hrs. 24-4-40 A.A. 1t sec. 1 (When in confinement escaping A.A.	Sgt. Parizeau	14 do	24-4-40	do	For. 3 da, pay
"	30-4-40	"		When in confinement escaping A.A. 22	Cpl.Dallaire				
				A.W.L. 2245 hrs. 30-4-40 to 2200 hrs. 5-5-40 A.A. 15 sec. 1	Sgt.Goulet	14 days C.B.	9-5-40	do	Fort. 5 days pay
"	17-5-40	"		When in confinement escaping A.A.22	C.S.M.Boudreau				

Place	Date of Offence	Rank	Cases of Arrest-ment	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or if under disposing with Unit	By whom awarded	Remarks
				A.W.L. 2245 hrs. 17-5-40 to 2320 20-5-40 A.A. 15 sec. 1	Sgt. Goulet	14 d. C.B	21-5-40	Major Brosseau	For 4 days pay
Valcartier	1-7-40	Pte.		A.W.L. 0001 hrs. 1-7-40 to 1700 hrs. 7-7-40 A.A. 9t sec. 1	C.S.M Berube A. 1-Cpl. Leblanc	15 days detention	8-7-40	L-Col. Bourassa	For 22 days pay
do	20-6-40	"		A.W.L. 0001 hrs. 17-6-40 to 1700 hrs. 19-6-40 A.A. 15 1	C.S.M. Boudreau	5 days F.P.	20-6-40	do	For 3 days pay
do	12-8-40	"		A.W.L. 0700 hrs. 12-8-40 to 1100 hrs. 13-8-40 A.A. 15 1	Cpl. Dallaire	15 days F.P.	15-8-40	do	For 17 days pay
Aldershot	5-11-40	"		A.A. 15 (1) A.W.L. 1130 hrs. 5-11-40 to 1600 hrs. 5-11-40	Cpl. Plante	14 days C.B.	6-11-40	Major Montpetit	
do	22-12-40	"		A.A.40 Conduct to the prejudice etc. absent on parade	Sgt. Landry	3 days C.B.	30-12-40	Lt. Masson	
do	4-1-41	"		A.A. 40 Breaking out barracks while on C.B. (A.A.sec 1014	Cpl. Thibault	7 days C.B.	6-1-40	do	

COUNTER NUMBER 436077

HOUR 9 26

OPERATOR'S INITIALS [illegible]

RELIEVING OPERATOR [illegible]

The accused, D-56567 Pte. Joseph Antoine Leon Desrosiers
Le Regiment de Maisonneuve, a soldier of the Canadian Army
Overseas, is charged with:

FIRST CHARGE

Sec. 15(1) Army Act — ABSENTING HIMSELF WITHOUT LEAVE, in that he, in the Field at 0830 hrs. on June 26th. 1944, absented himself without leave until 2200 hrs 30th Jun. 1944. (Total Absent 4 days, 13 hours, 30 mins).

SECOND CHARGE

Sec. 15 (1) Army Act — [illegible] WITHOUT LEAVE, in that he, [illegible] in the Field at 0830 hrs. on Jun 26th. 1944 [illegible] leave until 2200 hrs 30th Jun. 1944. [illegible] absented himself [illegible] days, 13 hours, 30 mins).

Dated this 8th day of Feb. 1944

J. Legal Assistant
A.J.A. Adjutation, 2nd. Bn.
Commanding Officer
Le Regiment de Maisonneuve.

To be tried by Field General Court Martial

dated this 9th day Feb 44

J.C. Jefferson Brig
COMD. 5 CDN. Inf. BDE.

FIELD GENERAL COURT-MARTIAL

CFAIIS (In lieu of AFA3) 40/PAM/1697 (2868)

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

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

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

ACCUSED.

Number.	(a) Prmnt R. (b) Apptmt, A/R or A/Apptmt.	Full Christian Names.	Surname.	Unit.
D56567	Pte	Joseph Antoine Leon	Gregoire	R de Mais

CONVENING ORDER.

1. Whereas complaint has been made to me, the undersigned, that the person(s) named above as the accused, being subject to military law, has (~~have~~) committed the offence(s) set forth in the Charge Sheet(s) attached and on (date) 9 Feb 44 endorsed by me, (or by an offr of my staff for me), "To be tried by Field General Court-Martial".

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

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

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

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

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

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

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

PRESIDENT.

(Rank.)	(Must be named. RP 106.)	(Unit.)
Major	A. G. Stevenson	R H C

MEMBERS.

(Rank.)	(Named or detailed. RP 106.)	(Unit.)
Capt	W. B. Hayland	Calg Highrs
Lieut	G B Knox	R H C.

WAITING MEMBER.

(Rank.)	(Named or detailed, if any. RP 106.)	(Unit.)
Lieut	R de M to be detailed by O.C. R de Mais	R de Mais

JUDGE-ADVOCATE.

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

On Active Service in the Fd

in U. K.
(Country.)

Dat: 8 Feb 44

(Signed personally. RP 105 fn 2.)

(Rank.)

Commanding 5 Cdn Inf Bde

Convening Officer.

CONVENING OFFR WILL INITIAL ALL DELETIONS AND ALTERATIONS

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

OATHS FOR USE IN COURTS-MARTIAL.

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

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

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

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

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

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

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

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

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

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

6. WITNESS. *(AA 52, MML 763, RP 32, 111.)*

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

POUR LES TÉMOINS. *(RO (Can) 2693.)*

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

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

NOTES ON RECORDING PROCEEDINGS AND ON DEFENCE PROCEDURE.

(Referred to throughout CF A 98 as "Notes".)

1. RECORDING PROCEEDINGS: When no shorthand writer is employed the addresses of Prosecutor and Defending Offr *(RP 95(C))*, any objections *(RP 85(B))*, and any statements by accused, may be summarized and, the evidence, subject to RP 95(A) and 114(B), may be recorded in narrative form as follows:

First Witness for Prosecution.

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

I am a cpl of the pl to which Pte Smith belongs. The accd in Court is Pte Smith. About 1400 hrs on 12 Jan 43 I ordered the accd to go on parade. He refused and did not go on parade.

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

Re-exam: None.

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

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

3. The record of addresses, statements and evidence will be given a marginal number which corresponds with the number of the pars in CF A 98, under which it is taken. Both sides of paper should be used.

4. DEFENCE PROCEDURE: RP 118 provides that for procedure on defence RP 40-42 will apply so far as practicable, having due regard to the public service. *(RP 122.)* If the Court consider such compliance not practicable, the following order of procedure (whether all items are used or not) is suggested as being fair to the accused:

(i) Opening address by Defending Offr. *(RP 60(C), 87(C), 92(C) (D).)*

(ii) At option of accused, statement by accused (*not sworn or subject to cross-exam by Prosecutor, Court or JA*: *(RP 40 fn 10)*), or evidence by accused, as to facts or his character or both. *(See RP 41 fn 2, 46 fn 1, 85.)*

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

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

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

(vi) Closing address by Prosecutor. *(See RP 40 fn 7, 87(C), 92(C) (D). Prosecutor has no right to address Court on subject of sentence except as provided by RP 46(E), KR Can 562(a).)*

(vii) Summing up by JA, if any. *(RP 42.)*

ASSEMBLY AND DISPOSAL OF RECORD AFTER TRIAL.

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

2. All loose sheets of record and exhibits comprising the proceedings of the trial MUST BE INITIALLED by President or JA, if any, and then pinned by top left corner to p 2 of CF A 98 in following order:

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

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

(iii) Medical Certificate(s). *(KR Can 557.)*

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

(v) Exhibits numbered Ex A, Ex B, etc. *(As to admitting in evidence a certified copy in lieu of original see KR Can 560. As to certified copies of regimental books see AA 183 (1) (g) (h).)*

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

3. Any report or remarks by President or Court for attention of Confirming Offr will be attached to p 4 of CF A 98 and not form part of record of proceedings. *(RP 95(D).)* A recommendation for mercy will be inserted in Part I of Schedule on p 4 after minute of sentence awarded. *(AA 53(b), RP 118(C), MML p 759.)*

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

MEDICAL CERTIFICATE (M.F.(Gen) 557)

I certify that I have this morning examined No D56567 Pte

Gregoire L of R de Maisonneuve C AAV and in my opinion

he is fit to undergo trial by court martial.

Station In the Field

Date 7 February 1944

Statement in Mitigation of Punishment

This man's crime that has gotten a number of A. W. L. charges on it and in applying for mitigation of punishment I would like to try to bring out a few things about his character. I will show you that although the man has a large number of A. W. L. charges he does not go A. W. L. with any willful intent and always comes back by himself and that he has always performed his duties entirely satisfactorily.

Firstly the man, when he is with the unit always does a good job and any of the officers he has served under will substantiate this statement. The only time he goes A. W. L. is when he starts to drink.

The man is known to be an habitual drunkard and although there are times when he does try hard to overcome this, it is one habit that is really hard to cure. The reason for the [illegible] rather excessive drinking in this the man has seen serious family worries.

Now I'd like to say a few words about the man's service - he served for over a year and a half with the Intelligence section and during that time his work was always very valuable. When serving under an officer he really takes an interest in his work, this is borne out by the fact that under first such an officer he served for two months without a charge. I will later call this officer to give the court a character reference.

This man is honestly, really useful to the unit and could be a great asset when the unit goes into action. This awful weakness for drink will not show up then and it could be a shame to send him away so that he will miss this chance.

Really it is not the fact of the amount of dishonest gain that will make him [illegible] than he is as I have said it is his [illegible] that is to blame [illegible] can be cured

in a detention camp in fact likely the opposite.

This mans character is really very good aside from this habit. He is always polite and of good appearance. He is very intelligent and always cheerful. He is very well liked by both officers and men of the regiment. A great number of the officers have come to me and told me to do my best for him.

Gentlemen I hope I have given you a little better view of a man who is certainly not unfairly had. I would like ~~him~~ to call as a witness the officer under whom he served when he went for ten months without a charge.

I call Capt Cuddihy the Adjutant of the R. de Chaix.

F.W. McGarry Lt. R.C.C.S.
Regt de Chaix.

Capt. Cuddihy, Capt + Adj (R de Chaix) made a statement to the effect that accused whilst serving under him (as L/Cpl), had only two charges in a period of ten months; that he found accused an excellent soldier, conscientious, but that he is weak-willed and easily influenced. He suggests that the accused should be considered more a victim of his own friends than of himself.

9 Feb. '44.

Capt. Bruce Lieut.
1 ROS.

Exhibit A

SUMMARY OF EVIDENCE IN THE CASE OF No.D-56567 Pte.Joseph Antoine Leon Grégoire, Le Regiment de Maisonneuve, a soldier of the Canadian Army Overseas.

The accused is informed of his rights.

The accused does not demand and the C.O. does not direct the evidence to be taken on oath.

FIRST WITNESS for the prosecution:

D-160040 Sgt.Rouleau J.N.Regiment de Maisonneuve

At 0630 hrs Jan 29th 1944, as his platoon Sgt, I noticed the absence of the accused, D-56567 Pte. J.A.L.Gregoire. When I made the parade was "Shavallier". I looked for him everywhere and could not find him. I did not see him on any of the Platoon Daily Parades until his return to the unit.

D-160040 Sgt. Rouleau J.N.

The accused declines to cross-examine.

SECOND WITNESS for the prosecution:

D-56083 Cpl.Barrette J.G. Regiment de Maisonneuve

At 2200 hrs Jan 30th 1944, the accused Pte. J.A.L.Gregoire reported himself to me at my billet.

Cpl Barrette J.G.

D-56083 Cpl.Barrette J.G.

The accused declines to cross-examine.

THIRD WITNESS for the prosecution:

D-160040 Sgt.Rouleau J.N. Regiment de Maisonneuve

At 2230 hrs. Jan.31st 1944,as his platoon Sgt. I noticed the absence of the accused Pte. J.A.L.Gregoire. Whilst I made the "tattoo". I looked for him everywhere and could not find him. I did not see him on any of the Platoon Daily Parades until his return to the unit.

D-160040 Sgt. Rouleau J.N.

The accused declines to cross-examine.

FOURTH WITNESS for the prosecution:

D-135910 Cpl.Racicot W.J. Regiment de Maisonneuve

At 2045 hrs. Feb.6th. 1944 whilst on duty as C.O.S. of "C" Coy Regiment de Maisonneuve, the accused Pte. J.A.L.Gregoire reported himself to me.

Cpl Racicot W.J.

D-135910 Cpl.Racicot W.J.

The accused declines to cross-examine:

Ex A 3.

The accused having been duly cautioned in accordance with R.P. 4 (2) says:-

" I do not wish to say anything".

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

CERTIFIED THAT R.P. 4 complied with"
In the Field
7th Feb 44.

A. Major [illegible]
[illegible]
Officer detailed to hold the enquiry

YYY-123 Case #2

Ple Gregoire L.

Case #1-DDD-114

XXX-123

FIELD GENERAL COURT-MARTIAL

4038B

Convened by Order of Lt-Col Guy Gavoreau Cond 6 C.I.B. dated 9 Sep 44

ACCUSED.

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

Number.	(a) Prmnt R. (b) Apptmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
D-56567	Pte	LEON	GREGOIRE	Fus MR.

Certified True Copy

PROCEEDINGS OF TRIAL.

Held in the Fd in (country) Belgium on (date(s)) 11 Sep 44

RECORD FORM A—OPENING PROCEEDINGS AND ARRAIGNMENT.

10/128

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

(PRINTED MATTER NOT IN ITALICS FOR GUIDANCE. WILL BE DELETED IF NOT USED OR APPLICABLE AND INITIALLED BY PRES OF CT. The Schedule referred to throughout is on p 4. Cf para 30 NDR, pp 747 to 759. A brief record of each operation as procedure when a variation in this form occurs, see form for GCM in WSS, pp 747 to 759. A brief record of each operation will be made and given a number having reference to appropriate or preceding joint number hereon. See back of Convening Order. Cf AAA for duties and oaths as to how to record witnesses, evidence, etc, which notes are hereafter called "Notes". As to general provisions for conducting the trial see AA 53, RP 56, 63-70, 73, 74, 44, 182, 119, 123.)

A2. The President initials and lays before the Court the Convening Order and Charge Sheet(1) attached thereto.(2) The Court is satisfied that it is properly convened and constituted(3), accused is (not) amenable to military law, and each charge discloses an offence.(4)

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

A3. The Court is opened. The accused is (not) brought before the Court. At hours trial commences.(1)

A4. The Prosecutor produces a Medical Certificate that accused is (are) fit to undergo trial by court-martial.(2) ~~The Prosecutor informs the Court that accused elected to be tried by court-martial instead of being dealt with summarily by the CO.(3)~~

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

A5. President to accused: ~~Do you object to~~ an Interpreter ? Ans ~~Yes~~

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

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

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

Ans No sir.(2)

(1. RP 110. 2. If no objection, waiting member retires. RP 66(B). If objection, see procedure AA 51, RP 25, 71, 16, NDR, p 742.)

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

President	Major	A.C. Kavanagh	Can or C
Member	Capt	T.A. Ball	S Sask R
Member	Lieut	J.D. Campbell	S Sask R
Judge-Advocate	Capt	E.K.W. Mc Dougall	HQ 2 Cdn Inf Div
Prosecutor	Lt	Y.M.J. Tremblay	Fus MR
Defending Offr	Capt	J.R. Moreney	Fus MR

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

(1. RP 26, 27, 109, 111. List of offrs under instr will be returned separately with proceedings for information of Conv Offr.)
(2. If Pros a lawyer and Def Offr not, accused is entitled to an adjournment when RP 89 (B) and fn 2 were not followed. See DI p 33.)

A8. The accused before arraignment makes(s) (no) ~~A~~ plea.(1)

(1. If a special plea is made for separate trial on one or more charges (RP 62(E), (GB), or as to the jurisdiction of the Court (RP 34, 35(A), 112), or in bar of trial (RP 36), or as to accused's mental fitness to stand trial (AA 130, RP 57), or by one of several accused charged jointly to be tried separately (RP 16, 71), such plea, the addresses made in support or against, the evidence, if any, and finding are recorded per Notes. For forms of record see references in fns to KoP cited. Insert in A8 name and name of the accused making the plea.)

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

(1. RP 31, 112. See para 1 of Instrs p 2. When more than one Charge Sheet see RP 62. 2. RP 32, RP 33. If otherwise, delete and separately see RP 71(C), and use separate copies of CF 48a to record proceedings. make appropriate record per Notes.)

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

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

AB 160 Rev - Vol 1 Tol 79

INSTRUCTIONS ON PROCEDURE AFTER ARRAIGNMENT.

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

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

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

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

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

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

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

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

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

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

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

President to accused : Do you wish to make a statement ? Ans ..... (5)
(*1. RP 37(B). 2. RP 37(D) fn 6. 3. RP 35(B) fn 2 and MML p 54 para 47. 4. See para E2 of Record Form E. 5. Statement, if any, recorded per Notes.*)

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

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

B5. The Summary of Evidence is marked Ex ....., initialled and read aloud by the President.(1)
(*1. If there is no Summary, or if it is inadequate, comply with RP 37(B). If there is any evidence inconsistent with any plea standing or Guilty, Court will advise accused to change such plea and, if changed to Not Guilty, try such charge(s) by use of paras D4 to D8 inclusive of Record Form D on p 3. RP 37(D).*)

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

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

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

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

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

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

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

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

D2. The Prosecutor makes (~~not~~ (no) opening address.(1)
(*1. RP 39(B), 60(A) (B), 90, 92(C) (D). Record address per Notes, subject to RP 93(C).*)

D3. The evidence for the Prosecution is taken.(1)
(*1. RP 39(C), 114, KR Con 553. Record evidence per Notes. As to Prosecutor giving evidence himself see RP 39(D) (E).*)

D4. The Prosecution is closed.(1) The Defending Offr submits that the evidence for the Prosecution does not establish a prima facie case against the accused on the ..... charge(s).(2) The Court is re-opened, and the President announces that the submission is disallowed on the ..... charge(s), and allowed on the ..... charge(s), and that, accordingly, the trial will proceed on the former, but the accused is (are) found Not Guilty on the latter charge(s).(3)
(*1. Delete remainder of this para, if submission not made. 2. Arguments on submission, answer and reply are recorded per Notes. 3. RP 40 fn 1. See MML p 72 paras 12-14 and p 81 para 42. 4. Delete part not used. If accused acquitted on all charges, see second alternative in para D6.*)
NB : If trial proceeds, accused must be allowed great latitude in making his defence, and the Court should not stop his defence solely on ground of irrelevance. (*RP 80(C), 114, 115.*)

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

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

D6. Consequent on the answers recorded in para D5 the appropriate procedure for the defence is followed.(1)
(*1. RP 114, 115, 116. For procedure see Notes on back of Convening Order, CF A95. Evidence for accused as to his character should, if in his interest, be given before the finding. See RP 46(A) fn 1, B&C(3). Note the further opportunity in para E3 of Record Form E. Record per Notes addresses, statement, evidence and any summing up by the JA under RP 42, 103(e).*)

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

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

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

RECORD FORM E—PROCEEDINGS ON CONVICTION BEFORE SENTENCE.

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

E2. The Prosecutor produces Statement(s) as to Character and Particulars of Service(1), and certified true copy (copies) of Conduct Sheet(s)(2), purporting to refer to the accused, which he submits to the Defending Offr for examination, and then to the Court for admission in evidence. The Court is satisfied that these documents refer to the accused, because (i) they purport to be signed in the manner required by AA 163(3) (g) (h), and (ii) they purport to refer to (a) soldier(s) having the same number, rank, name and corps as the accused. Admitted in evidence and marked Ex Y and Ex Z respectively.(3)
(*1. MFB 355 or AFB 296. 2. MFB 6. 3. RP 46, KR Con 158. If above documents not produced, see RP 46 fn 1 para 1.*)

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

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

E5. The Court considers the sentence.(1) The President records the sentence in Part I of the Schedule, which is dated and signed by him and the JA, if any.(2)
(*1. When several accused tried separately see RP 71 (D). One sentence only, comprised of the punishment or punishments laid down in AA 41, 44 and its proviso, is to be awarded to cover all charges in all charge sheets on which accused found guilty. RP 48. As to sentences see AA 44, 138, 182, RP 46-50, 69, 118, 119(A), KR Con 308, 330, 563-566, Overseas KO 309, 1223, MML p 60, 757-759. As to sentences assigned for civil offences by the law of England see AA 41(5), MML p 130. When accused already under sentence of imprisonment or detention see AA 44(1B), 68(1), KR Con 564. 2. RP 50. As to release from arrest by Confirming Offr see KR Con 567. As to assembly and disposal of record after trial see instrs on back of Convening Order.*)

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

SCHEDULE.

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

Accused: D-5b567 Pte Leon Gregoire, Fus R.H.

Charge. (Insert "alternative" where applicable.)	Plea. (See Instrs p 2)	Finding. (See note below.)
1st	Not guilty	Guilty
2nd		
3rd		
4th		
5th		
6th		

(Space for use as required for further charges, accused or jointly, special findings, etc.)

(Note: As to findings for lesser offences see AA 56, RP 44; findings on alternative charges see MML p 483 (n 4 para 2, RP 44; special findings see RP 45 and MML p 753, and in case of Air see RP 44 (n 6).)

~~At present under sentence for~~

41, insert sentence being served, or state, if not applicable. See RP 46(A). Information should be found on AF 6355 or AF 6296.)

Time in confinement awaiting present trial—a total of 15 days, of which 0 days were spent in hospital (*).

(*. See RP 46(A) fn 2. Information should be found on AF 6355 or AF 6296 connected to sentence under (2).)

Sentence Awarded by the Court:

To be imprisoned with Hard Labour for two years.

(Sgd) "Errol K. Mc Dougall" Judge-Advocate, if any. Capt

(Sgd) "A.C.Kavanagh" President. (RP 45, 80) Maj.

Date awarded. 11 Sep 44

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

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

Date (Sgd) O/C Commanding

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

(For duties and powers see AA 54, 57, RP 37(D) fn 6,46(A), 51-56, 130, MML pp 759-761, KR Can 567-577. Acquittals require no confirmation and cannot be revised: AA 54(13). Standing back finding or sentence for revision by Court: AA 54(2), RP 120(c). If non-confirmed, accused may be tried again: AA 157, MML p 64. Minute of confirmation or non-confirmation must be entered before promulgation: AA 57, RP 53, MML p 63. Quashing after promulgation: KR Can 573. Duties and powers of reviewing offrs: AA 57, 57A, RP 53A, 54. The Confirming Offr must sign here personally: AA 172 fn 1.)

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

Confirmed "Guy Gaucreau" Lt-col

~~I direct that the accused be released from custody.~~ (c. AA 57A. Delete if not used.)

(Sgd) "Guy Gaucreau" Lt-col

Date 13 Sep 44 Commanding 6 Cdn Inf Bde Confirming Officer.

PART IV. PROMULGATED AND EXTRACTS TAKEN. (RP 52, KR Can 574, 577.)

Accused. Date. Signature of Offr.

D5b567 Pte L. Gregoire 14 Sep 44 ????????? Capt & A

C.R. No. 1. 14 Sep 44

ALL DELETIONS AND ALTERATIONS WILL BE INITIALLED.

FIELD GENERAL COURT-MARTIAL

Convened by Order of Lt-Col Guy Gavoreau Comd 6 C.I.B. dated 8 Sep 44

ACCUSED.

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

Number.	(a) Prmnt R.	(b) Apprnt, A/R or A/Apprnt.	Full Christian Names.	Surname.	Unit.
D-56567	Pte		LEON	GRAGOE	Fus MR.

PROCEEDINGS OF TRIAL.

Held in the Fd in (*country*) Belgium on (*date(s)*) 11 Sep 44

RECORD FORM A—OPENING PROCEEDINGS AND ARRAIGNMENT.

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

(PRINTED MATTER, NOT IN ITALICS FOR GUIDANCE, WILL BE DELETED. IF NOT USED OR APPLICABLE AND INITIALLED BY PRES OR JA. The Schedule referred to throughout is on p 4. Customs do NOT include all relevant fns. For guidance on procedure when a variation in this form occurs, see fns for GCM in MML, pp 744 to 759. A brief record of such variation will be made and given a number having reference to alteration or preceding para number herein. See para 3 Covering Order. CF A93 for units and ditty on how to record sentences, reference etc, which units are hereafter called "Units". As to general processes for conducting the trial see AA 33, RP 26, 53-70, 73, 74, 94, 108, 119, 132.)

A2. The President initials and lays before the Court the Convening Order and Charge Sheet(A) attached thereto.(1) The Court is satisfied that it is properly convened and constituted(2), accused is (~~is not~~) amenable to military law, and each charge discloses an offence.(3)

(1. As to use of Summary of Evidence see RP 17 fn 4. 2. AA 49, 50, RP 105-107. 3. RP 11-13, 23, 24.)

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

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

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

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

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

~~The shorthand writer is sworn.(2)~~

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

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

(1. RP 110. 2. If no objection, waiting member retires. RP 66(B). If objection, see procedure AA 31, RP 22, 71, 78, MML p 742.)

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

President	Major	A.C. Kavanagh	Can or C
Member	Capt	T.A. Bell	S Sask R
Member	Lieut	J.D. Campbell	S Sask R
Judge-Advocate	Capt	W.K.K. Mc Dougall	HQ 2 Cdn Inf Div
Prosecutor	Lt	Y.M.J. Tremblay	Fus MR
Defending Offr	Capt	J.R. Morency	Fus MR

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

(1. RP 26, 27, 109, 111. List of offrs under instr will be returned separately with proceedings for information of Conv Offr.)
(2. If Pros a lawyer and Def Offr not, accused is entitled to an adjournment when RP 89 (B) and fn 2 were not followed. See D1 p 2.)

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

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

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

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

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

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

SCHEDULE.

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

Accused: D-56567 Pte Leon Gregoire, Fus M.R.

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

(Note: As to findings for lesser offences see AA 36, RP 44; findings on alternative charges see MML p 483 fn 4 para 2, RP 44; special findings, see RP 44 and MML p 112, and as to loss of A.C. see RP 44 fn 6.)

~~At present under sentence for~~ (If, insert sentence being served, or details, if not applicable. See RP 46(A). Information should be found on AF B353 or AF B296.) beginning on (date) 7 Sep 44

Time in confinement awaiting present trial—a total of 15 days, of which 0 days were spent in hospital.(1)
(1. See RP 46(A) fn 2. Information should be found on AF B353 or AF B296 admitted in evidence under E2.)

Sentence Awarded by the Court:

To be imprisoned with Hard Labour for two years.

(Sgd) "Errol K. Mc Dougall" Judge-Advocate, if any. Capt
11 Sep 44 Date awarded.
(Sgd) "A.C.Kavenagh" President. (RP 45, 50.) Maj.
(See back of Convening Order as to assembly and disposal of record after trial.)

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

Date (Sgd) N/A Commanding

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

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

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

Confirmed

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

Date 13 Sep 44 (Sgd) "Guy Gevoreau" Lt-col
Commanding 6 Cdn Inf Bde
Confirming Officer.

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

Accused.	Date.	Signature of Offr.
D56567 Pte L. Gregoire	14 Sep 44	?????????? Capt & Adjt.

C.R. No. 1. 14 Sep 44

ALL DELETIONS AND ALTERATIONS WILL BE INITIALLED.

CHARGE SHEET

D-56567 Pte Leon GREGOIRE? Les Fusiliers Mont Royal, a soldier of the Canadian Army Overseas is charged with:

FIRST CHARGE
AA Sec 12(1)(a) WHEN ON ACTIVE SERVICE
DESERTING HIS MAJESTY'S SERVICE.

in that he ,

In the Field, on 1 Aug 44, after having been warned by Capt J. Langlois, Fusiliers Mont Royal, that he must return to his Company, with intent to avoid so returning, absented himself without leave from 1500 hrs on said 1 Aug 44 until he surrendered to the C.M.P. at 1145 hrs on the 12 Aug 44.

Absence: 10 days, 20 hours, 45 mins.

"J.M. Sauve" Maj
(J.M.P. Sauve) Major
T/Officer Commanding
Les Fus MR - CA (O)

In the Field
This 30th day of August 1944.

To be tried by FGCM

Dated 5 Sep 1944

"G. Gauvreau" Lt-col
(J.G. Gauvreau) Lt-Col.,
A/Bde Comd, 6 Cdn Inf Bde

"A.C.Daranagh" Maj
President

FIELD GENERAL COURT-MARTIAL

CFA 65 (In lieu of AFAB 40/PAM/1697 (2nd Ed))

(Whether the accused to be tried is under his comd or not, a FGCM may on application to him be convened by any offr of Cdn Army Overseas, or of any other force if authorized in law, in immediate comd of troops on active service, subject to RP 103(C) and restrictions imposed by appropriate authy, AA 49, 50, RP 104-107, 114. As to the duties and privileges of the Convening Offr in dealing with the application see MML Chap V paras 20 and 23, RP 87(B).

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

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

ACCUSED.

Number.	(a) Prmnt R.	(b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
D56567	Pte	-----	LEON	GREGOIRE	Pus M.R.

" A.C. Kavanagh" Maj
President

CONVENING ORDER.

1. Whereas complaint has been made to me, the undersigned, that the person~~s~~ named above as the accused, being subject to military law, has (have) committed the offence~~s~~ set forth in the Charge Sheet~~s~~ attached and on (date) 5 Sep 44 endorsed by me, (or by an offr of my staff for me), " To be tried by Field General Court-Martial ".

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

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

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

4. ~~I am unable to appoint six thro offrs to form the Court, (b) as (c) the President, for the reasons I have attached hereto.~~

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

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

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

PRESIDENT.

(Rank.)		(Unit.)
Major	A. C. Kavanagh (Must be named. RP 106.)	Can of C.

MEMBERS.

(Rank.)		(Unit.)
Capt	To be detailed	S Sask R
Lt or Capt	To be detailed (Named or detailed. RP 106.)	S Sask R

WAITING MEMBER.

(Rank.)		(Unit.)
Lt or Capt	To be detailed (Named or detailed, if any. RP 106.)	Pus MR

JUDGE-ADVOCATE.

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

On Active Service in the Fd

in France (Country.)

"Guy Gavoreau" Lt-col (Signed personally. RP 105 fn 2.) (Rank.)

Date 9 Sep 44

Commanding 6 Cdn Inf Bde
Convening Officer.

CONVENING OFFR WILL INITIAL ALL DELETIONS AND ALTERATIONS

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

OATHS FOR USE IN COURTS-MARTIAL.

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

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

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

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

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

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

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

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

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

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

6. WITNESS. *(AA 52, MML 763, RP 82, 111.)*

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

POUR LES TÉMOINS. *(RO (Can) 2492.)*

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

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

NOTES ON RECORDING PROCEEDINGS AND ON DEFENCE PROCEDURE.

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

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

First Witness for Prosecution.

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

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

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

Re-exam: None.

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

RP 83(B) complied with.

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

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

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

(i) Opening address by Defending Offr. (*RP 89(C), 87(C), 92(C) (D).*)

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

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

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

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

(vi) Closing address by Prosecutor. (*See RP 40 fn 7, 87(C), 92(C) (D). Prosecutor has no right to address Court on subject of sentence except as provided by RP 40(E), KR Can 562(4).*)

(vii) Summing up by JA, if any. (*RP 42.*)

ASSEMBLY AND DISPOSAL OF RECORD AFTER TRIAL.

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

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

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

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

(iii) Medical Certificate(s). (*KR Can 507.*)

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

(v) Exhibits numbered Ex A, Ex B, etc. (*As to admitting in evidence a certified copy in lieu of original see KR Can 560. As to certified copies of regimental books see AA 162 (1) (g) (h).*)

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

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

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

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

In the Field,
11 September 1944

I certify that I have examined D 56567 Pte Leon Gregoire and that I find him fit to undergo trial by Court-Martial.

"??????????????" M.O.

1st Pro Unit, Capt J. Langlois, Pus M.R. duly sworn states:

I am QM Pus MR and i/c B Ech. On the morning of the battle of the Church of St-Martin-sur-Orme, 1 Aug 44, the accd whom I recognised reported to me at Caen. He had no web or equipment or rifle. I asked him for His authorization to have come back and he had no such authorization. So I took him to the 2 i/c MM Sauve, who was L.O.B. at the time. I then took Acc to stores to reequip him. I then told him that he was to return immediately to the front line and report to his Coy Comdr. I ordered my storemen to reequip him and write a note to his Coy Comdr. I then told Acc "Be ready to leave with the ration truck in a few minutes". This was about 1500 hrs. A few minutes later Acc had disappeared - his rifle, web and equipment were all ready but we could't find him. That night and every day after that he was absent from all parades until apprehended by the Provost. The Acc had no permission of any kind to leave the B Ech area.

Cross Ex

I personally told Acc to return to his Coy in the front line. Cpl Thifault was present and maybe 1 or 2 of my storemen.

No Re Ex

Court - The Coy of the Acc was in battle that day. That is why I couldn't understand why he reported to B Ech at that time of day. When he reported back he appeared quite normal. He came right in and reported. He said he had been under fire for several days and hadn't slept for 5 nights. His Coy tho' had been in second line for a few days. He said a direct hit had hit his slit trech and destroyed his rifle and his equipment. We have instructions that no man can return to B Ech without an O.K. from the C.O.

Rr 83(b) complied with.

2nd Pro Unit D63011 L/Cpl Thifault, T. Pus MR., duly sworn deposes:

I am clerk in Q.M. Stores. On this day Capt Langlois told me to equip the acc. I was present when Capt Langlois said to the Acc to go back to his Coy after he was reequipped.

Cross Ex

I swear Capt Langlois told him he was to go back to his Coy in the front line. I got the web and rifle ready.

Re Ex Capt Langlois told Acc to wait till he was equipped.

Court The Acc disappeared and was not around at the time the ration left to return to the front. I left the equipment ready for him.

RF 87(h) complied with.

3rd Pro Unit Lt Y.M.J. Tremblay, Pus MR., duly sworn deposes:

(The Defence has no objection to this witness)
I present the certificate of apprehension relating to the Acc whom I recognize. This is Exh A

No Cross Ex

Court Nil

The Acc duly sworn deposes:

On 1 Aug 44 I reported to our B Ech after being in front line and having lost all my kit. After the attack on the Church in St-Martin I was in a trench and I left the trench to go to a barn to have a crap. Whilst in the barn they started to shell & mortar us which lasted about 15 to 20 minutes. When I returned to find my kit I went from one trench to another and couldn't find my kit. I couldn't find my own trench. I was excited from the shelling. After that as I had no kit and I saw nobody around I didn't know what to do, I kept looking until I hit the road where I got picked up by a jeep going to Caen. There I reported to Capt Langlois. He took me to the QM Stores. He told Thifault to note the articles I needed to return. While he was checking the articles I left and went to the toilet. Coming back I met the PMR and asked him if I could draw some money. He gave me 200 francs. I felt like a drink so I went to a cafe and had a drink. I kept on drinking with friends from the R de Mais. I kept on drinking. I drank all the time until I sobered up and reported to the C.M.P. on 12 Aug.

Cross Ex

My kit was inside the trench. There was noone around when I returned from barn. The jeep was an RCR jeep. I stopped it and asked for a ride. I didn't know any other Bn location except the B Ech in Caen. While riding to Caen I saw no one from the unit. I was broke when I reported to CMP. Don't know why I wanted money to go back with. Just for a drink.

No Re Ex I was with D Coy. With it since 26 Jul 44. Was after units forst attack. I served with Coy from 26 Jul to 1 Aug. I wasn't on the attack on the Church. I had been left behind as I was too nervous. In my time with the Coy I only knew where B Ech was. I explained to Maj Sauve what had happened. I drank for 10 days on 200 francs. I won money shooting crap. I don't remember Capt Langlois telling me to return but I do remember him telling Thifault in my hearing that I had to go back. I rode about 20 minutes in the jeep with 2 men. I can't remember what patches they had or what was it they belonged to. Can't remember what we talked about.

I was left out of the attack by L/Cpl Durocher. On 26 Jul when I joined the unit we were about 25.

I had my first crap in the barn about 0830. I was picked up bythe jeep about 1130. Between these hours I kept running from trench to trench. Between these hours I saw some men with A/Tk guns. I didn't go over as they were shelling. This kept up from 0830 to 1130.

I had no trouble getting food in Caen.
The L/Cpl didn't take me on the attack. He left me behind. He didn't tell me I could stay there. He didn't tell me to come so I stayed .

RP 83(b) complied with.

CERTIFICATE UNDER THE ARMY ACT, SECTION 163(1)(1)

I Lt M.C.C. Hobday for Assistant Provost Marshal, 7 Base Sub Area certify that No. D/56567 Rank - Pte - Name - Gregoire,L. of the 8 Bch Mount Royal Fusiliers Regt, surrendered himself to No 7961120 - Rank - Sgt. Name - Smith S, of the 601 Coy (VP) at Town Guard Room Caen 1145 hrs, on the 12th day of August 1944 as an absentee without leave.

He was dressed in Uniform.

Place - Caen.

"M.C.C. Hobday" Lt
for Assistant Provost Marshal
CMP
7 Base Sub Area.

Exh

Closing address of the Prosecution by
Lt Y.M.J. Tremblay.
Pros Offr.

11 Sep 44

1. The accused shows his intention to evade his duty by not following his section into the attack and by not having had any orders to remain behind.

2. Later on, after the attack, when no one was around he leaves the trench to go to a barn for natural needs. Returning therefrom he fails to find his trench and equip. Erring around the area he makes no effort to return to his Coy even though he sees a section of A/Tk people he never contacts them to get the whereabouts of his coy. On the contrary, he works his way back to the main Caen Rd and returns to B Ech with the apparent intention of getting some money from the Paymaster. There, though warned of his immediate return to the Front Line, he proceeds in obtaining money from the Paymaster and making his exit from B Ech area. He gives himself up to the C.M.P. approx 11 days later after having spent his money and apparently incapable of getting any more.

I feel that the accused showed no sense of responsibility in the whole matter.

"Y.M.J. Tremblay" Lt

Les Fus M.R.

Gentlemen,

The accused Pte G is charged with desertion and I wish to point to the Court that it is shown at the bottom of page 437 of Army Act that intention must be proved and in this case the Prosecution has failed to do so. A statement has been given by Capt Langlois that Pte Gregoire had told him a story which he did not believe. Unfortunately Capt Langlois has never been on the front line as he would know that lots of things are happening on the front line. Pte Gregoire was left behind as he was having a crap and very nervous. He suffered an intensive shelling, he did not know what to do. He looked for his equipment after thirty minutes of intensive shelling and finally reached his Unit. He had no intention of deserting as he would have done so at the first place. He would not return to his unit, but he did. He went in a cafe while waiting to go back to his coy. The cafe was right beside the R Yeu, he had drinks. As he was French speaking he made friends among French people. He was fed freely and finally when sobbering up he gave himself up to the Provost; here is another definite proof that the accused is not guilty of desertion. Evidence has been brought in to prove that Pte Gregoire has been AWL for ten days but no evidence whatsoever has proved the intention of deserting. I demand that the charge against him be changed to a charge of being AWL.

J.A. SUMS UP

Serious charge.

Evidence and argument heard. Must decide.

Desertion - MCM p.427. Reads relevant parts.

Intent difficult of proof. Intent can only be inferred from the circumstances of the case. Must consider carefully all that happened and then decide if necessary intent exists.

Explains Desertion charge may be reduced to AWL - Spec Finding AA5c

Credibility of Wits explained. Cts function to ascertain which evidence is likely to be true or which is not.

Every soldier innocent until proved guilty beyond reasonable doubt. Reasonable doubt defined.

Any questions.

STATEMENT OF MITIGATION

Before you is important case. Must punish a bad soldier. But if you look at the life story of Acc you'll find that he enlisted in 39. He left Canada and home and family in 1940. He has served his country for four years in England, and finally he has been risking his life to secure all our principles of democracy. He has been doing so for 5 days on the Front Line. As he looks home to Canada he sees thousands of young men like him wearing civilian clothing, sitting safely with their families listening over the radio to the sacrifices our soldiers are making here. In a few weeks the war will be over and those young men will live happy without wondering about casualties. Gentlemen, you must decide whether this man has he to spend more years of his life which has been already spoiled. Must decide whether Acc deserves more than his comrades he lft behind safely in Canada.

I want you to think conscientiously and to give all consideration you can to this soldier who has been willing and who has tried to do his duty. I'm sure youwill give him every possible chance.

Ask for leniency of Court.

SUMMARY OF EVIDENCE

In the case of D56567 Pte LEON GREGOIRE, Les Fusiliers Mont-Royal, a soldier of the Canadian Army Overseas.

The accused is informed of his rights.

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

FIRST WITNESS: For the prosecution: Capt Jean Langlois, Les Fusiliers Mont Royal, having been duly sworn makes the following statement:

"I am Capt Jean Langlois" Quartermaster, in charge of "B" Ech Les Fusiliers Mont Royal stationed in the field. On the day of the battle of the Church of St-Martin-Sur-Orne on the 1st of August 1944, Pte Gregoire reported to me at approximately 1500 hrs. He had no written authorization to come at "B" Ech and acting upon instructions from the Commanding Officer, I told him that I would reequip him and warned him that he was to return to his company with the rationtruck. I personnally saw that he be given a rifle and web. When the stock was ready to be issued to him, he had left. I did not see him since, until apprehended by the Provost Corps. I then send him the same night to "A" Echelon.

"J. Langlois" Capt
(Jean Langlois) Capt

The accused declines to cross-examine the witness.

SECOND WITNESS

For the prosecution: D63011 L/Cpl T.Thifault, Les Fusiliers Mont Royal, having been duly sworn, makes the following statement:

"I am D63011 L/Cpl T. Thifault" clerk at the Quartermaster Stores, Les Fusiliers Mont Roy al. On the 1st August 1944, I was instructed by Capt Jean Langlois to reequip Pte Gregoire, as he was to return to the front line with the next truck going up. Pte Gregoire was present at the time and I heard Capt Langlois warning him that he was going back. Capt Langlois then gave me a paper to be delivered to the Adjutant on arrival.

"T. Thifault"
D63011 L/Cpl T. Thifault

The accused declines to cross-examine the witness:

THIRD WITNESS

For the prosecution: Capt George Balcer, Les Fusiliers Mont Royal, having been duly sworn, makes the following statement:

"I present"
Certification of apprehension under Army Act 163(1)(j)
which relates to the accused, whom I recognize.

"Geo Balcer" Capt
(George Balcer) Capt

The accused does not demand the attendance of this witness at his trial and declines to cross-examine.

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

"I have nothing to say"

"Leon Gregoire"
(D56567 Pte Gregoire, L.)

I certify that this evidence has been taken under oath and that Rules of Procedure 4 (a)(b)(c)(d)(f)(g) have been complied with.

????
(C.J.R. Langlois) Capt
Officer detailed to take the
SUMMARY

5 Sep 44

LIST OF WITNESSES

In the case of D56567 Pte Gregoire, L. Les Fusiliers Mont Royal a soldier of the Canadian Army Overseas.

PROSECUTION

Capt J.J.J.A. Langlois	Les Fusiliers Mont Royal
Capt G. Balcer	Les Fusiliers Mont Royal
D63011 L/Cpl Thifault, T.	Les Fusiliers Mont Royal

DEFENCE

Nil

LIST OF EXHIBITS

Exh "A" Certificate of surrender in accordance with Army Act Sec 163 (i)(j)

STATEMENT OF THE ACCUSED

I, D56567 Pte Gregoire, L. certify that I have been given free of charge copy of all proceedings relating to my trial by FGCM.

I request the service of an offr to defend me at my trial by Field General Court Martial.

I desire the services of .....Capt R. Morency.....

"Leon Gregoire"

(D56567 Pte L. Gregoire)

Substitute for
MFB 296 or MFB 355

STATEMENT AS TO CHARACTER AND PARTICULARS OF SERVICE OF ACCUSED.

No. D56567..... Rank...Pte.. Name..Gregoire, L.....Unit .Fus.MR....
Age...30... Married or Single.....S.... No of Dependents.....
Date of attestation..16 Sep 39

No of days spent in close arrest (to date of trial)...21 days.....

Dates of promotions, Appointments and confirmation of rank, if any.....
.....N/A.....

(A certified true copy of MFM 6 must accompany this form)

Dated at..Field....
This.....11.....day of.....Sept.....1944

...T. Trembley Lt.....
O i/c Records
..Fus.MR.(CAO).....
Unit

To be dated and signed as for date of trial)

M.F.M. 6
(A.F.B. 122)
40/P & S/136 (2637)

No. D. 56567 Name Greyvenor L. Sign., Battery, or Company Corps C/C. Date of enlistment 18/7/39 G.C. Badges Service or Proficiency Pay

Date of last entry in Company Conduct Sheet No. and date of last drunk Period not reckoning towards freedom from extra fine Sheet No. Signature O.C. Company, etc. Character Lieut Bartram Capt

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order directing trial	By whom awarded	Remarks
Fontenay	11.2.40	Pte		Auth 2245 hrs 11.2.40 to 1630 hrs 27.2.40 AA sec 15(1)	Ptl Pl Bennett	12 days A	25.2.40	Lieut Bartram 6 days Pay Lost	
	15.4.40	Pte		Auth 2245 hrs 15.4.40 to 2100 hrs 16.4.40 AA 15(1)	Ptl Pl Bennett	14 days CB	17.4.40	Lieut Bartram 1 day Pay Lost	
	22.4.40	Pte		Auth 0830 hrs 22.4.40 to 2320 hrs 24.4.40 AA 15(1)	Ptl Pl Bennett Ptl Pl Jones	14 days CB	24.4.40	Lieut Bartram 3 days Pay Lost	
	30.4.40	Pte		Absent without leave from 2320 hrs 30/4/40 AA sec 22(1) AA 15(1) Auth 2245 hrs 30/4/40 to 2320 hrs 5/5/40 (Absent in Unit Quarters) escaping AA sec 22)	Ptl Pl Bennett Ptl Pl Jones	14 days CB	4.5.40	Lieut Bartram 7 days pay Lost	
	17/5/40	Pte		Auth 2245 hrs 17.5.40 to 2320 hrs 20.5.40 (AA sec 15(1) when in confinement escaping AA sec 22(1)	Cpl Bartram Ptl Pl Bennett	14 days CB	21/5/40	Lieut Bartram 4 days pay Lost	

(P.T.O.)

Place	Date of offence	Rank	Corps of Arms/Service	OFFENCE	Name of Witnesses	Punishment awarded	Date of award or of close inquiry into with Date	By whom awarded	Remarks
Northwood	1.7.40	Pte		AA Sec 15(1) Amdt 0001 hrs 1/7/40 to 1700 hrs 7/7/40	Pte Bamlett C Co. Bermuda	15 days detn	3.7.40	R. Bourassa Lt Col	22 days pay
Dalcarton	20.6.40	Pte		Amdt 0001 hrs 17/6/40 to 1700 hrs 19/6/40 AA Sec 15(1)	C Co. Boutroume	5 days Pay	20.6.40	R. Bourassa Lt Col	3 days pay
	12/8/40	Pte		Amdt 0700 hrs 12/8/40 to 1100 hrs 13.8.40 AA Sec 15(1)	Cpl Dalbaire	15 days FP	15.8.40	R. Bourassa Lt Col	17 days pay.
Aldershot	5/11/40	Pte		Amdt 1130 hrs 5/11/40 to 1600 hrs 5/11/40 AA Sec 15(1)	Lt/Cpl Plante	14 days CB	6.11.40	C. Thompson Capt	
	27.12.40	Pte		Amdt Sec 40 Conduct to Pny etc	S/Sgt Kinden	3 days CB	30.12.40	A Thomson Lt	
	4-5/1/41	Pte		AA Sec 40 Breaking out & overstaying leave at Aldershot barracks. Confined to barracks on 4 & 5 Jan 41 whereupon he broke out & was CB required but he is broke AA (D) (A)	Cpl J Thibeault				
						7 days CB	6.1.41	A. Thomson Lt.	
	7/1/40	Pte		AA 40 Conduct to the prej - refuses to accept a punishment of 7 days CB & 7 hrs Pack Drill awarded his by Lt Lassard A/OC HQ Coy	Pte Thériault	7 days CB.	11.1.41.	P. Bourassa Lt. Col.	

M.F.M. 6
(A.F.B. 122)
40/P & S/136 (2637)

No. D 20567 Name Gregoire R. | Sqn., Battery, or Company | Corps | Date of enlistment | G.C. Badges | Service or Proficiency Pay | Character

Date of last entry in Company Conduct Sheet | No. and date of last drunk | Period not reckoning towards freedom from extra fine | Sheet No. | Signature O.C. Company, etc.

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order discontinuing with 'Cells'	By whom awarded	Remarks
Aldershot	18.1.41	Pte		AA Sec 15(2) Failing to appear at parade 7 parade applied by the CO did not report to Park Guard and CB on 11/1/41	Cpl Jenkins Cpl Daniels	120 hrs detn.	14/1/41	R. Hunt pte 5 days pay forfeit.	
Aldershot	31/1/41	Pte		AA Sec (5(1)) Absn from 2230 hrs 31/1/41 to 1000 hrs 1/2/41 (One day)	CSM Jenkins	168 hrs detn.	6.2.41	R Bonneau B-Col. 1 days pay.	
Aldershot	15/4/41	Pte		1045 Absn from 0700 hrs 10/4/41 to 2030 hrs 10/4/41 AA Sec (5(1)) (13 hrs 30 mins)	Sjt Lunday	7 days CB	22/4/41	Lt. Bingham Duty	
Aldershot				1045 Absn 2230 hrs 24/4/41 to 2345 hrs 25/4/41 AA Sec (5(1)).	Sjt Lunday Cpl Rock	7 days FP 7 days pay.	25/4/41	P. Bingham B-Col. 5 days pay	

(P.T.O.)

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order directing case with trial	By whom awarded	Remarks
Portsmouth	17/7/41	Pte		1st Drunk.	Cpl Sandrawell	Reprimand.	17/7/41	Lt Montpatti-Nicol	
Aldershot	18/8/41	Pte		WOAS AA sec 15(1) Auth 2245 hrs 18.8.41 to 1700 hrs 19/8/41	Sjt C Rock	14 days FP	23-8-41	P Bartleman Lt-Col.	
Normandy Bay	2/12/41	Pte		WOAS failed to appear at guard duty at 2200 hrs AA 15(2)	Pte Pennycan	3 days pay	3-12-41		3 days pay.
Normandy Bay	2/12/41	Pte		WOAS. AWL from 0745 hrs 2/12/41 to 1200 hrs 7/12/41. AA Sec 15(1)	Pte Pennycan Cpl the Queenie Pte Pennycan Cpl the Bennie	3 days CB. 20 days pay	5/12/41	Lt Cooper	23 days pay.
Portsmouth	1/1/42	Pte		WOAS AWL 2245 hrs 1/1/42 to 1330 hrs 3/1/42 AA Sec 15(1).	Pte Pennycan Sjt Pennycan	16 days pay	5/1/42	Lieut Brownson	18 days pay.
Hull Hill	31/3/42	Pte		WOAS AWL 1100 hrs 16 1500 hrs AA Sec 15(a). WOAS escaping custody. AA sec 22 WOAS AWL 1800 hrs 31/3/42 to 1630 hrs 2/4/42	Sjt C Rock	28 days FP.	20/4/42	Lt Hacke Hacke-Lt-Col.	14 days pay.

No D56567 Name Gregoire R. | Sqn, Battery, or Company | Corps | Date of enlistment | GC Badges | Service or Proficiency Pay | MFM 6 (AFB 122) or P&O (2438)

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

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Petawawa	15/1/42	Pte	2	WOA5 Drunkeness on 15/1/42 at 0600 hrs was drunk AA sec 19.	Cpl Coombe Sjt Pargeau PS Pargeau	$5.00 2nd Off	16/1/42	Pargeau	$5.00
"	1/2/42	Pte		WOA5 AWOL from 31/1/42 2300 hrs to 2/2/42 (1 day) AA sec 15 (1). WOA5 neglect to be prejudicial to good order AA sec 40 in so far. neglected to take his guard duty AA sec 40	Sjt Pargeau Cpl Desjardins	15 days pay	5/2/42	J.A. Roy A/C - WC	15 days pay
"	6/3/42	Pte	3.	Drunkeness AA 19. WOA5 in that he at Petawawa on March 6/42 was drunk.	Cpl Dumberry	$10.00 3 Off.	9.3.42	P Lambert Maj.	

(P19)

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishments awarded	Date of award or of letter dispensing with trial	By whom awarded	Remarks
Suld	17/7/42	Pte		WOAS auth 1115 hrs 17/7/42 to 1245 hrs 17/7/42 Auth 10 hrs 30 mins AA Sec 15 (1) WOAS Auth from 0800 5/8/42 to 1615 hrs 5/8/42	S/Sgt Dunbar Capt Lavoie S/Sgt Dunbar Capt Lavoie	27 days FP. 27 days Pay.	10/8/42	Deserves Lt Col	28 days Pay
	12/10/42	Pte		WOAS auth from 2230 hrs 10/10/42 2310 hrs 10/10/42	Lt/Col Goddard	15 days FP 15 days Pay	10/10/42	Deserves Lt-Col	
	17/8/43	Pte		WOAS auth from 1400 hrs 7/8/43 to 1440 hrs 10/8/43.	Lt. G. Dauphin	7 days FP.	17/8/43	Front part of time	3 days Pay.
	5/10/43	Pte		WOAS auth from 2230 hrs 5/10/43	Lt/Col Goddard	7 days pay	7/10/43	Battalion Lt-Col	3 days Pay

No 1356567 Name Gregoire R. | Sqn, Battery, or Company | Corps | Date of enlistment | GC Badges | Service or Proficiency Pay | MFM 6 (AFB 122) 40/PAS/150 (3438)

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

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order directing with this	By whom awarded	Remarks
Field	21/10/43	Pte		AWL Sec 15(1) WOAS AWL from 0800 hrs 21 Oct 43 to 1215 hrs 24/10/43	Cpl Bourke Sgt Pitney	27 days FP	26/10/43	Bde Staff Offr - Lt Col	14 days pay
	26/10/43	Pte		AWL as WOAS AWL from 1030 hrs 26/10/43 to 2200 hrs 26/10/43			26/10/43		
Field	26/1/44	Pte		WOAS AWL from 0630 hrs 26 Jan 44 to 2200 hrs 30 Jan 44 AWL from 2230 hrs 31 Jan 44 to 2043 hrs 6 Feb 44 AWL Sec 15(1)	Documentary Evidence	120 days detn	7/2/44	FOOA Commanding Bomd 5 Bde Fd Amb 11 Corps Tp Bde	14 days pay 2 days pay

Certified true copy of original now in my custody

(PTO)

RECORDED AT CMHQ IN AB 160 YYY-123

FIELD GENERAL COURT-MARTIAL

CFA66 (To form 0(AFA)) 40/P.W.S. 1000(1/43)

4388

Convened by Order of Lt-col Guy Cavoreau Comd 6 C.I.B. dated 9 Sep 44

ACCUSED.

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

Number.	(a) Prmnt R.	(b) Apptmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
D-56567	Pte		LEON	GREGOIRE	Fus MR.

PROCEEDINGS OF TRIAL.

Held in the Fd in (*country*) Belgium on (*date(s)*) 11 Sep 44

RECORD FORM A—OPENING PROCEEDINGS AND ARRAIGNMENT.

A1. The President, Members, waiting Member, JA, if any, and Offrs under instr, if any, assemble, and the Court is closed. 10/198

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

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

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

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

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

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

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

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

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

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

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

Ans No sir (2)

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

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

President	Major	A.C. Kavanagh	Can of C
Member	Capt	T.A. Ball	S Sask R
Member	Lieut	J.D. Campbell	S Sask R
Judge-Advocate	Capt	E.K.M. Mc Dougall	HQ 2 Cdn Inf Div
Prosecutor	Lt	Y.M.J. Tremblay	Fus MR
Defending Offr	Capt	J.R. Moroney	Fus MR

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

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

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

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

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

(1. RP 21, 112. See para 1 of Instrs p 2. 2. RP 32, RP 33. If otherwise, delete and make appropriate record per Notes.) When more than one Charge Sheet see RP 62; when several accused to be tried separately see RP 71(C), and use separate copies of CF A96 to record proceedings.

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

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

INSTRUCTIONS ON PROCEDURE AFTER ARRAIGNMENT.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

Fix here Loose Sheets of Record.

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

D1. President to accused : Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity to prepare your defence ? Ans No Sir (1)

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

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

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

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

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

D4. The Prosecution is closed.(1) The Defending Offr submits that the evidence for the Prosecution does not establish a prima facie case against the accused on the ..... charge(s).(2) The Court is closed, and considers the submission.(3) The Court is re-opened, and the President announces that the submission is disallowed on the ..... charge(s) but allowed on the ..... charge(s), and that, accordingly, the trial will proceed on the former, but the accused is (are) found Not Guilty on the latter charge(s).(4)

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

NB : If trial proceeds, accused must be allowed great latitude in making his defence, and the Court should not stop his defence solely on ground of irrelevance. (RP 60(C), 114, 115.)

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

President to accused : Do you wish to give evidence yourself as a witness, make a statement, or do neither ? Ans Evidence on Oath : Do you intend to call witnesses on your behalf ? Ans No. Are they witnesses as to character only ? Ans .....

(1. *RP 114, 115, 116. For procedure see Notes on back of Convening Order. CF AR5. Evidence for accused as to his character should, if in his interest, be given before the finding. See RP 40(A) fn 1, 86(C). Note the further opportunity in para E3 of Record Form E. Record per Notes addresses, statement, evidence and any summing up by the JA under RP 42, 103(e).*) 2. *RP 40(A), see 80(D).* 3. *RP 40 fn 10.* 4. *RP 40 fns 2, 9.*)

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

(1. *RP 115.*)

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

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

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

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

(1. *AA 54(3) (5), RP 45, 120(A).* 2. *AA 54(3), RP 45, 117. This alternative announcement is not applicable when there are pleas of Guilty outstanding and dealt with under Record Form B or C.*)

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

RECORD FORM E—PROCEEDINGS ON CONVICTION BEFORE SENTENCE.

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

Ans No Sir.

(1. *If evidence has already been given by accused or his witnesses as to his character, delete this para. RP 37(C) fn 4, 46 fn 2. Accused and witnesses are sworn. Evidence recorded per Notes.*)

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

(1. *MFB 355 or AFB 296.* 2. *MFB 6.* 3. *RP 46, KR Con 558. If above documents not produced, see RP 46 fn 3 para 1.*)

E3. President to accused : Do you wish to address the Court on the Statement(s) and Conduct Sheet(s), and in mitigation of punishment ?(1) Ans Nothing to say Sir.(2)

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

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

(1. *AA 54(6), RP 120(A).*)

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

(1. *When several accused tried separately see RP 71 (D). One sentence only, comprised of the punishment or punishments laid down in AA 41, 44 and its proviso, is to be awarded to cover all charges in all charge sheets on which accused found guilty. RP 48. As to sentences see AA 64, 126, 182, RP 46-50, 69, 118, 119(A), KR Con 308, 330, 563-564, Overseas RO 309, 2323, MML p 60, 757-759. As to sentences assigned for civil offences by the law of England see AA 41(5), MML p 120. When accused already under sentence of imprisonment or detention see AA 44(1B), 68(1), KR Con 564.* 2. *RP 50. As to release from arrest by Confirming Offr see KR Con 567. As to assembly and disposal of record after trial see Instrs on back of Convening Order.*)

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

SCHEDULE.

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

Accused : D-56567 Pte Leon Gregoire, Fus M.R.

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

(Note : As to findings for lesser offences see AA 56, RP 44 ; findings on alternative charges see MML p 463 fn 4 para 2, RP 44 ; special findings see RP 44 and MML p 753, and in loss of kit see RP 44 fn 6.)

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

(1. Insert sentence being served, or delete, if not applicable. See RP 46(A). Information should be found on MF B355 or AF B294.)

Time in confinement awaiting present trial—a total of 15 days, of which 0 days were spent in hospital.(2)

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

Sentence Awarded by the Court :

To be imprisoned with Hard Labour for two years.

(Sgd) "Errol K. Mc Dougall" 11 Sep 44 (Sgd) "A.C.Kavanagh"
Judge-Advocate, if any. Capt Date awarded. President. (RP 45, 50.) Maj.

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

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

N/A

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

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

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

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

Confirmed

"Guy Gauoreau"
Lt-col

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

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

(Sgd) "Guy Gavoreau"
Lt-col

Date 13 Sep 44 Commanding 6 Cdn Inf Bde
Confirming Officer.

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

Accused.	Date.	Signature of Offr.
D56567 Pte L. Gregoire	14 Sep 44	????????? Capt & Adjt.

C.R. No. 1. 14 Sep 44

ALL DELETIONS AND ALTERATIONS WILL BE INITIALLED.

CHARGE SHEET

D-56567 Pte Leon GREGOIRE? Les Fusiliers Mont Royal, a soldier of the Canadian Army Overseas is charged with:

FIRST CHARGE
AA Sec 12(1)(a) WHEN ON ACTIVE SERVICE DESERTING HIS MAJESTY'S SERVICE.

in that he ,

In the Field, on 1 Aug 44, after having been warned by Capt J. Langlois, Fusiliers Mont Royal, that he must return to his Company, with intent to avoid so returning, absented himself without leave from 1500 hrs on said 1 Aug 44 until he surrendered to the C.M.P. at 1145 hrs on the 12 Aug 44.

Absence: 10 days, 20 hours, 45 mins.

"J.M. Sauve" Maj
(J.M.P. Sauve) Major
T/Officer Commanding
Les Fus MR - CA (O)

In the Field
This 30th day of August 1944.

To be tried by FGCM

Dated 5 Sep 1944

"G. Gauvreau" Lt-Col
(J.G. Gauvreau) Lt-Col.,
A/Bde Comd, 6 Cdn Inf Bde

"A.C.Daranagh" Maj
President

FIELD GENERAL COURT-MARTIAL

CFA66 (In lieu of AFA 66/PAM/1607 [D66])

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

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

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

ACCUSED.

Number.	(a) Prmnt R.	(b) Apptmt, A/R or A/Apptmt.	Full Christian Names.	Surname.	Unit.
D56567	Pte	-----	LEON	GREGOIRE	Pus M.R.

"A.C. Mavanagh" Maj
President

CONVENING ORDER.

1. Whereas complaint has been made to me, the undersigned, that the person(s) named above as the accused, being subject to military law, has (have) committed the offence(s) set forth in the Charge Sheet(s) attached and on (*date*) 5 Sep 44 endorsed by me, (or by an offr of my staff for me), "To be tried by Field General Court-Martial".

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

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

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

4. ~~I am unable to appoint (at least) Offrs to form the Court (by (a) (b) Offr as President) for the reason I have attached hereto.~~

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

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

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

PRESIDENT.

(Rank.)		(Unit.)
Major	A. C. Kavanagh *(Must be named. RP 106.)*	Cam of C.

MEMBERS.

(Rank.)		(Unit.)
Capt	To be detailed	S Sask R
Lt or Capt	To be detailed *(Named or detailed. RP 106.)*	S Sask R

WAITING MEMBER.

(Rank.)		(Unit.)
Lt or Capt	To be detailed *(Named or detailed, if any. RP 106.)*	Pus MR

JUDGE-ADVOCATE.

(Rank.)		(Unit.)
Capt	E.K. McDougall *(Must be named, if any. RP 105.)*	HQ 2 Cdn Inf Div

On Active Service in the Fd

in France (*Country.*) "Guy Cavoreau" Lt-col (*Signed personally. RP 105 fn 2.*) (*Rank.*)

Date 9 Sep 44 Commanding 6 Cdn Inf Bde
Convening Officer.

CONVENING OFFR WILL INITIAL ALL DELETIONS AND ALTERATIONS

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

OATHS FOR USE IN COURTS-MARTIAL.

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

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

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

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

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

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

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

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

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

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

6. WITNESS. *(AA 52, MML 763, RP 82, 111.)*

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

POUR LES TEMOINS. *(RO (Con) 2682.)*

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

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

NOTES ON RECORDING PROCEEDINGS AND ON DEFENCE PROCEDURE.

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

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

First Witness for Prosecution.

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

I am a cpl of the pl to which Pte Smith belongs. The accd in Court is Pte Smith. About 1400 hrs on 15 Jan 45 I ordered the accd to go on parade. He refused and did not go on parade.

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

Re-exam: None.

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

RP 83(B) complied with.

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

3. The record of addresses, statements and evidence will be given a marginal number which corresponds with the number of the para in CF A 64, under which it is taken. Both sides of paper should be used.

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

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

(ii) At option of accused, statement by accused (*not sworn or subject to cross-exam by Prosecutor*, Court or *JA* (*RP* 84 *fn* 2(6)), or evidence by accused, as to facts or his character or both. (*See RP* 41 *fn* 3, 46 *fn* 1, 80.)

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

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

(v) Closing address (*on matters other than in mitigation of punishment*) by Defending Offr or accused. (*See RP* 40 *fns* 8-22, 87(C), 92(C) (*D*).) But Defending Offr or accused will make his address after the Prosecutor, if there has been no statement by accused or any evidence given as to facts, or if accused alone has given evidence on oath as to facts, whether any evidence as to his character has been given or not. (*When accused charged jointly see RP* 63.)

(vi) Closing address by Prosecutor. (*See RP* 40 *fn* 7, 87(C), 92(C) (*D*). *Prosecutor has no right to address Court on subject of sentence except as provided by RP* 49(E), *KR Con* 383(e).)

(vii) Summing up by *JA*, if any. (*RP* 42.)

ASSEMBLY AND DISPOSAL OF RECORD AFTER TRIAL.

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

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

(i) Charge Sheet. (Its sep.)

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

(iii) Convening Order. (*KR Con* 537.)

(iv) Medical Certificate(s). (*KR Con* 560. *As to certified copies of* regimental books *see SA* 163 (1) (g) (h).)

(v) Addresses, statements and evidence in order taken during trial, pages being numbered and on both sides when both sides used. (*As to admitting as evidence a certified copy in lieu of original see KR Con* 560. *As to certified copies of* regimental books *see SA* 163 (1) (g) (h).)

(vi) Exhibits numbered Ex A, Ex B, etc. (*As to admitting as evidence a certified copy in lieu of original see KR Con* 560. *As to certified copies of* regimental books *see SA* 163 (1) (g) (h).)

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

3. Any report or remarks by President or Court for attention of Confirming Offr will be set out in p 4 of CF A 96 and not form part of record of proceedings. (*RP* 95(*D*).) A recommendation for mercy will be inserted in Part 3 of Schedule on p 4 after minute of sentence awarded. (*AA* 52(9), *RP* 118(*C*), *MML p* 759.)

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

In the Field,
11 September 1944

I certify that I have examined D 56567 Pte Leon Gregoire and that I find him fit to undergo trial by Court-Martial.

"????????????????" M.O.

1st Pro Unit, Capt J. Langlois, Pus M.R. d uly sworn states:

I am QM Pus MR and i/c B Ech. On the morning of the battle of the Church of St-Martin-sur-Orme, 1 Aug 44, the accd whom I recognised reported to me at Caen. He had no web or equipment or rifle. I asked him for his authorization to have come back and he had no such authorization. So I took him to the 2 i/c MM Sauve, who was L.O.B. at the time. I then took Acc to stores to reequip him. I then told him that he was to return immediately to the front line and report to his Coy Comdr. I ordered my storemen to reequip him and write a note to his Coy Comdr. I then told Acc "Be ready to leave with the ration truck in a few minutes". This was about 1500 hrs. A few minutes later Acc had disappeared - his rifle, web and equipment were all ready but we could't find him. That night and every day after that he was absent from all parades until apprehended by the Provost. The Acc had no permission of any kind to leave the B Ech area.

Cross Ex

I personally told Acc to return to his Coy in the front line. Cpl Thifault was present and maybe 1 or 2 of my storemen.

No Re Ex

Court - The Coy of the Acc was in battle that day. That is why I couldn't understand why he reported to B Ech at that time of day. When he reported back he appeared quite normal. He came right in and reported. He said he had been under fire for several days and hadn't slept for 5 nights. His Coy tho' had been in second line for a few days. He said a direct hit had hit his slit trech and destroyed his rifle and his equipment. We have instructions that no man can return to B Ech without an O.K. from the O.C.

RF 83(b) complied with.

2nd Pro Unit D63011 L/Cpl Thifault, T. Pus MR., duly sworn deposes:

I am clerk in Q.M. Stores. On this day Capt Langlois told me to equip the acc. I was present when Capt Langlois said to the Acc to go back to his Coy after he was reequipped.

Cross Ex

I swear Capt Langlois told him he was to go back to his Coy in the front line. I got the web and rifle ready.

Re Ex Capt Langlois told Acc to wait till he was equipped.

Court The Acc disappeared and was not around at the time the ration left to return to the front. I left the equipment ready for him.

RF 87(h) complied with.

3rd Pro Unit Lt Y.M.J. Trembley, Pus MR., duly sworn deposes:

(The Defence has no objection to this witness)
I present the certificate of apprehension relating to the Acc whom I recognize. This is Exh A

No Cross Ex

Court Wil

The Acc duly sworn deposes:

On 1 Aug 44 I reported to our B Ech after being in front line and having lost all my kit. After the attack on the Church in St-Martin I was in a trech and I left the trench to go to a barn to have a crap. Whilst in the barn they started to shell & mortar us which lasted about 15 to 20 minutes. When I returned to find my kit I went from one trench to another and couldn't find my kit. I couldn't find my own trench. I was excited from the shelling. After that as I had no kit and I saw nobody around & didn't know what to do, I kept looking until I hit the road where I got picked up by a jeep going to Caen. There I reported to Capt Langlois. He took me to the QM Stores. He told Thifault to note the articles I needed to return. While he was checking the articles I left and went to the toilet. Coming back I met the PMR and asked him if I could draw some money. He gave me 200 francs. I felt like a drink so I went to a cafe and had a drink. I kept on drinking with friends from the R de Mais. I kept on drinking. I drank all the time until I sobered up and reported to the C.M.P. on 12 Aug.

Cross Ex

My kit was inside the trench. There was noone around when I returned from barn. The jeep was an RCE jeep. I stopped it and asked for a ride. I didn't know any other Bn location except the B Ech in Caen. While riding to Caen I saw no one from the unit. I was broke when I reported to CMP. Don't know why I wanted money to go back with. Just for a drink.

No Re Ex I was with D Coy. With it since 26 Jul 44. Was after units forst attack. I served with Coy from 26 Jul to 1 Aug. I wasn't on the attack on the Church. I had been left behind as I was too nervous. In my time with the Coy I only knew where B Ech was. I explained to Maj Sauve what had happened. I drank for 10 days on 200 francs. I won money shooting crap. I don't remember Capt Langlois telling me to return but I do remember him telling Thifault in my hearing that I had to go back. I rode about 20 minutes in the jeep with 2 men. I can't remember what patches they had or what was it they belonged to. Can't remember what we talked about.

I was left out of the attack by L/Cpl Durocher. On 26 Jul when I joined the unit we were about 25.

I had my first crap in the barn about 0630. I was picked up bythe jeep about 1130. Between these hours I kept running from trench to trench. Between these hours I saw some men with A/Tk guns. I didn't go over as they were shelling. This kept up from 0830 to 1130.

I had no trouble getting food in Caen.
The L/Cpl didn't take me on the attack. He left me behind. He didn't tell me I could stay there. He didn't tell me to come so I stayed .

RP 83(b) complied with.

CERTIFICATE UNDER THE ARMY ACT, SECTION 163(1)(1)

I Lt M.G.C. Hobday for Assistant Provost Marshal, 7 Base Sub Area certify that No. D/56567 Rank - Pte - Name - Gregoire,L. of the B Sch Mount Royal Fusiliers Regt, surrendered himself to No 7961120 - Rank - Sgt. Name - Smith S, of the 601 CMP Coy (VP) at Town Guard Room Caen 1145 hrs, on the 12th day of August 1944 as an absentee without leave.

He was dressed in Uniform.

Place - Caen.

"M.G.C. Hobday" Lt

for Assistant Provost Marshal
CMP
7 Base Sub Area.

1/A

11 Sep 44

Closing address of the Prosecution by
Lt Y.M.J. Tremblay.
Pros Offr.

1. The accused shows his intention to evade his duty by not following his section into the attack and by not having had any orders to remain behind.

2. Later on, after the attack, when no one was around he leaves the trench to go to a barn for natural needs. Returning therefrom he fails to find his trench and equip. Erring around the area he makes no effort to return to his Coy even though he sees a section of A/Tk people he never contacts them to get the whereabouts of his Coy. On the contrary, he works his way back to the main Caen Rd and returns to B Ech with the apparent intention of getting some money from the Paymaster. There, though warned of his immediate return to the Front Line, he proceeds in obtaining money from the Paymaster and making his exit from B Ech area. He gives himself up to the C.M.P. approx 11 days later after having spent his money and apparently incapable of getting any more.

I feel that the accused showed no sense of responsibility in the whole matter.

"Y.M.J. Tremblay" Lt

Les Pus M.R.

Gentlemen,

The accused Pte G is charged with desertion and I wish to point to the Court that it is shown at the bottom of page 437 of Army Act that intention must be proved and in this case the Prosecution has failed to do so. A statement has been given by Capt Langlois that Pte Gregoire had told him a story which he did not believe. Unfortunately Capt Langlois has never been on the front line as he would know that lots of things are happening on the front line. Pte Gregoire was left behind as he was having a crap and very nervous. He suffered an intensive shelling, he did not know what to do. He looked for his equipment after thirty minutes of intensive shelling and finally reached his Unit. He had no intention of deserting as he would have done so at the first place. He would not return to his unit, but he did. He went in a cafe while waiting to go back to his coy. The cafe was right beside the B Hqn, he had drinks. As he was French speaking he made friends among French people. He was fed freely and finally when sobbering up he gave himself up to the Provost; here is another definite proof that the accused is not guilty of desertion. Evidence has been brought in to prove that Pte Gregoire has been AWL for ten days but no evidence whatsoever has proved the intention of deserting. I demand that the charge against him be changed to a charge of being AWL.

adl

J.A. SUMS UP

Serious charge.

Evidence and argument heard. Must decide.

Desertion - MML p.437. Reads relevant parts.

Intent difficult of proof. Intent can only be inferred from the circumstances of the case. Must consider carefully all that happened and then decide if necessary intent exists.

Explains Desertion charge may be reduced to AWL - Spec Finding AA56

Credibility of Wits explained. Cts function to ascertain which evidence is likely to be true or which is not.

Every soldier innocent until proved guilty beyond reasonable doubt. Reasonable doubt defined.

Any questions.

STATEMENT OF MITIGATION

Before you is important case. Must punish a bad soldier. But if you look at the life story of Acc you'll find that he enlisted in 39. He left Canada and home and family in 1940. He has served his country for four years in England, and finally he has been risking his life to secure all our principles of democracy. He has been doing so for 5 days on the Front Line. As he looks home to Canada he sees thousands of young men like him wearing civilian clothing, sitting safely with their families listening over the radio to the sacrifices our soldiers are making here. In a few weeks the war will be over and those young men will live happy without wondering about casualties. Gentlemen, you must decide whether this man has ha to spend more years of his life which has been already spoiled. Must decide whether Acc deserves more than his comrades he lft benind safely in Canada.

I want you to think conscientiously and to give all consideration you can to this soldier who has been willing and who has tried to do his duty. I'm sure youwill give him every possible chance.

Ask for leniency of Court.

SUMMARY OF EVIDENCE

In the case of D56567 Pte LEON GREGOIRE, Les Fusiliers Mont-Royal, a soldier of the Canadian Army Overseas.

The accused is informed of his rights.

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

FIRST WITNESS: For the prosecution: Capt Jean Langlois, Les Fusiliers Mont Royal, having been duly sworn makes the following statement:

"I am Capt Jean Langlois" Quartermaster, in charge of "B" Ech Les Fusiliers Mont Royal stationed in the field. On the day of the battle of the Church of St-Martin-Sur-Orne on the 1st of August 1944, Pte Gregoire reported to me at approximately 1600 hrs. He had no written authorization to come at "B" Ech and acting upon instructions from the Commanding Officer, I told him that I would reequip him and warned him that he was to return to his company with the rationtruck. I personnally saw that he be given a rifle and web. When the stock was ready to be issued to him, he had left. I did not see him since, until apprehended by the Provost Corps. I then send him the same night to "A" Echelon.

"J. Langlois" Capt
(Jean Langlois) Capt

The accused declines to cross-examine the witness.

SECOND WITNESS

For the prosecution: D63011 L/Cpl T.Thifault, Les Fusiliers Mont Royal, having been duly sworn, makes the following statement:

"I am D63011 L/Cpl T. Thifault"clerk at the Quartermaster Stores, Les Fusiliers Mont Roy al. On the 1st August 1944, I was instructed by Capt Jean Langlois to reequip Pte Gregoire, as he was to return to the front line with the next truck going up. Pte Gregoire was present at the time and I heard Capt Langlois warning him that he was going back. Capt Langlois then gave me a paper to be delivered to the Adjutant on arrival.

"T. Thifault"
D63011 L/Cpl T. Thifault

The accused declines to cross-examine thewitness:

THIRD WITNESS

For the prosecution: Capt George Balcer, Les Fusiliers Mont Royal, having been duly sworn, makes the following statement:

LIST OF WITNESSES

In the case of D56567 Pte Gregoire, L. Les Fusiliers Mont Royal a soldier of the Canadian Army Overseas.

PROSECUTION

Capt J.J.J.A. Langlois	Les Fusiliers Mont Royal
Capt G. Balcer	Les Fusiliers Mont Royal
D63011 L/Cpl Thifault, T.	Les Fusiliers Mont Royal

DEFENCE

Nil

LIST OF EXHIBITS

Exh "A" Certificate of surrender in accordance with Army Act Sec 163 (i)(j)

STATEMENT OF THE ACCUSED

I, D56567 Pte Gregoire, L. certify that I have been given free of charge copy of all proceedings relating to my trial byFGCM.

I request the service of an offr to defend me at my trial by Field General Court Martial.

I desire the services of .....Capt R. Moreney.....

"Leon Gregoire"

(D56567 Pte L. Gregoire)

Substitute for
MFB 296 or MFB 355

STATEMENT AS TO CHARACTER AND PARTICULARS OF SERVICE OF ACCUSED.

No. D56567 Rank Pte Name Gregoire L. Unit Fus MR
Age 30 Married or Single S No of Dependents
Date of attestation 18 Sep 39
No of days spent in close arrest (to date of trial) 21 days
Dates of promotions, Appointments and confirmation of rank, if any
N/A

(A certified true copy of MFM 6 must accompany this form)

Dated at Field
This 11 day of Sept 1944

"Tremblay" ?? Lt
O i/c Records
Fus MR (CAO)
Unit

To be dated and signed as for date of trial)

M.F.M. 6
(A.F.W. 122)
40/P & S/126 (2637)

No. D 56567 Name GREGOIRE, K. | Sqn., Battery, or Company | Corps C.I.C. | Date of enlistment 18.9.39 | G.C. Badges | Service or Proficiency Pay | Character Very Good

Date of last entry in Company Conduct Sheet | No. and date of last drunk | Period not reckoning towards freedom from extra fine | Sheet No. | Signature O.C. Company, etc. Leon Brossard Maj.

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order (knowledge with true	By whom awarded	Remarks
Montreal	18.2.40	Pte		AWL 2245 hrs 14/2/40 to 1630 hrs 24/2/40 Alg Sec. 15(1)	R/Cpl Merchand	12 days CB	26/2/40	Leon Brossard Maj	6 days pay
	15.4.40	Pte		AWL 2245 hrs 15/4/40 to 2130 hrs 16/4/40 AA 15(1)	Cpl Grenade	14 days CB	17/7/40	Leon Brossard Maj	1 day Pay
	22.4.40	Pte		AWL 0830 hrs 22/4/40 to 2320 hrs 27/7/40 AA 15(1)	A/Sgt Savignano	14 days CB	27/7/40	Leon Brossard Maj.	3 days Pay
				When in confinement escaping AA sec 22(1)	Cpl Dallaire				
	30.4.40	Pte		AA 15(1) AWL 2245 hrs 30/4/40 to 2320 hrs 5/5/40 (When in confinement escaping AA sec 22)	A/Sgt Gauthier Cpl Dallaire	14 days CB.	4.5.40	Leon Brossard Maj	5 days pay
	17/5/40	Pte		AWL 2245 hrs 17/5/40 to 2320 hrs 20/5/40 (AA sec 15(1) When in confinement escaping AA sec 22(1)	Sgt. Boudreau	14 days CB.	21/5/40	Leon Brossard Maj	4 days pay (P.T.O.)

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dealing with trial	By whom awarded	Remarks
Aldershot.	1/7/40	Pte		AA sec 15(1) Auth 0001 hrs 1/7/40 to 1700 hrs 7/7/40	Sjt Gaulet CSM Bennie.	15 days detn	3/7/40	R Bourassa Lt. Col.	22 days pay
Aldershot	20/6/40	Pte		Auth 0001 hrs 17/6/40 to 1700 hrs 19/6/40 AA sec 15(1)	CSM. Boudreau	5 days pay	20/6/40	R. Bourassa Lt Col.	3 days pay
	12/8/40	Pte		Auth 0700 hrs 12/8/40 to 1100 hrs 13/8/40 AA Sec 15(1)	Cpl Dillaire	15 days FP	15/8/40	R Bourassa Lt. Col.	17 days pay
Aldershot	5/11/40	Pte		AWOL 1130 hrs 5/11/40 to 1600 hrs 5/11/40 AA sec 15(1)	R/Cpl Plante	14 days CB	6/11/40	A Montpetit Capt.	
	27/12/40	Pte		Auth sec 40 Conduct to Prej etc	Sjt Rowley	3 days CB	30/12/40	A Bessette Lt.	
	4-5/1/41	Pte		AA sec 40 Breaking Cpt. 1) barracks in that he at Aldershot barracks barracks on 4 & 5 Jan 41 broke out the said place Rno CB required him to do so & in doing so 2) conduct to Prej - refuses to accept a punishment of 7 days CB & 7 Field Punishment awarded him by Col Commd 4 Oct 40 Coy	Cpl Thibeault	7 days CB.	6/1/41	A Bessette Lt.	
	7/1/40	Pte			Cpl Thibeault	7 days CB.	11/1/41.	P. Bourassa Lt. Col.	

M.F.M. 6
(A.C.I. 122)
40/P & S/126 (2637)

No. D 56867 Name Gregoire R. | Sqn., Battery, or Company | Corps | Date of enlistment | G.C. Badges | Service or Proficiency Pay | Character

Date of last entry in Company Conduct Sheet | No. and date of last drunk | Period not reckoning towards freedom from extra fine | Sheet No. | Signature O.C. Company, etc.

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Aldershot	1/1/41	Pte		AA Sec 15(2) Failing to appear at place of parade as ordered by the CO. did not report on Pack Drill mit CO on 11/1/41.	Cpl Spencer Capt Duncan	120 hrs detn	11/1/41.	J. Hunt-patch & dump party	
Aldershot	31/1/41	Pte		AA Sec. 15(1) Absn from 2230 hrs 31/1/41 to 1000 hrs 1/2/41 (One day)	15th Battalion	168 hrs detn	6/2/41.	R. Bridgeman Ft-col.	1 dump party
Aldershot	15/4/41	Pte		1) AA Sec 15(1) Absn from 0700 hrs 10/4/41. to 2030 hrs 16/4/41 AA Sec 15(1) (13 hrs 30 mins)	Sjt Pawley	7 days CB	22/4/41.	Bn Bridgeman Ltd.	
Aldershot.				2) AA Sec 15(1) Absn from 2230 hrs 24/4/41. to 2245 hrs 25/4/41 AA Sec 15(1)	Sjt Pawley Cpl Roth.	7 days FP. 7 days pay	28/4/41.	R Bridgeman Ft-col.	8 dump Party

(P.T.O.)

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or if under Regulations with trial	By whom awarded	Remarks
Pewsey	14/7/41	Pte		1st Drunk.	Cpl Sandreau	Reprimanded	15/7/41	Lt Hartpetch Insp	
Aldershot	18/8/41	Pte		WOAS AA Sec 15(1) Auth 2245 hrs 18/8/41 to 1700 hrs 17/8/41	Lt C. Roch.	14 days FP.	23/8/41.	P. Brookes Lt Col	1 day pay
Normandy Bks	2/10/41	Pte		WOAS failed to appear at guard duty at 2200 hrs AA 15(2)	Pte. Parrizeau	3 days Pay	3/11/41		
Normandy Bks	2/12/41	Pte		WOAS Auth from 0745 hrs 2/12/41 to 1200 hrs 4/12/41 (AA Sec 15(1))	Pte Parrizeau. Cpl Bourke	3 days FP. 20 days pay	8/12/41	J. Pugin Capt	23 days pay.
Pewsey	1/1/42	Pte		WOAS auth 2245 hrs 1/1/42 to 1330 hrs 3/1/42 AA Sec 15(1)	Pte Parrizeau Lt Parrizeau	10 days pay	5/1/42	Ross Bracegirdle Brig	15 days pay
Hill Hill	31/5/42	Pte		WOAS Auth 1100 hrs to 1500 hrs AA Sec 15(a) WOAS escaping custody AA Sec 22. WOAS auth 1500 hrs 31/3/42 to 1630 hrs 2/4/42	Lt C. Roch	20 days FP	20/4/42	A N Hache Hache-Lt. Col	11 days Pay.

M.F.M. 6
(A.F.B. 122)
40/P & D/138 (3627)

No. D56567 Name [illegible] L. | Sqn., Battery, or Company | Corps | Date of enlistment | G.C. Badges | Service or Proficiency Pay | Character

Date of last entry in Company Conduct Sheet | No. and date of last drunk | Period not reckoning towards freedom from extra fine | Sheet No. | Signature O.C. Company, etc.

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order directing trial	By whom awarded	Remarks
Parawera	16/1/42	Pte	3	WOAS Drunkenness on 16/1/42 at 0500 hrs was found AA sec 17.	Cpl Barcube Pte Pringle Pte Pringle	$5.00 2nd Offce	19/1/42	Battalion Orderly	$5.00
"	4/2/42	Pte		WOAS awtn parade 3/1/42 2300 hrs L-2/42 LI dirg AA sec 15(1). WOAS replied to the preferring of charge under AA sec 40 on 4 Feb. Regretfully take this grave disorderly AA sec 40	Pte Pringle Cpl Davidson	15 days pay	5/2/42	Lt R. Black Bn Coy	15 days pay.
"	6/3/42	Pte	3.	Drunkenness AA 17 - WOAS at Parawera on March 6/42 was found.	Cpl Dorsey	$10.00 3 Offce	9/3/42	Lt R. Rawlenth Maj.	

(P.T.O.)

Place	Date of offence	Rank	Cause of detention	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of result thereof, with trial	By whom awarded	Remarks
Field	17/7/42	Pte		WOAS AWOL 1115 hrs 17/7/42 to 1245 hrs 17/7/42 (with 10 hrs 30 mins AA Sec 15(1))	2/Lt Dunkerley Cpl Rowark	27 days FP	10/8/42	Deputy Dr. Col.	28 days Forf.
				WOAS AWOL from 0800 5/8/42 to 2015 hrs 5/8/42	2/Lt Dunkerley Cpl Rowark	27 days FP	10/10/42	Deputy Dr. Col.	
	2/10/42	Pte		WOAS AWOL from 2230 hrs 10/10/42 to 2310 hrs 10/10/42.	Cpl Rowark 2 odd time	15 days FP 15 days Forf.	17/8/43	Deputy Dr. Col.	3 days Forf.
	17/8/43	Pte		WOAS AWOL from 1500 hrs 7/8/43. to 1740 hrs 10/8/43.	Lt Lt. Dunphin	7 days Forf.	9/10/43	Brigadier Dr. Col.	3 days Forf.
	5/10/43	Pte		WOAS - AWOL from 2230 hrs 5/10/43 to 2240 hrs 5/10/43.	R/Cpl Scotland	7 days Forf.			

M.F.M. 6
(A.F.B. 177)
40/P.& S./186 (2627)

No. D 56567 Name Gregoire R. | Sqn., Battery, or Company | Corps | Date of enlistment | G.C. Badges | Service or Proficiency Pay | Character

Date of last entry in Company Conduct Sheet | No. and date of last drunk | Period not reckoning towards freedom from extra fine | Sheet No. | Signature O.C. Company, etc.

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order directing trial	By whom awarded	Remarks
Field	21/10/43	Pte		S4 42/10(1) AWOL from 0430 hrs 21 Oct 43 to 1215 hrs 24/10/43	Sgt Rourke Air Force	27 days FP	26/10/43	Commanding Officer	14 days pay.
	23/10/43	Pte		S4 40 AWOL from 1030 hrs 20/10/43 to 2200 hrs 23/10/43			24/10/43		
Field	24/1/44	Pte		S4 AWOL from 0600 hrs 26 Jan 44 - date to 2200 hrs 31 Jan 44 to 2045 hrs 6 Feb 44 S4 sec 15(1)	Commanding Officer	120 days detn	3/2/44	Commanding Officer	Fwd. confirmed Dated 5 Feb 44. 14 days pay Conf Ord 2 days pay.

Certified true copy of Conduct Sheet in my Custody.

(P.T.O.)

HM-93
Pté. Grégoire P.

RECEIVED 24 JAN 1945 O.M.H.Q.

RECORDED AT CMHQ IN AD 104 4/11/43

FIELD GENERAL COURT-MARTIAL

CPA86 (Dec 1944) [illegible] 40/P & S. 1/1944

Convened by Order of Lt Col J.E.R. Ralenge Comd 3 Cdn Inf Div dated 1 Dec 44

ACCUSED.

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

Number.	(a) Prmnt R.	(b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.
L 109169	Pte		Paul	Bruyere

PROCEEDINGS REVIEWED
2 C Witness Court
25 Jan 45

PROCEEDINGS OF TRIAL.

Held in the Fd in (country) Belgium on (date(s)) 11 Dec 44

RECORD FORM A—OPENING PROCEEDINGS AND ARRAIGNMENT.

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

(PRINTED MATTER, NOT IN ITALICS FOR GUIDANCE, WILL BE DELETED, IF NOT USED OR APPLICABLE, AND INITIALLED BY PRES OR JA. The Schedule referred to throughout is on p 4. Citations do NOT include all relevant fins RQs. For guidance on procedure when a variation in this form arises, see form for GCM in MML pp 741 to 759. A brief record of such variation will be made and given a number having reference to appropriate or preceding para number herein. See back of Convening Order, CF 885, for oaths and instrs as how to record addresses, evidence, etc, which instrs are hereafter called "Instrs". As to general provisions for conducting the trial see AA 52, RP 56, 63-70, 73, 74, 94, 104, 119, 122.)

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

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

A3. The Court is opened. The accused is (are) brought before the Court. At 1535 hours trial commences.

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

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

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

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

The shorthand writer is sworn.(1)

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

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

(1. RP 110. 2. If no objection, waiting member retires. RP 68(B). If objection, see procedure AA 51, RP 21, 71, 18, MML p 742.)

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

President	Major	W.F. Pepall	65 Cdn Tk Bde Cay RCASC
Member	Capt	W.H. Wyand	62 Cdn Fd Bty RCASC
Member	Lt	J.R. Harris	65 Cdn Tk Bde Cay RCASC
Judge-Advocate			
Prosecutor	Capt	C.W. Taylor	66 Cdn Fd Bty RCASC
Defending Offr	Lt	D.R. Watson	66 Cdn Fd Bty RCASC

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

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

A8. The accused L 109169 Pte Paul Bruyere before arraignment make(s) (no) [illegible] plea (2)

(1. If a special plea is made for separate trial on one or more charges (RP 68(E), 108), or as to the jurisdiction of the Court (RP 34, 35(A), 112), or in bar of trial (RP 36), or as to accused's mental fitness to stand trial (AA 130, RP 57), or by one of several accused charged jointly to be tried separately (RP 16, 71), such plea, the addresses made in support or against, the evidence, if any, and finding are recorded per Instrs. For forms of record see references in fns to RoP cited. Insert in AB rank and name of the accused making the plea.)

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

(1. RP 31, 112. See para 1 of Instrs p 2. When more than one Charge Sheet see RP 62; when several accused to be tried separately see RP 71(C), and use separate copies of CF 88As to record proceedings. 2. RP 32, RP 33. If otherwise, delete and make appropriate record per Instrs.)

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

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

INSTRUCTIONS ON PROCEDURE AFTER ARRAIGNMENT.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

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

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

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

D3. The evidence for the Prosecution is taken.(1)
(*1. RP 39(C), 114, KR Can 333. Record evidence per Notes. As to Prosecutor giving evidence himself see RP 39(D) (E).*)

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

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

President to accused: Do you wish to give evidence yourself as a witness, make a statement, or do neither? Ans .....
Do you intend to call witnesses on your behalf? Ans ....., Are they witnesses as to character only? Ans .....
(*1. RP 113. 2. RP 40(A), see 80(D). 3. RP 40 fn 10. 4. RP 40 fns 2, 9.*)

D6. Consequent on the answers recorded in para D5 the appropriate procedure for the defence is followed.(1)
(*1. RP 114, 115, 116. For procedure see Notes on back of Convening Order. CF AP5. Evidence for accused as to his character should, if in his interest, be given before the finding. See RP 46(A) fn 1, 86(C). Note the further opportunity in para E1 of Record Form E. Record per Notes addresses, statement, evidence and any summing up by the JA under RP 42, 103(e).*)

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

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

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

RECORD FORM E—PROCEEDINGS ON CONVICTION BEFORE SENTENCE.

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

E2. The Prosecutor produces Statement(s) as to Character and Particulars of Service(1), and certified true copy (copies) of Conduct Sheet(s)(2), purporting to refer to the accused, which he submits to the Defending Offr for examination, and then to the Court for admission in evidence. The Court is satisfied that these documents (i) they purport to refer to the accused, because (i) they purport to be signed in the manner required by AA 163(1) (g) (h), and (ii) they purport to refer to (a) soldier(s) having the same number, rank, name and corps as the accused. Admitted in evidence and marked Ex B and Ex C respectively.(3)
(*1. MFB 255 or AFB 296. 2. MFM 6. 3. RP 46, KR Can 558. If above documents not produced, see RP 46 fn 1 para 1.*)

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

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

E5. The Court considers the sentence.(1) The President records the sentence in Part I of the Schedule, which is dated and signed by him and the JA, if any.(2)
(*1. When several accused tried separately see RP 71 (D). Give sentence only, comprised of the punishment or punishments laid down in AA 41, 44 and its proviso, as to be awarded to cover all charges in all charge sheets on which accused found guilty. AP 48. As to sentences see AA 64, 138, 182, RP 46-50, 69, 118, 119(A), KR Can 308, 330, 563-566, Overseas BO 309, 2323, MML p 60, 737-739. As to concessions assigned for civil offences by the law of England see AA 40(2), MML p 130. When accused already under sentence of imprisonment or detention see AA 44(1)(b), 68(1), KR Can 564. 2. RP 50. As to release from arrest by Confirming Offr see KR Can 567. As to assembly and disposal of record after trial see instrs on back of Convening Order.*)

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

SCHEDULE.

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

Accused: D109769 Pte Paul Gregoire

Charge. (Insert "alternative" where applicable.)	Plea. (See Instrs p 2.)	Finding. (See note below.)	(Space for use as required for further charges, accused charged jointly, special findings, etc.)
1st AA (54)	guilty	guilty	
2nd AA 40	guilty	guilty	
3rd AA 15	guilty	guilty	
4th			
5th			
6th			

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

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

Time in confinement awaiting present trial—a total of 17 days, of which nil days were spent in hospital.(2)
(2. See RP 46(A) fn 2. Information should be found on MF B355 or AF B296 admitted in evidence under E2.)

Sentence Awarded by the Court:

To undergo detention for 75 days and To be placed under stoppages of pay amounting to $1-4-0 To make good Cost of damage to CAR Vehicle CL 4268300

(Sgd) ..... 11 Dec 44 (Sgd) (L. Fafard) Maj
Judge Advocate, if any. Date awarded. President. (RP 45, 50.)

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

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

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

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

(Full duties and powers see AA 54, 57, RP 27(D) fn 6, 46(A), 51-56, 120, MAML pp 759-761, KR Can 567-577. Acquittals require no confirmation and cannot be revised: AA 54(3). Sending back finding or sentence for revision by Court: AA 54(2), RP 120(G). If not confirmed, accused may be tried again: AA 157, MAML p 64. Minute of confirmation or non-confirmation may be altered before promulgation: RP 53, MAML p 65. Quashing after promulgation: KR Can 573. Duties and powers of reviewing offrs: AA 57, 57A, RP 53A, 54. The Confirming Offr must sign here personally. AA 172 fn 1.)

My decision on the finding(s) and sentence set forth in Part I is: I confirm the finding and sentence of the court but commute the sentence to read as follows: To suffer 75 days field punishment and to forfeit 75 days pay and to be placed under stoppages of pay amounting to $1-4-0 to make good the cost of damage to CM Vehicle CL.4268300.

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

Date 15 Dec 44 (Sgd) (J.E.R. Roberge) Lt/Col
Commanding HQ Comd 2 Cdn Gen Tst Coln
Confirming Officer.

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

Accused.	Date.	Signature of Offr.
D109769 Pte Paul Gregoire	16 Dec 44	L. A. Lemay Maj. 66 Cdn Gen Tst Coy RCASC

ALL DELETIONS AND ALTERATIONS WILL BE INITIALLED.

No illegalities or irregularities such as would warrant withholding confirmation

4 Army Troops Coy

WR

CHARGE SHEET

The accused, D.109969 Pte Paul GREGOIRE, 66 Canadian General Transport Company, R.C.A.S.C., a soldier of the Canadian Army Overseas, is charged with:-

FIRST CHARGE
AA Sec 15(1)

WHEN ON ACTIVE SERVICE, ABSENTING HIMSELF WITHOUT LEAVE

in that he

in the field on 22 Nov 44 whilst on convoy duty, absented himself without leave from 1430 hrs 22 Nov 44 until surrendering himself at 1830 hrs 22 Nov 44 (Total absence: 4 hours)

SECOND CHARGE
AA Sec 40

WHEN ON ACTIVE SERVICE CONDUCT TO THE PREJUDICE OF GOOD ORDER AND MILITARY DISCIPLINE

in that he

in the field on 22 Nov 44 improperly and without lawful authority took and used CM Vehicle CL 4268300 thereby occasioning damage to the said vehicle to the extent of £1-4-0.

THIRD CHARGE
AA Sec 19

WHEN ON ACTIVE SERVICE, DRUNKENNESS

in that he

in the field, on 22 Nov 44 at approximately 1830 hours, when on convoy duty at Ordnance Railhead was drunk.

(W.A. Lucas) Major,
Officer Commanding,
66 Cdn GenTpt Coy.,
R.C.A.S.C.

In the field
Dec 44.

To be tried by Field General Court Martial

Field
10 Dec 44

(J.E.R. Roberge) Lt-Col
CRASC

HQ Comd 2 Cdn Gen Tpt Coln

WR

CPA95 (In lieu of AFA3)
40/P&S/1697 (3668)

FIELD GENERAL COURT-MARTIAL

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

There should be a separate Convening Order for each person to be tried separately by the same Court. RP 71(C), 109. As to separate charge sheets see RP 62, and as to separate trial on charges in the same charge sheet see RP 106. As to two or more accused charged jointly see RP 16, 109.

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

ACCUSED.

Number.	(a) Prmnt R.	(b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
D-109969	Pte		Paul	Gregoire,	66 Cdn Gen Tpt Coy RCASC

CONVENING ORDER.

1. Whereas complaint has been made to me, the undersigned, that the person named above as the accused, being subject to military law, has (~~since~~) committed the offence(s) set forth in the Charge Sheet(s) attached and on (*date*) 11 Dec 44 endorsed by me, (or by an offr of my staff for me), "To be tried by Field General Court-Martial".

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

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

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

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

PRESIDENT.

(Rank.)	(Must be named. RP 106.)	(Unit.)
Major	W.G. Pepall	65 Cdn Tk Tptr Coy RCASC

MEMBERS.

(Rank.)	(Named or detailed. RP 106.)	(Unit.)
Capt	To be detailed by OC 69 Cdn Gen Tpt Coy RCASC	
Lieut	To be detailed by OC 65 Cdn Tk Tptr Coy RCASC	

WAITING MEMBER.

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

JUDGE-ADVOCATE.

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

On Active Service in the Fd

in Belgium (Country.)

Date 6 Dec 44

(Signed personally. RP 105 fn 2.)

Lt-Col (Rank.)

HQ Comd 2 Cdn Gen Tpt Coln
Commanding Convening Officer.

CONVENING OFFR WILL INITIAL ALL DELETIONS AND ALTERATIONS

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

OATHS FOR USE IN COURTS-MARTIAL.

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

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

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

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

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

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

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

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

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

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

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

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

POUR LES TEMOINS. *(RO (Can) 2493.)*

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

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

NOTES ON RECORDING PROCEEDINGS AND ON DEFENCE PROCEDURE.

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

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

First Witness for Prosecution.

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

I am a sgt of the pl to which Pte Smith belongs. The accsd in Court is Pte Smith. About 1400 hrs on 15 Jan 45 I ordered the accsd to go on parade. He refused and did not go on parade.

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

Re-exam: None.

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

RP 83(B) complied with.

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

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

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

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

(ii) As option of accsd, statement by accsd (*not sworn or subject to cross-exam by Prosecutor, Court or JA (RP 40 fn 3(b), 46 fn 1.*), or evidence by accsd, as to facts or his character or both. (*See RP 45 fn 3, 46 fn 1, 86.*)

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

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

(v) Closing address (on matter other than in mitigation of punishment) by Defending Offr or accsd. (*See RP 40 fns 8-12, 87(C), 92(C) (D).*). But Defending Offr or accsd will make his address after the Prosecutor, if there has been no statement by accsd or any evidence given as to facts, or if accsd alone has given evidence on oath as to facts, whether any evidence as to his character has been given or not. (*When accused charged jointly see RP 65.*)

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

(vii) Summing up by JA, if any. (*RP 42.*)

ASSEMBLY AND DISPOSAL OF RECORD AFTER TRIAL.

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

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

(i) Charge Sheet. (On top.)

(ii) Convening Order with any declarations made by Convening Offr under RP 104, 106, 107, 114.

(iii) Medical Certificate(s). (*KR Can 557.*)

(iv) Addresses, statements and evidence in order taken during trial, pages being numbered and on both sides when both sides used.

(v) Exhibits numbered Ex A, Ex B, etc. (*As to admitting in evidence a certified copy in lieu of original see KR Can 560. As to certified copies of regimental books see AA 163 (3) (g) (h).*)

(vi) Summary of Evidence, if not already an exhibit.

3. Any report or remarks by President or Court for attention of Confirming Offr will be attached to p 4 of CF A 96 and not form part of record of proceedings. (*RP 95(D).*) A recommendation for mercy will be inserted in Part I of Schedule on p 4 after remarks of sentence awarded. (*AA 50(9), RP 118(C), MML p 738.*)

4. The President or JA, if any, will return proceedings promptly with covering letter and in an envelope marked "Confidential", or as otherwise directed.

MEDICAL OFFICER'S REPORT

I certify that No. D-109969 PTE GREGOIRE P.
of 66 Cdn Gen Tpt Coy RCASC is in a fit state of health,
and fit to undergo Trial by Court martial.

R [illegible] Capt
Medical Officer

Station FIELD

Date 11 DEC 44

M. F. B. 246

Case of D109969 Pte Paul Gregoire

Statement by the Defending Officer Lt D.R. Watson

As I have been Pte Gregoire's officer for 10 months during that time Pte Gregoire has had a good record he has been a good soldier a good driver and a good mec. I have never had any trouble with Pte Gregoire as far as drunk, was concerned until this incident he has been having a little family trouble in Canada and this, apparently has led him off the straight & narrow. He has been confined to Coy Guard room for 19 days and in green Cells 4 in sending his good word for the past 10 months I ask the Court that some consideration be given to Pte Gregoire this time.

"A"

SUMMARY OF EVIDENCE

In the case of D-109969 Pte PAUL GREGOIRE of 66 Canadian General Transport Company, R.C.A.S.C. a Soldier of the Canadian Army Overseas.

The C.O. directs that the evidence be taken on oath.

The Accused soldier is informed of his rights.

FIRST WITNESS B-84713 Sgt O'Brien, E.J., 66 Cdn Gen Tpt Coy RCASC having been duly sworn states:-

"I am B-84713 Sgt O'Brien, E.J. pl sgt of "A" pl, 66 Cdn Gen Tpt Coy RCASC. At approximately 1830 hrs 22 Nov 44, Cpl Schmitt and L/Cpl Cole brought the accused, Pte Gregoire, into the pl lines. The accused was at that time drunk and noisy and wanted to fight. I then, on Mr Watson's orders, took the accused, and with the assistance of L/Cpl Cole, to the coy Guard room. When the accused was brought in I warned him he was under close arrest. At the time he was brought in to me, the accused was supposed to be on convoy duty at Ord Rail Head."

THE ACCUSED DECLINES TO CROSS EXAMINE THE WITNESS

E J O'Brien
B/84713 Sgt O'Brien, E.J.

SECOND WITNESS B-74011 L/Cpl Cole, J. 66 Cdn Gen Tpt Coy, RCASC having been duly sworn states:-

"I am B-74011 L/Cpl Cole, J. of "A" pl 66 Cdn Gen Tpt Coy RCASC. I saw Pte Gregoire's veh CL4268300 leave the R.H. station at Bowell at about 1430 hrs 22 Nov 44. Pte Gregoire was driving the veh at the time he left the station. I did not see either Pte Gregoire or the veh again until approximately 1830 hrs the same day, when I saw the same vehicle in the middle of the road and Pte Gregoire was standing near it. When I got the the vehicle Gregoire was hard to handle, as he was under the influence of liquor. The vehicle at this time had obviously been involved in an accident as the front bumper was bent in."

QUESTION BY THE ACCUSED, THE WITNESS ANSWERS.

Q. Was my vehicle across the road or facing the way the traffic runs at the time you saw it at 1830 hrs 22 Nov 44.
A. It was on the right hand side of the road, facing the proper way.

J Cole
B/74011 L/Cpl Cole, J.

THIRD WITNESS Capt E.P. McCann 66 Cdn Gen Tpt Coy RCASC having been duly sworn states:-

"I am Capt E.P. McCann, Wksp Offr, 66 Cdn Gen Tpt Coy RCASC. On the 23 Nov 44 vehicle CL 4268300 was brought in to my wksp showing evidence of collision. I investigated the damage and found left front wing, bumper step and cab bent. The total damage to the vehicle amounted to £1-4-0.

THE ACCUSED DECLINES TO CROSS EXAMINE THE WITNESS

E.P. McCann
E.P. McCann, Capt

FOURTH WITNESS

A-70047 Cpl Schmitt, T.W. 66 Cdn Gen Tpt Coy RCASC having been duly sworn states:-

"I am A-70047 Cpl Schmitt, T.W. of "A" pl 66 Cdn Gen Tpt Coy RCASC. On 22 Nov 44 at about 1730 hrs when returning from the Ord R.H., I found Veh #CIL268300 on the left side of the road and facing R.H., having struck a tree. At this point the trees are right up to the road verge. I stopped and got out of my vehicle to find the driver, who was about 500 yards up the road under the influence of liquor. I returned back back to R.H. and got L/Cpl Cole, and one driver to stay with the Veh #CIL268300. L/Cpl Cole and myself then took Pte Gregoire to the pl lines. When I got back to Gregoire's vehicle, after picking up L/Cpl Cole and the driver, I found the lorry CIL268300 had been moved from the previous position against the tree to the right side of the road headed in the direction of R.H. and only a short distance from the previous position."

THE ACCUSED DECLINES TO CROSS EXAMINE THE WITNESS

T W Schmitt
A-70047 Cpl Schmitt, T.W.

FIFTH WITNESS

B-55929 L/Cpl Wilkinson, G.A. 66 Cdn Gen Tpt Coy RCASC having been duly sworn states:-

"I am B-55929 L/Cpl Wilkinson, G.A. of "A" pl 66 Cdn Gen Tpt Coy RCASC.

On 22 Nov 44 my sec to which Pte Gregoire belongs, were on convoy duty hauling ord materials from Bowell station to Ord dump near Maplax. We had to wait for a considerable length of time to get loaded. When we moved the sec into the station to be loaded neither Pte Gregoire or his vehicle CIL268300 were where I had left them. This occured at approximately 1430 hrs. I reported the disappearance to Lieut Watson, who was at the R.H. I had given Pte Gregoire no permission to leave or to take his vehicle away.

THE ACCUSED DECLINES TO CROSS EXAMINE THE WITNESS

G A Wilkinson
B/55929 L/Cpl Wilkinson, G.A.

QUESTION TO THE ACCUSED

Do you wish to make any statement or to give evidence upon oath ? You are not obliged to say anything or give evidence unless you wish to do so, but whatever you say or any evidence you give will be taken down in writing and may be given as evidence.

ANSWER BY THE ACCUSED

I have nothing further to say.

Taken down by me in the presence of the accused soldier this 24th day of November 1944.

I certify that the Rule s of Procedure 4 (C), (D), (E) and (F) have been complied with.

"IN THE FIELD"
24 NOV 44

C W Taylor capt
(C.W. Taylor) Captain,
Officer detailed to take the Summary of Evidence.
66 Cdn G.T. Coy RCASC

ARMY FORM B.296 (WAR).

Statement as to Character and Particulars of Service of Accused

(For Use at Trials by Field General Courts-Martial only)

Number.	Rank.	Name.	Regiment (or as the case may be).
D-109969	Pte	PAUL GREGOIRE	66 Gen Gen Tpt Coy RCASC

NOTE.—The Field Conduct Sheet is to be produced in Court with this statement but is not to be annexed to the proceedings. The numbers herein stated should correspond with the number of entries in the Field Conduct Sheet, prominence being given to the most serious offence in each entry. If the charge is for drunkenness or absence without leave, the entries for drunkenness or absence, as the case may be, should be stated separately. Any recognized special acts of gallantry or distinguished conduct recorded on the Field Conduct Sheet should also be inserted here.

1. The following is a fair and true summary of the entries in the Field Conduct Sheet of the accused, exclusive of convictions by a court martial or a civil court:—

For	A.A. SEC. 15(1)	2 times.
For	A.A. SEC. 24(3)	1 times.
For	A.A. SEC. 40	1 times.
For	A.A. SEC. 9(2)	1 times.

Date of first entry in Field Conduct Sheet 1 SEP 42

Date of last entry in Field Conduct Sheet 22 FEB 44

2. Previous convictions of the accused by a court martial or a civil court are set out in the Schedule overleaf.

*Strike out if not applicable.

*3. The accused at the present time is under sentence for N/A

beginning on the day of

4. The accused has been awaiting trial on the present charges for nil days in civil custody; and for 17 days in military custody, *i.e.*, nil days in open arrest, 17 days in close arrest; of which nil days were spent in hospital.

5. The present age of the accused is 25 years 1 month

6. The date of his attestation is 25 JUL 41

7. The service which the accused is allowed to reckon is 3 years 4 mths 15 days

8. The accused is in possession of G.V.S.M.

†State the military decorations (if any) held by accused.

9. (*If the accused is a warrant officer or N.C.O.*). The accused has served continuously, without reduction, to the present date—

	Date of Promotion.
In the substantive rank of N/A	
In the war substantive rank of	
In the acting rank of	

INSTRUCTION.—*If any matter in any of the above paragraphs cannot be stated from the regimental books the paragraph must be struck through.*

W1 56900/1602 20,000 3/44 61-4791. Forms/B.296(War)/2

SCHEDULE OF CONVICTIONS BY A COURT-MARTIAL OR CIVIL COURT

Description of Court by which tried.	Date and Place of Trial.	Charges upon which convicted.	Sentence of the Court.	Punishment remitted or sentence suspended.

I HEREBY CERTIFY that the foregoing particulars, which have been extracted from the regimental books in my custody, are correct to the best of my knowledge and belief.

Signed this 11th day of December 1944

(J.T. Wright) Capt
Offr i/c Regtl Books
66 Cdn Gen Tpt Coy RCASC

No. 109969 Name GREGOIRE, P. Sqn, Battery, or Company | Corps RCASC | Date of enlistment 25-7-41 | GC Badges N/A | Service or Proficiency Pay | MFM 6

Date of last entry in Company Conduct Sheet N/A | No and date of last drunk N/A | Period not reckoning towards freedom from extra fine N/A | Sheet No 1 | Signature OC Company, etc (R.A. Walker) Major | Character

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
				PREVIOUS SHEET DESTROYED 25 JAN 42 ON COMPLETION OF SIX MONTHS SERVICE					
Camp Borden, Ont.	1-9-42	Pte		AWL from 0600 hrs 1-9-42 to 1525 hrs 11-9-42 (Absent 10 days 9 hrs 25 min) A.A. SS.C. 15(1)	Cpl Hotrum	14 days C.B.	12-9-42	Major G.D. Aitken	Forf 11 days pay
Camp Borden, Ont.	9-11-42	Pte		Wilfully injured his arms entrusted to his care for military purpose. Damages his rifle to the extent of 4.81 (A.A. SEC 24(4)	Pte MacDonald Pte Kidd Pte Summers Pte Hartnett	168 hrs detention Stoppages of pay 4.81	20-11-42	Major G.D. Aitken	
Camp Borden, Ont	9-4-43	Pte		Failing to appear at an appointed place of parade (A.A. SEC. 15(2)	L/Cpl Miller Sgt Garisse	72 hrs detention	9-4-43	Major F.G. Doney	
Field	31-12-43	Pte		A.A. 40 Causing damage to W.D. Vehicle CL-4167751	Documentary	Forf 7 days pay	21-1-44	Major F.G. Doney	
				AWARDED THE CDN VOLUNTEER SERVICE MEDAL & CLASP D.O. 5 d/1/2/44					

(PTO)

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award of order (beginning with 1941)	By whom awarded	Remarks
Field	22-2-41	Pte		Disobedience to a superior officer A.A. SEC. 9(2)	Sgt Laycock L/Cpl Miller	Forf 28 days pay	23-2-41	Major R.A. Walker	

CERTIFIED TRUE COPY

(D.F. Wright) Captain
Offr i/c Regtl Books,
66 Cdn Gen Tpt Coy, RCASC

CC-87

PTE GREGORY A.W.

12

57

H-41736 Pte. Hurdis William GREGORY
2 Cdn. Gen. Pioneer Coy. CC87

Correspondence to be PINNED here.

Army Form A.8.

Form for Assembly and Proceedings of Field General Court Martial on Active Service.

PROCEEDINGS.

A.
Order convening the Court.

On Active Service, this 15th day of April, 1943.

Whereas it appears to me, the undersigned, an officer in Command of "A" Group Canadian Reinforcement Units, Canadian Army Overseas, , on active service, that the persons named in the annexed Schedule, being subject to Military Law, have committed the offences in the said Schedule mentioned.

And whereas I am of opinion that it is not practicable that such offences should be tried by an ordinary General Court Martial; *[and that it is not practicable to delay the trial for reference to a superior qualified officer;]

*Omit where Convening Officer is a Commanding Officer or is of Field Rank.

I hereby convene a Field General Court Martial to try the said persons, and to consist of the Officers appointed or detailed hereunder.

* Omit if not applicable.

*[I am unable to appoint
*(1) Three Officers to form the Court,
*(2) A Field Officer as President,
for the following reasons, namely:—]

30/4/43

NOTE.—The President must be named. The members and waiting members (if any) may be mentioned by name, or the number and ranks and the unit to which they belong may alone be named. In the latter event, the ranks, names, &c., of the members of the court, as constituted, will be recorded on the proceedings.

President.

Rank.	Name.	Regiment.
Major	W. McLEOD (L. Sup. R.)	2 C.I.R.U.

Members.

Rank.	Name.	Regiment.
Lieut.	J.B. Martin (Camerons of C.)	2 C.I.R.U.
Lieut.	D.J. Glasgow (R. Wpg. Rif.)	2 C.I.R.U.
Waiting Member Lieut.	G.E. Walker (K.O.R. of C.)	2 C.I.R.U.

* Must be signed personally by the Officer actually in command at the time, and all alterations in the composition of the Court to be initialled by him.

*Signed G. Kemp Barker
Commanding "A" Group Cdn. REI
Comm

SCHEDULE.

Number, Rank (*a*), Name and Unit of Accused (*b*)	Offence charged	*Plea	Finding, and if Convicted, Sentence (*c*)	How dealt with by Confirming Officer (*d*)
			guilty HWG.	I confirm the finding and sentence of the Court.
H-41736 Pte. Hurdis William GREGORY 2 Cdn.Gen.Pion.Coy.	FIRST CHARGE A.A. Sec. 15(1)	guilty	7 days detention for a period of 84 days	
	(SEE CHARGE SHEET ATTACHED)			

*Question to be asked of accused, if he pleads not guilty (R. of P. 39 (a)) :—
"Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity for preparing your defence?"
Answer (to be recorded on separate sheet if necessary) :—

(Signed) _____ Colonel (Signed) _____
Commanding "A" Group Cdn.Rft.Units. President.
Convening Officer (*e*) C.A.(O).

(*a*) Appointment acting rank or acting appointment, if any, to be stated in brackets after the substantive rank.

(*b*) Unless unavoidable, not more than three names are to be entered on one form, and in serious cases one only.

(*c*) Recommendation to mercy, if any, to be inserted in this column.

(*d*) It is not necessary that the Confirming Officer should sign his name in this column. Initials are sufficient.

(*e*) Must be signed by the same Officer who signs on the first page, and all alterations in the first two columns of the Schedule to be initialled by him.

Evidence and Charge Sheets (if necessary) to be PINNED here.

B. Certificate of President as to proceedings.

I certify that the above Court assembled on the Sixteenth day of April 1943, and duly tried the persons named in the Schedule, and that the plea, finding, and sentence in the case of each such person were as stated in the third and fourth columns of that Schedule.

I also certify that :—

1. The members of the Court
2. The witnesses
*(3. ~~The interpreter~~) n/k
*(4. The officers under instruction) n/k .

* Omit if not applicable.

were duly sworn.

Signed this 16 day of Apr. 1943.

_____ Lieut.-Colonel
President of the Court Martial.

C. Certificate in case of death sentences.

I certify that the terms of *A.C.I. 570 of 1918 have been complied with.

* See footnote (b) on page 502 M.M.L. 1929.

Signed this _____ day of _____ 19 .

_____
President of the Court Martial.

D. Confirmation.

I have dealt with the findings and sentences in the manner stated in the last column of the Schedule, and, subject to what I have there stated, I hereby confirm the above findings and sentences.

*~~(I direct that the soldier named in the margin be not committed to prison or detention barrack until further orders.)~~

Signed this 16 day of Apr 1943.

_____ Brig.
Confirming Officer.

* To be omitted unless penal servitude, imprisonment or detention having been awarded, the Confirming Officer either has no authority to commit to prison or detention barrack, or, having such authority, recommends suspension.

Promulgated and extracts taken in the case of H41736 Pte. Gregory H.W.
Part II D.O. No. 29 d/20 Apr 43.
(a) (Dated) 19 April 43 (Signed) _____ Major.

Promulgated and extracts taken in the case of

(Dated) _____ (Signed) _____

Promulgated and extracts taken in the case of

(Dated) _____ (Signed) _____

(*a*) When several cases are promulgated in one unit on the same day the Officer need only sign once.

CHARGE SHEET

The accused No. H-41736 Private Hurdis William Gregory, of No. 2 Canadian General Pioneer Company, a soldier of the Canadian Army (Overseas), while on Active Service is charged with:

SEC. 15(1) ARMY ACT.

Absenting himself without leave

in that he at Jasper Camp, Witley, Surrey was absent from 2200 hours 27 Mar 43 until 2315 hours 13 April 43.

Total time absent 17 days, 1 hour, 15 mins.

J.H. Craig major

(J.H. Craig) Major,
Commanding,
No. 2 Cdn Gen Pioneer Coy.

Jasper Camp,
Witley, Surrey
14 Apr 43.

To be tried by Field General Court Martial.

G. Hedley Basher

(G. Hedley Basher) Colonel,
Commanding,
"A" Group Cdn. Rft. Units,
C.A. (O).
Convening Officer.

Witley, Surrey.
15 Apr 1943.

W.W. Reed major
Pro.

16 April 43

N 41736 Pte. Gregory, H.W. No. 2 Cdn. Gen. Pioneer Coy.

I CERTIFY the a/m soldier is medically fit to undergo trial by Court Martial.

H.C. Metcalf Capt

(H.C. Metcalf) Capt, RCAMC,
Medical Officer No. 2 CAPU.

PROCEEDINGS OF A FIELD GENERAL COURT MARTIAL HELD
AT 20 IRH (MSO) ON THE 16 DAY OF APRIL 43

TRIAL OF:-No. 141796 Pte. GREGORY H.W. Unit 2 Cdn. Inf. Pnr. Coy.

The order convening the Court, charge sheet, summary of evidence and medical certificate are laid before the Court.

The Court satisfy themselves as provided by R.P. 22 & 23.

The accused is brought before the Court.

Prosecutor:- (Name) CAPT. A.F. HEBERT (Unit)

Defending Officer:- (Name) CAPT. C.D. SEWELL 2 CAN. INF. BDE. (Unit)

At 0945 hrs the trial commences.

The order convening the Court is read, signed by the President and attached to the proceedings.

The names of the President and members of the Court are read over in the hearing of the accused, and they severally answer to their names.

Q1 Do you object to be tried by me as President or by any of the officers whose names you have heard read over? A1 - No

The President, members and judge advocate (if any) are duly sworn.

The following constitute the Court:

President MAJ. K. McLEOD (R.C.R.) (Unit) 20 IRH.

Members LIEUT. J.R. MARTIN ROSS H/C (Unit) 20 IRH.

LIEUT. D.T. FLEMING R.M.P. Pte. (Unit) 20 IRH

~~The officers under instruction are duly sworn.~~ N.K.

~~Q2 Do you object to.....acting as shorthand writer? A2 - N.K.~~

~~The shorthand writer is duly sworn.~~ N.K.

The accused pleading Guilty to the charges in the above mentioned charge sheet, R.P.35(B) is duly complied with.

The summary of evidence is read, signed by the President, and attached to the proceedings.

Court is closed to consider its finding. Court is re-opened.

Name MAJ. A.F.G. [illegible] (Unit) 2 Cdn. Inf. Bde. Pnr. Coy. sworn, produces AFB 296 and MFM 6 and upon being questioned by the Court states that the accused is the person named in these documents which have been compared by him with Regt'l records and are true extracts of the same. No cross-examination. Above documents read, signed by President and attached to the proceedings.

Q3 (To accused) - Do you wish to make any statement in mitigation of punishment? A3 - Yes.

Q4 Do you wish to give evidence yourself or to call any witnesses as to character? A4 - No.

BRIEF SUMMARY OF STATEMENT IN MITIGATION OF PUNISHMENT AND EVIDENCE AS TO CHARACTER GIVEN BEFORE THE COURT IS CLOSED FOR THE CONSIDERATION OF THE SENTENCE

Mr. Mr. President and Gentlemen.

His Surgery enlisted in the
war of 1914-1918 at age of
17 & was Discharged and made
his way in civilian life.
upon George Medal and
Victory Medal & his
wife two boys was born.
In 1927 he was committed
to Provincial Hospital at
Charlottetown P.E.I. by
medical board, with a
mental breakdown.
After to take he upon
discharged. This created
differences with his
wife and they decided to
live apart
The children in Charlottetown
in July & visiting among

younger than his two
age in order to enlist.
He was in the Sustenance
Regt. but when his age
began to show itself he
was sent to No 2 Con. Bat.
Rome Ga. from which he was
discharged June 1918 his younger
days in Petty Offices in
the Navy was spent
mostly [illegible] He bought
himself his wife back
to Ga and his very
thoughts since then have
been to get back to them
and comfort his wife.
~~[illegible]~~ [illegible]
~~[illegible]~~ He was
one mind to stay but
was discharged because
of bad health.

Pte Gregory arranged
$20.00 per month to his wife
but she has been unable to
get separation allowance
since they were living
apart at the enlistment.
His wife being in bad
health is unable to
support herself.

We all see these things
praying as the men need
and wait to serve
early and to the most he
felt the need to get away
from it all and try to
forget. He applied to his
Sgt Major for a pass and he
was refused flatly turned
down without giving

at once thought he
went A.W.L.

One thing must com
like P.C. Jones do not
realize as the first that
he can demand to be
paraded to the C.O.
in order to get redress
for what he deems to
be a wrong inflicted
upon him. He not
blame a man in such
a case but the officers
and N.C.O.s of his particular
unit.

Upon his realizing that
he had done a wrong
he reported back to camp
and was placed under
close arrest.

I strongly ask that this
man be rightly punished.
Have his true age proved
and record his discharge
from the Can Army Canteen.
His army age is stated to
be 40 at the present time.
His true age I believe to be
44 in October of this year.

C. D. Jewett. Capt R.C.R.
Defending Officer
in the Case of H. 41756 Pte
Duggan H.W.
B.C.2 Can Ex Forces

SUMMARY OF EVIDENCE

Jasper Camp,
Witley, Surrey
14 Apr 43.

(The accused was present at the Summary of Evidence when evidence of the witnesses was taken in writing)

Summary of Evidence,
in the case of H-41736 Pte. Hurdis William Gregory, No. 2 Canadian General Pioneer Company.

R.P.(F) The Commanding Officer directs that the evidence be taken under oath.

1st Witness for the Prosecution

C-20530 Sgt. Dickinson, F.W., of No. 2 Cdn Gen Pioneer Coy., having been duly sworn states:-

I am C-20530 Sgt. Dickinson, F.W., of No. 2 Cdn Gen Pioneer Coy. On 27 Mar 43 I was Orderly Sergeant and Pte. Gregory was reported as being absent at tattoo.roll call. He was still absent at reveille on 28 Mar 43, and when I handed over my duties to Sgt. Elphinstone on 29 Mar 43 he was still absent.

F.W. Dickinson Sgt
C-20530 Sgt. Dickinson, F.W.

Accused declines to cross examine witness.

2nd Witness for the Prosecution

B-35231 A/Sgt. Elphinstone, A.V., of No. 2 Cdn Gen Pioneer Coy., having been duly sworn states:-

I am B-35231 A/Sgt. Elphinstone, A.V., of No. 2 Cdn Gen Pioneer Coy. On the morning of 29 Mar 43 at 0600 hrs I relieved Sgt. Dickinson as Orderly Sgt. Pte. Gregory was absent at that time and until 2315 hrs 13 Apr 43, when it was reported to me that he was in the Guard Room under close arrest.

A.V. Elphinstone
B-35321 A/Sgt. Elphinstone, A.V.

Accused declines to cross examine witness.

3rd Witness for the Prosecution

D-115586 Pte. Hill, W.H., of No. 2 Cdn Gen Pioneer Coy. having been duly sworn states:-

I am D-115586 Pte. Hill, W.H., of No. 2 Cdn Gen Pioneer Coy. On 13 Apr 43 I was on duty as regimental police. I was standing outside the cookhouse when Pte. Gregory came to me and asked where the guard room was. I told him and he went away. In a few minutes Coy.Sgt. Major Graham came and told me to place Pte. Gregory under arrest which I did at 2315 hours 13 Apr 43. He was sober and properly dressed.

W.H. Hill
D-115586 Pte. Hill, W.H.

Accused declines to cross examine witness.

The accused having been duly cautioned in accordance with R.P. 4(E) reserves his defence.

I certify that the foregoing Summary of Evidence consisting of one (1) page was taken down by myself in the presence of the accused at Jasper Camp, Witley, Surrey, on the 14 April 45 and that Rules of Procedure 4(C),(D),(E),(F) and (G) have been duly complied with.

(R.W. Spurr) Lieut.
Officer taking Summary.

W.J. McLeod Major
President

A.F.B.296

STATEMENT as to CHARACTER & PARTICULARS of SERVICE of ACCUSED.

1. The following is a fair and true summary of the entries in the regimental conduct sheet of the accused, exclusive of convictions by a court-martial or a civil court, and of cases in which trial has been dispensed with:

	Within last 12 months	Since Enlistment
A.A. Sec 15(1) - 4.		7.

Number of instances of gallantry or distinguished conduct. Nil

2. The accused is not under sentence a t the present time. Nil
3. The accused has not been previously convicted by a Court-Martial or a civil Court. Nil

4. The accused has been in confinement, awaiting trial on the present charges, for - days in civil custody, and 1 days in military custody, making a total of 1 days in custody, of which - days were spent in hospital.

5. The present age of the accused according to his attestation paper is 40 years.

6. The date of his attestation specified in his attestation paper is 4 Jun 41.

7. The service which the accused is allowed to reckon towards discharge or transfer to the reserve is one year, 10 months, 11 days

8. The accused is entitled to deferred pay or gratuity in respect of ~~2 Yrs, 0 Mons~~ service, 11 Days.
~~One Year, 10 months~~ One Year, 10 months, 11 days

9. The accused is entitled to reckon ~~0 Yrs, 0 Mons, 11 Days~~ for the purpose of determining his pension, etc.

10. The accused is in possession of or entitled to no military decoration or military reward. Nil

SCHEDULE

of convictions by a court-martial or a civil court and of cases in which trial has been dispensed with of the accused.

Nil

I hereby certify that the foregoing schedule of convictions and dispensations with trial is a true extract from the regimental books in my custody.

J.H.Craig Major

(J.H.Craig) Major,
O.C. No.2 Cdn General Pioneer Coy
(Officer having custody of the Original documents).

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Field	19 Sep 42	Pte.		Sec.15(1)AA A.O.A.S. AWL from 2230 hours 19 Sep.42 to 2230 hours 20 Sep.42(1 Day)	Cpl. Kilpinstone	7 Days C.B. Forf 7 Days Pay FAI 149(2)	21 Sep 42	J.H.Craig Major	Forf 1 Days Pay FAI 149(1)(a)
Field	14 Nov 42			(1) Sec.15(1)AA-A.O.A.S AWL from 2200 Hrs.14 Nov.42 to 2200 Hrs. 20 Nov.42(6 Days)	Cpl. Mayo W.F.28 Days F.P. Sgt.Harvey W.		3 Jan 43	J.H.Craig Major	Forf.20 Days Pay FAI 149 (1)(a) Forf.28 Days Pay FAI 149 (1)(b)
				(2) Sec.15(1)AA-A.O.A.S. AWL from 2200 hrs.19 Dec.42 to 2100 hrs.2 Jan.43.(13 Days 23 Hrs.)	Documentary Sgt.Curphey J.A				

Certified True Copy - One sheet only

J.H.Craig Major

(J.H.Craig,Major)
Commanding,
2 Cdn. Gen. Pioneer Coy.

W.H.Lord Capt
Adjt

(Officer having custody of original documents).

M.F.M. 6

No. H41736 Name Gregory H.W. Sqn., Battery, or Company Corps Westminster Regt. Date of enlistment 4 June 41 G.C. Badges Service or Proficiency Pay

Date of last entry in Company Conduct Sheet | No. and date of last drunk | Period not reckoning towards freedom from extra fine | Sheet No. 1 | Signature O.C. Company, etc. J.H. Craig MAJOR | Character 1 CDN. GEN. PIONEER COY.

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
	Sheet destroyed 4 Dec.41; Last entry 25 Sep.41; Cases of drunkenness, nil.								
Field	2 Feb 42	Pte.		Sec.15(1)AA-W.O.A.S. AWL (2 Days 9 hours 30 Min.)	Sgt.Wilson	7 Days C.B.	5 Feb. 42	Lt.Col J.R. Sogen	Forf 3 Days Pay FAI 149 (1)(a)
Field	2 Mar 42	Pte.		Sec.15(1)AA-W.O.A.S. AWL (1 Day)	Sgt.Reynolds	Forf.6 Day Pay FAI 149(2)	3 Mar 42	Lt.Col J.R. Sogen	Forf.1 Days Pay FAI 149 (1)(a)
Field	1 Jul 42	Pte.		Sec.15(1)AA-W.O.A.S AWL (8 Hours)	Sgt.Sewell	Forf.2 Days Pay FAI 149(2)	3 Jul 42	Maj.N.T Ibbott	Forf.1 Days Pay FAI 149 (1)(a)

(P.T.O.)

WW 14

SGN GREGORY DE

WW-14

FIELD GENERAL COURT-MARTIAL

CPA96 (In lieu of AFA3)
40/PAS/1098 (2004)

Convened by Order of Lt Col J Fraser Comd CRE 1 Cdn Inf Div FIRST CDN ARMY dated 9 Nov 43

ACCUSED.

(As to the trial of two or more charged jointly see RP 16, 71, 109. As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

Number.	(a) Prmnt R. (b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
B36942	Signmn R. Dearlove Capt	Donald Edwin	Gregory	1 Cdn Inf C Sigs

PROCEEDINGS OF TRIAL.

Held in the Fd in (*country*) 15 Dec 43 England on (*date(s)*) 11 Nov 43

RECORD FORM A—OPENING PROCEEDINGS AND ARRAIGNMENT.

A1. The President, Members, waiting Member, JA, if any, and Offrs under instr, if any, assemble, and the Court is closed.

(PRINTED MATTER, NOT IN ITALICS FOR GUIDANCE, WILL BE DELETED IF NOT USED OR APPLICABLE, AND INITIALLED BY PRES OR JA. The Schedule referred to throughout is on p 4. Citations do NOT include all relevant fmn ROs. For guidance on procedure when a variation in this form arises, see form for GCM in MML pp 741 to 759. A brief record of such variation will be made and given a number having reference to appropriate or preceding para number herein. See back of Convening Order, CF A95, for oaths and instrs on how to record addresses, evidence, etc, which instrs are hereafter called "Notes". As to general provisions for conducting the trial see AA 53, RP 56, 63-70, 73, 74, 94, 103, 119, 132.)

A2. The President initials and lays before the Court the Convening Order and Charge Sheet(s) attached thereto.(1) The Court is satisfied that it is properly convened and constituted(2), accused is (are) amenable to military law, and each charge discloses an offence.(3)

(1. As to use of Summary of Evidence see RP 17 fn b. 2. AA 49, 50, RP 105-107. 3. RP 11-13, 23, 24.)

A3. The Court is opened. The accused is ~~(are)~~ brought before the Court. As 1026 hours trial commences.

A4. The Prosecutor produces a Medical Certificate that accused is (are) fit to undergo trial by court-martial.(1) The Prosecutor informs the Court that accused elected to be tried by court-martial instead of being dealt with summarily by the CO.(2)

(1. KR Can 557. 2. AA 46(B), RP 60 fn 1. For effect see KR Can 563(c). Delete, if not applicable.)

A5. ~~President to accused: Do you object to ... as interpreter? Ans ...~~

~~The Interpreter is sworn.(1) Do you object to ... as shorthand writer? Ans ...~~

~~The shorthand writer is sworn.(1)~~ N/A

(1. RP 72. Delete, if none employed.)

A6. The Convening Order and names of the President and Members of the Court are read to the accused.(1) President to accused: Do you object to be tried by me as President or by any of the Members of the Court?

Ans No (2)

(1. RP 110. 2. If no objection, waiting member retires. RP 68(B). If objection, see procedure AA 51, RP 25, 71, 18, MML p 742.)

A7. The President, Members, JA, if any, and Offrs under instr, if any, are sworn.(1) The following are the ranks, names and units of the offrs comprising the Court, etc:

President	Maj H T Critchley	HQ First Cdn Army
Member	Capt J A Hutchins	HQ First Cdn Army
Member	Capt K D Brant	~~HQ~~ First Cdn Army Signals
Judge-Advocate	Capt R K Cashley	HQ First Cdn Army
~~Prosecutor~~ Lieut Capt	W A Miller	1 Cdn Inf C Sigs
Defending Offr	Lieut C E Hudson	1 Cdn Inf C Sigs

Questions by President: Is the Prosecutor a lawyer? Ans No Is the Defending Offr a lawyer? Ans No (3)

(1. RP 26, 27, 109, 111. List of offrs under instr will be returned separately with proceedings for information of Conv Offr.)
(2. If Pros a lawyer and Def Offr not, accused is entitled to an adjournment when RP 84 (B) and fn 2 were not followed. See DI p 3.)

A8. The accused B36942 Signmn Donald Edwin Gregory before arraignment make(s) (no) ~~his~~ plea. N/A (1)

(1. If a special plea is made for separate trial on one or more charges (RP 62(E), 108), or as to the jurisdiction of the Court (RP 34, 35(A), 113), or in bar of trial (RP 36), or as to accused's mental fitness to stand trial (AA 130, RP 57), or by one of several accused charged jointly to be tried separately (RP 16, 71), such plea, the addresses made in support or against, the evidence, if any, and finding are recorded per Notes. For forms of record see references in fns to RsP cited. Insert in A8 rank and name of the accused making the plea.)

A9. The accused is ~~(are)~~ arraigned ~~(separately)~~ on all charges in the charge sheet.(1) The accused does ~~(do)~~ not object to any charge.(2) There is no amendment to be made to the Charge Sheet.(3) The President records the pleas in Part I of the Schedule.

(1. RP 21, 112. See para 1 of Instrs p 2. When more than one Charge Sheet see RP 62; when several accused to be tried separately see RP 71(C), and use separate copies of CF A96 to record proceedings. 2. RP 32, RP 33. If otherwise, delete and make appropriate record per Notes.)

A10. The Court (is closed and) considers the Instrs on Procedure after Arraignment at top of p 2. The proceedings are continued on Record Form B

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

INSTRUCTIONS ON PROCEDURE AFTER ARRAIGNMENT.

1. *The accused may not plead or be found Guilty on more than one of two or more charges laid in the alternative (RP 37(A).) As to withdrawal of alternative charges by Prosecutor see RP 35(C). No other charge can be withdrawn for any reason without authy from Convening Offr. If Convening Offr concurs, Court may accept plea of Guilty to lesser, etc, offence. (RP 44(H).) Accused may change a plea of Not Guilty to Guilty during trial. (RP 38.) As to refusing to plead or not pleading intelligibly see RP 35(A). As to plea when sentence may be death see RP 35(D).*

2. *The proceedings on each charge sheet (RP 62) after arraignment will be conducted as follows in the respective circumstances stated:*

I. If pleas to all charges are GUILTY, use Record Form B below.

II. If pleas to all charges are NOT GUILTY, use Record Form D on p [redacted] 3.

III. If pleas to some charges are GUILTY and to other charges are NOT GUILTY and,

(a) Such mixed pleas occur when there are no alternative charges in the Charge Sheet, use Record Form C below. (RP 37(A).)

(b) Such mixed pleas occur in a set of two or more charges laid in the alternative, see RP 37 (A) and fn 2 as to discretion of Court, (i) to try the accused on all such alternative charges as if he had pleaded Not Guilty thereto, or, (ii) to record the pleas as the findings of Court. After deciding between (i) and (ii), Court will proceed under foregoing instrs as may be appropriate to result of its decision. See MML p 744 Instrs (2).

3. *As to responsibility of President to accused see RP 59, 60(C); powers and duties of JA see RP 103; duty of Prosecutor see RP 60(A) (B); duty and privileges of accused and Defending Offr see RP 60(C), 87(C), 91, 92; swearing and withdrawal of witnesses from Court see RP 81, 82; questioning of accused see RP 80, 87(C), 92(B), and of witnesses see RP 83-85; calling or re-calling of witnesses by Court etc see RP 75-79, 86, 116; use of Summary of Evidence at Trial see RP 17(E) fn 6; and responsibility of JA or Pres to record proceedings see RP 94, 96.*

RECORD FORM B—PROCEEDINGS ON PLEAS OF GUILTY TO ALL CHARGES.

B1. The President or JA, if any, complies with RP 35(B) by explaining to the accused the nature and meaning of the charge(s)(1), and that on his plea of Guilty there will be no regular trial but merely a consideration of the sentence to be awarded after he has been given an opportunity to make a statement in reference to the charge(s), call witnesses as to character and make an address in mitigation of punishment.(2)
(1. RP 35 fn 3. 2. MML p 54 para 47.)

B2. President to accused: The Court will now receive any statement you desire to make in reference to the charge(s).(1) If it appears from your statement that there are circumstances which indicate that you do not understand the effect of the plea of Guilty(2), or which show provocation or extenuation in respect of which in your interest the witnesses for the Prosecution should be examined(3), we shall advise you to change your plea to Not Guilty. In making a statement you will not be sworn or subject to cross-examination; and anything you say will not be used in evidence against you after you change your plea. If, however, it appears to the Court that your statement affects only the amount of punishment to which you are liable, you will not be advised to change your plea and you will be given an opportunity later to prove your statement by sworn testimony, if you so desire.(4)

President to accused: Do you wish to make a statement? Ans No (5)
(1. RP 37(B). 2. RP 37(D) fn 6. 3. RP 35(B) fn 5 para 3, MML p 54 para 47. 4. See para E3 of Record Form E. 5. Statement, if any, recorded per Notes.)

~~B3. The Court considers the accused's statement (1) The Court decides (not) to advise accused to change his (their) plea(s) of Guilty to Not Guilty on ..... charge(s). The accused is (are) so informed, and he (they) change(s) his (their) plea(s) on ..... charge(s). Part I of the Schedule is amended accordingly.~~
~~(1. Court may be closed to consider the statement. Delete whole or part not used.)~~

B4. On the charge(s) to which the plea(s) of Guilty has (are) not changed the President records finding(s) of Guilty in Part I of the Schedule.(1)
(1. RP 35(B). If any plea(s) is (are) changed, use Record Form C or D as appropriate.)

B5. The Summary of Evidence is marked Ex "J", initialled and read aloud by the President.(1)
(1. If there is no Summary, or if it is inadequate, comply with RP 37(B). If there is any evidence inconsistent with any plea standing as Guilty, Court will advise accused to change such plea and, if changed to Not Guilty, try such charge(s) by use of paras D1 to D8 inclusive of Record Form D on p 3. RP 37(D).)

B6. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

RECORD FORM C—PROCEEDINGS ON MIXED PLEAS OF GUILTY AND NOT GUILTY.

C1. As to the charges on which accused pleaded NOT GUILTY the trial is continued by using paras D1 to D8 inclusive of Record Form D on p 3 before proceeding with C 2.(1)
(1. RP 37(A) (E).)

C2. The charges on which accused pleaded GUILTY are read to him (them) again, and the trial is continued by using paras B1 to B5 of Record Form B above.(1)
(1. Under B5 such parts only of the Summary of Evidence are read as relate to the charges dealt with under C2. If any plea is changed to Not Guilty, trial thereon proceeds by complying with paras D1 to D8 inclusive in Record Form D on p 3 and making an appropriate record thereof on a separate sheet.)

C3. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

RECORD FORM D—PROCEEDINGS ON PLEAS OF NOT GUILTY TO ALL CHARGES.

D1. President to accused: Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity to prepare your defence? Ans ..... (1)
(1. If "yes", see RP 39(A) for procedure. Statement or evidence, if any, is recorded per Notes.)

D2. The Prosecutor makes (an) (no) opening address.(1)
(1. RP 39(B), 60(A) (B), 90, 92(C) (D). Record address per Notes, subject to RP 95(C).)

D3. The evidence for the Prosecution is taken.(1)
(1. RP 39(C), 114, KR Can 555. Record evidence per Notes. As to Prosecutor giving evidence himself see RP 39(D) (E).)

D4. The Prosecution is closed.(1) The Defending Offr submits that the evidence for the Prosecution does not establish a prima facie case against the accused on the ..... charge(s).(2) The Court is closed, and considers the submission.(3) The Court is re-opened, and the President announces that the submission is disallowed on the ..... charge(s), and allowed on the ..... charge(s), and that, accordingly, the trial will proceed on the former, but the accused is (are) found Not Guilty on the latter charge(s).(4)
(1. Delete remainder of this para, if submission not made. 2. Arguments in submission, answer and reply are recorded per Notes. 3. RP 40 fn 1. See MML p 42 paras 12-14 and p 81 para 42. 4. Delete part not used. If accused acquitted on all charges, use second alternative in para D8.)
NB: If trial proceeds, accused must be allowed great latitude in making his defence, and the Court should not stop his defence solely on ground of irrelevance. (RP 60(C), 114, 115.)

D5. President to accused: You will now proceed with your defence.(1) You may, if you wish, give evidence yourself on oath as to the facts or your character or both, in which case you will be subject to cross-examination.(2) You may, however, make a statement without being sworn, and you will not be subject to cross-examination.(3) But a statement which could have been made on oath will not carry with the Court the same weight as sworn testimony.(4) You may call witnesses in your defence and as to character, whether you give evidence or make a statement or do neither.

President to accused: Do you wish to give evidence yourself as a witness, make a statement, or do neither? Ans ..... Do you intend to call witnesses on your behalf? Ans ..... Are they witnesses as to character only? Ans .....
(1. RP 155. 2. RP 40(A), see 80(D). 3. RP 40 fn 10. 4. RP 40 fns 2, 9.)

D6. Consequent on the answers recorded in para D5 the appropriate procedure for the defence is followed.(1)
(1. RP 114, 115, 116. For procedure see Notes on back of Convening Order. CF 495. Evidence for accused as to his character should, if in his interest, be given before the finding. See RP 46(A) fn 1, B6(C). Note the further opportunity in para E1 of Record Form E. Record per Notes addresses, statement, evidence and any summing up by the JA under RP 42, 103(e).)

D7. The Court is closed to consider the finding(s).(1) The finding(s) of the Court is (are) recorded in Part I of the Schedule.(2) The Court is re-opened.
(1. RP 43, 117(A). See Notes in Part I of Schedule. 2. RP 44(A).)

D8. The President announces the finding(s), if any, of Not Guilty, and states to the accused that the finding(s) of the Court on the ..... charge(s), being subject to confirmation, will be promulgated later.(1)
Or, The President announces that the accused is found Not Guilty on all charges and is to be released forthwith, and that the proceedings are accordingly terminated. Part I of the Schedule is dated and signed.(2)
(1. AA 54(3) (6), RP 45, 120(A). 2. AA 54(3), RP 45, 117. This alternative announcement is not applicable when there are pleas of Guilty outstanding and dealt with under Record Form B or C.)

D9. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E below.

RECORD FORM E—PROCEEDINGS ON CONVICTION BEFORE SENTENCE.

E1. President to accused: Do you wish to give evidence yourself or to call any witnesses as to your character?(1)
Ans No
(1. If evidence has already been given by accused or his witnesses as to his character, delete this para. RP 37(C) fn 4, 46 fn 1. Accused and witnesses are sworn. Evidence recorded per Notes.)

E2. The Prosecutor produces Statement(s) as to Character and Particulars of Service(1), and certified true copy (copies) of Conduct Sheet(s)(2), purporting to refer to the accused, which he submits to the Defending Offr for examination, and then to the Court for admission in evidence. The Court is satisfied that these documents refer to the accused, because (i) they purport to be signed in the manner required by AA 163(1) (g) (h), and (ii) they purport to refer to (a) soldier(s) having the same number, rank, name and corps as the accused. Admitted in evidence and marked Ex X and Ex Y respectively.(3)
(1. AFB 355 or AFB 296. 2. MFM 6. 3. RP 46, KR Can 558. If above documents not produced, see RP 46 fn 1 para 1.)

E3. President to accused: Do you wish to address the Court on the Statement(s) and Conduct Sheet(s), and in mitigation of punishment?(1) Ans Yes through my Defending Officer, see document "A" (2)
(1. RP 37(C), 46(D). 2. Address, if any, recorded per Notes. Court should permit accused or his witnesses to prove on oath anything here or previously stated which would affect the amount of punishment. RP 37(F) fn 7.)

E4. The President states that the Court is closed to consider the sentence, and that the sentence to be awarded by the Court, being subject to confirmation, will not be announced, but will be promulgated later, and the proceedings in open court are accordingly terminated.(1)
(1. AA 54(6), RP 120(A).)

E5. The Court considers the sentence.(1) The President records the sentence in Part I of the Schedule, which is dated and signed by him and the JA, if any.(2)
(1. When several accused tried separately see RP 7(D). One sentence only, comprised of the punishment or punishments laid down in AA 41, 44 and its perverse, is to be awarded to cover all charges in all charge sheets on which accused found guilty. RP 48. As to sentences see AA 44, 139, 182, RP 46-50, 89, 118, 119(A), KR Can 308, 330, 583-586, Overseas RO 309, 2323, MML p 60, 757-759. As to sentences assigned for civil offences by the law of England see AA 41(5), MML p 130. Where accused already under sentence of imprisonment or detention see AA 44(18), 68(1), KR Can 564. 2. RP 38. As to release from arrest by Confirming Offr see KR Can 567. As to assembly and disposal of record after trial see instrs on back of Convening Order.)

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

SCHEDULE.

PART I. PLEA(S), FINDING(S) AND SENTENCE.

Accused : B38942 Sigmn Donald Edward Gregory

Charge. (Insert "alternative" where applicable.)	Plea. (See Instrs p 2.)	Finding. (See note below.)	(Space for use as required for further charges, accused charged jointly, special findings, etc.)
1st	Guilty	Guilty	
2nd	Guilty	Guilty	
3rd			
4th			
5th			
6th			

(Note : As to findings for lesser offences see AA 56, RP 44 ; findings on alternative charges see MML p 483 fn 4 para 2, RP 44 ; special findings see RP 44 and MML p 753, and in loss of kit see RP 44 fn 6.)

~~At present under sentence for~~ ..... beginning on (date) ..... (1)

(1. Insert sentence being served, or delete, if not applicable. See RP 46(A). Information should be found on MF B355 or AF B296.)

Time in confinement awaiting present trial—a total of 60 days, of which nil days were spent in hospital.(2)

(1. See RP 46(A) fn 2. Information should be found on MF B355 or AF B296 admitted in evidence under E2.)

Sentence Awarded by the Court :

Sentenced to undergo detention for nine months.

(Sgd) R.K. Lambley Capt — 12 Nov 43 — (Sgd) H.T. Christchley Maj
Judge-Advocate, if any. — Date awarded. — President. (RP 45, 50.)

(See back of Convening Order as to assembly and disposal of record after trial.)

PART II. MINUTE WHERE CONFIRMATION RESERVED. (AA 54(5), RP 120(F), MML p 780.)

Date ..... (Sgd) ..... Commanding .....

PART III. DECISION OF CONFIRMING OFFR ON FINDING(S) AND SENTENCE.

(For duties and powers see AA 54, 57, RP 37(D) fn 6,46(A), 51-56, 120, MML pp 759-761, KR Can 567-577. Acquittals require no confirmation and cannot be revised : AA 54(3). Sending back finding or sentence for revision by Court : AA 54(2), RP 120(G). If not confirmed, accused may be tried again : AA 157, MML p 94. Minute of confirmation or non-confirmation may be altered before promulgation : RP 53, MML p 65. Quashing after promulgation : KR Can 573. Duties and powers of reviewing offrs : AA 57, 57A, RP 53A, 54. The Confirming Offr must sign here personally. AA 172 fn 1.)

My decision on the finding(s) and sentence set forth in Part I is :

Confirmed

~~I direct that the accused be not committed to prison or detention barracks until further ordered.~~ (1) Nil
(1. AA 57A. Delete if not used.)

Date 12 Nov 43 — (Sgd) A.D. Orm Lt-Col
Commanding — C.R.E. (Works) First Can Army
Confirming Officer

PART IV. PROMULGATED AND EXTRACTS TAKEN. (RP 53, KR Can 576, 577.)

Accused.	Date.	Signature of Offr.
B38942 Sigmn Donald Edward Gregory	20 Nov 43	H.K. Wishart Maj

ALL DELETIONS AND ALTERATIONS WILL BE INITIALLED.

3814

C H A R G E S H E E T

The accused, No B38942 Sigmn Donald Edwin Gregory, 1 Canadian Line of Communications Signals, R.C.C.S., soldier of the Canadian Army Overseas, placed on active service, is charged with:-

FIRST CHARGE: Sec 41 Army Act — COMMITTING A CIVIL OFFENCE, THAT IS TO SAY, HOUSEBREAKING AND LARCENY, CONTRARY TO SECTION 26(1) OF THE LARCENY ACT 1916,

in that he

at Stoke-de-Abernon, in the county of Surrey, between the 31st October 43 and the 1st November 1943, did break and enter the dwelling house of Robert Nelson Ward , "Loxwood", Stoke Road, and did steal therein, 2 prs ladies shoes, 1 grey flannel skirt, 1 ladies blouse, 1 ladies green dress, 2 prs ladies silk stockings, 1 ladies green jacket, 1 leather attache case, to the total value of £15-11-6d, the property of Peggy Kate Ward, wife of the said Robert Nelson Ward.

SECOND CHARGE: Sec 41 Army Act — COMMITTING A CIVIL OFFENCE, THAT IS TO SAY, HOUSEBREAKING AND LARCENY, CONTARY TO SECTION 26(1) OF THE LARCENY ACT 1916,

in that he

at Stoke-de-Abernon, in the county of Surrey, between the 31st October 43 and the 1st November 1943, did break and enter the dwelling house of Ivan Williams, "Blundell Bank", Blundell Lane, and did steal therein, 1 ladies suspender belt, 1 ladies brassiere, 2 pr ladies silk stockings 1 pr ladies white sandals, to the total value of £2-0-0, the property of Ann Williams , wife of the said Ivan Williams.

Field
5 Nov 43

(W.D. Wishart) Lt-Col.,
Commanding,
1 Cdn L of C Signals.

Approved for trial
under HA(Con)540
Kirkcaldy Capt
A.D.J.A.
H.Q., First Cdn. Army.

TO BE TRIED BY FIELD GENERAL COURT MARTIAL

(N.I. Fraser) Lt.Col.
CRE(Works) First Cdn Army

In the Field
9 Nov 43

This is to certify that B-3894, Sigmn. Gregory, D.E.
is fit/~~unfit~~ to undergo trial by Field General Court Martial.

11 Nov 43.

A B Powell Capt
(A.B.C. Powell) Capt.
Medical Officer,
1 Cdn. L.of C. Signals

N16

FIELD GENERAL COURT-MARTIAL

CFA95 (In lieu of AFA8)
49 Pads/1607 (Dec43)

(Whether the accused to be tried is under his comd or not, a FGCM may on application to him be convened by any offr of Cdn Army Overseas, or of any other force if authorized in law, in immediate comd of troops on active service, subject to RP 105(C) and restrictions imposed by appropriate authy. AA 49, 50, RP 104-107, 114. As to the duties and privileges of the Convening Offr in dealing with the application see MML Chap V paras 20 and 23, RP 87(B).

There should be a separate Convening Order for each person to be tried separately by the same Court. RP 71(C), 109. As to separate charge sheets see RP 62, and as to separate trial on charges in the same charge sheet see RP 108. As to two or more accused charged jointly see RP 16, 109.

As to reasons for showing (a) permanent or confirmed rank, and (b) apptmt, A/rank or A/apptmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

ACCUSED.

Number.	(a) Prmnt R.	(b) Apptmt, A/R or A/Apptmt.	Full Christian Names.	Surname.	Unit.
B.36942	Sigmn		Donald Edward	Gregory	1 Cdn L of C Sigs

CONVENING ORDER.

1. Whereas complaint has been made to me, the undersigned, that the person(s) named above as the accused, being subject to military law, has (have) committed the offence(s) set forth in the Charge Sheet(s) attached and on (date) 5 May 43 endorsed by me, (or by an offr of my staff for me), " To be tried by Field General Court-Martial ".

2. And whereas I am of opinion that it is not practicable that such offence(s) should be tried by an ordinary General Court-Martial ; ~~and that it is not practicable to delay the trial for reference to a superior qualified offr~~.

(Delete part in brackets when not required for compliance with RP 105(C).)

3. I hereby convene a Field General Court-Martial to try the said person(s), and to consist of the Offrs appointed or detailed hereunder.

4. ~~I am unable to appoint (a) three Offrs to form the Court, (b) a Fd Offr as President, for the reasons I have attached hereto.~~

(AA 49, RP 106(B), 107(A). Delete the whole or part, if not applicable.)

5. I also appoint as Judge-Advocate thereat the Offr mentioned hereunder.
(RP 106(E). Delete, if none appointed.)

PRESIDENT.

(Rank.)		(Must be named. RP 106.)	(Unit.)
Major	H.F. Christenley		HQ First Cdn Army

MEMBERS.

(Rank.)		(Named or detailed. RP 106.)	(Unit.)
Capt.	J.A. Hutchins		HQ First Cdn Army
Capt.	K.D. Grant		First Cdn Army Sigs

WAITING MEMBER.

(Rank.)		(Named or detailed, if any. RP 106.)	(Unit.)
Lieut.	W.A.R. Winters		First Cdn Army Sigs

JUDGE-ADVOCATE.

(Rank.)		(Must be named, if any. RP 106.)	(Unit.)
Capt.	R.K. Laishley, A.D.J.A.		HQ First Cdn Army

On Active Service in the Fd

in the Field
(Country.)

N.F. Fraser
(Signature.) RP 105 fn 23

Lt. Genl

Date 9 May 43

Commanding CRE(Works) First Cdn Army
Convening Officer.

CONVENING OFFR WILL INITIAL ALL DELETIONS AND ALTERATIONS

(See overleaf for oaths and notes for use on trial.)

OATHS FOR USE IN COURTS-MARTIAL.

1. PRESIDENT AND MEMBERS. *(AA 52, KR Can 562, RP 26, 29, 111.)*

I swear by Almighty God that I will well and truly try the accused (or accused persons) before the Court according to the evidence, and that I will duly administer justice according to the laws in force for the Government of the Militia of Canada, without partiality, favour or affection, and I do further swear that, except so far as may be permitted by instructions of the Minister for the purpose of communicating the sentence to the accused, I will not divulge the sentence of the Court until it is duly confirmed, and I do further swear that I will not on any account at any time whatsoever disclose or discover the vote or opinion of any particular member of this court-martial unless thereunto required in due course of law.

2. JUDGE-ADVOCATE. *(AA 52, MML 762, RP 27, 111.)*

I swear by Almighty God that I will not, unless it is necessary for the due discharge of my official duties, divulge the sentence of this court-martial until it is duly confirmed; and that I will not on any account, at any time whatsoever, disclose or discover the vote or opinion of any particular member of this court-martial, unless thereunto required in due course of law.

3. OFFR UNDER INSTRUCTION. *(AA 52, MML 762, RP 27, 111.)*

I swear by Almighty God that I will not divulge the sentence of this court-martial until it is duly confirmed; and that I will not on any account, at any time whatsoever, disclose or discover the vote or opinion of any particular member of this court-martial unless thereunto required in due course of law.

4. SHORTHAND WRITER. *(AA 52, MML 762, RP 27, 111.)*

I swear by Almighty God that I will truly take down to the best of my power the evidence to be given before this court-martial and such other matters as may be required, and will, when required, deliver to the court a true transcript of the same.

5. INTERPRETER. *(AA 52, MML 762, RP 27, 111.)*

I swear by Almighty God that I will to the best of my ability truly interpret and translate, as I shall be required to do, touching the matter before this court-martial.

6. WITNESS. *(AA 52, MML 763, RP 82, 111.)*

I swear by Almighty God that the evidence which I shall give before this court shall be the truth, the whole truth, and nothing but the truth.

POUR LES TEMOINS. *(RO (Can) 2693.)*

Je jure, par Dieu Tout-Puissant, que le témoignage que je rendrai devant cette Cour sera la vérité, toute la vérité, et rien que la vérité.

7. As to other forms for swearing see AA 52(4), RP 28, 30, 82, 111, MML p 763.

NOTES ON RECORDING PROCEEDINGS AND ON DEFENCE PROCEDURE.

(Referred to throughout CF A 96 as "Notes".)

1. RECORDING PROCEEDINGS: When no shorthand writer is employed the addresses of Prosecutor and Defending Offr (*RP 95(C)*), any objections (*RP 93(B)*), and any statements by accused, may be summarized and, the evidence, subject to RP 95(A) and 114(B), may be recorded in narrative form, as follows:

First Witness for Prosecution.

A 12345 Cpl H. Jones, RWR, sworn, states:

I am a cpl of the pl to which Pte Smith belongs. The accsd in Court is Pte Smith. About 1400 hrs on 15 Jan 43 I ordered the accsd to go on parade. He refused and did not go on parade.

Cross-exam: He did not say he was sick. (*or*, None.)

Re-exam: None.

Exam by Court: He said—"I've had enough parades".

RP 83(B) complied with.

2. When a shorthand writer is employed, addresses, statements, evidence and objections need not, subject to RP 95(A), be taken by him verbatim. (*RP 95 fn 1.*) If the evidence is taken by him in narrative form, RP 83(B) should be complied with. If taken verbatim, RP 83(C) will be complied with.

3. The record of addresses, statements and evidence will be given a marginal number which corresponds with the number of the para in CF A 96, under which it is taken. Both sides of paper should be used.

4. DEFENCE PROCEDURE: RP 11E provides that for procedure on defence RP 40-42 will apply so far as practicable, having due regard to the public service. (*RP 122.*) If the Court consider such compliance not practicable, the following order of procedure (whether all items are used or not) is suggested as being fair to the accused:

(i) Opening address by Defending Offr. (*RP 95(C), 87(C), 92(C) (D).*)

(ii) At option of accused, statement by accused (*not sworn or subject to cross-exam by Prosecutor, Court or JA* (*RP 40 fn 10*)), or evidence by accused, as to facts or his character or both. (*See RP 41 fn 3, 46 fn 1, 80.*)

(iii) Evidence of witnesses for accused as to facts or his character or both. (*See RP 48 fn 1.*)

(iv) Evidence for prosecution in rebuttal or on new matter, if allowed by Court (*RP 86(B)*), or to prove previous convictions when accused has called witnesses as to character. (*RP 86(C).*)

(v) Closing address (*on matters other than in mitigation of punishment*) by Defending Offr or accused. (*See RP 40 fns 8-12, 87(C), 92(C) (D).*) But Defending Offr or accused will make his address *after* the Prosecutor, if there has been no statement by accused or any evidence given as to facts, or if accused alone has given evidence on oath as to facts, whether any evidence as to his character has been given or not. (*When accused charged jointly see RP 81.*)

(vi) Closing address by Prosecutor. (*See RP 40 fn 7, 87(C), 92(C) (D). Prosecutor has no right to address Court on subject of sentence except as provided by RP 40(E), KR Can 563(a).*)

(vii) Summing up by JA, if any. (*RP 42.*)

ASSEMBLY AND DISPOSAL OF RECORD AFTER TRIAL.

1. All deletions and alterations in printed and written record MUST BE INITIALLED by President or JA, if any. RECORD FORMS B, C OR D NOT USED MUST BE DELETED BY A DIAGONAL LINE AND INITIALLED.

2. All loose sheets of record and exhibits comprising the proceedings of the trial MUST BE INITIALLED by President or JA, if any, and then pinned by top left corner to p 2 of CF A 96 in following order:

(i) Charge Sheet. (*On top.*)

(ii) Convening Order with any declarations made by Convening Offr under RP 106, 108, 107, 114.

(iii) Medical Certificate(s). (*KR Can 557.*)

(iv) Addresses, statements and evidence in order taken during trial, pages being numbered and on both sides when both sides used.

(v) Exhibits numbered Ex A, Ex B, etc. (*As to admitting as evidence a certified copy in lieu of original see KR Can 560. As to certified copies of regimental books see AA 163 (1) (g) (ii).*)

(vi) Summary of Evidence, if not already an exhibit.

3. Any report or remarks by President or Court for attention of Confirming Offr will be attached to p 4 of CF A 96 and not form part of record of proceedings. (*RP 95(D).*) A recommendation for mercy will be inserted in Part I of Schedule on p 4 after minute of sentence awarded. (*AA 53(3), RP 118(C), MML p 759.*)

4. The President or JA, if any, will return proceedings promptly with covering letter and in an envelope marked "Confidential", or as otherwise directed.

A76 1. 11 Nov 43 "A"

A76

1. The Court has heard the summary of evidence and the confession made by the accused. In a sober mind and in the somber light of what has gone before, he is most acutely and painfully aware of the full gravity of a crime, which, under the lulling effect of alcoholic stimulant appeared more of a daring adventure than a very serious offence against society. The article taken were of little commercial value. Many attractive articles were left untouched by the accused. It is obvious that articles were not taken with a view to material gain, but represented a juvenile or perverted quirk of mind of the accused, probably under the influence of alcholic stimulant.
2. He has made a full confession to the crime, and afforded those in authority every assistance to recover the articles taken. He was obviously ashamed of the nature of the articles taken which explains his preliminary feeble attempt to provide an alibi as to his whereabouts on the evening of 31 Oct 43.
3. He made his confession fully realizing the consequences involved
4. An examination of the accused's MFM 6 discloses only one entry, a trivial misdemeanor, namedly that he was absent from a training period, which can be likened to a schoolboy playing hookey from class and [redacted] and suggests mischevious but not criminal tendency. Other than this lone entry the accused's Army crime sheet is clear, which would appear to furnish ample proof that his behaviour as a soldier has been consistently good.

5. The accused has been charged under a section of the Army Act which prohibits his own Commanding Officer dealing with him. Otherwise, this case might have been dealt with Summarily by the ~~X~~ accused's own C.O.

6. I therefore make a most earnest plea that the Court weigh fully the foregoing facts when passing sentence, and that justice be tempered with the mercy due a repentant first offender.

L E Hudson
Lt
Defending Officer.

EXHIBIT C

A-76

CANADIAN ARMY OVERSEAS

LEAVE PASS

Pass #165

No. B38942 Rank Lieut Name Gregory D.C.

Date 30 Oct 43

has permission to be absent from his unit from 1200 hrs 30 Oct 43

to 0100 hrs. 31 Oct 43 for the purpose of proceeding to London

ORDERLY ROOM
30 Oct 1943
1 CDN L of C SIG REGT

Orderly Room Stamp

A Gregory Lt.

(Unit Signature Stamp)

Exhibit D

Surrey Constabulary

Station or Section: Esher

Division: Leatherhead

Date: 16th Nov, 1943.

SUBJECT MATTER

Name: Donald Gavin GREGORY

(In full—Block Letters)

Address: 16th Canadian L of C Signals R.C.C.S. Oxshott.

Age: 21 yrs. Occupation: Signalman No. D 38942

STATES:- I have been cautioned, that I need not say anything unless I so desire, but what I do say will be taken down in writing and may be used in evidence.

Don E Gregory

I left camp at Oxshott at above - R 6-45 pm on the 3rd Oct. 1943. I was alone. I first went to the Bear P.H. Oxshott and had a few drinks and then made my way to Cobham. After having a walk round Cobham, I started to walk back towards Oxshott, and on arriving at a cross road - about a mile - I could see had at the black-out rub and knew that it must be empty. I went round the back of it and took a wooden pole from the back door. I climbed through and had a search round. I took an attache case, some ladys clothing and two pairs of ladys shoes. I let myself out through the back window. I then made my way to another house along the Oxshott Rd. which I could see had had got the blackout rub. I went round

Signature of Person making statement: Don E Gregory

Witness to the above: Harry Cooper. Det. Sergt.

C.3208—7/39—20/7/43.

CONTINUATION.

he took and broke a window in the French door. — went in and had a search round, taking one pair of ladys white sandals, suspenders belt and one brassiere. — left the house by the same way that — had got in. — then walked along a footpath which — took upon to the morning and had the property in my possession which shows upon the statement I have read this statement I have made and it is true

Harry Obe[illegible] Det Sergt

LIST OF EXHIBITS

Exhibit "A": Articles as listed hereunder:-
2 prs ladies shoes, 1 grey flannel skirt,
1 ladies blouse, 1 ladies green dress
2 prs ladies silk stockings,
1 ladies green jacket 1 leather attache case.

Exhibit "B": Articles as listed hereunder:-
1 ladies suspender belt 1 ladies brassiere
2 pr ladies silk stockings
1 pr ladies white sandals

Exhibit "C": Army leave pass, purporting to be made out to B38942 Sigmn Gregory, D.E.

Exhibit "D": Statement made by B38942 Sigmn Gregory, D.E., after caution, before Det-Sgt Harry Cooper

J

A

SUMMARY OF EVIDENCE

In the case of

B38942 Sigmn GREGORY, D.E. 1 Cdn L of C Signals

1ST WITNESS: Mrs. Peggy Kate Ward, Stoke Rd, Stoke-de-Abernon, Cobham, (sworn) states:

"I am a married woman and reside at the above address. About 6:10 PM on 31 Oct 43, I left my house unoccupied. Before leaving I secured all windows and doors and everything was intact. At 7:30 AM on 1 Nov 43, I returned to my house. I entered by the front door and going to the rear, I found that the lavatory window on the ground floor had been broken and was open. The curtains in the drawing room, dining room and back bedroom had been drawn. There was disorder in the main bedroom and cupboards opened in other rooms. I then notified the police.

On making a search of the house, I found that the articles, enumerated on the list, produced, were stolen. (marked EXHIBIT A).

At 8:00 PM the same day I was shown the articles produced, which I identify as my property and value at £15-11-6.

P.K. Ward

The accused declined to question the witness.

2ND WITNESS: Mr Ivan Williams, Blundell Bank, Blundell Lane, Stoke-de-Abernon, Cobham (sworn) states:

"I am an architect by profession and reside at the above address. At 8:00 AM on 30 Oct 43, I left my house unoccupied. Before leaving I secured all windows and doors and everything was intact. In consequence of certain information received from the police, I made an examination of my house on my return on the evening of the 2nd Nov 43, and found that certain articles belonging to my wife had been stolen. They comprised of, a suspender belt, brassiere, a pair of white sandals and two pairs of silk stockings.

On the evening of 2nd Nov 43 I was shown a suspender belt, brassiere, one white sandal and two pairs of silk stockings, by the police, produced and which I identify as my wife's property and which are valued at £2-0-0 (articles marked EXHIBIT B).

Ivan Williams

The accused declined to question the witness.

5TH WITNESS: Det/Sgt Harry Cooper, Police Station, Esher (sworn) states:

"About 10:45 AM on 1 Nov 43, in consequence of certain information received, I accompanied Sgt Parrot to "Blundell Bank," Blundell Lane, Stoke-de-Abernon, where we met T.C. Coombes and he handed to Sgt Parrot the army leave pass produced. At 12:45 PM the same day, Sgt Parrot and I then went to the orderly room, Georgian House, Knott Park, Oxshott, where we saw the accused. He was informed that we were police officers and was asked to give an account of his movements on the 30th and 31st Oct 43. He stated that on the 30th he had a leave pass and went to Surbiton, returning to his billet at 8:00 PM that night and did not go out again. On the 31st, he stated that he was on duty during the day and did not go out until the evening when he went to the Knights of Columbus canteen, Oxshott about 7:00 PM returning to his billet at about 8:15 PM. I then pointed out to him that the canteen did not open on Sunday evenings, whereupon he replied, "I must have gone to a canteen at Leatherhead." Sgt Parrot then said to him, "We have every reason to believe that you was not in Leatherhead, but was in Cobham on the evening of the 31st and broke into two houses." He was then cautioned and he replied, "I guess you are right - it is no use trying to beat you fellows. I did break into the houses. I'll get the stuff for you - it's away over there." We then accompanied the accused to some haystacks in a field forming part of Lower Farm, Stoke-de-Abernon, and the accused got the property produced from the haystacks and handed it to Sgt Parrot. (articles marked EXHIBIT AMB). We then conveyed him to Cobham Police Station. Whilst detained there he elected to make a statement. I cautioned him and he made the following statement produced. (statement marked EXHIBIT D(App No 1)).

Harry Cooper Det/Sgt

The accused declined to question the witness.

The accused declined to make any statement other than made to the civilian police.

Taken down by me in the field this 5th day of November 1943 in the presence and hearing of the accused. Rule of procedure 4 complied with.

W Patterson (Capt)
1 Cdn L of C Signals

APPENDIX NUMBER ONE TO

SUMMARY OF EVIDENCE

In the case of

B38942 Sigmn Gregory, D.E. 1 Cdn L of C Signals.

Statement made by B38942 Sigmn GREGORY, D.E. before Det/ Sgt Harry Cooper:

"I have been cautioned that I need not say anything unless I wish but what I do say will be taken down in writing and may be used in evidence.

(Signed) D.E. Gregory)
.....
B38942 Sigmn D.E. Gregory

"I left camp at Oxshott at about 6:45 PM on 31st Oct 43. I was alone. I first went to the Bear Public House, Oxshott, and had a few drinks and then made my way to Cobham. After having a walk around Cobham, I started to walk back towards Oxshott and on arriving at a cross road I stopped outside a house, which I could see had not got the blackout up and knew that it must be empty. I went round the back of it and broke a window with my jack-knife. I climbed through and had a search round. I took an attache case, some lady's clothing and two pairs of lady's shoes. I let myself out through the french windows.

I then made my way to another house along the Oxshott Rd, which I could see had not got the black-out up. I went round the back and broke a window in the french doors. I went in and had a search round, taking one pair of lady's white sandals, suspender belt and one brassiere. I left the house by the same way that I had got in. I then walked along a footpath which I took you to this morning and hid the property in some haystacks, which I showed you.

I have read this statement through and it is true.

(Signed) D.E. Gregory
.....
B38942 Sigmn D.E. Gregory

Certified True Copy
(illegible) Capt.

A.F.M. 6 Y

No. B38942 Name Gregory, D.E. Sqn., Battery, or Company — Corps RCCS

Date of last entry in Company Conduct Sheet — No. and date of last drunk — Period not reckoning towards freedom from extra fine — Date of enlistment 29-7-42 G.C. Badges — Sheet No. 1 — Signature O.C. Company, etc. M.N. Kim. Lt — Service or Proficiency Pay — Character

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of minor charge sing with trial	By whom awarded	Remarks
				CERTIFIED TRUE COPY W Wilds Capt 6 Jun 43					
Kingston				No entries after 6 months service					
Field	19-5-43	Sigmn		A.A. 11 WOAS, Neglecting to obey Camp Standing Orders i.e. Out of camp during training hours	T.E. Couillard, Lieut.	Documentary 7 Days C.B.	22-5-43	Lt-Col. W.O.Peffers	

M.F.B. 359
22M—5-41 (372-3)
H.Q. 1772-39-620
A.F.H. 296

STATEMENT AS TO CHARACTER AND PARTICULARS OF SERVICE OF ACCUSED

Number	Rank	Name	Regiment (or unit)
B38942	Sigmn	Gregory, D.E.	1 Cdn Line of Communications Signals

1. The following is a fair and true summary of the entries in the Service and General Conduct sheets Regimental and Squadron, Battery or Company Conduct sheets of the accused, exclusive of convictions by a Court-Martial or a Civil Court, of summary awards under Section 47 of the Air Force Act Army Act and of cases in which trial has been dispensed with.

	Within last 12 months	Since enlistment or appointment
For AA 11 - Reported to Duty Camp Standing Orders	1 times	1 times
For	times	times
For	times	times
For	times	times
Number of instances of gallantry or distinguished conduct		times

or,

~~There are no entries in the conduct sheets of the accused.~~

NOTE.—If the charge is for drunkenness, the entries for drunkenness must be stated separately.

2. The accused has not been previously convicted

or,

~~Previous convictions of the accused by a court-martial or a civil court, of summary awards under~~ Air Force Act Section 47 of the Army Act and dispensations with trial under A.F.A. 73 A.A. 73 are set out in the Schedule annexed to this statement.

3. The accused is not under sentence at the present time.

or,

~~The accused at the present time is under sentence for~~ beginning on the day of

4. The accused has been in confinement awaiting trial on the present charges, for NIL days in civil custody, and 10 WD Air Force days in military custody, making a total of 10 WD days in custody, of which NIL days were spent in hospital.

5. The present age of the accused according to his ~~record of service~~ attestation paper is 21 yrs 300 days.

6. The date of his ~~attestation~~ specified in his ~~record of service~~ attestation paper is 29 JULY 1942

7. The service which the accused is allowed to reckon towards discharge is 1 year 107 days

8. The accused is entitled to reckon 1 yr 107 days service for the purpose of determining his pension, etc.

9. The accused is in possession of or entitled to no ~~air force~~ military decoration, or ~~air force~~ military reward (or is in possession of or entitled to). ~~State any air force decoration or reward.~~

10.—~~(If the accused is a warrant officer.) The accused before he was~~ Air Force ~~Under a warrant officer last held~~ the regimental rank of

11. (In the case of an officer.) ~~The accused holds in the Royal Canadian Air Force the rank of~~ Permanent Force
..... dated ....., unit, and in his regiment (or corps), the rank of
..... dated .....

12. ~~The accused has served as a non-commissioned officer continuously, without reduction, to the~~ present date:—

..... Date of promotion.

In the rank of ..... years.

In the rank of ..... years.

In the rank of ..... years.

NOTE.—If any matter in any of the above paragraphs cannot be stated from the Regimental books, the paragraph must be struck through.

SCHEDULE

Of convictions by a court-martial or civil court, of summary awards under Section 47 of the Army Act, Air Force Act, and of cases in which trial has been dispensed with of accused, Number ..... Rank .....
Name ..... of ..... Unit Regiment

NOTE.—A verbatim extract from the regimental books stating these convictions and dispensations with trial must be inserted.

Description of Court by which tried	Date and Place of Trial	Charge upon which convicted	Sentence of the Court	Punishment Remitted

I hereby certify that the foregoing schedule of convictions and dispensations with trial is a true extract from the regimental books in my custody.

Signed this 16 th day of NOVEMBER 1943 W.S. Hamilton Capt.

The above statement (with the schedule of convictions and of cases in which trial has been dispensed with) is read, marked ..... signed by the president, and annexed to the proceedings.

YY-49

CPL- GREGORY W.C.

20/CM/6 11-71

CPA86 (1b Insl of AFA83)
41/P.A.S.1658 (2864)

FIELD GENERAL COURT-MARTIAL

Convened by Order of Brigadier H.O.N. Brownfield Comd CCRA - 1 Can Corps dated 2 Dec 43

ACCUSED.

(As to the trial of two or more charged jointly see RP 16, 71, 109. As to reasons for showing (a) permanent or confirmed rank, and (b) apptmt, A/rank or A/apptmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

Number.	(a) Prmnt R. (b) Apptmt, A/R or A/Apptmt.	Full Christian Names.	Surname.	Unit.
C 15566	Corporal	William Charles	GREGORY	5 Cdn Mob Ldy & Bath Unit RCASC.

Proceedings Reviewed
6 Jan 44
H.H. Angle Capt
D.A.A.G. (A) H.Q.

PROCEEDINGS OF TRIAL.

Held in the Fd in (*country*) SICILY on (*date(s)*) 8 Dec 43

23

RECORD FORM A—OPENING PROCEEDINGS AND ARRAIGNMENT.

A1. The President, Members, waiting Member, JA, if any, and Offrs under instr, if any, assemble, and the Court is closed.

(PRINTED MATTER, NOT IN ITALICS FOR GUIDANCE, WILL BE DELETED, IF NOT USED OR APPLICABLE, AND INITIALLED BY PRES OR JA. The Schedule referred to throughout is on p 4. Citations do NOT include all relevant fmn ROs. For guidance on procedure when a variation in this form arises, see form for GCM in MML pp 741 to 759. A brief record of such variation on procedure will be made and given a number having reference to appropriate or preceding para number herein. See back of Convening Order, CF A95, for oaths and instrs on how to record addresses, evidence, etc, which instrs are hereafter called "Notes". As to general provisions for conducting the trial see AA 53, RP 36, 63-70, 73, 74, 94, 103, 119, 132.)

A2. The President initials and lays before the Court the Convening Order and Charge Sheet(*s*) attached thereto.(1) The Court is satisfied that it is properly convened and constituted(2), accused is (~~are~~) amenable to military law, and each charge discloses an offence.(3)

(1. As to use of Summary of Evidence see RP 17 fn 6. 2. AA 49, 50, RP 105-107. 3. RP 11-13, 23, 24.)

A3. The Court is opened. The accused is (~~are~~) brought before the Court. At 1050 hours trial commences.

A4. The Prosecutor produces a Medical Certificate that accused is (~~are~~) fit to undergo trial by court-martial.(1) ~~The Prosecutor informs the Court that accused elected to be tried by court-martial instead of being dealt with summarily by the CO.~~(2) Admitted

(1. KR Can 557. 2. AA 46(B), RP 60 fn 1. For effect see KR Can 563(c). Delete, if not applicable.)

A5. President to accused: ~~Do you object to~~ as interpreter ? Ans N.A.D.

The Interpreter is sworn.(1) ~~Do you object to~~ as shorthand writer ? Ans

The shorthand writer is sworn.(1)

(1. RP 72. Delete, if none employed.)

A6. The Convening Order and names of the President and Members of the Court are read to the accused.(1) President to accused: Do you object to be tried by me as President or by any of the Members of the Court ?

Ans No.(2)

(1. RP 110. 2. If no objection, waiting member retires. RP 68(B). If objection, see procedure AA 51, RP 25, 71, 18, MML p 742.)

A7. The President, Members, JA, if any, and Offrs under instr, if any, are sworn.(1) The following are the ranks, names and units of the offrs comprising the Court, etc:

President	Major	A.L. MacINNES	7 Cdn ATk Regt RCA.
Member	Lieut	G.F. Boyer	1 Cdn LAA Regt RCA.
Member	Lieut.	J.E. Priest	81 Cdn Arty Coy RCASC.
Judge-Advocate			
Prosecutor	Lieut.	R.G. Howard	5 Cdn Mob Ldy & Bath Unit RCASC
Defending Offr	Lieut.	E.A. Smart	43 Cdn Dental Tpt. Coy RCASC.

Questions by President: Is the Prosecutor a lawyer ? Ans N/o Is the Defending Offr a lawyer ? Ans N o (2)

(1. RP 28, 27, 109, 111. List of offrs under instr will be returned separately with proceedings for information of Convr Offr.)
(2. If Pros a lawyer and Def Offr not, accused is entitled to an adjournment when RP 89 (B) and fn 2 were not followed. See DII p 33.)

A8. The accused C 15566 Corporal Gregory W.C. before arraignment make(s) (no) ~~the~~ plea.(1)

(1. If a special plea is made for separate trial on one or more charges (RP 62(E), 106), or as to the jurisdiction of the Court (RP 34, 35(A), 112), or in bar of trial (RP 36), or as to accused's mental fitness to stand trial (AA 130, RP 57), or by one of several accused charged jointly to be tried separately (RP 16, 71), such plea, the addresses made in support or against, the evidence, if any, and finding are recorded per Notes. For forms of record see references in fns to RsP cited. Insert in full rank and name of the accused making the plea.)

A9. The accused is (~~are~~) arraigned (~~separately~~) on all charges in the charge sheet.(1) The accused does (~~do~~) not object to any charge.(2) There is no amendment to be made to the Charge Sheet.(3) The President records the pleas in Part I of the Schedule.

(1. RP 31, 112. See para 1 of Instrs p 2. When more than one Charge Sheet see RP 62; when several accused to be tried separately see RP 71(C), and use separate copies of CF A96 to record proceedings. 2. RP 32, RP 33. If otherwise, delete and make appropriate record per Notes.)

A10. The Court (is closed and) considers the Instrs on Procedure after Arraignment at top of p 2. The proceedings are continued on Record Form B

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

INSTRUCTIONS ON PROCEDURE AFTER ARRAIGNMENT.

1. *The accused may not plead or be found Guilty on more than one of two or more charges laid in the alternative.* (*RP* 37(*A*).) *As to withdrawal of alternative charges by Prosecutor see RP* 35(*C*). *No other charge can be withdrawn for any reason without authy from Convening Offr. If Convening Offr concurs, Court may accept plea of Guilty to lesser, etc, offence.* (*RP* 44(*H*).) *Accused may change a plea of Not Guilty to Guilty during trial.* (*RP* 38.) *As to refusing to plead or not pleading intelligibly see RP* 35(*A*). *As to plea when sentence may be death see RP* 35(*D*).

2. *The proceedings on each charge sheet* (*RP* 62) *after arraignment will be conducted as follows in the respective circumstances stated:*

I. If pleas to all charges are GUILTY, use Record Form B below.

II. If pleas to all charges are NOT GUILTY, use Record Form D on p 3.

III. If pleas to some charges are GUILTY and to other charges are NOT GUILTY and,

(a) Such mixed pleas occur when there are no alternative charges in the Charge Sheet, use Record Form C below. (*RP* 37(*A*).)

(b) Such mixed pleas occur in a set of two or more charges laid in the alternative, see RP 37 (*A*) *and fn* 2 *as to discretion of Court, (i) to try the accused on all such alternative charges as if he had pleaded Not Guilty thereto, or, (ii) to record the pleas as the findings of Court. After deciding between (i) and (ii), Court will proceed under foregoing instrs as may be appropriate to result of its decision. See MML p* 744 *Instrs* (2).

3. *As to responsibility of President to accused see RP* 59, 60(*C*); *powers and duties of JA see RP* 103; *duty of Prosecutor see RP* 60(*A*) (*B*); *duty and privileges of accused and Defending Offr see RP* 60(*C*), 87(*C*), 91, 92; *swearing and withdrawal of witnesses from Court see RP* 81, 82; *questioning of accused see RP* 80, 87(*C*), 92(*B*), *and of witnesses see RP* 83-85; *calling or re-calling of witnesses by Court etc see RP* 75-78, 80, 116; *use of Summary of Evidence at Trial see RP* 17(*E*) *fn* 6; *and responsibility of JA or Pres to record proceedings see RP* 94, 96.

RECORD FORM B—PROCEEDINGS ON PLEAS OF GUILTY TO ALL CHARGES.

B1. The President or JA, if any, complies with RP 35(B) by explaining to the accused the nature and meaning of the charge(s)(1), and that on his plea of Guilty there will be no regular trial but merely a consideration of the sentence to be awarded after he has been given an opportunity to make a statement in reference to the charge(s), call witnesses as to character and make an address in mitigation of punishment.(2)
(*1. RP 35 fn 3. 2. MML p 54 para 47.*)

B2. President to accused: The Court will now receive any statement you desire to make in reference to the charge(s).(1) If it appears from your statement that there are circumstances which indicate that you do not understand the effect of the plea of Guilty(2), or which show provocation or extenuation in respect of which in your interest the witnesses for the Prosecution should be examined(3), we shall advise you to change your plea to Not Guilty. In making a statement you will not be sworn or subject to cross-examination; and anything you say will not be used in evidence against you after you change your plea. If, however, it appears to the Court that your statement affects only the amount of punishment to which you are liable, you will not be advised to change your plea and you will be given an opportunity later to prove your statement by sworn testimony, if you so desire.(4)

President to accused: Do you wish to make a statement? Ans ..... (5)
(*1. RP 27(B). 2. RP 37(D) fn 6. 3. RP 28(B) fn 5 para 3, MML p 54 para 47. 4. See para E3 of Record Form E. 5. Statement, if any, recorded per Notes.*)

B3. The Court considers the accused's statement.(1) The Court decides (not) to advise accused to change his (their) plea(s) of Guilty to Not Guilty on ..... charge(s). The accused is (are) so informed, and he (they) change(s) his (their) plea(s) on ..... charge(s). Part I of the Schedule is amended accordingly.
(*1. Court may be closed to consider the statement. Delete whole or part not used.*)

B4. On the charge(s) to which the plea(s) of Guilty is (are) not changed the President records finding(s) of Guilty in Part I of the Schedule.(1)
(*1. RP 35(B). If any plea(s) is (are) changed, use Record Form C or D as appropriate.*)

B5. The Summary of Evidence is marked Ex ....., initialled and read aloud by the President.(1)
(*1. If there is no Summary, or if it is inadequate, comply with RP 37(B). If there is any evidence inconsistent with any plea standing as Guilty, Court will advise accused to change such plea and, if changed to Not Guilty, try such charge(s) by use of paras D1 to D8 inclusive of Record Form D on p 3. RP 37(D).*)

B6. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

RECORD FORM C—PROCEEDINGS ON MIXED PLEAS OF GUILTY AND NOT GUILTY.

C1. As to the charges on which accused pleaded NOT GUILTY the trial is continued by using paras D1 to D8 inclusive of Record Form D on p 3 before proceeding with C 2.(1)
(*1. RP 37(A) (E).*)

C2. The charges on which accused pleaded GUILTY are read to him (them) again, and the trial is continued by using paras B1 to B5 of Record Form B above.(1)
(*1. Under B5 such parts only of the Summary of Evidence are read as relate to the charges dealt with under C2. If any plea is changed to Not Guilty, trial thereon proceeds by complying with paras D1 to D8 inclusive in Record Form D on p 3 and making an appropriate record thereof on a separate sheet.*)

C3. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

RECORD FORM D—PROCEEDINGS ON PLEAS OF NOT GUILTY TO ALL CHARGES.

D1. President to accused: Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity to prepare your defence? Ans ..... (1)
(*1. If "yes", see RP 39(A) for procedure. Statement or evidence, if any, is recorded per Notes.*)

D2. The Prosecutor makes (an) (no) opening address.(1)
(*1. RP 39(B), 60(A) (B), 90, 92(C) (D). Record address per Notes, subject to RP 95(C).*)

D3. The evidence for the Prosecution is taken.(1)
(*1. RP 39(C), 114, KR Can 555. Record evidence per Notes. As to Prosecutor giving evidence himself see RP 39(D) (E).*)

D4. The Prosecution is closed.(1) The Defending Offr submits that the evidence for the Prosecution does not establish a prima facie case against the accused on the ..... charge(s).(2) The Court is closed, and considers the submission.(3) The Court is re-opened, and the President announces that the submission is disallowed on the ..... charge(s), and allowed on the ..... charge(s), and that, accordingly, the trial will proceed on the former, but the accused is (are) found Not Guilty on the latter charge(s).(4)
(*1. Delete remainder of this para, if submission not made. 2. Arguments on submission, answer and reply are recorded per Notes. 3. RP 40 fn 1. See MML p 72 paras 12-14 and p 81 para 42. 4. Delete part not used. If accused acquitted on all charges, use second alternative in para D8.*)
NB: If trial proceeds, accused must be allowed great latitude in making his defence, and the Court should not stop his defence solely on ground of irrelevance. (*RP 60(C), 114, 115.*)

D5. President to accused: You will now proceed with your defence.(1) You may, if you wish, give evidence yourself on oath as to the facts or your character or both, in which case you will be subject to cross-examination.(2) You may, however, make a statement without being sworn, and you will not be subject to cross-examination.(3) But a statement which could have been made on oath will not carry with the Court the same weight as sworn testimony.(4) You may call witnesses in your defence and as to character, whether you give evidence or make a statement or do neither.

President to accused: Do you wish to give evidence yourself as a witness, make a statement, or do neither? Ans ..... Do you intend to call witnesses on your behalf? Ans ..... Are they witnesses as to character only? Ans .....
(*1. RP 155. 2. RP 40(A), see 80(D). 3. RP 40 fn 10. 4. RP 40 fns 2, 9.*)

D6. Consequent on the answers recorded in para D5 the appropriate procedure for the defence is followed.(1)
(*1. RP 114, 115, 116. For procedure see Notes on back of Convening Order, CF 885. Evidence for accused as to his character should, if in his interest, be given before the finding. See RP 46(A) fn 1, 86(C). Note the further opportunity in para E1 of Record Form E. Record per Notes addresses, statement, evidence and any summing up by the JA under RP 42, 103(e).*)

D7. The Court is closed to consider the finding(s).(1) The finding(s) of the Court is (are) recorded in Part I of the Schedule.(2) The Court is re-opened.
(*1. RP 42, 117(A). See Notes in Part I of Schedule. 2. RP 94(A).*)

D8. The President announces the finding(s), if any, of Not Guilty, and states to the accused that the finding(s) of the Court on the ..... charge(s), being subject to confirmation, will be promulgated later.(1)
Or, The President announces that the accused is found Not Guilty on all charges and is to be released forthwith, and that the proceedings are accordingly terminated. Part II of the Schedule is dated and signed.(2)
(*1. AA 54(3) (6), RP 45, 120(A). 2. AA 54(3), RP 45, 117. This alternative announcement is not applicable when there are pleas of Guilty outstanding and dealt with under Record Form B or C.*)

D9. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E below.

RECORD FORM E—PROCEEDINGS ON CONVICTION BEFORE SENTENCE.

E1. President to accused: Do you wish to give evidence yourself or to call any witnesses as to your character?(1)
Ans .....
(*1. If evidence has already been given by accused or his witnesses as to his character, delete this para. RP 37(C) fn 4, 46 fn 1. Accused and witnesses are sworn. Evidence recorded per Notes.*)

E2. The Prosecutor produces Statement(s) as to Character and Particulars of Service(1), and certified true copy (copies) of Conduct Sheet(s)(2), purporting to refer to the accused, which he submits to the Defending Offr for examination, and then to the Court for admission in evidence. The Court is satisfied that these documents refer to the accused, because (i) they purport to be signed in the manner required by AA 163(3) (*g*) (*h*), and (ii) they purport to refer to (a) soldier(s) having the same number, rank, name and corps as the accused. Admitted in evidence and marked Ex ..... and Ex ..... respectively.(3)
(*1. MFB 235 or AFB 296. 2. MFM 8. 3. RP 46, KR Can 558. If above documents not produced, see RP 46 fn 1 para 1.*)

E3. President to accused: Do you wish to address the Court on the Statement(s) and Conduct Sheet(s), and in mitigation of punishment?(1) Ans .....(2)
(*1. RP 37(C), 46(D). 2. Address, if any, recorded per Notes. Court should permit accused or his witnesses to prove on oath anything here or previously stated which would affect the amount of punishment. RP 37(F) fn 7.*)

E4. The President states that the Court is closed to consider the sentence, and that the sentence to be awarded by the Court, being subject to confirmation, will not be announced, but will be promulgated later, and the proceedings in open court are accordingly terminated.(1)
(*1. AA 54(3), RP 120(A).*)

E5. The Court considers the sentence.(1) The President records the sentence in Part I of the Schedule, which is dated and signed by him and the JA, if any.(2)
(*1. Where several accused tried separately see RP 7(D). One sentence only, comprised of the punishment or punishments laid down in AA 41, 44 and its proviso, is to be awarded to cover all charges in all charge sheets on which accused found guilty. RP 48. As to sentences see AA 44, 138, 182, RP 46-50, 69, 118, 119(A), KR Can 308, 336, 563-566, Overseas RO 309, 2423, MML p 60, 737-739. As to sentences assigned for civil offences by the law of England see AA 44(3), MML p 130. When accused already under sentence of imprisonment or detention see AA 44(16), 68(7), KR Can 564. 2. RP 50. As to release from arrest by Confirming Offr see KR Can 567. As to assembly and dispersal of accused after trial see instrs on back of Convening Order.*)

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

SCHEDULE.

PART I. PLEA(S), FINDING(S) AND SENTENCE.

Accused: C. 19566 Corporal William Charles Gregory 6th Mob Lady x Bath Det RCOC

Charge. (Insert "alternative" where applicable.)	Plea. (See Instrs p 2.)	Finding. (See note below.)	(Space for use as required for further charges, accused charged jointly, special findings, etc.)
1st Charge.	Not Guilty	Not Guilty	
2nd Charge	Not Guilty	Not Guilty	[illegible]
3rd			
4th			
5th			
6th			

(Note: As to findings for lesser offences see AA 56, RP 44; findings on alternative charges see MML p 483 fn 4 para 2, RP 44; special findings see RP 44 and MML p 753, and in lieu of kit see RP 44 fn 6.)

At present under sentence for ..... beginning on (date) ..... (1)

(1. Insert sentence being served, or delete, if not applicable. See FP 46(A). Information should be found on MF B355 or AF B296.)

Time in confinement awaiting present trial—a total of ..... days, of which ..... days were spent in hospital.(1)

(1. See RP 46(A) fn 2. Information should be found on MF B355 or AF B296 admitted in evidence under E2.)

Sentence Awarded by the Court:

(Sgd) ..... 8 Dec 43 (Sgd) A.H. Weaver Lieut

Judge-Advocate, if any. Date awarded. President. (RP 45, 50.)

(See back of Convening Order as to assembly and disposal of record after trial.)

PART II. MINUTE WHERE CONFIRMATION RESERVED. (AA 54(5), RP 120(F), MML p 760.)

Date ..... (Sgd) ..... Commanding .....

PART III. DECISION OF CONFIRMING OFFR ON FINDING(S) AND SENTENCE.

(For duties and powers see AA 54, 57, RP 37(D) fn 6.46(A), 51-56, 120, MML pp 759-761, KR Can 567-577. Acquittals require no confirmation and cannot be revised: AA 54(3). Sending back finding or sentence for revision by Court: AA 54(2), RP 120(G). If not confirmed, accused may be tried again: AA 157, MML p 64. Minute of confirmation or non-confirmation may be altered before promulgation: RP 53, MML p 65. Quashing after promulgation: KR Can 573. Duties and powers of reviewing offrs: AA 57, 57A, RP 53A, 54. The Confirming Offr must sign here personally. AA 172 fn 1.)

My decision on the finding(s) and sentence set forth in Part I is:

I direct that the accused be not committed to prison or detention barracks until further orders.(1)

(1. AA 57A. Delete if not used.)

(Sgd) .....

Date .....

Commanding .....

Confirming Officer.

PART IV. PROMULGATED AND EXTRACTS TAKEN. (RP 53, KR Can 576, 577.)

Accused. Date. Signature of Offr.

ALL DELETIONS AND ALTERATIONS WILL BE INITIALLED.

CHARGE SHEET

The accused, C105668 Corporal Gregory, William Charles, of No. 5 Canadian Mobile Laundry & Bath Unit, R.C.O.C., a soldier of the Canadian Army, Centural Mediterranean Force, is charged with

FIRST CHARGE

6 (2)(f)

Army Act

When on active service

Without orders from his superior officer leaving his guard

in that he

in the field on 9 Nov 43, being on N.C.O. acting as guard commander left the unit lines from 1715 hrs until reporting to the Orderly Sergeant at 1600 hrs, without permission or without being properly relieved.

SECOND CHARGE

40

Army Act

When on active service

Conduct to the prejudice of good order and military discipline

in that he

in the field on 9 Nov 43, being on N.C.O. and whilst confined to barracks did consume alcoholic beverages.

W.M. Gordon a/Capt

(W.M. Gordon Capt., RCOC,
Officer Commanding,
No.5 Cdn Mob Ldy & Bath Unit, RCOC.

To be tried by Field General Court-Martial

H.M. Brownfield

(H.C.M.Brownfield) Brigadier
C.C.R.A. 1 Cdn Corps

In the Field,
2 DEC 43

FIELD GENERAL COURT-MARTIAL

CFA95 (In lieu of AFA5)
50/FAS/1697 (2068)

(Whether the accused to be tried is under his comd or not, a FGCM may on application to him be convened by any offr of Cdn Army Overseas, or of any other force if outhorized in law, in immediate comd of troops on active service, subject to RP 105(C) and restrictions imposed by appropriate outhy. AA 49, 50, RP 104-107, 114. As to the duties and privileges of the Convening Offr in dealing with the application see MML Chap V paras 20 and 23. RP 87(B).

There should be a separate Convening Order for each person to be tried separately by the same Court. RP 71(C), 109. As to separate charge sheets see RP 62, and as to separate trial on charges in the same charge sheet see RP 108. As to two or more accused charged jointly see RP 16, 109. As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns. KR Can 308, 329, 330.)

ACCUSED.

Number.	(a) Prmnt R.	(b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
C-15566	Corporal		William Charles	GREGORY,	5 Cdn Mob Ldy & Bath Unit R.C.O.C.

CONVENING ORDER.

1. Whereas complaint has been made to me, the undersigned, that the person(s) named above as the accused, being subject to military law, has ~~almost~~ committed the offence(s) set forth in the Charge Sheet(s) attached and on 2 DEC 43 (date) endorsed by me, ~~for by an offr of my staff for same~~," To be tried by Field General Court-Martial ". N/A

2. And whereas I am of opinion that it is not practicable that such offence(s) should be tried by an ordinary General Court-Martial ; ~~and that it is not practicable to delay the trial for reference to a superior qualified offr.~~ N/A
(Delete part in brackets when not required for compliance with RP 105(C).)

3. I hereby convene a Field General Court-Martial to try the said person(s), and to consist of the Offrs appointed or detailed hereunder.

4. ~~I am unable to appoint (a) three Offrs to form the Court, (b) a Fd Offr as President, for the reasons I have attached hereto.~~ N/A
(AA 49, RP 106(B), 107(A). Delete the whole or part, if not applicable.)

5. ~~I also appoint as Judge-Advocate thereat the Offr mentioned hereunder.~~ N/A
(RP 106(E). Delete, if none appointed.)

PRESIDENT.

(Rank.)		(Must be named. RP 106.)	(Unit.)
Major	A.L. McInnes		7 Cdn A/Tk Regt. R.C.A.

MEMBERS.

A Captain to be detailed by C.C. 14 Cdn Fd Coy, R.C.E.

(Rank.)	(Named or detailed. RP 106.)	(Unit.)
A Lieutenant to be detailed	by HQ 81 Cdn Arty Coy, RCASC.	

WAITING MEMBER.

(Rank.)	(Named or detailed, if any. RP 106.)	(Unit.)
A Lieutenant to be detailed	by C.C. 1 Cdn LAA Regt, RCA.	

JUDGE-ADVOCATE.

(Rank.)	(Must be named, if any. RP 106.)	(Unit.)

On Active Service in the Fd

in Sicily
(Country.)

Date 2 DEC 43

H.W. Brownfield (Signed personally. RP 105 fn 2.) Brigadier (Rank.)

Commanding C.C.R.A. 1 Cdn Corps
Convening Officer.

CONVENING OFFR WILL INITIAL ALL DELETIONS AND ALTERATIONS

(See overleaf for oaths and notes for use on trial.)

G.L.L.

MEDICAL OFFICERS CERTIFICATE.

I certify that No. C-15566 Cpl. Gregory, W.O., No. 5 Cdn Mob Ldy & Bath Unit, RCOC is Fit. to undergo trial by Court-Martial.

Insert "fit" or "unfit"

Date: 05 20 8 Dec 43
Time:

W.A. Blair Courtenay Capt
Signature of Medical Officer.

CFA95 (In lieu of AFAB)
40/P&S/1407 (20648)

FIELD GENERAL COURT-MARTIAL

(Whether the accused to be tried is under his comd or not, a FGCM may on application to him be convened by any offr of Cdn Army Overseas, or of any other force if authorized in law, in immediate comd of troops on active service, subject to RP 105(C) and restrictions imposed by appropriate authy, AA 49, 50, RP 104-107, 114. As to the duties and privileges of the Convening Offr in dealing with the application see MML Chap V paras 20 and 23, RP 87(B).

There should be a separate Convening Order for each person to be tried separately by the same Court. RP 71(C), 109. As to separate charge sheets see RP 62, and as to separate trial on charges in the same charge sheet see RP 108. As to two or more accused charged jointly see RP 16, 109. As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt., if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

ACCUSED.

Number.	(a) Prmnt R. (b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
C-15566	Corporal	William Charles	GREGORY,	5 Cdn Mob Ldy & Bath Unit R.C.O.C.

CONVENING ORDER.

1. Whereas complaint has been made to me, the undersigned, that the person(s) named above as the accused, being subject to military law, has ~~(have)~~ committed the offense(s) set forth in the Charge Sheet(s) attached and on (date) 2 DEC 43 endorsed by me, ~~(or by an offr of my staff for me)~~," To be tried by Field General Court-Martial ".

2. And whereas I am of opinion that it is not practicable that such offence(s) should be tried by an ordinary General Court-Martial; ~~(and that it is not practicable to delay the trial for reference to a superior qualified offr.)~~

(Delete part in brackets when not required for compliance with RP 105(C).)

3. I hereby convene a Field General Court-Martial to try the said person(s), and to consist of the Offrs appointed or detailed hereunder.

4. ~~I am unable to appoint (a) three Offrs to form the Court, (b) a Fd Offr as President, for the reasons I have attached hereto.~~

(AA 49, RP 106(B), 107(A). Delete the whole or part, if not applicable.)

5. ~~I also appoint an Judge Advocate thereat the Offr mentioned hereunder.~~

(RP 106(E). Delete, if none appointed.)

PRESIDENT.

(Rank.)	(Must be named. RP 106.)	(Unit.)
Major	A.L. McInnes	7 Cdn A/Tk Regt, R.C.A.

MEMBERS.

A Captain to be detailed by C.C. 14 Cdn Fd Coy, R.C.E.

A Lieutenant to be detailed by HQ 81 Cdn Arty Coy, RCASC.

(Rank.) (Named or detailed. RP 106.) (Unit.)

WAITING MEMBER.

A Lieutenant to be detailed by C.C. 1 Cdn LAA Regt, RCA.

(Rank.) (Named or detailed, if any. RP 106.) (Unit.)

JUDGE ADVOCATE.

(Rank.) (Must be named, if any. RP 106.) (Unit.)

On Active Service in the Fd

in Sicily (Country.)

Date 2 DEC 43

H. Mrs Brownfield Brigadier
(Signed personally. RP 105 fn 2.) (Rank.)

Commanding C.C.R.A. 1 Cdn Corps
Convening Officer.

CONVENING OFFR WILL INITIAL ALL DELETIONS AND ALTERATIONS

(See overleaf for oaths and notes for case on trial.)

OATHS FOR USE IN COURTS-MARTIAL.

1. PRESIDENT AND MEMBERS. *(AA 52, KR Can 562, RP 26, 29, 111.)*
I swear by Almighty God that I will well and truly try the accused (or accused persons) before the Court according to the evidence, and that I will duly administer justice according to the laws in force for the Government of the Militia of Canada, without partiality, favour or affection, and I do further swear that, except so far as may be permitted by instructions of the Minister for the purpose of communicating the sentence to the accused, I will not divulge the sentence of the Court until it is duly confirmed, and I do further swear that I will not on any account at any time whatsoever disclose or discover the vote or opinion of any particular member of this court-martial unless thereunto required in due course of law.

2. JUDGE-ADVOCATE. *(AA 52, MML 762, RP 27, 111.)*
I swear by Almighty God that I will not, unless it is necessary for the due discharge of my official duties, divulge the sentence of this court-martial until it is duly confirmed; and that I will not on any account, at any time whatsoever, disclose or discover the vote or opinion of any particular member of this court-martial, unless thereunto required in due course of law.

3. OFFR UNDER INSTRUCTION. *(AA 52, MML 762, RP 27, 111.)*
I swear by Almighty God that I will not divulge the sentence of this court-martial until it is duly confirmed; and that I will not on any account, at any time whatsoever, disclose or discover the vote or opinion of any particular member of this court-martial unless thereunto required in due course of law.

4. SHORTHAND WRITER. *(AA 52, MML 762, RP 27, 111.)*
I swear by Almighty God that I will truly take down to the best of my power the evidence to be given before this court-martial and such other matters as may be required, and will, when required, deliver to the court a true transcript of the same.

5. INTERPRETER. *(AA 52, MML 762, RP 27, 111.)*
I swear by Almighty God that I will to the best of my ability truly interpret and translate, as I shall be required to do, touching the matter before this court-martial.

6. WITNESS. *(AA 52, MML 763, RP 82, 111.)*
I swear by Almighty God that the evidence which I shall give before this court shall be the truth, the whole truth, and nothing but the truth.

POUR LES TEMOINS. *(RO (Can) 2693.)*
Je jure, par Dieu Tout-Puissant, que le témoignage que je rendrai devant cette Cour sera la vérité, toute la vérité, et rien que la vérité.

7. As to other forms for swearing see AA 52(4), RP 28, 30, 82, 111, MML p 763.

NOTES ON RECORDING PROCEEDINGS AND ON DEFENCE PROCEDURE.

(Referred to throughout CF A 96 as "Notes".)

1. RECORDING PROCEEDINGS: When no shorthand writer is employed the addresses of Prosecutor and Defending Offr (*RP* 85(C)), any objections (*RP* 95(B)), and any statements by accused, may be summarized and, the evidence, subject to RP 95(A) and 114(B), may be recorded in narrative form as follows:
First Witness for Prosecution.
A 12345 Cpl H. Jones, RWR, sworn, states:
I am a cpl of the pl to which Pte Smith belongs. The accd in Court is Pte Smith. About 1400 hrs on 15 Jan 43 I ordered the accd to go on parade. He refused and did not go on parade.
Cross-exam: He did not say he was sick. (or, None.)
Re-exam: None.
Exam by Court: He said—"I've had enough parades".
RP 85(B) complied with.

2. When a shorthand writer is employed, addresses, statements, evidence and objections need not, subject to RP 95(A), be taken by him verbatim. (*RP* 95 *fn* 1.) If the evidence is taken by him in narrative form, RP 85(B) should be complied with. If taken verbatim, RP 85(C) will be complied with.

3. The record of addresses, statements and evidence will be given a marginal number which corresponds with the number of the para in CF A 96, under which it is taken. Both sides of paper should be used.

4. DEFENCE PROCEDURE: RP 116 provides that for procedure on defence RP 40-42 will apply so far as practicable, having due regard to the public service. (*RP* 122.) If the Court consider such compliance not practicable, the following order of procedure (whether all items are used or not) is suggested as being fair to the accused:
(i) Opening address by Defending Offr. (*RP* 80(C), 87(C), 92(C) (D).)
(ii) At option of accused, statement by accused (*not sworn or subject to cross-exam by Prosecutor, Court or JA* (*RP* 40 *fn* 1)), or evidence by accused, as to facts or his character or both. (*See RP* 43 *fn* 3, 46 *fn* 1, 80.)
(iii) Evidence of witnesses for accused as to facts or his character or both. (*See RP* 46 *fn* 1.)
(iv) Evidence for prosecution in rebuttal or on new matter, if allowed by Court (*RP* 86(F)), or to prove previous convictions where accused has called witnesses as to character. (*RP* 86(C).)
(v) Closing address (*on matters other than in mitigation of punishment*) by Defending Offr or accused. (*See RP* 40 *fns* 8-12, 87(C), 92(C) (D).) But Defending Offr or accused will make his address after the Prosecutor, if there has been no statement by accused or any evidence given as to facts, or if accused alone has given evidence on oath as to facts, whether any evidence as to his character has been given or not. (*When accused charged jointly see RP* 63.)
(vi) Closing address by Prosecutor. (*See RP* 40 *fn* 7, 87(C), 92(C) (D). *Prosecutor has no right to address Court on subject of sentence except as provided by RP* 46(E), *KR Can* 563(a).)
(vii) Summing up by JA, if any. (*RP* 42.)

ASSEMBLY AND DISPOSAL OF RECORD AFTER TRIAL.

1. All deletions and alterations in printed and written record MUST BE INITIALLED by President or JA, if any. RECORD FORMS B, C OR D NOT USED MUST BE DELETED BY A DIAGONAL LINE AND INITIALLED.

2. All loose sheets of record and exhibits comprising the proceedings of the trial MUST BE INITIALLED by President or JA, if any, and then pinned by top left corner to p 3 of CF A 96 in following order:
(i) Charge Sheet. (*On top.*)
(ii) Convening Order with any declarations made by Convening Offr under RP 104, 106, 107, 114.
(iii) Medical Certificate(s). (*KR Can* 557.)
(iv) Addresses, statements and evidence in order taken during trial, pages being numbered and on both sides when both sides used.
(v) Exhibits numbered Ex A, Ex B, etc. (*As to admitting in evidence a certified copy in lieu of original see KR Can* 560. *As to certified copies of regimental books see AA* 163 (1) (g) (h).)
(vi) Summary of Evidence, if not already an exhibit.

3. Any report or remarks by President or Court for attention of Confirming Offr will be attached to p 4 of CF A 96 and not form part of record of proceedings. (*RP* 95(D).) A recommendation for mercy will be inserted in Part I of Schedule on p 4 after minute of sentence awarded. (*AA* 53(9), *RP* 118(C), *MML p* 738.)

4. The President or JA, if any, will return proceedings promptly with covering letter and in an envelope marked "Confidential", or as otherwise directed.

Cpl. Gregory - W.C.

Adv

re first Charge

First Witness for the Prosecution, having been duly sworn states

I am. A/SQMS Colling Judge J.P. 5th Mob Lady Hosp & Bath Unit RCOC

Q1. Will you make your statement as to what you saw and the reason for Cpl Gregory being placed under Arrest

A1 On the evening of Nov 9 at approx 1710 hrs I had an occasion to have a man placed under Close Arrest. I instructed the Orderly Sgt. to get the Guard Cmdr and an escort The Orderly Sgt reported to me that Guard Cmdr Cpl. Gregory, whom I now recognize, was not in the unit lines. I then instructed the O/Sgt to page Cpl Gregory throughout the unit lines. He then was still missing after a period of twenty minutes of paging I then instructed the O/Sgt to replace Cpl Gregory as Gd. Cmdr and replace by Cpl. Booker and instructed O/Sgt to place Cpl. Gregory under open Arrest on his return.

Q1. Cpl Gregory was duly warned as Gd. Cmdr on parade

A1. Yes - at 1330 hrs Nov 9.

Q2 At what time was his duty to Commence

A2 The gd. mounted at 1500 hrs that day

Q3 The regular hours of guard mounting and the period of duty are from 1800 hrs one day until 1800 hrs the next day

A3. That is right

Q4. What was the reason for the ab charge

A4 On that day the Old Guard had arrived in the new quarters the day previous I found it necessary to due to the length of time that the guard had been on duty and having moved to the unit lines the previous day it was necessary to relieve them for rest at the first opportunity

Q5. Was the Unit C B'd at the time

A5. Yes.

Q6 They were C B'd to enable the troops to Clean up Barracks

A6 That is correct

Cpl Gregory - 1st Wiltons Prov. Coy.

Cross Exam

Q1. Are you absolutely certain that a search was made for Cpl Gregory that night
A1 Yes

Q2 Can you explain to the Court the beats of the various piquets around the billets
A2 Yes - #1 beat extended the full extent of the unit lines approx 500yds beat 2 extended down roadway to the rear of unit lines about 800'.

Q3. You have stated that there were only two beats that night
A3 Yes

Q4 Are you positive that there was no piquet on the alleyway
A4 I am positive

Q5

Re-Exam

Q1 Was the reason that there was no beat on the other side because of a high wall
A1 That is right
Q2. Could Cpl Gregory have heard you anywhere in the lines if you shouted for him
A2 Yes

Question by Court - What were the orders given to the Guard Under at 1800hrs on the day in question
A. I was not present and the Of Sgt mounted the guard

Prosecution - In connection with the Second Charge against Cpl. Gregory - I would like to have the Charge withdrawn because the evidence against him is in the nature of a Confession without proper Warning having been given.

There being no evidence against the accused on the second charge the Court finds the Accused Not Guilty

Dbl'r

Second Witness - Joint Charge. Having been duly warned states I am D 122 679 Sgt. Broadbent O J 8th Can Inf Bde Unit RCOC.

Q1 Will you give Date 9 Nov 43 at approx 1715 hrs I was instructed by the SM have have the Cpl of the Gd take two men and place a soldier under close Arrest.

Q.1 Were you on duty

A.1 I was on duty as Orderly Sgt. that day

I went through the lines looking all over for Cpl Gregory who was detailed by me at the 1330 parade to be Guard Cpl posted from 1500 hrs 9 Nov 43 until 1800 hrs the following day Cpl Gregory could not be located I informed SQMS Bellingridge of the fact and he instructed me to replace Cpl Gregory by another NCO as Guard Cmdr and to place Cpl Gregory under open arrest when located. Cpl Gregory reported to me at approx 1800 hrs I then placed him under open arrest

Q2 When you were looking for Cpl Gregory did you shout for him, could he have heard you

A2 I went through all the lines and buildings shouting and looking for Cpl Gregory

Q3. Were the men Confined to Barracks for purpose of obtaining rum bibbi

A3 All ranks were C/Bd to bibbi at the morning parade

Q4 Can you identify Cpl Gregory

A4 Yes there he is.

Cross Exam

Q1 How many picquets were out that night

A1 Two or seven

Q2 There no picquets between the stone house on the hill and the lava slag.

A2 No picquet were detailed for that

Q3 There for the back of the house was undefended

A3 Yes

Record Witness Cross Cont. (9)

Re Edam

Cross Ex. Q1. Is there not a high wall at the back of the house to make it impossible for any one to get in without attracting attention

A1. Yes

Q2. There is also a high wall along one side of bldg

A2. Yes

Q3. Is that the reason that there were only two beats

A3. Yes. We decided put the picquet on outside the wall two days later on the left hand side facing the front.

Q. by Court

Q1. Who mounted the Picquet at 1500 hrs

A1. Cpl Gregory

Q2. Do you know if any instructions given to the guard Cmdr.

A2. There were no specific instructions given at that time as we had only arrived at 4 o'clock that morning Cpl Gregory was supposed to carry on his regular duties as guard Cmdr.

Q3. Was he told the number of beats.

A3. Yes. He was given the names of 6 men for guard duty on the parade at 1330 hrs.

Q4. Was he told the extent of the beat

A4. Yes. I told him to have two guards patrol the front of the bldg

Q5. Where was the 6 man guard quartered during the time of duty

A5. They were in their own billet - there was no regular guard room

(5)

Obl

First Witness for defence having been duly sworn states
I am. G. 74075 - Pte. Bawn R.P. 5 Cdn Inf. Bde & Batt
Unit RCASC.

Q1 Will you state in your own words what happened on the night 9 Nov. at 1970 hrs

A1. I came out of my billets looking for a friend Pte Barnett and saw Cpl Gregory about 8 ft up from the gate - which is from the corner of the billets about 26' - and I asked Cpl Gregory if he had seen Pte Barnet - he said no he hadn't. That is all.

Q2. Did you hear anyone calling for the Orderly Cpl or Cpl Gregory prior to this time

A2 No I did not.

Q3. Cpl Gregory was inside the barracks area

A3. Yes.

Cross Exam Q1. The gate you speak of is the entrance gate to the billets

A1. Yes

Q2 The entrance through gate is a side door

A2 Yes

Q3. The barracks are right on the street beside the gate.

A3. Yes.

Q4. And you saw Cpl Gregory inside the door

A4 Yes

Q. by Court. Was Cpl Gregory standing by the gate.

A. He was about 8' inside the gate. standing

5

Second witness Def. having been duly sworn states
I am. D96758 Pte. Ryall - N.B.H. S'Cdn Inde Hdqrs &
Bath unit RCOC.

Q.1. Will you state what happened night Nov. 9. 43
A1. I was stationed on guard at the front entrance
to the billets by Cpl Gregory at 1700 hrs - at about 1710 hrs
Sgt. Broadbent was calling for Cpl. Gregory - about 15 min
after 5 Cpl Brooker said to me that he was a new
Gd Under - about twenty mins after 5 Sgt. Broadbent
asked me if I had seen Cpl Gregory I said no not since
we changed the Guard. About 5-30 or 5 to 6 Cpl.
Gregory passed me at the front entrance and
asked me how everything was - I said all right
Q2 How many men were on guard that night
A2. Five men on a shift - fifteen men altogether
Q3. You were on the original guard mount at 1700 hrs
A2. No Yes - and I was posted as sentry at 1700 hrs
Q4. Do you remember where the various guard beats
were
A4 Yes - one at side gate, one at front entrance
one at passage way leading to rear of billets and one
patrolling the passage and one at the back on the hill
Q5. Who gave you your orders as to Gd. duties
A4 Cpl Gregory

Cross Exam
Q1. You heard shouting for Cpl Gregory
A1 Yes
Q2 and he also asked you if Cpl Gregory was around
A2 Yes at twenty to past five
Q3. You Could hear Sgt Broadbent calling for Cpl Gregory
A3 Yes.
Q4 Where were you standing on picquet
A4 At the front door about 30' from the gate
Q5. Cpl Gregory walked past you
A5. Yes on the side walk alongside the billets

Q6. Were you warned on the morning of Parade that the Unit was C. Bd

A6. I am member

~~Q7~~

~~Q — whom is the witness with of Cpl Gregory present you~~

~~A.~~

Third Witness Defence - Having been duly warned states I am 6586x8 - Pte Waskowich - P. 5 Can Inf. Bde & Batt Unit RCASC.

Q1. Will you explain what happened the night 9th Nov.

A1 In the back of me billet I went to relieve myself I heard a voice hollering and I asked who was hollering Sgt Broadbent hollered Cpl Gregory It was about 7 30 as when I finished I was walking back and was right by the main entrance to the billet and I noticed Cpl Gregory I said Cpl Gregory Sgt Broadbent is looking for you - He said OK and he went to the front of the bldg -

Q2. Did you see Cpl Gregory before you went to the toilet

A2 Yes - ~~the same~~ I seen him about 5 30 and again Broabent a quarter to 6 when I told him the Sgt was looking for him

Cross Exam Q1 You went to the toilet about 5 30

A1 Yes

Q2 You seen Cpl Gregory at 5 30 A Yes.

Q3 Just where did you see him A. In the yard

Q4 And you saw him again at quarter to 6

A4 He was right by the door in front of the bldg

Q5. When you were at the back you could hear Sgt Broadbent shouting.

A5 Yes.

Q6 You could hear him quite plainly

A6. Not the first time - I says whom hollering and the Sgt said I am looking for Cpl Gregory

Q7. You said you met Cpl Gregory at the back of the huts when you were going to the toilet A. Yes

Q8. Do you think that anyone with this train could have heard Sgt. Broadbent calling?

A.8 The second time he called - yes

Q9. At quarter to 6 you met Cpl. Gregory at the front of the billet

A. At the back of the billet - both times

6. by Court Where was Sgt. Broadbent when you heard him calling for Cpl Gregory

A. At the front entrance of the billet

Q And the toilet you went to was at the back of the billet A - Yes.

Q And you heard Sgt. Broadbent when he called from the front of billet - when you were back of the billet

A. Yes. - I could make out what he said the 2nd time he hollered

Address to the Court By Defense.

The defence has shown against the prosecution that the accused was not absent from the Unit Lines as charged. As Commander of the guard he had no especial post to stand upon & his beat covered all the grounds covered by his various guards. It was among his duties to visit all the guards at various times during their hour of duty. In order to visit some of these posts the accused would have to pass ~~exactly~~ along the sidewalk in order to inspect his sentries. The defense has proven that there were five men on each shift that night instead of only two as quoted by the prosecution The prosecution has admitted that full control of the guards was left in the hands of the Guard Commander. It is regrettable we will admit that the accused was not at the front of the building when he was called for but no man can be in two places at the same time. We have proven that the evidence given by the prosecution was inaccurate, they do not appear to know howmany men where on guard that night. They have also hidden the fact that the Orderly Sgt was told where the Cpl was, which is against Sect. 60 A of the Rules of Procedure. I quote - " It is the duty of the prosecutor to assist the court in the administration of ~~the justice~~, to behave impartially, to bring the whole of the transaction before the court & not take any unfair advantage of or supress any evidence in favor of the accused." In fact they have tried to conceal the fact it was rather noisy & the area covered by said guards was of a large area.

It is certainly a very flimsy charge that the accused has been brought up on. In over four years of service he has only one entry on his M.F.M 6. & according to the records has been a good N.C.O.

The defense rests.

SUMMARY OF EVIDENCE

in the case of

C15566 Cpl Gregory, W.C.

The Officer Commanding No. 5 Cdn Mob Ldy & Bath Unit, RCOC had directed that the evidence be given under oath.

FIRST WITNESS — E91107 A/SQMS Collingridge, of No. 5 Cdn Mob Ldy & Bath Unit, having been duly sworn states:-

I am the S.Q.M.S. of No. 5 Cdn Mob Ldy & Bath Unit. On 9 Nov 43 at approximately 1710 hrs I had occasion to place a man under close arrest. I instructed the Orderly Sergeant to have the Guard Commander, with two sentries for escort put the man under arrest. Cpl Gregory who was on duty as Guard Commander could not be found. I then gave the Orderly Sergeant orders to replace the Guard Commander and to place Cpl Gregory under open arrest when found. Cpl Gregory was placed under open arrest at approximately 1800 hrs 9 Nov 43.

QUESTION BY PRESIDING OFFICER: Do you wish to cross-examine the witness?

ANSWER BY ACCUSED: No, sir.

J.P. Collingridge
E91107 A/SQMS Collingridge, J.P.

W.C. Gregory Cpl
C15566 Cpl Gregory, W.C.

SECOND WITNESS — D122679 Sgt Broadbent, O.J., of No. 5 Cdn Mob Ldy & Bath Unit, RCOC, having been duly sworn states:-

I am a Laundry Sgt in No. 5 Cdn Mob Ldy & Bath Unit, RCOC. On 9 Nov 43 at 1715 hrs while on duty as Unit Orderly Sergeant I was instructed by S.Q.M.S. Collingridge to detail the Corporal of the guard to take two of his men and place a soldier under close arrest. Cpl Gregory, who was Cpl of the guard could not be located in the unit lines and had to be replaced by another N.C.O. Cpl Gregory reported at 1800hrs. I then placed him under open arrest as previously instructed by S.Q.M.S. Collingridge

QUESTION BY PRESIDING OFFICER: Do you wish to cross-examine the witness?

ANSWER BY ACCUSED: NO, sir.

O.J. Broadbent

D122679 Sgt Broadbent, O.J.

W.C. Gregory Cpl

C13566 Cpl Gregory, W.C.

THIRD WITNESS

D122679 Sgt Broadbent, O.J. of No.5 Cdn Mob Ldy & Bath Unit, RCOC, having been duly sworn states:-

I am a laundry Sgt in No.5 Cdn Mob Ldy & Bath Unit, RCOC. On 10 Nov 43 at approximately 1600 hrs while witness on the charge against Cpl Gregory, I heard Cpl Gregory state that he had been drinking and was sick. Mr. Gonder cautioned him by asking him if he realized what he was saying. Cpl Gregory replied that he did. Mr Gonder then asked Cpl Gregory did he realize that he was saying in front of witnesses that he had been drinking while on duty. Cpl Gregory said "Yes, sir". Mr Gonder then remanded the case for Court Martial.

QUESTION BY PRESIDING OFFICER

Do you wish to cross-examine the witness?

ANSWER BY ACCUSED

Yes, sir. Did I not say that I just had a mouthful of wine in my cup and that I wasn't on duty at the time?

ANSWER BY WITNESS

No, you didn't. You said that you had been drinking and were feeling sick.

O.J. Broadbent

D122679 Sgt Broadbent, O.J.

W.C. Gregory Cpl

C13566 Cpl Gregory, W.C.

FOURTH WITNESS

B114189 Cpl Hardy, J.W. of No. 5 Cdn Mob Ldy & Bath Unit, RCOC, having been duly sworn states:-

I am a Bath Corprpal in No.5 Cdn Mob Ldy & Bath Unit RCOC. On 10 Nov 43 I acted as escort to Cpl Gregory who was up for office. When the O.C. asked him why he had failed to be on duty as guard commander the day before he replied "I had been drinking and was sick". The O.C. said "Do you realize what you are saying". Cpl Gregory said "Yes sir". The O.C. then said "Do you mean to say that you are telling me in front of these witnesses that you had been drinking?" Cpl Gregory said "Yes sir". The case was then remanded for Court Martial.

QUESTION BY PRESIDING OFFICER: Do you wish to cross-examine the witness?

ANSWER BY ACCUSED: Yes, sir. Did I not say I had a mouthful in my mug in this building?

ANSWER BY WITNESS: No, you didn't.

J. W. Hardy Cpl.

B114189 Cpl Hardy, J.W.

W.C. Gregory Cpl

C13566 Cpl Hardy, W.W.

FIFTH WITNESS

K45765 A/Cpl Fowler, L.N. of No.5 Cdn Mob Ldy & Bath Unit, RCOC, having been duly sworn states:-

I am a General Duty Corporal in No.5 Cdn Mob Ldy & Bath Unit, RCOC. On 10 Nov 43 I was escort to Cpl Gregory along with Cpl Hardy when he was up before the O.C. on a charge of being absent from duty as guard commander. Cpl Gregory was asked by the O.C. what he had to say and Cpl Gregory replied "I had been drinking wine and I was sick." Mr. Gonder then said "Do you realize that you are telling me in front of these witnesses that you were drinking while on duty?" Cpl Gregory said "Yes Sir". Mr Gonder then remanded the case for Court Martial.

QUESTION BY PRESIDING OFFICER

Do you wish to cross-examine the witness?

ANSWER BY ACCUSED

Yes, sir. Did you hear me say I had a mouthful of wine in my mug in the morning in this building?

ANSWER BY WITNESS:

No, I didn't.

L.N. Fowler Cpl.

K45765 A/Cpl Hardy, L.N.

W.C. Gregory Cpl

C15566 Cpl Gregory, W.C.

SIXTH WITNESS

B91107 A/SQMS Collingridge, J.P., of No.5 Cdn Mob Ldy & Bath Unit, RCOC having been duly sworn states:-

I am the S.Q.M.S. of No.5 Cdn Mob Ldy & Bath Unit, RCOC. On 10 Nov 43 I paraded Cpl Gregory before the O.C. on a charge of being absent from his post as guard commander without being properly relieved. The accused was asked by the O.C. if he had anything to say in regard to the charge that was laid against him. The accused stated "I had been drinking wine and I was sick." The O.C. said "Do you realize what you are saying?" Cpl Gregory replied "Yes sir". The O.C. said "Do you realize that you are saying in front of these witnesses that you had been drinking while on duty?" Cpl Gregory said "Yes sir". The O.C. then remanded the case for Court Martial.

Question by Presiding Officer: Do you wish to cross-examine the witness?

ANSWER BY ACCUSED: Yes, sir. Did you say I had been drinking wine?

ANSWER BY WITNESS: Yes.

QUESTION BY ACCUSED: Well, I just had a mouthful in the morning and it turned my stomach. The reason I was absent was because I was sick.

J.P. Collingridge S/SQMS

W.C Gregory Cpl

B91107 A/SQMS Collingridge, J.P.

C15566 Cpl Gregory, W.C.

I hereby certify that Rules of Procedure 4 (c)(d)(e) & (f) have been complied with. Taken down by me in the presence of the accused.

Signed in the field this 16th day of November, 1943

R.G. Howard Lt

(R.G. Howard) Lieut, R C O C

A Captain from 11th Cdn Fd Coy RCE not being available the waiting member was sworn in as a member of the Court

A. L. Hearn
Major

42-70

Kfn. Gregson & K

42-70

RECORDED AT CMHQ IN AS 168 R

CPA66 (In lieu of AFA3) 40/P & R/10668 (46/0) 4/38B

FIELD GENERAL COURT-MARTIAL

Convened by Order of Lt Col S.N. Lett T/ Cond 8 Cdn Inf Bde dated 31 Dec 44

ACCUSED.

(As to the trial of two or more charged jointly see RP 16, 71, 109. As to reasons for showing (a) permanent or confirmed rank, and (b) appmt. A/rank or A/appmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

Number.	(a) Prmnt R. (b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
B117929	Rfn	William Russell	Gregson	QOR of C

CERTIFIED TRUE COPY

D A/J

PROCEEDINGS OF TRIAL.

Held in the Fd in (country) Holland Cdn Sec G H Q 2 Echn 21 Army Gp on (date(s)) 3 Jan 45

RECORD FORM A—OPENING PROCEEDINGS AND ARRAIGNMENT.

A1. The President, Members, waiting Member, JA, if any, and Offrs under instr, if any, assemble, and the Court is closed.

(PRINTED MATTER, NOT IN ITALICS FOR GUIDANCE, WILL BE DELETED, IF NOT USED OR APPLICABLE, AND INITIALLED BY PRES OR JA. The Schedule referred to throughout is on p 4. Citations do NOT include all relevant fmn ROs. For guidance on procedure when a variation in this form arises, see form for GCM in MML pp 741 to 759. A brief record of such variation will be made and given a number having reference to appropriate or preceding para number herein. See back of Convening Order, CF A95, for quotns and instrs on how to record addresses, evidence, etc, which instrs are hereafter called "Notes". As to general provisions for conducting the trial see AA 53, RP 56, 63-70, 73, 74, 94, 103, 119, 132.)

A2. The President initials and lays before the Court the Convening Order and Charge Sheet(1) attached thereto.(2) The Court is satisfied that it is properly convened and constituted(2), accused is ~~were~~ amenable to military law, and each charge discloses an offence.(3)

(1. As to use of Summary of Evidence see RP 17 fn 6. 2. AA 49, 50, RP 105-107. 3. RP 11-13, 23, 24.)

A3. The Court is opened. The accused is ~~were~~ brought before the Court. At 1020 hours trial commences.

A4. The Prosecutor produces a Medical Certificate that accused is ~~are~~ fit to undergo trial by court-martial.(1) ~~The Prosecutor informs the Court that accused elected to be tried by court-martial instead of being dealt with summarily by the CO.(2)~~

(1. KR Can 557. 2. AA 46(8), RP 60 fn 1. For effect see KR Can 563(c). Delete, if not applicable.)

A5. President to accused: Do you object to N/A as interpreter ? Ans .....

The Interpreter is sworn.(1) Do you object to N/A as shorthand writer ? Ans .....

The shorthand writer is sworn.(1)

(1. RP 72. Delete, if none employed.)

A6. The Convening Order and names of the President and Members of the Court are read to the accused.(1)

President to accused: Do you object to be tried by me as President or by any of the Members of the Court ?

Ans NO (2)

(1. RP 110. 2. If no objection, waiting member retires. RP 68(8). If objection, see procedure AA 51, RP 25, 71, 18, note, p 742.)

A7. The President, Members, JA, if any, and Offrs under instr, if any, are sworn.(1) The following are the ranks, names and units of the offrs comprising the Court, etc:

President	Major	J.A. Ross	8 Cdn Inf Bde
Member	Capt	E.G.W. Bean	QOR of C
Member	Capt	A.C. MacCallum	8 Cdn Inf Bde
Judge-Advocate			
Prosecutor	Capt	P.C. Ree	QOR of C
Defending Offr	Lieut	C.W. Fullerton	QOR of C

Questions by President: Is the Prosecutor a lawyer ? Ans NO Is the Defending Offr a lawyer ? Ans Yes (2)

(1. RP 26, 27, 109, 111. List of offrs under instr will be returned separately with proceedings for information of Conv Offr.)
(2. If Pros a lawyer and Def Offr not, accused is entitled to an adjournment when RP 89 (8) and fn 2 were not followed. See D/ p 2.)

A8. The accused B117929 Rfn William Russell Gregson before arraignment make(s) (no) (a) plea (3) Guilty

(1. If a special plea is made for separate trial on one or more charges (RP 62(2), 108), or as to the jurisdiction of the Court (RP 34, 35(A), 113), or in bar of trial (RP 36), or as to accused's mental fitness to stand trial (AA 130, RP 57), or by one of several accused charged jointly to be tried separately (RP 16, 71), such plea, the addresses made in support or against, the evidence, if any, and finding are recorded per Notes. For forms of record see references in fns to RP cited. Insert in A8 next and name of the accused making the plea.)

A9. The accused is (are) arraigned (separately) on all charges in the charge sheet.(1) The accused does (do) not object to any charge.(2) There is no amendment to be made to the Charge Sheet.(2) The President records the pleas in Part 1 of the Schedule.

(1. RP 31, 112. See para 1 of Instrs p 2. When more than one Charge Sheet see RP 62, when several accused to be tried separately see RP 71(C), and use separate copies of CF A96 to record proceedings. 2. RP 32, RP 33. If otherwise, delete and make appropriate record per Notes.)

A10. The Court (is closed and) considers the Instrs on Procedure after Arraignment at top of p 2. The proceedings are continued on Record Form B

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

Encl 11 P 119

INSTRUCTIONS ON PROCEDURE AFTER ARRAIGNMENT.

1. *The accused may not plead or be found Guilty on more than one of two or more charges laid in the alternative.* (*RP* 37(*A*).) *As to withdrawal of alternative charges by Prosecutor see RP* 35(*C*). *No other charge can be withdrawn for any reason without authy from Convening Offr. If Convening Offr concurs, Court may accept plea of Guilty to lesser, etc, offence.* (*RP* 44(*H*).) *Accused may change a plea of Not Guilty to Guilty during trial.* (*RP* 38.) *As to refusing to plead or not pleading intelligibly see RP* 35(*A*). *As to plea when sentence may be death see RP* 35(*D*).

2. *The proceedings on each charge sheet* (*RP* 62) *after arraignment will be conducted as follows in the respective circumstances stated :*

I. If pleas to all charges are GUILTY, use Record Form B below.

II. If pleas to all charges are NOT GUILTY, use Record Form D on p 3.

III. If pleas to some charges are GUILTY and to other charges are NOT GUILTY and,

(a) *Such mixed pleas occur when there are no alternative charges in the Charge Sheet, use Record Form C below.* (*RP* 37(*A*).)

(b) *Such mixed pleas occur in a set of two or more charges laid in the alternative, see RP* 37 (*A*) *and fn* 2 *as to discretion of Court,* (i) *to try the accused on all such alternative charges as if he had pleaded Not Guilty thereto, or,* (ii) *to record the pleas as the findings of Court. After deciding between* (i) *and* (ii), *Court will proceed under foregoing instrs as may be appropriate to result of its decision. See MML p* 744 *Instrs* (2).

3. *As to responsibility of President to accused see RP* 59, 60(*C*) ; *powers and duties of JA see RP* 103 ; *duty of Prosecutor see RP* 60(*A*) (*B*) ; *duty and privileges of accused and Defending Offr see RP* 60(*C*), 87(*C*), 91, 92 ; *swearing and withdrawal of witnesses from Court see RP* 81, 82 ; *questioning of accused see RP* 80, 87(*C*), 92(*B*), *and of witnesses see RP* 83-85 ; *calling or re-calling of witnesses by Court, etc, see RP* 75-79, 80, 116 ; *use of Summary of Evidence at Trial see RP* 17(*E*) *fn* 6 ; *and responsibility of JA or Pres to record proceedings see RP* 94, 96.

RECORD FORM B—PROCEEDINGS ON PLEAS OF GUILTY TO ALL CHARGES.

B1. The President or JA, if any, complies with RP 35(B) by explaining to the accused the nature and meaning of the charge(s).(1) and that on his plea of Guilty there will be no regular trial but merely a consideration of the sentence to be awarded after he has been given an opportunity to make a statement in reference to the charge(s), call witnesses as to character and make an address in mitigation of punishment.(2)

(*1. RP 35 fn 3. 2. MML p 54 para 47.*)

B2. President to accused : The Court will now receive any statement you desire to make in reference to the charge(s).(1) If it appears from your statement that there are circumstances which indicate that you do not understand the effect of the plea of Guilty(2), or which show provocation or extenuation in respect of which in your interest the witnesses for the Prosecution should be examined(3), we shall advise you to change your plea to Not Guilty. In making a statement you will not be sworn or subject to cross-examination ; and anything you say will not be used in evidence against you after you change your plea. If, however, it appears to the Court that your statement affects only the amount of punishment to which you are liable, you will not be advised to change your plea and you will be given an opportunity later to prove your statement by sworn testimony, if you so desire.(4)

President to accused : Do you wish to make a statement ? Ans ..... (5)

(*1. RP 37(B). 2. RP 37(D) fn 6. 3. RP 35(B) fn 5 para 3, MML p 54 para 47. 4. See para E3 of Record Form E. 5. Statement, if any, recorded per Notes.*)

B3. The Court considers the accused's statement.(1) The Court decides (not) to advise accused to change his (their) plea(s) of Guilty to Not Guilty on ..... charge(s). The accused is (are) so informed, and he (they) change(s) his (their) plea(s) on ..... charge(s). Part I of the Schedule is amended accordingly.

(*1. Court may be cleared to consider the statement. Delete whole or part not used.*)

B4. On the charge(s) to which the plea(s) of Guilty is (are) not changed the President records finding(s) of Guilty in Part I of the Schedule.(1)

(*1. RP 35(B). If any plea(s) is (are) changed, use Record Form C or D as appropriate.*)

B5. The Summary of Evidence is marked Ex ....., initialled and read aloud by the President.(1)

(*1. If there is no Summary, or if it is inadequate, comply with RP 37(B). If there is any evidence inconsistent with any plea standing as Guilty, Court will advise accused to change such plea and, if changed to Not Guilty, try such charge(s) by use of parts D1 to D8 inclusive of Record Form D on p 3. RP 37(D).*)

B6. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

RECORD FORM C—PROCEEDINGS ON MIXED PLEAS OF GUILTY AND NOT GUILTY.

C1. As to the charges on which accused pleaded NOT GUILTY the trial is continued by using paras D1 to D8 inclusive of Record Form D on p 3 before proceeding with C 2.(1)

(*1. RP 37(A) (C).*)

C2. The charges on which accused pleaded GUILTY are read to him (them) again, and the trial is continued by using paras B1 to B5 of Record Form B above.(1)

(*1. Under B5 such parts only of the Summary of Evidence are read as relate to the charges dealt with under C2. If any plea is changed to Not Guilty, trial thereon proceeds by complying with paras D1 to D8 inclusive in Record Form D on p 3 and making an appropriate record thereof on a separate sheet.*)

C3. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

Pin here. Loose Sheets of Record.

RECORD FORM D—PROCEEDINGS ON PLEAS OF NOT GUILTY TO ALL CHARGES.

D1. President to accused : Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity to prepare your defence ? Ans ..... (1)

(*1. If "yes", see RP 39(A) for procedure. Statement or evidence, if any, is recorded per Notes.*)

D2. The Prosecutor makes (an) (no) opening address.(1)

(*1. RP 39(B), 60(A) (B), 90, 92(C) (D). Record address per Notes, subject to RP 95(C).*)

D3. The evidence for the Prosecution is taken.(1)

(*1. RP 39(C), 114, KR Con 555. Record evidence per Notes. As to Prosecutor giving evidence himself see RP 39(D) (E).*)

D4. The Prosecution is closed.(1) The Defending Offr submits that the evidence for the Prosecution does not establish a prima facie case against the accused on the ..... charge(s).(2) The Court is closed, and considers the submission.(3) The Court is re-opened, and the President announces that the submission is disallowed on the ..... charge(s), and allowed on the ..... charge(s), and that, accordingly, the trial will proceed on the former, but the accused is (are) found Not Guilty on the latter charge(s).(4)

(*1. Delete remainder of this para, if submission not made. 2. Arguments on submission, answer and reply are recorded per Notes. 3. RP 40 fn 1. See MML p 72 paras 12-14 and p 81 para 42. 4. Delete part not used. If accused acquitted on all charges, use second alternative in para D8.*)

NB : If trial proceeds, accused must be allowed great latitude in making his defence, and the Court should not stop his defence solely on ground of irrelevance. (*RP 60(C), 114, 115.*)

D5. President to accused : You will now proceed with your defence.(1) You may, if you wish, give evidence yourself on oath as to the facts or your character or both, in which case you will be subject to cross-examination.(2) You may, however, make a statement without being sworn, and you will not be subject to cross-examination.(3) But a statement which could have been made on oath will not carry with the Court the same weight as sworn testimony.(4) You may call witnesses in your defence and as to character, whether you give evidence or make a statement or do neither.

President to accused : Do you wish to give evidence yourself as a witness, make a statement, or do neither ? Ans ..... Do you intend to call witnesses on your behalf ? Ans ..... Are they witnesses as to character only ? Ans .....

(*1. RP 115. 2. RP 40(A), see 80(D). 3. RP 40 fn 10. 4. RP 40 fns 2, 9.*)

D6. Consequent on the answers recorded in para D5 the appropriate procedure for the defence is followed.(1)

(*1. RP 114, 115, 116. For procedure see Notes on back of Convening Order. CF A95. Evidence for accused as to his character should, if in his interest, be given before the finding. See RP 46(A) fn 1, 86(C). Note the further opportunity in para E1 of Record Form E. Record per Notes addresses, statement, evidence and any summing up by the JA under RP 42, 103(e).*)

D7. The Court is closed to consider the finding(s).(1) The finding(s) of the Court is (are) recorded in Part I of the Schedule.(2) The Court is re-opened.

(*1. RP 43, 117(A). See Notes in Part I of Schedule. 2. RP 44(A).*)

D8. The President announces the finding(s), if any, of Not Guilty, and states to the accused that the finding(s) of the Court on the ..... charge(s), being subject to confirmation, will be promulgated later.(1)

Or, The President announces that the accused is found Not Guilty on all charges and is to be released forthwith, and that the proceedings are accordingly terminated. Part I of the Schedule is dated and signed.(2)

(*1. AA 54(3) (c), RP 45, 120(A). 2. AA 54(7), RP 45, 117. This alternative announcement is not applicable when there are pleas of Guilty outstanding and dealt with under Record Form B or C.*)

D9. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E below.

RECORD FORM E—PROCEEDINGS ON CONVICTION BEFORE SENTENCE.

E1. President to accused : Do you wish to give evidence yourself or to call any witnesses as to your character ?(1)

Ans No

(*1. If evidence has already been given by accused or his witnesses as to his character, delete this para. RP 37(C) fn 4, 46 fn 1. Accused and witnesses are sworn. Evidence recorded per Notes.*)

E2. The Prosecutor produces Statement(s) as to Character and Particulars of Service(1), and certified true copy ~~extract~~ of Conduct Sheet(s)(2), purporting to refer to the accused, which he submits to the Defending Offr for examination, and then to the Court for admission in evidence. The Court is satisfied that these documents refer to the accused, because (i) they purport to be signed in the manner required by AA 163(2) (g) (h), and (ii) they purport to refer to (a) soldier(s) having the same number, rank, name and corps as the accused. Admitted in evidence and marked Ex B and Ex C respectively.(3)

(*1. MFB 355 or MFB 296. 2. MFM 6. 3. RP 46, KR Con 558. If above documents not produced, see RP 46 fn 1 para 1.*)

E3. President to accused : Do you wish to address the Court on the Statement(s) and Conduct Sheet(s), and in mitigation of punishment ?(1) Ans Yes (2)

(*1. RP 37(C), 46(D). 2. Address, if any, recorded per Notes. Court should permit accused or his witnesses to prove on oath anything here or previously stated which would affect the amount of punishment. RP 37(F) fn 7.*)

E4. The President states that the Court is closed to consider the sentence, and that the sentence to be awarded by the Court, being subject to confirmation, will not be announced, but will be promulgated later, and the proceedings in open court are accordingly terminated.(1)

(*1. AA 54(6), RP 120(A).*)

E5. The Court considers the sentence.(1) The President records the sentence in Part I of the Schedule, which is dated and signed by him and the J.A., if any.(2)

(*1. When several accused tried separately see RP 71 (D). One sentence only, comprised of one punishment or punishments laid down in AA 41, 44 and its proviso, is to be awarded to cover all charges in all charge sheets on which accused found guilty. RP 46. As to sentences see AA 44, 138, 182, RP 46-50, 69, 114, 119(A), KR Con 308, 330, 562-566, Overseas AO 309, 2323, MML p 60, 737-739. As to sentences assigned for civil offences by the law of England see AA 41(3), MML p 130. When accused already under sentence of imprisonment or detention see AA 44(1)(b), 68(1), KR Con 564. 2. RP 50. As to release from arrest by Confirming Offr see KR Con 567. As to assembly and disposal of record after trial see Instrs on back of Convening Order.*)

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

SCHEDULE.

PART I. PLEA(S), FINDING(S) AND SENTENCE.

Accused: B117929 Rfn William Russell Gregson QOR of C

Charge. (Insert "alternative" where applicable.)	Plea. (See Instrs p 2.)	Finding. (See note below.)	(Space for use as required for further charges, accused charged jointly, special findings, etc.)
1st AA Sec 15(1)	Guilty	Guilty	
2nd			
3rd			
4th			
5th			
6th			

(Note: As to findings for lesser offences see AA 56, RP 44; findings on alternative charges see MML p 483 fn 4 para 2, RP 44; special findings see RP 44 and MML p 753, and in loss of kit see RP 44 fn b.)

At present under sentence for N/A beginning on (date) (1)

(1. Insert sentence being served, or delete, if not applicable. See RP 46(A). Information should be found on MF B355 or AF B296.)

Time in confinement awaiting present trial—a total of 13 days, of which Nil days were spent in hospital.(2)

(2. See RP 46(A) fn 2. Information should be found on MF B355 or AF B296 admitted in evidence under E2.)

Sentence Awarded by the Court:

To undergo detention for 185 days.

(Sgd) ..... 3 Jan 45 (Sgd) J.A. Ross Major

Judge-Advocate, if any. Date awarded. President. (RP 45, 50.)

(See back of Convening Order as to assembly and disposal of record after trial.)

PART II. MINUTE WHERE CONFIRMATION RESERVED. (AA 54(3), RP 120(F), MML p 760.)

Date ..... (Sgd) ..... Commanding .....

PART III. DECISION OF CONFIRMING OFFR ON FINDING(S) AND SENTENCE.

(For duties and powers see AA 54, 57, RP 37(D) fn 6,46(A), 51-56, 120, MML pp 759-761, KR Can 567-577. Acquittals require no confirmation and cannot be revised: AA 54(7). Sending back finding or sentence for revision by Court: AA 54(2), RP 120(G). If not confirmed, accused may be tried again: AA 157, MML p 64. Minute of confirmation or non-confirmation may be altered before promulgation: RP 53, MML p 65. Quashing after promulgation: KR Can 573. Duties and powers of reviewing offrs: AA 57, 57A, RP 53A, 54. The Confirming Offr must sign here personally. AA 172 fn 1.)

My decision on the finding(s) and sentence set forth in Part I is:

Confirmed

~~I direct that the accused be not committed to prison or detention barracks until further order.(*)~~ (*. AA 57A. Delete if not used.)

(Sgd) Jno A Roberts Brig

Date 5 Jan 45

Commanding 8 Cdn Inf Bde

Confirming Officer.

PART IV. PROMULGATED AND EXTRACTS TAKEN. (RP 53, KR Can 576, 577.)

Accused.	Date.	Signature of Offr.
B-117929 Rfn William Russell Gregson		J Medcord Capt & Adjt QOR of C

ALL DELETIONS AND ALTERATIONS WILL BE INITIALLED.

CHARGE SHEET

The accused, B-117929 Rfn William Russell GREGSON, 1st Bn The Queen's Own Rifles of Canada, a soldier of the Canadian Army Overseas (AF) is charged with:--

FIRST CHARGE
SEC 15(1)
ARMY ACT

WHEN ON ACTIVE SERVICE ABSENTING HIMSELF WITHOUT LEAVE

in that he

In the field, did absent himself without leave from 1200 hrs 26 Oct 44 to 0030 hrs 28 Nov 44 at which time he was apprehended by 2 Cdn L of C Pro Coy. (Total time absent 32 days 13 hrs 30 mins).

S.M. Lett
(S.M. Lett) Lt Col
Comd 1st Bn The QOR of C.

In the Field
11 Dec 44

To be tried by Field/General Court Martial.

S.M. Lett
(S.M. Lett) Lt Col
T/Comd 2 Cdn Inf Bde

31 Dec 44

FIELD GENERAL COURT-MARTIAL

(Whether the accused to be tried is under his comd or not, a FGCM may on application to him be convened by any offr of Cdn Army Overseas, or of any other force if authorized in law, in immediate comd of troops on active service, subject to RP 105(C) and restrictions imposed by appropriate authy. AA 49, 50, RP 104-107, 114. As to the duties and privileges of the Convening Offr in dealing with the application see MML Chap V paras 20 and 23, RP 87(B).

There should be a separate Convening Order for each person to be tried separately by the same Court. RP 71(C), 109. As to separate charge sheets see RP 62, and as to separate trial on charges in the same charge sheet see RP 108. As to two or more accused charged jointly see RP 16, 109.

As to reasons for showing (a) permanent or confirmed rank, and (b) apptmt, A/rank or A/apptmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

ACCUSED.

Number.	(a) Prmnt R.	(b) Apptmt, A/R or A/Apptmt.	Full Christian Names.	Surname.	Unit.
B-117929	Rfn		William Russell	GIBSON	QOR of C

CONVENING ORDER.

1. Whereas complaint has been made to me, the undersigned, that the person(s) named above as the accused, being subject to military law, has (~~have~~) committed the offence(s) set forth in the Charge Sheet(s) attached and on (date) 31 Dec 44 endorsed by me, (~~or by an offr of my staff for me~~), " To be tried by Field General Court-Martial ".

2. And whereas I am of opinion that it is not practicable that such offence(s) should be tried by an ordinary General Court-Martial ; (~~and that it is not practicable to delay the trial for reference to a superior qualified offr.~~)

(Delete part in brackets when not required for compliance with RP 105(C).)

3. I hereby convene a Field General Court-Martial to try the said person(s), and to consist of the Offrs appointed or detailed hereunder.

~~4. I am unable to appoint (a) three Offrs to form the Court, (b) a Fd Offr as President, for the reasons I have attached hereto.~~

(AA 49, RP 106(B), 107(A). Delete the whole or part, if not applicable.)

5. ~~I also appoint as Judge Advocate thereat the Offr mentioned hereunder.~~

(RP 106(E). Delete, if none appointed.)

PRESIDENT.

(Rank.)	(Must be named. RP 106.)	(Unit.)
Maj	J.A. Rose	R de Chaud

MEMBERS.

(Rank.)	(Named or detailed. RP 106.)	(Unit.)
Capt	H.C.W. Been	QOR of C
Capt	A.C. MacCallum	M Shore R

WAITING MEMBER.

(Rank.)	(Named or detailed, if any. RP 106.)	(Unit.)
Capt	D.J.A. Berg	R de Chaud

JUDGE-ADVOCATE.

(Rank.)	(Must be named, if any. RP 106.)	(Unit.)

On Active Service in the Fd

in Holland (Country.)

Dat: 31 Dec 44

S.M. Lett (Signed personally. RP 105 fn 2.) Lt Col (Rank.)

T/ Commanding 8 Cdn Inf Bde
Convening Officer.

CONVENING OFFR WILL INITIAL ALL DELETIONS AND ALTERATIONS

4/38A CFA 98 (In lieu of AFA 3) 80/P & S/1047 (6142)

(See overleaf for oaths and notes for use on trial.)

OATHS FOR USE IN COURTS-MARTIAL.

1. PRESIDENT AND MEMBERS. *(AA 52, KR Can 562, RP 26, 29, 111.)*

I swear by Almighty God that I will well and truly try the accused (or accused persons) before the Court according to the evidence, and that I will duly administer justice according to the laws in force for the Government of the Militia of Canada, without partiality, favour or affection, and I do further swear that, except so far as may be permitted by instructions of the Minister for the purpose of communicating the sentence to the accused, I will not divulge the sentence of the Court until it is duly confirmed, and I do further swear that I will not on any account at any time whatsoever disclose or discover the vote or opinion of any particular member of this court-martial unless thereunto required in due course of law.

2. JUDGE-ADVOCATE. *(AA 52, MML 762, RP 27, 111.)*

I swear by Almighty God that I will not, unless it is necessary for the due discharge of my official duties, divulge the sentence of this court-martial until it is duly confirmed; and that I will not on any account, at any time whatsoever, disclose or discover the vote or opinion of any particular member of this court-martial, unless thereunto required in due course of law.

3. OFFR UNDER INSTRUCTION. *(AA 52, MML 762, RP 27, 111.)*

I swear by Almighty God that I will not divulge the sentence of this court-martial until it is duly confirmed; and that I will not on any account, at any time whatsoever, disclose or discover the vote or opinion of any particular member of this court-martial unless thereunto required in due course of law.

4. SHORTHAND WRITER. *(AA 52, MML 762, RP 27, 111.)*

I swear by Almighty God that I will truly take down to the best of my power the evidence to be given before this court-martial and such other matters as may be required, and will, when required, deliver to the court a true transcript of the same.

5. INTERPRETER. *(AA 52, MML 762, RP 27, 111.)*

I swear by Almighty God that I will to the best of my ability truly interpret and translate, as I shall be required to do, touching the matter before this court-martial.

6. WITNESS. *(AA 52, MML 762, RP 82, 111.)*

I swear by Almighty God that the evidence which I shall give before this court shall be the truth, the whole truth, and nothing but the truth.

POUR LES TEMOINS. *(RO (Can) 2693.)*

Je jure, par Dieu Tout-Puissant, que le témoignage que je rendrai devant cette Cour sera la vérité, toute la vérité, et rien que la vérité.

7. As to other forms for swearing see AA 52(4), RP 28, 30, 82, 111, MML p 763.

NOTES ON RECORDING PROCEEDINGS AND ON DEFENCE PROCEDURE.

(Referred to throughout CF A 96 as "Notes".)

1. RECORDING PROCEEDINGS: When no shorthand writer is employed the addresses of Prosecutor and Defending Offr (*RP* 95(C)), any objections (*RP* 95(B)), and any statements by accused, may be summarized and, the evidence, subject to RP 95(A) and 114(B), may be recorded in narrative form as follows:

First Witness for Prosecution.

A 12345 Cpl H. Jones, RWR, sworn, states:

I am a cpl of the pl to which Pte Smith belongs. The accd in Court is Pte Smith. About 1400 hrs on 15 Jan 43 I ordered the accd to go on parade. He refused and did not go on parade.

Cross-exam: He did not say he was sick. (*or*, None.)

Re-exam: None.

Exam by Court: He said—"I've had enough parades".

RP 83(B) complied with.

2. When a shorthand writer is employed, addresses, statements, evidence and objections need not, subject to RP 95(A), be taken by him verbatim. (*RP* 95 *fn* 1.) If the evidence is taken by him in narrative form, RP 83(B) should be complied with. If taken verbatim, RP 83(C) will be complied with.

3. The record of addresses, statements and evidence will be given a marginal number which corresponds with the number of the para in CF A 96, under which it is taken. Both sides of paper should be used.

4. DEFENCE PROCEDURE: RP 116 provides that for procedure on defence RP 40-42 will apply so far as practicable, having due regard to the public service. (*RP* 122.) If the Court consider such compliance not practicable, the following order of procedure (whether all items are used or not) is suggested as being fair to the accused:

(i) Opening address by Defending Offr. (*RP* 60(C), 87(C), 92(C) (*D*).)

(ii) At option of accused, statement by accused (*not sworn or subject to cross-exam by Prosecutor, Court or JA* (*RP* 40 *fn* 10)), or evidence by accused, as to facts or his character or both. (*See RP* 41 *fn* 3, 46 *fn* 1, 80.)

(iii) Evidence of witnesses for accused as to facts or his character or both. (*See RP* 46 *fn* 1.)

(iv) Evidence for prosecution in rebuttal or on new matter, if allowed by Court (*RP* 86(B)), or to prove previous convictions where accused has called witnesses as to character. (*RP* 86(C).)

(v) Closing address (*on matters other than on assumption of punishment*) by Defending Offr or accused. (*See RP* 40 *fns* 8-12, 87(C), 92(C) (*D*).) But Defending Offr or accused will make his address after the Prosecutor, if there has been no statement by accused or any evidence given as to facts, or if accused alone has given evidence on oath as to facts, whether any evidence as to his character has been given or not. (*When accused charged jointly see RP* 61.)

(vi) Closing address by Prosecutor. (*See RP* 40 *fn* 7, 87(C), 92(C) (*D*). *Prosecutor has no right to address Court on subject of sentence except as provided by RP* 46(E), *KR Can* 563(*a*).)

(vii) Summing up by JA, if any. (*RP* 42.)

ASSEMBLY AND DISPOSAL OF RECORD AFTER TRIAL.

1. All deletions and alterations in printed and written record MUST BE INITIALLED by President or JA, if any. RECORD FORMS B, C OR D NOT USED MUST BE DELETED BY A DIAGONAL LINE AND INITIALLED.

2. All loose sheets of record and exhibits comprising the proceedings of the trial MUST BE INITIALLED by President or JA, if any, and then pinned by top left corner to p 3 of CF A 96 in following order:

(i) Charge Sheet. (*On top.*)

(ii) Convening Order with any declarations made by Convening Offr under RP 104, 106, 107, 114.

(iii) Medical Certificate(s). (*KR Can* 557.)

(iv) Addresses, statements and evidence in order taken during trial, pages being numbered and on both sides when both sides used.

(v) Exhibits numbered Ex A, Ex B, etc. (*As to admitting in evidence a certified copy in lieu of original see KR Can* 556). *As to certified copies of regimental books see AA* 103 (1) (*g*) (*i*).)

(vi) Summary of Evidence, if not already an exhibit.

3. Any report or remarks by President or Court for attention of Confirming Offr will be attached to p 4 of CF A 96 and not form part of record of proceedings. (*RP* 95(*D*).) A recommendation for mercy will be inserted in Part 1 of Schedule on p 4 after minute of sentence awarded. (*AA* 53(9), *RP* 118(C), *MML p* 759.)

4. The President or JA, if any, will return proceedings promptly with covering letter and in an envelope marked "Confidential", or as otherwise directed.

1ST BN THE QUEEN'S OWN RIFLES OF CANADA

In the Field 3 Jan 45

MEDICAL INSPECTION FOR FITNESS TO UNDER-GO TRIAL BY COURT MARTIAL

This is to certify that I have this day examined B-117919 Rfn Gregson W.P. 1st Bn The Queen's Own Rifles of Canada (o) NRF, and have found fit to undergo trial by Court Martial.

Date 3 Jan 45 R.D. Thompson Capt

STATEMENT OF ACCUSED

Statement is to be questions by the Defending Officer and answers by the accused. Not on oath.

Q Tell court of curcumstances surrounding the commencement of your illegal absence.

A On 26 Oct 44 I had no intentions of going on the loose . When the truck was ready to go I was under the influence of licior.

Q Did you go down to where the truck was to leave from?

A Yes Sir.

Q Carry on ?

A I went to get another bottle of cognac and when I got back the truck had gone.

Q Did you go for the bottle alone?

A Yes Sir.

Q I enquired in the Maple Leaf club of the Sgt-Major if there was any transport. He told me that 3rd Div leaves were stopped and that 2nd Div were coming. I then inquired at the R.T.O. They said the best way to get back was to try hitch-hiking. I thought that if they did'nt care if I got back or not. I'd take a couple more days. One thing led to another and I stayed until I was picked up by the Military Police.

Q During all that time did you make any other effort to get back to your unit?

A I did not bother hitch-hiking because I did not know the correct route, and I did not know of any other place where I could find out about trucks coming back.

Q How old are you?

A 20 years.

Q Birthday?

A 1st September.

Q Date of enlistment?

A

A 13 Oct 43.

Q When did you arrive in England?

A 7 May 44

Q When did you arrive in France?

A 2 July 44.

Q From 2 Jul until date of absence had you been out of the line?

Statement of Accused - Con'd

~~CROSS-EXAMINATION~~ Con'd

Q Since enlistment have you had any leave whatsoever?

A Embarkation Leave and one day furlough (total 8 days)

Q In Canada?

A Yes Sir.

SUMMARY OF EVIDENCE

In the case of No B-117929 Rfn Gregson,W.D. 1st Bn Queen's Own Rifles of Canada charged with absenting himself without leave (AA Sec 15(1).

By direction of the Commanding Officer the evidence is taken on oath:-

FIRST WITNESS A/Capt Hamilton 1st Bn The Queens Own Rifles Of Canada having been duly sworn states:-
"I produce NFB 3758 and certifica te of apprehension relating to the accused".
The Declaration of Court of Inquiry and certificate of apprehentionwere read over to the accused, marked Exhibit A/B signed by me and attached hereto.

D.B. Hamilton Capt

Do you wish to make any statement or to give evidence on oath? You are not obliged to say anything or give evidence unless you wish to do so, but whatever you say or any evidence you give will be taken down in writing and may be given in evidence.

The accused declined to make a statement or to give evidence on oath.

The accused does not call any witnesses.

I certify that the forgoing Summary of Evidence, consisting of five pages was taken down by me in the presence of the accused and that R.F. 4 (c)(d)(e)(f) and (g) (13) have been complied with.

In the Field
9 Dec 44

P.C. Ree Lt
1st Bn The Queens Own Rifles of Canada

RECORD of the Declaration of a Court of Inquiry assembled at IN THE FIELD on the 23rd day of November 1944, for the purpose of investigating and recording the absence, without leave, from his duty, and deficiency, if any, in the Arms, Ammunition, Equipments, Instruments, Regimental Necessaries, or Clothing of No. B-117929 Rfn Gregson T.R.

DECLARATION

The Court declare that No. B-117929 Rfn Gregson T.R. 1st Bn Queens Own Rifles of Canada illegally absented himself without leave In the Field at 1700 hrs on the 26th day of October 1944 that he is still so absent, and that on the 22 November 44 he was deficient, and that he is still deficient of the following articles:—

ARTICLES	VADS	VALUE		ARTICLES	UNIT	VALUE	
Beret F.G.	1	$	56			$	41
Badges cap	1		09				07
Blouse B.D.	1	5	25			3	94
Trousers B.D.	1	5	39			3	94
Anklets prs	1	1	00				75
Boots prs	1	6	46			4	10
Sox prs	1		37				26
Identity discs	2		04				02
Shorts cell prs	1		43				32
Jerkins leather	1	5	77			4	33
	Total	34	36			18	14

G.B. Somers Capt President

Signed at In the Field S. Score Lt Member

this 23rd day of November 1944 W.H. Ives CSM Member

Signature of Commanding Officer S.M. Lett Lt-Col

In the Field
22 Dec 44

Certified true copy J.E. Secord Capt
Adjt 1st Bn The Q O R of C

Signature of Officer having custody of original record

A.F.B. 275
A.F.B. 11A
25M—8-41 (750)
H.Q. 1772-99-267

RECORD of the Declaration of a Court of Inquiry assembled at IN THE FIELD on the 23rd day of November 19 44, for the purpose of investigating and recording the absence, without leave, from his duty, and deficiency, if any, in the Arms, Ammunition, Equipments, Instruments, Regimental Necessaries, or Clothing of No. B-117929 Rfn Gregson W.H.

DECLARATION

The Court declare that No. B-117929 Rfn Gregson W.H. 1st Bn Queens Own Rifles of Canada

illegally absented himself without leave In the Field

at 1800 hrs on the 26th day of October 1944,

that he is still so absent, and that on the 23 November 44 he was deficient, and that he is still deficient of the following articles:—

ARTICLES	VALUE		ARTICLES	VALUE	
Beret F.S. 1	$	56		$	42
Badges cap 1		09			07
Blouse B.D. 1	5	25		3	94
Trousers B.D. 1	5	39		3	94
Anklets prs 1	1	00			75
Boots prs 1	5	46		4	10
Sox prs 1		37			24
Identity discs 2		04			02
Shorts cell prs 1		43			32
Jerkins leather 1	5	77		4	23
Total	24	36		18	14

G.B. Somers Capt President

Signed at In the Field S. Score Lt Member

this 23rd day of November 19 44. W.M. Ives CSM Member

Signature of Commanding Officer S.M. Lett Lt-Col

In the Field 22 Dec 44

Certified true copy J.D. Secord Capt
Adjt 1st Bn The Q O R of C

Signature of Officer having custody of original record

M.F.D. 275
A.F.B. 118
2534—6-41 (116)
H.Q. 1772-34-297

CERTIFICATE IN ACCORDANCE WITH P.C. 2787 of 10 Apr 42

I Certify that No B-117929 Rank Rfn Name Gregson W.R.

Queen's Own Rifles of Canada

Unit 3rd Cdn Inf Div. was arrested at Bruessels (Place)

he was wearing (military uniform)

Signature of Provost-Martial, Assistant Provost-Martial or othe r officer or the Commanding Officer or non-commissioned officer in charge of the detachment of the Canadian Provost Corps, Canadian Army, Into whose custody the above named was taken on arrest.

Field
28 Nov 44

[illegible] Capt
DAPM Cnd Sec
HQ BRUSSELS GARRISON

(J Tweddle) A/Capt
Officer Commanding
2 Cnd L of C Pro Coy.

This is exhibit "D" referred to in the Summary of Evidance in the case of B-117929 Rfn Gregson W.R. taken before me this 9th day of December 1944.

No B-117929 Name Gregson W.R. | Sqn. Battery or Company | D | Corps C C | Date of enlistment | 13 Oct 43 | GC Badges | Service or Proficiency Pay | MFM 6 (AFB 178) 40/P&S/136 (3438)

Company Conduct Sheet Date of last entry in | 17 Jan 44 | No and date of last drunk | Nil | Period not reckoning towards freedom from extra fine | Sheet No One | Signature OC Company, etc | F.H. Banks Capt | Character

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Original sheet destroyed on completion of six months service wef 13 Apr 44. W.G.A. Gillespie, Lt.									
Voluntary blood donor	12 Jun 44			W.G.A. Gillespie Lt					

CERTIFIED TRUE COPY FROM THE REGIMENTAL BOOKS IN MY CUSTODY

W.J. WEIR
(W.J. WEIR) CAPT
Adjt, 1st Bn The Q'O R of C

(P10

ARMY FORM B.296.

Statement as to Character and Particulars of Service of Accused.

Number.	*Rank.*	*Name.*	*Regiment (or as the case may be)*
B-117929	Rfn	Gregson W.R.	1st Bn The Queen's Own Rifles Of Canada

1. The following is a fair and true summary of the entries in the regimental and squadron, battery or company conduct sheets† of the accused, exclusive of convictions by a court martial or a civil court, of summary awards under section 47 of the Army Act, and of cases in which trial has been dispensed with :—

NOTE.—At a trial by field general court martial this summary may be compiled from the field conduct sheet.

The conduct sheet(s) mentioned should be produced in court with this statement but not annexed to the proceedings.

† See para. 607, K.R., 1940.

* The numbers herein stated should correspond with the number of entries in the conduct sheets, prominence being given to the most serious offence in each entry, and to any recognised special acts of gallantry or distinguished conduct.

INSTRUCTION. — If the charge is for drunkenness the entries for drunkenness must be stated separately and dated.

	* Within last 12 months.	* Since Enlistment.
For	..... times	..... times
For	..... times	..... times
For	..... times	..... times
For	..... times	..... times
For	..... times	..... times

Number of instances of gallantry or distinguished conduct, ...

or

There are no entries in the conduct sheets of the accused.

2. The accused has not been previously convicted, *or*

Previous convictions† of the accused by a court martial or a civil court, summary awards under section 47 of the Army Act, and dispensations with trial under section 73 of the Army Act, are set out in the schedule annexed to this statement.

3. The accused is not under sentence at the present time, *or* The accused at the present time is under sentence for ..... beginning on the day of .....

4. The accused has been in confinement, awaiting trial on the present charges, for 10 days in civil custody, and 13 days in military custody, making a total of 23 days, of which 1911 days were spent in hospital.

5. The present age of the accused according to his ~~record of service~~ attestation paper is 20

6. The date of his ~~commencement~~ attestation specified in his ~~record of service~~ attestation paper is 12 Oct 43

7. The service which the accused is allowed to reckon towards discharge or transfer to the reserve is .....

8. The accused is entitled to deferred pay or gratuity in respect of ..... service.

9. The accused is entitled to reckon ..... service for the purpose of determining his pension, etc.

10. The accused is in possession of, or entitled to, no military decoration or military award (*or* is in possession of *or* entitled to (*state any military decoration or reward*).

11. (*If the accused is a warrant officer.*) The accused before he was made a warrant officer last held the regimental rank of .....

12. (*In the case of an officer.*) The accused holds in the army the rank of ..... dated ..... and in his regiment (*or corps or department*) the rank of ..... dated .....

W.3503/1000 800 3/44. W. Ltd. 3214-3.

Schedule of Convictions by a Court Martial or Civil Court, of summary awards under Section 47 of the Army Act and of cases in which trial has been dispensed with of accused.

No. _____ *Rank* _____ *Name* _____ of _____ Regiment (or as the case may be).

(INSTRUCTION—A verbatim extract from the regimental books, stating these convictions and dispensations with trial, must be inserted.)

Description of court by which tried, or status of officer disposing of the charge or dispensing with trial.	Date and place of trial, or summary award under A.A. 47, or of order dispensing with trial.	Charges upon which convicted, or in respect of which trial was dispensed with.	Sentence of the court or authority disposing of the charge, or order of the dispensing authority.	Punishment remitted.
		N/A		

I HEREBY CERTIFY that the foregoing schedule of convictions and dispensations with trial is a true extract from the regimental books in my custody.

Signed this 11th day of December 44

J.P. Secord Capt
For (S.M. Lett) Lt Col
Cond 1st Bn The Q O H of C (AV)

13. The accused has served as a non-commissioned officer continuously, without reduction, to the present date.

In the rank of	years	Date of Promotion
In the rank of	years	
In the rank of	years	
In the rank of	years	

(INSTRUCTION—If any mention in any of the above paragraphs cannot be found from the regimental books, the paragraph must be struck through, except that in the case of a trial by field general court-martial the information may be collected from such sources as are available and the paragraph entered accordingly.)

PLEA IN MITIGATION

Re B117929 Rfn Gregson W.E.

Mr. President and members of the court.
May it please the court to consider the following facts in mitigation of punishment.
The accused volunteered to fight for his country on reaching the age of 19 and 7 months later came overseas. He has spent 116 continous days of line service without a ~~day~~ (of any nature) During his army service he has only had 5 days leave and I submit that his illegal absence was merely a folly of youth. He did not intend to illegally absent himself on Oct 26th and attempted to return to his unit after he missed his unit transport. He has a clean crime sheet and I feel the court shall show leniency in this case.

C.T. Fullerton Lt.

RECORDED AT CMHQ IN AB 160 42-70.

FIELD GENERAL COURT-MARTIAL

(CFA96 (To Hed of AFAS) 40 P & C 1/1606 (2004))

Convened by Order of Lt. Col. S.M. LETT W/Comd 5 Cdn Inf Bde dated 31 Dec 44

ACCUSED.

(As to the trial of two or more charged jointly see RP 16, 71, 109. As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

Number.	(a) Prmnt R. (b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
B117929	Rfm.	William Russell	Gregson	Can. Sec. GHQ 2 Fd. Coy. RCE 21 Army Gp

PROCEEDINGS REVIEWED
Date 19 Jan 45
[illegible] J.A.
Offr. Sec. GHQ 2 Fd. Coy. RCE 21 Army Gp

PROCEEDINGS REVIEWED
[illegible]
LEGAL OFFICER, JAG BRANCH C.M.H.Q.

PROCEEDINGS OF TRIAL.

Held in the Fd in (country) Holland on (date(s)) 3 Jan 45

RECORD FORM A—OPENING PROCEEDINGS AND ARRAIGNMENT. 8/3.

A1. The President, Members, waiting Member, JA, if any, and Offrs under instr, if any, assemble, and the Court is closed.

(PRINTED MATTER, NOT IN ITALICS FOR GUIDANCE, WILL BE DELETED, IF NOT USED OR APPLICABLE, AND INITIALLED BY PRES OR JA. The Schedule referred to throughout is on p 4. Citations do NOT include all relevant fmo ROs. For guidance on procedure when a variation in this form arises, see form for GCM in MML pp 741 to 759. A brief record of such variation will be made and given a number having reference to appropriate or preceding para number herein. See back of Convening Order, CF A95, for oaths and instrs on how to record addresses, evidence, etc, which instrs are hereafter called "Notes". As to general provisions for conducting the trial see AA 53, RP 56, 63-70, 73, 74, 94, 103, 119, 132.)

A2. The President initials and lays before the Court the Convening Order and Charge Sheet(s) attached thereto.(1) The Court is satisfied that it is properly convened and constituted(2), accused is (are) amenable to military law, and each charge discloses an offence.(3)

(1. As to use of Summary of Evidence see RP 17 fn 6. 2. AA 49, 50, RP 105-107. 3. RP 11-13, 23, 24.)

A3. The Court is opened. The accused is (are) brought before the Court. At 1030 hours trial commences.

A4. The Prosecutor produces a Medical Certificate that accused is (are) fit to undergo trial by court-martial.(1) ~~The Prosecutor informs the Court that accused elected to be tried by court-martial instead of being dealt with summarily by the CO.~~(2)

(1. KR Can 557. 2. AA 46(8), RP 60 fn 1. For effect see KR Can 563(c). Delete, if not applicable.)

A5. President to accused: Do you object to N/A as interpreter? Ans

The Interpreter is sworn.(1) Do you object to N/A as shorthand writer? Ans

The shorthand writer is sworn.(1)

(1. RP 72. Delete, if none employed.)

A6. The Convening Order and names of the President and Members of the Court are read to the accused.(1)
President to accused: Do you object to be tried by me as President or by any of the Members of the Court?

Ans Nil (2)

(1. RP 110. 2. If no objection, waiting member retires. RP 68(8). If objection, see procedure AA 51, RP 25, 71, 18, MML p 742.)

A7. The President, Members, JA, if any, and Offrs under instr, if any, are sworn.(1) The following are the ranks, names and units of the offrs comprising the Court, etc:

President	Major	J.A. Ross	R de Chaud
Member	Capt.	H.G.W. Bean	Q.O.R. of C.
Member	Capt.	A.C. MacCallum	N Shore R.
Judge-Advocate			
Prosecutor	Capt	P.C. Rea	Q.O.R. of C.
Defending Offr	Lieut	C.W. Fullerton	Q.O.R. of C.

Questions by President: Is the Prosecutor a lawyer? Ans No Is the Defending Offr a lawyer? Ans Yes (2)

(1. RP 26, 27, 109, 111. List of offrs under instr will be returned separately with proceedings for information of Conv Offr.)
Q. If Pros a lawyer and Def Offr not, accused is entitled to an adjournment when RP 89 (2) and fn 2 were not followed. See Ltr p 3.)

A8. The accused B117929 Rfmn. William Russell Gregson before arraignment make(s) (no) (a) plea

Guilty (2)

(1. If a special plea is made for separate trial on one or more charges (RP 62(E), 108), or as to the jurisdiction of the Court (RP 34, 35(A), 113), or in bar of trial (RP 36), or as to accused's mental fitness to stand trial (AA 130, RP 57), or by one of several accused charged jointly to be tried separately (RP 16, 71), such plea, the addresses made in support or against, the evidence, if any, and finding are recorded per Notes. For forms of record see references in fns to RoP cited. Insert in AB rank and name of the accused making the plea.)

A9. The accused is (are) arraigned (separately) on all charges in the charge sheet.(1) The accused does (do) not object to any charge.(2) There is no amendment to be made to the Charge Sheet.(3) The President records the pleas in Part 1 of the Schedule.

(1. RP 31, 112. See para 1 of Instrs p 2. When more than one Charge Sheet see RP 62; when several accused to be tried separately see RP 71(C), and use separate copies of CF A96 to record proceedings. 2. RP 32, RP 33. If otherwise, delete and make appropriate record per Notes.)

A10. The Court (is closed and) considers the Instrs on Procedure after Arraignment at top of p 2. The proceedings are continued on Record Form B

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

Enclosure #19

INSTRUCTIONS ON PROCEDURE AFTER ARRAIGNMENT.

1. *The accused may not plead or be found Guilty on more than one of two or more charges laid in the alternative.* (*RP 37(A)*.) *As to withdrawal of alternative charges by Prosecutor see RP 35(C). No other charge can be withdrawn for any reason without authy from Convening Offr. If Convening Offr concurs, Court may accept plea of Guilty to lesser offence, offence.* (*RP 44(H)*.) *Accused may change a plea of Not Guilty to Guilty during trial.* (*RP 38*.) *As to refusing to plead or not pleading intelligibly see RP 35(A). As to plea when sentence may be death see RP 35(D).*

2. *The proceedings on each charge sheet* (*RP 62*) *after arraignment will be conducted as follows in the respective circumstances stated:*

I. If pleas to all charges are GUILTY, use Record Form B below.

II. If pleas to all charges are NOT GUILTY, use Record Form D on p 3.

III. If pleas to some charges are GUILTY and to other charges are NOT GUILTY and,

(a) Such mixed pleas occur when there are no alternative charges in the Charge Sheet, use Record Form C below. (*RP 37(A)*.)

(b) Such mixed pleas occur in a set of two or more charges laid in the alternative, see RP 37 (A) and fn 2 as to discretion of Court, (i) to try the accused on all such alternative charges as if he had pleaded Not Guilty thereto, or, (ii) to record the pleas as the findings of Court. After deciding between (i) and (ii), Court will proceed under foregoing instrs as may be appropriate to result of its decision. See MML p 744 Instrs (2).

3. *As to responsibility of President to accused see RP 59, 60(C); powers and duties of JA see RP 103; duty of Prosecutor see RP 60(A) (B); duty and privileges of accused and Defending Offr see RP 60(C), 87(C), 91, 92; swearing and withdrawal of witnesses from Court see RP 81, 82; questioning of accused see RP 80, 87(C), 92(B), and of witnesses see RP 83-85; calling or re-calling of witnesses by Court etc see RP 75-79, 86, 116; use of Summary of Evidence at Trial see RP 17(E) fn 6; and responsibility of JA or Pres to record proceedings see RP 94, 96.*

RECORD FORM B—PROCEEDINGS ON PLEAS OF GUILTY TO ALL CHARGES.

B1. The President or JA, if any, complies with RP 35(B) by explaining to the accused the nature and meaning of the charge(s)(1), and that on his plea of Guilty there will be no regular trial but merely a consideration of the sentence to be awarded after he has been given an opportunity to make a statement in reference to the charge(s), call witnesses as to character and make an address in mitigation of punishment.(2)
(*1. RP 35 fn 3. 2. MML p 54 para 47.*)

B2. President to accused: The Court will now receive any statement you desire to make in reference to the charge(s).(1) If it appears from your statement that there are circumstances which indicate that you do not understand the effect of the plea of Guilty(2), or which show provocation or extenuation in respect of which in your interest the witnesses for the Prosecution should be examined(3), we shall advise you to change your plea to Not Guilty. In making a statement you will not be sworn or subject to cross-examination; and anything you say will not be used in evidence against you after you change your plea. If, however, it appears to the Court that your statement affects only the amount of punishment to which you are liable, you will not be advised to change your plea and you will be given an opportunity later to prove your statement by sworn testimony, if you so desire.(4)

President to accused: Do you wish to make a statement? Ans Yes.(5)
(*1. RP 37(B). 2. RP 37(D) fn 6. 3. RP 35(B) fn 5 para 3, MML p 54 para 47. 4. See para E3 of Record Form E. 5. Statement, if any, recorded per Notes.*)

B3. The Court considers the accused's statement.(1) The Court decides (not) to advise accused to change his (their) plea(s) of Guilty to Not Guilty on No. charge(s). The accused is (are) so informed, and he (they) change(s) his (their) plea(s) on Not charge(s). Part I of the Schedule is amended accordingly.
(*1. Court may be closed to consider the statement. Delete whole or part not used.*)

B4. On the charge(s) to which the plea(s) of Guilty is (are) not changed the President records finding(s) of Guilty in Part I of the Schedule.(1)
(*1. RP 35(B). If any plea(s) is (are) changed, use Record Form C or D as appropriate.*)

B5. The Summary of Evidence is marked Ex A, initialled and read aloud by the President.(1)
(*1. If there is no Summary, or if it is inadequate, comply with RP 37(B). If there is any evidence inconsistent with any plea standing as Guilty, Court will advise accused to change such plea and, if changed to Not Guilty, try such charge(s) by use of paras D1 to D8 inclusive of Record Form D on p 3. RP 37(D).*)

B6. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

RECORD FORM C—PROCEEDINGS ON MIXED PLEAS OF GUILTY AND NOT GUILTY.

C1. As to the charges on which accused pleaded NOT GUILTY the trial is continued by using paras D1 to D8 inclusive of Record Form D on p 3 before proceeding with C 2.(1)
(*1. RP 37(A) (E).*)

C2. The charges on which accused pleaded GUILTY are read to him (them) again, and the trial is continued by using paras B1 to B5 of Record Form B above.(1)
(*1. Under B5 such parts only of the Summary of Evidence are read as relate to the charges (both) with under C2. If any plea is changed to Not Guilty, trial thereon proceeds by complying with paras D1 to D8 inclusive in Record Form D on p 3 and making an appropriate record thereof on a separate sheet.*)

C3. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

RECORD FORM D—PROCEEDINGS ON PLEAS OF NOT GUILTY TO ALL CHARGES.

D1. President to accused: Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity to prepare your defence? Ans.....(1)
(*1. If "yes", see RP 39(A) for procedure. Statement or evidence, if any, is recorded per Notes.*)

D2. The Prosecutor makes (an) (no) opening address.(1)
(*1. RP 39(B), 60(A) (B), 90, 92(C) (D). Record address per Notes, subject to RP 95(C).*)

D3. The evidence for the Prosecution is taken.(1)
(*1. RP 39(C), 114, KR Con 555. Record evidence per Notes. As to Prosecutor giving evidence himself see RP 39(D) (E).*)

D4. The Prosecution is closed.(1) The Defending Offr submits that the evidence for the Prosecution does not establish a prima facie case against the accused on the .....charge(s).(2) The Court is closed, and considers the submission.(3) The Court is re-opened, and the President announces that the submission is disallowed on the .....charge(s), and allowed on the .....charge(s), and that, accordingly, the trial will proceed on the former, but the accused is (are) found Not Guilty on the latter charge(s).(4)
(*1. Delete remainder of this para. if submission not made. 2. Arguments on submission, answer and reply are recorded per Notes. 3. RP 40 fn 1. See MML p 72 paras 12-14 and p 81 para 42. 4. Delete part not used. If accused acquitted on all charges, use second alternative in para D8.*)
NB: If trial proceeds, accused must be allowed great latitude in making his defence, and the Court should not stop his defence solely on ground of irrelevance. (*RP 60(C), 114, 115.*)

D5. President to accused: You will now proceed with your defence.(1) You may, if you wish, give evidence yourself on oath as to the facts or your character or both, in which case you will be subject to cross-examination.(2) You may, however, make a statement without being sworn, and you will not be subject to cross-examination.(3) But a statement which could have been made on oath will not carry with the Court the same weight as sworn testimony.(4) You may call witnesses in your defence and as to character, whether you give evidence or make a statement or do neither.

President to accused: Do you wish to give evidence yourself as a witness, make a statement, or do neither?
Ans .....
Do you intend to call witnesses on your behalf?
Ans .....
Are they witnesses as to character only? Ans .....
(*1. RP 155. 2. RP 40(A), see 80(D). 3. RP 40 fn 10. 4. RP 40 fns 2, 9.*)

D6. Consequent on the answers recorded in para D5 the appropriate procedure for the defence is followed.(1)
(*1. RP 114, 115, 116. For procedure see Notes on back of Convening Order. CF AB5. Evidence for accused as to his character should, if in his interest, be given before the finding. See RP 46(A) fn 1, 86(C). Note the further opportunity in para E1 of Record Form E. Record per Notes addresses, statement, evidence and any summing up by the JA under RP 42, 103(e).*)

D7. The Court is closed to consider the finding(s).(1) The finding(s) of the Court is (are) recorded in Part I of the Schedule.(2) The Court is re-opened.
(*1. RP 42, 117(A). See Notes in Part I of Schedule. 2. RP 44(A).*)

D8. The President announces the finding(s), if any, of Not Guilty, and states to the accused that the finding(s) of the Court on the .....charge(s), being subject to confirmation, will be promulgated later.(1)
Or, The President announces that the accused is found Not Guilty on all charges and is to be released forthwith, and that the proceedings are accordingly terminated. Part I of the Schedule is dated and signed.(2)
(*1. AA 54(3) (b), RP 45, 120(A). 2. AA 54(3), RP 45, 117. This alternative announcement is not applicable when there are pleas of Guilty outstanding and dealt with under Record Form B or C.*)

D9. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E below.

RECORD FORM E—PROCEEDINGS ON CONVICTION BEFORE SENTENCE.

E1. President to accused: Do you wish to give evidence yourself or to call any witnesses as to your character 1(1)
Ans No.
(*1. If evidence has already been given by accused or his witnesses as to his character, delete this para. RP 37(C) fn 4, 46 fn 1. Accused and witnesses are sworn. Evidence recorded per Notes.*)

E2. The Prosecutor produces Statements as to Character and Particulars of Service(1), and certified true copy (copies) of Conduct Sheet(s)(2), purporting to refer to the accused, which he submits to the Defending Offr for examination, and then to the Court for admission in evidence. The Court is satisfied that these documents refer to the accused, because (i) they purport to be signed in the manner required by AA 163(1) (g) (h), and (ii) they purport to refer to (a) soldier(s) having the same number, rank, name and corps as the accused. Admitted in evidence and marked Ex B and Ex C respectively.(3)
(*1. MFB 355 or AFB 296. 2. MFM 6. 3. RP 46, KR Con 558. If above documents not produced, see RP 46 fn 1 para 1.*)

E3. President to accused: Do you wish to address the Court on the Statement(s) and Conduct Sheet(s), and in mitigation of punishment 1(1) Ans Yes.(2)
(*1. RP 37(C), 46(D). 2. Address, if any, recorded per Notes. Court should permit accused or his witnesses to prove on oath anything here or previously stated which would affect the amount of punishment. RP 37(F) fn 7.*)

E4. The President states that the Court is closed to consider the sentence, and that the sentence to be awarded by the Court, being subject to confirmation, will not be announced, but will be promulgated later, and the proceedings in open court are accordingly terminated.(1)
(*1. AA 54(6), RP 120(A).*)

E5. The Court considers the sentence.(1) The President records the sentence in Part I of the Schedule, which is dated and signed by him and the JA, if any.(2)
(*1. Unless several accused tried separately see RP 7(D). One sentence only, comprised of the punishment or punishments laid down in AA 41, 44 and its proviso, is to be awarded to cover all charges in all charge sheets on which accused found guilty. RP 48. As to sentences see AA 44, 138, 182, RP 46-50, 69, 118, 119(A), KR Con 308, 330, 563-566, Overseas AO 309, 1323, MML p 162, 737-739. As to sentences assigned for civil offences by the law of England see AA 41(5), MML p 130. When accused already under sentence of imprisonment or detention see AA 44(1)(b), 68(1), KR Con 564. 2. RP 50. As to release from arrest by Confirming Offr see KR Con 567. As to assembly and dispersal of record after trial see instrs on back of Convening Order.*)

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

SCHEDULE.

PART I. PLEA(S), FINDING(S) AND SENTENCE.

Accused: B117929 Rfn. William Russell Gregson G.O.R. of C.

Charge. (Insert "alternative" where applicable.)	Plea. (See instrs p 2.)	Finding. (See note below.)	(Space for use as required for further charges, accused charged jointly, special findings, etc.)
1st AA 15 (1)	Guilty	Guilty	
2nd			
3rd			
4th			
5th			
6th			

(Note: As to findings for lesser offences see AA 56, RP 44; findings on alternative charges see MML p 483 fn 4 para 2, RP 44; special findings see RP 44 and MML p 753, and re loss of kit see RP 44 fn 6.)

At present under sentence for N/A beginning on (date) (1)
(1. insert sentence being served, or delete, if not applicable. See RP 46(A). Information should be found on MF B355 or AF B296.)

Time in confinement awaiting present trial—a total of 13 days, of which Nil days were spent in hospital.(1)
(1. See RP 46(A) fn 2. Information should be found on MF B355 or AF B296 admitted in evidence under E2.)

Sentence Awarded by the Court:
to undergo detention for 185 days.

(Sgd) Judge-Advocate, if any. 3 Jan 45 Date awarded. (Sgd) President. (RP 45, 50.)
(See back of Convening Order as to assembly and disposal of record after trial.)

PART II. MINUTE WHERE CONFIRMATION RESERVED. (AA 54(3), RP 120(F), MML p 760.)

Date (Sgd) Commanding

PART III. DECISION OF CONFIRMING OFFR ON FINDING(S) AND SENTENCE.

(For duties and powers see AA 54, 57, RP 37(D) fn 6, 46(A), 51-56, 120, MML pp 759-761, KR Can 567-577. Acquittals require no confirmation and cannot be revised: AA 54(7). Sending back finding or sentence for revision by Court: AA 54(2), RP 120(G). If not confirmed, accused may be tried again: AA 137, MML p 64. Minute of confirmation or non-confirmation may be altered before promulgation: RP 53, MML p 63. Quashing after promulgation: KR Can 573. Duties and powers of reviewing offrs: AA 57, 57A, RP 53A, 54. The Confirming Offr must sign them personally. AA 172 fn 1.)

My decision on the finding(s) and sentence set forth in Part I is:

Confirmed

~~I direct that the accused be not committed to prison or detention barracks until further orders.~~(1)
(1. AA 57A. Delete if not used.)

Date 5 Jan 45 (Sgd) Jas A Roberts Brig
Commanding 8 Cdn Inf Bde
Confirming Officer.

PART IV. PROMULGATED AND EXTRACTS TAKEN. (RP 53, KR Can 576, 577.)

Accused. Date. Signature of Offr.

B117929 Rfn William Russell Gregson 8 Jan 45 J Macdonald Capt Adjt for GOR of C.

ALL DELETIONS AND ALTERATIONS WILL BE INITIALLED.

jpl

CHARGE SHEET

The accused, H117929 Rfn William Russell GRUDSON, 1st Bn The Queen's Own Rifles of Canada, a soldier of the Canadian Army Overseas (AF) is charged with:-

FIRST CHARGE
SEC 18(1)
ARMY ACT

WHEN ON ACTIVE SERVICE ABSENTING HIMSELF WITHOUT LEAVE

in that he

In the field, did absent himself without leave from 1200 hrs 26 Oct 1944 to 0030 hrs 28 Nov 1944 at which time he was apprehended by 2 Cdn L of C Pro Coy. (Total time absent 32 days 12 hrs 30 mins).

In the Field
11 Dec 44

(S M LETTE) Lt-col
Comd 1st Bn The QOR of C.

To be tried by Field-General Court Martial.

(S.M. LETTE) Lt-Col
T/Comd 2 Cdn Inf Bde

11 Dec 44

FIELD GENERAL COURT-MARTIAL

(Whether the accused to be tried is under his comd or not, a FGCM may on application to him be convened by any offr of Cdn Army Overseas, or of any other force if authorized in law, in immediate comd of troops on active service, subject to RP 105(C) and restrictions imposed by appropriate authy. AA 49, 50, RP 104-107, 114. As to the duties and privileges of the Convening Offr in dealing with the application see MML Chap V paras 20 and 22, p 87(B).

There should be a separate Convening Order for each person to be tried separately by the same Court. RP 71(C), 109. As to separate charge sheets see RP 62, and as to separate trial on charges in the same charge sheet see RP 108. As to two or more accused charged jointly see RP 16, 109.

As to reasons for showing (a) permanent or confirmed rank, and (b) apptmt, A/rank or A/apptmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

ACCUSED.

Number.	(a) Prmnt R.	(b) Apptmt, A/R or A/Apptmt.	Full Christian Names.	Surname.	Unit.
B-117929	Rfn		William Russell	GREGSON	QOR of C

CONVENING ORDER.

1. Whereas complaint has been made to me, the undersigned, that the person(s) named above as the accused, being subject to military law, has (have) committed the offence(s) set forth in the Charge Sheet(s) attached and on (date) 31 Dec 44 endorsed by me, (or by an offr of my staff for me), "To be tried by Field General Court-Martial".

2. And whereas I am of opinion that it is not practicable that such offence(s) should be tried by an ordinary General Court-Martial; (~~and that it is not practicable to delay the trial for reference to a superior qualified offr.~~)

(Delete part in brackets when not required for compliance with RP 105(C).)

3. I hereby convene a Field General Court-Martial to try the said person(s), and to consist of the Offrs appointed or detailed hereunder.

4. ~~I am unable to appoint (a) three Offrs to form the Court, (b) a Fd Offr as President, for the reasons I have~~ attached hereto.

(AA 49, RP 106(B), 107(A). Delete the whole or part, if not applicable.)

5. ~~I also appoint as Judge Advocate thereat the Offr mentioned hereunder.~~

(RP 106(E). Delete, if none appointed.)

PRESIDENT.

(Rank.)	(Must be named. RP 106.)	(Unit.)
Maj	J.A. Ross	R de Chaud

MEMBERS.

(Rank.)	(Named or detailed. RP 106.)	(Unit.)
Capt	~~K.E. McKenzie~~ H.G.W. BEAN	QOR of C
Capt	A.C. MacCallum	N Shore R

WAITING MEMBER.

(Rank.)	(Named or detailed, if any. RP 106.)	(Unit.)
Capt	D.A.J. Pare	R de Chaud

JUDGE-ADVOCATE.

(Rank.)	(Must be named, if any. RP 106.)	(Unit.)

On Active Service in the Fd

in Holland (Country.)

(Signed personally. RP 105 fn 2.)

Lt Col (Rank.)

Dat: 31 Dec 44

T/ Commanding 2 Cdn Inf Bde
Convening Officer.

CONVENING OFFR WILL INITIAL ALL DELETIONS AND ALTERATIONS

4/38A CFA 66 (In lieu of AFA 3) 40/P & S. 1697 (6148)

(See overleaf for notes and notes for use on trial.)

OATHS FOR USE IN COURTS-MARTIAL.

1. PRESIDENT AND MEMBERS. *(AA 52, KR Can 562, RP 26, 29, 111.)*

I swear by Almighty God that I will well and truly try the accused (or accused persons) before the Court according to the evidence, and that I will duly administer justice according to the laws in force for the Government of the Militia of Canada, without partiality, favour or affection, and I do further swear that, except so far as may be permitted by instructions of the Minister for the purpose of communicating the sentence to the accused, I will not divulge the sentence of the Court until it is duly confirmed, and I do further swear that I will not on any account at any time whatsoever disclose or discover the vote or opinion of any particular member of this court-martial unless thereunto required in due course of law.

2. JUDGE-ADVOCATE. *(AA 52, MML 762, RP 27, 111.)*

I swear by Almighty God that I will not, unless it is necessary for the due discharge of my official duties, divulge the sentence of this court-martial until it is duly confirmed; and that I will not on any account, at any time whatsoever, disclose or discover the vote or opinion of any particular member of this court-martial, unless thereunto required in due course of law.

3. OFFR UNDER INSTRUCTION. *(AA 52, MML 762, RP 27, 111.)*

I swear by Almighty God that I will not divulge the sentence of this court-martial until it is duly confirmed; and that I will not on any account, at any time whatsoever, disclose or discover the vote or opinion of any particular member of this court-martial unless thereunto required in due course of law.

4. SHORTHAND WRITER. *(AA 52, MML 762, RP 27, 111.)*

I swear by Almighty God that I will truly take down to the best of my power the evidence to be given before this court-martial and such other matters as may be required, and will, when required, deliver to the court a true transcript of the same.

5. INTERPRETER. *(AA 52, MML 762, RP 27, 111.)*

I swear by Almighty God that I will to the best of my ability truly interpret and translate, as I shall be required to do, touching the matter before this court-martial.

6. WITNESS. *(AA 52, MML 763, RP 82, 111.)*

I swear by Almighty God that the evidence which I shall give before this court shall be the truth, the whole truth, and nothing but the truth.

POUR LES TEMOINS. *(RO (Can) 2693.)*

Je jure, par Dieu Tout-Puissant, que le témoignage que je rendrai devant cette Cour sera la vérité, toute la vérité, et rien que la vérité.

7. As to other forms for swearing see AA 52(4), RP 28, 30, 82, 111, MML p 763.

NOTES ON RECORDING PROCEEDINGS AND ON DEFENCE PROCEDURE.

(Referred to throughout CF A 96 as "Notes".)

1. RECORDING PROCEEDINGS: When no shorthand writer is employed the addresses of Prosecutor and Defending Offr (*RP 95(C)*), any objections (*RP 95(B)*), and any statements by accused, may be summarized and, the evidence, subject to RP 95(A) and 114(B), may be recorded in narrative form as follows:

First Witness for Prosecution.

A 12345 Cpl H. Jones, RWR, sworn, states:

I am a cpl of the pl to which Pte Smith belongs. The accsd in Court is Pte Smith. About 1400 hrs on 15 Jan 42 I ordered the accsd to go on parade. He refused and did not go on parade.

Cross-exam: He did not say he was sick. (*or*, None.)

Re-exam: None.

Exam by Court: He said—" I've had enough parades ".

RP 83(B) complied with.

2. When a shorthand writer is employed, addresses, statements, evidence and objections need not, subject to RP 95(A), be taken by him verbatim. (*RP 95 fn 1.*) If the evidence is taken by him in narrative form, RP 83(B) should be complied with. If taken verbatim, RP 83(C) will be complied with.

3. The record of addresses, statements and evidence will be given a marginal number which corresponds with the number of the para in CF A 96, under which it is taken. Both sides of paper should be used.

4. DEFENCE PROCEDURE: RP 116 provides that for procedure on defence RP 40-42 will apply *so far as* practicable, having due regard to the public service. (*RP 122.*) If the Court consider such compliance not practicable, the following order of procedure (whether all items are used or not) is suggested as being fair to the accused:

(i) Opening address by Defending Offr. (*RP 60(C), 87(C), 92(C) (D).*)

(ii) At option of accused, statement by accused (*not sworn or subject to cross-exam by Prosecutor. Court or JA (RP 40 fn 10)*), or evidence by accused, as to facts or his character or both. (*See RP 41 fn 3, 46 fn 1, 80.*)

(iii) Evidence of witnesses for accused as to facts or his character or both. (*See RP 46 fn 1.*)

(iv) Evidence for prosecution in rebuttal or on new matter, if allowed by Court (*RP 86(H)*), or to prove previous convictions when accused has called witnesses as to character. (*RP 86(C).*)

(v) Closing address (*on matters other than in mitigation of punishment*) by Defending Offr or accused. (*See RP 40 fns 8-12, 87(C), 92(C) (D).*) But Defending Offr or accused will make his address after the Prosecutor, if there has been no statement by accused or any evidence given as to facts, or if accused alone has given evidence on oath as to facts, whether any evidence as to his character has been given or not. (*When accused charged jointly see RP 61.*)

(vi) Closing address by Prosecutor. (*See RP 40 fn 7, 87(C), 92(C) (D). Prosecutor has no right to address Court on subject of sentence except as provided by RP 46(E), KR Can 563(a).*)

(vii) Summing up by JA, if any. (*RP 42.*)

ASSEMBLY AND DISPOSAL OF RECORD AFTER TRIAL.

1. All deletions and alterations in printed and written record MUST BE INITIALLED by President or JA, if any. RECORD FORMS B, C OR D NOT USED MUST BE DELETED BY A DIAGONAL LINE AND INITIALLED.

2. All loose sheets of record and exhibits comprising the proceedings of the trial MUST BE INITIALLED by President or JA, if any, and then pinned by top left corner to p 2 of CF A 96 in following order:

(i) Charge Sheet. (On top.)

(ii) Convening Order with any declarations made by Convening Offr under RP 104, 106, 107, 114.

(iii) Medical Certificate(s). (*KR Can 557.*)

(iv) Addresses, statements and evidence in order taken during trial, pages being numbered and on both sides when both sides used.

(v) Exhibits numbered Ex A, Ex B, etc. (*As to admitting in evidence a certified copy in lieu of original see KR Can 580. As to certified copies of regimental books see AA 163 (1) (g) (h).*)

(vi) Summary of Evidence, if not already an exhibit.

3. Any report or remarks by President or Court for attention of Confirming Offr will be attached to p 4 of CF A 96 and not form part of record of proceedings. (*RP 95(D).*) A recommendation for mercy will be inserted in Part I of Schedule on p 4 after minute of sentence awarded. (*AA 53(9), RP 118(C), MML p 739.*)

4. The President or JA, if any, will return proceedings promptly with covering letter and in an envelope marked "Confidential", or as otherwise directed.

1ST BN THE QUEEN'S OWN RIFLES OF CANADA

In the Field 3 Jan 45

MEDICAL INSPECTION FOR FITNESS TO UNDERGO TRIAL BY COURT MARTIAL

This is to certify that I have this day examined B117929 Rfn Gregson, W P of the 1st Bn The Queen's Own Rifles of Canada (O) E~~W~~F, and have found fit to undergo trial by Court Martial.

Date: 3 Jan 45 R.O. Thompson Capt

Mil. Pl. of Mitigation

Re: B-117929 Pfc Thigpen W.R.

Mr President and members of the court.
I might please the court to consider the following
facts in mitigation of punishment
The accused volunteered to fight for his country
on reaching the age of 19 and 9 months later
comm carries He has spent 11½ continuous
days of his army service without a break of any nature.
During his army service he has only had 2 days
leave and I submit that his illegal absence was
merely a folly of youth. He did not intend to
illegally absent himself on Oct 25th and attempted to
return to his unit after he missed his unit transport
He has a clean record sheet and I feel the court
shall show leniency in the case

L/Cpl Talbot H.

CHARGE SHEET

The accused, H117929 Pte William Russell GRESSON, 1st Bn The Queen's Own Rifles of Canada, a soldier of the Canadian Army Overseas (AF) is charged with:-

FIRST CHARGE
SEC 15 (1)
ARMY ACT

WHEN ON ACTIVE SERVICE ABSENTING HIMSELF WITHOUT LEAVE

in that he

In the field, did absent himself without leave from 1800 hrs 26 Oct 1944 to 0830 hrs 28 Nov 1944 at which time he was apprehended by 2 Cdn L of C Prs Coy. (Total time absent 32 days 12 hrs 30 mins).

In the Field
11 Dec 44

(J M LETT) Lt-Col
Comd 1st Bn The QOR of C.

Statement of accused.

Statement is to be questions by the defending officer and answers by the accused. Not on oath.

Q. Tell court of circumstances surrounding the commencement of your illegal absence.

A On 26 Oct 44 I had no intentions of going on the leave when the truck was ready to go I was under the influence of liquor.

Q. Did you go down to where the truck was to leave from?

A yes, sir.

Q. Carry on.

A. I went to get another bottle of cognac and when I got back the truck had gone.

Q. Did you go for the bottle alone?

A. Yes, sir.

A I enquires in the Maple Leaf Club of the 15th major if there was any transport. He told me that 2nd div leaves were stopped and that 2nd div were coming. Then enquired at the R.T.O. They said the best way to get back was by hitch hiking.

I thought but if they didn't care if I got back or not. It take a couple more days. One day led to another and I stayed until I was picked up by the Military Police.

Q. During all that time did you make any other effort to get back to your unit.

A. I did not bother hitch-hiking because I did not know the correct route, and I did not know of any other place where I could find out about trucks coming back.

Q. How old are

A. 20 yrs.

a. Birthday

A. 1 Sept.

Q. Date of enlistment?

A. 13 Oct 43

Q. When did you arrive in England?

A. 7 May 44.

Q. When did you arrive in France?

A 2 Jul 44

Q From 2 Jul until date of absence had you been out of the line.

A. Only when the unit came out.

Q. Have you never been away from the unit?

A. No, sir.

Q Since enlistment have you had any leave whatever?

A. Embarkation Leave and 30 day furlough (total 5 days)

Q. In Canada?

A. Yes, sir

Summary of Evidence in the case of No. B117929
Rfn. Sturgeon, W.R. of Coy 1st Bn Queens Own
Rifles of Canada charged with absenting
himself without leave (A.A. Sec 15)

By direction of the Commanding Officer the
evidence is taken on oath:-

First Witness

A/Capt D.B. Hamilton 1st Bn The Queens Own
Rifles of Canada having been duly sworn
states:-

"I produce AFB 375 and certificate of
apprehension relating to the accused.

The declaration of Court of Inquiry &
certificate of apprehension were read and
to the accused, marked Exhibit A & B
signed by me and attached hereto.

D.B. Hamilton Capt

Do you wish to make any statement or to give evidence on oath? You are not obliged to say anything or give evidence unless you wish to do so, but whatever you say or any evidence you give will be taken down in writing and may be given in evidence

The accused declined to make a statement or to give evidence on oath.

The accused does not call any witnesses

I certify that the foregoing Summary of Evidence, consisting of five pages was taken down by me in the presence of the accused and that RP 4 (c), (D), (E), (F) and (G) (13) have been complied with

W. Rea
Lt. 1st Bn The Queen's Own
Rifles of Canada

In the Field
9 Dec 44

EXHIBIT "A"

COPY

RECORD of the Declaration of a Court of Inquiry assembled at In the Field on the 23rd day of November 1944, for the purpose of investigating and recording the absence, without leave, from his duty, and deficiency, if any, in the Arms, Ammunition, Equipments, Instruments, Regimental Necessaries, or Clothing of No. B117929 Rfn Gregson, W.H.

D E C L A R A T I O N

The court declare that No B117929 Rfn Gregson, W.H. 1st Bn The Queen's Own Rifles of Canada illegally absented himself without leave at In the Field at 1200hrs - on the 26th day of October, 1944 and that he is still so absent and that on the 23 Nov 44 he was deficient, and that he is still deficient of the following articles:-

ARTICLES		VAOS VALUE	UNRRA VALUE
Beret, F.S.	1	.56	.42
Badges, cap	1	.09	.07
Blouse, S.D.	1	5.25	3.94
Trousers, S.D.	1	5.39	3.94
Anklets, prs	1	1.00	.75
Boots, prs	1	5.46	4.10
Sox, prs	1	.37	.24
Identity discs	2	.04	.03
Shorts, cell, prs	1	.43	.32
Jerkins, leather	1	5.77	4.33
	Total	24.36	18.14

G.S. Somers, Capt.....,President

S. Score, Lt..... .....,Member

Signed at....In the Field..

W.H. Ives, CSM.....,Member

this 23rd day of Nov 1944

Signature of Commanding Officer ....S.M. Lett.....Lt-col.

CERTIFIED A TRUE COPY FROM THE REGIMENTAL BOOKS IN MY CUSTODY.

In the Field
22 Dec 44

.....
(J P SHOOKS) CAPT
Adjt, 1st Bn The Q O R of C.

EXHIBIT "B"

CERTIFICATE IN ACCORDANCE WITH P.C. 2797 of 10 Apr 42

I CERTIFY THAT No B-117929 Rank Rfmn Name GREGSON W.R.
Unit QUEENS OWN RIFLES of Canada was arrested at BRUSSELS (Place)
3rd. Cdn. Inf. Div.

at 0030 (hour) on 28 Nov 44 (date) and that at the time of his arrest
he was wearing (military uniform) ~~XXXXXXXXXXXXXXXXXXXXXX~~

Signature of Provost-Marshal, Assistant Provost-Marshal or other officer or the Commanding officer of the portion of His Majesty's Forces or the officer, warrant officer or non-commissioned officer in charge of the detachment of the Canadian Provost Corps, Canadian Army, into whose custody the above named person was taken on arrest.

Capt
D.A.P.M. C.A.P.C.
HQ BRUSSELS GARRISON

Field
28 Nov 44

(J.Tweedie) A/Capt
Officer Commanding
2 Cdn. L of C Pro. Coy.

This is exhibit 'B' referred to in the summary of evidence in the case of W.R. B117929, Rfn Gregson taken before me this 9th day of December 1944.

ARMY FORM B.296 (WAR).

Statement as to Character and Particulars of Service of Accused.

(For Use at Trials by Field General Courts-Martial only).

Number.	*Rank.*	*Name.*	*Regiment (or as the case may be).*
B117929	Rfn	Gregson, W.R.	1st Bn The Queen's Own Rifles of C

NOTE.—The Field Conduct Sheet is to be produced in Court with this statement but is not to be attached to the proceedings. The numbers herein stated should correspond with the number of Entries in the Field Conduct Sheet, precautions being given to avoid serious error in the entry. If the charge is for drunkenness or absence without leave, the entries for drunkenness or absence, as the case may be, should be stated separately. Any exceptional special acts of gallantry or distinguished conduct recorded on the Field Conduct Sheet should also be inserted here.

~~The following is an abstract or summary of the entries in the Field Conduct Sheet of the accused, exclusive of convictions by a court-martial or civil courts.~~

~~For~~

~~For~~

~~For~~

~~For~~

~~Date of first entry in the Field Conduct Sheet~~

~~Date of last entry in the Field Conduct Sheet~~

2. Previous convictions of the accused by a court martial or a civil court are set out in the Schedule overleaf.

~~No previous convictions by a court martial are entered on the Field Conduct Sheet beginning on the~~

4. The accused has been awaiting trial on the present charges for No days in civil custody, and for 13 days in military custody, viz., No days in open arrest, 13 days in close arrest; of which No days were spent in hospital.

5. The present age of the accused is 20

6. The date of his ~~attestation or enlistment~~ attestation is 13 Oct 43

7. The service which the accused is allowed to reckon is N/A

8. The accused is in possession of† N/A

~~The accused is entitled to the following reductions to the present date~~

~~For~~

~~For~~

~~For~~

*Strike out if not applicable.

†State the military decorations (if any) held by accused.

INSTRUCTION.—*If any matter in any of the above paragraphs cannot be stated from the regimental books the paragraph must be struck through.*

(21114) W.L.9570/666 500,000 4/42 A. & E. W. Ltd. Gp.4/9 Forms/B.296(War)/2
(22456) W.L.5930/1872 60,000 9/42

SCHEDULE OF CONVICTIONS BY A COURT-MARTIAL OR CIVIL COURT.

Description of Court by which tried.	Date and Place of Trial.	Charges upon which convicted.	Sentence of the Court.	Punishment remitted or sentence suspended.

I HEREBY CERTIFY that the foregoing particulars, which have been extracted from the regimental books in my custody, are correct to the best of my knowledge and belief.

Signed this 11th day of December 1944

(S M 1578) 14-601
Cond 1st Bn The [illegible] of C (AF'

ARMY FORM B.296 (WAR).

Statement as to Character and Particulars of Service of Accused.

(For Use at Trials by Field General Courts-Martial only).

Number.	*Rank.*	*Name.*	*Regiment (or as the case may be).*
B117929	Rfn	Gregson, W.R.	1st Bn The Queen's Own Rifles of C

NOTE.—The Field Conduct Sheet is to be produced in Court with this statement but is not to be annexed to the proceedings. The numbers here listed should correspond with the number of Entries in the Field Conduct Sheet, prominence being given to the most serious offence in each entry. If the charge is for drunkenness or absence without leave, the entries for drunkenness or absence, as the case may be, should be stated separately. Any recognised special mark of gallantry or distinguished conduct recorded on the Field Conduct Sheet should also be inserted here.

~~The following is a record (or summary of the entries in the Field Conduct Sheet) of the convictions by court martial or civil court of the accused, exclusive of convictions by court martial or civil court~~

~~For~~

~~For~~

~~For~~

~~For~~

~~Date of first entry in Field Conduct Sheet~~

~~Date of last entry in Field Conduct Sheet~~

2. Previous convictions of the accused by a court martial or a civil court are set out in the Schedule overleaf.

~~No other convictions against the accused are known to exist except~~

~~beginning on the~~

4. The accused has been awaiting trial on the present charges for No days in civil custody; and for 13 days in military custody, *i.e.*, No days in open arrest, 13 days in close arrest; of which No days were spent in hospital.

5. The present age of the accused is 20

6. The date of his ~~enlistment or entry into military service~~ attestation is 13 Oct 43

7. The service which the accused is allowed to reckon is N/A

8. The accused is in possession of† N/A

~~In addition to the above convictions the accused has been reduced to the ranks~~

~~from the rank of~~

~~to the rank of~~

~~to the rank of~~

~~to the rank of~~

† State the military decorations (if any) held by accused.

INSTRUCTION.—*If any matter in any of the above paragraphs cannot be stated from the regimental books the paragraph must be struck through.*

[11114] WL.8470/668 350,000 4/43 A.& E.W.Ltd. Gp.4/8 Forms/B.296(War)/2
[12450] W1.29166/1875 40,000 9/43

SCHEDULE OF CONVICTIONS BY A COURT-MARTIAL OR CIVIL COURT.

Description of Court by which tried.	Date and Place of Trial.	Charges upon which convicted.	Sentence of the Court.	Punishment remitted or sentence suspended.
		N/A		

I HEREBY CERTIFY that the foregoing particulars, which have been extracted from the regimental books in my custody, are correct to the best of my knowledge and belief.

Signed this 11th day of December 1944

{S H [illegible]
Comd 1st Bn The [illegible] of C

EXHIBIT "C"

No. S117929 Name GREGSON William Sqn, Battery, or Company D Corps C'C Date of enlistment 13Oct43 GC Badges Service or Proficiency Pay 3/17 MFM 6

Date of last entry in Company Conduct Sheet missed Cases and date of last drunk Nil Period not reckoning towards freedom from extra fine 17Jan44 Sheet No One Signature OC Company, etc P H Banks, Capt Character

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Name of Witnesses	Punishment awarded	Date of award or of order directing same with time	By whom awarded	Remarks
Original sheet destroyed on completion of six months service wef 12 Apr 44 ; W.C.A. Gillespie, Lt.									
				VOLUNTARY BLOOD DONOR		12 Jun 44		W.C.A. Gillespie, Lt.	

CERTIFIED A TRUE COPY FROM THE REGIMENTAL BOOKS IN MY CUSTODY

(W J WEIR) CAPT
Adjt, 1st Bn The Q O R of C

35-149

Ph. Lemoine, E.

5 G - 149

FIELD GENERAL COURT-MARTIAL

CFA96 (In lieu of AFA51 40/P & B/1696 (8/44))
4388

Convened by Order of Brigadier GSN Gostling, ED Comd 2 CBRG dated 24 Mar 45

ACCUSED.

(As to the trial of two or more charged jointly see RP 16, 71, 109. As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

Number.	(a) Prmnt R.	(b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
E-11095	Pte		Ernest	GRENIER	R de Chaud att 1 Cdn Disciplinary Centre

CERTIFIED TRUE COPY

10 May 45

PROCEEDINGS OF TRIAL.

Held in the Fd in (country) BELGIUM on (date) 25 Mar 45

RECORD FORM A—OPENING PROCEEDINGS AND ARRAIGNMENT. 29/61

A1. The President, Members, waiting Member, JA, if any, and Offrs under instr, if any, assemble, and the Court is closed.

(PRINTED MATTER, NOT IN ITALICS FOR GUIDANCE, WILL BE DELETED, IF NOT USED OR APPLICABLE, AND INITIALLED BY PRES OR JA. The Schedule referred to throughout is on p 4. Citations do NOT include all relevant fms ROs. For guidance on procedure when a variation in this form arises, see form for GCM in MML pp 741 to 759. A brief record of such variation will be made and given a number having reference to appropriate or preceding para number herein. See back of Convening Order, CF 695, for oaths and instrs on how to record addresses, evidence, etc, which instrs are hereafter called "Notes". As to general provisions for conducting the trial see AA 53, RP 56, 63-70, 73, 74, 94, 103, 119, 132.)

A2. The President initials and lays before the Court the Convening Order and Charge Sheet(1) attached thereto.(2) The Court is satisfied that it is properly convened and constituted(3), accused is ~~are~~ amenable to military law, and each charge discloses an offence.(4)

(1. As to use of Summary of Evidence see RP 17 fn 6. 2. AA 49, 50, RP 105-107. 3. RP 11-13, 23, 24.)

A3. The Court is opened. The accused is ~~are~~ brought before the Court. At 1000 hours trial commences.

A4. The Prosecutor produces a Medical Certificate that accused is ~~are~~ fit to undergo trial by court-martial.(1) ~~The Prosecutor informs the Court that accused elected to be tried by court-martial instead of being dealt with summarily by the CO.~~(2)

(1. KR Can 557. 2. AA 46(B), RP 60 fn 1. For effect see KR Can 563(c). Delete, if not applicable.

A5. President to accused: Do you object to NA as interpreter ? Ans NA

The Interpreter is sworn.(1) Do you object to NA as shorthand writer ? Ans NA
The shorthand writer is sworn.(1)

(1. RP 72. Delete, if none employed.)

A6. The Convening Order and names of the President and Members of the Court are read to the accused.(1)
President to accused: Do you object to be tried by me as President or by any of the Members of the Court ?

Ans No (1)

(1. RP 110. 2. If no objection, waiting member retires. RP 66(B). If objection, see procedure AA 51, RP 25, 71, 18, MML p 742.)

A7. The President, Members, JA, if any, and Offrs under instr, if any, are sworn.(1) The following are the ranks, names and units of the offrs comprising the Court, etc:

President	Major	J M BOWMAN	48th Highrs att 1 Cdn Disciplinary Centre
Member	Capt	C B CARTMEL	RCA att 1 Cdn Dis Centre
Member	Lt	E F McMANUS	RCE 9 CBR Bn
Judge-Advocate			
Prosecutor	Capt	N D BOWLER	CIC att 1 Cdn Dis Centre
Defending Offr	Capt	F C KARN	CIC att 1 Cdn Dis Centre

Questions by President: Is the Prosecutor a lawyer ? Ans No Is the Defending Offr a lawyer ? Ans No (2)

(1. RP 26, 27, 109, 111. List of offrs under instr will be returned separately with proceedings for information of Conv Offr.)
(2. If Pros a lawyer and Def Offr not, accused is entitled to an adjournment when RP 89 (B) and fn 2 were not followed. See Di p 3.)

A8. The accused E-11095 Pte Ernest GRENIER before arraignment make(s) (no) ~~a~~ plea.(1)

(1. If a special plea is made for separate trial on one or more charges (RP 62(E), 108), or as to the jurisdiction of the Court (RP 34, 35(A), 113), or in bar of trial (RP 36), or as to accused's mental fitness to stand trial (AA 130, RP 57), or by one of several accused charged jointly to be tried separately (RP 16, 71), such plea, the addresses made in support or against, the evidence, if any, and finding are recorded per Notes. For forms of record see references in fns to RoP cited. Insert in A8 rank and name of the accused making the plea.)

A9. The accused is ~~are~~ arraigned (separately) on all charges in the charge sheet.(1) The accused does ~~not~~ not object to any charge.(2) There is no amendment to be made to the Charge Sheet.(3) The President records the pleas in Part I of the Schedule.

(1. RP 31, 112. See para 1 of Instrs p 2. When more than one Charge Sheet see RP 62; when several accused to be tried separately see RP 71(C), and use separate copies of CF 696 to record proceedings. 2. RP 32, RP 33. If otherwise, delete and make appropriate record per Notes.)

A10. The Court (is closed and) considers the Instrs on Procedure after Arraignment at top of p 2. The proceedings are continued on Record Form B & E

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

INSTRUCTIONS ON PROCEDURE AFTER ARRAIGNMENT.

1. *The accused may not plead or be found Guilty on more than one of two or more charges laid in the alternative.* (*RP 37(A).*) *As to withdrawal of alternative charges by Prosecutor see RP 35(C). No other charge can be withdrawn for any reason without authy from Convening Offr. If Convening Offr concurs, Court may accept plea of Guilty to lesser, etc, offence.* (*RP 44(H).*) *Accused may change a plea of Not Guilty to Guilty during trial.* (*RP 38.*) *As to refusing to plead or not pleading intelligibly see RP 35(A). As to plea when sentence may be death see RP 35(D).*

2. *The proceedings on each charge sheet* (*RP 62*) *after arraignment will be conducted as follows in the respective circumstances stated :*

I. If pleas to all charges are GUILTY, use Record Form B below.

II. If pleas to all charges are NOT GUILTY, use Record Form D on p 3.

III. If pleas to some charges are GUILTY and to other charges are NOT GUILTY and,

(a) *Such mixed pleas occur when there are no alternative charges in the Charge Sheet, use Record Form C below.* (*RP 37(A).*)

(b) *Such mixed pleas occur in a set of two or more charges laid in the alternative, see RP 37 (A) and fn 2 as to discretion of Court,* (i) *to try the accused on all such alternative charges as if he had pleaded Not Guilty thereto, or,* (ii) *to record the pleas as the findings of Court. After deciding between* (i) *and* (ii), *Court will proceed under foregoing instrs as may be appropriate to result of its decision. See M M L p 744 Instrs* (2).

3. *As to responsibility of President to accused see RP 59, 60(C) ; powers and duties of JA see RP 103 ; duty of Prosecutor see RP 60(A) (B) ; duty and privileges of accused and Defending Offr see RP 60(C), 87(C), 91, 92 ; swearing and withdrawal of witnesses from Court see RP 81, 82 ; questioning of accused see RP 80, 87(C), 92(B), and of witnesses see RP 83-85 ; calling or re-calling of witnesses by Court, etc, see RP 75-79, 86, 116 ; use of Summary of Evidence at Trial see RP 17(E) fn 6 ; and responsibility of JA or Pres to record proceedings see RP 94, 96.*

RECORD FORM B—PROCEEDINGS ON PLEAS OF GUILTY TO ALL CHARGES.

B1. The President or JA, if any, complies with RP 35(B) by explaining to the accused the nature and meaning of the charge(s)(1), and that on his plea of Guilty there will be no regular trial but merely a consideration of the sentence to be awarded after he has been given an opportunity to make a statement in reference to the charge(s), call witnesses as to character and make an address in mitigation of punishment.(2)

(*I. RP 35 fn 3. 2. MML p 54 para 47.*)

B2. President to accused : The Court will now receive any statement you desire to make in reference to the charge(s).(1) If it appears from your statement that there are circumstances which indicate that you do not understand the effect of the plea of Guilty(2), or which show provocation or extenuation in respect of which in your interest the witnesses for the Prosecution should be examined(3), we shall advise you to change your plea to Not Guilty. In making a statement you will not be sworn or subject to cross-examination ; and anything you say will not be used in evidence against you after you change your plea. If, however, it appears to the Court that your statement affects only the amount of punishment to which you are liable, you will not be advised to change your plea and you will be given an opportunity later to prove your statement by sworn testimony, if you so desire.(4)

President to accused : Do you wish to make a statement ? Ans. No (5)

(*I. RP 37(B). 2. RP 37(D) fn 6. 3. RP 35(B) fn 5 para 3, MML p 54 para 47. 4. See para E3 of Record Form E.*
5. Statement, if any, recorded per Notes.)

B3. ~~The Court considers the accused's statement.(1) The Court decides (not) to advise accused to change his plea~~ (their) plea(s) of Guilty to Not Guilty on ..... charge(s). ~~The accused is (are) so informed, and he (they) change(s) his (their) plea(s) on ..... charge(s). Part I of the Schedule is amended accordingly.~~

(*I. Court may be closed to consider the statement. Delete whole or part not used.*)

B4. On the charge(s) to which the plea(s) of Guilty is (are) not changed the President records finding(s) of Guilty in Part I of the Schedule.(1)

(*I. RP 35(B). If any plea(s) is (are) changed, use Record Form C or D as appropriate.*)

B5. The Summary of Evidence is marked Ex. "A", initialled and read aloud by the President.(1)

(*I. If there is no Summary, or if it is inadequate, comply with RP 37(B). If there is any evidence inconsistent with any plea standing as Guilty, Court will advise accused to change such plea and, if changed to Not Guilty, try such charge(s) by use of paras D1 to D8 inclusive of Record Form D on p 3. RP 37(D).*)

B6. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

RECORD FORM C—PROCEEDINGS ON MIXED PLEAS OF GUILTY AND NOT GUILTY.

C1. As to the charges on which accused pleaded NOT GUILTY the trial is continued by using paras D1 to D8 inclusive of Record Form D on p 3 before proceeding with C 2.(1)

(*I. RP 37(A) (E).*)

C2. The charges on which accused pleaded GUILTY to ~~which~~ him (them) again, and the trial is continued by using paras B1 to B5 of Record Form B above.(1)

(*I. Under B5 such parts only of the Summary of Evidence are read as relate to the charges dealt with under C2. If any plea is changed to Not Guilty, trial thereon proceeds by complying with paras D1 to D8 inclusive in Record Form D on p 3 and making an appropriate record thereof on a separate sheet.*)

C3. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

RECORD FORM D—PROCEEDINGS ON PLEAS OF NOT GUILTY TO ALL CHARGES.

D1. President to accused : Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity to prepare your defence ? Ans. ..... (1)

(*I. If "yes", see RP 39(A) for procedure. Statement or evidence, if any, is recorded per Notes.*)

D2. The Prosecutor makes (an) (no) opening address.(1)

(*I. RP 39(B), 60(A) (B), 90, 92(C) (D). Record address per Notes, subject to RP 93(C).*)

D3. The evidence for the Prosecution is taken.(1)

(*I. RP 39(C), 114, KR Can 555. Record evidence per Notes. As to Prosecutor giving evidence himself see RP 39(D) (E).*)

D4. The Prosecution is closed.(1) The Defending Offr submits that the evidence for the Prosecution does not establish a prima facie case against the accused on the ..... charge(s).(2) The Court is closed, and considers the submission.(3) The Court is re-opened, and the President announces that the submission is disallowed on the ..... charge(s), and allowed on the ..... charge(s), and that, accordingly, the trial will proceed on the former, but the accused is (are) found Not Guilty on the latter charge(s).(4)

(*I. Delete remainder of this para, if submission not made. 2. Arguments on submission, answer and reply are recorded per Notes. 3. RP 40 fn 1. See MML p 72 paras 12-14 and p 81 para 42. 4. Delete part not used. If accused acquitted on all charges, use second alternative in para D8.*)

NB : If trial proceeds, accused must be allowed great latitude in making his defence, and the Court should not stop his defence solely on ground of irrelevance. (*RP 60(C), 114, 115.*)

D5. President to accused : You will now proceed with your defence.(1) You may, if you wish, give evidence yourself on oath as to the facts or your character or both, in which case you will be subject to cross-examination.(2) You may, however, make a statement without being sworn, and you will not be subject to cross-examination.(3) But a statement which could have been made on oath will not carry with the Court the same weight as sworn testimony.(4) You may call witnesses in your defence and as to character, whether you give evidence or make a statement or do neither.

President to accused : Do you wish to give evidence yourself as a witness, make a statement, or do neither ? Ans. ..... Do you intend to call witnesses on your behalf ? Ans. ..... Are they witnesses as to character only ? Ans. .....

(*I. RP 115. 2. RP 40(A), see 80(D). 3. RP 40 fn 10. 4. RP 40 fns 2, 9.*)

D6. Consequent on the answers recorded in para D5 the appropriate procedure for the defence is followed.(1)

(*I. RP 114, 115, 116. For procedure see Notes on back of Convening Order. CF A95. Evidence for accused as to his character should, if in his interest, be given before the finding. See RP 46(A) fn 1, 80(C). Note the further opportunity in para E1 of Record Form E. Record per Notes addresses, statement, evidence and any summing up by the JA under RP 42, 103(e).*)

D7. The Court is closed to consider the finding(s).(1) The finding(s) of the Court is (are) recorded in Part I of the Schedule.(2) The Court is re-opened.

(*I. RP 43, 117(A). See Notes in Part I of Schedule. 2. RP 44(A).*)

D8. The President announces the finding(s), if any, of Not Guilty, and states to the accused that the finding(s) of the Court on the ..... charge(s), being subject to confirmation, will be promulgated later.(1)

Or, The President announces that the accused is found Not Guilty on all charges and is to be released forthwith, and that the proceedings are accordingly terminated. Part I of the Schedule is dated and signed.(2)

(*I. AA 54(3) (5), RP 45, 120(A). 2. AA 54(3), RP 45, 117. This alternative announcement is not applicable when there are pleas of Guilty outstanding and dealt with under Record Form B or C.*)

D9. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E below.

RECORD FORM E—PROCEEDINGS ON CONVICTION BEFORE SENTENCE.

E1. President to accused : Do you wish to give evidence yourself or to call any witnesses as to your character ?(1)

Ans. No

(*I. If evidence has already been given by accused or his witnesses as to his character, delete this para. RP 37(C) fn 4, 46 fn 1. Accused and witnesses are sworn. Evidence recorded per Notes.*)

E2. The Prosecutor produces Statement(s) as to Character and Particulars of Service(1), and certified true copy (copies) of Conduct Sheet(s)(2), purporting to refer to the accused, which he submits to the Defending Offr for examination, and then to the Court for admission in evidence. The Court is satisfied that these documents refer to the accused, because (i) they purport to be signed in the manner required by AA 163(l) (g) (b), and (ii) they purport to refer to (a) soldier(s) having the same number, rank, name and corps as the accused. Admitted in evidence and marked Ex. "D" and Ex. "E" respectively.(3)

(*I. MFB 255 or MFB 296. 2. MFM 6. 3. RP 46, KR Can 558. If above documents not produced, see RP 46 fn 1 para 1.*)

E3. President to accused : Do you wish to address the Court on the Statement(s) and Conduct Sheet(s), and in mitigation of punishment ?(1) Ans. My Defending Officer will plead in mitigation.(2)

(*I. RP 37(C), 46(D). 2. Address, if any, recorded per Notes. Court should permit accused or his witnesses to depose on oath anything here or previously stated which would affect the amount of punishment. RP 37(F) fn 7.*)

E4. The President states that the Court is closed to consider the sentence, and that the sentence to be awarded by the Court, being subject to confirmation, will not be announced, but will be promulgated later, and the proceedings in open court are accordingly terminated.(1)

(*I. AA 54(6), RP 120(A).*)

E5. The Court considers the sentence.(1) The President records the sentence in Part I of the Schedule, which is dated and signed by him and the JA, if any.(2)

(*I. When several accused tried separately see RP 75 (D). One sentence only, comprised of the punishment or punishments laid down in AA 41, 44 and its proviso, is to be awarded to cover all charges in all charge sheets on which accused found guilty. RP 45. As to sentences see AA 44, 136, 182, RP 46-50, 69, 116, 119(A), KR Can 308, 330, 563-566, Overseas RO 309, 2323, MML p 60, 757-759. As to sentences consigned for civil offences by the law of England see AA 41(5), MML p 130. When accused already under sentence of imprisonment or detention see AA 44(6), 68(1), KR Can 564. 2. RP 50. As to release from arrest by Confirming Offr see KR Can 567. As to assembly and dispersal of record after trial see Instrs on back of Convening Order.*)

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

SCHEDULE.

PART I. PLEA(S), FINDING(S) AND SENTENCE.

Accused: E-11095 Pte Ernest GRENIER R de Chaud att 1 Cdn Disciplinary Centre

Charge. (Insert "alternative" where applicable.)	Plea. (See Instrs p 2.)	Finding. (See note below.)	(Space for use as required for further charges, accused charged jointly, special findings, etc.)
1st AA Sec 15(1)	Guilty	Guilty	
2nd			
3rd			
4th			
5th			
6th			

(Note: As to findings for lesser offences see AA 56, RP 44; findings on alternative charges see MML p 403 fn 4 para 2, RP 44; special findings see RP 44 and MML p 753, and in loss of kit see RP 44 fn 8.)

At present under sentence for NA beginning on (date) NA (*)
(*. Insert sentence being served, or delete, if not applicable. See RP 46(A). Information should be found on MF B355 or AF B296.)

Time in confinement awaiting present trial—a total of 73 days, of which 37 days were spent in hospital.(*)
(*. See RP 46(A) fn 2. Information should be found on MF B355 or AF B296 admitted in evidence under £2.)

Sentence Awarded by the Court: To undergo detention for eighteen (18) months.

(Sgd) Judge-Advocate, if any. 25 Mar 45 Date awarded. (Sgd) "J M Bowman" Major President. (RP 45, 50.)
(See back of Convening Order as to assembly and disposal of record after trial.)

PART II. MINUTE WHERE CONFIRMATION RESERVED. (AA 54(5), RP 120(F), MML p 760.)

Date (Sgd) Commanding

PART III. DECISION OF CONFIRMING OFFR ON FINDING(S) AND SENTENCE.

(For duties and powers see AA 54, 57, RP 37(D) fn 6, 46(A), 51-56, 120, MML pp 739-761, KR Con 567-577. Acquittals require no confirmation and cannot be revised: AA 54(3). Sending back finding or sentence for revision by Court: AA 54(2), RP 120(G). If not confirmed, accused may be tried again: AA 157, MML p 64. Minute of confirmation or non-confirmation may be altered before promulgation: RP 53, MML p 65. Quashing after promulgation: KR Con 573. Duties and powers of reviewing offrs: AA 57, 57A, RP 53A, 54. The Confirming Offr must sign here personally. AA 172 fn 1.)

My decision on the finding(s) and sentence set forth in Part I is:

Confirmed.

~~I direct that the accused be not committed to prison or detention barracks until further orders.~~ (1. AA 57A. Delete if not used.)

(Sgd) "J Runcie" Lt Col (J Runice) (~~Gen Cons Offr~~) ~~Brig~~ RCS

Date 31 ~~Mar~~ Mar 45 A/Commanding 2 Cdn Base Rft Gp Confirming Officer

PART IV. PROMULGATED AND EXTRACTS TAKEN. (RP 53, KR Con 576, 577.)

Accused.	Date.	Signature of Offr.
E-11095 Pte Grenier E	19 Apr 45	"J Medhurst" Lt Col Comdg 1 Cdn Disciplinary Centre

ALL DELETIONS AND ALTERATIONS WILL BE INITIALLED.

CR#31
3 - 1
d/4 Apr 45

CHARGE SHEET

The accused, E-11095 Pte Ernest GRENIER, Le Regt de la Chaudiere, attached to 1 Cdn Disciplinary Centre, a soldier of the Canadian Army Overseas, is charged with:-

FIRST CHARGE
Sec 15(1)
Army Act

WHEN ON ACTIVE SERVICE ABSENTING HIMSELF WITHOUT LEAVE

in that he

In the Field, absented himself without leave from 0900 hrs 12 Oct 44 until apprehended at 1200 hrs 10 Jan 45.

(Total absence: 90 days 3 hrs)

In the Field
22 Mar 45

"A O Hood"
(A O Hood) Lt Col
Commanding
1 Cdn Disc Centre

To be tried by Field General Court-Martial.

In the Field
24 Mar 45

"G S N Gostling"
(G S N Gostling) Brig
Comd
2 Cdn Base Rft Gp

JMB

FIELD GENERAL COURT-MARTIAL

CFA95 (In lieu of AFAB)
40/P&S/697 (2008)

(Whether the accused to be tried is under his comd or not, a FGCM may on application to him be convened by any offr of Cdn Army Overseas, or of any other force if authorized in law, in immediate comd of troops on active service, subject to RP 105(C) and restrictions imposed by appropriate authy. AA 49, 50, RP 104-107, 114. As to the duties and privileges of the Convening Offr in dealing with the application see MML Chap V paras 20 and 23, RP 87(B).

There should be a separate Convening Order for each person to be tried separately by the same Court. RP 71(C), 109. As to separate charge sheets see RP 62, and as to separate trial on charges in the same charge sheet see RP 108. As to two or more accused charged jointly see RP 16, 92(e). As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

ACCUSED.

Number.	(a) Prmnt R. (b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
E 11095	Pte	Ernest	GRENIER	R de Chaud att 1 Cdn Disciplinary Centre

CONVENING ORDER.

1. Whereas complaint has been made to me, the undersigned, that the person(s) named above as the accused, being subject to military law, has (~~have~~) committed the offence(s) set forth in the Charge Sheet(s) attached and on (date) 24 Mar 45 endorsed by me, (~~or by an offr of my staff for me~~), "To be tried by Field General Court-Martial".

2. And whereas I am of opinion that it is not practicable that such offence(s) should be tried by an ordinary General Court-Martial; (~~and that it is not practicable to delay the trial for reference to a superior qualified offr~~) (*Delete part in brackets when not required for compliance with RP 105(C).*)

3. I hereby convene a Field General Court-Martial to try the said person(s), and to consist of the Offrs appointed or detailed hereunder.

4. I ~~am unable to appoint~~ (a) three Offrs to ~~form the Court, (b) a Fd Offr as President, for the reasons I have~~ attached hereto. (*AA 49, RP 106(B), 107(A). Delete the whole or part, if not applicable.*)

5. I ~~also appoint as Judge-Advocate thereat the Offr mentioned hereunder.~~ (*RP 106(E). Delete, if none appointed.*)

PRESIDENT.

(Rank.)		(Unit.)
Major	J M BOWMAN	48th Highrs att 1 Cdn Disciplinary Centre

(*Must be named. RP 106.*)

MEMBERS.

(Rank.)		(Unit.)
Capt	G B CARTMEL	RCA att 1 Cdn Disciplinary Centre
Lt	to be detailed by OC 9 CBR Bn	9 CBR Bn

(*Named or detailed. RP 106.*)

WAITING MEMBER.

(Rank.)		(Unit.)

(*Named or detailed, if any. RP 106.*)

~~JUDGE ADVOCATE~~

(Rank.)		(Unit.)

(*Must be named, if any. RP 106.*)

On Active Service in the Fd

in BELGIUM (*Country.*)

Date 24 Mar 45

"G S N Gostling" Brigadier (*Rank.*)

(*Signed personally. RP 105 fn 2.*)

(G S N Gostling)

Commanding 2 Cdn Base Rft Gp Convening Officer.

CONVENING OFFR WILL INITIAL ALL DELETIONS AND ALTERATIONS

(*See overleaf for oaths and notes for use on trial.*)

JMB

OATHS FOR USE IN COURTS-MARTIAL.

1. PRESIDENT AND MEMBERS. *(AA 52, KR Can 562, RP 26, 29, 111.)*

I swear by Almighty God that I will well and truly try the accused (or accused persons) before the Court according to the evidence, and that I will duly administer justice according to the laws in force for the Government of the Militia of Canada, without partiality, favour or affection, and I do further swear that, except so far as may be permitted by instructions of the Minister for the purpose of communicating the sentence to the accused, I will not divulge the sentence of the Court until it is duly confirmed, and I do further swear that I will not on any account at any time whatsoever disclose or discover the vote or opinion of any particular member of this court-martial unless thereunto required in due course of law.

2. JUDGE-ADVOCATE. *(AA 52, MML 762, RP 27, 111.)*

I swear by Almighty God that I will not, unless it is necessary for the due discharge of my official duties, divulge the sentence of this court-martial until it is duly confirmed; and that I will not on any account, at any time whatsoever, disclose or discover the vote or opinion of any particular member of this court-martial, unless thereunto required in due course of law.

3. OFFR UNDER INSTRUCTION. *(AA 52, MML 762, RP 27, 111.)*

I swear by Almighty God that I will not divulge the sentence of this court-martial until it is duly confirmed; and that I will not on any account, at any time whatsoever, disclose or discover the vote or opinion of any particular member of this court-martial unless thereunto required in due course of law.

4. SHORTHAND WRITER. *(AA 52, MML 762, RP 27, 111.)*

I swear by Almighty God that I will truly take down to the best of my power the evidence to be given before this court-martial and such other matters as may be required, and will, when required, deliver to the court a true transcript of the same.

5. INTERPRETER. *(AA 52, MML 762, RP 27, 111.)*

I swear by Almighty God that I will to the best of my ability truly interpret and translate, as I shall be required to do, touching the matter before this court-martial.

6. WITNESS. *(AA 52, MML 762, RP 82, 111.)*

I swear by Almighty God that the evidence which I shall give before this court shall be the truth, the whole truth, and nothing but the truth.

POUR LES TEMOINS. *(RO (Can) 2603.)*

Je jure, par Dieu Tout-Puissant, que le témoignage que je rendrai devant cette Cour sera la vérité, toute la vérité, et rien que la vérité.

7. As to other forms for swearing see AA 52(4), RP 28, 30, 82, 111, MML p 763.

NOTES ON RECORDING PROCEEDINGS AND ON DEFENCE PROCEDURE.

(Referred to throughout CF A 96 as "Notes".)

1. RECORDING PROCEEDINGS: When no shorthand writer is employed the addresses of Prosecutor and Defending Offr *(RP 95(C))*, any objections *(RP 95(B))*, and any statements by accused, may be summarized and, the evidence, subject to RP 95(A) and 114(B), may be recorded in narrative form as follows:

First Witness for Prosecution.

A 12345 Cpl H. Jones, RWR, sworn, states:

I am a cpl of the pl to which Pte Smith belongs. The accd in Court is Pte Smith. About 1400 hrs on 15 Jan 43 I ordered the accd to go on parade. He refused and did not go on parade.

Cross-exam: He did not say he was sick. *(or, None.)*

Re-exam: None.

Exam by Court: He said—" I've had enough parades ".

RP 83(B) complied with.

2. When a shorthand writer is employed, addresses, statements, evidence and objections need not, subject to RP 95(A), be taken by him verbatim. *(RP 95 fn 1.)* If the evidence is taken by him in narrative form, RP 83(B) should be complied with. If taken verbatim, RP 83(C) will be complied with.

3. The record of addresses, statements and evidence will be given a marginal number which corresponds with the number of the para in CF A 96, under which it is taken. Both sides of paper should be used.

4. DEFENCE PROCEDURE: RP 116 provides that for procedure on defence RP 40-42 will apply so far as practicable, having due regard to the public service. *(RP 122.)* If the Court consider such compliance not practicable, the following order of procedure (whether all items are used or not) is suggested as being fair to the accused:

(i) Opening address by Defending Offr. *(RP 60(C), 87(C), 92(C) (D).)*

(ii) At option of accused, statement by accused *(not sworn or subject to cross-exam by Prosecutor, Court or JA (RP 40 fn 10))*, or evidence by accused, as to facts or his character or both. *(See RP 41 fn 3, 46 fn 1, 80.)*

(iii) Evidence of witnesses for accused as to facts or his character or both. *(See RP 46 fn 1.)*

(iv) Evidence for prosecution in rebuttal or on new matter, if allowed by Court. *(RP 86(B))*, or to prove previous convictions when accused has called witnesses as to character. *(RP 85(C).)*

(v) Closing address *(on matters other than in mitigation of punishment)* by Defending Offr or accused. *(See RP 40 fns 8-12, 87(C), 92(C) (D).)* But Defending Offr or accused will make his address after the Prosecutor, if there has been no statement by accused or any evidence given as to facts, or if accused alone has given evidence on oath as to facts, whether any evidence as to his character has been given or not. *(When accused charged jointly see RP 61.)*

(vi) Closing address by Prosecutor. *(See RP 40 fn 7, 87(C), 92(C) (D). Prosecutor has no right to address Court on subject of sentence except as provided by RP 48(E), KR Can 563(a).)*

(vii) Summing up by JA, if any. *(RP 42.)*

ASSEMBLY AND DISPOSAL OF RECORD AFTER TRIAL.

1. All deletions and alterations in printed and written record MUST BE INITIALLED by President or JA, if any. RECORD FORMS B, C OR D NOT USED MUST BE DELETED BY A DIAGONAL LINE AND INITIALLED.

2. All loose sheets of record and exhibits comprising the proceedings of the trial MUST BE INITIALLED by President or JA, if any, and then pinned by top left corner to p 2 of CF A 96 in following order:

(i) Charge Sheet. *(On top.)*

(ii) Convening Order with any declarations made by Convening Offr under RP 104, 106, 107, 114.

(iii) Medical Certificate(s). *(KR Can 557.)*

(iv) Addresses, statements and evidence in order taken during trial, pages being numbered and on both sides when both sides used.

(v) Exhibits numbered Ex A, Ex B, etc. *(As to admitting in evidence a certified copy in lieu of original see KR Can 590. As to certified copies of regimental books see AA 163 (3) (g) (h).)*

(vi) Summary of Evidence, if not already an exhibit.

3. Any report or remarks by President or Court for attention of Confirming Offr will be attached to p 4 of CF A 96 and not form part of record of proceedings. *(RP 95(D).)* A recommendation for mercy will be inserted in Part I of Schedule on p 4 after minute of sentence awarded. *(AA 53(9), RP 118(C), MML p 759.)*

4. The President or JA, if any, will return proceedings promptly with covering letter and in an envelope marked "Confidential", or as otherwise directed.

MEDICAL OFFICER'S REPORT

I certify that No E 11095 Pte Grenier E
of 1 Cdn Disc Centre is in a good state of health,
and fit to undergo Trial by Court Martial.

"A A Toms" Capt
Medical Officer

Station field
Date 25 Mar 45 JMB

25 Mar 45

Plea of Mitigation

E-11095 Pte Ernest GRENIER, Regt de Chaud
attached to 1 Cdn Disciplinary Centre.

The accused is 23 yrs of age, single
Enlisted 6 Jul 40
Landed in UK Jul 41
Landed in France with Regt de Chaud
in June 44.
Employed as truck driver.
Fought continuously from Normandy
to Eecloo, Belgium.
Category A - 1.

JMB

"F C Karn" Capt
Defending Officer

Ex A

Summary of Evidence in the case of E-11095 Pte Ernest GRENIER, Regt de Chaudiere, attached to 1 Cdn Disciplinary Centre, a soldier of the Canadian Army Overseas.

Charge - Absence without leave.

By direction of the CO the evidence is taken on oath.

The following documents are read over to the accused, marked as Exhibits and are attached to the proceedings.

Exhibit "A" - Certified true copy of Extract from Pt 11 Order No. 78 dated 22 Oct 44

Exhibit "B" - Certified true copy of Extract from Pt 11 Order No. 7 dated 3 Feb 45

Q Do you wish to make any statement or to give evidence on oath? You are not obliged to say anything or give evidence unless you wish to do so but whatever you say or any evidence you give will be taken down in writing and may be given in evidence.

A I have nothing to say.

The accused does not call any witness.

I certify that the foregoing Summary of Evidence consisting of one page was taken down by me in the presence of the accused and that RP 4 (C)(D)(E)(F) and (G) have been complied with.

"Maurice Rousseau" Capt
(Maurice Rousseau) Capt
Officer detailed to take Summary of Evidence.

Dated in the Field.
22 Mar 45

JMB

Ex B ~~Exhibit A~~ "M Rousseau" Ca

TO: Officer Commanding
1 Cdn Disciplinary Centre
Cdn Army Overseas

/Chaud/1 (A5c)

14 MAR 45

EXTRACTS FROM: UNIT....LE REGIMENT DE LA CHAUDIERE

Part II Order No. 78 dated 22 OCT 44

ABSENT WITHOUT LEAVE

AWL from 0900 hrs 12 OCT 44
E11095 Pte GRENIER E

Certified to be a true extract from the regimental books and documents in my custody

"J R Fenelon" Capt
Officer IC Records 'C'
Cdn Sec 3HQ 2 Sub Z1 Army Gp

The following documents are attached. Please ack receipt on att duplicate required. Please forward same.

JMB

Originating clerks initials GV

Officer in Charge
Canadian Section GHQ 2nd Echelon

Ex C "M Rousseau" Capt

/Chaudfl (A5c)

TO: Officer Commanding
1 Cdn Disciplinary Centre
Cdn Army Overseas

14 MAR 45

EXTRACTS FROM: UNIT LE REGIMENT DE LA CHAUDIERE

Part II Order No. 7 dated 3 FEB 45

STRENGTH INCREASE

TOS on app from des wef 1200 hrs 10 Jan 45
E11095 Pte GRENIER R

"J R Penelon" Capt
Officer IC Records

Cdn Base DW 2 Con 21 Army Gp

The following documents are attached. Please ack receipt on att duplicate required. Please forward same.

JMB

Originating clerks initials GV

for Officer in Charge
Canadian Section GHQ 2nd Echelon

Ex D

ARMY FORM B.296 (WAR).

Statement as to Character and Particulars of Service of Accused.

(For Use at Trials by Field General Courts-Martial only).

Number.	*Rank.*	*Name.*	*Regiment (or as the case may be).*
E11095	Pte	GRENIER E	Regt Chaud

NOTE.—The Field Conduct Sheet is to be produced in Court with this statement but is not to be annexed to the proceedings. The numbers herein stated should correspond with the number of Entries in the Field Conduct Sheet, prominence being given to the most serious offence in each entry. If the charge is for drunkenness or absence without leave, the entries for drunkenness or absence, as the case may be, should be stated separately. Any recognized special mark of gallantry or distinguished conduct recorded on the Field Conduct Sheet should also be inserted here.

1. The following is a fair and true summary of the entries in the Field Conduct Sheet of the accused, exclusive of convictions by a court martial or a civil court :—

For	15(1) AWL		4 times.
For	40	3	6 times.
For	19	1	3 times.
For			times.

Date of first entry in Field Conduct Sheet 11 Jun 42

Date of last entry in Field Conduct Sheet 3 Jun 44

2. Previous convictions of the accused by a court martial or a civil court are set out in the Schedule overleaf.

*3. The accused at the present time is under sentence for Nil

beginning on the NA day of NA

*Strike out if not applicable.

4. The accused has been awaiting trial on the present charges for Nil days in civil custody; and for ~~-91-~~JMB73 days in military custody, *i.e.*, Nil days in open arrest, 71JMB 73 days in close arrest; of which 37 days were spent in hospital.

5. The present age of the accused is 23 years 9 months old

6. The date of his attestation is 6 Jul 40

7. The service which the accused is allowed to reckon is

8. The accused is in possession of CVSM & CLASP

†State the military decorations (if any) held by accused.

9. (*If the accused is a warrant officer or N.C.O.*). The accused has served continuously, without reduction, to the present date—

	Date of Promotion.
In the substantive rank of	
In the war substantive rank of	
In the acting rank of	

JMB

INSTRUCTION.—*If any matter on any of the above paragraphs cannot be stated from the regimental books the paragraph must be struck through.*

(24094) W.4212/4288 42,000 12/44 A.A.S.W.Ltd. Gp.698 Forms F.3 & Wrtg.6.

SCHEDULE OF CONVICTIONS BY A COURT-MARTIAL OR CIVIL COURT.

Description of Court by which tried.	Date and Place of Trial.	Charges upon which convicted.	Sentence of the Court.	Punishment remitted or sentence suspended.
		No record of conviction by Court-Martial on MPM 6		

JMB

I HEREBY CERTIFY that the foregoing particulars, which have been extracted from the regimental books in my custody, are correct to the best of my knowledge and belief.

Signed this 25 day of March 45

"Stagg" Capt Admin Offr
1 Cdn Disciplinary Centre

Ex "E"

No E11095 Name GRENIER E | Sqn, Battery, or Company | Corps Chaud | Date of enlistment 6-7-40 | GC Badges | Service or Proficiency Pay | MFM 6 (AFB 122) 40/PAM/536 (5428)

Date of last entry in Company Conduct Sheet | No and date of last drunk | Period not reckoning towards freedom from extra fine | Sheet No | Signature OC Company, etc | Character

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
		Pte		AA 15(1) AWL 4 days 17 hrs 11 min		5 days CB	11Jun42		
		Pte		AA 15(1) AWL 18 hrs 30 mins &AA 40		7 days pay	21Dec42		
		Pte		AA 40		3 days CB	27Jan43		
		Pte	1	AA 19		7 days CB & 4 days pay	10May43		
		Pte		AA 15(1) AWL 1 day 8 hrs 45mins		7 days CB	16Jul43		
		Pte		AA 15(1) AWL 3 hrs 55 mins		5 days CB	30Oct43		

(710)

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
		Pte	2	AA 19		Fined $5.00	30Oct43		
		Pte		AA 40		3 days CB	24Jan44		
		Pte		AA 40		14 days CB	3Apr44		
		Pte	3	AA 19 and AA 40		fined $10.00 7 days CB and 7 days pay	4Apr44		
		Pte		AA 40		14 days pay	3Jun44		

Certified to be a true extract from the Regimental books and documents in my custody
RSC Williams Lt (15 Mar 45) Officer ic Records X Cdn Sec HQ 21 A Gp

JMB

Certified to be true copy of MFM 6 in my possession
"Stagg" Capt

RECORDED AT CMHQ IN AB 160 5C-149.

FIELD GENERAL COURT-MARTIAL

CFA86 (To Issue of AFA3) 40/P.M.SC-1688 (4/38)

4/38B

RECEIVED 18 MAY 1945 CMHQ

Convened by Order of Brigadier G S M Gostling, ED Comd 2 CBRG dated 24 Mar 45

ACCUSED.

(As to the trial of two or more charged jointly see RP 16, 71, 109. As to reasons for showing (a) permanent or confirmed rank, (b) apptmt, A/rank or A/apptmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

No. (a)	Prmnt R. (b)	Apptmt, A/R or A/Apptmt.	Full Christian Names.	Surname.	Unit.
E-11095	Pte		Ernest	GRENIER	R de Chaud att 1 Cdn Disciplinary Centre

PROCEEDINGS REVIEWED, 18 May 45

REVIEWING OFFICER, JAG BRANCH, CMHQ

PROCEEDINGS OF TRIAL.

Held in the Fd in (country) BELGIUM on (date(s)) 25 Mar 45

RECORD FORM A—OPENING PROCEEDINGS AND ARRAIGNMENT.

A1. The President, Members, waiting Member, JA, if any, and Offrs under instr, if any, assemble, and the Court is closed.

(PRINTED MATTER, NOT IN ITALICS FOR GUIDANCE, WILL BE DELETED, IF NOT USED OR APPLICABLE, AND INITIALLED BY PRES OR JA. The Schedule referred to throughout is on p 4. Citations do NOT include all relevent fns RQs. For guidance on procedure when a variation in this form arises, see form for GCM in MML pp 741 to 759. A brief record of such variation will be made and given a number having reference to appropriate or preceding para number herein. See back of Convening Order, CF A95, for oaths and instrs on how to record addresses, evidence, etc. which instrs are hereafter called "Notes". As to general provisions for conducting the trial see AA 53, RP 56, 63-70, 73, 74, 94, 103, 119, 132.)

A2. The President initials and lays before the Court the Convening Order and Charge Sheet(s) attached thereto.(1) The Court is satisfied that it is properly convened and constituted(2), accused is (are) amenable to military law, and each charge discloses an offence.(3)

(1. As to use of Summary of Evidence see RP 17 fn 6. 2. AA 49, 50, RP 105-107. 3. RP 11-13, 23, 24.)

A3. The Court is opened. The accused is (are) brought before the Court. At 1020 hours trial commences.

A4. The Prosecutor produces a Medical Certificate that accused is (are) fit to undergo trial by court-martial.(1) ~~The Prosecutor informs the Court that accused elected to be tried by court-martial instead of being dealt with summarily by the CO (2).~~

(1. KR Can 557. 2. AA 46(B), RP 60 fn 1. For effect see KR Can 563(c). Delete, if not applicable.)

A5. President to accused: Do you object to N.A as interpreter ? Ans N.A

The Interpreter is sworn.(1) Do you object to N.A as shorthand writer ? Ans N.A

The shorthand writer is sworn.(1)

(1. RP 72. Delete, if none employed.)

A6. The Convening Order and names of the President and Members of the Court are read to the accused.(1)
President to accused: Do you object to be tried by me as President or by any of the Members of the Court ?

Ans NO (2)

(1. RP 110. 2. If no objection, waiting member retires. RP 66(B). If objection, see procedure AA 51, RP 25, 71, (B, MML p 742.)

A7. The President, Members, JA, if any, and Offrs under instr, if any, are sworn.(1) The following are the ranks, names and units of the offrs comprising the Court, etc:

President	Major	J M BOWMAN	48th Highrs att 1 Cdn Disciplinary Centre
Member	Capt	E.B. Curtis	R.C.A att 1 Cdn Disc Centre
Member	Lt.	E.E. McManus	R.C.E 9 CBR Bn
Judge-Advocate			
Prosecutor	Capt.	N.D. Bowler	C.I.C. att 1 Cdn Disc Centre
Defending Offr	Capt	F.C. Kora	C.I.C. att 1 Cdn Disc Centre

Questions by President: Is the Prosecutor a lawyer ? Ans NO Is the Defending Offr a lawyer ? Ans NO (1)

(1. RP 26, 27, 109, 111. List of offrs under instr will be returned separately with proceedings for information of Conv Offr.)
(2. If Pros a lawyer and Def Offr not, accused is entitled to an adjournment when RP 89 (B) and fn 2 were not followed. See DI p 3.)

A8. The accused E-11095 Pte Ernest GRENIER before arraignment make(s) (no) (a) plea (2)

(1. If a special plea is made for separate trial on one or more charges (RP 62(E), 108), or as to the jurisdiction of the Court (RP 34, 35(A), 113), or in bar of trial (RP 36), or as to accused's mental fitness to stand trial (AA 130, RP 57), or by one of several accused charged jointly to be tried separately (RP 16, 71), such plea, the addresses made in support or against, the evidence, if any, and finding are recorded per Notes. For forms of record see references in fns to RoP cited. Insert in A8 rank and name of the accused making the plea.)

A9. The accused is (are) arraigned (separately) on all charges in the charge sheet.(1) The accused does (do) not object to any charge.(2) There is no amendment to be made to the Charge Sheet.(3) The President records the pleas in Part I of the Schedule.

(1. RP 31, 112. See para 1 of Instrs p 2. When more than one Charge Sheet see RP 62; when several accused to be tried separately see RP 71(C), and use separate copies of CF A96 to record proceedings. 2. RP 32, RP 33. If otherwise, delete and make appropriate record per Notes.)

A10. The Court (is closed and) considers the Instrs on Procedure after Arraignment at top of p 2. The proceedings are continued on Record Form Duplicate

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

2 C.B.R.G. VA. P. 137.

INSTRUCTIONS ON PROCEDURE AFTER ARRAIGNMENT.

1. *The accused may not plead or be found Guilty on more than one of two or more charges laid in the alternative.* (*RP* 37(*A*).) *As to withdrawal of alternative charges by Prosecutor see RP* 35(*C*). *No other charge can be withdrawn for any reason without authy from Convening Offr. If Convening Offr concurs, Court may accept plea of Guilty to lesser, etc, offence.* (*RP* 44(*H*).) *Accused may change a plea of Not Guilty to Guilty during trial.* (*RP* 38.) *As to refusing to plead or not pleading intelligibly see RP* 35(*A*). *As to plea when sentence may be death see RP* 35(*D*).

2. *The proceedings on each charge sheet* (*RP* 62) *after arraignment will be conducted as follows in the respective circumstances stated:*

I. If pleas to all charges are GUILTY, use Record Form B below.

II. If pleas to all charges are NOT GUILTY, use Record Form D on p 3.

III. If pleas to some charges are GUILTY and to other charges are NOT GUILTY and,

(a) *Such mixed pleas occur when there are no alternative charges in the Charge Sheet, use Record Form C below.* (*RP* 37(*A*).)

(b) *Such mixed pleas occur in a set of two or more charges laid in the alternative, see RP* 37 (*A*) *and fn* 2 *as to discretion of Court, (i) to try the accused on all such alternative charges as if he had pleaded Not Guilty thereto, or, (ii) to record the pleas as the findings of Court. After deciding between (i) and (ii), Court will proceed under foregoing instrs as may be appropriate to result of its decision. See MML p* 744 *Instrs* (2).

3. *As to responsibility of President to accused see RP* 59, 60(*C*); *powers and duties of JA see RP* 103; *duty of Prosecutor see RP* 60(*A*) (*B*); *duty and privileges of accused and Defending Offr see RP* 60(*C*), 87(*C*), 91, 92; *swearing and withdrawal of witnesses from Court see RP* 81, 82; *questioning of accused see RP* 80, 87(*C*), 92(*B*), *and of witnesses see RP* 85-85; *calling or re-calling of witnesses by Court, etc, see RP* 75-79, 86, 116; *use of Summary of Evidence at Trial see RP* 17(*E*) *fn* 6; *and responsibility of JA or Pres to record proceedings see RP* 94, 96.

RECORD FORM B—PROCEEDINGS ON PLEAS OF GUILTY TO ALL CHARGES.

B1. The President or JA, if any, complies with RP 35(B) by explaining to the accused the nature and meaning of the charge(s)(1), and that on his plea of Guilty there will be no regular trial but merely a consideration of the sentence to be awarded after he has been given an opportunity to make a statement in reference to the charge(s), call witnesses as to character and make an address in mitigation of punishment.(2)
(1. *RP 35 fn 3.* 2. *MML p 54 para 47.*)

B2. President to accused: The Court will now receive any statement you desire to make in reference to the charge(s).(1) If it appears from your statement that there are circumstances which indicate that you do not understand the effect of the plea of Guilty(2), or which show provocation or extenuation in respect of which in your interest the witnesses for the Prosecution should be examined(3), we shall advise you to change your plea to Not Guilty. In making a statement you will not be sworn or subject to cross-examination; and anything you say will not be used in evidence against you after you change your plea. If, however, it appears to the Court that your statement affects only the amount of punishment to which you are liable, you will not be advised to change your plea and you will be given an opportunity later to prove your statement by sworn testimony, if you so desire.(4)

President to accused: Do you wish to make a statement ? Ans NIL (5)
(1. *RP 37(B).* 2. *RP 37(D) fn a.* 3. *RP 35(B) fn 5 para 3, MML p 54 para 47.* 4. *See para E3 of Record Form E.* 5. *Statement, if any, recorded per Notes.*)

B3. ~~The Court considers the accused's statement (1). The Court decides (not) to advise accused to change his (their) plea(s) of Guilty to Not Guilty on ..... charge(s). The accused is (are) so informed, and he (they) change(s) his (their) plea(s) on ..... charge(s). Part I of the Schedule is amended accordingly.~~
(1. *Court may be closed to consider the statement. Delete whole or part not used.*)

B4. On the charge(s) to which the plea(s) of Guilty is (are) not changed the President records finding(s) of Guilty in Part I of the Schedule.(1)
(1. *RP 35(B). If any plea(s) is (are) changed, use Record Form C or D as appropriate.*)

B5. The Summary of Evidence is marked Ex "A", initialled and read aloud by the President.(1)
(1. *If there is no Summary, or if it is inadequate, comply with RP 37(B). If there is any evidence inconsistent with any plea standing as Guilty, Court will advise accused to change such plea and, if changed to Not Guilty, try such charge(s) by use of paras D1 to D8 inclusive of Record Form D on p 3. RP 37(D).*)

B6. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

RECORD FORM C—PROCEEDINGS ON MIXED PLEAS OF GUILTY AND NOT GUILTY.

C1. As to the charges on which accused pleaded NOT GUILTY the trial is continued by using paras D1 to D8 inclusive of Record Form D on p 3 before proceeding with C 2.(1)
(1. *RP 37(A) (E).*)

C2. The charges on which accused pleaded GUILTY are read to him (them) again, and the trial is continued by using paras B1 to B5 of Record Form B above.(1)
(1. *Under B5 such parts only of the Summary of Evidence are read as relate to the charges dealt with under C2. If any plea is changed to Not Guilty, trial thereon proceeds by complying with paras D1 to D8 inclusive in Record Form D on p 3 and making an appropriate record thereof on a separate sheet.*)

C3. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

RECORD FORM D—PROCEEDINGS ON PLEAS OF NOT GUILTY TO ALL CHARGES.

D1. President to accused: Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity to prepare your defence ? Ans ..... (1)
(1. *If "yes", see RP 39(A) for procedure. Statement or evidence, if any, is recorded per Notes.*)

D2. The Prosecutor makes (an) (no) opening address.(1)
(1. *RP 39(B), 60(A) (B), 90, 92(C) (D). Record address per Notes, subject to RP 95(C).*)

D3. The evidence for the Prosecution is taken.(1)
(1. *RP 39(C), 114, KR Con 555. Record evidence per Notes. As to Prosecutor giving evidence himself see RP 39(D) (E).*)

D4. The Prosecution is closed.(1) The Defending Offr submits that the evidence for the Prosecution does not establish a prima facie case against the accused on the ..... charge(s).(2) The Court is closed, and considers the submission.(3) The Court is re-opened, and the President announces that the submission is disallowed on the ..... charge(s), and allowed on the ..... charge(s), and that, accordingly, the trial will proceed on the former, but the accused is (are) found Not Guilty on the latter charge(s).(4)
(1. *Delete remainder of this para, if submission not made.* 2. *Arguments on submission, answer and reply are recorded per Notes.* 3. *RP 40 fn 1. See MML p 72 paras 12-14 and p 81 para 42.* 4. *Delete part not used. If accused acquitted on all charges use second alternative in para D8.*)
NB: If trial proceeds, accused must be allowed great latitude in making his defence, and the Court should not stop his defence solely on ground of irrelevance. (RP 30(C), 114, 115.)

D5. President to accused: You will now proceed with your defence.(1) You may, if you wish, give evidence yourself on oath as to the facts or your character or both, in which case you will be subject to cross-examination.(2) You may, however, make a statement without being sworn, and you will not be subject to cross-examination.(3) But a statement which could have been made on oath will not carry with the Court the same weight as sworn testimony.(4) You may call witnesses in your defence and as to character, whether you give evidence or make a statement or do neither.

President to accused: Do you wish to give evidence yourself as a witness, make a statement, or do neither ?
Ans .....
Do you intend to call witnesses on your behalf ?
Ans ..... Are they witnesses as to character only ? Ans .....
(1. *RP 115.* 2. *RP 40(A), see 80(D).* 3. *RP 40 fn 10.* 4. *RP 40 fns 2, 9.*)

D6. Consequent on the answers recorded in para D5 the appropriate procedure for the defence is followed.(1)
(1. *RP 114, 115, 116. For procedure see Notes on back of Convening Order, CF A95. Evidence for accused as to his character should, if on his interest, be given before the Finding. See RP 46(A) fn 1, 86(C). Note the further opportunity in para E1 of Record Form E. Record per Notes addresses, statement, evidence and any summing up by the JA under RP 42, 103(E).*)

D7. The Court is closed to consider the finding(s).(1) The finding(s) of the Court is (are) recorded in Part I of the Schedule.(2) The Court is re-opened.
(1. *RP 43, 117(A). See Notes in Part I of Schedule.* 2. *RP 44(A).*)

D8. The President announces the finding(s), if any, of Not Guilty, and states to the accused that the finding(s) of the Court on the ..... charge(s), being subject to confirmation, will be promulgated later.(1)
Or, The President announces that the accused is found Not Guilty on all charges and is to be released forthwith, and that the proceedings are accordingly terminated. Part I of the Schedule is dated and signed.(2)
(1. *AA 54(3) (c), RP 45, 120(A).* 2. *AA 54(3), RP 45, 117. This alternative announcement is not applicable when there are pleas of Guilty outstanding and dealt with under Records (para B or C).*)

D9. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E below.

RECORD FORM E—PROCEEDINGS ON CONVICTION BEFORE SENTENCE.

E1. President to accused: Do you wish to give evidence yourself or to call any witnesses as to your character ?(1)
Ans NIL
(1. *If evidence has already been given by accused or his witnesses as to his character, delete this para. RP 37(C) fn 4, 46 fn 1. Accused and witnesses are sworn. Evidence recorded per Notes.*)

E2. The Prosecutor produces Statement(s) as to Character and Particulars of Service(1), and certified true copy (copies) of Conduct Sheet(s)(2), purporting to refer to the accused, which he submits to the Defending Offr for examination, and then to the Court for admission in evidence. The Court is satisfied that these documents refer to the accused, because (i) they purport to be signed in the manner required by AA 162(3) (g) (h), and (ii) they purport to refer to (a) soldier(s) having the same number, rank, name and corps as the accused. Admitted in evidence and marked Ex "C" and Ex "E" respectively.(3)
(1. *MFB 255 or AFB 296.* 2. *MFM 6.* 3. *RP 46, KR Con 558. If above documents not produced, see RP 46 fn 1 para 1.*)

E3. President to accused: Do you wish to address the Court on the Statement(s) and Conduct Sheet(s), and in mitigation of punishment ?(1) Ans I'd be grateful if accompanied on Signature (2)
(1. *RP 37(C), 46(D).* 2. *Address, if any, recorded per Notes. Court should permit accused or his witnesses to prove on oath anything here or previously stated which would affect the amount of punishment. RP 37(F) fn 7.*)

E4. The President states that the Court is closed to consider the sentence, and that the sentence to be awarded by the Court, being subject to confirmation, will not be announced, but will be promulgated later, and the proceedings in open court are accordingly terminated.(1)
(1. *AA 54(3), RP 120(A).*)

E5. The Court considers the sentence.(1) The President records the sentence in Part I of the Schedule, which is dated and signed by him and the J.A., if any.(2)
(1. *When several accused tried separately see RP 71 (D). One sentence only, comprised of the punishment or punishments laid down in AA 41, 44 and its proviso, as to be awarded to cover all charges in all charge sheets on which accused found guilty. RP 48. As to sentences see AA 44, 136, 182, RP 46-50, 68, 114, 119(A), KR Con 308, 330, 569-586, Overseas RO 309, 2323, MML p 60, 757-759. As to sentences assigned for civil offences by the law of England see AA 41(2), MML p 130. When accused already under sentence of imprisonment or detention see AA 44(1B), 68(1), KR Con 594.* 2. *RP 50. As to release from arrest by Confirming Offr see KR Con 567. As to assembly and disposal of record after trial see instrs on back of Convening Order.*)

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

SCHEDULE.

PART I. PLEA(S), FINDING(S) AND SENTENCE.

Accused : E-11095 Pte Ernest GRENIER R de Chaud att 1 Cdn Disciplinary Centre

Charge. (Insert "alternative" where applicable.)	Plea. (See Instrs p 2.)	Finding. (See note below.)	(Space for use as required for further charges, accused charged jointly, special findings, etc.)
1st A.A. sec 15(a)	Guilty	Guilty.	
2nd			
3rd			
4th			
5th			
6th			

(Note : As to findings for lesser offences see AA 56, RP 44 ; Findings on alternative charges see MML p 483 fn 4 para 2, RP 44 ; special findings see RP 44 and MML p 753, and in loss of kit see RP 44 fn 6.)

At present under sentence for N.A beginning on (date) N.A (1)
(1. Insert sentence being served, or delete, if not applicable. See RP 46(A). Information should be found on MF B355 or AF B296.)

Time in confinement awaiting present trial—a total of 73 days, of which 37 days were spent in hospital.(1)
(1. See RP 46(A) fn 2. Information should be found on MF B355 or AF B296 admitted in evidence under E2.)

Sentence Awarded by the Court :
To undergo detention for eighteen (18) months

25 Mar 45 (Sgd) M Beauvoir Major
(Sgd) Judge-Advocate, if any. Date awarded. President. (RP 45, 50.)
(See back of Convening Order as to assembly and disposal of record after trial.)

PART II. MINUTE WHERE CONFIRMATION RESERVED. (AA 54(5), RP 120(F), MML p 780.)

Date (Sgd) Commanding

PART III. DECISION OF CONFIRMING OFFR ON FINDING(S) AND SENTENCE.

(For duties and powers see AA 54, 57, RP 37(D) fn 6, 46(A), 51-56, 120, MML pp 759-761, KR Can 567-577. Acquittals require no confirmation and cannot be revised : AA 54(3). Sending back finding or sentence for revision by Court : AA 54(2), RP 120(G). If not confirmed, accused may be tried again : AA 157, MML p 64. Minute of confirmation or non-confirmation may be altered before promulgation : RP 53, MML p 65. Quashing after promulgation : KR Can 573. Duties and powers of reviewing offrs : AA 57, 57A, RP 53A, 54. The Confirming Offr must sign here personally. AA 172 fn 1.)

My decision on the finding(s) and sentence set forth in Part I is :

Confirmed

~~I direct that the accused be not committed to prison or detention barracks until further orders.~~(1)
(1. AA 57A. Delete if not used.)

(Sgd) ~~(C.B.E. Cost'dg)~~ Brigadier,
Date 31 ~~27~~ Mar 45 A/ Commanding 2 Cdn Base Rft Gp Confirming Officer.

PART IV. PROMULGATED AND EXTRACTS TAKEN. (RP 53, KR Can 576, 577.)

Accused.	Date.	Signature of Offr.
E11095 PTE GRENIER E	19 Apr 45	J.M. Dufresne Lt-Col. Comdg, 1 Cdn Disciplinary Centre

ALL DELETIONS AND ALTERATIONS WILL BE INITIALLED.

GR #31
3-1
4406-45

MEDICAL OFFICER'S REPORT

I certify that No. E/11095 Gunner E.

of 1 Cdn. Disc. Centre is in a good state of health

and fit to undergo Trial by Court Martial.

Medical Officer

Station field

Date 25 Mar. 45

JHB

3/59A MFB 246
AC.F.&S./572 (5197)

FIELD GENERAL COURT-MARTIAL

(Whether the accused to be tried is under his comd or not, a FGCM may on application to him be convened by any offr of Cdn Army Overseas, or of any other force if authorized in law, in immediate comd of troops on active service, subject to RP 105(C) and restrictions imposed by appropriate authy. AA 49, 50, RP 104-107, 114. As to the duties and privileges of the Convening Offr in dealing with the application see MML Chap V paras 20 and 23, RP 87(B).
There should be a separate Convening Order for each person to be tried separately by the same Court. RP 71(C), 109. As to separate charge sheets see RP 62, and as to separate trial on charges in the same charge sheet see RP 106. As to two or more accused charged jointly see RP 16, 105.
As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

ACCUSED.

Number.	(a) Prmnt R.	(b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
E-11095	Pte		Ernest	GRENIER	R de Chaud att 1 Cdn Disciplinary Centre

CONVENING ORDER.

1. Whereas complaint has been made to me, the undersigned, that the person(s) named above as the accused, being subject to military law, has (~~have~~) committed the offence(s) set forth in the Charge Sheet(s) attached and on (date) 24 Mar 45 endorsed by me, (~~or by an offr of my staff for me~~), "To be tried by Field General Court-Martial".

2. And whereas I am of opinion that it is not practicable that such offence(s) should be tried by an ordinary General Court-Martial ;~~(and that it is not practicable to delay the trial for reference to a superior qualified offr.)~~
(Delete part in brackets when not required for compliance with RP 105(C).)

3. I hereby convene a Field General Court-Martial to try the said person(s), and to consist of the Offrs appointed or detailed hereunder.

~~4. I am unable to appoint (a) three Offrs to form the Court, (b) a Fd Offr as President, for the reasons I have attached hereto.~~
(AA 49, RP 106(B), 107(A). Delete the whole or part, if not applicable.)

~~5. I also appoint as Judge Advocate thereat the Offr mentioned hereunder.~~
(RP 106(E). Delete, if none appointed.)

PRESIDENT.

(Rank.)	(Must be named. RP 106.)	(Unit.)
Major	J M BOWMAN	48th Highrs att 1 Cdn Disciplinary Centre

MEMBERS.

(Rank.)	(Named or detailed. RP 106.)	(Unit.)
Capt	G B CARTWEL	RCA att 1 Cdn Disciplinary Centre
Lt	to be detailed by OC 9 CBR Bn	9 CBR Bn

WAITING MEMBER.

(Rank.)	(Named or detailed, if any. RP 106.)	(Unit.)

~~JUDGE ADVOCATE.~~

(Rank.)	(Must be named, if any. RP 106.)	(Unit.)

On Active Service in the Fd

in BELGIUM (Country.)

Dat 24 Mar 45

(Signed personally. RP 105 fn 2.)
(G S N Gostling)
Commanding 2 Cdn Base Rft Gp
Brigadier (Rank.)
Convening Officer.

CONVENING OFFR WILL INITIAL ALL DELETIONS AND ALTERATIONS

(See overleaf for oaths and notes for use on trial.)

4/38A CFA 95 (In lieu of AFA 3) 40/P At S/1697 (8143)

OATHS FOR USE IN COURTS-MARTIAL.

1. PRESIDENT AND MEMBERS. *(AA 52, KR Can 562, RP 26, 29, 111.)*

I swear by Almighty God that I will well and truly try the accused (or accused persons) before the Court according to the evidence, and that I will duly administer justice according to the laws in force for the Government of the Militia of Canada, without partiality, favour or affection, and I do further swear that, except so far as may be permitted by instructions of the Minister for the purpose of communicating the sentence to the accused, I will not divulge the sentence of the Court until it is duly confirmed, and I do further swear that I will not on any account at any time whatsoever disclose or discover the vote or opinion of any particular member of this court-martial unless thereunto required in due course of law.

2. JUDGE-ADVOCATE. *(AA 52, MML 762, RP 27, 111.)*

I swear by Almighty God that I will not, unless it is necessary for the due discharge of my official duties, divulge the sentence of this court-martial until it is duly confirmed; and that I will not on any account, at any time whatsoever, disclose or discover the vote or opinion of any particular member of this court-martial, unless thereunto required in due course of law.

3. OFFR UNDER INSTRUCTION. *(AA 52, MML 762, RP 27, 111.)*

I swear by Almighty God that I will not divulge the sentence of this court-martial until it is duly confirmed; and that I will not on any account, at any time whatsoever, disclose or discover the vote or opinion of any particular member of this court-martial unless thereunto required in due course of law.

4. SHORTHAND WRITER. *(AA 52, MML 762, RP 27, 111.)*

I swear by Almighty God that I will truly take down to the best of my power the evidence to be given before this court-martial and such other matters as may be required, and will, when required, deliver to the court a true transcript of the same.

5. INTERPRETER. *(AA 52, MML 762, RP 27, 111.)*

I swear by Almighty God that I will to the best of my ability truly interpret and translate, as I shall be required to do, touching the matter before this court-martial.

6. WITNESS. *(AA 52, MML 763, RP 82, 111.)*

I swear by Almighty God that the evidence which I shall give before this court shall be the truth, the whole truth, and nothing but the truth.

POUR LES TEMOINS. *(RO (Can) 2693.)*

Je jure, par Dieu Tout-Puissant, que le témoignage que je rendrai devant cette Cour sera la vérité, toute la vérité, et rien que la vérité.

7. As to other forms for swearing see AA 52(4), RP 28, 30, 82, 111, MML p 763.

NOTES ON RECORDING PROCEEDINGS AND ON DEFENCE PROCEDURE.

(Referred to throughout CF A 96 as "Notes".)

1. RECORDING PROCEEDINGS: When no shorthand writer is employed the addresses of Prosecutor and Defending Offr *(RP 95(C))*, any objections *(RP 95(B))*, and any statements by accused, may be summarized and, the evidence, subject to RP 95(A) First Witness for Prosecution.

A 12345 Cpl H. James, RWR, sworn, states:

I am a cpl of the pl to which Pte Smith belongs. The accd in Court is Pte Smith. About 1400 hrs on 15 Jan 43 I ordered the accd to go on parade. He refused and did not go on parade.

Cross-exam: He did not say he was sick. *(or,* None.*)*

Re-exam: None.

Exam by Court: He said—" I've had enough parades ".

RP 83(B) complied with.

2. When a shorthand writer is employed, addresses, statements, evidence and objections need not, subject to RP 95(A), be taken by him verbatim. *(RP 95 fn 1.)* If the evidence is taken by him in narrative form, RP 83(B) should be complied with. If taken verbatim, RP 83(C) will be complied with.

3. The record of addresses, statements and evidence will be given a marginal number which corresponds with the number of the para in CF A 96, under which it is taken. Both sides of paper should be used.

4. DEFENCE PROCEDURE: RP 116 provides that for procedure on defence RP 40-42 will apply so far as practicable, having due regard to the public service. *(RP 122.)* If the Court consider such compliance not practicable, the following order of procedure (whether all items are used or not) is suggested as being fair to the accused:

(i) Opening address by Defending Offr. *(RP 60(C), 87(C), 92(C) (D).)*

(ii) At option of accused, statement by accused (*not sworn or subject to cross-exam by Prosecutor, Court or JA (RP 40 fn 10)*), or evidence by accused, as to facts or his character or both. *(See RP 41 fn 3, 46 fn 1, 80.)*

(iii) Evidence of witnesses for accused as to facts or his character or both. *(See RP 46 fn 1.)*

(iv) Evidence for prosecution in rebuttal or on new matter, if allowed by Court *(RP 86(B))*, or to prove previous convictions when accused has called witnesses as to character. *(RP 86(C).)*

(v) Closing address (*on matters other than in mitigation of punishment*) by Defending Offr or accused. *(See RP 40 fns 8-12, 87(C), 92(C) (D).)* But Defending Offr or accused will make his address after the Prosecutor, if there has been no statement by accused or any evidence given as to facts, or if accused alone has given evidence on oath as to facts, whether any evidence as to his character has been given or not. *(When accused charged jointly see RP 61.)*

(vi) Closing address by Prosecutor. *(See RP 40 fn 7, 87(C), 92(C) (D). Prosecutor has no right to address Court on subject of sentence except as provided by RP 46(E), KR Can 563(a).)*

(vii) Summing up by JA, if any. *(RP 42.)*

ASSEMBLY AND DISPOSAL OF RECORD AFTER TRIAL.

1. All deletions and alterations in printed and written record MUST BE INITIALLED by President or JA, if any. RECORD FORMS B, C OR D NOT USED MUST BE DELETED BY A DIAGONAL LINE AND INITIALLED.

2. All loose sheets of record and exhibits comprising the proceedings of the trial MUST BE INITIALLED by President or JA, if any, and then pinned by top left corner to p 2 of CF A 96 in following order:

(i) Charge Sheet. *(On top.)*

(ii) Convening Order with any declarations made by Convening Offr under RP 104, 106, 107, 114.

(iii) Medical Certificate(s). *(KR Can 557.)*

(iv) Addresses, statements and evidence in order taken during trial, pages being numbered and on both sides when both sides used.

(v) Exhibits numbered Ex A, Ex B, etc. *(As to admitting in evidence a certified copy in lieu of original see KR Can 560. As to certified copies of regimental books see AA 103 (1) (g) (h).)*

(vi) Summary of Evidence, if not already an exhibit.

3. Any report or remarks by President or Court for attention of Confirming Offr will be attached to p 4 of CF A 96 and not form part of record of proceedings. *(RP 95(D).)* A recommendation for mercy will be inserted in Part I of Schedule on p 4 after minute of sentence awarded. *(AA 52(9), RP 118(C), MML p 759.)*

4. The President or JA, if any, will return proceedings promptly with covering letter and in an envelope marked "Confidential", or as otherwise directed.

CHARGE SHEET

The accused, H-11095 Pte Ernest GRENIER, Le Regt de la Chaudiere, attached to 1 Cdn Disciplinary Centre, a soldier of the Canadian Army Overseas, is charged with:-

FIRST CHARGE
Sec 15 (1)
Army Act

WHEN ON ACTIVE SERVICE ABSENTING HIMSELF WITHOUT LEAVE

in that he

In the Field, absented himself without leave from 0900 hrs 12 Oct 44 until apprehended at 1200 hrs 10 Jan 45.

(Total absence: 90 days 3 hrs)

(A C Cook) Lt Col
Commanding
1 Cdn Disc Centre

In the Field
22 Mar 45

To be tried by Field General Court-Martial

(C S F Gostling) Brig
Comd
2 Cdn Base Rft Gp

In the Field
24 Mar 45

25 Mar 45

Plea of Mitigation

E-11095 Pte Ernest GRENIER, Regt de Chaud attached to 1 Cdn Disciplinary Centre.

The accused is 23 yrs of age, single.
Enlisted 6 Jul 40
Landed in UK Jul 41
Landed in France with Regt de Chaud in June 44.
Employed as truck driver.
Fought continuously from Normandy to Eeclos, Belgium.
Category A-1.

Lieutenant Capt
Defending Officer

Ex. "A"

Summary of Evidence in the case of E-11095 Pte Ernest GRENIER, Regt de Chaudiere, attached to 1 Cdn Disciplinary Centre, a soldier of the Canadian Army Overseas.

Charge - Absence without leave

By Direction of the CO the evidence is taken on oath

The following documents are read over to the accused, marked as Exhibits and are attached to the proceedings.

Exhibit "A"- Certified true copy of Extract from Pt 11 Order No. 78 dated 22 Oct 44

Exhibit "B"- Certified true copy of Extract from Pt 11 Order No. 7 dated 3 Feb 45.

Q. Do you wish to make any statement or to give evidence on oath? You are not obliged to say anything or give evidence unless you wish to do so but whatever you say or any evidence you give will be taken down in writing and may be given in evidence.

A. I have nothing to say.

The accused does not call any witness.

I certify that the foregoing Summary of Evidence consisting of one page was taken down by me in the presence of the accused and that RP 4 (C)(D)(E)(F) and (G) have been complied with.

Maurice Rousseau Capt
(Maurice Rousseau) Capt

Officer detailed to take Summary of Evidence

Dated in the Field,
22 Mar 45

Ex B

Exhibit 4
M Rousseau Capt

PART II ORDER EXTRACT FORM

99/20/Chaud/1 (A5c)

TO: Officer Commanding
1 Cdn Disciplinary Centre
Cdn Army Overseas

14 MAR 1945

EXTRACTS FROM: UNIT LE REGIMENT DE LA CHAUDIERE

Part II Order No. 78 dated 22 OCT 44

ABSENT WITHOUT LEAVE

AWL from 0900 hrs 12 OCT 44
311095 Pte GRENIER E

Certified to be a true extract from the regimental books and documents in my custody.

M Windsor Capt
Officer IC Records
Cdn. Sec. 2 Ech. HQ. 21 A Gp.

The following documents are { attached. Please acknowledge receipt on attached duplicate. / required. Please forward same.

MMB

Originating Clerk's Initials GV E.

for
Officer in Charge
Canadian Section, GHQ, 2nd Echelon

1/70 ECH—6
(6704)

Ex. C. Exhibit "B"

PART II ORDER EXTRACT FORM

99/20/ Chaud/1 (A5c)

14 MAR 19 45

TO: Officer Commanding
1 CdnDisciplinary Centre
Cdn Army Overseas

EXTRACTS FROM: UNIT LE REGIMENT DE LA CHAUDIERE

Part II Order No. 7 dated 5 FEB 45

STRENGTH INCREASE

TOS on app from des wef 1200 hrs 10 JAN 45
311095 Pte GRENIER E

Certified to be a true extract from the regimental books and documents in my custody.

Officer IC Records
Cdn. Sec. 2 Ech. HQ. 21 A Gp.

The following documents are { attached. Please acknowledge receipt on attached duplicate. / required. Please forward same.

for Officer in Charge
Canadian Section, GHQ, 2nd Echelon

Originating Clerk's Initials GV

1/70 EDE—6
No. P & S/ 1276 (6794)

"E.D."

ARMY FORM B.296 (WAR).

Statement as to Character and Particulars of Service of Accused.

(For Use at Trials by Field General Courts-Martial only).

Number.	*Rank.*	*Name.*	*Regiment (or as the case may be).*
E-11095	Pte	GRENIER E	Regt Chmud

NOTE.—The Field Conduct Sheet is to be produced in Court with this statement but is not to be annexed to the proceedings. The numbers herein stated should correspond with the number of Entries in the Field Conduct Sheet, prominence being given to the most serious offence in each entry. If the charge is for drunkenness or absence without leave, the entries for drunkenness or absence, as the case may be, should be stated separately. Any recognized special acts of gallantry or distinguished conduct recorded on the Field Conduct Sheet should also be inserted here.

1. The following is a fair and true summary of the entries in the Field Conduct Sheet of the accused, exclusive of convictions by a court martial or a civil court :—

For 15 (1) AWL ____ 4 times.
For 40 ____ 3 ____ 0 times.
For 19 ____ 1 ____ 3 times.
For ____ ____ times.

Date of first entry in Field Conduct Sheet 11 Jun 42

Date of last entry in Field Conduct Sheet 3 Jun 44

2. Previous convictions of the accused by a court martial or a civil court are set out in the Schedule overleaf. NIL

*3. The accused at the present time is under sentence for N/A beginning on the N/A day of N/A

4. The accused has been awaiting trial on the present charges for N.L. days in civil custody; and for ~~NIL~~ 3-73 days in military custody, *i.e.*, N.L. days in open arrest; and for ~~NIL~~ 3-73 days in close arrest; of which 37 days were spent in hospital.

5. The present age of the accused is 23 years 9 months (b)

6. The date of his ~~attestation~~ enlisting or re-engaging for service is 0 Jul 40

7. The service which the accused is allowed to reckon is ____

8. The accused is in possession of† CVSM & CLASP

9. (*If the accused is a warrant officer or N.C.O.*). The accused has served continuously, without reduction, to the present date—

	Date of Promotion.
In the substantive rank of //////	
In the war substantive rank of //////	
In the acting rank of //////	

INSTRUCTION.—*If any matter in any of the above paragraphs cannot be stated from the regimental books the paragraph must be struck through.*

*Strike out if not applicable.

†State the military decorations (if any) held by accused.

JWB

(27553) Wt.34930/3404 24,000 7/44 A.& E.W.Ltd. Gp.698 Forms/B.296(War)3

SCHEDULE OF CONVICTIONS BY A COURT-MARTIAL OR CIVIL COURT.

Description of Court by which tried.	Date and Place of Trial.	Charges upon which convicted.	Sentence of the Court.	Punishment remitted or sentence suspended.
		No record of conviction by Court-Martial on MFM 6		

I HEREBY CERTIFY that the foregoing particulars, which have been extracted from the regimental books in my custody, are correct to the best of my knowledge and belief.

Signed this 25 day of MARCH 43

1 Cdn Dist Depot

No E11095 Name GRENIER E | Sqn, Battery, or Company | Corps Chaud Ex. "E" | Date of enlistment 6-7-40 | GC Badges | Service or Proficiency Pay | MFM 6 (AFB 122) 40/P&S/136 (5438)

Date of last entry in Company Conduct Sheet | No and date of last drunk | Period not reckoning towards freedom from extra fine | Sheet No | Signature OC Company, etc | Character

Place	Date of offence	Rank	Carry of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
		Pte		AA 15(1) AWL 4 days 17 hrs 11 min		5 days CB	11Jun42		
		Pte		AA 15(1) AWL 18 hrs 30 mins &AA 40		7 days pay	21Dec42		
		Pte		AA 40		3 days CB	27Jan43		
		Pte	1	AA 19		2 days CB & 4 days pay	10May43		
		Pte		AA 15(1) AWL 1 day 8 hrs 45 min		7 days CB	18Jun43		
		Pte		AA 15(1) AWL 3 hrs 55 min		5 days CB	30Oct43		

(PTO)

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
		Pte	2	AA 19		Fined $5.00 3 days CB	3 Oct 43 24 Jan 44		
		Pte		AA 40		14 days CB	3 Apr 44		
		Pte		AA 40		fined $10.00 7 days CB and 7 days pay	4 Apr 44		
		Pte	3	AA 19 and AA 40		14 days CB	3 Jun 44		
		Pte		AA 40					

Certified to be a true extract from the Regimental books and documents in my custody

RSC Williams Lt (15 Mar 45) Officer ic Records X Cdn Sec HQ 21 A Gp

Certified to be true copy of AFW 6 in my possession

Shell Regt Capt

4X-38.

Pte. Grenier J

RECORDED AT CMHQ IN AB 60 4X-38

FIELD GENERAL COURT-MARTIAL

CFAAB (In Heu of AF63)
40/P & R/1608 (2864)

Convened by Order of S.M. LETT Lt-Col T/Coml 8 Cdn Inf Bde dated 3 Dec 44

ACCUSED.

(As to the trial of two or more charged jointly see RP 16, 71, 109. As to reasons for showing (a) permanent or confirmed rank, and (b) apptmt, A/rank or A/apptmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

Number.	(a) Prmnt R. (b) Apptmt, A/R or A/Apptmt.	Full Christian Names.	Surname.	Unit.
E11113	Pte.	Joseph	Grenier	R.de Chaud.

PROCEEDINGS REVIEWED
1 D.J. Jan 45
Odn. Sec. G.H.Q.
21 Army Gp.

PROCEEDINGS REVIEWED
Maj
REVIEWING OFFICER, JAG BRANCH, CMHQ

PROCEEDINGS OF TRIAL.

Held in the Fd in (country) Holland on (date(s)) 2 Jan 45

RECORD FORM A—OPENING PROCEEDINGS AND ARRAIGNMENT. 18|93

A1. The President, Members, waiting Member, JA, if any, and Offrs under instr, if any, assemble, and the Court is closed.

(PRINTED MATTER, NOT IN ITALICS FOR GUIDANCE, WILL BE DELETED, IF NOT USED OR APPLICABLE, AND INITIALLED BY PRES OR JA. The Schedule referred to throughout is on p 4. Citations do NOT include all relevant fins ROs. For guidance on procedure where a variation in this form arises, see form for GCM in MAML pp 741 to 759. A brief record of such variation will be made and given a number having reference to appropriate or preceding para number herein. See back of Convening Order, CF A95, for oaths and instrs on how to record addresses, evidence, etc., which instrs are hereafter called "Notes". As to general provisions for conducting the trial see AA 33, RP 56, 63-70, 73, 74, 94, 103, 119, 132.)

A2. The President initials and lays before the Court the Convening Order and Charge Sheet(s) attached thereto.(1) The Court is satisfied that it is properly convened and constituted(2), accused is (~~has~~) amenable to military law, and each charge discloses an offence.(3)

(1. As to use of Summary of Evidence see RP 17 fn b. 2. AA 49, 50, RP 105-107. 3. RP 11-12, 23, 24.)

A3. The Court is opened. The accused is (~~has~~) brought before the Court. At 1620 hours trial commences.

A4. The Prosecutor produces a Medical Certificate that accused is (~~has~~) fit to undergo trial by court-martial.(1) ~~The Prosecutor informs the Court that accused elected to be tried by court-martial instead of being dealt with summarily by the CO.(2)~~

(1. KR Can 557. 2. AA 44a(8), RP 60 fn). For effect see KR Can 563(c). Delete, if not applicable.)

A5. President to accused: Do you object to N/A as interpreter ? Ans

The Interpreter is sworn.(1) Do you object to N/A as shorthand writer ? Ans

The shorthand writer is sworn.(1)

(1. RP 72. Delete, if none employed.)

A6. The Convening Order and names of the President and Members of the Court are read to the accused.(1) President to accused: Do you object to be tried by me as President or by any of the Members of the Court ?

Ans (2)

(1. RP 110. 2. If no objection, waiting member retires. RP 68(B). If objection, see procedure AA 51, RP 25, 71, 18, MML p 742.)

A7. The President, Members, JA, if any, and Offrs under instr, if any, are sworn.(1) The following are the ranks, names and units of the offrs comprising the Court, etc:

President	Major	J.A. Ross	R. de Chaud.
Member	Capt	H.G.W. Bourn	QOR. of C.
Member	Capt.	A.C. MacCallum	N Shore R.
Judge-Advocate			
Prosecutor	Capt.	L.N. Begin	R.de Chaud.
Defending Offr	Capt.	J.C. Claszen	R.de Chaud.

Questions by President: Is the Prosecutor a lawyer ? Ans Nil Is the Defending Offr a lawyer ? Ans Nil (2)

(1. RP 26, 27, 109, 111. List of offrs under instr will be returned separately with proceedings for information of Conv Offr. 2. If Pros a lawyer and Def Offr not, accused is entitled to an adjournment when RP 89 (B) and fn 2 were not followed. See Div p 3.)

A8. The accused E11113 Pte. Joseph Grenier before arraignment make(s) (no) (a) plea

Guilty (1)

(1. If a special plea is made for separate trial on one or more charges (RP 62(E), 108), or as to the jurisdiction of the Court (RP 34, 35(A), 113), or in bar of trial (RP 36), or as to accused's mental fitness to stand trial (AA 132, RP 57), or by one of several accused charged jointly to be tried separately (RP 16, 71), such plea, the addresses made in support or against, the evidence, if any, and finding are recorded per Notes. For forms of record see references in fns to RP cited. Insert in AB rank and name of the accused making the plea.)

A9. The accused is (are) arraigned (separately) on all charges in the charge sheet.(1) The accused does (do) not object to any charge.(2) There is no amendment to be made to the Charge Sheet.(3) The President records the pleas in Part I of the Schedule.

(1. RP 36, 112. See para 1 of Instrs p 2. Where more than one Charge Sheet see RP 62; when several accused to be tried separately see RP 71(C), and use separate copies of CF A96 to record proceedings. 2. RP 32, RP 33. If otherwise, delete and make appropriate record per Notes.)

A10. The Court (is closed and) considers the Instrs on Procedure after Arraignment at top of p 2. The proceedings are continued on Record Form B

Europe 11

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS. F. 81

INSTRUCTIONS ON PROCEDURE AFTER ARRAIGNMENT.

1. *The accused may not plead or be found Guilty on more than one of two or more charges laid in the alternative.* (*RP* 37(*A*).) *As to withdrawal of alternative charges by Prosecutor see RP* 35(*C*). *No other charge can be withdrawn for any reason without authy from Convening Offr. If Convening Offr concurs, Court may accept plea of Guilty to lesser ste, offence.* (*RP* 44(*H*).) *Accused may change a plea of Not Guilty to Guilty during trial.* (*RP* 38.) *As to refusing to plead or not pleading intelligibly see RP* 35(*A*). *As to plea when sentence may be death see RP* 35(*D*).

2. *The proceedings on each charge sheet* (*RP* 62) *after arraignment will be conducted as follows in the respective circumstances stated:*

I. If pleas to all charges are GUILTY, use Record Form B below.

II. If pleas to all charges are NOT GUILTY, use Record Form D on p [redacted] 3.

III. If pleas to some charges are GUILTY and to other charges are NOT GUILTY and,

(a) Such mixed pleas occur when there are no alternative charges in the Charge Sheet, use Record Form C below. (*RP* 37(*A*).)

(b) Such mixed pleas occur in a set of two or more charges laid in the alternative, see RP 37 (*A*) *and fn* 2 *as to discretion of Court,* (i) *to try the accused on all such alternative charges as if he had pleaded Not Guilty thereto, or,* (ii) *to record the pleas as the findings of Court. After deciding between* (i) *and* (ii), *Court will proceed under foregoing instrs as may be appropriate to result of its decision. See MML p* 744 *Instrs* (2).

3. *As to responsibility of President to accused see RP* 59, 60(*C*); *powers and duties of JA see RP* 103; *duty of Prosecutor see RP* 60(*A*) (*B*); *duty and privileges of accused and Defending Offr see RP* 60(*C*), 87(*C*), 91, 92; *swearing and withdrawal of witnesses from Court see RP* 81, 82; *questioning of accused see RP* 80, 87(*C*), 92(*B*), *and of witnesses see RP* 83-85; *calling or re-calling of witnesses by Court etc see RP* 75-79, 86, 116; *use of Summary of Evidence at Trial see RP* 17(*E*) *fn* 6; *and responsibility of JA or Pros to record proceedings see RP* 94, 96.

RECORD FORM B—PROCEEDINGS ON PLEAS OF GUILTY TO ALL CHARGES.

B1. The President or JA, if any, complies with RP 35(B) by explaining to the accused the nature and meaning of the charge(s)(1), and that on his plea of Guilty there will be no regular trial but merely a consideration of the sentence to be awarded after he has been given an opportunity to make a statement in reference to the charge(s), call witnesses as to character and make an address in mitigation of punishment.(2)

(1. *RP 35 fn 3.* 2. *MML p 54 para 47.*)

B2. President to accused: The Court will now receive any statement you desire to make in reference to the charge(s).(1) If it appears from your statement that there are circumstances which indicate that you do not understand the effect of the plea of Guilty(2), or which show provocation or extenuation in respect of which in your interest the witnesses for the Prosecution should be examined(3), we shall advise you to change your plea to Not Guilty. In making a statement you will not be sworn or subject to cross-examination; and anything you say will not be used in evidence against you after you change your plea. If, however, it appears to the Court that your statement affects only the amount of punishment to which you are liable, you will not be advised to change your plea and you will be given an opportunity later to prove your statement by sworn testimony, if you so desire.(4)

President to accused: Do you wish to make a statement? Ans N/G.

(1. *RP 37(B).* 2. *RP 37(D) fn 6.* 3. *RP 35(B) fn 5 para 3, MML p 54 para 47.* 4. *See para E3 of Record Forms E.*)

B3. The Court considers the accused's statement.(1) The Court decides (not) to advise accused to change his (their) plea(s) of Guilty to Not Guilty on N/A charge(s). The accused is (are) so informed, and he (they) change(s) his (their) plea(s) on N/A charge(s). Part I of the Schedule is amended accordingly.

(1. *Court may be closed to consider the statement. Delete whole or part not used.*)

B4. On the charge(s) to which the plea(s) of Guilty is (are) not changed the President records finding(s) of Guilty in Part I of the Schedule.(1)

(1. *RP 35(B). If any plea(s) is (are) changed, use Record Form C or D as appropriate.*)

B5. The Summary of Evidence is marked Ex A, initialled and read aloud by the President.(1)

(1. *If there is no Summary, or if it is inadequate, comply with RP 37(B). If there is any evidence inconsistent with any plea standing as Guilty, Court will advise accused to change such plea and, if changed to Not Guilty, try such charge(s) by use of paras D1 to D8 inclusive of Record Form D on p 3. RP 37(D).*)

B6. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

RECORD FORM C—PROCEEDINGS ON MIXED PLEAS OF GUILTY AND NOT GUILTY.

C1. As to the charges on which accused pleaded NOT GUILTY the trial is continued by using paras D1 to D8 inclusive of Record Form D on p [redacted] 3 before proceeding with C 2.(1)

(1. *RP 37(A) (E).*)

C2. The charges on which accused pleaded GUILTY are read to him (them) again, and the trial is continued by using paras B1 to B5 of Record Form B above.(1) [redacted]

(1. *Under B5 such parts only of the Summary of Evidence are read as relate to the charges dealt with under C2. If any plea is changed to Not Guilty, trial thereon proceeds by complying with paras D1 to D8 inclusive in Record Form D on p 3 and making an appropriate record thereof on a separate sheet.*)

C3. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

CHARGE SHEET

The accused No E-11113 Pte Joseph, GRENIER, Le Regiment de la Chaudiere, a soldier of the Canadian Army Overseas, is charged with:-

W.O.A.S. ABSENTING HIMSELF WITHOUT LEAVE

FIRST CHARGE
Section 15 (1)
ARMY ACT

in that he,

In the Field, absented himself without leave from 1545 hrs on the 12th of December 1944, until he surrender himself to the Canadian Military Police at 2200 hrs on the 20th of December 1944 (Absent: 8 days 6 hrs 15 min.)

Signed in the Field
This 26th December 44

(G.O. TASCHEREAU) Lt-Cpl
Officer Commanding
Le Regiment de la Chaudiere CAC

TO BE TRIED BY F.G.C.M.

Signed in the Field
This 31stday of December 1944

(S.M.LETT) Lt-col,
T/COMD 6 CDN INF BDE

31 Dec 44

FIELD GENERAL COURT-MARTIAL

(Whether the accused to be tried is under his comd or not, a FGCM may on application to him be convened by any offr of Cdn Army Overseas, or of any other force if authorized in law, in immediate comd of troops on active service, subject to RP 105(C) and restrictions imposed by appropriate authority AA 49, 50, RP 104-107, 114. As to the duties and privileges of the Convening Offr in dealing with the application see MML Chap V paras 20 and 22. RP 87(8).

There should be a separate Convening Order for each person to be tried separately by the same Court. RP 71(C), 109. As to separate charge sheets see RP 62, and as to separate trial on charges in the same charge sheet see RP 108. As to two or more accused charged jointly see RP 16, 109.

As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

ACCUSED.

Number.	(a) Prmnt R.	(b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
E-11113	Pte		Joseph	GRENIER	R de Chaud

CONVENING ORDER.

1. Whereas complaint has been made to me, the undersigned, that the person(s) named above as the accused, being subject to military law, has (have) committed the offence(s) set forth in the Charge Sheet(s) attached and on (date) 21 Dec 44 endorsed by me, (or by an offr of my staff for me), " To be tried by Field General Court-Martial ".

2. And whereas I am of opinion that it is not practicable that such offence(s) should be tried by an ordinary General Court-Martial ; (and that it is not practicable to delay the trial for reference to a superior qualified offr.)
(Delete part in brackets when not required for compliance with RP 105(C).)

3. I hereby convene a Field General Court-Martial to try the said person(s), and to consist of the Offrs appointed or detailed hereunder.

4. I am unable to appoint (a) three Offrs to form the Court, (b) a Fd Offr as President, for the reasons I have attached hereto.
(AA 49, RP 106(B), 107(A). Delete the whole or part, if not applicable.)

5. I also appoint as Judge-Advocate thereat the Offr mentioned hereunder.
(RP 106(E). Delete, if none appointed.)

PRESIDENT.

(Rank.)	(Must be named. RP 106.)	(Unit.)
Maj	J.A. Ross	R de Chaud

MEMBERS.

(Rank.)	(Named or detailed. RP 106.)	(Unit.)
Capt	~~S.D. Nelson~~ H.G.W BEAN	2IC of Sqn
Capt	A.C. MacCallum	R Shore R

WAITING MEMBER.

(Rank.)	(Named or detailed, if any. RP 106.)	(Unit.)
Capt	D.A.J. Pare	R de Chaud

JUDGE-ADVOCATE.

(Rank.)	(Must be named, if any. RP 106.)	(Unit.)

On Active Service in the Fd

in Holland (Country.)

Dat 21 Dec 44

(Signed personally. RP 105 fn 2.)

Lt Col (Rank.)

T/ Commanding 6 Cdn Inf Bde

Convening Officer.

CONVENING OFFR WILL INITIAL ALL DELETIONS AND ALTERATIONS

(See overleaf for notes for use on trial.)

4/38A CFA 20 (In lieu of AFA 2) 40/F & S/1697 (61462)

OATHS FOR USE IN COURTS-MARTIAL.

1. PRESIDENT AND MEMBERS. *(AA 52, KR Can 562, RP 26, 29, 111.)*

I swear by Almighty God that I will well and truly try the accused (or accused persons) before the Court according to the evidence, and that I will duly administer justice according to the laws in force for the Government of the Militia of Canada, without partiality, favour or affection, and I do further swear that, except so far as may be permitted by instructions of the Minister for the purpose of communicating the sentence to the accused, I will not divulge the sentence of the Court until it is duly confirmed, and I do further swear that I will not on any account at any time whatsoever disclose or discover the vote or opinion of any particular member of this court-martial unless thereunto required in due course of law.

2. JUDGE-ADVOCATE. *(AA 52, MML 762, RP 27, 111.)*

I swear by Almighty God that I will not, unless it is necessary for the due discharge of my official duties, divulge the sentence of this court-martial until it is duly confirmed; and that I will not on any account, at any time whatsoever, disclose or discover the vote or opinion of any particular member of this court-martial, unless thereunto required in due course of law.

3. OFFR UNDER INSTRUCTION. *(AA 52, MML 762, RP 27, 111.)*

I swear by Almighty God that I will not divulge the sentence of this court-martial until it is duly confirmed; and that I will not on any account, at any time whatsoever, disclose or discover the vote or opinion of any particular member of this court-martial unless thereunto required in due course of law.

4. SHORTHAND WRITER. *(AA 52, MML 762, RP 27, 111.)*

I swear by Almighty God that I will truly take down to the best of my power the evidence to be given before this court-martial and such other matters as may be required, and will, when required, deliver to the court a true transcript of the same.

5. INTERPRETER. *(AA 52, MML 762, RP 27, 111.)*

I swear by Almighty God that I will to the best of my ability truly interpret and translate, as I shall be required to do, touching the matter before this court-martial.

6. WITNESS. *(AA 52, MML 763, RP 82, 111.)*

I swear by Almighty God that the evidence which I shall give before this court shall be the truth, the whole truth, and nothing but the truth.

POUR LES TEMOINS. *(RO (Can) 2693.)*

Je jure, par Dieu Tout-Puissant, que le témoignage que je rendrai devant cette Cour sera la vérité, toute la vérité, et rien que la vérité.

7. As to other forms for swearing see AA 52(4), RP 28, 30, 82, 111, MML p 763.

NOTES ON RECORDING PROCEEDINGS AND ON DEFENCE PROCEDURE.

(Referred to throughout CF A 96 as "Notes".)

1. RECORDING PROCEEDINGS: When no shorthand writer is employed the addresses of Prosecutor and Defending Offr (*RP 95(C)*), any objections (*RP 95(B)*), and any statements by accused, may be summarized and the evidence, subject to RP 95(A) and 114(B), may be recorded in narrative form as follows:

First Witness for Prosecution.

A 12345 Cpl H. Jones, RWR, sworn, states:

I am a cpl of the pl to which Pte Smith belongs. The accsd in Court is Pte Smith. About 1400 hrs on 15 Jan 42 I ordered the accsd to go on parade. He refused and did not go on parade.

Cross-exam: He did not say he was sick. (*or*, None.)

Re-exam: None.

Exam by Court: He said—" I've had enough parades ".

RP 83(B) complied with.

2. When a shorthand writer is employed, addresses, statements, evidence and objections need not, subject to RP 95(A), be taken by him verbatim. (*RP 95 fn 1.*) If the evidence is taken by him in narrative form, RP 83(B) should be complied with. If taken verbatim, RP 83(C) will be complied with.

3. The record of addresses, statements and evidence will be given a marginal number which corresponds with the number of the para in CF A 96, under which it is taken. Both sides of paper should be used.

4. DEFENCE PROCEDURE: RP 116 provides that for procedure on defence RP 40-42 will apply so far as practicable, having due regard to the public service. (*RP 122.*) If the Court consider such compliance not practicable, the following order of procedure (whether all items are used or not) is suggested as being fair to the accused:

(i) Opening address by Defending Offr. (*RP 60(C), 87(C), 92(C) (D).*)

(ii) At option of accused, statement by accused (*not sworn or subject to cross-exam by Prosecutor, Court or JA* (*RP 40 fn 10*)), or evidence by accused, as to facts or his character or both. (*See RP 41 fn 2, 46 fn 1, 80.*)

(iii) Evidence of witnesses for accused as to facts or his character or both. (*See RP 46 fn 1.*)

(iv) Evidence for prosecution in rebuttal or on new matter, if allowed by Court (*RP 86(B)*), or to prove previous convictions when accused has called witnesses as to character. (*RP 86(C).*)

(v) Closing address (*on matters other than in mitigation of punishment*) by Defending Offr or accused. (*See RP 40 fns 8-12, 87(C), 92(C) (D).*) But Defending Offr or accused will make his address after the Prosecutor, if there has been no statement by accused or any evidence given as to facts, or if accused alone has given evidence on oath as to facts, whether any evidence as to his character has been given or not. (*When accused charged jointly see RP 61.*)

(vi) Closing address by Prosecutor. (*See RP 40 fn 7, 87(C), 92(C) (D). Prosecutor has no right to address Court on subject of sentence except as provided by RP 46(E), KR Can 583(a).*)

(vii) Summing up by J.A. if any. (*RP 42.*)

ASSEMBLY AND DISPOSAL OF RECORD AFTER TRIAL.

1. All deletions and alterations in printed and written record MUST BE INITIALLED by President or JA, if any. RECORD FORMS B, C OR D NOT USED MUST BE DELETED BY A DIAGONAL LINE AND INITIALLED.

2. All loose sheets of record and exhibits comprising the proceedings of the trial MUST BE INITIALLED by President or JA, if any, and then pinned by top left corner to p 2 of CF A 96 in following order:

(i) Charge Sheet. (On top.)

(ii) Convening Order with any declarations made by Convening Offr under RP 104, 106, 107, 114.

(iii) Medical Certificate(s). (*KR Can 557.*)

(iv) Addresses, statements and evidence in order taken during trial, pages being numbered and on both sides when both sides used.

(v) Exhibits numbered Ex A, Ex B, etc. (*As to admitting an exhibit a certified copy in lieu of original see KR Can 560. As to certified copies of registered books see AA 163 (1) (g) (h).*)

(vi) Summary of Evidence, if not already an exhibit.

3. Any report or remarks by President or Court for attention of Confirming Offr will be attached to p 4 of CF A 96 and not form part of record of proceedings. (*RP 95(D).*) A recommendation for mercy will be inserted in Part I of Schedule on p 4 after minute of sentence awarded. (*AA 53(9), RP 118(C), MML p 759.*)

4. The President or J.A., if any, will return proceedings promptly with covering letter and in an envelope marked "Confidential", or as otherwise directed.

LE REGIMENT DE LA CHAUDIERE

DATE 3 Jan 45

MEDICAL REPORT

I certify that I have this day examined [illegible] Gunner Jarvis J.

R.M.S. ..... Regt. No. 15 ..... and find that he is suffering from [illegible] and is unfit to undergo trial by Court-Martial.

P. Gauthier

P. GAUTHIER Capt. R.C.A.M.C.
M.O. R DE CHAUD

Rebuttal
Plea in mitigation

Address to the Court (R-4:E-3)

I ask the Court to give consideration on account of the service of the accused. He has been in the Army for four years and a half. He has been wounded and I ask the Court to give consideration to the fact of his obligations to his people back home.

Exhibit "A"

SUMMARY OF EVIDENCE

in the case of

No E-11113 Pte Joseph GRENIER, Le Regiment de la Chaudiere CAO, charged with:- a) A.W.L. (AA Sec 15,1)

The C.O. directs that the evidence be taken on oath.

First Witness: No E-143032 Cpl Morin Ls de G. Le Regiment de la Chaudiere CAO, having been duly sworn; states:

"I am No E-143032 Cpl Morin Ls de G. of "A" Coy in Le Regiment de la Chaudiere CAO. At 1545 hrs on the 12th of December 1944 I was in charge of the Guard when I called up the roll and notice the absence of the accused No E-11113 Pte Grenier J. R. de Chaud. whom I identifies as the man here present. I have not seen him until he was brought back to the Unit the next week.

The accused declines to cross-examine the witness.

.....
E-143032 Cpl Morin Ls de G
Le Regiment de la Chaudiere CAO

Second Witness: Capt R.L. Boulanger Adjt Le Regiment de la Chaudiere CAO, having been duly sworn, states:

"I am Capt R.L. Boulanger Adjt Le Regiment de la Chaudiere CAO, I produce a certificate of Surrender pertaining to the accused No E-11113 Pte Grenier J. Le Regiment dela Chaudiere CAO whom I identifies as the man here present."

The Accused declines to cross-examine the witness.

R.L. Boulanger Capt
.....
(R.L. Boulanger) Capt/Adjt
Le Regiment de la Chaudiere CAO

"This certificate of Surrender under Army Act Sec 163 (1) (3) was read over to the accused when produced as documentary evidence, marked Exhibit "A", signed by me, and attached hereto."

.....
(J. Leclerc) Capt
Le Regiment de la Chaudiere CAO
Off. taking the Summary

QUESTION TO THE ACCUSED:" Desirez-vous faire une declaration ou rendre temoignage sous serment? Vous n'etes pas oblige de dire quoi que ce soit, ni de rendre temoignage sous serment a moins que vous ne le desiriez, mais tout ce que vous direz, ou toute deposition que vous ferez, sera pris par ecrit et pourra servir de preuve."

ANSWER BY THE ACCUSED:" I have nothing to say."

J. Grenier
.....
E-11113 Pte Grenier J.
Le Regiment de la Chaudiere CAO

The accused does not call any witness.

I certify that the foregoing Summary of Evidence, consisting of one page was taken down by me in the presence of the accused, and that R.P. 4 (C) (D) (E) (F) (G) have been complied with.

Signed in the Field
This 28th of December 44

J. Leclerc Capt
.....
(J. Leclerc) Capt
Le Regiment de la Chaudiere CAO

EXHIBIT "A"

CERTIFICATE UNDER ARMY ACT SECTION 163 (1) (1)

Certificate that No. R.111.2 ..... Rank..PTE...Name..GRENIER.....F.....

of the..R.A.C...DE..CHAUDIERE.....Regt. surrendered to No..M.....

apprehended by

Rank...PTE.....Name..VICTOR...F.A.....of the....REGT.POLICE.....

.....at..H.Q.....on the..22.00..hrs, on the...20th.....

day of..DEC.....1944..... as an absentee without leave.

He was wearing Military Uniform at the time of his surrender.

Place..LEOPOLD.BARRACKS

Date..DEC..20th..1944.

(W.M. MITCHELL) Lt-Col
O.C., 10 C.I.R. Bn.

Folio 44

"This is exhibit "A" referred to in the Summary of Evidence in the case of No K-111153 Ste Grenier J. R. de Chaud. taken before me this 28th of December 44."

(L. Leclerc) Capt.
Le Regiment de la Chaudiere Cad
Off. taking the Summary

Exhibit B/11

ARMY FORM B.296.

Statement as to Character and Particulars of Service of Accused.

Number.	*Rank.*	*Name.*	*Regiment (or as the case may be).*
H-11113	Pte	Joseph GRENIER	Le Regiment de la Chaudiere CAC

1. The following is a fair and true summary of the entries in the regimental and squadron, battery or company conduct sheets† of the accused, exclusive of convictions by a court martial or a civil court, of summary awards under section 47 of the Army Act, and of cases in which trial has been dispensed with :—

Note.—At a trial by field general court martial this summary may be compiled from the field conduct sheet.

The conduct sheet(s) mentioned should be produced in court with this statement, and not endorsed in the proceedings.

† See para. 677, K.R., 1940.

* The numbers herein stated should correspond with the number of entries in the conduct sheets, preference being given to the most serious offences in each series, and to any recognized special acts of gallantry or distinguished conduct.

Instruction.—If the character for drunkenness, or the entries for drunkenness must be stated separately and dated.

	*Within last 12 months.	*Since Enlistment.
For	A.W.L. 2 times	2 times.
For	Breaking out of barracks one time	times.
For	times	times.
For	times	times.
For	times	times.

Number of instances of gallantry or distinguished conduct,

or

There are no entries in the conduct sheets of the accused.

2. The accused has not been previously convicted, *or* N/A

Previous convictions† of the accused by a court martial or a civil court, summary awards under section 47 of the Army Act, and dispensations with trial under section 73 of the Army Act, are set out in the schedule annexed to this statement.

3. The accused is not under sentence at the present time, *or* The accused at the present time is under sentence for N/A beginning on the ____ day of ____

4. The accused has been in confinement, awaiting trial on the present charges, for N/A days in civil custody, and 8 days in military custody, making a total of 8 days, of which ____ days were spent in hospital.

5. The present age of the accused according to his ~~record of service~~ / attestation paper is 27 years 10 months

6. The date of his ~~enrolment~~ / attestation specified in his ~~record of service~~ / attestation paper is 23 July 40

7. The service which the accused is allowed to reckon towards discharge or transfer to the reserve is ____

8. The accused is entitled to deferred pay or gratuity in respect of ____ service.

9. The accused is entitled to reckon 4 years 5 months service for the purpose of determining his pension, etc.

10. The accused is in possession of, or entitled to, no military decoration or military award (*or* is in possession of, *or* entitled to (*state any military decoration or reward*)). C.V.S.M with clasp

11. (*If the accused is a warrant officer.*) The accused before he was made a warrant officer last held the regimental rank of N/A

12. (*In the case of an officer.*) The accused holds in the army the rank of N/A, dated ____ and in his regiment (*or* corps *or* department) the rank of N/A dated ____

(72500) W1-3456/1750 20,000 10-42 A.& E. W.1.G. Gp.698
(2500) W1-3456/1400 15,000 2-44

Schedule of Convictions by a Court Martial or Civil Court, of summary awards under Section 47 of the Army Act and of cases in which trial has been dispensed with of accused.

No. [illegible] Rank Pte Name Grenier ✓ of R. de Chaud Regiment (or as the case may be).

(*INSTRUCTION.—A verbatim extract from the regimental books, stating these convictions and dispensations with trial, must be inserted.*)

Description of court by which tried, or status of officer disposing of the charge or dispensing with trial	Date and place of trial, or summary award under A.A. 47, or of order dispensing with trial	Charges upon which convicted, or in respect of which trial was dispensed with.	Sentence of the court or authority disposing of the charge, or order of the dispensing authority	Punishment remitted

I HEREBY CERTIFY that the foregoing schedule of convictions and dispensations with trial is a true extract from the regimental books in my custody.

Signed this 28 day of December 44

R.H. Boulanger Capt. A.D.J.
Off i/c Unit Records

13. The accused has served as a non-commissioned officer continuously, without reduction, to the present date.

	Date of Promotion.
In the rank of	
In the rank of ... years,	
In the rank of ... years,	
... years,	

(CONVICTION.—*If any matter in any of the above four paragraphs cannot be stated from the regimental books the paragraph must be struck through, except that in the case of a trial by field general court-martial the information may be omitted from such sources as are available and the paragraphs concerned amended accordingly.*)

No. E-1113 Name GRENIER J | Sqn, Battery, or Company | Corps C.I.C | Date of enlistment 23 July 40 | GC Badges | Service or Proficiency Pay | 3/17 MFM 6 (AFB 122) 40/PAS/136 (3418)

Date of last entry in Company Conduct Sheet: N/A | No. and date of last drunk: N/A | Period not reckoning towards freedom from extra fine | Sheet No | Signature OC Company, etc | Character

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with same	By whom awarded	Remarks
				"TEMPORARY SHEET"					
In the Field	11 Nov 44	Pte		W.O.A.S. AWL from 1400hrs 11 Nov 44 until 1830 hrs 12 Nov 44 (Abs: 1 day 4 hrs 30 min) AA Sec 1 5, 1	Lt Viau A/Cpl Simard C	Forfeits 7 days 7 days C.B.	16 Nov44	Lt-Col P. Mathieu	Forf 2 days
	17 Nov 44	"		1) Breaking out of barracks on the 17 Nov44 at 1530 hrs when Unit was C.B. AA Sec 10 (4) 2) W.O.A.S. AWL from 1530 hrs 17 Nov44 until 1640hrs 2 Dec 44 (Abs: 15days 1hr 30min) AA Sec15,1	Sgt Lacombe " Dubreuil Cpl Caron A	Forf: 28days pay	7Dec44	Lt-Col GC Taschereau	Forf:15 days

"CERTIFIED TRUE COPY"

R.L. Boulanger Capt Adjt

R.L. Boulanger Capt/Adjt
Le Regiment de la Chaudiere CA

(PTO)

STATEMENT (REF: E-1 D-3)

Q - How old are you?
A - 22 years
Q - How old were you when you left the school
A - 14
Q - Are your parents still alive?
A - No sir
Q - How many children in your family?
A - 5, two younger and two older than I.
Q - How long have you been in the Army?
A - Four years five months
Q - Have you always been with Rdo Chand
A - Yes sir
Q - Have you any assigned pay?
A - yes sir ₹ 23.00 per month, to sustain my family
Q - Have you been with the Unit since the 6 June 44?
A - No sir, I have been wounded on the 8 June 44 and came back again on or about the 25 Sep 44.
Q - What kind of wound did you suffer?
A - At my knee.
Q - Do you still suffer of that wound?
A - Yes sir, specially in the warak.
Q - Are you decided to be a good soldier?
A - Yes sir, I am willing to do my duty.

RECORD FORM E — PLEAS OF NOT GUILTY TO ALL CHARGES.

D1. President to accused: ... relating to procedure before trial ha... the ground that you have not had sufficien... State ... an adjournment on the ground that any of the rules ... and that you have been prejudiced thereby, or on ... your defence? Ans ..... (1)

(1. If "yes", see RP 39(A) for procedure.)

D2. The Prosecutor makes (an) (no) opening address. (1) Record address per Notes.

(1. RP 39(B), 60(A)(B), 90, 92(C)(D). As to Prosecutor's ... self see RP 39(D)(E).)

D3. The evidence for the Prosecution is taken.(1) ... recorded per Notes.)

(1. RP 39(C), 114, KR Con 555. Record evidence per Notes. As to Prosecutor's ... self see RP 39(D)(E).)

D4. The Prosecution is closed.(1) The Defending Offr submits that the evide... Prosecution does not establish a prima facie case against the accused on the ... (2) The Court is closed, and considers the submission.(3) The Court is re-opened, and the President announces ... submission is disallowed on the ... charge(s), and allowed on the ... charge(s), and that, accordingly, the trial will proceed on the former, but the accused is (are) found Not Guilty on the latter charge(s), and that, accordingly, the trial will proceed on the former, but the accused is (are) found Not Guilty on the latter charge(s).(4)

(1. Delete remainder of this para. if submission not made. 2. Arguments on submission, answer and reply are recorded per Notes. 3. RP 40 fn 1. See MML p 72 paras 12-14 and p 81 para 42. 4. Delete part not used. If accused acquitted on all charges, use second alternative in para D6.)

N2: If trial proceeds, accused must be allowed great latitude in making his defence, and the Court should not stop his defence solely on ground of irrelevance. (RP 60(C), 114, 115.)

D5. President to accused: You will now proceed with your defence.(1) You may, if you wish, give evidence yourself on oath as to the facts or your character or both, in which case you will be subject to cross-examination.(2) You may, however, make a statement without being sworn, but you will not be subject to cross-examination.(3) But a statement which could have been made on oath will not be given the same weight as sworn testimony.(4) You may call witnesses in your defence and as to character, whether you give evidence or make a statement or do neither.

President to accused: Do you wish to give evidence yourself as a witness, make a statement, or do neither? Do you intend to call witnesses on your behalf?

Ans ..... Are they witnesses as to character only? Ans .....

(1. RP 155. 2. RP 40(A), see 80(D). 3. RP 40 fn 10. 4. RP 40 fns 2, 9.)

D6. Consequent on the answers recorded in para D5 the appropriate procedure for the defence is followed.(1) Character should, if in his interest, be given before the finding. See RP 46(A) fn 1, 86(C). Note the former opportunity in para E1 of Record Form E. Record per Notes addresses, statement, evidence and any summing up by the JA under RP 42, 103(6).)

(1. RP 114, 115, 116. For procedure see Notes on back of Convening Order, CF A95. Evidence for accused as to his

D7. The Court is closed to consider the finding(s).(1) The finding(s) of the Court is (are) recorded in Part I of the Schedule.(2) The Court is re-opened.

(1. RP 43, 117(A). See Notes in Part I of Schedule. 2. RP 44(A).)

D8. The President announces the finding(s), if any, of Not Guilty, and states to the accused that the finding(s) of the Court on the ... charge(s), being subject to confirmation, will be promulgated later.(1) Or, The President announces that the accused is found Not Guilty on all charges and is to be released forthwith, and that the proceedings are accordingly terminated. Part I of the Schedule is dated and signed.(2)

(1. AA 54(7)(6), RP 45, 120(A). 2. AA 54(3), RP 45, 117. This alternative announcement is not applicable where there are pieces of Guilty outstanding and dealt with under Record Form B or C.)

D9. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E below.

RECORD FORM E—PROCEEDINGS ON CONVICTION BEFORE SENTENCE.

E1. President to accused: Do you wish to give evidence yourself or to call any witnesses as to your character if (1) Ans Yes

(1. If evidence has already been given by accused or his witnesses as to his character, delete this para. RP 37(C) fn 4, 46 fn 1. Accused and witnesses are sworn. Evidence recorded per Notes.)

E2. The Prosecutor produces Statement(s) as to Character and Particulars of Service(2), and certified true copy of Conduct Sheet(s)(3), purporting to refer to the accused, which he submits to the Defending Offr for examination, and then to the Court for admission in evidence. The Court is satisfied that these documents refer to the accused, because (i) they purport to be signed in the manner required by AA 163(l) (g) (h), and (ii) they purport to refer to (a) soldier(s) having the same number, rank, name and corps as the accused. Admitted in evidence and marked Ex A and Ex C respectively.(2)

(1. MFB 355 or MFB 296. 2. RP 46 fn 2. 3. RP 46, KR Con 558. If above documents not produced, see RP 46 fn 1 para 1.)

E3. President to accused: Do you wish to address the Court on the Statement(s) and Conduct Sheet(s), and in mitigation of punishment if(1) Ans Yes

(1. RP 37(C), 46(D). 2. Address, if any, recorded per Notes. Court should permit accused or his witnesses to prove on oath anything here or previously stated which would effect the amount of punishment. RP 37(F) fn 7.)

E4. The President states that the Court is closed to consider the sentence, and that the sentence to be awarded by the Court, being subject to confirmation, will not be announced, but will be promulgated later, and the proceedings in open court are accordingly terminated.(1)

(1. AA 54(6), RP 120(A).)

E5. The Court considers the sentence.(1) The President records the sentence in Part I of the Schedule, which is dated and signed by him and the J.A. if any.(2)

(1. When several accused tried separately see RP 7(D). One sentence only, comprised of the punishment or punishments laid down in AA 43, 44 and its proviso, is to be awarded to cover all charges in all charge sheets on which accused found guilty. MML p 60, 737-739. As to sentences assigned for civil offences by the law of England see AA 41(5), MML p 130. Where accused already under sentence of imprisonment or detention see AA 44(1B), 68(1), KR Con 564. 2. RP 50. As to release from arrest by Confirming Offr see KR Con 567. As to assembly and disposal of record after trial see instrs on back of Convening Order.)

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

SCHEDULE.

PART I. PLEA(S), FINDING(S) AND SENTENCE.

Accused: E 11113 Pte Joseph Grenier R. de Chaud.

Charge. (Insert "alternative" where applicable.)	Plea. (See instrs p 2.)	Finding. (See note below.)	(Space for use as required for further charges, accused charged jointly, special findings, etc.)
1st A.A. 15 (1)	Guilty	Guilty	
2nd			
3rd			
4th			
5th			
6th			

(Note: As to findings for lesser offences see AA 56, RP 44; findings on alternative charges see MML p 483 fn 4 para 2, RP 44; special findings see RP 44 and MML p 753, and as loss of kit see RP 44 fn 6.)

At present under sentence for N/A beginning on (date) N/A (1)

(1. Insert sentence being served, or delete, if not applicable. See RP 46(A). Information should be found on MF B355 or AF B296.)

Time in confinement awaiting present trial—a total of 8 days, of which Nil days were spent in hospital.(2)

(2. See RP 46(A) fn 2. Information should be found on MF B355 or AF B296 admitted in evidence under E2.)

Sentence Awarded by the Court:

To ~~[illegible]~~ SUBJECT FIELD PUNISHMENT FOR 120 days

(Sgd): ..... 2 Jan 45 (Sgd) J.B. Rose Maj

Judge-Advocate, if any. Date awarded. President. (RP 45, 50.)

(See back of Convening Order as to assembly and disposal of record after trial.)

PART II. MINUTE WHERE CONFIRMATION RESERVED. (AA 54(3), RP 120(F), MML p 760.)

Date ..... (Sgd) ..... Commanding .....

PART III. DECISION OF CONFIRMING OFFR ON FINDING(S) AND SENTENCE.

(For duties and powers see AA 54, 57, RP 37(D) fn 2, 46(A), 51-56, 120, MML pp 759-764, KR Can 567-577. Acquittals require no confirmation and cannot be revised: AA 54(3). Sending back finding or sentence for revision by Court: AA 54(2), RP 120(G). If not confirmed, accused may be tried again: AA 157, MML p 64. Minute of confirmation or non-confirmation may be altered before promulgation: RP 53, MML p 65. Quashing after promulgation: KR Can 573. Duties and powers of reviewing offrs: AA 57, 57A, RP 53A, 54. The Confirming Offr must sign here personally. AA 172 fn 1.)

My decision on the finding(s) and sentence set forth in Part I is:

I vary the sentence so that it shall be as follows. "To suffer field punishment for ninety days" and I confirm the finding and sentence so varied

~~I direct that the accused be not committed to prison or detention barracks until further orders.~~(1) JAR

(1. AA 57A. Delete if not used.)

(Sgd) J.A. Roberts Brig

Date 8 Jan 45 Commanding 8 Can Inf Bde

Confirming Officer.

PART IV. PROMULGATED AND EXTRACTS TAKEN. (RP 52, KR Can 576, 577.)

Accused.	Date.	Signature of Offr.
E 11113 Pte. Grenier J. Jos.	10 Jan 45	W Farthing Lt Col

ALL DELETIONS AND ALTERATIONS WILL BE INITIALLED. R de Chaud

RECORD FORM D—PROCEEDINGS ON PLEAS OF NOT GUILTY TO ALL CHARGES.

D1. President to accused: Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity to prepare your defence? Ans .....(1)

(1. If "yes", see RP 39(A) for procedure. Statement or evidence, if any, is recorded per Notes.)

D2. The Prosecutor makes (an) (no) opening address.(1)

(1. RP 39(B), 60(A) (B), 90, 92(C) (D). Record address per Notes, subject to RP 95(C).)

D3. The evidence for the Prosecution is taken.(1)

(1. RP 39(C), 114, KR Can 555. Record evidence per Notes. As to Prosecutor giving evidence himself see RP 39(D) (E).)

D4. The Prosecution is closed.(1) The Defending Offr submits that the evidence for the Prosecution does not establish a prima facie case against the accused on the ..... charge(s).(2) The Court is closed, and considers the submission.(3) The Court is re-opened, and the President announces that the submission is disallowed on the ..... charge(s), and allowed on the ..... charge(s), and that, accordingly, the trial will proceed on the former, but the accused is (are) found Not Guilty on the latter charge(s).(4)

(1. Delete remainder of this para. if submission not made. 2. Arguments on submission, answer and reply are recorded on all charges, use second alternative in para D4.) 3. RP 40 fn 1. See MML p 72 paras 12-14 and p 81 para 42. 4. Delete part not used. If accused acquitted per Notes.

NB: If trial proceeds, accused must be allowed great latitude in making his defence, and the Court should not stop his defence solely on ground of irrelevance. (RP 60(C), 114, 115.)

D5. President to accused: You will now proceed with your defence.(1) You may, if you wish, give evidence yourself on oath as to the facts or your character or both in which case you will be subject to cross-examination.(2) You may, however, make a statement without being sworn and you will not be subject to cross-examination.(3) But a statement which could have been made on oath will not be dealt with by the Court the same weight as sworn testimony.(4) You may call witnesses in your defence and as to character, whether you give evidence or make a statement or do neither?

President to accused: Do you wish to give evidence yourself as a witness, make a statement, or do neither? Do you intend to call witnesses on your behalf?

Ans ..... Are they witnesses as to character only? Ans .....

(1. RP 155. 2. RP 40(A), see 80(D). 3. RP 40 fn 10. 4. RP 40 fns 2, 9.)

D6. Consequent on the answers recorded in para D5 the appropriate procedure for the defence is followed.(1)

(1. RP 114, 115, 116. For procedure see Notes on back of Convening Order, CF A95. Evidence for accused as to his character should, if in his interest, be given before the finding. See RP 46(A) fn 1, 86(C). Note the further opportunity in para E1 of Record Form E. Record per Notes addresses, statement, evidence and any summoning up by the JA under RP 42, 103(e).)

D7. The Court is closed to consider the finding(s).(1) The finding(s) of the Court is (are) recorded in Part I of the Schedule.(2) The Court is re-opened.

(1. RP 43, 117(A). See Notes in Part I of Schedule. 2. RP 44(A).)

D8. The President announces the finding(s), if any, of Not Guilty, and states to the accused that the finding(s) of the Court on the ..... charge(s), being subject to confirmation, will be promulgated later.(1)

Or, The President announces that the accused is found Not Guilty on all charges and is to be released forthwith, and that the proceedings are accordingly terminated. Part I of the Schedule is dated and signed.(2)

(1. AA 54(3) (6), RP 45, 120(A). 2. AA 54(3), RP 45, 117. This alternative announcement is not applicable when there are pleas of Guilty outstanding and dealt with under Record Form B or C.)

D9. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E below.

RECORD FORM E—PROCEEDINGS ON CONVICTION BEFORE SENTENCE.

E1. President to accused: Do you wish to give evidence yourself or to call any witnesses as to your character?(1)

Ans Yes

(1. If evidence has already been given by accused or his witnesses as to his character, delete this para. RP 37(C) fn 4, 46 fn 2. Accused and witnesses are sworn. Evidence recorded per Notes.)

E2. The Prosecutor produces Statement(s) as to Character and Particulars of Service(1), and certified true copy ~~(copies)~~ of Conduct Sheet(s)(2), purporting to refer to the accused, which he submits to the Defending Offr for examination, and then to the Court for admission in evidence. The Court is satisfied that these documents refer to the accused, because (i) they purport to be signed in the manner required by AA 163(1) (g) (h), and (ii) they purport to refer to (a) soldier(s) having the same number, rank, name and corps as the accused. Admitted in evidence and marked Ex B and Ex C respectively.(3)

(1. MFB 355 or AFB 296. 2. MFM 6. 3. RP 46, KR Can 558. If above documents not produced, see RP 46 fn 1 para 1.)

E3. President to accused: Do you wish to address the Court on the Statement(s) and Conduct Sheet(s), and in mitigation of punishment?(1) Ans Yes (2)

(1. RP 37(C), 46(D). 2. Address, if any, recorded per Notes. Court should permit accused or his witnesses to give an oath anything here or previously stated which would affect the amount of punishment. RP 37(F) fn 7.)

E4. The President states that the Court is closed to consider the sentence, and that the sentence to be awarded by the Court, being subject to confirmation, will not be announced, but will be promulgated later, and the proceedings in open court are accordingly terminated.(1)

(1. AA 54(6), RP 120(A).)

E5. The Court considers the sentence.(1) The President records the sentence in Part I of the Schedule, which is dated and signed by him and the J.A., if any.(2)

(1. When several accused tried separately see RP 7(D). One sentence only, comprised of the punishment or punishments laid down in AA 41, 44 and its proviso, is to be awarded to cover all charges in all charge sheets on which accused found guilty. RP 48. As to sentences see AA 44, 138, 182, RP 46-50, 69, 118, 119(AA), KR Can 308, 330, 563-566, Overseas KI 309, 330(3). MML p 60, 737-739. As to sentences assigned for civil offences by the law of England see AA 41(5), MML p 130. Where accused already under sentence of imprisonment or detention see AA 44(1B), 68(1), KR Can 564. 2. RP 50. As to release from arrest by Confirming Offr see KR Can 567. As to assembly and disposal of record after trial see instrs on back of Convening Order.)

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

SCHEDULE.

PART I. PLEA(S), FINDING(S) AND SENTENCE.

Accused: E1113 Pte Joseph Grenier R. de Chaud.

Charge. (Insert "alternative" where applicable.)	Plea. (See Instrs p 2.)	Finding. (See note below.)	(Space for use as required for further charges, accused charged jointly, special findings, etc.)
1st A.A.15 (1)	Guilty	Guilty	
2nd			
3rd			
4th			
5th			
6th			

(Note: As to findings for lesser offences see AA 56, RP 44; findings on alternative charges see MML p 483 fn 4 para 2, RP 44; special findings see RP 44 and MML p 753, and in lieu of kis see RP 44 fn 6.)

At present under sentence for N/A beginning on (date) N/A (1)
(1. Insert sentence being served, or delete, if not applicable. See RP 46(A). Information should be found on MF B355 or AF B296.)

Time in confinement awaiting present trial—a total of 8 days, of which Nil days were spent in hospital.(2)
(2. See RP 46(A) fn 2. Information should be found on MF B355 or AF B296 admitted in evidence under E2.)

Sentence Awarded by the Court:

To SUFFER FIELD PUNISHMENT FOR 120 days

(Sgd) Judge-Advocate, if any. 2 Jan 45 Date awarded. (Sgd) [signature] Major President. (RP 45, 50.)

(See back of Convening Order as to assembly and disposal of record after trial.)

PART II. MINUTE WHERE CONFIRMATION RESERVED. (AA 54(5), RP 120(F), MML p 760.)

Date (Sgd) Commanding

PART III. DECISION OF CONFIRMING OFFR ON FINDING(S) AND SENTENCE.

(For duties and powers see AA 54, 57, RP 37(D) fn 6, 46(A), 51-56, 120, MML pp 759-761, KR Con 567-577. Acquittals require no confirmation and cannot be revised: AA 54(3). Sending back finding or sentence for revision by Court: AA 54(2), RP 120(C). If not confirmed, accused may be tried again: AA 157, MML p 64. Minute of confirmation or non-confirmation may be altered before promulgation: RP 53, MML p 65. Quashing after promulgation: KR Con 573. Duties and powers of reviewing offrs: AA 57, 57A, RP 53A, 54. The Confirming Offr must sign here personally. AI 172 fn 1.)

My decision on the finding(s) and sentence set forth in Part I is:

I vary the sentence so that it shall be as follows, "To suffer field punishment for ninety days" and I confirm the finding and sentence so varied.

~~I direct that the accused be not committed to prison or detention barracks until further orders.~~(1) JGR
(1. AA 57A. Delete if not used.)

Date 8 Jan 45 (Sgd) [signature] Brig
Commanding 8 Can Inf Bde
Confirming Officer.

PART IV. PROMULGATED AND EXTRACTS TAKEN. (RP 53, KR Con 574, 577.)

Accused.	Date.	Signature of Offr.
E1113 Pte. Grenier J. To.	10 Jan 45	W Farthing Lt Col

ALL DELETIONS AND ALTERATIONS WILL BE INITIALLED. R de Chaud

4R- 80

Pte Grenier L. P.

Certified True Copy

Appeal copy - pp 83

CFA96 (In lieu of AFA3) 40-P.A.S. 1608 (2864)

FIELD GENERAL COURT-MARTIAL

(D M Owen) Capt
Cdn Sec GS 2 Eqn AFHQ

Convened by Order of Brig I S Johnston DSO Comd 11 Cdn Inf Bde dated 4 Jan 1945
12 Jan 45

ACCUSED.

(As to the trial of two or more charged jointly see RP 16, 71, 109. As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Con 308, 328, 330.)

Number.	(a) Prmnt R. (b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
B.116534	Pte	Lawrence Phillip	GRENIER	IRC

PROCEEDINGS OF TRIAL.

Held in the Fd in (country) Italy on (date(s)) 6 Jan 45

RECORD FORM A—OPENING PROCEEDINGS AND ARRAIGNMENT. 24/125

A1. The President, Members, waiting Member, JA, if any, and Offrs under instr, if any, assemble, and the Court is closed.

(PRINTED MATTER, NOT IN ITALICS FOR GUIDANCE, WILL BE DELETED, IF NOT USED OR APPLICABLE, AND INITIALLED BY PRES OR JA. The Schedule referred to throughout is on p 4. Choices do NOT include all relevant Can RQs. For guidance on procedure when a variation in this form arises, see form for GCM in MML pp 741 to 759. A brief record of such variation will be made and given a number having reference to appropriate or preceding para number hereon. See back of Convening Order, CF A95, for oaths and instrs on how to record addresses, evidence, etc, which instrs are hereafter called "Notes". As to general provisions for conducting the trial see AA 52, RP 36, 62-70, 73, 74, 94, 103, 119, 132.)

A2. The President initials and lays before the Court the Convening Order and Charge Sheet(s) attached thereto.(1) The Court is satisfied that it is properly convened and constituted(2), accused is (are) amenable to military law, and each charge discloses an offence.(3)

(1. As to use of Summary of Evidence see RP 17 fn 6. 2. AA 49, 50, RP 105-107. 3. RP 11-13, 23, 24.)

A3. The Court is opened. The accused is (are) brought before the Court. At 1000 hours trial commences.

A4. The Prosecutor produces a Medical Certificate that accused is (are) fit to undergo trial by court-martial.(1) ~~The Prosecutor informs the Court that accused is (are) suffering from [illegible] certified by the CO.(2)~~

(1. KR Con 557. 2. AA 46(8), RP 60 fn 1. For effect see KR Con 561(c). Delete, if not applicable.)

~~"WHEN" AS President or accused ~~is~~ are not subject to~~

~~The interpreter is sworn.(1) He has objected to~~

~~The shorthand writer is sworn.(2)~~

(1. RP 72. Delete, if none employed.)

A6. The Convening Order and names of the President and Members of the Court are read to the accused.(1) President to accused: Do you object to be tried by me as President or by any of the Members of the Court?

Ans No, Sir.(2)

(1. RP 110. 2. If no objection, waiting member retires. RP 68(B). If objection, see procedure AA 51, RP 25, 71, 18, MML p 742.)

A7. The President, Members, JA, if any, and Offrs under instr, if any, are sworn.(1) The following are the ranks, names and units of the offrs comprising the Court, etc:

President	Major	J A McTAVISH	HQ CRMC
Member	Capt	G P MURPHY	P L Fus
Member	Capt	J F McKNIGHT	PERTH
Judge-Advocate	Capt	W M W SHAW	Hq 1st Cdn Armd Div
Prosecutor	Capt	F C WHYTE	IRC
Defending Offr	Capt	G J WOOD	IRC

Questions by President: Is the Prosecutor a lawyer? Ans No. Is the Defending Offr a lawyer? Ans No.(1)

(1. RP 26, 27, 109, 111. List of offrs under instr will be returned separately with proceedings for information of Conv Offr.)
(2. If Pros a lawyer and Def Offr not, accused is entitled to an adjournment when RP 89 (B) and fn 2 were not followed. See DI p 3.)

A8. The accused ~~[illegible]~~ before arraignment make(s) (no) ~~[illegible]~~ plea.

(1. If a special plea is made for separate trial on one or more charges (RP 62(E), 108), or as to the jurisdiction of the Court (RP 34, 35(A), 113), or in bar of trial (RP 36), or as to accused's mental fitness to stand trial (AA 130, RP 57), or by one of several accused charged jointly to be tried separately (RP 14, 71), such plea, the addresses made in support or against, the evidence, if any, and finding are recorded per Notes. For forms of record see references in fns to RoP cited. Insert in AB rank and name of the accused making the plea.)

~~"WHEN"~~ A9. The accused is ~~[illegible]~~ arraigned (~~separately~~) on all charges in the charge sheet.(1) The accused does ~~not~~ not object to any charge.(2) There is no amendment to be made to the Charge Sheet.(3) The President records the pleas in Part I of the Schedule.

(1. RP 21, 112. See para 1 of Instrs p 2. When more than one Charge Sheet see RP 62. 2. RP 32, RP 33. If otherwise, delete and separately see RP 71(C), and use separate copies of CF A96 to record proceedings. make appropriate record per Notes.)

~~"WHEN"~~ A10. The Court ~~[illegible]~~ considers the Instrs on Procedure after Arraignment at top of p 2. The proceedings are continued on Record Form B.

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

INSTRUCTIONS ON PROCEDURE AFTER ARRAIGNMENT.

1. *The accused may not plead or be found Guilty on more than one of two or more charges laid in the alternative.* (*RP 37(A).*) *As to withdrawal of alternative charges by Prosecutor see RP 35(C). No other charge can be withdrawn for any reason without authy from Convening Offr. If Convening Offr concurs, Court may accept plea of Guilty to lesser etc, offence.* (*RP 44(H).*) *Accused may change a plea of Not Guilty to Guilty during trial.* (*RP 38.*) *As to refusing to plead or not pleading intelligibly see RP 35(A). As to plea when sentence may be death see RP 35(D).*

2. *The proceedings on each charge sheet* (*RP 62*) *after arraignment will be conducted as follows in the respective circumstances stated:*

I. If pleas to all charges are GUILTY, use Record Form B below.

II. If pleas to all charges are NOT GUILTY, use Record Form D on p [redacted] *3.*

III. If pleas to some charges are GUILTY and to other charges are NOT GUILTY and,

(a) Such mixed pleas occur when there are no alternative charges in the Charge Sheet, use Record Form C below. (*RP 37(A).*)

(b) Such mixed pleas occur in a set of two or more charges laid in the alternative, see RP 37 (A) and fn 2 as to discretion of Court, (i) *to try the accused on all such alternative charges as if he had pleaded Not Guilty thereto, or,* (ii) *to record the pleas as the findings of Court. After deciding between* (i) *and* (ii), *Court will proceed under foregoing instrs as may be appropriate to result of its decision. See MML p 744 Instrs* (2).

3. *As to responsibility of President to accused see RP 59, 60(C); powers and duties of JA see RP 103; duty of Prosecutor see RP 60(A) (B); duty and privileges of accused and Defending Offr see RP 60(C), 87(C), 91, 92; swearing and withdrawal of witnesses from Court see RP 81, 82; questioning of accused see RP 80, 87(C), 92(B), and of witnesses see RP 85-86; calling or re-calling of witnesses by Court etc see RP 75-79, 86, 116; use of Summary of Evidence at Trial see RP 17(E) fn 6; and responsibility of JA or Pros to record proceedings see RP 94, 96.*

RECORD FORM B--PROCEEDINGS ON PLEAS OF GUILTY TO ALL CHARGES.

B1. The President or JA, if any, complies with RP 35(B) by explaining to the accused the nature and meaning of the charge(s)(1), and that on his plea of Guilty there will be no regular trial but merely a consideration of the sentence to be awarded after he has been given an opportunity to make a statement in reference to the charge(s), call witnesses as to character and make an address in mitigation of punishment.(2)
(1. RP 35 fn 3. 2. MML p 54 para 47.)

B2. President to accused: The Court will now receive any statement you desire to make in reference to the charge(s).(1) If it appears from your statement that there are circumstances which indicate that you do not understand the effect of the plea of Guilty(2), or which show provocation or extenuation in respect of which in your interest the witnesses for the Prosecution should be examined(3), we shall advise you to change your plea to Not Guilty. In making a statement you will not be sworn or subject to cross-examination; and anything you say will not be used in evidence against you after you change your plea. If, however, it appears to the Court that your statement affects only the amount of punishment to which you are liable, you will not be advised to change your plea and you will be given an opportunity later to prove your statement by sworn testimony, if you so desire.(4)

President to accused: Do you wish to make a statement? Ans No Sir (5)
(1. RP 37(B). 2. RP 37(D) fn 6. 3. RP 35(B) fn 5 para 3, MML p 54 para 47. 4. See para E3 of Record Form E. 5. Statement, if any, recorded per Notes.)

"ALTER" B3. ~~The Court considers the accused's statement(1) to constitute (not to constitute) a valid defence to the charge(s). The accused is (is not) advised to change his plea of Guilty to Not Guilty. The accused is (is not) so advised, before the statement, and elects (does not elect) to change his plea.~~ Part I of the Schedule to Record Form E is altered accordingly.
(1. Court may be closed to consider the statement. Delete whole or part not used.)

"ALTER" B4. On the charge(s) to which the plea(s) of Guilty is (are) not changed the President records findings of Guilty in Part I of the Schedule.(1)
(1. RP 35(B). If any plea(s) is (are) changed, use Record Form C or D as appropriate.)

B5. The Summary of Evidence is marked Ex A, initialled and read aloud by the President.(1)
(1. If there is no Summary, or if it is inadequate, comply with RP 37(B). If there is any evidence inconsistent with any plea standing as Guilty, Court will advise accused to change such plea and, if changed to Not Guilty, try such charge(s) by use of paras D1 to D8 inclusive of Record Form D on p 3. RP 37(D).)

B6. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

RECORD FORM C--PROCEEDINGS ON MIXED PLEAS OF GUILTY AND NOT GUILTY.

C1. As to the charges on which accused pleaded NOT GUILTY the trial is continued by using paras D1 to D8 inclusive of Record Form D on p 3 before proceeding with C 2.(1)
(1. RP 37(A) (E).)

C2. The charges on which accused pleaded GUILTY are read to him (them) again, and the trial is continued by using paras B1 to B5 of Record Form B above.(1) "ALTER" Part I of the Schedule to Record Form E is altered accordingly.
(1. Under B5 such parts only of the Summary of Evidence are read as relate to the charges dealt with under C2. If any plea is changed to Not Guilty, trial thereon proceeds by complying with paras D1 to D8 inclusive of Record Form D on p 3 and making an appropriate record thereof on a separate sheet.)

C3. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

Pin here Loose Sheets of Record.

RECORD FORM D--PROCEEDINGS ON PLEAS OF NOT GUILTY TO ALL CHARGES.

D1. President to accused: Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity to prepare your defence? Ans .....(1)
(1. If "yes", see RP 39(A) for procedure. Statement or evidence, if any, is recorded per Notes.)

D2. The Prosecutor makes (an) (no) opening address.(1)
(1. RP 39(B), 60(A) (B), 90, 92(C) (D). Record address per Notes, subject to RP 95(C).)

D3. The evidence for the Prosecution is taken.(1)
(1. RP 39(C), 114, KR Can 535. Record evidence per Notes. As to Prosecutor giving evidence himself see RP 39(D) (E).)

D4. The Prosecution is closed.(1) The Defending Offr submits that the evidence for the Prosecution does not establish a prima facie case against the accused on the ..... charge(s).(2) The Court is re-opened, and the President announces that the submission is closed, and considers the submission.(3) The Court is re-opened, and the President announces that the submission is disallowed on the ..... charge(s), and allowed on the ..... charge(s), and that, accordingly, the trial will proceed on the former, but the accused is (are) found Not Guilty on the latter charge(s).(4)
(1. Delete remainder of this para, if submission not made. 2. Arguments on submission, answer and reply are recorded per Notes. 3. RP 40 fn 1. See MML p 72 paras (2)-(4) and p 81 para 42. 4. Delete part not used. If accused acquitted on all charges, use second alternative in para D6.)
NB: If trial proceeds, accused must be allowed great latitude in making his defence, and the Court should not stop his defence solely on ground of irrelevance. (RP 60(C), 114, 116.)

D5. President to accused: You will now proceed with your defence.(1) You may, if you wish, give evidence yourself on oath as to the facts or your character or both, in which case you will be subject to cross-examination.(2) You may, however, make a statement without being sworn, and you will not be subject to cross-examination.(3) But a statement which could have been made on oath will not carry with the Court the same weight as sworn testimony.(4) You may call witnesses in your defence and as to character, whether you give evidence or make a statement or do neither.

President to accused: Do you wish to give evidence yourself as a witness, make a statement, or do neither?
Ans .....
Do you intend to call witnesses on your behalf?
Ans .....
Are they witnesses as to character only? Ans .....
(1. RP 155. 2. RP 40(A), see 80(D). 3. RP 40 fn 10. 4. RP 40 fns 2, 9.)

D6. Consequent on the answers recorded in para D5 the appropriate procedure for the defence is followed.(1)
(1. RP 114, 115, 116. For procedure see Notes on back of Convening Order, CF Any. Evidence for accused as to his character should, if in his interest, be given before the finding. See RP 46(A) fn 1, 86(C). Note use further opportunity in para E1 of Record Form E. Record per Notes addresses, statement, evidence and any summing up by the JA under RP 42, 103(e).)

D7. The Court is closed to consider the finding(s).(1) The Court is re-opened.
The finding(s) of the Court is (are) recorded in Part I of the Schedule.(2)
(1. RP 43, 117(A). See Notes in Part I of Schedule. 2. RP 44(A).)

D8. The President announces the finding(s), if any, of Not Guilty, and states to the accused that the finding(s) of the Court on the ..... charge(s), being subject to confirmation, will be promulgated later.(1)
Or, The President announces that the accused is found Not Guilty on all charges and is to be released forthwith, and that the proceedings are accordingly terminated. Part I of the Schedule is dated and signed.(2)
(1. AA 54(3) (6), RP 43, 120(A). 2. AA 54(3), RP 42, 117. This alternative announcement is not applicable when there are pleas of Guilty outstanding and dealt with under Record Form B or C.)

D9. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E below.

RECORD FORM E--PROCEEDINGS ON CONVICTION BEFORE SENTENCE.

E1. President to accused: Do you wish to give evidence yourself or to call any witnesses as to your character?(1)
Ans No, Sir
(1. If evidence has already been given by accused or his witnesses as to his character, delete this para. RP 37(C) fn 4, 46 fn 1. Accused and witnesses are sworn. Evidence recorded per Notes.)

E2. The Prosecutor produces Statement(s) as to Character and Particulars of Service(1), and certified true copy (copies) of Conduct Sheet(s)(2), purporting to refer to the accused, which he submits to the Defending Offr for examination, and then to the Court for admission in evidence. The Court is satisfied that these documents refer to the accused, because (i) they purport to be signed in the manner required by AA 163(1) (g) (h), and (ii) they purport to refer to (a) soldier(s) having the same number, rank, name and corps as the accused. Admitted in evidence and marked Ex B and Ex C respectively.(3)
(1. MFB 355 or AFB 296. 2. MFH 6. 3. RP 46, KR Can 558. If above documents not produced, see RP 46 fn 1 para 1.)

E3. President to accused: Do you wish to address the Court on the Statement(s) and Conduct Sheet(s), and in mitigation of punishment?(1) Ans Yes thru dat offr (2)
(1. RP 37(C), 46(D). 2. Address, if any, recorded per Notes. Court should permit accused or his witnesses to prove on oath anything here or previously stated which would affect the amount of punishment. RP 37(F) fn 7.)

E4. The President states that the Court is closed to consider the sentence, and that the sentence to be awarded by the Court, being subject to confirmation, will not be announced, but will be promulgated later, and the proceedings in open court are accordingly terminated.(1)
(1. AA 54(6), RP 120(A).)

E5. The Court considers the sentence.(1) The President records the sentence in Part I of the Schedule, which is dated and signed by him and the JA, if any.(2)
(1. Where several accused tried separately see RP 7(D). One sentence only, comprised of the punishment or punishments laid down in AA 41, 44 and its powers, is to be awarded to cover all charges in all charge sheets on which accused found guilty. RP 48. As to sentences see AA 44, 138, 180, RP 46-50, 69, 108, 119(A), KR Can 308, 330, 563-566, Chemeres RO 309, 2323, MML p 60, 737-739. As to sentences assigned for civil offences by the law of England see AA 41(5), MML p 130. When accused already under sentence of imprisonment or detention see AA 44(18), 68(1), KR Can 564. 2. RP 50. As to release from arrest by Confirming Offr see KR Can 567. As to assembly and disposal of record after trial see instrs on back of Convening Order.)

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

SCHEDULE.

PART I. PLEA(S), FINDING(S) AND SENTENCE.

Accused : B.116534 Pte Lawrence Phillip GRENIER, IRC

Charge. (Insert "alternative" where applicable.)	Plea. (See instrs p 2.)	Finding. (See note below.)	(Space for use as required for further charges, accused charged jointly, special findings, etc.)
1st	Guilty	Guilty	
2nd			
3rd			
4th			
5th			
6th			

(Note : As to findings for lesser offences see AA 56, RP 44 ; findings on alternative charges see MML p 483 fn 4 para 2, RP 44 ; special findings see RP 44 and MML p 753, and as to loss of kit see RP 44 fn 6.)

~~SUMMARY OF EVIDENCE~~ "MMS" ~~Attached (Not)~~ (1)

(I. Insert sentence being served, or delete, if not applicable. See RP 46(A). Information should be found on MF B355 or AF B296.)

Time in confinement awaiting present trial—a total of 9 days, of which Nil days were spent in hospital.(1)

(I. See RP 46(A) fn 2. Information should be found on MF B355 or AF B296 admitted in evidence under E2.)

Sentence Awarded by the Court :

To suffer penal servitude for a term of three years and six months.

(Sgd) (W.M.W. SHAW) Capt
Judge-Advocate, if any.

6 Jan 45
Date awarded.

(Sgd) "J MOTAVISH" Maj
President. (RP 45, 50.)

(See back of Convening Order as to assembly and disposal of record after trial.)

PART II. MINUTE WHERE CONFIRMATION RESERVED. (AA 54(5), RP 120(F), MML p 760.)

I reserve the findings and sentence for confirmation.

Date 7 Jan 45 (Sgd) Ian S Johnston Brig" Commanding 11 Cdn Inf Bde

PART III. DECISION OF CONFIRMING OFFR ON FINDING(S) AND SENTENCE.

(For duties and powers see AA 54, 57, RP 37(D) fn 6, 46(A), 51-56, 120, MML pp 759-761, KR Can 567-577. Acquittals require no confirmation and cannot be revised : AA 54(7). Sending back finding or sentence for revision by Court : AA 54(2), RP 120(G). If not confirmed, accused may be tried again : AA 157, MML p 64. Minute of confirmation or non-confirmation may be altered before promulgation : RP 53, MML p 65. Quashing after promulgation : KR Can 573. Duties and powers of reviewing offrs : AA 57, 57A, RP 53A, 54. The Confirming Offr must sign here personally. AA 172 fn 1.)

My decision on the finding(s) and sentence set forth in Part I is :

"I confirm the finding and sentence and I direct that a part of the sentence not exceeding two years shall be served in a military prison"

~~I HEREBY DIRECT IN PURSUANCE OF THE POWERS VESTED IN ME BY ARMY ACT SECTION 57A~~ (1)

(I. AA 57A. Delete if not used.)

Date 5 Feb 45

(Sgd) "E.G. Weeks" Major-General
IC Administration
Commanding CANADIAN MILITARY HEADQUARTERS
Confirming Officer.

PART IV. PROMULGATED AND EXTRACTS TAKEN. (RP 53, KR Can 576, 577.)

Accused.

Date. 6 Feb 45

Signature of Offr.

B-116534 Pte Grenier L P
Irish Regt of Canada

R.E. Graves A/
#2 Cdn Reallocation Centre
CAMF

ALL DELETIONS AND ALTERATIONS WILL BE INITIALLED.

LRPG V LRIZ SRL 21

TO CDN OEE CMF

FROM CANMILITRY 051215

A1465 BT

RESTRICTED PARA ONE . FGCM PROCEEDINGS B132905 PTE MARA HW

B116554 PTE GRENIER LP BOTH SERIAL 943/1 ENDORSED BY MGA

5 FEB 45 QUOTE I CONFIRM THE FINDING AND SENTENCE AND I DIRECT

THAT A PART OF THE SENTENCE NOT EXCEEDING TWO YEARS SHALL BE SERVED

IN A MILITARY PRISON UNQUOTE . PARA TWO . FGCM PROCEEDINGS B79433 PTE

CLARKE RF F50194 PTE HARTLING TA BOTH SERIAL 943/1 ENDORSED BY MGA

5 FEB 45 QUOTE I CONFIRM THE FINDINGS AND SENTENCE BUT I REMIT FIVE

YEARS PENAL SERVITUDE AND I DIRECT THAT A PART OF THE SENTENCE

NOT EXCEEDING TWO YEARS SHALL BE SERVED IN A MILITARY PRISON UNQUOTE .

BT 052239 BA B 1 K

RD SRL 21 052240 SC Q

CHARGE SHEET

The accused, B116534 Pte Lawrence Phillip GRENIER, The Irish Regiment of Canada, a soldier of the Canadian Army placed on Active Service, is charged with:

FIRST CHARGE
Sec 9(2)

WHEN ON ACTIVE SERVICE, DISOBEYING A LAWFUL COMMAND GIVEN BY HIS SUPERIOR OFFICER.

in that he

In the Field, at approximately 1730 hrs 25 Dec 1944, when ordered by B79361 L/Sgt White, G.J., his superior officer, to go on guard duty in the front line during stand-to, refused and did not do so.

In the Field

"L H C PAYNE"
(L H C PAYNE) Major,
A/Comd The Irish Regiment of Canada

"To be tried by Field Genral Court Martial."

In the Field
5 Jan 1945

"Ian S Johnston"
(I S Johnston) Brig
Comd 11 Cdn Inf Bde

"WMWS"
"JAM"

FIELD GENERAL COURT-MARTIAL

CFA95 (To form of AFA33) 40/PAM/1697 (2nd Ed)

(Whether the accused to be tried is under his comd or not, a FGCM may on application to him be convened by any offr of Cdn Army Overseas, or of any other force if authorized in law, in immediate comd of troops on active service, subject to RP 105(C) and restrictions imposed by appropriate authy. A. 50, RP 104-107, 114. As to the duties and privileges of the Convening Offr in dealing with the application see MML Chap V paras 20 and 23. R. (B).

There should be a separate Convening Order for each person to be tried separately by the same Court. RP 71(C), 109. As to separate charge sheets see RP 62, and as to separate trial on charges in the same charge sheet see RP 108. As to two or more accused charged jointly see RP 14, 109.

As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

ACCUSED.

Number.	(a) Prmnt R. (b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
B 116534	Pte	Lawrence Phillip	GRENIER	IRC

CONVENING ORDER.

1. Whereas complaint has been made to me, the undersigned, that the person(s) named above as the accused, being subject to military law, has ~~have~~ committed the offence(s) set forth in the Charge Sheet(s) attached and on (date) 5 Jan 1945 endorsed by me, (~~I am of opinion that such offence(s) should be tried by a~~ "To be tried by Field General Court-Martial".

2. And whereas I am of opinion that it is not practicable that such offence(s) should be tried by an ordinary General Court-Martial; (and that it is not practicable to delay the trial for reference to a superior qualified offr.)

3. I hereby convene a Field General Court-Martial to try the said person(s), and to consist of the Offrs appointed or detailed hereunder.

4. ~~I am unable to appoint (a) three Offrs to form the Court, (b) a Fd Offr as President, for the following reasons attached hereto~~

5. I also appoint as Judge-Advocate thereat the Offr mentioned hereunder.

PRESIDENT.

(Rank.)		(Unit.)
Major	J A McTAVISH	HQ CREME

(Must be named. RP 106.)

MEMBERS.

(Rank.)		(Unit.)
Capt	W A STANDING	
Capt	D A SMITH	C B H

(Named or detailed. RP 106.)

WAITING MEMBER.

(Rank.)		(Unit.)
Capt	G P MURPHY	I R C
Capt	J F McKNIGHT	P L F

(Named or detailed, if any. RP 106.)

JUDGE-ADVOCATE.

(Rank.)		(Unit.)
Capt	W M W SHAW	PERTH

(Must be named, if any. RP 106.)

On Active Service in the Fd

in Italy (Country.)

Date 5 Jan 1945

ADJA HQ 5 Cdn Armd Div (Unit.)

Ian S Johnston" (Signed personally. RP 105 fn 2.) Brig (Rank.)

Commanding 11 Cdn Inf Bde

Convening Officer.

CONVENING OFFR WILL INITIAL ALL DELETIONS AND ALTERATIONS

"WAMS"
"JAM"

(See overleaf for oaths and notes for use on trial.)

OATHS FOR USE IN COURTS-MARTIAL.

1. PRESIDENT AND MEMBERS. *(AA 52, KR Can 562, RP 26, 29, 111.)*

I swear by Almighty God that I will well and truly try the accused (or accused persons) before the Court according to the evidence, and that I will duly administer justice according to the laws in force for the Government of the Militia of Canada, without partiality, favour or affection, and I do further swear that, except so far as may be permitted by instructions of the Minister for the purpose of communicating the sentence to the accused, I will not divulge the sentence of the Court until it is duly confirmed, and I do further swear that I will not on any account at any time whatsoever disclose or discover the vote or opinion of any particular member of this court-martial unless thereunto required in due course of law.

2. JUDGE-ADVOCATE. *(AA 52, MML 762, RP 27, 111.)*

I swear by Almighty God that I will not, unless it is necessary for the due discharge of my official duties, divulge the sentence of this court-martial until it is duly confirmed; and that I will not on any account, at any time whatsoever, disclose or discover the vote or opinion of any particular member of this court-martial, unless thereunto required in due course of law.

3. OFFR UNDER INSTRUCTION. *(AA 52, MML 762, RP 27, 111.)*

I swear by Almighty God that I will not divulge the sentence of this court-martial until it is duly confirmed; and that I will not on any account, at any time whatsoever, disclose or discover the vote or opinion of any particular member of this court-martial unless thereunto required in due course of law.

4. SHORTHAND WRITER. *(AA 52, MML 762, RP 27, 111.)*

I swear by Almighty God that I will truly take down to the best of my power the evidence to be given before this court-martial and such other matters as may be required, and will, when required, deliver to the court a true transcript of the same.

5. INTERPRETER. *(AA 52, MML 762, RP 27, 111.)*

I swear by Almighty God that I will to the best of my ability truly interpret and translate, as I shall be required to do, touching the matter before this court-martial.

6. WITNESS. *(AA 52, MML 763, RP 82, 111.)*

I swear by Almighty God that the evidence which I shall give before this court shall be the truth, the whole truth, and nothing but the truth.

POUR LES TEMOINS. *(RO (Can) 2693.)*

Je jure, par Dieu Tout-Puissant, que le témoignage que je rendrai devant cette Cour sera la vérité, toute la vérité, et rien que la vérité.

7. As to other forms for swearing see AA 52(4), RP 28, 30, 82, 111, MML p 763.

NOTES ON RECORDING PROCEEDINGS AND ON DEFENCE PROCEDURE.

(Referred to throughout CF A 96 as "Notes".)

1. RECORDING PROCEEDINGS: When no shorthand writer is employed the addresses of Prosecutor and Defending Offr (*RP 95(C)*), any objections (*RP 95(B)*), and any statements by accused, may be summarized and, the evidence, subject to RP 95(A) and 114(B), may be recorded in narrative form as follows:

First Witness for Prosecution.

A 12345 Cpl H. Jones, RWR, sworn, states:

I am a cpl of the pl to which Pte Smith belongs. The accd in Court is Pte Smith. About 1400 hrs on 15 Jan 43 I ordered the accd to go on parade. He refused and did not go on parade.

Cross-exam: He did not say he was sick. (*or*, None.)

Re-exam: None.

Exam by Court: He said—"I've had enough parades".

RP 85(E) complied with.

2. When a shorthand writer is employed, addresses, statements, evidence and objections need not, subject to RP 95(A), be taken by him verbatim. (*RP 95 fn 1.*) If the evidence is taken by him in narrative form, RP 85(H) should be complied with. If taken verbatim, RP 85(C) will be complied with.

3. The record of addresses, statements and evidence will be given a marginal number which corresponds with the number of the para in CF A 96, under which it is taken. Both sides of paper should be used.

4. DEFENCE PROCEDURE: RP 116 provides that for procedure on defence RP 40-42 will apply so far as practicable, having due regard to the public service. (*RP 122.*) If the Court consider such compliance not practicable, the following order of procedure (whether all items are used or not) is suggested as being fair to the accused:

(i) Opening address by Defending Offr. (*RP 60(C), 87(C), 92(C) (D).*)

(ii) At option of accused, statement by accused (*not sworn or subject to cross-exam by Prosecutor, Court or JA* (*RP 46 fn 1*)), or evidence by accused, as to facts or his character or both. (*See RP 41 fn 3, 46 fn 1, 86.*)

(iii) Evidence of witnesses for accused as to facts or his character or both. (*See RP 46 fn 1.*)

(iv) Evidence for prosecution in rebuttal or on new matter, if allowed by Court (*RP 86(B)*), or to prove previous convictions when accused has called witnesses as to character. (*RP 86(C).*)

(v) Closing address (*on matters other than in mitigation of punishment*) by Defending Offr or accused. (*See RP 40 fns 8-12, 87(C), 92(C) (D).*) But Defending Offr or accused will make his address after the Prosecutor, if there has been no statement by accused or any evidence given as to facts, or if accused alone has given evidence on oath as to facts, whether any evidence as to his character has been given or not. (*When accused charged jointly see RP 64.*)

(vi) Closing address by Prosecutor. (*See RP 40 fn 7, 87(C), 92(C) (D). Prosecutor has no right to address Court on subject of sentence except as provided by RP 46(E), KR Can 562(a).*)

(vii) Summing up by JA, if any. (*RP 42.*)

ASSEMBLY AND DISPOSAL OF RECORD AFTER TRIAL.

1. All deletions and alterations in printed and written record MUST BE INITIALLED by President or JA, if any. RECORD FORMS B, C OR D NOT USED MUST BE DELETED BY A DIAGONAL LINE AND INITIALLED.

2. All loose sheets of record and exhibits comprising the proceedings of the trial MUST BE INITIALLED by President or JA, if any, and then pinned by top left corner to p 2 of CF A 96 in following order:

(i) Charge Sheet. (*On top.*)

(ii) Convening Order with any declarations made by Convening Offr under RP 104, 106, 107, 114.

(iii) Medical Certificate(s). (*KR Can 557.*)

(iv) Addresses, statements and evidence in order taken during trial, pages being numbered and on both sides when both sides used.

(v) Exhibits numbered Ex A, Ex B, etc. (*As to admitting in evidence a certified copy or item of original see KR Can 586. As to certified copies of regimental books see AA 163 (1) (g) (k).*)

(vi) Summary of Evidence, if not already an exhibit.

3. Any report or remarks by President or Court for attention of Confirming Offr will be attached to p 4 of CF A 96 and not form part of record of proceedings. (*RP 95(D).*) A recommendation for mercy will be inserted in Part I of Schedule on p 4 after minute of sentence awarded. (*AA 53(3), RP 118(C), MML p 739.*)

4. The President or JA, if any, will return proceedings promptly with covering letter and in an envelope marked "Confidential", or as otherwise directed.

The following is the correct for of medical certificate to be used for trial. The accused must be examined the morning of each day he is on trial and a certificate obtained on each such day.

"I certify that I have this morning examined No B116534 Rank Pte Name Grenier L P and in my opinion he is fit to undergo trial by court-martial.
Station Field
Date 6 Jan 45

"M Kormon Capt RCAMC"
(Medical Officer)5 Cdn CCS
(KR Can 577)

"WAWS"

I

CO Capt W A Standing & Capt D A Smith not being present Capt G P Murphy and Capt J F McKnight take their places as members of the Court.

Def offr in mitigation

Has pleaded guilty. At front felt could not face the issue, refused to do his job and asked to be placed in arrest. In army no chance to resign as in civilian life when feel cannot fulfil obligations. Ask consideration for this man who felt could not perform obligations and asked to be placed in arrest.

"W M W Shaw Capt"

SUMMARY OF EVIDENCE
in the case of

B116534 Private Lawrence Phillip Grenier, The Irish Regiment of Canada, a soldier of the Canadian Army placed on Active Service.

CHARGE
(1) When on Active Service, Disobeying a Lawful Command given by his Superior Officer.

The Commanding Officer directs that the evidence be taken on oath.

FIRST WITNESS B79361 L/Sgt White G J, The Irish Regiment of Canada having been duly sworn, states:
"I am B79361 L/Sgt White G J, The Irish Regiment of Canada. I am Platoon Sergeant of No 14 Platoon of which Pte Grenier, L P is a member. I am familiar with the accused by sight. At 1730 hrs 25 Dec 1944 when Pte Grenier L P had been ordered along with the remineder of the Platoon, while in the front line in contact with the enemy and under enemy shell-fire, to go on guard duty he refused to go to his post and asked to be put under close arrest. "G J White L/Sgt"

The accused declines to cross-examine the witness.

SECOND WITNESS B79360 Cpl Langin J, The Irish Regiment of Canada having been duly sworn, states:
"I am B79360 Cpl Langin J of No 14 Platoon, No 6 Section of which Pte Grenier L P is a member. I am familiar with the accused by sight. At 1730 hrs on the 25 December 1944 when Pte Grenier L P had been ordered to take his post on guard duty, while in the front line in contact with the enemy and under enemy shell-fire did refuse the order given by B79361 L/Sgt White G J. I was present when the accused, Pte Grenier L P refused to obey this order and heard him request to be put under close arrest. "J Langin Cpl"

The accused declines to cross-examine the witness.

Question to the accused

Do you wish to make any statement or give evidence upon oath? You are not obliged to say anything or give evidence unless you wish to do so, but whatever you say or any evidence you give will be taken down in writing and may be given in evidence.

Answer by the accused.
"I Have nothing to say".

I certify that Rules of procedure 4 (C)(D)(E) and (F) have been complied with.
Taken down by me in the presence of the accused in the field this 29th Day of December 1944.

"A"
"WAWS"

"H A C Thomas"
(H A C Thomas) Lieut
The Irish Regiment of Canada
Officer detailed to take Summary of Evidence

Substitute for AFB 296
orMFB 355

STATEMENT OF CHARACTER & PARTICULARS OF SERVICE OF ACCUSED

No. B116534 RANK PRIVATE NAME GRENIER Lawrence Phillip IRC

Age 20 MARRIED OR SINGLE SINGLE NO OF DEPENDENTS NIL

DATE OF ATTESTATION 13 Sept 43

NUMBER OF DAYS IN CLOSE ARREST AWAITING TRIAL 9

CIVIL MILITARY 9 HOSPITAL TOTAL

DATES OF APPOINTMENTS, PROMOTIONS ETC (IF ANY) N/A

DECORATIONS N/A

In the Field

5 Jan 45 "C" "KING" "H.A. THOMAS" Lt

(OFFICER I/C ROLL BOOKS)

MFM 6
(AFB 122)
40/PAM/136 (2436)

No B116534 Name GRENIER, L P | Sqn. Battery or Company | Corps CIC | Date of enlistment 13 Sep 43 | GC Badges | Service or Proficiency Pay | Character

Date of last entry in Company Conduct Sheet: N/A | No and date of last drunk: N/A | Period not reckoning towards freedom from extra fine: N/A | Sheet No One | Signature OC Company, etc

Place	Date of offence	Rank	Cause of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
				Previous sheet destroyed 13 Mar 44. Last Entry 28 Dec 43		Cause of Drunkness - Nil			
Valcartier Que	10 Apr 44	Pte.		A.A. 15(1) AWL from 0700 hrs 10 Apr 44 until 1530 hrs 26 Apr 44. (Tot 16 days 8 hrs 30 mins.) "H.A.C. THOMAS" Lt ..... CERTIFIED TRUE COPY	Dec'ty	14 days C.B. "gr" "HHHH"	27 Apr 44	Col PE Poisier	Forf 17 days pay IAW 149 (1)(a)

MMM-85

PTE GRENIER R.

CERTIFIED TRUE COPY

K Cudlip CAPT

(R. CORDEAU)

RECORDED AT CMHQ IN AB 160 3

F 121

Spare Copy

Correspondence to be PINNED here.

Army Form A.3.

Form for Assembly and Proceedings of Field General Court Martial on Active Service.

PROCEEDINGS.

A.

Order convening the Court.

On Active Service, this Twenty-Second day of March, 19 44.

Whereas it appears to me, the undersigned, an officer in Command of 5 Cdn Inf Bde, on active service, that the persons named in the annexed Schedule, being subject to Military Law, have committed the offences in the said Schedule mentioned.

And whereas I am of opinion that it is not practicable that such offences should be tried by an ordinary General Court Martial; ~~and that it is not practicable to delay the trial for the convenience of any qualified officer;~~

*Omit where Convening Officer is a Commanding Officer or is of Field Rank.

"TGG"

I hereby convene a Field General Court Martial to try the said persons, and to consist of the Officers appointed or detailed hereunder.

*Omit if not applicable.

~~*I am unable to appoint~~

~~*(1. Three Officers to form the Court.)~~

~~*(2. A Field Officer as President.)~~

~~following officers namely:~~

"TGG"

Note.—The President must be named. The members and waiting members (if any) may be mentioned by name, or the number and ranks and the unit to which they belong may alone be named. In the latter event, the ranks, names, &c., of the members of the Court, as constituted, will be recorded on the proceedings.

President.

Rank.	Name.	Regiment.
Major	R.J. Orr	Carlt & York R

Members.

Rank.	Name.	Regiment.
Capt	J M Bursey	Carlt & York R
Capt	Y Dube	R 22e R
Capt	M Tellier	R 22e R

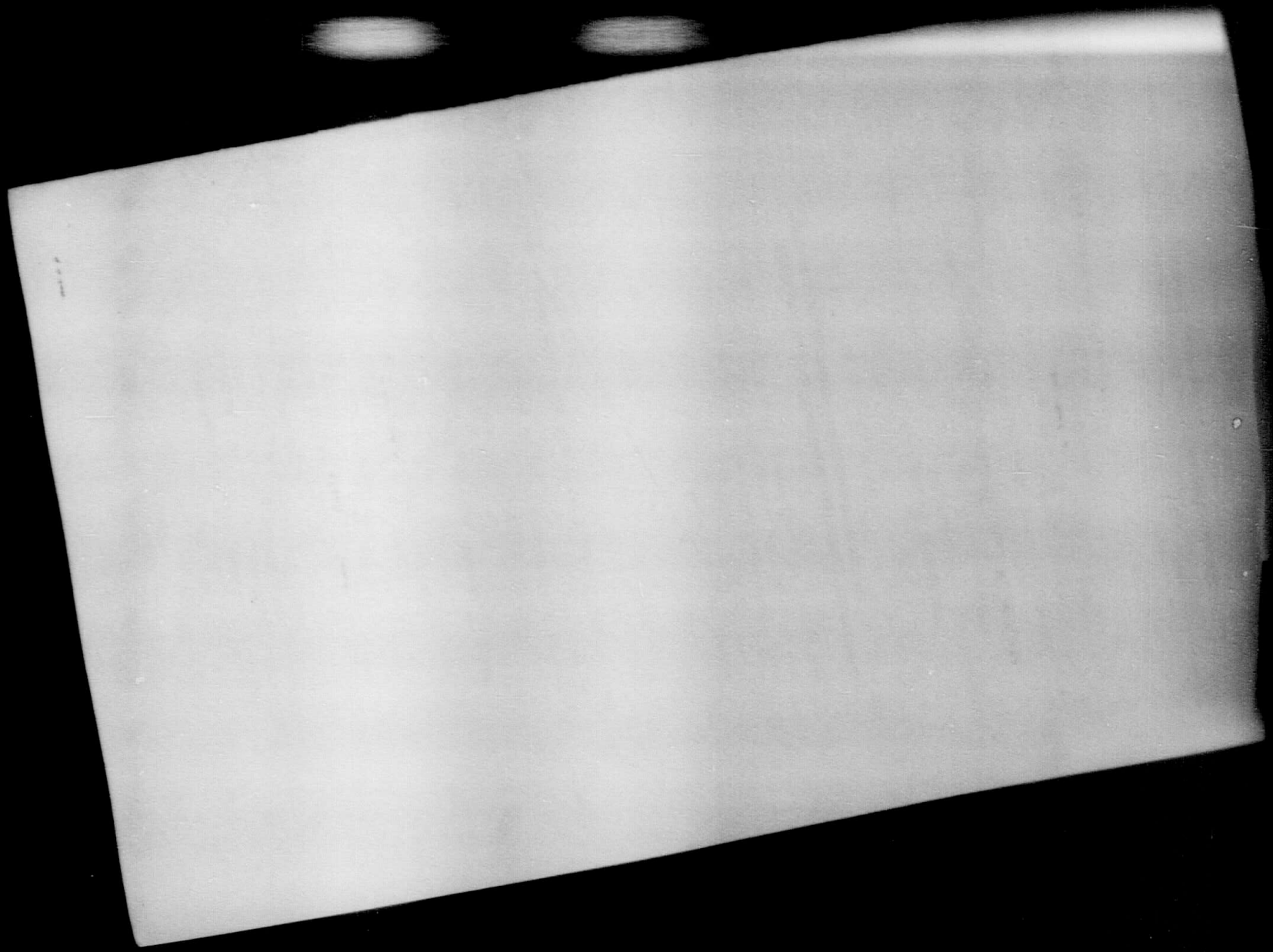
Waiting

*Must be signed personally by the Officer actually in command at the time, and all alterations in the composition of the Court to be initialled by him.

*Signed "T.G. Gibson" Brigadier

Commanding 5 Cdn Inf Bde

Convening Officer.



Spare Copy

Correspondence to be PINNED here.

CERTIFIED TRUE COPY

R. Gordeau CAPT

(R. GORDEAU)

RECORDED AT CMHQ IN AB 160 1

F 121

mmm-85

Army Form A.3.

Form for Assembly and Proceedings of Field General Court Martial on Active Service.

PROCEEDINGS.

A.

Order convening the Court.

On Active Service, this Twenty-Second day of March, 19 44.

Whereas it appears to me, the undersigned, an officer in Command of 3 Cdn Inf Bde, on active service, that the persons named in the annexed Schedule, being subject to Military Law, have committed the offences in the said Schedule mentioned.

And whereas I am of opinion that it is not practicable that such offences should be tried by an ordinary General Court Martial; ~~and that it is not practicable to delay the trial for reference to superior qualified officer;~~

*Omit when Convening Officer is a Commanding Officer or is of Field Rank.

"TGG"

I hereby convene a Field General Court Martial to try the said persons, and to consist of the Officers appointed or detailed hereunder.

*Omit if not applicable.

~~*(1) Two Officers to form the Court;~~

~~*(2) A Field Officer as President;~~

~~having regard to exigencies of the service;~~

"TGG"

NOTE.—The President must be named. The members and waiting members (if any) may be mentioned by name, or the number and ranks and the unit to which they belong may alone be named. In the latter event, the ranks, names, &c., of the members of the Court, as constituted, will be recorded on the proceedings.

President.

Rank.	Name.	Regiment.
Major	R.J. Orr	Carlt & York R

Members.

Rank.	Name.	Regiment.
Capt	J M Bursey	Carlt & York R
Capt	Y Dube	R 22e R
Capt	M Tellier	R 22e R

Waiting

*Must be signed personally by the Officer actually in command at the time, and all alterations in the composition of the Court to be initialled by him.

*Signed "T.G. Gibson" Brigadier

Commanding 3 Cdn Inf Bde

Convening Officer.

SCHEDULE

Number, Rank (a), Name and Unit of Accused (b)	Offence charged	*Plea	Finding, and if Convicted, Sentence (c)	How dealt with by Confirming Officer (d)
E57842 Pte Robert GRENIER, Royal 22e Regiment	First Charge Sec 15(1)	Guilty	Guilty To undergo imprisonment with hard labour for a period of two (2) years. "R.J. Orr" Major	Confirmed "TGG"
	Second Charge Sec 24 (2)	Not Guilty	Not Guilty "RJO"	

*Question to be asked of accused, if he pleads not guilty (R. of P. 39 (a)) :—
"Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity for preparing your defence ?"
Answer (*to be recorded on separate sheet if necessary*) :—

(Signed) "T.G. Gibson" Brigadier (Signed) "R.J. Orr" Major

Commanding 3 Cdn Inf Bde
Convening Officer (e). President.

(a) Appointment acting rank or acting appointment, if any, to be stated in brackets after the substantive rank.
(b) Unless unavoidable, not more than three names are to be entered on one form, and in serious cases one only.
(c) Recommendation to mercy, if any, to be inserted in this column.
(d) It is not necessary that the Confirming Officer should sign his name in this column. Initials are sufficient.
(e) Must be signed by the same Officer who signs on the first page, and all alterations in the first two columns of the Schedule to be initialled by him.

Evidence and Charge Sheets (if necessary) to be PINNED here.

B. Certificate of President as to proceedings.

I certify that the above Court assembled on the 23rd day of March 1944, and duly tried the persons named in the Schedule, and that the plea, finding, and sentence in the case of each such person were as stated in the third and fourth columns of that Schedule.

I also certify that :—
1. The members of the Court
2. The witnesses
*(3. ~~The interpreter~~) "RJO"
*(4. The officers under instruction)

*Omit if not applicable.

were duly sworn.

Signed this 23rd day of March 19 44.

"R.J. Orr" Major
President of the Court Martial.

C. Certificate in case of death sentence.

*See footnote (j) on page 782 M.M.L. 1929.

I certify that the terms of *A.C.I. 570 of 1918 have been complied with.

Signed this day of 19 .

"RJO"
President of the Court Martial.

D. Confirmation.

I have dealt with the findings and sentences in the manner stated in the last column of the Schedule, and, subject to what I have there stated, I hereby confirm the above findings and sentences.

*To be omitted unless penal servitude, imprisonment or detention having been awarded, the Confirming Officer either has no authority to commit to prison or detention barrack, or, having such authority, recommends suspension.

"TGG"

Signed this 26 day of Mar 19 44.

T.G. Gibson" Brigadier
Confirming Officer.

Promulgated and extracts taken in the case of E.57842 Pte. R. GRENIER

(a) (Dated) 1 Apr 44 (Signed) P.A. Tremblay Lieut.

Promulgated and extracts taken in the case of

(Dated) (Signed)

Promulgated and extracts taken in the case of

(Dated) (Signed)

(a) When several cases are promulgated in one unit on the same day the Officer need only sign once.

[illegible] 721-49578-9-44 30,000 2-45 A & E.W.Ltd. Cat.4/45
[illegible] W-122382-71 (40,000) 8-42 " "

XI.

Space for further Review (continued from page 2).

Date	Directions	Signature and Appointment of Authority giving the directions	If sentence suspended, date of release, No. of marks earned to count towards remission, and signature of O.C. Prison or Detention Barracks

XII.—Remarks and recommendations of C.O. on Second Trial.

Date		Signature

XIII.—Remarks and recommendations of Confirming Officer on Second Trial.

Date		Signature

CERTIFIED TRUE COPY

R Cordeau CAPT
(R. CORDEAU)

Army Form A3104.

REVIEW OF SENTENCES AWARDED BY COURT MARTIAL.

I.—Case of No. E.57842 Pte. Robert GRENIER Unit R.22eR
Sentenced to two years imprisonment hard labour on 23 May 44
Age on, and date of enlistment 21 yrs, 26 May 1942 Term of ~~service~~ Duration

FIRST TRIAL.
For details of offences, see paragraph VII.
For C.O.'s remarks, see paragraph IX.

II.—To .....
Superior Military Authority.

I have directed that the above-named be not committed to undergo his sentence, which I recommend should be (suspended) (put into execution) (1) for reasons given in paragraph X.

Place .....
Date .....
Confirming Authority.

III.—I direct that the sentence (which I hereby commute to .....)
(of which I remit .....) (1) (2) (be suspended) (be put into execution)
(1) and be reviewed on ..... (3).

Place .....
Date .....
Superior Military Authority (4).

(For action on review, see paragraph VI.)

SECOND TRIAL.
For details of offence, see paragraph VIII.
For C.O.'s remarks, see paragraph XII.

IV.—(5) To .....
Superior Military Authority.

This man was again convicted on ..... and sentenced to ..... and I have directed that he shall not be committed to undergo his sentence, which I recommend should be (suspended) (put into execution) (1) and run (concurrently) (consecutively) (1) with the previous (6) sentence for the reasons given in paragraph XIII.

Place .....
Date .....
Confirming Authority.

V.—(5) I direct that the sentence (which I hereby commute to .....)
(of which I remit .....) (1) (2) (be suspended) (be put into execution)
and that it run (concurrently) (consecutively) (1) with the previous (6) sentence
of ..... and be reviewed on ..... (3).

Place .....
Date .....
Superior Military Authority (4).

(1) Erase words not required, and initial erasures.
(2) A sentence of penal servitude or imprisonment, combined with *Discharge with Ignominy*, cannot be suspended unless the Discharge with Ignominy is remitted.
(3) A suspended sentence must be reviewed at least once every three months, and a sentence put into execution should be reviewed at not more than six months.
(4) An order directing a sentence to be put into execution must be signed by the Superior Military Authority personally.
(5) This paragraph to be left unused until required. If the man is convicted a third time, a fresh form, using only paragraphs IV. and V., will be made out and attached to this form, and all further reviews will be on the attached form.
(6) A previous sentence of imprisonment or detention so a state of suspension is avoided by the award of a subsequent sentence of penal servitude.

(20913) Wt.46672/278 300,000 2/42 A.S.F.M.Ltd. Gp.698 Forms/A3104/12

VI.—Action on Review.

(Whether the sentence or sentences are suspended or in execution.)

Any Reviewing Authority *under Section 57 of the Army Act* may under that Section mitigate, remit or commute a sentence which is in execution, and if the sentence as commuted or mitigated is penal servitude, imprisonment or detention, it will remain subject to the powers granted by Section 57A. of the Army Act. A partial remission of a sentence in suspension is not legal.

Date	Directions	Signature and Appointment of Authority giving the directions	If sentence suspended, actual date of release and marks earned to count towards remission and signature of O.C. Prison or Detention Barracks

All recommendations, etc., considered upon review, should be pasted here.

(Continued on page 4.)

Charge or Charges giving particulars	Date of Offence	Date of Trial
VII.—First Trial. AA Sec 15(1) WOAS: In the Field, AWL from 2000 hrs 20 Dec 43 until apprehended at 1410 hrs on 5 Mar 1944. Total Absence: 75 days, 6 hrs, 10 mins. "P.A. Tremblay" Lieut. Signature of Officer making entry.	20 Dec 43	23 Mar 44
VIII.—Second Trial. Signature of Officer making entry.		

If further space required, an additional slip should be pasted here.

IX.—C.O.'s remarks and recommendations on First Trial.

Date		Signature
In the Field 31 Mar 44	I do not recommend that the sentence be remitted, commuted, mitigated or suspended.	"J.G. Charlebois" Major T/Comd R 22 Regt.

X.—Confirming Officer's remarks and recommendations on First Trial.

Date		Signature
3 Apr 44	I recommend that the sentence be served in full	"T.G. Gibson" Brig."

CDN 56/20/CM/2(DJA)

CANADIAN SECTION GHQ 1ST ECHELON

12 Apr 44.

OIC
Cdn Sec GHQ 2 Ech (AAI)

FGCM
E-57842 Pte Grenier R
R 22e R

Ref your CSCH/48/Ct Mart/2(A8) of 7 Apr 44. All enclosures are returned herewith.

1. It appears that in this case the accused was charged with being AWL from 20 Dec 43 to 5 Mar 44 and pleaded guilty. He was given imprisonment with hard labour for a period of 2 years. The apprehension in the summary of evidence is proved by a certificate of the OC the Garrison at FOGGIA that the m/n was arrested at 1410 hrs on 5 Mar 44.

2 You now advise this Hq that a Casualty Return submitted by 34 Field Hospital (Br) shows that the m/n was admitted to that medical installation on 23 Feb 44 and discharged on 5 Mar 44.

3 The plea of guilty is a judicial confession and the conviction is valid in law. This is not a case in which the conviction should be upset on the discovery of subsequent evidence. It is a case, however, in which the facts should be put before the superior authority at his next periodic review because the length of absence, no doubt, had a bearing on the sentence awarded by the court and it seems clear in this case that the m/n was absent 11 days less than the total period of 75 days to which he pleaded guilty. In view of these circumstances the superior authority may desire to mitigate a part of the sentence.

"D.B. Carrick Hay"
for (E.G. Weeks) Brigadier
Officer IC
Cdn Sec GHQ 1 ECH

"B2"

CHARGE SHEET

The accused E.57842 Private Robert GRENIER, a soldier of the Royal 22e Regiment, Canadian Army Overseas, CMF, On Active Service is charged with:-

1st Charge
AA Sec 15(1)

WHEN ON ACTIVE SERVICE
ABSENTING HIMSELF WITHOUT LEAVE

in that he

In the Field, on 20 Dec 1943, absented himself without leave at or about 2000 hrs until apprehended by Military Police at Foggia at 1410 hrs on 5 Mar 1944.

Total absence: 75 days, 6 hrs, 10 mins.

2nd Charge
AA Sec 24(2)

WHEN ON ACTIVE SERVICE
LOSING BY NEGLECT HIS REGIMENTAL EQUIPMENT, CLOTHING AND NECESSARIES

in that he

In the Field, on 20 Dec 1943, was deficient of:

	75%
1 Battle dress, blouse	£1. 0. 9
1 Battle dress, trousers	1. 0.11
1 Steel helmet	0. 7.10
1 Pair boots	0.16. 3½
1 Pair socks	0. 1. 3
Total	3. 7. 0½

"J.G. Charlebois

(J.G. CHARLEBOIS) Major,
T/Commanding Royal 22e Regiment

In the Field
19 Mar 1944.

TO BE TRIED BY FIELD GENERAL COURT MARTIAL

"T.G. Gibson

(T G Gibson) Brigadier
Commanding, 3 Cdn Inf Bde.

In the Field
22 Mar 44.

"R.J. Orr" Major

MEDICAL XXXXXX OFFICERS CERTIFICATE

I certify that I have this morning examined No. E.57842 Rank...Pte. Name.. GRENIER, R of Royal 22e Regiment and in my opinion he is fit to undergo trial by Court Martial.

Station In the Field

Date 23 Mars 1944

"Undecipherable" Capt.
Medical Officer.

"R. J. Orr" Major

A

Army Form A 9

**And printed part, if not applicable to the particular Court being held, should be struck out and initialled by the President.

**Form of Proceedings for General and District Courts-Martial.

Proceedings of Field General Court-Martial held at Field on the 23rd day of March 19 44 by order of

Brigadier T.G. Gibson

Commanding 3 Cdn Inf Bde.

dated the 22nd day of March 19 44

President.

Major R.J. Orr — Carlt & York R

Members.

Capt. J.M. Burney — Carlt & York R

Capt Y Dube — R. 22e R

Trial of* E.57842 Pte. Robert GRENIER, R.22e R

The order convening the Court, the charge-sheet and the summary of evidence are laid before the Court.

"RJO"

, waiting member takes his place as a member of the Court.

The Court satisfy themselves as provided by Rules of Procedure 22 & 23.

The accused is brought before the Court.

Prosecutor,† Lieut. J.A. Girolami, R.22eR

Counsel‡ or defending officer† Lie t F.R. de Saint Victor R.22e R.

At 1015 o'clock the Trial commences.

The order convening the Court is read, and is marked signed by the President, and attached to the proceedings.

The names of the President and members of the Court are read over in the hearing of the accused, and they severally answer to their names.

Question by the President to the accused.

Do you object to be tried by me as President, or by any of the officers whose names you have heard read over? *Answer.* No

"RJO"

(N.B.—If objection is made it should be recorded, together with the decision of the Court, on a separate sheet.)

*Here insert No., Rank, full Name, Regiment, and Appointment (if any).
† Here state Rank and Name, and Regiment (if any).
‡ Qualification to be stated.

[illegible] (16,000 pds.) (124) K. & H., Ltd. (46/51). Form A9

B

The President, members and judge-advocate are duly sworn.

The following officers under instruction are duly sworn.

Capt H. Tellier R.22e R

Charge-Sheet.

Instruction. If the accused has elected to be tried under Army Act, sec. 46 (8) the fact should be here recorded.

The charge-sheet is signed by the President, marked B 2 and annexed to the proceedings.

The accused is arraigned upon each charge in the above-mentioned charge-sheet.

Are you guilty or not guilty of the [first] charge against you, which you have heard read? *Question to the accused.*

Guilty *Answer.*

Are you guilty or not guilty of the second charge against you, which you have heard read? *Question.*

Not Guilty *Answer.*

Are you guilty or not guilty of the third charge against you, which you have heard read? *Question.*

N/A *Answer.*

Are you guilty or not guilty of the fourth charge against you, which you have heard read? *Question.*

"220" N/A *Answer.*

The accused having pleaded Guilty to the first charge, the provisions of Rule of Procedure 35 (B) are here complied with.

Instruction. If the trial proceeds upon any charge to which there is a plea of "Not Guilty," the Court will not proceed upon the record of a plea of "Guilty," until after the finding on that other charge.

C

Proceedings on Plea of Not Guilty.

*Instruction. (See R. P. 39 (A)) Question.

*Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity for preparing your defence?

Answer.

No

~~xxxx

The prosecution is closed.

Defence.

Question to the accused. Do you apply to give evidence yourself as a witness?

Answer. No

Question. Do you intend to call any other witness in your defence?

Answer. No.

Question. Is he a witness as to character only? *Answer.* N/A

INSTRUCTIONS TO THE COURT.

(i) When the answers to the above questions have been recorded, the Court will follow the provisions of Rules of Procedure 40 and 41 respecting the order of evidence and addresses which is applicable to the circumstances of the case.

(ii) All addresses by prosecutor, counsel or defending officer, whether recorded by the Court or handed in in writing will be attached to the proceedings in the order in which they are made. Any address which the accused is entitled to make pursuant to Rules of Procedure 40 (C) (iv) and 41 (A) (i) and (iii) will be similarly dealt with. Written addresses will be read to the Court, marked and signed by the President. If any person who is entitled to make an address declines to do so, a record will be made to that effect.

(*Where any evidence is given for the defence.*)

The evidence of the accused (and of the witnesses for the defence including witnesses as to character) is recorded on a separate page (*see overleaf*).

(*Where the accused does not give evidence upon oath.*)

Question to the accused. Have you anything to say in your defence?

Answer. The accused in his defence says†

[hands in a written address which is read, marked

signed by the President and attached to the proceedings.]

"RJO"

Instruction. † In this space will be recorded any oral statement or address made by the accused in his defence when he has not given evidence as a witness. (For any additional address which he is entitled to make, *see* Instructions to the Court *above*.)

CC

Proceedings on Plea of Guilty.

* To be struck out in case no plea of "Not Guilty" has been recorded will.

*[The Court having been re-opened, the accused is again brought before it, and the charge to which he has pleaded "Guilty" read to him again.]

The accused E.57842 Pte.Robert Grenier is found guilty of the first charge as laid.

"RJO"

†The summary (or abstract) of evidence is read, marked "A" signed by the President, and attached to the proceedings.

Question to the accused. Do you wish to make any statement in mitigation of punishment?

Answer. No

The accused in mitigation of punishment says:—

[or hands in a written statement, which is read, marked , signed by the President, and attached to the proceedings.]

RJO"

Instruction.

† If there is no summary or abstract of evidence, sufficient evidence to enable the Court to determine the sentence, and to enable the confirming officer to know all the circumstances connected with the case, will be taken on a separate sheet in the same manner as on a plea of "Not Guilty."

If from the statement of the accused, or from the summary or abstract of evidence, or otherwise, it appears to the Court that the accused did not understand the effect of his plea of "Guilty," the Court shall alter the record, and enter a plea of "Not Guilty," and proceed with the trial accordingly.

E

Finding.*

*To be struck out except in cases where trial has taken place on a plea of "Not Guilty."

The Court is closed for the consideration of the finding.

The Court find that the accused E.57842 Pte. Robert Grenier not guilty of the second charge. Finding announced in open court.

"R.J. Orr" Major

Proceedings on Conviction before Sentence.

*When the Court is already open this sentence will be struck out.

*The Court being re-opened, the accused is again brought before it.

Evidence of character, &c.

Lieut. J.A. Girolami R22eR is duly sworn.

Question by the President.

Have you any evidence to produce as to the character and particulars of service of the accused? *Answer by the Witness.*

The above statement (with the schedule of convictions and of cases in which trial has been dispensed with) is read, marked signed by the President, and annexed to the proceedings.

Question by the President.

Is the accused the person named in the statement which you have heard read? *Answer by the Witness.* Yes

Question.

Have you compared the contents of the above statement with the regimental books? *Answer.* No

Question.

Are they true extracts from the regimental books, and is the statement of entries in the conduct sheets a fair and true summary of those entries? *Answer.* N/A

Cross-examined by the accused.

No

[Observation.—If in course of the review of the service of the accused in a departmental corps he observes the finding of the Court contains any words to show exceptional punishment is about to be imposed, by which is due to be imposed, by the Court the proceedings must call the attention of the Court to the fact, and the Court must inquire into the nature and amount of the additional punishment.]

Question to the accused.

Do you wish to address the Court? *Answer.* No

The Court is closed for the consideration of the sentence.

"RJO"

F

Sentence.

The Court sentence the accused E.57842 Pte. Robert GRENIER *Sentence*

to undergo imprisonment with hard labour for a period of two years.

"K.J. Orr" Major

"RTD"

SUMMARY OF EVIDENCE

In the case of E.57842 Private Robert GRENIER, a soldier of the Royal 22e Regiment, Canadian Army Overseas, CMF, on Active Service.

By direction of the Commanding Officer this Summary of Evidence is taken under oath.

1st Witness for Prosecution — E.23301 CSM Roy I. Royal 22e Regiment, having been duly sworn states:-

" I am E.23301 CSM Roy I. of R.22eR. posted to "D" Coy. As CSM of "D" Coy, I was at "A" Echelon to bring rations to my company. I was told to wait a while as there were reinforcements coming up. The draft arrived and I called the roll at 2000 hrs on 20th December 1943. I found that E.57842 Pte Grenier R. was not present. I was told that he had stayed at "B" Echelon.

The accused declined to cross examine the witness.

"I.Roy" CSM

2nd Witness for Prosecution — E.4671 L/Cpl Beaudet E. Royal 22e Regiment, having been duly sworn states:-

" I am E.4671 L/Cpl Beaudet E. of R.22eR. posted to HQ Coy.

As "B" Echelon clerk I never saw E.57842 Pte Grenier R on 20 December 1943 and I have nothing in my records to show that he was at "B" Echelon.

The accused declined to cross examine the witness.

~~Witness Left the unit Witness not available~~ L/Cpl E. Beaudet

3rd Witness for Prosecution — E.4421 CQMS Peloquin E. Royal 22e Regiment, having been duly sworn states:-

" I am E.4421 CQMS Peloquin E. of R.22e.R. posted to "D" Coy.

On 21 December 1944 I made an inventory of kit in the case of E.57842 Pte. Grenier R. and found him deficient of the following articles of kit:

	75%
1 Battle dress, blouse	£1. 0. 9
1 Battle dress, trousers	1. 0.11
1 Steel helmet	0. 7.10
1 Pair boots	0.16. 3½
1 Pair socks	0. 1. 5
Total	£3. 7. 0½

The accused declined to cross examine the witness.

"E. Peloquin" CQMS

4th Witness for Prosecution — Capt. J.B. Rousseau, Adjutant, Royal 22e Regiment, having been duly sworn states:-

"I, Capt. J.B. Rousseau, of R.22e.R. posted as Adjutant hereby produce a Declaration of a Court of Inquiry, a copy of a Movement Order, and a certificate of arrest under AA 163(1) (jj). in the case of E.57842 Pte Grenier R. whom I now recognize.

"J.B. Rousseau" Capt.

"R.J. Ort Major"

In view of the loss of time and expenses involved it is not necessary in my opinion to have the presence of Adjutant Foggia Garrison in the taking of this Summary of Evidence.

"P.A. Tremblay " Lieut.

The accused does not request the presence of Adjutant Foggia Garrison.

"R. Grenier" Pte.

The accused having beenduly cautioned in French in accordance with RO 1424 reserves his defence.

I certify that the foregoing Summary of Evidence consisting of one (1) page was taken down by me in the presence and hearing of the accused and that rules of procedure 4(c), (d), (e), (f) and(g) were duly complied with.

"P.A. Tremblay" Lieut.
Officer taking Summary

In the Field
19 Mar 44

"R.J. Orr" Major

CERTIFIED TRUE COPY

R. Cordeau CAPT
(R. CORDEAU)

MMM-85

Correspondence to be PINNED here.

Army Form A.3.

Form for Assembly and Proceedings of Field General Court Martial on Active Service.

PROCEEDINGS.

A.

Order convening the Court.

On Active Service, this Twenty-Second day of March, 19 44.

Whereas it appears to me, the undersigned, an officer in Command of 3 Cdn Inf Bde, on active service, that the persons named in the annexed Schedule, being subject to Military Law, have committed the offences in the said Schedule mentioned.

And whereas I am of opinion that it is not practicable that such offences should be tried by an ordinary General Court Martial; *~~and that it is not practicable to delay the trial for reference to superior qualified officers~~;

"TGG"

*Omit where Convening Officer is a Commanding Officer or is of Field Rank.

I hereby convene a Field General Court Martial to try the said persons, and to consist of the Officers appointed or detailed hereunder.

*Omit if not applicable.

*~~It is not practicable to appoint more than three Officers to form the Court~~;

*~~A Field Officer as President~~;

~~for the following reasons, namely:—~~

"TGG"

NOTE.—The President must be named. The members and waiting members (if any) may be mentioned by name, or the number and rank and the unit to which they belong may alone be named. In the latter event, the ranks, names, &c., of the members of the Court, as constituted, will be recorded on the proceedings.

President.

Rank.	Name.	Regiment.
Major	R.J. Orr	Carlt & York R

Members.

Rank.	Name.	Regiment.
Capt	J M Bursey	Carlt & York R
Capt	Y Dube	R 22e R
Capt	H Tellier	R 22e R

Waiting

*Must be signed personally by the Officer actually in command at the time, and all alterations in the composition of the Court to be initialled by him.

*Signed "T.G. Gibson" Brigadier

Commanding 3 Cdn Inf Bde

Convening Officer.

SCHEDULE

Number, Rank (a), Name and Unit of Accused (b)	Offence charged	*Plea	Finding, and if Convicted, Sentence (c)	How dealt with by Confirming Officer (d)
E57842 Pte Robert GRENIER, Royal 22e Regiment	First Charge Sec 15(1)	Guilty	Guilty To undergo imprisonment with hard labour for a period of two (2) years. "R.J. Orr" Major	Confirmed "TJG"
	Second Charge Sec 24 (2)	Not Guilty	Not Guilty "RJO"	

*Question to be asked of accused, if he pleads not guilty (R. of P. 39 (A)) :—
"Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity for preparing your defence ?"
Answer (*to be recorded on separate sheet if necessary*) :—

(Signed) "T.G. Gibson" Brigadier (Signed) "R.J. Orr" Major

Commanding 3 Cdn Inf Bde
Convening Officer (e) *President.*

(a) Appointment acting rank or acting appointment, if any, to be stated in brackets after the substantive rank.

(b) Unless unavoidable, not more than three names are to be entered on one form, and in serious cases one only.

(c) Recommendation to mercy, if any, to be inserted in this column.

(d) It is not necessary that the Confirming Officer should sign his name in this column. Initials are sufficient.

(e) Must be signed by the same Officer who signs on the first page, and all alterations in the first two columns of the Schedule to be initialled by him.

NEUROPSYCHIATRIC REPORT - 56 Br Mil Prison

GRENIER, R. Pte. E.57842 - Age 22. Enlisted May 42 - UK Oct 42 - CMF July 43.

HISTORY -

This soldier sentenced to 2 yrs Hard Labour in Mar 44 - charged with AWL.

Born in Que City. Is 4th of 5 siblings. Two bros discharged from the army in Canada for Medical reasons. Normal home relationships. Completed grade 4 at 15 - states he had little interest in school - repeated 2 grades. Worked as a messenger boy for some mos and as a printer's helper 1½ yrs previous to enlistment.

Came to Sicily with the R22R as a rifleman. Was sentenced to 28 days Det for being drunk whilst on guard duty in Nov 43. While at CBRD went AWL for 75 days - present offence.

Gives as his reason for AWL the fact that on several occasions he had asked his MO at the R22R for an eye examination. States this was always postponed and he became fed-up and went AWL. States he suffers from defective vision and is quite willing to return to combat duties after he has had his eyes checked. Has had one previous minor Army crime.

OPINION -

Of average intelligence but rather opinionated, self-willed individual. Fairly well motivated and I believe he is recoverable for further military duty in the field.

26 Mar 45

(H. F. FRANK) Major, RCAMC.
NEUROPSYCHIATRIST,
No. 2 Neuro Psychiatric Wing.

CDN 56/20/CM/2(DJA)

CANADIAN SECTION GHQ 1ST ECHELON

12 Apr 44.

OIC
Cdn Sec GHQ 2 Ech (AAI)

FGCM
E-57642 Pte Grenier R
R 22e R

Ref your CECH/48/Ct Mart/2(A8) of 7 Apr 44. All enclosures are returned herewith.

1. It appears that in this case the accused was charged with being AWL from 20 Dec 43 to 5 Mar 44 and pleaded guilty. He was given imprisonment with hard labour for a period of 2 years. The apprehension in the summary of evidence is proved by a certificate of the OC the Garrison at FOGGIA that the m/n was arrested at 1410 hrs on 5 Mar 44.

2 You now advise this HQ that a Casualty Return submitted by 34 Field Hospital (Br) shows that the m/n was admitted to that medical installation on 23 Feb 44 and discharged on 5 Mar 44.

3 The plea of guilty is a judicial confession and the conviction is valid in law. This is not a case in which the conviction should be upset on the discovery of subsequent evidence. It is a case, however, in which the facts should be put before the superior authority at his next periodic review because the length of absence, no doubt, had a bearing on the sentence awarded by the court and it seems clear in this case that the m/n was absent 11 days less than the total period of 75 days to which he pleaded guilty. In view of these circumstances the superior authority may desire to mitigate a part of the sentence.

"for D. B. Carrick Maj"
(E.C. Weeks) Brigadier
Officer IC
Cdn Sec GHQ 1 ECH

"B2"

C H A R G E S H E E T

The accused S.57842 Private Robert GRENIER, a soldier of the Royal 22e Regiment, Canadian Army Overseas, CMF, On Active Service is charged with:-

1st Charge
AA Sec 15(1)

WHEN ON ACTIVE SERVICE
ABSENTING HIMSELF WITHOUT LEAVE

in that he

In the Field, on 20 Dec 1943, absented himself without leave at or about 0000 hrs until apprehended by Military Police at Foggia at 1410 hrs on 5 Mar 1944.

Total absence: 75 days, 6 hrs, 10 mins.

2nd Charge
AA Sec 24(2)

WHEN ON ACTIVE SERVICE
LOSING BY NEGLECT HIS REGIMENTAL EQUIPMENT, CLOTHING AND NECESSARIES

in that he

In the Field, on 20 Dec 1943, was deficient of:

75%

1 Battle dress, blouse	£1. 0. 9
1 Battle dress, trousers	1. 0.11
1 Steel helmet,	0. 7.10
1 Pair boots	0.10. 3½
1 Pair socks	0. 1. 5
Total	3. 7. 0½

"J.J. Charlebois

(J.J. CHARLEBOIS) Major,
T/Commanding Royal 22e Regiment

In the Field
19 Mar 1944.

TO BE TRIED BY FIELD GENERAL COURT MARTIAL

"T.G. Gibson

(T G Gibson) Brigadier
Commanding, 5 Can Inf Bde.

In the Field
22 Mar 44.

"R.J. Orr" Major

MEDICAL ~~XXXXX~~ OFFICERS CERTIFICATE

I certify that I have this morning examined No. E.57842 Rank...Pte. Name.. GRENIER, R of Royal 22e Regiment and in my opinion he is fit to undergo trial by Court Martial.

Station In the Field

Date 23 Mars 1944

"Undecipherable" Capt.
Medical Officer.

"A. J. Orr" Major

A

Army Form A 9

**All printed matter not applicable to the particular Court being held should be struck out and initialled by the President.

**Form of Proceedings for General and District Courts-Martial.

Proceedings of a Field General Court-Martial held at Field

on the 23rd day of March 19 44 by order of

Brigadier T.G. Gibson

Commanding 3 Cdn Inf Bde.

dated the 22nd day of March 19 44

President

Major A.J. Orr Cmlt 8 York R

Members

Capt. J.M. Bursey Cmlt 8 York R

Capt Y Dube R. 22e R

, Judge-Advocate

Trial of* 5.57842 Pte. Robert GRENIER, R.22e R

The order convening the Court, the charge-sheet and the summary (or abstract) of evidence are laid before the Court.

~~The Court satisfy themselves that xxxxxxxxxxxxxxx is not available to xxxxxxxxxxx~~

"RJO"

, waiting member takes his place as a member of the Court.

The Court satisfy themselves as provided by Rules of Procedure 22 & 23.

The accused is brought before the Court.

Prosecutor,† Lieut. J.A. Girolami, R.22eR

Counsel‡ or defending officer† Lieut F.R. de Saint Victor R.22e R.

At 1015 o'clock the Trial commences.

The order convening the Court is read, and is marked signed by the President, and attached to the proceedings.

The names of the President and members of the Court are read over in the hearing of the accused, and they severally answer to their names.

Question by the President to the accused.

Do you object to be tried by me as President, or by any of the officers whose names you have heard read over? *Answer* No

"RJO"

(N.B.—If objection is made it should be recorded, together with the decision of the Court, on a separate sheet.)

*Here insert No., Rank, full Name, Regiment, and Appointment (if any).

† Here state Rank and Name, and Regiment (if any).

‡ Qualification to be stated.

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B

The President, members and judge-advocate are duly sworn.

The following officers under instruction are duly sworn.

Capt R. Tellier R.22e R

Charge-Sheet.

The charge-sheet is signed by the President, marked B 2 and annexed to the proceedings.

Instruction. If the accused has elected to be tried under Army Act, sec. 46 (8) the fact should be here recorded.

The accused is arraigned upon each charge in the above-mentioned charge-sheet.

Are you guilty or not guilty of the [first] charge against you, which you have heard read? *Question to the accused.*

Answer.

Guilty

Are you guilty or not guilty of the second charge against you, which you have heard read? *Question.*

Answer.

Not Guilty

Are you guilty or not guilty of the third charge against you, which you have heard read? *Question.*

Answer.

N/A

Are you guilty or not guilty of the fourth charge against you, which you have heard read? *Question.*

Answer.

N/A

R.J.C.

The accused having pleaded Guilty to the first charge, the provisions of Rule of Procedure 35 (B) are here complied with.

Instruction. If the trial proceeds upon any charge to which there is a plea of "Not Guilty," the Court will not proceed upon the record of a plea of "Guilty" until after the finding on that other charge.

C

Proceedings on Plea of Not Guilty.

*Instruction. (See R. P. 39 (A)) Question.

*Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity for preparing your defence?

Answer. No

~~The prosecutor makes an opening address and hands in documents in support of his case.~~

~~The prosecutor proceeds to call witnesses.~~

First witness for prosecution. E-4421 C.S.M.S. Beloquin E, MBE

Q.1 Did Beloquin who, being duly sworn, is examined by the prosecutor.
A.1 The day after he went A.W.L.

Q.2 What was missing?
A.2 The articles listed on the Court of Inquiry.

Q.3 After his return was he still deficient of these articles?
A.3 No.

The prosecution is closed.

Defence.

Question to the accused. Do you apply to give evidence yourself as a witness?

Answer. No

Question. Do you intend to call any other witness in your defence?

Answer. No.

Question. Is he a witness as to character only? *Answer.* N/A

INSTRUCTIONS TO THE COURT.

(i) When the answers to the above questions have been recorded, the Court will follow the provisions of Rules of Procedure 40 and 41 respecting the order of evidence and addresses which is applicable to the circumstances of the case.

(ii) All addresses by prosecutor, counsel or defending officer, whether recorded by the Court or handed in in writing will be attached to the proceedings in the order in which they are made. Any address which the accused is entitled to make pursuant to Rules of Procedure 40 (C) (iv) and 41 (A) (i) and (iii) will be similarly dealt with. Written addresses will be read to the Court, marked and signed by the President. If any person who is entitled to make an address declines to do so, a record will be made to that effect.

(Where any evidence is given for the defence.)

The evidence of the accused (and of the witnesses for the defence including witnesses as to character) is recorded on a separate page (*see overleaf*).

(Where the accused does not give evidence upon oath.)

Question to the accused. Have you anything to say in your defence?

Answer. The accused in his defence says†

[hands in a written address which is read, marked signed by the President and attached to the proceedings.]

"RJO"

Instruction.

† In this space will be recorded any oral statement or address made by the accused in his defence when he has not given evidence as a witness. (For any additional address which he is entitled to make, *see* Instructions to the Court *above*.)

CC

Proceedings on Plea of Guilty.

* To be struck out in case no plea of "Not Guilty" has been proceeded with.

*[The Court having been re-opened, the accused is again brought before it, and the charge to which he has pleaded "Guilty" read to him again.]

The accused S.57842 Pte.Robert Grenier
is found guilty of the first charge as laid.

"RJC"

†The summary (or abstract) of evidence is read, marked M signed by the President, and attached to the proceedings.

Question to the accused. Do you wish to make any statement in mitigation of punishment?

No

Answer. The accused in mitigation of punishment says:—

[or hands in a written statement, which is read, marked , signed by the President, and attached to the proceedings.]

RJC"

Instruction.

† If there is no summary or abstract of evidence, sufficient evidence to enable the Court to determine the sentence, and to enable the confirming officer to know all the circumstances connected with the case, will be taken on a separate sheet in the same manner as on a plea of "Not Guilty."

If from the statement of the accused, or from the summary or abstract of evidence, or otherwise, it appears to the Court that the accused did not understand the effect of his plea of "Guilty," the Court shall alter the record, and enter a plea of "Not Guilty," and proceed with the trial accordingly.

Do you wish to give evidence yourself or to call any witnesses as to character ?

Question to the accused.

Answer.

No

Evidence as to character.

RJO"

E

Finding.*

*To be struck out except in cases where trial has taken place on a plea of "Not Guilty."

The Court is closed for the consideration of the finding.

The Court find that the accused 2.57842 Pte. Robert Grenier not guilty of the second charge. Finding announced in open court.

"R.J. Orr" Major

Proceedings on Conviction before Sentence.

*When the Court is already open this sentence will be struck out.

*The Court being re-opened, the accused is again brought before it.

Evidence of character, &c.

Lieut. J.A. Girolami R22eR is duly sworn.

Question by the President.

Have you any evidence to produce as to the character and particulars of service of the accused? *Answer by the Witness.*

The above statement [with the schedule of convictions and of cases in which trial has been dispensed with] is read, marked signed by the President, and annexed to the proceedings.

Question by the President.

Is the accused the person named in the statement which you have heard read? *Answer by the Witness.* Yes

Question.

Have you compared the contents of the above statement with the regimental books? *Answer.* No

Question.

Are they true extracts from the regimental books, and is the statement of entries in the conduct sheets a fair and true summary of those entries?

Answer. N/A

Cross-examined by the accused.

No

Question to the accused.

Do you wish to address the Court? *Answer.* No

The Court is closed for the consideration of the sentence.

(5)

"RJO"

F

Sentence.

The Court sentence the accused Z.57842 Pte. Robert GRENIER *Sentence*

to undergo imprisonment with hard labour for a period of two years.

"R.J. Orr" Major

"RJO"

SUMMARY OF EVIDENCE

In the case of E.57842 Private Robert GRENIER, a soldier of the Royal 22e Regiment, Canadian Army Overseas, C.A.F., on Active Service.

By direction of the Commanding Officer this Summary of Evidence is taken under oath.

1st Witness For Prosecution — E.23301 C.S.M. Roy I. Royal 22e Regiment, having been duly sworn states:-

" I am E.23301 C.S.M. Roy I. of R.22eR. posted to "D" Coy. As C.S.M. of "D" Coy, I was at "A" Echelon to bring rations to my company. I was told to wait a while as there were reinforcements coming up. The draft arrived and I called the roll at 2000 hrs on 20 December 1943. I found that E.57842 Pte Grenier R. was not present. I was told that he had stayed at "B" Echelon.

The accused declined to cross examine the witness.

"I.Roy" C.S.M.

2nd Witness For Prosecution — E.4671 L/Cpl Beaudet E. Royal 22e Regiment, having been duly sworn states:-

" I am E.4671 L/Cpl Beaudet E. of R.22eR. posted to H.Q. Coy.

As "B" Echelon clerk I never saw E.57842 Pte Grenier R. on 20 December 1943 and I have nothing in my records to show that he was at "B" Echelon.

The accused declined to cross examine the witness.

Witness Left the unit [illegible].

3rd Witness For Prosecution — E.4421 C.S.M. Peloquin E. Royal 22e Regiment, having been duly sworn states:-

" I am E.4421 C.S.M. Peloquin E. of R.22e.R. posted to "D" Coy.

On 21 December 1944 I made an inventory of kit in the case of E.57842 Pte. Grenier R. and found him deficient of the following articles of kit:

1 Battle dress, blouse	£1. 0. 9
1 Battle dress, trousers	1. 0.11
1 Steel helmet	0. 7.10
1 Pair boots	0.16. 3½
1 Pair socks	0. 1. 3
Total	£3. 7. 0½

The accused declined to cross examine the witness.

"E. Peloquin" C.S.M.

4th Witness For Prosecution — Capt. J.B. Rousseau, Adjutant, Royal 22e Regiment, having been duly sworn states:-

"I, Capt. J.B. Rousseau, of R.22e.R. posted as Adjutant hereby produce a Declaration of a Court of Inquiry, a copy of a Movement Order, and a certificate of arrest under AA 163(1) (jj). in the case of E.57842 Pte Grenier R. whom I now recognize.

"J.B. Rousseau" Capt.

M

AJ Car Major

In view of the loss of time and expenses involved it is not necessary in my opinion to have the presence of Adjutant Foggia Garrison in the taking of this Summary of Evidence.

"P.A. Tremblay " Lieut.

The accused does not request the presence of Adjutant Foggia Garrison.

"R. Grenier" Pte.

The accused having beenduly cautioned in French in accordance with RO 1424 reserves his defence.

I certify that the foregoing Summary of Evidence consisting of one (1) page was taken down by me in the presence and hearing of the accused and that rules of procedure 4(c), (d), (e), (f) and(g) were duly complied with.

"P.A. Tremblay" Lieut.
Officer taking Summary

In the Field
19 Mar 44

"R.J. Orr" Major

Evidence and Charge Sheets (if necessary) to be PINNED here.

B. Certificate of President as to proceedings.

I certify that the above Court assembled on the 23rd day of March 1944, and duly tried the persons named in the Schedule, and that the plea, finding, and sentence in the case of each such person were as stated in the third and fourth columns of that Schedule.

I also certify that :—

1. The members of the Court
2. The witnesses
*(3. The Interpreter) "RJO"
*(4. The officers under instruction)

were duly sworn.

*Omit if not applicable.

Signed this 23rd day of March 19 44

"R.J. Orr" Major
President of the Court Martial.

C. Certificate in case of death sentences.

*See footnote (b) on page 782 M.M.L. 1929.

I certify that the terms of *A.C.I. 570 of 1918 have been complied with.

Signed this day of 19 ,

"RJO"

President of the Court Martial.

D. Confirmation.

I have dealt with the findings and sentences in the manner stated in the last column of the Schedule, and, subject to what I have there stated, I hereby confirm the above findings and sentences.

*To be omitted unless penal servitude, imprisonment or detention having been awarded, the Confirming Officer either has no authority to commit to prison or detention barrack, or, having such authority, recommends suspension.

~~I direct that the sentence awarded in the case of [illegible] be carried into execution by imprisonment or detention in such [illegible] as may be directed by the competent authority.~~ "TGG"

Signed this 26 day of Mar 19 44

T.G. Gibson" Brig~~adier~~
Confirming Officer.

Promulgated and extracts taken in the case of E.57842 Pte. R. GRENIER

(a) (Dated) 1 Apr 44 (Signed) P.A. Trembley Lieut.

Promulgated and extracts taken in the case of

(Dated) ..... (Signed) .....

Promulgated and extracts taken in the case of

(Dated) ..... (Signed) .....

(a) When several cases are promulgated in one unit on the same day the Officer need only sign once.

[55570] (A4256) 81-1451178-620 81-1113162-71 50,000 100,000 7-43 A.S.E.W. Ltd. Gp.A88

SK-117.

Hc. brenieri. K.

CERTIFIED TRUE COPY.

SK-417

FIELD GENERAL COURT-MARTIAL

CPA86 (To Use of Army) 40/P & S/1168 (1)

4/388

Convened by Order of Brig G R Gostling, DSO Comd 2 CBRG dated 7 Apr 45

ACCUSED.

(As to the trial of two or more charged jointly see RP 16, 71, 109. As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

Number.	(a) Prmnt R.	(b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
E-10179	Pte		Roland	GRENIER	X-X List R de Mais att 1 Cdn Disciplinary Centre

PROCEEDINGS OF TRIAL.

Held in the Fd in (*country*) BELGIUM on (*date(s)*) 11 Apr 45

RECORD FORM A--OPENING PROCEEDINGS AND ARRAIGNMENT.

A1. The President, Members, waiting Member, JA, if any, and Offrs under instr, if any, assemble, and the Court is closed.

(PRINTED MATTER, NOT IN ITALICS FOR GUIDANCE, WILL BE DELETED, IF NOT USED OR APPLICABLE, AND INITIALLED BY PRES OR JA. The Schedule referred to throughout is on p 4. Citations do NOT include all relevant fns RoPs. For guidance on procedure when a variation in this form arises, see forms for GCM in ROAL pp 741 to 759. A brief record of such variation will be made and given a number having reference to appropriate or preceding para number herein. See back of Convening Order, CF A95, for outfits and instrs on how to record addresses, evidence, etc, which items are hereafter called "Notes". As to general provisions for conducting the trial see AA 53, RP 56, 63-70, 73, 74, 94, 103, 119, 132.)

A2. The President initials and lays before the Court the Convening Order and Charge Sheet(1) attached thereto.(2) The Court is satisfied that it is properly convened and constituted(3), accused is ~~(are)~~ amenable to military law, and each charge discloses an offence.(4)

(1. As to use of Summary of Evidence see RP 17 fn 6. 2. AA 49, 50, RP 105-107. 3. RP 11-13, 23, 24.)

A3. The Court is opened. The accused is ~~(are)~~ brought before the Court. At 0950 hours trial commences.

A4. The Prosecutor produces a Medical Certificate that accused is ~~(are)~~ fit to undergo trial by court-martial.(1) ~~The Prosecutor informs the Court that accused elected to be tried by court-martial instead of being dealt with summarily by the CO.(2)~~

(1. KR Can 557. 2. AA 46(8), RP 60 fn 1. For effect see KR Can 563(c). Delete, if not applicable.)

A5. President to accused: Do you object to Capt JH Labrie as interpreter? Ans No

~~The Interpreter is sworn (1). Do you object to the shorthand writer is sworn (1).~~ as shorthand writer? Ans

(1. RP 72. Delete, if none employed.)

A6. The Convening Order and names of the President and Members of the Court are read to the accused.(1) President to accused: Do you object to be tried by me as President or by any of the Members of the Court? Ans No (2)

(1. RP 110. 2. If no objection, waiting member retires. RP 66(5). If objection, see procedure AA 51, RP 25, 71, 18, ROAL p 742.)

A7. The President, Members, JA, if any, and Offrs under instr, if any, are sworn.(1) The following are the ranks, names and units of the offrs comprising the Court, etc:

President	Major	G B H COX	CAC att 1 Cdn Disciplinary Centre
Member	Major	A E LEFROY Seaforth Highrs	att 1 Cdn Disciplinary Centre
Member	Captain	G B CARTMEL	RCA att 1 Cdn Disc Centre
Judge-Advocate	Captain	H H GRIFFIN	RCA HQ 2 CBRG
Prosecutor	Lt	A M ECCLESTONE	CIC HQ 2 CBRG
Defending Offr	Lt	G E COLLINS	CAC HQ 2 CBRG

Questions by President: Is the Prosecutor a lawyer? Ans Yes Is the Defending Offr a lawyer? Ans Yes (2)

(1. RP 26, 27, 109, 111. List of offrs under instr will be returned separately with proceedings for information of Conv Offr. 2. If Pros a lawyer and Def Offr not, accused is entitled to an adjournment when RP 89 (8) and fn 2 were not followed. See Di p 33.)

A8. The accused E-10179 Pte GRENIER R before arraignment make(s) (no) objection(s) (1) (of plea).

(1. If a special plea is made for separate trial on one or more charges (RP 62(E), 108), or as to the jurisdiction of the Court (RP 34, 35(A), 113), or in bar of trial (RP 36), or as to accused's mental fitness to stand trial (AA 130, RP 57), or by one of several accused charged jointly to be tried separately (RP 16, 71), such plea, the addresses made in support or against, the evidence, if any, and finding are recorded per Notes. For forms of record see references in fns to RoP cited. Insert in A8 rank and name of the accused making the plea.)

A9. The accused is ~~(are)~~ arraigned (separately) on all charges in the charge sheet.(1) The accused does (do) not object to any charge.(2) There is no amendment to be made to the Charge Sheet.(3) The President records the pleas in Part I of the Schedule.

(1. RP 31, 112. See para 1 of Instrs p 2. When more than one Charge Sheet see RP 62; when several accused to be tried separately see RP 71(C), and use separate copies of CF A96 to record proceedings. 2. RP 32, RP 33. If otherwise, delete and make appropriate record per Notes.)

A10. The Court ~~(is closed and)~~ considers the Instrs on Procedure after Arraignment at top of p 2. The proceedings are continued on Record Form C

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

2CBRG Vol 4 P 105

INSTRUCTIONS ON PROCEDURE AFTER ARRAIGNMENT.

1. *The accused may not plead or be found Guilty on more than one of two or more charges laid in the alternative.* (*RP 37(A).*) *As to withdrawal of alternative charges by Prosecutor see RP 35(C). No other charge can be withdrawn for any reason without authy from Convening Offr. If Convening Offr concurs, Court may accept plea of Guilty to lesser, etc, offence.* (*RP 44(H).*) *Accused may change a plea of Not Guilty to Guilty during trial.* (*RP 38.*) *As to refusing to plead or not pleading intelligibly see RP 35(A). As to plea when sentence may be death see RP 35(D).*

2. *The proceedings on each charge sheet* (*RP 62*) *after arraignment will be conducted as follows in the respective circumstances stated:*

I. If pleas to all charges are GUILTY, use Record Form B below.

II. If pleas to all charges are NOT GUILTY, use Record Form D on p 3.

III. If pleas to some charges are GUILTY and to other charges are NOT GUILTY and,

(a) Such mixed pleas occur when there are no alternative charges in the Charge Sheet, use Record Form C below. (*RP 37(A).*)

(b) Such mixed pleas occur in a set of two or more charges laid in the alternative, see RP 37 (A) and fn 2 as to discretion of Court, (i) to try the accused on all such alternative charges as if he had pleaded Not Guilty thereto, or, (ii) to record the pleas as the findings of Court. After deciding between (i) and (ii), Court will proceed under foregoing instrs as may be appropriate to result of its decision. See MML p 744 Instns (2).

3. *As to responsibility of President to accused see RP 59, 60(C); powers and duties of JA see RP 103; duty of Prosecutor see RP 60(A) (B); duty and privileges of accused and Defending Offr see RP 60(C), 87(C), 91, 92; swearing and withdrawal of witnesses from Court see RP 81, 82; questioning of accused see RP 80, 87(C), 92(B), and of witnesses see RP 85-85; calling or re-calling of witnesses by Court, etc, see RP 75-79, 86, 116; use of Summary of Evidence at Trial see RP 17(E) fn 6; and responsibility of JA or Pres to record proceedings see RP 94, 96.*

RECORD FORM B—PROCEEDINGS ON PLEAS OF GUILTY TO ALL CHARGES.

B1. The President or JA, if any, complies with RP 35(B) by explaining to the accused the nature and meaning of the charge(s)(1), and that on his plea of Guilty there will be no regular trial but merely a consideration of the sentence to be awarded after he has been given an opportunity to make a statement in reference to the charge(s), call witnesses as to character and make an address in mitigation of punishment.(2)

(1. *RP 35 fn 3.* 2. *MML p 54 para 47.*)

B2. President to accused: The Court will now receive any statement you desire to make in reference to the charge(s).(1) If it appears from your statement that there are circumstances which indicate that you do not understand the effect of the plea of Guilty(2), or which show provocation or extenuation in respect of which in your interest the witnesses for the Prosecution should be examined(3), we shall advise you to change your plea to Not Guilty. In making a statement you will not be sworn or subject to cross-examination; and anything you say will not be used in evidence against you after you change your plea. If, however, it appears to the Court that your statement affects only the amount of punishment to which you are liable, you will not be advised to change your plea and you will be given an opportunity later to prove your statement by sworn testimony, if you so desire.(4)

President to accused: Do you wish to make a statement? Ans. No

(1. *RP 37(B).* 2. *RP 37(D) fn 6.* 3. *RP 35(B) fn 3 para 3, MML p 54 para 47.* 4. *See para E3 of Record Form E.* 5. *Statement, if any, recorded per Notes.*)

B3. ~~The Court considers the accused's statement.(1) The Court decides (not) to advise accused to change his (their) plea(s) of Guilty to Not Guilty on charge(s). The accused is (are) so informed, and he (they) changes his (their) plea(s) on charge(s). Part I of the Schedule is amended accordingly.~~

(1. *Court may be closed to consider the statement. Delete whole or part not used.*)

B4. On the charge(s) to which the plea(s) of Guilty ~~is~~ (are) not changed the President records finding(s) of Guilty in Part I of the Schedule.(1)

(1. *RP 35(B). If any plea(s) is (are) changed, use Record Form C or D as appropriate.*)

B5. The Summary of Evidence is marked Ex D, initialled and read aloud by the President.(1)

(1. *If there is no Summary, or if it is inadequate, comply with RP 37(B). If there is any evidence inconsistent with any plea standing as Guilty, Court will advise accused to change such plea and, if changed to Not Guilty, try such charge(s) by use of paras D1 to D8 inclusive of Record Form D on p 3. RP 37(D).*)

B6. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

RECORD FORM C—PROCEEDINGS ON MIXED PLEAS OF GUILTY AND NOT GUILTY.

C1. As to the charges on which accused pleaded NOT GUILTY the trial is continued by using paras D1 to D8 inclusive of Record Form D on p 3 before proceeding with C 2.(1)

(1. *RP 37(A) (E).*)

C2. The charges on which accused pleaded GUILTY are read to him ~~(them)~~ again, and the trial is continued by using paras B1 to B5 of Record Form B above.(1)

(1. *Under B5 such parts only of the Summary of Evidence are read as relate to the charges dealt with under C2. If any plea is changed to Not Guilty, trial thereon proceeds by complying with paras D1 to D8 inclusive in Record Form D on p 3 and making an appropriate record thereof on a separate sheet.*)

C3. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

SK-417

MINUTE OF PROMULGATION

FGCM 11 Apr 45: E/10179 Pte Roland GRENIER, X-3 List Regt de Mais att 1 Cdn Dis Centre

Charges	Findings	Sentence
Army Act Sec 15(1) AWL	Guilty	To suffer penal servitude for a period of three years
Army Act Sec 15(1) AWL	Guilty	
Army Act Sec 12(1)(a) Desertion	Guilty	

Confirmation

I confirm the findings of the court on the first and second charges. I do not confirm the finding on the third charge. I commute the sentence so that it shall read as follows - "To be imprisoned with hard labor for two years" - and confirm the sentence as so commuted.

(Sgd) E G Weeks, Major-General
in charge of Administration
Canadian Military Headquarters

14 May 45

Promulgated and extracts taken in the field in Belgium this 26th day of May 1945.

(W Wadhurst) Lt Col
Officer Commanding
1 Cdn Discipline Centre

MINUTE OF PROMULGATION

FGCM 11 Apr 45: R/101179 Pte Roland GRENIER, X-3 List Regt de Mais att 1 Cdn Dis Centre

Charges	Findings	Sentence
Army Act Sec 15(1) AWL	Guilty	To suffer penal servitude for a period of three years
Army Act Sec 15(1) AWL	Guilty	
Army Act Sec 12(1)(a) Desertion	Guilty	

Confirmation

I confirm the findings of the court on the first and second charges. I do not confirm the finding on the third charge. I commute the sentence so that it shall read as follows - "To be imprisoned with hard labor for two years" - and confirm the sentence as so commuted.

(Sgd) E C Weeks, Major-General
in charge of Administration
Canadian Military Headquarters

14 May 45

Promulgated and extracts taken in the field in Belgium this 26th day of May 1945.

JM Wadhurst

(JM Wadhurst) Lt Col
Officer Commanding
1 Cdn Discipline Centre

9/BC

CHARGE SHEET

The accused, E-10179 Pte Roland GRENIER, X-3 List R de Mais, attached to 1 Cdn Disciplinary Centre, a soldier of the Canadian Army Overseas, is charged with:-

FIRST CHARGE
Sec 15(1)
Army Act

WHEN ON ACTIVE SERVICE ABSENTING HIMSELF WITHOUT LEAVE

in that he

In the Field, absented himself without leave from 1500 hrs 13 Oct 44 until apprehended at 2359 hrs 27 Nov 44.

Total absence:45 days 8 hrs 59 mins.

SECOND CHARGE
Sec 15(1)
Army Act

WHEN ON ACTIVE SERVICE ABSENTING HIMSELF WITHOUT LEAVE

in that he

In the Field, absented himself without leave from 0830 hrs 27 Dec 44 until 0001 hrs 30 Jan 45.

(Total absence 33 days 15 hrs 31 minutes)

THIRD CHARGE
Sec 12(1)(a)

WHEN ON ACTIVE SERVICE DESERTING HIS MAJESTY'S SERVICE

in that he

In the Field, with intent to avoid serving in the front line, absented himself without leave from 1900 hrs 4 Feb 45 until apprehended at 2359 hrs 29 Mar 45, wearing Civilian Clothes.

(Absent 53 days 4 hrs 59 minutes)

"A C Hood"
(A C Hood) Lt-Col
Commanding
1 Cdn Disc Centre

In the Field
6 Apr 45

To be tried by Field General Court-Martial.

"G S N Gostling"
(G S N Gostling) Brig
Comd
2 Cdn Base Rft Gp

In the Field
7 Apr 45

FIELD GENERAL COURT-MARTIAL

(Whether the accused to be tried is under his comd or not, a FGCM may on application to him be convened by any offr of Cdn Army Overseas, or of any other force if authorized in law, in immediate comd of troops on active service, subject to RP 105(C) and restrictions imposed by appropriate authy. AA 49, 50, RP 104-107, 114. As to the duties and privileges of the Convening Offr in dealing with the application see MML Chap V paras 20 and 23, RP 87(B).

There should be a separate Convening Order for each person to be tried separately by the same Court. RP 71(C), 109. As to separate charge sheets see RP 62, and as to separate trial on charges in the same charge sheet see RP 108. As to two or more accused charged jointly see RP 16, 109. As to reasons for showing (a) permanent or confirmed rank, and (b) apptmt, A/rank or A/apptmt, if any, see AA 182, 183, fnt. KR Can 308, 328, 330.)

ACCUSED.

Number.	(a) Prmnt R.	(b) Apptmt, A/R or A/Apptmt.	Full Christian Names.	Surname.	Unit.
E-10179	Pte		R		GRENIER X-3 List R de Mais att 1 Cdn Disciplinary Centre

CONVENING ORDER.

1. Whereas complaint has been made to me, the undersigned, that the person(s) named above as the accused, being subject to military law, has (~~have~~) committed the offence(s) set forth in the Charge Sheet(s) attached and on (date) 7 Apr 45 endorsed by me, (~~or by an offr of my staff for me~~)" To be tried by Field General Court-Martial". (Delete part in brackets when not required for compliance with RP 105(C).)

2. And whereas I am of opinion that it is not practicable that such offence(s) should be tried by an ordinary General Court-Martial; (~~and that it is not practicable to delay the trial for reference to a superior qualified offr.~~)

3. I hereby convene a Field General Court-Martial to try the said person(s), and to consist of the Offrs appointed or detailed hereunder.

4. ~~I am unable to appoint (a) three Offrs to form the Court, (b) a Fd Offr as President, for the reasons I have attached hereto.~~ (AA 49, RP 106(B), 107(A). Delete the whole or part, if not applicable.)

5. I also appoint as Judge-Advocate thereat the Offr mentioned hereunder. (RP 106(E). Delete, if none appointed.)

PRESIDENT.

(Rank.)	(Name.)	(Unit.)
Major	G B H COX (Must be named. RP 106.)	CAC att 1 Cdn Disciplinary Centre

MEMBERS.

(Rank.)	(Name.)	(Unit.)
Major	A E LEFROY	Seaforth Highrs att 1 Cdn Disciplinary Centre
Capt	G B CARTWEL (Named or detailed. RP 106.)	RCA att 1 Cdn Disciplinary Centre

WAITING MEMBER.

(Rank.)	(Name.)	(Unit.)
	(Named or detailed, if any. RP 106.)	

JUDGE-ADVOCATE.

(Rank.)	(Name.)	(Unit.)
Capt	H H GRIFFIN, MC (Must be named, if any. RP 106.)	ADJA 2 Cdn Base Rft Gp

On Active Service in the Fd

in BELGIUM (Country.)

Date 7 Apr 45

"G S N Gostling" (Signed personally. RP 105 fn 2)
(G S N Gostling)
Commanding 2 Cdn Base Rft Gp
Convening Officer.

Brigadier (Rank.)

CONVENING OFFR WILL INITIAL ALL DELETIONS AND ALTERATIONS

(See overleaf for oaths and notes for use on trial.)

4/38A CPA&S (Can Instn Of APAS) Wt. P 4a 67 (Ind) (4931)

OATHS FOR USE IN COURTS-MARTIAL.

1. PRESIDENT AND MEMBERS. *(AA 52, KR Con 562, RP 26, 29, 111.)*

I swear by Almighty God that I will well and truly try the accused (or accused persons) before the Court according to the evidence, and that I will duly administer justice according to the laws in force for the Government of the Militia of Canada, without partiality, favour or affection, and I do further swear that, except so far as may be permitted by instructions of the Minister for the purpose of communicating the sentence to the accused, I will not divulge the sentence of the Court until it is duly confirmed, and I do further swear that I will not on any account at any time whatsoever disclose or discover the vote or opinion of any particular member of this court-martial unless thereunto required in due course of law.

2. JUDGE-ADVOCATE. *(AA 52, MML 762, RP 27, 111.)*

I swear by Almighty God that I will not, unless it is necessary for the due discharge of my official duties, divulge the sentence of this court-martial until it is duly confirmed ; and that I will not on any account, at any time whatsoever, disclose or discover the vote or opinion of any particular member of this court-martial, unless thereunto required in due course of law.

3. OFFR UNDER INSTRUCTION. *(AA 52, MML 762, RP 27, 111.)*

I swear by Almighty God that I will not divulge the sentence of this court-martial until it is duly confirmed ; and that I will not on any account, at any time whatsoever, disclose or discover the vote or opinion of any particular member of this court-martial unless thereunto required in due course of law.

4. SHORTHAND WRITER. *(AA 52, MML 762, RP 27, 111.)*

I swear by Almighty God that I will truly take down to the best of my power the evidence to be given before this court-martial and such other matters as may be required, and will, when required, deliver to the court a true transcript of the same.

5. INTERPRETER. *(AA 52, MML 762, RP 27, 111.)*

I swear by Almighty God that I will to the best of my ability truly interpret and translate, as I shall be required to do, touching the matter before this court-martial.

6. WITNESS. *(AA 52, MML 763, RP 82, 111.)*

I swear by Almighty God that the evidence which I shall give before this court shall be the truth, the whole truth, and nothing but the truth.

POUR LES TEMOINS. *(RO (Con) 2693.)*

Je jure, par Dieu Tout-Puissant, que le témoignage que je rendrai devant cette Cour sera la vérité, toute la vérité, et rien que la vérité.

7. As to other forms for swearing see AA 52(4), RP 28, 30, 82, 111, MML p 763.

NOTES ON RECORDING PROCEEDINGS AND ON DEFENCE PROCEDURE.

(Referred to throughout CF A 96 as " Notes ".)

1. RECORDING PROCEEDINGS : When no shorthand writer is employed the addresses of Prosecutor and Defending Offr (*RP* 95(*C*)), any objections (*RP* 95(*B*)), and any statements by accused, may be summarized and, the evidence, subject to RP 95(A) and 114(B), may be recorded in narrative form as follows :

First Witness for Prosecution.

A 12345 Cpl R. Jones, RWR, sworn, states :

I am a cpl of the pl to which Pte Smith belongs. The accsd in Court is Pte Smith. About 1400 hrs on 15 Jan 43 I ordered the accsd to go on parade. He refused and did not go on parade.

Cross-exam : He did not say he was sick. (*or*, None.)

Re-exam : None.

Exam by Court : He said—" I've had enough parades ".

RP 83(B) complied with.

2. When a shorthand writer is employed, addresses, statements, evidence and objections need not, subject to RP 95(A), be taken by him verbatim. (*RP 95 fn 1.*) If the evidence is taken by him in narrative form, RP 83(B) should be complied with. If taken verbatim, RP 83(C) will be complied with.

3. The record of addresses, statements and evidence will be given a marginal number which corresponds with the number of the para in CF A 96, under which it is taken. Both sides of paper should be used.

4. DEFENCE PROCEDURE : RP 116 provides that for procedure on defence RP 40-42 will apply so far as practicable, having due regard to the public service. (*RP* 122.) If the Court consider such compliance not practicable, the following order of procedure (whether all items are used or not) is suggested as being fair to the accused :

(i) Opening address by Defending Offr. (*RP* 80(*C*), 87(*C*), 92(*C*) (*D*).)

(ii) At option of accused, statement by accused (*not sworn or subject to cross-exam by Prosecutor, Court or JA* (*RP* 40 *fn* 10)), or evidence by accused, as to facts or his character or both. (*See RP* 41 *fn* 3, 46 *fn* 1, 80.)

(iii) Evidence of witnesses for accused as to facts or his character or both. (*See RP* 46 *fn* 1.)

(iv) Evidence for prosecution in rebuttal or on new matter, if allowed by Court (*RP* 86(*B*)), or to prove previous convictions when accused has called witnesses as to character. (*RP* 86(*C*).)

(v) Closing address (*on matters other than in mitigation of punishment*) by Defending Offr or accused. (*See RP 46 fns* 8-12, 87(*C*), 92(*C*) (*D*).) But Defending Offr or accused will make his address after the Prosecutor, if there has been no statement by accused or any evidence given as to facts, or if accused alone has given evidence on oath as to facts, whether any evidence as to his character has been given or not. (*When accused charged jointly see RP* 61.)

(vi) Closing address by Prosecutor. (*See RP 40 fn* 7, 87(*C*), 92(*C*) (*D*). *Prosecutor has no right to address Court on subject of sentence except as provided by RP* 46(*E*), *KR Can* 563(*a*).)

(vii) Summing up by JA, if any. (*RP* 42.)

ASSEMBLY AND DISPOSAL OF RECORD AFTER TRIAL.

1. All deletions and alterations in printed and written record MUST BE INITIALLED by President or JA, if any. RECORD FORMS B, C OR D NOT USED MUST BE DELETED BY A DIAGONAL LINE AND INITIALLED.

2. All loose sheets of record and exhibits comprising the proceedings of the trial MUST BE INITIALLED by President or JA, if any, and then pinned by top left corner to p 3 of CF A 96 in following order :

(i) Charge Sheet. (*On top.*)

(ii) Convening Order with any declarations made by Convening Offr under RP 104, 106, 107, 114.

(iii) Medical Certificate(s). (*KR Can* 557.)

(iv) Addresses, statements and evidence in order taken during trial, pages being numbered and on both sides when both sides used.

(v) Exhibits numbered Ex A, Ex B, etc. (*As to admitting in evidence a certified copy in lieu of original see KR Can* 560. *As to certified copies of regimental books see AA* 163 (1) (*g*) (*ii*).)

(vi) Summary of Evidence, if not already an exhibit.

3. Any report or remarks by President or Court for attention of Confirming Offr will be attached to p 4 of CF A 96 and not form part of record of proceedings. (*RP* 95(*D*).) A recommendation for mercy will be inserted in Part I of Schedule on p 4 after remarks of sentence awarded. (*AA* 93(*b*), *RP* 118(*C*), *MML p* 738.)

4. The President or JA, if any, will return proceedings promptly with covering letter and in an envelope marked " Confidential ", or as otherwise directed.

Exhibit "H" GBC

MEDICAL OFFICERS CERTIFICATE

(KR(Can) Para 557)
(CRHQ CL 173)

I certify that I have this day examined E-10179 (No.)

Pte GRENIER, R and in my opinion he is
(Rank) (Name)

fit to undergo trial by Court-Martial.
~~unfit~~

Station 1 Cdn Disciplinary Centre

Date. 11 Apr 45

"M Sams"(?) Capt (RCE)
Medical Officer
(Unit) 1 Cdn Disciplinary Centre

PROCEEDINGS IN E-10179 PTE GRENIER, R.

Accused pleads GUILTY to First and Second Charges, and NOT GUILTY to Third Charge.

Pros Offr makes no opening address.

Ex "A" Pros Offr produces Part II Order Extract (certified true copy) marked Ex "A" and signed by the President.

Ex "B" Pros Offr produces certified Copy Part II Order Extract, marked Ex "B" and signed by the President.

Ex "C" Pros Offr produces certificate of apprehension dated 30 Mar 45. Marked Ex "C" and signed by the President.

Ex "D" Summary of Evidence marked Ex "D"

Prosecution closed.

Defending Offcer moves that third charge be dismissed on the ground that there is no evidence that

i Accused was a member of a unit that were in the line
or
ii a unit which was about to go into the line
or
iii th t he was proceeding to unit which was in the line.

There is no evidence to support a charge of special desertion, other than that he was apprehended wearing civilian clothes.

Pros Offr replies

Court entitled to look at all the evidence.

i Documentary evidence shows that he went absent from R de Maisoneuve.
ii Court may look at other charges to which accused has pleaded guilty in order to show a course of conduct.

Court can take judicial notice of fact that

i Unit is an infantry regiment

ii the division of which it is a part

iii the role of that division at the time of the alleged absence.

Defending Officer

Points out that accused was on X-3 List of Regiment de Mais at the time he went absent.

Court closed to consider the submission.

The Court is re-opened and the President announces that the submission is disallowed.

The accused having been warned elects to give evidence upon oath.

FIRST WITNESS FOR THE DEFENCE: The accused - E-10179 Pte GRENIER, R., duly sworn states:-

When I was arrested on 29 Mar 45 I was with my girl friend and the M.P. stopped me and asked me where I was going. I said I was a soldier and produced my papers. I was then returning from a dance. These papers were my military identification papers.

I was not searched for the papers. I showed them myself.

I was not in uniform because my uniform was dirty, and my girl friend was going to a dance which was not open to soldiers. A friend lent me the civilian clothes.

On 4 Feb45 when I went absent I was in CBRG. I don't know which number. I don't remember whether it was 10 or 11 Battalion.

Before I went to CBRG I was in hospital. I was under open arrest in the hospital.

When I went to the CBR Battalion I was still under open arrest. I was under arrest becasuse I had been AWL

I was at the CBR Bn for about two days, not longer, when I went absent again. I had not been paraded before the C.O. on the previous absences. I left the R de Mais at some time, but I don't remember when. It was autumn, that is all I know. I have not been back since.

X - exam

I came to France with the R de Mais about 6 of July. I was a driver mechanic with A/Tk Platoon. I was with my unit until October. I went about in October because I was sick and tired, and was unabel to stand it any longer. I I want to go back to my unit now.

I went absent on 27 Dec in order to see my fiancee. My fiancee lives in BRUSSELS. I went absent in December from CBRG I think, but I am not sure. I got the money to live on when I was absent from my fiancee. I have worn civilian clothes when absent only once.

The dance I have spoken of that would not allow soldiers in is a club. ('Royal' I think the name is).

The man who lent me thecivilian clothes I know as Henri. He lives at 7 Rue de Hemorgueur, BRUSSELS. His surname is Flemish. I cannot remember it.

My fiancee's name is Betty. Her surname is Flemish and I cannot pronounce it. She lives at 49 Rue de "KONTRYK"

My fiancee did not know I was absent without leave. I told her thst I was living and working in BRUSSELS I lived at Rue de KONTRYK the same place as my fiancee. I wanted every day to return to my unit but was arrested before going.

By the Court

When I found I could not stand the battle any longer I asked my Captain to go back to Echelon. He told me to wait 3 or 4 days. I waited until themiddle of the next day and spoke to the Sgt but he said that there was not time for men to go to Echelon. We were in an area behind the line for rest and reorganization.

I was in hospital for 30 days I had a skin disease. It was after the first absence when I was in hospital.

R P 83(b) complied with.

The accused says the statement is substantially correct, but he does not understand what the evidence is that is recorded on the Second Charge.

The Court decides, with the concurrence of the Defending Officer that the accused should not be advised to plean NOT GUILTY to the Second Charge, as it appears that the Second and Third Charges are one complete, and unbroken absence, and that the breaking of of this absence down with two charges operates to the advantage of the accused.

Summary of Evidence is read, with reference to the First and Second Charges.

M.F.M.6 and Statement of Character and Particulars of Service submitted.

Defending Officer submits Plea in Mitigation.

GRENIER

The evidence shows this man served with his Unit until 15 Oct 44 as a driver mechanic. He claims he went absent because he could not stand it. He says he complained but noting being done about it he went AWL.

When arrested he was dressed in civilian clothes. The Court has sufficient evidence before it to show that at the time he went absent 4 Feb he did so because he did not want to return to his unit. The Court may look at this mans course of conduct to determine his intention. Where he originally went absent from, his job with his unit. The absences he has had prior to this Charge as shown on the Charge Sheet to which he has pleaded GUILTY. The Court may also consider the length of this absence, how he lived and how he was dressed when apprehended.

I therefore submit the accused is GUILTY of DESERTION on the Third Charge.

"A M Ecclestone" Lt
Prosecution.

RE GRENIER

SUMMING UP

DEFENDING OFFR

Commencement of absence shows accused to be on X-3 List - a hospital category in 2 Echelon Records. He has stated that he was under open arrest at the time. It is reasonable to assume that he was due to be up for a hearing in front of his C.O. I submit that he had nothing to look forward to except a term of detention. I submit that the Court is not justified in adopting the inference of intent in the 3rd Charge because the accused was not due to move into a line of battle when he left. When apprehended in BRUSSELS he produced all his military identification papers, though dressed in civilian clothes. He has explained why he was dressed in civilian clothes at the time. I submit that a reasonable doubt exists as to status of accused when he left for his absence, and this should be viewed in the accused's favour.

"G E Collins" Lt.

JUDGE ADVOCATE'S CHARGE TO THE COURT

The J.A. charged the Court that his duty is to sum up the facts and to advise the Court upon the law, but that if he should state any opinion as to the facts, the Court should disregard such opinion.

The J.A. then charged the Court as to desertion substantially in the form attached.

The Court was also advised that they might consider the two Charges of AWL to which the accused pleaded GUILTY, as to whether or not there was a course of conduct.

The Court was also charged as to the principle of onus of doubt, substantially in the form of MML p.56.

The Court, the Prosecuting Officer and Defending Officer were referred to as to whether they wished the Court charged on any other points. There were no further points than the J.A. was allowed to deal with.

"H H Griffin" Capt

JUDGE-ADVOCATE's Closing Address to the Court
SUMMING UP

DESERTION

There are two types of desertion. (1) general desertion, the intention being not to return to military duty in any corps, (2) desertion in which the intention is to avoid some important particular service, for example, engagement with the enemy, carrying of supplies of material of war for troops in operations, reinforcement drafts, etc.

The charge in this case falls into the second category since it is alleged in the charge that the accused absented himself with intent to avoid active operations against the enemy.

As the charge is so worded it is not open to you to find general desertion but the charge must be proved substantially in the wording of the particulars, although as always it is open to you to bring in a special finding should you find the accused guilty of special desertion but find that the particulars alleged vary in some immaterial respect from the wording of the charge.

To prove an intent to avoid some particular service the onus is on the prosecution to prove the necessary ingredients, such as the role which the accused's unit was carrying out at the time, the circumstances under which the accused was apprehended, any statements or admissions made by the accused, in short any circumstance or circumstances from which you could reasonably infer that the accused had a firm intention to avoid such a particular service.

Providing that evidence or some such evidence is before you it is entirely within your power to draw whatever reasonable conclusion you wish to draw from such evidence, bearing in mind always that if there is any reasonable doubt in your mind as to such intention the benefit of that doubt should be resolved in favour of the accused.

Should there not be evidence before you sufficient to substantiate a charge of desertion the Court may always make a special finding that the absence constituted absence without leave and not desertion providing that there is sufficient evidence to prove absence.

Form referred to in J.A.'s address
"G.B.C."

Exhibit 42.

PLEA IN MITIGATION

Enlisted 1940 - To England in 1941 with 2 Cdn Div. Record is not bad since arriving overseas - only two minor offences in three years. He contributes $25 per month to his family. He is an uneducated boy with approx 2 yrs schooling. He is illiterate - can neither read or write. The only correspondence going back home since he left Canada has been a periodic letter written by some officer in his behalf. Since leaving the U K no letters have been sent home. Sustained fracture of skull in U K accident 1942 - since complains of lapses of memory. His demeanour as a witness shows a manifest lack of intelligence. I suggest that the Court liik upon this case as one wherein a slow thinking boy has become involved with a woman in BRUSSELS and is now paying the consequences. A deterrent punishment should prove sufficient.

"G E Collins" Lt

"Exhibit "A" GBC

PART II ORDER EXTRACT FORM

99/34/ X r de Mais/1(A5X)

TO: A8
D & P Section

2 Apr 45

EXTRACTS FROM: UNIT X-3 List R de Mais

Part II Order No. 29 dated 8 Mar 45.

ABSENT WITHOUT LEAVE

AWL from 1900 hrs 4 Feb 45

E-10179 Pte GRENIER, R.

Certified to be a true extract from the regimental books and documents in my custody.

"R S Williams" Lieut
Officer IC Records X
Cdn Sec 2 Ech HQ 21 A Gp

Exhibit "B" GCB

PART II ORDER EXTRACT FORM

TO: A.8
D & P Section

2 Apr 45

EXTRACTS FROM UNIT: X-3 List R de Mais

Part II Order No. 41 dated Apr 45

ABSENT WITHOUT LEAVE

AWL from 1900 hrs 4 Feb 45 App from AWL at 2359 hrs 29 Mar 45

E-10179 Pte GRENIER, R (X-3 List)

Certified to be a true extract from the regimenatal books and documents in my custody.

"R S Williams" Lieut
Officer ICRecords X
Cdn Sec 2 Ech HQ 21 A Gp

Exhibit C 4/BC

CERTIFICATE IN ACCORDANCE WITH P.C.2797 of 10 Apr 42

I CERTIFY THAT No.E-10179 Pte GRENIER, R

Unit: REGT DE MAIS, 2 Cdn Div was arrested at BRUSSELS

at 2359 hrs on 29 Mar 45 and that at the time of his arrest

he was wearing civilian clothes.

Signature of Provost Marshal, Assistant Provost Marshal or other officer or the Commanding Officer of the portion of His Majesty's Forces or the officer, warrant officer or non-commissioned officer in charge of the detachment of the Canadian Provost Corps, Canadian Army, into whose custody the above named person was taken on arrest.

Field
30 Mar 45

"J Tweddle" A/Capt
(J Tweddle)
Officer Commanding
2 Cdn L of C Provost Coy

Exhibit D 9752

Summary of Evidence in the case of E-10179 Pte GRENIER, R, Regt de Mais, attached to 1 Cdn Disciplinary Centre, a soldier of the Canadian Army Overseas.

Charges - Absence without leave (2 Charges)
Deserting His Majesty's Service.

By direction of the CO the evidence is taken on oath.

The following documents are read over to the accused, marked as exhibits and are attached to the proceedings.

Exhibit "A" - Certified true copy of Extract from Pt II Order No.61 dated 28 Oct 44

Exhibit "B" - Certified true copy of Extract from Pt II Order No.69 dated 16 Dec 44

Exhibit "C" - Certified true copy of Extract from Pt II Order No.6 dated 14 Jan 45

Exhibit "D" - Certified true copy of Extract from Pt II Order No.23 dated 23 Feb 45

Exhibit "E" - Certified true copy of Extract from Pt II Order No.29 dated 8 Mar 45

Exhibit "F" - Certified true copy of Extract from Pt II Order No.41 dated Apr 45

Exhibit "G" - Certificate of apprehension d/30 Mar 45.

Q. Doypu wish to make any statement or to give evidence on oath? You are not obliged to say anything or give evidence unless you wish to do so but whatever you say or any evidence you give will be taken down in writing and may be given in evidence.

A. I have nothing to say.

The accused does not call any witness

I certify that the foregoing Summary of Evidence consisting of one page was taken down by me in the presence of the accused and that RP 4 (C) (D) (E) (F) and (G) have been complied with.

"Maurice Rousseau" Capt
(Maurice Rousseau) Capt
Officer Detailed to take Summary of Evidence.

Dated in the Field
4 Apr 45.

Exhibit "A"

PART II ORDER EXTRACT FORM

99/20/R DE MAIS/1(A5C)

TO: OC
1 Cdn Disciplinary Centre

2 Apr 45

EXTRACTS FROM UNIT: LE REGIMENT DE MISONNEUVE

Part II Order No.61 dated 28 Oct 44

AWL from 1500 hrs 13 Oct 44 Still absent 1500 hrs 21 Oct 44(8th day)

E-10179 Pte GRENIER, R.

Certified to be a true copy extract from the regimental books and documents in my custody.

"M Fenelon" Capt
Officer IC Records
Cdn Sec 2 Ech HQ 21 A Gp

Exhibit "B"

PART II ORDER EXTRACT FORM

99/20/R DE MAIS/1(A5C)

TO: OC
1 Cdn Disciplinary Centre

2 Apr 45.

EXTRACTS FROM UNIT: LE REGIMENT DE MAISONNEUVE

Part II Order No. 69 dated 16 Dec 44.

TOS on app from des wef 2359 hrs 27 Nov 44 on adm to 10 FDS (Arbitrary date)

E-10179 Pte GRENIER R Dvr Mech "C"

Certified true extract from the regimental books and documents in my custody.

"M Fenelon" Capt
Officer IC Records
Cdn Sec 2 Ech HQ 21 A Gp

Exhibit "C"

PART II ORDER EXTRACT FORM

TO: A.8
D & P Section

99/34/X R de MAIS/1(A5X)

2 Apr 45

EXTRACTS FROM UNIT: X-4 List (11 Bn) R de Mais

Part II Order No.6 dated 14 Jan 45

ABSENT WITHOUT LEAVE

AWL from 0830 hrs 27 Dec 44

E-10179 Pte GRENIER, R

Certified to be a true extract from the regimental books and documents in my custody.

"R S Williams" Lieut
Officer IC Records X
Cdn Sec 2 Ech HQ 21 A Gp

Exhibit "D"

PART II ORDER EXTRACT FORM

TO: A.8
D & P Section

99/34/R de MAIS)1(A5X)

2 Apr 45

EXTRACTS FROM UNIT: X-4 List(11Bn) R de Mais

Part II Order No.23 dated 23 Feb 45

STRENGTH INCREASE

TOS X-4 List (11 Bn) from desertion wef 0001 hrs 30 Jan 45.

E-10179 Pte GRENIER, R

Certified to be a true extract from the regimental books and documents in my custody.

"R S Williams" Lieut
Officer IC Records X
Cdn Sec 2 Ech HQ 21 A Gp

Exhibit "E" GBHC

Army Form B.296(War)

STATEMENT AS TO CHARACTER AND PARTICULARS OF SERVICE OF ACCUSED

(For Use at Trials by Field General Courts-Martial Only)

Number	Rank	Name	Regiment (or as the case may be)
E-10179	Pte	GRENIER, R	REGT MAIS

NOTE.- The Field Conduct Sheet is to be produced in Court with this statement but it is not to be annexed to the proceedings. The numbers herein stated should correspond with the number of ENTRIES in the Field Conduct Sheet, prominence being given to the most serious offence in each entry. If the charge is for drunkeness or absence without leave, the entries for drunkeness or absence as the case may be should be stated separately. Any recognized special acts of gallantry or distinguished conduct recorded on the Field Conduct Sheet should also be inserted here.

1. The following is a fair and true summary of the entries in the Field Conduct Sheet of the accused, exclusive of convictions by a court martial or a civil court:-

For 15(1) AWL — 3 times

For 40 — 1 times

For _____ — _____ times

For _____ — _____ times

Date of first entry in Fd Conduct Sheet 30 May 43

Date of last entry in Fd Conduct Sheet 14 Sep 43

2. Previous convictions of the accused by a court martial or a civil court are set out in the Schedule overleaf.

3. The accused at the present time is under sentence for NIL beginning on the N/A day of N/A

4. The accused has been awaiting trial on the present charges for No days in civil custody; and for No days in open arrest, 11 days in close arrest; of which No days were spent in hospital.

5. The present age of the accused is 25 years old

6. The date of his attestation is 10 Jul 40

7. The service which the accused is allowed to reckon is _____

8. The accused is in possession of:- CVSM & CLASP

9. (If the accused is a warrant officer or NCO) The accused has served continuously without reduction, to the present date --

In the substantive rank of _____ Date of Promotio

In the war substantive rank of ////////

In the acting rank of ////////

INSTRUCTION: If any of the matter in the above paragraphs cannot be stated from the regimental books the paragraph must be struck through.

Exhibit "E" GBHC

Army Form B.296(War)

STATEMENT AS TO CHARACTER AND PARTICULARS OF SERVICE OF ACCUSED

(For Use at Trials by Field General Courts-Martial Only)

Number	Rank	Name	Regiment (or as the case may be)
E-10179	Pte	GRENIER, R	REGT MAIS

NOTE.- The Field Conduct Sheet is to be produced in Court with this statement but it is not to be annexed to the proceedings. The numbers herein stated should correspond with the number of ENTRIES in the Field Conduct Sheet, prominence being given to the most serious offence in each entry. If the charge is for drunkenness or absence without leave, the entries for drunkenness or absence as the case may be should be stated separately. Any recognised special acts of gallantry or distinguished conduct recorded on the Field Conduct Sheet should also be inserted here.

1. The following is a fair and true summary of the entries in the Field Conduct Sheet of the accused, exclusive of convictions by a court martial or a civil court:-

For 15(1) AWL 3 times

For 40 1 times

For _____ _____ times

For _____ _____ times

Date of first entry in Fd Conduct Sheet 30 May 43

Date of Last entry in Fd Conduct Sheet 14 Sep 43

2. Previous convictions of the accused by a court martial or a civil court are set out in the Schedule overleaf.

3. The accused at the present time is under sentence for NIL beginning on the N/A day of N/A

4. The accused has been awaiting trial on the present charges for No days in civil custody; and for No days in open arrest, 11 days in close arrest; of which No days were spent in hospital.

5. The present age of the accused is 25 years old

6. The date of his attestation is 10 Jul 40

7. The service which the accused is allowed to reckon is _____

8. The accused is in possession of:- CVSM & CLASP

9. (If the accused is a warrant officer or NCO) The accused has served continuously without reduction, to the present date --

	Date of Promotion
In the substantive rank of //////////	_____
In the war substantive rank of //////////	_____
In the acting rank of //////////	_____

INSTRUCTION: If any of the matter in the above paragraphs cannot be stated from the regimental books the paragraph must be struck through.

SCHEDULE OF CONVICTIONS BY A COURT-MARTIAL OR CIVIL COURT

Description of Court by which Tried	Date and Place of Trial	Charges upon which convicted	Sentence of the Court	Punishment remitted or sentence suspended
NO RECORD OF CONVICTION BY COURT MARTIAL ON AFM 6				

I HEREBY CERTIFY THAT the foregoing particulars, which have been extracted from the regimental books in my custody are correct to the best of my knowledge and belief.

Signed this 10 day of April 1945

"J M Dibb" Capt

Exhibit "F"

3/17 MFM 6
(AFB 122)
60/PAS/136 (5448)

No. E-10179 Name GRENIER R | Sqn, Battery, or Company | Corps CIC | Date of enlistment 10-7-40 | GC Badges | Service or Proficiency Pay | Character

Date of last entry in Company Conduct Sheet | No. and date of last drunk | Period not reckoning towards freedom from extra fine | Sheet No | Signature OC Company, etc

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Field	14 Sep 43	Pte		AWL from 2100 hrs 2 Sep 43 to 2000 hrs 6 Sep 43 AA 15(1)		28 days FP & 28 days pay	14 Sep 43		forfs 28 days pay 149(2)
Field	30 May 44	Pte		AA 15(1) AWL 10 mins AA 15(1) AWL 8$ MINS AA 40		10 days pay	30 May 44		forfs 10 days pay 149(2)

Duplicate created from MFM 4 2 Apr 45. Record of conduct in Canada prior to Tos Cdn Army C/S 20 Jul 41 Not available.

RSC Williams Lt Officer ic Records X Cdn Sec 2 Ech HQ 21 A Gp

Certified true copy of MFM 6 in my possession "J M Dibb" Capt

(PTO)

LIST OF WITNESSES

N/A

LIST OF EXHIBITS

Certified true copy ofExtract from Pt II Order No 61 dated 28 Oct 44	"A"
Certified true copy of Extract from Pt II Order No 69 dated 16 Dec 44	"B"
Certified true copy of Extract from Pt II Order No 6 dated 14 Jan 45	"C"
Certified true copy of Extract from Pt II Order No 23 dated 23 Feb 45	"D"
Certified true copy of Extract from Pt II Order No 29 dated 8 Mar 45	"E"
Certified true copy of Extract from Pt II Order No 41 dated Apr 45	"F"
Certificate of apprehension dated 30 Mar 45	"G"

I, E-10179 Pte GRENIER R. acknowledge having received one copy of the Summary of Evidence and one copy of the Charge Sheet free of charbe on 4 Apr 45

"Grenier R"

"Maurice Rousseau" Capt
(Maurice Rousseau) Capt
Officer detailed to take Summary of Evidence

Dated in the Field
4Apr 45

RECORD FORM D—PROCEEDINGS ON PLEAS OF NOT GUILTY TO ALL CHARGES.

D1. President to accused: Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity to prepare your defence? Ans. No (1)
(1. If "yes", see RP 39(A) for procedure. Statement or evidence, if any, is recorded per Notes.)

D2. The Prosecutor makes (no) opening address.(1) ~~No~~
(1. RP 39(B), 60(A) (B), 90, 97(C) (D). Record address per Notes, subject to RP 95(C).)

D3. The evidence for the Prosecution is taken.(1) Exhibits A B & C attached
(1. RP 39(C), 114, KR Can 555. Record evidence per Notes. As to Prosecutor giving evidence himself see RP 39(D) (E).)

D4. The Prosecution is closed.(1) The Defending Offr submits that the evidence for the Prosecution does not establish a prima facie case against the accused on the third charge(s).(2) The Court is closed, and considers the submission.(3) The Court is re-opened, and the President announces that the submission is disallowed on the third charge(s), ~~and allowed on the former, but the accused is (are) found Not Guilty on the latter charge(s)~~, and that, accordingly, the trial will proceed on the ~~former~~ charge(s).(4) ~~No~~
(1. Delete remainder of this para. if submission not made. 2. Arguments on submission, answer and reply are recorded per Notes. 3. RP 40 fn 1. See MML p 72 paras 12-14 and p 81 para 42. 4. Delete part not used. If accused acquitted on all charges use second alternative in para D8.)
NB: If trial proceeds, accused must be allowed great latitude in making his defence, and the Court should not stop his defence solely on ground of irrelevance. (RP 60(C), 114, 115.)

D5. President to accused: You will now proceed with your defence.(1) You may, if you wish, give evidence yourself on oath as to the facts or your character or both, in which case you will be subject to cross-examination.(2) You may, however, make a statement without being sworn, and you will not be subject to cross-examination.(3) But a statement which could have been made on oath will not carry with the Court the same weight as sworn testimony.(4) You may call witnesses in your defence and as to character, whether you give evidence or make a statement or do neither.

President to accused: Do you wish to give evidence yourself as a witness, make a statement, or do neither?
Ans. Yes, I proposed to give evidence on oath. Do you intend to call witnesses on your behalf?
Ans. No Are they witnesses as to character only? Ans. N/A
(1. RP 115. 2. RP 40(A), see 80(D). 3. RP 40 fn 10. 4. RP 40 fns 2, 9.)

D6. Consequent on the answers recorded in para D5 the appropriate procedure for the defence is followed.(1)
(1. RP 114, 115, 116. For procedure see Notes on back of Convening Order. Cf AP5. Evidence for accused as to his character should, if on his interest, be given before the finding. See RP 46(A) fn 1, 86(C). Note the further opportunity in para E1 of Record Form E. Record per Notes addresses, statement, evidence and any summing up by the JA under RP 42, 103(e).)

D7. The Court is closed to consider the finding(s).(1) The finding(s) of the Court is (are) recorded in Part I of the Schedule.(2) The Court is re-opened.
(1. RP 42, 117(A). See Notes in Part I of Schedule. 2. RP 44(A).)

D8. The President announces ~~the finding(s), if any, of Not Guilty, and states to the accused~~ that the finding(s) of the Court on the third charge(s), being subject to confirmation, will be promulgated later.(1) ~~Or, The President announces that the accused is found Not Guilty on all charges and is to be released forthwith, and that the proceedings are accordingly terminated. Part I of the Schedule is dated and signed.(2)~~
(1. AA 54(2) (c), RP 45, 120(A). 2. AA 54(3), RP 45, 117. This alternative announcement is not applicable when there are pleas of Guilty outstanding and dealt with under Record Form B or C.)

D9. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E below.

RECORD FORM E—PROCEEDINGS ON CONVICTION BEFORE SENTENCE.

E1. President to accused: Do you wish to give evidence yourself or to call any witnesses as to your character?(1)
Ans. No
(1. If evidence has already been given by accused or his witnesses as to his character, delete this para. RP 37(C) fn 4, 46 fn 2. Accused and witnesses are sworn. Evidence recorded per Notes.)

E2. The Prosecutor produces Statement(s) as to Character and Particulars of Service(1), and certified true copy (~~copies~~) of Conduct Sheet(s)(2), purporting to refer to the accused, which he submits to the Defending Offr for examination, and then to the Court for admission in evidence. The Court is satisfied that these documents relate to the accused, because (i) they purport to be signed in the manner required by AA 163(i) (g) (h), and (ii) they purport to refer to (a) soldier(s) having the same number, rank, name and corps as the accused. Admitted in evidence and marked Ex F and Ex F respectively.(3)
(1. MFB 255 or AFB 296. 2. MFM 6. 3. RP 46, KR Can 558. If above documents not produced, see RP 46 fn 3 para 1.)

E3. President to accused: Do you wish to address the Court on the Statement(s) and Conduct Sheet(s), and in mitigation of punishment?(1) Ans. Yes in mitigation of punishment I will address the Court.
(1. RP 37(C), 46(D). 2. Address, if any, recorded per Notes. Court should permit accused or his witnesses to prove on oath anything here or previously stated which would affect the amount of punishment. RP 37(F) fn 7.)

E4. The President states that the Court is closed to consider the sentence, and that the sentence to be awarded by the Court, being subject to confirmation, will not be announced, but will be promulgated later, and the proceedings in open court are accordingly terminated.(1)
(1. AA 54(6), RP 120(A).)

E5. The Court considers the sentence.(1) The President records the sentence in Part I of the Schedule, which is dated and signed by him and the JA, if any.(2)
(1. Where several accused tried separately see RP 71 (D). One sentence only, comprised of the punishment or punishments laid down in AA 41, 44 and its proviso, is to be awarded to cover all charges in all charge sheets on which accused found guilty. RP 48. As to sentences see AA 44, 128, 182, RP 46-50, 69, 118, 119(A), KR Can 308, 330, 363-366, Overseas RO 309, 2323, 2328, SMML p 60, 757-759. As to sentences assigned for civil offences by the law of England see AA 41(3), MML p 130. Where accused already under sentence of imprisonment or detention see AA 44(1B), 68(1), KR Can 364. 2. RP 50. As to release from arrest by Confirming Offr see KR Can 567. As to assembly and disposal of record after trial see instrs on back of Convening Order.)

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

CERTIFIED TRUE COPY

4

SCHEDULE.

PART I. PLEA(S), FINDING(S) AND SENTENCE.

Accused: E-10179 Pte R. GRENIER X-3 List R de Mais att 1 Cdn Disciplinary Centre

Charge. (Insert "alternative" where applicable.)	Plea. (See Instrs p 2.)	Finding. (See note below.)	(Space for use as required for further charges, accused charged jointly, special findings, etc.)
1st AA 15(1)	GUILTY	GUILTY	
2nd AA 15(1)	GUILTY	GUILTY	
3rd AA 12(1)(a)	NOT GUILTY	GUILTY	
4th			
5th			
6th			

(Note: As to findings for lesser offences see AA 56, RP 44; findings on alternative charges see MML p 483 fn 4 para 2, RP 44; special findings see RP 44 and MML p 753, and in loss of kit see RP 44 fn 6.)

~~At present under sentence for~~ ..... beginning on (date) .....

(I. Insert sentence being served, or delete, if not applicable. See RP 46(A). Information should be found on MF B355 or AF B296.)

Time in confinement awaiting present trial—a total of 11 days, of which NIL days were spent in hospital.(1)

(1. See RP 46(A) fn 2. Information should be found on MF B355 or AF B296 admitted in evidence under E2.)

Sentence Awarded by the Court:

TO SUFFER PENAL SERVITUDE FOR A PERIOD OF THREE YEARS

(Sgd) "E H Griffin" Capt — 11 Apr 45 — (Sgd) "George BH Cox" Major

Judge-Advocate, if any. — Date awarded. — President. (RP 45, 50.)

(See back of Convening Order as to assembly and disposal of record after trial.)

PART II. MINUTE WHERE CONFIRMATION RESERVED. (AA 54(5), RP 120(F), MML p 760.)

I RESERVE FINDING AND SENTENCE FOR CONFIRMATION BY SUPERIOR AUTHORITY

Date 20 Apr 45 (Sgd) "G S N Gostling" (G S N Gostling) Commanding 2 CDN BASE RFT GP

PART III. DECISION OF CONFIRMING OFFR ON FINDING(S) AND SENTENCE.

(For duties and powers see AA 54, 57, RP 37(D) fn 6.46(A), 51-56, 120, MML pp 759-761; KR Can 567-577. Acquittals require no confirmation and cannot be revised: AA 54(3). Sending back finding or sentence for revision by Court: AA 54(2), RP 120(G). If not confirmed, accused may be tried again: AA 157, MML p 64. Minute of confirmation or non-confirmation may be altered before promulgation: RP 53, MML p 65. Quashing after promulgation: KR Can 573. Duties and powers of reviewing offrs: AA 57, 57A, RP 53A, 54. The Confirming Offr must sign here personally. AA 172 fn 1.)

My decision on the finding(s) and sentence set forth in Part I is:

I confirm the findings of the court on the first and second charges. I do not confirm the finding on the third charge. I commute the sentence so that it shall read as follows - "To be imprisoned with hard labor for two years" - and confirm the sentence as so commuted.

~~I direct that the accused be not committed to prison or detention barracks until further order.~~(1)

(1. AA 57A. Delete if not used.)

(Sgd) E G Weeks, Major-General in charge of Administration

Date 14 May 45 ~~Reserved~~ Canadian Military Headquarters Confirming Officer.

PART IV. PROMULGATED AND EXTRACTS TAKEN. (RP 53, KR Can 576, 577.)

Accused.	Date.	Signature of Offr.
E 10179 PTE R GRENIER	26 MAY 45	J McArthur Lt-Col. Comdg 1 Cdn Disciplinary Centre

ALL DELETIONS AND ALTERATIONS WILL BE INITIALLED.

GR#332 8/26 May 45

PP-80
TPR GRENNAN R.

K-70722 TPR GRENNAN, R.
3 CACRU

PP80

Correspondence to be PINNED here.

Army Form A.3.

Form for Assembly and Proceedings of Field General Court Martial on Active Service.

PROCEEDINGS.

A.

Order convening the Court.

On Active Service, this thirtieth day of August, , 1943.

Whereas it appears to me, the undersigned, an officer in Command of "2" GROUP, CANADIAN REINFORCEMENT UNITS, , on active service, that the persons named in the annexed Schedule, being subject to Military Law, have committed the offences in the said Schedule mentioned.

And whereas I am of opinion that it is not practicable that such offences should be tried by an ordinary General Court Martial; [redacted]

*Omit where Convening Officer is a Commanding Officer or is of Field Rank.

I hereby convene a Field General Court Martial to try the said persons, and to consist of the Officers appointed or detailed hereunder.

*Omit if not applicable.

[redacted]

for the following reasons, namely :—]

10 Oct 43

NOTE.—The President must be named. The members and waiting members (if any) may be mentioned by name, or the number and ranks and the unit to which they belong may alone be named. In the latter event, the ranks, names, &c., of the members of the Court, as constituted, will be recorded on the proceedings.

President.

Rank.	Name.	Regiment.
Major	A.S. Pettapiece	CRU

Members.

Rank.	Name.	Regiment.
Captain	H.S. Stevens	2 CACRU
Lieut.	M. Gordon	2 CACRU

*Must be signed personally by the Officer actually in command at the time, and all alterations in the composition of the Court to be initialled by him.

*Signed (R.J. RUTHERFORD) Brig.,
Commanding "2" Group, CRU.
Convening Officer.

Pte A. Pettapiece, M9 10

SCHEDULE

Number, Rank (*a*), Name and Unit of Accused (*b*)	Offence charged	*Plea	Finding, and if Convicted, Sentence (*c*)	How dealt with by Confirming Officer (*d*)
K-70722 Tpr. GRENNAM, R. 3 CACRU	FIRST CHARGE A.A. Sec 15 (4) See charge sheet attached.	Not Guilty	Not Guilty	Noted Sgd
	SECOND CHARGE (ALTERNATIVE) A.A. Sec 40 See charge sheet attached.	Not Guilty	Guilty	Confirmed Sgd
	THIRD CHARGE A.A. Sec 15 (4) See charge sheet attached.	Not Guilty	Guilty as charged except that he left 2 posts only.	Confirmed Sgd
	FOURTH CHARGE (ALTERNATIVE) A.A. Sec 40 See charge sheet attached.	Not Guilty	Not Guilty	Noted Sgd
	FIFTH CHARGE A.A. Sec 41 (5) See charge sheet attached.	Not Guilty	Not Guilty	Noted Sgd
	SIXTH CHARGE A.A. Sec 15 (1) See charge sheet attached.	Not Guilty	Guilty as charged except that he left [illegible] sentenced to undergo detention for a period of one (1) year and to be put under stoppages of 5/- per month in respect of 5/-17-3 in respect of 10 posts missed and £ 1-18-4 in respect of the 1st charge. 3 days 8/8	Confirmed Sgd

*Question to be asked of accused, if he pleads not guilty (R. of P. 39 (a)) :—
"Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity for preparing your defence?"
Answer (*to be recorded on separate sheet if necessary*) :—

(Signed) T.J. Rutherford (T.J. RUTHERFORD) Brigadier, *Commanding* "E" Group, CRU. *Convening Officer* (*e*)

(Signed) A.S. Pettapiece, Major *President.*

(*a*) Appointment acting rank or acting appointment, if any, to be stated in brackets after the substantive rank.

(*b*) Unless unavoidable, not more than three names are to be entered on one form, and in serious cases one only.

(*c*) Recommendation to mercy, if any, to be inserted in this column.

(*d*) It is not necessary that the Confirming Officer should sign his name in this column. Initials are sufficient.

(*e*) Must be signed by the same Officer who signs on the first page, and all alterations in the first two columns of the Schedule to be initialled by him.

Evidence and Charge Sheets (if necessary) to be PINNED here.

B. Certificate of President as to proceedings.

I certify that the above Court assembled on the 4th day of September, 1943, and duly tried the persons named in the Schedule, and that the plea, finding, and sentence in the case of each such person were as stated in the third and fourth columns of that Schedule.

I also certify that :—

*Omit if not applicable.

1. The members of the Court
2. The witnesses
*(3. ~~The Interpreter~~)
*(4. ~~The officers under instruction~~)

were duly sworn.

Signed this 4th day of September 1943.

A.S. Pettapiece, Major
President of the Court Martial.

C. Certificate (if any) in case of death sentences.

*See footnote (*b*) on page 762 M.M.L. 1929.

*~~I certify that the terms of A.C.I. 570 of 1918 have been complied with.~~

Signed this ~~day of~~ ~~19 .~~

~~President of the Court Martial.~~

D. Confirmation.

I have dealt with the findings and sentences in the manner stated in the last column of the Schedule, and, subject to what I have there stated, I hereby confirm the above findings and sentences.

*~~I direct that the soldier named in the margin be not committed to prison or detention barrack until further orders.~~)

*To be omitted unless penal servitude, imprisonment or detention having been awarded, the Confirming Officer either has no authority to commit to prison or detention barrack, or, having such authority, recommends suspension.

Signed this 9th day of September, 1943.

T.J. Rutherford
(T.J. RUTHERFORD) Brigadier,
Confirming Officer.

Promulgated and extracts taken in the case of K 70722 Pte. Grennam R. 3CRCRU

(*a*) (Dated) 10 Sept 1943 (Signed) H.E. Russell Capt RCASC 3CACRU

Promulgated and extracts taken in the case of

(Dated) _____ (Signed) _____

Promulgated and extracts taken in the case of

(Dated) _____ (Signed) _____

(*a*) When several cases are promulgated in one unit on the same day the Officer need only sign once.

33573: W1.46179/850 50,000 2-43 A.S.E.W.Ltd. Gp.A/56

16 Apr 44.

These proceedings handed to AJAG First Ld Army (Col Morris). To be returned when he has finished with them.

C M Overcraft Lieut
JAG. Rec'd 2.

CHARGE SHEET

The accused, K 70722 Trooper GRENNAN, Ronald, No 3 C.A.C.H.U., a soldier of the Canadian Army Overseas, is charged as follows:-

FIRST CHARGE
A.A. Sec 18 (4)

WHEN ON ACTIVE SERVICE, STEALING PUBLIC PROPERTY,

in that he,

at No 3 C.A.C.R.U. at sometime between 1130 hours on 24 Jul 43 and 0800 hours 26 Jul 43 stole a Military vehicle being Ford, 4x2, 15 cwt vehicle No CZ 4804002 from the vehicle parking lot of the Special Increment Wing of No 3 C.A.C.R.U. and that he did improperly use government petrol to the value of £1/19/3.

SECOND CHARGE
ALTERNATIVE
A.A. Sec 40

WHEN ON ACTIVE SERVICE, CONDUCT TO THE PREJUDICE OF GOOD ORDER AND MILITARY DISCIPLINE,

in that he,

at diverse times and places between No 3 C.A.C.R.U. and Liverpool and between the dates of 25 Jul 43 and 28 Jul 43 was improperly in possession of a Military vehicle being Ford 4x2, 15 cwt vehicle No CZ 4804002 the same being public property and that he did improperly use government petrol to the value of £1/19/3.

THIRD CHARGE
A.A. Sec 18 (4)

WHEN ON ACTIVE SERVICE, STEALING PUBLIC PROPERTY,

in that he,

at No 3 C.A.C.R.U. at sometime between 24 Jul 43 and 28 Jul 43 stole four pistols being Smith and Wesson .380 in revolvers Nos 831498, 840295, 821183, 839066.

FOURTH CHARGE
ALTERNATIVE
A.A. Sec 40

WHEN ON ACTIVE SERVICE, CONDUCT TO THE PREJUDICE OF GOOD ORDER AND MILITARY DISCIPLINE,

in that he

at diverse times and places between No 3 C.A.C.R.U. and Liverpool between the dates of 24 Jul 43 and 28 Jul 43 was improperly in possession of one or more of four Smith and Wesson .380 in revolvers Nos 831498, 840295, 821183, 839066 the same being public property.

FIFTH CHARGE
A.A. Sec 41 (5)

WHEN ON ACTIVE SERVICE, COMMITTING A CIVIL OFFENCE,

that is to say,

forgery contrary to the provisions of the Forgery Act 1913 Section 4 and amendments thereto, in that he at No 3 C.A.C.R.U. on or about 25 Jul 43 with intent to defraud did forge two vehicle work tickets.

SIXTH CHARGE WHEN ON ACTIVE SERVICE, ABSENTING HIMSELF
A.A. Sec 15 (1) WITHOUT LEAVE,

in that he,

at No 3 C.A.C.R.U. absented himself without leave from 0600 hours 26 Jul 43 until apprehended in Liverpool at 2100 hrs, 28 Jul 43. Returned to unit at a cost of £2/15/2. (Absent 2 days 15 minutes)

In the Field
21 Aug 43

(G.W. Little) Colonel
Commanding No 3 C.A.C.R.U.

Arthur S. Pettapiece, Major,
Quebec

To be tried by F.G.C.M. in the Field.

4 Sep 43

(J.J. RUTHERFORD) Brig.,
Comd "B" Gp CRU

MEDICAL OFFICER'S REPORT

I certify that No. 17072 2 Lt. Freeman B.
of H2Q & RV. is in a Good state of health,
and F I T to undergo Trial by Court martial.

Norman B. Howard Capt MC USA
Medical Officer

Station Nottingham Ohio

Date 4th Sept 43.

Arthur S. Battagane Major

M. F. B. 246

1.

PROCEEDINGS OF A FIELD GENERAL COURT-MARTIAL
HELD AT Blackdown Barracks, Blackdown, Surrey
ON THE 4th DAY OF September 1943

The accused K70792 Pte. Grannon R. Unit. 3CFACRU.

The order convening the Court and charge sheet are laid before the Court, who satisfied themselves as provided by Rs.P. 22 and 23.

The accused is brought before the Court.
The Medical Certificate is laid before the Court.
The order convening the Court is read by the President and the accused having been asked stated that he had no objection to the President or any Member of the Court.
The Court is duly sworn.

The following constitute the Court:-

President Maj. A. Littlejohn ..... Unit. H.Q.C.R.U.
Members Capt. H.S. Stevens ..... Unit. 2CFACRU.
Lt. W. Gordon ..... Unit. 2CFACRU.

~~The officers under instruction are duly sworn:-~~
~~..... Units.~~
~~..... Units.~~

Prosecutor. Lt. R.T. Gale ..... Unit. 3CFACRU.
Defending Officer. Lt. H.R. Hoult ... Unit. 3CFACRU.

The charge sheet is signed by the President and the accused is arraigned.
~~The accused pleads guilty to the charge(s) and R.P. 35(b) is complied with.~~
The accused does not desire to make a statement in reference to the charge(s), R.P. 37(B).
The Summary of Evidence is read.
The Prosecutor produces MFB 355, AFB 296 and MFM 6.
The Court complies with R.P. 36(B).

Pursuant to R.P. 37 THE ACCUSED:-

(a) Makes a statement in mitigation of punishment.
(b) Calls witnesses as to character.
(c) Calls witnesses in mitigation of punishment.
(d) Addresses the Court by his Defending Officer.

Overseas P.O. 3262 complied with.
The Court is closed to consider the sentence.

~~SUMMARY OF STATEMENT IN MITIGATION, CHARACTER EVIDENCE and ADDRESS OF ACCUSED OR HIS DEFENDING OFFICER.~~

The accused pleads "Not Guilty" to all of the six charges.

R.P. 39(A) is complied with

The Prosecutor proceeds to call witnesses.

1st Witness for Prosecution

D 154 Lt. H. McInnis, G.B. of S.C.M.C.H., having been duly sworn, states;

I have been actg. Lt. to the Admiralty for a month or so. I am also in charge. On 26 Oct 43 at 0600 hrs I called the roll and he did not answer his name. I do not know him to see him as he had only been added to my second roll the day before. He should have been in his bed and he was not.

Cross-examination

At 0600 the day I was told that the accused would be new on my roll. I have never seen his name in order saying that he was on the strength of A Wing

2nd Witness for Prosecution

#26034 P.S.M. Harris, R. M. of S.C.M.C.H. having been duly sworn, states.

I recognise the accused. On a Sunday morning about 0600 hrs I looked to see if the accused was present and I found that he was. He was supposed to report to my office at 0700 hrs that day and I told him to on the Saturday before. He did not show up.

No cross-examination

2nd Witness for Prosecution

Lt. F. J. Lain of 3 C.R.C.R.A having been duly sworn, states:-

I was I/C officer of Spare Cars on the date in question. On 26 Jul a Ford 15 cwt. of No. 420402 was missing from the usual park when it was supposed to be. I could not find it anywhere. On 29 Jul I went to Lingfield and there I got this same vehicle. It was via the M.A.P.W. yard, Outwood. I then drove it back to 3 C.R.C.R.A. I had to buy petrol and oil for the journey. I put in 3 gals. of oil and £3 24 gals of petrol in order to get the car back to the unit. Before I left Lingfield I went round to the Police Station and picked up a bundle which I might hand with me. I also got two road tickets from the police (Exhibit A) in No 439 and the other 440 is (Exhibit B) Both these road tickets have not been signed by any of the unit authorities to sign them. Exhibit A has no signature on it at all except that of the driver. Ex. B has an indecipherable signature on it and also that of the driver.

Cross-examination

3

There are lots of officers who may sign Column 6 of Exhibit B. Of course other may

sign for them, but the signature is an attempt to resemble any of these signatures. I have seen the signature before

By the Court — that I got from the police
In the bundle I have a clothing slip which had an identity disc attached to it with the name of the accused on it. Taken

4th Witness for Prosecution — Capt. A.B. Tilly of 3 C.A.C. R.A. having been duly sworn, states
I am the Lecturer Asst. of 3 C.A.C. R.A.
24 yds of petrol sold to the Cdn. Int. approximately 22 - 23/4 ~~Signed Asst~~ I produce a petrol coupon number dated 27 Jul 43 for 18 1/2 yds from Knutsford. Cheshire. This is a signature of the accused as it seems to bear his signature with the ~~is~~ a few days of mine. The petrol on this slip (Exhibit "C") is worth about £1 - 0 - 0
We have Ford 15 Cwt. No CZ. 423400 2 on charge to this unit. One gallon of petrol with 1a 8 1/2d to the Cdn. Int.

Cross-examination - nil

5th Witness for Prosecution — Pte G 549 Tpr. Evans, S.W. of 3 C.A.C. R.A. having been duly sworn, states
On 23 Jul 43 there was weapon cleaning from my store when I noticed that in the weapon training store of I Wing. Among the weapons were some pistols. The next day all of the stores were moved into another building and on Monday when I made a complete check of my stores I found 4 pistols missing. These pistols

here (indicates Exhibit "D") as the two that were missing. I do not know if they were drawn on Friday or not. There was no signature for them but I think an officer signed for them. These pistols are on charge to the unit

No cross-examination

6th Witness for Prosecution — P.C. D.R. Allen of the Royal Regiment of Police being duly sworn, states as follows:-

I was on duty on the 22nd July 43 about 1600 hrs & found on my patrol with No. CZ4202002 in a car park. At 2045 hrs I saw Pte with P.C. Webb and I saw a soldier by the name of Quigley in a pub. I knew him as he was my neighbour. I then approached the accused in the same pub. He resisted and we caught him. I said if he tried to bolt a pistol No. 921143 which I recognised as one of the numbers in Exhibit "D" hit me a left hook. I took hold of Quigley then and told Pte Smith, Warren number as he being No. 3402795. After I had cautioned them they both admitted being concerned in the theft of the pistols, the numbers and being absent. Then we went to the Central detention office and I produced a statement signed by him in my presence. He was cautioned verbally before I got the statement. Exhibit "E". I found in the note book I found on

Army Form 4 B 9 and counter are No. 4440. I asked him what they were as a matter of curiosity and the accused said "I made them at. I got pistol in them" I then turned them over to the Police H.Q. in Liverpool. I took the two pistols I saw being brought into Police H.Q. by Detective Welch. On 29 July 43 I gave the 4 pistols to a Lt/Col. of the American Ordnance Corps.

Cross-examined

At the time I first met the accused Lt/Col Hill in the yard that I was a detective. He was just in the entrance to the yard to the pub. I told him what we thought he had done and then he was cautioned. I cautioned him verbally I think he understood what I said although I spoke rather quickly.

Pte Wilcox for Prosecution

D.C. H. Welch, of the Liverpool Police, having been duly sworn, stated:-

I was with D.C. Allen on the day in question when we picked up the accused and Culp. It was a 29 July and we saw the accused and Culp in a pub. I recognised the accused. When we got outside the accused ran away but we caught him. Then Allen then found a pistol on the accused, it is one of these here (indicates Exhibit "D") one Smith & Wesson No. 93193 We told him that we had reason to believe that he was implicated in the theft of an army vehicle & that he was arrested and

heard "that night". He closed the counter. Allen then took both bags and Judge & the Allen counter the both and we started at about 4 pm with 9 the. Each of the two soldiers had a ticket a bin for luggage which was at the Y. M. C. A. Hall. I went and got both bags and each had a pistol in them. Also started but can't remember what they were both Smith and Wesson with No. 839566 and 831894. These 2 pistols were left at the K. O and I never saw them again.

Cross-examination

I was on the accused during the whole of my time Allen did all the talking. The accused had had nothing to drink, but he knew what it was all about as he left.

84 Witness for Prosecution

Miss Dora Wallace 37 Claudgate, Boston, Lincs. being duly sworn, states

I know the accused. I saw him in an Army exhibit with Tyr. Rifle contest in July. It was a medium sized exhibit I mean that the front wheel partially cuts the door off when one tries to get in. I pointed it out to Detective Allen. I cannot identify any of the cars. I remember seeing the accused with a revolver. This was the first time I had seen an exhibit like that.

Cross-examination

I was in the vehicle in the car park when I pointed it out to Detective Allen. I also knew that I was in the vehicle at the time as I could identify it.

9th Witness for Prosecution

C 78375 Tpr. Clubb, L. J. of 3 CAACRU being duly sworn, state,

I am the driver of the vehicle in question.

On Saturday 24 Jul 43 when I put it away at noon it was locked. As far as I can remember both petrol tanks were full by the gauge. Each petrol tank holds 12 gallons. On Monday morning at 0730 hrs I went to the vehicle line and I was at the

No Cross-examination

10th Witness for Prosecution

2261219 A/Sgt Mc CUE L. R. of the Royal Military Police of 3 CAACRU, being duly sworn, state;

I recognise the accused. I recognise Exhibit "D" as the four pistols which were handed to me with the accused when he was returned to the unit from the Provost Coy in London.

No cross-examination

The Prosecutor produced and put to the witness a certificate of ammunition (Exhibit "E") and the Court made a record of returning the accused to his unit

Exhibit "G"

The Prosecution is closed

R.P. 40 is complied with.

The accused elects to say nothing.

The Prosecutor makes a closing address (attached hereto)

The Defending Officer replies (attached hereto)

The Court is closed for consideration of finding

The Court is re-opened and it is announced that the accused has been found "Not Guilty" of the First, Fourth and Fifth charges.

Quaere R.O. 3212 is complied with.

The Prosecutor produces the MFB355 and MFM6 of the accused.

The Defence proceeds to call character witness.

Lt Chaconas V.J. sworn Capt Tilly, having been duly sworn, states.

The accused is under arrest. He was a good worker however he was very negative. Apart from that he knew that he was put on charges he could not get any worker especially as after care could not employ him to the standard they

No cross-examination

The accused makes a plea in mitigation (attached hereto)

The Defending Officer addresses the Court (attached hereto)

Quaere R.O. 3212 is complied with.

The Court is closed for consideration of sentence.

Arthur S. Pettigrew Major

Plea in Mitigation of Punishment
of A-70722. Trooper Brennan R.

Sir:

You have heard the evidence given as to the character of the accused. There is little more that I can add. However I wish to emphasize the fact that the accused is barely eighteen years old. He joined the army when only sixteen years of age. I submit that the accused is a little immature in his outlook towards the army and feels that he has not been dealt with fairly. The accused, in his mind saw no other way to help himself but to do what he did.

W R Howitt Lieut.
Defending Officer.

KP

1

Summing up for the Prosecution.

The chain of evidence is complete and no comment is necessary.

The signatures of the accused on the work tickets and the petrol chit for 10½ gals may be compared with that on the signed confession obtained by the military police.

The ~~sign~~ work tickets have been shown to be improved and they must have been used to steal the petrol. This is sufficient to uphold a forgery charge.

Evidence of Unit Staff shows 13 gals were required to fill the vehicle tanks which were shown to be full by the dipstick. The petrol chit shows 10½ gals to have been obtained on road by the accused. 23½ gals were therefore unaccounted used and should be charged for at 1 shilling and 8½ pence per gal.

Lieut Cole Kent
No 3 C.A.C.R.A.
Prosecuting Officer.

AP

Defending Officers Closing Address in the case of
, K-70722 Trooper Gunman R.

In regard to the first charge this ~~is no~~ ~~evidence of theft~~ has been no evidence produced to the effect that someone actually saw the accused steal the vehicle. There is practically no evidence to support a charge of stealing.

In regard to the second and third charge the evidence produced is practically non existent. The storeman could say whether the ~~pistols~~ pistols had been drawn or signed for or whether they were in the stores his evidence is very slim. No one else had any connection with the pistols according to the evidence no one saw the accused take the pistols

Therefore in regard to both the above mentioned

charges there is practically no evidence of stealing.

Regarding the fifth charge there is no evidence whatsoever of forgery. The work ticket was filled in except exhibit "A" which had no authorizing signature. The second work ticket or Exhibit "B" had a signature which looked like First Lieut Thomas. No witness could say truthfully that it was in the handwriting of the accused.

H R Howitt 1st Lieut.
Defending Officer

Statement of the Accused
K 70722 Tpr. R. Freeman in
mitigation of punishment.

Sir:

I joined the army when I was sixteen years of age. The first year in the army I was quite content in the service and had no crimes against me. When they found out about my age I was sent to #3 C.A.C.R.U. When I was sent to #3 C.A.C.R.U. I was sent on taking courses and benefit by the knowledge thus gained when I returned to the field. Every application I made for some was turned down due to my age. I then tried to get a discharge from the army ~~so I could~~ on account of my age so I could join the merchant navy. They refused to give me my discharge. Thus I was completely discouraged. I could not get to the field and I could not join the merchant navy. There seemed nothing that I could do. It seemed that I was stuck here in #3 C.A.C.R.U. forever. It got so I could not stand it any longer, therefore I decided to take matters into my own hands.

(sgd) K 70722 Tpr. R. Freeman

HP

Army Form G 3518

TRANSPORT WORK TICKET

W.D. No. [illegible] Date 15-7-43 No. U 39

Make of Vehicle Ford Class 4 15 CWT Hour of Parade 0800 hrs

Unit 3 CAC R.U. Section M T Driver's Name [illegible]

For whom journey is performed. (1)	FULL Details of load and service. (2)	ROUTE From (3)	ROUTE To (4)	ROUTE Via (5)	Signature of person authorising journey. (6)	TIME TAKEN From (7)	TIME TAKEN To (8)	Miles run. (9)
Own Unit	Issues & Tfr	4 Pk	Transport	R.T.	A			
" "	" "	"	"	"	B			
" "	"	"	"	"	C			
" "	" "	"	"	"	D			
" "	" "	"	"	"	E			
" "	" "	"	"	"	F			
" "	" "	"	"	"	G			
" "	" "	"	"	"	H			
" "	" "	"			K			
							TOTAL	

Army [illegible] & [illegible]

SPEEDOMETER READINGS. Miles

(10) In ... ...

(11) Out ... ...

Mileage

PETROL Galls.

(12) Held at Start ... ...

(13) *Add*—Amount drawn ... ...

(14) *Deduct*—Remains on completion ...

(15) Quantity Consumed ...

(16) TOTAL hours out on duty

(17) *Signature of Driver* R. Stevenson

(18) *Countersigned* [illegible]

Bank [illegible] A/C

INSTRUCTIONS TO DRIVER FOR COMPLETING TRANSPORT WORK TICKET

Items (7) and (8) will be completed by the driver.

In the case of a number of details not requiring return to H.Q. until completion of the last detail, items (7) and (8) will be completed for each detail.

Item (9) will be completed by the driver after completion of each detail.

Items (10), (13), (14), (15), (16) and (17) will be completed by the driver after the last journey of the day.

Item (20) will be completed as necessary.

---

(19) Special instructions to driver.

---

(20) Driver's report on breakdowns, accidents, reasons for delay, alterations to route, running adjustments made, and anything which has appeared to him unusual in the running of the vehicle.

---

(21) Reference to documentary authority (*e.g.*, Army Form F 756,) &c. where such exists (see instructions for items 6 and 18).

A

B

C

D

E

F

G

H

K

It is strictly forbidden to [illegible] than a tank or dragon, without a Work Ticket, which is [illegible] and must be shewn if demanded.

[illegible] from Ford [illegible]
[illegible] C2 4204002
A. R. Allen Del Co.
99th

B.

Army Form G 3518

TRANSPORT WORK TICKET

Make of Vehicle Ford Class 15 Cwt W.D. No. S 420602 Date 25-7-43 No. U 40

Unit 3-C.A.C.R.U. Section Mil. Driver's Name Pte. R. Grennan Hour of Parade 0800 hrs

For whom journey is performed (1)	FULL Details of load and service (2)	ROUTE From (3)	ROUTE To (4)	ROUTE Via (5)	Signature of person authorising journey (6)	TIME TAKEN From (7)	TIME TAKEN To (8)	Miles run (9)
25-7-43	General duty	Bks	Liverpool	Route	A			
26-7-43					B			
27-7-43					C			
28-7-43					D			
					E			
					F			
					G			
					H			
					K			
						TOTAL		

Army Form

SPEEDOMETER READINGS.

Miles

(10) In

(11) Out 11436

Mileage

Petrol. Galls.

(12) Held at Start 24

(13) *Add*—Amount drawn

(14) *Deduct*—Remains on completion

(15) Quantity Consumed

(16) TOTAL hours out on duty

(17) *Signature of Driver* R. Grennan Capt "B"

(18) *Countersigned*

Rank

INSTRUCTIONS TO DRIVER FOR COMPLETING TRANSPORT WORK TICKET

Items (7) and (8) will be completed by the driver.

In the case of a number of details not requiring return to H.Q. until completion of the last detail, items (7) and (8) will be completed for each detail.

Item (9) will be completed by the driver after completion of each detail.

Items (10), (13), (14), (15), (16) and (17) will be completed by the driver after the last journey of the day.

Item (20) will be completed as necessary.

---

(19) Special instructions to driver.

---

(20) Driver's report on breakdowns, accidents, reasons for delay, alterations to route, running adjustments made, and anything which has appeared to him unusual in the running of the vehicle.

Date Patrol miles Speedo

---

(21) Reference to documentary authority (*e.g.*, Army Form F 756,) &c. where such exists (see instructions for items 6 and 18).

A 27-7-43 "

B

C

D

E

F

G

H

K

It is strictly forbidden to [illegible] than a tank or dragon, without a Work Ticket, which is [illegible] nd must be shewn if demanded.

Pte [illegible] Gnr Allan S
[illegible] Arty Arrested.
[illegible] Det. Sgt
294 K.

W1.13658/33. 15,000 Pads. 9/41. BPL. 61.932. Army Form G 5[illegible]

Issuing Unit 3 AFV DEPOT R.A.O.C. TATTENHALL CHESHIRE

Daily Record of Issues of Fuel and Light to Mechanical Transport Vehicles of

Unit 3 C.A.C.R.V. Date 7/7/43 Issue [illegible] No. K 114

Make and Type of Vehicle	W.D. No.	Petrol Galls.	Fuel Oil Galls.	Paraffin Pints	Tin Plates No.	Grease lbs.	Lubricating Oil Type	Lubricating Oil Quantity Pints	Drivers Signature
Ford	4204002 K4								A. Brown K70744

3 C A C R V

Canadian Army

Lt Col C

O.C.

Totals

Initials of Ledger Clerk

* Entered in A.B. 168 (M.T. Fuel Account)

Certified correct [signature] 2/Lt

Stores Inspector

* Accounts on Original Copy only

25-30M-2.42 N Form 104A

C. I. D.
Dale St.
Liverpool
21/00 hrs.
22/1/43.

Ronald Grennan (Trooper No K70422)
On Sunday 25th July I ran away from my unit 3 C.A.C. Rgt. and boys we with me. We took the truck and came to Liverpool. We left the truck on a car park. On the way we called at an R.A.F. camp. Hyfford and got 8 gallons of petrol. We called at 2 Army camps as well and got petrol. These camps were somewhere between Stafford and Liverpool. One was an R.A.O.C. Camp. We got 10½ gallons from one camp and 14 gallons of petrol from the other. I was the one that drove the truck and I drove it all the time and signed for all the petrol.

R. Grennan
I. C. P. Allen Cpl 294

~~We got~~
We got 2 workers jack from the camps store on Sunday 25th July.

R. Grennan
Witnessed C. I. Allen Cpl 294

Exhibit E
JAP

I CERTIFY that the man whose personal description is given below surrendered himself to* Dst Sgt Allen.
at Liverpool at (hour) 2100 hrs. on the 28th day of July 1942. as being No. K40732.
(Rank and Name) Trooper Ronald Brennan.
a deserter (or absentee without leave) from 3rd C.A.C. R.A.
and it appears to me from his confession that he is a deserter or absentee without leave.

* After the word "to" to be inserted the name and rank of the police officer concerned.

Age 19 yrs. Height 6' Feet 11" Inches
Complexion Fresh. Hair Dk brown Eyes brown
Marks Nil.
In uniform or plain clothes Uniform

Probable Date and Place of Attestation	11.10.41. Vancouver B.C.
Probable Date of Desertion or beginning of absence, and from what place	25.7.42. Blackdown Camp.

Signature of Officer of Police in charge of: R. Williams Sgt. Station: Liverpool City Police
28th July 1942. Date of Signature.

MAIN BRIDEWELL
LIVERPOOL CITY POLICE

Army Form O.1617
R.A.F. Form 1617

PART 2.

This portion of the Form should be completed and forwarded to the Officer Commanding the man's unit to whom Part 1 of this Form is sent, as soon as all expenses have been ascertained.
(It should not be detached from Part 1 unless delay in completion is unavoidable.)

Statement of Expenses chargeable to Army or Air Force Funds incurred by the ..... Police in the case of
No. .....
who surrendered to the Police at ..... on .....
Payable to .....

CERTIFIED that this statement of expenses is correct.

Superintendent or Officer in charge of Police Station at .....

Date of Signature.

IMMEDIATE.

Army Form O.1617
R.A.F. Form 1617

PART I.

CERTIFICATE OF SURRENDER TO THE CIVIL POLICE OF A DESERTER OR ABSENTEE WITHOUT LEAVE.

This Form is ONLY applicable where a person surrenders to a Constable as being a Deserter or Absentee.

Instructions for the Guidance of the Police.

When a person surrenders himself to a constable as being a deserter or absentee without leave, the officer of police in charge of the police station to which he is brought shall forthwith inquire into the case, and if it appears to him from the confession of that person that he is a deserter or absentee without leave he may cause him to be delivered into military or Air Force custody without bringing him before a court of summary jurisdiction.

In such a case a telegram should be despatched to the Officer Commanding the Man's Unit,* notifying that he has surrendered, and stating the number, rank, name and unit of the man, and that officer will at once arrange to send an escort for the man to be taken into military or Air Force custody. Where an absentee's unit is stationed overseas (outside Great Britain, Northern Ireland District and the Channel Islands) the telegram will be despatched to the O.C. Regimental Depôt in the case of a soldier and in the case of an airman to the O.C. No. 1 R.A.F. Depôt, Uxbridge, who will arrange escort. This certificate will be handed to the escort on arrival.

* Stations of Units and Depôts are shown in the Monthly Army and Air Force Lists.

(120000) W.L.57459/733 Pt.000 2/40 A.A.P.W.2266. Gp.A99
(3700) W.L.41240/1442 2/41 Forms/O.1617/54

M.

Expense Voucher Re—: Ref: K.R. & O. (Can) 539

Reg. No. 20722 Rank Pte Name Brennan R. Unit 3 C.A.R.C.

The following expenses were incurred in apprehending and returning the M/N Soldier to ~~his~~ Unit From: London from Liverpool

Date	Particulars ½ Portion	Amount		
3 July 43	Escorts return fare from LONDON To Liverpool		15	2
	Prisoners single fare to LONDON From Liverpool		15	2
	Prisoners fare from To			
	Escorts & Prisoners expenses for Bed, Meals, Bus fares		7	9
	Total £	1	18	1

I certify that the above statement of Expenses is Correct, and that the amounts are fair and just.

W Brown Capt. G.

Officer Issuing Railway Warrant and Expense monies
No. 6 Provost Company, Canadian Provost Corps, London.

C.M.H.Q. 1000/55
40/P & S./493

1.

36.2.G.R.H. 4 Sept 43.

Received from Major Pettapiece, President of T.S.C.M. in Case of X 70722 Spr Brennan, Ronald, 4 S.T.W.
.38" pistols, Marked Exhibit D. being Nos
821183, 839066, 840295, 831498.

Asst Sec Lieut
No 3 Sec HQ.
Prosecuting Offr.

ELEVENTH WITNESS for the Prosecution

Mrs. Dora Wallace of 57 Churchgate, Bolton.

I certify that in my opinion the attendance of this witness is owing to the loss of time and expense involved not readily procurable and a written statement of her evidence signed by her has been read to the accused and is attached hereto as Exhibit F.

Lieut.
(officer detailed to take Summary)

I do not require the attendance of this witness for the purpose of cross-examination.

(K70782 Pte. Ronald GRESHAM)

THIRD WITNESS for Prosecution Recalled

Lieut. G.F. Smair on the strength of No. 3 C.A.O.C.U., an Officer of the Canadian Army Overseas, having been duly sworn, states:

"I produce statement of petrol consumption and mileage re vehicle No. C24204002 and trip to and from Liverpool so far as I am aware of the same. This statement is signed by me and is marked exhibit Q."

The Accused declines to cross-examine this witness.

Lieut.
(G.F. Smair)

The accused was cautioned as follows:

"Do you wish to make any statement or to give evidence on oath? You are not obliged to say anything or give evidence unless you wish to do so, but whatever you say or any evidence you give will be taken down in writing and may be given in evidence."

The accused declines to give evidence or to make a statement

The accused does not call any witness for the defense.

I certify that the foregoing additional Summary of Evidence, consisting of 2 pages was taken down by me in the presence of the accused and that Rules of Procedure 4 (c), (D), (E), (F) and (G) have been complied with.

Lieut
(Signature of officer detailed to take the SUMMARY).

In the Field.
19 DEC 43.

ADDITIONAL SUMMARY OF EVIDENCE IN THE CASE OF K.70782 Tpr. Ronald GRENNAN on the strength of No. 3 C.A.O.H.U., a soldier of the Canadian Army Overseas.

By direction of the Commanding Officer the evidence is taken on oath.

There were produced by me and shown the accused AFO. 1617 being Certificate of Surrender to the Civil Police of a Deserter or Absentee Without Leave, which is marked Exhibit L(ii) and Expense Voucher covering costs of return which is marked Exhibit M.

There was produced by me and read and shown to the accused a document purporting to be the original confession made by him to Con. A.A. Allen of the Liverpool City Police. This confession is referred to in the statement of Con. Allen, which said statement is marked Exhibit J to the Summaries in this case. This confession is marked Exhibit N

There was produced by me and read and shown to the Accused a document purporting to be the original confession made by K100070 Tpr. Crisp Gordon to Con. A.A. Allen of the Liverpool City Police. This confession is referred to in the statement of Con. Allen, which said statement is marked Exhibit J to the Summaries in this case. This confession is marked Exhibit O.

Lieut.
(Officer detailed to take this Summary)

WITNESS FOR THE PROSECUTION

Lieut. H.A. Fowler on the strength of No. 3 CACRU., an officer of the Canadian Army Overseas having been duly sworn stated:-

On 31 Jul 43 I received from L/Cpl. Miller ammunition which I believe to be 15 rounds .303 tracer and one round .303 ball ammunition. I gave L/Cpl. Miller a receipt for this ammunition and four revolvers which I received from him at the same time for safe keeping. I produce this ammunition as Exhibit marked "L" I recognize Exhibit "K" as the receipt in question.

The accused declines to cross examine the witness.

H.A. Fowler Lieut.

(H.A. Fowler) Lieut.,

The accused was cautioned as follows:-

Do you wish to make any statement or to give evidence on oath? You are not obliged to say anything or give evidence unless you wish to do so, but whatever you say or any evidence you give will be taken down in writing and may be given in evidence.

The accused declines to give evidence or to make a statement.

The accused does not call any witnesses for the defence.

I certify that the foregoing Summary of Evidence consisting of 5 pages was taken down by me in the presence of the accused, and that Rules of Procedure 4 (c),(d),(e),(f) and (g) have been complied with.

(G.T. Gale) Lieut., No. 3 CACRU.,
Officer detailed to take
the Summary of Evidence.

In the Field
19 Aug 43.

~~ELEVENTH~~ WITNESS FOR THE PROSECUTION

I certify that in my opinion the attendance of Constable A.R. Allen is owing to the necessary expense and the exigencies of the service not readily procurable and a written statement of his evidence signed by him has been read to the accused and is attached hereto as Exhibit "J".

(G.T. Gale) Lieut., No. 3 CACSU., Officer detailed to take the Summary.

I do not require this witness for the purpose of cross examination

(N.Grennan) Tpr. Accused.

~~SEVEN~~ WITNESS FOR THE PROSECUTION

6th C-6175 Tpr. Clisko, L.J. on the strength of No. 3 CACSU., a soldier of the Canadian Army Overseas having been duly sworn states:-

I am driver for "I" Wing, No. 3 CACSU. On Saturday 24 Jul 43 I signed for a truck from "I" Wing M.T. Office. It was a Ford 15 cwt, 4 x 2. I do not remember all the figures of the number but I do remember that the last three figures were 002. On Saturday morning I cleaned it a bit and left the lot at about 1130 hrs. At this time the petrol tanks were full. I checked this by the gauge and not by looking in the tanks and the gauge showed both tanks to be full. On the following Monday morning we were broken off parade and on going to the parking lot my truck was not there. I reported this to Cpl. O'Reilly. I did not see the truck again for some days.

The accused declines to cross examine the witness.

(L.J. Clisko) Tpr.

~~ELEVENTH~~ WITNESS FOR THE PROSECUTION

L-2612 A/Cpl. McGoll, R.A. on the strength of No. 3 CACSU., a soldier of the Canadian Army Overseas having been duly sworn states:-

I am the R.M.P. Corporal of No. 3 CACSU., at 1345 hrs on the 31 Jul 43 I was on duty in the Unit Guard Room. Tpr. Grennan was escorted to the Guard Room by No. 6 Provost Coy. He was sober and properly dressed. With his personal belongings received from the escort there were four pistols, M&W Nos 540092, 539066, 521187, 521498 and 16 rounds of .303 ammunition. I sent L/Cpl. Miller, R.A. to the Adjutant's Office with the pistols and the ammunition and he brought the receipt which I now produce and which is marked Exhibit "K". I took Tpr. Grennan into custody.

The accused declines to cross examine the witness.

(R.A. McGoll) Cpl.

FIFTH AND SIXTH WITNESSES FOR THE PROSECUTION (cont).

of the service not readily procurable and a written statement of their evidence signed by them has been read to the accused and is attached hereto as Exhibit "C".

(C.Y. Gale) Lieut., No. 3 CACRU, Officer detailed to take the Summary.

I do not require the attendance of these witnesses for the purpose of cross examination.

R. Grennan
R. Grennan Tpr.
Accused

SEVENTH WITNESS FOR THE PROSECUTION

Capt. A.P. Tilley on the strength of No. 3 CACRU., an officer of the Canadian Army Overseas having been duly sworn states:-

I recognize AFC 525 marked Exhibit "D" which is now shown to me. It is a laid down army petrol issue voucher for 10½ gals of petrol drawn according to the signature appearing on it by Tpr. R. Grennan, K-70722. This is a form which passed through my office from R.H.C. and was returned to R.H.C. as I had been advised on my return from leave on 29 Jul 43 that Tpr. Grennan and a trunk were both missing. On request I have ascertained from the RASC Supply Depot, Deepcut, by telephone the cost to the Canadian Government for petrol used in army vehicles is one shilling and eight and one sixteenth pence per gallon.

The accused declines to cross examine the witness.

(A.P. Tilley) Capt.

EIGHT WITNESS FOR THE PROSECUTION

G-5249 Cpl. Fraser, S.W. on the strength of No. 3 CACRU., a soldier of the Canadian Army Overseas having been duly sworn states:-

I am G-5249 Cpl. Fraser, S.W. attached to "I" Wing, No. 3 CACRU., and am working in "I" Wing Weapon Training Stores. I have 20 Webley & Scott pistols on my charge including Nos. 831496, 830295, 821183 and 839066. These pistols were all accounted for on Friday 23 Jul 43. An officer drew four pistols that morning, he signed for them. I do not know whether he returned them or not. I cannot find them charged against anyone. I moved my stores on Sat 24 Jul 43 and on Monday 26 Jul 43 I checked and cleaned pistols. I was four pistols short. The numbers of these pistols were 831496, 830295, 821183 and 839066. I do not know either the accused and do not know how they could have obtained these pistols. On being shown Exhibits "F", "F" "G" and "H" I recognize them by the numbers as the pistols in question.

The accused declines to cross examine the witness.

S.W. Fraser

THIRD WITNESS FOR THE PROSECUTION (continued)

to the Liverpool City Police. I proceeded to Liverpool and reported to the Office of the D.A.P.M. in Liverpool on the morning of Friday 30 Jul and picked up the same vehicle that was missing, Ford 15 cwt, Mod, W.D. No. CZ4204002. I added 1½ gallons of petrol and 3 quarts of engine oil and then proceeded to find a Detective Allen of the Liverpool City Police, C.I.D., I was told to go to Detective Allen by the D.A.P.M's Office. I received from Detective Allen a bundle of what was apparently army clothing and blankets and also a tin or enamel drinking cup with identity disc marked with Pte. Grennan's name, and two work tickets one of which he said had been found on Pte. Grennan and the other in the vehicle and he told me he was marking them accordingly and I saw him attach gummed labels to the two work tickets. I produce these two work tickets which are marked Exhibits "A" and "B" and are attached to the proceedings. I do not recognise either of these as authentic work tickets from this unit, if they were I would recognise them as such.

The accused declines to cross examine the witness.

G.F. Smair Lt

(G.F. Smair) Lieut.

FOURTH WITNESS FOR THE PROSECUTION

D/22582 Sgt. Green, S.M. on the strength of No. 3 CACRU, a soldier of the Canadian Army Overseas having been duly sworn states:-

I I am the Sergeant of the "I" Wing M.T. Section Shrel. The last time I saw the accused was on Saturday 24 Jul at which time he was no longer on the strength of my section. I understand but I am not sure that he was going to Allen. Wing. On Friday 29 Jul a Ford 15 cwt, Mod vehicle W.D. No. CZ or CZ4204002 was taken off Pte. Grennan's charge and placed on charge to another man. On Monday 25 Jul this vehicle was missing. On Thursday 29 Jul I proceeded to Liverpool with Lieut. Smair under orders to pick up a vehicle from the police there. On Friday 30 Jul we picked up this vehicle W.D. No. CZ or CZ4204002 from the Military Police in Liverpool. We then proceeded to the civil police and Lieut. Smair received from them a bundle of army kit including a battle dress tunic and blankets and a tin mug with an identity disc in it. The disc bore Pte. Grennan's name. Lieut. Smair also received two work tickets which I identify as being Exhibits "A" and "B". I do not recognise them as being authentic work tickets from this unit, if they were I would recognise them as such. I first paraded the vehicle in Liverpool and added 1½ gallons of petrol and some engine oil. On the journey from Liverpool to this unit eleven gallons of petrol were added on the road and a further quantity on our arrival here.

The accused declines to cross examine the witness.

Jas W Green Sgt

(S.M. Green) Sgt.

FIFTH AND SIXTH WITNESS FOR THE PROSECUTION

I certify that in my opinion the attendance of Constable A.R. Allen and of Constable H. Welsh is owing to the necessary expense and to the circumstances

SUMMARY OF EVIDENCE IN THE CASE OF No. K-70722 Tpr. GRENNAN, Ronald on the strength of No. 3 CACRU., a soldier of the Canadian Army Overseas.

By direction of the Commanding Officer the evidence is taken on oath.

FIRST WITNESS FOR THE PROSECUTION — H-26004 SSM Davies, R.M. on the strength of No. 3 CACRU., a soldier of the Canadian Army Overseas, having been duly sworn states:-

I am the SSM of the Admn. Wing No. 3 CACRU. On Monday morning 26 Jul 43 I received information to the effect that a truck and a man were missing from this Unit and that the truck was one formerly driven by the accused. I went at once to my Orderly Corporal, Cpl. McGuire, and checked the absentee report. I found the accused reported AWL from 0600 hrs.

The accused declines to cross examine the witness.

(R.M. Davies) S.S.M.

SECOND WITNESS FOR THE PROSECUTION — D-168 Cpl. McGuire, G.B. on the strength of No. 3 CACRU., a soldier of the Canadian Army Overseas having been duly sworn states:-

I am permanent Orderly Corporal of Admn. Wing No. 3 CACRU. On Monday morning 26 Jul 43 at 0600 hrs, I called the roll in my hut. The name of Tpr. Grennan, was on the roll and he did not answer his name and I marked him absent. I do not know Tpr. Grennan but I had been told the previous afternoon by SSM Davies to add the name of Tpr. Grennan to my roll as he would be sleeping in my hut but he did not state from when.

The accused declines to cross examine the witness.

(G.B. McGuire) Cpl.

FIRST WITNESS FOR THE PROSECUTION RECALLED — H-26004 SSM Davies, R.M. on the strength of No. 3 CACRU., a soldier of the Canadian Army Overseas having been duly resworn states:-

On Saturday morning 24 Jul 43 the accused, Tpr. Grennan, whom I recognize was brought to me by an N.C.O. from "I" Wing and I was told that he would be no longer with "I" Wing but would be returned to duty with Admn. Wing. I informed the accused he would move himself and his kit to "B" Spidr, Cpl. McGuire's hut, and that he would move that day. I sent the accused to get moved and informed the Orderly Room of Admn. Wing generally that he would be shown on our strength when he appeared on orders.

The accused declines to cross examine the witness.

(R.M. Davies) S.S.M.

THIRD WITNESS FOR THE PROSECUTION — Lieut. G.F. Snair on the strength of No. 3 CACRU., an officer of the Canadian Army Overseas having been duly sworn states:-

On Monday morning 26 Jul 43 a ford 15 cwt, 4 x 2 vehicle W.D. No. [illegible] 204002 was missing from my vehicle park. On Thursday 29 Jul 43 I received orders to proceed to Liverpool and pick up a vehicle and to

THIRTEENTH WITNESS for the Prosecution — Mrs. Dora Wallace of 57 Churchgate, Bolton.

I certify that in my opinion the attendance of this witness is owing to the loss of time and expense involved not readily procurable and a written statement of her evidence signed by her has been read to the accused and is attached hereto as Exhibit P.

Lieut.
(officer detailed to take Summary)

I do not require the attendance of this witness for the purpose of cross-examination.

(K70782 Tpr. Ronald GREENMAN)

THIRD WITNESS for Prosecution Recalled — Lieut. G.F. Smair on the strength of No. 3 C.A.O.R.U., an Officer of the Canadian Army Overseas, having been duly sworn, states:

"I produce statement of petrol consumption and mileage re vehicle No. CZ4204002 and trip to and from Liverpool so far as I am aware of the same. This statement is signed by me and is marked exhibit Q."

The Accused declines to cross-examine this witness.

Lieut.
(G.F. Smair)

The accused was cautioned as follows:

"Do you wish to make any statement or to give evidence on oath? You are not obliged to say anything or give evidence unless you wish to do so, but whatever you say or any evidence you give will be taken down in writing and may be given in evidence."

The accused declines to give evidence or to make a statement

The accused does not call any witness for the defense.

I certify that the foregoing additional Summary of evidence, consisting of 2 pages was taken down by me in the presence of the accused and that Rules of Procedure 4 (c), (D), (E), (F) and (G) have been complied with.

Lieut
(Signature of officer detailed to take the SUMMARY).

In the field.
19 AUG 45.

ADDITIONAL SUMMARY OF EVIDENCE IN THE CASE OF K.70722 Tpr. Ronald CRENNAN on the strength of No. 3 C.A.C.R.U., a soldier of the Canadian Army Overseas.

By direction of the Commanding Officer the evidence is taken on oath.

There were produced by me and shown the accused AFO. 1617 being Certificate of Surrender to the Civil Police of a Deserter or Absentee Without Leave, which is marked Exhibit L(ii) and Expense Voucher covering costs of return which is marked Exhibit M.

There was produced by me and read and shown to the accused a document purporting to be the original confession made by him to Con. A.R. Allen of the Liverpool City Police. This confession is referred to in the statement of Con. Allen, which said statement is marked Exhibit J to the Summaries in this case. This confession is marked Exhibit N

There was produced by me and read and shown to the Accused a document purporting to be the original confession made by K100070 Tpr. Crisp Gordon to Con. A.R. Allen of the Liverpool City Police. This confession is referred to in the statement of Con. Allen, which said statement is marked Exhibit J to the Summaries in this case. This confession is marked Exhibit O.

Lieut.

(Officer detailed to take this Summary)

TWELFTH WITNESS FOR THE PROSECUTION

Lieut. H.A. Fowler on the strength of No. 3 CACRU., an officer of the Canadian Army Overseas having been duly sworn states:-

On 31 Jul 43 I received from L/Cpl. Miller ammunition which I beleive to be 15 rounds .303 tracer and one round .303 ball ammunition. I gave L/Cpl. Miller a receipt for this ammunition and four revolvers which I received from him at the same time for safe keeping. I produce this ammunition as Exhibit marked "K" I recognize Exhibit "K" as the receipt in question.

The accused declines to cross examine the witness.

H.A. Fowler Lieut.

(H.A. Fowler) Lieut.,

The accused was cautioned as follows:-

Do you wish to make any statement or to give evidence on oath? You are not obliged to say anything or give evidence unless you wish to do so, but whatever you say or any evidence you give will be taken down in writing and may be given in evidence.

The accused declines to give evidence or to make a statement.

The accused does not call any witnesses for the defense.

I certify that the foregoing Summary of Evidence consisting of 5 pages was taken down by me in the presence of the accused and that Rules of Procedure 4 (c),(d),(e),(f) and (g) have been complied with.

G.T. Gale

(G.T. Gale) Lieut., No. 3 CACRU., Officer detailed to take the Summary of Evidence.

In the Field
13 Aug 43.

NINTH WITNESS FOR THE PROSECUTION

I certify that in my opinion the attendance of Constable A.R. Allen is owing to the necessary expense and the exigencies of the service not readily procurable and a written statement of his evidence signed by him has been read to the accused and is attached hereto as Exhibit "J".

(G.T. Gale) Lieut., No. 3 CACRU., Officer detailed to take the Summary.

I do not require this witness for the purpose of cross examination

(R.Grennan) Tpr.
Accused.

TENTH WITNESS FOR THE PROSECUTION

C-58375 Tpr. Slicke, L.J. on the strength of No. 3 CACRU., a soldier of the Canadian Army Overseas having been duly sworn states:-

I am driver for "I" Wing, No. 3 CACRU. On Saturday 24 Jul 43 I signed for a truck from "I" Wing M.T. Office. It was a Ford 15 cwt, 4 x 2, I do not remember all the figures of the number but I do remember that the last three figures were 002. On Saturday morning I cleaned it a bit and left the lot at about 1130 hrs. At this time the petrol tanks were full. I checked this by the gauge and not by looking in the tanks and the gauge showed both tanks to be full. On the following Monday morning we were broken off parade and on going to the parking lot my truck was not there. I reported this to Cpl. O'Reilly. I did not see the truck again for some days.

The accused declines to cross examine the witness.

(L.J. Clicke) Tpr.

ELEVENTH WITNESS FOR THE PROSECUTION

L-2612 A/Cpl. McColl, D.R. on the strength of No. 3 CACRU., a soldier of the Canadian Army Overseas having been duly sworn states:-

I am the R.M.P. Corporal of No. 3 CACRU., at 1345 hrs on the 31 Jul 43 I was on duty in the Unit Guard Room. Tpr. Grennan was escorted to the Guard Room by No. 6 Provost Coy. He was sober and properly dressed. With his personal belongings received from the escort there were four pistols, S&W Nos 540295, 839066, 821183, 831496 and 16 rounds of .303 ammunition. I sent L/Cpl. Miller, S.G. to the Adjutant's Office with the pistols and the ammunition and he brought the receipt which I now produce and which is marked Exhibit "K". I took Tpr. Grennan into custody.

The accused declines to cross examine the witness.

(R.R. McColl) Cpl.

FIFTH AND SIXTH WITNESSES FOR THE PROSECUTION (cont).

of the service not readily procurable and a written statement of their evidence signed by them has been read to the accused and is attached hereto as Exhibit "C".

(G.T. Gale) Lieut., No. 3 CACRU, Officer detailed to take the Summary.

I do not require the attendance of these witnesses for the purpose of cross examination.

R. Grennan Tpr.
Accused

SEVENTH WITNESS FOR THE PROSECUTION

Capt. A.P. Tilley on the strength of No. 3 CACRU., an officer of the Canadian Army Overseas having been duly sworn states:-

I recognize AFG 825 marked Exhibit "D" which is now shown to me. It is a laid down army petrol issue voucher for 10½ gals of petrol drawn according to the signature appearing on it by Tpr. R. Grennan, K-70722. This is a form which passed through my office from R.H.Q. and was returned to R.H.Q. as I had been advised on my return from leave on 29 Jul 43 that Tpr. Grennan and a truck were both missing. On request I have ascertained from the RASC Supply Depot, Deepcut, by telephone the cost to the Canadian Government for petrol used in army vehicles is one shilling and eight and one sixteenth pence per gallon.

The accused declines to cross examine the witness.

(A.P. Tilley) Capt.

EIGHT WITNESS FOR THE PROSECUTION

G-549 Cpl. Fraser, S.W. on the strength of No. 3 CACRU., a soldier of the Canadian Army Overseas having been duly sworn states:-

I am G-549 Cpl. Fraser, S.W. attached to "I" Wing, No. 3 CACRU., and am working in "I" Wing Weapon Training Stores. I have 20 .380 S & W pistols on my charge including Nos. 831498, 8402-95, 821183 and 839066. These pistols were all accounted for on Friday 23 Jul 43. An officer drew four pistols that morning, he signed for them. I do not know whether he returned them or not. I cannot find them charged against anyone. I moved my stores on Sat 24 Jul 43 and on Monday 26 Jul 43 I checked and cleaned pistols. I was four pistols short. The numbers of those pistols were 831498, 840295, 821183 and 839066. I do not know either of the accused and do not know how they could have obtained these pistols. On being shown Exhibits "E", "F", "G" and "H" I recognize them by the numbers as the pistols in question.

The accused declines to cross examine the witness.

S.W. Fraser

THIRD WITNESS FOR THE PROSECUTION (continued)

the Liverpool City Police. I proceeded to Liverpool and reported to the Office of the D.A.P.M. in Liverpool on the morning of Friday 30 Jul and picked up the same vehicle that was missing, Ford 15 cwt, 4x2, W.D. No. CZ4204002. I added 13 gallons of petrol and 3 quarts of engine oil and then proceeded to find a Detective Allen of the Liverpool City Police, C.I.D., I was told to go to Detective Allen by the D.A.P.M's Office. I received from Detective Allen a bundle of what was apparently army clothing and blankets and also a tin or enamel drinking cup with identity disc marked with Tpr. Grennan's name, and two work tickets one of which he said had been found on Tpr. Grennan and the other in the vehicle and he told me he was marking them accordingly and I saw him attach gummed labels to the two work tickets. I produce these two work tickets which are marked Exhibits "A" and "B" and are attached to the proceedings. I do not recognize either of these as authentic work tickets from this unit, if they were I would recognize them as such.

The accused declines to cross examine the witness.

G.F. Snair Lt

(G.F. Snair) Lieut.

FOURTH WITNESS FOR THE PROSECUTION

B-62252 Sgt. Green, G.W. on the strength of No. 3 CACRU, a soldier of the Canadian Army Overseas having been duly sworn states-

I I am the Sergeant of the "I" Wing M.T. Section Wheel. The last time I saw the accused was on Saturday 24 Jul at which time he was no longer on the strength of my section. I understood but I am not sure that he was going to Admn. Wing. On Friday 27 Jul a Ford 15 cwt, 4x2 vehicle W.D. No. CL or CZ4204002 was taken off Tpr. Grennan's charge and placed on charge to another man. On Monday 26 Jul this vehicle was missing. On Thursday 29 Jul I proceeded to Liverpool with Lieut. Snair under orders to pick up a vehicle from the Police there. On Friday 30 Jul we picked up this vehicle W.D. No. CL or CZ4204002 from the Military Police in Liverpool. We then proceeded to the civil police and Lieut. Snair received from them a bundle of army kit including a battle dress tunic and blankets and a tin mug with an identity disc in it. The disc bore Tpr. Grennan's name. Lieut. Snair also received two work tickets which I identify as being Exhibits "A" and "B". I do not recognize them as being authentic work tickets from this unit, if they were I would recognize them as such. I first paraded the vehicle in Liverpool and added 13 gallons of petrol and some engine oil. On the journey from Liverpool to this unit eleven gallons of petrol were added on the road and a further quantity on our arrival here.

The accused declines to cross examine the witness.

Geo W. Green Sgt.

(G.W. Green) Sgt.

FIFTH AND SIXTH WITNESSES FOR THE PROSECUTION

I certify that in my opinion the attendance of Constable A.R. Allen and of Constable H. Welsh is owing to the necessary expense and to the exigencies

SUMMARY OF EVIDENCE IN THE CASE OF No. K-70722 Tpr. GRENNAN, Ronald on the strength of No. 3 CACRU., a soldier of the Canadian Army Overseas.

By direction of the Commanding Officer the evidence is taken on oath.

FIRST WITNESS FOR THE PROSECUTION — H-26004 SSM Davies, R.M. on the strength of No. 3 CACRU., a soldier of the Canadian Army Overseas, having been duly sworn states:-

I am the SSM of the Admn. Wing No. 3 CACRU. On Monday morning 26 Jul 43 I received information to the effect that a truck and a man were missing from this Unit and that the truck was one formerly driven by the accused. I went at once to my Orderly Corporal, Cpl. McGuire, and checked the absentee report. I found the accused reported AWL from 0600 hrs.

The accused declines to cross examine the witness.

(R.M. Davies) S.S.M.

SECOND WITNESS FOR THE PROSECUTION — D-154 Cpl. McGuire, G.B. on the strength of No. 3 CACRU., a soldier of the Canadian Army Overseas having been duly sworn states:-

I am permanent Orderly Corporal of Admn. Wing No. 3 CACRU. On Monday morning 26 Jul 43 at 0600 hrs, I called the roll in my hut. The name of Tpr. Grennan was on the roll and he did not answer his name and I marked him absent. I did not know Tpr. Grennan but I had been told the previous afternoon by SSM Davies to add the name of Tpr. Grennan to my roll as he would be sleeping in my hut but he did not state from when.

The accused declines to cross examine the witness.

(G.B. McGuire) Cpl.

FIRST WITNESS FOR THE PROSECUTION RECALLED — H-26004 SSM Davies, R.M. on the strength of No. 3 CACRU., a soldier of the Canadian Army Overseas having been duly resworn states:-

On Saturday morning 24 Jul 43 the accused, Tpr. Grennan, whom I recognize was brought to me by an N.C.O. from "I" Wing and I was told that he would be no longer with "I" Wing but would be returned to duty with Admn. Wing. I informed the accused he would move himself and hiskkit to "B" Spider, Cpl. McGuire's hut, and that he would move that day. I sent the accused to get moved and informed the Orderly Room of Admn. Wing generally that he would be shown on our strength when he appeared for orders.

The accused declines to cross examine the witness.

(R.M. Davies) S.S.M.

THIRD WITNESS FOR THE PROSECUTION — Lieut. G.F. Snair on the strength of No. 3 CACRU., an officer of the Canadian Army Overseas having been duly sworn states:-

On Monday morning 26 Jul 43 a ford 15 cwt. 4 x 2 vehicle W.D. No. CZ 4204002 was missing from my vehicle park. On Thursday 29 Jul 43 I received orders to proceed to Liverpool and pick up a vehicle and to

C H A R G E S H E E T

The accused, K 70722 Trooper GRENNAN, Ronald, No 3 C.A.C.R.U., a Soldier of the Canadian Army Overseas, is charged as follows:-

FIRST CHARGE
A.A. Sec 18 (4)

WHEN ON ACTIVE SERVICE, STEALING PUBLIC PROPERTY,

in that he,

at No 3 C.A.C.R.U. at sometime between 1130 hours on 24 Jul 43 and 0800 hours 25 Jul 43 stole a Military vehicle being Ford, 4x2, 15 cwt vehicle No CZ 4204002 from the vehicle parking lot of the Special Increment Wing of No 3 C.A.C.R.U. and that he did improperly use government petrol to the value of £1/19/3.

SECOND CHARGE
ALTERNATIVE
A.A. Sec 40

WHEN ON ACTIVE SERVICE, CONDUCT TO THE PREJUDICE OF GOOD ORDER AND MILITARY DISCIPLINE,

in that he,

at diverse times and places between No 3 C.A.C.R.U. and Liverpool and between the dates of 25 Jul 43 and 26 Jul 43 was improperly in possession of a Military vehicle being Ford 4x2, 15 cwt vehicle No CZ 4204002 the same being public property and that he did improperly use government petrol to the value of £1/19/3.

THIRD CHARGE
A.A. Sec 18 (4)

WHEN ON ACTIVE SERVICE, STEALING PUBLIC PROPERTY,

in that he,

at No 3 C.A.C.R.U. at sometime between 24 Jul 43 and 26 Jul 43 stole four pistols being Smith and Wesson .380 in revolvers Nos 831498, 840295, 821183, 839066.

FOURTH CHARGE
ALTERNATIVE
A.A. Sec 40

WHEN ON ACTIVE SERVICE, CONDUCT TO THE PREJUDICE OF GOOD ORDER AND MILITARY DISCIPLINE,

in that he

at diverse times and places between No 3 C.A.C.R.U. and Liverpool between the dates of 24 Jul 43 and 26 Jul 43 was improperly in possession of one or more of four Smith and Wesson .380 in revolvers Nos 831498, 840295, 821183, 839066 the same being public property.

FIFTH CHARGE
A.A. Sec 41 (5)

WHEN ON ACTIVE SERVICE, COMMITTING A CIVIL OFFENCE,

that is to say,

forgery contrary to the provisions of the Forgery Act 1913 Section 4 and amendments thereto, in that he at No 3 C.A.C.R.U. on or about 25 Jul 43 with intent to defraud did forge two vehicle work tickets.

SIXTH CHARGE WHEN ON ACTIVE SERVICE, ABSENTING HIMSELF
A.A. Sec 15 (1) WITHOUT LEAVE,

in that he,

at No 3 C.A.C.R.U. absented himself without leave from 0600 hours 26 Jul 43 until apprehended in Liverpool at 2100 hrs, 28 Jul 43. Returned to Unit at a cost of £2/15/2. (Absent 2 days 15 minutes)

In the Field
31 Aug 43

(C.W. Little) Colonel
Commanding No 3 C.A.C.R.U.

To be tried by F.G.C.M. in the field.

4 Sep 43

(R.J. RUTHERFORD) Brig.,
Comd "E" Gp CRU

Officer Commanding
3 CACRU

1. With reference to my pending trial be Field General Court Martial.

2. I wish that an officer be assigned to represent me at my trial be Field General Court Martial.

In The Field
25 Aug 43

R. Greenaway

HEADQUARTERS "E" GROUP
CANADIAN REINFORCEMENT UNITS

CONFIDENTIAL

HQ/5-4-5
30 Aug 43

Major A. S. Pettapiece
HQ CRU

DISCIPLINE - COURTS MARTIAL
L-[illegible]722 Pte Grennan, Ronald - 3 CACRU
L-100070 Pte Crimp, Gordon - 3 CACRU

1. A Field General Court Martial Composed as under will assemble at 3 CACRU, at 0930 hours, 4 Sep 43, for the trial of the a/m soldiers and any others that may be brought before the Court.

PRESIDENT

Major A. S. Pettapiece CRU

MEMBERS

Captain H. S. Stevens (CAC) 2 CACRU

Lieut. H. M. Gordon (CAC) 2 CACRU

2. A.F.A. 3 and all supporting documents in each case will be handed over to the President of the Court by the Prosecuting Officers the morning of the trial.

3. The accused, prosecuting and defending officers will be given notice thereof and all witnesses will be warned to attend by Officers Commanding Units concerned.

for T. J. Rutherford) Brigadier
Commander "E" Group CRU.

GIE/HA
DHLS/POST

Copy to: 2 CACRU
→ 3 CACRU

FORM OF APPLICATION FOR A COURT-MARTIAL

3 CACRU 1187 Regiment

Station In the Field Date 24 ~~May~~ Aug 1943

Application for a Field General **Court-Martial**

Sir,

I have the honour to submit 4 charges against

No. K.70722 Tpr. Grennan, Ronald

of the unit under my command, and request you will obtain the sanction of his/her authority that a Field General Court-Martial may be assembled for his trial at In the Field

The case was investigated by (a) Lt. G.T. Gale (iii)

A Court of Inquiry was held on (b) N/A (date)

at N/A (Station).

President } Ranks, names and corps.
Members }

The accused is now at 3 CACRU His general character is (c) Fair

I enclose the following documents (d):—

1. 1 Charge Sheet (in duplicate) (e).
2. Summary of Evidence, original (f) and 1 copy.
3. Original Exhibits (g).
4. List of witnesses for the prosecution and defence (with their present stations or addresses) (g).
5. List of Exhibits (h).
6. Correspondence (g).
7. Statement as to character (M.F.B. 355) and regimental and company, etc., conduct sheets (or Field Conduct sheets) of accused (g).
8. Statement by accused as to whether or not he desires to have an officer assigned by the Convening Officer to represent him at the trial (R.P. 14 (B)) (h).

Your obedient servant,

Signature of Commanding Officer W Lance Col

To:

MEDICAL OFFICER'S CERTIFICATE

I certify that No K70422 Tpr. Grennan R. Regiment, is fit to undergo trial by Court-Martial.

Signature of the Medical Officer.

*Insert "fit" or "unfit."

(a) Here insert name of:—
(i) Officer who investigated the charges.
(ii) Company, etc., Commander who made preliminary enquiry into the case.
(iii) Officer who took down the Summary of Evidence (R.P. 19 (B) (iii)).
(b) To be filled in if there has been a Court of Enquiry respecting any matters connected with the charges; otherwise to be struck out (R.P. 18 (B) (iii)).
(c) To be filled in by the Commanding Officer.
(d) Any items not applicable to be struck out.
(e) One copy to be sent to the President; one copy to be filed with the application for trial.
(f) Original summary of evidence to be sent to the President.
(g) 3, 4, 6 and 7 to be returned to the Officer Commanding the unit of the accused with the notice of trial.
(h) 5 and 8 to be sent to the President.
(If the accused has elected to be tried under A.A. 46 (4), the fact should be recorded at the top of this form.)

M.F.B. 321
40-7 & 8/630

M.F.S. 255
12M—5-42 (3723-S)
H.Q. 1772-30-626
A.F.B. 200

STATEMENT AS TO CHARACTER AND PARTICULARS OF SERVICE OF ACCUSED

Number	Rank	Name	Regiment (or unit)
K-70722	Trooper	GRENNAN, Ronald Lismore,	No. 3 C.A.C.R.U.

1. The following is a fair and true summary of the entries in the Conduct sheets LAR Regimental and Squadron Orders LAR or Company conduct sheets of the accused, exclusive of convictions by a Court-Martial or a Civil Court, of summary awards under Section 47 of the Army Act LAR and of cases in which trial has been dispensed with.

Within last 12 months		Since enlistment or appointment	
For A.A. Sec 15(1)	2 times	A.A. Sec. 15(1)	2 times
For A.A. Sec. 9	1 times	A.A. Sec. 9	1 times
For	times		times
For	times		times

~~Number of instances of drunkenness~~ LAR

~~or~~

~~There are no entries in the conduct sheets of the accused~~ LAR

~~Inasmuch as the charge is for drunkenness the entries for drunkenness must be stated separately~~

2. The accused has not been previously convicted LAR

~~or~~

~~By a Court-martial~~ LAR ~~or Civil Court~~

~~Section 47 of the Army Act~~ ~~Air Force Act~~

~~and the following is a summary of such convictions and of summary awards under Section 47 of the Army Act and of cases in which trial has been dispensed with:~~

~~Inasmuch as this is a first conviction no entries are to be found in the conduct sheets of the accused in relation to this conviction~~ LAR

3. The accused is not under sentence at the present time.

~~or~~ LAR

~~The accused was under sentence on the day of the present charge~~

4. The accused has been in confinement awaiting trial on the present charges, for 1 days in civil custody, and 36 days in military custody, making a total of 37 days in custody, of which no. days were spent in hospital.

5. The present age of the accused according to his ~~record of service~~ attestation paper is 17 yrs 358 days as of 24 Aug 43

6. The date of his ~~enrolment~~ specified in his record of service is attestation paper 11 Nov. 41

7. The service which the accused is allowed to reckon towards discharge is 1 yr 285 days as of 24 Aug 43

8. The accused is entitled to reckon 1 yr 285 days service for the purpose of determining his pension, etc.

9. The accused is in possession of or entitled to no ~~service~~ military decoration, or ~~service~~ military reward (~~or is in possession of or entitled to no service~~ ~~decoration or reward~~) LAR

10. ~~The accused is a warrant officer. The accused reckons his service as a warrant officer from~~ ~~the date~~ ~~that he was granted rank of~~ LAR

11. (In the case of an officer.) The accused holds in the Royal Canadian Air Force the rank of Permanent Force unit

dated ; and in his regiment (or corps), the rank of

dated .

12. The accused has served as a non-commissioned officer continuously, without reduction, to the present date:—

Date of promotion.

In the rank of years.

In the rank of years.

In the rank of years.

NOTE.—If any matter in any of the above paragraphs cannot be stated from the Regimental books, the paragraph must be struck through.

SCHEDULE

Of convictions by a court-martial or civil court, of summary awards under Section 47 of the Air Force Act, and of cases in which trial has been dispensed with of accused, Number Rank

Name of Unit Regiment

NOTE.—A verbatim extract from the regimental books stating these convictions and dispensations with trial must be inserted.

Description of Court by which tried	Date and Place of Trial	Charge upon which convicted	Sentence of the Court	Punishments Remitted

I hereby certify that the foregoing schedule of convictions and dispensations with trial is a true extract from the regimental books in my custody.

Signed this 7th day of Sept. 43 L.A. Rowe, Flt Lt
(Records Officer R.C.A.F.)

The above statement (with the schedule of convictions and of cases in which trial has been dispensed with) is read, marked signed by the president, and annexed to the proceedings.

Arthur L. Bettgen, Major

No. K70722 Name Grennan, Ronald | Sqn., Battery, or Company | Corps C.A.C. | Date of enlistment 11/10/41 | G.C. Badges | Service or Proficiency Pay N.A. | M.F.M. 6 (A.F.B. 122) 40/P & S/130 (2637)

Date of last entry in Company Conduct Sheet N.A. | No. and date of last drunk N.A. | Period not reckoning towards freedom from extra fine | Sheet No. "1" | Signature O.C. Company, etc. | Character

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
				Sheet No 1 destroyed 12/4/42					
Field	9.10.42	Tpr		WOAS AWL from parade from 1545 hrs 90ct 42 until 1630 hrs 9 Oct 42 (absent 45 min) A.A. Sec 15(1)	K 873 Cpl DuPlessis R.J.	3 dys C.B.	12/10/42	Major C.A. West	C.A.W.
Field	30 Nov 42	Tpr		Disobeying a lawful Command given by his superior officer after being warned personally to have his webbing blancoed. A.A. Sec 9	S.S.M. HILL G.T.	7 days C.B.	1 Dec 42	Lt Col H.M. Sharp	H.M.S.

(P.T.O.)

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Field	30 Jun	Tpr		A.A. Sec 15 (1) W.O.A.S. AWL from 1200 hrs 30 Jun 43. until 1355 hrs 2 Jul 43 (absent 2 dys 1 Hr 55 min)	Documentary (Cpl Jordan W.O.)	5 Days F.P. 5 Days Pay FR&I 149 1 (b)	3 Jul 43	Col G.W. Little	Forfeits 3 days pay FRI 149 1 (a)

(Certified true copy taken from Regimental Books held in my custody)

A.C. Lawson CAPT.
ADJUTANT 3 C.A.C.R.U.
25 Aug 43.

Arthur S. Bettjeman Major

TT-146 (Case #2)
TPR GRENNAN R.
See PP-80 for last case

K-70722 Tpr Grennan, R.
3 CACRU TT-146

Correspondence to be PINNED here.

Army Form A.3.

Form for Assembly and Proceedings of Field General Court Martial on Active Service.

PROCEEDINGS.

A.

Order convening the Court.

On Active Service, this twentieth day of October, 19 43.

Whereas it appears to me, the undersigned, an officer in Command of "g" Group, Canadian Reinforcement Units, on active service, that the persons named in the annexed Schedule, being subject to Military Law, have committed the offences in the said Schedule mentioned.

And whereas I am of opinion that it is not practicable that such offences should be tried by an ordinary General Court Martial; [redacted]

*Omit where Convening Officer is a Commanding Officer or is of Field Rank.

I hereby convene a Field General Court Martial to try the said persons, and to consist of the Officers appointed or detailed hereunder.

[redacted]

*Omit if not applicable.

for the following reasons, namely :—]

	President.	
Rank.	Name.	Regiment.
Lt.-Col.	D.L. Redman, VD	CRU
	Members.	
Rank.	Name.	Regiment.
Captain		2 CACRU
Lieut.		2 CACRU

NOTE.—The President must be named. The members and waiting members (if any) may be mentioned by name, or the number and ranks and the unit to which they belong may alone be named. In the latter event, the ranks, names, &c., of the members of the Court, as constituted, will be recorded on the proceedings.

*Signed (T.J. RUTHERFORD) Brig.,
Commanding "E" Group, CRU
Convening Officer.

*Must be signed personally by the Officer actually in command at the time, and all alterations in the composition of the Court to be initialled by him.

SCHEDULE

Number, Rank (a), Name and Unit of Accused (b)	Offence charged	*Plea	Finding, and if Convicted, Sentence (c)	How dealt with by Confirming Officer (d)
K-70722 Tpr Grennan, R. 3 CACRU	FIRST CHARGE A.A. Sec 22 See charge sheet attached	Guilty	Guilty	Finding and sentence confirmed JPR
	SECOND CHARGE A.A. Sec 15 (1) See charge sheet attached	Guilty	Guilty	

Sentence

To undergo Detention per a period of Fourteen (14) months and to be put under Stoppages of pay until he has made good £1-11-2 the expenses of his arrest & return

21st Oct 1943

MM

*Question to be asked of accused, if he pleads not guilty (R. of P. 39 (A)) :—
"Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity for preparing your defence?"
Answer (*to be recorded on separate sheet if necessary*) :—

(Signed) W.J. Rutherford (Signed) MMMcNaughtane
(W.J. RUTHERFORD) Brig.,
Commanding "E" Group, CRU
Convening Officer (e) President.

(a) Appointment acting rank or acting appointment, if any, to be stated in brackets after the substantive rank.
(b) Unless unavoidable, not more than three names are to be entered on one form, and in serious cases one only.
(c) Recommendation to mercy, if any, to be inserted in this column.
(d) It is not necessary that the Confirming Officer should sign his name in this column. Initials are sufficient.
(e) Must be signed by the same Officer who signs on the first page, and all alterations in the first two columns of the Schedule to be initialled by him.

Evidence and Charge Sheets (if necessary) to be PINNED here.

B. Certificate of President as to proceedings.

I certify that the above Court assembled on the 21st day of October 1943 and duly tried the persons named in the Schedule, and that the plea, finding, and sentence in the case of each such person were as stated in the third and fourth columns of that Schedule.

I also certify that :—

1. The members of the Court
2. ~~The witnesses~~
3. ~~The Interpreter~~
4. The officers under instruction

were duly sworn.

*Omit if not applicable.

Signed this 21st day of Oct 1943

MMMcNaughtane
President of the Court Martial.

C. Certificate in case of death sentences.

*See footnote (b) on page 762 M.M.L. 1929. ~~I certify that the terms of *A.C.I. 570 of 1918 have~~ complied with been

~~Signed this day of 19 .~~

President of the Court Martial.

D. Confirmation.

I have dealt with the findings and sentences in the manner stated in the last column of the Schedule, and, subject to what I have there stated, I hereby confirm the above findings and sentences.

*(~~I direct that the soldier named in the margin be not committed to prison or detention barrack until further orders.~~)

*To be omitted unless penal servitude, imprisonment or detention having been awarded, the Confirming Officer either has no authority to commit to prison or detention barrack, or, having such authority, recommends suspension.

Signed this 22 day of Oct 1943.

W.J. Rutherford Brig.
Confirming Officer.

K 70722 Tpr. Grennan R. 3 CACRU

Promulgated and extracts taken in the case of

(a) (Dated) 25 Oct 43 (Signed) H Lawson Capt adjt 3 CACRU

Promulgated and extracts taken in the case of

(Dated) (Signed)

Promulgated and extracts taken in the case of

(Dated) (Signed)

(a) When several cases are promulgated in one unit on the same day the Officer need only sign once.

(23579) Wt.46179/803 10,000 2-43 A.&E.W.,Ltd. Gp.693

16 Apr 44.

These proceedings handed to AJAG First Edn Army (Lt. Col Norris). To be returned when he has finished with them.

W Shaycraft Lieut
JAG. Recs 2.

CHARGE SHEET

The Accused, K-70722 Tpr. Grennan, Ronald, a soldier of the Canadian Army Overseas on the strength of No. 3 Canadian Armoured Corps Reinforcement Unit is charged with

FIRST CHARGE
A.A.Sec.22

While on Active Service, When in Confinement Escaping

in that he

On 10 Sep 43 at 1945 hrs when in confinement in West Frith Guard Room escaped.

SECOND CHARGE
A.A.Sec.15(1)

When on Active Service Absenting Himself Without Leave

in that he

Absented himself without leave from No. 3 C.A.C.R.U. from 1945 hrs 10 Sep 43 until apprehended by the Canadian Provost Corps at Bolton at 1440 hrs 10 Oct 43.

(Total Time Absent: 29 days, 18 hrs, 35 min.)

Costs of Apprehension: £1-11-2

.....
G.W. Little, Col.
Commanding
No. 3 C.A.C.R.U.

In the Field
15 Oct 43

To be tried by F.G.C.M. in the Field.

20 Oct 43 (T.G. RUTHERFORD) Brig.,
Comd 1 Armd Group, CRU

Medical Officer's Certificate
K.R.(Can) para 557.

I certify that I have this morning examined No. K 70722
Tpr. (rank) Grennan R. (Name) and in my opinion he is fit to undergo trail by Court Martial.

Station Field

Date. 21-10-43

(Sgd) [illegible]
(Medical Officer)

PROCEEDINGS OF A FIELD GENERAL COURT-MARTIAL
HELD AT DeHigen Brks Binbrook Manr
ON THE 21 DAY OF Oct 1943

The accused K 70722 Fus R GRENNAN Unit 3 CAGRU

The order convening the Court and charge sheet are laid before the Court, who satisfied themselves as provided by Rs.P. 22 and 23.

The accused is brought before the Court.
The Medical Certificate is laid before the Court.
The order convening the Court is read by the President and the accused having been asked, stated that he had no objection to the President or any Member of the Court.
The Court is duly sworn.

The following constitute the Court:-

President Lt Col PL Redman RCA Unit HQ CRU

Members Capt R Cannings Unit 2 CAGRU

Lieut J.C. Chaffell Unit 2 CAGRU

The officers under instruction are duly sworn:-

Lieut M. Bourque Unit 3 CAGRU

..... Unit .....

Prosecutor Lieut M.L. Magill Unit 3 CAGRU

Defending Officer Lieut RS Satchell Unit 3 CAGRU

The charge sheet is signed by the President and the accused is arraigned.
The accused pleads guilty to the charge(s) and R.P. 35(B) is complied with.
The accused does not desire to make a statement in reference to the charge(s). R.P. 37(B).
The Summary of Evidence is read.
The Prosecutor produces MFB 355, ~~AFB 296~~ and MFM 6.
The Court complies with R.P. 36(B).

Pursuant to R.P. 37 THE ACCUSED:-

~~(a) Makes a statement in mitigation of punishment.~~
(b) Calls witnesses as to character. ~~called~~
~~(c) Calls witnesses in mitigation of punishment.~~
(d) Addresses the Court by his Defending Officer. ~~Admitted~~

Overseas R.O. 3262 complied with.
The Court is closed to consider the sentence.

SUMMARY OF STATEMENT IN MITIGATION, CHARACTER EVIDENCE and ADDRESS OF ACCUSED OR HIS DEFENDING OFFICER.

Hants, England
21 Oct 43

To Whom it may Concern

I, Capt. A. L. Dilley of the strength of #3 CACRU, employed as Technical Adjutant do hereby certify that K-70722 Pte Freeman R was employed by me as a Wheel Driver for a period of approximately ten months until such time as he decided to absent himself from duty in the latter part of July 1943. Up until that time he had discharged his duties satisfactorily and was found to be reliable and I personally have nothing against Pte Freeman. During the ten months an attempt was made to have Freeman transferred to the Pioneer Corp, where he seemed to go since he was unfit for the Army and nothing in particular could be done for him toward getting him back to the field Regiment from where he came. This however was impossible as it entailed a discharge from the Army and it seems that he would not consent to this movement

I do however wish to state on behalf of Pte Freeman R that while employed by me, he was what I would consider a good soldier.

A. L. Dilley Capt
Tech Adj
#3 CACRU

To Corporal Officers - Guard of 14 07 22 Pte R Grennan

I am sending this note from the pte whom it comes before the proper officers for Revision. Please note the blue in indigation This boy is 18. His conduct sheet is satisfactory for the last month he was sentenced in Sept. He admits such a much older man. He appears to be a boy of good parentage & education. He is of good appearance & was adopted he is very ashamed and especially the disgrace to his family that a substitution remain made in the new picture would be a sound thing to do.

Pte [illegible]
Pte of G. C. M.

Plea in Mitigation of Punishment

Tpr. Brennan R. K 70722

The Defence wishes to make this plea in mitigation of punishment on behalf of the accused.—

During the impressionable years most of us were fortunate enough to have a father, mother and a home. Tpr Brennan forfeited this to join the army. He was 16 when he joined up and is now only 18. He enjoys the army and was very happy with his regt. Then the inevitable happened, they found out his age and back he came to CA.C.R.D. That was in Dec. 42. Prior to this time he had had a clean crime sheet. I don't have to point out where the fault lies. This is only one of many similar cases and I'm afraid not the last.

This lad is now faced, regardless of the outcome of this trial with 1 years detention, it is his second court-martial within 2 months. A prison sentence isn't going to help. What he needs is what he has asked for many times, guidance (someone to take an interest in his case) and a course (to occupy his mind and train him for something useful) (not) return to Canada without delay.

He is not a hardened criminal (young and perhaps a bit impetuous and energetic) anyone can see that by merely looking at him but to give the court further assurances, a brief survey of his life would prove this without doubt.

At 15½ he served as a radio operator (civil service) for 6 months prior to joining the army. He enlisted in the army Oct 11/41, went through basic, advanced, and 2 months 3 CA.C.R.D. with no trouble. He was posted to the 3rd CDF and was very happy with them. He enjoys the army and is quite able to pull his weight. It was after they found out his age and sent him back to CA.C.R.D. that the trouble started. He was given a job as a truck driver and inspite of his requests for courses

or discharge with a view to getting in the Merchant Navy. He got no satisfaction, till in the end he tried going A.W.L. to see if that would impress the powers that be of his boredom. Still no aid was forth coming. In addition he was told by the P.S.O. - he could not take a course till he was 18 and could not go to the field till he was 19. Sitting in camp on Saturday afternoon broke and in this frame of mind he and a friend decided to take a truck and go to Liverpool. A few days later he was apprehended court martialled and sentenced to 1 years detention. Brooding over this sentence, being classed as unfit to go to the field and the disgrace he would cause his family all went toward, as he thought, justifying his leaving again. On arriving back at C.A.C.R.D. this time he received word of his brothers death in the R.C.A.F.

The knowledge of his brother making the supreme sacrifice and his being in jail, helpless to do anything about it is punishment enough for any man.

His eyes bringing goes further to prove his not intensionaly bad, with a father a recently retired captain from the R.C.M.P. 35 years service with good conduct and long service medals to his credit. His family for generations have been soldiers and this generation he and his two brothers joined the services.

In view of all these facts it would appear to me that a little guidance and steadying influence would go further to rectify this situation and turn out a good soldier for the canadian army bone his family could be proud of rather than a long detention sentence which well might leave its mark on the mind and outlook of so young a soldier. Therefore I would ask that the utmost leniency exercised in this case.

Lieut W. Hall B.C.D.
Capt A. Tilley Tech Adjt. 3 C.A.C.R.D.

EXHIBIT "A"

3 CANADIAN ARMOURED CORPS REINFORCEMENT UNIT
PART II ORDERS
by

Last Order No. 216, Dated 16 Sep 43 | Lt-Col. E.W. RICK, A/Commanding Officer | This Order No. 217, Dated 17 Sep 43.

"A"

1. STRENGTH INCREASE:

(a) Capt. E.P.J. ZUERRER, is T.O.S. from "Q" List w.e.f. 14 Sep 43 and is posted to "C" Sqn Reinfs. (Auth: MS/7256, d/10 Sep 43).

(b) T.O.S. from Units as shown w.e.f. 14 Aug 43 and are posted to Reinfs "D" Sqn. (Auth: ESI/1029, d/16 Sep 43)

Capt. L.W. CLARK, (26 C.A.T.R.)
Capt. W.W. LAWRENCE, (26 C.A.T.R.)
Capt. S.A.H. CRESSEY, (26 C.A.T.R.)
Capt. H.J.L. DYER, (23 C.A.T.R.)
Capt. W.F. HIGGINS, (23 C.A.T.R.)

(c) Lieut. J.R. PATTERSON, is T.O.S. from C.M.H.Q. (Educational Services) w.e.f. 10 Sep 43 and is posted to Reinfs "E" Sqn (Auth: CMHQ/MS/7223, d/8 Sep 43)

(d) Cancellation: Pt II DO 216, d/16 Sep 43 para 1(b) insofar as it pertains to Lieut. A.E. BIDDLECOMBE delete all reference.

(e) Cancellation: Pt II DO 216, d/16 Sep 43 para 1(b) insofar as it pertains to A/Capt. J.R. PATTERSON, delete all reference.

2. ATTACHMENTS:

Capt. E.P.J. ZUERRER, is att'd f.s.p. to CMHQ w.e.f. 14 Sep 43. (Auth: MS/7256, d/10 Sep 43)

3. COURSES:

(a) Lieut. G.B.C. FENTON, proceeded on CRU Crse 2 at No. 1 C.E.R.U. w.e.f. 15 Sep 43 (Auth: EG/4-6-2, d/8 Sep 43)

(b) Lieut. H.E. STEGMAYER, returned from CMHQ Crse 858 Ser 455c w.e.f. 15 Sep 43 at Lulworth.

4. ON COMMAND:

Lieut. G.B. JANISSE, (B SQN) proceeded on command to CMHQ (Records) w.e.f. 16 Sep 43 (Auth: C.R.O. 1864)

5. LEAVES:

Major E.A.W. MILES proceeded on P.L. (9 days) from 3 Sep 43 to 12 Sep 43 and is granted M.A. in lieu of rations under FR&I (6) 789 (3)4(4) as amended by C.R.O. 2459.

6. QUALIFICATIONS:

Lieut. K.C. CLARKE, attended CMHQ Crse 805 Ser 17 (A.A. & A.R.) from 29 Aug 43 to 11 Sep 43 and qualified "Q-1".

7. CHANGE OF ADDRESS OF NEXT OF KIN:

Lieut. B.H. PARSONS, change address of next of kin to:
Mr. Edward PARSONS, (Father)
1959 Hampshire Rd., Oak Bay, Victoria, British Columbia Canada.

"B"

8. STRENGTH INCREASE:

(a) M-20704 Pte. McDONALD, C.A. is T.O.S. from No. 1 C.A.S.C.R.U. w.e.f. 2 Sep 43 and is posted to Reinfs "C" Sqn (Auth: CRU/408/3 CACRU/1(SCA) d/27 Aug 43)

(b) K-13015 Cadet R.A. CLARKE, is T.O.S. from No. 3 C.A.R.U. w.e.f. 19 Jul 43 and is posted to Reinfs "B" Sqn (Auth: CMHQ Circ Ltr No. 24/42)

(c) A-11435 Pte. KOHLMEIER, H. is T.O.S. from 11th C.I.B. Sp. Coy. w.e.f. 14 Sep 43, and is posted to Reinfs "D" Sqn (Auth: ES1/1089, d/16 Sep 43)

(d) H-103390 Tpr. REMPEL, J. is T.O.S. from HQ CRU w.e.f. 15 Sep 43 and is posted to Reinfs "D" Sqn. (Auth: CRU/408/HQ CRU/1 (SCA), d/14 Sep 43).

(e) K-76112 Tpr. SMITH, J. is T.O.S. from 9th C.A.R. w.e.f. 16 Sep 43 and is posted to Reinfs "D" Sqn. (Auth: CA7/6610, d/9 Sep 43)

(f) D-165 Tpr. THERIAULT, E. (Gnr Oper "C") is T.O.S. from HQ 5 CAD w.e.f. 10 Sep 43 on adm to No. 18 Cdn Gen Hosp and is posted to Reinfs "D" Sqn. (Auth: HQ 5 CAD Pt II DO 42, d/17 Sep 43)

(g) B-61835 Cpl. MEAD, J.A. is T.O.S. from HQ 4 CAB w.e.f. 10 Aug 43 while attending Waterproofing Cres (Sherman Tks) and is posted to Reinfs "A" Sqn (Auth: HQ 4 CAB Pt II DO 40, d/14 Sep 43)

(h) T.O.S. from HQ 4 CAB w.e.f. 10 Aug 43 while attending Sherman Gunnery Cres Ser 465c at AFV School (Lulworth) and are posted to Reinfs "A" Sqn (Auth: HQ 4 CAB Pt II DO 40, d/14 Sep 43)

B-62545 Tpr. STRONG, G.E. A-55017 Sgt. YOUELL, H.

(i) B-62200 Tpr. INGLEMAN, W.A. is T.O.S. from 2 C.A.R. w.e.f. 13 Sep 43 on adm to No. 18 Cdn Gen Hosp and is posted to Reinfs "D" Sqn (Auth: 2 CAR Pt II DO 49, d/21 Sep 43)

(j) B-61358 Tpr. WILLIAMS, A.E. is T.O.S. from 2 C.A.R. w.e.f. 12 Sep 43 on adm to No. 18 Cdn Gen Hosp and is posted to Reinfs "D" Sqn (Auth: 2 CAR Pt II DO 49, d/21 Sep 43)

(k) H-43 Tpr. GALLANT, C.J. (Dvr Mech (TK) "C") is T.O.S. from 2 CAR w.e.f. 9 Sep 43 on adm to No. 18 Cdn Gen Hosp and is posted to Reinfs "D" Sqn (Auth: 2 CAR Pt II DO 49, d/21 Sep 43)

(l) L-84624 Tpr. McGREGOR, C.H.D. is T.O.S. from 28 CAR w.e.f. 4 Sep 43 on adm to No. 17 Cdn Gen Hosp and is posted to Reinfs "C" Sqn (Auth: 28 CAR Pt II DO 42, d/16 Sep 43)

(m) K-37916 Cpl. (A/Sgt) MALLBANK, G.D. is T.O.S. from 28 CAR w.e.f. 10 Aug 43 whileattending CMHQ Cres 856 (Sherman D&M) at AFV School and is posted to Reinfs "C" Sqn (Auth: 28 CAR Pt II DO 42, d/16 Sep 43)(To retain acting rank)

(n) G-27901 Tpr. STEVENS, H.J. (Gnr Oper "C") is T.O.S. from 5 CAR w.e.f. 9 Sep 43 on adm to No. 6 Cdn C.C.S. and is posted to Reinfs "D" Sqn (Auth: 5 CAR Pt II DO 42, d/17 Sep 43)

(o) F-32393 Tpr. MAILLET, W.P. is T.O.S. from 5 CAR w.e.f. 6 Sep 43 on adm to Mil Hosp, Preston, Lancs, and is posted to Reinfs "D" Sqn (Auth: 5 CAR Pt II DO 42, d/17 Sep 43)

(p) T.O.S. from 28 CAR w.e.f. 25 Aug 43 and are posted to Reinfs "C" Sqn. (Auth: 28 CAR Pt II DO 42, d/16 Sep 43)

K-37570 Cpl. MacDONALD, N.H.E. K-37722 Tpr(A/Cpl) NICHOLS, J.E. (To retain acting rank)

8. STRENGTH INCREASE: (Cont)

(q) D-129411 Gdsmn. HOLDEN, G. is T.O.S. from 22 CAR w.e.f. 7 Sep 43 on ndm to No. 17 Can Gen Hosp and is posted to Reinfs 4th Sqn (Auth: 22 CAR Pt II DO 41, d/13 Sep 43)

(r) Cancellation: Pt II DO 201, d/30 Aug 43 para 7(c) insofar as it pertains to the u/m O/Rs delete all reference. (Auth: 22 CAR Pt II DO 41, d/13 Sep 43)

D-27103 Cpl(A/L/Sgt) MacDONALD, H.W. D-56623 Gdsmn. SMYTHE, W.J.

(s) Amendment: Pt II DO 216, d/16 Sep 43 para 6(a) insofar as it pertains to A-102366 Tpr. GIMBLETT, P.J. should read A-102366 Tpr. GIMBLETT, P.J.

9. ATTACHMENTS:

(a) B-62436 Tpr. HALL, A.B. was att'd f.n.p. to Can Section 2nd Echelon from 4 Sep 43 to 12 Sep 43. (Auth: Can Sect GHQ 2nd Echelon Pt II DO 61, d/4 Sep 43 and Pt II DO 63, d/14 Sep 43).

(b) K-37826 A/L/Cpl. MOON, H. is att'd f.n.p. from 28 CAR w.e.f. 20 Aug 43. and att'd to HQ Sqn (Auth: 28 [illegible] II DO 47, d/11 Sep 43).

(c) F-30163 Tpr. DEAL, C.V. o.t.b.n. f.n.p. from 5th CAR w.e.f. 10 Sep 43 (Auth: CA7/C996, d/6 Sep 43)

(d) B-61253 Tpr. PAYNE, B./c.t.b.n. f.n.p. to No. 1 C.B.O.D. w.e.f. 15 Sep 43. (Admin Wing Reinfs)

(e) K-5022 Bdr. HAKINS, G.F. o.t.b.n. f.n.p. from 6th Can Fd Regt RCA on ndm to No. 17 Can Gen Hosp w.e.f. 14 Sep 43

(f) D-21442 Signmn. TENNIS, J.W. o.t.b.n. for RCAF from Sigs Sect GHQ w.e.f. 9 Sep 43. (Auth: Sigs Sqn Pt II DO 30, d/10 Sep 43)

(g) The u/m O/Rs are att'd f.n.p. from Units as shown w.e.f. 11 Sep 43 while attending CMHQ Crse 749 Ser Fd 2 at No. 6 M.C.T.C.

F-68496	Gnr.	SHEFFIELD,	L.C.	2nd Can HAA Regt RCA (RCASC)
B-53841	Pte.	BRAZEAU,	T.E.	4th Can Armd Div Tps Coy./
B-23856	Gnr.	HOLDEN,	A.H.	23rd SP Regt RCHA.
H-35912	Pte.	PARKER,	S.	No. 3 C.C.S. (RCAMC)
H-35885	Pte.	ROSHER,	L.	No. 3 C.C.S. (RCAMC)
K-68220	Cpr.	JONES,	T.E.	30th Can Fd Coy., RCE.
B-23367	Sgr.	GRAY,	R.H.	30th Can Fd Coy., RCE.
D-127016	Sgr.	GIRLIN,	J.B.	30th Can Fd Coy., RCE.
M-67747	Sgr.	FLEXHUG,	L.T.	23rd Can SP RCHA.
D-136039	L/B.	BRADSHAW,	L.W.	23rd Can SP RCHA.
F-13203	L/B.	MCLAWSON,	J.C.	15th Can Fd Regt RCA.
M-28399	L/B.	SHRIMPTON,	W.	

(h) L-3041 Pte. SHANDON, H.B. is att'd f.n.p. from No. 1 C.B.O.D. w.e.f. 12 Sep 43, whilst attending CMHQ Crse 719 Ser 80B at No. 6 M.C.T.C.

(i) The u/m O/Rs are att'd f.n.p. from No. 5 CAB w.e.f. 10 Sep 43 on ndm to No. 1 C.C.R.U. (Auth: 5 CAB G-3, d/22 Aug 43)

B-102793 Tpr. CHARTIER, F.J. C-101031 Tpr. LABELLE, L.

B-63451 Tpr. MONTGOMERY, E.

(j) F-68931 Bdr. CASHLEY, L.E. o.t.b.n. f.n.p. from No. 1 C.R.U. w.e.f. 10 Sep 43 on completion of Crse at CAC School.

9. ATTACHMENTS: (Cont)

(k) The u/m O/Rs c.t.b.o. f.a.p. from 3rd A/T Regt RCA. w.e.f. 11 Sep 43 on completion of Crse at CAC School.

G-48983	L/Bdr.	FARRELL,	M.	E-21698	Gnr.	SMITH,	H.
C-1293	Gnr.	DEWAR,	W.D.	C-49056	"	JOHNSTON,	R.D.
M-100338	"	HICKLEY,	D.C.	G-6072	"	PARKS,	G.S.
G-49062	"	FOSQUIL,	B.G.	G-5212	"	ARSENAULT,	H.B.
G-49069	"	FOX,	C.E.	G-6007	"	MacDONALD,	F.J.

(l) The u/m O/Rs c.t.b.o. f.a.p. from Units as shown w.e.f. 13 Sep 43 on completion of CMHQ Crse 719 Gnr 6dr at No. 6 T.C.T.C.

B-95915	Pte.	MANN,	A.H.	No. 1 C.G.R.U.
B-76060	"	SIMPSON,	E.J.	No. 1 C.G.R.U.
M-85915	"	ROSS,	W.	No. 1 C.G.R.U.
H-567903	"	LEVIN,	G.G.	No. 1 C.A.S.C.R.U.
C-32241	"	LAPAVE,	E.	No. 1 C.A.B.C.R.U.
B-84172	"	AIKENHEAD,	R.R.	No. 1 C.A.B.C.R.U.
B-126730	"	THNUSSLER,	A.	No. 1 C.A.B.C.R.U.
E-14518	"	LALANDERIE,	C.M.	No. 1 C.A.B.C.R.U.
A-44699	"	MITCHELL,	J.G.	No. 1 C.A.B.C.R.U.
H-66477	"	MacDONALD,	F.	No. 1 C.A.B.C.R.U.
M-100883	"	STUYT,	T.	No. 1 C.E.R.U.
H-87566	"	KIRKHAM,	B.H.	No. 1 C.E.R.U.
B-22952	Sgr.	BEAVAN,	C.T.	No. 1 C.E.R.U.
B-29552	"	HALL,	L.V.	No. 1 C.E.R.U.
L-19611	"	SCOTT,	R.T.	No. 2 C.I.R.U.
H-62135	"	KINCAID,	J.C.	No. 2 C.I.R.U.
B-75361	Pte.	MacLEAN,	T.	No. 7 C.I.R.U.
F-96601	"	LUTZ,	E.T.	No. 7 C.I.R.U.
F-55357	"	ROSS,	W.F.	No. 2 C.A.R.U.
G-22324	"	HAOHL,	E.J.	No. 2 C.A.R.U.
D-14607	Gnr.	DUCLOS,	V.	No. 2 C.A.R.U.
E-12063	"	JAMES,	W.J.	No. 1 C.A.S.C.R.U.
B-6736	"	TURRELL,	J.F.	No. 1 C.A.S.C.R.U.
M-60410	"	WARD,	F.	No. 1 C.A.S.C.R.U. 12 Sep 43 while on
D-91254	Pte.	McLEAN,		No. 2nd CAR w.e.f. 12 Sep 43

(m) The W/ O/Rs are att'd f.a.p. from 2nd CAR w.e.f. 12 Sep 43 while on Crse at CAC School, and are att'd to "B" Sqn.

K-53891	Tpr.	BARR, P.S.		M-50302	Tpr.	RIX, K.G.M.	
M-63573	"	NICHOLS, H.C.		H-266	"	BIRD, M.F.	
L-2690	"	NEWINK, C.E.		H-35	"	WILIS, A.A.	

(n) B-69925 Tpr. SIBBOM, T.H. w.t.b.a. f.a.p. to No. 2 Base Depot Med Stores w.e.f. 15 Sep 43 and is re-att'd f.a.p. to No. 3 Base Depot Med. Stores w.e.f. 16 Sep 43.. (Auth: MT/5500 (A&Q), d/11 Sep 43)

(o) L-36332 L/Sgt. HARVEY, J.S. c.t.b.a. f.a.p. to 2 CAR w.e.f. 7 Sep 43. (Auth: 2A7/6125, d/28 Aug 43)

(p) Republication: No. 1 C.B.O.D. Pt II DO 165, d/9 Sep 43.

The u/m O/Rs c.t.b.a. f.a.p. to No. 1 B/Depot RCOC w.e.f. 7 Sep 43. re-att'd f.a.p. to No. 1 C.B.O.D. w.e.f. 6 Sep 43 and are

L-83716	Tpr.	BOHNET, F.V.		K-99647	Tpr.	DESJARDINS, L.J.	
D-58049	"	DUCHARME, J.		B-17124	"	FERGUSON, A.	
B-134678	"	FULLER, C.F.		K-99164	"	HANSEN, L.S.	
H-94465	"	HOWARD, W.		E-40436	"	MORRISON, E.H.	
B-17128	A/Cpl.	McDONALD, E.D.		M-36925	"	OCHRYMOWICH, T.V.	
H-63839	Tpr.	PURNELL, L.E.C.		K-55909	"	REIMAN, E.D.	
B-133694	"	SWITZER, A.E.		D-137685	"	TAYLOR, F.	
D-137555	"	THERRIEN, G.C.E.					

9. ATTACHMENTS: (Cont)

(q) The u/m O/Rs are att'd f.a.p. from No. 6 Cdn Constr Coy RCE w.e.f. 15 Sep 43.

D-114826 Spr. HANSEN, E. L-10423 Spr. POTTY, R.H.

(r) The u/m O/Rs are att'd f.a.p. except duty from C.M.H.Q. from 9 Sep 43 to 15 Sep 43 and are att'd to Admin Wing, (No. 3 Cdn Ident, Unit)

B-64077 Sgt. LAND, W.
C-79171 Pte. CHARTRAND, E.F. K-83640 Pte. DEVINE, F.W.
D-91060 Pte. GUILBAULT, E. M-66158 Pte. GOUIN, C.E. (C.D.C.)
D-127411Pte. ROBIN, A. D-123116Pte. LAPOINTE, D.
D-126566Pte. QUIMPER, A.

(s) B-58978 Pte. CRAFTCHICK, T.J. is att'd f.a.p. except duty from C.M.H.Q. from 14 Sep 43 to 15 Sep 43 and is att'd to Admin Wing (#3 Ident Unit).

(t) Amendment: Pt II DO 204, d/2 Sep 43 para 8(f) insofar as it pertains to the u/m O/Rs change "w.e.f. 12 Aug 43"to read " w.e.f. 13 Aug 43".

B-53373 Cpl. GLOVER, J.J. F-30083 Cpl. BOMER, R.F.

(u) Amendment: Pt II DO 214, d/14 Sep 43 para 6(n) insofar as it pertains to E-0245 Tpr. MALLOY, L. is amended to read"E-0245 Tpr. MALLOY, L."

(v) Amendment: Pt II DO 142, d/21 Jun 43 para 15(b) insofar as it pertains to K-1030 CSM. LAMONT, F.G. amend to read "K-1030 A/Sqn SM LAMONT, F.G." (Obs Sheet A-776, d/7 Sep 43)

(w) Amendment: Pt II DO 211, d/10 Sep 43 para 10(p) insofar as it pertains to H-54829 Gnr. EDWARDS, C.J. change "e.t.b.a. f.a.p. from 14th Fd Regt. RCA"to read "e.t.b.a. f.a.p. from No. 1 C.A.R.U." and change "re-att'd f.a.p. from 14th Fd Regt RCA" to read "re-att'd f.a.p. from No. 1 C.A.R.U."

(x) Amendment: Pt II DO 204, d/2 Sep 43 para 8(h) insofar as it pertains to B-49283 Sgt. TAYLOR, H.A. change "att'd f.a.p. from HQ 5 CAB" to read "att'd f.a.p. from HQ 5 CAD"

(y) B-49283 Sgt. TAYLOR, H.A. e.t.b.a. f.a.p. from HQ 5 CAB on proceeding "on command" to No. 1 Cdn OCTU Sqn. Centre w.e.f. 8 Sep 43 and is re-att'd f.a.p. from HQ 5 CAB on returning from "on command" to No. 1 Cdn OCTU Sqn. Centre w.e.f. 11 Sep 43. (Auth: EA7/6201, d/30 Aug 43)

(z) A-3155 Cpl. WOODWARD, H.W. e.t.b.a. f.a.p. to No. 1 Cdn Pre-OCTU School w.e.f. 25 Aug 43.

10. COURSES:

(a) The u/m O/Rs returned from Mine and Booby Trap Crse at No. 1 C.E.R.U. w.e.f. 15 Sep 43.

C-40042 Sgt. HEADLEY, G.W. C-41303 L/S. HALLIDAY, R.B.

(b) The u/m O/Rs returned from CMHQ Crse 719 at No. 6 E.C.T.C. w.e.f. 13 Sep 43

B-62113 Tpr. MARNOCK, T. L-54862 Tpr. HALLIWELL, W.

(c) The u/m O/Rs proceeded on CMH Crse 2 at No. 1 C.E.R.U. w.e.f. 15 Sep 43. (Auth: Ba/L-6-2, A/6 Sep 43)

B-61302 A/Sgt. BASHEN, L.J. (Spec Inq)
C-40206 Sgt. TUHMAN, N.H. "A"

10 COURSES: (Cont)

(d) K-13015 Cadet CLARKE, R.A. (B BOM) proceeded on Basic OCTU Cree and is attd f.n.p. to C.T.S. w.e.f. 19 Jul 43.

(e) The u/m O/Rs returned from Basic OCTU Cree and c.t.b.n. f.n.p. to CTS w.e.f. 4 Sep 43.

K-37809	Cadet.	AUSTAD,	M.L.	K-53694	Cadet.	BAILEY,	W.
K-37857	"	BELL,	D.G.	P-3468	"	BINNIE,	J.
M-68619	"	BOAS,	W.F.	K-78979	"	BOULDEN,	J.
M-62351	"	BRUNNER,	J.H.	P-3381	"	CAUTHILL,	R.P.C.
K-45667	"	CHAMBERS,	E.W.	K-844	"	CHALMERS,	C.
K-13015	"	CLARK,	R.A.	B-73366	"	CLARKE,	C.
K-37695	"	CLAYTON,	R.M.	K-74840	"	COOPER,	J.F.
O-11563	"	DOWD,	W.S.	H-44	"	ELLENBOK,	H.
K-78993	"	EVANS,	H.C.	P-3393	"	EVANS,	H.
O-302	"	GAMBON,	C.T.	C-58007	"	GIFFIN,	C.
B-[illegible]	"	GOLDIE,	M.A.	H-150	"	GUEST,	H.
K-145	"	GUEST,	J.	B-19690	"	HEMMING,	F.
K-37724	"	HAYWOOD,	J.G.	P-3466	"	HODGES,	E.
D-78265	"	HOGAN,	D.F.	B-69734	"	HUCKVALE,	W.
H-2693	"	JONES,	[illegible]	O-137	"	[illegible],	W.
M-62350	"	KING,	F.A.	D-151040	"	[illegible],	G.
B-69684	"	MUTTON,	[illegible]	B-84472	"	[illegible],	H.
B-10022	"	McCOLLUM,	W.R.	K-92009	"	McDERMID,	[illegible]
B-95315	"	McGREGOR,	R.M.	C-58006	"	McGARRIGLE,	W.
D-72234	"	PAKIN,	W.G.	C-58328	"	McNEILL,	W.
P-3378	"	POWELL,	[illegible]	C-58322	"	PETTIGREW,	W.
B-39547	"	ROSE,	C.A.	K-37495	"	RODGERS,	[illegible]
C-50000	"	STANLEY,	F.W.	K-23196	"	SANDERS,	G.
C-63594	"	TURPIN,	G.D.	P-3497	"	SULLIVAN,	[illegible]
						WILKINS,	C.F.

(f) The u/m O/Rs returned from Pre-OCTU Cree and c.t.b.n. f.n.p. to No. 1 Cdn Pre-OCTU School w.e.f. 15 Sep 43.

B-[illegible]	Sgt.	STOW,	F.G.	B-79186	Sgt.	FROST,	S.
F-30308	"	ROBAIN,	D.E.	K-71099	A/L/Cpl.	[illegible],	E.
D-131871	Tpr.	HOLYON,	A.J.	B-84651	Cpl.	McGINTY,	E.
B-[illegible]	Cpl.	DICK,	[illegible]	B-4417	Sgt.	McCALLUM,	[illegible]
L-81	Sgt.	DAVIDSON,	[illegible]	K-822	Sgn. Sk.	SMITH,	F.
K-[illegible]	L/Sgt.	SMITH,	G.M.				

(g) C-41344 Opl. JACK, G.L. returned from CMHQ Cree 858 at AFV School Lulworth w.e.f. 15 Sep 43.

(h) B-61574 A/Cpl. LEWIS, D.E. proceeded on CMHQ Cree 1163 (Wright Whirlwind Mtrs) at RAF Stn Cosford w.e.f. 15 Sep 43. (Auth: 7B/4-6-3-10, d/ 3 Aug 43)

11. ON COMMAND:

(a) B-61501 Tpr. McKIM, [illegible] (Pre-OHQ) proceeded "on command" to CMHQ (Records) w.e.f. 16 Sep 43. (Auth: C.R.O. 1864)

(b) B-61738 Tpr. McMIEN, [illegible] ceases to be on command to Jack Olding Ltd. w.e.f. 4 Aug 43 on adm to No. 10 Cdn Gen Hosp.

(c) The u/m O/Rs returned from "on command" to No. 1 Cdn OCTU Selection Centre, w.e.f. 15 Sep 43.

B-24156 A/Cpl. SZUMLANSKI, J. B-69812 A/Sgt. CAIRNS, R.T.
D-26721 L/Sgt. COOPER, [illegible]

12. HOSPITALS:

(a) The u/m O/Rs are adm to Hosps as shown w.e.f. dates shown.

B-146289 Tpr. KUCHAN, [illegible] (2 BOM) No. 4 C.M.C. 15 Sep 43.
D-82157 Tpr. McMIEN, [illegible] (2 BOM) No. 8 Cdn Gen Hosp 3 Sep 43.

12. HOSPITALS: (Cont)

(b) The u/m O/Rs are discharged from Hosps as shown w.e.f. dates 15 Sep 43.

D-62157 Tpr. MOYLES, R.C. No. 8 Cdn Gen Hosp
B-131886 Tpr. DEMPSEY, J.A. No. 17 Cdn Gen Hosp.

(c) Amendment: Pt II DO 214, d/14 Sep 43 para 9(c) insofar as it pertains to B-71195 Tpr. ALLENDER, E. change "No. 17 Cdn Gen Hosp" to read "Alton Convel Depot".

13. LEAVES:

(a) C-34639 Tpr. TURBILL, R.W. proceeded on 7 days P.L. from 13 Sep 43 to 20 Sep 43 and continues to draw subsistence allowance.

(b) Republication: No. 1 C.M.H.Q. Pt II DO 167, d/13 Sep 43.

H-26810 Tpr. DOIG, M.R. proceeded on 7 days P.L. from 3 Sep to 10 Sep 43 and is granted M.A. in lieu of rations under FR&I (C) 789 (3)&(4) as amended by C.R.O. 2459.

(c) Cancellation: Pt II DO 150, d/30 Jun 43 para 9(b) insofar as it pertains to G-3 Cadet EWING, W.L. delete all reference. (Obs Shoot No. 1, 4/12 Aug 43)

(d) Republication: No. 1 Pro-OCTU RAC Pt III DO 88, d/26 Aug 43.

The u/m O/Rs granted an extension of leave with money allowance in lieu of ration s under FR&I (C) 789(3)&(4) from 19 Aug 43 to 22 Aug 43 Incl 4 days.

A-32124 L/Sgt. ROLLASON, R.M.H. F-7471 L/Sgt. COCKRELL, L.F.
G-233 Sgt. EVERETT, H.R.

(e) The u/m O/Rs proceeded on P.L. dates as shown and are granted M.A. in lieu of rations under FR&I (C) 789 (3)&(4) as amended by C.R.O. 2459.

14 days: From 13 Sep 43 to 27 Sep 43.

B-4834 A/L/Cpl. BAMBURY, R.G.

9 days: From 13 Sep 43 to 22 Sep 43.

B-4803 Cpl. FINN, R.M. C-58396 Gdsm. LARABIE, V.
C-58662 Sgt. POULIN, T.A. H-26476 Cpl. KERR, C.W.
M-6555 Tpr. HEFFLICK, C.

9 days: From 6 Sep 43 to 15 Sep 43.

K-69788 Tpr. ATKINSON, R.V. K-37836 Cpl. QUIDING, V.H.

8 days: From 6 Sep 43 to 14 Sep 43.

K-48602 Tpr. TARLING, G.W.

9 days: From 7 Sep 43 to 16 Sep 43.

B-137329 Tpr. CLARKE, A.A. B-136422 Tpr. RUDYK, S.
H-1063 Tpr. SCHNEIDER, R.J. B-136416 Tpr. LITTLE, R.D.
B-137321 Tpr. THORNE, R. B-61350 Tpr. MIDDLEBROOK, C.
C-36704 Tpr. BENTHAM, W.C.

9 days: From 8 Sep 43 to 17 Sep 43.

B-20641 Tpr. FLEG, L.A. B-136034 Tpr. BELL, C.H.
D-137493 Tpr. BROMLEY, F.F. D-131483 Tpr. CROSS, E.
D-26547 Tpr. DOURIS, R.J.

9 days: From 9 Sep 43 to 18 Sep 43.

D-41044 Tpr. GRATON, J.M. D-27244 Tpr. COLTON, L.W.

13. LEAVES: (Cont)

(c) Cont.

9 days: From 10 Sep 43 to 19 Sep 43.

D-136067 Tpr. KEAN, A.C.J.
K-37839 Sgt. WILLIAMS, T.P.
D-137056 Tpr. MIZEN, J.H.

14. APPOINTMENTS,PROMOTIONS,REVERSIONS:

D-133085 A/Sgt. PEAT, T.E. (F SQN) reverts to his permanent grade of Tpr w.e.f. 2 Sep 43 on being T.C.S. No. 3 C.A.C.C.R.U. and to draw allowance in regimental rates of pay @ $1.50 per diem.

15. QUALIFICATIONS:

(a) K-37294 Sgt. HEKKER, W.J. attended n Gunnery Crse IG/2 at C.O School and qualified "C-1". w.e.f. 21 Aug 43.

(b) L-36496 Cpl. DUNCOMBE, W.J. attended CNU Crse 2 Apr 20 at No. 1 C.A.C.C. w.e.f. 30 Jul 43 to 30 Jul 43 and passed "C-2".

(c) The u/m C/Rs attended Cmdg Crse 1047 at No. 4 Tech Trg Gr up and qual. Dvr Mech Cl II w.e.f. 4 Aug 43.

D-109717 Tpr. CECIL, T. D-62954 Tpr. CHAIL, C.
L-103884 Tpr. [illegible], C. D-63261 Tpr. MUSTARD, C.

(d) L-101069 Tpr. WOOLSEY, R. attended Cmdg Crse 1109 at No. 4 Tech Trg Group and qualified Mtr Mech Cl III w.e.f. 4 Aug 43.

16. CHANGES OF ADDRESS OF NEXT OF KIN:

(a) D-144499 Tpr. McPHAIL, J.J. changes address of next of kin to:
Mrs. Doris Alice McPHAIL, (Wife)
264 Adeline Ave., Normanhurst, Hamilton, Ontario, Canada.

(b) D-142787 Tpr. LEHMAN, C.M. changes address of next of kin to:
Mrs. Elizabeth Jane LEHMAN, (Wife)
143 North Water St., Galt, Ontario, Canada.

(c) D-61452 A/L/Cpl. MYERS, J.C. changes address of next of kin to:
Mr. Ira Hugh MYERS, (Father)
114 Gladstone Ave., Sault Marie, Ontario, Canada.

(f) D-63345 Tpr. KINCHELOE, R.F. changes address of next of kin to:
Mrs. Mary KINCHELOE (Mother)
Emsdale, Ontario, Canada.

17. TRADESMEN'S RATES OF PAY:

(a) D-132511 Tpr. DEAN, P.S. is granted tradesmen's rates of pay as Dvr Cpur "C" from 1 Apr 43 to 31 Jul 43. (Auth: A-9 CAO(A)TC Pt II 50, 50, d/19 Mar 43).

(b) D-131887 L/Cpl. GREEN, R.S.H. is granted tradesmen's rates of pay as Dvr Cpur "C" w.e.f. 1 Apr 43. (Auth: A-9 CAC (A) TC Pt II Do 50, d/19 Mar -3).

18. ESTABLISHMENT:

(a) K-10070 Tpr. CRISP, G. is posted from PE-Spec Inc Tpr Dvr I/C to Reinf "B" Scn w.e.f. 15 Sep 43.

(b) H-52 Tpr. HARRISON, D.G. is posted from Admin Wing Tpr Dvr Cpur to PE-Spec Inc Cpl Instr. w.e.f. 1 Sep 43.

P A R T II O R D E R S Cmt. 217, d/17 Sep 43 Sheet 9.

19. ABSENT WITHOUT LEAVE:

(a) K-99110 A/Cpl. EATON-SMITH, J.H. is A.W.L. from 0600 hrs 6 Sep 43 and is still A.W.L. at 0600 hrs 16 Sep 43. (10th day).

(b) A-56524 Tpr. SMITH, A.V.M. is A.W.L. from 1600 hrs 25 Aug 43 and is still A.W.L. at 1600 hrs 15 Sep 43 (21st day)

20. REMISSION OF SENTENCE:

J-63638 Tpr. JOHNSTON, . . . Released from No. 1 Cdn Detention Barracks w.e.f. 9 Sep 43 and is granted remission of sentence of 4 days under Rules for Military Prisons and Detention Barracks"

21. PUNISHMENTS:

(a) Reprimanded: No. 16 Can Gen Hosp Pt II Dc 14, d/6 Sep 43

J-63000 Tpr. . MADDEN, A.J., on 4 Sep 43 (while a patient in Drummhett Mil Hosp) awarded a forf of 10 days pay for an offence under A.A. Sec 40 "Neglect to comply with a lawful command in that he neglected to sweep the floor when ordered so to do so. (Forf. FR&I 149(2))

(b) F-97297 Pte. GOSS, F. ("E" Sqn)

Offence: A.A. Sec 15(1) A.W.L. from 2359 hrs 5 Sep 43 to 0920 hrs 9 Sep 43 (Absent 3 days 9 hrs 21 mins)

Awarded: To forf 14 days pay. (Awarded 9 Sep 43)

Forfeitures: 4 days pay FR&I 149(1)(a)
14 days pay FR&I 149(2)

Total Forf: 18 days pay

(c) On 4 Sep 43 tried by F.G.C.M.

Charges: 1. A.A. Sec 15(4) 2. A.A. Sec 40 3. A.A. Sec 15(4) AWL
4. A.A. Sec 40 5. A.A. Sec 41(5) 6. A.A. Sec 15(1) AWL
from 0600 hrs 26 Jul 43 until apprehended 2100 hrs 28 Jul 43 (Absent 2 days 15 hrs)

Finding: Guilty on 2nd, 3rd, and 6th Charges.

Sentence: 1 years detention and placed under stoppage of pay to the amount of £3-17-4 to cover cost of petrol used and cost of apprehension.

Confirmation: Finding and sentence confirmed by Commander HQ "E" GROUP Brig. T.J. RUTHERFORD, M.C.f. 9 Sep 43.

Close arrest: Held under close custody from 2100 hrs 28 Jul 43 to 2359 hrs 3 Sep 43. (Total Time 37 days 2 hrs 59 mins)

Forfeitures: 3 days FR&I 149(1)(a)
366 days pay FR&I 149(1)(b)
38 days pay FR&I 149(1)(c)(i) 1 day to run concurrent with forf. for A.W.L.

Total Forf: 406 days pay.

Stoppage of Pay: Placed under stoppage of pay to the amount of £3-17-4 to make good:-

Cost of Petrol Used £1-19-3
Cost of Apprehension £1-18-1

K-70722 Tpr. GRENHAM, R.

21. PUNISHMENTS: (Cont)

(d) On 4th Sep 43 Tried by F.G.C.M.

Charges: 1. A.A. Sec 15(4) 2. A.A. Sec 40 3. A.A. Sec 15(4)
4. A.A. Sec 40 (Withdrawn) 5. A.A. Sec 41(5)
6. A.A. Sec 15(1) A.W.L. from 0730 hrs 26 Jul 43 until apprehended at 2100 hrs 28 Jul 43 (Absent 2 days 13 hrs 30 min)

Findings: Guilty on 2nd, 3rd, and 6th charges.

Sentence: 2 years detention and to be placed under stoppage of pay to the amount of £3-17-4 to cover cost of petrol used and cost of apprehension.

Confirmation: Findings and sentence confirmed by Commander HQ "B" Group Brig. T.J. RUTHERFORD. 7th Sep 43.

Close arrest: Placed under close custody from 2100 hrs 28 Jul 43 to 2359 hrs 3 Sep 43 (Total Time 37 days 2 hrs 59 mins)

Forfeitures: 3 days pay FR&I 149(1)(a)
36 days pay FR&I 149(1)(c)(i) one day to run concurrent with forf for A.W.L.
365 days pay FR&I 149(1)(b)

Total Forf: 416, days pay.

Stoppage of pay: Placed under stoppage of pay to the amount of £3-17-4 to make good:-

Cost of petrol used £1-19-3
Cost of Apprehension £1-18-1

K-100070 Tpr. CRISP, G.

(e) F-78406 Pte. McCULLOUGH, H.E. (E SCM)

Offence: A.A. Sec 15(1) A.W.L. from 2359 hrs 5 Sep 43 to 0920 hrs 9 Sep 43. (Absent 3 days 9 hrs 21 mins)

Awarded: To forfeit 14 days pay under A.A. Sec 46(2)(d)

Forfeitures: 3 days pay FR&I 149(1)(a)
14 days pay FR&I 149(2)

Total Forfeiture: 13 days pay (Awarded 9 Sep 43)

(f) Amendment: Pt II DO 208, d/7 Sep 43 para 20(g) insofar as it pertains to D-61374 Tpr. BURGIN, J.W. amend to read "D-61377 Tpr. BURGIN, J.W."

(g) Amendment: Pt II DO 196, d/6 Jul 43 para 17(a) insofar as it pertains to A-55524 Tpr. SMITH, A.V.M. amend as follows:-
Under 'Forfeitures:' After "9 days pay FR&I 149(1)(c)(i)" add "one days pay to run concurrent with forf for A.W.L."
Under Total Forfeiture: change "73 days pay" to read "72 days pay"
(Auth: CCS Sheet 5033, d/4 Sep 43)

22. STRENGTH DECREASE:

(a) H-62663 Tpr. LORIAULT, A.J. is SCS to No. 1 Mech Eqpt Coy w.e.f. 14 Sep 43 (Auth: ES1/Mod, d/10 Sep 43)

(b) Amendment: Pt II DO 216, d/16 Sep 43 para 16(b) insofar as it pertains to K-66122 Tpr. DUCKHEARY, R.C. delete "Gnr Cper "C".

(H.D.M. MacPHEE) Lieut.
for Records Officer,
No. 3 C.A.C.R.U.

Certified a true copy
H Clarkson Capt adjt.
3 CAC R U 16 Oct 43.

COUNTER NUMBER 436470

HOUR 10 15

OPERATOR'S INITIALS K.D

RELIEVING OPERATOR D.H

19. ABSENT WITHOUT LEAVE:

(a) K-99110 A/Cpl. EATON-SMITH, J.R. is A.W.L. from 0600 hrs 8 Sep 43 and is still A.W.L. at 0600 hrs 16 Sep 43. (8th day).

(b) A-56624 Tpr. SMITH, R.V.N. is A.W.L. from 1600 hrs 25 Aug 43 and is still A.W.L. at 1600 hrs 15 Sep 43 (21st day)

20. REMISSION OF SENTENCE:

D-63638 Tpr. JOHNSTON, . released from No. 1 Can Detention Barracks w.e.f. 9 Sep 43 and is granted a remission of sentence of 4 days under "Rules for Military Prisons and Detention barracks"

21. PUNISHMENTS:

(a) Recubilection: No. 16 Can Gen Hosp Pt II Dt 14, d/6 Sep 43

D-63000 T. . MEDTRE, A.J., on 4 Sep 43 (while a patient in Drumsheil Mil Hosp) awarded a forf of 10 days pay for an offence under A.A. Sec 40 "Neglect to comply with a lawful command in that he neglected to sweep the floor when ordered to do so. (Forf. FR&I 149(2))

(b) F-97297 Pte. GOSS, S. ("E" SQN)

Offence: A.A. Sec 15(1) A.W.L. from 2359 hrs 5 Sep 43 to 0920 hrs 9 Sep 43 (Absent 3 days 9 hrs 21 mins)

Awarded: To forf 14 days pay, under A.A. Sec 46(2)(a)

Forfeitures: 4 days pay FR&I 149(1)(a)
14 days pay FR&I 149(2)

Total Forf: 18 days pay (Awarded 9 Sep 43)

(b) On 4 Sep 43 tried by F.G.C.M.

Charges: 1. A.A. Sec 15(4) 2. A.A. Sec 40 3. A.A. Sec 15(4)
4. A.A. Sec 40 5. A.A. Sec 41(5) 6. A.A. Sec 15(1) AWL from 0600 hrs 26 Jul 43 until apprehended 2100 hrs 28 Jul 43 (Absent 2 days 15 hrs)

Finding: Guilty on 2nd, 3rd, and 6th Charges.

Sentence: 1 years detention and placed under stoppage of pay to the amount of £3-17-4 to cover cost of petrol used and cost of apprehension.

Confirmation: Finding and sentence confirmed by Commander HQ "E" SQN UT Brig. T.J. RUTHERFORD, w.e.f. 9 Sep 43.

Close arrest: Held under close custody from 2100 hrs 26 Jul 43 to 2359 hrs 3 Sep 43. (Total Time 37 days 2 hrs 59 mins)

Forfeitures: 3 days FR&I 149(1)(a)
366 days pay FR&I 149(1)(b)
38 days pay FR&I 149(1)(c)(i) 1 day to run concurrent with forf. for A.W.L.

Total Forf: 406 days pay.

Stoppage of Pay: Placed under stoppage of pay to the amount of £3-17-4 to make good:-

Cost of Petrol Used £1-19-3
Cost of Apprehension £1-18-1

K-70722 Tpr. GREENAN, R.

21. PUNISHMENTS: (Cont)

(d) On 4th Sep 43 Tried by F.G.C.M.

Charges: 1. A.A. Sec 15(4) 2. A.A. Sec 40 3. A.A. Sec 15(4)
4. A.A. Sec 40 (Withdrawn) 5. A.A. Sec 41(5)
6. A.A. Sec 15(1) A.W.L. from 0730 hrs 26 Jul 43 until apprehended at 2100 hrs 28 Jul 43 (Absent 2 days 13 hrs 30 min)

Findings: Guilty on 2nd, 3rd, and 6th charges.

Sentence: 1 years detention and to be placed under stoppage of pay to the amount of £3-17-4 to cover cost of petrol used and cost of apprehension.

Confirmation: Findings and sentence confirmed by Commander HQ "D" Group Brig. T.J. RUTHERFORD. 7th Sep 43.

Close arrest: Placed under close custody from 2100 hrs 28 Jul 43 to 2359 hrs 3 Sep 43 (Total Time 37 days 2 hrs 59 mins)

Forfeitures: 3 days pay FR&I 149(1)(a)
36 days pay FR&I 149(1)(c)(i) one day to run concurrent with forf for A.W.L.
360 days pay FR&I 149(1)(b)

Total Forf: 416, days pay.

Stoppage of pay: Placed under stoppage of pay to the amount of £3-17-4 to make good:-

Cost of petrol used £1-19-3
Cost of Apprehension £1-18-1

K-100070 Tpr. CRISP, G.

(e) F-78406 Pte. McCULLOUGH, H.E. (E SCH)

Offence: A.A. Sec 15(1) A.W.L. from 2359 hrs 5 Sep 43 to 0920 hrs 9 Sep 43. (Absent 3 days 9 hrs 21 mins)

Awarded: To forfeit 14 days pay under A.A. Sec 46(2)(d)

Forfeitures: 4 days pay FR&I 149(1)(a)
14 days pay FR&I 149(2)

Total Forfeiture: 18 days pay (Awarded 9 Sep 43)

(f) Amendment: Pt II DO 209, d/7 Sep 43 para 20(g) insofar as it pertains to D-61374 Tpr. DURGIN, J.W. amend to read "E-61377 Tpr. DURGIN, J.W."

(g) Amendment: Pt II DO 196, d/3 Jul 43 para 17(a) insofar as it pertains to A-65524 Tpr. SMITH, R.V.M. amend as follows:-
Under 'Forfeitures:' After "9 days pay FR&I 149(1)(c)(i)" add "one days pay to run concurrent with forf for a.w.l."
Under Total Forfeiture: change "73 days pay" to read "72 days pay"
(Auth: CCS Sheet 5033, d/4 Sep 43)

22. STRENGTH DECREASE:

(a) H-62663 Tpr. LOMAULT, A.J. is SOS to No. 1 Mech Eqpt Coy w.e.f. 14 Sep 43 (Auth: DS1/508, d/10 Sep 43)

(b) Amendment: Pt II DO 216, d/16 Sep 43 para 16(b) insofar as it pertains to K-66122 Tpr. DUCKWORTH, R.C. delete "Gnr Oper "C".

L. A. MacPhee Lieut.
for (H.D.M. MacPHEE) Lieut.
Records Officer,
No. 3 C.A.C.R.U.

My

Certified a True Copy
H. Larson Capt adjt.
3 CAC R U 16 Oct 43.
(Rear Echn).

EXHIBIT "B"

Statement of EVIDENCE in the case of:
K-707?? Trp Grennan R.
No.6-C.A.C.R.U.

Sir:

At Bolton on 10-Oct-43 at about 1440 hrs I was on duty on Deansgate in company with L/Cpl Wheaton.G.when I had occassion to check the s/m soldier for his pass.He could not produce one. He was A.W.L.

I placed him under arrest and escorted him to Ardwick Green Guard Room,Manchester Lanc. w[illegible] he was handed over to the R.C.O. i/c of Guard to be detained.

Manchester.
10-Oct-43

A Smuland ..L/Cpl
(K-297064 Smuland A.F.)
No.6 Provost Detach.

Manchester.
10-Oct-43.

Sir:

I have read over and corroborate the above statement.

Manchester.
10-Oct-43.

G. Wheaton ..L/Cpl
(G-7080.Wheaton G.)
No.6 Provost Detach.

REMARKS

CHARGE

Army Form B 252
(See King's Regulations)

Regiment

Battery / Squadron / Troop or / Company

CHARGE against No. 7077[illegible] Rank Trp.

Name Crannan R.

Place Manchester, Lancs. Date of Offence 10-Oct-43.

OFFENCE. C.A.S. Was A.W.L. from? until apprehended by the Can Provost Corps, on Deans-Gate, Bolton, Lancs, at about 1440hrs, 10-Oct-43.

L. F. Grayson.
CAPT.
D.A.P.M.
LONDON AREA.

Names of Witnesses :—

L/Cpl Smeland A.F. No.6 Provost Detach.

L/Cpl Wheaton G. " " "

Signature of O.C. Battery, Squadron, Troop or Company

Punishment Awarded

By whom Awarded

Adjutant.

P.T.O

EXHIBIT "C"

CERTIFICATE IN ACCORDANCE WITH P.C. 2797 of 10 Apr.42

I CERTIFY that No[illegible]-70[illegible] . Rank Trp. . . Name Grannan E. . . . . .

Unit .No-3.C.A.C.R.W. . . . was arrested at Belsize Manor .(place)

at 1440.hrs.(hour) on 6-Oct-43. .(date) and that at the time of his arrest he was wearing (Military Uniform) or ~~(Civilian clothes)~~

Signature of Provost-Marshall, Assistant Provost-Marshall or other officer or the Commanding Officer of the portion of His Majesty's Forces or the officer, warrant-officer, or non-commissioned officer in charge of the detachment of the Canadian Provost Corps, Canadian Army into whose custody the above named person was taken on arrest. (Strike out part inapplicable).

L. S. Grayson.

(L.S.GRAYSON) ~~L. Form~~ ..... Capt.
D. A. P. M.,
London Area

EXHIBIT "D"

Expense Voucher Re—: Ref: K.R. & O. (Can) 539

Reg. No K/1072 Rank Tpr Name Hammon, R Unit 3 CAC R C

The following expenses were incurred in apprehending and returning the M/N Soldier to his ~~Unit From~~ London from Manchester

Date	Particulars	Amount
12 Oct 43	Escorts return fare from LONDON To Manchester (½ portion)	14 1
	Prisoners single fare to LONDON From Manchester	14 1
	Prisoners fare from To	
	Escorts & Prisoners expenses for ~~Bed~~, Meals, Bus fares (½ portion)	3 0
	Total £	1 11 2

I certify that the above statement of Expenses is Correct, and that the amounts are fair and just.

L. D. Grayson Capt.

Officer Issuing Railway Warrant and Expense monies
No. 6 Area Provost Company, Canadian Provost Corps, London.

C.M.H.Q. 100/53
40/P & S/48503(87)

LIST OF WITNESSES

For the Prosecution -

1. C-931	Tpr.	Punchard, B.J.	#3 C.A.C.R.U.
2. L-54880	Cpl.	Jordan, W.G.	#3 C.A.C.R.U.
3. K-37064	L/Cpl.	Smuland, A.F.	#6 Provost Detachment Manchester
4. Capt. L.S. Greyson			D.A.P.M.'s Office London Area

For the Defence - Nil

-oOo-oOo-

LIST OF EXHIBITS

For the Prosecution - A- Certified True Copy #3 C.A.C.R.U. Part II Daily Order #217 dated 17 Sep 43.

B- Statement of Arresting Provost.

C- Certificate of Apprehension.

D- Statement of Cost of Apprehension.

-oOo-oOo-

I, K-70722 Tpr. Grennan, R., acknowledge having received one copy of the charge sheet and Summary of Evidence in connection with my forthcoming Trial by Court Martial. I do/~~do not~~ desire to have an officer assigned to defend me. I desire ..... if he is available.

.....
K-70722 Tpr. Grennan, R.

Time 1020 hrs

Date 17 Sep 43.

SUMMARY OF EVIDENCE

in the case of

K-70722 Tpr. Grennan, R.L., a soldier of the Canadian Army Overseas on the strength of No. 3 Canadian Armoured Corps Reinforcement Unit.

By direction of the Commanding Officer this Summary is taken on oath.

FIRST WITNESS
For the Prosecution

Documentary. A certified True Copy of No. 3 C.A.C.R.U. Part II Order #217, dated 17 Sep 43, Sec. 21(c) - "Punishments".

This document has been shown to the Accused, marked by me as Exhibit "A" for the Prosecution, and attached to the Summary.

(M.L. Magill) Lieut.
Officer detailed to take the Summary of Evidence.

SECOND WITNESS
For the Prosecution

C-931 Tpr. Punchard, E.J., a soldier of the Canadian Army Overseas on the strength of No. 3 C.A.C.R.U., having been duly sworn states:

On the night of 10 Sep 43 I was on duty in the West Frith Guard Room. The Accused, whom I now recognise, was in the washroom washing clothes. I had let another prisoner out of his cell to go to the toilet. As I had been warned to specially watch him I escorted him back to his cell and when I returned at approximately 1945 hrs I found that the three prisoners, one of whom was the accused, had escaped through the back door. I raised the alarm and notified Cpl. Jordan who was N.C.O. i/c West Frith Guard Room. I did not see Tpr. Grennan again until the afternoon of 13 Oct 43 when he was brought into the Guard Room under escort.

C-931 Tpr. Punchard, E.J.

The Accused declines to cross-examine this witness.

(M.L. Magill) Lieut.
Officer detailed to take the Summary of Evidence.

THIRD WITNESS
For the Prosecution

L-54880 Cpl. Jorden, M.G., a soldier of the Canadian Army Overseas on the strength of No. 3 C.A.C.R.U., being duly sworn states:

I am a Provost Corporal at No. 3 C.A.C.R.U. and in charge of the West Frith Guard Room. On 10 Sep 43 Tpr. Punchard of the Regimental Police was on duty in the West Frith Guard Room. At approximately 1950 hrs he reported that three prisoners, among them the accused whom I now recognise, had escaped by way of the back door of the Guard Room. I ran into the Guard Room and found that Tpr. Grennan was gone. I then reported to my superior Staff Provost Sgt. Ferguson. I did not see the accused again until the evening of 13

Oct 43 when he was in custody at the main Guard Room of No. 3 C.A.C.R.U.

L-54880 Cpl. Jordan, M.G.

The accused declines to cross-examine this witness.

(M.L. Magill) Lieut.
Officer detailed to take
the Summary of Evidence.

FOURTH WITNESS
For the Prosecution

K-37064 L/Cpl. Smuland, A.P., a soldier of the Canadian Army Overseas on the strength of No. 6 Provost Detachment.

I certify that due to the exigencies of the service, loss of time, and expenses involved, the attendence of this witness is not readily procurable, but a statement of his evidence purpoting to have been signed by him has been read to the Accused, marked by me as Exhibit "B" for the Prosecution, and attached to the summary. The Accused does not require the attendance of this witness for purposes of cross-examination.

(M.L. Magill) Lieut.
Officer detailed to take
the Summary of Evidence.

FIFTH WITNESS
For the Prosecution

Capt. L.S. Greyson, an officer of the Canadian Army Overseas on the strength of the D.A.P.M.'s Office, London Area.

I certify that due to the loss of time and expense involved, the attendence of this witness is not readily procurable but a statement of his evidence purpoting to have been signed by him has been read to the Accused, marked by me as Exhibit "C" for the Prosecution, and attached to the Summary.

A statement of costs of apprehension purpoting to have been signed by the witness has been shown also to the Accused, marked by me as Exhibit "D" for the Prosecution, and attached to the Summary.

The Accused does not require the attendance of this witness for purposes of cross-examination.

(M.L. Magill) Lieut.
Officer detailed to take
the Summary of Evidence.

The Accused does not desire to call any witness for the defence.

The Accused was cautioned as follows:

Do you desire to give any evidence on oath or to make any statement not on oath? You are not obliged to give any evidence on oath or to make any statement but any evidence you may give or any statement you may make will be taken down in writing and may be given in evidence.

The accused declined to give any evidence on oath or to make a statement.

(M.L. Magill) Lieut.
Officer detailed to take
the Summary of Evidence.

I certify that the foregoing summary of evidence consisting of three (3) pages was taken down by me in writing in the presence and hearing of the Accused and that Rules of Procedure 4 (C), (D), (E), (F), and (G) have been complied with.

(M.L. Magill) Lieut.
Officer detailed to take
the Summary of Evidence.

In the Field
14 October 1943

Name GRENNAN Ronald

Date of last entry in Company Conduct Sheet: N.A. | No. and date of last drunk: N.A. | Sqn., Battery, or Company: N.A. | Corps C.A.C. | Period not reckoning towards freedom from extra fine | Date of enlistment: 10.11.41 | Sheet No. 1 | R.C. Badges | Signature O.C. Company, etc. | Service or Proficiency Pay: N.A. | ? | Character

M.F.M. 6 (A.F. B.1271) 40-P & /8136 (2965)

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order discontinuing with trial	By whom awarded	Remarks
				Sheet No.1 destroyed 12/4/42					
Field	9.10.42	Tpr		WOAS AWL from parade from 1545 hrs 9 Oct 42 until 1630 hrs 9 Oct 42 (Absent 45 min.) A.A.Sec 15(1)	K-873 Cpl. DuPlessis R.J.	3 days C.B.	12.10.42	Major C.A. West	CAW
Field	30 Nov 42.	Tpr.		Disobeying a Lawful Command given by his superior officer after being warned personally to have his webbing blancoed. A.A.Sect.9	S.S.M.Hill G.T.	7 days C.B.	1 Dec 42	Lt. Col. H.M.Sharp	HMS

(P.T.O.)

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Fielf	30 Jun	Tpr.		A.A.Sec. 15(1) W.C.A.S. AWL from 1200 hrs. 30 Jun. 43 until 1355 hrs. 2 Jul. 43. (absent 2 days, 1 hr. 55 Mins)	Documentary (Cpl. Jordan W.C.)	5 days F.P. 5 days pay FRI 149 1 (b)	3 Jul. 43.	Col. G.W. Little	Forfeits 3 days pay FRI 149 (1) (a)
Field		Tpr.		AA. Sec 40. AA. Sec. 18(4) AA. Sec. 15(1) AWL 2 days, 15 hrs. Held under close arrest for 37 dys, 2 hrs. 59 mins. CERTIFIED TRUE COPY 16 Oct 43 H.C. Lawson (H.C. Lawson) Capt. & Adjt.		1 years detn. placed under stoppages of pay £3/17/4	9 Sep 43	Sentence confirmed by Brig. Rutherford.	3 days FR&I 149(1) (a) 366 dys pay FR&I 149(1)(b) 38 dys pay FR&I 149(1) (C)(1) 1 day to run concurretn.

M.F.B. 355
225M—5-41 (372-S)
H.Q. 1773-39-620
A.F.B. 200

STATEMENT AS TO CHARACTER AND PARTICULARS OF SERVICE OF ACCUSED

Number	Rank	Name	Regiment (or unit)
K.70722	Trooper	GRENHAM, R.L.	No. 3 C.A.C.R.U.

1. The following is a fair and true summary of the entries in the Regimental and Squadron (or Battery) Conduct sheets of the accused, exclusive of convictions by a Court-Martial or a Civil Court, of summary awards under Section 47 of the Army Act and of cases in which trial has been dispensed with.

	Within last 12 months	Since enlistment or appointment
For A.A. 15(1)	2 times	2 times
For A.A. 9	1 times	1 times
For	times	times
For	times	times

Number of instances of gallantry or distinguished conduct Nil

There are no entries in the conduct sheets of the accused.

On charges for drunkenness, the entries for drunkenness must be stated separately.

The accused has not been previously convicted.

Previous convictions of the accused by a court-martial or a civil court, of summary awards under Section 47 of the Army Act and dispensations with trial under A.A. 73 are set out in the Schedule annexed to this statement.

The accused is not under sentence at the present time.

or,

The accused at the present time is under sentence for 1 year beginning on the 4th day of Sep 43.

4. The accused has been in confinement awaiting trial on the present charges, for 2 days in civil custody and 9 days in military custody, making a total of 2 days in civil custody, of which 1 Nil days were spent in hospital.

5. The present age of the accused according to his record of service is 18 years

6. The date of his attestation specified in his record of service is 11 Oct 41

7. The service which the accused is allowed to reckon towards discharge is 2 years 4 days

8. The accused is entitled to reckon 2 years 4 days service for the purpose of determining his pension, etc.

9. The accused is in possession of or entitled to no military decoration, or military reward (

military

10. (If the accused is a warrant officer.) The accused before he was made a warrant officer last held Air Force the regimental rank of N/A

11. (In the case of an officer.) The accused holds in the Royal Canadian Air Force the rank of Permanent Force unit

N/A dated N/A, and in his regiment (or corps), the rank of

N/A dated N/A.

12. The accused has served as a non-commissioned officer continuously, without reduction, to the present date:—

N/A Date of promotion

In the rank of N/A years.

In the rank of N/A years.

In the rank of N/A years.

NOTE.—If any matter in any of the above paragraphs cannot be stated from the Regimental books, the paragraph must be struck through.

SCHEDULE

Of convictions by a court-martial or civil court, of summary awards under Section 47 of the ~~Army~~ Air Force Act, and of cases in which trial has been dispensed with of accused, Number R-70722 Rank Cpl. Unit

Name GREENHAM, R.L. of No. 3 C.A.C.R.U.

NOTE.—A verbatim extract from the regimental books stating these convictions and dispensations with trial must be inserted.

Description of Court by which tried	Date and Place of Trial	Charge upon which convicted	Sentence of the Court	Punishment Remitted
F.G.C.M.	4 Sep 43 No. 3 CACRU	A.A. 40 A.A. 18(4) A.A. 15(1)	1 year detn.	NIL

I hereby certify that the foregoing schedule of convictions and dispensations with trial is a true extract from the regimental books in my custody.

Signed this ~~19th~~ 21st day of October 1943 (R.E. Janisse) Lt. A/Records Officer, No. 3 C.A.C.R.U.

The above statement (with the schedule of convictions and of cases in which trial has been dispensed with) is read, marked signed by the president, and annexed to the proceedings.

GG-2
PTE GRENON H.

D-126685 Pte Homer GRENON,
No 2 Sub-Depot, 1 C.B.O.D. GG-2

Correspondence to be PINNED here.

Army Form A.3.

Form for Assembly and Proceedings of Field General Court Martial on Active Service.

PROCEEDINGS.

A.

Order convening the Court.

On Active Service, this TWENTY-FOURTH day of MAY, 19 FORTY-THREE

Whereas it appears to me, the undersigned, an officer in Command of CANADIAN REINFORCEMENT UNITS, CANADIAN ARMY OVERSEAS, on active service, that the persons named in the annexed Schedule, being subject to Military Law, have committed the offences in the said Schedule mentioned.

And whereas I am of opinion that it is not practicable that such offences should be tried by an ordinary General Court Martial; *~~xxxx

SCHEDULE

Number, Rank (a), Name and Unit of Accused (b)	Offence charged	*Plea	Finding, and if Convicted, Sentence (c)	How dealt with by Confirming Officer (d)
D-126685 pte Homer GRENON, No 2 Sub-Depot, 1 CBOD.	FIRST CHARGE Sec 15(4) A.A.	Guilty	Guilty Sentenced to undergo detention for a period of two hundred and twenty (220) days. 25 May 43 CHP.	Confirmed JP

See Charge Sheet Attached.

~~*Question to be asked of accused, if he pleads not guilty (R. of P. 39 (a)):—~~
~~"Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity for preparing your defence?"~~
~~Answer (to be recorded on separate sheet, if necessary).—~~

(Signed) (J.C. Stewart) Brigadier,
A/ Commanding Cdn Rft Units.
Convening Officer (e).

(Signed) Arthur S. Pettypiece, Mjr.
President.

(a) Appointment acting rank or acting appointment, if any, to be stated in brackets after the substantive rank.

(b) Unless unavoidable, not more than three names are to be entered on one form, and in serious cases one only.

(c) Recommendation to mercy, if any, to be inserted in this column.

(d) It is not necessary that the Confirming Officer should sign his name in this column. Initials are sufficient.

(e) Must be signed by the same Officer who signs on the first page, and all alterations in the first two columns of the Schedule to be initialled by him.

Evidence and Charge Sheets (if necessary) to be PINNED here.

B. Certificate of President as to proceedings.

I certify that the above Court assembled on the 25th day of May 1943, and duly tried the persons named in the Schedule, and that the plea, finding, and sentence in the case of each such person were as stated in the third and fourth columns of that Schedule.

I also certify that :—

*Omit if not applicable.

1. The members of the Court CHP
~~2. The witnesses~~ CHP
~~*(3. The Interpreter)~~ CHP
~~*(4. The officers under instruction)~~

were duly sworn.

Signed this 25th day of May 1943.

Arthur S. Pettypiece, Mjr.
President of the Court Martial.

C. Certificate in case of death sentences. CHP

*See footnote (i) on page 702 M.M.L. 1929.

~~I certify that the terms of *A.C.I. 570 of 1918 have been complied with.~~

~~Signed this day of 19 .~~

~~*President of the Court Martial.*~~ CHP

D. Confirmation.

I have dealt with the findings and sentences in the manner stated in the last column of the Schedule, and, subject to what I have there stated, I hereby confirm the above findings and sentences.

*To be omitted unless penal servitude, imprisonment or detention having been awarded, the Confirming Officer either has no authority to commit to prison or detention barrack, or, having such authority, recommends suspension.

~~*(I direct that the soldier named in the margin be not committed to prison or detention barrack until further orders.)~~ JP

Signed this 26th day of May 1943

J.C. Stewart Brigadier
Confirming Officer
Comd R.C.A.

Promulgated and extracts taken in the case of D 126685 - pte Grenon H

(a) (Dated) 2/6/43 (Signed) John B. Allan Lt Col

Promulgated and extracts taken in the case of

(Dated) (Signed)

Promulgated and extracts taken in the case of

(Dated) (Signed)

(a) When several cases are promulgated in one unit on the same day the Officer need only sign once.

(25578) W1-46176-943 50,000 12/42 A.A. & H.W. Ltd. Gp.698

CHARGE SHEET

The accused, D-126685, Private Homer Grenon, Royal Canadian Army Service Corps, a soldier of the Canadian Army Overseas, is charged with:

Section 18(h) ARMY ACT.

STEALING PROPERTY BELONGING TO A PERSON SUBJECT TO MILITARY LAW.

In that he on or about 1300 hours, 1 May 43, In the Field, did steal five (5) packets Sweet Caporal Cigarettes, the property of C-34818 Private Fyke, A.F., a person subject to Military Law.

In The Field

John B. Allan
(John B.Allan)Lt.Col.
C.O. No. 2 Sub-Depot
1 Canadian Base Ordinance Depot.

To be tried by Field General Court-Martial.

(J.C. Stewart) Brigadier,
A/Comd.
Cdn Reinforcement Units.

In the Field.
24 May 43.

MEDICAL OFFICER'S REPORT

I certify that No. D-126685 Pte. Grenon, H.

of No. 2 Sub-Depot, 1 C.B.O.D. in a good state of health,

and fit to undergo Trial by Court Martial.

Medical Officer

Station IN THE FIELD

Date 25 May 43

M.F.B. 246
W.F.A. 8572

PROCEEDINGS OF A FIELD GENERAL COURT MARTIAL
HELD AT Johnson Barracks, Dorking, Kent
ON THE 25th DAY OF May 1943

The accused D-126685 Pte. Grenon. H. ..... Unit. R.C.A.S.C. .....

The order convening the Court and charge sheet are laid before the Court, who satisfied themselves as provided by Rs.P. 22 and 23.

The accused is brought before the Court.
The Medical Certificate is laid before the Court.
The order convening the Court is read by the President, and the accused having been asked, stated that he had no objection to the president or any member of the Court.
The Court is duly sworn.

The following constitute the Court:-

President. Maj. A.A. Kittapie ..... Unit. H.Q. C.R.U. ....
Members. Maj. D.J. Scott ..... Unit. 1 C.A.C.R.U. .....
Capt. L.E. Ogilvie ..... Unit. 1 C.A.C.R.U. .....

~~The officers under instruction are duly sworn.~~

~~..... Unit. .....~~
~~..... Unit. .....~~

Prosecutor Lt. J.C. MacFarlane ..... Unit. ~~2nd Lieut~~ 1 C.A.C.R.U.
Defending Officer ~~2/Lt.~~ P.W.V. Potts ..... Unit ~~2nd Lieut~~ 1 C.A.C.R.U.

The charge sheet is signed by the President and the accused is arraigned.
The accused pleads guilty to the charge ~~(s)~~ and R.P. 35(B) is complied with.
The accused does not desire to make a statement in reference to the charge ~~(s)~~. R.P. 37(B).
The Summary of Evidence is read.
The Prosecutor produces MFE 355 and MFM 6.
The Court complies with R.P. 46(2). ~~A/S Eye~~

Pursuant to R.P. 37 THE ACCUSED:-

~~(a) Makes a statement in mitigation of punishment.~~
~~(b) Calls witnesses as to character.~~
~~(c) Calls witnesses in mitigation of punishment.~~
(d) Addresses the Court by his Defending Officer.

The Court is closed to consider the sentence.

~~SUMMARY OF STATEMENT IN MITIGATION, CHARACTER EVIDENCE and~~ ADDRESS OF ~~ACCUSED OR~~ HIS DEFENDING OFFICER

Attached hereto.

Arthur A. Kittapie
Maj.

FGCM/J. D126685 Pte. Grenon H.

Plea in Mitigation of Sentence

I fully believe that this is not a case of actual theft, but of borrowing with full intent to repay. As Gnr. Fyke and Pte. Grenon are on day and night shift respectively, and Pte. Grenon was on week-end pass, he had no opportunity to contact Pte. Fyke and inform him of his actions. Pte Grenon was aware that he had cigarettes coming to him from his Holding Unit, in fact on Tues. 4 May, he received 600 cigarettes. It was out of this parcel he had intended to repay Gnr. Fyke. At the time of his taking the cigarettes, there was one other person in the room, if it was stealing surely Pte. Grenon would choose a more opportune time.

When Grenon returned off leave Sunday afternoon, he did make an attempt to contact Fyke, but as Fyke had moved to other quarters was unable to do so. At 0700 hrs on Monday, 3 May 43, when approached by Cpl. Nicholson, Grenon stated that he was willing and had intended to repay these cigarettes. He was then told by Cpl. Nicholson that under such arrangements the case would be dropped, but apparently the case was carried further.

As Pte. Grenon did admit taking these cigarettes at the summary of evidence, believing it would thereby close the case and not require further investigation or action in such a minor charge, and as it has been brought out, did fully intend to repay and had no intention of profit by selling, it is strongly recommended that judgement passed in this case be very lenient.

V.W. Porter

(V.W.Porter) Lieut.,
Defending Officer

25 May 43

Exhibit A

The following statement was then made by the accused:

"On Saturday, 1 May 1943 soon after 1300 hours, I went to the bed of C.34818 Pte. Fyke, A.F. and took five packets of Sweet Caporal cigarettes from his kit. I gave one package to a man called "Slim" who works in the kitchen. He is a cook. We were in the Y.M.C.A. in Woking. I have about half of one package left and I have smoked the rest. I did not sell any of them. I have read the above statement and it is correct.

Grenon. H.

Signed Grenon, H. D-126685

Witness B-95618 Sgt. Daniels, A.
G-17197 Pte. Middleton, R.S.
Pte. Middleton R.S.

OKP

SUMMARY OF EVIDENCE

Summary of evidence in the case D.126685 Pte. Gremon, H. #1 R.C.A.S.C.R.U., attached to No. 2 Sub-Depot, 1 C.B.O.D., Canadian Army Overseas.

The Commanding Officer directs that the evidence shall be taken on oath.

First Witness for the Prosecution — C.34818 Gnr. Fyke, A. No. 5 Canadian General Pioneer Coy., attached to No. 2 Sub-Depot, 1 C.B.O.D. Canadian Army Overseas, having been duly sworn, stated as follows:-

"Last Saturday, 1 May 1943, I was employed in the kitchen of the Men's Mess at No. 2 Sub-Depot, 1 C.B.O.D. At approximately 0945 hours I went to my quarters in the C.A.C.R.U. building to make my bed. I looked in my kit bag for a handkerchief and noticed that there were five or six packages of twenty-five (25) Sweet Caporal cigarettes, each in a carton, in the kit bag. That same afternoon at about 1400 hours I returned to my quarters to move my bedding and kit to another room. I found my kit bag open and when I looked inside the cigarettes were gone. The cigarettes were not found in any of my other kit which I searched when I found my kit bag open.
That evening I reported the loss to the N.C.O. in charge of our quarters, Cpl. Nicholson, now Sgt. Nicholson."

Question: - In which part of your kit bag did you keep your handkerchief?

Answer: - My handkerchiefs were stuffed down the side of the kit bag and the cigarettes were on top of everything that was in my kit bag.

Question: - Did you look in the carton to see how many cigarettes there were left?

Answer: - While looking for my handkerchief I took the carton out of my kit bag. The top of the carton was open. I did not count the number of packages but I estimated there were about five or six.

(Signed) A Fyke
(A.Fyke) Gnr.
C.34818

Second Witness for the Prosecution — L.53288 Pte. Hanis, E.A. No. 5 Canadian General Pioneer Coy., attached to No. 2 Sub-Depot, 1 C.B.O.D. Canadian Army Overseas, having been duly sworn stated as follows:-

"I am frequently called "Slim" by the other men. On Saturday, 1 May, 1943, I worked in the kitchen of the Men's Mess at No. 2 Sub-Depot, 1 C.B.O.D. until about 1230 hours. At about 1400 hours the accused, Pte. Gremon and I went in to Woking. During the afternoon, at about 1500 or 1600 hours the accused gave me a package of twenty-five (25) Sweet Caporal cigarettes."

(Signed) E.A. Hanis
(E.A.Hanis) Pte.
L.53288

The accused declined to cross-examine the witness.

Third Witness for the Prosecution

M.148 Cpl. (A/Sgt) Nicholson, G.L., No. 5 Canadian General Pioneer Coy., attached to No. 2 Sub-Depot, 1 C.B.O.D., Canadian Army Overseas, having been duly sworn, stated as follows:-

"On Saturday, 1 May 1943, at about 1830 hours, Gnr. Pyke came to me and told me that he had lost some cigarettes. He told me he had lost about ten packages of Sweet Caporals. At about 0700 hours on Monday, 3 May 1943, I came to the accused and questioned him about cigarettes. He confessed to me that he had taken the cigarettes which Gnr. Pyke had reported to me as lost. I reported this matter to the Orderly Sergeant who went with me to the Regimental Sergeant Major, where I repeated the story."

(Signed) G.L. Nicholson
(G.L. Nicholson) Sgt.
M.148

The accused declined to cross-examine the witness.

Fourth Witness for the Prosecution

D.95618 Sgt. Daniels, A., Canadian Provost Corps Depot #1 C.G.R.U., attached to No. 2 Sub-Depot, 1 C.B.O.D., Canadian Army Overseas, having been duly sworn, stated as follows:-

"At 0830 hours Monday, 3 May 1943, I received from the Regimental Office, No. 2 Sub-Depot, 1 C.B.O.D., information that Sweet Caporal cigarettes had been stolen from the kit of Gnr. Pyke who was quartered in C.A.C.R.U. Barracks. Accompanied by Pte. Middleton of the Regimental Police staff, I proceeded to C.A.C.R.U. room A-1 and contacted Pte. Grenon, who was asked to accompany us to the Regimental Police office. I questioned Pte. Grenon as to the missing cigarettes. Pte. Grenon was arrested and charged with the theft of five (5) packets of Sweet Caporal cigarettes, the property of Gnr. Pyke. Pte. Grenon was cautioned as follows:-

'You are charged with theft. You do not have to say anything in answer to this charge unless you wish to do so, but whatever you say will be taken down in writing and may be given in evidence.'

"Pte Grenon stated that he understood the caution and signed it. The following statement was then made by the accused -

'On Saturday, 1 May 1943, soon after 1300 hours, I went to the bed of C.14818, Pte Pyke, A.P. and took five packets of Sweet Caporal cigarettes from his kit. I gave one package to a man called "Slim" who works in the kitchen. He is a cook. We were in the Y.M.C.A. in Wyking. I have about half of one package left and I have smoked the rest. I did not sell any of them. I have read the above statement and it is correct.' "

(Signed) .....
(H. Grenon) D.126685

Witness .....
(A. Daniels) Sgt. D.95618

.....
(R.S. Middleton) Pte.
O.17197

I submit herewith this signed statement quoted above, marked Exhibit "A".

(signed) A Daniels.....(A.Daniels)Sgt.B95613

The accused declined to cross-examine the witness.

Fifth Witness for the Prosecution

G. 17197 Pte. Middleton, R.S. No. 2 Sub-Depot, 1 C.B.C.D., Canadian Army Overseas, having been duly sworn, stated as follows:-

"On 3 May,1943, at about 0915 hours the accused, Pte. Grenon, was escorted to Sgt. Daniels' office by myself. The accused made the statement marked Exhibit "A" to Sgt. Daniels in my presence, and it was signed by myself as witness."

(Signed) G.17197 Pte R.S.Middleton.....

(R.S.Middleton)Pte.
G.17197

The accused declined to cross-examine the witness.

The accused declined to call any additional witnesses on his own behalf.

The accused was cautioned as follows:-

"Do you wish to make any statement or to give evidence on oath: you are not obliged to say anything or give evidence unless you wish to do so, but whatever you say or any evidence you give will be taken down in writing and may be given in evidence."

The accused declined to make any statement or to give evidence on oath.

I certify that the foregoing summary of evidence, consisting of three pages, was taken down by me in the presence and hearing of the accused, and that Rules of Procedure 4 (C), (D), (E), (F) and (G) have been complied with.

Signed..L.M.Hunt..Capt
(L.M. Hunt) Capt.

6 May 43.

Atkinson Pettypiece Mjr.

SUMMARY OF EVIDENCE

Summary of evidence in the case of D.126685 Pte. Grenon, H. No. 1 R.C.A.S.C.R.U. attached to No. 2 Sub-Depot, 1 C.B.O.D. Canadian Army Overseas.

LIST OF WITNESSES

1. C.34818 Gnr. Fyke, A. No. 5 Canadian General Pioneer Coy. attached to No. 2 Sub-Depot, 1 C.B.O.D.

2. L.53268 Pte. Manis, E.A., No. 5 Canadian General Pioneer Coy., attached to No. 2 Sub-Depot, 1 C.B.O.D.

3. M.148 Cpl. (A/Sgt.) Nicholson, G.L. No. 5 Canadian General Pioneer Coy, attached to No. 2 Sub-Depot, 1 C.B.O.D.

4. R.95619 Sgt. Daniels, A. Canadian Provost Corps Depot, No.1 C.B.R.U., attached to No. 2 Sub-Depot, 1 C.B.O.D.

5. S.17197 Pte. Middleton, R.S., No. 2 Sub-Depot, 1 C.B.O.D.

LIST OF EXHIBITS

Exhibit "A" - Statement made by D.126685, Pte. Grenon, H. witnessed by R.95610, Sgt. Daniels, A. and S.17197 Pte. Middleton, R.S., and dated 0925 hours, 3 May 1943.

Sheet No.1 destroyed on completion of six months service 16-7-42.

No. D-126685 Name Grenon, H. | Sqn., Battery, or Company | Corps RCASC | Date of enlistment 26-1-42 | G.C. Badges | Service or Proficiency Pay | M.F.M. 6 (A F B 122)

Date of last entry in Company Conduct Sheet 6-7-42 | No. and date of last drunk | Period not reckoning towards freedom from extra fine | Sheet No. 2 | Signature O.C. Company, etc. | Character

Place	Date of offence	Rank	Cause of drunkenness	OFFENCE	Name of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Field	14 Sep 42	Pte.		WOAS AWL from 2200 hrs 14 Sep 42 to 0600 hrs 15 Sep 42. Time absent 8 hrs A.A.Sec.15(1)	L/Cpl.Mecteau A/Sgt.Evans	14 days C.B. forf.4 days pay forf.1 days pay total forf.5 days	16 Sep 42	Lt.Col.W.C. Fletcher	FR&I 149(2) FR&I 149(1)(a) Total forf. 5 days pay.
Field	28 Nov 42	Pte.		WOAS AWL from 2300 hrs 28 Nov 42 to 2145 hrs 29 Nov 42.(22 hrs 45 min) A.A.Sec.15(1)	Pte.Robbins L/Cpl.Ready Pte.Frankland Pte.Parisien	14 days F.P.	2 Dec 42	Capt.W.M. Arnold	Auto.forf.1 days pay.
Field	28 Nov 42	Pte.		Sec.40 A.A. Operating W.D. vehicle and using Government Petrol without proper authority.	L/Cpl.McArthur L/Cpl. Kerr Sgt.Westbrook	21 days pay	2 Dec 42	Capt.W.M. Arnold	

(P T O.)

Place	Date of offence	Rank	Cause of detention-ment	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of other proceeding with trial	By whom awarded	Remarks
Field	11 Jan 43	Pte.		(1) Sec.40 A.A. Failing to report for duty. (2) AWL 7 hrs 25 min. Sec.15(1) A.A.	Sgt.Thompson	27 days F.P.	12 Jan 43	Major P.H. Savard	Forf.1 days Pay FR&I 149(1)(a)
Field	8 Feb 43	Pte.		Sec.40 A.A. In that he on the 8 Feb 43 did take a pair of rubber boots from his quarters with intent to pawn.	C-12534 Sgt. Carriere,D. C-12551 Sgt. Turner, J.	14 days pay 46-2D A.A. 14 hrs instructional drill.	9 Feb 43	Major H.C. Pattison	

Certified ~~the~~ a true copy

.....Lieut.

Regimental Officer, No.2 Sub-Depot

Major

M.F.B. 355
22M—5-41 (572-3)
H.Q. 1772-39-620
A.F.B. 296

STATEMENT AS TO CHARACTER AND PARTICULARS OF SERVICE OF ACCUSED

Number	Rank	Name	Regiment (or unit)
D-126685	Pte.	Grenon, H.	R.C.A.S.C.

1. The following is a fair and true summary of the entries in the ~~Service~~ Regimental conduct sheets or Company Conduct sheets of the accused, exclusive of convictions by a Court-Martial or a Civil Court, of summary awards under Section 47 of the Air Force Act / Army Act and of cases in which trial has been dispensed with.

	Within last 12 months	Since enlistment or appointment
For A.W.L.	three times	times
For Operating M.D.Veh.without auth	one times	times
For Failing to report for duty	one times	times
For Taking one pr.rubber boots with intent to pawn.	one times	times

Number of instances of gallantry or distinguished conduct

or, N.A.

There are no entries in the conduct sheets of the accused.

NOTE.—If the charge is for drunkenness, the entries for drunkenness must be stated separately.

2. The accused has not been previously convicted

or, N.A.

Previous convictions of the accused by a court-martial or a civil court, of summary awards under Section 47 of the Air Force Act / Army Act and dispensations with trial under A.F.A. 73 / A.A. 73 are set out in the Schedule annexed to this statement.

3. The accused is not under sentence at the present time

or,

The accused at the present time is under sentence for N.A. beginning on the N.A. day of

4. The accused has been in confinement awaiting trial on the present charges, for days in civil custody, and ~~24~~ 2 days in ~~military~~ custody, making a total of ~~24~~ 2 days in custody, of which no days were spent in hospital.

5. The present age of the accused according to his ~~attestation~~ attestation paper is 20 yrs 3mos 17 days

6. The date of his ~~attestation~~ attestation specified in his ~~attestation~~ attestation paper 16 Jan 42

7. The service which the accused is allowed to reckon towards discharge is 1 yr. 4 mos.

8. The accused is entitled to reckon 1yr.4 mos. service for the purpose of determining his pension, etc.

9. The accused is in possession of or entitled to no air force decoration, or air force reward (or is in military / military possession of or entitled to). State any air force decoration or reward. military N.A.

10. (If the accused is a warrant officer.) The accused before he was made a warrant officer last held Air Force the regimental rank of

12. The a... present date:—

...ed holds in the Royal Canadian Air Force the rank of
Permanent Force

In the rank of ..... and in his regiment (or corps), the rank of
unit

In the rank of ..... years. ...ously, without reduction, to the

In the rank of ..... years. Date of promotion.

NOTE.—If any matter in any of the above paragraphs cannot be stated from the Regi... the paragraph must be struck through.

SCHEDULE

Of convictions by a court-martial or civil court, of summary awards under section 47 of the Army Act, and of cases in which trial has been dispensed with of accused, Number D-126685 Rank Pte. Air Force Unit

Name Gremon, H. of R.C.A.S.C. Regiment

NOTE.—A verbatim extract from the regimental books stating these convictions and dispensations with trial must be inserted.

Description of Court by which tried	Date and Place of Trial	Charge upon which convicted	Sentence of the Court	Punishment Remitted

NOT APPLICABLE

I hereby certify that the foregoing schedule of convictions and dispensations with trial is a true extract from the regimental books in my custody.

Signed this ~~Seventeenth~~ 25th day of May 1943

Arthur Shelton Major

The above statement (with the schedule of convictions and of cases in which trial has been dispensed with) is read, marked signed by the president, and annexed to the proceedings.

Prepared from records in my possession as Regimental Officer

J. Blake King Law

11. (In the case of an officer.) The accused holds in the Royal Canadian Air Force the rank of Permanent Force unit

.....dated....., and in his regiment (or corps), the rank of

.....dated.....

12. The accused has served as a non-commissioned officer continuously, without reduction, to the present date:—

.....Date of promotion.

In the rank of.....years.

In the rank of.....years.

In the rank of.....years.

NOTE.—If any matter in any of the above paragraphs cannot be stated from the Regimental books, the paragraph must be struck through.

SCHEDULE

Of convictions by a court-martial or civil court, of summary awards under Section 47 of the Army Air Force Act, and of cases in which trial has been dispensed with of accused, Number D-126685 Rank Pte. Unit

Name Grenon, H. of R.C.A.F.S.C. Regiment

NOTE.—A verbatim extract from the regimental books stating these convictions and dispensations with trial must be inserted.

Description of Court by which tried	Date and Place of Trial	Charge upon which convicted	Sentence of the Court	Punishment Remitted
		NOT APPLICABLE		

I hereby certify that the foregoing schedule of convictions and dispensations with trial is a true extract from the regimental books in my custody.

Signed this ~~Seventeenth~~ 25 day of May 1943

The above statement (with the schedule of convictions and of cases in which trial has been dispensed with) is read, marked [illegible] signed by the president, and annexed to the proceedings.

prepared from records in my possession as Regimental officer [illegible]

4 K. 1. Ple. Grenow. H.
See GG-2 for 1st case.

SCHEDULE.

PART I. PLEA(S), FINDING(S) AND SENTENCE.

Accused: D.126685 PTE. HOMER GRENON 1 BN 1CBRD

Charge. (Insert "alternative" where applicable.)	Plea. (See instrs p 2.)	Finding. (See note below.)	(Space for use as required for further charges, accused charged jointly, special findings, etc.)
1st	GUILTY	GUILTY	
2nd	GUILTY	GUILTY	
3rd	GUILTY	GUILTY	
4th			
5th			
6th			

(Note: As to findings for lesser offences see AA 56, RP 44; findings on alternative charges see MML p 483 fn 4 para 2, RP 44; special findings see RP 44 and MML p 753, and in lieu of kit see RP 44 fn 6.)

At present under sentence for ..... beginning on (date) ..... (1)
(1. Insert sentence being served, or delete, if not applicable. See RP 46(A). Information should be found on MF B355 or AF B296.)

Time in confinement awaiting present trial—a total of 26 days, of which 5 days were spent in hospital.(1)
(1. See RP 46(A) fn 2. Information should be found on MF B355 or AF B296 admitted in evidence under E2.)

Sentence Awarded by the Court:

To undergo detention for 180 days

(Sgd) ..... Judge-Advocate, if any. 6 Dec 44 Date awarded. (Sgd) J.G. Rowlatt Major President. (RP 45, 50.)

(See back of Convening Order as to assembly and disposal of record after trial.)

PART II. MINUTE WHERE CONFIRMATION RESERVED. (AA 54(5), RP 120(F), MML p 760.)

Date ..... (Sgd) ..... Commanding .....

PART III. DECISION OF CONFIRMING OFFR ON FINDING(S) AND SENTENCE.

(For duties and powers see AA 54, 57, RP 37(D) fn 6, 46(A), 51-56, 120, MML pp 759-761, KR Can 567-577. Acquittals require no confirmation and cannot be revised: AA 54(3). Sending back finding or sentence for revision by Court: AA 54(2), RP 120(G). If not confirmed, accused may be tried again: AA 157, MML p 64. Minute of confirmation or non-confirmation may be altered before promulgation: RP 53, MML p 65. Quashing after promulgation: KR Can 573. Duties and powers of reviewing offrs: AA 57, 57A, RP 53A, 54. The Confirming Offr must sign here personally. AA 172 fn 1.)

My decision on the finding(s) and sentence set forth in Part I is:

Confirmed

I direct that the accused be ~~not committed to prison or detention barracks~~ with further notes. (1) (See AA 57A. Delete if not used.)

Date 7 Dec 44 (Sgd) C.C. Mathers Brig. Commanding. COMMANDER 1 CDN BASE REINF GROUP Commanding Officer

PART IV. PROMULGATED AND EXTRACTS TAKEN. (RP 52, KR Can 576, 577.)

Accused.	Date.	Signature of Offr.
D-126685 Pte Grenon, Homer.	16 Dec 44	Officer Commanding 1 Bn 1 Cdn Base Reinforcement Depot

ALL DELETIONS AND ALTERATIONS WILL BE INITIALLED.

RECEIVED 2 JAN 1945 CMHQ

RECORDED AT CMHQ IN AB 160, 4 H K-1

CFAP6 (1p less of AFA3) 40-P & S-1808 (2004)

FIELD GENERAL COURT-MARTIAL

Convened by Order of BRIG. T.G. GIBSON, Comd 1 CDN BASE REINF GP dated 4 DEC 44 CMF

ACCUSED.

(As to the trial of two or more charged jointly see RP 16, 71, 109. As to reasons for showing (a) permanent or confirmed rank, and (b) apptmt, A/rank or A/apptmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

Number.	(a) Prmnt R.	(b) Apptmt, A/E or A/Appmt.	Full Christian Names.	Surname.	Unit.
D126685	PTE	cdn	HOMER	GRENON	1 BN 1CBRD

PROCEEDINGS REVIEWED Jan 45

PROCEEDINGS OF TRIAL.

Held in the Office of the DAAG, Base, CMHQ on (date(s)) 6 DEC 44

RECORD FORM A—OPENING PROCEEDINGS AND ARRAIGNMENT. 2F-45

A1. The President, Members, waiting Member, JA, if any, and Offrs under instr, if any, assemble, and the Court is closed.

(PRINTED MATTER, NOT IN ITALICS FOR GUIDANCE, WILL BE DELETED, IF NOT USED OR APPLICABLE, AND INITIALLED BY PRES OR JA. The Schedule referred to throughout is on p 4. Citations do NOT include all relevant fins ROs. For guidance on procedure when a variation in this form arises, see form for GCM in MML pp 741 to 758. A brief record of such variation will be made and given a number having reference to appropriate or preceding para number herein. See back of Convening Order, CF 895, for oaths and instrs on how to record addresses, evidence, etc., which instrs hereafter called "Notes". As to general provisions for conducting the trial see AA 53, RP 36, 63-70, 73, 74, 94, 103, 119, 132.)

A2. The President initials and lays before the Court the Convening Order and Charge Sheet(s) attached thereto.(1) The Court is satisfied that it is properly convened and constituted(2), accused is (are) amenable to military law, and each charge discloses an offence.(3)

(1. As to use of Summary of Evidence see RP 17 fn 6. 2. AA 49, 50, RP 105-107. 3. RP 11-13, 23, 24.)

A3. The Court is opened. The accused is (are) brought before the Court. At 1000 hours trial commences.

A4. The Prosecutor produces a Medical Certificate that accused is (are) fit to undergo trial by court-martial.(1) ~~The Prosecutor informs the Court that accused elected to be tried by court-martial instead of being dealt with summarily by the CO.~~(2)

(1. KR Can 557. 2. AA 46(8), RP 60 fn 1. For effect see KR Can 563(c). Delete, if not applicable.)

A5. President to accused: Do you object to ..... as interpreter? Ans .....

The Interpreter is sworn.(1) Do you object to ..... as shorthand writer? Ans .....

The shorthand writer is sworn.(1)

(1. RP 72. Delete, if none employed.)

A6. The Convening Order and names of the President and Members of the Court are read to the accused.(1) President to accused: Do you object to be tried by me as President or by any of the Members of the Court?

Ans Nil (2)

(1. RP 110. 2. If no objection, waiting member retires. RP 66(8). If objection, see procedure AA 51, RP 25, 71, (8, MML p 742.)

A7. The President, Members, JA, if any, and Offrs under instr, if any, are sworn.(1) The following are the ranks, names and units of the offrs comprising the Court, etc:

President	MAJOR	J.G. ROWLATT	2 BN 1 CBRD
Member	CAPT	J.R. NICHOLSON	1 BN 1 CBRD
Member	LIEUT	F. PHILION	2 CDN REALLOCN CENTRE
Judge-Advocate			
Prosecutor	LIEUT	H.N. LASH	1 BN 1 CBRD
Defending Offr	LIEUT	C. MAJOR	1 BN 1 CBRD

Questions by President: Is the Prosecutor a lawyer? Ans No Is the Defending Offr a lawyer? Ans No (1)

(1. RP 26, 27, 109, 111. List of offrs under instr will be returned separately with proceedings for information of Conv Offr.)
(2. If Pros a lawyer and Def Offr not, accused is entitled to an adjournment when RP 89 (5) and fn 2 were not followed. See DI p 3.)

A8. The accused ..... before arraignment make(s) (no) objection(s). (1)

(1. If a special plea is made for separate trial on one or more charges (RP 62(E), 108), or as to the jurisdiction of the Court (RP 34, 35(A), 113), or as to accused's mental fitness to stand trial (AA 130, RP 57), or by one of several accused charged jointly to be tried separately (RP 16, 71), such plea, the arguments made in support or against, the evidence, if any, and Finding are recorded per Notes. For forms of record see references in fns to RoP cited. Insert in full rank and name of the accused making the plea.)

A9. The accused is (are) arraigned (separately) on all charges in the charge sheet.(1) The accused does (do) not object to any charge.(2) There is no amendment to be made to the Charge Sheet.(2) The President records the pleas in Part I of the Schedule.

(1. RP 31, 112. See para 1 of Instrs p 2. When more than one Charge Sheet see RP 62; when several accused to be tried separately see RP 71(C), and use separate copies of CF 896 to record proceedings. 2. RP 32, RP 33. If otherwise, delete and make appropriate record per Notes.)

A10. The Court (is closed and) considers the Instrs on Procedure after Arraignment at top of p 2. The proceedings are continued on Record Form ..... B

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS. (MS4)

INSTRUCTIONS ON PROCEDURE AFTER ARRAIGNMENT.

1. *The accused may not plead or be found Guilty on more than one of two or more charges laid in the alternative.* (RP 37(A).) *As to withdrawal of alternative charges by Prosecutor see RP 35(C). No other charge can be withdrawn for any reason without authy from Convening Offr. If Convening Offr concurs, Court may accept plea of Guilty to lesser, etc, offence.* (RP 44(H).) *Accused may change a plea of Not Guilty to Guilty during trial.* (RP 38.) *As to refusing to plead or not pleading intelligibly see RP 35(A). As to plea when sentence may be death see RP 35(D).*

2. *The proceedings on each charge sheet* (RP 62) *after arraignment will be conducted as follows in the respective circumstances stated:*

I. *If pleas to all charges are GUILTY, use Record Form B below.*

II. *If pleas to all charges are NOT GUILTY, use Record Form D on p* [redacted] *3.*

III. *If pleas to some charges are GUILTY and to other charges are NOT GUILTY and,*

(a) *Such mixed pleas occur when there are no alternative charges in the Charge Sheet, use Record Form C below.* (RP 37(A).)

(b) *Such mixed pleas occur in a set of two or more charges laid in the alternative, see RP 37 (A) and fn 2 as to discretion of Court, (i) to try the accused on all such alternative charges as if he had pleaded Not Guilty thereto, or, (ii) to record the pleas as the findings of Court. After deciding between (i) and (ii), Court will proceed under foregoing instrs as may be appropriate to result of its decision. See M M L p 744 Instrs (2).*

3. *As to responsibility of President to accused see RP 59, 60(C); powers and duties of JA see RP 103; duty of Prosecutor see RP 60(A) (B); duty and privileges of accused and Defending Offr see RP 81, 82; questioning of accused etc see RP 87(C), 91, 92; swearing and withdrawal of witnesses from Court see RP 81, 82; questioning of accused see RP 80, 87(C), 92(B), and of witnesses see RP 83-85; calling or re-calling of witnesses by Court etc see RP 75-79, 86, 116; use of Summary of Evidence at Trial see RP 17(E) fn 6; and responsibility of JA or Pres to record proceedings see RP 94, 96.*

RECORD FORM B—PROCEEDINGS ON PLEAS OF GUILTY TO ALL CHARGES.

B1. The President or JA, if any, complies with RP 35(B) by explaining to the accused the nature and meaning of the charge(s)(1), and that on his plea of Guilty there will be no regular trial but merely a consideration of the sentence to be awarded after he has been given an opportunity to make a statement in reference to the charge(s), call witnesses as to character and make an address in mitigation of punishment.(2)

(1. *RP 35 fn 3.* 2. *MML p 54 para 47.*)

B2. President to accused: The Court will now receive any statement you desire to make in reference to the charge(s).(1) If it appears from your statement that there are circumstances which indicate that you do not understand the effect of the plea of Guilty(2), or which show provocation or extenuation which should be examined(3), we shall advise you to change your plea to Not Guilty. In the witnesses for the Prosecution should be examined(3), we shall advise you to change your plea to Not Guilty. In making a statement you will not be sworn or subject to cross-examination; and anything you say will not be used in evidence against you after you change your plea. If, however, it appears to the Court that your statement affects only the amount of punishment to which you are liable, you will not be advised to change your plea and you will be given an opportunity later to prove your statement by sworn testimony, if you so desire.(4)

President to accused: Do you wish to make a statement? Ans. No

(1. *RP 37(B).* 2. *RP 37(D) fn 6.* 3. *RP 35(B) fn 5 para 3, MML p 54 para 47.* 4. *See para E3 of Record Form E.* 5. *Statement, if any, recorded per Notes.*)

B3. The Court considers the accused's statement(5). The Court decides (not) to advise accused to change his (their) plea(s) of Guilty to Not Guilty on charge(s). The accused is (are) so informed, and he (they) charge(s) his (their) plea(s) on charge(s). Part I of the Schedule is amended accordingly.

(1. *Court may be closed to consider the statement.* Delete whole or part not used.)

B4. On the charge(s) to which the plea(s) of Guilty is (are) not changed the President records finding(s) of Guilty in Part I of the Schedule.(1)

(1. *RP 25(B).* If any plea(s) is (are) changed, use *Record Form C or D as appropriate.*)

B5. The Summary of Evidence is marked Ex 'A', initialled and read aloud by the President.(1)

(1. *If there is no Summary, or if it is inadequate, comply with RP 37(B). If there is any evidence inconsistent with any plea standing on Guilty, Court will advise accused to change such plea and, if changed to Not Guilty, try such charge(s) by use of paras D1 to D6 inclusive of Record Form D on p 3. RP 37(D).*)

B6. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

RECORD FORM C—PROCEEDINGS ON MIXED PLEAS OF GUILTY AND NOT GUILTY.

C1. As to the charges on which accused pleaded NOT GUILTY the trial is continued by using paras D1 to D8 inclusive of Record Form D on p 3 before proceeding with C 2.(1)

(1. *RP 37(A) (E).*)

C2. The charges on which accused pleaded GUILTY are read to him (them) again, and the trial is continued by using paras B1 to B5 of Record Form B above.(1)

(1. *Under B5 such parts only of the Summary of Evidence are read as relate to the charges dealt with under C2. If any plea is changed to Not Guilty, trial thereon proceeds by complying with paras D1 to D8 inclusive in Record Form D on p 3 and making an appropriate record thereof on a separate sheet.*)

C3. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

[redacted] Loose Sheets of Record.

RECORD FORM D—PROCEEDINGS ON PLEAS OF NOT GUILTY TO ALL CHARGES.

D1. President to accused: Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity to prepare your defence? Ans. (1)

(1. *If "yes", see RP 39(A) for procedure.* Statement or evidence, if any, is recorded per Notes.)

D2. The Prosecutor makes (an) (no) opening address.(1)

(1. *RP 39(B), 60(A) (B), 90, 92(C) (D).* Record address per Notes, subject to *RP 95(C).*)

D3. The evidence for the Prosecution is taken.(1)

(1. *RP 39(C), 114, KR Can 555.* Record evidence per Notes. As to Prosecutor giving evidence himself see *RP 39(D) (E).*)

D4. The Prosecution is closed.(1) The Defending Offr submits that the evidence for the Prosecution does not establish a prima facie case against the accused on the charge(s).(2) The Court is closed, and considers the submission.(3) The Court is re-opened, and the President announces that the submission is disallowed on the charge(s), and that, accordingly, the trial will proceed on the former, but the accused is (are) found Not Guilty on the latter charge(s).(4)

(1. Delete remainder of this para, if submission not made. 2. Arguments on submission, answer and reply are recorded per Notes. 3. *RP 40 fn 1. See MML p 72 paras 12-14 and p 81 para 42.* 4. Delete part not used. If accused acquitted on all charges, use second alternative in para D8.)

NB. If trial proceeds, accused must be allowed great latitude in making his defence, and the Court should not stop his defence solely on ground of irrelevance. (*RP 60(C), 114, 115.*)

D5. President to accused: You will now proceed with your defence.(1) You may, if you wish, give evidence yourself on oath as to the facts or your character or both, in which case you will be subject to cross-examination.(2) You may, however, make a statement without being sworn, and you will not be subject to cross-examination.(3) But a statement which could have been made on oath will not carry with the Court the same weight as sworn testimony.(4) You may call witnesses in your defence and as to character, whether you give evidence or make a statement or do neither.

President to accused: Do you wish to give evidence yourself as a witness, make a statement, or do neither? Ans. Do you intend to call witnesses on your behalf? Ans. Are they witnesses as to character only? Ans.

(1. *RP 155.* 2. *RP 40(A), see 80(D).* 3. *RP 40 fn 10.* 4. *RP 40 fns 2, 9.*)

D6. Consequent on the answers recorded in para D5 the appropriate procedure for the defence is followed.(1)

(1. *RP 114, 115, 116.* For procedure see Notes on back of Convening Order. *Cf A95.* Evidence for accused as to his character should, if in his interest, be given before the finding. See *RP 46(A) fn 7, 86(C).* Note the further opportunity in para E1 of Record Form E. Record per Notes addresses, statement, evidence and any summing up by the JA under *RP 42, 103(e).*)

D7. The Court is closed to consider the finding(s).(1) The finding(s) of the Court is (are) recorded in Part I of the Schedule.(2) The Court is re-opened.

(1. *RP 43, 117(a).* See Notes in Part I of Schedule. 2. *RP 44(A).*)

D8. The President announces the finding(s), if any, of Not Guilty, and states to the accused that the finding(s) of the Court on the charge(s), being subject to confirmation, will be promulgated later.(1) Or, The President announces that the accused is found Not Guilty on all charges and is to be released forthwith, and that the proceedings are accordingly terminated. Part I of the Schedule is dated and signed.(2)

(1. *AA 54(3) (6), RP 45, 120(4).* 2. *AA 54(3), RP 45, 117.* This alternative announcement is not applicable when there are pleas of Guilty outstanding and dealt with under Record Form B or C.)

D9. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E below.

RECORD FORM E—PROCEEDINGS ON CONVICTION BEFORE SENTENCE.

E1. President to accused: Do you wish to give evidence yourself or to call any witnesses as to your character 1(1) Ans. No

(1. *If evidence has already been given by accused or his witnesses as to his character, delete this para. RP 37(C) fn 4, 46 fn 1.* Accused and witnesses are sworn. Evidence recorded per Notes.)

E2. The Prosecutor produces Statement(s) as to Character and Particulars of Service(2), and certified true copy (extract) of Conduct Sheet(3), purporting to refer to the accused, which he submits to the Defending Offr for examination, and then to the Court for admission in evidence. The Court is satisfied that these documents refer to the accused, because (i) they purport to be signed in the manner required by AA 163(1) (g) (h), and (ii) they purport to refer to [a] soldier(4) having the same number, rank, name and corps as the accused. Admitted in evidence and marked Ex B and Ex C respectively.(5)

(1. *MFB 355 or AFB 296.* 2. *MFM 6.* 3. *RP 46, KR Can 558.* If above documents not produced, see *RP 46 fn 1* para 1.)

E3. President to accused: Do you wish to address the Court on the Statement(4) and Conduct Sheet(3), and in mitigation of punishment 1(1)? Ans. Yes through my defending officer

(1. *RP 37(C), 46(B).* 2. Address, if any, recorded per Notes. Court should permit accused or his witnesses to prove or seek anything here or previously stated which would affect the amount of punishment. *RP 37(F) fn 7.*)

E4. The President states that the Court is closed to consider the sentence, and that the sentence to be awarded by the Court, being subject to confirmation, will not be announced, but will be promulgated later, and the proceedings in open court are accordingly terminated.(1)

(1. *AA 54(6), RP 120(4).*)

E5. The Court considers the sentence.(1) The President records the sentence in Part I of the Schedule, which is dated and signed by him and the JA, if any.(2)

(1. When several accused tried separately see *RP 7(5).* One sentence only, comprised of the punishment or punishments laid down in *AA 41, 44 and its proviso*, is to be awarded to convict all charges in all charge sheets on which accused found guilty. *RP 46.* As to sentences see *AA 44, 138, 182, RP 46-50, 69, 118, 119(A), KR Can 308, 330, 563-566, Overseas RO 309, 2323, MML p 60, 753-759.* As to sentences assigned for civil offences by the law of England see *AA 41(5), MML p 130.* When accused already under sentence of imprisonment or detention see *AA 44(2)(b), 90(1), KR Can 564.* 2. *RP 50.* As to release from arrest by Confirming Offr see *KR Can 567.* As to assembly and disposal of record after trial see instrs on back of Convening Order.)

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

INSTRUCTIONS ON PROCEDURE AFTER ARRAIGNMENT.

1. *The accused may not plead or be found Guilty on more than one of two or more charges laid in the alternative. (RP 37(A).) As to withdrawal of alternative charges by Prosecutor see RP 35(C). No other charge can be withdrawn for any reason without authy from Convening Offr. If Convening Offr concurs, Court may accept plea of Guilty to lesser, etc, offence. (RP 44(H).) Accused may change a plea of Not Guilty to Guilty during trial. (RP 38.) As to refusing to plead or not pleading intelligibly see RP 35(A). As to plea when sentence may be death see RP 35(D).*

2. *The proceedings on each charge sheet (RP 62) after arraignment will be conducted as follows in the respective circumstances stated:*

I. If pleas to all charges are GUILTY, use Record Form B below.

II. If pleas to all charges are NOT GUILTY, use Record Form D on p [redacted] 3.

III. If pleas to some charges are GUILTY and to other charges are NOT GUILTY and,

(a) Such mixed pleas occur when there are no alternative charges in the Charge Sheet, use Record Form C below. (RP 37(A).)

(b) Such mixed pleas occur in a set of two or more charges laid in the alternative, see RP 37 (A) and fn 2 as to discretion of Court, (i) to try the accused on all such alternative charges as if he had pleaded Not Guilty thereto, or, (ii) to record the pleas as the findings of Court. After deciding between (i) and (ii), Court will proceed under foregoing instrs as may be appropriate to result of its decision. See MML p 744 Instrs (2).

3. *As to responsibility of President to accused see RP 59, 60(C); powers and duties of JA see RP 103; duty of Prosecutor see RP 60(A) (B); duty and privileges of accused and Defending Offr see RP 60(C), 87(C), 91, 92; swearing and withdrawal of witnesses from Court see RP 81, 82; questioning of accused see RP 80, 87(C), 92(B), and of witnesses see RP 83-85; calling or re-calling of witnesses by Court etc see RP 75-79, 86, 116; use of Summary of Evidence at Trial see RP 17(E) fn 6; and responsibility of JA or Pres to record proceedings see RP 94, 96.*

RECORD FORM B—PROCEEDINGS ON PLEAS OF GUILTY TO ALL CHARGES.

B1. The President or JA, if any, complies with RP 35(B) by explaining to the accused the nature and meaning of the charge(s).(1) and that on his plea of Guilty there will be no regular trial but merely a consideration of the sentence to be awarded after he has been given an opportunity to make a statement in reference to the charge(s), call witnesses as to character and make an address in mitigation of punishment.(2)
(1. *RP 35 fn 3.* 2. *MML p 54 para 47.*)

B2. President to accused: The Court will now receive any statement you desire to make in reference to the charge(s).(1) If it appears from your statement that there are circumstances which indicate that you do not understand the effect of the plea of Guilty(2), or which show provocation or extenuation in respect of which in your interest the witnesses for the Prosecution should be examined(3), we shall advise you to change your plea to Not Guilty. In making a statement you will not be sworn or subject to cross-examination; and anything you say will not be used in evidence against you after you change your plea. If, however, it appears to the Court that your statement affects only the amount of punishment to which you are liable, you will not be advised to change your plea and you will be given an opportunity later to prove your statement by sworn testimony, if you so desire.(4)

President to accused: Do you wish to make a statement? Ans. No (5)
(1. *RP 37(B).* 2. *RP 37(D) fn 6.* 3. *RP 35(B) fn 5 para 3, MML p 54 para 47.* 4. *See para E3 of Record Form E.* 5. *Statement, if any, recorded per Notes.*)

B3. The Court considers the accused's statement.(1) The Court decides (not) to advise accused to change his (their) plea(s) of Guilty to Not Guilty on ..... charge(s). The accused is (are) so informed, and he (they) change(s) his (their) plea(s) on ..... charge(s). Part I of the Schedule is amended accordingly.
(1. *Court may be closed to consider the statement. Delete whole or part not used.*)

B4. On the charge(s) to which the plea(s) of Guilty [redacted] (are) not changed the President records finding(s) of Guilty in Part I of the Schedule.(1)
(1. *RP 35(B). If any plea(s) is (are) changed, use Record Form C or D as appropriate.*)

B5. The Summary of Evidence is marked Ex 'A', initialled and read aloud by the President.(1)
(1. *If there is no Summary, or if it is inadequate, comply with RP 37(B). If there is any evidence inconsistent with any plea standing as Guilty, Court will advise accused to change such plea and, if changed to Not Guilty, try such charge(s) by use of paras D1 to D8 inclusive of Record Form D on p 3. RP 37(D).*)

B6. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

RECORD FORM C—PROCEEDINGS ON MIXED PLEAS OF GUILTY AND NOT GUILTY.

C1. As to the charges on which accused pleaded NOT GUILTY the trial is continued by using paras D1 to D8 inclusive of Record Form D on p 3 before proceeding with C 2.(1)
(1. *RP 37(A) (E).*)

C2. The charges on which accused pleaded GUILTY are read to him (them) again, and the trial is continued by using paras B1 to B5 of Record Form B above.(1)
(1. *Under B5 such parts only of the Summary of Evidence are read as relate to the charges dealt with under C2. If any plea is changed to Not Guilty, trial thereon proceeds by complying with paras D1 to D8 inclusive of Record Form D on p 3 and making an appropriate record thereof on a separate sheet.*)

C3. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

RECORD FORM D—PROCEEDINGS ON PLEAS OF NOT GUILTY TO ALL CHARGES.

D1. President to accused: Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity to prepare your defence? Ans. ..... (1)
(1. *If "yes", see RP 39(A) for procedure. Statement or evidence, if any, is recorded per Notes.*)

D2. The Prosecutor makes (an) (no) opening address.(1)
(1. *RP 39(B), 60(A) (B), 90, 92(C) (D). Record address per Notes, subject to RP 95(C).*)

D3. The evidence for the Prosecution is taken.(1)
(1. *RP 39(C), 114, KR Can 555. Record evidence per Notes. As to Prosecutor giving evidence himself see RP 39(D) (E).*)

D4. The Prosecution is closed.(1) The Defending Offr submits that the evidence for the Prosecution does not establish a prima facie case against the accused on the ..... charge(s).(2) The Court is closed, and considers the submission.(3) The Court is re-opened, and the President announces that the submission is disallowed on the ..... charge(s), and allowed on the ..... charge(s), and that, accordingly, the trial will proceed on the former, but the accused is (are) found Not Guilty on the latter charge(s).(4)
(1. *Delete remainder of this para, if submission not made.* 2. *Arguments on submission, answer and reply are recorded per Notes.* 3. *RP 40 fn 1. See MML p 72 paras 12-14 and p 81 para 42.* 4. *Deletes part not used. If accused acquitted on all charges, use second alternative in para D8.*)
NB: If trial proceeds, accused must be allowed great latitude in making his defence, and the Court should not stop his defence solely on ground of irrelevance. (RP 60(C), 114, 115.)

D5. President to accused: You will now proceed with your defence.(1) You may, if you wish, give evidence yourself on oath as to the facts or your character or both, in which case you will be subject to cross-examination.(2) You may, however, make a statement without being sworn, and you will not be subject to cross-examination.(3) But a statement which could have been made on oath will not carry with the Court the same weight as sworn testimony.(4) You may call witnesses in your defence and as to character, whether you give evidence or make a statement or do neither.

President to accused: Do you wish to give evidence yourself as a witness, make a statement, or do neither?
Ans. .....
Do you intend to call witnesses on your behalf?
Ans. ..... Are they witnesses as to character only? Ans. .....
(1. *RP 155.* 2. *RP 40(A), see 80(C).* 3. *RP 40 fn 10.* 4. *RP 40 fns 2, 9.*)

D6. Consequent on the answers recorded in para D5 the appropriate procedure for the defence is followed.(1)
(1. *RP 114, 115, 116. For procedure see Notes on back of Convening Order. CF A95. Evidence for accused as to his character should, if in his interest, be given before the finding. See RP 46(A) fn 1, 86(C). Note the further opportunity in para E1 of Record Form E. Record per Notes addresses, statement, evidence and any summing up by the JA under RP 42, 103(e).*)

D7. The Court is closed to consider the finding(s).(1) The finding(s) of the Court is (are) recorded in Part I of the Schedule.(2) The Court is re-opened.
(1. *RP 43, 117(A). See Notes in Part I of Schedule.* 2. *RP 44(A).*)

D8. The President announces the finding(s), if any, of Not Guilty, and states to the accused that the finding(s) of the Court on the ..... charge(s), being subject to confirmation, will be promulgated later.(1)
Or, The President announces that the accused is found Not Guilty on all charges and is to be released forthwith, and that the proceedings are accordingly terminated. Part I of the Schedule is dated and signed.(2)
(1. *AA 54(3) (6), RP 45, 120(A).* 2. *AA 54(3), RP 45, 117. This alternative announcement is not applicable where there are pleas of Guilty outstanding and dealt with under Record Form B or C.*)

D9. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E below.

RECORD FORM E—PROCEEDINGS ON CONVICTION BEFORE SENTENCE.

E1. President to accused: Do you wish to give evidence yourself or to call any witnesses as to your character?(1)
Ans. No
(1. *If evidence has already been given by accused or his witnesses as to his character, delete this para. RP 37(C) fn 4, 46 fn 8. Accused and witnesses are sworn. Evidence recorded per Notes.*)

E2. The Prosecutor produces Statement(A) as to Character and Particulars of Service(1), and certified true copy (extract) of Conduct Sheet(A)(2), purporting to refer to the accused, which he submits to the Defending Offr for examination, and then to the Court for admission in evidence. The Court is satisfied that these documents refer to the accused, because (i) they purport to be signed in the manner required by AA 163(d) (g) (h), and (ii) they purport to refer to (a) soldier(A) having the same number, rank, name and corps as the accused. Admitted in evidence and marked Ex B and Ex C respectively.(3)
(1. *MFB 355 or AFB 296.* 2. *MFM 6.* 3. *RP 46, KR Can 558. If above documents not produced, see RP 46 fn 1 para 1.*)

E3. President to accused: Do you wish to address the Court on the Statement(A) and Conduct Sheet(A), and in mitigation of punishment?(1) Ans. Yes through my defending officer (2)
(1. *RP 37(C), 46(D).* 2. *Address, if any, recorded per Notes. Court should permit accused or his witnesses to answer on oath anything here or previously stated which would affect the amount of punishment. RP 37(F) fn 7.*)

E4. The President states that the Court is closed to consider the sentence, and that the sentence to be awarded by the Court, being subject to confirmation, will not be announced, but will be promulgated later, and the proceedings in open court are accordingly terminated.(1)
(1. *AA 54(6), RP 120(A).*)

E5. The Court considers the sentence.(1) The President records the sentence in Part I of the Schedule, which is dated and signed by him and the JA, if any.(2)
(1. *When several accused tried separately see RP 7(D). One sentence only, comprised of the punishment or punishments laid down in AA 41, 44 and its powers, is to be awarded to cover all charges in all charge sheets on which accused found guilty. RP 48. As to sentences see AA 44, 138, 182, RP 46-50, 69, 118, 119(A), KR Can 308, 338, 563-564, Overseas RO 3019, 2122S, MML p 60, 737-759. As to sentences assigned for civil offences by the law of England see AA 41(5), MML p 130. When accused already under sentence of imprisonment or detention see AA 44(1B), 68(1), KR Can 564.* 2. *RP 50. As to release from arrest by Confirming Offr see KR Can 567. As to assembly and disposal of record after trial see Instrs on back of Convening Order.*)

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

CHARGE SHEET

The accused, D 126685, Pte Homer GRENON, I Canadian Base Reinforcement Battalion, I Canadian Base Reinforcement Depot, a soldier of the Canadian Army Overseas, is charged with :-

FIRST CHARGE

SEC 15 (I)

ARMY ACT

WHEN ON ACTIVE SERVICE, ABSENTING HIMSELF WITHOUT LEAVE

in that he

In the Field, in Italy, at about 0800 hrs, 11 August 1944, absented himself without leave until being apprehended at 1200 hrs 8 Sept 1944. (Absent: 28 days, 4 hours.)

SECOND CHARGE

SEC 15 (I)

ARMY ACT

WHEN ON ACTIVE SERVICE, ABSENTING HIMSELF WITHOUT LEAVE

in that he

In the Field, in Italy, at about 1400 hrs, 22 Sept 1944, absented himself without leave until being apprehended at 1145 hrs 24 Oct 1944. (Absent: 31 days, 21 hours, 45 minutes.)

THIRD CHARGE

SEC 15 (I)

ARMY ACT.

WHEN ON ACTIVE SERVICE, ABSENTING HIMSELF WITHOUT LEAVE

in that he

In the Field, in Italy, at about 1805 hrs 27 Oct 1944, absented himself without leave until being apprehended at 1900 hrs 10 Nov 1944. (Absent: 14 days, 55 minutes.

Vincent McKenna Lt-col
(VINCENT McKENNA)
Officer Commanding
I Cdn Base Rft Bn., I C.B.R.D.

In the Field,
28 November 1944.

TO BE TRIED BY FIELD GENERAL COURT MARTIAL

In the Field
In Italy
4 Dec 44

T. G. Gibson
(T. G. GIBSON) Brigadier
Comd 1 Cdn Base Rft Gp
Cdn Army - CMF

FIELD GENERAL COURT-MARTIAL,

(Whether the accused to be tried is under his comd or not, a FGCM may on application to him be convened by any offr of Cdn Army Overseas, or of any other force if authorized in law, in immediate comd of troops on active service, subject to RP 105(C) and restrictions imposed by appropriate authy, AA 49, 50, RP 104-107, 114. As to the duties and privileges of the Convening Offr in dealing with the application see MML Chap V paras 20 and 23, RP 87(B).

There should be a separate Convening Order for each person to be tried separately by the same Court. RP 71(C), 109. As to separate charge sheets see RP 62, and as to separate trial on charges in the same charge sheet see RP 108. As to two or more accused charged jointly see RP 16, 109. As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

ACCUSED.

Number.	(a) Prmnt R. (b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
D126685	Pte	Homer	GRENON	1 Bn 1 CBRD

CONVENING ORDER.

1. Whereas complaint has been made to me, the undersigned, that the person~~(s)~~ named above as the accused, being subject to military law, has ~~(have)~~ committed the offence(s) set forth in the Charge Sheet~~(s)~~ attached and on (date) 4 Dec 44 endorsed by me, ~~(or by an offr of my staff for me)~~, "To be tried by Field General Court-Martial".

2. And whereas I am of opinion that it is not practicable that such offence(s) should be tried by an ordinary General Court-Martial; ~~(and that it is not practicable to delay the trial for reference to a superior qualified offr.)~~

(Delete part in brackets when not required for compliance with RP 105(C).)

3. I hereby convene a Field General Court-Martial to try the said person~~(s)~~, and to consist of the Offrs appointed or detailed hereunder.

~~4. I am unable to appoint (a) three Offrs to form the Court, (b) a Fd Offr as President, for the reasons I have attached hereto.~~

(AA 49, RP 106(B), 107(A). Delete the whole or part, if not applicable.)

~~5. I also appoint as Judge Advocate thereat the Offr mentioned hereunder.~~

(RP 106(E). Delete, if none appointed.)

PRESIDENT.

(Rank.)		(Must be named. RP 106.)	(Unit.)
Major	J G ROWLATT	(CIC)	2 Bn 1 CBRD

MEMBERS.

Capt or Lieut to be detailed by the OC 2 Cdn Reallocation Centre

Capt or Lieut to be detailed by the OC 1 Bn 1 CBRD

(Rank.) (Named or detailed. RP 106.) (Unit.)

WAITING MEMBER.

Capt or Lieut to be detailed by the OC 2 Bn 1 CBRD

(Rank.) (Named or detailed, if any. RP 106.) (Unit.)

~~JUDGE ADVOCATE.~~

(Rank.) (Must be named, if any. RP 106.) (Unit.)

On Active Service in the Fd

in Italy
(Country.)

Date 4 Dec 44

(Signed personally. RP 105 fn 2.)
(T. G. GIBSON)
Brigadier
(Rank.)

Commanding 1 Cdn Base Rft Gp-CMF

Convening Officer.

CONVENING OFFR WILL INITIAL ALL DELETIONS AND ALTERATIONS

4/38A CF ABS (To Pers of AFA) 40/F de 8/1087 (6611)

(See overleaf for oaths and notes for use on trial.)

MEDICAL OFFICER'S CERTIFICATE
(KR (Can) 597)

I certify that I have this morning examined No D126633 Rank Pte
Name Foxsoon. H. of #18 and in my opinion he is
fit/~~unfit~~ to undergo trial by Court Martial.

In the Field
Date 6 Dec. 44.

(MEDICAL OFFICER)

E3.

Plea for Mitigation in the Case of
D 12685 Pte Grenon Romeo.

Mr President & Gentlemen:

As you can see by his documents Pte Grenon enlisted on January/42 leaving his family at the age of 20 which is a very young age. He served in Canada with R.C.A.S.C. during 6 months, having shown much enthusiasm he was sent to England where he gained efficiency and devoted himself during 15 months doing sober, honest, and reliable work. He was sent to this Country (Italy) where he displayed bravery and gallantry at the Hider's line, delevering ration and ammunition to forward position.

Let us examine the reasons that induce him to go A.W.L.

After 2½ yrs - with the R.C.A.S.C. rendering excellent service he was suddenly transfered to C.I.C

being an obedient soldier he accepted to transfer with a smile, sent to an Inf. depot where he expected to receive training, he even asked for training which he knew very well that was ~~necessary~~ essential.

This important and necessary training was received shortly, less than a month after that he was placed on detail that is from 20 July 44 to 11 Aug. 44 he left with others, on his way he learned that some of his pals having gone to the front line without sufficient training became casualties to avoid this he went A.W.O.L.

Gentlemen; I trust you understand my point, if this man had ~~not~~ received necessary training he would have gone forward with confidence and would have done an excellent job.

The third time he went A.W.O.L. was when in hospital, for a serious operation which he considered unnecessary, that is if he had consent, he would rend be sterile, which is not very interesting for one who dreams of a home + children

This young man had assigned money to the his family to help for his younger brother's education, he receives very few letters and less parcels, this is enough to affect anyone's morale.

Gentlemen.

We must admit that he was once sentenced by a F.G.C.M but his good conduct gained him many days of remission

Finally.

Remember that he was in action He helped the military police, to control P.O.W.

Remember that he is ready to undergo a training then to proceed as rfts.

Look his conduct sheet with indulgence.

Consider his long service and good character.

Then if this man is given a chance to prove his good intention, I am positive that he will be an excellent soldier

In rendering the sentence, I beg this court to be lenient.

C. [illegible] Lt

Summary of Evidence
in the case of.

Exhibit "A" R&R.

D-126685 Pte. Grenon, Homer, 1 Canadian Base Reinforcement Battalion, 1 Canadian Base Reinforcement Depot, a soldier of the Canadian Army overseas.

The Commanding Officer directs that the evidence be taken under oath.

H-19074 Lt. Dunlop T.S. adv. duly

First Witness for Prosecution

Rowan Sgt., 1 Battalion, 1 C.B.R.D. having been duly sworn states:

H-19074 Lt. Dunlop T.S. adv. duly Rowan

I am Sgt. 1 Bn., 1 C.B.R.D. I present as evidence in the case of D-126685 Pte. Grenon H. "X" Extract Royal 22e Regiment Part II Orders issued by Canadian Section, G.H.Q. 2nd Echelon A.A.I. No. 93 dated 15 Sept. 44 which states that D-126685 Pte. Grenon H. was S.O.S. as a deserter 4 Sept. 44 having been declared illegally absent by a Court of Inquiry from 0800 hrs. 11 Aug 44. Difficulties in list to the value of $3.13. Submitted as Exhibit "A".

I further present Certificate in accordance with the Army Act Sec. 123(1)(jj) which certifies that D. 126685 Pte. Grenon H. of the Royal 22nd Regiment

was arrested at Rome at 1200 hrs. on the 8th day of September 1944. The certificate is signed by officer Commanding, 111 Provost Company, C. M. Police. Submitted as Exhibit "B"

2 further present Record of the Declaration of a Court of Inquiry assembled at 4 Cdn. Rft. Bn. on the 20th day of October 1944 for the purpose of investigating and recording the absence without leave, from his duty, and the deficiency, if any, in the arms, ammunition, equipments, instruments, regimental necessaries or clothing of D. 124685 Pte. Grenon H which declares that D 124685 Pte. Grenon H., R 22e R on strength 4 Cdn. Rft. Bn, 1 C.B.R. Gp. illegally absented himself without leave from 1400 hrs at Viterbo, Italy on the 22nd day of September 44 and is still as absent. Submitted as Exhibit "C".

2 further present Certificate of Arrest in accordance with the Army Act Section 16 3(a) (ii) which certifies that D 124685 Pte. Grenon H was arrested at Naples at 1145 hours on the 24 October 1944. Certificate is signed by Officer Commanding, 510 Provost Coy, C. M. Police. Submitted as Exhibit "D"

2 further present "X" 2nd Royal 22e Regiment Part II Order issued by Canadian Section, G.H.Q. 2nd Echelon, AAI Dtd. 117 dated 4 Nov. 44 which states that D. 124685 Pte. Grenon H. was A.W.L.

from 1800 hrs 27 Oct 44, still absent 1800 hrs 28 Oct 44. Submitted as Exhibit "E".

I further submit "X" 21st Royal 22e Regiment Part II Order issued by Canadian Section, G.H.Q, 2nd Echelon, A.A.I. No. 118 dated 7 Nov 1944 in which Part II Order 117 para. 5 (a) of 4 Nov. 1944 is amended to read.

D. 126685 Pte. Grenon H. X 3 21st 15 C.G.H. is A.W.L. from 1805 hrs 27 Oct 1944, dated absent 1805 28 Oct 44 Submitted as Exhibit "F"

I also submit "X" 21st Royal 22e Regiment Part II Order issued by Canadian Section, G.H.Q, 2nd Echelon A.A.I. No. 126 dated 22 Nov. 44 which states that D. 126685 Pte. Grenon H. X 3 21st 15 C.G.H. is A.W.L. from 1805 hrs 27th Oct 1944 and was apprehended 1800 hrs 10 Nov. 44. Exhibit "G"

The above documents came into my possession through normal channels.

L. E. Dumbs

The accused declines to cross-examine the witness.

Exhibit "X" 21st Royal 22e Regiment Extract from No. 95 dated 15 Nov 44, Certificate of Attachment for 8 Oct. 44, Record of the Declaration of A Court of Inquiry dated 30 Oct 1944, Certificate of Arrest for 24 October 1944, "X" 21st Royal 22nd Regiment Part II Order No. 117 dated 4 Nov 44, "X" 21st Royal 22nd Regiment Part II Order No. 118 dated 7 Nov. 44, "X" 21st Royal 22e Regiment Part II Order No. 126 dated 22 Nov. 44, referred to by the witness, produced.

read over, shown to the accused, marked as Exhibits "A", "B", "C", "D", "E", "F" and "G" respectively and attached to the Summary

D. J. Hawkins Lieut
Officer taking Summary of Evidence.

Question to the accused

Do you wish to make a statement or to give evidence under oath. You are not obliged to do so but anything you say or any statement you make will be taken down in writing and may be given in evidence.

Answer by the Accused

I reserve my defence.

I certify that the foregoing Summary of Evidence consisting of four (4) pages was taken down by me in the presence of the accused and that Rule of Procedure 4 (a) (ii) (1) (ii) and (g) have been complied with.

D. J. Hawkins Lieut
Officer taking Summary of Evidence

2nd Dr Field
27 Nov. 44.

This is Exhibit "A" referred to in the Summary of Evidence in the case of O-126685 Pte Brennan H. taken before me this 21st day of November 1944.

[signature]
Signature of Officer taking Summary

Last Order No. 94 10 Sep 44	2nd LIGHT ROYAL 22e REGIMENT Part II Orders issued by C.M.H.Q. SECTION, G.H.Q. 2 ECHELON, C.A.O.I.	This Order No. 95 15 Sep 44

"A" OFFICERS

1. INTERNAL POSTINGS
(a) Posted from X-4 List (1Bn) to X-4 List (43n) 13 Sep 44
Auth - 4 Bn/333 d/11 Sep 44
Capt L. Dentset
Lieut L. .R. Desrosiers
Lieut W.E.W. Richard
Lieut F. Taillon

2. PROMOTIONS AND ATTACHES
(a) TEMPORARY LIEUT - AS Star
Capt F.T. Notvin (RO)

3. STRENGTH INCREASED
(a) T.O.S. X-4 List (43n) to Royal 22e Regiment 7 Sep 44
Auth - 1 CD/99 d/7 Sep 44.
Lieut .T. Gardin
Lieut C. Picard

"B" OTHER RANKS

4. STRENGTH INCREASED
(a) T.O.S. X-4 List from Royal 22e Regiment

D61077	Pte	Boivin, J.	5 Sep 44
D139158	Pte	Chayer, J.R.C.	9 Sep 44
24804	Pte	Cyr, L.	9 Sep 44
21137	Cpl	Durning, J.D.	5 Sep 44
D62330	Pte	Fauteux, R.	8 Sep 44
D181691	Pte	Gravel, F.	8 Sep 44
25628	Pte	Hebert, .	10 Sep 44
25457	Pte	Lambert, P.	5 Sep 44
D127607	Cpl	Laliberte, R.O.	2 Sep 44
D56297	Pte	Lavertu, F.	11 Sep 44
D139857	Pte	Pelletier, J.C.M.	8 Sep 44
25181	Pte	Renaud, R.	8 Sep 44

(b) T.O.S. X-4 List (1Bn) from Royal 22e Regiment 11 Jul 44
Auth - CMHQ/48/A/T/3(A8) d/28 Jun 44
25408 Pte Lapas, E.

(c) AUTHENTICATE: Part II Order No 454 para 19(b) of 24 Dec 43 insofar as it refers to the w/n is cancelled Auth - AF 3014 Ser 361 P.20 d/11 Sep 44
D23560 Pte Lamarche, M.

5. INTERNAL POSTINGS
(a) Posted from X-4 List (1Bn) to X-3 List

D142662	Pte	Cloutier, P.A.	12 Sep 44
24997	Pte	Levesque, R.	10 Sep 44
D62559	Pte	Savard, R.	11 Sep 44
D61229	Pte	Seguin, R.	9 Sep 44
24752	Pte	Simois, J.A.	10 Sep 44

5. INTERNAL POSTINGS (CONT'D)

(b) Posted from X-3 List to X-4 List (1Bn)

C23086 Pte Bartlett, D. 12 Sep 44
R42623 Pte Desprez, G. Dr Mech MV "C" 9 Sep 44
D61835 Pte Kassab, A. 10 Sep 44
K48716 Pte Leblanc, M. 9 Sep 44
D4610 Pte Meunier, C. 10 Sep 44
H9205 Pte Poirier, T. 9 Sep 44
C23579 Pte Raymond, L. 8 Sep 44
D1665[illegible] Pte Roberge, G. 12 Sep 44
D61229 Pte Seguin, R. 12 Sep 44
H9065 Pte Schmoutz, H. 9 Sep 44
D56051 Pte Thibeault, R. 8 Sep 44
K4120 Pte Vaillancourt, E. 26 Aug 44

(c) Posted from X-4 List (1Bn) to X-3 List
H14280 Pte Gariepy, L. 7 Sep 44

(d) Posted from X-2 List to X-4 List (1Bn) 8 Sep 44 on release from 1 Cdn Div P.P. Camp
D63193 Pte Luney, F.

(e) Posted from X-4 List (1Bn) to X-5 List 10 Sep 44 on proceeding on Course No 22(Driver Mechs) to CITC Benoway to(11 Sep 44 to 19 Oct 44)
D156511 Pte Talmer, L.

(f) Posted from X-5 List to X-4 List (1Bn) 10 Sep 44
E5427 Pte Robert, E.

(g) Posted from X-2 List to X-3 List 9 Sep 44
E57748 Pte Valardeau, J.

(h) Removed from 1 Cdn Div P.P. Camp to 52 Military Prison & Detn Bks 7 Sep 44
E4874 Pte Morin, P.E. X-2 List

6. REVERSIONS

(a) Reverts to Pte To draw daily rate of $1.50
D61229 Pte(A/Sgt) Seguin, R. 9 Sep 44
E4752 Pte(A/Cpl) Sirois, G.A. 10 Sep 44

7. ABSENT WITHOUT LEAVE

(a) A.W.L. from 0300 hrs 16 Aug 44 Still absent 0300 hrs 7 Sep 44 (22nd day)
E5477 Pte Chouinard, H. X-3 List (1CCD)

(b) A.W.L. from 0530 hrs 8 Sep 44 Still absent 0630 hrs 9 Sep 44 (1st day)
C33705 Pte Leduc, P. X-3 List (15 CCD)
E5597 Pte Robitaille, A. X-3 List (15 CCD)

(c) A.W.L. from 1100 hrs 22 Aug 44 Still absent 1100 hrs 13 Sep 44 (22nd day)
E4781 Pte Meisonneuve, A. X-3 List (1Bn)

7. ABSENT WITHOUT LEAVE(CONTID)

(a) AMENDMENT: Part II Order No 85 para 7(a) of 23 Aug 44 insofar as it refers to the u/h is cancelled
E23815 Pte Poirier, N. X-3 List (5 OCH)

8. PUNISHMENTS

(a) On 8 Sep 44 awarded a forf of 7 days pay for an off under [illegible] Forfs 7 days pay under FRAI 149(2)
K48716 Pte Lohlens, N. X-3 List

(b) On 8 Sep 44 awarded 7 days F.P. and a forf of 7 days pay for an off under [illegible] 9(2) Forfs 7 days pay under FRAI 149(2)
H4024 Pte Martin, O.Jr. X-3 List (OBn)

(c) On 11 Sep 44 awarded a forf of 10 days pay for an off under (1) [illegible] 19(Drunkenness 1st off) (2) [illegible] 11 Forfs 10 days pay under FRAI 149(2)
H5143 Pte Doucet, [illegible] X-3 List (1Bn)

(d) On 28 Aug 44 tried by S.G.C.M.
CHARGES: (1) [illegible] 15(1) AWL from 0800 hrs 6 Dec 43 to 2400 hrs 31 Mar 44(absent 116 days 16 hrs)
(2) [illegible] 15(1) AWL from 0930 hrs 10 May 44 to 0900 hrs 13 Jun 44(absent 33 days 23 hrs 30 mins)

FINDINGS: (1) Guilty
(2) Guilty

SENTENCE: 2 years Imp with H.L.

CONFIRMATION: Findings and Sentence confid by Comdr 1 C.B.R.Gp., on 29 Aug 44

CLOSE ARREST: Held in Close Arrest from 0900 hrs 13 Jun 44 to date of trial

FORFEITURES: Forfs 730 days pay under FRAI 149(1)(b)
Forfs 151 days pay under FRAI 149(1)(e)
Forfs 76 days pay under FRAI 149(1)(e)(i)
Total forf of 957 days pay

E4388 Pte Lauzon, R.

(e) AMENDMENT: Part II Order No 70 para 7(b) of 27 Jun 44 insofar as it refers to the u/n is amended to read as follows:
8 days FRAI 149(1)(a) (Completely concurrent with the award of 5 Jun 44 vide Part II Order No 65 dated 12 Jun 44)
28 days FRAI 149(2) (28 days concurrent with the award of 5 Jun 44 vide Part II Order No 63 dated 12 Jun 44)
26 days Not Forf (CPM Obs No 10797 4/30 Aug 44)
E4377 Pte Trottier, L.

9. HONOURS AND AWARDS

(a) MENTION IN DESPATCHES - 43 Str
H2960 Pte Custeau, L.

10. MISSING

(a) Previously reported missing now unofficial P.O.W. Germany
Sterling 7 PC No. 131630 20 May 44
Auth - Sr 301 Ser 361 P.12 d/11 Sep 44
D109096 Pte Villeneuve, L.

11. STRENGTH DEFICIENCY

(c) S.O.S. X-7 List (1Sn) to X-9 List 2 Sep 44
Auth - P.O. WIS/1152 d/1 Sep 44
D2160 Pte St-Aubain, E.

(b) S.O.S. X-3 List to X-9 List 9 Sep 44 Auth - Pending Reboard
M5221 Cpl Lavigne, R.

(c) S.O.S. X-3 List to P.S. G&O Wing Unit 31 Aug 44
M5589 Pte Pinotte, L.

(d) S.O.S. X-3 List to Royal 22e Regiment 27 Aug 44
D2592 Pte Goudreau, F.E.

(e) S.O.S. X-3 List (1Sn) to X-9 List 9 Sep 44 Auth - P.O. WIS/1553 d/6 Sep 44
D61502 Pte Girard, L.

(f) S.O.S. X-3 List (Died of Wounds) 9 Sep 44
Auth - Sr 3014 Ser 362 P.11 d/7 Sep 44
D61879 Pte Boivin, J.

(g) S.O.S. X-3 List to 1 Can Fort Ch Regt Unit 27 Aug 44
D51567 Pte Picard, M.

(h) S.O.S. X-3 List (Died of Wounds) 9 Sep 44
Auth - Sr 3014 Ser 361 P.7 d/11 Sep 44
D127607 Cpl Laliberte, R.O.

(i) S.O.S. X-3 List as at 0800 hrs 5 Sep 44 having been Ace illegally absent by Ot of Inq from 0800 hrs 15 Aug 44 Deficiencies in kit to the value of $30.80.
E5477 Pte Chouinard, H.

(j) S.O.S. X-3 List to X-9 List Auth - Pending Reboard

D160061	Pte Bergeron,	R.C.F.	11 Sep 44
D120111	Pte Paquette,	D.F.	11 Sep 44
M5665	Pte Pelchat,	L.	11 Sep 44
D56697	Pte Dinatale,	[illegible]	11 Sep 44
D57632	Pte Rioux,	L.	23 Aug 44

(k) S.O.S. X-3 List (Died of Wounds) 9 Sep 44
Auth - 3014 Ser 362 P.11 d/12 Sep 44
D139188 Pte Cuyer, J.R.G.

(l) S.O.S. X-3 List (1Sn) as at 0800 5 Sep 44 having been Ace illegally absent by Ot of Inq from 0800 hrs 11 Aug 44 Deficiencies in kit to the value of $65.13
D125695 Pte Grenon, H.

(R.C. Campbell) Captain,
for Officer i/c
Canadian Section, GHQ 2 Echelon AFHQ

Certified true Copy.
sgd
Officer Having Custody of Regt'l Books.

Exhibit 3

R.R. 3393

Certificate in accordance with the Army Act Sec. 163. (1) (jj)

I certify that

No. D/126685 Rank PRIVATE Name GRENON H.

of the ROYAL 22nd REGIMENT.

was arrested at ROME at 1200 Hrs.

on the 8th day of SEPTEMBER 1944.

Signature of P. M., A. P. M., or other Officer into whose custody the above named person was taken on arrest. C.R. Mercer.

Rank Captain

Appointment (if any)

Commanding 111 Provost Company, C.M.Police

Date 8th September 1944.

PSSN 177/3-44/2,500

This is Exhibit "B" referred to in the summary of evidence in the case of O-124685 Pte. Brimon H. taken before me this 27th day of November 1944.

W Jonathan Lieut

Signature of Officer taking summary.

"Exhibit "C"

JBR.

Pro Forma(in lieu of Army Form B-115).

RECORD of the Declaration of a Court of Inquiry assembled at 4 Cdn Rft Bn on the 20th day of October 1944, for the purpose of investigating and recording the absence, without leave, from his duty, and the deficiency, if any, in the arms, ammunition, equipments, instruments, regimental necessaries or clothing of,

No. D126685 Pte Grenon H(R 22 e R)

DECLARATION

THE COURT declares that No D126685 Pte Grenon H, R22eR on strength 4 Cdn Rft Bn, 1 C B R Gp illegally absented himself without leave from 1400 hrs at Field, Italy on the 22nd day of September 44 and is still so absent.

Names of President and Members.

President	Capt W H Roberts	R C A
Members	Lieut T S Beasley	R C A
	Lieut D B Scott	C I C

Signature of Commanding Officer "L J Flynn, Lt-col"

Certified true copy.

(A E Davidson) Capt & Adj
4 Cdn Rft Bn - 1 Cdn Base Rft Group - CMF
Signature of Officer having custody of the Original Record.

This is Exhibit "C" referred to in the summary of evidence in the case of D-126685 Pte Grenon H. taken before me this 27th of November, 1944.

T Graham Lieut
Signature of Officer taking summary

P.S.R.

CERTIFICATE OF ARREST.

Certificate in accordance with the Army Act Section 163 (1)(a).

I certify that

No D/[illegible]85 Rank PTE Name CRENON H

Unit No. 1 CDN. DIV. TROOPS. COY. R.C.A.S.C. was arrested at

NIMEGUEN at 1145 hours on the 24 OCTOBER 1944

Signature of PM, APM or other officer into whose custody the above named was taken on arrest.

Commanding

510 Provost Coy. C.M. Police

Date 24 Oct 44

This is Exhibit "O" referred to in the Summary of Evidence in the case of O. 126655 Pte. Lemon H. taken before me this 27th day of November 1944

W.S.A. Robinson Lieut
Signature of Officer taking Summary

This is Exhibit "E" referred to in the summary of evidence in the case of D. 126685 Pte. Brunet H. taken before me this 27th day of November 1944.

J.R.

Lt. Col. Judge Advocate

Signature of Officer taking summary

Last Order No. 116 1 Nov 44	"H" (15th ROYAL 22e REGIMENT) Part II Orders issued by CANADIAN SECTION, HQ., 2 PCWLOT, AAI	This Order No. 117 4 Nov 44

"A" OFFICERS

1. INTERNAL POSTINGS
(a) Posted from X-4 List (43n) to X-4 List (1Bn) 28 Oct 44
Auth - Cdn G2R/ARS/3698 d/28 Oct 44
Lieut F.L.J.P.R. LaFleche

(b) Posted from X-4 List (43n) to X-4 List (1Bn) 20 Oct 44
Auth - LO/P/1535 d/18 Oct 44
Lieut(A/Capt) D. Dion
Lieut R. Lachance

2. APPOINTMENTS, PROMOTIONS & REVERSIONS
(a) Relinquishes the Acting Rank of Captain 31 Oct 44
Auth - Cdn 56/9/Post/1/5/(MS) d/24 Oct 44
Lieut(A/Capt) D. Dion X-4 List (1Bn)

"B" OTHER RANKS

3. STRENGTH INCREASE
(a) T.O.S. X-3 List from Royal 22e Regiment 29 Oct 44
D126731 Cpl(A/Sgt) Poulin, P.E.

(b) T.O.S. X-4 List (1Bn) on app from des 1115hrs 28 Oct 44
E5394 Pte Montreuil, J.

(c) T.O.S. X-4 List (1Bn) on app from des 1100 hrs 27 Oct 44
E5223 Pte Paquette, J.

(d) T.O.S. X-4 List (1Bn) from HQ 12 CIB 13 Oct 44 on Trans from RCASC to CIC Auth - CMCH/44/Trans Gen/15(L7) d/5 Oct 44
D156530 Pte Deslandes, H.

(e) T.O.S. X-3 List(1 Fd Hosp) on app from des 26 Oct 44
D15629 Pte Dessureault, P.

(f) T.O.S. X-3 List from Royal 22e Regiment 24 Oct 44
C103180 Pte Tremblay, A.B.

(g) T.O.S. X-4 List (4Bn) on app from des 1145 hrs 24 Oct 44
D12668 Pte Grenon, H.

(h) T.O.S. X-3 List from 16 Cdn Spec Emp Coy
C109077 Pte Lavoie, P.A. 31 Oct 44
E4808 Pte L'brasseur, J.P. 21 Oct 44

(i) AMENDMENT: Part II Order No 115 para 4(a) of 1 Nov 44 insofar as it refers to the W/N is cancelled
E6236 Pte Dilodeau, J.P.

4. INTERNAL POSTINGS
(a) Posted from X-2 List to X-3 List 23 Oct 44
G56767 Pte Collette, H.

4. POSTINGS (CONT'D)

(a) Posted from X-2 List to X-4 List (4Bn) 28 Oct 44 Released from 1 Can Div F.P. Camp

R103303	Pte	Casista,	
R100904	Pte	Desrosiers,	A.
D163091	Pte	Ellenberg,	D.
D26162	Pte	Legault,	J.J.E.
322433	Pte	Paulin,	L.

(c) Posted from X-5 List to X-4 List (1Bn) 28 Oct 44 Returned from Course at CMTC Benevento

D156511	Pte	Palmer,	L.
24200	Pte	Zaknic,	G.

(d) Posted from X-3 List to X-4 List (1Bn) 30 Oct 44

D46226	Pte	Cuntlette,	R.

(e) Posted from X-2 List to X-4 List (1Bn) 30 Oct 44 Released from 2 Can F.P. Camp

R100647	Pte	Sloui,	F.

(f) Posted from X-4 List (1Bn) to X-2 List 28 Oct 44 on comm to 2 Can F.P. Camp (awarded 30 days imp with R.L. 23 Oct 44)

R13174	Pte	Arsenault,	A.

(g) Posted from X-3 List to X-4 List (4Bn)

D21506	Pte	Jeannette,	[illegible] 28 Oct 44
D126541	Pte	Boussesu,	[illegible] 28 Oct 44
24076	Pte	Smith,	[illegible] 29 Oct 44

(h) Posts from X-4 List (1Bn) to X-3 List

R42063	Pte	Fontaine,	J.P. 29 Oct 44
[illegible]6	Pte	Lacroix,	L. 31 Oct 44
D26697	Pte	Lavertu,	[illegible] 30 Oct 44
R23345	Pte	Poirier,	[illegible] 30 Oct 44

(i) Posted from X-4 List (4Bn) to X-3 List

D142662	Pte	Cloutier,	P.A. 29 Oct 44
D163091	Pte	Ellenberg,	D. 28 Oct 44
D126685	Pte	Grenon,	R. 28 Oct 44

(j) Posted from X-3 List to X-4 List (1Bn)

D137782	Pte	Boucher,	P.E. 31 Oct 44
D138629	Cpl	Gagnon,	J.R.C. 31 Oct 44
R10484	Pte	Leblanc,	R. 31 Oct 44
C20991	Pte	Renaud,	J.R. 31 Oct 44

5. ABSENT WITHOUT LEAVE

(a) A.W.L. from 1800 hrs 27 Oct 44 Still absent 1800 hrs 28 Oct 44 (1st day)

D126685	Pte	Grenon,	R. X-3 List (1 COD)
D61068	Pte	Chaput,	C. X-3 List (1 COD)
R5597	Pte	Robitaille,	E. X-3 List (1 COD)

(b) A.W.L. from 0830 hrs 28 Oct 44 Ret from AWL 2030 hrs 27 Oct 44

R5626	Pte	Del le,	O. X-3 List (1 COD)

ABSENT WITHOUT LEAVE(CONT'D)

(c) A.W.L. from 2230 hrs 25 Oct 44 Still absent 2230 hrs 26 Oct 44 (1st day)
D61312 Pte Brissette, A. X-3(1 CGD)

(d) A.W.L. from 2200 hrs 17 Oct 44 App 1105 hrs 28 Oct 44 by 910 Prov Coy C.M.Police
D136047 Pte Chauvette, J.A. X-4 List (18m)

(e) A.W.L. from 0300 hrs 18 Oct 44 Surrendered at 1335 hrs 25 Oct 44 to 907 Prov Coy C.M.Police
D136023 Pte Desormeaux, J.A.O. X-4 List (42m)

(f) A.W.L. from 0900 hrs 26 Oct 44 Still absent 0900 hrs 1 Nov 44 (6th day)
D94082 Pte Robert, [illegible] X-4 List (18m)
[illegible]0826 Pte Tremblay, J.[illegible] X-4 List (18m)

(g) A.W.L. Part II Order No 116 para 7(g) of 1 Nov 44 insofar as it refers to the a/n is cancelled
D136023 Pte Desormeaux, J.A.O. X-4 List (42m)

C. PUNISHMENTS

(a) On 30 Oct 44 awarded a forf of 21 days pay for an off under AA 15(1) AWL from 0830 hrs 20 Oct 44 to 2230 hrs 27 Oct 44 (absent 7 days 14 hrs) Forfs 8 days pay under FR&I 149(1)(a) Forfs 21 days pay under FR&I 149(2) Total forf of 29 days pay
[illegible]5026 Pte Daigle, O. X-3 List

(b) On 30 Oct 44 admonished for an off under AA 15(1) AWL from 1330 hrs 27 Oct 44 to 2200 hrs 28 Oct 44 (absent 1 day 8 hrs 30 mins) Forfs 2 days pay under FR&I 149(1)(a)
D17569 Pte Trudel, J.A.J. X-3 List

(c) On 29 Oct 44 awarded 4 days C.B. for an off under AA 15(1) AWL from 2230 hrs 25 Oct 44 to 0830 hrs 26 Oct 44 (absent 9 hrs 30 mins) Forfs 1 days pay under FR&I 149(1)(a)
C21069 Pte Cote, P.E. X-3 List

(d) Released from 2 Cdn F.P. Camp 30 Oct 44 sentence Navin, expired 4 days remission earned under Rules for Military Prisons and Detn Bks
[illegible]30647 Pte Sioui, P. X-4 List (18m)

(e) Sentence of 2 Yrs Imp with H.L. awarded 24 Mar 44 vide Royal 22e Regiment Part II Order No 15/44 SUSPENDED 30 Oct 44 909 days pay recredited Auth - Officer i/c Cdn Section [illegible] 1 Echelon AAI
D96515 Pte Beaudoin, A.

(f) Sentence of 1 Yr Imp with H.L. awarded 16 Apr 44 vide Royal 22e Regiment Part II Order No 18/44 SUSPENDED 30 Oct 44 167 days pay recredited Auth - Officer i/c Cdn Section GHQ 1 Echelon AAI
D3156 Pte Poirier, J.P.

5. PUNISHMENTS(CONT'D)
(f) [illegible] Part II Order No 90 para 10(j) of 30 Aug 44 insofar as it refers to the u/n is amended to read" 51 days remission earned"
D163174 Pte Ryan, S.

7. NEXT OF KIN
(a) Next of Kin of the u/n is verified as shown:
D137250 Pte Audet, J... Mrs. Georgina Audet (mother)
2576 Iberville, Cartier 24, Montreal, Quebec, Canada.

8. CASUALTY DISPOSAL
(a) S.O.S. X-3 List to X-9 List Auth - Pending Rebound
D96299 Pte Beaufils, F.P.A. Dr Mach 17 mch 3 Oct 44
D62576 Pte Coulombe, J. Car,enter mch 30 Oct 44

(b) S.O.S. X-3 List to 16 Cdn Spec Hap Coy 28 Oct 44
B57743 Pte Tremblay, J.
B42585 Pte Poirier, P.E.

(J.L. Hayes)Captain,
for Officer i/c
Canadian Section, GHQ 2 Echelon AAI

Certified true copy
Effecting Unit
Signature of Officer having Custody
of Regt'l Books.

This is Exhibit "J" referred to in the Summary of Evidence in the case of O. 126495 Pte. Kuntze H. taken before me this 27th day of November 1944.

Lieut

Signature of Officer taking Summary.

Last Order No. 117 4 Nov 44

"X" LIST ROYAL 22e REGIMENT
Part II Orders issued by
CANADIAN SECTION, GHQ., 2 ECHELON, AAI

This Order No. 118 7 Nov 44

"A" OFFICERS

1. NEXT OF KIN
(a) Next of Kin of the u/n verified as shown:
Lieut P.L.J.P.R. LaFleche Maj-Gen the Hon L.R. LaFleche (father) DSO., MP., Ottawa, Ontario, CANADA.

2. STRENGTH DECREASE
(a) T.O.S. X-3 List to Royal 22e Regiment 31 Oct 44
Lieut J. Flourde

(b) T.O.S. X-4 List (4Bn) to Royal 22e Regiment 30 Oct 44
16th - Can 022/ARS/3732 d/29 Oct 44
Major E.A.A. Boiron (O.B.E.)

"B" OTHER RANKS

3. STRENGTH INCREASE
(a) T.O.S. X-3 List from Royal 22e Regiment
B77300 Pte Belhumeur, O. Dr Mach MV "C" 31 Oct 44
Z40467 Pte Belisle, R. 31 Oct 44
C121910 Pte Dube, E. 4 Nov 44
D139801 Pte Hotu, G.A. 1 Nov 44
B4538 Pte Labbe, O. 1 Nov 44
B4998 Cpl(A/Sgt) Losier, W. 4 Nov 44
D123164 Pte Samuel, F.H.P.E. 3 Nov 44
B4269 Sgt Ste-Marie, P.E. 3 Nov 44

(b) T.O.S. X-2 List from Royal 22e Regiment 26 Oct 44 on comm to 1 Can Div F.P. Camp
B3961 Pte Albert, E. (Awarded 2 Yrs Imp with H.L. 14 Oct 44)
D167196 Pte Boucher, G. (Awarded 6 Mos Imp with H.L. 14 Oct 44)

(c) T.O.S. X-2 List from Royal 22e Regiment 2 Nov 44 on comm to 1 Can Div F.P. Camp (Awarded 28 days F.P. 28 Oct 44)
D139013 Pte Goupil, J.R.G.

(d) T.O.S. X-2 List from X-9 List 1 Nov 44 on comm to 1 Mil Prison and Detn Wks (Awarded 2 Yrs Imp with H.L. 22 Oct 44)
Z2736 Pte Jobin, R.

(e) T.O.S. X-2 List from Royal 22e Regiment 2 Nov 44 on comm to 1 Can Div F.P. Camp (Awarded 14 days F.P. 31 Oct 44)
D139045 Pte Pesant, J.W.G.

(f) T.O.S. X-4 List (1Bn) from X-4 List (3Bn) Perth Regt 3 Nov 44
Auth - CECH/43/Post CIC/8(A.7) d/1 Nov 44
117013 Pte McLaughlin, J.K.

3. STRENGTH INCREASE (CONT'D)

(g) T.O.S. X-4 List (4Bn) from 17 Cdn Base Emp Coy 20 Oct 44
Auth - 2 LO/T/15 2 d/19 Oct 44
D57128 Pte Belanger, Y.

(h) T.O.S. X-4 List (1Bn) from X-9 List 3 Nov 44
Auth - P.O. W15/2631 d/2 Nov 44
E5117 Pte Giroux, J.M.

(i) T.O.S. X-2 List from Royal 22e Regiment 4 Nov 44 on comm to 1 Cdn Div F.P. Camp(awarded 14 days F.P. 2 Nov 44)
E57713 Pte Savard, R.

(j) ~~WRONGLY~~ Part II Order No 116 para 4(e) of 1 Nov 44 insofar as it refers to the u/n is cancelled
C57112 Pte Lacelle, H.

6. INCREASE FROM DUE

(a) Posted from X-2 List (1Bn) to X-3 List 1 Nov 44
R10[illegible] Pte Dessaint, A.

(b) Posted from X-3 List to X-4 List (1Bn) 30 Oct 44 Released from 3 Mil Prison and Detn Bks
D[illegible] Pte Poirier, J.P.

(c) Posted from X-3 List to X-2 List Readmitted to 32 Mil Prison and Detn Bks
D66767 Pte Colletta, M. 30 Oct 44
M8639 Pte Demers, L. 3 Nov 44

(d) Posted from X-3 List to X-4 List (1Bn) 3 Nov 44
D[illegible] Pte Boisclair, R.
J5[illegible] Pte Marin, J.C.
D[illegible] Pte Racicot, R.

(e) Posted from X-4 List (1Bn) to X-3 List 4 Nov 44
D[illegible] Pte Chauvette, J.A.
D10[illegible] Pte Poirier, A.

(f) Posted from X-3 List to X-2 List 2 Nov 44 on comm to 2 Cdn F.P. Camp(awarded 1 Yrs Detn 28 Oct 44)
M4377 Pte Trottier, E.

(g) Posted from X-3 List to X-4 List (4Bn)

D[illegible]	Pte	Bourbon,	J.G.R.	29 Oct 44
[illegible]8528	Pte	Gaudreau,	R.	29 Oct 44
M4992	Pte	Gaudreau,	J.R.	29 Oct 44
D[illegible]860	Pte	Gravel,	J.P.	29 Oct 44
D[illegible]95	Pte	Lamoureux,	R.	30 Oct 44
G[illegible]332	Pte	Landry,	A.A.	1 Nov 44
G61979	Pte	Larivee,	L.	29 Oct 44
[illegible]01342	Pte	Lavoie,	M.	29 Oct 44
[illegible]0918	Pte	Paradis,	E. Dr Mech MV "C"	29 Oct 44
D[illegible]1	Pte	Ruel,	M.	2 Nov 44

(h) ~~WRONGLY~~ Part II Order No 106 para 44(k) of 7 Oct 44 insofar as it refers to the u/n is amended to read "Pte Nov 6 from 2 Cdn F.P. Camp to 56 Mil Prison & Detn Bks 7 Oct 44"
R12[illegible] Pte Lepelin, H. X-2 List

4. INTERNAL POSTINGS(CONT'D)

(i) Removed from 2 Can P.W. Camp to 1 Mil Prison & Detn Bks
2 Nov 44

[illegible]	Pte	Cot,	A.
35187	Pte	Nicol,	H.
[illegible]	Pte	St.Hilaire,	J.

5. DISPOSITION

(j) Rolling[illegible] Apptd A/Cpl 2 Nov 44 To draw daily regt'l r t s of $1.50
D180007 L/Cpl Provencher, J.E.F.

6. ABSENTEES

(a) [illegible] to be 2 Nov 44 To draw daily regt'l rate of $1.50
D[illegible] (A/Cpl) Brisonnier, H.
[illegible] Pte (A/Cpl) Charron, R.

7. ABSENT WITHOUT LEAVE

(a) A.W.L. from 1730 hrs 20 Oct 44 Still absent 2230 hrs 2 Nov 44 (8th day)

D61312 Pte Brissette, A. X-3 List (1 CCD)

(b) A.W.L. from 1030 hrs 2 Nov 44 Still absent 1030 hrs 3 Nov 44 (1st day)

[illegible] Pte Poirier, H. X-3 List (15 CGH)

(c) A.W.L. from 1805 hrs 27 Oct 44 Still absent 1805 hrs 4 Nov 44 (8th day)

[illegible] Pte Chaput, C. X-3 List (15 CGH)
D126[illegible] Pte Grenon, H. X-3 List (15 CGH)
[illegible] Pte Robitaille, E. X-3 List (15 CGH)

(d) ~~AWOL~~ Part II Order No 117 para 5(a) of 4 Nov 44 insofar as it refers to the u/n is amended to read "AWL from 1805 hrs 27 Oct 44 Still absent 1805 hrs 28 Oct 44 (1st day)"

[illegible] Pte Chaput, C. X-3 List (15 CGH)
D126[illegible] Pte Grenon, H. X-3 List (15 CGH)
[illegible] Pte Robitaille, E. X-3 List (15 CGH)

(e) A.W.L. from 0930 hrs 24 Oct 44 Ret from AWL 2000 hrs 3 Nov 44

D[illegible]2 Pte Robert, R. X-4 List (13n)
2100828 Pte Tremblay, J.N. X-4 List (13n)

(f) A.W.L. from 0800 hrs 26 Oct 44 Still absent 0800 hrs 3 Nov 44
D135638 Pte Charette, J.R. X-4 List (13n) (8th day)

(g) A.W.L. from 2145 hrs 2 Nov 44 Still absent 2145 hrs 3 Nov 44 (1st day)

2100647 Pte Sioui, P. X-4 List (13n)

(h) A.W.L. from 0800 hrs 10 Oct 44 App from AWL at 2045 hrs 16 Oct 44 by 221 Prov Coy C.M.Police
2101538 Pte B[illegible]zile, R. X-4 List (13n)

7. ABSENT WITHOUT LEAVE(CONT'D)

(i) A.W.L. from 1330 hrs 22 Oct 44 Still absent 1330 hrs 30 Oct 44 (8th day)

D142152 Pte Desforges, P.T. X-4 List (48n)
Z100348 Pte Larmuche, L. X-4 List (48n)
34261 Pte Trottier, E. X-4 List (48n)

(j) A.W.L. from 0800 hrs 9 Oct 44 Still absent 0800 hrs 31 Oct 44 (22nd day)

D139674 Pte Martin, J.G.R. X-4 List (48n)
E[illegible]92 Pte Brunnette, R. X-4 List (48n)

(k) A.W.L. from 1745 hrs 8 Oct 44 Still absent 1745 hrs 30 Oct 44 (22nd day)

34007 Pte Martin, L. X-4 List (48n)

(l) AMENDED: Part II Order No 112 para 6(f) of 22 Oct 44 insofar as it refers to the u/m is cancelled.

Z[illegible]038 Pte Dizile, R. X-4 List (48n)

(m) AMENDED: Part II Order No 116 para 7(a) of 1 Nov 44 insofar as it refers to the u/m is amended to read "X-4 List (48n)"

D142152 Pte Desforges, P.T. X-4 List (48n)
Z100348 Pte Larmuche, L. X-4 List (48n)
34261 Pte Trottier, E. X-4 List (48n)

8. PUNISHMENTS

(a) On 2 Nov 44 awarded 10 days C.B. and forf of 10 days pay for an off under AA 11 Forfs 10 days pay under FR&I 149(2)

B[illegible]65 Dvr Renaud, L.J. X-4 List (48n)

(b) On 25 Oct 44 tried by F.G.C.M.

CHARGES: AA 15(1) AWL from 2230 hrs 1 Jul 44 to 1730 hrs 2 Sep 44(absent 62 days 19 hrs)
FINDINGS: Guilty
SENTENCE: 1 years Detn
CONFIRMATION: Findings and Sentence confirmed by Comdr 1 C.A.R.A.Gp., on 31 Oct 44
CLOSE ARREST: Held in Close Arrest from 2730 hrs 2 Sep 44 to date of trial.
FORFEITURES: Forfs 63 days pay under FR&I 149(1)(a)
Forfs 56 days pay under FR&I 149(1)(c)(i)
Forfs 365 days pay under FR&I 149(1)(b)
Total forf of 484 days pay

34377 Pte Trottier, E. X-3 List (1 CCD)

(c) On 23 Oct 44 tried by F.G.C.M.

CHARGES: (1) AA 15(1) AWL from 1500 hrs 31 Jul 44 to 0145 hrs 8 Aug 44(absent 7 days 10 hrs 45 mins)
(2) AA 15(1) AWL from 2359 hrs 1 Sep 44 to 2215 hrs 12 Sep 44(absent 10 days 22 hrs 16 mins)
FINDINGS: (1) Guilty (2) Guilty
SENTENCE: 50 days Imp with H.L.
CONFIRMATION: Findings and Sentence confirmed by Comdr 1 C.B.R.Gp., on 25 Oct 44

8. ENLISTMENTS (CONT'D)

(c) CLOSE ARREST:

FORFEITURES:

Hold in Close arrest from 2215 hrs 12 Sep 44 to date of trial
Forfs 60 days pay under KR&I 149(1)(b)
Forfs 19 days pay under KR&I 149(1)(a)
Forfs 31 days pay under KR&I 149(1)(c)(i)
Total forf of 110 days pay

D143171 Pte Arsenault, A. X-8 List (1Bn)

9. DEPT OF NDH

(a) X-8 to X-9 List Next of Kin as on a/n verified as shown:

D143022 Pte Malocha, R. Mr. Leopold Malocha(father)
Perron, Noitibi, P.Q.,
CANADA.

D143722 Pte Lamontagne, E.D. Mr. Eugene Lamontagne(father)
Box 668 St. Edmond,
Coaticook, P.Q., CANADA.

10. STRENGTH CHANGES

(a) S.O.S. X-3 List to X-9 List 31 Oct 44 Auth - Pending Deboard

B5112 Pte Giroux, J.M.

(b) S.O.S. X-4 List (1Bn) to X-9 List 2 Nov 44 Auth - DALS (ORG) 2 Sch d/17 Sep 44

D140104 Pte Leger, J.A.J.
D143023 Pte Raymond, J.G.G.

(c) S.O.S. X-4 List (1Bn) to X-4 List (7Bn) RC:SC "B" 4 Nov 44 Auth - Overseas R.O. 3470

B57711 Pte Santerre, R. Cook "C"

( ) S.O.S. X-3 List to Royal 22e Regiment 29 Oct 44

B5096 Pte Lelaidier, J.L.
P18054 Pte(A/Sgt) Bacon, L. Clerk "C" 2 Nov 44

(e) S.O.S. X-3 List to X-8 List 3 Nov 44 Auth - Evac Cert

B101539 Pte Albert, P.
D139831 Pte Houle, D.

(f) S.O.S. X-4 List (1Bn) to X-9 List 4 Nov 44 Auth - DALS(ORG) 2 Sch d/17 Sep 44

C9771 Cpl Bergeron, L. Motor Mech "B"

(g) S.O.S. X-4 List (1Bn) to Royal 22e Regiment 30 Oct 44 Auth - Cdn O2S/TRS/1 CD/450 d/29 Oct 44

H18233 Pte Audet, E.
B139579 Pte Beaulieu, J.R.C.
B18622 Pte Boucher, R.I.
B101316 Pte Brogan, G.
B147971 Pte Chouette, J.C.
B101303 Pte Casista, M.
C121769 Pte Charron, J.A.R.
C13017 Pte(A/Cpl) Corbin, P.

10. STRENGTH DESIGNATED (CONT'D)

(g)

E100604	Pte	Desrosiers,	A.
E10678	Pte	Dube,	E.
D144276	Pte	Dube,	M.
D143481	Pte	Dufour,	R.
D66277	Cpl(A/WO II)(CSM))	Lafortune,	J.A.E.P.
D66162	Pte	Legault,	M.J.E.
G22433	Pte	Paulin,	L.
34576	Pte	Smith,	J.
D61506	Pte	Jeannotte,	N.

[illegible]

[illegible] (J.L. Ayres) Captain,
for Officer i/c
[illegible] Canadian Section, GHQ 2 [illegible], A.A.I.

Certified true copy.
W Jackman Lieut.
Officer having Custody of Regt'l Books.

This is Exhibit "C" referred to in the Summary of Evidence in the case of C. 126585 Pte. Brunon H. taken before me this 27th day of November 1944.

J.S.R.

Lt. Col. J.A.R. Laird
Signature & Appointment of Officer taking Summary

Last Order No. 125 21 Nov 44	"B" LIST (OVAL 22e REGIMENT) Part II Orders issued by CAL. I&R SECTION, G.H.Q., 2 ECHELON, MAI.	This Order No. 126 22 Nov 44

"A" OFFICERS

1. EMBARKATION AND DISEMBARKATION
(a) Having embarked 3 Nov 44 are SOS Con Army(UK) on that date and TOS Con Army (CEF) 4 Nov 44 Disembarked Italy and TOS X-4 List (15n) 18 Nov 44

Capt	L.O.A. Dupuis
Capt(Major)	J.G. Belzile
Lieut	R. Canon
Lieut	J.F. Couturier
Lieut	J.A.A. Guay
Lieut	M. Lafrenière
Lieut	J. Laporte
Lieut	J.M. Laporte
Lieut	C. Major
Lieut	M.P. Menard
Lieut	R.Z. Ouellette
Lieut	M.H. Pratte
Lieut	G. Riva
Lieut	J.M.A. Savard

2. NEXT OF KIN
(a) Next of kin of the u/n verified as shown:
Lieut J. Laporte — Mrs Gertrude Laporte(Wife)
120½ Rue Lacasse
St. Pascale le Nouvelon
Quebec City, Que., CANADA

"B" OTHER RANKS

3. INTERNAL POSTINGS
(a) Posted from X-3 List to X-4 List (15n) 19 Nov 44

C121069	Pte	Anfossi,	F.
D56294	Pte	Labrecque,	F.

(b) Posted from X-3 List to X-4 List (4Bn)

S100936	Pte	Goude,	H.	17 Nov 44
D61369	Pte	Desjarlais,	P.	17 Nov 44
D163091	Pte	Allenberg,	D.	17 Nov 44
D107135	Pte	Vadeboncoeur,	H.	18 Nov 44

(c) Removed from 2 C.P. Camp to 1 Mil Prison & Detn Bks 13 Nov 44

G2061	Pte	Albert,	E.	X-2 List
D118872	Pte	Dufresne,	A.	X-2 List
D142877	Pte	Marcil,	R.	X-2 List
D141325	Pte	St.Louis,	A.	X-2 List

(d) Removed from 2 Con P.P. Camp to 1 Mil Prison & Detn Bks 17 Nov 44

49568	Pte	Dorion,	B.	X-2 List
B113077	Pte	Emond,	H.	X-2 List
S23805	Pte	Martin,	A.	X-2 List

(e) Posted from X-3 List (1 CCD) to X-2 List 17 Nov 44 on comm to 1 Mil Prison & Detn Bks(Awarded 18 Mos Imp with H.L. 9 Nov 44)

D4472	Pte	Turgeon,	J.C.

"C" LIST ROYAL 220 — No. 126
Page -2- — 22 Nov 44

1. EMBARKATION AND DISEMBARKATION

(a) Having embarked 3 Nov 44 are BOS C/n Army (
and TOS Cdn Army(CMP) 4 Nov 44 Disembarked I
A-4 List (Ltr) 18 Nov 44 TOS

C402232	Pte	Auhin,	J.H.A.
C402234	Pte	Beriault,	J.A.G.
C122234	Pte	Bernier,	R.
Z110041	Pte	Berube,	J.W.
Z110023	Pte	Berube,	R.
221313	Sgt	Boileau,	C.
D47197	Pte	Boileau,	L.
Z19014	Pte	Boudreau,	H.R.
G97480	Pte	Bossinotte,	U.
Z110030	Pte	Bruneau,	G.
H143482	Pte	Bugeaud,	L.
D157816	Pte	Bullaire,	A.J.
Z110052	Pte	Caguire,	A.
D157784	Pte	Deslauriers,	B.
D157803	Pte	Desjardins,	J.P.
D107746	Pte	Dion,	L.
H138746	Pte	Doiron,	A.
229110	Pte	Doiron,	D.
229502	Pte	Doiron,	G.
G97560	Sgt	Dore,	G.
D15906	Sgt	Dumas,	H.
Z19116	Sgt	Dunn,	P.
Z106771	Pte	Fortin,	G.
P18774	Sgt	Gagne,	G.
Z110073	Pte	Gagnon,	P.
25727	Pte	Gauthier,	J.P.
D157639	Pte	Gingras,	J.A.S.
C102770	Pte	Giroux,	R.
C40172	Pte	Guimond,	J.A.A.
H157692	Pte	Hamel,	A.
D137909	Pte	Harvey,	A.
Z106659	Sgt	Hebert,	J.L.C.
257048	Pte	Hensault,	C.A.
D140799	Pte	Irbeault,	D.
Z110092	Pte	Jean,	P.J.
46016	Pte	Johnston,	R.
H157787	Pte	Labrosse,	W.
D107576	Pte	Laforce,	S.
D157718	Sgt	Lallemand,	F.D.
Z19124	Pte	Larocque,	P.E.
C42613	Pte	Lavictoire,	L.
C35261	Pte	Lebeau,	V.
A102369	Pte	Leger,	R.N.
D107588	Pte	Lemieux,	H.
H142926	Pte	Leroux,	F.A.
Z110107	Pte	Lobb,	A.
C2862	Pte	Lussier,	A.
D58103	Pte	Lynch,	P.
D107591	Pte	Maisonneuve,	L.
35775	Pte	Martel,	J.A.L.H.
D107592	Pte	Martin,	G.J.A.
D16596	Pte	Mireault,	V.
D46831	Sgt	Morel,	
Z41930			

Equipment Repairer "C"

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4. EMBARKATION AND DISEMBARKATION

(a) having embarked 3 Nov 44 are 808 Cdn Army (UK) on that date and 208 Cdn Army(CMF) 4 Nov 44 Disembarked Italy and TOS X-4 List (1Fn) 18 Nov 44

C40232	Pte	Aubin,	J.H.A.
C122234	Pte	Beriault,	J.A.G.
B110021	Pte	Bernier,	G.
B110023	Pte	Berube,	R.
B21313	Sgt	Berube,	J.W.
D41197	Pte	Bolduc,	R.
B19014	Pte	Bolduc,	C.
G57580	Pte	Boudreau,	L.
B110010	Pte	Bossinotte,	R.L.
D143482	Pte	Bruneau,	U.
D157816	Pte	Dagenais,	G.
B110052	Pte	Dallaire,	L.
D157754	Pte	Doguire,	A.J.
D157803	Pte	Deslauriers,	A.
D107546	Pte	Desjardins,	E.
D138746	Pte	Dion,	J.P.
B29410	Pte	Doiron,	L.
B29502	Pte	Doiron,	A.
G57550	Pte	Doiron,	H.
D15506	Sgt	Dore,	G.
B19116	Sgt	Dumas,	G.
B106711	Pte	Dunn,	H.
P38774	Sgt	Fortin,	P.
B110073	Pte	Gagne,	G.
35727	Pte	Gagnon,	G.
D157639	Pte	Gauthier,	P.
C102770	Pte	Gingras,	J.P.
C40172	Pte	Giroux,	J.A.G.
D157592	Pte	Guimond,	R.
D137909	Pte	Hamel,	J.A.A.
B106669	Pte	Harvey,	A.
G57038	Sgt	Hebert,	A.
D140759	Pte	Henault,	J.L.C.
B110062	Pte	Irbeault,	C.A.
36016	Pte	Jean,	D.
D157787	Pte	Johnston,	P.J.
D107576	Pte	Labrosse,	R.
D157718	Pte	Laforce,	W.
B19124	Sgt	Lallemand,	S.
C42613	Pte	Larocque,	F.R.
C35261	Pte	Lavictoire,	P.E.
A102369	Pte	Lebeau,	L.
D107588	Pte	Leger,	V.
B142926	Pte	Lemieux,	R.N.
B110107	Pte	Leroux,	H.
C2862	Pte	Lobb,	F.A.
D58103	Pte	Lussier,	A.
D107591	Pte	Lynch,	A.
35775	Pte	Maisonneuve,	P. Equipment Repairer "C"
D107592	Pte	Martel,	L.
D16595	Pte	Martin,	J.A.L.M.
D46831	Sgt	Mireault,	G.J.A.
B41930	Pte	Morel,	V.

4. EMBARKATION AND DISEMBARKATION (CONT'D)

(a)

E14196	Cpl	Morin,	R.
J106671	Pte	Morin,	A.
J19568	Pte	Morissette,	M.
D107603	Pte	Nadeau,	R.
057585	Pte	Ouellet,	L.
B156144	Pte	Payeur,	M.A.
D157622	Pte	Philibert,	J.F.A. Motor Mech "C"
C122823	Pte	Racine,	J.P.G. Storeman "C"
D143351	Pte	Rabouin,	P.E.
D16797	Pte	Rivard,	L.A.
D143577	Pte	Robert,	J.P.
B118427	Pte	Rochette,	L.
D107522	Pte	Rochon,	A.
K2049	Pte	Rossignol,	C.
J101239	Pte	Savard,	A.
J110137	Pte	Tennier,	J.
D62773	Sgt	Thibault,	J.M.
D56500	Pte	Tringle,	C.H.
D157698	Pte	Trudel,	P.E.
D157738	Pte	Turgeon,	R.
D107628	Pte	Vaillancourt,	G.R.
B156142	Pte	Vallieres,	J.G.

5. ABSENT WITHOUT LEAVE

(a) A.W.L. from 2145 hrs 12 Nov 44 Still absent 2145 hrs 20 Nov 44 (8th day)

D175690 Pte Trudel, J.A.J. X-4 List (18n)

(b) A.W.L. from 1805 hrs 27 Oct 44 App from AWL 1900 hrs 10 Nov 44

D126685 Pte Grenon, R. X-3 List (15 CGH)

(c) A.W.L. from 2230 hrs 24 Oct 44 Still absent 2230 hrs 1 Nov 44 (8th day)

A.W.L. from 2230 hrs 24 Oct 44 Still absent 2230 hrs 15 Nov 44 (22nd day)

C42510 Pte Bilodeau, D. X-3 List (9 Br Con Depot)

(d) A.W.L. from 0800 hrs 26 Oct 44 Still absent 0800 hrs 17 Nov 44 (22nd day)

D135638 Pte Charette, J.R. X-4 List (48n)

6. STRENGTH DECREASE

(a) S.O.S. X-3 List (9 Br Con Depot) as n des 16 Nov 44 having been dec illegally absent by Ct of Inq from 2230 hrs 24 Oct 44
Deficiencies in Kit - NIL
C42510 Pte Bilodeau, D.

(b) S.O.S. X-4 List (48n) to X-9 List 19 Nov 44
Auth - Can 02E/ARS/4078 d/17 Nov 44
E40467 Pte Belisle, R.

for (W.H. Laughlin) Lieutenant
for Officer i/c
CANADIAN SECTION, GHQ 2 ECHELON AAI

SHB Certified true copy
Typewriting Error
Officer taking Summary of Evidence

Exhibit "B"

ARMY FORM B 206.

Statement as to Character and Particulars of Service of Accused.

Number.	Rank.	Name.	Regiment (or as the case may be).
D.126685	Pte.	GRENON, H.	1 Cdn Base R't Bn, 1 CEHD.

1. The following is a fair and true summary of the entries in the regimental and squadron, battery or company conduct sheets† of the accused, exclusive of convictions by a court martial or a civil court, of summary awards under section 47 of the Army Act, and of cases in which trial has been dispensed with :—

Note.—At a trial by field general court martial this statement must be compiled from the field conduct sheet.

The conduct sheet(s) mentioned should be produced in court with this statement and put in as exhibit to the proceedings.

† See para. 427, K.R., 1940.

* The summary herein called for should be signed with the name, rank and appointment of the officer who has made the entries in the conduct sheet, and should be dated. Where other officers have made entries during the period covered by the summary, each should sign and date the entries made by him or on behalf of his unit.

Instructions as to the charge to be written by the officer who has made the entries in the conduct sheet(s) and dated.

	* Within last 12 months.	*Since Enlistment.
For A.A.Sec. 15 (1)	~~Nil~~ 0 times.	3 times.
For A.A.Sec. 40.	~~Nil~~ 0 times.	~~Nil~~ 3 times.
For A.A. SEC. 18(4)	~~Nil~~ 0 times.	1 times.
For	times.	times.
For	times.	times.

~~Number of instances of quitting [illegible] unduly.~~

~~The above entries in the conduct sheet of the accused~~

2. ~~The accused has not been previously convicted~~ Nil

Previous convictions† of the accused by a court martial or a civil court, summary awards under section 47 of the Army Act, and dispensations with trial under section 75 of the Army Act, are set out in the schedule annexed to this statement.

3. The accused is not under sentence at the present time, ~~and his conduct during the period of his sentence has been~~ Nil ~~[illegible]~~

4. The accused has been in confinement awaiting trial on the present charges, for nil days in civil custody, and 26 days in military custody, making a total of 26 days, of which 5 days were spent in hospital.

5. The present age of the accused according to his ~~record of service~~ attestation paper is 21 years.

6. The date of his ~~draft~~ attestation specified in his ~~record of service~~ attestation paper is 16 Jan. 1942. J.E.R.

~~7. The service which the accused is allowed [illegible] towards discharge or transfer to the reserve is~~

8. The accused is entitled to deferred pay or gratuity in respect of service.

9. The accused is entitled to reckon service for the purpose of determining his pension, etc.

10. The accused is in possession of, or entitled to, ~~no military decorations or military award (or [illegible])~~ CVSM with Clasp J.E.R.

11. ~~(If the accused is a warrant officer.)~~ The accused before he was made a warrant officer last held the regimental rank of ~~[illegible]~~ Nil

12. (*In the case of an officer.*) The accused holds in the army the rank of dated and in his regiment (or corps or department) the rank of dated

~~[illegible]~~ Nil

Schedule of Convictions by a Court Martial or Civil Court, of summary awards under Section 47 of the Army Act and of cases in which trial has been dispensed with of accused.

No. D.126685 Rank Pte. Name GRENON, H. of 1 CBRBn, 1CBRD. Regiment (or as the case may be).

(INSTRUCTION—A verbatim extract from the regimental books, stating those convictions and dispensations with trial, must be inserted.)

Description of court by which tried, or status of officer disposing of the charge or dispensing with trial.	Date and place of trial, or summary award under A.A. 47, or of order dispensing with trial.	Charges upon which convicted, or in respect of which trial was dispensed with.	Sentence of the court or authority disposing of the charge, or order of the dispensing authority.	Punishment remitted.
F.G.C.M.	Field. 25-5-43.	A.A.Sec.18(4) - stealing property belonging to a person subject to Military Law.	120 days detn. 120 days pay- 22 days pay-149(1)(c).	40 days

I HEREBY CERTIFY that the foregoing schedule of convictions and dispensations with trial is a true extract from the regimental books in my custody.

Signed this 30th day of November 1944

W Jackson Lieut
Officer having Custody of Regt'l Books

13. The accused has served as a non-commissioned officer continuously without reduction, to the present date—

In the rank of ... years ... months ... Date of Promotion

In the rank of ... years ... months ... Date of Promotion

In the rank of ... years ... months ... Date of Promotion

(INSTRUCTION—If any matter in any of the above paragraphs cannot be stated from the regimental books the paragraph must be struck through except that in the case of a trial by field general court-martial the information may be collated from such sources as are available and the paragraph retained amended accordingly.)

D.126685 No / Name GRENON, H. Sheet #1 Destroyed on completion of six months service 16-7-42.

Sqn, Battery, or Company 4 Coy. Corps RCASC Date of enlistment 16-1-42. GC Badges Service or Proficiency Pay MFM 6 (APR 122)

1 Cdn ASC RU Period not reckoning towards freedom from extra fine Sheet No 2 Signature OC Company, etc Alex. Gagnon, Major Character G. Lab. E.

Date of last entry in Company Conduct Sheet 6-7-42. No and date of last drunk Nil.

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Field	14-9-42.	Pte.		WOAS, AWL from 2300 hrs 14/9/42 to 0600 hrs. 15/9/42. Time absent 8 hrs A.A.Sec.15(1)	1/Cpl.Mecteau. A/Sgt.Evans.	14 days CB. Forf.4 days pay.Auto.forf. 1 days pay. Total forf.5 days pay.	16/9/42.	Lt-Col.W.C. Fletcher.	FRI 1490 FRI/149(1 (a) Tot.forf.5 days pay
Field	28 Nov 42	Pte.		WOAS,AWL from 2300 hrs.28 Nov.42 to 2145 hrs.29Nov/42(22 hrs, 45 mins) Sec.15(1)AA.	Pte.Robbins. L/C.Ready,L.A. Pte.Frankland,R.E. Pte.Parisien, A.	14 days FP	2 Dec.42.	Capt.W.M. Arnold.	Auto.forf. 1 days pay.
Field	28 Nov. 42	Pte.		WOAS,is charged with conduct to the Prej.-operating W.D.veh. (M/C)and using gov't.petrol without proper authority.Sec.40,AA.	L/C.McArthur,C. L/C.Kerr,J.H. Sgt.Westbrook,J.E.	21 days pay.	2 Dec.42.	Capt.WM Arnold	

(PTO)

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award of or under dispensing with trial	By whom awarded	Remarks
Field	11/1/43.	Pte.		(1) Sec.40, AA.-failing to report for duty. (2)AWL. 7 hrs. 25 mins. Sec.15, AA.	H.37607, Sgt. Thompson, W.	27 days F.P.	12 Jan.43.	Maj.PH Savard.	Forf. 1 days pay. FR&I-149.(1)(b).
Field	8 Feb. 43	Pte.		Sec.40AA-in that he on the 8 Feb. 43 did take a pair of rubber boots from his quarters with intent to pawn.	C-12534. Sgt. Carriere, D. C-12551, Sgt. Turner, J.	14 days pay. 46-2D Army Act. 14 hrs. instructional drill.	9 Feb.43.	Maj.H.C.Pattison.	
Field	1/5/43.	Pte.		Sec.18(4)- stealing property belonging to a person subject to Military Law.	Documentary.	120 days detn.	25/5/43.	F.G.C.M.	120 days pay. FR&I. 149(1)(b). 22 days pay- 149(1)(c).

RELEASED FROM THE DETN.BKS-FIELD-ON Aug.12/43, SENTENCE HAVING EXPIRED.REMISSION EARNED UNDER "RULES FOR DETENTION BARRACKS AND MILITARY PRISONS" ---- 40 DAYS ---- . Comdts Initials - Lt. J.--------
----- 10 Jan.44.Pte. QUAL.AWARD CDN VOLUNTEER SERVICE MEDAL & CLASP. -----

Certified True Copy from Regtl Books in my Custody _____
(Officer in Custody of Regtl Books)

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Field	11/1/43.	Pte.		(1) Sec.40,AA.-failing to report for duty. (2)AWL. 7 hrs. 25 mins.Sec.15,AA.	H.37607,Sgt. Thompson,W.	27 days F.P.	12 Jan.43.	Maj.PH Savard.	Forf.1 days pay. FR&I-149.(1)(b)
Field	8 Feb. 43	Pte.		Sec.40AA-in that he on the 8 Feb. 43 did take a pair of rubber boots from his quarters with intent to pawn.	C-12534. Sgt. Carriere,D. C-12551,Sgt. Turner, J.	14 days pay. 46-2D Army Act. 14 hrs. instructional drill.	9 Feb.43.	Maj.H.C.Pattison.	
Field	1/5/43.	Pte.		Sec.18(4)- stealing property belonging to a person subject to Military Law.	Documentary.	120 days detn.	25/5/43.	F.G.C.M.	120 days pay. FR&I.149(1)(b). 22 days pay- 149(1)(c).

RELEASED FROM THE DETN.BK-FIELD-ON Aug.12/43, SENTENCE HAVING EXPIRED.REMISSION EARNED UNDER "RULES FOR DETENTION BARRACKS AND MILITARY PRISONS" ---- 40 DAYS ---- . Comdts Initials - Lt. J.--------

----- 10 Jan.44.Pte. QUAL.AWARD CDN VOLUNTEER SERVICE MEDAL & CLASP. -----

Certified True Copy from Regtl Books in my Custody--(Officer in Custody of Regtl Books)

STATEMENT BY THE ACCUSED.

I certify having received free of charge, a copy of the Summary of Evidence, list of Witnesses, list of Exhibits and Charge Sheet.

I desire the services of an Officer to represent me at the trial.

Date 30 Nov. 44. H Arnon.

CHARGE SHEET

4X-103.

Pte. Grenzbach H.F.

4

SCHEDULE.

PART I. PLEA(S), FINDING(S) AND SENTENCE.

Accused: K 50830 Private Howard Franklin Grenzeback. Lan & Ren Scot R.

Charge. (Insert "alternative" where applicable.)	Plea. (See Instrs p 2.)	Finding. (See note below.)	(Space for use as required for further charges, accused charged jointly, special findings, etc.)
1st AA Sec 12(1)	(a) Not Guilty	Guilty	
2nd			
3rd			
4th			
5th			
6th			

(Note: As to findings for lesser offences see AA 56, RP 44; findings on alternative charges see MML p 483 fn 4 para 2, RP 44; special findings see RP 44 and MML p 753, and in lieu of Kit see RP 44 fn 6.)

To undergo imprisonment (detention) with hard labour for a period of [illegible] (1) ACB
(1. Insert sentence being served, or delete, if not applicable. See RP 46(A). Information should be found on MF B355 or AF B296.)

Time in confinement awaiting present trial—a total of 33 days, of which NO days were spent in hospital.(1)
(1. See RP 46(A) fn 2. Information should be found on MF B355 or AF B296 admitted in evidence under E2.)

Sentence Awarded by the Court: To suffer penal servitude for the term of three (3) years

(Sgd) _____ Judge-Advocate, if any. 29 Jan 45 Date awarded. (Sgd) "ACBechingham Major" President. (RP 45, 50.)

(See back of Convening Order as to assembly and disposal of record after trial.)

PART II. MINUTE WHERE CONFIRMATION RESERVED. (AA 54(5), RP 120(F), MAML p 760.)

I reserve the Findings and Sentence for confirmation

Date 31 Jan 45 (Sgd) "J.S. Lind Brig" Commanding 12 Cdn Inf Bde.

PART III. DECISION OF CONFIRMING OFFR ON FINDING(S) AND SENTENCE.

(For duties and powers see AA 54, 57, RP 37(D) fn 6, 46(A), 51-56, 120, MML pp 759-761, KR Can 567-577. Acquittals require no confirmation and cannot be revised: AA 54(3). Sending back finding or sentence for revision by Court: AA 54(2), RP 120(G). If not confirmed, accused may be tried again: AA 157, MML p 64. Minute of confirmation or non-confirmation may be altered before promulgation: RP 53, MML p 65. Quashing after promulgation: KR Can 573. Duties and powers of reviewing offrs: AA 57, 57A, RP 53A, 54. The Confirming Offr must sign here personally. AA 172 fn 1.)

My decision on the finding(s) and sentence set forth in Part I is:

"I confirm the finding and sentence and I direct that a part of the sentence not exceeding two years shall be served in a military prison".

I direct that the portion of the sentence to be served in military prison be remitted. (1)
(1. AA 57A. Delete if not used.)

(Sgd) "E.G. Weeks" Major-General
IC Administration

Date 28 Feb 45

Commanding CANADIAN MILITARY HEADQUARTERS
Confirming Officer.

PART IV. PROMULGATED AND EXTRACTS TAKEN. (RP 53, KR Can 576, 577.)

Accused.	Date.	Signature of Offr.
K-50830 Pte GRENZEBACK HF Lan & Ren Scottish	6 Mar 45	[signature] Lt Base Ld [illegible] Section Centre CAMC

ALL DELETIONS AND ALTERATIONS WILL BE INITIALLED.

CERTIFIED TRUE COPY [signature] D.M. Owen, Capt. for Officer i/c Casualty Section AFHQ

RECEIVED AT CMHQ IN AG 160 15 Feb 45

4X-103

CFA96 (To face of AFAB) 47/P.M.S. (5098) (10664)

FIELD GENERAL COURT-MARTIAL

See Convening Order Brig J.S.H. Lind DSO. Comd 12 Inf Bde (Actg) 25 Jan 45.

ACCUSED.

(As to the trial of two or more charged jointly see RP 16, 71, 109. As to reasons for showing (a) permanent or confirmed rank, and (b) apptmt, A/rank or A/apptmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

Number.	(a) Prmnt R.	(b) Apptmt, A/R or A/Apptmt.	Full Christian Names.	Surname.	Unit.
K-50830	Pte.		Howard Franklin	Grenzeback	

PROCEEDINGS OF TRIAL.

Held in the Fd in (country) Italy on (date(s)) ACB 29 Jan 45

RECORD FORM A—OPENING PROCEEDINGS AND ARRAIGNMENT.

A1. The President, Members, waiting Member, ACB and JA, if any, assemble, and the Court is closed.

(PRINTED MATTER, NOT IN ITALICS FOR GUIDANCE, WILL BE DELETED, IF NOT USED OR APPLICABLE, AND INITIALLED BY PRES OR JA. The Schedule referred to throughout is on p 4. Citations do NOT include all relevant Instr ROs. For guidance on procedure when a variation in this form arises, see form for GCM in MML pp 741 to 759. A brief record of such variations will be made and given a number having reference to appropriate or preceding para number herein. See back of Convening Order, CF A95, for oaths and instrs on how to record addresses, evidence, etc., which instrs are hereafter called "Notes". As to general provisions for conducting the trial see AA 53, RP 36, 63-70, 73, 74, 94, 102, 119, 132.)

A2. The President initials and lays before the Court the Convening Order and Charge Sheet(s) attached thereto.(1) The Court is satisfied that it is properly convened and constituted(2), accused is ACB amenable to military law, and each charge discloses an offence.(3)
(1. As to use of Summary of Evidence see RP 17 fn 6. 2. AA 49, 50, RP 105-107. 3. RP 11-13, 23, 24.)

A3. The Court is opened. The accused is ACB brought before the Court. At 1300 hours trial commences.

A4. The Prosecutor produces a Medical Certificate that accused is fit to undergo trial by court-martial.(1)
The Prosecutor informs the Court that accused desires to object to [illegible] ACB
[illegible] ACB
(1. KR Can 557. 2. AA 46(B), RP 66 fn 1. For effect see KR Can 563(c). Delete, if not applicable.)

A5. President to accused: [illegible] ACB
[illegible] ACB
(1. RP 72. Delete, if none employed.)

A6. The Convening Order and names of the President and Members of the Court are read to the accused.(1)
President to accused: Do you object to be tried by me as President or by any of the Members of the Court?

Ans No Sir (1)
(1. RP 110. 2. If no objection, waiting member retires. RP 60(B). If objection, see procedure AA 51, RP 25, 71, 72, MML p 742.)

A7. The President, Members, JA, if any, and Offrs under instr, if any, are sworn.(1) The following are the ranks, names and units of the offrs comprising the Court, etc:

President	Major Alexander Clifford Beckingham	4 P.L.D.G.
Member	Capt. Frederick Christie Burrell Cummins	Westmr Regt (M)
Member	Lieut. John Victor Hyde Wilson	Westmr Regt (M)
Judge-Advocate		
Prosecutor	Lieut. Geoffrey Richard Stead	Lan & Ren Scot R.
Defending Offr	Lieut. John Divia Rosefield	Lan & Ren Scot R.

Questions by President: Is the Prosecutor a lawyer? Ans No Is the Defending Offr a lawyer? Ans No (1)
(1. RP 26, 27, 109, 111. List of offrs under instr will be returned separately with proceedings for information of Conv Offr.)
(2. If Pros a lawyer and Def Offr not, accused is entitled to an adjournment when RP 89 (B) and fn 2 were not followed. See D1 p 3.)

A8. The accused K 50830 Pte. H.F. Grenzeback before arraignment make(s) [illegible] plea [illegible] ACB (1)
(1. If a special plea is made for separate trial on one or more charges (RP 62(E), 108), or as to the jurisdiction of the Court (RP 34, 35(A), 113), or in bar of trial (RP 36), or as to accused's mental fitness to stand trial (AA 130, RP 57), or by one of several accused charged jointly to be tried separately (RP 16, 71), such pleas, the addresses made in support or against, the evidence, if any, and findings are recorded per Notes. For forms of record see references in fns to RsP cited. Insert in full name and name of the accused making the plea.)

A9. The accused is ACB arraigned ACB ACB on ACB charges in the charge sheet.(1) The accused does ACB not object to any charge.(2) There is no amendment to be made to the Charge Sheet.(3) The President records the pleas in Part I of the Schedule.
(1. RP 31, 112. See para 1 of Instrs p 2. When more than one Charge Sheet see RP 61; when several accused to be tried separately see RP 71(C), and use separate copies of CF A96 to record proceedings. 2. RP 32, RP 33. If otherwise, delete and make appropriate record per Notes.)

A10. The Court (is closed and) considers the Instrs on Procedure after Arraignment at top of p 2. The proceedings are continued on Record Form D

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS

B 3/135

INSTRUCTIONS ON PROCEDURE AFTER ARRAIGNMENT.

1. *The accused may not plead or be found Guilty on more than one of two or more charges laid in the alternative (RP 37(A).) As to withdrawal of alternative charges by Prosecutor see RP 35(C). No other charge can be withdrawn for any reason without authy from Convening Offr. If Convening Offr concurs, Court may accept plea of Guilty to lesser, etc, offence. (RP 44(H).) Accused may change a plea of Not Guilty to Guilty during trial. (RP 38.) As to refusing to plead or not pleading intelligibly see RP 35(A). As to plea when sentence may be death see RP 35(D).*

2. *The proceedings on each charge-sheet (RP 62) after arraignment will be conducted as follows in the respective circumstances stated :*

I. If pleas to all charges are GUILTY, use Record Form B below.

II. If pleas to all charges are NOT GUILTY, use Record Form D on p 3.

III. If pleas to some charges are GUILTY and to other charges are NOT GUILTY and,

(a) Such mixed pleas occur when there are no alternative charges in the Charge Sheet, use Record Form C below. (RP 37(A).)

(b) Such mixed pleas occur in a set of two or more charges laid in the alternative, see RP 37 (A) and fn 2 as to discretion of Court, (i) to try the accused on all such alternative charges as if he had pleaded Not Guilty thereto, or, (ii) to record the pleas as the findings of Court. After deciding between (i) and (ii), Court will proceed under foregoing instrs as may be appropriate to result of its decision. See MML p 744 Instrs (2).

3. *As to responsibility of President to accused see RP 59, 60(C) ; powers and duties of JA see RP 103 ; duty of Prosecutor see RP 60(A) (B) ; duty and privileges of accused and Defending Offr see RP 60(C), 87(C), 91, 92 ; swearing and withdrawal of witnesses from Court see RP 81, 82 ; questioning of accused see RP 80, 87(C), 92(E), and of witnesses see RP 83-85 ; calling or re-calling of witnesses by Court etc see RP 75-79, 86, 116 ; use of Summary of Evidence at Trial see RP 17(E) fn 6 ; and responsibility of JA or Pres to record proceedings see RP 94, 96.*

RECORD FORM B—PROCEEDINGS ON PLEAS OF GUILTY TO ALL CHARGES.

B1. The President or JA, if any, complies with RP 35(B) by explaining to the accused the nature and meaning of the charge(s)(1), and that on his plea of Guilty there will be no regular trial but merely a consideration of the sentence to be awarded after he has been given an opportunity to make a statement in reference to the charge(s), call witnesses as to character and make an address in mitigation of punishment.(2)

(1. RP 35 fn 3. 2. MML p 54 para 47.)

B2. President to accused : The Court will now receive any statement you desire to make in reference to the charge(s).(1) If it appears from your statement that there are circumstances which indicate that you do not understand the effect of the plea of Guilty(2), or which show provocation or extenuation in respect of which in your interest the witnesses for the Prosecution should be examined(3), we shall advise you to change your plea to Not Guilty. In making a statement you will not be sworn or subject to cross-examination ; and anything you say will not be used in evidence against you after you change your plea. If, however, it appears to the Court that your statement affects only the amount of punishment to which you are liable, you will not be advised to change your plea and you will be given an opportunity later to prove your statement by sworn testimony, if you so desire.(4)

President to accused : Do you wish to make a statement ? Ans ..... (5)

(1. RP 37(B). 2. RP 37(D) fn 6. 3. RP 35(B) fn 6 para 3, MML p 54 para 47. 4. See para E3 of Record Form E. 5. Statement, if any, recorded per Notes.)

B3. The Court considers the accused's statement.(1) The Court decides (not) to advise accused to change his (their) plea(s) of Guilty to Not Guilty on ..... charge(s). The accused is (are) so informed, and he (they) change(s) his (their) plea(s) on ..... charge(s). Part I of the Schedule is amended accordingly.

(1. Court may be closed to consider the statement. Delete whole or part not used.)

B4. On the charge(s) to which the plea(s) of Guilty is (are) not changed the President records finding(s) of Guilty in Part I of the Schedule.(1)

(1. RP 35(B). If any plea(s) is (are) changed, use Record Form C or D as appropriate.)

B5. The Summary of Evidence is marked Ex ....., initialled and read aloud by the President.(1)

(1. If there is no Summary, or if it is inadequate, comply with RP 37(B). If there is any evidence inconsistent with any plea standing as Guilty, Court will advise accused to change such plea and, if changed to Not Guilty, try such charge(s) by the of paras D1 to D8 inclusive of Record Form D on p 3. RP 37(D).)

B6. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

ACB

RECORD FORM C—PROCEEDINGS ON MIXED PLEAS OF GUILTY AND NOT GUILTY.

C1. As to the charges on which accused pleaded GUILTY the trial is continued by using paras D1 to D8 inclusive of Record Form D on p 3 before proceeding with C 2.(1)

(1. RP 37(A) (b).)

C2. The charges on which accused pleaded GUILTY are read to him (them) again, and the trial is continued by using paras B1 to B5 of Record Form B above.(1)

ACB

(1. Under B5 such parts only of the Summary of Evidence are read to relate to the charges dealt with under C2. If any plea is changed to Not Guilty, trial thereon proceeds by complying with paras D1 to D8 inclusive in Record Form D on p 3 and making an appropriate record thereof on a separate sheet.)

C3. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS. ACB

Pin here Loose Sheets of Record.

RECORD FORM D—PROCEEDINGS ON PLEAS OF NOT GUILTY TO ALL CHARGES.

D1. President to accused : Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity to prepare your defence ? Ans No Sir (1)

(1. If "yes", see RP 39(A) for procedure. Statement or evidence, if any, is recorded per Notes.)

D2. The Prosecutor makes ~~an~~ (no) opening address.(1)

(1. RP 39(B), 60(A) (B), 90, 92(C) (D). Record address per Notes, subject to RP 95(C).)

D3. The evidence for the Prosecution is taken.(1)

(1. RP 39(C), 114, KR Can 555. Record evidence per Notes. As to Prosecutor giving evidence himself see RP 39(D) (E).)

D4. The Prosecution is closed.(1) The Defending Offr refers to the fact that the evidence for the Prosecution does not establish a prima facie case against the accused on the charges and asks that the accused be found Not Guilty on each charge. The Court considers the submission(2) and (is) (is not) of opinion that there is no case to answer.(3) The Court (is) (is not) of opinion that there is no evidence that the accused is suffering from a mental disease or defect which makes him unfit to plead to any charge.(4) The Court finds the accused Not Guilty on each charge and directs the entry to be made in the proceedings.(5)

ACB

(1. Delete remainder of this para, if submission not made. 2. Arguments on submission, answer and reply are recorded per Notes. 3. RP 40 fn 1. See MML p 72 paras 12-14 and p 81 para 42. 4. Delete part not used. If accused acquitted on all charges, use second alternative in para D8.)

NB : If trial proceeds, accused must be allowed great latitude in making his defence, and the Court should not stop his defence solely on ground of irrelevance. (RP 60(C), 114, 115.)

D5. President to accused : You will now proceed with your defence.(1) You may, if you wish, give evidence yourself on oath as to the facts or your character or both, in which case you will be subject to cross-examination.(2) You may, however, make a statement without being sworn, and you will not be subject to cross-examination.(3) But a statement which could have been made on oath will not carry with the Court the same weight as sworn testimony.(4) You may call witnesses in your defence and as to character, whether you give evidence or make a statement or do neither.

President to accused : Do you wish to give evidence yourself as a witness, make a statement, or do neither ?

Ans Neither Do you intend to call witnesses on your behalf ?

Ans No Sir Are they witnesses as to character only or to the facts of the case ? Ans No Sir ACB

(1. RP 155. 2. RP 40(A), see 80(D). 3. RP 40 fn 10. 4. RP 40 fns 2, 9.)

D6. Consequent on the answers recorded in para D5 the appropriate procedure for the defence is followed.(1)

(1. RP 114, 115, 116. For procedure see Notes on back of Convening Order, CF 695. Evidence for accused as to his character should, if in his interest, be given before the finding. See RP 46(A) fn 1, 86(C). Note the further opportunity in para E1 of Record Form E. Record per Notes addresses, statement, evidence and any summing up by the JA under RP 42, 103(e).)

D7. The Court is closed to consider the finding(s) ~~of~~ the finding(s) of the Court is recorded in Part I of the Schedule.(1) The Court is re-opened.

ACB ACB

(1. RP 43, 117(A). See Notes in Part I of Schedule. 2. RP 44(A).)

D8. The President announces the finding(s) of Not Guilty, and states to the accused that the finding(s) of the Court on the ONE charge(s) is (are) subject to confirmation, will be promulgated later.(1)

ACB ACB

(2) The President announces that the proceedings are terminated.

ACB

(1. AA 54(3) (6), RP 45, 120(A). 2. AA 54(3), RP 45, 117. This alternative announcement is not applicable when (Delete if there are pleas of Guilty outstanding and dealt with under Record Form B or C.)

D9. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E below.

RECORD FORM E—PROCEEDINGS ON CONVICTION BEFORE SENTENCE.

E1. President to accused : Do you wish to give evidence yourself or to call any witnesses as to your character ?(1)

Ans No Sir

(1. If evidence has already been given by accused or his witnesses as to his character, delete this para. RP 37(C) fn 4, 46 fn 1. Accused and witnesses are sworn. Evidence recorded per Notes.)

E2. The Prosecutor produces Statement of ACB to Character and Particulars of Service(1), and certified true copy ~~of~~ of Conduct Sheet of ACB purporting to refer to the accused, which he submits to the Defending Offr for ACB examination, and then to the Court for admission in evidence. The Court is satisfied that these documents refer to the accused, because (i) they purport to be signed in the manner required by AA 163(1) (g) (h), and (ii) they purport to refer to (a) soldier(s) having the same number, rank, name and corps as the accused. Admitted in evidence and marked Ex C and Ex D respectively.(2)

(1. MFB 355 or AFB 296. 2. MFM 6. 3. RP 46, KR Can 558. If above documents not produced, see RP 46 fn 1 para 1.)

E3. President to accused : Do you wish to address the Court on the Statement(s) and Conduct Sheet(s), and in mitigation of punishment ?(1) Ans No Sir. ACB ACB

(1. RP 37(C), 46(D). 2. Address, if any, recorded per Notes. Court should permit accused or his witnesses to prove on oath anything here or previously stated which would affect the amount of punishment. RP 37(F) fn 7.)

E4. The President states that the Court is closed to consider the sentence, and that the sentence to be awarded by the Court, being subject to confirmation, will not be announced, but will be promulgated later, and the proceedings in open court are accordingly terminated.(1)

(1. AA 54(6), RP 120(A).)

E5. The Court considers the sentence.(1) The President records the sentence in Part I of the Schedule, which is dated and signed by him[self] [and by the other members] of the Court. ACB

(1. When several accused are tried jointly see RP 7(D). One sentence only, comprised of the punishment or punishments laid down in AA 41, 44 and its proviso, is to be awarded to cover all charges in all charge sheets on which accused found guilty. RP 46. As to sentences see AA 44, 138, 182, RP 46-50, 69, 118, 119(A), KR Can 308, 330, 563-566, Overseas RO 309, 2323, RP 48. As to sentences in case of mutiny see RP 7(D). As to sentences assigned for civil offences by the law of England see AA 41(5), MML p 139. When accused already under sentence of imprisonment or detention see AA 44(1)(b), 68(1), KR Can 564. 2. RP 50. As to release from arrest by Confirming Offr see KR Can 567. As to assembly and disposal of record after trial see instrs on back of Convening Order.)

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

ACB

CHARGE SHEET

The accused, K50830 Pte. Howard Franklin GRENZEBACK, Lanark & Renfrew Scottish Regiment, a soldier of the CanadianArmy Overseas, is charged with:

FIRST CHARGE

Army Act Sec 12 (1) (a) When on active Service, deserting His Majesty's Service,

in that he,

In the Field, In Italy, at approximately 1o oo hrs on 3 Dec 44, when serving with His Platoon in a forward area in contact with the enemy, with intent to avoid such service, absented himself from his said Platoon until surrendering hiaself at 2130 hrs 2b Dec 44.

W.H. Buchanan Lt.Col
(W.H. Buchanan) Lt. Col.
Commanding
Lanark & Renfrew Scottish

TO BE TRIED BY FIELD GENERAL COURT MARTIAL

"JS Lind"
(J.S.H. Lind) Brig
Comd 12 Cdn Inf Bde

25 Jan 45

ACB

FIELD GENERAL COURT-MARTIAL

CFA95 (In lieu of AFA3) 40/FA3/1697 (2nmb)

(Whether the accused to be tried is under his comd or not, a FGCM may on application to him be convened by any offr of Cdn Army Overseas, or of any other force if authorized in law, in immediate comd of troops on active service, subject to RP 105(C) and restrictions imposed by appropriate authy. AA 49, 50, RP 104-107, 114. As to the duties and privileges of the Convening Offr in dealing with the application see MML Chap V paras 20 and 23, RP 87(B).

There should be a separate Convening Order for each person to be tried separately by the same Court. RP 71(C), 109. As to separate charge sheets see RP 62, and as to separate trial on charges in the same charge sheet see RP 108. As to two or more accused charged jointly see RP 16, 109. As to reasons for showing (a) permanent or confirmed rank, and (b) apptmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

ACCUSED.

Number.	(a) Prmnt R.	(b) Apptmt, A/R or A/Apptmt.	Full Christian Names.	Surname.	Unit.
K 50830	Pte.		Howard Franklin	GRENZEBACK	LAN & REN SCOT R

CONVENING ORDER.

1. Whereas complaint has been made to me, the undersigned, that the person(s) named above as the accused, being subject to military law, has ~~XXXX~~ committed the offence(s) set forth in the Charge Sheet(s) attached and on (date) 25 Jan 45 endorsed by me, (~~a person not subject to military law~~) "To be tried by Field General Court-Martial". JSL

2. And whereas I am of opinion that it is not practicable that such offence(s) should be tried by an ordinary General Court-Martial; ~~and that it is not necessary or expedient that the accused should be kept in close custody pending trial~~ JSL
(Delete part in brackets when not required for compliance with RP 105(C).)

3. I hereby convene a Field General Court-Martial to try the said person(s), and to consist of the Offrs appointed or detailed hereunder.

4. ~~A commissioned officer is hereby appointed to form the Court, to act as Fd Offr as President, for the purpose of trying the accused herein.~~ JSL
(AA 49, RP 106(B), 107(A). Delete the whole or part, if not applicable.)

5. ~~A person appointed under the provisions of the Offr mentioned herein to act as~~ JSL
(RP 106(E). Delete, if none appointed.)

PRESIDENT.

(Rank.)		(Unit.)
Major	Alexander BECKINGHAM (Must be named. RP 106.)	4 PLDG

MEMBERS.

Capt. to be detailed by CO WESTMR R (M)

(Rank.)		(Unit.)
Capt.Or Lieut.	to be detailed by CO WESTMR R (M) (Named or detailed. RP 106.)	

WAITING MEMBER.

(Rank.)		(Unit.)
Lieut.	to be detailed by CO 4 PLDG (Named or detailed, if any. RP 106.)	

JUDGE-ADVOCATE.

(Rank.)	(Must be named, if any. RP 106.)	(Unit.)

On Active Service in the Fd

in	(Country.)	"J.S. Lind" (JSH LIND) (Signed personally. RP 105 fn 2.)	Brig. (Rank.)
Date 25 Jan 45		Commanding 12 Cdn Inf Bde Convening Officer.	

CONVENING OFFR WILL INITIAL ALL DELETIONS AND ALTERATIONS

(See overleaf for oaths and notes for use on trial.)

ACB

MEDICAL OFFICER'S CERTIFICATE

This is to certify that I have this date examined K50830 Pte. GRENZEBACH, H.F., of the Lanark & Renfrew Scottish Regiment and found him to be free from infectious and contagious disease and fit to undergo trial by Field General Court Martial.

R.M. Henderson Capt

29 Jan 45

Address by Pros. -- No Address
D 2

First Witness for Prosecution. D3

H-3554 Pte. Nicol D.J. Lan. Ren Scot R. having been duly sworn proceeds to give evidence as follows: On 3rd Dec 1944 I was a member of Cpl. Erickson's section. We were in position approx. 50 yds from Canal bank. The accused a member of Pl HQ. was in a slit trench close by. At approx 1530 hrs. I heard him say that some thing had gone wrong. with the radio. Approx 5 minutes later I saw him cutting across the field to the rear of us, to a house on our right, which was Company H.Q. I did not see the accused again until the other day when I was called up for the Summary of Evidence.

Pros. Examination

Q. You have mentioned that the accused carried a radio set - was he in charge of it?

A. He was wireless operator for the platoon.

Def. Cross-Exam.

Q. Is it possible that the accused could have been told to wait behind for another set without your knowledge?

A. Quite possible, sir.

Q. In that event would you have known of any further movements of the accused?

A. Not necessarily, sir.

Second Witness for Prosecution

ACB 2.

H-35493 Cpl Erickson H.S. Lan & Ren. Scot R. having been duly sworn proceeds to give evidence as follows: On 3 Dec 44 I was in charge of a section in 16 platoon of D Company which was in action against the enemy at that time. At approx. 1430 hrs. we were occupying a position on the canal bank on the left of the company. The accused was a wireless operator with pl HQ at that time. My section and pl HQ were in a slit trench on the left of my section. At approx 1530 hrs. I observed the accused leaving his slit trench with the wireless set. At approx. 1600 hrs, I left with my section for supper at a house 200 yards to the rear. Returning at 1625 hrs. to my slit trench I did not see the accused nor have I seen him since then, Sir.

the rear of the pl. the accused was in

Pros. Exam.

Q. When you returned to your slit trench was the wireless set in your position.

A. I do not know where it was.

Q. Was your platoon involved in any more actions that day?

A. Yes sir. We crossed the canal and carried on to our objective.

Q. Was any one in your platoon in possession of a wireless set at the time you crossed the canal.

A. No. as far as I know we did not have any wireless set.

Def. Cross-Exam

Q As section leader would you be in charge of the person carrying the radio set?

A. No. Sir.

Q. At approx 1625 hrs you returned to your slit trench - at 1630 hr your section took part in the canal crossing during that operation did you know the movements of ~~xx~~ every one in Pl. HQ?

A. No Sir.- I coudln(t tell you every action they did.

Pros. Re-exam.

Q. Why was Pl HQ attached to your section.

A. They along with my section were in reserve and carring all extra equipment.

Exam. by Court.

Q. When you went back for supper or before, had you been warned of further action.

A. No. I was warned during supper.

Q. Who was in charge of your platoon at this time?

A. Sgt. Hall was Pl. Commander and Sgt. Manser was Pl. Sgt.

Q. Did your section stay with Pl. HQ from supper time and for the rest of that day?

A. Yes Sir.

Third Witness for Prosecution

K-7104 CSM Folz. E. Lan & Ren Scot R. having been sworn proceeds to give evidence as follows: At approx 2200 hrs on 3 Dec 44. Sgt. Hall G.B. deceased, acting Pl. Commander of 1b Pl. reported to me the absence of the accused. I reported this on my first casualty return. I did not see the accused with the Company again.

Pros. Exam. Q. No Questions.

Def. cross-exam

Q. Was there any official word on the absence of the accused before 2200 hrs?

A. No. It was impossible for word to reach me before as we were in the attack.

Q. Do you know definitely that the accused was not with his platoon during the attack up to 2200 hrs.

A. No. Sir.

~~Re-Exam~~

(Page 4 continued.)

Pros. Re-Exam

Q. Was the accused with Company H.Q. during this attack?

A. No. Sir.

Exam. by Court.

Q. Where were you during the attack.

A. I was with Company H.Q.

Q. Did you have wireless communication with 16 Pl. during the attack?

A. No. Sir.

Q. Did you have wireless communication with 16 Pl. during the day prior to this attack?

A. No. Sir. the set was not working properly.

(ACB) 5.

Exam by Court cont'd.

Q. At what time was it reported to you that the accused had absented himself?

A. At approx. 1600 hrs.

Q. Was a search for the accused made?

A. Yes there was. I contacted my clerk and informed him he was to visit our starting position to see if he could find the accused and his wireless set. He reported to me that neither set nor the accused were there.

Q. What was the time of this search?

A. Can't give exact timings, but during morning of 4 Dec 44.

Fourth Witness for prosecution

Major Henderson, C.A. Lan. Ren. Scots. R. having been duly sworn proceeds to give evidence as follows: I am company commander of D Company. On 3 Dec 44. At approx. 1400 hrs. I received orders from my C.O. that D. C Company would cross the Canal Via Cupa. At approx. 1600 hrs the accused who was wireless operater on No. 38 set reported to Company HQ to have his set checked. While he was there the Signals Sgt. reported to Company HQ. with a new # 38 set. This was given to the accuseed. At 1630 hrs we crossd the Via Cupa and during the advance towards Colo, I tried to contact Number 16 Pl. by wireless, buth could not reach them. When we stopped to regroup at approx. 2200 hrs. the Pl. Commander, Sgt Hall reported that the accused was not with the platoon. This is the first time I've seen the accused since the afternoon of 3 Dec 44.

Pros. Exam — No questions.

Def. Cross-Exam

Q. Do you know whether or not the accused went back to his platoon?

A. I don't.

Q. The lack of communications could that be the fault of the 38 set?

A. Yes it could have been: but this I could not Understand because he had been given a new set.

Re-Exam

Q. Was the new set ever found within the area of 16 Pl. or the Company area.

A. No it was never found.

Exam. by Court

Q. At what time did the accused start back to his Pl.

A. I could not tell you.

Q. Was the accused told that there was to be a further action that day and that he was to return.

A. I did not tell him.

Pros produces cert of surrender and extract from Pt II Orders (marked Exhs A & B)

D 6.

SUMMARY OF PROSECUTION

in the case of

K-50830 Pte. Grenzeback H.F. Lan & Ren Scot R.

Pte. Grenzeback was equipped with a new radio set. If he had returned to his platoon with the new set, either he would have still been with the platoon at 2200 hrs, or a casualty or listed as missing. When listed as missing how can the defense explain the surrender of the accused at a later date to the military police, if he did not leave the platoonprior to 1600 hrs, without authority and in face of the enemy.

I wish to emphasize the point that Pte. Grenzeback left his platoon while in a forward position immediately in face of the enemy and not from a reserve postion. In so doing his job which he vacates must be shared among the other men in his platoon at a time when they are already heavily burdend. Because of this I ask that the maximum possible penalty be imposed upon him.

D 6 (ACB) 1

SUMMARY OF DEFENCE

in the case of

K-50830 Pte. GRENZEBACH, H.F. Lanark & Renfrew Scottish

The prosecution has not, at any time, shown actual desertion in the face of the enemy during an action. From 1600 to 2200 hrs 3 Dec 44. there is no indication by anyone whether the accused moved back to a rear area or went froward with his platoon. The first and second witnesses have both stated that they were employed in their own duties and were, therefore, too busy to take note of the movements of persons in platoon H.Q. The third witness merely knows that the accused was reported to be absent at 2200 hrs. The fourth witness stated that a new Wireless Set was given to the accused but did not know of the movements of the accussed.after that time. There is no indication that the Wireless Set was in working order. It is assumed by the prosecution that the accused deserted merely because four witnesses did not see that accused after 1600, although their own duties did not give them the opportunity of doing so. The second point brought up by the prosecution was that there was no communication with the platoon of the accused. This is no indication that the accused was not present.

J.D. Rosefield, Lieut.
Officer Defending.

(ACB)

Exhitit "A"

CERTIFICATE UNDER ARMY ACT SECTION 163 (1) (1)

I Capt. W.E. Wickes Commanding 506 Provost Coy. C.M. Police.
certify that No K-50830 Rank Pte. Name Grenzebach H.F.
of the Lanark & Refrew Scottish Regt. "D" Coy.
surrendered himself to No 143749 Rank L/C Name Simmons JJ
of the 506 Provost Coy. CM Police. at Cattolica.
at 2130 hrs., on the 26 th day of Dec. 1944
as a deserter forabscentee without leave).
Date 27th Dec. 44.

(W.E. Wickes) Capt.
O.C. 506 Pro Coy C.M.P.
Commanding Officer of the person of portion of His
Majesty's Forces
to whom the Surrender was made.

(ACB)

Exhibit 'B'

EXTRACT FROM

THE LANARK AND RENFREW SCOTTISH REGIMENT

PART II ORDERS No. 1 6 Jan 45

---

10. ABSENT WITHOUT LEAVE

(d) AWL from 1600 hrs 3 Dec 44. Still absent 1600 hrs 11 Dec 44 (8th day)

C 54920 Pte. Dufresne, J.O.
K 50830 Pte. Grenzebach, H.F.

"CERTIFIED TRUE COPY"

"L S McKenzie"
(L.S. McKenzie) Capt & Adjutant
Lanark & Renfrew Scottish Regt

Officer having custody of original.

(ACB)

ARMY FORM B.296 (WAR).

Exhibit "C".

Statement as to Character and Particulars of Service of Accused

(For Use at Trials by Field General Courts-Martial only)

Number.	Rank.	Name.	Regiment (or as the case may be).
K-50830	Pte.	GRENZEBACK, H.F.	LANARK & RENFREW SCOTTISH R

NOTE.—The Field Conduct Sheet is to be produced in Court with this statement but is not to be annexed to the proceedings. The numbers herein stated should correspond with the number of ENTRIES in the Field Conduct Sheet, premishence being given to the most serious offence in each entry. If the charge is for drunkenness or absence without leave, the entries for drunkenness or absence, as the case may be, should be stated separately. Any recognised special acts of gallantry or distinguished conduct recorded on the Field Conduct Sheet should also be inserted here.

1. The following is a fair and true summary of the entries in the Field Conduct Sheet of the accused, exclusive of convictions by a court martial or a civil court:—

For NIL ..... NIL times.

For ..... times.

For ..... times.

For ..... times.

Date of first entry in Field Conduct Sheet .....

Date of last entry in Field Conduct Sheet .....

LGM 2. Previous convictions (if any) by court martial (with dates and sentences) are as follows (Such schedule to be attached):—

LGM *3. The accused was [illegible] days in arrears for pay on [illegible] beginning on the [illegible] date of the present offence.

*Strike out if inapplicable.

LGM 4. The accused has been awaiting trial on the present charges for NO days in civil custody; and for 33 days in military custody, i.e., ... days in open arrest, ... days in close arrest; of which NO days were spent in hospital.

LGM 5. The present age of the accused is 25 years.

LGM 6. The date of his attestation / calling up for military service is 29 Mar 43

LGM 7. The service which the accused has attested or to which he is now [illegible] Transferred on [illegible] of CVSM&C

LMG *Strike out the military decorations (if any) held by accused. 8. The accused has the following military decorations:— [illegible] C.O. [illegible]

LMG 9. He has served as a [illegible] in the present war [illegible] months, and [illegible] months in the present theatre.

Date of Promotion.

In the substantive rank of .....

In the war substantive rank of .....

In the acting rank of .....

INSTRUCTION.—If any matter in any of the above paragraphs cannot be stated from the regimental books the paragraph must be struck through.

Wt. 13479/5837 30,000 5/44 H.&S. 432 T.Ltd. Forms/B.296/War/12

SCHEDULE OF CONVICTIONS BY A COURT-MARTIAL OR CIVIL COURT

Description of Court by which tried	Date and Place of Trial	Charges upon which convicted	Sentence of the Court	Punishment remitted or sentence suspended
		NIL		

I HEREBY CERTIFY that the foregoing particulars, which have been extracted from the regimental books in my custody, are correct to the best of my knowledge and belief.

Signed this 17th day of January 1945

"L.G. McKenzie"

(L.G. McKenzie) Capt Adjutant
Lanark & Renfrew Scottish

(ACB)

Exhibit D.

No K 50830 Name GRENZEBACK, H. F. Sqn. Battery or Company — Corps CIC — Date of enlistment — GC Badges — Service or Proficiency Pay — MFM 6 (AFB 122) 40/P&S/136 (3438)

Date of last entry in Company Conduct Sheet — No. and Date of last drink — Period not reckoning towards freedom from extra fine — Sheet No — Signature OC Company, etc — Character

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
				N I L					
				"Certified True Copy" K.B. McKenzie (K.B. McKenzie) Capt. Adjutant Lanark & Renfrew Scottish					
				Officer having custody of the Original.					

(PTO)

TTT-48.
Ote Graham. H.B.

SCHEDULE.

PART I. PLEA(S), FINDING(S) AND SENTENCE.

Accused: A11297 Pte Hugh Basil GRESHAM, Perth R.

Charge. (Insert "alternative" where applicable.)	Plea. (See instrs p 2.)	Finding. (See note below.)	(Space for use as required for further charges, accused charged jointly, special findings, etc.)
1st	guilty	guilty	
2nd			
3rd			
4th			
5th			
6th			

(Note: As to findings for lesser offences see AA 56, RP 44; findings on alternative charges see MML p 483 fn 4 para 2, RP 44; special findings see RP 44 and MML p 733, and in lieu of kit see RP 44 fn 6.)

At present under sentence for — beginning on (date) (1)

(1. Insert sentence being served, or delete, if not applicable. See RP 46(A). Information should be found on MF B355 or AF B296.)

Time in confinement awaiting present trial—a total of 5 days, of which nil days were spent in hospital.(1)

(1. See RP 46(A) fn 2. Information should be found on MF B355 or AF B296 admitted in evidence under E2.)

Sentence Awarded by the Court: To undergo detention for 100 days.

(Sgd) W.M.W. Shaw Capt — Judge-Advocate, if any.
23 June 44 — Date awarded.
(Sgd) W Minshull Maj — President. (RP 45, 50.)

(See back of Convening Order as to assembly and disposal of record after trial.)

PART II. MINUTE WHERE CONFIRMATION RESERVED. (AA 54(3), RP 120(F), MML p 760.)

Date (Sgd) Commanding

PART III. DECISION OF CONFIRMING OFFR ON FINDING(S) AND SENTENCE.

(For duties and powers see AA 54, 57, RP 27(D) fn 6, 46(A), 51-56, 120, MML pp 759-761, KR Can 567-577. Acquittals require no confirmation and cannot be revised: AA 54(3). Sending back finding or sentence for revision by Court: AA 54(2), RP 120(G). If not confirmed, accused may be tried again: AA 157, MML p 64. Minute of confirmation or non-confirmation may be altered before promulgation: RP 53, MML p 65. Quashing after promulgation: KR Can 573. Duties and powers of reviewing offrs: AA 57, 57A, RP 53A, 54. The Confirming Offr must sign here personally. AA 172 fn 1.)

My decision on the finding(s) and sentence set forth in Part I is:

I confirm the finding and sentence of the Court

~~I direct that the accused be not committed to prison or detention barracks until further ordered.~~ (1)

(1. AA 57A. Delete if not used.)

(Sgd) E Snow
(T E Snow) Brig
Commanding 11 Cdn Inf Bde
Confirming Officer.

Date 23 Jun 44

PART IV. PROMULGATED AND EXTRACTS TAKEN. (RP 53, KR Can 576, 577.)

Accused: A11297 pte Hugh Basil Gresham
Date: 26 Jun 44
Signature of Offr: P Dawson Capt for adjt.

ALL DELETIONS AND ALTERATIONS WILL BE INITIALLED.

RECEIVED 7 AUG 1944 JAG BRANCH

RECORDED AT 2 HQ IN AB 160 TTT-45

FIELD GENERAL COURT-MARTIAL

CP.A.88 (1st Rev of AF B.23) 40-P.A.S. 8/1608 (3864)

Convened by Order of Brigadier T E Snow Comd 11 Cdn Inf Bde dated 20 Jun 44

ACCUSED.

(As to the trial of two or more charged jointly see RP 16, 71, 109. As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

Number.	(a) Prmnt R. (b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
A11297	Pte	Hugh Bertram BASIL, RP53	GRESHAM	Perth R

PROCEEDINGS REVIEWED 5 JUL 1944
Lt-Col Deputy Judge Advocate General
9 Aug 44
REVIEWING OFFICER, JAG BRANCH, C.M.H.Q.

102

PROCEEDINGS OF TRIAL.

Held in the Fd in (country) ITALY on (date(s)) 23 June 44

RECORD FORM A—OPENING PROCEEDINGS AND ARRAIGNMENT.

A1. The President, Members, waiting Member, JA, if any, and Offrs under instr, if any, assemble, and the Court is closed.

(PRINTED MATTER, NOT IN ITALICS FOR GUIDANCE, WILL BE DELETED, IF NOT USED OR APPLICABLE, AND INITIALLED BY PRES OR JA. The Schedule referred to throughout is on p 4. Citations do NOT include all relevant fmn ROs. For guidance on procedure when a variation in this form arises, see form for GCM in MML pp 741 to 759. A brief record of such variation will be made and given a number having reference to appropriate or preceding para number herein. See back of Convening Order, CF A95, for oaths and instrs on how to record addresses, evidence, etc, which instrs are hereafter called "Notes". As to general provisions for conducting the trial see AA 53, RP 56, 63-70, 72, 74, 94, 103, 119, 132.)

A2. The President initials and lays before the Court the Convening Order and Charge Sheet(s) attached thereto.(1) The Court is satisfied that it is properly convened and constituted(2), accused is (are) amenable to military law, and each charge discloses an offence.(3)

(1. As to use of Summary of Evidence see RP 17 fn 6. 2. AA 49, 50; RP 105-107. 3. RP 11-13, 23, 24.)

A3. The Court is opened. The accused is (are) brought before the Court. At 0915 hours trial commences.

A4. The Prosecutor produces a Medical Certificate that accused is (are) fit to undergo trial by court-martial.(1) ~~The Prosecutor informs the Court that accused elected to be tried by court-martial instead of being dealt with summarily by the CO.~~(2)

(1. KR Can 557. 2. AA 46(B), RP 60 fn 1. For effect see KR Can 563(c). Delete, if not applicable.)

A5. ~~President to accused: Do you object to — as interpreter? Ans —~~
~~Interpreter is sworn.(1) Do you object to — as shorthand writer? Ans —~~
~~Shorthand writer is sworn.(1)~~

(1. RP 72. Delete, if none employed.)

A6. The Convening Order and names of the President and Members of the Court are read to the accused.(1) President to accused: Do you object to be tried by me as President or by any of the Members of the Court? Ans No Sir.(2)

(1. RP 110. 2. If no objection, waiting member retires. RP 68(B). If objection, see procedure AA 51, RP 25, 71, 18, MML p 742.)

A7. The President, Members, JA, if any, and Offrs under instr, if any, are sworn.(1) The following are the ranks, names and units of the offrs comprising the Court, etc:

President	Major	N H Minshull	P L Fus
Member	Capt	H L Hendrie	2 R R C
Member	Capt	D M Chisholm	C B Highrs
Judge-Advocate	Capt	W M W Shaw	H Q 5 CAD
Prosecutor	Capt	C H Swartz	Perth R.
Defending Offr	Capt	N C Root	Perth R.

Questions by President: Is the Prosecutor a lawyer? Ans No Is the Defending Offr a lawyer? Ans No (2)

(1. RP 26, 27, 109, 111. List of offrs under instr will be returned separately with proceedings for information of Conv Offr.)
2. If Pros a lawyer and Def Offr not, accused is entitled to an adjournment when RP 69 (B) and fn 2 were not followed. See Gr p 3.)

A8. The accused before arraignment make(s) (no) objection(s) to the composition of the Court. (1) plea

(1. If a special plea is made for separate trial on one or more charges (RP 62(E), 108), or as to the jurisdiction of the Court (RP 24, 35(A), 112), or in bar of trial (RP 36), or as to accused's mental fitness to stand trial (AA 130, RP 57), or by one of several accused charged jointly to be tried separately (RP 16, 71), such plea, the addresses made in support or against, the evidence, if any, and finding are recorded per Notes. For forms of record see references in fns to RoP cited. Insert in AB rank and name of the accused making the plea.)

A9. The accused is (are) arraigned (separately) on all charges in the charge sheet.(1) The accused does (do) not object to any charge.(2) There is no amendment to be made to the Charge Sheet.(3) The President records the pleas in Part I of the Schedule.

(1. RP 31, 112. See para 1 of Instrs p 2. When more than one Charge Sheet see RP 62; when several accused to be tried separately see RP 71(C), and use separate copies of CF A96 to record proceedings. 2. RP 32, RP 33. If otherwise, delete and make appropriate record per Notes.)

A10. The Court ~~is cleared and~~ considers the Instrs on Procedure after Arraignment at top of p 2. The proceedings are continued on Record Form B

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS

INSTRUCTIONS ON PROCEDURE AFTER ARRAIGNMENT.

1. *The accused may not plead or be found Guilty on more than one of two or more charges laid in the alternative.* (*RP* 37(*A*).) *As to withdrawal of alternative charges by Prosecutor see RP* 35(*C*). *No other charge can be withdrawn for any reason without authy from Convening Offr. If Convening Offr concurs, Court may accept plea of Guilty to lesser, etc, offence.* (*RP* 44(*H*).) *Accused may change a plea of Not Guilty to Guilty during trial.* (*RP* 38.) *As to refusing to plead or not pleading intelligibly see RP* 35(*A*). *As to plea when sentence may be death see RP* 35(*D*).

2. *The proceedings on each charge sheet* (*RP* 62) *after arraignment will be conducted as follows in the respective circumstances stated :*

I. If pleas to all charges are GUILTY, use Record Form B below.

II. If pleas to all charges are NOT GUILTY, use Record Form D on p [redacted] 3.

III. If pleas to some charges are GUILTY and to other charges are NOT GUILTY and,

(a) Such mixed pleas occur when there are no alternative charges in the Charge Sheet, use Record Form C below. (*RP* 37(*A*).)

(b) Such mixed pleas occur in a set of two or more charges laid in the alternative, see RP 37 (*A*) *and fn* 2 *as to discretion of Court,* (i) *to try the accused on all such alternative charges as if he had pleaded Not Guilty thereto, or,* (ii) *to record the pleas as the findings of Court. After deciding between* (i) *and* (ii), *Court will proceed under foregoing instrs as may be appropriate to result of its decision. See MML p* 744 *Instrs* (2).

3. *As to responsibility of President to accused see RP* 59, 60(*C*) ; *powers and duties of JA see RP* 103 ; *duty of Prosecutor see RP* 60(*A*) (*B*) ; *duty and privileges of accused and Defending Offr see RP* 60(*C*), 87(*C*), 91, 92 ; *swearing and withdrawal of witnesses from Court see RP* 81, 82 ; *questioning of accused see RP* 80, 87(*C*), 92(*B*), *and of witnesses see RP* 83-85 ; *calling or re-calling of witnesses by Court etc see RP* 75-79, 86, 116 ; *use of Summary of Evidence at Trial see RP* 17(*E*) *fn* 6 ; *and responsibility of JA or Pres to record proceedings see RP* 94, 96.

RECORD FORM B—PROCEEDINGS ON PLEAS OF GUILTY TO ALL CHARGES.

B1. The President or JA, if any, complies with RP 35(B) by explaining to the accused the nature and meaning of the charge(s)(1), and that on his plea of Guilty there will be no regular trial but merely a consideration of the sentence to be awarded after he has been given an opportunity to make a statement in reference to the charge(s), call witnesses as to character and make an address in mitigation of punishment.(2)
(*1. RP 35 fn 3. 2. MML p 54 para 47.*)

B2. President to accused : The Court will now receive any statement you desire to make in reference to the charge(s).(1) If it appears from your statement that there are circumstances which indicate that you do not understand the effect of the plea of Guilty(2), or which show provocation or extenuation in respect of which in your interest the witnesses for the Prosecution should be examined(3), we shall advise you to change your plea to Not Guilty. In making a statement you will not be sworn or subject to cross-examination ; and anything you say will not be used in evidence against you after you change your plea. If, however, it appears to the Court that your statement affects only the amount of punishment to which you are liable, you will not be advised to change your plea and you will be given an opportunity later to prove your statement by sworn testimony, if you so desire.(4)

President to accused : Do you wish to make a statement ? Ans Yes, Sir .....(5)
(*1. RP 37(B). 2. RP 37(D) fn 6. 3. RP 35(B) fn 5 para 2, MML p 54 para 47. 4. See para E3 of Record Form E. 5. Statement, if any, recorded per Notes.*)

B3. The Court considers the accused's statement.(1) The Court decides (not) to advise accused to change his (their) plea(s) of Guilty to Not Guilty on the charge(s). The accused is (are) so informed, and he (they) (changes) his (their) plea(s) on charge(s). Para 1 of the Schedule is amended accordingly.
(*1. Court may be closed to consider the statement. Delete whole or part not used.*)

B4. On the charge(s) to which the plea/s) of Guilty is (are) not changed the President records finding(s) of Guilty in Part I of the Schedule.(1)
(*1. RP 35(B). If any plea(s) is (are) changed, use Record Form C or D as appropriate.*)

B5. The Summary of Evidence is marked Ex A, initialled and read aloud by the President.(1)
(*1. If there is no Summary, or if it is inadequate, comply with RP 37(B). If there is any evidence inconsistent with any plea standing as Guilty, Court will advise accused to change such plea and, if changed to Not Guilty, try such charge(s) by use of paras D1 to D8 inclusive of Record Form D on p 5. RP 37(D).*)

B6. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

RECORD FORM C—PROCEEDINGS ON MIXED PLEAS OF GUILTY AND NOT GUILTY.

C1. As to the charges on which accused pleaded NOT GUILTY the trial is continued by using paras D1 to D8 inclusive of Record Form D on p 3 before proceeding with C 2.(1)
(*1. RP 37(A) (E).*)

C2. The charges on which accused pleaded GUILTY are read to him (them) again, and the trial is continued by using paras B1 to B5 of Record Form B above.(1)
(*1. Under B5 such parts only of the Summary of Evidence are read as relate to the charges dealt with under C2. If any plea is changed to Not Guilty, trial thereon proceeds by using paras D1 to D8 inclusive in Record Form D on p 3 and making an appropriate record thereof on a separate sheet.*)

C3. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

Fit here Loose Sheets of Record.

RECORD FORM D—PROCEEDINGS ON PLEAS OF NOT GUILTY TO ALL CHARGES.

D1. President to accused : Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity to prepare your defence ? Ans .....(1)
(*1. If "yes", see RP 39(A) for procedure. Statement or evidence, if any, is recorded per Notes.*)

D2. The Prosecutor makes (an) (no) opening address.(1)
(*1. RP 39(B), 86(A) (B), 90, 92(C) (D). Record address per Notes, subject to RP 95(C).*)

D3. The evidence for the Prosecution is taken.(1)
(*1. RP 39(C), 114, KR Con 555. Record evidence per Notes. As to Prosecutor giving evidence himself see RP 39(D) (E).*)

D4. The Prosecution is closed.(1) The Defending Offr submits that the evidence for the Prosecution does not establish a prima facie case against the accused on the ..... charge(s).(2) The Court is closed, and considers the submission.(3) The Court is re-opened, and the President announces that the submission is disallowed on the ..... charge(s), and allowed on the ..... charge(s), and that, accordingly, the trial will proceed on the former, but the accused is (are) found Not Guilty on the latter charge(s).(4)
(*1. Delete remainder of this para, if submission not made. 2. Arguments on submission, answer and reply are recorded per Notes. 3. RP 40 fn 1. See MML p 72 paras 12-14 and p 81 para 42. 4. Delete part not used. If accused acquitted on all charges, use second alternative in para D8.*)
NB : If trial proceeds, accused must be allowed great latitude in making his defence, and the Court should not stop his defence solely on ground of irrelevance. (RP 60(C), 114, 115.)

D5. President to accused : You will now proceed with your defence.(1) You may, if you wish, give evidence yourself on oath as to the facts or your character or both, in which case you will be subject to cross-examination.(2) You may, however, make a statement without being sworn, and you will not be subject to cross-examination.(3) But a statement which could have been made on oath will not carry with the Court the same weight as sworn testimony.(4) You may call witnesses in your defence and as to character, whether you give evidence or make a statement or do neither.

President to accused : Do you wish to give evidence yourself as a witness, make a statement, or do neither ?
Ans .....
Do you intend to call witnesses on your behalf ?
Ans .....
Are they witnesses as to character only ? Ans .....
(*1. RP 155. 2. RP 40(A), see 80(D). 3. RP 40 fn 10. 4. RP 40 fns 2, 9.*)

D6. Consequent on the answers recorded in para D5 the appropriate procedure for the defence is followed.(1)
(*1. RP 114, 115, 116. For procedure see Notes on back of Convening Order, CF A95. Evidence for accused as to his character should, if in his interest, be given before the finding. See RP 46(A) fn 1, 86(C). Note the further opportunity in para E1 of Record Form E. Record per Notes addresses, statement, evidence and any summing up by the JA under RP 41, 103(6).*)

D7. The Court is closed to consider the finding(s).(1) The finding(s) of the Court is (are) recorded in Part I of the Schedule.(2) The Court is re-opened.
(*1. RP 43, 117(A). See Notes in Part I of Schedule. 2. RP 44(A).*)

D8. The President announces the finding(s), if any, of Not Guilty, and states to the accused that the finding(s) of the Court on the ..... charge(s), being subject to confirmation, will be promulgated later.(1)
Or, The President announces that the accused is found Not Guilty on all charges and is to be released forthwith, and that the proceedings are accordingly terminated. Part I of the Schedule is dated and signed.(1)
(*1. AA 54(3) (b), RP 45, 120(A). 2. AA 54(3), RP 45, 117. This alternative announcement is not applicable when there are pleas of Guilty outstanding and dealt with under Record Form B or C.*)

D9. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E below.

RECORD FORM E—PROCEEDINGS ON CONVICTION BEFORE SENTENCE.

E1. President to accused : Do you wish to give evidence yourself or to call any witnesses as to your character ?(1)
Ans Yes
(*1. If evidence has already been given by accused or his witnesses as to his character, delete this para. RP 37(C) fn 4, 46 fn 1. Accused and witnesses are sworn. Evidence recorded per Notes.*)

E2. The Prosecutor produces Statement(s) as to Character and Particulars of Service(1), and certified true copy (copies) of Conduct Sheet(s)(2), purporting to refer to the accused, which he submits to the Defending Offr for examination, and then to the Court for admission in evidence. The Court is satisfied that these documents refer to the accused, because (i) they purport to be signed in the manner required by AA 163(3) (g) (h), and (ii) they purport to refer to (a) soldier(s) having the same number, rank, name and corps as the accused. Admitted in evidence and marked Ex B and Ex C respectively.(3)
(*1. MFB 355 or MFB 296. 2. MFM 6. 3. RP 46, KR Con 558. If above documents not produced, see RP 46 fn 1 para 7.*)

E3. President to accused : Do you wish to address the Court on the Statement(s) and Conduct Sheet(s), and in mitigation of punishment ?(1) Ans Yes thro' Def Offr.
(*1. RP 37(C), 46(D). 2. Address, if any, recorded per Notes. Court should permit accused or his witnesses to prove on oath anything here or previously stated which would affect the amount of punishment. RP 37(F) fn 7.*)

E4. The President states that the Court is closed to consider the sentence, and that the sentence to be awarded by the Court, being subject to confirmation, will not be announced, but will be promulgated later, and the proceedings in open court are accordingly terminated.(1)
(*1. AA 54(6), RP 120(A).*)

E5. The Court considers the sentence.(1) The President records the sentence in Part I of the Schedule, which is dated and signed by him and the JA, if any.(2)
(*1. When several accused tried separately see RP 7(D). One sentence only, comprised of the punishment or punishments (and down in AA 41, 44 and its proviso, is to be awarded to cover all charges in all charge sheets on which accused found guilty. RP 48. As to sentences see AA 44, 138, 182, RP 46-50, 69, 118, 119(A), KR Con 308, 330, 563-566, Overseas AO 309, 2303. MML p 60, 757-759. As to sentences assigned for civil offences by the law of England see AA 41(5), MML p 130. When accused already under sentence of imprisonment or detention see AA 44(18), 68(1), KR Con 564. 2. RP 50. As to release from arrest by Confirming Offr see KR Con 567. As to assembly and disposal of record after trial see instrs on back of Convening Order.*)

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

CHARGE SHEET

RP 33. "BASIL"

The accused A 11297 Pte Hugh [illegible] GRESHAM
The Perth Regiment C A a soldier of the Canadian
Army (CMF) is charged with:

First Charge
Sec 15(1)
Army Act

WHEN ON ACTIVE SERVICE, ABSENTING HIMSELF WITHOUT LEAVE

in that he

In the Field did absent himself without leave from his unit The Perth Regiment C A from 0730 hrs 12 JUN 44 until 0915 hrs 17 JUN 44. Total absence 5 days, 1 hr and 45 minutes.

(H W Andrew) Major
A/Comd Perth R

major

In the Field

19 JUN 44

To be tried by Field General Court Martial

(T E Snow) Brig
Comd 11 Cdn Inf Bde

In the Field
20 Jun 44

WMILES

J.A.R.

FIELD GENERAL COURT-MARTIAL

CFA95 (In lieu of AFA3)
40/P&S/1697 (2068)

(Whether the accused to be tried is under his comd or not, a FGCM may on application to him be convened by any offr of Cdn Army Overseas, or of any other force if authorized in law, in immediate comd of troops on active service, subject to RP 105(C) and restrictions imposed by appropriate authy. AA 49, 50, RP 104-107, 114. As to the duties and privileges of the Convening Offr in dealing with the application see MML Chap V paras 20 and 23, RP 87(B).

There should be a separate Convening Order for each person to be tried separately by the same Court. RP 71(C), 109. As to separate charge sheets see RP 62, and as to separate trial on charges in the same charge sheet see RP 108. As to two or more accused charged jointly see RP 16, 109.

As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

ACCUSED.

Number.	(a) Prmnt R.	(b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
A11297	Pte		High Bertram	GRESHAM	Perth R

CONVENING ORDER.

1. Whereas complaint has been made to me, the undersigned, that the person(s) named above as the accused, being subject to military law, has (~~xxxx~~) committed the offence(s) set forth in the Charge Sheet(s) attached and on (date) 20 JUN 44 endorsed by me, ~~for trial by an offr of the rank for him~~, " To be tried by Field General Court-Martial ".

2. And whereas I am of opinion that it is not practicable that such offence(s) should be tried by an ordinary General Court-Martial ; (and that it is not practicable to delay the trial for reference to a superior qualified offr.)

(Delete part in brackets when not required for compliance with RP 105(C).)

3. I hereby convene a Field General Court-Martial to try the said person(s), and to consist of the Offrs appointed or detailed hereunder.

4. ~~I am unable to appoint (a) three Offrs to form the Court, (b) a Pd Offr as President, for the reasons I have~~ attached hereto.

(AA 49, RP 106(8), 107(A). Delete the whole or part, if not applicable.)

5. I also appoint as Judge-Advocate thereat the Offr mentioned hereunder.

(RP 106(E). Delete, if none appointed.)

PRESIDENT.

(Rank.)	(Must be named. RP 106.)	(Unit.)
Major	N H Minshull	Sp Gp (PLPus)

MEMBERS.

(Rank.)	(Named or detailed. RP 106.)	(Unit.)
Capt	H L Hendrie	Ir R C
Capt	D M Chisholm	C B Highrs

WAITING MEMBER.

(Rank.)	(Named or detailed, if any. RP 106.)	(Unit.)
Lt	W C Hider	Perth R

JUDGE-ADVOCATE.

(Rank.)	(Must be named, if any. RP 106.)	(Unit.)
Capt	E W W Shaw	HQ 5 Cdn Armd Div

On Active Service in the Fd

in Italy (Country.)

(T E Snow) (Signed personally. RP 105 fn 2.)

Brig (Rank.)

Date 20 Jun 44

Commanding 11 Cdn Inf Bde

Convening Officer.

CONVENING OFFR WILL INITIAL ALL DELETIONS AND ALTERATIONS

(See overleaf for oaths and notes for use on trial.)

COMMDS

MEDICAL OFFICER'S CERTIFICATE

I certify that No. A 11297 pte Gresham H.B., Perth Regiment,
is fit to undergo trial by Court Martial.

Date. 23 Jun 44

Medical Officer

WMMOS

1

WMWS

Accd's statement:-
It was a form of escapism, 2 guess. 2 got WMWS had gone thru a tough time & got drinking vino. Kept on for 3 or 4 days, then sobered up and reported back. 2 had lost a lot of friends in this last show who 2 had known for 4½ years and it hit me rather hard.

1st Witness Character] A56934 Sgt Haskell, ME, Perth R. duly sworn, states:-
Know accd - is in my Pl - 16 Pl. Has been in it for 7 months. Know him well.
Accd in front did job when told without question as a good soldier.
XX m:- nil
Court:- good gen rep for honesty - 2o square. gets along well with other members. 2o a good can, likes his fun once in a while but still does his job.
RP83(B) complied with.

2nd Witness Character] A11473 CSM Wright, HA, Perth R, duly sworn, states:-
Accd in 16 Pl of D Coy. 2 am CSM of D Coy. Known accd since 39 when we both joined army at about same time.
While at front he behaved in good manner as a good soldier.
Came to D Coy as a stranger. - was in B Coy prior & was well liked there. No question as to honesty.
XX m:- Do not think his awk is consistent with good soldier. He is good soldier under normal conditions. Would call him an army friend but not personal friend.
Re-exam:- nil
Court:- nil
RP83(B) complied with.

Def offer in mitigation:-
memb of Perth since Sep 39 - 4 yrs 9 mos. Has held rank of Cpl.
Has quite long crime sheet. No. of cases of drunkenness. Has task for liquor & has got him into trouble. Maximum punishment has been 2 spells of 28 days. In this case were in rear area after the front.

Nothing doing - had few drinks + he and a friend took off. His friend was tried by CO but accd is court martialled.

Sgt + CSM say good soldier, well liked and would like to have him back.

Ask leniency.

W.M.W. Shaw
Capt

ARMY FORM B.2[illegible].

Statement as to Character and Particulars of Service of Accused.

Number.	*Rank.*	*Name.*	*Regiment (or as the case may be).*
A 11297	Pte	Hugh Bertram CRUSE	AIF Perth

1. The following is a fair and true summary of the entries in the regimental and squadron, battery or company conduct sheets† of the accused, exclusive of convictions by a court martial or a civil court, of summary awards under section 47 of the Army Act, and of cases in which trial has been dispensed with :—

Note.—At a trial by field general court martial this summary may be compiled from the field conduct sheet.

The conduct sheet(s) mentioned should be produced in court with this statement but not annexed to the proceedings.

† See para. 617, K.R., 1940.

* The entries stated should correspond with the entries for or prior to the conduct sheets, performance being given to the most serious offence in each entry, and to any recognised special acts of gallantry or distinguished conduct.

Instructions.—In the charge sheet drunkenness and the entries for drunkenness must be stated separately and dated.

	* Within last 12 months.	*Since Enlistment.
For AWL AA Sec 15(1)	4 times	13 times.
For Drunkenness	1 times	7 times.
For	time	times.
For	times	times.
For	time	times.

Number of instances of gallantry or distinguished conduct

There are no entries in the conduct sheets of the accused

2. The accused has not been previously convicted, [illegible]

The particulars of the convictions by a court martial or a civil court, summary awards under section 47 of the Army Act, and dispensations with trial under section 73 of the Army Act, are set out in the schedule annexed to this statement.

3. The accused is not under sentence at the present time, [illegible] the accused at the present time is under confinement awaiting trial

4. The accused has been in confinement, awaiting trial on the present charges, for no days in civil custody, and 51 dys days in military custody, making a total of 51 dys days, of which no days were spent in hospital.

5. The present age of the accused according to his record of service is 30 yrs 7 mos 16 dys

6. The date of his attestation specified in his record of service is 20 SEP 39

7. The service which the accused is allowed to reckon towards discharge or transfer to the reserve is 4yrs 9 mos

8. The accused is entitled to deferred pay or gratuity in respect of 4 yrs 9 mos service.

9. The accused is entitled to reckon 4 yrs 9 mos service for the purpose of determining his pension, etc.

10. The accused is in possession of, or entitled to, no military decoration or military award (*or* is in possession of *or* entitled to (*state any military decoration or reward*)). CVSM & Clasp

[illegible] The accused before he was made a [illegible] was entered in the regimental [illegible]

[illegible] The accused holds in the Army the rank of [illegible]

and is in receipt of [illegible] the rank of [illegible]

[illegible]

B. Jones

Schedule of Convictions by a Court Martial or Civil Court, of summary awards under Section 47 of the Army Act and of cases in which trial has been dispensed with of accused.

No. ..... Rank ..... Name ..... of ..... Regiment (or as the case may be).

(INSTRUCTION—A verbatim extract from the regimental books, stating these convictions and dispensations with trial, must be inserted.)

Description of court by which tried, or status of officer disposing of the charge or dispensing with trial.	Date and place of trial, or summary award under A.A. 47, or of order dispensing with trial.	Charges upon which convicted, or in respect of which trial was dispensed with.	Sentence of the court or authority disposing of the charge, or order of the dispensing authority.	Punishment remitted.

I HEREBY CERTIFY that the foregoing schedule of convictions and dispensations with trial is a true extract from the regimental books in my custody.

Signed this 23rd day of JUN 44

O.C. Coy

13. The above-named has served as a non-commissioned officer continuously, without reduction, to the present date,

In the rank of ..... years, Date of Promotion .....

In the rank of ..... years .....

In the rank of ..... years .....

(INSTRUCTION.—If any entry in any of the above paragraphs cannot be stated from the regimental books the paragraph must be struck through, except that in the case of a trial by field general court-martial the information may be collected from such sources as are available and the paragraphs concerned amended accordingly.)

MFM 6
(AFB 122)

No. 11297 Name Gresham, H.E. | Sqn, Battery, or Company D | Corps C.I.C. | Date of enlistment 20-9-39 | GC Badges | Service or Proficiency Pay N/A | Character

Date of last entry in Company Conduct Sheet 16-4-40 | No and date of last drunk 16 Apr 40 | Period not reckoning towards Freedom from extra fine 5 | Sheet No 1 | Signature OC Company, etc

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witness	Punishment awarded	Date of award or of order suspending with trial	By whom awarded	Remarks
				Previous sheet destroyed s Dep 43					
Victoria Camp	31 May 40	Pte		AA Sec 15(1) AWL (6days,20hrs,45mi	Capt White	12 days C.B.	10 Jun40	Maj.Kemp	Forf 7 daysPy
Niagara Camp	18Jul40	Pte		AA Sec15(1) AWL (5 days, 1hr)	Sgt.Cameron	14 days CB	26Jul40	Maj.Kemp	Forf 5 dys Pay
Camp Borden	5Aug40	Pte		I Absent from Bn.Parade	Sgt.Ferguson	28 dys Det.	5Aug40	Maj.Shelley	
				II Wilful destruction Kings's property-Paillasse	Cpl.Chesney	Forf 10dys pay			
				III Attempting to break out of Camp while on C.B.	Sgt.Whitehead	Stopp.$1.72	Paillasse 21Sep40	Maj Kemp	1 dys Pay(For
				I A W.L.Sec.15(1) (16 hrs)	Pte Downing	6 days CB			
Camp Borden	19Sep40	Pte	6	II Drunkenness	CSM.Armstrong	16. Fine	21Sep40	Maj.Kemp	Forf 4 dys pay
Camp Borden	16Oct40	Pte		AA 15(1) AWL (14dys 16 hrs)	Cpl.Johnston	7 days CB	21Oct40	Maj.Kemp	Forf 2 Day Pay
Toronto	1Jul41	Pte		AA 15(1) AWL (1 Hr 4 hrs, 30mn)	Sgt.McDonald	14 days CB	25Aug41	Lt.Col.Taylor	Forf.30dys pay
Camp Borden	5Aug41	Pte		AA 15(1) AWL (19 days, 02 hrs)	L/Cpl.Doyle	20 dys Det.	8Apr 42	Capt.Whyte	Forf.4dys pay
Plaid	7Apr42	Pte		AA 15(1) AWL (8 hrs, 30mins)		14 dys CB			

(PTO)

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Field	30Oct42	Pte		AA Sec 15(1) AWL (3 hrs)	Sgt Cameron	Forf 7 dys pay	31Oct 42	Maj.Tindall	
Field	21Nov42	Pte		AA Sec 15(1) AWL (6 hrs)	Cpl Brown, IA	" 4 dys pay	1Dec42	Lt.Col.Lind	Forf 4 Dys pay
Field	21Aug43	L/Cpl		AA Sec 15(1) AWL (1 hr)	Documentary	Admonished	23Aug43	Maj Kemp	(RC)
Field	2Dec43	Cpl.		AA Sec 15(1) AWL from 1830hrs 2 Dec 43 until 1600 hrs 3Dec43 (21 hrs 30 min)	Sgt Halliday	Reprimand	7 Dec43	Lt.Col.WS Rutherford	Forf 1 days pay FR&I 143(1)(a)
	(Drunkenness)			Reverts to permanent rank at own request w.e.f. 13 Mar 44					
Field	29Mar44	Pte		AA Sec 15(1) AWL from 1500 hrs 29 Mar until 1500 hrs 31Mar 44 (2 days)	Sgt Halliday L/Cpl Carley	15 dys F.P.	1 Apr44	LT.Col.Lind	R.U.M. Capt& Adj.
Drunkeness Field	7th Offence 7 May 44	Pte		AA Sec 19 NCAS Drunkeness	L/Sgt Haskell	Fined $10.	11May 44	WW Andrew Maj. A/CO	R.U.M. Capt& Adj.
Field	1Jun 44	Pte		AA Sec 15(1) AWL form 1330 hrs 1Jun44 until 1700 hrs 1Jun 44 (3 hrs 30 min)	Sgt Haskell	Forf 3 dys pay FR&I 143(2) 3 days F.P.	5 Jun44	Lt.Col. JSM Lind	R.U.M. Capt & A/Adjt

Certified true copy of original document in my possession as custodian of regtl documents. Capt a/adjt.

SUMMARY OF EVIDENCE

R F 4

Perth Regt C A

19 JUN 44

Summary of Evidence in the case of A 11297 Pte Hugh Bertram GRESHAM, The Perth Regiment, charged with:

1. When on Active Service, Absenting himself without leave. AA 15 (1).

R F 4 Y — The Commanding Officer directs that all evidence be taken on oath.

FIRST WITNESS — A 11475 CSM Wright H A., CSM 'D' Coy., The Perth Regiment C A having been duly sworn states:

"I am A 11475 CSM Wright H A 'D' Coy., The Perth Regiment.

L/Sgt Haskell reported to me on 12 JUN 44 that Pte Gresham was absent. I reported him absent in the Coy office and to the Bn Orderly Room. He was absent each day following until he returned to the unit and reported to me at 0915 hrs on 17 JUN 44.

The accused declines to cross examine this witness.

H A Wright
(A 11475 CSM Wright H A)

SECOND WITNESS — A 56937 L/Sgt Haskell M E., 16 Pl, 'D' Coy., The Perth Regiment C A having been duly sworn states:

"I am A56937 L/Sgt Haskell M E 16 Pl, 'D' Coy., The Perth Regiment.

At 0730 hrs 12 JUN 44 I woke up the platoon. I found that Pte Gresham was NOT in his tent and had not slept in it. I searched the platoon area and could not find him. When he had not turned up by 0800 hrs I reported his absence to CSM Wright. I did not see Pte Gresham again until the morning of 17 JUN 44.

The accused declines to cross examine this witness.

(A 56937 L/Sgt Haskell M E)

THIRD WITNESS — Capt W J Ridge, Comd 'D' Coy., The Perth Regiment C A having been duly sworn states:

W J Ridge

"I am Capt W J Ridge, Comd 'D' Coy., The Perth Regt C A

It had been reported to me by CSM Wright on 12 JUN 44 that Pte Gresham was absent without leave. I did not see Pte Gresham again until 0915 hrs 17 JUN 44 when he entered the Coy lines.

THIRD WITNESS (CONTD) The accused declines to cross examine this witness.

W.J. Ridge Capt.
(W J Ridge) Capt.

F G C M The accused was warned as follows:

"Do you wish to make any statement or to give evidence upon oath? You are not obliged to say anything or give evidence unless you wish to do so, but whatever you say or any evidence you give will be taken down in writing and may be used as evidence."

The accused does not desire to make a statement or give evidence.

I certify that the above has been complied with.

Taken by me in the field in the presence and hearing of the accused this 19th day of JUN 44.

(P J F Baker) Capt
The Perth Regiment C A

In the Field
19JUN 44

F G C M A 11297 Pte Hugh Bertram GRESHAM
The Perth Regiment C A

(a) LIST OF WITNESSES FOR THE PROSECUTION

A 11473 CSM Wright E A	The Perth Regt C A 5 Cdn Armd Div C M F
A 56937 L/Sgt Haskell M E	The Perth Regt C A 5 Cdn Armd Div C M F
Capt W J Ridge	The Perth Regt C A 5 Cdn Armd Div C M F

F G C M A 11297 Pte Hugh Bertram GRESHAM
The Perth Regiment C A

(b) LIST OF WITNESSES FOR THE DEFENCE

NIL

F G C M A 11297 Pte Hugh Bertram GRESHAM
The Perth Regiment C A

I do/~~do not~~ desire the convening officer to detail an officer to represent me at my forthcoming trial by FIELD GENERAL COURT-MARTIAL.

I request the services of
if available.

(A 11297 Pte Gresham H B)

In the Field
19 JUN 44

FLASH NUMBER ONE

FLASH NUMBER ONE

FLASH NUMBER ONE

FLASH NUMBER ONE

FLASH NUMBER ONE

FLASH NUMBER ONE

SF-128.

Pk. Craig, N.T.

SCHEDULE.

PART I. PLEA(S), FINDING(S) AND SENTENCE.

Accused : B.131647 Pte Norman Thomas GRTEO RE Can Spec Emp Coy

Charge. (Insert "alternative" where applicable.)	Plea. (See Instrs p 2.)	Finding. (See note below.)	(Space for use as required for further charges, accused charged jointly, special findings, etc.)
1st 40 SOO 20(1)	Guilty	Guilty	
2nd			
3rd			
4th	NR		
5th			
6th			

(Note : As to findings for lesser offences see AA 56, RP 44 ; findings on alternative charges see MML p 483 fn 4 para 2, RP 44 ; special findings see RP 44 and MML p 753, and in lieu of kit see RP 44 fn 6.)

At present under sentence for - NOT - beginning on (date) (1)

(1. Insert sentence being served, or delete, if not applicable. See RP 46(A). Information should be found on MF B355 or AF B296.)

Time in confinement awaiting present trial—a total of 7 days, of which Nil days were spent in hospital.(1)

(1. See RP 46(A) fn 2. Information should be found on MF B355 or AF B296 admitted in evidence under E2.)

Sentence Awarded by the Court :

To undergo detention for One Hundred and fifty (150) days.

(Sgd) _____ Judge Advocate, if any.

27 Apr 45 Date awarded.

(Sgd) E. M. Mann President. (RP 45, 50.)

(See back of Convening Order as to assembly and disposal of record after trial.)

PART II. MINUTE WHERE CONFIRMATION RESERVED. (AA 54(3), RP 120(F), MML p 760.)

Date _____ (Sgd) _____ Commanding _____

PART III. DECISION OF CONFIRMING OFFR ON FINDING(S) AND SENTENCE.

(For duties and powers see AA 54, 57, RP 27(2)(b) fn 6.46(A), 51-56, 120, MML pp 759-761, KR Can 567-577. Acquittals require no confirmation and cannot be revised : AA 54(2). Sending back finding or sentence for revision by Court : AA 54(2), RP 120(G). If not confirmed, accused may be tried again : AA 157, MML p 64. Minute of confirmation or non-confirmation may be altered before promulgation : RP 53, MML p 65. Quashing after promulgation : KR Can 573. Duties and powers of reviewing offrs : AA 57, 57A, RP 53A, 54. The Confirming Offr must sign here personally. AA 172 fn 1.)

My decision on the finding(s) and sentence set forth in Part I is :

Confirmed

~~I direct that the accused be not committed to prison or detention barracks until further orders.~~ (1) ~~AA 57A. Delete if not used.~~

(Sgd) J. E. Sager Brigdier

Date 30 Apr 45 Commanding H F 30 C R U Confirming Officer.

PART IV. PROMULGATED AND EXTRACTS TAKEN. (RP 53, KR Can 576, 577.)

Accused.	Date.	Signature of Offr.
B131647 Pte Grey, N.T.	30 APR 45	R. Mundock Lt

Part II Order #19

ALL DELETIONS AND ALTERATIONS WILL BE INITIALLED.

RECORDED AT CMHQ IN AB 199, 5F-128

FIELD GENERAL COURT-MARTIAL

CFAMS (To take place of AFAM) 40/P & S/1883 (F144) 4/38B

RECEIVED 7 MAY 1945

Convened by Order of Brigadier J. E. Sager, D.S.O. Comd 5 Cdn Armd Bde dated 24 Apr 45

ACCUSED.

(Accused for trial of two or more charged jointly see RP 16, 71, 109. As to reasons for showing (a) permanent or confirmed appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

Number.	(a) Prmnt R. (b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
B.131647	Pte	Norman Thomas	GRTEO	RE Can Spec Emp Coy

PROCEEDINGS REVIEWED

J. Roderick Capt (A/Maj)

REVIEWING OFFICER, JAG BRANCH, C.M.H.Q.

PROCEEDINGS OF TRIAL.

Held in the Fd in (country) England on (date(s)) 24 / 27 Apr 45

RECORD FORM A—OPENING PROCEEDINGS AND ARRAIGNMENT.

A1. The President, Members, ~~waiting Member, JA, if any~~, and Offrs under instr, ~~if any~~, assemble, and the Court is closed.

(PRINTED MATTER, NOT IN ITALICS FOR GUIDANCE, WILL BE DELETED, IF NOT USED OR APPLICABLE, AND INITIALLED BY PRES OR JA. The Schedule referred to throughout is on p 4. Citations do NOT include all relevant fmn ROs. For guidance on procedure when a variation in this form arises, see form for GCM in MML pp 741 to 759. A brief record of such variation will be made and given a number having reference to appropriate or preceding para number herein. See back of Convening Order, CF 485, for oaths and instrs on how to record addresses, evidence, etc, which instrs are hereafter called "Notes". As to general provisions for conducting the trial see AA 53, RP 5a, 63-70, 73, 74, 94, 103, 119, 132.)

A2. The President initials and lays before the Court the Convening Order and Charge Sheet(1) attached thereto.(1) The Court is satisfied that it is properly convened and constituted(2), accused is (~~are~~) amenable to military law, and each charge discloses an offence.(3)

(1. As to use of Summary of Evidence see RP 17 fn 6. 2. AA 49, 50, RP 105-107. 3. RP 16-13, 23, 24.)

A3. The Court is opened. The accused is (~~are~~) brought before the Court. At 1745 hours trial commences.

A4. The Prosecutor produces a Medical Certificate that accused is (~~are~~) fit to undergo trial by court-martial.(1) ~~The Prosecutor informs the Court that accused elected to be tried by court-martial instead of being dealt with summarily by the CO.(1)~~

(1. KR Can 557. 2. AA 46(B), RP 46 fn 1. For effect see KR Can 563(c). Delete, if not applicable.)

A5. President to accused : ~~Do you object to~~ as interpreter ? Ans

~~No Interpreter is sworn.~~(2) Do you object to Sgt 6167 G. T. Boulton as shorthand writer ? Ans No

The shorthand writer is sworn.(2)

(1. RP 72. Delete, if none employed.)

A6. The Convening Order and names of the President and Members of the Court are read to the accused.(1) President to accused : Do you object to be tried by me as President or by any of the Members of the Court ?

Ans No (2)

(1. RP 110. 2. If no objection, waiting member retires. RP 66(B). If objection, see procedure AA 51, RP 25, 71, 18, MML p 742.)

A7. The President, Members, ~~Judge Advocate, if any~~, and Offrs under instr, ~~if any~~, are sworn.(1) The following are the ranks, names and units of the offrs comprising the Court, etc :

President	Major	E. M. Mann	EDRC HQ CRU
Member	Capt	C. B. H. Cuerin	9 C I D R-
Member	Lieut	J. W. Arnett	6 C I D R-
~~Judge Advocate~~			
Prosecutor	Lieut	J. C. Pickett	22 SS EC
Defending Offr	Lieut	W. D. Lowden	22 SS EC

Questions by President : Is the Prosecutor a lawyer ? Ans No Is the Defending Offr a lawyer ? Ans No (3)

(1. RP 26, 27, 109, 111. List of offrs under instr will be returned separately with proceedings for information of Conv Offr.) (2. If Pros a lawyer and Def Offr not, accused is entitled to an adjournment when RP 89 (B) and fn 2 were not followed. See DI p 83.)

A8. The accused before arraignment make(s) (no) (a) plea. (1)

(1. If a special plea is made for separate trial on one or more charges (RP 62(F), 108), or as to the jurisdiction of the Court (RP 34, 35(A), 113), or in bar of trial (RP 36), or as to accused's mental fitness to stand trial (AA 130, RP 57), or by one of several accused charged jointly to be tried separately (RP 16, 71), such plea, the addresses made in support or against, the evidence, if any, and finding are recorded per Notes. For forms of record see references in fns to RoP cited. Insert in AB rank and name of the accused making the plea.)

A9. The accused is (~~are~~) arraigned (~~separately~~) on all charges in the charge sheet.(1) The accused does (~~do~~) not object to any charge.(2) There is no amendment to be made to the Charge Sheet.(3) The President records the pleas in Part I of the Schedule.

(1. RP 31, 112. See para 1 of instn p 2. When more than one Charge Sheet see RP 62 ; when several accused to be tried separately see RP 71(C), and use separate copies of CF 485 to record proceedings. 2. RP 32, RP 33. If otherwise, delete and make appropriate record per Notes.)

A10. The Court (~~is closed and~~) considers the instns on Procedure after Arraignment at top of p 2. The proceedings are continued on Record Form

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

INSTRUCTIONS ON PROCEDURE AFTER ARRAIGNMENT.

1. *The accused may not plead or be found Guilty on more than one of two or more charges laid in the alternative. (RP 37(A).) As to withdrawal of alternative charges by Prosecutor see RP 35(C). No other charge can be withdrawn for any reason without authy from Convening Offr. If Convening Offr concurs, Court may accept plea of Guilty to lesser, etc, offence, (RP 44(H).) Accused may change a plea of Not Guilty to Guilty during trial. (RP 38.) As to refusing to plead or not pleading intelligibly see RP 35(A). As to plea when sentence may be death see RP 35(D).*

2. *The proceedings on each charge sheet (RP 62) after arraignment will be conducted as follows in the respective circumstances stated:*

I. If pleas to all charges are GUILTY, use Record Form B below.

II. If pleas to all charges are NOT GUILTY, use Record Form D on p 3.

III. If pleas to some charges are GUILTY and to other charges are NOT GUILTY and,

(a) Such mixed pleas occur when there are no alternative charges in the Charge Sheet, use Record Form C below. (RP 37(A).)

(b) Such mixed pleas occur in a set of two or more charges laid in the alternative, see RP 37 (A) and fn 2 as to discretion of Court, (i) to try the accused on all such alternative charges as if he had pleaded Not Guilty thereto, or, (ii) to record the pleas as the findings of Court. After deciding between (i) and (ii), Court will proceed under foregoing instrs as may be appropriate to result of its decision. See MML p 744 Instrs (2).

3. *As to responsibility of President to accused see RP 59, 60(C); powers and duties of JA see RP 103; duty of Prosecutor see RP 60(A) (B); duty and privileges of accused and Defending Offr see RP 60(C), 87(C), 91, 92; swearing and withdrawal of witnesses from Court see RP 81, 82; questioning of accused see RP 80, 87(C), 92(B), and of witnesses see RP 83-85; calling or re-calling of witnesses by Court, etc, see RP 75-79, 86, 116; use of Summary of Evidence at Trial see RP 17(E) fn 6; and responsibility of JA or Pres to record proceedings see RP 94, 96.*

RECORD FORM B—PROCEEDINGS ON PLEAS OF GUILTY TO ALL CHARGES.

B1. The President ~~or JA, if any~~, complies with RP 35(B) by explaining to the accused the nature and meaning of the charge(s)(1), and that on his plea of Guilty there will be no regular trial but merely a consideration of the sentence to be awarded after he has been given an opportunity to make a statement in reference to the charge(s), call witnesses as to character and make an address in mitigation of punishment.(2)
(1. RP 35 fn 3. 2. MML p 54 para 47.)

B2. President to accused: The Court will now receive any statement you desire to make in reference to the charge(s).(1) If it appears from your statement that there are circumstances which indicate that you do not understand the effect of the plea of Guilty(2), or which show provocation or extenuation in respect of which in your interest the witnesses for the Prosecution should be examined(3), we shall advise you to change your plea to Not Guilty. In making a statement you will not be sworn or subject to cross-examination; and anything you say will not be used in evidence against you after you change your plea. If, however, it appears to the Court that your statement affects only the amount of punishment to which you are liable, you will not be advised to change your plea and you will be given an opportunity later to prove your statement by sworn testimony, if you so desire.(4)

President to accused: Do you wish to make a statement? Ans ..... (5)
(1. RP 37(B). 2. RP 37(D) fn b. 3. RP 35(B) fn 5 para 3, MML p 54 para 47. 4. See para E3 of Record Form E. 5. Statement, if any, recorded per Notes.)

B3. The Court considers the accused's statement.(1) The Court decides (not) to advise accused to change his (their) plea(s) of Guilty to Not Guilty on ..... charge(s). The accused is (are) so informed, and he (they) change(s) his (their) plea(s) on ..... charge(s). Part I of the Schedule is amended accordingly.
(1. Court may be closed to consider the statement. Delete whole or part not used.)

B4. On the charge(s) to which the plea(s) of Guilty is (are) not changed the President records finding(s) of Guilty in Part I of the Schedule.(1)
(1. RP 35(B). If any plea(s) is (are) changed, use Record Form C or D as appropriate.)

B5. The Summary of Evidence is marked Ex ....., initialled and read aloud by the President.(1)
(1. If there is no Summary, or if it is inadequate, comply with RP 37(B). If there is any evidence inconsistent with any plea standing as Guilty, Court will advise accused to change such plea and, if changed to Not Guilty, try such charge(s) by use of paras D1 to D8 inclusive of Record Form D on p 3. RP 37(D).)

B6. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

RECORD FORM C—PROCEEDINGS ON MIXED PLEAS OF GUILTY AND NOT GUILTY.

C1. As to the charges on which accused pleaded NOT GUILTY the trial is continued by using paras D1 to D8 inclusive of Record Form D on p 3 before proceeding with C 2.(1)
(1. RP 37(A) (E).)

C2. The charges on which accused pleaded GUILTY are read to him (them) again, and the trial is continued by using paras B1 to B5 of Record Form B above.(1)
(1. Under B5 such parts only of the Summary of Evidence are read as relate to the charges dealt with under C2. If any plea is changed to Not Guilty, trial thereon proceeds by complying with paras D1 to D8 inclusive in Record Form D on p 3 and making an appropriate record thereof on a separate sheet.)

C3. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

RECORD FORM D—PROCEEDINGS ON PLEAS OF NOT GUILTY TO ALL CHARGES.

D1. President to accused: Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity to prepare your defence? Ans ..... (1)
(1. If "yes", see RP 39(A) for procedure. Statement or evidence, if any, is recorded per Notes.)

D2. The Prosecutor makes (an) (no) opening address.(1)
(1. RP 39(B), 60(A) (B), 90, 92(C) (D). Record address per Notes, subject to RP 95(C).)

D3. The evidence for the Prosecution is taken.(1)
(1. RP 39(C), 114, KR Can 555. Record evidence per Notes. As to Prosecutor giving evidence himself see RP 39(D) (E).)

D4. The Prosecution is closed.(1) The Defending Offr submits that the evidence for the Prosecution does not establish a prima facie case against the accused on the ..... charge(s).(2) The Court is closed, and considers the submission.(3) The Court is re-opened, and the President announces that the submission is disallowed on the ..... charge(s), and allowed on the ..... charge(s), and that, accordingly, the trial will proceed on the former, but the accused is (are) found Not Guilty on the latter charge(s).(4)
(1. Delete remainder of this para, if submission not made. 2. Arguments on submission, answer and reply are recorded per Notes. 3. RP 40 fn 1. See MML p 72 paras 12-14 and p 81 para 42. 4. Delete part not used. If accused acquitted on all charges, use record alternative in para D8.)
NB: If trial proceeds, accused must be allowed great latitude in making his defence, and the Court should not stop his defence solely on ground of irrelevance. (RP 60(C), 114, 115.)

D5. President to accused: You will now proceed with your defence.(1) You may, if you wish, give evidence yourself on oath as to the facts or your character or both, in which case you will be subject to cross-examination.(2) You may, however, make a statement without being sworn, and you will not be subject to cross-examination.(3) But a statement which could have been made on oath will not carry with the Court the same weight as sworn testimony.(4) You may call witnesses in your defence and as to character, whether you give evidence or make a statement or do neither.

President to accused: Do you wish to give evidence yourself as a witness, make a statement, or do neither? Ans ..... Do you intend to call witnesses on your behalf? Ans ..... Are they witnesses as to character only? Ans .....
(1. RP 115. 2. RP 40(A), see 86(D). 3. RP 40 fn 10. 4. RP 40 fns 2, 9.)

D6. Consequent on the answers recorded in para D5 the appropriate procedure for the defence is followed.(1)
(1. RP 114, 115, 116. For procedure see Notes on back of Convening Order, CF A85. Evidence for accused as to his character should, if in his interest, be given before the finding. See RP 46(A) fn 1, 86(C). Note the further opportunity in para E1 of Record Form E. Record as per Notes addresses, statement, evidence and any summing up by the JA under RP 42, 103(e).)

D7. The Court is closed to consider the finding(s).(1) The finding(s) of the Court is (are) recorded in Part I of the Schedule.(2) The Court is re-opened.
(1. RP 43, 117(A). See Notes in Part I of Schedule. 2. RP 44(A).)

D8. The President announces the finding(s), if any, of Not Guilty, and states to the accused that the finding(s) of the Court on the ..... charge(s), being subject to confirmation, will be promulgated later.(1)
Or, The President announces that the accused is found Not Guilty on all charges and is to be released forthwith, and that the proceedings are accordingly terminated. Part I of the Schedule is dated and signed.(2)
(1. AA 54(2) (c), RP 45, 120(A). 2. AA 54(3), RP 45, 117. This alternative announcement is not applicable when there are pleas of Guilty outstanding and dealt with under Record Form B or C.)

D9. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E below.

RECORD FORM E—PROCEEDINGS ON CONVICTION BEFORE SENTENCE.

E1. President to accused: Do you wish to give evidence yourself or to call any witnesses as to your character?(1)
Ans .....
(1. If evidence has already been given by accused or his witnesses as to his character, delete this para. RP 37(C) fn 4, 46 fn 1. Accused and witnesses are sworn. Evidence recorded per Notes.)

E2. The Prosecutor produces Statement(s) as to Character and Particulars of Service(1), and certified true copy (~~copies~~) of Conduct Sheet(s)(2), purporting to refer to the accused, which he submits to the Defending Offr for examination, and then to the Court for admission in evidence. The Court is satisfied that these documents refer to the accused, because (i) they purport to be signed in the manner required by AA 163(1) (g) (h), and (ii) they purport to refer to (a) soldier(s) having the same number, rank, name and corps as the accused. Admitted in evidence and marked Ex ..... and Ex ..... respectively.(3)
(1. MFB 255 or AFB 296. 2. MFM 6. 3. RP 46, KR Can 558. If above documents not produced, see RP 46 fn 1 para 1.)

E3. President to accused: Do you wish to address the Court on the Statement(s) and Conduct Sheet(s), and in mitigation of punishment?(1) Ans ..... (2)
(1. RP 37(C), 46(D). 2. Address, if any, recorded per Notes. Court should permit accused or his witnesses to prove an oath anything here or previously stated which would affect the amount of punishment. RP 37(F) fn 7.)

E4. The President states that the Court is closed to consider the sentence, and that the sentence to be awarded by the Court, being subject to confirmation, will not be announced, but will be promulgated later, and the proceedings in open court are accordingly terminated.(1)
(1. AA 54(3), RP 120(A).)

E5. The Court considers the sentence.(1) The President records the sentence in Part I of the Schedule, which is dated and signed by him ~~and the J.A. if any~~.(2)
(1. When several accused tried separately see RP 71 (2). One sentence only, comprised of the punishment or punishments laid down in AA 41, 44 and its proviso, is to be awarded to cover all charges in all charge sheets on which accused found guilty. RP 48. As to sentences see AA 44, 138, 182, RP 46-50, 69, 118, 119(A), KR Can 308, 330, 563-566, Overseas RO 309, 2323, MML p 60, 737-739. As to sentences assigned for civil offences by the law of England see AA 40(5), MML p 130. Where accused already under sentence of imprisonment or detention see AA 44(1)(B), 68(1), KR Can 564. 2. RP 50. As to release from arrest by Confirming Offr see KR Can 567. As to assembly and disposal of record after trial see instrs on back of Convening Order.)

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

CHARGE SHEET

The accused B.131647 Private Norman Thomas GREIG, on strength of 22 Canadian Special Employment Company, a soldier of the Canadian Army Overseas, is charged with

While on Active Service

FIRST CHARGE — ABSENTING HIMSELF WITHOUT LEAVE

Army Act Sec 16 (1)

in that he

at Warnham, Sussex, absented himself without leave from 2359 hrs 10 Feb 45 until surrendering himself at 1000 hrs 19 April 1945.

Total time absent 67 days 10 hrs 1 mins.

E.R. ROBERTSON, CAPT.
A/Officer Commanding,
22 Cdn Spec Emp Coy.

Graylands,
Warnham, Sussex,
19 Apr 45.

To be tried by Field General Court Martial.

(J.E. [illegible]) Brigadier,
Comd 7th Gp, C.R.U.

24 Apr 45
BORDON, Hants.

FIELD GENERAL COURT-MARTIAL

(Whether the accused to be tried is under his comd or not, a FGCM may on application to him be convened by any offr of Cdn Army Overseas, or of any other force if authorized in law, in immediate comd of troops on active service, subject to RP 105(C) and restrictions imposed by appropriate authy. AA 49, 50, RP 104-107, 114. As to the duties and privileges of the Convening Offr in dealing with the application see MML Chap V paras 20 and 23, RP 87(B).

There should be a separate Convening Order for each person to be tried separately by the same Court. RP 71(C), 109. As to separate charge sheets see RP 62, and as to separate trial on charges in the same charge sheet see RP 108. As to two or more accused charged jointly see RP 16, 109.

As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

ACCUSED.

Number.	(a) Prmnt R. (b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
B.131647	Private	Norman Thomas	[illegible]	1st Cdn Spec Emp Coy

CONVENING ORDER.

1. Whereas complaint has been made to me, the undersigned, that the person(s) named above as the accused, being subject to military law, has (have) committed the offence(s) set forth in the Charge Sheet(s) attached and on (date) 24 Apr 45 endorsed by me, (or by an offr of my staff for me), " To be tried by Field General Court-Martial ",

2. And whereas I am of opinion that it is not practicable that such offence(s) should be tried by an ordinary General Court-Martial ; (and that it is not practicable to delay the trial for reference to a superior qualified offr.)
(Delete part in brackets when not required for compliance with RP 105(C).)

3. I hereby convene a Field General Court-Martial to try the said person(s), and to consist of the Offrs appointed or detailed hereunder.

4. ~~I am unable to appoint (a) three Offrs to form the Court, (b) a Fd Offr as President, for the reasons I have attached hereto.~~
(AA 49, RP 106(B), 107(A). Delete the whole or part, if not applicable.)

5. ~~I also appoint as Judge-Advocate thereat the Offr mentioned hereunder.~~
(RP 106(E). Delete, if none appointed.)

PRESIDENT.

(Rank.)	(Must be named. RP 106.)	(Unit.)
Major	E.E. Miller, E.D., K.C.	No CMP

MEMBERS.

(Rank.)	(Named or detailed. RP 106.)	(Unit.)
A Capt	from and to be detailed by CC	9 CIHR
A Lieut	from and to be detailed by CC	6 CIHR

WAITING MEMBER.

(Rank.)	(Named or detailed, if any. RP 106.)	(Unit.)

JUDGE-ADVOCATE.

(Rank.)	(Must be named, if any. RP 106.)	(Unit.)

On Active Service in the Fd

in England (Country.)

J.E. Roger (J.E. Roger) (Signed personally. RP 105 fn 2.)

Brigadier (Rank.)

Dat 24 Apr 45

Commanding [illegible] C.R.U.
Convening Officer.

CONVENING OFFR WILL INITIAL ALL DELETIONS AND ALTERATIONS

4/38A (CFA 95 (In lieu of AFA B) 40/P & B/1697 (6143)) (See overleaf for oaths and notes for use on trial.)

Medical Officer's Certificate.

I hereby certify that I have this morning examined No. B/31647 Rank Pte.

Name Greig, Norman Thomas of 22 G.H.Q. Tps. (Unit) and in my opinion

he is fit to undergo trial by Court Martial.

Station Div. Ad. Field

Date 27 April 45

Signed D. Lewis Capt

Unit R.A.M.C. 8 C.C.S.

Med Off'r RCAMC

CASE OF

E-1 B-131647 Private GREIG, N.T., 22 CDNSPEC EMP COY

CHARACTER WITNESS
FIRST WITNESS

B-66819, Sgt LLOYD, C., 22 CDN SPEC EMP COY, sworn, states:-

I recognize the accused and I have known him for six months. I have had him on different jobs with me and I have always found him to be a very good worker and a good soldier. The opinion of those I came in contact with was that he was a very good worker and a good soldier.

IN THE OPINION OF THE COURT IT IS NOT NECESSARY TO COMPLY WITH RP 83 (B).

Plea in mitigation

B 131647 - Pte Young N T

Sir. The accused has pleaded guilty to a rather long period of absence & expects to be punished for his misbehaviour
I would ask the court however to consider also his previous record of good behaviour
He enlisted in Aug 42 arriving overseas in March 43 & took part in the Sicily landing in July 43 with the 48th Highlanders
He was wounded in Sicily & returned to his Regt after 2 months. He remained with them until Jan 44 when he was injured & returned to U.K.
His first crime was in Oct 44, & I would ask the court to consider this period of over 2 yrs of honourable action & good clean record
This first crime (7 days D.W.A.) was caused by being mentally depressed when his brother was killed in action in France
Leading up to his present offence, his mother had to undergo a serious operation. His remaining brother is serving somewhere with the navy & the accused felt that he would like to be back in Canada when his mother was in hospital. This of course was not sufficient grounds for compassionate leave but it seemed to unduly depress the accused. He got this privelege leave & remained away going from relative to relative in Scotland & always worried about his mother. When he came out of this state of mind he surrendered himself.
He is a good worker, & well liked by his NCOs
My I would ask the court, sir, to show all

(Pleading)
possible leniency in this case & return
the accused to useful employment as soon
as possible. He realizes the error of what
he has done & is willing to make amends.

Respectfully submitted
Sir,

~~Robert~~ Owden
2 Lt. C.S.E.C.
Officer for Defense

Summary of Evidence

Summary of Evidence in the case of No. B131641 Pte Norman Thomas Greig on strength of 22 Canadian Special Employment Company, a soldier of the Canadian army Overseas.

By direction of the Commanding Officer the Summary of Evidence is taken on oath.

FIRST WITNESS FOR THE PROSECUTION

Capt E. R. Robertson, on strength of 22 Canadian Special Employment Company, having been duly sworn states:

I am Capt. E. R. Robertson, Officer F.C.P. in charge of Records for 22 Canadian Special Employment Company. I produce the following document pursuant to Overseas Routine Order 5352 which has been read over to the accused and which is attached hereto as Exhibit "A".

Exhibit "A": I produce a certified F.C.P. true copy of a Court of Inquiry, pertaining to the accused whom I now recognize.

E. R. Robertson Capt.

E. R. Robertson Capt

The accused declines to cross examine this witness.

Mj

1ST WARD WITNESS FOR THE PROSECUTION

B.88714 Gnr. Campbell Frederick, on strength of 32 Canadian Special Employment Company, Canadian Army Overseas, having been duly sworn states:

I am B88714 Gnr Campbell F. a member of 22 Cdn Spec. Emp. Coy. Regimental Police. While on duty at the Guard room 19 April 1945 the accused whom I now recognize reported to me at 1000 hrs 19 April 1945 from A.W.L. He was sober and properly dressed. I immediately put him under close arrest and notified the Company orderly room.

B88714 F Campbell

B88714 GNR. CAMPBELL F.

The accused declines to cross examine this witness.

The accused was cautioned as follows: Do you wish to make any statement or to give any evidence on oath? You are not obliged to say anything or give any evidence unless you wish to do so, but whatever you say or whatever evidence you give will be taken down in writing and may be given in evidence

The accused declines to make any statement and reserves his defence.

I certify that the foregoing Summary of Evidence consisting of two pages was taken down by me in the presence and hearing of the accused and that rules of procedure 45 (c) (d) (e) and (F) have been complied with.

Warnham Sussex
19 April 1945

F.C. Pithart Lieut
F.C. PITHART LIEUT
Officer detailed to take
Summary of Evidence

SUMMARY OF EVIDENCE

Summary of Evidence in the case of No. B.131647 Private Norman Thomas GREIG on strength of 22 Canadian Special Employment Company, a soldier of the Canadian Army Overseas.
By direction of the Commanding Officer, the Summary of Evidence is taken on oath.

FIRST WITNESS
FOR THE PROSECUTION

Capt. E.R. Robertson, on strength of 22 Canadian Special Employment Company, having been duly sworn states:
I am Capt. E.R. Robertson, Officer in charge of Records for 22 Canadian Special Employment Company. I produce the following documents pursuant to Overseas Routine Order 5382 which has been read over to the accused and which is attached hereto as Exhibit "A". Exhibit "A"; I produce a certified true copy of a Court of Inquiry, pertaining to the accused whom I now recognize.

E.R. Robertson, Capt.

The accused declines to cross examine this witness.

SECOND WITNESS
FOR THE PROSECUTION

B.88714 Gnr. Campbell, Frederick, on strength of 22 Canadian Special Employment Company, Canadian Army Overseas, having been duly sworn states:
I am B.88714 Gnr. Campbell, F., a member of 22 Cdn Spec Emp Coy., Regimental Police. While on duty at the Guard room 19 April 1945 the accused, whom I now recognize, reported to me at 1000 hrs 19 April 1945 from A.W.L. He was sober and properly dressed. I immediately put him under close arrest and notified the Company Orderly Room.

B.88714 Gnr. Campbell, F.

The accused declines to cross examine this witness.

The accused was cautioned as follows: "Do you wish to make any statement or to give any evidence on oath? You are not obliged to say anything or give any evidence unless you wish to do so, but whatever you say or whatever evidence you give will be taken down in writing and may be given in evidence".

The accused declines to make any statement and reserves his defence.

I certify that the foregoing Summary of Evidence consisting of two pages was taken down by me in the presence and hearing of the accused and that Rules of Procedure 4(c), (d), (e) and (f) have been complied with.

F.C. Pithard

F.C. Pithard, Lieut.
Officer detailed to take
Summary of Evidence

Warnham, Sussex
19 April 1945.

EXHIBIT "A"

RECORD of the Declaration of a Court of Inquiry assembled at Horsham, Sussex on the 4th day of March 19 45, for the purpose of investigating and recording the absence, without leave, from his duty, and deficiency, if any, in the Arms, Ammunition, Equipments, Instruments, Regimental Necessaries, or Clothing of No. B 131647 Pte GREIG N T

DECLARATION

The Court declare that No. B 131647 Pte GREIG Norman Thomas a soldier of the Canadian Army Overseas On Active Service illegally absented himself without leave from 2359 hrs at Horsham Sussex on the 10 day of Febuary 1945, that he is still so absent, and that on the 4th March 1945 he was deficient, and that he is still deficient of the following articles :—

	ARTICLES	100%	75% VALUE		ARTICLES	100%	75% VALUE	
1	Anklets web	.99		.74	2 Shirts angola drab	4.06	3	.06
1	Bags kit	1.02		.75	3 Socks prs	1.11		.83
1	Blouses BD	5.25	3	.94	1 Vests woolen	1.20		.90
1	Boots prs	5.46	4	.10	1 Belts waist	.88		.58
1	Brushes hair	.34		.25	2 Braces R&L	.60		.45
1	Brushes shaving	.37		.28	1 Haversack	1.79	1	.34
1	Brushes shoe	.28		.21	1 Pack	1.84	1	.38
1	Brushes tooth	.11		.09	2 Straps shoulder	.64		.48
1	Comb	.04		.03	1 Shorts gym	.43		.32
3	Discs Ident	.03		.02	1 Brushes button	.26		.20
1	Drawers woolen	1.20		.90	1 Caps comforter	.34		.26
1	Gloves knitted	.47		.35	1 Badges cap	.09		.07
1	Greatcoat	11.55	8	.66	3 Titles Canada	.09		.07
1	Detector AG	.12		.09	1 Net cam helmet	.15		.11
1	Holdall	.19		.16		$ 42.80	$ 32	.14
1	Housewife	.17		.14				
1	Jersey pullover	1.79	1	.34				
1	Razor safety	.06		.04				

D S Tysoe Lieut 22 CSEC President

P C Pithart Lieut 22 CSEC Member

W D Lowden Lieut 22 CSEC Member

Signed at Warnham, Sussex

this 4th day of March 1945

Signature of Commanding Officer (R A MURDOCH) Major
Officer Commanding
22 Can Spec Emp Coy

Certified true copy

Signature of Officer having custody of original record

3/60B MFB 375-AFB 115 40/P&S 392 (6610)

17

ARMY FORM B.296.

Statement as to Character and Particulars of Service of Accused.

Number	Rank	Name	Regiment (or as the case may be)
B.131647	Pte.	Norman Thomas GREIG	22 Cdn Spec Emp Coy

1. The following is a fair and true summary of the entries in the regimental and squadron, battery or company conduct sheets† of the accused, exclusive of convictions by a court martial or a civil court, of summary awards under section 47 of the Army Act, and of cases in which trial has been dispensed with :—

NOTE.—At a trial by field general court martial this summary may be compiled from the field conduct sheet. The conduct sheet(s) mentioned should be produced in court with this statement but not annexed to the proceedings.

† See para. 677, K.R., 1940.

* The numbers herein stated should correspond with the number of entries in the conduct sheets, prominence being given to the most serious offence in each entry, and to any recognised special acts of gallantry or distinguished conduct.

INSTRUCTION. — If the charge is for drunkenness the entries for drunkenness must be stated separately and dated.

	* Within last 12 months	* Since Enlistment
For A.A.Sec.15(1)	2 times	2 times
For	times	times
For	times	times
For	times	times
For	times	times

F.C.P.

F.C.P. F.C.P.

F.C.P.

2. The accused has not been previously convicted, F.C.P.

F.C.P.

F.C.P.

3. The accused is not under sentence at the present time. F.C.P.

4. The accused has been in confinement, awaiting trial on the present charges, for Nil days in civil custody, and F.C.P. days in military custody, making a total of F.C.P. days, of which Nil days were spent in hospital.

5. The present age of the accused according to his record of service is 24 6/12 yrs.

F.C.P. F.C.P.

6. The date of his F.C.P. attestation specified in his F.C.P. record of service is 19 Aug 42

7. The service which the accused is allowed to reckon towards discharge or transfer to the reserve is 2 6/12 yrs

8. The accused is entitled to deferred pay or gratuity in respect of 2 6/12 yrs service

9. The accused is entitled to reckon 2 6/12 yrs service for the purpose of determining his pension, etc.

10. The accused is in possession of F.C.P. entitled to C.V.S.M. & CLASP

F.C.P.

11. F.C.P.

12. F.C.P. F.C.P.

F.C.P. F.C.P.

Schedule of Convictions by a Court Martial or Civil Court, of summary awards under Section 47 of the Army Act and of cases in which trial has been dispensed with of accused.

No. B.131647 *Rank* Pte. *Name* Norman Thomas Greig of 22 C.S.E.C. Regiment (or as the case may be).

(INSTRUCTION—A verbatim extract from the regimental books, stating these convictions and dispensations with trial, must be inserted.)

Description of court by which tried, or status of officer disposing of the charge or dispensing with trial.	Date and place of trial, or summary award under A.A. 47, or of order dispensing with trial.	Charges upon which convicted, or in respect of which trial was dispensed with.	Sentence of the court or authority disposing of the charge, or order of the dispensing authority.	Punishment remitted.
		F.C.P.		

I HEREBY CERTIFY that the foregoing schedule of convictions and dispensations with trial is a true extract from the regimental books in my custody.

Signed this 29 day of April 45

F.C. Pethert Lieut
22 Cdn Spec. Engr. Coy.

13. The accused has served as a non-commissioned officer continuously, without reduction, to the present date.

	Date of Promotion	
In the rank of		years,
In the rank of	F.C.P.	years,
In the rank of		years.

(INSTRUCTION—*If any matter in any of the above paragraph cannot be stated from the regimental books the paragraph must be struck through, except that in the case of a trial by field general court-martial the information may be collected from such sources as are available and the paragraph concerned amended accordingly.*)

"TEMPORARY SHEET"

3/17 MFM 4 (AFB 122)

No. B131647 Name Greig, N.T. Sqn, Battery, or Company Corps Date of enlistment GC Badges Service or Proficiency Pay

Date of last entry in Company Conduct Sheet | No. and date of last drunk | Period not reckoning towards freedom from extra fine | Sheet No | Signature OC Company, etc R.A. Murdoch Character

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order directing same to be dealt with	By whom awarded	Remarks
Field	24 Oct 44	Pte.		WOAS. AWL from 2359 hrs 15 Oct 44 to 1200 hrs 23 Oct 44. (7 days 12 hrs 1 min). AA Sec.15(1)	C4572 Sgt.Wright CA	8 days pay FRI149(2)	24 Oct 44	Major,RA Murdoch	8 days pay FRI149(1)(a) Total forf. 16 days pay
Field	25 Dec 44	Pte.		WOAS.A.A.Sec.15(1). AWL from 25 Dec 44 until 1700 hrs 26 Dec 44 (Absent 1 day 9 hrs)	Docy	7 days C.B.	30 Dec 44	Major,RA Murdoch	2 days pay FRI149(1)(a)

(CERTIFIED TRUE COPY FROM ORIGINAL DOCUMENTS HELD IN MY POSSESSION)

E.R. Robertson, Capt.
Officer in Charge of Regimental Books.

(PTO)

RECEIPT FOR DOCUMENTS

I have received the following documents:

1. Copy of Charge Sheet
2. Certified true copy of Summary of Evidence
3. List of Exhibits
4. List of Witnesses

N S Greig

B.131647 Pte. Norman Thomas Greig

I hereby request that.....Any Officer.....
be appointed to defend me at my Court Martial and if he is
not available another Officer be appointed.

N J Greig

E.131647 Pte. Norman Thomas Greig

LIST OF WITNESSES

FOR THE PROSECUTION: 1. Capt. E.R. Robertson on strength of 22 Canadian Special Employment Coy.

2. B.88714 Gnr. Campbell, F. on strength of 22 Canadian Special Employment Coy.

FOR THE DEFENCE: Nil.

LIST OF EXHIBITS

Exhibit "A": Certified true copy of a Declaration of a Court of Inquiry.

SF-67.

Pte. Gaier, A. N.

CERTIFIED TRUE COPY

(JBD Sword) Capt

5-F-67

FIELD GENERAL COURT-MARTIAL

CPA96 (1st Rev) of AFA37
AC/P & R/1608 (38664)

Convened by Order of Cdn Sec 2nd Echelon AFHQ dated 19 Apr 45 Col S.A. Lee MC Comd 1 CBRGp dated 29 Mar 45

ACCUSED.

(As to the trial of two or more charged jointly see RP 16, 71, 109. As to reasons for showing (a) permanent or confirmed rank, and (b) apptnt, A/rank or A/apptnt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

Number	(a) Prmnt R. (b) Apptnt, A/R or A/Apptnt	Full Christian Names	Surname	Unit.
C.5078	Pte	Archie Howard	GRIER	2 Cdn NETD

PROCEEDINGS OF TRIAL.

Held in the Fd in (country) Italy on (date(s)) 30 Mar 45

RECORD FORM A—OPENING PROCEEDINGS AND ARRAIGNMENT.

A1. The President, Members, ~~Reserve Member(s) of the Court and Officer under Instr(s)~~ if any, assemble, and the Court is closed. 'JHG'

(PRINTED MATTER, NOT IN ITALICS FOR GUIDANCE, WILL BE DELETED IF NOT USED OR APPLICABLE, AND INITIALLED BY PRES OR JA. The Schedule referred to throughout is on p 4. Citations do NOT include all relevant fins RDs. For guidance on procedure when a variation in this form arises, see form for GCM in MML pp 741 to 759. A brief record of such variation will be made and given a number having reference to appropriate or preceding point number herein. See back of Convening Order, CF A95, for oaths and instrs on how to record addresses, evidence, etc, which instrs are hereafter called "Notes". As to general provisions for conducting the trial see AA 53, RP 56, 63-70, 73, 74, 94, 102, 109, 132.)

A2. The President initials and lays before the Court the Convening Order and Charge Sheet(s) attached thereto.(1) The Court is satisfied that it is properly convened and constituted(2), accused is (are) amenable to military law, and each charge discloses an offence.(3) 'JHG'

(1. As to use of Summary of Evidence see RP 17 fn 6. 2. AA 49, 50, RP 105-107. 3. RP 11-13, 23, 24.)

A3. The Court is opened. The accused is (are) brought before the Court. At 1559 hours trial commences.

A4. The Prosecutor produces a Medical Certificate that accused is (are) fit to undergo trial by court-martial.(1) ~~He (She) (They) has (have) not had (been) tried by the Civil Power for any offence connected with that of which he (she) (they) now stand(s) charged summarily by the C.O.(2)~~ 'JHG'

(1. KR Can 557. 2. AA 44(2), RP 60 fn 1. For effect see KR Can 563(c). Delete, if not applicable.)

A5. ~~Prisoner(s) (accused): Do you object to~~ ~~my (our)~~ ~~(a) member(s) (the)~~ ~~President~~ 'JHG'

~~the Interpreter~~ ~~(s)~~ ~~(and)~~ ~~(the shorthand writer is sworn.~~ ~~Do you object to~~ ~~him~~ ~~as shorthand writer (s)~~ ~~(are)~~ 'JHG'

~~The shorthand writer is sworn.~~(1)

(1. RP 72. Delete, if none employed.)

A6. The Convening Order and names of the President and Members of the Court are read to the accused.(1) President to accused: Do you object to be tried by me as President or by any of the Members of the Court ?

Ans NO (2) 'JHG'

(1. RP 110. 2. If no objection, wording number retains. RP 68(5). If objection, see procedure AA 51, RP 25, 71, 98, MML p 742.)

A7. The President, Members, ~~Interpreter(s) and Shorthand writer(s)~~ if any, are sworn.(1) The following are the ranks, names and units of the offrs comprising the Court, etc: 'JHG'

President	Major	John Harper Gowan	OIC	2 Cdn NETD
Member	Capt	John Murchie Tierney	CIC	2 Cdn NETD
Member	Lieut	Edward Richards Bruce	CIC	2 Cdn NETD
Judge-Advocate				
Prosecutor	Lieut	David Maxwell Nichol	RCA	2 Cdn NETD
Defending Offr	Lieut	Wallace Edwin Griffin	RCA	2 Cdn NETD

Questions by President: Is the Prosecutor a lawyer ? Ans No Is the Defending Offr a lawyer ? Ans No (2)

(1. RP 24, 27, 109, 111. List of offrs under instr will be returned separately with proceedings for information of Conv Offr.) (2. If Pros a lawyer and Def Offr not, accused is entitled to an adjournment when RP 89 (3) and fn 2 were not followed. See D1 p 3.)

A8. The accused C.5078 Pte Grier A.H. before arraignment make(s) (no) ~~(a)~~ plea. 'JHG' (3)

(1. If a special plea is made for separate trial on one or more charges (RP 62(E), 108), or as to the jurisdiction of the Court (RP 34, 35(A), 112), or in bar of trial (RP 36), or as to accused's mental fitness to stand trial (AA 130, RP 57), or by one of several accused charged jointly to be tried separately (RP 16, 71), state grnds. Use evidentiary mode in support or opposition, the evidence, if any, and finding are recorded per Notes. For forms of record see references in fns to RoP cited. Insert in AB rank and name of the accused making the plea.)

A9. The accused is (are) arraigned (separately) on all charges in the charge sheet.(1) The accused does (do) not object to any charge.(2) There is no amendment to be made to the Charge Sheet.(3) The President records the pleas in Part I of the Schedule. 'JHG'

(1. RP 21, 112. See para 1 of Instrs p 2. When more than one Charge Sheet see RP 62 ; when several accused to be tried separately see RP 71(C), and use separate copies of CF 486 to record proceedings. 2. RP 32, RP 33. If otherwise, delete and make appropriate record per Notes.)

A10. The Court is closed and considers the Instrs on Procedure after Arraignment at top of p 2. The proceedings are continued on Record Form B. 'JHG'

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS

SCHEDULE.

PART I. PLEA(S), FINDING(S) AND SENTENCE.

Accused: C.5078 Pte Grier A.H.

Charge. (Insert "alternative" where applicable.)	Plea. (See Instrs p 2.)	Finding. (See note below.)	(Space for use as required for further charges, accused charged jointly, special findings, etc.)
1st	Guilty	Guilty	
2nd	Guilty	Guilty	
3rd			
4th			
5th			
6th			

(Note: As to findings for lesser offences see AA 56, RP 44; findings on alternative charges see MML p 483 fn 4 para 2, RP 44; special findings see RP 44 and MML p 753, and in loss of kit see RP 44 fn 6.)

~~Mitigation of Sentence~~ ~~Recommendation~~ 'JHG' (1)

(1. Insert sentence being served, or delete, if not applicable. See RP 46(A). Information should be found on MF B355 or AF B296.)

Time in confinement awaiting present trial—a total of 18 days, of which Nil days were spent in hospital.(1)

(1. See RP 46(A) fn 2. Information should be found on MF B355 or AF B296 admitted in evidence under E2.) 'JHG'

Sentence Awarded by the Court:

To be imprisoned with hard labour for a period of two years

~~Judge~~ 'JHG' Judge-Advocate, if any. 30 Mar 45 Date awarded. (Sgd) 'J H Gowan Major' President. (RP 45, 50.)

(See back of Convening Order as to assembly and disposal of record after trial.)

PART II. MINUTE WHERE CONFIRMATION RESERVED. (AA 54(5), RP 120(F), MML p 760.)

Date (Sgd) Commanding

PART III. DECISION OF CONFIRMING OFFR ON FINDING(S) AND SENTENCE.

(For duties and powers see AA 54, 57, RP 30(D) fn 6, 46(A), 51-56, 120, MML pp 739 2nd, KR Can 567-577. Acquittals require no confirmation and cannot be revised: AA 54(3). Sending back finding or sentence for revision by Court: AA 54(2), RP 120(G). If not confirmed, accused may be tried again: AA 157, MML p 64. Minute of confirmation or non-confirmation may be altered before promulgation: RP 53, MML p 65. Quashing after promulgation: KR Can 573. Duties and powers of reviewing offrs: AA 57, 57A, RP 53A, 54. The Confirming Offr must sign here personally. AA 172 fn 1.)

My decision on the finding(s) and sentence set forth in Part I is:

Confirmed

~~I direct that the accused be released from custody forthwith.~~ 'SAL'

(1. AA 57A. Delete if not used.)

(Sgd) 'S A Lee' Col

Date 3 Apr 45 Commanding 1 Cdn Base Rft Gp

Confirming Officer.

PART IV. PROMULGATED AND EXTRACTS TAKEN. (RP 52, KR Can 576, 577.)

Accused.	Date.	Signature of Offr.
C.5078 Pte Grier A.H. 2 Cdn NETD	6 Apr 45	'D J Burgoyne' Major OC No 2 Cdn NETD

ALL DELETIONS AND ALTERATIONS WILL BE INITIALLED

INSTRUCTIONS ON PROCEDURE AFTER ARRAIGNMENT.

1. *The accused may not plead or be found Guilty on more than one of two or more charges laid in the alternative.* (*RP 37(A).*) *As to withdrawal of alternative charges by Prosecutor see RP 35(C). No other charge can be withdrawn for any reason without authy from Convening Offr. If Convening Offr concurs, Court may accept plea of Guilty to lesser, etc, offence.* (*RP 44(H).*) *Accused may change a plea of Not Guilty to Guilty during trial.* (*RP 38.*) *As to refusing to plead or not pleading intelligibly see RP 35(A). As to plea when sentence may be death see RP 35(D).*

2. *The proceedings on each charge sheet* (*RP C2*) *after arraignment will be conducted as follows in the respective circumstances stated:*

I. If pleas to all charges are GUILTY, use Record Form B below.

II. If pleas to all charges are NOT GUILTY, use Record Form D on p 3.

III. If pleas to some charges are GUILTY and to other charges are NOT GUILTY and,

(a) Such mixed pleas occur when there are no alternative charges in the Charge Sheet, use Record Form C below. (*RP 37(A).*)

(b) Such mixed pleas occur in a set of two or more charges laid in the alternative, see RP 37 (A) and fn 2 as to discretion of Court, (i) to try the accused on all such alternative charges as if he had pleaded Not Guilty thereto, or, (ii) to record the pleas as the findings of Court. After deciding between (i) and (ii), Court will proceed under foregoing instrs as may be appropriate to result of its decision. See MML p 744 Instrs (2).

3. *As to responsibility of President to accused see RP 59, 60(C); powers and duties of JA see RP 103; duty of Prosecutor see RP 60(A) (B); duty and privileges of accused and Defending Offr see RP 60(C), 87(C), 91, 92; swearing and withdrawal of witnesses from Court see RP 81, 82; questioning of accused see RP 80, 87(C), 92(B), and of witnesses see RP 85-85; calling or re-calling of witnesses by Court etc see RP 75-79, 86, 116; use of Summary of Evidence at Trial see RP 17(E) fn 6; and responsibility of JA or Pres to record proceedings see RP 94, 96.*

RECORD FORM B—PROCEEDINGS ON PLEAS OF GUILTY TO ALL CHARGES.

B1. The President or JA, if any, complies with RP 35(B) by explaining to the accused the nature and meaning of the charge(s)(1), and that on his plea of Guilty there will be no regular trial but merely a consideration of the sentence to be awarded after he has been given an opportunity to make a statement in reference to the charge(s), call witnesses as to character and make an address in mitigation of punishment.(2)

(*1. RP 35 fn 3. 2. MML p 54 para 47.*)

'JHG'

B2. President to accused: The Court will now receive any statement you desire to make in reference to the charge(s).(1) If it appears from your statement that there are circumstances which indicate that you do not understand the effect of the plea of Guilty(2), or which show provocation or extenuation in respect of which in your interest the witnesses for the Prosecution should be examined(3), we shall advise you to change your plea to Not Guilty. In making a statement you will not be sworn or subject to cross-examination; and anything you say will not be used in evidence against you after you change your plea. If, however, it appears to the Court that your statement affects only the amount of punishment to which you are liable, you will not be advised to change your plea and you will be given an opportunity later to prove your statement by sworn testimony, if you so desire.(4)

President to accused: Do you wish to make a statement? Ans. No (5)

'JHG'

(*1. RP 37(B). 2. RP 37(D) fn 6. 3. RP 35(B) fn 5 para 3, MML p 54 para 47. 4. See para E3 of Record Form E. 5. Statement, if any, recorded per Notes.*)

B3. ~~The Court considers the statement(1). The Court decides that it will be in the best int of justice to change the plea(s) of Guilty to Not Guilty~~ ~~and directs that the proceedings be commenced afresh before a different Court.~~

'JHG'

(*1. Court may be closed to consider the statement. Delete whole or part not used.*)

B4. On the charge(s) to which the plea(s) of Guilty X (are) not changed the President records finding(s) of Guilty in Part I of the Schedule.(1)

(*1. RP 35(B). If any plea(s) is (are) changed, use Record Form C or D as appropriate.*)

'JHG'

B5. The Summary of Evidence is marked Ex A, initialled and read aloud by the President.(1)

(*1. If there is no Summary, or if it is inadequate, comply with RP 37(B). If there is any evidence inconsistent with any plea standing as Guilty, Court will advise accused to change such plea and, if changed to Not Guilty, try such charge(s) by use of paras D1 to D8 inclusive of Record Form D on p 3. RP 37(D).*)

'JHG'

B6. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

'JHG'

RECORD FORM C—PROCEEDINGS ON MIXED PLEAS OF GUILTY AND NOT GUILTY.

C1. As to the charges on which accused pleaded NOT GUILTY the trial is continued by using paras D1 to D8 inclusive of Record Form D on p 3 before proceeding with C 2.(1)

(*1. RP 37(A) (E).*)

'JHG'

C2. The charges on which accused pleaded GUILTY are read to him (them) again, and the trial is continued by using paras B1 to B5 of Record Form B above.(1)

(*1. Under B5 such parts only of the Summary of Evidence are read as relate to the charges dealt with under C2. If any plea is changed to Not Guilty, trial thereon proceeds by complying with paras D1 to D8 inclusive in Record Form D on p 3 and making an appropriate record thereof on a separate sheet.*)

C3. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

Pin here Loose Sheets of Record.

RECORD FORM D—PROCEEDINGS ON PLEAS OF NOT GUILTY TO ALL CHARGES.

D1. President to accused: Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity to prepare your defence? Ans.....(1)

(*1. If "yes", see RP 39(A) for procedure. Statement or evidence, if any, is recorded per Notes.*)

D2. The Prosecutor makes (an) (no) opening address.(1)

(*1. RP 39(B), 60(A) (B), 90, 92(C) (D). Record address per Notes, subject to RP 95(C).*)

D3. The evidence for the Prosecution is taken.(1)

(*1. RP 39(C), 114, KR Can 555. Record evidence per Notes. As to Prosecutor giving evidence himself see RP 39(D) (E).*)

D4. The Prosecution is closed.(1) The Defending Offr submits that the evidence for the Prosecution does not establish a prima facie case against the accused on the.....charge(s).(2) The Court is closed, and considers the submission.(3) The Court is re-opened, and the President announces that the submission is disallowed on the.....charge(s), and allowed on the.....charge(s), and that, accordingly, the trial will proceed on the former, but the accused is (are) found Not Guilty on the latter charge(s).(4)

(*1. Delete remainder of this para, if submission not made. 2. Arguments for submission, answer and reply are recorded per Notes. 3. RP 40 fn 1. See MML p 72 paras 12-14 and p 81 para 42. 4. Delete part not used. If accused acquitted on all charges, use second alternative in para D6.*)

NB: If trial proceeds, accused must be allowed great latitude in making his defence, and the Court should not stop his defence solely on ground of irrelevance. (*RP 60(C), 114, 115.*)

D5. President to accused: You will now proceed with your defence.(1) You may, if you wish, give evidence yourself on oath as to the facts or your character or both, in which case you will be subject to cross-examination.(2) You may, however, make a statement without being sworn, and you will not be subject to cross-examination.(3) But a statement which could have been made on oath will not carry with the Court the same weight as sworn testimony.(4) You may call witnesses in your defence and as to character, whether you give evidence or make a statement or do neither.

President to accused: Do you wish to give evidence yourself as a witness, make a statement, or do neither?

Ans.....Do you intend to call witnesses on your behalf?

Ans.....Are they witnesses as to character only? Ans.....

(*1. RP 155. 2. RP 40(A), esp 60(D). 3. RP 40 fn 10. 4. RP 40 fns 2, 9.*)

D6. Consequent on the answers recorded in para D5 the appropriate procedure for the defence is followed.(1)

(*1. RP 114, 115, 116. For procedure see Notes on back of Convening Order. CF 195. Evidence for accused as to his character should, if in his interest, be given before the finding. See RP 46(A) fn 1, 86(C). Note the further opportunity in para E1 of Record Form E. Record per Notes addresses, statement, evidence and any summing up by the JA under RP 42, 103(e).*)

D7. The Court is closed to consider the finding(s).(1) The finding(s) of the Court is (are) recorded in Part I of the Schedule.(2) The Court is re-opened.

(*1. RP 42, 117(A). See Notes in Part I of Schedule. 2. RP 44(A).*)

D8. The President announces the finding(s), if any, of Not Guilty, and states to the accused that the finding(s) of the Court on the.....charge(s), being subject to confirmation, will be promulgated later.(1)

Or, The President announces that the accused is found Not Guilty on all charges and is to be released forthwith, and that the proceedings are accordingly terminated. Part I of the Schedule is dated and signed.(2)

(*1. AA 54(3) (6), RP 45, 120(A). 2. AA 54(2), RP 45, 117. This alternative announcement is not applicable when there are pleas of Guilty outstanding and dealt with under Record Form B or C.*)

D9. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E below.

RECORD FORM E—PROCEEDINGS ON CONVICTION BEFORE SENTENCE.

E1. President to accused: Do you wish to give evidence yourself or to call any witnesses as to your character?(1)

Ans. No

'JHG'

(*1. If evidence has already been given by accused or his witnesses as to his character, delete this para. RP 37(C) fn 4, 46 fn 1. Accused and witnesses are sworn. Evidence recorded per Notes.*)

E2. The Prosecutor produces Statement(s) as to Character and Particulars of Service(1), and certified true copy of Conduct Sheet(s)(2), purporting to refer to the accused, which he submits to the Defending Offr for examination, and then to the Court for admission in evidence. The Court is satisfied that these documents refer to the accused, because (i) they purport to be signed in the manner required by AA 163(1) (g) (h), and (ii) they purport to refer to (a) soldier(s) having the same number, rank, name and corps as the accused. Admitted in evidence and marked Ex X and Ex Y respectively.(2)

'JHG'

(*1. MFB 355 or AFB 296. 2. MFM 6. 3. RP 46, KR Can 558. If above documents not produced, see RP 46 fn 1 para 1.*)

E3. President to accused: Do you wish to address the Court on the Statement(s) and Conduct Sheet(s), and in mitigation of punishment?(1) Ans. Yes

'JHG'

(*1. RP 37(C), 46(D). 2. Address, if any, recorded per Notes. Court should permit accused or his witnesses to prove on oath anything here or previously stated which would affect the amount of punishment. RP 37(F) fn 7.*)

E4. The President states that the Court is closed to consider the sentence, and that the sentence to be awarded by the Court, being subject to confirmation, will not be announced, but will be promulgated later, and the proceedings in open court are accordingly terminated.(1)

(*1. AA 54(6), RP 120(A).*)

'JHG'

E5. The Court considers the sentence.(1) The President records the sentence in Part I of the Schedule, which is dated and signed by him and the JA, if any.(2)

'JHG'

(*1. When several accused tried separately see RP 7(D). One sentence only, comprised of the punishment or punishments laid down in AA 41, 44 and its proviso, is to be awarded to cover all charges in all charge sheets on which accused found guilty. RP 48. As to sentences see AA 44, 138, 182, RP 46-50, 69, 118, 119(4), KR Can 308, 330, 563-566, Overseas RO 309, 2323, MML p 86, 757-759. As to sentences assigned for civil offences by the law of England see AA 40(5), MML p 130. When accused already under sentence of imprisonment or detention see AA 44(1B), 56(7), KR Can 564. 2. RP 50. As to release from arrest by Confirming Offr see KR Can 567. As to assembly and disposal of record after trial see instrs on back of Convening Order.*)

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

'JHG'

FIELD GENERAL COURT-MARTIAL

CFA95 (In lieu of AFA3)
40/FA3/1697 (2968)

(Whether the accused to be tried is under his comd or not, a FGCM may on application to him be convened by any offr of Cdn Army Overseas, or of any other force if authorized in law, in immediate comd of troops on active service, subject to RP 105(C) and restrictions imposed by appropriate authy. AA 49, 50, RP 104-107, 114. As to the duties and privileges of the Convening Offr in dealing with the application see MML Chap V paras 20 and 23, RP 87(B).
There should be a separate Convening Order for each person to be tried separately by the same Court. RP 71(C), 109. As to separate charge sheets see RP 62, and as to separate trial on charges in the same charge sheet see RP 108. As to two or more accused charged jointly see RP 16, 109.
As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

ACCUSED.

Number.	(a) Prmnt R.	(b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
C.5078	Pte		Archie Howard	GRIER	2 Cdn NETD

CONVENING ORDER.

1. Whereas complaint has been made to me, the undersigned, that the person named above as the accused, being subject to military law, has (~~not~~) committed the offence(s) set forth in the Charge Sheet(s) attached and on (date) 27 MAR 45 endorsed by me, (~~and by no other authority~~), "To be tried by Field General Court-Martial". 'SAL'

2. And whereas I am of opinion that it is not practicable that such offence(s) should be tried by an ordinary General Court-Martial; (~~as this is a case of desertion~~). 'SAL'
(Delete part in brackets when not required for compliance with RP 105(C).)

3. I hereby convene a Field General Court-Martial to try the said person, and to consist of the Offrs appointed or detailed hereunder.

4. ~~The authority to appoint (a) other Offrs to form the Court, (b) a FA Offr as Prosecutor, is the Senior Officer~~ 'SAL'
~~present here.~~
(AA 49, RP 106(B), 107(A). Delete the whole or part, if not applicable.)

5. ~~I also appoint as Judge-Advocate to attend the Court and report thereon the Offr appointed hereunder.~~ 'SAL'
(RP 106(E). Delete, if none appointed.)

PRESIDENT.

(Rank.)		(Must be named. RP 106.)	(Unit.)
Major	J.H. GOWAN	CIC	2 Cdn NETD

MEMBERS.

(Rank.)		(Named or detailed. RP 106.)	(Unit.)
Capt	J.M. TIERNEY	CIC	2 Cdn NETD
Lieut	E.R. BRUCE	CIC	2 Cdn NETD

WAITING MEMBER.

(Rank.)	(Named or detailed, if any. RP 106.)	(Unit.)
Capt or Lieut to be detailed by OC 2 Cdn NETD		

JUDGE-ADVOCATE.

(Rank.)	(Must be named, if any. RP 106.)	(Unit.)

On Active Service in the Fd

in Italy (Country.)

'S A Lee'
(Signed personally. RP 105 fn 2.) (Rank.)

Date 29 March 45

(S.A. Lee) 1 Cdn Base Rft Group
Commanding Convening Officer.

CONVENING OFFR WILL INITIAL ALL DELETIONS AND ALTERATIONS

(See overleaf for oaths and notes for use on trial.)

'JHG'

CHARGE SHEET

The accused, C-5078, Private Archie Howard GEHER, No.2 Canadian Non Affective Transit Depot, 1 Canadian Base Reinforcement Group, a soldier of the Canadian Army Overseas, is charged with:-

FIRST CHARGE
Section 15(1)
Army Act.

WHEN ON ACTIVE SERVICE, ABSENTING HIMSELF WITHOUT LEAVE,

in that he,

in the Field, in Italy, at approximately 1800 hrs, 7 SEP 44, absented himself without leave until about 1500 hrs, 5 FEB 45. (Absent 148 days, 21 hrs.)

SECOND CHARGE
Section 15(1)
Army Act.

WHEN ON ACTIVE SERVICE, ABSENTING HIMSELF WITHOUT LEAVE,

in that he,

in the Field, in Italy, at approximately 1835 hrs, 14 FEB 45, absented himself without leave until about 1130 hrs, 11 MAR 45. (Absent 24 days, 16 hrs, 55 mins.)

In the Field,
24 March 45.

D J Burgoyne

(D. J. Burgoyne) Major.
Commanding Officer,
No.2 Cdn. N.A.T.D.
1 Cdn. Base Rft. Group.

TO BE TRIED BY FIELD GENERAL COURT MARTIAL

'S A Lee'

In the Field
In Italy
29 Mar 45

(S.A. Lee) Colonel
Comd 1 Cdn Base Rft Group

Exhibit A 'JHG'

SUMMARY OF EVIDENCE

In the case of C.5078 Private GRIER, A.H., No. 2 Canadian Non Effective Transit Depot, 1 Canadian Base Reinforcement Group, a soldier of the Canadian Army Overseas.

By direction of the Commanding Officer, this Summary of Evidence is taken on oath.

FIRST WITNESS
For the
PROSECUTION

Captain T.B.Harrison, R.C.A., having been duly sworn, states:-

"I am Captain T.B.Harrison, R.C.A., attached to No.2 Can. N.E.T.D. I present a certified true copy of a pro forma in lieu of A.F.W.115, dated 5 Oct 44 (Appended hereto as Exhibit "A") and certified true extracts from "X" List Hastings and Prince Edward Regiment Part II Orders No.81 dated 21 Feb 45 (Appended hereto as Exhibit "B") and Order No.83 Dated 27 Feb 45 (Appended hereto as Exhibit "C"). I further present a certificate in accordance with Army Act, Sect. 163 (1)(jj) purporting to be signed by O.C., 279 Provost Coy, C.M.Police (Appended hereto as Exhibit "D"). All these documents pertain to C.5078 Pte. Grier,A.H."

T.B.Harrison Capt.
(T.B.Harrison)

THE ACCUSED DECLINES TO CROSS-EXAMINE THE WITNESS.

QUESTION TO THE ACCUSED.- "Do you wish to make a statement or give evidence on oath? You are not obliged to make a statement or give evidence on oath, but if you do make a statement or give evidence on oath, it will be taken down in writing and may be brought up in evidence."

THE ACCUSED DECLINES TO MAKE A STATEMENT AND RESERVES HIS DEFENCE.

I certify that the foregoing Summary of Evidence, consisting of one (1) page, was taken in the presence and hearing of the accused and that R.P.(4)(c),(d),(e) and (f) have been complied with.

In the Field
21 Mar 45.

D.M.Nichol
(D. M. NICHOL) CAPT.
Officer detailed to take
Summary of Evidence.

Date 30 Mar 45 'JHG'

This is to certify that I have examined No C.5087
Rank Pte Name Grier A.H. and find him
fit to undergo Court Martial.

'W Fowler' Capt
Medical Officer

'JHG'

I certify that due to the exigencies of the service it was necessary to hold the trial of C.4087 Pte Grier on Good Friday the 30 March 45.

' J Gowan' Major

EXHIBIT "A" REFERRED TO BY ME IN THE CASE OF C.5078 Pte Grier A.H.

Exhibit "B" 'D M Nichol'
(D.M. Nichol) Capt
Officer detailed to take
Summary of Evidence.

FORMA (in Lieu of Army Form B-115)

RECORD of the Declaration of a Court of Inquiry assembled at 4 Cdn Rft Bn on the 5th day of October 1944. for the purpose of investigating and recording the absence, without leave from his duty, and the deficiency, in any in the arms, ammunition, equipments, instruments, regimental necessaries, or clothing of

No. C.4078 Pte Grier A.H.

DECLARATION

THE COURT declare that No. C.5078 Pte Grier A.H. Hast & P.E.R. on strength 4 Cdn Rft Bn.,1 C.B.R.G. illegally absented himself without leave from 1800 hrs at Field Italy on the 7th day of September 44, and that on the 7 Sep 44 he was deficient, and that he is still deficient of the following articles:-

Total deficiencies amounting to $47.07 as per attached list.

Names of President and Members.

President	Capt W.F.S. Robertson	CIC
Members	Lieut P. Alexander	CIC
	Lieut P.E. Vincent	CIC

Certified True Copy from the Regtl Books in my custody
'Geo W Akehurst' Capt & Adjt
(G.W. AKEHURST)
Officer i/c Regtl Books and Records
2 Cdn N.R.T.D.

Exhibit C 'JHG'

PART II ORDER EXTRACT FORM

Officer Commanding
2 Cdn NETD (B)
Cdn Army CMF

19 March 45

Extract from Unit X-List Hasting and Price Edward Regiment
Part II Order No 21 dated 21 Feb 45

STRENGTH INCREASE
(e) T.O.S. X-4 List (1 Inf Bn) on appr from desertion 1500 hrs 3 Feb 45
C5078 Pte Grier A.

THIS IS EXHIBIT "B" REFERRED TO BY ME
IN THE CASE OF C.5078 PTE GRIER A.H.
'D M Nichol'
(D.M. Nichol) Capt
Officer detailed to take Summary Of Evidence

Certified True Copy
19 Mar 45
Date of Certification

'W H Laughlin'
(W.H. Laughlin) Capt
Officer haing custody of the original
Cdn Sec 2nd Echelon - AFHQ

Exhibit "D" 'JHG'

PART II ORDER EXTRACT FORM

Officer Commanding
2 Cdn NETD (B)
Cdn Army CMF

19 March 45

Extract from Unit X List Hastings and Prince Edward Regiment
Part II Order No 23 dated 27 Feb 45

ABSENT WITHOUT LEAVE
(a) A.W.L. from 1835 hrs 14 Feb 45. Still absent 1835 hrs 22 Feb 45 (8th day)
C5078 Pte Grier A. X-4 List (1 Inf Bn)

THIS IS EXHIBIT "C" REFERRED TO BE ME IN THE CASE OF C.5078 Pte Grier A.H.

'D M Nichol'
(D.M. NICHOL) Capt
Officer detailed to take Summary Of Evidence

Certified True Copy
19 Mar 45
Date of Certification

'W H Laughlin'
(W.H. Laughlin) Capt
Officer haing custody of original
Cdn Sec 2nd Echelon AFHQ

THIS IS EXHIBIT "D" REFERRED TO BE ME IN THE CASE OF C.5078 Pte GRIER A.H.

'D M Nichol'
(D.M. Nichol) Capt
Officer detailed to take Summary of Evidence

Exhibit "E" 'JHG'

CERTIFICATE IN ACCORDANCE WITH THE ARMY ACT SEC 163(1)(jj)

I certify that
No C5078 Rank Private Name GRIER A
of the "B" Coy Hastings and Prince Edward Regt of Canada
was arrested at ROME at 1130 hrs
on the 11th day of March 1945

Signature of PM APM or other Officer into whose custody the above named person was taken on arrest } "undecipherable"
Rank Captain

Appointment (if any) OC.
Commanding 279 Provost Coy C.M. Police

Date 12 March 45

Exhibit X 'JHG'

ARMY FORM B.296 (WAR).

Statement as to Character and Particulars of Service of Accused

(For Use at Trials by Field General Courts-Martial only)

Number.	Rank.	Name.	Regiment (or as the case may be).
C.5078	Pte	GRIER A.H.	No 2 Cdn NETD

NOTE.—The Field Conduct Sheet is to be produced in Court with this Statement, but is not to be annexed to the proceedings. The numbers herein stated should correspond with the number of ENTRIES in the Field Conduct Sheet, prominence being given to the most serious offence in each entry. If the charge is for drunkenness or absence without leave, the entries for drunkenness or absence, as the case may be, should be stated separately. Any recognised special acts of gallantry or distinguished conduct recorded on the Field Conduct Sheet should also be inserted here.

1. The following is a fair and true summary of the entries in the Field Conduct Sheet of the accused, exclusive of convictions by a court martial or a civil court:—

For AA S.o 15(1) ..... three times.

For AA Sec 40 ..... one times.

For XXXX

SCHEDULE OF CONVICTIONS BY A COURT-MARTIAL OR CIVIL COURT

Description of Court by which tried.	Date and Place of Trial.	Charges upon which convicted.	Sentence of the Court.	Punishment remitted or sentence suspended.
		'GWA'		

I HEREBY CERTIFY that the foregoing particulars, which have been extracted from the regimental books in my custody, are correct to the best of my knowledge and belief.

Signed this 30th day of March 45 'G W Akehurst' Capt

('G W Akehurst) Capt

Officer i/c Regtl Books No 2 Cdn NETD

Exhibit Y 'JHG'

No. C5078 Name GRIER Archie Howard | Sqn, Battery, or Company: CIC | Corps | Date of enlistment: 9 Jan 40 | GC Badges | Service or Proficiency Pay: $1.50 | Character

Date of last entry in Company Conduct Sheet | No. and date of last drunk | Period not reckoning towards freedom from extra fine | Sheet No | Signature OC Company, etc

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Name of Witnesses	Punishment awarded	Date of award or if order dispenses with trial	By whom awarded	Remarks
Field		Pte		AA Sec 15(1) AWL 10 days 5 hrs 30 mins		21 days F.P. 21 days Pay	22 Sep 42	20C HPER Regt	Total forf 32 days pay
Field		Pte		AA Sec 40		7 days FP	23 Nov 42	OC HPER Regt	
Field		Pte		AA Sec 15(1) AWL 1 day 5 hrs 50 mins		Forf 9 days Pay 28 days FP	20 May 44	OC 4 Bn	Tot forf
Field		Pte		AA Sec 15(1) AWL 14 days 3 hrs 45 mins		28 days Pay	(4 days remission earned)		43 days

CERTIFIED TO BE A TRUE COPY FROM THE REGTL BOOKS IN MY CUSTODY
'Geo W Akehurst' Capt
Officer i/c Regtl Books & Records
2 Cdn NETD

(F20)

(17 MFM 6 (AFH 122) 40/FAS/106 (5418))

E3 'JHG'

30 March 45

Plea of mitigation in the case of C.5078 Pte Grier
Mr Pres and members of the Court:

There is not much to be said in the case of an AWL charge such as has been laid against the accused. The accused is guilty. However I sincerely believe that a brief resume of the story behind the more than five years service, and good service it has been gentlemen, that Pte Grier has given - and a little explanation of the circumstances leading up to the crime in question will undoubtedly assist you in arriving at a fairer and more just decision than would be possible if these facts were not brought to light. I mean to mention but three main points - the first will throw a little light on the latter two and they will in turn make everything quite clear.

Pte Grier was one of the first Canadians to offer his service in this war and before many months had elapsed had taken part in the original "D" day landings on the coast of France in 1940. His first but by no means last contribution in the battle line.

From the time he left Canada, gentlemen early in 1940 Pte Grier's conduct and actions as a Canadian soldier were exemplory. So much so that until Sept42 he wore the non too common good conduct stripe. In Sep 42 Gentlemen Pte Grier overstayed a leave and was charged with being AWL. After being convicted he asked his CO if he should take down his stripe. The CO informed him that he had won it therefore it was his to wear or discard as he so please. The accused realized that he had done a wrong and therefore felt he did not deserve to display the good conduct stripe on his sleeve. He therefore took it down gentlemen - he did not discard it though but kept it. He kept it until it and the rest of his personal belongings were destroyed in December 1943 at Ortona, the day he was wounded.

What has all this supposed sentimentality to do with the case in question? I believe gentlemen that it on the surface a very minor point has a real inference into the true character of the soldier here before us. That is point No. 1

---

30 MARCH 45 GRIER 'JHG'

Now please remember Pte Grier as a young man with good intentions when he joined the army. A young man with but two slip-ups - actually small ones - in four years. A young man with an excellent record as a member of a fighting unit. A young man who since April 1943 has been trying futiley to switch from the Infantry Corps to the Provost Corps because he had decided he could do better work after the change. One who fought with the H.P.E.'s from Sicily to Ortona and then had his little world collapse about him in May 1944 when a long dreaded letter arrived from home. His mother informed him that his ailing father had died. This left his mother alone.

Something temporarily snapped within him - He had been on the move continuously from June in Sicily for eleven moths without a leave - He needed time to think things over now to try and realize what had happened He wanted to be alone and attempt to regain his former self. The only way he could see open. gentlemen, was to absent himself without leave. I wonder if after eleven months with an active unit we can blaime him? But what happended gentlemen? It took him but one day to see it was wrong and he came back. Mind you he still could not see things clearly, his mind was still over wrought but he realized he was wrong in absenting himself- he rependted and came back. Three weeks later he found himself in a quandrary again. After visiting the Padre and also talking to his Pl officer he again took things in his own hands and went AWL. After finding things clear again he once more surrendered himself to the Military Police. That little story is point No 2. I hope you can see as much in it as I can.

Point No 3 is merely a continuation. Some moths ago another flurry about home leaves and an increase of compassionate leaves came along. Upon investigation by his officers Pte Grier had more grounds for compassionate leave than others from his unit yet for some reason he remained behind while they went home. You can well imagine how he felt. Still his mother was alone - leave to Canada was impossible so he once more tried his own remedy that of AWL hoping

because even a leave in Italy had been refused

This time he rested completely, he regained his co
of the feeling that no one wanted to give a break to
- no transfer - no leave - no chance to see his mother
time he found himself in the predicament of being in too
out again - so he just stayed in.
The old story of being hung for a sheep.

got rid
private
by this
get

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30 MARCH 45

GRIER 'JH

Gentlemen it is quite clear that this case is not a first appempt at being AWL. Instead it is something that has been building up in the mind of that lad for two years and more. It is something that has definite causes and those causes are as yet still not remedied.

"Let the Punishment fit the Crime" - well and good BUT gentlemen, when you are fitting the punishment to this crime please remember that this lad has been trying to get help from the army for two years - as far as he was concerned, no one seemed to want to help him - so - he tried to help himself.

In view of the psychological aspect to the case I beg you gentlemen to see this case in its true light - that of a false step being taken because no one gave a helping hand - an all to common occurrence in the army - and such a false step as anyone might make under similar circumstances.

Signed 'W Grimmin' Lt RCA
Defending Officer

because even a leave in Italy had been refused him.

This time he rested completely, he regained his composure - got rid of the feeling that no one wanted to give a break to a lowly private - no transfer - no leave - no chance to see his mother - but - by this time he found himself in the predicament of being in too far to get out again - so he just stayed in.
The old story of being hung for a sheep.

Gentlemen it is quite clear that this case is not a first appempt at being AWL. Instead it is something that has been building up in the mind of that lad for two years and more. It is something that has definite causes and those causes are as yet still not remedied.

"Let the Punishment fit the Crime" - well and good BUT gentlemen, when you are fitting the punishment to this crime please remember that this lad has been trying to get help from the army for two years - as far as he was concerned, no one seemed to want to help him - so - he tried to help himself.

In view of the psychological aspect to the case I beg you gentlemen to see this case in its true light - that of a false step being taken because no one gave a helping hand - an all to common occurrence in the army - and such a false step as anyone might make under similar circumstances.

Signed 'W Grimmin' Lt RCA
Defending Officer

SCHEDULE.

PART I. PLEA(S), FINDING(S) AND SENTENCE.

Accused: C 5078 Pte Grier A.H.

Charge. (Insert "alternative" where applicable.)	Plea. (See Instrs p 2.)	Finding. (See note below.)	(Space for use as required for further charges, accused charged jointly, special findings, etc.)
1st	Guilty	Guilty	
2nd	Guilty	Guilty	
3rd			
4th			
5th			
6th			

(Note: As to findings for lesser offences see AA 36, RP 44; findings on alternative charges see MML p 483 fn 4 para 2, RP 44; special findings see RP 44 and MML p 753, and in lieu of kit see RP 44 fn 6.)

At present under sentence for ~~beginning on (date)~~ (1. Insert sentence being served, or delete, if not applicable. See RP 46(A). Information should be found on MF B355 or AF B296.)

Time in confinement awaiting present trial—a total of 18 days, of which ~~nil~~ days were spent in hospital. (1)
(1. See RP 46(A) fn 2. Information should be found on MF B355 or AF B296 admitted in evidence under E2.)

Sentence Awarded by the Court:

to be imprisoned with hard labour for a period of two years

(Sgd) JAG. Judge-Advocate, if any. 30 Mar 45 Date awarded. (Sgd) J H Gowan maj President. (RP 45, 50.)

(See back of Convening Order as to assembly and disposal of record after trial.)

PART II. MINUTE WHERE CONFIRMATION RESERVED. (AA 54(5), RP 120(F), MML p 760.)

Date (Sgd) Commanding

PART III. DECISION OF CONFIRMING OFFR ON FINDING(S) AND SENTENCE.

(For duties and powers see AA 54, 57, RP 120(D) fn 6.46(A), 51-56, 120, MML pp 759-761, KR Con 567-577. Acquittals require no confirmation and cannot be revised: AA 54(2). Sending back finding or sentence for revision by Court: AA 54(2), RP 120(G). If not confirmed, accused may be tried again: AA 157, MML p 64. Minute of confirmation or non-confirmation may be altered before promulgation: RP 53, MML p 65. Quashing after promulgation: KR Con 573. Duties and powers of reviewing offrs: AA 57, 57A, RP 53A, 54. The Confirming Offr must sign here personally. AA 172 fn 1.)

My decision on the finding(s) and sentence set forth in Part I is:

Confirmed

~~I direct that the accused be not committed to [illegible] or detention barracks until further [illegible].~~ (1. AA 57A. Delete if not used.)

Date 3 Apl 45 (Sgd) [signature] Commanding Officer Comd 1 Cdn Base Rp Gp

PART IV. PROMULGATED AND EXTRACTS TAKEN. (RP 53, KR Con 576, 577.)

Accused.	Date.	Signature of Offr.
C 5078 Pte GRIER A.H. 2 Cdn NETO	6 Apr 45	R H Sargeaunt major A.C. 1 Cdn Base Rp Gp NETO

ALL DELETIONS AND ALTERATIONS WILL BE INITIALLED.

3 MAY 1945 JAG [illegible] G.M.H.Q.

RECORDED AT CMHQ IN AD 168 5F-67

FIELD GENERAL COURT-MARTIAL

CFA96 (In lieu of AFA2) 40-P.S.-5-1698 (2664)

Order of Col A G Lee VC Comd 1 CBRG dated 27 Mar 45

ACCUSED.

(As to the trial of two or more charged jointly see RP 16, 71, 109. As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Con 308, 328, 330.)

Number.	(a) Prmnt R. (b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
C 5078	Pte	Archie Howard	Grier	2 Cdn NETO

PROCEEDINGS REVIEWED
J. Kirkwood Capt
4 May 45
REVIEWING OFFICER, JAG BRANCH C.M.H.Q.

PROCEEDINGS OF TRIAL.

Held in the Fd in (country) Italy on (date(s)) 30 Mar 45

RECORD FORM A—OPENING PROCEEDINGS AND ARRAIGNMENT.

A1. The President, Members, ~~waiting Member, JA, if any, and Offrs under instr, if any,~~ assemble, and the Court is closed. JAG

(PRINTED MATTER, NOT IN ITALICS FOR GUIDANCE, WILL BE DELETED. IF NOT USED OR APPLICABLE, AND INITIALLED BY PRES OR JA. The Schedule referred to throughout is on p 4. Citations do NOT include all relevant fmn IOs. For guidance on procedure when a variation in this form arises, see form for GCM in MML pp 741 to 759. A brief record of such variation will be made and given a number having reference to appropriate or preceding para number herein. See back of Convening Order, CF A95, for oaths and instrs on how to record addresses, evidence, etc, which instrs are hereafter called "Notes". As to general provisions for conducting the trial see AA 52, RP 56, 63-70, 73, 74, 94, 102, 119, 122.)

A2. The President initials and lays before the Court the Convening Order and Charge Sheet(s) attached thereto.(1) The Court is satisfied that it is properly convened and constituted(2), accused is (are) amenable to military law and each charge discloses an offence.(3) JAG

(1. As to use of Summary of Evidence see RP 17 fn 6. 2. AA 49, 50, RP 105-107. 3. RP 11-13, 23, 24.)

A3. The Court is opened. The accused is ~~(are)~~ brought before the Court. At 1555 hours trial commences.

A4. The Prosecutor produces a Medical Certificate that accused is ~~(are)~~ fit to undergo trial by court-martial.(1) JAG
~~The Prosecutor informs the Court that accused elected to be tried by court-martial instead of being dealt with summarily by the CO.(2)~~ JAG
(1. KR Con 557. 2. AA 46(8), RP 60 fn 1. For effect see KR Con 563(c). Delete, if not applicable.)

~~A5. President to accused: Do you object to an interpreter? Ans~~ JAG
~~The Interpreter is sworn.(1) Do you object to as shorthand writer? Ans~~ JAG
~~The shorthand writer is sworn.(1)~~
(1. RP 72. Delete, if none employed.)

A6. The Convening Order and names of the President and Members of the Court are read to the accused.(1) President to accused: Do you object to be tried by me as President or by any of the Members of the Court?

Ans NO (2) JAG
(1. RP 110. 2. If no objection, waiting member retires. RP 68(8). If objection, see procedure AA 51, RP 25, 71, 18, MML p 742.)

A7. The President, Members, ~~JA, if any, and Offrs under instr, if any,~~ are sworn.(1) The following are the ranks, names and units of the offrs comprising the Court, etc: JAG

President	Major	John Harper Gowan	C I C 2 Cdn NETO
Member	Capt	John Murchie Tierney	C I C 2 Cdn NETO
Member	Lieut	Edward Richards Bruce	C I C 2 Cdn NETO
Judge-Advocate			
Prosecutor	Lieut	David Maxwell Reidel	R C A 2 Cdn NETO
Defending Offr	Lieut	Wallace Edwin Griffin	R C A 2 Cdn NETO

Questions by President: Is the Prosecutor a lawyer? Ans No Is the Defending Offr a lawyer? Ans No JAG
(1. RP 26, 27, 109, 111. List of offrs under instr will be returned separately with proceedings for information of Cons Offr.)
(2. If Pros a lawyer and Def Offr not, accused is entitled to an adjournment when RP 89 (8) and fn 2 were not followed. See Dil p 33.)

A8. The accused C 5078 Pte Grier A H before arraignment makes(s) (no) objection(s) JAG (1)
(1. If a special plea is made for separate trial on one or more charges (RP 62(E), 108), or as to the jurisdiction of the Court (RP 34, 35(A), 113), or in bar of trial (RP 36), or as to accused's mental fitness to stand trial (AA 130, RP 57), or by one of several accused charged jointly to be tried separately (RP 16, 71), such plea, the addresses made in support or against, the evidence, if any, and finding are recorded per Notes. For forms of record see references in fns to RP above. Insert in AB rank and name of the accused making the plea.)

A9. The accused is ~~(are)~~ arraigned (separately) on all charges in the charge sheet.(1) The accused does ~~(does)~~ not object to any charge.(2) There is no amendment to be made to the Charge Sheet.(3) The Prosecutor reads the pleas in Part I of the Schedule. JAG
(1. RP 31, 112. See para 1 of Instrs p 2. When more than one Charge Sheet see RP 62; when several accused to be tried separately see RP 71(C), and use separate copies of CF A96 to record proceedings. 2. RP 32, RP 33. If otherwise, delete and make appropriate record per Notes.)

A10. The Court (is closed and) considers the Instrs on Procedure after Arraignment at top of p 5. The proceedings are continued on Record Form F5 JAG

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

Q.55

INSTRUCTIONS ON PROCEDURE AFTER ARRAIGNMENT.

1. *The accused may not plead or be found Guilty on more than one of two or more charges laid in the alternative. (RP 37(A).) As to withdrawal of alternative charges by Prosecutor see RP 35(C). No other charge can be withdrawn for any reason without authy from Convening Offr. If Convening Offr concurs, Court may accept plea of Guilty to lesser, etc, offence. (RP 44(H).) Accused may change a plea of Not Guilty to Guilty during trial. (RP 38.) As to refusing to plead or not pleading intelligibly see RP 35(A). As to plea when sentence may be death see RP 35(D).*

2. *The proceedings on each charge sheet (RP 62) after arraignment will be conducted as follows in the respective circumstances stated :*

I. If pleas to all charges are GUILTY, use Record Form B below.

II. If pleas to all charges are NOT GUILTY, use Record Form D on p ■ 3.

III. If pleas to some charges are GUILTY and to other charges are NOT GUILTY and,

(a) Such mixed pleas occur when there are no alternative charges in the Charge Sheet, use Record Form C below. (RP 37(A).)

(b) Such mixed pleas occur in a set of two or more charges laid in the alternative, see RP 37 (A) and fn 2 as to discretion of Court, (i) to try the accused on all such alternative charges as if he had pleaded Not Guilty thereto, or, (ii) to record the pleas as the findings of Court. After deciding between (i) and (ii), Court will proceed under foregoing instrs as may be appropriate to result of its decision. See MML p 744 Instrs (2).

3. *As to responsibility of President to accused see RP 59, 60(C); powers and duties of JA see RP 103; duty of Prosecutor see RP 60(A) (B); duty and privileges of accused and Defending Offr see RP 60(C), 87(C), 91, 92; swearing and withdrawal of witnesses from Court see RP 81, 82; questioning of accused see RP 80, 87(C), 92(B), and of witnesses see RP 83-85; calling or re-calling of witnesses by Court etc see RP 75-79, 86, 116; use of Summary of Evidence at Trial see RP 17(E) fn 6; and responsibility of JA or Pres to record proceedings see RP 94, 96.*

RECORD FORM B—PROCEEDINGS ON PLEAS OF GUILTY TO ALL CHARGES.

B1. The President or JA, if any, complies with RP 35(B) by explaining to the accused the nature and meaning of the charge(s)(1), and that on his plea of Guilty there will be no regular trial but merely a consideration of the sentence to be awarded after he has been given an opportunity to make a statement in reference to the charge(s), call witnesses as to character and make an address in mitigation of punishment.(2)

(1. *RP 35 fn 3.* 2. *MML p 54 para 47.*)

B2. President to accused : The Court will now receive any statement you desire to make in reference to the charge(s).(1) If it appears from your statement that there are circumstances which indicate that you do not understand the effect of the plea of Guilty(2), or which show provocation or extenuation in respect of which in your interest the witnesses for the Prosecution should be examined(3), we shall advise you to change your plea to Not Guilty. In making a statement you will not be sworn or subject to cross-examination ; and anything you say will not be used in evidence against you after you change your plea. If, however, it appears to the Court that your statement affects only the amount of punishment to which you are liable, you will not be advised to change your plea and you will be given an opportunity later to prove your statement by sworn testimony, if you so desire.(4)

President to accused : Do you wish to make a statement ? Ans. NO (5)

(1. *RP 37(B).* 2. *RP 37(D) fn 6.* 3. *RP 35(B) fn 3 para 3, MML p 54 para 47.* 4. *See para E3 of Record Form E.* 5. *Statement, if any, recorded per Notes.*)

B3. ~~The Court considers the accused's statement.(*) The Court decides (not) to advise accused to change his (their) plea(s) of Guilty to Not Guilty on charge(s). The accused is (are) so informed, and he (they) change(s) his (their) plea(s) to Not Guilty on charge(s). Part I of the Schedule is amended accordingly.~~

(1. *Court may be closed to consider the statement. Delete whole or part not used.*)

B4. On the charge(s) to which the plea(s) of Guilty is (are) not changed the President records finding(s) of Guilty in Part I of the Schedule.(1)

(1. *RP 35(B). If any plea(s) is (are) changed, use Record Form C or D as appropriate.*)

B5. The Summary of Evidence is marked Ex A, initialled and read aloud by the President.(1)

(1. *If there is no Summary, or if it is inadequate, comply with RP 37(B). If there is any evidence inconsistent with one being standing as Guilty, Court will advise accused to change such plea and, if changed to Not Guilty, try such charge(s) by use of paras D1 to D8 inclusive of Record Form D on p 3. RP 37(D).*)

B6. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

RECORD FORM C—PROCEEDINGS ON MIXED PLEAS OF GUILTY AND NOT GUILTY.

C1. As to the charges on which accused pleaded NOT GUILTY the trial is continued by using paras D1 to D8 inclusive of Record Form D on p 3 before proceeding with C 2.(1)

(1. *RP 37(A) (E).*)

C2. The charges on which accused pleaded GUILTY are read to him (them) again, and the trial is continued by using paras B1 to B5 of Record Form B above.(1)

(1. *Under B5 such parts only of the Summary of Evidence to be read as relate to the charges dealt with under C2. If any plea is changed to Not Guilty, trial thereon proceeds by complying with paras D1 to D8 inclusive in Record Form D on p 3 and making an appropriate record thereof on a separate sheet.*)

C3. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

RECORD FORM D—PROCEEDINGS ON PLEAS OF NOT GUILTY TO ALL CHARGES.

D1. President to accused : Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity to prepare your defence ? Ans .....(1)

(1. *If "yes", see RP 39(A) for procedure. Statement or evidence, if any, is recorded per Notes.*)

D2. The Prosecutor makes (an) (no) opening address.(1)

(1. *RP 39(B), 60(A) (B), 90, 92(C) (D). Record address per Notes, subject to RP 95(C).*)

D3. The evidence for the Prosecution is taken.(1)

(1. *RP 39(C). 114, KR Can 555. Record evidence per Notes. As to Prosecutor giving evidence himself see RP 39(D) (E).*)

D4. The Prosecution is closed.(1) The Defending Offr submits that the evidence for the Prosecution does not establish a prima facie case against the accused on the ..... charge(s).(2) The Court is closed, and considers the submission.(3) The Court is re-opened, and the President announces that the submission is disallowed on the ..... charge(s), and allowed on the ..... charge(s), and that, accordingly, the trial will proceed on the former, but the accused is (are) found Not Guilty on the latter charge(s).(4)

(1. *Delete remainder of this para, if submission not made.* 2. *Arguments on submission, answer and reply are recorded per Notes.* 3. *RP 40 fn 1. See MML p 72 paras 12-14 and p 81 para 42.* 4. *Delete part not used. If accused acquitted on all charges, use second alternative in para D8.*)

NB : If trial proceeds, accused must be allowed great latitude in making his defence, and the Court should not stop his defence solely on ground of irrelevance. (RP 60(C), 114, 115.)

D5. President to accused : You will now proceed with your defence.(1) You may, if you wish, give evidence yourself on oath as to the facts or your character or both, in which case you will be subject to cross-examination.(2) You may, however, make a statement without being sworn, and you will not be subject to cross-examination.(3) But a statement which could have been made on oath will not carry with the Court the same weight as sworn testimony.(4) You may call witnesses in your defence and as to character, whether you give evidence or make a statement or do neither.

President to accused : Do you wish to give evidence yourself as a witness, make a statement, or do neither ?

Ans .....

Do you intend to call witnesses on your behalf ?

Ans .....

Are they witnesses as to character only ! Ans .....

Ans .....

(1. *RP 155.* 2. *RP 40(A), see 80(D).* 3. *RP 40 fn 10.* 4. *RP 40 fns 2, 9.*)

D6. Consequent on the answers recorded in para D5 the appropriate procedure for the defence is followed.(1)

(1. *RP 114, 115, 116. For procedure see Notes on back of Convening Order, CF A95. Evidence for accused as to his character should, if in his interest, be given before the finding. See RP 46(A) fn 1, 86(C). Note the further opportunity in para E1 of Record Form E. Record per Notes addresses, statement, evidence and any summing up by the JA under RP 42, 103(4).*)

D7. The Court is closed to consider the finding(s).(1) The finding(s) of the Court is (are) recorded in Part I of the Schedule.(2) The Court is re-opened.

(1. *RP 43, 47(A). See Notes in Part I of Schedule.* 2. *RP 44(A).*)

D8. The President announces the finding(s), if any, of Not Guilty, and states to the accused that the finding(s) of the Court on the ..... charge(s), being subject to confirmation, will be promulgated later.(1)

Or, The President announces that the accused is found Not Guilty on all charges and is to be released forthwith, and that the proceedings are accordingly terminated. Part I of the Schedule is dated and signed.(2)

(1. *AA 54(2) (a), RP 45, 120(A).* 2. *AA 54(3), RP 45, 117. This alternative announcement is not applicable when there are pleas of Guilty outstanding and dealt with under Record Form B or C.*)

D9. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E below.

RECORD FORM E—PROCEEDINGS ON CONVICTION BEFORE SENTENCE.

E1. President to accused : Do you wish to give evidence yourself or to call any witnesses as to your character ?(1)

Ans NO

(1. *If evidence has already been given by accused or his witnesses as to his character, delete this para. RP 37(C) fn 4, 46 fn 1. Accused and witnesses are sworn. Evidence recorded per Notes.*)

E2. The Prosecutor produces Statement(s) as to Character and Particulars of Service(1), and certified true copy (~~extract~~) of Conduct Sheet(s)(2), purporting to refer to the accused, which he submits to the Defending Offr for examination, and then to the Court for admission in evidence. The Court is satisfied that these documents refer to the accused, because (i) they purport to be signed in the manner required by AA 163(3) (g) (h), and (ii) they purport to refer to (a) soldier(s) having the same number, rank, name and corps as the accused. Admitted in evidence and marked Ex X and Ex Y respectively.(3)

(1. *AFB 255 or AFB 296.* 2. *MFM 6.* 3. *RP 46, KR Can 558. If above documents not produced, see RP 46 fn 1 para 1.*)

E3. President to accused : Do you wish to address the Court on the Statement(s) and Conduct Sheet(s), and in mitigation of punishment ?(1) Ans .....

(1. *RP 37(C), 46(D).* 2. *Address, if any, recorded per Notes. Court should permit accused or his witnesses to prove on oath anything here or previously stated which would affect the amount of punishment. RP 37(F) fn 7.*)

E4. The President states that the Court is closed to consider the sentence, and that the sentence to be awarded by the Court, being subject to confirmation, will not be announced, but will be promulgated later, and the proceedings in open court are accordingly terminated.(1)

(1. *AA 54(6), RP 120(A).*)

E5. The Court considers the sentence.(1) The President records the sentence in Part I of the Schedule, which is dated and signed by him and the JA, if any.(2)

(1. *When several accused tried separately see RP 7(D). One sentence only, comprised of the punishments or punishments laid down in AA 41, 44 and its proviso, is to be awarded to cover all charges in all charge sheets on which accused found guilty, see RP 48. As to sentences see AA 44, 138, 182, RP 46-50, 69, 118, 119(A), KR Can 308, 332, 563-586, Overseas RO 309, 1323, MML p 60, 757-759. As to sentences assigned for civil offences by the law of England see AA 41(5), MML p 130. When accused already under sentence of imprisonment or detention see AA 44(1B), 68(1), KR Can 584.* 2. *RP 52. As to release from arrest by Confirming Offr see KR Can 567. As to assembly and dispersal of record after trial see instrs on back of Convening Order.*)

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

J.H.L.

CHARGE SHEET

The accused, C-5078, Private Archie Howard GRIER, No.2 Canadian Non Effective Transit Depot, 1 Canadian Base Reinforcement Group, a soldier of the Canadian Army Overseas, is charged with:-

FIRST CHARGE

Section 15(1)

Army Act.

WHEN ON ACTIVE SERVICE, ABSENTING HIMSELF WITHOUT LEAVE,

in that he,

in the Field, in Italy, at approximately 1800 hrs, 7 SEP 44, absented himself without leave until about 1500 hrs, 3 FEB 45. (Absent 148 days, 21 hrs.)

SECOND CHARGE

Section 15(1)

Army Act.

WHEN ON ACTIVE SERVICE, ABSENTING HIMSELF WITHOUT LEAVE,

in that he,

in the Field, in Italy, at approximately 1835 hrs, 14 FEB 45, absented himself without leave until about 1130 hrs, 11 MAR 45. (Absent 24 days, 16 hrs, 55 mins.)

In the Field,
24 March 45.

D J Burgoyne

(D. J. Burgoyne) Major.
Commanding Officer,
No.2 Cdn. N.E.T.D.
1 Cdn. Base Rft. Group.

TO BE TRIED BY FIELD GENERAL COURT MARTIAL

In the Field
In Italy
29 Mar 45

S A Lee

(S.A. Lee) Colonel
Comd 1 Cdn Base Rft Group

FIELD GENERAL COURT-MARTIAL

CFA95 (In lieu of AFAB)
40/PAM/1097 (2005)

(Whether the accused to be tried is under his comd or not, a FGCM may on application to him be convened by any offr of Cdn Army Overseas, or of any other force if authorized in law, in immediate comd of troops on active service, subject to RP 105(C) and restrictions imposed by appropriate authy. AA 49, 50, RP 104-107, 114. As to the duties and privileges of the Convening Offr in dealing with the application see MML Chap V paras 20 and 23, RP 87(B).
There should be a separate Convening Order for each person to be tried separately by the same Court. RP 71(C), 109. As to separate charge sheets see RP 62, and as to separate trial on charges in the same charge sheet see RP 108. As to two or more accused charged jointly see RP 16, 109.
As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

ACCUSED.

Number.	(a) Prmnt R.	(b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
C.5078	Pte.		Archie Howard	GRIER	2 Cdn NETD

CONVENING ORDER.

1. Whereas complaint has been made to me, the undersigned, that the person~~(s)~~ named above as the accused, being subject to military law, has ~~(have)~~ committed the offence(s) set forth in the Charge Sheet~~(s)~~ attached and on (date) 29 Mar 45 endorsed by me, ~~(or by an offr of my staff for me)~~, "To be tried by Field General Court-Martial".

2. And whereas I am of opinion that it is not practicable that such offence(s) should be tried by an ordinary General Court-Martial; ~~(and that it is not practicable to delay the trial for reference to a superior qualified offr.)~~
(Delete part in brackets when not required for compliance with RP 105(C).)

3. I hereby convene a Field General Court-Martial to try the said person~~(s)~~ and to consist of the Offrs appointed or detailed hereunder.

~~4. I am unable to appoint (a) three Offrs to form the Court, (b) a Fd Offr as President, for the reasons I have attached hereto.~~
(AA 49, RP 106(B), 107(A). Delete the whole or part, if not applicable.)

~~5. I also appoint as Judge-Advocate thereat the Offr mentioned hereunder.~~
(RP 106(E). Delete, if none appointed.)

PRESIDENT.

Major (Rank.)	J.H. GOWAN	CIC (Must be named. RP 106.)	2 Cdn NETD (Unit.)

MEMBERS.

Capt (Rank.)	J.M. TIERNEY	CIC	2 Cdn NETD
Lieut (Rank.)	E.R. ~~BRUCE~~	CIC (Named or detailed. RP 106.)	2 Cdn NETD (Unit.)

WAITING MEMBER.

Capt or Lieut to be detailed by OC 2 Cdn NETD (Rank.)	(Named or detailed, if any. RP 106.)	(Unit.)

JUDGE-ADVOCATE.

(Rank.)	(Must be named, if any. RP 106.)	(Unit.)

On Active Service in the Fd

in Italy (Country.)

Date 29 Mar 45

(Signed personally. RP 105 fn 2.)
(S.A. Lee)
Commanding 1 Cdn Base Rft Group
Convening Officer.

Colonel (Rank.)

CONVENING OFFR WILL INITIAL ALL DELETIONS AND ALTERATIONS

(See overleaf for oaths and notes for use on trial.)

JNG.

I certify that due to the exigencies of the service it was necessary to hold the trial of (5087) Pte. GRIER, A.H., on Good Friday the 30 Mar 45.

J.N. Gowan Maj

Date 30 Mar 45 JNG

This is to certify that I have examined No. C-5087
Rank Pte Name Grier, A.H. and find him
fit/~~unfit~~ to undergo Court Martial.

W. Fowler Capt
Medical Officer

EXHIBIT A

SUMMARY OF EVIDENCE

In the case of C.5078 Private GRIER, A.H., No. 2 Canadian Non Effective Transit Depot, 1 Canadian Base Reinforcement Group, a soldier of the Canadian Army Overseas.

By direction of the Commanding Officer, this Summary of Evidence is taken on oath.

FIRST WITNESS
For the
PROSECUTION

Captain T.B.Harrison, R.C.A., having been duly sworn, states:-

"I am Captain T.B.Harrison, R.C.A., attached to No.2 Cdn, N.E.T.D. I present a certified true copy of a pro forma in lieu of A.F.B.115, dated 5 Oct 44 (Appended hereto as Exhibit "A") and certified true extracts from "X" List Hastings and Prince Edward Regiment Part II Orders No.21 dated 21 Feb 45 (Appended hereto as Exhibit "B") and Order No.23 Dated 27 Feb 45 (Appended hereto as Exhibit "C"). I further present a certificate in accordance with Army Act, Sect. 163 (1)(jj) purporting to be signed by O.C., 279 Provost Coy, C.M.Police (Appended hereto as Exhibit "D"). All these documents pertain to C.5078 Pte. Grier, A.H."

T.B.Harrison Capt.
(T.B.Harrison)

THE ACCUSED DECLINES TO CROSS-EXAMINE THE WITNESS.

QUESTION TO THE ACCUSED.- "Do you wish to make a statement or give evidence on oath? You are not obliged to make a statement or give evidence on oath, but if you do make a statement or give evidence on oath, it will be taken down in writing and may be brought up in evidence."

THE ACCUSED DECLINES TO MAKE A STATEMENT AND RESERVES HIS DEFENCE.

I certify that the foregoing Summary of Evidence, consisting of one (1) page, was taken in the presence and hearing of the accused and that R.P.(4)(c),(d),(e) and (f) have been complied with.

In the Field
21 Mar 45.

(D. E. NICHOL) CAPT.
Officer detailed to take
Summary of Evidence.

THIS IS EXHIBIT "A" REFERRED TO BY ME IN THE CASE OF C.5078 PTE. GRIER, A.H.

EXHIBIT "A"

(D. M. NICHOL) CAPT.
Officer detailed to take Summary of Evidence.

Pro Forma (in lieu of Army Form B-115).

RECORD of the Declaration of a Court of Inquiry assembled at 4 Cdn. Rft. Bn. on the 5th day of October 1944. for the purpose of investigating and recording the absence, without leave from his duty, and the deficiency, if any, in the arms, ammunition, equipments, instruments, regimental necessaries or clothing of,

No. C.5078 Pte. Grier, A.H.

D E C L A R A T I O N

THE COURT declare that No.C.5078 Pte. Grier, A.H., Hant. & P.E.R. on strength 4 Cdn. Rft. Bn., 1 C.B.H.Gp. illegally absented himself without leave from 1800 hrs at Field, Italy on the 7th day of September 44, and that on the 7 Sep 44 he was deficient, and that he is still deficient of the following articles:--

Total deficiencies amounting to $47.07 as per attached list.

Names of President and Members.

President	Capt. R.F.B. Robertson	CIC
Members	Lieut. P. Alexander	CIC
	Lieut. P.E. Vincent	CIC

Signature of Commanding Officer "L. J. Flynn, Lt-Col"

Certified true copy from the Regtl Books in my custody.

Geo W Akehurst Capt. & Adjt.
(G. W. AKEHURST)
Officer i/c Regtl Books and Records.
2 Cdn. N.R.T.D.

EXHIBIT C

PART II ORDER EXTRACT FORM

99/20/

TO: Officer Commanding
2 Cdn NETD (B)
Cdn Army (C.M.F.)

19 Mar 19 45

EXTRACTS FROM: Unit X LIST HASTING AND PRINCE EDWARD REGIMENT

Part II Order No. 21 dated 21 Feb 45

STRENGTH INCREASE

(e) T.O.S. X-4 List (1 Inf Bn) on appr from desertion 1500 hrs 3 Feb 45.

C 5078 Pte Grier, A.

THIS IS EXHIBIT "B" REFERRED TO BY ME
IN THE CASE OF C.5078 PTE. GRIER, A.H.

D.M. Nichol

(D.M.NICHOL) CAPT.
Officer detailed to take
Summary of Evidence.

Certified True Copy
19 Mar 45
Date of Certification

W.H. Laughlin Capt
Officer having custody of the original
Cdn Sec 2nd Echelon - AFHQ

Originating Clerk's Initials

for
Officer in Charge
Canadian Section, GHQ, 2nd Echelon

ECH—6
40 P & S 1976 (4032)

PART II ORDER EXTRACT FORM

EXHIBIT D

99/20/

TO: Officer Commanding
2 Cdn NETD (B)
Cdn Army (C.M.F.)

19 Mar 19 45

EXTRACTS FROM: Unit X LIST HASTINGS AND PRINCE EDWARD REGIMENT

Part II Order No. 23 dated 2/ Feb 45

ABSENT WITHOUT LEAVE

(a) A.W.L. from 1635 hrs 14 Feb 45. Still absent 1635 hrs 22 Feb 45 (8th day)
C 5078 Pte Grier, A. X-4 List (1 Inf Bn)

THIS IS EXHIBIT "C" REFERED TO BY ME IN THE CASE OF C.5078 PTE. GRIER, A.H.

(D.M.NICHOL) CAPT.
Officer detailed to take Summary of Evidence.

Certified True Copy
19 Mar 45
Date of Certification

(W.H. Laughlin) Capt
Officer having custody of the original
Cdn Sec 2nd Echelon - AFHQ

Originating Clerk's Initials

for
Officer in Charge
Canadian Section, GHQ, 2nd Echelon

ECH—5
40/P&S/1276 (46322)

THIS IS EXHIBIT "D" REFERRED TO BY ME IN THE CASE OF C.5078 PTE. GRIER A H

(D.M.NICHOL) CAPT.

Officer detailed to take Summary of Evidence.

EXHIBIT E

Certificate in accordance with the Army Act Sec. 163 (1) (ii)

I certify that

No 35078 Rank Private Name GRIER A.

of the "B" Coy., Hastings & Prince Edward Regt of Canada

was arrested at ROME at 1130 Hrs.,

on the 11th day of March 1943

Signature of P. M., A. P. M., or other Officer into whose custody the above named person was taken on arrest.

Rank Captain

Appointment (if any) C.O.

Commanding 25th Provost Coy., C.M.P.(Italy)

Date 12th March 1943

EXHIBIT X

ARMY FORM B.296 (WAR).

Statement as to Character and Particulars of Service of Accused.

(For Use at Trials by Field General Courts-Martial only).

Number.	*Rank.*	*Name.*	*Regiment (or as the case may be).*
C-5078	PTE.	GRIER, A.H.	No.2 Cdn. H.E.T.D.

NOTE.—The Field Conduct Sheet is to be produced in Court with this statement but is not to be attached to the proceedings. The numbers herein stated should correspond with the number of Entries in the Field Conduct Sheet, prominence being given to the most serious offence in each entry. If the charge is of absence drunkenness or absence without leave, the entries for drunkenness or absence, as the case may be, should be stated separately. Any recognized special acts of gallantry or distinguished conduct recorded on the Field Conduct Sheet should also be inserted here.

1. The following is a fair and true summary of the entries in the Field Conduct Sheet of the accused, exclusive of convictions by a court martial or a civil court :—

For A.A.Sec.15(1) Three times.

For A.A.Sec.40 One times.

For ~~Nil~~ times.

For ~~Nil~~ times.

Date of first entry in Field Conduct Sheet 22 Sep 42

Date of last entry in Field Conduct Sheet 9 Jun 44

2. Previous convictions of the accused by a court martial or a civil court are set out in the Schedule overleaf.

*3. ~~The accused has not previously undergone imprisonment~~ ~~Nil~~ detention

~~in civil custody~~

*Strike out if not applicable.

4. The accused has been awaiting trial on the present charges for Nil days in civil custody; and for 18 days in military custody, i.e., Nil days in open arrest, 18 days in close arrest; of which Nil days were spent in hospital.

5. The present age of the accused is 23 years

6. The date of his attestation is 9 JAN 40

7. ~~The accused was convicted by a court martial on~~

8. The accused is in possession of† OVEM & CLASP, '39-'43 STAR

9. ~~The accused was reported for~~ ~~Nil~~

~~in the Field~~

~~during the period~~

~~under the following~~

†State the military decorations (if any) held by accused.

INSTRUCTION.—*If any matter in any of the above paragraphs cannot be stated from the regimental books the paragraph must be struck through.*

(*29072) W1.30751/3701 M2,000 9.44 A.& E.W.Ltd. Gp.698

SCHEDULE OF CONVICTIONS BY A COURT-MARTIAL OR CIVIL COURT.

Description of Court by which tried.	Date and Place of Trial.	Charges upon which convicted.	Sentence of the Court.	Punishment remitted or sentence suspended.

Nil

I HEREBY CERTIFY that the foregoing particulars, which have been extracted from the regimental books in my custody, are correct to the best of my knowledge and belief.

Signed this 30th day of MARCH 95

G W Akehurst Capt

(G. W. Akehurst) Capt. & Adjt.
Officer i/c Regtl. Books, & Records.
No.2 Cdn. M.E.T.D.

EXHIBIT Y 946

MFM 6
(AFH 122)
40/F&S/126 (3428)

C.5078 No. Name GRIER, Archie Howard

Corps C.I.C.

Date of enlistment 9 JAN 40

GC Badges

Servicing or Proficiency Pay $1.50

Character

Date of last entry in Company Conduct Sheet

Sqn, Battery, or Company

No and date of last drunk

Period not reckoning towards freedom from extra fine

Signature OC Company, etc

Sheet No

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witness	Punishment awarded	Date of award or of order dispensing with (this)	By whom awarded	Remarks
Field		Pte		A.A.Sec.15(1) AWL- 10 days 5 hrs, 30 mins.		21 days F.P.	22 Sep 42	OC, H & P.E. Regt.	To tal forf 52 days pay.
						21 days Pay.			
Field		Pte.		A.A.Sec.40		7 days FP	23 Nov 42	OC, H & P.E. Regt	
						7 days Pay			
Field		Pte.		A.A.Sec.15(1) AWL - 1 day 5 hrs 50 mins		Forf. 9 days Pay	20 May 44	OC.H&PER	Tot.Forf. 43 days.
Field		Pte.		A.A.Sec.15(1) AWL -14 days 3 hrs 45 mins.		28 days FP	9 Jun 44	OC - 4 BN	
						28 days Pay(4 days remission earned)			

CERTIFIED TO BE A TRUE COPY FROM THE REGTL. BOOKS IN MY CUSTODY.

Geo W Akehurst CAPT.
Officer i/c Regtl. Books & Records
No. 2 CDN. H.&P.D.

(FTO)

30 March 42 E3 JWG

Plea of mitigation in the case of C5078 Pte. Grier. Mr. Pres. and members of the court:

There is not much to be said in the case of an AWL charge such as has been laid against the accused. The accused is guilty. However I sincerely believe that a brief resumé of the story behind the more than five years service, and good service it has been, gentlemen, that Pte. Grier has given — and a little explanation of the circumstances leading up to the crime in question will undoubtedly assist you in arriving at a fairer and more just decision than would be possible if these facts were not brought to light. I mean to mention but three main points — the first will throw a little light on the latter two and they will in turn make everything quite clear.

Pte. Grier was one of the first Canadians to offer his services in this war and before many months had elapsed had taken part in the original "D day" landings on the coast of France on 1940. This first but by no means last contribution in the battle line.

From the time he left Canada, gentlemen, early in 1940 Pte. Grier's conduct and actions as a Canadian soldier were exemplary. So much so that until Sep 42 he wore the now too common good conduct stripe. In Sep 42, Gentlemen, Pte Grier overstayed a leave and was charged with being AWL. After being convicted he asked his C.O. if he should take down his stripe. The C.O. informed him that he had won it therefore it was his to wear or discard as he so pleased. The accused realized that he had done a wrong and therefore felt he did not deserve to display the good conduct stripe on his sleeve. He therefore took it down gentlemen — he did not discard it though but kept it. He kept it until it and the rest of his personal belongings were destroyed in December 1943 at Ortona, the day he was wounded.

What has all this supposed sentomentality to do with the case in question? I believe, gentlemen that it, on the surface a very minor point has a real inference into the true character of the soldier here before us. That is point No. 1.

Now please remember Pte Grier as a young man with good intentions when he joined the army. A young man with but two slip-ups - actually small ones - in four years. A young man with an excellent record as a member of a fighting unit. A young man who since April 1943 has been trying futilely to switch from the Infantry Corps to the Provost Corps because he had decided he could do better work after the change. One who fought with the H.P.E's from Sicily to Ortona and then had his little world collapse about him in May 1944 when a long dreaded letter arrived from home. His mother informed him that his ailing father had died. This left his mother alone.

Something temporarely snapped within him - He had been on the move continuously from June in Sicily for eleven months without a leave - He needed time to think things over now to try and realize what had happened - He wanted to be alone and attempt to regain his former self. The only way he could see open, gentlemen, was to absent himself without leave. I wonder if after eleven months with an active unit we can blame him? But what happened gentlemen? It took him but one day to see it was wrong and he came back. Mind you he still could not see things clearly, his mind was still overwrought but he realized he was wrong in absenting himself - He repented and came back. Three weeks later he found himself in a quandrary again. After visiting the Padre and also talking to his Pl. Officer he again took things in his own hands and went AWL. This time after finding things clear again he once more surrendered himself to the Military Police. - That little story is point No 2. I hope you can see as much in it as I can.

Point No 3 is merely a continuation: Some months ago another flurry about home leaves and an increase of compassionate leaves came along. Upon investigation by his officers Pte Grier had more grounds for compassionate leave than others from his unit but for some reason he remained behind while they went home. You can well imagine how he felt. Still his mother was alone - leave to Canada was impossible so he once more tried his own remedy - that of AWL because even a leave in Italy had been refused him.

This time he rested completely, he regained his composure - got rid of the feeling that no one wanted to give a break to a lowly private - no transfer - no leave - no chance to see his mother - But - by this time he found himself in the predicament of being in too far to get out again - so he just stayed in. - The old story of being hung for a sheep.

30 March 45

Grier

Gentlemen it is quite clear that this case is not a first attempt at being AWL. Instead it is something that has been building up in the mind of that lad for two years and more. It is something that has definite causes and those causes are as yet still not remedied.

"Let the Punishment fit the Crime" — well and good BUT gentlemen, when you are fitting the punishment to this crime please remember that this lad has been trying to get help from the army for two years — as far as he was concerned no one seemed to want to help him - so - he tried to help himself.

In view of the psychological aspect of the case I beg you gentlemen to see this case in its true light — that of a false step being taken because no one gave a helping hand — an all too common occurrence in the army — and such a false step as anyone might make under similar circumstances.

Signed H Griffin
Lt RCA
Defending Officer

LIST OF WITNESSES

In the case of C-5078 Private Archie Howard GRIER, No.2 Canadian Non Effective Transit Depot, 1 Canadian Base Reinforcement Group, a soldier of the Canadian Army Overseas.

FOR THE PROSECUTION

1. Captain T.B.Harrison, R.C.A. - Att'd No. 2 Cdn. N.E.T.D.

FOR THE DEFENCE

N I L

- - - - - - - - - - -

LIST OF EXHIBITS

In the case of C-5078 Private Archie Howard GRIER, No. 2 Canadian Non Effective Transit Depot, 1 Canadian Base Reinforcement Group, a soldier of the Canadian Army Overseas.

"A" - Certified true copy of pro forma in lieu of A.F.B.-115

"B" - Certified true extracts from "X" List H. & P.E. Regt. Part II Orders, No. 21, d/21 Feb 45.

"C" - Certified true extracts from "X" List H. & P.E.Regt. Part II Orders No.23, d/27 Feb 45.

"D" - Certificate in accordance with Army Act, Sect.163(1)(jj).

I, C-5078 - Pte. GRIER, A.H., request that my Commanding Officer appoint A.T.S.N.D. ~~S.A.A.~~ N.C.T.O. to defend me at my forthcoming trial by Field General Court Martial.

Date 15 Jan 45 A.H. Grier
(A.H.Grier)

ACCUSED'S RECEIPT FOR HIS COPY OF SUMMARY OF EVIDENCE AND CHARGE SHEET

I, C-5078 - Pte. GRIER, A.H., acknowledge receipt of a copy of Summary of Evidence and Charge Sheet in connection with my forthcoming trial by Field General Court Martial.

Date 15 Jan 45 A.H. Grier
(A. H. Grier)

5-S-137
Pte. Grier. J.P.

SCHEDULE.

PART I. PLEA(S), FINDING(S) AND SENTENCE.

Accused: M 27048 Pte GRIER James Paton

Charge. (Insert "alternative" where applicable.)	Plea. (See Instrs p 2.)	Finding. (See note below.)	(Space for use as required for further charges, accused charged jointly, special findings, etc.)
1st AA Sec 15(1)	GUILTY	GUILTY	
2nd			
3rd			
4th			
5th			
etc			

(Note: As to findings for lesser offences see AA 56, RP 44; findings on alternative charges see MML p 483 fn 4 para 2, RP 44; special findings see RP 44 and MML p 753, one in lieu of kit see RP 44 fn 6.)

At present under sentence for ..... beginning on (date) ..... (1)

(1. Insert sentence being served, or delete, if not applicable. See RP 46(A). Information should be found on MF B355 or AF B296.)

Time in confinement awaiting present trial—a total of 16 days, of which NIL days were spent in hospital.(1)

(1. See RP 46(A) fn 2. Information should be found on MF B355 or AF B296 admitted in evidence under E2.)

Sentence Awarded by the Court:

To perpetually undergo Penal Servitude for sixty (60) Years.

(Sgd) ..... Judge-Advocate, if any. 6 SEP/45 Date awarded. (Sgd) [signature] President. (RP 45, 50.)

(See back of Convening Order as to assembly and disposal of record after trial.)

PART II. MINUTE WHERE CONFIRMATION RESERVED. (AA 54(5), RP 120(F), MML p 760.)

Date ..... (Sgd) ..... Commanding .....

PART III. DECISION OF CONFIRMING OFFR ON FINDING(S) AND SENTENCE.

(For duties and powers see AA 54, 57, RP 27(D) fn 6.46(A), 51-56, 120, MML pp 759-761, KR Con 567-577. Acquittals require no confirmation and cannot be revised: AA 54(2). Sending back finding or sentence for revision by Court: AA 54(2), RP 120(G). If not confirmed, accused may be tried again: AA 157, MML p 64. Minute of confirmation or non-confirmation may be altered before promulgation: RP 53, MML p 65. Quashing after promulgation: KR Con 573. Duties and powers of reviewing offrs: AA 57, 57A, RP 53A, 54. The Confirming Offr must sign here personally. AA 172 fn 1.)

My decision on the finding(s) and sentence set forth in Part I is:

Confirmed

I direct that the accused be not committed to prison or detention barracks until further orders.(1)

(1. AA 57A. Delete if not used.)

Date 7 Sep 45 (Sgd) E R Suttie Brig Commanding ..... Confirming Officer.

PART IV. PROMULGATED AND EXTRACTS TAKEN. (RP 53, KR Con 576, 577.)

Accused: M 27048 Pte Grier J P

Date: Promulgated 8 Sep 45 as published in DAG 2 dated 10 Sep 45.

Signature of Offr: [signature]

ALL DELETIONS AND ALTERATIONS WILL BE INITIALLED.

RETURNED AT CMHQ IN AB 188

55-137

RECEIVED 21 SEP 1945 CMHQ

FIELD GENERAL COURT-MARTIAL

CFA96 (In lieu of AFA81, 40/F & B, 1698 (E144) 4/38B

Convened by Order of Brig E R Suttie, DSO, ED Comd A Gp Cdn Rft Units dated 4 Sep 45

ACCUSED.

(As to the trial of two or more charged jointly see RP 16, 71, 109. As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Con 308, 328, 330.)

Number.	(a) Prmnt R. (b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
M 27048	Pte	James Paton	GRIER	6 Cdn Repat Dep

PROCEEDINGS REVIEWED

21 Sept 45

[signature]

REVIEWING OFFICER, JAG BRANCH C.M.H.Q.

PROCEEDINGS OF TRIAL.

Held in the Fd Trg (country) England on (date(s)) 6 SEP 45

RECORD FORM A—OPENING PROCEEDINGS AND ARRAIGNMENT.

A1. The President, Members, ~~waiting Member, JA, if any, and Offrs under instr,~~ if any, assemble, and the Court is closed.

(PRINTED MATTER, NOT IN ITALICS FOR GUIDANCE, WILL BE DELETED, IF NOT USED OR APPLICABLE, AND INITIALLED BY PRES OR JA. The Schedule referred to throughout is on p 4. Citations do NOT include all relevant fmn ROs. For guidance on procedure when a variation in this form arises, see form for GCM in MML pp 741 to 759. A brief record of such variation will be made and given a number having reference to appropriate or preceding para number herein. See back of Convening Order, CF A95, for audio and instrs on how to record addresses, evidence, etc. which Instrs are hereafter called "Notes". As to general provisions for conducting the trial see AA 53, RP 36, 63-70, 72, 74, 94, 103, 119, 132.)

A2. The President initials and lays before the Court the Convening Order and Charge Sheet(~~s~~ attached thereto.(1) The Court is satisfied that it is properly convened and constituted(2), accused is (~~are~~) amenable to military law, and each charge discloses an offence.(3)

(1. As to use of Summary of Evidence see RP 17 fn 6. 2. AA 49, 50, RP 105-107. 3. RP 11-13, 23, 24.)

A3. The Court is opened. The accused is (~~are~~) brought before the Court. At 1100 hours trial commences.

A4. The Prosecutor produces a Medical Certificate that accused is (~~are~~) fit to undergo trial by court-martial.(1) ~~The Prosecutor informs the Court that accused elected to be tried by court-martial instead of being dealt with summarily by the CO.(2)~~

(1. KR Con 557. 2. AA 46(F), RP 60 fn 1. For effect see KR Con 563(c). Delete, if not applicable.)

A5. ~~President to accused: Do you object to ..... as interpreter? Ans .....~~ ~~The Interpreter is sworn.~~(1) Do you object to ~~Sgt H J Bourdeau~~ the shorthand writer? Ans NO The shorthand writer is sworn.(1)

(1. RP 72. Delete, if none employed.)

A6. The Convening Order and names of the President and Members of the Court are read to the accused.(1) President to accused: Do you object to be tried by me as President or by any of the Members of the Court?

Ans NO, SIR (2)

(1. RP 110. 2. If no objection, waiting member retires. RP 68(B). If objection, see procedure AA 51, RP 25, 71, 18, MML p 742.)

A7. The President, Members, ~~JA, if any, and Offrs under instr, if any,~~ are sworn.(1) The following are the ranks, names and units of the offrs comprising the Court, etc:

President	LT-COL	D L REDMAN	HQ CRU
Member	CAPT	D R KERGAN	7 CDN REPAT DEP
Member	LIEUT	N P HAGER	7 CDN REPAT DEP
~~Judge-Advocate~~			
Prosecutor	LIEUT	R E HARRIS	6 CDN REPAT DEP
Defending Offr	LIEUT	H B BATEMAN	6 CDN REPAT DEP

Questions by President: Is the Prosecutor a lawyer? Ans NO Is the Defending Offr a lawyer? Ans NO (2)

(1. RP 26, 27, 109, 111. List of offrs under instr will be returned separately with proceedings for information of Conv Offr.) (2. If Pros a lawyer and Def Offr not, accused is entitled to an adjournment when RP 89 (B) and fn 2 were not followed. See DI p 3.)

A8. The accused ..... before arraignment make(s) (no) (~~a~~) plea ..... (1)

(1. If a special plea is made for separate trial on one or more charges (RP 62(E), 108), or as to the jurisdiction of the Court (RP 34, 35(A), 113), or in bar of trial (RP 36), or as to accused's mental fitness to stand trial (AA 130, RP 57), or by one of several accused charged jointly to be tried separately (RP 16, 71), such plea, the addresses made in support or against, the evidence, if any, and finding are recorded per Notes. For forms of record see references in fns to RaP cited. Insert in AB rank and name of the accused making the plea.)

A9. The accused is (~~are~~) arraigned (~~separately~~) on all charges in the charge sheet.(1) The accused does (~~do~~) not object to any charge.(2) There is no amendment to be made to the Charge Sheet.(3) The President records the pleas in Part I of the Schedule.

(1. RP 31, 112. See para 1 of Instrs p 2. When more than one Charge Sheet see RP 62; when several accused to be tried separately see RP 71(C), and use separate copies of CF A96 to record proceedings. 2. RP 32, RP 33. If otherwise, delete and make appropriate record per Notes.)

A10. The Court (~~is closed and~~) considers the Instrs on Procedure after Arraignment at top of p 2. The proceedings are continued on Record Form B

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

INSTRUCTIONS ON PROCEDURE AFTER ARRAIGNMENT.

1. *The accused may not plead or be found Guilty on more than one of two or more charges laid in the alternative.* (*RP* 37(*A*).) *As to withdrawal of alternative charges by Prosecutor see RP* 35(*C*). *No other charge can be withdrawn for any reason without authy from Convening Offr. If Convening Offr concurs, Court may accept plea of Guilty to lesser, etc, offence.* (*RP* 44(*H*).) *Accused may change a plea of Not Guilty to Guilty during trial.* (*RP* 38.) *As to refusing to plead or not pleading intelligibly see RP* 35(*A*). *As to plea when sentence may be death see RP* 35(*D*).

2. *The proceedings on each charge sheet* (*RP* 62) *after arraignment will be conducted as follows in the respective circumstances stated:*

I. If pleas to all charges are GUILTY, use Record Form B below.

II. If pleas to all charges are NOT GUILTY, use Record Form D on p 3.

III. If pleas to some charges are GUILTY and to other charges are NOT GUILTY and,

(a) Such mixed pleas occur when there are no alternative charges in the Charge Sheet, use Record Form C below. (*RP* 37(*A*).)

(b) Such mixed pleas occur in a set of two or more charges laid in the alternative, see RP 37 (*A*) *and fn* 2 *as to discretion of Court,* (i) *to try the accused on all such alternative charges as if he had pleaded Not Guilty to all charges. After deciding between* (i) *and* (ii), *Court will thereto, or,* (ii) *to record the pleas as the findings of Court. After deciding between* (i) *and* (ii), *Court will proceed under foregoing instrs as may be appropriate to result of its decision. See M M L p 744 Instrs* (2).

3. *As to responsibility of President to accused see RP* 59, 60(*C*); *powers and duties of JA see RP* 103; *duty of Prosecutor see RP* 60(*A*) (*B*); *duty and privileges of accused and Defending Offr see RP* 60(*C*), 87(*C*), 91, 92; *swearing and withdrawal of witnesses from Court see RP* 81, 82; *questioning of accused see RP* 80, 87(*C*), 92(*B*), *and of witnesses see RP* 83-85; *calling or re-calling of witnesses by Court, etc, see RP* 75-79, 86, 116; *use of Summary of Evidence at Trial see RP* 17(*E*) *fn* 6; *and responsibility of JA or Pres to record proceedings see RP* 94, 96.

RECORD FORM B—PROCEEDINGS ON PLEAS OF GUILTY TO ALL CHARGES.

B1. The President ~~or JA, if any~~, complies with RP 35(B) by explaining to the accused the nature and meaning of the charge(s)(1), and that on his plea of Guilty there will be no regular trial but merely a consideration of the sentence to be awarded after he has been given an opportunity to make a statement in reference to the charge(s), call witnesses as to character and make an address in mitigation of punishment.(2)
(1. RP 35 fn 3. 2. MML p 54 para 47.)

B2. President to accused: The Court will now receive any statement you desire to make in reference to the charge(s).(1) If it appears from your statement that there are circumstances which indicate that you do not understand the effect of the plea of Guilty(2), or which show provocation or extenuation in respect of which in your interest the witnesses for the Prosecution should be examined(3), we shall advise you to change your plea to Not Guilty. In making a statement you will not be sworn or subject to cross-examination; and anything you say will not be used in evidence against you after you change your plea. If, however, it appears to the Court that your statement affects only the amount of punishment to which you are liable, you will not be advised to change your plea and you will be given an opportunity later to prove your statement by sworn testimony, if you so desire.(4)

President to accused: Do you wish to make a statement? Ans. N O T H ..... (5)
(1. RP 37(B). 2. RP 37(D) fn 6. 3. RP 35(B) fn 5 para 2, MML p 54 para 47. 4. See para E3 of Record Form E. 5. Statement, if any, recorded per Notes.)

B3. ~~The Court considers the accused's statement (1) The Court decides (not) to advise accused to change his (their) plea(s) of Guilty to Not Guilty on ..... charge(s). The accused is (are) so informed, and he (they) change(s) his (their) plea(s) on ..... charge(s). Part I of the Schedule is amended accordingly.~~
(1. Court may be closed to consider the statement. Delete whole or part not used.)

B4. On the charge(s) to which the plea(s) of Guilty is (~~are~~) not changed the President records finding(s) of Guilty in Part I of the Schedule.(1)
(1. RP 35(B). If any plea(s) is (are) changed, use Record Form C or D as appropriate.)

B5. The Summary of Evidence is marked Ex A, initialled and read aloud by the President.(1)
(1. If there is no Summary, or if it is inadequate, comply with RP 37(B). If there is any evidence inconsistent with any plea standing as Guilty, Court will advise accused to change such plea and, if changed to Not Guilty, try such charge(s) by use of paras D1 to D8 inclusive of Record Form D on p 3. RP 37(D).)

B6. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

RECORD FORM C—PROCEEDINGS ON MIXED PLEAS OF GUILTY AND NOT GUILTY.

C1. As to the charges on which accused pleaded NOT GUILTY the trial is continued by using paras D1 to D8 inclusive of Record Form D on p 3 before proceeding with C 2.(1)
(1. RP 37(A) (E).)

C2. The charges on which accused pleaded GUILTY are read to him (them) again, and the trial is continued by using paras B1 to B5 of Record Form B above.(1)
(1. Under B5 such parts only of the Summary of Evidence are read as relate to the charges dealt with under C2. If any plea is changed to Not Guilty, trial thereto proceeds by complying with paras D1 to D8 inclusive in Record Form D on p 3 and making an appropriate record thereof on a separate sheet.)

C3. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

RECORD FORM D—PROCEEDINGS ON PLEAS OF NOT GUILTY TO ALL CHARGES.

D1. President to accused: Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity to prepare your defence? Ans. ..... (1)
(1. If "yes", see RP 39(A) for procedure. Statement or evidence, if any, is recorded per Notes.)

D2. The Prosecutor makes (an) (no) opening address.(1)
(1. RP 39(B), 60(A) (B), 90, 92(C) (D). Record address per Notes, subject to RP 95(C).)

D3. The evidence for the Prosecution is taken.(1)
(1. RP 39(C), 114, KR Can 555. Record evidence per Notes. As to Prosecutor giving evidence himself see RP 39(D) (E).)

D4. The Prosecution is closed.(1) The Defending Offr submits that the evidence for the Prosecution does not establish a prima facie case against the accused on the ..... charge(s).(2) The Court is closed, and considers the submission.(3) The Court is re-opened, and the President announces that the submission is disallowed on the ..... charge(s), and allowed on the ..... charge(s), and that, accordingly, the trial will proceed on the former, but the accused is (are) found Not Guilty on the latter charge(s).(4)
(1. Delete remainder of this para, if submission not made. 2. Arguments on submission, answer and reply are recorded per Notes. 3. RP 40 fn 1. See MML p 72 paras 12-14 and p 81 para 42. 4. Delete part not used. If accused acquitted on all charges, use second alternative in para D8.)
NB: If trial proceeds, accused must be allowed great latitude in making his defence, and the Court should not stop his defence solely on ground of irrelevance. (RP 60(C), 114, 115.)

D5. President to accused: You will now proceed with your defence.(1) You may, if you wish, give evidence yourself on oath as to the facts or your character or both in which case you will be subject to cross-examination.(2) You may, however, make a statement without being sworn, and you will not be subject to cross-examination.(3) But a statement which could have been made on oath will not carry with the Court the same weight as sworn testimony.(4) You may call witnesses in your defence and as to character, whether you give evidence or make a statement or do neither.

President to accused: Do you wish to give evidence yourself as a witness, make a statement, or do neither? Ans. ..... Do you intend to call witnesses on your behalf? Ans. ..... Are they witnesses as to character only? Ans. .....
(1. RP 115. 2. RP 40(A), see 80(D). 3. RP 40 fn 10. 4. RP 40 fns 2, 9.)

D6. Consequent on the answers recorded in para D5 the appropriate procedure for the defence is followed.(1)
(1. RP 114, 115, 116. For procedure see Notes on back of Convening Order. CF A95. Evidence for accused as to his character should, if on his interest, be given before the finding. See RP 46(A) fn 1. B6(C). Note the further opportunity in para E1 of Record Form E. Record per Notes addresses, statement, evidence and any summing up by the JA under RP 42, 103(e).)

D7. The Court is closed to consider the finding(s).(1) The finding(s) of the Court is (are) recorded in Part I of the Schedule.(2) The Court is re-opened.
(1. RP 43, 117(A). See Notes in Part I of Schedule. 2. RP 44(A).)

D8. The President announces the finding(s), if any, of Not Guilty, and states to the accused that the finding(s) of the Court on the ..... charge(s), being subject to confirmation, will be promulgated later.(1)
Or, The President announces that the accused is found Not Guilty on all charges and is to be released forthwith, and that the proceedings are accordingly terminated. Part I of the Schedule is dated and signed.(2)
(1. AA 54(3) (6), RP 45, 120(A). 2. AA 54(1), RP 45, 117. This alternative announcement is not applicable when there are pleas of Guilty outstanding and dealt with under Record Form B or C.)

D9. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E below.

RECORD FORM E—PROCEEDINGS ON CONVICTION BEFORE SENTENCE.

E1. President to accused: Do you wish to give evidence yourself or to call any witnesses as to your character?(1)
Ans. N O T H ..... (1)
(1. If evidence has already been given by accused or his witnesses as to his character, delete this para. RP 37(C) fn 4, 46 fn 1. Accused and witnesses are sworn. Evidence recorded per Notes.)

E2. The Prosecutor produces Statement(s) as to Character and Particulars of Service(1), and certified true copy (~~copies~~) of Conduct Sheet(s)(2), purporting to refer to the accused, which he submits to the Defending Offr for examination, and then to the Court for admission in evidence. The Court is satisfied that these documents refer to the accused, because (i) they purport to be signed in the manner required by AA 163(l) (g) (h), and (ii) they purport to refer to (a) soldier(s) having the same number, rank, name and corps as the accused. Admitted in evidence and marked Ex B and Ex C respectively.(3)
(1. MFB 355 or AFB 296. 2. MFM 6. 3. RP 46, KR Can 558. If above documents not produced, see RP 46 fn 1 para 1.)

E3. President to accused: Do you wish to address the Court on the Statement(s) and Conduct Sheet(s) and in mitigation of punishment?(1) Ans. Refer to Mem A. QUOTE A E3 (2)
(1. RP 37(C), 46(D). 2. Address, if any, recorded per Notes. Court should permit accused or his witnesses to prove on oath anything here or previously stated which would affect the amount of punishment. RP 37(F) fn 7.)

E4. The President states that the Court is closed to consider the sentence, and that the sentence to be awarded by the Court, being subject to confirmation, will not be announced, but will be promulgated later, and the proceedings in open court are accordingly terminated.(1)
(1. AA 54(6), RP 120(A).)

E5. The Court considers the sentence.(1) The President records the sentence in Part I of the Schedule, which is dated and signed by him ~~and the JA, if any~~.(2)
(1. When several accused tried separately see RP 71 (D). One sentence only, comprised of the punishment or punishments laid down in AA 41, 44 and its proviso, is to be awarded to cover all charges on all charge sheets on which accused found guilty. RP 48. As to sentences see AA 44, 138, 182, RP 46-50, 69, 118, 119(A), KR Can 308, 330, 343-346, Overseas RO 309, 2323, MML p 60, 737-759. As to sentences assigned for civil offences by the law of England see AA 41(5), MML p 130. When accused already under sentence of imprisonment or detention see AA 44(1b), 68(1), KR Can 304. 2. RP 50. As to release from arrest by Confirming Offr see KR Can 567. As to assembly and disposal of records after trial see Instrs on back of Convening Order.)

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

CHARGE SHEET

The accused, M 27048 Pte James Paton GRIER, "A" Wing No 6 Canadian Repatriation Depot, a soldier of the Canadian Army, Overseas, placed on active service is charged with:

CHARGE
AA Sec 15(1)

WHILE ON ACTIVE SERVICE, ABSENTING HIMSELF WITHOUT LEAVE

in that he

in the field, did absent himself without leave from 0830 hrs 19 Jul 45 until 0900 hrs 21 Aug 45.

TOTAL ABSENCE: 33 days, 30 mins.

(F M MATHESON) Colonel
Comd, 6 Cdn Repat Depot

In the Field
29th day of August
1945.

To be tried by Field General Court Martial.

(E R Suttie) Brig
Comd
A Gp Cdn Rft Units

In the Field
in England
4 Sep 45

FIELD GENERAL COURT-MARTIAL

(Whether the accused to be tried is under his comd or not, a FGCM may on application to him be convened by any offr of Cdn Army Overseas, or of any other force if authorized in law, in immediate comd of troops on active service, subject to RP 105(C) and restrictions imposed by appropriate authy. AA 49, 50, RP 104-107, 114. As to the duties and privileges of the Convening Offr in dealing with the application see MML Chap V paras 20 and 23, RP 87(B).
There should be a separate Convening Order for each person to be tried separately by the same Court. RP 71(C), 109. As to separate charge sheets see RP 62, and as to separate trial on charges in the same charge sheet see RP 108. As to two or more accused charged jointly see RP 16, 109.
As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

ACCUSED.

Number.	(a) Prmnt R.	(b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
M 27048	Pte		James Paton	GRIER	6 Cdn Repat Dep

CONVENING ORDER.

1. Whereas complaint has been made to me, the undersigned, that the person(s) named above as the accused, being subject to military law, has (~~have~~) committed the offence(s) set forth in the Charge Sheet(s) attached and on (*date*) 4 Sep 45 endorsed by me, ~~for by myself or my staff for me~~, "To be tried by Field General Court-Martial".

2. And whereas I am of opinion that it is not practicable that such offence(s) should be tried by an ordinary General Court-Martial; ~~(and that it is not practicable to delay the trial for reference to a superior qualified officer)~~
(Delete part in brackets when not required for compliance with RP 105(C).)

3. I hereby convene a Field General Court-Martial to try the said person(s), and to consist of the Offrs appointed or detailed hereunder.

~~I do not consider it expedient (or that Offrs to form the Court, (b) a Fd Offr as President, for the reasons I have attached hereto.~~
(AA 49, RP 106(B), 107(A). Delete the whole or part, if not applicable.)

~~I also appoint as Judge Advocate thereof the Offr mentioned hereunder.~~
(RP 106(E). Delete, if none appointed.)

PRESIDENT.

(Rank.)	(Must be named. RP 106.)	(Unit.)
Lt Col	D L Redman, VD	HQ CRU

MEMBERS.

(Rank.)	(Named or detailed. RP 106.)	(Unit.)
A Capt	To be detailed by Comd 7 Cdn Repat Dep	
A Lt	To be detailed by Comd 7 Cdn Repat Dep	

~~WAITING MEMBER~~

(Rank.)	(Named or detailed, if any. RP 106.)	(Unit.)

~~JUDGE ADVOCATE~~

(Rank.)	(Must be named, if any. RP 106.)	(Unit.)

On Active Service in the Fd

in England (Country.)

Date 4 Sep 45

E R Suttie (Signed personally. RP 105 fn 2.) Brig (Rank.)

(E R Suttie) Brig
Commanding A Gp Cdn Rft Units
Convening Officer.

CONVENING OFFR WILL INITIAL ALL DELETIONS AND ALTERATIONS

4/38A (Page 1 to Docs of APAA) 45-P & S-1697 (4851)

(See overleaf for oaths and notes for use on trial.)

I certify that I have this morning examined No: M 27048

Pte James Paton GRIER of "A" Wing 6 Can Repat Depot

and in my opinion, he is fit to undergo trial by Court Martial.

Station Aldershot England

Date 6 Sep 45 (Sgd) [illegible] Capt
(Medical Officer)

(Canadian Reinforcement Units Routine Order No. 3 para 27, d/6 Jan 42)

TRIAL OF

M-87048 PTE GRIER JF -------- 6 CDN REPAT DEPOT

PLEA IN MITIGATION OF PUNISHMENT

The accused is very wise in pleading guilty to this AWL charge. He has served 4½ years in the army and has rendered very good service. By his MFM 6 you will see that he has done a very fine job. He has fought in the Canadian Army in Sicily and Italy in 43 where he was attached to an LAD as a tradesman and hemust have done a very good job there because he went to Germany where he served until VE-Day. His service musthave been very good because only good men were taken out of Italy at such an early date to be sent to Germany. The accused also volunteered for the CAPF. On arriving in theUK, he got leave and went to visit the woman he intends to marry. It is a petty excuse maybe; or maybe he has one weakness - woman weakness; she apparently got into tears and didn't want him to go to the Far East; the accused has already been 16 days awaiting trial; the accused is still willing to serve in the UK as long as his services are necessary and intends to stay in the UK until discharged from the Canadian Army.

E-3

ARMY FORM B.296 (WAR)

Statement as to Character and Particulars of Service of Accused.

(For Use at Trials by Field General Courts-Martial only).

Number.	*Rank.*	*Name.*	*Regiment (or as the case may be).*
A 31145	Pte	Grier J P	"A" Wing 6 Cdn Repat Depot

NOTE.—The Field Conduct Sheet is to be produced in Court with this statement but is not to be annexed to the proceedings. The numbers herein stated should correspond with the number of Entries in the Field Conduct Sheet, prominence being given to the most serious offence in each entry. If the charge is for drunkenness or absence without leave, the entries for drunkenness or absence, as the case may be, should be stated separately. Any recognized special acts of gallantry or distinguished conduct recorded on the Field Conduct Sheet should also be inserted here.

1. The following is a fair and true summary of the entries in the Field Conduct Sheet of the accused, exclusive of convictions by a court martial or a civil court :—

For Drunkenness — 1 times.

For Conduct to the prejudice of good order and milt discipline — 2 times.

For — — times.

For — — times.

Date of first entry in Field Conduct Sheet 31 Dec 41 WJB

Date of last entry in Field Conduct Sheet 9 Nov 43

2. Previous convictions of the accused by a court martial or a civil court are set out in the Schedule overleaf.

*3. ~~The accused at the present time is under sentence for~~ WJB

~~beginning on the day of~~ WJB

4. The accused has been awaiting trial on the present charges for Nil days in civil custody; and for 16 days in military custody, *i.e.*, Nil days in open arrest, 16 days in close arrest; of which Nil days were spent in hospital.

5. The present age of the accused is 25

6. The date of his ~~enlistment~~ attestation is 25 Feb 41

~~enlisting up for military service~~ WJB

7. ~~The service which the accused is allowed to reckon is~~ WJB

†State the military decorations (if any) held by accused.

8. The accused is in possession of† 1939-45 Star, Ital Star Defence Medal, CVSM & Clasp

9. ~~(If the accused is a warrant officer or N.C.O.) The accused has served continuously without reduction, to the present date~~ WJB

Date of Promotion.

In the substantive rank of N/A

In the war substantive rank of N/A

In the acting rank of N/A

EXB

WJB

INSTRUCTION.—*If any matter in any of the above paragraphs cannot be stated from the regimental books the paragraph must be struck through.*

(*28072) Wt.30721/3701 S2,000 6/44 A.& E.W.Ltd. Gp.698

SCHEDULE OF CONVICTIONS BY A COURT-MARTIAL OR CIVIL COURT.

Description of Court by which tried.	Date and Place of Trial.	Charges upon which convicted.	Sentence of the Court.	Punishment remitted or sentence suspended.

I HEREBY CERTIFY that the foregoing particulars, which have been extracted from the regimental books in my custody, are correct to the best of my knowledge and belief.

Signed this 6 th day of Sept 45.

(W A Leask) Capt
Records Offr, 6 Cdn Repat Depot

M 27048 GRIER J.P. — Sqn, Battery, or Company: 6 Can Repat Depot RAF Wing Corps — Date of enlistment: 25-2-41 — Service or Proficiency Pay: — 3/17 MFM 6 (AFB 122) 40/P&S/134 (7010)

No. — Name — Signature OC Company, etc — Sheet No. — Character

Date of last entry in Company Conduct Sheet — No. and date of last drunk — Period not reckoning towards freedom from extra fine

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Field	31-12-41	Tpr		Whilst on guard leaving guard room without permission	Cpl Bowie	7 dys CB	21-1-42	Capt RR Taylor	
Field	31-8-42	Pte		WOAS on 31-8-42 at 1030 hrs while on duty as Rgt'l piquet was unshaven AA Sec 40	Cpl Talbot	3 days CB	31-8-42	Capt L C C Jockel	
						Certified correct Sgd: R G Stones, Major Officer Commanding			
Field	9-11-43	Pte	1st	WOAS charged with drunkenness in A A S that he at Star camp No 3 at 1800 Stafford hrs approx was drunk. AA sec 19		28 dys F P	10 Nov 43	J J Lepsta Yorf 28 days W/forfeit AFT 149(1)(b)	
regrets done good conduct badge 10 Nov 44 in accordance with CRO 316 DO Pt II No 8 of 19 Mar 45								(CAPT L J SWAN)	

CERTIFIED TRUE COPY

Officer in custody of Original

(PTO)

SUMMARY OF EVIDENCE

Summary of Evidence in the case of M 27048 Private James Paton Grier, RCEME, on the strength "A" Wing No 6 Canadian Repatriation Depot, a soldier of the Canadian Army Overseas.

By direction of the Commanding Officer the Summary is taken on oath:

FIRST WITNESS

For the Prosecution

Lieut R Lortie C I C, on strength "A" Wing No 6 Canadian Repatriation Depot, having been duly sworn states:

I am Lieut R Lortie C I C, Asst-Adjt "A" Wing No 6 Canadian Repatriation Depot. According to the records of No 6 Canadian Repatriation Depot, I produce as Exhibit "A" a certified true copy of extract of Part II orders No 41 d/ 25 Jul 45, showing M 27048 Pte Grier J P whom I now recognize absent without leave from 0830 hrs 19 Jul 45. I also bring forward as Exhibit "B" true copy of declaration of Court of Inquiry held at No 6 Canadian Repatriation Depot on 22 Aug 45 pertaining to the accused showing him absent as from 0830 hrs 19 Jul 45. I also produce as Exhibit "C" a certified true copy of extract of Part II orders No 65 d/22 Aug 45 showing the accused as having reported from absence without leave at 0900 hrs 21 Aug 45.

R Lortie Lieut
(R. Lortie) Lieut

The accused declines to cross-examine the witness.

The accused was cautioned as follows: Do you wish to make a statement or to give evidence on oath? You are not obliged to say anything or to give evidence unless you wish to do so but whatever you say or any evidence you give, will be taken down in writing and may be given in evidence.

The accused declines to make a statement or to give evidence on oath.

I certify that the foregoing summary of evidence consisting on ONE page was taken down by me in the presence and hearing of the accused and that rules of procedure 4 (c), (d), (e) and (f) have been complied with.

R E Harris Lieut
(R E Harris) Lieut
Officer Detailed to take summary

IN THE FIELD
28 Aug 45

EXA

Exhibit "A"

24 Aug 45

Extract of Daily Orders Part II No 41 d/25 Jul 45

LAST ORDER
NO 40
d/ 24 JUL 45

6 CANADIAN REPATRIATION DEPOT
DAILY ORDERS PART II

THIS ORDER
NO 41
d/25 JUL 45

---

19. ABSENT WITHOUT LEAVE

19-B A W L from 0830 hrs 19 Jul 45 (1st Day)

M 27048 PTE GRIER J P (Misc/4C)

Certified True Copy
24 Aug 45

(W A Leask)Capt
Records Officer
No 6 Cdn Repat Depot

Officer having custody of Original

Exhibit "B"
K544A

RECORD of the Declaration of a Court of Inquiry assembled at Aldershot, England on the 22nd day of August 1945, for the purpose of investigating and recording the absence, without leave, from his duty, and deficiency, if any, in the Arms, Ammunition, Equipments, Instruments, Regimental Necessaries, or Clothing of No. M 27048 Pte Grier J P

DECLARATION

The Court declare that No. M 27048 Pte Grier J P

illegally absented himself without leave 0830

at Aldershot, England on the 19th day of July 45,

that he is still so absent, and that on the 19 July 45 he was deficient, and

that he is still deficient of the following articles :—

ARTICLES	VALUE		ARTICLES	VALUE	
See Appx "B" Attached					
100% Value	$1	87	Sterling 0-8/4		
75% Value	$1	43	Sterling 0-6/3		

Sgd: M Lambert Capt, 6 Cdn Repat Depot — President

Signed at Aldershot, England

Sgd: H F Linklater Lieut, 6 Cdn Repat Depot — Member

this 22nd day of Aug 1945

Sgd: J J Brosseau Lieut, 6 Cdn Repat Depot — Member

Signature of Commanding Officer Sgd: F M Matheson Colonel, 6 Cdn Repat Depot

Certified true copy

Signature of Officer having custody of original record

Administrative Officer
6 Cdn Repat Depot

3/608 MFB 275-AFB 115 40/P&S/392 (6610)

Exhibit "C"

24 Aug 45

Extract of Daily Orders Part II No 65 d/ 22 Aug 45

LAST ORDER
NO 64
d/ 21 AUG 45

6 CANADIAN REPATRIATION DEPOT
DAILY ORDERS PART II

THIS ORDER
No 65
d/ 22 AUG 45

---

18. ABSENT WITHOUT LEAVE

18-L Ret'd from A W L 0900 hrs 21 Aug 45

M 27048 PTE GRIER J P

Certified True Copy

24 Aug 45

(W A Leask)Capt
Records Officer
No 6 Cdn Repat Depot

Officer having custody of Original

I request the services of an English speaking Officer, to be detailed by the Commanding Officer, to defend me at my forthcoming trial by FGCM.

J P Grier

(J P Grier) M 27048

Aldershot, England
29 Aug 45

FF-109

PTE GRIESE R.W.

FF-109

Correspondence to be PINNED here

Army Form A.8.

Form for Assembly and Proceedings of Field General Court Martial on Active Service.

PROCEEDINGS.

A.

On Active Service, this Third day of June, 1945. (Order convening the Court.)

Whereas it appears to me, the undersigned, an officer in Command of Second Canadian Division, Canadian Army Overseas, on active service, that the persons named in the annexed Schedule, being subject to Military Law, have committed the offences in the said Schedule mentioned.

And whereas I am of opinion that it is not practicable that such offences should be tried by an ordinary General Court Martial; *[and that it is not practicable to delay the trial for reference to a superior qualified officer.]

*Omit where Convening Officer is a Commanding Officer or is of Field Rank.

I hereby convene a Field General Court Martial to try the said persons, and to consist of the Officers appointed or detailed hereunder.

*[I am unable to appoint:—

*(1.) Three Officers to form the Court.

*(2.) A Field Officer as President.

for the following reasons, namely:—]

* Omit if not applicable.

NOTE.—The President must be named. The members and waiting members (if any) may be mentioned by name, or the number and ranks and the unit to which they belong may alone be named. In the latter event, the ranks, names, &c., of the members of the court, as constituted, will be recorded on the proceedings.

President.

Rank.	Name.	Regiment.
Major	J.F.Horner	8 Cdn Recce R (14C)

Members.

Rank.	Name.	Regiment.
Captain	to be detailed by O.C.,8 Cdn Div Sp Sn	for Sect R
Capt.or Lieut.	to be detailed by O,R.C.A.O.C.,2 Cdn Div	R.C.A.O.C.

* Must be signed personally by the Officer actually in command at the time, and all alterations in the composition of the Court to be initialled by him.

*Signed E.L.M.Burns

Commanding (E.L.M.Burns) Major-General
2 Cdn Div. Convening Officer.

SCHEDULE.

Number, Rank (*a*), Name and Unit of Accused (*b*)	Offence charged	*Plea	Finding, and if Convicted, Sentence (*c*)	How dealt with by Confirming Officer (*d*)
B 83466 Pte Griese, R.W., H.Q.Comd 2 Cdn Div Royal Canadian Army Service Corps	First charge Sec.40 Army Act (See charge sheet attached)	Not Guilty	Guilty 14 days Detention Forfeiture of seniority	
	Second charge Sec.8(1) Army Act (See charge sheet attached)	Not Guilty	Not Guilty 4 June 43	Confirmed E.L.M. Burns Maj Gen
	Third charge Sec.19 Army Act (See charge sheet attached)	Not Guilty	Not Guilty	

* Question to be asked of accused, if he pleads not guilty (R. of P. 39 (a)):—
"Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity for preparing your defence?"
Answer (to be recorded on separate sheet if necessary):— No.

(Signed) E.L.M. Burns (E.L.M.Burns) Major-General
Commanding 2 Cdn Div.
Convening Officer (*e*) (Signed) _____ *President.*

(*a*) Appointment acting rank or acting appointment, if any, to be stated in brackets after the substantive rank.

(*b*) Unless unavoidable, not more than three names are to be entered on one form, and in serious cases one only.

(*c*) Recommendation to mercy, if any, to be inserted in this column.

(*d*) It is not necessary that the Confirming Officer should sign his name in this column. Initials are sufficient.

(*e*) Must be signed by the same Officer who signs on the first page, and all alterations in the first two columns of the Schedule to be initialled by him.

Evidence and Charge Sheets (if necessary) to be PINNED here.

B. Certificate of President as to proceedings.

I certify that the above Court assembled on the 4 day of June 43, and duly tried the persons named in the Schedule, and that the pleas, finding, and sentence in the case of each such person were as stated in the third and fourth columns of that Schedule.

I also certify that :—

1. The members of the Court
2. The witnesses
*(3. ~~The interpreter(s)~~)
*(4. The officers under instruction)

were duly sworn.

* Omit if not applicable.

Signed this 4 day of June 1943

John T. Mans Major
President of the Court Martial.

C. Certificate in case of death sentences.

* See footnote (b) on page 782 M.M.L. 1929.

~~I certify that the terms of *A.C.I. 370 of 1918 have been complied with.~~

~~Signed this~~ day of 19 .

_____
President of the Court Martial.

D. Confirmation.

I have dealt with the findings and sentences in the manner stated in the last column of the Schedule, and, subject to what I have there stated, I hereby confirm the above findings and sentences.

~~*(I direct that the soldier named in the margin be sent committed to prison or detention barrack until further orders.)~~ E.L.B.

* To be omitted unless penal servitude, imprisonment or detention having been awarded, the Confirming Officer either has no authority to commit to prison or detention barrack, or, having such authority, recommends suspension.

Signed this 5th day of June 1943

E.L.M. Burns Maj Gen
Confirming Officer.
GOC 2 Cdn Div

Promulgated and extracts taken in the case of

(*a*) (Dated) 5 June 43 (Signed) _____ Lt.-Col.
D.R.C.A.S.C. 2 Cdn. Div. C.A. (A.F.)

Promulgated and extracts taken in the case of

(Dated) _____ (Signed) _____

Promulgated and extracts taken in the case of

(Dated) _____ (Signed) _____

(*a*) When several cases are promulgated in one unit on the same day the Officer need only sign once.

CHARGE SHEET

The accused, No. B83466 Pte. Griese, R.W., H.Q., Comd 2 Cdn Div R.C.A.S.C., a soldier of the Canadian Army, Active Force, is charged with:

FIRST CHARGE
A.A. Sec. 40

Conduct to the prejudice of good order and Military discipline, in that he, at, in the field, on 26 May 43, did interfere with a Provost N.C.O. whilst in the execution of his duty.

SECOND CHARGE
A.A. Sec 8 (1)

Striking his superior officer whilst in the execution of his duties, in that he, at, in the field, on 26 May 43, struck H63014 L/Cpl Newton, D.H., No. 4 Cdn Provost Coy., with his fist on the head when the said L/Cpl Newton, D.H., was acting in his capacity as a Provost N.C.O.

THIRD CHARGE
A.A. Sec 19

Drunkenness, in that he, at, in the field, on 26 May 43, was drunk.

Placed under close arrest and remanded for F.G.C.M.
1600 hrs 31 May 43.

(W.H. Montague) Lt.-Col.,
C.,R.C.A.S.C., 2 Cdn Div.

TO BE TRIED BY F.G.C.M.

Appendix B2

(E.L.M. BURNS) MAJ-GEN
COMDG., 2 CDN DIV

This is to certify that B83466 Pte Griese, R.W., has been medically examined and found to be fit to undergo trial by F.G.C.M.

.....
Medical Officer

In The Field.
4 Jun 43.

A Army Form A 9.

*All printed matter not applicable to the particular Court being held should be struck out and initialled by the President.

**Form of Proceedings for General and District Courts-Martial.

Proceedings of a Field General Court-Martial held at 9 Wk Field

on the 4 day of June 1943 by order of

Major General E. L. M. Burns

Commanding 2 Cdn Div

dated the 3 day of June 1943

President.

Major J. F. Moran 8 Cdn Recce R(Fus)

Members.

Capt S. M. C. Dale 1st Cdn Scot R.

Capt J. R. Courtney 5 CIB Coy RCASC

~~Judge Advocate.~~

Trial of* Pte Smith A.W.
H.Q. Coy 2 Cdn Div
RCASC

The order convening the Court, the charge-sheet and the summary (or abstract) of evidence are laid before the Court.

~~The Court satisfy themselves that~~ ~~is not available to serve owing to~~ ~~, waiting another takes his place as a member of the Court.~~

The Court satisfy themselves as provided by Rules of Procedure 22 & 23.

The accused is brought before the Court.

Prosecutor,† Capt. A R Montahan RCASC

~~Counsel~~, or defending officer† Capt D. Carsless RCASC

At 1330 o'clock the Trial commences.

The order convening the Court is read, and is marked X signed by the President, and attached to the proceedings.

The names of the President and members of the Court are read over in the hearing of the accused, and they severally answer to their names.

Question by the President to the accused.

Do you object to be tried by me as President, or by any of the officers whose names you have heard read over? *Answer.* No Sir.

(N.B.—If objection is made it should be recorded, together with the decision of the Court, on a separate sheet.)

J. F. Moran Major

*Here insert No., Rank, full Name, Regiment, and Appointment (if any).
† Here state Rank and Name, and Regiment (if any).
‡ Qualification to be stated.

B

The President, members ~~and judge-advocate~~ are duly sworn.

The following officers under instruction are duly sworn.

Capt R A Walker HQ Comd. 2 Div.

Lieut T D Goodenham 2 Div Sig Bn T. Engrs R.

Charge-Sheet.

Instruction.
If the accused has elected to be tried under Army Act, sec. 46 (3) the fact should be here recorded.

The charge-sheet is signed by the President, marked B 2 and annexed to the proceedings.

1. The accused is arraigned upon each charge in the above-mentioned charge-sheet.

Are you guilty or not guilty of the [first] charge against you which you have heard read ? *Question to the accused.*

Not guilty. *Answer.*

Are you guilty or not guilty of the second charge against you, which you have heard read ? *Question.*

Not guilty. *Answer.*

Are you guilty or not guilty of the third charge against you, which you have heard read ? *Question.*

Not guilty. *Answer.*

~~Are you guilty or not guilty of the fourth charge against you, which~~ you have heard read ? *Question.*

Answer.

The accused having pleaded Guilty to charge , the provisions of Rule of Procedure 35 (B) are here complied with.

Instruction.

If the trial proceeds upon any charge to which there is a plea of "Not Guilty," the Court will not proceed upon the record of a plea of "Guilty," until after the finding on that other charge.

C

*Instruction (See R. P. 39 (A))

Proceedings on Plea of Not Guilty.

Question. *Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity for preparing your defence?

Answer. No

~~The prosecutor makes an opening address. Hands in a written address which is read, marked [illegible], signed by the President, and attached to the proceedings.~~

The prosecutor proceeds to call witnesses.

First witness for prosecution. L 34021 L/Cpl Butler, F.C.
No 4 Cdn Provost Coy, 3 Cdn Div.

being duly sworn, is examined by the prosecutor.

I am L 34021 L/Cpl Butler, No 4 Cdn Provost Coy. I was on duty about 2.15 a.m. 26 May 43 near Kings Head public house with 3 other L/Cpls of Prov Corps. I saw three civilian youths being chased by a soldier across the Carfax. On investigating, found soldier, later identified as the accused, facing one of the civilians in a belligerent attitude. I spoke to them, in order to divert their attention until the arrival of the civil police. This officer did not know the cause of the trouble, but told the civilians to move on; I then ordered the soldiers to move on. Then the question arose as to the authority of 3rd Div Provost to deal with men of another div. While we were taking Pte Pineault to the station, accused followed us; when we stopped on the street, accused struck L/Cpl Newton, who then pursued him.

Q. Did you hear Pte Pineault call out for help?
A. Yes, sir.
Q. You were sitting down and holding P (2), and then accused struck L/Cpl Newton?
A. Yes, sir.

Q. You have no knowledge of what accused did after striking Newton?
A. No, sir.
Q. Did you actually see accused strike L/Cpl. Newton?
A. Yes sir, I saw him strike him in the face.

Second Witness H63014 L/Cpl. Newton, D.H., No. 4 Cdn Provost Coy, 3 Cdn Div.

I am H63014 L/Cpl. Newton, No. 4 Cdn Provost Coy. I was on duty in Horsham about 2150 hrs, 26 May 43. Accused had nothing to do with this affair till we were taking Pte. Pineault to the station. On the way we stopped and sat down, and it was then that accused interfered; he asked us to let Pineault go, and when we refused, he came in and hit me on the head with his hand, while I was holding Pineault. I would say that accused had been drinking.

Q. Did you hear Pte Pineault call for help?
A. No, sir.
Q. ~~How long have you known the accused~~ Was Pte Freise drunk, in your opinion?
A. No, sir.

Third Witness B85953 Pte. Bond, H.S., HQ Coy 2 Cdn Div. RCASC.

I am B85953 Pte. Bond, H.S., HQ Coy. 2 Div. RCASC. On the night in question I had some drinks with accused in a pub on the Carfax; then we went to another, & met Pte Pineault. Then I went to the King's Head, & then to the bus stop. While I was standing at the bus stop I saw Pte Pineault & Freise come out of the King's Head pub; they were talking "a little louder than normal", & in my opinion the accused was drunk.

D

The prosecution is closed.

Defence.

Question to the accused. Do you apply to give evidence yourself as a witness?

Answer. Yes, upon oath.

Question. Do you intend to call any other witness in your defence?

Answer. Yes

Question. Is he a witness as to character only? *Answer.* Yes.

INSTRUCTIONS TO THE COURT.

(i) When the answers to the above questions have been recorded, the Court will follow the provisions of Rules of Procedure 40 and 41 respecting the order of evidence and addresses which is applicable to the circumstances of the case.

(ii) All addresses by prosecutor, counsel or defending officer, whether recorded by the Court or handed in in writing will be attached to the proceedings in the order in which they are made. Any address which the accused is entitled to make pursuant to Rules of Procedure 40 (C) (iv) and 41 (A) (i) and (iii) will be similarly dealt with. Written addresses will be read to the Court, marked and signed by the President. If any person who is entitled to make an address declines to do so, a record will be made to that effect.

(Where any evidence is given for the defence.)

The evidence of the accused (and of the witnesses for the defence including witnesses as to character) is recorded on a separate page (*see overleaf*).

(Where the accused does not give evidence upon oath.)

Question to the accused. ~~Have you anything to say in your defence?~~

Answer. ~~The accused in his defence says:~~ Nar.

~~[hands in a written address which is to be read, marked signed by the President and attached to the proceedings.]~~

On the night in question

I am B 83466 Pte. Friend, R.W., HQ Coad 2 Can Div RCASC. Pte Pineault & I went across the Carfax, & were laughed at by three civilians & a naval cadet, which started an argument. The Provost came up then, and started talking to me, & I didn't answer. Then we started to walk away, & I heard Pineault say something, & I looked back and saw that the provost had grabbed him. They marched him along towards the police station, and I followed about 10 yds behind. they had twisted his arms behind his back.

Instruction. † In this space will be recorded any oral statement or address made by the accused in his defence when he has not given evidence as a witness. (For any additional address which he is entitled to make, *see* Instructions to the Court above.)

The evidence of the witnesses for the defence, including that of the accused, if he is a witness, will be taken here in the order in which they give evidence.

And he kept calling out, practically begging them to let go, as it hurt. When they sat down, I came around in front, and asked them to let go of his arms. They said "Get the hell out of here; you've caused enough trouble already". So I reached with my left hand towards the provost's shoulder, and as I reached, he grabbed hold of my arms. Apparently he thought I was going to strike him. He ordered me to accompany him.

Q. You are under oath. If the provost had released Pineault's arm, would you have interfered?

A. No, sir.

Q. Up until the time you spoke to them as they sat down, you had remained behind them?

A. Yes, sir.

2nd Witness for Defence] Capt A. R. MacFarlane (see Exhibit "D")

E

Finding.*

*To be struck out except in cases where trial has taken place on a plea of "Not Guilty."

The Court is closed for the consideration of the finding.

The Court find that the accused is

guilty of the first charge and

NOT guilty of the second and third charges.

Court re-opened & findings on second and third charge announced in open court.

Proceedings on Conviction *before Sentence.*

*When the Court is already open this sentence will be struck out.

~~*The Court being re-opened, the accused is again brought before it.~~

The prosecutor is duly sworn.

Evidence of character, &c.

Question by the President. Have you any evidence to produce as to the character and particulars of service of the accused? *Answer by the Witness.* Certified true copy of AFB 6 and AB 296.

The above statement (with the schedule of convictions and of cases in which trial has been dispensed with) is read, marked A, B, C, &c., signed by the President, and annexed to the proceedings.

Question by the President. Is the accused the person named in the statement which you have heard read? *Answer by the Witness.* Yes.

Question. Have you compared the contents of the above statement with the regimental books? *Answer.* Yes.

Question. Are they true extracts from the regimental books, and is the statement of entries in the conduct sheets a fair and true summary of those entries?

Answer. Yes.

[Instruction.—If by reason of the nature of the service of the accused in a department specially or otherwise the finding of the Court renders him liable to any exceptional punishment in addition to that to be awarded by the Court the prosecutor must call the attention of the Court to the fact, and the Court must inquire into the nature and amount of that additional punishment.]

Not Cross-examined by the accused.

Question to the accused. Do you wish to address the Court? *Answer.* No.

The Court is closed for the consideration of the sentence.

I am Capt. A.R. Mac Farlane, Adjt. Hd. Coms.
2 Cdn Div RCASC. I have known Pte. Griese for approx 1 yr.
He is a willing worker, and has done excellent job as D/R.
His excessive energy, great sense of humour; and cheerfulness
are a very excellent morale-raising influence in the
unit. He is very popular, and has always been a
satisfactory soldier

Major

SUMMARY OF EVIDENCE IN THE CASE OF B053466 Pte Griese, R.W. - HQ Comd 2 Cdn Div RCASC - a soldier of the Canadian Army Overseas.

The accused is informed of his rights.

The C.O. directs that the evidence be taken on oath.

FIRST WITNESS for the prosecution: L34021. L/Cpl Butler, F.C. No. 4 Cdn Provost Coy, C.A.A.F., sworn, states:

On the evening of 26 May 43, between 2145 hrs and 2150 hrs, L/Cpl Newton and myself were on patrol duty in HORSHAM. We were standing on the street corner by the King's Head Pub, and were talking to L/Cpl Newcombe and L/Cpl Buchanan. I noticed three civilian youths crossing the street going towards Barclays Bank at the Carfax. A soldier who I later identified as Pte ~~Pineault~~ GRIESE was chasing them. A civilian policeman was walking in the direction that the civilians had gone - they were out of my sight by this time. I told the other Provost personnel that something was wrong and that we should investigate. As the four of us turned the corner at the bank I saw ~~Pineault~~ GRIESE and a civilian youth facing each other. From Pte ~~Pineault~~ GRIESE's actions I felt that he was about to hit the civilian. The civilian was one of the three youths who had been chased by Pte ~~Pineault~~ GRIESE. I asked Pte ~~Pineault~~ GRIESE what was going on. By this time a civilian police sergeant came on the scene. Pte ~~Pineault~~ GRIESE and the civilian who had been arguing, stopped doing so and paid attention to us.

I enquired of the police sergeant what had been the trouble. He replied that he didn't know but that he had noticed a little rumpus and was investigating.

Pte ~~Pineault~~ GRIESE and the civilian now started their argument again. At the same time a second soldier (later identified as Pte ~~Griese~~ PINEAULT) came up. The police sergeant then told the civilian youth to move on and to go home, which he did. I told the two soldiers that the best thing for them to do was to move on and be quiet. Pte Pineault then spoke up and said that we were 3rd Div soldiers and had nothing to do with him, as he belonged to 2nd Div. I advised him that I didn't want to hear any of that kind of talk from him and again ordered him to move along. A verbal argument followed between Pte Pineault and myself but he still did not move on. I then asked both soldiers if they had passes to be in town. Pte Griese replied that he had a pass and proceeded to look for it. Pte Pineault replied that they lived close to town and did not require a pass until after 2230 hrs. We had a few more words, I don't remember exactly what then they started to cross the street. While crossing the street one of the soldiers turned around and called us a bunch of bastards - I could not say which one. We then went after them, caught up to them and asked to see their paybooks. Pte Pineault said that he didn't have any pay book nor identity discs. Pte Griese had his pay book. I then told Pte Pineault to come along with us - intending to place him under close arrest. He then struck at L/Cpl Newton with his fist but missed him. L/Cpl Newton and myself then grabbed Pineault. We pinned his arms behind his back and started off for the police station. Pineault was swearing and shouting during this action. He struggled all the way, kicking at L/Cpl Newton on two occasions and spitting in our faces. It appeared to be hopeless to attempt to get Pte Pineault to the station in this manner so L/Cpl Buchanan went and got our lorry. While we were waiting for the lorry Pineault would not stand up so we held him in a sitting position on the sidewalk. Pte Griese, who had followed the procession from the rear, came around to the front and hit L/Cpl Newton on the side of the face with his fist. L/Cpl Newton then released his hold on Pineault and grabbed Griese. Pte Pineault struggled further and managed to break away from me. L/Cpl Newcombe then came to my assistance and while trying to get a hold of Pineault was struck on the side of the head by Pineault's fist. We then caught Pineault again and held him lying down on the street, until our lorry arrived.

The lorry arrived and we placed both prisoners in it, proceeded to the Horsham police station and had them put in cells.

During the action I noticed that both soldiers smelt of liquor but in my opinion neither of them was drunk.

While in the police station Pte Griese was identified by his

pay book so we phoned his unit to send an escort to pick up both prisoners. Pte Pineault was identified by the Cpl i/c Escort.

CROSS EXAMINED BY ACCUSED - B83466 Pte Griese, R.W.

Q. 1. Did I struggle and fight before you put me in the truck.

A. 1. I don't know. I only saw you get in the truck by yourself. I also saw you hit L/Cpl Newton before the truck arrived.

F C Butler
.....
L34021 L/Cpl Butler, F.C.
No. 4 Cdn Provost Coy.

SECOND WITNESS for the prosecution: H63014 L/Cpl Newton, D.H., No. 4 Cdn Provost Coy, C.A.A.F., sworn, states,

On 26 May 43 at approximately 2130 hrs, L/Cpls Newcombe, Butler, Buchanan and myself were standing in front of the King's Head Pub in HORSHAM. We were on patrol duty. I noticed a disturbance at the Carfax. I saw a civilian police sergeant and two soldiers, later identified as Ptes Pineault and Griese. When I first saw the two soldiers they were running after four civilian youths, who ran away. One youth only ran as far as the corner opposite the King's Head and stopped there. The other three L/Cpls and myself proceeded to that corner. Just as we appeared at the corner Pte Griese was starting to swing his fist at the civilian but he stopped when he saw us approaching. I inquired as to what the trouble was. The civilian answered something to the effect that the soldiers had started to fight with them on the street and that the soldiers had called he and his three companions "Limey bastards". A civilian police sergeant, who had arrived told the civilian youth to go home, which he did. The police sergeant told us that he would leave the soldiers for us to deal with. I then told the soldiers that there was no need for any trouble and that they could carry on. Pineault stated that they were 2nd Div and that we were 3rd Div and consequently had nothing to do with them. I again warned them that there was no need for any trouble - with that they turned and walked about half way across the street. When they got half way across one of them, I'm not sure which, turned and called us a bunch of rotten bastards. The four of us then walked after them and asked to see their paybooks. Pte Pineault stated that he did not have his pay book. I asked him if he had identity discs on and he replied in the negative. I told Pte Pineault that he was under close arrest because he had no identification whatsoever. As L/Cpl Butler advanced towards him to place him under close arrest Pineault swung his fist at me but did not hit me. L/Cpl Butler and myself then grabbed Pineault by the arms, pinning them behind his back and forced him to come along with us. He would not come voluntarily. He fought and kicked, using abusive language to us while we were leading him to the police station. About half way to the police station he sat down on the sidewalk and refused to get up. I then sent L/Cpl Buchanan for our lorry with the intention of transporting Pineault to the police station. In the absence of L/Cpl Buchanan, Pte Griese who was following L/Cpl Newcombe and L/Cpl Buchanan (who were behind me) came around to the front and took a swing at me with his fist. The blow landed on the left side of my head and caused me

to let go of Pineault. When I let go of Pineault I grabbed Griese and told him that he was under close arrest. While I was holding Pte Griese, Pte Pineault was able to break away from L/Cpl Butler but he remained on the scene. L/Cpl Butler and L/Cpl Newcombe then took hold of Pte Pineault, who struck L/Cpl Newcombe on the side of his head. Pte Pineault was then held and the lorry arrived. Pte Pineault refused to get into the lorry, he struggled and kicked, swore at us and spit in my face. Finally the three other L/Cpls had to lift Pte Pineault into the lorry. Pte Griese, who I was holding at this time, struggled to get away for a moment and then got into the lorry unassisted. Pte Pineault continued to use abusive language during the ride to the police station. When we arrived at the station we took him inside and he was put in a cell. Pte Griese was also taken into the police station and put into a cell.

During the action it was evident to me that both Pineault and Griese had been drinking but were not drunk.

CROSS EXAMINE BY ACCUSED - B83466 Pte Griese, R.W.

Accused declines to cross examine.

....D.H. Newton. L/Cpl
H63014 L/Cpl Newton, D.H.
No. 4 Cdn Provost Coy.

THIRD WITNESS for the prosecution: P50015 L/Cpl Newcombe, J.H. No. 4 Cdn Provost Coy. C.A.A.F., sworn, states:

On 26 May 43 at approximately 2200 hrs L/Cpl Buchanan and myself were on duty near the King's Head Pub. L/Cpl Newton and L/Cpl Butler had been talking to us for a few moments and then they moved on towards the Carfax. They crossed the street and I saw them talking to Pte Griese and Pte Pineault. There appeared to be an argument going on so L/Cpl Buchanan and myself proceeded to the scene to see what it was all about. As we approached I overheard Pte Pineault telling L/Cpl Newton that he had nothing to do with 2nd Div and that 2nd Div had its own Provost. I saw a civilian youth standing near bye when I got to the scene. He was told to go home by a civilian police sergeant and proceeded to do so. The sergeant then went about his duties.

There were a few words, I believe of caution, said by L/Cpl Newton to the two soldiers. The soldiers then started away from our men and Pte Pineault turned around and called us "Provost Bastards". L/Cpls Butler and Newton went over to them and although I couldn't hear what was said, I saw the two L/Cpls each take one of Pineault's arms and start walking him towards the civilian police station. Pineault struggled and used very abusive language. At this time Pte Griese spoke to Pte Pineault telling him to "smarten up and see it the right way". I told Pte Griese not to get involved in this or he would get himself into serious trouble.

L/Cpls Newton and Butler carried on with Pte Pineault who continued to struggle and swear. He spit on the faces of the men holding him. He was continually kicking and further resisting arrest. As they proceeded up the street he finally sat down on the side walk. L/Cpl Buchanan, who was following behind was told to get our lorry. While Pineault was sitting on the side walk being held by two L/Cpls, Pte Griese who had been following us came around in front of me. L/Cpl Newton let go of Pte Pineault and grabbed Pte Griese. Pte Pineault broke loose from L/Cpl Butler - I tried to get close enough to Pineault in order to get ahold of him - he struck me on the rightside of my head and forehead with his hand,

L/Cpl Butler and myself managed to subdue him and the lorry arrived. The three L/Cpls with the assistance of Cpl Cochrin who was driving the lorry, picked Pte Pineault up bodily off the pavement and put him into the lorry. Pte Pineault was kicking with his feet during this movement, he continued to spit on us also. Pte Griese got into the lorry on his own accord and we then proceeded to the police station.

The first time I had occasion to go near Pte Pineault during the above action I smelled liquor very plainly on him. I did not notice any trace of liquor on Pte Griese.

At the police station the routine of booking went on and the prisoners put into cells until picked up by their unit escort.

CROSS EXAMINED by the accused B83466 Pte Griese, R.W.

Q.1. Did I use profane language?
A.1. I could not say.

J.H. Newcombe
M50015 L/Cpl Newcombe, J.H.
No. 4 Cdn Provost Coy.

FOURTH WITNESS for the prosecution: F77487 L/Cpl Buchanan, H. No. 4 Cdn Provost Coy, C.A.A.F., sworn, states,

On 26 May 43 at approximately 2145 hrs I was on duty with L/Cpl Newcombe when we met L/Cpls Butler and Newton on the corner near the King's Head Pub. I saw two soldiers running across the street in the direction of the Carfax. I then saw a civilian police sergeant walking across the street in the same direction. L/Cpls Butler and Newton started off walking toward the Carfax to investigate the two running soldiers. L/Cpl Newcombe and I followed them.

When we arrived at the Carfax I saw a civilian youth, about 16 years old, with the two soldiers and the police sergeant. I heard the sergeant tell the civilian to move on, which he did. L/Cpl Butler told the two soldiers to move on, which they did. They walked across the road towards the Carfax and when about half way across the road Pte Pineault turned around and called the four of us a "dirty bunch of cocksuckers". L/Cpls Newton and Butler walked over to them and asked to see their paybooks. Pte Pineault did not have his. Pineault was then asked for his identity discs which he said e didn't have, L/Cpl Butler then told Pte Pineault he had better come alon with us. Pte Pineault didn't move so L/Cpls Butler and Newton each grabbed an arm and started toward the police station. Pte Pineault struggled and kicked at the two L/Cpls. When L/Cpl Newton saw he was having difficulty he asked me if I would mind going to the police station and get my truck, I left the party and got my lorry, returning to the scene. I stood by the side of my vehicle [redacted] while the prisoners were put into the back of the vehicle. I then drove to the police station.

During the action I did not see either of the accused strik at any of the Provost personnel. I did not see any struggling done by Pte Griese. I did not know that he was under arrest until we arrived at the police station.

The ACCUSED declines to cross examine.

Hugh Hanny Buchanan
F77487 L/Cpl Buchanan, H.
No. 4 Cdn Provost Coy.

The court adjourned until 1400 hrs 29 May 43 in order to hear the

evidence of Sgt J.E. Peters, Horsham Division of the Sussex Police Force.

In The Field
28 May 43

R.R. MacFarlane

(R.R. MacFarlane) Ca t.
Officer Detailed to take the Summary of Evidence.

FIFTH WITNESS for the prosecution: Number 8- Sgt Peters, Jack Everson, Horsham Division - Sussex Police Force, sworn, states,

At about 9.50 Wednesday 26 May 1943 I was on uniform duty in the Carfax, Horsham, where I saw two Cdn Soldiers who were arguing with three civilian youths and a naval cadet. Owing to their obscene language (both of them) and their agressive conduct and threatening attitude it appeared to me that the cdn soldiers were going to strike the youths. I went to the group and I advised the civilians and the naval cadet to go away, which they did. I then spoke to the two soldiers and warned them as regards their conduct and advised them to go away. At this time one of the civilian youths returned to the scene and was standing about 20 yards away. The taller soldier who is now presented to me as Pte Pineault and whom I now recognize appeared to see the civilian and he ran across the road towards him, he threatened the youth and I heard him call the youth "a shit" several times, I told this civilian youth to go away which he did. Four of the Cdn Provost Corps came across the road from the direction of The King's Head Pub. They advised the two Cdn soldiers who are now presented to me as Pte Pineault and Pte Griese and whom I recognize as the two Cdn soldiers to go away quietly. They both refused at first but later commenced to go away, but then stopped. Pte Pineault still used obscene language calling the Provost Cpls "a lot of shits". They were then asked to produce their passes. Pte Pineault refused and said "you can't see my pass until after 1030" and he refuesed to produce it. The other soldier, Pte Griese, searched for his pass in his pockets and apparently failed to find it and said "I can't find my pass". Pineault called one of the Provost Cpls "a bastard". This cpl said "you have gone too far this time and you are under arrest". Pineault struck a back-handed fist blow which caught the Cpl in the chest. He was then taken in charge by the four Cpls. I remained in the Carfax for a few minutes and saw the Provost Cpls taking Pineault, who was struggling all the time, up East Street. I walked up the street a few minutes later and saw the Provost Cpls putting Pte Pineault into their lorry. He was struggling violently all the time and they had to sit on him when they got him into the lorry. Pte Pineault and Pte Griese had both been drinking but they were not drunk.

The ACCUSED declines to cross examine.

J.E. Peters. Sergt 8.

No. 8. Sgt. Peters, Jack Everson
Horsham Division - Sussex
Police Force.

SIXTH WITNESS for the prosecution: B66282 Pte Unsworth, A.L., H.Q., Comd 2 Cdn Div RCASC., sworn, states,

On 26 May 45 at about 2150 hrs I saw Pte Griese and Pte Pineault standing on the sidewalk in the Carfax, Horsham. I was about 35 to 40 feet away from them. They were leaning up against each other with Pineault's hands on Pte Griese's shoulders. They seemed to make no noise. There were no civilians near them. I then got in the bus for Slinfold Manor and did not see Pte Pineault nor Pte Griese again that night.

The ACCUSED declines to cross examine.

A.L. Unsworth
.....
B66282 Pte Unsworth, A.L.
HQ Comd 2 Cdn Div RCASC.

SEVENTH WITNESS for the prosecution: B65953 Pte Bond, H.S., H.Q., Comd 2 Cdn Div RCASC., sworn, states,

On 26 May 45 at about 2045 hrs I saw Pte Griese in a hotel in Horsham drinking beer. He appeared to have had several drinks. In the pub there was also Pte Brown and Pte Burns with Pte Griese. The four of us left the pub together and went across the street where Pte Griese met Pte Pineault and started to talk to him. A few minutes after the five of us proceeded to another pub. When we first met Pte Pineault it appeared to me that he had been drinking. We each had a pint and a half of beer in this pub, I then left by myself and proceeded to the King's Head Pub. I was there about ten minutes when Pte Griese and Pte Pineault came in. They both appeared to have been drinking heavily. They had two pints of beer with me at least and I then left the hotel to catch the bus for camp. I later saw Pte Griese and Pte Pineault come out of the pub and stand in front of it talking together. They were talking in a bit louder than normal voice. This would be about 2155 hrs. I then went across to the bus and did not see them again that night.

The ACCUSED declines to cross examine.

H.S. Bond
.....
B65953 Pte Bond, H.S.
HQ Comd 2 Cdn Div RCASC.

The accused, having been duly cautioned in accordance wit R.P. 4(a), says:

"I have nothing to say, Sir."

R.W. Griese
.....
B83466 Pte Griese, R.W.
HQ Comd 2 Cdn Div RCASC

FIRST WITNESS for the defence: D106693 Pte Harkness, K., HQ., Coms 2 Cdn Div RCASC., sworn, states,

I was duty driver on night of 26 May 1945. At about 2200 hours I was informed by Cpl Boucher that I would have to drive him and Pte MacCallum into Horsham to pick up Pte Griese and Pte Pineault from the civilian police station. When we arrived there I left the car parked outside with Pte MacCallum in it and went into the Police Station with Cpl Boucher. While he signed the papers I waited at the door. The first I saw of Pte Griese and Pte Pineault was when they were brought to the door by Cpl Boucher and the Provost Cpls. When I first saw them they appeared to me to be drunk. Cpl Boucher and I had to help Pte Pineault into the car as he could not get in himself. Pte MacCallum assisted Pte Griese into the car. We then drove back to Gleniffer. They were both talking incoherently. When we arrived back at Gleniffer Pte MacCallum assisted Pte Griese upstairs and Cpl Boucher and myself assisted Pte Pineault up to his room where we made his bed and helped him to undress. It was approximately 2300 hrs when we returned to Gleniffer.

The ACCUSED declines to cross examine.

.....
D106693 Pte Harkness, K.
HQ Coms 2 Cdn Div RCASC.

SECOND WITNESS for the defence: D91816 Pte MacCallum, J.D.K., HQ Coms 2 Cdn Div RCASC., sworn, states,

On 26 May 1945 at approximately 2235 hrs I was detailed by Cpl Boucher to act as escort to bring two prisoners back from Horsham. We arrived at the place in Horsham where the two prisoners were being kept between 2255 hrs and 2300 hrs. I waited outside in the car alone for about ten minutes then Cpl Boucher came out with the two prisoners. From their actions they were very drunk. They both talked incoherently. Cpl Boucher and Pte Harkness assisted Pte Pineault into the car. I got out of the car and assisted Pte Griese in. They were both put in the back seat. We came back to Gleniffer then. On the way back Pte Griese was mumbling words which did not make any sense to me. Pte Griese's breath smelt very strongly of beer. When we arrived back at Gleniffer Pte Harkness and Cpl Boucher helped them upstairs and I proceeded to my bed.

The ACCUSED declines to cross examine.

.....
D91816 Pte MacCallum, J.D.K.
HQ Coms 2 Cdn Div RCASC.

Third Witness for the defence: H14420 Cpl Boucher, G.A.C., HQ Coms 2 Cdn Div RCASC., sworn, states,

On the night of 26 May 45 I had been drinking beer with Pte Pineault at Five Oak's Pub. We had 3 pints apiece and then left for Broadbridge Heath. We had two or three half pints apiece at the pub in Broadbridge Heath and then Pte Pineault left me and proceeded to Horsham. Pte Pineault had 15 shillings when he left me. I went back to camp about 2205 hrs when I was asked by Cpl McGill to go into Horsham to escort two prisoners who were Pte Griese and Pte Pineault back to camp. I detailed Pte Harkness to get his work ticket signed so that he could drive me in. I also detailed Pte MacCallum to come as an escort. I went to the civilian police station and asked for the RCASC personnel the e.

The civilian constable gave me the pay book belonging to Pte Griese with some money in it. While I was there I asked some Provost Cpls what was the matter and they stated that Pte Pineault had got into trouble and that Pte Griese had stuck his nose into it and had made a nuisance of himself. The civilian constable asked me if I knew the regimental number of Pte Pineault which I gave him. I signed the receipt for the two soldiers and went to the cells with the constable. We went to Pte Pineault's cell first which the civilian constable unlocked. Pte Pineault was lying down with his eyes closed. I had to shake him and I asked him if he recognized me. He opened his eyes but did not answer me. I took him by the arm and shook him again and asked him to get up. He put his feet on the floor beside his bed and tried to stand up but fell back on the bed. Pte Pineault was now sitting on the side of the bed, I gave him his two boots and told him to put them on. I then went to Pte Griese's cell where I found him lying down with his eyes closed. He appeared to be asleep. I shook his arm and he opened his eyes. I asked him if he recognized me but do not remember if he answered me or not. I then told him that I had come to pick him up. I then went back to Pte Pineault's cell to see how he was getting on. He was still sitting down on the edge of the bed so I helped him to stand up. He appeared to be drunk and stated that he had a sore leg. As the police had not given me any money belonging to Pte Pineault and as I knew that he had had 15 shillings when he had left me earlier in the evening I asked him if he had any money. He put his hand into his pocket and showed me a two shilling piece and said that that was all he had. I put his tunic over his shoulders and told Pte Harkness to come and help me take him to the car. We put our arms around his shoulders and helped him out to the car. In the meantime the Provost Cpls were helping Pte Griese to the car. We helped Pte Pineault into the car and Pte MacCallum helped Pte Griese into it. We arrived back at Gleniffer where Pte Harkness and I helped Pte Pineault up to his bed where we helped him to undress. I got a bandage and bandaged up his ankle as he stated it was sore.

The ACCUSED declines to cross examine.

E14420 .....
E14420 Cpl Boucher, J.A.G.
HQ Comd 2 Cdn Div RCASC.

FOURTH WITNESS for the defence: B83120 Pte McDermid, R.S., H.Q., Comd 2 Cdn Div RCASC., sworn, states,

I was in Horsham on 26 May 43 and returned to Gleniffer at approximately 2230 hrs. I went to my room and at about 2300 hrs Pte Pineault came into the room. He and I live in the same room. Pte Pineault was complaining of a sore ankle so Cpl Boucher rubbed his ankle with ointment, after which Pte Pineault went to bed.

I have known Pte Pineault for two years and roomed with him for six months and it was evident to me that he was under the influence of liquor that night. In proof of this I state that Pte Pineault got into the wrong bed when he went to bed.

At the same time as the above, Pte Griese was also in our room. I did not pay much attention to him but there were definite signs of him having been drinking. I have known Pte Griese for three years and from his actions and talk it was evident to me that he was under the influence of liquor.

The ACCUSED declines to cross examine.

R.S. McDermid
.....
B83120 Pte McDermid, R.S.
HQ Comd 2 Cdn Div RCASC.

FIFTH WITNESS for the defence: B86456 Pte Burns, R.E., H.Q., Comd 2 Cdn Div RCASC., sworn, states,

On 26 May 43 at 1900 hrs I was in front of the King's Head Pub in Horsham, where I met Ptes Griese and Brown. The three of us went into another pub and had a couple of pints. We met Pte Bond in this pub. The four of us then came out of this pub and met Pte Pineault. We all went into another pub and had two or three more pints of beer. We went outside of this pub and Pte Brown and myself left the other three who went over to the King's Head. Pte Brown and I just walked for awhile and then about 2130 hours we went to the King's Head and again met Ptes Pineault and Griese in the pub. By this time they both appeared to have had quite a bit to drink. The two of them left this pub before Pte Brown and myself did. That was the last I saw of them that night.

The ACCUSED declines to cross examine.

W.E. Burns
.....
B86456 Pte Burns, R.E.
HQ Comd 2 Cdn Div RCASC.

SIXTH WITNESS for the defence: B89167 Pte Brown, B.B., H.Q., Comd 2 Cdn Div RCASC., sworn, states,

On 26 May 43 at approximately 1730 hrs Pte Griese and I left billets for Horsham. We had a couple of pints of beer at a pub. We then left for the King's Head Pub where we met Pte Burns. The three of us went into that pub and had three or four pints of beer. As we left that pub we met Pte Pineault who appeared to have been drinking quite a lot. Pte Bond met us also so the five of us all went over to another pub where we had another two or three pints. We left that pub and Pte Griese and Pte Pineault went toward the King's Head. Pte Burns and myself went for a walk. Pte Bond had gone back to billets.

Pte Burns and myself then went into the King's Head at about 2130 hrs and again saw Pte Griese and Pte Pineault. They were both drinking and looked to be pretty drunk to me but Burns and I did not actually speak to them. Shortly after this the two of them walked

out of the pub and I did not see them again that night.

The ACCUSED declines to cross examine.

B89167 Pte Brown, B.B.
HQ Comd 2 Cdn Div RCASC

Certified that R.P. 4 complied with.

In the Field.
31 May 43.

(A.R. MacFarlane) Capt,
Officer detailed to take
the summary.

No. B.83466 Name GRIESE, R.W. Sqn., Battery, or Company Corps R.C.A.S.C. Date of enlistment 2 JUL 40 G.C. Badges n/a Service or Proficiency Pay n/a

M.F.M. 6 (A.F.R. 122) 175M—7-41—(255-20) H.Q. 1272-39-1853

Date of last entry in Company Conduct Sheet 11 May 43 Next end date of fine drunk n/a Period not reckoning towards freedom from extra fine n/a Sheet No. 3 Signature O.C. Company, etc. Character

Place	Date of offence	Rank	Cause of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
				Previous sheet destroyed 11 May 43 on completion of two years service with no entries.					
				Granted one good conduct stripe 11 May 43 on completion of two years service with no entries					
				Certified true copy: (R.A. Walker) Capt. H.Q.Comd 2 Cdn Div RCASC					
				31 May 43.					

Appendix B

F.T.O.

Substitute for
AFB 296 or MFB 355

STATEMENT AS TO CHARACTER AND PARTICULARS OF SERVICE OF ACCUSED

NO. B83466.....Rank..Pte....Name..Grieve, R.W..Unit. HQ Comd 2 Cdn Div

RCASC....Age..21.....Married or Single..Single....No of Dependents NIL

Date of attestation..... 2 Jul 40.

No of days spent in close arrest (to date of trial) 2 days 17 hrs (89 hrs)

Dates of promotions, appointment and confirmation of rank, if any.....

.....N.I.L.....

(a certified true copy of AFB 6 must accompany this form)

Dated at Field.....

This ..1st.....Day of June 1945

A.R. MacFarlane

(A.R. MacFarlane) Capt & Adjt.,
HQ Comd 2 Cdn Div R.C.A.S.C.

Appd by C
C [illegible]

1019-137

S/SGT GRIEVE R B

R84187 S/Sgt. Grieve, R.R.
34 Cdn Corps Tps Coy RCASC

DD-137

Correspondence to be PINNED here.

Army Form A.3.

Form for Assembly and Proceedings of Field General Court Martial on Active Service.

PROCEEDINGS.

A.

On Active Service, this Twenty Fourth day of April, 19 43. (Order convening the Court.)

Whereas it appears to me, the undersigned, an officer in Command of 2 Cdn Corps Tps RCASC, on active service, that the persons named in the annexed Schedule, being subject to Military Law, have committed the offences in the said Schedule mentioned.

And whereas I am of opinion that it is not practicable that such offences should be tried by an ordinary General Court Martial; * ~~[and that it is not practicable to delay the trial for reference to a superior qualified officer.]~~

*Omit where convening Officer is Commanding Officer or is of Field Rank.

I hereby convene a Field General Court Martial to try the said persons, and to consist of the Officers appointed or detailed hereunder.

* ~~[I am unable to appoint :—~~

~~*(1. Three Officers to form the Court.)~~

~~*(2. A Field Officer as President.)~~

~~for the following reasons, namely :—]~~

If not *.

Proceedings forwarded for Revision 19 May 43

NOTE.—The President must be named. The members and waiting members (if any) may be mentioned by name, or the number and ranks and the unit to which they belong may alone be named in the latter event, the ranks, names, &c., of the members of the Court, as constituted, will be recorded on the proceedings.

*Must be acted personally by the Officer actually in command at the time and all directions in the composition of the Court to be complied by this.

President.

Rank.	Name.	Regiment.
Major	R.L. Mummery	2 Cdn MAC RCASC

Members.

Rank.	Name.	Regiment.
Captain	J.S. Deacon	2 Cdn Corps Sigs
Lieut.	P.R.F. Hodgins	33 Cdn Corps Tps RCASC
	WAITING MEMBER	
~~Lieut.~~ RAM	~~R.F. Grant~~ RAM	~~2 Cdn Corps Sigs~~

*Signed J.G. Bisson Lt.Col.
(J.G. Bisson)
Commanding 2 Cdn Corps Tps RCASC
Convening Officer.

SCHEDULE

Number, Rank (a) Name and Unit of Accused (b)	Offence charged	*Plea	Finding and if Convicted, Sentence (c)	How dealt with by Confirming Officer (d)
B84817 S/Sgt Grieve, R.B. 34 Cdn Corps Tps Coy RCASC	First Charge Drunkenness-A.A. sec 19	Not Guilty	Not Guilty	
	Second Charge Conduct to the prejudice of good order and military discipline-A.A. sec 40	Not Guilty	Not Guilty 27 April 1943 R.C. Mummery Maj. Pres.	Noted J.G.B. 10 May 43

*Question to be asked of accused, if he pleads not guilty (R. of P. 39 (a)) :—
"Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity for preparing your defence ?"
Answer (to be recorded on separate sheet if necessary) :—

(Signed) J.G. Bieson Lt.Col. (Signed) R.C. Mummery Maj.
(J.G. Bieson)
Commanding 2 Cdn Corps Tps RCASC 2 Pl. A.C.
Convening Officer (e) President.

(a) Appointment acting rank or acting appointment, if any, to be stated in brackets after the substantive rank.
(b) Unless unavoidable, not more than three names are to be entered on one form, and in serious cases one only.
(c) Recommendation to mercy, if any, to be inserted in this column.
(d) It is not necessary that the Confirming Officer should sign his name in this column. Initials are sufficient.
(e) Must be signed by the same Officer who signs on the first page, and all alterations in the first two columns of the Schedule to be initialled by him.

Evidence and Charge Sheets (if necessary) to be PINNED here.

B. Certificate of President as to proceedings.

I certify that the above Court assembled on the 27th day of April 1943, and duly tried the persons named in the Schedule, and that the plea, finding, and sentence in the case of each such person were as stated in the third and fourth columns of that Schedule.

I also certify that :—

1. The members of the Court
2. The witnesses
*(3. The ~~Interpreter~~)
*(4. The officers under instruction)

*Omit if not applicable.

were duly sworn.

Signed this 27th day of April 1943.

R. L. Mainwaring Major
President of the Court Martial.

C. Certificate on case of death sentence.

*See footnote (b) on page 707 M.M.L., 1929.

~~I certify that the terms of *A.C.I. 570 of 1918 have been complied with.~~

~~Signed this 27th day of April 1943.~~

President of the Court Martial.

D. Confirmation.

Witness R.L.M.

I have dealt with the findings and sentences in the manner stated in the last column of the Schedule, and, subject to what I have there stated, I hereby confirm the above findings and sentences.

*(I direct that the soldier named in the margin be not committed to prison or detention barrack until further orders.)

*To be omitted unless penal servitude, imprisonment or detention having been awarded, the Confirming Officer either has no authority to commit to prison or detention barrack, or, having such authority, recommends suspension.

Signed this day of 19

Confirming Officer.

Promulgated and extracts taken in the case of

(a) (Dated) (Signed)

Promulgated and extracts taken in the case of

(Dated) (Signed)

Promulgated and extracts taken in the case of

(Dated) (Signed)

(a) When several cases are promulgated in one unit on the same day the Officer need only sign once.

(37701) W1.47333/347. 25,000 2.42 A.A.F.W.1,113. Gp.698
(31781) W1.13058/1359 40,000 7.42 " "

ALM

CHARGE SHEET

The accused, B-84187 S/Sgt. Robert Baxter GRIEVE of 34 Cdn Corps Troops Company, RCASC a soldier of the Canadian Army Overseas, is charged with:-

First Charge
Sec 19, A.A.

WHEN ON ACTIVE SERVICE DRUNKENNESS

In that he

in the field at 1830 hours, 14 April 43 when on duty, namely, while in charge of a group of men posted to 34 Cdn Corps Troops Company RCASC was drunk.

Second Charge
Sec 40, A.A.

CONDUCT TO THE PREJUDICE OF GOOD ORDER AND MILITARY DISCIPLINE

In that he

in the field at 1830 hours, 14 April 43 became unfit for duty by reason of previous indulgence in alcoholic stimulants.

A.L. Morris

(A.L. Morris) Major,
Officer Commanding,
34 Cdn Corps Troops Coy. RCASC.

To be tried by field General Court Martial

J.B. Simon
D Col
Comd'd Cdn C.T.
RCASC

24 Apr 43

R.I.M.

74 CCTC 5-2-0

27 Apr 47

This is to certify that
B 841B7 S.Sgt. Grieve H.B.
is in fit condition to undergo Court Martial

Grieve Capt Medical Offic

(Page 1)

Accused B84187 S/Sgt. Robert Baxter Criere.
(Number) (Name) (Corps) (Unit)

Held in the Field in England on 24 April 1943
(Country) (Date)

	Rank	Name	Unit
PRESIDENT:	Major.	R.L. Wemmy.	2 M.A.C
MEMBERS:	Capt.	J.W. Dixon	2 Can. Corps Sigs.
	~~Lieut.~~	~~R.S. Grant~~ R.L.W.	2 Can. Corps Sigs.
JUDGE ADVOCATE (If any)	Lieut	R.R.R. Hodgins	33 Can Corps Sigs R.C.A.S.C
DEFENCE COUNSEL:	Lieut.	R.M. Turner	34 Log. R.C.A.S.C.
ASSISTANT:	Lieut	R.S. Grant	2 Can Corps Sigs.

PROSECUTING OFFICER: 2Lieut. L.C. SHANKMAN Lawyer? yes.

DEFENCE OFFICER: Capt. M.A. MacPherson Lawyer? yes.

(The following procedure ~~shall~~ is ~~strictly~~ carried out)

The Precedent governing the convening Order, as per Sec. 5(1) and Second of Schedule. (Sec. 5.17(2), 22(1)).

The Prisoner, in direct ~~contravention~~ (R.P.A., Pa. 1), hands the Convening Order and the Charge Sheet(s) to the Court, and the Court is, ~~therefore~~ ~~bound~~ it is ~~ordered~~ ~~by~~ (Sec. 52) R.P.A., not constituted, but ~~the~~ proceeding is ~~void~~ (Precedent, ~~to~~ British Law, ~~has~~ ~~been~~ ~~confirmed~~ ~~by~~ Privy Council).

1005

The Accused is (are) arrested, and the Court, ~~at~~ ~~hours~~, ~~the~~ ~~brief~~ ~~adjourns~~.

The Prosecuting Officer produces a Legion certificate under R.A. (One)557 (Gen. Conv. Circular Letter 173) that the Accused is (~~re~~) fit to undergo trial by Court Martial. The certificate is initialled by the President and ~~attached~~ to the Proceedings.

President to record:

~~The objection to~~ RLW ~~be interpreted?~~ ~~Now~~

~~The interpreter~~ RLW

~~The objection to~~ RLW ~~be overruled or~~

~~The~~ ~~objection~~ ~~is~~ ~~overruled~~ RLW

~~The reason~~ ~~of~~ ~~the~~ ~~Court~~ ~~is~~ ~~now~~ ~~to~~ ~~be~~ ~~recorded~~ (R.P.,

President to Prisoner:

~~Do you object to be tried by~~ ~~any~~ ~~of~~ ~~the~~ ~~Officers~~ ~~whose~~ ~~names~~ ~~you~~ ~~have~~ ~~heard~~ ~~read~~? ~~Now~~ No.

~~The President, Members, Judge Advocate and Officers under instruction are duly sworn~~ (R.P.26-27 (Form of Oath on Page 4.)

The Charge Sheet(s) is (are) initialled by the President.

The Prosecuting Officer informs the Court that the accused was (was not) elected trial by Court on this (a.m.) (p.m.) (R.P. 2(d))

(If special plea/s in/are case for separate trial in bar or pre-charges (R.P. 62(f), 108); or to the jurisdiction of the Court (R.P.34); or in bar of trial (R.P.36); or as to accused's capacity to stand trial (R.P. 122, R.P.C.N.), reading such plea/s in evidence (if any) or proof as to the latter plea by the Prosecutor and answer to the plea/s.

Each charge is read to the accused and he is asked to each charge is read whether he pleads guilty or not guilty (R.P.116). He pleads as follows:

First Charge Not Guilty.

Second Charge Not Guilty.

Third Charge _____

Fourth Charge _____

Fifth Charge _____

Sixth Charge _____

Seventh Charge _____

Eighth Charge _____

(For procedure on alternative charges, see R.P. 57, (n 2)

Further proceedings are recorded on Page hereto attached.

PAGE '8'

(For use when accused pleads 'Not Guilty' to all Charges)

(All printed matter not applicable to be struck out, and all alterations, insertions, and additions to be initialled by the President)

1. President to accused:
a. Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity for preparing your defence? (R.P.39(A)). Ans ~~Yes~~ No.

2. The Prosecutor's opening address (if any) (R.P.39(B)) and the evidence for the Prosecution are recorded on separate sheets, initialled by the President and attached hereto. (See RECORD OF EVIDENCE on Page 'D')

3. The Prosecution is closed. (If submission that there is no prima facie case established, see R.P.40 fn 1; R.P.70 fn 1)

4. The accused is informed that he may, if he wishes, give evidence, but if he does so, he will be liable to cross-examination (R.P.40 fn 2) or that he may, if he wishes, make an unsworn statement, upon which he can not be cross-examined. (R.P.40(D)(ii)(a)).

5. President to accused:
a. Do you apply to give evidence yourself as a witness? Ans Yes.
b. Do you intend to call any other witness in your defence? Ans Yes
c. Is he a witness as to character only? (R.P.40(B)). Ans No

6. The evidence for the Defence (if any) is recorded on separate sheets, initialled by the President and attached hereto.

7. The closing addresses of the Prosecutor, Defending Officer and Judge-Advocate (if any) are recorded on separate sheets, initialled by the President and attached hereto. (For orders of addresses see R.P.40, 41 and 42)

8. The Court is now closed to consider the finding (Rs 43 and 117) (Record Finding on Page E of A.F.A.3)

9. The Court being re-opened, the accused is again brought before it, and the findings of 'Not Guilty' (if any) are pronounced and (if findings of 'Not Guilty' on all charges) the accused is released. (R.P. 117(B)

10. Statement of Character and Service (A.F.B.296) and Field Conduct Sheet (A.F(B.6) signed in the manner required by A.A.103(1)(n) and purporting to refer to the accused by his number (if any), rank, name and Corps, are produced to the Court, read, marked " ", and " ", initialled by the President and attached to the proceedings (R.P.46; Overseas R.O.3131)

11. President to accused:
a. Do you wish to address the Court on the Statements of Character Service and Conduct and in mitigation of punishment? (R.P.40(D). Ans No. No cross-examination.
(Record address, if any, on separate sheet, initialled by the President and attached hereto)

12. The Court is now closed to consider the sentence (Record on Page 2 A.F.A.3)
(Punishments, A.A.46, K.R.(Can)503-507; one sentence only awarded, (R.F.48); sentence should be dated.

The sentence is not announced to the accused by the Court.

F. K. [illegible] Major.
(Signature of President)

RCR

Jan C 11629 Robert Fredrick ~~Harper~~ Hawker (R.S.M.)

on the 14th day of April at approx 1900 hrs. detachment which had been posted to us arrived at Priors Wood.

There were two lorries. as soon as they dismounted I looked for the Senior N.C.O. who might be in charge.

I found it to be S/Sgt Grieve whom I now recognize. As S/Sgt Grieve started to walk towards me in a wobbly fashion I took a quick look at others who emerged from the trucks. ~~I noticed that there had~~ S/Sgt Grieve got out of the Cab and came towards me in a wobbly fashion. I noticed he had been drinking & I smelt it on his breath. He asked me what he wanted done with his detachment. I told him that I would give over his duties to Sgt Stagg.

Q - Why did you turn the duties over to Sgt Stagg.

A - I figured that S/Sgt Grieve was incapable of carrying out the duties due to the fact that he had been drinking.

Q - ~~Can~~ did you know the accused prior to your meeting him prior to this occasion.

A - No Sir I never saw him before.

Cross exam by defence

Q. Sgt Major did you see the men bedded down?

A. No Sir I had duties in another hut

Q - Who formed the men up -

A - The formation had to be completed by Sgt S/[illegible].

Q - What was S/S Grimm doing during this time.

A. Just wandering around.

Q - Was he talking to you?

A - Not that I remember.

Q - There were a lot of things going ~~on~~ at the time

A - ~~your question is not clear Sir~~ Yes.

Q - And you placed S/S Grimm under arrest

A - No Sir the O.C. did

Q - Why did you not place him under arrest

A - Because he caused no trouble Sir I was a Senior N.C.O

Q - When was S/S grimm placed in arrest

A. The next night.

Q - Regarding Sgt Munson ~~Defence~~ did you instruct him to form up the parade

A - No Sir

Q - Explain to the Court who Sgt Munson is.

A - Sgt Munson is one of the N.C.O's who came down with S/S Grimes.

Q - Why did Munson form up the parade

A - Sgt Munson ~~was~~ was not detailed by me ~~to~~ form up the parade - S/S grimm was - but was incapable.

Q - Do you recall definitely the action of S/S Grimm

A. Just as I have stated in the evidence.

THE PROVISIONS OF R.P.#3(3) WERE COMPLIED WITH.

I am No 55653 Sgt Staggs. L. 34 C.C.T. Coy

I was present On the 14th April at approx 9 o'clock when the Reinf arrived at Coy Hq from the 32nd C.C.T. there were 2 lorries transporting the Reinforcements to the Coy Hq

P2 - Q - Do you know where the men came from actually

A - I do not

~~The Troops whilst unloading~~ After the troops were unloaded & were lined up - I asked for the Nominal Roll and I was addressing Sgt Grimes who was known to me later as Sgt Grime - whom I now recognise - and he didnt seem to know where the nominal Roll was

P - Q What did he say to you

A. He answered me with a mumble as if unable to control his voice.

P - Q - Did were you able to understand him

A - I could not Sir.

Q. When you talked to Sgt Grime did you smell any thing on his breath

A. I did sir.

Q - What did you smell?

A. I smelt Alcoholic beverages on his breath.

Q. did you see Sgt Grime walk.

A. yes I did sir - he walked in a staggering manner as if unable to control his footsteps.

Q. When you talked to Sgt Grimes what happened

A - When I talked to Sgt Grimes and asked him for the nominal roll - he kept mumbling & ~~was~~ I was unable to understand what he was sayin -

I told him then that these men had to be detailed down a blankets drawn.

Q. When you didn't understand. did you approach anyone else

A. I approached the men -

I - What were you approaching S/Q/Mus about

A. About the nominal roll. & I then approached the Sgt who was made known to me later as Sgt Munson.

Q What was S/Q/Mus doing when you approached Sgt Munson.

A. He was staggering around among st the men

And Sgt Munson he said he had the nominal roll - and when I started to call the roll given me - S/Q/Mus was still staggering around and when I would ask him a question of some of the men who did not answer their names. he could not answer me & then I marked them absents.

~~Sgt Munson he took over the Party men in charge of S/Q as he was unable to carry out his duties.~~

Sgt Munson was asked by myself to carry out & detail the men for duty.

P. Q. Why did you ask Sgt Munson to do that

A - In my opinion S/Q/Mus was in no condition to look after his men.

D. Q What were you doing there

A - I was detailed by the S.M. to take the men

THE PROVISIONS OF R.P.81(B) WERE COMPLIED WITH.

3

I am B54114 Cpl Warford A.S. 34 E.T. Coy.

P- Q - Do you recall the night of April 14th?

A - I do sir

Q - Explain to the Court just what happened

A - On the night of April 14th at approx 1900 hrs I was standing in front of H.Q and the 2 lorries containing Reinforcements for us pulled up in front of H.Q. I saw the men dismount I noticed S/Gt [illegible] who was unknown to me at the time but when I next recognize - I saw I was standing in front of the men when they lined up.

P- Q - Did you see who lined the men up?

A - I did not sir.

I heard Sgt Staggs ask S/Gt [illegible] if he had the mens' documents S/Gt [illegible] mumbled something that I couldnt make out and waved his arms in the air trying to point to somebody. I could not make out who it was he was pointing to

P- Q. How far were you standing from S/Gt [illegible] when this occurred -

A - From 7 to 10 yds.

I saw Sgt Munson who was unknown to me at the time come up to Sgt Staggs & hand him the documents.

P- Q Did you see S/Gt [illegible] walking off.

A - Yes sir he was staggering I did not speak to him.

D. Q — might one of the reason that you asked Sgt Munson to take the men to the Q.M. Stores have been that you did not want to give orders to a S/Sgt

A - it was not sir.

Q. did you see the men bedded down

A - I did sir

Q - was S/Grimes there?

A - yes sir

Q. Did S/Grimes see them bedded down

A. I couldnt say - because he was staggering around there the billets

Q - you said that when the men dismissed who formed them up - they formed up & you — took over -

A - I did not say that - I formed them up when I asked for the nominal roll.

Cont - Q. Did you definitely form up that parade and not S/Grimes

A - I did sir.

— 4 —

D-Q you were in front of H.Q. from the time the men arrived till they left

A- ~~yes sir~~. I was not there when they left

Q- who formed them up -

A- I did not notice

Q- you did notice S/Sgt Standley in front the men.

A- yes sir

Q- Did he you say anything to them

A- I dont know sir

Q- he could have said something to them you?

A- yes sir

THE PROVISIONS OF R.P.E.(B) WERE COMPLIED WITH.

B-83079 Sgt Quinney G.E. 0?

P. Q. ~~Do~~ you recall ~~the~~

I left Burdon Hall at 14.00 hrs in the Afternoon of April 14th I was instructed to proceed to a map Ref point which brought me to Normans Park Hotel H.Q. 32 C.T. Coy. From there I was inst as to where D.I.D. was.

I arrived at D.I.D. at 16.30 hrs on arrival I contacted the officer there and began to load the men & kits on the vehicles I left for Priors Wood at 17.00 hrs S/Sgt was riding in front with me.

P-Q - Before S/Sgt got in front with you did you see him at all

A - No Sir I dont belive I did.

On several occasions on the return trip S/Sgt fell over the gear shift lever in sort of a sleepy & stupid condition.

Q - When he fell over the gears discribe the type of road you were on.

A - Both on St stretch of road & around curves.

We stopped on the young St Rd about 50 ft before entering the Bookham & Leatherhead road in order that the men could get off & relieve themselves if they wished. The stop is about 10 minutes & from then on S/Sgt was all right

P-Q - what do you mean by all right?

A - I mean I had no more trouble with him falling over the gearshift.

D - Q. Who was the Officer you reported to ~~this~~
A - I dont know -
Q - Where the men formed up when you got there
A - no sir
Q - were they subsequently formed up
A - no sir
Q - Who directed them into the lorries
A - S/ Sergeants
Q - Was the Capt there all the time
A - yes sir all the time
Q - you did not see S/Sgt until he got into the lorry
A - no sir
Q - you have known S/Sgt before
A - yes sir I know his face.
Q - after him falling over the gear stuff did he appear sleepy
A - yes sir I had to keep pushing him on
Q - Then he would shake himself awake only to slump back again
A - yes sir
Q - What kind of lorry were you driving
A - latest type Troop Carrier
Q - they have quite a sway to them
A - ~~yes sir~~ no more than usual but a man on a bumpy road can be put off ~~the seat~~ balance
Q - in the spare seat in the Cab
Q - Did you stop at any pubs en route
A - no Sir we did not
Q - was S/Sgt carrying on any beyond with him to your knowledge?
A - no Sir I do not

Q- did you see him ~~consuming~~ consuming any liquor on the trip

A- No Sir

Q- did you talk to him

A- yes I did sir - he asked me for a light - several times & I did not give it to him & I did not have any trouble understanding him.

Q- after the stop on young St you had no more trouble

A- no. sir.

Pros

Q- When S/G was returning with you & fell over the gear shift did you have the impression he was tired & had been drinking

A- I think he had been drinking.

Q- by slain his condition

A- He was sort of sleepy & I had to push him up on the seat with my left hand.

Q- In these new lorries is there plenty of room in the Cab

A- yes sir.

Q- A man would feel quite a distance to fall over the Gear shift

A- not necessarily sir.

Q- Have you seen anyone thrown off balance in one of these new Cabs

A- yes sir I have been myself.

Q- would you say that was the reason that S/G fell over the shift

A- On a bend maybe but not on the straight

O by Cont. Did the first place was there any smell of alcohol in the Cab

A - No Sir

Q - Why when asked if you thought 3/C had been drinking or was stupid you said drinking

A - because he fell over the gearshift when the truck was not swaying.

THE PROVISIONS OF R.P.83(B) WERE COMPLIED WITH.

D86561 Sgt Kerr KT 34 Coy Gordon Highrs Coy.

A Staff of men came on two lorries, at about 1800 hrs and one of accused called the roll. Staff Sgt Guerin took over the parade for a moment but it was taken over by another Sgt.

Q What was his condition

A He was unsteady on his feet & couldn't talk very well

Q Could you understand him.

A. No. I was too far away.

Q I see you see Sgt Guerin here

A Yes sir.

Q Who took over the parade.

A Sgt Munson.

Q Why did he take over the parade.

A. Because he was not in a condition to carry out the parade. I was standing with the Sgt. major.

Cross examination

Q Did staff Sgt Guerin take over & say a few words to the men

A Yes sir

Q Did you hear what he said

A No sir

Q Did you hear him give some instructions

A Yes sir.

Re-examination

Q. Did you hear him distinctly

A. No, because he was speaking indistinctly.

By court

Q - Did you hear the actual words spoken

A - No sir.

Q Were words distinct

A No sir

Q - Because of distance or enunciation

A - Enunciation

PROVISION OF R.P. 43(B) WERE COMPLIED WITH.

Court adjourned at ~~1315~~ 1210 until 1315 hrs.

Court reopened at 1315 hrs.

First witness for Defence 13845817 Sgt Gwinn RS 34 CCTC Coy Recce

Q Tell the court what occurred on 14 Apr 45

A at 0900 hrs I fell in the men of No 1 D.I.D. I told them they would be paid at 0930 hrs & to pack their kits & move off at 1530 hrs. They were paid at 0930 hrs. Several approached me & asked to get off to pick up laundry etc. at the laundry. I gave permission & told them not to go beyond Bunnfield, where there is a barber shop, some wished to get haircuts. They were warned to be back at 1430 hrs. From 1000 hrs to 1100 hrs I was busy with the admin Sgt, Sgt Leon SEONS, winding up affairs of our disbanding unit. At 1115 approx, I visited a house where they take battledress for cleaning, & picked up my battledress. Walking back, I passed the Hare & Hounds, a public house, & was greeted from the doorway by 3 Officers I knew, from another unit. They were also disbanding. During our ~~own~~ conversation it was suggested that we drink a toast to the unit & this was done. I looked in the private bar, & heard a piano in the saloon bar & men singing. I went to the saloon bar ~~and~~ & met the ~~unit~~ CO in doorway. We looked in saloon bar & the men spoke to us, & they sang a song to the CO. (for he's a jolly good fellow). I repeated warning to the men to be back for 1430 hrs to have a picture taken. When returned & billets (approx 1430) inspected Sgt Murnaw to assist in checking that the kits of men proceeding to Norway were packed ready to move off. We checked various rooms & found that only the kits still in rooms belonged to the recce party. At 1445 approx we formed up at the rear of house & took photographs of the men in a group. There were several pictures taken in small parties. When Sgt arrived from making a final check of grounds & billets to make sure they were clean. I was accompanied by Lieut McLean. The men were

already in the lorries by the time I finished inspection. The O.C. told me that he had given Sgt Morrison the M & M 6's & a confidential letter to O.C. 3 Bde Corps Tps Coy, containing the nominal roll. This was at 1630 hrs approx. We proceeded to 3 Corps Tps Coy & stopped once en route. When I arrived at Rivenwood, I approached the C.S.M. & asked if the men were to be billetted in that house. He said yes, & told the men to debuss & fall-in in three ranks. They did so. I counted the men & knew that they were all present, 19 in all. The C.S.M. told me that Sgt Skipp would arrange to issue palliasses & blankets & show the men the available sleeping quarters. I drew palliasses & blankets myself & put them on my bed in the same billet. I checked the remaining rooms when detachment was sleeping, finding all had a bed, except one, Pte Wilson. I had asked the C.S.M. if it would be alright for men to go out, & he said yes. I told the men who asked, that they could go out until 2300 hrs. I then washed & went out, returning at approx 2215 hrs, & went to bed. Following morning I fell the men in at 0815 hrs & found all present. I had them ready for Sgt Major who had told me he wished to parade the men at 0830 hrs. 1 Sgt, 2 Cpls & 3 L/Cpls.

Q When were you placed in arrest

A on the 16th

Q Who placed you in arrest

A The C.S.M.

Q Did the C.S.M. tell you you would be placed in arrest

A. No sir

Q Did you have anything to drink between leaving the House & Hamels & arriving here

A. No sir.

Q. On debussing did you have anything to do with the men

A. Only to tell them to debuss & fall up in 3 ranks, & then I left them

own or misunderstanding of them. I told the men that Sloggo would have often them

Q What about feeling your grandchild.

A. I was very tired, + not feeling well. I was up very late the night before, working. The cat had a definite away.

Q You were sleepy?

A Yes sir, I dozed off several times

Q Did you expect Sloggo should immediately before leaving.

A. I said good bye then + five minutes before embarking.

Cross examination

Q. You were in the pub from 1215 to 1350 approx

A. Yes sir

Q What were you drinking

A cider

Q how much

A four ciders

Q Who were they from

A OC + a batch from 2 D, D

Q ~~you knew~~ knowing the ~~men~~ were going. did you allow them to drink during working hours.

A. Yes sir, they were behaving well.

Q. Did you not know this was wrong

A. I had given them a blanket pass. I asked permission of OC & let them go out

Q You let them stay in pub.

A Yes sir. I told them to ~~stay~~ get back in time

Q What were you doing with hand bombs

A checking billets

Q you were senior man in party

A Yes sir

Q Why did OC. give documents to Sgt Thomson

A I was busy, and Sgt Thomson was next senior.

Q. Was this warned

A. Yes sir.

Q Why did you not rest during two hours spent in post.

A. I spent it talking with the officers in the post.

Q Were you ordered to remain on and to spread to officers in the post & yet you fell asleep over the grass.

A The cat was warm & I dozed off several times.

Q Is it true Quinney Attorney had to shove you with his left hand

A Yes sir

Q On arrival, who called the roll

A Sgt Hoyle opened the envelope, & Sgt Hodge called the roll.

Q How you explain staggering

A. I don't think I was staggering.

Q Do you deny the evidence

A Yes sir.

Q What about alcoholic breath

A It may have been odor.

Q Can you explain incoherent speech

A The men seemed to understand my orders.

Court

Q You are a new member of the unit

A Yes sir.

Q Why should fmr n.c.o's suggest you staggered & had that speech

A I don't know Sir.

Q. Was Mjr Brown with PROVISIONS OF R.P.83(B) WERE COMPLIED WITH.

A. Yes sir.

2nd witness for defence. C/1308 Sgt Munnoch E.G.

Q Do you remember 14 Jan 43

A. Yes sir.

Q. Tell what happened

A On 13th Jan after pay parade at 0930 hrs. I went with Mr Ballantyne to finish the units kwarries around the area. I returned at 1300 hrs approx & at 1400 hrs. when finishing posting S/Sgt Greave came in acting normally, & told me that the unit was leaving & pictures taken outside. I helped round up the personnel, & we had the pictures taken. We broke up to get our kits collected in the room. Then, at 1500 hrs approx the lorries from 86 Bridge Coy arrived, taking cooks & baggage away. I remarked to Capt Stuart that 3 of my lorries were late. He suggested they had been delayed. At 1600 hrs approx the lorries arrived & kits & personnel loaded. S/Sgt Greave was talking to Mr Watson & for I found that he had checked grounds & billets.

Q Did you see Capt Stuart.

A. Yes, in the Sgts room. He handed me the documents for my lorries S/Sgt Greave was busy. I put them in my tunic; S/Sgt got in the lead lorry & I in the second. My driver took the lead as the other driver did not know the way. We stopped for about 15 mins en route & arrived at 1900 hrs approx at our destination. I debussed first & met C.S.M. Watson I gave the documents given me by Capt Stuart. S/Sgt Greave debussed & fell the men into 3 ranks. The C.S.M. told the Sgts & Cpls to call the roll. He did so, & C.S.M. told S/Sgt Greave there would be a parade at 0930 hrs following morning.

The men were broken off, & Sgt Skaggs took over & had them dismissed. This was completed at 2000 hrs approx. S/Sgt Greaves & I then went out.

Q How was S/Sgt Greaves acting between time of arrival & time of going out.

A Normally.

Q Who bedded the men down.

A Sgt Skaggs drew the palliasses & blankets & S/Sgt Greaves & I handed them out.

Q Who allocated the rooms

A Sgt Skaggs

Q Were you there

A Sgt Skaggs was upstairs & I was downstairs

Q From 2000 hrs until you arrived, except when we were as with the Medical Officer can you answer for S/Sgt Greaves whether he had had a drink

A He did not, to my knowledge

Q The transport ops stopped only once, & not at a pub.

A. yes sir

Cross Examn

Q How long have you known S/Sgt Greaves

A From inception of D.D.

Q Were you a room-mate of his

A. yes sir.

Q When he came in your room did you smell alcohol about his breath

A. yes sir.

Q Why didn't you ask him some documents of S/Sgt Greaves

A I forgot until we were halfway on our journey.

Q When you arrived, why didn't you ask him some of S/Sgt Greaves

A I asked him at the same time as the C/Sgt.

Q When you debussed did Sgt Skaife approach S/Sgt Greaves ~~was~~ & ask him for documents?

A Not that I remember

Q Did you speak to Sgt Skaife

A Not that I remember.

Q ~~From~~ For what length of time did you ~~see~~ see S/Sgt Greaves from the time he came into the room until the men were bedded down

A about ~~2 hrs~~ 2 hrs ~~40~~ minutes

Q Could he have been drinking in the time

A It is possible. PROVISIONS OF R.P.87(B) WERE COMPLIED WITH.

2nd Witness for defence. B83964 Cpl Stuart T.W.

Q. You know S/Sgt Greaves

A. Yes sir.

Q. What happened on 14 Apr 42.

A. I went to Hare & Hounds at 1730, & got back my ~~bicycle~~ pass & pencil. There were ~~8~~ 4 of us in the room there. I was there 15 min approx. I went to speak to the landlady & I saw S/Sgt Greaves. He asked me who was in other bar. I got my pass & pencil & S/Sgt Greaves not there too long. I went to the other bar. He came in ~~in~~ half an hour & told us ~~to~~ ~~break it up~~ to break up. I got ~~my~~ ~~pass~~ ~~pencil~~ & S/Sgt Greaves not there too long. I went to the other bar. He came in ½ hr & told us to break up. I got there about ~~gave us ½ hr~~. He got back at 1900 hrs. I brought my kit down & then our pictures were taken. This took an hour. I checked accommodation stores, & I was in the kitchen most of the time until ~~we~~ Lt. S/Sgt Greaves lined up the men for the pictures. I checked on him again to see when we arrived at the barn. Sgt Skaife called the roll, handed out the blankets etc. ~~Sgt~~ I saw S/Sgt Greaves on parade, getting

not drunk, but had a few drinks, but we could understand his orders.

Q ~~How~~

Q How was he acting.

A. Fairly good.

Q How did he walk.

A. Erratic as usual. He is nervous type on parade. I have known him for years.

Q. Did you understand his orders, & did he appear intelligent

A. Yes sir.

Cross Exam.

Q is S/Sgt G Senior in charge of party

A yes. sir.

Q. How long have you been under him

A about ~~eight~~ Since last August.

Q How long did you see S/Sgt Green in the pub

A About five minutes, ~~by~~ first time

Q Did you see him drinking

A. No sir.

Q What was he doing

A talking to several Men.

Q When was second time

A in the ~~the~~ Station Yard with Capt Durant

Q How long

A 15 minutes

Q Did you see him take a drink there

A No sir.

Q Did you see him for only a very few minutes from time he arrived at 3rd ~~boy~~

A Yes sir.

Q. When you ~~embussed~~ was S/Sgt Green there

A. yes sir.

Q was Capt Sheard there

A Yes sir.

Q What do you mean by 'looking straight'.

A He was happy.

Q Had he been drinking heavily

A He had been drinking

Q Can you explain further

A His walk was normal

Q Was his walk same as when labouring

A He didn't walk far.

Q And you see. What do you mean by walking erratic.

A Always walking up & down, stops & starts.

Witness gave demonstration.

Q Did you see Sgt Murnane talking to Sgt Skaggs

A I think that is given documents to either CSM or Sgt Skaggs. I am not sure which. Sgt Skaggs called the roll.

Q Who took charge of your party

A Sgt Murnane & gave details.

Court.

Q Could S/Sgt Hawkins' walk be simulated by a total stranger for that of a man under the influence of liquor

A Yes sir.

PROVISIONS OF R.P.O.(S) WERE COMPLIED WITH.

Defence Speech

The two charges are not alternative, & court cannot be convinced & find accused guilty on both charges. The evidence of Cpl Hawken is bond on staggers, blurred speech, & smell of liquor. But he did not place the accused under arrest. There is a certain amount of confusion in first three witnesses in their evidence. Everything seems to center on the Sgt. Major. Sgt Skaggs was there to take over, previously detailed, and not put in charge because Sgt Evans had been drinking. Accused had no drink from time of public house until after supper, when Sgt Skaggs claims he was staggering around billets. Quinney's only evidence of the accused being drunk was that he had fallen over the guys on a straight road. He could understand the accused & could not smell any alcohol in the cab. The accused's normal could understand his commands. His reasons could can explain why his men new accused's actions staggering. The reading up of the unit, & the extension of 1/2 hour given by the Sgt. Major are possibly misdemeanors regarding learning, new in put timing visiting hours. He was able to carry out duties on his arrival at 34 Bty. The accused was not put under arrest for two days.

Prosecution.

The witnesses for prosecution did not know the accused ~~for the~~ prior to his arrival at 34 Bty. The witnesses for the defence are his friends. Evidence of Cpl Hawken & Sgt Skaggs both describe the walk as a stagger, and is not to be confused with an erratic walk. Evidence has been given of his jumbled words & alcoholic breath. What other evidence can be given as to the accused being drunk. Sgt Bannon took charge on arrival and gave details, not the accused. He was not put under arrest immediately because he was a senior NCO & was not causing any disturbance.

UU-33
GNR GRIFFIN L. N.

KK-33

Correspondence to be FINNED here.

Army Form A.3.

Form for Assembly and Proceedings of Field General Court Martial on Active Service.

PROCEEDINGS.

A.

Order convening the Court.

On Active Service, this 28th day of October, 1943.

Whereas it appears to me, the undersigned, an officer in Command of Royal Canadian Artillery, 3 Cdn Inf Division, on active service, that the persons named in the annexed Schedule, being subject to Military Law, have committed the offences in the said Schedule mentioned.

And whereas I am of opinion that it is not practicable that such offences should be tried by an ordinary General Court Martial; *[illegible]

*Omit where Convening Officer is a Commanding Officer or is of Field Rank.

I hereby convene a Field General Court Martial to try the said persons, and to consist of the Officers appointed or detailed hereunder.

*[illegible]

*Omit if not applicable.

for the following reasons, namely:—[illegible]

Proceedings Reviewed
18 Jan 44
Reviewing Officer (A.A.G.) C.M.H.Q.

Note.—The President must be named. The members and waiting members (if any) may be mentioned by name, or the number and ranks and the unit to which they belong may alone be named. In the latter event, the ranks, names, &c., of the members of the Court, as constituted, will be recorded on the proceedings.

President.

Rank.	Name.	Regiment.
Major	R.S. HETHERINGTON	19 Cdn S.P. Regt R.C.A.

Members.

Rank.	Name.	Regiment.
Capt.	F.W. KRAUSE	12 Cdn Fd Regt RCA
Lieut.	W. SIMCOCK	13 Cdn Fd Regt RCA
Waiting Member Lieut.	R. GAGNON	4 Cdn Lt AA Regt RCA

*Must be signed personally by the Officer actually in command at the time, and all alterations in the composition of the Court to be initialled by him.

*Signed [signature]
(H.S. Griffin) Lt.-Col.,
Commanding A/C.R.A., 3 Cdn Inf Div.
Convening Officer.

SCHEDULE

Number, Rank (a), Name and Unit of Accused (b)	Offence charged	*Plea	Finding, and if Convicted, Sentence (c)	How dealt with by Confirming Officer (d)
C-1454 Gnr. GRIFFIN, Lawrence Nelson 4 Cdn Lt AA Regt RCA	(1) Sec. 15 (1) A.A.	Guilty	~~Guilty~~ ~~10 days Detention plus automatic forfeiture of 3 days pay for this in close arrest awaiting trial and also automatic forfeiture for each day in detention~~ 30 Oct 43 [illegible]	~~Confirmed~~ 2 Nov 43

* Question to be asked of accused, if he pleads not guilty (R. of P. 39 (a)) :—
"Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity for preparing your defence?"
Answer (*to be recorded on separate sheet if necessary*) :—

(Signed) [illegible] (Signed) [illegible]

(H.S. Griffin) Lt.-Col., Commanding A/C.R.A., 3 Cdn Inf Div.
Convening Officer (e)

President.

(a) Appointment acting rank or acting appointment, if any, to be stated in brackets after the substantive rank.

(b) Unless unavoidable, not more than three names are to be entered on one form, and in serious cases one only.

(c) Recommendation to mercy, if any, to be inserted in this column.

(d) It is not necessary that the Confirming Officer should sign his name in this column. Initials are sufficient.

(e) Must be signed by the same Officer who signs on the first page, and all alterations in the first two columns of the Schedule to be initialled by him.

Evidence and Charge Sheets (if necessary) to be PINNED here.

B. Certificate of President as to proceedings.

I certify that the above Court assembled on the 30th day of October 1943, and duly tried the persons named in the Schedule, and that the plea, finding, and sentence in the case of each such person were as stated in the third and fourth columns of that Schedule.

I also certify that :—

1. The members of the Court
2. The witnesses
~~*(3. The Interpreter)~~
*(4. The officers under instruction)

*Omit if not applicable.

were duly sworn.

Signed this 30th day of October 1943

[illegible]
President of the Court Martial.

C. Certificate in case of death sentence.

*See footnote (b) on page 762 M.M.L. 1950.

~~I certify that the terms of *A.C.I. 870 of 1918 have been complied with.~~

~~Signed this day of 19~~

~~*President of the Court Martial.*~~

D. Confirmation.

I have dealt with the findings and sentences in the manner stated in the last column of the Schedule, and, subject to what I have there stated, I hereby confirm the above findings and sentences.

~~*I direct that the soldier named in the margin be lost committed to prison or detention barrack until further orders.~~

Signed this second day of November, 1943.

[illegible]
Confirming Officer.

*To be omitted unless penal servitude, imprisonment or detention having been awarded, the Confirming Officer either has no authority to commit to prison or detention barrack, or, having such authority, recommends suspension.

Promulgated and extracts taken in the case of C 1454 Gnr Griffin, L.N. 4 Cdn A.A. Regt, R.C.A.

(a) (Dated) 2 Nov 43 (Signed) [illegible]

Promulgated and extracts taken in the case of

(Dated) (Signed)

Promulgated and extracts taken in the case of

(Dated) (Signed)

(a) When several cases are promulgated in one unit on the same day the Officer need only sign once.

(2000) W.P. 2000-611 M.R.D. 12/42 A.S.W.Ltd. Gp.669

JAG BRANCH - REVIEW RECORD

Accused
P. 1454 Gnr. Griffen L. N.
44 AA Regt.

Remarks	Date
Trial in (Country) Eng.	30 Oct
Charges 15 (1)	
Sentence 10 Lys.	30 Oct
Rec'd from CR at JAG Branch	R Mar
To SPL for (~~pre~~)(post) rev	R Mar
Recommendations by [illegible]	
(1) Pass and record.	
(2) ~~Lr~~ on irregularities.	
(3) Quash _____ charge(s).	
(4) _____	
Rot'd to JAG Rev 1 by [illegible]	18 Nov
Passed to _____	
Passed to _____	
To AG 5 for _____	
Rot'd from AG 5 to JAG Rev 1	
Instrs by JAG Rev 1 on disposal	
_____	
Record & file.	1 Dec 43
Instrs completed by _____	

THE ACCUSED ELECTS TRIAL By F.G.C.M

CHARGE SHEET

C.1454 Gunner GRIFFIN, Lawrence Nelson, 4 Lt. A.A. Regt. R.C.A., a soldier of the Canadian Army Overseas on active service, is charged with:

FIRST CHARGE
A.A. Sec 15(1) Absenting himself without leave

in that he

in the field on 25 Oct 43 absented himself without leave from 0800 hrs 25 Oct 43 until 0825 25 Oct 43

(absent 25 minutes).

(F.A.L. Charlesworth) Major
T/Officer Commanding,
4 Lt. A.A. Regt., R.C.A.

Place: Bournemouth, Hants
Date: 28 Oct 43.

To be tried by F.G.C.M.

(H.S. Griffin) Lt.-Col.,
A/C.R.A., 3 Cdn Inf Div.

In the Field
28 Oct 43.

32
Presiding

MEDICAL OFFICER'S CERTIFICATE

K.R.(CAN.) Para.527

I certify that I have this morning examined

C 7454 GNR GRIFFIN L N and in my opinion
(No.) Rank Name

is fit to undergo trial by Court Martial.

Date 30 Oct 43

Medical Officer + 4 [illegible]

*All printed matter not applicable to the particular Court being held should be struck out and initialled by the President.

A BH

**Form of Proceedings for General and District Courts-Martial

Proceedings of a Field-General Court-Martial held at Field
on the 30th day of October 1943 by order of LT-COLONEL
H.S. Griffin A/ Commanding CRA-3 CDN INF. DIV.
dated the 28th day of October 1943

President. MAJOR. R.S. Hethrington
19 CDN. S.P. Regt. RCA

Members. CAPT. F.W. Krause
12 CDN Fd. Regt. R.C.A.

LT. R. GAGNON
4th CDN L.A.A. Regt. R.C.A.

Judge Advocate. BH

Trial of* C-1454 GNR GRIFFIN, LAWRENCE NELSON

The order convening the Court, the charge-sheet and the summary (or abstract) of evidence are laid before the Court.

The Court satisfy themselves that LT W. SIMCOCK is not available to serve owing to having been more than one year continuously away from
LT. R. Gagnon waiting member takes his place as a member of the Court.

The Court satisfy themselves as provided by Rules of Procedure 22 and 23.

The accused is brought before the Court.

Prosecutor,† CAPT. H.W. SISSON, 4th L.A.A. Regt. R.C.A.

BH Counsel‡ or defending officer† LIEUT. M.W. Murray, Assistant.

At 1115 o'clock the Trial commences.

The order convening the Court is read, and is marked A signed by the President, and attached to the proceedings.

The names of the President and members of the Court are read over in the hearing of the accused, and they severally answer to their names.

Question by the President to the accused. Do you object to be tried by me as President, or by any of the officers whose names you have heard read over? NO

Answer by accused.

(N.B.—If objection is made it should be recorded, together with the decision of the Court, on a separate sheet.)

* Here insert No., Rank, full Name, Regiment, and Appointment (if any).
† Here state Rank and Name, and Regiment (if any).
‡ Qualification to be stated.

MB. Form B. 271
10M—8-41 (3313)
H.Q. 1772-39-224

B

The President, members ~~and judge-advocate~~ are duly sworn.

The following officers under instruction are duly sworn.

Charge-Sheet

Instruction.
If the accused has elected to be tried under Army Act, sec. 46 (8) the fact should be here recorded.

The charge sheet is signed by the President, marked B 2 and annexed to the proceedings.

The accused is arraigned upon each charge in the above-mentioned charge-sheet.

Are you guilty or not guilty of the [first] charge against you, which you have heard read? *Question to the accused.*

I am guilty, sir *Answer.*

Are you guilty or not guilty of the second charge against you, which you have heard read? *Question.*

Answer.

Are you guilty or not guilty of the third charge against you, which you have heard read? *Question.*

Answer.

Are you guilty or not guilty of the fourth charge against you, which you have heard read? *Question.*

Answer.

The accused having pleaded Guilty to the first charge, the provisions of Rule of Procedure 35 (B) are here complied with.

If the trial proceeds upon any charge to which there is a plea of "Not Guilty," the Court will not proceed upon the record of a plea of "Guilty" until after the finding on that other charge. *Instruction.*

CC

Proceedings on Plea of Guilty

*To be struck out in case no plea of "Not Guilty" has been proceeded with.

*[~~The Court having been re-opened, the accused is again brought~~ before it, and the charge to which he has pleaded "Guilty" ~~is read to him again.~~]

The accused C-1454 GNR GAFFIN, LAWRENCE NELSON 4 LAA Mort Bty RCA is found guilty of the first charge

*The summary (~~or abstract~~) of evidence is read, marked CC-1 signed by the President, and attached to the proceedings.

Question to the accused. Do you wish to make any statement in mitigation of punishment?

Answer. The accused in mitigation of punishment ~~says:~~ YES

~~He~~ hands in a written statement, which is read, marked CC-2, signed by the President, and attached to the proceedings.]

Instruction.

* If there is no summary or abstract of evidence, sufficient evidence to enable the Court to determine the sentence, and to enable the confirming officer to know all the circumstances connected with the case, will be taken on a separate sheet in the same manner as on a plea of "Not Guilty."

If from the statement of the accused, or from the summary or abstract of evidence, or otherwise, it appears to the Court that the accused did not understand the effect of his plea of "Guilty," the Court shall alter the record, and enter a plea of "Not Guilty," and proceed with the trial accordingly.

B

The President, members ~~and judge-advocate~~ are duly sworn.

The following officers under instruction are duly sworn,

Charge-Sheet

Instruction.
If the accused has elected to be tried under Army Act, sec. 46 (8) the fact should be here recorded.

The charge sheet is signed by the President, marked B 2 and annexed to the proceedings.

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Are you guilty or not guilty of the [first] charge against you, which you have heard read? *Question to the accused.*

I am guilty, sir *Answer.*

Are you guilty or not guilty of the second charge against you, which you have heard read? *Question.*

Answer.

Are you guilty or not guilty of the third charge against you, which you have heard read? *Question.*

Answer.

Are you guilty or not guilty of the fourth charge against you, which you have heard read? *Question.*

Answer.

The accused having pleaded Guilty to the first charge, the provisions of Rule of Procedure 35 (B) are here complied with.

If the trial proceeds upon any charge to which there is a plea of "Not Guilty," the Court will not proceed upon the record of a plea of "Guilty," until after the finding on that other charge. *Instruction.*

*All printed matter not applicable to the particular Court being held should be struck out and initialled by the President.

A BH

**Form of Proceedings for Field-General and District Courts-Martial

Proceedings of a Field-General Court-Martial held at Field
on the 30th day of October 1943 by order of LT-COLONEL
H.S. Griffin A/ Commanding CRA-3 CDN INF DIV.
dated the 28th day of October 1943

President. MAJOR. R.S. Hethrington
19 CDN. S.P. Regt. RCA

Members. CAPT. F.W. Krauss
12 CDN FD Regt. R.C.A.

LT. R. GAGNON
4th CDN L.A.A. Regt. R.C.A.

Judge Advocate. BH

Trial of* C-1454 GNR GRIFFIN, LAWRENCE NELSON

The order convening the Court, the charge-sheet and the summary (~~or abstract~~) of evidence are laid before the Court.

The Court satisfy themselves that LT H. SIMCOCK is not available to serve owing to having been over one year commissioned who LT. R. Gagnon, waiting member takes his place as a member of the Court.

The Court satisfy themselves as provided by Rules of Procedure 22 and 23.

The accused is brought before the Court.

Prosecutor,† CAPT. H.W. SISSON, 4TH L.A.A. Regt. R.C.A.

BH ~~Counsel~~ or defending officer† LIEUT. M.W. Murray, was unit.

At 1115 o'clock the Trial commences.

The order convening the Court is read, and is marked A signed by the President, and attached to the proceedings.

The names of the President and members of the Court are read over in the hearing of the accused, and they severally answer to their names.

Question by the President to the accused. Do you object to be tried by me as President, or by any of the officers whose names you have heard read over? NO

Answer by accused.

(N.B.—If objection is made it should be recorded, together with the decision of the Court, on a separate sheet.)

---

* Here insert No., Rank, full Name, Regiment, and Appointment (if any).
† Here state Rank and Name, and Regiment (if any).
‡ Qualification to be stated.

MS. Form B. 271
10M—8-43. (3119)
H.Q. 1372-99-234

CC

Proceedings on Plea of Guilty

*To be struck out in case no plea of "Not Guilty" has been proceeded with.

*~~[The Court having been re-opened, the accused is again brought~~ before it, and the charge to which he has pleaded "Guilty" ~~is read to him again.~~]

The accused C-1454 GNR GRIFFIN, LAWRENCE NELSON 4 LAA Regt RCA is found guilty of the first charge

*The summary (~~or abstract~~) of evidence is read, marked CC-1 signed by the President, and attached to the proceedings.

Question to the accused. Do you wish to make any statement in mitigation of punishment?

Answer. The accused in mitigation of punishment ~~says:~~ YES

~~He~~ hands in a written statement, which is read, marked CC-2, signed by the President, and attached to the proceedings.]

Instruction.

* If there is no summary or abstract of evidence, sufficient evidence to enable the Court to determine the sentence, and to enable the confirming officer to know all the circumstances connected with the case, will be taken on a separate sheet in the same manner as on a plea of "Not Guilty."

If from the statement of the accused, or from the summary or abstract of evidence, or otherwise, it appears to the Court that the accused did not understand the effect of his plea of "Guilty," the Court shall alter the record, and enter a plea of "Not Guilty," and proceed with the trial accordingly.

Do you wish to give evidence yourself or to call any witnesses as to character? *Question to the accused.*

No, sir, I couldn't *Answer.*

because the battery is away.

Evidence as to character.

QUESTION: In the present circumstances do you wish to give evidence yourself or to call any witnesses as to character?

ANSWER: No sir.

E

Finding

*To be struck out except in cases where trial has taken place on a plea of "Not Guilty."

~~The Court is closed for the consideration of the finding.~~

~~The Court find that the accused~~ is guilty of the first charge

Proceedings on Conviction *before Sentence*

*When the Court is already open this sentence will be struck out.

~~*The Court being re-opened, the accused is again brought before it.~~

CAPT H.W. SISSON 4LAA Regt is duly sworn.

Evidence of character, &c.

Question by the President.

Have you any evidence to produce as to the character and particulars of service of the accused? *Answer by the Witness.* YES B296 - E 1 + MFM-6 - E 2

The above statement [with the schedule of convictions and of cases in which trial has been dispensed with] is read, marked E-1 + E 2 signed by the President, and annexed to the proceedings.

Question by the President.

Is the accused the person named in the statement which you have heard read? *Answer by the Witness.* YES

Question.

Have you compared the contents of the above statement with the regimental books? *Answer.* YES

Question.

Are they true extracts from the regimental books, and is the statement of entries in the conduct sheets a fair and true summary of those entries? *Answer.* yes, sir.

[Instruction.—If by reason of the nature of the service of the accused in a departmental corps, or otherwise, the finding of the Court renders him liable to any exceptional punishment in addition to that to be awarded by the Court the prosecutor must call the attention of the Court to the fact, and the Court must inquire into the nature and amount of that additional punishment.]

Cross-examined by the accused. NO

Question to the accused.

Do you wish to address the Court? *Answer.* No sir.

The Court is closed for the consideration of the sentence.

F

Sentence

The Court sentence the accused ~~C~~ to 10 days detention Sentence.
~~and to automatic forfeiture of pay of 3 days pay for the time spent in close arrest, awaiting trial, plus one day's pay of rank for each day while serving on detention.~~ PK

30 Oct 43
P Bellhouse Major
President

Exhibit A

CANADIAN ARMY OVERSEAS

LEAVE PASS

Date 23 Oct. 43

Pass No. [redacted]/457 Rank Lieut. Name Griffin L. N.

has permission to be absent from his unit from 0800 hrs. 23 Oct. 43

to 0800 hrs. 25 Oct. 43 for the purpose of proceeding to

Dartford

92 LT. A.A. REGT. R.C.A.
92 LT. A.A. BTY.
ORDERLY ROOM

Orderly Room Stamp

G. Griffin. Capt.

O.C. 92 LT. A.A. Bty. R.C.A.

(Unit Signature Stamp)

ENDORSEMENTS

Sec. (Rd)	R.T.O.—Station Master—Local Police

08.25. Bdr. Mirault, H.P.

INSTRUCTIONS

1. If you are travelling with free warrant have this pass stamped or endorsed in the space provided above by the R.T.O. station-master or local police at the place where you spend your leave. If you are unable to return to your unit due to interruption of transportation facilities have it endorsed to that effect by one of these officials.

2. Arms and equipment will not be checked at railway stations except during a wait-over between trains.

3. Carry this pass and your pay book (M.B.M.1) at all times while on leave.

4. **Illness on leave.**
(a) Apply to the nearest unit of the Canadian Army, if
(b) If none in the area, apply to the nearest unit of the British Army, request necessary treatment and that the O.C. communicate the facts to your unit. If unable to rejoin your unit before the end of your leave obtain a written report from the M.O. and hand to your C.O. on rejoining, or
(c) If no military unit in the area, apply to a civilian doctor or the nearest Emergency Medical Service Hospital. Obtain a letter verifying the facts and send to your C.O. at once. If unable to rejoin your unit before the end of your leave obtain a certificate and hand to your C.O. on rejoining.

5. Turn this pass in on rejoining your unit.

CFA 24
40 P & P/1509
(In pads of 100)(2441)

SUMMARY OF EVIDENCE IN THE CASE OF -
C.1454, Gnr. GRIFFIN, Lawrence Nelson

By direction of the Commanding Officer, the Summary of Evidence is taken under oath.

FIRST WITNESS

Capt. A.L. Gordon, Battery Captain, 32 Lt. A.A. Bty. 4 Lt. A.A. Regt., R.C.A., having been duly sworn, states:

I am Capt. A.L. Gordon, Bty. Capt., 32 L.A.A. Bty. On 23 Oct 43 I signed a leave pass for C.1454, Gnr. Griffin, L.N., granting him leave of absence from 0800 hrs 23 Oct 43 to 0800 hrs 25 Oct 43 for the purpose of proceeding to Dartford, Kent.

I hand you the pass mentioned (Exhibit A).

A.L. Gordon
(A.L. Gordon) Capt.

The accused declines to cross-examine the witness.

SECOND WITNESS

C-51025 Sgt. Holtom, S.R., 32 Lt. A.A. Bty., R.C.A. having been duly sworn, states:
I am C-51025, Sgt. Holtom, S.R., Tp Sgt., "B" Tp., 32 L.A.A. Bty. Gnr. Griffin was granted a 48-hour pass. I told him he must be back at 0800 hrs 25 Oct 43. I called a parade at 0800 hrs on 25 Oct 43. Gnr. Griffin was not present.

S R Holtom
(S. R. Holtom, Sgt-C-51025)

The accused declines to cross-examine the witness.

THIRD WITNESS

C.1705, Bdr. Mirault, H.P., 32 Lt. A.A. Bty., R.C.A., having been duly sworn, states:

I am C.1705, Bdr. Mirait, H.P. "B" Tp, 32 L.A.A. Bty. On the morning of the 25 Oct 43 Gnr. Griffin reported to me at 0825 hours suber and properly dressed.

H P Mirault
(H.P. Mirault, Bdr.-C.1705)

This is Exhibit "CC1" to the Evidence of Procedure

The accused declines to cross-examine the witness.

The accused declines to make a statement.

The accused having been duly cautioned in the words of Rule of Procedure 4(E) declines to give evidence or make a statement and reserves his defence.

I certify that Rule of Procedure 4 (c)(d)(e) and (f) have been complied with.

Taken down by me in the presence and hearing of the accused.

Dated In the Field, this 28th day of October, 1943.

(H.W. Sisson) Capt.
Officer Taking Summary of Evidence

Mr. President & members

Sir -

Gnr Griffin has pleaded guilty to the charge of desertion
A W L 25 minutes. In view of the circumstances and of the time
absent it does seem a rather trivial offence to have resulted
in a Court Martial. Gnr Griffin would not accept the C.O
punishment.

Obviously on an absence of so few minutes there must
be some very strong motive for a man to prefer a court
martial. I would like to bring to the courts attention
the following reasons.

① Gnr Griffin realized that he was and is guilty of
an offence, a breach of discipline and that discipline must
be maintained. By having been told he knew he must be
punished for the offence. However when his Battery Commander
remanded the case to the C.O. Gnr Griffin was immediately
under the mistaken impression that by being so remanded
he in view of his previous record would automatically
be sentenced to the maximum punishment allowed
for the C.O to award namely 28 days ~~detention~~ or 28 days pay.
Thinking thus not knowing or realizing that the C.O
deals with the charge laid before him ~~as he sees fit~~ as he sees fit Gnr Griffin requested a court martial. We who
now have no idea what punishment may have been
awarded by the C.O I feel certain that no commanding
officer would make an award of anything like the
maximum award for such a charge particularly when
Gnr Griffin Conduct sheet has nothing of an extremely
serious nature on it.

to his ignorance of military law (not the soldiers fault) he understood that in asking for a court martial he was appealing a sentence that he felt was very unjust. Mainly ignorance of military law has led to Gnr Griffin being before this board today.

A long period of imprisonment is not a pleasant thing for any man to look forward to and it was particularly so in this mans case. Not so much the physical strain as the mental strain. Soldiering has not been a very pleasant life for Gnr Griffin for some time past. He is a married man a long way from home, his means are limited and even if they weren't with no chance to get back home remains formally reports are a heavy burden to bear. You can see from the correspondence & present that Gnr Griffin has not had a very easy mind the past few months and still does not know how he stands with all he holds dear in doubt.

Nerves continual worry & sleeplessness all combine to make life extremely unpleasant make it hard to keep a grip on ones self. The thoughts of 28 days or such a heavy sentence was more than he feels his nervous condition could stand particularly when to him it seemed so unjustified a sentence. Again I remind you that he believed that he would automatically get that mitigated.

There was no deliberate intention on Gnr Griffin part to be late because he misjudged the time necessary to bring him back on time is no excuse but it was

not a premeditated crime.

Gnr. Griffin feels that he has had a more difficult time on his wings than other members always the one who has been the butt for more attention tending to disfavour him than has been his fair share. Certainly a man with problems such as he is carrying needs and deserves a bit of extra help and attention from his N.C.O and Officers.

I feel in view of his ignorance of military law that the court will consider the circumstances of the charge carefully and in awarding punishment. I feel that the accused Gnr. Griffin will be dealt with in the same manner that he took advantage of the protection he believed Clair him against what at the time seemed a most unjust and unfair sentence out of proportion to the infringement of discipline. Also Gnr. Griffin should have some consideration shown due to the severe mental strain he is labouring under.

"CC2"

D. Hutchings Major
President.

M.F.M. 6

No. C.1454 Name GRIFFIN L.N. | Sqn., Battery, or Company: 32 Bty Corps 4 Lt. A.A. Regt | Date of enlistment: 26-8-41 | G.C. Badges | Service or Proficiency Pay | Signature O.C. Company, etc.: (W.M.Cousins) Major

Date of last entry in Company Conduct Sheet | No. and date of last drunk: NIL | Period not reckoning towards freedom from extra fine | Sheet No. TWO

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Name of Witness	Punishment awarded	Date of award if under Stoppages with trial	By whom awarded	Remarks
Field	28-8-43	Gnr		AWL from 1200 hrs 28-8-43 to Appr. 1600 hrs 28-8-43 Absent Approx. 4 hrs. Sec.15(1) A.A.	Sgt. Holtom, S.R.	7 days C.B. 1 days pay	30 Aug 43	Major J.M. Cousins	Fts 1 days pay FR&I 149(1)(b)
Field	28-8-43	Gnr	(1)	Neglecting to obey Pt.I Ord No.330 d/23-8-43 in that he at Hove station at about 1414 hrs 28-8-43 endeavoured to enter a regulated area without the necessary authority, Sect. 11 A.A.	Sgt. Drable Documentary	14 days F.P. with conjoint award of 14 days pay	8 Sep 43	Captain A.L.Gordon	Fts 14 days pay under FR&I 149(1)(b)
			(2)	Conduct to the prejudice etc, in that he did state a falsehood to an N.C.O. of the F.S. Police at Hove Station, Sussex on 28-8-43 Sec.40 A.A.	Sgt.Drable Documentary				

Certified true copy

.....

(P.T.O.)

M.F.M. 6

No. C.1454 Name GRIFFIN L.N. | Sqn., Battery, or Company: 32 Bty Corps 4 Lt. A.A. Regt | Date of enlistment: 26-8-41 | G.C. Badges | Service or Proficiency Pay | Signature O.C. Company, etc.: (J.H.McLeod) Major

Date of last entry in Company Conduct Sheet: 29-7-43 | No. and date of last drunk: NIL | Period not reckoning towards freedom from extra fine | Sheet No. one

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Name of Witness	Punishment awarded	Date of award if under Stoppages with trial	By whom awarded	Remarks
				Original sheet destroyed on completion of six months service 27-8-41					
Colchester Eng	24-11-41	Gnr		AWL from 1530 hrs 24-11-41 until 1730 hrs 24-11-41. A.A. 15(1)	A/Bdr Cameron A/Bdr Peters	5 days C.B.	25-11-41	Major J.H.McLeod	
Field	1-3-42	Gnr		AWL from 2000 hrs 1-3-42 until 2200 hrs 1-3-42. A.A.15(1)	Sgt Slavik	1 days pay	2-3-42	Lt-Col Williams	1 days pay FR&I 149(1)(a)
Field	2-3-42	Gnr		AWL from 1700 hrs 2-3-42 until 2359 hrs 2-3-42. A.A. 15(1).	Gnr Dewey Bdr Kelleher	2 days pay	4-3-42	Major J.H. McLeod	1 days pay FR&I 149(1)(a) 2 days pay under FR&I 149(2)
Field	30-7-42	Gnr		AWL from 2300 hrs 30-7-42 until 2359 hrs 30-7-42 A.A.15(1).	Sgt Holtom Gnr Cormier	3 days C.B.	31-7-42	Major J.M. Cousins	

E-2

(P.T.O.)

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Field 1-1-43	Gnr			Conduct to the prejudice, etc., in that he did fail to properly carry out an order.	Bdr.McKay,L.C.	3 days C.B.	2-1-43	Major J.M. Cousins	
Field 3-4-43	Gnr			AWL from 2230 hrs 3 Apr 43 until 1500 hrs 4 Apr 43. A.A.18(1).	Bdr.Rutter RA Sgt Harwood	7 days C.B.	5-4-43	Major J.M. Cousins	Fts 1 days pay FR&I 149(1)(a)
Field 23-7-43	Gnr			(1) Conduct to the prejudice etc in that he was improperly dressed when checked by the Provost Corps. A.A.40 (2) Conduct to the prejudice etc, in that he made an improper remark to an N.C.O. A.A.40	L/Cpl Jones F L/Cpl Reed V. Documentary	7 days C.B.	31-7-43	Capt.A.L. Gordon	
Field 8-8-43				AWL from 0700 hrs 8 Aug 43 until 1100 hrs 8 Aug 43 Absent 4 hrs A.A. 18(1).	Bdr.Iverson, WF L/Bdr.Davis WJ	7 days C.B.	9-8-43	Capt.A.L. Gordon	

ARMY FORM B 200.

Statement as to Character and Particulars of Service of Accused.

Number.	Rank.	Name.	Regiment (or as the case may be).
CH54	Gnr	Griffin L N	4 LAA Bty 7 RCA

1. The following is a fair and true summary of the entries in the regimental and squadron, battery or company conduct sheets† of the accused, exclusive of convictions by a court martial or a civil court, of summary awards under section 47 of the Army Act, and of cases in which trial has been dispensed with :—

Note.—At a trial by field general court martial this summary may be compiled from the field conduct sheet.
The conduct sheet(s) mentioned should be produced to court with this statement but not annexed to the proceedings.

† See para. 875, K.R., 1940.

* The numbers herein stated should correspond with the numbers in entries in the conduct sheets, permission being given to the most serious offence in each entry, and to any recommendation for special acts of gallantry or distinguished conduct.

Instruction.—If the charge is for drunkenness the entries for drunkenness must be stated separately and dated.

	* Within last 12 months.	*Since Enlistment.
For AA Sec 11	1 times.	5 times.
For AA Sec 15 (1)	3 times.	3 times.
For A A Sec 40	4 times.	4 times.
For	times.	times.
For	times.	times.

~~Number of instances of gallantry or distinguished conduct.~~

~~There are no entries in the conduct sheets of the accused~~

2. The accused has not been previously convicted, *or*

~~Previous convictions† of the accused by a court martial or a civil court, summary awards under section 47 of the Army Act, and dispensations with trial under section 78 of the Army Act are set out in the schedule annexed to this statement.~~

3. The accused is not under sentence at the present time. ~~The accused at the present time is under sentence for~~ ~~beginning on the~~ ~~day of~~

4. The accused has been in confinement, awaiting trial on the present charges, for 0 days in civil custody, and 2 days in military custody, making a total of 2 days, of which 0 days were spent in hospital.

5. The present age of the accused according to his ~~record of service~~ attestation paper is 24 yrs 9 months

6. The date of his ~~enrolment~~ attestation specified in his ~~record of service~~ attestation paper is 2 Dec 1941

7. The service which the accused is allowed to reckon towards discharge or transfer to the reserve is 2 yrs 24 days

8. The accused is entitled to deferred pay or gratuity in respect of 2 yrs 161 days service.

9. The accused is entitled to reckon 2 yrs 161 days service for the purpose of determining his pension, etc.

10. The accused is in possession of, or entitled to, no military decoration or military award ~~or is in possession of or entitled to (state any military decoration or reward).~~

11. ~~(If the accused is a warrant officer.)~~ The accused before he was ~~[illegible]~~ a warrant officer last held the regimental rank of

12. ~~(In the case of an officer.)~~ The accused holds in the army the ~~[illegible]~~ of dated, and in his regiment (or corps or department) the rank of dated

(1) [illegible] W.O.15/602/144 125,000 6/41 A.F.E.W.1,141 Gp.698

E1

[illegible]
Presidents

Schedule of Convictions by a Court Martial or Civil Court, of summary awards under Section 47 of the Army Act and of cases in which trial has been dispensed with of accused.

No. C/4624 Rank Gnr Name Griffin L N of 4 LAA Regiment (or as the case may be).

(INSTRUCTION—A verbatim extract from the regimental books, stating these convictions and dispensations with trial, must be inserted.)

Description of court by which tried, or status of officer disposing of the charge or dispensing with trial.	Date and place of trial, or summary award under A.A. 47, or of order dispensing with trial.	Charges upon which convicted, or in respect of which trial was dispensed with.	Sentence of the court or authority disposing of the charge, or order of the dispensing authority.	Punishment remitted.
		Nil		

I HEREBY CERTIFY that the foregoing schedule of convictions and dispensations with trial is a true extract from the regimental books in my custody.

Signed this 28th day of Oct 43

Wilson Capt 16/

13 ~~The accused has served as a non-commissioned officer (with/without) reductions to the present date.~~

In the rank of ..... Date of Promotion.

..... years.

In the rank of ..... years.

In the rank of ..... years.

In the rank of .....

(Instructions.—If any matter in any of the above paragraphs cannot be stated from the regimental books the paragraph must be struck through, except that in the case of a trial by field general court-martial the information may be collected from such sources as are available and the paragraph inserted accordingly.)

5 U- 112

Spr. Griffin, R. R.

SCHEDULE.

PART I. PLEA(S), FINDING(S) AND SENTENCE.

Accused : A 42234 Tpr Griffin R R - 4 Cdn Repat Dep

	Charge. (Insert "alternative" where applicable.)	Plea. (See instrs p 2.)	Finding. (See note below.)	(Space for use as required for further charges, accused charged jointly, special findings, etc.)
1st	AA Sec 15(1)	GUILTY	GUILTY	
2nd				
3rd				
4th				
5th				
6th				

(Note : As to findings for lesser offences see AA 56, RP 44 ; findings on alternative charges see MML p 483 fn 4 para 2, RP 44 ; special findings see RP 44 and MML p 753, and in lieu of kit see RP 44 fn 6.)

At present under sentence for ..... beginning on (date) .....(1)

(1. Insert sentence being served, or delete, if not applicable. See RP 46(A). Information should be found on MF B355 or AF B296.)

Time in confinement awaiting present trial—a total of 11 days, of which Nil days were spent in hospital.(1)

(1. See RP 46(A) fn 2. Information should be found on MF B355 or AF B296 admitted in evidence under E2.)

Sentence Awarded by the Court :

To forfeit all Ordinary Pay for a period of Forty Five (45) days.

20 Oct/45

(Sgd) ..... (Sgd) W W Munro Lt-Col

Judge-Advocate, if any. Date awarded. President. (RP 45, 50.)

(See back of Convening Order as to assembly and disposal of record after trial.)

PART II. MINUTE WHERE CONFIRMATION RESERVED. (AA 54(5), RP 120(F), MML p 780.)

Date ..... (Sgd) ..... Commanding .....

PART III. DECISION OF CONFIRMING OFFR ON FINDING(S) AND SENTENCE.

(For duties and powers see AA 54, 57, RP 37(D) fn 6, 46(A), 51-56, 120, MML pp 759-761, KR Can 567-577. Acquittals require no confirmation and cannot be revised : AA 54(3). Sending back finding or sentence for revision by Court : AA 54(2), RP 120(G). If not confirmed, accused may be tried again : AA 157, MML p 64. Minutes of confirmation or non-confirmation may be altered before promulgation : RP 53, MML p 65. Quashing after promulgation : KR Can 573. Duties and powers of reviewing offrs : AA 57, 57A, RP 53A, 54. The Confirming Offr must sign here personally. AA 172 fn 1.)

My decision on the finding(s) and sentence set forth in Part I is :

Finding and sentence confirmed

~~I direct that the accused be [illegible] to [illegible] or detention barracks until further orders.~~(1) 3761

(1. AA 57A. Delete if not used.)

(Sgd) W Rutherford Brig

Date 22 Oct 1945 Commanding E Gp R.A.O. Confirming Officer.

PART IV. PROMULGATED AND EXTRACTS TAKEN. (RP 53, KR Can 576, 577.)

Accused.	Date.	Signature of Offr.
A.42234 TPR. GRIFFIN R.R.	23 OCT 45	[signature]

ALL DELETIONS AND ALTERATIONS WILL BE INITIALLED.

RECORDED AT CMHQ IN AR 142 54-112

FIELD GENERAL COURT-MARTIAL

CFA96 (In lieu of AFA81) 40.F.S.R./1098 (A144) 4/38B

RECEIVED 1 NOV 1945 JAG BRANCH C.M.H.Q.

Convened by Order of Brig T.I. Rutherford, CBE, DSO, Comd "E" Gp CRU dated 17 Oct 45

ACCUSED.

(As to the trial of two or more charged jointly see RP 16, 71, 109. As to reasons for showing (a) permanent or confirmed A/Rank, and (b) apptmt. A/rank or A/apptmt. if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

Number.	(a) Prmnt R. (b) Apptmt. A/R or A/Apptmt.	Full Christian Names.	Surname.	Unit.
A 42234	Tpr	Roy Robert	GRIFFIN	4 Repat Dep

PROCEEDINGS REVIEWED
1 Nov 45 A J Brady Maj
REVIEWING OFFICER, JAG BRANCH CMHQ

PROCEEDINGS OF TRIAL.

Held in the Fd in (country) England on (date(s)) 20 Oct 45

RECORD FORM A—OPENING PROCEEDINGS AND ARRAIGNMENT.

A1. The President, Members, ~~waiting Member, JA, if any, and Offrs under instr, if any,~~ assemble, and the Court is closed.

(PRINTED MATTER, NOT IN ITALICS FOR GUIDANCE, WILL BE DELETED, IF NOT USED OR APPLICABLE, AND INITIALLED BY PRES OR JA. The Schedule referred to throughout is on p 4. Citations do NOT include all relevant fmn ROs. For guidance on procedure when a variation in this form occurs, the form for GCM in MML pp 741 to 759. A brief record of such variation will be made and given a number having reference to appropriate or preceding para number herein. See back of Convening Order, CF A96, for oaths and instrs on how to record addresses, evidence, etc, which instrs are hereafter called "Notes". As to general provisions for conducting the trial see AA 53, RP 56, 63-70, 73, 74, 94, 103, 119, 132.)

A2. The President initials and lays before the Court the Convening Order and Charge Sheet(s) attached thereto.(1) The Court is satisfied that it is properly convened and constituted(2), accused is ~~(are)~~ amenable to military law, and each charge discloses an offence.(3)

(1. As to use of Summary of Evidence see RP 17 fn 6. 2. AA 49, 50, RP 105-107. 3. RP 11-13, 23, 24.)

A3. The Court is opened. The accused is ~~(are)~~ brought before the Court. At 10 00 hours trial commences.

A4. The Prosecutor produces a Medical Certificate that accused is ~~(are)~~ fit to undergo trial by court-martial.(1) ~~The Prosecutor informs the Court that accused elected to be tried by court-martial instead of being dealt with summarily by the CO.~~(2)

(1. KR Can 557. 2. AA 46(B), RP 60 fn 1. For effect see KR Can 563(c). Delete, if not applicable.)

A5. President to accused : ~~Do you object to..... as interpreter ?~~ Ans .....

~~The Interpreter is sworn.~~(1) Do you object to MAREAU HAROLD R.P. as shorthand writer ? Ans N.T.S.R.
The shorthand writer is sworn.(1)

(1. RP 72. Delete, if none employed.)

A6. The Convening Order and names of the President and Members of the Court are read to the accused.(1) President to accused : Do you object to be tried by me as President or by any of the Members of the Court ?

Ans N.T.S.R.(2)

(1. RP 110. 2. If no objection, waiting member retires. RP 60(B). If objection, see procedure AA 51, RP 25, 71, 18, MML p 742.)

A7. The President, Members, ~~JA, if any,~~ and Offrs under instr, ~~if any, are sworn.~~(1) The following are the ranks, names and units of the offrs comprising the Court, etc :

President	Lt-Col	D.L. REDMAN VD	TIC CRU
Member	CAPT	W.F. SLIPITZ	6 C REP DEP
Member	CAPT	G KERR	6 C REP DEP
Judge Advocate			
Prosecutor	CAPT	V.J. WARNER	4 C REP DEP
Defending Offr	LIEUT	L.M. SMITH	4 C REP DEP

Questions by President : Is the Prosecutor a lawyer ? Ans NO Is the Defending Offr a lawyer ? Ans NO(2)

(1. RP 26, 27, 109, 111. List of offrs under instr will be returned separately with proceedings for information of Conv Offr.)
(2. If Pros a lawyer and Def Offr not, accused is entitled to an adjournment when RP 89 (B) and fn 2 were not followed. See DI p 32)

A8. The accused ..... before arraignment make(s) (no) (~~a~~) plea .....(1)

(1. If a special plea is made for separate trial on one or more charges (RP 62(E), 109), or as to the jurisdiction of the Court (RP 34, 35(A), 113), or in bar of trial (RP 36), or as to accused's mental fitness to stand trial (AA 130, RP 37), or by one of several accused charged jointly to be tried separately (RP 16, 71), such plea, the addresses made in support or against, the evidence, if any, and finding are recorded per Notes. For forms of record see references in fns to RoP used. Insert in AB rank and name of the accused making the plea.)

A9. The accused is (~~are~~) arraigned (separately) on all charges in the charge sheet.(1) The accused does (~~do~~) not object to any charge.(2) There is no amendment to be made to the Charge Sheet.(3) The President records the pleas in Part I of the Schedule.

(1. RP 31, 112. See para 1 of Instrs p 2. When more than one Charge Sheet see RP 62 ; when several accused to be tried separately see RP 71(C), and use separate copies of CF A96 to record proceedings. 2. RP 32, RP 33. If otherwise, delete and make appropriate record per Notes.)

A10. The Court (~~is closed and~~) considers the Instrs on Procedure after Arraignment at top of p 2. The proceedings are continued on Record Form B

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

INSTRUCTIONS ON PROCEDURE AFTER ARRAIGNMENT.

1. *The accused may not plead or be found Guilty on more than one of two or more charges laid in the alternative.* (*RP* 37(*A*).) *As to withdrawal of alternative charges by Prosecutor see RP* 35(*C*). *No other charge can be withdrawn for any reason without authy from Convening Offr. If Convening Offr concurs, Court may accept plea of Guilty to lesser, etc, offence.* (*RP* 44(*H*).) *Accused may change a plea of Not Guilty to Guilty during trial.* (*RP* 38.) *As to refusing to plead or not pleading intelligibly see RP* 35(*A*). *As to plea when sentence may be death see RP* 35(*D*).

2. *The proceedings on each charge sheet* (*RP* 62) *after arraignment will be conducted as follows in the respective circumstances stated :*

I. If pleas to all charges are GUILTY, use Record Form B below.

II. If pleas to all charges are NOT GUILTY, use Record Form D on p 3.

III. If pleas to some charges are GUILTY and to other charges are NOT GUILTY and,

(a) *Such mixed pleas occur when there are no alternative charges in the Charge Sheet, use Record Form C below.* (*RP* 37(*A*).)

(b) *Such mixed pleas occur in a set of two or more charges laid in the alternative, see RP* 37 (*A*) *and fn* 2 *as to discretion of Court,* (i) *to try the accused on all such alternative charges as if he had pleaded Not Guilty thereto, or,* (ii) *to record the pleas as the findings of Court. After deciding between* (i) *and* (ii), *Court will proceed under foregoing instrs as may be appropriate to result of its decision. See M M L p* 744 *Instrs* (2).

3. *As to responsibility of President to accused see RP* 59, 60(*C*) ; *powers and duties of J A see RP* 103 ; *duty of Prosecutor see RP* 60(*A*) (*B*) ; *duty and privileges of accused and Defending Offr see RP* 60(*C*), 87(*C*), 91, 92 ; *swearing and withdrawal of witnesses from Court see RP* 81, 82 ; *questioning of accused see RP* 80, 87(*C*), 92(*B*), *and of witnesses see RP* 83-85 ; *calling or re-calling of witnesses by Court, etc, see RP* 75-79, 86, 116 ; *use of Summary of Evidence at Trial see RP* 17(*E*) *fn* 6 ; *and responsibility of J A or Pres to record proceedings see RP* 94, 96.

RECORD FORM B—PROCEEDINGS ON PLEAS OF GUILTY TO ALL CHARGES.

B1. The President ~~or JA, if any~~, complies with RP 35(B) by explaining to the accused the nature and meaning of the charge(s)(1), and that on his plea of Guilty there will be no regular trial but merely a consideration of the sentence to be awarded after he has been given an opportunity to make a statement in reference to the charge(s), call witnesses as to character and make an address in mitigation of punishment.(2)

(1. *RP* 35 *fn* 3. 2. *MML p* 54 *para* 47.)

B2. President to accused : The Court will now receive any statement you desire to make in reference to the charge(s).(1) If it appears from your statement that there are circumstances which indicate that you do not understand the effect of the plea of Guilty(2), or which show provocation or extenuation in respect of which in your interest the witnesses for the Prosecution should be examined(3), we shall advise you to change your plea to Not Guilty. In making a statement you will not be sworn or subject to cross-examination ; and anything you say will not be used in evidence against you after you change your plea. If, however, it appears to the Court that your statement affects only the amount of punishment to which you are liable, you will not be advised to change your plea and you will be given an opportunity later to prove your statement by sworn testimony, if you so desire.(4)

President to accused : Do you wish to make a statement ? Ans. N.A.S.I.R.(5)

(1. *RP* 37(*B*). 2. *RP* 37(*D*) *fn* 6. 3. *RP* 35(*B*) *fn* 5 *para* 3, *MML p* 54 *para* 47. 4. *See para* E3 *of Record Form E.* 5. *Statement, if any, recorded per Notes.*)

B3. ~~The Court considers the accused's statement (?) The Court decides (not) to advise accused to change his (their) plea(s) of Guilty to Not Guilty on charge(s). The accused is (are) so informed, and he (they) change(s) his (their) plea(s) on charge(s). Part I of the Schedule is amended accordingly.~~

(1. *Court may be closed to consider the statement. Delete whole or part not used.*)

B4. On the charge(s) to which the plea(s) of Guilty is (are) not changed the President records finding(s) of Guilty in Part I of the Schedule.(1)

(1. *RP* 35(*B*). *If any plea(s) is (are) changed, use Record Form C or D as appropriate.*)

B5. The Summary of Evidence is marked Ex 17., initialled and read aloud by the President.(1)

(1. *If there is no Summary, or if it is inadequate, comply with RP* 37(*B*). *If there is any evidence inconsistent with any plea standing as Guilty, Court will advise accused to change such plea and, if changed to Not Guilty, try such charge(s) by use of paras* D1 *to* D8 *inclusive of Record Form D on p* 3. *RP* 37(*D*).)

B6. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

RECORD FORM C—PROCEEDINGS ON MIXED PLEAS OF GUILTY AND NOT GUILTY.

C1. As to the charges on which accused pleaded NOT GUILTY the trial is continued by using paras D1 to D8 inclusive of Record Form D on p 3 before proceeding with C 2.(1)

(1. *RP* 37(*A*) (*E*).)

C2. The charges on which accused pleaded GUILTY are read to him (them) again, and the trial is continued by using paras B1 to B5 of Record Form B above.(1)

(1. *Under B5 such parts only of the Summary of Evidence are read as relate to the charges dealt with under C2. If any plea is changed to Not Guilty, trial thereon proceeds by complying with paras* D1 *to* D8 *inclusive in Record Form D on p* 3 *and making an appropriate record thereof on a separate sheet.*)

C3. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

RECORD FORM D—PROCEEDINGS ON PLEAS OF NOT GUILTY TO ALL CHARGES.

D1. President to accused : Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity to prepare your defence ? Ans.....(1)

(1. *If "yes", see RP* 39(*A*) *for procedure. Statement or evidence, if any, is recorded per Notes.*)

D2. The Prosecutor makes (an) (no) opening address.(1)

(1. *RP* 39(*B*), 60(*A*) (*B*), 90, 92(*C*) (*D*). *Record address per Notes, subject to RP* 95(*C*).)

D3. The evidence for the Prosecution is taken.(1)

(1. *RP* 39(*C*), 114, *KR Con* 555. *Record evidence per Notes. As to Prosecutor giving evidence himself see RP* 39(*D*) (*E*).)

D4. The Prosecution is closed.(1) The Defending Offr submits that the evidence for the Prosecution does not establish a prima facie case against the accused on the.....charge(s).(2) The Court is closed, and considers the submission.(3) The Court is re-opened, and the President announces that the submission is disallowed on the.....charge(s), and allowed on the.....charge(s), and that, accordingly, the trial will proceed on the former, but the accused is (are) found Not Guilty on the latter charge(s).(4)

(1. *Delete remainder of this para, if submission not made.* 2. *Arguments on submission, answer and reply are recorded per Notes.* 3. *RP* 40 *fn* 1. *See MML p* 72 *paras* 12-14 *and p* 81 *para* 42. 4. *Delete part not used. If accused acquitted on all charges, use second alternative in para* D8.)

NB : *If trial proceeds, accused must be allowed great latitude in making his defence, and the Court should not stop his defence solely on ground of irrelevance.* (*RP* 80(*C*), 114, 115.)

D5. President to accused : You will now proceed with your defence.(1) You may, if you wish, give evidence yourself on oath as to the facts or your character or both, in which case you will be subject to cross-examination.(2) You may, however, make a statement without being sworn, and you will not be subject to cross-examination.(3) But a statement which could have been made on oath will not carry with the Court the same weight as sworn testimony.(4) You may call witnesses in your defence and as to character, whether you give evidence or make a statement or do neither.

President to accused : Do you wish to give evidence yourself as a witness, make a statement, or do neither ?

Ans.....Do you intend to call witnesses on your behalf ?

Ans.....Are they witnesses as to character only ? Ans.....

(1. *RP* 115. 2. *RP* 40(*A*), *see* 80(*D*). 3. *RP* 40 *fn* 10. 4. *RP* 40 *fns* 2, 9.)

D6. Consequent on the answers recorded in para D5 the appropriate procedure for the defence is followed.(1)

(1. *RP* 114, 115, 116. *For procedure see Notes on back of Convening Order, CF A95. Evidence for accused as to his character should, if in his interest, be given before the finding. See RP* 46(*A*) *fn* 1, 86(*C*). *Note the further opportunity in para* E1 *of Record Form E. Record per Notes addresses, statement, evidence and any summing up by the JA under RP* 42, 102(*e*).)

D7. The Court is closed to consider the finding(s).(1) The finding(s) of the Court is (are) recorded in Part I of the Schedule.(2) The Court is re-opened.

(1. *RP* 43, 117(*A*). *See Notes in Part I of Schedule.* 2. *RP* 44(*A*).)

D8. The President announces the finding(s), if any, of Not Guilty, and states to the accused that the finding(s) of the Court on the.....charge(s), being subject to confirmation, will be promulgated later.(1)

Or, The President announces that the accused is found Not Guilty on all charges and is to be released forthwith, and that the proceedings are accordingly terminated. Part I of the Schedule is dated and signed.(1)

(1. *AA* 54(2) (*c*), *RP* 45, 120(*A*). 2. *AA* 54(3), *RP* 45, 117. *This alternative announcement is not applicable when there are pleas of Guilty outstanding and dealt with under Record Form B or C.*)

D9. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E below.

RECORD FORM E—PROCEEDINGS ON CONVICTION BEFORE SENTENCE.

E1. President to accused : Do you wish to give evidence yourself or to call any witnesses as to your character ?(1)

Ans. NO - SIR

(1. *If evidence has already been given by accused or his witnesses as to his character, delete this para. RP* 37(*C*) *fn* 4, 46 *fn* 1. *Accused and witnesses are sworn. Evidence recorded per Notes.*)

E2. The Prosecutor produces Statement(s) as to Character and Particulars of Service(1), and certified true copy (copies) of Conduct Sheet(s)(2), purporting to refer to the accused, which he submits to the Defending Offr for examination, and then to the Court for admission in evidence. The Court is satisfied that these documents refer to the accused, because (i) they purport to be signed in the manner required by AA 163(1) (g) (h), and (ii) they purport to refer to (a) soldier(s) having the same number, rank, name and corps as the accused. Admitted in evidence and marked Ex 18. and Ex 19 respectively.(3)

(1. *MFB* 355 *or AFB* 296. 2. *MFM* 6. 3. *RP* 46, *KR Can* 558. *If above documents not produced, see RP* 46 *fn* 1 *para* 1.)

E3. President to accused : Do you wish to address the Court on the Statement(s) and Conduct Sheet(s), and in mitigation of punishment ?(1) Ans. BY WHAT WAY IS NOTE - ATT (2)

(1. *RP* 37(*C*), 46(*D*). 2. *Address, if any, recorded per Notes. Court should permit accused or his witnesses to prove on oath anything here or previously stated which would affect the amount of punishment. RP* 37(*F*) *fn* 7.)

E4. The President states that the Court is closed to consider the sentence, and that the sentence to be awarded by the Court, being subject to confirmation, will not be announced, but will be promulgated later, and the proceedings in open court are accordingly terminated.(1)

(1. *AA* 54(6), *RP* 120(*A*).)

E5. The Court considers the sentence.(1) The President records the sentence in Part I of the Schedule, which is dated and signed by him and ~~the JA, if any~~.(2)

(1. *When several accused tried separately see RP* 71 (*D*). *One sentence only, comprised of the punishment or punishments laid down in AA* 41, 44 *and its promulgation, is to be awarded to cover all charges on all charge sheets on which accused found guilty. RP* 48. *As to sentences see AA* 44, 138, 182, *RP* 46-50, 69, 118, 119(*A*), *KR Can* 308, 330, 563-566, *Overseas RO* 809, 2323, *MML p* 60, 737-739. *As to sentences assigned for civil offences by the law of England see AA* 41(3), *MML p* 130. *When accused already under sentence of imprisonment or detention see AA* 44(1*B*), 68(1), *KR Can* 564. 2. *RP* 50. *As to release from arrest by Confirming Offr see KR Can* 567. *As to assembly and disposal of record after trial see instrs on back of Convening Order.*)

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

CHARGE SHEET

The accused A-42234 Tpr GRIFFIN, Roy Robert on strength of "C" Wing 4 Cdn Repat Depot a soldier of the Canadian Army Overseas is charged with:

FIRST CHARGE — WHILE ON ACTIVE SERVICE, ABSENTING HIMSELF WITHOUT LEAVE,

in that he

at Jasper Camp, Witley, Surrey at 0600 hrs 4 Sep 45 did absent himself without leave until surrendering himself at 2325 hrs 9 Oct 45. Total time absent: 35 days, 15 hours, 25 minutes.

In the Field

(C.E.S. WALLS) Lt-Col.,
A/Comd 4 Cdn Repat Depot.

TO BE TRIED BY FIELD GENERAL COURT MARTIAL

In the Fd
17 OCT 45

(J.S. RUTHERFORD) Brig
Comd
"E" Gp CRU

FIELD GENERAL COURT-MARTIAL

(Whether the accused to be tried is under his comd or not, a FGCM may on application to him be convened by any offr of Cdn Army Overseas, or of any other force if authorized in law, in immediate comd of troops on active service, subject to RP 105(C) and restrictions imposed by appropriate authy. AA 49, 50, RP 104-107, 114. As to the duties and privileges of the Convening Offr in dealing with the application see MML Chap V paras 20 and 23, RP 87(B).

There should be a separate Convening Order for each person to be tried separately by the same Court. RP 71(C), 109. As to separate charge sheets see RP 62, and as to separate trial on charges in the same charge sheet see RP 108. As to two or more accused charged jointly see RP 16, 109. As to reasons for showing (a) permanent or confirmed rank, and (b) apptmt, A/rank or A/apptmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

ACCUSED.

Number.	(a) Prmnt R. (b) Apptmt, A/R or A/Apptmt.	Full Christian Names.	Surname.	Unit.
A 422334	Tpr	Roy Robert	GRIFFIN	4 Repat Dep

CONVENING ORDER.

1. Whereas complaint has been made to me, the undersigned, that the person(s) named above as the accused, being subject to military law, has (have) committed the offence(s) set forth in the Charge Sheet(s) attached and on (date) 17 Oct 45 endorsed by me, for by an offr of my staff or corps, " To be tried by Field General Court-Martial ".

2. And whereas I am of opinion that it is not practicable that such offence(s) should be tried by an ordinary General Court-Martial ; (and that it is not practicable to delay the trial for reference to a superior qualified offr.)
(Delete part in brackets when not required for compliance with RP 105(C).)

3. I hereby convene a Field General Court-Martial to try the said person(s), and to consist of the Offrs appointed or detailed hereunder.

4. I am unable to appoint (a) three Offrs to form the Court, (b) a Pd Offr as President, for the reasons I have attached hereto.
(AA 49, RP 106(B), 107(A). Delete the whole or part, if not applicable.)

5. I also appoint as Judge-Advocate thereat the Offr mentioned hereunder.
(RP 106(E). Delete, if none appointed.)

PRESIDENT.

(Rank.)	(Must be named. RP 106.)	(Unit.)
Lt Col	D L Redman, VD	HQ CRU

MEMBERS.

(Rank.)	(Named or detailed. RP 106.)	(Unit.)
Capt	To be detailed by CO 6 Cdn Repat Dep	6 Repat Dep
Capt	To be detailed by CO 6 Cdn Repat Dep	6 Repat Dep

WAITING MEMBER.

(Rank.)	(Named or detailed, if any. RP 106.)	(Unit.)

JUDGE-ADVOCATE.

(Rank.)	(Must be named, if any. RP 106.)	(Unit.)

On Active Service in the Fd

in England (Country.)

(Signed personally. RP 105(C).) (T J RUTHERFORD) Brig (Rank.)

Date 17 Oct 45

Commanding "E" Gp CRU Convening Officer.

CONVENING OFFR WILL INITIAL ALL DELETIONS AND ALTERATIONS

4/38A CF Adgs (To Dict of AFAs) 40/P (A 6/1897 (1221).

(See overleaf for oaths and notes for use on trial.)

MEDICAL OFFICER'S REPORT

I certify that No. A42234. Tpr. Griffin. R.
of "C" Wing. #4. C.R.D. is in a good state of health,
and is fit to undergo Trial by Court martial.

W.M. Boyd. Capt.
Medical Officer
"C" Wing
#4 C.R. Repat. Depot.

Station #4 C.R. Repat. Depot.

Date 20th Oct. 1945

M. F. B. 246
20M—4-41 (702)
H.Q. 1772-39 650

E-3
ARMY

Plea of Mitigation

Sir and Members of the Court:

A42234 Trooper Griffin R. R. volunteered to serve his country on the 4th of July 1940. This means he has spent more than five years in the Army and over three and one half years of this time he has been Overseas.

His M.F.M.6 shows that he has committed no crime since his enlistment. This record speaks for itself--Trooper Griffin has been a good soldier. This is his first offence in over five years of service--truly a remarkable record.

Trooper Griffin served in Italy for eleven months and has been in action. While in action he was wounded in the leg and as a result of his battle experiences his Pulhems Profile was lowered to S3. At the present time his Pulhems is still S3.

Trooper Griffin left his home at the age of nineteen to join the army and has been away from the restraining influences of a good home since that time. Nevertheless this is the first time he has been in trouble. He is single. His parents are both living but his father has been in poor health and is only working part-time. His mother is sixty years of age and his father is fifty-five; as could be expected he is very anxious to get home and help out his parents.

Trooper Griffin has been stationed at "C" Wing, No.4 Canadian Repat Depot for over eight months. It was not the most pleasant place to be while in the Army. Every day he saw soldiers being returned to Canada with less service than he had while he seemed to be "frozen". This situation made him feel very dissatisfied.

Towards the end of his leave he met undesirable acquaintances who led him astray. He met a woman who was working as a waitress in London. Griffin thought he fell

in love with this woman. She told him that she was not feeling well and needed an operation for a tumor before they could marry and return to Canada. She also mentioned it was necessary for her to find new living quarters as her land-lady required her room. In all good faith Griffin decided to do what he could to help this woman out. Hence we have the picture of a woman much older in experience but with an unhappy childhood, now working for a pittance who sees a chance to better herself. If she can marry a Canadian and go to Canada she can have a new start in life. She plays on Griffin's loneliness and arouses his compassion for her lot in life. Blinded by this infatuation he spent all his money on her and even pawned his $80 watch. He honestly felt it was his obligation to help her make medical arrangements for her operation and see that she got safely moved to new living quarters. We believe that, considering his youth as judged by experience in the ways of the world and his state of mind due to his anxiety to return home, he was a victim of circumstances in that he came under the undue influence of this woman and so neglected to return to his camp on time. The S3 Fulhems Profile may well support the fact that he could have been more easily influenced under the above circumstances than the average soldier. Finally realizing his mistake he voluntarily returned to camp and surrendered himself.

Trooper Griffin's point score is 148 and he has missed one draft home over this episode. We believe that the sooner he is returned to Canada the better for all concerned. The length of time he has been in arrest is [redacted] days. In view of Trooper Griffin's past clean record and the circumstances in connection with this case we believe that the Court should be lenient and this soldier's punishment as light as possible. I suggest that the punishment be in the form of a fine not detention.

L.M. Smith (Lt.)
Defending Officer.

SUMMARY OF EVIDENCE

In the case of A-42234 Tpr GRIFFIN, R.R. on strength of NO 4 Cdn Repat Depot, a soldier of the Canadian Army Overseas.

By direction of the Commanding Officer all evidence is taken on oath.

FIRST WITNESS: For the Prosecution

H-102273 Sgt PYBUS, J.A. having been duly sworn states:-

"I am Sgt Pybus, J.A., attached to "C" Wing No 4 Cdn Repat Depot and on Sept 4th 1945, I was Orderly Sergeant of Duty Group. On the morning of Sept. 4th I checked the pass list at about 0800 hours and found that Tpr Griffin R.R., had not turned in his pass. At about the same time the M.I.R. sent over word that Tpr Griffin had not reported for duty as yet. I detailed H-77579 Cpl O'Clair, J.J., Duty Corporal, to search the camp for him. He reported that he could not locate him. I immediately reported him as Absent Without Leave. I submit Part II Order No 25 d/27 Aug 45 showing dates of commencement and termination of UK leave granted to the accused, also documentary evidence showing an extension of 48 hours of leave."

The accused declines to question this witness.

Sgt J.A. Pybus.
(H-102273 Sgt PYBUS, J.A.)

This Part II Order, No 25 d/27 Aug 45 and pass granting extension 48 hours of leave was shown to the accused by me as Exhibit "A", and attached to the summary.

J.J. Walker
(V.J. WALKER) Capt
Officer detailed to take the Summary of Evidence

SECOND WITNESS: For the Prosecution

H-77579 Cpl O'CLAIR, J.J., having been duly sworn states:-

"I am H-77579 Cpl O'Clair, J.J., Duty Corporal, "C" Wing, NO 4 Cdn Repat Depot. On the morning of 4 Sep 45, I received orders from the Orderly Sergeant to check through the camp and see if I could locate Tpr Griffin. I checked the whole camp and could not locate him. I then reported to the Orderly Sergeant that Tpr Griffin was not in the limits of the camp."

The accused declines to question this witness.

Cpl J.J. O'Clair
(H-77579 Cpl O'Clair, J.J.)

THIRD WITNESS: For the Prosecution

G-53704 Cpl CRAIG, K.A., having been duly sworn states:-

"I am G-53704 Cpl Craig, K.A., a member of the Regimental Provost, "C" Wing, NO. 4 Cdn Repat Depot. I was on duty in the Guard Room when Tpr Griffin reported as an absentee at 2325 hrs, 9th of October 1945. He was sober and properly dressed."

The accused declines to question this witness.

(G-53704 Cpl CRAIG, K.A.)

The accused was cautioned as follows:

"Do you wish to make any statement or to give any evidence on oath? You are not obliged to say anything or give evidence unless you wish to do so, but whatever you say or any evidence you give will be taken down in writing and may be given in evidence."

The accused declines to make any statement or to give evidence on oath.

The accused declines to call any witness for the defence.

I certify that the foregoing Summary of Evidence consisting of two pages was taken down by me in the presence of the accused and that Rules of Procedure 4 (c) (d) (e) (f) and (g) have been complied with.

In the Field

11 Oct 45.

(V.J. WALKER) Capt.,
Officer detailed to take the Summary of Evidence.

EXA

EXHIBIT A

NO. 4 Canadian Repatriation Depot, CAC.

PART II ORDERS

BY

Last Order No. 24A dated 25 Aug 45 — Colonel R E A MORTON, D.S.O. Officer Commanding — This Order No. 25 dated 27 Aug 45

PERMANENT ESTABLISHMENT — PERMANENT ESTABLISHMENT

"A"

1. LEAVE OF ABSENCE

(a) Granted 9 days PL wef dates shown with money allce in lieu of rations under FR&I 789(3)(4).

Lieut	Ralph Greggory BUTLER	7 Aug 45 to 16 Aug 45	
Sup	E J BURCH	4 Aug 45 to 13 Aug 45	Cdn Aux Serv.
Lieut	Kenneth Erskine DUNCAN	7 Aug 45 to 16 Aug 45	
Lieut	John Arnold FOGG	2 Aug 45 to 11 Aug 45	
A/Capt	Harold Adams FOWLER	20 Aug 45 to 29 Aug 45	1 CGRU
Lieut	Bernard Vincent LAVERY	17 Aug 45 to 26 Aug 45	
Capt	A G LAWRASON	7 Aug 45 to 16 Aug 45	HQ CRU
A/Capt	Thomas Bernard LEENEY	1 Aug 45 to 10 Aug 45	
Capt	Walter James MANLEY	7 Aug 45 to 16 Aug 45	
Lieut	George Alfred MORISON	7 Aug 45 to 16 Aug 45	
Lieut	Keith George NETTLETON	6 Aug 45 to 15 Aug 45	
Lieut	E J McGARRY	20 Aug 45 to 29 Aug 45	
Lieut	William James RUMSEY	7 Aug 45 to 16 Aug 45	
Lieut	James Edgar RUTLEDGE	13 Aug 45 to 22 Aug 45	
Capt	W A SHORT	3 Aug 45 to 12 Aug 45	
Lieut	Sidney Bernard SLEN	6 Aug 45 to 15 Aug 45	
Lieut	Herber Laird SMITH	6 Aug 45 to 15 Aug 45	
Lieut	Douglas Gordon SUTHERLAND	3 Aug 45 to 12 Aug 45	1 Sel of Pors Sec.
Lt Col.	Charles Edward Stewart WALLS	13 Aug 45 to 22 Aug 45	
Sup	Gilbert DOCKERAY	20 Aug 45 to 29 Aug 45	Cdn Aux Serv.

(b) Granted PL wef dates shown with money allce in lieu of rations under FR&I 789(3)(4)

H/Capt	Arthur Stanley HART	3 days, 20 Aug 45 to 23 Aug 45
Lieut	E E JOHNSON	16 days, 3 Aug 45 to 19 Aug 45

"B"

2. LEAVE OF ABSENCE

(a) Granted 9 days PL wef dates shown with money allce in lieu of rations under FR&I 789(3)(4).

M 100427	Tpr	ADAM. W R	20 Aug 45 to 29 Aug 45	
B 132541	Cpl	BAILEY. D	20 Aug 45 to 29 Aug 45	
M 68518	A/S/Sgt	BARSON. L C	20 Aug 45 to 29 Aug 45	
B 63362	Cpl	BEA. F A	17 Aug 45 to 26 Aug 45	
A 246	Sgt	BELMER. W	14 Aug 45 to 23 Aug 45	
D 155603	Pte	BESSER. S	21 Aug 45 to 30 Aug 45	
C 49106	L/Cpl	BIMM. C C	18 Aug 45 to 27 Aug 45	
F 39565	Pte	BURNS. J M	17 Aug 45 to 26 Aug 45	
B 69995	Tpr	BURTON. D S	17 Aug 45 to 26 Aug 45	
F 45859	Tpr	CAMERON. H A	17 Aug 45 to 26 Aug 45	
K 48362	Tpr	CLARK. E C	20 Aug 45 to 29 Aug 45	
G 27231	Cpl	CLOSE. G S	17 Aug 45 to 26 Aug 45	
F 86804	Tpr	COOK. G A	17 Aug 45 to 26 Aug 45	
D 72262	Sgt	CONNOLLY. J A	21 Aug 45 to 30 Aug 45	
L 36486	L/Cpl	COOPER. T	20 Aug 45 to 29 Aug 45	
G 4766	Tpr	COX. M C	17 Aug 45 to 26 Aug 45	
A 89316	Tpr	DALE. H C	21 Aug 45 to 30 Aug 45	
L 110169	Pte	DECKER. L H	20 Aug 45 to 29 Aug 45	Chief Trans Office
K 42080	Sgt	DEPTFORD. J A	17 Aug 45 to 26 Aug 45	
F 87093	Tpr	DURLING. T	17 Aug 45 to 26 Aug 45	
M 610927	Pte	EIDICK. D	17 Aug 45 to 26 Aug 45	
H 71029	Sgt	EVASIUK. N	17 Aug 45 to 26 Aug 45	19 Cdn Educ Sec
B 102617	Cpl	FEDOR. A	20 Aug 45 to 29 Aug 45	

2. LEAVE OF ABSENCE (Cont'd)

(a) CONTINUED

A 68062	Tpr	GORDON. C D	17 Aug 45 to 26 Aug 45	
M 8063	A/Cpl	GRAY. D E	17 Aug 45 to 26 Aug 45	
H 64092	Pte	GUAY. J J M	17 Aug 45 to 26 Aug 45	
D 26633	Cpl	GUERARD. R J	17 Aug 45 to 26 Aug 45	
K 2806	L/Cpl	HOLBROOK. J L	23 Aug 45 to 1 Sep 45	
K 2762	Tpr	HAWKEN. C S	15 Aug 45 to 24 Aug 45	
K 1162	Sgt	HOFFMAN. M C	20 Aug 45 to 29 Aug 45	
K48216	Pte	INNES. A G	20 Aug 45 to 29 Aug 45	
K 45961	L/Cpl	IRONSIDE. J D	13 Aug 45 to 22 Aug 45	
H 1472	Tpr	JAGO. J	17 Aug 45 to 26 Aug 45	
M 63586	Tpr	JENNING. L	20 Aug 45 to 29 Aug 45	
B 46780	Sgt	KEEP. J	20 Aug 45 to 29 Aug 45	
K 463	Tpr	KIMMINS. H J	20 Aug 45 to 29 Aug 45	
L 66546	Cpl	KOZAK. J	17 Aug 45 to 26 Aug 45	
L 53544	Tpr	KRUSHELNICKI. N	17 Aug 45 to 26 Aug 45	
H 83333	Tpr	LANE. J F	21 Aug 45 to 30 Aug 45	
L 53408	Sgt	LARSEN. H M	17 Aug 45 to 26 Aug 45	
A 57901	Sgt	LISCUMB. W D	17 Aug 45 to 26 Aug 45	
B 62344	Tpr	MARLEY. W J	17 Aug 45 to 26 Aug 45	
M 20548	Pte	MILLER. F R	14 Aug 45 to 23 Aug 45	
B 117758	Pte	MILLS. T E R	20 Aug 45 to 29 Aug 45	
B 91668	Pte	MONGEON. O	17 Aug 45 to 26 Aug 45	
D 126963	Tpr	MONK. J F M	17 Aug 45 to 26 Aug 45	
H 92376	Cpl	MOFFAT. G E	20 Aug 45 to 29 Aug 45	
F 2412	Cpl	NALEPA. J	16 Aug 45 to 25 Aug 45	
M 103105	L/Cpl	NORDHAGEN. P H	20 Aug 45 to 29 Aug 45	
M 51071	Tpr	MacPHERSON. H	17 Aug 45 to 26 Aug 45	
F 51891	Tpr	McFADYEN. E A	17 Aug 45 to 26 Aug 45	
B 142340	Gdsm	McKENNA. E F	14 Aug 45 to 23 Aug 45	
A 117165	Gdsm	O'BRIEN. D J	19 Aug 45 to 28 Aug 45	
M 56028	Sgmn	O'DOHERTY. P M	14 Aug 45 to 23 Aug 45	
M 606088	Tpr	PEDERSEN. W H	17 Aug 45 to 26 Aug 45	
F 77453	Pte	PENNY. E G	17 Aug 45 to 26 Aug 45	
B 146337	Pte	PLANT. H R	20 Aug 45 to 29 Aug 45	
A 105790	Pte	RAIN. B	20 Aug 45 to 29 Aug 45	
A 106289	Tpr	RAE. W H	20 Aug 45 to 29 Aug 45	
B 161351	Tpr	RAINFORD. R	17 Aug 45 to 26 Aug 45	
H 14942	Tpr	SAID. R L	17 Aug 45 to 26 Aug 45	
L 102130	L/Cpl	SCHROEDER. H H	14 Aug 45 to 23 Aug 45	
B 118515	Tpr	SEDGWE. W R	14 Aug 45 to 23 Aug 45	
C 70667	Cpl	SEGUIN. W A	14 Aug 45 to 23 Aug 45	
G 28679	Tpr	SLOCUM. L F	17 Aug 45 to 26 Aug 45	
H 195434	Tpr	SMALLWOOD. F W	21 Aug 45 to 30 Aug 45	
M 45501	Sgt	SMITH. G J	18 Aug 45 to 27 Aug 45	
A 86795	Tpr	SMITH. W R	21 Aug 45 to 30 Aug 45	
B 142803	L/Cpl	SMITH. W H	23 Aug 45 to 1 Sep 45	
B 134378	Cpl	STEVENSON. W C	15 Aug 45 to 24 Aug 45	
D 131643	Tpr	STOBO. S K	17 Aug 45 to 26 Aug 45	
A 86936	Sgt	THORNLEY. W	16 Aug 45 to 25 Aug 45	2 CGRU
B 53940	Pte	TODD. J	21 Aug 45 to 30 Aug 45	
C 80169	Pte	TRACY. R C	17 Aug 45 to 26 Aug 45	
F 87069	Tpr	TUPPER. E S	17 Aug 45 to 26 Aug 45	
B 38894	Cpl	WALLACE. A M	15 Aug 45 to 24 Aug 45	CMHQ
B 62505	Sgt	WHEELER. D R	21 Aug 45 to 30 Aug 45	
G 450	Tpr	WRIGHT. C M	16 Aug 45 to 25 Aug 45	
A 106113	L/Cpl	WRIGHT. S	18 Aug 45 to 27 Aug 45	
L 100843	A/Cpl	YOUNG. D A	20 Aug 45 to 29 Aug 45	
K 38092	Tpr	ADAMS. C J	24 Aug 45 to 2 Sep 45	
G 17582	Sgt	ARSENEAU. F A	27 Aug 45 to 5 Sep 45	
B 102806	L/Cpl	BROWN. H F	24 Aug 45 to 2 Sep 45	
B 63312	Tpr	BURNS. L F J	27 Aug 45 to 5 Sep 45	
H 63813	Tpr	COE. T R	27 Aug 45 to 5 Sep 45	
B 126347	Tpr	CROWN. L C	24 Aug 45 to 2 Sep 45	1 CGRU
B 62431	Tpr	DELUCA. E A	26 Aug 45 to 4 Sep 45	
A 86967	L/Cpl	DUDA. A W	24 Aug 45 to 2 Sep 45	
E 42366	Tpr	FORTIN. J C	24 Aug 45 to 2 Sep 45	

2. LEAVE OF ABSENCE (Cont'd)

(a) CONTINUED

D 170490	L/Cpl	CAUTHIER. A	26 Aug 45 to	4 Sep 45	
A 42234	Tpr	GRIFFIN. R R	24 Aug 45 to	2 Sep 45	
D 158658	Tpr	GUILBAULT. J F	24 Aug 45 to	2 Sep 45	
B 143957	Gnr	HEAD. G W	21 Aug 45 to	30 Aug 45	
M 62336	A/Cpl	HEIGH. L L	23 Aug 45 to	1 Sep 45	1 CARU
C 70599	L/Cpl	HEWITT. R	24 Aug 45 to	2 Sep 45	
C 3894	Cpl	HUDSON. C H	24 Aug 45 to	2 Sep 45	
A 107642	Tpr	HOWKINS. E E	24 Aug 45 to	2 Sep 45	1 CGRU
A 114303	A/Sgt	HOWE. W K	24 Aug 45 to	2 Sep 45	
B 151864	Tpr	HUNTER. R S	24 Aug 45 to	2 Sep 45	
M 104348	Cpl	KELLY. W P	23 Aug 45 to	1 Sep 45	
B 63167	Cpl	LINDSAY. C H	23 Aug 45 to	1 Sep 45	
A 118095	L/Cpl	LITTLE. B C J	24 Aug 45 to	2 Sep 45	
M 5232	L/Cpl	MAYER. R H	26 Aug 45 to	4 Sep 45	
A 42692	Cpl	MILNE. A G	24 Aug 45 to	2 Sep 45	
F 22677	Tpr	MILLER. R B	24 Aug 45 to	2 Sep 45	
C 100587	Tpr	MORRATH. A B	24 Aug 45 to	2 Sep 45	
F 55891	Cpl	PEIRO. M	27 Aug 45 to	5 Sep 45	
B 90486	Sgt	PEPPIEN. R	6 Aug 45 to	15 Aug 45	

(b) Granted 14 days PL wef dates shown with money allce in lieu of rations under PR&I 789(3)(4).

G 1647	Pte	BELL. C O	14 Aug 45 to	28 Aug 45	
B 93151	Cpl	BROWN. J T C	19 Aug 45 to	2 Sep 45	
B 145432	Pte	COLLINS. P G	14 Aug 45 to	28 Aug 45	
B 4541	SQMS	CRUSH. A M	17 Aug 45 to	31 Aug 45	
H 77205	Tpr	HARRIS. J	18 Aug 45 to	1 Sep 45	
B 124722	L/Cpl	INGLIS. J W	17 Aug 45 to	31 Aug 45	
B 62225	Tpr	KEMP. J	17 Aug 45 to	31 Aug 45	
M 105311	Pte	LITTLE. E F	21 Aug 45 to	4 Sep 45	
F 61952	Tpr	MCKENNA. A E	12 Aug 45 to	26 Aug 45	
B 71175	Cpl	POLLARD. T E	19 Aug 45 to	2 Sep 45	
A 56750	Sgt	SMYLIE. G A	19 Aug 45 to	2 Sep 45	
M 29660	Tpr	TEMPLE. G A	19 Aug 45 to	2 Sep 45	
L 36897	Tpr	BATTAR. F	27 Aug 45 to	10 Sep 45	
D 3211	Tpr	BEAUNE. J J E	24 Aug 45 to	7 Sep 45	
B 18395	Tpr	GAMDINER. J L	26 Aug 45 to	9 Sep 45	

(c) Granted PL wef dates shown with money allce in lieu of rations under PR&I 789(3)(4).

C 98656	Cpl	BALL. E W	8 days, 16 Aug 45 to	24 Aug 45
C 38316	Cpl	CLUFF. H D	8 days, 16 Aug 45 to	24 Aug 45
B 70012	Tpr	MONTGOMERY. A	8 days, 20 Aug 45 to	28 Aug 45
H 77786	Tpr	CASS. J W	13 days, 23 Aug 45 to	5 Sep 45

(d) Granted Compassionate Leave wef dates shown with money allce in lieu of rations under PR&I 789(3)(4).

K 71740	Tpr	LEWIS. C W	7 days, 18 Aug 45 to	25 Aug 45
A 80795	Tpr	SMITH. W R	5 days, 12 Aug 45 to	17 Aug 45

3. HONOURS AND AWARDS

(a) The ORs as listed hereunder are auth to take into wear the u/m decorations as indicated by the letters A, B, C, D & E shown after their names.

A 1939-45 Star
B Italy Star
C France & Germany Star
D Defence Medal
E CVSM and Clasp

A 11539	Pte	AKIWENZIE. E	A	B		D	E
B 102654	Tpr	ARMSTRONG. C N	A		C	D	
D 26872	Tpr	ARMSTRONG. W J	A	B		D	E
B 131857	Tpr	ARROWSMITH. E G E				D	
L 93389	Sgt	BAYNTON. E T	A		C	D	
B 58543	Tpr	BOWMAN. E R		B		D	
L 106745	Tpr	BRADWELL. F J	A		C		
F 55143	Pte	BRIFFERT. J F	A	B		D	

3. HONOURS AND AWARDS (Cont'd)

(a) CONTINUED

H 64431	Tpr	BRUCE, A H	A	B		D
B 144533	Cpl	BURTON, C R				D
B 68095	L/Cpl	CANSDALE, G				D
L 65326	Tpr	CHASE, L F	A		C	D
B 133951	Tpr	CRIPPS, W E L	A		C	D
K 48617	Tpr	DAVY, G N	A	B		D
H 77193	Cpl	DOMANSKY, K J	A		C	D
B 51842	Tpr	EASON, R	A	B		D
F 78464	Tpr	ENGLAND, J D	A	B	C	D
B 142811	Tpr	GARVIN, C J	A	B		D
A 42234	Tpr	GRIFFIN, R R	A	B		D
B 63290	Cpl	GROSBEIN, B				D
L 53224	Tpr	HAMEL, R R	A		C	D
C 70599	L/Cpl	HEWITT, R	A	B		D
K 50131	L/Cpl	KLASSEN, A				D
B 70026	Cpl	LAVERTY, H L	A	B		D
F 7227	Cpl	LAWRENCE, W C	A		C	
H 92320	Gnr	LEHONOWICH, M	A	B		D
A 11895	L/Cpl	LITTLE, B C J				D
B 336	Pte	McKENZIE, J J				D
K 41301	S/Sgt	MAGNUSSON, G L				D
A 44692	Tpr	MEHRIAM, J J	A		C	D
C 120740	Tpr	MILLER, W S	A		C	D
L 36695	Gdsm	MOORE, W A				D
H 102928	Sgt	ODDLEIFSON, I R				D
A 588	Tpr	PARSON, V A	A		C	D
H 102273	Sgt	PYBUS, J A				D
L 53626	Tpr	QUIRING, J	A	B		D
B 142803	L/Cpl	SMITH, W R				D
F 66388	L/Cpl	SPONAGLE, W D	A		C	D
G 17212	Tpr	TAYLOR, A E	A	B		D
C 82775	Pte	TORRANCE, R	A		C	D

TRANSIT SECTION TRANSIT SECTION

"A"

4. LEAVE OF ABSENCE

(a) Granted 30 days leave wef dates shown with money allce in lieu of rations under FR&I 789(3)(4).

Lieut	J G	ENGLAND	10 Aug 45 to 9 Sep 45
Lieut	V R	GOODMAN	11 Aug 45 to 10 Sep 45
Lieut	D R	MARLEY	11 Aug 45 to 10 Sep 45
Lieut	C K	NICHOLSON	11 Aug 45 to 10 Sep 45
Capt	C	PIDOUX	14 Aug 45 to 13 Sep 45

"B"

5. LEAVE OF ABSENCE

(a) Granted 30 days leave wef dates shown with money allce in lieu of rations under FR&I 789(3)(4).

29 Jul 45 to 28 Aug 45

C 12081	Pte	ALEXANDER, J L

9 Aug 45 to 8 Sep 45

K 75241	L/Cpl	ANDREW, D	C 32141	L/Cpl	BENTHEAUME, R
C 40145	Sgt	CORILL, A R	K 72654	Sgt	COLES, H L
K 74040	Pte	DUNNINGTON, B	K 38049	Sgt	HOIBAK, T
K 98594	Pte	McARTHUR, J A	C 31119	Pte	VIVARAIS, L

2 Aug 45 to 1 Sep 45

L 16423	L/Bdr	ARCHIBALD, H G	F 91775	Spr	BISHANGER, L G
K 47607	Sgt	BORTOLUSSI, G	K 74165	Pte	EDDY, A M
C 122272	Pte	GIRDEN, C A	K 1621	Tpr	GOODFELLOW, S
K 37420	Cpl	GORDON, S D	M 41993	Cpl	GRIMES, J A
K 98219	Cpl	GULBRANSEN, J	D 71697	Bdr	LESTER, P
K 73582	Cpl	MATTHEWS, J E F	L 22177	Bdr	NEWBOLD, J
F 40925	Pte	COMEAU, J T	K 38547	Cpl	PENDERGAST, L H
K 42251	Pte	PORTER, H R	K 78833	Cpl	WILSON, R R

5. LEAVE OF ABSENCE (Cont'd)

(a) CONTINUED

25 Jul 45 to 24 Aug 45

F 16302	Gnr	BIGNELL, E L

3 Aug 45 to 2 Sep 45

K 5397	Pte	BOWERS, T V
L 1360	Pte	FALCONAR, K E
K 53178	Sgt	HOWE, G A
K 15242	Gnr	JACKSON, A
K 47774	Pte	GUNNOW, M W
K 9086	Bdr	FROST, H A
K 67507	Cpl	HRECHKA, A
F 26316	Sgmn	McALEER, M L

6 Aug 45 to 5 Sep 45

B 52507	Gnr	BRADLEY, J H
B 85897	Pte	DOWLIN, H W
H 76058	L/Bdr	GARRYLUK, P
B 85624	Gnr	LESLIE, J E
B 84451	Pte	McDONALD, A P L
H 56983	Gnr	SILVERT, D M
B 208	Pte	SUTTON, H E F
L 95935	L/Cpl	CARR, L
B 85963	Pte	EASTERBROOK, W R
B 4695	Pte	HILTZ, R
B 84907	Cpl	MERCER, R G
B 90957	Cpl	ROTHWELL, R
B 86939	Pte	SPIEGELMAN, S
B 51765	Pte	THOMPSON, J G

23 Aug 45 to 22 Sep 45

H 59579	Gnr	HURTLE, A J
H 356	Tpr	JENSEN, E L L

24 Aug 45 to 23 Sep 45

H 9039	Tpr	JONES, H J
C 1129	Pte	PIEDEN, N H
M 43978	Bdr	SIDDONS, K L

2 Aug 45 to 1 Sep 45

F 28739	Sgmn	A.WALKER, F G

21 Jul 45 to 20 Aug 45

H 51887	Pte	KOSTENIK, M

1 Aug 45 to 31 Aug 45

D 15049	Sgt	SKIDMORE, L L

10 Aug 45 to 9 Sep 45

K 6590	Tpr	BAXTER, R D
L 50193	Pte	DUDAR, W
H 62773	Pte	COLLINS, J R
H 62579	Pte	FORREST, M
H 37258	Pte	GRAHAME, H F
H 26327	Sgt	HUTTON, F R
K 73041	Cfn	MEAD, G
D 13563	Sgt	SULLIVAN, C R
H 62591	Pte	WILLIAMS, J
K 99631	Pte	PARSONS, R
H 56212	Pte	BELL, W
H 62677	Pte	CLAPP, L D
H 66630	Pte	EDWARDS, W A
A 55218	Spr	GAUDO, M
H 62610	Pte	GROVES, J W
H 56319	Pte	KESICK, F
A 21208	Cpl	PROSSER, V W
A 2351	Cpl	TOMLINSON, J
G 49549	Pte	McGAW, J M
M 50977	Cfn	FITZSIMMONDS, R E

11 Aug 45 to 10 Sep 45

H 58514	Pte	EASTWOOD, J E
H 29094	Gnr	CUTHILL, A H
H 16656	L/Cpl	MEEK, E C
K 67095	Sgt	PHOCTOR, N C
H 20368	Cpl	WOODWARD, G J
A 50144	Spr	BAKE, E M
K 85437	Sgt	JOHNSON, S L
L 2264	Cpl	MERRICALE, W A
H 385	Tpr	WALLS, F
M 49885	L/Cpl	McQUILLAN, W R T

13 Aug 45 to 12 Sep 45

K 47242	Pte	APPS, W
K 42183	Sgt	BAXTER, W
L 27802	Pte	BRUSKILL, J
H 26479	Tpr	COOK, A A R
L 6824	Gnr	EVANS, A E
H 20322	Cfn	HRETSKOKEN, A D
L 2286	Pte	HOGG, W L
H 37302	Spr	HUGHES, R W
M 12140	Pte	MOFFORD, G G
K 85931	Cpl	MURLEY, E
M 60015	Pte	McCARTHY, T J
M 65553	Spr	OLAUSEN, M O
K 57555	Pte	PERLES, W E
H 20308	Cfn	PRATT, O F
M 50997	Cfn	BARABASH, N O
H 40823	Rfn	BOYCHUK, M
K 67285	Pte	BUCKINGHAM, W C
H 45711	Cpl	DOHERTY, J
M 65256	L/Cpl	ERICKSON, A R
H 35568	Sgt	HARDY, C R
M 10519	Pte	HOOD, E G
M 3432	Gnr	LADEY, A J A
L 9114	Sgt	MORRISON, D H
M 40761	Pte	NIELSEN, E M
H 36602	Spr	McCAULEY, J J
M 28426	Sgt	ORSTEN, S C
L1649	Sgt	PEELING, C G
B 27108	Spr	UDALL, R

5. LEAVE OR ABSENCE (Cont'd)

(a) CONTINUED.

13 Aug 45 to 12 Sep 45 (cont'd)

L 54493	Pte	REDMOR. G			
H 58600	Cpl	RENNIE. L J	A 18055	Bdr	REID. J
H 57741	Sgt	ROBERTSON. C E	A 49855	Sgt	ROBERTS. S S
H 239	L/Cpl	SOLE. E G	M 16504	L/Cpl	SOARS. W M R
K 6104	Cpl	WARREN. C F	M 21119	Pte	STEWART. S E
K 57321	Pte	WOODWARD. H	M 3233	Gnr	WILLMAN. F
L 18069	Gnr	BOYD. D	L 1513	Sgt	BOUSKILL. S K

14 Aug 45 to 13 Sep 45

M 60100	Cpl	BONHAM. D L G			
B 39508	Spr	BROWN. G A	D 76387	Pte	BRODEUR. P H
M 60225	Gnr	FAINE. L F	D 122513	Pte	FAGAN. A A
B 18012	Cpl	GREGG. H	M 59478	Spr	FARTHING. N J
M 50907	L/Cpl	GUNDERSON. W H	B 83052	Cpl	GUEN. J R
M 3856	L/Cpl	HENNESSY. O W	D 11537	Gnr	HALLIGAN. M H
M 65231	Gnr	LANG. H W	D 16235	Sgt	KLEIN. S
B 88708	Gnr	PARISIEN. J P	B 88744	Cpl	MAY. J V
M 42128	Pte	SMITH. H H	D 117171	Sgt	REVELLE. S J
M 29148	S/Sgt	STINSON. J F	B 39698	Spr	SOMERVILLE. C S
M 63024	Pte	TRIPP. G A	D 7609	Bdr	ST ONGE. A
M 28360	Cpl	ROBERTS. D L	M 12193	Pte	TRUDEL. E
H 20617	Pte	FIBBS. W H	M 54286	L/Cpl	BRUCHET. W B
B 2404	Sgt	POWER. N	M 61610	Pte	MITCHELL. E C

15 Aug 45 to 14 Sep 45

B 76372	Spr	PAUL. M E			
B 55074	Cpl	[illegible]. G F	H 3602	Gnr	BOYACHUK. W
E 40723	Pte	[illegible]. K A	M 16718	Sgan	HAMILTON. R D
			H 17020	Pte	RENNISON. H

8 Aug 45 to 7 Sep 45

T 93345	L/Sgt	VITTAL. F	

B.G

(R E A MORTON), Colonel,
Officer Commanding,
4 Cdn Repat Depot, C.A.C.

EXHIBIT "A"

CANADIAN ARMY OVERSEAS
Leave Pass (VJ - 48 hrs)

Date 21-8-45

Pass No.: D. Gr.

A-42234 Tpr GRIFFIN, R., has permission to be absent from his unit from 0800 hrs 2-9-45 to 0800 hrs 4-9-45 for the purpose of proceeding to: YORK

CERTIFIED TRUE COPY

(P.C. LINDSEY) Lieut & Adjt
"C" Wing, 4 C Repat D.

??????????????????
(W.W. WILKINSON) Capt.
Adjutant, "C" Wing, 4 C Repat D.

LIST OF WITNESSES

In the case of A-42234 Tpr GRIFFIN, H.R. on strength of NO 4 Cdn Repat Depot, a soldier of the Canadian Army Overseas.

FOR THE PROSECUTION

1. H-102273 Sgt PYBUS, J.A. - Orderly Sergeant, Duty Group, NO 4 Cdn Repat Depot (A Wing)
2. H-77579 Cpl O'CLAIR, J.J. - Duty Corporal, "C" Wing, NO 4 Cdn Repat Depot
3. G-53704 Cpl CRAIG, K.A. - Regimental Provost, "C" Wing NO 4 Cdn Repat Depot

FOR THE DEFENCE

N I L

LIST OF EXHIBITS

In the case of A-42234 Tpr GRIFFIN, R.R. on strength of NO 4 Cdn Repat Depot, a soldier of the Canadian Army Overseas.

FOR THE PROSECUTION

Exhibit "A" - Part II Order No 25 d/27 Aug 45. Pass showing 48 hours extension of leave.

FOR THE DEFENCE

NIL

I desire the services of an officer to defend me at my forthcoming trial by F.G.C.M., the officer to be detailed.

(A 42234 Tpr Griffin, R R)

ARMY FORM B.296 (WAR)

Statement as to Character and Particulars of Service of Accused.

(For Use at Trials by Field General Courts-Martial only).

Number.	*Rank.*	*Name.*	*Regiment (or as the case may be).*
A 42234	Tpr	GRIFFIN, R R	4 PLDG

NOTE.—The Field Conduct Sheet is to be produced in Court with this statement but is not to be annexed to the proceedings. The numbers herein stated should correspond with the number of entries in the Field Conduct Sheet, prominence being given to the most serious offence in each entry. If the charge is for drunkenness or absence without leave, the entries for drunkenness or absence, as the case may be, should be stated separately. Any recognized special acts of gallantry or distinguished conduct recorded on the Field Conduct Sheet should also be inserted here.

1. The following is a fair and true summary of the entries in the Field Conduct Sheet of the accused, exclusive of convictions by a court martial or a civil court :—

For N/A ..... times.

For ..... times.

For ..... times.

For ..... times.

Date of first entry in Field Conduct Sheet N/A

Date of last entry in Field Conduct Sheet N/A

2. Previous convictions of the accused by a court martial or a civil court are set out in the Schedule overleaf.

*3. ~~XXXX

SCHEDULE OF CONVICTIONS BY A COURT-MARTIAL OR CIVIL COURT.

Description of Court by which tried.	Date and Place of Trial.	Charges upon which convicted.	Sentence of the Court.	Punishment remitted or sentence suspended.
		NIL		

I HEREBY CERTIFY that the foregoing particulars, which have been extracted from the regimental books in my custody, are correct to the best of my knowledge and belief.

Signed this 16th day of Oct 1945

(C E S Walls) Lt.-Col
A/Comd 4 C Repat D

A 42234 GRIFFIN, R R — Corps C A C — Date of enlistment 4/7/40

No. | Name | Sqn, Battery, or Company | OC Badges | Service or Proficiency Pay | Character

Date of last entry in Company Conduct Sheet | No. and date of last drunk | Period not reckoning towards freedom from extra fine | Sheet No | Signature OC Company, etc

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order directing trial	By whom awarded	Remarks
Field				Nil Certified true copy from MFM 4 in my possession				Sgd: J McGrath Lt Aug 6 1945	

CERTIFIED TRUE COPY:

(P C Lindsay) Lt
"C" Wing 4 C Repat D

HH-122
BDR GRIFFIN V.J.

HH-122

Correspondence to be PINNED here

Army Form A.8.

Form for Assembly and Proceedings of Field General Court Martial on Active Service.

PROCEEDINGS.

A.

Order convening the Court.

On Active Service, this twenty-eighth day of June, 1943.

Whereas it appears to me, the undersigned, an officer in Command of Royal Canadian Artillery, Second Canadian Division, on active service, that the persons named in the annexed Schedule, being subject to Military Law, have committed the offences in the said Schedule mentioned.

And whereas I am of opinion that it is not practicable that such offences should be tried by an ordinary General Court Martial; ~~[illegible]~~ P.C.T.

*Omit where Convening Officer is a Commanding Officer or is of Field Rank.

I hereby convene a Field General Court Martial to try the said persons, and to consist of the Officers appointed or detailed hereunder.

*[illegible] P.C.T.

* Omit if not applicable.

Note.—The President must be named. The members and waiting members (if any) may be mentioned by name, or the number and ranks and the unit to which they belong may alone be named. In the latter event, the ranks, names, &c., of the members of the court, as constituted, will be recorded on the proceedings.

President.

Rank.	Name.	Regiment.
Major	J.D. Overholt	3 Cdn LAA Regt

Members.

Rank.	Name.	Regiment.
Capt	D.L. FROMOW ~~Crabe~~ P.C.T.	4 Cdn Fd Regt
Lieut	J.T. McEvoy	2 Cdn Atk Regt
Waiting Member	Lieut J.M. Owen	4 Cdn Fd Regt

* Must be signed personally by the Officer actually in command at the time, and all alterations in the composition of the Court to be initialled by him.

*Signed (P.C. Tees) Brigadier
Commanding RCA 2 Cdn Div
Convening Officer.

SCHEDULE.

Number, Rank (a) Name and Unit o. Accused (b)	Offence charged	*Plea	Finding, and if Convicted, Sentence (c)	How dealt with by Confirming Officer (d)
A.17145 Bdr Victor Joseph GRIFFIN, 4 Cdn Fd Regt	First Charge A.A. Sec 15(1)	guilty	guilty To be reduced to the ranks 30 June 43. J.E. Cowan Maj	Confirmed P.C. Tees Brig

* Question to be asked of accused, if he pleads not guilty (R. of P. 39 (A)):—
"Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity for preparing your defence?"
Answer (to be recorded on separate sheet if necessary):—

(Signed) P.C. Tees (P.C. Tees) Brigadier
Commanding RCA 2 Cdn Div
Confirming Officer (c)

(Signed) J.E. Cowan Major R.C.A.
President.

(a) Appointment acting rank or acting appointment, if any, to be stated in brackets after the substantive rank.

(b) Unless unavoidable, not more than three names are to be entered on one form, and in serious cases one only.

(c) Recommendation to mercy, if any, to be inserted in this column.

(d) It is not necessary that the Confirming Officer should sign his name in this column. Initials are sufficient.

(e) Must be signed by the same Officer who signs on the first page, and all alterations in the first two columns of the Schedule to be initialled by him.

Evidence and Charge Sheets (if necessary) to be PINNED here.

B. Certificate of President as to proceedings.

I certify that the above Court assembled on the 30th day of June 1943, and duly tried the persons named in the Schedule, and that the plea, finding, and sentence in the case of each such person were as stated in the third and fourth columns of that Schedule.

I also certify that:—

1. The members of the Court
2. The witnesses
*~~3. The interpreter~~
*4. The officers under instruction)

were duly sworn.

* Omit if not applicable.

Signed this 30th day of June 1943.

J.E. Cowan Maj R.C.A.
President of the Court Martial.

C. Certificate in case of death sentences.

* See footnote (b) on page 762 M.M.L. 1939.

~~I certify that the terms of *A.G.I. 570 of 1918 have been complied with.~~

~~Signed this day of 19.~~

~~President of the Court Martial.~~

D. Confirmation.

I have dealt with the findings and sentences in the manner stated in the last column of the Schedule, and, subject to what I have there stated, I hereby confirm the above findings and sentences.

~~*I direct that the soldier named in the margin be duly committed to prison or detention barrack until further orders.)~~

* To be omitted unless penal servitude, imprisonment or detention having been awarded, the Confirming Officer either has no authority to commit to prison or detention barrack, or, having such authority, recommends suspension.

Signed this 30th day of Jun 1943.

P.C. Tees
Confirming Officer.

C.R.A., 2 CDN. DIV.

Promulgated and extracts taken in the case of A17145 Bdr. Victor Joseph Griffin

(a) (Dated) 1 Jul 43 (Signed) D.M. Cooper Maj
4 Coln Fd Regt, RCA.

Promulgated and extracts taken in the case of

(Dated) (Signed)

Promulgated and extracts taken in the case of

(Dated) (Signed)

(a) When several cases are promulgated in one unit on the same day the Officer need only sign once.

CHARGE SHEET

The accused, A.17145 Bdr Victor Joseph Griffin of the 26 Cdn Field Battery, 4 Cdn Field Regiment R.C.A., a soldier of the Canadian Army (Overseas) is charged with :

FIRST CHARGE
Sec 15(1)
Army Act

W.O.A.S. "ABSENCE WITHOUT LEAVE", in that he, In the Field, on 19 Jun 43 did absent himself without leave from 2300 hrs 19 Jun 43 until returning at 2220 hrs 20 Jun 43. Absent 23 hrs 20 mins.

24 day of Jun 1943
In the Field

(W.E. Fleury) Lt-Col
Commanding Officer
4 Cdn Fd Regt R.C.A.

27th day of Jun 1943
In the Field
To be tried by F.G.C.M.

Brigadier
C.H.A. 2 Cdn Division

B2.

Lt. [illegible] Maj. R.C.A.
3 Can. Int. AA. Bty. R.C.A.
30 Jun 43 - in the field

"I wish (do not wish) a defending officer.
I desire the services of N.A., if he is
available."

V.J. Griffin

V.J. Griffin, Bdr.

In the Field

Date 24 Jun 43

(Signature of Farmer)

J. A. Dunbar Major RCA
3 Base Fd Ammy Wksp R.C.A.
30 Jan 43 - with Sales

MEDICAL CERTIFICATE (N.R.(Can) 557)

I certify that I have this morning examined No. Bdr
Griffin V. I of 4th Base Fd Regt and that in my opinion
he is fit to undergo trial by Court-Martial.
~~unfit~~

Station In the field

Date 30 June 43

B. Dunbar Capt.
Medical Officer

*All printed matter not applicable to the particular Court being held should be struck out and initialled by the President.

A

**Form of Proceedings for General and District Courts-Martial

Proceedings of a Field General Court-Martial held at In the field
on the 30th day of June 19 43 by order of
Brig. P. C. Lee, M.B.E., R.C.A. Commanding R.C.A., 2 Can. Div.
dated the 30th day of June. 19 43

Maj J. D. Pearson — President.
3 Bty. H.A.A. Regt., R.C.A.

Members.

Capt D. L. Fromow, 4 Cdn 3rd Regt RCA
Lieut J. T. McEvoy, 2 A/Tk Regt RCA

~~Judge Advocate~~

Trial of *A 17145 Bdr Victor Joseph Griffin, 4 Cdn 3rd Regt RCA

The order convening the Court, the charge-sheet and the summary (~~or abstract~~) of evidence are laid before the Court.

~~The Court satisfy themselves that~~ ~~is not available~~ ~~(a serve owing to~~

~~, waiting member takes his place as a member of the Court.~~

The Court satisfy themselves as provided by Rules of Procedure 22 and 23.

The accused is brought before the Court.

Prosecutor,† Capt A. B. Smith 4 Cdn 3rd Regt RCA

~~Counsel or defending officer~~ Accused did not desire one.

At 1000 o'clock the Trial commences.

The order convening the Court is read, and is marked 'X' signed by the President, and attached to the proceedings.

The names of the President and members of the Court are read over in the hearing of the accused, and they severally answer to their names.

Question by the President to the accused. Do you object to be tried by me as President, or by any of the officers whose names you have heard read over?

Answer by accused. No, Sir.

(N.B.—If objection is made it should be recorded, together with the decision of the Court, on a separate sheet.)

* Here insert No., Rank, full Name, Regiment, and Appointment (if any).
† Here state Rank and Name, and Regiment (if any).
‡ Qualification to be stated.

Mil. Form B. 271
10M—3-41 (9670)
H.Q. 1772-39-224

B

The President, members ~~and judge advocate~~ are duly sworn.

The following officers under instruction are duly sworn.

Rene. W. D. Wills, 2 Can. a/17th. Regt. R.C.A.
Rene. F. J. Hamphrey, 2 Can. a/17th Regt. R.C.A.
Rene. D. M. Police, 4 Can. Fd. Regt. R.C.A.
Rene. R. W. L. Deming, 4 Can. Fd. Regt. R.C.A.

Charge-Sheet

The charge sheet is signed by the President, marked B 2 and annexed to the proceedings.

Instruction. If the accused has elected to be tried under Army Act, sec. 46 (8) the fact should be here recorded.

The accused is arraigned upon each charge in the above-mentioned charge-sheet.

Are you guilty or not guilty of the [~~first~~] charge against you, which you have heard read? *Question to the accused.*

Guilty *Answer.*

~~Are you guilty or not guilty of the second charge against you, which you have heard read?~~ *Question.*

Answer.

~~Are you guilty or not guilty of the third charge against you, which you have heard read?~~ *Question.*

Answer.

~~Are you guilty or not guilty of the fourth charge against you, which you have heard read?~~ *Question.*

Answer.

The accused having pleaded Guilty to the charge, the provisions of Rule of Procedure 35 (B) are here complied with.

If the trial proceeds upon any charge to which there is a plea of "Not Guilty," the Court will not proceed upon the record of a plea of "Guilty," until after the finding on that other charge. *Instruction.*

CC

Proceedings on Plea of Guilty

*To be struck out in case no plea of "Not Guilty" has been proceeded with.

*~~[The Court having been re-opened, the accused is again brought before it, and the charge to which he has pleaded "Guilty" read to him again.]~~

The accused A17145 Bdr Victor Joseph Griffin is found guilty of the charge.

*The summary (~~or abstract~~) of evidence is read, marked "G", signed by the President, and attached to the proceedings.

Question to the accused. Do you wish to make any statement in mitigation of punishment?

No, Sir

Answer. The accused in mitigation of punishment says:—

~~[or hands in a written statement, which is read, marked , signed by the President, and attached to the proceedings.]~~

Instruction.

* If there is no summary or abstract of evidence, sufficient evidence to enable the Court to determine the sentence, and to enable the confirming officer to know all the circumstances connected with the case, will be taken on a separate sheet in the same manner as on a plea of "Not Guilty."

If from the statement of the accused, or from the summary or abstract of evidence, or otherwise, it appears to the Court that the accused did not understand the effect of his plea of "Guilty," the Court shall alter the record, and enter a plea of "Not Guilty," and proceed with the trial accordingly.

Do you wish to give evidence yourself or to call any witnesses as to character?

Question to the accused.

No, Sir.

Answer.

Evidence as to character.

E

~~Finding~~*

*To be struck out except in cases where trial has taken place on a plea of "Not Guilty."

~~The Court is closed for the consideration of the finding.~~

~~The Court find that the accused~~*

Proceedings on Conviction *before Sentence*

*When the Court is already open this sentence will be struck out.

*The Court being re-opened, the accused is again brought before it.

Evidence of character, &c.

Capt A.B. Smith, Adj. 4th Regt RCA is duly sworn.

Question by the President.

Have you any evidence to produce as to the character and particulars of service of the accused? *Answer by the Witness.* AFB 296 + MF 176

The above statement [with the schedule of convictions and of cases in which trial has been dispensed with] is read, marked H 2, signed by the President, and annexed to the proceedings.

Question by the President.

Is the accused the person named in the statement which you have heard read? *Answer by the Witness.* yes

Question.

Have you compared the contents of the above statement with the regimental books? *Answer.* yes

Question.

Are they true extracts from the regimental books, and is the statement of entries in the conduct sheets a fair and true summary of those entries? *Answer.* yes

[Instruction.—If by reason of the nature of the service of the accused in a department, corps, or otherwise, the finding of the Court renders him liable to any exceptional punishment in addition to that to be awarded by the Court the prosecutor must call the attention of the Court to the fact, and the Court must inquire into the nature and amount of that additional punishment.]

NOT Cross-examined by the accused.

Question to the accused.

Do you wish to address the Court? *Answer.* No, Sir.

The Court is closed for the consideration of the sentence.

20 Jan 43
4th Div Trans

J.L. Warhaw Maj RCA
3 Can Lt A.A. Regt RCA

~~Sentence~~

~~The Court sentence the accused~~

~~Sentence~~

SUMMARY OF EVIDENCE

Summary of Evidence in the case of A.17145 Bdr Victor Joseph Griffin, 26 Cdn Field Battery, 4 Cdn Field Regiment, a soldier of the Canadian Army (Overseas). The C.O. directs that the evidence be taken on oath.

The Accused is informed of his rights.

FIRST WITNESS FOR THE PROSECUTION A.17165 Bdr Stokes, M.L., 4 Cdn Field Regiment R.C.A., having been duly sworn states :

"On the 19 Jun 43 I was Tp Orderly NCO . On calling the roll at 2300 hrs Bdr Griffin was absent from his quarters. I turned in my report to the Bty Orderly Sgt."

The accused declined to cross examine.

M. Stokes
M.L. Stokes, Bdr.

SECOND WITNESS FOR THE PROSECUTION H.B8461 Sgt Davis, C.R., 4 Cdn Field Regiment R.C.A., having been duly sworn states :

"I was Bty Orderly Sgt on the 20 Jun 43 for the 26 Bty. At approximately 0020 hrs Bdr Griffin reported in to me sober and properly dressed. I placed him under open arrest at the order of the Orderly Officer which was Lt Cronk at the time."

The accused declined to cross examine.

C.R. Davis
C.R. Davis, Sgt.

The accused having been duly cautioned in accordance with R.P. 4 E says:

" I don't want to say anything."

V.J. Griffin
V.J. Griffin, Bdr

The accused does not wish to call witnesses in his defence at this point.

Certified that R.P. 4 complied with.

In the Field
24 Jun 43

A.B. Smith
A.B. Smith, Capt
Officer detailed to take Summary.

G
Ltd remand Maj RCA
3 Coy to Maj Fgt RCA
30 Jun 43 in in Duke

M.F.M. 6

No. A.17145 Name Griffin, Victor Joseph Sqn., Battery, or Company Corps R.C.A. Date of enlistment 6 Sep 39 G.C. Badge Service or Proficiency Pay Character

Date of last entry in Company Conduct Sheet No. and date of last drunk Period not reckoning towards freedom from extra fine Sheet No. 2 Signature O.C. Company, etc.

Fine	Date of offence	Rank	Cause of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Previous sheet destroyed on completion of 6 mos service in accordance with CARO 2084. D.M. Cooper, Major									
	Field	8 May 40	Gnr	Sec 8(20) AA Using insulting language to an N.C.O.	Documentary	5 days C.B.	9 May 40	O.C. CSTSC	
	Field	16 Jun 40	Gnr	Sec 15(1)AA AWL from 0800 hrs 16 Jun 40 to 1530 hrs 24 Jun 40 Absent 8 days, 7 hrs 30 mins	Bdr Loghrin Sgt Lewsbury	14 days C.B.	28 Jun 40	Lt Col F.P. Lloyd	forfeits 9 days pay PRI 149(1)(a forfeits 9 days pay PRI 149(1)(b
	Field	30 Jul 40	Gnr	Sec 15(1)AA AWL from 0600 hrs 30 Jul 40 to 1500 hrs 30 Jul 40 Absent 9 hrs	Sgt Gunn	1 days C.B.	3 Aug 40	Capt Young	forfeits 1 days pay PRI 149(1)(a
	Field	15Apr41	Gnr 1	Sec 19 A.A. DRUNKENNESS	Sgt Dennis TSM Richardson	7 days C.B.	19 Apr 41	Major Fleury	First offence

PTO

Place	Date of offence	Rank	Cause of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of 1st day of awg with trial	By whom awarded	Remarks

CERTIFIED TRUE COPY :

A B Smith Capt.

Adjutant 49th Fd. Regt. R.C.A., C.A.

A.17145 Victor Joseph Griffin 26 Cdn Fd Bty, 4 Cdn Fd Regt RCA

26 Single None

6 Sep 39

A/L/Bdr (Without pay) w.e.f. 13 Jun 41. Auth. Pt II Order 32 d/27 Jun 41

A/L/Bdr (With pay) w.e.f. 13 Jun 41 Auth. Pt II Order 35 d/11 Jul 41

A/BDr (With pay) w.e.f. 1 Dec 41 Auth. Pt II Order 65 d/26 Dec 41

Confirmed Bdr (With pay) w.e.f. 1 Mar 42 Auth. Pt II Order 41 d/20 Jul 42

A D Stuart Capt

4 Cdn Fd Regt R.C.A.

Sgt Ch. Pets

504

June 3

-H-

J.A. Lovell Maj RCA

3 Cdn Bde H.Q. Regt

ii/c Dist 30 Jun 43

UU-81
SPR GRIFFITH S.

KL-81

SCHEDULE.

PART I. PLEA(S), FINDING(S) AND SENTENCE.

Accused : .....

Charge. (Insert "alternative" where applicable.)	Plea. (See instrs p 2.)	Finding. (See note below.)	(Space for use as required for further charges, accused charged jointly, special findings, etc.)
1st	Not Guilty	Not Guilty	
2nd			
3rd			
4th			
5th			
6th			

(Note : As to findings for lesser offences see AA 56, RP 44 ; findings on alternative charges see MML p 483 fn 4 para 2, RP 44 ; special findings see RP 44 and MML p 753, and in lieu of Art see RP 44 fn 6.)

~~At present under~~ sentence for ..... beginning on (date) ..... (1) Nil

(1. Insert sentence being served, or delete, if not applicable. See RP 46(A). Information should be found on MF B355 or AF B296.)

Time in confinement awaiting present trial—a total of ..... days, of which ..... days were spent in hospital.(1)

(1. See RP 46(A) fn 2. Information should be found on MF B355 or AF B296 admitted in evidence under E2.)

Sentence Awarded by the Court :

(Sgd) ..... 13 Nov 43. (Sgd) [signature] Maj.

Judge-Advocate, if any. Date awarded. President. (RP 43, 50.)

(See back of Convening Order as to assembly and disposal of record after trial.)

PART II. MINUTE WHERE CONFIRMATION RESERVED. (AA 54(5), RP 120(F), MML p 760.)

Date ..... (Sgd) ..... Commanding .....

PART III. DECISION OF CONFIRMING OFFR ON FINDING(S) AND SENTENCE.

(For duties and powers see AA 54, 57, RP 37(D) fn 6,46(A), 51-56, 120, MML pp 759-761, KR Can 567-577. Acquittals require no confirmation and cannot be revised : AA 54(3). Sending back finding or sentence for revision by Court : AA 54(2), RP 120(G). If not confirmed, accused may be tried again : AA 157, MML p 64. Minute of confirmation or non-confirmation may be altered before promulgation : RP 53, MML p 65. Quashing after promulgation : KR Can 573. Duties and powers of reviewing offrs : AA 57, 57A, RP 53A, 54. The Confirming Offr must sign here personally. AA 172 fn 1.)

My decision on the finding(s) and sentence set forth in Part I is :

I direct that the accused be not committed to prison or detention barracks until further orders.(1)

(1. AA 57A. Delete if not used.)

(Sgd) .....

Date ..... Commanding ..... Confirming Officer.

PART IV. PROMULGATED AND EXTRACTS TAKEN. (RP 53, KR Can 576, 577.)

Accused. Date. Signature of Offr.

ALL DELETIONS AND ALTERATIONS WILL BE INITIALLED.

FIELD GENERAL COURT-MARTIAL

CFA56 (To form of AFA3)
AC 9/42 R.1808 (3864)

Convened by Order of 6 Cdn Armd Div dated 11 Nov 43.

Comd

ACCUSED.

(As to the trial of two or more charged jointly see RP 16, 71, 109. As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

Number.	(a) Prmnt R. (b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
R.29178	Pte.	Lionel	Griffith	1 Cdn Fd Regt RCA

Proceedings Reviewed

[signature] 22 Nov 43

PROCEEDINGS OF TRIAL.

Held in the Field in (country) [illegible] on (date(s)) 12 Nov 43.

RECORD FORM A—OPENING PROCEEDINGS AND ARRAIGNMENT.

A1. The President, Members, waiting Member, JA, if any, and Offrs under instr, if any, assemble, and the Court is cleared.

(PRINTED MATTER, NOT IN ITALICS FOR GUIDANCE, WILL BE DELETED IF NOT USED OR APPLICABLE, AND INITIALLED BY PRES OR JA. The Schedule referred to throughout is on p 4. Citations do NOT include all relevant fmn ROs. For guidance on procedure when a variation in this form arises, see form for GCM in MML pp 741 to 759. A brief record of such variation will be made and given a number having reference to appropriate or preceding para number herein. See back of Convening Order, CF 465, for oaths and instrs on how to record addresses, evidence, etc, which instrs are hereafter called "Notes". As to general provisions for conducting the trial see AA 33, KR 56, 63-70, 73, 74, 94, 103, 119, 132.)

A2. The President initials and lays before the Court the Convening Order and Charge Sheet(s) attached thereto.(1) The Court is satisfied that it is properly convened and constituted(2), accused is (~~are~~) amenable to military law, and each charge discloses an offence.(3)

(1. As to use of Summary of Evidence see RP 17 fn 6. 2. AA 49, 50, RP 105-107. 3. RP 11-13, 23, 24.)

A3. The Court is opened. The accused is (~~are~~) brought before the Court. At 1120 hours trial commences.

A4. The Prosecutor produces a Medical Certificate that accused is (~~are~~) fit to undergo trial by court-martial.(1) ~~The Prosecutor informs the Court that accused elected to be tried by court-martial instead of being dealt with summarily by the CO.(2)~~ Nil

(1. KR Can 557. 2. AA 46(B), RP 60 fn 1. For effect see KR Can 563(c). Delete, if not applicable.)

~~A5. President to accused : Do you object to ..... as interpreter ? Ans .....~~

~~The Interpreter is sworn (1) Do you object to ..... as shorthand writer ? Ans .....~~
~~The shorthand writer is sworn (1)~~ Nil

(1. RP 72. Delete, if none employed.)

A6. The Convening Order and names of the President and Members of the Court are read to the accused.(1) President to accused : Do you object to be tried by me as President or by any of the Members of the Court ?

Ans Nil (2)

(1. RP 110. 2. If no objection, waiting member returns. RP 66(B). If objection, see procedure AA 51, RP 25, 71, (B), MML p 742.)

A7. The President, Members, JA, if any, and Offrs under instr, if any, are sworn.(1) The following are the ranks, names and units of the offrs comprising the Court, etc :

President	Lt Col	[illegible]	1 Cdn Fd Regt RCA
Member	Capt	[illegible]	1 Cdn Fd Regt RCA
Member	Lieut	[illegible]	1 Cdn Fd Regt RCA
Judge-Advocate		[illegible]	1 Cdn Fd Regt RCA
Prosecutor	Lieut	[illegible]	1 Cdn Fd Regt RCA
Defending Offr	Lieut	[illegible]	1 Cdn Fd Regt RCA

Questions by President : Is the Prosecutor a lawyer ? Ans No. Is the Defending Offr a lawyer ? Ans No (2)

(1. RP 26, 27, 109, 111. List of offrs under instr will be returned separately with proceedings for information of Conv Offr.)
2. If Pros a lawyer and Def Offr not, accused is entitled to an adjournment when RP 89 (B) and fn 2 were not followed. See DI p 3.)

A8. The accused before arraignment make(s) (no) ~~bar~~ plea. (1) Nil

(1. If a special plea is made for separate trial on one or more charges (RP 42(E), 106), or as to the jurisdiction of the Court (RP 34, 35(A), 112), or in bar of trial (RP 36), or as to accused's mental fitness to stand trial (AA 130, RP 57), or by one of several accused charged jointly to be tried separately (RP 16, 71), such plea, the addresses made in support or against, the evidence, if any, and finding are recorded per Notes. For forms of record see references in fns to RoP cited. Insert in AB rank and name of the accused making the plea.)

A9. The accused is (are) arraigned (separately) on all charges in the charge sheet.(1) The accused does (~~does~~ not object to any charge.(2) There is no amendment to be made to the Charge Sheet.(3) The President records the plea in Part I of the Schedule.

(1. RP 31, 142. See para 1 of instrs p 2. When more than one Charge Sheet see RP 62 ; when several accused to be tried separately see RP 71(C), and use separate copies of CF 465 to record proceedings. 2. RP 32, RP 33. If otherwise, delete and make appropriate record per Notes.)

A10. The Court is closed and considers the Instrs on Procedure after Arraignment at top of p 2. The proceedings are continued on Record Form D

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

INSTRUCTIONS ON PROCEDURE AFTER ARRAIGNMENT.

1. *The accused may not plead or be found Guilty on more than one of two or more charges laid in the alternative.* (*RP* 37(*A*).) *As to withdrawal of alternative charges by Prosecutor see RP* 35(*C*). *No other charge can be withdrawn for any reason without authy from Convening Offr. If Convening Offr concurs, Court may accept plea of Guilty to lesser, offence.* (*RP* 44(*H*).) *Accused may change a plea of Not Guilty to Guilty during trial.* (*RP* 38.) *As to refusing etc, to plead or not pleading intelligibly see RP* 35(*A*). *As to plea when sentence may be death see RP* 35(*D*).

2. *The proceedings on each charge sheet* (*RP* 62) *after arraignment will be conducted as follows in the respective circumstances stated:*

I. If pleas to all charges are GUILTY, use Record Form B below.

II. If pleas to all charges are NOT GUILTY, use Record Form D on p 3.

III. If pleas to some charges are GUILTY and to other charges are NOT GUILTY and

(a) Such mixed pleas occur when there are no alternative charges in the Charge Sheet, use Record Form C below. (*RP* 37(*A*).)

(b) Such mixed pleas occur in a set of two or more charges laid in the alternative, see RP 37 (*A*) *and fn* 2 *as to discretion of Court,* (i) *to try the accused on all such alternative charges as if he had pleaded Not Guilty thereto, or,* (ii) *to record the pleas as the findings of Court. After deciding between* (i) *and* (ii), *Court will proceed under foregoing instrs as may be appropriate to result of its decision. See MML p* 744 *Instrs* (2).

3. *As to responsibility of President to accused see RP* 59, 60(*C*); *powers and duties of JA see RP* 103; *duty of Prosecutor see RP* 69(*A*) (*B*); *duty and privileges of accused and Defending Offr see RP* 60(*C*), 87(*C*), 91, 92; *swearing and withdrawal of witnesses from Court see RP* 81, 82; *questioning of accused see RP* 80, 87(*C*), 92(*B*), *and of witnesses see RP* 83-85; *calling or re-calling of witnesses by Court etc see RP* 75-79, 86, 116; *use of Summary of Evidence at Trial see RP* 17(*E*) *fn* 6; *and responsibility of JA or Pres to record proceedings see RP* 94, 96.

RECORD FORM B—PROCEEDINGS ON PLEAS OF GUILTY TO ALL CHARGES.

B1. The President or JA, if any, complies with RP 35(B) by explaining to the accused the nature and meaning of the charge(s)(1), and that on his plea of Guilty there will be no regular trial but merely a consideration of the sentence to be awarded after he has been given an opportunity to make a statement in reference to the charge(s), call witnesses as to character and make an address in mitigation of punishment.(2)
(*1. RP 35 fn 3. 2. MML p 54 para 47.*)

B2. President to accused: The Court will now receive any statement you desire to make in reference to the charge(s).(1) If it appears from your statement that there are circumstances which indicate that you do not understand the effect of the plea of Guilty(2), or which show provocation or extenuation in respect of which in your interest the witnesses for the Prosecution should be examined(3), we shall advise you to change your plea to Not Guilty. In making a statement you will not be sworn or subject to cross-examination; and anything you say will not be used in evidence against you after you change your plea. If, however, it appears to the Court that your statement affects only the amount of punishment to which you are liable, you will not be advised to change your plea and you will be given an opportunity later to prove your statement by sworn testimony, if you so desire.(4)

President to accused: Do you wish to make a statement? Ans ..... (5)
(*1. RP 37(B). 2. RP 37(D) fn 6. 3. RP 15(B) fn 5 para 3. MML p 54 para 47. 4. See para E2 of Record Form E.*
5. Statement, if any, recorded per Notes.)

B3. The Court considers the accused's statement.(1) The Court decides (not) to advise accused to change his (their) plea(s) of Guilty to Not Guilty on ..... charge(s). The accused is (are) so informed, and he (they) change(s) his (their) plea(s) to ..... charge(s). Part I of the Schedule is amended accordingly.
(*1. Court may be cleared to consider the statement. Delete whole or part not used.*)

B4. On the charge(s) to which the plea(s) of Guilty is (are) not changed the President records finding(s) of Guilty in Part I of the Schedule.(1)
(*1. RP 35(B). If any plea(s) is (are) changed, use Record Form C or D as appropriate.*)

B5. The Summary of Evidence is marked Ex....., initialled and read aloud by the President.(1)
(*1. If there is no Summary, or if it is inadequate, comply with RP 37(B). If there is any evidence inconsistent with any plea standing as Guilty, Court will advise accused to change such plea and, if changed to that Guilty, try such charge(s) by use of paras D1 to D8 inclusive of Record Form D on p 3. RP 37(D).*)

B6. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

RECORD FORM C—PROCEEDINGS ON MIXED PLEAS OF GUILTY AND NOT GUILTY.

C1. As to the charges on which accused pleaded NOT GUILTY the trial is continued by using paras D1 to D8 inclusive of Record Form D on p 3 before proceeding with C 2.(1)
(*1. RP 37(A) (E).*)

C2. The charges on which accused pleaded GUILTY are read to him (them) again, and the trial is continued by using paras B1 to B5 of Record Form B above.(1)
(*1. Under B5 such parts only of the Summary of Evidence are read as relate to the charges dealt with under C2. If any plea is changed to Not Guilty, trial thereon proceeds by complying with paras D1 to D8 inclusive in Record Form D on p 3 and making an appropriate record thereof on a separate sheet.*)

C3. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

RECORD FORM D—PROCEEDINGS ON PLEAS OF NOT GUILTY TO ALL CHARGES.

D1. President to accused: Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity to prepare your defence? Ans No ..... (1)
(*1. If "yes", see RP 39(A) for procedure. Statement or evidence, if any, is recorded per Notes.*)

D2. The Prosecutor makes (an) (~~an~~) opening address.(1)
(*1. RP 39(B), 60(A) (B), 90, 92(C) (D). Record address per Notes, subject to RP 95(C).*)

D3. The evidence for the Prosecution is taken.(1)
(*1. RP 39(C), 114, KR Can 555. Record evidence per Notes. As to Prosecutor giving evidence himself see RP 39(D) (E).*)

D4. The Prosecution is closed.(1) The Defending Offr submits that the evidence for the Prosecution does not establish a prima facie case against the accused on the ..... charge(s).(2) The Court is closed, and considers the submission.(3) The Court is re-opened, and the President announces that the submission is disallowed on the ..... charge(s), and allowed on the ..... charge(s), and that, accordingly, the trial will proceed on the former, but the accused is (are) found Not Guilty on the latter charge(s).(4)
(*1. Delete remainder of this para, if submission not made. 2. Arguments on submission, answer and reply are recorded per Notes. 3. RP 40 fn 1. See MML p 72 paras 12-14 and p 81 para 42. 4. Delete part not used. If accused acquitted on all charges, use second alternative in para D8.*)
NB: If trial proceeds, accused must be allowed great latitude in making his defence, and the Court should not stop his defence solely on ground of irrelevance. (RP 60(C), 114, 115.)

D5. President to accused: You will now proceed with your defence.(1) You may, if you wish, give evidence yourself on oath as to the facts or your character or both, in which case you will be subject to cross-examination.(2) You may, however, make a statement without being sworn, and you will not be subject to cross-examination.(3) But a statement which could have been made on oath will not carry with the Court the same weight as sworn testimony.(4) You may call witnesses in your defence and as to character, whether you give evidence or make a statement or do neither.

President to accused: Do you wish to give evidence yourself as a witness, make a statement, or do neither?
Ans ..... Do you intend to call witnesses on your behalf?
Ans ..... Are they witnesses as to character only? Ans .....
(*1. RP 155. 2. RP 40(A), 155-60(D). 3. RP 40 fn 10. 4. RP 40 fns 2, 9.*)

D6. Consequent on the answers recorded in para D5 the appropriate procedure for the defence is followed.(1)
(*1. RP 114, 115-116. For procedure see Notes on back of Convening Order. CF A65. Evidence for accused as to his character should, if in his interest, be given before the finding. See RP 46(A) fn 1, B6(C). Note the further opportunity in para E1 of Record Form E. Record per Notes addresses, statement, evidence and any summing up by the JA under RP 42, 103(B).*)

D7. The Court is closed to consider the finding(s).(1) The finding(s) of the Court is (are) recorded in Part I of the Schedule.(2) The Court is re-opened.
(*1. RP 43, 117(A). See Notes in Part I of Schedule. 2. RP 44(A).*)

D8. The President announces the finding(s), if any, of Not Guilty, and states to the accused that the finding(s) of the Court on the ..... charge(s), being subject to confirmation, will be promulgated later.(1)
Or, The President announces that the accused is found Not Guilty on all charges and is to be released forthwith, and that the proceedings are accordingly terminated. Part I of the Schedule is dated and signed.(2)
(*1. AA 54(3) (6), RP 45, 120(A). 2. AA 54(3), RP 45, 117. This alternative announcement is not applicable when there are pleas of Guilty outstanding and dealt with under Record Form B or C.*)

D9. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E below.

RECORD FORM E—PROCEEDINGS ON CONVICTION BEFORE SENTENCE.

E1. President to accused: Do you wish to give evidence yourself or to call any witnesses as to your character?(1)
Ans .....
(*1. If evidence has already been given by accused or his witnesses as to his character, delete this para. RP 37(C) fn 4, 46 fn 1. Accused and witnesses are sworn. Evidence recorded per Notes.*)

E2. The Prosecutor produces Statement(s) as to Character and Particulars of Service(1), and certified true copy (copies) of Conduct Sheet(s)(2), purporting to refer to the accused, which he submits to the Defending Offr for examination, and then to the Court for admission in evidence. The Court is satisfied that these documents refer to the accused, because (i) they purport to be signed in the manner required by AA 163(1) (g) (h), and (ii) they purport to refer to (a) soldier(s) having the same number, rank, name and corps as the accused. Admitted in evidence and marked Ex..... and Ex..... respectively.(3)
(*1. AFB 355 or AFB 296. 2. MFM 6. 3. RP 46, KR Can 558. If above documents not produced, see RP 46 fn 1 para 1.*)

E3. President to accused: Do you wish to address the Court on the Statement(s) and Conduct Sheet(s), and in mitigation of punishment?(1) Ans ..... (2)
(*1. RP 37(C), 46(D). 2. Address, if any, recorded per Notes. Court should permit accused or his witnesses to answer anything here or previously stated which would affect the amount of punishment. RP 37(F) fn 7.*)

E4. The President states that the Court is closed to consider the sentence, and that the sentence to be awarded by the Court, being subject to confirmation, will not be announced, but will be promulgated later, and the proceedings in open court are accordingly terminated.(1)
(*1. AA 54(6), RP 120(A).*)

E5. The Court considers the sentence.(1) The President records the sentence in Part I of the Schedule, which is dated and signed by him and the JA, if any.(2)
(*1. When several accused tried separately see RP 7(D). One sentence only, comprised of the punishment or punishments laid down in AA 41, 44 and its proviso, is to be awarded to cover all charges in all charge sheets on which accused found guilty. RP 45. As to sentences see AA 44, 138, 182, RP 46-50, 69, 118, 119(A), KR Can 308, 320, 563-566, Overseas RO 309, 2325. MML p 602, 737-759. As to sentences assigned for civil offences by the law of England see AA 41(5), MML p 130. When accused already under sentence of imprisonment or detention see AA 44(1)(b), 68(1), KR Can 564. 2. RP 50. As to release from arrest by Confirming Offr see KR Can 367. As to assembly and dispersal of record after trial see instrs on back of Convening Order.*)

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

CHARGE SHEET

The accused H-39178 Spr. GRIFFITH, Stewart, Royal Canadian Engineers, No. 1 Canadian Engineer Reinforcement Unit, a soldier of the Canadian Army Overseas is charged with, when on Active Service,

First Charge
AA 15(1)

ABSENTING HIMSELF WITHOUT LEAVE

in that he

In the Field, whilst a defaulter, absented himself without leave from 1800 hours 25 Oct 43 until surrendering himself at St. Austell, Cornwall, at 2100 hours 31 Oct 43.

Absent 6 days 3 hours
Cost of Apprehension £2.11.0.

In the Field
8 Nov 43

(A.S. RUTHERFORD) Lt.-Col.
Commanding Officer,
No. 1 Training Wing,
No. 1 Canadian Eng Reinf Unit,
Canadian Army Overseas.

TO BE TRIED BY FIELD GENERAL COURT MARTIAL.

11 Nov 43

(H.R. Tyner) Colonel
A/Comd "B" Gp
Cdn Rft Units

MEDICAL OFFICER'S CERTIFICATE
K.R. (CAN) PARA 557

I certify that I have this morning examined

No. H.39178 Spr. GRIFFITH. S.

of ... R.C.E.R.U. ... and in my opinion he

is fit to undergo trial by Court Martial.

Station. C.F.E.

Date. 13.11.43

Medical Officer

FIELD GENERAL COURT-MARTIAL

CFA45 (In lieu of AFA3) 40/PAS/1697 (2883)

(Whether the accused to be tried is under his comd or not, a FGCM may on application to him be convened by any offr of Cdn Army Overseas, or of any other force if authorized in law, in immediate comd of troops on active service, subject to RP 105(C) and restrictions imposed by appropriate authy. AA 49, 50, RP 104-107, 114. As to the duties and privileges of the Convening Offr in dealing with the application see MML Chap V paras 20 and 23, RP 87(B).

There should be a separate Convening Order for each person to be tried separately by the same Court. RP 71(C), 109. As to separate charge sheets see RP 62, and as to separate trial on charges in the same charge sheet see RP 108. As to two or more accused charged jointly see RP 16, 109.

As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns. KR Can 308, 328, 330.)

ACCUSED.

Number.	(a) Prmnt R.	(b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
H-39178	Spr		Stewart	Griffith	1 CERU

CONVENING ORDER.

1. Whereas complaint has been made to me, the undersigned, that the person(s) named above as the accused, being subject to military law, has ~~(have)~~ committed the offence(s) set forth in the Charge Sheet(s) attached and on (date) 11 Nov 43 indorsed by me, (~~direct that he (they) be tried~~), "To be tried by Field General Court-Martial".

2. And whereas I am of opinion that it is not practicable that such offence(s) should be tried by an ordinary General Court-Martial; [redacted]

(Delete part in brackets when not required for compliance with RP 105(C).)

3. I hereby convene a Field General Court-Martial to try the said person(s), and to consist of the Offrs appointed or detailed hereunder.

4. [redacted]

(AA 49, RP 106(B), 107(A). Delete the whole or part, if not applicable.)

5. [redacted]

(RP 106(E). Delete, if none appointed.)

PRESIDENT.

Major (Rank.)	J.W. Atkinson (Must be named. RP 106.)	1 CASCRU (Unit.)

MEMBERS.

Captain	to be detailed by	1 CSRU
Lieutenant (Rank.)	to be detailed by (Named or detailed. RP 106.)	1 CERU (Unit.)

WAITING MEMBER.

(Rank.)	(Named or detailed, if any. RP 106.)	(Unit.)

JUDGE-ADVOCATE.

(Rank.)	(Must be named, if any. RP 106.)	(Unit.)

On Active Service in the Fd

in England (Country.)

(Signed personally. RP 105 fn 2.) H.R. Tyner (Rank.) Col

Date 11 Nov 43

A/ Commanding "B" Gp C.R.U. (H.R. Tyner) Colonel Convening Officer.

CONVENING OFFR WILL INITIAL ALL DELETIONS AND ALTERATIONS

(See overleaf for oaths and notes for use on trial.)

H 39178 Spr Griffith J.

First witness for the Prosecution

M 533 rd Regt SHERRITT 1 CDRU T.R.O., sworn, states "I am regimental provost in charge of unit detention. On 25 Oct 43 one of my duties was to call the defaulters parade and the first roll call was at 1800 hrs. Spr. Griffiths was absent at that time. At 1800 hrs he did not answer his name. At 2000 hrs he did not answer his name. At 2130 hrs he did not answer his name. I wrote out documentary evidence and sent it in to his coy."

Question by defending officer: Will you explain to the court what the defaulters parade is for?

Answer: It is a parade that gets all the defaulters together and if there are any petitions for them to be put up they are given them

Question by defending officer: Tell me what happens to a soldier if he gets a sentence of F.P.?

Answer: If there is a regimental provost at the orderly room at the time of sentence, he takes the mans name and number and tells him when he is to report first on defaulters parade. If no R.P. is present, the R.S.M. sergeant major notifies us what the sentence was and we put him on a roll-call list of defaulters.

Question by defending officer: Who informed Spr. Griffiths on 25 Oct that he was to appear on defaulters parade at 1800 hrs?

Answer: I do not know. I was not on duty at that time.

Question by defending officer: When you sent that report in to the coy. was it a report that he was AWL, or absent from defaulters?

Ans: Absent from defaulters parade.

Evidence that RP 838 has been complied with

Exhibit "B" was introduced to the court and released by the court on consent of defending officer.

Defending officer submitted nothing in evidence and indicated all would had been warned to appear on defaulters parade at a given place at a given time, and roughly, time of AWL as stated in charge sheet was not proven.

Prosecution admitted inability to produce witness to give evidence on check that Sgt Griffith had been warned. One attempt was made to introduce extracts from Part II orders to show Sgt Griffith was absent as of 800 hrs 25 Oct 43 to which defense objected. Objection was sustained by the Court.

Exhibit "F"

I CERTIFY that the man whose personal description is given below surrendered himself to* P654 H Pte [illegible] WRH Hankey at St Austell at (hour) 9 p.m. on the 31st day of October, 1943 as being No. H 39148 (Rank and Name) Sapper Stewart GRIFFITH a deserter (or absentee without leave) from No 1 C E R U, Cove, N° Aldershot and it appears to me from his confession that he is a deserter or absentee without leave.

* After the word " to " to be inserted the name and rank of the police officer concerned.

Age 21 Height 5 Feet 9 Inches
Complexion Fresh Hair Ginger Eyes Brown
Marks Scar R Leg
In uniform or plain clothes Uniform

Probable Date and Place of Attestation	3.6.40 Winnipeg, Manitoba.
Probable Date of Desertion or beginning of absence, and from what place	25.10.43 Cove. N° Aldershot Hants.

Signature of Officer of Police in charge of St Austell Station.

1/8/43 Date of Signature.

Army Form O.1617
R.A.F. Form 1617

PART 2.

This portion of the Form should be completed and forwarded to the Officer Commanding the man's unit to whom Part 1 of this Form is sent, as soon as all expenses have been ascertained.
(It should not be detached from Part 1 unless delay in completion is unavoidable.)

Statement of Expenses chargeable to Army or Air Force Funds incurred by the Police in the case of

No.

who surrendered to the Police at on

Payable to

CERTIFIED that this statement of expenses is correct.

Superintendent or Officer in charge of Police Station at

Date of Signature.

Summary of Evidence

Summary of evidence in the case of H 39178 Spr Griffith S. Stewart, Royal Canadian Engineers on strength of No 1 Canadian Reinforcement unit, a soldier of the Canadian Army (Overseas)

By direction of the commanding officer the summary of evidence is taken on oath.

First Witness -

for the prosecution No M 53814 S/Sgt Sherritt T.A. on the strength of No 1 Canadian Engineers Reinforcement Unit, as soldier of the Canadian Army (Overseas) having been duly sworn states :-

~~My evidence is quite a while~~

1- No M 53814 S/Sgt Sherrit T.A. of No 1 C.E.R.U. was guard commander of the Unit detention on 25 Oct 43. My duty was to call the defaulter roll at 1800 hrs, 1900 hrs, 2000 hrs, and 2130 hrs. H 39178 Spr Griffith S. failed to answer the above calls. I have nothing further to say.

The accused declines to cross examine the witness

J.A. Sherritt Sgt.

2nd Witness

For the prosecution - Evidence documentary - Attached hereto and marked Appendix "A" showing extracts from Unit part II Orders as shown.

No. 259 d/28 Oct 43
No 262 d/1 Nov 43
No 264 d/3 Nov 43.

These extracts show H 39178 Spr Griffith S. absent without leave, whilst a defaulter, and return from A.W.L.

Summary of Evidence

The accused states that orders are in error in third paragraph - exhibit A - in that they state that he was apprehended, whereas he surrendered himself. This is borne out by exhibit B. and accused satisfied

Third Witness

for the prosecution - evidence documentary :- attached hereto and marked appendix B being army form C.1617 - Certificate of surrender to Civil Police

The accused declines to cross examine the Witness.

The accused was cross examined as follows :- Do you wish to make any statement, or to give any evidence on oath? You are not obliged to say anything or give evidence unless you wish to do so, but whatever you say or any evidence you give will be taken down in writing and may be given in evidence

Accused declines to make a statement or give evidence

I certify that the foregoing summary of evidence consisting of two pages was taken down by me in the presence and hearing of the accused and that the rules of procedure 4 (a), (d), (e), (f) and (g) have been complied with

K.L. Bigg Lt R.C.E.
No 1 C.E.R.U. Offaly
detailed to take summary

In the Field
5 Nov 43.

I desire to have Major Miller of Royal Canadian Advance Corps to represent me at the Trial

N. Griffiths

H39178 Spr Griffiths N.

SUMMARY OF EVIDENCE

Summary of evidence in the case of H-39178 Spr GRIFFITH , Stewart, Royal Canadian Engineers, on strength of No. 1 Canadian Engineer Reinforcement Unit, a soldier of the Canadian Army (Overseas).

By direction of the Commanding Officer the summary of evidence is taken on oath

FIRST WITNESS
for the prosecution No. M-5384 L/Cpl. SHERREITT, T.A., on strength of No. 1 Canadian Engineers Reinforcement Unit, a soldier of the Canadian Army(Overseas) having been duly sworn states:-

I, No. M-5384 L/Cpl. SHERREITT, T.A., of No. 1 C.E.R.U., was guard commander of the Unit detention on 25 Oct 43. My duty was to call the defaulter roll at 1800 hrs, 1900 hrs, 2000 hrs, and 2130 hrs, H-39178 Spr GRIFFITH , S., failed to answer the above calls. I have nothing further to say.

The accused declines to cross examine the witness.

M-5384 L/Cpl. SHERREITT, TA

SECOND WITNESS
for the prosecution - Evidence documentary, attached hereto and marked APPENDIX "A", showing extracts from Unit Part II Orders as shown:-

No. 259 d/28 Oct 43
No. 262 d/ 1 Nov 43
No. 264 d/3 Nov 43

These extracts show H-39178 Spr GRIFFITH , S., absent without leave, whilst a defaulter, and return from A.W.L.

The accused states that orders are in error in third paragraph - Exhibit "A" - in that they state that he was apprehended, whereas he surrendered himself. This is bourne out by Exhibit "B", and accused satisfied.

THIRD WITNESS
for the prosecution - Evidence documentary:- attached hereto and marked appendix "B", being Ar,y Form O.1617 - Certificate of surrender to Civil Police.

The accused declines to cross examine the witness.

The accused was cautioned as follows:- "Do you wish to make any statement or to give evidence on oath? You are not obliged to say anything or give evidence unless you wish to do so, but whatever you say or any evidence you give will be taken down in writing and may be given in evidence.

The accused declines to make a statement or give evidence.

I certify that the foregoing summary of evidence, consisting of two pages, was taken down by me in the presence and hearing of the accused, and that Rules of Procedure 4(c)(d)(e)(f) and (g) have been complied with.

In the Field
5 Nov 43.

(H.L. [illegible])Lieut., RCE
No. 1 C.E.R.U., Officer
detailed to take summary.

III-35

PTE ~~GEORGE~~ GRIGAS J.

Correspondence to be PINNED here

Edward Rawlings Maj

E 152 RECORDED AT CMHQ IN AB 160 : III 35

Army Form A.3

Form for Assembly and Proceedings of Field General Court Martial on Active Service

PROCEEDINGS

On Active Service, this Ninth day of March, 19 44

Order convening the Court.

Whereas it appears to me, the undersigned, an officer in Command of 1 Canadian Infantry Brigade on active service, that the persons named in the annexed Schedule, being subject to Military Law, have committed the offences in the said Schedule mentioned.

And whereas I am of opinion that it is not practicable that such offences should be tried by an ordinary General Court Martial ; [redacted]

* Omit where convening Officer a Commanding Officer or is of Field Rank.

I hereby convene a Field General Court Martial to try the said persons, and to consist of the Officers hereunder named.

* Omit if non-applicable.

[redacted]

CANADIAN SECTION 2 APR 1944 G.H.Q. 2nd ECHELON

PROCEEDINGS REVIEWED W.C. Bird Lieut Col 26 Apr 44 Rev 3 Presiding REVIEWING OFFICER, JAG BRANCH C.M.H.Q.

Rank	Name	Regiment
Major	E.C. Rawlings	48 Highrs

Members

Rank	Name	Regiment
Captain	D.C. Smith	Hast & PEI
Lt.	C.G. Cooper	R.C.R.
Lt.	P.H.A. Hertzberg	R.C.R.

Waiting Member

* Must be signed personally by the Officer actually in command at the time, or in the absence of all Officers the Court is to be constituted by him.

*Signed D. C. Spry

(D.C. Spry) Brigadier

Commanding 1 Cdn Inf Bde.

Convening Officer.

E 154

SCHEDULE

Number, Rank (*a*), Name and Unit of Accused (*b*)	Offence charged	*Plea	Finding and if Convicted, Sentence (*c*)	How dealt with by Confirming Officer (*d*)
D 105811 PRIVATE GRIGAS, Joseph, D.C.M. The Royal Canadian Regiment	FIRST CHARGE A.A. Sec 19.	Not Guilty	~~Not~~ GUILTY To undergo Field Punishment No 2 for a period of 28 days and to forfeit all Pay Edward Rawlings Maj 23 Mar 44	I confirm the finding and the sentence Inst Johnston Brig

*Question to be asked of accused, if he pleads not guilty (R. of P. 39 (a)):—
"Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity for preparing your defence?"
Answer (*to be recorded on separate sheet if necessary*):— No

(Signed) Inst. Johnston Brig (Signed) Edward Rawlings
~~(D.C. Spry) Brigadier~~ (E.C. Rawlings) Major
A/ Commanding 1 Cdn Inf Bde 48 Highrs
Convening Officer (e) *President.*

(*a*) Appointment, acting rank or acting appointment, if any, to be stated in brackets after the substantive rank.
(*b*) Unless unavoidable, not more than three names are to be entered on one form, and in serious cases one only.
(*c*) Recommendation to mercy, if any, to be inserted in this column.
(*d*) It is not necessary that the Confirming Officer should sign his name in this column, initials are sufficient.
(*e*) Must be signed by the same Officer who signs on the first page, and all alterations in the first two columns of the Schedule to be initialled by him.

Evidence and Charge Sheets (if necessary) to be PINNED here

B Certificate of President as to proceedings.

I certify that the above Court assembled on the 23rd day of March 1944, and duly tried the persons named in the Schedule, and that the plea, finding, and sentence in the case of each such person were as stated in the third and fourth columns of that Schedule.

I also certify that :—

1. The members of the Court
2. The witnesses
*(3. The interpreter)
*(4. The officers under instruction)

* Once if not applicable

were duly sworn.

Signed this 23rd day of March 1944

Edward Rawlings Maj
President of the Court Martial.

C Certificate in case of death sentence.

* See Section 52 (1) (a) and (b) and 53 M.M.L. 1940

~~I certify that the terms of A.C.I. 570 of 1918 have been complied with.~~

~~Signed this day of 19~~

~~President of the Court Martial.~~

D Confirmation.

I have dealt with the findings and sentences in the manner stated in the last column of the Schedule, and, subject to what I have there stated, I hereby confirm the above findings and sentences.

* ~~(I direct that the soldier named in the margin be not committed to prison until further orders.)~~

* To be remitted unless penal servitude or imprisonment having been awarded the Confirming Officer either has no authority to commit to prison, or, having such authority, recommends suspension.

Signed this 23rd day of March 1944

Inst Johnston Brig
Confirming Officer.
~~(D.C. Spry) Brigadier~~
Comd., 1 Cdn Inf Bde.

Promulgated and extracts taken in the case of

(a) (Dated) 27 MAR 44 (Signed) A Stewart Lallaray Maj

Promulgated and extracts taken in the case of

(Dated) NA (Signed) NA

Promulgated and extracts taken in the case of

(Dated) NA (Signed) NA

(*a*) When several cases are promulgated in one unit on the same day the Officer need only sign once.

A

Army Form A 9.

**All printed matter not applicable to the particular Court being held should be struck out and initialled by the President.

**Form of Proceedings for General and District Courts-Martial.

Proceedings of a Field General Court-Martial held at in the field on the 23rd day of March 1944 by order of D.C. Spry Brigadier Commanding 1 Can. Inf Bde. dated the 9th day of March 1944

President.

Major E.C. Rawlings 48th Highrs

Members.

Lt. R.H.A. Hertzberg R.C.R.

Lt. C.G. Cooper R.C.R.

, Judge Advocate.

Trial of* 0105811 Pte Griggs Joseph D.C.M. The Royal Canadian Regiment

The order convening the Court, the charge-sheet and the summary (or abstract) of evidence are laid before the Court.

The Court satisfy themselves that Capt. O.C. Smith is not available to serve owing to Exigencies of the Service

Lt. R.H.A. Hertzberg, waiting member takes his place as a member of the Court.

The Court satisfy themselves as provided by Rules of Procedure 22 & 23.

The accused is brought before the Court.

Prosecutor,† Lt. E Shuter R.C.R.

~~Counsel~~† or defending officer† Lt. A.R.C. Walker R.C.R.

At 0930 o'clock the Trial commences.

The order convening the Court is read, and is marked A., signed by the President, and attached to the proceedings.

The names of the President and members of the Court are read over in the hearing of the accused, and they severally answer to their names.

Question by the President to the accused. Do you object to be tried by me as President, or by any of the officers whose names you have heard read over? *Answer.* No.

(N.B.—If objection is made it should be recorded, together with the decision of the Court, on a separate sheet.)

*Here insert No., Rank, full Name, Regiment, and Appointment (if any).
† Here state Rank and Name, and Regiment (if any).
‡ Qualification to be stated.

2057 Wt.9-6183/0[illegible] 40,000 pds. 12/43 K. & S. H., Ltd. G.6/2/3. Forms A9/35.

B

The President, members and ~~judge-advocate~~ are duly sworn.

~~The following officers under instruction are duly sworn.~~

Charge-Sheet.

Instruction.
If the accused has elected to be tried under Army Act, sec. 16 (8) the fact should be here recorded.

The charge-sheet is signed by the President, marked B 2 and annexed to the proceedings.

Medical Certificate B3

The accused is arraigned upon each charge in the above-mentioned charge-sheet.

Are you guilty or not guilty of the [first] charge against you, which you have heard read ? *Question to the accused.*

Not Guilty. *Answer.*

~~Are you guilty or not guilty of the second charge against you, which you have heard read ?~~ *Question.*

Answer.

~~Are you guilty or not guilty of the third charge against you, which you have heard read ?~~ *Question.*

Answer.

~~Are you guilty or not guilty of the fourth charge against you, which you have heard read ?~~ *Question.*

Answer.

~~The accused having pleaded Guilty to charge, the provisions of Rule of Procedure 35 (B) are here complied with.~~

Instruction.
If the trial proceeds upon any charge to which there is a plea of "Not Guilty," the Court will not proceed upon the record of a plea of "Guilty," until after the finding on that other charge.

B-2.
Edward Rawlings
May

CHARGE SHEET.

The accused, D-105811, Private Joseph GRIGAS, D.C.M., a soldier on the Canadian Army Overseas, Central Mediterranean Forces, When on Active Service, is charged with -

First Charge
A.A. Sec 19.

WHEN ON ACTIVE SERVICE,
DRUNKENNESS,

in that he,

in the field, on 10 Feb 44, was drunk.

Dated in the Field, this
7 day of March, 1944.

W.W. Mathers.

(W.W. MATHERS) Lt.-Colonel,
Comd., The Royal Canadian Regiment.

To be tried by Field General Court Martial.

D.C. Spry

In the Field
9 Mar 44.

(D.C. Spry) Brigadier
Comd., 1 Cdn Inf Bde.

B-3 Pawling

D-105911

Pte. Griggs, J. D.C.M.

I hereby state I have this morning examined [illegible] of The Royal Canadian Regiment, and in my opinion he is fit to undergo F-I-I by Court Martial.

Station... Lubl...

Date... 27 March 44.

H. Cameron Capt.
D.A.D.M.S. 1st C.D.

C

Proceedings on Plea of Not Guilty.

*Instruction. (See R. P. 39 (A))

Question. *Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity for preparing your defence?

Answer. No

The prosecutor makes an opening address [hands in a written address which is read, marked B4, signed by the President, and attached to the proceedings.]

The prosecutor proceeds to call witnesses.

First witness for prosecution. SEE B5 ATTACHED

being duly sworn, is examined by the prosecutor.

Opening address by the prosecutor

The charge against Pte Briggs is drunkenness and to prove this charge it is necessary to tell the entire story of what happened on the night of 12 Feb 1944. This evidence may indicate to you that a more serious charge should be laid against the accused. However we believe that the drunkenness of the accused was responsible

It is only because of the dangerous acts which the accused committed while he was drunk that he comes before a Court Martial.

Edward Rawlings Maj

Evidence for the prosecution Edward Rawlings May
N.Z.D.E. Martin. R.C.R. having been duly
sworn states.

I am 2 i/c A Tr. Platoon, and on the 10th
Feb. 1944. I was commanding a portion of
the platoon in San Nicola, on that date
I was ordered by Maj. Martin Sup. Coy.
Commander to test the Bn. from San Nicola
to the Embussing point and to drop guides
along the route to direct the Bn. Test
On receiving this order I held an O Group
and issued my orders to the men under
my command. I was also ordered
to take with me the remainder of the Mortar
platoon and any Signal personal who were
left behind
At 1800 hrs on 10th Feb 1944 I proceeded to
the Carrier Platoon billets to contact the
mortar platoon officer and to make sure his
men would be ready to leave at 1900 hrs.
While there I received information on which
I took action. I returned to my own billet
contacted my sergeant (C/Sgt Wilson) and he
made a check of the billets and found one
man absent. He then ordered the man to
be found and a charge laid against him.
Pte Griffiths D.C.M. was the absent man
On returning to the billets at 1830 hrs. I
found the accused in the charge of two men
who had been detailed to escort him
As I came in the door he asked me
who had ordered his arrest I replied I
had. He then asked me why and I told
him because he was drunk. He then
said you are a liar you are not a total
and started to resume his duties. But the
escort held him back.

after this the accused withdrew a 36 grenade from his pocket and withdrew the pin saying The end of you bear this room and turning to me said. you stay here this is for you.
I then left hand and left the room also.

Q - How long have you known the accused.
A since Oct. 1943
Q - What was the condition of the accused on the night of 10 26 44.
A he was drunk.

Cross Examined

Q as you entered the billets the accused asked you who had ordered his arrest that is a normal question isn't it?
A. yes.
Q a question that a sober person could ask.
A. yes.
Q - accused was sober enough to ask who had ordered his arrest.
A yes. but a man could either be drunk or sober when he asked.
Q - ~~will you agree that~~
Q - he was not aggressive when he asked those questions.
A He pushed his way forward to ask me the question, but did not take any aggressive action till I told him he was drunk
Q - when he took the grenade out of his pocket he was sober enough to unscrew the cover and to unpin the pin.
A yes

#3.

Q - Were you aware that on the 13th of Feb. the accused was evacuated from [redacted].

A - yes.

Q - The accused [redacted] are not normal.

A - yes.

Q - Was the accused warned for special duty on the 10th of Feb. 44

A - Yes but all the men were warned. to act as guards

By the court.

Q. Why did you think the accused was drunk

A - his actions in respect to swinging at me and pulling out the grenade.

Q what about his speech.

A - I can't remember but it was loud

Q - what about appearance

A - He had great coat on and things happened so fast I really couldn't say.

RP 83 B.

A/Sgt Wilson #4 DK5865 of the R.C.E. B
having been duly sworn states
I am a Sub Section Commander in the A & E.
On the 10th Feb 44 I was the Sgt. in charge of
the patrol in San Nicola at about 1800 hrs.
~~Feb 44~~ as a result of information from the
Marilyn I checked my nominal roll and
found the accused absent from his billets
taking a man with me I searched the
buildings, on returning to the billets I
found the accused. I observed him for
a few minutes and then went outside
I then went back in and placed him
under close arrest charging him with
being drunk, placed ~~him~~ two sentries on charge
and warned L/Cpl. Rowbotham that he
would be a witness. I then left the billets

Cross-examination

Q - Was the accused on duty during the
afternoon of 7th Feb 1944

A - He was not to my knowledge.

Q - He was free to go anywhere in the area.

A - He was on call at all times.

Q - Had you warned him for special duties.

A - That morning at inspection I informed
the men that we would be moving out
that night and we had a very difficult
route to travel and would not tolerate any
drinking.

Q - The accused was in his billets in time
for the move.

A - Yes.

Q - The accused has been in your platoon
for 4 or 5 months and at times it is
difficult to hold a subject conversation A - Yes.

Q - Why did you think he was drunk when you placed him under arrest.

A - His actions - He was staggering and wandering around like a lost man.

Q - Did you talk with him. Of his conversation

A - Yes. He was not speaking normally.

R.P. 83 B. complied with.

I am 16021 A/L/Cpl Rumbowick J.
duly sworn states,

I am a detachment commander in the A.T.K. On the 10th Feb 45 at about 1800 hrs. I was in a room when Sgt Wilson came in and placed the accused on a drunkenness charge. He asked me to be a witness to the fact.

I could see the accused had been drinking and in my opinion he was drunk at about 1830 hrs. same date. L/Cpl Martyn came into the room and the accused asked him why he was on a charge. Cpl Martyn told him because he had been drunk he called Cpl Martyn a liar and a son of a bitch. There was a bit of a scuffle but a couple of men were holding the accused. He then said he was alright and he was let free. He next thing I saw him with a grenade in his hand and he then told everyone to clear out

of the room they turned to Mr. Marilyn and said This is for you.
There was a dash and everyone cleared out of the room.
The accused followed them out of the room closed it and held it. In a little while the accused said Let me in let me in!
I waited awhile he said I still have the grenade in my hand. Let me in I let him in and replaced the pin in the grenade removed the detonator. He looked at me and said everyone got scared and left the room. he then started laughing.

Cross - ex.

Q - The accused didn't take any aggressive action till Mr. Marilyn told him he was drunk.

A - No

Q He then seemed to flare up on being told.

A - Yes sir.

Q He was sober enough to warn the others to clear out of the room.

A - He told them to clear out alright but he had been drinking

Q - Why do you say the accused was drunk

A - He was talking loudly and arguing with Marilyn and it makes sense.

7

R.P 83B.

A3516 Pte Greer. H of the RCR duly sworn Hales.

I am in the S.K.P. on 10 Feb 44 we were ordered to move, we were dressed ready to move the accused was with us. Sgt. Wilson came in and placed the accused under arrest.

The accused asked who ordered it. Sgt Wilson replied Mr Martyn.

A few moments later Mr Martyn came in and the accused asked why he was placed under arrest. Mr Martyn said for being drunk and the accused took a pass at him. I grabbed his arm. and tried to reason with him. He seemed to get hold of himself so I released my hold. He then pulled a grenade from his pocket and removed the pin said don't pull the pin you have 4 seconds to get out. They all ran out of the room and Mr Martyn hit the accused

I didn't pay much attention to the accused he was jabbering as usual and as usual his conversation didn't make sense.

He seemed to go into the laughter and said crazy things after it was all over I knew the accused for 3 months.

H S
did not see the accused in a State
of fright you could call normal.
but his actions at this time did not
seem to be normal and he was in a fit
of temper
It was his exact from the time he was
placed under arrest we to while waiting
for a truck at the signal office the accused
was doing crazy things.

Cross. Ex.

Q. You were with him all the time and
you can't say he was drunk.
A - No I really couldn't say whether he
was or not I didn't pay much attention
Q - Did the accused speak clearly.
A. The words were clear but his sentences
were not coherent.

R.P 53B.

#9.

The prosecutor advises the court that he does not propose to call Capt. D.N. Ray or Pte Lewis both of whom gave evidence at this Summary Defending officer advises the court that he does not require these witnesses for Cross Exam

Case for prosecution closed.

Application by defending officer for dismissal of charge on grounds of Prima Facie case. Arguments by prosecuting and defending officers handed into court and marked exhibit C 1 and C 2.

Application for dismissal refused.

No 1 C-1

Edward Reading Re D-10588 Pte J. C Rigos D.C.M.
Maj

The accused is charged with drunkenness; other charges might have been laid but the sole question before the court is whether or not at the time in question the accused was drunk.

Sec 19 1A. Witnesses should be required to state their reasons for their opinion that an accused was drunk.

The accused when charged asked reasonable sober questions, incompatible with drunkenness; he was sober enough to warn the crowd in the billets to leave the room, and sober enough to beg also the guard even when sworn.

All witnesses for prosecution agree that the accused is nervous, and is not a normal individual and that it is difficult to hold a coherent conversation with him; I submit that on what they base their opinion of drunkenness

is, for the accused, normal conduct.

The prosecutrix own witness, [illegible] and a escort in charge of the accused could not say definitely whether or not the accused was drunk; he even stated his words were clear and concise. He stated that he thought the accused lost his temper.

The accused in his own evidence states that he is suffering from a nervous condition; and that he has often been mistaken for being drunk when he is sober. He states definitely that he was not drunk and that when accused his mind stopped and his violent actions were a result.

Three days after the alleged offence, the accused was examined with exhaustion.

In view of all the evidence I submit there must be in the mind of the court a reasonable doubt as to the condition of the accused, and the accused is entitled to the benefit of the doubt.

(3) No. 3

In mitigation I refer, to the long battle history of the accused, to his award of the D.C.M. and in particular to the evidence of Major Liddell. I also refer to his clean M.T.M.O. and submit this is a case for a most lenient sentence, should the court find the accused guilty.

I make a strong recommendation, in view of this man's abnormal condition and the fact that all witnesses agree that he is abnormal, that before undergoing sentence, the accused be examined by a neuro-specialist or a psychiatrist.

Respectfully,
A.R.C. Walker Lieut.
Defending Officer.

Pe Pbr J. Corrigan D. C. M.

Summary by Prosecution

Gentlemen, as I said in my opening remarks there might have been charges more serious than drunkenness However, all these other acts, I feel, are part and parcel of the drunkenness with which the accused is charged.

In the evidence, you have heard an officer and two MCO's say that in their opinion, this man was drunk, and you have also heard a signing clerk. They know the accused and admit that he is not a normal individual at the best of times but, on this occasion, not only his actions were abnormal, therefore they knew he was drunk. The accused was present when Sgt Wilson warned the Pl that they were doing a job that night and that drinking would not be tolerated but, the accused appeared on the scene only a half hour before moving off when these two MCO's Sgt Wilson and S/Cpl Rondonick both say that he was drunk, and you have also heard a signing clerk say that this was before his more violent actions.

From Pte Evans evidence we see that the accused was to avoid the witness's own answer "not normal" after the Pl had moved off - therefore he could not have performed his duties whilst in this state.

Drunkenness, gentlemen, can take many forms, there can be no set way for a man to act when drunk, although he may take however that the actions of the accused on 10 Feb clearly indicate that he was drunk as charged. We appreciate that the accused is not a nervous condition and has been "brought a lot" but this is no excuse for drunkenness.

D

The prosecution is closed.

Defence.

Question to the accused. Do you apply to give evidence yourself as a witness?

Answer. yes

Question. Do you intend to call any other witness in your defence?

Answer. yes one

Question. Is he a witness as to character only? *Answer.* yes

INSTRUCTIONS TO THE COURT

(i) When the answers to the above questions have been recorded, the Court will follow the provisions of Rules of Procedure 40 and 41 respecting the order of evidence and addresses which is applicable to the circumstances of the case.

(ii) All addresses by prosecutor, counsel or defending officer, whether recorded by the Court or handed in in writing will be attached to the proceedings in the order in which they are made. Any address which the accused is entitled to make pursuant to Rules of Procedure 40 (C) (iv) and 41 (A) (i) and (iii) will be similarly dealt with. Written addresses will be read to the Court, marked and signed by the President. If any person who is entitled to make an address declines to do so, a record will be made to that effect.

(Where any evidence is given for the defence.)

The evidence of the accused (and of the witnesses for the defence including witnesses as to character) is recorded on a separate page (*see overleaf*).

(Where the accused does not give evidence upon oath.)

Question to the accused. Have you anything to say in your defence?

Answer. The accused in his defence says†

[hands in a written address which is read, marked signed by the President and attached to the proceedings.]

The accused D105811 Pte Joseph Briggs DCM of the RCR having been duly sworn says.

In 1932 I joined the American army and left in 1936 I went to Spain during the Spanish war and was at the front about a month. In 1938 I was taken a prisoner and held a year. I then got back to Canada and joined the RCR. In May 1940 I came overseas in camp of that year I have with the regiment since during and after the landing in Sicily. I was the DCM. the first day of the campaign In August I was wounded and taken prisoner and was put in a German hospital. in 35 or 40 days our troops took over.

Instruction. † In this space will be recorded any oral statement or address made by the accused in his defence when he has not given evidence as a witness. (For any additional address which he is entitled to make, *see* Instructions to the Court *above*.)

the gap made by Briggs' section the remainder of the Italian garrison then surrendered
I would say Briggs character as a soldier is of the highest order

— EVIDENCE D 2 FOR DEFENCE CLOSED —

The evidence of the witnesses for the defence, including that of the accused, if he is a witness, will be taken here in the order in which they give evidence.

On the 10th of Feb 1944 I came off guard in the morning. I spent the afternoon with some Italian friends. I returned to my billets about 8pm o'clock at night I had a couple of glasses of wine as I always do but I was not drunk.

When I came in supper was over I was standing by the fire talking when Sgt Wilson shut his head to the door and said you are on a charge I asked him what I was on a charge for, and he said he was sorry but it was Lt. Marlyns orders a few minutes Lt Marlyn came in, there were quite a few people in the room and I pushed my way up to him and asked why I was on a charge he said for being drunk I don't remember very much what happened after that I remember seeing about a grenade and Lt Marlyn telling me on the floor I always carry a grenade in my greatcoat pocket when I was knocked down by Lt Marlyn I remember making a special effort not to let the grenade out of my hand because the pin was out I lunged at Lt. Marlyn and when I got outside I seemed to snap out of it I then turned the grenade over to Hope. Rankdown

I have been accused on different occasions by people of being drunk but its my actions and the way I behave, I hate to admit it but my records are not what they used to be and on the 10th of Feb I was incensed because of frustration

No Cross examination

Major R.G. Liddell of the R.C.R duly sworn says. On 10th Feb I was A Coy and the accused was in my Coy. I submitted a report on action of Pte Briggs at the time of his storming the L.C.M. The Coy was ordered to move to high ground east of the airfield, this ground was heavily held and our coy came under fire from MG and Arty fire about 300 yds from the position, the attack was temporarily stopped owing to the MG fire on our front Pte Briggs section leader was casualty, NCO 2 i/c was L.O.D. Pte Briggs took over the section found a gap through the wire and led the section through by his own skillful use of his men and by drawing the fire of the others he, looked one concrete MG position to surrender from this position the arty was attracted and also silenced during this time Pte Briggs called to the Italian garrison to surrender using his facilities of Spanish, to do so a third MG position was then put out of action and at this time the remainder of the Coy was coming through

CONTINUED ON TOP OF PAGE

E

Finding.*

*To be struck out except in cases where trial has taken place on a plea of "Not Guilty."

The Court is closed for the consideration of the finding.

The Court find that the accused is guilty of the charge as read.

Proceedings on Conviction before Sentence.

*When the Court is already open this sentence will be struck out.

*The Court being re-opened, the accused is again brought before it.

Evidence of character, &c.

Lt. E.H. SHUTER. R.C.R. is duly sworn.

Question by the President.

Have you any evidence to produce as to the character and particulars of service of the accused? *Answer by the Witness.* YES

The above statement [with the schedule of convictions and of cases in which trial has been dispensed with] is read, marked EIVER signed by the President, and annexed to the proceedings.

Question by the President.

Is the accused the person named in the statement which you have heard read? *Answer by the Witness.* YES

Question.

Have you compared the contents of the above statement with the regimental books? *Answer.* YES

Question.

Are they true extracts from the regimental books, and is the statement of entries in the conduct sheets a fair and true summary of those entries?

Answer YES

Cross-examined by the accused. NO.

[Instructions.—If in course of the hearing of the charge it is discovered on a supplementary charge or otherwise, the finding of the Court requires being varied in any respect, procedure to be adopted by Court is to be similar to that for Court the proceedings must go to the admission of the accused to the bar, and the Court should proceed with the taking and record of the additional procedure.]

Question to the accused.

Do you wish to address the Court? *Answer.* NO

The Court is closed for the consideration of the sentence.

F

Sentence.

The Court sentence the accused to undergo thirty days Sentence
field punishment and thirty days forfeiture
of pay.

Edward Bowling, Maj

ON ACTIVE SERVICE Exhibit "A"

CANADIAN LEGION

WAR SERVICES 194

Re

D105811

Pte Grigaw. J. R.C.R.

This man is under charge at his unit. I am at loss to understand why he was evacuated when under close arrest. I am quite aware that he is a psychopathic personality but there is nothing in this to excuse him from standing his trial by F.G.C.M. for serving his punishment. His duty is quite another thing. I think he should be returned to his unit properly under guard. I have already sent his unit

Season's Greetings

a report on his mental condition. There has been a long history, as you suggest, behind this man present state. He has been long known as a homo sexual, he also says he hates the army & everybody in it as you can see how important it is, if only for example to obtain that this man be not allowed to escape trial for his actions.

Always dangle by

Lieutenant

Commandant

Summary of evidence, in the case of D-105811, Private Joseph Grigas, D.C.M., a soldier of the Canadian Army, on Active Service.

By direction of the Commanding Officer, the evidence is taken on Oath.

First Witness for the Prosecution.

Lieut. D.R. Martyn, The Royal Canadian Regiment, having been duly sworn, states:-

"I am second-in-command, number 5 Platoon, Support Company, R.C.R. I was, on 10 February 44, in command of a portion of the platoon, in S. Nicola, whose job it was to guard Tac Headquarters. The accused whom I recognize was in my portion of the platoon at this time. On February 10th. 44, I was ordered by Major Darton to leave S. Nicola at 1900 hrs. with my portion of the platoon, plus some Mortar and Pioneer Personnel and to lead the Battalion back to the embussing point, dropping guides along the way. Upon receiving this information I held an orders group in the billets and informed the men as to the time we were leaving and what our specific job was. At approximately 1800 hours I proceeded to the Carrier billets to contact the Mortar Platoon Commander to see if his men would be ready at 1900 hrs. While there a man came in and informed me that some of the anti-tank platoon were drunk. I immediately went back to the billets and ordered L/Sgt. J. Wilson to make a check of the platoon and place the man or men under arrest. L/Sgt. Wilson reported to me that only Pte. J. Grigas, D.C.M., was missing. I left, and on returning at 1830 hrs to prepare to leave, I found the accused just inside the door of the billets. As I came in, the accused asked me who had placed him under arrest and for what reason. I informed him that I had ordered his arrest because he was drunk. He replied, "You are a liar, you son of a Bitch", and started swinging his fist, whereupon the escort held him back. Just after this Pte. Grigas, D.C.M., withdrew a 36 grenade from his greatcoat pocket, withdrew the pin saying, "The rest of you leave the room", and turning to me, said, "You stay here, this is for you". The men immediately cleared the room and I struck Pte. Grigas, D.C.M., and left also".

(D.R. MARTYN, Lieut.

The accused declines to cross-examine the witness.

Second witness for the Prosecution.

D-105805, A/L/Sgt. Wilson, J.W., The Royal Canadian Regiment, having been duly sworn, states:-

"I am a sub-section commander in the Anti-Tank Platoom, R.C.R. and on February 10th '44, was in charge of the guard in S. Nicola. At approximately 1745 hrs, February 10th '44, Mr. Martyn came to me in my billet and told me that some of the men of the anti-tank platoon were drunk. I immediately checked the nominal roll and found Pte. Grigas, D.C.M., the accused, whom I now recognize, the only man missing. I took a man with me and went on a patrol of the town. Not being able to find the accused, I returned to my billets and found the accused there. I observed him for a few moments and then went out and came back in and observed him again and warned two escorts to place him under close arrest, as I felt quite sure, in my own opinion that he was drunk. I also warned L/Cpl. Remdonick that he was a witness to the charge, and then left the billets in preparation for moving off".

(Sgd) JAMES W. WILSON.

The accused declines to cross-examine the witness.

Third Witness for the Prosecution.

A-6021, A/L/Cpl. Remdonick, J., The Royal Canadian Regiment, having been duly sworn, states:-

"I am a detachment commander in the Anti-Tank Platoon, R.C.R. At approximately 1800 hrs, 10 Feb 44, Sgt. Wilson came into the room and placed Pte. J. Grigas, D.C.M., the accused whom I recognize, under arrest for drunkenness. He asked me to be evidence on the drunkenness charge, and in my opinion I could see that he had been drinking. I figured he was drunk then. At approximately 1830 hrs, 10 Feb 44, Lieut Martyn came into the room and the accused asked Mr. Martyn why he was placed on a charge. Mr. Martyn told him, in front of me, that he was drunk. The accused told him he was a liar and a son of a bitch. Then there was a bit of a scuffle. Then I saw two fellows holding the accused who said he was alright, so they let him go. Then, all of a sudden, he was holding a grenade in his right hand over his head and he told everyone to get out of the room, and said to the officer, Mr. Martyn, "This is for you". Then there was a mad scuffle and everyone went out the door. The accused followed them. I stayed in the room and shut the door. A minute or so later the accused asked me to let him in. He pleaded a few times, "Remdonick, Remdonick, let me in. I'm still holding the grenade and pin in my hand". I let him in and he gave me the pin and I replaced it in the grenade. Then I removed the detonator. Then he said to me, "Everybody got scared. You're the only one who stayed". Then he started laughing".

(Sgd) J. REMDONICK.

The accused declines to cross-examine the witness.

Fourth Witness for the Prosecution.

A3516, Pte. Greer, H., The Royal Canadian Regiment, having been duly sworn, states:-

"I am a private in the Anti-Tank platoon. At approximately 1830 hrs, 10 Feb 44, I was in a room with Pte. Grigas, D.C.M., the accused, whom I recognize. L/Sgt Wilson came in and put the accused under arrest for drunkenness. Whereupon Grigas demanded to see the Medical Officer. I did not hear any answer. At that moment Mr. Martyn entered the room and asked why he had been put under arrest. Mr. Martyn replied "For being drunk". The accused called him a liar and took a poke at him. I grabbed his arms. I thought he had lost his temper and would cool down. After reasoning with him, for a time, I thought he had regained control of himself, and I released him. He then took a grenade from his pocket and pulled the pin. He said "O.K. you fellows. I've pulled the pin; you've got four seconds". He turned to Mr. Martyn and said, "You stay here. This is for you". We rushed for the door and Mr. Martyn hit the accused in the chest, knocking him down, and ran out with us".

(Sgd) H. GREER.

The accused declines to cross-examine the witness.

Fifth Witness for the Prosecution.

A37857, Pte. Lewis, C.E., The Royal Canadian Regiment, having been duly sworn, states:-

"I am a private in the Anti-tank Platoon, R.C.R. At approximately 1830 hours, 10 Feb 44, I was in a room with Pte. Grigas D.C.M., the accused, whom I recognize. Mr. Martyn came into the room and the accused asked him what he was charged with. Mr. Martyn said "You are charged with drunk". The accused replied, "You are a liar, you son of a bitch". There was a scuffle, then I heard the accused say "Look what I've got here" When I looked, I saw he was holding a grenade. He said, "The rest of you get out of the room. You've got four seconds". He turned to Mr. Martyn and said, "You stay here, this is for you" Then I left".

(Sgd) C.E. LEWIS.

The accused declines to cross-examine the witness.

Sixth Witness for the Prosecution.

Capt. A.W. Roy, The Royal Canadian Regiment, having been duly sworn, states:-

"I am Adjutant, The Royal Canadian Regiment. The accused, whom I recognize was struck off strength this unit, 13th February 44, on medical evacuation with exhaustion. On 21 Feb 44 he was again posted to the unit he was accompanied by a letter signed by Major A. Manning-Doyle, Neuro-Psychiatrist 1 Canadian Division, stating that he is fit to undergo trial by F.G.C.M. I submit this letter as evidence. (Marked Exhibit "A" and attached to the summary)".

(Sgd) A.W. ROY, Capt.

The accused declines to cross-examine the witness.

The accused, having been duly cautioned as follows:

"Do you wish to make any statement, or give evidence on Oath? You are not obliged to say anything, or give evidence, unless you wish to do so, but whatever you say, or any evidence you give, will be taken down in writing and may be given in evidence",

in accordance with Rule of Procedure 4(e), declines to make a statement or give evidence on Oath.

Certified that Rules of Procedure (4)(c), (d), (e), (f) and (g) have been complied with.

Taken down by me, in the presence of the accused, this 26th day of February, 1944.

(Sgd) J. BIRNIE SMITH, A/Capt.
Officer taking Summary.

In the Field.

Summary of Evidence Edward Rawlings Mag

in the case of

D-105811 Private Joseph Gregoire, D.C.M., a soldier of the Canadian Army, on Active Service.

By direction of the Commanding Officer, the evidence is taken on Oath.

First Witness for the Prosecution: Lieut. D.R. Martyn, The Royal Canadian Regiment, having been duly sworn states:-

I am second in-command, number 5 Platoon, Support Company, R.C.R. I was, on 10 February 44, in command of a portion of the platoon, in St. Nicolai, whose job it was to guard Bde. Headquarters. The accused whom I recognize was in my portion of the platoon at this time. On February 10th 44 I was ordered by Maj Barton to leave St. Nicolai at 1900 hrs. with my portion of the platoon, plus some Mortar and Pioner personnel and to lead the Battalion back to the embussing point, dropping guides along the way. Upon receiving this information I held an orders group in the billets and informed the men as to the time we were leaving and what our specific job was. At approximately 1900 hours I proceeded to the carrier billets to contact the III Mortar Platoon Commander to see if his men would be ready at 1900 hrs. While there a man came in and informed me that some of the anti-tank platoon were drunk. I immediately went back to the billets and ordered W/Sgt. Wilson to make a check of the platoon and place the man or men under arrest. W/Sgt. Wilson reported to me that pte. J. Gregoire, D.C.M., was

missing. I left, and on returning at 1830 hrs to prepare to leave, I found the accused just inside the door of the billets. As I came in, the accused asked me who had placed him under arrest and for what reason. I informed him that I had ordered his arrest because he was drunk. He replied, "You are a liar, you son of a bitch!" and started swinging his fist whereupon the escort held him back. Just after this Pte Grigas, R.C.M. withdrew a .36 revolver from his greatcoat pocket, withdrew the pin saying, "The rest of you leave the room!" and turning to me, said, "You stay here, this is for you!" The men immediately cleared the room and I struck Pte Grigas, R.C.M., and left also.

Lt Martyn Lunt

The accused declines to cross-examine the witness.

Sword Wilson for the Prosecution

D-1058, A/Lt/Sgt. Wilson, J.W., The Royal Canadian Regiment, having been duly sworn states:

I am a sub-section commander in the Anti-Tank Platoon, RCR and on February 10th '44 was in charge of the guard in St. Nicolai. At approximately 1745 hrs, February 10th '44, Mr. Martyn came to me in my billet and told me that some of the men of the anti-tank platoon were drunk. I immediately checked that nominal roll and found Pte Grigas, R.C.M., the accused, whom I now recognize, the only man missing. I took a man with me and went on a patrol of the town. Not being able to find the accused, I returned to my billets and found the accused there. I observed him for a few moments and then went out and came back in and observed him again

and warned two escorts to place him under close arrest, as I felt quite sure, in my own opinion, that he was drunk. I also warned L/Cpl. Rendonick that he was a witness to the charge, and then left the billets in preparation for moving off.

James M. Wilson

The accused declines to cross-examine the witness.

Third Witness for the Prosecution:

A 60321, A/L/Cpl. Rendonick, J., The Royal Canadian Regiment, having been duly sworn states:

I am a detachment commander in the Anti-Tank Platoon, R.C.R. At approximately 1800 hrs, 10 Feb. 44, Sgt. Wilson came into the room and placed Pte J. Frigas, D.C.M., the accused whom I now recognize, under arrest for drunkenness. He asked me to be evidence on the drunkeness charge, and in my opinion I could see that he had been drinking. I figured he was drunk then. At approximately 1830 hrs, 10 Feb. 44, Lieut Martyn came into the room and the accused asked Mr. Martyn why he was placed on a charge. Mr Martyn told him, in front of me, that he was drunk. The accused told him he was a liar and a son of a bitch. Then there was a bit of a scuffle. Then I saw two fellows holding the accused who said he was alright, so they let him go. Then, all of a sudden, he was holding a grenade in his right hand over his head and he told everyone to get out of the room and said to the officer, Mr. Martyn, ~~and said~~, "This is

for you!" Then there was a mad scuffle and everyone went out the door. The accused followed them. I stayed in the room and shut the door. A minute or so later the accused asked me to let him in. He pleaded a few times, "Rendonick, Rendonick, let me in! I'm still holding the grenade and pin in my hand." I let him in and he gave me the pin and I replaced it in the grenade. Then I removed the detonator. Then he said "Everybody got scared! You're the only one who stayed!" Then he started laughing.

J. Rendonick

The accused declines to cross-examine the witness.

Fourth Witness for the Prosecution: A3516 - Pte Jones, H, The Royal Canadian Regiment, having been duly sworn states:

I am a private in the Anti Tank platoon. At approximately 1830 hrs, 10 Feb 44, I was in a room with Pte Griggs, D.C.M., the accused, whom I now recognize, and Sgt Wilson came in and put the accused under arrest for drunkeness. Whereupon Griggs demanded to see the Medical Officer. I did not hear any answer. At that moment Pte Martyn entered the room and the accused rushed at him and asked why he had been put under arrest. Pte Martyn replied "For being drunk." The accused called him a liar and took a poke at him. I grabbed his arms. I thought he had lost his temper and would cool down. After reasoning with him for a time, I thought he had regained control of himself, and I

released him. He then took a grenade from his pocket and pulled the pin. He said "O.K. You fellows. I've pulled the pin; you've got four seconds!" He turned to Mr. Martyn and said, "You stay here. This is for you!" We rushed for the door and Mr. Martyn hit the accused in the chest, knocking him down, and ran out with us.

H Green.

The accused declines to cross-examine the witness.

Fifth Witness for the Prosecution.

A37857 Pte Lewis, C.E., the Royal Canadian Regiment, having been duly sworn states:

I am a private in the Anti-tank Platoon, R.C.R. At approximately 1930 hours, 10 Feb. 44 I was in a room with Pte Green, D.C.M., the accused, whom I now recognize. Mr. Martyn came into the room and the accused asked him what he was charged with. Mr. Martyn said "You are charged with drunk." The accused replied, "You are a liar, you son of a bitch!" There was a scuffle, then I heard the accused say "Look what I've got here!" When I looked, I saw he was holding a grenade. He said, "The rest of you get out of the room. You've got four seconds!" He turned to Mr. Martyn and said, "You stay here, this is for you!" Then I left.

C Lewis.

The accused declines to cross-examine the witness.

Sixth Witness for the Prosecution:

Capt. A.W. Roy, The Royal Canadian Regiment, having been duly sworn states:

I am Adjutant, The Royal Canadian Regiment. The accused, whom I recognize was struck off strength this unit, 13th February 44, on medical evacuation with exhaustion. On 21 Feb '44 he was again posted to the unit he was accompanied by a letter signed by Maj. H. Manning-Wolfe Neuro-Psychiatrist, 1 Canadian Division stating that he is fit to undergo trial by F.G.C.M. I submit this letter as evidence. (Marked Exhibit "A" and attached to the summary.)

A.W. Roy Capt.

The accused declines to cross-examine the witness.

The accused, having been duly cautioned as follows:

"Do you wish to make any statement, or give evidence on oath? You are not obliged to say anything, or give evidence, unless you wish to do so, but whatever you say, or any evidence you give, will be taken down in writing and may be given in evidence", in accordance with Rule of Procedure 41(c) declines to make a statement or give evidence on Oath.

Certified that Rules of Procedure 41(c)(d)(e)(f) and (g) have been complied with.

Taken down by me, in the presence of the accused, this 28th day of February, 1944.

J. Birnie Smith Capt.
Officer taking summary

For the Field

E 2

F

No. D106581 Name GRIGAS, Joseph Sqn., Battty., or Company } "A" Corps G.C. Badges } The Royal Canadian Regiment (Regtl. Service and G.C. Par.) Date of enlistment } 14 May 40 Sheet No. 2.

Date of last entry in Company Conduct Sheet } 17-9-40 No. and date of last drunk } Signature O.C. Company, etc. } Sgd) E.G. NELSON, Capt.

Place	Date of offence	Rank	Cases of Drunkenness	Offence	Names of Witnesses	Punishment Awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
				Previous sheet destroyed 9 Sep 42					
				Awarded the DISTINGUISHED CONDUCT MEDAL for services in SICILY		(Sgd) E.G. NELSON, Capt. (Auth. DC.Part II, #75, d/19 Nov 43) (Sgd) J.A. BRYANT, Capt.			

Certified true copy from the original under my care.

(A.W. ROY) Captain,
Adjutant, The Royal Canadian Regiment.

Army Form B.122

D.T.D.

E1 [illegible]

M.F.B. 355
22M—5-41 (572-3)
H.Q. 1772-39-620
A.F.B. 206

STATEMENT AS TO CHARACTER AND PARTICULARS OF SERVICE OF ACCUSED

Number	Rank	Name	Regiment (or unit)
D105811.	Private	J. GRIGAS.	The Royal Canadian Regt.

1. The following is a fair and true summary of the entries in the ~~Regimental Conduct Sheet~~ Field Conduct sheets ~~or Company Conduct Sheets~~ of the accused, exclusive of convictions by a Court-Martial or a Civil Court, of summary awards under Section 47 of the Army Act and of cases in which trial has been dispensed with.

	Within last 12 months	Since enlistment or appointment
For	Nil. times	times
For	times	times
For	times	times
For	times	times

Number of instances of gallantry or distinguished conduct Awarded D.C.M.

There are no entries in the conduct sheets of the accused.

NOTE.—If the charge is for drunkenness, the entries for drunkenness must be stated separately. Nil.

2. The accused has not been previously convicted by a court-martial or a civil court, of summary awards under Section 47 of the Army Act and dispensations with trial under A.A. 73 are set out in the Schedule annexed to this statement.

3. The accused is not under sentence at the present time.

~~The accused at the present time awaiting trial~~

4. The accused has been in confinement awaiting trial on the present charges, for nil days in civil custody, and ~~35~~ 42 days in military custody, making a total of ~~35~~ 42 days in custody, of which ~~seven~~ FIFTEEN days were spent in hospital. 28 Oct 44 28/3/44

5. The present age of the accused according to his attestation paper is 29 yrs., ~~37~~ 76 days

6. The date of his attestation specified in his attestation paper 14 May 1940.

7. The service which the accused is allowed to reckon towards discharge is 3 yrs., ~~303~~ 315 days.

8. The accused is entitled to reckon 3 yrs., ~~303~~ 315 days service for the purpose of determining his pension, etc.

9. The accused is in possession of ~~the undermentioned~~ military decorations (or is in possession of or entitled to). State any military decoration or reward. Distinguished Conduct Medal.

~~The [illegible] accused [illegible] This accused [illegible]~~
~~A.F. [illegible]~~
~~The regimental number~~

~~11. (In the case of an officer.) The accused holds in the Royal Canadian Air Force the rank of~~ Permanent Force unit

..... dated ....., and in his regiment (or corps), the rank of

..... dated .....

12. The accused has served as a non-commissioned officer continuously, without reduction, to the present date:—

..... Date of promotion.

In the rank of ..... years.

In the rank of ..... years.

In the rank of ..... years.

~~NOTE.—If any matter in any of the above paragraphs cannot be stated from the Regimental books, the paragraph must be struck through.~~

SCHEDULE

Of convictions by a court-martial or civil court, of summary awards under Section 47 of the Army Act, and of cases in which trial has been dispensed with of accused, Number D105811 Rank Private Name Joseph GRIGAS, D.C.M. of The Royal Canadian Regiment

NOTE.—A verbatim extract from the regimental books stating these convictions and dispensations with trial must be inserted.

Description of Court by which tried	Date and Place of Trial	Charge upon which convicted	Sentence of the Court	Punishment Remitted

I hereby certify that the foregoing schedule of convictions and dispensations with trial is a true extract from the regimental books in my custody.

Signed this 7 day of March, 1944.

The above statement (with the schedule of convictions and of cases in which trial has been dispensed with) is read, marked ..... signed by the president, and annexed to the proceedings.

(W.W. MATHERS) Lt.-Colonel,
Comd., The Royal Canadian Regiment.

5896

Pltf Griggs J D

5B-76

CFA96 (to [illegible])
40/P.M.R./1944/[illegible]

4.38B

FIELD GENERAL COURT-MARTIAL

Convened by Order of Brig J S Lind Comd 12 CIB dated 9 Feb 45

ACCUSED.

(As to the trial of two or more charged jointly see RP 16, 71, 109. As to reasons for showing (a) permanent or confirmed rank, and (b) appmt. A/rank or A/appmt, if any, see AA 182, 183, fns, KR Con 308, 328, 330.)

Number.	(a) Prmnt R.	(b) Appmt. A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
F.77335	Pte		John Robert	GRIGG	Lan & Ren Scot R

CERTIFIED TRUE COPY

PROCEEDINGS OF TRIAL.

Held in the Fd in (*country*) ITALY on (*date(s)*) 11 Feb 45

RECORD FORM A—OPENING PROCEEDINGS AND ARRAIGNMENT. 24/70

A1. The President, Members, waiting Member, JA, if any, [redacted] assemble, and the Court is closed. "WMWS"

(PRINTED MATTER, NOT IN ITALICS FOR GUIDANCE, WILL BE DELETED, IF NOT USED OR APPLICABLE, AND INITIALLED BY PRES OR JA. The Schedule referred to throughout is on p 4. Citations do NOT include all relevant fmn ROs. For guidance on procedure when a variation in this form arises, see form for GCM in MANL pp 741 to 759. A brief record of such variation will be made and given a number having reference to appropriate or preceding point number herein. See back of Convening Order, CF A95, for oaths and instrs on how to record addresses, evidence, etc, which instrs are hereafter called "Notes". As to general provisions for conducting the trial see AA 53, RP 36, 63-70, 73, 74, 94, 103, 119, 132.)

A2. The President initials and lays before the Court the Convening Order and Charge Sheet(s) attached thereto.(1) The Court is satisfied that it is properly convened and constituted(2), accused is (are) amenable to military law, and each charge discloses an offence.(3)

(1. As to use of Summary of Evidence see RP 17 fn 6. 2. AA 49, 50, RP 105-107. 3. RP 11-13, 23, 24.)

A3. The Court is opened. The accused is (are) brought before the Court. At 2000 hours trial commences.

A4. The Prosecutor produces a Medical Certificate that accused is (are) fit to undergo trial by court-martial.(1) T[redacted] "WMWS"

(1. KR Con 557. 2. AA 46(B), RP 60 fn 1. For effect see KR Con 563(c). Delete, if not applicable.

A5. [redacted] "WMWS"

(1. RP 72. Delete, if none employed.)

A6. The Convening Order and names of the President and Members of the Court are read to the accused.(1) President to accused: Do you object to be tried by me as President or by any of the Members of the Court?

Ans No, Sir (2)

(1. RP 110. 2. If no objection, waiting member retires. RP 60(B). If objection, see procedure AA 51, RP 25, 71, (B, MANL p 742.)

A7. The President, Members, JA, if any, and Offrs under instr, if any, are sworn.(1) The following are the ranks, names and units of the offrs comprising the Court, etc:

President	Major	H F Hoskin	Westmr R (M)
Member	Capt	L C A Moore	P L Fus
Member	Lt	J A Cambridge	Westmr R (M)
Judge-Advocate	Capt	W M W Shaw	HQ 5 Cdn Armd Div
Prosecutor	Capt	B P Lange	L&RSR
Defending Offr	Capt	J A Johnston	L&RSR

Questions by President: Is the Prosecutor a lawyer? Ans [illegible] Is the Defending Offr a lawyer? Ans NG (2)

(1. RP 26, 27, 109, 111. List of offrs under instr will be returned separately with proceedings for information of Conv Offr.)
(2. If Pros a lawyer and Def Offr not, accused is entitled to an adjournment when RP 89 (B) and fn 2 were not followed. See DI p 3.)

A8. The accused before arraignment make(s) (no) [redacted] plea. "WMWS"

(1. If a special plea is made for separate trial on one or more charges (RP 62(E), 108), or as to the jurisdiction of the Court (RP 34, 35(A), 113), or in bar of trial (RP 36), or as to accused's mental fitness to stand trial (AA 130, RP 57), or by one of several accused charged jointly to be tried separately (RP 16, 71), such plea, the addresses made in support or against, the evidence, if any, and finding are recorded per Notes. For forms of record see references in fns to RsP cited. Insert in A8 name and name of the accused making the plea.)

WMWS A9. The accused is [redacted] arraigned (e[redacted]) on all charges in the charge sheet.(1) The accused does (do) not object to any charge.(2) There is no amendment to be made to the Charge Sheet.(3) The President records the pleas in Part I of the Schedule.

(1. RP 31, 112. See para 1 of Instrs p 2. When more than one Charge Sheet see RP 62; when several accused to be tried separately see RP 71(C), and use separate copies of CF A96 to record proceedings. 2. RP 32, RP 33. If otherwise, delete and make appropriate record per Notes.)

WMWS A10. The Court [redacted] considers the Instrs on Procedure after Arraignment at top of p 2. The proceedings are continued on Record Form D

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

INSTRUCTIONS ON PROCEDURE AFTER ARRAIGNMENT.

1. *The accused may not plead or be found Guilty on more than one of two or more charges laid in the alternative.* (*RP* 37(*A*).) *As to withdrawal of alternative charges by Prosecutor see RP* 35(*C*). *No other charge can be withdrawn for any reason without authy from Convening Offr. If Convening Offr concurs, Court may accept plea of Guilty to lesser, etc, offence.* (*RP* 44(*H*).) *Accused may change a plea of Not Guilty to Guilty during trial.* (*RP* 38.) *As to refusing to plead or not pleading intelligibly see RP* 35(*A*). *As to plea when sentence may be death see RP* 35(*D*).

2. *The proceedings on each charge sheet* (*RP* 62) *after arraignment will be conducted as follows in the respective circumstances stated :*

I. If pleas to all charges are GUILTY, use Record Form B below.

II. If pleas to all charges are NOT GUILTY, use Record Form D on p 3.

III. If pleas to some charges are GUILTY and to other charges are NOT GUILTY and,

(a) *Such mixed pleas occur when there are no alternative charges in the Charge Sheet, use Record Form C below.* (*RP* 37(*A*).)

(b) *Such mixed pleas occur in a set of two or more charges laid in the alternative, see RP* 37 (*A*) *and fn* 2 *as to discretion of Court,* (i) *to try the accused on all such alternative charges as if he had pleaded Not Guilty thereto,* or, (ii) *to record the pleas as the findings of Court. After deciding between* (i) *and* (ii), *Court will proceed under foregoing instrs as may be appropriate to result of its decision. See MML p* 744 *Instrs* (2).

3. *As to responsibility of President to accused see RP* 59, 60(*C*) ; *powers and duties of JA see RP* 103 ; *duty of Prosecutor see RP* 60(*A*) (*B*) ; *duty and privileges of accused and Defending Offr see RP* 60(*C*), 87(*C*), 91, 92 ; *swearing and withdrawal of witnesses from Court see RP* 81, 82 ; *questioning of accused see RP* 80, 87(*C*), 92(*B*), *and of witnesses see RP* 83-85 ; *calling or re-calling of witnesses by Court, etc, see RP* 75-79, 86, 116 ; *see of Summary of Evidence at Trial see RP* 17(*E*) *fn* 6 ; *and responsibility of JA or Pres to record proceedings see RP* 94, 96.

RECORD FORM B—PROCEEDINGS ON PLEAS OF GUILTY TO ALL CHARGES.

B1. The President or JA, if any, complies with RP 35(B) by explaining to the accused the nature and meaning of the charge(s)(1), and that on his plea of Guilty there will be no regular trial but merely a consideration of the sentence to be awarded after he has been given an opportunity to make a statement in reference to the charge(s), call witnesses as to character and make an address in mitigation of punishment.(2)

(*1. RP 35 fn 3. 2. MML p 54 para 47.*)

B2. President to accused : The Court will now receive any statement you desire to make in reference to the charge(s).(1) If it appears from your statement that there are circumstances which indicate that you do not understand the effect of this plea of Guilty(2), or which show provocation or extenuation in respect of which in your interest the witnesses for the Prosecution should be examined(3), we shall advise you to change your plea to Not Guilty. In making a statement you will not be sworn or subject to cross-examination ; and anything you say will not be used in evidence against you after you change your plea. If, however, it appears to the Court that your statement affects only the amount of punishment to which you are liable, you will not be advised to change your plea and you will be given an opportunity later to prove your statement by sworn testimony, if you so desire.(4)

President to accused : Do you wish to make a statement ? Ans ..... (5)

(*1. RP 27(B). 2. RP 27(D) fn 6. 3. RP 35(B) fn 5 para 3, MML p 54 para 47. 4. See para E3 of Record Form E.*
5. Statement, if any, recorded per Notes.)

B3. The Court considers the accused's statement.(1) The Court decides (not) to advise accused to change his (their) plea(s) of Guilty to Not Guilty on ..... charge(s). The accused is (are) so informed, and he (they) change(s) his (their) plea(s) on ..... charge(s). Part I of the Schedule is amended accordingly.

(*1. Court may be closed to consider the statement. Delete whole or part not used.*)

B4. On the charge(s) to which the plea(s) of Guilty is (are) not changed the President records finding(s) of Guilty in Part I of the Schedule.(1)

(*1. RP 35(B). If any plea(s) is (are) changed, see para C or D as appropriate.*)

B5. The Summary of Evidence is marked Ex ....., initialled and read aloud by the President.(1)

(*1. If there is no Summary, or if it is inadequate, comply with RP 37(B). If there is any evidence inconsistent with any plea standing as Guilty, Court will advise accused to change such plea and, if changed to Not Guilty, try such charge(s) by use of paras D1 to D8 inclusive of Record Form D on p 3. RP 27(D).*)

B6. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

RECORD FORM C—PROCEEDINGS ON MIXED PLEAS OF GUILTY AND NOT GUILTY.

C1. As to the charges on which accused pleaded NOT GUILTY the trial is continued by using paras D1 to D8 inclusive of Record Form D on p 3 before proceeding with C 2.(1)

(*1. RP 37(B) (E).*)

C2. The charges on which accused pleaded GUILTY are read to him (them) again, and the trial is continued by using paras B1 to B5 of Record Form B above.(1)

(*1. Under B5 such parts only of the Summary of Evidence are read as relate to the charges dealt with under C2. If any plea is changed to Not Guilty, trial thereon proceeds by complying with paras D1 to D8 inclusive in Record Form D on p 3 and making an appropriate record thereof on a separate sheet.*)

C3. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

FIELD GENERAL COURT-MARTIAL

(Whether the accused to be tried is under his comd or not, a FGCM may on application to him be convened by any offr of Cdn Army Overseas, or of any other force if authorized in law, in immediate comd of troops on active service, subject to RP 105(C) and restrictions imposed by appropriate authy. AA 49, 50, RP 104-107, 114. As to the duties and privileges of the Convening Offr in dealing with the application see MML Chap V paras 20 and 23, RP 87(B).

There should be a separate Convening Order for each person to be tried separately by the same Court. RP 71(C), 109. As to separate charge sheets see RP 62, and as to separate trial on charges in the same charge sheet see RP 108. As to two or more accused charged jointly see RP 16, 109.

As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

ACCUSED.

Number.	(a) Prmnt R.	(b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
F.77335	Pte		John Robert	GRIGG	LAN & REN SCOT R

CONVENING ORDER.

1. Whereas complaint has been made to me, the undersigned, that the person~~s~~ named above as the accused, being subject to military law, has ~~xxxx~~ committed the offence~~s~~ set forth in the Charge Sheet~~s~~ attached and on (date) 9 Feb 45 endorsed by me, ~~xx xx xx xx xx xx xx xx xx~~ " To be tried by Field General Court-Martial ". "J S L"

2. And whereas I am of opinion that it is not practicable that such offence~~s~~ should be tried by an ordinary General Court-Martial ; ~~xx xx xx xx xx xx xx xx xx xx xx xx xx xx xx xx xx xx xx xx xx xx xx xx~~ "J S L"

(Delete part in brackets when not required for compliance with RP 105(C).)

3. I hereby convene a Field General Court-Martial to try the said person~~s~~, and to consist of the Offrs appointed or detailed hereunder. "J S L"

4. ~~I exercise in respect of the said accused the powers of an ordinary General Court-Martial.~~ "J S L"

(AA 49, RP 106(B), 107(A). Delete the whole or part, if not applicable.)

5. I also appoint as Judge-Advocate thereat the Offr mentioned hereunder.

(RP 106(E). Delete, if none appointed.)

PRESIDENT.

(Rank.)	(Must be named. RP 106.)	(Unit.)
Major	H F HOSKIN	WESTMR R (M)

MEMBERS.

Capt to be detailed by CO 12 Cdn Indep MG Coy (PE Fus)

(Rank.)	(Named or detailed. RP 106.)	(Unit.)
Capt or Lt	to be detailed by CO WESTMR R (M)	

WAITING MEMBER.

(Rank.)	(Named or detailed, if any. RP 106.)	(Unit.)
Lt	to be detailed by CO 4 PLDG	

JUDGE-ADVOCATE.

(Rank.)	(Must be named, if any. RP 106.)	(Unit.)
Capt	WMW SHAW	HQ 5 Cdn Armd Div

On Active Service in the Fd

In	(Country.)	(Signed personally. RP 105 fn 2.)	(Rank.)
ITALY		"J S Lind" (J S Lind)	Brig

Date ..... Commanding 12 Cdn Inf Bde

Convening Officer.

CONVENING OFFR WILL INITIAL ALL DELETIONS AND ALTERATIONS

4/38A CPA86 (To item 97 AFA) 40/P & S/1867 (4691) (See overleaf for oaths and notes for use on trial.)

"WMWS"

"HFH"

CHARGE SHEET

The accused, F77335 Pte John Robert GRIGG, Lanark & Renfrew Scottish Regiment, a soldier of the Canadian Army Overseas is charged with: -

FIRST CHARGE
Sec 12(1) (a) Army Act — WHEN ON ACTIVE SERVICE, DESERTING HIS MAJESTY'S SERVICE

in that he

In the Field on 17 Dec 44 when his platoon was in a fwd area, with intent to avoid service in such area, absented himself without leave from approximately 2300 hours 17 Dec 44 until he surrendered himself to 4 Cdn Rft Bn Guard room at apprmximately 2230 hrs 1 Feb 45. (Total time absent 45 days, 23 hrs, 30 mins.)

In the Field
9 Feb 45

" W H Buchanan " Lt Col

(W H Buchanan) Lt Col
Commanding
Lanark & Renfrew Scottish

TO BE TRIED BY FIELD GENERAL COURT MARTIAL.

9 Feb 45

" J S Lind "

(J S Lind) Brig
Comd 12 Cdn Inf Bde

MEDICAL OFFICERS CERTIFICATE
K.R. (Can) PARA 557

I certify that I have this morning examined F77335 Pte Grigg J.R. and in my opinion he is fit to undergo trial by Court Martial.

11 Feb 45

" R W Hewson " Capt

Medical Officer
1 Lt A.A. Regiment RCA

IN MY OPINION DUE TO MILITARY EXIGENCIES IT IS NECESSARY FOR THIS COURT TO SIT ON SUNDAY AND TO SIT AFTER 1800 HRS.

" H. F. Hoskin " Major

President.

1st Witness: L.64686 Sgt Hubbard K A P, L & R Scot R, duly sworn states:

On night 17 Dec 2300 hrs had roll call of pl accd, Pte Grigg did not answer - searched area and could not find - since then has not been duty - recognize accd - accd was a sniper - pl in D Coy billets - were manning slit trenches nr VILLANOVA - enemy 400 or 500 yds away. PLDG up near there as well.

Cross-Exam - Sgt Cormier called roll - now gone to CANADA - accd has been under my comd then I was sniper Sgt - now a pl Sgt. Accd did not ask to have weapon exchanged - I issued no orders to accd - I have not attended sniper's course - accused has caused me no trouble.

Re-Exam - Nil

JA - accused has not been to pl since - would know if he had.

Court - accd and pl had been warned were going into attack.

RP 83 (B) complied with.

Prosecutor present Certificate of Surrender Marked Exhibit A.

Prosecution closed.

Defence

First Witness, accd, duly sworn states:

Attended sniper's course - while attending course was told we were to do a special job - to work as a team and not with coys - not to be caught with telescopic sights on a rifle or if caught would "have had it." Said chances were that if caught would most likely be shot - did not want telescopic sight on rifle in attack - asked for tommy gun and were ordered to go in with them - were given orders that going in attack as a platoon - were also told to work only as a sniper under col or coy's comd orders - pl sgt gave these orders - Sgt Cormier pl sgt.

Cross-Exam - not aware that it is responsibility of man to take any orders given - were always given orders by Sgt Cormier prevously - were told could only be ordered into another job by col or coy comd.

Re-Exam - Nil

Court - 8 men in this pl - volunteered to be a sniper and took course - did not parade and ask to be relieved - had been in action with this unit since first went into line - were ordered into attack as a pl - when in action orders are to be obeyed.

RP 83 (B) complied with.

2nd Witness: M.105023 Pte Smid F - Land & Ren Scot R, duly sworn states:

Attended sniper's school - given lectures - were told that if taken prisoner with telescopic sight's would be shot - were told would work under a col's comd also rifle coy comd's - only two people to order us into attack.

Cross-exam - aware that orders relayed to junior comds and so on to soldiers - realize coy comd could not tell each one of us to go into attack - I went fwd into attack - was a scout them - did not have a sniper's attack - went into attack as inf man.

Re-Exam - was not a sniper then.

Court - was sent from Sp Coy to Rifle Coy for attack - was in attack as rifleman.

RP 83 (B) complied with.

Defence Closed.

Def Offr - Charge must be proved beyond shadow of a doubt - Sgt who issued orders not here and no statement here accd ordered - sniper's given fair amount of leeway and take orders from Tac HQ - accd in posn of artyman who has transferred to inf. After 2 wks course in a sniper in inf, 6 week later in action - has had little trg merely being used as a sniper - never required to go into attack before as rifleman - CO had issued instructions would issue orders for snipers.

Pros Offr - Nil.

JA defines burden of proof fact finding functions, credibility of witnesses, reasonable doubt, desertion, AWL, special findings under AA 56 and MP 44 D, intent.

Plea in Mitigation - accd did return without persuasion - volunteered for the Army and on active service for a long time - only minor offences onconduct sheet - I am only one who could give character evidence - accused has attended NCO's school - would be glad to have accused as a member of a rifle coy under my comd.

"W M W Shaw" Capt

"A"

"WMWS"

CERTIFICATE UNDER ARMY ACT Section 163 (1) (1)

I, Lt-col L J Flynn certify that No F.77335 Rank Pte Name GRIGG J R of the LANARK & RENFREW SCOTTISH Regt surrendered himself to K.67700 Cpl BRADLEY J S of the 4 CDN RFT BN at Guard Room on the 1-2-45 at approx 2230 hrs as an absentee without leave / ~~deserter~~.

HE WAS SOBER AND WEARING KING'S UNIFORM.

"L J Flynn" Lt-col
Signature of Provost Marshall APM or other officer into whose custody the above-named soldier was taken on arrest.

Exhibit "A" in the case of
F.77335 Pte Grigg J R

ARMY FORM B.296 (WAR).

Statement as to Character and Particulars of Service of Accused

(For Use at Trials by Field General Courts-Martial only)

Number.	*Rank.*	*Name.*	*Regiment (or as the case may be).*
F.77335	Pte	GRIGG J R	Lanark & Renfrew Scottish

NOTE.—The Field Conduct Sheet is to be produced in Court with this statement but is not to be annexed to the proceedings. The numbers herein stated should correspond with the number of Entries in the Field Conduct Sheet, prominence being given to the more serious offence in each entry. If the charge is for drunkenness or absence without leave, the entries for drunkenness or absence, as the case may be, should be stated separately. Any recognised special acts of gallantry or distinguished conduct recorded on the Field Conduct Sheet should also be inserted here.

1. The following is a fair and true summary of the entries in the Field Conduct Sheet of the accused, exclusive of convictions by a court martial or a civil court :—

For	Sec 15 (1)	5 times.
For	Sec 40	1 times.
For		times.
For		times.

Date of first entry in Field Conduct Sheet 16 Sep 42

Date of last entry in Field Conduct Sheet 19 Nov 43

2. [illegible]

"LGM"

*3. [illegible]

*Strike out if not applicable. "LGM"

4. The accused has been awaiting trial on the present charges for nil days in civil custody; and for 10 days in military custody, *i.e.*, nil days in open arrest, 10 days in close arrest; of which days were spent in hospital.

5. The present age of the accused is 23 years 1 month

6. The date of his attestation / calling up for military service is 27 Dec 40

"LGM" 7. [illegible]

8. The accused is in possession of† CVSM & C

†State the military decorations (if any) held by accused. "LGM" 9. [illegible]

		Date of Promotion.
" B "	In the substantive rank of	
	In the war substantive rank of	
"WMS"	In the acting rank of	

INSTRUCTION.—*If any matter in any of the above paragraphs cannot be stated from the regimental books the paragraph must be struck through.*

W1 58906/1602 20,000 3/44 S1-4751. Forms/B.296(War)/2

SCHEDULE OF CONVICTIONS BY A COURT-MARTIAL OR CIVIL COURT

Description of Court by which tried.	Date and Place of Trial.	Charges upon which convicted.	Sentence of the Court.	Punishment remitted or sentence suspended.
		N I L		

I HEREBY CERTIFY that the foregoing particulars, which have been extracted from the regimental books in my custody, are correct to the best of my knowledge and belief.

Signed this 11th day of February 1945

"L G McKenzie" Capt
(L G McKenzie) Capt & Adjt
Lanark & Renfrew Scottish

No F77335 Name Grigg J R | Sqn, Battery, or Company | Corps CRE | Date of enlistment 27 Dec 40 | GC Badges | Service or Proficiency Pay "C" MFM 6 "WWSH" (AFB 122 10/PAS/136 (5439)

Date of last entry in Company Conduct Sheet | No and date of last drunk | Period not reckoning towards freedom from extra fine | Sheet No | Signature OC Company, etc | Character

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Name of Witnesses	Punishment awarded	Date of award or of order directing trial	By whom awarded	Remarks
Field	16.9.42.	Gnr		AWL from parade at 1300 hours 16.9.42.	Sgt Mulligan W	7 days CB	17.9.42.	Major A M Clark	
Field	30.10.42.	Gnr	(1)	Neglect to the prejudice when ordered to report for a fatigue neglected to do so AA Sec 40	BSM Whitfield JE	7 days CB		OC "E" Bty No. 3 CARU	
Field	2.11.42.	Gnr	(2)	AWL from 2215 hrs 2.11.42. to 2330 hrs. Absent 1 hr 15 mins AA Sec 15 (1)	Bdr Marier RV L/Bdr Creegan JPM	Punishment to cover both charges	4 Nov 42	J F Dobson Major	
Field	9.11.42.	Gnr		AA Sec 15 (1) AWL from 0630 hrs 42 to 2045 hrs 10 Nov 42 Absent 1 day 14 hrs 15 mins	Bdr Beaudin	7 days pay	11 Nov 42	Lt-col R M Bishop	

(PTO)

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Field	11.12.42	Gnr		AWL from 0630 hrs 11.12.42 until 2045 hrs 14.12.42. Total absence 3 days 14 hours 15 mins AA Sec 15 (1)	BSM Skinner H	14 days FP 14 days pay FR&I 149(2)		Lt-col F J Thorne MC	
Field	19.11.43	~~XXX~~ L/Bdr		AWL (23 hrs) Sec 15 (1) AA	Lt DC O'Keeffe Sgt Crooks B	Reverted to Gnr. Forf 1 day's pay.	21 Nov 43	Major GC Howitt	

"Certified True Copy"

"L G McKenzie" Capt
(L G McKenzie) Capt
Adjutant
Lanark & Renfrew Scottish

Officer having custody of the Original

SUMMARY OF EVIDENCE

in the case of

F.77335 Pte Grigg J R, Lanark & Scottish Regiment

Taken on Oath at the direction of the Commanding Officer

FIRST WITNESS for the Prosecution

L.64686 A/Sgt HUBBARD K A P of the Lanark & Renfew Scottish Regiment, having been duly sworn, states:

I am L.64686 A/Sgt Hubbard, K A P of the Scouts & Snipers Pl of the Lanark & Renfrew Scottish Regiment. On the night of 17 Dec 44 at approximately 2300 hrs I was i/c of the Scout section of the Pl. I was present at the roll call of my Pl before it moved off to go into the attack, at that time F.77335 Pte Grigg J R of the sniper section, whom I now recognize, did not answer his name. I assisted in the search for F.77335 Pte Grigg J R in and around the buildings and section areas but neither I nor anyone else could find him. I have been on duty in my Pl continuously since that date and F.77335 Pte Grigg J R has been absent from the Pl continuously since approximately 2300 hrs 17 Dec 44.

Q.1 . When did you last see Pte Grigg J R prior to that time?

A.1 At approximately 1830 hrs the same day.

Q.2 At what place did you last see him?

A.2 In the building occupied by the HQ of "D" Coy of this Bn at that time.

"K A P Hubbard"
L.64686 A/Sgt Hubbard, K A P

The accused declines to cross examine the witness.

"J R Grigg"
F.77335 Pte Grigg J R

"NEWS"

SECOND WITNESS for the Prosecution

Lt W Ambrose of the Lanark & Renfrew Scottish Regiment, having been duly sworn, states:

I am Lt W Ambrose, Pl commander of the Scouts & Snipers Pl of the Lanark & Renfrew Scottish Regt. On the 17 Dec 44 I held the same position. On the night of 17 Dec 44 at approximately 2300 hrs on being ordered to prepare for an attack I ordered a Pl roll call. F.77335 Pte Grigg JR of the Sniper section, whom I now recognize was reported as absent. I then ordered a search of the buildings that we occupied in conjuction with the HQ of "D" Coy of this Bn and also the section positions that we were manning but he could not be found. Pte Grigg J R was present with the platoon at approximately 1900 hours that same evening just prior to our taking up positions in the "D" Coy area. Due to enemy shelling that had been taking place in our area during our occupation of the area, I told my Sgt to report Pte Grigg J R missing. To this date Pte Grigg J R has not returned to the Pl.

Q.1 Did you notice anything unusual about Pte Grigg J R when you last saw him?

A.1 No.

The accused declines to cross-examine the witness.

"Wm Ambrose"
(W Ambrose) Lt

THIRD WITNESS for the Prosecution

Lt P A Edmundson, MC, Assistant Adjutant of the Lanark & Renfrew Scottish Regt, having been duly sworn states:

I am Lt P A Edmundson of the Lanark & Renfrew Scottish Regt. I present a certificate under AA Sec 163 (1) (jj) purported to be signed by Lt-col W J Flynn Officer Commanding 4 Cdn Rft Bn, showing that F.77335 Pte Grigg J R surrendered himself in uniform to K.67700 Cpl Bradley J S of 4 Cdn Rft Bn at the unit guard room on 1 Feb 45 at approximately 2230 hrs as an absentee without leave.

The accused declines to cross-examine the witness.

"P A Edmundson" Lt
(P A Edmundson, MC) Lt

These certificates referred to by the witness, produced read over to the accused, marked Exhibit "A" and Exhibit "B", signed by me and attached hereto.

"B P Lange" Capt
(B P Lange) Capt
Officer taking the
Summary of Evidence

The accused was warned as follows:

"Do you wish to make any statement or give evidence on oath? You are not obliged to say anything or give evidence unless you wish to do so, but whatever you say will be taken down in writing and may be given in evidence."

The ACCUSEX having been duly warned declines to give evidence on oath.

Certified that the Rules of Procedure 4 (C), (D), (E), (F) have been complied with.

Taken down by me in the presence and hearing of the accused in the Field this 6th day of February 1945.

Respectfully submitted this 6th day of February 1945.

"B P Lange" A/Capt
(B P Lange) Capt.
Officer taking Summary
of Evidence.

"WMWS"

LIST OF WITNESSES FOR THE PROSECUTION

L.64686 A/Sgt Hubbard K A P	Lanark & Renfrew Scottish Regiment
Lt W Ambrose	Lanark & Renfrew Scottish Regiment
Lt P A Edmundson, MC	Lanark & Renfrew Scottish Regiment

LIST OF WITNESSES FOR THE DEFENCE

Exhibit "A" Certificate in accordance with the Army Act Section 163 (1) (j) dated 1 Feb 45 purported to be signed by Lt-col W J Flynn, Commanding Officer 4 Cdn Rft Bn.

STATEMENT BY THE ACCUSED

I desire that the convening officer detail an officer to represent me at my forthcoming trial by Field General Court Martial, Capt J A Johnston of 12 C I B if available.

"J R Grigg"
F.77335 Pte Grigg J R

"WMWS"

RECORD FORM D—PROCEEDINGS ON PLEAS OF NOT GUILTY TO ALL CHARGES.

D1. President to accused: Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity to prepare your defence? Ans No, sir.(1)
(1. If "yes", see RP 39(4) for procedure. Statement or evidence, if any, is recorded per Notes.)

D2. The Prosecutor makes (an) (~~no~~) opening address.(1)
(1. RP 39(B), 60(A) (B), 90, 92(C) (D). Record address per Notes, subject to RP 95(C).)

D3. The evidence for the Prosecution is taken.(1)
(1. RP 39(C), 114, KR Can 555. Record evidence per Notes. As to Prosecutor giving evidence himself see RP 39(D) (E).)

D4. The Prosecution is closed.(1) ~~The Defending Offr submits that the evidence for the Prosecution does not establish a prima facie case against the~~ accused on the ..... charge(s).(2) The Court is closed, and considers the submission.(3) The Court is re-opened, and the President announces that the submission is disallowed on the ..... charge(s), and allowed on the ..... charge(s), ~~and that, accordingly, the trial will proceed on the former, but the accused is (are) found Not Guilty on the latter charge(s).~~(4)
(1. Delete remainder of this para, if submission not made. 2. Arguments on submission, answer and reply are recorded per Notes. 3. RP 40 fn 1. See MML p 72 paras 12-14 and p 81 para 42. 4. Delete part not used. If accused acquitted on all charges, use second alternative in para D8.)
NB: If trial proceeds, accused must be allowed great latitude in making his defence, and the Court should not stop his defence solely on ground of irrelevance. (RP 60(C), 114, 115.)

D5. President to accused: You will now proceed with your defence.(1) You may, if you wish, give evidence yourself on oath as to the facts or your character or both, in which case you will be subject to cross-examination.(2) You may, however, make a statement without being sworn, and you will not be subject to cross-examination.(3) But a statement which could have been made on oath will not carry with the Court the same weight as sworn testimony.(4) You may call witnesses in your defence and as to character, whether you give evidence or make a statement or do neither.

President to accused: Do you wish to give evidence yourself as a witness, make a statement, or do neither? Ans Give evidence. Do you intend to call witnesses on your behalf? Ans Yes, sir. Are they witnesses as to character only? Ans No, sir.
(1. RP 115. 2. RP 40(A), see 80(D). 3. RP 40 fn 10. 4. RP 40 fns 2, 9.)

D6. Consequent on the answers recorded in para D5 the appropriate procedure for the defence is followed.(1)
(1. RP 114, 115, 116. For procedure see Notes at back of Convening Order, CF A95. Evidence for accused as to his character should, if in his interest, be given before the finding. See RP 46(A) fn 1, 86(C). Note the further opportunity in para E1 of Record Form E. Record per Notes addresses, statement, evidence and any summing up by the JA under RP 42, 103(c).)

D7. The Court is closed to consider the finding(s).(1) The finding(s) of the Court is (are) recorded in Part I of the Schedule.(2) The Court is re-opened.
(1. RP 43, 117(A). See Notes in Part I of Schedule. 2. RP 44(A).)

D8. The President announces the finding(s), if any, of Not Guilty, and states to the accused that the finding(s) of the Court on the ..... charge(s), being subject to confirmation, will be promulgated later.(1) ~~or The President announces that the accused is found Not Guilty on all charges and is to be released forthwith, and that the proceedings are accordingly terminated.~~ Part I of the Schedule is dated and signed.(2)
(1. AA 54(2) (5), RP 45, 120(A). 2. AA 54(2), RP 45, 117. This alternative announcement is not applicable when there are pleas of Guilty outstanding and dealt with under Record Form B or C.)

D9. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E below.

RECORD FORM E—PROCEEDINGS ON CONVICTION BEFORE SENTENCE.

~~E1. President to accused: Do you wish to give evidence yourself or to call any witnesses as to your character?(1).~~

Ans .....
(1. If evidence has already been given by accused or his witnesses as to his character, delete this para. RP 37(C) fn 4, 46 fn 1. Accused and witnesses are sworn. Evidence recorded per Notes.)

E2. The Prosecutor produces Statement(s) as to Character and Particulars of Service(1), and certified true copy (copies) of Conduct Sheet(s)(2), purporting to refer to the accused, which he submits to the Defending Offr for examination, and then to the Court for admission in evidence. The Court is satisfied that these documents refer to the accused, because (i) they purport to be signed in the manner required by AA 163(l) (g) (h), and (ii) they purport to refer to (a) soldier(s) having the same number, rank, name and corps as the accused. Admitted in evidence and marked Ex B and Ex C respectively.(3)
(1. MFB 355 or AFB 296. 2. MFM 6. 3. RP 46, KR Can 558. If above documents not produced, see RP 46 fn 1 para 1.)

E3. President to accused: Do you wish to address the Court on the Statement(s) and Conduct Sheet(s), and in mitigation of punishment?(1) Ans No, sir.(2)
(1. RP 37(C), 46(D). 2. Address, if any, recorded per Notes. Court should permit accused or his witnesses to prove on oath anything here or previously stated which would affect the amount of punishment. RP 37(F) fn 7.)

E4. The President states that the Court is closed to consider the sentence, and that the sentence to be awarded by the Court, being subject to confirmation, will not be announced, but will be promulgated later, and the proceedings in open court are accordingly terminated.(1)
(1. AA 54(6), RP 120(A).)

E5. The Court considers the sentence.(1) The President records the sentence in Part I of the Schedule, which is dated and signed by him and the JA, if any.(2)
(1. When several accused tried separately see RP 71 (D). One sentence only, comprised of the punishment or punishments laid down in AA 41, 44 and its proviso, is to be awarded to cover all charges in all charge sheets on which accused found guilty. RP 48. As to sentences see AA 44, 138, 182, RP 46-50, 69, 118, 119(A), KR Can 308, 330, 563-566, Overseas RO 309, 2322, MML p 60, 757-759. As to sentences assigned for civil offences by the law of England see AA 41(5), MML p 130. When accused already under sentence of imprisonment or detention see AA 44(1B), 68(1), KR Can 564. 2. RP 50. As to release from arrest by Confirming Offr see KR Can 567. As to assembly and disposal of record after trial see instrs on back of Convening Order.)

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

SCHEDULE.

PART I. PLEA(S), FINDING(S) AND SENTENCE.

Accused: F.77335 Pte John Robert GRIGG, Lan & Ren Scot R

Charge. (Insert "alternative" where applicable.)	Plea. (See Instrs p 2.)	Finding. (See note below.)	(Space for use as required for further charges, accused charged jointly, special findings, etc.)
1st	Not Guilty	Guilty	
2nd			
3rd			
4th			
5th			
6th			

(Note: As to findings for lesser offences see AA 56, RP 44; findings on alternative charges see MML p 483 fn 4 para 2, RP 44; special findings see RP 44 and MML p 753, and in loss of kit see RP 44 fn 6.)

"NIL"

(1)

(1. Insert sentence being served, or delete, if not applicable. See RP 46(A). Information should be found on MF B355 or AF B296.)

Time in confinement awaiting present trial—a total of 10 days, of which nil days were spent in hospital.(1)

(1. See RP 46(A) fn 2. Information should be found on MF B355 or AF B296 admitted in evidence under 52.)

Sentence Awarded by the Court: To suffer penal servitude for a term of five years.

(Sgd) "W M W Shaw" Capt — Judge-Advocate, if any.

11 Feb 45 — Date awarded.

(Sgd) "H F Hoskin" Major — President. (RP 45, 52.)

(See back of Convening Order as to assembly and disposal of record after trial.)

PART II. MINUTE WHERE CONFIRMATION RESERVED. (AA 54(5), RP 120(F), MML p 760.)

I reserve the finding and sentence for confirmation.

Date 12 Feb 45 (Sgd) "J S Lind" Brig — Commanding 12 Cdn Inf Bde

PART III. DECISION OF CONFIRMING OFFR ON FINDING(S) AND SENTENCE.

(For duties and powers see AA 54, 57, RP 37(D) fn 6, 46(A), 51-56, 120, MML pp 759-761, KR Can 567-577. Acquittals require no confirmation and cannot be revised: AA 54(2). Sending back finding or sentence for revision by Court: AA 54(2), RP 120(G). If not confirmed, accused may be tried again: AA 157, MML p 84. Minute of confirmation or non-confirmation may be altered before promulgation: RP 53, MML p 65. Quashing after promulgation: KR Can 573. Duties and powers of reviewing offrs: AA 57, 57A, RP 53A, 54. The Confirming Offr must sign here personally. AA 172 fn f.)

My decision on the finding(s) and sentence set forth in Part I is: I confirm the finding and sentence but remit two years penal servitude

I direct that the accused be ~~not committed to prison or detention barracks until further orders~~.(1)

(1. AA 57A. Delete if not used.)

Date 18 Jan 45

(Sgd) E.L. Hicks Maj Gen
for Commander
Canadian Military Headquarters
Confirming Officer.

PART IV. PROMULGATED AND EXTRACTS TAKEN. (RP 53, KR Can 576, 577.)

Accused. Date. Signature of Offr.

ALL DELETIONS AND ALTERATIONS WILL BE INITIALLED.

I personally know that there are no irregularities or irregularities to justify withholding confirmation of these proceedings.

DJAG. Cdn. Sec. GHQ 1 Echn - 21 A Gp.

TO:

PART II ORDER EXTRACT-FORM

99/20/ .....

10 Aug 1945

EXTRACT FROM: Unit X-List LAN & REN SCOT REGT

Part II Order No 22 dated 9 Aug 45

PUNISHMENTS

(a) On 11 Feb 45 tried by FGCM
CHARGES : 12(1)(a)
FINDINGS :GUILTY
SENTENCE :5 years penal servitude
CONFIRMATION :Findings confirmed but sentence remitted to read 3 years penal servitude by OIC ADM CMHQ on 28 Mar 45.
CLOSE ARREST :In close arrest from 1 FEB 45 to date of trial
FORFEITURES :1096 days pay FRoI 149(1)(b) 10 days pay FRoI 149(1)(c)(i) Total forf 1106 days pay.

The u/m having been SOS as a deserter wef 19 JUL 45 the above entry is promulgated pursuant to the provisions of ER(CAN) 577(c)

F.77335 PTE GRIGG J R (X-4 List)

The following documents are (attached. Please acknowledge receipt on (required. attached duplicate.
Please forward same.

Certified to be a true extract from the regimental books and documents in my custody.

Originating Clerk's Initials "WLB"

"WH Laughlin" Capt
Officer IC Records
Cdn Sec 2 Ech HQ 21 A Gp

ECH-6

24/40.

4G-36.

Spr. Grigg. W.C.

SCHEDULE.

PART I. PLEA(S), FINDING(S) AND SENTENCE.

Accused: B-62108 Tpr William Cephes GRIGG, 2 CACRU

Charge. (Insert "alternative" where applicable.)	Plea. (See Instrs p 2.)	Finding. (See note below.)	(Space for use as required for further charges, accused charged jointly, special findings, etc.)
1st AA Sec 12(1)	(a) Not Guilty	Guilty	
2nd			
3rd			
4th			
5th			
6th			

(Note: As to findings for lesser offences see AA 56, RP 44; findings on alternative charges see MML p 483 fn 4 para 2, RP 44; special findings see AA 77, RP 44(3), (4); and in case of kit see RP 44 fn 6.)

At present under sentence for ..... beginning on (date) ..... (1)

(1. Insert sentence being served, or delete, if not applicable. See RP 46(A). Information should be found on MF B355 or AF B296.)

Time in confinement awaiting present trial—a total of 12 days, of which Nil days were spent in hospital.(1)

(1. See RP 46(A) fn 2. Information should be found on MF B355 or AF B296 admitted in evidence under E2.)

Sentence Awarded by the Court: To undergo Detention for Eighteen (18) Months with Recommendation to Mercy on the Grounds of the State of mind of the accused due his marriage permission and allowance and recommendation that he be early released on suspended sentence for Overseas Service.

(Sgd) ..... Judge-Advocate, if any. 23 Nov 44 Date awarded. (Sgd) ..... President. (RP 45, 50.)

(See back of Convening Order as to assembly and disposal of record after trial.)

PART II. MINUTE WHERE CONFIRMATION RESERVED. (AA 54(5), RP 120(F), MML p 760.)

Date ..... (Sgd) ..... Commanding

PART III. DECISION OF CONFIRMING OFFR ON FINDING(S) AND SENTENCE.

(For duties and powers see AA 54, 57, RP 37(D) fn 6.46(A), 51-56, 120, MML pp 759-761, KR Can 567-577. Acquittals require no confirmation and cannot be revised: AA 54(3). Sending back finding or sentence for revision by Court: AA 54(2), RP 120(G). If not confirmed, accused may be tried again: AA 137, MML p 64. Minutes of confirmation or non-confirmation may be altered before promulgation: RP 53, MML p 65. Quashing after promulgation: KR Can 573. Duties and powers of reviewing offrs: AA 57, 57A, RP 53A, 54. The Confirming Offr must sign here personally. AA 172 fn 1.)

My decision on the finding(s) and sentence set forth in Part I is:

Finding and sentence confirmed

~~I direct that the accused be not committed to prison or detention barracks until further orders.~~ (1)

(1. AA 57A. Delete if not used.)

(Sgd) W Rutherford Brig

Date 28 Nov 44 Commanding E Gp Coy RE Confirming Officer.

PART IV. PROMULGATED AND EXTRACTS TAKEN. (RP 53, KR Can 576, 577.)

Accused B62108 Tpr W.C. Grigg Date. Signature of Offr.

Promulgated to accused 30 Nov 44. Extracts taken and published in Part II D.O. 290, d/1 Dec 44.

W.B. Kent Capt & Adjt. (M.B. Kent) Capt & Adjt. No. 2 Can Armd Corps Frt Unit.

ALL DELETIONS AND ALTERATIONS WILL BE INITIALLED.

RECORDED AT CMHQ IN AG 160 4-2-36

FIELD GENERAL COURT-MARTIAL

CP(Gen) (To Item 6A of AFAA) 40/P & S/Forms/16(44) 4/38B

Convened by Order of Brig T J Rutherford Comd "E" Gp, CRU dated 20 Nov 44

ACCUSED.

(As to the trial of two or more charged jointly see RP 16, 71, 109. As to reasons for showing (a) permanent or confirmed rank, and (b) apptmt, A/rank or A/apptmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

Number.	(a) Prmnt R. (b) Apptmt, A/R or A/Apptmt.	Full Christian Names.	Surname.	Unit.
B-62108 Tpr		William Cephes	GRIGG	2 CACRU

PROCEEDINGS REVIEWED 6 Dec 44. R. Beaudville Capt. REVIEWING OFFICER, JAG BRANCH

PROCEEDINGS OF TRIAL.

Held in the Fd in (country) England on (date(s)) 23 Nov 44

RECORD FORM A—OPENING PROCEEDINGS AND ARRAIGNMENT.

A1. The President, Members, ~~waiting Member, J.A.~~ if ~~any~~, and Offrs under instr, ~~if any~~, assemble, and the Court is closed.

(PRINTED MATTER NOT IN ITALICS FOR GUIDANCE, WILL BE DELETED IF NOT USED OR APPLICABLE, AND INITIALLED BY PRES OR JA. The Schedule referred to throughout is on p 4. Citations do NOT include all relevant fmn ROs. For guidance as to procedure when a variation in this form arises, see form like GCM in MML pp 741 to 759. A brief record of such variation will be made and given a number having reference to appropriate or preceding para number herein. See back of Convening Order, CF A95, for oaths and instrs on how to record addresses, evidence, etc, which instrs are hereafter called "Notes". As to general provisions for conducting the trial see AA 52, RP 56, 63-70, 72, 74, 94, 103, 119, 132.)

A2. The President initials and lays before the Court the Convening Order and Charge Sheet(s) attached thereto.(1) The Court is satisfied that it is properly convened and constituted(2), accused is (are) amenable to military law, and each charge discloses an offence.(3)

(1. As to use of Summary of Evidence see RP 17 fn 6. 2. AA 49, 50, RP 105-107. 3. RP 13-13, 23, 24.)

A3. The Court is opened. The accused is (are) brought before the Court. At 2230 hours trial commences.

A4. The Prosecutor produces a Medical Certificate that accused is (are) fit to undergo trial by court-martial.(1) ~~The Prosecutor informs the Court that accused elected to be tried by court-martial instead of being dealt with summarily by the CO.(2)~~

(1. KR Can 557. 2. AA 46(B), RP 60 fn 1. For effect see KR Can 563(c). Delete, if not applicable.)

A5. President to accused: ~~Do you object to~~ ..... as interpreter? Ans .....

~~The Interpreter is sworn.~~(1) Do you object to B/2108 Tpr D Glennie as shorthand writer? Ans No

The shorthand writer is sworn.(1)

(1. RP 72. Delete, if none employed.)

A6. The Convening Order and names of the President and Members of the Court are read to the accused.(1) President to accused: Do you object to be tried by me as President or by any of the Members of the Court?

Ans No (2)

(1. RP 110. 2. If no objection, waiting member retires. RP 66(B). If objection, see procedure AA 51, RP 25, 71, 78, MML p 742.)

A7. The President, Members, ~~J.A. if any~~, and Offrs under instr, ~~if any~~, are sworn.(1) The following are the ranks, names and units of the offrs comprising the Court, etc:

President	Major	E.R. Dawes ED AAG	HQ CRU
Member	Capt	C.B. Price	2 CACRU
Member	Lieut	W.G. Beatty	2 CACRU
Judge-Advocate			
Prosecutor	Lieut	R.C. Page	2 CACRU
Defending Offr	Lieut	A.B. Simpson	2 CACRU

Questions by President: Is the Prosecutor a lawyer? Ans No Is the Defending Offr a lawyer? Ans Yes (2)

(1. RP 26, 27, 109, 111. List of offrs under instr will be returned separately with proceedings for information of Conv Offr.)
(2. If Pros a lawyer and Def Offr not, accused is entitled to an adjournment when RP 89 (B) and fn 2 were not followed. See DI p 2.)

A8. The accused ..... before arraignment make(s) (no) (a) plea (2)

(1. If a special plea is made for separate trial on one or more charges (RP 62(E), 108), or as to the jurisdiction of the Court (RP 34, 35(A), 112), or in bar of trial (RP 36), or as to accused's mental fitness to stand trial (AA 130, RP 57), or by one of several accused charged jointly to be tried separately (RP 16, 71), such plea, the addresses made in support or against, the evidence, if any, and finding are recorded per Notes. For forms of record see references in fns to RoP cited. Insert in AE none and name of the accused making the plea.)

A9. The accused is (are) arraigned (separately) on all charges in the charge sheet.(1) The accused does (do) not object to any charge.(2) There is no amendment to be made to the Charge Sheet.(3) The President records the pleas in Part I of the Schedule.

(1. RP 31, 112. See para 1 of Instrs p 2. Where more than one Charge Sheet see RP 62; when several accused to be tried separately see RP 71(C), and use separate copies of CF A96 to record proceedings. 2. RP 32, RP 33. If otherwise, delete and make appropriate record per Notes.)

A10. The Court ~~is closed and~~ considers the Instrs on Procedure after Arraignment at top of p 2. The proceedings are continued on Record Form D

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

INSTRUCTIONS ON PROCEDURE AFTER ARRAIGNMENT.

1. *The accused may not plead or be found Guilty on more than one of two or more charges laid in the alternative.* (*RP* 37(*A*).) *As to withdrawal of alternative charges by Prosecutor see RP* 35(*C*). *No other charge can be withdrawn for any reason without authy from Convening Offr. If Convening Offr concurs, Court may accept plea of Guilty to lesser, etc, offences.* (*RP* 44(*H*).) *Accused may change a plea of Not Guilty to Guilty during trial.* (*RP* 38.) *As to refusing to plead or not pleading intelligibly see RP* 35(*A*). *As to plea when sentence may be death see RP* 35(*D*).

2. *The proceedings on each charge sheet* (*RP* 62) *after arraignment will be conducted as follows in the respective circumstances stated :*

I. If pleas to all charges are GUILTY, use Record Form B below.

II. If pleas to all charges are NOT GUILTY, use Record Form D on p 3.

III. If pleas to some charges are GUILTY and to other charges are NOT GUILTY and,

(a) Such mixed pleas occur when there are no alternative charges in the Charge Sheet, use Record Form C below. (*RP* 37(*A*).)

(b) Such mixed pleas occur in a set of two or more charges laid in the alternative, see RP 37 (*A*) *and fn* 2 *as to discretion of Court, (i) to try the accused on all such alternative charges as if he had pleaded Not Guilty thereto, or, (ii) to record the pleas as the findings of Court. After deciding between (i) and (ii), Court will proceed under foregoing instrs as may be appropriate to result of its decision. See MML p* 744 *Instrs* (2).

3. *As to responsibility of President to accused see RP* 59, 60(*C*) ; *powers and duties of JA see RP* 103 ; *duty of Prosecutor see RP* 60(*A*) (*B*) ; *duty and privileges of accused and Defending Offr see RP* 60(*C*), 87(*C*), 91, 92 ; *swearing and withdrawal of witnesses from Court see RP* 81, 82 ; *questioning of accused see RP* 80, 87(*C*), 92(*B*), *and of witnesses see RP* 85-85 ; *calling or re-calling of witnesses by Court, etc, see RP* 75-79, 86, 116 ; *use of Summary of Evidence at Trial see RP* 17(*E*) *fn* 6 ; *and responsibility of JA or Pres to record proceedings see RP* 94, 96.

RECORD FORM B—PROCEEDINGS ON PLEAS OF GUILTY TO ALL CHARGES.

B1. The President or JA, if any, complies with RP 35(B) by explaining to the accused the nature and meaning of the charge(s)(1), and that on his plea of Guilty there will be no regular trial but merely a consideration of the sentence to be awarded after he has been given an opportunity to make a statement in reference to the charge(s), call witnesses as to character and make an address in mitigation of punishment.(2)

(*1. RP 35 fn 3. 2. MML p 54 para 47.*)

B2. President to accused : The Court will now receive any statement you desire to make in reference to the charge(s).(1) If it appears from your statement that there are circumstances which indicate that you do not understand the effect of the plea of Guilty(2), or which show provocation or extenuation in respect of which in your interest the witnesses for the Prosecution should be examined(3), we shall advise you to change your plea to Not Guilty. In making a statement you will not be sworn or subject to cross-examination ; and anything you say will not be used in evidence against you after you change your plea. If, however, it appears to the Court that your statement affects only the amount of punishment to which you are liable, you will not be advised to change your plea and you will be given an opportunity later to prove your statement by sworn testimony, if you so desire.(4)

President to accused : Do you wish to make a statement ? Ans .....(5)

(*1. RP 37(D).* 2. *RP 37(D) fn 6.* 3. *RP 35(B) fn 3 para 3, MML p 54 para 47.* 4. *See para E3 of Record Form E.* 5. *Statement, if any, recorded per Notes.*)

B3. The Court considers the accused's statement.(1) The Court decides (not) to advise accused to change his (their) plea(s) of Guilty to Not Guilty on .....charge(s). The accused is (are) so informed, and he (they) change(s) his (their) plea(s) on .....charge(s). Part I of the Schedule is amended accordingly.

(*1. Court may be closed to consider the statement. Delete whole or part not used.*)

B4. On the charge(s) to which the plea(s) of Guilty is (are) not changed the President records finding(s) of Guilty in Part I of the Schedule.(1)

(*1. RP 35(B). If any plea(s) is (are) changed, use Record Form C or D as appropriate.*)

B5. The Summary of Evidence is marked Ex ....., initialled and read aloud by the President.(1)

(*1. If there is no Summary, or if it is inadequate, comply with RP 37(B). If there is any evidence inconsistent with any plea standing as Guilty, Court will advise accused to change such plea and, if changed to Not Guilty, try such charge(s) by use of paras D1 to D8 inclusive of Record Form D on p 3. RP 37(D).*)

B6. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

RECORD FORM C—PROCEEDINGS ON MIXED PLEAS OF GUILTY AND NOT GUILTY.

C1. As to the charges on which accused pleaded NOT GUILTY the trial is continued by using paras D1 to D8 inclusive of Record Form D on p 3 before proceeding with C 2.(1)

(*1. RP 37(A) (E).*)

C2. The charges on which accused pleaded GUILTY are read to him (them) again, and the trial is continued by using paras B1 to B5 of Record Form B above.(1)

(*1. Under B5 such parts only of the Summary of Evidence are read as relate to the charges dealt with under C2. If any plea is changed to Not Guilty, trial thereon proceeds by complying with paras D1 to D8 inclusive in Record Form D on p 3 and making an appropriate record thereof on a separate sheet.*)

C3. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

RECORD FORM D—PROCEEDINGS ON PLEAS OF NOT GUILTY TO ALL CHARGES.

D1. President to accused : Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity to prepare your defence ? Ans.....(1)

(*1. If "yes", see RP 39(A) for procedure. Statement or evidence, if any, is recorded per Notes.*)

D2. The Prosecutor makes (an) (no) opening address.(1)

(*1. RP 39(B), 60(A) (b), 90, 92(C) (D). Record address per Notes, subject to RP 95(C).*)

D3. The evidence for the Prosecution is taken.(1)

(*1. RP 39(C), 114, KR Can 555. Record evidence per Notes. As to Prosecutor giving evidence himself see RP 39(D) (E).*)

D4. The Prosecution is closed.(1) The Defending Offr submits that the evidence for the Prosecution does not establish a prima facie case against the accused on the ..... charge(s).(2) The Court is closed, and considers the submission.(3) The Court is re-opened, and the President announces that the submission is disallowed on the ..... charge(s); and allowed on the ..... charge(s), and that, accordingly, the trial will proceed on the former, but the accused is (are) found Not Guilty on the latter charge(s).(4)

(*1. Delete remainder of this para, if submission not made. 2. Arguments on submission, answer and reply are recorded per Notes. 3. RP 40 fn 1. See MML p 72 paras 12-14 and p 81 para 42. 4. Delete part not used. If accused acquitted on all charges, use second alternative in para D8.*)

NB : If trial proceeds, accused must be allowed great latitude in making his defence, and the Court should not stop his defence solely on ground of irrelevance. (*RP* 60(*C*), *114, 115.*)

D5. President to accused : You will now proceed with your defence.(1) You may, if you wish, give evidence yourself on oath as to the facts or your character or both, in which case you will be subject to cross-examination.(2) You may, however, make a statement without being sworn, and you will not be subject to cross-examination.(3) But a statement which could have been made on oath will not carry with the Court the same weight as sworn testimony.(4) You may call witnesses in your defence and as to character, whether you give evidence or make a statement or do neither.

President to accused : Do you wish to give evidence yourself as a witness, make a statement, or do neither ? Ans ..... Do you intend to call witnesses on your behalf ? Ans ..... Are they witnesses as to character only ? Ans .....

(*1. RP 115. 2. RP 40(A), see 80(D). 3. RP 40 fn 10. 4. RP 40 fns 2, 9.*)

D6. Consequent on the answers recorded in para D5 the appropriate procedure for the defence is followed.(1)

(*1. RP 114, 115, 116. For procedure see Notes on back of Convening Order, CF A95. Evidence for accused as to his character should, if in his interest, be given before the finding. See RP 46(A) fn 1, 86(C). Note the further opportunity in para E1 of Record Form E. Record per Notes addresses, statement, evidence and any summing up by the JA under RP 42, 103(e).*)

D7. The Court is closed to consider the finding(s).(1) The finding(s) of the Court is (are) recorded in Part I of the Schedule.(2) The Court is re-opened.

(*1. RP 43, 117(A). See Notes in Part I of Schedule. 2. RP 44(H).*)

D8. The President announces the finding(s), if any, of Not Guilty, and states to the accused that the finding(s) of the Court on the ..... charge(s), being subject to confirmation, will be promulgated later.(1)

Or, The President announces that the accused is found Not Guilty on all charges and is to be released forthwith, and that the proceedings are accordingly terminated. Part I of the Schedule is dated and signed.(2)

(*1. AA 54(2) (b), RP 45, 120(A). 2. AA 54(2), RP 45, 117. This alternative announcement is not applicable when there are pleas of Guilty outstanding and dealt with under Record Form B or C.*)

D9. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E below.

RECORD FORM E—PROCEEDINGS ON CONVICTION BEFORE SENTENCE.

E1. President to accused : Do you wish to give evidence yourself or to call any witnesses as to your character ?(1) Ans .....

(*1. If evidence has already been given by accused or his witnesses as to his character, delete this para. RP 37(C) fn 4, 46 fn 1. Accused and witnesses are sworn. Evidence recorded per Notes.*)

E2. The Prosecutor produces Statement(s) as to Character and Particulars of Service(1), and certified true copy (copies) of Conduct Sheet(s)(2), purporting to refer to the accused, which he submits to the Defending Offr for examination, and then to the Court for admission in evidence. The Court is satisfied that these documents (neither to the accused, because (i) they purport to be signed in the manner required by AA 363(1) (g) (h), and (ii) they purport to refer to (a) soldier(s) having the same number, rank, name and corps as the accused. Admitted in evidence and marked Ex ..... and Ex ..... respectively.(3)

(*1. MFB 355 or AFB 296. 2. MFM 6. 3. RP 46, KR Can 558. If above documents not produced, see RP 46 fn 1 para 1.*)

E3. President to accused : Do you wish to address the Court on the Statement(s) and Conduct Sheet(s), and in mitigation of punishment ?(1) Ans .....(2)

(*1. RP 37(C), 46(D). 2. Address, if any, recorded per Notes. Court should permit accused or his witnesses to prove on oath anything here or previously stated which would affect the amount of punishment. RP 111(F) fn 7.*)

E4. The President states that the Court is closed to consider the sentence, and that the sentence to be awarded by the Court, being subject to confirmation, will not be announced, but will be promulgated later, and the proceedings in open court are accordingly terminated.(1)

(*1. AA 54(2), RP 120(A).*)

E5. The Court considers the sentence.(1) The President records the sentence in Part I of the Schedule, which is dated and signed by him and the JA, if any.(2)

(*1. When several accused tried separately see RP 71 (D). One sentence only, comprised of the punishment or punishments laid down in AA 41, 44 and its proviso, is to be awarded to cover all charges in all charge sheets on which accused found guilty. RP 46. As to sentences see AA 44, 138, 182, RP 46-50, 69, 118, 119(A), KR Can 308, 380, 383-386, Overseas REI 309, 2322, para, p 66, 737-739. As to sentences assigned for civil offences by the law of England see AA 41(5), MML p 130. When accused already under sentence of imprisonment or detention see AA 44(1B), 68(1), KR Can 564. 2. RP 50. As to release from arrest by Confirming Offr see KR Can 567. As to assembly and disposal of record after trial see instrs on back of Convening Order.*)

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

COPY HEADQUARTERS "E" GROUP
CANADIAN REINFORCEMENT UNITS CONFIDENTIAL

E20/CT Mart 2/1 (A)

2 Dec 44

Comd
CRU

FGCM B62108 Tpr Grigg WC
2 CACRU

1. Herewith proceedings of the m/n FGCM together with Delay Report.

2. Promulgation has been made and extracts taken.

3. On reviewing the proceedings it is recommended that the sentence be reviewed after 14 days with a view to releasing this soldier for Overseas Service. This man's record is reasonably good and there were extenuating circumstances. I would have mitigated the larger part of the sentence excepting for the fact the charge was a serious one and I felt that it should be promulgated in the interest of discipline.

4. It will be noted that Tpr Grigg has already seen service in France.

5. May the above receive your favourable consideration, please.

(Sgd) J.T.RUTHERFORD,
(J.T.Rutherford)Brig
Comd "E" GP CRU

/WA/PE
DRLS
ENCL(REG)

NO. 2 CANADIAN ARMOURED CORPS REINFORCEMENT UNIT
CANADIAN ARMY ENGLAND

CHARGE SHEET

in the case of

B62108 Tpr Grigg, William Cephes, of No. 2. Canadian Armoured Corps Reinforcement Unit, a soldier of the Canadian Army Overseas, is charged with:-

FIRST CHARGE: WHEN UNDER ORDERS FOR ACTIVE SERVICE, DESERTING HIS MAJESTY'S SERVICE
Sec 12 (1)(a) Army Act

in that he

at Warburg Barracks, Aldershot, Hants., on 10 Nov 44, when under orders for draft for active service, absented himself without leave from 1350 hours, 10 Nov 44, until 1900 hours, 10 Nov 44, with intent to avoid such draft.

Total absence - 5 hrs, 10 mins

(R.J. Colwell) Col.,
Officer Commanding,
No. 2. CAORU

Warburg Barracks,
Aldershot, Hants.,
17 Nov 44.

To be tried by Field General Court Martial.

(T J RUTHERFORD) Brig
Comd
"E" GP, CRU

In the Field,
20 Nov 44.

FIELD GENERAL COURT-MARTIAL

(Whether the accused to be tried is under his cmnd or not, a FGCM may on application to him be convened by any offr of Cdn Army Overseas, or of any other force if authorized in law, in immediate cmnd of troops on active service, subject to RP 105(C) and restrictions imposed by appropriate authy. AA 49, 50, RP 104-107, 114. As to the duties and privileges of the Convening Offr in dealing with the application see MML Chap V paras 20 and 23, RP 87(B).

There should be a separate Convening Order for each person to be tried separately by the same Court. RP 71(C), 109. As to separate charge sheets see RP 62, and as to separate trial on charges in the same charge sheet see RP 108. As to two or more accused charged jointly see RP 16, 109.

As to reasons for showing (a) permanent or confirmed rank, and (b) apptmt, A/rank or A/apptmt, if any, see AA 182, 183, (ns, KR Can 308, 328, 330.)

ACCUSED.

Number.	(a) Prmnt R.	(b) Apptmt, A/R or A/Apptmt.	Full Christian Names.	Surname.	Unit.
B-62108	Tpr		William Cephes	GRIGG	2 CACRU

CONVENING ORDER.

1. Whereas complaint has been made to me, the undersigned, that the person(s) named above as the accused, being subject to military law, has (have) committed the offence(s) set forth in the Charge Sheet(s) attached and on 20 Nov 44 (date) endorsed by me, ~~or by an offr of my staff for me~~), "To be tried by Field General Court-Martial",

2. And whereas I am of opinion that it is not practicable that such offence(s) should be tried by an ordinary General Court-Martial; ~~(and that it is not practicable to delay the trial for reference to a superior qualified offr)~~

(Delete part in brackets when not required for compliance with RP 105(C).)

3. I hereby convene a Field General Court-Martial to try the said person(s), and to consist of the Offrs appointed or detailed hereunder.

4. ~~I am unable to appoint (a) three Offrs to form the Court, (b) a Fd Offr as President, for the reasons I have attached hereto.~~

(AA 49, RP 106(B), 107(A). Delete the whole or part, if not applicable.)

5. ~~I also appoint as Judge Advocate the Offr mentioned hereunder.~~

(RP 106(E). Delete, if none appointed.)

PRESIDENT.

(Rank.)	(Must be named. RP 106.)	(Unit.)
Maj	E M Miller, ED	HQ, CRU

MEMBERS.

(Rank.)	(Named or detailed. RP 106.)	(Unit.)
Capt	C A Price	5 CACRU
Lt	W G Beatty	2 CACRU

WAITING MEMBER.

(Rank.)	(Named or detailed, if any. RP 106.)	(Unit.)

JUDGE-ADVOCATE.

(Rank.)	(Must be named, if any. RP 106.)	(Unit.)

On Active Service in the Fd

in England (Country.)

Date 20 Nov 44

(Signed personally. RP 105(3).) Brig (Rank.)

(T J RUTHERFORD) Brig

Commanding "E" GP, CRU.

Convening Officer.

CONVENING OFFR WILL INITIAL ALL DELETIONS AND ALTERATIONS

(See overleaf for oaths and notes for use on trial.)

Medical Officers' Certificate
K.R. (Can) Para 557.

I certify that I have this morning examined ..... (NO.) ..... (Rank)
..... (Name) ..... of ..... (Unit)
and in my opinion he is ~~unfit~~ fit to undergo trial by Court Martial.

Station. Field ..... (Sgd) ..... (Medical Officer)
Date. 23 Nov 1944

F.G.C.M. IN THE CASE OF

B.62108 Tpr GRIGG W.C. 2 CACRU

24 Nov 44

- P R O S E C U T I O N -

OPENING ADDRESS BY THE PROSECUTOR: NOTE D2

The charge before the court today is a serious one. I would like to point out before calling on witnesses, that a member of his Majesty's Services may be charged with desertion after 21 days AWL. This charge, however, differs from that type of charge in that the accused is charged with desertion after having been warned that he was to proceed on draft. I would like to ask the court to refer to MML S12, para 3 of 1st note, reading:

"In order to establish in evidence that a soldier has deserted or attempted to desert "when under orders for embarkation," the original or a certified true copy of orders detailing the accused for embarkation must be produced by a witness on oath, and evidence must be given that the orders were duly posted or brought to the notice of the accused, or that he was otherwise in a position to be acquainted with the contents (see K.R. 1099, 1100). This would not, however, exclude proof of verbal orders for embarkation given by a C.O. in an emergency."

The prosecutor therefore intends to show the court that the accused, having been duly warned for movement overseas, did absent himself without leave from a draft, with intent to avoid embarkation for service overseas. I will now call my first witness.

FIRST WITNESS
Major ASTROP, L.E. No. 2 CACRU ~~having been duly~~ sworn, states:

Q. What is your official capacity at No. 2 CACRU?
A. As Officer commanding "A" Squadron, I am responsible for the intake of drafts for the field.

Q. Do you recognize the accused?
A. Yes. (witness points to the accused)

Q. Was he listed on draft?
A. The accused whom I recognize was listed on draft No. UKAG 15. On Tuesday 7 Nov 44, on the afternoon parade, at approximately 1500 hours, the draft UKAG 15 was mustered, and the accused was present on this parade. On this parade the draft was warned for o/s service by Capt. E.L. MARRUS. I was there and heard it. It was explained to them that they would be present on all parades called for draft, and in the event that they missed a parade, or were absent when the draft left, they would be liable to be charged with desertion. The seriousness of the charge was explained to them. As a result, the accused was paraded to me, in the presence of Capt Marrus, SSM Beckerson, and Sgt Mitchell. I again warned the accused that he was on o/s draft and would be present on all parades called for draft. He was warned to be present when the draft left, and in the event that he was not present, he would be liable to be charged with desertion. The seriousness of the offence was explained to him. SHortly after this warning, the accused was again paraded to me and asked to be paraded to the Col. I had him paraded before Col. O'Brien. I was present when Col O'Brien saw him. The accused said that he was married before the effective date of permission. He said that his wife, as yet, was not receiving her Dependents' Allowance. He was to be taken off the draft until such time as Dependents' Allowance came through. Col O'Brien asked if it would make any difference to the Dependents' Allowance if he were in France or England, or if it would make any difference to the amount of money he could assign to his wife if he were in France or England. The accused said that it would because he had a source of money in England or from some other source which he would not state. As a result of this meeting, Col O'Brien informed me in the presence of the accused that he

would remain on draft unless otherwise informed by Col O'Brien. I received no notice to take the accused off draft. He was not taken off draft. At approximately 1300 hours, Friday 10 Nov 44 I was present when the draft was mustered. The accused was present on this parade. On this draft we received a movement order that the draft would proceed at 2 o'clock. The draft was warned to go to their barracks, put on their kit, and report back on parade at 1350 hours. At 1350 hours and until the draft left, I was present on the parade. When the muster roll was called for the distribution of embarkation cards, the accused was absent. When the draft left, the accused was absent.

Q. You state that the accused was paraded before Col O'Brien for the purpose of being taken off the draft because of family difficulties. Can you say that since then, the difficulties have been cleared up?

COURT:- Defending Officer, have you any objection to that question?
Def Offr. No, Sir.

WITNESS.
A. Yes.

Q. Were they cleared up prior to the time of the draft being paraded on the afternoon of the 10 Nov.?
A. Yes

Q. To your knowledge then, was there any reason that the accused should not be left on the draft?

OBJECTION BY THE DEFENDING OFFICER

The objection raised was that his wife was not getting Dependents' Allowance and the prosecutor will agree to that, and the difficulties have not yet been cleared up

[redacted] Prosecutor states he will drop the question.

CROSS EXAMINATION BY THE DEF OFFR

Q. The accused came to you through hospital from France?
A. Correct.

Q. Was he a battle casualty?
A. Yes.

Q. And he has been with you since when?
A. Some time in September.

Q. When he arrived, I presume he was paraded to you in regard to his matrimonial situation?
A. No, Sir.

Q. Does your 2 i/c know the situation?
A. Yes.

Q. At any time did the accused, in your presence, state that his wife was expecting a baby?
A. Yes.

Q. When did he say that?
A. He said it before me when I gave him warning, and said it before Col O'Brien in my presence.

Q. When was the baby expected?
A. I don't know.

Q. I suggest to you that the accused said it was expected near the end of November.

A. He may have said that. I do not remember.

Q. I take it Major Astrop, that in regard to this fellow's story, that the first you heard about it was on the last draft?
A. Yes.

Q. When he came up before Col O'Brien with you, did he not take the attitude that his Presence was necessary at this time? In view of these circumstances: (i) that she was not in receipt of Dependents' Allowance. (ii) that she was expecting a baby, and (iii) that there were domestic difficulties where she was living with her mother. Was that not correct?
A. Allowances, yes. Baby, no.

Q. No mention was made of the baby?
A. No, but there was mention of difficulties where she was living.

Q. The situation as he stated, was that his wife was living with her mother?
A. Yes.

Q. That her mother, in fact, was supporting her?
A. No, he didn't say that.

Q. You are positive that he didn't say that?
A. No.

Q. That his wife was not working?
A. There was no mention of work.

Q. That they were living in a house owned by her father?
A. Yes.

Q. That the father threatened to throw them out?
A. Yes.

Q. Did he not suggest that the father agreed to delay it until the baby was born?
A. Yes.

Q. You gather that the situation was unhealthy between the mother and father?
A. Yes.

Q. Was not the accused listed for draft, previously?
A. I don't know.

Q. As far as you know, the Dependents' Allowance will not be paid in the normal course of events to the accused's wife for sometime yet?
A. I don't know that either.

Q. Has the marriage been approved, as yet?
A. Yes.

Q. When was it approved?
A. Recently, prior to the 10th Nov.

Q. Has approval appeared in orders, yet?
A. It did appear in orders.

Q. Was that order not cancelled?
A. It was.

Q. How was the seriousness of the offence stated to the accused?
A. In terms of punishment. I told him that he would be liable to punishment of two years and over.

Q. Is that not true of almost any army offence?
A. That I could not tell you.

Q. You say that the accused was listed for draft UKAG 15. Was the order placing him on UKAG 15 read out to him?
A. There was no such thing as an order for UKAG 15. There was a Nominal Roll.

Q. Do you know where the order for the UKAG 15 is, presuming there is an order?
A. There is a movement order issued by records office,

Q. Was that read to the accused?
A. He was not there when the movement order was given to that draft.

QUESTIONS BY THE COURT

Q. When Capt Marrus paraded the accused to you, what did the accused then say to you?
A. He stated his difficulties in short, and immediately asked to be paraded to the COlonel.

Q. That is the occasion on which, before parading him to the Colonel, you gave him the warning again, individually?
A. Yes.

IN THE OPINION OF THE COURT IT IS UNNECESSARY TO COMPLY WITH RP 83(B)

2nd WITNESS FOR THE PROSECUTION
Capt MARRUS, E.L. No. 2 CACRU: sworn, states:

Q. Will you state your official capacity and duties at No. 2 CACRU?
A. I am 2 i/c "A" Squadron in charge of despatch of personnel.. I recognize the accused. I identify these documents as (i) a nominal roll of the draft UKAG 15 (ii) Candaian embarkation tag. These tags are prepared for each individual in event of draft. I tender them as exhibits.

COURT:

The court will mark them for identification, but will not accept them as exhibits at the present time.

PROSECUTOR CONTINUES THE CROSS EXAMINATION

Q. Were you in charge of the draft UKAG 15?
A. I was.

Q. When did the first parade of this draft take place?
A. There were many parades of the draft in part. The first full muster parade was held at 1300 hours on the 7 Nov 44

Q. Was the accused present?
A. He was.

Q. What warning did you give the parade, if any?
A. I warned the parade that they had been selected for o/s draft, that I did not know when the draft was leaving, but they would be required to be on all parades called for that draft, and any absence from these parades would call for a charge of desertion rather than AWL

Q. Was the accused given any other warning?
A. Yes, he was.

Q. Under what circumstances?
A. The following day, as a result of many things which had intervened, I felt it necessary to have the accused specially warned, and I had him paraded to Major Astrop for that purpose. At that time, Major Astrop warned him in my presence, and in the presence of SSM Beckerson and Sgt Mitchell that he was on o/s draft, that he would be required to be on all parades of that draft, and any failure to

be present on such parades would result in a charge of desertion.

Q. When was the next full muster parade for the draft?
A. There was a muster parade every day at 1300 hours. I can not tell you positively whether the accused was on parade on the 9th or not. There was a muster parade on the 10th at 1300 hours. I called the roll that day. The accused was present. As a matter of fact, I looked for him. I just finished calling the roll at 1320 hours when a runner came and reported to me. As a result of the information I received, I then warned the draft that they would be leaving at 1400 hours that day, and that they would break off to their quarters and prepare to move at 1350 hours.

Q. Was the accused present when the parade again formed up at 1350 hours?
A. The roll was not called until 1400 hours. I marched the men over to records office and he was not present at that time.

Q. What action did you take?
A. It was not necessary to report it to Major Astrop as he was present, but a search of the lines was made.

Q. Was the accused found?
A. He was not in by the time the draft had moved off, but some time later.

CROSS EXAMINATION BY THE DEF OFFR

Q. When did the accused come to your Squadron?
A. I know of him having been in the Squadron for at least a month prior to UKAC 15. I know that because he had been up on UKAC 14, 13 and 12 which were approximately one week apart. There were three drafts which I recall the accused being on, then my dealings with the man. When they come on draft, I have not any knowledge of when they arrive.

Q. Did he come to you as a battle casualty?
A. I can not answer that of my own knowledge, but I believe he did.

Q. Did he, when placed on draft, approach you in regard to his difficulties regards his marriage?
A. Yes, he did along with the Padre.

Q. You gather that he had been in touch with the Padre before seeing you?
A. Yes.

Q. Was his difficulty that he had married in September without permission?
A. Yes.

Q. The accused, the Padre and yourself discussed the matter and agreed to take him off draft until such time as his difficulty was cleared up?
A. The Padre asked that he be taken off draft until such time as permission to marry was granted and pointed out that unless he had the man available to file the necessary documents, it would be extremely difficult to get the matter through.

Q. So, on a couple of drafts, he was taken off, pending completion of his application to marry?
A. Yes.

Q. Finally approval came through and was published in orders?
A. Yes.

Q. Shortly afterwards, that order was cancelled?
A. I believe so. I didn't see the order, but I think so.

Q. Then he was placed on this draft UKAG 15, and he approached you and was paraded to Major Astrop.
A. No at first. When he approached me again, on the 7th or 8th, I went with him to the Padre. As a result of the discussion with the Padre I did not recommend him to be taken off the draft.

Q. Did it arise during the conversation that his wife was expecting a baby before the first of December?
A. Yes it did. The conversation was with the Padre, the accused was there.

Q. During the conversation in the Padre's office, did the matter of difficulty between this girls mother and father arise?
A. It was one of many things.

Q. It would appear from the conversation that this situation was not of particular recent origin?
A. So the accused indicated.

Q. In other words, it was a situation which had been there for some time?
A. He said so.

Q. Is Dependents' Allowance being paid to this man's wife?
A. You will have to tell me the date of the order approving the marriage.

CROSS EXAMINATION BY THE PROSECUTOR

Q. You state that after consulting with the Padre, and due to the recommendations made by the Padre, you did not take the accused off the last draft list?
A. That's right.

Q. Were you present when Col O'Brien, having knowledge of the facts at stated, again refused to take him off the draft list?
A. No, I was not present.

3rd WITNESS FOR THE PROSECUTION

A.11537 SSM BECKERSON C.W. No. 2 CACRU, sworn, states:

Q. Were you present at the parade of the draft UKAG 15 at 1300 hours 10 Nov 44?
A. No, I was not, Sir.

Q. Were you present on a draft parade when the accused was there?
A. Yes, Sir. On the 7 Nov, afternoon parade.

Q. Do you recognize the accused?
A. Yes, SIR.

Q. Was he on that parade?
A. Yes.

Q. Were you present at any other time when the accused was warned concerning a draft?
A. Yes, Sir. On the 8 Nov, the following day, at approximately 1400 hours in the Squadron Orderly room, I was present when Major Astrop warned the accused that he was on draft, that he would be present on all draft parades, and any absence from these parades or when the draft finally left would make the accused liable to a charge of desertion, and a penalty of two year imposed.

QUESTIONS BY THE COURT

Q. You said that you were present on the afternoon parade of 7 Nov?
A. Yes, Sir.

Q. Was the accused there?
A. Yes, Sir.

Q. Were there any instructions given on that parade?
A. Capt Marrus, on the afternoon parade of the 7 Nov, when the draft was formed up on the parade ground, told the draft that they were finally warned for draft, and that any absence from parades called for draft, or any absence at the time the draft left could be charged with desertion.

Q. Was the roll called?
A. The roll was called, Sir.

Q. By whom?
A. By Capt Marrus, SIR.

Q. DO you know if the accused answered that roll?
A. I could not say.

Q. Was the accused there?
A. I saw him there.

4th WITNESS FOR THE PROSECUTION
K.66766 Tpr. GREENO J.E. No. 2 CACRU, sworn, states:

I recognize the accused. I am a member of the Regimental Police at No. 2 CACRU. While on duty in the guard room at No. 2 CACRU on the evening of 10 Nov 44, the accused walked in, stepped up to Cpl St. Laurent and says: "I guess you are looking for me." So Cpl Laurent says, "Why?" The accused says, "I believe I have missed a draft." or something to that effect.

CROSS EXAMINATION BY THE DEF OFFR

Q. When the accused came into the guard room, I suggest to you that he said: "I have been reported AWL"
A. I am sure that he said: "I have missed a draft".

Q. Cpl St. Laurent has said that the accused reported to him and enquired if he had been reported AWL. Is that correct?
A. To that effect, but he did say "I was absent from the draft". That was the way I understood it.

Q. You would not be too positive of how he said it?
A. No, Sir.

Q. Is that all he said?
A. Yes, Sir.

Q. Did the accused make any comment?
A. No, Sir.

Q. Who locked him up?
A. L/Cpl Scarfe.

Q. How long was the accused in your presence?
A. I don't know, Sir. Not very long. Just to change clothes.

Q. And the accused made no other statement during that period?
A. Just for belongings, Sir.

Q. You don't remember any words?
A. No, Sir.

Q. I suggest to you that you don't remember any words that were said?
A. I do remember words, Sir.

Q. Why, in the summary, did you put in "or words to that effect" then if you knew they were the exact words.

A. I put in, I believe: "I have missed a draft".

Q. And followed by the words "Or words to that effect"?
A. Yes, Sir.

Q. If you remember the exact words, why did you put in "Or words to that effect"?
A. Whether he said "I did miss a draft" or "I have missed a draft" I am not sure, but the exact words were to that effect. I do not remember just which.

Q. But he didn't say "I believe I am AWL"
A. No, Sir.

Q. Then Cpl St.Laurent did not know what he was talking about?

COURT: I think you have gone far enough, unless you are going to call Cpl St.Laurent. Unfortunately he is up in Scotland.

PROSECUTOR: That is the course for the prosecution, but I am not calling the other witnesses in the summary as they are not available.

IN THE OPINION OF THE COURT IT IS UNNECESSARY TO COMPLY WITH RP 83(8)

COURT: Are there any witness who appeared in the summary whose attendance here you require in the cross examination.

DEFENCE: No, but there are two small points involved which arise. The 3rd para of note 1, section 12 states: "In order to establish in evidence that a soldier has deserted or attempted to desert "when under orders for embarkation," the original or a certified true copy of orders detailing the accused for embarkation must be produced by a witness on oath, and evidence must be given that the orders were duly posted or brought to the notice of the accused, or that he was otherwise in a position to be acquainted with the contents (see K.R. 1099,1100). This would not, however, exclude proof of verbal orders for embarkation given by a C.O. in an emergency."

I submit of course that the last sentence does not apply here. A draft has been prepared 5 days before it leaves, and it can hardly be said that there is an emergency which would preclude a written order. It could be put in an order that so-and-so are detailed for UKAG15. And there is some such order in existence, although I can't find where it is, and the note says it must be produced. I do not see that there is any emergency that would waive that production. The emergency as referred to in the latter part of the foot note would be such as where the situation arose where the order must be issued and acted upon in a matter of hours, thereby precluding the possibility of preparing the order. That does not apply here. The evidence we have had so far on the matter of the accused being placed on draft has been purely evidence of the order placing him on draft, but according to the best authority, the order itself must be produced to prove he is, in fact, on draft, and this has not been done. The evidence did not cover a small point, and it is, in fact, that this draft, as far as I recall from the evidence so produced, has not, in fact, proceeded from No. 2 CACHU overseas. That of course is a matter of record. I don't think it is in the record, and of course, if it has not been shown that the draft has proceeded o/s, this man could not have been listed. I therefore submit that the prosecution has not provided a Prima facie case.

PROSECUTION: In reference to the notes in section 12 - we seem to be going into this section quite often - that it reads: "Or that he was otherwise in a position to be acquainted with the contents" It has been shown that the accused was warned that he was on

draft, and that the draft would be leaving at a certain hour, and failure to be present would result in a charge of desertion. There can hardly be any doubt in the mind of the accused that he was on a draft proceeding for o/s.

THE ACCUSED DOES NOT WISH TO MAKE A STATEMENT NOR WISH TO CALL ANY WITNESSES

SUBMISSION BY THE DEF OFFR

The accused will not give any evidence or call any witnesses, but I wish to address the court on the finding:

In this particular case, we assume that this man was warned for draft, and all the evidence we have heard, was in regard to his state of mind during the formation of the draft. And that was, that his whole function of his mind was fixed on the home and family difficulties of his wife that completely occupied his mind. Now to convict on the charges laid, there must be a positive proof of intention on the accused' part of avoiding not necessarily the draft, but a special service such as o/s service. I mean it must be a positive intention to avoid this service, not a carelessness as whether he missed it or not, but a positive intention, and everything as far as his state of mind submitted by the prosecution, manely, Major Astrop and Capt Marrus do not indicate anything as to him intending to avoid this special service, ~~xxxx~~ namely to get out of o/s service, but rather that his mind was fully occupied with the problems facing his wife, both monetary and the unhappy situation at home. AND if he had any intention, it was to be near where he could assist his wife, rather than avoid o/s service. And I wish to draw this distinction that the intention that must be proved is to avoid a special service which is o/s service. It is not the intention to avoid the draft. The intention to avoid this o/s service must be positively proved by the prosecution. It is for the defence to prove what the intention was, or to prove that was not the intention, and as far as the prosecution evidence goes to show that his state of mind is such that if he had an intention, it is more, and definitely should be, to be of assistance to his wife, and not to avoid o/s service.

SUBMISSION BY THE PROSECUTION

I fail to understand the last statement of the defending officer in which he states that the accused did not intend to avoid the draft. The notes state intent must be shown, and I quote: "TO avoid embarkation for service abroad", The prosecution has no desire to prove the reasons for his avoiding this service. We have shown that the accused was aware of his presence on the draft, that he was consistently warned about liability, and despite these facts, regardless of the consequences, he did absent himself with intent to avoid service abroad. I am trying to point out the reason that the charge of desertion was laid. And that the accused could not help knowing that he had avoided a draft for o/s. I think there can be no doubt in anyone's mind that the act did take place, and I ask the court, on the evidence presented, to consider that the prosecution has shown intention to avoid embarkation for o/s service

THE COURT WILL NOW BE CLOSED TO CONSIDER ITS SUBMISSION BY THE DEFENDING OFFICER

PLEA IN MITIGATION

THe accused, although his record shows him to be 22, he tells me, in fact, he is 20 years of age. In other words, he arranged his age 2 years in order to join the Army. He was born in Massachusetts, USA 1924 and subsequently came to Canada with his family shortly prior to joining up. He joined the Army in Sep 1941, came overseas Mar 42 as a reinforcement to No. 2 CACRU. He went to the 1st Hussars Jul 42, and remained at that unit until such time as he was evacuated from France as a casualty. There seems to be some difficulty in the record as to what his qualifications have been from time to time, but it is definitely known in his documents that he is a qualified Gnr Op, and is presently in receipt of trades pay as such. When he was in France, he had information that his present wife was in the family way and he made application for permission to marry, or rather he launched an application. However, the fact that he was in France and she up in Glasgow, it was difficult lining up the papers, with the result that he got the papers the day before he was discharged from hospital in England. The day of his discharge he went on leave to Glasgow. THat was early in September, the 7th or 8th of September this year and he was married to his wife on the 12th. His wife was 18 years of age. His wife was working as a fitter in an assembly plant in Glasgow, but due to her position, had to terminate her employment early this year. Since that time she has been living with her mother in a house owned by her father. But since she has discontinued working, she has had to be supported by her father. The story I got is that the father and mother are estranged although they do live under the same roof, but they do not speak, and the father has threatened to turn the child and the mother out. The accused states that while he was on leave arguing the father out of this action, the most the father would say was to delay it until the baby was born. The accused received a telegram yesterday, I believe, from Glasgow, which I read, and file with the court

DEF OFFR READS TELEGRAM TO THE COURT (attached)

It would indicate that the son was born on the 21 Nov. As we have in evidence, the accused has been quite worried about the monetary end of the thing, and although he was married on the 12th and presumably shortly afterwards presented an application for approval of marriage, that approval was not granted to the accused until the end of October. There the situation may arise whether the accused knew what the situation was. Well, I ask his Squadron commander Major Astrop what the situation in regard to DEpendents' Allowance was and he stated he did not know. How can you expect the accused who has no knowledge, presumably of routine orders, in any event, not the knowledge of a Sqdn Cmdr, how can we assume that he knew the situation was clarified, especially in view of the fact that approval of marriage was published and cancelled. It is the most confusing situation they could put this man in as regards the feeling that the situation has not been cleared up. Put yourself in his place, and not knowing what the routine orders say, it is a most confusing situation. The fact remains that as far as he was concerned, the situation was just as bad as it was a month ago. Then we must realise that in addition to the Dependents' Allce question there is the matter of the home. His wife who is to have a child shortly and who has been threatened with eviction, must first have a home. She is 18 and he is 20, officially 22, can we blame him for such thinking, for thinking he should assist his wife. Admittedly, he did wrong. It would have possibly been worse for his wife, if he had gone to France, or where he was going. But can we blame him in view of the facts that on a couple of occasions he was taken off draft for less reasons. It seemed the best thing he could do. As he has had experience in France, he assures me he does not

hesitate to go back. The reason he is here today is concern for his wife, and the allowance, as far as he knows, he does not know the score. Other things being equal, he will get D.A. in September. Normally the fact that his wife is threatened with being homeless and without funds, and shortly the fact that she was expected to give birth to a child in a matter of days, and to a young girl of her age, that is a pretty important matter. In the Army sense, he was wrong, but in the main sense it was not wrong. It is not a matter of being afraid to go to France. He knows something of the score and would like to go back. He would like to get his marital situation fixed up. We know the soldier's record. He is quite young. Taking these into consideration, the state of mind of this fellow and the fact that he is trying to get out of the Army or get away from duty. The absolute minimum should be given to this man. It is not going to do him any good or the Army any good to put him away for a few months. It will do his wife more good and the country more good if he can be given a light sentence and get back to France where he can fight for his country.

Charges to pay
s d.
RECEIVED

POST OFFICE

TELEGRAM

No.
OFFICE STAMP

Prefix 43 Time handed in. Office of Origin and Service Instructions. Words.

TS 4/44pm

From

243 2-4 PM BISHOPBRIGGS 22 · To

-PRIORITY- TPR WM BRIGG B 62108 A SQUAD NO 2
CAC RU CANADIAN ARMY OVERSEAS CANRECORDS W 3 ·

· JEANETTE AND SON DOING WELL = MOTHER ·

B 62108 2 ·

ords telephone "TELEGRAMS ENQUIRY" or call, with this form
es should be accompanied by this form and, if possible, the envelope

M.F.R. 455
30M—11-41 (2274)
H.Q. 1772-39-650
A.F.B. 296

STATEMENT AS TO CHARACTER AND PARTICULARS OF SERVICE OF ACCUSED

Number	Rank	Name	Regiment (or unit)
B62108	Tpr	GRIGG, W.C.	No. 2, CACRU

1. The following is a fair and true summary of the entries in the [redacted] Regimental and Squadron, [redacted] Conduct sheets [redacted] of the accused, exclusive of convictions by a Court-Martial or a Civil Court, of summary awards under Section 47 of the Army Act and of cases in which trial has been dispensed with.

	Within last 12 months		Since enlistment or appointment	
For	A.A. Sec 15(1)	1 times	A.A. Sec 15 (1)	6 times
For	NIL	times	A.A. Sec 40	5 times
For		times		times
For		times		times

[redacted]

NOTE.—If the charge is for drunkenness, the entries for drunkenness must be stated separately.

2. The accused has not been previously convicted

or,

[redacted]

3. The accused is not under sentence at the present time.

or,

[redacted]

4. The accused has been in confinement awaiting trial on the present charges, for nil days in civil custody, and 13 ~~Nil~~ days in military custody, making a total of 13 ~~Nil~~ days in custody, of which nil days were spent in hospital.

5. The present age of the accused according to his [redacted] attestation paper is 22 Years and 27 days.

6. The date of his [redacted] attestation specified in his [redacted] attestation paper 12 August, 1941

7. [redacted]

8. [redacted]

9. [redacted] State any [redacted] military decoration or reward. Canadian Volunteer Medal & Clasp.

10. [redacted]

11. [redacted]

12. [redacted] present date:—

[redacted]

NOTE.—If any matter in any of the above paragraphs cannot be stated from the Regimental books, the paragraph must be struck through.

SCHEDULE

Of convictions by a court-martial or civil court, of summary awards under Section 47 of the Army Air Force Act, and of cases in which trial has been dispensed with of accused. Number ..... Rank ..... Unit ..... Name ..... of ..... Regiment

NOTE.—A verbatim extract from the regimental books stating these convictions and dispensations with trial must be inserted.

Description of Court by which tried	Date and Place of Trial	Charge upon which convicted	Sentence of the Court	Punishment Remitted

I hereby certify that the foregoing schedule of convictions and dispensations with trial is a true extract from the regimental books in my custody.

Signed this 23rd day of November, 1944.

The above statement (with the schedule of convictions and of cases in which trial has been dispensed with) is read, marked ..... signed by the president, and annexed to the proceedings.

(M.B. Kent, Capt & Adjt,
No. 2. C.A.C.R.U.

No B62108 Name Grigg, WC. | Sqn, Battery, or Company | Corps CAC | Date of enlistment 12.9.41 | GC Badges | Service or Proficiency Pay N/A | MFM 6 (AFB 122) 40/PAS/136 (3488)

Date of last entry in Company Conduct Sheet N/A | No and date of last drunk NIL | Period not reckoning towards freedom from extra fine N/A | Sheet No 1 | Signature OC Company, etc WD Brooks Maj | Character

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with same	By whom awarded	Remarks
				Pevious sheet destroyed 12 Mar 42 WD Brooks Maj					
Field	14.9 42	Tpr		AA Sec 40 Conduct to the prejudice...dirty and idle on guard	P1003 RSM Jewkes VW	5 Extra Guards	15;9.42	Capt W.D. Brooks	
Field	4.10	Tpr		AA 15 (1) AWL from 1200 hrs 4.10 42 until 1400 hrs 4.10.42(Total 12 hrs)	A 463 L/Cpl Simmons, TK	7 days CB	5.10.42	Capt H.S. Brydges	
Field	12.10	Tpr		AA 40 Conduct to the prejudice of good order...dirty boots on parade.	P1690 L/Sgt Shaw, BS	7 days CB	13.10.42	Maj W.D. Brooks	

(PTO)

No B62108 Name Tpr Grigg, WC | Sqn, Battery, or Company | Corps CAC | Date of enlistment 12.9.41 | GC Badges | Service or Proficiency Pay NA | MFM 6 (AFB 122) 40/PAS/136 (3488)

Date of last entry in Company Conduct Sheet N/A | No and date of last drunk NIL | Period not reckoning towards freedom from extra fine NA | Sheet No 2 | Signature OC Company, etc illegible | Character

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with same	By whom awarded	Remarks
Field	4 Oct 43	Tpr		AA 15 (1) AWL from 2359 hrs 4 Oct 43 until 2115 hrs 11Oct 43.(Total time absent 6 days 21 hrs 16 mins)	Cpl Anderson Cpl Merlin	28 days Fd punishment	11 Oct 43	Maj E.M. Harding	Forfs 28 d days pay FR&I 149 (1) (c) Forf 7 days pay FR &I 149 (1) (a) Total forfs 35 days pay.
Field	4 Jan 44	Tpr		AA 15(1) AWL from 1800 hrs 4 Jan 44 to 0830 hrs 5 Jan 44 (14 hrs 30 mins.)	B102690 Cpl Harrison L	7 days Pay 14 days CB	20 Sep 44	Col R.W. Colwell	

(PTO)

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Field	2 Dec			AA Sec 40 Conduct to the prejudice of good....dirty hat badge.	P1690 Sgt Shaw BE	3 Days CB	3 Dec 42	Maj W.D. Brooks	
Field	18 Dec	Tpr		AA 40 Conduct to the prejudice ..failed to rise at rev.	A463 L/Cpl Simmons TK	7 days CB	18 Dec42	Maj W.D. Brooks	
Field	30 Mar	Tpr		AA 40 Conduct to the prjudice Failinf to rise at Reveille	A463 L/Cpl Simmons TK	7 days CB	31 Mar44	Capt H.A. Harrison	
Field	17 Apr	Tpr	Apr	AA 15(1) AWL from 0740 hrs 17 until 0755 hours 17 Apr 43. (15 mins)	A361 Cpl Hays HO	3 days CB	17 Apr43	Maj W.D. Brooks	
Field	12 Aug	Tpr		AA 15(1) AWL from 1020 hrs until 1235 hrs 12 Aug 43 (15 mins)	A.246 Cpl Belmer	7 days CB	12 Aug43	Capt J.W. Nolan.	

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Field	18 Sep 44	Tpr		AA Sec 15(1) WOAS AWL from 2359 hrs 18 Sep 44 until 0955 hrs 19 Sep 44(Total Absence 9 hrs 56 mins)	hrs Documentary	Forfs 3 days pay AA Sec 4[illegible](2)(c)	20 Sep 44	Col R.W. Colwell	Forfs 1 days pay FR&I 149 (1)(a) forfs 3 days Pay FR'I 149 (2)

CERTIFIED TRUE COPY

(M.B. Kent)Capt & Adjt.
No. 2. C.A.C.R.U.

NO. 2 CANADIAN ARMOURED CORPS REINFORCEMENT UNIT
SUMMARY OF EVIDENCE

IN THE CASE OF

Boxxxx Tpr Griggs, W.C., of
No. 2. Canadian Armoured Corps Reinforcement Unit.
A soldier of the Canadian Army Overseas.
Taken at 2 CACRU on the 14 Nov 44.

FIRST WITNESS:
For the
Prosecution

Major, L.E. Astrop, "A" Sqn No. 2. CACRU, having been duly sworn, states:

"I am the OC of "A" Sqn No. 2. CACRU and as such am in charge of the intake and de-patch on draft of personnel of 2 CACRU. At a muster parade of draft UKAG 15, at 1300 hours, Tuesday, 7 Nov 44, I was present when the draft was warned for overseas service by Capt E.L. Marrus. Tpr Griggs when I recognise as the accused was present at this parade. During the afternoon of 8 Nov 44, Tpr Griggs asked to be paraded before me. He asked to be removed from the draft stating that he had family difficulties. I heard his story but refused to grant him his request. He then asked to be paraded before higher authority and arranged for him to be paraded before Lt-Col O'Brien at approx 1400 hours. At 1330 hours, Wednesday, 8 Nov 44, it was felt that Tpr Griggs should be given a special warning and was therefore paraded to my office and warned by myself that he was warned for overseas service and would probably be leaving on Friday 10 Nov 44. It was explained to him that he was to be present on all draft parades and in the case of being absent from parade or AWL when the draft left, he would be liable to be charged with desertion. The seriousness of the offence was explained to him. Present at this warning were Capt E.L. Marrus, 2 i/c "A" Sqn, Sgn Heckerson, C.W., NSM of "A" Sqn and Sgt Mitchell, G., "A" Sqn. The reason I warned Tpr Griggs specially was that he has been removed from previous drafts on his own request, stating that he had family difficulties. He had approached Capt Marrus when placed on this draft. Capt Marrus referred the matter to me accordingly. He had him paraded before me. At 1330 hours on Friday 10 Nov 44, I was present at a muster parade of the draft and Tpr Griggs was present on this parade. The draft was warned to put on their kits and be back on parade at 1350 hours. At 1350 hours, and until the draft moved at 1500 hours, I was present with the parade. When the roll was called for the issuing of embarkation cards, Tpr Griggs was absent, and was still absent when the draft left. At that time I submitted an absentee report on him."

The accused declines to cross-examine the witness.

[signature]
Capt/Major.
No. 2. C.A.C.R.U.

The witness withdraws.

SECOND WITNESS:
For the
Prosecution.

Capt E.L. Marrus, No. 2. CACRU, having been duly sworn, states:-

"I am 2 i/c of "A" Sqn, No. 2. CACRU. My duties include the taking charge of all drafts leaving this Unit. Draft UKAG 15 was formed on 6 Nov 44.

"On the 7 Nov 44, at 1300 hours, I mustered the entire draft on parade. Tpr Grigg W.G. whom I recognize as the accused, was present at that time. Following the muster, I warned the draft that they were officially warned for overseas service, that the time of their departure was not yet known but that they were required to be on all parades, and were warned that absence from these parades would make them liable to be charged with desertion. When previous drafts for overseas were formed in September and October, Tpr Grigg had been placed on them, but on presenting himself to me and giving me his reasons, and through the representations of the Padre of this Unit, I had him removed. After the parade on the afternoon of the 7 Nov 44, Tpr Grigg presented himself to me and gave me the same reasons and others as to why he should again be removed from this draft. On the morning of the 8 Nov 44, I took him to the Padre's Office and discussed his case fully with the Padre. After this discussion and the recommendation of the Padre, my decision was that his case did not justify him being removed. In the afternoon on the 8 Nov 44, I had him paraded before Major Astrop, so that he could be specially warned. Present at this warning were SSM Beckerson and Sgt Mitchell. Major Astrop again warned Tpr Grigg for overseas draft and again warned him that he would be liable to a charge of desertion if he absented himself from further parades of this draft. On 10 Nov 44 at 1300 hours, the draft was on parade for a complete mustering by myself. Tpr Grigg was present on this parade. At 1320 hours, I received word while the parade was still formed up that the draft would proceed at 1400 hours. I then ordered the men to return to their barrack rooms, put on their equipment and to return to the parade ground at 1350 hours and that the draft was proceeding at 1400 hours. When I called the roll at 1400 hours, Tpr Grigg was absent and on search of the Unit lines he could not be found. His equipment was on his bunk and I ordered it to be returned to the QM Stores. He was still absent when the draft left at approximately 1500 hrs."

The accused declined to cross-examine the witness.

(E.L. Marrus) Capt.
No. 2. C.A.C.R.U.

The witness withdraws.

THIRD WITNESS: For the Prosecution.

M63687 Sgt Mitchell, G., "A" Sqn No. 2. CACRU, having been duly sworn, states:-

"I am the permanent Orderly Sgt of "A" Sqn. At approximately 1400 hours on the 8 Nov rr, I was present in Major Astrop's Office when Tpr Grigg, W.G., was paraded before him. Present were Capt Marrus, SSM Beckerson and myself. I distinctly remember Major Astrop warn Tpr Grigg for overseas service on draft UKAG 15, which was expected to leave on Friday, 10 Nov 44. He also warned him that he would be liable to be charged with desertion if he absented himself from any future parades of the draft. I was not present at the muster parade at 1300 hours, 10 Nov 44, but received the report that Tpr Grigg

NO. 2 CANADIAN ARMOURED CORPS REINFORCEMENT UNIT
SUMMARY OF EVIDENCE

IN THE CASE OF

B62108 Tpr Grigg, W.C., of
No. 2. Canadian Armoured Corps Reinforcement Unit.
A soldier of the Canadian Army Overseas.
Taken at 2 CACRU on the 14 Nov 44.

FIRST WITNESS:
For the
Prosecution

Major, L.E. Astrop, "A" Sqn No. 2. CACRU, having been duly sworn, states:-

"I am the OC of "A" Sqn No. 2. CACRU and as such am in charge of the intake and despatch on draft of personnel of 2 CACRU. At a muster parade of draft UKAG 15, at 1500 hours, Tuesday, 7 Nov 44, I was present when the draft was warned for overseas service by Capt E.L. Marrus. Tpr Grigg whom I recognise as the accused was present at this parade. During the afternoon of 8 Nov 44, Tpr Grigg asked to be paraded before me. He asked to be removed from the draft stating that he had family difficulties. I heard his story but refused to grant him his request. He then asked to be paraded before higher authority and I arranged for him to be paraded before Lt-Col O'Brien at approx 1400 hours. At 1330 hours, Wednesday, 8 Nov 44, it was felt that Tpr Grigg should be given a special warning and was therefore paraded to my office and warned by myself that he was warned for overseas service and would probably be leaving on Friday 10 Nov 44. It was explained to him that he was to be present on all draft parades and in the case of being absent from parade or AWL when the draft left, he would be liable to be charged with desertion. The seriousness of the offence was explained to him. Present at this warning were Capt E.L. Marrus, 2 i/c "A" Sqn, SSM Beckerson, C.W., SSM of "A" Sqn and Sgt Mitchell, G., "A" Sqn. The reason I warned Tpr Grigg specially was that he had been removed from previous drafts on his own request, stating that he had family difficulties. He had approached Capt Marrus when placed on this draft. Capt Marrus referred the matter to me accordingly. He had him paraded before me. At 1330 hours on Friday 10 Nov 44, I was present at a muster parade of the draft and Tpr Grigg was present on this parade. The draft was warned to put on their kits and be back on parade at 1350 hours. At 1350 hours, and until the draft moved at 1500 hours, I was present with the parade. When the roll was called for the issuing of embarkation cards, Tpr Grigg was absent, and was still absent when the draft left. At that time I submitted an absentee report on him."

The accused declines to cross-examine the witness.

Major,
No. 2. C.A.C.R.U.

The witness withdraws.

SECOND WITNESS:
For the
Prosecution.

Capt E.L. Marrus, No. 2. CACRU, having been duly sworn, states:-

"I am 2 i/c of "A" Sqn, No. 2. CACRU. My duties include the taking charge of all drafts leaving this Unit. Draft UKAG 15 was formed on 6 Nov 44.

"On the 7 Nov 44, at 1300 hours, I mustered the entire draft on parade. Tpr Grigg W.C. whom I recognize as the accused, was present at that time. Following the muster, I warned the draft that they were officially warned for overseas service, that the time of their departure was not yet known but that they were required to be on all parades, and were warned that absence from these parades would make them liable to be charged with desertion. When previous drafts for overseas were formed in September and October, Tpr Grigg had been placed on them, but on presenting himself to me and giving me his reasons, and through the representations of the Padre of this Unit, I had him removed. After the parade on the afternoon of the 7 Nov 44, Tpr Grigg presented himself to me and gave me the same reasons and others as to why he should again be removed from this draft. On the morning of the 8 Nov 44, I took him to the Padre's Office and discussed his case fully with the Padre. After this discussion and the recommendation of the Padre, my decision was that his case did not justify him being removed. In the afternoon on the 8 Nov 44, I had him paraded before Major Astrop, so that he could be specially warned. Present at this warning were SSM Beckerson and Sgt Mitchell. Major Astrop again warned Tpr Grigg for overseas draft and again warned him that he would be liable to a charge of desertion if he absented himself from further parades of this draft. On 10 Nov 44 at 1300 hours, the draft was on parade for a complete mustering by myself. Tpr Grigg was present on this parade. At 1320 hours, I received word while the parade was still formed up that the draft would proceed at 1400 hours. I then ordered the men to return to their barrack rooms, put on their equipment and to return to the parade ground at 1350 hours and that the draft was proceeding at 1400 hours. When I called the roll at 1400 hours, Tpr Grigg was absent and on search of the Unit lines he could not be found. His equipment was on his bunk and I ordered it to be returned to the QM Stores. He was still absent when the draft left at approximately 1500 hrs."

The accused declined to cross-examine the witness.

(H.L. Marrus)Capt.
No. 2. C.A.C.R.U.

The witness withdraws.

THIRD WITNESS: For the Prosecution.

R53687 Sgt Mitchell, G., "A" Sqn No. 2. CACRU, having been duly sworn, states:-

"I am the permanent Orderly Sgt of "A" Sqn. At approximately 1400 hours on the 8 Nov rr, I was present in Major Astrop's Office when Tpr Grigg, W.C., was paraded before him. Present were Capt Marrus, SSM Beckerson and myself. I distinctly remember Major Astrop warn Tpr Grigg for overseas service on draft UKAG 15, which was expected to leave on Friday, 10 Nov 44. He also warned him that he would be liable to be charged with desertion if he absented himself from any future parades of the draft. I was not present at the muster parade at 1300 hours, 10 Nov 44, but received the report that Tpr Grigg

"was absent at 1350 hours, 10 Nov 44, and was still absent until 1900 hours, 10 Nov 44, when he reported to the Regimental Police, who reported this information to me".

The accused declined to cross-examine the witness.

G. Mitchell
(M63887 Sgt Mitchell, G.)
No. 2. C.A.C.R.U.

The witness withdraws.

FOURTH WITNESS: For the Prosecution.

A11537 SSM Beckerson, C.W., "A" Sqn No. 2. CACRU, having been duly sworn, states:-

"I am SSM of "A" Sqn No. 2. CACRU. I was present at a muster parade of draft UKAG 18 at 1300 hours 7 Nov 44, when Capt Marrus warned those present for overseas draft, and warned them that they would be liable to be charged with desertion if they were absent from any future parades of this draft. Tpr Grigg, W.C. the accused whom I recognize, was present on this parade. At approximately 1400 hours, 8 Nov 44, I was also present in the Office of Major Astrop, OC "A" Sqn, when he again warned Tpr Grigg for this draft and repeated to him the warning that should he absent himself from future parades, he would be liable to be charged with desertion."

The accused declined to cross-examine the witness.

C W Beckerson
(A11537 SSM Beckerson, C.W.)
No. 2. C.A.C.R.U.

The witness withdraws.

FIFTH WITNESS: For the Prosecution.

B62267 Cpl St.Laurent, A., No. 2. C.A.C.R.U., having been duly sworn, states:-

"I am a Corporal of the Regimental Police, No. 2. CACRU, and was on duty at the command post during the evening of 10 Nov 44. At approximately 1900 hrs, Tpr Grigg, the accused whom I recognize reported to me and enquired if he had been reported as absent without leave. The absentee report had reached my office. He was sober and properly dressed. I placed him under close arrest."

The accused declined to cross examine the witness.

A St Laurent
(B62267 Cpl St.Laurent, A)
No. 2. C.A.C.R.U.

The witness withdraws.

Question to the accused by Officer taking down the Summary of Evidence.

Q.1. "Do you wish to make any statement or to give evidence upon oath? You are not obliged to say anything or to give evidence unless you wish to do so, but whatever you say, or any evidence you give will be taken down in writing and may be given in evidence."

Answer by accused.

A.1 "Not at this time, Sir".

Certified that Rule of Procedure No. 4(C,D,E,F) have been complied with.
Taken down by me at Warburg Barracks, Aldershot, Hants, in the presence and hearing of the accused, this

14th day of November, 1944.

Weber

(W C Weber) Major,
No. 2. C.A.C.R.U.

NO. 2 CANADIAN ARMOURED CORPS REINFORCEMENT UNIT
SUMMARY OF ADDITIONAL EVIDENCE

IN THE CASE OF

B62108 Tpr. Grigg, W. G., of
No. 2 Canadian Armoured Corps Reinforcement Unit.
A soldier of the Canadian Army Overseas.
Taken at 2 CACRU on the 20 Nov 44.

FIRST WITNESS: K-66766 Tpr. Greeno, J. E., No. 2 CACRU, having been duly sworn, states:-

"I am one of the Regimental Police of No. 2 CACRU and was on duty with Cpl. St. Laurent, in the Command Post, during the evening of 10 Nov 44. At about 1900 hrs. Tpr. Grigg, W.G., the accused, whom I recognise, came into the Command Post and reported to Cpl. St.Laurent, saying,"I guess you are looking for me." Cpl. St.Laurent asked, "why"? Tpr. Grigg said, "I have missed the draft to-day"or words to that effect. Cpl. St.Laurent checked the absentee reports and found that he was reported absent. He then placed Tpr. Grigg under close arrest. Tpr. Grigg was sober and properly dressed."

J E Greeno

The accused cross-examines the witness.

Q.1. "Are you positive, that is what I said when I reported to Cpl. St. Laurent?"

A.1. "Yes."

Certified that Rule of Procedure No. 4(C,D,E,F) have been complied with.
Taken down by me at Warburg Barracks, Aldershot, Hants, in the presence and hearing of the accused, this 20th day of November, 1944.

(Signature illegible) Major
No. 2 C.A.C.R.U.

STATEMENT IN ACCORDANCE WITH RULE OF PROCEDURE 14 (B)

I, No. B62108 Trooper Grigg, William Cephes, No. 2. CACRU, desire to have an officer represent me at my Trial by Field General Court Martial.

If he is available, I desire the services of:-

Lieut. ~~[illegible]~~ R.H. Simpson

(B62108 Tpr Grigg, W.C.)
No. 2. CACRU

Wm. C. Grigg

Aldershot Hants,
24 October, 1944.

LIST OF WITNESSES

For the Prosecution

Major L.E. Astrop,	No. 2. CACRU Cdn Army Overseas.
Capt E.L. Marrus,	No. 2. CACRU Cdn Army Overseas.
M63687 Sgt. Mitchell, C.	No. ~~2. CACRU~~ NFTD Cdn Army Overseas.
A11537 SSM Beckerson, C.W.	No. 2. CACRU Cdn Army Overseas.
~~B62267 Cpl St Laurent, A.~~	~~No. 2. CACRU~~ ~~Cdn Army Overseas.~~

For the Defence.

NIL

Additional Witness for the Prosecution

K66766 Pte Greeno J.E. No 2 CACRU
Cdn Army Overseas

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Major L.E. Astrop,	No. 2. CACRU Cdn Army Overseas.
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M63687 Sgt. Mitchell, G.	No. ~~2. CACRU~~ NETD Cdn Army Overseas.
A11537 SSM Beckerson, C.W.	No. 2. CACRU Cdn Army Overseas.
~~B62267 Cpl St Laurent, A.~~	~~No. 2. CACRU Cdn Army Overseas.~~

For the Defence.

NIL

II Additional Witness for the Prosecution

K66766 Pte Greeno J.E. No 2 CACRU Cdn Army Overseas.

ND-12
PTE GRIGGS A.E

DD-12

Correspondence to be PINNED here.

Army Form A.8.

Form for Assembly and Proceedings of Field General Court Martial on Active Service.

PROCEEDINGS.

A.

Order convening the Court.

On Active Service, this Twenty-first day of April, 1943.

Whereas it appears to me, the undersigned, an officer in Command of Royal Canadian Army Service Corps, 2 Cdn Div, Canadian Army Overseas, on active service, that the persons named in the annexed Schedule, being subject to Military Law, have committed the offences in the said Schedule mentioned.

H.L. Coombs Major

And whereas I am of opinion that it is not practicable that such offences should be tried by an ordinary General Court Martial; *[and that it is not practicable to delay the trial for reference to a superior qualified officer.]

*Omit when Convening Officer is a Commanding Officer or is of Field Rank.

I hereby convene a Field General Court Martial to try the said persons, and to consist of the Officers appointed or detailed hereunder.

*[illegible]

*Omit if not applicable.

*[illegible]

*[illegible]

[illegible]

103

NOTE.—The President must be named. The members and waiting members (if any) may be mentioned by name, or the number and ranks and the unit to which they belong may alone be named. In the latter event, the ranks, names, &c., of the members of the court, as constituted, will be recorded on the proceedings.

President.

Rank.	Name.	Regiment.
Major	H.L.Coombs	R.C.A.S.C., 2 Cdn Div

Members.

Rank.	Name.	Regiment.
Capt or Lieut	to be detailed by O.C., Tor Scot R(MG)	Tor Scot R (MG)
Capt or Lieut	to be detailed by ADMS, 2 Cdn Div	R.C.A.M.C.
Waiting Member Capt or Lieut	to be detailed by C, RCASC, 2 Cdn Div	R.C.A.S.C.

*Must be signed personally by the Officer actually in command at the time, and all alterations in the composition of the Court to be initialled by him.

*Signed (W.H.Montague) Lieut-Col.
Commanding R.C.A.S.C., 2 Cdn Div
Convening Officer.

SCHEDULE.

Number, Rank (a), Name and Unit of Accused (b)	Offence charged	*Plea	Finding, and if Convicted, Sentence (c)	How dealt with by Confirming Officer (d)
B86573,Pte Albert Edward GRIGGS,6 Cdn Inf Bde Coy, R.C.A.S.C.	Army Act Sec.15(1) (See charge sheet attached)	guilty	guilty To undergo detention for 120 days 22 April '43 A.R. Coombe Major	

* Question to be asked of accused, if he pleads not guilty (R. of P. 39 (a)) :—
"Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity for preparing your defence?"
Answer (*to be recorded on separate sheet if necessary*) :—

(Signed) (W.H. Montague) Lieut-Col (Signed) A.R. Coombe Major
Commanding R.C.A.S.C., 2 Cdn Div *Convening Officer* (e) *President.*

(a) Appointment acting rank or acting appointment, if any, to be stated in brackets after the substantive rank.

(b) Unless unavoidable, not more than three names are to be entered on one form, and in serious cases one only.

(c) Recommendation to mercy, if any, to be inserted in this column.

(d) It is not necessary that the Confirming Officer should sign his name in this column. Initials are sufficient.

(e) Must be signed by the same Officer who signs on the first page, and all alterations in the first two columns of the Schedule to be initialled by him.

Evidence and Charge Sheets (if necessary) to be PINNED here.

B. Certificate of President as to proceedings.

I certify that the above Court assembled on the 22nd day of April 1943, and duly tried the persons named in the Schedule, and that the plea, finding, and sentence in the case of each such person were as stated in the third and fourth columns of that Schedule.

I also certify that :—

1. The members of the Court
2. The witnesses
*~~(3. The interpreter)~~ ffld
*(4. The officers under instruction)

* Omit if not applicable.

were duly sworn.

Signed this 22 day of April 1943.

A.R. Coombe Major
President of the Court Martial.

C. Certificate in case of death sentences.

* See footnote (b) on page 762 C.M.L. 1929.

~~I certify that the terms of *A.C.I. 570 of 1918 have been complied with.~~

~~Signed this day of ffld 19 .~~

~~*President of the Court Martial.*~~

D.

I have dealt with the findings and sentences in the manner stated in the last column of the Schedule, and, subject to what I have there stated, I hereby confirm the above findings and sentences.

* To be omitted unless penal servitude, imprisonment or detention having been awarded, the Confirming Officer either has no authority to commit to prison or detention barrack, or, having such authority, recommends suspension.

*~~I direct that the soldier named in the margin be not committed to prison or detention barrack until further orders.~~

Signed this 22nd day of ~~April~~ 1943

Confirming Officer.

Promulgated and extracts taken in the case of B86573 Pte Griggs, A.E.

(a) (Dated) 24 Apr 43. (Signed) Jas Bigelow Major

Promulgated and extracts taken in the case of

(Dated) (Signed)

Promulgated and extracts taken in the case of

(Dated) (Signed)

(a) When several cases are promulgated in one unit on the same day the Officer need only sign once.

O.U. 4792/1607 20 M. 5/41 S.J.L./3383/2 Gp. 698.3

C H A R G E S H E E T

B-86573 Pte Albert Edward GRIGGS 6 Cdn Inf Bde Coy RCASC a soldier of the Cdn Army Overseas is charged with

Sec 15(1) Army Act

Absenting himself without leave,

in that he, at approx 0900 hrs 28 Feb 43 absented himself without leave from 6 Cdn Inf Bde Coy RCASC until he surrendered himself at 1200 hrs 16 April 43.

.....
(T.W.Angelwo)Major
C.C. & C.I.B.Coy
RCASC C.A.(O)

Field
16 April 43

TO BE TRIED BY F.G.C.M.

(W.H.Montague)Lieut-Col
Comdg,RCASC,2 Cdn Div

Field
21 Apr 43

6 Cdn Inf Bde Coy R.C.A.S.C.

Canadian Army (Overseas)

22 Apr 43

I hereby certified that I have examined B86573 Pte. A .E.Griggs , and find him free from all diseases, and is fit to stand a trial for Court Martial.

(J.C.Steer) Capt,
M.O. 2 Cdn Div R.C.A.S.C.

Trial of B87513 Pte Albert Edward Guggs, 6 C I B Coy, RCASC
Held in the field 22 Apr 43
President: Major H L Coombs, RCASC, 2 Cdn Div
Members: Capt R. Blais, 11 Fd Amb RCAMC
Lieut E H Smith, Jor. Seat R(MG)

Officers under instruction:
Capt W M W Shaw, HQ. 2 Cdn Div

Prosecutor: Capt W D S Careless. 4 C I B Coy RCASC
Defending officer: Capt L A Dowling, 6 C I B Coy RCASC
Court satisfy themselves as to R P 22 & 23
Convening order read
accused is asked if he objects to President or members and answers "No, Sir"
Court & officers under instruction are sworn
Medical certificate presented
accused is arraigned & pleads "guilty" to the charge
R. P. 35 (B) complied with
Summary read, marked "A"
accused states "not much excuse for AWL but my only excuse is that I want a transfer from the unit - I am a tailor by trade & I want to get to a unit where my tailoring would be appreciated I suffer from rheumatism & I figure that if I could get out of the field I wouldn't suffer so much. At Xmas I was sent for re-board by C.O but MO of unit said it wasn't necessary and when I went for board I wasn't even examined. Doesn't wish to call character evidence
Prosecutor, duly sworn, presents AFB 296 & NFM 6 & states they relate to the accused. No cross-exam.
Defending officer in mitigation:- Suffering from rheumatism hasn't spoiled to MO because didn't want to go off duty but on one occasion he did have to go a doctor, he went to a civilian doctor & a military doctor, not his unit MO. Suggests he would be better placed in a static unit. Asks court to consider background & suggests accused would be better soldier & better for army if placed in ~~pas~~ trade. (Reviews conduct sheet) Says not bad. Requests leniency.
Court closed to consider sentence.

Certified a true record of the Trial
H L Coombs Major
President

Summary of Evidence in the case of B-86673 Pte. Albert Edward Griggs 6 Cdn Inf Bde Coy R.C.A.S.C.

The accused is informed of his rights.
The O.C. does not direct and the accused does not demand that the Evidence be taken on oath.

First Witness for the Prosecution. B-86622 Cpl.Rogers,C. 6 Cdn Inf Bde Coy RCASC states. At 1200 hrs on 16 April 43 Pte Griggs,A.E. reported to me at the guard room,knowing him to be an absentee I placed him in close arrest. He was properly dressed and sober.

Question to the accusee. Do you wish to cross-examinethis witness.
Answer. No Sir.

C.Rogers Cpl.

Second Witness for the Prosecution. B-85917 Sgt.Law,J.A.H. 6 Cdn Inf Bde Coy RCASC states. At approx 0900 hrs on the 28 Feb.43 I called the roll of the H.Q. Pln and the Pte.Griggs,A.E did not answer his name and has not done so on any subsequent roll calls.
Question to the accused Do you wish to cross-examine this witness
Answer. No Sir.

J.A.H.Law Sgt.

Third Witness for the Prosecution. Lieut.Britton,G.E. 6 Cdn Inf Bde Coy RCASC. States. I herewith produce certified true coppy of the Offical Declaration of the Court of Enquiry held at this Coy on 22 Mar 43.declaring Pte Griggs an absentee.
Question to the accused Do you wish to cross-examine this witness
Answer No Sir.

G.E.Britton Lieut.

Certified that R.P.A C.D.R.&.F. have been complied with
The accused declines to make any statement.

(W.D.S.Carsless) Capt.
Officer detailed to take summary.

Field.
16 April 43.

List of Witnesses for the Prosecution.
Cpl Rogers. 6 C.I.B. Coy
Sgt.Law J.A.H. 6 C.I.B.Coy
Lieut. Britton.G.E. 6 CII B.Coy.
For Defense.
Nil
I Pte Griggs desire the assignment of an Officer to represent me at my Court Martial.

A.E.Griggs.

W.K.Coombe
Capt

RECORD of the Declaration of a Court of Inquiry assembled In the Field on the 22 day of March 1943 for the purpose of investigating and recording the absence, without leave, from his duty, and deficiency, if any, in Arms, Ammunition, Equipments, Instruments, Regimental Necessaries, or Clothing of No. B64673 Pte Grigg, A.W. 6 Cdn Inf BAe Coy R.C.A.S.C.

DECLARATION

The Court declare that No. B64673 Pte Grigg A.W. 6 Cdn Inf BAe Coy R.C.A.S.C.

WILFULLY ABSENTED himself without leave at approx 0000 hrs in the Field on the 28 day of February 1943 and is still absent and that on the 22 day of March 43 he was deficient, and is still deficient of the following articles:-

Articles		Value £	s	d
Boots Ankle prs	1	1	1	6
Caps, Field Service	1		3	8
Dressings, First Field	1		1	1
Total		1	6	3

(Signed) J.F.C. Banting Capt. President

(Signed) F. Grieves Lieut Member

(signed) W.P. Swinton Lieut Member

Signed in the Field
this 22 day of March 1943

Signature of Commanding Officer (Signed) T. W. Birelow Major

Certified True Copy.
(T.W. Birelow) Major
O.C. 6 Cdn Inf BAe Coy RCASC
Canadian Army (Overseas)

(Substitute for A.F.W. 296)
or N.P.B. 355

STATEMENT OF CHARACTER AND PARTICULARS OF
SERVICE OF THE ACCUSED

No B-86573 RANK Pte Griggs,A.E. UNIT 6 C.I.E.Coy RCASC

AGE 44 MARRIED OR SINGLE Married NO. OF DEPENDENTS one

DATE OF ATTESTATION 18 Mar 40

NO OF DAYS SPENT IN CLOSE ARREST (TO DATE OF TRIAL)

CIVIL — MILITARY 6 HOSPITAL — TOTAL 6

DATES OF PROMOTIONS, APPOINTMENTS AND CONFIRMATIONS OF RANK, IF ANY

A CERTIFIED TRUE COPY OF N.P.W. 6 MUST ACCOMPANY THIS FORM

(Officer i/c Records)
H B Saunders Capt Unit
for O.C. 6 C.I.E.Coy RCASC

Dated at
This 22 day of April 1943
(To be dated and signed as of date of trial)

H.B. Saunders
Major

No. B865?3 Name GRIGGS Albert Edward

Sqn., Battery, or Company 6 Cdn Inf Bde Coy Corps R.C.A.S.C.

Date of enlistment 18-3-40 G.C. Badge

Service or Proficiency Pay 1/10/42

M.F.M. 6 A.F.B. 122 (2253M. 7. 41. 1,211,000) H.Q. 1273-39-1403

Date of last entry in Company Conduct Sheet N/A

No. and date of last drunk N/A

Period not reckoning towards freedom from extra fine N/A

Sheet No. 2.

Signature O.C. Company, etc.

Character

Place	Date of offence	Rank	Cause of drunkenness	OFFENCE	Name of Witness	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
				Previous Sheet, destroyed 13-9-40		On completion of six months served			
6 Cdn Inf Bde Tournay BARRACKS	7-4-41	Gnr. PTE		W.O.A.S absenting himself without leave from 2359 hrs 6 Apr 41 to 2359 hrs 7 Apr 41	Sgt Mabee A. Cpl Johnson W.	Forfeiture of 2 days pay	26/4/41	Maj. H. Hendrie	Forfeits 2 days pay 2 W Detd Capt
Field	22 Feb 42	Pte		Absenting himself without leave (See 3(1)(a) A.A.) in that he absented himself without leave from 0815 hrs 22 Feb 42 to 2150 hrs 13 Mar 42. (Absent 21 days 13 hrs and 35 mins) Close Arrest from 2150 hrs 13 Mar 42 till 1700 hrs 2 Apr 42	Cpl Alford I.V. Cpl Johnson, E. Sgt Swanbrick C.	28 days Field Punishment and a forfeiture of 28 Days pay	2 Apr 42	Capt. Ingleton	Forfeits 28 days pay FR 3 W 1(1)(a) Forfeits 28 days pay FR 3 W 1(a) Forfeit 12 days pay FR 4 2 Loses 61 days pay

(P.T.O.)

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks

Certified True Copy

G.H. Brittain Lieut & Adjt

(T.V. Bigelow) Major
O.C. 5 Cdn Inf Bde Coy
RCASC C'n Army (Overseas)

5 CDN. INF. BDE. COY
R.C.A.S.C.

YYY-150

Pte Grignon, T. B.

RECORDED AT CMHQ IN AB 160 YYY-150

FIELD GENERAL COURT-MARTIAL

4/38B

SCHEDULE.

PART I. PLEA(S), FINDING(S) AND SENTENCE.

Accused: B.79855 PTE THOMAS GEORGE GRIGNON

Charge. (Insert "alternative" where applicable.)	Plea. (See Instrs p 2.)	Finding. (See note below.)	(Space for use as required for further charges, accused charged jointly, special findings, etc.)
1st	GUILTY	GUILTY	BUT NOT DEFICIENT ARTICLES, AMOUNTING TO THE 75% VALUE OF $17.36
2nd	GUILTY	GUILTY	
3rd			
4th			
5th			
6th			

(Note: As to findings for lesser offences see AA 56, RP 44; findings on alternative charges see MML p 483 fn 4 para 2, RP 44; special findings see RP 44 and MML p 753, and in lieu of kit see RP 44 fn 8.)

At present under sentence for N/A beginning on (date) ..... (1)
(1. Insert sentence being served, or delete, if not applicable. See RP 46(A). Information should be found on MF B355 or AF B296.)

Time in confinement awaiting present trial—a total of 15 days, of which N/C days were spent in hospital. (1)
(1. See RP 46(A) fn 2. Information should be found on MF B355 or AF B296 admitted in evidence under (1).)

Sentence Awarded by the Court: To undergo detention for 40 days and to be put under stoppages of pay until he has made good the sum of $65.93 ~~the value of articles lost~~ at trading ~~& Kit deficiencies~~.

N/A — Judge-Advocate, if any. (Sgd)
11 SEP 44 — Date awarded.
[signature] — President. (RP 45, 50.)
(See back of Convening Order as to assembly and disposal of record after trial.)

PART II. MINUTE WHERE CONFIRMATION RESERVED. (AA 54(5), RP 120(F), MML p 760.)

Date ..... (Sgd) ..... Commanding .....

PART III. DECISION OF CONFIRMING OFFR ON FINDING(S) AND SENTENCE.

(For duties and powers see AA 54, 57, RP 37(D) fn 6, 46(A), 51-56, 120, MML pp 759-760, KR Can 567-577. Acquittals require no confirmation and cannot be revised: AA 54(3). Sending back finding or sentence for revision by Court: AA 54(2), RP 120(G). If not confirmed, accused may be tried again: AA 137, MML p 64. Minute of confirmation or non-confirmation may be altered before promulgation: RP 52, MML p 65. Quashing after promulgation: KR Can 573. Duties and powers of reviewing offrs: AA 57, 57A, RP 53A, 54. The Confirming Offr must sign here personally. AA 172 fn 1.)

My decision on the finding(s) and sentence set forth in Part I is: I confirm the findings and sentence of the Court but remit 40 days detention

~~I direct that the accused be not committed to prison or detention barracks until further orders.~~ (1)
(1. AA 57A. Delete if not used.)

E&OE
(Sgd) E W Haldenby Brig
COMMANDER
1 CDN BASE RET GP
Confirming Officer.

Date 11 Sep 44
Commanding

PART IV. PROMULGATED AND EXTRACTS TAKEN. (RP 53, KR Can 576, 577.)

Accused.	Date.	Signature of Offr.
B 79855 Pte Thomas George Grignon	14 Sept 44	[signature] Capt.

ALL DELETIONS AND ALTERATIONS WILL BE INITIALLED.

RECEIVED 10 OCT 1944 HQ Echelon RMR

Pursuant to Order of ..... dated ..... Comd ..... Area

ACCUSED.

(As to the trial of two or more charged jointly see RP 18, 71, 109. As to reasons for showing (a) permanent or confirmed rank, and (b) apptmt, A/rank or A/apptmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

Number.	(a) Prmnt R. (b) Apptmt, A/R or A/Apptmt.	Full Christian Names.	Surname.	Unit.
B79855	Pte	THOMAS GEORGE	GRIGNON	1 CARD

PROCEEDINGS REVIEWED
Pte K. Invernought
11 Oct 44

PROCEEDINGS OF TRIAL.

Held at (place) ..... on (date(s)) .....

RECORD FORM A—OPENING PROCEEDINGS AND ARRAIGNMENT.

A1. The President, Members, waiting Member, J.A. if any, and Offrs under instr, if any, assemble, and the Court is closed.

(PRINTED MATTER, NOT IN ITALICS FOR GUIDANCE, WILL BE DELETED, IF NOT USED OR APPLICABLE, AND INITIALLED BY PRES OR JA. The Schedule referred to throughout is on p 4. Citations do NOT include all relevant fmn ROs. For guidance on procedure when a variation in this form arises, see form for GCM in MML pp 741 to 759. A brief record of such variation will be made and given a number having reference to appropriate or preceding para number herein. See back of Convening Order, CF A95, for oaths and instrs on how to record addresses, evidence, etc., which instrs are hereafter called "Notes". As to general provisions for conducting the trial see AA 53, RP 36, 63-70, 73, 74, 94, 103, 119, 132.)

A2. The President initials and lays before the Court the Convening Order and Charge Sheet(s) attached thereto.(1) The Court is satisfied that it is properly convened and constituted;(2) accused is ~~(are)~~ amenable to military law, and each charge discloses an offence.(3)
(1. As to use of Summary of Evidence see RP 17 fn 6. 2. AA 49, 50, RP 105-107. 3. RP 11-13, 23, 24.)

A3. The Court is opened. The accused is ~~(are)~~ brought before the Court. At 0930 hours trial commences.

A4. The Prosecutor produces a Medical Certificate that accused is ~~(are)~~ fit to undergo trial by court-martial.(1) ~~The Prosecutor informs the Court that accused elected to be tried by court-martial instead of being dealt with summarily by the CO.~~(2)
(1. KR Can 557. 2. AA 46(B), RP 60 fn 1. For effect see KR Can 563(c). Delete, if not applicable.)

A5. President to accused: Do you object to N/A as interpreter? Ans .....
The Interpreter is sworn.(1) Do you object to N/A as shorthand writer? Ans .....
The shorthand writer is sworn.(1)
(1. RP 72. Delete, if none employed.)

A6. The Convening Order and names of the President and Members of the Court are read to the accused.(1) President to accused: Do you object to be tried by me as President or by any of the Members of the Court? Ans N/O (2)
(1. RP 110. 2. If no objection, waiting member retires. RP 68(B). If objection, see procedure AA 51, RP 25, 71, 18, MML p 742.)

A7. The President, Members, JA, if any, and Offrs under instr, if any, are sworn.(1) The following are the ranks, names and units of the offrs comprising the Court, etc:

President	MAJOR	A.M. RUSSELL (C/C)	1 BN 1 CARD
Member	CAPT	J.E. HARRY (C/C)	6 BN 2 CARD
Member	CAPT	J.H. WELLS (RCA)	6 BN 2 CARD
Judge-Advocate			
Prosecutor	CAPT	E.J. PENGELLY (C/C)	3 BN 1 CARD
Defending Offr	CAPT	S.E. CAMERON (C/C)	3 BN 1 CARD

Questions by President: Is the Prosecutor a lawyer? Ans N/O Is the Defending Offr a lawyer? Ans N/O (2)
(1. RP 26, 27, 109, 111. List of offrs under instr will be returned separately with proceedings for information of Conv Offr.)
(2. If Pros a lawyer and Def Offr not, accused is entitled to an adjournment when RP 89 (B) and fn 2 were not followed. See DI p 2.)

A8. The accused ..... before arraignment make(s) (no) ..... plea
(1. If a special plea is made for separate trial on one or more charges (RP 62(E), 108), or as to the jurisdiction of the Court (RP 34, 35(A), 113), or in bar of trial (RP 36), or as to accused's mental fitness to stand trial (AA 130, RP 37), or by one of several accused charged jointly to be tried separately (RP 16, 71), such plea, the addresses made in support or against, the evidence, if any, and finding are recorded per Notes. For forms of record see references in fns to Rec Form cited. Insert in AB conv and name of the accused making the plea.)

A9. The accused is ~~(are)~~ arraigned ~~(separately)~~ on all charges in the charge sheet.(1) The accused does (~~do~~) not object to any charge.(2) There is no amendment to be made to the Charge Sheet.(3) The President records the pleas in Part I of the Schedule.
(1. RP 31, 112. See para 1 of Instrs p 2. When more than one Charge Sheet see RP 62; when several accused to be tried separately see RP 71(C), and use separate copies of CF A96 to record proceedings. 2. RP 32, RP 33. If otherwise, delete and make appropriate record per Notes.)

A10. The Court (is closed and) considers the Instrs on Procedure after Arraignment at top of p 2. The proceedings are continued on Record Form 2B.

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

INSTRUCTIONS ON PROCEDURE AFTER ARRAIGNMENT.

1. *The accused may not plead or be found Guilty on more than one of two or more charges laid in the alternative.* (*RP 37(A).*) *As to withdrawal of alternative charges by Prosecutor see RP 35(C). No other charge can be withdrawn for any reason without authy from Convening Offr. If Convening Offr concurs, Court may accept plea of Guilty to lesser, etc, offence.* (*RP 44(H).*) *Accused may change a plea of Not Guilty to Guilty during trial.* (*RP 38.*) *As to refusing to plead or not pleading intelligibly see RP 35(A). As to plea when sentence may be death see RP 35(D).*

2. *The proceedings on each charge sheet* (*RP 62*) *after arraignment will be conducted as follows in the respective circumstances stated :*

I. If pleas to all charges are GUILTY, use Record Form B below.

II. If pleas to all charges are NOT GUILTY, use Record Form D on p 3.

III. If pleas to some charges are GUILTY and to other charges are NOT GUILTY and,

(a) *Such mixed pleas occur when there are no alternative charges in the Charge Sheet, use Record Form C below.* (*RP 37(A).*)

(b) *Such mixed pleas occur in a set of two or more charges laid in the alternative, see RP 37 (A) and fn 2 as to discretion of Court,* (i) *to try the accused on all such alternative charges as if he had pleaded Not Guilty thereto, or,* (ii) *to record the pleas as the findings of Court. After deciding between* (i) *and* (ii), *Court will proceed under foregoing instrs as may be appropriate to result of its decision. See MML p 744 Instrs* (2).

3. *As to responsibility of President to accused see RP 59, 60(C) ; powers and duties of JA see RP 103 ; duty of Prosecutor see RP 60(A) (B) ; duty and privileges of accused and Defending Offr see RP 60(C), 87(C), 91,'92 ; swearing and withdrawal of witnesses from Court see RP 81, 82 ; questioning of accused see RP 80, 87(C), 92(B), and of witnesses see RP 83-85 ; calling or re-calling of witnesses by Court, etc, see RP 75-79, 86, 116 ; use of Summary of Evidence at Trial see RP 17(E) fn 6 ; and responsibility of JA or Pres to record proceedings see RP 94, 96.*

RECORD FORM B—PROCEEDINGS ON PLEAS OF GUILTY TO ALL CHARGES.

B1. The President or JA, if any, complies with RP 35(B) by explaining to the accused the nature and meaning of the charge(s)(1), and that on his plea of Guilty there will be no regular trial but merely a consideration of the sentence to be awarded after he has been given an opportunity to make a statement in reference to the charge(s), call witnesses as to character and make an address in mitigation of punishment.(2)
(1. *RP 35 fn 3.* 2. *MML p 54 para 47.*)

B2. President to accused : The Court will now receive any statement you desire to make in reference to the charge(s).(1) If it appears from your statement that there are circumstances which indicate that you do not understand the effect of the plea of Guilty(2), or which show provocation or extenuation in respect of which in your interest the witnesses for the Prosecution should be examined(3), we shall advise you to change your plea to Not Guilty. In making a statement you will not be sworn or subject to cross-examination ; and anything you say will not be used in evidence against you after you change your plea. If, however, it appears to the Court that your statement affects only the amount of punishment to which you are liable, you will not be advised to change your plea and you will be given an opportunity later to prove your statement by sworn testimony, if you so desire.(4)

President to accused : Do you wish to make a statement ? Ans No.(5)
(1. *RP 37(B).* 2. *RP 37(D) fn 6.* 3. *RP 35(B) fn 5 para 3, MML p 54 para 47.* 4. *See para E3 of Record Form E.* 5. *Statement, if any, recorded per Notes.*)

B3. ~~The Court considers the accused's statement.~~(1) ~~The Court decides (not) to advise accused to change his (their) plea(s) of Guilty to Not Guilty on charge(s). The accused is (are) so informed, and he (they) change(s) his (their) plea(s) on charge(s). Part I of the Schedule is amended accordingly.~~
(1. *Court may be closed to consider the statement. Delete whole or part not used.*)

B4. On the charge(s) to which the plea(s) of Guilty is (are) not changed the President records finding(s) of Guilty in Part I of the Schedule.(1)
(1. *RP 35(B). If any plea(s) is (are) changed, use Record Form C or D as appropriate.*)

B5. The Summary of Evidence is marked Ex A, initialled and read aloud by the President.(1)
(1. *If there is no Summary, or if it is inadequate, comply with RP 37(B). If there is any evidence inconsistent with any plea standing as Guilty, Court will advise accused to change such plea and, if changed to Not Guilty, try such charge(s) by use of paras D1 to D8 inclusive of Record Form D on p 3. RP 37(D).*)

B6. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

RECORD FORM C—PROCEEDINGS ON MIXED PLEAS OF GUILTY AND NOT GUILTY.

C1. As to the charges on which accused pleaded NOT GUILTY the trial is continued by using paras D1 to D8 inclusive of Record Form D on p 3 before proceeding with C2.(1)
(1. *RP 37(A) (E).*)

C2. The charges on which accused pleaded GUILTY are read to him (them) again, and the trial is continued by using paras B1 to B5 of Record Form B above.(1)
(1. *Under B5 such parts only of the Summary of Evidence are read as relate to the charges dealt with under C2. If any plea is changed to Not Guilty, trial thereon proceeds by complying with paras D1 to D8 inclusive in Record Form D on p 3 and making an appropriate record thereof on a separate sheet.*)

C3. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

RECORD FORM D—PROCEEDINGS ON PLEAS OF NOT GUILTY TO ALL CHARGES.

D1. President to accused : Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity to prepare your defence ? Ans .....(1)
(1. *If "yes", see RP 39(A) for procedure. Statement or evidence, if any, is recorded per Notes.*)

D2. The Prosecutor makes (an) (no) opening address.(1)
(1. *RP 39(B), 60(A) (B), 90, 92(C) (D). Record address per Notes, subject to RP 95(C).*)

D3. The evidence for the Prosecution is taken.(1)
(1. *RP 39(C), 114, KR Con 555. Record evidence per Notes. As to Prosecutor giving evidence himself see RP 39(D) (E).*)

D4. The Prosecution is closed.(1) The Defending Offr submits that the evidence for the Prosecution does not establish a prima facie case against the accused on the .....charge(s).(2) The Court is closed, and considers the submission.(3) The Court is re-opened, and the President announces that the submission is disallowed on the .....charge(s), and allowed on the .....charge(s), and that, accordingly, the trial will proceed on the former, but the accused is (are) found Not Guilty on the latter charge(s).(4)
(1. *Delete remainder of this para, if submission not made.* 2. *Arguments on submission, answer and reply are recorded per Notes.* 3. *RP 40 fn 1. See MML p 72 paras 12-14 and p 81 para 42.* 4. *Delete part not used. If accd acquitted on all charges use second alternative in para D8.*)
NB : If trial proceeds, accused must be allowed great latitude in making his defence, and the Court should not stop his defence solely on ground of irrelevance. (*RP 60(C), 114, 115.*)

D5. President to accused : You will now proceed with your defence.(1) You may, if you wish, give evidence yourself on oath as to the facts or your character or both, in which case you will be subject to cross-examination.(2) You may, however, make a statement without being sworn, and you will not be subject to cross-examination.(3) But a statement which could have been made on oath will not carry with the Court the same weight as sworn testimony.(4) You may call witnesses in your defence and as to character, whether you give evidence or make a statement or do neither.

President to accused : Do you wish to give evidence yourself as a witness, make a statement, or do neither ?
Ans ..... Do you intend to call witnesses on your behalf ?
Ans ..... Are they witnesses as to character only ! Ans .....
(1. *RP 115.* 2. *RP 40(A), see 80(2).* 3. *RP 40 fn 10.* 4. *RP 40 fns 2, 9.*)

D6. Consequent on the answers recorded in para D5 the appropriate procedure for the defence is followed.(1)
(1. *RP 114, 115, 116. For procedure see Notes on back of Convening Order. CF AA95. Evidence for accused as to his character should, if in his interest, be given before the finding. See RP 46(A) fn 1, 86(C). Note the further opportunity in para E1 of Record Form E. Record per Notes addresses, statement, evidence and any summing up by the JA under RP 42, 103(e).*)

D7. The Court is closed to consider the finding(s).(1) The finding(s) of the Court is (are) recorded in Part I of the Schedule.(2) The Court is re-opened.
(1. *RP 43, 117(A). See Notes in Part I of Schedule.* 2. *RP 44(A).*)

D8. The President announces the finding(s), if any, of Not Guilty, and states to the accused that the finding(s) of the Court on the .....charge(s), being subject to confirmation, will be promulgated later.(1)
Or, The President announces that the accused is found Not Guilty on all charges and is to be released forthwith, and that the proceedings are accordingly terminated. Part I of the Schedule is dated and signed.(2)
(1. *AA 54(3) (6), RP 45, 120(A).* 2. *AA 54(3), RP 45, 117. This alternative announcement is not applicable when there are pleas of Guilty outstanding and dealt with under Record Form B or C.*)

D9. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E below.

RECORD FORM E—PROCEEDINGS ON CONVICTION BEFORE SENTENCE.

E1. President to accused : Do you wish to give evidence yourself or to call any witnesses as to your character ?(1)
Ans Yes.
(1. *If evidence has already been given by accused or his witnesses as to his character, delete this para. RP 37(C) fn 4, 46 fn 1. Accused and witnesses are sworn. Evidence recorded per Notes.*)

E2. The Prosecutor produces Statements(1) as to Character and Particulars of Service(1), and certified true copy (copies) of Conduct Sheet(s)(2), purporting to refer to the accused, which he submits to the Defending Offr for examination, and then to the Court for admission in evidence. The Court is satisfied that these documents refer to the accused, because (i) they purport to be signed in the manner required by AA 163(1) (g) (h), and (ii) they purport to refer to (a) soldier(s) having the same number, rank, name and corps as the accused. Admitted in evidence and marked Ex P.S. and Ex C respectively.(3)
(1. *MFB 355 or AFB 296.* 2. *MFB 6.* 3. *RP 46, KR Con 558. If above documents not produced, see RP 46 fn 1 para 1.*)

E3. President to accused : Do you wish to address the Court on the Statement(s) and Conduct Sheet(s), and in mitigation of punishment ?(1) Ans YES.(2)
(1. *RP 37(C), 46(D).* 2. *Address, if any, recorded per Notes. Court should permit accused or his witnesses to prove on oath anything here or previously stated which would affect the amount of punishment. RP 37(F) fn 7.*)

E4. The President states that the Court is closed to consider the sentence, and that the sentence to be awarded by the Court, being subject to confirmation, will not be announced, but will be promulgated later, and the proceedings in open court are accordingly terminated.(1)
(1. *AA 54(6), RP 120(A).*)

E5. The Court considers the sentence.(1) The President records the sentence in Part I of the Schedule, which is dated and signed by him and the JA, if any.(2)
(1. *When several accused tried separately see RP 71 (D). One sentence only, comprised of the punishment or punishments laid down in AA 41, 44 and its proviso, is to be awarded to cover all charges on all charge sheets on which accused found guilty. RP 48. As to sentences see AA 44, 138, 182, RP 46-50, 69, 118, 119(A), KR Con 308, 320, 563-566, Overseas RO 309, 2323, MML p 60, 757-759. As to sentences assigned for civil offences by the law of England see AA 41(5), MML p 130. When accused already under sentence of imprisonment or detention see AA 44(18), 68(1), KR Con 564.* 2. *RP 50. As to release from arrest by Confirming Offr see KR Con 567. As to assembly and disposal of record after trial see instrs on back of Convening Order.*)

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

CHARGE SHEET

The accused B79855 Private Thomas George GRIGNON, presently on the strength of 3 Canadian Reinforcement Battalion, 1 Canadian Base Reinforcement Depot, a soldier of the Canadian Army Overseas, placed on Active Service is charged with:

First Charge
Army Act
Sec 15(1)

WHEN ON ACTIVE SERVICE, ABSENTING HIMSELF WITHOUT LEAVE

in that he

In the Field in Italy, at approximately 1030 hours 27 Jul 44 absented himself without leave, until he surrendered himself at Naples at approximately 1635 hours 29 Aug 44.
Total Time Absent 33 days 6 hours 5 minutes.

Second Charge
Army Act
Sec 24(2)

WHEN ON ACTIVE SERVICE, LOSING BY NEGLECT HIS CLOTHING AND REGIMENTAL NECESSARIES

in that he

In the Field in Italy, on 4 Sep 44 was deficient of the articles of his clothing and regimental necessaries specified in the following list to the 75% value of $83.29.

ARTICLE	NO	100%	75%
Blouse Battle Dress	1	5.25	3.93
Bonnets Tam O'Shanter	1	.60	.45
Drawers Cotton	2	.86	.66
Great Coat Drab	1	11.31	8.49
Jersey Pullover	1	1.79	1.35
Socks	2	.74	.54
Trousers Battle Dress	1	5.39	4.05
Bags Kit Universal	1	1.02	.76
Braces	1	.28	.21
Brushes Hair	1	.34	.25
Brushes Shoe Polishing	1	.28	.21
Cap Comforter	1	.34	.25
Dressings First Field	1	.24	.18
Fork M.S. Table	1	.09	.06
Holdall	1	.19	.15
Housewife complete	1	.17	.13
Knife Clasp	1	.86	.64
Knife Table	1	.15	.12
Spoon Dessert	1	.07	.06
Vests Cotton Gym	2	.72	.54
Towels Hand	2	.64	.48
Belts Waist	1	.67	.51
Bottles Water	1	.82	.61
Braces W.E. (right)	1	.30	.22
Braces W.E. (left)	1	.30	.22
Carriers Water Bottle	1	.37	.27
Frogs Web Bayonet	1	.19	.15
Helmets Steel	1	2.39	1.80
Packs	1	1.84	1.38
Pouches Basic	2	2.38	1.80
Slings Rifle	1	.24	.18
Straps Shoulder Haversack	2	.64	.48
Straps Web Supporting	2	.26	.18
Tins Mess T.P. Sets	1	.35	.27

Second Charge
(contd)
Army Act
Sec 24(2)

ARTICLES	NO	100%	75%
Capes A/G	1	2.76	2.07
Blankets G.S.	2	6.14	4.62
Mugs Drinking	1	.13	.09
Sheets Ground	1	2.40	1.80
Rifle No 21C2407	1	39.12	39.12
Bayonet No 4 W/Scabbard	1	2.46	2.46
Bottles Oil	1	.06	.04
Pullthrough Single	1	.12	.09
Shirts Bush	1	1.75	1.32
		$96.02	$83.29

W.W. Mathers

(W.W. Mathers) Lt-Col.,
Commanding Officer,
3 Cdn Rft Bn, 1 CBRD.

In the Field
5 Sep 44.

TO BE TRIED BY FIELD GENERAL COURT MARTIAL

E.W. Haldenby

(E.W. Haldenby) Brigadier
Commander
1 Cdn Base Rft Group

In the Field
In Italy
7 Sep 44

FIELD GENERAL COURT-MARTIAL

(Whether the accused to be tried is under his comd or not, a FGCM may on application to him be convened by any offr of Cdn Army Overseas, or of any other force if authorized in law, in immediate comd of troops on active service, subject to RP 105(C) and restrictions imposed by appropriate authy. AA 49, 50, RP 104-107, 114. As to the duties and privileges of the Convening Offr in dealing with the application see MML Chap V paras 20 and 23, RP 87(B).

There should be a separate Convening Order for each person to be tried separately by the same Court. RP 71(C), 109. As to separate charge sheets see RP 62, and as to separate trial on charges in the same charge sheet see RP 108. As to two or more accused charged jointly see RP 16, 109.

As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

ACCUSED.

Number.	(a) Prmnt R.	(b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
B79855	Pte		Thomas George	GRIGNON	3 Bn 1 CBRD

CONVENING ORDER.

1. Whereas complaint has been made to me, the undersigned, that the person(s) named above as the accused, being subject to military law, has ~~(have)~~ committed the offence(s) set forth in the Charge Sheet(s) attached and on (date) 7 Sep 44 endorsed by me, ~~(or by an offr of my unit for me)~~, " To be tried by Field General Court-Martial ",

2. And whereas I am of opinion that it is not practicable that such offence(s) should be tried by an ordinary General Court-Martial ; ~~(and that it is not practicable to delay the trial for reference to a superior qualified offr)~~

(Delete part in brackets when not required for compliance with RP 105(C).)

3. I hereby convene a Field General Court-Martial to try the said person(s), and to consist of the Offrs appointed or detailed hereunder.

~~4. I am unable to appoint (a) three Offrs to form the Court, (b) a Fd Offr as President, for the reasons I have attached hereto.~~

(AA 49, RP 106(B), 107(A). Delete the whole or part, if not applicable.)

~~5. I also appoint as Judge Advocate thereat the Offr mentioned hereunder.~~

(RP 106(E). Delete, if none appointed.)

PRESIDENT.

(Rank.)	(Must be named. RP 106.)	(Unit.)
Major	A.M. Russell (CIC)	1 Bn 1 CBRD

MEMBERS.

(Rank.)	(Named or detailed. RP 106.)	(Unit.)
	Capt or Lt to be detailed by OC 8 Bn 2 CBRD	
	Capt or Lt to be detailed by OC 8 Bn 2 CBRD	

WAITING MEMBER.

(Rank.)	(Named or detailed, if any. RP 106.)	(Unit.)
	Capt or Lt to be detailed by OC 8 Bn 2 CBRD	

~~JUDGE ADVOCATE~~

(Rank.)	(Must be named, if any. RP 106.)	(Unit.)

On Active Service in the Fd

in Italy (Country.)

(E.W. Haldenby) (Signed personally. RP 105 fn 2.)

Brigadier (Rank.)

Date 7 Sep 44

Commanding 1 Cdn Base Rft Group

Convening Officer.

CONVENING OFFR WILL INITIAL ALL DELETIONS AND ALTERATIONS

4/38A CFAAO (To Dem of AFAS) 60/F & G/1807 (44/01)

(See overleaf for oaths and notes for use on trial.)

oOo MEDICAL OFFICER'S CERTIFICATE oOo

I hereby certify that I have this day examined

No B79855 Rank Pte Name BRIGNON T.G.

and in my opinion is fit to undergo trial by Court Martial.

Date SEPT. 11/44 .....
(Medical Officer)

oOo MEDICAL OFFICER'S CERTIFICATE oOo

I hereby certify that I have this day examined

No B79855 Rank Pte Name BRIGNON T.G.

and in my opinion is fit to undergo trial by Court Martial.

Date SEPT. 9/44.
(Medical Officer)

ADJOURNMENT

IN THE CASE OF B 74655. PTE THOMAS GEORGE GRIGNON

AT 1045 HRS THE COURT ADJOURNS UNTIL 0930 HRS ON THE 11 SEP 44

ON THE 11 SEP 44 AT 0930 THE COURT REASSEMBLES PURSUANT TO ADJOURNMENT PRESENT THE SAME MEMBERS AS ON THE 4 SEP 44

W. M. Russell Maj.
(PRESIDENT)

E. W. 1.

The accused:

B79855. Pte. Thomas George Gregson having been duly sworn states:

The clothing and equipment which I now produce in evidence I identify as mine. My kit-bag was recovered from the Central Guard room.

Inventory of recovered articles.

E. W. 1.

Puttees	prs.	1
Slings, rifle		1
Holdall		1
Caps, anti-gas		1
Greatcoat, Drab		1
Bag, kit		1
Bonnets, Tam o' Shanter		1
Pouches, basic		2
Braces, A.E., right		1
" W.E. left		1
Belt, waist		1
Bottles, water		1
Carriers, water bottle		1
Pack, large		1
Cap, comfortair		1

75%
Vocabulary Value
17.36

P.P. 83(6) complied with.

The prosecution declines to cross-examine.

CHARGE SHEET

75%
83.29
17.36
65.93

4 Sig 44 E. 3.

Mitigation of Punishment

Came to Italy in Feb/44. Spent 1½ mos in CBRD then to 4Bn expecting to get to his unit. Went on patrol expecting there. Hospital & con camp from April till 1st week in July. Wanted to get to unit Surrendered himself to Provost. Charge Sheet - 1 Petty Crime, Blood Donor

E. 3.

[illegible] Capt
Defending Officer.

Summary of Evidence EXHIBIT "A"

In the case of D79855 Private Thomas George Gregson presently on the strength of 3 Canadian Reinforcement Battalion 1 Canadian Base Reinforcement Depot a soldier of the Canadian Army Overseas, placed on active service.

By the direction of the commanding officer the evidence is taken on oath.

FIRST WITNESS FOR THE PROSECUTION

Lieut. D.W. Brown Asst. Adj. 3 Bn 1 CBRD having been duly sworn states.

I am Lieut D.W. Brown. I submit a certified true copy of the Record of Declaration of a Court of Inquiry of the original from Regimental Documents which I have in my custody. This Declaration declares that D 79855 Pte Gregson T.G. illegally absented himself without leave from 3 Bn. 1 CBRD at 1030 hrs 17 July 44 and at 1030 hrs 19 Aug. 44 was still absent and is still so absent. This court was convened on 19 Aug 44. It also declares that he was deficient of clothing and regimental accessories to the value of $56.09

Dan Brown

The accused declines to cross examine the witness at this time.

Thos. Grigsby

The Declaration of the Court of Inquiry referred to by the above witness was read to the accused and attached to the summary of evidence and Marked as Exhibit "A"

Lieut A.J.S. Mills
officer detailed to take summary of evidence.

1ST. WITNESS RECALLED FOR PROSECUTION

Lieut. D.W Brown Asst. Adj. 3 Bn. 1 CDBG. being duly sworn states.

I am Lieut. D.W. Brown. I submit a certificat of surrender purporting to be signed by Lieut. G.W Gordon commanding 510 provost company. It refers to the accused, Pte Grigsby T. I know & now recognize.

The accused declines to cross examine the witness at this time.

Thos Brown Lieut
1 CDBG

The certificat of surrender referred to by the above witness was read to the accused and attached to summary of evidence. Marked Exhibit "B"

Lieut. A.J.S. Mills
officer detailed to take summary of evidence.

2 ND. WITNESS
FOR PROSECUTION

T 114686 L/Cpl. T Snape 5/0 Provnt Company. C.M. Police.

A statement purporting to be signed by the above witness was read to the accused and attached to the Summary of Evidence and marked Exhibit "C"
Lieut. A.J.G. Mills
Officer detailed to take Summary of Evidence

The accused does not require the presence of the witness for cross examination at this time.

Thos. Grignon

I certify that the exigencies of the service and the loss of time involved the presence of the witness was not readily procurable.

Lieut A.J.G. Mills
Officer detailed to take Summary of Evidence

3 RD. WITNESS
FOR PROSECUTION

B73357. C.Q.M.S. Groves A.C. 15 Coy. 3 Bn. 1 C.D.A.D. having been duly sworn states.

I am B73357 C.Q.M.S. Groves A.C. 15 Coy 3 Bn. 1 C.D.A.D. On 4th inst I did check the kit of the accused Pte. Grignon (about two months ago) in his present and found him to be deficient of numerous articles of clothing, equipment and Regimental necessaries I submit a list of the deficiencies to the 75% value of £3.2.9 to the 75% value of £2.8.7½. The 75% value of these articles is derived from

CAC RC 3959.

A.C. A. Groves

The statement of Kit D'Eyncourt referred to by the above witness was read to the accused and attached to the Summary of Evidence and marked Exhibit "O"

Lieut G.S.M. Mills
Officer detailed to take
Summary of Evidence.

The accused declines to cross question the witness at this time.

Thos. Trigwell

The accused was cautioned in accordance with Rule of Procedure 4(C) as follows.

Do you wish to make any statement or to give evidence on oath? You are not obliged to say anything unless you wish to do so but whatever you say will be taken down in writing and may be given in evidence.

The accused declines to make any statement or to give evidence at this time.

Thos Trigwell

I certify that the foregoing summary of
Evidence consisting of five pages taken down by me in the
presence of the accused and hearing
of the accused and that Rules of
Procedure 4 (C) (D) (E) (F) and (G) has been
complied with. (The summary of Evidence consists of
five sheets.)

Lieut A/B Mills
Officer detailed to take the
Summary of Evidence

with Field.
H Sept 44

RECORD of the Declaration of a Court of Inquiry assembled at
on the day of 19 , for the purpose of investigating and recording the absence, without leave, from his duty, and deficiency, if any, in the Arms, Ammunition, Equipments, Instruments, Regimental Necessaries, or Clothing of No.

DECLARATION

The Court declare that No. _____ illegally absented himself without leave _____ at _____ on the _____ day of _____; and that on the _____ he was deficient, and that he is still deficient of the following articles:—

ARTICLES	VALUE	ARTICLES	VALUE

President

Member

Member

Signed at _____ this _____ day of _____ 19 _____

Signature of Commanding Officer

M.S. Bk. 40
5000, Bks.—8-41 (4401)
M. O. 1775-41-45

EXHIBIT "A"

RECORD of the Declaration of a Court of Inquiry assembled ~~at~~ in the field on the 19th day of August 1944, for the purpose of investigating and recording the absence, without leave, from his duty, and deficiency, if any, in the Arms, Ammunition, Equipments, Instruments, Regimental Necessaries, or Clothing of No. B79855 Pte GRIGNON T.G.

DECLARATION

The Court declare that No. B79855 Pte Grignon T.G. X4 48th Highlanders of Canada illegally absented himself without leave from 3 Bn 1 C B R D at 1030 hrs 29 July 44 and ~~on the~~ at 1030 hrs 17 Aug 44 was still absent and is still absent and is a deserter from the Canadian Army and that on the 27 July 44 he was deficient, and that he is still deficient of the following articles:— to the value of $86.09 (75% value)

ARTICLES	VALUE	ARTICLES	VALUE

Capt J.E. Joice RCR RE 5 Bn 1 C B R D. President

Signed ~~at~~ In the field Lieut R. Bailey (X4 48th Highs) 3 Bn 1 C B R D. Member

this 21st day of Aug 1944 Lieut D. H. Brown X4 Irish 3 Bn 1 C B R D. Member

Signature of Commanding Officer Lt Col W.W. MATHERS (SIGNED)

Certified this 31 Aug 44 I certify this document to be a true copy of the original in my custody Capt Mutley Capt

Mil. Bk. 42
5500 Bks.—6-41 (3440)
H.Q. 1772-41-40

B/79855 Rank Pte. Name GRIGNON, T.G. 15 Coy.

Absent Without Leave on July 1944

ARTICLE	NO	100%	25%
Anklets Web	1	.99	.75
Blouse Battle Dress	1	5.25	3.93
Bonnets Tam O'Shanter	1	.60	.45
Boots Ankle	2	10.92	8.18
Drawers Cotton	2	.86	.66
Greatcoat Drab	1	11.31	8.49
Jersey Pullover	1	1.79	1.39
Socks	3	1.11	~~1.07~~ .71 AWR
Trousers Battle Dress	1	5.39	4.05
Bags Kit Universal	1	1.02	.76
Braces	1	.28	.21
Brushes Hair	1	.34	.25
Brushes Shaving	1	.37	.27
Brushes Shoe Polishing	1	.28	.21
Brushes Tooth	1	.11	.09
Cap Comforter	1	.34	.25
Dressings Field	1	.24	.18
Forks M.S. Table	1	.09	.06
Holdall	1	.19	.15
Housewife Complete	1	.17	.13
Knife Clasp	1	.86	.64
Knife Table	1	.15	.12
Razor Safety	1	.06	.05
Spoons Dessert	1	.07	.06
Vests Cotton Gym	2	.72	.54
Towels Hand	2	.64	.48
Belts Waist	1	.67	.51
Bottles Water	1	.82	.61
Braces W.E. Right	1	.30	.22
Braces W.E. Left	1	.30	.22
Carriers Water Bottle	1	.37	.27
Frogs Web Bayonet	1	.19	.15
Helmets Steel	1	2.39	1.80
Packs	1	1.84	1.38
Pouches Basic	2	2.38	1.80
Slings Rifle	1	.24	.18
Straps Shoulder Haversack	2	.64	.48
Straps Web Supporting	2	.26	.18
Tins Mess T.P. Sets	1	.35	.27
Capes A/C	1	2.76	2.07
Blankets G.S.	2	6.14	4.62
Mugs Drinking	1	.13	.09
Sheets Ground	1	2.40	1.80
Rifle No. 21C2407	1	39.12	29.34
Bayonet No. 4 W/Scabbard	1	2.46	1.84
Bottles Oil	1	.06	.04
Pullthrough Single	1	.12	.09
Shorts K.D. Pairs	1	1.34	1.01
Trousers K.D.	1	1.58	1.18
Shirts Bush	2	3.50	2.64
Hose Tops	1	.43	.33
		114.92	~~114.92~~ 86.09 AWR.

Inventoried by me on 19 Aug. 1944
J.H. Taylor C.Q.M.S.
15 Coy. 3 Bn. 1 C.B.R.D.

EXHIBIT "B"

Army Act Section 163 (1)(i)

CERTIFICATE OF SURRENDER.

I, ... certify that:-

No B.7.7.8.5.5. ... Rank. PRIVATE. ... Name. GRIGNON. T. .....

Unit ATT. 2. BN. NO. 6 C.O.R.D. HIGHLANDERS. OF. CANADA. surrendered himself

to No T/114.8.7.6. ... Rank. A/CPL. ... Name. ... E. SHARE. ... at ... Place ...

at ... 16.35 ... Hours on the 29th AUGUST ... 1944 as a deserter (or absentee without leave).

Commanding Officer of the person or portion of His Majesty's Forces to whom the surrender was made.

Date. 30. Aug. 44.

... Commanding

... S.O. Prov. Cordy.

EXHIBIT C

Statement of EVIDENCE in the case of:-
B/ 79855 Pte Grignon.T.
48th Highlanders of Canada,
Att 3 Bn No 1.
Canadian base reinforcement Depot.

Sir

At NAPLES on the 29th AUGUST 1944 about 1635 hrs I was on duty in the Orderly Sergeants Office 510 Provost Company where the abovr named soldier surrendered himself as an absentee. He stated he had been absent from his Unit without leave for one month.

He was not in possession of his M.B. 1 and 11, or any means of identification. I arrested him, obtained his particular verbally, and conducted him to the CENTRAL GUARD ROOM where I handed him over to the N.C.O i/c GUARD to br detained.

He was sober.

C.M.F,
29th August 1944.

T/ 114688. Sgt. L/cpl.
510 Provost Company,
C.M.POLICE.

REMARKS

CHARGE 3315/B Army Form B 252

48th HIGHLANDERS OF CANADA (See Regulations) Regiment

ATT 3 Bn. Battery

No 1. CANADIAN BASE REINFORCEMENTS DEPOT. Squadron

Troop or Company

CHARGE against No. B/ 79855 Rank Pte.

Name GRIGNON.T.

Place Date of Offence

OFFENCE W.O.A.S. Absent from [illegible] Parade [illegible] at about 1635 hrs on 16 Sept [illegible]

(2) Not being in possession of his W.D.

I will if any exams & identification

Names of Witnesses:—

T/ 114686 L/c F.Snape. 510 Prov Coy C.M.Police.

6143414 Sgt R.Jenkings. East Surrey Regt.

N.C.O.i/c Guards.

(body receipt attached).

Signature of O.C. Battery, Squadron, Troop or Company

Punishment Awarded

By whom Awarded

Adjutant.

P.T.O.

7494

EXHIBIT 15

LIST OF KIT DEFICIENCIES

B-79855, Pte Grignon T.G.
15 Coy. 3 Bn. 1. CBRD.

Absent without leave on of July 1944.

Article	No.	100%	75%
Blouse Battle Dress	1	5.25	3.93
Bonnets Tam O'Shanter	1	.60	.45
Drawers Cotton	2	.86	.66
Great Coat Drab	1	11.31	8.49
Jersey Pullover	1	1.79	1.35
Socks	2	.74	.54
Trousers Battle Dress	1	5.39	4.05
Bags Kit Universal	1	1.02	.76
Braces	1	.28	.21
Brushes Hair	1	.34	.25
Brushes Shoe Polishing	1	.28	.21
Cap Comforter	1	.34	.25
Dressings First Field	1	.24	.18
Forks M.S. Table	1	.09	.06
Hold-all	1	.19	.15
Housewife complete	1	.17	.13
Knife Clasp	1	.86	.64
Knife Table	1	.15	.12
Spoon Dessert	1	.07	.06
Vests Cotton Gym	2	.72	.54
Towels Hand	2	.64	.48
Belts Waist	1	.67	.51
Bottles Water	1	.82	.61
Braces W.E. (Right)	1	.30	.22
Braces W.E. (Left)	1	.30	.22
Carriers Water Bottle	1	.37	.27
Frogs Web Bayonet	1	.19	.15
Helmets Steel	1	2.39	1.80
Packs	1	1.84	1.38
Pouches Basic	2	2.38	1.80
Slings Rifle	1	.24	.18
Straps Shoulder Haversack	2	.64	.48
Straps Web/Supporting	2	.26	.18
Tins Mess T.P. Sets	1	.38	.27
Capes A/C	1	2.76	2.07
Blankets G.S.	2	6.14	4.62
Mugs Drinking	1	.13	.09
Sheets Ground	1	2.40	1.80
Rifle No.21C2407	1	39.12	39.12
Bayonet No.4 W/Scabbard	1	2.46	2.46
Bottles Oil	1	.06	.04
Pullthrough single	1	.12	.09
Shirts Bush	1	1.75	1.32
Total		$ 96.02	$ 83.29

Inventoried by me on the XX 4th day of Sept. 1944

A.E. Groves C.S.M.S.
A.E. Groves
15 Coy, 3Bn. 1. CBRD

EXHIBIT BB

ARMY FORM B 2[illegible].

Statement as to Character and Particulars of Service of Accused.

Number.	Rank.	Name.	Regiment (or as the case may be).
B-79155	Private	GIBSON, T.C.	(48th) 3 Cdn Rft Bn, 1 CBRD

1. The following is a fair and true summary of the entries in the regimental and ~~squadron/battery or~~ company conduct sheets† of the accused, exclusive of convictions by a court martial or a civil court, of summary awards under section 47 of the Army Act, and of cases in which trial has been dispensed with :—

Note.—At a trial by field general court martial this summary may be omitted from the conduct sheet.

The conduct sheets mentioned should be produced in court with the statement but not attached to the memorandum.

† See para. 687, K.R., 1940.

* The statutory limit should count from the date of arrest on the present charge, but previous terms given to the same person for the same offence should be taken into account, and so on as far as possible.

Instructions.—If the charge is for drunkenness the entries for drunkenness in most recent years only should be stated specifically and dated.

	* Within last 12 months.	*Since Enlistment.
For A.A. Sec 40	1 times	1 times
For	times	times
For	times	times
For	times	times
For	times	times

~~Number of instances of summary or disciplinary punishment~~

~~Punishments on the conduct sheet of the accused~~

2. The accused has not been previously convicted, *or*

~~The previous conviction of the accused by a court martial or civil court, a copy of which is set out in the schedule annexed to this statement, and the sentence with relation to section 72 of the Army Act, are set out in the schedule annexed to this statement.~~

3. The accused is not under sentence at the present time, *or* ~~The sentence at the present time is [illegible] beginning on the [illegible] day of~~

4. The accused has been in confinement awaiting trial on the present charges, for ~~[illegible]~~ 0 days in civil custody, and ~~12/4~~ days in military custody, making a total of ~~12/4~~ days, of which 0 days were spent in hospital.

5. The present age of the accused according to his ~~attestation~~ MBM PT I is 21 yrs 312 days

6. The date of his ~~attestation~~ specified in his ~~attestation~~ MBM PT I is 18 Apr 43.

~~7. The accused is not/is allowed to reckon [illegible] service.~~

~~8. The accused is entitled to deferred pay at a daily rate of [illegible]~~

~~9. The accused is entitled to reckon [illegible] service for the purpose of increasing his pension etc.~~

10. The accused ~~is in possession of/is entitled to/is not entitled to~~ CVSM ~~[illegible]~~

~~11. The accused has forfeited [illegible] service for the purpose of [illegible]~~

~~12. The accused has to his credit in the regimental savings bank the sum of [illegible]~~

(71825) W.C.12662/148 325,000 6/41 A.&E.W.Ltd Gp.698

Schedule of Convictions by a Court Martial or Civil Court, of summary awards under Section 47 of the Army Act and of cases in which trial has been dispensed with of accused.

No. _____ Rank _____ Name _____ of _____ Regiment (or as the case may be).

(INSTRUCTION.—A verbatim extract from the regimental books, stating thus convictions and dispensations with trial, must be inserted.)

Description of court by which tried, or status of officer disposing of the charge or dispensing with trial.	Date and place of trial, or summary award under A.A. 47, or of order dispensing with trial.	Charges upon which convicted, or in respect of which trial was dispensed with.	Sentence of the court or authority disposing of the charge, or order of the dispensing authority.	Punishment remitted.

I HEREBY CERTIFY that the foregoing schedule of convictions and dispensations with trial is a true extract from the regimental books in my custody.

Signed this 6 day of September 1915.

Adjutant.

19. The accused has served as a non-commissioned officer continuously, without reduction, to the present date.

In the rank of _____ years,

In the rank of _____ years,

In the rank of _____ years,

(INSTRUCTION.—*If any matter in any of the above paragraphs carried by stated from the regimental books the paragraph must be struck through except that in the case of a trial by field general court-martial the information may be collected from such sources as are available and the paragraphs concerned amended accordingly.*)

Date of Promotion.

I hereby acknowledge having refeived a copy of the Charge Sheet and Summary of Evidence in Connection with my forthcoming trial by Field General Court Martial.

In the Field.

7 Sept 44

(Sgd) Thos Grigson

I request the Convening Officer to appoint my officer to defend me at my forthcoming trial by Field General Court Martial.

In the Field

7 Sept 44

(Sgd) Thos Grigson

except that he shall
not have
one Bayonet Frog -
one Grenade
one Kit Bag
one Hose supporters
one Oilsheet
one Waist belt
one Webbers buckle
Braces W.E. R & L
one Webbers 4 carriers
one Pouch
one Pouches Ball
one slings rifle
one Cape A. M.
(Valuing a Private
75 % worn Price
$17.36 (RP 44 (H)
complied with)

B: 79855 GRIGNON, T.G.

No | Name | Sqn, Battery, or Company | Corps C1C | Date of enlistment 19/4.4.43 | GC Badges | Service or Proficiency Pay | MFM 6 (A.F.B. 122)

EXHIBIT "CC"

Date of last entry in Company Conduct Sheet: Nil | No. and date of last drunk: Nil | Period not reckoning towards freedom from extra fine: Nil | Sheet No 1 | Signature OC Company, etc: ??????????Lt. Character

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
				CAMP BORDEN - Donated 400 c.c. Blood 14 Aug 43.					
	20. 10. 43			Previous Sheet Destroyed on Completing a 6 months service					
Field	31-12 43	Pte		AA 40 - Conduct to the prejudice etc eating in wrong Mess Hall against Part I Orders No 228 dated 17 Sep 43	Pte. Taylor G.P.	7 days C.B.	4-1-44	L.H.C. Payne, Maj.	

(PTO)

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks

Certified to be a true copy from Regimental Books in my Custody

Lieut. G. J. B. Wells.

OFFICER HAVING CHARGE OF REGT'L BOOKS

4X-99.
Pte. Grigsby. a.n.

SCHEDULE.

PART I. PLEA(S), FINDING(S) AND SENTENCE.

Accused: B.81888 Pte Albert Norman GRIGSBY

Charge. (Insert "alternative" where applicable.)	Plea. (See Instrs p. 2.)	Finding. (See note below.)	(Space for use as required for further charges, accused charged jointly, special findings, etc.)
1st	Guilty	Guilty	
2nd	Guilty	Guilty	
3rd	Guilty	Guilty	
4th			
5th			
6th			

(Note: As to findings for lesser offences see AA 56, RP 44; findings on alternative charges see MML p 483 fn 4 para 2, RP 44; special findings see RP 44 and MML p 753, and in lieu of kit see RP 44 fn 6.)

"LNC" [illegible] (1)

(1. Insert sentence being served, or delete, if not applicable. See RP 46(A). Information should be found on MF B355 or AF B296.)

Time in confinement awaiting present trial—a total of 41 days, of which Nil days were spent in hospital.(1)

(1. See RP 46(A) fn 2. Information should be found on MF B355 or AF B296 admitted in evidence under E2.)

Sentence Awarded by the Court:

To be imprisoned with hard labour for one (1) year.

(Sgd) ..... Judge-Advocate, if any. 20 Feb 45 Date awarded. (Sgd) "L.N. Carr Maj" President. (RP 45, 50.)

(See back of Convening Order as to assembly and disposal of record after trial.)

PART II. MINUTE WHERE CONFIRMATION RESERVED. (AA 54(3), RP 120(F), MML p 760.)

Date ..... (Sgd) ..... Commanding

PART III. DECISION OF CONFIRMING OFFR ON FINDING(S) AND SENTENCE.

(For duties and powers see AA 54, 57, RP 37(D) fn 6.46(A), 51-56, 120, MML pp 759-761, KR Can 567-577. Acquittals require no confirmation and cannot be revised: AA 54(3). Sending back finding or sentence for revision by Court: AA 54(2), RP 120(C). If not confirmed, accused may be tried again: AA 157, MML p 64. Minute of confirmation or non-confirmation may be altered before promulgation: RP 53, MML p 65. Quashing after promulgation: KR Can 573. Duties and powers of reviewing offrs: AA 57, 57A, RP 53A, 54. The Confirming Offr must sign here personally. AA 172 fn 1.)

My decision on the finding(s) and sentence set forth in Part I is:

confirmed

[illegible] "TGG"

(1. AA 57A. Delete if not used.)

(Sgd) "T. G. Gibson" Brig

Date Feb 20 1945 Commanding 1 Cdn Base Rft Group. Confirming Officer.

PART IV. PROMULGATED AND EXTRACTS TAKEN. (RP 53, KR Can 576, 577.)

Accused.	Date.	Signature of Offr.
B.81888 Pte Grigsby Albert Norman		"J.L. Vining" Lt Col. 22 Feb 1945.

ALL DELETIONS AND ALTERATIONS WILL BE INITIALLED.

Certified true Copy:- (D.M. Capt. Cdn Sec 2Ech AFHQ)

RECORDED AT CMHQ IN A8 168 4X-89

CFA86 (In lieu of AF63) 40-P-A-H-1808 (2864)

FIELD GENERAL COURT-MARTIAL

Convened by Order of [illegible] T. Gibson Comd Gp 1 Cdn Base Rft dated 16 Feb 45

ACCUSED.

(As to the trial of two or more charged jointly see RP 16, 71, 109. As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

Number.	(a) Prmnt R. (b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
B.81888	Pte	Albert Norman,	Grigsby	3Cdn Gen Base Rft Bn.

PROCEEDINGS REVIEWED
WB BATE CAPT
~~Major~~

PROCEEDINGS OF TRIAL.

A/DJA Cdn Sec GHQ 2 Ech ~~AAF~~ AFHQ

Held in the Fd in (country) Italy on (date(s)) 20 Feb 45

RECORD FORM A—OPENING PROCEEDINGS AND ARRAIGNMENT.

A1. The President, Members, waiting Member, JA, if any, and Offrs under instr, if any, assemble, and the Court is closed.

(PRINTED MATTER, NOT IN ITALICS FOR GUIDANCE. WILL BE DELETED IF NOT USED OR APPLICABLE AND INITIALLED BY PRES OR JA. The Schedule referred to throughout is on p 4. Citations do NOT include all relevant fmn ROs. For guidance on procedure when a variation in this form arises, see form for GCM in MML pp 741 to 759. A brief record of such variation will be made and given a number having reference to appropriate or preceding para number herein. See back of Convening Order, CF A95, for oaths and instrs on how to record addresses, evidence, etc, which instrs are hereafter called "Notes". As to general provisions for conducting the trial see AA 33, RP 56, 63-70, 73, 74, 94, 103, 119, 132.)

A2. The President initials and lays before the Court the Convening Order and Charge Sheet(s) attached thereto.(1) The Court is satisfied that it is properly convened and constituted(2), accused is (are) amenable to military law, and each charge discloses an offence.(3)

(1. As to use of Summary of Evidence see RP 17 fn 6. 2. AA 49, 50, RP 105-107. 3. RP 11-13, 23, 24.)

A3. The Court is opened. The accused is [illegible] brought before the Court. At 1335 hours trial commences.

A4. The Prosecutor produces a Medical Certificate that accused is [illegible] fit to undergo trial by court-martial.(1)

"LNC" The [illegible]

(1. KR Can 557. 2. AA 46(8), RP 60 fn 1. For effect see KR Can 563(c). Delete, if not applicable.)

"LNC" A5. President to accused: [illegible]

(1. RP 72. Delete, if none employed.)

A6. The Convening Order and names of the President and Members of the Court are read to the accused.(1) President to accused: Do you object to be tried by me as President or by any of the Members of the Court? Ans NO (2)

(1. RP 110. 2. If no objection, waiting member retires. RP 66(B). If objection, see procedure AA 51, RP 25, 71, 18, MML p 742.)

A7. The President, Members, JA, if any, and Offrs under instr, if any, are sworn.(1) The following are the ranks, names and units of the offrs comprising the Court, etc:

President	Major	L. N. Carr	(CIC)	1 CIBR Bn
Member	Lieut	G. E. Rowe	(RCE)	2 C ReAllocationCentre
Member	Lieut	D. A. Leedham	(CIC)	2 CIBR Bn
Judge-Advocate				
Prosecutor	Capt	J.E. Harry	(CIC)	3 CGBR Bn
Defending Offr	Capt	K.B. Clarke	(CAC)	3 CGBR Bn.

Questions by President: Is the Prosecutor a lawyer? Ans NO Is the Defending Offr a lawyer? Ans NO (2)

(1. RP 26, 27, 109, 111. List of offrs under instr will be returned separately with proceedings for information of Conv Offr.)
(2. If Pros a lawyer and Def Offr not, accused is entitled to an adjournment when RP 89 (B) and fn 2 were not followed. See Dil p 3.)

A8. The accused B.81888 Pte Grigsby A.N. before arraignment makes(s) (no) (1) plea "LNC"

(1. If a special plea is made for separate trial on one or more charges (RP 62(E), 108), or as to the jurisdiction of the Court (RP 34, 35(A), 113), or in bar of trial (RP 36), or as to accused's mental fitness to stand trial (AA 132, RP 57), or by one of several accused charged jointly to be tried separately (RP 16, 71), such plea, the addresses made in support or against, the evidence, if any, and finding are recorded per Notes. For forms of record see references in fns to RoP cited. Insert in AB rank and name of the accused making the plea.)

A9. The accused is (~~not~~) arraigned [illegible] on all charges in the charge sheet.(1) The accused does~~not~~ "LNC" omit object to any charge.(2) There is no amendment to be made to the Charge Sheet.(3) The President records the pleas in Part I of the Schedule.

(1. RP 30, 112. See para 1 of Instrs p 2. When more than one Charge Sheet see RP 62; when several accused to be tried separately see RP 71(C), and use separate copies of CF A96 to record proceedings. 2. RP 32, RP 33. If as otherwise, delete and make appropriate record per Notes.)

"LNC" A10. The Court (~~considers~~) considers the Instrs on Procedure after Arraignment at top of p 2. The proceedings are continued on Record Form.

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

INSTRUCTIONS ON PROCEDURE AFTER ARRAIGNMENT.

1. *The accused may not plead or be found Guilty on more than one of two or more charges laid in the alternative.* (*RP 37(A).*) *As to withdrawal of alternative charges by Prosecutor see RP 35(C). No other charge can be withdrawn for any reason without assthy from Convening Offr. If Convening Offr concurs, Court may accept plea of Guilty to lesser, etc, offence.* (*RP 44(H).*) *Accused may change a plea of Not Guilty to Guilty during trial.* (*RP 38.*) *As to refusing to plead or not pleading intelligibly see RP 35(A). As to plea when sentence may be death see RP 35(D).*

2. *The proceedings on each charge sheet* (*RP 62*) *after arraignment will be conducted as follows in the respective circumstances stated :*

I. If pleas to all charges are GUILTY, use Record Form B below.

II. If pleas to all charges are NOT GUILTY, use Record Form D on p [redacted] *3.*

III. If pleas to some charges are GUILTY and to other charges are NOT GUILTY and,

(a) Such mixed pleas occur when there are no alternative charges in the Charge Sheet, use Record Form C below. (*RP 37(A).*)

(b) Such mixed pleas occur in a set of two or more charges laid in the alternative, see RP 37 (A) and fn 2 as to discretion of Court, (i) to try the accused on all such alternative charges as if he had pleaded Not Guilty thereto, or, (ii) to record the pleas as the findings of Court. After deciding between (i) and (ii), Court will proceed under foregoing instrs as may be appropriate to result of its decision. See MAL p 744 Instrs (2).

3. *As to responsibility of President to accused see RP 59, 60(C) ; powers and duties of JA see RP 103 ; duty of Prosecutor see RP 60(A) (B) ; duty and privileges of accused and Defending Offr see RP 60(C), 87(C), 91, 92 ; swearing and withdrawal of witnesses from Court see RP 81, 82 ; questioning of accused see RP 89, 87(C), 92(B), and of witnesses see RP 83-85 ; calling or re-calling of witnesses by Court etc see RP 75-79, 86, 116 ; use of Summary of Evidence at Trial see RP 17(E) fn 6 ; and responsibility of JA or Pres to record proceedings see RP 94, 96.*

RECORD FORM B—PROCEEDINGS ON PLEAS OF GUILTY TO ALL CHARGES.

B1. The President or JA, if any, complies with RP 35(B) by explaining to the accused the nature and meaning of the charge(s)(1), and that on his plea of Guilty there will be no regular trial but merely a consideration of the sentence to be awarded after he has been given an opportunity to make a statement in reference to the charge(s), call witnesses as to character and make an address in mitigation of punishment.(2)
(*1. RP 35 fn 3. 2. MML p 54 para 47.*)

B2. President to accused : The Court will now receive any statement you desire to make in reference to the charge(s).(1) If it appears from your statement that there are circumstances which indicate that you do not understand the effect of the plea of Guilty(2), or which show provocation or extenuation in respect of which in your interest the witnesses for the Prosecution should be examined(3), we shall advise you to change your plea to Not Guilty. In making a statement you will not be sworn or subject to cross-examination ; and anything you say will not be used in evidence against you after you change your plea. If, however, it appears to the Court that your statement affects only the amount of punishment to which you are liable, you will not be advised to change your plea and you will be given an opportunity later to prove your statement by sworn testimony, if you so desire.(4)

President to accused : Do you wish to make a statement ? Ans. No.(5)
(*1. RP 37(B). 2. RP 37(D) fn 6. 3. RP 25(3) fn 5 para 3, MML p 54 para 47. 4. See para E3 of Record Form E. 5. Statement, if any, recorded per Notes.*)

"LNC" B3. [redacted] The Court will now receive any statement you desire to make in reference to the charge(s) in mitigation of punishment. [redacted]
(*1. Court may be closed to consider the statement. Delete whole or part not used.*)

B4. On the charge(s) to which the plea(s) of Guilty is (are) not changed the President records finding(s) of Guilty in Part I of the Schedule.(1)
(*1. RP 35(B). If any plea(s) is (are) changed, use Record Form C or D as appropriate.*)

B5. The Summary of Evidence is marked Ex D, initialled and read aloud by the President.(1)
(*1. If there is no Summary, or if it is inadequate, comply with RP 37(B). If there is any evidence inconsistent with any plea standing as Guilty, Court will advise accused to change such plea and, if changed to Not Guilty, try such charge(s) by use of paras D1 to D8 inclusive of Record Form D on p 3. RP 37(D).*)

B6. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

RECORD FORM C—PROCEEDINGS ON MIXED PLEAS OF GUILTY AND NOT GUILTY.

C1. As to the charges on which accused pleaded NOT GUILTY the trial is continued by using paras D1 to D8 inclusive of Record Form D on p 3 before proceedings with C 2.(1)
(*1. RP 37(A) (E).*)

C2. The charges on which accused pleaded GUILTY are read to him (them) again, and the trial is continued by using paras B1 to B5 of Record Form B above.(1)
(*1. Under B5 such parts only of the Summary of Evidence are read as relate to the charge(s) [redacted] with order C2. If any plea is changed to Not Guilty, trial thereon proceeds by complying with paras D1 to D8 inclusive in Record Form D on p 3 and making an appropriate record thereof on a separate sheet.*)

C3. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

Fix here Loose Sheets of Record.

RECORD FORM D—PROCEEDINGS ON PLEAS OF NOT GUILTY TO ALL CHARGES.

D1. President to accused : Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity to prepare your defence ? Ans .....(1)
(*1. If "yes", see RP 39(A) for procedure. Statement or evidence, if any, is recorded per Notes.*)

D2. The Prosecutor makes (an) (no) opening address.(1)
(*1. RP 39(B), 60(A) (B), 90, 92(C) (D). Record address per Notes, subject to RP 95(C).*)

D3. The evidence for the Prosecution is taken.(1)
(*1. RP 39(C), 114, KR Can 535. Record evidence per Notes. As to Prosecutor giving evidence himself see RP 39(D) (E).*)

D4. The Prosecution is closed.(1) The Defending Offr submits that the evidence for the Prosecution does not establish a prima facie case against the accused on the ..... charge(s).(2) The Court is closed, and considers the submission.(3) The Court is re-opened, and the President announces that the submission is disallowed on the ..... charge(s), and allowed on the ..... charge(s), and that, accordingly, the trial will proceed on the former, but the accused is (are) found Not Guilty on the latter charge(s).(4)
(*1. Delete remainder of this para. If submission not made. 2. Arguments on submission, answer and reply are recorded per Notes. 3. RP 40 fn 1. See MML p 72, paras 12-14 and p 81 para 42. 4. Delete part not used. If accused acquitted on all charges, use second alternative in para D5.*)
NB : If trial proceeds, accused must be allowed great latitude in making his defence, and the Court should not stop his defence solely on ground of irrelevance. (*RP 60(C), 114, 116.*)

D5. President to accused : You will now proceed with your defence.(1) You may, if you wish, give evidence yourself on oath as to the facts or your character or both, in which case you will be subject to cross-examination.(2) You may, however, make a statement without being sworn, and you will not be subject to cross-examination.(3) But a statement which could have been made on oath will not carry with the Court the same weight as sworn testimony.(4) You may call witnesses in your defence and as to character whether you give evidence or make a statement or do neither.

President to accused : Do you wish to give evidence yourself as a witness, make a statement, or do neither ?
Ans .....
Do you intend to call witnesses on your behalf ?
Ans ..... Are they witnesses as to character only ? Ans .....
(*1. RP 155. 2. RP 40(A), see 80(D). 3. RP 40 fn 10. 4. RP 40 fn 9.*)

D6. Consequent on the answers recorded in para D5 the appropriate procedure for the defence is followed.(1)
(*1. RP 114, 115, 116. For procedure see Notes on back of Convening Order, CF 1[illegible]. Evidence for accused as to his character should, if in his interest, be given before the finding. See RP 46(A) fn 1, B6(C). Note : no further opportunity in para E1 of Record Form E. Record per Notes addresses, statement, evidence and any summing up by [illegible] under RP 42, 103(e).*)

D7. The Court is closed to consider the finding(s).(1) The finding(s) of the Court is (are) recorded in Part I of the Schedule.(2) The Court is re-opened.
(*1. RP 43, 117(A). See Notes in Part I of Schedule. 2. RP 44(A).*)

D8. The President announces the finding(s), if any, of Not Guilty, and states to the accused that the finding(s) of the Court on the ..... charge(s), being subject to confirmation, will be promulgated later.(1)
Or, The President announces that the accused is found Not Guilty on all charges and is to be released forthwith, and that the proceedings are accordingly terminated. Part I of the Schedule is dated and signed.(2)
(*1. AA 54(3) (6), RP 45, 120(A). 2. AA 54(3), RP 45, 117. This alternative announcement is not applicable where there are pleas of Guilty outstanding and dealt with under Record Form B or C.*)

D9. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E below.

RECORD FORM E—PROCEEDINGS ON CONVICTION BEFORE SENTENCE.

E1. President to accused : Do you wish to give evidence yourself or to call any witnesses as to your character ?(1)
Ans No.
(*1. If evidence has already been given by accused or his witnesses as to his character, delete this para. RP 37(C) fn 4, 46 fn 1. Accused and witnesses are sworn. Evidence recorded per Notes.*)

"LNC" E2. The Prosecutor produces Statement[illegible] as to Character and Particulars of Service(1), and certified true copy [illegible] of Conduct Sheet(s)(2), purporting to refer to the accused, which he submits to the Defending Offr for examination, and then to the Court for admission in evidence. The Court is satisfied that these documents refer to the accused, because (i) they purport to be signed in the manner required by AA 163(3) (g) (h), and (ii) they purport to refer to (a) soldier's having the same number, rank, name and corps as the accused. Admitted in evidence and marked Ex E and Ex F respectively.(3)
(*1. MFB 355 or AFB 296. 2. MFM 6. 3. RP 46, KR Can 558. If above documents not produced, see RP 46 fn 1 para 1.*)

E3. President to accused : Do you wish to address the Court on the Statement[illegible] and Conduct Sheet[illegible], and in mitigation of punishment ?(1) Ans Plea of mitigation.(2)
(*1. RP 37(C), 46(D). 2. Address, if any, recorded per Notes. Court should permit accused or his witnesses to prove on oath anything here or previously stated which would affect the amount of punishment. RP 37(F) fn 7.*)

E4. The President states that the Court is closed to consider the sentence, and that the sentence to be awarded by the Court, being subject to confirmation, will not be announced, but will be promulgated later, and the proceedings in open court are accordingly terminated.(1)
(*1. AA 54(6), RP 120(A).*)

E5. The Court considers the sentence.(1) The President records the sentence in Part I of the Schedule, which is dated and signed by him and the JA., if any.(2)
(*1. When several accused tried separately see RP 7(D). One sentence only, comprised of the punishment or punishments laid down in AA 41, 44 and its proviso, is to be awarded to cover all charges on all charge sheets on which accused found guilty. RP 48. As to sentences see AA 44, 136, 182, RP 46-50, 69, 118, 119(A), KR Can 308, 330, 563-566, Overseas RO 309, 2323, MML p 60, 757-759. As to sentences assigned for civil offences by the law of England see AA 41(5), MML p 130. When accused already under sentence of imprisonment or detention see AA 44(1B), 68(1), KR Can 564. 2. RP 50. As to release from arrest by Confirming Offr see KR Can 567. As to assembly and disposal of record after trial see [illegible] on back of Convening Order.*)

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

CHARGE SHEET "LNC"

The accused, B.81888, Pte Albert Norman GRIGSBY
3 Cdn Gen Base Rft Bn., a soldier of the
Canadian Army Overseas is charged with:

First Charge
Section 15(1)
Army Act.

When on Active Service, ABSENTING HIMSELF WITHOUT LEAVE

in that he

In the ~~xxxxx~~ Field, in Italy, absented himself without leave from 1900 hrs, 20 Aug 44 until 1300 hrs, 29 Aug 44.

Time Absent: 8 days 18 hours.

Second Charge
Section 15(1)
Army Act.

When on Active Service, ABSENTING HIMSELF WITHOUT LEAVE

in that he

in the Field, in Italy, absented himself without leave from 2359 hrs, 30 Oct 44 until 1145 hrs, 1 Nov 44.

Time Absent: 1 day, 11 hours, 46 minutes.

THIRD CHARGE
Section 15(1)
Army Act.

When on Active Service, ABSENTING HIMSELF WITHOUT LEAVE

in that he

in the Field, in Italy, absented himself without leave from 2359 hrs, 3 Nov 44 until 1210 hrs, 10 Jan 45.

Time Absent: 67 days, 12 hours, 11 minutes.

"J.G. Vining"
(J.G. Vining) Lt-Col
Commanding Officer
3 Cdn Gen Base Rft ~~Bn~~

Field
13 Feb 45

TO BE TRIED BY FIELD GENERAL COURT MARTIAL

In the Field
In Italy
16 Feb 45

"T.G. Gibson"
(T.G. Gibson) Brigadier
Comd 1 Cdn Base Rft Gp.

"LNC"

FIELD GENERAL COURT-MARTIAL

CFA95 (In lieu of AFA2) 40/PAM/1607 (2668)

(Whether the accused to be tried is under his comd or not, a FGCM may on application to him be convened by any offr of Cdn Army Overseas, or of any other force if authorized in law, in immediate comd of troops on active service, subject to RP 105(C) and restrictions imposed by appropriate authy. AA 49, 50, RP 104-107, 114. As to the duties and privileges of the Convening Offr in dealing with the application see MML Chap V paras 20 and 23, RP 87(B).

There should be a separate Convening Order for each person to be tried separately by the same Court. RP 71(C), 109. As to separate charge sheets see RP 62, and as to separate trial on charges in the same charge sheet see RP 108. As to two or more accused charged jointly see RP 16, 109.

As to reasons for showing (a) permanent or confirmed rank, and (b) apptnt, A/rank or A/apptnt, if any, see AA 182, 183, (ns, KR Can 308, 328, 330.)

ACCUSED.

Number.	(a) Prmnt R.	(b) Apptnt, A/R or A/Apptnt.	Full Christian Names.	Surname.	Unit.
B.81888	Pte		Albert Norman	Grigsby	3 Cdn Gen Base Rft Bn.

CONVENING ORDER.

1. Whereas complaint has been made to me, the undersigned, that the person named above as the accused, being subject to military law, has committed the offence(s) set forth in the Charge Sheet attached and on (date) 16 Feb 45 endorsed by me, (~~[illegible]~~) To be tried by Field General Court-Martial ".

2. And whereas I am of opinion that it is not practicable that such offence(s) should be tried by an ordinary General Court-Martial ; ~~[illegible]~~ "TGG"

(Delete part in brackets when not required for compliance with RP 105(C).)

3. I hereby convene a Field General Court-Martial to try the said person, and to consist of the Offrs appointed or detailed hereunder.

4. ~~[illegible]~~

(AA 49, RP 106(B), 107(A). Delete the whole or part, if not applicable.)

5. ~~[illegible]~~

(RP 106(E). Delete, if none appointed.)

PRESIDENT.

(Rank.)		(Must be named. RP 106.)	(Unit.)
Major	L N Carr (CIC)		1 Cdn Inf Base Rft

MEMBERS.

Capt or Lieut to be detailed by the OC 2 Cdn Reallocation Centre

(Rank.)	(Named or detailed. RP 106.)	(Unit.)
Capt or Lieut to be detailed by the OC 2 Cdn Inf Base Rft Bn		

WAITING MEMBER.

(Rank.)	(Named or detailed, if any. RP 106.)	(Unit.)
Capt or Lieut to be detailed by the OC 2 Cdn Reallocation Centre		

JUDGE-ADVOCATE.

(Rank.)	(Must be named, if any. RP 106.)	(Unit.)

On Active Service in the Fd

in	(Country.)	(Signed personally. RP 105 fn 2.)	(Rank.)
Italy		"T.G. Gibson"	Brigadier

Date 16 Feb 45

(T.G. Gibson)
Commanding 1 Cdn Base Rft Gp
Convening Officer.

CONVENING OFFR WILL INITIAL ALL DELETIONS AND ALTERATIONS

(See overleaf for oaths and notes for use on trial.)

3 CANADIAN BASE REINFORCEMENT BATTALION "LNC"

Certified that I have examined No. B.81888 Rank Pte
Name GRIGSBY A. and in my opinion is FIT
to undergo trial by Field General Court Martial.

In the Field "D. Kahn Capt".
this 20 day of Feb 1945. Signature of Medical Officer.

PLEA OF MITIGATION Page 1 "LNC"

Mr. President and Members of the Court.

In my plea of mitigation for B.81888 Pte Grigsby A.N. I would like to put forth a few facts concerning his career and also a few concerning his home life. He joined the Army on Dec 11th 1940 and was under the enlistment age but falsified his age so that he could get a monthly cheque sent to his mother and sister and also keep the home up. He was not employed before the war and his father was not at home and is not supporting the home in anyway at all. Pte Grigsby arrived overseas U.K. Dec 25th 1940 remained there until Sept 3rd 1943 when he arrived in Italy. He was with the RCAMC all the time and has been with them at the front. During the last year he has received several letters from home and they only tell him of the great and many troubles they are having at home. His sister who is quite young is causing the mother great trouble and anxiety. They would like to put her in a convent but have not the money to do so. This news has not been good to Pte Grigsby and it bothers him a great deal so much at times that he cannot concentrate on any work at all. He does not want a discharge from the Army but he suggested to me that he would like a transfer to the Infantry. I would like to recommend to the Court that a thorough medical examination be given Pte Grigsby to try and determine which is best for him. I sincerely hope the Court will consider this recommendation as I know it will be the best solution for Pte Grigsby, so that he will be in a better position to assist his mother and his home. Before closing I would like to add

---

Page 2 "LNC"

that Pte Grigsby in Nov 1943 made an application for compassionate leave to go home and see what he could do to settle the troubles at home, and he has not had any results from this application and I assure you that this has done more harm than good.

Page 1 Exhibit "D" "LNC"

Summary of Evidence in the case of B.81888 Pte Grigsby A.N. presently on strength of 3 Cdn Gen Base Rft Bn., 1 C.B.R.Gp, C.M.F. a soldier of the Canadian Army, C.M.F. accused with absenting himself without leave (AA Sec 15(1)).

On orders of the Commanding Officer the evidence is taken under oath.

First Witness

F.82012 Gnr Dunlop J.E. 3 Cdn Gen Base Rft Bn. 1 C.B.R. Gp. sworn states:-

I am the orderly room clerk of "E" Coy 3 Cdn Gen Base Rft Bn.

I submit X-list RCAMC Pt II Orders issued by Cdn Sect GHQ 2nd Echn AAI No. 94 dated 12 Oct 44, certified to be a true copy by W.H. Laughlin Capt Officer having Custody of Original. Paragraph 10 (d) of this order reads "AWL from 1900 hrs 20 Aug 44; apprehended by U.S. Mil Police 1300 hrs 29 Aug 44.

B. 81888 Pte Grigsby A.N.
(Attached and marked Exhibit "A".

I further present X List RCAMC Pt II Orders issued by Cdn Sect G.H.Q. 2nd Ech AAI No. 116 dated 21 Dec 44, certified to be a true copy by Capt W.H. Laughlin, Officer having custody of original. Paragraph 8 (d) of this order reads "AWL from 2359 hrs. 30 Oct 44; apprehended 1145 hrs 1 Nov 44".

B. 81888 Pte Grigsby A.N.

This same order in paragraph 8 (e) reads ", AWL from 2359 hrs 3 Nov 44; still absent 2359 hrs 11 Nov 44"

B.81888 Pte Grigsby A.N.

(Attached and marked Exhibit "B")

I further present a certificate of surrender in accordance with Sect 163 (i) (j) Army Act, purporting to be signed by Capt. C. Wigginton, "T" Provost Company, C.M.F. which shows B.81888 Pte Grigsby, A.N. to have surrendered himself at Rome at, or about, 1210 hrs on 10th Jan 45.

(attached, marked Exhibit "C")

"J.E. Dunlp Gnr".

The accused declines to cross-examine the witness.

The accused, having been duly warned in

accordance with R.P. 4(e) declines to make a statement or to give evidence upon oath.

This summary, consisting of three written pages taken down, in the field, 9 Feb 1945, in the presence of the accused.

R.P. 4 (e) (d) (e) (f) complied with.

In the Field
9 Feb 45

".John E. Harry Capt"
Officer detailed to take Summary.

"JEH".

Exhibit "A" "John E Harry Capt" "C"

Last Order No. 93	X LIST ROYAL CANADIAN ARMY MEDICAL CORPS Part II Orders Issued by	This Order No. 94
9 Oct 44	CANADIAN SECTION G.H.Q. 2nd ECHELON- AAI	12 Oct 44

"B" Other Ranks.
Page 5

10. ABSENT WITHOUT LEAVE
(d) AWL from 1900 hrs 20 Aug 44; app by U.S. Mil Police 1300 hrs 29 Aug 44.
B.81888 Pte Grigsby A.N. (X-2 List)

Page Six

1o. ABSENT WITHOUT LEAVE (CONT'D)
(e) AMENDMENT Part II Order No.90 Para 4(a) d/2 Oct 44 insofar as it refers to the u/n is cancelled.
B.81888 Pte Grigsby A.N. (X-2 List.

Certified true copy
"W.H. Laughlin"
(W.H. Laughlin) Capt
3 Feb 45 Officer having Custody of Orignal Cdn Sec GHQ 2 Ech AAI.

"F.F. Knight Lieut"
for (W.H. Laughlin) Lieut.
for Officer i/c

Exhibit "B" "LNC" "John E Harry Capt".

Last Order No. 115 11 Dec 44

X-LIST ROYAL CANADIAN ARMY MEDICAL CORPS
Part I Orders Issued by
CANADIAN SECTION G.H.Q. 2nd ECHELON -AAI

This Order No. 116 21 Dec 44

"B" OTHER RANKS
Page Three

8. ABSENT WITHOUT LEAVE
(d) AWL from 2359 hrs 30 Oct 44; apprehended 1145 hrs 1 Nov 44
B.81888 Pte Grigsby A.N. (X-3 List)
(e) AWL from 2359 hrs 3 Nov 44; Still absent 2359 hrs 11 Nov 44
B.81888 Pte Grigsby A.N. (8Bn) (8th day)

Page Four

8. ABSENT WITHOUT LEAVE CONT'D
(f) AWL from 2359 hrs 3 Nov 44; Still absent 2359 hrs 25 Nov 44
B.81888 Pte Grigsby A.N. (8Bn) (22nd day)

Certified true copy
"W.H. Laughlin"
3Feb45 (W.H. Laughlin Capt)
Officer having custody of Original

"J.L. Hayes"
(J.L. Hayes) Capt
for Officer i/c
Canadian Section GHQ 2nd Echelon AAI.

CERTIFICATE IN ACCORDANCE WITH SEC 163(1)(j) Army Act "LNC"

I Capt G. Wigginton certify that No. B.81888 Rank Pte.

Name GRIGSBY A.N. of the 4th CDN FLD AMB. 1st CANADIAN DIVISION R.C.A.M.C. 8th Army.

Surrendered himself to No. 819401 Rank L/Cpl...Name JONES..

at ROME....on the 10th January 1945...at about 1210...hrs... as a

deserter/absentee without leave.

Date 11th Jan 45

"G. Wigginton" Captain
"B" Provost Company C.M.P.

(Commanding Officer of the person or portion of His Majesty's Forces to whom surrender was made.)

"J.C. Vining Lt Col" Exhibit "C"
"John E. Harry Capt".

Exhibit "E" "LNC"

ARMY FORM B.296 (WAR)

Statement as to Character and Particulars of Service of Accused

(For Use at Trials by Field General Courts-Martial only)

Number.	Rank.	Name.	Regiment (or as the case may be).
B.81888	Pte	GRIGSBY A.N.	3 Cdn Gen Base Rft Bn

NOTE.—The Field Conduct Sheet is to be produced in Court with this statement but it not to be annexed to the proceedings. The numbers herein stated should correspond with the number of ENTRIES in the Field Conduct Sheet, prominence being given to the most serious offence in each entry. If the charge is for drunkenness or absence without leave, the entries for drunkenness or absence, as the case may be, should be stated separately. Any recognised special acts of gallantry or distinguished conduct recorded on the Field Conduct Sheet should also be inserted here.

1. The following is a fair and true summary of the entries in the Field Conduct Sheet of the accused, exclusive of convictions by a court martial or a civil court:—

For AA Sec 15(1) AWL ..... 6 times.
For AA Sec 8(2) ..... 1 times.
For AA Sec 24(2) ..... 1 times.
For AA Sec 11 ..... 1 times.
For AA Sec 40 ..... 6 times.

Date of first entry in Field Conduct Sheet 5 Aug 41

Date of last entry in Field Conduct Sheet 12 Aug 44

2. Previous convictions of the accused by a court martial or a civil court are set out in the Schedule overleaf.

*Strike out if not applicable.

*3. [illegible] "CA"

[illegible] "CA"

4. The accused has been awaiting trial on the present charges for nil days in civil custody; and for 41 days in military custody, i.e., nil days in open arrest, 41 days in close arrest; of which nil days were spent in hospital.

5. The present age of the accused is 21 years and 21 days.

6. The date of his attestation [illegible] is 11 Dec 40

7. The service which the accused is allowed to reckon is n/a

†State the military decorations (if any) held by accused.

8. The accused is in possession of †

9. (If the accused is a warrant officer or N.C.O.). The accused has served continuously, without reduction, to the present date—

N/A. Date of Promotion.

In the substantive rank of .....

In the war substantive rank of .....

In the acting rank of .....

INSTRUCTION.—If any matter in any of the above paragraphs cannot be stated from the regimental books the paragraph must be struck through.

Wt. 13479/2857 30,000 3/44 S1-452 T.Lee Forms/B.296 (War)/2

SCHEDULE OF CONVICTIONS BY A COURT-MARTIAL OR CIVIL COURT

Description of Court by which tried	Date and Place of Trial	Charges upon which convicted	Sentence of the Court	Punishment remitted or sentence suspended
FGCM	5Aug 41 Field	AA Sec 6 (2) (e)	150 days det'n "Less" 50 days detention.	33 days remission 5 Aug 41
FGCM	Field 12 Aug 1944	AA Sec 6(2) (e)	7 mos detention reduced to 5 mos det'n	nil

"CA"

I HEREBY CERTIFY that the foregoing particulars, which have been extracted from the regimental books in my custody, are correct to the best of my knowledge and belief.

Signed this ..... day of .....

"C Armstrong" (C. Armstrong) Capt & Adjt. 3 Cdn Gen Base Rft Bn.

Exhibit "F" "LNC"

No B.81888 Name GRIGSBY A.N. | Sqn, Battery or Company | Corps RCAMC | Date of enlistment 11Dec 1940 | GC Badges | Service or Proficiency Pay | MFM 6 (AFB 122) 40/PA&S/126 (3438)

Date of last entry in Company Conduct Sheet | No and date of last drunk | Period not reckoning towards freedom from extra fine | Sheet No 1 | Signature OC Company, etc | Character

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Field		Pte		FGCM: Offence not shown AA Sec 6(2) (e)		150 days det'n "Less" 50 days detention	5Aug 1941	FGCM	Forf 100 days FRI 149(1)(b) 20 days FR&I 149(1)(c) Total 120 days.
Field		Pte		33 days remission of sentence awarded 5 Aug 41			10Oct1941		
Field		Pte		AA 40		7 days C.B. 7 days Pay.	13Feb1942	CO.	
Field		Pte		AA 40		14 days pay 14 days C.B.	12 Aug 1942	Co	
Field		Pte		AA 40		14 days C.B.	17Aug42	CO	
Field		Pte		AA 15(1)		14 days C.B. 7 days pay	6 Jan 43	CO	Forf 6 dys pay FR&I 149(1)(a)

No B81888 Name GRIGSBY AN | Sqn, Battery or Company | Corps RCAMC | Date of enlistment 11Dec 1940 | GC Badges | Service or Proficiency Pay | MFM 6 (AFB 122) 40/PA&S/126 (3438)

Date of last entry in Company Conduct Sheet | No and date of last drunk | Period not reckoning towards freedom from extra fine | Sheet No | Signature OC Company, etc | Character

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Field		Pte		AA 6 (2) (e)		7 mos Det'n reduced to 5 mos Detn	12 Aug 1944	FGCM	Forf 153 days 149(1)(b)

CERTIFIED TRUE EXTRACT OF MFM 4.
17 Jan 45 (Signed) J.L. Hayes. Capt. (Officer having custody of Original).

CERTIFIED TO BE A TRUE COPY FROM THE REGIMENTAL BOOKS IN MY CUSTODY.
"C. Armstrong"
(C.Armstrong) Capt & Adj., 3 Cdn Gen Base Rft Bn.
Officer having custody of Regt'l Books.

(P10)

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order directing trial	By whom awarded	Remarks
Field		Pte		AA 15(1) AA 40 AA 11		28 days F.P.	11Mar43	CO	Forf 28 days pay 149 (1)(b)
Field		Pte		AA 40		28 days F.P. 28 days Pay	8Nov 43	CO	
Field		Pte		AA 15(1) AWL 13 hrs 30 min		8 days pay	26 Jan44	CO	
Field		Pte		AA 8(2)		14 days pay	6 Aug 43	CO	
Field		Pte		AA 24(2)		7 days pay Stoppages 10/8½	27 Jan 44	CO	(6 days concurrent award 26 Jan 44)
Field		Pte		AA 15(1) AWL 14 days 2hrs 45 min		1 days F.P. 1 days Pay	26 Apr44	CO	Forf 15days 149(1)(a) 19 days 149(1)(c)(ii)
Field		Pte		AA 15(1) AWL		7 days F.P. 7 days pay	16Apr 44		Forf 1 day pay FR&I 149(1)(a)
Field		Pte		AA 40		14 days C.B. 28 days pay	5 Jan44	CO	
Field		Pte		AA 15(1) AA 11		14 days C.B. 14 days Pay	20Jun 44	CO	(13 days concurrent award 5 Jun 44).

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order directing trial	By whom awarded	Remarks

COUNTER NUMBER 43 6930

HOUR 10 45

OPERATOR'S INITIALS SA

RELIEVING OPERATOR JMRD

XXX-52

PTE GRIGSBY, H.N.

SCHEDULE.

PART I. PLEA(S), FINDING(S) AND SENTENCE.

Accused: B81888 Pte. Albert Norman GRIGSBY

Charge. (Insert "alternative" where applicable.)	Plea. (See Instrs p 2.)	Finding. (See note below.)	(Space for use as required for further charges, accused charged jointly, special findings, etc.)
1st A.A. Sec 6 (2) (f)	Not Guilty	Guilty	
2nd Alt to Sec 40	Not Guilty	Guilty	
3rd			
4th			
5th			
6th			

(Note: As to findings for lesser offences see AA 56, RP 44; findings on alternative charges see MML p 483 fn 4 para 2, RP 44; special findings see RP 44 and MML p 753, and in lieu of s.d. see RP 44 fn 6.)

At present under sentence for ~~[illegible]~~ beginning on ~~[illegible]~~. (1)
(1. Insert sentence being served, or delete, if not applicable. See RP 46(A). Information should be found on MF B355 or AF B296.)

Time in confinement awaiting present trial—a total of nil days, of which nil days were spent in hospital. (2)
(2. See RP 46(A) fn 2. Information should be found on MF B355 or AF B296 admitted in evidence under E2.)

Sentence Awarded by the Court:

Two hundred and ten days detention
Seven months detention.

(Sgd) ~~[illegible]~~ Judge-Advocate, if any. Aug. 12th 1944 Date awarded. (Sgd) [illegible] President. (RP 45, 50.)
(See back of Convening Order as to assembly and disposal of record after trial.)

PART II. MINUTE WHERE CONFIRMATION RESERVED. (AA 54(3), RP 120(F), MML p 760.)

Date ~~[illegible]~~ (Sgd) ~~[illegible]~~ Commanding ~~[illegible]~~

PART III. DECISION OF CONFIRMING OFFR ON FINDING(S) AND SENTENCE.

(For duties and powers see AA 54, 57, RP 37(D) fn 6, 46(A), 51-56, 120, MML pp 759-761, KR Can 567-577. Acquittals require no confirmation and cannot be revised: AA 54(3). Sending back finding or sentence for revision by Court: AA 54(2), RP 120(C). If not confirmed, accused may be tried again: AA 157, MML p 64. Minute of confirmation or non-confirmation may be altered before promulgation: RP 53, MML p 65. Quashing after promulgation: KR Can 573. Duties and powers of reviewing offrs: AA 57, 57A, RP 53A, 54. The Confirming Offr must sign here personally. AA 172 fn 1.)

My decision on the finding(s) and sentence set forth in Part I is:

I confirm the finding but commute the sentence to read "to undergo detention for five months and suspend the sentence for a period of six months."

~~I direct that the accused be not committed to prison or detention barracks until further orders.~~ (1)
(1. AA 57A. Delete if not used.)

(Sgd) [illegible]

Date 16 Aug 44 Commanding [illegible] Confirming Officer.

PART IV. PROMULGATED AND EXTRACTS TAKEN. (RP 53, KR Can 576, 577.)

Accused.	Date.	Signature of Offr.
B81886 Pte Albert Norman GRIGSBY	16 Aug 44	[illegible]

ALL DELETIONS AND ALTERATIONS WILL BE INITIALLED.

RECORDED AT CMHQ IN AB 160 XXX-52

RECEIVED 8 SEP 1944 CMHQ

FIELD GENERAL COURT-MARTIAL

CFAMR (1st Revn of AFAMR) 40/1 & 8/1608 (1944) 4/388

Convened by Col G A Sinclair Comd ADMS dated 4 Aug 44

ACCUSED.

1 Cdn Inf Div

(As to the trial of two or more charged jointly see RP 16, 71, 109. As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

Number.	(a) Prmnt R.	(b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
B81888	Private		Albert Norman	GRIGSBY	4 Cdn Fd Amb

PROCEEDINGS REVIEWED 27 Sep 44 for W.C. Lindal

REVIEWING OFFR. 1 CDN INF DIV H.Q.

PROCEEDINGS OF TRIAL.

Held in the Fd in (country) Italy on (date(s)) Aug. 12th

RECORD FORM A—OPENING PROCEEDINGS AND ARRAIGNMENT.

A1. The President, Members, waiting Member, JA, if any, and Offrs under instr, if any, assemble, and the Court is closed.

(PRINTED MATTER, NOT IN ITALICS FOR GUIDANCE, WILL BE DELETED, IF NOT USED OR APPLICABLE, AND INITIALLED BY PRES OR JA. The Schedule referred to throughout is on p 4. Citations do NOT include all relevant fmn ROs. For guidance on procedure when a variation in this form arises, see forms for GCM in MML pp 741 to 759. A brief record of such variation will be made and given a number having reference to appropriate or preceding para number herein. See back of Convening Order, CF A65, for oaths and instrs on how to record addresses, evidence, etc, which terms are hereafter called "Notes". As to general provisions for conducting the trial see AA 53, RP 56, 69-70, 73, 74, 94, 103, 119, 132.)

A2. The President initials and lays before the Court the Convening Order and Charge Sheet (1) attached thereto. (2) The Court is satisfied that it is properly convened and constituted (3), accused is ~~not~~ amenable to military law, and each charge discloses an offence. (4)
(1. As to use of Summary of Evidence see RP 17 fn 6. 2. AA 49, 50, RP 105-107. 3. RP 11-13, 23, 24.)

A3. The Court is opened. The accused is (~~not~~) brought before the Court. At 1520 hours trial commences.

A4. The Prosecutor produces a Medical Certificate that accused is (~~not~~) fit to undergo trial by court-martial. (1) ~~The Prosecutor informs the Court that accused elected to be tried by court-martial instead of being dealt with summarily by the CO.~~ (2)
(1. KR Can 557. 2. AA 46(B), RP 60 fn 1. For effect see KR Can 563(c). Delete, if not applicable.)

A5. President to accused: ~~Do you object to~~ ~~[illegible]~~ as interpreter? Ans ~~[illegible]~~

~~The interpreter is sworn.~~ (1) ~~Do you object to the shorthand writer is sworn.~~ (1) ~~[illegible]~~ as shorthand writer? Ans ~~[illegible]~~
(1. RP 74. Delete, if none employed.)

A6. The Convening Order and names of the President and Members of the Court are read to the accused. (1)
President to accused: Do you object to be tried by me as President or by any of the Members of the Court?

Ans No (2)
(1. RP 110. 2. If no objection, waiting member retires. RP 60(B). If objection, see procedure AA 51, RP 25, 71, 78, MML p 740.)

A7. The President, Members, JA, if any, and Offrs under instr, if any, are sworn. (1) The following are the ranks, names and units of the offrs comprising the Court, etc:

President	Maj.	G. W. Wood	4 Cdn. Fd Amb.
Member	Capt.	J. C. Dickinson	2 Cdn. Inf Bde
Member	Capt.	W. P. Turner	4 Cdn. Fd Amb.
Judge-Advocate			
Prosecutor	Capt.	E. D. Simonds	4 Cdn. Fd Amb.
Defending Offr	Capt.	C. Conway	2 Cdn. Inf Bde

Questions by President: Is the Prosecutor a lawyer? Ans No Is the Defending Offr a lawyer? Ans No (2)
(1. RP 26, 27, 109, 111. List of offrs under instr will be returned separately with proceedings for information of Conv Offr.)
(2. If Pros a lawyer and Def Offr not, accused is entitled to an adjournment when RP 89 (B) and fn 2 were not followed. See D1 p 2.)

A8. The accused B81888 Pte Albert Norman GRIGSBY before arraignment make(s) (no) ~~no~~ plea. (1)
(1. If a special plea is made for separate trial on one or more charges (RP 62(E), 108), or as to the jurisdiction of the Court (RP 34, 35(A), 113), or in bar of trial (RP 36), or as to accused's mental fitness to stand trial (AA 130, RP 57), or by one of several accused charged jointly to be tried separately (RP 16, 71), such plea, the addresses made in support or opposition, the evidence, if any, and finding are recorded per Notes. For forms of record see references in fns to RoP cited. Insert in AB rank and name of the accused making the plea.)

A9. The accused is (~~not~~) arraigned (~~separately~~) on all charges in the charge sheet. (1) The accused does (~~not~~) object to any charge. (2) There is no amendment to be made to the Charge Sheet. (3) The President records the plea in Part I of the Schedule.
(1. RP 36, 112. See para 1 of Instrs p 2. Where more than one Charge Sheet see RP 62; when several accused to be tried separately see RP 71(C), and use separate copies of CF A65 to record proceedings. 2. RP 32, RP 33. If otherwise, delete and make appropriate record per Notes.)

A10. The Court is closed and considers the Instrs on Procedure after Arraignment at top of p 2. The proceedings are continued on Record Form D & E

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

INSTRUCTIONS ON PROCEDURE AFTER ARRAIGNMENT.

1. *The accused may not plead or be found Guilty on more than one of two or more charges laid in the alternative.* (RP 37(A).) *As to withdrawal of alternative charges by Prosecutor see RP 35(C). No other charge can be withdrawn for any reason without authy from Convening Offr. If Convening Offr concurs, Court may accept plea of Guilty to lesser, etc, offence.* (RP 44(H).) *Accused may change a plea of Not Guilty to Guilty during trial.* (RP 38.) *As to refusing to plead or not pleading intelligibly see RP 35(A). As to plea when sentence may be death see RP 35(D).*

2. *The proceedings on each charge sheet* (RP 62) *after arraignment will be conducted as follows in the respective circumstances stated :*

I. If pleas to all charges are GUILTY, use Record Form B below.

II. If pleas to all charges are NOT GUILTY, use Record Form D on p 3.

III. If pleas to some charges are GUILTY and to other charges are NOT GUILTY and,

(a) Such mixed pleas occur when there are no alternative charges in the Charge Sheet, use Record Form C below. (RP 37(A).)

(b) Such mixed pleas occur in a set of two or more charges laid in the alternative, see RP 37 (A) and fn 2 as to discretion of Court, (i) to try the accused on all such alternative charges as if he had pleaded Not Guilty thereto, or, (ii) to record the pleas as the findings of Court. After deciding between (i) and (ii), Court will proceed under foregoing instrs as may be appropriate to result of its decision. See MML p 744 Instrs (2).

3. *As to responsibility of President to accused see RP 59, 60(C) ; powers and duties of JA see RP 103 ; duty of Prosecutor see RP 60(A) (B) ; duty and privileges of accused and Defending Offr see RP 60(C), 87(C), 91, 92 ; swearing and withdrawal of witnesses from Court see RP 81, 82 ; questioning of accused see RP 80, 87(C), 92(B), and of witnesses see RP 83-85 ; calling or re-calling of witnesses by Court, etc, see RP 75-79, 86, 116 ; use of Summary of Evidence at Trial see RP 17(E) fn 6 ; and responsibility of JA or Pres to record proceedings see RP 94, 96.*

RECORD FORM B—PROCEEDINGS ON PLEAS OF GUILTY TO ALL CHARGES.

B1. The President or JA, if any, complies with RP 35(B) by explaining to the accused the nature and meaning of the charge(s)(1), and that on his plea of Guilty there will be no regular trial but merely a consideration of the sentence to be awarded after he has been given an opportunity to make a statement in reference to the charge(s), call witnesses as to character and make an address in mitigation of punishment.(2)
(1. RP 35 fn 3. 2. MML p 54 para 47.)

B2. President to accused : The Court will now receive any statement you desire to make in reference to the charge(s).(1) If it appears from your statement that there are circumstances which indicate that you do not understand the effect of the plea of Guilty(2), or which show provocation or extenuation in respect of which in your interest the witnesses for the Prosecution should be examined(3), we shall advise you to change your plea to Not Guilty. In making a statement you will not be sworn or subject to cross-examination ; and anything you say will not be used in evidence against you after you change your plea. If, however, it appears to the Court that your statement affects only the amount of punishment to which you are liable, you will not be advised to change your plea and you will be given an opportunity later to prove your statement by sworn testimony, if you so desire.(4)

President to accused : Do you wish to make a statement ? Ans .....(5)
(1. RP 37(B). 2. RP 37(D) fn 6. 3. RP 35(B) fn 5 para 3, MML p 54 para 47. 4. See para E3 of Record Form E. 5. Statement, if any, recorded per Notes.)

B3. The Court considers the accused's statement.(1) The Court decides (not) to advise accused to change his (their) plea(s) of Guilty to Not Guilty on ..... charge(s). The accused is (are) so informed, and he (they) change(s) his (their) plea(s) on ..... charge(s). Part I of the Schedule is amended accordingly.
(1. Court may be closed to consider the statement. Delete whole or part not used.)

B4. On the charge(s) to which the plea(s) of Guilty is (are) not changed the President records finding(s) of Guilty in Part I of the Schedule.(1)
(1. RP 35(B). If any plea(s) is (are) changed, use Record Form C or D as appropriate.)

B5. The Summary of Evidence is marked Ex ....., initialled and read aloud by the President.(1)
(1. If there is no Summary, or if it is inadequate, comply with RP 37(B). If there is any evidence inconsistent with any plea standing as Guilty, Court will advise accused to change such plea and, if changed to Not Guilty, try such charge(s) by one of paras D1 to D8 inclusive of Record Form D on p 3. RP 37(D).)

B6. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

RECORD FORM C—PROCEEDINGS ON MIXED PLEAS OF GUILTY AND NOT GUILTY.

C1. As to the charges on which accused pleaded NOT GUILTY the trial is continued by using paras D1 to D8 inclusive of Record Form D on p 3 before proceeding with C 2.(1)
(1. RP 37(A) (E).)

C2. The charges on which accused pleaded GUILTY are read to him (them) again, and the trial is continued by using paras B1 to B5 of Record Form B above.(1)
(1. Under B5 such parts only of the Summary of Evidence are read as relate to the charges dealt with under C2. If any plea is changed to Not Guilty, trial thereon proceeds by complying with paras D1 to D8 inclusive in Record Form D on p 3 and making an appropriate record thereof on a separate sheet.)

C3. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

Pin here three sheets of flimsy.

RECORD FORM D—PROCEEDINGS ON PLEAS OF NOT GUILTY TO ALL CHARGES.

D1. President to accused : Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity to prepare your defence ? Ans Nil (1)
(1. If "yes", see RP 39(A) for procedure. Statements or evidence, if any, is recorded per Notes.)

D2. The Prosecutor makes (an) (his) opening address.(1)
(1. RP 39(B), 60(A) (B), 90, 92(C) (D). Record address per Notes, subject to RP 95(C).)

D3. The evidence for the Prosecution is taken.(1)
(1. RP 39(C), 114, KR Con 555. Record evidence per Notes. As to Prosecutor giving evidence himself see RP 39(D) (E).)

D4. The Prosecution is closed.(1) The Defending Offr submits that the evidence for the Prosecution does not establish a prima facie case against the accused on the ..... charge(s).(2) The Court is closed, and considers the submission.(3) The Court is re-opened, and the President announces that the submission is disallowed on the ..... charge(s), and allowed on the ..... charge(s), and that, accordingly, the trial will proceed on the former, but the accused is (are) found Not Guilty on the latter charge(s).(4)
(1. Delete remainder of this para, if submission not made. 2. Arguments on submission, answer and reply are recorded per Notes. 3. RP 40 fn 1. See MML p 72 paras 12-14 and p 81 para 42. 4. Delete part not used. If accused acquitted on all charges use second alternative in para D8.)
NB : If trial proceeds, accused must be allowed great latitude in making his defence, and the Court should not stop his defence unless on ground of irrelevance. (RP 80(C), 114, 115.)

D5. President to accused : You will now proceed with your defence.(1) You may, if you wish, give evidence yourself on oath as to the facts or your character or both, in which case you will be subject to cross-examination.(2) You may, however, make a statement without being sworn, and you will not be subject to cross-examination.(3) But a statement which could have been made on oath will not carry with the Court the same weight as sworn testimony.(4) You may call witnesses in your defence and as to character, whether you give evidence or make a statement or do neither.

President to accused : Do you wish to give evidence yourself as a witness, make a statement, or do neither ?
Ans .....
Do you intend to call witnesses on your behalf ?
Ans .....
Are they witnesses as to character only ? Ans .....
(1. RP 115. 2. RP 40(A), see 80(D). 3. RP 40 fn 10. 4. RP 40 fns 2, 9.)

D6. Consequent on the answers recorded in para D5 the appropriate procedure for the defence is followed.(1)
(1. RP 114, 115, 116. For procedure see Notes on back of Convening Order, CF 695. Evidence for accused as to his character should, if in his interest, be given before the finding. See RP 46(A) fn 1, 86(C). Note the further opportunity in para E1 of Record Form E. Record per Notes addresses, statement, evidence and any summing up by the JA under RP 42, 103(e).)

D7. The Court is closed to consider the finding(s).(1) The finding(s) of the Court is (are) recorded in Part I of the Schedule.(2) The Court is re-opened.
(1. RP 43, 117(A). See Notes in Part I of Schedule. 2. RP 44(B).)

D8. The President announces the finding(s), if any, of Not Guilty, and states to the accused that the finding(s) of the Court on the ..... charge(s), being subject to confirmation, will be promulgated later.(1)
Or. The President announces that the accused is found Not Guilty on all charges and is to be released forthwith, and that other proceedings are accordingly terminated.(2) Part I of the Schedule is dated and signed.(3)
(1. AA 54(3) (6), RP 45, 120(A). 2. AA 54(3), RP 45, 117. This alternative announcement is not applicable when there are pleas of Guilty outstanding and dealt with under Record Form B or C.)

D9. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E below.

RECORD FORM E—PROCEEDINGS ON CONVICTION BEFORE SENTENCE.

E1. President to accused : Do you wish to give evidence yourself or to call any witnesses as to your character ?(1)
Ans .....
(1. If evidence has already been given by accused or his witnesses as to his character, delete this para. RP 37(C) fn 4, 46 fn 1. Accused and witnesses are sworn. Evidence recorded per Notes.)

E2. The Prosecutor produces Statement(s) as to Character and Particulars of Service(1), and certified true copy (copies) of Conduct Sheet(s)(2), purporting to refer to the accused, which he submits to the Defending Offr for examination, and then to the Court for admission in evidence. The Court is satisfied that these documents refer to the accused, because (i) they purport to be signed in the manner required by AA 143(1) (g) (h), and (ii) they purport to refer to (a) soldier(s) having the same number, rank, name and corps as the accused. Admitted in evidence and marked Ex C and Ex D respectively.(3)
(1. MFB 353 or AFB 294. 2. MFM 6. 3. RP 46, KR Con 558. If above documents not produced, see RP 46 fn 1 para 1.)

E3. President to accused : Do you wish to address the Court on the Statement(s) and Conduct Sheet(s), and in mitigation of punishment ?(1) Ans Nil (2)
(1. RP 37(C), 46(D). 2. Address, if any, recorded per Notes. Court should permit accused or his witnesses to prove on oath anything here or previously stated which would affect the amount of punishment. RP 37(F) fn 7.)

E4. The President states that the Court is closed to consider the sentence, and that the sentence to be awarded by the Court, being subject to confirmation, will not be announced, but will be promulgated later, and the proceedings in open court are accordingly terminated.(1)
(1. AA 54(6), RP 120(A).)

E5. The Court considers the sentence.(1) The President records the sentence in Part I of the Schedule, which is dated and signed by him and the JA, if any.(2)
(1. When several accused tried separately see RP 71 (D). One sentence only, comprised of the punishment or punishments laid down in AA 41, 44 and its proviso, is to be awarded to cover all charges in all charge sheets on which accused found guilty. RP 48. As to sentences see AA 44, 128, 182, RP 46-50, 69, 118, 119(A), KR Con 308, 330, 563-566. Overseas RO 309, 3(1), MML p 60, 750-759. As to sentences assigned for civil offences by the law of England see AA 41(5), MML p 130. When accused already under sentence of imprisonment or detention see AA 44(1B), 68(1), KR Con 564. 2. RP 50. As to release from arrest by Convening Offr see KR Con 547. As to assembly and disposal of record after trial see instrs on back of Convening Order.)

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

CHARGE SHEET

The accused, B 81888 Private Albert Norman GRIGSBY, 4 Canadian Field Ambulance, Royal Canadian Army Medical Corps, a soldier of the Canadian Army Overseas, Central Mediterranean Forces, when on Active Service is charged with:

First Charge
A.A. Sec. 6(2)(e) When on Active Service, a soldier acting as picquet, sleeping on his post

in that he

in the Field, at approximately 0020 hours 30 July 44, when on picquet was asleep at his post.

Second Charge
A.A. Sec. 40.
ALTERNATIVE When on Active Service, an act to the prejudice of Good Order & Military Discipline,

in that he

while on picquet duty at approximately 0020 hours 30 July 44, was not alert.

(W.L. Coke) Lt.-col.,
O.C. 4 Cdn Fd Amb, RCAMC.

In the Field.

31 July 44.

To be tried by D.C.M.

4 Aug 44. Col.
ADMS 1 Cdn. Inf. Div.

FIELD GENERAL COURT-MARTIAL

(Whether the accused to be tried is under his comd or not, a FGCM may on application to him be convened by any offr of Cdn Army Overseas, or of any other force if authorized in law, in immediate comd of troops on active service, subject to RP 105(C) and restrictions imposed by appropriate authy. AA 49, 50, RP 104-107, 114. As to the duties and privileges of the Convening Offr in dealing with the application see MML Chap V paras 20 and 23, RP 87(R).

There should be a separate Convening Order for each person to be tried separately by the same Court. RP 71(C), 109. As to separate charge sheets see RP 62, and as to separate trial on charges in the same charge sheet see RP 108. As to two or more accused charged jointly see RP 16, 109.

As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

ACCUSED.

Number.	(a) Prmnt R.	(b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
B81888	Priva te		Albert Norman	GRIGSBY	4 Cdn Fd Amb

CONVENING ORDER.

1. Whereas complaint has been made to me, the undersigned, that the person(x) named above as the accused, being subject to military law, has ~~xxxx~~ committed the offence(s) set forth in the Charge Sheet(x) attached and on (date) 4 August 44 endorsed by me, (~~xxxxxxxxxxxxxxxx~~)." To be tried by Field General Court-Martial".

2. ~~xxxxxxxxxxxxxxx

4 Cdn Fd Amb, RCAMC
4FA/5-2
12 Aug 44.

This is to certify that B 81888 Pte. GRIGSBY, A.N,
has been examined and found fit/~~unfit~~ to undergo trial
by FGCM.

Capt.
(Medical Officer)
4 Cdn Fd Amb, RCAMC.

DATE: 12 Aug 44.

G.W.W.

Opening Address for Prosecution
in case of B. 31888 Pte. GRIGSBY, Albert Norman,
REME, 4th Bde Tpt Amb.

Capt. E.A.L. Simons, REME, 4 CFA, prosecutor

1. The charge against the accused is laid under AA. sec 6(3)(a) with alternative under AA sec 40.
2. The prosecution will produce evidence to prove: (a) that the accused had been properly instructed in his duties and deportment as a guard, while on duty, by the orderly officer for the day (b) that, while on duty, he was found asleep on the ground, in a prone position, by the orderly officer then on duty (c) that, as a result, the accused is guilty of the charge set forth in para (1) of this address.

Signed, 12th Aug. 1944.

E.A.L. Simons, Capt. REME,
Prosecutor.

G.W.O.

12 Sept 44. (1)

Evidence of first witness for prosecution:
Witness duly sworn

"I am Capt. Muir of 4th Cdn. Fd. Amb. - On 30 July 44 at 0020 hours while proceeding to the Orderly Room of 4th Cdn Fd Amb. I had occasion to pass the guard post at the main gate entrance to the camp area and found the guard whom I recognize as B81858 Pte. Jongsby, asleep. I awakened him and informed the guard commander H2 11014 Cpl. Riel R.S. - Later I placed Pte. Jongsby under close arrest."

G.W.W.

P.T.O.

Pros: When you found Pte Srigley asleep, his eyes closed and did he show other evidence of being asleep?

G.W.W.

(Capt Allan)

Wit: I couldn't say whether the eyes closed but in my opinion he was asleep.

Pros: Did you approach Pte Srigley without being challenged or recognized in any way?

Wit: Yes

Cross-examination: Were you O.C. of the regt. in question?

Wit: Yes.

Def: At what time did Pte. Srigley's guard start?

Wit: The commander of the guard told me that Pte Srigley was on guard from 2300 29 July to 0100 hrs 30 July 44.

Def: At what time did the guard of which Pte Srigley was a member take over duties?

Wit: I wasn't present at the time.

Def: While proceeding to the Orderly Room on the occasion under question did you also see Pte Buck-Buckowski?

Wit: I didn't see him.

G.W.W.

~~Nobody was seen~~

Pros: Did you see anyone else nearby when you returned the accused?

Wit: No.

Pros & Def & Pros G.W.W.

Second witness for Prosecution: (1)

H-11019 Cpl. Ried R.J.

Witness duly sworn

Name H-11019 Cpl. Ried R.S. RCASC

Can. Fd. Amb. I was guard commander from 1700 hrs. 29 July 44 until 1700 hrs. 30 July 44. I posted Pte. Srajsky whom I recognize as the accused at 2300 hrs. 29 July 44 at the guard post at the maintenance to the campsite. At 0200 hrs. 30 July 44 Capt. Alair came to the guard tent and informed me that he had found Pte. Srajsky asleep at his post, and that he would be placed under arrest. I proceeded to Capt. Alair to the post where Pte Srajsky immediately walked towards us to give us the guards challenge. At approx. 0100 hrs on 30 July Capt. Alair told me to take Pte. Srajsky in close arrest, which I did."

P.T.O.

Pros: No questions

Cross examination:

Def: After you were told [illegible] swear this statement at the summary of evidence, was a copy given for you to sign?

Wit: I signed my statement at the time.

Def: Has the charge against the accused been read to you or in your presence?

Wit: I can't remember. I was told what the charge would be.

Def: You understand the charge?

Wit: Yes

Def: Have you any personal knowledge that he was asleep at his post.

Wit: No.

Re-examination:

Pros: requests copy of standing orders as per date requested.

Wit: Yes - (copy presented to court)

Jones Def. & Pros.

G.W.W.

(5)

3rd Witness for Prosecution.

Lieut. G. Rankin RCASC
Witness duly sworn 4 Cdn. Fd. Amb.

Pros:

Were Lieut. G.W.D. will you please make a statement

Wit: I am Lieut. G. Rankin R.C.A.S.C. 4 Cdn Fd. Amb. On the 29 July 44 I was Orderly Officer. At 1700 hrs. I inspected the prisoner and guard of Pte. Fogarty, when I recognize the accused, was a member. Camp Standing Orders for guards and prisoners were laid out at that time. At 1900 hrs. on same day I was relieved of my duties by Capt. Allen, 4 Cdn. Fd. Amb."

P.T.O.

Pros: As there the standing orders (C.
you read to the guard on the
night in question?

Wit: Yes - a copy of them.

Pros: Will you read sub-clause 1 (a) (b) (c) (d) (e)
of Para 1 (a) (b) of these
standing orders.

Wit: Guards & pickets will
march their beats or stand at
their posts in a smart and
military manner
soldierly manner
during black hours guards will
challenge all persons as they approach
their post & act in accordance
with instructions laid down in
C.A.(O) R.O's 516 & 711.

Pros: Also pl. read sub-clause (c)
Order 1 (e)
they will pay proper compliments
to all officers. On approach of any
officer to their post or on vehicle
approaching their post they will pay proper compliment by standing
at and Salute him in recognition of
his rank or right.

Def: Cross-examination:
Can you say when you read these orders to
the guard on the night in
question - how many members
were there on the guard?

Pros: Object.
Court: Does rule.
Wit: I am not sure of the number.
Def: Were there many guards (pickets)
Wit: Yes
Def: Were they on the same
beat?
Wit: Yes.

G.W.W.

(7)

Pros: Was the standing guard to be posted at the camp entrance?

Wit: Yes.

Pros. reads ... Def. ... Standing orders for sergeants and duties of Sergeants received and marked Ex. A & B. G.W.W.

Accused makes sworn statement:

"I was mounted as guard at #2300 hrs and about 0015 the Col: himself came on with the jeep - I challenged the jeep which stopped and I recognized the Col. (5-10 minutes after the Col came in the O.D.) delete Jr.

About 5 minutes later I heard someone in the bush so I got behind a tree because I was without arms in preparation and all of a sudden someone came towards me and asked me what I was sleeping for. I didn't recognize it was an officer until he was about 5 feet from me, so I then stood immediately to attention. And there was quite a party on that night."

Cross-examination.

Pros: You say you stopped the Col. jeep, and recognized the Colonel?

Wit: Yes. I stopped in front of his jeep - then recognized him.

Pros: And yet 5 minutes later you didn't recognize Capt. Clark?

Accused Wit: Not until 5 feet away when the moon was in his face.

Pros: Did you challenge Capt Allen? (8)
Defendant Counsel: No because I recognized him.
Pros: After he had approached within 9 feet of you?
Accused: No.
Pros: Were you lying & standing when Capt Allen ordered you why you were sleeping?
Accused: Standing
Pros: What party do you refer to?
Accused: Officer's party.
Pros: Explain the connection G.W.W.
Accused: Pass
Court rules deletion of any reference to Officer's party, also requested by Defending Officer, as accused admitted also this in relevance to his case.
Pros witness for Defence: Pte. Buchkowski.
Def: Were you on picquet on the night in which the accused was charged & being asleep on guard?
Wit: Yes.
Def: At what time did your tour start?
Wit: The shift was 2 hrs on 4 hrs off to 0100
Def: Did you see Pte. Grigsby during your tour of duty on picquet?
Wit: Several times. G.W.W.

Def: Was he asleep on any occasion when you saw him?

Wit: Yes. No.

Def: Was he alert at all times when you saw him?

Wit: Yes except once we were both leaning against a tree, talking.

Pros: Did you see the accused at 0020 hours?

Wit: No.

Pros. and Def. - no further questions.

Court: In ref. to time of arrival of the Colonel, you made a definite statement of the time as 0015 hours, on what basis do you declare this time?

Accused: Because the O.D. came at 0020 hrs. and it was about 5 minutes before that the O/C arrived.

Pros. recalls Capt. Allair.

Pros: Will you tell the court precisely what happened as you approached the accused?

Wit: I was going from my tent to the toilet room which meant I had to cross an open field - a distance of 300 yds. During this walk the sentry post at the main entrance was under my observation at all times. Whilst I was inside I got close that I could not see guard and close I found the guard lying flat

W.L.W.

on his back at the bar and a tot. (10)
I spoke to him several times and got no response - he was breathing heavily and regular, as in deep sleep - then I ~~pulled~~ pulled his shirt with my boot and got no response so I knelt down and touched him several times on the right knee whereupon he woke up and asked me what time it was several times in a confused manner. Before I wakened him I looked at my watch and the time was 0210 hrs. (G.M.W.)

Pros: Did you approach the port as you were carrying packets?

Wit: No - I was not looking for one.

Def: (Cross x.) The accused wishes to know if you found it necessary to go through all the details (under him)

Wit: I have already given in my evidence that I there was no response.

Closing Defence:

Def. wd. like to draw att'n to the fact that the acc. is charged & being asleep at his post and the prosecution has brought out no corroborative evidence other than the statements of Capt. Allen in the respect of this charge.

Closing Prosecution:

The defence on its part has not produced any corroborative evidence to support the statement made by the accused. However it has been proved (a) that the

A.W.W.

accused was supposed to have
been on duty at the time of the
offence
(b) that he was asleep and
not alert.

alley I suggest that the
Court in considering this case
take into account the gravity
of the offence, as a result of which
the lives of several hundred of
the accused comrades might well
have been placed in jeopardy.

Court closed.

Court Open.

Evidence for mitigation.

No evidence produced by defence
or accused.

Court closed.

Taken by me
Sgt
D Arty
Position Capt.
No. 5 Can Fd Regt

G. W. Wood

Ex 'A'

STANDING ORDERS FOR GUARDS AND PICQUETS

1. (a) Guards and Picquets will march their beats or stand to their post in a smart and soldierly manner. In addition to other duties they will act as Gas and Air sentries.

(b) I During daylight hours Guards and picquets will challenge all persons whom they do not know by sight seeking to enter places under military guard and check their credentials.

II During blackout hours guards will challenge all persons as they approach their post of beat, in accordance with instructions laid down in CA(C)RO's 530 and 725.

(c) Conversing with civilians while on duty is prohibited except when on point of duty, Civilians asking questions of the guard should be referred to NCO i-c of the guard. If the latter has any suspicions, the civilian should be detained and the Orderly Officer consulted.

(d) Proper identification of an Officer or other rank must be established before any information is given to him.

(e) They will pay proper compliments to all officers. On approach of any officers, either on foot or in a vehicle, he will pay proper compliments by day and stand to attention on recognizing an officer at night.

(f) Guards will keep constant watch on all vehicles and assure themselves that none are tampered with or taken away without proper authority.

(g) They will NOT leave their post or beat until regularly relieved.

(h) Guards will NOT smoke while on duty.

(i) Guards will be properly dressed at all times.

2. The composition and the mounting of the Guard will be laid down in Part One Orders and/or special instructions by the Officer Commanding.

3. DRESS KDs Shirts (to be worn tucked inside waistband), anklets or puttees, skeleton web, Cap G.S.. During the hours of darkness steel helmets and mosquito nets will be worn.

4. Stick man will be excused his tour of duty s a picquet.

5. Picquets will sleep in the Picquet Area as laid down by the RSM.

No civilians will be allowed in camp. May pass through road.

H S Whittaker Lieut A/Adj

for (W.L. COKE) Lt.-Col., O.C.
4 Cdn Fd Amb, R.C.A.M.C.

DUTIES of PICQUETS

No. 1 Post
He will patrol his beat in a smart and soldierly manner. He will constantly patrol his beat between #1 post and # 2 Post.

No. 2 POST
As in #1 except that he will patrol between # 2 Post and the extreme end of "A" Coy lines.

No. 3 POST
Same as for No. 1 except that he will patrol between No. 3 Post and No. 4 Post.

No. 4 POST
Same as for No. 1 except that he will patrol between No 4 Post and No. 3 Post.

Instructions are laid down as to Duties of Picquets on their posts. These will be read by the Guard Commander to each Picquet when he is posted on his post by the Guard Commander. These posts will be pointed out on the ground by the Guard Commander when posting the Guard.

H.S. Whittaker Lieut A/Adjt
for (W.L. Coke) Lt.-col., O.C.

Certified that the above is a true copy of "Standing Orders for Guards and Picquets" of 4th Cdn Fd Amb., as read to the unit guard mounted at 1700 hrs. on 29 July 1944.

(E.V.D. Simons) Capt.
PROSECUTOR.

H.S. Whittaker Lieut A/Adjt
(H.S. Whittaker) Lieut.
O i/c Regt'l Records.

G.W.W.

Army Form B. 296.

STATEMENT AS TO CHARACTER AND PARTICULARS OF SERVICE OF ACCUSED.

No. B 81888 Rank Private. Name GRIGSBY, A.N. Regt. 4 Cdn Fd Amb, RCAMC.

I certify that, H. Whittaker Lieut Adjt

1. The following is a fair and true summary of the entries in the regimental and squadron, battery or company conduct sheets of the accused, exclusive of convictions by a court martial or a civil court, of summary awards under section 47 of the Army Act, and of cases in which trial has been dispensed with:-

	Within last 12 months.	Since Enlistment.
For Sec. 10(4)A.A.	Nil times	Two times.
For Sec. 40.A.A.	Two times	Five times.
For Sec. 15(1)A.A.	Three times	Six. times.
For Sec. 11.A.A.	One times	Two. times.
For Sec. 24(2)A.A.	One. times	One. times.

[redacted], or

2. [redacted]

Previous convictions of the accused by a court martial or a civil court, [redacted] summary awards under section 47 of the Army Act, and dispensations with trial under section 75 of the Army Act, are set out in the schedule annexed to this statement.

3. The accused is not under sentence at the present time, [redacted]

4. The accused has been in confinement, awaiting trial on the present charges, for Nil days. in civil custody, and Nil days in military custody, making a total of Nil days, ow which Nil days were spent in hospital.

5. The present age of the accused according to his record of service is: 23 years 26 days.

6. The date of his [redacted] attestation specified in his record of service is: 11 Dec 1940.

7. The service which the accused is allowed to reckon towards discharge or transfer to the reserve is N/A.

8. The accused is entitled to deferred pay or gratuity in respect of N/A service.

9. The accused is entitled to reckon N/A service for the purpose of determining his pension, etc.

10. The accused is in possession of, or entitled to, no military decoration or military award (or is in possession of or entitled to(state any military decoration or reward).). CVSM & C.,

11. (If the accused is a warrant officer). The accused before he was made a warrant officer last held the regimental rank of N/A.

12. (In the case of an officer.) The accused holds in the army the rank of N/A, dated N/A and his regiment(or corps or department) the rank of N/A dated N/A

G. W. W.

SCHEDULE OF CONVICTIONS by a COURT MARTIAL or CIVIL COURT, of summary awards under Section 47 of the Army Act and of cases in which trial has been dispensed with of accused.

No. B 61888 Rank Private Name GRIGSBY, A.N. of 4 Cdn Fd Amb. RCAMC (Regt or Unit).

(INSTRUCTION - A verbatim extract from the regimental books, stating these convictions and dispensations with trial, must be inserted.)

Description of court by which tried, or status of officer disposing of the charge or dispensing with trial	Date & place of trial, or summary award under A.A.47, or of order dispensing with trial.	Charges upon which convicted, or in respect of which trial was dispensed with.	Sentence of the court or auth. disposing of the charge or order of the dispensing authority.	Punishment remitted.
F.G.C.M.	5th August 1941. Field.	1st Charge. Sec. 8.(2)A.A. 2nd Charge. Sec. 40.A.A.(Alternative)	Not Guilty. 150 Days Detention.	50 days By G.O.C. 2 Cdn Div. 33 Days earned in Detention Barracks.

I HEREBY CERTIFY that the foregoing schedule of convictions and dispensations with trial is a true extract from the regimental books in my custody.

Signed this 5th day of August 1944.

H. B. Baker Lieut A/Adjt

13. The accused has served as a non-commissione officer continuously, without reversion, to the present date.

In the rank of

Date of promotion.

In the rank of

Date of promotion.

yours,

Ex C

CERTIFIED TRUE COPY [illegible] Lieut O/Adj

No. B 81888 GRIGSBY, A.N. Corps R.C.A.M.C. Date of enlistment 11 Dec 40 Sheet No. 1

Sheet destroyed 11 Jun 41. Last entry NA. Nil Drunkenness Last Instance NA									
Field	(1)	9 Feb 43	Pte.	WOAS, AWL from 2000 to 2200 hrs 9 Feb 43. Absent 2 hrs. A.A Sec 15 (1).	Sgt Wain F.	28 Days Field Punishment 28 days forfeiture of pay	12 Feb 43		total forfeitus of pay 28 Days.
	(2)	9 Feb 43	Pte.	Failed to sign out or in Bk Area of Lindores School contrary to unit Standing Orders dated 11 Aug 43. A.A. Sec. 1.	Sgt Berberick C.A.				
	(3)	11 Feb 43	Pte	WOAS Conduct etc. on 11 Feb 43 left the barrack area of Lindores School Bexhill Sx while in open arrest. A.A. Sec 40.	Sgt. Loten T.A.			Lt.-col C.H. PLAYF[illegible] O.C, 5 Cdn Fd Amb.	
	(4)	5 Jun 43	Pte.	WOAS. AWL from 0630 hrs 5 Jun 43 to 0900 hrs. 7 Jun 43					

CERTIFIED TRUE COPY H.S. Whittaker Lieut A/Adjt

No B 81888 Name GRIGSBY, A.N. Sqn. Battery or Company Corps R.C.A.M.C. Date of enlistment 11 Dec 40 Badges Service or Proficiency Pay M.F.H.A. (A.F.A.) (R.C.) (R.C.A.)

Date of last entry in Company Conduct Sheet | No. and date of last drunk | Period not reckoning towards freedom from extra fine | Sheet No. 1 | Signature O.C. Company, etc. | Character

Sheet destroyed 11 Jun 41. Last entry NA. Nil Drunkenness Last instance NA

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Field (1)	9 Feb 43	Pte.		WOAS, AWL from 2000 to 2200 hrs 9 Feb 43. Absent 2 hrs. A.A Sec 15 (1).	Sgt Wain F.	28 Days Field Punishment	12 Feb 43		total forfeiture of pay 28 Days.
(2)	9 Feb 43	Pte.		Failed to sign out or in Bk Area C.A. of Lindores School contrary to unit Standing Orders dated 11 Aug 43. A.A. Sec. 1.	Sgt Berberick	28 days forfeiture of pay			
(3)	11 Feb 43	Pte		WOAS Conduct etc. on 11 Feb 43 left the barrack sree of Lindores School Bexhill Sx while in open arrest. A.A. Sec 40.	Sgt. Loten T.A.				
(4)	5 Jun 43	Pte.		WOAS, AWL from 0630 hrs 5 Jun 43 to 0900 hrs. 7 Jun 43				Lt.-col G.H. PLAYFAIR O.C, 5 Cdn Fd Amb.	

CERTIFIED TRUE COPY H.S. Whittaker Lieut

No B81888 Name GRIGSBY A.N. Sqn. Battery or Company Corps R.C.A.M.C. A/Adjt Date of enlistment 11 Dec 40

Date of last entry in Company Conduct Sheet | No. and date of last drunk | Period not reckoning towards freedom from extra fine | Sheet No. 2 | Signature O.C. Company, etc. | Character

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
				Released from the Detention Barracks Whitley on Oct 16, 1941, Sentence having expired. Remission earned under "Rules for Detention Barracks and Military Prisons" 33 Days. Commandants Initials (Signed) G.P.					
Field	11 Feb 42	Pte		A.A, 10 (4) WOAS - Breaking out of barracks when a defaulter	Sgt Riple L/Cpl Broadley	7 days CB & Forfeitr 7 Days pay.	23 Feb 42	J.M. Miller Lt.-col	Total forf.7 Days pay
Field	10 Aug 42	Pte		A.A, 40, Conduct to the prejudice etc, neglecting his duties and creating a nuisance.	RSM Cpl Grant L/Cpl Langford	Forfeits 14 Days pay, 14 Days C.B.	12 Aug 42	S.G. Shier Lt.-col	Total forfeiture 14 Days pay

CERTIFIED TRUE COPY H.S. Whittaker Lieut

No B 8188 Name GRIGSBY A.N, Sqn. Battery or Company Corps R.C.A.M.C. A/Adjt Date of enlistment 11 Dec 40

Date of last entry in Company Conduct Sheet | No. and date of last drunk | Period not reckoning towards freedom from extra fine | Sheet No. 3 | Signature O.C. Company, etc. | Character

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Field	8 Nov 43	Pte		A.A. Sec 40 Using abusive language to a superior N.C.O.	Sgt Rooker	28 Days F.P. forf 28 days pay	9 Nov 43	J.A. MOBLE Lt.-col	total forf 28 days pay
Field	12 Apr 44	Pte.		A.A. 15 (1) WOAS AWL from 0600 hrs 12 Apr 44 until 1830 hrs 12 Apr 44 Absent about 12 hrs & 30 min.	L/Cpl. A. Brousseau Cpl Kearns.	1 Days pay FR&I 149 (1) & 7 Days F.P & 7 Days pay FR&I 149 (2)	16 Apr 44	T.B, Conrad Lt.-col	total forf of 8 days pay
Field	4 Jun 44	Pte		WOAS, Sec 40 A.A. in that he failed to answer Roll Call at 1400 hrs 4 Jun 44	B89770 S/Sgt. Cunningham B.F.	14 Days C.B & 28 days forf pay	5 Jun 44	W.L. Coke Lt.-col.	

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Field(S)	20 Jun 44	Pte		Charge I. WOAS sec 15 (1) A.A. AWL in that he did absent himself without leave from approx 0800 hrs 20 Jun 44 until approx 1200 hrs 20 Jul 44. Time absent 4 hrs.	H 11009 Cpl NICHOL, H.C.	14 Days CB. 14 days forfeiture of pay.	20 Jun 44	WL COKE Lt.-col,	
Field	20 Jun 44	Pte		Charge II. WOAS Sec 11 A.A. in that he at 0800 hrs 20 Jun 44 failed to attend Roll Call as laid down in Part One Orders.	H 11009 Cpl NICHOL, H.C.	See Charge I		See Charge I	
Field	16 Jul 41	Pte		Charge I A.A. Sec 8 (2) WOAS Using violence to his superior officer 2 nd Charge A.A. Sec 40 (Alternative) Conduct to the prejudice of Good Order and Military Discipline.	L/Cpl Jones L/Cpl Sevier	Not Guilty Guilty. Sentenced to 150 days detention confirmed by GOC 2Cdn Div with a remission of 50 days Detention.	5 Aug 41	F.G.C.M. Major J.B. WEIR President.	

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Field	16 Aug 42	Pte		A.A. Sec 40 WOAS - Conduct to the Prejudice etc. neglecting to perform his duties.	L/Sgt Dodd	14 Days C.B to run consectively.	18 Aug 42	S.G. Shier Lt.-col	
Field	30 Dec 42	Pte		A.A. Sec 15 (1) WOAS AWL 5 Days 14 hours 20 minutes.	L/cpl Carlson Sgt Clark.	Forfeits 1 days pay. 14 Days C.B.	6 Jan 43	S.G. Shier Lt.-col	Forfeits 6 days pay
Field	28 Jul 43	Pte		A.A. Sec 10 (4) AWL 1 day 15 hrs		Forfeits 28 days pay	28 Jul 43	Part II Order 1 d/31 Jul 43	Total forf 30 Days pay
Malta	24 Jan 44	Pte		Sec 15 (1) A.A. WOAS. Absenting himself without leave from 0900 hrs 24 Jan 44 to 2230 hrs 24 Jan 44 (13 hrs 30 min about)	Cpl Kelly	Deprived of seven days pay under Sec 46 (2)(d)	26 Jan 44	OC CMF Trans Camp A.J. Calascione A.J.	Forf one days pay
Malta	26 Jan 44	Pte		Sec 24 (2) A.A. WOAS Losing by neglect one blanket	Cpl Kelly	Deprived 7 Days pay Sec 46(2)(d) and to pay for cost of one blanket	27 Jan 44	Maj A.J. Calascione.	

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks

Summary of Evidence in the case of B 81888 Private GRIGSBY, Albert Norman. RCAMC, 4 Cdn Fd Amb.

The Commanding Officer directs that the evidence be taken on oath.

First Witness: Capt. Moir, J.H. RCAMC, 4th Cdn Fd Amb, having been duly sworn, states:

"I am Capt. Moir, J.H. of 4th Cdn Fd Amb. On 30 July 1944. at 0080 hrs, while proceeding to the Orderly Room of 4th Cdn Fd Amb I had occasion to pass the guard post at the main entrance to the camp area and found the guard, whom, I recognize as B 81888 Pte. Grigsby, asleep. I awakened him and informed the guard commander H 11019 Cpl. Riel, R.J. Later I placed Pte. Grigsby under close arrest."

The accused declines to cross-examine this witness.

Second Witness: H 11019 Cpl. Riel, R.J., RCAMC, 4 Cdn Fd Amb. having been duly sworn, states:

"I am H 11019 Cpl. Riel, R.J., RCAMC, 4 Cdn Fd Amb. I was Guard Commander from 1700 hrs 29 July 1944. I posted Pte. Grigsby whom I recognize as the accused, at the guard post at the main entrance to the camp area. At 0080 hrs 30 July 1944. Capt. Moir, came to the guard tent and informed me that he had found Pte. Grigsby asleep at his post, and that he would be placed under arrest. I proceeded with Capt. Moir to the post where Pte. Grigsby immediately walked toward us to give us the guard's challenge. At approx. 1000 hrs on 30 July, Capt. Moir told me to take Pte. Grigsby into close arrest, which I did."

The accused declines to cross-examine this witness.

Third Witness: Lieut. G. Rankin, RCAMC, 4 Cdn Fd Amb, having been duly sworn, states:

"I am Lieut. G. Rankin, RCAMC, 4 Cdn Fd Amb. On the 29 July 44. I was Orderly Officer. At 1700 hrs I inspected the picquet and guard of which Pte. Grigsby, whom I recognize as the accused, was a member. Camp Standing Orders for guards and picquets were read out at that time. At 1900 hrs on same day I was relieved of my duties by Capt. Moir, 4 Cdn Fd Amb."

The accused declines to cross-examine this witness.

Certified that R.P. 4 (c)(d)(e) & (f) have been complied with.

Taken down by me in the presence and hearing of the accused.

In the Field.
31 July 44.

(E.A.D. Simons) Capt.
4 Cdn Fd Amb, R.C.A.M.C.

The accused desires the service of an officer to defend him at his forth-coming court-martial.

E.A.D.S.

30-98.

Re Grimes. J.J.

SCHEDULE.

PART I. PLEA(S), FINDING(S) AND SENTENCE.

Accused : A-11045 Pte John Joseph GRIMES, 1 Cdn Repat Depot (Lorne Scots)

Charge. (Insert "alternative" where applicable.)	Plea. (See instrs p 2.)	Finding. (See note below.)	(Space for use as required for further charges, accused charged jointly, special findings, etc.)
1st AA Sec 15 (1)	GUILTY	GUILTY	
2nd AA Sec 22	GUILTY	GUILTY	
3rd			
4th			
5th			
6th			

(Note : As to findings for lesser offences see AA 56, RP 44 ; findings on alternative charges see MML p 483 fn 4 para 2, RP 44 ; special findings see RP 44 and MML p 753, and re loss of kit see RP 44 fn 6.)

~~At present under sentence for~~ ..... beginning on (date) ..... (1)

(1. Insert sentence being served, or delete, if not applicable. See RP 46(A). Information should be found on MF B355 or AF B296.)

Time in confinement awaiting present trial—a total of 14 days, of which NIL days were spent in hospital.(1)

(1. See RP 46(A) fn 2. Information should be found on MF B355 or AF B296 admitted in evidence under E2.)

Sentence Awarded by the Court :

To undergo Detention for a period of Ninety (90) Days.

(Sgd) ..... Judge-Advocate, if any. 19 JUN 45 Date awarded. (Sgd) [signature] President. (RP 45, 50.)

(See back of Convening Order as to assembly and disposal of record after trial.)

PART II. MINUTE WHERE CONFIRMATION RESERVED. (AA 54(5), RP 120(F), MML p 760.)

Date ..... (Sgd) ..... Commanding

PART III. DECISION OF CONFIRMING OFFR ON FINDING(S) AND SENTENCE.

(For duties and powers see AA 54, 57, RP 37(D) fn 6.46(A), 51-56, 120, MML pp 759-761, KR Con 567-577. Acquittals require no confirmation and cannot be revised : AA 54(3). Sending back finding or sentence for revision by Court : AA 54(2), RP 120(G). If not confirmed, accused may be tried again : AA 157, MML p 64. Minute of confirmation or non-confirmation may be altered before promulgation : RP 53, MML p 65. Quashing after promulgation : KR Con 573. Duties and powers of reviewing offrs : AA 57, 57A, RP 53A, 54. The Confirming Offr must sign here personally. AA 172 fn 1.)

My decision on the finding(s) and sentence set forth in Part I is :

Finding and sentence confirmed

~~I direct that the accused be not committed to prison or detention barracks until further orders.~~(1) (1. AA 57A. Delete if not used.)

(Sgd) [signature] Brig.

Date 20 June 45 Commanding E Gp C R U Confirming Officer.

PART IV. PROMULGATED AND EXTRACTS TAKEN. (RP 53, KR Con 576, 577.)

Accused.	Date.	Signature of Offr.
A.11045. Pte. J. J. GRIMES.	23 June 45	[signature] Lt-Col

ALL DELETIONS AND ALTERATIONS WILL BE INITIALLED.

RECORDED AT GMHQ IN AB 160 - 50 - 98

RECEIVED 3 JUL 1945 AG BRANCH G.M.H.Q.

FIELD GENERAL COURT-MARTIAL

CFA&E (In lieu of AFA&S) 40/1/F.A.S./1698 (6/144) 4/38B

Convened by Offr Brig T J Rutherford, CBE, ED Comd "E" Gp CRU dated 16 JUN 45

ACCUSED.

(As to the trial of two or more charged jointly see RP 16, 71, 109. As to reasons for showing (a) permanent or confirmed rank, and (b) apptmt, A/rank or A/apptmts, if any, see AA 182, 183, fns, KR Con 308, 328, 330.)

Number.	(a) Prmnt R. (b) Apptmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
A.11045	Pte	John Joseph	GRIMES	1 Cdn Repat Depot (Lorne Scots)

PROCEEDINGS REVIEWED [signature] Capt. 6 July 45 REVIEWING OFFICER, JAG BRANCH G.M.H.Q.

PROCEEDINGS OF TRIAL.

Held in the Fd in (country) ENGLAND on (date(s)) 19 JUN 45

RECORD FORM A—OPENING PROCEEDINGS AND ARRAIGNMENT.

A1. The President, Members, ~~waiting Member, JA, if any, and Offrs under instr, if any,~~ assemble, and the Court is closed.

(PRINTED MATTER, NOT IN ITALICS FOR GUIDANCE, WILL BE DELETED, IF NOT USED OR APPLICABLE, AND INITIALLED. BY PRES OR JA. The Schedule referred to throughout is on p 4. Citations do NOT include all relevant fmn ROs. For guidance on procedure when a variation in this form arises, see Form for GCM in MML pp 741 to 759. A brief record of such variation will be made and given a number having reference to appropriate or preceding para number herein. See back of Convening Order, CF A95, for oaths and instrs on how to record addresses, evidence, etc., which instrs are hereafter called "Notes". As to general provisions for conducting the trial see AA 52, RP 36, 63-70, 73, 74, 94, 103, 119, 132.)

A2. The President initials and lays before the Court the Convening Order and Charge Sheet(1) attached thereto.(2) The Court is satisfied that it is properly convened and constituted(3), accused is (are) amenable to military law, and each charge discloses an offence.(3)

(1. As to use of Summary of Evidence see RP 17 fn 6. 2. AA 49, 50, RP 105-107. 3. RP 11-13, 23, 24.)

A3. The Court is opened. The accused is (are) brought before the Court. At 1000 hours trial commences.

A4. The Prosecutor produces a Medical Certificate that accused is (are) fit to undergo trial by court-martial.(1)

~~The Prosecutor informs the Court that accused elected to be tried summarily by the CO.~~(2)

(1. KR Con 557. 2. AA 46(B), RP 60 fn 1. For effect see KR Con 563(c). Delete, if not applicable.)

A5. President to accused : ~~Do you object to ..... as interpreter ?~~ Ans .....

~~The Interpreter is sworn.~~(1) Do you object to ..... as shorthand writer ? Ans .....

~~The shorthand writer is sworn.~~(1)

(1. RP 72. Delete, if none employed.)

A6. The Convening Order and names of the President and Members of the Court are read to the accused.(1) President to accused : Do you object to be tried by me as President or by any of the Members of the Court ?

Ans NO, SIR.(2)

(1. RP 110. 2. If no objection, waiting member retires. RP 68(B). If objection, see procedure AA 51, RP 25, 71, 18, MML p 742.)

A7. The President, Members, ~~Judge-Advocate, if any, and Offrs under instr,~~ if any, are sworn.(1) The following are the ranks, names and units of the offrs comprising the Court, etc :

President	LT-COL	D L REDMAN	HQ C R U
Member	CAPT	R B CRANSTON	4 CDN REPAT DEP
Member	LIEUT	E B KELLY	1 CDN REPAT DEP
~~Judge-Advocate~~			
Prosecutor	LIEUT	DM NICHOL	1 CDN REPAT DEP
Defending Offr	LIEUT	W H BUCHANAN	1 CDN REPAT DEP

Questions by President : Is the Prosecutor a lawyer ? Ans NO Is the Defending Offr a lawyer ? Ans NO (2)

(1. RP 26, 27, 109, 111. List of offrs under instr will be returned separately with proceedings for information of Conv Offr.) (2. If Pros a lawyer and Def Offr not, accused is entitled to an adjournment when RP 89 (B) and fn 2 were not followed. See D1 p 3.)

A8. The accused ..... before arraignment make(s) (no) (~~a~~) plea.(1)

(1. If a special plea is made for separate trial on one or more charges (RP 62(E), 108), or as to the jurisdiction of the Court (RP 34, 35(4), 113), or in bar of trial (RP 36), or as to accused's mental fitness to stand trial (AA 130, RP 57), or by one of several accused charged jointly to be tried separately (RP 16, 71), such plea, the addresses made in support or against, the evidence, if any, and finding are recorded per Notes. For forms of record see references in fns to RoP cited. Insert in A8 rank and name of the accused making the plea.)

A9. The accused is (are) arraigned (separately) on all charges in the charge sheet.(1) The accused does (~~do~~) not object to any charge.(2) There is no amendment to be made to the Charge Sheet.(2) The President records the pleas in Part I of the Schedule.

(1. RP 31, 112. See para 1 of Instrs p 2. When more than one Charge Sheet see RP 62 ; when several accused to be tried separately see RP 71(C), and use separate copies of CF A96 to record proceedings. 2. RP 32, RP 33. If otherwise, delete and make appropriate record per Notes.)

A10. The Court (is closed and) considers the Instrs on Procedure after Arraignment at top of p 2. The proceedings are continued on Record Form "B".

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

INSTRUCTIONS ON PROCEDURE AFTER ARRAIGNMENT.

1. *The accused may not plead or be found Guilty on more than one of two or more charges laid in the alternative.* (RP 37(A).) *As to withdrawal of alternative charges by Prosecutor see RP 35(C). No other charge can be withdrawn for any reason without authy from Convening Offr. If Convening Offr concurs, Court may accept plea of Guilty to lesser, etc, offence.* (RP 44(H).) *Accused may change a plea of Not Guilty to Guilty during trial.* (RP 38.) *As to refusing to plead or not pleading intelligibly see RP 35(A). As to plea when sentence may be death see RP 35(D).*

2. *The proceedings on each charge sheet* (RP 62) *after arraignment will be conducted as follows in the respective circumstances stated:*

I. If pleas to all charges are GUILTY, use Record Form B below.

II. If pleas to all charges are NOT GUILTY, use Record Form D on p 3.

III. If pleas to some charges are GUILTY and to other charges are NOT GUILTY and,

(a) Such mixed pleas occur when there are no alternative charges in the Charge Sheet, use Record Form C below. (RP 37(A).)

(b) Such mixed pleas occur in a set of two or more charges laid in the alternative, see RP 37 (A) and fn 2 as to discretion of Court, (i) to try the accused on all such alternative charges as if he had pleaded Not Guilty thereto, or, (ii) to record the pleas as the findings of Court. After deciding between (i) and (ii), Court will proceed under foregoing instrs as may be appropriate to result of its decision. See MML p 744 Instrs (2).

3. *As to responsibility of President to accused see RP 59, 60(C); powers and duties of JA see RP 103; duty of Prosecutor see RP 60(A) (B); duty and privileges of accused and Defending Offr see RP 60(C), 87(C), 91, 92; swearing and withdrawal of witnesses from Court see RP 81, 82; questioning of accused see RP 80, 87(C), 92(B), and of witnesses see RP 83-85; calling or re-calling of witnesses by Court, etc, see RP 75-79, 86, 116; use of Summary of Evidence at Trial see RP 17(E) fn 6; and responsibility of JA or Pros to record proceedings see RP 94, 96.*

RECORD FORM B—PROCEEDINGS ON PLEAS OF GUILTY TO ALL CHARGES.

B1. The President ~~or JA, if any~~, complies with RP 35(B) by explaining to the accused the nature and meaning of the charge(s)(1), and that on his plea of Guilty there will be no regular trial but merely a consideration of the sentence to be awarded after he has been given an opportunity to make a statement in reference to the charge(s), call witnesses as to character and make an address in mitigation of punishment.(2)
(1. *RP 35 fn 3.* 2. *MML p 54 para 47.*)

B2. President to accused: The Court will now receive any statement you desire to make in reference to the charge(s).(1) If it appears from your statement that there are circumstances which indicate that you do not understand the effect of the plea of Guilty(2), or which show provocation or extenuation in respect of which in your interest the witnesses for the Prosecution should be examined(3), we shall advise you to change your plea to Not Guilty. In making a statement you will not be sworn or subject to cross-examination; and anything you say will not be used in evidence against you after you change your plea. If, however, it appears to the Court that your statement affects only the amount of punishment to which you are liable, you will not be advised to change your plea and you will be given an opportunity later to prove your statement by sworn testimony, if you so desire.(4)

President to accused: Do you wish to make a statement? Ans NO, SIR.(5)
(1. *RP 37(B).* 2. *RP 37(D) fn 6.* 3. *RP 35(B) fn 5 para 3, MML p 54 para 47.* 4. *See para E3 of Record Form E.* 5. *Statement, if any, recorded per Notes.*)

B3. ~~The Court considers the accused's statement.(1) The Court decides~~ (not) to advise accused to change his (their) plea(s) of Guilty to Not Guilty on ..... charge(s). The accused is (are) so informed, and he (they) change(s) his (their) plea(s) on ..... charge(s). Part I of the Schedule is amended accordingly.
(1. *Court may be closed to consider the statement. Delete whole or part not used.*)

B4. On the charge(s) to which the plea(s) of Guilty is (are) not changed the President records finding(s) of Guilty in Part I of the Schedule.(1)
(1. *RP 35(B). If any plea(s) is (are) changed, use Record Form C or D as appropriate.*)

B5. The Summary of Evidence is marked Ex A, initialled and read aloud by the President.(1)
(1. *If there is no Summary, or if it is inadequate, comply with RP 37(B). If there is any evidence inconsistent with any plea standing as Guilty, Court will advise accused to change such plea and, if changed to Not Guilty, try such charge(s) by use of paras D1 to D8 inclusive of Record Form D on p 3. RP 37(D).*)

B6. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

RECORD FORM C—PROCEEDINGS ON MIXED PLEAS OF GUILTY AND NOT GUILTY.

C1. As to the charges on which accused pleaded NOT GUILTY the trial is continued by using paras D1 to D8 inclusive of Record Form D on p 3 before proceeding with C 2.(1)
(1. *RP 37(A) (E).*)

C2. The charges on which accused pleaded GUILTY are read to him (them) again, and the trial is continued by using paras B1 to B5 of Record Form B above.(1)
(1. *Under B5 such parts only of the Summary of Evidence are read as relate to the charges dealt with under C2. If any plea is changed to Not Guilty, trial thereon proceeds by complying with paras D1 to D8 inclusive in Record Form D on p 3 and making an appropriate record thereof on a separate sheet.*)

C3. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

RECORD FORM D—PROCEEDINGS ON PLEAS OF NOT GUILTY TO ALL CHARGES.

D1. President to accused: Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity to prepare your defence? Ans.....(1)
(1. *If "yes", see RP 39(A) for procedure. Statement or evidence, if any, is recorded per Notes.*)

D2. The Prosecutor makes (an) (no) opening address.(1)
(1. *RP 39(B), 60(A) (B), 90, 92(C) (D). Record address per Notes, subject to RP 95(C).*)

D3. The evidence for the Prosecution is taken.(1)
(1. *RP 39(C), 114, KR Can 555. Record evidence per Notes. As to Prosecutor giving evidence himself see RP 39(D) (E).*)

D4. The Prosecution is closed.(1) The Defending Offr submits that the evidence for the Prosecution does not establish a prima facie case against the accused on the ..... charge(s).(2) The Court is closed, and considers the submission.(3) The Court is re-opened, and the President announces that the submission is disallowed on the ..... charge(s), and allowed on the ..... charge(s), and that, accordingly, the trial will proceed on the former, but the accused is (are) found Not Guilty on the latter charge(s).(4)
(1. *Delete remainder of this para, if submission not made.* 2. *Arguments on submission, answer and reply are recorded per Notes.* 3. *RP 40 fn 1. See MML p 72 paras 12-14 and p 81 para 42.* 4. *Delete part not used. If accused acquitted on all charges, use record alternative in para D8.*)
NB: If trial proceeds, accused must be allowed great latitude in making his defence, and the Court should not stop his defence solely on ground of irrelevance. (RP 60(C), 114, 115.)

D5. President to accused: You will now proceed with your defence.(1) You may, if you wish, give evidence yourself on oath as to the facts or your character or both, in which case you will be subject to cross-examination.(2) You may, however, make a statement without being sworn, and you will not be subject to cross-examination.(3) But a statement which could have been made on oath will not carry with the Court the same weight as sworn testimony.(4) You may call witnesses in your defence and as to character, whether you give evidence or make a statement or do neither.

President to accused: Do you wish to give evidence yourself as a witness, make a statement, or do neither?
Ans ..... Do you intend to call witnesses on your behalf?
Ans ..... Are they witnesses as to character only? Ans .....
(1. *RP 115.* 2. *RP 40(A), see 80(D).* 3. *RP 40 fn 10.* 4. *RP 40 fns 2, 9.*)

D6. Consequent on the answers recorded in para D5 the appropriate procedure for the defence is followed.(1)
(1. *RP 114, 115, 116. For procedure see Notes on back of Convening Order. CF A95. Evidence for accused as to his character should, if in his interest, be given before the finding. See RP 46(A) fn 1, 86(C). Note the further opportunity in para E1 of Record Form E. Record per Notes addresses, statement, evidence and any summing up by the JA under RP 42, 103(e).*)

D7. The Court is closed to consider the finding(s).(1) The finding(s) of the Court is (are) recorded in Part I of the Schedule.(2) The Court is re-opened.
(1. *RP 43, 117(A). See Notes in Part I of Schedule.* 2. *RP 44(A).*)

D8. The President announces the finding(s), if any, of Not Guilty, and states to the accused that the finding(s) of the Court on the ..... charge(s), being subject to confirmation, will be promulgated later.(1)
Or. The President announces that the accused is found Not Guilty on all charges and is to be released forthwith, and that the proceedings are accordingly terminated. Part I of the Schedule is dated and signed.(2)
(1. *AA 54(3) (6), RP 45, 120(A).* 2. *AA 54(3), RP 45, 117. This alternative announcement is not applicable when there are pleas of Guilty outstanding and dealt with under Record Form B or C.*)

D9. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E below.

RECORD FORM E—PROCEEDINGS ON CONVICTION BEFORE SENTENCE.

E1. President to accused: Do you wish to give evidence yourself or to call any witnesses as to your character?(1)
Ans NO - SIR
(1. *If evidence has already been given by accused or his witnesses as to his character, delete this para. RP 37(C) fn 4, 46 fn 1. Accused and witnesses are sworn. Evidence recorded per Notes.*)

E2. The Prosecutor produces Statement(s) as to Character and Particulars of Service(1), and certified true copy (copies) of Conduct Sheet(s)(2), purporting to refer to the accused, which he submits to the Defending Offr for examination, and then to the Court for admission in evidence. The Court is satisfied that these documents refer to the accused, because (i) they purport to be signed in the manner required by AA 163(1) (g) (h), and (ii) they purport to refer to (a) soldier(s) having the same number, rank, name and corps as the accused. Admitted in evidence and marked Ex B and Ex C respectively.(3)
(1. *AFB 355 or AFB 296.* 2. *MFM 6.* 3. *RP 46, KR Can 558. If above documents not produced, see RP 46 fn 1 para 1.*)

E3. President to accused: Do you wish to address the Court on the Statement(s) and Conduct Sheet(s), and in mitigation of punishment?(1) Ans BY MY COUNSEL NOTE-ALL(2)
(1. *RP 37(C), 46(D).* 2. *Address, if any, recorded per Notes. Court should permit accused or his witnesses to prove an oath anything here or previously stated which would affect the amount of punishment. RP 37(F) fn 7.*)

E4. The President states that the Court is closed to consider the sentence, and that the sentence to be awarded by the Court, being subject to confirmation, will not be announced, but will be promulgated later, and the proceedings in open court are accordingly terminated.(1)
(1. *AA 54(6), RP 120(A).*)

E5. The Court considers the sentence.(1) The President records the sentence in Part I of the Schedule, which is dated and signed by him and ~~also JA, if any~~.(2)
(1. *When several accused tried separately see RP 71 (D). One sentence only, comprised of the punishment or punishments laid down in AA 41, 44 and its proviso, is to be awarded to cover all charges in all charge sheets on which accused found guilty. RP 48. As to sentences see AA 44, 128, 182, RP 46-50, 69, 118, 119(A), KR Can 308, 330, 563-566, Overseas RO 209, 2323, MML p 60, 737-739. As to sentences assigned for civil offences by the law of England see AA 40(2), MML p 130. When accused already under sentence of imprisonment or detention see AA 44(18), 68(1), KR Can 564.* 2. *RP 50. As to release from arrest by Confirming Offr see KR Can 567. As to assembly and dispersal of record after trial see instrs on back of Convening Order.*)

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

CHARGE SHEET

The accused A-11045 Pte. John Joseph GRIMES, on Permanent Establishment strength of No. 4 Wing, No. 1 Canadian Repatriation Depot (Lorne Scots) a soldier of the Canadian Army Overseas, is charged with:

FIRST CHARGE
A.A. Sec 15 (1)

WHEN ON ACTIVE SERVICE, ABSENTING HIMSELF WITHOUT LEAVE

IN THAT HE

in the field in England, absented himself without leave from 0900 hrs 11 May 45, until apprehended at approximately 2220 hrs 4 June 45. Total time absent 24 days 13 hours 20 minutes.

SECOND CHARGE
A.A. Sec 22

WHEN ON ACTIVE SERVICE, WHEN IN LAWFUL CUSTODY, ATTEMPTING TO ESCAPE

IN THAT HE

in the field in England at approximately 2220 hrs on 4 June 45, when proceeding under escort to Headquarters No. 5 Detachment No. 6 Provost Company, Canadian Provost Corps, broke away from his escort and attempted to escape.

Louis Keene

(Louis Keene) Colonel,
Commanding Officer,
No. 1 Cdn Repat Depot,
(Lorne Scots)

In the field
13 June 45.

TO BE TRIED BY FIELD GENERAL COURT MARTIAL.

J. Rutherford

(J. J. RUTHERFORD) Brig
Comd
"E" Gp CRU

IN THE FD.,
16 JUN 45.

FIELD GENERAL COURT-MARTIAL

(Whether the accused to be tried is under his comd or not, a FGCM may on application to him be convened by any offr of Cdn Army Overseas, or of any other force if authorized in law, in immediate comd of troops on active service, subject to RP 105(C) and restrictions imposed by appropriate authy. AA 49, 50, RP 104-107, 114. As to the duties and privileges of the Convening Offr in dealing with the application see MML Chap V paras 20 and 23. RP 87(B).
There should be a separate Convening Order for each person to be tried separately by the same Court. RP 71(C), 109. As to separate charge sheets see RP 62, and as to separate trial on charges in the same charge sheet see RP 108. As to two or more accused charged jointly see RP 16, 109.
As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Can 306, 328, 330.)

ACCUSED.

Number.	(a) Prmnt R.	(b) Appmt, A/R or A/Appmt	Full Christian Names.	Surname.	Unit.
A-11045	Pte		John Joseph	GRIMES	1 Cdn Repat Depot (Lorne Scots)

CONVENING ORDER.

1. Whereas complaint has been made to me, the undersigned, that the person(s) named above as the accused, being subject to military law, has ~~have~~ committed the offence(s) set forth in the Charge Sheet(s) attached and on (date) 16 Jun 45 endorsed by me, ~~or by some of my staff for me~~, "To be tried by Field General Court-Martial".

2. And whereas I am of opinion that it is not practicable that such offence(s) should be tried by an ordinary General Court-Martial; ~~and that it is not practicable to delay the trial of such case to a superior qualified offr~~
(Delete part in brackets when not required for compliance with RP 105(C).)

3. I hereby convene a Field General Court-Martial to try the said person(s), and to consist of the Offrs appointed or detailed hereunder.

4. ~~I am unable to appoint the three Offrs to form the Court, (b) a 4th Offr as President, for the reasons I have attached hereto.~~
(AA 49, RP 106(B), 107(A). Delete the whole or part, if not applicable.)

5. ~~I also appoint as Judge Advocate thereof the Offr mentioned hereunder.~~
(RP 106(E). Delete, if none appointed.)

PRESIDENT.

(Rank.)	(Must be named. RP 106.)	(Unit.)
Lt.-Col	D L Redman, VD	HQ, CRU

MEMBERS.

(Rank.)	(Named or detailed. RP 106.)	(Unit.)
Capt	to be detailed by OC 2 Cdn Repat Depot	2 Cdn Repat Depot
Lt	to be detailed by OC 1 Cdn Repat Depot	1 Cdn Repat Depot

WAITING MEMBER.

(Rank.)	(Named or detailed, if any. RP 106.)	(Unit.)

JUDGE-ADVOCATE.

(Rank.)	(Must be named, if any. RP 106.)	(Unit.)

On Active Service in the Fd

in ENGLAND
(Country.)

Date 16 Jun 45

(Signed personally. RP 105 (C).) Brig
(Rank.)

(T J MUTHERFORD) Brig
Commanding "E" Gp, CRU
Convening Officer.

CONVENING OFFR WILL INITIAL ALL DELETIONS AND ALTERATIONS

4/38A (PAM) (To issue of AFA2) 40/P & S/1387 (1401)

(See overleaf for oaths and notes for use at trial.)

E-3

MR. President, Members of the Court:

In considering the sentence which the court is bound by the Army Act to award, it is respectfully submitted by the Defence that there are points in the military ~~record~~ and family situation of the accused which the court may deem to have considerable bearing upon the sentence which may be awarded him. The accused, 34 year old Private Grimes, volunteered and was accepted for Overseas Service with the Perth Regiment only 2 days after Britains Declaration of War, 5 Sep 39. Since that day, his only misdemeanors in the Army have been AWL and 2 charges of being improperly dressed.

D Day in Normandy found him following up the initial beach assault with the Highland Light Infantry as a member of a Rifle company. He took part in the Bayeaux attack where all in his section were casualties but himself and a corporal. After surviving the battle of Caen, he was wounded in the leg by shrapnel while attacking an enemy position at dawn on the 25 July 44.

On being discharged from Hospital, he was reboarded an LE and consequently placed in the unhappy position of being neither permitted to rejoin his regiment nor be returned to Canada.

On VE day, he was posted to No.1 Cdn Repat Depot under the impression that his application for compassionate leave had gone through, and that he was on his way home. Upon arrival at the Depot, he was told to take his regimental and divisional flashes down, and was informed that he would be in the camp for a year or 18 months on the PE as a permanent fatigue man.

Four days later he went AWL, towards the latter part of the appropriate Victory in Europe celebrations, Although, as the accused admits, going absent without leave was an unwarranted action, I believe the court may have no difficulty in understanding the " Cause and Effect". There was no woman involved, it was a case of the natural reaction to bitter disapointment, family worries, and the humiliating drop from Pte in a line regiment to general fatigue man in a base. Upon being apprehended, he was under the influence of alcohol and on the spur of the moment, he unthinkingly attempted to run for it, but no force was necessary to bring him back.

Pte Grimes has asked for compassionate leave three (3) times since returning to the UK from France. His father is in the Queen Alexandra Sanatorium in London, Ont. suffering from Tuberculosis. He receives a pension of 28 dollars per month, of which the hospital claims $20.00, leaving him $8.00 per month. The mother of the accused is 73 years old and solely dependant on him. She has no savings as the family lost all their money in '29. Pte. Grimes is a baker by trade, and has a job waiting for him in Canada. If he could return home, he is assured a higher income than his present army pay.

Under such circumstances, the Defence hopes that the court shall see cause for leniency and award the minimum sentence within its power.

.....W.H.Bridgman Lt.....

Certificate in accordance with KR (Can) 557.

I certify that I have this morning examined No. R 114451 ...Rank..P.T.E.

Name..GRIMES...T.J...of..1 Cdn. Repat. P.D. (unit) and in my opinion

he is ~~unfit~~ fit to undergo trial by Court Martial

Station..Dundurn Camp.

Date.....1.6.45.....

.....W.Mavier Capt.....
Medical Officer
No 1 Cdn. N.D.T.D
(Lorne Scots)

SUMMARY OF EVIDENCE

In the case of A 11045 Pte John Joseph GRIMES, No 4 Wing, No 1 Cdn Repatriation Depot (Lorne Scots), a soldier of the Canadian Army Overseas.

By direction of the Commanding Officer this Summary of Evidence is taken on oath.

FIRST WITNESS FOR THE PROSECTION

B 42522 Sgt SMILEY, W J having been duly sworn states:- "I am B 42522 Sgt SMILEY, W J employed in Reception and Departure Wing, No 4 Wing, No 1 Cdn Repatriation Depot (Lorne Scots). The accused, whom I now recognize and who was employed as GD in the same camp, was in possession of a pass permitting him to be absent from duty until 0900 hours 11 May 45. On the 11 May 45 I was Regimental Orderly Sergeant and part of my duties consisted of receiving the passes on their having been turned in by the persons concerned. The passes turned in to me did not include one made out in the name of the accused. I searched the Sgts Mess where he was employed but could not locate him and did not see the accused again until about three or four days ago."

W J Smiley
(W J SMILEY)

THE ACCUSED DECLINES TO CROSS-EXAMINE THIS WITNESS

SECOND WITNESS FOR THE PROSECUTION

F 52076 L/Cpl RYAN, T E having been duly sworn states:- "I am F 52076 L/Cpl RYAN, T E of No 5 Det. No 6 Provost Coy C Pro C. On 4 Jun 45 I was on patrol duty in Reading accompanied by L/Cpl Peck. At about 2220 hrs I noticed and approached the accused, whom I now recognize and asked to see his leave pass. None being produced and since he was not in possession of his M B M II, I placed the accused under arrest and escorted him to No 5 Det HQ, where he was held awaiting escort. That is all I know of the matter.

T E Ryan
(T E RYAN)

THE ACCUSED DECLINES TO CROSS-EXAMINE THIS WITNESS

THIRD WITNESS FOR THE PROSECUTION

F 32552 L/Cpl Peck, C E having been duly sworn states:- "I am F 32552 L/Cpl Peck of No 5 Det. No. 6 Provost Coy. C Pro C. On 4 Jun 45 I was on patrol duty in company with L/Cpl Ryan in Reading. At approximately 2220 hrs I saw the accused whom I now recognize, and when he was approached and questioned regarding his leave pass could not produce a pass nor give a satisfactory explanation. He was placed under arrest. On the way to No 5 Det HQ, L/Cpl Ryan left me to locate our vehicle and in his absence the accused ran away. I pursued him and apprehended him after chasing him approximately 20 yards. L/Cpl Ryan then rejoined me and the accused was escorted to No 5 Det HQ where he was detained.

C E Peck
(C E PECK)

THE ACCUSED DECLINES TO CROSS-EXAMINE THIS WITNESS.

FOURTH WITNESS FOR THE PROSECUTION

Capt. G.W. Akehurst, (CIC) having been duly sworn, states: "I am Capt. G.W. Akehurst, Administrative Officer No. 1 Cdn Repat. Depot (Lorne Scots). I present a certified true copy of a Court of Inquiry dated 2 June 45, pertaining to A 11045 Pte. Grimes, J.J.

Geo W. Akehurst Capt.
(G.W. Akehurst).

THE ACCUSED DECLINES TO CROSS-EXAMINE THIS WITNESS

QUESTION TO THE ACCUSED

"Do you wish to make a statement or give any evidence on oath? You are not obliged to make a statement or give any evidence on oath, but if you do make a statement or give evidence on oath it will be taken down in writing and may be brought up in evidence."

THE ACCUSED DECLINES TO MAKE A STATEMENT AND RESERVES HIS DEFENCE.

I certify that the foregoing Summary of Evidence consisting of (2) two pages was taken by me in the presence and hearing of the accused and that Rules of Procedure 4 (c), (d), (e), and (f) have been complied with.

In the Field
11 Jun 45

D M Nichol Lt
(D M NICHOL) LIEUT (RCA)
Officer detailed to take
Summary of Evidence.

EXHIBIT

ARTICLE	No	VOC PRICE	EXPENDED VALUE less 25%	CANADIAN EQUIVALENT
		£-S-D	£-S-D	$-¢
Drawers Woolen	1	0-6-3½	0-4-8½	1.05
Berets Khaki	1	0-5-6	0-4-2	.90
Blouses B.D.	1	1-9-1	1-1-10	4.88
Trousers B.D.	1	1-9-3½	1-2-0	4.91
Boots Ankle	1	1-6-0	0-19-7	4.37
Drawers Cellular	1	0-1-11	0-1-5	.32
Shirts W/C	2	0-18-2	0-13-7½	3.05
Bags Kit	1	0-4-7	0-3-5½	.77
Braces prs	1	0-1-5	0-1-1	.24
Brass Cleaning	1	0-0-2	0-0-1½	.03
Brush Cloth	1	0-2-2	0-1-7½	.36
Brush Hair	1	0-1-6	0-1-1½	.26
Brush Shaving	1	0-1-8	0-1-3	.28
Fork NS Table	1	0-0-4	0-0-2	.06
Holdalls	1	0-0-10	0-0-8	.15
Knife Table	1	0-0-8	0-0-6½	.12
Razor Safety w/blades	1	0-0-3	0-0-2½	.05
Spoons NS Dessert	1	0-0-5	0-0-4	.07
Braces WE Right	1	0-1-4	0-1-½	.23
Haversack	1	0-8-0	0-6-0	1.34
Tins Mess	1	0-1-5	0-1-1	.24
Mugs Drinking	1	0-0-9	0-0-7	.13
		£7-1-8	£5-6-8	$23.80

THIS IS EXHIBIT "A" REFERRED TO BY ME IN THE CASE OF A 11045 PTE. GRIMES J.J.

(D.M. NICHOL) LT OFFR TAKING SUMMARY OF EVIDENCE

RECORD of the Declaration of a Court of Inquiry assembled at Ontario Camp Bramshott, Hants.

on the Second day of June 1945, for the purpose of investigating and recording the absence, without leave, from his duty, and deficiency, if any, in the Arms, Ammunition, Equipments, Instruments, Regimental Necessaries, or Clothing of No. A 11045 Pte. Grimes, J.J.

DECLARATION

The Court declare that No. A 11045 Pte Grimes, J.J. No.4 Wing, No.1 Cdn Repat Depot (Lorne Scots) Ontario Camp, Bramshott, Hants.,

illegally absented himself without leave from No.4 Wing No.1 Cdn Repat Depot (Lorne Scots) Ontario Camp, Bramshott, Hants at 0900 hrs on the 11th day of May 1945,

that he is still so absent, and that on the 1 June 1945 he was deficient, and

that he is still deficient of the following articles :—

ARTICLES	VALUE	ARTICLES

Capt. H.E. Couch (1 Cdn Repat Depot (Lorne Scots)) President

Lieut. G.P. Adamson, (1 Cdn Repat Depot (Lorne Scots)) Member

Member

Signed at Ontario Camp, Bramshott, Hants.

this 2 day of June 1945

Signature of Commanding Officer Louis Keene, Colonel

Certified true copy Geo W Akehurst Capt

Signature of Officer having custody of original record

(G.W. Akehurst) Capt.
Adm Officer, #1 C Repat D
(Lorne Scots)

3/60B MFB 375-AFB 115
40/P&S/392 (6619)

ARMY FORM B.296.

Statement as to Character and Particulars of Service of Accused.

Number.	*Rank.*	*Name.*	*Regiment (or as the case may be).*
A 11045	Pte.	GRIMES, John Joseph	(No 4 Wing 1 Can Repat Depot) (Lorne Scots)

1. The following is a fair and true summary of the entries in the regimental and squadron, battery or company conduct sheets† of the accused, exclusive of convictions by a court martial or a civil court, of summary awards under section 47 of the Army Act, and of cases in which trial has been dispensed with :—

Note.—At a trial by field general court martial this summary may be compiled from the field conduct sheet. The conduct sheet(s) maintained should be produced in court with this statement but not delivered to the prosecutor.

† See para. 677, K.R., 1940.

* The numbers inserted should correspond with the number of entries in the conduct sheets, punishments being given to the most serious offence in each entry, and to any recognized special acts of gallantry or distinguished conduct.

INSTRUCTION.—If the charge is for drunkenness the entries for drunkenness must be stated separately and dated.

	* Within last 12 months.	*Since Enlistment.
For A.A. Sec 15 (1)	four times	Twenty-two times.
For A.A. Sec 15 (3)	Nil times	One times.
For A.A. Sec 11	Two times	Two times.
For	times	times.
For	times	times.

Number of instances of gallantry or distinguished conduct, Nil

or

There are no entries in the conduct sheets of the accused.

2. ~~The accused has not previously convicted or~~ The accused has previously been convicted by ~~a~~ Field General Court Martial of a civil crime; summary awards under section 47 of the Army Act, and dispensations with trial under section 76 of the Army Act, are set out in the schedule annexed to this statement.

3. The accused is not under sentence at the present time, *or* The accused at the present time is under sentence for Nil beginning on the -- day of --

4. The accused has been in confinement, awaiting trial on the present charges, for NIL days in civil custody, and 14 days in military custody, making a total of 14 days, of which NIL days were spent in hospital.

5. The present age of the accused according to his ~~Army Service~~ attestation paper is 33½ years as of THE DATE OF HIS ATTESTATION (SPECIFIED IN HIS ATTESTATION PAPER) 15 SEPT 1939.

6. The date of his ~~enrolment~~ ~~Army Service~~ as stated in his attestation paper is

7. The ~~service~~ ~~accused has~~ ~~forfeited~~ to ~~forfeit~~ towards discharge or transfer to the reserve is

8. The ~~accused~~ is entitled to deferred pay or gratuity ~~amounting~~ in respect of ~~his~~ service.

9. The ~~accused~~ ~~has~~ ~~served~~ ~~no~~ service for the purpose of determining his periodic rate.

10. The accused is in possession of, or entitled to, no military decoration or military award (*or* is in possession of *or* entitled to (*state any military decoration or reward*)). C.V.S.M. & Clasp

11. ~~If the accused is an officer.~~ The accused before he was made a warrant officer had held the regimental rank of

~~If he is the warrant officer~~ The accused is ~~gazetted~~ entitled to the rank of ~~XXXX

Schedule of Convictions by a Court Martial or Civil Court, of summary awards under Section 47 of the Army Act and of cases in which trial has been dispensed with of accused.

No. A 11045 Rank Pte Name Grimes, J.J. of 1 Cdn Repat Depot Regiment (or as the case may be).

(INSTRUCTION—A verbatim extract from the regimental books, stating these convictions and dispensations with trial, must be inserted.)

Description of court by which tried, or status of officer disposing of the charge or dispensing with trial	Date and place of trial, or summary award under A.A. 47, or of order dispensing with trial	Charges upon which convicted, or in respect of which trial was dispensed with	Sentence of the court or authority disposing of the charge, or order of the dispensing authority.	Punishment remitted.
F.G.C.M.	Field 21 Nov 44	Absence without leave A.A. Sec 18(1)	6 months detn	59 days

Gua.

I HEREBY CERTIFY that the foregoing schedule of convictions and dispensations with trial is a true extract from the regimental books in my custody.

Signed this 19th day of JUNE 45

Geo W Akehurst Capt.
(G.W. Akehurst) Adjutant,
1 Cdn Repat Depot (Lorne Scots)

13. The accused has served as a non-commissioned officer continuously, without reduction, to the present date.

Date of Promotion.

In the rank of Private continuously since enlistment years, ____

In the rank of ____ years ____

In the rank of ____ years ____

(INSTRUCTION.—*If any matter in any of the above paragraphs cannot be stated from the regimental books the paragraph must be struck through, except that in the case of a trial by field general court-martial the information may be collected from such sources as are available and the paragraphs corrected accordingly.*)

No. 11045 Name GRIMES, J.J. Sqn, Battery, or Company — Corps — Date of enlistment 5 Sep 39 — GC Badges — Service or Proficiency Pay — 3/17 MFM 6 (AFB 122) 40/PAS/136 (7019)

Date of last entry in Conduct Sheet — No. and date of last award — Period not reckoning towards freedom from extra fine — Sheet No. 1 — Signature OC Company, etc — Character

Sheet No. 2 destroyed 5 Spe 41

Place	Date of offence 1939	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order directing sting with lead	By whom awarded	Remarks and signature
STRATFORD	16 Dec	Pte		A.A. Sec 15 (1)		4 days detn	17 Dec 39	SHMcComb Lt Col	Forf 1 days pay
	1940					120 hrs Detn	9 Apr 40	"	
KITCHENER	8 Apr	"		A.A. Sec 15 (3)		28 days Detn	12 Aug 40	Maj E C Shelley	Forf 2 days pay
Camp Borden	7 Aug	"		A.A. Sec 15 (1)		14 days C.B.	5 May 41	Maj E.C. Shelley	Forf 3 days pay
	1941								
Camp Borden	2 May	"		A.A. Sec 15 (1)		14 Days Detn & stoppage of $10.76 escort fees	7 Jul 41	LtCol G.W.Little	Forf 1 days pay
Camp Borden	2 Jul	"							

(PTO)

Place	Date of offence	Rank	Unit of Arm/Serv/Corps	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or if under close arrest with trial	By whom awarded	Remarks
Field	1941 4 Dec	Pte		A.A. Sec 15(1)		168 hrs detn	6 Dec 41	Lt.Col C.H.Little	Forf 2 days pay
Field	1942 13 Feb	Pte		A.A. Sec 15(1)		14 Days detn	17 Feb 42	Lt.Col C.H.Little	Forf 1 days pay
Field	7 Oct	Pte		A.A. Sec 15 (1)		Forf 10 days pay	12 Oct 42	Lt.Col. JSH Linn	Forf 4 days pay
Field	21 Nov	Pte		A.A. Sec 15(1)		Forf 12 days pay	23 Nov 42	Maj R.L. Tindall	Forf 2 days pay
Field	1943 11 Feb	Pte		A.A. Sec 15(1)		14 days C.B. 14 days pay	16 Feb 43	Lt.Col T.W.Medland	Forf 5 days pay total 19 days pay
Field	5 Apr	Pte		A.A. Sec 15(1)		7 days C.B.	7 Apr 43	Lt.Col. JSH Lind	Forf 1 days pay

No. A11045 Name GRIMES, J.J. | Regt, Battery, or Company | Corps | Date of enlistment 5 Sep 39 | OC Signature OC Company, etc | Service or Proficiency Pay | 3/17 MFM 6 (AFB 122) 40/PAS/136 (7910)

Date of last entry in Company Conduct Sheet | No. and date of last drunk | Period not reckoning towards freedom from extra fine | Sheet No. 2 | Character

Fine	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dismissing with trial	By whom awarded	Remarks
	1943								
Field	3 May	Pte		A.A. Sec 15(1)		14 Days F.P.	17 May 43	Lt.Col. HET Doucat	Forf 14 days pay
Field	9.8.43	Pte		A.A. Sec 15 (1)		14 days C.B.	13.8.43	Maj.L.C. Parkinson	Forf 1 days pay
									Cost of apprehension 5s8d.
Field	2 Sep	Pte		A.A. Sec 15(1)		Forf 15 days pay	9 Sep 43	Maj. L.C. Parkinson	Forf 5 days pay
Field	8 Oct	Pte		A.A. Sec 15(1)		14 days detn	12 Oct 43	Maj L.C. Parkinson	Forf 3 days pay
Field	2 Nov	Pte		A.A. Sec 15(1)		Forf 1 days pay	4 Nov 43	Maj GH. Williams	Forf 1 days pay

(PTO)

No. A11045 Name GRIMES, J.J. Sqn, Battery, or Company — Corps — Date of enlistment 5 Sep 39 — GC Badge — Service or Proficiency Pay — 3/17 MFM 6 (AFB 172) 49/P&S/139 (7010)

Date of last entry in Company Conduct Sheet — No. and date of last drunk — Period not reckoning towards freedom from extra fine — Sheet No. 3 — Signature OC Company, etc — Character

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
	1944								
Field	10 Jan	Pte		A.A. Sec 15 (1)		14 days 1st P.P.	20 Jan 44	Major GH Williams	Forf 8 days pay
									Stoppage of pay 6s-8d cost of apprehension.
Field	2 Mar	Pte		A.A. Sec 15 (1)		Forf 21 days pay	9 Mar 44	Maj L.C. Parkinson	Forf 5 days pay
									Stoppage of pay 8s5d cost of apprehension
Field	1 May	Pte		A.A. Sec 15(1)		21 days F.P. 21 days pay	4 May 44	Lt.Col H.W. Ride	Forf 1 days pay
						Stpppage 6s7d cost of apprehension			
Field	15 Sep	Pte		A.A.Sec 15(1)		5 days F.P. 5 days pay	18 Spp 44	Lt.Col D. Huncie	Forf 5 days pay

Place	Date of offence	Rank	Cause of forfeiture	OFFENCE	Name of Witnesses	Punishment awarded	Date of award or if under investigation with trial	By whom awarded	Remarks
Field	1944 30 Sep	Pte		A.A. Sec 11		7 days C.B.	4 Oct 44	Lt.Col J. Runcie	
Field	5 Oct	Pte		A.A. Sec 11		14 days C.B.	23 Oct 44	Lt.Col. Runcie	
Field	19 Oct	Pte		A.A. Sec 18 (1)		14 days F.P. 14 days pay Cost of apprehension 8s8d	23Oct 44	Lt.Col J. Runcie	
Field	28 Oct	Pte		A.A. Sec 18 (1)		6 months detn.	21 Nov 44	FCCM	RELEASED from the DETENTION BARRACKS on 23 Mar 1945 Sentence having expired. Remission earned under "Rules for Detn Bks and Military Prisons. 59 days.

No. A11045 Name GRIMES, J.J. | Regt, Battery, or Company | Corps | Date of enlistment 5 Sep 39 | GC Badges | Service or Proficiency Pay | 3/17 MFM 5 (AFB 122) 40/PAS/138 (7500) Character

Date of last entry in Company Conduct Sheet | No. and date of last drunk | Period not reckening towards freedom from extra fine | Sheet No. 4 | Signature OC Company, etc

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order (Appeal dismissed)	By whom awarded	Remarks
Field	1945 29 Mar	Pte		A.A. Sec 15(1)		9 days F.P. Forf 9 days pay Cost of apprehension 5s8d	4 Apr 45	LtCol CMMacMillan	Forf 3 days pay
Field	18 Apr	Pte		A.A. Sec 15(1)		4 days F.P. 4 days pay	20 Apr 45	Lt.Col C.M.MacMillan	Forf 1 days pay

Certified to be a true copy of the original documents in my custody.

17 Jun 45

Geo W Akehurst Capt.

(G.W. Akehurst) Adjt 1 Cdn Repat Depot

Officer having custody of the original document.

LIST OF WITNESSES

IN THE PROSECUTION

B 42522 Sgt SMILEY, W.J. 1 Cdn Repat Depot (#4 Wing)
F 52076 L/Cpl RYAN, T.E. #5 Det. No.6 Prov Coy C of C
F 32552 L/Cpl PECK, C.E. #5 Det. No.6 Prov Coy C of C
Capt. G.W. AKEHURST, Administrative Officer 1 C Repat D.

IN THE DEFENCE

Nil

LIST OF EXHIBITS

FOR THE PROSECUTION Certified true copy of a Court of Inquiry dated 2 Jun 45.

FOR THE DEFENCE Nil.

STATEMENT OF ACCUSED RE DEFENDING OFFICER

I hereby request that the Commanding Officer 1 Cdn Repat. Depot (Lorne Scots) detail a defending officer for my forthcoming trial by F.G.C.M.

J.J. Grimes

A-[illegible] Pte. Grimes, J.J.

ACCUSED RECEIPT OF DOCUMENTS

I hereby acknowledge receipt of Charge sheet and Summary of Evidence relative to my forthcoming trial by F.G.C.M.

J.J. Grimes

A 11045 Pte. J.J. Grimes.

4H-41

Pte. Grimes JS

SCHEDULE.

PART I. PLEA(S), FINDING(S) AND SENTENCE.

Accused: A11045 Pte John Joseph GRIMES - 2 CITR - CIC

Charge. (Insert "alternative" where applicable.)	Plea. (See Instrs p 2.)	Finding. (See note below.)	(Space for use as required for further charges, accused charged jointly, special findings, etc.)
1st AA Sec 15(1)	Guilty	Guilty	
2nd			
3rd			
4th			
5th			
6th			

(Note: As to findings for lesser offences see AA 56, RP 44; findings on alternative charges see MML p 483 fn 4 para 2, RP 44; special findings see RP 44 and MML p 753, and in lieu of KR see RP 44 fn b.)

At present under sentence for N/A beginning on (date) N/A (1)

(1. Insert sentence being served, or delete, if not applicable. See RP 46(A). Information should be found on MF B355 or AF B296.)

Time in confinement awaiting present trial—a total of 15 days, of which NIL days were spent in hospital.(1)

(1. See RP 46(A) fn 2. Information should be found on MF B355 or AF B296 admitted in evidence under E2.)

Sentence Awarded by the Court: To undergo detention for a period of (6) Six Months and to be put under stoppages of pay, until he has made good the sum of (£ 8 5) Eight Shillings and five pence, in respect of the cost of apprehension and return.

(Sgd) Judge-Advocate, if any. 21 Nov 44 Date awarded. (Sgd) Geo K Tripp Major President. (RP 45, 50.)

(See back of Convening Order as to assembly and disposal of record after trial.)

PART II. MINUTE WHERE CONFIRMATION RESERVED. (AA 54(5), RP 120(F), MML p 760.)

Date (Sgd) Commanding

PART III. DECISION OF CONFIRMING OFFR ON FINDING(S) AND SENTENCE.

(For duties and powers see AA 54, 57, RP 37(D) fn 6, 46(A), 51-56, 120, MML pp 759-761, KR Con 567-577. Acquittals require no confirmation and cannot be revised: AA 54(3). Sending back finding or sentence for revision by Court: AA 54(2), RP 120(G). If not confirmed, accused may be tried again: AA 157, MML p 64. Minute of confirmation or non-confirmation may be altered before promulgation: RP 53, MML p 65. Quashing after promulgation: KR Con 573. Duties and powers of reviewing offrs: AA 57, 57A, RP 53A, 54. The Confirming Offr must sign here personally. AA 172 fn 1.)

My decision on the finding(s) and sentence set forth in Part I is:

Confirmed

~~I direct that the accused be not committed to [illegible] until further orders.~~ (1)

(1. AA 57A. Delete if not used.)

(Sgd) W Blackader

Date 23 Nov 44

Commanding (K.G. Blackader) Brigadier 13 Cdn Inf Trg Bde. Confirming Officer.

PART IV. PROMULGATED AND EXTRACTS TAKEN. (RP 53, KR Con 576, 577.)

Accused: A 11045 Pte Grimes JJ

Date. 25 NOV 1944

Signature of Offr.

PART II ORDER No. 224/27 Mil

ALL DELETIONS AND ALTERATIONS WILL BE INITIALLED

RECORDED AT CMHQ IN AB 160 44-41

FIELD GENERAL COURT-MARTIAL

CFAMS (To take place of AFAA) 40/P & S/1668 (8144) 4/38B

Convened by Order of Brig KG Blackader, DSO, MC, ED Comd 13 CITB dated 19 NOV 44

ACCUSED.

(For trial of two or more charged jointly see RP 16, 71, 109. As to reasons for showing (a) permanent or confirmed rank and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Con 308, 328, 330.)

Number.	(a) Prmnt R. (b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
A11045	Pte	John Joseph	GRIMES	2 CITR CIC

PROCEEDINGS REVIEWED

Robt Fidler Rivers Lieut 19 Dec 44

REVIEWING OFFICER.

PROCEEDINGS OF TRIAL.

Held in the Fd in (country) England on (date) 21 Nov 44

RECORD FORM A—OPENING PROCEEDINGS AND ARRAIGNMENT.

A1. The President, Members, waiting Member, JA, if any, and Offrs under instr, if any, assemble, and the Court is closed.

(PRINTED MATTER, NOT IN ITALICS FOR GUIDANCE, WILL BE DELETED, IF NOT USED OR APPLICABLE, AND INITIALLED BY PRES OR JA. The Schedule referred to throughout is on p 4. Citations do NOT include all relevant fns ROs. For guidance on procedure when a variation in this form arises, see form for GCM in MML pp 741 to 759. A brief record of such variation will be made and given a number having reference to appropriate or preceding para number herein. See back of Convening Order, CF 885, for oaths and instrs on how to record addresses, evidence, etc., which instrs are hereafter called "Notes". As to general provisions for conducting the trial see AA 53, RP 36, 63-70, 73, 74, 94, 103, 118, 122.)

A2. The President initials and lays before the Court the Convening Order and Charge Sheet(s) attached thereto.(1) The Court is satisfied that it is properly convened and constituted(2), accused is (are) amenable to military law, and each charge discloses an offence.(3)

(1. As to use of Summary of Evidence see RP 17 fn 1. 2. AA 49, 50, RP 105-107. 3. RP 11-13, 23, 24.)

A3. The Court is opened. The accused is (are) brought before the Court. At 1200 C hours trial commences.

A4. The Prosecutor produces a Medical Certificate that accused is (are) fit to undergo trial by court-martial.(1) ~~The Prosecutor informs the Court that accused elected to be tried by court-martial instead of being dealt with summarily by the CO.(2)~~

(1. KR Con 557. 2. AA 46(B), RP 60 fn 1. For effect see KR Con 563(c). Delete, if not applicable.)

A5. President to accused: Do you object to N/A as interpreter? Ans N/A

~~The Interpreter is sworn.(1)~~ Do you object to N/A as shorthand writer? Ans N/A

~~The shorthand writer is sworn.(1)~~

(1. RP 72. Delete, if none employed.)

A6. The Convening Order and names of the President and Members of the Court are read to the accused.(1) President to accused: Do you object to be tried by me as President or by any of the Members of the Court?

Ans No (2)

(1. RP 110. 2. If no objection, waiting member retires. RP 68(B). If objection, see procedure AA 51, RP 25, 71, 18, MML p 742.)

A7. The President, Members, JA, if any, and Offrs under instr, if any, are sworn.(1) The following are the ranks, names and units of the offrs comprising the Court, etc:

President	MAJOR	G TRIPP	4 CITR
Member	Capt	A S GRAYDON	2 C.I.T.R
Member	Lt	S FIDLER	2. C.I.T.R
Judge-Advocate			
Prosecutor	Lt	P SAPERIA.	2 C.I.T.R
Defending Offr	Capt	F.C. KARN	2. C.I.T.R

Questions by President: Is the Prosecutor a lawyer? Ans No. Is the Defending Offr a lawyer? Ans No (2)

(1. RP 26, 27, 109, 111. List of offrs under instr will be returned separately with proceedings for information of Conv Offr. 2. If Pros a lawyer and Def Offr not, accused is entitled to an adjournment when RP 89 (B) and fn 2 were not followed. See D1 p 2.)

A8. The accused A11045 Pte GRIMES, J J before arraignment make(s) (no) (~~an~~) plea (2)

(1. If a special plea is made for separate trial on one or more charges (RP 62(E), 108), or as to the jurisdiction of the Court (RP 34, 35(A), 112), or in bar of trial (RP 36), or as to accused's mental fitness to stand trial (AA 130, RP 57), or by one of several accused charged jointly to be tried separately (RP 16, 71), such plea, the addresses made in support or against, the evidence, if any, and finding are recorded per Notes. For forms of record see references in fns to RP cited. Insert in A8 rank and name of the accused making the plea.)

A9. The accused is (~~are~~) arraigned (separately) on all charges in the charge sheet.(1) The accused does (~~do~~) not object to any charge.(2) There is no amendment to be made to the Charge Sheet.(3) The President records the pleas in Part I of the Schedule.

(1. RP 31, 112. See para 1 of Instrs p 2. When more than one Charge Sheet see RP 62; when several accused to be tried separately see RP 71(C), and use separate copies of CF 486 to record proceedings. 2. RP 32, RP 33. If otherwise, delete and make appropriate record per Notes.)

A10. The Court (is closed and) considers the Instrs on Procedure after Arraignment at top of p 2. The proceedings are continued on Record Form E

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

INSTRUCTIONS ON PROCEDURE AFTER ARRAIGNMENT.

1. *The accused may not plead or be found Guilty on more than one of two or more charges laid in the alternative.* (*RP* 37(*A*).) *As to withdrawal of alternative charges by Prosecutor see RP* 35(*C*). *No other charge can be withdrawn for any reason without authy from Convening Offr. If Convening Offr concurs, Court may accept plea of Guilty to lesser, etc, offence,* (*RP* 44(*H*).) *Accused may change a plea of Not Guilty to Guilty during trial.* (*RP* 38.) *As to refusing to plead or not pleading intelligibly see RP* 35(*A*). *As to plea when sentence may be death see RP* 35(*D*).

2. *The proceedings on each charge sheet* (*RP* 62) *after arraignment will be conducted as follows in the respective circumstances stated :*

I. If pleas to all charges are GUILTY, use Record Form B below.

II. If pleas to all charges are NOT GUILTY, use Record Form D on p 3.

III. If pleas to some charges are GUILTY and to other charges are NOT GUILTY and,

(a) *Such mixed pleas occur when there are no alternative charges in the Charge Sheet, use Record Form C below.* (*RP* 37(*A*).)

(b) *Such mixed pleas occur in a set of two or more charges laid in the alternative, see RP* 37 (*A*) *and fn* 2 *as to discretion of Court,* (i) *to try the accused on all such alternative charges as if he had pleaded Not Guilty thereto, or,* (ii) *to record the pleas as the findings of Court. After deciding between* (i) *and* (ii), *Court will proceed under foregoing instrs as may be appropriate to result of its decision. See MML p 744 Instrs* (2).

3. *As to responsibility of President to accused see RP* 59, 60(*C*); *powers and duties of JA see RP* 103; *duty of Prosecutor see RP* 60(*A*) (*B*); *duty and privileges of accused and Defending Offr see RP* 60(*C*), 87(*C*), 91, 92; *swearing and withdrawal of witnesses from Court see RP* 81, 82; *questioning of accused see RP* 86, 87(*C*), 92(*B*), *and of witnesses see RP* 83-85; *calling or re-calling of witnesses by Court, etc, see RP* 75-79, 86, 116; *use of Summary of Evidence at Trial see RP* 17(*E*) *fn* 6; *and responsibility of JA or Pres to record proceedings see RP* 94, 96.

RECORD FORM B—PROCEEDINGS ON PLEAS OF GUILTY TO ALL CHARGES.

B1. The President or JA, if any, complies with RP 35(B) by explaining to the accused the nature and meaning of the charge(s)(1), and that on his plea of Guilty there will be no regular trial but merely a consideration of the sentence to be awarded after he has been given an opportunity to make a statement in reference to the charge(s), call witnesses as to character and make an address in mitigation of punishment.(2)
(*1. RP 35 fn 3. 2. MML p 54 para 47.*)

B2. President to accused : The Court will now receive any statement you desire to make in reference to the charge(s).(1) If it appears from your statement that there are circumstances which indicate that you do not understand the effect of the plea of Guilty(2), or which show provocation or extenuation in respect of which in your interest the witnesses for the Prosecution should be examined(3), we shall advise you to change your plea to Not Guilty. In making a statement you will not be sworn or subject to cross-examination ; and anything you say will not be used in evidence against you after you change your plea. If, however, it appears to the Court that your statement affects only the amount of punishment to which you are liable, you will not be advised to change your plea and you will be given an opportunity later to prove your statement by sworn testimony, if you so desire.(4)

President to accused : Do you wish to make a statement ? Ans. No S.E. (5)
(*1. RP 37(B). 2. RP 37(D) fn 6. 3. RP 35(B) fn 5 para 3, MML p 54 para 47. 4. See para E3 of Record Form E. 5. Statement, if any, recorded per Notes.*)

B3. The Court considers the accused's statement.(1) The Court decides (not) to advise accused to change his (their) plea(s) of Guilty to Not Guilty on THE charge(s). ~~The accused is (are) so informed, and he (they) change(s) his (their) plea(s) on charge(s). Part I of the Schedule is amended accordingly.~~
(*1. Court may be closed to consider the statement. Delete whole or portion not used.*)

B4. On the charge(s) to which the plea(s) of Guilty is (are) not changed the President records finding(s) of Guilty in Part I of the Schedule.(1)
(*1. RP 35(B). If any plea(s) is (are) changed, use Record Form C or D as appropriate.*)

B5. The Summary of Evidence is marked Ex A, initialled and read aloud by the President.(1)
(*1. If there is no Summary, or if it is inadequate, comply with RP 37(B). If there is any evidence inconsistent with any plea standing as Guilty, Court will advise accused to change such plea and, if changed to Not Guilty, try such charge(s) by use of paras D1 to D8 inclusive of Record Form D on p 3. RP 37(D).*)

B6. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

RECORD FORM C—PROCEEDINGS ON MIXED PLEAS OF GUILTY AND NOT GUILTY.

C1. As to the charges on which accused pleaded NOT GUILTY the trial is continued by using paras D1 to D8 inclusive of Record Form D on p 3 before proceeding with C 2.(1)
(*1. RP 37(A) (E).*)

C2. The charges on which accused pleaded GUILTY are read to him (them) again, and the trial is continued by using paras B1 to B5 of Record Form B above.(1)
(*1. Under B5 such parts only of the Summary of Evidence are read as relate to the charges dealt with under C2. If any plea is changed to Not Guilty, trial thereon proceeds by complying with paras D1 to D8 inclusive in Record Form D on p 3 and making an appropriate record thereof on a separate sheet.*)

C3. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

RECORD FORM D—PROCEEDINGS ON PLEAS OF NOT GUILTY TO ALL CHARGES.

D1. President to accused : Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity to prepare your defence ? Ans. .....(1)
(*1. If "yes", see RP 39(A) for procedure. Statement or evidence, if any, is recorded per Notes.*)

D2. The Prosecutor makes (an) (no) opening address.(1)
(*1. RP 39(B), 60(A) (B), 90, 92(C) (D). Record address per Notes, subject to RP 95(C).*)

D3. The evidence for the Prosecution is taken.(1)
(*1. RP 39(C), 114, KR Can 555. Record evidence per Notes. As to Prosecutor giving evidence himself see RP 39(D) (E).*)

D4. The Prosecution is closed.(1) The Defending Offr submits that the evidence for the Prosecution does not establish a prima facie case against the accused on the .....charge(s).(2) The Court is closed, and considers the submission.(3) The Court is re-opened, and the President announces that the submission is disallowed on the .....charge(s), and allowed on the ..... charge(s), and that, accordingly, the trial will proceed on the former, but the accused is (are) found Not Guilty on the latter charge(s).(4)
(*1. Delete remainder of this para. If submission not made. 2. Arguments on submission, answer and reply are recorded per Notes. 3. RP 40 fn 1. See MML p 72 paras 12-14 and p 81 para 42. 4. Delete part not used. If accused acquitted on all charges, use second alternative in para D6.*)
NB : If trial proceeds, accused must be allowed great latitude in making his defence, and the Court should not stop his defence solely on ground of irrelevance. (*RP* 60(*C*), *114, 115.*)

D5. President to accused : You will now proceed with your defence.(1) You may, if you wish, give evidence yourself on oath as to the facts or your character or both, in which case you will be subject to cross-examination.(2) You may, however, make a statement without being sworn, and you will not be subject to cross-examination.(3) But a statement which could have been made on oath will not carry with the Court the same weight as sworn testimony.(4) You may call witnesses in your defence and as to character, whether you give evidence or make a statement or do neither.

President to accused : Do you wish to give evidence yourself as a witness, make a statement, or do neither ?
Ans. ..... Do you intend to call witnesses on your behalf ?
Ans. ..... Are they witnesses as to character only ? Ans. .....
(*1. RP 115. 2. RP 40(A), see 80(D). 3. RP 40 fn 10. 4. RP 40 fns 2, 9.*)

D6. Consequent on the answers recorded in para D5 the appropriate procedure for the defence is followed.(1)
(*1. RP 114, 115, 116. For procedure see Notes on back of Convening Order. CF AM5. Evidence for accused as to his character should, if in his interest, be given before the finding. See RP 46(A) fn 1, 86(C). Note give further opportunity in para E1 of Record Form E. Record per Notes addresses, statement, evidence and any summing up by the JA under RP 42, 103(e).*)

D7. The Court is closed to consider the finding(s).(1) The finding(s) of the Court is (are) recorded in Part I of the Schedule.(2) The Court is re-opened.
(*1. RP 43, 117(A). See Notes in Part I of Schedule. 2. RP 44(A).*)

D8. The President announces the finding(s), if any, of Not Guilty, and states to the accused that the finding(s) of the Court on the .....charge(s), being subject to confirmation, will be promulgated later.(1)
Or, The President announces that the accused is found Not Guilty on all charges and is to be released forthwith, and that the proceedings are accordingly terminated. Part I of the Schedule is dated and signed.(2)
(*1. AA 54(3) (6), RP 45, 120(A). 2. AA 54(3), RP 45, 117. This alternative announcement is not applicable when there are pleas of Guilty outstanding and dealt with under Record Form B or C.*)

D9. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E below.

RECORD FORM E—PROCEEDINGS ON CONVICTION BEFORE SENTENCE.

E1. President to accused : Do you wish to give evidence yourself or to call any witnesses as to your character ?(1)
Ans. No S.E.
(*1. If evidence has already been given by accused or his witnesses as to his character, delete this para. RP 37(C) fn 4, 46 fn 1. Accused and witnesses are sworn. Evidence recorded per Notes.*)

E2. The Prosecutor produces Statement(s) as to Character and Particulars of Service(1), and certified true copy (copies) of Conduct Sheet(s)(2), purporting to refer to the accused, which he submits to the Defending Offr for examination, and then to the Court for admission in evidence. The Court is satisfied that these documents refer to the accused, because (i) they purport to be signed in the manner required by AA 163(1) (g) (h), and (ii) they purport to refer to (a) soldier(s) having the same number, rank, name and corps as the accused. Admitted in evidence and marked Ex B and Ex C respectively.(3)
(*1. AFB 355 or AFB 296. 2. MFM 6. 3. RP 46, KR Can 558. If above documents not produced, see RP 46 fn 1 para 1.*)

E3. President to accused : Do you wish to address the Court on the Statement(s) and Conduct Sheet(s), and in mitigation of punishment ?(1) Ans. YES S.E. (2)
(*1. RP 37(C), 46(D). 2. Address, if any, recorded per Notes. Court should permit accused or his witnesses to prove on oath anything here or previously stated which would affect the amount of punishment. RP 37(F) fn 7.*)

E4. The President states that the Court is closed to consider the sentence, and that the sentence to be awarded by the Court, being subject to confirmation, will not be announced, but will be promulgated later, and the proceedings in open court are accordingly terminated.(1)
(*1. AA 54(3), RP 120(A).*)

E5. The Court considers the sentence.(1) The President records the sentence in Part I of the Schedule, which is dated and signed by him ~~and the JA, if any.~~(2)
(*1. When several accused tried separately see RP 71 (D). One sentence only, comprised of the punishment or punishments laid down in AA 41, 44 and its proviso, is to be awarded to cover all charges in all charge sheets on which accused found guilty. RP 48. As to sentences see AA 44, 138, 182, RP 46-50, 69, 118, 119(A), KR Can 308, 330, 343-366, Overseas AO 209, 2323, MML p 66, 737-739. As to sentences assigned for civil offences by the law of England see AA 41(3), MML p 130. When accused already under sentence of imprisonment or detention see AA 44(16), 68(1), KR Can 564. 2. RP 50. As to release from arrest by Confirming Offr see KR Can 567. As to assembly and disposal of record after trial see instrs on back of Convening Order.*)

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

CHARGE SHEET

The accused, A.11045, Pte. John Joseph GRIMES, C.I.C. on strength of 2 Canadian Infantry Training Regiment, a soldier of the Canadian Army Overseas, is charged with:

WHEN ON ACTIVE SERVICE ABSENTING HIMSELF WITHOUT LEAVE

Sec 15(1) Army Act.

in that he

in the Field, at 0800 hrs. 28 Oct 44, absented himself without leave until he was apprehended by the C.P.C. at Reading at approximately 1600 hrs. 5 Nov 44, thereby incurring costs of apprehension and return to his unit in the amount of £0-8-5.

(Total Absence: 8 days, 8 hrs.)

.....
(J.A.Wilson) Colonel,
Commanding, 2 C.I.T.R.

In the Field.

To be tried by Field General Court Martial.

(K G Blackader) Brigadier
Commadner
13 Cdn Inf Trg Bde

Field
19 Nov 44

FIELD GENERAL COURT-MARTIAL

(Whether the accused to be tried is under his comd or not, a FGCM may on application to him be convened by any offr of Cdn Army Overseas, or of any other force if authorized in law, in immediate comd of troops on active service, subject to RP 105(C) and restrictions imposed by appropriate authy. AA 49, 50, RP 104-107, 114. As to the duties and privileges of the Convening Offr in dealing with the application see MML Chap V paras 20 and 23, RP 87(B).
There should be a separate Convening Order for each person to be tried separately by the same Court. RP 71(C), 109. As to separate charge sheets see RP 62, and as to separate trial on charges in the same charge sheet see RP 108. As to two or more accused charged jointly see RP 16, 109.
As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

ACCUSED.

Number.	(a) Prmnt R.	(b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
A11045	Pte		John Joseph	GRIMES	2 CITR CIC

CONVENING ORDER.

1. Whereas complaint has been made to me, the undersigned, that the person(s) named above as the accused, being subject to military law, has ~~(have)~~ committed the offence(s) set forth in the Charge Sheet(s) attached and on (date) 19 Nov 44 endorsed by me, ~~(or by an offr of my staff for me)~~, " To be tried by Field General Court-Martial ".

2. And whereas I am of opinion that it is not practicable that such offence(s) should be tried by an ordinary General Court-Martial ; ~~(and that it is not practicable to delay the trial for reference to a superior qualified offr.)~~
(Delete part in brackets when not required for compliance with RP 105(C).)

3. I hereby convene a Field General Court-Martial to try the said person(s), and to consist of the Offrs appointed or detailed hereunder.

~~[illegible]~~
(AA 49, RP 106(B), 107(A). Delete the whole or part, if not applicable.)

~~[illegible]~~
(RP 106(E). Delete, if none appointed.)

PRESIDENT.

MAJOR (Rank.)	G TRIPP (Must be named. RP 106.)	4 CITR (Unit.)

MEMBERS.

Capt	to be detailed by Commanding Officer	2 CITR
Lt (Rank.)	to be detailed by Commanding Officer (Named or detailed. RP 106.)	2 CITR (Unit.)

WAITING MEMBER.

Capt (Rank.)	to be detailed by Commanding Officer (Named or detailed, if any. RP 106.)	2 CITR (Unit.)

~~[illegible]~~

(Rank.)	(Must be named, if any. RP 106.)	(Unit.)

On Active Service in the Fd

in England (Country.)

Date 19 Nov 44

K G Blackader
(Signed personally. RP 105 fn 2.)
(K G Blackader)
Brigadier (Rank.)
Commanding 13 Cdn Inf Tr g Bde
Convening Officer.

CONVENING OFFR WILL INITIAL ALL DELETIONS AND ALTERATIONS

(See overleaf for oaths and notes for use on trial.)

4/38A (FORM (To take the place of AFW 87/7 & 87/1609 (1951).)

MED. OFFICER'S CERTIFICATE

K.R.Can.Para 567.

I certify that I have this morning examined No A.11045.

Pte. Grimes, J.J. and in my opinion he is

~~FIT~~ to undergo trial by Court-Martial.

Station: Laurentide Camp.

Date: 21 Nov 44

.....Capt.
RCAMC, Attached to 2 C.I.T.R.

Plea of Mitigation

This plea of Mitigation on behalf of the accused A 110415 Pte Grimes, J.J., is being made as a result of a major domestic problem which has confronted this man during the time of his army service from 1941 up to the present time. The other problem is one which took place during his army career and the events which took place have had a great effect on his present condition.

With this domestic problem and events which took place during his army life, it is the wish to bring forth the following information before this court.

Pte Grimes has had a great worry at home. His father was sent to a tuberculas sanitorium in 1941 leaving his mother alone, they having only one child namely is the accused. The brother lived alone in her rented house in Stratford but later sold some of her furniture and moved to London to be nearer her husband. She was able to afford one rented room in a house there and stored the remainder of her furniture. Over a period of time this furniture has been sold to provide many articles necessary for the comforts of both mother and father. The parents are on in years and Pte Grimes being the only son feels that eventually a problem confronts him at home, there being no home and no furnishings with which to build up a home once more.

This anxiety of his parents has caused him much worry and a solution for his problem seems doubtful.

Pte Grimes has been in service since 5 Sep 39 when he enlisted with the Perth Regt. He took two months basic training and was then

Plea of Mitigation

FGCM

This plea of Mitigation on behalf of the accused A 110415 Pte Grimes, J.D., is being made as a result of a major domestic problem which has confronted this man during the time of his army service from 1941 up to the present time. The other problem is one which took place during his army career and the events which took place have had a great effect on his present condition.

With this domestic problem and events which took place during his army life, it is the wish to bring forth the following information before this court.

Pte Grimes has had a great worry at home. His father was sent to a tuberculas sanitorium in 1941 leaving his mother alone, they having only one child who is the accused. The mother lived alone in her rented house in Stratford but later sold some of her furniture and moved to London to be nearer her husband. She was able to afford one rented room in a house there and stored the remainder of her furniture. Over a period of time this furniture has been sold to provide many articles necessary for the comforts of both mother and father. The parents are on in years and Pte Grimes being the only son feels that eventually a problem confronts him at home, there being no home and no furnishings with which to build up a home once more.

This anxiety of his parents has caused him much worry and a solution for his problem seems doubtful.

Pte Grimes has been in service since 5 Sep 39 when he enlisted with the Perth Regt. He took two months basic training and was then

employed as a cook from the 15 Nov 39 until May 40. He then did a three months tour of guard duty at Niagara Falls.

In Sep 40 he was again employed as a cook and remained in that occupation until March 44.

Pte Grimes came overseas 18 Oct 41 and since his enlistment in 1939 Pte Grimes has had approximately four months infantry training which took place in his first year of service.

In March 44 Pte Grimes was taken from the Perths and sent to 3 CIRU to be remustered from RCASC to CIC. The short time he was there he acted as cook. From 3 CIRU he went to 2 CIRU awaiting move on draft to 2 CBRB where he again was employed as cook in the Officers mess.

Two weeks before "D" day this soldier was taken from the kitchen to go as an infantry reinforcement. He went to Normandy on "D" day and was there from 6 Jun to 22 Jul when he was wounded and returned to England. From hospital he came to 2 CIRU with an L-2 category and has been employed as a batman and that time.

This soldier feels that although he was willing he was not sufficiently trained to go to a theatre of war as an infantry soldier and has worried about his inability to have been of more assistance to his fellow soldiers who were casualties with him.

This situation which took place in Normandy and the problem of his parents at home has placed Pte Grimes under a continual mental strain. To find a release from the strain Pte Grimes left camp without leave to get away and try and forget

Pte

FGCM Ex A

SUMMARY OF EVIDENCE

In the case of A.11045, Private John Joseph GRIMES, C.I.C. on strength of 2 Canadian Infantry Training Regiment, a soldier in the Canadian Army Overseas.

By direction of the Commanding Officer, the Summary of Evidence is taken on oath.

First Witness Prosecution.

Capt. A. G. MacDonald of Training Bn., 2 C.I.T.R., having been duly sworn, states as follows:-

"I am Capt. A.G. MacDonald of Training Bn., 2 C.I.T.R. and I produce as exhibits for the prosecution:-

Exhibit "A" - Certified True Copy of 2 C.I.T.R. Pt.II D.O. #3, d/4 Nov 44, and Exhibit "B" - 2 C.I.T.R. Pt. II D.O. #4, d/ 6 Nov 44, which exhibits show that A.11045, Pte. Grimes, J.J. absented himself without leave at 0800 hrs. 28 Oct 44 and that on the 6 Nov 44 he was absent more than eight days.

Exhibit "C" - Certificate in accordance with P.C. 2797, d/7 Nov 44, showing A.11045, Pte. Grimes, J.J. of 2 C.I.R.U. was arrested at Reading at 1600 hrs. on 5 Nov 44.

Exhibit "D" - Certificate of Expenses incurred in apprehension and return of A.11045, Pte. Grimes, J.J. of 2 C.I.R.U. to London from Reading, which certificate is dated 6 Nov 44 and shows an amount of £0-8-5,

Which above exhibits pertain to the accused herein."

The accused declines to cross-examine this witness.

.....Capt.
(A.G.MacDonald)

The accused was cautioned as follows:-

"Do you wish to make any statement or to give any evidence on Oath? You are not obliged to say anything or give evidence unless you wish to do so, but whatever you say or any evidence you give will be taken down in writing and may be given in evidence."

The accused declines to make a statement and reserves his defence.

I certify that the foregoing Summary of Evidence consisting of one page was taken down by me in the presence and hearing of the accused and that Rules of Procedure 4 (C) (D) (E) and (F) have been complied with.

In the Field;
14 Nov 44.

.....Lieut.
(W.L. Liscombe)
Officer detailed to take the Summary of Evidence.

6 certified true copy
L. Garside Lt.
Asst. Recds officer.

FCCM
Ex. D.

2 CANADIAN INFANTRY DEPOT BATTALION

Last Order No: 2 d/3 Nov 44.

OF

2 CDN INF TRNG REGT

PART II DAILY ORDERS BY:

A/COLONEL J A WILSON, COMMANDER

This Order No: 3 d/4 Nov 44.

SECTION "A" OFFICERS

1. SUPPLEMENTARY N/K

(a) Additional N/K: Mrs Eileen Winnifred AUDCENT (Sister) Pinegrove Place, Bishopston, Bristol, England.

LIEUT Paul KENWAY (QOCH)

SECTION "B" OTHER RANKS

1. STRENGTH INCREASE

(a) T.O.S. from Y-3 List (2 CIDB) on discharge from Hospitals as shown w.e.f. dates as shown. (Posted to "A" Coy)

B-46804	CPL	BROOKS	C H	(LorS)	13 CGH	26 Oct 44.
H-19597	CPL	BROWN	J W	(QOCH)	13 CGH	31 Sep 44.
B-139676	PTE	BURRELL	R C	(EssxS)	1 Neuro	2 Nov 44.
B-52467	PTE	CHATTAWAY	G E	(HLI)	RWCONV	25 Oct 44.
B-147465	PTE	COLLINS	F	(CIC)	22 CGH	2 Nov 44.
C-75088	PTE	MacGREGOR	A A	(QOCH)	23 CGH	27 Oct 44.
H-17417	CPL	SHINN	J	(RWR)	22 CGH	25 Oct 44.
A-21177	PTE	THOMSON	A	(EssxS)	4 CCD	1 Nov 44.
H-42200	CSM	WALSH	W J M	(CIC)	22 CGH	2 Nov 44.
B-155100	PTE	WOOD	J F	(EssxS)	9 CGH	25 Oct 44. (Bricklayer "C".

(b) T.O.S. from 1 Cdn Reception Depot on discharge from 1 Neuro w.e.f. 3 Nov 44. (Posted to "A" Wing)

C-42938 PTE BLOOM L P G (RCR)

(c) T.O.S. from Y-3 List (2 CIDB) on discharge from 1 Neuro Hospital w.e.f. 2 Nov 44. (Posted to Adm Wing)

C-6280 PTE HILL K G (HLI)

(d) T.O.S. from Y-3 List (2 CIDB) on discharge from 4 CCD w.e.f. 25 Oct 44. (Posted to "A" Coy)

H-9593	PTE	BIRD	J W	(QOCH)
B-138712	PTE	DOUGLAS	W	(HLI)
A-38099	PTE	FOX	J F	(HLI)
F-54831	PTE	GILLIS	C B	(EssexS)
H-20994	PTE	HULL	L D	(QOCH)
A-50492	PTE	JENNER	J R	(HLI)
A-108944	PTE	JONES	E G	(HLI)
B-133399	PTE	KNAPP	W J	(HLI)
C-120102	PTE	MILES	R D	(EssexS)
B-65647	PTE	ROY	J	(AlgR)
H-94463	PTE	TREMBLAY	E	(AlgR)

(e) T.O.S. from 1 Cdn Reception Depot w.e.f. 2 Nov 44. (AUTH: 44/DESP/3/3 (AG2a) d/18 Oct 44.)

A-11662 PTE DOIG J (PerthR)

(f) T.O.S. from desertion on apprehension by Civil Police in Barnsley at 1700 hrs 3 Oct 44.

A-3544 PTE TAYLOR C (HLI)

(OVER)

employed as a cook from the 15 Nov 39 until May 40. He then did a three months tour of guard duty at Niagara Falls.

In Sep 40 he was again employed as a cook and remained in that occupation until March 44.

Pte Grimes came overseas 18 Oct 41 and since his enlistment in 1939 Pte Grimes has had approximately four months infantry training which took place in his first year of service.

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This soldier feels that although he was willing he was not sufficiently trained to go to a theatre of war as an infantry soldier and has worried about his inability to have been of more assistance to his fellow soldiers who were casualties with him.

This situation which took place in Normandy and the problem of his parents at home has placed Pte Grimes under a continual mental strain. To find a release from this strain Pte Grimes left camp without leave to get away and try and forget

PTO

his troubles. These causes have had a bearing on his numerous minor offenses within the past few months. He has attempted to forget his worries in other surroundings which has resulted in this charge.

In conclusion I would ask that the court show as much leniency as possible towards Lt Grimes the accused.

Clifton Capt

Cook Supt Major

Pres

FGCM Ex. A

SUMMARY OF EVIDENCE

In the case of A.11045, Private John Joseph GRIMES, C.I.C. on strength of 2 Canadian Infantry Training Regiment, a soldier in the Canadian Army Overseas.

By direction of the Commanding Officer, the Summary of Evidence is taken on oath.

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Capt. A. G. MacDonald of Training Bn., 2 C.I.T.R., having been duly sworn, states as follows:-

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Exhibit "C" - Certificate in accordance with P.C. 2797, d/7 Nov 44, showing A.11045, Pte. Grimes, J.J. of 2 C.I.R.U. was arrested at Reading a t 1600 hrs. on 5 Nov 44.

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Which above exhibits pertain to the accused herein."

The accused declines to cross-examine this witness.

A.G. MacDonald .....Capt.
(A.G.MacDonald)

The accused was cautioned as follows:-

"Do you wish to make any statement or to give any evidence on Oath? You are not obliged to say anything or give evidence unless you wish to do so, but whatever you say or any evidence you give will be taken down in writing and may be given in evidence."

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I certify that the foregoing Summary of Evidence consisting of one page was taken down by me in the presence and hearing of the accused and that Rules of Procedure 4 (C) (D) (E) and (F) have been complied with.

In the Field,

14 Nov 44.

W.L. Liscombe .....Lieut.
(W.L. Liscombe)
Officer detailed to take the Summary of Evidence.

6 certified true copy
L. Garside Lt.
Asst. Records officer

FCCM
Ex. D

2 CANADIAN INFANTRY DEPOT BATTALION

Last Order No: 2 d/3 Nov 44.

OF

2 CDN INF TRNG REGT

PART II DAILY ORDERS BY:

A/COLONEL J A WILSON, COMMANDER

This Order No: 3 d/4 Nov 44.

SECTION "A" OFFICERS

1. SUPPLEMENTARY N/K

(a) Additional N/K: Mrs Eileen Winnifred AUDCENT (Sister) Pinegrove Place, Bishopston, Bristol, England.

LIEUT Paul KENWAY (QOCH)

SECTION "B" OTHER RANKS

1. STRENGTH INCREASE

(a) T.O.S. from Y-3 List (2 CIDB) on discharge from Hospitals as shown w.e.f. dates as shown. (Posted to "A" Coy)

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B-52467	PTE	CHATTAWAY	G E	(HLI)	RWCONV	25 Oct 44.
B-52467	PTE	CHATTAWAY	G E	(HLI)	22 CGH	2 Nov 44.
B-147465	PTE	COLLINS	F	(CIC)	23 CGH	27 Oct 44.
C-75088	PTE	MacGREGOR	A A	(QOCH)	22 CGH	25 Oct 44.
H-17417	CPL	SHINN	J	(NWR)	4 CCD	1 Nov 44.
A-21177	PTE	THOMSON	A	(EssxS)	22 CGH	2 Nov 44.
H-42200	CLN	WALSH	W J M	(CIC)	9 CGH	25 Oct 44.
B-155108	PTE	WOOD	J F	(EssxS)	(Bricklayer "C".	

(b) T.O.S. from 1 Cdn Reception Depot on discharge from 1 Neuro w.e.f. 3 Nov 44. (Posted to "A" Wing)

C-42938 PTE BLOOM L P G (RCR)

(c) T.O.S. from Y-3 List (2 CIDB) on discharge from 1 Neuro Hospital w.e.f. 2 Nov 44. (Posted to Adm Wing)

C-[illegible] PTE HILL K G (HLI)

(d) T.O.S. from Y-3 List (2 CIDB) on discharge from 4 CCD w.e.f. 25 Oct 44. (Posted to "A" Coy)

H-9593	PTE	BIRD	J W	(QOCH)
B-139712	PTE	DOUGLAS	W	(HLI)
A-38099	PTE	FOX	J F	(HLI)
B-54831	PTE	GILLIS	C B	(EssexS)
H-20994	PTE	HULL	L D	(QOCH)
A-30492	PTE	JENNER	J R	(HLI)
A-100944	PTE	JONES	E G	(HLI)
B-133399	PTE	KNAPP	W J	(HLI)
C-120102	PTE	MILES	R D	(EssexS)
B-65647	PTE	ROY	J	(AlqR)
H-94463	PTE	TREMBLAY	E	(AlqR)

(e) T.O.S. from 1 Cdn Reception Depot w.e.f. 2 Nov 44. (AUTH: 44/DESP/3/3 (AG2a) d/18 Oct 44.)

A-11662 PTE DOIG J (PerthR)

(f) T.O.S. from desertion on apprehension by Civil Police in Barnsley at 1700 hrs 3 Oct 44.

A-3544 PTE TAYLOR C (HLI)

(OVER)

2 CANADIAN INFANTRY DEPOT BATTALION

Last Order No: 2 d/3 Nov 44. | OF 2 CDN INF TRNG REGT | This Order No: 3 d/4 Nov 44.

PART II DAILY ORDERS BY: A/COLONEL J A WILSON, COMMANDER

SHEET TWO

1. STRENGTH INCREASE CONT'D

(g) T.O.S. from 1 Cdn Reception Depot w.e.f. 3 Nov 44.(AUTH: 44/DESPATCH/3/3(AG2a) d/18 Oct 44.) (Posted to "A" Wing)

A-3769 CPL YEO C F (RCR)

STRENGTH INCREASE ATTENDANCE

D.O.178 para 1 (d) d/28 Jul 44. In so far as it relates to the u/m is amended to read: w.e.f. 28 Jul 44.(Pay Obs 4331 d/31 Oct 44.)

A-21905 PTE [illegible] D F (EssxS)

D.O.184 para 1 (i) d/3 Aug 44. In so far as it relates to the u/m is amended to read: T.O.S. from X-List (R.de C.) Obs O/R 4320 d/30 Oct 44.)

B-41103 PTE DOBSON J W (HLI)

D.O.54 para 1 (c) d/7 Apr 43. In so far as it relates to the u/m is amended to read: PTE (A/L/CPL) (Pay Obs 13097 d/20 Oct 44

H-102387 PTE HENDERSON J C (QOCH)

2. ATTACHMENTS

(a) Attached f.a.p. to 6 Grp R.C.A.F. w.e.f. 22 Oct 44.

B-74685 SGT DONALD R M (LorS)

3. REVERSIONS

(a) Revrts to the permanent grade of PTE on reporting for duty w.e.f. 5 Apr 43 and to draw regtl rate of pay @1.50 per diem.(Pay Obs 13097 d/20 Oct 44.)

H-102387 A/L/CPL HENDERSON J C (QOCH)

4. PERMISSION TO MARRY

(a) Granted permission to marry Miss Betty Doris MORRY 9 E St Martins Ave., Epsom, Surrey, England on or after (But not before) 27 Dec 44. (CMHQ 1000-1110a d/2 Sep 44)

D-52197 PTE TOWNSEND W C (LorS)

5. CHANGE OF AGE

(a) True date of birth having been verified is changed from 18 Sep 1914 to 23 Oct 1913. All documents to be amended accordingly. (AUTH:RMC/H/43212 H 2 Admin d/5 Oct 44.)

H-43212 A/CPL MICHALSKI B (QOCH)

6. ABSENTEES

(a) Absent more than 24 hrs from 0800 hrs 28 Oct 44.

A-11045 PTE GRIEVE J J (PerthR)

(b) Absent more than 8 days from times and dates as shown.

A-117428 PTE LIVELY J H (CIC) 2100 hrs 26 Oct 44.
A-102820 PTE WRIGHT C (QOCH) 2359 hrs 26 Oct 44.

(continued on sheet three)

2 CANADIAN INFANTRY D POT BATTALION

Last Order No: 2 D-3 Nov 44. OF 2 CDN INF TRNG REGT This Order No: 3 d/4 Nov 44.

PART II DAILY ORDERS BY: A/COLONEL J A WILSON, COMMANDER

SHEET THREE

7. PUNISHMENTS

(a) A-21509 PTE MAIER J B C-DCM(EssxS) On 20 Oct.44, tried by F.G.C.M.

CHARGE: 4 A SEC 15 (1) AWL from 0600 hrs 6 Sep 44 until surrendering himself to his unit at 1000 hrs 10 Oct 44. (Absent 34 days 4 hrs)

FINDINGS: GUILTY.

SENTENCE: To be imprisoned without H L for one year and to be discharged with ignominy from H.M. Service.

CLOSE CUSTODY: from 1000 hrs 10 Oct 44 to [illegible] hrs 19 Oct 44(9 days 14 hrs)

FORFEITS: 35 days pay FR&I 149 (1) (a)
90 days pay FR&I 149 (1) (b)
9 days pay FR&I 149 (1) (c) (i)

TOTAL FORFEITURE: 134 days pay

FINDINGS AND SENTENCE CONFIRMED by: MAJ-GEN J H Robertson on 1 Nov 44 but sentence commuted to read:"To undergo detention for ninety (90)days."

(b) D-74401 PTE PANTLIN T (HLI) CHARGE: A A SEC 15 (1) AWL from 2359 hrs 29 Oct 44 until 1100 hrs 31 Oct 44.(Absent 1 day 11 hrs 1 min)

AWARDED: 14 days F P

FORFEITS: 2 days pay FR&I 149 (1) (a)
14 days pay FR&I 149 (1) (b)

TOTAL FORFEITURE: 16 days pay 2 Nov 44.

(c) M-10046 PTE McLEOD N (RWR) CHARGE: A A SEC 40 Conduct to the prejudice etc., improperly dressed.

AWARDED: 3 days pay FR&I 149 (2)

TOTAL FORFEITURE: 3 days pay 2 Nov 44.

(d) M-105131 PTE SUNDIN M (QOCH) CHARGE: A A SEC 40 Conduct to the prejudice etc.,improperly dressed.

AWARDED: 3 days pay FR&I 149 (2)

TOTAL FORFEITURE: 3 days pay 2 Nov 44.

(e) M-7036 PTE MARKS A T (QOCH) CHARGE: A A SEC 15 (1) AWL from 2359 hrs 26 Oct 44 until 1900 hrs 30 Oct 44. (Absent 3 days 19 hrs 1 min)

AWARDED: 21 days F P

FORFEITS: 4 days pay FR&I 149 (1) (a)
21 days pay FR&I 149 (1) (b)

TOTAL FORFEITURE: 25 days pay 2 Nov 44.

(OVER)

2 CANADIAN INFANTRY DEPOT BATTALION

OF

2 CDN INF TRNG REGT

PART II DAILY ORDERS BY:

A/COLONEL J A WILSON, COMMANDER

Last Order No: 2 d/3 Nov 44.

This Order No: 3 d/4 Nov 44.

SHEET FOUR

7. DISMISSUTS CONT'D

(f) F-87872 PTE JANZ H E (CIC)

CHARGE: A A SEC 15 (1) AWL from 0600 hrs 27 Oct 44 until 2100 hrs 29 Oct 44. (Absent 2 days 15 hrs)

AWARDED: 21 days F P

FORFEITS: 3 days pay FR&I 149 (1) (a)
21 days pay FR&I 149 (1) (b)

TOTAL FORFEITURE: 24 days pay 2 Nov 44.

(g) A-117189 PTE GRANT D A (CIC)

CHARGE: (i) A A SEC 15 (1) AWL from 2200 hrs 25 Oct 44 until 0600 hrs 26 Oct 44 whilst a defaul (Absent 8 hrs 30 mins)

CHARGE:(ii) A A SEC 15 (1) AWL fro 2200 hrs 26 Oct 44 until 0630 hrs 28 Oct 44.(Absent 1 day 8 hrs 30 mins)

AWARDED: 21 days F P concurrent with award of 13 Oct 44 D.O.250/44.

FORFEITS: 3 days pay FR&I 149 (1) (a) Comp conc with award 13 Oct 44.
21 days pay FR&I 149 (1) (b) 8 days of which are conc. with award 13 Oct 44 D.O250/44.

NET FORFEITURE: 13 days pay 2 Nov 44.

(h) D-71337 A/CPL SHARPE N H (CIC)

CHARGE: A A SEC 15 (1) AWL from 2359 hrs 30 Oct 44 until 2359 hrs 31 Oct 44. (Absent 1 day)

AWARDED: Reduced to premanent grade of PTE

FORFEITS: 1 days pay FR&I 149 (1) (a)

TOTAL FORFEITURE: 1 days pay 2 Nov 44.

(i) D/72274 A/CPL THOMSON A (CIC)

CHARGE: A A SEC 15 (1) AWL from 2359 hrs 30 Oct 44 until 2230 hrs 31 Oct 44. (Absent 22 hrs 31 mins)

AWARDED: Reduced to the permanent grade of PTE.

FORFEITS: 1 days pay FR&I 149 (1) (a)

TOTAL FORFEITURE: 1 days pay. 2 Nov 44.

/FJU

for I A C PHILLIPS) A/Capt
A/Adjutant 2 C I D B

I Certified true copy
J. Gartside Lt
Asst Records Officer

Ex "E"

2 CANADIAN INFANTRY TRAINING REGIMENT

Last Order No: 3 d/4 Nov 44.

This Order No: 4 d/6 Nov 44.

PART II DAILY ORDERS BY:
A/COLONEL J A WILSON, COMMANDER

SECTION "A" OFFICERS

1. STRENGTH INCREASE

(a) T.O.S. from 1 CGRU w.e.f. 2 Nov 44. (AUTH: CRU A-9244 d/ 1 Nov 44.) (Posted to Adm Wing)

LIEUT William Earl SHERBINO (CPC)

2. ATTACHMENTS

(a) Attached f.a.p. to 1 CGRU w.e.f. 6 Nov 44. (AUTH: A-9323 d/ 4 Nov 44.)

MAJOR Hedley Graham PEACOCK (LorS)

3. COURSES

(a) Proceeded on CMHQ Crse # 1204 Ser 18 (Method of Instr) # 4 Wing CTS w.e.f. 4 Nov 44.

LIEUT Henry Duncan IRWING (RCR)

4. LEAVES

(a) Granted Priv Leave with money allowance in lieu of rations under Art 789 (3)&(4) FRMI (O/S) Total days as shown. (CIC PERS.)

LIEUT	John David	BELL	29 Oct to 1 Nov 44	(3 days)
LIEUT	Robert Stanley	BECKLEY	29 Oct to 1 Nov 44	(3 days)
LIEUT	Elwyn Nathan	DOYLE	29 Oct to 7 Nov 44	(9 days)
LIEUT	James McEwen	DUFF	29 Oct to 1 Nov 44	(3 days)
LIEUT	Robert Daniel	DICKIE	29 Oct to 1 Nov 44	(3 days)
LIEUT	James Crosland	DOAK	31 Oct to 7 Nov 44	(7 days)
LIEUT	Edwin Harry	FARMER	29 Oct to 1 Nov 44	(3 days)
LIEUT	Donald Thomas	GIBBONS	29 Oct to 7 Nov 44	(9 days)
LIEUT	William Edward	HAGAN	29 Oct to 1 Nov 44	(3 days)
LIEUT	John Dure	HUNTER	29 Oct to 1 Nov 44	(3 days)
LIEUT	Ernest Allan	KEEGAN	29 Oct to 1 Nov 44	(3 days)
LIEUT	Malcolm Douglas	KIRK	29 Oct to 7 Nov 44	(9 days)
LIEUT	William Mathew	LANGMUIR	29 Oct to 1 Nov 44	(3 days)
LIEUT	John Franklin	LAWLESS	29 Oct to 7 Nov 44	(9 days)
LIEUT	George Kenneth	LANGFORD	29 Oct to 7 Nov 44	(9 days)
LIEUT	Lawrence Oscar	LLOYD	29 Oct to 7 Nov 44	(9 days)
LIEUT	Earl Aaron	LEVIN	29 Oct to 7 Nov 44	(9 days)
LIEUT	Robert James Cameron	NICKLIN	29 Oct to 1 Nov 44	(3 days)
LIEUT	James Henry	POOLE	29 Oct to 7 Nov 44	(9 days)
LIEUT	Maxfield Yates	SHEPPARD	29 Oct to 1 Nov 44	(3 days)
LIEUT	Daniel	SHEARER	29 Oct to 1 Nov 44	(3 days)
LIEUT	Murray Bertram	SHANTZ	29 Oct to 7 Nov 44	(9 days)
LIEUT	Kenneth Albert	WHARTON	29 Oct to 1 Nov 44	(3 days)
LIEUT	John Douglas	WILLIAMS	29 Oct to 1 Nov 44	(3 days)

5. PAY AND ALLOWANCES

Authorized to draw extra regt'l pay whilst employed at HQ Cdn Reinf Units w.e.f. 28 Aug 44. (C.A.O.R.O. 5190d/3 Nov 44.)

CAPT	Lorne Stirling	BROWN	(CIC - SPO)
CAPT	Hampden Crossley	SHAW	(CIC - SPO)
CAPT	Charles Armstrong	WILLIAMSON	(CIC - SPO)

6. HONOURS AND AWARDS

Awarded Cdn Efficiency Decoration under provisions of the Royal Warrant dated 23 Sep 1930, and General Order No: 2 of 1932. (C.A.O.R.O. 5171-5187 d/28 Oct 44.)

LT-COL W S RUTHERFORD (PerthR)

(OVER)

2 CANADIAN INFANTRY TRAINING REGIMENT

Last Order No: 3 d/4 Nov 44. | This Order No: 4 d/6 Nov 44.

PART II DAILY ORDERS BY: A/COLONEL J A WILSON, COMMANDER

SHEET TWO

SECTION "B" OTHER RANKS

1. STRENGTH INCREASE

(a) T.O.S from Y-3 List (2 CIDB) on discharge from 4 CCD w.e.f. 25 Oct 44. (Posted to "Adm" Wing)

A-117303 PTE ATKINSON G E (RCR)

(b) T.O.S. from Y-3 List (2 CIDB) on discharge from 1 Neuro Hosp w.e.f. 4 Nov 44. (Posted to Adm Wing)

B-41103 PTE DOBSON J W (AlqR) DVR MECH "C"

(c) T.O.S. from Y-3 List (2 CIBB) on discharge from 4 CCD w.e.f. 25 Oct 44. (Posted to "A" Coy)

				(EssexS)
A-82204	PTE	ANDREWS	J	(QOCH)
H-19717	CPL	DESJARDINS	A J	(EssexS)
D-71718	PTE	KENNEDY	D G	(EssexS)
B-135393	PTE	POOLE	W C	(QOCH)
H-20929	PTE	THOMPSON	R S	

(d) T.O.S. from Y-3 List (2 CIDB) on discharge from Hospitals as shown w.e.f. dates as shown. (Posted to "A" Coy)

B-134612	PTE	BEATTIE	S B	(PerthR)	NV CONV	3 Nov 44.
B-100002	PTE	BOUCHARD	A A	(HLI)	1 SPEC	27 Oct 44.
A-83144	PTE	McLEOD	W T	(EssexS)	22 CGH	4 Nov 44.
K-54618	PTE	ODENBRINK	V R	(RWR)	23 CGH	27 Oct 44.
H-41052	PTE	POLINUK	[illegible]	(QOCH)	23 CGH	28 Oct 44.
H-60111	PTE	SUDAK	[illegible]	(AlqR)	22 CGH	3 Nov 44.
A-115920	PTE	WENNBLUS	[illegible]	(CIC)	22 CGH	4 Nov 44.
U-2071	A/CPL	WOODCOCK	J W	(EssexS)	24 CGH	27 Oct 44.

2. ATTACHMENTS

(a) Attached f.a.p. except regt'l duty from 16 Cdn Base Dental Coy w.e.f. 6 Nov 44. (DENT. 5 d/2 Nov 44.)

K-69127 PTE COLLETT T S (CDC)

(b) Ceases to be attached from 16 Cdn Base Dental Coy w.e.f. 5 Nov 44. (AUTH: D NT 7 d/4 Nov 44.)

H-3140 A/C/SGT BRITTON V R (CDC)

(c) Ceases to be attached from 16 Cdn Base Dental Coy on proceeding to 1 Base Wksp RCEME w.e.f. 5 Nov 44. (AUTH: D NT 8 d/4 Nov 44.)

D-131395 PTE HART R A (CDC)

(d) Ceases to be attached from 12 Aux Ser Sec on proceeding to 1 CGRU w.e.f. 6 Nov 44. (AUTH: CIHQ 8/UKAG/15/1AG2Bd/1 Nov 44)

D-51792 PTE ROBERTSON W V (AuxS)

3. COURSES

(a) Proceeded on PAD Crse Ser 7 w.e.f. 6 Nov 44.

H-31096	PTE	FRANCIS	A H	(RWR)
I-148750	PTE	HUTTLERRINGTON	A S	(CIC)

(b) Proceeded on CIHQ Crse Lifebuoy Operators Ser 13 (Army School of Chemical Warfare) w.e.f. 6 Nov 44.

B-74691 A/SGT FINCH F R (LorS)

(continued on sheet three)

2 CANADIAN INFANTRY TRAINING REGIMENT

Last Order No: 3 d/4 Nov 44.

This Order No: 4 d/6 Nov 44.

PART II DAILY ORDERS BY:
A/COLONEL J A WILSON, COMMANDER

SHEET THREE

4. QUALIFICATIONS

(a) Having attended CMHQ Crse # 203 (Fitter M.V.) Group "A" Obtained "Passed".

L-34025	CPL	BEATON	G	(LorS)
L-105819	PTE	HEBENIG	O J	(IC).

(b) Having attended P.A.D. Rescue Crse obtained "Passed"

H-20050	CPL	CAMPBELL	J	(QOCH)
L-17995	A/CPL	DUNBAR	A A	(SLI)
L-2066	CPL	HAYES	D B	(SLI)
H-19490	A/CPL	SHEPHERD	R J	(QOCH)
H-32021	CPL	SIME	W L	(QOCH)
A-37948	A/CPL	TUFFORD	G R	(HLI)

5. APPOINTMENTS AND PROMOTIONS

(a) To be A/CPL with pay of rank on being S.O.S. to HQ CRU w.e.f. 6 Nov 44. (AUTH: 408/CRU CAMP/1 (PTA) d/31 Oct 44.)

A-38715	PTE	HAINES	C B	(HLI)

6. LEAVES

(a) Granted Priv Leave with money allowance in lieu of rations under Art 789 (3)&(4) FR&I (O/S) Total days as shown.

B-155188	PTE	WOOD	J F	(EssexS)	26 Oct to 1 Nov 44	(7 days)
B-100002	PTE	BETHUNE	A A	(HLI)	27 Oct to 3 Nov 44	(7 days)
B-46804	CPL	BROOKS	C H	(LorS)	25 Oct to 1 Nov 44	(7 days)
L-2071	A/CPL	WOODCOCK	J W	(EssexS)	25 Oct to 1 Nov 44	(7 days)
B-52467	PTE	CHATTAWAY	G E	(HLI)	25 Oct to 1 Nov 44	(7 days)
C-75088	PTE	MacGREGOR	O	(QOCH)	26 Oct to 2 Nov 44	(7 days)

(b) Granted Priv Leave with money allowance in lieu of rations under Art 789 (3)&(4) FR&I (O/S) from 24 Oct to 2 Nov 44 (9days)

H-9283	PTE	BIRD	J W		(QOCH)
B-138712	PTE	DOUGLAS	W		(HLI)
A-38099	PTE	FOX	J F		(HLI)
F-54831	PTE	GILLIS	C B		(EssexS)
H-20994	PTE	HULL	L D		(QOCH)
A-50492	PTE	JENNER	J R		(HLI)
A-108944	PTE	JONES	E G		(HLI)
B-133399	PTE	KNAPP	W J		(HLI)
C-120102	PTE	MILES	R D		(EssexS)
B-55617	PTE	ROY	J		(AlqR)
H-94463	PTE	TREMBLAY	E		(AlqR)

(c) Granted 14 days Sick Leave with money allowance in lieu of rations under Art 200 (1) FR&I (O/S) from 30 Sep to 14 Oct 44.)

H-19597	CPL	BROWN	J W	(LorS)

LEAVE AMENDMENT

D.O.251 para 8 (a) d/18 Oct 44. In so far as it relates to the W/m is amended by adding: IDE.

L-27401	RSM	DENHAM	H	(UHQ)

7. CHANGE OF REGT'L NUMBER

(a) D E L E T E D

(OVER)

2 CANADIAN INFANTRY TRAINING REGIMENT

Last Order
No: 3
d/4 Nov 44.

This Order
No: 4
d/6 Nov 44.

PART II DAILY ORDERS BY:
A/COLONEL J A WILSON, COMMANDER

SHEET FOUR

7. CHANGE OF REGT'L NUMBER CONT'D

(b) Regt'l Number changed to C-122588. All documents to be amended accordingly. (AUTH: REC/D/122588 R 2 Admin. d/2 Nov 44.)

D-122588 PTE GAUTHIER J L (CIC)

8. SUPPLEMENTARY N/K

(a) LIEUT Earl Burnett WILKINSON (Brother) No. 3 Battle Wing Cdn Trng School, C.A.(G).

A-61574 PTE WILKINSON A W (CIC)

9. CHANGE OF N/K

(a) From: Mr Dmaytro MANDRYK (Cousin)
To: Mrs Anna MANDRYK (Wife) Valdor, Quebec, Canada.

B-42007 PTE MANDRYK P (RCR)

10. ABSENTEES

(a) Absent more than 24 hrs from 2359 hrs 30 Oct 44.

B-20354 CPL WATSON W M (RWR)

(b) Absent more than 8 days from 0800 hrs 28 Oct 44.

A-11045 PTE GRIMES J J (HLI)

(c) Absent more than 21 days from 2200 hrs 15 Oct 44.

B-38134 CPL SCHURULIS P J (HLI)

(d) Apprehended by C.P.C. in London at 1350 hrs 3 Nov 44.

A-50359 PTE STEINHOFF R T (HLI)

11. PUNISHMENTS

C-6282 PTE(A/CPL) HILL P J (HLI) On 30 Oct 44 tried by F G C M

CHARGE: A A SEC 15 (1) AWL from 2359 hrs 13 Oct 44 until surrendering himself to his Unit at 1530 hrs 24 Oct 44. (Absent 11 days 15 hrs 31 mins)

FINDINGS: GUILTY.

SENTENCE: to be reduced to the ranks and to undergo detention for ninety (90) days.

CLOSE CUSTODY: from 1530 Hrs 24 Oct 44 until 2400 hrs 29 Oct 44. (6 days 8 hrs 30 mins)

FORFEITS: 12 days pay FR&I 149 (1) (a)
90 days pay FR&I 149 (1) (b)
6 days pay FR&I 149 (1) (c) (i)

TOTAL FORFEITURE: 108 days pay.

FINDINGS AND SENTENCE CONFIRMED by: Brigadier G S M Gostling, Commander HQ "A" Group CRU on 2 Nov 44.

(continued on sheet five)

2 CANADIAN INFANTRY TRAINING REGIMENT

Last Order No: 3 d/4 Nov 44. | PART II DAILY ORDERS BY: | This Order No: 4 d/6 Nov 44.

A/COLONEL J A WILSON, COMMANDER

SHEET FIVE

11. PUNISHMENTS CONT'D

(b) B-147941 PTE SANFORD H G (CIC) — On 28 Oct 44 tried by F G C M

CHARGE: A A SEC 15 (1) AWL from 0600 hrs 25 Sep 44 until Apprehended by CPC in Edinburgh at 0045 hrs 18 Oct 44.(Absent 22 days 18 hrs 45 mins)

FINDINGS: GUILTY.

SENTENCE: to undergo detention for sixty (60) days and to be placed under stoppage of pay until he has made good the sum of £3-19-10d, cost of apprehension.

CLOSE CUSTODY: from 0045 hrs 18 Oct 44 until 2400 hrs 27 Oct 44.(9 days 23 hrs 15 mins)

FORFEITS: 23 days pay FR&I 149 (1) (a)
60 days pay FR&I 149 (1) (a)
10 days pay FR&I 149 (1) (c) (i)

TOTAL FORFEITURE: 93 days pay.

FINDINGS AND SENTENCE CONFIRMED by: Brigadier G S N Gostling, Commander HQ "A" Group CRU on 2 Nov 44.

PUNISHMENT AMENDMENTS

D.O.128 para 9 (a) d/1 Jun 44. In so far as it relates to the u/m is amended to read: 22 days pay FR&I 149 (1) (a) 9 days pay FR&I 149 (1) (c) (i) 92 days pay FR&I 149 (1) (b) Total Forf: 123 days pay. (Pay Obs: 13234 d/24 Oct 44.)

H-20192 PTE HOBAN K R (QOCH)

D.O.244 para 13 (y) d/10 Oct 44. In so far as it relates to the u/m is amended to read: 16 days pay FR&I 149 (1) (a)(9 days conc. with award of 13 Sep 44.) - 28 days pay FR&I 149 (1) (b) NET FORF: 35 days pay. (Pay Obs: 13363 d/26 Oct 44.)

A-10052 PTE LAVALLE L N (HLI)

D.O.88 para 8 (a) d/13 Apr 44. In so far as it relates to the u/m is amended to read: 37 days pay FR&I 149 (1) (c) (i) 548 days pay FR&I 149 (1) (b) Total Forf: 585 days pay. (Pay Obs: 13037 d/24 Oct 44.

H-20616 PTE SYRJA L H (QOCH)

12. ~~RELEASED FROM~~ DEGRADED

(a) S.O.S. to HQ CRU w.e.f. 6 Nov 44. (AUTH: 408/CRU CAMP/1(PTA) d/31 Oct 44.)

A-30715 A/CPL HAINES C B (HLI)

(b) S.O.S. to 1 CBK w.e.f. 6 Nov 44.(AUTH:444/HOSP/1(PTA)d/1Nov 44)

L-110050 PTE CLARK L J (CIC)

/PJU

for (I A C PHILLIPS) A/Capt
A/Adjutant 2 C I T R

Ex "F"

CERTIFICATE IN ACCORDANCE WITH P.C.2797 of 10 APR.42

I certify that No.A.[illegible]045, Rank. Pte. . . Name. . Grimes. J.J. . .(C of

Unit. No.2 P.I.B.U..(CW). was arrested at. .Reading. . .(place)

at.1600 . .(hour) on. 5-Nov-44. .(date) and that at the time of his arrest he was wearing (military uniform) or([illegible]. Signature of Provost-Marshal, Assistant Provost-Marshal, or other officer or the Commanding Officer of the portion of His Majesty's Forces or the officer, warrant-officer, or non-commissioned officer in charge of the detachment of the Canadian Provost Corps, Canadian Army into whose custody the above named person was taken on arrest. (Strike out part inapplicable).

London
7-Nov-44.

(R.C. Stinson) Capt.
D.A.P.M. C.M.H.Q.

Ex "G"
FGCM

Expense Voucher Re— Ref: K.R. & O. (Can) 539

Reg No A110415 Rank Pte Name Grimes, J J Unit 2 C I R U

The following expenses were incurred in apprehending and returning the A/N Soldier to his Unit from London from Reading

Date	Particulars	Amount		
6/10/44	Escorts return fare from LONDON To Reading		5	7
	Prisoners single fare to LONDON From Reading		2	10
	Prisoners fare from to			
	Escorts & Prisoners expenses for Bed, Meals, Bus fares			
	Total £		8	5

I certify that the above statement of Expenses is Correct, and that the amounts are fair and just.

CAPT. Capt

Officer Issuing Railway Warrant and Expenses Grimes PIRCH.
No. 6 Area Provost Company, Canadian Provost Corps, London. A.P.M's B.R.
C.M.H.Q.

1/35 CMHQ 100-55
40/P & S/483 (6762)

FGCM. Ex B

M.F.B. 335
22M—5-41 (572-9)
H.Q. 1772-89-620
A.F.B. 390

STATEMENT AS TO CHARACTER AND PARTICULARS OF SERVICE OF ACCUSED

Number	Rank	Name	Regiment (or unit)
A.11045, ~~Pte.~~	Pte.	John Joseph GRIMES,	2 CITR.

1. The following is a fair and true summary of the entries in the ~~Service and General~~ Regimental and Squadron, Battery ~~Conduct sheets~~ or Company Conduct sheets of the accused, exclusive of convictions by a Court-Martial or a Civil Court, Air Force Act of summary awards under Section 47 of the Army Act and of cases in which trial has been dispensed with.

	Within last 12 months		Since enlistment or appointment	
For	Sec. 15(1) A.W.L.	5 times	Sec. 15 (1) A.W.L.	20 times
For	Sec. 15(3)	0 times	Sec. 15 (3)	1 times
For	Sec. 11	2 times	Sec. 11	2 times
For		times		times

~~Number of instances of gallantry or distinguished conduct~~

~~or~~

There are no entries in the conduct sheets of the accused.

NOTE.—If the charge is for drunkenness, the entries for drunkenness must be stated separately.

2. The accused has not been previously convicted

~~or~~

~~Previous convictions of the accused by a court-martial or a civil court, of summary awards under Section 47 of the Army Act Air Force Act and dispensations with trial under A.A. 75 A.F.A. 75 are set out in the Schedule annexed to this statement.~~

3. The accused is not under sentence at the present time.

~~or~~

~~The accused at the present time is under sentence for beginning on the day of~~

4. The accused has been in confinement awaiting trial on the present charges, for nil days in civil custody, and 17 days in ~~Air Force~~ military custody, making a total of 17 days in custody, of which nil days were spent in hospital.

5. The present age of the accused according to his ~~record of service~~ attestation paper is 34 yrs 1 month

6. The date of his ~~commission~~ attestation specified in his ~~record of service~~ attestation paper 5 Sep 1939.

~~7. The service which the accused is allowed to reckon towards discharge is~~

~~8. The accused is entitled to reckon service for the purpose of determining his pension, etc.~~

9. The accused is in possession of or entitled to ~~no air force~~ military decoration, or ~~air force~~ military reward (~~or is in possession of or entitled to~~). State any air force ~~decoration~~ military or reward:—

10. (If the accused is a warrant officer.) ~~The accused before he was made a warrant officer last held~~ Air Force the regimental rank of

11. (In the case of an officer.) The accused holds in the Royal Canadian Air Force the rank of Permanent Force unit

.....dated....., and in his regiment (or corps), the rank of

.....dated.....

12. The accused has served as a non-commissioned officer continuously, without reduction, to the present date:—

Date of promotion.

In the rank of ..... years.

In the rank of ..... years.

In the rank of ..... years.

NOTE.—If any matter in any of the above paragraphs cannot be stated from the Regimental books, the paragraph must be struck through.

SCHEDULE

Air Force

Of convictions by a court-martial or civil court, of summary awards under section 47 of the Army Act, and of cases in which trial has been dispensed with of accused. Number ..... Rank .....

Unit

Name ..... of ..... Regiment

NOTE.—A verbatim extract from the regimental books stating these convictions and dispensations with trial must be inserted.

Description of Court by which tried	Date and Place of Trial	Charge upon which convicted	Sentence of the Court	Punishment Remitted

I hereby certify that the foregoing schedule of convictions and dispensations with trial is a true extract from the regimental books in my custody.

Signed this 22 day of May 44

The above statement (with the schedule of convictions and of cases in which trial has been dispensed with) is read, marked [illegible] signed by the president, and annexed to the proceedings.

[illegible]

No. A-11045 Name Grimes, J.J. Sqn, Battery, or Company — Corps C.I.C. — Date of enlistment — GC Badges — Service or Proficiency Pay — 3/17 MFM 6 (A.F.B. 122) (War Pam/Gen 136 (5413))

Date of last entry in Company Conduct Sheet — No. and date of last drunk — Period not reckoning towards freedom from extra fine — Sheet No — Signature OC Company, etc — Character

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
				(PROVISIONAL SHEET)					
Field	15th Sept 44	Pte		Sec 15 (1) A.A. A.W.L. Absent without leave from 0600 hrs 15-9-44 to 18-9-44. Total Absence:- 3 Days.	Cpl. Metcalf, D.	3 Days F.P. 3 Days Pay.	18th Sept. 44.	Lt-Col J. Runcie	3 Days Pay C. Under FRAI.
Field	30th Sept 44.	Pte		Sec 11 A.A. Neglecting to Obey 2 C.I.R.U. Part 1 D.O. No 181 para 2137 d/25-7-44. In that he on 30 Sept 44 at 1925 hrs, Was not wearing his Webb Belt in Guildford.	Documentary	7 Days C.B.	4th Oct 44.	Lt-Col. J. Runcie.	

(PTO)

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Name of Witness	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Field	5th Oct 44	Pte		Sec 11 A.A. Neglecting to obey 2 CIRU Directive No 31 in that he, on 5 Oct 44 did not answer defaulters call at 0615 hours.	L/Cpl. Bortz, N. Pte Seagris, E. L/Cpl. Antonshyn, J. Documentary	14 Days C.B. To run concurrent with sentence awarded 4 Oct 44.	6th Oct 44.	Lt-Col. J. Runcie.	
Field	19th Oct 44.	Pte		Sec 15 (1) A.A. A.W.L. Absenting himself without leave from 2200 hrs 19 Oct 44 till apprehended by C.P.C. at the YMCA on Friar St, Reading at approx 2300 hrs 19 Oct 44. Cost of Apprehension and Return to Unit. £/0/8/5. Total Absence:- 1 Hour.		14 Days F.P. 14 Days Pay. Cost of apprehension and return to Unit. £/0/8/5.	23rd. Oct 44.	Lt-Col J. Runcie.	

LIST OF WITNESSES

In the case against No. A.11045, Pte. John Joseph GRIMES, C.I.C.

(For the Prosecution)

1. Capt. A.G. MacDonald - Trng. Bn., 2 C.I.T.R.

(For the Defence)

NIL.

LIST OF EXHIBITS

In the case against No. A.11045, Pte. John Joseph GRIMES, C.I.C.

(For the Prosecution)

Exhibit "A": - Certif. True Copy of 2 CITR Pt.II D.O. #3 of 4 Nov 44 showing that the accused absented himself without leave at 0800 hrs. 28 Oct 44.

Exhibit "B" - Certif. True Copy of 2 CITR Pt. II D.O. #4 of 6 Nov 44 showing that the accused had been A.W.L. more than 8 days on 6 Nov 44.

Exhibit "C" - Certif. in accordance with P.C. 2797, d/7 Nov 44, showing that the accused was arrested at Reading at 1600 hrs. 5 Nov 44.

Exhibit "D" - Certif. of Expenses incurred in apprehension & return of accused to London from Reading, d/6 Nov 44, in amt. of £0-8-5.

(For the Defence)

NIL.

REQUEST FOR DEFENDING OFFICER

I, No. A.11045, Pte. John Joseph GRIMES, C.I.C. hereby request that the Convening Officer appoint Capt. Stapleford, R.H. to represent me at my forthcoming Court-Martial should he be available.

J.J. Grimes .....Pte.
(J. J. Grimes)

In the Field,
15 Nov 44.

RECEIPT FOR DOCUMENTS.

I, A.11045, Pte. John Joseph GRIMES, C.I.C. hereby ~~xxxxxx~~ acknowledge that I hav e received a true copy of the Summary of Evidence taken in England preliminary to my Court-Martial and I further acknowledge receipt of a true copy of the Charge Sheet under which I am being brought to Court-Martial.

J.J. Grimes .....Pte.
(J.J. Grimes)

In the Field.
15 Nov. 44.

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(For the Prosecution)

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(J. J. Grimes)

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J.J. Grimes .....Pte.
(J.J. Grimes)

In the Field.
15 Nov. 44.

HD-125

PR GRIMM VA

CERTIFIED TRUE COPY

43-125

(D.M. Owen) Capt.

FIELD GENERAL COURT-MARTIAL

CFA86 (1D 8901 of AFA3) 40-7-2 E.R. 1868 (2864)

Convened by Order of Brigadier J.A. CALDER Comd 1 Cdn Inf Bde dated 7 Oct 44

Cdn Sec GHQ 2 Echn AAI

ACCUSED.

(As to the trial of two or more charged jointly see RP 16, 71, 109. As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns. KR Can 308, 328, 330.)

Number.	(a) Prmnt R.	(b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
A103151	PRIVATE		Vincent Anthony	GRIMM	RCR

PROCEEDINGS OF TRIAL.

Held in the Fd in *(country)* Italy on *(date)* 11th October 1944 "FD"

RECORD FORM A—OPENING PROCEEDINGS AND ARRAIGNMENT.

A1. The President, Members, ~~[illegible]~~, assemble, and the Court is closed. "FD"

(PRINTED MATTER, NOT IN ITALICS FOR GUIDANCE, WILL BE DELETED, IF NOT USED OR APPLICABLE, AND INITIALLED BY PRES OR JA. The Schedule referred to throughout is on p 4. Citations do NOT include all relevant fins RDs. For guidance on procedure when a variation in this form arises, see form for GCM in MML pp 746 to 759. A brief record of such variation will be made and given a number having reference to appropriate or preceding para number herein. See back of Convening Order, CF 885, for oaths and issues on how to record addresses, evidence, etc, which instrs are hereafter called "Natls". As to general provisions for conducting the trial see AA 53, RP 56, 63-70, 73, 74, 94, 103, 119, 132.)

A2. The President initials and lays before the Court the Convening Order and Charge Sheet ~~[illegible]~~ attached thereto.(1) The Court is satisfied that it is properly convened and constituted(2), accused is ~~[illegible]~~ amenable to military law, and each charge discloses an offence.(3) "FD"

(1. As to use of Summary of Evidence see RP 17 fn b. 2. AA 49, 50, RP 105-107. 3. RP 11-13, 23, 24.)

A3. The Court is opened. The accused is ~~[illegible]~~ brought before the Court. At 1030 hours trial commences. "FD"

A4. The Prosecutor produces a Medical Certificate that accused is (~~are~~) fit to undergo trial by court-martial.(1) "FD"
~~[illegible]~~

(1. KR Can 557. 2. AA 46(8), RP as fn 1. for effect see KR Can 563(c). Delete, if not applicable.)

A5. ~~President to accused~~: Do you object to ~~[illegible]~~ as interpreter ? Ans ~~[illegible]~~ "FD"

The Interpreter is sworn.(1) Do you object to ~~[illegible]~~ as shorthand writer ? Ans ~~[illegible]~~
The shorthand writer is sworn.(1)

(1. RP 72. Delete, if none employed.)

A6. The Convening Order and names of the President and Members of the Court are read to the accused.(1)
President to accused : Do you object to be tried by me as President or by any of the Members of the Court ?

Ans NO (2)

(1. RP 110. 2. If no objection, waiting member retires. RP 68(3). If objection, see procedure AA 51, RP 25, 71, 18, MML p 742.)

A7. The President, Members, ~~[illegible]~~, are sworn.(1) The following are the ranks, names and units of the offrs comprising the Court, etc : "FD"

President	Major	F.G.C.DARTON	RCR
Member	Captain	R.J.HARRIS	48 Highrs
Member	Lt	L.I.LITTLE	HPER
Judge-Advocate			
Prosecutor	Capt	E.H.SHUTER	RCR
Defending Offr	Lt	L.G.SHORE	RCR

Questions by President : Is the Prosecutor a lawyer ? Ans No Is the Defending Offr a lawyer ? Ans NO (2)

(1. RP 26, 27, 109, 111. List of offrs under instr will be returned separately with proceedings for information of Conv Offr.)
(2. If Pros a lawyer and Def Offr not, accused is entitled to an adjournment when RP 89 (5) and fn 2 were not followed. See DI p 3.)

A8. The accused A103151 Pte GRIMM, V.A. before arraignment make(s) (no) ~~[illegible]~~ plea "FD"

(1)

(1. If a special plea is made for separate trial on one or more charges (RP 52(2), 108), or as to the jurisdiction of the Court (RP 34, 35(4), 113), or in bar of trial (RP 36), or as to accused's mental fitness to stand trial (AA 180, RP 37), or by one of several accused charged jointly to be tried separately (RP 16, 71), such plea, the addresses made in support or against, the evidence, if any, and finding are recorded per Natls. For forms of record see references in fns to RsP cited. Insert in AB rank and name of the accused making the plea.)

A9. The accused is (~~are~~) arraigned ~~[illegible]~~ on all charges in the charge sheet.(1) The accused does not "FD"
object to any charge.(2) There is no amendment to be made to the Charge Sheet.(3) The President records the pleas in Part I of the Schedule.

(1. RP 31, 112. See para 1 of instrs p 2. When more than one Charge Sheet see RP 62 ; when several accused to be tried separately see RP 71(C), and use separate copies of CF 856 to record proceedings. 2. RP 32, RP 33. If otherwise, delete and make appropriate record per Natls.)

A10. The Court ~~[illegible]~~ considers the Instrs on Procedure after Arraignment at top of p 2. The pro- "FD"
ceedings are continued on Record Form B

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

SCHEDULE.

PART I. PLEA(S), FINDING(S) AND SENTENCE.

Accused : A103151 Pte GRIMM, Vincent Anthony The Royal Canadian Regt.

Charge. (Insert "alternative" where applicable.)	Plea. (See instrs p 2.)	Finding. (See note below.)	(Space for use as required for further charges, accused charged jointly, special findings, etc.)
1st AA Sec 12(1)(a)	GUILTY	GUILTY	
2nd			
3rd			
4th			
5th			
6th			

(Note : As to findings for lesser offences see AA 56, RP 44 ; findings on alternative charges see MML p 483 fn 4 para 2, RP 44 ; special findings see RP 44 and MML p 753, and in loss of kit see RP 44 fn b.)

~~[illegible]~~ "FD" ~~[illegible]~~

(1. Insert sentence being served, or delete, if not applicable. See RP 46(A). Information should be found on MF B355 or AF B296.)

Time in confinement awaiting present trial—a total of 34 days, of which Nil days were spent in hospital.(1)

(1. See RP 46(A) fn 2. Information should be found on MF B355 or AF B296 admitted in evidence under E2.)

Sentence Awarded by the Court :

To be imprisoned without hard labour for a period of 18 months.

(Sgd) ..... Judge-Advocate, if any. 11 October 1944 Date awarded. (Sgd) "F Darton Major" President. *(RP 45, 50.)*

(See back of Convening Order as to assembly and disposal of record after trial.)

PART II. MINUTE WHERE CONFIRMATION RESERVED. *(AA 54(5), RP 120(F), MML p 760.)*

Date ..... (Sgd) ..... Commanding .....

PART III. DECISION OF CONFIRMING OFFR ON FINDING(S) AND SENTENCE.

(For duties and powers see AA 54, 57, RP 37(D) fn 6, 46(A), 51-56, 120, MML pp 759-761, KR Can 567-577. Acquittals require no confirmation and cannot be revised : AA 54(3). Sending back finding or sentence for revision by Court : AA 54(2), RP 120(G). If not confirmed, accused may be tried again : AA 157, MML p 64. Minute of confirmation or non-confirmation may be altered before promulgation : RP 53, MML p 65. Quashing after promulgation : KR Can 573. Duties and powers of reviewing offrs : AA 57, 57A, RP 53A, 54. The Confirming Offr must sign here personally. AA 172 fn 1.)

My decision on the finding(s) and sentence set forth in Part I is :

CONFIRMED

"JAC" ~~[illegible]~~

(1. AA 57A. Delete if not used.)

(Sgd) "J.A.Calder Brig"

Date 16 Oct 44 Commanding 1 Cdn Inf Bde Confirming Officer.

PART IV. PROMULGATED AND EXTRACTS TAKEN. *(RP 53, KR Can 574, 577.)*

Accused.	Date.	Signature of Offr.
Pte V.A. Grimm	18 Oct 44	"E.H.Shuter Capt" R.C.R.

ALL DELETIONS AND ALTERATIONS WILL BE INITIALLED.

INSTRUCTIONS ON PROCEDURE AFTER ARRAIGNMENT.

1. *The accused may not plead or be found Guilty on more than one of two or more charges laid in the alternative (RP 37(A)).) As to withdrawal of alternative charges by Prosecutor see RP 35(C). No other charge can be withdrawn for any reason without authy from Convening Offr. If Convening Offr concurs, Court may accept plea of Guilty to lesser, etc, offence. (RP 44(H).) Accused may change a plea of Not Guilty to Guilty during trial. (RP 38.) As to refusing to plead or not pleading intelligibly see RP 35(A). As to plea when sentence may be death see RP 35(D).*

2. *The proceedings on each charge sheet (RP 62) after arraignment will be conducted as follows in the respective circumstances stated :*

I. If pleas to all charges are GUILTY, use Record Form B below.

II. If pleas to all charges are NOT GUILTY, use Record Form D on p [redacted] 3.

III. If pleas to some charges are GUILTY and to other charges are NOT GUILTY and,

(a) *Such mixed pleas occur when there are no alternative charges in the Charge Sheet, use Record Form C below. (RP 37(A).)*

(b) *Such mixed pleas occur in a set of two or more charges laid in the alternative, see RP 37 (A) and fn 2 as to discretion of Court, (i) to try the accused on all such alternative charges as if he had pleaded Not Guilty thereto, or, (ii) to record the pleas as the findings of Court. After deciding between (i) and (ii), Court will proceed under foregoing instrs as may be appropriate to result of its decision. See MML p 744 Instrs (2).*

3. *As to responsibility of President to accused see RP 59, 60(C) ; powers and duties of JA see RP 103 ; duty of Prosecutor see RP 60(A) (B) ; duty and privileges of accused and Defending Offr see RP 60(C), 87(C), 91, 92 ; swearing and withdrawal of witnesses from Court see RP 81, 82 ; questioning of accused see RP 80, 87(C), 92(B), and of witnesses see RP 83-85 ; calling or re-calling of witnesses by Court etc see RP 75-79, 86, 116 ; use of Summary of Evidence at Trial see RP 17(E) fn 6 ; and responsibility of JA or Pres to record proceedings see RP 94, 96.*

RECORD FORM B—PROCEEDINGS ON PLEAS OF GUILTY TO ALL CHARGES.

B1. The President [redacted], complies with RP 35(B) by explaining to the accused the nature and meaning "FD" of the charge(s)[1], and that on his plea of Guilty there will be no regular trial but merely a consideration of the sentence to be awarded after he has been given an opportunity to make a statement in reference to the charge(s), call witnesses as to character and make an address in mitigation of punishment.[2]

(1. RP 35 fn 3. 2. MML p 14 para 47.)

B2. President to accused : The Court will now receive any statement you desire to make in reference to the charge[redacted].[1] If it appears from your statement that there are circumstances which indicate that you do not understand the effect of the plea of Guilty[2], or which show provocation or extenuation in respect of which in your interest the witnesses for the Prosecution should be examined[3], we shall advise you to change your plea to Not Guilty. In making a statement you will not be sworn or subject to cross-examination ; and anything you say will not be used in evidence against you after you change your plea. If, however, it appears to the Court that your statement affects only the amount of punishment to which you are liable, you will not be advised to change your plea and you will be given an opportunity later to prove your statement by sworn testimony, if you so desire.[4]

President to accused : Do you wish to make a statement ? Ans. No [5]

(1. RP 37(B). 2. RP 37(D) fn 6. 3. RP 35(B) fn 5 para 3, MML p 54 para 47. 4. See para E3 of Record Form E. 5. Statement, if any, recorded per Notes.)

B3. The Court considers the accused's statement.[1] The Court decides (not) to advise accused to change his (their) plea(s) of Guilty to Not Guilty on "FD" charge(s). The accused is (are) so informed, and he (they) change(s) his (their) plea(s) on charge(s). Part I of the Schedule is amended accordingly.

(1. Court may be closed to consider the statement. Delete whole or part not used.)

B4. On the charge[redacted] to which the plea(s) of Guilty is [redacted] not changed the President records finding[redacted] of "FD" Guilty in Part I of the Schedule.[1]

(1. RP 35(B). If any plea(s) is (are) changed, use Record Form C or D as appropriate.)

B5. The Summary of Evidence is marked Ex A , initialled and read aloud by the President.[1]

(1. If there is no Summary, or if it is inadequate, comply with RP 37(B). If there is any evidence inconsistent with any plea standing as Guilty, Court will advise accused to change such plea and, if changed to Not Guilty, try such charge(s) by use of paras D1 to D8 inclusive of Record Form D on p 3. RP 37(D).)

B6. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

RECORD FORM C—PROCEEDINGS ON MIXED PLEAS OF GUILTY AND NOT GUILTY.

C1. As to the charges on which accused pleaded NOT GUILTY the trial is continued by using paras D1 to D8 inclusive of Record Form D on p 3 before proceeding with C 2.[1]

(1. RP 37(A) (E).)

C2. The charges on which accused pleaded GUILTY are read to him (them) again, and the trial is continued by using paras B1 to B5 of Record Form B above.[1]

(1. Under B5 such parts only of the Summary of Evidence are read as relate to the charges dealt with under C2. If any plea is changed to Not Guilty, trial thereon proceeds by complying with paras D1 to D8 inclusive in Record Form D on p 3 and invoking an appropriate record thereof on a separate sheet.)

C3. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

RECORD FORM D—PROCEEDINGS ON PLEAS OF NOT GUILTY TO ALL CHARGES.

D1. President to accused : Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity to prepare your defence ? Ans.....[1]

(1. If "yes", see RP 39(A) for procedure. Statement or evidence, if any, is recorded per Notes.)

D2. The Prosecutor makes (an) (no) opening address.[1]

(1. RP 39(B), 60(A) (B), 90, 92(C) (D). Record address per Notes, subject to RP 95(C).)

D3. The evidence for the Prosecution is taken.[1]

(1. RP 39(C), 114, KR Can 555. Record evidence per Notes. As to Prosecutor giving evidence himself see RP 39(D) (E).)

D4. The Prosecution is closed.[1] The Defending Offr submits that the evidence for the Prosecution does not establish a prima facie case against the accused on the charge(s).[2] The Court is closed, and considers the submission.[3] The Court is re-opened, and the President announces that the submission is disallowed on the charge(s), and allowed on the charge(s), and that, accordingly, the trial will proceed on the former, but the accused is (are) found Not Guilty on the latter charge(s).[4]

(1. Delete remainder of this para, if submission not made. 2. Arguments on submission, answer and reply are recorded per Notes. 3. RP 40 fn 1. See MML p 72 paras 12-14 and p 81 para 42. 4. Delete part not used. If accused acquitted on all charges, use second alternative in para D8.)

NB : If trial proceeds, accused must be allowed great latitude in making his defence, and the Court should not stop his defence solely on ground of irrelevance. (RP 60(C), 114, 115.)

D5. President to accused : You will now proceed with your defence.[1] You may, if you wish, give evidence yourself on oath as to the facts or your character or both, in which case you will be subject to cross-examination.[2] You may, however, make a statement without being sworn, and you will not be subject to cross-examination.[3] But a statement which could have been made on oath will not carry with the Court the same weight as sworn testimony.[4] You may call witnesses in your defence and as to character.[5] Whether you give evidence or make a statement or do neither.

President to accused : Do you wish to give evidence yourself as a witness, make a statement, or do neither ?

Ans. Do you intend to call witnesses on your behalf ?

Ans. Are they witnesses as to character only ? Ans.

(1. RP 155. 2. RP 40(A), see 80(D). 3. RP 40 fn 10. 4. RP 40 fn 12, 9.)

D6. Consequent on the answers recorded in para D5 the appropriate procedure for the defence is followed.[1]

(1. RP 114, 115, 116. For procedure see Notes on back of Convening Order, CF 295. Evidence for accused as to his character should, if in his interest, be given before the Finding. See RP 46(A) fn 1, 86(C). Note the further opportunity in para E1 of Record Form E. Record per Notes addresses, statement, evidence and any summing up by the JA under RP 42, 103(e).)

D7. The Court is closed to consider the finding(s).[1] The finding(s) of the Court is (are) recorded in Part I of the Schedule.[2] The Court is re-opened.

(1. RP 42, 117(A). See Notes in Part I of Schedule. 2. RP 44(A).)

D8. The President announces the finding(s), if any, of Not Guilty, and states to the accused that the finding(s) of the Court on the charge(s), being subject to confirmation, will be promulgated later.[1]

Or, The President announces that the accused is found Not Guilty on all charges and is to be released forthwith, and that the proceedings are accordingly terminated. Part I of the Schedule is dated and signed.[1]

(1. AA 54(2) (6), RP 45, 120(A). 2. AA 54(2), RP 45, 117. This alternative announcement is not applicable where there are pleas of Guilty outstanding and dealt with under Variant Form B or C.)

D9. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E below.

RECORD FORM E—PROCEEDINGS ON CONVICTION BEFORE SENTENCE.

E1. President to accused : Do you wish to give evidence yourself or to call any witnesses as to your character ?[1]

Ans. No

(1. If evidence has already been given by accused or his witnesses as to his character, delete this para. RP 37(C) fn 4, 46 fn 1. Accused and witnesses are sworn. Evidence recorded per Notes.)

E2. The Prosecutor produces Statement[redacted] as to Character and Particulars of Service[1], and certified true copy [redacted] of Conduct Sheet[redacted][2], purporting to refer to the accused, which he submits to the Defending Offr for examination, and then to the Court for admission in evidence. The Court is satisfied that these documents refer to the accused, because (i) they purport to be signed in the manner required by A.S. 163(3) (g) (h), and (ii) they purport to refer to (a) soldier[redacted] having the same number, rank, name and corps as the accused. Admitted in evidence and marked Ex B and Ex C respectively.[3]

(1. MFB 355 or AFB 296. 2. MFM 6. 3. RP 46, KR Can 558. If above documents not produced, see RP 46 fn 1 para 1.)

E3. President to accused : Do you wish to address the Court on the Statement[redacted] and Conduct Sheet[redacted], and in mitigation of punishment ?[1] Ans. Yes by defending officer [2]

(1. RP 37(C), 46(D). 2. Address, if any, recorded per Notes. Court should permit accused or his witnesses to prove on oath anything here or previously stated which would affect the amount of punishment. RP 37(F) fn 7.)

E4. The President states that the Court is closed to consider the sentence, and that the sentence to be awarded by the Court, being subject to confirmation, will not be announced, but will be promulgated later, and the proceedings in open court are accordingly terminated.[1]

(1. AA 54(6), RP 120(A).)

E5. The Court considers the sentence.[1] The President records the sentence in Part I of the Schedule, which is dated and signed by him [redacted].

(1. Where several accused tried separately see RP 7(D). One sentence only, comprised of the punishment or punishments laid down in AA 41, 44 and its proviso, is to be awarded to cover all charges in all charge sheets on which accused found guilty. RP 48. As to sentences see AA 44, 138, 182, RP 46-50, 69, 118, 119(A), KR Can 308, 338, 563-566, Overseas RO 309, 2323, MML p 80, 737-739. As to sentences assigned for civil offences by the law of England see AA 40(3), MML p 130. When accused already under sentence of imprisonment or detention see AA 44(18), 68(1), KR Can 564. 2. RP 50. As to release from arrest by Confirming Offr see KR Can 567. As to assembly and disposal of record after trial see Instrs on back of Convening Order.)

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

DELAY REPORT OF F.G.C.M. PROCEEDINGS
(To be signed personnally by the Commanding Officer and Conformeding Officer)

ACCUSED A103151 Pte GRIMM V.A. Unit The Royal Canadian Regiment

Date of Offence 3 Sep 44 Date of Arrest 7 Sep 44

Summary taken 28 Sep 44 Appl'n for FGCM 29 Sep 44

Convened 7 Oct 44 Trial 11 Oct 44 Confirmed 16 OCT 44

Promulgated 18 Oct 44

TOTAL DAYS FROM ARREST TO TRIAL(excluding days not in custody, day of arrest and day of trial 32 days.

TOTAL DAYS FROM TRIAL TO PROMULGATION 7 days.

REMARKS OF O.C. UNIT (Explanation of delay, etc) Awaiting evidence of Cpl. Bain, evac wounded. Cpl. Bain returned to Unit 28 Sep 44

"J.W. Ritchie" Lt.-Col.
(O.C. Unit)

REMARKS OF CONFIRMING OFFICER Delay in taking Summary due absence of witness. Delay in convening due investigation. No avoidable delay.

21 Oct 44

"J.A. CALDER"
(Confirming Officer).
(J.A. CALDER) Brigadier
Comd., 1 Cdn Inf Bde.

CHARGE SHEET

The accused, A103151 Pte GRIMM, Vincent Anthony, "A" Coy, The Royal Canadian Regiment, a soldier of the Canadian Army, Overseas, placed on Active Service, is charged with:-

1st Charge.
AA Sec 12(1)(a) WHEN ON ACTIVE SERVICE, DESERTING HIS MAJESTY'S SERVICE.

in that he,

in the field, on 3 Sep 44, while his Coy was in action in a forward area, with intent to avoid said action, he absented himself from 0830 hrs 3 Sep 44 to 0845 hrs 7 Sep 44 (Time absent 4 days 15 mins)

Signed, in the field,

this 30th day of Sep 1944

"ASA GALLOWAY"
(ASA Galloway) Major.
A/Comd., The Royal Canadian Regt.

TO BE TRIED BY FIELD GENERAL COURT MARTIAL.

In the Field

7 Oct 44

"J.A. CALDER"
(J.A. CALDER) Brigadier
Comd., 1 Cdn Inf Bde..

"F.C.Darton" Major.

FIELD GENERAL COURT-MARTIAL

(Whether the accused to be tried is under his comd or not, a FGCM may on application to him be convened by any offr of Cdn Army Overseas, or of any other force if authorized in law, in immediate comd of troops on active service, subject to RP 105(C) and restrictions imposed by appropriate authy, AA 49, 50, RP 104-107, 114. As to the duties and privileges of the Convening Offr in dealing with the application see MML Chap V paras 20 and 23, RP 87(B).

There should be a separate Convening Order for each person to be tried separately by the same Court. RP 71(C), 109. As to separate charge sheets see RP 62, and as to separate trial on charges in the same charge sheet see RP 108. As to two or more accused charged jointly see RP 16, 109.

As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Can 306, 328, 330.)

ACCUSED.

Number.	(a) Prmnt R. (b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
A103151	PRIVATE	Vincent Anthony	GRIMM	RCR

CONVENING ORDER.

1. Whereas complaint has been made to me, the undersigned, that the person[X] named above as the accused, being subject to military law, has [XXX] committed the offence[X] set forth in the Charge Sheet[X] attached and on (date) 7 Oct 44 endorsed by me, [XXXXXXXXXXXXXXXX], "To be tried by Field General Court-Martial".

2. And whereas I am of opinion that it is not practicable that such offence[X] should be tried by an ordinary General Court-Martial; ([XXXXXXXXXXXXXXX

MEDICAL OFFICER'S CERTIFICATE
(KR (Can) para 577)

I certify that I have this morning examined No A103151
Rank Pte Name GRIMM, V.A. or The R.C.R.
and in my opinion he is fit to undergo trial by Court Martial.

Station Field
Date 11 Oct 44

"J.B.Bams Capt RCAMC"
(Medical Officer)

"F.Darton Major"

PLEA IN MITIGATION OF PUNISHMENT.

A103151 Pte V.A. Grimm.

In my plea for the accused I have a number of points, very important points which I would like to bring to the attention of the Court.

(1) I feel that if I had of been able to produce enough evidence I could have had the charge against the accused reduced. However this evidence could not be obtained.

(2) The accused was in a forward area throughout the entirety of his absence, and was not apprehended but presented himself at Coy HQ with equipment complete with weapon.

(3) The accused has had considerable mental and physical strain to contend with in the last few months first his brother a member of the RCN while undergoing training in Toronto he preceeded to an amusment pard and while ride on one of the many rides got into an argument with a fellow passenger and was thrown from the ride consequently costing him his life. He has one other brother serving in the RCAF. This leaves his Mother (who is suffering from a weak heart) a lot of home worries and then the death of one son and two serving overseas does not help matters any.

(4) This man has served continuously with the RCR since the Batt "FD" landed in Italyhe has done an excellent job has been a good soldier and up until

this time has not shown any signs of weakness in the face of the enemy.

The accused has a perfectly clean conduct sheet.

(5) I feel that the court should consider very strongly all the points brought out by the defence and that they shown as much leniency as is humanly possible.

"L.G. Shore Lt"

"F.Darton Major"

"FD"

SUMMARY OF EVIDENCE in the case of A103151 Pte Grimm, V.A., The Royal Canadian Regiment, a soldier of the Canadian Army Overseas, placed on active service.

By direction of the Commanding Officer the evidence is taken on oath.

1st WITNESS for the Prosecution — P16467 CSM MacDonald, I.A., having been duly sworn, states:-

"I am CSM "A" Coy, The Royal Canadian Regiment. On 3 Sep 44 from information received I checked on the presence of A103151 Pte Grimm, V.A. He was not present that afternoon nor on the following days until he reported to me in RECCIONE at approximately 0845 hrs, 7 Sep 44. I recognize Pte Grimm; he belongs to "A" Coy. Signed "I.A. MacDonald"

The accused declines to cross-examine.

2nd WITNESS for the Prosecution — A106665 A/Cpl Bain, J.E., having been duly sworn, states:-

"I am A/Cpl Bain, J.E. "A" Coy, The Royal Canadian Regiment. On 3 Sep 44 I was with

Ex A. "F.Darton"XXX

2nd WITNESS for the Prosecution (Continued) — "A" Coy (on that morning) before the attack on the cross road near RECCIONE. Before we moved forward our Platoon(9 Pl) was in a house about 300 yards from the cross road. After we left the house I noticed that my section had not followed (I was then with "O" group) so I returned to the house. We were then under shell and MG fire. I found my section in the house and ordered them to follow me to the platoon position. A103151 Pte Grimm V.A. was present when I gave this order, but when I got to about 200 yards from the house I noticed he was not there with the others of the section. This was at approximately 0830 hrs 3 Sep 44. He did not join my section afterwards. I recognize A103151 Pte Grimm, V.A., he was in my section in 9 Pl. on 3 Sep 44.

Signed- "J.E. Bain"

The accused declines to cross-examine.

3rd WITNESS for the Prosecution — A3560 Sgt Gray T.C., having been duly sworn, states:-

"I am A3560 Sgt Gray T.C. of Pioneer Platoon, The Royal Canadian Regiment. On the morning of 3 Sep 44 at approximately 0800 hrs I was in a house approximately 300 yards from the cross road near RECCIONE where "A" Coy was participating in an attack. In this house there were men from "A" Coy. They moved forward from the house but about ten men stayed behind. A few minutes later a Corporal came to the house and ordered this group to follow him to the Platoon position, in words to that effect. Most of them complied with this order. But I noticed there were four who stayed back. I was the only Sgt. in the house at this time. I do not know these men personally nor the Corporal and could not identify them.

Signed: "T.C. Gray Sgt"

The accused declines to cross-examine

"FD"

4th WITNESS for the Prosecution

A105960 Pte Blanche, H. Having been duly sworn, states:-

"I am A105960 Pte Blanche H. of the Pioneer Platoon, The Royal Canadian Regiment. On the day "A" Coy was participating in an attack at a cross road near RECCIONE, before the attack I was in a house approximately 300 yards from the cross road. Sgt Gray TC of my Platoon was with me. There were also men from "A" Coy in the house. When they moved out to go forward there were 6 men or more who came back to the house. A Corporal whom I cannot identify returned for them and in my presence ordered them to follow him. Some went out with him but three of them stayed behind. These were in the group that the Corporal ordered to go out with him. The only Sgt in the house at the time was Sgt Gray T.C. The three men remained in the house for at least two hours after. I did not know them nor could I identify them.

Signed: "Pte H.B. Blanche"

Question to the Accused:-
"Do you wish to make any statement or to give evidence on oath? You are not obliged to say anything or give evidence unless you wish to do so but anything you say or any evidence you give, will be taken down in writing and may be given in evidence."

Answered by the accused:-
"I reserve my defence."

Signed: "V.A. Grimm"

I hereby certify that Rule of Procedure 4 (c),(d), (e),(f) and (g) has been complied with.

Taken down by me in the presence of the accused, this twenty eight day of September, 1944.

In the Field

Signed "A.H. Poirier, Lieut"
Officer detailed to take the
Summary of Evidence.

Ex A
"F. Barton Major"

Summary of Evidence in the case of A103151 Pte GRIMM, V.A., The Royal Canadian Regiment, a soldier of the Canadian Army Overseas, placed on Active Service:

By direction of the Commanding Officer the evidence is taken on oath.

1st Witness for the Prosecution

P16467 CSM MacDonald, I.A., having been duly sworn, states:-
"I am CSM "A" Coy., The Royal Canadian Regiment. On 3 Sep 44 from information received, I checked on the presence of A103151 Pte Grimm, V.A. He was not present that afternoon nor on the following days until he reported to mein RICCIONE at approximately 0845 hrs, 7 Sep 44. I recognize Pte Grimm; he belongs to "A" Coy."

Signed I.A. MacDonald.

The accused declines to cross-examine.

2nd Witness for the Prosecution

A106665 A/Cpl Bain, J.E., having been duly sworn, states:-
"I am A/Cpl Bain, J.E., "A" Coy, The Royal Canadian Regiment. On 3 Sep 44, I was with "A" Coy (on the morning) before the attack on the cross road near RICCIONE. Before we moved forward our Platoon (9 Pl) was in a house about 300 yards from the cross road. After we left the house, I noticed that my section had not followed. (I was then with "O" group) so I returned to the house. We were then under shell and MG fire. I found my section in the house and ordered them to follow me to the platoon position. A103151 Pte Grimm, V.A. was present when I gave this order, but when I got to about 200 yds from the house, I noticed that he was not there with the others of the Section. This was at approximately 0830 hrs 3 Sep 44. He did not join my section afterwards. I recognize A103151 Pte Grimm, V.A.; he was in my section in 9 Pl., on 3 Sep 44."

Signed J.E. Bain.

The accused declines to cross-examine.

3rd Witness for the Prosecution

A3560 Sgt Gray, T.C., having been duly sworn, states:-
"I am A3560 Sgt Gray, T.C., of Pioneer Platoon, The Royal Canadian Regiment. On the morning of 3 Sep 44 at approximately 0800 hrs I was in a house approximately 300 yds from the cross road near RICCIONE where "A" Coy was participating in an attack. In this house there were men from "A" Coy. They moved forward from the house but about ten men stayed behind. A few minutes later a corporal came to the house and ordered this gropp to follow him to the Platoon position, in words to that effect. Most of them complied with this order. But I noticed there were four who stayed back. I was the only Sgt in the house at this time. I do not know these men personally nor the corporal and could not identify them."

Sgined T.C. Gray, Sgt.

The accused declines to cross-examine.

Ex A "W. Barton Maj"

/Page 2.

4th Witness for the Prosecution

A105960 Pte Blanche, H., having been duly sworn, states:-

"I am A105960 Pte Blanche, H., of the Royal Canadian Regiment. On the day "A" Coy was participating in an attack at a cross road near RICCIONE, before the attack I was in a house approximately 300 yards from the cross road. Sgt Gray T.C. of my Platoon was with me. There were also men from "A" Coy in the house. When they moved out to go forward there were 6 men or more who came back to the house. A corporal whom I cannot identify returned for them and in my presence ordered them to follow him. Some went out with him but three of them stayed behind. These were in the group that the corporal ordered to go out with him. The only Sgt in the house at the time was Sgt Gray T.C. The three men remained in the house for at least two hours after. I did know them nor could I identify them."

Signed Pte H. Blanche.

Question to the accused:-

"Do you wish to make any statement or to give evidence on oath? You are not obliged to say anything or give evidence unless you wish to do so, but anything you say or any evidence you give will be taken down in writing and may be given in evidence."

Answer by the accused:-

"I reserve my defence."

Signed V.A. Grimm.

"I hereby certify that rule of procedure 4 (c)(d)(e)(f) and (g) has been complied with.

Taken down by me in the presence of the accused, this twenty-eighth day of September, 1944.

In the Field

Signed A.H. Poirier, Lieut.
Officer detailed to take the
Summary of Evidence.

Ex A.

"F. Derton Major"

ARMY FORM B.296 (WAR).

Statement as to Character and Particulars of Service of Accused

(For Use at Trials by Field General Courts-Martial only)

Number.	*Rank.*	*Name.*	*Regiment (or as the case may be).*
A103151	Private	GRIMM, Vincent Anthony	R.C.R.

NOTE.—The Field Conduct Sheet is to be produced in Court with this statement but is not to be annexed to the proceedings. The numbers herein stated should correspond with the number of ENTRIES in the Field Conduct Sheet, prominence being given to the most serious offence in each entry. If the charge is for drunkenness or absence without leave, the entries for drunkenness or absence, as the case may be, should be stated separately. Any recognized special acts of gallantry or distinguished conduct recorded in the Field Conduct Sheet should also be inserted here.

1. The following is a fair and true summary of the entries in the Field Conduct Sheet of the accused, exclusive of convictions by a court martial or a civil court :—

For NIL NIL times.
For ____ ____ times.
For ____ ____ times.
For ____ ____ times.

Date of first entry in Field Conduct Sheet N/A

Date of last entry in Field Conduct Sheet N/A

2. Previous convictions of the accused by a court martial or a civil court are set out in the Schedule overleaf.

*Strike out if not applicable.

*3. The accused at the present time is under sentence for N/A beginning on the N/A day of N/A

4. The accused has been awaiting trial on the present charges for Nil days in civil custody; and for 74 days in military custody, *i.e.*, Nil days in open arrest, 34 days in close arrest; of which Nil days were spent in hospital.

5. The present age of the accused is 29 years 154 days

6. The date of his attestation is 23 May 42

7. The service which the accused is allowed to reckon is 2 yrs 141 days

†State the military decorations (if any) held by accused.

8. The accused is in possession of† CVSM & Clasp

9. (*If the accused is a warrant officer or N.C.O.*) The accused has served continuously, without reduction, to the present date—

	Date of Promotion.
In the substantive rank of ____	____
In the war substantive rank of ____	____
In the acting rank of ____	____

INSTRUCTION.—*If any matter in any of the above paragraphs cannot be stated from the regimental books the paragraph must be struck through.*

W 5900/1502 20,000 3/44 51-4751. Forms/B.296/War(3)

SCHEDULE OF CONVICTIONS BY A COURT-MARTIAL OR CIVIL COURT

Description of Court by which tried.	Date and Place of Trial.	Charges upon which convicted.	Sentence of the Court.	Punishment remitted or sentence suspended.
		NIL		

I HEREBY CERTIFY that the foregoing particulars, which have been extracted from the regimental books in my custody, are correct to the best of my knowledge and belief.

Signed this 12 day of Oct 1944

"E.H. Shuter" Capt
(E.H. Shuter) Adjt., RCR.

No A103151 Name GRIMM, V.A. | Sqn, Battery or Company: B | Corps: Perth Regt | Date of enlistment: 23-5-42 | OC Badges | Service or Proficiency Pay: N/A | MFM 6 (AFB 122) 40/P&S/130 (3458)

Company Conduct Sheet Date of last entry in: 19-8-42 | No and date of last drunk: NIL | Period not reckoning towards freedom from extra fine: N/A | Sheet No 2 | Signature OC Company, etc | Character

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Name of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
				Sheet destroyed 23 Nov 42 Signed P.J.F. Baker, Capt.					
				I certify that this is a true copy of the original document held in my custody.					"FD"
				"E.H. Shuter" Capt (E.H. Shuter) Adjutant The Royal Canadian Regiment		Ex. C.		"F. Darton Major"	

(P10)

LIST OF WITNESSES.

FOR THE PROSECUTION.

P16467 CSM MacDonald, I.A.	"A" Coy., The Royal Canadian Regiment, Canadian Army Overseas, Central Mediterranean Forces.
A106665 A/Cpl Main, J.E.	"A" Coy., The Royal Canadian Regiment, Canadian Army Overseas, Central Mediterranean Forces.
A3560 Sgt Gray, T.C.	Sp Coy., The Royal Canadian Regiment, Canadian Army Overseas, Central Mediterranean Forces.
A105960 Pte Blanche, H.	Sp Coy., The Royal Canadian Regiment, Canadian Army Overseas, Central Mediterranean Forces.

FOR THE DEFENCE.

-------NIL-----

Signed, in the field,
this 30 day of Sep 1944

"A.S.A. Galloway"
(ASA Galloway) Major
a/comd., The Royal Canadian Regt.,

"FD"

INSTRUCTIONS ON PROCEDURE AFTER ARRAIGNMENT.

1. *The accused may not plead or be found Guilty on more than one of two or more charges laid in the alternative.* (*RP* 37(*A*).) *As to withdrawal of alternative charges by Prosecutor see RP* 35(*C*). *No other charge can be withdrawn for any reason without authy from Convening Offr. If Convening Offr concurs, Court may accept plea of Guilty to lesser, etc, offence.* (*RP* 44(*II*).) *Accused may change a plea of Not Guilty to Guilty during trial.* (*RP* 38.) *As to refusing to plead or not pleading intelligibly see RP* 35(*A*). *As to plea when sentence may be death see RP* 35(*D*).

2. *The proceedings on each charge sheet* (*RP* 62) *after arraignment will be conducted as follows in the respective circumstances stated :*

I. If pleas to all charges are GUILTY, use Record Form B below.

II. If pleas to all charges are NOT GUILTY, use Record Form D on p 3.

III. If pleas to some charges are GUILTY and to other charges are NOT GUILTY and,

(*a*) *Such mixed pleas occur when there are no alternative charges in the Charge Sheet, use Record Form C below.* (*RP* 37(*A*).)

(*b*) *Such mixed pleas occur in a set of two or more charges laid in the alternative, see RP* 37 (*A*) *and fn* 2 *as to discretion of Court,* (i) *to try the accused on all such alternative charges as if he had pleaded Not Guilty thereto, or,* (ii) *to record the pleas as the findings of Court. After deciding between* (i) *and* (ii), *Court will proceed under foregoing instrs as may be appropriate to result of its decision. See MML p* 744 *Instrs* (2).

3. *As to responsibility of President to accused see RP* 59, 60(*C*) ; *powers and duties of JA see RP* 103 ; *duty of Prosecutor see RP* 60(*A*) (*B*) ; *duty and privileges of accused and Defending Offr see RP* 60(*C*), 87(*C*), 91, 92 ; *swearing and withdrawal of witnesses from Court see RP* 81, 82 ; *questioning of accused see RP* 80, 87(*C*), 92(*B*), *and of witnesses see RP* 83-85 ; *calling or re-calling of witnesses by Court, etc, see RP* 75-79, 86, 116 ; *use of Summary of Evidence at Trial see RP* 17(*E*) *fn* 6 ; *and responsibility of JA or Pres to record proceedings see RP* 94, 96.

RECORD FORM B—PROCEEDINGS ON PLEAS OF GUILTY TO ALL CHARGES.

B1. The President ~~or JA, if any,~~ complies with RP 35(B) by explaining to the accused the nature and meaning of the charge(s)(1), and that on his plea of Guilty there will be no regular trial but merely a consideration of the sentence to be awarded after he has been given an opportunity to make a statement in reference to the charge(s), call witnesses as to character and make an address in mitigation of punishment.(2)

(*1. RP 35 fn 3. 2. MML p 54 para 47.*)

B2. President to accused : The Court will now receive any statement you desire to make in reference to the charge(s).(1) If it appears from your statement that there are circumstances which indicate that you do not understand the effect of the plea of Guilty(2), or which show provocation or extenuation in respect of which in your interest the witnesses for the Prosecution should be examined(3), we shall advise you to change your plea to Not Guilty. In making a statement you will not be sworn or subject to cross-examination ; and anything you say will not be used in evidence against you after you change your plea. If, however, it appears to the Court that your statement affects only the amount of punishment to which you are liable, you will not be advised to change your plea and you will be given an opportunity later to prove your statement by sworn testimony, if you so desire.(4)

President to accused : Do you wish to make a statement ? Ans. No. (5)

(*1. RP 37(B). 2. RP 37(D) fn 4. 3. RP 35(B) fn 5 para 3, MML p 54 para 47. 4. See para E3 of Record Form E.*
5. Statement, if any, recorded per Notes.)

B3. The Court considers the accused's statement.(1) The Court decides (not) to advise accused to change his (their) plea(s) of Guilty to Not Guilty on ..... charge(s). The accused is (are) so informed, and he (they) change(s) his (their) plea(s) on ..... charge(s). Part I of the Schedule is amended accordingly.

(*1. Court may be cleared to consider the statement. Delete whole or part not used.*)

B4. On the charge(s) to which the plea(s) of Guilty is (~~are~~) not changed the President records finding(s) of Guilty in Part I of the Schedule.(1)

(*1. RP 35(B). If any plea(s) is (are) changed, use Record Form C or D as appropriate.*)

B5. The Summary of Evidence is marked Ex ....., initialled and read aloud by the President.(1)

(*1. If there is no Summary, or if it is inadequate, comply with RP 37(B). If there is any evidence inconsistent with any plea standing as Guilty, Court will advise accused to change such plea and, if changed to Not Guilty, try such charge(s) by use of paras D1 to D8 inclusive of Record Form D on p 3. RP 37(D).*)

B6. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

RECORD FORM C—PROCEEDINGS ON MIXED PLEAS OF GUILTY AND NOT GUILTY.

C1. As to the charges on which accused pleaded NOT GUILTY the trial is continued by using paras D1 to D8 inclusive of Record Form D on p 3 before proceeding with C 2.(1)

(*1. RP 37(A) (E).*)

C2. The charges on which accused pleaded GUILTY are read to him (them) again, and the trial is continued by using paras B1 to B5 of Record Form B above.(1)

(*1. Under B5 such parts only of the Summary of Evidence are read as relate to the charges dealt with under C2. If any plea is changed to Not Guilty, trial thereon proceeds by complying with paras D1 to D8 inclusive in Record Form D on p 3 and making an appropriate record thereof on a separate sheet.*)

C3. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

RECORDED AT CMHQ IN AD 105 — 40-125

RECEIVED 10 NOV 1944 JAG BRANCH C.M.H.Q.

FIELD GENERAL COURT-MARTIAL

4/38B

Convened by Brigadier J. A. CALDER Comd 1 Cdn Inf Bde dated 7 Oct 44

ACCUSED.

(As to the trial of two or more charged jointly see RP 16, 71, 109. As to reasons for showing (a) permanent or confirmed rank, and (b) apptmt, A/rank or A/apptmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

Number.	(a) Prmnt R. (b) Apptmt, A/R or A/Apptmt.	Full Christian Names.	Surname.	Unit.
A103151	PRIVATE	Vincent Anthony	GRIMM	RCR

REVIEWED
J. Ruttan Lapt
2 Nov 44
REVIEWING OFFICER, JAG BRANCH C.M.H.Q.

PROCEEDINGS OF TRIAL.

Held in the Fd in (country) ITALY on (date(1)) 11th October 1944

RECORD FORM A--OPENING PROCEEDINGS AND ARRAIGNMENT. 2C 129

A1. The President, Members, ~~waiting Member, JA, if any, and Offrs under instr, if any~~, assemble, and the Court is closed.

(PRINTED MATTER, NOT IN ITALICS FOR GUIDANCE, WILL BE DELETED IF NOT USED OR APPLICABLE, AND INITIALLED BY PRES OR JA. The Schedule referred to throughout is on p 4. Citations do NOT include all relevant fmn ROs. For guidance on procedure when a variation in this form arises, see form for GCM in MML pp 741 to 759. A brief record of such variation will be made and given a number having reference to appropriate or preceding para number herein. See back of Convening Order. CF A95, for oaths and instrs on how to record addresses, evidence, etc, which instrs are hereafter called "Notes". As to general provisions for conducting the trial see AA 33, RP 56, 63-70, 73, 74, 94, 103, 119, 132.)

A2. The President initials and lays before the Court the Convening Order and Charge Sheet(1) attached thereto.(2) The Court is satisfied that it is properly convened and constituted(2), accused is (~~are~~) amenable to military law, and each charge discloses an offence.(3)

(1. As to use of Summary of Evidence see RP 17 fn b. 2. AA 49, 50, RP 105-107. 3. RP 11-13, 23, 24.)

A3. The Court is opened. The accused is (~~are~~) brought before the Court. At 1030 hours trial commences.

A4. The Prosecutor produces a Medical Certificate that accused is (~~are~~) fit to undergo trial by court-martial.(1) ~~The Prosecutor informs the Court that accused elected to be tried by court-martial instead of being dealt with summarily by the CO.(2)~~

(1. KR Can 557. 2. AA 46(8), RP 60 fn 1. For effect see KR Can 563(c). Delete, if not applicable.

A5. President to accused: Do you object to ..... as interpreter ? Ans .....

The Interpreter is sworn.(1) Do you object to SK. as shorthand writer ? Ans .....

The shorthand writer is sworn.(1)

(1. RP 72. Delete, if none employed.)

A6. The Convening Order and names of the President and Members of the Court are read to the accused.(1) President to accused: Do you object to be tried by me as President or by any of the Members of the Court ?

Ans Nil. (2)

(1. RP 110. 2. If no objection, waiting member retires. RP 68(8). If objection, see procedure AA 51, RP 25, 71, 108, 3rd fn, p 742.)

A7. The President, Members, ~~JA, if any, and Offrs under instr, if any~~ are sworn.(1) The following are the ranks, names and units of the offrs comprising the Court, etc:

President	Major	F. G. C. DARTON	RCR
Member	Captain	R. J. Dennis	48 Highrs
Member	Lt	T. F. Little	HPER
Judge-Advocate			
Prosecutor	~~Lt~~ Capt	E. H. SHUTER ~~A. H. POIRIER~~	RCR
Defending Offr	Lt	L. G. SHORE	RCR

Questions by President: Is the Prosecutor a lawyer ? Ans Yes Is the Defending Offr a lawyer ? Ans Yes (2)

(1. RP 26, 27, 109, 111. List of offrs under instr will be returned separately with proceedings for information of Cmdr (Offr.) (2. If Pros a lawyer and Def Offr not, accused is entitled to an adjournment when RP 69 (b) and fn 2 were not followed. See D1 p 3.)

A8. The accused A103151 Pte GRIMM, V. A. before arraignment make(s) (no) ~~no~~ plea.(1)

(1. If a special plea is made for separate trial on one or more charges (RP 62(E), 108), or as to the jurisdiction of the Court (RP 34, 35(A), 113), or in bar of trial (RP 36), or as to accused's mental fitness to stand trial (AA 132, RP 57), or by one of several accused charged jointly to be tried separately (RP 16, 71), such plea, the addresses made in support or opposition, the evidence, if any, and finding are recorded per Notes. For forms of record see references in fns to RsP cited. Insert in A8 name and name of the accused making the plea.)

A9. The accused is (~~are~~) arraigned (~~separately~~) on all charges in the charge sheet.(1) The accused does ~~do~~ not object to any charge.(2) There is no amendment to be made to the Charge Sheet.(3) The President records the pleas in Part I of the Schedule.

(1. RP 31, 112. See para 1 of Instrs p 2. When more than one Charge Sheet see RP 62; when several accused to be tried separately see RP 71(C), and use separate copies of CF A95 to record proceedings. 2. RP 32, RP 33. If otherwise, delete and make appropriate record per Notes.)

A10. The Court ~~re-closed and~~ considers the Instrs on Procedure after Arraignment at top of p 2. The proceedings are continued on Record Form B

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

4/37
E 124

SCHEDULE.

PART I. PLEA(S), FINDING(S) AND SENTENCE.

Accused: A103151 Pte. Grimm, Vincent Anthony The Royal Canadian Regt.

Charge. (Insert "alternative" where applicable.)	Plea. (See instrs p 2.)	Finding. (See note below.)	(Space for use as required for further charges, accused charged jointly, special findings, etc.)
1st A.A 24/12(c)(a).	Guilty.	Guilty.	
2nd			
3rd			
4th			
5th			
6th			

(Note: As to findings for lesser offences see AA 56, RP 44; findings on alternative charges see MML p 483 fn 4 para 2, RP 44; special findings see RP 44 and MML p 753, and in loss of kit see RP 44 fn 6.)

At present under sentence for ~~N/A~~ beginning on (date) ~~N/A~~ (1)
(1. Insert sentence being served, or details, if not applicable. See RP 46(A)fn. Information should be found on MF B355 or AF B296.)

Time in confinement awaiting present trial—a total of 34 days, of which N/A days were spent in hospital.(2)
(2. See RP 46(A) fn 2. Information should be found on MF B355 or AF B296 admitted in evidence under E7.)

Sentence Awarded by the Court:
To be imprisoned without hard labour for a period of 15 months.

(Sgd) ..... Judge-Advocate, if any.

11 October 1944 Date awarded.

(Sgd) Thurston Major President. (RP 45, 50.)

(See back of Convening Order as to assembly and disposal of record after trial.)

PART II. MINUTE WHERE CONFIRMATION RESERVED. (AA 54(5), RP 120(F), MML p 760.)

Date ..... (Sgd) ..... Commanding

PART III. DECISION OF CONFIRMING OFFR ON FINDING(S) AND SENTENCE.

(For duties and powers see AA 54, 57, RP 27(D) fn 6.46(A), 51-56, 120, MML pp 759-761, KR Can 567-577. Acquittals require no confirmation and cannot be revised: AA 54(3). Sending back finding or sentence for revision by Court: AA 54(2), RP 120(G). If not confirmed, accused may be tried again: AA 157, MML p 64. Minute of confirmation or non-confirmation may be altered before promulgation: RP 53, MML p 65. Quashing after promulgation: KR Can 573. Duties and powers of reviewing offrs: AA 57, 57A, RP 53A, 54. The Confirming Offr must sign here personally. AA 172 fn 1.)

My decision on the finding(s) and sentence set forth in Part I is:
Confirmed

~~I direct that the accused be kept committed to prison or detention barracks until further orders.~~ (1)
(1. AA 57A. Delete if not used.)

Date 16 Oct 44 (Sgd) A.W. Calder Brig
Commanding 1 Can Inf Bde
Confirming Officer.

PART IV. PROMULGATED AND EXTRACTS TAKEN. (RP 53, KR Can 576, 577.)

Accused.	Date.	Signature of Offr.
Pte. V.A. Grimm	18 Oct 44.	E.A. Slater Capt. 2 i/c R.

ALL DELETIONS AND ALTERATIONS WILL BE INITIALLED.

RECORD FORM D—PROCEEDINGS ON PLEAS OF NOT GUILTY TO ALL CHARGES.

D1. President to accused: Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity to prepare your defence? Ans.....(1)

(1. If "yes", see RP 39(A) for procedure. Statement or evidence, if any, is recorded per Notes.)

D2. The Prosecutor makes (an) (no) opening address.(1)

(1. RP 39(B), 60(A) (B), 90, 92(C) (D). Record address per Notes, subject to RP 95(C).)

D3. The evidence for the Prosecution is taken.(1)

(1. RP 39(C), 114, KR Can 555. Record evidence per Notes. As to Prosecutor giving evidence himself see RP 39(D) (E).)

D4. The Prosecution is closed.(1) The Defending Offr submits that the evidence for the Prosecution does not establish a prima facie case against the accused on the.....charge(s).(2) The Court is closed, and considers the submission.(3) The Court is re-opened, and the President announces that the submission is disallowed on the.....charge(s), and allowed on the.....charge(s), and that, accordingly, the trial will proceed on the former, but the accused is (are) found Not Guilty on the latter charge(s).(4) N/A

(1. Delete remainder of this para. if submission not made. 2. Arguments on submission, answer and reply are recorded per Notes. 3. RP 48 fn 1. See MML p 72 paras 12-14 and p 81 para 42. 4. Delete part not used. If accused acquitted on all charges, use second alternative in para D8.)

NB: If trial proceeds, accused must be allowed great latitude in making his defence, and the Court should not stop his defence solely on ground of irrelevance. (RP 80(C), 114, 115.)

D5. President to accused: You will now proceed with your defence.(1) You may, if you wish, give evidence yourself on oath as to the facts or your character or both, in which case you will be subject to cross-examination.(2) You may, however, make a statement without being sworn, and you will not be subject to cross-examination.(2) But a statement which could have been made on oath will not carry with the Court the same weight as sworn testimony.(3) You may call witnesses in your defence and as to character, whether you give evidence or make a statement or do neither.

President to accused: Do you wish to give evidence yourself as a witness, make a statement, or do neither?

Ans.....Do you intend to call witnesses on your behalf?

Ans.....Are they witnesses as to character only? Ans.....

(1. RP 115. 2. RP 40(A), see 80(D). 3. RP 40 fn 10. 4. RP 40 fns 2, 9.)

D6. Consequent on the answers recorded in para D5 the appropriate procedure for the defence is followed.(1)

(1. RP 114, 115, 116. For procedure see Notes on back of Convening Order, CF A95. Evidence for accused as to his character should, if in his interest, be given before the finding. See RP 46(A) fn 1, 86(C). Note the further opportunity in para E1 of Record Form E. Record per Notes addresses, statement, evidence and any summing up by the JA under RP 42, 103(6).)

D7. The Court is closed to consider the finding(s).(1) The finding(s) of the Court is (are) recorded in Part I of the Schedule.(2) The Court is re-opened.

(1. RP 42, 117(A). See Notes in Part I of Schedule. 2. RP 44(A).)

D8. The President announces the finding(s), if any, of Not Guilty, and states to the accused that the finding(s) of the Court on the.....charge(s), being subject to confirmation, will be promulgated later.(1)

Or, The President announces that the accused is found Not Guilty on all charges and is to be released forthwith, and that the proceedings are accordingly terminated. Part I of the Schedule is dated and signed.(2)

(1. AA 54(3) (6), RP 45, 120(A). 2. AA 54(3), RP 45, 117. This alternative announcement is not applicable when there are pleas of Guilty outstanding and dealt with under Record Form B or C.)

D9. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E below.

RECORD FORM E—PROCEEDINGS ON CONVICTION BEFORE SENTENCE.

E1. President to accused: Do you wish to give evidence yourself or to call any witnesses as to your character?(1)

Ans. No.

(1. If evidence has already been given by accused or his witnesses as to his character, delete this para. RP 37(C) fn 4, 46 fn 1. Accused and witnesses are sworn. Evidence recorded per Notes.)

E2. The Prosecutor produces Statement(s) as to Character and Particulars of Service(1), and certified true copy (copies) of Conduct Sheet(s)(2), purporting to refer to the accused, which he submits to the Defending Offr for examination, and then to the Court for admission in evidence. The Court is satisfied that these documents refer to the accused, because (i) they purport to be signed in the manner required by AA 163(l) (g) (h), and (ii) they purport to refer to (a) soldier(s) having the same number, rank, name and corps as the accused. Admitted in evidence and marked Ex P and Ex C respectively.(3)

(1. MFB 355 or AFB 296. 2. MFM 6. 3. RP 46, KR Can 558. If above documents not produced, see RP 46 fn 1 para 1.)

E3. President to accused: Do you wish to address the Court on the Statement(s) and Conduct Sheet(s), and in mitigation of punishment?(1) Ans. Yes. by Defending Officer(2)

(1. RP 37(C), 46(D). 2. Address, if any, recorded per Notes. Court should permit accused or his witnesses to prove on oath anything here or previously stated which would affect the amount of punishment. RP 37(F) fn 7.)

E4. The President states that the Court is closed to consider the sentence, and that the sentence to be awarded by the Court, being subject to confirmation, will not be announced, but will be promulgated later, and the proceedings in open court are accordingly terminated.(1)

(1. AA 54(6), RP 120(A).)

E5. The Court considers the sentence.(1) The President records the sentence in Part I of the Schedule, which is dated and signed by him and the J.A., if any.(2)

(1. When several accused tried separately see RP 71 (D). One sentence only, comprised of the punishment or punishments laid down in AA 41, 44 and its proviso, is to be awarded to cover all charges in all charge sheets on which accused found guilty. RP 48. As to sentences see AA 44, 128, 182, RP 46-50, 69, 118, 119(A), KR Can 308, 330, 563-566. Overseas RO 309, 2323, MML p 60, 757-759. As to sentences assigned for civil offences by the law of England see AA 41(5), MML p 130. When accused already under sentence of imprisonment or detention see AA 44(18), 68(1), KR Can 564. 2. RP 50. As to release from arrest by Confirming Offr see KR Can 567. As to assembly and disposal of record after trial see Instrs on back of Convening Order.)

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

CHARGE SHEET.

The accused, A1o3151 Pte GRIMM, Vincent Anthony, "A" Coy., The Royal Canadian Regiment, a soldier of the Canadian Army, Overseas, placed on Active Service, is charged with:-

WHEN ON ACTIVE SERVICE,
DESERTING HIS MAJESTY'S SERVICE,

in that he,

1st Charge:
AA Sec 15 (1)(a)

in the field, on 3 Sep 44, while his Coy was in action in a forward area, with intent to avoid said action, he absented himself from 0830 hrs 3 Sep 44 to 0845 hrs 7 Sep 44 (Time absent 4 days 15 mins)

Signed, in the field,
this 30th day of Sep 1944

(ASA Galloway) Major.
a/comd., The Royal Canadian Regt.

TO BE TRIED BY FIELD GENERAL COURT MARTIAL

(J. A. CALDER) Brigadier
Comd., 1 Cdn Inf Bde

In the Field
7 Oct 44

Quarter Master

FIELD GENERAL COURT-MARTIAL

CFA 95 (In lieu of AFAB) 40/PAM/1067 (2002)

(Whether the accused to be tried is under his comd or not, a FGCM may on application to him be convened by any offr of Cdn Army Overseas, or of any other force if authorized in law, in immediate comd of troops on active service, subject to RP 105(C) and restrictions imposed by appropriate authy. AA 49, 50, RP 104-107, 114. As to the duties and privileges of the Convening Offr in dealing with the application see MML Chap V paras 20 and 23, RP 87(B).

There should be a separate Convening Order for each person to be tried separately by the same Court. RP 71(C), 109. As to separate charge sheets see RP 62, and as to separate trial on charges in the same charge sheet see RP 108. As to two or more accused charged jointly see RP 16, 109.

As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

ACCUSED.

Number.	(a) Prmnt R. (b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
A103151	PRIVATE	Vincent Anthony	GRIMM	RCR

CONVENING ORDER.

1. Whereas complaint has been made to me, the undersigned, that the person(s) named above as the accused, being subject to military law, has (~~have~~) committed the offence(s) set forth in the Charge Sheet(s) attached and on (date) 7 Oct 44 endorsed by me, (~~or by an offr of my staff for me~~), "To be tried by Field General Court-Martial"; ~~and whereas I am of opinion that it is not practicable that such offence should be tried by an ordinary~~ [illegible]

~~(Delete part in brackets when not required for compliance with RP 105(C).)~~

3. I hereby convene a Field General Court-Martial to try the said person(s), and to consist of the Offrs appointed or detailed hereunder.

~~(AA 49, RP 106(B), 107(A). Delete the whole or part, if not applicable.)~~

~~(RP 106(E). Delete, if none appointed.)~~

PRESIDENT.

Major (Rank.)	F. G. C. DARTON (Must be named. RP 106.)	RCR (Unit.)

MEMBERS.

Captain	~~A. J. Pearkes~~ To be detailed by	48 Highrs
Lt (Rank.)	~~J. D. Little~~ To be detailed by (Named or detailed. RP 106.)	KPER (Unit.)

WAITING MEMBER.

Lt (Rank.)	To be detailed by (Named or detailed, if any. RP 106.)	RCR (Unit.)

JUDGE-ADVOCATE.

(Rank.)	(Must be named, if any. RP 106.)	(Unit.)

On Active Service in the Fd

in ITALY (Country.)

Date 7 Oct 44

(Signed personally. RP 105 fn 2.)

Brigadier (Rank.)

(J. A. CALDER)

Commanding 1 Canadian Infantry Brigade

Convening Officer.

CONVENING OFFR WILL INITIAL ALL DELETIONS AND ALTERATIONS

(See overleaf for notes and notes for use on trial.)

MEDICAL OFFICER'S CERTIFICATE
(KR (Can) para 577)

I certify that I have this morning examined No. H.103151

Rank. Pte. Name. GRIMM V.A. of 4th P.L.R.

and in my opinion he is fit/unfit to undergo trial by Court Martial.

Station. Hill
Date. 12th Aug 44

(Medical Officer)

Plea in Mitigation of Punishment.

A 103151 Pte Va Grimm

In my plea for the accused I have a number of points, very important points which I would like to bring to the attention of the court.

① I feel that if I had of been able to produce enough evidence I could have had the charge against the accused reduced. However this evidence could not be obtained

② The accused was in a forward area throughout the entirety of his absence. and was not apprehended but presented himself at Coy. H.Q. with equipment complete with weapon.

③ The accused has had considerable mental and physical strain to contend with in the last few months first his brother a member of the RCN. while undergoing training in Toronto he proceed to an amusement park and while ride on one of the many rides got into an argument with a fellow passenger and was thrown from the ride consequently costing him his life. He has one other brother serving in the RCAF. This leaves his mother (who is suffering from a weak heart) a lot of home worries and then the death of one son and two serving overseas does not help matters any.

④ This man has served continuously with the RCR since the Batt. landed in Italy he has done an excellent job has been a good soldier and up until

this time has not shown any signs of weakness in the face of the enemy.

The accussed has a perfectly clean conduct sheet.

(6) I feel that the court should consider very strongly all the points brought out by the defence and that they shown as much lenicncy as is humanly possible.

S/L Shore W.

Denton Insp.

Summary of Evidence in the case of A103151 Pte GRIMM, V.A., The Royal Canadian Regiment, a soldier of the Canadian Army Overseas, placed on Active Service:

By direction of the Commanding Officer the evidence is taken on oath.

1st Witness for the Prosecution

P16467 CSM MacDonald, I.A., having been duly sworn, states:-
"I am CSM "A" Coy., The Royal Canadian Regiment. On 3 Sep 44 from information received, I checked on the presence of A103151 Pte Grimm, V.A. He was not present that afternoon nor on the following days until he reported to me in RICCIONE at approximately 0845 hrs, 7 Sep 44. I recognize Pte Grimm; he belongs to "A" Coy."

Signed I.A. MacDonald.

The accused declines to cross-examine.

2nd Witness for the Prosecution

A106665 A/Cpl Bain, J.E., having been duly sworn, states:-
"I am A/Cpl Bain, J.E., "A" Coy, The Royal Canadian Regiment. On 3 Sep 44, I was with "A" Coy (on that morning) before the attack on the cross road near RICCIONE. Before we moved forward our Platoon (9 Pl.) was in a house about 300 yards from the cross road. After we left the house, I noticed that my section had not followed. (I was then with "C" group) so I returned to the house. We were then under shell and MG fire. I found my section in the house and ordered them to follow me to the platoon position. A103151 Pte Grimm, V.A. was present when I gave this order, but when I got to about 200 yds from the house, I noticed that he was not there with the others of the section. This was at approximately 0830 hrs 3 Sep 44. He did not join my section afterwards. I recognize A103151 Pte Grimm, V.A.; he was in my section in 9 Pl., on 3 Sep 44."

Signed J.E. Bain.

The accused declines to cross-examine.

3rd Witness for the Prosecution

A3560 Sgt Gray, T.C., having been duly sworn, states:-
"I am A3560 Sgt Gray, T.C., of Pioneer Platoon, The Royal Canadian Regiment. On the morning of 3 Sep 44 at approximately 0800 hrs I was in a house approximately 300 yds from the cross road near RICCIONE where "A" Coy was participating in an attack. In this house there were men from "A" Coy. They moved forward from the house but about ten men stayed behind. A few minutes later a corporal came to the house and ordered this group to follow him to the Platoon position, in words to that effect. Most of them complied with this order. But I noticed there were four who stayed back. I was the only Sgt in the house at this time. I do not know these men personally nor the corporal and could not identify them."

Signed T.C. Gray, Sgt.

The accused declines to cross-examine.

Ex A Lawton Maj.

4th Witness for the Prosecution

A105960 Pte Blanche, H., having been duly sworn, states:-

"I am A105960 Pte Blanche, H., of the Royal Canadian Regiment. On the day "A" Coy was participating in an attack at a cross road near RICCIONE, before the attack I was in a house approximately 300 yards from the cross road. Sgt Gray T.C. of my Platoon was with me. There were also men from "A" Coy in the house. When they moved out to go forward there were 6 men or more who came back to the house. A corporal whom I cannot identify returned for them and in my presence ordered them to follow him. Some went out with him but three of them stayed behind. These were in the group that the corporal ordered to go out with him. The only Sgt in the house at the time was Sgt Gray T.C. The three men remained in the house for at least two hours after. I did know them nor could I identify them."

Signed Pte H. Blanche.

Question to the accused:-

"Do you wish to make any statement or to give evidence on oath? You are not obliged to say anything or give evidence unless you wish to do so, but anything you say or any evidence you give will be taken down in writing and may be given in evidence."

Answer by the accused:-

"I reserve my defence."

Signed Y.A. Grimm.

"I hereby certify that rule of procedure 4 (c)(d)(e)(f) and (g) has been complied with.

Taken down by me in the presence of the accused, this twenty-eighth day of September, 1944.

In the Field.

Signed A.E. Poirier, Lieut.
Officer detailed to take the
Summary of Evidence.

Ex. A
Statement

Summary of Evidence in the case of A103151 Pte. Simm, V.A., The Royal Canadian Regiment, a soldier of the Canadian Army Overseas, placed on active service.

By direction of the Commanding Officer the evidence is taken on oath.

1st Witness for the Prosecution

P16467 CSM MacDonald J.A., having been duly sworn, states:-

"I am CSM "A" Coy, The Royal Canadian Regiment. On 3 Sep 44 from information received I checked on the presence of A103151 Pte. Simm, V.A. He was not present that afternoon nor on the following days until he reported to me in Reccions at approximately 0845 hrs, 7 Sep 44. I recognize Pte. Simm; he belongs to "A" Coy. Signed [redacted]

The accused declines to cross-examine.

2nd Witness for the Prosecution

A106665 A/Cpl Bain, J.E., having been duly sworn, states: -

"I am A/Cpl. Bain, J.E. "A" Coy, The Royal Canadian Regiment. On 3 Sep 44 I was with

Ex A. [redacted]

2nd Witness for the Prosecution (continued)

"A" Coy (on that morning) before the attack on the cross road near Recione. Before we moved forward our platoon (9 Pl.) was in a house about 300 yards from the cross road. After we left the house I noticed that my section had not followed. (I was then with "O" group) so I returned to the house. We were then under shell and M/G fire. I found my section in the house and ordered them to follow me to the platoon position. A103151 Pte. Grimm V.A. was present when I gave this order, but when I got about 200 yards from the house I noticed he was not there with the others of the section. This was at approximately 0830 hrs 3 Sep 44. He did not join my section afterwards. I recognize A103151 Pte Grimm V.A.; he was in my section in 9 Pl. on 3 Sep 44.

Signed - J. Bain

The accused declines to cross-examine.

3rd Witness for the Prosecution

A3560 Sgt. Gray T.C., having been duly sworn, states,

"I am A3560 Sgt. Gray T.C. of Pioneer Platoon, The Royal Canadian Regiment. On the morning of 3 Sep 44 at approximately 0800 hrs I was in a house approximately 300 yards from the cross road near Reccione where "A" coy was participating in an attack. In this house there were men from "A" coy. They moved forward from the house but about ten men stayed behind. A few minutes later a corporal came to the house and ordered this group to follow him to the Platoon position, in words to that effect. Most of them complied with this order. But I noticed there were four who stayed back. I was the only Sgt. in the house at this time. I do not know these men personally nor the corporal and could not identify them.

Signed: T.C. Gray Sgt.

The accused declines to cross-examine

Summary of Evidence in the case of A103151 Pte. Grimm, V.A., The Royal Canadian Regiment, a soldier of the Canadian Army Overseas, placed on active service.

By direction of the Commanding Officer the evidence is taken on oath.

1st Witness for the Prosecution

P16467 CSM MacDonald J.A., having been duly sworn, states:-

"I am CSM "A" Coy, The Royal Canadian Regiment. On 3 Sep 44 from information received I checked on the presence of A103151 Pte. Grimm, V.A. He was not present that afternoon nor on the following days until he reported to me in Reccions at approximately 0845 hrs, 7 Sep 44. I recognize Pte. Grimm; he belongs to "A" Coy". Signed [redacted]

The accused declines to cross-examine.

2nd Witness for the Prosecution

A106665 A/Cpl Bain, J.E., having been duly sworn, states: -

"I am A/Cpl. Bain, J.E. "A" Coy, The Royal Canadian Regiment. On 3 Sep 44 I was with

Ex A. [redacted]

(5)

Question to the accused:—
"Do you wish to make any statement or to give evidence on oath? You are not obliged to say anything or give evidence unless you wish to do so but anything you say or any evidence you give, will be taken down in writing and may be given in evidence."

Answer by the accused:—
"I reserve my defence."
Signed: V.A. Simm

I hereby certify that Rule of Procedure 46(c),(d), (e)(f) and (g) has been complied with.

Taken down by me in the presence of the accused, this twenty eight day of September, 1944. On the Field

Signed: A.A. Poirier, Lieut.
Officer detailed to take the Summary of Evidence.

Ex A
Statutory Dec

ARMY FORM B.296.

Statement as to Character and Particulars of Service of Accused.

Number.	*Rank.*	*Name.*	*Regiment (or as the case may be).*
A103151	Private	ORLIK, Vincent Anthony	R.C.A.

1. The following is a fair and true summary of the entries in the regimental and squadron, battery or company Field conduct sheets† of the accused, exclusive of convictions by a court martial or a civil court, of summary awards under section 47 of the Army Act, and of cases in which trial has been dispensed with :—

NOTE.—At a trial by field general court martial this summary may be compiled from the field conduct sheet.

The conduct sheet(s) mentioned should be produced in court with this statement but not entered in the proceedings.

† See para. 427, K.R., 1940.

* The summary below should be compared with the conduct sheet or sheets in the first place, and in any case where any entry in the latter sheet(s) appears to be omitted from the former, and to any unexplained apparent error or discrepancy, the attention of the commanding officer should be called.

INSTRUCTION.—If the sheet(s) of the accused bear the entries for drunkenness, they should be stated separately and in detail.

	* Within last 12 months.	*Since Enlistment.
For	NIL times	NIL times.
For	times	times.
For	times	times.
For	times	times.
For	times	times.

Number of instances of gallantry or distinguished conduct, *or*

There are no entries in the conduct sheets of the accused. NIL.

2. The accused has not been previously convicted, *or*

The previous convictions of the accused by a court martial or a civil court, summary awards under section 47 of the Army Act, and dispensations with trial under section 73 of the Army Act, are set out in the schedule annexed to this statement.

3. The accused is not under sentence at the present time, *or* The accused at the present time is under sentence for

4. The accused has been in confinement, awaiting trial on the present charges, for NIL days in civil custody, and 34 days in military custody, making a total of 34 days, of which NIL days were spent in hospital. as at 12 Oct 44

5. The present age of the accused according to his record of service / attestation paper is 29 yrs 15 days

6. The date of his enlistment / attestation specified in his record of service / attestation paper is 23 May 42

7. The service which the accused is allowed to reckon towards discharge or transfer to the reserve is 2 yrs 141 days

8. The accused is entitled to deferred pay or gratuity in respect of 2 yrs 141 days service.

9. The accused is entitled to reckon 2 yrs 141 days service for the purpose of determining his pension, etc.

10. The accused is in possession of, or entitled to, no military decoration or military award (*or* is in possession of *or* entitled to (*state any military decoration or reward*)). CVSM & Clasp.

11. (*If the accused is a* ~~non-commissioned officer.~~) The accused before he was made a warrant officer last held the regimental rank of

12. (*In the case of an officer.*) The accused holds in the army the rank of and for his regiment (*or corps or department*) the rank of dated

4*[illegible] W.L.[illegible] 120,000 8/41 A.A.S.W.,Ltd. Gp.468

Ex. B.
Adjutant Major

Schedule of Convictions by a Court Martial or Civil Court, of summary awards under Section 47 of the Army Act and of cases in which trial has been dispensed with of accused.

No. A1031151 Rank Pte Name CRIER, V.A. of R.C. Regiment (or as the case may be).

(INSTRUCTION—A verbatim extract from the regimental books, stating these convictions and dispensations with trial, must be inserted.)

Description of court by which tried, or status of officer disposing of the charge or dispensing with trial	Date and place of trial, or summary award under A.A. 47, or of order dispensing with trial	Charges upon which convicted, or in respect of which trial was dispensed with	Sentence of the court or authority disposing of the charge, or order of the dispensing authority	Punishment remitted
		NIL		

I HEREBY CERTIFY that the foregoing schedule of convictions and dispensations with trial is a true extract from the regimental books in my custody.

Signed this 14th day of Sept 1944

(S.H. Shuter) Capt.
Adjt., RCR.

13. The accused has served as a non-commissioned officer continuously, without reduction, to the present date.

In the rank of ..... years .....
Date of Promotion .....

In the rank of ..... years .....
Date of Promotion .....

In the rank of ..... years .....
Date of Promotion .....

(INSTRUCTION—*If any matter in any of the above paragraphs cannot be stated from the regimental books the paragraph must be struck through, except that in the case of a trial by field general court-martial the information may be collected from such sources as are available and the paragraphs concerned amended accordingly.*)

No A103152 Name GRIMM, V.A. Sqn, Battery, or Company B Corps Perth Regt Date of enlistment 23-5-42 GC Badges Service or Proficiency Pay N/A MFM 6 (AFB 122) 40/P&S/150 (3630)

Date of last entry in Company Conduct Sheet 19-8-42 No and date of last drunk NIL Period not reckoning towards freedom from extra fine N/A Sheet No 2 Signature OC Company, etc Character

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order directing trial	By whom awarded	Remarks
				Sheet destroyed 23 Nov 42 Signed P.J.F. Baker, Capt. I certify that this is a true copy of the original document held in my custody, E.H. Shuter Capt. (E.H. Shuter) Adjutant The Royal Canadian Regiment.					

Ex. C.
Shuter Major

O. H. M. S.

46-111

Cpl. Grindon J.

M. F. B. 270

RECEIVED AT GMHQ IN AS 160 40-111

FIELD GENERAL COURT-MARTIAL

CP 496 (To top of AFMS 40-P-8/1698 16/44)

4/385

Convened by Order of Maj Gen. H.W. Foster Comd 4 Can Armd Div dated 19 Sep 44

ACCUSED.

(As to the trial of two or more charged jointly see RP 16, 71, 109. As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

Number.	(a) Prmnt R. (b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
D81770	Cpl (a) Acting Sjt (b)	Gordon		8 Can Armd Regt (1 Can Armd Bde)

PROCEEDINGS REVIEWED IN THE JUDGE ADVOCATE GENERAL'S BRANCH C.M.H.Q.

PROCEEDINGS OF TRIAL.

Held in the Fd in (country) Belgium on (date(s)) 21 Sep 44

RECORD FORM A—OPENING PROCEEDINGS AND ARRAIGNMENT.

A1. The President, Members, waiting Member, JA, if any, and Offrs under instr, if any, assemble, and the Court is closed.

(PRINTED MATTER, NOT IN ITALICS FOR GUIDANCE, WILL BE DELETED, IF NOT USED OR APPLICABLE, AND INITIALLED BY PRES OR JA. The Schedule referred to throughout is on p 4. Citations do NOT include all relevant fmn ROs. For guidance on procedure when a variation in this form arises, see form for GCM in MML pp 741 to 759. A brief record of such variation will be made and given a number having reference to appropriate or preceding para number herein. See back of Convening Order, CF 49A, for oaths and instrs on how to record addresses, evidence, etc, which instrs are hereafter called "Notes". As to general provisions for conducting the trial see AA 53, RP 56, 63-70, 73, 74, 94, 102, 119, 132.)

A2. The President initials and lays before the Court the Convening Order and Charge Sheet(s) attached thereto.(1) The Court is satisfied that it is properly convened and constituted(2), accused is ~~were~~ amenable to military law, and each charge discloses an offence.(3)

(1. As to use of Summary of Evidence see RP 17 fn 6. 2. AA 49, 50, RP 105-107. 3. RP 11-13, 23, 24.)

A3. The Court is opened. The accused is ~~were~~ brought before the Court. At 1430 hours trial commences.

A4. The Prosecutor produces a Medical Certificate that accused is (~~are~~) fit to undergo trial by court-martial.(1) ~~The Prosecutor informs the Court that accused elected to be tried by court-martial instead of being dealt with summarily by the CO.~~(2)

(1. KR Can 557. 2. AA 46(2), RP 60 fn 1. For effect see KR Can 563(c). Delete, if not applicable.

A5. President to accused: ~~Do you object to an interpreter?~~ Ans ~~—~~

~~The Interpreter is sworn.(1) Do you object to a shorthand writer? Ans —~~

~~The shorthand writer is sworn.(1)~~

(1. RP 72. Delete, if none employed.)

A6. The Convening Order and names of the President and Members of the Court are read to the accused.(1) President to accused: Do you object to be tried by me as President or by any of the Members of the Court? Ans No.(2)

(1. RP 110. 2. If no objection, waiting member retires. RP 56(B). If objection, see procedure AA 51, RP 25, 71, 78, MML p 742.)

A7. The President, Members, JA, if any, and Offrs under instr, if any, are sworn.(1) The following are the ranks, names and units of the offrs comprising the Court, etc:

President	Maj	H.K. Stockton	G.S.O.1 C.
Member	Capt	F.O. Stevens	28 C.A.R.
Member	Lt	J.P. Guinard	8 Can Armd Regt
Judge-Advocate	Capt	J.H. Lawson	JAG 4 Can Armd Div
Prosecutor	Lt	R.L. Ellis	22 C.A.R.
Defending Offr	Capt	R.L. de Hart	4 C.A.O.

Questions by President: Is the Prosecutor a lawyer? Ans Yes. Is the Defending Offr a lawyer? Ans No.(2)

(1. RP 26, 27, 109, 111. List of offrs under instr will be returned separately with proceedings for information of Conv Offr.)
(2. If Pros a lawyer and Def Offr not, accused is entitled to an adjournment when RP 89 (b) and fn 2 were not followed. See Div p 32.)

A8. The accused ~~—~~ before arraignment make(s) (no) ~~—~~ plea.(1)

(1. If a special plea is made for separate trial on one or more charges (RP 62(E), (G)), or as to the jurisdiction of the Court (RP 94, 95(A), 113), or in bar of trial (RP 96), or as to accused's mental fitness to stand trial (AA 130, RP 37), or by one of several accused charged jointly to be tried separately (RP 16, 71), such plea, the submissions made in support or against, the evidence, if any, and finding are recorded per Notes. For forms of record see references in fns to RP cited. Insert in AB rank and name of the accused making the plea.)

A9. The accused is (~~not~~ arraigned (~~separately~~) on all charges in the charge sheet.(1) The accused does (~~not~~) not object to any charge.(2) There is no amendment to be made to the Charge Sheet.(3) The President records the pleas in Part I of the Schedule.

(1. RP 31, 112. See para 1 of Instrs p 2. Where more than one Charge Sheet see RP 62; where several accused to be tried separately see RP 71(C), and use separate copies of CF 496 to record proceedings. 2. RP 32, RP 33. If otherwise, delete and make appropriate record per Notes.)

A10. The Court (is closed and) considers the Instrs on Procedure after Arraignment at top of p 2. The proceedings are continued on Record Form D.

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

SCHEDULE.

PART I. PLEA(S), FINDING(S) AND SENTENCE.

Accused: D81770 Cpl Gordon J 8 Can Armd Regt

Charge. (Insert "alternative" where applicable.)	Plea. (See Instrs p 2.)	Finding. (See note below.)	(Space for use as required for further charges, accused charged jointly, special findings, etc.)
1st	Not guilty	Guilty	
2nd	Not guilty	Guilty	
3rd	Not guilty	Guilty	
4th			
5th			
6th			

(Note: As to findings for lesser offences see AA 56, RP 44; findings on alternative charges see MML p 483 fn 4 para 2, RP 44; special findings see RP 44 and MML p 753, and in lieu of kit see RP 44 fn 6.)

At present under sentence for ~~—~~ beginning on ~~—~~

(1. Insert sentence being served, or delete, if not applicable. See RP 46(A). Information should be found on MF B355 or AF B296.)

Time in confinement awaiting present trial—a total of 6 days, of which 0 days were spent in hospital.(1)

(1. See RP 46(A) fn 2. Information should be found on MF B355 or AF B296 admitted in evidence under 12.)

Sentence Awarded by the Court: To undergo detention for 90 days and to be reduced to the ranks.

(Sgd) H.K. Stockton Maj 21 Sep 44 (Sgd) H.W. Foster Maj-Gen

Judge-Advocate, if any. Date awarded. President. (RP 45, 50.)

(See back of Convening Order as to assembly and disposal of record after trial.)

PART II. MINUTE WHERE CONFIRMATION RESERVED. (AA 54(5), RP 120(F), MML p 760.)

"The Deputy Judge Advocate General, Cdn Sec GHQ 1 Ech 21 A Gp, having advised that the conviction on the first charge in these proceedings is invalid and involves substantial injustice to the accused, I hereby direct that the record of such conviction be and the same is hereby removed and the accused relieved from all consequences of his trial thereon".

(H.W. Foster) Maj-Gen
GOC 4 Cdn Armd Div

Date 21 Nov 44

Confirmed.

I direct that the accused be not committed to prison or detention barracks until further orders.(1)

(1. AA 57A. Delete if not used.)

(Sgd) H.W. Foster Maj Gen.

Date 25 Sep 44 Commanding 4 Cdn Armd Division
Confirming Officer.

PART IV. PROMULGATED AND EXTRACTS TAKEN. (RP 53, KR Can 576, 577.)

Accused.	Date.	Signature of Offr.
D81770 Cpl Gordon J	25 Sep 44	J.P. Stewart Capt.

Minute of promulgation 15 Dec 44

ALL DELETIONS AND ALTERATIONS WILL BE INITIALLED.

Illegalities or irregularities such as invalid warrant withholding confirmation.

INSTRUCTIONS ON PROCEDURE AFTER ARRAIGNMENT.

1. *The accused may not plead or be found Guilty on more than one of two or more charges laid in the alternative.* (*RP* 37(*A*).) *As to withdrawal of alternative charges by Prosecutor see RP* 35(*C*). *No other charge can be withdrawn for any reason without authy from Convening Offr. If Convening Offr concurs, Court may accept plea of Guilty to lesser, etc, offence.* (*RP* 44(*H*).) *Accused may change a plea of Not Guilty to Guilty during trial.* (*RP* 38.) *As to refusing to plead or not pleading intelligibly see RP* 35(*A*). *As to plea when sentence may be death see RP* 35(*D*).

2. *The proceedings on each charge sheet* (*RP* 62) *after arraignment will be conducted as follows in the respective circumstances stated :*

I. If pleas to all charges are GUILTY, use Record Form B below.

II. If pleas to all charges are NOT GUILTY, use Record Form D on p 3.

III. If pleas to some charges are GUILTY and to other charges are NOT GUILTY and,

(a) Such mixed pleas occur when there are no alternative charges in the Charge Sheet, use Record Form C below. (*RP* 37(*A*).)

(b) Such mixed pleas occur in a set of two or more charges laid in the alternative, see RP 37 (*A*) *and fn* 2 *as to discretion of Court,* (i) *to try the accused on all such alternative charges as if he had pleaded Not Guilty thereto, or,* (ii) *to record the pleas as the findings of Court. After deciding between* (i) *and* (ii), *Court will proceed under foregoing instrs as may be appropriate to result of its decision. See M M L p 744 Instrs* (2).

3. *As to responsibility of President to accused see RP* 59, 60(*C*) ; *powers and duties of JA see RP* 103 ; *duty of Prosecutor see RP* 60(*A*) (*B*) ; *duty and privileges of accused and Defending Offr see RP* 60(*C*), 87(*C*), 91, 92 ; *swearing and withdrawal of witnesses from Court see RP* 81, 82 ; *questioning of accused see RP* 80, 87(*C*), 92(*B*), *and of witnesses see RP* 83-85 ; *calling or re-calling of witnesses by Court, etc, see RP* 75-79, 86, 116 ; *use of Summary of Evidence at Trial see RP* 17(*E*) *fn* 6 ; *and responsibility of JA or Pres to record proceedings see RP* 94, 96.

RECORD FORM B—PROCEEDINGS ON PLEAS OF GUILTY TO ALL CHARGES.

B1. The President or JA, if any, complies with RP 35(B) by explaining to the accused the nature and meaning of the charge(s)(1), and that on his plea of Guilty there will be no regular trial but merely a consideration of the of the sentence to be awarded after he has been given an opportunity to make a statement in reference to the charge(s), call witnesses as to character and make an address in mitigation of punishment.(2)
(1. *RP* 35 *fn* 3. 2. *MML p* 54 *para* 47.)

B2. President to accused : The Court will now receive any statement you desire to make in reference to the charge(s).(1) If it appears from your statement that there are circumstances which indicate that you do not understand the effect of the plea of Guilty(2), or which show provocation or extenuation in respect of which in your interest the witnesses for the Prosecution should be examined(3), we shall advise you to change your plea to Not Guilty. In making a statement you will not be sworn or subject to cross-examination ; and anything you say will not be used in evidence against you after you change your plea. If, however, it appears to the Court that your statement affects only the amount of punishment to which you are liable, you will not be advised to change your plea and you will be given an opportunity later to prove your statement by sworn testimony, if you so desire.(4)

President to accused : Do you wish to make a statement ? Ans .....(5)
(1. *RP* 37(*B*). 2. *RP* 37(*D*) *fn* 6. 3. *RP* 35(*B*) *fn* 5 *para* 3, *MML p* 54 *para* 47. 4. *See para* E3 *of Record Form E.* 5. *Statement, if any, recorded per Notes.*)

B3. The Court considers the accused's statement.(1) The Court decides (not) to advise accused to change his (their) plea(s) of Guilty to Not Guilty on ..... charge(s). The accused is (are) so informed, and he (they) change(s) his (their) plea(s) on ..... charge(s). Part I of the Schedule is amended accordingly.
(1. *Court may be closed to consider the statement. Delete whole or part not used.*)

B4. On the charge(s) to which the plea(s) of Guilty is (are) not changed the President records finding(s) of Guilty in Part I of the Schedule.(1)
(1. *RP* 35(*B*). *If any plea(s) is (are) changed, use Record Form C or D as appropriate.*)

B5. The Summary of Evidence is marked Ex ....., initialled and read aloud by the President.(1)
(1. *If there is no Summary, or if it is inadequate, comply with RP* 37(*B*). *If there is any evidence inconsistent with any plea standing as Guilty, Court will advise accused to change such plea and, if changed to Not Guilty, try such charge(s) by use of paras D1 to D8 inclusive of Record Form D on p* 3. *RP* 37(*D*).)

B6. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

RECORD FORM C—PROCEEDINGS ON MIXED PLEAS OF GUILTY AND NOT GUILTY.

C1. As to the charges on which accused pleaded NOT GUILTY the trial is continued by using paras D1 to D8 inclusive of Record Form D on p 3 before proceeding with C 2.(1)
(1. *RP* 37(*A*) (*E*).)

C2. The charges on which accused pleaded GUILTY are read to him (them) again, and the trial is continued by using paras B1 to B5 of Record Form B above.(1)
(1. *Under B5 such parts only of the Summary of Evidence are read as relate to the charges dealt with under C2. If any plea is changed to Not Guilty, trial thereon proceeds by complying with paras D1 to D8 inclusive in Record Form D on p 3 and making an appropriate record thereof on a separate sheet.*)

C3. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

The Army Lower Records of Record.

RECORD FORM D—PROCEEDINGS ON PLEAS OF NOT GUILTY TO ALL CHARGES.

D1. President to accused : Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity to prepare your defence ? Ans N o .....(1)
(1. *If "yes", see RP* 39(*A*) *for procedure. Statement or evidence, if any, is recorded per Notes.*)

D2. The Prosecutor makes (no) opening address.(1)
(1. *RP* 39(*B*), 60(*A*) (*B*), 90, 92(*C*) (*D*). *Record address per Notes, subject to RP* 95(*C*).)

D3. The evidence for the Prosecution is taken.(1)
(1. *RP* 39(*C*), 114, *KR Con* 555. *Record evidence per Notes. As to Prosecutor giving evidence himself see RP* 39(*D*) (*E*).)

D4. The Prosecution is closed.(1) The Defending Offr submits that the evidence for the Prosecution does not establish a prima facie case against the accused on the ..... charge(s).(2) The Court is closed, and considers the submission.(3) The Court is re-opened, and the President announces that the submission is disallowed on the ..... charge(s), and allowed on the ..... charge(s), and that, accordingly, the trial will proceed on the former, but the accused is (are) found Not Guilty on the latter charge(s).(4)
(1. *Delete remainder of this para, if submission not made.* 2. *Arguments on submission, answer and reply are recorded per Notes.* 3. *RP* 40 *fn* 1. *See MML p* 72 *paras* 12-14 *and p* 81 *para* 42. 4. *Delete part not used. If accused acquitted on all charges use second alternative in para D8.*)
NB : If trial proceeds, accused must be allowed great latitude in making his defence, and the Court should not stop his defence solely on ground of irrelevance. (*RP* 60(*C*), 114, 115.)

D5. President to accused : You will now proceed with your defence.(1) You may, if you wish, give evidence yourself on oath as to the facts or your character or both, in which case you will be subject to cross-examination.(2) You may, however, make a statement without being sworn, and you will not be subject to cross-examination.(3) But a statement which could have been made on oath will not carry with the Court the same weight as sworn testimony.(4) You may call witnesses in your defence and as to character, whether you give evidence or make a statement or do neither.

President to accused : Do you wish to give evidence yourself as a witness, make a statement, or do neither ?
Ans Yes I will give evidence on oath. Do you intend to call witnesses on your behalf ?
Ans Yes . Are they witnesses as to character only ? Ans No.
(1. *RP* 115. 2. *RP* 40(*A*), *see* 80(*D*). 3. *RP* 40 *fn* 10. 4. *RP* 40 *fns* 2, 9.)

D6. Consequent on the answers recorded in para D5 the appropriate procedure for the defence is followed.(1)
(1. *RP* 114, 115, 116. *For procedure see Notes on back of Convening Order. CF A95. Evidence for accused as to his character should, if in his interest, be given before the finding. See RP* 46(*A*) *fn* 1. *Box*(*C*). *Note the further opportunity in para E1 of Record Form E. Record per Notes addresses, statement, evidence and any summing up by the JA under RP* 42, 103(*e*).)

D7. The Court is closed to consider the finding(s).(1) The finding(s) of the Court ~~is~~ (are) recorded in Part I of the Schedule.(2) The Court is re-opened.
(1. *RP* 43, 117(*A*). *See Notes in Part I of Schedule.* 2. *RP* 44(*A*).)

D8. The President announces the finding(s), if any, of Not Guilty, and states to the accused that the finding(s) of the Court on the ..... charge(s), being subject to confirmation, will be promulgated later.(1)
Or The President announces that the accused is found Not Guilty on all charges and as to the sentence that the proceedings are accordingly terminated. Part I of the Schedule is dated and signed.(2)
(1. *AA* 54(*7*) (*b*), *RP* 45, 120(*A*). 2. *AA* 54(*3*); *RP* 45, 117. *This alternative announcement is not applicable when there are pleas of Guilty outstanding and dealt with under Record Form B or C.*)

D9. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E below.

RECORD FORM E—PROCEEDINGS ON CONVICTION BEFORE SENTENCE.

E1. President to accused : Do you wish to give evidence yourself or to call any witnesses as to your character ?(1)
Ans No .
(1. *If evidence has already been given by accused or his witnesses as to his character, delete this para. RP* 37(*C*) *fn* 4, 46 *fn* 1. *Accused and witnesses are sworn. Evidence recorded per Notes.*)

E2. The Prosecutor produces Statement(s) as to Character and Particulars of Service(1), and certified true copy (copies) of Conduct Sheet(s)(2), purporting to refer to the accused, which he submits to the Defending Offr for examination, and then to the Court for admission in evidence. The Court is satisfied that these documents refer to the accused, because (i) they purport to be signed in the manner required by AA 163(l) (g) (b), and (ii) they purport to refer to (a) soldier(s) having the same number, rank, name and corps as the accused. Admitted in evidence and marked Ex A and Ex B respectively.(3)
(1. *MFB* 355 *or AFB* 256. 2. *MFM* 6. 3. *RP* 46, *KR Con* 558. *If above documents not produced, see RP* 46 *fn* 1 *para* 1.)

E3. President to accused : Do you wish to address the Court on the Statement(s) and Conduct Sheet(s), and in mitigation of punishment ?(1) Ans No .(2)
(1. *RP* 37(*C*), 46(*D*). 2. *Address, if any, recorded per Notes. Court should permit accused or his witnesses to say on oath anything here or previously stated which would affect the amount of punishment. RP* 37(*F*) *fn* 7.)

E4. The President states that the Court is closed to consider the sentence, and that the sentence to be awarded the Court, being subject to confirmation, will not be announced, but will be promulgated later, and the proceedings in open court are accordingly terminated.(1)
(1. *AA* 54(*6*), *RP* 120(*A*).)

E5. The Court considers the sentence.(1) The President records the sentence in Part I of the Schedule, which ted and signed by him and the J.A., if any.(2)
(1. *When several accused tried separately see RP* 71 (*D*). *One sentence only, comprised of the punishment or punishments laid down in AA* 41, 44 *and its proviso, is to be awarded to cover all charges on all charge sheets on which accused found guilty. RP* 48. *As to sentences see AA* 44, 128, 182, *RP* 46-50, 69, 118, 119(*A*), *KR Con* 308, 330, 563-566. *Overseas AO* 309, 2323, *MML p* 60, 757-759. *As to sentences assigned for civil offences by the law of England see AA* 41(5), *MML p* 130. *When accused already under sentence of imprisonment or detention see AA* 44(*IB*), 68(*1*), *KR Con* 564. 2. *RP* 50. *As to release from arrest by Confirming Offr see KR Con* 567. *As to assembly and disposal of record after trial see Instrs on back of Convening Order.*)

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

CHARGE SHEET

The accused D-81770 Cpl. John Grindon, 8 Cdn Pro Coy, Cdn Pro Corps, a soldier of the Canadian Army Overseas, is charged with:

First Charge
Sec 8 (2)
Army Act

WHEN ON ACTIVE SERVICE USING VIOLENCE TO HIS SUPERIOR OFFICER

in that he in the field at approx 2200 hrs 14 Sept 44 used violence to A-66195 Sgt. Piroski, N., 8 Cdn Pro Coy, by grasping him by the chest and struggling

Second Charge
Sec 10 (3)
Army Act

WHEN ON ACTIVE SERVICE RESISTING AN ESCORT WHOSE DUTY IT WAS TO HAVE HIM IN CHARGE

in that he in the field at approx 2202 hrs 14 Sept 44, while under escort of the s/m Sergeant in the first charge, resisted the escort by struggling.

Third Charge
Sec 8 (2)
Army Act

WHEN ON ACTIVE SERVICE USING INSUBORDINATE LANGUAGE TO HIS SUPERIOR OFFICER

in that he in the field at approx 2300 hrs 14 Sept 44 used the following insubordinate language to the s/m Sergeant in the first charge, "Fuck you, you son of a bitch, you and all the no good bastards here" or words to that effect

In the field
19 Sep 44

J.P. Stewart Capt.
Officer Commanding
8 Cdn Pro Coy
Cdn Pro Corps

I to be tried by Field General Court Martial

In the field
20 Sep 44

O.C. 8 Cdn Pro Coy

Exhibit 1

FIELD GENERAL COURT-MARTIAL

CFA(2). (In lieu of AFA(2) (c) FA8/1697 (2663))

(Whether the accused to be tried is under his comd or not, a FGCM may on application to him be convened by any offr of Cdn Army Overseas, or of any other force if authorized in law, in immediate comd of troops on active service, subject to RP 105(C) and restrictions imposed by appropriate authy. AA 49, 50, RP 104-107, 114. As to the duties and privileges of the Convening Offr in dealing with the application see MML Chap V paras 20 and 22, RP 87(B).

There should be a separate Convening Order for each person to be tried separately by the same Court. RP 71(C), 109. As to separate charge sheets see RP 62, and as to separate trial on charges in the same charge sheet see RP 108. As to two or more accused charged jointly see RP 16, 109.

As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

ACCUSED.

Number.	(a) Prmnt R. (b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
D-81770	Cpl	John	GRINDON	S Cdn Pro Coy, Cdn Pro Corps

CONVENING ORDER.

1. Whereas complaint has been made to me, the undersigned, that the person~~s~~ named above as the accused, being subject to military law, has (~~have~~) committed the offence~~s~~ set forth in the Charge Sheet(~~s~~) attached and on (date) 20 Sep 44 endorsed by me, (~~as by an offr of my staff for me~~). To be tried by Field General Court-Martial ".

2. And whereas I am of opinion that it is not practicable that such offence~~s~~ should be tried by an ordinary General Court-Martial; (~~and that it is not practicable to delay the trial for reference to a superior qualified offr.~~)

(Delete part in brackets when not required for compliance with RP 105(C).)

3. I hereby convene a Field General Court-Martial to try the said person(~~s~~), and to consist of the Offrs appointed or detailed hereunder.

4. I ~~am unable to appoint (a) three Offrs to form the Court, (b) a Fd Offr as President, for the reasons I have attached hereto~~.

(AA 49, RP 106(B), 107(A). Delete the whole or part, if not applicable.)

5. I also appoint as Judge-Advocate thereat the Offr mentioned hereunder.

(RP 106(E). Delete, if none appointed.)

PRESIDENT.

Major (Rank.)	W. K. Stockloser (Must be named. RP 106.)	A & Sh of C	(Unit.)

MEMBERS.

Captain	J. O. Stevens	28 CAR	
Lieut. (Rank.)	J. P. Gemmell (Named or detailed. RP 106.)	8 Cdn LAA Regt RCA	(Unit.)

WAITING MEMBER.

Lieut. (Rank.)	E. G. Phillips (Named or detailed, if any. RP 106.)	HQ Sqn 4 Cdn Armd Div	(Unit.)

JUDGE-ADVOCATE.

Captain (Rank.)	H.A. Hanson (Must be named, if any. RP 106.)	HQ 4 Cdn Armd Div	(Unit.)

On Active Service in the Fd

in BELGIUM (Country.)

Date 20 Sep 44

H F Todd (Signed personally. RP 105 fn 2.)

Maj. Gen. (Rank.)

Commanding GOC 4 Cdn Armd Div. Convening Officer.

CONVENING OFFR WILL INITIAL ALL DELETIONS AND ALTERATIONS

(See overleaf for oaths and notes for use on trial.)

W5.

MEDICAL OFFICER'S CERTIFICATE

I certify that I have this morning examined

No. D-81770 Cpl. John Grindon

of 6 Cdn Pro Coy, Cdn Pro Corps, Cdn Army Overseas

and in my opinion he is fit ~~unfit~~ to undergo trial by Court - Martial.

Station: In the Field

Date 21/9/44

J. S. Mussallem Capt.
Medical Officer

IW
Pris

468195 Sgt Pirooski N. S Co.
Pro Coy Co. Pro Corps Scrm
Det. IV Sqn. VV the accused
K/Cpl Yeamon and myself left
a Cage in Postcamp at approx
2200 hrs. I Det the way to
camp the accused kept
constantly asking me to allow
him to return to the cage because
he wanted to smoke the plane.
I told him that was
impossible and ordered him
to come along. At which he
grabbed me by the chest
saying "you are nothing but
one of the Os Bastards" I'll
shot you," this reaching for
his pistol. I then placed
him under close arrest and
duly warned him. He then
agreed to come along with
K/Cpl Yeamon and myself
who were his escorts. He
started struggling with me
and bit my hand. I then
placed handcuffs on him,
fingers a jag and took him
to the Det Hq. On arriving
at same Hq the O.C. Capt
Gudon was summoned and
in Capt Gudon's presence the
accused was perfore heard
saying "Fuck you and the
the goes Bastards around
here" The accused was
then sent to his bed and
was checked during the evening.

The first struggle was caused by refusing to allow him to return to the cafe. This was just a few minutes after 12 o'clock.

The second struggle after being handcuffed they could not do much.

K. Exam.

I had been in the cafe earlier in the evening. I went in the second time to check because I was responsible for discipline. The doorway was open and I saw a disturbance. The reason for the disturbance was 7 Engrs. who were causing trouble.

I had a drink the first time but did not drink any the second round. I bought a round however. But don't remember how many I bought. I don't drink much myself.

I drank beer on the first occasion.

When Cpl Grinder was leaving the cafe he was not talking very loudly. He looked normal. I did not see him drinking heavily but I saw him drinking. I bought him a drink the second time. When he walked out he walked steadily.

I would let the accused drive a car in the condition he was.

It was a dark night.

I ordered him not to go back to the cafe but did not touch him.

Hanson owned 6 mos. How got me mixed with him. How borrowed money from him. At the time of the incident he owed him 500 francs.

(The ~~Examiner~~ was ~~correct~~ advised as to rights as a witness)

The money is now in the hands of the ~~C.C.~~ O.C. to be returned to the accused.

The accused grabbed me by the chest (indicating) and pulled me towards him. At the time his back was facing the cafe at the time.

Re Exam. The time of money did not come up during the struggle. He did not see the money that evening. I believe he did say something about the money when the O.C. came. I don't know whether I replied or not.

RP 1 3 181 complied with.

2W
Pts.

Capt L Gordon Sh. Lan 4
Cas Sent Des Sous.

At appox 1300 hrs 18 Sept
44 was the return of
Sous Des 44. I was O.O.
and heard the sounds of
loud arguments. I walked
thro Room the sound.
Sgt Pinski and a Pro. Cpl
engaged in an argument.
The other parties was
unknown. Profane language
was used but I don't know
by whom.

I heard the sounds
was made that night.
Sgt Pinski told me
the cause of the argument
and the assault subsequently
began on his person.

I directed the accused
to go in the guard room.

There was also an
argument concerning a pistol
also a public argument
I have possession of the pistol.

The accused was very
respectful, to me. The
Pro was profane language
to the Sgt on several occasions.
My impression was that
the accused had been
drinking.

L Cpl Ham: The disturbance sounded like a drunken bunch between two Tps. I could not see clearly.

Sgt Pinski appears to be rather excitable. He was talking in a rather loud voice.

I thought that I was about to separate and that thing settles it for morning.

I think that Sgt was trying to do his duty. But I do feel that his being there was aggravating the accused.

Lt Ruxton.

RP & 3 Bs complied with.

Sec Pros.

B/9850 L/Cpl Goodman D 5 Cdn Pro. Coy Can Pro Corps sworn.

At approx 2300 hrs on 14 Sept the accused & I left a cafe with Sgt Pinski. After we left Cpl Goodman wanted to return. The Sgt refused & let him do so. An argument started and the accused grabbed the Sgt to get by & got back and the Sgt pulled him under close arrest. The accused did a lot of swearing.

After the arrest was
placed under close arrest.
There was a short struggle.
The Sgt put an arm
lock on him & the accused
said he would come along
to the barracks.

We went along the Sgt
& Cpl started another tussle
The Sgt got the accused
in hand & took him as a
jnp to our billets.
I got out of the jnp
and went to my quarters.

Cross Exam.

While in Cpl Pinsky
had some drinks with us.
He drank something on
the second occasion.
The first time he had
2 drinks same kind of
spirits. The second time
he had one I know for
sure.

There was one candle
— at the bar. It was a
dark night The accused
grabbed the Sgt about 10 minutes
after we left the Cpl. I
did not actually see him
grab the Sgt. But I saw him
holding the Sgt's tunic.
The Sgt could possibly have
grabbed the accused by the
arm.

The accused & I had been in the cafe since 1500 hrs. and had spent about 2000 Belg francs. I did not think the prices excessive. The accused had drunk a considerable quantity of spirits & beer.

The accused had been drinking more than was good for him but I could not say he was drunk.

There had been no argument before Sgt Piroski came in. After Sgt Piroski came in there was 7 Ergs as I did not want to leave the cafe. I had also Ergs thirst to drink the glass.

Re-exam

Sgt Piroski could handle the accused after he went without me. The Sgt bought a drink the second time and he had it but I did not actually see him drink it.

Exam:

When the accused had his hand on the Sgt's sleeve the Sgt was near the cafe.

RP 69 Bl complied with

Defense

D 8179/0 Cpl Glindon J. 8 Cav
Pro Coy 4th Pro Corps.

Sworn:

I/cpl Yeoman. I went to Restaurant after duty - and visited a cafe. We were there roughly at about 1800 hrs. We had some sort of spirits to start with with a mixture of beer till the beer came and the cognac we drank beer & cognac mostly for the whole evening. The Sgt had picked us up on the way down to the cafe. and on entering asked who was going to set up the drinks. I said I think you should you have money, you borrowed 400 francs. He replied it was good & he had 600 francs Yeoman. A round was bought and a short time later the Sgt left. We continued drinking the whole evening.

I don't remember helping to put anyone out.

The cafe was closed & we continued drinking. I don't know how long for had. I don't recall being noisy in there. The Sgt had returned to the cafe had closed.

in by the cafe. On the way I thought I heard the Engrs returning to the cafe. I was after for one of the girls there. I attempted to go back. The Sgt said come on home. I told him I was going back & find what the score was. He got in my way and I undertook to step him out of the way so he could pass by. He made a grab at me and put one arm on me. There we were grappled with the help of a Cpl Yeoman. and plenty of hard knocks on me. I asked him to release the handcuffs as they were hurting. He refused. I got angry.

They took me along somewhere stopped a jeep and took me to the main dressing station. The next was kind of confusing. I don't know who was who and what was what. One officer came up whom I knew to be Capt Gordon. The I don't know anything about a pistol. He told one Sgt to get and step it off.

Lt Evans. The Sgt came up to the bar the second time and was drinking with us. I did not hear the Engrs threaten to wreck the place.

10.

I smell him most obnoxious
language but don't say I
did.

Pl Re Exam.

RP 55 1B, complied with.

Sw Capt J. C. Riddiford. Reserve.

Def 18 Lt. RS. Amb. Surrey.

Am the morning of 15 Sept
at 1230 hrs 1300 hrs I saw the
accused. I am under the
impression he had been
drinking. I smelt smell
alcohol. He appears flushed
and excited.

RP 63 B, complied with.

Def Examination Closes.

Defence:
Shown pretty well that accused had been drinking cases & under influence
Sgt entered Cafe about 2200. Arrived back at camp about 2330
Anything he may have done it might have been done while drunk
No proof as to who struck first blow.
Sgt may have had a grievance.
Language pretty heavy on both sides.
Liquor responsible for actions.

Prosecution:
Accused realized they were R.C.C
respectful to Capt Gordon as recognized his officer.
Remembered several instances quite clearly but nothing about
the pistol
~~Cpl Brown stood armour~~

fg.

1. The matters of law depend to the Court.

2. Burden of reasonable doubt explains.

3. Court advises that story must imply the incidence of such nature causing to the sickness and drunkenness.

4. Fact summed up briefly.

5. Degrees of drunkenness and the matter of promote explains.

W3 MFM 6

No D61770 Name GRINDON J | Sqn, Battery, or Company | Corps CDN PRO CORPS | Date of enlistment 10 Oct 39 | RC Badges | Service or Proficiency Pay | Character

Date of last entry in Company Conduct Sheet | No and date of last drunk | Period not reckoning towards freedom from extra fine | Sheet No | Signature OC Company, etc Sgd(J. Tweddle)Lieut.

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
				Previous sheet destroyed 14 Jul 42 under CAORO 2084					
London	14 Aug 42	Cpl		WOAS Conduct to the prejudice of good order and military discipline in that he did brawl and use obscene language AA Sec 40	Documentary	Severely reprimanded	20 Aug 42	Capt ME Byers	
Field	Awarded Cdn Volunteer Service medal and Clasp wef 16May44	Cpl		Did not shave for Coy Parade Coy	15 Jan 44 DO # 25 d/31 Jan 44 Standing Orders Sec 11 AA	Admonished	16 May 44	(Capt JP STEWART)	
Field	11 Sep 44	Cpl		WOAS Conduct to the prejudice of good order and Military discipline, in that he did behave in a disorderly manner.	Cpl Baskerville L/Cpl White	Severely reprimanded	13 Sep 44	(JP Stewart) Capt	

CERTIFIED TRUE COPY FROM THE REGIMENTAL BOOKS IN MY CUSTODY

Officer I/c Regimental Books

(P700)

ARMY FORM B.296 (WAR)

Statement as to Character and Particulars of Service of Accused.

(For Use at Trials by Field General Courts-Martial only).

Number.	*Rank.*	*Name.*	*Regiment (or as the case may be).*
D-61770	Cpl.	John Grindon	8 Cdn Pro Coy, Cdn Pro Corps

NOTE.—The Field Conduct Sheet is to be produced in Court with this statement but is not to be annexed to the proceedings. The numbers herein stated should correspond with the number of Entries in the Field Conduct Sheet, prominence being given to the most serious offence in each entry. If the charge is for drunkenness or absence without leave, the entries for drunkenness or absence, as the case may be, should be stated separately. Any recognized special acts of gallantry or distinguished conduct recorded on the Field Conduct Sheet should also be inserted here.

1. The following is a fair and true summary of the entries in the Field Conduct Sheet of the accused, exclusive of convictions by a court martial or a civil court :—

For Disorderly Conduct — 2 times.

For Failing to shave — 1 time.

For ---------- — ---- times.

For ---------- — ---- times.

Date of first entry in Field Conduct Sheet 14 Aug 42

Date of last entry in Field Conduct Sheet 11 Sept 44

2. Previous convictions of the accused by a court martial or a civil court are set out in the Schedule overleaf.

*3. XXXX

SCHEDULE OF CONVICTIONS BY A COURT-MARTIAL OR CIVIL COURT.

Description of Court by which tried.	Date and Place of Trial.	Charges upon which convicted.	Sentence of the Court.	Punishment remitted or sentence suspended.
nil	n/a	nil	n/a	n/a

I HEREBY CERTIFY that the foregoing particulars, which have been extracted from the regimental books in my custody, are correct to the best of my knowledge and belief.

Signed this 20th day of September, 1944

J.F. Stewart

(J.F. Stewart) Capt.
O.C. 8 Cdn Fro Coy

Summary of Evidence in the case of D-81770 Cpl. John Grindon, 8 Cdn Pro Coy, Canadian Army Overseas charged with:

(1) W.O.A.S. using violence to his superior officer in that he, in the field, at approx 2200 hrs, on 14 Sept 44, used violence to A-68195 Sgt. Piroski, N., 8 Cdn Pro Coy by grasping him by the chest and struggling. - A.A. 8 (2).

(2) W.O.A.S. resisting an escort whose duty it was to take him in charge in that he, in the field, at approx 2202 hrs, 14 Sept 44, while under escort of the a/m Sergeant in the first charge, resisted the escort by struggling. - A.A. 10 (3).

(3) W.O.A.S. using insubordinate language to his superior officer, in that he, in the field, at approx 2300 hrs, 14 Sept 44, used the following insubordinate language to the a/m Sergeant in the first charge "Fuck you, you son of a bitch, you and all the other no good bastards here", or words to that effect. A.A. 8 (2).

The C.O. directs that the evidence be taken on oath.

First Witness

A-68195 Sgt. Piroski, N., of 8 Cdn Pro Coy, sworn, states:

I was on 14 Sept 44 and am still, Sergeant of 8 Cdn Pro Coy, Cdn Pro Corps. I am well acquainted with D-81770 Cpl. John Grindon, whom I recognize here as the accused, and who has been with the Coy off and on for the last six months. On the evening of 14 Sept 44 D-81770 Cpl. John Grindon was granted permission to proceed to Oostcamp. At approx 2120 hrs 14 Sept 44 I proceeded into Oostcamp on duty. On entering the town I noticed a doorway of a cafe open and sounds of a disturbance inside. Upon entering the cafe I saw Cpl. Grindon and L/Cpl. Yeoman engaged in clearing the cafe of approx seven Engineers who were creating a disturbance. I ordered the Engineers to leave the cafe who did so immediately. Cpl. Grindon was using threatening gestures to the daughter of the proprietress and said "I'd like to punch you in the fucking mouth." I then persuaded Cpl. Grindon and L/Cpl. Yeoman to leave the premises with me. The time was then approx 2200 hrs. En route tothe Unit lines Cpl. Grindon constantly demanded to be allowed to return to the cafe which he threatened to wreck. Upon my refusing to let him go Cpl. Grindon grabbed me by the chest saying "You are nothing but one of the C.O's bastards, I'll shoot you", and reached for his pistol. In the struggle that followed his pistol was damaged. As soon as Cpl. Grindon made the above mentioned statement I placed him under close arrest. Cpl. Grindon was then duly warned of this. Cpl. Grindon then struggled throughout the journey to Unit lines. Upon reaching the Unit lines the Orderly Officer, Capt. Gordon, was summoned and in whose presence Cpl. Grindon said "Fuck you, you son of a bitch, you and all the no good bastards here". Cpl. Grindon, at the time of his arrest, had been drinking but was not drunk. L/Cpl. Yeoman was present throughout the whole incident also had been drinking but was not drunk.

Signed (N. Piroski)

Cross examined by the accused.

Q. Did you use handcuffs on the night in Question?
A. Yes.

Q. Were you on duty in Oostcamp?
A. Yes

Q. Was there any disturbance when you entered the Cafe?
A. Yes

Signed (N. Piroski)

Second Witness

Capt. J.H. Gordon, H.Q. Sqn, 4 C.A.D., Canadian Army Overseas, sworn, states:

I was on 14 Sept 44 and am still, Captain HQ Sqn 4 C.A.D. On 14 Sept 44, while on duty as Duty Officer, at approx 2330 hrs I heard sounds of loud arguing in the area of the entrance to H.Q. 4 C.A.D. and proceeding there I found the accused, Cpl. Grindon, whom I recognize and Sgt. Piroski engaged in an argument. I inquired as to what the trouble was and Sgt. Piroski said that he had brought Cpl. Grindon back to the Unit lines under close arrest. Then there ensued a discussion as to whether Cpl. Grindon should keep his pistol or not. I took possession of Cpl. Grindon's pistol and directed that he be returned to his own lines under escort and that the altercation would cease immediately. Also I told Cpl. Grindon who seemed most resentful, that he would have an opportunity to state his case to the O.C. of his Unit the following morning. After slight further discussion this was done. Cpl. Grindon used profanee language throughout at intervals, this was used only to Sgt. Piroski as he was most respectful to me throughout.

Signed(J.H. Gordon, Capt.)

The accused declines to cross examine this witness.

Signed(J.H. Gordon, Capt.)

Third Witness

B-19880 L/Cpl. Yeoman, D, 8 Cdn Pro Coy, sworn, states:

I was on 14 Sept 44 and am still, L/Corporal Of 8 Cdn Pro Coy, Cdn Pro Corps. On the day and date mentioned at apprex 1800 hrs Cpl. Grindon and myself proceeded into Oostcamp while off duty. Upon reaching the town we proceeded to a cafe and had a few drinks. At approx 2130 hrs Sgt. Piroski entered and assisted Cpl. Grindon and myself in clearing the cafe of some Sappers who refused to leave at the request of the proprietress. Although I was not aware of the reason, Cpl. Grindon appeared to be very annoyed at one of the employees in the cafe. Sgt. Piroski, Cpl. Grindon and myself set out from the cafe en route to our Unit lines. After proceeding a short way Cpl. Grindon wished to return to the cafe and on Sgt. Piroski's refusal to allow this, Cpl. Grindon started to argue, and grabbed Sgt. Piroski, using abusive language. Sgt. Piroski then warned Cpl. Grindon that he was under close arrest, upon Cpl. Grindon's continued efforts to struggle away Sgt. Piroski put an arm lock on Cpl. Grindon, who then consented to return quietly to his lines. After a short while a further arguement occured and in the struggle that followed Cpl. Grindon threw his pistol which Sgt. Piroski immediately took away from him and gave to me for safe keeping. I assisted Sgt. Piroski in controlling Cpl. Grindon, and after stopping a Jeep that was passing, we placed Cpl. Grindon in the Jeep and proceeded back to the Unit lines. After reaching the guard at the entrance to the Unit lines I went to my quarters and went to sleep.

Signed (D. Yeoman)

Cross examined by the accused.

Q. Did we consume enough liquor to be drunk?
A. No.

Q. Was I drunk?
A. No, I do not think so.

Q. Did we spend over 2000 Bel Francs during our stay in the cafe?
A. Yes.

Q. Was there an argument while we were in the cafe before Sgt. Piroski came in?
A. No , there was not.

Q. Had the Sgt. been in the cafe prior to his coming in at app 2130 hrs?
A. Yes.

Q. Had Sgt. Piroski been drinking?
A. Yes he had a couple of drinks.

Q. Did Sgt. Piroski drink on both occasions he was in the cafe?
A. Yes

Q. Did I struggle more when Sgt. Piroski placed handcuffs on my wrists?
A. Yes.

Q. Did I state that since P.O.W.s did not wear hanfcuffs I saw no reason to wear them?
A. Yes

Q. When I was returned to Unit lines were you aware that I was to appear before O.C. H.Q. Sqn 4 C.A.D. in the morning?
A. Yes.

Q. Was I informed the following morning that I would be paraded before my O.C.?
A. Yes.

Signed (D. Yeoman)

The accused was warned as follows:

"Do you wish to make any statement or to give evidence upon oath? You are not obliged to say anything or give evidence unless you wish to do so, but whatever you say or any evidence you give will be taken down in writing and may be given in evidence."

The Accused: I have nothing to say at this time.

Signed (J. Grindon)

The accused states that he desires to call witnesses on his own behalf.

Question to accused: Do you object to D-108507 Cpl. Yestman, N.R., as interpreter?

Answer: No.

The interpreter is sworn.

First Witness

Miss Gonckheere, Anny, Rue de la Chapelle, 277, Oostkamp. having been duly sworn, states:

There were some Engineers in the cafe on 14 Sept 44 who had been drinking. When Sgt. Piroski, at 2130 hrs, entered I asked him to send them away to prevent a rumpus. The Engineers left. After the Engineers left the remaining few, included Cpl. Grindon, Sgt. Piroski and Cpl. Yeoman. The two Corporals had two or three more drinks and left soon after. I further state that Cpl. Grindon had been drinking and was gay but do not know whether or not he was drunk. I also state that after the Engineers left the three men talked amongst themselves but I did not understand what they were saying.

Signed (Gonckheere, Anny)

Questions asked by the accused.

Q. What types of drinks did I have that night?
A. Cognac and beer.

Q. Was I drinking heavily?
A. I couldn't say, I was not the only one who was serving, but think you had enough.

Signed (Gonckheere, Anny)

The accused also desired to call as witness a Sergeant of the RCAMC, 4 Cdn Armd Div, but could not be sure whether the name was Sgt. Walters or Sgt. Walter Wilson. I conducted an investigation of the Medical Units in the above mentioned Div but could find no record of any such person or persons.

Signed (R.L. Ellis, Lieut)
Signature of Offr taking Summary

I certify that RP 4 has been complied with.

Taken by me in the fd in the presence and hearing of the accused this 19th day of September, 1944.

Signed (R.L. Ellis, Lieut)
Signature of Offr taking Summary

2.

Summary of Evidence in the case of D 81770 cpl Brindon John. 8 Coln Bro Coy. 6th Army Overseas. charged with "D w.o.A.S. owing violence to his superior Officer in that he in the field at approx. 2200 hrs on 14 Sep 44 used violence to A 68195 Sgt Sirocki H - 8 Coln Prov. Coy by grasping him by the chest and struggling AA3(2) with him existing an escort whose duty it was to take him in charge in that he in the field at approx 2202 hrs. 14 Sep 44 while under escort of the above mentioned Sgt in the first charge resisted the escort by struggling AA3(2) & when on active service using insubordinate language to his superior Officer in that he in the field at approx 2200 hrs 14 Sep 44 used the following insubordinate language to the above mentioned Sgt. in the first charge "Fuck you you son of a bitch, you and all the other no good bastards here" or words to that effect. AA8(2).

The CO. directs that the evidence be taken on oath.

First witness: A68195 Sgt Sirocki H of 8 Coln Prov Coy sworn, states: "I was on 14 Sep 44, and am still, Sgt of 8 Coln Prov Coy. Coln Prov Coy. I am well acquainted with D 81770 cpl ~~John~~ Brindon whom I recognise here as the accused. and who has been with the Coy off and on for the last six months.

First Witness (Cont).

On the evening of 14 Sep 44 # 81770 Cpl John L Grindon was granted permission to proceed to Corlcamp. At approx 2120 hrs 14 Sep 44 I proceeded into Corlcamp on duty. On entering the town, I noticed a crowd way of a Café open and sounds of a disturbance inside. Upon hearing the Café, I saw Cpl Grindon and Sgt Yeoman engaged in clearing the Café of approx 7 Engineers, who were creating a disturbance. I ordered the Engineers to leave the Café who did so immediately. Cpl. Grindon was using threatening gestures to the daughters of the proprietress and said "I'd like to pound you in the fucking mouth." I then persuaded Cpl Grindon to and, Sgt Yeoman to leave the premises with me. This time was then approx 2200 hrs. En route to the unit lines, Cpl. Grindon constantly demanded to be allowed to return to the Café which he threatened to wreck. Upon my refusing to let him go Cpl Grindon grabbed me by the chest saying "You are nothing but one of the OC's bastards, I'll shoot you" and reached for his pistol. In the struggle that followed, his pistol was damaged. As soon as Cpl Grindon made the statement I placed him under close arrest. Cpl. Grindon was then duly warned of his. Cpl Grindon then struggled throughout the return journey to the unit lines. Upon reaching the unit lines, the Orderly officer, Capt Gordon was commanded and in whose presence Cpl. Grindon said "Fuck you, you son of a bitch, you and all the other no good bastards here." Cpl Grindon at the time of his arrest, had been drinking but was not drunk. Sgt Yeoman who was present throughout the whole incident, also had been drinking but was not drunk.

N. Wirsbo

Cross Examined by the Accused

Quest. Did you see Hood outside on the night in question?

ANSWER: Yes Sir.

Quest: Were you on duty in Ostaamp?

Ans: Yes Sir.

Quest: Was there a disturbance when you entered the Café?

Ans: Yes Sir.

Sigurd, N Pirooski

SECOND WITNESS: Capt. T. H. Gordon, H.Q. Regt. H C.A.D.

Canadian Army, Overseas, sworn states, "I was on 14 Sept 44 and am still Captain H.Q. Regt. H C.A.D. On the 14 Sept 44, while on duty as Duty Officer, at approx 2330 hrs, I heard sounds of ~~a~~ loud argument in the area of the entrance to H.Q. H C.A.D. and proceeding there, I found the accused Cpl Swindon, also Sergeant and Sergt Pirooski engaged in an argument. I inquired as to what the trouble was and Sergt. Pirooski said that he had brought Cpl. Swindon back to the main

SECOND WITNESS: (cont.) lines under close arrest. I then ~~then~~ ensued a discussion as to whether Cpl. Swinton should keep his pistol or not. I took possession of Cpl. Swinton's pistol, and directed that he be returned to his own lines under escort, and that the altercation ~~would~~ cease immediately. ~~He~~ I told Cpl. Swinton, who seemed most resentful, ~~that he would have an opportunity to state~~ his case to the O.C. of his unit the following morning. After slight further discussion this was done. Cpl. Swinton used profane language throughout at ~~intervals~~ intervals, — ~~there~~ this was used only to Sergt Forsyth ~~and as he was most respectful to me throughout.~~

Signed [illegible] Lieut.

The accused declined to cross examine this witness.

THIRD WITNESS: B19880 Z/cpl Yeoman, D. 8 Cdn. Prov Coy, sworn States

"I was on 14 Sept 44 and am still, Z/cpl. of 8 Cdn. Prov. Coy. Cdn. Prov. Corps. On the day and date mentioned at approx 1800 hrs. Cpl. Swindon and myself proceeded into Doetinchem, while off duty. Upon reaching the town we proceeded to a Café and had a few drinks. At approx. 2130 hrs. Sergt. Pivoski, entered and escorted Cpl. Swindon and myself in clearing the Café of some Sappers, who refused to leave at the request of the proprietress. Although I was not aware of the reason Cpl. Swindon appeared to be very annoyed at one of the employees in the Café. Sergt Pivoski, Cpl Swindon and myself set out from the Café en route to our unit lines. after proceeding a short way, Cpl. Swindon wished to return to the Café and on Sergt Pivoski refusal to allow this Cpl. Swindon started to argue, and grabbed Sergt Pivoski, using abusive language. Sergt Pivoski then warned Cpl. Swindon that he was under close arrest, upon Cpl. Swindon's continued efforts to struggle away, Sergt Pivoski put an arm lock on Cpl. Swindon, who then consented to accompany return quietly to the unit lines. after a short while, a further argument occurred and in the struggle that followed Cpl. Swindon drew his pistol, which Sergt. Pivoski immediately took away from him, and gave to me for safe keeping. I assisted Sergt. Pivoski in controlling Cpl. Swindon, and after stopping a jeep that was

THIRD WITNESS: (cont.) passing, we placed Cpl. Brindon in the jeep, and proceeded back to the unit lines. After reaching the guard at the entrance of the unit lines, I proceeded to my quarters and went to sleep.

Signed, D.B. Yeoman.

Cross Examined by the Accused.

Q: Did we consume enough beyond to be drunk.
A: NO.

Q: Was I drunk?
A: NO, I DO NOT THINK SO.

Q: Did we spend over 2000 Belgian francs during our stay in the Café.
A: YES.

Q: Was there an argument while we were in the Café before Sergt. Pirocki came in?
A: NO, THERE WAS NOT.

Q: Had the Sergeant been in the Café prior to his coming in at approx 2130
A: YES.
Q: Had Sergt. Pirocki been drinking?
A: Yes he had a couple of drinks.
Q: Did Sergt. Pirocki drink on both occasions, he was in the Café?

THIRD WITNESS: (Cont.)

ANS. YES.

Quest. Did I struggle more ~~than~~ when Sergt. Pivoski placed handcuffs on my wrists?

ANS. YES.

Quest. Did I state that since P.O.W's did not wear handcuffs, I saw no reason to wear them?

ANS: YES.

Quest: When I was returned to unit was ~~did~~ you aware that I was to appear before ~~my Det. in the morning?~~ O.C. H.Q. Sqn. H.C.A.D. in the morning?

ANS.: YES.

Quest: Was I informed the following morning that I would be paraded before my O.C.

ANS. YES.

Quest

Signature of Witness
D.D. Grosman.

The accused was warned as follows.

Do you wish to make any statement or to give evidence upon oath. You are not obliged to say anything or give evidence unless you wish to do so, but whatever you say or any evidence you give will be taken down in writing and may be given in evidence

The accused: I have nothing to say at this time.

Gibbon.
Signature of accused.

The accused states that he desires to call witnesses on his own behalf.

Question to accused. Do you object to D10851 Cpl Yeatman NIR as interpreter?

Ans No.

The interpreter is sworn.

First witness (civilian) (accepted) (address) Cpl Kamp
Concluded Cpl [illegible] Rifle Platoon Kamp
Sworn duly sworn states.

There were some engineers in the Cafe on the night when drinks had been drinking. When Sgt Russell ordered drinks I asked him to send them away to prevent a row. The engineers left. After the Engineers left the remaining few including Cpl Grindon, Sgt Piroski and Cpl Adamson had two more drinks and left soon after. He further stated that Cpl. Grindon had been drinking and was gay but did not know whether or not he was drunk. He also stated that after the engineers left the three men talked amongst themselves but he did not understand what they were saying.

Cross-examined by Accused.

Questions asked by the accused:

Quest: What types of drinks did I have that night?
Ans. Cognac and beer.

Quest. Was I drinking heavily.
Ans. I could not say. I warned the only one who was drinking but [illegible] had enough.

Cross-examined.

The accused also elected to call as witness a Sgt. of the RCAMC, 4 Cdn Armd Div, but could not be sure whether the name was Sgt Walters or Sgt Walter Wilson. I ~~thereupon~~ conducted an investigation of the medical units in the above-mentioned Div. but could find no record of any such person or persons.

A Ellis Lt.
Signature of Officer taking Summary

I certify that RP4 has been complied with taken by me in the field in the presence and hearing of the accused this 19th day of September, 1944.

A Ellis Lt.
(Signature of Officer taking Summary)

Upon it appearing to me, an authority having power to mitigate, remit or commute the punishment awarded by the sentence herein, that the finding upon the first charge is invalid and has been set aside, I, having regard to the findings on the second and third charges, do not mitigate the punishment as awarded by the Court and confirmed by the confirming officer.

(C. C. Simonds) Lieut-Gen
G. O. C., 2 Cdn Corps

In the Field
27 Nov 44

MINUTE OF PROMULGATION

Promulgated 15 Dec. 44

(G. C. Bunbury) A/ Capt.
Officer Commanding,
#4 Cdn Provost Coy

HHH-10
SGT GRINHAM GD

SCHEDULE.

PART I. PLEA(S), FINDING(S) AND SENTENCE.

Accused: E 20410 Sgt Gerald Douglas Grinham 1CORU

	Charge. (Insert "alternative" where applicable.)	Plea. (See Instrs p 2.)	Finding. (See note below.)	(Space for use as required for further charges, accused charged jointly, special findings, etc.)
1st	AA sec 40	not guilty	not guilty	
2nd				
3rd				
4th				
5th				
6th				

(Note: As to findings for lesser offences see AA 56, RP 44; findings on alternative charges see MML p 483 fn 4 para 2, RP 44; special findings see RP 44 and MML p 753, and in lieu of kh see RP 44 fn 6.)

At present under sentence for ..... beginning on (date) .....
(1. Insert sentence being served, or delete, if not applicable. See RP 46(A). Information should be found on MF B355 or AF B296.)

Time in confinement awaiting present trial—a total of ..... days, of which ..... days was spent in hospital.(1)
(1. See RP 46(A) fn 2. Information should be found in MF B355 or AF B296 admitted in evidence under E2.)

Sentence Awarded by the Court:

Acquitted

(Sgd) ..... Judge-Advocate, if any. Date awarded. 25 Mar 44 (Sgd) ..... President. (RP 45, 50.)
(See back of Convening Order as to assembly and disposal of record after trial.)

PART II. MINUTE WHERE CONFIRMATION RESERVED. (AA 54(5), RP 120(F), MML p 760.)

Date ..... (Sgd) ..... Commanding .....

PART III. DECISION OF CONFIRMING OFFR ON FINDING(S) AND SENTENCE.

(For duties and powers see AA 54, 57, RP 37(D) fn 6.46(A), 51-56, 120, MML pp 759-761, KR Can 567-577. Acquittals require no confirmation and cannot be revised: AA 54(7). Sending back finding or sentence for revision by Court: AA 54(2), RP 120(G). If not confirmed, accused may be tried again: AA 157, MML p 64. Minute of confirmation or non-confirmation may be altered before promulgation: RP 53, MML p 65. Quashing after promulgation: KR Can 573. Duties and powers of reviewing offrs: AA 57, 57A, RP 53A, 54. The Confirming Offr must sign here personally. AA 172 fn 1.)

My decision on the finding(s) and sentence set forth in Part I is:

I direct that the accused be not committed to prison or detention barracks until further orders.(1)
(1. AA 57A. Delete if not used.)

(Sgd) .....

Date .....

Commanding .....

Confirming Officer.

PART IV. PROMULGATED AND EXTRACTS TAKEN. (RP 53, KR Can 576, 577.)

Accused. Date. Signature of Offr.

ALL DELETIONS AND ALTERATIONS WILL BE INITIALLED.

ENTERED IN RECORDS OF CRU HHH 10

FIELD GENERAL COURT-MARTIAL

CFA66 (To Duty of AFA3) 43/P.A.S./16(8) (2664)

Convened by Order of Colonel B.R. Ker ED A/Comd "C" Gp - CRU dated 27 Mar 44

ACCUSED.

(As to the trial of two or more charged jointly see RP 16, 71, 109. As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

Number.	(a) Prmnt R. (b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
E-20410	Sgt	Gerald Douglas	GRINHAM	1 CORU

PROCEEDINGS REVIEWED
R. Beaulieu Capt.
15 Apr 44
REVIEWING OFFICER, JAG BRANCH, CMHQ

PROCEEDINGS OF TRIAL.

Held in the Fd in (country) England on (date(s)) 25 March 44

RECORD FORM A—OPENING PROCEEDINGS AND ARRAIGNMENT.

A1. The President, Members, ~~waiting Member, JA, if any, and Offrs under instr, if any~~, assemble, and the Court is closed.

(PRINTED MATTER, NOT IN ITALICS FOR GUIDANCE, WILL BE DELETED, IF NOT USED OR APPLICABLE, AND INITIALLED BY PRES OF JA. The Schedule referred to throughout is on p 4. Citations do NOT include all relevant fns RDs. For guidance on procedure when a variation in this form arises, see form for GCM in MML pp 741 to 759. A brief record of such variations will be made and given a number (serving reference to appropriate or preceding para number hereon. See back of Convening Order, CF 865, for sorts and instrs on how to record addresses, evidence, etc., which instrs are hereafter called "Notes". As to general provisions for conducting the trial see AA 53, RP 56, 63-70, 73, 74, 94, 103, 119, 132.)

A2. The President initials and lays before the Court the Convening Order and Charge Sheet(s) attached thereto.(1) The Court is satisfied that it is properly convened and constituted(2), accused is (are) amenable to military law, and each charge discloses an offence.(3)

(1. As to use of Summary of Evidence see RP 17 fn 6. 2. AA 49, 50, RP 105-107. 3. RP 11-13, 23, 24.)

A3. The Court is opened. The accused is (are) brought before the Court. At 1430 hours trial commences.

A4. The Prosecutor produces a Medical Certificate that accused is (~~are~~) fit to undergo trial by court-martial.(1) ~~The Prosecutor informs the Court that accused elected to be tried by court-martial instead of being dealt with summarily by the CO.~~(2)

(1. KR Can 557. 2. AA 46(B), RP as fn 1. For effect see KR Can 563(c). Delete, if not applicable.)

A5. President to accused: Do you object to ..... as interpreter? Ans .....

The Interpreter is sworn.(1) Do you object to ..... as shorthand writer? Ans .....
The shorthand writer is sworn.(1)

(1. RP 72. Delete, if none employed.)

A6. The Convening Order and names of the President and Members of the Court are read to the accused.(1)
President to accused: Do you object to be tried by me as President or by any of the Members of the Court?
Ans No.(2)

(1. RP 110. 2. If no objection, waiting member retires. RP 68(B). If objection, see procedure AA 51, RP 25, 71, 78, MML p 742.)

A7. The President, Members, ~~JA, if any, and Offrs under instr, if any~~ are sworn.(1) The following are the ranks, names and units of the offrs comprising the Court, etc:

President	Major	[illegible]	RCA	No 1 CMRU
Member	Capt	[illegible]	RCA	No 1 CMRU
Member	Lt	[illegible]	RCA	No 1 CMRU
Judge-Advocate	Nil			
Prosecutor	Major	C.M. Gilbert	RCOC	No 1 CORU
Defending Offr	Major	[illegible]	RCOC	No 1 CORU

Questions by President: Is the Prosecutor a lawyer? Ans Yes. Is the Defending Offr a lawyer? Ans No. (2)

(1. RP 26, 27, 109, 111. List of offrs under instr will be returned separately with proceedings for information of Conv Offr.)
(2. If Pros a lawyer and Def Offr not, accused is entitled to an adjournment when RP 89 (B) and fn 2 were not followed. See top of p 3.)

A8. The accused E 20410 Sgt Gerald Douglas Grinham before arraignment make(s) (no) (~~no~~) plea.(1)

(1. If a special plea is made for separate trial on one or more charges (RP 62(E), 108), or as to the jurisdiction of the Court (RP 24, 25(A), 113), or on bar of trial (RP 26), or as to accused's mental fitness to stand trial (AA 130, RP 57), or by one of several accused charged jointly to be tried separately (RP 16, 71), such plea, the addresses made in support or against, the evidence, if any, and finding are recorded per Notes. For forms of record see references in fns to RsP cited. Insert in AB rank and name of the accused making the plea.)

A9. The accused is (are) arraigned (separately) on all charges in the charge sheet.(1) The accused (~~are~~) (are) not object to any charge.(2) There is no amendment to be made to the Charge Sheet.(3) The President records the pleas in Part I of the Schedule.

(1. RP 31, 112. See para 1 of instrs p 2. When more than one Charge Sheet see RP 62; when several accused to be tried separately see RP 71(C), and use separate copies of CF A96 to record proceedings. 2. RP 32, RP 33. If otherwise, delete and make appropriate record per Notes.)

A10. The Court (is closed and) considers the Instrs on Procedure after Arraignment at top of p 2. The proceedings are continued on Record Form D

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

INSTRUCTIONS ON PROCEDURE AFTER ARRAIGNMENT.

1. *The accused may not plead or be found Guilty on more than one of two or more charges laid in the alternative (RP 37(A).) As to withdrawal of alternative charges by Prosecutor see RP 35(C). No other charge can be withdrawn for any reason without authy from Convening Offr. If Convening Offr concurs, Court may accept plea of Guilty to lesser, etc, offence. (RP 44(H).) Accused may change a plea of Not Guilty to Guilty during trial. (RP 38.) As to refusing to plead or not pleading intelligibly see RP 35(A). As to plea when sentence may be death see RP 35(D).*

2. *The proceedings on each charge sheet (RP 62) after arraignment will be conducted as follows in the respective circumstances stated :*

I. If pleas to all charges are GUILTY, use Record Form B below.

II. If pleas to all charges are NOT GUILTY, use Record Form D on p 3.

III. If pleas to some charges are GUILTY and to other charges are NOT GUILTY and,

(a) Such mixed pleas occur when there are no alternative charges in the Charge Sheet, use Record Form C below. (RP 37(A).)

(b) Such mixed pleas occur in a set of two or more charges laid in the alternative, see RP 37 (A) and fn 2 as to discretion of Court, (i) to try the accused on all such alternative charges as if he had pleaded Not Guilty thereto, or, (ii) to record the pleas as the findings of Court. After deciding between (i) and (ii), Court will proceed under foregoing instrs as may be appropriate to result of its decision. See MML p 144 Instrs (2).

3. *As to responsibility of President to accused see RP 59, 60(C); powers and duties of JA see RP 103; duty of Prosecutor see RP 60(A) (B); duty and privileges of accused and Defending Offr see RP 60(C), 87(C), 91, 92; swearing and withdrawal of witnesses from Court see RP 84, 85; questioning of accused see RP 80, 87(C), 92(B), and of witnesses see RP 83-85; calling or re-calling of witnesses by Court etc see RP 75-79, 86, 116; use of Summary of Evidence at Trial see RP 17(E) fn 6; and responsibility of JA or Pros to record proceedings see RP 94, 96.*

RECORD FORM B—PROCEEDINGS ON PLEAS OF GUILTY TO ALL CHARGES.

B1. The President or JA, if any, complies with RP 35(B) by explaining to the accused the nature and meaning of the charge(s).(1) and that on his plea of Guilty there will be no regular trial but merely a consideration of the sentence to be awarded after he has been given an opportunity to make a statement in reference to the charge(s), call witnesses as to character and make an address in mitigation of punishment.(2)

(1. RP 35 fn 3. 2. MML p 54 para 47.)

B2. President to accused : The Court will now receive any statement you desire to make in reference to the charge(s).(1) If it appears from your statement that there are circumstances which indicate that you do not understand the effect of the plea of Guilty(2), or which show provocation or extenuation in respect of which in your interest the witnesses for the Prosecution should be examined(3), we shall advise you to change your plea to Not Guilty. In

CHARGE SHEET

E-20410

The accused, Sergeant GERALD DOUGLAS GRINHAM, Royal Canadian Ordnance Corps, on strength No.1 Canadian Ordnance Reinforcement Unit, a soldier of the Canadian Army overseas, is charged with:

WHILE ON ACTIVE SERVICE

FIRST CHARGE
SECTION 40
ARMY ACT

NEGLECT TO THE PREJUDICE OF GOOD ORDER AND MILITARY DISCIPLINE

in that he

at New Martinique Barracks, Bordon Hants on the 24 January 1944, so negligently handled his rifle as to cause rifle No. 38-L-2419 to be discharged, thereby injuring his right leg and rendering himself temporarily unfit for service.

(Harold M. Bailey) Colonel
Officer Commanding
No. 1 Canadian Ordnance
Reinforcement Unit

Bordon, Hants
27 March, 1944

To be tried by Field General Court Martial

Colonel
A/Commander 'C' Sp,Cdn Reinforcement Units
(Convening Officer)

Bordon, Hants

27 Mar 44

FIELD GENERAL COURT-MARTIAL

CFA95 (In lieu of AF A28)
40/Pers/1697 (DHQ)

(Whether the accused to be tried is under his comd or not, a FGCM may on application to him be convened by any offr of Cdn Army Overseas, or of any other force if authorized in law, in immediate comd of troops on active service, subject to RP 105(C) and restrictions imposed by appropriate authy. AA 49, 50, RP 104-107, 114. As to the duties and privileges of the Convening Offr in dealing with the application see MML Chap V paras 20 and 23, RP 87(B).

There should be a separate Convening Order for each person to be tried separately by the same Court. RP 71(C), 109. As to separate charge sheets see RP 62, and as to separate trial on charges in the same charge sheet see RP 108. As to two or more accused charged jointly, see RP 16, 109.

As to reasons for showing (a) permanent or confirmed rank, and (b) apptmt, A/rank or A/apptmt, if any, see AA 181, 183, fns, KR Can 308, 328, 330.)

ACCUSED.

Number.	(a) Prmnt R.	(b) Apptmt, A/R or A/Apptmt.	Full Christian Names.	Surname.	Unit.
E-20410	Sjt		Gerald Douglas	GRINHAM	1 CORU

CONVENING ORDER.

1. Whereas complaint has been made to me, the undersigned, that the person(s) named above as the accused, being subject to military law, has (have) committed the offence(s) set forth in the Charge Sheet(s) attached and on (date) 27 Mar 44 endorsed by me, (or by an offr of my staff for me), "To be tried by Field General Court-Martial".

2. And whereas I am of opinion that it is not practicable that such offence(s) should be tried by an ordinary General Court-Martial; ~~and that it is not expedient to delay the trial for the purpose of obtaining the advice of the J.A.~~

(Delete part in brackets when not required for compliance with RP 105(C).)

3. I hereby convene a Field General Court-Martial to try the said person(s), and to consist of the Offrs appointed or detailed hereunder.

4. ~~I am unable to appoint Captains Offrs to form the Court (or a Fd Offr as President) for the reasons I have endorsed.~~

(AA 49, RP 106(B), 107(A). Delete the whole or part, if not applicable.)

5. ~~I also appoint Lieut. [illegible] to act as the Offr conducting the case.~~

(RP 106(E). Delete, if none appointed.)

PRESIDENT.

Major (Rank.)	S.A. MacDonald (Must be named. RP 106.)	1 CARU (Unit.)

MEMBERS.

Captain	detailed by CO P.D.D. LAFFERTY	2 CARU
Lieutenant (Rank.)	detailed by CO G.A. GAMBLIN (Named or detailed. RP 106.)	2 CARU (Unit.)

WAITING MEMBER.

(Rank.)	Nil (Named or detailed, if any. RP 106.)	(Unit.)

JUDGE-ADVOCATE.

(Rank.)	Nil (Must be named, if any. RP 106.)	(Unit.)

On Active Service in the Fd

in England (Country.)

(Signed personally. RP 105 fn 2.)

Colonel (Rank.)

Date 27 Mar 44

Commanding "C" Group - Cdn Reinforcement Units
Convening Officer.

CONVENING OFFR WILL INITIAL ALL DELETIONS AND ALTERATIONS

(See overleaf for oaths and notes for use on trial.)

MEDICAL OFFICER'S REPORT

I certify that No. E 20410 Sgt Grinham G.E.
of #1 CCRU is in a fit state of health,
and able to undergo Trial by Court martial.

W.M. Lamburn Maj
Medical Officer

Station #1 CCRU.

Date 28 March /44

M. F. B. 246
2M—8-39 (1724)
H.Q. 1772-39 683

CASE FOR THE PROSECUTION

FIRST WITNESS: A.55060 Pte BAKER, A.R., R.C.O.C. on the strength of No. 1 C.O.R.U., having been duly sworn states:

Q1. Will you tell the court what took place in the Guardroom 1 CORU on the morning of the 24th Jan when Sgt Grinham was injured?

A1. Yes Sir. I was on guard duty the week of the 24th. In the afternoon when I was lying down on my bed, I heard a shot fired in the corridor and I went into the corridor and found Sgt Grinham partly slumped over web and equipment. Two rifles were laying down beside him. I picked up the two rifles and took them into the adjacent room which happened to be the Sgts room. The boys began to gather round so I told them not to touch the rifles. Then I proceeded to make the Sgt as comfortable as I could. I heard the Sgt say something about "who the hell left a loaded rifle here". I don't recall whether that was when I was there or when I was getting off the bed to go to see what the shot was.

Q2. Had you been warned by the N.C.O. IC the guard, Sgt Grinham, as to the unloading of rifles on coming off sentry duty?

A2. Sir, I can't recall whether I was or not but we were warned when I went on duty by the S.M. in charge, that rifles would be unloaded when we came off our beat.

CROSS EXAMINATION

Q3. Is it not a fact that the RSM warned all guards that they would not load the rifle at all but would carry the ammunition in their pouches?

A3. That's right, Sir.

Q4. Was Pte Sessions on the parade with you when you were warned by the RSM.

A4. Yes Sir. I am pretty sure he was.

SECOND WITNESS: A.106777 Pte SESSIONS, G.R., R.C.O.C. on the strength of No. 1 C.O.R.U., having been duly sworn states:

Q5. You are A.106777 Pte Sessions G.R., R.C.O.C. on the strength of 1 C.O.R.U.

A5. Yes Sir.

Q6. You were on guard at 1 C.O.R.U. on the 24th Jan.

A6. Yes Sir.

Q7. Did you hear anything unusual while you were on guard duty?

A7. Yes Sir.

Q8. Will you tell the Court what you heard?

A8. I was lying on my bed in the guard room and I was nearly asleep. I heard this bang and I wasn't quite sure what it was for a moment. I jumped off my bed and looked in the hall. I saw Sgt. Grinham lying on the floor. I went in, Pte Baker was there when I arrived and somebody said that the Sgt had been shot, so I went down to the F.A.P. to get the M.O.

Q9. You saw Sgt Grinham laying on the floor wounded.

A9. Yes Sir.

P.T.O.

CROSS EXAMINATION

Q10. On whose charge was the rifle from which the shot came?

A10. Mine, Sir.

Q11. Had you been given any instructions with regard to unloading your rifle when coming off guard?

A11. Yes Sir.

Q12. What were they?

A12. To unload the rifle.

Q13. Have you yourself been charged with failing to unload your rifle?

A13. Yes Sir.

Q14. What was the result of the charge brought against you, were you found guilty or not guilty?

A14. I was found guilty and sentenced.

QUESTIONS BY COURT

Q15. You saw that you were brought up on the charge of the rifle being left loaded. Do you remember whether the rifle was loaded or not?

A15. I don't remember.

Q16. Were you given instruction that when you were on guard, rifles were not to be loaded?

A16. I never heard that order myself.

Q17. How much ammunition is issued to you for guard duties?

A17. There is no individual issue. A box of it is placed in the guard room and we just took what we wanted.

Q18. Do you know the number of rds that you took out of the box?

A18. No Sir.

Q19. When you finished your tour of duty did you hand all the rds over to your relief?

A19. To my knowledge I did.

Q20. Did you prove the rifle?

A20. Yes sir, I proved it just before my relief arrived.

Q21. Did you insert any rounds into the chamber or magazine after you proved it?

A.21 No Sir.
RP 83(B) complied with.

THIRD WITNESS:

Prosecution submits sworn and signed statement of Capt R.C. Bridges, R.C.A.M.C. as to the extent of injuries. No objection to the statement by the Defence (See Summary of Evidence).

The Prosecution is closed.

CASE FOR THE DEFENCE

Defence submits that no prima facie case has been established. The prosecution have not offered any evidence to prove negligence on the part of the accused. They have, in fact, proved only that the accused was wounded in the right leg on Jan 24th 1944 by a bullet discharged from rifle No. 38 L 2419.

I therefore submit to the Court that the evidence given by the prosecution has not established a prima facie case against the accused and that he should not therefore be called upon for his defence; in accordance with Rules of Procedure 40 foot note I.

The Court was cleared to consider the submission of the defence.

LIST OF WITNESSES

In the case if H-20410 Sergeant GERALD DOUGLAS GRINHAM, RCOC, on strength of No. 1 Canadian Ordnance Reinforcement Unit.

(For the Prosecution)

1. Capt. R.C. Bridge — 2 Canadian General Hospital RCAMC

2. A-55060 Pte Baker A.R. — 1 C.O.R.U. RCOC

3. A-106777 Pte Sessions G.R. — 1 C.O.R.U. RCOC

(For the Defence)

None

LIST OF EXHIBITS

In the case of H-20410 Sergeant GERALD DOUGLAS GRINHAM RCOC, on strength of No. 1 Canadian Ordnance Reinforcement Unit.

(For the Prosecution)

"A" Rifle No. 38-L-2419 containing empty cartridge casing in breech.

(For the Defence)
None

Bordon, Hants
27 March, 1944

.....
(Harold M. Bailey) Colonel
Officer Commanding
No. 1 Canadian Ordnance
Reinforcement Unit

I hereby request that the Convening Officer appoint an officer from I Canadian Ordnance Reinforcement Unit to represent me at my forthcoming Court Martial.

Bramshot Military Hospital
27 March, 1944

..D.G. Grinham.....
(Sgt. D.G. Grinham)

I hereby acknowledge receipt of a true copy of the Summary of Evidence taken at Bramshot Military Hospital preliminary to my Court Martial and I further acknowledge receipt of a copy of the charge sheet under which I am being brought to Court Martial. I do not desire any witnesses called on my behalf.

Bramshot Military Hospital
27 March, 1944

..D.G. Grinham.....
(Sgt. D.G. Grinham)

SUMMARY OF EVIDENCE

In the case of E-20410 Sergeant GERALD DOUGLAS GRINHAM, Royal Canadian Ordnance Corps, on strength of No.1 Canadian Ordnance Reinforcement Unit, a soldier of the Canadian Army Overseas.

By direction of the Commanding Officer the Summary of Evidence is taken on oath.

FIRST WITNESS for the Prosecution.

A- 55060 Private BAKER, R.R. RCOC, on strength No.1 Canadian ordnance Reinforcement Unit, having been duly sworn, states:-

"At approximately 1350 hours 24 January, 1944 I was laying on the bed in the sleeping quarters of the unit Guard Room when I heard a shot and on entering the main room I found that there was equipment strewn in the corner and Sergeant Grinham, R.C.O. of the Guard, whom I now recognise, was slumped partly over this equipment. There were two rifles lying on the floor as if they had been knocked over. I picked the rifles up and took them to the adjoining room and told the boys not to touch them. Then I proceeded to make the Sergeant as comfortable as possible and helped to dress the wound which was in his right thigh. After hearing the shot I heard the sergeant say "who left a loaded rifle here" or words to that effect.

The accused declines to cross-examine this witness.

Pte R.A. Baker
.....
(Pte R.A. Baker)

SECOND WITNESS FOR THE PROSECUTION

A-106777 Private SESSIONS, G.R. RCOC, on strength No.1 Canadian Ordnance Reinforcement Unit, having been duly sworn states:-

I was lying on my bed in the sleeping quarters of the Unit Guard Room at approximately 1400 hours 24 January, 1944, nearly asleep, when I heard a shot. I was startled and got up and saw Sergeant Grinham, R.C.O. i/c the Guard laying on the floor in the hall. He said something about being shot in the leg so I ran down to the F.A.P. and got the M.O.

The accused declines to cross-examine this witness

G.R. Sessions
.....
(Pte G.R. Sessions)

THIRD WITNESS For the Prosecution.

Captain R.C. Bridge, RCAMC, No. 2 Canadian General Hospital having been duly sworn, states:-

Sergeant Grinham is suffering from a gunshot wound of the right thigh. The bullet entering on the lateral side of thigh approximately 6 inches above the knee joint traversing transversly behind the bone and emerging on the other side directly opposite point of entry. There was no bone injury. The perineal nerve was severed.

The accused declines to cross-examine this witness.

R.C. Bridge Capt
.....
(R.C. Bridge) Capt. RCAMC

The accused having been duly cautioned as follows:- Do you wish to make a statement or to give evidence on Oath? You are not obliged to make any statement or to give evidence unless you wish to do so, but whatever you say or any evidence you give will be taken down in writing and may be given in evidence.

Elects to give evidence on Oath.

The accused, M-20410 Sergeant GRINHAM, G.D. having been duly sworn, States:-

At approximately 1400 hours 24 January, 1944 I picked my equipment off a bench. At that time I hit my rifle with my equipment and it slipped off the edge of a table it was leaning on. My rifle tangled with a rifle standing in a corner which fell towards me. I pulled on my rifle to free it from the other rifle which fell against my leg. The other rifle discharged, hitting me on the back of the leg and knocking me over forward against the wall. I don't remember much after the bang. (Rifle No. 38-L-2419 Exhibit A)

.....
(Sgt. G.D. Grinham)

I certify that the foregoing Summary of Evidence consisting of two pages was taken down by me in the presence and hearing of the accused and that Rules of Procedure 4(c), (d), (e) and (f) have been complied with.

Bramshot Military Hospital
27 March, 1944

.....
(T.F. Marrion) Capt
Officer detailed to take the Summary of Evidence.

Previous sheet destroyed on completion of six months service 15-1-43 — P H Nasmyth Lt — No 2 Coy

MFM 6 (AFB 122) 40/P&S/136 (3438)

No E20410 Name Grinham D.C. — Sqn. Battery or Company — Corps RCOC — Date of enlistment 6-9-39 — OC Badges — Service or Proficiency Pay

Date of last entry in Company Conduct Sheet: Nil — No and date of last drunk: Nil — Period not reckoning towards freedom from extra fine — Sheet No 1 — Signature OC Company, etc: A M Reid Lt — Character

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Bordon	19 Jan 43	Sgt		AA Sec.40 in that he WOA3 neglected to carry out instructions	Lt. Chown ASM Fox CSM Turley Sgt. Logan	Reprimanded	21 Jan 43	H M Bailey Lt-col	
Field	14-3 43	Sgt		AA Sec. 40 CONDUCT to the prejudice of good order etc. in that he WOA3 was Sgt of guard which did wilfully damage pu. prop. A.F.V. bldg.	Sgt Brown	Reprimanded	17 Mar 43	H Hamer, Maj	Stoppage of pay in the amt of 13s 6d for damaging pub. prop. FRAI 158(2)
Field	5 Sep 43	Sgt		AA Sec 40. Did not appear fur duty	S/Sgt Osborne G	Severe Reprimand	6 Sep 43	JR Dunlop Major	

(PTO)

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Nature of Witnesses	Punishment awarded	Date of award or of order directing trial	By whom awarded	Remarks
						28 Mar 44			

M.F.B. 355
(22M—5-41 (572-3))
H.Q. 1772-39-620
A.F.B. 396

STATEMENT AS TO CHARACTER AND PARTICULARS OF SERVICE OF ACCUSED

Number E-20410 Rank Sgt. Name Gerald Douglas GRINHAM Regiment (or unit) 1 C.O.R.U.

1. The following is a fair and true summary of the entries in the Regimental and Squadron, Battery Conduct sheets or Company Conduct sheets of the accused, exclusive of convictions by a Court-Martial or a Civil Court, of summary awards under Section 47 of the Army Act and of cases in which trial has been dispensed with.

	Within last 12 months	Since enlistment or appointment
For AA Sec 40.	2 times AA Sec 40	3 times
For	times	times
For	times	times
For	times	times

Number of instances of gallantry or distinguished conduct NIL

or,

There are no entries in the Conduct sheets of the accused.

NOTE.—If the charge is for drunkenness, the entries for drunkenness must be stated separately.

2. The accused has not been previously convicted

or,

Previous convictions of the accused by a court-martial or a civil court, or summary awards under Section 47 of the Army Act, or cases in which trial under A.A. 73 is dispensed with, are set out in the Schedule annexed to this statement.

3. The accused is not under sentence at the present time.

or,

The accused at the present time is under sentence for ... beginning on the ... day of ...

4. The accused has been in confinement awaiting trial on the present charges, for ... days in civil custody, and ... days in military custody, making a total of ... days in custody, of which ... days were spent in hospital.

5. The present age of the accused according to his attestation paper is 3 Dec 1917

6. The date of his attestation specified in his attestation paper is 6 September 1939

7. The service which the accused is allowed to reckon towards discharge is 6 Sept 1939

8. The accused is entitled to reckon ... service for the purpose of determining his proficiency pay.

9. The accused is in possession of or entitled to no air force decoration, or air force reward (or military decoration or reward). State any air force decoration or reward. NIL

10. (Where the accused is a warrant officer.) The accused has been duly promoted to the rank of ... in the ... Force.

11. (In the case of an officer.) The accused holds in the Royal Canadian Air Force the rank of Permanent Force unit

N/A dated N/A, and in his regiment (or corps), the rank of

N/A dated N/A.

12. The accused has served as a non-commissioned officer continuously, without reduction, to the present date:—

1 Aug 1940 Date of promotion.

In the rank of L/Cpl 3 months years.

In the rank of Cpl. 4 months years.

In the rank of L/Sgt 1 month years. Sgt. 2 years 9 months

NOTE.—If any matter in any of the above paragraphs cannot be stated from the Regimental books, the paragraph must be struck through.

SCHEDULE

Of convictions by a court-martial or civil court, of summary awards under Section 37 of the Air Force Act, and of cases in which trial has been dispensed with of accused, Number N/A Rank N/A Unit

Name N/A of N/A Regiment

NOTE.—A verbatim extract from the regimental books stating these convictions and dispensations with trial must be inserted.

Description of Court by which tried	Date and Place of Trial	Charge upon which convicted	Sentence of the Court	Punishment Remitted
NIL	NIL	NIL	NIL	NIL

I hereby certify that the foregoing schedule of convictions and dispensations with trial is a true extract from the regimental books in my custody.

Signed this day of

Adjutant, 1 C.O.R.U.

The above statement (with the schedule of convictions and of cases in which trial has been dispensed with) is read, marked signed by the president, and annexed to the proceedings.

22-150

PTE GRISTEY F.G.

SCHEDULE.

PART I. PLEA(S), FINDING(S) AND SENTENCE.

Accused : .....

Charge. (Insert "alternative" where applicable.)	Plea. (See Instrs p 2.)	Finding. (See note below.)	(Space for use as required for further charges, accused charged jointly, special findings, etc.)
1st	guilty	guilty	
2nd			
3rd			
4th			
5th			
6th			

(Note : As to findings for lesser offences see AA 56, RP 44 ; findings on alternative charges see MML p 483 fn 4 para 2, RP 44 ; special findings see RP 44 and MML p 753, and in lieu of Kit see RP 44 fn 6.)

At present under sentence, viz. ..... beginning on (date) ..... (1).

(1. Insert sentence being served, or delete, if not applicable. See RP 46(A). Information should be found on MF B355 or AF B296.)

Time in confinement awaiting present trial—a total of 1 2 days, of which 2nd days were spent in hospital.(1)

(1. See RP 46(A) fn 2. Information should be found on MF B355 or AF B296 admitted in evidence under E2.)

Sentence Awarded by the Court :

To undergo detention for six (6) months.

(Sgd) R.K. Lawley Capt 19 Jan 44. (Sgd) R.D. Cannon Maj. Pres.

Judge-Advocate, if any. Date awarded. President. (RP 45, 50)

(See back of Convening Order as to assembly and disposal of record after trial.)

PART II. MINUTE WHERE CONFIRMATION RESERVED. (AA 54(5), RP 120(F), MML p 760.)

Date ..... (Sgd) ..... Commanding

PART III. DECISION OF CONFIRMING OFFR ON FINDING(S) AND SENTENCE.

(For duties and powers see AA 54, 57, RP 37(D) fn 6,46(A), 51-56, 120, MML pp 759-761, KR Can 567-577. Acquittals require no confirmation and cannot be revised : AA 54(3). Sending back finding or sentence for revision by Court : AA 54(2), RP 120(G). If not confirmed, accused may be tried again : AA 157, MML p 64. Minute of confirmation or non-confirmation may be altered before promulgation : RP 53, MML p 65. Quashing after promulgation : KR Can 573. Duties and powers of reviewing offrs : AA 57, 57A, RP 53A, 54. The Confirming Off(r must sign here personally. AA 172 fn 1.)

The decision on the finding(s) and sentence set forth in Part I is :

I confirm the findings and sentence of the Court.

~~I direct that the accused be not committed to prison or detention barracks until further orders.~~ (1)

(1. AA 57A. Delete if not used.)

(Sgd) Chas P Fenwick Brig

Date 20 Jan 44 Commanding C. P. FENWICK, Brigadier, D.D.M.S. First Cdn. Army. Confirming Officer.

DATE 19 Jan 44

No illegalities or irregularities such as would warrant withholding confirmation

PART IV. PROMULGATED AND EXTRACTS TAKEN. (RP 53, KR Can 576, 577.)

Accused.	Date.	Signature of Offr.
A 9021 Pte Frederick Gilbert Grieley	21 Jan 1944	C.A. Black Major, O.C. II Cdn F.D.S. RCAMC

ALL DELETIONS AND ALTERATIONS WILL BE INITIALLED.

22-150

FIELD GENERAL COURT-MARTIAL

CFA96 (In lieu of AF A31) (C.F.R.O. 1808/1805)

Convened by Order of Brigadier C.P. Fenwick Comd 00MS First Cdn Army dated 17 Jan 44

ACCUSED.

(As to the trial of two or more charged jointly see RP 16, 71, 109. As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

Number.	(a) Prmnt R. (b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
A 9021	Pte	Frederick Gilbert	Grieley	11 Cdn FDS

PROCEEDINGS REVIEWED
W.C. Fitch Lieut.
29 Jan 44
REVIEWING OFFICER, JAG BRANCH CMHQ

PROCEEDINGS OF TRIAL.

Held in the Fd in (country) England on (date(s)) 19 Jan 44

RECORD FORM A—OPENING PROCEEDINGS AND ARRAIGNMENT.

A1. The President, Members, waiting Member, JA, if any, and Offrs under instr, if any, assemble, and the Court is closed.

(PRINTED MATTER, NOT IN ITALICS FOR GUIDANCE, WILL BE DEBETED, IF NOT USED OR APPLICABLE, AND INITIALLED BY PRES OR JA. The Schedule referred to throughout is on p 4. Citations do NOT include all relevant fins ROs. For guidance on procedure when a variation in this form arises, see form for GCM in MML pp 746 to 759. A brief record of such variation will be made and given a number having reference to appropriate or preceding para number herein. See back of Convening Order, CF A65, for ranks and hints on how to record address, evidence, etc, which items are hereafter called "Notes". As to general provisions for conducting the trial see AA 53, RP 56, 63-70, 73, 74, 94, 103, 119, 122.)

A2. The President initials and lays before the Court the Convening Order and Charge Sheet(s) attached thereto.(1) The Court is satisfied that it is properly convened and constituted(2), accused is (are) amenable to military law, and each charge discloses an offence.(3)

(1. As to use of Summary of Evidence see RP 17 fn 6. 2. AA 49, 50, RP 105-107. 3. RP 11-13, 23, 24.)

A3. The Court is opened. The accused is (are) brought before the Court. At 1100 hours trial commences.

A4. The Prosecutor produces a Medical Certificate that accused is (are) fit to undergo trial by court-martial.(1) ~~The Prosecutor informs the Court that accused elected to be tried by court-martial instead of being dealt with summarily by the CO.~~ (2)

(1. KR Can 557. 2. AA 46(B), RP 60 fn 1. For effect see KR Can 563(c). Delete, if not applicable.)

~~A5. President to accused : Do you object to as interpreter ? Ans.~~

~~The Interpreter is sworn (1). Do you object to as shorthand writer ? Ans.~~

~~The shorthand writer is sworn.(1)~~

(1. RP 72. Delete, if none employed.)

A6. The Convening Order and names of the President and Members of the Court are read to the accused.(1) President to accused : Do you object to be tried by me as President or by any of the Members of the Court ?

Ans No Sir. (2)

(1. RP 110. 2. If no objection, waiting member retires. RP 60(B). If objection, see procedure AA 51, RP 25, 71, 18, MML p 742.)

A7. The President, Members, JA, if any, and Offrs under instr, if any, are sworn.(1) The following are the ranks, names and units of the offrs comprising the Court, etc :

President	Major	D.D. Cannon	HQ 1st Cdn Army
Member	Capt	R.D. Barron	10 Cdn FDS
Member	Capt	D.J. Anderson	10 Cdn FDS.
Judge-Advocate	Capt	R.K. Lawley	HQ First Cdn Army
Prosecutor	Capt	H. Colmon	9 Cdn FDS
Defending Offr	Lt	J.W. West	9 Cdn FDS

Questions by President : Is the Prosecutor a lawyer ? Ans. No Is the Defending Offr a lawyer ? Ans. No (2)

(1. RP 26, 27, 109, 111. List of offrs under instr will be returned separately with proceedings for information of Conv Offr.)
(2. If Pros a lawyer and Def Offr not, accused is entitled to an adjournment when RP 89 (B) and fn 2 were not followed. See D1 p 3.)

A8. The accused ..... before arraignment make(s) (no) ~~no~~ plea (1)

(1. If a special plea is made for separate trial on one or more charges (RP 62(E), 108), or as to the jurisdiction of the Court (RP 34, 35(A), 113), or in bar of trial (RP 36), or as to accused's mental fitness to stand trial (AA 130, RP 57), or by one of several accused charged jointly to be tried separately (RP 16, 71), such plea, the addresses made in support or against, the evidence, if any, and finding are recorded per Notes. For forms of record see references in fns to RsP cited. Insert in A8 name and name of the accused making the plea.)

A9. The accused is (are) arraigned ~~separately~~ on all charges in the charge sheet.(1) The accused does (~~do~~) not object to any charge.(2) There is no amendment to be made to the Charge Sheet.(3) The President records the pleas in Part I of the Schedule.

(1. RP 31, 112. See para 1 of Instrs p 2. When more than one Charge Sheet see RP 62 ; when several accused to be tried separately see RP 71(C), and see separate copies of CF A96 to record proceedings. 2. RP 32, RP 33. If otherwise, delete and make appropriate record per Notes.)

A10. The Court (is closed and) considers the Instrs on Procedure after Arraignment at top of p 2. The proceedings are continued on Record Form R+F

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

INSTRUCTIONS ON PROCEDURE AFTER ARRAIGNMENT.

1. *The accused may not plead or be found Guilty on more than one of two or more charges laid in the alternative.* (RP 37(A).) *As to withdrawal of alternative charges by Prosecutor see RP 35(C). No other charge can be withdrawn for any reason without authy from Convening Offr. If Convening Offr concurs, Court may accept plea of Guilty to lesser, etc, offence.* (RP 44(H).) *Accused may change a plea of Not Guilty to Guilty during trial.* (RP 38.) *As to refusing to plead or not pleading intelligibly see RP 35(A). As to plea when sentence may be death see RP 35(D).*

2. *The proceedings on each charge sheet* (RP 62) *after arraignment will be conducted as follows in the respective circumstances stated :*

I. If pleas to all charges are GUILTY, use Record Form B below.

II. If pleas to all charges are NOT GUILTY, use Record Form D on p [redacted] *3.*

III. If pleas to some charges are GUILTY and to other charges are NOT GUILTY and,

(a) Such mixed pleas occur when there are no alternative charges in the Charge Sheet, use Record Form C below. (RP 37(A).)

(b) Such mixed pleas occur in a set of two or more charges laid in the alternative, see RP 37 (A) and fn 2 as to discretion of Court, (i) to try the accused on all such alternative charges as if he had pleaded Not Guilty thereto, or, (ii) to record the pleas as the findings of Court. After deciding between (i) and (ii), Court will proceed under foregoing instrs as may be appropriate to result of its decision. See MML p 744 Instrs (2).

3. *As to responsibility of President to accused see RP 59, 60(C); powers and duties of JA see RP 103; duty of Prosecutor see RP 60(A) (B); duty and privileges of accused and Defending Offr see RP 60(C), 87(C), 91, 92; swearing and withdrawal of witnesses from Court see RP 81, 82; questioning of accused see RP 80, 87(C), 92(B), and of witnesses see RP 83-85; calling or re-calling of witnesses by Court etc see RP 75-79, 86, 116; use of Summary of Evidence at Trial see RP 17(B) fn 6; and responsibility of JA or Pres to record proceedings see RP 94, 96.*

RECORD FORM B—PROCEEDINGS ON PLEAS OF GUILTY TO ALL CHARGES.

B1. The President or JA, if any, complies with RP 35(B) by explaining to the accused the nature and meaning of the charge(s)(1), and that on his plea of Guilty there will be no regular trial but merely a consideration of the sentence to be awarded after he has been given an opportunity to make a statement in reference to the charge(s), call witnesses as to character and make an address in mitigation of punishment.(2)
(1. *RP 35 fn 3.* 2. *MML p 54 para 47.*)

B2. President to accused : The Court will now receive any statement you desire to make in reference to the charge(s).(1) If it appears from your statement that there are circumstances which indicate that you do not understand the effect of the plea of Guilty(2), or which show provocation or extenuation in respect of which in your interest the witnesses for the Prosecution should be examined(3), we shall advise you to change your plea to Not Guilty. In making a statement you will not be sworn or subject to cross-examination ; and anything you say will not be used in evidence against you after you change your plea. If, however, it appears to the Court that your statement affects only the amount of punishment to which you are liable, you will not be advised to change your plea and you will be given an opportunity later to prove your statement by sworn testimony, if you so desire.(4)

President to accused : Do you wish to make a statement ? Ans. Yes SIR. (5)
(1. *RP 37(B).* 2. *RP 37(D) fn 6.* 3. *RP 35(B) fn 5 para 3, MML p 54 para 47.* 4. *See para E3 of Record Form E.* 5. *Statement, if any, recorded per Notes.*)

B3. The Court considers the accused's statement.(1) The Court decides (not) to advise accused to change his ~~(their)~~ plea(s) of Guilty to Not Guilty on the charge(s). The accused is ~~(are)~~ so informed, ~~and he (they) changes(s) his (their) plea(s) on the charge(s). Part I of the Schedule is amended accordingly.~~
(1. *Court may be cleared to consider the statement.* Delete whole or part not used.)

B4. On the charge(s) to which the plea(s) of Guilty is ~~(are)~~ not changed the President records findings ~~is~~ of Guilty in Part I of the Schedule.(1)
(1. *RP 35(B). If any plea(s) is (are) changed, use Record Form C or D as appropriate.*)

B5. The Summary of Evidence is marked Ex S, initialled and read aloud by the President.(1)
(1. *If there is no Summary, or if it is inadequate, comply with RP 37(B). If there is any evidence inconsistent with any plea standing as Guilty, Court will advise accused to change such plea and, if changed to Not Guilty, try such charge(s) by use of paras D1 to D8 inclusive of Record Form D on p 3. RP 37(D).*)

B6. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

RECORD FORM C—PROCEEDINGS ON MIXED PLEAS OF GUILTY AND NOT GUILTY.

C1. As to the charges on which accused pleaded NOT GUILTY the trial is continued by using paras D1 to D8 inclusive of Record Form D on p 3 before proceeding with C 2.(1)
(1. *RP 37(A) (E).*)

C2. The charges on which accused pleaded GUILTY are read to him (them) again, and the trial is continued by using paras B1 to B5 of Record Form B above.(1)
(1. *Under B5 such parts only of the Summary of Evidence are read as relate to the charges dealt with under C2. If any plea is changed to Not Guilty, trial thereon proceeds by complying with paras D1 to D8 inclusive in Record Form D on p 3 and making an appropriate record thereof on a separate sheet.*)

C3. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

RECORD FORM D—PROCEEDINGS ON PLEAS OF NOT GUILTY TO ALL CHARGES.

D1. President to accused : Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity to prepare your defence ? Ans ..... (1)
(1. *If "yes", see RP 39(A) for procedure. Statement or evidence, if any, is recorded per Notes.*)

D2. The Prosecutor makes (an) (no) opening address.(1)
(1. *RP 39(B), 60(A) (B), 90, 92(C) (D). Record address per Notes, subject to RP 95(C).*)

D3. The evidence for the Prosecution is taken.(1)
(1. *RP 39(C), 114, KR Can 555. Record evidence per Notes. As to Prosecutor giving evidence himself see RP 39(D) (E).*)

D4. The Prosecution is closed.(1) The Defending Offr submits that the evidence for the Prosecution does not establish a prima facie case against the accused on the ..... charge(s).(2) The Court is closed, and considers the submission.(3) The Court is re-opened, and the President announces that the submission is disallowed on the ..... charge(s), and allowed on the ..... charge(s), and that, accordingly, the trial will proceed on the former, but the accused is (are) found Not Guilty on the latter charge(s).(4)
(1. *Delete remainder of this para if submission not made.* 2. *Arguments on submission, answer and reply are recorded per Notes.* 3. *RP 40 fn 1. See MML p 72 paras 12-14 and p 81 para 42.* 4. *Delete part not used. If accused acquitted on all charges, use second alternative in para D8.*)
NB : If trial proceeds, accused must be allowed great latitude in making his defence, and the Court should not stop his defence solely on ground of irrelevance. (RP 60(C), 114, 115.)

D5. President to accused : You will now proceed with your defence.(1) You may, if you wish, give evidence yourself on oath as to the facts or your character or both in which case you will be subject to cross-examination.(2) You may, however, make a statement without being sworn, and you will not be subject to cross-examination.(3) But a statement which could have been made on oath will not carry with the Court the same weight as sworn testimony.(4) You may call witnesses in your defence and as to character, whether you give evidence or make a statement or do neither.

President to accused : Do you wish to give evidence yourself as a witness, make a statement, or do neither ?
Ans ..... Do you intend to call witnesses on your behalf ?
Ans ..... Are they witnesses as to character only ? Ans .....
(1. *RP 155.* 2. *RP 40(A), see 80(D).* 3. *RP 40 fn 10.* 4. *RP 40 fns 2, 9.*)

D6. Consequent on the answers recorded in para D5 the appropriate procedure for the defence is followed.(1)
(1. *RP 114, 115, 116. For procedure see Notes on back of Convening Order, CA 485. Evidence for accused as to his character should, if in his interest, be given before the finding. See RP 46(A) fn 1, 86(C). Note the further opportunity in para E3 of Record Form E. Record per Notes addresses, statement, evidence and any summing up by the JA under RP 42, 103(e).*)

D7. The Court is closed to consider the finding(s).(1) The finding(s) of the Court is (are) recorded in Part I of the Schedule.(2) The Court is re-opened.
(1. *RP 43, 117(A). See Notes in Part I of Schedule.* 2. *RP 44(A).*)

D8. The President announces the finding(s), if any, of Not Guilty, and states to the accused that the finding(s) of the Court on the ..... charge(s), being subject to confirmation, will be promulgated later.(1)
Or, The President announces that the accused is found Not Guilty on all charges and is to be released forthwith, and that the proceedings are accordingly terminated. Part I of the Schedule is dated and signed.(2)
(1. *AA 54(2) (6), RP 45, 120(A).* 2. *AA 54(2), RP 45, 117. This alternative announcement is not applicable where there are pleas of Guilty outstanding and dealt with under Record Form B or C.*)

D9. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E below.

RECORD FORM E—PROCEEDINGS ON CONVICTION BEFORE SENTENCE.

E1. President to accused : Do you wish to give evidence yourself or to call any witnesses as to your character ?(1)
Ans NO SIR.
(1. *If evidence has already been given by accused or his witnesses as to his character, delete this para. RP 27(C) fn 4, 46 fn 1. Accused and witnesses are sworn. Evidence recorded per Notes.*)

E2. The Prosecutor produces Statement(s) as to Character and Particulars of Service(1), and certified true copy (copies) of Conduct Sheet(s)(2), purporting to refer to the accused, which he submits to the Defending Offr for examination, and then to the Court for admission in evidence. The Court is satisfied that these documents refer to the accused, because (i) they purport to be signed in the manner required by AA 163(l) (g) (h), and (ii) they purport to refer to (a) soldier(s) having the same number, rank, name and corps as the accused. Admitted in evidence and marked Ex X and Ex Y respectively.(3)
(1. *MFB 255 or AFB 2960.* 2. *MFM 6.* 3. *RP 46, KR Can 558. If above documents not produced, see RP 46 fn 1 para 1.*)

E3. President to accused : Do you wish to address the Court on the Statement(s) and Conduct Sheet(s), and in mitigation of punishment ?(1) Ans Yes Through my Defending Officer. (2)
(1. *RP 37(C), 46(D).* 2. *Address, if any, recorded per Notes. Court should permit accused and witnesses to prove on oath anything here or previously stated which would affect the amount of punishment. RP 37(F) fn 7.*)

E4. The President states that the Court is closed to consider the sentence, and that the sentence to be awarded by the Court, being subject to confirmation, will not be announced, but will be promulgated later, and the proceedings in open court are accordingly terminated.(1)
(1. *AA 54(6), RP 120(A).*)

E5. The Court considers the sentence.(1) The President records the sentence in Part I of the Schedule, which is dated and signed by him and the JA, if any.(2)
(1. *When several accused tried separately see RP 42(D). One sentence only, comprised of the punishment or punishments laid down in AA 41, 44 and its proviso, is to be awarded to cover all charges in all charge sheets on which accused found guilty. RP 48. As to sentences see AA 44, 138, 182, RP 46-50, 69, 118, 119(A), KR Can 308, 330, 563-566, Overseas NO 309, 2320, MML p 66, 757-759. As to sentences assigned for civil offences by the law of England see AA 41(5), MML p 130. Where accused already under sentence of imprisonment or detention see AA 44(10), 68(1), KR Can 564.* 2. *RP 50. As to release from arrest by Convening Offr see KR Can 567. As to assembly and disposal of record after trial see Instrs on back of Convening Order.*)

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

CHARGE SHEET

THE ACCUSED, NO. A-9021 PRIVATE FREDERICK GILBERT GRISTEY, RCASC ATTACHED AS PER WAR ESTABLISHMENT TO NO. 11 CANADIAN FIELD DRESSING STATION, RCAMC., A SOLDIER OF THE CANADIAN ARMY OVERSEAS, PLACED ON ACTIVE SERVICE, IS CHARGED WITH:-

CHARGE
SECTION 18(4) ARMY ACT

STEALING PUBLIC PROPERTY

in that he

in the Field, in England, between 15th and 30th of December, 1943, did steal approximately ten (10) gallons of petrol, being public property, from Canadian Government Vehicles on charge to No.11 Canadian Field Dressing Station, RCAMC.

In the Field
12 Jan 44

(C.R.Trask) Major
Officer Commanding
11 Cdn Fd Dressing Stn.,
R.C.A.M.C.

To be tried by Field General Court Martial.

Approved for trial under HQ(Con)540 and ORO 2223
A.D.J.A.
H.Q., First Cdn. Army.

In the Field
13 Jan 44

(C P Fenwick) Brigadier
D D M S
First Cdn Army

FIELD GENERAL COURT-MARTIAL

CFA95 (In lieu of AFA3) 40/PAM/3607 (2668)

(Whether the accused to be tried is under his comd or not, a FGCM may on application to him be convened by any offr of Cdn Army Overseas, or of any other force if authorized in law, in immediate comd of troops on active service, subject to RP 105(C) and restrictions imposed by appropriate authy. AA 49, 50, RP 104-107, 114. As to the duties and privileges of the Convening Offr in dealing with the application see MML Chap V paras 20 and 23, RP 87(B).

There should be a separate Convening Order for each person to be tried separately by the same Court. RP 71(C), 109. As to separate charge sheets see RP 62, and as to separate trial on charges in the same charge sheet see RP 108. As to two or more accused charged jointly see RP 16, 109.

As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

ACCUSED.

Number.	(a) Prmnt R.	(b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
A-9021	Pte.		Frederick Gilbert	GRISTEY	11 Cdn FDS

CONVENING ORDER.

1. Whereas complaint has been made to me, the undersigned, that the person(s) named above as the accused, being subject to military law, has ~~(have)~~ committed the offence(s) set forth in the Charge Sheet(s) attached and on (date) 13 Jan 44 endorsed by me, ~~(or by an offr of my staff for me)~~, " To be tried by Field General Court-Martial ".

2. And whereas I am of opinion that it is not practicable that such offence(s) should be tried by an ordinary General Court-Martial ; ~~(and that it is not practicable to delay the trial for reference to a superior qualified offr.)~~

(Delete part in brackets when not required for compliance with RP 105(C).)

3. I hereby convene a Field General Court-Martial to try the said person(s), and to consist of the Offrs appointed or detailed hereunder.

4. ~~I am unable to appoint (a) three Offrs to form the Court, (b) a Fd Offr as President, for the reasons I have attached hereto.~~

(AA 49, RP 106(B), 107(A). Delete the whole or part, if not applicable.)

5. I also appoint as Judge-Advocate thereat the Offr mentioned hereunder.

(RP 106(E). Delete, if none appointed.)

PRESIDENT.

(Rank.)	(Must be named. RP 106.)	(Unit.)
Major	D.G. Cannon	H.Q. First Cdn Army

MEMBERS.

(Rank.)	(Named or detailed. RP 106.)	(Unit.)
Capt.	R.D. Barron	10 Cdn FDS
Capt.	J.J. Anderson	10 Cdn FDS

WAITING MEMBER.

(Rank.)	(Named or detailed, if any. RP 106.)	(Unit.)
Major	B.C. Miller	17 Cdn Lt Fd Amb

JUDGE-ADVOCATE.

(Rank.)	(Must be named, if any. RP 106.)	(Unit.)
Capt.	R.K. Laishley	H.Q. First Cdn Army

On Active Service in the Fd

in England (Country.)

Date 13 Jan 1944.

(Signed personally RP 105 fn 2) (Rank.)

Commanding Chas P Fenwick Brig.

C. P. FENWICK, Brigadier,
D.D.M.S. First Cdn Army

CONVENING OFFR WILL INITIAL ALL DELETIONS AND ALTERATIONS

(See overleaf for oaths and notes for use on trial.)

RWL

MEDICAL CERTFICATE.

" I hereby certify that I have this morning (J.Md.C.) examined A-9021 Pte. CHISTEY F.C. and in my opinion he is fit to undergo trial by Court-Martial.

J.Md. Coroton Capt
Medical Officer
11th Cdn Fd Dressing Station
C.A.C.

19 Jan 44

Statement of accused in reference to the charge

Several nights before the incident occurred Pte Cameron and myself prepared plans with the view to the patrol that to. Pte Cameron did not go as with the check. Pte Tatnell picked it up, he took Cameron's place. On 24 Dec between my hours on guard duty Pte Tatnell came up and asked me while I found the patrol to Bixby's place. Pte Bumphries knew about it and the many we got from the patrol was great at the post.

Plea in mitigation of Punishment
By Defending Officer

Pte. Gratley's conduct up to 19 Jan
the has exhibited since that the first
has when he was struck by
from then he has been on several charges
not knowing any daughter
This was is my actual and like a
charge of negligent frequently he is
easily misled by the influence of others

Kut

This is exhibit "A" referred to in the Summary of Evidence in the case of A9021 Pte Gristey F G taken before me this 19th day of January 1944

7 Jan 44

Campbell Lt
(offr taking summary)

A 9021 Pte Gristey, 47 Coy 7 Lt Army Tptaloon.
R.C.A.S.C. - 3rd Mid Regt

I have been cautioned that I am not obliged to say anything unless I wish to do so, but that anything I do say will be taken down in writing and may be given in evidence

Gristey

2 - 4 Dec 43, I was on guard duty at 11 th. Field Dressing Station, Caterham. The hours of my shift were between 2000 hours and mid night. Approximately 2330 hours I carried 10 gallons of petrol to a woman's house named Betty in Caterham. I know this woman as Betty and she drives a taxi cab. She paid me for the petrol, I don't wish to say how much. I got the petrol from one of the Unit lorries which was parked near 'Hill Top.' I went part of a hose to obtain the petrol.

The reason I took the petrol was because I would like to bring to the notice of superior officers, the fact that in my opinion, I am of no further use to the Army, and would be of much more service to the Merchant Navy.

I have read over this statement and it is true.

Gristey

Statement taken by Rhustard Sgt. #1565.

witness: W Kyall Lt.

SUMMARY OF EVIDENCE

In the case of A-9021 Private GRISTEY, Fredrick Gilbert, 11 Cdn Field Dressing Station, Cdn Army Overseas, taken in the Field on the 12 Jan 44.

The Commanding Officer directs that the evidence be taken under oath.

FIRST WITNESS K-79062 A/Sgt McNAIR, R.C., 11 Cdn Field Dressing Stn, sworn, states:-

On the morning of the 30 Dec 43 I made my monthly check on the vehicles on charge to 11 Cdn Field Dressing Stn and found a certain amount of petrolmissing. In checking with the log books found this amount to be in the vicinity of fifty (50) gallons. I then reported this matter to the OfficerCommanding. The vehicles I found the petrol missing in, had not been driven since the first of December 43. These vehicles were parked in the gravel pit on HILL TOP hill until the 17 Dec 43 but owing to the unfavourable condition formaintenance these vehicles were moved out onto the road along HILL TOP hill. These vehicles were under guard at all times.

K-79062 A/Sgt McNair R C

CROSS-EXAMINATION

Question: Can Sgt McNair give the exact date the petrol was missing?
Answer : No, as these vehicles were "vehicles off the road" and no drivers, they had not been checked during that month.

Question: Were vehicles facing downhill or uphill?
Answer : They were facing downhill.

Question: Were any vehicles taken out of the vehicle park without a work ticket?
Answer: Not to my knowledge.

SECOND WITNESS

U1913 Sgt SUTHERST, R S, No.1 Special Investigation Section, 1st CdnArmy, sworn, states:-

On the 6 Jan 44, in the company of civilian police officers I went to an address in CATERHAM where a search was conducted of the premises, as a result of which two five gallon drums of petrol were found. As a result of inquiries made I saw A-9021 Pte GRISTEY,F.G. the accused whom I now recognise at the 87 Cdn Arty Coy., RCASC, 3rd Med. Regt, on the 7 Jan 44. I told him who I was and that I was making inquiries respecting some petrol that had been stolen from the 11 Cdn Fd Dressing Station at CATERHAM. Pte GRISTEY was cautioned

..continued overleaf

and then made the following voluntary statement which I reduced to writing. This statement was signed by Pte GRISTEY and taken in the presence of Lt. WALL L H of the 3rd Med Regt Pl, RCASC. I now produce the statement. I placed Pte GRISTEY F G under close arrest at about 1700 hrs 7 Jan 44; he was detained at the 3rd Med. Regt Pl., RCASC.

R S Suthurst Sgt
No.1 S.I.S. Cdn Army.

The accused declines to cross-examine the witness.

The statement referred to by the witness, produced, read over to the accused, marked Exhibit "A", signed by me and attached hereto

J. Campbell Lieut
Officer taking Summary.

The accused declines to make any statement or give evidence upon oath, or call any witnesses.

*Rules of procedure 4(c)(d)(e)(f) [redacted] have been complied with.

I certify that the foregoing Summary of Evidence consisting of two pages was taken down by me in typing in the presence and hearing of the accused this 12 day of January 44.

J. Campbell Lieut
Officer taking Summary.
(S.D.&G.Highrs)
on strength No.11 Cdn F.D.S., RCAMC.

No A9021 Name GRISTEY F.G. Sqn, Battery, or Company 14 Cdn Fd Amb Corps RCASC Date of enlistment 31-12-40 GC Badges Service or Proficiency Pay $1.50 MFM 6 (AFB 122 10/PAY/139 (3628)

Date of last entry in Company Conduct Sheet 18-1-43 No and date of last drunk Nil Period not reckoning towards freedom from extra fine Sheet No 2 Signature OC Company, etc Character

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Camp Dubert	6 Apr 41	Pte		Failure to appear on parade	Sgt Allen	120 hrs stoppage	7-4-41	Offr Comd	
Camp Dubert	20-4-41	Pte		Failure to appear on parade	Cpl Kearns	7 days pay	21-4-41	Offr Comd	
Camp Dubert	27-4-41	Pte		Failure to appear on parade & malingering	Capt Drake	168 hrs stoppage	28-4-41	Offr Comd	
Camp Dubert	19-6-41	Pte		Untidy equipment on guard mounting	Sgt Houghton	5 days pay	20-6-41	Offr Comd	
Camp Dubert	28-6-41	Pte		AWL (2 hrs 30 mins) on close arrest	Sgt St Dubois	168 hrs stoppage	28-6-41	Offr Comd	2 months 1 days pay
Aldershot	20-10-41	Pte		Was inattentive on parade	Cpl Weir	8 days F.P.	4-10-41	Offr Comd	2 months 8 days pay
Aldershot	20-10-41	Pte		AWL (4 hrs 10 mins)	Cpl Tracy	7 days pay	22-10-41	Offr Comd	
Aldershot	16-11-42	Pte		Neglect to obey an order given by his N.C.O.	Cpl Wyman	14 days F.P.	19-11-42	Offr Comd	
Aldershot	27-12-42	Pte		AWOL 10 hrs 15 mins	C.S.M.	14 days F.P.	4-1-43	Offr Comd	14 days pay
Aldershot	8-1-43	Pte		AWOL 6 days 6 hrs	Commanding	27 days F.P.	18-1-43	Offr Comd	34 days pay
Aldershot	29-Sept 43	Pte		(1) AWOL. Neglecting to obey an order given by superior officer					
				(2) AWOL (2) using abusive and insulting language to a superior officer					

(720)

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
				Continued:- (2) AA 9(b) while under open arrest refusing to carry out duties assigned to Sdsn	Sgt Lister L.	28 days F.P.	30 Dec 43	Lt-Col G. M. Wood	Forfeits 28 days pay F.A.& S. (1941/42)
Field	30-12-43	Pte		W.O. 104 S. charged with:- AA 24 in that he did absent himself without leave for 7 hrs 31 mins	Sgt Ball K.J.	Forfeits 3 days pay	30-12-43	Maj. C.R. Trask	Total forfeits 4 days pay.

Certified to be a true copy from the regimental books in my custody

In the Field
12 Jan 44

(C.R. Trask) Major
Officer Commanding, 11 Cdn F.D.S.

M.F.B. 355
22M.—5-41 (572-3)
H.Q. 1772-99-620
A.F.B. 396

STATEMENT AS TO CHARACTER AND PARTICULARS OF SERVICE OF ACCUSED

Number A-9021 Rank Private Name Frederick Gilbert GRISTEY, Regiment (or unit) RCASC att to No.11 Cdn Field Dressing Station RCAMC

1. The following is a fair and true summary of the entries in the Conduct sheets No. 11 Cdn Field Dressing Station Regimental [illegible] Company Conduct sheets of the accused, [illegible] convictions by a Court-Martial or a Civil Court, of summary awards under Section 47 of the Army Act and of cases in which trial has been dispensed with.

	Within last 12 months		Since enlistment or appointment	
For A.A. Sec 15 (1)	2	times	A.A. Sec 15 (1)	6 times
For A.A. Sec 40	1	times	A.A. Sec 15 (2)	3 times
For A.A. Sec 8 (2)	1	times	A.A. Sec 40	4 times
For A.A. Sec 9 (2)	1	times	A.A. Sec 18 (1)	1 times

Number of instances of gallantry or distinguished conduct nil

[illegible] or.

[illegible] in the Conduct sheets of the accused.

NOTE.—If the charge is for drunkenness, the entries for drunkenness must be stated separately.

2. The accused has not been previously convicted [illegible] by a court-martial or a [illegible] of summary awards under Section 47 of the Army Act and dispensations with trial under A.A. 73 are set out in the Schedule annexed to this statement.

3. The accused is not under sentence at the present time.

4. The accused has been in confinement awaiting trial on the present charge for no days in civil custody, and 5½ days in military custody, making a total of 5½ days in custody, of which no days were spent in hospital.

5. The present age of the accused according to his attestation paper is 22 years.

6. [illegible] 31 Dec 40

7. The service which the accused is allowed to reckon towards discharge is 3 yrs,12 dys

8. The accused is entitled to reckon 3 yrs 12 dys service for the purpose of determining his pension, etc.

9. The accused is in possession of or entitled to no [illegible] decoration, or [illegible] reward (or is in possession or is entitled to). State any [illegible] decoration or reward.

10. If the accused is a warrant officer.) The accused before he was made a warrant officer last held the regimental rank of [illegible]

M.F.B. 255
22M—5-41 (572-3)
H.Q. 1772-99-620
A.F.B. 296

STATEMENT AS TO CHARACTER AND PARTICULARS OF SERVICE OF ACCUSED

Number	Rank	Name	Regiment (or unit)
A-9021	Private	Frederick Gilbert GRISTEY,	RCASC att to No.11 Cdn Field Dressing Station RCAMC

1. The following is a fair and true summary of the entries in the Regimental and Squadron, Battery or Company Conduct sheets of the accused, exclusive of convictions by a Court-Martial or a Civil Court, of summary awards under Section 47 of the Army Act and of cases in which trial has been dispensed with.

No. 11 Cdn Field Dressing Station

	Within last 12 months		Since enlistment or appointment	
For A.A. Sec 15 (1)	2	times	A.A. Sec 15 (1)	6 times
For A.A. Sec 40	1	times	A.A. Sec 15 (2)	3 times
For A.A. Sec 8 (2)	1	times	A.A. Sec 40	4 times
For A.A. Sec 9 (2)	1	times	A.A. Sec 18 (1)	1 times

Number of instances of gallantry or distinguished conduct nil

There are no entries in the conduct sheets of the accused.

NOTE.—If the charge is for drunkenness, the entries for drunkenness must be stated separately.

2. The accused has not been previously convicted

Previous convictions of the accused by a court-martial or a civil court of summary awards under Section 47 of the Army Act and dispensations with trial under A.A. 73 are set out in the Schedule annexed to this statement.

3. The accused is not under sentence at the present time.

The accused at the present time is under sentence for , beginning on the day of

4. The accused has been in confinement awaiting trial on the present charges, for no days in civil custody, and 5½ days in military custody, making a total of 5½ days in custody, of which no days were spent in hospital.

5. The present age of the accused according to his attestation paper is 22 years.

6. The date of his birth specified in his attestation paper is 31 Dec 40

7. The service which the accused is allowed to reckon towards discharge is 3 yrs, 12 dys

8. The accused is entitled to reckon 3 yrs 12 dys service for the purpose of determining his pension, etc.

9. The accused is in possession of or entitled to no military decoration, or air force reward (or is in possession of or entitled to). State any military decoration or reward.

10. (If the accused is a warrant officer.) The accused before he was made a warrant officer last held the regimental rank of

H. Rut

11. (In the case of an officer.) The accused holds in the Royal Canadian Air Force the rank of Permanent Force unit

.....dated....., and in his regiment (or corps), the rank of

.....dated.....,

12. The accused has served as a non-commissioned officer continuously, without reduction, to the present date:—

.....Date of promotion.

In the rank of ..... years.

In the rank of ..... years.

In the rank of ..... years.

NOTE.—If any matter in any of the above paragraphs cannot be stated from the Regimental books, the paragraph must be struck through.

SCHEDULE

Air Force

Of convictions by a court-martial or civil court, of summary awards under section 47 of the Army Act, and of cases in which trial has been dispensed with of accused. Number ..... Rank ..... Unit

Name ..... of ..... Regiment

NOTE.—A verbatim extract from the regimental books stating these convictions and dispensations with trial must be inserted.

Description of Court by which tried	Date and Place of Trial	Charge upon which convicted	Sentence of the Court	Punishment Remitted

I hereby certify that the foregoing schedule of convictions and dispensations with trial is a true extract from the regimental books in my custody.

Signed this 12 th day of January 19 52

O.C. Con 405

The above statement (with the schedule of convictions and of cases in which trial has been dispensed with) is read, marked ..... signed by the president, and annexed to the proceedings.

5A-100

Re. Great, S.D.

SCHEDULE.

PART I. PLEA(S), FINDING(S) AND SENTENCE.

Accused : B-37540 Pte Stanley Irving GROAT RCASC att 1 Cdn Disciplinary Centre

	Charge. (Insert "alternative" where applicable.)	Plea. (See Instrs p 2.)	Finding. (See note below.)	(Space for use as required for further charges, accused charged jointly, special findings, etc.)
1st	As 15(1)	GUILTY	GUILTY	
2nd				
3rd				
4th				
5th				
6th				

(Note : As to findings for lesser offences see AA 56, RP 44 ; findings on alternative charges see MML p 483 fn 4 para 2, RP 44 ; special findings see RP 44 and MML p 753, and in lieu of Art see RP 44 fn 6.)

At present under sentence for ..... beginning on (date) ..... (1)

(1. Insert sentence being served, or delete, if not applicable. See RP 46(A). Information should be found on MF B355 or AF B296.)

Time in confinement awaiting present trial—a total of # 3 days, of which —— days were spent in hospital.(1)

(1. See RP 46(A) fn 2. Information should be found on MF B355 or AF B296 admitted in evidence under E2.)

Sentence Awarded by the Court :

~~14 days detention & forfeiture of Pay~~ ✓
90 days detention

(Sgd) ..... 28 Feb 45 (Sgd) Lieut-Colonel
Judge-Advocate, if any. Date awarded. President. (RP 45, 50.)

(See back of Convening Order as to assembly and disposal of record after trial.)

PART II. MINUTE WHERE CONFIRMATION RESERVED. (AA 54(3), RP 120(F), MML p 760.)

Date ..... (Sgd) ..... Commanding .....

PART III. DECISION OF CONFIRMING OFFR ON FINDING(S) AND SENTENCE.

(For duties and powers see AA 54, 57, RP 37(D) fn 6.46(A), 51-56, 120, MML pp 759-761, KR Can 567-577. Acquittals require no confirmation and cannot be revised : AA 54(3). Sending back finding or sentence for revision by Court : AA 54(2), RP 120(G). If not confirmed, accused may be tried again : AA 157, MML p 64. Minute of confirmation or non-confirmation may be altered before promulgation : RP 53, MML p 65. Quashing after promulgation : KR Can 573. Duties and powers of reviewing offrs : AA 57, 57A, RP 53A, 54. The Confirming Offr must sign here personally. AA 172 fn 1.)

My decision on the finding(s) and sentence set forth in Part I is :

~~Not to confirm the finding, but I am able to confirm a finding of~~ ✓
Confirmed

~~I direct that the accused be not committed to prison or detention barracks until further orders.~~ (1)
(1. AA 57A. Delete if not used.)

(Sgd) ..... (C S N Goetling) Brig
Date 24 FEB 45 Commanding ~~2 CDN BASE REPT CP~~
Confirming Officer.

PART IV. PROMULGATED AND EXTRACTS TAKEN. (RP 53, KR Can 576, 577.)

Accused.	Date.	Signature of Offr.
B-37540 Pte Groat, SJ	26 Feb 45	A Reid Lt-Col. Comdg, 1 Cdn Disciplinary Centre

CR #57
27 FEB 45

ALL DELETIONS AND ALTERATIONS WILL BE INITIALLED.

RECORDED AT CMHQ IN AB 160

FIELD GENERAL COURT-MARTIAL

CFA96 (In lieu of AFA81) 40/F & E/1698 (1944)

4388

RECEIVED 1 APR 1945 CMHQ

Convened by Order of Brigadier G.S.N. Goetling, ED Comd 2 CBRG dated 22 Feb 45

ACCUSED.

(As to the trial of two or more charged jointly see RP 16, 71, 109. As to reasons for showing (a) permanent or confirmed rank and (b) apprmt, A/rank or A/apprmt, if any, see AA 182, 183, fns. KR Can 308, 328, 330.)

Number.	(a) Prmnt R. (b) Apprmt, A/Rank or A/Apprmt.	Full Christian Names.	Surname.	Unit.
B-37540	Pte	Stanley Irving	GROAT	RCASC 1 Cdn Disciplinary Centre

PROCEEDINGS REVIEWED
6 Apr '45
for OFFICER i/c JAG BRANCH CMHQ

PROCEEDINGS OF TRIAL.

Held in the Fd in (country) BELGIUM on (date(s)) 23 Feb 45

RECORD FORM A—OPENING PROCEEDINGS AND ARRAIGNMENT. 24/4.

A1. The President, Members, waiting Member, JA, if any, and Offrs under instr, if any, assemble, and the Court is closed.

(PRINTED MATTER, NOT IN ITALICS FOR GUIDANCE, WILL BE DELETED, IF NOT USED OR APPLICABLE, AND INITIALLED BY PRES OR JA. The Schedule referred to throughout is on p 4. Citations do NOT include all relevant fns RQs. For guidance on procedure when a variation in this form arises, see form for GCM in MML pp 741 to 759. A brief record of such variation will be made and given a number having reference to appropriate or preceding para number herein. See back of Convening Order, CF 69S, for oaths and instrs on how to record addresses, evidence, etc., which instrs are hereafter called "Notes". As to general provisions for conducting the trial see AA 33, RP 36, 63-70, 73, 74, 94, 103, 119, 132.)

A2. The President initials and lays before the Court the Convening Order and Charge Sheet(s) attached thereto.(1) The Court is satisfied that it is properly convened and constituted(2), accused is (are) amenable to military law, and each charge discloses an offence.(3)

(1. As to use of Summary of Evidence see RP 17 fn 6. 2. AA 49, 50, RP 105-107. 3. RP 11-13, 23, 24.)

A3. The Court is opened. The accused is (are) brought before the Court. At 1500 hours trial commences.

A4. The Prosecutor produces a Medical Certificate that accused is (are) fit to undergo trial by court-martial.(1) ~~The Prosecutor informs the Court that accused elected to be tried by court-martial instead of being dealt with summarily by the CO.(2)~~

(1. KR Can 557. 2. AA 46(B), RP 60 fn 1. For effect see KR Can 563(c). Delete, if not applicable.)

~~A5. President to accused : Do you object to ..... as interpreter ? Ans .....~~

~~The Interpreter is sworn.(1) Do you object to ..... as shorthand writer ? Ans .....~~
~~The shorthand writer is sworn.(1)~~

(1. RP 72. Delete, if none employed.)

A6. The Convening Order and names of the President and Members of the Court are read to the accused.(1)
President to accused : Do you object to be tried by me as President or by any of the Members of the Court ?
Ans No (2)

(1. RP 110. 2. If no objection, waiting member retires. RP 58(E). If objection, see procedure AA 51, RP 25, 71, 18, MML p 742.)

A7. The President, Members, JA, if any, and Offrs under instr, if any, are sworn.(1) The following are the ranks, names and units of the offrs comprising the Court, etc :

President	Major	J.C. LOVETT-FRASER	RCE 13 CBR Bn
Member	Captain	J.G.G. Robichaud	CIC 13 " "
Member	Lieutenant	J.L.A. Gautier	CIC 10 " "
Judge-Advocate			
Prosecutor	Lieutenant	J.M.A. LaLonde	CIC " " "
Defending Offr	Lieutenant	J.W.R. Hubert	Regt de Chaudière 10 " "

Questions by President : Is the Prosecutor a lawyer ? Ans No Is the Defending Offr a lawyer ? Ans No (2)

(1. RP 26, 27, 109, 111. Lists of offrs under instr will be returned separately with proceedings for information of Conv Offr.)
(2. If Pros a lawyer and Def Offr not, accused is entitled to an adjournment when RP 89 (B) and fn 2 were not followed. See DI p 2.)

A8. The accused B-37540 Pte Stanley Irving GROAT before arraignment make(s) (no) (a) plea (2)

(1. If a special plea is made for separate trial on one or more charges (RP 62(E), 108), or as to the jurisdiction of the Court (RP 34, 35(A), 113), or on bar of trial (RP 36), or as to accused's mental capacity to stand trial (AA 130, RP 27), or by one of several accused charged jointly to be tried separately (RP 16, 71), such plea, the addresses made in support or against, the evidence, if any, and finding are recorded per Notes. For forms of record see references in fns to RsP cited. Insert in AB rank and name of the accused making the plea.)

A9. The accused is (are) arraigned (separately) on all charges in the charge sheet.(1) The accused does (does not) object to any charge.(2) There is no amendment to be made to the Charge Sheet.(3) The President records the pleas in Part I of the Schedule.

(1. RP 31, 112. See para 1 of Instrs p 2. When more than one Charge Sheet see RP 62 ; when several accused to be tried separately see RP 71(C), and use separate copies of CF A96 to record proceedings. 2. RP 32, RP 33. If otherwise, delete and make appropriate record per Notes.)

A10. The Court (is closed and) considers the Instrs on Procedure after Arraignment at top of p 5. The proceedings are continued on Record Form B & E.

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

2CBRA Vol 3 p 152

INSTRUCTIONS ON PROCEDURE AFTER ARRAIGNMENT.

1. *The accused may not plead or be found Guilty on more than one of two or more charges laid in the alternative.* (*RP* 37(*A*).) *As to withdrawal of alternative charges by Prosecutor see RP* 35(*C*). *No other charge can be withdrawn for any reason without authy from Convening Offr. If Convening Offr concurs, Court may accept plea of Guilty to lesser, or to different, offence.* (*RP* 44(*H*).) *Accused may change a plea of Not Guilty to Guilty during trial.* (*RP* 38.) *As to refusing to plead or not pleading intelligibly see RP* 35(*A*). *As to plea when sentence may be death see RP* 35(*D*).

2. *The proceedings on each charge sheet* (*RP* 62) *after arraignment will be conducted as follows in the respective circumstances stated:*

I. If pleas to all charges are GUILTY, use Record Form B below.

II. If pleas to all charges are NOT GUILTY, use Record Form D on p 3.

III. If pleas to some charges are GUILTY and to other charges are NOT GUILTY and,

(a) Such mixed pleas occur when there are no alternative charges in the Charge Sheet, use Record Form C below. (*RP* 37(*A*).)

(b) Such mixed pleas occur in a set of two or more charges laid in the alternative, see RP 37 (*A*) *and fn* 2 *as to discretion of Court, (i) to try the accused on all such alternative charges as if he had pleaded Not Guilty thereto, or, (ii) to record the pleas as the findings of Court. After deciding between (i) and (ii), Court will proceed under foregoing instrs as may be appropriate to result of its decision. See MML p* 744 *Instrs* (2).

3. *As to responsibility of President to accused see RP* 59, 60(*C*); *powers and duties of JA see RP* 103; *duty of Prosecutor see RP* 60(*A*) (*B*); *duty and privileges of accused and Defending Offr see RP* 60(*C*), 87(*C*), 91, 92; *swearing and withdrawal of witnesses from Court see RP* 81, 82; *questioning of accused see RP* 80, 87(*C*), 92(*B*), *and of witnesses see RP* 83-85; *calling or re-calling of witnesses by Court, etc, see RP* 75-79, 86, 116; *use of Summary of Evidence at Trial see RP* 17(*E*) *fn* 6; *and responsibility of JA or Pres to record proceedings see RP* 94, 96.

RECORD FORM B—PROCEEDINGS ON PLEAS OF GUILTY TO ALL CHARGES.

B1. The President or JA, if any, complies with RP 35(B) by explaining to the accused the nature and meaning of the charge(s).(1) and that on his plea of Guilty there will be no regular trial but merely a consideration of the sentence to be awarded after he has been given an opportunity to make a statement in reference to the charge(s), call witnesses as to character and make an address in mitigation of punishment.(2)
(*1. RP 35 fn 3. 2. MML p 54 para 47.*)

B2. President to accused: The Court will now receive any statement you desire to make in reference to the charge(s).(1) If it appears from your statement that there are circumstances which indicate that you do not understand the effect of the plea of Guilty(2), or which show provocation or extenuation in respect of which in your interest the witnesses for the Prosecution should be examined(3), we shall advise you to change your plea to Not Guilty. In making a statement you will not be sworn or subject to cross-examination; and anything you say will not be used in evidence against you after you change your plea. If, however, it appears to the Court that your statement affects only the amount of punishment to which you are liable, you will not be advised to change your plea and you will be given an opportunity later to prove your statement by sworn testimony, if you so desire.(4)

President to accused: Do you wish to make a statement? Ans E.S. (5)
(*1. RP 37(B). 2. RP 37(D) fn 6. 3. RP 35(B) fn 5 para 3, MML p 54 para 47. 4. See para E3 of Record Form E.*
5. Statement, if any, recorded per Notes.)

B3. The Court considers the accused's statement.(1) The Court decides (not) to advise accused to change his (their) plea(s) of Guilty to Not Guilty on ..... charge(s). ~~The accused is (are) so informed, and he (they)~~ change(s) his (their) plea(s) on ..... charge(s). ~~Part I of the Schedule is amended accordingly.~~
(*1. Court may be closed to consider the statement. Delete whole or part not used.*)

B4. On the charge(s) to which the plea(s) of Guilty is (are) not changed the President records finding(s) of Guilty in Part I of the Schedule.(1)
(*1. RP 35(B). If any plea(s) is (are) changed, use Record Form C or D as appropriate.*)

B5. The Summary of Evidence is marked Ex C, initialled and read aloud by the President.(1)
(*1. If there is no Summary, or if it is inadequate, comply with RP 37(B). If there is any evidence inconsistent with any plea standing as Guilty, Court will advise accused to change such plea and, if changed to Not Guilty, try such charge(s) by use of paras D1 to D8 inclusive of Record Form D on p 3. RP 37(D).*)

B6. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

RECORD FORM C—PROCEEDINGS ON MIXED PLEAS OF GUILTY AND NOT GUILTY.

C1. As to the charges on which accused pleaded NOT GUILTY the trial is continued by using paras D1 to D8 inclusive of Record Form D on p 3 before proceeding with C 2.(1)
(*1. RP 37(A) (E).*)

C2. The charges on which accused pleaded GUILTY are read to him (them) again, and the trial is continued by using paras B1 to B5 of Record Form B above.(1)
(*1. Under B5 such parts only of the Summary of Evidence are read as relate to the charges dealt with under C2. If any plea is changed to Not Guilty, trial thereon proceeds by complying with paras D1 to D8 inclusive in Record Form D on p 3 and making an appropriate record thereof on a separate sheet.*)

C3. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

FP Serv. Loose Sheets of Record.

RECORD FORM D—PROCEEDINGS ON PLEAS OF NOT GUILTY TO ALL CHARGES.

D1. President to accused: Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity to prepare your defence? Ans ..... (1)
(*1. If "yes", see RP 39(A) for procedure. Statement or evidence, if any, is recorded per Notes.*)

D2. The Prosecutor makes (an) (no) opening address.(1)
(*1. RP 39(E), 60(A) (B), 90, 92(C) (D). Record address per Notes, subject to RP 95(C).*)

D3. The evidence for the Prosecution is taken.(1)
(*1. RP 39(C), 114, KR Can 555. Record evidence per Notes. As to Prosecutor giving evidence himself see RP 39(D) (E).*)

D4. The Prosecution is closed.(1) The Defending Offr submits that the evidence for the Prosecution does not establish a prima facie case against the accused on the ..... charge(s).(2) The Court is cleared, and considers the submission.(3) The Court is re-opened, and the President announces that the submission is disallowed on the ..... charge(s), and allowed on the ..... charge(s), and that, accordingly, the trial will proceed on the former, but the accused is (are) found Not Guilty on the latter charge(s).(4)
(*1. Delete remainder of this para, if submission not made. 2. Arguments on submission, answer and reply are recorded per Notes. 3. RP 40 fn 1. See MML p 72 paras 12-14 and p 81 para 42. 4. Delete part not used. If accused acquitted on all charges, use second alternative in para D8.*)
NB: If trial proceeds, accused must be allowed great latitude in making his defence, and the Court should not stop his defence solely on ground of irrelevance. (*RP 60(C), 114, 115.*)

D5. President to accused: You will now proceed with your defence.(1) You may, if you wish, give evidence yourself on oath as to the facts or your character or both, in which case you will be subject to cross-examination.(2) You may, however, make a statement without being sworn, and you will not be subject to cross-examination.(3) But a statement which could have been made on oath will not carry with the Court the same weight as sworn testimony.(4) You may call witnesses in your defence and as to character, whether you give evidence or make a statement or do neither.

President to accused: Do you wish to give evidence yourself as a witness, make a statement, or do neither? Ans ..... Do you intend to call witnesses on your behalf? Ans ..... Are they witnesses as to character only? Ans .....
(*1. RP 115. 2. RP 40(A), see 80(D). 3. RP 40 fn 10. 4. RP 40 fns 2, 9.*)

D6. Consequent on the answers recorded in para D5 the appropriate procedure for the defence is followed.(1)
(*1. RP 114, 115, 116. For procedure see Notes on back of Convening Order, CF A95. Evidence for accused as to his character should, if in his interest, be given before the finding. See RP 40(A) fn 1, 86(C). Note the further opportunity in para E1 of Record Form E. Record per Notes addresses, statement, evidence and any summing up by the JA under RP 42, 103(e).*)

D7. The Court is closed to consider the finding(s).(1) The finding(s) of the Court is (are) recorded in Part I of the Schedule.(2) The Court is re-opened.
(*1. RP 45, 117(A). See Notes in Part I of Schedule. 2. RP 44(A).*)

D8. The President announces the finding(s), if any, of Not Guilty, and states to the accused that the finding(s) of the Court on the ..... charge(s), being subject to confirmation, will be promulgated later.(1)
Or, The President announces that the accused is found Not Guilty on all charges and is to be released forthwith, and that the proceedings are accordingly terminated. Part I of the Schedule is dated and signed.(2)
(*1. AA 34(2) (a). RP 45, 120(A). 2. AA 34(2). RP 45, 117. This alternative announcement is not applicable when there are pleas of Guilty outstanding and dealt with under Record Form B or C.*)

D9. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E below.

RECORD FORM E—PROCEEDINGS ON CONVICTION BEFORE SENTENCE.

E1. President to accused: Do you wish ~~to give evidence yourself or~~ to call any witnesses as to your character? (1) Ans E.S.
(*1. If evidence has already been given by accused or his witnesses as to his character, delete this para. RP 37(C) fn 4, 46 fn 1. Accused and witnesses are sworn. Evidence recorded per Notes.*)

E2. The Prosecutor produces Statement(s) as to Character and Particulars of Service(1), and certified true copy (copies) of Conduct Sheet(s)(2), purporting to refer to the accused, which he submits to the Defending Offr for examination, and then to the Court for admission in evidence. The Court is satisfied that these documents refer to the accused, because (i) they purport to be signed in the manner required by AA 163(l) (g) (h), and (ii) they purport to refer to (a) soldier(s) having the same number, rank, name and corps as the accused. Admitted in evidence and marked Ex D and Ex E respectively.(3)
(*1. AFB 255 or AFB 296. 2. MFM 6. 3. RP 46, KR Can 558. If above documents not produced, see RP 46 fn 1 para 1.*)

E3. President to accused: Do you wish to address the Court on the Statement(s) and Conduct Sheet(s), and in mitigation of punishment?(1) Ans N.O. (2)
(*1. RP 37(C), 46(D). 2. Address, if any, recorded per Notes. Court should permit accused or his witnesses to prove on oath anything here or previously stated which would affect the amount of punishment. RP 37(F) fn 7.*)

E4. The President states that the Court is closed to consider the sentence, and that the sentence to be awarded by the Court, being subject to confirmation, will not be announced, but will be promulgated later, and the proceedings in open court are accordingly terminated.(1)
(*1. AA 34(6), RP 120(A).*)

E5. The Court considers the sentence.(1) The President records the sentence in Part I of the Schedule, which is dated and signed by him and the JA, if any.(2)
(*1. When several accused tried separately see RP 71 (D). One sentence only, comprised of the punishment or punishments laid down in AA 41, 44 and its proviso, is to be awarded to cover all charges in all charge sheets on which accused found guilty. RP 48. As to sentences see AA 44, 128, 182, RP 46-50, 69, 118, 119(A), KR Can 308, 320, 563-566, Overseas RO 309, 1323, MML p 60, 757-758. As to sentences assigned for civil offences by the law of England see AA 44(5), MML p 130. When accused already under sentence of imprisonment or detention see AA 44(1B), 68(1), KR Can 564. 2. RP 50. As to release from arrest by Confirming Offr see KR Can 567. As to assembly and dispersal of record after trial see Instrs on back of Convening Order.*)

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

CHARGE SHEET

The accused, B-37540 Pte Stanley Irving GROAT, NCASC on strength No 1 Cdn Disciplinery Centre, a soldier of the Canadian Army Overseas, is charged with:-

FIRST CHARGE
Sec 15 (1)
Army Act

WHEN ON ACTIVE SERVICE,
ABSENTING HIMSELF WITHOUT
LEAVE
in that he
In the Field, in Belgium absented himself without leave from 0130 hrs 3 Dec 1944 until he surrendered himself at 1300 hrs 11 Jan 45 in ANTWERP, Belgium. (Absent 38 days, 15 hrs and 30 minutes)

In the Field
31 Jan 45

(F C Wood) Lt-Col
OC 1 Cdn Disciplinery Centre

To be tried by Field General Court-Martial

In the Field
7th Feb 45

(G S M Gostling) Brigadier
Comd
2 Cdn Base Rft Gp

Adjourned 7.2.45
L. Lieut Col
Asst

FIELD GENERAL COURT-MARTIAL

(Whether the accused to be tried is under his comd or not, a FGCM may on application to him be convened by any offr of Cdn Army Overseas, or of any other force if authorized in law, in immediate comd of troops on active service, subject to RP 105(C) and restrictions imposed by appropriate authy, AA 49, 50, RP 104-107, 114. As to the duties and privileges of the Convening Offr in dealing with the application see MML Chap V paras 20 and 23, RP 87(B).

There should be a separate Convening Order for each person to be tried separately by the same Court. RP 71(C), 109. As to separate charge sheets see RP 62, and as to separate trial on charges in the same charge sheet see RP 108. As to two or more accused charged jointly see RP 16, 109.

As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

ACCUSED.

Number.	(a) Prmnt R.	(b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
B-37540	Pte		Stanley Irving	GROAT	RCASC, 1 Cdn Disciplinary Centre

CONVENING ORDER.

1. Whereas complaint has been made to me, the undersigned, that the person(s) named above as the accused, being subject to military law, has ~~(have)~~ committed the offence(s) set forth in the Charge Sheet(s) attached and on (date) 22 Feb 45 endorsed by me, ~~or by an offr of my staff for me~~), " To be tried by Field General Court-Martial ".

2. And whereas I am of opinion that it is not practicable that such offence(s) should be tried by an ordinary General Court-Martial ; ~~(and that it is not practicable to delay the trial for reference to a superior qualified offr~~)

(Delete part in brackets when not required for compliance with RP 105(C).)

3. I hereby convene a Field General Court-Martial to try the said person(s), and to consist of the Offrs appointed or detailed hereunder.

~~4. I am unable to appoint (a) three Offrs to form the Court, (b) a Fd Offr as President, for the reasons I have attached hereto.~~

(AA 49, RP 106(B), 107(A). Delete the whole or part, if not applicable.)

~~5. I also appoint as Judge-Advocate thereat the Offr mentioned hereunder.~~

(RP 106(E). Delete, if none appointed.)

PRESIDENT.

(Rank.)		(Must be named. RP 106.)	(Unit.)
Major	J.C. LOVETT-FRASER		RCE 13 CBR Bn

MEMBERS.

(Rank.)		(Named or detailed. RP 106.)	(Unit.)
Captain	To be detailed by OC 13 CBR Bn		13 CBR Bn
Lieutenant	To be detailed by OC 10 CBR Bn		10 CBR Bn

WAITING MEMBER.

(Rank.)		(Named or detailed, if any. RP 106.)	(Unit.)

~~JUDGE-ADVOCATE.~~

(Rank.)		(Must be named, if any. RP 106.)	(Unit.)

On Active Service in the Fd

in BELGIUM (Country.)

Date 22 Feb 45

(Signed personally. RP 105 fn 2.)

Brigadier (Rank.)

(G.S.N. Gostling)

Commanding 2 Cdn Base Rft Gp

Convening Officer.

CONVENING OFFR WILL INITIAL ALL DELETIONS AND ALTERATIONS

4/38A (CFAAO 17a (Secs of AF&S) 40/F & S/1067 (40F))

(See overleaf for oaths and notes for use on trial.)

MEDICAL OFFICERS CERTIFICATE

(KR(Can) Para 557)
(CMHQ CL 173)

I certify that I have this day examined B 373 40
(No.)

Pt (Rank) Grant. Harley Irving (Name) and in my opinion he is

fit to undergo trial by Court-Martial.
~~unfit~~

Station C. Pine. C

Date. 23 Feb 45

(Sgd) Capt.
Medical Officer
(unit) 1 C. Fin. Coy.

Statement by Pte. Goad.

I was trained in 1907 and my wife, unfortunately did not receive a good education, being an Indian (London dist.). My wife comes from Muncey Reservation, west of London dist. & I come from Six Nations Reserve, Brantford dist.

Since I left Canada, Aug 1914, until I did this, I have received letters from my wife, in regard to herself, as being lonesome, due to the fact she, that I had a few days just before I came overseas, and as time went on, her letters became more. I have tried using different grades, but it is the same that I was using it & that every time was using it over here. I have received letters from Ex Gaboy that she has not received any letters from any of their people.

In one of her letters she states that she has seen a lot of men friends who has got their home & she wonders why I cannot get home.

I was in the R.C.A.S.C. & I came to time as Machine Gunner. I was posted to the R.C.A.S.C. again my unit from the A.H.A. I came with them into France, as an M.G. & worked them up to Antwerp Belgium. I was then taken off M.G. & put on General duty. The job I was given, was looking after a water Trailer, which only took an hour a day & the rest of the time I had myself. They became very monotonous. I would like to be back here now, but if it is possible, I would like to go back to the trenches & do a job there.

Referee Indian Agent at Brantford dist.

Statement recorded orally by Sgt. CORLEW. T.E. B-41377.

Sir,

About two and a half years ago, I was in the same regiment as Pte Grant, & I came in contact with him quite often, both on & off duty & I found him a soldier with a cheerful disposition, & he was always a hard worker & when called upon for any duty he did not hesitate, but immediately did the duty. He was also a soldier, who had regard for higher authority. Since I left the regiment (RHLI) I have come into contact with him several times & he has always been the same.

Question by the Court

Did Pte Grant ever mention his wife?

Answer

I cannot remember now. It may have done so, but I cannot recall it

T.E. Corlew

(1) EXHIBIT "C"

Summary of Evidence in the case of B-37540 Pte GROAT S I (63 A Tpt Coy) Canadian Army Overseas

Charge - Absence without leave AA Sec 15 (1)

By directions of the CO the evidence is taken on oath

The following documents are read over to the accused, marked as Exhibits and are attached to the proceedings.

Exhibit "A" - Certified true copy of Extract from 63 Cdn Tpt Coy NOASC Pt II Order No 2 dated 13 Jan 45

Exhibit "B" - Certification of apprehension (AA Sec 163(1)J) dated 11 Jan 45

The accused was cautioned as follows:-

Q Do you wish to make any statement or give evidence on oath? You are not obliged to say anything or give evidence unless you wish to do so, but whatever you say or any evidence you give will be taken down in writing and may be given in evidence.

A I have nothing to say.

The accused does not call any witness.

I certify that the foregoing Summary of Evidence consisting of one page was taken down by me in the presence of the accused and that RP 4(C) (D) (E) (F) and (G) have been complied with.

J. F. Rutherford

(J F Rutherford) Capt
RC Sigs
Officer detailed to take Summary of Evidence

Dated in the Field
17 Feb 45

EXHIBIT "A"

PART II ORDER EXTRACT FORM

TO: 63 A TPT COY RCASC/1(A5E)

9 Feb 19 45

EXTRACTS FROM: UNIT 63 Cdn Army Tpt Coy RCASC

Part II Order No. 2 dated 13 JAN 45

ABSENT WITHOUT LEAVE

(a) AWL from 2130 hrs 3 DEC 44 Still absent 2130 hrs 11 DEC 44
(8th day)
B37540 Pte GROAT S I

This is Exhibit "A" referred to in Summary of Evidence in the case of B37540 Pte Groat S.I. taken before me this 17 day of Feb 45

J. E. Macvie Capt.

Certified to be a true extract from the regimental books and documents in my custody.

J. E. Macvie Capt.

Officer 10 Regiment
Cdn Sec [illegible] L.A.C.

9 Feb 45

The following documents are { attached. Please acknowledge receipt on attached duplicate. / required. Please forward same.

for infm

Originating Clerk's Initials

for

Officer in Charge
Canadian Section, GHQ, 2nd Echelon

1/70 B/R—6
40/Pers/1276 (6704)

EXHIBIT B

CERTIFICATE UNDER SECTION 163 (1) (a) OF THE ARMY ACT.

I (a) LT. R.O. DUNN certify that No. B-37540 Rank Pte
Name Grout S.L. of 63.CDN.Car.Transport. R.C.A.S.C. Regiment
surrendered himself to No. B-47607 Rank Pte Name Marshall C.G.
of NO.7 CDN.PROV.COY (or me) in Antwerp 1300 hrson the 11 Jan 45
day of Jan 45 as a ~~deserter or~~ absentee without leave.

He was wearing Military Uniform ~~or Plain Clothes.~~

This is exhibit B referred to in Summary of Evidence in the case of B 37540 Pte Grout S.L. taken before me this 17th day of Feb 45 J.F. Lockyer Capt

R.O. DUNN Lieut
R.O. DUNN
No.7.Cdn.Prov.Coy,
i/c Antwerp Det.

EXHIBIT "E" cf 9.

ARMY FORM B.296.

Statement as to Character and Particulars of Service of Accused.

Number.	*Rank.*	*Name.*	*Regiment (or as the case may be).*
B-37540	Pte	STANLEY IRVING GRANT, S I	65 A Tpt Coy - 1 Disc Centre

1. The following is a fair and true summary of the entries in the regimental and squadron, battery or company conduct sheets† of the accused, exclusive of convictions by a court martial or a civil court, of summary awards under section 47 of the Army Act, and of cases in which trial has been dispensed with :—

NOTE.—At a trial by field general court martial this summary may be compiled from the field conduct sheet.
The conduct sheet(s) mentioned should be produced in court with this statement but not annexed to the proceedings.

† See para. 677, K.R., 1940.

* The numbers herein stated should correspond with the number or entries in the conduct sheets, prominence being given to the worst series of offences in each entry, and to any recognised special acts of gallantry or distinguished conduct.

INSTRUCTION.—If the charge is for drunkenness the entries for drunkenness must be stated separately and dated.

	* Within last 12 months.	*Since Enlistment.
For A.W.L.	3 times	13 times.
For A.A. Sec 40.	Nil times	(one) 1 times.
For	times	times.
For	times	times.
For	times	times.

Number of instances of gallantry or distinguished conduct,

or

There are no entries in the conduct sheets of the accused.

2. The accused has not been previously convicted, *or*

Previous convictions† of the accused by a court martial or a civil court, summary awards under section 47 of the Army Act, and dispensations with trial under section 73 of the Army Act, are set out in the schedule annexed to this statement.

3. The accused is not under sentence at the present time, *or* The accused at the present time is under sentence for N/A beginning on the ____ day of ____

4. The accused has been in confinement, awaiting trial on the present charges, for N/A days in civil custody, and 40 days in military custody, making a total of 40 days, of which N.I days were spent in hospital.

5. The present age of the accused according to his ~~attestation paper~~ record of service is 34 yrs 0 m.

6. The date of his ~~enrolment~~ attestation specified in his ~~attestation paper~~ record of service is 15 Apr 40

7. The service which the accused is allowed to reckon towards discharge or transfer to the reserve is ____

8. The accused is entitled to deferred pay or gratuity in respect of ____ service.

9. The accused is entitled to reckon ____ service for the purpose of determining his pension, etc.

10. The accused is in possession of, or entitled to, no military decoration or military award (*or* is in possession of *or* entitled to (*state any military decoration or reward*)).

11. (*If the accused is a ~~warrant officer~~.*) The accused before he was made a warrant officer last held the regimental rank of ____

12. (*In the case of an officer.*) The accused holds in the army the rank of ____ dated ____ and in his regiment (*or* corps *or* department) the rank of ____ dated ____

[72/2000] W1.24808/1720 20,000 10/43 A.& E. W.1.111. Gp.698
[28/508] W1.12003/1400 12,000 3/44 " "

Schedule of Convictions by a Court Martial or Civil Court, of summary awards under Section 47 of the Army Act and of cases in which trial has been dispensed with of accused.

No. _____ Rank _____ Name _____ of _____ Regiment (or as the case may be).

(INSTRUCTION.—A verbatim extract from the regimental books, stating these convictions and dispensations with trial, must be inserted.)

Description of court by which tried, or status of officer disposing of the charge or dispensing with trial.	Date and place of trial, or summary award under A.A. 47, or of order dispensing with trial.	Charges upon which convicted, or in respect of which trial was dispensed with.	Sentence of the court or authority disposing of the charge, or order of the dispensing authority.	Punishment remitted.

I HEREBY CERTIFY that the foregoing schedule of convictions and dispensations with trial is a true extract from the regimental books in my custody.

Signed this 20 th day of Feb. 45

(R. G. WOOD) Lt-Col
Commanding Officer
No 1 Cdn Disciplinary Centre

13 The accused has served as a non commissioned officer continuously, without reduction, to the present date,

In the rank of	N/A		Date of Promotion.
In the rank of	,	years,	
In the rank of	,	years	
	,	years,	

(INSTRUCTION.—*If any matter in any of the above five columns cannot be stated from the regimental book the paragraph must be struck through, except that in the case of a trial by field general court-martial the information may be collected from such sources as are available and the paragraphs concerned amended accordingly.*)

No of Pages 2 EXHIBIT D

No. B37540 Name GROAT S I Sqn, Battery, or Company Corps RCASC Date of enlistment 15 Apr 40 Service or Proficiency Pay 3/17 MFM 6 (AFB 122)

Date of last entry in Company Conduct Sheet | No. and date of last drunk | Period not reckoning towards freedom from extra fine | Sheet No DNE | Signature OC Company, etc | J. Fla[illegible]Randolph Lanharter Major

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
On 15 Oct 40 Having Completed Six Months Service Clear of Any Entries in FD Conduct Sheet, Previous Sheet Destroyed									
Field,	31 Dec 40	Pte		AA Sec 15 (1) AWL 1 day	Sjt Hessel-grave	2 days FP 2 days pay PR&I 149(2)	4 Jan 41	Major Lazier	1 days pay PR&I 149(1)a
Field,	16 Feb 41	Pte		AA Sec 15 (1) AWL 12 days	Sjt Wilcox Cpl Wether	14 days FP 14 days Pay PR&I 149(2)	1 Mar 41	Lt-col Labett	12 days pay PR&I (1) a
Field	18 Nov 41	Pte		AA Sec 40 Unfit for Duty owing to alcoholic excess	Lt Bellsey Pte Kendrick	4 days FP 4 days pay PR&I 149(2)	28 Nov 41	Major Lazier	
Field	23 Jul 42	Pte		AA Sec 15 (1) AWL 1 day	Cpl Bell	4 days FP 4 days pay PR&I 149 (2)	29 Jul 42	Lt-col Labett	1 days pay PR&I 149 (1) a

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of other disposal with trial	By whom awarded	Synopsis
Field 29	Aug 42	Pte		AA Sec 15 (1) 2 days AWL	Sjt Precious	7 days FP 7 days pay FR&I 149 (2)	2 Sep 42	Lt-col Pearson	2 days pay FR&I 149(1) a
Field 18	Apr 43	Pte		AA Sec 15 (1) AWL 1 day 23 hrs 31 mins	L/C Ring L/C Rebbins	8 days FP 8 days pay FR&I 149(2)	22 Apr 43	Major Whitaker	2 days pay FR&I 149 (1) a
Field 5 Jul	43	Pte		AA Sec 15 (1) AWL 9 hrs 1 min	L-c McChesney	4 days FP 4 days pay FR&I 149 (2)	6 Jul 43	Major WD Whitaker	1 days pay FR&I 149(1) a
Field 6 Aug	43	Pte		AA Sec 15 (1) AWL 7 hrs 45 mins AA Sec 15 (1) AWL 1 day 23 hrs 30 mins	Documentery L/C Brenberg	10 dys pay FR&I 149(2)	9 Aug 43	Lt-col RJ McPherson	3 days pay FR&I 149 (1)a
Field 15 Aug	43	Pte		AA Sec 15 (1) AWL 6 days 2 hrs 30 mins	Cpl Stewert Sjt Little	18 days pay FR&I 149(2)	24 Aug 43	Lt-col RJ McPherson	9 days pay FR&I 149(1)a
Field 29	Oct 43	Pte		AA Sec 15 (1) AWL 1 day 3 hrs 15 mins	Documentery	7 days pay FR&I 149(2)	1 Nov 43	Lt-Col Smith	2 days pay FR&I 149(a

No of Pages

EXHIBIT "D" cp3

3/17 MFM 6 (AFB 122) 60/PAM/136 (5413)

No. P. 3754 Name GROAT S I | Sqn, Battery, or Company | Corps RCASC | Date of enlistment 15 Apr 40 | GC Badges | Service or Proficiency Pay

Date of last entry in Company Conduct Sheet | No. and date of last drunk | Period not reckoning towards freedom from extra fine | Sheet No Tow | Signature OC Company, etc W J FITZRANDOLPH Major | Character GOOD

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Name of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
On CS Nov 43 under supervision rated as voluntary blood donor									
Field	20 Feb 44	Pte		AA Sec 15 (1) AWL 2 days 13 hrs 1 mins	Documentary	21 dys pay FR&I 149(2)	25 Feb 44	Lt-col Perkinson	5 days pay FR&I 149(1)a
Field	13 Jun 44	Pte		AA Sec 15(1) AWL 5 days 22 hrs 1 mins	Cpl Costes	14 dys pay FR&I 149(2)	20 Jun 44	Major J Fitzrandolph	5 days pay FR&I 149(1)
Field	5 Oct 44	Pte		AA Sec 15(1) AWL from 0700 hrs 5 Oct 44 until 1300 hrs 5 Oct 44 TOR 6 hrs	Cpl Fotheringham L/S Johnstone	7 days CB 14 days pay FR&I 149(2)	6 Oct 44	Major J Fitzrandolph	Forf 1 dy pay FR&I 149(1) (a)

Certified true copy of MFM 6 in my possession

(T G WOOD) Lt-col
Commanding Officer
No 1 Can Disciplinary Centre

(PTO)

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Field	3Dec 44	Pte		AA Sec 15 (1). AWL from 2130 hrs 3 Dec 44 until 1300 hrs 11 Jan 45. Total absence 38 Days 15 hrs and 30 mins.	Documentary	90 Days Det 38 days pay 90 days pay 41 days pay TOTAL FORF. 169 days pay	23 Feb 45		FR&I 149 (1) FR&I 149 (1)(b) FR&I 149 (1)(a)(ii)

LIST OF WITNESSES

N/A

LIST OF EXHIBITS

Certified true copy of Extract from 63 Con Pt Coy RCASC Pt II Order No 2 dated 13 Jan 45 "A"

Certification of apprehension dated 11 Jan 45 "B"

I, B-37540 hereby certify that I have received one (1) copy of charge sheet and one (1) copy of Summary of Evidence free of charge on 20 February 1945.

B037540 Pte GREAT S I

JJ-107

PTE GROB E.M.

L 8962 Pte Grob E.R.
10 Cdn Inf Bde Coy RCASC

JJ-17

Correspondence to be PINNED here.

Army Form A.3.

Form for Assembly and Proceedings of Field General Court Martial on Active Service.

PROCEEDINGS.

A.
Order convening the Court.

On Active Service, this 15th day of July, 19 43

Whereas it appears to me, the undersigned, an officer in Command of 4 Canadian Armoured Division, on active service, that the persons named in the annexed Schedule, being subject to Military Law, have committed the offences in the said Schedule mentioned.

And whereas I am of opinion that it is not practicable that such offences should be tried by an ordinary General Court Martial; *[and that it is not practicable to delay the trial for reference to a superior qualified officer;]

*Omit where Convening Officer is a Commanding Officer or is of Field Rank.

I hereby convene a Field General Court Martial to try the said persons, and to consist of the Officers appointed or detailed hereunder.

*[I am unable to appoint—

*(1.) Three Officers to form the Court;

*(2.) A Field Officer as President;

for the following reasons, namely:—]

* Omit if not applicable.

9 Aug 43

JUDGE ADVOCATE

Major W.A.D. GUNN HQ 4 Cdn Armd Div

Note.—The President must be named. The members and waiting members (if any) may be mentioned by name, or the number and ranks and the unit to which they belong may alone be named. In the latter event, the ranks, names, &c., of the members of the court, as constituted, will be recorded on the proceedings.

President.

Rank.	Name.	Regiment.
Major	G.L. McDONALD	8 Cdn Fd Sqn RCE

Members.

Rank.	Name.	Regiment.
Capt	H.R. CROSSLEY	4 Cdn Armd Div Sigs
Capt	D.R. COLLISON	16 Cdn Fd Dressing Stn RCAMC
Waiting Member Lieut	J.M. MURRAY	29 Cdn Armd Recce Regt

* Must be signed personally by the Officer actually in command at the time, and all alterations in the composition of the Court to be initialled by him.

*Signed (W.C. Hyde) Brigadier
Acting *Commanding* 4 Cdn Armd Div.
Convening Officer.

SCHEDULE.

Number, Rank (a), Name and Unit of Accused (b)	Offence charged	*Plea	Finding, and if Convicted, Sentence (c)	How dealt with by Confirming Officer (d)
L 8962 Pte Emil Robert GROB 10 Cdn Inf Bde Coy RCASC	First Charge Army Act 15(1) Absenting himself without leave Second Charge Army Act 9 (2) Disobeying a lawful command given by his superior officer. See charge sheet attached.	Not guilty Not guilty	Guilty Not guilty To undergo detention for 66 days. Signed at Italy this 16 day July 1943 W.C. Hyde Brigadier Acting Commanding 4 Cdn Armd Div. Convening Officer (e)	He finds the Sentence confirmed. W.C. Hyde Brigadier CASC 4 Cdn Armd Div JUL 21 1943 W.H. Brennan Major Deputy Judge Advocate

* Question to be asked of accused, if he pleads not guilty (R. of P. 39 (a)):—
"Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity for preparing your defence?"
Answer (*to be recorded as separate sheet if necessary*):—

(Signed) W.C. Hyde Brigadier (Signed) W.H. Brennan Major
Acting Commanding 4 Cdn Armd Div. Convening Officer (e) Deputy Judge Advocate

(a) Appointment acting rank or acting appointment, if any, to be stated in brackets after the substantive rank.

(b) Unless unavoidable, not more than three names are to be entered on one form, and in serious cases one only.

(c) Recommendation to mercy, if any, to be inserted in this column.

(d) It is not necessary that the Confirming Officer should sign his name in this column. Initials are sufficient.

(e) Must be signed by the same Officer who signs on the first page, and all alterations in the first two columns of the Schedule to be initialled by him.

Evidence and Charge Sheets (if necessary) to be PINNED here.

B. Certificate of President as to proceedings.

I certify that the above Court assembled on the 16th day of July 1943, and duly tried the persons named in the Schedule, and that the plea, finding, and sentence in the case of each such person were as stated in the third and fourth columns of that Schedule.

I also certify that :—

1. The members of the Court
2. The witnesses
*(3. ~~The interpreter~~) Shorthand writer, Judge advocate
*(4. The officers under instruction)

* Omit if not applicable.

were duly sworn.

Signed this 16th day of July 1943

W.C. Hyde Major.
President of the Court Martial.
W.H. Brennan Major Judge Advocate

C. Certificate in case of death sentences.

* See footnote (b) on page 782 M.M.L. 1929.

~~I certify that the terms of *A.C.I., 570 of 1918 have been complied with.~~

Signed this ~~day of~~ 19 .

~~*President of the Court Martial.~~

D. Confirmation.

I have dealt with the findings and sentences in the manner stated in the last column of the Schedule, and, subject to what I have there stated, I hereby confirm the above findings and sentences.

*(~~I direct that the soldier named in the margin be not committed to prison or detention barrack until further orders.~~)

* To be omitted unless penal servitude, imprisonment or detention having been awarded, the Confirming Officer either has no authority to commit to prison or detention barrack, or, having such authority, recommends suspension.

Signed this 21 day of July 1943.

H.D.G. Crerar Lieut-General
Confirming Officer.

Name L 8962 Pte GROB, E.R. JUL 21 1943
Unit 10 CDN INF BDE COY RCASC

Promulgated and extracts taken in the case of

(a) (Dated) 24 Jul 43 (Signed) Name Hermann Major
Unit O.C. 10 CDN INF BDE COY RCASC

Promulgated and extracts taken in the case of

(Dated) (Signed)

Promulgated and extracts taken in the case of

(Dated) (Signed)

(a) When several cases are promulgated in one unit on the same day the Officer need only sign once.

CHARGE SHEET

The accused, L-8962 Pte. Grob, Emil Robert, 10 Canadian Infantry Brigade Company, Royal Canadian Army Service Corps, a soldier of the Canadian Army Overseas, is charged with, when on Active Service:

First Charge
Sec 15 (1)
Army Act

Absenting Himself Without Leave
in that he
in the field, on 17 Jun 1943, absented himself without leave from his unit, 10 Cdn Inf Bde Coy R.C.A.S.C., from 0600 hrs 17 Jun 43 until he was apprehended at Lewes at 0010 hrs, on 28 June 1943.

Second Charge
Sec 9 (2)
Army Act

Disobeying a lawful command given by his superior officer
in that he
in the field, on or about the 19th day of June 1943, did not return to his unit when ordered to do so by Lieut. C. D. Glover, his superior officer, said order being communicated to the said accused by means of a telegram, dated 18 June 1943, signed by the said Lieut C. D. Glover and delivered to the said accused on 19 June 1943.

In the field
8 Jul 43

(H. E. Miller) Major,
Officer Commanding,
10 Cdn Inf Bde Coy RCASC.

Hq 4 Cdn Armd Div
15 Jul 43

To be tried by F.G.C.M.

(W.G. Hyde) Brigadier
A/GSO 1 Cdn Armd Div.

Recommended.
W.H. Cunningham
Judge Advocate

1 CDN Corps Sig Regt Squadron / Battery / Company / Detachment | HQ AD RECS. C Unit or Battalion

Sept 16 1943

MORNING SICK REPORT

Regt'l No.	RANK AND NAMES (Christian Name in full)	Age	Religion	Whether for duty a prisoner or defaulter	Married or Single	DISEASE	Medical Officer's Remarks and Initial
L8962	Pte	Gnob - E R					
		0730 hrs					
		a/ m/c Soldier examined by me					
		& found fit to undergo					
		Court-martial					
						J Bell	
						Capt RCAMC	
		Marched under escort to Provost Sgt. with two copies of charge attached					

Medical Officer

Orderly N.C.O.

(OVER)

M. F. B. 292
4560M-3-41 (9684-9-9)
H.Q. 1772-39-248

Record of Proceedings of a Field General Court Martial

Held in the Field in England. (Country) on 16 July 1943 (Date) to try

Accused J.0962 Pte Cmt Robert Grad 10 Cdn Inf Bde Coy RCASC
(Number) (Rank) (Christian Names) (Surname) (Unit)

	Rank	Name	Unit
President	Major	G. I. Mc Donald	8 Cdn Fd Sqn R C E
Member	Capt	H R Crossley	4 Cdn Armd Div Sig
Member	Capt.	D. B Collison	16 Cdn Fd Dressing Stn
Judge Advocate (if any)	Major	W A D ~~C S F H~~ Gunn	H Q 4 Cdn Armd Div
Officers Under Instruction (if any)	Lieut	J M. Murray	24 Cdn Armd Recce Regt

Prosecuting Officer Capt. N. R. V. Fairn 10 Cdn Inf Bde Coy. R.C.A.S.C.

Lawyer? Ans No

Defending Officer Capt. W.E. Mc Kinney #010 Cdn Inf Bde

Lawyer? Ans No

(The following procedure must actually be carried out)

1. The President produces the Convening Order, Charge Sheet(1) and Summary of Evidence. (Rs.P.17(E), 22(A)). WDGY

(If a waiting member substituted, record is on separate sheet, initialled by the President and attached hereto). (For form of record see M.M.L. p.742 top).

2. The President, in closed court (R.P.22, fn 1) reads the Convening Order and the Charge Sheet(1) to the Members, and the Court satisfy themselves that it is properly convened (A.A.49; R.P.105) and constituted (A.A.49: Rs.P.106, 107), that the accused is (are) amenable to Military Law, and that each charge discloses an offence (Rs.P.23,106). WDGY WDGY

3. The accused is (are) brought before the Court and at 1000 hours the trial commences. WDGY

4. The Prosecuting Officer produces a Medical Certificate under K.R.(Camd) 557 (See CMHQ Circular Letter 173) that the accused has (have) this day been examined and is (are) fit to undergo trial by Court Martial. The certificate is signed by the President and attached to the proceedings. WDGY WDGY

(Over)

5. President to accused:

Q - Do you object to N.A. as interpreter?
A - N.A.

The interpreter is duly sworn. (Form of oath on Page "D").

Q - Do you object to M11436 Sgt Elliott F.W. as shorthand writer?
A - No Sir

The shorthand writer is duly sworn. (Form of oath on Page "D").

6. The Convening Order is read in the hearing of the accused. The names of the President and Members of the Court are read to the accused and they severally answer to their names (R.P.25).

7. President to accused:

Q - Do you object to be tried by me as President, or by any of the officers whose names you have heard read over?
A - No Sir

(If objection is made it is recorded on separate sheet, initialled by the President and attached hereto. (R.P.63). (For form of record see M.M.L. p. 748 Variation).

8. The President, Members, Judge-Advocate and Officers under Instruction are duly sworn (R.P.26, 27). (Forms of oath on page "D").

9. The Charge Sheet(/) is (/) signed by the President. WOSY

10. The Prosecuting Officer informs the Court that the accused has (has not) elected trial by Court Martial (A.A.46(2)).

(If special plea(s) in (law) made or separate trial of one or more charges (R.P. [illegible], 106); or as to the jurisdiction of the Court (R.P.34); or in bar of trial (R.P.56); or as to accused's mental fitness to stand trial (A.A.120; R.P.57), such pleas and evidence (if any) are recorded on separate sheet(s), initialled by the President and attached hereto. (For form of record see M.M.L. p. 744, 746, Variations).

11. Each charge is read to the accused and he is asked as each charge is read whether he pleads guilty or not guilty (R.P.11C). He pleads as follows:

First Charge Not Guilty
Second Charge Not Guilty.
Third Charge
Fourth Charge
Fifth Charge
Sixth Charge
Seventh Charge
Eighth Charge

(For procedure on alternative charges, see R.P. 51(a) and fn. c). (For form of record see M.M.L. p. 744 Instructions).

Further proceedings are recorded on pages [illegible] attached.

WOSY

[illegible] Corps [illegible]

PAGE 'B'

(For use when accused pleads "Not Guilty" to all charges)

(All printed matter not applicable to be struck out and all alterations, erasures and additions to be initialled by the President).

1. The accused is asked the question set out below the Schedule on p.2 of A.F.A.3 and his answer there recorded. (R.P.39(A)).

2. The Prosecutor's opening address (if any) (R.P.39(B)) and the evidence for the Prosecution are recorded on separate sheets, initialled by the President and attached hereto.

(See RECORD OF EVIDENCE on Page 'D')

3. The Prosecution is closed.

(If submission is made by Defence that no prima facie case has been established, such submission, Prosecutor's reply and decision of the Court are recorded on separate sheet, initialled by the President and attached hereto). (Rs.P.40, fn 1; 70, fn 1).

4. The accused is informed that he may, if he wishes give evidence but if he does so he will be liable to cross-examination (R.P.40, fn 2) or that he may, if he wishes, make an unsworn statement upon which he can not be cross-examined. (R.P.40(D) (ii) (a)).

5. President to accused:

Q - Do you apply to give evidence yourself as a witness?
A - No Sir
Q - Do you intend to call any other witness in your defence?
A - No Sir
Q - Is he a witness as to character only?
A - _____

6. The evidence for the Defence (if any) is recorded on separate sheets, initialled by the President and attached hereto.

7. The closing addresses of the Prosecutor, Defending Officer and Judge-Advocate (if any) are recorded on separate sheets, initialled by the President and attached hereto. (For order of same see Rs.P.40,41,42).

8. The Court is closed to consider the finding(s). (Rs.P.43,44,117).

9. The finding(s) of the Court is (are) recorded on p.2 of A.F.A.3.

10. The Court being re-opened, the accused is again brought before it.

11.(A) ~~(If finding(s) "Not Guilty" on all charge(s))~~ ~~The finding(s) is (are) announced and the accused is released.~~ wdy

O R

(B) (If finding(s) "Not Guilty" on one or more charge(s) and finding(s) "Guilty" on one or more charge(s)).

The finding(s) of "Not Guilty" are announced and the President states "The finding(s) of the Court on the 1st charge, ~~and~~ ~~charge(s)~~ being subject to confirmation, will be promulgated later". wdy

~~OR~~

(C) ~~(If finding(s) "Guilty" on all charges).~~ ~~The President announces "The finding(s) of the Court being subject to confirmation, will be promulgated later".~~ wdy

(Over)

12. Statement of Character and Service (A.F.B.296 or M.F.B.355) and Field Conduct Sheet (M.F.M.6), signed in the manner required by A.A.163 (1) (h) and purporting to refer to the accused by his number, rank, name and Corps, are produced to the Court, read, marked " X " and " Y ", signed by the President and attached to the proceedings. (R.P.46; Overseas R.O.3131).

13. President to accused:

Q - Do you wish to address the Court on your Statements of Character, Service and Conduct in further mitigation of punishment? (R.P.46(D)).

A - Yes Sir.

(Address (if any) not on oath and on which accused is not subject to cross-examination is recorded on separate sheet, initialled by the President and attached hereto).

14. The President announces:

" The Court is closed for consideration of the sentence. The sentence to be awarded by the Court, being subject to confirmation, will not be announced but will be promulgated later and the proceedings in Open Court are accordingly terminated".

15. The Court is closed to consider the sentence.

16. The sentence is recorded, dated and signed by the President (R.P.50) on p.2 of A.F.A.3.

(Punishments, A.A.44; M.M.L. p.130-134; K.R.(Can)563-566; Overseas R.Os.309,2323).
(One sentence is awarded in respect of all offences, R.P.48).
(For form of sentence see M.M.L.p.756-759).

17. C Cameron Lt Col
(Signature of President)
W.T. Cummings
Judge Advocate.

(2 Cdn Corps 15-6-43)

First Witness for the Prosecution

K 75465 CSM Wilson G.E. 10 Cdn Inf Bde Coy RCASC being duly sworn is examined by the Prosecutor.

Q.1 Will you identify yourself to the court?
A.1 I am K 75565 CSM Wilson G.E. of the 10 Cdn Inf Bde Coy RCASC.
Q.2 Do you recognize Pte Grob?
A.2 Yes sir (Identifies the accused)
Q.3 Will youtell the court in your own words the circumstances surrounding the alleged offence of absent without leave and disobeying a lawful command?
A.3 I issued the accused a pass to go on leave as well as a number of other passes to other members of the unit and warned them all to read the pass to know the date they were to be back. The unit moved while the accused was on leave. After we arrived at the new location I phoned daily to the old location to see what men had returned and to arrange transport to their new location. On the return of the rear party to the new location the accused was not with them. On the night of the 27th of June I had to Lewes on duty and on orders from our O.C. I was told to go to the address which the accused had given and ascertain if he was there, and I did so and apprehended him at 0010 hrs on the 28th of June. On the morning of the 28th of June I asked him for his pass which he gave me and it was the pass I had issued him when he went on leave.
Q.4 What is this document?
A.4 It is the pass sir of Pte Grob?
A.5 Made out by whom?
A.5 By the Pl clerk of 3 Platoon, at that time it was private Grob.
Q.6 Did you sign it any place?
A.6 No sir.
Q.7 This is the pass the accused gave to you?
A.7 Yes sir.
Pass is handed to the court marked Exhibit A and signed by the President.
Q.8 Continue Sgt Major?
A.8 The only thing about disobeying an order is that I was instructed to send a wire by Lieut Glover which he had made out. The Post Office in town was closed and as I was proceeding to London I sent it from an all night post office in Leicester square.
Q.9 Did you have any conversation with the accused at the time of his apprehension?
A.9 Yes sir.
Q.10 What was it?
A.10 When he was getting in the station wagon he said his kit was at the Railway Station in Lewes and I told him it was too late to pick it up then and would arrange to pick it up later and this was subsequently done.
Q.11 At what date did the rear party leave the former location?
A.11 I could not say for sure sir.
Q.12 Supposing the accused arrived back and there were no members of the rear party at the old location is there any system whereby the accused could find his unit?
A.12 There is a system but on examining the pass I don't know if the accused could have found his unit. The system is that the address of the Reinf part is written on the back of the pass but in this case I see it was omitted.
Q.13 The accused as a Platoon clerk would know the system whether or not it was written on the pass?
A.13 I don't know sir.
Q.14 Does the accused know where the Reinf unit is?
A.14 I don't know sir.
Q.15 Has the accused to your knowledge ever been on a course?
A.15 Yes sir.
Q.16 What happens at the expiration of the course?
A.16 In this Div they return immediately to their unit.
Q.17 At what time did you file the telegram?
A.17 Between nine and ten o'clock on the 16th of June 1943.

The defence declines to cross examine

The Court questions the witness

Q.18 You are not familiar with the time the rear party left the former location?
A.18 I could not say exactly what date, I think it was ten days after we left.
Q.19 You know your former location?
A.19 Yes sir.
Q.20 When they left that location they came to you?
A.20 Yes sir.
Q.21 Are you not in a position to know what time they left, what time did they arrive in the new location?
A.21 It was somewhere around three o'clock in the afternoon and was either 26 or 27th but the exact date I could not swear to.

In the opinion of the court and the Judge Advocate it is not necessary to comply with the provisions of R.P. 83(b)

THE WITNESS WITHDRAWS

Second Witness for the Prosecution

Lieut C.D. Glover, 10 Cdn Inf Bde Coy RCASC being duly sworn is examined by the Prosecutor.

Q.1 Will you identify yourself to the court?
A.1 I am Adm O. Lieut C.D. Glover, 10 Cdn Inf Bde Coy RCASC.
Q.2 Do you recognize the accused?
A.2 I do (Identifies the accused)
Q.3 I would like you to tell the court in your own words anything you know concerning the alleged offences by the accused?
A.3 As a result of information received I made a check on leaves and found that one Pte Grob was A.W.L. On the 18th of June I received a telegram which I have here requesting an extension of leave to be granted to Pte Grob.
(Telegram handed to the court marked Exhibit "B" and signed by the President)
(Defence consents that this witness give evidence concerning the telegram received by said witness signed Pte Grob)
I informed the O.C. of the Coy of the receipt of this telegram and of its contents and asked for further orders. Having been given further orders I proceeded to despatch with one CSM Wilson my reply.

Cross examined by the Defence

Q.4 Is it customary when you receive word from a soldier and he says he is sick to you order him to return immediately or is any concession given for a man who reports sick?
A.4 Concessions are certainly given, but the reading of the telegram sent by the accused was such that led us to believe he could return under his own power.
Q.5 In the gist of this telegram what would lead you to believe he could return on his own power?
A.5 A concession would certainly have been given ifthe message could give us a direct fact, such as unable to return I am sick in bed or Dr. ordered me to stay there in bed, but the message stated merely felt ill.
Q.6 That would prompt you to say that a man could return under his own power?
A.6 Yes, in my opinion if a man states he still feels ill the best place for him is with the unit and if he says he is sick in bed then the best place for him is to remain in bed.

The court questions the witness

Q.7 What is this(Exhibit A)
A.7 That is an ordinary leave pass that is given out to the personnel of the unit when they proceed on leave.

Q.8 Is that your signature?
A.8 Yes sir.
Q.9 From your personal knowledge were you informed that he was under medical care while on leave?
A.9 No sir, not outside of the telegram.

In the opinion of the Court and the Judge Advocate it is not necessary to comply with the Provisions of R.P. 83(b)

THE WITNESS WITHDRAWS

Third Witness for the Prosecution

Mr. L.W. Pink, Employee Post Office, Lewes, being duly sworn is examined by the Prosecutor.

Q.1 Will you identify yourself to the court?
A.1 I am Mr. L.W. Pink, Auxilliary Superintendant, second in charge of the Lewes P.O.
Q.2 Have you any documents relating to, addressed to, or signed by Pte E.R. Grob?
A.2 Yes, I have here a telegram handed in at the Leicester Square Post Office London W.C. at 9:05 P.M. on the 18 June 1943 and addressed to L/8962 Pte Grob E.R. C/O No. De La Warr Green, Lewes.

Tendered to the court, true copy made, marked Exhibit C and signed by the President.

The Defence declines to cross examine

In the opinion of the Court and the Judge Advocate it is not necessary to comply with the provisions of R.P. 83(b)
THE WITNESS WITHDRAWS

Lieut C.D. Glover recalled

Q.10 Do you recognize this and will you explain to the court what it is? (Exhibit C)
A.10 Yes sir, I do, this is in my writing and I made it out and had it despatched in reply to the one sent to me by Grob.
Q.11 Who signed Exhibit C?
A.11 I signed on the back .

K 75465 CSM Wilson is recalled

Q.22 Do you recognize this (Exhibit C)
A.22 It is the telegram Lieut Glover instructed me to send.
A.23 Did you send it?
A.23 Yes sir.

The Defence is informed that K 75644 Sgt Bridgement is available if the Defence wishes to ask him any questions but the Prosecution is not intending to call him.

Fourth Witness for the Prosecution

Mr. C.D.F. Griffin, 54 Malling Street, Lewes, being duly sworn is examined by the Prosecutor

Q.1 Will you identify yourself to the court?
A.1 I am Charles Denis Frederick Griffin 54 Malling Street, Lewes, Sussex.
Q.2 What is your employment?
A.2 Leading Parcel Porter.
Q.3 Where?
A.3 Lewes Railway Station.
Q.4 Have you any knowledge of any parcels or other items entering or

leaving Lewes Railway Station addressed to, signed by, or despatched by Pte Grob E.R.?
A.4 We had one rifle and one pack arrive from Victoria on the 18th of June 1943.
Q.5 Have you any records which would substantiate that?
A.5 Yes sir (Produces record book of parcels received, true copy of part pertaining to the items is made, marked Exhibit "D" and signed by the President.

The Defence declines to cross examine

In the opinion of the court and the Judge Advocate it is not necessary to comply with the provisions of R.P. 83(b)

The Witness withdraws

Fifth Witness for the Prosecution

Mrs. May Ena Boulard, 1 De La Warr Green, Lewes, Sussex, being duly sworn is examined by the Prosecutor.

Q.1 Will you identify yourself to the court?
A.1 I am Mrs. May Ena Boulard of No. 1 De La Warr Green, Lewes, Sussex.
Q.2 Do you know Pte Grob?
A.2 Yes (Identifies the accused)
Q.3 Will you tell the court in your own words what transpired during the month of June, that is within your knowlege, as to the facts with relation to Pte Grob?
A.3 He came to our house on fourteen days leave and while he was there he was taken away ill to the hospital. My mother and sister went to see him the next day in the morning. They saw him on Wednesday morning and he was home the same afternoon.
Q.4 Was that the day he was taken to the hospital?
A.4 No the day after, I don't know anything after that, he went away and I did not see him anymore, he kept on coming back again, I don't know the dates.
Q.5 Did you pick up anything belonging to the Accused at the Railway station?
A.5 Yes, his rifle and kit, I don't know what it was, it might have been a respirator.
Q.6 Did you sign anything?
A.6 Yes I signed a book.
Q.7 Is that your signature (Exhibit D)
A.7 Yes.

Cross examined by the Defence

Q.8 On the evening that Pte Grob had the fall and was taken to the hospital did you hear him make a statement he was anxious to go back to his unit not to the C.C.S.?
A.8 Yes he did.
Q.9 Did he make this statement to you?
A.9 Yes he did.
Q.10 When he returned from the hospital was he better or still ill?
A.10 He was still ill.
Q.11 Did he make any statement then that he wanted to return to his unit?
A.11 No he was put to bed and stayed there two or three days he could not go to his unit because he was in bed.

Re examined by the Prosecutor

Q.12 You said in your statement Pte Grob went back and forth and left your house, he turned up again at different times?
A.12 About twice.
Q.13 What sort of statement if any did he make on these occasions?
A.13 He wanted to get a Dr's certificate to take back to his unit.

In the opinion of the Court and the Judge Advocate it is not necessary to comply with the Provisions of R.P. 83(b)

THE WITNESS WITHDRAWS

Sixth Witness for the Prosecution

Mrs C.E. Kenward 1 De La Warr Green, Lewes, Sussex, being duly sworn is examined by the Prosecutor.

Q.1 Will you identify yourself to the court?
A.1 I am Caroline Elizabeth Kenward of No. 1 De La Warr Green, Lewes.
Q. 2 Do you know Pte Grob?
A.2 Yes (Identifies the accused)
Q.3 Would you tell the court in your own words what you know of Pte Grob's actions during the month of June this year?
A.3 He came to my place for fourteen days leave on the 3rd of June and he stayed at my place. I think he went away on the Thursday. While he was there he was very ill had a bad turn and fell down stairs from top to bottom. My son was on leave and he picked him up and took him up to bed and he was bringing up blood so we sent for an ambulance. They got the ambulance and took him to the hospital. I went to see him on Wednesday morning in the hospital and he came home in the evening. I asked him why he came out and he said he just didn't know what he was doing and he went straight to bed and said he felt queer.
Q.4 Do you remember the dates that Pte Grob fell downstairs and was taken to the hospital?
A.4 No sir, I don't.
Q.5 Do you remember the date he left your house?
A.5 I could not say.
Q.6 What were the circumstances surrounding the time he left your house?
A.6 He said his one ambition was to get back to his camp.
Q.7 Did anyone come for him?
A.7 Not until the 27th on Sunday.
Q.8 Did he leave your house anytime prior to the 27th?
A.8 I think he left on the Thursday before Sunday the 27th.
Q.9 Did he give any reason for his return?
A.9 He said he had to get a Dr's certificate.
Q.10 Did you know anything about a telegram received by Pte Grob while at your house?
A.10 Only one which came on Saturday morning.
Q.11 Do you recognize that (Exhibit "C")
A.11 I think that is right but it does not look the same.
Q.12 Will you tell the court what you know about it?
A.12 I just took it up to him while he was in bed and he said he was going back the next day and they came for him the next day.
Q.13 The telegram you gave to the accused, did it contain the words in Exhibit C?
A.13 I think it was a little different, I am not quite sure, I just picked it up and glanced at it, and he said he was going to get up and go back. He still had a pain in his side.
Q.14 Did you see Pte Grob read this telegram?
A.14 No I just handed it into him through the door.

Cross examined by the Defence

Q.15 On the afternoon that Pte Grob fell downstairs and injured himself did you phone a military doctor?
A.15 The Doctor would not come, my son phoned the Dr and he would not come because it was a soldier and my son went and called the army Dr.
Q.16 Was the first doctor you phoned a military doctor or civil doctor?
A.16 It was a civil doctor.
Q.17 Then you phoned the Casualty Clearing Station?
A.17 My son phoned I had nothing to do with it.
Q.18 The following day did you visit him?
A.18 Yes I did.
Q.19 Where was he?
A.19 In bed
Q.21 What was his condition at that time?
A.21 I don't know he was asleep I asked the nurse and she said as a rule they don't keep Cdn Soldiers in there very long and they thought it would be better to X Ray him.
Q.22 When he returned to your home, what was his physical condition?

A.22 He seemed all of a sweat I told him to go up and go to bed.
Q.23 How long did he stay in bed?
A.23 He stayed there until Thursday and he got up and went to phone his unit. They told him to get a Dr's certificate. He came back and told me he did not feel well. He was going back until they picked him up.
Q.24 Did he leave your house again after that?
A.24 Not to my knowledge.
Q.25 When did he return the last time previous to his return to his unit?
A.25 I could not say.
Q.26 To your knowledge did Pte Grob make an attempt to secure a Dr's certificate?
A.26 Yes he did.

Questioned by the Court

Q.27 You say he left your house on Thursday, do you remember what date that was?
A.27 It was the 24th I believe.
Q.28 The 24th of June this year?
A.28 Yes.
Q.29 What day did he come back after the 24th?
A.29 I don't know whether it was Thursday night or Friday morning.
Q.30 When he came back on that occasion did he go tobed in your house or was he walking around?
A.30 He was in bed.
Q.31 He was in bed from thetime he came back until Sunday?
A.31 Yes.
Q.32 Was the accused in bed when the men from his unit came?
A.32 Yes, my son went up and told him.
Q.33 He came to stay on the 3rd how long after he arrived did this accident occur?
A.33 He had been there practically all the time of his leave.
Q.34 Did the accident occur near the end of his leave?
A.34 No I think it was on a Monday night.
Q.35 How long had he been there when he had this bad turn and fell downstairs?
A.35 It was not quite a week.

Cross examined by the Defence

Q.36 Did you give evidence on a summary of evidence taken by Capt Richards?
A.36 Yes I believe I did.
Q.37 Was the evidence you gave read to you?
A.37 Yes I think it was.
Q.38 In the evidence given on the summary you seem to be a little mixed up in the dates Pte Grob received the telegram on June 19th. Was it before he received this telegram that he had the fall?
A.38 I cannot remember all that, I am over fifty and have had a family of five, I don't know anymore.
Q.39 Was it near the end of his leave that he had the fall?
A.39 Yes.

In the opinion of the court and the Judge Advocate it is not necessary to comply with the provisions of R.P. 83(b)

THE WITNESS WITHDRAWS

Seventh Witness for the Prosecution

Miss B. J. Kenyard, 1 De La Warr Green, Lewes, Sussex, being duly sworn is examined by the Prosecutor.

Q.1 Will you identify yourself to the court?
A.1 I am Miss Betty Josephine Kenyard of No. 1 De La Warr Green, Lewes.
Q.2 Do you know Pte Grob?
A.2 Yes I do (Identifies the accused)
Q.3 Will you tell the court in your own words what you know of the activities of Pte Grob during the month of June?

A.3 He first came on leave and he was at home for about just a fortnight and he happened to have his accident, that was on the 15th, Tuesday after Bank Holiday.
Q.4 It was not quite a fortnight when he had this accident?
A.4 No it was about three days before he was supposed to go back. On the Friday after that he went away and said he was going to London.
Q.5 Was that in the same week that he fell down stairs?
A.5 No I think it was in the following week. Later on in the week he came back again and it was on the Sunday that the soldiers came for him.
Q.6 Between the time he had his accident and the time the men came for him how many times did he leave your mother's house?
A.6 Once I think.
Q.7 Was he sick in bed for part of the time he was at your place?
A.7 Yes.
Q.8 How much of the time was he sick in bed?
A.8 About four days to a week.
Q.9 The day he fell downstairs when was that?
A.9 The day after bank holiday in the evening.
Q.10 If he was sick four days to a week and if he fell downstairs on the 15th or was sick four days and left your house on the Thursday, that would be the 24th of June, what time did he come back after the 24th of June?
A.10 The next day.
Q.11 He came back the next day do you remember what time?
A.11 It was in the morning about eleven.
Q.12 What did he do when he came back?
A.12 Sometimes he walked into town and sometimes he went for walks and sometimes we stayed in.
Q.13 Did he go back to bed or was he sick when he came back?
A.13 No sir.
Q.14 Do you know of any communication received by him?
A.14 He had a telegram.
Q.15 Did you see it?
A.15 Yes
Q.16 Do you think you could recognize it?
A.16 I don't know (Exhibit C is tendered to the witness)
Q.17 Is that the contents of the telegram you say?
A.17 Yes sir. (Identifies the contents or Exhibit C as being the telegram received by Pte Grob)
Q.18 Did you see Pte Grob read this telegram?
A.18 Yes sir.
Q.19 Do you remember what he said when he got it?
A.19 No I cannot remember it exactly.

Cross examined by the Defence

Q.20 When Pte Grob received the telegram was he unable to return to this unit?
A.20 No he was not.
Q.21 Was he sick in bed?
A.21 He was sick at the time but Ithink he was fit enough to return.
Q.22 Did you accompany Pte Grob to the C.C.S. to obtain a Dr's certificate
A.22 Yes sir.
Q.23 What day was that?
A.23 I believe it was Thursday or Friday.
Q.24 Was it after he had returned?
A.24 Yes sir.
Q.25 Did you hear Pte Grob state his intention to return to his unit w
he left the first time?
A.25 Yes he did say it but he came back.
Q.26 What was the purpose of his return, was it to obtain a Dr's cert
ate?
A.26 That is what he told me.

Questioned by the Court

Q.27 Did Pte Grob tell you he was going to London?
A.27 He did not tell me exactly where he was going, but he told me
he came back he had been.
In the opinion of the Court and the Judge Advocate it is not necessary to comply with the Provisions of R.P. 53 (b)

The Witness withdraws.

A.3 He first came on leave and he was at home for about just a fortnight and he happened to have his accident, that was on the 15th. Tuesday after Bank Holiday.
Q.4 It was not quite a fortnight when he had this accident?
A.4 No it was about three days before he was supposed to go back. On the Friday after that he went away and said he was going to London.
Q.5 Was that in the same week that he fell down stairs?
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A.10 The next day.
Q.11 He came back the next day do you remember what time?
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A.14 He had a telegram.
Q.15 Did you see it?
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Q.16 Do you think you could recognize it?
A.16 I don't know (Exhibit C is tendered to the witness)
Q.17 Is that the contents of the telegram you say?
A.17 Yes sir. (Identifies the contents of Exhibit C as being the telegram received by Pte Grob)
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A.18 Yes sir.
Q.19 Do you remember what he said when he got it?
A.19 No I cannot remember it exactly.

Cross examined by the Defence

Q.20 When Pte Grob received the telegram was he unable to return to this unit?
A.20 No he was not.
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A.25 Yes he did say it but he came back.
Q.26 What was the purpose of his return, was it to obtain a Dr's certificate?
A.26 That is what he told me.

Questioned by the Court

Q.27 Did Pte Grob tell you he was going to London?
A.27 He did not tell me exactly where he was going, but he told me when he came back he had been.

In the opinion of the Court and the Judge Advocate it is not necessary to comply with the Provisions of R.P. 83 (b)

The Witness withdrews.

Closing address of the Prosecutor

Mr. President and Member of the Court in summing up I would like to point out just a few facts which have come out in evidence, which in many respects was somewhat vague. I would like to point out that the evidence of Mrs Kenward is so vague that no facts can really be deduced from it. However, these facts have been proven, first that the accused is a soldier and therefore subject to military law, secondly that a lawful command was given and received by the accused ordering him to return to his unit, thirdly, that the accused was fit to travel on the 24th of June, I refer to the evidence of Miss Betty Kenward. Therefore, the accused is guilty of being A.W.L. from June 24th until 0010 hrs on the 28th of June. It seems fairly conclusive that prior to the 24th of June the accused was unable to travel. The fourth fact is that in view the accused was able to travel on the 24th of June that is the date he disobeyed a lawful command to return to his unit. I would like to point out this fact, that it is common knowledge amongst all troops and they are instructed if their unit moves while they are on leave, that they return to their appropriate reinforcement unit. This fact has not been proven here, however, it is of no consequence, in the sense that the accused made no attempt to come back to his unit. It has been brought out in the evidence that he said he intended to come back, but nevertheless he made no effort.

These are the facts and I believe the accused is guilty of absence without leave from the 24th of June until he was apprehended and that on the 24th of June he disobeyed a lawful command in not returning to his unit immediately.

Closing address of the Defence

Mr. President and Gentlemen in the closing address of the defence I would like to draw your attention to certain facts. The first point the charge of absent without leave, the prosecution has pointed out that it is not possible to hold the accused for that offence, and they have also brought out that he was physically unable to return to his unit, and in as much as he was unable to return to his unit charge No. 2 is no offence. I refer the court to M.M.L. Sec 9 Para 2 sub para 2. The fact that the accused was given no instructions how to return to his unit in the event of them moving, it was a known fact that the unit was in the process of moving to a new location. No steps were taken to notify the accused or any other person going on leave where to return to in the event his unit moved. I would think that if a unit were concerned with the return of an absentee especially a sick one they would have despatched an ambulance or some other mode of transportation, and it has been proven that the accused was at the address given by him for the duration of his leave. No attempt was made until the 28th of June. The accused did make an attempt to return to his unit as soon as he was physically able to make that attempt. Evidence has been given that he went via London in an attempt to return to his unit. In closing I have only one thing to say, I recommend that the accused be dismissed on the grounds of insufficient evidence to prove either of the charges.

Summing up by the Judge Advocate

In considering the question of the burden of proof, regard must be had to two rules - first that every man is presumed to be innocent until he is prowe to be guilty and secon - that he who alleges a fact must prove it, whether the allegation is couched in affirmative or negative terms. Therefore the Prosecution must give evidence showing the commission of the offence, and connecting the accused with it. On this being done the prosecution will have proved a prima facie case. Then the presumption of fact shifts to the accused and he must give a reasonable explanation in satisfaction of the charge.

Today there are two charges before you, the first Absence without leave, and second, Disobeying a lawful command given by his superior officer. The facts of the case are absolutely within your domain. If I should happen to venture an opinion with regard to the facts, you are under no obligation to accept my opinion but with regard to the facts if it should happen that I should advise you on any law, then you should take the legal advice of the Judge Advocate, except for very weighty reasons, which reasons you would have to state so as they would be on the record. With regard to the statement of particulars in the first charge that on the 17th of June 1943 he absent himself from his unit without leave, 10 Cdn Inf Bde Coy RCASC, from 0800 hrs 17 June 43 until he was apprehended at Lewes at 0010 hrs on 28 Jun 43. You must satisfy yourselves that the accused was absent from the time stated until apprehended at Lewes at 0010 hrs 28 Jun 43. You have before you Exhibit A which is a pass signed by Lieutenant C.D. Glover which covers a

certain period of time. There is no question in my mind that the accused was given a pass to leave his unit pursuant to the said pass. Then you have the evidence by the CSM that the accused was apprehended at Lewes on the 28th of June 43. I don't think there is any dispute about that fact. What you have to satisfy yourselves, is, was the accused in a position to return to his unit at the expiration of his pass. There has been a considerable amount of evidence, some of it contradictory and the only way you can tell if a witness is telling the truth, is if the witness has not been broken down in cross-examination and then again, you as reasonable men looking at the demeanor of the witnesses, can come to the conclusion as to whether or not that witness is telling the truth. That is rather a difficult job for witnesses even when telling the truth become flustered and by so doing may not give evidence as satisfactorily as is possible.

With regard to the second charge you must satisfy yourselves that a lawful command was given to the accused by a superior officer and also that the accused understad the said lawful command. You have the evidence of Lieut Glover that he despatched a certain telegram to the accused ordering him to return to his unit immediately. There is no question about it being sent. The next thing is to determine whether the accused received the telegram. If you come to the conclusion that it was received by the accused, the next thing to determine is whether the accused was in a position to return to his unit. My recollection of the evidence is that the accused after he had got out of hospital and returned to the particular premises which were mentioned in court, that he took a trip to London and then returned back to the premises. According to the evidence of Miss Betty Kenward, she said, that he told her he had been in London. Now whether or not the accused made an attempt to return to his unit by going to London is something for you to determine. Why did he come back to the premises which were occupied by Mrs. Kenward and others.

I don't think there is anything else I can say, but in closing I will draw your attention to the doctrine of reasonable doubt. The Court must remember the principle of English law that an accused is presumed to be innocent until he he is proved guilty, and that the burden of proof rests upon the Prosecution. Unless therefore, the guilt of the accused has been established beyond reasonable doubt, the accused must be acquitted, as the prosecution has failed to sustain adequately the burden of proving his guilt. Such a doubt would be one that reasonable men would have. It is more than mere suspicion. In other words the court must be satisfied not only that the circumstances proved were consistent with the guilt of the accused, but also that they were inconsistent with any other rational conclusion.

Is there anything further you wish me to say Mr. Defending Officer
Nos sir.

And you Mr. Prosecutor
No sir.

Lost

Exhibit "B"
J. Richards Capt.

No.

OFFICE STAMP

TELEGRAM

At Central Telegraph Office, E.C.1

Prefix 32 Time handed in ... Place of Origin and Service Instructions ... Words

To

From

Not granted 18 June 43 Adj

If a calling-out of the whole Army Reserve is ordered every soldier on pass must return immediately to his unit without waiting for instructions.

No. A.C.A.S.C. Regiment 10th C.I.B. Coy.

Army Form 1250 (In parts of 100)

PASS

No. 4-8962 (Rank) Pte. (Name) Grob. E.R.

has permission to be absent from his quarters/duty, from Thurs. 0600 - 3-6-43 to Thurs 0600 - 17-6-43

for the purpose of proceeding to: Lewes - Sussex

(Station) In the field.

(Date) 3-6-43

for Commanding

CROWN COPYRIGHT RESERVED

Exhibit "A"
J. Richards Capt.

EXHIBIT "B"

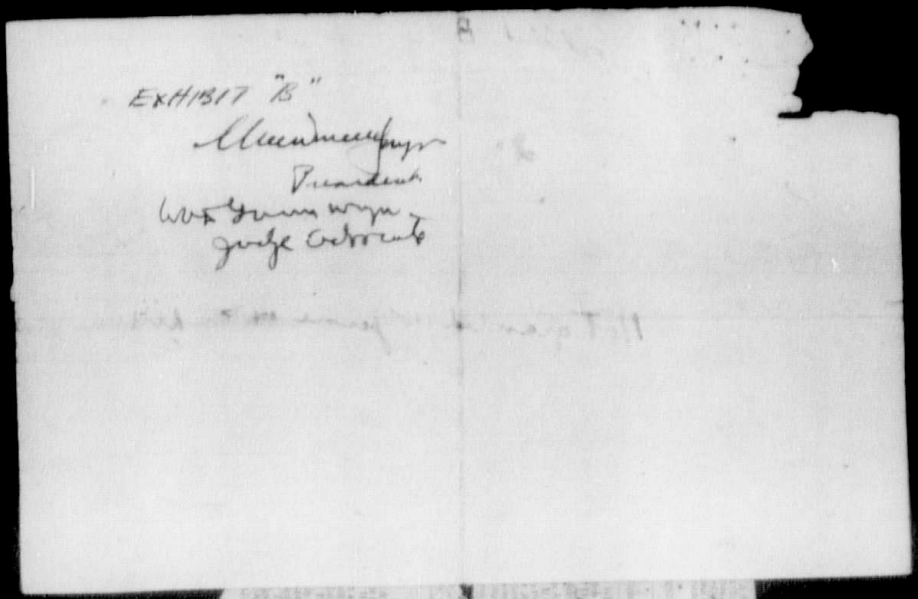
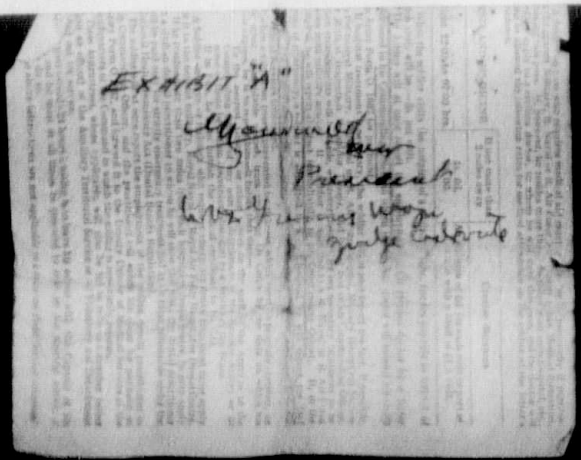


EXHIBIT "A"



POST OFFICE

INLAND PREPAID REPLY

TELEGRAM

PREFIX HANDED IN 9.57 p

ONE SHILLING AND SIXPENCE STAMP

ONE SHILLING AND THREEPENCE STAMP

EXCESS CHARGE

CHARGEABLE WORDS 24

ACTUAL WORDS 30

COUNTER NUMBER 2051

To 342

ADDRESS L 3962 Pte Grob. F R
c/o No 1 Dela. Warr Green Lewes Sussex

No extension granted (.) Return immediately (6)
Bring doctor's certificate

15 JU 43

(SIGNED) Lieut C A Glover
10 Cdn Int Tk Gp

Please write the name and address of the sender IF NOT TO BE TELEGRAPHED in the space below this line

Certified True copy of original
Handwriting of Sender

EXHIBIT "C"

REPLY VOUCHER

CONDITIONS OF ACCEPTANCE

NAME AND ADDRESS OF SENDER

C A Glover Lieut
10 Cdn Inf Bde Coy

H13
C

Parcels	Station From	Description & Contents	Consignee	Address or Delivery Sheet No.	Paid	Rec'd in good condition	Date
I	Victoria	Rifle	Grob	T.C.F.	2/3	M.E.Beaulard	28
I	Victoria	Pack	Grob	T.C.F.	2/1	M.E.Beaulard	28

EXHIBIT "D"

Certified true copy

[illegible]
President

Date 16 Feb 43

Will from wage
judge order

Exhibit "C"
Affidavit Sept.

POSTAL SECURITY

Attention is directed to the provisions of Overseas R.O. 659 as amended by Overseas R.O. 2034 which provides in part:-

"all mail will bear Name, Rank and Regt'l Number or remitter on the reverse side of the cover".

No other information will be included. Numerous breaches of Postal Security have recently taken place by including the name or designation of Units and/or Formations. This practice will cease forthwith.

This alters the instructions which have been issued up to this date. All ranks will be careful to abide by this ruling henceforth.

Certified that the above is a true extract from Part I Order No. 25 dated 30 January 1943 of the 4 Cdn Armd Bde Coy R.C.A.S.C.

S.W. Fischler Lieut.
(S.W.Fischler) Lieut.
Officer having charge of Such Records.

POSTAL SECURITY

Div. R.O. No. 1442 dated 23 Jan 43, is republished hereunder for the attention of all ranks.

"Attention is directed to the provisions of Overseas R.O. 659 as amended by Overseas R.O. 2034 which provides in part:-

"All mail will bear Name, Rank and Regt'l Number of remitter on the reverse side of the cover".

No other information will be included. Numerous breaches of Postal Security have recently taken place by including the name or designation of Units and/or formations. This practice will cease forthwith. The Orderly Room stamp will be impressed on the envelope in accordance with current regulations.

Certified that the above is a true extract from Part I Order No. 27 dated 2 February 1943 of the 4 Cdn Armd Bde Coy R.C.A.S.C.

S.W. Fischler Lieut.
(S.W.Fischler) Lieut.
Officer having charge Such Records.

Exhibit "D" J.S. Richards Capt.

10 CIBC 5-1-0

6 July 3

To: L8962 Pte. Grob, E.R.,
10 Cdn Inf Bde Coy,
R. C. A. S. C.

Take notice that you, the accused, are hereby required to produce at the Summary Trial to be held before Captain J.S. Richards, in the Field, on 6 July 43, at ~~0900~~ hrs, a telegram dated 13 June 43, addressed to you, and originated by Lieut. C.D. Glover.

Signed at In-the-Field this 6th day of July 1943.

(N.R.V. Paiers) Capt.,
A/Officer Commanding,
10 Cdn Inf Bde Coy, RCASC

Summary of evidence in the case of L3962 Pte. GROB, E.R., 10 Canadian Infantry Brigade Company, Royal Canadian Army Service Corps, 4 Canadian Armoured Division, is charged with:

1. A.A. Sec. 15 (1) Absenting himself without leave.
2. A.A. Sec. 9 (2) Disobeying a lawful command.
3. A.A. Sec. 11 Neglecting to obey an order.

The Commanding Officer directs that the evidence be taken under oath.

FIRST WITNESS

K75465 Company Sergeant Major Wilson, G.E., 10 Cdn Inf. Bde Coy, R.C.A.S.C., sworn, states:

As C.S.M. I issue all leave passes and transportation tickets to men proceeding on privilege leaves. I issued the accused his pass and ticket on the day he went on leave and told him to be sure to read his pass so that he would know the exact time he should return to the unit. After the unit moved to its present area, knowing that there were still some men on leave, I checked at our former location on those days when men were due back to arrange to have them transported to this locality. On the morning of the 17th of June I checked and found the accused had not returned to the unit. I checked daily after that until the rear party left our former camp area. I had the address given by the accused, in the leave register book, and as I was proceeding to Lewes on duty on June 27th the O.C. instructed me to check the address to see if the accused was still there. I found him there and apprehended him at 0010 hrs 28th June. The accused told me that his kit was at the station in Lewes. He said he had taken it there Friday June 25th. I told him it was too late to get it that night, and that we could send someone down for it. I detailed Sgt. Bridgement to go for it on Tuesday June 29th. The accused also told me that a portion of his kit was at Frensham. This has not yet been received.

I present this pass (Exhibit "A") which I gave to the accused prior to his proceeding on leave, and which I took from him when he was apprehended.

Q. On the 18th June did Mr. Glover give you a telegram to despatch to the accused?

A. Yes.

Q. From what point did you despatch the telegram?

A. An all-night Post Office, Leicester Square, London.

Q. At what date and time?

A. On the night of 18 June between 2100 and 2200 hrs.

The accused declines to cross-examine this witness.

SECOND WITNESS

Lieut. C.D. Glover, Administrative Officer, 10 Cdn Inf. Bde Coy, R.C.A.S.C., swaorn states:

On the 17th June '43 I was informed that one Pte. Grob, E.R., should have returned at reveille of that morning and was considered A.W.L. from that time. This telegram, (Exhibit "B") from Pte. Grob, reached me in the regular mail on 18 June '43. This telegram was shown to the O.C. who instructed me further. On 25 June 43 Pte. Grob had not returned to the unit and, as per instructions, I informed the D.P.M. by telephone and gave them the address used by Pte. Grob on the telegram he sent requesting the extension of leave. The D.P.M. said they would investigate the matter.

Q: Is the address of the unit used by the accused in sending his telegram worded in such a way as to constitute a breach of security?

A: To my knowledge, yes.

Q: In what way is it a breach of security?

A: Because the address mentions both the unit and the division to which that unit belongs.

Q: What reason have you to believe that the accused should be aware of the fact that he should not address any correspondence in this manner?

A: Since this order was re-published in Pt I Orders of C,RASC, I presume it was re-published also by the 4 Cdn Arm'd Bde Coy, R.C.A.S.C. while the accused was on strength of that company.

The accused declines to cross-examine this witness.

C.D. Glover Lieut

THIRD WITNESS

K75644 Sgt. Bridgement, H., 10 Cdn Inf. Bde Coy, R.C.A.S.C., sworn, states:

On the night of 27 June 43 I was asked by the C.S.M. to accompany him to Lewes, one of the purposes being to check on an address at which it was alleged that Grob was staying. We reached this address shortly before midnight of the 27th June and found the accused there and took him into custody by 0010 hrs June 28th '43. On the return journey the accused informed us that he had left part of his kit at the Railway Station in Lewes. I returned to Lewes for the kit on June 29th. While there I went to the house where the accused had been staying, for the purpose of verifying his length of stay there, and also to verify his receipt of the telegram sent by this Coy ordering him to return to his unit. I was informed by Mrs. Kenward and her daughter, Mrs. Boulard, that the accused had lived there during his alleged absence from the 16th June to the 28th June, but not continuously. I was informed by Mrs. Kenward that on the 15th June the accused suffered injuries from a fall down the stairs and was taken to a hospital by her son, Pte. Kenward, and that on June 16th the accused returned from the hospital. Mrs. Kenward further informed me that on the 19th June the accused left her home to go to London, she thought, and returned on June 22nd. She also stated that he made a further departure and return, but she was not sure of the dates. All this was later confirmed by Pte. Kenward. I was informed by Mrs. Boulard that the telegram from this Coy was delivered by having it pushed through the mail slot since there was no one to go to the door. She did not say there was no one in the house at the time the telegram was delivered. Mrs. Boulard stated that she personally picked up the telegram, and handed it to the accused in the presence of her sister, Miss Betty Kenward. The accused, she stated, read the telegram in their presence and handed it to Miss Betty Kenward.

While at Mrs. Kenward's house I picked up part of the accused's kit, consisting of one rifle and one large pack, which had been picked up from the Railway Station by Mrs. Boulard after the apprehension of the accused. Upon applying at the Railway Station I found that the kit in question had not been deposited there by the accused, but had been shipped down from Victoria Station and arrived at Lewes 26 June 43. This information was given me by a Mr. C. Griffin, station employee. I also called at the post office in Lewes in an effort to determine whether a telegram requesting extension of leave had been sent to this unit by the accused, and if not, by whom it had been sent. The staff there could only offer the information that the telegram mentioned had been sent by a soldier who looked ill.

The accused declines to cross-examine this witness.

H Bridgement, Sgt

FOURTH WITNESS

Mr. Charles Denis Frederick Griffin, 54 Malling Street, Lewes, Sussex, sworn states:

I am leading Parcel Porter employed by Southern Ry. Co., at Lewes Station. On June 26th 1943 we received a rifle and a pack from Victoria Station, London, addressed to Private Grob and marked, "To be held until called for." On June 28th a lady by the name of M.E. Boulard called during the evening. She had a telegram asking her to pick up the rifle and pack. I am not prepared to say by whom the telegram was signed. I gave her the rifle and pack and she signed for them in Inwards Counter Book, page 72284.

Q: Is it customary to release goods to an individual on receipt of a chit or telegram?

A: Yes, quite customary.

Q: At the time were you under the impression that the telegram in question had been signed by Pte. Grob?

A: Yes.

Q: You are not prepared to swear that the telegram was signed by Pte. Grob?

A: No, I am not prepared to swear to that.

Cross Examined by the Accused

Q: When you gave her the rifle and kit did she take it away with her?

A: Yes, she did.

Q: Are you sure that it was a telegram Mrs. Boulard showed you when she called for the kit?

A: Yes, I am sure.

C. Griffin

FIFTH WITNESS

Mrs. May Ena Boulard, 1 De La Warr Green, Lewes, Sussex, sworn, states:

I am Mrs. May Ena Boulard, 1 De La Warr Green, Lewes, Sussex, where I live with my mother, Mrs. Caroline Kenward.

Pte. Grob came to our house on leave. I cannot remember the exact date of his arrival. Near the end of his leave he fell down ths stairs in what I thought to be a fainting spell. My brother, Pte. A.J. Kenward, carried him upstairs to bed. Pte. Grob appeared to be quite ill so my brother phoned the C.C.S. on the Brighton Rd. and told them the story, and they sent an ambulance and took him to the hospital. Pte. Grob did not want my brother to phone the C.C.S. as he said that he was anxious to return to his unit. The following morning, my sister, Miss Betty Kenward, and my mother, went to the hospital to see Pte. Grob and find out what was wrong with him. They saw him but did not find out what was wrong with him. They understood he was due to be X-Rayed. He arrived back at our house the following day, Wednesday, I'm not sure of the actual date. He was still very sick and we put him to bed for about three days. When he finally got up he left, saying he was returning to his unit.

Mother received a telegram sometime later advising her to collect rifle and pack and hold until called for. I collected the rifle and pack from the station and took it home and kept it until it was called for by men from his unit.

Q: Do you recall Pte. Grob receiving a telegram from his unit during his visit at your house?

A: Yes.

Q: Did you see the telegram?

A: No, I did not see it.

Q: Did you hear anyone read the telegram, or do you know what it said?

A: I did not actually hear it being read, and I do not know what it said.

Q: Did Pte. Grob send a telegram to his unit before he became ill?

A: I do not know.

Q: Did Pte. Grob send a telegram to his unit while he was ill?

A: I am not sure but I believe he did.

The accused declines to cross-examine this witness.

m e Boulard

SIXTH WITNESS

Caroline Elizabeth Kenward, 1 De La Warr Green, Lewes, Sussex, sworn, states:

I am Caroline Elizabeth Kenward, 1 De La Warr Green, Lewes, Sussex. Pte. Grob came to my house on the 17th of June I think it was, to see my daughter, Betty Kenward. While he [redacted] was there he seemed to be ill all the time. On Tuesday evening he fell down the stairs from top to bottom, and my son sent him to the hospital. On Thursday he returned to my home and I asked him why he came home and he said he didn't know what he was doing. He went to bed and remained there saying that he didn't feel well enough to get up. He was in bed ill when the telegram came telling him to return to his unit, and he stayed in bed waiting for his unit to come and pick him up. Three men from his unit came on Sunday night, June 27th, and he went away with them. That is all I know about it.

Q: Did you visit the accused in the hospital the day after he fell down stairs?

A: Yes.

Q: Did you see him in the hospital?

A: Yes.

Q: Did you try to find out what was the matter with him?

A: I did try but the nurse couldn't tell me anything.

Q: When the accused returned from the hospital did he contact his unit in an effort to obtain an extension of his leave?

A: Yes.

Q: How did he contact his unit?

A: He sent a telegram.

Q: Did you see the telegram he sent?

A: No.

Q: How did the accused send a telegram if he was sick in bed?

A: He told me he had sent it on his way back from the hospital.

Q: Did the accused receive a reply to his telegram?

A: Yes.

Q: Did you see the reply received by the accused?

A: Yes.

Q: Do you remember the contents of the telegram received by the accused?

A: The telegram ordered him to return to his unit immediately.

Q: Did the accused see this telegram?

A: Yes. I took it up to his room and read it to him.

Q: After receiving the telegram did the accused leave your house before he was called for by the men from his unit?

A: Yes.

Q: How soon after receiving the telegram ordering him to return to his unit did the accused leave your house?

A: He received the telegram on Saturday, June 19th, and he left my house for the first time on Thursday, June 24th.

Q: Where did he go on Thursday, June 24th?

A: I do not know.

Q: When did he return to your house?

A: Early Friday morning, June 25th.

Q: Did he tell you where he had been?

A: No.

Q: What reason did he give for his return?

A: He said he did not feel well enough to travel to his unit.

Q: Did he leave your house again before the men from his unit came for him?

A: No.

Q: From the time the accused received the telegram ordering him to return to his unit until he first left your house on Thursday night, June 24th, was he sick in bed all the time?

A: Yes.

Cross Examined By The Accused

Q: Did I not arrive at your house on June 3, 1943, instead of on June 17th, as you previously stated?

A: Yes. I made a mistake.

Q: When I returned to your house on Friday, June 25th, did I not say that I had to try and get a doctor's certificate as required in telegram I had received?

A: Yes.

Q: When I returned from the hospital, did I not say that my intentions were to return to my unit immediately?

A: Yes, you were very definite about that.

Mr C E Kenwood.

SEVENTH WITNESS

Miss Betty Josephine Kenward, 1 De La Warr Green, Lewes, Sussex, sworn states:

I don't remember the exact date Pte. Grob arrived at our house. While he was there we had a very serious quarrel and his nerves appeared to be in a bad state. I was down stairs a couple of hours after this quarrel when I heard a loud noise and found that Pte. Grob had fallen all the way down stairs. He seemed to be badly hurt, and we placed him on his bed. We tried to move him to see what was wrong, but he groaned and was evidently suffering greatly and was spitting up blood all the time. I phoned the Casualty Clearing Station on Brighton Road, and they sent an ambulance and took him to the hospital. I didn't see him again until the following morning when my mother and I visited him at the Royal Sussex County Council Hospital. This was on Wednesday, June 16th. That same afternoon he returned to our house. He told us he had sent a telegram to his unit about his leave. He was still quite sick, and went to bed where he remained for several days. I'm not quite sure of the date, but I think it was the following Thursday, June 24th, when he got up and went to London. He came back again the next day and remained until the men from his unit came for him the following Sunday.

Q: Did the accused receive a telegram from his unit?

A: Yes.

Q: Did you read the telegram?

A: Yes.

Q: Do you remember what it said?

A: I'm not quite certain of the wording, but it was something to the effect that leave not granted, return to unit immediately.

Q: Did you see the accused read this telegram?

A: Yes.

Q: Do you know for certain that the accused went to London on June 24th?

A: That is where he said he went when he returned the following day.

Q: Prior to the time the accused fell down the stairs had he been drinking?

A: He may have had one or two ales but he certainly wasn't under the influence.

Q: When the accused first came to your house did he have his rifle and pack with him?

A: I don't remember.

Q: Do you remember seeing it there at any time before he left?

A: No.

Cross Examined by the Accused

Q: Did I not have my pack with me when I first got to your house?

A: I don't remember.

B J Kenward

EIGHTH WITNESS

6204311 Pte. Kenward, A.J., 9th Batt., Royal Berkshire Regt., sworn states:

I was on seven days privilege leave which ended Wednesday June 16th, and I reported back to my unit on that date. I came home on 14-days embarkation leave the following Monday, June 21, 1943. Pte. Grob was at my mother's house while I was on my privilege leave and was still there when I returned for my embarkation leave. On Tuesday evening June 22, he came in and went upstairs to bed. I was in the dining room at the time and heard him at the top of the stairs. I went to the foot of the stairs and as I got there he fell from the top. I managed to catch him about three-quarters of the way down. I took him into the dining room and he was complaining of pains in his side. Therefore, I took him upstairs and put him to bed. On getting him to bed he complained of sickness, and I called down to my mother for something for him to be sick in. He was lying on his side because it hurt him to lie on his back, and he coughed up quite a considerable amount of blood. I told him that for his benefit I should have to call a doctor. He made me promise that I wouldn't call a doctor. I called in a gentleman from next door, a Mr. Whistler, who agreed with me that we should call a doctor. We phoned the C.C.S. on the Brighton Rd. and explained Grob's condition, whereon they sent an ambulance to our house. We got him into the ambulance and the Cpl. in charge took him to the M.O. at the C.C.S. On the M.O's. orders he was sent to the Royal Sussex Hospital in Brighton. He was sick again in the ambulance going to the hospital and coughed up more blood. When we reached the hospital we carried him into the reception room, and after some time the doctors there decided that they would keep him in the hospital. I helped the attendant take him to the ward, and promised him that my mother and sister would see him the next morning. The following morning my mother and sister visited him at the hospital and were given to understand that he was awaiting an X-Ray. I then caught the 1457 train from Lewes that day and returned to my unit.

I got home again on Monday, June 21st, and was surprised to find Grob in bed there as I thought he was still in the hospital. I asked him about returning to his unit and he said he had to get a medical certificate first. I advised him to go to the C.C.S. and see the M.O. and get a sick report stating why he had been admitted to hospital. I don't remember on what day he got up but when he did, he went to the C.C.S. and when he came home he told me that he had seen the M.O., who had refused to give him a sick report because he (the M.O.) had not been on duty when Grob was taken to the C.C.S. and knew nothing about his case. A few days later, I don't remember the exact date, the C.S.M. and two or three others from Pte. Grob's unit came down and took him away.

Q: Would you say that the accused was under the influence of liquor when he came in Tuesday night?

A: He had been drinking, but in my opinion he definitely knew what he was doing.

Q: Did the accused give you any reason for making you promise not to call a doctor after his fall downstairs?

A: Yes. He said he had to return to his unit the following day, and did not want to see a doctor.

Q: From the time the accused got up, after returning to your house from the hospital, until he returned to his unit, did he go out at all other than going to the C.C.S.?

A: To my knowledge, no.

Cross Examined by the Accused

Q: When I went to the C.C.S. who went with me?

A: My sister Betty.

Q: When you came home on leave, did I have my pack and rifle at the house?

A: Yes.

Q: Do you remember me going to London at all?

A: I don't remember your going, but you did mention something to that effect.

Lt. A. J. Kennard.
E204311

NINTH WITNESS

Lieut. S.W. Tischler, Administrative Officer, 4 Cdn Armd Bde Coy., R.C.A.S.C., sworn, states:

Pte. Grob was T.O.S. 4 Cdn Armd Bde Coy., R.C.A.S.C. 26 Jan 43 and remained on strength until 25 May 43. On 30 Jan 43 Unit Part I Order #25, para 143, republished D.R.O. 1442 dated (Exhibit "G") 20 Jan 43 for the information of all ranks. The above mentioned D.R.O. was republished in Unit Part I Order #27, para 155, dated (Exhibit "C") 2 Feb 43. According to Unit Records L-8962 Pte. Grob, E. was on strength of 4 Cdn Armd Bde Coy., R.C.A.S.C. on both above mentioned dates. At the time Part I Orders were posted in the Men's Mess, in the Platoon Orderly Rooms, in the Coy Orderly Room and in the men's quarters where theywwere available to all ranks.

Q. Was the accused with the Unit when these orders were published or was he on a course?

A. Pte. Grob was with the Unit. He did not proceed on course until 5 April 43.

Q. Was Pte. Grob in the hospital or in any other way kept from seeing these orders?

A. To the best of my knowledge, no.

Q. Do you consider that these orders were posted in sufficiently conspicuous places that they were readily available to all personnel?

A. Yes, I do.

Cross examined by the accused

Q. What date was the Unit Part I Order published?

A. 30th Jan 43 and republished 2 Feb 43.

Q. Was that at the time the Unit was stationed at Farnborough?

A. Yes.

Q. Sir, were Part I Orders posted in the Men's Mess Hall at Farnborough?

A. Yes they were.

S. W. Tischler Lieut

SECOND WITNESS RECALLED

Lieut. C.D. Glover, Administrative Officer, 10 Cdn Inf. Bde Coy, R.C.A.S.C., sworn, states:

Q: Did you despatch a telegram to the accused on June 18, '43?

A: Yes.

Q: What was the text of this telegram?

A: I can't recall the exact words, but in effect it stated: "No extension granted. Return immediately. Bring Doctor's certificate."

Q: How did you despatch the telegram?

A: I gave it to C.S.M. Wilson, with instructions to despatch it that day.

The accused declines to cross-examine this witness.

C.D. Glover Lieut.

THIRD WITNESS RECALLED

K75644 Sgt. Bridgment, H., 10 Cdn Inf. Bde Coy, R.C.A.S.C., sworn, states:

Q: What do you know about a telegram that was despatched to the accused from the Coy Orderly Room on June 18?

A: On the 6th July I served the accused with this notice (Exhibit "D") to produce said telegram at the Summary Trial on the 6th July.

The accused declines to cross-examine this witness.

H. Bridgment, Sgt

The accused was warned as follows:

"Do you wish to make any statement or to give evidence upon oath? You are not obliged to say anything or give evidence unless you wish to do so, but whatever you say or any evidence you give will be taken down in writing, and may be given as evidence."

The accused declines to make any statement.

I certify that the foregoing Summary of Evidence was taken down by me in the presence and hearing of the accused, and that Rules of Procedure 4 (C), (D), and (E) and (F) have been complied with.

In the field this eighth day of July, 1943.

A. Richards, capt.

CERTIFIED TRUE COPY. A.A.P. Lavin Capt. Offg. i/c Records

M.F.M. 6
(A.F.R. 127)
40/F & S/136 (2837)

No. L8962 Name Grob, E.R. | Sqn., Battery, or Company 10 Cdn. Corps Inf.Bde.Coy RCASC | Date of enlistment 24-11-41 | C.O. Badges Nil | Service or Proficiency Pay Nil

Date of last entry in Company Conduct Sheet | No. and date of last drunk Nil | Period not reckoning towards freedom from extra fine | Sheet No. 3 | Signature O.C. Company, etc. H.Miller, Major | Character

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
				Sheet destroyed 12-1-43. Last entry 7-3-42					
Debert,NS	7-6 42	Pte.		AWL 65 days 17 hrs 40 mins.Cost Appreh.$1345. Kit Def.$78.48	Documentary	28 days Dtn. Auto Forf 66 days pay	17-8-42	Maj. H.E. Miller	
Debert, N.S.	12-8 42	Pte.		Conduct prej. Improperly wearing badges of rank. Sec.40 A.A.	Documentary	28 days detn	17-8-42	Maj. H.E. Miller	
Frensham	8-11 42	Pte.		Act to prej good order. Sec 40	Cpl. Knopp Pte.Berube	7 days F.P. 7 day Forf Pay	9-11-42	Maj. H.E. Miller	
Frensham	15-12 42.			AWL from P.L. 14 hrs 15 min.Sec. 15 (1) A.A.	L/Cpl Desroches	3 day F.P.3 day Forf Pay	16-12-42	Maj.H.E.Miller	

(FTO)

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Frensham	11-1 43	Pte.		Neglect to prejudice of good order and military discipline dirty rifle - Sec 40 A.A.	K75652 Sgt. Valentine J.V.	5 days forf- eiture Pay	12-1-43	H.Miller, Maj. J.C.	
Field	19 Feb	Pte		A.W.O.L. from 2300 hrs 18 Feb 43 until 0600 hrs 19 Feb 43. (Absent 7 hrs).	Documentary	Admonished	24 Feb,	J.G. Lamb, Maj.	

EXHIBIT "Y"

Adjutant/Major
President.

Exhibit "X"

TRIAL OF L-8962 Pte. EMIL ROBERT GROB

10 Cdn Inf Bde Coy

STATEMENT AS TO CHARACTER AND PARTICULARS OF SERVICE OF ACCUSED

Number	Rank	Name	Unit
L-8962	Pte.	GROB, Emil Robert	10 Cdn Inf Bde Coy

1. The following is a fair and true summary of the entries in the Service and General Conduct Sheet of the accused, exclusive of convictions by a Court-Martial or a Civil Court, of summary awards under sec 47 of the Army Act, and of cases in which trials has been dispensed with.

Within last 12 months - NIL : Since Enlistment - NIL.

2. The accused has not been previously convicted of this offence.

3. The accused is not under sentence at the present time.

4. The accused has been in confinement awaiting trial on the present charges, for NIL days in civil custody and NIL days in military custody, making a totel of NIL days in custody, of which NIL days were spent in hospital. (as of 9 Jul 43).

5. The present age of the accused according to his M.B.M. 1 (Part I) is 23 years 5 months.

6. The date of his attestation specified in his M.B.M. 1 (Part I) is 24 Nov 41.

7. The accused is in possession of or entitled to no military decoration, or military reward.

8. Statement of Character Reference from A/O.C. 10 Cdn Inf Bde Coy is attached.

Signed this 16th Day of July 1943.

(H. E. Miller) Major,
Officer Commanding,
10 Cdn Inf Bde Coy. RCASC.

Exhibit "X"

President

Judge Advocate

CCC-111 (cam #3)

GNR GROBB R.

See FF-82 for 1st cam
"WW-121" 2nd "

SCHEDULE.

PART I. PLEA(S), FINDING(S) AND SENTENCE.

Accused: B-9652 Gnr GROBB, Robert 3 CARU

Charge. (Insert "alternative" where applicable.)	Plea. (See Instrs p 2.)	Finding. (See note below.)	(Space for use as required for further charges, accused charged jointly, special findings, etc.)
1st AA Sec 15(1)	Guilty	Guilty	
2nd AA Sec 24(2)	Guilty	Guilty	
3rd			
4th			
5th			
6th			

(Note: As to findings for lesser offences see AA 56, RP 44; findings on alternative charges see MML p 483 fn 4 para 2, RP 44; special findings see RP 44 and MML p 753, and in lack of kit see RP 44 fn 6.)

"FDT" As proved in evidence/admitted on plea. (1)

(1. Insert sentence being served, or delete, if not applicable. See RP 46(A). Information should be found on MF B355 or AF B296.)

Time in confinement awaiting present trial—a total of 10 days, of which Nil days were spent in hospital.(1)

(1. See RP 46(A) fn 2. Information should be found on MF B355 or AF B296 admitted in evidence under E2.)

"FDT" Sentence Awarded by the Court: To undergo detention for one year: To be put under stoppages of pay until he has made good the sum of £ 5-9-9 costs of return to unit: and the sum of £0-6-0½ value of deficiencies of equipment, clothing and regimental necessaries as listed in the second charge.

(Sgd) ..... Judge-Advocate, if any. 11 Feb 44. Date awarded. (Sgd) "F.D.Tweedie" Lt Col President. (RP 45, 50.)

(See back of Convening Order as to assembly and disposal of record after trial.)

PART II. MINUTE WHERE CONFIRMATION RESERVED. (AA 54(5), RP 120(F), MML p 760.)

Date ..... (Sgd) ..... Commanding

PART III. DECISION OF CONFIRMING OFFR ON FINDING(S) AND SENTENCE.

(For duties and powers see AA 54, 57, RP 37(D) fn 6, 46(A), 51-56, 120, MML pp 759-761, KR Con 567-577. Acquittals require no confirmation and cannot be revised: AA 54(3). Sending back finding or sentence for revision by Court: AA 54(2), RP 120(C). If not confirmed, accused may be tried again: AA 137, MML p 64. Minute of confirmation or non-confirmation may be altered before promulgation: RP 53, MML p 65. Quashing after promulgation: KR Con 573. Duties and powers of reviewing offrs: AA 57, 57A, RP 53A, 54. The Confirming Offr must sign here personally. AA 172 fn 1.)

My decision on the finding(s) and sentence set forth in Part I is:

Confirmed

~~I HEREBY FIND THE COURT BY WHICH THE ACCUSED WAS TRIED LEGALLY CONSTITUTED~~ "JCS"

(1. AA 57A. Delete if not used.)

(Sgd) "J C Stewart"

Date 13/Feb/44

Commanding J.C.Stewart, Brigadier, Commanding "C" Group, Cdn. Reinforcement Unit Confirming Officer.

PART IV. PROMULGATED AND EXTRACTS TAKEN. (RP 53, KR Con 576, 577.)

Accused.	Date.	Signature of Offr.
B 9652 Gnr Grobb, Robert	D O # 39d 16 Feb 44	"R G MacKinnon" Capt Records Officer No 3 Cdn Artillery Holding Unit

ALL DELETIONS AND ALTERATIONS WILL BE INITIALLED.

GCC - 111

FIELD GENERAL COURT-MARTIAL

4/38B

Convened by Order of Brig J.C.Stewart CBE DSO Comd "C" Gp - CRU dated 10 Feb 44

ACCUSED.

(As to the trial of two or more charged jointly see RP 16, 71, 109. As to reasons for showing (a) permanent or confirmed rank, and (b) apptmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Con 308, 328, 330.)

Number.	(a) Prmnt R. (b) Apptmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
B-9652	Gnr	Robert	GROBB	3 CARU

PROCEEDINGS REVIEWED
26 Feb 44
"W.H.Waugh" Capt
REVIEWING OFFICER,
JAG BRANCH C.M.H.Q.

Certified true copy of original proceedings herein, 14th July 1944
Robert D. [illegible]

PROCEEDINGS OF TRIAL.

Held in the Fd in (country) England on (date(s)) 11 Feb 44 at 1000 hrs. 6 Adv. Gen. 2 BRANCH C.M.H.Q.

RECORD FORM A—OPENING PROCEEDINGS AND ARRAIGNMENT.

"FDT" A1. The President, Members, ~~sitting Members, JA, if any~~, and Offrs under instr, if any, assemble, and the Court is closed.

(PRINTED MATTER, NOT IN ITALICS FOR GUIDANCE, WILL BE DELETED, IF NOT USED OR APPLICABLE, AND INITIALLED BY PRES OR JA. The Schedule referred to throughout is on p 4. Citations do NOT include all relevant fmn ROs. For guidance on procedure when a variation in this form arises, see form for GCM in MML pp 741 to 759. A brief record of such variation will be made and given a number having reference to appropriate or preceding para number herein. See back of Convening Order, CF A95, for oaths and instrs on how to record addresses, evidence, etc, which instrs are hereafter called "Notes". As to general provisions for conducting the trial see AA 53, RP 56, 63-70, 72, 74, 94, 103, 118, 123.)

"FDT" A2. The President initials and lays before the Court the Convening Order and Charge Sheet(s) attached thereto.(1) The Court is satisfied that it is properly convened and constituted(2), accused is (~~not~~) amenable to military law, and each charge discloses an offence.(3)

(1. As to use of Summary of Evidence see RP 17 fn 9. 2. AA 49, 50, RP 105-107. 3. RP 11-13, 23, 24.)

"FDT" A3. The Court is opened. The accused is (~~not~~) brought before the Court. At 1000 hours trial commences.

A4. The Prosecutor produces a Medical Certificate that accused is (~~not~~) fit to undergo trial by court-martial.(1) ~~The Defence informs the Court that accused elects to be tried by ordinary General Court-Martial with assessors in the CO.~~(2)

(1. KR Con 557. 2. AA 46(B), RP 60 fn 1. For effect see KR Con 563(c). Delete, if not applicable.)

"FDT" A5. President to accused: ~~Do you object to~~ ~~Lt SINCLAIR AH~~ as shorthand writer? Ans. No

~~The Prosecutor informs~~(1) Do you object to Sjt SINCLAIR AH as shorthand writer? Ans. No
The shorthand writer is sworn.(2)

(1. RP 72. Delete, if none employed.)

A6. The Convening Order and names of the President and Members of the Court are read to the accused.(1) President to accused: Do you object to be tried by me as President or by any of the Members of the Court?

Ans No (2)

(1. RP 110. 2. If no objection, waiting member retires. RP 68(B). If objection, see procedure AA 51, RP 25, 71, 118, MML p 742.)

"FDT" A7. The President, Members, ~~JA, if any~~, and Offrs under instr, if any, are sworn.(1) The following are the ranks, names and units of the offrs comprising the Court, etc:

President	Lt-Col	F D TWEEDIE	HQ CRU
Member	Capt	D L ANGUS	1 CCRU
Member	Lt	S J KING	1 CARU
Judge-Advocate			
Prosecutor	Lt	C E R RANDS	3 CARU
Defending Offr	Lt	L L JOHNS	3 CARU

Questions by President: Is the Prosecutor a lawyer? Ans. No Is the Defending Offr a lawyer? Ans No (2)

(1. RP 26, 27, 109, 111. List of offrs under instr will be returned separately with proceedings for information of Conv Offr.)
(2. If Pros a lawyer and Def Offr not, accused is entitled to an adjournment when RP 89 (B) and fn 2 were not followed. See DI p 2.)

A8. The accused before arraignment makes(s) (~~no~~) ~~no~~ plea "FDT" (1)

(1. If a special plea is made for separate trial on one or more charges (RP 62(E), 108), or as to the jurisdiction of the Court (RP 34, 35(A), 112), or in bar of trial (RP 36), or as to accused's mental fitness to stand trial (AA 130, RP 57), or by one of several accused charged jointly to be tried separately (RP 16, 71), such plea, the addresses made in support or against, the evidence, if any, and finding are recorded per Notes. For forms of record see references in fns to RsP cited. Insert in A8 rank and name of the accused making the plea.)

"FDT" A9. The accused is (~~not~~) arraigned (~~separately~~) on all charges in the charge sheet.(1) The accused does (~~not~~) not object to any charge.(2) There is no amendment to be made to the Charge Sheet.(2) The President records the pleas in Part I of the Schedule.

(1. RP 31, 112. See para 1 of Instrs p 2. When more than one Charge Sheet see RP 62; when several accused to be tried separately see RP 71(C), and use separate copies of CF A96 to record proceedings. 2. RP 32, RP 33. If otherwise, delete and make appropriate record per Notes.)

"FDT" A10. The Court (~~is cleared and~~) considers the Instrs on Procedure after Arraignment at top of p 2. The proceedings are continued on Record Form B & E

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

INSTRUCTIONS ON PROCEDURE AFTER ARRAIGNMENT.

1. *The accused may not plead or be found Guilty on more than one of two or more charges laid in the alternatives.* (*RP 37(A).*) *As to withdrawal of alternative charges by Prosecutor see RP 35(C). No other charge can be withdrawn for any reason without authy from Convening Offr. If Convening Offr concurs, Court may accept plea of Guilty to lesser, etc, offence.* (*RP 44(H).*) *Accused may change a plea of Not Guilty to Guilty during trial.* (*RP 38.*) *As to refusing to plead or not pleading intelligibly see RP 35(A). As to plea when sentence may be death see RP 35(D).*

2. *The proceedings on each charge sheet* (*RP 62*) *after arraignment will be conducted as follows in the respective circumstances stated :*

I. If pleas to all charges are GUILTY, use Record Form B below.

II. If pleas to all charges are NOT GUILTY, use Record Form D on p 3.

III. If pleas to some charges are GUILTY and to other charges are NOT GUILTY and,

(a) Such mixed pleas occur when there are no alternative charges in the Charge Sheet, use Record Form C below. (*RP 37(A).*)

(b) Such mixed pleas occur in a set of two or more charges laid in the alternative, see RP 37 (A) and fn 2 as to discretion of Court, (i) to try the accused on all such alternative charges as if he had pleaded Not Guilty thereto, or, (ii) to record the pleas as the findings of Court. After deciding between (i) and (ii), Court will proceed under foregoing instrs as may be appropriate to result of its decision. See MML p 744 Instrs (2).

3. *As to responsibility of President to accused see RP 59, 60(C); powers and duties of JA see RP 103; duty of Prosecutor see RP 60(A) (B); duty and privileges of accused and Defending Offr see RP 60(C), 87(C), 91, 92; swearing and withdrawal of witnesses from Court see RP 81, 82; questioning of accused see RP 80, 87(C), 92(B); end of witnesses see RP 85-85; calling or re-calling of witnesses by Court, etc, see RP 75-79, 86, 116; use of Summary of Evidence at Trial see RP 17(E) fn 6; and responsibility of JA or Prez to record proceedings see RP 94, 96.*

RECORD FORM B—PROCEEDINGS ON PLEAS OF GUILTY TO ALL CHARGES.

B1. The President or JA, if any, complies with RP 35(B) by explaining to the accused the nature and meaning of the charge(s).(1), and that on his plea of Guilty there will be no regular trial but merely a consideration of the sentence to be awarded after he has been given an opportunity to make a statement in reference to the charge(s), call witnesses as to character and make an address in mitigation of punishment.(2)

(1. *RP 35 fn 3.* 2. *MML p 54 para 47.*)

"PDT" B2. President to accused : The Court will now receive any statement you desire to make in reference to the charge(s).(1) If it appears from your statement that there are circumstances which indicate that you do not understand the effect of the plea of Guilty(2), or which show provocation or extenuation in respect of which in your interest the witnesses for the Prosecution should be examined(3), we shall advise you to change your plea to Not Guilty. In making a statement you will not be sworn or subject to cross-examination ; and anything you say will not be used in evidence against you after you change your plea. If, however, it appears to the Court that your statement affects only the amount of punishment to which you are liable, you will not be advised to change your plea and you will be given an opportunity later to prove your statement by sworn testimony, if you so desire.(4)

President to accused : Do you wish to make a statement ? Ans No.(5)

(1. *RP 37(B).* 2. *RP 37(D) fn 6.* 3. *RP 35(B) fn 5 para 3, MML p 54 para 47.* 4. *See para E3 of Record Form E.* 5. *Statement, if any, recorded per Notes.*)

B3. The Court considers the accused's statement.(1) The Court decides (not) to advise accused to change his (their) plea(s) of Guilty to Not Guilty on "PDT" charge(s). The accused is (are) so informed, and he (they) change(s) his (their) plea(s) on charge(s). Part I of the Schedule is amended accordingly.

(1. *Court may be closed to consider the statement. Delete whole or part not used.*)

"PDT" B4. On the charge(s) to which the plea(s) of Guilty is (are) not changed the President records finding(s) of Guilty in Part I of the Schedule.(1)

(1. *RP 35(B). If any plea(s) is (are) changed, use Record Form C or D as appropriate.*)

B5. The Summary of Evidence is marked Ex A, initialled and read aloud by the President.(1)

(1. *If there is no Summary, or if it is inadequate, comply with RP 37(B). If there is any evidence inconsistent with any plea standing as Guilty, Court will advise accused to change such plea and, if changed to Not Guilty, try such charge(s) by use of paras D1 to D8 inclusive of Record Form D on p 3. RP 37(D).*)

B6. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

RECORD FORM C—PROCEEDINGS ON MIXED PLEAS OF GUILTY AND NOT GUILTY.

C1. As to the charges on which accused pleaded NOT GUILTY the trial is continued by using paras D1 to D8 inclusive of Record Form D on p 3 before proceeding with C 2.(1)

(1. *RP 37(A) (E).*)

"PDT"

C2. The charges on which accused pleaded GUILTY are read to him (them) again, and the trial is continued by using paras B1 to B5 of Record Form B above.(1)

(1. *Under B5 such parts only of the Summary of Evidence are read as relate to the charges dealt with under C2. If any plea is changed to Not Guilty, trial thereon proceeds by complying with paras D1 to D8 inclusive in Record Form D on p 3 and making an appropriate record thereof on a separate sheet.*)

C3. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

RECORD FORM D—PROCEEDINGS ON PLEAS OF NOT GUILTY TO ALL CHARGES.

D1. President to accused : Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity to prepare your defence ? Ans .....(1)

(1. *If "yes", see RP 39(A) for procedure. Statement or evidence, if any, is recorded per Notes.*)

"PDT"

D2. The Prosecutor makes (an) (no) opening address.(1)

(1. *RP 39(B), 60(A) (B), 90, 92(C) (D). Record address per Notes, subject to RP 95(C).*)

D3. The evidence for the Prosecution is taken.(1)

(1. *RP 39(C), 114, KR Can 555. Record evidence per Notes. As to Prosecutor giving evidence himself see RP 39(D) (E).*)

D4. The Prosecution is closed.(1) The Defending Offr submits that the evidence for the Prosecution does not establish a prima facie case against the accused on the charge(s).(2) The Court is closed, and considers the submission.(3) The Court is re-opened, and the President announces that the submission is disallowed on the charge(s), and allowed on the charge(s), and that, accordingly, the trial will proceed on the former, but the accused is (are) found Not Guilty on the latter charge(s).(4)

(1. *Delete remainder of this para, if submission not made.* 2. *Arguments on submission, answer and reply are recorded per Notes.* 3. *RP 40 fn 1. See MML p 72 paras 12-14 and p 81 para 42.* 4. *Delete part not used. If accused acquitted on all charges use second alternative in para D6.*)

NB : If trial proceeds, accused must be allowed great latitude in making his defence, and the Court should not stop his defence solely on ground of irrelevance. (*RP 60(C), 114, 115.*)

D5. President to accused : You will now proceed with your defence.(1) You may, if you wish, give evidence yourself on oath as to the facts or your character or both, in which case you will be subject to cross-examination.(2) You may, however, make a statement without being sworn, and you will not be subject to cross-examination.(3) But a statement which could have been made on oath will not carry with the Court the same weight as sworn testimony.(4) You may call witnesses in your defence and as to character, whether you give evidence or make a statement or do neither.

President to accused : Do you wish to give evidence yourself as a witness, make a statement, or do neither ? Ans Do you intend to call witnesses on your behalf ? Ans Are they witnesses as to character only ? Ans

(1. *RP 115.* 2. *RP 40(A), see 80(D).* 3. *RP 40 fn 10.* 4. *RP 40 fns 2, 9.*)

D6. Consequent on the answers recorded in para D5 the appropriate procedure for the defence is followed.(1)

(1. *RP 114, 115, 116. For procedure see Notes on back of Convening Order, CF A95. Evidence for accused as to his character should, if in his interest, be given before the finding. See RP 46(A) fn 1, 86(C). Notes the further opportunity in para E1 of Record Form E. Record per Notes addresses, statement, evidence and any summing up by the JA under RP 42, 103(e).*)

D7. The Court is closed to consider the finding(s).(1) The finding(s) of the Court is (are) recorded in Part I of the Schedule.(2) The Court is re-opened.

(1. *RP 42, 117(A). See Notes in Part I of Schedule.* 2. *RP 44(A).*)

D8. The President announces the finding(s), if any, of Not Guilty, and states to the accused that the finding(s) of the Court on the charge(s), being subject to confirmation, will be promulgated later.(1)

Or, The President announces that the accused is found Not Guilty on all charges and is to be released forthwith, and that the proceedings are accordingly terminated. Part I of the Schedule is dated and signed.(2)

(1. *AA 54(2) (6), RP 42, 120(A).* 2. *AA 54(2), RP 45, 117. This alternative announcement is not applicable when there are pleas of Guilty outstanding and dealt with under Record Form B or C.*)

D9. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E below.

RECORD FORM E—PROCEEDINGS ON CONVICTION BEFORE SENTENCE.

E1. President to accused : Do you wish to give evidence yourself or to call any witnesses as to your character ?(1)

Ans "PDT" No.

(1. *If evidence has already been given by accused or his witnesses as to his character, delete this para. RP 37(C) fn 4, 46 fn 1. Accused and witnesses are sworn. Evidence recorded per Notes.*)

"PDT" E2. The Prosecutor produces Statement(s) as to Character and Particulars of Service(1), and certified true copy (copies) of Conduct Sheet(s)(2), purporting to refer to the accused, which he submits to the Defending Offr for examination, and then to the Court for admission in evidence. The Court is satisfied that these documents refer to the accused, because (i) they purport to be signed in the manner required by AA 163(l) (g) (h), and (ii) they purport to refer to (a) soldier(s) having the same number, rank, name and corps as the accused. Admitted in evidence and marked Ex B and Ex C respectively.(3)

(1. *MFB 355 or AFB 296.* 2. *MFM 6.* 3. *RP 46, KR Can 558. If above documents not produced, see RP 46 fn 1 para 1.*)

E3. President to accused : Do you wish to address the Court on the Statement(s) and Conduct Sheet(s), and in mitigation of punishment ?(1) Ans "PDT" Yes.(2)

(1. *RP 37(C), 46(D).* 2. *Address, if any, recorded per Notes. Court should permit accused or his witnesses to prove on oath anything here or previously stated which would affect the amount of punishment. RP 37(F) fn 7.*)

E4. The President states that the Court is closed to consider the sentence, and that the sentence to be awarded by the Court, being subject to confirmation, will not be announced, but will be promulgated later, and the proceedings in open court are accordingly terminated.(1)

(1. *AA 54(6), RP 120(A).*)

E5. The Court considers the sentence.(1) The President records the sentence in Part I of the Schedule, which "PDT" is dated and signed by him and the JA, if any.(2)

(1. *When several accused tried separately see RP 71 (D). One sentence only, comprised of the punishment or punishments laid down in AA 41, 44 and its proviso, is to be awarded to cover all charges in all charge sheets on which accused found guilty. RP 48. As to sentences see AA 44, 138, 182, RP 46-50, 69, 118, 119(A), KR Can 308, 320, 563-566, Overseas RO 309, 2323, MML p 60, 757-759. As to sentences assigned for civil offences by the law of England see AA 41(5), MML p 130. Where accused already under sentence of imprisonment or detention see AA 44(1)(b), 68(1), KR Can 564.* 2. *RP 50. As to release from arrest by Confirming Offr see KR Can 567. As to assembly and dispersal of record after trial see instrs on back of Convening Order.*)

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

CHARGE SHEET

The accused B 9652 Gunner Robert GROBB, No 10 Canadian Training Company, now on strength of No 3 Cdn Arty Rft Unit, a soldier of the Canadian Army Overseas, is charged with:-

1st Charge
Section 15(1)
Army Act

WHEN ON ACTIVE SERVICE
ABSENTING HIMSELF WITHOUT LEAVE

In that he,

In the Field, absented himself without leave from 2130 hours 1 Dec 43 until apprehended by the Cdn Provost Corps, Glasgow at about 2100 hours 1 Feb 44, incurring costs of return to the Unit of £5:9:9. Absent 61 days, 23 hours and 30 minutes.

2nd Charge
Section 24(2)
Army Act

WHEN ON ACTIVE SERVICE
LOSING BY NEGLECT HIS EQUIPMENT
CLOTHING AND REGIMENTAL NECESSARIES,

In that he,

At Huron Camp, Bramshott, Hants., on 7 Feb 44, was deficient of equipment, clothing and regimental necessaries to the value of Nine Pounds, Six Shillings and One Farthing (£9:6:0¼), which sum is 75% of the vocabulary price of such articles which amounted to Twelve Pounds, Eight Shillings, Six Pence and Half Penny (£12:8:0½), in accordance with C.A.(O) R.O. 1398 as listed.

(to page 2)

"FDT"

"JCS"

CHARGE SHEET

ARTICLES			100% Value £	s	d	75% Value £	s	d
Anklets, web prs	1			4	5		3	3¾
Battle-dress Blouse	1		1	3	6		17	7½
Battle-dress Trousers	1	pr	1	4	1½		18	1
Bags, Kit Universal	1			4	7		3	5¼
Boots, Ankle prs	1		1	4	5		18	3¾
Braces, prs	1			1	4		1	0
Brasses, Cleaning	1				2			1½
Brushes, Button	1			1	2			10½
Brushes, Cloth	1			2	2		1	7¾
Brushes, Hair	1			1	6		1	1¾
Brushes, Shaving	1			1	8		1	3
Brushes, Shoe-polishing	1			1	3			11½
Brushes, Tooth	1				6			4½
Caps, Comforter	1			1	6		1	1¾
Drawers, Cellular prs	2	@ 2/0½d, pr.		4	1		3	0¾
Dressings, First-field	1			1	1			9¾
Forks, Table	1				4			3
Gloves, Knitted Drab prs	1			2	1		1	6½
Holdall	1				10			7½
Housewife	1				9			6¾
Jersey, Pullover	1			8	0		6	0
Knife, Clasp	1			3	10		2	10½
Knife, Table	1				8			6
Razor, Safety	1				3			2¼
Shirts, Angola Drab	1			9	1		6	9¾
Shoes, Canvas prs	1	(rubber-soled)		2	11		2	2¼
Socks, Worsted. prs	4	@ 1/8d. pr.		6	8		5	0
Spoons, Table Dessert	1				4			3
Shorts, Gym prs	2	@ 1/11d.pr.		3	11		2	10½
Towels, Hand	2	@ 1/5d. pr.		2	10		2	1½
Vests, Gym	2	@ 1/7d. pr.		3	2		2	4¾
Belts Waist W.E.small	1			3	0		2	3
Bottles, Water	1			3	8		2	9
Braces, W.E. L & R	2	@1/4d. ea.		2	8		2	0
Carriers, Water-bottle	1			1	8		1	3
Haversack, W.E.	1			8	0		6	0
Helmet, Steel	1			10	8½		8	0¾
Packs, Large W.E.	1			8	3		6	2¼
Pouches, Basic Mk 1	2	@ 6/ ea.		12	0		9	0
Straps, Shoulder L & R	2	@ 1/5d. ea.		2	10		2	1½
Straps, Web-supporting	2	@ 7d. ea.		1	2			10½
Tins, Mess sets	1			1	7		1	2¼
Sheets, Ground	1			13	2		10	7½
Respirator A/G, complete	1		1	1	0½		15	9¼
Ointment A/G, tins	2	@ 8d. ea.		1	4		1	0
Eyeshields A/G	6	@ 4d. ea.		2	0		1	6
Capes, A/G	1			12	4		9	3
		TOTAL £12		8	6½	£9	6	0¼

Huron Camp, Bramshott, Hants.,
8 Feb 44.

"B.R.Ker"
(B.R.Ker) Colonel,
Commanding,
No 3 Cdn Arty Rft Unit.

"FOT" To be tried by Field General Court Martial

"J C Stewart" Brigadier
Commanding "C" Gp, Cdn Reinforcement Units
(Convening Officer)

Bordon, Hants
10 Feb 44

FIELD GENERAL COURT-MARTIAL

CFA95 (In lieu of AFA2)
80/PAM/1097 (2nd)

(Whether the accused to be tried is under his comd or not, a FGCM may on application to him be convened by any offr of Cdn Army Overseas, or of any other force if authorized in law, in immediate comd of troops on active service, subject to RP 105(C) and restrictions imposed by appropriate authy, AA 49, 50, RP 104-107, 114. As to the duties and privileges of the Convening Offr in dealing with the application see MML Chap V paras 20 and 23, RP 87(6).
There should be a separate Convening Order for each person to be tried separately by the same Court. RP 71(C), 109. As to separate charge sheets see RP 62, and as to separate trial on charges in the same charge sheet see RP 108. As to two or more accused charged jointly see RP 1a, 109.
As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

ACCUSED.

Number.	(a) Prmnt R.	(b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
B-9652	Gnr		Robert	GROBB	3 CARU

CONVENING ORDER.

1. Whereas complaint has been made to me, the undersigned, that the person(s) named above as the accused, being subject to military law, has (have) committed the offence(s) set forth in the Charge Sheet(s) attached and on (date) 10 Feb 44 endorsed by me, (or by an offr of my staff for me), "To be tried by Field General Court-Martial", "JCS"

2. And whereas I am of opinion that it is not practicable that such offence(s) should be tried by an ordinary General Court-Martial; (and that it is not practicable to delay the trial for reference to a superior qualified offr.) "JCS"
(Delete part in brackets when not required for compliance with RP 105(C).)

3. I hereby convene a Field General Court-Martial to try the said person(s), and to consist of the Offrs appointed or detailed hereunder.

4. I am unable to appoint (a) three Offrs to form the Court, (b) a Fd Offr as President, for the reasons I have attached hereto. "JCS"
(AA 49, RP 106(B), 107(A). Delete the whole or part, if not applicable.)

5. I also appoint no Judge-Advocate thereto. the Offr nominated hereunder. "JCS"
(RP 106(E). Delete, if none appointed.)

PRESIDENT.

(Rank.)		(Must be named. RP 106.)	(Unit.)
Lt-Col	F.D.Tweedie		HQ CRU

MEMBERS.

(Rank.)	(Named or detailed. RP 106.)	(Unit.)
Captain	detailed by OC	1 CORU
Lieutenant	detailed by CO	1 CARU

WAITING MEMBER.

(Rank.)	(Named or detailed, if any. RP 106.)	(Unit.)

JUDGE-ADVOCATE.

(Rank.)	(Must be named, if any. RP 106.)	(Unit.)

On Active Service in the Fd

in England (Country.)

"J C Stewart" (Signed personally. RP 105 fn 2.) Brigadier (Rank.)

Date 10 Feb 44

Commanding "C" Group - Cdn Reinforcement Units
Convening Officer.

"PDF"

CONVENING OFFR WILL INITIAL ALL DELETIONS AND ALTERATIONS

(See overleaf for oaths and notes for use at trial.)

Medical Officers' Certificate
K.R. (Can) para 557

I certify that I have this morning examined No. R-96652,
Gnr. GROBB, R. of No. 3 C.A.R.U. and in my opinion he is
fit to undergo trial by Court Martial.

"T H Macleod"
(Medical Officer)

No. 3 C.A.R.U.

11 Feb 44

"PDT"

PLEA OF MITIGATION

IN THE CASE OF B.9852, Gnr. Grobb, R.A.

Sir,

In my opinion the bad record of the accused, whilst serving in the Canadian Army, is affected mostly by the fact that his home life and parental upbringing was not as any normal boy would enjoy. Kicked around from pillar to post, gave him the wrong outlook on life, and has caused him to assume a definite persecution complex. It is his contention that the entire world is against him. His first seven months in the army left no marks on his conduct sheet. His present ambition is to be overseas to fight and would bring this point to the attention of the Court. Also I strongly recommend that he see a Psychiatrist as soon as possible. Apparently he requested the same with his former unit and as yet has not had the opportunity.

"L.L.Johns" Lieut.
Defending Officer

"FDT"

Exhibit "A"

EXTRACT FROM 10 CDN. TRAINING COY. D.O. 25 d/ 7 Dec 43.

"6. ABSENT WITHOUT LEAVE.

(b) AWL from 2130 hrs. 1 Dec 43 (1st day). Still Absent.
B 9652 Gnr. GROBB, R.A."

EXTRACT FROM 10 CDN. TRAINING COY. D.O. 28 d/ 28 Dec 43.

"9. STRENGTH INCREASE.

(f) SOS as a Deserter w.e.f. 22 Dec 43, having been declared illegally absent by a Court of Inquiry from 2130 hrs. 1 Dec 43. Deficiencies of kit to the value of $37.7.
B 9652 Gnr. GROBB, R.A."

CERTIFIED TRUE EXTRACTS.
CHECKED BY INITIATING OFFICER.

"PDT"

"W. E. D. Oswald" Lt.
(W. E. D. OSWALD) Lieut.
for Officer i/c Records,
Canadian Military Headquarters.

Exhibit "A"

Exhibit "B"

CERTIFICATE IN ACCORDANCE WITH P.C. 2797 of 10 APR.42

I certify that No. B-9652 Gnr. Rank _____ Name Grobb, R.

Unit No. 10. Cdn. Training Coy. was arrested at Glasgow (place)

at 21.00 (hour) on 1-Feb-44 (date) and that at the time of his arrest he was wearing (military uniform) xxxxxxxxxxxxxxxxxxxxxxxxx. Signature of Provost-Marshal, Assistant Provost-Marshal, or other officer or the Commanding Officer of the portion of His Majesty's Forces or the officer, warrant-officer, or non-commissioned officer in charge of the detachment of the Canadian Provost Corps, Canadian Army into whose custody the above named person was taken on arrest. (Strike out part inapplicable).

Glasgow
1-Feb-44.

"L S. Grayson" Capt.
(L.S.Grayson) D.A.P.M. C.M.H.Q.
London Area

Exhibit "B" "PDT"

Exhibit "C"

Expense Voucher Re—: Ref: K.R. & O. (Can) 539

Reg. No. B-9652 Rank Gnr. Name Grobb, R.A. Unit 10 CTC

The following expenses were incurred in apprehending and returning the M/N Soldier to ~~XXX~~
Unit From London from Glasgow

Date	Particulars	Amount		
3 Feb 44	Escorts return fare from LONDON To Glasgow	3	1	7
	Prisoners single fare to LONDON From Glasgow	1	10	10
	Prisoners fare from To			
	Escorts & Prisoners expenses for Bed, Meals, Bus fares		17	4
	Total £	5	9	9

I certify that the above statement of Expenses is Correct, and that the amounts are fair and just.

"I. S. Grayson" Capt.
~~XXXX~~

"FDT" Officer Issuing Railway Warrant and Expense monies
No. 6 Provost Company, Canadian Provost Corps, London.

C.M.H.Q. 1000/55
40/P & S/482

Exhibit "C"

No. 3. Canadian Artillery Reinforcement Unit.
Canadian Army (Overseas), 7 Feb. 1944.

B-9652 Gnr. Grobb R.A. Exhibit "D"

LIST OF DEFICIENCIES

			100%			75%	
		£	s.	d.	£	s.	d.
Anklets, Web prs.	1		4	5		3	3½
Battle-dress Blouse	1	1	3	6		17	7½
" " Trousers	1 pr.	1	4	1½		18	1
Bags, Kit Universal	1		4	7		3	5½
Boots, Ankle prs.	1	1	4	5		18	3½
Braces, prs.	1		1	4		1	0½
Brasses, Cleaning	1			2			1½
Brushes, Button	1		1	2			10½
" Cloth	1		2	2		1	7½
" Hair	1		1	6		1	1½
" Shaving	1		1	8		1	3
" Shoe-polishing	1		1	3			11½
" Tooth	1			6			4½
Caps, Comforters	1		1	6		1	1½
Drawers, Cellular prs	2 @ 2/0½d.pr.		4	1		3	0½
Dressings, First-field	1		1	1			0½
Forks, Table	1			4			3
Gloves, Knitted Drab prs.	1		2	1		1	0½
Holdall	1			10			7½
Housewife	1			9			6½
Jersey, Pullover	1		8	0		6	0
Knife, Clasp	1		1	10		1	10½
Knife, Table	1			8			6
Razor, Safety	1			3			2½
Shirts, Angola Drab	1		9	1		6	9½
Shoes, Canvas prs.	1 (rubber-soled)		2	11		2	2½
Socks, worsted. prs.	4 @ 1/8d. pr.		6	8		5	0
Spoons, Table Dessert	1			4			3
Shorts, Gym. prs.	2 @ 1/11d.pr.		3	11		2	10½
Towels, Hand	2 @ 1/5d. ea.		2	10		2	1½
Vests, Gym.	2 @ 1/7d. ea.		3	2		2	4½
Belts, Waist W.E.small	1		3	0		2	3
Bottles Water	1		3	8		2	6
Braces, W.E. L&R	2 @ 1/4d. ea.		2	8		2	0
Carriers, Water-bottle	1		1	8		1	3
Haversack, W.E.	1		8	0		6	0
Helmet, Steel	1		10	8½		8	0½
Packs, Large W.E.	1		8	3		6	2½
Pouches, Basic Mk 1.	2 @ 6/-ea.		12-	0		9	0
Straps, Shoulder L&R	2 @ 1/5d. ea.		2	10		2	1½
" Web-supporting	2 @ 7d. ea.		1	2			10½
Tins, Mess sets	1		1	7		1	2½
Sheets, Ground	1		13	2		10	7½
Respirator A/G. complete	1	1	1	0½		15	9½
Ointment A/G. tins	2 @ 8d. ea.		1	4		1	0
Eyeshields A/G.	6 @ 4d. ea.		2	0		1	6
Capes, A/G.	1		12	4		9	3
TOTAL		£12	8	6½	£9	6	0½

I hereby certify that I have examined the kit of B-9652 Gnr. Grobb R.A. and find the above mentioned list of deficiencies.
Dated this 7th. day of February 1944.

"pp" Signed "S.Stirling" BQMS A-67084
B.Q.M.S. i/c. Kit-Stores No.3 C.A.R.U.

Exhibit "D"

LIST OF WITNESSES

FOR PROSECUTION:

Captain C. Pidoux, RCA Adjutant "P" Training Wing, No. 3 C.A.R.U.

A-57034 A/B.Q.M.S. Stirling, S.
B.Q.M.S. i/c Kit Stores No. 3 C.A.R.U.

FOR DEFENCE:

-----NIL----

"PDT"

PW/5-4-5
8 Feb 44

"P" TRAINING WING
No. 3 C.A.R.U.

Commanding Officer,
No 3 C.A.R.U.

F.G.C.M. - Gnr. GROBB, R.

1. It is respectfully requested that an officer be appointed to defend me at my forthcoming trial by Field General Court Martial.

"R. Grobb"
H 9852 Gnr. Grobb, R.

"PDT"

FW/5-4-5
8 Feb 44

"p" TRAINING WING
No. 3 C.A.R.U.

Commanding Officer,
No. 3 C.A.R.U.

F.G.C.M. - Gnr. GROBB, R.

1. I acknowledge having received this date, 8 Feb 44, a copy of the Charge Sheet and a copy of the Summary of Evidence concerning my forthcoming trial by Field General Court Martial.

"R Grobb"
3 9652 Gnr. Grobb, R.

"FDT"

SUMMARY OF EVIDENCE IN THE CASE OF
B 9652 Gunner Robert GROBB, No. 10
Cdn Training Company, now on strength
of No 3 Cdn Arty Rft Unit, a soldier
of the Cdn Army Overseas.

By direction of the Commanding Officer,
the Summary of Evidence is taken on oath.

FIRST WITNESS
for the
prosecution

Captain C. Pidoux, RCA, Adjutant, "P" Trg Wing,
No 3 Cdn Arty Rft Unit, an officer of the Canadian
Army Overseas.

"I produce:

(a) CERTIFIED TRUE EXTRACTS of No 10 Cdn Training Company Part II Orders purporting to be signed by Lieut. N.E.D. Oswald for Officer i/c Records Canadian Military Headquarters, relating to the accused whom I now recognize. These certified true extracts are marked Exhibit "A" and annexed to the Summary of Evidence.

(b) A.F.C. 2797 purporting to be signed by Captain L.S. Grayson D.A.P.M., C.M.H.Q., London Area, relating to the accused whom I now recognize. This F.C. 2797 is marked Exhibit "B" and annexed to the Summary of Evidence.

(c) An EXPENCE VOUCHER, totalling Nine Pounds, Nine Shillings and Nine Pence, purporting to be signed by the Officer Issuing Railway Warrant and Expense monies, No. 6 Area Provost Corps, Cdn Provost Corps, London, relating to the accused, whom I now recognize. This expense voucher is marked Exhibit "C" and annexed to the Summary of Evidence.

"C Pidoux" Capt.

SECOND WITNESS
for the
prosecution

A-57034 B.Q.M.S. Stirling, S., B.Q.M.S. i/c Kit-Stores
No. 3 C.A.R.U., a soldier of the Canadian Army
Overseas, having been duly sworn states as follows:-

"On the 7th day of February 1944 I examined the "Kit" of B-9652 Gnr. Grobb, R., whom I now recognize and found him to be deficient equipment, clothing and regimental necessaries to the value of Nine Pounds, Six Shillings and One Farthing, (£9:6:0¼), which sum is 75% of the vocabulary price of such articles which amounted to Twelve Pounds, Eight Shillings and six and one half pence (£12:8:6½), in accordance with C.A.(O) R.O. 1398 as per list I am now presenting.

"S Stirling" BQMS. A-57034

"CP"

This list is marked Appendix "D" and annexed to the Summary of Evidence.

The accused declines to cross-examine this witness.

The accused was cautioned as follows: Do you wish to make any statement or to give evidence on oath? You are not obliged to say anything or give evidence, unless you wish to do so, but whatever you say or any evidence you give, will be taken down in writing and may be given in evidence.

"Ex A"
"FDT"

(to page 2)

The accused declines to make statement and reserves his defence.

I certify that the foregoing Summary of Evidence consisting of one and one fourth pages was taken down by me in the presence and hearing of the accused, and that Rules of Procedure 4(c), (d), (e), (f) have been complied with.

"C Fidoux" Capt.
(C.Fidoux) Captain, RCA,
Adjutant "p" TrG Wing,
No. 3 C.A.R.U.
Officer detailed to take the Summary of Evidence.

Huron Camp,
Bramshott, Hants,
8 Feb 44.

"FDT"

MFM 6
(AFB 122)
20/PAM/136 (5432)

No. 9652 Name GROBB, R.A. | Sqn, Battery, or Company | Corps R.C.A. | Date of enlistment 27 Sep 41 | GC Badges | Service or Proficiency Pay | Character

Date of last entry in Company Conduct Sheet | No and date of last drunk | Period not reckoning towards freedom from extra fine | Sheet No 1 | Signature OC Company, etc

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order deferring with (6)(a)	By whom awarded	Remarks
Sussex N.B.	19 Apr 42	Gnr		A.A.Sec.40 WOAS, C, to the P. of G.C. and M.D. 1.s. persisted in wearing his hat in Mess at meal time after being warned not to.	Bdr.Urquhart J.F.	7 days C.B.	20 Apr. 42	Major J.A. MacDonald	
Sussex N.B.	24 Apr 42	Gnr		A.A.Sec 40 WOAS, C. to the P. of G.C. & M.D. after being duly warned appeared on OOC's insp'n with his kit improperly packed.	Sgt. Lodge, J.A.	14 days Det,	25 Apr, 42	Lt.Col.E.R. Cormack	
Sussex N.B.	14 Jun 42	Gnr.		A.A.Sec 15(1)WOAS.AWL from 2200 hrs 14 Jun 42 to 1300 hrs 16 Jun 42. (Abs. 1 day 15 hours).	L/Sgt Milliken,J.C.	7 days C.B.	17 Jun 42	Major H.F. Clark	Pts.2 days pay FRI 149 (1)(a)
Sussex N.B.	29 Jun 42	Gnr.		A.A.Sec.40 WOAS.N. to the P. of G.C. and M.D.1.s. Neglected to shave himself & clean the brass on his cap for morning inspection.	Sgt.Corbett W.D.	14 days C.B.	29 Jun	Major H.F. Clarke	

(FTO)

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Field	27 Aug 42	Gnr.		A.A.Sec.15(1)WOAS, AWL i.e. failed to appear at the place of parade app. by his C.O. Failed to appear in his lines at 2230 hrs, 27 Aug 42.	L/Bdr. Longford,H.S.	5 days C.B.	29 Aug 42	Major H.F. Clarke	
Field	28 Aug 42	Gnr.		A.A.Sec.40 WOAS, C. to the P. of C.C. and E.D. i.e. was inattentive during lecture	Sgt.Urquhard K.S.	5 days C.B.	29 Aug 42	Major H.F. Clarke	
Field	12 Nov 42	Gnr.		A.A.Sec.40 WOAS, Cond, to the P. etc while on parade, after being warned that there would be no talking said"Well,I've got a pool game booked, I'll argue if I want to" or words to that effect.	L/Sgt Watson,J.K.	7 days C.B.	13 Nov 42	Capt.D.D.E. Harper.	
Field	29 Nov 42			A.A.Sec.10(4) WOAS, Breaking out of Bks, when his duty on Fire Picquet required him to be in barracks	Bdr. Mercel, G.A. L/Bdr. Henderson, T.G.H.	28 days F.P.	7 Dec	Lt.Col.E.W. Cormack	

No. 9652 Name GROBB, R. Sqn, Battery, or Company — Corps R.C.A. — Date of enlistment 27 Sep 41 — GC Badges — Service or Proficiency Pay — MFM 6 (AFB 122: 40/PAM/38 (3438))

Date of last entry in Company Conduct Sheet — No and date of last drunk — Period not reckoning towards freedom from extra fine — Sheet No 2 — Signature OC Company, etc — Character

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Field	11Jan 43	Gnr.		A.A.Sec.40 WCAS, 10 minutes late on Troop Parade	Sgt. Gage, W.R.	14 days C.B.	13 Jan 43	Maj.H.F.Clarke for C.O. 8 Cdn Lt.A.A.Regt.	
Bostyn Club,London	21Apr 43	Gnr.		(1) Sec.13, Larceny Act 1916		one year Probation	22 May 43		
Rainbow Club,London	3 May 43	Gnr.		(2) Sec.2, Larceny Act 1916			22 May 43		

(PTO)

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Field 13	Apr 43	Gnr		(1st Charge)A.A.Sec.15(1)WOAS, AWL from 2215 hrs 13 Apr 43 until Apn. at 2200 hrs 7 May 43.(Abs.23 days 23 hrs and 45 mins.)		90 days det. & stopp.of pay of £1:7:1 value of "kit" lost by neglect.	26 May43	F.G.C.M.	Fts.24 days pay FRI 149(1)(a) Fts.19 days pay FRI 149(1)(c)(1) Total ft're 133 days pay. Plus stopp. of pay of £1:7:1 value of "kit" lost by neglect. (Granted 30 days remission of sentence.)
Field 7	May 43	Gnr		(2nd Charge) A.A.Sec.40 WOAS, An Act to the Prej.etc. i.e. was in poss. of a genuine pass, well knowing it was not, also being in poss. of two blank stamped pass forms.	In close arrest from 2201 hrs 7 May 43 to 13 May 43 inc.(7 days). In Civil Custody from 14 May 43 to 22 May 43 incl. (9 days). In close arrest from 23 May 43 to 2359 hrs 25 May 43 (3 days) Total 19 days.				
Field 2.9.	43	Gnr		(3rd Charge)A.A.Sec.24(2) WOAS Losing by neglect etc.					
				Sec.40 A.A. was moving about and twisting his face on parade and when told to stand steady attempted to argue the point.	Lieut. G.F.Boyer	14 days F.P. Forf.14 days pay FR&I 149 (2)	2.9.43	Lt-Col F.J.Thorne	

No 9652 Name GROBB, H.A. Sqn, Battery, or Company Corps R.C.A. Date of enlistment 27 Sep 41 GC Badges Service or Proficiency Pay MFM 6 (AFB 122) 40/PAM/135 (5438)

Date of last entry in Company Conduct Sheet | No and date of last drunk | Period not reckoning towards freedom from extra fine | Sheet No 3 | Signature OC Company, etc | Character

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Field	11.9 43	Gnr.		Sec. 9(2) disobeying a lawful command.	Lt.Screeton Sgt.Will	21 days F.P. 21 days forf of pay FR&I 149(2)	16.9.43	F.J.Thorne Lt.Col.	
				(Certified true copy) 9 Feb 44 "R.G.MacKinnon" (R.G.MacKinnon) Captain, RCA Records Officer, No.3 C.A.R.U. Officer having custody of original document.					

a.f.d.

(PTO)

ARMY FORM B.296 (WAR).

Statement as to Character and Particulars of Service of Accused.

(For Use at Trials by Field General Courts-Martial only).

Number.	*Rank.*	*Name.*	*Regiment (or as the case may be).*
B 9652	Gunner	Robert Allan GROBB,	No 3 Cdn Arty Rft Unit

NOTE.—The Field Conduct Sheet is to be produced in Court with this statement but is not to be annexed to the proceedings. The numbers herein stated should correspond with the number of Entries in the Field Conduct Sheet, prominence being given to the most serious offence in each entry. If the charge is for drunkenness or absence without leave, the entries for drunkenness or absence, as the case may be, should be stated separately. Any recognized special acts of gallantry or distinguished conduct recorded on the Field Conduct Sheet should also be inserted here.

1. The following is a fair and true summary of the entries in the Field Conduct Sheet of the accused, exclusive of convictions by a court martial or a civil court :—

For A.A.Sec 40 — 6 times.

For A.A.Sec 15(1) — 2 times.

For A.A.Sec 10(4) — 2 times.

For A.A.Sec 9(2) — 1 times.

Date of first entry in Field Conduct Sheet 19 Apr 42

Date of last entry in Field Conduct Sheet 11 Sep 43

2. Previous convictions of the accused by a court martial or a civil court are set out in the Schedule overleaf.

*Strike out if not applicable.

~~3. The accused at the present time is under stoppages for~~ "RGM"

~~stoppages to the~~ ~~days, viz.~~ "RGM"

4. The accused has been awaiting trial on the present charges for 10

~~days in civil custody, and for~~ "RGM" days in military custody, viz., ~~days in civil custody and~~ ~~days in military custody~~ "RGM"

5. The present age of the accused is 23 years 9 days

6. The date of his attestation is 27 Sep 41

~~enlistment into the Permanent Force~~ "RGM"

7. The service which the accused is allowed to reckon is 2 years 137 days

8. ~~The accused is in possession of~~ "RGM"

State the military decorations if any held by accused.

9. ~~If the accused is a non-commissioned officer or N.C.O.~~ The accused has served continuously without reduction to the present date. "RGM" "RGM"

~~Date of promotion~~

~~In the substantive rank of~~ "RGM"

~~In the war substantive rank of~~ "RGM"

~~In the temporary rank of~~ "RGM"

"Ex B"
"RGM"

INSTRUCTION.—*If any matter in any of the above paragraphs cannot be stated from the regimental books the paragraph must be struck through.*

(21114) W1.8670/068 100,000 4/42 A. & E. W. Ltd. Gp. 698
(21450) W1.29456/1873 60,000 9/42 Forms/B.296(War)/2

SCHEDULE OF CONVICTIONS BY A COURT-MARTIAL OR CIVIL COURT.

Description of Court by which tried.	Date and Place of Trial.	Charges upon which convicted.	Sentence of the Court.	Punishment remitted or sentence suspended.
F.G.C.M.	Field 13 Apr43	1st Charge A.A.Sec 15(1)		
	Field 7 May 43	2nd Charge A.A.Sec 40		
	Field 24 May 43	3rd Charge A.A.Sec 24(2)	90 days Detn & stopp. of pay of £1:7:1 value of kit lost by neglect	Granted 30 days remission of sentence
Civil Police Court	21Apr 43 5 May 43 London	1st Charge Sec 13 Larceny act 1916 2nd Charge Sec 2 Larceny act 1916	One year Probation	

I HEREBY CERTIFY that the foregoing particulars, which have been extracted from the regimental books in my custody, are correct to the best of my knowledge and belief.

Signed this 11th day of Feb 44

"R G MacKinnon" A/Capt
Records Officer
No. 3 Cdn Artillery Holding Unit

WW-121
GNR GROBB, R.A.

SCHEDULE.

PART I. PLEA(S), FINDING(S) AND SENTENCE.

Accused: B. 9652 Gnr. Grobb R.A. 10 Cdn Training Coy.

Charge. (Insert "alternative" where applicable.)	Plea. (See Instrs p 2.)(1)	Finding. (See note below.)	(Space for use as required for further charges, accused charged jointly, special findings, etc.)
1st a a to	Guilty	Guilty	
2nd			
3rd			
4th			
5th			
6th			

(Note: As to findings for lesser offences see AA 36, RP 44; findings on alternative charges see MML p 483 fn 4 para 2, RP 44; special findings see RP 44 and MML p 733, and in lieu of kit see RP 44 fn 6.)

At present under ~~sentence~~ [illegible] for ..... beginning on (date) ..... (1)

(1. Insert sentence being served or "Nil". Delete if not applicable. See RP 46(A). Information should be found on MF B355 or AF B296.)

Time in confinement awaiting present trial—a total of 10 days, of which 0 days were spent in hospital.(1)

(1. See RP 46(A) fn 2. Information should be found on MF B355 or AF B296 admitted in evidence under 62.)

Sentence Awarded by the Court:

120 days detention

(Sgd) ..... Judge-Advocate, if any.

25/11/43 Date awarded.

(Sgd) W. de Lancey President. (RP 45, 50)

(See back of Convening Order as to assembly and disposal of record after trial.)

PART II. MINUTE WHERE CONFIRMATION RESERVED. (AA 54(5), RP 120(F), MML p 760.)

Date ..... (Sgd) ..... Commanding

PART III. DECISION OF CONFIRMING OFFR ON FINDING(S) AND SENTENCE.

(For duties and powers see AA 54, 57, RP 37(D) fn 6.46(A), 51-56, 120, MML pp 759-761, KR Can 567-577. Acquittals require no confirmation and cannot be revised: AA 54(3). Sending back finding or sentence for revision by Court: AA 54(2), RP 120(G). If not confirmed, accused may be tried again: AA 157, MML p 64. Minute of confirmation or non-confirmation may be altered before promulgation: RP 53, MML p 65. Quashing after promulgation: KR Can 573. Duties and powers of reviewing offrs: AA 57, 57A, RP 53A, 54. The Confirming Offr must sign here personally. AA 172 fn 1.)

My decision on the finding(s) and sentence set forth in Part I is:

Confirmed

~~Until then, the accused is not committed to prison or detention barracks until further orders.~~(1) ?

(1. AA 57A. Delete if not used.)

Date 27 Nov 43 (Sgd) H.R. Tyner Col

Commanding "B" Gp CRU

Confirming Officer.

PART IV. PROMULGATED AND EXTRACTS TAKEN. (RP 53, KR Can 576, 577.)

Accused.	Date.	Signature of Offr.
B-6952 Gnr. Grobb, R.A.	30 Nov 43	(P.L. Beckett) Lieut. ADJUTANT

Promulgated in D.O. #24 Sec "B" para 8(a) 10 CANADIAN TRAINING COMPANY.

ALL DELETIONS AND ALTERATIONS WILL BE INITIALLED.

WW-121

FIELD GENERAL COURT-MARTIAL

CFA86 (In lieu of AFA2) 40-P.S.-1608 (2804)

Convened by Order of H.R. Tyner, Colonel A/ Comd "B" Gp CRU dated 23 Nov 43

ACCUSED.

(As to the trial of two or more charged jointly see RP 16, 71, 109. As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

Number.	(a) Prmnt R. (b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
B-9652	Gnr	ROBERT, ALLAN,	GROBB	10 Cdn Trg Coy

Proceedings Reviewed

[signature] Reviewing Officer (J.A.G. / C.M.H.Q.)

16 Dec 43.

PROCEEDINGS OF TRIAL.

Held in the Fd in (country) England on (date(s)) 25 Nov 43.

RECORD FORM A—OPENING PROCEEDINGS AND ARRAIGNMENT.

A1. The President, Members, waiting Member, JA, if any, and Offrs under instr, if any, assemble, and the Court is closed.

(PRINTED MATTER, NOT IN ITALICS FOR GUIDANCE, WILL BE DELETED IF NOT USED OR APPLICABLE, AND INITIALLED BY PRES OR JA. This Schedule referred to throughout is on p 4. Citations do NOT include all relevant finn RQs. For guidance on procedure when a variation in this form arises, see form for GCM in MML pp 741 to 759. A brief record of such variation will be made and given a number having reference to appropriate or preceding para number hereto. See back of Convening Order, CF A95, for oaths and instrs on how to record addresses, evidence etc, which matrs are hereafter called "Notes". As to general provisions for conducting the trial see AA 53, RP 56, 63-70, 73, 74, 94, 103, 119, 122.)

A2. The President initials and lays before the Court the Convening Order and Charge Sheet(s) attached thereto.(1) The Court is satisfied that it is properly convened and constituted(2), accused is (are) amenable to military law, and each charge discloses an offence.(3)

(1. As to use of Summary of Evidence see RP 17 fn 6. 2. AA 49, 51, RP 105-107. 3. RP 11-13, 23, 24.)

A3. The Court is opened. The accused is (are) brought before the Court. At 12.15 hours trial commences.

A4. The Prosecutor produces a Medical Certificate that accused is (are) fit to undergo trial by court-martial.(1) The Prosecutor informs the Court that accused elected to be tried by court-martial instead of being dealt with summarily by the CO.(2)

(1. KR Can 557. 2. AA 46(8), RP 60 fn 1. For effect see KR Can 563(c). Delete, if not applicable.)

A5. President to accused: Do you object to ..... as interpreter? Ans .....

The Interpreter is sworn.(1) Do you object to ..... as shorthand writer? Ans .....
The shorthand writer is sworn.(1)

(1. RP 72. Delete, if none employed.)

A6. The Convening Order and names of the President and Members of the Court are read to the accused.(1) President to accused: Do you object to be tried by me as President or by any of the Members of the Court? Ans .....(2)

(1. RP 110. 2. If no objection, waiting member retires. RP 68(B). If objection, see procedure AA 51, RP 25, 71, 18, MML p 742.)

A7. The President, Members, JA, if any, and Offrs under instr, if any, are sworn.(1) The following are the ranks, names and units of the offrs comprising the Court, etc:

President	Maje W.d.e. de Lancey D.S.O.	1 Cdn Corps RU
Member	Capt. H. Grafat	1 Cdn RU
Member	Lieut. C.H.S. Armstrong	1 Cdn RU
Judge-Advocate		
Prosecutor	Capt. J.L. Morgan	10 Cdn Trng Coy
Defending Offr	Lt. D.S.C. Dunn	1 Cdn RU

Questions by President: Is the Prosecutor a lawyer? Ans No Is the Defending Offr a lawyer? Ans No (2)

(1. RP 26, 27, 109, 111. List of offrs under instr will be returned separately with proceedings for information of Cons Offr.)
(2. If Pros a lawyer and Def Offr not, accused is entitled to an adjournment when RP 89 (B) and fn 2 were not followed. See D1 p 3.)

A8. The accused ..... before arraignment make(s) (no) (a) plea ..... (1)

(1. If a special plea is made for separate trial on one or more charges (RP 62(E), 108), or as to the jurisdiction of the Court (RP 34, 35(A), 113), or in bar of trial (RP 36), or as to accused's mental fitness to stand trial (AA 130, RP 57), or as one of several accused charged jointly to be tried separately (RP 16, 71), such plea, the addresses made in support or against, the evidence, if any, and finding are recorded per Notes. For forms of record see references in fns to RuP cited. Insert in A8 rank and name of the accused making the plea.)

A9. The accused is (are) arraigned (separately) on all charges in the charge sheet.(1) The accused does (do) not object to any charge.(2) There is no amendment to be made to the Charge Sheet.(3) The President records the pleas in Part I of the Schedule.

(1. RP 31, 112. See para 1 of Instrs p 2. When more than one Charge Sheet see RP 62; when several accused to be tried separately see RP 71(C), and use separate copies of CF A86 to record proceedings. 2. RP 32, RP 33. If otherwise, delete and make appropriate record per Notes.)

A10. The Court is closed and considers the Instrs on Procedure after Arraignment at top of p 2. The proceedings are continued on Record Form.

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

INSTRUCTIONS ON PROCEDURE AFTER ARRAIGNMENT.

1. *The accused may not plead or be found Guilty on more than one of two or more charges laid in the alternative.* (*RP* 37(*A*).) *As to withdrawal of alternative charges by Prosecutor see RP* 35(*C*). *No other charge can be withdrawn for any reason without authy from Convening Offr. If Convening Offr concurs, Court may accept plea of Guilty to lesser, etc, offence.* (*RP* 44(*H*).) *Accused may change a plea of Not Guilty to Guilty during trial.* (*RP* 38.) *As to refusing to plead or not pleading intelligibly see RP* 35(*A*). *As to plea when sentence may be death see RP* 35(*D*).

2. *The proceedings on each charge sheet* (*RP* 62) *after arraignment will be conducted as follows in the respective circumstances stated :*

I. If pleas to all charges are GUILTY, use Record Form B below.

II. If pleas to all charges are NOT GUILTY, use Record Form D on p [redacted] 3.

III. If pleas to some charges are GUILTY and to other charges are NOT GUILTY and,

(a) Such mixed pleas occur when there are no alternative charges in the Charge Sheet, use Record Form C below. (*RP* 37(*A*).)

(b) Such mixed pleas occur in a set of two or more charges laid in the alternative, see RP 37 (*A*) *and fn* 2 *as to discretion of Court,* (i) *to try the accused on all such alternative charges as if he had pleaded Not Guilty thereto, or,* (ii) *to record the pleas as the findings of Court. After deciding between* (i) *and* (ii), *Court will proceed under foregoing instrs as may be appropriate to result of its decision. See MML p* 744 *Instrs* (2).

3. *As to responsibility of President to accused see RP* 50, 60(*C*) ; *powers and duties of JA see RP* 103 ; *duty of Prosecutor see RP* 60(*A*) (*II*) ; *duty and privileges of accused and Defending Offr see RP* 80(*C*), 87(*C*), 91, 92 ; *swearing and withdrawal of witnesses from Court see RP* 81, 82 ; *questioning of accused see RP* 80, 87(*C*), 92(*B*), *and of witnesses see RP* 83-85 ; *calling or re-calling of witnesses by Court etc see RP* 75-79, 86, 116 ; *use of Summary of Evidence at Trial see RP* 17(*E*) *fn* 6 ; *and responsibility of JA or Pres to record proceedings see RP* 94, 96.

RECORD FORM B—PROCEEDINGS ON PLEAS OF GUILTY TO ALL CHARGES.

B1. The President or JA, if any, complies with RP 35(B) by explaining to the accused the nature and meaning of the charge(s)(1), and that on his plea of Guilty there will be no regular trial but merely a consideration of the sentence to be awarded after he has been given an opportunity to make a statement in reference to the charge(s), call witnesses as to character and make an address in mitigation of punishment.(2)
(*1. RP 35 fn 3. 2. MML p 54 para 47.*)

B2. President to accused : The Court will now receive any statement you desire to make in reference to the charge(s).(1) If it appears from your statement that there are circumstances which indicate that you do not understand the effect of the plea of Guilty(2), or which show provocation or extenuation in respect of which in your interest the witnesses for the Prosecution should be examined(3), we shall advise you to change your plea to Not Guilty. In making a statement you will not be sworn or subject to cross-examination ; and anything you say will not be used in evidence against you after you change your plea. If, however, it appears to the Court that your statement affects only the amount of punishment to which you are liable, you will not be advised to change your plea and you will be given an opportunity later to prove your statement by sworn testimony, if you so desire.(4)

President to accused : Do you wish to make a statement ? Ans.....(5)
(*1. RP 27(B). 2. RP 27(D) fn 6. 3. RP 35(B) fn 5 para 3, MML p 54 para 47. 4. See para E3 of Record Form E.*
5. Statement, if any, recorded per Notes.)

B3. The Court considers the accused's statement.(1) The Court decides (not) to advise accused to change his (their) plea(s) of Guilty to Not Guilty on.....charge(s). The accused is (are) so informed, and he (they) change(s) his (their) plea(s) on.....charge(s). Part I of the Schedule is amended accordingly.
(*1. Court may be closed to consider the statement. Delete whole or part not used.*)

B4. On the charge(s) to which the plea(s) of Guilty is (are) not changed the President records finding(s) of Guilty in Part I of the Schedule.(1)
(*1. RP 35(B). If any plea(s) is (are) changed, use Record Form C or D as appropriate.*)

B5. The Summary of Evidence is marked Ex....., initialled and read aloud by the President.(1)
(*1. If there is no Summary, or if it is inadequate, comply with RP 37(B). If there is any evidence inconsistent with any plea standing as Guilty, Court will advise accused to change such plea and, if changed to Not Guilty, try such charge(s) by use of paras D1 to D8 inclusive of Record Form D on p 3. RP 37(D).*)

B6. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

RECORD FORM C—PROCEEDINGS ON MIXED PLEAS OF GUILTY AND NOT GUILTY.

C1. As to the charges on which accused pleaded NOT GUILTY the trial is continued by using paras D1 to D8 inclusive of Record Form D on p 3 before proceeding with C 2.(1)
(*1. RP 37(A) (E).*)

C2. The charges on which accused pleaded GUILTY are read to him (them) again, and the trial is continued by using paras B1 to B5 of Record Form B above.(1)
(*1. Under B5 such parts only of the Summary of Evidence are read as relate to the charges dealt with under C2. If any plea is changed to Not Guilty, trial thereon proceeds by complying with paras D1 to D8 inclusive in Record Form D on p 3 and making an appropriate record thereof on a separate sheet.*)

C3. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

RECORD FORM D—PROCEEDINGS ON PLEAS OF NOT GUILTY TO ALL CHARGES.

D1. President to accused : Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity to prepare your defence ? Ans.....(1)
(*1. If "yes", see RP 39(A) for procedure. Statement or evidence, if any, is recorded per Notes.*)

D2. The Prosecutor makes (an) (no) opening address.(1)
(*1. RP 39(B), 60(A) (B), 90, 92(C) (D). Record address per Notes, subject to RP 95(C).*)

D3. The evidence for the Prosecution is taken.(1)
(*1. RP 39(C), 114, KR Can 555. Record evidence per Notes. As to Prosecutor giving evidence himself see RP 39(D) (E).*)

D4. The Prosecution is closed.(1) The Defending Offr submits that the evidence for the Prosecution does not establish a prima facie case against the accused on the.....charge(s).(2) The Court is closed, and considers the submission.(3) The Court is re-opened, and the President announces that the submission is disallowed on the.....charge(s), and allowed on the.....charge(s), and that, accordingly, the trial will proceed on the former, but the accused is (are) found Not Guilty on the latter charge(s).(4)
(*1. Delete remainder of this para, if submission not made. 2. Arguments on submission, answer and reply are recorded per Notes. 3. RP 40 fn 1. See MML p 72 paras 12-14 and p 81 para 42. 4. Delete part not used. If accused acquitted on all charges, use second alternative in para D8.*)
NB : If trial proceeds, accused must be allowed great latitude in making his defence, and the Court should not stop his defence solely on ground of irrelevance. (*RP 60(C), 114, 115.*)

D5. President to accused : You will now proceed with your defence.(1) You may, if you wish, give evidence yourself on oath as to the facts or your character or both, in which case you will be subject to cross-examination.(2) You may, however, make a statement without being sworn, and you will not be subject to cross-examination.(3) But a statement which could have been made on oath will not carry with the Court the same weight as sworn testimony.(4) You may call witnesses in your defence and as to character, whether you give evidence or make a statement or do neither.

President to accused : Do you wish to give evidence yourself as a witness, make a statement, or do neither ?
Ans.....(1) Do you intend to call witnesses on your behalf ?
Ans.....(2) Are they witnesses as to character only ? Ans.....(3)
(*1. RP 155. 2. RP 40(A), see 80(D). 3. RP 40 fn 10. 4. RP 40 fns 2, 9.*)

D6. Consequent on the answers recorded in para D5 the appropriate procedure for the defence is followed.(1)
(*1. RP 114, 115, 116. For procedure see Notes on back of Convening Order, CF 4815. Evidence for accused as to his character should, if in his interest, be given before the finding. See RP 46(A) fn 1, 86(C). Note the further opportunity in para E1 of Record Form E. Record per Notes addresses, statement, evidence and any summing up by the JA under RP 42, 103(b).*)

D7. The Court is closed to consider the finding(s).(1) The finding(s) of the Court is (are) recorded in Part I of the Schedule.(2) The Court is re-opened.
(*1. RP 43, 117(A). See Notes in Part I of Schedule. 2. RP 44(A).*)

D8. The President announces the finding(s), if any, of Not Guilty, and states to the accused that the finding(s) of the Court on the.....charge(s), being subject to confirmation, will be promulgated later.(1)
Or, The President announces that the accused is found Not Guilty on all charges and as to the proceedings thereon accordingly terminated, but that the Schedule is dated and signed.(2)
(*1. AA 54(3) (c), RP 45, 120(A). 2. AA 54(3), RP 45, 117. This alternative announcement is not applicable when there are pleas of Guilty outstanding and dealt with under Record Form B or C.*)

D9. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E below.

RECORD FORM E—PROCEEDINGS ON CONVICTION BEFORE SENTENCE.

E1. President to accused : Do you wish to give evidence yourself or to call any witnesses as to your character ?(1)
Ans.....
(*1. If evidence has already been given by accused or his witnesses as to his character, delete this para. RP 27(C) fn 4, 46 fn 1. Accused and witnesses are sworn. Evidence recorded per Notes.*)

E2. The Prosecutor produces Statement(s) as to Character and Particulars of Service(1), and certified true copy (copies) of Conduct Sheet(s)(2), purporting to refer to the accused, which he submits to the Defending Offr for examination, and then to the Court for admission in evidence. The Court is satisfied that these documents refer to the accused, because (i) they purport to be signed in the manner required by AA 163(1) (g) (h), and (ii) they purport to refer to (a) wife(s) having the same number, rank, name and corps as the accused. Admitted in evidence and marked Ex..... and Ex..... respectively.(3)
(*1. MFB 355 or AFB 294. 2. MFM 6. 3. RP 46, KR Can 558. If above documents not produced, see RP 46 fn 1 para 1.*)

E3. President to accused : Do you wish to address the Court on the Statement(s) and Conduct Sheet(s), and in mitigation of punishment ?(1) Ans.....(2)
(*1. RP 27(C), 46(D). 2. Address, if any, recorded per Notes. Court should permit accused or his witnesses to prove on oath anything here or previously stated which would affect the amount of punishment. RP 27(F) fn 7.*)

E4. The President states that the Court is closed to consider the sentence, and that the sentence to be awarded by the Court, being subject to confirmation, will not be announced, but will be promulgated later, and the proceedings in open court are accordingly terminated.(1)
(*1. AA 54(6), RP 120(A).*)

E5. The Court considers the sentence.(1) The President records the sentence in Part I of the Schedule, which is dated and signed by him and the J.A. if any.(2)
(*1. When several accused tried separately see RP 94(D). One sentence only, comprised of the punishment or punishments laid down in AA 41, 44 and its proviso, is to be awarded to cover all charges in all charge sheets on which accused found guilty. RP 48. As to sentences see AA 44, 138, 182, RP 46-50, 69, 118, 119(A), KR Can 308, 330, 343-346, Overseas RO 309, 2323, MML p 66, 752-759. As to sentences assigned for civil offences by the law of England see AA 41(5), MML p 130. When accused already under sentence of imprisonment or detention see AA 44(1)(b), 68(1), KR Can 344. 2. RP 50. As to release from arrest by Confirming Offr see KR Can 567. As to assembly and disposal of record after trial see instrs on back of Convening Order.*)

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

Witness's mark
Pres.

CHARGE SHEET

The accused, No. B-9652 Gnr. CHOBB, ROBERT ALLAN., 10 Canadian Training Company, a soldier of the Canadian Army Overseas,

is charged with,

WCAJ CONDUCT TO THE PREJUDICE OF GOOD ORDER AND MILITARY DISCIPLINE,

in that he,

FIRST CHARGE
Sec. 40
A.A.

at Camberley, Surrey at 2030 hours 4 Nov. 43 did attempt to sell one (1) pair of Army boots, the property of the Canadian Government.

In the Field
16 Nov. 43.

D.L. Boyd
(D.L. Boyd) Capt.,
A/Officer Commanding,
10 Cdn Trg Coy.

To be tried by Field General Court Martial.

23 Nov 43

H.R. Tyner
(H.R. Tyner) Colonel
A/Comd "B" Gp
Cdn Rft Units.

MEDICAL OFFICER'S CERTIFICATE

I certify that B-9652 GNR. GROBB, ROBERT ALLEN., 10 Canadian Training Company, is fit to undergo trial by Court-Martial.

Date 25 May 43

(A.M. Johnson) Capt.
Medical Officer
10 CANADIAN TRAINING COMPANY.

/RHW

Middlesex Regt

FIELD GENERAL COURT-MARTIAL

CFA95 (In lieu of AFA8) 40/PAS/1697 (29053)

(Whether the accused to be tried is under his comd or not, a FGCM may on application to him be convened by any offr of Cdn Army Overseas, or of any other force if authorized in law, in immediate comd of troops on active service, subject to RP 105(C) and restrictions imposed by appropriate authy. AA 49, 50, RP 104-107, 114. As to the duties and privileges of the Convening Offr in dealing with the application see MML Chap V paras 20 and 23. RP 87(B).

There should be a separate Convening Order for each person to be tried separately by the same Court. RP 71(C), 109. As to separate charge sheets see RP 62, and as to separate trial on charges in the same charge sheet see RP 108. As to two or more accused charged jointly see RP 16, 109. As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, (ns, KR Can 308, 328, 330.)

ACCUSED.

Number.	(a) Prmnt R.	(b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
B-9652	Gnr		ROBERT, ALLAN,	GROBB	10 Cdn Trg Coy

CONVENING ORDER.

1. Whereas complaint has been made to me, the undersigned, that the person(s) named above as the accused, being subject to military law, has (have) committed the offence(s) set forth in the Charge Sheet(s) attached and on (date) 23 Nov 43 endorsed by me, (or by an offr of my staff for me), " To be tried by Field General Court-Martial ".

2. And whereas I am of opinion that it is not practicable that such offence(s) should be tried by an ordinary General Court-Martial ; [redacted]
(Delete part in brackets when not required for compliance with RP 105(C).)

3. I hereby convene a Field General Court-Martial to try the said person(s), and to consist of the Offrs appointed or detailed hereunder.

4. [redacted]
(AA 49, RP 106(B), 107(A). Delete the whole or part, if not applicable.)

5. [redacted]
(RP 106(E). Delete, if none appointed.)

PRESIDENT.

(Rank.)		(Must be named. RP 106.)	(Unit.)
Major	W.A. deGraves, DSO.		1 CASCRU

MEMBERS.

(Rank.)		(Named or detailed. RP 106.)	(Unit.)
Captain	to be detailed by		1 CSRU
Lieutenant	to be detailed by		1 CSRU

WAITING MEMBER.

(Rank.)		(Named or detailed, if any. RP 106.)	(Unit.)

JUDGE-ADVOCATE.

(Rank.)		(Must be named, if any. RP 106.)	(Unit.)

On Active Service in the Fd

in England (Country.)

Date 23 Nov 43

[signature] (Rank.)
(Signed personally by the C.O.)
A/ Commanding "B" Gp CRU
Commander, "B" Group
Convening Officer.

CONVENING OFFR WILL INITIAL ALL DELETIONS AND ALTERATIONS

(See overleaf for oaths and notes for use on trial.)

1st Witness: W 1854 Sgt A.N. Clarke, S.I.S. 10th Indn Provost Corps, 6 R.V. sworn, states.

"On 6 Nov 43, Det. Sgt Hobbs of the Camberley Police telephoned to the Provost office and stated that on the night of Nov. 4-43 a 10th Indn soldier had attempted to sell him a pair of army boots. When the soldier found that he was dealing with Police officers he ran away, leaving the boots and the small pack in which he was carrying them. The pack carried the Regt No B9652 and D/Sgt. Hobbs asked if we could trace the owner.

"I made enquiries at the 10th Indn. Army Records office, Aston, and found that this number was issued to B9652 Gnr R.A. Grobb who was with 10 Indn Hvy Coy in this area.

"On 12 Nov 1943 I was present at an identification parade at 10 Indn Hvy Coy when accused was identified both by D/Sgt Hobbs and P.C. Hunt who was also present when the attempt to sell the boots was made. Both the police officers picked the accused out from a line-up as the man who had offered them the boots."

"After the identification parade Grobb was cautioned and questioned but denied having anything to do with the matter. At that time he was deficient one small pack and one pair of boots. The small pack and boots left with the policemen were given in charge of the

adjutant of 30 Can Trag Coy after being marked for identification and are the same as are now before the court.

Cross-examined by defence: 1.Q. How many men were in the lineup for identification

A: About 15 or 20.

2.Q. Was the accused pointed out as the man who owned the small pack?

A. No. The two police officers made their identifications separately and without being given any information whatever.

Questioned by Court: 1.Q. Was there any possibility of the second policeman seeing what man the first one had picked out in the parade?

A. No. They came in separately and the one could not see what the other was doing.

2.Q. Could they have talked to each other between the time of the two identifications?

2.A. No; there was no time for them to have done so.

2nd witness: No 36 Police Sgt Daniel George Hobbs, Police station, Camberley, sworn, states: "At about 9.15 p.m. on 4th Nov 1943, I was in the Brown Jug public house in company with P.C. Hunt. I saw a Canadian soldier in battle dress and carrying a haversack under his arm come into the public bar. He did not stay long. At 9.30 p.m. the same night P.C. Hunt and I left the Brown Jug and as we left the public bar entrance we were stopped by a Canadian soldier

who said "would you like to buy a pair of boots?" I asked him "what are they like? Let's have a look at them". I then shone my my torch on the haversack and swung it up into the soldier's face so as to get a good look at him. As I did this a pedestrian passed and the soldier said "Put your light out, this is dangerous business". The soldier then handed me an army boot. I said "whose are they?" and he said "They are mine; I want to get the price of a drink." I told him he had stopped the wrong parties as we were police officers and would take him to the police station for attempting to sell government property. As I said this he ran away but I was able to seize the haversack and other boot.

I got in touch with the Canadian Provost Corps and as a result was present at an identification parade on 12 Nov 1940 when I identified the accused as the man who had tried to sell us the boots. The haversack and boots before the court are the same ones I have previously referred to.

Cross-examined by the defence: Q. Did you say the ~~man~~ who tried to sell you the boots had a scar on his face?

A. Yes; I thought he had, but when I saw him on the parade I saw that what I had taken to be a scar was just a dark shadow. Here it is here (pointing to accused's face)

Q. Was that near the only way of identifying him?

A. No. I also identified him from his face generally. When I shone my torch on him in the blackout I did it purposely to get a good look at him and accused is the man I saw then and later identified.

Re-examined by prosecution:

Q. How long have you been a police officer?

A. 14 years.

Questioned by Court: When you picked out accused at the identification parade had he been pointed out to you?

A. No.

Q. Did you and P.C. Hunt pick him out together? A. No. We picked him out separately.

Q. After you had made your identification did you tell P.C. Hunt? A. No. He went straight in after me and I did not speak to him at all or give any indication of the man I had picked out. There were about 20 men in the line-up.

3rd witness No 166 P.C. James W. Hunt, stationed at Haslemere, Surrey, sworn states:

"At about 8.15 pm on Thursday, Nov 4 I was in the public bar of the Brown Jug at Camberley in company with D/Sgt. Hobbs. A Canadian soldier came in. I saw him speak to a civilian in the bar. He had a knapsack with

him and left right after speaking to the civilian. At around 8.30 pm I left the bar with Sgt Hobbs, and when we got outside a Canadian soldier approached and asked us if we would like to buy a pair of boots. Sgt. Hobbs said "What are they like? Let's have a look at them". The soldier then took a pair of boots from a knapsack and Sgt Hobbs flashed his torch. I then recognised the soldier as the one who had been in the bar a short time previously and had spoken to the civilian. Sgt Hobbs asked him "Whose boots are these?" and the soldier replied "They're mine". Sgt Hobbs then told him we were policemen and he would have to go to the station with us. The soldier broke away and ran but left the knapsack and boots behind. I followed him but lost him when he jumped a fence and ran through some gardens. I next saw him on Nov 12 when I attended an identification parade at "The Grange", Farnborough and I now identify him as the accused.

Cross-examined by defence: Did you only see the accused the one before when the torch was flashed in the blackout?

A. No. I saw them he was the same soldier I had seen in the hotel a few minutes previously and I

identified him from seeing him both times.

Q. Did anyone tell you he was the owner of the knapsack or had been identified by anyone else?

A. No. I made my identification alone and from what I had seen of the man who tried to sell us the boots in Camberley.

Questioned by the Court: had is this man in court now?

A. Yes: He is the accused here.

Fourth witness. Lieut. P. L. Beckett, R.C.A., 10th Edn Tng Coy: sworn; states:-

"As adjutant of 10 Edn Tng Coy I was present at an identification parade at "The Grange", Farnborough on 12 Nov 1943. The accused was unhesitatingly picked out by two civilian police officers as the man who had tried to sell them a pair of army boots. They turned over to me the boots and the small pack in which they were contained."

Defence declines to cross-examine.

Questioned by the Court.

"When the identification was made could the second policeman see who had been picked out by the first one?"

A. "No. Accused was selected individually from a line up of 15

or 20 men. He was picked by each policeman separately and I do not think it was humanly possible for them to see as the lineup was held in such a way only one came on at a time and the other was around a corner.

Q." Could they have communicated with each other between identifications?

A. " I do not think it was possible. I would say positively "no".

Fifth witness:- B 27000 C.Q.M.S. Andrews, W.G.S. of R.C.E.; 10 Can Tng Coy, sworn, states:-

"After an identification parade on Nov 12 Lieut Bartlett gave me a haversack containing a pair of issue ankle boots. I identify the pair and boots as those now before the court. When Gunner Groff came to 10 Can Tng Coy he was deficient a number of articles, among them one pair of ankle boots, and I issued him another pair while the pair he was wearing were being repaired. I recognize the boots before the court as Canadian issue boots. No other military force in this country has the same issue boots to my knowledge".

No Cross-examination.

Prosecution closed. Defence has no witnesses and accused does not wish to give evidence. Statement handed in marked "Exhibit "F" (attached)

No Character evidence will be called.

STATEMENT OF B 9652 GUNNER GROBBRBERT ALLEN

1 Sir; This is to state that on the night of 4 Nov 43 I was in possesion of a pass and went to CAMBERLEY .I had a couple of beers and left there about 2100 hrs returning to camp. The following M onday I noticed that my pack and one pair of shoes were missing I repor ted this immediately. I believe that someone atole my pack and shoes and XXXXX XXXX that person must be the one who tried to sell the shoes to the policeman. This is all I have to say Sir.

Witness Major

APPENDIX "C"

B.I.B. C.R.U.

Farnborough 13 Nov 43.

B-9652 Gnr. Grobb, R.A., - 10 Cdn Trg Coy - C.M.H.Q.

Attempting to sell Army Boots.

1. On 6 Nov 43 D/Sgt. HOBBS, Camberley Police, telephoned this office stating that on 4 Nov 43 at about 2030 hours a Cdn soldier attempted to sell him a pair of army boots. The soldier had the boots in a small pack and this was left behind when the soldier ran away. The pack bore the Reg. No. B-9652.

2. Enquires were made at Cdn Army Records, Acton and it was ascertained that the number was issued to the above mentioned soldierwho was stationed at 10 Cdn. Training Company, in this area. The writer proceeded to the camp and the arrangements were made by the O.C. for this man to be interrogated.

3. From a rough description supplied by D/Sgt. HOBBS it appeared that GROBB was the soldier concerned. On being questioned he admitted that he was in Camberley on the night in question but he strongly denied that the soldier attempting to sell the boots could have been him. He stated that he had his small pack and boots on Saturday afternoon but they were not in his hut on Monday morning so he reported them lost or stolen.. It was obvious that GROBB was not truthful in answering questions and so it was decided to hold an identification parade in an endeavour to establish the identity of the soldier concerned.

First

4. On 12 Nov 43 an identification parade was held at 10 Training Company., and GROBB was identified both by D/Sgt HOBBS and P.C. HUNT, who was present when the attempted sale took place. A charge under A.A. 40 was laid against GROBB and the following statement was made by D/Sgt. HOBBS:

"At about 8-15 P.M. on the 4th Nov 43 I was in the Brown Jug P.H. in company with P.C. HUNT, when I saw a Cdn enter the Public Bar. The Canadian was dressed in Battle Dress and was carrying a haversack under his arm. This soldier left the public bar almost at once.

"At 8-30 the same evening I left the Brown Jug and as I left the Public Bar entrance I was stopped by a Canadian Soldier who said, "Would you like to buy a pair of boots". I said to him what are they like, let's have a look at them. I then shone my torch on the haversack the soldier was carrying and as I did this a pedestrian passed by, the soldier said, "Put your light out mate, this is dangerous business". The soldier then handed me an Army Boot. I said whose are they", he said they are mine, I want to get the price of a drink". "I told the soldier that I was a Police Officer and that I should take him to the Police Station for attempting to sell Government Property, as I said this the soldier ran away, I was able to seize the haversack and other boot from the soldier as he ran away.

13 Dec 43.

"Whilst talking to the soldier I shone my torch in his face and in doing so made a mental note of his features. The following is a description of the soldier; 5ft 10ins to 6 ft tall, well built, full face, pale complexion with a noticable scar on his face,

(Sgd) Denial C. Hobbs.

5. The following statement was made by P.C. 166 J.W. HUNT.
"At 8-15 p.m. on Thursday, 4th November 1943 I was in the Public Bar of the "Brown Jug" P.H. in company with D/Sgt. HOBBS of Camberley. At this time a Canadian soldier entered the bar and I saw him speak to a civilian. He had a Knapsack in his possession.
"He left the bar immediately after speaking to this civilian. At 8-30 p.m. I left the bar with Sgt. HOBBS. When we got outside a Canadian soldier approached us and asked us if we would like to buy a pair of boots. Sgt. Hobbs said "What are they like" let's have a look at them". The soldier then took out a pair of army boots from a knapsack and Sgt. Hobbs then flashed a torch he was carrying. I recognised the soldier as the one who had called in the public bar a short time previously.
"Sgt Hobbs said to the soldier whose b ots are they". The soldier replied "They're mine".
"Sgt Hobbs then said, youve asked the wrong one this time you better come down to the Police Station with us".
The soldier then broke away but in doing so dropped the Knapsack and the boots. He ran away down the road and I followed him. He turned down into a Cul-de-sac and jumped over a fence and ran down through some gardens where I lost him.
"On 12th November I attended a parade at the Grange, Farnborough, where I identified the soldier who tried to sell the boots to us."

(Sgd) James W. Hunt.

6. After the identification parade GROBB was cautioned and questioned but he still strongly denied having anything to do with the matter. At the present time GROBB is deficient one small pack and one pair of boots. The exhibits in this case were left in charge of the Adjutant and disciplinary action will be taken at a future date, at which time a further report will be ~~xxxxx~~ submitted to meet the diary date on page one.

PENDING:

A.N. Clarke. Sgt.
U-1854 (A.N. Clarke) S.I.S.
Cdn Provost Corps. C.R.U.

APPENDIX 'C'

S.I.S.

Farnborough

C.M.P.

13 Nov 43

B-9652 Gnr. GROSS, H.A., - 10 Cdn. Trng. Coy. - C.M.P.C.

Attempting to sell Army Boots.

1. On 6 Nov 43 D/Sgt. HOWES, Camberley Police, telephoned this office stating that on 5 Nov 43 at about 0700 hrs a Cdn. soldier attempted to sell him a pair of army boots. The soldier had the boots in a small pack and this was left behind when the soldier ran away. The pack bore the name GROSS, and it was ascertained that the number was issued to the a/m soldier who was attached at 10 Canadian Training Coy, in this area. The matter proceeded to the camp and arrangements were made by the O.C. for this man to be interrogated.

2. From a rough description supplied by D/Sgt. HOWES it appeared that GROSS was the soldier concerned. On being questioned he admitted that he was in Camberley on the night in question but he strongly denied that the soldier attempting to sell the boots could have been him. He stated that he had his small pack and boots on Saturday afternoon but they were not in his hut on Monday morning so he reported them as lost or stolen. It was obvious that GROSS was not truthful in answering questions and so it was decided to hold an identification parade in an endeavour to establish the identity of the soldier concerned.

First.

3. On 12 Nov 43 an identification parade was held at 10 Training Coy, and GROSS was identified both by D/Sgt. HOWES and P.C. HUNT, who was present when the attempted sale took place. A charge under I.A., Sec 40, was laid against GROSS and the following statement was made by D/Sgt. HOWES:

"At about 6-15 p.m. on the 5th November, 1943, I was in the Brown Jug P.H. in company with P.C. Hunt, when I saw a Cdn. dress and was carrying a haversack under his arm. This soldier left the Public Bar almost at once.

"At 6-30 p.m. the same evening I left the Brown Jug and as I left the Public Bar entrance I was stopped by a Canadian soldier who said, "Would you like to buy a pair of boots". I said to him, "What are they like, let's have a look at them". I then shone my torch on the haversack the soldier was carrying and as I did this a pedestrian passed by, the soldier said, "Put your light out mate, this is dangerous business". The soldier then handed me an army boot. I said, "Whose are they", he said, "They are mine, I want to get the price of a drink".

13 Dec 43

"I told the soldier that I was a police officer and that I should take him to the police station for attempting the sell Government property, as I said t. a the soldier ran away. I was able to seize the haversack and other boot from the soldier as he ran away.

"Whilst talking to the soldier I shone my torch in his face and in doing so made a mental note of his features. The following is a description of the soldier:- Age 20 yrs to 6- ft 1 in, well built, full face, [illegible] not- [illegible] ..., wearing battle dress [illegible]

The following statement was made by P.C. 166 J.T.
HUNT:
"At 5.15 p.m. on Thursday, 9th November, 1943, I was in the
guard lo bar of the "Brown Jug" P.H. in company with D/Sgt.
Hobbs of Camberley. At this time a Canadian soldier entered
the bar and I saw him speak to a civilian. He had a knap-
sack in his possession.
"He left the bar immediately after speaking to this civilian
and at 5.30 p.m. I left the bar with Sgt. Hobbs. When we
got outside a Canadian soldier approached us and asked us if
we would like to buy a pair of boots. Sgt. Hobbs said, "What
are they like, let's have a look at them". The soldier then
took out a pair of Army boots from the knapsack and Sgt. Hobbs
then flashed a torch he was carrying. I recognised the soldier as the one who had called in the public bar a short time previously.
Sgt. Hobbs said to the soldier "Whose boots are they". The soldier replied "They're mine".
Sgt. Hobbs then said, "You've asked the wrong one this time with us".
"The soldier then broke away but in doing so dropped his knapsack and the boots. He ran away down the road and I followed him. He turned down into a cul-de-sac and jumped over a fence and ran down through some gardens were I lost him.
"On the 11th November I attended a parade at the Grange, Farnborough, where I identified the soldier who tried to sell the boots to us." (Sgd) James W. Hunt.

6. After the identification parade GROB was cautioned and questioned but he still strongly denied having anything to do with the matter. At the present time GROB is deficient one small pack and one pair of boots. The exhibits in this case were left in charge of the Adjutant and disciplinary action will be taken at a future date, at which time a further report will be submitted to meet the diary date on page one.

(C.W. Clarke) Lt.
(A.A. Clarke) S.I.D.
Cdn. Provost Corps, C.M.P.

SURREY JOINT

APPENDIX "A"

Station or Section Camberley. Date 11th November, 1943.

C 1359—7/40—2/42.

SUBJECT MATTER

Name Daniel George HOBBS.
(In full—Block Letters)

Address Police Station, Camberley.

Age Occupation Police Sergt, No.36.

States:-

"At about 8-15 p.m. on the 4th November, 1943, I was in the Brown Jug P.H. in company with P.C. Hunt, when I saw a Canadian enter the Public Bar. The Canadian was dressed in battle dress and was carrying a haversack under his arm. This soldier left the Public Bar almost at once.

At 8-30 p.m. the same evening I left the Brown Jug and as I left the Public Bar entrance I was stopped by a Canadian soldier who said, "Would you like to buy a pair of boots". I said to him, "What are they like, lets have a look at them". I then shone my torch on a haversack the soldier was carrying and as I did this a pedestrian passed by, the soldier said, "Put your light out mate, this is dangerous business". The soldier then handed me an army boot. I said, Whose are they", he said, They are mine, I want to get the price of a drink".

I told the soldier that I was a Police Officer and that I should take him to the Police Station for attempting to sell Government property, as I said this the soldier ran away, I was able to seize the haversack and other boot from the soldier as he ran away.

Whilst talking to the soldier I shone my torch in his face and in doing so made a mental note of his features. The following is a description of the soldier:- 5ft 10ins to 6ft tall, well built, full face, pale complexion with a noticeable scar on his face".

(Continued overleaf)

Signature of Person making statement Danl G. Hobbs.

Witness to the above

Statement of evidence by James W.Hunt P.C.166,stationed at Haslemere,Surrey.

At 8.15p.m. on Thursday,4th.November 1943,I was in the public bar of the "Brown Jug" P.H. in company with D/Sgt. Hobbs of Camberley. At this time a Canadian soldier entered the bar and I saw him speak to a civilian. He had a knapsack in his possession.
He left the bar immediately after speaking to this civilian and at 8.30p.m. I left the bar with Sgt.Hobbs. When we got outside a Canadian soldier approached us and asked us if we would like to buy a pair of boots. Sgt.Hobbs said, "What are they like,let's have a look at them". The soldier then took out a pair of Army boots from the knapsack and Sgt.Hobbs then flashed a torch he was carrying. I recognised the soldier as the one who had called in the public bar a short time previously.
Sgt.Hobbs said to the soldier "whose boots are they". The soldier replied "They're mine".
Sgt.Hobbs then said,"You've asked the wrong one this time, we're Policemen,you'd better come down to the Police Station with us".
The soldier then broke away but in doing so dropped his knapsack and the boots. He ran away down the road and I followed him. He turned down into a cul-de-sac and jumped over a fence and ran down through some gardens were I lost him.
On the 12th.November I attended a parade at "The Grange", Farnborough,where I identified the soldier who tried to sell the boots to us.

James W. Hunt
P.C. 166

APPENDIX 'B'

LIST OF EXHIBITS

Exhibit "A"	Pair of boots that the accused attempted to sell.
Exhibit "B"	Haversack that contained the boots in question.

def

LIST OF WITNESSES FOR PROSECUTION

1 st. Witness	U-1854 Sgt. Clark, A.N. S.I.S. Cdn Provost Corps. HQ.CRU
2 nd Witness	Police Sgt. D.C. Hobbs Camberley, Surrey.
3 rd Witness	Police Constable J.W. Hunt Haslemere, Surrey.
4 th Witness	Lieut. P.L. Beckett 10 Canadian Training Company.
5 th Witness	B-27000 C.Q.M.S. Andrews, W.C.S. 10 Canadian Training Company.

LIST OF WITNESSES FOR DEFENCE

N I L

DATE.....19

Received from 10 Canadian Training Company one copy of Summary of Evidence and one copy of Charge Sheet.

I hereby make application for a defending Officer.

SIGNED.....
B-9652 Gnr. Grobb, R.A.

Ex. "A"

SUMMARY OF EVIDENCE

Summary of Evidence in the case of No. B-9652 Gnr. Grobb, Robert Allan., 10 Canadian Training Company, a soldier of the Canadian Army Overseas.

By direction of the Commanding Officer, the Summary of Evidence is taken on Oath.

FIRST WITNESS for the prosecution.

U-1854 Sgt. Clark, A.E., S.I.S., Can. Provost Corps, attached to D.A.P.M. CMU Headquarters, a soldier of the Canadian Army Overseas, a type-written statement of this witness's evidence purporting to be signed by him has been read to the accused and is included in this Summary of Evidence and marked Appendix "C".

Having regard to the exigencies of the service, and loss of time involved, attendance of this witness cannot in my opinion be readily procured.

(J.L. Morgan) Capt.
Officer detailed to take the Summary of Evidence.

The accused does not demand the attendance of this witness for cross-examination.

SECOND WITNESS for the prosecution.

Police Sergeant, D.C. Hobbs of Camberley, Surrey, a written statement of this witness's evidence purporting to be signed by him has been read to the accused and is included in this Summary of Evidence and marked Appendix "A".

Having regard to the exigencies of the service, and loss of time involved, attendance of this witness cannot in my opinion be readily procured.

(J.L. Morgan) Capt.
Officer detailed to take the Summary of Evidence.

The accused does not demand the attendance of this witness for cross-examination.

THIRD WITNESS for the prosecution.

Police Constable, J.W. Hunt of Haslemere, Surrey, a written statement of this witness's evidence purporting to be signed by him has been read to the accused and is included in this Summary of Evidence and marked Appendix "B".

Having regard to the exigencies of the service, and loss of time involved, attendance of this witness cannot in my opinion be readily procured.

(J.L. Morgan) Capt.
Officer detailed to take the Summary of Evidence.

The accused does not demand the attendance of this witness for cross-examination.

FOURTH WITNESS for the prosecution.

Lieut. P.L. Beckett, R.C.A., 10 Canadian Training Company, a soldier of the Canadian Army Overseas, having been duly sworn states:- In my capacity as Adjutant I was present at an identification parade held at the Grange on 12 Nov. 43. The accused Gnr. Grobb was unhesitatingly picked out by 2 Civilian Police Officers. These Civilian Police turned over to me a small pack allegedly containing a pair of boots which the accused had attempted to dispose of. I turned these over to the Unit Quartermaster at the first opportunity.

Q. When the Civilian Police Identified the accused, were they - the Police together?
A. No, he was selected individually, by each Police Officer.

P.L. Beckett Lieut.
.....
(P.L. Beckett) Lieut.
ADJUTANT,
10 Canadian Training Company.

The accused declines to cross-examine the witness.

FIFTH WITNESS for the prosecution.

B-27000 C.Q.M.S. Andrews, W.C.J., R.C.E., 10 Canadian Training Company, a soldier of the Canadian Army Overseas, having been duly sworn states:- After the Identification of the accused on 12 Nov. 43 Lieut. Beckett gave me a haversack containing a pair of boots ankle stating that these were the boots in the Grobb case.

Q. Do you recognize these boots marked Exhibit "1"?
A. Yes, Sir these are the same pair of boots that Mr. Beckett gave me.
Q. Can you recognize those boots as Canadian Army boots?
A. Yes.
Q. How do you know?
A. After a length of time handling these boots, which I believe are known as "Last 470", I am sure that they are a Canadian Army issue.
Q. Could you tell me as C.Q.M.S., 10 Canadian Training Company if Gnr. Grobb has a pair of boots in his possession?
A. Yes, Sir, when he came to this Unit he was deficient a number of articles among which was a pair of boots ankle. I issued him a pair on loan while the pair he was wearing were repaired.
Q. Has Gnr. Grobb a pair of boots in his possession now?
A. Yes, Lieut. Palmer and I went to the Guard-Room this morning and asked L/Cpl. Stein for Gnr. Grobb's boots which were underneath Gnr. Grobb's bed. He gave them to us.
Q. Do you recognize this haversack marked Exhibit "2"?
A. This is the same haversack that was given to me by Lieut. Beckett.

W.J. Andrews C.Q.M.S.
.....
B-27000 C.Q.M.S. Andrews, W.C.J.
10 Canadian Training Company.

The accused declines to cross-examine this witness.

The accused, No. B-9652 Gnr. Grobb, R.A. was cautioned as follows:- Do you wish to make any statement or to give evidence on Oath? You are not obliged to say anything or give evidence unless you wish to so, but whatever you say or any evidence you give will be taken down in writing and may be given in evidence.

The accused elects to give evidence on Oath.

The accused, No. B-9652 Gnr. Grobb, R.A., 10 Canadian Training Company, a soldier of the Canadian Army Oversees having been duly sworn states:- I was broke and was trying to borrow money to buy stamps to write to my girl friend and buy things which I needed such as razor blades, etc. It occurred to me that the shoes was one way to get money. I put them in my haversack and took them to Camberley and tried to sell them at various places. Outside the Brown Jug P.H. I run into the two civy cops and made the mistake of attempting to sell the boots to them. One guy said "come along with me" and when he said that I ran. They chased me through a yard with a flash-light. I jumped over a fence and fell down, and laid there till they went away. Then I went up to the bus-stop. It was about 9 o'clock so I came back to Camp.

The reason I had 2 pair of boots was that on arriving here I sent my only pair of boots for repair. The C.T.M.S. issued me with another pair to wear. The pair I attempted to sell was the pair which came back from repair.

R Grobb

.....
B-9652 Gnr. Grobb, R.A.
10 Canadian Training Company.

I certify that the foregoing Summary of Evidence consisting of three (3) pages was taken down by me in the presence and hearing of the accused, and that Rules of Procedure 4 (c),(d),(e),(f), and (g) have been complied with.

.....
(J.L. Morgan) Capt.,
Officer Detailed to take the Summary of Evidence

Farnborough, Hants.
18 Nov. 43.

No. [illegible] Name GROBB, R.A. Sqn., Battery, or Company 102 LAA. Corps R.C.A. Date of enlistment 27-9-41 G.C. Badges Service or Proficiency Pay M.F.M. 6 (A.F. B.1321) 40/P.S./8138 (2065)

Date of last entry in Company Conduct Sheet | No. and date of last drunk | Period not reckoning towards freedom from extra fine 1 destroyed 7-8-42 | Signature O.C. Company, etc. (H.F.Clark) Major O.C.,102 CDN. LAA. BATTERY, RCA. | Character

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order directing trial	By whom awarded	Remarks
Sussex, N.B.	19-4-42	Gnr.		Issued with special leave & Trans. A.A.Sec.40 Persisted in wearing his hat in Mess at meal time after being warned not to,	Warrant #A110639 Bdr.Urquhart J.F.	7 days C.B.	20-4-42	J.A.MacDonald Major	
Sussex, N.B.	24-4-42	Gnr.		After being duly warned appeared on COC's Insp'n with his kit improperly packed. A.A. Sec.40	Sgt. Lodge J.A. Bdr.Urquhart	14 days detention.	25-4-42	Lt-Col. E.W.Cormack	
Sussex, N.B.	14-6-42	Gnr.		A.W.L. from 2200 hrs.14-6-42 until 1300 hrs.16-6-42.A.A.Sec. 15(1)	L/Sgt. Milliken,J.G.	7 days C.B.	17-6-42	Major Forf.2 days H.F.ClarkP FR&I149(1)(a	
Sussex, N.B.	29-6-42	Gnr.		A.A.Sec.40.Neglected to shave himself & clean the brass on his cap for morning insp'n.	B185880 Sgt. Corbett,W.J.	14 days C.B.	Major H.F.Clark		

(P.T.O.)

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Colchester, Eng.	27-8-42	Gnr.		Failing to appear at the place of parade appointed by his C.O.	L/Bdr. Langford, HS	5 days C.B.	29-8-42	Major H.F. Clark	
Colchester, Eng.	28-8-42	Gnr.		Failed to appear in his lines at 2230 hrs. Conduct to the Prej. of Good Order & M.D. in that he was inattentive during lecture.	Sgt. Urquhart K.W.	3 days C.B.	29-8-42	Major H.F. Clark, Capt.	
Stiffkey, Eng.	12-11-42	Gnr.		Conduct to Prej., etc. On returning to the parade ground as a soldier of Fire Picquet, & after being warned by the Sgt. of the picquet that there would be no talking, said, "Well, I've got a pool game booked & I'll argue if I want to", or words to that effect. A.A. Sec.40	L/Sgt. Watson, K.M.	7 days C.B.	13-11-42	D.D.L. Harper, Capt.	

M.F.M. 6
(A.F. B.122)
40/P.&C./B136 (2068)

No B-9652 Name GROBB, R.A. | Sqn., Battery, or Company | Corps R.C.A. | Date of enlistment | G.C. Badges | Service or Proficiency Pay | Character

Date of last entry in Company Conduct Sheet | No. and date of last drunk | Period not reckoning towards freedom from extra fine | Sheet No. | Signature O.C. Company, etc.

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Field	29-11-42	Gnr		Breaking out of Brks.when his duty on Fire Picquet required him to be in Brks.AA Sec.10(4)	Bdr.Mercel, G.A. L/Bdr. Henderson	28 days Field Punishment	7-12-42	Lt-Col. E.W.Cormack	
Field	11Jan43	Gnr		A.A. Sec.40 10 mins late on parade	Sgt.Gage,W.R.	14 days C.B.	13Jan 43	Maj.H.F. Clark, for CO 8 Can LAA Regt.	

Certified true copy D.W. Harper Capt.
for (H.F. Clark) Major
O.C., 102 CDN. L.A.A. BATTERY, RCA.

(P.T.O.)

M.F.M. 6
(A.F. B.122)
40/W.A./3136 (2/05)

No. B 9652 Name GROBB, R.A. Sqn., Battery, or Company — Corps R.C.A. — Date of enlistment 27 Sep 41 — G.C. Badge — Service or Proficiency Pay — Character

Date of last entry in Company Conduct Sheet — No. and date of last drunk — Period not reckoning towards freedom from extra fine — Sheet No. 3 — Signature O.C. Company, etc.

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Mostyn Club London	21Apr 43	Gnr.		(1)Sec.18, Larceny Act 1916		Bound Over in the sum of £5 for 12 Months.	22 May43	Clerkenwell Police Court.	
Rainbow Club London	3May 43	Gnr.		(2)Sec.2, Larceny Act 1916					
Field	13Apr 43	Gnr.		(1st Charge)A.A.Sec.15(1)WOAS,AWL from 2215 hrs 13 Apr 43 until App. at 2200 hrs 7 May 43.(Abs.23 days 23 hrs and 45 mins.)		90 days det & stopp.of pay of £1:7:1 value of "kit" lost by neglect.	26 May43	F.G.C.M.	Fts24 days pay FRI 149(1)(a) Fts.19 days pay FRI 149(1)(c)i Total ft're 133 days pay,Plus stopp of pay of £1:7:1 value of "Kit" lost by neglect
Field	7 May 43	Gnr.		(2nd Charge)A.A.Sec.40 WOAS, An Act to the Prej.etc.i.e. was in poss. of a genuine pass, well knowing it was not, also being in poss.of two blank stamped forms	In close arrest from 2201 hrs. 7 May 43 to 13 May 43 incl. (7 days) In Civil Custody from 14 May 43 to 22 May 43 incl.(9days)		7 May 43		

(FTO:

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Field	24May 43	Gnr		(3rd Charge)A.A.Sec.24(2)WOAS, Losing by neglect etc.		In close arrest from 23 May 43 to 2359 hrs. 25 May 43 (3 days) Total 19 days			

No. B 9652 Name GROBB, R.E. Sqn., Battery, or Company T.E.M.P.C.R.A.R.V. Corps R.C.A. Date of enlistment G.C. Badges Service or Proficiency Pay M.F.M. 6 (A.F. B.132) 40/F & S/3156 (2868)

Date of last entry in Company Conduct Sheet | No. and date of last drunk | Period not reckoning towards freedom from extra fine | Sheet No. | Signature O.C. Company, etc. C. Wright Major | Character

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Name of Witnesses	Punishment awarded	Date of award or of order directing with (2)	By whom awarded	Remarks
Field	8.9.43	Gnr		Sec.40A.A. was moving about and twisting his face on parade and when told to stand steady attempted to argue the point.	Lieut. G.F. Boyer	14 days F.P. Forf. 14 days pay FR&I 149 (2)	8.9.43	Lt-Col. F.J. Thorne	
Field	11.9.43.	Gnr.		Sec. 9(2) disobeying a lawful command.	Lt. Sereeton Sgt, Will	21 days F.P. 21 days forf of pay FR&I 149(2)	16-9-43	F.J. Thorne Lt-Col.	

This to certify that this is a true and accurate copy of the original document held in my possession.

(F.J. Dockett) Lieut.
Adjutant,
1C Canadian Training Coy.

(P.T.O.)

Ex "B"
Middlemass
proof

M.F.B. 385
(2M.—3-41 (372-3))
H.Q. 1772-39-620
A.F.B. 266

STATEMENT AS TO CHARACTER AND PARTICULARS OF SERVICE OF ACCUSED

Number	Rank	Name	Regiment (or unit)
R-9468	CPL.	CROOM, ROBERT ALLAN,	10 CDN FDC COY.

1. The following is a fair and true summary of the entries in the Regimental and Squadron/Battery Service and General Conduct sheets or Conduct sheets of the accused, exclusive of convictions by a Court-Martial or a Civil Court, of summary awards under Section 47 of the Army Act / Air Force Act and of cases in which trial has been dispensed with.

	Within last 12 months	Since enlistment or appointment
For A.A. 40	1 times	2 times
For A.A. 10(4)	1 times	1 times
For A.A. 10	1 times	1 times
For A.A. 9(2)	1 times	1 times

Number of instances of good conduct or distinguished conduct A.A. 9(2) 1

or,

There are no entries in the conduct sheets of the accused.

NOTE.—If the charge is for drunkenness, the entries for drunkenness must be stated separately.

2. The accused has not been previously convicted

or,

Previous convictions of the accused by a court-martial or a civil court of summary awards under Section 47 of the Army Act / Air Force Act and dispensations with trial under A.A. 78 are set out in the Schedule annexed to this statement.

3. The accused is not under sentence at the present time.

or,

The accused at the present time is under sentence for beginning on the day of

4. The accused has been in confinement awaiting trial on the present charges, for 217 days in civil custody, and 10 days in military custody, making a total of 10 days in custody, of which 217 days were spent in hospital.

5. The present age of the accused according to his record of service / attestation paper is 22 years

6. The date of his enlistment specified in his record of service / attestation paper is 27 Sep. 42

7. The service which the accused is allowed to reckon towards discharge is 780 days

8. The accused is entitled to reckon 648 service for the purpose of determining his pension, etc.

9. The accused is in possession of or entitled to no air force decoration or air force reward (or is in military military possession of or entitled to). State any air force decoration or reward.

10. (If the accused is a warrant officer.) The accused before he was made a warrant officer last held Air Force the regimental rank of

11. (In the case of an officer.) The accused holds in the Royal Canadian Air Force the rank of Permanent Force unit

dated , and in his regiment (or corps), the rank of

dated .

12. The accused has served as a non-commissioned officer continuously, without reduction, to the present date:—

Date of promotion.

In the rank of years.

In the rank of years.

In the rank of years.

NOTE.—If any matter in any of the above paragraphs cannot be stated from the Regimental books, the paragraph must be struck through.

SCHEDULE

As Varte.

Of convictions by a court-martial or civil court, of summary awards under Section 47 of the Army Act, and of cases in which trial has been dispensed with of accused, Number B-2665 Rank Unit Name Crabb, Robert Allen of 10 Canadian Training Coy. Regiment

NOTE.—A verbatim extract from the regimental books stating these convictions and dispensations with trial must be inserted.

Description of Court by which tried	Date and Place of Trial	Charge upon which convicted	Sentence of the Court	Punishment Remitted
Civil Conviction	Kennington Lewden Clerkenwell Police Court. 21 Apr. 45	Sec 13 Larceny Act 1916 Sec 2 Larceny Act 1916	18 months Suspended Sentence	
F.C.C.M.	In the Field 13 Apr. 45.	A.A. 18(1) A.A. 40	90 days Detention	30 days remission

I hereby certify that the foregoing schedule of convictions and dispensations with trial is a true extract from the regimental books in my custody.

Signed this 20 Nov. day of November 1945 at Aldershot, Hants.

ADJUTANT

The above statement (with the schedule of convictions and of cases in which trial has been dispensed with) is read, marked signed by the president, and annexed to the proceedings.

FF-82
GNR GROBB R A.

B-9655 Gnr. Grobb, R.A.
No. 3 C.A.R.U. FF.82

Correspondence to be PINNED here.

Army Form A.3.

Form for Assembly and Proceedings of Field General Court Martial on Active Service.

PROCEEDINGS.

A.

Order convening the Court.

On Active Service, this 25th day of May, 1945.

Whereas it appears to me, the undersigned, an officer in Command of "C" Group, Canadian Reinforcement Units, Cdn Army Overseas., on active service, that the persons named in the annexed Schedule, being subject to Military Law, have committed the offences in the said Schedule mentioned.

And whereas I am of opinion that it is not practicable that such offences should be tried by an ordinary General Court Martial; *[and that it is not practicable to delay the trial for reference to a superior qualified officer.]

*Omit where Convening Officer is a Commanding Officer or is of Field Rank.

I hereby convene a Field General Court Martial to try the said persons, and to consist of the Officers appointed or detailed hereunder.

*[I am unable to appoint :—

*(1. Three Officers to form the Court.)

*(2. A Field Officer as President.)

for the following reasons, namely :—]

* Omit if not applicable.

NOTE.—The President must be named. The members and waiting members (if any) may be mentioned by name, or the number and ranks and the unit to which they belong may alone be named. In the latter event, the ranks, names, &c., of the members of the court, as constituted, will be recorded on the proceedings.

President.

Rank.	Name.	Regiment.
Lt-Col.	D.L. REDMAN, V.D.	H.L., S.R.E.

Members.

Rank.	Name.	Regiment.
A Major	from	1 C.E.R.U.
Captain	R.F. PARKER, ROA	1 C.A.R.U.
Lieutenant	Waiting Member W. MOORE, ROA	2 C.A.R.U.

*Signed [signature] Brigadier

Commanding "C" Group, Cdn Rft Units.
Convening Officer.

* Must be signed personally by the Officer actually in command at the time, and all alterations in the composition of the Court to be initialled by him.

SCHEDULE.

Number, Rank (*a*), Name and Unit of Accused (*b*)	Offence charged	*Plea	Finding, and if Convicted, Sentence (*c*)	How dealt with by Confirming Officer (*d*)
B-965E GNR. GROBB, Robert Allan R.C.A. No. 3 C.A.R.U.	First Charge A.A. sec 15(1)	Guilty	Guilty	Confirmed
	Second Charge A.A. sec 40	Guilty	Guilty	
	Third Charge A.A. sec 24(2)	Guilty	Guilty	
	Sentence To undergo detention for a period of Ninety (90) Days. and to be put under stoppages of pay until he has made good $71-7-1 the value of his "Cat" lost by neglect. See charge sheet attached.		26th May 1943	

* Question to be asked of accused, if he pleads not guilty (R. of P. 39 (A)):—
"Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity for preparing your defence?"
Answer (*to be recorded on separate sheet if necessary*):—

(Signed) J. Stewart Brigadier (Signed)
Commanding "C" Group, C.R.U.
Convening Officer (e) *President.*

(*a*) Appointment acting rank or acting appointment, if any, to be stated in brackets after the substantive rank.
(*b*) Unless unavoidable, not more than three names are to be entered on one form, and in serious cases one only.
(*c*) Recommendation to mercy, if any, to be inserted in this column.
(*d*) It is not necessary that the Confirming Officer should sign his name in this column. Initials are sufficient.
(*e*) Must be signed by the same Officer who signs on the first page, and all alterations in the first two columns of the Schedule to be initialled by him.

Evidence and Charge Sheets (if necessary) to be PINNED here.

B. Certificate of President as to proceedings.

I certify that the above Court assembled on the 26th day of May 1943, and duly tried the persons named in the Schedule, and that the plea, finding, and sentence in the case of each such person were as stated in the third and fourth columns of that Schedule.

I also certify that :—

1. The members of the Court
~~2. The witnesses~~
~~(3. The interpreter)~~
*(4. The officers under instruction)

were duly sworn.

* Omit if not applicable.

Signed this 26th day of May 1943

President of the Court Martial.

C. Certificate in case of death sentences.

* See footnote (b) on page 762 M.M.L. 1929.

~~I certify that the terms of A.C.I. 570 of 1918 have been complied with.~~

Signed this day of 19 .

President of the Court Martial.

D. Confirmation.

I have dealt with the findings and sentences in the manner stated in the last column of the Schedule, and, subject to what I have there stated, I hereby confirm the above findings and sentences.

* To be omitted unless penal servitude, imprisonment or detention having been awarded, the Confirming Officer either has no authority to commit to prison or detention barrack, or, having such authority, recommends suspension.

~~*(I direct that the soldier named in the margin be not committed to prison or detention barrack until further orders.)~~

Signed this 27 day of May 1943.

Confirming Officer.
J. C. STEWART, Brigadier,
Commanding "C" Group,
Can. Reinforcement Unit.

Promulgated and extracts taken in the case of B 9652 Gnr Grobb Robert Allan

(*a*) (Dated) D 0114 d 28 May 43 (Signed) [illegible] Capt
No. 3 CDN. ARTILLERY HOLDING UNIT

Promulgated and extracts taken in the case of

(Dated) (Signed)

Promulgated and extracts taken in the case of

(Dated) (Signed)

(*a*) When several cases are promulgated in one unit on the same day the Officer need only sign once.

CHARGE SHEET

The accused, B 9652, Gunner Robert Allan GROBB, "P" Training Wing, No. 3 C.A.R.U., a soldier of the Canadian Army Overseas, is charged with:-

1st Charge
Section 15(1)
Army Act

WHEN ON ACTIVE SERVICE
ABSENTING HIMSELF WITHOUT LEAVE

In that he,

At Huron Camp, Bramshott, Hants., illegally absented himself without leave from 2215 hrs 13 April 43 until apprehended by L/Cpl. Hamilton, H.E.C. and L/Cpl. Steinberg, D.M. at London, at 2200 hrs 7 May 43. Total absence 23 days, 23 hours and 45 minutes.

2nd Charge
Section 40
Army Act

WHEN ON ACTIVE SERVICE
AN ACT TO THE PREJUDICE OF
GOOD ORDER AND MILITARY DISCIPLICE

In that he,

at London, on 7 May 43, was in possession of a document purporting to be a genuine pass, well knowing that it was not a genuine pass, also being in possession of two blank stamped pass forms.

3rd Charge
Section 24(2)
Army Act

WHEN ON ACTIVE SERVICE
LOSING BY NEGLECT HIS EQUIPMENT, CLOTHING AND REGIMENTAL NECESSARIES.

In that he,

at Huron Camp, Bramshott, Hants., on 24 May 43 was deficient of equipment, clothing and regimental necessaries to the value of One Pound, Seven Shillings and One Penny (£1:7:1), which sum is 75% value of the vocabulary price of such articles which amounted to One Pound, Sixteen Shillings, Four Pence and Half Penny, (£1:16:4½), in accordance with C.A.(O)R.O. 1396 as below listed:-

		£	s	d	£	s	d
Battle-dress Trousers prs	1	1	7	11	1	0	9
Comb, hair	1			2			1½
Fork, table	1			5			3½
Holdall	1			9			6½
Jacket, sweater	1		6	9		5	0½
Spoon, table	1			4½			3½
Total		£ 1	16	4½	£ 1	7	1

Huron Camp,
Bramshott, Hants.,
25 May 43.

(B.R. Ker) Colonel,
Commanding,
No. 3 Cdn. Arty. Rein. Unit.

To be tried by Field General Court Martial

Brigadier
Commanding "C" Group, Cdn Reinforcement Units
Convening Officer

Bordon, Hants.
25 May 43.

Huron Camp
No. 3 C.A.R.U.

26 May 43

This is to certify that I have examined B 9652 Gnr. GROBB, R.A., on this 26th day of May 1943, and find him fit to undergo trial by Field General Court Martial.

Medical Officer

PROCEEDINGS OF A FIELD GENERAL COURT MARTIAL
HELD AT Quebec Barracks Boiden Hants 1943
ON THE 26 DAY OF May

The accused. B.9652 Gnr. Grobb RA. Unit... No. 3 C.A.R.U.

The order convening the Court and charge sheet are laid before the Court, who satisfied themselves as provided by Rs.P. 22 & 23.

The accused is brought before the Court.
The Medical Certificate is presented to the Court.
The order convening the Court is read by the President and the accused having been asked, stated that he had no objection to the president or any member of the Court.
The Court is duly sworn.

The following constitute the Court:-

President Lt. Col. D.L. Redman. ....Unit.....H.Q. C.R.U.....
Members...Major E.J. Durnin.....Unit.....I.C.E.R.U.....
.A/Capt. R.F. Parker.....Unit.....I.C.A.R.U.....

The officers under instruction are duly sworn:-

8 officers Sworn in.....Unit.....
.....Unit.....
Prosecutor..Capt. J.R. McElroy....Unit.....3 C.A.R.U.....
Defending Officer Lieut. J.T. Doyle....Unit.....3 C.A.R.U.....

The charge sheet is signed by the President and the accused is arraigned.
The accused pleads guilty to the charge(s) and R.P. 35(B) is complied with.
The accused does not desire to make a statement in reference to the charge(s). R.P. 37(B)
The Summary of Evidence is read.
The Prosecutor is sworn and produces MFB 355 and MFM 6. AFB ~~396~~
The Court complies with R.P. 46(B).

Pursuant to R.P. 37 THE ACCUSED:-

(a) makes a statement in mitigation of punishment
(b) calls witnesses as to character
(c) calls witnesses in mitigation of punishment
(d) addresses the Court by his Defending Officer

The Court is closed to consider the sentence.

SUMMARY OF STATEMENT IN MITIGATION, CHARACTER EVIDENCE AND ADDRESS OF ACCUSED OR HIS DEFENDING OFFICER

Plea in mitigation attached

(OVER)

F. D. C. M. Dvr. Groff R. A.

Statement by Defending Officer.

This accused has asked me to state to the court that he pleads guilty on all three charge against him.

This accused states that he left the United States to join the Canadian Army some over year with the 8th Duty't R.C.A. in which units he served until he was transfered to C.A.S.C. While at C.A.S.C. he passed his tests and became trained and available for the field. After he was trained he saw three drafts go out Duty to and he felt that he was being over looked.

While serving in the canadian army the accused has had a few minor [illegible] and this is the first

F. D. C. M. Dvr. Groff R. A.

Statement by Defending Officer

The accused has asked me to state to the court that he pleads guilty on all three charge against him.

The accused states that he left the United States to join the Canadian Army. Came over seas with the 8th Coy 1 C.A. in which unit he served until he was transfered to C.A.R.C. While at C.A.R.C. he passed his tests and became trained and available for the field. After he was trained he saw three drafts go out Overseas and he felt that he was being over looked.

While serving in the Canadian Army the accused has had a few minor casualties and this is the first

misconduct consisting of A.W.O.L. which he has against him.

I am sure that after the accused has served his punishment that he will work hard and become a good efficient soldier.

RMy

1 Cdn A.S.C. Rft Unit

Pass No.....Coy.....Date.....

No.....Rank.....Name.....

Has permission to be absent from his quarters/Duty:-

from.....to.....

for the purpose of.....

Station.....

Date.....

1 Cdn A.S.C. Rft Unit

Pass No.....Coy.....Date.....

No.....Rank.....Name.....

Has permission to be absent from his quarters/Duty:-

from.....to.....

for the purpose of.....

Station.....

Date.....

Exhibit "J"

1 Cdn A.S.C. Rft Unit

Pass No.....Coy.....Date.....

No.....Rank.....Name.....

Has permission to be absent from his quarters/Duty:-

from.....to.....

for the purpose of.....

Station.....

Date.....

1 Cdn A.S.C. Rft Unit

Pass No.....Coy.....Date.....

No.....Rank.....Name.....

Has permission to be absent from his quarters/Duty:-

from.....to.....

for the purpose of.....

Station.....

Date.....

(To be handed to the man proceeding on Pass)

Place Rabt

PASS

Date 5/10

Unit At the Field

No. [illegible] Gnr Gubb

has permission to be absent from his Quarters from

hours 1710 hrs the 12th until [illegible]

hours 1700 hrs the 26th for the

purpose of going Leave

(STAMP)

A Berry Lt Col

Lt.-Col. Commanding

Mil. Book 65

1551 Bks. 100—5-41 (121)

H.Q. 1772-61-33

(To be handed to the man proceeding on Pass)

Place Tel el

PASS

Date 4-5-43

Unit 67 TANK TRANSPORTER Coy RE ASC

No. 3.965.2 PTE CROBB. R

has permission to be absent from his Quarters from 1200

hours Monday until 1200

hours Monday the 19th 5-43 for the

purpose of going Local Leave

(STAMP)

67 TANK TRANSPORTER R.E.A.S.C.

C. Hunt Capt

Lt.-Col. Commanding

Mil. Book 65

MM Bks of 100—5-42 (305)

H.Q. 1772-61-33

EXHIBIT "11"

SUMMARY OF EVIDENCE IN THE CASE OF
B 9652, Gunner Robert Allan GROBB,
"B" Battery, "P" Training Wing,
No. 3 Cdn. Arty. Rein. Unit.

The Commanding Officer directs that the evidence be taken on oath.

1st Witness for Prosecution — M 61028 A/Bdr. Parry, R.H., "B" Battery, No. 3 C.A.R.U., having been duly sworn, states:-

"Sir. I M 61028 A/Bdr. Parry, R.H., N.C.O. i/c "A" Troop, "B" Battery, No. 3 C.A.R.U. called the roll at 2215 hrs on the 13th of April 43 and Gnr. Grobb, R.A. was not present. I had his name placed on the tattoo report of that date as absent from that time, Sir."

Bdr. Parry R.H.

The accused declines to cross-examine this witness.

2nd Witness for Prosecution — Lieut. C. Pidoux, RCA, #3 CARU, Pres. of Court of Inquiry.
Lieut. L.W. Ross, RCA, #3 CARU, Member of Court of Inquiry.

I, Capt. J.R. McElroy, RCA, Adjutant, "P" Training Wing, No. 3 C.A.R.U., the officer taking this Summary of Evidence, certify that owing to the loss of time and expense involved, the attendance of these witnesses cannot, in my opinion, be readily procured.

I now produce and read to you a Certified True Copy of the Declaration of a Court of Inquiry, held at Huron Camp, Bramshott, Hants., on the 8th day of May 1943, purporting to be signed by the said Lieut. C. Pidoux, RCA, and Lieut. L.W. Ross, RCA, which declared you to be illegally absent without leave from 2215 hrs 13 April 43 and still so absent at 8 May 43. This declaration is marked "A" and annexed hereto.

J.R. McElroy Capt

The accused does not require the presence of these witnesses for the purpose of cross-examination.

3rd Witness for Prosecution — M 48, L/Cpl. Hamilton, H.E.C., C.P.C., London.
B 95472 L/Cpl. Steinberg, D.M., C.P.C., London.

I, Capt. J.R. McElroy, RCA, Adjutant, "P" Training Wing, No. 3 C.A.R.U., the officer taking this Summary of Evidence, certify that owing to the loss of time and expense involved, the presence of these witnesses cannot, in my opinion, be readily procured.

I now produce and read to you Army Form B 252, dated at London on the 7th day of May 43, purporting to be signed by the said L/Cpl. Hamilton, H.E.C. and L/Cpl. Steinberg, D.M. which states that at about 2200 hrs on 7 May 43 you were apprehended by them at the Liberty Red Cross Club, Southampton Row, at which time you produced a leave pass, which you later admitted to be false, and further, that at the time of your arrest you had in your possession two blank stamped pass forms, which I now produce as EXHIBIT "I". This A.F.B. 252 is marked "B" and annexed hereto. This false pass I now produce as EXHIBIT "II".

J.R. McElroy Capt

The accused does not require the presence of these witnesses for the purpose of cross-examination.

(To page two)

4th Witness for Prosecution

A 57034 A/Sgt. Stirling, S., N.C.O. i/c Kit Stores, No. 3 C.A.R.U., having been duly sworn, states:-

"On the 24th day of May 43, I re-examined the Kit of B 9652 Gnr. Grobb, R.A., and found him to be deficient of articles to the value of One Pound, Seven Shillings and One Penny (£1:7:1), which is 75% of the vocabulary price of One Pound, Sixteen Shillings, Four Pence and Half Penny (£1:16:4½), in accordance with C.A.(O)R.O. 1398, as per list I am now presenting."

Stirling Sgt. A-57034

This list is marked "E" and attached hereto.

The accused declines to cross-examine this witness.

The accused having been duly cautioned in accordance with Rule of Procedure 4(e), reserves his defence.

Certified that Rules of Procedure 4(c), (d), (e), (f) and (g) have been complied with.

I certify that the foregoing Summary of Evidence, consisting of two pages, was taken down before me in the presence and hearing of the accused this 24th day of May 1943, at 3rd Training Wing, No. 3 Cdn.Arty.Rein. Unit.

(J.R. McElroy) Capt., R.C.A.,
No. 3 Cdn. Arty. Rein. Unit.

RECORD of the Declaration of a Court of Inquiry assembled at Huron Camp, Bramshott, Hants., on the 6th day of May 19 43 for the purpose of investigating and recording the absence, without leave, from his duty, and deficiency, if any, in the Arms, Ammunition, Equipments, Instruments, Regimental necessaries or Clothing of No. B 9052 Gnr. Grobb, R.A.

DECLARATION

The Court declare, that B 9052 Gnr. Grobb, R.A., illegally absented himself without leave from Huron Camp, Bramshott, Hants., at 0215 hrs 13 Apr 43, is still so absent, and that on the 7th day of May 43 he was deficient and is still deficient of the following articles:-

ARTICLES		100% Value			75% Value		
Battle-dress Blouse	1	£	1	8	£	1	2
Battle-dress Trousers, prs.	2 @ £1:7:11 pr.	2	15	10	1	0	9
Boots, ankle prs.	1	1	1	6	2	0	10½
Cap, field-service	1		3	8		16	11½
Comb, hair	1			2		2	9
Dressings, first-field	1			2			1½
Fork, table N.S. dessert	1		1	1			9½
Holdall	1			5			3½
Jacket-sweater	1			2			1½
Knife, clasp	1		6	9		5	0½
Shirt, angola drab	1		5	2½		3	11½
Spoon, table N.S. dessert	1		2	9		2	10½
Respirator, A/G, emplt.	1			4½			3½
Ointment A/G tins	1	1	1	0½		15	6
Eyeshields A/G	6 @ 4½d. ea.			9			7
			2	3		1	6½
Total		£ 7	16	8	£ 5	16	5½

25 May 43.
Certified true copy,
(J.R. McIlroy) Capt, RCA,
Adjutant,
"P" Training Wing,
No. 3 C.A.H.U.

Names of President and Members:

President:- Lieut. C. Fidoux, R.C.A., No. 3 C.A.H.U.

Member:- Lieut. L.W. Rose, R.C.A., No. 3 C.A.H.U.

Signature of Commanding Officer

(B.N. Ker) Colonel,
Commanding,
No. 3 Can. Arty. Reinf. Unit.

Certified true copy

Signature of Officer having custody of original record

(R.W. Keller) Lieut.

"A"

CHARGE

Army Form B 252
(See King's Regulations)

No. 3 C.A.R.U. ..... Regiment / Battery / Squadron / Troop or Company

CHARGE against No. B-9652 Rank Gnr.

Name Grobb, R.

Place London Date of Offence 7-May-43.

OFFENCE W.C.A.S. Being in possession of documents purporting to be genuine leave passes, well knowing it not to be so. (2) Being in possession of two blank stamped pass forms. when checked by the Cdn. Provost Corps, at the Liberty Red Cross Club, on Southampton Row, at about 22.00 hrs, on the 7-May-43.

Names of Witnesses :—

L/Cpl. Hamilton, H.E.C. Cdn. Provost Corps.

L/Cpl. Steinberg, D.M. Cdn. Provost Corps.

Signature of O.C. Battery, Squadron, Troop or Company

Punishment Awarded

By whom Awarded

"B"

Attached.

P.T.O.

Statement of **EVIDENCE** in the case of

B-9652 Gnr.Grobb,R.
NO.3 C.A.R.U.

Sir:

At London at about 22.00 hrs,on the 7-May-43,I was on duty at the Detention Room ,No.6 Coy. Cdn.Prov.Corps, when acting on information received I proceeded to the Liberty Red Cross Club,Southampton Row,where I saw the A/M soldier.

I approached him and asked him for his pass;he produced the attached pass which I was not satisfied with,I questioned him in regard to it and he stated it was false. He also had in his possession two blank,stamped,pass forms.

I placed him under arrest and escorted him to No.6 Cdn.Provost Corps Detention Room where I handed him over to the N.C.O.i/c of cells to be detained.

London
7-May-43.

H.C.Hamilton ..L/Cpl.
(M-48 Hamilton,H.C.)

Sir:

I have read over and corroborate the above statement.

London
7-May-43

.....L/Cpl.
(B-95472 Steinberg,B.M.)

REMARKS

CAPT.
A.P.M.

No.3.Canadian Artillery Reinforcemnet Unit. (Overseas)
Canadia n Army

24 May 1943.

"E"

B-9652 Gnr.Grobb R.A.

LIST OF DEFICIENCIES

		£	s.	d.	£	s.	d.
Battle-dress Trousers prs.	1	1	7	11	1	0	9
Comb,hair	1			2			1½
Fork,table	1			5			3
Holdall	1			9			6
Jacket,sweater	1		6	9		5	0
Spoon,table	1			4½			3
		£	1	16	4½	£ 1	7 1

I hereby certify that I have examined the kit of B-9652 Gnr. Grobb R.A. and find the above mentioned list of deficiencies.
Dated this 24th day of May 1943.

Signed.....Sterling Sgt. D.57014
N.C.O. i/c.Kit-stores No.3.C.A.R.U.

I hereby certify that the kit of B-9652 Gnr.Grobb R.A. was completed on entering this Unit on 4th.February 1943.

Signed.....Sterling Sgt D.57014
N.C.O.i/c.Kit-stores No.3.C.A.R.U.

"E"

M.F.M. 6

No. B9652 Name GRIBB, R.A. Sqn., Battery, or Company — Corps R.C.A. — Date of enlistment 27 Sep 40 — Regt. or Badge — Service or Proficiency Pay — Character

Date of last entry in Company Conduct Sheet — No. and date of last drunk — Period not reckoning towards freedom from extra fine — Sheet No. 1 — Signature O.C. Company, etc.

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award of order (entering with time)	By whom awarded	Remarks
Sussex, N.B.	19 Apr 42	Gnr.		A.A.Sec.40 WCAS.C.to the P.of G.C. and N.D.I.s.persisted in wearing his hat in Mess at regal time after being warned not to.	Bdr.Urquhart W.F.	7 days C.B.	20 Apr 42	Major J.A. MacDonald	
Sussex, N.B.	24 Apr 42	Gnr.		A.A.Sec.40 WCAS.C.to the P.of G.C. and N.D.I.s.after being duly warned appeared on CO's insp'n with his kit improperly packed.	Sgt.Lodge, J.A.	14 days Det.	25 Apr 42	Lt.col.E.W. Cormack.	
Sussex, N.B.	14 Jun 42	Gnr.		A.A.Sec.12(1)(a)WCAS.AWL from 2200 hrs 14 Jun 42 to 1300 hrs 16 Jun 42.(Abs. 1 day 15 hours).	L/Sgt. Milliken,J.F.	7 days C.B.	17 Jun 42	Major H.F. Clark	FAU 14 [illegible] 1)(a)
Sussex, N.B.	29 Jun 42	Gnr.		A.A.Sec.40WCAS.N.to the P.of G.C. and N.D.I.s.Neglected to shave himself &clean the brass on his cap for morning inspection.	Sgt.Corbett, W.D.	14days C.B.	29 Jun 42	Major H.F. Clark	

(P.T.O.)

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Field	27 Aug 42	Gnr.		A.A.Sec.15(1)WCAS,AWL 1.e. fail-ed to appear at the place of parade app.by his C.O.failed to appear in his lines at 2230 hrs, 27 Aug 42.	L/Bdr. Longford,H.G.	5 days C.B.	29 Aug42	Major H.F. Clark	
Field	28 Aug 42	Gnr.		A.A.Sec.40WCAS,G.to the P.of G.C. and N.D.I.e.was inattentive dur-ing lecture.	Sgt.Urquhart K.W.	3 days C.B.	29 Aug42	Major H.F. Clark	
Field	12 Nov 42	Gnr.		A.A.Sec.40WCASCond.to the P.ets while on parade,after being warn-ed that there would be no talking said"Well,I've got a pool game book-ed I'llargue if I want to",or words to that effect.	L/Sgt.Watson W.M.	7 days C.B.	13 Nov42	Capt.S.D.S. Harper.	
Field	29 Nov 42	Gnr.		A.A.Sec.10(4)WCAS,Breaking out of Brks.when his duty on Fire Picquet required him to be in barracks.	Bdr.Mercel, L/Bdr. Henderson,I.S.H.	28 days F.P.	7 Dec 42	Lt.col.L.W. Cormack	

M.F.M. 6

No. B9652 Name GROBB, R.A. Sqn., Battery, or Company — Corps R.C.A. — Date of enlistment 27 Sep 41 — G.C. Badges — Service or Proficiency Pay — Character

Date of last entry in Company Conduct Sheet — No. and date of last drunk — Period not reckoning towards freedom from extra fine — Sheet No. 2 — Signature G.C. Company, etc.

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Field	11 Jan 43	Gnr.		A.A.Sec.40 WUAB, ~~AWOL~~ 10 minutes late on Troop Parade.	Sgt.Gage, W.R.	14 days C.B.	13 Jan 43	Maj.H.F.Clark for C.O.& Cdn. Lt.A.A.Regt.	
Mostyn Club, London	21Apr43	Gnr.		(1)Sec.13 Larceny Act 1916		One years Probation	22May43		
Rainbow Club, London	3May43	Gnr.		(2)Sec.2 Larceny Act 1916					

CERTIFIED TRUE COPY OF ORIGINAL CONDUCT SHEET - 25 May 43.

(J.A. Mowbray) Capt., R.C.A.,
Adjutant,
"F" Training Wing,
No. 3 C.A.A.S.

(P.T.O.)

M.F.B. 385
(2M—5-41 (572-2)
H.Q. 1772-20-620
A.F.B. 290

STATEMENT AS TO CHARACTER AND PARTICULARS OF SERVICE OF ACCUSED

Number	Rank	Name	Regiment (or unit)
B 9652	Gunner	GIBB, R.A.	No. 3 C.A.A.U.

1. The following is a fair and true summary of the entries in the Service and General Conduct sheets / Regimental and Squadron, Battery or Company Conduct sheets of the accused, exclusive of convictions by a Court-Martial or a Civil Court, of summary awards under Section 47 of the Air Force Act / Army Act and of cases in which trial has been dispensed with.

	Within last 12 months	Since completion of six months service, / Since enlistment or appointment
For A.A.Sec.15(1)	Two (2) times	Two (2) times
For A.A.Sec.40	Four (4) times	Six (6) times
For A.A.Sec.10(4)	One (1) times	One (1) times
For Civil Offence	Two (2) times	Two (2) times

Number of instances of gallantry or distinguished conduct nil.

There are no entries in the ~~conduct~~ sheets of the accused.

NOTE.—If the charge is for drunkenness, the entries for drunkenness must be stated separately.

2. The accused has not been previously convicted nil.

Previous convictions of the accused by a court-martial or a civil court, of summary awards under Section 47 of the Air Force Act / Army Act and dispensations with trial under A.A. 73 are set out in the Schedule annexed to this statement.

3. The accused is not under sentence at the present time. nil.

The accused at the present time is under sentence for ..... beginning on the ..... day of ..... nil.

4. The accused has been in confinement awaiting trial on the present charges, for 7 days in civil custody, and 12 days in military custody, making a total of 19 days in custody, of which nil days were spent in hospital.

5. The present age of the accused according to his ~~record of service~~ attestation paper is 22 years, 113 days.

6. The date of his ~~enrolment~~ attestation specified in his ~~record of service~~ attestation paper is 27 Sep 41

7. The service which the accused is allowed to reckon towards discharge is 1 year, 241 days.

8. The accused is entitled to reckon 1 year, 241 days service for the purpose of determining his pension, etc.

9. The accused is in possession of or entitled to no air force decoration, or air force reward military / (or is in possession of or entitled to) ~~no~~ any air force decoration or reward. military

10. (If the accused is a warrant officer.) The accused before he was made a warrant officer last held the regimental rank of ..... nil.

11. (In the case of an officer.) The accused holds in the Royal Canadian Air Force the rank of
Permanent Force
unit
..... dated ....., and in his regiment (or corps), the rank of
..... dated .....

12. The accused has served as a non-commissioned officer continuously, without reduction, to the present date:

..... Date of promotion.

In the rank of ..... years.

In the rank of ..... years.

In the rank of ..... years.

NOTE.—If any matter in any of the above paragraphs cannot be stated from the Regimental books, the paragraph must be struck through.

SCHEDULE

Air Force

Of convictions by a court-martial or civil court, of summary awards under Section 47 of the Army Act, and of cases in which trial has been dispensed with of accused. Number R 9652 Rank Gunner Unit
Name [illegible], Robert Allan of No. 3 Sdn. Arty. Reid. Unit. Regiment

NOTE.—A verbatim extract from the regimental books stating these convictions and dispensations with trial must be inserted.

Description of Court by which tried	Date and Place of Trial	Charge upon which convicted	Sentence of the Court	Punishment Remitted
Civil Court	22 May 43 Clerkenwell Police Station	Sec.13,Larceny Act, 1916. Sec. 2 Larceny Act, 1916	One years probation	

I hereby certify that the foregoing schedule of convictions and dispensations with trial is a true extract from the regimental books in my custody.

Signed this 25 day of May 43 (A.G. MacKinnon) Capt. RCA. Records Officer, No. 3 Sdn. RCAF.

The above statement (with the schedule of convictions and of cases in which trial has been dispensed with) is read, marked ..... signed by the president, and annexed to the proceedings.

FLASH NUMBER TWO

FLASH NUMBER TWO

FLASH NUMBER TWO

FLASH NUMBER TWO

FLASH NUMBER TWO

FLASH NUMBER TWO

000.78

PTE GRADY A

4

SCHEDULE.

PART I. PLEA(S), FINDING(S) AND SENTENCE.

Accused: B-147583 Pte Albert GRODY, CIC, 11 CBR Bn

	Charge. (Insert "alternative" where applicable.)	Plea. (See Instrs p 2.)	Finding. (See note below.)	(Space for use as required for further charges, accused charged jointly, special findings, etc.)
1st	AWL 15 9/10	Guilty	Guilty	
2nd				
3rd				
4th				
5th				
6th				

(Note: As to findings for lesser offences see AA 56, RP 44; findings on alternative charges see MML p 493 fn 4 para 2, RP 44; special findings see RP 44 and MML p 733, and in lieu of kit see RP 44 fn 6.)

~~At present under sentence of~~ ~~imprisonment~~ ~~detention~~ ~~beginning on (date)~~ (1)

(1. Insert sentence being served, or delete, if not applicable. See RP 46(A). Information should be found on MF B355 or AF B296.)

Time in ~~custody~~ awaiting present trial—a total of 12 days, of which Nil days were spent in hospital.(1)

(1. See RP 46(A) fn 2. Information should be found on MF B355 or AF B296 admitted in evidence under Q2.)

Sentence Awarded by the Court:

2. forfeit all ordinary pays for a period of 14 days

9 Jan 44 (Sgd) [illegible] President.

(Sgd) ..... Judge-Advocate, if any. Date awarded.

(See back of Convening Order as to assembly and disposal of record after trial.)

PART II. MINUTE WHERE CONFIRMATION RESERVED. (AA 54(3), RP 120(F), MML p 760.)

Date ..... (Sgd) ..... Commanding .....

PART III. DECISION OF CONFIRMING OFFR ON FINDING(S) AND SENTENCE.

(For duties and powers see AA 54, 57, RP 31(D) fn 6, 46(A), 51-56, 120, MML pp 759-761, KR Con 567-577. Acquittals require no confirmation and cannot be revised: AA 54(2). Sending back finding or sentence for revision by Court: AA 54(2), RP 120(C). If not confirmed, accused may be tried again: AA 137, MML p 64. Minutes of confirmation or non-confirmation may be altered before promulgation: RP 53, MML p 65. Quashing after promulgation: KR Con 573. Duties and powers of reviewing offrs: AA 57, 57A, RP 53A, 54. The Confirming Offr must sign here personally. AA 172 fn 1.)

My decision on the finding(s) and sentence set forth in Part I is:

Confirmed

~~I direct that the accused be put committed to prison or detention barracks until further orders.~~ (1) (1. AA 57A. Delete if not used.)

Date 12 Jan '44 (Sgd) [signature] (G. Francoeur) Brig

Commanding ..... Comd 2 Can Army Tk Gp Confirming Officer.

PART IV. PROMULGATED AND EXTRACTS TAKEN. (RP 53, KR Con 576, 577.)

Accused.	Date.	Signature of Offr.
B147583 - Pte Albert Grody	14 Jan 44	Jno Pardee Capt.

ALL DELETIONS AND ALTERATIONS WILL BE INITIALLED.

2 CBRG 000-78

FIELD GENERAL COURT-MARTIAL

CPA66 (To be filled in by Adjt) 4/366

Convened by Order of Brig G Francoeur Comd 2 CBRG dated 8 JUN 44

ACCUSED.

(As to the trial of two or more charged jointly see RP 16, 71, 109. As to reasons for showing (a) permanent or confirmed rank, and (b) apptmt, A/rank or A/apptmt, if any, see AA 182, 183, fns, KR Con 308, 328, 330.)

Number.	(a) Prmnt R. (b) Apptmt. A/R or A/Apptmt.	Full Christian Name.	Surname.	Unit.
B-147583	Pte	Albert	GRODY	CIC, 11 CBR Bn

PROCEEDINGS REVIEWED

[signature] Major 12 Jun 44

(REVIEWING OFFICER, JAG BRANCH, CMHQ)

PROCEEDINGS OF TRIAL.

Held in the Fd in (country) ENGLAND on (date(s)) 9 JUN 44

RECORD FORM A—OPENING PROCEEDINGS AND ARRAIGNMENT.

A1. The President, Members, waiting Member, ~~SJA, if any, and Offrs under instr~~ if any, assemble, and the Court is closed.

(PRINTED MATTER, NOT IN ITALICS FOR GUIDANCE, WILL BE DELETED, IF NOT USED OR APPLICABLE, AND INITIALLED BY PRES OR JA. The Schedule referred to throughout is on p 4. Citations do NOT include all relevant fns ROs. For guidance on procedure when a variation in this form occurs, see form for GCM in MML pp 761 to 769. A brief record of such variation will be made and given a number having reference to appropriate or preceding para number herein. See back of Convening Order, CP 695, for oaths and instrs on how to record addresses, evidence, etc, which instrs are hereafter called "Notes". As to general provisions for conducting the trial see AA 22, RP 56, 63-70, 73, 74, 94, 103, 119, 132.)

A2. The President initials and lays before the Court the Convening Order and Charge Sheet(s) attached thereto.(1) The Court is satisfied that it is properly convened and constituted(2), accused is (are) amenable to military law, and each charge discloses an offence.(3)

(1. As to use of Summary of Evidence see RP 17 fn 6. 2. AA 49, 50, RP 105-107. 3. RP 11-13, 23, 24.)

A3. The Court is opened. The accused is (are) brought before the Court. At 1330 hours trial commences.

A4. The Prosecutor produces a Medical Certificate that accused is (are) fit to undergo trial by court-martial.(1) ~~The Prosecutor informs the Court that accused (himself to be tried by court-martial instead of being dealt with summarily by the O/C)~~ (2)

(1. KR Con 557. 2. AA 46(B), RP 60 fn 1. For effect see KR Con 563(c). Delete, if not applicable.)

A5. President to accused: Do you object to ..... as interpreter? Ans ~~No~~

The Interpreter is sworn.(1) Do you object to ..... as shorthand writer? Ans ~~No~~

The shorthand writer is sworn.(1)

(1. RP 72. Delete, if none employed.)

A6. The Convening Order and names of the President and Members of the Court are read to the accused.(1) President to accused: Do you object to be tried by me as President or by any of the Members of the Court?

Ans No (2)

(1. RP 110. 2. If no objection, waiting member recires. RP 66(B). If objection, see procedure AA 31, RP 25, 71, 98, MML p 742.)

A7. The President, Members, ~~SJA, if any, and Offrs under instr, if any~~ are sworn.(1) The following are the ranks, names and units of the offrs composing the Court, etc:

President	Major	F B COURTNEY	SSR,	11 CBR Bn
Member	Capt	G G McKNIGHT	CAC,	12 CBR Bn
Member	Capt	J H CAMPBELL		12 CBR Bn
Judge-Advocate				
Prosecutor	Lieut	G E FLEURY	RHLI	11 CBR Bn
Defending Offr	Lieut	E T HARSHMAN	RHLI	11 CBR Bn

Questions by President: Is the Prosecutor a lawyer? Ans No Sir Is the Defending Offr a lawyer? Ans No Sir (2)

(1. RP 26, 27, 109, 111. List of offrs under instr will be returned separately with proceedings for information of Comr Offr.)
(2. If Pros a lawyer and Def Offr not, accused is entitled to an adjournment when RP 89 (2) and fn 2 were not followed. See DH p 3.)

A8. The accused B-147583 Pte Grody A before arraignment make(s) (nil) plea ..... (1)

(1. If a special plea is made for separate trial on one or more charges (RP 62(E), 108), or as to the jurisdiction of the Court (RP 34, 35(A), 113), or in bar of trial (RP 36), or as to accused's mental fitness to stand trial (AA 130, RP 57), or by one of several accused charged jointly to be tried separately (RP 16, 71), such plea, the addresses made in support or against, the evidence, if any, and finding are recorded per Notes. For forms of record see references in fns to RoP cited. Insert in AB rank and name of the accused making the plea.)

A9. The accused is (are) arraigned (separately) on all charges in the charge sheet.(1) The accused does (do) not object to any charge.(2) There is no amendment to be made to the Charge Sheet.(3) The President records the pleas in Part I of the Schedule.

(1. RP 31, 112. See para 1 of Instrs p 2. When more than one Charge Sheet see RP 62; when several accused to be tried separately see RP 71(C), and use separate copies of CF AB1a to record proceedings. 2. RP 32, RP 32. If otherwise, delete and make appropriate record per Notes.)

A10. The Court ~~(is adjourned and)~~ considers the Instrs on Procedure after Arraignment at top of p 2. The proceedings are continued on Record Form B.

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

PROCEEDINGS REVIEWED 14 JUN 1944 D.J.A. Gn. Sec G.H.Q. 2 Echn. 21 Army Gp

Date

INSTRUCTIONS ON PROCEDURE AFTER ARRAIGNMENT.

1. *The accused may not plead or be found Guilty on more than one of two or more charges laid in the alternative. (RP 37(A).) As to withdrawal of alternative charges by Prosecutor see RP 35(C). No other charge can be withdrawn for any reason without authy from Convening Offr. If Convening Offr concurs, Court may accept plea of Guilty to lesser, etc, offence. (RP 44(H).) Accused may change a plea of Not Guilty to Guilty during trial. (RP 38.) As to refusing to plead or not pleading intelligibly see RP 35(A). As to plea when sentence may be death see RP 35(D).*

2. *The proceedings on each charge sheet (RP 62) after arraignment will be conducted as follows in the respective circumstances stated:*

I. If pleas to all charges are GUILTY, use Record Form B below.

II. If pleas to all charges are NOT GUILTY, use Record Form D on p 3.

III. If pleas to some charges are GUILTY and to other charges are NOT GUILTY and,

(a) Such mixed pleas occur when there are no alternative charges in the Charge Sheet, use Record Form C below. (RP 37(A).)

(b) Such mixed pleas occur in a set of two or more charges laid in the alternative, see RP 37 (A) and fn 2 as to discretion of Court, (i) to try the accused on all such alternative charges as if he had pleaded Not Guilty thereto, or, (ii) to record the pleas as the findings of Court. After deciding between (i) and (ii), Court will proceed under foregoing instrs as may be appropriate to result of its decision. See M M L p 744 Instrs (2).

3. *As to responsibility of President to accused see RP 59, 60(C); powers and duties of JA see RP 103; duty of Prosecutor see RP 60(A) (B); duty and privileges of accused and Defending Offr see RP 60(C), 87(C), 91, 92; swearing and withdrawal of witnesses from Court see RP 81, 82; questioning of accused see RP 80, 87(C), 92(B), and of witnesses see RP 83-85; calling or re-calling of witnesses by Court, etc, see RP 75-79, 86, 116; use of Summary of Evidence at Trial see RP 17(E) fn 6; and responsibility of JA or Pres to record proceedings see RP 94, 96.*

RECORD FORM B—PROCEEDINGS ON PLEAS OF GUILTY TO ALL CHARGES.

B1. The President or JA, if any, complies with RP 35(B) by explaining to the accused the nature and meaning of the charge(s)(1), and that on his plea of Guilty there will be no regular trial but merely a consideration of the sentence to be awarded after he has been given an opportunity to make a statement in reference to the charge(s), call witnesses as to character and make an address in mitigation of punishment.(2)
(1. RP 35 fn 3. 2. MML p 54 para 47.)

B2. President to accused: The Court will now receive any statement you desire to make in reference to the charge(s).(1) If it appears from your statement that there are circumstances which indicate that you do not understand the effect of the plea of Guilty(2), or which show provocation or extenuation in respect of which in your interest the witnesses for the Prosecution should be examined(2), we shall advise you to change your plea to Not Guilty. In making a statement you will not be sworn or subject to cross-examination; and anything you say will not be used in evidence against you after you change your plea. If, however, it appears to the Court that your statement affects only the amount of punishment to which you are liable, you will not be advised to change your plea and you will be given an opportunity later to prove your statement by sworn testimony, if you so desire.(4)

President to accused: Do you wish to make a statement ? Ans. Nil. (5)
(1. RP 37(B). 2. RP 37(D) fn 6. 3. RP 35(B) fn 3 para 3, MML p 54 para 47. 4. See para E3 of Record Form E. 5. Statement, if any, recorded per Notes.)

B3. The Court considers the accused's statement.(1) The Court decides (not) to advise accused to change his (their) plea(s) of Guilty to Not Guilty on ..... charge(s). The accused is (are) so informed, and he (they) change(s) his (their) plea(s) on ..... charge(s). Part I of the Schedule is amended accordingly.
(1. Court may be closed to consider the statement. Delete whole or part not used.)

B4. On the charge(s) to which the plea(s) of Guilty is (are) not changed the President records finding(s) of Guilty in Part I of the Schedule.(1)
(1. RP 35(B). If any plea(s) is (are) changed, use Record Form C or D as appropriate.)

B5. The Summary of Evidence is marked Ex B, initialled and read aloud by the President.(1)
(1. If there is no Summary, or if it is inadequate, comply with RP 37(B). If there is any evidence inconsistent with any plea standing as Guilty, Court will advise accused to change such plea and, if changed to Not Guilty, try such charge(s) by use of paras D1 to D8 inclusive of Record Form D on p 3. RP 37(D).)

B6. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

RECORD FORM C—PROCEEDINGS ON MIXED PLEAS OF GUILTY AND NOT GUILTY.

C1. As to the charges on which accused pleaded NOT GUILTY the trial is continued by using paras D1 to D8 inclusive of Record Form D on p 3 before proceeding with C 2.(1)
(1. RP 37(A) (E).)

C2. The charges on which accused pleaded GUILTY are read to him (them) again, and the trial is continued by using paras B1 to B5 of Record Form B above.(1)
(1. Under B5 such parts only of the Summary of Evidence are read as relate to the charges dealt with under C2. If any plea is changed to Not Guilty, trial thereon proceeds by complying with paras D1 to D8 inclusive in Record Form D on p 3 and making an appropriate record thereof on a separate sheet.)

C3. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

RECORD FORM D—PROCEEDINGS ON PLEAS OF NOT GUILTY TO ALL CHARGES.

D1. President to accused: Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity to prepare your defence ? Ans. ..... (1)
(1. If "yes", see RP 39(A) for procedure. Statement or evidence, if any, is recorded per Notes.)

D2. The Prosecutor makes (an) (no) opening address.(1)
(1. RP 39(B), 60(A) (B), 90, 92(C) (D). Record address per Notes, subject to RP 95(C).)

D3. The evidence for the Prosecution is taken.(1)
(1. RP 39(C), 114, KR Con 555. Record evidence per Notes. As to Prosecutor giving evidence himself see RP 39(D), (E).)

D4. The Prosecution is closed.(1) The Defending Offr submits that the evidence for the Prosecution does not establish a prima facie case against the accused on the ..... charge(s).(2) The Court is closed, and considers the submission.(3) The Court is re-opened, and the President announces that the submission is disallowed on the ..... charge(s), and allowed on the ..... charge(s), and that, accordingly, the trial will proceed on the former, but the accused is (are) found Not Guilty on the latter charge(s).(4)
(1. Delete remainder of this para. if submission not made. 2. Arguments on submission, answer and reply are recorded per Notes. 3. RP 40 fn 1. See MML p 72 paras 12-14 and p 81 para 42. 4. Delete if not used. If accused acquitted on all charges, use second alternative in para D8.)
NB: If trial proceeds, accused must be allowed great latitude in making his defence and the Court should not stop his defence solely on ground of irrelevance. (RP 60(C), 114, 115.)

D5. President to accused: You will now proceed with your defence.(1) You may, if you wish, give evidence yourself on oath as to the facts or your character or both, in which case you will be subject to cross-examination.(2) You may, however, make a statement without being sworn, and you will not be subject to cross-examination.(3) But a statement which could have been made on oath will not carry with the Court the same weight as sworn testimony.(4) You may call witnesses in your defence and as to character, whether you give evidence or make a statement or do neither.

President to accused: Do you wish to give evidence yourself as a witness, make a statement, or do neither ?
Ans. ..... Do you intend to call witnesses on your behalf ?
Ans. ..... Are they witnesses as to character only ? Ans. .....
(1. RP 115. 2. RP 40(A), see 80(B). 3. RP 40 fn 10. 4. RP 40 fns 2, 9.)

D6. Consequent on the answers recorded in para D5 the appropriate procedure for the defence is followed.(1)
(1. RP 114, 115, 116. For procedure see Notes on back of Convening Order, CF AB5. Evidence for accused as to his character should, if in his interest, be given before the finding. See RP 46(A) fn 1, 86(C). Note the further opportunity in para E1 of Record Form E. Record per Notes addresses, statement, evidence and any summing up by the JA under RP 42, 103(e).)

D7. The Court is closed to consider the finding(s).(1) The finding(s) of the Court is (are) recorded in Part I of the Schedule.(2) The Court is re-opened.
(1. RP 42, 117(A). See Notes in Part I of Schedule. 2. RP 44(A).)

D8. The President announces the finding(s), if any, of Not Guilty, and states to the accused that the finding(s) of the Court on the ..... charge(s), being subject to confirmation, will be promulgated later.(1)
Or, The President announces that the accused is found Not Guilty on all charges and is to be released forthwith, and that the proceedings are accordingly terminated. Part I of the Schedule is dated and signed.(2)
(1. AA 54(2) (d), RP 45, 120(A). 2. AA 54(2), RP 45, 117. This alternative announcement is not applicable when there are pleas of Guilty outstanding and dealt with under Record Form B or C.)

D9. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E below.

RECORD FORM E—PROCEEDINGS ON CONVICTION BEFORE SENTENCE.

E1. President to accused: Do you wish to give evidence yourself or to call any witnesses as to your character ?(1)
Ans. Written evidence only Offr 'D'
(1. If evidence has already been given by accused or his witnesses as to his character, delete this para. RP 37(C) fn 4, 46 fn 1. Accused and witnesses are sworn. Evidence recorded per Notes.)

E2. The Prosecutor produces Statement(s) as to Character and Particulars of Service(1), and certified true copy (copies) of Conduct Sheet(s)(2), purporting to refer to the accused, which he submits to the Defending Offr for examination, and then to the Court for admission in evidence. The Court is satisfied that these documents refer to the accused, because (i) they purport to be signed in the manner required by AA 163(1) (g) (h), and (ii) they purport to refer to (a) soldier(s) having the same number, rank, name and corps as the accused. Admitted in evidence and marked Ex C and Ex F respectively.(3)
(1. MFB 305 or AFB 296. 2. MAM 6. 3. RP 46, KR Con 558. If above documents not produced, see RP 46 fn 1 para 1.)

E3. President to accused: Do you wish to address the Court on the Statement(s) and Conduct Sheet(s), and in mitigation of punishment ?(1) Ans. In mitigation only (2)
(1. RP 37(C), 46(D). 2. Address, if any, recorded per Notes. Court should permit accused or his witnesses to prove on oath anything here or previously stated which would affect the amount of punishment. RP 37(F) fn 7.)

E4. The President states that the Court is closed to consider the sentence, and that the sentence to be awarded by the Court, being subject to confirmation, will not be announced, but will be promulgated later, and the proceedings in open court are accordingly terminated.(1)
(1. AA 54(6), RP 120(A).)

E5. The Court considers the sentence.(1) The President records the sentence in Part I of the Schedule, which is dated and signed by him and the JA, if any.(2)
(1. When several accused tried separately see RP 71 (D). One sentence only, comprised of the punishment or punishments laid down in AA 41, 44 and its proviso, is to be awarded to cover all charges in all charge sheets on which accused found guilty. RP 48. As to sentences see AA 44, 138, 182, RP 46-50, 69, 118, 119(A), KR Con 308, 330, 563-566, Overseas RO 309, 2323, MML p 60, 757-759. As to sentences assigned for civil offences by the law of England see AA 40(3), MML p 130. When accused already under sentence of imprisonment or detention see AA 44(15), 68(1), KR Con 564. 2. RP 20. As to release from arrest by Confirming Offr see KR Con 567. As to assembly and disposal of record after trial see instrs on back of Convening Order.)

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

CHARGE SHEET

The accused Pte., B-147583 ALBERT GRODY, C.I.C., attached to 51 Coy., 11 CBR Bn., a soldier of the Canadian Army Overseas, placed on Active Service is charged with:

CHARGE: WHEN ON ACTIVE SERVICE - ABSENTING HIMSELF WITHOUT LEAVE

in that he

In the Field at 1930 hrs on 27 May 44 did absent himself without leave from 11 CBR Bn., until 2255 hrs 28 May 44. (Total Absence 1 day, 3 hrs, 25 mins.)

.....
(G. H. Logie) A/Lt.-Col.
Commanding Officer, 11 CBR Bn.
C.A.(O).

In the Field
3rd June 1944

TO BE TRIED BY FIELD GENERAL COURT MARTIAL

(G Francoeur) Brig
Comd
2 Cdn Base Rft Gp

In the Field
8 Jun 44

FIELD GENERAL COURT-MARTIAL

(Whether the accused to be tried is under his comd or not, a FGCM may on application to him be convened by any offr of Cdn Army Overseas, or of any other force if authorized in law, in immediate comd of troops on active service, subject to RP 105(C) and restrictions imposed by appropriate authy. AA 49, 50, RP 104-107, 114. As to the duties and privileges of the Convening Offr in dealing with the application see MML Chap V paras 20 and 23, RP 87(B).

There should be a separate Convening Order for each person to be tried separately by the same Court. RP 71(C), 109. As to separate charge sheets see RP 62, and as to separate trial of charges in the same charge sheet see RP 108. As to two or more accused charged jointly see RP 14, 109.

As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

ACCUSED.

Number.	(a) Prmnt R. (b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
B-147583	Pte	Albert	GRODY	CIC, 11 CBR Bn

CONVENING ORDER.

1. Whereas complaint has been made to me, the undersigned, that the person(s) named above as the accused, being subject to military law, has (~~have~~) committed the offence(s) set forth in the Charge Sheet(s) attached and on (date) 8 JUN 44 endorsed by me, ~~(or by an offr of my staff for me)~~, " To be tried by Field General Court-Martial ",

2. And whereas I am of opinion that it is not practicable that such offence(s) should be tried by an ordinary General Court-Martial ; ~~(and that it is not practicable to delay the trial for reference to a superior qualified offr.~~

(Delete part in brackets when not required for compliance with RP 105(C).)

3. I hereby convene a Field General Court-Martial to try the said person(s), and to consist of the Offrs appointed or detailed hereunder.

4. ~~I am unable to appoint (a) three Offrs to form the Court, (b) a Fd Offr as President, for the reasons I have attached hereto.~~

(AA 49, RP 106(B), 107(A). Delete the whole or part, if not applicable.)

5. ~~I also appoint as Judge-Advocate (to act the Offr mentioned hereunder.~~

(RP 106(E). Delete if none appointed.)

PRESIDENT.

(Rank.)		(Must be named. RP 106.)	(Unit.)
Major	F B COURTNEY		SSR, 11 CBR Bn

MEMBERS.

(Rank.)		(Named or detailed. RP 106.)	(Unit.)
Capt	G G McKNIGHT		CAC, 12 CBR Bn
Capt	F R ROBINSON		RCCS, 13 CBR Bn

WAITING MEMBER.

(Rank.)		(Named or detailed, if any. RP 106.)	(Unit.)
Capt	J H CAMPBELL		12 CBR Bn

~~JUDGE-ADVOCATE.~~

(Rank.)		(Must be named, if any. RP 106.)	(Unit.)

On Active Service in the Fd

in ENGLAND (Country.)

Date 8 JUN 44

(Signed personally. RP 105 fn 2.) Brigadier (Rank.)

(G Francoeur)

Commanding 2 Cdn Base Rft Gp

Convening Officer.

CONVENING OFFR WILL INITIAL ALL DELETIONS AND ALTERATIONS

4/38A (AFAAS 170 (Incl. of AFAS 40/F & S/1947 (400))

(See overleaf for oaths and notes for use on trial.)

"H"

MEDICAL OFFICERS CERTIFICATE

(Kn(Con) Para 557)
(CMHQ CL 173)

I certify that I have this day examined D 147583 (No.)

RFN (Rank) GRODY (Name) A. and in my opinion he is

~~unfit~~ fit to undergo trial by Court-Martial.

Station Field

Date June 9/44

Medical Officer
(unit) 11 Bn 2 CBG

11 CBR BN

June 9/14.

To Whom it may concern

Pte A. Grody, who is acting as my batman at present is, in my opinion, a clean cut, reliable, intelligent young man. I would much for his character at any time.

S. Segallbapt. M.O.

Defence Exhibit "A"

"C"

98 Canterbury

Defence Exhibit B.

Jewish Chaplain
C R U
June 5th 1944.

CO
11 CBR Bn

Court-Martial
B147583 Rfn Grody A:

1. The a/m is facing a Court-Martial on a charge of AWL.

2. As Jewish padre, I should like to corroborate several statements made by the a/m.

(a) Sunday May 28th was the first day of the Hebrew Festival of Shevuoth or Pentecost.

(b) This does not, of course, absolve the very unsoldierlike act of absent without leave on that date. But it does point to the fact that the act was committed from a religious motive and not a sordid one.

(c) His act is unquestionably a serious one but after speaking with the a/m, one may understand the power of a sudden religious impulse to seek expression.

3. Could it be possible to consider the above facts in formulating the court's decision.

Isaac B Rose A/Capt CCS
Isaac B Rose A/Capt CCS
Jewish Chaplain
CRU.

"D"

Rfm. Bro Albert B 147583
11 Bn 2 C.B.R.C.
AWL 1 Day 3 hrs 25 Min.
1930 hrs 27th
2255 " 28th

The Accused
~~He~~ was a
Batman ~~on~~ and subject to Kitchen Fatigue Duty
at 11 Bn — prior to his A.W.L.
Approx - 6 Days ~~P~~ Parade a Canad
had been called out to attend
a parade for 51 Coy of 11 Bn —
He has been advised that ~~he~~ because
of his particular ability, he would be
required in or Establishment 11 Bn
therefore did not consider himself
subject to any ~~II~~ left restrictions.
His Dad ~~was~~ of Hebrew Descent and he is
a naturalized Canadian. His
Parents lived in Poland until war
broke out. Father shot in 1940
in ~~June~~ approx 27-28th May by
Nazis during the frightful purge of
many Jews in Poland. His
Mother and sister are in a Concen-
tration camp in Poland.
Advise from Red Cross.

7/ Brother was in R.A.F. in Middle East stationed near Cairo Egypt —

felt responsible for his father's plight because he had opportunity to take his parents to Canada — They had overcome at this time by grief and ~~despair~~ ~~to remain~~ ~~his family's plight~~ ~~in Poland~~ at the death of his ~~father~~ ~~followed~~ an impulse ~~to~~ ~~his religion~~ ~~This~~ ~~he felt~~ ~~his duty~~ ~~to do~~ ~~a~~ ~~feeling~~ ~~of~~ ~~lack of sympathy~~ from his immediate superiors together with a feeling ~~of~~ overcome by emotion ~~&~~ ~~grief~~ sorrow. Left his station at 1 p.m. on Dec 27th During the 28th he carried out the ritual of Shemoh and returned to camp at camp (11 Bn) at Latteo. 28th

57

It is the opinion of the defence that this man was definitely confused by statements made to him as to whom he was responsible and this fact along with the reasons stated above are ample to request the courts utmost clemency. He has now been punished in 13 months of his army career and joined active service to revenge by his work and response to duty the treachery which he personally had been affected.

He was not warned personally to attend the parade at 1930 - 27th or of any parades Sunday 28th. This was due to the location of the battalion quarters being some distance from the lines of the rest of the coy. to which he was attached. The accused asks for nominally

4/

The utmost consideration of the court.

Sgd/ C. T. Hardeman Lt.
Defending Officer

Exhibit A } attached as
" B }

14 Day Mil Cust
14 " Open Arrest

Attest 13 Aug 43
Clear

Summary of Evidence
IN THE CASE OF

B-147583, Pte. ALBERT GRODY, C.I.C., attached to 51 Coy., 11 CBR Bn., a soldier of the Canadian Army Overseas.

CHARGE: WHILE ON ACTIVE SERVICE - ABSENTING HIMSELF WITHOUT LEAVE
Army Act, Sec 15(1).

THE COMMANDING OFFICER HAS DIRECTED THAT THE EVIDENCE BE TAKEN ON OATH.

FIRST WITNESS: K-52761, Sgt. (A/CSM) McBride, Jerome Cornelius, SH of C., attached to 51 Coy., 11 CBR Bn., C.A.(O)., having been duly sworn states:

"I am acting as CSM of 51 Coy, 11 CBR Bn. At approximately 1145 hrs on 27 May 44, I was ordered by the Company Commander to inforce confinement to barracks of the Coy. until further notice. This information was posted on the Coy. detail board, was announced verbally to incoming training platoons, was announced on mess parades and was generally promulgated throughout the Coy. At 1715 hrs approximately, 27 May 44, I was ordered by my Company Commander to call a Coy parade at 1930 hrs 27 May 44. This information and order was generally promulgated throughout the Coy. by the COS and myself. The parade formed at approximately 1930 hrs 27 May 44. I called the Coy. roll on the parade and Pte. Grody failed to answer his name. I repeated his number rank and name twice: he failed to answer. Due to incoming and outgoing drafts it was necessary to muster the Coy. on the morning of the 28 May 44. This muster parade was announced at Reveille, time being set at 0900 hrs. The parade was duly formed at 0900 hrs. I called the roll: Pte. Grody failed to answer his name. I repeated his number, rank and name twice: Pte. Grody failed to answer. It was reported to me by the COS that Pte. Grody had returned from AWL at 2255 hrs 28 May 44. Pte. Grody's name had been carried on the Absentee Report from 1930 hrs 27 May 44 until reporting to the COS at 2255 hrs 28 May 44."

.....
(J. C. McBride, Sgt. (A/CSM)

THE ACCUSED DECLINES TO CROSS-EXAMINE THE WITNESS

SECOND WITNESS: B-77117, Sgt. Greenwood, Ross Stewart, TSR, attached to 51 Coy 11 CBR Bn., C.A.(O)., having been duly sworn states:

"On 27 May and 28 May 44, I was COS of 51 Coy, 11 CBR Bn. At approximately 1930 hrs on 27 May 44, CSM McBride called the roll: B147583, Pte. Grody, A., failed to answer his name. At approximately 2255 hrs 28 May 44, Pte Grody reported to me. His number, rank and name had been called at Tatoo roll call on 27 May 44 and again at Reveille on 28 May 44: he failed to respond. He further failed to answer his name at roll call at Tatoo 28 May 44. Pte. Grody had been continually absent without leave from 1930 hrs 27 May 44 until 2255 hrs 28 May 44. I have carefully read A/CSM McBride's sworn statement and I certify that the evidence therein is correct."

.....
(Ross Stewart Greenwood, Sgt.)

THE ACCUSED DECLINES TO CROSS-EXAMINE THE WITNESS.

QUESTION TO THE ACCUSED:

"Do you wish to make any statement or to give evidence upon oath? You are not obliged to say anything or give evidence unless you wish to do so, but whatever you say or any evidence you give will be taken down in writing and may be given in evidence."

"B"

ANSWER OF THE ACCUSED:

"I wish to make a statement."

"On the afternoon of 27 May 44, immediately after noon meal parade, I was xxxxxxxxxxxx reading some old mail from my parents, dated 5 years ago. I became very sad and felt very wretched, so I pictured in my mind the great sufferings and death that had gripped the writers of these letters asa result of the Jewish Pogroms in Poland since that time: my father murdered, my mother and sister still in a concentreation camp. Since it was the Jewish All Souls Day I had a great urge to spend the day in recollection and prayer. As a result, I journeyed to Camberley where I joined a friendly Jewish family in their spiritual exercises at home and in the synagogue. I left camp at 1830 hrs 27 May 44 and boarded the 1015 train (2215 hrs) from Camberley to Aldershot, arriving back in the unit lines at 2255 hrs. I submit this statement as a plea for understanding any mercy in this case."

Albert Grody

(Albert Grody, Pte.)
51 Coy, 11 CBR Bn., C.A.(O).

I CERTIFY THAT RULES OF PROCEDURE 4(c), (d), (e),(f) & (g) have been complied with.
This Summary of Evidence of two pages has been taken down by me in long-hand in the presence and hearing of this Accused in the Field at 11 CBR Bn., this 3rd day of June, 1944.

G E Fleury

(G. E. Fleury, Lieut.)
RHLI, 51 Coy., 11 CBR Bn.
Officer detailed to take Summary.

In the Field
3rd June 1944.

D Hambley Capt

MFM 6.
(AFB 122)
40/PAS/150 (9486)

No B-147857 Name Grody, A. Sqn, Battery, or Company Corps C.I.C. Date of enlistment GC Badges Service or Proficiency Pay

Date of last entry in Company Conduct Sheet | No and date of last drunk | Period not reckoning towards freedom from extra fine | Sheet No | Signature OC Company, etc | Character

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
				TEMPORARY SHEET (original not Available.)					

Certified a true copy from our regimental documents

J. W. Pardoe Capt
adjt 11 C.B.R. Bn.

(PTO)

STATEMENT AS TO CHARACTER AND PARTICULARS OF SERVICE OF ACCUSED

(For Use as Trials by Field General Courts-Martial only)

Number	Rank	Name	Regiment (or as the case may be)
S-18758	Pte.	ALBERT GRODY	C.I.C. 11 CRS Pn.

*1. The following is a fair and true summary of the entries in the Field Conduct Sheet of the accused, exclusive of convictions by a court martial or a civil court:-

FOR _____ _____ times,

FOR _____ _____ times,

FOR NIL _____ times,

FOR _____ _____ times.

Date of first entry in Field Conduct Sheet NIL

Date of last entry in Field Conduct Sheet NIL

2. Previous convictions of the accused by a court martial or a civil court are set out in the schedule overleaf.

*3. The accused at the present time is under sentence for NIL

beginning on the NIL day of NIL

4. The accused has been awaiting trial on the present charges for NIL days in civil custody; and for ~~XXXX~~ 14 days in military custody, i.e., ~~XXXX~~ 14 days in open arrest, NIL days in close arrest; of which NIL days were spent in hospital.

5. The present age of the accused is 30 years, 9½ mos.

6. The date of his attestation is 31/8/43

7. The service which the accused is allowed to reckon is 2 Yrs.

8. The accused is in possession of ‡ NIL

9. ~~If the accused is without office or N.C.O. the accused has served satisfactorily, without reduction, to the present date:~~

~~Date of promotion~~

~~In the substantive rank of~~ _____ _____

~~In the non-substantive rank of~~ _____ _____

~~In the acting rank of~~ _____ _____

INSTRUCTION: If any matter in any of the above paragraphs cannot be stated from the regimental books the paragraph must be struck through.

NOTE: The Field Conduct Sheet is to be produced in Court with this statement but is not tobe annexed to the proceedings. The numbers herein stated should correspond with the number of Entries in the Field Conduct Sheet, prominence being given to the most serious offence in each entry. If the charge is for drunkenness or absence without leave, the entries for drunkenness or absence, as the case may be, should be stated separately. Any recognized special acts of gallantry or distinguished conduct recorded on the Field Conduct Sheet should also be inserted here.

"E"

* Strike out if not applicable.

‡ State the military decorations (if any) held by accused.

SCHEDULE OF CONVICTIONS BY A COURT-MARTIAL OR CIVAL COURT

DISCRIPTION COURT BY WHICH TRIED	DATE AND PLACE OF TRIAL	CHARGES UPON WHICH CONVICTED	SENTENCE OF THE COURT	PUNISHMENT REMITTED SENTENCE SUSPENDED
		NIL		

I HEREBY CERTIFY that the foregoing particulars, which have been extracted from the regimental books in my custody, are correct to the best of my knowledge and belief.

Signed this 9th day of June 1944

F. M. Pardee, Capt.

(F. M. Pardee, Capt. & Adjut.)

HH·73
TPR GROETECKE H.J.

M75929 Tpr H.J. THOMPSON
1 Armd Car Regt (R C D)

HH-23

Army Form A.3.

Correspondence to be PINNED here.

Form for Assembly and Proceedings of Field General Court Martial on Active Service.

PROCEEDINGS.

A.

Order convening the Court.

On Active Service, this eleventh day of June, 19 43.

Whereas it appears to me, the undersigned, an officer in Command of 4 Canadian Armoured Brigade, 4 Canadian Armoured Division, on active service, that the persons named in the annexed Schedule, being subject to Military Law, have committed the offences in the said Schedule mentioned.

And whereas I am of opinion that it is not practicable that such offences should be tried by an ordinary General Court Martial; *[and that it is not practicable to delay the trial for reference to a superior qualified officer.]

*Omit when Convening Officer is a Commanding Officer or is of Field Rank.

I hereby convene a Field General Court Martial to try the said persons, and to consist of the Officers appointed or detailed hereunder.

*[I am unable to appoint :—

*(1. Three Officers to form the Court.)

*(2. A Field Officer as President.)

for the following reasons, namely :—]

* Omit if not applicable.

President.		Regiment.
Rank.	Name.	
Major	W.J. Scott	21 Canadian Armoured Regiment

Members.		
Rank.	Name.	Regiment.
Major	T.A. Wrenshall	12 Cdn Hy Fd Amb RCAMC
Captain	T.C. McGillivray	Lake Sup Regt (MG)
Captain	J. Dales	4 Sup & Cdn Armd Div

Waiting Member Captain

Judge-Advocate Major W.A.D. Gunn, ADJA, 4 Cdn Armd Div

NOTE.—The President must be named. The members and waiting members (if any) may be mentioned by name, or the number and ranks and the unit to which alone be named. In the latter event, the ranks, names, &c., of the members of the court, as constituted, will be recorded on the proceedings.

*Signed [illegible] (A.D.C. [illegible]) Brigadier Commanding 4 Canadian Armoured Brigade

Convening Officer.

* Must be signed personally by the Officer actually in command at the time, and all alterations in the composition of the Court to be initialled by him.

Correspondence to be PINNED here.

H75929 Sgt M.J. SCOTT
1 Armd Car Regt (R C D)

HH-73

Army Form A.8.

Form for Assembly and Proceedings of Field General Court Martial on Active Service.

PROCEEDINGS.

A. Order convening the Court.

On Active Service, this eleventh day of June, 19 43.

Whereas it appears to me, the undersigned, an officer in Command of 4 Canadian Armoured Brigade, 4 Canadian Armoured Division, on active service, that the persons named in the annexed Schedule, being subject to Military Law, have committed the offences in the said Schedule mentioned.

And whereas I am of opinion that it is not practicable that such offences should be tried by an ordinary General Court Martial; *[and that it is not practicable to delay the trial for reference to a superior qualified officer.]

*Omit where Convening Officer is a Commanding Officer or is of Field Rank.

I hereby convene a Field General Court Martial to try the said persons, and to consist of the Officers appointed or detailed hereunder.

*Omit if not applicable.

*[I am unable to appoint ~~:—~~

*(1. Three Officers to form the Court.)

*(2. A Field Officer as President.)

for the following reasons, namely :—]

30-Jun-43

M.J. Scott, Maj
Pres.
Court has been duly sworn

NOTE.—The President must be named. The members and waiting members (if any) may be mentioned by name, or the number and ranks and the unit to which they belong may alone be named. In the latter event, the ranks, names, &c., of the members of the court, as constituted, will be inserted on the proceedings.

President.

Rank.	Name.	Regiment.
Major	M.J. Scott	21 Canadian Armoured Regiment

Members.

Rank.	Name.	Regiment.
Major	W.A. Mershall	12 Cdn Lt Fd Amb ENGLAND
Captain	I.C. MacMillivrer	Lake Sup Regt (RC)
Waiting Member Captain	J. Boles	4 Sqn 4 Cdn Armd Div Sigs

* Must be signed personally by the Officer actually in command at the time, and all alterations in the composition of the Court to be initialled by him.

*Signed [D.D.B. Smith] Brigadier
Commanding 4 Canadian Armoured Brigade
Convening Officer.

Judge-Advocate
Major W.A.D. Gunn,
ADJA, 4 Cdn Armd Div

SCHEDULE.

Number, Rank (*a*), Name and Unit of Accused (*b*)	Offence charged	*Plea	Finding, and if Convicted, Sentence (*c*)	How dealt with by Confirming Officer (*d*)
K75929 Tpr Groeneke, H.J. 1 Armd Car Regt (R C D)	FIRST CHARGE Stealing Public Property A A Sec 18 (h)	Not Guilty	Not guilty	
	SECOND CHARGE (Alternative) A A Sec 40 Conduct to the Prejudice of Good Order and Military Discipline (see Charge Sheet att	Not Guilty	guilty with exception of Touchy Found Guilty 28 To undergo detention for 28 days Signed at In the field this 15 day of June 1943 M. J. Scott, Major Pres. W.O. Thompson Judge Advocate	Finding and Sentence confirmed A Bruce Hoy Lt Col A Corps Troops Coy 22 June 43

* Question to be asked of accused, if he pleads not guilty (R. of P. 39 (a)) :—
"Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity for preparing your defence ?"
Answer (*to be recorded on separate sheet if necessary*) :— No.

(Signed) A Bruce Hoy (Signed) M. J. Scott, Major
(A.B. Hoy) Lt Col
Commanding 1 Canadian Armd Bde — *Convening Officer* (*e*)
W.O. Thompson Judge Advocate

(*a*) Appointment acting rank or acting appointment, if any, to be stated in brackets after the substantive rank.

(*b*) Unless unavoidable, not more than three names are to be entered on one form, and in serious cases one only.

(*c*) Recommendation to mercy, if any, to be inserted in this column.

(*d*) It is not necessary that the Confirming Officer should sign his name in this column. Initials are sufficient.

(*e*) Must be signed by the same Officer who signs on the first page, and all alterations in the first two columns of the Schedule to be initialled by him.

Evidence and Charge Sheets (if necessary) to be PINNED here.

B. Certificate of President as to proceedings.

I certify that the above Court assembled on the fifteenth day of June, 1943., and duly tried the persons named in the Schedule, and that the plea, finding, and sentence in the case of each such person were as stated in the third and fourth columns of that Schedule.

I also certify that :—

1. The members of the Court
2. The witnesses
*(3. ~~The Interpreter~~) Shorthand writer and judge advocate
*(4. The officers under instruction)

were duly sworn.

* Omit if not applicable.

Signed this fifteenth day of June 1943.

M. J. Scott, Major
President of the Court Martial.
W.O. Thompson Judge Advocate

C. Certificate in case of death sentences.

* See footnote (*b*) on page 762 M.M.L. 1929.

~~I certify that the terms of *A.C.I. 570 of 1918 have been complied with.~~

Signed this ~~day of~~ 19 .

President of the Court Martial.

D. Confirmation.

I have dealt with the findings and sentences in the manner stated in the last column of the Schedule, and, subject to what I have there stated, I hereby confirm the above findings and sentences.

* To be omitted unless penal servitude, imprisonment or detention having been awarded, the Confirming Officer either has no authority to commit to prison or detention barrack, or, having such authority, recommends suspension.

*(~~I direct that the soldier named in the margin be not committed to prison or detention barrack until further orders.~~)

Signed this 22nd day of June 1943.

A Bruce Hoy
Confirming Officer.
A Corps Troops Coy

Promulgated and extracts taken in the case of K75929 Tpr Groeneke, Henry John 1 Armd Car Regt (RCD) attached to 22 Cdn Armd Regt

(*a*) (Dated) 23 June 43 (Signed) Lt Promulgating Officer 22 Cdn Armd Regt

Promulgated and extracts taken in the case of

(Dated) (Signed)

Promulgated and extracts taken in the case of

(Dated) (Signed)

(*a*) When several cases are promulgated in one unit on the same day the Officer need only sign once.

O.S. 42567-1407 20 M. 3/43 K.H./3265(2) Gp. 698-3

CHARGE SHEET

The accused, M75929 Tpr Harry John Groeteccke, 1 Armd Car Regt (RCD) attached to 22 Cdn Armd Regt, a soldier of the Canadian Army(Overseas), while on Active Service, is charged with:-

First Charge
Sec 18(4)
Army Act

STEALING PUBLIC PROPERTY

in that he

In the Field, between 1 JAN 43 and 26 MAY 43 did steal a quantity of War Department rations and stores, to wit;

Map Case
Chest Ammn .50 cal (M-3)
Flour 3-lbs
Rice 3-lbs
Earthenware Jar
Lard 2½-lbs
Knife Butcher 9"
Canvas, 2 pieces(from paliasse)
Tin of Jam (appx 1 lb)
Blanket G.S. 1
Margerine 1 tin
Towels, Hand cotton, 2

public property from the stores of the 1 Armd Car Regt(RCD)

Second Charge
(Alternative)
Sec 40
Army Act

CONDUCT TO THE PREJUDICE OF GOOD ORDER AND MILITARY DISCIPLINE

in that he

In the Field, on 26 MAY 43, was improperly in possession of a quantity of War Department rations and stores, public property, to wit;

Map Case
Chest Ammn .50 cal (M-3)
Flour 3-lbs
Rice 3-lbs
Earthenware Jar
Lard 2½-lbs
Knife Butcher 9"
Canvas 2 pieces(from paliasse)
Tin of Jam (appx 1 lb)
Blanket G.S. 1
Margerine 1 tin
Towels, Hand cotton 2

(M.P. Feller) Lt-Col
Comd 22 Cdn Armd Regt

In the Field
4 Jun 43

To be tried by Field General Court Martial.

(J D B SMITH) Brig
Comd 4 Cdn Armd Bde

ADJA 4 CDN ARMD DIV

In the Field,
10 Jun 43.

MEDICAL OFFICER'S CERTIFICATE

K.R. (Can.) Para 557

I certify that I have this morning examined No K75929

Groeticke H. J. of R.C.D. and in my opinion he is

fit
~~unfit~~ to undergo trial by court-martial.

Station Can. Army Troops

Date Jan 15/43

Medical Officer

M. J. Scott, Major.
D.A.D.M.S.
W. Command

PAGE 1

Accused K 75929 Pvt Harry John Gnatecko
(Number) (Name) (Middle Name) (Surname) (Unit)

Held in the Field in England on 15 Jun 45
(Country) (Date)

	Rank	Name	Unit
PRESIDENT:	Major	M J Scott	71 CAR
MEMBERS:	Major	A K Hinchliff	12 Gp FA Regt RCAMC
	~~Major~~ Capt	I.G. MacSweeney	Rep Sup Sec (W)
JUDGE ADVOCATE: (If any)	Major	W.R.B. Simms	RDJA W Ed Pad Dist
OFFICERS UNDER INSTRUCTION:	Captain C.M. Parent	71 Cdn Ord Regt	
	Lt. S.F. McAdam	71 Cdn Ord Regt	
	Capt. J. Bobe	4 Div Sig	
	Lt. K.J. Middlehurst	2nd Sup Regt	
PROSECUTING OFFICER:	Capt H.D. Sherwood	(Legal? ~~Yes~~)	No
DEFENDING OFFICER:	Capt B.E. Henry	(Legal? ~~Yes~~)	No

(The following procedure must be actually carried out)

The President requires the Convening Order, Charge Sheet and Summary of Evidence. (R.P. 17(2), 34(1)). /

The President, in Open Court (R.P. 22, Fn 2), reads the Convening Order and the Court, and to the Accused, that the Court is, if they consider it so advisable, authorized to find the accused guilty of any offence of which he could be found guilty upon the charge laid in the Charge Sheet. (R.P. 22(2)) /

The accused (~~is~~ ~~is not~~) challenged the Court, and at 1000 hours, the trial commenced. /

The Prosecuting Officer produces a Limited Certificate under K.R. (Army) 557 (Army Circular Letter 175) that the Accused is (~~is~~) fit to undergo trial by Court Martial. The certificate is initialled by the President and attached to the Proceedings. /

President to request:
Do you object to N.A. as Interpreter? and N.A.

The Interpreter is duly sworn.

Do you object to Sgt W.F. Clifford 71st Cdn Ord Coy as Shorthand writer? No

The Shorthand writer is duly sworn. (Form of Oath on Page).
The Convening Order is read to the Meeting of the Accused.
The Rights of the Accused and Elements of the Charge are read to the Accused (R.P.(2))

President to ~~Accused~~:
Do you object to any member of the Court, or the Judge Advocate, or any of the Officers under Instruction? and No

The President, Members, Judge Advocate and Officers under Instruction are duly sworn (R.P. 36(2)) (Forms of Oath on Page)

The Charge Sheet (/) is (~~/~~) initialled by the President. /

The Prosecuting Officer informs the Court that the accused has (has not) elected trial by Court Martial (A.A.40(2))

(If special plea/s in/bar made for separate trial on any charge (Rs.P.62(2), 108); or as to the jurisdiction of the Court (R.P.34); or in bar of trial (R.I.56); or for prosecutor's guilt disclosed by upon trial (vide Rule R.P.97), record upon plea and evidence (if any) on paper to be attached to the initialled by the President and entered in the proceedings.

Each charge is read to the accused and he is asked if each charge is read whether he pleads guilty or not guilty (R.P.112). He pleads as follows:

First Charge Not Guilty — First Charge _____

Second Charge Not Guilty — Sixth Charge _____

Third Charge _____ — Seventh Charge _____

Fourth Charge _____ — Eighth Charge _____

(For procedure on alternative charges, see R.P. 37, in 2)

Further proceedings are recorded on Pages ...next... attached.

Page 'B'

(For use when accused pleads 'Not Guilty' to all Charges)

(All printed matter not applicable to be struck out, and all alterations, insertions, and additions to be initialled by the President)

1. President to accused:
   Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been or judice thereby, or on the ground that you have not had sufficient opportunity for preparing your defence? (R.P.39(2)). Ans. No

2. The Prosecutor's opening address (if any) (R.P.39(3)) and the evidence for the prosecution are recorded on separate sheets, initialled by the President and attached hereto. (See RECORD OF EVIDENCE on Page 'C')

3. The Prosecution is closed. (If satisfied that there is no prima facie case established, see R.P.40 fn 1; R.P.70 fn 3)

4. The accused is informed that he may, if he wishes, give evidence, but if he does so, he will be liable to cross-examination (R.P.40 fn 2) or that he may, if he wishes, make an unsworn statement, upon which he can not be cross-examined. (R.P.40(b)(ii)(a)).

5. President to accused:
   Do you propose to give evidence yourself as a witness? Ans. Yes
   Do you intend to call any other witness in your defence? Ans. Yes
   Is he a witness as to character only? (R.P.40(b)) Ans. Yes as to [illegible]

6. The evidence for the defence (if any) is now recorded on separate sheets, initialled by the President and attached hereto.

7. The closing address of the Prosecutor, if any, (R.P.41) and the Judge-Advocate (if any) or Recorder are recorded on separate sheets, initialled by the President and attached hereto. (For order of addresses see R.P.40, 41 and 42)

8. The Court is now closed to consider the finding (Rec. p. 43 and 117) (Record Finding on Page C of A.F.A.3)

9. The Court being re-opened, the accused is again brought before it, and the findings of 'Not Guilty' (if any) are pronounced and (if findings of 'Not Guilty' on all charges) the accused is released. (R.P. 117(B)

10. Statement of Character and Service (A.F.B.196) and Field Conduct Sheet (A.F.B.196) signed in the manner required by A.A.163(1)(n) and purporting to refer to the accused by his number (if any), rank, name and Corps, are produced to the Court, read, marked "X" and "Y", initialled by the President and attached to the proceedings. (R.P.40; Overseas R.O.4131)

11. President to accused:
    Do you wish to address the Court on the Statements of Character Service and Conduct and in mitigation of punishment? (R.P.40(D).
    Ans. No. No cross-examination.
    (Record address, if any, on separate sheet, initialled by the President and attached hereto)

12. The Court is now closed to consider the sentence (Record on Page 2 A.F.A.3)
    (punishments, A.A.44, K.R.(Canada) 504-506; one sentence only awarded, R.P.42); sentence should be awarded in accordance with provisions of overseas routine Order 3262 completed with the sentence is not announced to the accused by the Court.

H. J. Scott Major
Witness and
Judge Advocate

PROCEEDINGS OF COURT MARTIAL
R.75626 Tpr Henry John Groeteoke
1 Armd Car Regt (R.C.D.)
Attd 22 Cdn Armd Regt.(CGG)

1st Witness Lieut V.M.Singer, 1 Armd Car Regt (RCD) having been duly sworn and examined by the prosecuting Officer states:-
I am Lieut V.M.Singer, 1 Armd Car Regt (RCD).

Q. What were you on 25 May 43?
A. I was Officer i/c Rear Party, as the result of a report, I immediately contacted Special Investigation Branch, South Eastern Army, Brighton, and directed to search the home of Tpr Groeteoke.

Q. What was the result of the search?
A. Certain exhibits were turned over to me by Sgt. Richards,A.L. of Special Investigation Branch.

Q. Are these the exhibits the stores turned over to you?
A. Yes, by Sgt. Richards, Special Investigation Branch, South Eastern Command.
List of exhibits turned over to the witness:-
Exhibit "A" - Butcher Knife
" "B" - Earthenware jar, full of rice.
" "C" - Army Blanket, which can not be positively identified but is similar to the one handed over to me.
" "D" - Tin containing lard.
" "E" - Map Satchel.
" "F" - Bag of flour.
" "G" - Tin of Margarine
" "H" - Tin of Jam
" "I" - Ammunition Box.
" "J" - Pallisse covers, which have been split.
" "K" - Two hand towels.
" "X" - [illegible]

Tpr Groeteoke was placed under close arrest and removed to next higher authority, 22 Cdn Armd Regt. Subsequently tried by Court Officer, 22 Cdn Armd Regt and remanded for Court Martial.

Cross Examined by the Defending Officer
Q. Mr Singer, do you know the accused?
A. Yes, I do.

Q. What do you consider his mental or educational status?
A. Not very high.

Prosecuting Officer declines to reexamine the witness.
Provisions of R.P. 93 (3) complied with. Witness withdraws.

2nd Witness Lieut. C.A.Greenleaf, having been duly sworn and examined by the Prosecuting Officer states:-
Sir, I am Lieut. C.A.Greenleaf, Adjutant of the 22 Cdn Armd Regt (CGG).

Q. Is Tpr Groeteoke attached to the 22 Cdn Armd Regt for discipline?
A. Yes, with Rear Party of 1 Cdn Armd Regt (RCD) attached to 22 Cdn Armd Regt with effect from 26 May 43 for discipline.

Defending Officer declines to examine the witness.
Provisions under R.P. 93 (3) complied with. Witness withdraws.

3rd Witness Sgt. Arthur L. Richards, Special Investigation Bureau, having been duly sworn and examined by the Prosecuting Officer states:-
Sir, I am Sgt. Richards, A.L. Special Investigation Branch, South Eastern Army # 142755582.

Q. What did you do 26 May 43?
A. Upon information received, I went to 28 Lansdowne Place, Hove, Sussex.

Q. What did you do then?
A. I went to this address and saw Tpr Groetecke and made known my identity, and said to him," I am making enquiries regarding some rations which are missing from your Unit." He replied, "Oh yes, come inside". With that invitation, I entered the house and said to him, "Where are the rations"? He said, "You had better look in the larder". And I discovered one tin containing two pounds of margarine, Exhibit "S", and one two pound tin of jam which was identical to War Department issue, Exhibit "G". I then cautioned "You are not obliged to make any statement unless you wish to do so, and that anything you say will be taken down in writing and given in evidence". I then told him that I intended to arrest him. I then carried out a complete search of the room tenanted by him with a result that I recovered the property mentioned in the charge.

Exhibit "S" identified	Exhibit "K" identified
" "J" identified	" "A" identified
" "I" identified	" "D" identified
" "P" identified	" "C" identified
" "S" identified	

I conveyed the accused, with the property to the Special Investigation Branch Office, Brighton, when I cautioned him and he elected to make a voluntary statement. I produced a form upon which the words of the caution were typewritten and he requested that I should write down from his dictation his voluntary statement. We read over the caution and signed same. I then wrote down his statement, this he afterwards read over and signed. This is the original statement made by Tpr Groetecke K 70029 taken down from his dictation in his own handwriting, which was read over by Groetecke and signed. This statement was countersigned by me.

Cross examined by Defending Officer

Q. You state that he requested you write out statement from his direction.
A. That is correct sir.

Q. You say that the accused read over the words of caution on the form and later his own statement.
A. I produced a form upon which the words of caution were typewritten. He read over this caution and fully understanding same, signed it.

Q. Did you explain the wording of it at all?
A. I explained the words of the caution to him both before and after he signed it.

Q. That way then, you were fully sure that he understood what he signed.
A. Definitely sure.

Q. Who was living in the house?
A. His wife.

Q. From conversation with the accused, do you know how long the accused was a tennant in the premises?
A. I don't know.

Q. When you first went to see the witness at his house, what was his attitude?
A. He did not attempt to hide anything at all.

Q. Did he give any indication of realizing how serious his position would be if these articles were found?
A. The exact words given by the accused during being conveyed from his home to the Special Investigation Branch Office, Brighton, was, "I am in for it now".

Defending Officer declines to examine the witness.
Provisions of R.F. 83 (B) complied with. Witness withdrawn.

4th Witness D 122841 Tpr Belac, J. having been duly sworn and examined by the Prosecuting Officer states:-
Sir, I am Tpe Belac, J. D 122841 of the 1 Armd Car Regt (RCD).

Q. How are you employed?
A. In the Regimental Quartermaster Office as a clerk, sir.

Q. Identify exhibits as War Department issue.
A. Exhibit "T". That was a map case, except for the blue paint on the map case.
Exhibit "J" That is what we call 50 cal Ammunition Chest (M3)
Exhibit "A" That is a knife butcher, G".
Exhibit "B" Earthenware jug, that comes with RAASC supplies.
Exhibit "J" That is just two parts of a palliasse.
Exhibit "G" Is not recognized.
Exhibit "G" An army issue blanket, GS.
Exhibits "P" "D" "H" Not recognized.

Defending Officer declines to examine the witness.
Provisions of R.F. 83 (B) complied with. Witness withdrawn.

Prosecution has closed the case. Does Defending Officer wish to make a statement?
A. No sir.

Court is closed.

Court reopened, all parties present.

1st Witness for defence K 75929 Tpr Henry John Grosetecke, 1 Armd Car Regt (RCD) having been duly sworn and examined by the Prosecuting Officer states:-
Sir, I am K 75929 Tpr Grosetecke, H.J. 1 Armd Car Regt (RCD)

Q. How are you employed Regimentally?
A. I used to work in the Quarter Stores before I came to Hove and Brighton, in other words, it's called Barrack Stores. I got the job in Hove, Brighton, as Assistant Salvage which I help Cpl. Roe on salvage.

Q. Will you tell your story leading up to the aquisition of the exhibits, and do you recognize articles before you as found in your possession?

A. Yes sir, I do. My witnesses do not know anything about the jam or margarine, they only know the ammunition box, 50 cal, two torn palliasses, earthernware jug and map case, one butcher knife, blanket, flour, lard and rice. The two towels I did not steal, my wife bought them in Aldershot Canteen. This stuff here, I have gotten out of the salvage except for the margarine and jam. I have gotten out of the kitchen, the jam and margarine, when the Regiment pulled away. They have been away for three or four weeks, I couldn't swear to that length of time. The rice I have saved from salvage which comes in sacks and tins. It took me a week to save the rice which I have here. The lard was found in the kitchen when the Regiment pulled away, it was dirty and sloppy, I have melted it and strained it three or four times to clean it. Flour I also got from the salvage, which comes in flour sacks from the ration stores. Each sack has a cup or half a cup in the sack which I have saved for two and one half weeks or three weeks. The butcher knife came from salvage too. The map case came from salvage also. The blanket came from salvage which I also had cleaned. The jug was found in the salvage also, I have cleaned the inside of the jug only, to put the rice in. The ammunition box, 50 cal. that was also in salvage which I took home, scraped it to be painted black for a lunch box in the Army. The palliasse was also in salvage. There were more than two or three. I took those two from the salvage yard one was burnt on the side but the top and bottom was not. I tore the burnt stuff away that was connected with the palliasse. There are four pieces to a palliasse, two sides, one top and one lower piece. The darker piece which was already in salvage and torn, I tore into a straight shape. I took those articles home for my own use only.

Q. You mentioned the towels were bought in Aldershot.
A. Yes sir.

Q. Under what conditions were these towels bought by your wife?
A. My wife works in the NAAFI. All NAAFI workers are supplied with NAAFI towels. If a soldier wants towels he can buy them, my wife purchased these towels.

Q. What was the condition of the butcher knife and the Map Case, did they lookas they do now or have you altered them in any way?
A. No sir, the butcher knife which I found in salvage was a little rusty, I cleaned it myself with cleanser. The map case was very wet, I put paper and boards inside to keep it from wrinkling up when it dried, and I painted it after it was well dried.

Q. On the 26 May 43 Sgt. Richards and a Sgt Major from the Special Investigation Branch came to your house, is that correct?
A. Yes sir.

Q. Will you tell in your own words what happened from the time you answered the door.
A. The landlady came and told me that there were two men out side to see me. I told them to come on into the room, they told me that they were police officers in civilian clothes. They told me that they want to search my place. I told them to look in the locker, and there they found the stuff, which was margarine and jam. They looked in the closet and found the rice, lard and flour. On top of the closet they found the map case and ammunition box, one knife from the drawer.

Wood

The blanket was torn from the bed, when they had completed their search in the house they told me that I was under arrest. I did not ask for a search warrant or their identification card. When I was being taken to the station, they left the house in a hell of a mess. I don't mean that they broke anything, but in a mess. Some people came down from upstairs when I left and seen the mess which they made. My wife was sick for three whole days and the baby six weeks old. When they have taken me to the Police Station, he told me that anything I say will be used against me, I said "Alright". The Sgt. Major typed something out, I think it was for my arrest and the way I acted. I have signed that sheet. I was awful nervous and upset. Then the Sgt Major left the room, leaving the Sergeant in the room, the Sergeant then offered me a cigarette. He asked me if I wanted to confess, I said I do not know. I don't remember what I said when I signed the papers, only some of it.

Q. Was your statement taken down from your own dictation?
A. No sir.

Q. How was it taken down?
A. He dictated some words that I did not understand, I must have told him something, but he said, come on Groeteske, did you or did you not steal this stuff. I said I have got it from the salvage except the margarine and the jam. That's all I could remember at the office, and I think that he gave me a cigarette to see if I was nervous. He gave me three or four cigarettes.

Q. You heard your statement read in the Court. It has been produced as an exhibit and your signature is on it. Is that the way it was dictated and was this statement read back to you?
A. It was read back to me, but I did not read it for I am not a good reader, in otherwords I do not understand large words or some small ones. I can talk the big words but I will be damned if I know what they mean.

Witness cross examined by Prosecuting Officer.

Q. You first stated that you helped Cpl Roe.
A. There are two of us on the salvage truck. Myself and the driver and two on the back.

Q. When you first took over the job as assistant to Cpl Roe, did he explain your duties?
A. I knew what my duties were, but Cpl Roe did not tell me. I often watched him at work.

Q. Cpl Roe was i/c of salvage?
A. Yes sir.

Q. Did Cpl Roe know that you were collecting these articles from salvage?
A. I do not know.

Q. What happens to salvage collected?
A. When stuff is brought in, we make a mistake sometimes. There are truck loads of this stuff brought in, and dumped on the ground. I turn in the good stuff to the Army dump. The old stuff is brought to the civic dump.

Q. Does the decision rest with you whether things are turned over to Army dump or for burning?
A. In Brighton and Hove I did the job myself.

Q. In your opinion, those articles that you kept from salvage were not fit to be returned to the Army dump, were they?
A. The blanket could be turned in. The ammunition box and the knife could be turned in. The knife could be cleaned.

WOFY

Q. Will you explain where you got the margarine, Exhibit "G".
A. I got the margarine and jam from the cook-house, but the cook-house was empty except for the margarine and jam. I also seen rubbish on the floor which was bread.

Q. Did anyone see you take the margarine and jam?
A. No sir.

Q. Did you feel that acting as salvage man that these things had been forgotten by the cooks?
A. I don't know sir.

Q. You have a cook-house for the rear party, haven't you?
A. Yes sir.

Q. Wouldn't it have been your duty to return the margarine and jam to the cook-house?
A. When I took the margarine and jam I did not think that.

Witness examined by Defending Officer.
Q. On the point of rations taken from the kitchen, do you live in barracks at the moment?
A. No sir.

Q. Do you eat your meals in barracks?
A. No sir, I have not eaten in the kitchen all the time, but when RAAPI breaks come. I go down for tea and bread and jam, which the cooks do not mind. Before I was married I have eaten in the kitchen.

Q. Is it correct that since your marriage you have been granted permission to live out?
A. I don't remember at all.

Q. Where you granted an overnight pass or were you told that you could sleep at home?
A. I have an overnight pass. Every man in the Regiment has one till 6 a.m., but he must turn in the pass to the Orderly Room and can get it back at 8 p.m. in the evening.

Q. When you took the margarine and jam, did you feel that you were denying someone else of rations?
A. Well sir, I did not think at that time what I was doing.

WOSM R.P. 83 complied with
Court is adjourned.

Court reopens with all members present.

2nd Witness for defence WOSM Lieut E.M.Jones, 1 Armd Car Regt (RCD) having been duly sworn and examined by the ~~Prosecutor~~ Officer states:- WOSM
Sir, I am Lieut E.M.Jones, 1 Armd Car Regt (RCD)

Q. Do you recognize the accused?
A. Yes I do sir.

Q. Do you know how he is employed?
A. Yes sir, He is a helper of Cpl Roe who attends to the salvage and sanitary duties.

Q. Has it ever been brought to your attention that food commodities and tin goods were finding their way into salvage?
A. Yes sir.

WOSM

Q. When and under what circumstances was this brought to your attention?

A. One week prior to 14 May 43 as Acting Adjutant, one morning during that time, Groeteske came into the Adjutant's Office and handed me two tins of milk, one of which had been partially used, the other was full. He claimed that he had taken the two cans from a garbage tin at the rear of R.H.Q. I placed them in my office and next day gave them to the 2 i/c, Major K.D.Londell.

Q. Do you know if this same condition prevailed regarding other articles of War Department issue?

A. At the same time I was Messing Officer, I noticed on several occasions some good food in swill tins.

WITNESS cross examined by Prosecuting Officer

Q. After the milk cans were found, was there any investigation held as to how they got there?

A. I enquired from the Batmen and drivers living at R.H.Q. They claimed no knowledge of it, and I do not know what action Major Londell took.

Q. What arrangements exist within your Unit for inspection of Salvage?

A. I am not aware of any salvage inspection other than that possibly by the Regimental Salvage Officer. I doubt if this inspection is carried out regularly.

Q. Does the decision, whether or not they are to be sent to the Army dump rest with Cpl Roe and Tpr Groeteske, acting in their capacity as sanitary Cpl and salvage helper assistant?

A. I imagine that this would be checked by Salvage Officer, I have no definite proof.

R. P. 8316 complied with. Witness withdrawn WO97

3rd witness for defence WO97

H 62822 Tpr Ross, C.R. 1 Armd Car Regt (RCD) having been duly sworn and examined by the Prosecuting Officer states:-

Sir, I am Tpr Ross, C.R. H 62822, 1 Armd Car Regt (RCD) "A" Sqn.

Q. Have you ever been employed in the Regimental Salvage yard?

A. Yes sir.

Q. How long ago was this?

A. About one month ago, roughly April.

Q. What were the conditions of collection and disposal of salvage in the yard?

A. The arrangements were by Squadron and ~~him~~ Regimentally. Sqns will pick up different articles then bring these over to Regimental Salvage dump. Then in turn we were detailed to dispose of it on our own.

Q. Did you ever find anything in salvage which was in good enough condition to turn back to Regimental Q.M. Stores?

A. We were not informed to return anything that I am aware of, but to take it down and get rid of it on our own.

Q. Where was this normally done?

A. At the civic dump.

Q. Did you ever see in the salvage yard that was destined for that civic dump, articles that were either edible if it was food or serviceable if equipment?

A. In most cases when we got salvage bags there was quantities of food left in. We had seven ~~x~~ kitchens to be collected from, and when you put it all together there is quite a bit. WO97

Q. Did you ever see anything in army equipment either in the way of battledress or foods similiar to the exhibits?

WO97

A. In the salvage, I have seen nearly everything that has been on issue to the Army except the whole vehicle itself. We have found Battledress with slight tears or grease spots, part of car tool kits, and when the Sqns have been out firing we have the empty cases and casings which they bring to us to dispose of.

Q. You referred to the ammunition case, what sort of a case was it?
A. What ever kind of ammunition was fired. We had several types of weapons in our Regiment such as the Browning, and until recently 15 mm Besas and all personal weapons.

Q. Were these ammunition cases not turned back to stores?
A. No sir.

Q. How were they disposed of?
A. The ammunition came in mixed, it didn't matter which box it went back into, but were shipped away to another salvage dump. There were always three or four left behind.

Q. Did anyone ever come around and say what portion was to go to Army dump or civilian dump?
A. No there were only two types of salvage, metal and paper. The swill was taken away before we saw it, it didn't come to our part.

Q. Did anyone direct you to the disposal of salvage?
A. Not that I can think of.

Witness examined by Prosecuting Officer

Q. How long were you employed as salvage man in your Unit?
A. One week at a time.

Q. When you had your tour of duty, did anyone explain your duties to you, or were there any standing orders issued to that duty?
A. No, only that salvage staff went along to show where it was to be disposed.

Q. You stated before that you were to get rid of it on your own. Did Cpl Roe tell you to do this?
A. Not exactly speaking. We had some one with us at all times, so just carried it out.

Q. Is this exhibit an ammunition box (Exhibit "A") of the type which you stated was sent to another dump?
A. That type is an issue to ranks to carry shaving kits in.

Q. Do you mean that each man has one of them on charge to him in his 00Cs.
A. These I believe are an issue to Necce Pers, but we have more now, they did not go back with the vehicles, and were given to the boys.

Q. Were they issued through Bde Q.M.Stores?
A. I cannot say myself, I was away at the time.

R.P. 834 Complied with. Witness withdraws with

Court closes.

Court reopens with all members present.

Lowry

DEFENDING OFFICER'S CLOSING ADDRESS

Sir, as has been brought out in evidence, all exhibits with the exception of "G", "H", and "K" namely margarine and jam, the towels were recovered from the Regimental Salvage Yard. These articles were being disposed of as being of no further use.

The accused is married and has been living at home. It is only natural with rationing as it stands in this country, he would collect as much edible food as came into his hands for disposal and take home. He has been living at home since end of February and eating there. He has not drawn any living out allowances or rations as both quarters and rations available. What food he has eaten at home has been mainly either food bought with his wife's ration coupons or such off ration commodities as have been available from time to time.

Exhibits "G" and "H", margarine and jam, were taken from the cook-house where the accused found them after the Regiment moved out on exercise and the defendant did not realise that he was depriving his fellow men of rations. None of the articles listed were sold but were used by and for the defendant himself. Morally speaking, the term "stolen" or "steal" may still apply but Tpr Groetecke took these exhibits without any malice or forethought, thinking only that these articles were being thrown away or being disposed of, and that he could personally use them to alleviate the situation at home. To my way of thinking the theft of articles in this manner does not constitute a crime as serious as had they been taken for instance, from the ration store. I therefore ask the Court to consider a plea of leniency, Sir.

The Court is Closed.

Prosecuting officer - Closing Address

First charge:

1. ownership of goods definitely established as W.D. property proven by 4th witness - except the towels
2. The removal and tracing of property was proven by 3rd & 5th witnesses
3. The accused's voluntary statement signed on 26th of May confesses to the theft of these articles
4. On statement under oath to establish that a salvage man be fully understood his duties, and that he was duty bound use his capacity as such to return to Army Stores exhibits I. ammo box A - Antelope knife C the blanket

2nd charge

Conspiracy in possession of W.D. Stores and Datsuns proven by 2nd witness and 5th witness Gentake himself.

Mr Jocelyn Mayo
President

Wg Cmdr Murray
Judge Advocate

W257

SUMMING UP OF JUDGE ADVOCATE

Judge Advocate reads from M.M.L. 118 para 80 and third paras and last in para 81.

There are two charges before the court. First, "Stealing public property" and a second charge alternative, "Conduct to the prejudice".

I am pointing out to you now that if the accused should be found guilty of the first charge he must be found not guilty of the second, and conversely if he is found guilty of the second charge he must be found not guilty of the first. In other words, when there are alternative charges, if the accused is found guilty, he can only be found guilty of one of them. With reference to the first charge, in order to bring in a verdict of guilty it will be necessary for you to come to the conclusion that the articles enumerated in the Statement of Particulars are War Department and stores, and also that the accused stole them. If you come to the conclusion that all the articles enumerated in the Statement of Particulars have not been proven to have been stolen by the accused, you can make a special finding excluding the articles which you have decided the accused did not steal.

With reference to the second charge, you will have to satisfy yourselves that the articles enumerated in Statement of Particulars are War Department rations and stores, and that they were found in the possession of the accused. If it has not been proven to your satisfaction that all the articles listed in the second charge have not been found in the possession of the accused, a special finding can be rendered by you excluding the articles which you decided were not in his possession.

Para 2

The Court must remember the principle of English law that the accused is presumed to be innocent until he is proven to be guilty, and the burden of the proof rests upon the prosecution. Unless, therefore, the guilt of the accused has been established beyond reasonable doubt, the accused must be acquitted, as the prosecution has failed to sustain adequately the burden of proving his guilt. Such a doubt should be one that reasonable men would have. It is more than mere suspicion. In other words, the Court must be satisfied not only that the circumstances proved were consistent with the guilt of the accused, but also that they were inconsistent with any other rational conclusion.

W257

Trial of H75929 Tpr Harry John GROETECKE, 1 Armd Car Regt (RCD)

List of Exhibits;-

Map Case
Chest Ammo. .50 Cal (M-3)
Flour 3 lbs
Rice 3 lbs
Earthenware Jar
Lard 2½ lbs
Knife Butcher 8"
Canvas, 2 pieces(from Palliasse)
Tin of Jam (appx 1 lb)
Blanket G.S. 1
Margerine 1 tin
Towels hand cotton 2

Dated in the Field this 4th day of June, 1943.

(C.A. Greenleaf) Lieut.
A/Adjt 22 Cdn Armd Regt

Exhibit L.
M. Pacott Hyn
Pres
Judge Advocate

Special Investigation Branch.
South Eastern Army.

Home Forces.

May 26th 1943.

Statement of No K 75929 Trooper, Stamp John GROETECKE, H.Q. Squadron, 12th Canadian Armoured Bde Regt. Royal Canadian Dragoons.

Who States:-

I have been cautioned by Sergeant A. Richards, of the Special Investigation Branch, South Eastern Army, that I am not obliged to make a statement unless I wish to do so and that anything I say will be taken down in writing and may be given in evidence. I have read over this caution and fully understanding same I wish to make the following voluntary statement. I append my signature hereto as having read this caution.

(Signed) H.J. Groetecke.

I have been stationed at Shoreham, Sussex, for about six months, and during that time I have been working in the salvage yard of my unit.

On February 8th of this year I got married, and went to reside at 25 Lansdowne Place, Hove, with my wife Joan Florence Groetecke.

During the latter end of February 1943, I took home an Army blanket, two towels, knife and an Army Knife Box. I stole them from the salvage yard.

Every night at five o'clock, I go to the Dining Hall for my tea. When I finish my tea, I walk down into the cookhouse, which is underneath the Dining Hall, and help myself to various sorts of cooking commodities, and tinned foodstuffs to take home. I have taken Jam, Margarine, Flour, Rice, and Lard, for the past seven weeks.

(Signed) H.J. Groetecke

I have read the above statement made by me

7.30p., Wednesday, 26th May, 1943, and I was given the opportunity of making any alteration. It is true in every detail, and voluntary, no threat, promise, or persuasion was made to me.

Signed) H. J. Gratteckae.

Statement taken and signature witnessed by Sergeant A.L. Richards, Special Investigation Branch, South Eastern Army, Nowra Forces.

SUMMARY OF EVIDENCE
in the case of

No. K75929 Tpr. Harry John GROETECKE, 1 Armd Car Regt (RCD), a soldier of the Canadian Army placed on active service.

CHARGES-

1. Stealing goods, public property.
2. (Alternative) Conduct to the prejudice of good order and (military discipline.

The Commanding Officer directs that the evidence be taken on oath.

1st Witness Lieut. V.M. Singer, 1 Armd Car Regt(RCD) having been duly sworn states;-

Sir; I am Lt V M Singer, 1 Armd Car Regt(RCD) and on the ~~xixxx~~ 25th of May 1943 I was C.O. Rear Party 1 Armd Car Regt(RCD) About that date certain shortages of rations and stores were brought to my attention. I investigated this matter and as a result of my investigations contacted the Military Police(Brighton), The Special Investigation Bureau, and directed that a search be made of Tpr. Groetecke's home. The search was duly carried out and on the evening of May 26th, as a result of this search, Tpr. Groetecke was placed under close arrest. In my capacity as C.O. Rear Party I heard the charges against him and referred them to a higher authority. Sir.

The accused declines to cross-examine.

V. M. Singer Lt.

2nd Witness: No.14E73582 Sgt. Arthur L. Richards, Special Investigation Bureau, S.E. Army, Home Forces, having been duly sworn states;-

Sir; At 7 p.m. on Wednesday 26 May 43, in consequence of information received, I went to number 26 Lansdowne Road, Hove, Sussex, accompanied by C.S.M. Purslow, H. S.I.B. SE Army, where I saw Tpr. Groetecke. I made known to him my identity and said to him "I am making inquiries about some stolen Army rations and I believe you know something about it" he replied "Oh yes, come inside". With that I entered the house and then said to him "Where a re the rations?" he replied "You had better look in the larder". I examined the larder and found one tin containing two pounds of margerine a nd one two-pound tin of jam which w ere identical to War Department issue. I then cautioned him and told him I intended to arrest him; and carried out a complete search of the rooms tenanted by him with the result that I recovered the property mentionned in the charge. I conveyed the accused with the property to the S.I.B. offices, Brighton, where I cautioned him and he elected to make a voluntary statement which he requested I should take down from his dictation. I procured a form upon which the words of caution were typewritten which he read over and signed. I then wrote down his statement which he afterwards read over and signed. I now produce this statement. Sir.
Certified copy of statement attached, and labeled Appx "A".
The accused declines to cross-examine.

Arthur L. Richards Sgt

3rd Witness D122841 Tpr. Bellack, J., 1 Armd Car Regt(RCD) having been duly sworn states;-

Sir; The exhibits which a re now before me are to the best of my knowledge Government property. Sir.

The a ccused declines to c ross-examine. J. Bellack

QUESTION TO THE ACCUSED:-
Do you wish to make any s tatement or to give evidence upon oath? You are not obliged to say anything or give evidence unless you wish to do so, but whatever you say or any evidence you give will be taken down in writing and may be given in evidence.

ANSWER BY ACCUSED:-
I have nothing to say.

I certify that Rules of Procedure 4(c)(d)(e)and(f) have been complied with.

Taken down by me in the presence of the accused in the Field this 27th day of May, 1943.

C E Parish

(C.E. Parish)Major
22 Cdn Armd Regt(CGG)

ADDITIONAL SUMMARY OF EVIDENCE
in the case of

No. M75022 Tpr Harry John Groeteckc, 1 Armd Car Regt (RCD), a soldier of the Canadian Army placed on active service.

CHARGE:-

1. Stealing goods, public property.

The Commanding Officer directs that the evidence to be taken on oath.

1st Witness

M122841 Tpr. Bellack, J., 1 Armd Car Regt (RCD) having been duly sworn states;-

Q-1. How are you employed?

A-1. I am Regimental Quarter Stores clerk with the 1st Armd Car Regt (RCD).

Q-2. You see before you the following exhibits:

Map Case
Chest Ammo .30 cal (M-3)
Flour 3-lbs
Rice 3-lbs
Earthenware Jar
Lard 2½ lbs
Knife Butcher 9"
Canvas, 2 pieces (from paliasse)
Tin of Jam (Appx 1 lb)
Blanket G.S. 1
Margarine 1 tin
Towels, Hand cotton, 2

Do you recognize any or all of these as being War Department rations or stores?

A-2. I recognize all the exhibits except the towels.

J. Bellack

The accused declines to cross-examine.

QUESTION TO THE ACCUSED:-
Do you wish to make any statement or to give evidence upon oath? You are not obliged to say anything or give evidence unless you wish to do so, but whatever you say or any evidence you give will be taken down in writing and may be given in evidence.

ANSWER BY ACCUSED:-
I have nothing to say.

I certify that Rules of Procedure 4(c)(d)(e) and (f) have been complied with.

Taken down by me in the presence of the accused in the Field this 8th day of June, 1943.

C E Parish

(C.E. Parish) Major
22 Cdn Armd Regt(COD)

No. K75929 Name Harry John GROETSCHEL | Sqn., Battery, or Company | Corps C.A.C. | Date of enlistment 14-7-41 | O.C. Badges | Tradesmen's Rates of Pay

No. and date of last drunk | Period not reckoning towards freedom from extra fine | Sheet No. 2 | Signature O.C. Company, etc. H. MacLeod Major | Character Good

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
				Sheet destroyed 14-1-42 Certified no entries Previous 6 months 1-9-42					
In the Fd	21-9-42	Tpr		AA Sec 15(1) AWL from place of Parade 0615 0650 hrs 21 Sep 42	Sgt S Croft	7 days CB	21 Sep 42	Maj Landell	R.L.
In the Fd	5 Nov 42			A.A. Sec 40 Conduct to the prej etc - not wearing sacking cover on respirator.	Cpl Waldon L/C Snyder	Admonished	5 Nov 42	Maj Landell	R.L.
In the Fd	9 Dec 42			A.A. Sec 15(1) AWL 6 hrs 9 Dec 42	Cpl Hall Sgt Galloway	7 days CB	9 Dec 42	Capt Reid	Forf 1 day's pay
In the Fd	20 May 43			A.A. Sec 40 Conduct prej etc When acting as a patrol failed to carry out his duties as ordered	L/Cpl Snyder Lt Singer	5 days CB	21 May 43	Lt Singer	-

(over)

(P.T.O.)

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks

M.F.R. 353
13M-2-39
H.Q. 1772-39-626

STATEMENT AS TO CHARACTER AND PARTICULARS OF SERVICE OF ACCUSED

Number	Rank	Name	Regiment (or Unit)
K75929	Tpr	Harry John GROETECKE	1 Armd Car Regt(RCD)

1. The following is a fair and true summary of the entries in the ~~Regimental and Squadron Orders~~ Service and General Conduct sheets ~~or Company Conduct sheets~~ of the accused, exclusive of convictions by a Court-martial or a Civil Court, of summary awards under Section 47 of the ~~Air Force Act~~ Army Act and of cases in which trial has been dispensed with.

	Within last 12 months		Since enlistment	
For A.A. Sec 15(1)	2	times	A.A. Sec 15(1)	2 times
For A.A. Sec 40	2	times	A.A. Sec 40	2 times
~~For~~	~~time~~	~~times~~	~~time~~	~~times~~
~~For~~	~~time~~	~~times~~	~~time~~	~~times~~

~~Number of instances of gallantry or distinguished conduct~~

~~or~~

~~There are no entries in the conduct sheets of the accused.~~

NOTE.—If the charge is for drunkenness, the entries for drunkenness must be stated separately.

2. The accused has not been previously convicted

~~or~~

~~Previous convictions of the accused by a court-martial or a civil court, of summary awards under Section 47 of the Air Force Act Army Act, and dispensations with trial under A.F.A. 73 A.A. 73 are set out in the Schedule annexed to this statement.~~

3. The accused is not under sentence at the present time.

~~or~~

~~The accused at the present time is under sentence for ..... beginning on the ..... day of .....~~

4. The accused has been in ~~confinement~~ awaiting trial on the present charges, for nil days in civil custody, and 10 ~~2~~ days in military custody, making a total of 10 ~~2~~ days in custody, of which Nil days were spent in hospital.

5. The present age of the accused according to his ~~record of service~~ attestation paper is 22 yrs 11 months

6. The date of his ~~commission~~ attestation specified in his ~~record of service~~ attestation paper is 14 Jul 41

7. The service which the accused is allowed to reckon towards discharge is 1 yr 10 mos 21 days

~~8. The accused is entitled to reckon ..... service for the purpose of determining his pension, etc.~~

9. The accused is in possession of or entitled to ~~no~~ ~~air force~~ military decoration, or ~~air force~~ military reward ~~nor is in possession of or entitled to~~ ~~State any air force~~ military decoration or reward.

~~10. (If the accused is a warrant officer.) The accused before he was made a warrant officer last held the regimental rank of .....~~

11. (In the case of an officer.) The accused holds in the ~~Royal Canadian Air Force~~ Permanent Force the rank of ..... dated ....., and in his unit regiment (or corps) the rank of ..... dated .....

12. The accused has served as a non-commissioned officer continuously, without reduction, to the present date:—

..... Date of promotion.

In the rank of ..... years.

In the rank of ..... years.

In the rank of ..... years.

NOTE:—If any matter in any of the above paragraphs cannot be stated from the Regimental books, the paragraph must be struck through.

SCHEDULE

Of convictions by a court-martial or civil court, of summary awards under Section 47 of the Air Force Army Act, and of cases in which trial has been dispensed with of accused, Number ..... Rank ..... Name ..... of ..... Regiment.

NOTE:—A verbatim extract from the regimental books stating these convictions and dispensations with trial must be inserted.

Description of Court by which tried	Date and Place of Trial	Charge upon which convicted	Sentence of the Court	Punishment Remitted

"I desire that an officer be assigned to defend me at my forthcoming trial by Field General Court Martial".

H. J. Groetecke

K 75929 Tpr Groetecke H.J.

I hereby certify that the foregoing schedule of convictions and dispensations with trial is a true extract from the regimental books in my custody.

Signed this 4th day of Jun 45 Lieut.

A/Adjt 22 Cdn Armd Regt

Officer i/c Records

The above statement (with the schedule of convictions and of cases in which trial has been dispensed with) is read, marked ..... signed by the president, and annexed to the proceedings.

RRR-75

PTE GROOMBRIDGE V

RECEIVED 17 JUL 1944 JAG BRANCH G.H.Q.

RECORDED AT CMH[illegible] IN ARMY RRR-95

CP/ABN. to line of AFAC

4/388

FIELD GENERAL COURT-MARTIAL

Convened by Order of Brig G S W Goetting, MD, Cond "A" GP CRU dated 6 Jul 44

ACCUSED.

(As to the trial of two or more charged jointly see RP 16, 71, 109. As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

Number.	(a) Prmnt R. (b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
B41009	Pte	Vernon	GROOMBRIDGE	6 CIRU CIC

PROCEEDINGS REVIEWED

17 Jul 44

J E Marshall Capt

REVIEWING OFFICER, JAG BRANCH G.H.Q.

PROCEEDINGS OF TRIAL.

Held in the Fd in (*country*) England on (*date(s)*) 8th of July 44

RECORD FORM A—OPENING PROCEEDINGS AND ARRAIGNMENT.

A1. The President, Members, waiting Member, JA, if any, and Offrs under instr, if any, assemble, and the Court is closed.

(PRINTED MATTER, NOT IN ITALICS FOR GUIDANCE, WILL BE DELETED, IF NOT USED OR APPLICABLE, AND INITIALLED BY PRES OR JA. The Schedule referred to throughout is on p 4. Citations do NOT include all relevant fmn ROs. For guidance on procedure when a variation in this form arises, see form for GCM in MML pp 741 to 759. A brief record of such variation will be made and given a number having reference to appropriate or preceding para number herein. See back of Convening Order, CF A95, for oaths and instrs on how to record addresses, evidence, etc, which instrs are hereafter called "Notes". As to general provisions for conducting the trial see AA 51, RP 56, 63-70, 73, 74, 94, 103, 119, 132.)

A2. The President initials and lays before the Court the Convening Order and Charge Sheet[1] attached thereto.[2] The Court is satisfied that it is properly convened and constituted[3], accused is (~~not~~) amenable to military law, and each charge discloses an offence.[4] pl

(1. As to use of Summary of Evidence see RP 17 fn 6. 2. AA 49, 50, RP 105-107. 3. RP 11-13, 23, 24.)

A3. The Court is opened. The accused is (~~not~~) brought before the Court. At 09[illegible] hours trial commences. pl

A4. The Prosecutor produces a Medical Certificate that accused is (~~not~~) fit to undergo trial by court-martial.[1] ~~The Prosecutor informs the Court that accused elected to be tried by court-martial instead of being dealt with summarily by the CO.~~[2] pl pl pl

(1. KR Can 557. 2. AA 46(B), RP 60 fn 1. For effect see KR Can 563(c). Delete, if not applicable.

~~A5. President to accused: Do you object to as interpreter? Ans~~ pl

~~The Interpreter is sworn.[1] Do you object to as shorthand writer? Ans~~ pl

~~The shorthand writer is sworn.[1]~~ pl pl

(1. RP 72. Delete, if none employed.)

A6. The Convening Order and names of the President and Members of the Court are read to the accused.[1] President to accused: Do you object to be tried by me as President or by any of the Members of the Court?

Ans [illegible] a[illegible].[2]

(1. RP 110. 2. If no objection, waiting member recites. RP 68(B). If objection, see procedure AA 51, RP 25, 71, 78, MML p 742.)

A7. The President, Members, JA, if any, and Offrs under instr, if any, are sworn.[1] The following are the ranks, names and units of the offrs comprising the Court, etc:

President	MAJOR	P P LORANGER, MC.	6 CIRU
Member	Capt	[illegible] Harvey	6 CIRU
Member	Lt	[illegible] Lavery	6 C.I.R.U.
~~Judge Advocate~~	~~Capt~~ Lieut	[illegible] M C Hill	6 C.I.R.U.
Prosecutor	Lieut	[illegible] P Sarrat	6 C.I.R.U.
Defending Offr	Lieut	[illegible] Hissing	6 C.I.R.U.

Questions by President: Is the Prosecutor a lawyer? Ans No Is the Defending Offr a lawyer? Ans No[2]

(1. RP 26, 27, 109, 111. List of offrs under instr will be returned separately with proceedings for information of Conv Offr.)
(2. If Pros a lawyer and Def Offr not, accused is entitled to an adjournment when RP 89 (B) and fn 2 were not followed. See p 3.)

A8. The accused B41009 Pte GROOMBRIDGE, V. before arraignment make(s) (no) (~~a~~) plea. pl

(1. If a special plea is made for separate trial on one or more charges (RP 62(E), 108), or as to the jurisdiction of the Court (RP 34, 35A), 112b, or in bar of trial (RP 36), or as to accused's mental fitness to stand trial (AA 120, RP 37), or by one of several accused charged jointly to be tried separately (RP 16, 71), such plea, the addresses made in support or against, the evidence, if any, and finding are recorded per Notes. For forms of record see references in fns to RoP cited. Insert in AB rank and name of the accused making the plea.)

A9. The accused is (~~not~~) arraigned (~~separately~~) on all charges in the charge sheet.[1] The accused does (~~not~~) object to any charge.[2] There is no amendment to be made to the Charge Sheet.[3] The President records the pleas in Part I of the Schedule. pl pl

(1. RP 31, 112. See para 1 of Instrs p 2. When more than one Charge Sheet see RP 62; when several accused to be tried separately see RP 71(C), and use separate copies of CF A64 to record proceedings. 2. RP 32, RP 33. If otherwise, delete and make appropriate record per Notes.)

A10. The Court (is closed and) considers the Instrs on Procedure after Arraignment at top of p 2. The proceedings are continued in Record Part B.

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

SCHEDULE.

PART I. PLEA(S), FINDING(S) AND SENTENCE.

Accused: B41009 Pte Vernon GROOMBRIDGE, 6 CIRU , CIC.

Charge. (Insert "alternative" where applicable.)	Plea. (See instrs p 2.)	Finding. (See note below.)	(Space for use as required for further charges, accused charged jointly, special findings, etc.)
1st AA Sec 15(1)	Guilty	Guilty	
2nd			
3rd			
4th			
5th			
6th			

(Note: As to findings for lesser offences see AA 56, RP 44; findings on alternative charges see MML p 46) fn 4 para 2, RP 44; special findings see RP 44 and MML p 753, and in loss of kit see RP 44 fn 6.)

~~At present under sentence for~~ (beginning on date) 9.7.44.

(I. Insert sentence being served, or delete, if not applicable. See RP 46(A). Information should be found on MF B355 or AF B296.)

Time in confinement awaiting present trial—a total of 35 days, of which 22 days were spent in hospital.(1)

(1. See RP 46(A) fn 2. Information should be found on MF B355 or AF B296 admitted in evidence under E2.)

Sentence Awarded by the Court:

To undergo detention for a period of six(6) months

(Sgd) ..... Judge-Advocate, if any.

9 July 1944 Date awarded.

(Sgd) [signature] President. (RP 45, 50.)

(See back of Convening Order as to assembly and disposal of record after trial.)

PART II. MINUTE WHERE CONFIRMATION RESERVED. (AA 54(5), RP 120(F), MML p 760.)

~~Date ..... (Sgd) ..... Commanding .....~~

PART III. DECISION OF CONFIRMING OFFR ON FINDING(S) AND SENTENCE.

(For duties and powers see AA 54, 57, RP 37(D) fn 6.46(A), 51-56, 120, MML pp 759-761, KR Can 567-577. Acquittals require no confirmation and cannot be revised: AA 54(3). Sending back finding or sentence for revision by Court: AA 54(2), RP 120(C). If not confirmed, accused may be tried again: AA 157, MML p 64. Minute of confirmation or non-confirmation may be altered before promulgation: RP 53, MML p 65. Quashing after promulgation: KR Can 572. Duties and powers of reviewing offrs: AA 57, 57A, RP 53A, 54. The Confirming Offr must sign here personally. AA 172 fn 1.)

My decision on the finding(s) and sentence set forth in Part I is:

Confirmed

~~I direct that the accused be not committed to prison or detention barracks until further orders.~~(1)

(1. AA 57A. Delete if not used.)

(Sgd) [signature]

Date 10 Jul 44

(G S N Gostling) Brig
"A" Gp Cdn Rft Units C A (O)
Commanding Confirming Officer.

PART IV. PROMULGATED AND EXTRACTS TAKEN. (RP 53, KR Can 576, 577.)

Accused.	Date.	Signature of Offr.
B-41009 Pte GROOMBRIDGE VERNON 6 C.I.R.U - C.I.C.	11 Jul 44	[signature] CAPT. ADJT., 6 CDN. INF. RFT. U... on duty

ALL DELETIONS AND ALTERATIONS WILL BE INITIALLED.

INSTRUCTIONS ON PROCEDURE AFTER ARRAIGNMENT.

1. *The accused may not plead or be found Guilty on more than one of two or more charges laid in the alternative.* (*RP* 37(*A*).) *As to withdrawal of alternative charges by Prosecutor see RP* 35(*C*). *No other charge can be withdrawn for any reason without authy from Convening Offr. If Convening Offr concurs, Court may accept plea of Guilty to lesser, etc, offence.* (*RP* 44(*H*).) *Accused may change a plea of Not Guilty to Guilty during trial.* (*RP* 38.) *As to refusing to plead or not pleading intelligibly see RP* 35(*A*). *As to plea when sentence may be death see RP* 35(*D*).

2. *The proceedings on each charge sheet* (*RP* 62) *after arraignment will be conducted as follows in the respective circumstances stated :*

I. If pleas to all charges are GUILTY, use Record Form B below.

II. If pleas to all charges are NOT GUILTY, use Record Form D on p 3.

III. If pleas to some charges are GUILTY and to other charges are NOT GUILTY and,

(*a*) *Such mixed pleas occur when there are no alternative charges in the Charge Sheet, use Record Form C below.* (*RP* 37(*A*).)

(*b*) *Such mixed pleas occur in a set of two or more charges laid in the alternative, see RP* 37 (*A*) *and fn* 2 *as to discretion of Court,* (i) *to try the accused on all such alternative charges as if he had pleaded Not Guilty thereto, or,* (ii) *to record the pleas as the findings of Court. After deciding between* (i) *and* (ii), *Court will proceed under foregoing instrs as may be appropriate to result of its decision. See MML p* 744 *Instrs* (2).

3. *As to responsibility of President to accused see RP* 59, 60(*C*); *powers and duties of JA see RP* 103; *duty of Prosecutor see RP* 00(*A*) (*b*); *duty and privileges of accused and Defending Offr see RP* 60(*C*), 87(*C*), 91, 92; *swearing and withdrawal of witnesses from Court see RP* 81, 82; *questioning of accused see RP* 80, 87(*C*), 92(*B*), *and of witnesses see RP* 83-85; *calling or re-calling of witnesses by Court, etc, see RP* 75-79, 86, 116; *use of Summary of Evidence at Trial see RP* 37(*E*) *fn* 6; *and responsibility of JA or Pres to record proceedings see RP* 94, 96.

RECORD FORM B—PROCEEDINGS ON PLEAS OF GUILTY TO ALL CHARGES.

B1. The President or JA, if any, complies with RP 35(B) by explaining to the accused the nature and meaning of the charge(s)(1), and that on his plea of Guilty there will be no regular trial but merely a consideration of the sentence to be awarded after he has been given an opportunity to make a statement in reference to the charge(s), call witnesses as to character and make an address in mitigation of punishment.(2)

(*1. RP 35 fn 3. 2. MML p 54 para 47.*)

B2. President to accused : The Court will now receive any statement you desire to make in reference to the charge(s).(1) If it appears from your statement that there are circumstances which indicate that you do not understand the effect of the plea of Guilty(2), or which show provocation or extenuation in respect of which in your interest the witnesses for the Prosecution should be examined(3), we shall advise you to change your plea to Not Guilty. In making a statement you will not be sworn or subject to cross-examination ; and anything you say will not be used in evidence against you after you change your plea. If, however, it appears to the Court that your statement affects only the amount of punishment to which you are liable, you will not be advised to change your plea and you will be given an opportunity later to prove your statement by sworn testimony, if you so desire.(4)

President to accused : Do you wish to make a statement ? Ans No.(5)

(*1. RP 37(B). 2. RP 37(D) fn 6. 3. RP 35(B) fn 5 para 3, MML p 54 para 47. 4. See para E3 of Record Form E. 5. Statement, if any, recorded per Notes.*)

B3. The Court considers the accused's statement.(1) The Court decides (not) to advise accused to change his (their) plea(s) of Guilty to Not Guilty on ..... charge(s). The accused is (are) so informed, and he (they) change(s) his (their) plea(s) on ..... charge(s). Part I of the Schedule is amended accordingly. —

(*1. Court may be closed to consider the statement. Delete whole or part not used.*)

B4. On the charge(s) to which the plea(s) of Guilty is (are) not changed the President records finding(s) of Guilty in Part I of the Schedule.(1)

(*1. RP 35(B). If any plea(s) is (are) changed, use Record Form C or D as appropriate.*)

B5. The Summary of Evidence is marked Ex I , initialled and read aloud by the President.(1)

(*1. If there is no Summary, or if it is inadequate, comply with RP 37(B). If there is any evidence inconsistent with any plea standing as Guilty, Court will advise accused to change such plea and, if changed to Not Guilty, try such charge(s) by use of paras D1 to D8 inclusive of Record Form D on p 3. RP 37(D).*)

B6. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

RECORD FORM C—PROCEEDINGS ON MIXED PLEAS OF GUILTY AND NOT GUILTY.

C1. As to the charges on which accused pleaded NOT GUILTY the trial is continued by using paras D1 to D8 inclusive of Record Form D on p 3 before proceeding with C 2.(1)

(*1. RP 37(A) (c).*)

C2. The charges on which accused pleaded GUILTY are read to him (them) again, and the trial is continued by using paras B1 to B5 of Record Form B above.(1)

(*1. Under B5 such parts only of the Summary of Evidence are read as relate to the charges dealt with under C2. If any plea is changed to Not Guilty, trial thereon proceeds by complying with paras D1 to D8 inclusive in Record Form D on p 3 and making an appropriate record thereof on a separate sheet.*)

C3. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

RECORD FORM D—PROCEEDINGS ON PLEAS OF NOT GUILTY TO ALL CHARGES.

D1. President to accused: Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity to prepare your defence? Ans.....(1)

(1. If "yes", see RP 39(A) for procedure. Statement or evidence, if any, is recorded per Notes.)

D2. The Prosecutor makes (an) (no) opening address.(1)

(1. RP 29(B), 60(A)(B), 90, 92(C)(D). Record address per Notes, subject to RP 95(C).)

D3. The evidence for the Prosecution is taken.(1)

(1. RP 39(C), 114, KR Con 555. Record evidence per Notes. As to Prosecutor giving evidence himself see RP 39(D)(E).)

D4. The Prosecution is closed.(1) The Defending Offr submits that the evidence for the Prosecution does not establish a prima facie case against the accused on the.....charge(s).(2) The Court is closed, and considers the submission.(3) The Court is re-opened, and the President announces that the submission is disallowed on the.....charge(s), and allowed on the.....charge(s), and that, accordingly, the trial will proceed on the former, but the accused is (are) found Not Guilty on the latter charge(s).(4)

(1. Delete remainder of this para, if submission not made. 2. Arguments on submission, answer and reply are recorded per Notes. 3. RP 40 fn 1. See MML p 72 paras 12-14 and p 81 para 42. 4. Delete part not used. If accused acquitted on all charges, use second alternative in para D8.)

NB: If trial proceeds, accused must be allowed great latitude in making his defence, and the Court should not stop his defence solely on ground of irrelevance. (RP 60(C), 114, 115.)

D5. President to accused: You will now proceed with your defence.(1) You may, if you wish, give evidence yourself on oath as to the facts or your character or both, in which case you will be subject to cross-examination.(2) You may, however, make a statement without being sworn, and you will not be subject to cross-examination.(3) But a statement which could have been made on oath will not carry with the Court the same weight as sworn testimony.(4) You may call witnesses in your defence and as to character, whether you give evidence or make a statement or do neither.

President to accused: Do you wish to give evidence yourself as a witness, make a statement, or do neither?

Ans.....Do you intend to call witnesses on your behalf?

Ans.....Are they witnesses as to character only? Ans.....

(1. RP 115. 2. RP 40(A), see 60(D). 3. RP 40 fn 10. 4. RP 40 fns 2, 9.)

D6. Consequent on the answers recorded in para D5 the appropriate procedure for the defence is followed.(1)

(1. RP 114, 115, 116. For procedure see Notes on back of Convening Order, CF ARS. Evidence for accused as to his character should, if in his interest, be given before the finding. See RP 46(A) fn 1, 86(C). Note the further opportunity in para E1 of Record Form E. Record per Notes addresses, statement, evidence and any summing up by the JA under RP 42, 103(e).)

D7. The Court is closed to consider the finding(s).(1) The finding(s) of the Court is (are) recorded in Part I of the Schedule.(2) The Court is re-opened.

(1. RP 43, 117(A). See Notes in Part I of Schedule. 2. RP 44(A).)

D8. The President announces the finding(s), if any, of Not Guilty, and states to the accused that the finding(s) of the Court on the.....charge(s), being subject to confirmation, will be promulgated later.(1)

Or, The President announces that the accused is found Not Guilty on all charges and is to be released forthwith, and that the proceedings are accordingly terminated. Part I of the Schedule is dated and signed.(2)

(1. AA 54(3)(b), RP 45, 120(A). 2. AA 54(3), RP 45, 117. This alternative announcement is not applicable when there are pleas of Guilty outstanding and dealt with under Record Form B or C.)

D9. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E below.

RECORD FORM E—PROCEEDINGS ON CONVICTION BEFORE SENTENCE.

E1. President to accused: Do you wish to give evidence yourself or to call any witnesses as to your character?(1)

Ans No

(1. If evidence has already been given by accused or his witnesses as to his character, delete this para. RP 37(C) fn 4, 46 fn 1. Accused and witnesses are sworn. Evidence recorded per Notes.)

E2. The Prosecutor produces Statement(s) as to Character and Particulars of Service(1), and certified true copy (copies) of Conduct Sheet(s)(2), purporting to refer to the accused, which he submits to the Defending Offr for examination, and then to the Court for admission in evidence. The Court is satisfied that these documents refer to the accused, because (i) they purport to be signed in the manner required by AA 163(1)(g)(b), and (ii) they purport to refer to (a) soldier(s) having the same number, rank, name and corps as the accused. Admitted in evidence and marked Ex 3 and Ex 4 respectively.(3)

(1. MFB 355 or AFB 296. 2. MFM 6. 3. RP 46, KR Con 558. If above documents not produced, see RP 46 fn 1 para 1.)

E3. President to accused: Do you wish to address the Court on the Statement(s) and Conduct Sheet(s), and in mitigation of punishment?(1) Ans No

(1. RP 37(C), 46(D). 2. Address, if any, recorded per Notes. Court should permit accused or his witnesses to prove on oath anything here or previously stated which would affect the amount of punishment. RP 37(F) fn 7.)

E4. The President states that the Court is closed to consider the sentence, and that the sentence to be awarded by the Court, being subject to confirmation, will not be announced, but will be promulgated later, and the proceedings in open court are accordingly terminated.(1)

(1. AA 54(6), RP 120(A).)

E5. The Court considers the sentence.(1) The President records the sentence in Part I of the Schedule, which is dated and signed by him and the JA, if any.(2)

(1. When several accused tried separately see RP 71(D). One sentence only, comprised of the punishment or punishments laid down in AA 41, 44 and its proviso, is to be awarded to cover all charges in all charge sheets on which accused found guilty. RP 48. As to sentences see AA 44, 138, 182, RP 46-50, 69, 118, 119(A), KR Con 308, 330, 563-566, Overseas RO 309, 2323, MML p 60, 737-739. As to sentences assigned for civil offences by the law of England see AA 46(5), MML p 130. When accused already under sentence of imprisonment or detention see AA 44(18), 68(1), KR Con 564. 2. RP 50. As to release from arrest by Commanding Offr see KR Con 367. As to assembly and disposal of record after trial see instrs on back of Convening Order.)

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

CHARGE SHEET

The accused, No B-41009, Private Vernon GROOMBRIDGE, of the Canadian Infantry Corps, on the strength of No 6 Canadian Infantry Reinforcement Unit, a soldier of the Canadian Army Overseas, is charged with:

FIRST CHARGE
SECTION 15 (1)
ARMY ACT

WHILST ON ACTIVE SERVICE, ABSENTING HIMSELF WITHOUT LEAVE,

in that he,

in the Field, did absent himself without leave from 2230 hours, 2nd May 44, until he surrendered himself at 2130 hours, 2nd June 44.

(Total absence: 30 days, 23 hours).

(W.E. MORGAN), Col.
Commander
6 Cdn Inf Rft Unit

in the Field
30th Jun 44.

To be tried by Field General Court Martial.

(G S N Gostling) Brig
Comd
"A" Gp Cdn Rft Units
CAO

Field
6 Jul 44

CPA96 (In lieu of AFA8)
40(PAM)1697 (50682)

FIELD GENERAL COURT-MARTIAL

(Whether the accused to be tried is under his comd or not, a FGCM may on application to him be convened by any offr of Cdn Army Overseas, or of any other force if authorized in law, in immediate comd of troops on active service, subject to RP 105(C) and restrictions imposed by appropriate authy. AA 49, 50, RP 104-107, 114. As to the duties and privileges of the Convening Offr in dealing with the application see MML Chap V paras 20 and 23. RP 87(B).

There should be a separate Convening Order for each person to be tried separately by the same Court. RP 71(C), 109. As to separate charge sheets see RP 62, and as to separate trial on charges in the same charge sheet see RP 108. As to two or more accused charged jointly see RP 16, 109.

As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

ACCUSED.

Number.	(a) Prmnt R. (b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
B41009	Pte	Vernon	GROOMBRIDGE	6 CIRU CIC

CONVENING ORDER.

1. Whereas complaint has been made to me, the undersigned, that the person(X) named above as the accused, being subject to military law, has ~~(have)~~ committed the offence(X) set forth in the Charge Sheet(X) attached and on (date) 6 Jul 44 endorsed by me, ~~(or by an offr of my staff for me)~~, "To be tried by Field General Court-Martial".

2. And whereas I am of opinion that it is not practicable that such offence(X) should be tried by an ordinary General Court-Martial; ~~(and that it is not practicable to delay the trial for reference to a superior qualified offr)~~

(Delete part in brackets when not required for compliance with RP 105(C).)

3. I hereby convene a Field General Court-Martial to try the said person(X), and to consist of the Offrs appointed or detailed hereunder.

~~I am unable to appoint (a) three Offrs to form the Court, (b) a Fd Offr as President, for the reasons I have attached hereto.~~ (AA 49, RP 106(8), 107(4). Delete the whole or part, if not applicable.)

~~I also appoint as Judge Advocate thereat the Offr mentioned hereunder.~~ (RP 106(E). Delete, if none appointed.)

PRESIDENT.

(Rank.)		(Must be named. RP 106.)	(Unit.)
MAJOR	P P LORINGER, MC.		6 CIRU

MEMBERS.

(Rank.)		(Named or detailed. RP 106.)	(Unit.)
Capt	to be detailed by OC 6 CIRU		
Lt	to be detailed by OC 6 CIRU		

WAITING MEMBER.

(Rank.)		(Named or detailed, if any. RP 106.)	(Unit.)
Capt	to be detailed by OC 6 CIRU		

~~JUDGE ADVOCATE~~

(Rank.)		(Must be named, if any. RP 106.)	(Unit.)

On Active Service in the Fd

in England (Country.)

Date 6 Jul 44

(Signed personally. RP 105 fn 2.)

(G S N Gostling)

Brigadier (Rank.)

Commanding "A" Gp Cdn Rft Units, CAO

Convening Officer.

CONVENING OFFR WILL INITIAL ALL DELETIONS AND ALTERATIONS

(See overleaf for oaths and notes for use on trial.)

8 July 44

COMPASSIONATE PLEA FOR DEFENCE

B-41009, Pte Groombridge V.

I wish to present to the Court, a plea of compassion for the accused who, when one looks at his past record, sees a man, who previous to this offence, was a good soldier, a capable tradesman and except for minor offences, had had very little crime.

I wish in no way to condone with any person going A.W.L., but, if any man was ever given a more thorough runaround, this soldier was.

May I just show a little of the background, which I feel sure in my mind was the real reason behind his temporary lapse of duty. May I also remind the Court that he voluntarily gave himself up, and is quite willing to accept any punishment this Court wishes to give, but I plead, may this Court give him help for the relief of his mind re the background of his home and children which I honestly believe is the real cause behind all his trouble.

(1) While in the Army, 1942, his wife disappeared and he was forced to place his three children under the care of Child's Welfare.

(2) During the investigation, etc., he was drafted to England before the details and welfare of his children could be thoroughly checked and he came away, unsure and very worried as to their future.

(3) His record, and by his own admission, he applied for help here in England and on half a dozen occasions, the case was started on, but never seemed to progress very far before the perso conducting it was moved etc and it was never followed up.

(4) His trade, Motor Mech Class "B", kept him occupied, and he carried along as well as could be expected under the strain of his family trouble, until he was moved to the Reinforcement Unit after the re-grouping of Support to M.M.G. and he was then left with nothing to do but pick up ashes, [redacted] He had too much time to concentrate on his troubles and brooded for hours at a time, during one of these spells of depression, he walked out of Camp and kept on going. He kept [redacted] trying privately to get information of his home, [redacted] day after day.

Medical Officers' Certificate
K.R. (Can) para 557

B-41009

I certify that I have this morning examined No. Pte Groombridge V. (Rank) (Name) of 6 C.I.R.U. and in my opinion he is fit ~~unfit~~ to undergo trial by Court Martial.

Station

Date July 8-1944

Sgd [signature] (Medical Officer)

[redacted], of which he was not successful. This carried on for some weeks and finally, realizing that only through Army channels could he get the results of what was happening at home did he return, and also feeling that there must be someone to whom he would try to appeal and would be able to help him. On returning to the Unit, and being charged with A.W.L., he applied to Capt Hudson, Offr Comd "G" Coy who in turn, sent him to the Padre, H/Major Sutherland to start proceedings etc for him in Canada.

This soldier wants nothing for himself but only to know that back in Canada, things are being done for his children, and that when he has served his sentence, employment may be found to his advantage and to the advantage of the Canadian Army.

UNDERNOTE

(a) Legal Aid is now under way to procure divorce for Defendant through Legal Aid Office of this Unit.

In view of the above, leniency is requested from the Court when sentencing the accused.

L. Herring Lt

SUMMARY OF EVIDENCE

In the case of No B-41009 Private Vernon GROOMBRIDGE, of The Canadian Infantry Corps, on the strength of No 6 Canadian Infantry Reinforcement Unit, a soldier of The Canadian Army Overseas.

By direction of The Commanding Officer this Summary of Evidence is taken on oath.

First Witness for the Prosecution — Lieut A.G. Emmett, of The Cdn Inf Corps, on the strength of No 6 C.I.R.U., having been duly sworn states as follows :

"I hereby produce a certified true copy of an extract from 6 C.I.R.U. Daily Orders, Part II No 125 d/26 May 44 relating to the accused, whom I now recognize, purporting to be signed by the adjt No 6 C.I.R.U. This document is attached to this Summary of Evidence and is marked Exhibit "A"."

"At 2130 hrs 2 Jun 44 I was on duty in the Coy Orderly Room in No 1 Camp, 6 C.I.R.U. when the accused reported to me as being an absentee without leave. I ordered him into close arrest.

The accused declines to cross examine this witness.

A.G. Emmett Lieut
(A.G. Emmett)

The accused is then cautioned as follows: "Do you wish to make a statement or to give evidence on oath?" "You are not obliged to say anything or to give evidence unless you wish to do so, but whatever you may say or any evidence you may give will be taken down in writing and may be used in evidence.

The accused declines to make a statement and reserves his defence.

I certify that the foregoing Summary of Evidence, consisting of one page, was taken down by me in the presence of and hearing of the accused, and that Rules of Procedure 4 (C),(D),(E),(F) and (G) have been duly complied with.

W. P. Thomas Lt
(Officer detailed to take the Summary of Evidence)

In the Field
30 Jun 44

LAST ORDER
NO 124
25 May 44

6 CANADIAN INFANTRY REINFORCEMENT UNIT
DAILY ORDER PART II
issued by
COLONEL W.E.MORGAN,O.B.E.,M.C.OFFICER COMMANDING

THIS ORDER
NO 125
26 May 44

SECTION "B" OTHER RANKS

12. ABSENT WITHOUT LEAVE

12-A/A.W.L. from 2230 hrs 2 May 44. Still absent at 2230 hrs 24 may 44. (22nd day)

B-41009 Pte. Greenbridge V. Tor Scot/MG/

SIGNED: A. Dufort Lt
"B.Laverdure" A/Capt
for Adjutant
6 Cdn Inf Rft Unit

Certified true copy : [signature]
(L.A.A. BARRETT), Capt.
Adjutant
6 Cdn Inf Rft Unit.
JUL 2 1944

Offs. Hqrs. cust. orig. doc

No. B-41009 Name GROOMBRIDGE, Vernon | Sqn, Battery, or Company | Corps C.I.C. | Date of enlistment 15-7-40 | GC Badges | Service or Proficiency Pay | Character

Date of last entry in Company Conduct Sheet N/A | No. and date of last drunk N/A | Period not reckoning towards freedom from extra fine N/A | Sheet No 1 | Signature OC Company, etc Lt Holroyd

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with Disl	By whom awarded	Remarks
Chipp Bks	27-2-41			AWL 20 hrs	CSM Mitchell	Admonished	28-2-41	Maj Rymer	
Nanaimo Camp	30-6-41	Pte		AWL 12 hrs 31 mins	CSM Mitchell L/S McGlashan	3 days C.B.	2-7-41	Lt S.B. McCordick	forf 1 D.P. FR&I
Camp Borden Ont	21-4-42	L/Cpl		AA Sec 15(1) AWL 6 hrs	Cpl Murphy L/C Thomas	Admonished	22-4-42	Maj T.L. Lewis	forf 1 days pay FR&I
Field	29-10-43	L/Cpl		AA Sec 11 Left vehicle unattended	Maj Fuller	Reprimand	1-11-43	Maj C.E. Fuller	
Field	26-12-43	L/Cpl		AA Sec 40 Dirty veh on Coy Comds parade	Sgt Scaselin	Severe Reprimand	28-12-43	Maj W.E. Dinnick	

Certified true copy of one page, dated 8 JUL 1944

Officer i/c of Original document. Capt

(PTO)

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witness	Punishment awarded	Date of award or of order dismissing with trial	By whom awarded	Remarks
Field	11-2-44	L/Cpl		AA Sec 40 Dirty Rifle	Capt Ruyton	Reverts to ranks	17-2-44	Maj W.S. Dinnick	

Certified true copy consisting of one page, dated 8 JUL 1944

(Officer having custody of original documents)

ARMY FORM B.206.

Statement as to Character and Particulars of Service of Accused.

Number.	*Rank.*	*Name.*	*Regiment (or as the case may be).*
B-41009	Pte	GROOMBRIDGE, Vernon	No 6 Cdn Inf Reinf Unit

1. The following is a fair and true summary of the entries in the regimental and squadron, battery or company conduct sheets† of the accused, exclusive of convictions by a court martial or a civil court, of summary awards under section 47 of the Army Act, and of cases in which trial has been dispensed with :—

NOTE.—At a trial by field general court martial this summary may be compiled from the field conduct sheet.

The conduct sheet(s) mentioned should be produced in court with this statement but not attached to the proceedings.

† See para. 677, K.R., 1940.

* The numbers therein stated should correspond with the number of entries in the conduct sheets, particulars being given in the most serious cases in each entry and in any recognized special acts of gallantry or distinguished conduct.

INSTRUCTION.—If the charge is for drunkenness the entries for drunkenness must be stated separately and dated.

	* Within last 12 months.	*Since Enlistment.
For AA Sec 11	1 times	1 times.
For AA Sec 15(1)	Nil times	3 times.
For AA Sec 40	2 times	2 times.
For	times	times.
For	times	times.

~~Number of instances of gallantry or distinguished conduct~~

~~or~~

~~There are no entries in the conduct sheets of the accused~~

2. The accused has not been previously convicted, *or*

~~The previous convictions† of the accused by a court martial or a civil court, summary awards under section 47 of the Army Act, and dispensations with trial under section 73 of the Army Act, are set out in the schedule annexed to this statement.~~

3. The accused is not under sentence at the present time. ~~The accused at the present time is under sentence of imprisonment for a period of days.~~

4. The accused has been in confinement, awaiting trial on the present charges, for Nil days in civil custody, and 35 days in military custody, making a total of 35 days, of which 22 days were spent in hospital.

5. The present age of the accused according to his ~~attestation~~ attestation paper is 28 yrs

6. The date of his ~~attestation~~ attestation specified in his ~~attestation~~ attestation paper is 15 Jul 40

7. The service which the accused is allowed to reckon towards discharge or transfer to the reserve is 3 yrs 292 days

8. The accused is entitled to deferred pay or gratuity in respect of 3 yrs 292 days service.

9. The accused is entitled to reckon 3 yrs 292 days service for the purpose of determining his pension, etc.

10. The accused is in possession of, or entitled to, ~~the following military decorations or military award (or is in possession of, or entitled to (state any military decorations or rewards)~~ Cdn Vol Service Medal & Clasp

~~(If the accused is a warrant officer.)~~ The accused before he was made a warrant officer was held the ~~acting~~ rank of

12. *(In the case of an officer.)* The accused holds in the army the rank of , dated

~~(in his regiment (or corps or department) the rank of dated~~

(74543) Wt.30265/3021 75,000 12/40 A.& E.W.Ltd. Gp.278

Schedule of Convictions by a Court Martial or Civil Court, of summary awards under Section 47 of the Army Act and of cases in which trial has been dispensed with of accused.

No. B-41009 Rank Pte Name CROOMBRIDGE, Vernon of 6 C.I.B.U. Regiment (or as the case may be).

(INSTRUCTION—A verbatim extract from the regimental books, stating these convictions and dispensations with trial, must be inserted.)

Description of court by which tried, or status of officer disposing of the charge or dispensing with trial.	Date and place of trial, or summary award under A.A. 47, or of order dispensing with trial.	Charges upon which convicted, or in respect of which trial was dispensed with.	Sentence of the court or authority disposing of the charge, or order of the dispensing authority.	Punishment remitted.

I HEREBY CERTIFY that the foregoing schedule of convictions and dispensations with trial is a true extract from the regimental books in my custody.

Signed this 8th day of July 1944

(Officer having custody of original documents

(a) The accused has served as a non-commissioned officer continuously, without reduction, to the present date.

In the rank of years.

In the rank of years

In the rank of years

Date of Promotion.

(INSTRUCTION.—*If any matter in any of the above paragraphs cannot be stated from the regimental books the paragraph must be struck through, except that in the case of a trial by field general court-martial the information may be collated from such sources as are available and the paragraph(s) concerned amended accordingly.*)

LIST OF WITNESSES

In the case of No B-41009 Private Vernon CROOMBRIDGE, of The Canadian Infantry Corps, on the strength of No 6 Canadian Infantry Reinforcement Unit, a soldier of The Canadian Army Overseas.

Prosecution

Lieut A.G. Emmett, Cdn Inf Corps, on strength of NO 6 C.I.R.U.

Defence

Nil

In the Field
30 Jun 44

LIST OF EXHIBITS

In the case of No B-41009 Private Vernon GROOMBRIDGE, of The Canadian Infantry Corps, on the strength of No 6 Canadian Infantry Reinforcement Unit, a soldier of The Canadian Army Overseas.

Exhibit "A" - A certified true copy of an extract from 6 C.I.R.U. Daily Orders Part II d/26 May 44.

In the Field
30 Jun 44

8 July 44
P.L.

1. I acknowledge that I have been served with a copy of the Summary of Evidence taken prior to my trial by Court-Martial. I further acknowledge that I have been served with a true copy of the charge (s) upon which I am being brought to trial by CM.

2. I desire the services of an officer to represent me at my trial by CM. I request the services of:

Lt Emmett ... a Capt. Hudson

if he is available.

In the Field
1st day of July 1944
1600 hrs

W. Greenbridge

SH-127

Kfm. - Foot 4.

SCHEDULE.

PART I. PLEA(S), FINDING(S) AND SENTENCE.

Accused : .....

Charge. (Insert "alternative" where applicable.)	Plea. (See instrs p 2.)	Finding. (See note below.)	(Space for use as required for further charges, accused charged jointly, special findings, etc.)
1st	GUILTY	GUILTY	
2nd			
3rd			
4th			
5th			
6th			

(Note : As to findings for lesser offences see AA 56, RP 44 ; findings on alternative charges see MML p 403 fn 4 para 2, RP 44 ; special findings see RP 44 and MML p 753, and in loss of kit see RP 44 fn 6.)

At present under sentence for ..... N.A. ..... beginning on (date) ..... (1)
(1. Insert sentence being served, or delete, if not applicable. See RP 46(A). Information should be found on MF B355 or AF B296.)

Time in confinement awaiting present trial—a total of ..... 30 ..... days, of which ..... NIL ..... days were spent in hospital.(1)
(1. See RP 46(A) fn 2. Information should be found on MF B355 or AF B296 admitted in evidence under E2.)

Sentence Awarded by the Court : TO BE IMPRISONED FOR
8 Months with hard Labour.

(Sgd) ..... 14 Apr 1945 (Sgd) ..... President. (RP 45, 52)
Judge-Advocate, if any. Date awarded.
(See back of Convening Order as to assembly and disposal of record after trial.)

PART II. MINUTE WHERE CONFIRMATION RESERVED. (AA 54(5), RP 120(F), MML p 760.)

Date ..... (Sgd) ..... Commanding .....

PART III. DECISION OF CONFIRMING OFFR ON FINDING(S) AND SENTENCE.

(For duties and powers see AA 54, 57, RP 27(D) fn 6.46(A), 51-56, 120, MML pp 759-761, KR Con 567 577. Acquittals require no confirmation and cannot be revised : AA 54(3). Sending back finding or sentence for revision by Court : AA 54(2), RP 120(G). If not confirmed, accused may be tried again : AA 157, MML p 64. Minute of confirmation or non-confirmation may be altered before promulgation : RP 53, MML p 65. Quashing after promulgation : KR Con 573. Duties and powers of reviewing offrs : AA 57, 57A, RP 53A, 54. The Confirming Offr must sign here personally. AA 172 fn 1.)

My decision on the finding(s) and sentence set forth in Part I is :

Confirmed

~~I direct that the accused be not committed to prison or detention barracks until further orders.~~
(1. AA 57A. Delete if not used.)

Date 16 Apr 45 (Sgd) ..... Commanding ..... Confirming Officer.

PART IV. PROMULGATED AND EXTRACTS TAKEN. (RP 53, KR Con 576, 577.)

Accused.	Date.	Signature of Offr.
H104071 Rfn DEGROOT, A.	24 Apr 45	R B Hutton Lt-Col.

ALL DELETIONS AND ALTERATIONS WILL BE INITIALLED.

RECORD FORM D—PROCEEDINGS ON PLEAS OF NOT GUILTY TO ALL CHARGES.

D1. President to accused: Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity to prepare your defence? Ans.....(1)

(1. If "yes", see RP 39(A) for procedure. Statement or evidence, if any, is recorded per Notes.)

D2. The Prosecutor makes (an) (no) opening address.(1)

(1. RP 39(B), 60(A)(B), 90, 92(C)(D). Record address per Notes, subject to RP 95(C).)

D3. The evidence for the Prosecution is taken.(1)

(1. RP 39(C), 114, KR Can 555. Record evidence per Notes. As to Prosecutor giving evidence himself see RP 39(D)(E).)

D4. The Prosecution is closed.(1) The Defending Offr submits that the evidence for the Prosecution does not establish a prima facie case against the accused on the.....charge(s).(2) The Court is closed, and considers the submission.(3) The Court is re-opened, and the President announces that the submission is disallowed on the.....charge(s), and allowed on the.....charge(s), and that, accordingly, the trial will proceed on the former, but the accused is (are) found Not Guilty on the latter charge(s).(4)

(1. Delete remainder of this para. if submission not made. 2. Arguments on submission, answer and reply are recorded per Notes. 3. RP 40 fn 1. See MML p 72 paras 12-14 and p 81 para 42. 4. Delete part not used. If accused acquitted on all charges use second alternative in para D8.)

NB: If trial proceeds, accused must be allowed great latitude in making his defence, and the Court should not stop his defence solely on ground of irrelevance. (RP 60(C), 114, 115.)

D5. President to accused: You will now proceed with your defence.(1) You may, if you wish, give evidence yourself on oath as to the facts or your character or both, in which case you will be subject to cross-examination.(2) You may, however, make a statement without being sworn, and you will not be subject to cross-examination.(3) But a statement which could have been made on oath will not carry with the Court the same weight as sworn testimony.(4) You may call witnesses in your defence and as to character, whether you give evidence or make a statement or do neither.

President to accused: Do you wish to give evidence yourself as a witness, make a statement, or do neither?

Ans.....Do you intend to call witnesses on your behalf?

Ans.....Are they witnesses as to character only? Ans.....

(1. RP 115. 2. RP 40(A), see 80(D). 3. RP 40 fn 10. 4. RP 40 fns 2, 9.)

D6. Consequent on the answers recorded in para D5 the appropriate procedure for the defence is followed.(1)

(1. RP 114, 115, 116. For procedure see Notes on back of Convening Order, CF AF5. Evidence for accused as to his character should, if in his interest, be given before the finding. See RP 46(A) fn 1, 86(C). Note the further opportunity in para E1 of Record Form E. Record per Notes addresses, statement, evidence and any summing up by the JA under RP 42, 103(e).)

D7. The Court is closed to consider the finding(s).(1) The finding(s) of the Court is (are) recorded in Part I of the Schedule.(2) The Court is re-opened.

(1. RP 43, 117(A). See Notes in Part I of Schedule. 2. RP 44(A).)

D8. The President announces the finding(s), if any, of Not Guilty, and states to the accused that the finding(s) of the Court on the.....charge(s), being subject to confirmation, will be promulgated later.(1)

Or, The President announces that the accused is found Not Guilty on all charges and is to be released forthwith, and that the proceedings are accordingly terminated. Part I of the Schedule is dated and signed.(2)

(1. AA 54(3)(6), RP 45, 120(A). 2. AA 54(3), RP 45, 117. This alternative announcement is not applicable when there are pleas of Guilty outstanding and dealt with under Record Form B or C.)

D9. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E below.

RECORD FORM E—PROCEEDINGS ON CONVICTION BEFORE SENTENCE.

E1. President to accused: Do you wish to give evidence yourself or to call any witnesses as to your character?(1)

Ans. NO SIR.

(1. If evidence has already been given by accused or his witnesses as to his character, delete this para. RP 37(C) fn 4, 46 fn 1. Accused and witnesses are sworn. Evidence recorded per Notes.)

E2. The Prosecutor produces Statement(s) as to Character and Particulars of Service(1), and certified true copy (~~extract~~) of Conduct Sheet(s)(2), purporting to refer to the accused, which he submits to the Defending Offr for examination, and then to the Court for admission in evidence. The Court is satisfied that these documents refer to the accused, because (i) they purport to be signed in the manner required by A.3. 163(1) (g) (h), and (ii) they purport to refer to (a) soldier(s) having the same number, rank, name and corps as the accused. Admitted in evidence and marked Ex B and Ex C respectively.(3)

(1. MFB 355 or AFB 296. 2. MFM 6. 3. RP 46, KR Can 558. If above documents not produced, see RP 46 fn 1 para 1.)

E3. President to accused: Do you wish to address the Court on the Statement(s) and Conduct Sheet(s), and in mitigation of punishment?(1) Ans YES SIR THROUGH MY DEFENDING OFFR (SEE PS)(2)

(1. RP 37(C), 46(D). 2. Address, if any, recorded per Notes. Court should permit accused or his witnesses to prove on oath anything here or previously stated which would affect the amount of punishment. RP 37(F) fn 7.)

E4. The President states that the Court is closed to consider the sentence, and that the sentence to be awarded by the Court, being subject to confirmation, will not be announced, but will be promulgated later, and the proceedings in open court are accordingly terminated.(1)

(1. AA 54(6), RP 120(A).)

E5. The Court considers the sentence.(1) The President records the sentence in Part I of the Schedule, which is dated and signed by him and the J.A. if any.(2)

(1. When several accused tried separately see RP 71(D). One sentence only, comprised of the punishment or punishments laid down in AA 41, 44 and its proviso, is to be awarded to cover all charges upon which accused found guilty. RP 48. As to sentences see AA 64, 138, 182, RP 46-50, 69, 118, 119(A), KR Can 308, 330, 365-366, Overseas RO 309, 2323, MML p 60, 757-759. As to sentences assigned for civil offences by the law of England see AA 41(2), MML p 130. When accused already under sentence of imprisonment or detention see AA 44(1)(B), 68(1), KR Can 564. 2. RP 50. As to release from arrest by Confirming Offr see KR Can 567. As to assembly and disposal of record after trial see Instns on back of Convening Order.)

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

INSTRUCTIONS ON PROCEDURE AFTER ARRAIGNMENT.

1. *The accused may not plead or be found Guilty on more than one of two or more charges laid in the alternative.* (*RP* 37(*A*).) *As to withdrawal of alternative charges by Prosecutor see RP* 35(*C*). *No other charge can be withdrawn for any reason without withy from Convening Offr. If Convening Offr concurs, Court may accept plea of Guilty to lesser, etc, offence.* (*RP* 44(*H*).) *Accused may change a plea of Not Guilty to Guilty during trial.* (*RP* 38.) *As to refusing to plead or not pleading intelligibly see RP* 35(*A*). *As to plea when sentence may be death see RP* 35(*D*).

2. *The proceedings on each charge sheet* (*RP* 62) *after arraignment will be conducted as follows in the respective circumstances stated:*

I. If pleas to all charges are GUILTY, use Record Form B below.

II. If pleas to all charges are NOT GUILTY, use Record Form D on p 3.

III. If pleas to some charges are GUILTY and to other charges are NOT GUILTY and,

(a) *Such mixed pleas occur where there are no alternative charges in the Charge Sheet, use Record Form C below.* (*RP* 37(*A*).)

(b) *Such mixed pleas occur in a set of two or more charges laid in the alternative, see RP* 37 (*A*) *and fn* 2 *as to discretion of Court,* (i) *to try the accused on all such alternative charges as if he had pleaded Not Guilty thereto, or,* (ii) *to record the pleas as the findings of Court. After deciding between* (i) *and* (ii), *Court will proceed under foregoing instrs as may be appropriate to result of its decision. See MML p* 744 *Instrs* (2).

3. *As to responsibility of President to accused see RP* 59, 60(*C*); *powers and duties of JA see RP* 103; *duty of Prosecutor see RP* 60(*A*) (*B*); *duty and privileges of accused and Defending Offr see RP* 60(*C*), 87(*C*), 91, 92; *swearing and withdrawal of witnesses from Court see RP* 81, 82; *questioning of accused see RP* 80, 87(*C*), 92(*B*), *and of witnesses see RP* 85-85; *calling or re-calling of witnesses by Court, etc, see RP* 75-79, 86, 116; *use of Summary of Evidence at Trial see RP* 17(*E*) *fn* 6; *and responsibility of JA or Pres to record proceedings see RP* 94, 95.

RECORD FORM B—PROCEEDINGS ON PLEAS OF GUILTY TO ALL CHARGES.

B1. The President or JA, if any, complies with RP 35(B) by explaining to the accused the nature and meaning of the charge(s)(1), and that on his plea of Guilty there will be no regular trial but merely a consideration of the sentence to be awarded after he has been given an opportunity to make a statement in reference to the charge(s), call witnesses as to character and make an address in mitigation of punishment.(2)

(1. *RP 35 fn 3.* 2. *MML p 54 para 47.*)

B2. President to accused: The Court will now receive any statement you desire to make in reference to the charge(s).(1) If it appears from your statement that there are circumstances which indicate that you do not understand the effect of the plea of Guilty(2), or which show provocation or extenuation in respect of which in your interest the witnesses for the Prosecution should be examined(3), we shall advise you to change your plea to Not Guilty. In making a statement you will not be sworn or subject to cross-examination; and anything you say will not be used in evidence against you after you change your plea. If, however, it appears to the Court that your statement affects only the amount of punishment to which you are liable, you will not be advised to change your plea and you will be given an opportunity later to prove your statement by sworn testimony, if you so desire.(4)

President to accused: Do you wish to make a statement? Ans A/ to S I R (5)

(1. *RP 37(B).* 2. *RP 37(D) fn 6.* 3. *RP 35(B) fn 5 para 3, MML p 54 para 47.* 4. *See para E3 of Record Form E.* 5. *Statement, if any, recorded per Notes.*)

B3. ~~The Court considers the accused's statement (5). The Court decides (not) to advise accused to change his (their) plea(s) of Guilty to Not Guilty on ..... charge(s). The accused is (are) so informed, and he (they) changes his (their) plea(s) on ..... charge(s). Part I of the Schedule is amended accordingly.~~

(1. *Court may be closed to consider the statement. Delete whole or part not used.*)

B4. On the charge(s) to which the plea(s) of Guilty is (are) not changed the President records finding(s) of Guilty in Part I of the Schedule.(1)

(1. *RP 35(B). If any plea(s) is (are) changed, use Record Form C or D as appropriate.*)

B5. The Summary of Evidence is marked Ex A, initialled and read aloud by the President.(1)

(1. *If there is no Summary, or if it is inadequate, comply with RP 37(B). If there is any evidence inconsistent with any plea standing as Guilty, Court will advise accused to change such plea and, if changed to Not Guilty, try such charge(s) by use of paras D1 to D8 inclusive of Record Form D on p 3. RP 37(D).*)

B6. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

RECORD FORM C—PROCEEDINGS ON MIXED PLEAS OF GUILTY AND NOT GUILTY.

C1. As to the charges on which accused pleaded NOT GUILTY the trial is continued by using paras D1 to D8 inclusive of Record Form D on p 3 before proceeding with C 2.(1)

(1. *RP 37(A) (E).*)

C2. The charges on which accused pleaded GUILTY are read to him (them) again, and the trial is continued by using paras B1 to B5 of Record Form B above.(1)

(1. *Under B5 such parts only of the Summary of Evidence are read as relate to the charges dealt with under C2. If any plea is changed to Not Guilty, trial thereon proceeds by complying with paras D1 to D8 inclusive in Record Form D on p 3 and making an appropriate record thereof on a separate sheet.*)

C3. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

FIELD GENERAL COURT-MARTIAL

CPA96 (To be typed on AFA31) 40/1/P.M. (5) (4488)

5H-127

RECEIVED 19 MAY 1945 JAG BRANCH G.H.Q.

Convened by Order of BRIGADIER T.G. GIBSON Comd 7 Cdn Inf Bde dated 13 [illegible]

ACCUSED.

(For the trial of two or more charged jointly see RP 16, 71, 109. As to reasons for showing (a) permanent or confirmed (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns. KR Can 308, 328, 330.)

Number.	(a) Prmnt R. (b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.
H.104071	Rfn	ALBERT	DeGROOT

PROCEEDINGS REVIEWED

20 may 45 L. J. Brody Capt

REVIEWING OFFICER, JAG BRANCH G.H.Q.

PROCEEDINGS OF TRIAL.

Held at [illegible] in (country) Holland on (date(s)) 14 April 1945

RECORD FORM A—OPENING PROCEEDINGS AND ARRAIGNMENT.

A1. The President, Members, waiting Member, ~~JA, if any,~~ and Offrs under instr, if any, assemble, and the Court is closed.

(PRINTED MATTER, NOT IN ITALICS FOR GUIDANCE, WILL BE DELETED, IF NOT USED OR APPLICABLE, AND INITIALLED BY PRES OR JA. This Schedule referred to throughout is on p 4. Cautions do NOT include all relevant [illegible] RPs. For guidance on procedure when a variation in this form arises, see form for GCM in MAML pp 741 to 759. A brief record of such variation will be made and given a number having reference to appropriate or preceding para number herein. See back of Convening Order, CF A95, for oaths and instrs on how to record addresses, evidence, etc., which instrs are hereafter called "Notes". As to general provisions for conducting the trial see AA 53, RP 56, 63-70, 73, 74, 94, 103, 119, 132.)

A2. The President initials and lays before the Court the Convening Order and Charge Sheet(s) attached thereto.(1) The Court is satisfied that it is properly convened and constituted(2), accused is (are) amenable to military law, and each charge discloses an offence.(3)

(1. As to use of Summary of Evidence see RP 17 fn b. 2. AA 49, 50, RP 105-107. 3. RP 11-13, 23, 24.)

A3. The Court is opened. The accused is (are) brought before the Court. At ..... hours trial commences.

A4. The Prosecutor produces a Medical Certificate that accused is (are) fit to undergo trial by court-martial.(1) ~~The Prosecutor informs the Court that accused elected to be tried by court-martial instead of being dealt with summarily by the CO.(2).~~

(1. KR Can 557. 2. AA 46(8), RP 60 fn 1. For effect see KR Can 563(c). Delete, if not applicable.

A5. ~~President to accused: Do you object to ..... as interpreter? Ans.....~~ ~~The Interpreter is sworn.(1) The shorthand writer is sworn.(1)~~ ~~..... as shorthand writer? Ans.....~~

(1. RP 72. Delete, if none employed.)

A6. The Convening Order and names of the President and Members of the Court are read to the accused.(1) President to accused: Do you object to be tried by me as President or by any of the Members of the Court? Ans N/O (2) LIEUT J.M. BURGESS WAS DISQUALIFIED & THE WAITING MEMBER TAKES HIS PLACE

(1. RP 110. 2. If no objection, waiting member retires. RP 60(8). If objection, see procedure AA 51, RP 23, 71, 18, MAML p 742.)

A7. The President, Members, JA, if any, and Offrs under instr, if any, are sworn.(1) The following are the ranks, names and units of the offrs comprising the Court, etc:

President	MAJOR	J. A CLARK	R.R.R.
Member	CAPT	K.J. CORRIGAN	R.R.R.
Member	LIEUT	T.C. TUFTS	1 C SCOT R.
Judge-Advocate		N.A.	R.R.R.
Prosecutor	LIEUT	F. BROWN	R.W.R.
Defending Offr	CAPT	R. FORTUNE	R.W.R.

Questions by President: Is the Prosecutor a lawyer? Ans. N/O Is the Defending Offr a lawyer? Ans N/O (2)

(1. RP 26, 27, 109, 111. List of offrs under instr will be returned separately with proceedings for information of Conv Offr.)
(2. If Pros a lawyer and Def Offr not, accused is entitled to an adjournment when RP 89 (b) and fn 2 were not followed. See DI p 3.)

A8. The accused ..... before arraignment make(s) (no) (a) plea.(1)

(1. If a special plea is made for separate trial on one or more charges (RP 62(E), 108), or as to the jurisdiction of the Court (RP 34, 35(A), 113), or in bar of trial (RP 36), or as to accused's mental fitness to stand trial (AA 130, RP 37), or by one of several accused charged jointly to be tried separately (RP 16, 71), such plea, the addresses made in support or against, the evidence, if any, and finding are recorded per Notes. For forms of record see references in fns to RsP cited. Insert in All rank and name of the accused making the plea.)

A9. The accused is (are) arraigned ~~(separately)~~ on all charges in the charge sheet.(1) The accused does (does) not object to any charge.(2) There is no amendment to be made to the Charge Sheet.(1) The President records the pleas in Part I of the Schedule.

(1. RP 31, 112. See para 1 of Instrs p 2. When more than one Charge Sheet see RP 62; when several accused to be tried separately see RP 71(C), and use separate copies of CF A96 to record proceedings. 2. RP 32, RP 33. If otherwise, delete and make appropriate record per Notes.)

A10. The Court (is closed and) considers the Instrs on Procedure after Arraignment at top of p 2. The proceedings are continued on Record Form B.

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

DAG 1 FHQ

I, H104071 Rfn DEGROOT, A., Royal Winnipeg Rifles, request an officer to conduct my defence at Field General Court Martial in connection with Charge Sheet dated 28 March 1945.

I desire the services of Capt R.M. Fortune

Signed..A. De Groot.....

Witnessed..W.J. Shacker....

Witnesses for the Prosecution:

R41406 Sgt Richardson, A.F., R Wpg Rif

Witnesses for the Defence:

The accused declines to summon witnesses in his defence.

LIST OF EXHIBITS

Exhibit "A" - Certificate of Apprehension

No 104071 Name DeGROOT A Sqn, Battery, or Company Corps Infantry Date of enlistment 29 Dec 42 GC Badges Service or Proficiency Pay MFM 6 (AFB 532) (10)PAY/GEN (3458)

Date of last entry in Company Conduct Sheet | No and date of last drunk | Period not reckoning towards freedom from extra fine | Sheet No 1 | Signature OC Company, etc | Character

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order directing trial	By whom awarded	Remarks

Certified True Copy of Original

.....

Officer having custody of Regimental documents

SCHEDULE OF CONVICTIONS BY A COURT-MARTIAL OR CIVIL COURT.

Description of Court by which tried.	Date and Place of Trial.	Charges upon which convicted.	Sentence of the Court.	Punishment remitted or sentence suspended.
XXXX

ARMY FORM B.296 (WAR).

Statement as to Character and Particulars of Service of Accused.

(For Use at Trials by Field General Courts-Martial only).

Number.	*Rank.*	*Name.*	*Regiment (or as the case may be).*
H104071	Rfn	DeGroot A	R Wpg Rif

NOTE.—The Field Conduct Sheet is to be produced in Court with this statement but is not to be annexed to the proceedings. The numbers therein stated should correspond with the number of Entries in the Field Conduct Sheet, punishments being given in the most serious offence in each entry. If the charge is for drunkenness or absence without leave, the entries for drunkenness or absence, as the case may be, should be stated separately. Any recognized special acts of gallantry or distinguished conduct recorded in the Field Conduct Sheet should also be inserted here.

1. The following is a fair and true summary of the entries in the Field Conduct Sheet of the accused, exclusive of convictions by a court martial or a civil court :—

For _____ _____ times.

For _____ _____ times.

For _____ _____ times.

For _____ _____ times.

Date of first entry in Field Conduct Sheet _____

Date of last entry in Field Conduct Sheet _____

2. Previous convictions of the accused by a court martial or a civil court are [illegible] in the Schedule overleaf.

*Strike out if not applicable.

3. [illegible]

4. The accused has been awaiting trial on the present charges for No days in civil custody; and for 30 47 days in military custody, *i.e.*, no days in open arrest, 30 47 days in close arrest; of which no days were spent in hospital.

5. The present age of the accused is 22 yrs

6. The date of his attestation 29 Dec 42

7. The service which the accused is allowed to reckon is 2 yrs, 3 months

8. The accused is in possession of: Canadian Volunteer Service Medal and Clasp

†State the military decoration (if any) held by accused.

9. [illegible]

	Date of Promotion.

INSTRUCTION.—*If any matter in any of the above paragraphs cannot be stated from the regimental books the paragraph must be struck through.*

(27851) Wt.21930/5408 24,000 7/43 A.& E.W.Ltd. Gp.689 Forms/B.296(War)/2

SCHEDULE "C"

EXHIBIT "A"

CERTIFICATE UNDER THE ARMY ACT SECTION 163 (1) (j)

I, A 10473 Sgt. NASON R.F. certify that

Regt No. H 104071 Rank Rfn. Name De Groot A

REGIMENT Royal Winnipeg Rifles

UNIT "A" Coy.

STATIONED AT Field

Surrendered himself to No. A 10473 Rank Sgt. Name NASON R.F.

of the Nijmegen Det. 1 Can Pro Coy C Pro C

on the 26th day of Feb. 1945, at 1230 hours

AS AN ARNHEM WITHOUT LEAVE

at the time of his surrender he was wearing (military uniform)* or (civilian clothing)*.

Signature of ~~Provost Marshal, Assistant Provost Marshal or other officer in the immediate charge of the police of the Provost Company~~ non-commissioned officer in charge of detachment of the Canadian Provost Corps, Canadian Army, into whose custody the above named person was taken on surrender.

R. Nason

* Strike out part inapplicable.

This is Exhibit "A" referred to in the Summary of Evidence
in the case of H104071 Rfn DeGroot A, Royal Winnipeg Rifles.

Officer Taking Summary

Summary of Evidence in the case of H104071 Rfn DEGROOT, A., 1st Battalion, Royal Winnipeg Rifles, a soldier of the Canadian Army, Overseas, charged with absenting himself without leave, (AA Sec 15) (1).

By direction of the Commanding Officer the evidence is taken on oath.

1st Witness H41406 Sgt Richardson, A.F., R Wpg Rif, having been duly sworn states:

I, H41406 Sgt Richardson, A.F., am Pl Sgt in 9 Pl of A Coy, R Wpg Rif. On 20 Feb 45 I was Sgt in 7 Pl, A Coy, R Wpg Rif and the accused, whom I now recognize, was in my pl. On the afternoon of 20 Feb 45 Lt Pritchard and myself briefed the Pl for an attack they were instructed to be ready to move off early the next morning. Rfn DeGroot was present at the briefing. On 21 Feb 45 at about 0630 hrs I checked the pl and Rfn DeGroot could not be found. I checked his billets and made a search of the coy area but was unable to find him. I remained in 7 Pl for about a week after that time and have been in A Coy continuously since 20 Feb 45. I did not see or hear of Rfn DeGroot until he was returned to the coy under arrest.

The accused declines to cross-examine this witness.

H.F. Richardson
Signature of Witness

The Certificate of Apprehension, produced as documentary evidence, was read over to the accused, marked Exhibit "A", signed by me and attached hereto.

[illegible]
Officer taking Summary

The accused was cautioned as follows:

Question: Do you wish to make any statement or to give evidence on oath? You are not obliged to say anything or to give evidence unless you wish to do so, but whatever you say or any evidence you give will be taken down in writing and may be given in evidence.

Answer: I do not wish to make a statement.

The accused does not call any witnesses.

I certify that the foregoing Summary of Evidence, consisting of one page, was taken down by me in the presence of the accused and that RP 4 (C), (D), (E), (F) and (G) have been complied with.

(G Richardson) Lt.,
R Wpg Rif

In the Field

26 Mar 45

14 Feb 45

Plea of Mitigation of Sentence:
Pte. DeGroot A.

I would ask the court to note that the accused in over five years service has a clean record.

The accused found that when under shell fire he could not force himself to leave his slit trench. He did go to the Medical Officer & stated his case. The M.O. could do nothing for him. He then went A.W.L. as the only alternative. I would like to point out to the court that this man attempted to have himself evacuated through the proper authorities & did not at first just take things in his own hands.

R.M. Sutton Capt

MEDICAL OFFICER'S CERTIFICATE

14 Apr 45

I have this date examined H104071 Rfn DEGROOT A, Royal Winnipeg Rifles, and found him ...fit... to undergo trial by Court Martial.

W. Alan Fletcher capt.
.....
Medical Officer

FIELD GENERAL COURT-MARTIAL

(Whether the accused to be tried is under his comd or not, a FGCM may on application to him be convened by any offr of Can Army Overseas, or of any other force if authorized in law, in immediate comd of troops on active service, subject to RP 105(C) and restrictions imposed by appropriate authy. AA 49, 50, RP 104-107, 114. As to the duties and privileges of the Convening Offr in dealing with the application see MML Chap V paras 20 and 23, RP 87(B).

There should be a separate Convening Order for each person to be tried separately by the same Court. RP 71(C), 109. As to separate charge sheets see RP 62, and as to separate trial on charges in the same charge sheet see RP 108. As to two or more accused charged jointly see RP 16, 109. As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

ACCUSED.

Number.	(a) Prmnt R.	(b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
H,104071	Rfn		Albert	DENBOOT	E Wpg Rif

CONVENING ORDER.

1. Whereas complaint has been made to me, the undersigned, that the person(s) named above as the accused, being subject to military law, has (have) committed the offence(s) set forth in the Charge Sheet(s) attached and on (date) 13 Apr 45 endorsed by me, (or by an offr of my staff for me), "To be tried by Field General Court-Martial".

2. And whereas I am of opinion that it is not practicable that such offence(s) should be tried by an ordinary General Court-Martial; (and that it is not practicable to delay the trial for reference to a superior qualified offr.)
(Delete part in brackets when not required for compliance with RP 105(C).)

3. I hereby convene a Field General Court-Martial to try the said person(s), and to consist of the Offrs appointed or detailed hereunder.

4. [illegible]
(AA 49, RP 106(B), 107(A). Delete the whole or part, if not applicable.)

5. I also appoint as Judge-Advocate thereat the Offr mentioned hereunder.
(RP 106(E). Delete, if none appointed.)

PRESIDENT.

Major (Rank.)	S A CLARKE (Must be named. RP 106.)	Regina Rif (Unit.)

MEMBERS.

Capt	K S CORSAN	1 C Scot R
Lt (Rank.)	J M BURGESS (Named or detailed. RP 106.)	1 C Scot R (Unit.)

WAITING MEMBER.

Lt (Rank.)	T C TUFTS (Named or detailed, if any. RP 106.)	Regina Rif (Unit.)

JUDGE-ADVOCATE.

(Rank.)	(Must be named, if any. RP 106.)	(Unit.)

On Active Service in the Fd

in HOLLAND (Country.)

Dat 13 Apr 45

(T G Gibson) (Signed personally. RP 105 fn 2.)

Brig (Rank.)

Commanding 7 Canadian Infantry Brigade
Convening Officer.

CONVENING OFFR WILL INITIAL ALL DELETIONS AND ALTERATIONS

(See overleaf for oaths and notes for use on trial.)

CHARGE SHEET

The accused, H104071 Rifleman Albert DEGROOT, Royal Winnipeg Rifles, a soldier of the Canadian Army, Overseas, is charged with:

FIRST CHARGE
SEC 15 (1)
ARMY ACT

WHILE ON ACTIVE SERVICE, ABSENTING HIMSELF WITHOUT LEAVE

in that he

in the field, absented himself without leave from 0630 hrs 21 Feb 45 until surrendering himself to the Military Police at 1030 hrs 26 Feb 45.

Total Time Absent: 5 days, 4 hours.

In the Field

28 Mar 45

(L R FULTON) Lt-Col,
OC, THE ROYAL WINNIPEG RIFLES

To be tried by Field General Court Martial:

Date:

13 Apr 45

Convening Officer
7 Canadian Infantry Brigade.

SCHEDULE.

PART I. PLEA(S), FINDING(S) AND SENTENCE.

Accused :

Charge. (Insert "alternative" where applicable.)	Plea. (See instrs p 2.)	Finding. (See note below.)	(Space for use as required for further charges, accused charged jointly, special findings, etc.)
1st	GUILTY	GUILTY	
2nd			
3rd			
4th			
5th			
6th			

(Note : As to findings for lesser offences see AA 56, RP 44 ; findings on alternative charges see MML p 483 fn 4 para 2, RP 44 ; special findings see RP 44 and MML p 753, and in loss of kit see RP 44 fn 8.)

At present under sentence for N.A. beginning on (date) (1)

(1. Insert sentence and date served, or delete, if not applicable. See RP 46(A). Information should be found on MF B355 or AF B296.)

Time in confinement awaiting present trial—a total of days, of which days were spent in hospital.(1*)

(1. See RP 46(A) fn 2. Information should be found on MF B355 or AF B296 admitted in evidence under £2.)

Sentence Awarded by the Court : To be imprisoned for 8 months with hard labour.

(Sgd) Judge-Advocate, if any. 14 April 1945 Date awarded. (Sgd) "SA Clarke" Major President. (RP 45, 50.)

(See back of Convening Order as to assembly and disposal of record after trial.)

PART II. MINUTE WHERE CONFIRMATION RESERVED. (AA 54(5), RP 120(F), MML p 760.)

Date (Sgd) Commanding

PART III. DECISION OF CONFIRMING OFFR ON FINDING(S) AND SENTENCE.

(For duties and powers see AA 54, 57, RP 37(D) fn 6, 46(A), 51-56, 120, MML pp 759-761, KR Can 567-577. Acquittals require no confirmation and cannot be revised : AA 54(3). Sending back finding or sentence for revision by Court : AA 54(2), RP 120(G). If not confirmed, accused may be tried again : AA 157, MML p 64. Minute of confirmation or non-confirmation may be altered before promulgation : RP 53, MML p 65. Quashing after promulgation : KR Can 573. Duties and powers of reviewing offrs : AA 57, 57A, RP 53A, 54. The Confirming Offr must sign here personally. AA 172 fn 1.)

My decision on the finding(s) and sentence set forth in Part I is :

Confirmed

~~I direct that the accused be duly committed to prison or detention barracks until further orders.(1)~~

(1. AA 57A. Delete if not used.)

(Sgd) "T G Gibson" Maj

Date 16 Apr 45 Commanding 7 Cdn Inf Bde Confirming Officer.

PART IV. PROMULGATED AND EXTRACTS TAKEN. (RP 53, KR Can 576, 577.)

Accused.	Date.	Signature of Offr.
H.104071 Rfn DEGROOT, A	24 Apr 45	"L B Fulton" Lt-Col

ALL DELETIONS AND ALTERATIONS WILL BE INITIALLED.

54-121

FIELD GENERAL COURT-MARTIAL

CFA05 (To face of AFA81) 40/P & C Stock (6144) 4/38B

Convened by Order of Brigadier T G Gibson Comd 7 Cdn Inf Bde dated 13 April 1945

ACCUSED.

(As to the trial of two or more charged jointly see RP 16, 71, 109. As to reasons for showing (a) permanent or confirmed rank, and (b) apptmt, A/rank or A/apptmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

Number.	(a) Prmnt R. (b) Apptmt, A/R or A/Appmt.	Full Christian Names.	Surname.
H.104071	Rfn	Albert	DeGroot

Certified true Copy
D. L. Bate Maj.
Can Pay & Pen Serv 24 February 1947

PROCEEDINGS OF TRIAL.

SAC

Held in the Fd 'n (country) HOLLAND on (date) 14 Apr 1945

RECORD FORM A—OPENING PROCEEDINGS AND ARRAIGNMENT. 30/63

SAC A1. The President, Members, waiting Member, ~~JA, if any, and Offrs under instr, if any,~~ assemble, and the Court is closed.

(PRINTED MATTER, NOT IN ITALICS FOR GUIDANCE, WILL BE DELETED, IF NOT USED OR APPLICABLE, AND INITIALLED BY PRES OR JA. The Schedule referred to throughout is on p 4. Citations do NOT include all relevant fns& ROs. For guidance on procedure when a variation in this form arises, see form for GCM in MML pp 741 to 759. A brief record of such variation will be made and given a number having reference to appropriate or preceding para number herein. See back of Convening Order, CF AA5 for oaths and instrs on how to record addresses, evidence, etc., which instrs are hereafter called "Instrs". As to general provisions for conducting the trial see AA 53, RP 36, 63-70, 73, 74, 94, 103, 119, 132.)

A2. The President initials and lays before the Court the Convening Order and Charge Sheet(s) attached thereto.(1)

SAC The Court is satisfied that it is properly convened and constituted(2), accused is (are) amenable to military law, and each charge discloses an offence.(3)

(1. As to use of Summary of Evidence see RP 17 fn 6. 2. AA 49, 50, RP 105-107. 3. RP 11-13, 23, 24.)

A3. The Court is opened. The accused is (are) brought before the Court. At hours trial commences.

A4. The Prosecutor produces a Medical Certificate that accused is (are) fit to undergo trial by court-martial.(1)

SAC ~~The Prosecutor informs the Court that accused elected to be tried by court-martial instead of being dealt with summarily by the CO.(2)~~

(1. KR Can 557. 2. AA 46(B), RP 60 fn 1. For effect see KR Can 563(c). Delete, if not applicable.)

A5. ~~President to accused : Do you object to be tried by me as President ? Ans~~

SAC ~~The Interpreter is sworn.(1) Do you object to as interpreter ? Ans~~
~~The shorthand writer is sworn.(1)~~

(1. RP 72. Delete, if none employed.)

A6. The Convening Order and names of the President and Members of the Court are read to the accused.(1)
President to accused : Do you object to be tried by me as President or by any of the Members of the Court ?
Ans No (1) Vice J.M. GUINGUES was disqualified & the waiting member took his place.

(1. RP 110. 2. If no objection, waiting member retires. RP 60(B). If objection, see procedure AA 51, RP 25, 71, 72, MML p 742.)

A7. The President, Members, JA, if any, and Offrs under instr, if any, are sworn.(1) The following are the ranks, names and units of the offrs comprising the Court, etc :

President	Major	SA CLARK	SDC	RWR
Member	Capt	KS COGHAN	SDC	1 C SCOT R
Member	Lieut	TC TUFTS	SDC	RHR
Judge-Advocate		N.A.		
Prosecutor	Lieut	E BROWN		RWR
Defending Offr	Capt	B FORTUNE		RWR

Questions by President : Is the Prosecutor a lawyer ? Ans No Is the Defending Offr a lawyer ? Ans No (1)

(1. RP 26, 27, 109, 111. List of offrs under instr will be returned separately with proceedings for information of Conv Offr.)
(2. If Pros a lawyer and Def Offr not, accused is entitled to an adjournment when RP 89 (B) and fn 2 were not followed. See DI 2.)

A8. The accused before arraignment make(s) (no) (a) plea (1)

(1. If a special plea is made for separate trial on one or more charges (RP 62(E), 108), or as to the jurisdiction of the Court (RP 34, 35(A), 118), or in bar of trial (RP 36), or as to accused's mental fitness to stand trial (AA 130, RP 37), or by one of several accused charged jointly to be tried separately (RP 16, 71), such plea, the addresses made in support or against, the evidence, if any, and findings are recorded per Notes. For forms of record see references in fns to RoP cited. Insert in full rank and name of the accused making the plea.)

SDC A9. The accused is (are) arraigned (~~separately~~) on all charges in the charge sheet.(1) The accused does (~~do~~) not object to any charge.(2) There is no amendment to be made to the Charge Sheet.(3) The President records the plea in Part I of the Schedule.

(1. RP 31, 112. See para 1 of Instrs p 2. When more than one Charge Sheet see RP 62 ; when several accused to be tried separately see RP 71(C), and use separate copies of CF A96 to record proceedings. 2. RP 32, RP 33. If otherwise, delete and make appropriate record per Notes.)

A10. The Court (is closed and) considers the Instrs on Procedure after Arraignment at top of p 2. The proceedings are continued on Record Form B

SAC PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

16 May 45

INSTRUCTIONS ON PROCEDURE AFTER ARRAIGNMENT.

1. *The accused may not plead or be found Guilty on more than one of two or more charges laid in the alternative.* (*RP* 37(*A*).) *As to withdrawal of alternative charges by Prosecutor see RP* 35(*C*). *No other charge can be withdrawn for any reason without authy from Convening Offr. If Convening Offr concurs, Court may accept plea of Guilty to lesser, etc, offence.* (*RP* 44(*H*).) *Accused may change a plea of Not Guilty to Guilty during trial.* (*RP* 38.) *As to refusing to plead or not pleading intelligibly see RP* 35(*A*). *As to plea when sentence may be death see RP* 35(*D*).

2. *The proceedings on each charge sheet* (*RP* 62) *after arraignment will be conducted as follows in the respective circumstances stated:*

I. If pleas to all charges are GUILTY, use Record Form B below.

II. If pleas to all charges are NOT GUILTY, use Record Form D on p 3.

III. If pleas to some charges are GUILTY and to other charges are NOT GUILTY and,

(a) Such mixed pleas occur when there are no alternative charges in the Charge Sheet, use Record Form C below. (*RP* 37(*A*).)

(b) Such mixed pleas occur in a set of two or more charges laid in the alternative, see RP 37 (*A*) *and fn* 2 *as to discretion of Court,* (i) *to try the accused on all such alternative charges as if he had pleaded Not Guilty thereto, or,* (ii) *to record the pleas as the findings of Court. After deciding between* (i) *and* (ii), *Court will proceed under foregoing instrs as may be appropriate to result of its decision. See MML p* 744 *Instrs* (2).

3. *As to responsibility of President to accused see RP* 59, 60(*C*); *powers and duties of JA see RP* 103; *duty of Prosecutor see RP* 60(*A*) (*B*); *duty and privileges of accused and Defending Offr see RP* 60(*C*), 87(*C*), 91, 92; *swearing and withdrawal of witnesses from Court see RP* 81, 82; *questioning of accused see RP* 80, 87(*C*), 92(*B*), *and of witnesses see RP* 83-85; *calling or re-calling of witnesses by Court, etc, see RP* 75-79, 86, 116; *use of Summary of Evidence at Trial see RP* 17(*E*) *fn* 6; *and responsibility of JA or Pres to record proceedings see RP* 94, 96.

RECORD FORM B—PROCEEDINGS ON PLEAS OF GUILTY TO ALL CHARGES.

B1. The President or JA, if any, complies with RP 35(B) by explaining to the accused the nature and meaning of the charge(s)(1), and that on his plea of Guilty there will be no regular trial but merely a consideration of the sentence to be awarded after he has been given an opportunity to make a statement in reference to the charge(s), call witnesses as to character and make an address in mitigation of punishment.(2)
(*1. RP 35 fn 3. 2. MML p 54 para 47.*)

B2. President to accused: The Court will now receive any statement you desire to make in reference to the charge(s).(1) If it appears from your statement that there are circumstances which indicate that you do not understand the effect of the plea of Guilty(2), or which show provocation or extenuation in respect of which in your interest the witnesses for the Prosecution should be examined(3), we shall advise you to change your plea to Not Guilty. In making a statement you will not be sworn or subject to cross-examination; and anything you say will not be used in evidence against you after you change your plea. If, however, it appears to the Court that your statement affects only the amount of punishment to which you are liable, you will not be advised to change your plea and you will be given an opportunity later to prove your statement by sworn testimony, if you so desire.(4)

President to accused: Do you wish to make a statement? Ans no Sir.(5)
(*1. RP 37(B). 2. RP 37(D) fn 6. 3. RP 35(B) fn 5 para 3, MML p 54 para 47. 4. See para E3 of Record Form E. 5. Statement, if any, recorded per Notes.*)

B3. ~~The Court considers the accused's statement.(1) The Court decides (not) to advise accused to change his (their) plea(s) of Guilty to Not Guilty on ..... charge(s). The accused is (are) so informed, and he (they) change(s) his (their) plea(s) to ..... charge(s). Part I of the Schedule is amended accordingly.~~ SDC
(*1. Court may be closed to consider the statement. Delete whole or part not used.*)

B4. On the charge(s) to which the plea(s) of Guilty is (are) not changed the President records finding(s) of Guilty in Part I of the Schedule.(1) SDC
(*1. RP 35(B). If any plea(s) is (are) changed, use Record Form C or D as appropriate.*)

B5. The Summary of Evidence is marked Ex A, initialled and read aloud by the President.(1)
(*1. If there is no Summary, or if it is inadequate, comply with RP 37(B). If there is any evidence inconsistent with any plea standing as Guilty, Court will advise accused to change such plea and, if changed to Not Guilty, try such charge(s) by use of paras D1 to D8 inclusive of Record Form D on p 3. RP 27(D).*)

B6. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

RECORD FORM C—PROCEEDINGS ON MIXED PLEAS OF GUILTY AND NOT GUILTY.

C1. As to the charges on which accused pleaded NOT GUILTY the trial is continued by using paras D1 to D8 inclusive of Record Form D on p 3 before proceeding with C 2.(1)
(*1. RP 37(A) (E).*)

C2. The charges on which accused pleaded GUILTY are read to him (them) again, and the trial is continued by using paras B1 to B5 of Record Form B above.(1)
(*1. Under B5 such parts only of the Summary of Evidence are read as relate to the charges dealt with under C2. If any plea is changed to Not Guilty, trial thereon proceeds by complying with paras D1 to D8 inclusive in Record Form D on p 3 and making an appropriate record thereof on a separate sheet.*)

C3. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS. SDC

RECORD FORM D—PROCEEDINGS ON PLEAS OF NOT GUILTY TO ALL CHARGES.

D1. President to accused: Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity to prepare your defence? Ans.....(1)
(*1. If "yes", see RP 39(A) for procedure. Statement or evidence, if any, is recorded per Notes.*)

D2. The Prosecutor makes (an) (no) opening address.(1)
(*1. RP 39(B), 60(A) (E), 90, 92(C) (D). Record address per Notes, subject to RP 95(C).*)

D3. The evidence for the Prosecution is taken.(1)
(*1. RP 39(C), 114, KR Can 555. Record evidence per Notes. As to Prosecutor giving evidence himself see RP 39(D) (E).*)

D4. The Prosecution is closed.(1) The Defending Offr submits that the evidence for the Prosecution does not establish a prima facie case against the accused on the ..... charge(s).(2) The Court is closed, and considers the submission.(3) The Court is re-opened, and the President announces that the submission is disallowed on the ..... charge(s), and allowed on the ..... charge(s), and that, accordingly, the trial will proceed on the former, but the accused is (are) found Not Guilty on the latter charge(s).(4)
(*1. Delete remainder of this para if submission not made. 2. Arguments on submission, answer and reply are recorded per Notes. 3. RP 40 fn 1. See MML p 72 paras 12-14 and p 81 para 42. 4. Delete part not used. If accused acquitted on all charges, use second alternative in para D8.*)
NB: If trial proceeds, accused must be allowed great latitude in making his defence, and the Court should not stop his defence solely on ground of irrelevance. (RP 80(C), 114, 115.)

D5. President to accused: You will now proceed with your defence.(1) You may, if you wish, give evidence yourself on oath as to the facts or your character or both, in which case you will be subject to cross-examination.(2) You may, however, make a statement without being sworn, and you will not be subject to cross-examination.(3) But a statement which could have been made on oath will not carry with the Court the same weight as sworn testimony.(4) You may call witnesses in your defence and as to character, whether you give evidence or make a statement or do neither.

President to accused: Do you wish to give evidence yourself as a witness, make a statement, or do neither? Ans..... Do you intend to call witnesses on your behalf? Ans..... Are they witnesses as to character only? Ans.....
(*1. RP 115. 2. RP 40(A), see 80(D). 3. RP 40 fn 10. 4. RP 40 fns 2, 9.*)

D6. Consequent on the answers recorded in para D5 the appropriate procedure for the defence is followed.(1)
(*1. RP 114, 115, 116. For procedure see Notes on back of Convening Order, CF 495. Evidence for accused as to his character should, if in his interest, be given before the finding. See RP 46(A) fn 1, 80(C). Note the further opportunity in para E1 of Record Form E. Record per Notes addresses, statement, evidence and any summing up by the JA under RP 42, 103(e).*)

D7. The Court is closed to consider the finding(s).(1) The finding(s) of the Court is (are) recorded in Part I of the Schedule.(2) The Court is re-opened.
(*1. RP 43, 117(A). See Notes in Part I of Schedule. 2. RP 44(A).*)

D8. The President announces the finding(s), if any, of Not Guilty, and states to the accused that the finding(s) of the Court on the ..... charge(s), being subject to confirmation, will be promulgated later.(1)
Or, The President announces that the accused is found Not Guilty on all charges and is to be released forthwith, and that the proceedings are accordingly terminated. Part I of the Schedule is dated and signed.(2)
(*1. AA 54(2) (d), RP 45, 120(A). 2. AA 54(3), RP 45, 117. This alternative announcement is not applicable when there are pleas of Guilty outstanding and dealt with under Record Form B or C.*)

D9. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E below. SDC

RECORD FORM E—PROCEEDINGS ON CONVICTION BEFORE SENTENCE.

E1. President to accused: Do you wish to give evidence yourself or to call any witnesses as to your character?(1)
Ans no Sir.
(*1. If evidence has already been given by accused or his witnesses as to his character, delete this para. RP 37(C) fn 4, 46 fn 1. Accused and witnesses are sworn. Evidence recorded per Notes.*)

E2. The Prosecutor produces Statement(s) as to Character and Particulars of Service(1), and certified true copy (extract) of Conduct Sheet(s)(2), purporting to refer to the accused, which he submits to the Defending Offr for examination, and then to the Court for admission in evidence. The Court is satisfied that these documents refer to the accused, because (i) they purport to be signed in the manner required by AA 163(1) (g) (h), and (ii) they purport to refer to (a) soldier(s) having the same number, rank, name and corps as the accused. Admitted in evidence and marked Ex B and Ex C respectively.(3) SDC
(*1. MFB 355 or AFB 296. 2. MFM 6. 3. RP 46, KR Can 558. If above documents not produced, see RP 46 fn 1 para 1.*)

E3. President to accused: Do you wish to address the Court on the Statement(s) and Conduct Sheet(s), and in mitigation of punishment?(1) Ans Yes Sir, I do. my defence see Ex C para 3.(2) SDC
(*1. RP 37(C), 46(D). 2. Address, if any, recorded per Notes. Court should permit accused or his witnesses to prove on oath anything there or previously stated which would affect the amount of punishment. RP 37(F) fn 7.*)

E4. The President states that the Court is closed to consider the sentence, and that the sentence to be awarded by the Court, being subject to confirmation, will not be announced, but will be promulgated later, and the proceedings in open court are accordingly terminated.(1)
(*1. AA 54(6), RP 120(A).*)

E5. The Court considers the sentence.(1) The President records the sentence in Part I of the Schedule, which is dated and signed by him and the JA, if any.(2)
(*1. When several accused tried separately see RP 71 (D). One sentence only, comprised of the punishment or punishments laid down in AA 41, 44 and its proviso, is to be awarded to cover all charges in all charge sheets on which accused found guilty. RP 48. As to sentences see AA 44, 138, 182, RP 46-50, 69, 118, 119(A), KR Can 308, 330, 583-586, Overseas RO 2699, 2323, MML p 60, 737-739. As to sentences assigned for civil offences by the law of England see AA 41(5), MML p 130. When accused already under sentence of imprisonment or detention see AA 44(1)(b), 68(1), KR Can 564. 2. RP 50. As to release from arrest by Confirming Offr see KR Can 567. As to assembly and disposal of record after trial see instrs on back of Convening Order.*)

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

CHARGE SHEET

The accused, H104071 Rifleman Albert DESROCHERS, Royal Winnipeg Rifles, a soldier of the Canadian Army, Overseas, is charged with:

FIRST CHARGE
Sec 15 (1)
Army Act

WHILE ON ACTIVE SERVICE, ABSENTING HIMSELF WITHOUT LEAVE

in that he

in the field, absented himself without leave from 0630 hrs 21 Feb 45 until surrendering himself to the Military Police at 1030 hrs 26 Feb 45.

Total Time Absent: 5 days, 4 hours.

In the Field

28 Mar 45

"L A Fulton"
(L A Fulton) Lt-Col,
OC, THE ROYAL WINNIPEG RIFLES

To be tried by Field General Court Martial:

Date:

13 Apr 45

"T G Gibson" Brigadier
Convening Officer
7 Canadian Infantry Brigade.

FIELD GENERAL COURT-MARTIAL

(Whether the accused to be tried is under his comd or not, a FGCM may on application to him be convened by any offr of Cdn Army Overseas, or of any other force if authorized in law, in immediate comd of troops on active service, subject to RP 105(C) and restrictions imposed by appropriate authy. AA 49, 50, RP 104-107, 114. As to the duties and privileges of the Convening Offr in dealing with the application see MML Chap V paras 20 and 23. RP 87(B).

There should be a separate Convening Order for each person to be tried separately by the same Court. RP 71(C), 109. As to separate charge sheets see RP 62, and as to separate trial on charges in the same charge sheet see RP 108. As to two or more accused charged jointly see RP 16, 109. As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

ACCUSED.

Number.	(a) Prmnt R.	(b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
H104071	Rfn		Albert	DEGROOT R	WPG RIF

CONVENING ORDER.

1. Whereas complaint has been made to me, the undersigned, that the person(s) named above as the accused, being subject to military law, has (have) committed the offence(s) set forth in the Charge Sheet(s) attached and on (date) 13 Apr 45 endorsed by me, (or by an offr of my staff for me), "To be tried by Field General Court-Martial".

2. And whereas I am of opinion that it is not practicable that such offence(s) should be tried by an ordinary General Court-Martial; ~~(and that it is not practicable to delay the trial for reference to a superior qualified offr)~~
(Delete part in brackets when not required for compliance with RP 105(C).)

3. I hereby convene a Field General Court-Martial to try the said person(s), and to consist of the Offrs appointed or detailed hereunder. TGB

~~And I am unable to appoint the three Offrs to form the Court, (b) a Fd Offr as President, for the reasons I have attached hereto.~~

(AA 49, RP 106(B), 107(A). Delete the whole or part, if not applicable.)

5. I also appoint as Judge-Advocate thereat the Offr mentioned hereunder.
(RP 106(E). Delete, if none appointed.)

PRESIDENT.

(Rank.)		(Must be named. RP 106.)	(Unit.)
Major	S A	CLARKE	Regina Rif

MEMBERS.

(Rank.)		(Named or detailed. RP 106.)	(Unit.)
Capt	K S	CORSAN	1 C Scot R
Lieut	J M	BURGESS	1 C Scot R

WAITING MEMBER.

(Rank.)		(Named or detailed, if any. RP 106.)	(Unit.)
Lt	T C	TUFTS	Regina Rif

JUDGE-ADVOCATE.

(Rank.)		(Must be named, if any. RP 106.)	(Unit.)

On Active Service in the Fd

in	(Country.)	"T G GIBSON" (T G Gibson) (Signed personally. RP 105 fn 2.)	(Rank.)
Dat	13 Apr 45	Commanding 7 Canadian Infantry Brigade Convening Officer.	

CONVENING OFFR WILL INITIAL ALL DELETIONS AND ALTERATIONS

(See overleaf for oaths and notes for use on trial.)

14 Feb 45

Plea of Mitigation of Sentence
Rfn DeGroot A

I could ask the court to note that the accused in over two years service has a clean record. The accused found that when under shell fire he couldn't force himself to leave his slit trench. He did go to the Medical Officer and state his case. The M.O. could do nothing for him. He then went A.W.L. as the only alternative. I would like to point out to the court that this man attempted to have himself evacuated through the proper authorities and did not at first just take things in his own hands.

"R M Fortune" Capt

MEDICAL OFFICER'S CERTIFICATE (as to mental state) Para 85(7)

I certify that I have this day examined H1043071 Rfn DeGroot A and in my opinion he is fit/unfit to undergo trial by Court Martial.

Station Field

Date 14 Apr 45

"W Pelitier" Capt
Medical Officer

Summary of Evidence in the case of H104071 Rfn DEGROOT A., 1st Battalion, Royal Winnipeg Rifles, a soldier of the Canadian Army, Overseas, charged with absenting himself without leave, (AA Sec 15) (1)

By direction of the Commanding Officer the evidence is taken on oath.

1st Witness H41406 Sgt Richardson, A.F., R Wpg Rif, having been duly sworn states:

I, H41406 Sgt Richardson, A.F., am Pl Sgt in 9 Pl of A Coy, R Wpg Rif. On 20 Feb 45 I was Sgt in 7 Pl, A Coy, R Wpg Rif and the accused, whom I now recognize, was in my pl. On the afternoon of 20 Feb 45 Lt Pritchard and myself briefed the Pl for an attack they were instructed to be ready to move off early the next morning. Rfn DeGroot was present at the briefing. On 21 Feb 45 at about 0630 hrs I checked the pl and Rfn DeGroot could not be found. I checked his billets and made a search of the coy area but was unable to find him. I remained in 7 Pl for about a week after that time and have been in A Coy continuously since 20 Feb 45. I did not see or hear of Rfn DeGroot until he was returned to the coy under arrest.

The accused declines to cross-examine this witness.

"A F Richardson"
.....
Signature of Witness

The Certificate of Apprehension, produced as documentary evidence, was read over to the accused, marked Exhibit "A", signed by me and attached hereto.

"G Richardson" Lieut
.....
Officer Taking Summary

The accused was cautioned as follows:

Question: Do you wish to make any statement or to give evidence on oath? You are not obliged to say anything or to give evidence unless you wish to do so, but whatever you say or any evidence you give will be taken down in writing and may be given in evidence.

Answer: I do not wish to make a statement.

The accused does not call any witnesses.

I certify that the foregoing Summary of Evidence, consisting of one page, was taken down by me in the presence of the accused and that RP 4 (C) (D) (E) (F) and (G) have been complied with.

"G. Richardson" Lieut
.....
(G Richardson) Lt.,
R. Wpg. Rif.

In the Field

28 Mar 45

CERTIFICATE OF ARREST IN ACCORDANCE WITH ARMY ACT SECTION 103(1)(i)

I certify that No.H104071...Rank..Sgn..Name..DeGroot....A.....

of.Royal.Winnipeg.Rifles..... unit xxxxxxxxxxxxx .....

.A4043.Sgnt.Wasco.R.F.of.the.Winnipeg surrendered himself to (place) 1030...hrs on 26th day of Feb 1945 Det (date). He was dressed in uniform/xxxxxxxxxxxxxxx

Date...26.Feb.45..

Signature of Provost Marshal, APM, or other officer into whose custody the a/m person was taken on arrest.

Signature & Rank.....PO.Wasco"Det.....

Unit or appointment .Winnipeg.Det.7.Cdn.Pro.Coy

NOTES

1. This certificate must be signed personally by the officer concerned.
2. In no circumstances may it be signed by one officer 'for another or by anyone not holding commissioned rank.
3. In no circumstances should the place of apprehension be described as 'In the Field'. The actual place of apprehension should be stated, or if difficulty is experienced in describing the place, the map reference should be given.

STATEMENT AS TO CHARACTER AND PARTICULARS OF SERVICE OF ACCUSED

(For Use at Trials by Field General Court-Martial only)

Number	Rank	Name	Regiment (or as the case may be)
H104041	Rfn	DeGroot, A	R Wpg Rif

NOTE.- The Field Conduct Sheet is to be produced in Court with this statement but is not to be annexed to the Proceedings. The numbers herein stated should correspond with the number of entries in the Field Conduct Sheet, prominence being given to the most serious offence in each entry. If the charge is for drunkenness or absence without leave, the entries for drunkenness or absence, as the case may be, should be stated separately. Any recognized special acts of gallantry or distinguished conduct recorded on the Field Conduct Sheet should also be inserted here.

* Strike out if not applicable

1. The following is a fair and true summary of the entries in the Field Conduct Sheet of the Accused, exclusive of convictions by a court martial or a civil court:-

For .... times

For .... times

For .... times

For .... times

2. Previous convictions of the Accused by a court martial or a civil court are set out in the Schedule overleaf.

3.* The Accused at the present time is under sentence for .....

beginning on the ..... day of .....

4. The Accused has been awaiting trial on the present charges for 27.. days in civil custody; and for .47. days in military custody, making a total of ..47... days of which .20.. days were spent in hosp.

5. The present age of the Accused is 22.YRS.....

6. The date of his attestation is 20 Dec 42.

7. The service which the Accused is allowed to reckon is 2.YRS. 3 MOS.....

8. The Accused is in possession of # Canadian Voluntary Service Medal and Clasp

State the military decorations (if any) held by Accused.

9. afc

afc

INSTRUCTION - If any matter in any of the above paragraphs cannot be stated from the regimental books the paragraph must be struck through.

Army Form B.296 (War)

SCHEDULE OF CONVICTIONS BY A COURT - MARTIAL OR CIVIL COURT

Description of Court by which tried	Date and place of trial	Charges upon which convicted	Sentence of Court	Punishment remitted or sentence suspended

I HEREBY CERTIFY that the foregoing particulars, which have been extracted from the regimental books in my custody, are correct to the best of my knowledge and belief.

Signed this ....14th.... day of Aug.45.....

"W J Strachan"

.....

(W J Strachan) Capt
Adjt, R Wpg Rifles

MFM 6
(AFB 122)
10/P&A/138 (3488)

No. NX104071 Name DeGROOT A | Regt, Battery, or Company | Corps INFANTRY | Date of enlistment 29 Dec 42 | GC Badges | Service or Proficiency Pay | Character

Date of last entry in Company Conduct Sheet | No and date of last drunk | Period not reckoning towards freedom from extra fine | Sheet No | Signature OC Company, etc

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order discontinuing with trial	By whom awarded	Remarks

Certified true copy of original

"W.J.Strachan" Capt. P.A.C.C.

Officer having custody of Regimental documents.

(PTO)

PPP128
PTE GROSE A.C

SCHEDULE.

PART I. PLEA(S), FINDING(S) AND SENTENCE.

Accused: A 11881 Pte Austin Cayley GROSE, Perth R

Charge. (Insert "alternative" where applicable.)	Plea. (See instrs p 2.)	Finding. (See note below.)	(Space for use as required for further charges, accused charged jointly, special findings, etc.)
1st	Not guilty	guilty	
2nd	guilty	guilty	
3rd			
4th			
5th			
6th			

(Note: As to findings for lesser offences see AA 56, RP 44; findings on alternative charges see MML p 483 fn 4 para 2, RP 44; special findings see RP 44 and MML p 753, and in lieu of kit see RP 44 fn 6.)

Accd present under sentence for ~~[illegible]~~ beginning on (date) (1)
(1. Insert sentence being served, or delete, if not applicable. See RP 46(A). Information should be found on MF B355 or AF B296.)

Time in confinement awaiting present trial—a total of Nil days, of which Nil days were spent in hospital.(1)
(1. See RP 46(A) fn 2. Information should be found on MF B355 or AF B296 admitted in evidence under E2.)

Sentence Awarded by the Court: To undergo penal servitude for a term of three years.

(Sgd) N M W Shaw (Capt) — Judge-Advocate, if any
9 Jun 44 — Date awarded.
(Sgd) N H Minshull (Maj) — President (RP 45, 50.)
(See back of Convening Order as to assembly and dispersal of record after trial.)

PART II. MINUTE WHERE CONFIRMATION RESERVED. (AA 54(5), RP 120(F), MML p 760.)

I reserve the Findings and sentence for confirmation by superior authority

Date 19 Jun (Sgd) E Snow A/Brig Commanding 11 Cdn Inf Bde

PART III. DECISION OF CONFIRMING OFFR ON FINDING(S) AND SENTENCE.

(For duties and powers see AA 54, 57, RP 37(D) fn 6,46(A), 51-56, 120, MML pp 759-761, KR Con 567-577. Acquittals require no confirmation and cannot be revised: AA 54(3). Sending back finding or sentence for revision by Court: AA 54(2), RP 120(e). If not confirmed, accused may be tried again: AA 157, MML p 64. Minute of confirmation or non-confirmation may be altered before promulgation: RP 53, MML p 65. Quashing after promulgation: KR Con 573. Duties and powers of reviewing offrs: AA 57, 57A, RP 53A, 54. The Confirming Offr must sign here personally. AA 172 fn 1.)

My decision on the finding(s) and sentence set forth in Part I is:

"I CONFIRM THE FINDINGS AND SENTENCE AND DIRECT THAT A PART OF THE SENTENCE NOT EXCEEDING 2 YEARS SHALL BE SERVED IN A MILITARY PRISON".

I direct that the accused be not committed to prison or detention barracks until further orders.(2)
(1. AA 57A. Delete if not used.)

LONDON
Date 26 Jun 44.
(Sgd) "E.L.MONTAGUE" Maj-Gen.
Major-General i/c Administration
Canadian Military Headquarters.
Confirming Officer.
Commanding

PART IV. PROMULGATED AND EXTRACTS TAKEN. (RP 53, KR Con 574, 577.)

Accused. A-11881 Pte. GROSE, A.C.
Date. 13 June 44
Signature of Offr. [illegible] Capt
3 Bn, 1 CIRD.

ALL DELETIONS AND ALTERATIONS WILL BE INITIALLED.

RECORDED AT CMHQ IN AS 169 PPP-128

FIELD GENERAL COURT-MARTIAL

CFA96 (In lieu of AFA3) 40/P & S 1608 (2864)

Convened by Order of Brigadier T E Snow Comd 11 Cdn Inf Bde dated 9 Jun 44

ACCUSED.

(As to the trial of two or more charged jointly see RP 16, 71, 109. As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Con 308, 328, 330.)

Number.	(a) Prmnt R. (b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
A 11881	Pte	Austin Cayley	GROSE	Perth R

Certified true copy.
W M Shaw Capt
13 June 44 ADJT 5 Cdn Armd Div

PROCEEDINGS OF TRIAL.

Held in the Fd in (country) Italy on (date(s)) 9 Jun 44

RECORD FORM A—OPENING PROCEEDINGS AND ARRAIGNMENT.

A1. The President, Members, waiting Member, JA, if any, and Offrs under instr, if any, assemble, and the Court is closed.

(PRINTED MATTER NOT IN ITALICS FOR GUIDANCE, WILL BE DELETED IF NOT USED OR APPLICABLE, AND INITIALLED BY PRES OR JA. The Schedule referred to throughout is on p 4. Citations do NOT include all relevant fmn ROs. For guidance on procedure when a variation in this form arises, see form for GCM in MML pp 741 to 759. A brief record of such variation will be made and given a number having reference to appropriate or preceding para number herein. See back of Convening Order, CF A93, for oaths and instrs on how to record addresses, evidence, etc, which instrs are hereafter called "Notes". As to general provisions for conducting the trial see AA 53, RP 56, 63-70, 73, 74, 94, 103, 119, 132.)

A2. The President initials and lays before the Court the Convening Order and Charge Sheet(s) attached thereto.(1) The Court is satisfied that it is properly convened and constituted(2), accused is (are) amenable to military law, and each charge discloses an offence.(3)
(1. As to use of Summary of Evidence see RP 17 fn 6. 2. AA 49, 50, RP 105-107. 3. RP 11-13, 23, 24.)

A3. The Court is opened. The accused is (are) brought before the Court. At 0930 hours trial commences.

A4. The Prosecutor produces a Medical Certificate that accused is (are) fit to undergo trial by court-martial. ~~The Prosecutor informs the Court that accused elected to be tried by court-martial instead of being dealt with summarily by the CO.~~(1)
(1. KR Con 557. 2. AA 46(3), RP 60 fn 1. For effect see KR Con 563(c). Delete, if not applicable.)

~~A5. President to accused: Do you object to no interpreter? Ans~~
~~The interpreter is sworn.(1) Do you object to as shorthand writer? Ans~~
~~The shorthand writer is sworn.(1)~~
(1. RP 72. Delete, if none employed.)

A6. The Convening Order and names of the President and Members of the Court are read to the accused.(1)
President to accused: Do you object to be tried by me as President or by any of the Members of the Court?
Ans No Sir (2)
(1. RP 110. 2. If no objection, waiting member retires. RP 66(8). If objection, see procedure AA 51, RP 25, 71, 78, MML p 742.)

A7. The President, Members, JA, if any, and Offrs under instr, if any, are sworn.(1) The following are the ranks, names and units of the offrs comprising the Court, etc:

President	Major	N H Minshull	PL Fus
Member	Capt	R L Simmonds	PL Fus
Member	Lt	G K Dryman	Ir RC
Judge-Advocate	Capt	N M W Shaw	HQ 5 Cdn Armd Div
Prosecutor	Capt	N C Root	Perth R
Defending Offr	Lt	T Cooper	Perth R

Questions by President: Is the Prosecutor a lawyer? Ans No Is the Defending Offr a lawyer? Ans No (2)
(1. RP 26, 27, 109, 111. List of offrs under instr will be returned separately with proceedings for information of Conv Offr.)
(2. If Pros a lawyer and Def Offr not, accused is entitled to an adjournment when RP 89 (B) and fn 2 were not followed. See D1 p 2.)

A8. The accused before arraignment make(s) (no) objn. ~~plea.~~

(1. If a special plea is made for separate trial on one or more charges (RP 62(E), 108), or as to the jurisdiction of the Court (RP 34, 35(A), 113), or in bar of trial (RP 38), or as to accused's mental fitness to stand trial (AA 130, RP 57), or by one of several accused charged jointly to be tried separately (RP 16, 71), such plea, the evidence, if any, and finding are recorded per Notes. For forms of record see references in fns to RoP cited. Insert in AB rank and name of the accused making the plea.)

A9. The accused is ~~(are)~~ arraigned (separately) on all charges in the charge sheet.(1) The accused does ~~(do)~~ not object to any charge.(2) There is no amendment to be made to the Charge Sheet.(3) The President records the pleas in Part I of the Schedule.
(1. RP 31, 112. See para 1 of instrs p 2. When more than one Charge Sheet see RP 63; when several accused to be tried separately see RP 71(C), and use separate copies of CF A96 to record proceedings. 2. RP 32, RP 33. If otherwise, delete and make appropriate record per Notes.)

A10. The Court ~~is cleared and~~ reconsiders the Instrs on Procedure after Arraignment at top of p 2. The proceedings are continued on Record Form G

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS

INSTRUCTIONS ON PROCEDURE AFTER ARRAIGNMENT.

1. *The accused may not plead or be found Guilty on more than one of two or more charges laid in the alternative.* (*RP* 37(*A*).) *As to withdrawal of alternative charges by Prosecutor see RP* 35(*C*). *No other charge can be withdrawn for any reason without authy from Convening Offr. If Convening Offr concurs, Court may accept plea of Guilty to lesser, etc, offence.* (*RP* 44(*H*).) *Accused may change a plea of Not Guilty to Guilty during trial.* (*RP* 38.) *As to refusing to plead or not pleading intelligibly see RP* 35(*A*). *As to plea when sentence may be death see RP* 35(*D*).

2. *The proceedings on each charge sheet* (*RP* 62) *after arraignment will be conducted as follows in the respective circumstances stated :*

I. If pleas to all charges are GUILTY, use Record Form B below.

II. If pleas to all charges are NOT GUILTY, use Record Form D on p [redacted] 3.

III. If pleas to some charges are GUILTY and to other charges are NOT GUILTY and,

(a) *Such mixed pleas occur when there are no alternative charges in the Charge Sheet, use Record Forms C below.* (*RP* 37(*A*).)

(b) *Such mixed pleas occur in a set of two or more charges laid in the alternative, see RP* 37 (*A*) *and fn* 2 *as to discretion of Court,* (i) *to try the accused on all such alternative charges as if he had pleaded Not Guilty thereto,* or, (ii) *to record the pleas as the findings of Court. After deciding between* (i) *and* (ii), *Court will proceed under foregoing instrs as may be appropriate to result of its decision. See MML p* 744 *Instrs* (2).

3. *As to responsibility of President to accused see RP* 59, 60(*C*) ; *powers and duties of JA see RP* 103 ; *duty of Prosecutor see RP* 60(*A*) (*E*) ; *duty and privileges of accused and Defending Offr see RP* 60(*C*), 87(*C*), 91, 92 ; *swearing and withdrawal of witnesses from Court see RP* 81, 82 ; *questioning of accused see RP* 80, 87(*C*), 92(*D*), *and of witnesses see RP* 85-88 ; *calling or re-calling of witnesses by Court etc see RP* 75-79, 86, 116 ; *use of Summary of Evidence at Trial see RP* 17(*E*) *fn* 6 ; *and responsibility of JA or Pres to record proceedings see RP* 94, 96.

RECORD FORM B—PROCEEDINGS ON PLEAS OF GUILTY TO ALL CHARGES.

B1. The President or JA, if any, complies with RP 35(B) by explaining to the accused the nature and meaning of the charge(s)(1), and that on his plea of Guilty there will be no regular trial but merely a consideration of the sentence to be awarded after he has been given an opportunity to make a statement in reference to the charge(s), call witnesses as to character and make an address in mitigation of punishment.(2)
(1. *RP* 35 *fn* 3. 2. *MML p* 54 *para* 47.)

B2. President to accused : The Court will now receive any statement you desire to make in reference to the charge(s).(1) If it appears from your statement that there are circumstances which indicate that you do not understand the effect of the plea of Guilty(2), or which show provocation or extenuation in respect of which in your interest the witnesses for the Prosecution should be examined(3), we shall advise you to change your plea to Not Guilty. In making a statement you will not be sworn or subject to cross-examination ; and anything you say will not be used in evidence against you after you change your plea. If, however, it appears to the Court that your statement affects only the amount of punishment to which you are liable, you will not be advised to change your plea and you will be given an opportunity later to prove your statement by sworn testimony, if you so desire.(4)

President to accused : Do you wish to make a statement ? Ans Yes (5)
(1. *RP* 37(*B*). 2. *RP* 37(*D*) *fn* 6. 3. *RP* 35(*B*) *fn* 5 *para* 3, *MML p* 54 *para* 47. 4. *See para* E3 *of Record Form* E. 5. *Statement, if any, recorded per Notes.*)

B3. The Court considers the accused's statement.(1) The Court decides (not) to advise accused to change his (their) plea(s) of Guilty to Not Guilty on second charge(s). The accused is (are) so informed, ~~and he (they)~~ ~~plea(s) of Guilty to Not Guilty on charge(s).~~ Part I of the Schedule is amended accordingly.
(1. *Court may be closed to consider the statement. Delete whole or part not used.*)

B4. On the charge(s) to which the plea(s) of Guilty is (are) not changed the President records finding(s) of Guilty in Part I of the Schedule.(1)
(1. *RP* 35(*B*). *If any plea(s) is (are) changed, use Record Form C or D as appropriate.*)

B5. The Summary of Evidence is marked Ex A , initialled and read aloud by the President.(1)
(1. *If there is no Summary, or if it is inadequate, comply with RP* 37(*B*). *If there is any evidence inconsistent with any plea standing as Guilty, Court will advise accused to change such plea and, if changed to Not Guilty, try such charge(s) by use of paras* D1 *to* D8 *inclusive of Record Form D on p* 3. *RP* 37(*D*).)

B6. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

RECORD FORM C—PROCEEDINGS ON MIXED PLEAS OF GUILTY AND NOT GUILTY.

C1. As to the charges on which accused pleaded NOT GUILTY the trial is continued by using paras D1 to D8 inclusive of Record Form D on p 3 before proceeding with C 2.(1)
(1. *RP* 37(*A*) (*E*).)

C2. The charges on which accused pleaded GUILTY are read to him (them) again, and the trial is continued by using paras B1 to B5 of Record Form B above.(1)
(1. *Under B5 such parts only of the Summary of Evidence are read as relate to the charges dealt with under C2. If any plea is changed to Not Guilty, trial thereon proceeds by complying with paras D1 to D8 inclusive in Record Form D on p 3 and making an appropriate record thereof on a separate sheet.*)

C3. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

Pin here Loose Sheets of Record.

RECORD FORM D—PROCEEDINGS ON PLEAS OF NOT GUILTY TO ALL CHARGES.

D1. President to accused : Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity to prepare your defence ? Ans No, Sir (1)
(1. *If "yes", see RP* 39(*A*) *for procedure. Statement or evidence, if any, is recorded per Notes.*)

D2. The Prosecutor makes ~~an~~ (no) opening address.(1)
(1. *RP* 39(*B*), 60(*A*) (*B*), 90, 92(*C*) (*D*). *Record address per Notes, subject to RP* 95(*C*).)

D3. The evidence for the Prosecution is taken.(1)
(1. *RP* 39(*C*), *114, KR Can* 535. *Record evidence per Notes. As to Prosecutor giving evidence himself see RP* 39(*D*) (*E*).)

D4. The Prosecution is closed.(1) ~~The Defending Offr submits that the evidence for the Prosecution does not establish a prima facie case against the accused on the charge(s).~~(2) The Court is cleared, and considers the submission.(3) The Court is re-opened, and the President announces that the submission is disallowed on the charge(s), and allowed on the charge(s), and that, accordingly, the trial will proceed on the former, but the accused is (are) found Not Guilty on the latter charge(s).(4)
(1. *Delete remainder of this para, if submission not made.* 2. *Arguments on submission, answer and reply are recorded per Notes.* 3. *RP* 40 *fn* 1. *See MML p* 72 *paras* 12-14 *and p* 81 *para* 42. 4. *Delete part not used. If accused acquitted on all charges, use second alternative in para* D8.)
NB : If trial proceeds, accused must be allowed great latitude in making his defence, and the Court should not stop his defence solely on ground of irrelevance. (*RP* 60(*C*), *114*, 115.)

D5. President to accused : You will now proceed with your defence.(1) You may, if you wish, give evidence yourself on oath as to the facts or your character or both, in which case you will be subject to cross-examination.(2) You may, however, make a statement without being sworn, and you will not be subject to cross-examination.(3) But a statement which could have been made on oath will not carry with the Court the same weight as sworn testimony.(4) You may call witnesses in your defence and as to character, whether you give evidence or make a statement or do neither.

President to accused : Do you wish to give evidence yourself as a witness, make a statement, or do neither ?
Ans I'm neither Do you intend to call witnesses on your behalf ?
Ans No, Sir Are they witnesses as to character only ? Ans
(1. *RP* 155. 2. *RP* 40(*A*), *see* 80(*D*). 3. *RP* 40 *fn* 10. 4. *RP* 40 *fns* 2, 9.)

D6. Consequent on the answers recorded in para D5 the appropriate procedure for the defence is followed.(1)
(1. *RP* 114, 115, 116. *For procedure see Notes on back of Convening Order. CF A95. Evidence for accused as to his character should, if in his interest, be given before the finding. See RP* 46(*A*) *fn* 1, 86(*C*). *Note the further opportunity in para* E1 *of Record Form* E. *Record per Notes addresses, statement, evidence and any summing up by the JA under RP* 42, 103(*b*).)

D7. The Court is closed to consider the finding(s).(1) The finding(s) of the Court is (are) recorded in Part I of the Schedule.(2) The Court is re-opened.
(1. *RP* 42, 117(*A*). *See Notes in Part I of Schedule.* 2. *RP* 44(*A*).)

D8. The President announces the finding(s), if any, of Not Guilty, and states to the accused that the finding(s) of the Court on the First charge(s), being subject to confirmation, will be promulgated later.(1)
Or The President announces that the accused is found Not Guilty on all charges and is to be released forthwith, and that the proceedings are accordingly terminated. Part I of the Schedule is dated and signed.(2)
(1. *AA* 54(3) (*a*), *RP* 45, 120(*A*). 2. *AA* 54(3), *RP* 45, 117. *This alternative announcement is not applicable when there are pleas of Guilty outstanding and dealt with under Record Form B or C.*)

D9. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E below.

RECORD FORM E—PROCEEDINGS ON CONVICTION BEFORE SENTENCE.

E1. President to accused : Do you wish to give evidence yourself or to call any witnesses as to your character ?(1)
Ans No, Sir
(1. *If evidence has already been given by accused or his witnesses as to his character, delete this para. RP* 37(*C*) *fn* 4, 46 *fn* 1. *Accused and witnesses are sworn. Evidence recorded per Notes.*)

E2. The Prosecutor produces Statement(s) as to Character and Particulars of Service(1), and certified true copy (copies) of Conduct Sheet(s)(2), purporting to refer to the accused, which he submits to the Defending Offr for examination, and then to the Court for admission in evidence. The Court is satisfied that these documents refer to the accused, because (i) they purport to be signed in the manner required by AA 163(3) (g) (h), and (ii) they purport to refer to (a) soldier(s) having the same number, rank, name and corps as the accused. Admitted in evidence and marked Ex B and Ex C respectively.(3)
(1. *MFB* 355 *or AFB* 296. 2. *MFM* 6. 3. *RP* 46, *KR Can* 558. *If above documents not produced, see RP* 46 *fn* 1 *para* 1.)

E3. President to accused : Do you wish to address the Court on the Statement(s) and Conduct Sheet(s), and in mitigation of punishment ?(1) Ans Yes through def offr
(1. *RP* 37(*C*), 46(*D*). 2. *Address, if any, recorded per Notes. Court should permit accused or his witnesses to prove on oath anything heard or previously stated which would affect the amount of punishment. RP* 37(*F*) *fn* 7.)

E4. The President states that the Court is closed to consider the sentence, and that the sentence to be awarded by the Court, being subject to confirmation, will not be announced, but will be promulgated later, and the proceedings in open court are accordingly terminated.(1)
(1. *AA* 54(3), *RP* 120(*A*).)

E5. The Court considers the sentence.(1) The President records the sentence in Part I of the Schedule, which is dated and signed by him and the JA, if any.(2) Yes (3)
(1. *When several accused tried separately see RP* 2(*d*). *One sentence only, comprised of the punishment or punishments laid down in AA* 40, 44 *and its proviso, is to be awarded to cover all charges in all charge sheets on which accused found guilty. RP* 48. *As to sentences see AA* 44, 138, 182, *RP* 46-50, 48, 118, 119(*A*), *KR Can* 308, 330, 563-566. *Overseas AO* 309, 1323. *MML p* 60, 757-759. *As to sentences assigned for civil offences by the law of England see AA* 41(5), *MML p* 130. *When accused already under sentence of imprisonment or detention see AA* 44(1)(*b*), 68(1), *KR Can* 564. 2. *RP* 50. *As to release from arrest by Confirming Offr see KR Can* 567. *As to assembly and disposal of record after trial see instrs on back of Convening Order.*)

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

LRPG V LRIZ SER 95

FROM CANMILITRY 281825 B

TO CDN 02E AAI

RESTRICTED (.) FGCM PROCEEDINGS C4953 PTE WELLS KF A11881 PTE GROSE AC D167327 PTE FLESCH B2 88 PTE AU USTINE HG ALL SERIALS 107/1 RECEIVED 27 JUN 44 ENDORSED BY MGA 28 JUN EACH CASE AS FOLLOW QUOTE I CONFIRM THE FINDINGS AND SENTENCE AND DIRECT THAT A PART OF THE SENTENCE NOT EXCEEDING 2 YEARS SHALL BE SERVED IN A MILITARY PRISON UNQUOTE

BT 282211 MJT AR

RD 282212B VNH AR

CHARGE SHEET

The accused, A 11881 Pte Austin Cayley GROSE,
The Perth Regiment, Canadian Army Overseas,
is charged with:

First Charge
Section 5(7)
Army Act

WHEN ON ACTIVE SERVICE, MISBEHAVING BEFORE THE ENEMY IN SUCH MANNER AS TO SHOW COWARDICE

in that he

In the Field, at the River MELFA, on 25 May 44, during an attack by his Company, and when under the enemy's fire, fell out of the ranks and proceeded toward the rear areas.

Second Charge
Section 9(2)
Army Act

WHEN ON ACTIVE SERVICE, DISOBEYING A LAWFUL COMMAND GIVEN BY HIS SUPERIOR OFFICER

in that he

In the Field, at the River MELFA, on 25 May 44, did not return to his Company when ordered to do so by Lt-Col J S H Lind, CO, the Perth Regiment.

In the Field
6 Jun 44

(SGD)
(J S H Lind) Lt-Col
Comd Perth R

To be tried by Field General Court-Martial

Field
9 Jun 44

(SGD)
(T E Snow) Brig
Comd 11 Cdn Inf Bde

10 Mins
11 Hrs

The following is the Correct form of medical certificate to be used for trial. The accused must be examined the morning of each day he is on trial and a certificate obtained on each such day;

I certify that I have this morning examined No. A-11881

Rank. Pte Name. Grose A.C. Unit, Perth Regt

and in my opinion he is fit/~~unfit~~ to undergo trial by Court Martial.

Station. Field.

Date. 8 Jun 44

Page Statter Capt
Medical Officer

ecamined again 9 Jun 44

Thomas

FIELD GENERAL COURT-MARTIAL

CFA36 (In lieu of AFAD) 40/PAM/1007 (D68)

(Whether the accused to be tried is under his comd or not, a FGCM may on application to him be convened by any offr of Cdn Army Overseas, or of any other force if authorized in law, in immediate comd of troops on active service, subject to RP 105(C) and restrictions imposed by appropriate authy. AA 49, 50, RP 104-107, 114. As to the duties and privileges of the Convening Offr in dealing with the application see MML Chap V paras 20 and 23, RP 87(B).

There should be a separate Convening Order for each person to be tried separately by the same Court. RP 71(C), 109. As to separate charge sheets see RP 62, and as to separate trial on charges in the same charge sheet see RP 108. As to two or more accused charged jointly see RP 16, 109.

As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns. KR Can 308, 328, 330.)

ACCUSED.

Number.	(a) Prmnt R.	(b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
B 11681	Pte		Austin Cayley	GROSE	Perth R

CONVENING ORDER.

1. Whereas complaint has been made to me, the undersigned, that the person[x] named above as the accused, being subject to military law, has [have] committed the offence(s) set forth in the Charge Sheet(s) attached and on (date) 9 Jun 44 endorsed by me, (or by an offr of my staff for me), " To be tried by Field General Court-Martial ".

2. And whereas I am of opinion that it is not practicable that such offence(s) should be tried by an ordinary General Court-Martial ; (and that it is not practicable to delay the trial for reference to a superior qualified offr.)

(Delete part in brackets when not required for compliance with RP 105(C).)

3. I hereby convene a Field General Court-Martial to try the said person[x], and to consist of the Offrs appointed or detailed hereunder.

4. ~~I am unable to appoint (a) three Offrs to form the Court, (b) a Fd Offr as President, for the reasons I have attached hereto.~~

(AA 49, RP 106(B), 107(A). Delete the whole or part, if not applicable.)

5. I also appoint as Judge-Advocate thereat the Offr mentioned hereunder.

(RP 106(E). Delete, if none appointed.)

PRESIDENT.

Major (Rank.)	N H MINSHALL *(Must be named. RP 106.)*	Sp Gp (PLP) (Unit.)

MEMBERS.

Capt	R L SIMMONDS	Sp Gp (PLP)
Lt (Rank.)	G K DRYANAN *(Named or detailed. RP 106.)*	Ir HC (Unit.)

WAITING MEMBER.

Lt (Rank.)	J A MACDONALD *(Named or detailed, if any. RP 106.)*	C E Highrs (Unit.)

JUDGE-ADVOCATE.

Capt (Rank.)	W M W SHAW *(Must be named, if any. RP 106.)*	HQ 5 Cdn Armd Div (Unit.)

On Active Service in the Fd

in Italy (Country.)

(SGD) (T E Snow) *(Signed personally. RP 105 fn 2.)*

Brig (Rank.)

Date 9 Jun 44

Commanding 11 Cdn Inf Bde
Convening Officer.

CONVENING OFFR WILL INITIAL ALL DELETIONS AND ALTERATIONS

(See overleaf for oaths and notes for use on trial.)

WMWS
11 Hm

1st Wit Prosn

Lt-Col J S H Lind, Perth R duly sworn, states:-
Am CO of Perth R - was same on 25 May 44. Recognise accd as Pte GROSE. On evening 25 May was beside Tac HQ on last bank of MELFA. Regt were attacking across MELFA to enlarge bridgehead saw accd coming back from direction in which Coy were attacking. Sent for accd & asked him why he was not with Coy. He said broke down & would not go on. I spoke to him for a few minutes regarding fear & after a few minutes ordered him to rejoin his coy. He refused & did not go. I turned him over to Pro Sgt & told him to put them in close arrest. 'A' Coy was attacking enemy at that time. Accd said he was frightened.

XXm:- Accd seemed more shamefaced than frightened or nervous.

Re-Exam nil

Court:- Belive accd belongs to 'A' Coy.
RP 83(B) complied with.

2nd Wit Prosn

Lt J E Morgan, RCCS attd Perth R duly sworn states:-
Was with CO on 25 May at comd post overlooking MELFA. CO went to speak to 2 men one was accd GROSE. He spoke to him for several minutes & they were then marched away. GROSE belongs to A Coy. A Coy were advancing against enemy.

XXm:- nil

Court:- nil

RP 83 (B) complied with.

3rd Wit Prosn

H42225 Sgt Woodward, J W, Perth R, duly sworn states:-
Accd Pte GROSE of my Pl in 'A' Coy.
Cpl Halloran reported to me & as a result we approached accd. He had broken down completely & was whimpering. I put him in veh. I asked how he feel & he was unable to answer. Did not see him again after that - Don't know if ret'd to Pl.

XXm:- Ordered Cpl to put accd in a veh. Said nothing about what to do with him. Pl offr not there & being ordered to move-Intended taking him up to Pl Offr & getting instrs.

RE XXMN:- Had broken down completely & whimpering.

Court:- Don't know what happened veh aft r I gave order to Cpl - Don't know what veh accd put on.

RP 83 (B) complied with

4th Wit Prosn

A11675 Cpl O'Halloran, EM, Perth R duly sworn, states:-
9 sec - 9 pl - A Coy. Accd is GROSE of my sec. On 25 May 44 late afternoon. I formed sec up for attack noticed accd then went over to see him. He was completely broken down & did not seem to know me. On instrsfrom Sgt W put accd on a F veh which was going into battle.

XXm:- Never saw after put in veh. Did not order him to go anyplace or tell him what to do. I moved off before veh moved off. Saw veh once later & it was just behind us in battle.

Re XXMN:- Nil

Court:- Told him to stay in veh that I wouldn't take him into action with me. Did not notice who in veh when saw it later, was moving too fast, being mortared.

Prosn closed

Pros no closing address

Def Offr submits no proof that cowardice - got into carrier as told - told by Cpl that wouldn't take into action.

J A sums up:- defines courts function; credibility of witnesses; burden on Prosn. "reasonable doubt; "cowardice" - special findings RP 44(d).

On Second Charge:- Col says I was shamefaced but I couldn't talk. I understood order but I couldn't explain why Cpl O'Halloran told me not to go in. If I could have explained I would have.

Def Offr in mitigation:- Married with 2 children.
Volunteer of 4 yrs service.
Rose to CQMS but got drunk.
In ORTONA battle served well as CQMS - Reduction bothered him & had never been front line fighting soldier - first experience in line & could not take it.

W M W Shaw Capt

SUMMARY OF EVIDENCE

R P 4

Perth Regiment C A

6 Jun 44

Summarh of Evidence in the case of A 11881
Pte Austin Cayley GROSE, The Perth Regiment,
Canadian Army Overseas, charged with:

1 WHEN ON ACTIVE SERVICE, MISBEHAVING BEFORE THE ENEMY IN SUCH MANNER AS TO SHOW COWARDICE
AA Sec 5(7).

2 WHEN ON ACTIVE SERVICE, DISOBEYING A LAWFUL COMMAND GIVEN BY HIS SUPERIOR OFFICER.
A A Sec 9(2).

The Commanding Officer direct that all evidence be taken on oath.

R P 4.F

First Witness: Lt-Col J S H Lind, The Perth Regiment, C A having been duly sworn, states:

"I am Lt-Col J S H Lind, CO, The Perth Regiment.

On the evening of the 25 May 44, I was standing beside my Tac HQ on the East Bank of the River MELFA, and I saw Pte GROSE coming back from the direction in which 'A' Coy was attacking. I sent the late Sgt Jessop to bring him to me in order to ascertain why he was not with his Coy. When he was brought before me and questioned, he replied that he was frightened and unable to proceed. I spoke to him regarding fear and stated that he must pull himself together and rejoin his Coy. After being ordered twice, by direct order to return to his Coy, he still refused to do so. I then placed him under close arrest and sent him back to 'A' Ech."

The accused declines to cross-examine the witness.

(J S H Lind Lt-Col

Second Witness: Lieut James Evans MORGAN, RCOS, att The Perth Regiment, C A having been duly sown, states:

"I am Lieut J E Morgan, Signals Officer of the Perth Regiment.

During the late afternoon of the 25 May 44, I was with the CO at his Command post, overlooking the MELFA River. Sgt Jessop, then Provost Sgt with the Perth Regiment, reported to Col Lind that Pte GROSE would not go into the line. The CO then went and spoke to the man for several minutes, and then he was placed under close arrest and ordered back to 'B' Echelon."

The accused declines to cross-examine the witness.

J E Morgan, Lieut

Third Witness:

H 42225 Sgt Woodward J E, Perth Regiment, C A,
having been duly sworn, states:

"I am H 42225 Sgt Woodward J E, Pl Sgt of 9 Pl,
'A' Coy, The Perth Regiment.

At approximately two minutes before we were to move off for the attack on 25 May 44, Cpl O'Halloran of 9 section, 9 Platoon, approached me and said that Pte Grose had broken down. Cpl O'Halloran and I approached Grose and I found that Pte Grose had broken whimpering. I ordered Cpl O'Halloran to try and get Pte Grose put on a vehicles. I then had to return to my platoon for we were moving off".

The accused declines to cross-examine the witness.

(H 42225 Sgt Woodward J W)

Fourth Witness:

A 11675 Cpl O'Halloran E M, The Perth Regiment, C A,
having been duly sworn, states:

"I am A 11675 Cpl O'Halloran E M, section comd of 9 sec 9 platoon 'A' Coy, the Perth Regiment.

On late afternoon of 25 May 44 I formed up my section for the attack. I then noticed that something was wrong with Pte Grose, so I went over to talk to him, and found that he was completely broken down. He didn't even seem to know me. I then told Sgt Woodward, my Platoon Sgt, that I would not take him into action, because he was in no condition and would have been a hindrance to the section. Pte Grose was then put in 'A' Coy HQ Carrier and I did not see him again."

The accused declines to cross-examine the witness.

(A11675 Cpl O'Halloran E M)

F G C M

The accused was warned as follows:

"Do you wish to make any statement or to give evidence upon oath? You are not obliged to say anything or give evidence unless you wish to do so, but whatever you say or any evidence you give will be taken down in writing and may be used as evidence."

"A"

"The accused declines to make a statement or to give evidence."

WWWS

The accused does not wish to call witnesses on his behalf.

A C Grose

I certify that R P 4 has been complied with.

Taken by me in the Field in the presence and hearing of the accused this 6th day of June, 1944.

In the Field

6 Jun 44

(SGD)
(N C Root) Capt
Perth Regiment
Officer detailed to take the Summary of Evidence.

F G C M

A 11881 Pte Austin Cayley GROSE
The Perth Regiment C A

(a) LIST OF WITNESSES FOR THE PROSECUTION

Lt-Col J S H Lind,	The Perth Regiment C A 5 Cdn Armd Div CMF
Lieut J E Morgan	Royal Canadian Corps of Signals Att Perth Regiment C A CMF
H 42225 Sgt Woodward J W	Perth Regiment C A 5 Cdn Armd Div CMF
A 11675 Cpl O'Halloran E M	Perth Regiment C A 5 Cdn Armd Div CMF

F G C M

A 11881 Pte Austin Cayley GROSE
The Perth Regiment C A

N I L

F G C M

A 11881 Pte Austin Cayley GROSE
The Perth Regiment C A

I do/~~do not~~ desire the Convening Officer to detail an Officer to represent me at my forthcoming trial by FIELD GENERAL COURT-MARTIAL.

I request the services of Capt S R Granger

If he is available.

In the Field
6 Jun 44

(A 11881 Pte Grose A C)

No. A 11881 Name GROSE A C | Sqn, Battery or Company | Corps C I C | Date of enlistment 28-6-40 | G.C. Badges 28-6-42 | Service or Proficiency Pay | Character

Date of last entry in Company Conduct Sheet: N/A | No. and date of last drunk | Period not reckoning towards freedom from extra fine | Sheet No. 1 | Signature O.C. Company, etc. Robt Cole Lt

(1)

M.F.M. 6 (A.F.B. 137) (Sgns. & Lt. (1942)) H.Q. 1171-45-8

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with same	By whom awarded	Remarks
	PRIVIOUS SHEET			DESTROYED 4 SEP 43 Robert Cole Lt.					
Field	9Feb 44	CQMS		AA Sec 19 Drunkenness	Maj Andrew L/Cpl Bryce	Reduced to the ranks	3 Mar 44	FGCM	
Field	11May 44	Pte		AA Sec 15(1) WOAS AWL from 1445 hrs 11 May 44 until 2130 hrs 11 May (Total 6 hrs 45 mins)	Doc Evidence	12 dys FP 12 days pay	13 May 44	Lt-Col W S Rutherford	Fof one days pay

Certified true Copy of Original Document in my possession as custodian of Regimental documents.

(P J F Baker) Capt - A/Adjt.

(P.T.O.)

ARMY FORM B.296.

Statement as to Character and Particulars of Service of Accused.

Number.	*Rank.*	*Name.*	*Regiment (or as the case may be).*
A 11881	Pte	Austion Cayley GROSE	Perth

1. The following is a fair and true summary of the entries in the regimental and squadron, battery or company conduct sheets† of the accused, exclusive of convictions by a court martial or a civil court, of summary awards under section 47 of the Army Act, and of cases in which trial has been dispensed with :—

Note.—At a trial by field general court martial this summary may be compiled from the field conduct sheet.

The conduct sheet(s) mentioned should be produced in court with this statement, but not annexed to the proceedings.

† See para. 677, K.R., 1940.

* The numbers therein stated should correspond with the entries in the conduct sheets, prior to any reduction being given to the said entries in each entry, and to any recognized special acts of gallantry or distinguished conduct.

Instruction.—If the charge is for drunkenness the entries for drunkenness must be stated separately and dated.

	* Within last 12 months.	*Since Enlistment.
For AA Sec 15(1) AWL	1 times	1 times.
For	times	times.
For	times	times.
For	times	times.
For	times	times.

~~Number of instances of gallantry or distinguished conduct,~~

~~or~~

There are no entries in the conduct sheets of the accused.

2. ~~The accused has not been previously convicted~~

Previous convictions† of the accused by a court martial or a civil court, summary awards under section 47 of the Army Act, and dispensations with trial under section 73 of the Army Act, are set out in the schedule annexed to this statement.

3. The accused is not under sentence at the present time, ~~or the sentence or the possession of which under sentence is beginning to be commuted by~~

4. The accused has been in confinement, awaiting trial on the present charges, for N/o days in civil custody, and N/o days in military custody, making a total of N/o days, of which N/o days were spent in hospital.

5. The present age of the accused according to his ~~attestation~~ record of service ~~attestation paper~~ is 31 yrs 7 mos

6. The date of his ~~commission~~ attestation specified in his record of service ~~attestation paper~~ is 28 June 1940

7. The service which the accused is allowed to reckon towards discharge or transfer to the reserve is 3 yrs, 11 mos

8. The accused is entitled to deferred pay or gratuity in respect of 3 yrs 11 mos service.

9. The accused is entitled to reckon 3 yrs 11 mos service for the purpose of determining his pension, etc.

10. The accused is in possession of, or entitled to, no military decoration or military award (*or* is in possession of *or* entitled to (*state any military decoration or reward*)). CVSM & Clasp

11. ~~(If the accused is a warrant officer.)~~ ~~The accused before his last promotion was~~ ~~in the regimental~~ rank of

12. ~~(If this fact is known.)~~ ~~The accused holds or has held~~ ~~regimental~~ ~~or corps~~ ~~appointment~~ ~~rank of~~

(31640) W1.20340/1000 75,000 12/40 A.A.E.W.Ltd. Gp.698

WWS

Schedule of Convictions by a Court Martial or Civil Court, of summary awards under Section 47 of the Army Act and of cases in which trial has been dispensed with of accused.

No. A 11881 Rank Pte Name GROSE, AC of Perth Regiment (or as the case may be).

(INSTRUCTION—A verbatim extract from the regimental books, stating these convictions and dispensations with trial, must be inserted.)

Description of court by which tried, or status of officer disposing of the charge or dispensing with trial	Date and place of trial, or summary award under A.A. 47, or of order dispensing with trial	Charges upon which convicted, or in respect of which trial was dispensed with	Sentence of the court or authority disposing of the charge, or order of the dispensing authority	Punishment remitted
F G C M	In the Field 3 Mar 44	AA Sec 19 Drunkenness (1st Offence)	Reduced to the ranks from CQMS	N/A

I HEREBY CERTIFY that the foregoing schedule of convictions and dispensations with trial is a true extract from the regimental books in my custody.

Signed this 6th day of June 1944

"P J F Baker" Capt

13. The accused has served as a non-commissioned officer continuously, without reduction, to the present date,

Date of Promotion.

In the rank of , years,

In the rank of , years

In the rank of , years,

In the rank of , years,

(Instruction—If any matter in any of the above paragraphs cannot be stated from the regimental books the paragraph must be struck through, except that in the case of a trial by field general court-martial the information may be collected from such sources as are available and the paragraph inserted accordingly.)

GGG 125
CQMS. GROSE A.C.

ENTERED IN RECORDS OF C.M. GGG-125

FIELD GENERAL COURT-MARTIAL

(PAGE (In lieu of AF B30/ AD P & R (1108 [2884])

Convened by Order of Brig. T. E. Snow Comd 11 Cdn Inf Bde dated 1 Mar 44

ACCUSED.

(As to the trial of two or more charged jointly see RP 16, 71, 109. As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

Number	(a) Prmnt R. (b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
A.11881	CQMS	Austin Cayley	GROSE	Perth Regt

PROCEEDINGS REVIEWED

[illegible] Lt-Col

[illegible]

[illegible] OFFICER, JAG BRANCH C.M.H.Q.

PROCEEDINGS OF TRIAL.

Held in the Fd in (country) ITALY on (date(s)) 3 Mar 44

RECORD FORM A—OPENING PROCEEDINGS AND ARRAIGNMENT.

A1. The President, Members, waiting Member, JA, if any, and Offrs under instr, if any, assemble, and the Court is closed.

(PRINTED MATTER, NOT IN ITALICS FOR GUIDANCE, WILL BE DELETED IF NOT USED OR APPLICABLE, AND INITIALLED BY PRES OR JA. The Schedule referred to throughout is on p 4. Citations do NOT include all relevant fins RDs. For guidance as to procedure when a variation in this form arises, see form for GCM in MAML pp 741 to 759. A brief record of such variation will be made and given a number having reference to appropriate or preceding para number herein. See back of Convening Order, CF A95, for oaths and instrs on how to record addresses, evidence, etc, which instrs are hereafter called "Notes". As to general provisions for conducting the trial see AA 53, RP 36, 63-70, 73, 74, 94, 103, 119, 122.)

A2. The President initials and lays before the Court the Convening Order and Charge Sheet(s) attached thereto.(1) The Court is satisfied that it is properly convened and constituted(2), accused is (are) amenable to military law, and each charge discloses an offence.(3)

(1. As to use of Summary of Evidence see RP 17 fn b. 2. AA 49, 50, RP 105-107. 3. RP 11-13, 23, 24.)

A3. The Court is opened. The accused is (are) brought before the Court. At 1350 hours trial commences.

A4. The Prosecutor produces a Medical Certificate that accused is (are) fit to undergo trial by court-martial.(1) ~~The Prosecutor informs the Court that accused elected to be tried by court-martial instead of being dealt with summarily by the CO.~~(2)

(1. KR Can 557. 2. AA 46(8), RP 60 fn 1. For effect see KR Can 563(c). Delete, if not applicable.)

A5. President to accused: ~~Do you object to~~ as interpreter? Ans ~~—~~

~~The Interpreter is sworn.~~(1) Do you object to as shorthand writer? Ans ~~—~~

~~The shorthand writer is sworn.~~(1)

(1. RP 72. Delete, if none employed.)

A6. The Convening Order and names of the President and Members of the Court are read to the accused.(1) President to accused: Do you object to be tried by me as President or by any of the Members of the Court?

Ans Nil.(2)

(1. RP 110. 2. If no objection, waiting member retires. RP 60(8). If objection, see procedure AA 51, RP 25, 71, 18, MAML p 742.)

A7. The President, Members, JA, if any, and Offrs under instr, if any, are sworn.(1) The following are the ranks, names and units of the offrs comprising the Court, etc:

President	Major	Archibald Fullerton	C B Highland 11 Cdn Inf Bde Gp Fd Pk Co
Member	Capt	G.S. Bould.	2 Fd Regt RCA
Member	Capt	C A Gordon	11 Cdn Inf Bde HQ
Judge-Advocate	Mil		
Prosecutor	Capt	P.A.J. Baker	Perth Regt
Defending Offr	Capt	J.B. Kennedy	Perth Regt

Questions by President: Is the Prosecutor a lawyer? Ans Accd Is the Defending Offr a lawyer? Ans Accd (2)

(1. RP 26, 27, 109, 111. List of offrs under instr will be returned separately with proceedings for information of Conv Offr.)
(2. If Pros a lawyer and Def Offr not, accused is entitled to an adjournment: when RP 89 (3) and fn 2 were not followed. See DI, p 3.)

A8. The accused before arraignment make(s) (no) objection.(1)

(1. If a special plea is made for separate trial on one or more charges (RP 62(E), 109), or as to the jurisdiction of the Court (RP 34, 35(4), 113), or in bar of trial (RP 36), or as to accused's mental fitness to stand trial (AA 130, RP 57), or by one of several accused charged jointly to be tried separately (RP 16, 71), such plea, the addresses made in support or against, the evidence, if any, and finding are recorded per Notes. For forms of record see references in fns to RsP cited. Insert in AB rank and name of the accused making the plea.)

A9. The accused is (are) arraigned (separately) on all charges in the charge sheet.(1) The accused does (do) not object to any charge.(2) There is no amendment to be made to the Charge Sheet.(3) The President records the pleas in Part I of the Schedule.

(1. RP 36, 112. See para 1 of Instrs p 2. When more than one Charge Sheet see RP 62; when several accused to be tried separately see RP 71(C), and use separate copies of CF A96 to record proceedings. 2. RP 32, RP 33. If otherwise, delete and make appropriate record per Notes.)

A10. The Court (is closed and) considers the Instrs on Procedure after Arraignment at top of p 2. The proceedings are continued on Record Form D 4

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

4

SCHEDULE.

PART I. PLEA(S), FINDING(S) AND SENTENCE.

Accused: A.11881 CQMS Austin Cayley GROSE

	Charge. (Insert "alternative" where applicable.)	Plea. (See Instrs p 2.)	Finding. (See note below.)	(Space for use as required for further charges, accused charged jointly, special findings, etc.)
1st	AA 19	not guilty	guilty	
2nd	AA 40 Alternative	not guilty	NOT GUILTY	
3rd				
4th				
5th				
6th				

(Note: As to findings for lesser offences see AA 56, RP 44; findings on alternative charges see MAML p 483 fn 4 para 2, RP 44; special findings see RP 44 and MAML p 753, and in lieu of kit see RP 44 fn 6.)

At present under sentence for Nil beginning on (date) (1)

(1. Insert sentence being served, or delete, if not applicable. See RP 46(A). Information should be found on MF B355 or AF B296.)

Time in confinement awaiting present trial—a total of One days, of which One days were spent in hospital.(1)

(1. See RP 46(A) fn 2. Information should be found on MF B355 or AF B296 admitted in evidence under E2.)

Sentence Awarded by the Court:

Reduced to the ranks.

(Sgd) Judge-Advocate, if any. 3 Mar 44 Date awarded. (Sgd) Archibald Fullerton Major President (RP 43, 50.)

(See back of Convening Order as to assembly and disposal of record after trial.)

PART II. MINUTE WHERE CONFIRMATION RESERVED. (AA 54(5), RP 120(F), MAML p 760.)

Date (Sgd) Commanding

PART III. DECISION OF CONFIRMING OFFR ON FINDING(S) AND SENTENCE.

(For duties and powers see AA 54, 57, RP 37(D) fn 6, 46(A), 51-56, 120, MAML pp 759-761, KR Can 567-577. Acquittals require no confirmation and cannot be revised: AA 54(3). Sending back finding or sentence for revision by Court: AA 54(2), RP 120(G). If not confirmed, accused may be tried again: AA 157, MAML p 64. Minute of confirmation or non-confirmation may be altered before promulgation: RP 53, MAML p 65. Quashing after promulgation: KR Can 573. Duties and powers of reviewing offrs: AA 57, 57A, RP 53A, 54. The Confirming Offr must sign here personally. AA 172 fn 1.)

My decision on the finding(s) and sentence set forth in Part I is:

I confirm the finding and sentence

I direct that the accused be not committed to prison or detention barracks until further orders.(1)

(1. AA 57A. Delete if not used.)

Date 4 Mar 44 (Sgd) E Snow Brig Commanding 11 Cdn Inf Bde Confirming Officer.

PART IV. PROMULGATED AND EXTRACTS TAKEN. (RP 53, KR Can 576, 577.)

Accused.	Date.	Signature of Offr.
A11881 Pte Grose A.C.	6 Mar 44	[illegible] Capt.

ALL DELETIONS AND ALTERATIONS WILL BE INITIALLED.

INSTRUCTIONS ON PROCEDURE AFTER ARRAIGNMENT.

1. *The accused may not plead or be found Guilty on more than one of two or more charges laid in the alternative (RP 37(A).) As to withdrawal of alternative charges by Prosecutor see RP 35(C). No other charge can be withdrawn for any reason without authy from Convening Offr. If Convening Offr concurs, Court may accept plea of Guilty to lesser, etc, offence. (RP 44(H).) Accused may change a plea of Not Guilty to Guilty during trial. (RP 38.) As to refusing to plead or not pleading intelligibly see RP 35(A). As to plea when sentence may be death see RP 35(D).*

2. *The proceedings on each charge sheet (RP 62) after arraignment will be conducted as follows in the respective circumstances stated:*

I. If pleas to all charges are GUILTY, use Record Form B below.

II. If pleas to all charges are NOT GUILTY, use Record Form D on p 3.

III. If pleas to some charges are GUILTY and to other charges are NOT GUILTY and,

(a) Such mixed pleas occur when there are no alternative charges in the Charge Sheet, use Record Form C below. (RP 37(A).)

(b) Such mixed pleas occur in a set of two or more charges laid in the alternative, see RP 37 (A) and fn 2 as to discretion of Court, (i) to try the accused on all such alternative charges as if he had pleaded Not Guilty thereto, or, (ii) to record the pleas as the findings of Court. After deciding between (i) and (ii), Court will proceed under foregoing instrs as may be appropriate to result of its decision. See MML p 744 Instrs (2).

3. *As to responsibility of President to accused see RP 59, 60(C); powers and duties of JA see RP 103; duty of Prosecutor see RP 60(A) (B); duty and privileges of accused and Defending Offr see RP 60(C), 87(C), 91, 92; swearing and withdrawal of witnesses from Court see RP 81, 82; questioning of accused see RP 80, 87(C), 92(B), and of witnesses see RP 83-85; calling or re-calling of witnesses by Court etc see RP 75-79, 86, 116; use of Summary of Evidence at Trial see RP 17(E) fn 6; and responsibility of JA or Pres to record proceedings see RP 94, 96.*

RECORD FORM B—PROCEEDINGS ON PLEAS OF GUILTY TO ALL CHARGES.

B1. The President or JA, if any, complies with RP 35(B) by explaining to the accused the nature and meaning of the charge(s)(1), and that on his plea of Guilty there will be no regular trial but merely a consideration of the sentence to be awarded after he has been given an opportunity to make a statement in reference to the charge(s), call witnesses as to character and make an address in mitigation of punishment.(2)
(1. *RP 35 fn 2.* 2. *MML p 54 para 47.*)

B2. President to accused: The Court will now receive any statement you desire to make in reference to the charge(s).(1) If it appears from your statement that there are circumstances which indicate that you do not understand the effect of the plea of Guilty(2), or which show provocation or extenuation in respect of which in your interest the witnesses for the Prosecution should be examined(3), we shall advise you to change your plea to Not Guilty. In making a statement you will not be sworn or subject to cross-examination; and anything you say will not be used in evidence against you after you change your plea. If, however, it appears to the Court that your statement affects only the amount of punishment to which you are liable, you will not be advised to change your plea and you will be given an opportunity later to prove your statement by sworn testimony, if you so desire.(4)

President to accused: Do you wish to make a statement ? Ans .....(5)
(1. *RP 37(B).* 2. *RP 37(D) fn 6.* 3. *RP 35(B) fn 5 para 3, MML p 54 para 47.* 4. *See para E3 of Record Form E.* 5. *Statement, if any, recorded per Notes.*)

B3. The Court considers the accused's statement.(1) The Court decides (not) to advise accused to change his (their) plea(s) of Guilty to Not Guilty on ..... charge(s). The accused is (are) so informed, and he (they) change(s) his (their) plea(s) on ..... charge(s). Part I of the Schedule is amended accordingly.
(1. *Court may be closed to consider the statement. Delete whole or part not used.*)

B4. On the charge(s) to which the plea(s) of Guilty is (are) not changed the President records finding(s) of Guilty in Part I of the Schedule.(1)
(1. *RP 35(B). If any plea(s) is (are) changed, use Record Form C or D as appropriate.*)

B5. The Summary of Evidence is marked Ex ....., initialled and read aloud by the President.(1)
(1. *If there is no Summary, or if it is inadequate, comply with RP 37(B). If there is any evidence inconsistent with any plea standing as Guilty, Court will advise accused to change such plea and, if changed to Not Guilty, try such charge(s) by use of paras D1 to D8 inclusive of Record Form D on p 3. RP 37(D).*)

B6. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

RECORD FORM C—PROCEEDINGS ON MIXED PLEAS OF GUILTY AND NOT GUILTY.

C1. As to the charges on which accused pleaded NOT GUILTY the trial is continued by using paras D1 to D8 inclusive of Record Form D on p 3 before proceeding with C 2.(1)
(1. *RP 37(A) (E).*)

C2. The charges on which accused pleaded GUILTY are read to him (them) again, and the trial is continued by using paras B1 to B5 of Record Form B above.(1)
(1. *Under B5 such parts only of the Summary of Evidence are read as relate to the charges dealt with under C2. If any plea is changed to Not Guilty, trial thereon proceeds by complying with paras D1 to D8 inclusive of Record Form D on p 3 and making an appropriate record thereof on a separate sheet.*)

C3. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

RECORD FORM D—PROCEEDINGS ON PLEAS OF NOT GUILTY TO ALL CHARGES.

D1. President to accused: Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity to prepare your defence ? Ans nil (1)
(1. *If "yes", see RP 39(A) for procedure. Statement or evidence, if any, is recorded per Notes.*)

D2. The Prosecutor makes (an) (his) opening address.(1)
(1. *RP 39(B), 60(A) (B), 90, 92(C) (D). Record address per Notes, subject to RP 95(C).*)

D3. The evidence for the Prosecution is taken.(1)
(1. *RP 39(C), 114, KR Con 555. Record evidence per Notes. As to Prosecutor giving evidence himself see RP 39(D) (E).*)

D4. The Prosecution is closed.(1) ~~The Defending Offr submits that the evidence for the Prosecution does not establish a prima facie case against the accused on the ..... charge(s).(2) The Court is closed, and considers the submission.(3) The Court is re-opened, and the President announces that the submission is disallowed on the ..... charge(s), and allowed on the ..... charge(s), and that, accordingly, the trial will proceed on the former, but the accused is (are) found Not Guilty on the latter charge(s).(4)~~
(1. *Delete remainder of this para. If submission not made.* 2. *Arguments on submission, answer and reply are recorded per Notes.* 3. *RP 40 fn 1. See MML p 72 paras 12-14 and p 81 para 42.* 4. *Delete part not used. If accused acquitted on all charges, use second alternative in para D8.*)
NB: If trial proceeds, accused must be allowed great latitude in making his defence, and the Court should not stop his defence solely on ground of irrelevance. (RP 90(C), 114, 115.)

D5. President to accused: You will now proceed with your defence.(1) You may, if you wish, give evidence yourself on oath as to the facts or your character or both, in which case you will be subject to cross-examination.(2) You may, however, make a statement without being sworn, and you will not be subject to cross-examination.(3) But a statement which could have been made on oath will not carry with the Court the same weight as sworn testimony.(4) You may call witnesses in your defence and as to character, whether you give evidence or make a statement or do neither.

President to accused: Do you wish to give evidence yourself as a witness, make a statement, or do neither ?
Ans nil Do you intend to call witnesses on your behalf ?
Ans yes Are they witnesses as to character only ? Ans no
(1. *RP 55.* 2. *RP 40(A), see 80(D).* 3. *RP 40 fn 10.* 4. *RP 40 fn 2, 9.*)

D6. Consequent on the answers recorded in para D5 the appropriate procedure for the defence is followed.(1)
(1. *RP 114, 115, 116. For procedure see Notes on back of Convening Order, CF A95. Evidence for accused as to his character should, if in his interest, be given before the finding. See RP 46(A) fn 1, 86(C). Note the further opportunity in para E1 of Record Form E. Record per Notes addresses, statement, evidence and any summing up by the JA under RP 42, 103(e).*)

D7. The Court is closed to consider the finding(s).(1) The finding(s) of the Court is (are) recorded in Part I of the Schedule.(2) The Court is re-opened.
(1. *RP 42, 117(A). See Notes in Part I of Schedule.* 2. *RP 44(A).*)

D8. The President announces the finding(s), if any, of Not Guilty, and states to the accused that the finding(s) of the Court on the ~~Court~~ charge(s), being subject to confirmation, will be promulgated later.(1) ~~(or, The President announces that the accused is found Not Guilty on all charges and is to be released forthwith and that the proceedings are accordingly terminated. Part I of the Schedule is dated and signed.(2)~~
(1. *AA 54(3) (a), RP 45, 120(A).* 2. *AA 54(3), RP 45, 117. This alternative announcement is not applicable when there are pleas of Guilty outstanding and dealt with under Record Form B or C.*)

D9. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E below.

RECORD FORM E—PROCEEDINGS ON CONVICTION BEFORE SENTENCE.

E1. President to accused: Do you wish to give evidence yourself or to call any witnesses as to your character ?(1)
Ans nil
(1. *If evidence has already been given by accused or his witnesses as to his character, delete this para. RP 37(C) fn 4, 46 fn 1. Accused and witnesses are sworn. Evidence recorded per Notes.*)

E2. The Prosecutor produces Statement(s) as to Character and Particulars of Service(1), and certified true copy (copies) of Conduct Sheet(s)(2), purporting to refer to the accused, which he submits to the Defending Offr for examination, and then to the Court for admission in evidence. The Court is satisfied that these documents refer to the accused, because (i) they purport to be signed in the manner required by AA 163(3) (g) (h), and (ii) they purport to refer to (a) soldier(s) having the same number, rank, name and corps as the accused. Admitted in evidence and marked Ex A and Ex B respectively.(3)
(1. *MFB 355 or MFB 296.* 2. *MFM 6.* 3. *RP 46, KR Con 558. If above documents not produced, see RP 46 fn 1 para 1.*)

E3. President to accused: Do you wish to address the Court on the Statement(s) and Conduct Sheet(s), and in mitigation of punishment ?(1) Ans no(2)
(1. *RP 37(C), 46(D).* 2. *Address, if any, recorded per Notes. Court should permit accused or his witnesses to prove on oath anything here or previously stated which would affect the amount of punishment. RP 37(F) fn 7.*)

E4. The President states that the Court is closed to consider the sentence, and that the sentence to be awarded by the Court, being subject to confirmation, will not be announced, but will be promulgated later, and the proceedings in open court are accordingly terminated.(1)
(1. *AA 54(6), RP 120(A).*)

E5. The Court considers the sentence.(1) The President records the sentence in Part I of the Schedule, which is dated and signed by him and the JA, if any.(2) 28/10
(1. *When several accused tried separately see RP 118. One sentence only, comprised of the punishment or punishments laid down in AA 40, 44 and its proviso, is to be awarded to cover all charges on all charge sheets on which accused found guilty. RP 48. As to sentences see AA 44, 136, 182, RP 46-50, 68, 118, 119(A), KR Con 308, 330, 563-566, Overseas RO 309, 2323, MML p 60, 737-739. As to sentences assigned for civil offences by the law of England see AA 41(5), MML p 130. When accused already under sentence of imprisonment or detention see AA 44(1)(b), 68(1), KR Con 564.* 2. *RP 30. As to release from arrest by Confirming Offr see KR Con 567. As to assembly and disposal of record after trial see instrs on back of Convening Order.*)

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

CHARGE SHEET

The accused No A 11881 CQMS Austin Cayley GROSE, The Perth Regt C A, a soldier of The Canadian Army on Active Service Overseas is charged with:

First Charge
Sec 15
Army Act

WHEN ON ACTIVE SERVICE, DRUNKENNESS

in that he

In the Field, on 9 Feb 44 at about 1515 hrs when in charge of moving his company stores was drunk.

Second Charge
(AMENDED)
Sec 15
Army Act

WHEN ON ACTIVE SERVICE, SUBJECT TO THE PREJUDICE OF GOOD ORDER AND MILITARY DISCIPLINE

in that he

In the Field, on 9 Feb 44 was unfit for duty by reason of previous indulgence of alcoholic stimulants.

In the Field
25 Feb 44

(W S Rutherford) Lt Col
Comd Perth R

To be tried by Field General Court-Martial.

(T E Snow) Brigadier
Comd 11 Cdn Inf Bde

In the Fd
1 Mar 44

FIELD GENERAL COURT-MARTIAL

CFA95 (In lieu of AFA43 40/FA8/1697 (D968))

(Whether the accused to be tried is under his comd or not, a FGCM may on application to him be convened by any offr of Cdn Army Overseas, or of any other force if authorized in law, in immediate comd of troops on active service, subject to RP 105(C) and restrictions imposed by appropriate authy. AA 49, 50, RP 104-107, 114. As to the duties and privileges of the Convening Offr in dealing with the application see MML Chap V paras 20 and 23, RP 87(B).

There should be a separate Convening Order for each person to be tried separately by the same Court. RP 71(C), 109. As to separate charge sheets see RP 62, and as to separate trial on charges in the same charge sheet see RP 108. As to two or more accused charged jointly see RP 16, 109.

As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Con 308, 328, 330.)

ACCUSED.

Number.	(a) Prmnt R.	(b) Appmt, A/R or A/Appmt	Full Christian Names.	Surname.	Unit.
A.11881	CQMS		Austin Cayley	GROSE	Perth Regt

CONVENING ORDER.

1. Whereas complaint has been made to me, the undersigned, that the person(s) named above as the accused, being subject to military law, has ~~(have)~~ committed the offence(s) set forth in the Charge Sheet(s) attached and on (date) 1 Mar 44 endorsed by me, ~~(as by an offr of his unit (or me))~~ " To be tried by Field General Court-Martial ".

2. And whereas I am of opinion that it is not practicable that such offence(s) should be tried by an ordinary General Court-Martial ; ~~(and that it is not practicable to delay the trial for reference to a superior qualified offr.)~~

(Delete part in brackets when not required for compliance with RP 105(C).)

3. I hereby convene a Field General Court-Martial to try the said person(s), and to consist of the Offrs appointed or detailed hereunder.

~~4. I am unable to appoint members of the Court, the Judge-Advocate or President, for the reasons stated herein.~~

(AA 49, RP 106(B), 107(A). Delete the whole or part, if not applicable.)

~~5. I also appoint as Judge-Advocate thereof the Offr mentioned hereunder.~~

(RP 106(E). Delete, if none appointed.)

PRESIDENT.

(Rank.)	*(Must be named. RP 106.)*	(Unit.)
Major	H R Fullerton	C B Highrs

MEMBERS.

(Rank.)	*(Named or detailed. RP 106.)*	(Unit.)
Capt	to be detailed by	Ir RC
Capt	to be detailed by	11 Cdn Inf Bde Sp Gp (PLF)

WAITING MEMBER.

(Rank.)	*(Named or detailed, if any. RP 106.)*	(Unit.)
Capt or Lt	to be detailed by	Perth Regt

JUDGE-ADVOCATE.

(Rank.)	*(Must be named, if any. RP 106.)*	(Unit.)

On Active Service in the Fd

in ITALY *(Country.)*

(Signed personally. RP 105 fn 2.) Brigadier *(Rank.)*

Date 1 Mar 44 Commanding 11 Cdn Inf Bde Convening Officer.

CONVENING OFFR WILL INITIAL ALL DELETIONS AND ALTERATIONS

(See overleaf for oaths and notes for use on trial.)

The Perth Regiment C. A.

3 March 1944.

Medical Officer's Certificate

K. R. (CAN.) Paragraph, 557.

I certify that I have this morning examined No. A.1188[illegible]

RANK ~~M/Sgt~~ S/Sgt NAME [illegible] A. C.

of The Perth Regiment C. A. and in my opinion he is fit ~~unfit~~ to undergo trial by Court Martial.

Station [illegible]

Date [illegible]

[illegible]
(Medical Officer)

EVIDENCE

9 MAR 44

C.Q.M.S. GROSE

Prosecuting Officer. – I am going to call five witnesses by whom I propose to prove that C.Q.M.S. Rose was drunk on the 9 Feb 44 and in a condition in which he was unfit to perform his duty.

1st Witness, MAJOR ANDREW A & Q THE PERTH REGT.

On the afternoon of 9 Feb 44 I was in charge of moving personnel, vehicles and stores of my Unit from one position to another.

One 3 ton lorry had been allotted to B & C Coys for their joint use carrying blankets, kit bags & any stores. The C.Q.M.S. of C Coy had arranged to go to the new area in a jeep, leaving C.Q.M.S. Rose in charge of the joint 3 ton lorry. The driver of the boat with was Pte. Tebb, F H

At 1500 hrs the convoy starting moved off the old party, which I supervised as well as the embarking personnel, who were moving at the same time. I had difficulty in doing both jobs, so I got Sgt Boyce of the Regt Provost Sergeant to assist me.

I noticed the B & C Coy 3 ton lorry, obviously which was fully identified as a lorry which had been built by our Pioneers. With care this lorry was negotiated. The driver was standing about in the vicinity of the lorry.

On moving down the causeway towards Pte. Mc & noticed C.Q.M.S. Rose on a doorway, in a drunken condition leaning against the door for support.

The position of B & C Coy lorry prevented another lorry with C Coy blankets & stores on board getting out. I ordered to get moved, as the C Coy were evident the comfort of blankets that night, during which time I turned very cold.

Ques 1 You identify the accused as C.Q.M.S. Rose

Ans Yes.

Ques 2. What made you think that he was drunk.

Ans Obviously he had to lean against the door for support. His eyes were glassy. Later I saw him talking to Sgt Nobbs. The C.Q.M.S. had both put weakly supported arms of support as though Sgt Nobbs had to support him. Sgt Nobbs said "Why don't you go in then and sit down". To me the reply was very incoherent. I saw him later in the evening, he was still under the influence, but to a lesser degree.

Ques 3. On first seeing him did you speak to him.

Ans Yes but I did not hear his reply

Prosecuting Officer

Ques 1 Now you saw him did you arrange to do any thing about it.

Ans Shortly after seeing the accused I met L/Sgt Boyce and as a result of what I told the L/Sgt he went down to C.Q.M.S. Rose.

Defence Officer

Ques 1 Would you say that a man in a drunken condition would appear as Rose did.

Ans No his condition was that of a drunken man.

Ques 2 Did you ask the accused any thing about his drunkenness

Ans Yes, it was no use in his condition

W

Questions by the Court from C.Q.M.S. Prout

Ques Who told C.Q.M.S. Billings that Prout was in charge of the
continued both
ans I cannot answer that I do not know.

2nd WITNESS H 11706 L/Cpl BRYCE, H Edr Rifle Regt having
been duly sworn stated.

I was ordered by Maj. Andrew at approx 1500 hrs to go
around the area & see if all Cpls had moved. I did so &
on my return Maj Andrew ordered me to put the whole under
arrest & inform C.Q.M.S. Prout that he was in charge & that
Maj Andrew would prefer the charge.

I found the above named C.Q.M.S. Prout in a room under Bn HQ
sitting in a chair apparently asleep. I left him there as I had
work to do. When returned he had moved to the next room
and was sitting in a chair in front of a fire. He was still
under the influence. I suspended him that he was in charge

Prosecution

Q 1 – You say he was sitting in the chair apparently asleep? was he just sitting normally?

A 1 – He was sort of kneeled up

Q 2 – you said "still under the influence of liquor?" What did you mean?

A 2 – When he answered, his voice was thick.

Defence

Q 1 – Did not Grose inform you at that time that he would not go away and you had nothing to worry about?

A 1 – I could not say for sure, I don't remember.

Q 2 – Do you know if 6208 Grose was drunk on Feb 9?

A 2 – When I saw him both times he was in the chair. Hard to say what is meant by drunk.

Court

Q 1 – You were told if the accused were drunk you are in the Regimental police and must have had experience could you say that he was drunk?

A 1 – He had been drinking. I don't consider he could have done his job very capably.

Q 2 – Did you have conversation with the accused when you told him that he was in charge?

A 2 – I told him Major Andrews was preferring the charge against him.

Prosecution

Q 1 – How long was it between the first and second times you saw 6208 Grose?

A 1 – Between 2½ and 3 hours

6208 Grose was sworn and stated:-

I am A 11881 6208 Grose of B Coy, Perth Regt. two days previous to Feb 9 I had carried out the duties of chefs killed by a German bomb and for no reason but I was feeling badly. I had little sleep that night I worked all the next day and the night of Feb 8 had to bed down in the open. It rained and snowed and I had only a couple of hours sleep at first light on the 9th I arranged with a task unit to share a building they were using as a cook house. Meals cooked after and the men lying to for the day. I shared below upstairs over the kitchen and at 1400 hrs Capt. Root told me we had to move in an hour till then I understood we would not move until after dark. Capt Root asked for tea in a dixey for the men and the cook gave them supper. By this time I was very weary and had gone to lie down.

I had two drinks of vino and home brew and in my tired physical condition, I was probably not warranted in doing this. But I took it to get some rest.

Defence
Q1 – Were you drunk 9 Feb 44?
A1 – No sir, I wouldn't say I was drunk.

Prosecution
Q1 – Have you been warned on various previous occasions not to drink?
A1 – Not various times, but I have been warned.

Court
Q1 – The defence asked if you were drunk 9 Feb you were not definite. Were you drunk Feb 9?
A1 – I would say that I was not drunk. My physical condition had more to do with my groggy appearance.
Q2 – How much did you have to drink?
A2 – two half cups of vino.

B 378 94 Pte. Desjardine J.S.:-
I was driving 8 cwt kitchen truck Feb 9. CSM's Grove came to me at 1330 hours and asked me to have the truck straightened out to load the coal house on for moving. His orders were given in a normal manner.

Defence
Q1 – Was the accused drunk when you saw him at 1300 hours?
A1 – No, he looked okay to me, I wouldn't say if he had been drinking.

A 11257 Pte. Ellis W:-
I am the cook for B coy. On Feb 9, CSM's Grove asked for tea in ten minutes and as we had supper ready the men had a hot meal instead of tea. The accused carried on his duties around the cook-house in his normal manner.

Defence
Q1 – Was CSM's Grove drunk Feb 9?
A1 – I won't say he was drunk, we all had a few drinks I don't know how many drinks that he had, as I was not with him all the time.

4

A 11337 Pte Underford. GA:-
I am A coy storeman. I was working with C2MS Grove on Feb 9. He was not drunk.

Court:
Q1- Did you have anything to drink
A1- Yes, wine at odd times between 4 o'clock and 5 o'clock
Q1- Did you see the accused drinking?
A1- No, I did not.

A 11742 C2MS Boyd G:-
I am C2MS for D coy. On Feb 9 the accused came to me at about 1800 hours and wanted to know if my thermos jugs were handy. He wanted to have tea for the men the first thing in the morning. He said that he would look after the tea and take it in my jeep.

Prosecution:-
Q1- Was the accused eating normally?
A1- Yes but he seemed a very tired man.

Court:-
Q1- Could you say at six o'clock that the accused had been drinking?
A1- I had seen him take a drink through the day but would not say he had been drinking.

Defence Counsel:-
C2MS Grove is charged with drunkenness. The evidence to bear out the charge is chiefly that of Major Andrews, who swears the accused was leaning up against a doorjamb. My contention is there is not sufficient proof on the evidence that the accused was drunk. The second witness Lt Gen Guyse saw the accused on two occasions, both sitting down. I ask the court to consider the condition of a tired soldier, physically exhausted. C2MS Boyd told the court that the accused came to him about 1800 hours about tea. I submit that that was not the actions of a drunken man.

MJ

Prosecution Officer:-

The defence has brought forward witnesses to show the accused was tried and not drunk Major Andrews and a member of the Battalion Regimental police both stated that C2Mg Grose was drunk. I submit that the chance of realizing that he was going to be up on charge of drunkenness may have changed the accused from a drunken man into a very tried one.

C2Mg Grose, in speaking as on his own character:-

I have been four years in the army and the only other time I have been up for office was once I was a couple of hours late on a pass, unavoidably, and the charge was dismissed.

Defence Counsel on the accused's character said:-

The accused was in my platoon when the unit was in Canada early in the war and I had Grose in mind for an NCO in a fighting company. He did so well in the stores, however, that he has worked himself up to C2Mg. I was talking to the Quartermaster the other day and he said that Grose was doing an efficient and conscientious job.

HM

17

F O C M

A 11681 CQMS Austin Cayley STROUD
The Perth Regiment C A (CMF)

(a) LIST OF WITNESSES FOR THE PROSECUTION

Major M V Andrew
Perth Regt (CA) (CMF)
5 Cdn Armd Div

A 11706 L/Cpl Bryce A
Perth Regt (CA) (CMF)
5 Cdn Armd Div

A 11681 Sgt Austin Gayley GROSE
1st Tactical Regiment C A (CMF)

(b) LIST OF AUTHORITIES FOR THE DEFENCE

NIL.

F C C M

A 11880 COMS Austin Gayley CROFT
The Tenth Regiment U S A (C-P)

I do/~~do not~~ desire the Convening Officer to detail an officer to represent me at my forthcoming trial by FIELD GENERAL COURT-MARTIAL.

I request the services of Captain R Kennedy

if available.

I acknowledge that as of this date I have received a copy of the Charge Sheet and Summary of Evidence herein.

In the Field

23 Feb 44

A P Price
Accused's Signature, A C

SUMMARY OF EVIDENCE

H. P. 4

Perth Reg't. C. A.

17 February 1944.

Summary of Evidence in the case of A 11601 C.Q.M.S. Grose, A. C. The Perth Regiment, Canadian Army is charged with:

1. When on Active Service, Drunkenness.

2. When on Active Service, Neglect of duty.

H. P. 4 F — The Commanding Officer directs that the evidence be taken on Oath.

1st. Witness — Major M. W. Andrew 2i/c The Perth Regiment C. A. having been duly sworn states:

"Sir,

I am Major M. W. Andrew, 2i/c of The Perth Regiment C. A. On the 9 February 1944, I was in command of the Perth Regiment. A few days previously, I had been instructed to move the Regiment from the Orsogna front to our new area just west of the Ortona front. In order to facilitate the move and assist the Coys to transport their equipment, certain vehs were apportioned to each Coy. Lack of available transport necessitated "B" Coy and "C" Coy using one 60 cwt between them. Each Coy also had certain other vehs at their disposal. On the 60 cwt in question, the men's blankets and kit were placed. The Bn move was to take place at 1900 hrs on a/m date. Vehs would go in echelon on a Southerly route to the new area and marching troops by a more direct route along the Orsogna-Ortona lateral road. It was essential that the men's personal eqpt and blankets arrive in the new area as soon as possible after the commencement of the move, in order that the men might be as comfortable as possible. ~~(This was stressed by me to the Coy Comds at a meeting held at Bn H. Q. 8 February 1944.)~~ On the night of the 8 February 44, the Bn had withdrawn from their forward areas to a posn about 1 mile to the rear. From this latter posn they were to make the move outlined above. Vhes were parked in an orchard North of what is known as "the old Bn. H. Q." This parking lot is connected by a lane-way with the main road. The lane had been constructed by our pioneer pl and was passable to vehs. The orchard which was the veh standing was muddy, but with care and caution vehs could get in and out. For several days there had been much rain and the weather was cold and wet. This weather was prevalent on the 9 Feb 44.

About 1430 hrs on the 9 Feb 44, I left old Bn. H. Q. and went to the road and lane junction to see if preparations for the move were under way. I remained there until just prior to 1900 hrs. I spoke to the adjt and the tpt offr about the veh move ~~and was informed that two vehs were stuck in the orchard.~~ At 1900 hrs the vehs moved off under comd of the adjt with the exception of the two which were still stuck. I then went to a point slightly North of the road and lane junction and started checking the marching personnel. About 1919 hrs, I went along the lane in the direction of old Bn H. Q. in search of L/C,I Bryce whose assistance I required in order to clear the area of all troops. I saw the 60 cwt allotted to "B" and "C" Coys stuck in the soft ground on the opposite side of the lane-way to the veh standings but protruding onto the lane. The posn in which this truck was stuck prevented "D" Coy

stores truck from moving. (I saw the driver of the "B" and Coys truck floundering around in the mud in a drunken condition.) When I arrived at old Bn H. Q., I saw C.Q.M.S. Grose leaning against the door jamb of a shed, drunk. I went into old Bn H. Q. where L/Cpl Bryce came to me and as a result of my instructions he went down to C.Q.M.S. Grose. At that time, there were only a few men present whom I could call upon for assistance in trying to get the stores of the three Coys to the new area. The continued condition, as mentioned above, of C.Q.M.S. Grose necessitated my personal efforts in getting the truck out of the mud and sending it forward the next day. When I say continued condition, I mean that I saw C.Q.M.S. Grose still under the influence of liquor on the night of the 9 February 1944. No personal want such as blankets was available to the three Coys the night of the 9th-10th Feb. The weather continued on that night exceedingly wet and cold and shelter for the men in the new area was mostly non-existant, consisting only of waterlogged slit trenches and dugouts.

The accused declines to cross examine this witness.

(E. W. ANDREW)MAJOR

2nd Witness A 11706 L/Cpl. Bryce A. of the Regt'l Police of the Perth Regiment C. A.

"Sir,

I am A 11706 L/Cpl A. Bryce of the Perth Regimental Police. At approx 1500 hrs on 9 Feb 44 Major Andrew stopped me and asked me if all the Coys had moved, and ordered me to go around to the various areas and make sure that they had. I went around the areas and when I came back I had two "C" Coy men who had not moved with their Coy under close arrest. I went upstairs to see Major Andrew to report the Major Andrew told me to place Pte. Little F. A. driver of a 60 cwt under arrest for being drunk and to look after C.Q.M.S. Grose who was also drunk. I found Pte. Little and told him he was under arrest and then went looking for C.Q.M.S. Grose. He was sitting in a chair by the fire in a room under the old Bn H. Q. Orderly Room. I spoke to him but he was apparently asleep and I got no answer. As I had other jobs to do and I thought he would be all right for the time being, I carried out my other duties and after dark returned to the room to get C.Q.M.S. Grose out. He had moved into the room next door. I spoke to him and he was still under the influence of drink.

When I had returned from checking the Coy areas, I noticed a 60 cwt truck driven by Pte. Little stuck in the mud on the opposite side of the lane to the ven para in such a manner that it completely blocked the lane.

The accused declines to cross examine this witness.

A. Bryce 3/Cpl
(A. Bryce)L/Cpl

The accused was warned as follows:
"Do you wish to make any statement or to give evid
upon oath? You are not obliged to say anything or give
ence unless you wish to do so, but, whatever you say or
evidence you give will be taken down in writing, and m
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The accused declines to cross examine this witness.

(M. W. ANDREW)MAJOR

2nd Witness A 11706 L/Cpl. Bryce A. of the Regt'l Police of the Perth Regiment C. A.

"Sir,

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When I had returned from checking the Coy areas, I noticed a 60 cwt truck driven by Pte. Little stuck in the mud on the opposite side of the lane to the veh park in such a manner that it completely blocked the lane.

The accused declines to cross examine this witness.

A. Bryce L/Cpl
(A. Bryce) L/Cpl

The accused was warned as follows:

"Do you wish to make any statement or to give evidence upon oath? You are not obliged to say anything or give evidence unless you wish to do so, but, whatever you say or any evidence you give will be taken down in writing, and may be given in evidence."

stores truck from moving. ~~(I saw the driver of the "A" and "C" Coys truck floundering around in the mud in a drunken condition.)~~ When I arrived at old Bn H. Q., I saw C.Q.M.S. Grose leaning against the door jamb of a shed, drunk. I went into old Bn H. Q. where L/Cpl Bryce came to me and as a result of my instructions he went down to C.Q.M.S. Grose. At that time, there were only a few men present whom I could call upon for assistance in trying to get the stores of the three Coys to the new area. The continued condition, as mentioned above, of C.Q.M.S. Grose necessitated my personal efforts in getting the truck out of the mud and sending it forward the next day. When I say continued condition, I mean that I saw C.Q.M.S. Grose still under the influence of liquor on the night of the 9 February 1944. No personal eqpt such as blankets was available to the three Coys the night of the 9th-10th Feb. The weather continued on that night exceedingly wet and cold and shelter for the men in the new area was mostly non-existant, consisting only of waterlogged slit trenches and dugouts.

The accused declines to cross examine this witness.

(M. W. ANDREW)MAJOR

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When I had returned from checking the Coy areas, I noticed a 60 cwt truck driven by Pte. Little stuck in the mud on the opposite side of the lane to the vehicle park in such a manner that it completely blocked the lane.

The accused declines to cross examine this witness.

A. Bryce L/Cpl
(A. Bryce)L/Cpl

The accused was warned as follows:

"Do you wish to make any statement or to give evidence upon oath? You are not obliged to say anything or give evidence unless you wish to do so, but, whatever you say or any evidence you give will be taken down in writing, and may be given in evidence."

The accused:

"I have nothing to say at this time."

The accused declined to call witnesses in his own behalf.

I certify that R. P. 4 has been complied with.

Taken by me in the Field in the presence and hearing of the accused this seventeenth day of February 1944.

(F. J. F. Baker) Capt

Ex B

No A11681 Name GROSE A C | Sqn, Battery, or Company | B | Corps C I C | Date of enlistment 28-6-40 | GC Badges (2) 28-6-40 | Service or Proficiency Pay

MFM 6 (AFD 122) 40/7/85/136 (5488)

Date of last entry in Company Conduct Sheet N/A | No and date of last drunk N/A | Period not reckoning towards freedom from extra fine | Sheet No 1 | Signature OC Company, etc Robert Cole Capt | Character

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
				Previous sheet destroyed 4 Sep 43.					
				Certified true copy of original document in my possession as custodian of Regimental Documents.					
				R S Mitchell Capt					
				Adjt Perth Regt					

(PTO)

M.F.S. 355
22M—5-41 (372-0)
H.Q. 1772-30-620
A.F.B. 200

R ex A

STATEMENT AS TO CHARACTER AND PARTICULARS OF SERVICE OF ACCUSED

Number	Rank	Name	Regiment (or unit)
A 11381	CQMS	Austin Cayley GROSE	Perth Regt

1. The following is a fair and true summary of the entries in the Service and Regimental and Squadron, Battery Conduct sheets or Company Conduct sheets of the accused, exclusive of convictions by a Court-Martial or a Civil Court, Air Force Act of summary awards under Section 47 of the Army Act and of cases in which trial has been dispensed with.

	Within last 12 months	Since enlistment or appointment
For	times	times
For	NIL times	NIL times
For	times	times
For	times	times
For	times	times

Number of instances of gallantry or distinguished conduct: Nil.

There are no entries in the conduct sheets of the accused.

NOTE.—If the charge is for drunkenness, the entries for drunkenness must be stated separately.

2. The accused has not been previously convicted

or.

Previous convictions of the accused by a court-martial or a civil court, of summary awards under Air Force Act

Section 47 of the Army Act and dispensations with trial under A.A. 73 are set out in the Schedule annexed to this statement.

3. The accused is not under sentence at the present time.

or.

The accused at the present time is under sentence of

day of

beginning on the

4. The accused has been in confinement awaiting trial on the present charges, for Nil days in civil custody, and one days in military custody, making a total of one days in custody, of which Nil days were spent in hospital.

5. The present age of the accused according to his record of service is 32 yrs 4 mos 17 dys.

attestation paper

6. The date of his attestation specified in his record of service is 28 Jun 40

attestation paper

7. The service which the accused is allowed to reckon towards discharge is 3 yrs 8 mos 4 dys

8. The accused is entitled to reckon 3 yrs 8 mos 4 dys service for the purpose of determining his pension, etc.

9. The accused is in possession of or entitled to no decoration, or air force reward military possession of or entitled to. State any air force decoration or reward military

10. The accused before he was made a warrant officer had held the regimental rank of

11. (In the case of an officer.) The accused holds in the Royal Canadian Air Force the rank of ..... dated ..... Permanent Force ..... unit ..... dated .....

12. The accused has served as a non-commissioned officer continuously, without reduction, to the present date:—

18 July 42 Date of promotion.

In the rank of L/Cpl - 7 mos

In the rank of Cpl - 1 mos

In the rank of Sgt - 4 mos

In the Canadian Army - 7 mos

NOTE.—If any matter in any of the above paragraphs cannot be stated from the Regimental books, the paragraph must be struck through.

SCHEDULE

Of convictions by a court-martial or civil court, or summary awards under section 41 of the Army Act, Air Force Act, and of cases in which trial has been dispensed with of accused, Number ..... Rank ..... Name ..... of ..... Unit Regiment

NOTE.—A verbatim extract from the regimental books stating these convictions and dispensations with trial must be inserted.

Description of Court by which tried	Date and Place of Trial	Charge upon which convicted	Sentence of the Court	Punishment Remitted

I hereby certify that the foregoing schedule of convictions and dispensations with trial is a true extract from the regimental books in my custody.

Signed this ~~25th~~ 3rd day of ~~May~~ Mai 1942 R. Mitchell Capt.

Adjutant, The Perth Regt.

The above statement (with the schedule of convictions and of cases in which trial has been dispensed with) is read, marked ..... signed by the president, and annexed to the proceedings.

ZZZ-63

Pte. Grose C.

SCHEDULE.

PART I. PLEA(S), FINDING(S) AND SENTENCE.

Accused: L.13782 Pte Clifford GROSE - CIC - 1 CIRU

Charge. (Insert "alternative" where applicable.)	Plea. (See instrs p 2.)	Finding. (See note below.)	(Space for use as required for further charges, accused charged jointly, special findings, etc.)
1st AA Sec 15(1)	Guilty	Guilty	
2nd			
3rd			
4th			
5th			
6th			

(Note: As to findings for lesser offences see AA 56, RP 44; findings on alternative charges see MML p 483 fn 4 para 2, RP 44; special findings see RP 44 and MML p 753, and in lieu of kit see RP 44 (n 8.))

At present under sentence for ~~(1. insert sentence being served, or delete, if not applicable. See RP 46(A). Information should be found on MF B355 or AF B296.)~~ beginning on (date).

Time in confinement awaiting present trial—a total of 7 days, of which 0 days were spent in hospital.(1)
(1. See RP 46(A) fn 2. Information should be found on MF B355 or AF B296 admitted in evidence under E2.)

Sentence Awarded by the Court:
To undergo detention for (90) ninety days
To be placed under stoppages of pay in the amount of
To be placed under stoppages of pay in the amount of
£0-5-10 during the period of apprehension and the return
to his unit

~~(Sgd)~~ (Judge-Advocate, if any.) Date awarded. (Sgd) President. (RP 45, 50.)

(See back of Convening Order as to assembly and disposal of record after trial.)

PART II. MINUTE WHERE CONFIRMATION RESERVED. (AA 54(5), RP 120(F), MML p 760.)

Date (Sgd) Commanding

PART III. DECISION OF CONFIRMING OFFR ON FINDING(S) AND SENTENCE.

(For duties and powers see AA 54, 57, RP 37(D) fn 6.46(A), 51-56, 120, MML pp 759-761, KR Can 567-577. Acquittals require no confirmation and cannot be revised: AA 54(3). Sending back finding or sentence for revision by Court: AA 54(2), RP 120(G). If not confirmed, accused may be tried again: AA 157, MML p 64. Minute of confirmation or non-confirmation may be altered before promulgation: RP 53, MML p 65. Quashing after promulgation: KR Can 573. Duties and powers of reviewing offrs: AA 57, 57A, RP 53A, 54. The Confirming Offr must sign here personally. AA 172 fn 1.)

My decision on the finding(s) and sentence set forth in Part I is:

I confirm the findings and the sentence of the Court but remit thirty (30) days detention of the sentence.

~~I direct that the accused be not committed to prison or detention barracks until further orders.~~(1)
(1. AA 57A. Delete if not used.)

(Sgd) (J.E. Canong) Brigadier
Date 4 Oct 44 Commanding HQ "D" Group, Cdn Rft Units
Confirming Officer.

PART IV. PROMULGATED AND EXTRACTS TAKEN. (RP 53, KR Can 576, 577.)

Accused.	Date.	Signature of Offr.
L-13782 Pte. Grose, C. C.I.C. - 1 C.I.R.U.	4 Oct 44.	(C.B. Ware) Commander, 1 CIRU

PROMULGATED IN PART II DO 201 dated 5 Oct 44

ALL DELETIONS AND ALTERATIONS WILL BE INITIALLED.

RECORDED AT CMHQ IN A3 160. 227-63

RECEIVED 1 OCT 1944 JAG BRANCH CMHQ

FIELD GENERAL COURT-MARTIAL

CFA66 (To take place of AFA3) 40/P & R/1698 (8/44) 4/38B

Order of Brigadier J.E. Canong, ED Comd "D" Gp, CRU dated 2 Oct 44

ACCUSED.

(As to the trial of two or more charged jointly see RP 16, 71, 109. As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

Number.	(a) Prmnt R. (b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
L.13782	Pte	Clifford	GROSE	CIC 1 CIRU

PROCEEDINGS REVIEWED
R. Livermore Lt
17 Oct 44
REVIEWING OFFICER, JAG BRANCH, CMHQ

PROCEEDINGS OF TRIAL

Held in the Fd in (country) Gibraltar, Base Sub-area (if any) 2 Cdn Inf Bde

RECORD FORM A—OPENING PROCEEDINGS AND ARRAIGNMENT.

A1. The President, Members, waiting Member, JA, if any, and Offrs under instr, if any, assemble, and the Court is closed.

(PRINTED MATTER, NOT IN ITALICS FOR GUIDANCE, WILL BE DELETED, IF NOT USED OR APPLICABLE, AND INITIALLED BY PRES OR JA. The Schedule referred to throughout is on p 4. Creations do NOT include all relevant Fmn ROs. For guidance as procedure when a variation in this form arises, see Form for GCM in MML pp 746 to 759. A brief record of such variation will be made and given a number having reference to appropriate or preceding para number herein. See back of Convening Order, RP 885, for oaths and instrs on how to record address, evidence, etc., which instrs are hereafter called "Notes". As to general provisions for conducting the trial see AA 33, RP 16, 53-70, 73, 74, 94, 103, 119, 132.)

A2. The President initials and lays before the Court the Convening Order and Charge Sheet(s) attached thereto.(1) The Court is satisfied that it is properly convened and constituted(2), accused is [are] amenable to military law, and each charge discloses an offence.(3)
(1. As to use of Summary of Evidence see RP 17 fn 6. 2. AA 49, 50, RP 105-107. 3. RP 11-13, 23, 24.)

A3. The Court is opened. The accused is [are] brought before the Court. At 1000 hours trial commences.

A4. The Prosecutor produces a Medical Certificate that accused is [are] fit to undergo trial by court-martial.(1)
~~The Prosecutor informs the Court that accused elected to be tried by court-martial instead of being dealt with summary by the CO.(2)~~
(1. KR Can 557. 2. AA 84(B), RP 60 fn 1. For effect see KR Can 563(c). Delete, if not applicable.

A5. President to accused: Do you object to as interpreter? Ans
The Interpreter is sworn.(1) Do you object to as shorthand writer? Ans
The shorthand writer is sworn.(1)
(1. RP 72. Delete, if none employed.)

A6. The Convening Order and names of the President and Members of the Court are read to the accused.(1)
President to accused: Do you object to be tried by me as President or by any of the Members of the Court?
Ans No.(2)
(1. RP 110. 2. If no objection, waiting member retires. RP 66(B). If objection, see procedure AA 51, RP 25, 71, 98, MML p 742.)

A7. The President, Members, JA, if any, and Offrs under instr, if any, are sworn.(1) The following are the ranks, names and units of the offrs comprising the Court, etc:

President	Major	R.M. Lalynn	No 1 CIRU
Member	A/Capt	I.E. Burrows	No 1 CIRU
Member	Lieut	D.C. Hanbury	No 1 CIRU
Judge-Advocate			
Prosecutor	Lieut	R.B. Allen	No 1 CIRU
Defending Offr	Lieut	W.H. Jamieson	No 1 CIRU

Questions by President: Is the Prosecutor a lawyer? Ans Yes. Is the Defending Offr a lawyer? Ans Yes.(2)
(1. RP 26, 27, 109, 111. List of offrs under instr will be returned separately with proceedings for information of Conv Offr. 2. If Pros a lawyer and Def Offr not, accused is entitled to an adjournment when RP 89 (B) and fn 2 were not followed. See D1.)

A8. The accused before arraignment make(s) (no) plea.

A9. The accused ~~is [are]~~ arraigned (separately) on all charges in the charge sheet.(1) The accused does (~~does~~) not object to any charge.(2) There is no amendment to be made to the Charge Sheet.(3) The President records the pleas in Part I of the Schedule.
(1. RP 31, 112. See para 1 of Instrs p 2. When more than one Charge Sheet see RP 62; when several accused to be tried separately see RP 71(C), and use separate copies of CF 496 to record proceedings. 2. RP 32, RP 33. If otherwise, deletes and make appropriate record per Notes.)

A10. The Court ~~is [are]~~ cleared and considers the Instrs on Procedure after Arraignment at top of p 2. The proceedings are continued on Record Form X5

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

INSTRUCTIONS ON PROCEDURE AFTER ARRAIGNMENT.

1. *The accused may not plead or be found Guilty on more than one of two or more charges laid in the alternative.* (RP 37(A).) *As to withdrawal of alternative charges by Prosecutor see RP 35(C). No other charge can be withdrawn for any reason without authy from Convening Offr. If Convening Offr concurs, Court may accept plea of Guilty to lesser, etc, offence.* (RP 44(H).) *Accused may change a plea of Not Guilty to Guilty during trial.* (RP 38.) *As to refusing to plead or not pleading intelligibly see RP 35(A). As to plea when sentence may be death see RP 35(D).*

2. *The proceedings on each charge sheet* (RP 62) *after arraignment will be conducted as follows in the respective circumstances stated :*

I. If pleas to all charges are GUILTY, use Record Form B below.

II. If pleas to all charges are NOT GUILTY, use Record Form D on p 3.

III. If pleas to some charges are GUILTY and to other charges are NOT GUILTY and,

(a) Such mixed pleas occur when there are no alternative charges in the Charge Sheet, use Record Form C below. (RP 37(A).)

(b) Such mixed pleas occur in a set of two or more charges laid in the alternative, see RP 37 (A) and fn 2 as to discretion of Court, (i) *to try the accused on all such alternative charges as if he had pleaded Not Guilty thereto, or,* (ii) *to record the pleas as the findings of Court. After deciding between* (i) *and* (ii), *Court will proceed under foregoing instrs as may be appropriate to result of its decision. See MML p 744 Instrs* (2).

3. *As to responsibility of President to accused see RP 59, 60(C); powers and duties of JA see RP 103; duty of Prosecutor see RP 60(A) (B); duty and privileges of accused and Defending Offr see RP 60(C), 87(C), 91, 92; swearing and withdrawal of witnesses from Court see RP 81, 82; questioning of accused see RP 80, 87(C), 92(B), and of witnesses see RP 83-85; calling or re-calling of witnesses by Court, etc, see RP 75-79, 86, 116; use of Summary of Evidence at Trial see RP 17(E) fn 6; and responsibility of JA or Pres to record proceedings see RP 94, 96.*

RECORD FORM B—PROCEEDINGS ON PLEAS OF GUILTY TO ALL CHARGES.

B1. The President or JA, if any, complies with RP 35(B) by explaining to the accused the nature and meaning of the charge(s).(1) and that on his plea of Guilty there will be no regular trial but merely a consideration of the sentence to be awarded after he has been given an opportunity to make a statement in reference to the charge(s), call witnesses as to character and make an address in mitigation of punishment.(2)
(1. *RP 25 fn 3.* 2. *MML p 54 para 47.*)

B2. President to accused : The Court will now receive any statement you desire to make in reference to the charge(s).(1) If it appears from your statement that there are circumstances which indicate that you do not understand the effect of the plea of Guilty(2), or which show provocation or extenuation in respect of which in your interest the witnesses for the Prosecution should be examined(3), we shall advise you to change your plea to Not Guilty. In making a statement you will not be sworn or subject to cross-examination ; and anything you say will not be used in evidence against you after you change your plea. If, however, it appears to the Court that your statement affects only the amount of punishment to which you are liable, you will not be advised to change your plea and you will be given an opportunity later to prove your statement by sworn testimony, if you so desire.(4)

President to accused : Do you wish to make a statement ? Ans ..... (5)
(1. *RP 37(B).* 2. *RP 37(D) fn 6.* 3. *RP 35(B) fn 5 para 3, MML p 54 para 47.* 4. *See para E3 of Record Form E.* 5. *Statement, if any, recorded per Notes.*)

B3. The Court considers the accused's statement.(1) The Court decides (not) to advise accused to change his (their) plea(s) of Guilty to Not Guilty on ..... charge(s). The accused is (are) so informed, and he (they) changes(s) his (their) plea(s) on ..... charge(s). Part I of the Schedule is amended accordingly.
(1. *Court may be cleared to consider the statement. Delete whole or part not used.*)

B4. On the charge(s) to which the plea(s) of Guilty is (are) not changed the President records finding(s) of Guilty in Part I of the Schedule.(1)
(1. *RP 35(B). If any plea(s) is (are) changed, use Record Form C or D as appropriate.*)

B5. The Summary of Evidence is marked Ex ....., initialled and read aloud by the President.(1)
(1. *If there is no Summary, or if it is inadequate, comply with RP 37(B). If there is any evidence inconsistent with any plea standing as Guilty, Court will advise accused to change such plea and, if changed to Not Guilty, try such charge(s) by use of paras D1 to D8 inclusive of Record Form D on p 3. RP 37(D).*)

B6. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

RECORD FORM C—PROCEEDINGS ON MIXED PLEAS OF GUILTY AND NOT GUILTY.

C1. As to the charges on which accused pleaded NOT GUILTY the trial is continued by using paras D1 to D8 inclusive of Record Form D on p 3 before proceeding with C 2.(1)
(1. *RP 37(A) (E).*)

C2. The charges on which accused pleaded GUILTY are read to him (them) again, and the trial is continued by using paras B1 to B5 of Record Form B above.(1)
(1. *Under B5 such parts only of the Summary of Evidence are read as relate to the charges dealt with under C2. If any plea is changed to Not Guilty, trial thereon proceeds by complying with paras D1 to D8 inclusive in Record Form D on p 3 and making an appropriate record thereof on a separate sheet.*)

C3. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

RECORD FORM D—PROCEEDINGS ON PLEAS OF NOT GUILTY TO ALL CHARGES.

D1. President to accused : Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity to prepare your defence ? Ans ..... (2)
(1. *If "yes", see RP 39(A) for procedure. Statement or evidence, if any, is recorded per Notes.*)

D2. The Prosecutor makes (an) (no) opening address.(1)
(1. *RP 39(B), 60(A) (B), 90, 92(C) (D). Record address per Notes, subject to RP 95(C).*)

D3. The evidence for the Prosecution is taken.(1)
(1. *RP 39(C), 114, KR Can 555. Record evidence per Notes. As to Prosecutor giving evidence himself see RP 39(D) (E).*)

D4. The Prosecution is closed.(1) The Defending Offr submits that the evidence for the Prosecution does not establish a prima facie case against the accused on the ..... charge(s).(2) The Court is closed, and considers the submission.(3) The Court is re-opened, and the President announces that the submission is disallowed on the ..... charge(s), and allowed on the ..... charge(s), and that, accordingly, the trial will proceed on the former, but the accused is (are) found Not Guilty on the latter charge(s).(4)
(1. *Delete remainder of this para, if submission not made.* 2. *Arguments on submission, answer and reply are recorded per Notes.* 3. *RP 40 fn 1. See MML p 72 paras 12-14 and p 81 para 42.* 4. *Delete part not used. If accused acquitted on all charges, use second alternative in para D8.*)
NB : If trial proceeds, accused must be allowed great latitude in making his defence, and the Court should not stop his defence solely on ground of irrelevance. (RP 60(C), 114, 115.)

D5. President to accused : You will now proceed with your defence.(1) You may, if you wish, give evidence yourself on oath as to the facts or your character or both, in which case you will be subject to cross-examination.(2) You may, however, make a statement without being sworn, and you will not be subject to cross-examination.(3) But a statement which could have been made on oath will not carry with the Court the same weight as sworn testimony.(4) You may call witnesses in your defence and as to character, whether you give evidence or make a statement or do neither.

President to accused : Do you wish to give evidence yourself as a witness, make a statement, or do neither ? Ans ..... Do you intend to call witnesses on your behalf ? Ans ..... Are they witnesses as to character only ? Ans .....
(1. *RP 115.* 2. *RP 40(A), see 80(D).* 3. *RP 40 fn 10.* 4. *RP 40 fns 2, 9.*)

D6. Consequent on the answers recorded in para D5 the appropriate procedure for the defence is followed.(1)
(1. *RP 114, 115, 116. For procedure see Notes on back of Convening Order. CF A95. Evidence for accused as to his character should, if in his interest, be given before the finding. See RP 46(A) fn 1, 86(C). Note the further opportunity in para E1 of Record Form E. Record per Notes addresses, statement, evidence and any summing up by the JA under RP 42, 103(e).*)

D7. The Court is closed to consider the finding(s).(1) The finding(s) of the Court is (are) recorded in Part I of the Schedule.(2) The Court is re-opened.
(1. *RP 43, 117(A). See Notes in Part I of Schedule.* 2. *RP 44(A).*)

D8. The President announces the finding(s), if any, of Not Guilty, and states to the accused that the finding(s) of the Court on the ..... charge(s), being subject to confirmation, will be promulgated later.(1)
Or, The President announces that the accused is found Not Guilty on all charges and is to be released forthwith, and that the proceedings are accordingly terminated. Part I of the Schedule is dated and signed.(2)
(1. *AA 54(7) (a), RP 45, 120(6).* 2. *AA 54(7), RP 45, 117. This alternative announcement is not applicable when there are pleas of Guilty outstanding and dealt with under Record Form B or C.*)

D9. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E below.

RECORD FORM E—PROCEEDINGS ON CONVICTION BEFORE SENTENCE.

E1. President to accused : Do you wish to give evidence yourself or to call any witnesses as to your character ?(1)
Ans .....
(1. *If evidence has already been given by accused or his witnesses as to his character, delete this para. RP 37(C) fn 4, 46 fn 1. Accused and witnesses are sworn. Evidence recorded per Notes.*)

E2. The Prosecutor produces Statement(s) as to Character and Particulars of Service(1), and certified true copy (copies) of Conduct Sheet(s)(2), purporting to refer to the accused, which he submits to the Defending Offr for examination, and then to the Court for admission in evidence. The Court is satisfied that these documents refer to the accused, because (i) they purport to be signed in the manner required by AA 163(1) (g) (h), and (ii) they purport to refer to (a) soldier(s) having the same number, rank, name and corps as the accused. Admitted in evidence and marked Ex ..... and Ex ..... respectively.(3)
(1. *MFB 355 or AFB 296.* 2. *MFM 6.* 3. *RP 46, KR Can 558. If above documents not produced, see RP 46 fn 1 para 1.*)

E3. President to accused : Do you wish to address the Court on the Statement(s) and Conduct Sheet(s), and in mitigation of punishment ?(1) Ans .....
(1. *RP 37(C), 46(D).* 2. *Address, if any, recorded per Notes. Court should prevent accused or his witnesses to prove on oath anything here or previously stated which would affect the amount of punishment. RP 37(F) fn 7.*)

E4. The President states that the Court is closed to consider the sentence, and that the sentence to be awarded by the Court, being subject to confirmation, will not be announced, but will be promulgated later, and the proceedings in open court are accordingly terminated.(1)
(1. *AA 54(6), RP 120(A).*)

E5. The Court considers the sentence.(1) The President records the sentence in Part I of the Schedule, which is dated and signed by him and the JA, if any.(2)
(1. *When several accused tried separately see RP 71 (D). One sentence only, comprised of the punishment or punishments laid down in AA 41, 44 and its proviso, is to be awarded to cover all charges in all charge sheets on which accused found guilty. RP 48. As to sentences see AA 64, 138, 182, RP 46-50, 69, 118, 119(A), KR Can 308, 330, 363-366, Overseas 80 309, 2323, MML p 60, 757-759. As to sentences assigned for civil offences by the law of England see AA 41(3), MML p 130. When accused already under sentence of imprisonment or detention see AA 44(1)(b), 68(1), KR Can 564.* 2. *RP 50. As to release from arrest by Confirming Offr see KR Can 567. As to assembly and dispersal of record after trial see insert on back of Convening Order.*)

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

CHARGE SHEET

The Accused, No. L-13782 Private Clifford GROSE, Canadian Infantry Corps, on the strength of No. 1 Canadian Infantry Reinforcement Unit, a soldier of the Canadian Army Overseas, is charged with:-

FIRST CHARGE
Section 15(1)
ARMY ACT

WHEN ON ACTIVE SERVICE, ABSENTING HIMSELF WITHOUT LEAVE,

in that he,

In the Field, absented himself without leave from 1830 hours the 30th day of August, 1944 until apprehended by Canadian Military Police at Worthing at about 1340 hours the 23rd day of September, 1944, thereby incurring expense to the public in the amount of £0-8-10, cost of return to his unit.

Total absence: 23 days, 19 hours, 10 minutes.

C.B. Ware
(C.B. Ware) Commander Colonel
1 Cdn Inf Reinf Unit

In the Field

27th day of September, 1944

To be tried by Field General Court Martial.

J.E. Ganong
(J.E. Ganong) Brigadier
Commanding
"D" Group, Cdn Rft Units
Convening Officer

In the Field
2 Oct 44

FIELD GENERAL COURT-MARTIAL

(Whether the accused to be tried is under his comd or not, a FGCM may on application to him be convened by any offr of Cdn Army Overseas, or of any other force if outharized in law, in immediate comd of troops on active service, subject to RP 105(C) and restrictions imposed by appropriate outhy. AA 49, 50, RP 104-107, 114. As to the duties and privileges of the Convening Offr in dealing with the application see MML Chap V paras 20 and 23. RP 87(B).

There should be a separate Convening Order for each person to be tried separately by the same Court. RP 71(C), 109. As to separate charge sheets see RP 62, and as to separate trial on charges in the same charge sheet see RP 108. As to two or more accused charged jointly see RP 16, 109. As to reasons for showing (a) permanent or confirmed rank, and (b) apptmt, A/rank or A/apptmt, if any, see AA 182, 183, fns. KR Can 308, 328, 330.)

ACCUSED.

Number.	(a) Prmnt R.	(b) Apptmt, A/R or A/Apptmt.	Full Christian Names.	Surname.	Unit.
L.13782	Pte		Clifford	GROSE	CIC 1 CIRU

CONVENING ORDER.

1. Whereas complaint has been made to me, the undersigned, that the person(s) named above as the accused, being subject to military law, has (have) committed the offence(s) set forth in the Charge Sheet(s) attached and on (date) 2 Oct 44 endorsed by me, ~~(or by an offr of my staff for me)~~, "To be tried by Field General Court-Martial".

2. And whereas I am of opinion that it is not practicable that such offence(s) should be tried by an ordinary General Court-Martial; ~~(and that it is not practicable to delay the trial for reference to a superior qualified offr.)~~
(Delete part in brackets when not required for compliance with RP 105(C).)

3. I hereby convene a Field General Court-Martial to try the said person(s), and to consist of the Offrs appointed or detailed hereunder.

~~4. I am unable to appoint (a) three Offrs to form the Court, (b) a Fd Offr as President, for the reasons I have attached hereto.~~
(AA 49, RP 106(B), 107(A). Delete the whole or part, if not applicable.)

~~6. I also appoint as Judge Advocate thereat the Offr mentioned hereunder.~~
(RP 106(E). Delete, if none appointed.)

PRESIDENT.

(Rank.)	(Must be named. RP 106.)		(Unit.)
Major	R.M. Wynn	Gen List	1 CIRU

MEMBERS.

A Captain	to be detailed by Comranding Officer	1 CIRU
A Lieutenant (Rank.)	to be detailed by Comranding Officer (Named or detailed. RP 106.)	1 CIRU (Unit.)

WAITING MEMBER.

(Rank.)	(Named or detailed, if any. RP 106.)	(Unit.)
A Lieutenant	to be detailed by Comranding Officer	1 CIRU

JUDGE-ADVOCATE.

(Rank.)	(Must be named, if any. RP 106.)	(Unit.)

On Active Service in the Fd

in England (Country.)

(Signature officially. RP 105 fn 2.)

Brigadier (Rank.)

Date 2 Oct 44

Commanding "D" Group, Cdn Rft Units
Convening Officer.

CONVENING OFFR WILL INITIAL ALL DELETIONS AND ALTERATIONS

4/38A (See overleaf for oaths and notes for use on trial.)

Army

Medical Officers Certificate
K.R. Can. Para 557

I certify that I have this morning examined No. 4.18.7.8.2.....
.....Pte. Grant. E.....and in my opinion he is ~~unfit~~ fit to undergo
trial by Court Martial.

Station: Field.....

Date: 23 Oct 1944...

W. J. Clarkson Capt. RCAMC
.....(Medical Officer) 1 C.I.R.U.

The case of 413782 Pte Jones C.

Plea of not guilty.

The accused age 23 enlisted in Jan 16 and arrived in England in the spring of 16. In April 16 he applied for permission to marry but was refused by the Colonel stating that his intended bride was too young, even though her parents had given their written consent to the marriage. Early in June after C. of I. the accused went absent without leave and returned to England and eventually found himself in #1 C.C.S. It was the accused's first time to look at getting married but this time he got as far as the table, or rather to buy a parcel but not the ticket, or the last step in the direction of marriage, so far the last step in the direction of a wedding.

Strangely enough the accused was very much in love with his young lady, and like of so many a soldier, was desirous of marrying her, so he took his leave of #1 C.C.S. and left.

during his absence from [illegible] worked
till 6 hrs sufficient funds & got married on
and the wedding took place at [illegible]
23rd of April. His intention was to return to unit
the coming Monday but he was prevented by
the Provost as he came on his leave after
the wedding.

In view of the extenuating and very unusual
circumstances in this case I sincerely
plead for leniency.

Questions by the Court.

Q- Was the accused married with permission?

A- No - he was married without permission but
has since filled in the forms which have been
submitted through proper channels.

2 & 2 Nov

SUMMARY OF EVIDENCE

In the case of No. L-13782 Private Clifford GROSE, Canadian Infantry Corps, on the strength of No. 1 Canadian Infantry Reinforcement Unit, a soldier of the Canadian Army Overseas.

By direction of the Commanding Officer this Summary of Evidence is taken on Oath.

FIRST WITNESS for the PROSECUTION

K-46444 A/Sgt Murphy, E.B., Canadian Scottish Regiment, on the strength of No. 1 Canadian Infantry Reinforcement Unit, a soldier of the Canadian Army Overseas, having been duly sworn states as follows:
I am K-46444 A/Sgt Murphy, E.B., Canadian Scottish Regiment, on the strength of No. 1 Canadian Infantry Reinforcement Unit. On the 30 August 1944 I was Orderly Sergeant for "A" Coy., 1 CIRU. At 1830 hours I called the roll at a muster parade and found Private Grose, C. absent. If he had been present, he would have had to fall out and march across to the squad of those who had already answered their names. I called L-13782 Pte. Grose, C., and no one answered. There was no one of that name and number on the parade. I checked the billets and found no one in the barracks of that name and number.

The accused declines to cross-examine this witness.

E.B. Murphy A/Sgt.
(E.B. Murphy) K-46444

SECOND WITNESS for the PROSECUTION

Lt. K.A. McKenzie, Canadian Infantry Corps, an officer of the Canadian Army Overseas, having been duly sworn states as follows:
I am Lt. K.A. McKenzie, Canadian Infantry Corps, employed as Assistant Adjutant, No. 1 Canadian Infantry Reinforcement Unit. I produce certificate in accordance with P.C. 2797 of 10 April, 1942 purporting to be signed by Capt. R.J. Stinson, D.A.P. M., C.M.H.Q. This document, which relates to the accused, is marked Exhibit "A" and duly initialed by me for purposes of identification. I also produce CMHQ 1000:55 Expense Voucher, purporting to be signed by Lt. R.E. Birch, Officer issuing railway warrants and expense monies, D.P.M's Branch, C.M.H.Q. This document which relates to the accused is marked Exhibit "B" and duly initialed by me for purposes of identification.

The accused declines to cross-examine this witness.

K.A. McKenzie Lt.
(K.A. McKenzie)

The accused was cautioned as follows: "Do you wish to make any statement or to give evidence on Oath? You are not obliged to say anything or give evidence unless you wish to do so, but whatever you say or any evidence you give, will be taken down in writing and may be given in evidence."

The accused declines to make a statement and reserves his defence.

I certify that the foregoing Summary of Evidence consisting of one page was taken down by me in the presence and hearing of the accused, and that Rules of Procedure 4(c), (d), (e) and (f) have been complied with.

R.B. Allan Lt.
(R.B. Allan) Officer detailed to take the Summary of Evidence.

In the Field
27th day of September, 1944.

EXHIBIT A
To Affidavit

CERTIFICATE IN ACCORDANCE WITH P.C. 2797 of 10 APR. 42

I certify that No. L.[illegible]. Rank. Pte . Name. Gross C. . . . . .

Unit. No. 1. C.I.P.W. (CRU). . was arrested at. Worthing . . (place)

at. 1340. . .(hour) on. 23. Sept-44 (date) and that at the time of his arrest he was wearing (military uniform) or (~~civilian clothes~~). Signature of Provost-Marshal, Assistand Provost-Marshal, or other officer or the Commanding Officer of the portion of Him Majesty's Forces or the officer, warrant-officer, or non-commissioned officer in charge of the detachment of the Canadian Provost Corps, Canadian Army into whose custody the above named person was taken on arrest. (Strike out part inapplicable).

(R.J. Stinson) Capt.
D.A.P.M. C.M.H.Q.

London
24-Sept-44

EXHIBIT B

Expense Voucher Re—: Ref: KR & O (Can) 530

Reg No. 13782 Rank Pte. Name Grosz C. Unit 1. C.I.R.U.

The following expenses were incurred in apprehending and returning the M/N Soldier to his Unit From London for Worthing

Date	Particulars	Amount		
24 Sept 44	Escorts return fare from LONDON To Worthing (Via Portsea)		4	5
24 Sept 44	Prisoners single fare to LONDON From Worthing		4	5
	Prisoners fare from To			
	Escorts & Prisoners expenses for Bed, Meals, Bus fares			
	Total £	0	8	10

I certify that the above statement of Expenses is Correct, and that the amounts are fair and just.

LIEUT. Capt
R. E. BIRCH
ADMIN. OFFICER D.P.M's BR.
C.M.H.Q.

Officer Issuing Railway Warrant and Expense money
No. 6 Area Provost Company, Canadian Provost Corps

CMHQ 100050
40-P-6/43(K3)

Ex D

M.F.B. 388
2(M)—5-41 (372-3)
H.Q. 1772-99-620
A.F.B. 200

STATEMENT AS TO CHARACTER AND PARTICULARS OF SERVICE OF ACCUSED

Number	Rank	Name	Regiment (or unit)
L-13782	Private	Clifford GROSE	Canadian Infantry Corps No. 1 C.I.R.U.

1. The following is a fair and true summary of the entries in the ~~Regimental and General~~ Regimental ~~Conduct Sheets~~ ~~Company Conduct sheets~~ of the accused, ~~exclusive~~ inclusive of convictions by a Court-Martial or a Civil Court, ~~Police Act~~ of summary awards under Section 47 of the Army Act and of cases in which trial has been dispensed with.

	Within last 12 months	Since enlistment or appointment
For AA Sec 15(1)	(three) times	one times
For	times	times
For	times	times
For	times	times

~~Number of instances of gallantry or distinguished conduct~~

or,

~~There are no entries in the conduct sheets of the accused.~~

NOTE.—If the charge is for drunkenness, the entries for drunkenness must be stated separately.

2. The accused has not been previously convicted

~~Previous conviction of the accused by a court-martial or a civil court, of summary awards under Section 47 of the Army Act and dispensations with trial under Rule 22 are set out in the Schedule appended to this statement.~~

3. The accused is not under sentence at the present time.

~~The accused at the present time is under sentence for ..... beginning on the ..... day of .....~~

4. The accused has been in confinement awaiting trial on the present charges, for N/L days in civil custody, and 9 days in military custody, making a total of 9 days in custody, of which N/L days were spent in hospital.

5. The present age of the accused according to his ~~attestation~~ attestation paper is 23 years

6. The date of his ~~attestation~~ attestation specified in his ~~attestation~~ attestation paper is 29 September 1941

7. The service which the accused is allowed to reckon towards discharge is 1000 days

8. The accused is entitled to reckon above service for the purpose of determining his pension, etc.

9. The accused ~~has been recommended for~~ is entitled to wear the ~~following~~ decoration ~~or has received the following~~ reward (or is in possession of or entitled to). State any ~~such~~ decoration or reward.

Canadian Volunteer Service Medal and Clasp.

10. ~~The accused is a warrant officer.) The accused before he was made a warrant officer last held the substantive rank of .....~~

11. (In the case of an officer.) The accused holds in the Royal Canadian Air Force the rank of ..... Permanent Force dated ..... unit ..... dated ....., and in his regiment (or corps), the rank of ..... dated .....

12. The accused has served as a non-commissioned officer continuously, without reduction, to the present date:—

..... Date of promotion.

In the rank of ..... years.

In the rank of ..... years.

In the rank of ..... years.

NOTE.—If any matter in any of the above paragraphs cannot be stated from the Regimental books, the paragraph must be struck through.

SCHEDULE

Of convictions by a court-martial or civil court, of summary awards under Section 47 of the Army Act, Air Force Act, and of cases in which trial has been dispensed with of accused, Number ..... Rank ..... Name ..... of ..... Unit Regiment

NOTE.—A verbatim extract from the regimental books stating these convictions and dispensations with trial must be inserted.

Description of Court by which tried	Date and Place of Trial	Charge upon which convicted	Sentence of the Court	Punishment Remitted

I hereby certify that the foregoing schedule of convictions and dispensations with trial is a true extract from the regimental books in my custody, and MFM 4.

Signed this 2nd day of Dec 44

The above statement (with the schedule of convictions and of cases in which trial has been dispensed with) is read, marked ..... signed by the president, and annexed to the proceedings.

No. 13782 Name GROSE C. Sqn, Battery, or Company 2 E Corps CIC

Date of last entry in Company Conduct Sheet | No and date of last drunk A/L | Period not reckoning towards freedom from extra fine N.A. | Sheet No 1 | Date of enlistment 29.11.41 | GC Badges | Signature OC Company, etc | Service or Proficiency Pay

MFM 6 (AFB 122) etc. AA/136 (5488)

Character

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
FIELD	4.11.43	Pte.		A.A.Sec. 40(2) AWL		3 days C.B. 3 days pay FR&E 149 (2)	8-11-43		
FIELD	5.11.43	Pte		AA Sec 15(1) AWL		3 days pay. FR&I 149(2)	4.11.43		
Field 10.5.44		Pte		AA Sec 15(1) A.W.L.		6 days C.B. 6 days Pay. FR&I 149(2)	10.5.44		
Field 30.5.44		Pte		AA Sec 15(1) AWL		14 days F.P. 14 days pay. FR&I 149(2)	30.5.44		Auto forf of 8 days pay. FR&I 149(1)a.

CERTIFIED TRUE EXTRACTS FROM MFM 4 CONSISTING OF ONE PAGE

DATE 3 Oct 44

Officer i/c of Regimental Books.

(FTO)

I hereby acknowledge that I have been served with a true copy of the Summary of Evidence taken at 1 CIRU, In the Field, preliminary to my Court Martial. I further acknowledge that I have been served with a true copy of the charge under which I am being brought to Court Martial.

Signed at 1 CIRU
In the Field,
this. 29....day
of.....Sep.....194 4

C. Gross.....

I hereby request that the convening Officer appoint an Officer to represent me at my trial.

~~I desire the services of.....~~ if he is avail-
~~-able.~~

C. Gross

LIST OF WITNESSES

FIRST WITNESS - K46444 A/Sgt Murphy, E.B.

SECOND WITNESS- Lieut. K.A. McKenzie

LIST OF EXHIBITS

Exhibit "A"
Certificate in accordance with P.C. 2797 of 10 Apr 42.

Exhibit "B"
CMHQ 1000-55 Expense Voucher

SSS 74

CPL GROSS E W.

SCHEDULE.

PART I. PLEA(S), FINDING(S) AND SENTENCE.

Accused: B/27208 L/Sgt Edwin Wellington GROSS, 16 Cdn Fd Coy, RCE

	Charge. (Insert "alternative" where applicable.)	Plea. (See instrs p 2.)	Finding. (See note below.)	(Space for use as required for further charges, accused charged jointly, special findings, etc.)
1st	Drunkenness	G Mty	Guilty	Reduced to the ranks. 2 Aug 44 30 days Field Punishment No 1 30 days forfeiture of pay
2nd			"	
3rd			"	
4th				
5th				
6th				

(Note: As to findings for lesser offences see AA 56, RP 44; findings on alternative charges see MML p 483 fn 4 paras 2, RP 44; special findings see RP 44 and MML p 733, and in loss of kit see RP 44 fn 9.)

At present under sentence for ..... beginning on (date) ..... (1)
(1. Insert sentence being served, or delete, if not applicable. See RP 46(A). Information should be found on MF BJ55 or AF B296.)

Time in confinement awaiting present trial—a total of 4 days of which Nil days were spent in hospital.(1)
(1. See RP 46(A) fn 2. Information should be found on MF BJ55 or AF B296 admitted in evidence under E2.)

Sentence Awarded by the Court:

Reduced to the ranks
30 days Field Punishment
30 days forfeiture of pay

(Sgd) ..... Judge-Advocate, if any. Date awarded: 25 July 44 (Sgd) R.F.L. Keller President. (RP 45, 50.)
(See back of Convening Order as to assembly and disposal of record after trial.)

PART II. MINUTE WHERE CONFIRMATION RESERVED. (AA 54(5), RP 120(F), MML p 760.)

Date ..... (Sgd) ..... Commanding .....

PART III. DECISION OF CONFIRMING OFFR ON FINDING(S) AND SENTENCE.

(For duties and powers see AA 54, 57, RP 37(D) fn 6, 46(A), 51-56, 120, MML pp 759-761, KR Can 567-577. Acquittals require no confirmation and cannot be revised: AA 54(7). Sending back finding or sentence for revision by Court: AA 54(2), RP 120(G). If not confirmed, accused may be tried again: AA 157, MML p 64. Minute of confirmation or non-confirmation may be altered before promulgation: RP 53, MML p 65. Quashing after promulgation: KR Can 573. Duties and powers of reviewing offrs: AA 57, 57A, RP 53A, 54. The Confirming Offr must sign here personally. AA 172 fn 1.)

My decision on the finding(s) and sentence set forth in Part I is: I confirm the Finding of Guilty and Sentence of the Court. I remit 30 days imprisonment from the Sentence

I direct that the accused be not committed to prison or detention barracks until further orders. (1. AA 57A. Delete if not used.)

(Sgd) R.F.L. Keller

Date 28 Jul 44 Commanding R.F.L. KELLER Maj. C G.O.C. 3rd Cdn Div Confirming Officer.

PART IV. PROMULGATED AND EXTRACTS TAKEN. (RP 53, KR Can 576, 577.)

Accused.	Date.	Signature of Offr.
B/27208 L/Sgt Gross EW	29 Jul 44	D.W. Cumming Major

ALL DELETIONS AND ALTERATIONS WILL BE INITIALLED.

RECEIVED AT CMHQ IN AB 160 555-74
REF 1 AUG 1944 BRANCH
PROCEEDINGS REVIEWED Date 2 Aug 44 Cdn. Sec G.H.Q. 21 Army Gp

FIELD GENERAL COURT-MARTIAL

CFA96 (To face of AF A32) A.G.P.A.S. 1/1608 (2604)

Convened by Order of Major-Gen R F L Keller Comd 3 Cdn Div dated 14 Jul 44

ACCUSED.

(As to the trial of two or more charged jointly see RP 16, 71, 109. As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

Number.	(a) Prmnt R. (b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.
B/27208	L/Sgt	Edwin Wellington	GROSS

16 Cdn Fd Coy, RCE

PROCEEDINGS REVIEWED 2 Aug 44
Judge Advocate
REVIEWING OFFICER, JAG BRANCH C.M.H.Q.

PROCEEDINGS OF TRIAL.

Held in the Fd in (*country*) France on (*date(s)*) 15 Jul 44

RECORD FORM A—OPENING PROCEEDINGS AND ARRAIGNMENT. 9/64.

A1. The President, Members, ~~waiting Member, JA, if any, and Offrs under instr, if any,~~ assemble, and the Court is closed.

(PRINTED MATTER, NOT IN ITALICS FOR GUIDANCE, WILL BE DELETED, IF NOT USED OR APPLICABLE, AND INITIALLED BY PRES OR JA. The Schedule referred to throughout is on p 4. Citations do NOT include all relevant fns RQs. For guidance on procedure when a variation in this form arises, see form for GCM in MML pp 741 to 759. A brief record of such variation will be made and given a number having reference to appropriate or preceding para number herein. See back of Convening Order, CF A95, for oaths and instrs on how to record addresses, evidence, etc., which instrs are hereafter called "Notes". As to general provisions for conducting the trial see AA 52, RP 56, 63-70, 73, 74, 94, 103, 119, 132.)

A2. The President initials and lays before the Court the Convening Order and Charge Sheet(1) attached thereto.(2) The Court is satisfied that it is properly convened and constituted(3), accused is (~~are~~) amenable to military law, and each charge discloses an offence.(3)
(1. As to use of Summary of Evidence see RP 17 fn b. 2. AA 49, 50, RP 105-107. 3. RP 11-13, 23, 24.)

A3. The Court is opened. The accused is (~~are~~) brought before the Court. At 11.15 hours trial commences.

A4. The Prosecutor produces a Medical Certificate that accused is (~~are~~) fit to undergo trial by court-martial.(1) ~~The Prosecutor informs the Court that accused elected to be tried by court-martial instead of being dealt with summarily by the CO.~~(2)
(1. KR Can 557. 2. AA 46(8), RP 60 fn 1. For effect see KR Can 563(c). Delete, if not applicable.)

A5. President to accused: Do you object to ..... as interpreter? Ans

~~The Interpreter is sworn.(1)~~ Do you object to ..... as shorthand writer? Ans

~~The shorthand writer is sworn.(1)~~
(1. RP 72. Delete, if none employed.)

A6. The Convening Order and names of the President and Members of the Court are read to the accused.(1) President to accused: Do you object to be tried by me as President or by any of the Members of the Court?

Ans Nil (2)
(1. RP 110. 2. If no objection, waiting member retires, RP 60(B). If objection, see procedure AA 51, RP 25, 71, 18, MML p 742.)

A7. The President, Members, JA, if any, and Offrs under instr, if any, are sworn.(1) The following are the ranks, names and units of the offrs comprising the Court, etc:

President	Major	G I Norton	14 Cdn Fd Amb, RCAMC
Member	Capt	C F McIntyre	7 Cdn Inf Bde Coy, RCASC
Member	MAJOR	W.S.COATE	R.C.A.P.C. 3 CDN. INF. DIVISION
Judge-Advocate			
Prosecutor	Lieut.	S H Schofield	16 Cdn Fd Coy RCE
Defending Offr	Lieut	M.C.M Cameron	16 Cdn Fd Coy RCE

Questions by President: Is the Prosecutor a lawyer? Ans Nil. Is the Defending Offr a lawyer? Ans Nil (2)
(1. RP 26, 27, 109, 111. List of offrs under instr will be returned separately with proceedings for information of Conv Offr. 2. If Pros a lawyer and Def Offr not, accused is entitled to an adjournment when RP 84 (B) and fn 2 were not followed. See DI p 3.)

A8. The accused B/27208 L/Sgt Gross, E W before arraignment make(s) (his) (~~no~~) plea (2)
(1. If a special plea is made for separate trial on one or more charges (RP 62(E), 108), or as to the jurisdiction of the Court (RP 34, 35(A), 112), or in bar of trial (RP 36), or as to accused's mental fitness to stand trial (AA 130, RP 57), or by one of several accused charged jointly to be tried separately (RP 16, 71), such plea, the addresses made in support or against, the evidence, if any, and finding are recorded per Notes. For forms of record see references in fns to RsP cited. Insert in AB rank and name of the accused making the plea.)

A9. The accused is (~~are~~) arraigned (~~separately~~) on all charges in the charge sheet.(1) The accused does (~~do~~) not object to any charge.(2) ~~There is no amendment to be made to the Charge Sheet.~~(2) The President records the pleas in Part I of the Schedule. RP 33 A not required.
(1. RP 31, 112. See para 1 of Instrs p 2. When more than one Charge Sheet see RP 62; when several accused to be tried separately see RP 71(C), and use separate copies of CF A96 to record proceedings. 2. RP 32, RP 33. If otherwise, delete and make appropriate record per Notes.)

A10. The Court (~~is closed and~~) considers the Instrs on Procedure after Arraignment at top of p 3. The proceedings are continued on Record Form B - E

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

Please turn to page B

INSTRUCTIONS ON PROCEDURE AFTER ARRAIGNMENT.

1. *The accused may not plead or be found Guilty on more than one of two or more charges laid in the alternative.* (*RP* 37(A).) *As to withdrawal of alternative charges by Prosecutor see RP* 35(*C*). *No other charge can be withdrawn for any reason without assent from Convening Offr. If Convening Offr concurs, Court may accept plea of Guilty to lesser, etc, offence.* (*RP* 44(*H*).) *Accused may change a plea of Not Guilty to Guilty during trial.* (*RP* 38.) *As to refusing to plead or not pleading intelligibly see RP* 35(*A*). *As to plea when sentence may be death see RP* 35(*D*).

2. *The proceedings on each charge sheet* (*RP* 62) *after arraignment will be conducted as follows in the respective circumstances stated:*

I. If pleas to all charges are GUILTY, use Record Form B below.

II. If pleas to all charges are NOT GUILTY, use Record Form D on p ■ 3.

III. If pleas to some charges are GUILTY and to other charges are NOT GUILTY and,

(a) Such mixed pleas occur when there are no alternative charges in the Charge Sheet, use Record Form C below. (*RP* 37(*A*).)

(b) Such mixed pleas occur in a set of two or more charges laid in the alternative, see RP 37 (*A*) *and fn* 2 *as to discretion of Court, (i) to try the accused on all such alternative charges as if he had pleaded Not Guilty and withdrawal of witnesses from Court see RP* 81, 82; *questioning of accused see RP* 80, 87(*C*), 92(*B*), *and of witnesses see RP* 83-85; *calling or re-calling of witnesses by Court etc see RP* 75-79, 86, 116; *use of Summary of Evidence at Trial see RP* 17(*E*) *fn* 6; *and responsibility of JA or Pres to record proceedings see RP* 94, 96. *(ii) to record the pleas as the findings of Court. After deciding between (i) and (ii), Court will proceed under foregoing instrs as may be appropriate to result of its decision. See MML p* 744 *Instrs* (2).

3. *As to responsibility of President to accused see RP* 59, 60(*C*); *powers and duties of JA see RP* 103; *duty of Prosecutor see RP* 60(*A*) (*B*); *duty and privileges of accused and Defending Offr see RP* 60(*C*), 87(*C*), 91, 92; *swearing*

RECORD FORM B—PROCEEDINGS ON PLEAS OF GUILTY TO ALL CHARGES.

B1. The President or JA, if any, complies with RP 35(B) by explaining to the accused the nature and meaning of the charge(s)(1), and that on his plea of Guilty there will be no regular trial but merely a consideration of the sentence to be awarded after he has been given an opportunity to make a statement in reference to the charge(s), call witnesses as to character and make an address in mitigation of punishment.(2)

(*1. RP 35 fn 3. 2. MML p 54 para 47.*)

B2. President to accused: The Court will now receive any statement you desire to make in reference to the charge(s).(1) If it appears from your statement that there are circumstances which indicate that you do not understand the effect of the plea of Guilty(2), or which show provocation or extenuation in respect of which in your interest the witnesses for the Prosecution should be examined(3), we shall advise you to change your plea to Not Guilty. In making a statement you will not be sworn or subject to cross-examination; and anything you say will not be used in evidence against you after you change your plea. If, however, it appears to the Court that your statement affects only the amount of punishment to which you are liable, you will not be advised to change your plea and you will be given an opportunity later to prove your statement by sworn testimony, if you so desire.(4)

President to accused: Do you wish to make a statement? Ans ..... (5)

(*1. RP 37(B). 2. RP 37(D) fn 6. 3. RP 35(B) fn 5 para 3, MML p 54 para 47. 4. See para E3 of Record Form E.*
5. Statement, if any, recorded per Notes.)

B3. The Court considers the accused's statement.(1) The Court decides (not) to advise accused to change his (their) plea(s) of Guilty to Not Guilty on ..... charge(s). The accused is (are) so informed, and he (they) change(s) his (their) plea(s) on ..... charge(s). Part I of the Schedule is amended accordingly.

(*1. Court may be closed to consider the statement. Delete whole or part not used.*)

B4. On the charge(s) to which the plea(s) of Guilty is (are) not changed the President records finding(s) of Guilty in Part I of the Schedule.(1)

(*1. RP 35(B). If any plea(s) is (are) changed, use Record Form C or D as appropriate.*)

B5. The Summary of Evidence is marked Ex ....., initialled and read aloud by the President.(1)

(*1. If there is one Summary, or if it is inadequate, comply with RP 37(B). If there is any evidence inconsistent with any plea standing as Guilty, Court will advise accused to change such plea and, if changed to Not Guilty, try such charge(s) by use of paras D1 to D8 inclusive of Record Form D on p 3. RP 37(D).*)

B6. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

RECORD FORM C—PROCEEDINGS ON MIXED PLEAS OF GUILTY AND NOT GUILTY.

C1. As to the charges on which accused pleaded NOT GUILTY the trial is continued by using paras D1 to D8 inclusive of Record Form D on p 3 before proceeding with C 2.(1)

(*1. RP 37(A) (E).*)

C2. The charges on which accused pleaded GUILTY are read to him (them) again, and the trial is continued by using paras B1 to B5 of Record Form B above.(1)

(*1. Under B5 such parts only of the Summary of Evidence are read as relate to the charges dealt with under C2. If any plea is changed to Not Guilty, trial thereon proceeds by complying with paras D1 to D8 inclusive in Record Form D on p 3 and making an appropriate record thereof on a separate sheet.*)

C3. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

RECORD FORM D—PROCEEDINGS ON PLEAS OF NOT GUILTY TO ALL CHARGES.

D1. President to accused: Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity to prepare your defence? Ans ..... (1)

(*1. If "yes", see RP 39(A) for procedure. Statement or evidence, if any, is recorded per Notes.*)

D2. The Prosecutor makes (an) (no) opening address.(1)

(*1. RP 39(B), 60(A) (B), 90, 92(C) (D). Record address per Notes, subject to RP 95(C).*)

D3. The evidence for the Prosecution is taken.(1)

(*1. RP 39(C), 114, KR Con 555. Record evidence per Notes. As to Prosecutor giving evidence himself see RP 39(D) (E).*)

D4. The Prosecution is closed.(1) The Defending Offr submits that the evidence for the Prosecution does not establish a prima facie case against the accused on the ..... charge(s).(2) The Court is closed, and considers the submission.(3) The Court is re-opened, and the President announces that the submission is disallowed on the ..... charge(s), and allowed on the ..... charge(s), and that, accordingly, the trial will proceed on the former, but the accused is (are) found Not Guilty on the latter charge(s).(4)

(*1. Delete remainder of this para, if submission not made. 2. Arguments on submission, answer and reply are recorded per Notes. 3. RP 40 fn 1. See MML p 72 paras 12-14 and p 81 para 42. 4. Delete part not used. If accused acquitted on all charges, use second alternative in para D8.*)

NB: If trial proceeds, accused must be allowed great latitude in making his defence, and the Court should not stop his defence solely on ground of irrelevance. (*RP* 60(*C*), *114, 115.*)

D5. President to accused: You will now proceed with your defence.(1) You may, if you wish, give evidence yourself on oath as to the facts or your character or both, in which case you will be subject to cross-examination.(2) You may, however, make a statement without being sworn, and you will not be subject to cross-examination.(3) But a statement which could have been made on oath will not carry with the Court the same weight as sworn testimony.(4) You may call witnesses in your defence and as to character, whether you give evidence or make a statement or do neither.

President to accused: Do you wish to give evidence yourself as a witness, make a statement, or do neither?

Ans .....

Do you intend to call witnesses on your behalf?

Ans .....

Are they witnesses as to character only? Ans .....

(*1. RP 155. 2. RP 40(A), see 80(D). 3. RP 40 fn 10. 4. RP 40 fns 2, 9.*)

D6. Consequent on the answers recorded in para D5 the appropriate procedure for the defence is followed.(1)

(*1. RP 114, 115, 116. For procedure see Notes on back of Convening Order, CF AF5. Evidence for accused as to his character should, if in his interest, be given before the finding. See RP 46(A) fn 1, 86(C). Note the further opportunity in para E1 of Record Form E. Record per Notes addresses, statement, evidence and any summing up by the JA under RP 42, 103(e).*)

D7. The Court is closed to consider the finding(s).(1) The finding(s) of the Court is (are) recorded in Part I of the Schedule.(2) The Court is re-opened.

(*1. RP 42, 117(A). See Notes in Part I of Schedule. 2. RP 44(A).*)

D8. The President announces the finding(s), if any, of Not Guilty, and states to the accused that the finding(s) of the Court on the ..... charge(s), being subject to confirmation, will be promulgated later.(1)

Or, The President announces that the accused is found Not Guilty on all charges and is to be released forthwith, and that the proceedings are accordingly terminated. Part I of the Schedule is dated and signed.(2)

(*1. AA 54(3) (6), RP 45, 120(A). 2. AA 54(3), RP 45, 117. The alternative announcement is not applicable when there are pleas of Guilty outstanding and dealt with under Record Form B or C.*)

D9. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E below.

RECORD FORM E—PROCEEDINGS ON CONVICTION BEFORE SENTENCE.

E1. President to accused: Do you wish to give evidence yourself or to call any witnesses as to your character?(1)

Ans .....

(*1. If evidence has already been given by accused or his witnesses as to his character, delete this para. RP 37(C) fn 4, 46 fn 1. Accused and witnesses are sworn. Evidence recorded per Notes.*)

E2. The Prosecutor produces Statement(s) as to Character and Particulars of Service(1), and certified true copy (copies) of Conduct Sheet(s), purporting to refer to the accused, which he submits to the Defending Offr for examination, and then to the Court for admission in evidence. The Court is satisfied that these documents refer to the accused, because (i) they purport to be signed in the manner required by AA 165(3) (g) (h), and (ii) they purport to refer to (his) soldier's having the same number, rank, name and corps as the accused. Admitted in evidence and marked Ex ..... and Ex ..... respectively.(2)

(*1. MFB 355 or AFB 296. 2. MFM 6. 3. RP 46, KR Con 558. If above documents not produced, see RP 46 fn 1 para 1.*)

E3. President to accused: Do you wish to address the Court on the Statement(s) and Conduct Sheet(s), and in mitigation of punishment?(1) Ans .....

(*1. RP 37(C), 46(D). 2. Address, if any, recorded per Notes. Court should permit accused or his witnesses to prove on oath anything here or previously stated which would affect the amount of punishment. RP 37(F) fn 7.*)

E4. The President states that the Court is closed to consider the sentence, and that the sentence to be awarded by the Court, being subject to confirmation, will not be announced, but will be promulgated later, and the proceedings in open court are accordingly terminated.(1)

(*1. AA 54(6), RP 120(A).*)

E5. The Court considers the sentence.(1) The President records the sentence in Part I of the Schedule, which is dated and signed by him and the J.A., if any.(2)

(*1. When several accused tried separately see RP 7(D). One sentence only, comprised of the punishment or punishments laid down in AA 41, 44 and its provisos, is to be awarded to cover all charges on all charge sheets on which accused found guilty. RP 48. As to sentences see AA 64, 138, 182, RP 46-50, 69, 118, 119(6), KR Con 306, 336, 563-566, Overseas RO 309, 2323, RP 48. As to sentences for civil offences by the law of England see AA 41(3), MML p 130. When accused MML p 60, 755-759. As to sentences assigned for civil offences by the law of England see AA 41(3), MML p 130. When accused already under sentence of imprisonment or detention see AA 44(18), 68(1), KR Con 564. 2. RP 50. As to release from arrest by Confirming Offr see KR Con 567. As to assembly and disposal of record after trial see instrs on back of Convening Order.*)

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

CHARGE SHEET.

The accused B-27208 (L/Sgt) GROSS, Edwin Wellington, 16th Canadian Field Company Royal Canadian Engineers, a soldier of the Canadian Army (Overseas) is charged with:-

CHARGE
Army Act
19

WHEN ON ACTIVE SERVICE, DRUNKENNESS

in that he

in the Field in France at about 1430hrs on11th July 1944 when on duty near the enemy was drunk.

In the Field in France
12th July 1944

D.W.Cunnington G.M. Major RCE
O.C. 16th Cdn Fd Coy R.C.E.

To be tried by Field General Court Martial.

In the Field.
Date 14 Jul 44.

(R.F.L.Keller)
Major-General
G.O.C. 3 Cdn Inf Division.

997.

FIELD GENERAL COURT-MARTIAL

CFA 95 (In lieu of AFAS) 40/PRS/1601 (2nd ed.)

(Whether the accused to be tried is under his comd or not, a FGCM may on application to him be convened by any offr of Cdn Army Overseas, or of any other force if authorized in law, in immediate comd of troops on active service, subject to RP 105(C) and restrictions imposed by appropriate authy. AA 49, 50, RP 104-107, 114. As to the duties and privileges of the Convening Offr in dealing with the application see MML Chap V paras 20 and 23, RP 87(B).

There should be a separate Convening Order for each person to be tried separately by the same Court. RP 71(C), 109. As to separate charge sheets see RP 62, and as to separate trial on charges in the same charge sheet see RP 108. As to two or more accused charged jointly see RP 16, 109. As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmts. if any, see AA 182, 183, fnt, KR Can 308, 328, 330.)

ACCUSED.

Number.	(a) Prmnt R.	(b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
B/27208	L/Sgt		Edwin Wellington	GROSS	16 Cdn Fd Coy, RCE

CONVENING ORDER.

1. Whereas complaint has been made to me, the undersigned, that the person(s) named above as the accused, being subject to military law, has (have) committed the offence(s) set forth in the Charge Sheet(s) attached and on (date) 14 Jul 44 endorsed by me, ~~(or by an offr of my staff for that purpose)~~ To be tried by Field General Court-Martial ".

2. And whereas I am of opinion that it is not practicable that such offence(s) should be tried by an ordinary General Court-Martial ; ~~(and that it is not practicable to delay the trial for reference to a superior qualified offr.)~~

(Delete part in brackets when not required for compliance with RP 105(C).)

3. I hereby convene a Field General Court-Martial to try the said person(s), and to consist of the Offrs appointed or detailed hereunder.

~~4. I am unable to appoint (a) three Offrs to form the Court, (b) a Fd Offr as President, for the reasons I have attached hereto.~~

(AA 49, RP 106(B), 107(A). Delete the whole or part, if not applicable.)

~~5. I also appoint as Judge Advocate thereat the Offr mentioned hereunder.~~

(RP 106(E). Delete, if none appointed.)

PRESIDENT.

(Rank.)	(Name and initials. Must be named. RP 106.)	(Unit.)
Major	G I Norton	14 Cdn Fd Amb, RCAMC

MEMBERS.

(Rank.)	(Name and initials. Named or detailed. RP 106.)	(Unit.)
Capt	C F McIntyre	7 Cdn Inf Bde Coy, RCASC
Major	W S Coste, RCAPC	HQ 3 Cdn Inf Div

WAITING MEMBER.

(Rank.)	(Name and initials. Named or detailed, if any. RP 106.)	(Unit.)
~~Major~~	~~JUDGE ADVOCATE~~	

(Rank.)	(Name and initials. Must be named, if any. RP 106.)	(Unit.)
On Active Service in the Fd		
in France (Country.)	(Signed personally. RP 105 fn 2.)	
Date: 14 Jul 44	(R P L Keller) Major-Gen Commanding 3 Cdn Inf Div	(Rank.)
	Convening Officer.	

CONVENING OFFR WILL INITIAL ALL DELETIONS AND ALTERATIONS

(See overleaf for costs and notes for use on trial.)

MEDICAL OFFICER'S REPORT

I certify that No. B-27206 L/Sgt GROSS, E.W.
of 16th Cdn Fd Coy RCE in a fit state of health,
and able to undergo Trial by Court martial.

E. J. Angus Major
Medical Officer

Station In the Field.

Date 15th July 1944

M. F. B. 246

Plea for mitigation of Sentence.

Case of B-27208 L/Sgt Gross, E.W. 16th Cdn Fd Coy R.C.E. CA(O)

1. L/Sgt Gross has been in the Army for over 4 years. He has been an NCO for 3 years and 9 months. During this time he has not had any entries in his crime sheet. This is an excellent record.

2. Prior to this offence on July 11th 1944. L/Sgt Gross had spent several sleepless nights and was under a definite strain. He was with his Platoon in Carpiquet from Tuesday July 6th until Friday July 9th during which time they were heavily shelled several times, each day. Caen was being shelled at intervals while his Platoon was working there in the streets.

3. In Caen on the 11th July, civilians were passing out drinks thus giving the soldiers easy access to it. L/Sgt Gross was given a couple of drinks of coffee with some liquor in it. Knowing nothing of French liquors, he did not realize how strong the drink was, until it was too late.

4. L/Sgt Gross's actions as stated by the witnesses are only proof of his drunkeness and not particular agression against his Platoon Officer. This is shown by the 6th witness for the prosecution Spr Arcand, who states that the accused used abusive language to anyone who came near him.

5. In view of the above four points 1. His excellent record. 2. The strain he was under. 3. The lack of knowledge of French liquors and 4. His general aggression against everyone about him, I submit this plea of mitigation of sentence to the Court.

Certified true copy
D. J. Watson Maj

Exhibit A.

SUMMARY OF EVIDENCE

In the case of B-27208 Lance-Sergeant Edwin Wellington GROSS, 16th Cdn Field Company Royal Canadian Engineers a soldier of the Canadian Army (Overseas)

The accused was informed of his rights.

The O.C. 16th Cdn Fd Coy R.C.E. directs that the evidence be taken on oath.

FIRST WITNESS for the prosecution: Lieut. J.L.Yeats, Officer Commanding No 2 Platoon 16th Cdn Fd Coy R.C.E. having been duly sworn states:-

"Whilst engaged in clearing the streets of the city of CAEN at about 1600hrs 11 July 44, I noticed B-27208 L/Sgt Gross, E.W. weaving down the street towards me. His face was flushed, his eyes partially closed, and there was a strong smell of alcohol on his breath. I told him that he had been drinking and to go and get in one of the trucks. He insisted that he had not been drinking, and staggered forward. In trying to walk along a four foot path between a truck and some rubble he fell backwards and had to be assisted to his feet.

I informed him that I was placing him under open arrest; whereupon he became very abusive. He called me a "Son of a bitch, a Cunt"; told me I "didn't know how to handle my platoon" and told me all the platoon thought I was "a shit".

I immediately placed him under close arrest, took his weapon away and detailed two men to guard him in the back of the truck. He continued to use abusive language about me to anyone who came near the lorry.

About 1930hrs Capt. G.E.Smith, second in command of the 16th Cdn Fd Coy RCE came to where I was working. L/Sgt Gross,E.W. in Capt Smith's presence again called me a "Son of a bitch" and said I "didn't know how to handle a platoon". Capt Smith took L/Sgt Gross back to Coy H.Q. with him."

Sgd. [signature]

The accused declined to cross-examine the witness.

SECOND WITNESS for the prosecution: Capt. G.E.Smith Second in Command, 16th Cdn Fd Coy RCE having been duly swprn states:-

"At about 1930hrs I arrived in the area where No 2 Platoon was working to check on progress. I met Lt Yeats and he asked me to take L/Sgt Gross, E.W. back with me as he was under close arrest. L/Sgt Gross, himself came up and asked if he could go back with me, and in a loud voice used very abusive language in front of me, concerning his Platoon Officer. There was a very strong odour of alcohol from L/Sgt Gross at that time.

On my return to the Unit, I brought L/Sgt Gross with me under open arrest."

Sgd [signature]

The accused declines to cross examine the witness.

THIRD WITNESS for the prosecution; D-15308 Spr Humphries, A.G. a Sapper in No 2 Platoon of the 16th Cdn Fd Coy having been duly sworn states:-

"At approx 1600hrs, 11 July 44, Spr Swinburne and I were standing near a lorry on the job of street clearing in CAEN, I saw Lt Yeats and L/Sgt Gross come down the street towards me. Lt Yeats was telling L/Sgt Gross to get into one of the trucks and the latter was talking in a very abusive manner, calling Lt Yeats a "Son of a Bitch, a Phoney, and a Cunt"; and wanted to take Lt Yeats around the corner and "beat the Piss out of him". Although L/Sgt Gross was properly dressed, he looked excited and angry.

When they came up to us, Lt Yeats detailed Spr Swinburne and myself to guard L/Sgt Gross, whom he placed under close arrest. L/Sgt Gross got into the back of the lorry as ordered, and sat there, continuing to use abusive language against Lt Yeats, showing that he had no use for him.

Later Capt Smith came up and L/Sgt Gross insisted on leaving us and returning to camp with the Capt."

Sgd A. Humphries

The accused declines to cross examine the witness.

FOURTH WITNESS for the prosecution; D-15249 Spr Swinburne, G. a Sapper in No 2 Platoon 16th Cdn Fd Coy RCE having been duly sworn states:-

"At approx 1630hrs 11 July 44, Spr Humphries and I were with the Platoon, clearing the streets in CAEN. I saw Lt Yeats and L/Sgt Gross coming down the street towards us, the latter talking in a very abusive manner to Lt Yeats, calling him a "Phoney, a Son of a Bitch, and a Cunt". L/Sgt Gross appeared very angry and excited; his face was flushed his lips very dry except for some dry spittle on his lower lip.

Lt Yeats ordered him into a lorry and for us to act as guard on him. He got into the back of the lorry as ordered, continuing to talk in a very abusive manner, so that we did not associate with him any more than was necessary.

When Capt Smith came up to the job, L/Sgt Gross insisted in going back to camp with him.

Sgd Spr G Swinburne

The accused declines to cross-examine the witness.

FIFTH WITNESS for the prosecution; A-67843 Spr Frasson, A. a Sapper in No 2 Platoon 16th Cdn Fd Coy RCE having been duly sworn states:

"At approx 1700hrs 11 July 44, I was standing at the side of No 2 Platoon's Wireless Truck. I saw Lt Yeats and L/Sgt Gross meet on the street. As they came down the street in my direction, L/Sgt Gross was talking in an excited, abusive manner, calling him various names and inviting him to a fight. Although he was indicating that he wished to have nothing to do with Lt Yeats.

Lt Yeats put him under close arrest, detailing 2 guards. Later when Capt Smith came out to the job, he requested to go back to Coy HQ with the Capt."

Sgd A. Frasson

The accused declines to cross examine the witness.

4th WITNESS for the prosecution: B-110543 Spr Arcand, A.S. a Sapper of No 2 Plt 16th Cdn Fd Coy R.C.E. having been duly sworn states:-

"At approx 1500hrs 11 July 1944, I noticed L/Sgt Gross walking along one of the streets of CAEN in a manner which did not appear normal - walking loosely, talking louder than usual, his face flushed and looking disheveled.

Later around 1700hrs when I was on the radio set in the Platoon half-track I heard L/Sgt Gross, talking in a loud abusive manner about Lt Yeats, calling him a "Prick, a Phoney and a Cunt"; altogether showing that he wished to have nothing to do with Lt Yeats. This as far as I could see from inside the half track, went on for about half an hour, L/Sgt Gross continuing to talk in a similar fashion to anyone who came near."

Sgd A. S. Arcand

The accused declines to cross examine the witness.

FIRST WITNESS for the defence: B-27068 Cpl Salmon, E.F. Medical Cpl H.Q. RCE 3 Cdn Inf Div, having been duly sworn states:-

"About 2130hrs, 11 July 44, I was standing by the "N" Sec wireless truck, at the headquarters of the 16th Cdn Fd Coy RCE when L/Sgt Gross approached me in his usual manner and asked me to remove a foreign body from his eye. He appeared normal in all respects except for a smell of alcohol on his breath.

After I had finished with him he thanked me and returned to his Platoon lines, crossing over a 12 foot sunken road by means of a footbridge 14 inches wide. This footbridge was made of a ladder across the gap, the decking being made up of wood sheeting and the hand rails, two loose ropes."

Sgd' E. F. Salmon Cpl

The accused declines to cross examine the witness.

THE ACCUSED HAVING BEEN DULY CAUTIONED AND SWORN STATES:

"I am B-27208 L/Sgt Gross, E.W. On 11 July 44 I was working with No 2 Platoon of the 16th Cdn Fd Coy R.C.E. cleaning up the streets of CAEN. I had had a few drinks and around 1600hrs I met Mr Yeats.

Due to the mental strain I had been undergoing, and the sleepless nights we had been putting up with, I was feeling very touchy, and went hay-wire when I met Mr Yeats and he started to speak to me".

Edwin W. Gross

Certified that Rules of Procedure 4(c)(d)(e) and (f) have been complied with. Taken by me in writing this 12th day of July 1944

Signed S. M. Schofield Lieut

S.M. Schofield Lt RCE
16th Cdn Fd Coy RCE CA(C)

Certified that copy of this Summary of Evidence was handed to the accused this 12th day of July 1944.

S. M. Schofield Lieut

E. Lt. R.C. 7th

No. 827208 Name Cross. E. W. Sqn., Battery, or Company — Corps A.C.C. Date of enlistment 20 June 70 G.C. Badges — Service or Proficiency Pay

M.F.M. 6 A.F.B. 122 (In Lieu of G.S. 1772-43-18)

Date of last entry in Company Conduct Sheet — No. and date of last drunk Nil — Period not reckoning towards freedom from extra fine — Sheet No. 3. Signature G.C. Company, etc. Sgt. E. H. Wright 7th Co. Character

Place	Date of offence	Rank	Cause of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Shed No. 2.	Discharged	20 June 72.	— No Entered	— Cause of Drunkenness Nil.		Certified correct Sgd. E. H. Wright 7th Co.			
				Certified Correct		D.C. 168 dd 6/7 A.C.C.			

Exhibit B

M.F.H. 355
22M—5-41 (372-2)
H.Q. 1772-39-610
A.F.B. 200

STATEMENT AS TO CHARACTER AND PARTICULARS OF SERVICE OF ACCUSED

Number	Rank	Name	Regiment (or unit)
B-27208	L/SGT	GROSS, E.W.	16th Cdn Fd Coy RCE CA(O)

1. The following is a fair and true summary of the entries in the [illegible] or Company Conduct sheets of the accused, exclusive of convictions by a Court-Martial or a Civil Court, of summary awards under Section 47 of the Army Act and of cases in which trial has been dispensed with.

	Within last 12 months	Since enlistment or appointment
For	times	times
For	Nil	Nil
For	times	times
For	times	times

[illegible]

There are no entries in the conduct sheets of the accused.

NOTE.—If the charge is for drunkenness, the entries for drunkenness must be stated separately.

2. The accused has not been previously convicted [illegible]

3. The accused is not under sentence at the present time. [illegible]

4. The accused has been in confinement awaiting trial on the present charges, for Nil days in civil custody, and One Nil days in military custody, making a total of One Nil days in custody, of which Nil days were spent in hospital.

5. The present age of the accused according to his own statement is 35 yrs [illegible]

6. The date of his [illegible] specified in his attestation paper 20-6-40

7. [illegible]

8. [illegible]

9. The accused is in possession of or entitled to no military decoration, or military reward (or is in possession of or entitled to). State any military decoration or reward. n/a

10. [illegible]

11. (In the case of an officer.) The accused holds in the Royal Canadian Air Force the rank of
Permanent Force
unit
..... dated n/a ....., and in his regiment (or corps), the rank of
..... dated .....

12. The accused has served as a non-commissioned officer continuously, without reduction, to the present date:—

5 Aug 43 Date of promotion.

In the rank of L/Cpl xxxx 7 months

In the rank of Cpl xxxx 2yrs 3 months

In the rank of L/Sgt xxxx 11 months.

NOTE.—If any matter in any of the above paragraphs cannot be stated from the Regimental books, the paragraph must be struck through.

SCHEDULE

Air Force
Of convictions by a court-martial or civil court, of summary awards under Section 47 of the Army Act, and of cases in which trial has been dispensed with of accused. Number ..... Rank .....
Unit
Name ..... of ..... Regiment

NOTE.—A verbatim extract from the regimental books stating these convictions and dispensations with trial must be inserted.

Description of Court by which tried	Date and Place of Trial	Charge upon which convicted	Sentence of the Court	Punishment Remitted
---------- N I L ----------				

I hereby certify that the foregoing schedule of convictions and dispensations with trial is a true extract from the regimental books in my custody.

Signed this 12th day of July 1944 xxxx

The above statement (with the schedule of convictions and of cases in which trial has been dispensed with) is read, marked ..... signed by the president, and annexed to the proceedings.

D.W.Cunnington G.M. Major RCE
O.C. 16th Cdn Fd Coy RCE CA(O)

BpB-36
SPR GROULX A

SCHEDULE.

PART I. PLEA(S), FINDING(S) AND SENTENCE.

Accused : .....

Charge. (Insert "alternative" where applicable.)	Plea. (See Instrs p 2.)	Finding. (See note below.)	(Space for use as required for further charges, accused charged jointly, special findings, etc.)
1st	Not Guilty	Not Guilty	
2nd			
3rd			
4th			
5th			
6th			

(Note : As to Findings for lesser offences see AA 56, RP 44 ; Findings on alternative charges see MML p 463 fn 4 para 2, RP 44 ; special findings see RP 44 and MML p 753, and in lieu of kit see RP 44 fn 6.)

At present under sentence for ..... beginning (as state) ..... (1)

(1. Insert sentence being served, or "Nil" if not applicable. See RP 46(A). Information should be found on MF B355 or AF B296.)

Time in confinement awaiting present trial—a total of 8 days, of which 2.0 days were spent in hospital.(1)

(1. See RP 46(A) fn 2. Information should be found on MF B355 or AF B296 admitted in evidence under E2.)

~~Sentence Awarded by the Court.~~

(Sgd) ..... 10 Dec 43 (Sgd) ..... President. (RP 45, 50.)

~~Judge Advocate, if any.~~ ~~Date awarded.~~

(See back of Convening Order as to assembly and disposal of record after trial.)

PART II. MINUTE WHERE CONFIRMATION RESERVED. (AA 54(5), RP 120(F), MML p 760.)

Date ..... (Sgd) ..... Commanding

PART III. DECISION OF CONFIRMING OFFR ON FINDING(S) AND SENTENCE.

(For duties and powers see AA 54, 57, RP 37(D) fn 6, 46(A), 51-56, 120, MML pp 759-761, KR Con 567-577. Acquittals require no confirmation and cannot be revised : AA 54(3). Sending back finding or sentence for revision by Court : AA 54(2), RP 120(G). If not confirmed, accused may be tried again : AA 157, MML p 64. Minute of confirmation or non-confirmation may be altered before promulgation : RP 53, MML p 65. Quashing after promulgation : KR Con 573. Duties and powers of reviewing offrs : AA 57, 57A, RP 53A, 54. The Confirming Offr must sign here personally. AA 172 fn 1.)

My decision on the finding(s) and sentence set forth in Part I is :

~~Confirmed~~ ccs (Not required).

~~I direct that the accused be not committed to prison or detention barracks until further orders.~~(1) ccs

(1. AA 57A. Delete if not used.)

(Sgd) .....

Date 11 Dec 43 Commanding 7 Cdn Inf Bde Gp. Confirming Officer.

PART IV. PROMULGATED AND EXTRACTS TAKEN. (RP 52, KR Con 574, 577.)

Accused. Date. Signature of Offr.

ALL DELETIONS AND ALTERATIONS WILL BE INITIALLED.

B88-36

CFAMS (2) (in lieu of AFA20) C.F.S.R. 160B (2004)

FIELD GENERAL COURT-MARTIAL

Convened by Order of Brig. A.E. Mann, DSO Comd 7 Cdn Inf Bde Gp dated 10 Dec 43

ACCUSED.

(As to the trial of two or more charged jointly see RP 16, 71, 109. As to reasons for showing (a) permanent or confirmed rank, and (b) appoint. A/rank or A/appoint. if any, see AA 182, 183, fns, KR Con 308, 328, 330.)

Number.	(a) Permt R. (b) Appnt. A/R or A/Appnt.	Full Christian Names.	Surname.	Unit.
C2364	SPR.	ALFRED	GRAHAM	6 Cdn Fd Coy RCE

PROCEEDINGS REVIEWED
J. Rufiguelon, Capt
13 Feb 44
REVIEWING OFFICER, JAG BRANCH C.M.H.Q.

PROCEEDINGS REVIEWED
Date 9 Jan 45
FIRST CDN ARMY

PROCEEDINGS OF TRIAL.

Held in the Fd in (country) ~~Italy~~ Holt, U.K. on (date(s)) 10 Dec 43

RECORD FORM A—OPENING PROCEEDINGS AND ARRAIGNMENT.

A1. The President, Members, waiting Member, JA, if any, and Offrs under instr, if any, assemble, and the Court is closed.

(PRINTED MATTER, NOT IN ITALICS FOR GUIDANCE, WILL BE DELETED IF NOT USED OR APPLICABLE, AND INITIALLED BY PRES OR JA. The Schedule referred to throughout is on p 4. Citations do NOT include all relevant fns ROs. For guidance on procedure when a variation in this form arises, see form for GCM in MML pp 741 to 759. A brief record of such variation will be made and given a number having reference to appropriate or preceding para number herein. See back of Convening Order, CF A95, for oaths and instrs on how to record addresses, evidence, etc., which insstrs are hereafter called "Notes". As to general provisions for conducting the trial see AA 53, RP 56, 63-70, 73, 74, 94, 102, 119, 132.)

A2. The President initials and lays before the Court the Convening Order and Charge Sheet(s) attached thereto.(1) The Court is satisfied that it is properly convened and constituted(2), accused is (are) amenable to military law, and each charge discloses an offence.(3)

(1. As to use of Summary of Evidence see RP 17 fn 6. 2. AA 49, 50, RP 105-107. 3. RP 11-13, 23, 24.)

A3. The Court is opened. The accused is (are) brought before the Court. At 0930 hours trial commences.

A4. The Prosecutor produces a Medical Certificate that accused is (are) fit to undergo trial by court-martial.(1)

~~The Prosecutor informs the Court that accused elected to be tried by court-martial instead of being dealt with summarily by the CO.~~(2)

(1. KR Con 557. 2. AA 44(8), RP 60 fn 1. For effect see KR Con 563(c). Delete, if not applicable.)

A5. President to accused : Do you object to ..... as interpreter ? Ans .....

The interpreter is sworn.(1) Do you object to ..... as shorthand writer ? Ans .....

The shorthand writer is sworn.(1)

(1. RP 71. Delete, if none employed.)

A6. The Convening Order and names of the President and Members of the Court are read to the accused.(1) President to accused : Do you object to be tried by me as President or by any of the Members of the Court ?

Ans N.O.(2)

(1. RP 110. 2. If no objection, waiting member retires. RP 66(B). If objection, see procedure AA 51, RP 25, 26, 48, MML p 742.)

A7. The President, Members, JA, if any, and Offrs under instr, if any, are sworn.(1) The following are the ranks, names and units of the offrs comprising the Court, etc :

President	MAJ	ROBERTS	REGINA Rif
Member	CAPT G F	HENDERSON	R Winn Rif
Member	CAPT A	CHAMBERS	1 C Sigs R
~~Judge Advocate~~			
Prosecutor	LIEUT G D	MILLS	6 Cdn Fd Coy RCE
Defending Offr	LIEUT R C	EDDY	18 Cdn Fd Coy RCE

Questions by President : Is the Prosecutor a lawyer ? Ans No Is the Defending Offr a lawyer ? Ans No (2)

(1. RP 26, 27, 109, 111. List of offrs under instr will be returned separately with proceedings for information of Conv Offr.)
(2. If Pros a lawyer and Def Offr not, accused is entitled to an adjournment when RP 89 (B) and fn 2 were not followed. See DI p 33.)

A8. The accused C2364 SPR Alfred GRAHAM before arraignment makes(s) (no) ~~an~~ plea.(1)

(1. If a special plea is made for separate trial on one or more charges (RP 62(E), 108), or as to the jurisdiction of the Court (RP 34, 35(A), 113), or in bar of trial (RP 36), or as to accused's mental fitness to stand trial (AA 130, RP 57), or by one of several accused charged jointly to be tried separately (RP 16, 71), such plea, the addresses made in support or against, the evidence, if any, and finding are recorded per Notes. For forms of record see references in fns to RoF cited. Insert in AB rank and name of the accused making the plea.)

A9. The accused is (are) arraigned ~~separately~~ on all charges in the charge sheet.(1) The accused does (does not object to any charge.(2) There is no amendment to be made to the Charge Sheet.(3) The President records the pleas in Part I of the Schedule.

(1. RP 36, 112. See para 1 of insns p 2. When more than one Charge Sheet see RP 62 ; when several accused so to be tried separately see RP 71(C), and see separate copies of CF A96 to record proceedings. 2. RP 32, RP 33. 3. Otherwise, delete and make appropriate record per Notes.)

A10. The Court ~~is cleared and~~ considers the Instrs on Procedure after Arraignment at top of p 3. The proceedings are continued on Record Form D

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS

SCHEDULE.

PART I. PLEA(S), FINDING(S) AND SENTENCE.

Accused :

Charge. (Insert " alternative " where applicable.)	Plea. (See Instrs p 2.)	Finding. (See note below.)	(Space for use as required for further charges, accused charged jointly, special findings, etc.)
1st	Not Guilty	Not Guilty	
2nd			
3rd			
4th			
5th			
6th			

(Note : As to findings for lesser offences see AA 56, RP 44 ; findings on alternative charges see MML p 483 fn 4 para 2, RP 46 ; special findings see RP 44 and MML p 733, and in lieu of Kit see RP 44 fn 6.)

At present under sentence for ~~E~~ beginning on (date) (1)
(1. Insert sentence being served, or 'None' if not applicable. See RP 46(A). Information should be found on MF B355 or AF B296.)

Time in confinement awaiting present trial—a total of 8 days, of which XX days were spent in hospital.(1)
(1. See RP 46(A) fn 2. Information should be found on MF B355 or AF B296 admitted in evidence under E2.)

~~Sentence Awarded by the Court.~~

~~(Sgd)~~ ~~Judge Advocate, if any.~~ ~~Date awarded.~~ 10 Dec 43 (Sgd) President. (RP 45, 50.)
(See back of Convening Order as to assembly and disposal of record after trial.)

PART II. MINUTE WHERE CONFIRMATION RESERVED. (AA 54(5), RP 120(F), MML p 760.)

Date (Sgd) Commanding

PART III. DECISION OF CONFIRMING OFFR ON FINDING(S) AND SENTENCE.

(For duties and powers see AA 54, 57, RP 37(D) fn 6, 46(A), 51-56, 120, MML pp 739-761, KR Can 567-577. Acquittals require no confirmation and cannot be revised : AA 54(3). Sending back Finding or sentence for revision by Court : AA 54(2), RP 120(G). If not confirmed, accused may be tried again : AA 157, MML p 64. Minute of confirmation or non-confirmation may be altered before promulgation : RP 53, MML p 65. Quashing after promulgation : KR Can 573. Duties and powers of reviewing offrs : AA 57, 57A, RP 53A, 54. The Confirming Offr must sign here personally. AA 172 fn 1.)

My decision on the finding(s) and sentence set forth in Part I is :

~~Confirmed~~ ccy (Not required).

~~I direct that the accused be not committed to prison or detention barracks until further order.~~(1) ccy
(1. AA 57A. Delete if not used.)

(Sgd) C Cullam Brig

Date 11 Dec 43 Commanding 7 Cdn Inf Bde Gp.
Confirming Officer.

PART IV. PROMULGATED AND EXTRACTS TAKEN. (RP 53, KR Can 576, 577.)

Accused. Date. Signature of Offr.

ALL DELETIONS AND ALTERATIONS WILL BE INITIALLED.

FIELD GENERAL COURT-MARTIAL

CF AAG 11B (2nd) (of AFAS) 431/P SL 87/1008 (2004)

Convened by Order of Brig G.S. Mann, DSO Comdt 7 Cdn Inf Bde Gp dated 10 Dec 43

ACCUSED.

(As to the trial of two or more charged jointly see RP 16, 71, 109. As to reasons for showing (a) permanent or confirmed rank, and (b) appns, A/rank or A/appns, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

Number.	(a) Prmnt R. (b) Appnt, A/R or A/Apprnt.	Full Christian Names.	Surname.	Unit.
C 2364	Spr.	Alfred	Groulx	6 Cdn Fd Coy RCE

PROCEEDINGS REVIEWED
J Rutherford Capt
13 Feb 44
REVIEWING OFFICER, JAG BRANCH C.M.H.Q.

PROCEEDINGS REVIEWED
Date 2 Jan 44 R.H. Lawrence Lt Col
JUDGE ADVOCATE GENERAL

PROCEEDINGS OF TRIAL.

Held in the Fd in (country) Isle of Wight, U.K. on (date(s)) 10 Dec 43

RECORD FORM A—OPENING PROCEEDINGS AND ARRAIGNMENT.

A1. The President, Members, waiting Member, JA, if any, and Offrs under instr, if any, assemble, and the Court is closed.

(PRINTED MATTER, NOT IN ITALICS FOR GUIDANCE, WILL BE DELETED IF NOT USED OR APPLICABLE, AND INITIALLED BY PRES OR JA. The Schedule referred to throughout is on p 4. Citations do NOT include all relevant fns. For guidance as procedure when a variation in th's form arises, see form for GCM in MML pp 741 to 759. A brief record of such variation will be made and given a number having reference to appropriate or preceding para number herein. See back of Convening Order, CF A95, for oaths and instrs on how to record addresses, evidence, etc, which instrs are hereafter called "Notes". As to general provisions for conducting the trial see AA 32, RP 56, 63-70, 73, 74, 94, 102, 108, 122.)

A2. The President initials and lays before the Court the Convening Order and Charge Sheet(s) attached thereto.(1) The Court is satisfied that it is properly convened and constituted(2), accused is (are) amenable to military law, and each charge discloses an offence.(3)
(1. As to use of Summary of Evidence see RP 17 fn 6. 2. AA 49, 50, RP 105-107. 3. RP 11-13, 23, 24.)

A3. The Court is opened. The accused is (are) brought before the Court. At 0900 hours trial commences.

A4. The Prosecutor produces a Medical Certificate that accused is (are) fit to undergo trial by court-martial.(1)
~~The Prosecutor informs the Court that accused elected to be tried by court-martial instead of being dealt with summarily by the CO.~~(2)
(1. KR Can 557. 2. AA 46(8), RP 60 fn 1. For effect see KR Can 563(c). Delete, if not applicable.)

A5. President to accused : Do you object to as interpreter ? Ans
The interpreter is sworn.(1) Do you object to as shorthand writer ? Ans
The shorthand writer is sworn.(1)
(1. RP 72. Delete, if none employed.)

A6. The Convening Order and names of the President and Members of the Court are read to the accused.(1) President to accused : Do you object to be tried by me as President or by any of the Members of the Court ?
Ans (2)
(1. RP 110. 2. If no objection, waiting member retires. RP 68(8). If objection, see procedure AA 51, RP 25, 71, 98, MML p 742.)

A7. The President, Members, JA, if any, and Offrs under instr, if any, are sworn.(1) The following are the ranks, names and units of the offrs comprising the Court, etc :

President	Maj	Roberts	1 Recce Regt
Member	Capt	G F Henderson	R Winn Rif
Member	Capt	A Chambers	1 C Sigs R
Judge Advocate			
Prosecutor	Lieut	G D Miles	6 Cdn Inf Bde HQ
Defending Offr	Lieut	R C Eddy	18 Cdn Inf Bde HQ

Questions by President : Is the Prosecutor a lawyer ? Ans No Is the Defending Offr a lawyer ? Ans No (2)
(1. RP 36, 37, 109, 111. List of offrs under instr will be returned separately with proceedings for information of Conv Offr.)
(2. If Pros a lawyer and Def Offr not, accused is entitled to an adjournment when RP 89 (B) and fn 2 were not followed. See D1 p 3.)

A8. The accused C 2364 Spr Alfred Groulx before arraignment makes(es) (no) (~~no~~) plea (2)
(1. If a special plea is made for separate trial on one or more charges (RP 62(E), 108), or as to the jurisdiction of the Court (RP 34, 35(A), 113), or in bar of trial (RP 36), or as to accused's mental fitness to stand trial (AA 130, RP 57), or by one of several accused charged jointly to be tried separately (RP 16, 71), such plea, the addresses made in support or against, the evidence, if any, and finding are recorded per Notes. For forms of record see references in fns to RP cited. Insert in full rank and name of the accused making the plea.)

A9. The accused is (~~are~~) arraigned ~~separately~~ on all charges in the charge sheet.(1) The accused does (~~do~~) not object to any charge.(2) There is no amendment to be made to the Charge Sheet.(3) The President records the pleas in Part I of the Schedule.
(1. RP 31, 112. See para 1 of Instrs p 2. When more than one Charge Sheet see RP 62 ; when several accused to be tried separately see RP 71(C), and see separate copies of CF A86 to record proceedings. 2. RP 32. RP 33. Otherwise, delete and make appropriate record per Notes.)

A10. The Court (is cleared and) considers the Instrs on Procedure after Arraignment at top of p 3. The proceedings are continued on Record Form D

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS

INSTRUCTIONS ON PROCEDURE AFTER ARRAIGNMENT.

1. *The accused may not plead or be found Guilty on more than one of two or more charges laid in the alternative. (RP 37(A).) As to withdrawal of alternative charges by Prosecutor see RP 35(C). No other charge can be withdrawn for any reason without authy from Convening Offr. If Convening Offr concurs, Court may accept plea of Guilty to lesser, etc, offence. (RP 44(H).) Accused may change a plea of Not Guilty to Guilty during trial. (RP 38.) As to refusing to plead or not pleading intelligibly see RP 35(A). As to plea when sentence may be death see RP 35(D).*

2. *The proceedings on each charge sheet (RP 62) after arraignment will be conducted as follows in the respective circumstances stated :*

I. If pleas to all charges are GUILTY, use Record Form B below.

II. If pleas to all charges are NOT GUILTY, use Record Form D on p 3.

III. If pleas to some charges are GUILTY and to other charges are NOT GUILTY and,

(a) Such mixed pleas occur when there are no alternative charges in the Charge Sheet, use Record Form C below. (RP 37(A).)

(b) Such mixed pleas occur in a set of two or more charges laid in the alternative, see RP 37 (A) and fn 2 as to discretion of Court, (i) to try the accused on all such alternative charges as if he had pleaded Not Guilty thereto, or, (ii) to record the pleas as the findings of Court. After deciding between (i) and (ii), Court will proceed under foregoing instrs as may be appropriate to result of its decision. See MML p 744 Instrs (2).

3. *As to responsibility of President to accused see RP 59, 60(C); powers and duties of JA see RP 103; duty of Prosecutor see RP 60(A) (B); duty and privileges of accused and Defending Offr see RP 60(C), 87(C), 91, 92; swearing and withdrawal of witnesses from Court see RP 81, 82; questioning of accused see RP 80, 87(C), 92(B), and of witnesses see RP 83-85; calling or re-calling of witnesses by Court etc see RP 75-79, 86, 116; use of Summary of Evidence at Trial see RP 17(E) fn 6; and responsibility of JA or Pres to record proceedings see RP 94, 96.*

RECORD FORM B—PROCEEDINGS ON PLEAS OF GUILTY TO ALL CHARGES.

B1. The President or JA, if any, complies with RP 35(B) by explaining to the accused the nature and meaning of the charge(s).(1) and that on his plea of Guilty there will be no regular trial but merely a consideration of the sentence to be awarded after he has been given an opportunity to make a statement in reference to the charge(s), call witnesses as to character and make an address in mitigation of punishment.(2)

(1. RP 35 fn 3. 2. MML p 54 para 47.)

B2. President to accused : The Court will now receive any statement you desire to make in reference to the charge(s).(1) If it appears from your statement that there are circumstances which indicate that you do not understand the effect of the plea of Guilty(2), or which show provocation or extenuation in respect of which in your interest the witnesses for the Prosecution should be examined(3), we shall advise you to change your plea to Not Guilty. In making a statement you will not be sworn or subject to cross-examination ; and anything you say will not be used in evidence against you after you change your plea. If, however, it appears to the Court that your statement affects only the amount of punishment to which you are liable, you will not be advised to change your plea and you will be given an opportunity later to prove your statement by sworn testimony, if you so desire.(4)

President to accused : Do you wish to make a statement ? Ans .....(5)

(1. RP 37(B). 2. RP 37(D) fn 6. 3. RP 35(B) fn 3 para 3, MML p 54 para 47. 4. See para E3 of Record Form E. 5. Statement, if any, recorded per Notes.)

B3. The Court considers the accused's statement.(1) The Court decides (not) to advise accused to change his (their) plea(s) of Guilty to Not Guilty on ..... charge(s). The accused is (are) so informed, and he (they) change(s) his (their) plea(s) on ..... charge(s). Part I of the Schedule is amended accordingly.

(1. Court may be closed to consider the statement. Delete whole or part not used.)

B4. On the charge(s) to which the plea(s) of Guilty is (are) not changed the President records finding(s) of Guilty in Part I of the Schedule.(1)

(1. RP 35(B). If any plea(s) is (are) changed, use Record Form C or D as appropriate.)

B5. The Summary of Evidence is marked Ex ....., initialled and read aloud by the President.(1)

(1. If there is no Summary, or if it is inadequate, comply with RP 37(B). If there is any evidence inconsistent with any plea standing as Guilty, Court will advise accused to change such plea and, if changed to Not Guilty, try such charge(s) by use of paras B1 to D8 inclusive of Record Form D on p 3. RP 37(D).)

B6. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

RECORD FORM C—PROCEEDINGS ON MIXED PLEAS OF GUILTY AND NOT GUILTY.

C1. As to the charges on which accused pleaded NOT GUILTY the trial is continued by using paras D1 to D8 inclusive of Record Form D on p 3 before proceeding with C 2.(1)

(1. RP 37(A) (E).)

C2. The charges on which accused pleaded GUILTY are read to him (them) again, and the trial is continued by using paras B1 to B5 of Record Form B above.(1)

(1. Under B5 such parts only of the Summary of Evidence are read as relate to the charges dealt with under C2. If any plea is changed to Not Guilty, trial thereon proceeds by complying with paras D1 to D8 inclusive in Record Form D on p 3 and making an appropriate record thereof on a separate sheet.)

C3. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

RECORD FORM D—PROCEEDINGS ON PLEAS OF NOT GUILTY TO ALL CHARGES.

D1. President to accused : Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity to prepare your defence ? Ans .....(1)

(1. If "yes", see RP 39(A) for procedure. Statement or evidence, if any, is recorded per Notes.)

D2. The Prosecutor makes ~~an~~ (no) opening address.(1)

(1. RP 39(B), 60(A) (B), 90, 92(C) (D). Record address per Notes, subject to RP 95(C).)

D3. The evidence for the Prosecution is taken.(1)

(1. RP 39(C), 114, KR Can 555. Record evidence per Notes. As to Prosecutor giving evidence himself see RP 39(D) (E).)

D4. The Prosecution is closed.(1) ~~The Defending Offr submits that the evidence for the Prosecution does not establish a prima facie case against the accused on the ..... charge(s).(1) The Court is closed, and considers the submission.(2) The Court is re-opened, and the President announces that the submission is disallowed on the ..... charge(s), and allowed on the ..... charge(s), and that, accordingly, the trial will proceed on the former, but the accused is (are) found Not Guilty on the latter charge(s).(3)~~

(1. Delete remainder of this para, if submission not made. 2. Arguments on submission, answer and reply are recorded per Notes. 3. RP 40 fn 1. See MML p 72 paras 12-14 and p 81 para 42. 4. Delete part not used. If accused acquitted on all charges, use second alternative in para D8.)

NB : If trial proceeds, accused must be allowed great latitude in making his defence, and the Court should not stop his defence solely on ground of irrelevance. (RP 60(C), 114, 115.)

D5. President to accused : You will now proceed with your defence.(1) You may, if you wish, give evidence yourself on oath as to the facts or your character or both, in which case you will be subject to cross-examination.(2) You may, however, make a statement without being sworn, and you will not be subject to cross-examination.(3) But a statement which could have been made on oath will not carry with the Court the same weight as sworn testimony.(4) You may call witnesses in your defence and as to character, whether you give evidence or make a statement or do neither.

President to accused : Do you wish to give evidence yourself as a witness, make a statement, or do neither ?

Ans ~~I do~~

Do you intend to call witnesses on your behalf ?

Ans ~~No~~ Are they witnesses as to character only ? Ans .....

(1. RP 155. 2. RP 40(A), see 80(D). 3. RP 40 fn 10. 4. RP 40 fns 2, 9.)

D6. Consequent on the answers recorded in para D5 the appropriate procedure for the defence is followed.(1)

(1. RP 114, 115, 116. For procedure see Notes on back of Convening Order, CF A95. Evidence for accused as to his character should, if in his interest, be given before the finding. See RP 46(A) fn 1, 86(C). Note the further opportunity in para E1 of Record Form E. Record per Notes addresses, statement, evidence and any summing up by the JA under RP 42, 103(e).)

D7. The Court is closed to consider the finding(s).(1) The finding(s) of the Court is (are) recorded in Part I of the Schedule.(2) The Court is re-opened.

(1. RP 43, 117(A). See Notes in Part I of Schedule. 2. RP 44(A).)

D8. ~~The President announces the finding(s), if any, of Not Guilty, and states to the accused that the finding(s) of the Court on the ..... charge(s), being subject to confirmation, will be promulgated later.(1) Or The President announces that the accused is found Not Guilty on all charges and is to be released forthwith, and that the proceedings are accordingly terminated.~~ Part I of the Schedule is dated and signed.(2)

(1. AA 54(3) (6), RP 45, 120(A). 2. AA 54(3), RP 45, 117. This alternative announcement is not applicable when there are pleas of Guilty outstanding and dealt with under Record Form B or C.)

D9. ~~The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E below.~~

RECORD FORM E—PROCEEDINGS ON CONVICTION BEFORE SENTENCE.

E1. President to accused : Do you wish to give evidence yourself or to call any witnesses as to your character ?(1)

Ans .....

(1. If evidence has already been given by accused or his witnesses as to his character, delete this para. RP 37(C) fn 4, 86 fn 1. Accused and witnesses are sworn. Evidence recorded per Notes.)

E2. The Prosecutor produces Statement(s) as to Character and Particulars of Service(1), and certified true copy (copies) of Conduct Sheet(s)(2), purporting to refer to the accused, which he submits to the Defending Offr for examination, and then to the Court for admission in evidence. The Court is satisfied that these documents refer to the accused, because (i) they purport to be signed in the manner required by AA 183(1) (g) (h), and (ii) they purport to refer to (a) soldier(s) having the same number, rank, name and corps as the accused. Admitted in evidence and marked Ex ..... and Ex ..... respectively.(3)

(1. MFB 355 or AFB 296. 2. MFM 6. 3. RP 46, KR Can 558. If above documents not produced, see RP 46 fn 1 para 1.)

E3. President to accused : Do you wish to address the Court on the Statement(s) and Conduct Sheet(s), and in mitigation of punishment ?(1) Ans .....(2)

(1. RP 37(C), 46(D). 2. Address, if any, recorded per Notes. Court should permit accused or his witnesses to prove on oath anything here or previously stated which would affect the amount of punishment. RP 37(F) fn 7.)

E4. The President states that the Court is closed to consider the sentence, and that the sentence to be awarded by the Court, being subject to confirmation, will not be announced, but will be promulgated later, and the proceedings in open court are accordingly terminated.(1)

(1. AA 54(6), RP 120(A).)

E5. The Court considers the sentence.(1) The President records the sentence in Part I of the Schedule, which is dated and signed by him and the J.A. if any.(2) *(RP 71(2))*

(1. When several accused tried separately see 86(B). One sentence only, comprised of the punishment or punishments laid down in AA 4-7, 44 and its powvise, is to be awarded to cover all charges in all charge sheets on which accused found guilty. RP 48. As to sentences see AA 44, 138, 182, RP 46-50, 69, 118, 119(A), KR Can 308, 330, 563-566, Overseas RO 306, 1323. MML p 60, 737-738. As to sentences consigned for civil offences by the law of England see AA 41(5), MML p 130. When accused already under sentence of imprisonment or detention see AA 44(12), 68(1), KR Can 564. 2. RP 50. As to release from arrest by Confirming Offr see KR Can 567. As to assembly and disposal of record after trial see Instrs on back of Convening Order.)

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

CHARGE SHEET

The accused No. C.2364, Spr. Alfred Groulx, 6th Cdn Fd Coy., R.C.E., a soldier of the Canadian Army (Overseas) being on active service, is charged with;

First Charge
S (1) A.A. Striking his superior officer, being in the execution of his office -

in that he

in the field, at approx 0930 hrs, 2nd day of December 1943 when ordered by K-29231 Cpl. Clarence Mervin Farquhar, who was in charge of detailing fatigues, to report for Kitchen fatigue, struck the said Corporal in the face with his fist.

Robt J Carisdy Capt R.C.E.
C.R. E. 3rd Cdn. Divl. Engrs, A. F.

To be tried by Field-General Court Martial.

C Allan Brig
Asst J Cdr Corps Bde HQ.
.....
Signature of
Convening Officer

10 Dec 43
.....
Date

Dated in the field ~~this 4th day of Dec 43~~ 4th day of Dec 43.

(State crossed off in error, this copy is the date on which the CO signed the charge sheet) & remains as though it had not been crossed off. C Allan Brig.

15

FIELD GENERAL COURT-MARTIAL

CFA95 (In lieu of AFA87)
40/PAM/1097 (2005)

(Whether the accused to be tried is under his comd or not, a FGCM may on application to him be convened by any offr of Cdn Army Overseas, or of any other force if authorized in law, in immediate comd of troops on active service, subject to RP 105(C) and restrictions imposed by appropriate authy. AA 49, 50, RP 104-107, 114. As to the duties and privileges of the Convening Offr in dealing with the application see MML Chap V paras 20 and 23. RP 87(B).

There should be a separate Convening Order for each person to be tried separately by the same Court. RP 71(C), 109. As to separate charge sheets see RP 62, and as to separate trial on charges in the same charge sheet see RP 108. As to two or more accused charged jointly see RP 16, 109.

As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns. KR Can 308, 328, 330.)

ACCUSED.

Number.	(a) Prmnt R.	(b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
C.2364	Spr		Alfred	GROULX	6 Cdn Fd Coy RCE

CONVENING ORDER.

1. Whereas complaint has been made to me, the undersigned, that the person(s) named above as the accused, being subject to military law, has (have) committed the offence(s) set forth in the Charge Sheet(s) attached and on (date) 10 Dec 43 endorsed by me, (or by an offr of my staff for me), "To be tried by Field General Court-Martial".

2. And whereas I am of opinion that it is not practicable that such offence(s) should be tried by an ordinary General Court-Martial; ~~and that it is not practicable to delay the trial for reference to a superior qualified auth~~ conv
(Delete part in brackets when not required for compliance with RP 105(C).)

3. I hereby convene a Field General Court-Martial to try the said person(s), and to consist of the Offrs appointed or detailed hereunder.

~~X Lt-Col unable to appear by reason Offr to form the Court, the Fd Offr as President, for the second time convened hereto.~~ conv
(AA 49, RP 106(B), 107(A). Delete the whole or part, if not applicable.)

~~X Unable appoint as Judge Advocate thereof the Officer next hereunder.~~ conv
(RP 106(E). Delete, if none appointed.)

PRESIDENT.

Major (Rank.)	V. Roberts (Must be named. RP 106.)	Regina Rif (Unit.)

MEMBERS.

Capt.	G.F. Henderson	R Wpg Rif
Capt. (Rank.)	A. Chambers (Named or detailed. RP 106.)	1 C Scot R (Unit.)

WAITING MEMBER.

Lieut. (Rank.)	T.W.L. Butters (Named or detailed, if any. RP 106.)	1 C Scot R (Unit.)

~~JUDGE ADVOCATE.~~

(Rank.)	(Must be named, if any. RP 106.)	(Unit.)

On Active Service in the Fd

in the Field (Country.)

Date 10 Dec 43

(Signed personally. RP 105 fn 2.)

(C.C. Mann)
Brigadier (Rank.)
Commanding 7 Canadian Infantry Brigade Group
Convening Officer.

CONVENING OFFR WILL INITIAL ALL DELETIONS AND ALTERATIONS

(See overleaf for oaths and notes for use on trial.)

"Keep in touch with the folks at home"

ON ACTIVE SERVICE
with the
CANADIAN FORCES

194

14 Can. Fd. Ambulance, C.A.O.'s
10 Dec. 43. 1100 hrs.

This is to certify that I have this morning at 1000 hrs. examined C 2364 Spr. Gourley R. and found him in a fit state of health and fit to undergo trial by court martial.

J. A. Patterson Capt. A.D.M.S.

Think Any reference to shipping or troop movements will result in the delay or mutilation of this letter.

The Prosecution proceeds to call Witness.

1st Witness: K 29231 Pte Farquhar, G.M., 6 Ch Bde Fd Coy R.E.
being duly sworn, is examined by the Prosecutor

Ques State what took place on the transport ~~[illegible]~~ on
but at 0930 hrs 2 Dec 43?

Ans At approximately 0930 hrs 2 Dec 43 I was detailed by
6 Fd Coy R.E. to send any available men to
help out in the kitchen. I went into Transport Unit
and detailed three men, two of these men carried
out my orders, the other man, the Sprule put up
an argument about going into the kitchen as
detailed and he answered, "What if I don't?" I
said to him, "In that case you will have to report
to the Orderly Room." He then laid on his bed and
I told him, "You had better get off your bed,
this is not a holiday." I then asked him again if he
was going to carry out the detail he answered, "I
might" and I told him to answer yes or no. He
asked me if I was getting tough about it. I said "no"
but I would if I had to." He then came towards
me and struck me on the eye with his fist. The next
thing I heard was the Pte Rentz telling him that would
be enough of that sort of thing. The Pte Rentz then took
me to the M.I.R. to have my eye

Witness ~~Returned~~ is then examined by the Defending Officer

Ques The Sprule joined the unit on 26 Nov 43 from the unit
2 Dec 43 did you get to know him well?

Ans I did not know him very well but I had been introduced to
him and showed him to his sleeping quarters.

Ques Were you away from the unit on 26 Nov 43?

Ans Yes

Ques Were you away on 27 Nov 43?

Ans Yes. for half a day

Ques What did you go on 28 Nov 43?

Ans I left at 1100 hrs on a water proofing course

Ques When did you return?

The Prosecution proceeds to call Witnesses

Witness: K 29231 Pte Farquhar, G.M. 6th Bde Tk Coy RASC, being duly sworn, is examined by the prosecutor

Ques: State what took place in the transport ~~office~~ hut at 0930 hrs 2 Dec 43?

Ans: At approximately 0930 hrs 2 Dec 43 I was detailed by C/Q M S Flett, S/Sgt to send any available men to help out in the kitchen. I went into Transport Hut and detailed three men. Two of these men carried out my orders, the other man, Spr Gracie put up an argument about going into the kitchen as detailed and he answered, "What if I don't?" I said to him, "In that case you will have to report to the Orderly Room." He then laid on his bed and I told him, "you had better get off your bed, this is not a holiday." I then asked him again if he was going to carry out the detail. He answered, "I might" and I told him to answer yes or no. He asked me if I was getting tough about it. I said "no" but I would if I had to." He then came towards me and struck me on the eye with his fist. The next thing I heard was Spr Kenty telling him that would be enough of that sort of thing. Spr Kenty then took me to the M I R to have my eye

Witness ~~Accused~~ was examined by the Defending Officer

Ques: Spr Gracie joined the unit on 26 Nov 43 from then until 2 Dec 43 did you get to know him well?

Ans: I did not know him very well but I had been introduced to him and showed him to his sleeping quarters.

Ques: Were you away from the unit on 26 Nov 43?

Ans: Yes

Ques: Were you away on 27 Nov 43?

Ans: Yes. for half a day.

Ques: Where did you go on 28 Nov 43?

Ans: I left at 1100 hrs. on a water proofing exercise.

Ques: When did you return?

Ans. I returned on 1 Dec 43.

Ques. As M.T. Corporal did you wear fatigue most of the time?

Ans. Yes.

Ques. Did your fatigue have badges of ranks on them?

Ans. No. Sir.

Ques. On 2 Dec 43, were you wearing a ground sheet?

Ans. Yes Sir

Ques. Was there any badge of rank on your ground sheet.

Ans. No Sir

Ques. Did you have your badge of rank showing at any time during the week that Sgt Brooks was with the unit?

Ans. Yes at night I had my battle dress on.

Accused's Re-examined by the Prosecutor

Ques. What position did the accused occupy in M.T.?

Ans. He had a truck assigned to him as driver.

Ques. Had you on any previous occasions given Sgt Brooks orders as M.T. corporal.

Ans. Yes - just one order. I gave him instructions to have the tools checked on the truck I was assigning to him.

Questioned by the Court.

Ques: Which hand did Spr Grouls strike you with?

Ans - He struck me with his right fist

Ques - Were all three men whom you ordered present together in the transport hut

Ans - yes.

Ques - Did they you give one order, or did you order each man individually?

Ans - I gave one order to all three

Rule 83 B has been complied with.

2nd Witness

M 67264 Spr Kelly. C.W. Sch Bde Tpt Coy. R.A.C. having been duly sworn is examined by the Prosecutor.

Ques State what took place in the transport hut at 0930 hrs 2 Dec 43?

Ans At approximately 0930 hrs 2 Dec 43 I was present in the Transport Hut when Gnr Farquhar entered and detailed three men for kitchen fatigues. I immediately departed from the hut and returned in approximately five minutes. When I entered the hut Gnr Farquhar and Spr Grande were the only personnel in the hut. I heard Gnr Farquhar ask Spr Grande if he was going to do the kitchen fatigue and if he went that he would have to report to the Orderly Room. Spr Grande then told Gnr Farquhar that he would not do it. He then informed the Corporal who was going towards the door. Spr Grande was still debating with Gnr Farquhar. When ~~Spr Grande~~ Gnr Farquhar reached the door he turned to face Spr Grande. Spr Grande then struck Gnr Farquhar on the face with his fist. Gnr Farquhar was knocked to the floor. I immediately rushed to Spr Grande and pushed him to one side & then took Gnr Farquhar to the M.I.R.

Witness is now Examined by the Defending Officer

Ques Are you positive that Spr Grande said that he would not go to the kitchen?

Ans That is what I understood him to say

Ques Do you know his exact words?

Ans I cannot remember them

Ques When you leave anything else at the time?

Ans

Ans: I was camping a blanket and went to my bed and turned to watch the argument.

Ques: You say that Spr Grouls struck Cpl Farquhar with his fist. With which fist

Ans: I saw him hit him with his right fist.

Ques: Are you sure it was his right fist?

Ans: Yes Sir. I am sure

Ques: How far from Cpl. Farquhar were

Ques: you standing?

Ans: Approximately eight feet.

Ques: Did Spr Grouls start towards the door?

Ans: He started to follow Cpl Farquhar towards the door

Ques: Did Cpl Farquhar turn around at the door?

Ans: Yes he did turn at the door.

Ques: Did the argument continue at the door

Ans: No there was no argument at the door.

Ques: Was the Cpl in front of the door

Ques: He was in front of the door.

~~5~~ 6 ~~6~~ 8

Questioned by the Court.

Ques: From what point of view did you see Cpl Farquhar & Spr Brooks when you saw the blow struck

Ans: I was to the side of the two and about eight feet away to the right of Spr Brooks, facing the door.

Rule 83 B has been complied with.

The prosecution is closed



7

DEFENCE

The accused 6 1366 Spr Grady A, 6th Adm Bn 7th Coy, 1 Det being duly sworn states:

on the 2nd of Dec 43 at approximately 0930 hrs Sgt Sergeant detailed me for kitchen fatigue. I was on my bed and Sgt Sergeant told me to get up and go to work. I said "OK I will go". I went back to my bed and Sgt Sergeant came over to me and told me to get up in a rude manner. I said it was not necessary to get so rough about it. He replied "are you going to the kitchen or not?" and I said "yes". I then got up and walked towards him and grabbed him and pushed him near the door when he fell and his steel helmet hit him on the face. Then Spr Ranby who was in the hut said "that is enough of this". I then went to the kitchen to carry out Sgt Sergeant orders.

/2/

The accused is then examined by defending Officer.

Ques: Know 26 Nov 43 to 2 Dec 43 what did you do in the evenings

Ans: I had a few beers.

Ques: Did you see Cpl Farquhar during the evenings?

Ans: No Sir

Ques: Did you have the afternoon of 27 Nov off?

Ans: Yes sir

Ques: What did you do on the morning of 28 Nov 43.

Ans: I stayed in bullets

Ques: Did you know Cpl Farquhar was an NCO?

Ans: No. Sir

Ques: Had you been introduced to him

Ans: Yes

Ques: Was he introduced as a Cpl?

Ans: No. Sir

Ques: How was he introduced?

Ans: He was introduced to me as one of the boys.

Vat

Ques: Are N.C.O.s called by their first name in the unit?

Ans: Yes.

Cross Examined by the Prosecutor

Ques: When you joined the Coy you were put in No 1 Pl Tpt. See?

Ans: Yes Sir.

Ques: Cpl Tarqukar also was in the transport hut?

Ans: Yes. Sir.

Ques: You have stated that you did not know Cpl Tarqukar was an N.C.O. Then who did you think was Transport Cpl in No 1 Pl.

Ans: I did not knew.

Ques: Do you mean to tell me that you worked in No 1 Pl. Tpt See for one week ~~and~~ without knowing the name or identity of the NCO i/c of No 1 Pl. Tpt?

Ans: Yes Sir

Ques: Had you had any previous orders from Cpl Tarqukar during duty hrs or any contact with him?

Ans: Yes. Once

Ques: What was that Order, or contact

Ans: When he showed me to my Uncle

~~Ques: Did you obey this order~~

~~Ans: Yes Sir~~

Ques: Did Cpl. Farquhar order you to do anything at that time about your truck.

Ans: He ~~ordered me~~ to check the tools.

Ques: And you did this

Ans: Because it was the right thing to do.

Ques: Prior to 2 Dec 43 did you know which bed Cpl Farquhar slept in in your hut

Ans: No Sir.

Ques: Did you never at this time see a corporals tunic hanging at the head of any bed in your hut?

Ans No Sir

Ques: Previous to coming to our coy had you been in any other transport before

Ans: No Sir

Ques: Did you know that every Pl Sgt has an NCO in charge?

Ans: Yes Sir

Re-examined by Defending Officer.

Ques: Was Cpl Farquhar wearing fatigues when you first met him?

Ans: Yes Sir

Ques: Did you expect to be assigned to a truck?

Ans: Not right away

(4) 11 Vet

Ques. Did you know you had to check tools, before you were assigned to a truck

Ans Yes Sir.

Ques: Why did you do as requested?

Ans: Because it was the right thing

Ques: When did you first drive in the Army.

Ans: In the Reinforcement Unit before coming to the 2nd Cdn. Coy.

Questioned by the Court.

Ques. On 2 Dec 45 whom did you think Lt Farquhar was?

Ans. A subaltern Sir

Ques: Did you consider he had authority to give an order

Ans: No Sir.

Rule 83 b has been complied with.

Summary of Evidence in the case of No. C.2364 Spr. Alfred Groulx, 6th Cdn Fd Coy., R.C.E., a soldier of the Canadian Army Overseas.

The accused is informed of his rights. The C.O. directs that the evidence be taken on oath.

FIRST WITNESS for the prosecution: No. K.29231 Cpl. Farquhar, C.M., 6th Cdn Fd Coy., R.C.E., having been duly sworn, states;

At approximately 0930 hrs 2 Dec 43 I was detailed by C.Q.M.S. Flatt, S.A. to send any available men to help out in the kitchen. I went into Transport Hut and detailed three men. Two of these men carried out my orders, the other man, Spr. Groulx put up an argument about going into the kitchen. I asked him if he was going to the kitchen as detailed and he answered, "What if I don't?" I said to him, "In that case you will have to report to the Orderly Room". He then laid on his bed and I told him, "You had better get off your bed, this is not a holiday." I then asked him again if he was going to carry out the detail. He answered, "I might" and I told him to answer yes or no. He asked me if I was getting tough about it. I said "no" but I would if I had to." He then came towards me and struck me in the eye with his fist. The next thing I heard was Spr. Rentz telling him that would be enough of that sort of thing. Spr Rentz then took me to the M.I.R. to bathe my eye.

The accused declines to cross-examine.

(Signed) Farquhar, C.M.
Cpl.

SECOND WITNESS for the prosecution: No. M.67264 Spr. Rentz, E.W., 6th Cdn Fd Coy., R.C.E., having been duly sworn, states;

At approximately 0930 hrs 2 Dec 43 I was present in the Transport Hut when Cpl. Farquhar entered and detailed three men for kitchen fatigues. I immediately departed from the hut and returned in approximately two minutes. When I entered the hut Cpl. Farquhar and Spr. Groulx were the only personnel in the hut. I heard Cpl. Farquhar ask Spr. Groulx if he was going to do the kitchen fatigue and if he wasn't that he would have to report to the Orderly Room. Spr. Groulx then told Cpl. Farquhar that he would not do it. He then followed the Cpl. who was going towards the door. Spr. Groulx was still debating with Cpl. Farquhar. When Cpl. Farquhar reached the door he turned to face Spr. Groulx. Spr. Groulx then struck Cpl. Farquhar in the face with his fist. Cpl. Farquhar was knocked to the floor. I immediately rushed to Spr Groulx and pushed him to one side. I then took Cpl Farquhar to the M.I.R.

The accused declines to cross-examine.

(Signed) E.W. Rentz, Spr.

The accused, having been duly cautioned in accordance with R.P. 4(E), says;

"I want to be sworn."

The accused, N. C.2364 Spr. Groulx, A., having been duly sworn, states;

On the 2nd of Dec 43 at approximately 0930 hrs Cpl. Farquhar detailed me for kitchen fatigues. I was on my bed and Cpl. Farquhar told me to get up and go to work. I said, "OK, I will go." I went back to my bed and Cpl. Farquhar came over to me and told me to get up in a rudely manner. I said it was not necessary to get so rough about it. He replied,"are you going to the kitchen or not?" and I said, "Yes." I then got up and walked towards him and grabbed him and pushed him near the door where he fell and his steel helmet hit him in the face. Then Spr. Rentz who was in the hut said, "that is enough of this." I then went to the kitchen to carry out Cpl Farquhar's orders.

(Signed) Alfred Groulx, Spr.

The accused does not wish to call witnesses in his defence.

Certified that R.P. 4 complied with
In the Field
3 Dec 43

(Signed) R.T. Miller, Capt.
Officer detailed to take the Summary.

I then went to the kitchen to carry out Cpl Farquhar's orders.

Alfred Groulx, Spr.

" The accused does not wish to call witnesses in his defence".

Certified that RP4 complied with
In the Field
3 Dec 43

R. Smith Capt.
Oficar detailed to take the Summary.

Summary of Evidence in the case of No. C-2364 Spr. Alfred Groulx, 6th Cdn Field Company, R.C.E., a soldier of the Cdn Army Overseas.

The accused is informed of his rights. The C.O. directs that the evidence be taken on oath.

FIRST WITNESS for the prosecution: No. K29231 Cpl. Farquhar, C.M., 6th Fd Coy. RCE, having been duly sworn, states:- At approximately 0930 hrs 2 Dec 43 I was detailed by C.Q.M.S. Platt to send any available men to help out in the kitchen. I went into Transport Hut and detailed three men, two of these men carried out my orders the other man Spr. Groulx put up an argument about going into the kitchen. I asked him if he was going to the kitchen as detailed and he answered "What if I don't". I said to him "In that case you will have to report to the Orderly Room" - He then laid on his bed and I told him "He had better get off his bed that it was not a holiday" - I then asked him again if he was going to carry out the detail - he answered "I might" and I told him to answer Yes or No - he asked me if I was getting tough about it - I said No but I would if I had to" - He then came towards me and struck me in the eye with his fist - The next

~~thing~~ him

~~thing~~ I heard was Tpr. Rentz telling him that would be enough of that sort of thing - Tpr Rentz then took me to the MIR to bath my eye.

The accused declines to cross-examine

~~Cpl~~ Sgt. Fargubar C.M. Cpl.

SECOND WITNESS for the prosecution; No. M67264 Sgr. Rentz. E.W., 6th Fd. Coy. R.C.E., having been duly sworn, states:- At approximately 0930 hrs 2 Dec 43 I was present in transport hut when Gl. Fargubar entered and detailed three men for kitchen fatigues - I immediately departed from the hut and returned in approx. two minutes, when I entered the hut Gl Fargubar and Tpr Groulx were the only personnel in the hut - I heard Gl Fargubar ask Tpr Groulx if he was going to do the kitchen fatigue and if he wasn't that he would have to report to the Orderly Room - Tpr Groulx then told Gl Fargubar that he would not do it - He then followed the Gl who was going towards the door. Tpr Groulx was still debating with Gl Fargubar - When Gl Fargubar reached the door he turned & face

Tpr Groulx - Tpr Groulx then struck Gl Fargubar in the face with his fist - Gl Fargubar was knocked to the floor, I immediately rushed to Tpr Groulx and pushed him to one side - I then took Gl Fargubar to the MIR

The accused declines to cross-examine

E.W. Rentz Sgt.

The accused, having been duly cautioned in accordance with RP 4 (E), says:

"I want to be sworn"

The accused, No. C. 23164 Sgr Groulx, A. having been duly sworn, states:-

"On the 2 Dec 43 at approximately 0930 hrs Gl Fargubar detailed me to kitchen fatigues - I was on my bed and Gl Fargubar told me to get up and go to work - I said O.K. I will go - I went back to my bed and Gl Fargubar came over to me and told me to get up in a rough manner - I said it was not necessary to get so rough about it - he replied "are you going to the kitchen or not" and I said "Yes" - I then got up and walked towards him and I grabbed him and pushed him near the door where he fell and his steel helmet hit him in the face - Then Tpr. Rentz who was in the hut said "that is enough of this"

4E 26.
Pl6. GROULX H.

SCHEDULE.

PART I. PLEA(S), FINDING(S) AND SENTENCE.

Accused: D-141262 Pte GROULX Hubert, R de Chaud, 10 CBR Bn

Charge. (Insert "alternative" where applicable.)	Plea. (See Instrs p 2.)	Finding. (See note below.)	(Space for use as required for further charges, accused charged jointly, special findings, etc.)
1st	Not Guilty	Not Guilty	
2nd			
3rd			
4th			
5th			
6th			

(Note: As to findings for lesser offences see AA 86, RP 44; findings on alternative charges see MML p 483 fn 4 para 2, RP 44; special findings see RP 44 and MML p 753, and in lieu of kit see RP 44 fn 6.)

EES As prescribed under sentence for ~~Beginning~~ (date) (1)

(1. Insert sentence being served, or delete, if not applicable. See RP 46(A). Information should be found on MF B353 or AF B296.)

Time in confinement awaiting present trial—a total of / / days, of which ~~/ /~~ days were spent in hospital.(1)

(1. See RP 46(A) fn 2. Information should be found on MF B355 or AF B296 admitted in evidence under EE.)

Sentence Awarded by the Court:

(Sgd) [signature] 30 OCT 44 (Sgd) [signature] President. (RP 45, 55)
Judge-Advocate, if any. Date awarded.
(See back of Convening Order as to assembly and disposal of record after trial.)

PART II. MINUTE WHERE CONFIRMATION RESERVED. (AA 54(5), RP 120(F), MML p 760.)

Date (Sgd) Commanding

PART III. DECISION ON CONFIRMING OFFR ON FINDING(S) AND SENTENCE.

(For duties and powers see AA 54, 57, RP 27(D) fn 6.46(A), 51-56, 120, MML pp 759-761, KR Con 567-577. Acquittals require no confirmation and cannot be revised: AA 54(2). Sending back finding or sentence for revision by Court: AA 54(2), RP 120(G). If not confirmed, accused may be tried again: AA 157, MML p 64. Minute of confirmation or non-confirmation may be altered before promulgation: RP 53, MML p 65. Quashing after promulgation: KR Con 573. Duties and powers of reviewing offrs: AA 57, 57A, RP 53A, 54. The Confirming Offr must sign here personally. AA 172 fn 1.)

My decision on the finding(s) and sentence set forth in Part I is:

I direct that the accused be not committed to prison or detention barracks until further orders.(1)
(1. AA 57A. Delete if not used.)

(Sgd)
Date Commanding Confirming Officer.

PART IV. PROMULGATED AND EXTRACTS TAKEN. (RP 53, KR Con 576, 577.)

Accused. Date. Signature of Offr.

ALL DELETIONS AND ALTERATIONS WILL BE INITIALLED.

RECORDED AT C.M.H.Q. IN AD 160, 4E-26.

RECEIVED 20 NOV 1944 JAG BRANCH C.M.H.Q.

FIELD GENERAL COURT-MARTIAL

4/388

Convened by Brig G Francoeur Comd 2 CBRG dated 27 Oct 44

ACCUSED.

(As to the trial of two or more charged jointly see RP 16, 71, 109. As to reasons for showing (a) permanent and confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Con 308, 328, 330.)

Number.	(a) Prmnt R. (b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
D-141262	Pte	Hubert	GROULX	R de Chaud, 10 CBR Bn

PROCEEDINGS REVIEWED
[illegible] Asst Adjutant Genl
21 NOV 44
REVIEWING OFFICER, JAG BRANCH C.M.H.Q.

PROCEEDINGS REVIEWED Date 13 Jan 45 Capt, G.H.Q. 2 Echelon, Army Gp

PROCEEDINGS OF TRIAL.

Held in the Fd in (country) BELGIUM on (date(s)) 30 OCT 44

RECORD FORM A—OPENING PROCEEDINGS AND ARRAIGNMENT. (5)

A1. The President, Members, waiting Member, JA, if any, and Offrs under instr, if any, assemble, and the Court is closed.

(PRINTED MATTER NOT IN ITALICS FOR GUIDANCE. WILL BE DELETED IF NOT USED OR APPLICABLE, AND INITIALLED BY PRES OR JA. The Schedule referred to throughout is on p 4. Citations do NOT include all relevant fns' KRs. For guidance on procedure when a variation in this Form arises, see form for GCM in MML pp 741 to 759. A brief record of such variation will be made and given a number having reference to appropriate or preceding para number herein. See back of Convening Order, CF AAS, for oaths and instrs as how to record addresses, evidence, etc., which instrs are hereafter called "Noted". As to general provisions for conducting the trial see AA 53, RP 56, 63-70, 72, 74, 94, 102, 118, 132.)

A2. The President initials and lays before the Court the Convening Order and Charge Sheet(s) attached thereto.(1) The Court is satisfied that it is properly convened and constituted(2), accused is ~~were~~ amenable to military law, and each charge discloses an offence.(3)

(1. As to use of Summary of Evidence see RP 17 fn 6. 2. AA 49, 50, RP 105-107. 3. RP 11-13, 23, 24.)

A3. The Court is opened. The accused is (~~are~~) brought before the Court. At 1335 hours trial commences.

A4. The Prosecutor produces a Medical Certificate that accused is ~~were~~ fit to undergo trial by court-martial.(1) ~~[illegible]~~

EES

(1. KR Con 557. 2. AA 46(B), RP 60 fn 1. For effect see KR Con 563(c). Delete, if not applicable.)

A5. President to accused: Do you object to Lieut J H BERGER as interpreter? Ans No Sir.
The Interpreter is sworn.(1) Do you object to K-70650 S/Sgt DAVIE JW as shorthand writer? Ans No Sir.
The shorthand writer is sworn.(1)

(1. RP 72. Delete, if none employed.)

A6. The Convening Order and names of the President and Members of the Court are read to the accused.(1)
President to accused: Do you object to be tried by me as President or by any of the Members of the Court?

Ans No Sir.(2)

(1. RP 110. 2. If no objection, waiting member retires. RP 60(B). If objection, see procedure AA 31, RP 25, 71, 18, MML p 762.)

A7. The President, Members, JA, if any, and Offrs under instr, if any, are sworn.(1) The following are the ranks, names and units of the offrs comprising the Court, etc:

President	Major	R J CODERRE	RCA,	12 CBR Bn
Member	Captain	D H VERMETTE	CIC,	11 CBR Bn
Member	Lieut	J A M PRUD'HOMME	CIC,	11 CBR Bn
Judge-Advocate	Captain	E E PEAKLMAN,		ADJA, HQ 2 CBRG
Prosecutor	Captain	J E PARKER	CH of O,	10 CBR Bn
Defending Offr	Lieut	J L CAMERON	CH of O,	10 CBR Bn

Questions by President: Is the Prosecutor a lawyer? Ans No Is the Defending Offr a lawyer? Ans No (2)

(1. RP 26, 27, 109, 111. List of offrs under instr will be returned separately with proceedings for information of Conv Offr.)
(2. If Pros a lawyer and Def Offr not, accused is entitled to an adjournment when RP 89 (B) and fn 2 were not followed. See Dr p 3.)

A8. The accused D-141262 Pte GROULX H. before arraignment make(s) (no) ~~no~~ plea.(1)

(1. If a special plea is made for separate trial on one or more charges (RP 62(E), 108), or as to the jurisdiction of the Court (RP 34, 35(A), 112), or in bar of trial (RP 36), or as to accused's mental fitness to stand trial (AA 130, RP 37), or by one of several accused charged jointly to be tried separately (RP 16, 71), such plea, the submissions made in support or against, the evidence, if any, and finding are recorded per Notes. For forms of record see references in fns to RoP cited. Insert in A8 rank and name of the accused making the plea.)

A9. The accused is ~~were~~ arraigned ~~separately~~ on all charges in the charge sheet.(1) The accused does ~~do~~ not object to any charge.(2) There is no amendment to be made to the Charge Sheet.(2) The President records the pleas in Part I of the Schedule.

(1. RP 31, 112. See para 1 of Instrs p 2. Where more than one Charge Sheet see RP 62; when several accused to be tried separately see RP 71(C), and use separate copies of CF 89A to record proceedings. 2. RP 32, RP 33. If otherwise, delete and make appropriate record per Notes.)

A10. The Court ~~considered~~ considers the Instrs on Procedure after Arraignment at top of p 2. The proceedings are continued on Record Form D

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

2 C BDE G. Vol 2 p 49

INSTRUCTIONS ON PROCEDURE AFTER ARRAIGNMENT.

1. *The accused may not plead or be found Guilty on more than one of two or more charges laid in the alternative.* (RP 37(A).) *As to withdrawal of alternative charges by Prosecutor see RP 35(C). No other charge can be withdrawn for any reason without authy from Convening Offr. If Convening Offr concurs, Court may accept plea of Guilty to lesser, etc, offence.* (RP 44(H).) *Accused may change a plea of Not Guilty to Guilty during trial.* (RP 38.) *As to refusing to plead or not pleading intelligibly see RP 35(A). As to plea when sentence may be death see RP 35(D).*

2. *The proceedings on each charge sheet* (RP 62) *after arraignment will be conducted as follows in the respective circumstances stated :*

I. If pleas to all charges are GUILTY, use Record Form B below.

II. If pleas to all charges are NOT GUILTY, use Record Form D on p 3.

III. If pleas to some charges are GUILTY and to other charges are NOT GUILTY and,

(a) *Such mixed pleas occur when there are no alternative charges in the Charge Sheet, use Record Form C below.* (RP 37(A).)

(b) *Such mixed pleas occur in a set of two or more charges laid in the alternative, see RP 37 (A) and fn 2 as to discretion of Court,* (i) *to try the accused on all such alternative charges as if he had pleaded Not Guilty thereto, or,* (ii) *to record the pleas as the findings of Court. After deciding between* (i) *and* (ii), *Court will proceed under foregoing instrs as may be appropriate to result of its decision. See MML p* 744 *Instrs* (2).

3. *As to responsibility of President to accused see RP 59, 60(C); powers and duties of JA see RP 103; duty of Prosecutor see RP 60(A) (B); duty and privileges of accused and Defending Offr see RP 60(C), 87(C), 91, 92; swearing and withdrawal of witnesses from Court see RP 81, 82; questioning of accused see RP 80, 87(C), 92(B), and of witnesses see RP 83-85; calling or re-calling of witnesses by Court, etc, see RP 75-79, 86, 116; use of Summary of Evidence at Trial see RP 17(E) fn 6; and responsibility of JA or Pres to record proceedings see RP 94, 96.*

RECORD FORM B—PROCEEDINGS ON PLEAS OF GUILTY TO ALL CHARGES.

B1. The President or JA, if any, complies with RP 35(B) by explaining to the accused the nature and meaning of the charge(s)(1), and that on his plea of Guilty there will be no regular trial but merely a consideration of the sentence to be awarded after he has been given an opportunity to make a statement in reference to the charge(s), call witnesses as to character and make an address in mitigation of punishment.(2)

(1. *RP 35 fn 3.* 2. *MML p 54 para 47.*)

B2. President to accused : The Court will now receive any statement you desire to make in reference to the charge(s).(1) If it appears from your statement that there are circumstances which indicate that you do not understand the effect of the plea of Guilty(2), or which show provocation or extenuation in respect of which in your interest the witnesses for the Prosecution should be examined(3), we shall advise you to change your plea to Not Guilty. In making a statement you will not be sworn or subject to cross-examination ; and anything you say will not be used in evidence against you after you change your plea. If, however, it appears to the Court that your statement affects only the amount of punishment to which you are liable, you will not be advised to change your plea and you will be given an opportunity later to prove your statement by sworn testimony, if you so desire.(4)

President to accused : Do you wish to make a statement ? Ans.....(5)

(1. *RP 37(B).* 2. *RP 37(D) fn 6.* 3. *RP 35(B) fn 4 para 2; MML p 54 para 47.* 4. *See para E3 of Record Form E.* 5. *Statement, if any, recorded per Notes.*)

B3. The Court considers the accused's statement.(1) The Court decides (not) to advise accused to change his (their) plea(s) of Guilty to Not Guilty on.....charge(s). The accused is (are) so informed, and he (they) change(s) his (their) plea(s) on.....charge(s). Part I of the Schedule is amended accordingly.

(1. *Court may be closed to consider the statement. Delete whole or part not used.*)

B4. On the charge(s) to which the plea(s) of Guilty is (are) not changed the President records finding(s) of Guilty in Part I of the Schedule.(1)

(1. *RP 35(B). If any plea(s) is (are) changed, use Record Form C or D as appropriate.*)

B5. The Summary of Evidence is marked Ex....., initialled and read aloud by the President.(1)

(1. *If there is no Summary, or if it is inadequate, comply with RP 37(B). If there is any evidence inconsistent with the plea standing as Guilty, Court will advise accused to change such plea and, if changed to Not Guilty, try such charge(s) by using paras D1 to D8 inclusive of Record Form D on p 3. RP 37(D).*)

B6. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

RECORD FORM C—PROCEEDINGS ON MIXED PLEAS OF GUILTY AND NOT GUILTY.

C1. As to the charges on which accused pleaded NOT GUILTY the trial is continued by using paras D1 to D8 inclusive of Record Form D on p 3 before proceeding with C 2.(1)

(1. *RP 37(A) (E).*)

C2. The charges on which accused pleaded GUILTY are read to him (them) again, and the trial is continued by using paras B1 to B5 of Record Form B above.(1)

(1. *Under B5 such parts only of the Summary of Evidence are read as refer to the charges dealt with under C2. If any plea is changed to Not Guilty, trial thereon proceeds by complying with paras D1 to D8 inclusive in Record Form D on p 3 and making an appropriate record thereof on a separate sheet.*)

C3. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

RECORD FORM D—PROCEEDINGS ON PLEAS OF NOT GUILTY TO ALL CHARGES.

D1. President to accused : Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity to prepare your defence ? Ans. No.....(1)

(1. *If "yes", see RP 39(A) for procedure. Statement or evidence, if any, is recorded per Notes.*)

D2. The Prosecutor makes ~~an~~ (no) opening address.(1)

(1. *RP 39(B), 60(A) (B), 90, 92(C) (D). Record address per Notes, subject to RP 95(C).*)

D3. The evidence for the Prosecution is taken.(1)

(1. *RP 39(C), 114, KR Can 555. Record evidence per Notes. As to Prosecutor giving evidence himself see RP 39(D) (E).*)

D4. The Prosecution is closed.(1) ~~The Defending Offr submits that the evidence for the Prosecution does not establish a prima facie case against the accused on the.....charge(s). The Court is closed, and considers the submission (*) - The Court is reopened, and the President announces that the submission is disallowed on the.....charge(s), and allowed on the.....charge(s), and that, accordingly, the trial will proceed on the former, but the accused is (are) found Not Guilty on the latter charge(s).~~(2)

(1. *Delete remainder of this para, if submission not made.* 2. *Arguments on submission, answer and reply are recorded per Notes.* 3. *RP 40 fn 1. See MML p 72 paras 12-14 and p 81 para 42.* 4. *Delete part not used. If accused acquitted on all charges, use second alternative in para D8.*)

NB : If trial proceeds, accused must be allowed great latitude in making his defence, and the Court should not stop his defence solely on ground of irrelevance. (RP 80(C), 114, 115.)

D5. President to accused : You will now proceed with your defence.(1) You may, if you wish, give evidence yourself on oath as to the facts or your character or both, in which case you will be subject to cross-examination.(2) You may, however, make a statement without being sworn, and you will not be subject to cross-examination.(3) But a statement which could have been made on oath will not carry with the Court the same weight as sworn testimony.(4) You may call witnesses in your defence and as to character, whether you give evidence or make a statement or do neither.

President to accused : Do you wish to give evidence yourself as a witness, make a statement, or do neither ?

Ans.....

Do you intend to call witnesses on your behalf ?

Ans.....

~~Are there witnesses as to character only ? - Ans.....~~

(1. *RP 115.* 2. *RP 40(A), see 80(D).* 3. *RP 40 fn 10.* 4. *RP 40 fns 2, 9.*)

D6. Consequent on the answers recorded in para D5 the appropriate procedure for the defence is followed.(1)

(1. *RP 114, 115, 116. For procedure see Notes on back of Convening Order, CF A95. Evidence for accused as to his character should, if in his interest, be given before the finding. See RP 46(A) fn 1, 86(C). Note the further opportunity in para E1 of Record Form E. Record per Notes addresses, statement, evidence and any summing up by the JA under RP 42, 103(e).*)

D7. The Court is closed to consider the finding(s).(1) The finding(s) of the Court is (~~are~~) recorded in Part I of the Schedule.(2) The Court is re-opened.

(1. *RP 43, 117(A). See Notes in Part I of Schedule.* 2. *RP 44(A).*)

D8. ~~The President announces the finding(s) of not Guilty and states to the accused that the Convening Officer has no further power to bring him to trial on the charge(s) now disposed of, and he cannot be made subject to consideration and re-consideration of the same charge(s).~~

Or, The President announces that the accused is found Not Guilty on all charges and is to be released forthwith, and that the proceedings are accordingly terminated. Part I of the Schedule is dated and signed.(1)

(1. *AA 54(3) (6), RP 45, 120(A).* 2. *AA 54(3), RP 45, 117. This alternative announcement is not applicable when there are pleas of Guilty outstanding and dealt with under Record Form B or C.*)

D9. ~~The accused has been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.~~

RECORD FORM E—PROCEEDINGS ON CONVICTION BEFORE SENTENCE.

E1. President to accused : Do you wish to give evidence yourself or to call any witnesses as to your character ?(1)

Ans.....

(1. *If evidence has already been given by accused or his witnesses as to his character, delete this para. RP 27(C) fn 4, 46 fn 1. Accused and witnesses are sworn. Evidence recorded per Notes.*)

E2. The Prosecutor produces Statement(s) as to Character and Particulars of Service(1), and certified true copy (copies) of Conduct Sheet(s)(2), purporting to refer to the accused, which he submits to the Defending Offr for examination, and then to the Court for admission in evidence. The Court is satisfied that these documents refer to the accused, because (i) they purport to be signed in the manner required by AA 163(1) (g) (h), and (ii) they purport to refer to (a) soldier(s) having the same number, rank, name and corps as the accused. Admitted in evidence and marked Ex..... and Ex..... respectively.(3)

(1. *MFB 355 or AFB 296.* 2. *AFB 6.* 3. *RP 46, KR Can 558. If above documents not produced, see RP 46 fn 1 para 1.*)

E3. President to accused : Do you wish to address the Court on the Statement(s) and Conduct Sheet(s), and in mitigation of punishment ?(1) Ans.....(2)

(1. *RP 37(C), 46(D).* 2. *Address, if any, recorded per Notes. Court should permit accused or his witnesses to prove on oath anything here or previously stated which would affect the amount of punishment. RP 27(F) fn 7.*)

E4. The President states that the Court is closed to consider the sentence, and that the sentence to be awarded by the Court, being subject to confirmation, will not be announced, but will be promulgated later, and the proceedings in open court are accordingly terminated.(1)

(1. *AA 54(6), RP 120(A).*)

E5. The Court considers the sentence.(1) The President records the sentence in Part I of the Schedule, which is dated and signed by him and the J.A, if any.(2)

(1. *When several accused tried separately see RP 71 (D). One sentence only, comprised of the punishment or punishments laid down in AA 41, 44 and its proviso, is to be awarded to cover all charges in all charge sheets on which accused found guilty. RP 48. As to sentences see AA 44, 138, 182, RP 46-50, 69, 118, 119(A), KR Can 308, 330, 563-566, Overseas Reg 309, 2323, MML p 60, 757-759. As to sentences assigned for civil offences be the law of England see AA 41(5), MML p 130. When accused already under sentence of imprisonment or detention see AA 44(1B), 98(1), KR Can 564.* 2. *RP 58. As to release from arrest by Confirming Offr see KR Can 567. As to assembly and disposal of record after trial see Instrs on back of Convening Order.*)

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

CHARGE SHEET

The accused, D141262 Pte, CROULX, Hubert, R de Chaud, on strength of 10 Cdn Base Rft Bn, a soldier of the Canadian Army Overseas

is charge with

FIRST CHARGE
A A Sec 12 (1)

WHEN ON ACTIVE SERVICE, DESERTING HIS MAJESTY'S FORCES

in that he

in the Field on 20 Oct 44, having been warned for draft to proceed to the Field, with intent to avoid so proceeding, absented himself without leave from 1330 hrs, 20 Oct 44, until 0850 hrs, 21 Oct 44.
Absent 20 hrs, 5 mins.

A. T. Law

(A.T. LAW) Lt.-Col.,
O.C., 10 C.B.R. Bn.

In the Field
25 Oct 44

TO BE TRIED BY FIELD GENERAL COURT MARTIAL

G Francoeur

(G Francoeur) Brig
Comd
2 Cdn Base Rft Gp

In the Field
27 Oct 44

FIELD GENERAL COURT-MARTIAL

(Whether the accused to be tried is under his comd or not, a FGCM may on application to him be convened by any offr of Cdn Army Overseas, or of any other force if authorized in law, in immediate comd of troops on active service, subject to RP 105(C) and restrictions imposed by appropriate authy. AA 49, 50, RP 104-107, 114. As to the duties and privileges of the Convening Offr in dealing with the application see MML Chap V paras 20 and 23, RP 87(B).

There should be a separate Convening Order for each person to be tried separately by the same Court. RP 71(C), 109. As to separate charge sheets see RP 62, and as to separate trial on charges in the same charge sheet see RP 108. As to two or more accused charged jointly see RP 16, 109.

As to reasons for showing (a) permanent or confirmed rank, and (b) apptmt, A/rank or A/apptmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

ACCUSED.

Number.	(a) Prmnt R.	(b) Apptmt, A/R or A/Apptmt.	Full Christian Names.	Surname.	Unit.
D-141262	Pte		Hubert	GROULX	R de Chaud, 10 CBR Bn

CONVENING ORDER.

1. Whereas complaint has been made to me, the undersigned, that the person(s) named above as the accused, being subject to military law, has ~~(have)~~ committed the offence(s) set forth in the Charge Sheet(s) attached and on (date) 27 OCT 44 endorsed by me, ~~(or by an offr of the staff for me)~~, "To be tried by Field General Court-Martial".

2. And whereas I am of opinion that it is not practicable that such offence(s) should be tried by an ordinary General Court-Martial; ~~(and that it is not practicable to delay the trial for reference to a superior qualified offr.)~~

(Delete part in brackets when not required for compliance with RP 105(C).)

3. I hereby convene a Field General Court-Martial to try the said person(s), and to consist of the Offrs appointed or detailed hereunder.

4. ~~I am unable to appoint (a) three Offrs to form the Court, (b) a Fd Offr as President, for the reasons I have attached hereto.~~

(AA 49, RP 106(B), 107(A). Delete the whole or part, if not applicable.)

5. I also appoint as Judge-Advocate thereat the Offr mentioned hereunder.

(RP 106(E). Delete, if none appointed.)

PRESIDENT.

Major (Rank.)	R J CODERRE (Must be named. RP 106.)	RCA,	12 CBR Bn (Unit.)

MEMBERS.

Capt	To be detailed by OC 11 CBR Bn	11 CBR Bn
Lieut (Rank.)	To be detailed by OC 11 CBR Bn (Named or detailed. RP 106.)	11 CBR Bn (Unit.)

WAITING MEMBER.

Capt (Rank.)	To be detailed by OC 12 CBR Bn (Named or detailed, if any. RP 106.)	12 CBR Bn (Unit.)

JUDGE-ADVOCATE.

Capt (Rank.)	E E PEARLMAN, (Must be named, if any. RP 106.)	ADJA, HQ 2 CBRG (Unit.)

On Active Service in the Fd

in BELGIUM (Country.)

G Francoeur Brigadier
(Signed personally. RP 105 fn 2.) (Rank.)

(G Francoeur)

Date 27 OCT 44

Commanding 2 Cdn Base Sub Gp
Convening Officer.

CONVENING OFFR WILL INITIAL ALL DELETIONS AND ALTERATIONS

4/38A CFAES (To 1000 of AFAS) 40/P & S/1697 (4851)

(See overleaf for oaths and notes for use on trial.)

30 Oct 44

Rft

I certify that I have this morning examined D 141262 Pte CROULX J
(R de Chaud on strength 10 CBR Bn) and in my opinion he is fit/~~unfit~~
to undergo trial by court martial.

(A M Scratch) Capt
MO 10 Cdn Base Rft Bn

Field

FIRST WITNESS - For the Prosecution - duly sworn
D-27156 CSM MacINTOSH G G, 10 CBR Bn

Q.1 SM do you recognise the accused Pte GROULX H?

A.1 I do sir - indicates the accused.

Q.2 Will you tell the Court roughly in your own words the proceedings which took place when the accused was found to be absent from parade?

A.2 At approx 1330 hrs 19 Oct 44 I called a muster parade for draft warning to proceed to 46 fwd coy 13 CBR Bn. I called the roll and the accused was present on parade. I read out the draft warning and warned the draft that there would be a muster parade at 1245 hrs 20 Oct 44 before the draft moved off. I warned the draft that it would proceed at 1330 hrs 20 Oct 44. I asked the draft if any members of the draft did not understand English. I asked Sgt CADORETTE to translate the draft warning into French which he did in my presence.

Q.3 I now produce a document. Will you look at it and tell the Court what it is?

A.3 This document contains the draft warning which I read to the draft at 1330 hrs 19 Oct 44 at the muster parade on which the accused was present. The document reads "You are now warned to proceed on draft to 13 CBR Bn, 46 Fwd Rft Coy. Any failure on your part to go with the draft when it leaves will result in your being charged with desertion. The draft will proceed at 1330 hrs, 20 Oct 44. There will be a muster parade at 1245 hrs, 20 Oct 44 before the draft leaves."

Q.4 Is that the warning that you read to the draft on which the accused was?

A.4 Yes sir.

Draft warning produced, initialled by President and marked Exhibit "A".

I then handed the draft over to Sgt MAGUIRE.

Q.5 Were you present when the accused next appeared on parade?

A.5 No sir I was not.

Defence declined to cross-examine

Questioned by the Judge-Advocate.

Q.6 Do you know whether or not the accused proceeded with this draft?

A.6 Yes sir. He did not proceed with the draft.

Q.7 When did it leave?

A.7 1330 hrs 20 Oct 44.

Q.8 Was the accused present with that draft?

A.8 No sir he was not.

In the opinion of the Court and the Judge-Advocate RPS3(8) need not be complied with.

Witness withdraws.

SECOND WITNESS - For the Prosecution - duly sworn.

A-3165 Sgt MAGUIRE E A, 10 CBR Bn

Q.9 Sgt MAGUIRE, do you know the accused Pte GROULX?

A.9 I have seen the accused in my lines and I know him - indicates the accused.

Q.10 Will you give to the Court in your own words the circumstances you knew concerning the absence of the accused from parade on the 20th Oct 44?

A.10 I was the draft sgt on the 20th Oct, at 1245 hrs I called the roll of my draft and I found the accused was absent. I looked through the billets or the barracks to see if I could find him and he could not be found. I looked until it was time for my draft to move off which was 1330 hrs and he was still absent. I was also present on the 19th of Oct when the CSM, CSM MacINTOSH, warned the accused for draft.

Q.11 Were you present when the accused returned to parade?

A.11 No sir I was not, the accused did not return to me.

Q.12 At the time before the draft moved off, did you call the roll at that time?

A.12 No sir my roll was called at 1245 hrs and the men remained on parade.

Cross-examination by Defence.

Q.13 Did you actually see the draft move off?

A.13 I moved off with the draft sir. I took them down to St Peter's Square. The accused was not there. The accused was not on the draft.

Questioned by Court.

Q.14 Did you make any effort to find out where the accused was at that time?

A.14 I looked through the billets and I could not find him. I could not go further than that as I had the men waiting for me to move off.

In the opinion of the Court and the Judge-Advocate RP83(B) need not be complied with.

Witness withdraws.

Prosecuter informs the Court that he is unable to call R-425982 Sgt CADORETTE J L whose testimony appears in the Summary of Evidence as this Sgt has gone out on draft.

The Prosecution is closed.

The Defending Officer submits that the evidence for the Prosecution does not establish a prima facie case against the accused.

The Court is closed and considers the submission.

The Court is re-opened and the President announces that the submission is allowed and the accused is found not guilty on the charge.

SUMMARY OF EVIDENCE

In the case of D141262 Pte. GROULX, Hubert, R de Chaud, on strength of 10 Cdn Base Rft Bn, a soldier of the Cdn Army Overseas.

By direction of the Commanding Officer the evidence is taken on oath.

FIRST WITNESS PROSECUTION

D.27156 CSM MacINTOSH, G.G., on strength of 10 Cdn Base Rft Bn, having been duly sworn, states:

I am D.27156 CSM MacINTOSH, G.G. of 43 Coy, 10 CBR Bn. At 1330 hrs on the 19th day of October, I called a muster parade for draft. The accused D.141262 Pte. GROULX, H. was present. I duly warned the accused for draft to proceed at 1245 hrs, 20 Oct 44, in the presence of two witnesses Sgt. MAGUIRE, R.A., and Sgt. GADORETTE, J.L., in the following words:

"You are now warned to proceed on draft to 13 CBR Bn, 46 Fwd Rft Coy. Any failure on your part to go with the draft when it leaves will result in your being charged with desertion. The draft will proceed at 1330 hrs, 20 Oct 44. There will be a muster parade at 1245 hrs, 20 Oct 44, before the draft leaves."

The above statements were translated to the accused in French by R.42592 Sgt. GADORETTE, J.L. of the R de Chaud.

The above evidence was read back to the witness.

Geo. D. MacIntosh
(D.27156 CSM MacINTOSH, GG)

The accused declines to cross-examine this witness.

SECOND WITNESS PROSECUTION

A.3165 Sgt. MAGUIRE, R.A., on strength of 10 Cdn Base Rft Bn, having been duly sworn states:

I am A.3165 Sgt. MAGUIRE, R.A., of 43 Coy, 10 CBR Bn, in charge of the draft. At 1245 hrs, 20 Oct 44, I called the roll and found the accused D141262 Pte. GROULX, H. absent from the parade. I sent Sgt. GADORETTE, J.L. in search for him, the accused failed to proceed on draft when the draft moved off at 1330 hrs, 20 Oct 44. I am also a witness for CSM MacINTOSH, G.G. when he called a muster parade and duly warned D141262 Pte. GROULX, H. at 1330 hrs, 19 Oct 44 for draft to proceed at 1245 hrs, 20 Oct 44.

The above evidence was read back to the witness.

N.D. Maguire
(A.3165 Sgt. MAGUIRE, RA)

The accused declined to cross-examine this witness.

THIRD WITNESS PROSECUTION

R.42592 Sgt. GADORETTE, J.L., on strength of 10 Cdn Base Rft Bn, having been duly sworn, states:

I am R.42592 Sgt. GADORETTE, J.L., 43 Coy, 10 CBR Bn. I am a witness for CSM MacINTOSH, G.G. of 43 Coy, when he called a muster parade and duly warned Pte. GROULX, H. for draft at 1330 hrs, 19 Oct 44, to proceed at 1245 hrs 20 Oct 44. I saw the accused on the parade and read the warning order to the parade in FRENCH. At 1245 hrs, 20 Oct 44, the accused was absent from draft parade. I went in search for him and did not find him, he failed to proceed on draft at 1330 hrs, 20 Oct 44. D.141262 Pte. GROULX, H. reported to me on the 21st, day of October 44, at 0850 hrs, and I put him under close arrest.

The above evidence was read back to the witness.

J.L. Gadorette Sgt.
(R.42592 Sgt. GADORETTE, JL)

The accused declined to cross-examine this witness.

The accused, having been cautioned as follows: 'Do you wish to make a statement or to give any evidence on oath? You are not obliged to say anything or to give any evidence unless you wish to do so, but whatever you may say or any evidence you may give will be taken down in writing and may be used in evidence', reserves his defence, and declines to give any evidence.

I certify that the foregoing summary of evidence consisting of two (2) pages was taken down by me in the presence and hearing of the accused.

I certify that Rules of Procedure 4 (C) (D) (E) (F) have been complied with.

J. Lévesque Lt.

(C. LEVESQUE) Lieut.
R de Chaud 1C CBR Bn
Officer Detailed to Take
the Summary of Evidence.

J.L., Lt ...

"You are now warned to proceed on draft to 13 CBR Bn, 46 Fwd Rft Coy. Any failure on your part to go with the draft when it leaves will result in your being charged with desertion. The draft will proceed at 1330 hrs, 20 Oct 44. There will be a muster parade at 1245 hrs, 20 Oct 44, before the draft leaves."

The above statements were translated to the accused in French by E.42592 Sgt. CADORETTE, J.L. of the R de Chaud.

The above evidence was read back to the witne...

Exh.b.T.R. D 3

LIST OF WITNESSES

PROSECUTION	D.27156	CSM MacINTOSH, C.C.	43 Coy, 10 Cdn Base Rft Bn
	A. 3165	Sgt. McGUIRE, E.A.	43 Coy, 10 Cdn Base Rft Bn
	E.42592	Sgt. CADORETTE, J.L.	43 Coy, 10 Cdn Base Rft Bn
DEFENCE	NIL		

LIST OF EXHIBITS

NIL

I CERTIFY THAT I HAVE RECEIVED FREE OF CHARGE A COPY OF THE SUMMARY OF EVIDENCE, THE CHARGE SHEET, THE LIST OF WITNESSES AND A LIST OF EXHIBITS.

I DO DESIRE THE SERVICES OF AN OFFICER TO REPRESENT ME AT MY TRIAL BY COURT MARTIAL.

H Groulx

(D141262 Pte GROULX, H)

COUNTER NUMBER 437455

HOUR 11.15

OPERATOR'S INITIALS [illegible]

RELIEVING OPERATOR [illegible]

4B 35.

Pte Gould R.

SCHEDULE.

PART I. PLEA(S), FINDING(S) AND SENTENCE.

Accused:

	Charge. (Insert "alternative" where applicable.)	Plea. (See Instrs p 2.)	Finding. (See note below.)	(Space for use as required for further charges, accused charged jointly, special findings, etc.)
1st	15 (1)	Guilty	Guilty	
2nd				
3rd				
4th				
5th				
6th				

(Note: As to findings for lesser offences see AA 56, RP 44; findings on alternative charges see MML p 483 fn 4 para 2, RP 44; special findings see RP 44 and MML p 733, and in loss of kit see RP 44 fn 6.)

At present under sentence for —— beginning on (date) —— (1)
(1. Insert sentence being served, or delete, if not applicable. See RP 46(A). Information should be found on MF B355 or AF B296.)

Time in confinement awaiting present trial—a total of 11 days, of which —— days were spent in hospital. (1)
(1. See RP 46(A) fn 2. Information should be found on MF B355 or AF B296 admitted in evidence under E2.)

Sentence Awarded by the Court:

To undergo detention for seven (7) months and to be fined under stoppages of pay until he has made good the sum of £1.0.3 in the cost of apprehension and return to his corps.

(Sgd) ..... Judge-Advocate, if any.

11 Nov 44. Date awarded.

(Sgd) Neil Dawson Major. President. (RP 45, 50.)

(See back of Convening Order as to assembly and disposal of record after trial.)

PART II. MINUTE WHERE CONFIRMATION RESERVED. (AA 54(5), RP 120(F), MML p 760.)

Date ..... (Sgd) ..... Commanding

PART III. DECISION OF CONFIRMING OFFR ON FINDING(S) AND SENTENCE.

(For duties and powers see AA 54, 57, RP 37(D) fn 6.46(A), 51-56, 120, MML pp 759-761, KR Can 567-577. Acquittals require no confirmation and cannot be revised: AA 54(3). Sending back finding or sentence for revision by Court: AA 54(2), RP 120(G). If not confirmed, accused may be tried again: AA 157, MML p 64. Minute of confirmation or non-confirmation may be altered before promulgation: RP 53, MML p 65. Quashing after promulgation: KR Can 572. Duties and powers of reviewing offrs: AA 57, 57A, RP 53A, 54. The Confirming Offr must sign here personally. AA 172 fn 1.)

My decision on the finding(s) and sentence set forth in Part I is:

Confirmed.

~~I direct that the accused be not committed to prison or detention barracks until further ordered.~~
(1. AA 57A. Delete if not used.)

Date 18 Nov 44. (Sgd) J.H. Roberts

J. H. ROBERTS, Maj-Gen.
Comd. Cdn. Inf. Divn.
Commanding Confirming Officer.

PART IV. PROMULGATED AND EXTRACTS TAKEN. (RP 53, KR Can 576, 577.)

Accused.	Date.	Signature of Offr.
C-37571 Pte GROULX, Rosl.	23 Nov 44 D.O. 19 d/23 Nov 44	H. M. Fawcett Lt (G.M. Fawcett) Lieut Assistant Adjutant 3 Cdn Inf Depot Bn.

ALL DELETIONS AND ALTERATIONS WILL BE INITIALLED.

RECEIVED - 8 DEC 1944 - JAG BRANCH C.M.H.Q.

RECORDED AT CMHQ IN AB 160 .. HQ-35

FIELD GENERAL COURT-MARTIAL

CPA96 (In lieu of AFA81) 40-F & R/1698 16(44) 4/38B

Convened by (Col K.W. MACINTYRE) Lt Col A/Comd 13 Cdn Inf Bde dated 10 Nov 44

ACCUSED.

(As to the trial of two or more charged jointly see RP 16, 71, 109. As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

Number.	(a) Prmnt R. (b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
C-37571	Pte	Joseph	Groulx	WPG GREN

Rosl

PROCEEDINGS REVIEWED 10 JAN 45
REVIEWING OFFICER, JAG BRANCH C.M.H.Q.

PROCEEDINGS OF TRIAL.

Held in the Fd in (country) N.W. EUROPE on (date(s)) 11 Nov 44

RECORD FORM A—OPENING PROCEEDINGS AND ARRAIGNMENT.

A1. The President, Members, waiting Member, ~~JA, if any, and Offrs under instr, if any,~~ assemble, and the Court is closed.

(PRINTED MATTER, NOT IN ITALICS FOR GUIDANCE, WILL BE DELETED. IF NOT USED OR APPLICABLE, AND INITIALLED BY PRES OR JA. The Schedule referred to throughout is on p 4. Citations do NOT include all relevant fns ROs. For guidance on procedure when a variation in this form arises, see form for GCM in MML pp 745 to 759. A brief record of such variation will be made and given a number having reference to appropriate or preceding para number herein. See back of Convening Order, CF A95, for oaths and instrs as how to record addresses, evidence, etc, which instrs are hereafter called "Notes". As to general provisions for conducting the trial see AA 53, RP 56, 63-70, 73, 74, 94, 103, 119, 132.)

A2. The President initials and lays before the Court the Convening Order and Charge Sheet N attached thereto.(1) The Court is satisfied that it is properly convened and constituted(2), accused is (not) amenable to military law, and each charge discloses an offence.(3)

(1. As to use of Summary of Evidence see RP 17 fn 6. 2. AA 49, 50, RP 105-107. 3. RP 11-13, 23, 24.)

A3. The Court is opened. The accused is (not) brought before the Court. At 1175 hours trial commences.

A4. The Prosecutor produces a Medical Certificate that accused is (not) fit to undergo trial by court-martial.(1) ~~The Prosecutor informs the Court that accused elected to be tried by court-martial instead of being dealt with summarily by the CO.(2)~~

(1. KR Can 557. 2. AA 46(B), RP 60 fn 1. For effect see KR Can 563(c). Delete, if not applicable.)

A5. ~~President to accused: Do you object to~~ ~~the Interpreter is sworn.~~(1) Do you object to ~~the Interpreter~~ Fit CH Forward as shorthand writer? Ans Nil
The shorthand writer is sworn.(2)

(1. RP 72. Delete, if none employed.)

A6. The Convening Order and names of the President and Members of the Court are read to the accused.(1) President to accused: Do you object to be tried by me as President or by any of the Members of the Court?
Ans Nil (2)

(1. RP 110. 2. If no objection, waiting member retires. RP 66(E). If objection, see procedure AA 51, RP 25, 71, 18, MML p 742.)

A7. The President, Members, ~~JA, if any, and Offrs under instr, if any, are sworn.~~(1) The following are the ranks, names and units of the offrs comprising the Court, etc:

President	Major	N C Dawson	RM Regt
Member	Capt	R W Richards	Wpg Gren
Member	Capt	A J Gordon	Wpg Gren
Judge-Advocate			
Prosecutor	Lieut	A Steinberg	Wpg Gren
Defending Offr	Capt	R M Sinclair	Wpg Gren

Questions by President: Is the Prosecutor a lawyer? Ans Nil Is the Defending Offr a lawyer? Ans Nil (2)

(1. RP 26, 27, 109, 111. List of offrs under instr will be returned separately with proceedings for information of Conv Offr.) (2. If Pros a lawyer and Def Offr not, accused is entitled to an adjournment when RP 89 (3) and fn 2 were not followed. See D1 p 2.)

A8. The accused ..... before arraignment make(s) (no) (a) plea. (2)

(1. If a special plea is made for separate trial on one or more charges (RP 62(E), 108), as to the jurisdiction of the Court (RP 34, 35(A), 112), or in bar of trial (RP 36), or as to accused's mental fitness to stand trial (AA 130, RP 57), or by one of several accused charged jointly to be tried separately (RP 16, 71), such plea, the addresses made in support or against, the evidence, if any, and finding are recorded per Notes. For forms of record see references in fns to RoP cited. Insert in A8 rank and name of the accused making the plea.)

A9. The accused is (not) arraigned ~~(separately)~~ on all charges in the charge sheet.(1) The accused does (not) object to any charge.(2) There is no amendment to be made to the Charge Sheet.(3) The President records the pleas in Part I of the Schedule.

(1. RP 31, 112. See para 1 of Instrs p 2. 2. RP 32, RP 33. If otherwise, delete and make appropriate record per Notes.) (3. When more than one Charge Sheet see RP 62; when several accused to be tried separately see RP 71(C), and use separate copies of CF A96 to record proceedings.)

A10. The Court ~~is closed and~~ considers the Instrs on Procedure after Arraignment at top of p 2. The proceedings are continued on Record Form B

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

INSTRUCTIONS ON PROCEDURE AFTER ARRAIGNMENT.

1. *The accused may not plead or be found Guilty on more than one of two or more charges laid in the alternative.* (RP 37(A).) *As to withdrawal of alternative charges by Prosecutor see RP 35(C). No other charge can be withdrawn for any reason without authy from Convening Offr. If Convening Offr concurs, Court may accept plea of Guilty to lesser, etc, offence.* (RP 44(H).) *Accused may change a plea of Not Guilty to Guilty during trial.* (RP 38.) *As to refusing to plead or not pleading intelligibly see RP 35(A). As to plea when sentence may be death see RP 35(D).*

2. *The proceedings on each charge sheet* (RP 62) *after arraignment will be conducted as follows in the respective circumstances stated:*

I. If pleas to all charges are GUILTY, use Record Form B below.

II. If pleas to all charges are NOT GUILTY, use Record Form D on p 3.

III. If pleas to some charges are GUILTY and to other charges are NOT GUILTY and,

(a) *Such mixed pleas occur when there are no alternative charges in the Charge Sheet, use Record Form C below.* (RP 37(A).)

(b) *Such mixed pleas occur in a set of two or more charges laid in the alternative, see RP 37 (A) and fn 2 as to discretion of Court,* (i) *to try the accused on all such alternative charges as if he had pleaded Not Guilty thereto, or,* (ii) *to record the pleas as the findings of Court. After deciding between* (i) *and* (ii)*, Court will proceed under foregoing instrs as may be appropriate to result of its decision. See M M L p 744 Instrs* (2).

3. *As to responsibility of President to accused see RP 59, 60(C); powers and duties of JA see RP 103; duty of Prosecutor see RP 60(A) (B); duty and privileges of accused and Defending Offr see RP 60(C), 87(C), 91, 92; swearing and withdrawal of witnesses from Court see RP 81, 82; questioning of accused see RP 80, 87(C), 92(B), and of witnesses see RP 83-85; calling or re-calling of witnesses by Court, etc, see RP 75-79, 86, 116; use of Summary of Evidence at Trial see RP 17(E) fn 6; and responsibility of JA or Pres to record proceedings see RP 94, 96.*

RECORD FORM B—PROCEEDINGS ON PLEAS OF GUILTY TO ALL CHARGES.

B1. The President or JA, if any, complies with RP 35(B) by explaining to the accused the nature and meaning of the charge(s)(1), and that on his plea of Guilty there will be no regular trial but merely a consideration of the sentence to be awarded after he has been given an opportunity to make a statement in reference to the charge(s), and make an address in mitigation of punishment.(2) call witnesses as to character and make an address in mitigation of punishment.(2)

(1. *RP 35 fn 3.* 2. *MML p 54 para 47.*)

B2. President to accused: The Court will now receive any statement you desire to make in reference to the charge(s).(1) If it appears from your statement that there are circumstances which indicate that you do not understand the effect of the plea of Guilty(2), or which show provocation or extenuation in respect of which in your interest the witnesses for the Prosecution should be examined(3), we shall advise you to change your plea to Not Guilty. In making a statement you will not be sworn or subject to cross-examination; and anything you say will not be used in evidence against you after you change your plea. If, however, it appears to the Court that your statement affects only the amount of punishment to which you are liable, you will not be advised to change your plea and you will be given an opportunity later to prove your statement by sworn testimony, if you so desire.(4)

President to accused: Do you wish to make a statement? Ans No.(5)

(1. *RP 37(B).* 2. *RP 37(D) fn 6.* 3. *RP 35(B) fn 3 para 3, MML p 54 para 47.* 4. *See para E3 of Record Form E.* 5. *Statement, if any, recorded per Notes.*)

B3. The Court considers the accused's statement(1). The Court decides (not) to advise accused to change his (their) plea(s) of Guilty to Not Guilty on charge(s). The accused is (are) so informed, and he (they) change(s) his (their) plea(s) on charge(s). Part I of the Schedule is amended accordingly.

(1. *Court may be closed to consider the statement. Delete whole or part not used.*)

B4. On the charge(s) to which the plea(s) of Guilty is (are) not changed the President records finding(s) of Guilty in Part I of the Schedule.(1)

(1. *RP 35(B). If any plea(s) is (are) changed, use Record Form C or D as appropriate.*)

B5. The Summary of Evidence is marked Ex C, initialled and read aloud by the President.(1)

(1. *If there is no Summary, or if it is inadequate, comply with RP 37(B). If there is any evidence inconsistent with any plea standing as Guilty, Court will advise accused to change such plea and, if changed to Not Guilty, try such charge(s) by use of paras D1 to D8 inclusive of Record Form D on p 3. RP 37(D).*)

B6. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

RECORD FORM C—PROCEEDINGS ON MIXED PLEAS OF GUILTY AND NOT GUILTY.

C1. As to the charges on which accused pleaded NOT GUILTY the trial is continued by using paras D1 to D8 inclusive of Record Form D on p 3 before proceeding with C 2.(1)

(1. *RP 37(B)-(E).*)

C2. The charges on which accused pleaded GUILTY are read to him (them) again, and the trial is continued by using paras B1 to B5 of Record Form B above. (Summary of Evidence will not relate to the charges dealt with under C1. *If any plea is changed to Not Guilty, trial thereon proceeds by complying with paras D1 to D8 inclusive in Record Form D on p 3 and making an appropriate record thereof on a separate sheet.*)

C3. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

RECORD FORM D—PROCEEDINGS ON PLEAS OF NOT GUILTY TO ALL CHARGES.

D1. President to accused: Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity to prepare your defence? Ans .....(1)

(1. *If "yes", see RP 39(A) for procedure. Statement or evidence, if any, is recorded per Notes.*)

D2. The Prosecutor makes (an) (no) opening address.(1)

(1. *RP 39(B), 60(A) (B), 90, 92(C) (D). Record address per Notes, subject to RP 95(C).*)

D3. The evidence for the Prosecution is taken.(1)

(1. *RP 39(C), TM, KR Can 555. Record evidence per Notes. As to Prosecutor giving evidence himself see RP 39(D) (E).*)

D4. The Prosecution is closed.(1) The Defending Offr submits that the evidence for the Prosecution does not establish a prima facie case against the accused on the .....charge(s).(2) The Court is closed, and considers the submission.(3) The Court is re-opened, and the President announces that the submission is disallowed on the .....charge(s), and allowed on the .....charge(s), and that, accordingly, the trial will proceed on the former, but the accused is (are) found Not Guilty on the latter charge(s).(4)(5)

(1. *Delete remainder of this para. If submission not made.* 2. *Arguments on submission, answer and reply are recorded per Notes.* 3. *RP 40 fn 1. See MML p 72 paras 12-14 and p 81 para 42.* 4. *Delete part not used. If accused acquitted on all charges, use second alternative in para D6.*)

NB: If trial proceeds, accused must be allowed great latitude in making his defence, and the Court should not stop his defence solely on ground of irrelevance. (RP 80(C), 114, 115.)

D5. President to accused: You will now proceed with your defence.(1) You may, if you wish, give evidence yourself on oath as to the facts or your character or both, in which case you will be subject to cross-examination.(2) You may, however, make a statement without being sworn, and you will not be subject to cross-examination.(3) But a statement which could have been made on oath will not carry with the Court the same weight as sworn testimony.(4) You may call witnesses in your defence and as to character, whether you give evidence or make a statement or do neither.

President to accused: Do you wish to give evidence yourself as a witness, make a statement, or do neither?

Ans .....

President to accused: Do you intend to call witnesses on your behalf?

Ans .....

Are they witnesses as to character only? Ans .....

(1. *RP 105.* 2. *RP 40(A), see 80(D).* 3. *RP 40 fn 10.* 4. *RP 40 fns 2, 9.*)

D6. Consequent on the answers recorded in para D5 the appropriate procedure for the defence is followed.(1)

(1. *RP 114, 115, 116. For procedure see Notes on back of Convening Order, CP 495. Evidence for accused as to his character should, if in his interest, be given before the finding. See RP 46(A) fn 1, 80(C). Note the further opportunity in para E1 of Record Form E. Record per Notes addresses, statement, evidence and any summing up by the JA under RP 42, 103(2)(c).*)

D7. The Court is closed to consider the finding(s).(1) The finding(s) of the Court is (are) recorded in Part I of the Schedule.(2) The Court is re-opened.

(1. *RP 40, 117(A). See Notes in Part I of Schedule.* 2. *RP 44(A).*)

D8. The President announces the finding(s), if any, of Not Guilty, and states to the accused that the finding(s) of the Court on the .....charge(s), being subject to confirmation, will be promulgated later.(1) *Or*, The President announces that the accused is found Not Guilty on all charges and is to be released forthwith, and that the proceedings are accordingly terminated. Part I of the Schedule is dated and signed.(2)

(1. *AA 54(3) (6), RP 45, 120(8).* 2. *AA 54(3), RP 45, 117. This alternative announcement is not applicable when there are pleas of Guilty outstanding and dealt with under Record Form B or C.*)

D9. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E below.

RECORD FORM E—PROCEEDINGS ON CONVICTION BEFORE SENTENCE.

E1. President to accused: Do you wish to give evidence yourself or to call any witnesses as to your character?(1)

Ans Yes

(1. *If evidence has already been given by accused or his witnesses as to his character, delete this para. RP 37(C) fn 4, 46 fn 1. Accused and witnesses are sworn. Evidence recorded per Notes.*)

E2. The Prosecutor produces Statement(s) as to Character and Particulars of Service(1), and certified true copy (copies) of Conduct Sheet(s)(2), purporting to refer to the accused, which he submits to the Defending Offr for examination, and then to the Court for admission in evidence. The Court is satisfied that these documents refer to the accused, because (i) they purport to be signed in the manner required by AA 162(1) (g) (h), and (ii) they purport to refer to (a) soldier(s) having the same number, rank, name and corps as the accused. Admitted in evidence and marked Ex C and Ex D respectively.(3)

(1. *AFB 355 or AFB 296.* 2. *MFM 9.* 3. *RP 46, KR Can 558. If above documents not produced, see RP 46 fn 1 para 1.*)

E3. President to accused: Do you wish to address the Court on the Statement(s) and Conduct Sheet(s), and in mitigation of punishment?(1) Ans Yes through my defending Officer.(2)

(1. *RP 37(C), 46(D).* 2. *Address, if any, recorded per Notes. Court should prevent accused or his witnesses so speak on oath anything here or previously stated which would affect the amount of punishment. RP 37(F) fn 7.*)

E4. The President states that the Court is closed to consider the sentence, and that the sentence to be awarded by the Court, being subject to confirmation, will not be announced, but will be promulgated later, and the proceedings in open court are accordingly terminated.(1)

(1. *AA 54(6), RP 120(A).*)

E5. The Court considers the sentence.(1) The President records the sentence in Part I of the Schedule, which is dated and signed by him and the JA, if any.(2)

(1. *When several accused tried separately see RP 71 (D). One sentence only, comprised of the punishment or punishments laid down in AA 41, 44 and its glosses, is to be awarded to cover all charges in all charge sheets on which accused found guilty. AA 41, 44 and its glosses, is to be awarded to cover all charges in all charge sheets on which accused found guilty. See also

CHARGE SHEET

The accused, C 27571 Private Roal GROULX, 1 Bn Winnipeg Grenadiers, CA, a soldier of the Canadian Army Overseas, is charged with:

FIRST CHARGE
Sec 15 (1)
Army Act

ABSENTING HIMSELF WITHOUT LEAVE

in that he,

in the Field, on 17 August 1944, absented himself from 1 Bn Winnipeg Grenadiers, CA, from 0700 hrs on said 17th day of August, 1944, until apprehended by the Civil Police at Boston Borough, England, at 0150 hrs on 1 November, 1944, cost of apprehension and return to his Unit — £1 0s 3d.

W.C. Graham Major
(W.C. Graham)
A/Officer Commanding,
1 Bn Winnipeg Grenadiers, CA

In the Field
7 Nov 44

To be tried by Field General Court Martial.

(K.W. MACINTYRE) Lt-Col
A/Comd 13 Cdn Inf Bde

In the Field
10 Nov 44.

FIELD GENERAL COURT-MARTIAL

(Whether the accused to be tried is under his comd or not, a FGCM may on application to him be convened by any offr of Cdn Army Overseas, or of any other force if authorized in law, in immediate comd of troops on active service, subject to RP 105(C) and restrictions imposed by appropriate authy AA 49, 50, RP 104-107, 114. As to the duties and privileges of the Convening Offr in dealing with the application see MML Chap V paras 20 and 23. RP 87(B).

There should be a separate Convening Order for each person to be tried separately by the same Court. RP 71(C), 109. As to separate charge sheets see RP 62, and as to separate trial on charges in the same charge sheet see RP 108. As to two or more accused charged jointly see RP 16, 109. As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

ACCUSED.

Number.	(a) Prmnt R.	(b) Appmt, A/R or A/Appmt	Full Christian Names.	Surname.	Unit.
C-37671	Pte		Roel	GROULX	WPG GREN

CONVENING ORDER.

1. Whereas complaint has been made to me, the undersigned, that the person(s) named above as the accused, being subject to military law, has ~~(have)~~ committed the offence(s) set forth in the Charge Sheet(s) attached and on (date) 10 Nov 44 endorsed ~~by me~~ by an offr of my staff for me), "To be tried by Field General Court-Martial".

2. And whereas I am of opinion that it is not practicable that such offence(s) should be tried by an ordinary General Court-Martial; ~~and that it is not practicable to delay the trial in order to convene another competent offr.~~ (Delete part in brackets when not required for compliance with RP 105(C).)

3. I hereby convene a Field General Court-Martial to try the said person(s), and to consist of the Offrs appointed or detailed hereunder.

4. ~~I appoint the~~ as opposite names as the members of the Court, (b) ~~as to offr as President for the purpose of the trial~~ attached hereto. (AA 49, RP 106(B), 107(A). Delete the whole or part, if not applicable.)

5. ~~I also appoint as Judge Advocate thereof the officer mentioned hereunder.~~ (RP 106(E). Delete, if none appointed.)

PRESIDENT.

Maj (Rank.)	N.C. DANSOE (Must be named. RP 106.)	R M RANG (Unit.)

MEMBERS.

Capt	To be detailed by CO	WPG GREN
Capt (Rank.)	To be detailed by CO (Named or detailed. RP 106.)	WPG GREN (Unit.)

WAITING MEMBER.

Lt (Rank.)	To be detailed by CO (Named or detailed, if any. RP 106.)	R M RANG (Unit.)

JUDGE-ADVOCATE.

(Rank.)	(Must be named, if any. RP 106.)	(Unit.)

On Active Service in the Fd

in ENGLAND (Country.)

Dat: 10 Nov 44

K. W. MacIntyre (Signed personally. RP 105 fn 2.)

Commanding (K.W. MACINTYRE) Lt-Col A/Comd 13 Cdn Inf Bde Convening Officer. (Rank.)

CONVENING OFFR WILL INITIAL ALL DELETIONS AND ALTERATIONS

(See overleaf for oaths and notes for use on trial.)

NCD

MEDICAL OFFICERS CERTIFICATE

I certify that I have to-day examined (No) C 37571 (Rank) Pte

(Name) Groulx, R. and in my opinion he is

fit/~~unfit~~ to undergo trial by Court Martial.

Date 11 Nov 44

In the Field

R.C.A.M.C.

(UNIT) 18 Can Gen Hosp, C.A.

STATEMENT BY THE ACCUSED:
C-37571 Pte R. GROULX sworn states:

I was in the engrs for quite awhile and I was put on draft for Overseas on D-day but I was taken off draft and I went to see my offr to be put on draft again. I was taken off draft twice; as I was tired of staying in England and the way they were trying to keep me, so I got fed up and went away. After I came back I was sentenced to 28 days. I was released and put put on draft for inf, but as I didn't like the idea of being transferred from engrs to the inf for which I wouldn't see any reason. I was a tradesmen - qualified "B" - mason and bricklayer and qualified in engr training, and qualified as 2nd class dvr IC When I came to the inf I was quite up set the way they had been treatin me and went away to think things over. I did not intend to go away forever. When I was stopped by an offr I told him that I was on my way back, but as I didn't know where my unit was stationed I was going to report myself to the inf holding unit near BLACKWATER.

PLEA IN MITIGATION OF SENTENCE
Capt R.M. Sinclair states:

This man joined the Army in 1941 and has served in the RCE almost all the time since. At first he was in the RCASC and to be with his brother, he was transferred to the RCE.

On D/day Groulx was on draft with his brother and all his friends for overseas duty, but was taken off because of his teeth; all his friends went and he was left behind. Shortly after he was dentally fit, he was sent up to the Wpg Gren for inf trg, without being given any indication of what he was to do in the inf. Groulx arrived here and saw what he was to do, and that his trades pay was taken away from him. He was so fed up with the way he had been treated that he went away - to get away from the army for awhile. Groulx has thought things over now and sees that it was a foolish thing to do. His main ambition is to get over to France and do the job he signed up to do. He is willing to take punishment for his crime, because he knows that he deserves it, but he does not want to lose his chances of going overseas. In view of the trg he has had, which includes all type of engineering trg demolitions and weapons, Groulx can be a very valuable man to the Army and I would like to suggest that in deciding what punishment to give, you keep this in mind and punish him in such a way that it will still allow him to carry on with his training so he can get away on draft as soon as possible.

SUMMARY OF EVIDENCE

IN THE CASE OF C 37571 PRIVATE GROULX,R., 1 BN WINNIPEG GRENADIERS, A SOLDIER OF THE CANADIAN ARMY OVERSEAS.

By direction of the A/Officer Commanding the Summary of Evidence is taken on Oath.

FIRST WITNESS for the prosecution

Lieut J.H Randle, 1 Bn Winnipeg Grenadiers, CA, sworn states:

I produce the following certificates purporting to relate to the accused or relating to someone having the same regimental number, rank and name as the accused.

1. Record of the Declaration of a Court of Inquiry convened to Investigate Absense.
(Marked Exhibit "A")

2. Certificate of Arrest purporting to be signed by or for the Chief Constable Boston Burgough Police Force.
(Marked Exhibit "B")

3. Expense Voucher in the amount of One pound, no shillings and three pence being cost of rail transportation for escort and accused between Boston and the station of the accused.
(Marked Exhibit "C")

J.H.Randle Lieut
(J.H.Randle)

The accused was allowed to examine Exhibits "A", "B" and "C" as they were produced.
The accused declines to cross-examine the witness.

The accused was cautioned as follows:

"Do you wish to make any statement or to give any evidence on oath? You are not obliged to say anything or give evidence unless you wish to do so, but whatever you say or any evidence you give will be taken down in writing and may be given in evidence."

The accused declines to make any statement and reserves his defense.

I certify that the foregoing Summary of Evidence consisting of One Page was taken down by me in the presence and hearing of the accused, and that Rules of Procedure 4 (c) (d) (e) (f) and (G) have been complied with.

A Steinberg Lieut
(A.Steinberg)

In the Field 6 Nov 44

EXHIBIT "G"

Ned

EXHIBIT "A"

RECORD of the Declaration of a Court of Inquiry assembled at Duncombe Pk., England on the 8th day of September 19 44 for the purpose of investigating and recording the absence, without leave, from his duty, and deficiency, if any, in the Arms, Ammunition, Equipments, Instruments, Regimental Necessaries, or Clothing of No. C-37571 Pte. Groulx, R.

DECLARATION

The Court declare that No. C-37571 Pte. Groulx, R.

1 Bn. Winnepeg Grenadiers, C.A.

illegally absented himself without leave from Wathgill Camp, England.

at 0700 hrs on the 17th day of Aug. 44

that he is still so absent, and that on the 17th Aug. 44 he was deficient, and that he is still deficient of the following articles :—

ARTICLES		VALUE £	s	d
Helmets Steel covers camouflage	1			7½
Anklets Web	1		4	5
Blouses Battle Dress	1		3	5½
Caps Fd Service	1		2	6
Boots ankle w/laces	1	1	4	6
Drawers cellular short	2		3	10
Coveralls, comb khaki	1		12	2
Shirts angola drab	1		9	1
Socks woollen	4		6	9
Trousers battledress, prs.	1	1	4	1½
Badges cap	1			4½
Badges shoulder Canada prs.	2			3
Braces	1		1	4
Brushes hair	1		1	6
Brushes shaving	1		1	8
Brushes shoe polishing	1		1	3
Brushes tooth	1			6
Combs hair	1			2

ARTICLES		VALUE £	s	d
Disc identidy	2			1
Dressing first fd.	1		1	1
Forks NS Table small	1			4
Holdalls	1			10
Housewives	1			9
Knives clasp	1		3	10
Knives table	1			8
Lanyards	1			1
Razors safteyw/blades	1			3
Spoons NS dessert	1			4
Towels hand	1		2	10
Total		6	9	5

(signed) Capt. I.D. Main — President
1 Bn. Wpg. Grens, C.A.

Lieut. G. Le Page — Member
Att. 1 Bn. Wpg. Grens, C.A.

Signed at Duncombe Pk. Eng. — Member
this 8th day of Sep. 19 44 Lieut. G. Le Palme
att 1 Bn. Wpg Grens, C.A.

Signature of Commanding Officer W.O. Graham Major

Certified true copy — Capt & Adt.
Signature of Officer having custody of original record

(I. McDonald) Capt.& Adt.
1 Bn. Winnepeg Grenadiers, C.A.

3/60B MFS 375-AFS/135 40/P&S/392 (6646)

EXHIBIT "B"

IN ACCORDANCE WITH SECTION 163 (1) (m) OF THE ARMY ACT.

I certify that the person whose description is given below was arrested/~~surrendered~~/at Boston Borough (place) at 1.50 a.m. on the 1st day of November 1944

Regimental particulars of officer or soldier referred to above.

No. C.37571
Rank. Sapper.
Unit. Royal Canadian Infantry.
Name. GROULX Roal.

Description:-

Age. 25 years.
Height. 5' 6½"
Complexion. Fresh.
Hair. Brown.
Eyes. Blue.
Marks. Nil.

Signature of Officer of Police in Charge of the Police Station where the above-named person was taken or placed in custody on arrest or surrender.

Norman Nott.
Chief Constable for the Borough of Boston Police Force.

EXHIBIT "C"

Expense Voucher Re -- Ref: KR&O (Can) 539

Reg. No. C.37571 Rank Pte. Name GROULX, B. Unit Wpg. Gren.

The following expenses were incurred in apprehending and returning the n/n soldier to his unit from BOSTON, LINSOLNSHIRE

Date	Particulars	Amount
2 Nov 44	Escorts return fare from Helmsley TO Boston, Lincolnshire	0-10-1½
2 Nov 44	Prisoners single fare to Helmsley From Boston, Lincolnshire & fare	0-10-1½
	Prisoners fare from to	
	Escorts & Prisoners expenses for bed, meals, Bus fares	
	TOTAL £	1-0-3

I certify that the above statement of expenses is correct and that the amounts are fair and just.

Capt & Adj.
(I McDonald)
1 Bn. Winnipeg Grenadiers

EXHIBIT "H" DCD

M.F.B. 358
NSM—8-43 (30021)
H.Q. 1772-39-620
A.F.B. 358

STATEMENT AS TO CHARACTER AND PARTICULARS OF SERVICE OF ACCUSED

Number	Rank	Name	Regiment (or unit)
C 37571	Private	Roal GROULX	1 Bn Wpg Gren, CA

1. The following is a fair and true summary of the entries in the Field conduct sheets of the accused, exclusive of convictions by a Court-Martial or a Civil Court, of summary awards under Section 47 of the Army Act and of cases in which trial has been dispensed with.

	Within last 12 months	Since enlistment or appointment
For AWL	5 times	7 times
For Cond to Prej	1 times	2 times
For	times	times
For	times	times

NOTE.—If the charge is for drunkenness, the entries for drunkenness must be stated separately.

2. The accused has not been previously convicted.

3. The accused is not under sentence at the present time.

4. The accused has been in confinement awaiting trial on the present charges, for 3 days in civil custody, and 8 days in military custody, making a total of 11 days in custody, of which Nil days were spent in hospital.

5. The present age of the accused according to his record of service is 25 Yrs 6½ Mos

6. The date of his attestation specified in his record of service is 17 Apr 41

7.

8.

9. The accused is in possession of or entitled to State any air force decoration or reward military CVSM & Clasp

10.

11. (In the case of an officer) [illegible] Permanent Force unit

dated , and in his regiment (or corps), the rank of

dated .

12. The accused has served as a non-commissioned officer continuously, without reduction, to the present date:—

Date of promotion.

In the rank of years.

In the rank of years.

In the rank of years.

NOTE.—If any matter in any of the above paragraphs cannot be stated from the Regimental books, the paragraph must be struck through.

SCHEDULE

Of convictions by a court-martial or civil court, of summary awards under Section 47 of the Army Act, and of cases in which trial has been dispensed with of accused, Number Rank Unit Regiment of

Name

NOTE.—A verbatim extract from the regimental books stating these convictions and dispensations with trial must be inserted.

Description of Court by which tried	Date and Place of Trial	Charge or Offence which Punished	Sentence of the Court	Punishment Remitted

I hereby certify that the foregoing schedule of convictions and dispensations with trial is a true extract

Signed this [illegible] day of November 1944

The above statement (with the schedule of convictions and of cases in which trial has been dispensed with) is read, marked signed by the president, and annexed to the proceedings.

Capt & Adjt

(I. McDonald)
1 Bn Winnipeg Grenadiers, CA

EXHIBIT 7 NCA

NoC-37571 Name GROULX, R | Sqn, Battery, or Company | Corps R.C.E. | Date of enlistment 17 Apr. 41 | Service or Proficiency Pay | MFM 6 (AFB 122) 60/F&S/136 (3458)

Date of last entry in Company Conduct Sheet 2-8-41 | No and date of last drunk NIL | Period not reckoning towards freedom from extra fine NIL | Sheet No 3 | Badges | Signature OC Company, etc S.W. Milnes Maj. | Character

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order directing trial	By whom awarded	Remarks
	Sheet No 2 destroyed on completion of two years service.					LAST ENTRY 2-8-41			
Field	15-9-42	Spr.		AA Sec 40 Conduct.....					
				AA Sec 15 (1) AWL 5 hrs.	L/C. Robison Pte. Teble	28 days F.P.	21 Sep 42	Maj Jones	
Field	1 Jan 43	Spr.		A.A. Sec 15(1) AWL from 2359 hrs 1 Jan 43 till 0630 hrs 4 Jan 43 (Absent 2days 6 hrs 31 mins)	Cpl Dixon Cpl Churchill	3 days F.P.	5 Jan 43	Lt. Col. Mitchell	Forf 3 days FR&I 149(1)b
Field	20 Feb 44	Spr.		AA Sec 15 (1) AWL from 2359 hrs 20 Feb. 44 to 1230 hrs 23 Feb 44. (Absent 2 days 12 hrs 31 mins	CSM Nadeau	4 days summ FR&I 149 (2)	23-2-44	SW Milnes	Forf 3 days pay FR&I 149(1)b 3 days auto forf. FR&I 149 (1) a

(PTO)

Place	Date of offence	Rank	Cause of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Field	19 Mar			AA Sec 15 (1) from 2359 hrs 19 Mar 44 till apprehended by Prov Corps in London at 1000 hrs 21 Mar 44	Doc Evi CSM Nadeau	7 days summ FR&I 149 (2)	25 Mar 44	G.O.W. Smith Lt.	2 days auto Col. FR&I 149 (1) a
Field	28 Jun	Spr.		A.A. 15 (1) AWL from 2230 hrs 28 Jun 44 to 1300 hrs 7 Jul 44 (Absent 8 days 14 hrs 30 min)	Doc.	9 dys pay FR&I 149 (2)	8 Jul 44	L.O.C. Lilley Lt. Col.	Frfts 9 dys pay FR&I 149 (1) a
Field	14 Jul 44	Spr.		AA 15 (1) AWL from 2230 hrs 14 Jul 44 until 0715 hrs 15 Jul 44 (Absent 8 hrs 45 Mins) (2) AWL from 0715 hrs 15 Jul 44 until 2300 hrs 6 Aug. 44 (Absent 22 days 15 hrs 45 min) (3) AA 40 Conduct to the prejudice	Doc	28 days detention	6 Aug.44	GH Whyte Colonel	Forf 28 days pay FR&I 149 (1) a Forf 28 days pay FR&I 149 (1) b

1 Bn. Winnipeg Grenadiers, C.A.

Certified true copy of the original document in my possession.

Trial of C 27571 Private Roal GROULX

1 Bn Winnipeg Grenadiers, CA

Yes

List of Witnesses for the Prosecution

Lieut J.H. Randle, Asst Adjt, 1 Bn Winnipeg Grenadiers, CA

Dated in the Field this 7th day of November, 1944

Capt & Adjt
(I. McDonald)
1 Bn Winnipeg Grenadiers, CA

I, C 37571 Private Roal GROULX, desire to have an officer assigned to represent me at my trial by Court-Martial.

(I desire the services of Captain Montmoragny, 1 CERU, if he is available.)

R. Groulx.
(signature)

6 November, 1944

Trial of C27571 Private Roal GROULX

1 Bn Winnipeg Grenadiers, CA

List of Original Exhibits

Exhibit "A" -- MFB 375

Exhibit "B" -- Certificate in accordance with Sec 163 (1) (m) Army Act.

Exhibit "C" -- Expense voucher in the amount of £1 0s 3d being cost of rail transportation for escort and accused between Boston Borough and the station of the accused.

Dated in the Field this 7th day of November, 1944

Capt & Adjt

(I.McDonald)
1 Bn Winnipeg Grenadiers, CA

5.6-145.

Mt. Granby, R.

SCHEDULE.

PART I. PLEA(S), FINDING(S) AND SENTENCE.

Accused: C-27571 Pte Real GROULX - CIC - 3 CITB

Charge. (Insert "alternative" where applicable.)	Plea. (See Instrs p 2.)	Finding. (See note below.)	(Space for use as required for further charges, accused charged jointly, special findings, etc.)
1st AA Sec 15(1)	GUILTY	GUILTY	
2nd			
3rd			
4th			
5th			
6th			

(Note: As to findings for lesser offences see AA 56, RP 44; findings on alternative charges see MML p 483 fn 4 para 2, RP 44; special findings see RP 44 and MML p 732, and in lieu of Kit see RP 44 fn 6.)

At present under sentence for (2 MOS DUBP) IISANI/45 beginning on (date) 11 NOV 44 (1)

(1. Insert sentence being served, or delete, if not applicable. See RP 46(A). Information should be found on MF B355 or AF B296.)

Time in confinement awaiting present trial—a total of 6 days, of which NIL days were spent in hospital.(2)

(1. See RP 46(A) fn 2. Information should be found on MF B355 or AF B296 admitted in evidence under E2.)

Sentence Awarded by the Court:

To undergo Detention for a period of six (6) months

(Sgd) ..... 3 apl/45 .....
Judge-Advocate, if any. Date awarded. President. (RP 45, 50)

(See back of Convening Order as to assembly and disposal of record after trial.)

PART II. MINUTE WHERE CONFIRMATION RESERVED. (AA 54(5), RP 120(F), MML p 760.)

Date ..... (Sgd) ..... Commanding

PART III. DECISION OF CONFIRMING OFFR ON FINDING(S) AND SENTENCE.

(For duties and powers see AA 54, 57, RP 37(D) fn 6.46(A), 51-56, 120, MML pp 759-761, KR Con 567-577. Acquittals require no confirmation and cannot be revised: AA 54(3). Sending back finding or sentence for revision by Court: AA 54(2), RP 120(G). If not confirmed, accused may be tried again: AA 157, MML p 64. Minute of confirmation or non-confirmation may be altered before promulgation: RP 53, MML p 65. Quashing after promulgation: KR Con 573. Duties and powers of reviewing offrs: AA 57, 57A, RP 53A, 54. The Confirming Offr must sign here personally. AA 172 fn 1.)

My decision on the finding(s) and sentence set forth in Part I is:

Confirmed

I direct that the accused be not committed to prison or detention barracks until further Orders.(1)

(1. AA 57A. Delete if not used.)

(Sgd) ..... Brig

Date 3 Apr 45 Commanding Comd 18 Cdn Inf Trg Bde Confirming Officer.

PART IV. PROMULGATED AND EXTRACTS TAKEN. (RP 53, KR Con 576, 577.)

Accused.	Date.	Signature of Offr.
C-37571 Private Real GROULX	Promulgated 4 April 45 Extract D.O. #7 dated 6 Apr 45	A.C. Ross Major A/Officer Commanding 3 C.I.D.Bn

ALL DELETIONS AND ALTERATIONS WILL BE INITIALLED.

RECORDED AT CMHQ IN AR 16 [illegible] 5C-145

REGD 1249 13 APR 1945 CMHQ

FIELD GENERAL COURT-MARTIAL

Convened by Brigadier KG Blackader Comd 18 CITB dated 2 Apr 45

DSO, MC, ED

ACCUSED.

(As to the trial of two or more charged jointly see RP 16, 71, 109. As to reasons for showing (a) permanent or confirmed rank, and (b) apptmt, A/rank or A/apptmt, if any, see AA 182, 183, fns, KR Con 308, 328, 330.)

Number.	(a) Prmnt R. (b) Apptmt, A/R or A/Apptmt.	Full Christian Names.	Surname.	Unit.
C-27571		Real	GROULX	CIC 3 CITB

PROCEEDINGS REVIEWED
K Lee A Stevens
18 Apr 45.
REVIEWING OFFICER, JAG BRANCH C.M.H.Q.

PROCEEDINGS OF TRIAL.

Held at the Fd in (country) England on (date) 3 APR 45

RECORD FORM A—OPENING PROCEEDINGS AND ARRAIGNMENT.

A1. The President, Members, ~~waiting Member, JA, if any,~~ and Offrs under instr, ~~if any,~~ assemble, and the Court is closed.

(PRINTED MATTER, NOT IN ITALICS FOR GUIDANCE, WILL BE DELETED, IF NOT USED OR APPLICABLE, AND INITIALLED BY PRES OR JA. The Schedule referred to throughout is on p 4. Columns do NOT include all relevant fns ROs. For guidance on procedure when a variation in this form arises, see form for GCM in MML pp 741 to 759. A brief record of such variation will be made and given a number having reference to appropriate or preceding para number herein. See back of Convening Order; CF A93, for oaths and instrs on how to record statements, evidence, etc., which instrs are hereafter called "Notes". As to general provisions for conducting the trial see AA 52, RP 36, 63-70, 73, 74, 94, 103, 119, 122.)

A2. The President initials and lays before the Court the Convening Order and Charge Sheet(s) attached thereto.(1) The Court is satisfied that it is properly convened and constituted(2), accused is (are) amenable to military law, and each charge discloses an offence.(3)

(1. As to use of Summary of Evidence see RP 12 fn 6. 2. AA 49, 50, RP 105-107. 3. RP 11-13, 23, 24.)

A3. The Court is opened. The accused is (are) brought before the Court. At 10.45 hours trial commences.

A4. The Prosecutor produces a Medical Certificate that accused is (are) fit to undergo trial by court-martial.(1) ~~The Prosecutor informs the Court that accused elected to be tried by court-martial instead of being dealt with summarily by the CO.(2)~~

(1. KR Con 557. 2. AA 46(B), RP 60 fn 1. For effect see KR Con 563(c). Delete, if not applicable.)

~~A5. President to accused: Do you object to ..... as interpreter? Ans .....~~

A5. President to accused: Do you object to F 2 P 126 CPL ATHOLL SINCLAIR as shorthand writer? Ans NO

~~The Interpreter is sworn.~~(1) Do you object to ..... as shorthand writer? Ans .....
~~The shorthand writer is sworn.~~(1)

(1. RP 72. Delete, if none employed.)

A6. The Convening Order and names of the President and Members of the Court are read to the accused.(1) President to accused: Do you object to be tried by me as President or by any of the Members of the Court?

Ans NO (2) (3)

(1. RP 110. 2. If no objection, waiting member retires. RP 68(B). If objection, see procedure AA 51, RP 25, 71, 18, MML p 742.)

A7. The President, Members, ~~JA, if any, and Offrs under instr, if any,~~ are sworn.(1) The following are the ranks, names and units of the offrs comprising the Court, etc:

President	LT-COL	D.L. REDMAN	HQ CAU
Member	CAPT	W. BROOKS	1C ITR
Member	LT	N.A. MANCHESTER	2C ITR
~~Judge-Advocate~~			
Prosecutor	LT	NW TINGLEY	3C ITR
Defending Offr	LT	W.T. SKELTON	3C ITR

Questions by President: Is the Prosecutor a lawyer? Ans NO Is the Defending Offr a lawyer? Ans NO(2)

(1. RP 26, 27, 109, 111. List of offrs under instr will be returned separately with proceedings for information of Conv Offr.)
(2. If Pros a lawyer and Def Offr not, accused is entitled to an adjournment when RP 89 (B) and fn 2 were not followed. See 2B p 2.)

A8. The accused ..... before arraignment make(s) (no) (a) plea(s).(1)

(1. If a special plea is made for separate trial on one or more charges (RP 62(E), 108), or as to the jurisdiction of the Court (RP 34, 35(A), 113), or in bar of trial (RP 36), or as to accused's mental fitness to stand trial (AA 130, RP 37), or by one of several accused charged jointly to be tried separately (RP 16, 71), such plea, the addresses made in support or against, the evidence, if any, and finding are recorded per Notes. For forms of record see references in fns to RsP cited. Insert in All cases and name of the accused making the plea.)

A9. The accused is (are) arraigned (separately) on all charges in the charge sheet.(1) The accused does (do) not object to any charge.(2) There is no amendment to be made to the Charge Sheet.(3) The President records the pleas in Part I of the Schedule.

(1. RP 31, 112. See para 1 of Instrs p 2. When more than one Charge Sheet see RP 62; when several accused to be tried separately see RP 71(C), and use separate copies of CF A96 to record proceedings. 2. RP 32, RP 33. If otherwise, delete and make appropriate record per Notes.)

A10. The Court (is cleared and) considers the Instrs on Procedure after Arraignment at top of p 2. The proceedings are continued on Record Form "B".

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

INSTRUCTIONS ON PROCEDURE AFTER ARRAIGNMENT.

1. *The accused may not plead or be found Guilty on more than one of two or more charges laid in the alternative.* (*RP* 37(*A*).) *As to withdrawal of alternative charges by Prosecutor see RP* 35(*C*). *No other charge can be withdrawn for any reason without authy from Convening Offr. If Convening Offr concurs, Court may accept plea of Guilty to lesser, etc, offence.* (*RP* 44(*H*).) *Accused may change a plea of Not Guilty to Guilty during trial.* (*RP* 38.) *As to refusing to plead or not pleading intelligibly see RP* 35(*A*). *As to plea when sentence may be death see RP* 35(*D*).

2. *The proceedings on each charge sheet* (*RP* 62) *after arraignment will be conducted as follows in the respective circumstances stated:*

I. If pleas to all charges are GUILTY, use Record Form B below.

II. If pleas to all charges are NOT GUILTY, use Record Form D on p 3.

III. If pleas to some charges are GUILTY and to other charges are NOT GUILTY and,

(a) Such mixed pleas occur when there are no alternative charges in the Charge Sheet, use Record Form C below. (*RP* 37(*A*).)

(b) Such mixed pleas occur in a set of two or more charges laid in the alternative, see RP 37 (*A*) *and fn* 2 *as to discretion of Court,* (i) *to try the accused on all such alternative charges as if he had pleaded Not Guilty thereto, or,* (ii) *to record the pleas as the findings of Court. After deciding between* (i) *and* (ii), *Court will proceed under foregoing instrs as may be appropriate to result of its decision. See MML p* 744 *Instrs* (2).

3. *As to responsibility of President to accused see RP* 59, 60(*C*); *powers and duties of JA see RP* 103; *duty of Prosecutor see RP* 60(*A*) (*B*); *duty and privileges of accused and Defending Offr see RP* 60(*C*), 87(*C*), 91, 92; *swearing and withdrawal of witnesses from Court see RP* 81, 82; *questioning of accused see RP* 80, 87(*C*), 92(*B*), *and of witnesses see RP* 85-85; *calling or re-calling of witnesses by Court, etc, see RP* 75-79, 86, 116; *use of Summary of Evidence at Trial see RP* 17(*E*) *fn* 6; *and responsibility of JA or Pres to record proceedings see RP* 94, 96.

RECORD FORM B—PROCEEDINGS ON PLEAS OF GUILTY TO ALL CHARGES.

B1. The President ~~or JA, if any,~~ complies with RP 35(B) by explaining to the accused the nature and meaning of the charge(s)(1), and that on his plea of Guilty there will be no regular trial but merely a consideration of the sentence to be awarded after he has been given an opportunity to make a statement in reference to the charge(s), call witnesses as to character and make an address in mitigation of punishment.(2)
(*1. RP* 35 *fn* 3. *2. MML p* 54 *para* 47.)

B2. President to accused: The Court will now receive any statement you desire to make in reference to the charge(s).(1) If it appears from your statement that there are circumstances which indicate that you do not understand the effect of the plea of Guilty(2), or which show provocation or extenuation in respect of which in your interest the witnesses for the Prosecution should be examined(3), we shall advise you to change your plea to Not Guilty. In making a statement you will not be sworn or subject to cross-examination; and anything you say will not be used in evidence against you after you change your plea. If, however, it appears to the Court that your statement affects only the amount of punishment to which you are liable, you will not be advised to change your plea and you will be given an opportunity later to prove your statement by sworn testimony, if you so desire.(4)

President to accused: Do you wish to make a statement? Ans NO C/B.(5)
(*1. RP* 37(*B*). *2. RP* 37(*D*) *fn* 6. *3. RP* 35(*B*) *fn* 5 *para* 3, *MML p* 54 *para* 47. *4. See para* E3 *of Record Form E.*
5. Statement, if any, recorded per Notes.)

B3. ~~The Court considers the accused's statement.(1) The Court decides (not) to advise accused to change his (their) plea(s) of Guilty to Not Guilty on charge(s). The accused is (are) so informed, and he (they) change(s) his (their) plea(s) on charge(s). Part I of the Schedule is amended accordingly.~~
(*1. Court may be closed to consider the statement. Delete whole or part not used.*)

B4. On the charge(s) to which the plea(s) of Guilty is (are) not changed the President records finding(s) of Guilty in Part I of the Schedule.(1)
(*1. RP* 35(*B*). *If any plea(s) is (are) changed, use Record Form C or D as appropriate.*)

B5. The Summary of Evidence is marked Ex 7, initialled and read aloud by the President.(1)
(*1. If there is no Summary, or if it is inadequate, comply with RP* 37(*B*). *If there is any evidence inconsistent with any plea standing as Guilty, Court will advise accused to change such plea and, if changed to Not Guilty, try such charge(s) by one of paras D1 to D8 inclusive of Record Form D on p* 3. *RP* 37(*D*).)

B6. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

RECORD FORM C—PROCEEDINGS ON MIXED PLEAS OF GUILTY AND NOT GUILTY.

C1. As to the charges on which accused pleaded NOT GUILTY the trial is continued by using paras D1 to D8 inclusive of Record Form D on p 3 before proceeding with C 2.(1)
(*1. RP* 37(*E*).)

C2. The charges on which accused pleaded GUILTY are read to him (them) again, and the trial is continued by using paras B1 to B5 of Record Form B above.(1)
(*1. Under B5 such parts only of the Summary of Evidence are read as relate to the charges dealt with under C2. If any plea is changed to Not Guilty, trial thereon proceeds by complying with paras D1 to D8 inclusive in Record Form D on p* 3 *and making an appropriate record thereof on a separate sheet.*)

C3. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

RECORD FORM D—PROCEEDINGS ON PLEAS OF NOT GUILTY TO ALL CHARGES.

D1. President to accused: Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity to prepare your defence? Ans.....(1)
(*1. If "yes", see RP* 39(*A*) *for procedure. Statement or evidence, if any, is recorded per Notes.*)

D2. The Prosecutor makes (an) (no) opening address.(1)
(*1. RP* 39(*B*), 60(*A*) (*B*), 90, 92(*C*) (*D*). *Record address per Notes, subject to RP* 95(*C*).)

D3. The evidence for the Prosecution is taken.(1)
(*1. RP* 39(*C*), *114, KR Can* 555. *Record evidence per Notes. As to Prosecutor giving evidence himself see RP* 39(*D*) (*E*).)

D4. The Prosecution is closed.(1) The Defending Offr submits that the evidence for the Prosecution does not establish a prima facie case against the accused on the.....charge(s).(2) The Court is closed, and considers the submission.(3) The Court is re-opened, and the President announces that the submission is disallowed on the.....charge(s), and allowed on the.....charge(s), and that, accordingly, the trial will proceed on the former, but the accused is (are) found Not Guilty on the latter charge(s).(4)
(*1. Delete remainder of this para. If submission not made. 2. Arguments on submission, answer and reply are recorded per Notes. 3. RP* 40 *fn* 1. *See MML p* 72 *paras* 12-14 *and p* 81 *para* 42. *4. Delete part not used. If accused acquitted on all charges use second alternative in para D8.*
NB: If trial proceeds, accused must be allowed great latitude in making his defence, and the Court should not stop his defence solely on ground of irrelevance. (*RP* 60(*C*), *114, 115.*)

D5. President to accused: You will now proceed with your defence.(1) You may, if you wish, give evidence yourself on oath as to the facts or your character or both, in which case you will be subject to cross-examination.(2) You may, however, make a statement without being sworn, and you will not be subject to cross-examination.(3) But a statement which could have been made on oath will not carry with the Court the same weight as sworn testimony.(4) You may call witnesses in your defence and as to character, whether you give evidence or make a statement or do neither.

President to accused: Do you wish to give evidence yourself as a witness, make a statement, or do neither?
Ans..... Do you intend to call witnesses on your behalf?
Ans..... Are they witnesses as to character only? Ans.....
(*1. RP* 115. *2. RP* 40(*A*), *see* 80(*D*). *3. RP* 40 *fn* 10. *4. RP* 40 *fns* 2, 9.)

D6. Consequent on the answers recorded in para D5 the appropriate procedure for the defence is followed.(1)
(*1. RP* 114, 115, 116. *For procedure see Notes on back of Convening Order, CF A95. Evidence for accused as to his character should, if in his interest, be given before the finding. See RP* 46(*A*) *fn* 1, 86(*C*). *Note the further opportunity in para E1 of Record Form E. Record per Notes addresses, statement, evidence and any summing up by the JA under RP* 42, 103(*e*).)

D7. The Court is closed to consider the finding(s).(1) The finding(s) of the Court is (are) recorded in Part I of the Schedule.(2) The Court is re-opened.
(*1. RP* 40, 117(*A*). *See Notes in Part I of Schedule. 2. RP* 44(*A*).)

D8. The President announces the finding(s), if any, of Not Guilty, and states to the accused that the finding(s) of the Court on the.....charge(s), being subject to confirmation, will be promulgated later.(1)
Or, The President announces that the accused is found Not Guilty on all charges and is to be released forthwith, and that the proceedings are accordingly terminated. Part I of the Schedule is dated and signed.(2)
(*1. AA* 54(3) (*c*), *RP* 45, 120(*A*). *2. AA* 54(3), *RP* 45, 117. *This alternative announcement is not applicable when there are pleas of Guilty outstanding and dealt with under Record Form B or C.*)

D9. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E below.

RECORD FORM E—PROCEEDINGS ON CONVICTION BEFORE SENTENCE.

E1. President to accused: Do you wish to give evidence yourself or to call any witnesses as to your character?(1)
Ans TO Time Evidence NOTE-AT I
(*1. If evidence has already been given by accused or his witnesses as to his character, delete this para. RP* 37(*C*) *fn* 4, 46 *fn* 1. *Accused and witnesses are sworn. Evidence recorded per Notes.*)

E2. The Prosecutor produces Statement(s) as to Character and Particulars of Service(1), and certified true copy (copies) of Conduct Sheet(s).(2), purporting to refer to the accused, which he submits to the Defending Offr for examination, and then to the Court for admission in evidence. The Court is satisfied that these documents refer to the accused, because (i) they purport to be signed in the manner required by AA 163(1) (g) (b), and (ii) they purport to refer to (a) soldier(s) having the same number, rank, name and corps as the accused. Admitted in evidence and marked Ex 5 and Ex 6 respectively.(3)
(*1. MFB* 355 *or AFB* 296. *2. MFM* 6. *3. RP* 46, *KR Can* 558. *If above documents not produced, see RP* 46 *fn* 1 *para* 1.)

E3. President to accused: Do you wish to address the Court on the Statement(s) and Conduct Sheet(s), and in mitigation of punishment?(1) Ans Any Any Thing NOTE AT 7(2)
(*1. RP* 37(*C*), 46(*D*). *2. Address, if any, recorded per Notes. Court should permit accused or his witnesses to prove on oath anything here or previously stated which would affect the amount of punishment. RP* 37(*F*) *fn* 7.)

E4. The President states that the Court is closed to consider the sentence, and that the sentence to be awarded by the Court, being subject to confirmation, will not be announced, but will be promulgated later, and the proceedings in open court are accordingly terminated.(1)
(*1. AA* 54(6). *RP* 120(*A*).)

E5. The Court considers the sentence.(1) The President records the sentence in Part I of the Schedule, which is dated and signed by him ~~and the JA, if any.~~(2)
(*1. When several accused tried separately see RP* 71 (*D*). *One sentence only, comprised of the punishment or punishments laid down in AA* 41, 44 *and its proviso, is to be awarded to cover all charges in all charge sheets on which accused found guilty. RP* 46. *As to sentences see AA* 44, 138, 182, *RP* 46-50, 69, 118, 119(*A*), *KR Can* 308, 330, 563-566, *Overseas AO* 3019, 2323, *RP* 46. *As to sentences consigned for civil offences by the law of England see AA* 41(3), *MML p* 130. *When accused MML p* 60, 757-759. *already under sentence of imprisonment or detention see AA* 44(18), 68(1), *KR Can* 564. *As to release from arrest by Confirming Offr see KR Can* 567. *As to assembly and disposal of record after trial see instrs on back of Convening Order.*)

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

Hq CBU

3 Apr 45

Confirming Officer

W.O.J.-3 Apr 45
O.37571 Pte CHRUIK N. E CIVM

Herewith the m/n proceedings.

2. This accused appeared to the Court to be in a somewhat confused state of mind.

3. The Court recommends that he be given a very thorough medical examination.

(D.L. REDMAN) Lt-col
President of the Court

E
V
C

DIR/ANS

CHARGE SHEET

The accused, C-37571 Private Real GROULX, Canadian Infantry Corps, on the strength of No 3 Canadian Infantry Training Regiment, a soldier of the Canadian Army Overseas, is charged with:

FIRST CHARGE
Section 15 (1)
Army Act.

WHILE ON ACTIVE SERVICE, Absenting himself without leave,

in that he,

In the Field, absented himself without leave from 0600 hours 3 March 1945 until 2130 hours 27 March 1945. Total absence 24 Days, 15 hours, 30 minutes.

In the Field
29 March 1945.

(S.W. THOMSON)COLONEL
COMMANDER
No 3 CANADIAN INFANTRY TRAINING REGIMENT.

To be tried by Field General Court Martial.

(H C Blackader) Brig
Comd
15 Cdn Inf Trg Bde

IN THE FIELD
2 Apr 45

FIELD GENERAL COURT-MARTIAL

(Whether the accused to be tried is under his comd or not, a FGCM may on application to him be convened by any offr of Cdn Army Overseas, or of any other force if authorized in law, in immediate comd of troops on active service, subject to RP 105(C) and restrictions imposed by appropriate authy, AA 49, 50, RP 104-107, 114. As to the duties and privileges of the Convening Offr in dealing with the application see MML Chap V paras 20 and 23, RP 87(B).

There should be a separate Convening Order for each person to be tried seperately by the same Court. RP 71(C), 109. As to separate charge sheets see RP 62, and as to separate trial on charges in the same charge sheet see RP 108. As to two or more accused charged jointly see RP 16, 109.

As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

ACCUSED.

Number.	(a) Prmnt R.	(b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
C-27571		Pte	Neal	GROULX	CIC 3 CIVR

CONVENING ORDER.

1. Whereas complaint has been made to me, the undersigned, that the person(s) named above as the accused, being subject to military law, has ~~(have)~~ committed the offence(s) set forth in the Charge Sheet(s) attached and on 2 Apr 45 endorsed by me, (~~or by an officer by me for that purpose~~, "To be tried by Field General Court-Martial".

2. And whereas I am of opinion that it is not practicable that such offence(s) should be tried by an ordinary General Court-Martial; (~~and that it is not practicable to delay the trial for reference to a superior qualified offr.~~)

(Delete part in brackets when not required for compliance with RP 105(C).)

3. I hereby convene a Field General Court-Martial to try the said person(s), and to consist of the Offrs appointed or detailed hereunder.

4. ~~I am unable to appoint (a) three Offrs to form the Court, (b) a Fd Offr as President, for the reasons I have attached hereto.~~ (AA 49, RP 106(B), 107(A). Delete the whole or part, if not applicable.)

5. ~~I also appoint as judge advocate thereof the Offr mentioned hereunder.~~ (RP 106(E). Delete, if none appointed.)

PRESIDENT.

		HQ CRU
(Rank.)	(Must be named. RP 106.)	(Unit.)
LT COL	D L HUTCHAM, VD	

MEMBERS.

		1 CIVR
Captain	to be detailed by Cond	
		2 CIVR
Lieutenant	to be detailed by Cond	(Unit.)
(Rank.)	(Named or detailed. RP 106.)	

WAITING MEMBER.

		3 CIVR
Captain	to be detailed by Cond	(Unit.)
(Rank.)	(Named or detailed, if any. RP 106.)	

~~JUDGE ADVOCATE~~

		(Unit.)
(Rank.)	(Must be named, if any. RP 106.)	

On Active Service in the Fd

in England

Date 2 Apr 45

K G Blackader
(Signed personally. RP 105 fn 2.)

(K G Blackader)
Commanding 13 Cdn Inf Trg Bde

Brigadier (Rank.)

Convening Officer.

CONVENING OFFR WILL INITIAL ALL DELETIONS AND ALTERATIONS

(See overleaf for oaths and notes for use on trial.)

4/38A CFA95 (In lieu of AFA2)
40/P & S/1847 1602).

Medical Officer's Certificate. 40/25
K.R. (Can.), para 557.

I certify that I have this morning examined No. C37571
Pte Gould R of 3.C.I.T.R
and in my opinion he is fit to undergo trial by Court Martial.
Station. Field
Date. 3-4-45 (Sgd.) (Medical Officer)

(Canadian Reinforcement Units Routine Order No. 3, para 27, d/o Jan 42)

CASE OF

C.37571 Pte GROULX R 3 CITR

-1 STATEMENT B ACCUSED
(UNDER OATH)

Sir, in '42 I had an accident; I was beaten up by two English soldiers for the money I had on me, and I was injured on the head because they kicked me on the head with their Army boots. I was in very bad shape, Sir, as I was also kicked in the ribs and on the back. I was sent to hosp the same morning and I had treatment by a Naf there, and I believe the two soldiers read 2 yrs in the pen, one for 2 yrs and the other for 1 yr. The Naf said that it could cause me headaches which it still does, and I've had a pain the back ever since. Since that time and going back to the MO's in the various places I've been, the MOs have done nothing for me except to give me pills. My category is "A", Sir, I'm unmarried, and my age is 25. In civil life I was a miner and a long distance trk driver.

NO CROSS-EXAMINATION

IN THE OPINION OF THE COURT IT IS UNNECESSARY TO COMPLY WITH RP 98(2)

Plea of mitigation

F.G.C.M. 3 April 1945

C-37571 Pte. Groulx R - B.C.I.T.S. E-3

This soldier is 26 years of age and his civil occupation was miner and proceeded to England in October of the same year.

He joined the army 17 April 1941

Prior to joining the army, this man was never involved in any civil courts.

His army record up till the summer of 1942 was fairly clean cut However at that time he received a very severe beating at the hands of 2 other men He was hospitalized often this and ever since has suffered terrific back pains periodically and an almost continuous headache. He claims that his physical condition is definitely affecting his behaviour.

The medical officers visited so far home not, in his opinion diagnosed his case accurately. The defence feels that this case cannot be judiciously dealt with until this man has been subjected to a specialists examination. Therefore the defence would plea that the court recommend that this man be given a thorough examination by a specialist.

W. J. Skelton Lieut
Defending officer

SUMMARY OF EVIDENCE

Summary of Evidence in the cas e of C-37571 Private Real GROULX, Canadian Infantry Corps, on the strength of No 3 Canadian Infantry Training Regiment, a soldier of the Canadian Army Overseas.

By direction of the Commanding Officer, the Summary is taken on Oath.

FIRST WITNESS For the Prosecution

Capt. E.T. Stewart, General List, on the strength of No 3 Cdn Inf Trg Regt., an officer of the Canadian Army Overseas, having geen duly sworn, states:

I am Capt. E.T. Stewart and am Adjutant of No 3 Cdn Inf Depot Bn. I produce the following documents pursuant to Overseas R.O. 5352 which have been read over and shown to the accused and which are attached hereto as Exhibit "A". EXHIBIT "A" Certified True Extract from No 3 CITR Part II Order No 63 dated 9 March 1945, showing that the accused C-37571 Pte. Groulx, R. absented himself without leave from 0600 hours 3 March 1945.

E.T. Stewart Capt.

(E.T. Stewart) Capt.

The accused declines to cross-examine the witness.

SECOND WITNESS For the Prosecution

B-54889 Cpl. Duncan, J.F., CIC No 3 Cdn Inf Trg Bn., a soldier of the Canadian Army Overseas, having been duly sworn, states:

I am B-54889 Cpl. Duncan, J.F. , No 3 Cdn Inf Trg Bn., while acting in the capacity of Night Orderly N.C.O. C-37571 Pte. Groulx, R. reported to me sober and properly dressed at 2130 hours 27 March 1945.

Cpl. J.F. Duncan.

(B-54889 Cpl. Duncan, F.D.)

The accused declines to cross-examine the witness.

The accused was cautioned as follows: Do you wish to make a statement or to give evidence on oath: You are not obliged to say anything or give evidence unless you wish to do so, but whatever you say or any evidence you give will be takendown in writing and may be given in evidence.

The accused declines to make a statement or give evidence on oath.

I certify that the foregoing Summary of Evidence consisting of One Page was taken down by me in the presence and hearing of the accused, and that Rules of Procedure 4 (c), (d) and (f) have been complied with.

In the Field.
29 March 1945.

E.T.A. [illegible]

(E.A. MADILL) Lieut.
Officer Detailed to Take Summary.

Ex "A"

No 3 CANADIAN INFANTRY TRAINING REGIMENT C A (E)

LAST ORDER No 62 — PART II DAILY ORDERS — THIS ORDER No 63

8 Mar 45 — Issued by COLONEL S W THOMSON, DSO, MC, COMMANDER — 9 Mar 45

14. ABSENT WITHOUT LEAVE

(a) AWL from 0600 hrs 3 Mar 45
C 37571 PTE GROULX, R. "CIC"

W.A. Leask Capt.
For (R.B. Forbes) Major
Regimental Adjutant,
No 3 Cdn Inf Trg Regt.

Certified true Extract, 29 March 1945
Officer in custody of Original Record.

Army Form B.296.

Statement as to Character and Particulars of Service of Accused.

C27571 Pte. Groulx, R. of the No 3 Cdn Inf Trg Regt.

1. The following is a fair and true summary of the entries in the Regimental and Squadron, Battery or Company Conduct sheets† of the accused, exclusive of convictions by a court martial or a civil court, of summary awards under Section 47 of the Army Act, and of cases in which trial has been dispensed with :—

Note.—The Regimental and Squadron, Battery, or Company Conduct Sheets are to be produced to Court with this proceedings but are not to be inserted in the proceedings.

(See Para. 661, K.R. 1940.)

*The numbers herein inserted should correspond with the number of *Entries* in the Conduct sheets, precedence being given to the most serious offence in each entry, and to any recognised special acts of gallantry or distinguished conduct.

(APPLICATION.—If the charge is for drunkenness the entries for drunkenness must be stated separately and dated.)

	*Within last 12 months.	*Since Enlistment.
For A.A. 15 (1)	5 times	9 times.
For A.A. 40	1 times	1 times.
For	times	times.
For	times	times.

Number of entries of gallantry or distinguished conduct

There are no entries in the Conduct sheets of the accused.

2. The accused has not been previously convicted.

Previous convictions† of the accused by a court martial or a civil court, summary awards under Section 47 of the Army Act, and dispensations with trial under Section 73 of the Army Act, are set out in the Schedule annexed to this statement.

WT. 42000/4000 30,000 2/46 W. & S. Ltd. 21—4200.

C × B

Description of Court by which tried, or status of Officer ordering of the charge or dispensing with Trial.	Date and place of Trial or summary award, or of Order dispensing with Trial	Charges upon which convicted, or in respect of which Trial was dispensed with.	Sentence of the Court or Authority disposing of the charge, or Order of the Dispensing Authority.	Punishment remitted

I HEREBY CERTIFY that the foregoing Schedule of convictions and dispensations with trial is a true extract from the regimental books in my custody.

Signed this 29 day of March 1945.

3 Cdn Inf Trg Regt

Groulx C2 Pte

3. ~~He accused is not under sentence at the present time.~~

The accused at the present time is under sentence for 7 months Detention beginning on the 11 day of Nov. 44 Sentence Suspended 11 Jan. 1945.

4. The accused has been in confinement, awaiting trial on the present charges

for — days in Civil Custody,

and 6 days in Military Custody.

Total 6 days.

Of which — days were spent in hospital

5. The present age of the accused according to his record of service is 25 yrs.

6. The date of his attestation specified in his record of service is 17 April 1941

7. The service which the accused is allowed to reckon towards discharge or transfer to the reserve is 3 years 11 months

8. The accused is entitled to deferred pay or gratuity in respect of 3 years 11 months years' service.

9. ~~He accused is entitled to increased pay as a non-commissioned officer.~~

10. The accused is ~~not~~ entitled to C.V.S.M. & Clasp.

~~Insert the words "The accused is not a warrant officer." The accused is not entitled to wear~~

Warrant officer last held the regimental rank of

12. *(In the case of an officer.)* The accused holds in the army the rank of , and in his regiment *(or corps or department)* the rank of , dated

13. The accused has served as a non-commissioned officer continuously, without reduction, to the present date,

	Date of Promotion.
In the rank of	years.
In the rank of	years.
In the rank of	years.

(Instructions ~~as to any of the above paragraphs cannot be stated from the regimental books, the paragraph must be struck through.~~)

The ~~accused~~ statement (with the schedule of convictions and of cases in which trial has been dispensed with) is read, marked , signed by the president and annexed to the proceedings.

Schedule of Convictions by a Court Martial or Civil Court, of summary awards under Section 47 of the Army Act, and of Cases in which Trial has been dispensed with.

Army Number, Rank and Name C-37571 Pte. Groulx, R. of the CIC. No 3 Cdn Inf Trg Regt.

NOTE.—*A verbatim extract from the regimental books, stating these convictions and dispensations with trial, must be inserted.*

Description of Court by which tried, or status of Officer disposing of the charge or dispensing with Trial.	Date and place of Trial, or summary award, or of Order dispensing with Trial.	Charges upon which convicted, or in respect of which Trial was dispensed with.	Sentence of the Court or Authority disposing of the charge, or Order of the Dispensing Authority.	Punishment remitted.
F.G.C.M.	11 Nov. 1944 In the Field.	A.A. Sec. 40 Conduct to the Prej. etc. A.A. Sec. 15 (1).WOAS AWL	7 Months Detention	Sentence Suspended 11 Jan. 1945.

(Continued overleaf.

No C37571 Name GROULX R. | Sqn. Battery or Company | Corps C I C | Date of enlistment 17 Apr 41 | QC Badges | Service or Proficiency Pay | MFM 6 (AFB 1223) 40/PAM/136 (3458)

Company Conduct Sheet Date of last entry in 2 Aug 41 | No and date of last drunk Nil | Period not reckoning towards freedom from extra fine Nil | Sheet No One | Signature OC Company, etc | Character

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order diagreeing with trial	By whom awarded	Remarks
Previous Sheet destroyed. Regimental entries carried forward.									
Field	18 Aug 41	Spr.		AA Sec 40 Conduct to the prej. of good order & discipline in that he did when on duty as a sentry at Bn HQ Pte Robison	Pte Robison	28 da F.P.	21 Sep 41	Maj. Jones	
Field	1 Jan 42	Spr.		AA Sec 15(1) A.W.L. from 2359 hrs 31 Dec 41 until 0630 hrs 1 Jan 42	Cpl Churchill	3 da F.P. 3 da Pay FR. 1.149 (1) (a)	5 Jan 42	Lt Col Mitchell	Forf 3 da Pay FR. 1.149 (1) (a)
Field	26 Feb 42	Spr.		AA Sec 15(1) A.W.L. from 2359 hrs 24 Feb 42 until 1230 hrs 23 Feb 42. Absent 2 da 12 hrs 31 min	Cpl Madeau	4 days Summ. FR. 1.149 (2)	23 Mar 42	Lt Col Mitchell	Forf 3 da Pay FR. 1.149 (1) (a)
Field	19 Mar 42	Spr.		AA Sec 15(1) A.W.L. from 2359 hrs 19 Mar 42 until Apprehended by Pro Corps in London at 1015 hrs 21 Mar 42	Documentary Evidence C.S.M. Madeau	7 days Summ. FR. 1.149 (2)	25 Mar 42	Lt Col Smith Lt. Col.	Forf 3 da Pay FR. 1.149 (1) (a)

OPO

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Dield	28 June 44	Spr.		AA Sec 15 (1) A.WOL from 2230 hrs 28 June 44 until 1900 hrs 7 Jul 44. Abs 8 days 14 hrs 30 min	Documentary	9 days Pay FR. 1 149 (1) (a)	5 Jul 44	Lt/Col Liddy Lt. Col	Dof 9 da Pay FR. 1 149 (1) (a)
Dield	14 Jul 44	Spr		AA Sec 15 (1) AWOL from 2230 hrs 14 Jul 44 until 0715 hrs 15 Jul 44 (Abs 8 hrs 45 mins)	Documentary	28 da Detn. 28 da Pay. FR. 1 149 (1) (a)	8 Aug 44	G H. White Cpl.	Dof 28 da Pay FR. 1 149 (1) (a)
Dield	15 Jul 44	Spr.		2 AA Sec 15 (1) AWOL from 0715 hrs 15 Jul 44 until 2300 hrs 6 Aug 44 (Absent 22 da. 15 hrs 45 mins)					
Dield	13 Jul 44 to 7 Aug 44	Spr. Pte		3. AA Sec 40 Conduct to the prej. of AA Sec 15 (1) WOAS AWL from 0700 hrs 17 Aug 44 until app. by Civil Police at Royston Borough at 0150 hrs 1 Nov 44. Conf of App. Ref Flight £1-0-3. Total Absence 78 da. 18 hrs 50 mins	D. D. C. M.	7 Mos. Detn Dof 812 da Pay FR. 1 149 (1) (a) Cost of App. £1-0-3	11 Nov 44	D. D. C. M.	Asst Dof 76 da Pay FR. 1 149 (1) (a) 10 da Pay (Elec A.M.) FR. 1 149 (1) F (1)
Dield	Released from Hadley Manor, Detn 24 Oct 44	Pte.		AA Sec 15 (1) AWOL from Bodyke 24 Oct 44 until apprehended by Civil Police in night at Slough at 0430 hrs 2 Dec 44. Cost of Rail R.O. 1-10. Abs 17 Da. 30 Min	Sentence Suspended w.e.f. 1 Dec 44 Documentary	10 da F.P. FR. 1 10 da Pay FR. 1 149 (1) (a) Cost of Rail £0-1-10.	30 Nov 44	Commandant Maj. James. D.C.M. A.M. joining	Commandant's sanction Dof 2. 1 da Pay FR. 1 149 (1) (a) Cost of F.P. £0-1-10.

No C 39571 Name GROULX R. Sqn, Battery or Coy, any Corps C I C

Company Conduct Sheet
Date of last entry in

No and date of last drunk

Period not reckoning towards freedom from extra fine

Date of enlistment

Sheet No. Two.

OC Badges
Signature OC Company, etc

Service or Proficiency Pay

MFM 6
(AFB 1225)
40/P&D/138 (2400)

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Name of Witnesses	Punishment awarded	Date of award of under close-arrest with what	By whom awarded	Character Remarks
Field	25 7 45	Pte		AA Sec 15 111 Cdn A Bde from 23 5 45 to 25 7 45 inclusive at Setuen 0830 hrs. 27 7 45 Joined Adrem 1 Cdn Corps 1100 hrs.	Capt Augustine Capt Hamel	7 da CB. 28 7 da Forf 2 da pay	28 7 45	Lt Col. H.R. Cuillerier	28/2 da Pay F.F. 1 14 & 21 Awarded for 7 da Pay

Certified true copy 29 May 45
A Madill Lieut RCOJ
Actg Commdg 1 Cdn Corps Guard

(PTO

3 CANADIAN INFANTRY TRAINING REGIMENT (C.A.)(O)

3D/11

29 March 1945.....

I, No. C-37571 Pte. Groulx, R. CIC., ... wish to have an Officer defend me at my forthcoming trial by Court-Martial.

I desire the service of.....
if he is available.

(Sgd).....

LIST OF WITNESSES

In the case of C-37571 Pte. Groulx, R., C.I.C., on the strength of No 3 Cdn Inf Trg Regt.

FOR THE PROSECUTION

1.	Capt. E.T. Stewart	No 3 Cdn Inf Trg Regt.
2.	B-54889 Cpl. Duncan, J.F.	No 3 Cdn Inf Trg Regt.

FOR THE DEFENCE

NIL

LIST OF EXHIBITS

In the case of C-37571 Pte. Groulx, R., C.I.C. on the strength of No 3 Cdn Inf Trg Regt.

EXHIBIT "A" -- Certified True Extract from No 3 Cdn Inf Trg Regt. Part II Daily Order No 63 dated 9 Mar 45.

29 March 1945.

This is to acknowledge that I have received free of charge the following papers in connection with my forthcoming trial by F.G.C.M.

1 Copy of Charge Sheet
1 Copy of Summary of Evidence
1 List of Exhibits
1 List of Witnesses

R. Groulx .....
C-37571 Pte. Groulx, R.

UU-48
RFN GROUT G.A.

Correspondence to be PINNED here.

X

Army Form A.3.

Form for Assembly and Proceedings of Field General Court Martial on Active Service.

PROCEEDINGS.

A.

On Active Service, this TWENTY-SIXTH day of OCTOBER, 1943. Order convening the Court.

Whereas it appears to me, the undersigned, an officer in Command of EIGHTH CANADIAN INFANTRY BRIGADE, on active service, that the persons named in the annexed Schedule, being subject to Military Law, have committed the offences in the said Schedule mentioned.

And whereas I am of opinion that it is not practicable that such offences should be tried by an ordinary General Court Martial; *[and that it is not practicable to delay the trial for reference to a superior qualified officer.]

I hereby convene a Field General Court Martial to try the said persons, and to consist of the Officers appointed or detailed hereunder.

*[I am unable to appoint—

*[Two Field Officers to form the Court]

*[One Field Officer to Preside]

for the following reasons, namely:—]

*Omit where Convening Officer is a Commanding Officer or is of Field Rank.

*Omit if applicable.

Proceedings Reviewed

.....
Reviewing Officer

NOTE.—The President must be named. The members and waiting members (if any) may be mentioned by name, or by number and rank and the unit to which they belong may alone be named. In the latter event, the ranks, names, &c., of the members of the Court, as constituted, will be recorded on the proceedings.

*Must be signed personally by the Officer actually in command at the time, and all alterations in the composition of the Court to be initialled by him.

President.		
Rank.	Name.	Regiment.
BRIG.	J.C. EAVOIE	R DE CHAUD
Members.		
Rank.	Name.	Regiment.
CAPT.	R.D. MEDLAND	4CDN CF C
LT.	J.L. BELLIVEAU	R SHORE R
WAITING MEMBER LT.	J.W. KEENAN	4CDN CF C

*Signed W.B. Lockhart-Ryan

Commanding 8 CDN INF BDE
Convening Officer.

Guy Lewis Major

2

SCHEDULE

Number, Rank (a), Name and Unit of Accused (b)	Offence charged	*Plea	Finding, and if Convicted, Sentence (c)	How dealt with by Confirming Officer (d)
B-66020 Rfn. George Albert GROUT 1st BN 60R OF C Last Charge Sec 15 (1) (a)	ABSENTING HIMSELF WITHOUT LEAVE		Guilty 28th Oct 43 Forfeiture of 1 day's pay 7 days Field Punishment No 2	Confirmed N.

(See Charge Sheet attached.)

*Question to be asked of accused, if he pleads not guilty (R. of P. 39 (A)) :—
"Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity for preparing your defence?"
Answer (to be recorded on separate sheet if necessary) :—

(Signed) N Blackader Brig (Signed) Guy Lewis Major
Commanding 8 CIB INF BDE
Convening Officer (a) President.

(a) Appointment acting rank or acting appointment, if any, to be stated in brackets after the substantive rank.
(b) Unless unavoidable, not more than three names are to be entered on one form, and in such cases one only.
(c) Recommendation to mercy, if any, to be inserted in this column.
(d) It is not necessary that the Confirming Officer should sign his name in this column. Initials are sufficient.
(e) Must be signed by the same Officer who signs on the first page, and all alterations in the first two columns of the Schedule to be initialled by him.

Evidence and Charge Sheets (if necessary) to be PINNED here.

3

Guy Lewis Major

B. Certificate of President as to proceedings.

I certify that the above Court assembled on the 28th Oct day of October, and duly tried the persons named in the Schedule, and that the plea, finding, and sentence in the case of each such person were as stated in the third and fourth columns of that Schedule.

I also certify that :—
1. The members of the Court
2. The witnesses
*(3. The Interpreter)
*(4. The officers under instruction)
were duly sworn.

*Death if not applicable.

Signed this 3rd day of Oct 19 43

Guy Lewis Major
President of the Court Martial.

C. Certificate in case of death sentence.

*See footnote (b) on page 162 M.M.L. 1929.

~~I certify that the terms of *A.C.I. 570 of 1918 have been complied with.~~

Signed this ~~day of 19~~

~~President of the Court Martial.~~

D. Confirmation.

I have dealt with the findings and sentences in the manner stated in the last column of the Schedule, and, subject to what I have there stated, I hereby confirm the above findings and sentences.

~~*(I direct that the soldier named in the margin be not committed to prison or detention barrack until further orders.)~~

*To be omitted unless penal servitude, imprisonment or detention having been awarded, the Confirming Officer either has no authority to commit to prison or detention barrack, or having such authority, recommends suspension.

Signed this 1 day of Nov 1943.

N Blackader Brig
Confirming Officer.

Promulgated and extracts taken in the case of B66020, Rfn George Albert Grout, 8 CIB HQ Coy

(a) (Dated) 3 Nov 43 (Signed) Bert Lewis Capt Adjt

Promulgated and extracts taken in the case of

(Dated) (Signed)

Promulgated and extracts taken in the case of

(Dated) (Signed)

(a) When several cases are promulgated in one unit on the same day the Officer need only sign once.

B2

Army Service Major

CHARGE SHEET

The Accused B66020 Rfn George Albert GROUT
1st Bn The Queen's Own Rifles of Canada
a soldier of the Canadian Army, Overseas
is charged with

ABSENCE WITHOUT LEAVE

1st Charge
Sec 15(1)
Army Act

in that he
in the field, did absent himself without leave
from 0830 hrs 23 Sep 43 until 2145 hrs 5
Oct 43.
(Time absent 12 days, 13 hrs, 15 mins.)

(J G STRAGON) Lt-Col
Comd 1st Bn QOR of C

In the Field,
23 Oct 43

To be tried by Field General Court Martial.

24 Oct 43

W.W. Blackader Brig
8 Cdn Inf Bde.

Guy Service Major

B66021 Pte Grout, G A

1st Bn The Q O R of C good state of health

fit to undergo trial by Court Martial.

A Kirsch Capt Capt

(A KIRSCH) RCAMC

In the Field

26 Oct '43

Guy Savoie Major

A Army Form A 9.

**All printed matter not applicable to the particular Court being held should be struck out and initialled by the President.

**Form of Proceedings for General and District Courts-Martial.

Proceedings of a F.G.C.M. Court-Martial held at in the field on the 26th day of October 1943 by order of Brig K. G. Blackader M.C. E.D.

Commanding 8th C.I.B.

dated the 26th day of October 19

President.

Major Guy Savoie R. de C. Hqrs

Members.

Capt R.D. Medland Q.O.R. of Can

Lieut S.J. Bellerive N.S.L.

, Judge Advocate. J.

Trial of* 2460 Pte George Albert Grant Q.O. Rof Can

The order convening the Court, the charge-sheet and the summary (or abstract) of evidence are laid before the Court.

~~The Court satisfy themselves that~~ ~~is not available to serve owing to~~

~~J.A. waiting member takes his place as a member of the Court.~~

The Court satisfy themselves as provided by Rules of Procedure 22 & 23.

The accused is brought before the Court.

Prosecutor,† Lt J.D. McLean Q.O.R of Can

~~Counsel~~‡ or defending officer† Lieut Michaud Q.O.R of Can

At 1100 o'clock the Trial commences.

The order convening the Court is read, and is marked X, signed by the President, and attached to the proceedings.

The names of the President and members of the Court are read over in the hearing of the accused, and they severally answer to their names.

Question by the President to the accused. Q.1 Do you object to be tried by me as President, or by any of the officers whose names you have heard read over? *Answer.*

A.1 No Sir

(N.B.—If objection is made it should be recorded, together with the decision of the Court, on a separate sheet.)

*Here insert No., Rank, full Name, Regiment, and Appointment (if any).
† Here state Rank and Name, and Regiment (if any).
‡ Qualification to be stated.

Q6274. Wt.W10620/78. 30,000 pds. 5/43. K. & B., Ltd. G427/11. Forms A 9/55.

B

Guy Savoy Capt.

The President, members and ~~judge advocate~~ are duly sworn.

The following officers under instruction are duly sworn.

Capt Savoury R de C Band
Lieut Lt. Dupont "G" "
~~Lieut Lt. Farmer~~ "
" J.W. Kirman R.O.R. of O.
" W.M. ~~Harvey~~ " R.C.R.

Charge-Sheet.

The charge-sheet is signed by the President, marked B 2 and annexed to the proceedings.

Instruction. If the accused has elected to be tried under Army Act, sec. 46 (8) the fact should be here recorded.

The accused is arraigned upon each charge in the above-mentioned charge-sheet.

Q 2 Are you guilty or not guilty of the [first] charge against you, which you have heard read ? *Question to the accused.*

A 2 Guilty *Answer.*

~~Q Are you guilty or not guilty of the second charge against you, which you have heard read ?~~ *Question.*

Answer.

~~Q Are you guilty or not guilty of the third charge against you, which you have heard read ?~~ *Question.*

Answer.

~~Q Are you guilty or not guilty of the fourth charge against you, which you have heard read ?~~ *Question.*

Answer.

The accused having pleaded Guilty to the charge , the provisions of Rule of Procedure 35 (B) are here complied with.

Instruction. If the trial proceeds upon any charge to which there is a plea of "Not Guilty," the Court will not proceed upon the record of a plea of "Guilty," until after the finding on that other charge.

CC Guy Savoie Major

Proceedings on Plea of Guilty.

* To be struck out in case no plea of "Not Guilty" has been proceeded with.

*~~[The Court having been re-opened, the accused is again brought before it, and the charge to which he has pleaded "Guilty" read to him again.]~~

The accused D 66039 Pte Lance Albert Grant. 8 O R Batt is found guilty of the charge

†The summary ~~(or abstract)~~ of evidence is read, marked J signed by the President, and attached to the proceedings.

Question to the accused. Q 3 Do you wish to make any statement in mitigation of punishment?

Answer. A 3 The accused in mitigation of punishment ~~says~~ pays No Ans

~~[or hands in a written statement, which is read, marked A 3, signed by the President, and attached to the proceedings.]~~

Instruction.

† If there is no summary or abstract of evidence, sufficient evidence to enable the Court to determine the sentence, and to enable the confirming officer to know all the circumstances connected with the case, will be taken on a separate sheet in the same manner as on a plea of "Not Guilty."

If from the statement of the accused, or from the summary or abstract of evidence, or otherwise, it appears to the Court that the accused did not understand the effect of his plea of "Guilty," the Court shall alter the record, and enter a plea of "Not Guilty," and proceed with the trial accordingly.

DD

Q Do you wish to give evidence yourself or to call any witnesses as to character ?

Question to the accused.

A. I have one witness Sir

Answer.

Evidence as to character

See documents attached marked K.

K

first witness for Defence

In the Case of B 66020 Pte Grant J. A. Examination begins

B 63959 A/C.S.M. Wallis W. is duly sworn in as a witness.

Questioned by the defence.

Q.1. C.S.M. Wallis, do you recognise the accused, Pte Grant?

A. I do sir.

Q.2. Have you been in the same coy as the accused since he joined the unit in Newbourne and?

A. Yes sir.

Q.3. Will you give the court your opinion as to the character and service of Pte Grant.

A.3. I've always found Pte Grant to be one of the best soldiers in the Coy. I was his Platoon Sgt. for approx. six months during which time he was an N.C.O. He was a very able and willing N.C.O and carried out his duties with great care. I was very sorry to see him reduced to the ranks as it was the first offence that he had been charged with. Since that time he has still performed all his duties to my

Tony Lewis major

complete satisfaction. On scheme PIRATE he was taken from close arrest and put in the Company. Again he did everything asked of him without any complaints. In my opinion he is much too good a man to be lost from the unit for any length of time.

E

Duty Service Majors

Finding.*

*"To be struck out except in cases where trial has taken place on a plea of "Not Guilty."

The Court is closed for the consideration of the finding.

The Court find that the accused

J.S.

Proceedings on Conviction before Sentence.

*When the Court is already open this sentence will be struck out. Evidence of character, &c.

J.S.

*~~The Court being re-opened, the accused is again brought before it.~~

Lieut J.H. McLean A.D.C. Duty Area is duly sworn.

Question by the President. Q4 Have you any evidence to produce as to the character and particulars of service of the accused? *Answer by the Witness.* A4 Yes I produce M.F.I.B 865

The above statement (with the schedule of convictions and of cases in which trial has been dispensed with) is read, marked "L", signed by the President, and annexed to the proceedings.

Question by the President. Q5 Is the accused the person named in the statement which you have A5 heard read? *Answer by the Witness.* Yes Sir

Question. Q6 Have you compared the contents of the above statement with the A6 regimental books? *Answer.* Yes Sir

Question. Q7 Are they true extracts from the regimental books, and is the statement of entries in the conduct sheets a fair and true summary of those entries? A7 *Answer.* Yes Sir,

[Instruction.—If by reason of the nature of the service of the accused in a departmental corps, or otherwise, the finding of the Court renders him liable to any exceptional punishment in addition to that to be awarded by the Court the prosecutor must call the attention of the Court to the fact, and the Court must inquire into the nature and amount of that additional punishment.]

Q8 ~~Cross-examined by the accused.~~ The defending officer declined to cross-examine

Question to the accused. Q9 Do you wish to address the Court? *Answer.* See document marked "N" attached

The Court is closed for the consideration of the sentence.

(5) at 11.30 hrs.

Guy Savoie Major

F

Sentence.

The Court sentence the accused No B66020 Rfn Sjt G.D. Sentence G.O.R. of Para to: Forfeiture of 60 days pay

Signed in the field this 26th day of October 1943

Guy Savoie Major
R de C'mand
President

N

Pleа in Mitigation of Sentence
in the case of
R66020, Rfn. Grout, G.A.

Mr. President and Members of the Court:

Rfn. Grout enlisted in September 1940, joined the Q.O.R. of C. in Newfoundland and was awarded a good conduct badge in September 1942. Whilst serving with his company I found his proficiency as a soldier to be of an equally high standard. His conduct sheet contains three entries, all under Sect. 15, the longest absence being 25 hours. The first of these charges resulted in the loss of his good conduct badge as well as reversion to the ranks.

The accused was left with [illegible] to Scotland due to a knee injury. He went A.W.L. from the rear party and surrendered himself voluntarily when the regiment went 48 hour leave were being committed to court martial - at any other time, was his misfortune to return at a time when all men absent from a specia in my opinion, the commanding officer would have seen fit to administer punishment.

In considering sentence I would remind the court that the accused has been under close arrest for 21 days, that he was released from detention and served with his company during the scheme "PIRATE" and, finally, to give due weight to the character evidence given by Lieut. Martin, his platoon commander. Rfn. Grout is a good soldier and his past record entitles him to another chance - Gentlemen, you have the power to see that he gets it.

Lieut. Wishart,
Defending Officer.

26 Oct. 43.

~~Appendix A~~

9 Oct 43 Appendix A.

The u/m personel reported to me at 1130 Hrs 8 Oct.43 at Hershley Camp stating that he was returning from being A.W.O.L.

B66020 Bfn. Grout, G.A.

~~Major~~ C.O. Walton
C.C. "B" COy. C.C.R. of C.

Appendix "A"

Guy Savoy Major

9 Oct '43

The u/m personnel reported to me at 1130 hrs 8 Oct. '43 at Hershley Camp stating that he was returning from being A.W.L.

B66020 Rfn. Grout, G.A.

C.O. Dalton. Ma 1.

C.O. Dalton
C.O. "B" Coy, Q.O.R. of C.

Summary of Evidence in the case of Engleman Maj.
B66020 Rfn. Grout, G.A. 1st Bn. R.O.R. of C.

The Commanding Officer directs that the evidence be taken on oath.

First Witness: B 64213 L/Sgt Morrison G.W. having been duly sworn states:

I am B64213 L/Sgt Morrison G.W. and was Orderly Sargeant on the morning of 23 Sept 43. B64603 L/Sgt Rapley G.E. had been Orderly Sargeant the night before and reported to me that B66020 Rfn. Grout, G.A. had been absent since 1800 hours.

G.W. Morrison L/Sgt.

The accused declined to cross-examine the witness

Second Witness: B64603 L/Sgt Rapley, G.E.

I certify that in my opinion the attendance of this witness is, owing to the exigencies of the service in that he is on leave and will be S.O.S. to 1 N.E.D. immediately on return, not readily procurable.

John D. McLean Lt.

I do not require the attendance of this witness for the purpose of cross-examination and will accept the evidence of B64213 L/Sgt Morrison, G.W.

G. A. Grout

Third Witness: B 63924 Sgt Webber C.R. having been duly sworn states:

I am B 63924 Sgt. Webber, C.R., Provost Sargeant of 1st Bn. R.O.R. of C., and was on duty at the Regimental Guard Room on the 5 Oct. 43. At approximately 2145 hours B66020 Rfn Grout G.A. reported to me and stated that he had been A.W.L. He was properly dressed and sober. I placed him under close arrest.

C.R. Webber Sgt.

The accused declined to cross examine the witness

The accused was cautioned as follows:

Do you wish to make any statement or give evidence on oath? You are not obliged to say anything or give evidence unless you wish to do so, but whatever you say or any evidence you give will be taken down in writing and may be given as evidence

The accused B66020 Rfn Grout G.A. declined to give evidence or make any statement.

I certify that the foregoing Summary of Evidence consisting of two pages was taken down by me in the presence of the accused and that Rules of Procedure have been complied with

John D. D. Lean Lt
1st Bn R.O.R. of C.

In the Field
6 Oct 43.

Additional Evidence in
The Summary of Evidence in the case of B66020 Rfn Grant G.H. 1 Bn 2 OR

The Commanding Officer directs that the evidence be taken on oath.

Fourth Witness: B63540 C.Q.M.S. Dale, S.H having been duly sworn states:

I am B63540 C.Q.M.S. Dale, S.H. and was A/C.S.M. of the rear party 1 Bn. 2 OR of C. from 4 Sept 43 to 29 Sept 43. ~~I was present at~~ I called the roll or was present at all roll calls during this time. At 0830 hours 29 Sept 43 B66020 Rfn Grant, G.H. failed to answer his name. at all subsequent roll calls up to 29 Sept 43 he was still absent.

S.H. Dale
C.Q.M.S.

Fifth Witness: The accused declined to cross-examine the witness.

Fifth Witness: B64213 L/Sgt Morrison G.W. having been duly sworn states:

I am B64213 L/Sgt Morrison GW and was Company Orderly Sergeant from 29 Sept 43 to 5 Oct 43. During this time B66020 Rfn Grant, G.H. was still absent from the company.

G.W. Morrison L/Sgt.

The accused declined to cross-examine the witness.

I certify that the foregoing Additional Evidence to the Summary of Evidence consisting of one page was taken down by me in the presence of the accused and that Rules of Procedure have been complied with

John D. McKean Lt
1 Bn 2 OR of C.

In the Field
21 Oct 43

J 7

Duty Serious Major

ADDITIONAL SUMMARY OF EVIDENCE

in the case of

B66020 Rfn Grout, G A

1st Bn Queen's Own Rifles of Canada

The Commanding Officer directs that the evidence be taken on oath.

FOURTH WITNESS FOR PROSECUTION

B63540 C.Q.M.S. Gale, S.H. having been duly sworn states:

I am B63540 CQMS Gale S H and was A/CSM of the rear party 1 Bn QOR of C from 4 Sep 43 to 29 Sep 43. I called the roll or was present at all roll calls during this time. At 0830 hrs 23 Sep 43 B66020 Rfn Grout G A failed to answer his name. At all subsequent roll calls up to 29 Sep 43 he was still absent.

B63540 CQMS Gale S H

The accused declined to cross-examinethis witness.

FIFTH WITNESS FOR PROSECUTION

B64213 L/Sgt Morrison GW having been duly sworn states:

I am B64213 L/Sgt Morrison G W and was Company Orderly Sergeant from 29 Sep 43 to 5 Oct 43. During This time B66020 Rfn Grout G A was still absent from the company.

The accused declined to cross-examine this witness.

B64213 L/Sgt Morrison G W

I certify that the foregoing Additional Summary of Evidence to the Summary of Evidence consisting of one page was taken down by me in the presence of the accused and that Rules of Procedure 4 (c), (d), (e) and (f) have been complied with.

Lt. J.D. McLean
1st Bn QOR of C.

In the Field
21 Oct 43.

J

Guy Simonds Maj-Gen

SUMMARY OF EVIDENCE

in the case of

B66020 Rfn. Grout, G.A.

1st Bn. Queen's Own Rifles of Canada

a soldier of the Canadian Army, Overseas

The Commanding Officer directs that the evidence be taken on oath.

FIRST WITNESS FOR PROSECUTION

B64213 L/Sgt. Morrison, G.W. having been duly sworn, states:

I am B64213 L/Sgt. Morrison, G.W. and was Orderly Sergeant on the morning of 23 Sep 43. B64603 L/Sgt. Rapley, G.E. had been Orderly Sergeant the night before and reported to me that B66020 Rfn. Grout, G.A. had been absent since 1800 hrs.

The accused declined to cross-examine this witness.

B64213 L/Sgt. Morrison, G.W.
1st Bn. Q.O.R. of C.

2ND WITNESS FOR PROSECUTION

B64603 L/Sgt. Rapley, G.E. having been duly sworn, states:

I certify that in my opinion the attendance of this witness is owing to the exigencies of the service in that he is on leave and will be S.O.S. to 1 N.E.T.D. immediately on return, not readily procurable.

Lt. J.D. McLean
1st Bn. Q.O.R of C.

I do not require the attendance of this witness for the purpose of cross-examination and will accept the evidence of B64213 L/Sgt. Morrison, G.W.

B66020 Rfn. Grout, G.A.
1st Bn. Q.O.R. of C.

THIRD WITNESS FOR PROSECUTION

B63924 Sgt. Webber, C.R. having been duly sworn states:

I am B63924 Sgt. Webber, C.R., Provost Sergeant of 1st Bn. Q.O.R. of C. and was on duty at the Regimental Guard Room on the 5 Oct 43 . At approximately 2145 hrs B66020 Rfn. Grout, G.A. reported to me and stated

Guy Savoie Major

SHEET TWO

THIRD WITNESS
FOR PROSECUTION

that he had been A.W.L. He was properly dressed and sober. I placed him under close arrest.

B63924 Sgt. C.R. Webber,
1st Bn. Q.O.R. of C.

The accused declined to cross-examine this witness.

The accused was cautioned asfollows:

Do you wish to make any statement or give evidence on oath? you are not obliged to say anything or give evidence unless you wish to do so, but whatever you say or any evidence you give will be taken down in writing and may be given in evidence.

The accused B66020 Rfn. Grout, G.A. declined to give evidence or to make any statement.

I certify that the foregoing Summary of Evidence consisting of two pages was taken down by me in the presence of the accused and that Rules of Procedure 4 (c), (d), (e), (f), and (g) have been complied with.

Lt. J.D. McLean,
1st Bn. Q.O.R. of C.

In the Field,
6 Oct 43.

No. B66020 Name Rflmn. GROUT, George | Sqn., Battery, or Company "B" | Corps C.I.C. | Date of enlistment 12-9-40 | G.C. Badges | Service or Proficiency Pay | ? Lieut. | Character

Date of last entry in Company Conduct Sheet | No. and date of last drunk | Period not reckoning towards freedom from extra fine | Sheet No. 1 | Signature O.C. Company, etc.

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order (concurring with final)	By whom awarded	Remarks
Field	12-12-42	L/Cpl.		AA15(1)AWL from 2215hrs 12-12-42 to 2315 hrs 13 Dec 42 (1 day,1hh)	Sgt Wallis,W Cpl Dalrymple	Reverted to perm. grade Forfeits 2 days pay FRI 149(1)(a)	14-12-42	J.E.C.Pangman Major	
Field	21Mar '43	Rfn.		AA15(1)AWL from 0700hrs 21 Mar. until 2230hrs 21 Mar'43 (15hrs,	Cpl Leszczynski	5 days C.B. 10 days pay	22Mar'43	J.G.Spragge Lt.-Col.	Forfeits 1 days pay FRI 149(1)(a)
Field	1May	Rfn.		AA15(1)AWL in that he absented himself from 2300hrs 1 May 43 to 1130 hrs 2 May 43 (absent 12 hrs. 30 mins.)	L/Sgt Harker,J. L/C Harker,J.	14 days Pay 14 days C.B.	7May 43	S.C.Heyes Major	Forfeits 1 day 149(1)(a)

CERTIFIED TRUE COPY

R.L.Bickford

(R.L.BICKFORD) Lieut.
Adjt. 1st Bn Q.O.R. of C.

(P.T.O.)

W.F.B. 355
22M—5-41 (372-3)
H.Q. 1772-39-620
A.F.B. 200

L

Sup[illegible] Major

STATEMENT AS TO CHARACTER AND PARTICULARS OF SERVICE OF ACCUSED

Number	Rank	Name	Regiment (or unit)
B66020	Rfn.	George Albert, GROUT	1st Bn Q.O.R. of C.

1. The following is a fair and true summary of the entries in the [redacted] Regimental and Squadron, Battery or Company Conduct sheets of the accused, exclusive of convictions by a Court-Martial or a Civil Court, of summary awards under Section 47 of the Army Act and of cases in which trial has been dispensed with.

Within last 12 months — Since enlistment or appointment

For A.W.L. A.A. 15(1) Three times — Three times

For [illegible] times — [illegible] times

For [illegible] times — [illegible] times

For [illegible]

or,

There are no entries in the conduct sheets of the accused.

NOTE.—If the charge is for drunkenness, the entries for drunkenness must be stated separately.

2. The accused has not been previously convicted

or,

[redacted]

3. The accused is not under sentence at the present time.

or,

[redacted]

4. The accused has been in confinement awaiting trial on the present charges, for No days in civil custody, and 21 days in military custody, making a total of 21 days in custody, of which No days were spent in hospital.

5. The present age of the accused according to his attestation paper is 26 yrs. 9 mos.

6. The date of his attestation specified in his attestation paper is 12 Sep 40

7. The service which the accused is allowed to reckon towards discharge is N/A

8. The accused is entitled to reckon N/A service for the purpose of determining his pension, etc.

9. The accused is in possession of or entitled to no military decoration, or [redacted] military (or is in possession of or entitled to). [redacted]

10. (If the accused is a warrant officer.) The accused before he was made a warrant officer last held the regimental rank of Air Force N/A

Flg Sgt Navigator

11. (In the case of an officer.) The accused holds in the Royal Canadian Air Force the rank of Permanent Force unit

N/A dated ..... , and in his regiment (or corps), the rank of

..... dated ..... .

12. The accused has served as a non-commissioned officer continuously, without reduction, to the present date:—

..... Date of promotion.

In the rank of ..... years.

In the rank of ..... years.

In the rank of ..... years.

NOTE.—If any matter in any of the above paragraphs cannot be stated from the Regimental books the paragraph must be struck through.

SCHEDULE

Of convictions by a court-martial or civil court, of summary awards under section 47 of the Army Air Force Act, and of cases in which trial has been dispensed with of accused. Number B66020 Rank Sgn. XXX

Name GROUT, G.A. of 1st Q.O.R. of C. Regiment

NOTE.—A verbatim extract from the regimental books stating these convictions and dispensations with trial must be inserted.

Description of Court by which tried	Date and Place of Trial	Charge upon which convicted	Sentence of the Court	Punishment Remitted

I hereby certify that the foregoing schedule of convictions and dispensations with trial is a true extract from the regimental books in my custody. R Medford Capt

Signed this Thirteenth day of October 43

The above statement (with the schedule of convictions and of cases in which trial has been dispensed with) is read, marked "L" signed by the president, and annexed to the proceedings.

HK106.

Plē. Grove. E.D.

See II-139 for 1st case.

RECEIVED
12 Jan 1945
JAG BRANCH
C.M.H.Q.

RECORDED AT CMHQ IN AB 160 4k-106

FIELD GENERAL COURT-MARTIAL

(Page 1in lieu of AFA2) (C.P.C. & 1698 (2604))

Convened by Order of Brig A.B. Connelly Comd "B" Gp CRU dated 19 Dec 44

ACCUSED.

(As to the trial of two or more charged jointly see RP 16, 71, 109. As to reasons for showing (a) permanent or confirmed rank, and (b) apptnt, A/rank or A/apptnt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

Number.	(a) Prmnt R. (b) Apptnt. A/R or A/Apptnt.	Full Christian Names.	Surname.	Unit.
L-13418	Pte	Edward Dawson	GROVER	1 CASCRU

Certified true copy of original proceedings herein.

R Lieut Capt

PROCEEDINGS REVIEWED
13 Jan 45"KM Stiwer, Capt"
"NCF"
REVIEWING OFFICER, JAG BRANCH C.M.H.Q.

J.A.G. Rev. 23 Aug 45

PROCEEDINGS OF TRIAL

Held in the Fd in (country) England on (date(s)) 20 Dec 44

RECORD FORM A—OPENING PROCEEDINGS AND ARRAIGNMENT.

R A1. The President, Members, ~~waiting Member, J.A., if any, and Offrs under instrs if any~~, assemble, and the Court is closed.

(PRINTED MATTER, NOT IN ITALICS FOR GUIDANCE, WILL BE DELETED IF NOT USED OR APPLICABLE, AND INITIALLED BY PRES OR JA. The Schedule referred to throughout is on p 4. Citations do NOT include all relevant fmn ROs. For guidance on procedure when a variation in this form arises, see form for GCM in MML pp 761 to 759. A brief record of such variation will be made and given a number having reference to appropriate or preceding para number herein. See back of Convening Order, CF A45, for oaths and instrs on how to record addresses, evidence, etc, which instrs are hereafter called "Notes". As to general provisions for conducting the trial see AA 53, RP 56, 63-70, 73, 74, 94, 103, 119, 132.)

R A2. The President initials and lays before the Court the Convening Order and Charge Sheet(s) attached thereto.(1)
R The Court is satisfied that it is properly convened and constituted(2), accused is ~~are~~ amenable to military law, and each charge discloses an offence.(3)

(1. As to use of Summary of Evidence see RP 17 fn a. 2. AA 49, 50, RP 125-127. 3. RP 11-12, 23, 24.)

R A3. The Court is opened. The accused is ~~are~~ brought before the Court. At 1330 hours trial commences.

R A4. The Prosecutor produces a Medical Certificate that accused is ~~are~~ fit to undergo trial by court-martial.(1)
R ~~The Prosecutor informs the Court that accused elected to be tried by court-martial instead of being dealt with~~
R ~~summarily by the CO.~~(2)

(1. KR Can 557. 2. AA 46(3), RP 60 fn 1. For effect see KR Can 563(c). Delete, if not applicable.)

R A5. President to accused : ~~Do you object to~~ ~~the interpreter~~ D-114088 ~~as interpreter~~ ~~if any~~ as shorthand writer ? Ans No, Sir

R ~~The interpreter is sworn.~~(1) Do you object to L/Cpl McBryde, JAG as shorthand writer ? Ans No, Sir
The shorthand writer is sworn.(1)

(1. RP 72. Delete, if none employed.)

A6. The Convening Order and names of the President and Members of the Court are read to the accused.(1)
President to accused : Do you object to be tried by me as President or by any of the Members of the Court ?
Ans No, sir.(2)

(1. RP 110. 2. If no objection, waiting member retires. RP 68(3). If objection, see procedure AA 51, RP 25, 71, 18, MML p 740.)

R A7. The President, Members ~~J.A., if any, and Offrs under instrs if any~~, are sworn.(1) The following are the ranks, names and units of the offrs comprising the Court, etc :

President	Lt-col	D.L. Redman VD	H.Q. CRU
Member	Capt	M. Turner	1 CSRU
Member	Lieut	P. Matisz	1 CSRU
~~Judge-Advocate~~			
Prosecutor	Lieut	J.H. Restall	1 CASCRU
Defending Offr	Lieut	J.P. Gamache	1 CASCRU

Questions by President : Is the Prosecutor a lawyer ? Ans Yes Is the Defending Offr a lawyer ? Ans Yes (1) DLR

(1. RP 26, 27, 109, 111. List of offrs under instr will be returned separately with proceedings for information of Conv. Offr.)
(2. If Pros a lawyer and Def Offr not, accused is entitled to an adjournment when RP 89 (3) and fn 2 were not followed. See D1 p 3.)

R A8. The accused ~~before arraignment makes(s)~~ (no) ~~(a)~~ plea.(1)

(1. If a special plea is made for separate trial on one or more charges (RP 62(E), (G)), or as to the jurisdiction of the Court, (RP 34, 35(A), (B)), or in bar of trial (RP 36), or as to accused's mental fitness to stand trial (AA 130, RP 57), or by one of several accused charged jointly to be tried separately (RP 16, 71), such plea, the addresses made in support or against, the evidence, if any, and finding are recorded per Notes. For forms of record see references in fns to RP cited. Insert in All caps and name of the accused making the plea.)

R A9. The accused is ~~are~~ arraigned (~~separately~~) on all charges in the charge sheet.(1) The accused does ~~(do)~~ not object to any charge.(2) There is no amendment to be made to the Charge Sheet.(3) The President records the pleas in Part I of the Schedule.

(1. RP 36, 112. See para 1 of Instrs p 2. When more than one Charge Sheet see RP 62 ; when several accused to be tried separately see RP 71(C), and use separate copies of CF A86 to record proceedings. 2. RP 32, RP 33. If otherwise, delete and make appropriate record per Notes.)

R A10. The Court ~~is closed and~~ considers the Instrs on Procedure after Arraignment at top of p 2. The proceedings are continued on Record Form D

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

4

SCHEDULE.

PART I. PLEA(S), FINDING(S) AND SENTENCE.

Accused : L13418 Pte Edward Dawson GROVER 1 CASCRU

	Charge. (Insert "alternative" where applicable.)	Plea. (See Instrs p 2.)	Finding. (See note below.)	(Space for use as required for further charges, accused charged jointly, special findings, etc.)
1st	A.A.18(4)	Not Guilty	DLR/~~GY~~DLR Guilty	Accused found Guilty DLR
2nd	A.A. 40	Not Guilty	Guilty	
3rd				
4th				
5th				
6th				

(Note : As to findings for lesser offences see AA 56, RP 44 ; findings on alternative charges see MML p 483 fn 4 para 2, RP 44 ; special findings see RP 44 and MML p 753, and in lieu of kit see RP 44 fn 6.)

The Court postponed sentence until Marsh and Van Luven ~~beginning of date~~ (1)

~~At present under sentence for~~

(1. Insert sentence being served, if any, if not applicable. See RP 46(A). Information should be found on MF B355 or AF B296.)

R cases were tried RP 71(D) a total of 29 days, of which NIL days were spent in hospital.(1)
Time in confinement awaiting present trial

(1. See RP 46(A) fn 2. Information should be found on MF B355 or AF B296 admitted in evidence under E2.)

Sentence Awarded by the Court :
To undergo Detention for a period of two (2) years.

(Sgd) "RP 71(D)" Judge-Advocate, if any. 22 Dec/44 Date awarded. (Sgd) "D.L. Redman" President. (RP 45, 50.)

(See back of Convening Order as to assembly and disposal of record after trial.)

PART II. MINUTE WHERE CONFIRMATION RESERVED. (AA 54(3), RP 120(F), MML p 760.)

Date (Sgd) Commanding

PART III. DECISION OF CONFIRMING OFFR ON FINDING(S) AND SENTENCE.

(For duties and powers see AA 54, 57, RP 37(D) fn 6,46(A), 51-56, 120, MML pp 759-761, KR Can 567-577. Acquittals require no confirmation and cannot be revised : AA 54(3). Sending back finding or sentence for revision by Court : AA 54(2), RP 120(C). If not confirmed, accused may be tried again : AA 157, MML p 64. Minute of confirmation or non-confirmation may be altered before promulgation : RP 53, MML p 65. Quashing after promulgation : KR Can 573. Duties and powers of reviewing offrs : AA 57, 57A, RP 53A, 54. The Confirming Offr must sign here personally. AA 172 fn 1.)

My decision on the finding(s) and sentence set forth in Part I is :

Confirmed

~~I direct that the accused be not committed to prison or detention barracks until further orders.~~(1) ABC

(1. AA 57A. Delete if not used.)

(Sgd) A.B. Connelly, Brig
Date 29 Dec 44 Commanding B Gp CRU
Confirming Officer.

PART IV. PROMULGATED AND EXTRACTS TAKEN. (RP 53, KR Can 574, 577.)

Accused.	Date.	Signature of Offr.
L/13418 Pte Grover, E.D.	2 Jan 45	"aH Copeland, Lt Col" (W.H. Copeland) Lt-col Comd MT Trg Wing 1 Cdn ASC Rft Unit

Part II Order No 5 d/6 Jan 45
~~xxxxxxxxxx~~ Lt
Asst Offr i/c Records
Cdn A.S.C. Rein Unit

ALL DELETIONS AND ALTERATIONS WILL BE INITIALLED.

INSTRUCTIONS ON PROCEDURE AFTER ARRAIGNMENT.

1. *The accused may not plead or be found Guilty on more than one of two or more charges laid in the alternative.* (*RP* 37(*A*).) *As to withdrawal of alternative charges by Prosecutor see RP* 35(*C*). *No other charge can be withdrawn for any reason without authy from Convening Offr. If Convening Offr concurs, Court may accept plea of Guilty to lesser, etc, offence.* (*RP* 44(*H*).) *Accused may change a plea of Not Guilty to Guilty during trial.* (*RP* 38.) *As to refusing to plead or not pleading intelligibly see RP* 35(*A*). *As to plea when sentence may be death see RP* 35(*D*).

2. *The proceedings on each charge sheet* (*RP* 62) *after arraignment will be conducted as follows in the respective circumstances stated:*

I. If pleas to all charges are GUILTY, use Record Form B below.

II. If pleas to all charges are NOT GUILTY, use Record Form D on p 3.

III. If pleas to some charges are GUILTY and to other charges are NOT GUILTY and,

(a) Such mixed pleas occur when there are no alternative charges in the Charge Sheet, use Record Form C below. (*RP* 37(*A*).)

(b) Such mixed pleas occur in a set of two or more charges laid in the alternative, see RP 37 (*A*) *and fn* 2 *as to discretion of Court,* (i) *to try the accused on all such alternative charges as if he had pleaded Not Guilty thereto, or,* (ii) *to record the pleas as the findings of Court. After deciding between* (i) *and* (ii), *Court will proceed under foregoing instrs as may be appropriate to result of its decision. See MML p* 744 *Instrs* (2).

3. *As to responsibility of President to accused see RP* 59, 60(*C*); *powers and duties of JA see RP* 103; *duty of Prosecutor see RP* 60(*A*) (*B*); *duty and privileges of accused and Defending Offr see RP* 60(*C*), 87(*C*), 91, 92; *swearing and withdrawal of witnesses from Court see RP* 81, 82; *questioning of accused see RP* 80, 87(*C*), 92(*B*), *and of witnesses see RP* 83-85; *calling or re-calling of witnesses by Court etc see RP* 75-79, 86, 116; *use of Summary of Evidence see RP* 17(*E*) *fn* 6; *and responsibility of JA or Pres to record proceedings see RP* 94, 96.

RECORD FORM B—PROCEEDINGS ON PLEAS OF GUILTY TO ALL CHARGES.

B1. The President or JA, if any, complies with RP 35(B) by explaining to the accused the nature and meaning of the charge(s).(1), and that on his plea of Guilty there will be no regular trial but merely a consideration of the sentence to be awarded after he has been given an opportunity to make a statement in reference to the charge(s), call witnesses as to character and make an address in mitigation of punishment.(2)

(1. *RP* 35 *fn* 3. 2. *MML p* 54 *para* 47.)

B2. President to accused: The Court will now receive any statement you desire to make in reference to the charge(s).(1) If it appears from your statement that there are circumstances which indicate that you do not understand the effect of the plea of Guilty(2), or which show provocation or extenuation in respect of which in your interest the witnesses for the Prosecution should be examined(3), we shall advise you to change your plea to Not Guilty. In making a statement you will not be sworn or subject to cross-examination; and anything you say will not be used in evidence against you after you change your plea. If, however, it appears to the Court that your statement affects only the amount of punishment to which you are liable, you will not be advised to change your plea and you will be given an opportunity later to prove your statement by sworn testimony, if you so desire.(4)

President to accused: Do you wish to make a statement? Ans .....(5)

(1. *RP* 37(*B*). 2. *RP* 37(*D*) *fn* 6. 3. *RP* 35(*B*) *fn* 3 *para* 3, *MML p* 54 *para* 47. 4. *See para E3 of Record Form E.* 5. *Statement, if any, recorded per Notes.*)

B3. The Court considers the accused's statement.(1) The Court decides (not) to advise accused to change his (their) plea(s) of Guilty to Not Guilty on ..... charge(s). The accused is (are) so informed, and he (they) change(s) his (their) plea(s) on ..... charge(s). Part I of the Schedule is amended accordingly.

(1. *Court may be closed to consider the statement. Delete whole or part not used.*)

B4. On the charge(s) to which the plea(s) of Guilty is (are) not changed the President records finding(s) of Guilty in Part I of the Schedule.(1)

(1. *RP* 35(*B*). *If any plea(s) is (are) changed, use Record Form C or D as appropriate.*)

B5. The Summary of Evidence is marked Ex ....., initialled and read aloud by the President.(1)

(1. *If there is no Summary, or if it is inadequate, comply with RP* 37(*B*). *If there is any evidence inconsistent with any plea standing as Guilty, Court will advise accused to change such plea and, if changed to Not Guilty, try such charge(s) by use of paras D1 to D8 inclusive of Record Form D on p* 3. *RP* 37(*D*).)

B6. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

RECORD FORM C—PROCEEDINGS ON MIXED PLEAS OF GUILTY AND NOT GUILTY.

C1. As to the charges on which accused pleaded NOT GUILTY the trial is continued by using paras D1 to D8 inclusive of Record Form D on p 3 before proceeding with C 2.(1)

(1. *RP* 37(*A*) (*E*).)

C2. The charges on which accused pleaded GUILTY are read to him (them) again, and the trial is continued by using paras B1 to B5 of Record Form B above.(1)

(1. *Under B5 such parts only of the Summary of Evidence are read as relate to the charges dealt with under C2. If any plea is changed to Not Guilty, trial thereon proceeds by complying with paras D1 to D8 inclusive in Record Form D on p* 3 *and making an appropriate record thereof on a separate sheet.*)

C3. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

Pin here [illegible] Sheets of Record.

RECORD FORM D—PROCEEDINGS ON PLEAS OF NOT GUILTY TO ALL CHARGES.

D1. President to accused: Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity to prepare your defence? Ans NO, SIR .....(1)

(1. *If "yes", see RP* 39(*A*) *for procedure. Statement or evidence, if any, is recorded per Notes.*)

R D2. The Prosecutor makes ~~(an)~~ (no) opening address.(1) NOTE ATT

(1. *RP* 39(*B*), 60(*A*) (*B*), 90, 92(*C*) (*D*). *Record address per Notes, subject to RP* 93(*C*).)

D3. The evidence for the Prosecution is taken.(1) NOTE ATT

(1. *RP* 39(*C*), 114, *KR Can* 555. *Record evidence per Notes. As to Prosecutor giving evidence himself see RP* 39(*D*) (*E*).)

D4. ~~The Prosecution is closed.~~ The Defending Offr submits that the evidence for the Prosecution does not establish a prima facie case against the accused on the ..... charge(s).(1) The Court is closed, and considers the submission.(2) The Court is re-opened, and the President announces that the submission

R is disallowed on the ..... charge(s), and allowed on the ..... charge(s), and that, accordingly, the trial will proceed on the former, but the accused is (are) found Not Guilty on the latter charge(s).(3)

(1. *Delete remainder of this para. If submission not made.* 2. *Arguments on submission, answer and reply are recorded per Notes.* 3. *RP* 25 *fn* 1. *See MML p* 72 *paras* 12-14 *and p* 81 *para* 42. 4. *Delete part not used. If accused acquitted on all charges, use second alternative in para D8.*)

NB: If trial proceeds, accused must be allowed great latitude in making his defence, and the Court should not stop his defence solely on ground of irrelevance. (*RP* 60(*C*), 114, 115.)

D5. President to accused: You will now proceed with your defence.(1) You may, if you wish, give evidence yourself on oath as to the facts or your character or both, in which case you will be subject to cross-examination.(2) You may, however, make a statement without being sworn, and you will not be subject to cross-examination.(3) But a statement which could have been made on oath will not carry with the Court the same weight as sworn testimony.(4) You may call witnesses in your defence and as to character, whether you give evidence or make a statement or do neither.

President to accused: Do you wish to give evidence yourself as a witness, make a statement, or do neither?

Ans NEITHER ..... Do you intend to call witnesses on your behalf?

Ans NO SIR ~~Are they witnesses as to character only?~~ Ans: .....

(1. *RP* 155. 2. *RP* 40(*A*), *see* 80(*D*). 3. *RP* 40 *fn* 10. 4. *RP* 40 *fns* 2, 9.)

D6. Consequent on the answers recorded in para D5 the appropriate procedure for the defence is followed.(1) he to att.

(1. *RP* 114, 115, 116. *For procedure see Notes on back of Convening Order. CF* A95. *Evidence for accused as to his character should, if in his interest, be given before the finding. See RP* 40(*A*) *fn* 1, 86(*C*). *Note the further opportunity in para E1 of Record Form E. Record per Notes addresses, statement, evidence and any summing up by the JA under RP* 42, 103(*e*).)

R D7. The Court is closed to consider the finding(s).(1) The finding(s) of the Court ~~is~~ (are) recorded in Part I of the Schedule.(2) The Court is re-opened.

(1. *RP* 43, 117(*A*). *See Notes in Part I of Schedule.* 2. *RP* 44(*A*).)

R D8. ~~The President announces the finding(s), if any, of Not Guilty, and states to the accused that the finding(s) of the Court on the ..... charge(s), being subject to confirmation, will be promulgated later.~~(1)

R ~~Or.~~ The President announces that the accused is found Not Guilty on all charges and is to be released forthwith, and that the proceedings are accordingly terminated. - Part I of the Schedule is dated and signed.(2)

(1. *AA* 54(3) (*a*), *RP* 45, 120(*A*). 2. *AA* 54(3), *RP* 45, 117. *This alternative announcement is not applicable when there are pleas of Guilty outstanding and dealt with under Record Form B or C.*)

D9. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E below.

RECORD FORM E—PROCEEDINGS ON CONVICTION BEFORE SENTENCE.

E1. President to accused: Do you wish to give evidence yourself or to call any witnesses as to your character?(1)

Ans NO - SIR .....

(1. *If evidence has already been given by accused or his witnesses as to his character, delete this para. RP* 37(*C*) *fn* 4, 46 *fn* 1. *Accused and witnesses are sworn. Evidence recorded per Notes.*)

R E2. The Prosecutor produces Statement(s) as to Character and Particulars of Service(1), and certified true R copy ~~record~~(s) of Conduct Sheet(s)(2), purporting to refer to the accused, which he submits to the Defending Offr for examination, and then to the Court for admission in evidence. The Court is satisfied that these documents refer to the accused, because (i) they purport to be signed in the manner required by AA 163(3) ig) (h), and (ii) they purport R to refer to (a) soldier(s) having the same number, rank, name and corps as the accused. Admitted in evidence and marked Ex B and Ex C respectively.(3)

(1. *MFB* 355 *or MFB* 296. 2. *MFM* 6. 3. *RP* 46, *KR Can* 558. *If above documents not produced, see RP* 46 *fn* 1 *para* 1.)

R E3. President to accused: Do you wish to address the Court on the Statement(s) and Conduct Sheet(s), and in mitigation of punishment?(1) Ans By Def Offr NOTE ATT .....(2)

(1. *RP* 37(*C*), 46(*D*). 2. *Address, if any, recorded per Notes. Court should permit accused or his witnesses to prove on oath anything here or previously stated which would affect the amount of punishment. RP* 37(*F*) *fn* 7.)

E4. The President states that the Court is closed to consider the sentence, and that the sentence to be awarded by the Court, being subject to confirmation, will not be announced, but will be promulgated later, and the proceedings in open court are accordingly terminated.(1)

(1. *AA* 54(6), *RP* 120(*A*).)

E5. The Court considers the sentence.(1) The President records the sentence in Part I of the Schedule, which R is dated and signed by him ~~and the JA, if any~~.(2)

(1. *When several accused tried separately see RP* 7(*D*). *One sentence only, comprised of the punishments or punishments laid down in AA* 42, 44 *and its proviso, is to be awarded to answer all charges in all charge sheets on which accused found guilty. RP* 48. *As to sentences see AA* 44, 128, 182, *RP* 46-50, 69, 118, 119(*A*), *KR Can* 302, 330, 563-566, *Overseas AO* 309, 2323, *MML p* 60, 757-759. *As to sentences assigned for civil offences by the law of England see AA* 41(5), *MML p* 130. *When accused already under sentence of imprisonment or detention see AA* 44(2)(*b*), 68(1), *KR Can* 564. 2. *RP* 50. *As to release from arrest by Confirming Offr see KR Can* 567. *As to assembly and dispersal of record after trial see Instrs on back of Convening Order.*)

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

CHARGE SHEET

The accused, L-13418 Pte. Edward Dawson GROVER, R.C.A.S.C. on strength of 1 Cdn A.S.C. Rft. Unit, a soldier of the Canadian Army Overseas, is charged with,

1st CHARGE
Sec 18(4)
Army Act

WHEN ON ACTIVE SERVICE STEALING PUBLIC PROPERTY

in that he,

at Room 7, Spider 62 mens' quarters, 1 Cdn A.S.C. Rft. Unit on 21 Nov 44 at approximately 1815 hrs did steal five (5) blankets, the said blankets being public property.

2nd CHARGE
(XXXXXXXXXX)
Sec 40
Army Act

WHEN ON ACTIVE SERVICE CONDUCT TO THE PREJUDICE OF GOOD ORDER AND MILITARY DISCIPLINE

in that he,

at 1 Cdn A.S.C. Rft Unit on 22 Nov 44 at approximately 0130 hrs was improperly in possession of seven (7) blankets, the said blankets being public property.

Approved on behalf
of JAG under KR(Can)
540.

"WR Marshall, Capt"
ADJA HQ CRU
18 Dec 44

"H.P. Bonnick"
(H.P. Bonnick) Colonel, R.C.A.S.C.
Commanding
1 Cdn. A.S.C. Rft Unit.

IN THE FIELD
12 DEC 44

TO BE TRIED BY FIELD GENERAL COURT MARTIAL.

"AH Connelly"
(A.H. Connelly) Brig
Comd "B" Gp
Cdn Rft Units.

19 Dec 44

"DIX"

FIELD GENERAL COURT-MARTIAL

(Whether the accused to be tried is under his comd or not, a FGCM may on application to him be convened by any offr of Cdn Army Overseas, or of any other force if authorized in law, in immediate comd of troops on active service, subject to RP 105(C) and restrictions imposed by appropriate authy. AA 49, 50, RP 104-107, 114. As to the duties and privileges of the Convening Offr in dealing with the application see MML Chap V paras 20 and 23, RP 87(B).

There should be a separate Convening Order for each person to be tried separately by the same Court. RP 71(C), 109. As to separate charge sheets see RP 62, and as to separate trial on charges in the same charge sheet see RP 108. As to two or more accused charged jointly see RP 16, 109. As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Con 308, 328, 330.)

ACCUSED.

Number.	(a) Prmnt R. (b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
L-13418	Pte	Edward Dawson	GROVER	1 CASCRU

CONVENING ORDER.

1. Whereas complaint has been made to me, the undersigned, that the person(s) named above as the accused, being subject to military law, has (have) committed the offence(s) set forth in the Charge Sheet(s) attached and on (date) 19 Dec 44 endorsed by me, (~~or by an offr of my staff~~ for me), " To be tried by Field General Court-Martial ".

2. And whereas I am of opinion that it is not practicable that such offence(s) should be tried by an ordinary General Court-Martial ; (~~and that it is not practicable to delay the trial for reference to a superior qualified offr~~) (Delete part in brackets when not required for compliance with RP 105(C).)

3. I hereby convene a Field General Court-Martial to try the said person(s), and to consist of the Offrs appointed or detailed hereunder.

4. ~~I am unable to appoint (a) three Offrs to form the Court, (b) a Fd Offr as President, for the reasons I have attached hereto.~~ (AA 49, RP 106(B), 107(A). Delete the whole or part, if not applicable.)

~~5. I also appoint as Judge-Advocate thereat the Offr mentioned hereunder.~~ (RP 106(E). Delete, if none appointed.)

PRESIDENT.

(Rank.)	(Must be named. RP 106.)	(Unit.)
Lt-col	D.L. Redman VD	HQ CRU

MEMBERS.

(Rank.)	(Named or detailed. RP 106.)	(Unit.)
Captain	to be detailed by CC	1 CRU
Lieutenant	to be detailed by CC	1 CRU

WAITING MEMBER.

(Rank.)	(Named or detailed, if any. RP 106.)	(Unit.)

JUDGE-ADVOCATE.

(Rank.)	(Must be named, if any. RP 106.)	(Unit.)

On Active Service in the Fd

in England (Country.)

Dat: 19 Dec 44

"A.B. Connelly"
(A.B. Connelly)
(Signed personally. RP 105 fn 2.)

Brigadier (Rank.)

Commanding "B" Gp Cdn Hft Units
Convening Officer.

CONVENING OFFR WILL INITIAL ALL DELETIONS AND ALTERATIONS

(See overleaf for oaths and notes for use on trial.)

"A.B."

4/38A CFA 85 (In lieu of AFA 3) 40/F & S/1697T (6143)

Medical Officers' Certif.
K.R.(Can) para 557

I certify that I have this morning examined No....L.13418
"NNP"
Pte Grover E.D.....and in my opinion he is fit to
~~unfit~~
undergo trial by Court Martial.

Station: Blenheim Brks

Date: 20 Dec 1944

"W. Finkbeiner, Capt"
(Medical Officer)
1 Cdn A.S.C. Reinft Unit

FIELD GENERAL COURT MARTIAL IN THE CASE OF L-13418 Pte. GROVER, E.D., 1 CDN. A.S.C. RFT UNIT

OPENING ADDRESS BY THE PROSECUTION

"Due to the complexities of this case I feel it incumbent upon me to make an opening address. The accused is charged with two charges, the first one being briefly 'When on Active Service Stealing Public Property', the second one being 'When on Active Service Conduct to the Prejudice of Good Order and Military Discipline in that he was improperly in possession of seven blankets, said blankets being Public Property'. The Prosecution intends to call witnesses in this case in an endeavour to prove that the accused on the night of 21 Nov 44 did take five blankets from various beds in Room 7, Spider 62, No.1 Cdn A.S.C. Rft Unit and further that he obtained six other blankets from two soldiers of this Unit and that he, along with two other soldiers, loaded them into a truck and proceeded to the village of Reading. The Prosecutor will endeavour to prove that while at Reading an abortive attempt was made to sell these blankets to a civilian and further that following this the accused accompanied by two soldiers, one of whom will give evidence for the Prosecution, proceeded to the village of Mortimer, Berks., and that he did there dispose of four blankets in a Pub commonly known as the Horse and Groom, and finally the accused accompanied by one soldier returned to 1 Cdn. A.S.C. Rft Unit and arrived here at approximately 0130 hours on 22 Nov 44, that he was placed under arrest at that time as he was getting out of a truck and that in that truck were seven blankets. I feel also that I should mention at this time for the information of the Court that the Prosecution intends to call two witnesses in order to introduce a statement made by the accused after the Summary of Evidence in this case had been taken. This statement, in due fairness to the accused, I must say is partially a confession and partially a defense. That briefly, Sir, will be the case for the Prosecution."

1st WITNESS FOR THE PROSECUTION

B-7006 Cpl. Miller, S.C., employed with the Special Investigation Section, C.M.H.Q., Canadian Army, being duly sworn states:

"Early in November of this year I was called in to Major F.B. Creasy's Office, A.P.M., and told to hold myself available for an investigation that would be carried out in Reading regarding some Army blankets. I cannot remember that particular date but on two occasions between that date and 21 Nov 44 I was again called in and told to stand by with a vehicle. After a few hours on each occasion these instructions were cancelled. Finally on 21 Nov 44, early in the morning, I was again called into Major Creasy's Office. Also present with Major Creasy were Captain Marshall of the J.A.G's Branch and a private soldier who was introduced to me as Pte. Blair. As a result of what I was told about Pte. Blair I proceeded to Reading on 21 Nov 44 arriving there at approximately 1800 hours and stationed myself in the central part.

"At approximately 2000 hours an 8 cwt. vehicle pulled up to the Cross Keys Pub. I saw three men get out of this vehicle and they spoke together for a few minutes so I walked along the sidewalk beside the vehicle and I recognized one of these men as Pte Gover. Of his two companions one was Pte Blair and the other was Pte. Marsh. I continued on past the vehicle and stationed myself further up the street.

"After the vehicle had been standing there for about twenty minutes it moved off. My own vehicle being nearby, I got into it and picked up Detective Constable Lightfoot who had accompanied me to Reading and Detective Constable Jenkins of Reading. We followed this vehicle through various roads and finally, after following it for about twenty to twenty five minutes, it stopped in the residential part of Reading on the corner of Boston avenue and another street, the name of which I did not ascertain.

"DLR"

1st WITNESS FOR THE PROSECUTION (CONTINUED)

"I stopped my own vehicle and got out of it with Detective Constable Lightfoot and I stationed myself nearby, actually in a field about twenty five yards from the 8 cwt. I saw two soldiers, Ptes Grover and Blair talking with a civilian. While I was watching I could see that apparently something was worrying them because both Grover and the civilian ran down the street. Within a few minutes the vehicle again moved off and as my own car was not nearby I was unable to follow. I proceeded back to the Army Service Corps Reinforcement Unit, arriving there at approximately 2330 hours and I then had my supper.

"Afterwards I waited in the vicinity of the parking lot of 1 Cdn. A.S.C. Rft Unit and at approximately 0130 hours 22 Nov 44 this same 8 cwt., which I had seen in Reading, drove up to near where I was standing. At this time I was accompanied by Detective Constable Lightfoot, Farnborough Civil Police, and Major Stevens, O.C., "D" Coy., 1 Cdn. A.S.C. Rft Unit. Pte. Grover got out of this lorry and I immediately placed him under arrest pending investigation. He was taken to the Guard Room by a Sergeant who was called by Major Stevens. I do not know the Sergeant's name. While this was being carried out I searched the vehicle and found in the back seven army blankets. I marked these blankets for future reference and seized them. These are the blankets which I took out of the truck. (Witness points to seven blankets marked Exhibit 1). I transferred these blankets to my own vehicle and put them in charge of my driver. I then proceeded to the Guard Room and with Detective Constable Lightfoot and Major Stevens I questioned Grover after administering the statutory caution. Grover at the time declined to make any statement whatsoever to account for his activities.

"I then questioned Pte. Blair who had been arrested with Grover and as a result of the information supplied by Pte. Blair I proceeded to Mortimer, Berks, on 23 Nov 44, and at the Horse and Groom Public House I seized four army blankets which I can now identify by my mark. These are the four blankets I am referring to. (Witness points to four blankets marked Exhibit 2 and shows the Court the ink mark which he put on the blankets). At the Pub I spoke to the Proprietor who denied having any knowledge. He introduced me to his wife, Mrs. Lock, while I was there and she showed me the four blankets. As I stated before, I seized these blankets and after obtained a statement from Mrs. Lock I returned to my office with the blankets.

"Whilst at the Horse and Groom Public House I was introduced by Mrs Lock to a young man whom she introduced as her son, Kenneth, and as a result of what was said Kenneth Lock attended an identification parade at 1 Cdn. A.S.C. Rft Unit on 25 Nov 44. Present on this parade were Pte. Grover and eight other men of similar stature and appearance, that is to say they were reasonably similar. CSM Johnson was present at this identification parade.

"From 22 Nov 44 and in the subsequent week I questioned a number of Army Service Corps personnel, including men inside the hut while the blankets were allegedly removed. I could find no man who admitted seeing any actual theft of blankets in that hut. I questioned, among others, Pte McKay, Cpl. Constable who was NCO i/c the Hut, L/Cpl. Clarke, whom I knew as the O.C's batman, and a Pte. Marshall. None of these could offer me any assistance, disclaiming any knowledge of the affair whatsoever."

"DLR"

1st WITNESS FOR THE PROSECUTION (CONTINUED)

CROSS EXAMINATION BY THE DEFENCE

"I was first called in on this case in November. It would be within the first ten days or so approximately and I was just told to stand by. On other occasions, possibly within six weeks prior to that, I had been told to keep a look out on 1 Cdn A.S.C. Rft Unit for possible shortages of kit. This was not an official case. I was, during the course of inquiry, given the name of Pte. Grover as a possibility. I was not told about a Pte. Blair.

"I met Pte. Blair on the afternoon of 21 Nov 44. That was the day I was called in and told to proceed to Reading. Blair was present at that time. I did not know what plans had been made or what Blair was told to do other than the fact that Pte. Blair had presented certain information and that we were acting on it and that I was to station myself in Reading. I learned from Major Creasy that Blair was taking a vehicle to Reading that night and would be bringing Grover along and that he would concur in any suggestions made by Grover. I never had any conversation with Pte. Blair until he was arrested.

"On the 22 Nov 44 at approximately 0130 hours when the lorry drove into 1 Cdn. A.S.C. R.U. lines it was raining very heavily and it was very dark. I saw a form step down from the lorry and I arrested that form. It was Pte. Grover. As far as I know Ptes. Blair and Grover were the only ones to get out of the lorry but it is possible that somebody else might have gotten out of the lorry and I did not see them.

"With regard to the seven blankets I did not see Grover actually in possession of these blankets. They were in the back of the truck."

IN THE OPINION OF THE COURT IT IS UNNECESSARY TO COMPLY WITH RP 83 (B)

2nd WITNESS FOR THE PROSECUTION

B-115209 Pte. Blair, T.J., on strength of 1 Cdn A.S.C. Rft Unit being duly sworn states:

"On 21 Nov 44 I was batman driver to Major Stevens and the Transport Officer of "D" Company. On that date I was approached by Pte. Grover, the accused, whom I now recognize, who asked me if I could provide transportation to Reading in my 8 cwt. for the purpose of selling blankets. I thought this rather odd and went to speak with Major Stevens, O.C., "D" Coy., who in turn took me to Major Creasy, A.P.M., Aldershot Command. It was through his instructions that I provided the transportation to Reading for Pte. Grover.

"About 1800 hours 21 Nov 44 Grover and I went to Spider 62, Room 7, where I proceeded to get dressed for the trip. Pte. Grover went to the far end of the hut and entered into conversation with Pte. Marsh and Pte. Van Luven. Being at the far end of the hut I could not hear what they were saying. When I was ready for the trip I went to the far end of the hut and joined them. It was then that Pte. Marsh handed Pte. Grover two blankets which Marsh took off of his bed and Pte. Grover folded these blankets and put them on a bed opposite Pte. Marsh's bed. Then Pte. Van Luven handed Pte. Grover four blankets which he took off of his bed and which in turn were folded and put on top of the other two. Then Pte. Grover went around to the different beds picking up odd blankets and put them on the pile. These were similar blankets to those (Witness points to Exhibits 1 and 2). I do not know how many in all were put in the pile.

"DLR"

2nd WITNESS FOR THE PROSECUTION

"I then went out of the hut to the 8 cwt. No. GZ4206817 and lowered the tail gate. Then Pte. Grover handed me the blankets which I in turn put in the back of the lorry. Then Pte. Grover and Pte. Marsh came outside of the hut and got in the front of the lorry with me and we started on our trip to Reading. We stopped in Fleet to have a little supper and then got on our way again. We arrived in Reading about 1930 hours and I parked the lorry on Castle Street opposite the Sun Pub. The three of us got out of the lorry and crossed the street and stood in front of the Pub. Pte. Grover then said that he was going to contact the civilian to whom we were going to sell the blankets and he went to the Cross Keys Pub. About half an hour or so later he returned with a civilian and then he told Pte. Marsh to stay in front of the Sun Pub until we returned. The civilian and I got into the front of the 8 cwt. with Grover in the rear and I drove in the direction the civilian directed me. We drove to a side street, the name of which I do not remember, and I stopped the lorry and turned out the lights. On the way there Pte. Grover said to me through the tube something to the effect that there was a station wagon following us. When we stopped the civilian and Pte. Grover got out of the lorry and went down the street. The civilian told me to wait and he would bring a civilian car around. About fifteen minutes later the civilian returned and as a result of what he said I drove my truck around the corner and saw the Provost station wagon standing at the curb. I knew then that the civilian was scared off. I then went back to the Sun Pub where I picked Pte. Marsh up and circled around Reading a few times then went to the Shades Pub where I picked Pte. Grover up. It was then we decided to go to Mortimer and drop the blankets off to be picked up and sold at some other time.

"We stopped in front of a Pub in Mortimer, the name of which I do not remember and Pte. Marsh and Pte. Grover got out of the lorry and went into the Pub. A few minutes later they returned and told me that there was a chance to sell a few of the blankets in the pub. All three of us then went into the pub and had a few beers waiting for closing time. About 2205 hours we returned to the lorry and gathered the blankets out of the back of the lorry and took them to the rear of the pub where Grover knocked and was answered by the Proprietress of the Pub. We went into the back room and piled the blankets in the middle of the floor. The woman said that she would buy two of the blankets and picking two of the blankets out of the pile she asked the price. Pte. Grover mentioned ten shillings for each of the blankets,, which she figured was too much and she said she would give us five bob a piece. We decided on this price and the Proprietress handed Pte. Grover four half crowns which in turn were given to me and I put them in my pocket. I do not know why he gave them to me. Then a young woman came from the front of the pub and the older woman asked her if she would buy a couple of blankets for use in her car. The younger woman picked two blankets out of the pile and handed me a ten bob note which I put in my pocket along with the four half crowns. We then picked up the remainder of the blankets and went back out to the lorry and put the blankets in the back of the lorry. We then proceeded to the Women's Land Army Dance where Pte. Marsh got out and went inside. Later he returned and told us that he was staying and would return with some other fellows. He then borrowed two bob off of me and went back in to the dance. Pte. Grover and I then started back to camp. We returned to camp and it was then Major Stevens and Cpl. Miller of the S.I.S. arrested us and we were taken to the Guard House. This would be about 0130 hours 22 Nov 44. I am not quite sure of the time.

"I was working under instructions of Major Creasy, A.P.M. There was a dance held on that night at Graisley Green which is near Mortimer. Officers of this unit sometimes go to that dance and the work ticket read that the purpose of the lorry was to carry officers to Graisley Green and the authorization for that trip was signed by Major Stevens."

"DLR"

2nd WITNESS FOR THE PROSECUTION

CROSS EXAMINATION BY THE DEFENSE

"I would say I have known Pte. Grover for about six months . I believe I first met him at Leven when he was D.R. for one of the convoys. We were in the same company for a while but never slept in the same hut.

"I spoke with Pte Grover on many occasions but I cannot remember whether or not I saw or spoke with him on 5 Nov 44. I often saw him in the NAAFI and talked with him. We were more or less friends. I do not remember talking to him about going to the Army Salvage Dump to get worn out stuff for exchange at the QM Stores.

"Before 21 Nov 44 I made two trips to Reading with Pte. Grover but these were under the direction of the A.P.M. One of these trips may have been on 18 Nov 44 but I cannot say for sure. I went up with him in an effort to get information regarding plans which were to take place.

"I never told Pte. Grover that I had three blankets to sell nor did I give one to Grover to put in his pack. I never made a trip with him when I carried one blanket in my pack and one under my great coat. I do not recall going to Reading on 11 Nov 44. I was up at Reading with him on three or four occasions but I cannot recall the dates. We took blankets once but I am not sure which trip. The time I took one blanket was with permission because I wanted to get a look at the civilian. I got five bob on that occasion.

"The vehicle which was used on 21 Nov is the one I drive regularly and it is assigned to me.

"L/Cpl Clark was in the Horse and Groom Public House when I visited it on night of 21 Nov 44 but he did not ask me anything regarding use of his work tickets. He was rather under the weather and asked me to lend him some money. He did not say anything about me having one of his work tickets and that he would fix it up. Each time the trip was for Graisley Green a special work ticket was made up. There were no tickets made up before hand for trips to Graisley Green. I was never called upon to pick Major Stevens up at Graisley Green and I do not know whether L/Cpl Clark kept any tickets made up on hand for such trips.

"I saw Major Stevens before I went on the trip on 21 Nov 44. In fact I was in touch with Major Stevens and Major Greasy at various times that afternoon.

"On 21 Nov 44 while in the hut between 1730 and 1800 hours I did not pick up any blankets off the beds nor did I help Grover to fold any blankets. Grover handed the blankets to me through the door and I put them in the back of the truck. When we were leaving, Marsh got into the truck first. I was supposed to pick Grover up outside the Queens Hotel but Marsh was so long getting ready and looking for a flashlight that Grover came back to the lorry just as we were starting off. Marsh then got out and Grover got in the front between Marsh and myself.

"While at the Horse and Groom in Mortimer selling the blankets the lady asked Grover the price and he mentioned ten bob. She said it was too much and that she would give us five bob. Grover asked Marsh and myself whether five bob would be enough and we agreed that it would be enough. When the lady offered five bob Grover did not tell her she would have to ask us but instead he asked us.

"DLR"

2nd WITNESS FOR THE PROSECUTION

CROSS EXAMINATION BY THE DEFENCE (CONTINUED)

"When we got back to camp that night Major Stevens asked Grover why the truck was out of the park. He was on the side of the lorry where Grover was sitting when he asked that question.

"I assume I was arrested at the same time as Grover because Major Stevens and Cpl. Miller did not want to draw too much suspicion.

"I never told the lady at the Horse and Groom Pub that the blankets came from men who went to hospital and that they were issued with new ones.

"I never had any dealing with civilians in Reading regarding the selling of anti-freeze. Grover was in contact with the civilians. I was a new-comer and they did not have an awfullot to do with me.

"I have had no offences charges against me in the Army nor in civilian life."

QUESTIONING BY THE PROSECUTOR

"I might have been in Reading on 11 Nov 44 but I am not sure of the date. There were times I was up with blankets and there were times when I did not have blankets.

"At the present time my great coat is on my bed. I have only worn it once this year and that was on a trip to London."

IN THE OPINION OF THE COURT IT IS UNNECESSARY TO COMPLY WITH RP 83(2)

4th WITNESS FOR THE PROSECUTION

Mrs. Katheleen Marion Lock, wife of the Proprietor of the Horse and Groom Public House, Mortimer, Berks, being duly sworn states:

"On 21 Nov 44, the accused, whom I now recognise, came into the bar at the Horse and Groom and said he had some blankets to sell. I asked him if they were white and he said yes. I went on serving as we were rather busy and he was still standing by the bar. Eventually I said I thought he had better go round to the back door. I told my son that there was a man who had some blankets to sell and asked him to let this man in at the back door. The man came in with two others. I do not remember much about the other two. When I saw the armfull of blankets I said immediately that I did not want all those and that they were not white as the little man had said. The accused then said 'Here's one' and pulled out a grayish blanket. I went on to say that they were no good to me. I asked how much they wanted for them and was told ten shillings. I said I would not give them ten shillings and that they had better pick them up and take them out. They seemed very disappointed and they seemed very anxious to sell them. The accused asked how much I would give and I said five shillings as they would not do for the house but could be used in the car. Before I went to get the money I asked if there would be any trouble if I bought these blankets and was told that there would be no trouble. I said I did not want them if there would be any trouble. They said that they were allowed to sell them as they belonged to an Officers Outfit.

"DLM"

4th WITNESS FOR THE PROSECUTION (CONTINUED)

"As I went to get the money I said I would take two if it would help them. As I went through to get the money I met my son's young lady and asked her if she would like to buy some blankets. She said she did not want to buy any. I told her I had just bought two to help the boys and said that she should take two. I continued on my way to get the money and she said she would take two. When I returned I asked once more if there would be any trouble if I took the blankets and they said there would be none. I said "Very well then" and that was the end of it. The blankets were put out in the garage.

"I thought no more about it until Mr. Miller arrived two days later. Mr. Miller took the four blankets away after I told him where they were."

CROSS EXAMINATION BY THE DEFENSE

"I gave four half crowns to the accused for my blankets and the girl gave another fell a ten shilling note. The accused was the one who said that the blankets belonged to an Officers Unit, and there was no other explanation given as to where the blankets came from. These men informed me that they were allowed to sell the blankets. There was no mention made of the blankets belonging to chaps who had gone to hospital.

"When I was informed that they wanted ten shillings for one blanket I told them to pack them up and take them out. Later I offered five shillings for each blanket if it would help them out. After talking it over with the others the accused said he would take five shillings for each blanket. I did not pay any particular attention to what they were saying when they talked it over. I just thought they had the blankets to sell and that I was doing a good turn by taking two."

IN THE OPINION OF THE COURT IT IS UNNECESSARY TO COMPLY WITH RP 83(B)

5th WITNESS FOR THE PROSECUTION

P-84031 CQMS Thoms, W., on strength of 1 Cdn. A.S.C. Rft Unit being duly sworn states:

"My business is to issue barrack stores, blankets and cleaning materials in this unit. This has been my job for the past two years. The vocabulary price for a blanket is thirteen shillings and nine pence but they go up at various prices. The highest price is around twenty four shillings. (The witness examines Exhibits 1 and 2). I have examined these exhibits and measured them and in all cases they come up to the Army Standard OS blanket and in my opinion they are Army OS Blankets. There are approximately 10,000 blankets of the same type on charge to this unit. These come from E.S.A. Stores, British Barracks, Hammersley."

THE DEFENSE DECLINES TO CROSS EXAMINE THE WITNESS.

IN THE OPINION OF THE COURT IT IS UNNECESSARY TO COMPLY WITH RP 83(B)

The Prosecution said that he did not think it necessary to call the 3rd Witness, Detective Constable Lightfoot, or the 6th Witness, Mr. Kenneth Lock. The Defense also said he did not require either of them for the purpose of cross examination.

"DLR"

The Prosecutor stated that he wished to call two witnesses for the purpose of introducing a statement alleged to have been made by the accused subsequent to the taking of the Summary of Evidence in the case. He further stated that he had given notice to the Defending Officer in accordance with RP 76. The Defending Officer said he had received the notice.

7th WITNESS FOR THE PROSECUTION

B-116507 L/Cpl. Darby, D.H., of Canadian Provost Corps, being duly sworn states:

"On 14 Dec 44 at approximately 0930 hours I was in the office of the S.I.S., A.P.M's Office in Aldershot when CSM Johnson, Guard Room Commander, 1 Cdn. A.S.C. Rft Unit came in to speak to Cpl. Miller. I was instructed by Cpl. Miller to go to the Guard Room at 1 Cdn. A.S.C. Rft Unit which I did and interviewed Pte. Grover who was in the Guard Room under arrest. Pte Grover was called and I asked if he had something to say. He said he did. I properly cautioned him and he told me his story. The words of the caution are contained at the tops of the sheet of paper on which the statement was taken. As Pte. Grover told me his story I again repeated the caution and took it down in writing which he signed. I did not threaten or promise anything to Grover."

The Defense Officer said he had no objection to the admission of the statement.

"This is the original statement signed on the top by Pte. Grover and at the end of the statement it is signed again with number, rank and name of Grover. Isaw him sign both of these signatures".
The Witness then reads the statement which is marked by the Court as Exhibit 3.

THE DEFENSE DECLINED TO CROSS EXAMINE THE WITNESS

IN THE OPINION OF THE COURT IT IS UNNECESSARY TO COMPLY WITH RP 83(3)

The Prosecutor said he would not call the other witness as he would merely corroborate the evidence of the 7th Witness.

THE PROSECUTION IS CLOSED

The Defense Officer said he was not calling any witnesses for the Defense and that the accused would not make a statement to the Court

THE DEFENSE IS CLOSED

THE PROSECUTION ADDRESSED THE COURT ON THE FINDING

"May it please the Court. The accused stands faced with two charges, one 'Stealing Public Property' and another of being in improper possession of public property, the first charge concerning five blankets and the second charge concerning seven blankets. With regard to the first charge I wish to refer the Court to the Manual of Military Law, Chapter 7, Paragraph 80, Page 118, in which there is a definition of the words 'theft' and 'stealing'. It reads as follows (He quotes the paragraph). Therefore in order to prove that the accused is guilty of the first charge it is necessary that the Prosecution prove that he did take and carry away five blankets with the intention at the time of taking and carrying them away to permanently deprive the owner thereof, and further, in the words of the charge,

"DLR"

THE PROSECUTION ADDRESSED THE COURT ON THE FINDING (CONTINUED)

it is necessary to prove that these blankets were public property.

"Let us look into the evidence adduced by the Prosecution in order to decide whether or not the Prosecution has met the onus which is placed upon them at law. The Prosecution produced a witness, one, Pte. Blair, who gave evidence to the effect that he was working with the Provost Corps under their instruction. This evidence was corroborated by Cpl. Miller of the S.I.S. He further stated that on the night in question the accused, Pte. Grover, supervised the taking away of a number of blankets from Room 7, Spider 62 of this unit. He stated that one, Pte. Marsh, had given Grover two blankets and one, Pte. Van Luven, had given him four which makes a total of six. It is not necessary for the Prosecution under the charges to endeavour to prove that the accused did steal these six blankets. However, it is necessary for us to prove that five were stolen and I submit to this Court that, in view of the evidence now produced, of the eleven blankets produced as Exhibits 1 and 2 in the case, and the evidence as to where those blankets were found and further on the evidence of Pte. Blair to the effect, and he was very honest about it, that the accused had walked around the room picking up blankets hilter skilter and laid them on top of the six already given him, the number of blankets taken by the accused amounted to five.

"As far as 'carrying away' is concerned we must prove that as well and in this connection I would like to point out respectfully to the Court that the slightest amount of moving by an accused person constitutes carrying away. Just so long as the accused moved the blankets tha far (Prosecutor moved blankets (Exhibits 1 and 2) a few inches) he would in the eyes of the law have carried them away, but the prosecution has gone further than that. The Prosecution has definitely proved, I submit, beyond reasonable doubt, that the accused accompanied by two other soldiers carried the blankets as far as Reading, that he stopped there with certain intention and that he continued on to Mortimer with the same two men and disposed of those blankets in a Public House commonly known as the Horse and Groom. To back up that statement we have the evidence of a definitely independent witness, Mrs. E.E. Lock, who states that she purchased four blankets, which the Prosecution submits were four of the eleven taken away, and that she paid the accused personally four half crowns for two of those blankets.

"I realize that the law on the subject states that Court must be cautious when accepting the testimony of an accomplice. In that regard I wish to make two submissions, one that the witness, Pte. Blair, actually in law was not an accomplice but he actually was working for the A.P.M. at the time, and secondly that even if the Court considers that he was at the time an accomplice his evidence is corroborated sufficiently by Cpl. Miller of the S.I.S. and by Mrs. Lock of the Horse and Groom Public House. They corroborate certain definite statements he made and as they were not there the whole evening they cannot corroborate his entire story but their stories do not contradict one another. Therefore in regard to the first charge I submit that the Prosecution has proved, beyond reasonable doubt, that the accused did take the blankets, did carry them away, that the blankets were capable of being stolen and that he had the intention at the time of such taking to permanently deprive the Government of their possession. There remains only one thing to be proved that whether or not these blankets were public property as charged, and I submit that the evidence given by CQMS Thoms in this case necessitates a presumption which is that the blankets were in fact public property. No other inference can be taken from the evidence adduced in Court.

"DLR"

THE PROSECUTION ADDRESS THE COURT ON THE FINDING (CONTINUED)

"I would like to further point out respectfully to the Court that Section 56, I believe, of the Army Act definitely gives this court and any other court the right, if they decide that the actions of the accused person charged with stealing do not amount to stealing, to convict him of fraudulently misapplying property. In other words when a man is charged with theft he does not have to be charged with an alternative charge of fraudulent misapplication, that alternative is automatic and I submit to this court that firstly the accused, in the light of the evidence, is guilty of theft. The sine quanon for this charge have been definitely proven but if in the opinion of the court they find that it is not sufficient evidence to convict the accused then I submit that it definitely is sufficient evidence to convict him of fraudulent misapplication of public property. The evidence of Mrs Lock along was enough to convict him of that charge.

"Now we will deal with the second charge 'Conduct to the prejudice of Good Order and Military Discipline' in that the accused was found to be in improper possession of seven blankets, the blankets being public property. In relation to the blankets being public property I need only state that once again we have the blankets being produced in court and the evidence of CSMS Thoms to consider. Insofar as the charge of improper possession is concerned I submit the accused was found, according to the evidence, at 0120 hours in the morning of the 22 Nov 44 in a truck and in that truck seven blankets were found. They have been produced in court today. Improper possession if, of course, always a matter of interpretation. In this regard I must anticipate a certain defense which might be put up by Counsellor for the accused, namely that the accused was actually not in improper possessionf ot the blankets, that it was Blair, that Blair was in improper possession of the blankets, that he had engineered the whole thing and that the accused was merely a poor tool in his hands and that, therefore, Blair was actually in improper possession and the accused was merely accompanying him. In this regard might I point out to the court that there is a definite plea in law that when two or more people are engaged in an act, each is responsible in law for that act. In other words, if the blankets were found in the possession of five people,as long as those blankets were not properly in their possession each would be guilty of improper possession and I submit that in the light of the evidehm those blankets actually were in the improper possession of the accused.

"In conclusion therefore I would submit the accused, in the first place, is guilty of theft. In the alternative, if he is not guilty of theft, he definitely is guilty of fraudulent misapplication, and as well as being guilty of one of the first two mentioned he is also guilty of being in improper possession of seven blankets. Insofar as the accused's statement is concerned I leave it to the court to decide how much of that statement to believe and how much not to believe. It is the duty of the prosecution in these cases to adduce all the evidence both for and against the accused, therefore, it was incumbent upon me as the Prosecutor to introduce that statement of the accused but I submit that that statement in itself is enough to convict the accused of theft. From reading the statement it is apparent that the accused has made a deliberate attempt to shift the blame all on Blair but all the shifting and all the statements in the world will not absolve the accused of liability as long as he admits that he was present when these dealings took place and obviously, according to his own statement, he has done that."

THE DEFENSE ADDRESSED THE COURT ON THE FINDING

"On the first charge the charge reads that on 21 Nov 44 at approx. 1815 hours the accused did steal five blankets, the said blankets being public property. My friend adduces the evidence of Cpl Miller and actually there is nothing in Cpl Miller's evidence to suggest the theft at 1815 hours of five army blankets. The evidence of Cpl Miller on the second charge has, I think, on cross examination, brought out that he arrested Pte Grover as soon as he got out of the lorry which again does not prove the possession of seven blankets as asserted by my friend.

"Now Pte Blair, even if he is alleged to be an agent, of the Provost Corps, actually did more than that, he took an active part in the proceedings. He actually took the blankets out to the lorry and put them in the lorry, the lorry that was signed out to him. Where did the transfer of possession occur there?

At the Horse and Groom Public House Mrs Lock gives Pte Grover four half crowns which he gives to Blair and Blair puts them in his pocket. The daughter gives Blair directly a ten shilling note and he puts it in his pocket. I will be curious to know the instructions of the Provost Corps in regard to the handling of money. The prosecution has not brought the money forward that changed hands nor has he explained its possession by Blair. Therefore, I maintain that Blair is an accomplice and he is the only witness as to the charge of theft and to the charge of improper possession and that, therefore, his evidence should be corroborated."

THE COURT WAS CLOSED TO CONSIDER THE FINDING

THE COURT REOPENED.

PLEA OF MITIGATION BY THE DEFENSE

"The accused is thirty-five years of age and is single. His father died when he was eight years old. He acquired a step father who died when he was thirteen years old. His mother died when he was fifteen years old. He is a category L4M2 by reason of bad feet. He is the youngest of a family of eight. He has seven brothers all older than himself and all living in different places. The accused reached Grade 3 in Public School and he has been overseas since December 1942. He has been in this unit all this time. He was on motor cycles at one time and was taken off because he was not high enough. The accused desires to go to a theatre of war but by reason of his category is being held here doing routine duties, fatigue duties, runner, etc. In civilian life he was a mechanic, repairing tractors. He has approximately five hundred dollars in deferred pay and he draws approximately two pounds per pay day. The accused tells me that one of the reasons he gets into this trouble in a way is because he is fed upwith everything and the other reason is that he just cannot help himself but strings along with others, and I believe that in this case after being provided so readily with transportation and finding it so easy to dispose of this stuff that he just could not help himself. He promises himself that he wont do so but when opportunity comes along he just cannot help himself. As I said before I think in this case that I have a doubt in my mind as to the exact nature of Pte Blair's encouragement. I think that he did actually do more than follow along like Cpl Miller stated in his evidence."

Ex 3
7 ER

CANADIAN PROVOST CORPS

SUBJECT:

DATE: 15 Dec 44

STATEMENT of Regt No: L-13418 Pte. Grover, E.D.

of #1 C.A.S.C. R.U.

Taken at:- Guard Room #1 C.A.S.C.R.U.

"I have been warned that I am not obliged to say anything unless I wish to do so, but anything I now say will be taken down in writing and may be given in evidence".

"To show that I understand the above warning, I make this statement voluntarily and sign my name herewith".

SIGNED: "Grover, E.D."

STATES:

On 11 Nov 44 I was approached by Pte. Blair who asked me if I was going to Reading that night. I said yes and he then said he needed some money because his girl friend was coming up from London. He said he had three blankets to sell and told me if I would go to Reading with him to sell them he would give me what one brought. Since I was going to Reading anyway I agreed. I packed one of the three blankets in my small pack and Blair carried the other two, one in his small pack and the other under his great coat. We went to Reading by train, leaving North Camp at about 7.00. We went to a pool room in Reading first and hung around there for about half an hour. Then we went to the Sun Public House. We didn't go in though. We stopped a civilian on the street and asked him if he wanted to buy some blankets. He bought the whole three and for mine I got five shillings. Blair and I parted then and I went to the Cross Keys Public House and then to the Shade Public House where I met my girl friend.

During the following week Blair asked me if I would go to Reading again with more blankets. I agreed and he said he would arrange to get a truck.

About the 18th or 19th Nov 44 at about 1730 Blair came around to my hut and asked me to go to Reading. When I was getting into the truck cab I noticed one blanket on the seat. We went to Reading and parked the truck at the rear of the Sun Public House. We had some beer in there and from there we went to the Cross Keys and then to the Shade. After that we went back to the Cross Keys and in there we met a civilian who agreed to buy the blanket. We told him it was in the truck at the rear of the Sun. Blair and I went to the truck and later the civilian came too. We sold him the blanket for five shillings and Blair and I split the money. At the same time Blair made arrangements with the civilian to sell him more blankets. Then Blair and I returned to camp.

At about 1330 hrs 21 Nov 44, as I was coming out of "C" Coy. Orderly Room I met Blair, who had his truck parked in front. He asked me if I was going to Reading that night. I said I was going up on the train to see my girl friend. He said he was going up with a load of stuff and asked me to go along. I told him I was going on the 5.40 train and to try to get someone else in the hut. About 1730 hrs I stopped in at my hut and stopped to talke to Ptes. Marsh and Van Luven who were getting ready to go out. I asked them where they were going and the said to a dance at Mortimer. While talking to them Blair came in and asked me if I was going with him. I said I guessed I would have to. Blair asked me to help him fold two blankets on Marsh's bed. I folded one and set it on another bed. Blair folded the other and put it on top of the blanket I folded. Blair then left to get his truck and when he returned he parked it between our hut and the band hut. When Blair came back he took a flashlight from Cpl. Constable's bed. I told Blair at this point that I would get my greatcoat and meet him at the Queens Hotel. I didn't see any blankets loaded into the truck.

P.T.O.

Before I got out of camp I met Blair and Marsh in the truck and I got in the cab with them. We drove to Fleet and stopped for supper. The truck was parked so that the back was against a bush so that nobody could see into it. I heard Blair say something to Marsh about it. At Reading Blair drove to the Shade pub and let me out. He asked me to try to sell some blankets. Then Blair drove back toward the Sun. I went into the Shade and had a pint and then went to the Sun. There I saw the civilian who had bought the blanket from us on the previous date. I asked him if he wanted the blankets and he asked me where they were. I told him they were in the truck so he said "Let's go". I got into the back of the truck and the civilian got into the front with Blair. Marsh was left at the pub. When we were under way I noticed a station wagon following us. I told Blair and he speeded up a little. We jogged around some blocks and then stopped. The civilian got out and a couple of minutes later I got out because I didn't want to be caught in the truck. I went back into Reading, but first I asked Blair if he was going too. He said he had to look after the truck.

I went to the Shade pub and then across the street to a church and waited. Blair's truck came up and Blair and Marsh got out and went into the Shade. I met them as they came out again. From there we took Marsh to the dance at Mortimer. First we stopped at the Horse and Groom pub, about two blocks from the dance hall. Marsh and I went into the pub and there met L/Cpl. Clark. He bought us a drink. Then Blair came in. I asked a civilian if he wanted to buy any blankets and he said no. Then I went back to Blair, Marsh and Clark. Then the civilian tapped me on the shoulder and told me the woman at the counter wanted me. She asked me how many blankets I had and asked me if they were Army blankets. She asked me where they were and I said in the truck. She told me to bring them to a back door when the pub closed.

I went back to the other fellows and had some more beer and later went out to the truck. The blankets were out on the ground then.

We took the blankets to the rear of the pub and the civilian who tapped me on the shoulder was there with a flashlight. We went inside and put the blankets on the floor. The woman asked us how much we wanted for them. I said a pound each. She offered five shillings. I told her they belonged to Blair and to speak to him about it. Blair decided to take five shillings each. She bought two blankets and gave me four half crowns which I passed on to Blair. Then she asked where the blankets came from. Blair told her they came from men who went to the hospital and were issued with new ones when they came out. Then the woman called a girl in and she bought two and she gave Blair a ten shilling note. Then we went back to the truck and put the rest of the blankets in the truck and drove to the dance. Marsh got out there and after going in he came out again and borrowed two shillings from Blair. Marsh was in the back room of the pub with us.

We drove from there to the unit and were arrested when we arrived.

"L-13418 Pte. Grover, E.D."

WITNESSES:

A.E. Clarke, L/Cpl.
K-51375

E. Metham, Sgt.
B-86420

ARMY FORM B.296 (WAR).

Statement as to Character and Particulars of Service of Accused.

(For Use at Trials by Field General Courts-Martial only).

Number.	*Rank.*	*Name.*	*Regiment (or as the case may be).*
L.13418	Pte	GROVER, E.D.	1 Cdn ASC Hft Unit

NOTE.—The Field Conduct Sheet is to be produced in Court with this statement but is not to be annexed to the proceedings. The numbers herein stated should correspond with the number of Entries in the Field Conduct Sheet, prominence being given to the most serious offence in each entry. If the charge is for drunkenness or absence without leave, the entries for drunkenness or absence, as the case may be, should be stated separately. Any recognized special acts of gallantry or distinguished conduct recorded on the Field Conduct Sheet should also be inserted here.

1. The following is a fair and true summary of the entries in the Field Conduct Sheet of the accused, exclusive of convictions by a court martial or a civil court :—

For Absence without leave AA 15(1) One times.

For _____ times.

For _____ times.

For _____ times.

Date of first entry in Field Conduct Sheet 6 Jun 43

Date of last entry in Field Conduct Sheet 16 Apr 44

2. Previous convictions of the accused by a court martial or a civil court are set out in the Schedule overleaf.

*3. The accused at the present time is under sentence No _____ beginning on the _____ day of _____

*Strike out if not applicable.

4. The accused has been awaiting trial on the present charges for Nil days in civil custody; and for 29 days in military custody, i.e., Nil days in open arrest, 29 days in close arrest; of which Nil days were spent in hospital.

5. The present age of the accused is 35 years.

6. The date of his attestation calling up for military service is 18 May 42

7. The service which the accused is allowed to reckon is 2 years, 6 months, 21 days.

8. The accused is in possession of: OVSE & Clasp 16 Jun 44

Relate the military decorations (if any) held by accused.

9. (*If the accused is a warrant officer or N.C.O.*). The accused has served continuously, without reduction, to the present date—

	Date of Promotion.
In the substantive rank of N/A	N/A
In the war substantive rank of N/A	N/A
In the acting rank of N/A	N/A

INSTRUCTION.—*If any matter in any of the above paragraphs cannot be stated from the regimental books the paragraph must be struck through.*

(21114) W1.5670/668 100,000 6/42 A.& E.W.Ltd. Gp.698 Forms/B.296(War)/2
(22452) W1.2925/1672 50,000 9/42

SCHEDULE OF CONVICTIONS BY A COURT-MARTIAL OR CIVIL COURT.

Description of Court by which tried.	Date and Place of Trial.	Charges upon which convicted.	Sentence of the Court.	Punishment remitted or sentence suspended.
Field General Court Martial	13 Jul 44	Stealing Property belonging to a Person subject to Military law A.A. Sec 18(4) Improperly and without authority taking and using a WD Vehicle A.A.Sec 40	90 days detention	Nil

I HEREBY CERTIFY that the foregoing particulars, which have been extracted from the regimental books in my custody, are correct to the best of my knowledge and belief.

Signed this 20th day of December 1944

"A.L.Morris"
Officer i/c Records
1 Cdn ASC Rft unit.

No 1-13418 Name Grover, E.D. Sqn, Battery or Company Corps RCASC Date of enlistment 18 May 42 OC Badges Service or Proficiency Pay MFM 6 (AFB 122) 40/P&S/136 (3438)

Date of last entry in Company Conduct Sheet N/A No and date of last drunk N/A Period not reckoning towards freedom from extra fine Sheet No 1 Signature OC Company, etc E.D. Grover Character G.

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order directing trial	By whom awarded	Remarks
Old sheet destroyed 18 Nov 42. No and date of last entry, Nil. No and date of last case of drunkenness Nil									
Field 8 Jun 43 Pte				(1)AA Sec 18(4) Stealing property belonging to a person subject to military law. (2)AA Sec 40 - Improperly in possession of a radio. (3)AA Sec 40 - Improperly and without authority taking and using a Vehicle.	Returned ex R.C.A.M. Date of Arrest 17 Jul 43. Finding Guilty on 1 & 3 charges. Sentence 90 days detn. Confirmed and Corp 16 Jul 43.	Forf 90 days pay FRAT 149(1)(b) Forf 32 days pay FRAT 149(1)(c)			
Beverley 16 Apr 44 Pte				A.W.15(1) A.W.O.L. from 0930 hrs 16 Apr 44 to 0925 hrs 19 Apr 44 TOTAL- 1 hr 55 mins.		3 days pay FRAT 149(b)		Lt-Col W.C.Fletcher	16 Apr 44

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order (Insert letter with date)	By whom awarded	Remarks
Field	21 Nov 44	Pte		First Charge AA Sec 16(4) when on active service stealing public property, in that he at Room 9 Hutter 62 mens' quarters, 1 Dan 130 Det Unit on 21 Nov 44 at approx 1400 hrs did steal five(5) blankets, the said blankets being public property. Second Charge AA Sec 40. Conduct to the prejudice of good order and military discipline, at approx 1400 hrs on 21 Nov 44 improperly in possession of seven (7) blankets, the said blankets being public property.		Forf 30 day pay Det 60 days Fine - Guilty as 2 & 2 Sharpen. Sentence 2 yrs det. Confirmed sgd Gp CO Dep 44		Forf 730 day pay WRAT 149(2)(b) Forf 29 days pay WRAT 149(2)(c)	
Field	22 Nov 44	Pte							

21.XII.44

A

A.D. Sharpen Lt

1 Dep AGS Ref Unit

MFM 6
(AFB 122)

No. L13418 Name Grover, E.D. Sqn, Battery, or Company — Corps RCASC — Date of enlistment 18-5-42 — GC Badges — Service or Proficiency Pay — Character

Date of last entry in Company Conduct Sheet N/A — No and date of last drunk N/A — Period not reckoning towards freedom from extra fine — Sheet No 1 — Signature OC Company, etc E.D. Gunnoch

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Name of Witness	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Old Sheet destroyed			18-11-42; No and date of last entry; Nil; No and date of last case of drunkenness, Nil; NDH						
Field	8-6-43	Pte		(1) AA Sec 18(4) Stealing property belonging to a person subject to military law. (2) AA Sec 40 - Improperly in possession of a radio. (3) AA Sec 40 - improperly and with out authority taking and using a WD vehicle.	TRIED BY FGCM Date of trial 15 Jul 43. Finding guilty on 1 & 3 Discharges. Sentence 90 days detn. Confirmed GOC Grp 16-7-43.	Forf 90 days pay PRoI 149(1)(b) Forf 92 days pay PRoI 149(1)(c).		EX "C"	

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Berverley	16-4-44	Pte		AA 15(1) awl from 2230 hrs 16 Apr 44 to 0025 hrs 17 Apr 44 (TTA 1 hr 55 mins)	Sgt Pyfe	3 days pay FRR I 149(2)		Lt.col W.G.Fletcher	18 Apr 44

Certified True Copy
"?" Lt.
Asst(Officer i/c Records)
1 Cdn ASC Rein Unit
Canadian Army Overseas

20 Dec 44.

SUMMARY OF EVIDENCE

IN THE CASE OF L-13418 Pte. Edward Dawson Grover, on strength of 1 Cdn. ASC Rft Unit, a soldier of the Cdn. Army Overseas.

1st WITNESS For the Prosecution

B-7006 Cpl. Miller, E.C. of the Special Investigation Section, CMHQ, Canadian Army, having been duly sworn states:

"I am B-7006 Cpl. Miller, E.C. of the Special Investigation Section, CMHQ, Canadian Army. On 21 Nov 44, acting on instructions from Major F.B.Creasy, A.P.M., C.R.U., I proceeded to carry out an investigation regarding the alleged illegal disposal of W.D. blankets at No.1 Cdn ASC Rft Unit. During these investigations information came to hand that a lorry containing W.D. blankets would proceed to Reading that same evening for the purpose of disposing of them. I proceeded to Reading in company with Detective Constable Lightfoot of the Farnborough Civil Police and at Reading picked up Detective Constable Jenkins of the Reading Civil Police. We stationed ourselves in the vicinity of the central part of Reading near the Cross Keys Public House.

"At approximately 2000 hours 21 Nov 44 an 8 Cwt. lorry, No. GL4206817 pulled up near the Sun Pub adjacent to where I was standing. After a few minutes I walked past the lorry and saw three soldiers talking together. Two of these men I recognized as Pte. Grover and Pte. Blair. The third man I did not recognize at this time. I continued on past the lorry and stationed myself further up the street.

"Approximately twenty minutes later the lorry moved off and as my own car was stationed nearby I picked up Detective Constable Jenkins and followed. The vehicle stopped at a place in the residential area of Reading near to Boston Avenue. Detective Constable Lightfoot and myself stationed ourselves nearby and I saw Grover and Blair and a male civilian standing near the lorry talking together. Although it was quite dark there were several street lights which enabled me to observe the situation quite plainly. After a few minutes Grover and the civilian ran down the street and passed quite near to me although I am positive they did not see me. The lorry then proceeded to tour around the area for about fifteen minutes and finally proceeded in a direction leading to the central part of Reading. I did not follow at this time and proceeded back to No.1 Cdn. ASC Rft Units.

"At about0130 hrs 22 Nov 44 the lorry came into the laneway alongside Hut 62 and I arrested Pte. Grover and Pte. Blair as they got out. Present at this arrest were Major Stevens, O.C., "D" Company, 1 Cdn ASC. Rft Unit, and Detective Constable Lightfoot of the Farnborough Civil Police. In the back of the lorry I found seven blankets which I now produce. (Marked Exhibit "A".)

"Blair was then questioned by Detective Constable Lightfoot and myself as a consequence of which I proceeded to the Horse and Groom Public House in Mortimer on 25 Nov 44. At the Horse and Groom Public House I seized four blankets from Mrs.E.M.Lock, wife of the Proprietor. These blankets I now produce. (Marked Exhibit "B"). I then obtained a written statement from Mrs.Lock andone from her son Kenneth Lock. As a result of Kenneth Lock's statement I arranged an identification parade of eight men including Pte. Grover ~~xxi~~ on 25 Nov 44.

"R"

1st WITNESS (CONTINUED)

The men making up this parade were as near as possible in size and general appearance to Grover as we could make it. Kenneth Lock attended this parade and identified Pte.Grover as one of the men he saw sell the four blankets at the Horse and Groom Public House in Mortimer.

"On 22 Nov 44 I had ordered an inspection made of Pte. Grover's kit, including his company issue of blankets. At this date that is all the information I have, Sir."

THE ACCUSED DECLINED TO CROSS EXAMINE THIS WITNESS.

B7006 "E.C.Miller" Cpl.
(B-7006 Cpl. Miller, E.C.)

2nd WITNESS For the Prosecution

B-115209 Pte. Blair, T.J., on strength of 1 Cdn. ASC Rft Unit, having been duly sworn states:-

"I am B-115209 Pte. Blair T.J., of 1 Cdn. ASC Rft Unit. On 21 Nov 44 I was approached by Pte. Grover of 1 Cdn. ASC Rft Unit, whom I now recognize, and asked to provide transportation to Reading that evening for the purpose of selling blankets. After consulting with Major Stevens, Officer Commanding, "D" Company,1 Cdn. ASC Rft Unit and Major Creasy, A.P.M. of Aldershot Command, I agreed to provide the transportation.

"About 1800 hours the same evening Pte. Grover and I went to Room 7, Spider 62, Men's Quarters, 1 Cdn. ASC Rft Unit. When we arrived at the room I started to get dressed for the trip to Reading. Meanwhile Pte. Grover went to the other end of the room and entered into a conversation with Pte. Marsh and Pte. Van Luve, both of 1 Cdn. ASC Rft Unit. As I was at the other end of the room it was impossible for me to hear what they were saying. When I had finished dressing I walked down to the other end of the room to join them.

"Pte. Marsh took two blankets off his bed and handed them to Pte. Grover who folded them and placed them on the bed opposite Pte. Marsh's bed. Then Pte. Van Luve handed Pte. Grover four blankets which Pte. Grover took and placed on top of the two blankets that Pte. Marsh had handed him. Pte.Grover then walked around the room and picked up blankets from different beds in the room and piled them on the bed with the others. All these blankets were of a similar type to the blankets in those two bundles. (The witness points to Exhibits "A" and "B").

"Then I stepped out of the room to the 8 Cwt. lorry No. CZ4206817 which I had waiting there. Then Pte.Grover picked up the blankets he had placed on the bed and handed them to me to be placed in the back of the lorry. I placed the blankets in the back of the lorry and raised the tail gate. Then Pte. Grover and Pte. Marsh joined me outside of the hut and we all got into the front of the lorry. We then started on our way to Reading and made a stop in Fleet for some supper. We got on our way again and arrived in Reading at approximately 1930 hours.

"R"

2nd WITNESS (CONTINUED)

"Pte. Grover, Pte. Marsh and myself then got out of the lorry which I had parked on Castle Avenue across from the Sun Pub. It was at this time that Pte. Grover went to the Cross Keys Pub to get a civilian to whom we were going to sell the blankets. About half an hour later Pte. Grover came back with the civilian and then Pte. Grover mentioned to Pte. Marsh to stay in front of the Pub until we had returned.

"Pte. Grover, the civilian and myself got into the 8 cwts., with Grover in the rear, and I drove in the direction the civilian directed me. While on the way Pte. Grover, being in the rear of the 8 cwts., got suspicious of a station wagon which was following us and hollered through the tube to the civilian that we were being followed. I stopped on a dark street, the name of which I cannot remember, after driving about five minutes. Pte. Grover and the civilian got out and walked down the street. About 10 minutes later the civilian returned and told me that there was someone waiting around the corner for me. I then started the lorry up and went to see who was there. I recognized right away that it was the station wagon which was following us and I knew then that the civilian had been scared off. I returned to the Sub Pub and picked Pte. Marsh up and circled around Reading in the hope of picking up Pte. Grover. I then went to the Shades Pub where I picked up Pte. Grover and then we agreed to go to Mortimer to drop the blankets off so that we could pick them up some other time and sell them.

"We stopped in front of a pub in Mortimer, the name of which I cannot remember. Pte. Grover and Pte. Marsh went into the Pub and returned about ten minutes later and Grover told me that we had a chance to sell a few of the blankets. All three of us went back into the Pub to have a few beers until closing time.

"At approximately 2205 hours we returned to the lorry and gathered up the blankets from the back of it and each of us carried some of them to the rear of the Pub where Pte. Grover knocked and was answered by the Proprietress of the Pub. We then went into the back room and piled the blankets on the floor. The Proprietress asked Pte. Grover where we had got the blankets and he answered that there was nothing to worry about and that the blankets belonged to us. The Proprietress then picked two out of the pile and asked us what we wanted for them. Pte. Grover mentioned ten bob for each blanket which the Proprietress figured was too much. She offered us five bob for each blanket to which we agreed. She paid Pte. Grover four half crowns which he gave to me and I put them in my pocket. A young woman came from the front of the Pub and the older woman asked her if she wanted to buy two of the blankets for use in her car. The young woman agreed to this and picked two blankets out of the pile and paid me a ten bob note which I put in my pocket along with the four half crowns to be divided at a later time. We then gathered the remainder of the blankets and returned to the lorry and went to the Womens Land Army dance.

"R"

2nd WITNESS (CONTINUED)

"Pte. Marsh got out of the lorry at the Womens Land Army dance and Grover and I started back to camp. At approximately 0130 hours we pulled up beside Room 7, Spider 62. We were still in the lorry when Major Stevens came over and asked the reason for the lorry being out of the vehicle park and Cpl. Miller of the Special Investigation Section placed both of us under arrest. We were then taken to the Guard House."

THE ACCUSED DECLINES TO CROSS EXAMINE THE WITNESS.

"T.J.Blair"
(B-115209 Pte. Blair, T.J.)

3rd WITNESS for the Prosecution — Thomas Lightfoot, Detective Constable, Hampshire Joint Police Force, stationedat Farnborough, having been duly sworn, states:

"I am Thomas Lightfoot , Detective Constable, Hampshire Joint Police Force, stationed at Farnborough. On 21 Nov 44 at 1700 hours, I went to Reading with Cpl. Miller of the S.I.S. At about 1955 hours I saw an 8 Cwt. truck pull up on the opposite side of the road from the Sun Public House. The front lights were out. I saw two men leave the truck and another one walk round the side of the vehicle. They stood together talking outside the Sun Public House for a while. One was dressed in a great coat and a wedge cap, one was in battle dress and wearing a beret and battle dress. I kept observation on them for a while and then walked by the three soldiers one of whom I identified as Pte. Grover, whom I now recognize. Pte. Marsh and Pte. Blair were the other two. I waited near the Sun Public House for a while and then returned to my original place of observation. I saw Pte. Blair enter the vehicle and drive it up the road about 200 yards and stop beside a lamp. I watched the vehicle for approximately half an hour and saw Blair and Grover return. They stood at the back of the truck a few seconds then Blair entered the drivers seat and Grover sat beside him. The truckdrove off. The station wagon pulled up and we followed the lights of the truck to the suburbs of Reading where it parked in a side road without lights. Cpl. Miller and I left the stationwagon and kept observation on the truck. A few minutes later a civilian appeared and spoke to the driver of the truck. Then Grover and anothercivilian ran along Boston Avenue. I saw the truck again about five minutes later. It was parked on the opposite side of the road on the side road I previously mentioned. I then went to the station wagon which was parked in a road nearby and saw the truck drive up the road.

"Between 0115 and 0130 hours 22 Nov 44 I was in company with Major Stevens, 1 Cdn ASC Rft Unit and Cpl. Miller of the S.I.S. and I saw a truck draw up in the lines of 1 Cdn ASC Rft Unit. Major Stevens spoke to Grover and Sergeant Pitcher spoke to Pte. Blair both of whom had just stepped out of the truck. I looked in the back of the truck and saw a number of blankets. They were of a type similar to those blankets. (The witness points to Exhibit "A").

"R"

3rd WITNESS (CONTINUED)

"A few minutes later I saw Pte. Grover in the Guard Room of 1 Cdn. ASC Rft Unit. I was in company with Major Stevens and Cpl. Miller. Pte. Grover was questionedthen but we did not receive satisfactory answers regarding his movements the previous evening."

THE ACCUSED DECLINES TO CROSS EXAMINE THE WITNESS.

"T.Lightfoot"
(Thomas Lightfoot) Detective Constabl

4th WITNESS for the Prosecution

B-84031 CQMS Thoms, W., on the strength of 1 Cdn. ASC Rft Unit, having been duly sworn states:

"I am B-84031 CQMS Thoms, W., Unit Barrack Stores Quartermaster Sergeant for 1 Cdn. ASC Rft Unit and have been for the past two and a half years and as such it is my duty to issue blankets, barrack stores and cleaning materials. I have examined the blankets marked Exhibits "A" and "B" in this case and in my opinion they are Army C.S. Blankets of a similar type and pattern to the 10,000 blankets on this Unit's charge and issued to the personnel of 1 Cdn. ASC Rft Unit."

THE ACCUSEDDECLINED TO CROSS EXAMINE THIS WITNESS.

"W.Thoms"
(B/84031 CQMS Thoms, W.)

5th WITNESS for the prosecution Mrs.E.M.lock of Mortimer, Berks.

Statement of Evidence.

6th WITNESS for the prosecution Mr. Kenneth Lock of Mortimer, Berks.

Statement of Evidence.

I hereby certify that in my opinion the attendance of the 5th and 6th witnesses for the Prosecution, owing to expense and loss of time involved, is not readily procurable and a statement of evidence purporting to be signed by the 5th Witness has been read to the accused and a certified true copy of same is attached and marked Appendix "A"; and also a statement of evidence purporting to be signed by the 6th Witness has been read to the accused and a certified true copy of same is attached and marked Appendix "B".

"J.H.Restall"
(J.H.Restall) Lieut. RCASC
Officer detailed to take
Summary of Evidence.

I do not require the attendance of the5th and 6th witnesses for the Prosecution for the purpose of cross-examination.

"E.D.Grover"
(L-13418 Pte. Grover, E.D.)

"B"

The accused was cautioned as follows, "Do you wish to make any statement or give evidence on oath? You are not obliged to say anything or give evidence unless you wish to do so, but whatever you say or any evidence you give will be taken down in writing and may be given in evidence."

THE ACCUSED DECLINED TO MAKE A STATEMENT AT THIS TIME.

I hereby certify that the foregoing Summary of Evidence consisting of six (6) pages was taken down by me in writing at 1 Cdn. ASC Rft Unit on the 30th day of November 1944 and the 1st day of December 1944 in the presence and hearing of the accused and that R.P. 4(c) (d) (e) (f) and (g) have been complied with.

"J.M.Restall"
(J.M.Restall) Lieut. RCASC
Officer detailed to take
Summary of Evidence.

IN THE FIELD
1 DECEMBER 1944

"B"

APPENDIX "A"

The Horse and Groom
Mortimer, Berks.
23 November 44.

I am Mrs.K.M.Lock, wife of the Proprieter of the Horse and Groom Public House of Mortimer, Berks. On Tuesday, 21 November 44 about 9 P.M. a very short Canadian soldier approached me while I was serving behind the Public Bar and asked me if I would like to buy some blankets. Before this he had asked nearly everybody in the Public Bar this same question, but nobody appeared interested. I asked him if they were white blankets and if it was straight and above board to buy them. This small soldier assured me positively that it was all right. I told him I would see him later, hoping that he would go away. I didn't think anymore about it until this small soldier again approached me. I still didn't take much notice of him, but as he got very persistent I told him to go around the back as he was bothering me. I then told my son Kenneth that some soldiers had some blankets to sell and to let them in the back door. When I went back three soldiers had brought in a pile of blankets which they put on the floor. I saw that they were not white blankets and immediately said that I didn't want them. He got very persuasive and again said that the sale would be perfectly legal. I again asked him if it would be alright and he said that there would be no trouble about it as the blankets had belonged to a Special Unit that had been disbanded and that all their equipment was being sold in this manner. I asked him how much he wanted for them and he said ten shillings. I thought the blankets would be handy to use in the car and offered him five shillings for two of them. He agreed to this. I then picked out two that I would like. Just at this time my son's girl friend came into the room and I asked her to buy a couple of blankets to help the boys out. She wasn't interested at first, but finally bought two for herself. I then gave the short soldier four half crowns and the girl gave one of the other soldiers a ten shilling note. These soldiers then gathered up the rest of the blankets and departed. The soldier who seemed to be the leader and who transacted the whole deal was very small, of dark complexion and had a small moustache.

(Signed) K.M.Lock

Witnessed by:-

B-7006 Cpl.Miller, E.C.
Investigation Section,
A.P.M.'s Office, C.M.R.U.

F.L.Stevens, Maj.

CERTIFIED A TRUE COPY OF A STATEMENT OF EVIDENCE PURPORTING TO BE SIGNED BY MRS.K.M.LOCK AT MORTIMER, BERKS., 23 NOV 44.

"J.H.Restall"
(J.H.RESTALL) Lieut. RCASC.
Officer detailed to take
Summary of Evidence.

This is Appendix "A" referred to on page 5 of the Summary of Evidence in the case of L-15413 Pte. Grover, E.D., 1 Cdn. ASC RIt Unit, taken by me on the 30th NOVEMBER and 1st DECEMBER AD 1944.

"J.H.Restall"
(J.H.RESTALL) Lieut. RCASC
Officer detailed to take
Summary of Evidence.

APPENDIX "B"

The Horse and Groom
Mortimer, Berks.
23 November 44

I am Kenneth Charles Thomas Lock, an Enginner of the Reading Aircraft Co.Ltd. My home is at the above address. On Tuesday, 21 Nov 44, I was helping my Father, who is ill in bed with pneumonia, to run the Pub. Sometime after 9 P.M., whilst I was playing darts in the Public Bar, a very small Canadian came up to me and asked me if I knew anyone who would like to buy some blankets. I told him I wasn't interested and to go away. Sometime later my Mother told me to open the back door and let in some Canadians who wanted to sell some blankets. When I opened the door this same small soldier entered carrying an armfull of blankets. He was accompanied by two other soldiers also carrying blankets. I wasn't particularly interested in these matters, but I did notice my Mother pay this short soldier some money. I am positive I could identify this short soldier again and am quite willing to do so.

(Signed) K. Lock

Witnessed by:-

B-700e Cpl.Miller, E.C.
Investigation Section,
A.P.M's Office, C.R.U.

J.L.Stevens, Maj.

CERTIFIED A TRUE COPY OF A STATEMENT OF EVIDENCE PURPORTING TO BE SIGNED BY KENNETH LOCK AT MORTIMER,BERKS., 23 NOV 44.

"J.H.Restall"
(J.H.Restall) lieut. RCASC
Officer detailed to take
Summary of Evidence.

This is Appendix "B" referred to on page 5 of the Summary of Evidence in the case of 1-13418 Pte. Grover, E.D., 1 Cdn. ASC Rft Unit, taken by me on the 30th November and 1st December AD 1944.

"J.H.Restall"
(J.H.Restall) Lieut. RCASC
Officer detailed to take
Summary of Evidence.

"B"

IN THE CASE OF

L/13418 Pte. Edward Dawson GROVER RCASC

LIST OF WITNESSES FOR THE PROSECUTION

B-7006 Cpl. Miller, R.C. Special Investigation Section CMHQ, Cdn Army.

B/115209 Pte. Blair, T.J. 1 Cdn. ASC Rft Unit

Detective Constable Thomas Lightfoot, Hampshire Joint Police Force, Farnborough.

B-84031 CQMS Thoms, W. 1 Cdn. ASC Rft Unit

Mrs. K.M. Lock, The Horse and Groom Public House, Mortimer, Berks.

Mr. Kenneth Lock, The Horse and Groom Public House, Mortimer, Berks.

LIST OF WITNESSES FOR THE DEFENCE

N I L

LIST OF EXHIBITS

(a) Bundle of seven blankets.

(b) Bundle of four blankets.

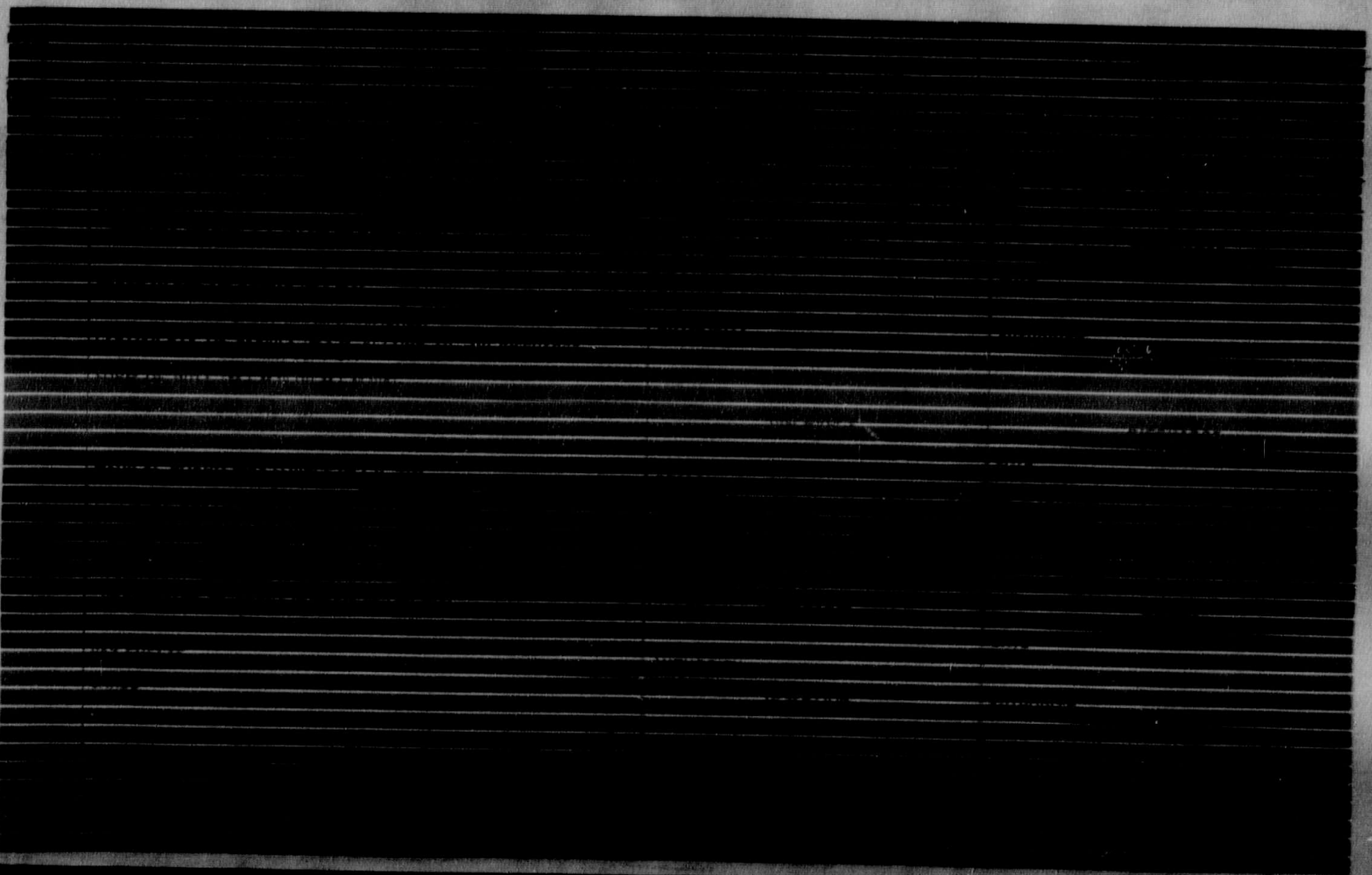
I, the accused, L-13418 Pte. Grover, E.D., desire that the convening authorities appoint Lieut E.J.F. Gamache, RCASC, 1 Cdn. ASC Rft Unit, to defend me at my forthcoming Trial by Field General Court Martial.

"GROVER, E.D."
(L-13418 Pte. Grover, E.D.)

This is to acknowledge receipt of a copy of the Summary of Evidence and a copy of the Charge Sheet in the case of L-13418 Pte. Grover, E.D..

"Grover, E.D."
(L-13418 Pte. Grover, E.D.)

52-16 Pl. Drw. F 36.



SCHEDULE.

PART I. PLEA(S), FINDING(S) AND SENTENCE.

Accused: M.104902 Pte Frederick Walter GROVE

Charge. (Insert "alternative" where applicable.)	Plea. (See Instrs p 2.)	Finding. (See note below.)	(Space for use as required for further charges, accused charged jointly, special findings, etc.)
1st AA Sec 15(1)	GUILTY	GUILTY	
2nd			
3rd			
4th			
5th			
6th			

(Note: As to findings for lesser offences see AA 56, RP 44; findings on alternative charges see MML p 483 fn 4 para 2, RP 44; special findings see RP 44 and MML p 753, and in loss of kit see RP 44 fn 6.)

At present under sentence for ..... (beginning on (date)) (1)

(1. Insert sentence being served, or delete, if not applicable. See RP 46(A). Information should be found on MF B355 or AF B296.)

Time in confinement awaiting present trial—a total of 13 days, of which Nil days were spent in hospital.(2)

(1. See RP 46(A) fn 2. Information should be found on MF B355 or AF B296 admitted in evidence under E2.)

Sentence Awarded by the Court:

To undergo detention for a period of ninety (90) days.

(Sgd) ..... Judge-Advocate, if any. 24 FEB '46 Date awarded. (Sgd) [signature] President. (RP 45, 50.) Lt.Col.

(See back of Convening Order as to assembly and disposal of record after trial.)

PART II. MINUTE WHERE CONFIRMATION RESERVED. (AA 54(5), RP 120(F), MML p 760.)

Date ..... (Sgd) ..... Commanding

PART III. DECISION OF CONFIRMING OFFR ON FINDING(S) AND SENTENCE.

(For duties and powers see AA 54, 57, RP 37(D) fn 6, 46(A), 51-56, 120, MML pp 759-761, KR Can 567-577. Acquittals require no confirmation and cannot be revised: AA 54(3). Sending back finding or sentence for revision by Court: AA 54(2), RP 120(G). If not confirmed, accused may be tried again: AA 157, MML p 64. Minute of confirmation or non-confirmation may be altered before promulgation: RP 53, MML p 65. Quashing after promulgation: KR Can 573. Duties and powers of reviewing offrs: AA 57, 57A, RP 53A, 54. The Confirming Offr must sign here personally. AA 172 fn 1.)

My decision on the finding(s) and sentence set forth in Part I is:

Confirmed

~~I direct that the accused be not committed to prison on detention (until the rising of the Court).~~ (1. AA 57A. Delete if not used.)

Date 28 Feb 46 (Sgd) [signature] (EG BLACKADDER BRIG COMD CRU) Commanding Confirming Officer.

PART IV. PROMULGATED AND EXTRACTS TAKEN. (RP 53, KR Can 576, 577.)

Accused.	Date.	Signature of Offr.
M104902 Pte FW Grove	2 March 46	Cancelled

ALL DELETIONS AND ALTERATIONS WILL BE INITIALLED.

RECORDED AT CMHQ IN AE 150 5Z-16

FIELD GENERAL COURT-MARTIAL

CFA66 (To lieu of AFA51) 40/P & R/1698 (E1441) 4/38B

Convened by Order of Brig E.G. Blackader CBE DSO MC ED Comd CRU dated 23 Feb 46

ACCUSED.

(As to the trial of two or more charged jointly see RP 16, 71, 109. As to reasons for showing (a) permanent or confirmed rank, and (b) apptmt, A/rank or A/apptmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

Number.	(a) Prmnt R. (b) Apptmt, A/R or A/Apptmt.	Full Christian Names.	Surname.	Unit.
M.104902	Pte	Frederick Walter	GROVE	No 1 Cdn Repat Depot

PROCEEDINGS REVIEWED

19 March 46 C.H. Tait, Maj.

REVIEWING OFFICER, JAG BRANCH CMHQ.

PROCEEDINGS OF TRIAL.

Held in the Fd in (country) ENGLAND on (date(s)) 26 Feb 46

RECORD FORM A—OPENING PROCEEDINGS AND ARRAIGNMENT.

A1. The President, Members, ~~waiting Member, JA, if any, and Offrs under instr, if any,~~ assemble, and the Court is closed.

(PRINTED MATTER, NOT IN ITALICS FOR GUIDANCE, WILL BE DELETED, IF NOT USED OR APPLICABLE, AND INITIALLED BY PRES OR JA. The Schedule referred to throughout is on p 4. Citations do NOT include all relevant fns ROs. For guidance on procedure when a variation in this form arises, see form for GCM in MML pp 741 to 759. A brief record of such variation will be made and given a number having reference to appropriate or preceding para number herein. See back of Convening Order, CF A65, for oaths and instrs on how to record addresses, evidence, etc, which instrs are hereafter called "Notes". As to general provisions for conducting the trial see AA 52, RP 56, 63-70, 73, 74, 94, 103, 119, 132.)

A2. The President initials and lays before the Court the Convening Order and Charge Sheet(s) attached thereto.(1) The Court is satisfied that it is properly convened and constituted(2), accused is (~~are~~) amenable to military law, and each charge discloses an offence.(3)

(1. As to use of Summary of Evidence see RP 17 fn 6. 2. AA 49, 50, RP 105-107. 3. RP 11-13, 23, 24.)

A3. The Court is opened. The accused is (~~are~~) brought before the Court. At 1110 hours trial commences.

A4. The Prosecutor produces a Medical Certificate that accused is (~~are~~) fit to undergo trial by court-martial.(1) ~~The Prosecutor informs the Court that accused elected to be tried by court-martial instead of being dealt with summarily by the CO.~~(2)

(1. KR Can 557. 2. AA 46(8), RP 60 fn 1. For effect see KR Can 563(c). Delete, if not applicable.)

A5. President to accused: ~~Do you object to ..... as interpreter?~~ Ans ~~No Sir~~

~~The Interpreter is sworn.~~(1) Do you object to E100409 Sgt O'Neill, J as shorthand writer? Ans No Sir

~~The shorthand writer is sworn.~~(1)

(1. RP 72. Delete, if none employed.)

A6. The Convening Order and names of the President and Members of the Court are read to the accused.(1) President to accused: Do you object to be tried by me as President or by any of the Members of the Court?

Ans No Sir.(1)

(1. RP 110. 2. If no objection, waiting member retires. RP 68(B). If objection, see procedure AA 51, RP 25, 71, 78, MML p 742.)

A7. The President, Members, ~~JA, if any, and Offrs under instr, if any,~~ are sworn.(1) The following are the ranks, names and units of the offrs comprising the Court, etc:

President	Lt-Col	C.B. Woodrow OBE ED	RN, CRU
Member	Capt	J.J.P. Bisson	1 Cdn Repat Dep
Member	Lieut	J.F.W. Collinson	1 Cdn Repat Dep
~~Judge-Advocate~~			
Prosecutor	CAPT	G.L. LaRose	1 CDN REPAT DEP
Defending Offr	LIEUT	A.J. MacDonald	1 CDN REPAT DEP

Questions by President: Is the Prosecutor a lawyer? Ans No. Is the Defending Offr a lawyer? Ans No.(2)

(1. RP 26, 27, 109, 111. List of offrs under instrs will be returned separately with proceedings for information of Conv Offr.) (2. If Pros a lawyer and Def Offr not, accused is entitled to an adjournment when RP 89 (B) and fn 2 were not followed. See DI p 3.)

A8. The accused ..... before arraignment make(s) (no) ~~(an)~~ plea.(1)

(1. If a special plea is made for separate trial on one or more charges (RP 62(E), 108), or as to the jurisdiction of the Court (RP 34, 35(A), 112), or in bar of trial (RP 36), or as to accused's mental fitness to stand trial (AA 130, RP 37), or by one of several accused charged jointly to be tried separately (RP 16, 71), such pleas, the addresses made in support or against, the evidence, if any, and finding are recorded per Notes. For forms of record see references in fns to RsP cited. Insert in A8 rank and name of the accused making the plea.)

A9. The accused is (~~are~~) arraigned (~~separately~~) on all charges in the charge sheet.(1) The accused does (~~do~~) not object to any charge.(2) There is no amendment to be made to the Charge Sheet.(3) The President records the pleas in Part I of the Schedule.

(1. RP 31, 112. See para 1 of Instrs p 2. When more than one Charge Sheet see RP 62; when several accused to be tried separately see RP 71(C), and use separate copies of CF A96 to record proceedings. 2. RP 32, RP 33. If otherwise, delete and make appropriate record per Notes.)

A10. The Court (~~is closed and~~) considers the Instrs on Procedure after Arraignment at top of p 2. The proceedings are continued on Record Form B

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

INSTRUCTIONS ON PROCEDURE AFTER ARRAIGNMENT.

1. *The accused may not plead or be found Guilty on more than one of two or more charges laid in the alternative.* (*RP* 37(*A*).) *As to withdrawal of alternative charges by Prosecutor see RP* 35(*C*). *No other charge can be withdrawn for any reason without authy from Convening Offr. If Convening Offr concurs, Court may accept plea of Guilty to lesser, etc, offence.* (*RP* 44(*H*).) *Accused may change a plea of Not Guilty to Guilty during trial.* (*RP* 38.) *As to refusing to plead or not pleading intelligibly see RP* 35(*A*). *As to plea when sentence may be death see RP* 35(*D*).

2. *The proceedings on each charge sheet* (*RP* 62) *after arraignment will be conducted as follows in the respective circumstances stated:*

I. If pleas to all charges are GUILTY, use Record Form B below.

II. If pleas to all charges are NOT GUILTY, use Record Form D on p 3.

III. If pleas to some charges are GUILTY and to other charges are NOT GUILTY and,

(a) Such mixed pleas occur when there are no alternative charges in the Charge Sheet, use Record Form C below. (*RP* 37(*A*).)

(b) Such mixed pleas occur in a set of two or more charges laid in the alternative, see RP 37 (*A*) *and fn* 2 *as to discretion of Court, (i) to try the accused on all such alternative charges as if he had pleaded Not Guilty thereto, or, (ii) to record the pleas as the findings of Court. After deciding between (i) and (ii), Court will proceed under foregoing instrs as may be appropriate to result of its decision. See M M L p* 744 *Instrs* (2).

3. *As to responsibility of President to accused see RP* 59, 60(*C*); *powers and duties of JA see RP* 103; *duty of Prosecutor see RP* 60(*A*) (*B*); *duty and privileges of accused and Defending Offr see RP* 60(*C*), 87(*C*), 91, 92; *swearing and withdrawal of witnesses from Court see RP* 81, 82; *questioning of accused see RP* 80, 87(*C*), 92(*B*), *and of witnesses see RP* 83-85; *calling or re-calling of witnesses by Court, etc, see RP* 75-79, 86, 116; *use of Summary of Evidence at Trial see RP* 17(*E*) *fn* 6; *and responsibility of JA or Pres to record proceedings see RP* 94, 96.

RECORD FORM B—PROCEEDINGS ON PLEAS OF GUILTY TO ALL CHARGES.

B1. The President ~~or JA, if any~~ complies with RP 35(B) by explaining to the accused the nature and meaning of the charge(s)(1), and that on his plea of Guilty there will be no regular trial but merely a consideration of the sentence to be awarded after he has been given an opportunity to make a statement in reference to the charge(s), call witnesses as to character and make an address in mitigation of punishment.(2)
(1. *RP* 35 *fn* 3. 2. *MML p* 54 *para* 47.)

B2. President to accused: The Court will now receive any statement you desire to make in reference to the charge(s).(1) If it appears from your statement that there are circumstances which indicate that you do not understand the effect of the plea of Guilty(2), or which show provocation or extenuation in respect of which in your interest the witnesses for the Prosecution should be examined(3), we shall advise you to change your plea to Not Guilty. In making a statement you will not be sworn or subject to cross-examination; and anything you say will not be used in evidence against you after you change your plea. If, however, it appears to the Court that your statement affects only the amount of punishment to which you are liable, you will not be advised to change your plea and you will be given an opportunity later to prove your statement by sworn testimony, if you so desire.(4)

President to accused: Do you wish to make a statement ? Ans. NO SIR.(5)
(1. *RP* 37(*B*). 2. *RP* 37(*D*) *fn* 6. 3. *RP* 35(*B*) *fn* 3 *para* 3, *MML p* 54 *para* 47. 4. *See para E3 of Record Form E.* 5. *Statement, if any, recorded per Notes.*)

B3. ~~The Court considers the accused's statement (2). The Court decides (not) to advise accused to change his (their) plea(s) of Guilty to Not Guilty on charge(s). The accused is (are) so informed, and he (they) change(s) his (their) plea(s) on charge(s). Part I of the Schedule is amended accordingly.~~
(1. *Court may be closed to consider the statement. Delete whole or part not used.*)

B4. On the charge(s) to which the plea(s) of Guilty is (~~are~~) not changed the President records finding(s) of Guilty in Part I of the Schedule.(1)
(1. *RP* 35(*B*). *If any plea(s) is (are) changed, use Record Form C or D as appropriate.*)

B5. The Summary of Evidence is marked Ex A, initialled and read aloud by the President.(1)
(1. *If there is no Summary, or if it is inadequate, comply with RP* 37(*B*). *If there is any evidence inconsistent with any plea standing as Guilty, Court will advise accused to change such plea and, if changed to Not Guilty, try such charge(s) by use of paras D1 to D8 inclusive of Record Form D on p* 3. *RP* 37(*D*).)

B6. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

RECORD FORM C—PROCEEDINGS ON MIXED PLEAS OF GUILTY AND NOT GUILTY.

C1. As to the charges on which accused pleaded NOT GUILTY the trial is continued by using paras D1 to D8 inclusive of Record Form D on p 3 before proceeding with C 2.(1)
(1. *RP* 37(*A*) (*E*).)

C2. The charges on which accused pleaded GUILTY are read to him (them) again, and the trial is continued by using paras B1 to B5 of Record Form B above.(1)
(1. *Under B5 such parts only of the Summary of Evidence are read as relate to the charges dealt with under C2. If any plea is changed to Not Guilty, trial thereon proceeds by complying with paras D1 to D8 inclusive in Record Form D on p* 3 *and making an appropriate record thereof on a separate sheet.*)

C3. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

RECORD FORM D—PROCEEDINGS ON PLEAS OF NOT GUILTY TO ALL CHARGES.

D1. President to accused: Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity to prepare your defence ? Ans.....(1)
(1. *If "yes", see RP* 39(*A*) *for procedure. Statement or evidence, if any, is recorded per Notes.*)

D2. The Prosecutor makes (an) (no) opening address.(1)
(1. *RP* 39(*B*), 60(*A*) (*B*), 90, 92(*C*) (*D*). *Record address per Notes, subject to RP* 95(*C*).)

D3. The evidence for the Prosecution is taken.(1)
(1. *RP* 39(*C*), 114, *KR Can* 555. *Record evidence per Notes. As to Prosecutor giving evidence himself see RP* 39(*D*) (*E*).)

D4. The Prosecution is closed.(1) The Defending Offr submits that the evidence for the Prosecution does not establish a prima facie case against the accused on the.....charge(s).(2) The Court is closed, and considers the submission.(3) The Court is re-opened, and the President announces that the submission is disallowed on the.....charge(s), and allowed on the.....charge(s), and that, accordingly, the trial will proceed on the former, but the accused is (are) found Not Guilty on the latter charge(s).(4)
(1. *Delete remainder of this para. If submission not made.* 2. *Arguments on submission, answer and reply are recorded per Notes.* 3. *RP* 40 *fn* 1. *See MML p* 72 *paras* 12-14 *and p* 81 *para* 42. 4. *Delete part not used. If accused acquitted on all charges, use second alternative in para D8.*)
NB: If trial proceeds, accused must be allowed great latitude in making his defence, and the Court should not stop his defence solely on ground of irrelevance. (*RP* 90(*C*), 114, 115.)

D5. President to accused: You will now proceed with your defence.(1) You may, if you wish, give evidence yourself on oath as to the facts or your character or both, in which case you will be subject to cross-examination.(2) You may, however, make a statement without being sworn and you will not be subject to cross-examination.(3) But a statement which could have been made on oath will not carry with the Court the same weight as sworn testimony.(4) You may call witnesses in your defence and as to character, whether you give evidence or make a statement or do neither.

President to accused: Do you wish to give evidence yourself as a witness, make a statement, or do neither ?
Ans.....Do you intend to call witnesses on your behalf ?
Ans.....Are they witnesses as to character only ? Ans.....
(1. *RP* 115. 2. *RP* 40(*A*), *see* 80(*D*). 3. *RP* 40 *fn* 10. 4. *RP* 40 *fns* 2, 9.)

D6. Consequent on the answers recorded in para D5 the appropriate procedure for the defence is followed.(1)
(1. *RP* 114, 115, 116. *For procedure see Notes on back of Convening Order, CF A95. Evidence for accused as to his character should, if in his interest, be given before the finding. See RP* 46(*A*) *fn* 1, 86(*C*). *Note the further opportunity in para E1 of Record Form E. Record per Notes addresses, statement, evidence and any summing up by the JA under RP* 42, 103(*e*).)

D7. The Court is closed to consider the finding(s).(1) The finding(s) of the Court is (are) recorded in Part I of the Schedule.(2) The Court is re-opened.
(1. *RP* 43, 117(*A*). *See Notes in Part I of Schedule.* 2. *RP* 44(*A*).)

D8. The President announces the finding(s), if any, of Not Guilty, and states to the accused that the finding(s) of the Court on the.....charge(s), being subject to confirmation, will be promulgated later.(1)
Or, The President announces that the accused is found Not Guilty on all charges and is to be released forthwith, and that the proceedings are accordingly terminated. Part I of the Schedule is dated and signed.(2)
(1. *AA* 54(3) (*b*), *RP* 45, 120(*A*). 2. *AA* 54(3), *RP* 45, 117. *This alternative announcement is not applicable when there are pleas of Guilty outstanding and dealt with under Record Form B or C.*)

D9. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E below.

RECORD FORM E—PROCEEDINGS ON CONVICTION BEFORE SENTENCE.

E1. President to accused: Do you wish to give evidence yourself or to call any witnesses as to your character ?(1)
Ans. NO SIR
(1. *If evidence has already been given by accused or his witnesses as to his character, delete this para. RP* 37(*C*) *fn* 4, 46 *fn* 1. *Accused and witnesses are sworn. Evidence recorded per Notes.*)

E2. The Prosecutor produces Statement(s) as to Character and Particulars of Service(1), and certified true copy (~~copies~~) of Conduct Sheet(s)(2), purporting to refer to the accused, which he submits to the Defending Offr for examination, and then to the Court for admission in evidence. The Court is satisfied that these documents refer to the accused, because (i) they purport to be signed in the manner required by AA 163(*d*) (g) (h), and (ii) they purport to refer to (a) soldier(s) having the same number, rank, name and corps as the accused. Admitted in evidence and marked Ex B and Ex C respectively.(3)
(1. *MFB* 255 *or AFB* 296. 2. *MFM* 6. 3. *RP* 46, *KR Can* 558. *If above documents not produced, see RP* 46 *fn* 1 *para* 1.)

E3. President to accused: Do you wish to address the Court on the Statement(s) and Conduct Sheet(s), and in mitigation of punishment ?(1) Ans. Requesting officer's plea in mitigation attached.(2)
(1. *RP* 37(*C*), 46(*D*). 2. *Address, if any, recorded per Notes. Court should permit accused or his witnesses to prove on oath anything here or previously stated which would affect the amount of punishment. RP* 37(*F*) *fn* 7.)

E4. The President states that the Court is closed to consider the sentence, and that the sentence to be awarded by the Court, being subject to confirmation, will not be announced, but will be promulgated later, and the proceedings in open court are accordingly terminated.(1)
(1. *AA* 54(6), *RP* 120(*A*).)

E5. The Court considers the sentence.(1) The President records the sentence in Part I of the Schedule, which is dated and signed by him ~~and the JA, if any~~.(2)
(1. *When several accused tried separately see RP* 71 (*D*). *One sentence only, comprised of the punishment or punishments laid down in AA* 41, 44 *and its proviso, is to be awarded to cover all charges in all charge sheets on which accused found guilty. RP* 48. *As to sentences see AA* 44, 138, 182, *RP* 46-52, 69, 118, 119(*A*), *KR Can* 308, 330, 563-566, *Overseas Nil RPs*, 2323, *MML p* 60, 737-739. *As to sentences assigned for civil offences by the law of England see AA* 41(3), *MML p* 139. *Where accused already under sentence of imprisonment or detention see AA* 44(18), 68(1), *KR Can* 564. 2. *RP* 50. *As to release from custody by Confirming Offr see KR Can* 567. *As to assembly and disposal of record after trial see instrs on back of Convening Order.*)

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

CEB

CHARGE SHEET

The Accused, M104902 Cfn Frederick Walter GROVE, RCEME, on the strength of No 4 (Gen Rft) Wing, No 1 Canadian Repatriation Depot, a soldier of the Canadian Army Overseas, is charged with:

FIRST CHARGE

SECTION 16 (1)

ARMY ACT

WHEN ON ACTIVE SERVICE

ABSENTING HIMSELF WITHOUT LEAVE

in that he,

in the Field, absented himself without leave from 2359 hrs 9 Dec 45, until 0930 hrs 13 Feb 46.

Absent: 65 days, 9 hrs, 31 mins.

Commanding Officer
No 1 Cdn Repat Depot
(Lorne Scots)
Cdn Army Overseas

Field,

.28..Feb 46

TO BE TRIED BY FIELD GENERAL COURT MARTIAL

IN THE FIELD
23 FEBRUARY, 1946

(F.G. Blackader) Brigadier
Commander
Canadian Repatriation Units

FIELD GENERAL COURT-MARTIAL

(Whether the accused to be tried is under his comd or not, a FGCM may on application to him be convened by any offr of Cdn Army Overseas, or of any other force if authorized in law, in immediate comd of troops on active service, subject to RP 105(C) and restrictions imposed by appropriate authy. AA 49, 50, RP 104-107, 114. As to the duties and privileges of the Convening Offr in dealing with the application see MML Chap V paras 20 and 23, RP 87(B).

There should be a separate Convening Order for each person to be tried separately by the same Court. RP 71(C), 109. As to separate charge sheets see RP 62, and as to separate trial on charges in the same charge sheet see RP 108. As to two or more accused charged jointly see RP 1d, 109.

As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/ronk or A/oppmt, if any, see AA 182, 183, fns, KR Can 328, 328, 330.)

ACCUSED.

Number.	(a) Prmnt R.	(b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
M-104902	PTE		Frederick Walter	GROVE	No 1 Cdn Repat Depot

CONVENING ORDER.

1. Whereas complaint has been made to me, the undersigned, that the person(s) named above as the accused, being subject to military law, has ~~XXXX~~ committed the offence(s) set forth in the Charge Sheet(s) attached and on (date) Feb 23 1946 endorsed by me, ~~XX XX XXXXXXXXXXXXXXXX~~ "To be tried by Field General Court-Martial".

2. And whereas I am of opinion that it is not practicable that such offence(s) should be tried by an ordinary General Court-Martial; ~~XXXXXXXXXXXXXXX

CRD

NO. 3 CDN MIL FWIC & DETN REC (A)
DISCIP. CENTRE - AHRON

TO WHOM IT MAY CONCERN:

THIS IS TO CERTIFY THAT THIS DATE I MEDICALLY
EXAMINED [illegible]
AND THAT HE IS FIT TO UNDERGO TRIAL BY COURT MARTIAL.

[illegible]
AHRON, ONT.

THIS 26 [illegible] 46

[illegible]
Medical Officer
Discip. Centre - Ahron
3 Cdn Mil Fwis & Detn Rec (A)

Plea attached at JE 3

Plea in Mitigation

M104902 Pte Grove F. W.

Enlisted 14 Nov 42
Joined 19th
Overseas [illegible] July 43 with Lincs R
Grove stayed with the Edmontons
through Sicily & Italy until he
was wounded. He was re-categorised
& returned to the R Corps. From there
he went to France & Germany.
During the time he has
served his country to the best of
his ability and has not once ceased
to [illegible] & enlisted
He deserved rest as he visited
Italy with his wife when he
was posted home.
Since he has been at this camp
no charge against him of
any nature & no one can be more
a true soldier
& the respect of his soldier

Exhibit 9
Ckd

SUMMARY OF EVIDENCE

in the case of,

M104902 Cfn Frederick Walter GROVE, MCEME, on the strength of No 4 (Gen Rft) Wing, No 1 Canadian Repatriation Depot, a soldier of the Canadian Army Overseas.

"I produce the following documents pursuant to Overseas Routine Order No 5362, which have been read over and shown to the Accused, and which are attached hereto as Exhibits:"

(1) Certified True Copy of the Declaration of a Court of Inquiry held 7 Jan 46, which declares that M104902 Fte Grove F.W. absented himself without leavefrom 2359 hrs 9 Dec 45 and to be deficient in kit in the amounts of $10.65 (100%) or $7.99 (75%)
(Marked Exhibit "A")

(2) Certified true extract from No 4 (Gen Rft) Wing, No 1 Cdn Repat Depot Part II Order No 23 dated 15 Feb 46, which declares in Section"B", Para 5, sub-para (i), that M104902 Cfn Grove F. W. was taken on strength from desertion at 0930 hrs 13 Feb 46.
(Marked Exhibit "B")

C.E. Ennis
.....
(C.E. Ennis) Lieut RCA
Officer detailed to take the Summary of Evidence

THE ACCUSED WAS CAUTIONED AS FOLLOWS:

"Do you wish to make any statement or to give evidence on oath? You are not obliged to say anything or give evidence unless you wish to do so, but whatever you say or any evidence you give will be taken down in writing and may be given in evidence."

The Accused reserves his defence.

The Accused does not call any witnesses.

"I certify that the above Summary of Evidence, consisting of one page, was taken down by me in the presence and hearing of the Accused, and that Rules of Procedure 4 (c) (d) (e) and (f) have been complied with."

C.E. Ennis
.....
(C.E. Ennis) Lieut RCA
Officer detailed to take the Summary of Evidence

Field,

.22.Feb 46

Exhibit "A"
Cdn

RECORD of the Declaration of a Court of Inquiry assembled at 11 Canadian Repat Depot on the 7 th day of January 19 46, for the purpose of investigating and recording the absence, without leave, from his duty, and deficiency, if any, in the Arms, Ammunition, Equipments, Instruments, Regimental Necessaries, or Clothing of No.

DECLARATION

The Court declare that No. M 104902 Pte Grove F W., 11 Canadian Repatriation Depot

illegally absented himself without leave from 11 Canadian Repatriation Depot xxx in the Pl at 2359 hrs on the 9 th day of Dec 45 that he is still so absent, and that on the 7th January 1946 he was deficient, and that he is still deficient of the following articles :—

ARTICLES	VALUE	ARTICLES	VALUE
(as set out overleaf)			

Signed at 11 Cdn Repat Depot this 7th day of Jan 19 46

J J Brundige Capt 11 Cdn Repat Depot — President
R J C Bicklin Capt 11 Cdn Repat Depot — Member
G Richardson Lieut 11 Cdn Repat Depot — Member

Signature of Commanding Officer B. R. Ritchie Lt Col

Certified true copy
Signature of Officer having custody of original record

3/60B MFB 375-AFB 115 40/P&S/292 (8703)

Articls		Vocabulary Price	Less 25%
Beret	1	1.20	.90
Jersey Pullover	1	1.79	1.35
Cap Badge	1	.09	.06
Brush Shaving	1	.37	.27
Tooth Brush	1	.11	.09
Comb	1	.04	.03
Holdall	1	.19	.15
Razor	1	.06	.04
Towels Hand	1	.34	.25
Straps Shoulder Haversack	2	.34 (17 each)	.25
Straps Web Supporting	1	.26 (13 each)	.19
Blanket G.I. 1098	1	3.07	2.31
U'Shirt	1	1.20	.90
Drawers	1	1.40	1.05
Tie, Black		.19	.15
		10.65	7.99

Exhibit "B"

NO 4 (GENERAL REINFORCEMENT) WING
NO I CANADIAN REPATRIATION ~EPOT
~aily Part II Orders
issued by

Last Order
No 22
14 Feb 46

THIS ORDER
NO 23
15 Feb 46

COL M B K GOR~ON ~ S O E ~
COMMAN~ING OFFICER

: : : :

Exhibit "B"

ARMY FORM B.296.

Statement as to Character and Particulars of Service of Accused.

Number	Rank	Name	Regiment (or as the case may be)
M104902	Gfn.	GROVE F. W.	No 1 Cdn Repat Depot

1. The following is a fair and true summary of the entries in the regimental and squadron, battery or company conduct sheets† of the accused, exclusive of convictions by a court martial or a civil court, of summary awards under section 47 of the Army Act, and of cases in which trial has been dispensed with :—

NOTE.—At a trial by field general court martial this summary may be compiled from the field conduct sheet.
The conduct sheet(s) mentioned should be produced in court with this statement but not annexed to the proceedings.

† See para. 677, K.R., 1940.

* The numbers herein stated should correspond with the number of entries in the conduct sheets, prominence being given to the most serious offences in each entry, and to any recognised special acts of gallantry or distinguished conduct.

INSTRUCTION.—If the charge is for drunkenness (i) the entries for drunkenness must be stated separately and dated.

	* Within last 12 months	* Since Enlistment.
For AA Sec 15 (1)	times	2 times
For	times	times
For	times	times
For	times	times
For	times	times

~~Number of instances of gallantry or distinguished conduct~~

or

~~There are no entries in the conduct sheets of the accused~~

2. The accused has not been previously convicted, *or*

~~Previous convictions† of the accused by a court martial or a civil court, summary awards under section 47 of the Army Act, and dispensations with trial under section 75 of the Army Act, are set out in the schedule annexed to this statement.~~

3. The accused is not under sentence at the present time, ~~or The accused at the present time is under sentence for~~ ~~beginning on the day of~~

4. The accused has been in confinement, awaiting trial on the present charges, for nil days in civil custody, and 13 days in military custody, making a total of 13 days, of which nil days were spent in hospital.

5. The present age of the accused according to his ~~attestation paper~~ record of service is 24 yrs 6 mos

6. The date of his ~~commission~~ attestation specified in his ~~attestation paper~~ record of service is 16 Nov 42

~~7. The service which the accused is required to reckon towards discharge or transfer to the reserve is~~

~~8. The accused is entitled to deferred pay or gratuity in respect of service~~

~~9. The accused is entitled to reckon service for the purpose of determining his pension, as~~

10. The accused ~~is in possession of, or entitled to, any military decoration or military award for~~ is in possession of or entitled to (*state any military decoration or reward*). CVSM & Clasp, 39-43 Star Italy Star France & Germany Star

~~11. (If the accused is a warrant officer.) The accused before he was made a warrant officer last held the regimental rank of~~

~~12. (In the case of an officer.) The accused holds in the army the rank of dated~~ and in his regiment (or corps or department) the rank of dated

W.L.9507/3119 2000. 5/40. P. Lol. Tds. 3.

Schedule of Convictions by a Court Martial or Civil Court, of summary awards under Section 47 of the Army Act and of cases in which trial has been dispensed with of accused.

No. M104902 Rank Gnr Name GROVE F. W. of 1 Cdn Repat Regiment (or as the case may be)

(INSTRUCTION.—A verbatim extract from the regimental books, stating these convictions and dispensations with trial, must be inserted.)

Description of court by which tried, or status of officer disposing of the charge or dispensing with trial	Date and place of trial, or summary award under A.A. 47, or of order dispensing with trial.	Charges upon which convicted, or in respect of which trial was dispensed with.	Sentence of the court or authority disposing of the charge, or order of the dispensing authority.	Punishment remitted.

I HEREBY CERTIFY that the foregoing schedule of convictions and dispensations with trial is a true extract from the regimental books in my custody.

Signed this 26 day of February 46.

C. E. Davis Lieut RCA
Legal Officer
4 Military / Cdn Repat Depot

To be struck out in the case of a non-commissioned officer, soldier, or other person not an officer.

In the rank of ..... years.

In the rank of ..... years.

In the rank of ..... years.

(INSTRUCTION.—If any mention in any of the above paragraphs cannot be found from the regimental books the paragraph must be struck through, except nil in the case of a trial by Field General Court Martial (for information only) be collected from such sources as are available and the paragraph inserted accordingly.)

Date of Promotion.

M.F.M. 6
(A.F.W. 122)

No. M104902 Name GROVE Frederick Walter | Sqn., Battery, or Company | Corps | Rank Sgt/Relief "S" | Date of Appointment 16-11-42 | G.C. Badge | Service or Proficiency Pay | Character

Date of last entry in Company Conduct Sheet | Sen. and date of last drunk | Period not reckoning towards freedom from extra fine | Sheet No. 1 | Signature O.C. Company, etc.

Place	Date of offence	Rank	Cause of drunkenness	OFFENCE	Name of Witness	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
				Issued Trans. Warrant No A360125 D.O. #76 4/15-3-43					
Currie Barracks	17-3-43			Certified no further entries to date "A.W.Wilson Major AIG CITC"					
Field	21 Oct 44	Pte		WOAS AWL from 2200 hrs 21 Oct 44 until 2000 hrs 23 Oct 44 Sec 15(1) Army Act	Cpl Knoll	2 days forf 3 days dep pay	17 Nov 44	Lt Col J.S. Stone MC	2 days pay PR&I 149(1)a
Field	28 Oct 45	Pte		AA Sec 15 (1) AWL from 1200 hrs 28 Oct 45 to 0630 hrs 30 Oct 45 (Absent 1 day 12 hrs 30 min)	Coy	7 days CB	30 Oct 45		
				CERTIFIED TRUE COPY OF ORIGINAL MFM 6 HELD IN MY POSSESSION.					
				15 Feb 46 (C.E. Ennis) Lieut NCA Officer having custody of original document					

THE CASE OF M104902 Cfn GROVE F. W.

(i) LIST OF WITNESSES FOR PROSECUTION

Nil

(ii) LIST OF WITNESSES FOR DEFENCE

Nil

(iii) LIST OF EXHIBITS FOR PROSECUTION

(a) Certified True Copy of the Declaration of a Court of Inquiry held 7 Jan 46 concerning the absence without leave of M104902 Pte Grove F. W.
(Marked Exhibit "A")

(b) Certified true extract from 4 (Gen Hft) Wing, No 1 Gdn Repat Part II Order No 22 d/15 Feb 46 concerning the return from absence without leave of M104902 Cfn Grove F. W.
(Marked Exhibit "B")

(iv) LIST OF EXHIBITS FOR DEFENCE

Nil

(v) RECEIPT BY ACCUSED FOR COPY OF CHARGE SHEET AND SUMMARY OF EVIDENCE

I hereby acknowledge that I have been served with a true copy of the Summary of Evidence, taken in the Field, preliminary to my Court Martial. I further acknowledge that I have been served with a true copy of the charge under which I am being brought to Court Martial.

F.W. Grove
(M104902 Cfn Grove F.W.)

(vi) APPLICATION BY ACCUSED FOR DEFENDING OFFICER

I hereby request that the Convening Officer appoint an Officer to represent me at my trial.

I desire the services of.....
if he is available.

F.W. Grove
(M104902 Cfn Grove F.W.)

Signed in the Field,

this 14 day of Feb 46.

YY-139 (Case #2)

PTE GROVE W.G

See Q-36 for 1st Case

Last of "G"

SCHEDULE.

PART I. PLEA(S), FINDING(S) AND SENTENCE.

Accused: B31539 Pte GROVE W.G.

Charge. (Insert "alternative" where applicable.)	Plea. (See Instrs p 2.)	Finding. (See note below.)	2nd charge—Further charges, accused charged jointly. Special findings, etc.
1st AA 15(c)	not Guilty	Guilty	except that he did not steal a Pullover
2nd AA 41	not Guilty	Guilty	4th Sept/43 not 3rd Sept/43 except that he did not steal a
3rd AA 61	not Guilty	Guilty	wallet from S/Sgt Preston
4th			
5th			
6th			

(Note: As to findings for lesser offences see AA 56, RP 44; findings on alternative charges see MML p 483 fn 4 para 2, RP 44; special findings see RP 44 and MML p 753, and in loss of kit see RP 44 fn 6.)

(1)

~~At present under sentence for~~ ..... beginning on (date) .....

(1. Insert sentence being served, or delete; if not applicable. See RP 46(A). Information should be found on MF B355 or AF B296.)

Time in confinement awaiting present trial—a total of 105 days, of which 30 days were spent in hospital.(1)

(1. See RP 46(A) fn 2. Information should be found on MF B355 or AF B296 admitted in evidence under E2.)

Sentence Awarded by the Court: To undergo detention for a period of six months and to be put under stoppages of pay until he has made good (1) £12-0-0 the loss occasioned to Mrs W.C. Millwood and (2) Thirty shillings (30/-) the loss occasioned to S/Sgt. Preston

(Sgd) ..... Judge-Advocate, if any. 21 Dec/43 Date awarded. (Sgd) ..... President. (RP 45, 50.)

(See back of Convening Order as to assembly and disposal of record after trial.)

PART II. MINUTE WHERE CONFIRMATION RESERVED. (AA 54(5), RP 120(F), MML p 760.)

Date 24 Dec 43 (Sgd) ..... Commanding 2nd Inf HQ

PART III. DECISION OF CONFIRMING OFFR ON FINDING(S) AND SENTENCE.

(For duties and powers see AA 54, 57, RP 27(D) fn 6; 46(A), 51-56, 120, MML pp 759-761, KR Can 567-577. Acquittals require no confirmation and cannot be revised: AA 54(3). Sending back finding or sentence for revision by Court: AA 54(2), RP 120(G). If not confirmed, accused may be tried again: AA 157, MML p 64. Minutes of confirmation or non-confirmation may be altered before promulgation: RP 53, MML p 65. Quashing after promulgation: KR Can 573. Duties and powers of reviewing offrs: AA 57, 57A, RP 53A, 54. The Confirming Offr must sign here personally. AA 172 fn 1.)

My decision on the finding(s) and sentence set forth in Part I is:

Sentence Confirmed

~~I direct that the accused be not committed to prison or detention barracks until further orders.~~(1) ~~(1. See 57A. Delete if not used.)~~

(Sgd) Louis Keene (LOUIS KEENE) Colonel Commander 2nd Inf Group Confirming Officer.

Date 24 Dec 1943 Commanding

PART IV. PROMULGATED AND EXTRACTS TAKEN. (RP 53, KR Can 576, 577.)

Accused: B31539 Pte GROVE, W.G.

Date: 24 Dec 43

Signature of Offr: H Hamer. (H. Hamer) Lieut.-Colonel, A/ Commanding Officer, No. 1 Cdn. Org. Rft. Unit.

ALL DELETIONS AND ALTERATIONS WILL BE INITIALLED

XX-139

CPAMP (IR Instr of AP 123) 41/P.M.R./1668—20/4/44

FIELD GENERAL COURT-MARTIAL

Convened by Order of Col. Louis Keene Comd "2nd Group dated 17 Dec 43

ACCUSED.

(As to the trial of two or more charged jointly see RP 16, 71, 109. As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

Number.	(a) Prmnt R. (b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
B31539	Pte	Walter Grovelini	GROVE	1 C.C.R.U.

PROCEEDINGS REVIEWED

B.H. Waugh Capt

17 Jan 44

REVIEWING OFFICER, JAG BRANCH

PROCEEDINGS OF TRIAL.

Held in the Fd in (country) England on (date(s)) 21 Dec 43

RECORD FORM A—OPENING PROCEEDINGS AND ARRAIGNMENT.

A1. The President, Members, waiting Member, JA, if any, and Offrs under instr, if any, assemble, and the Court is closed.

(PRINTED MATTER, NOT IN ITALICS FOR GUIDANCE, WILL BE DELETED IF NOT USED OR APPLICABLE, AND INITIALLED BY PRES OR JA. The Schedule referred to throughout is on p 4. Citations do NOT include all relevant fns; RQs. For guidance on procedure when a variation in this form arises, see form for GCM in MML pp 741 to 759. A brief record of such variation will be made and given a number having reference to appropriate or preceding para number herein. See back of Convening Order; CF AP5, for oaths and instrs on how to record addresses, evidence, etc, which instrs are hereafter called "Notes". As to general provisions for conducting the trial see AA 53, RP 36, 63-70, 73, 74, 94, 103, 119, 132.)

A2. The President initials and lays before the Court the Convening Order and Charge Sheet(s) attached thereto.(1) The Court is satisfied that it is properly convened and constituted(2), accused is (are) amenable to military law, and each charge discloses an offence.(3)

(1. As to use of Summary of Evidence see RP 17 fn 6. 2. AA 49, 50, RP 105-107. 3. RP 11-13, 23, 24.)

A3. The Court is opened. The accused is (are) brought before the Court. At 10.00 hours trial commences.

A4. The Prosecutor produces a Medical Certificate that accused is (are) fit to undergo trial by court-martial. ~~The Prosecutor informs the Court that accused elected to be tried by court-martial instead of being dealt with summarily by the CO.~~(1)

(1. KR Can 557. 2. AA 46(8), RP 60 fn 1. For affect see KR Can 563(c). Delete, if not applicable.)

A5. President to accused: Do you object to ..... as interpreter? Ans

~~The Interpreter is sworn.~~(1) Do you object to ..... as shorthand writer? Ans

~~The shorthand writer is sworn.~~(1)

(1. RP 72. Delete, if none employed.)

A6. The Convening Order and names of the President and Members of the Court are read to the accused.(1) President to accused: Do you object to be tried by me as President or by any of the Members of the Court?

Ans NO - 2 JR.(2)

(1. RP 110. 2. If no objection, waiting member retires. RP 68(8). If objection, see procedure AA 51, RP 25, 71, 111, MML p 742.)

A7. The President, Members, ~~JA, if any,~~ and Offrs under instr, if any, are sworn.(1) The following are the ranks, names and units of the offrs comprising the Court, etc:

President	Lt Col	A.Z Redman	H U C R U
Member	Capt.	W.J Finney	100 R U
Member	Lt.	R A Burns	100 R U
~~Judge-Advocate~~			
Prosecutor	Major	E Millar	100 R U
Defending Offr	Lt	W.R. Learmonth Edn. M.Z. Bleich	

Questions by President: Is the Prosecutor a lawyer? Ans Yes Is the Defending Offr a lawyer? Ans Yes (2)

(1. RP 26, 27, 109, 111. List of offrs under instr will be returned separately with proceedings for information of Conv Offr.)
(2. If Pros a lawyer and Def Offr not, accused is entitled to an adjournment when RP 89 (B) and fn 2 were not followed. See D1 p 3.)

A8. The accused ..... before arraignment make(s) (no) ~~his~~ plea (1)

(1. If a special plea is made for separate trial on one or more charges (RP 62(E), 109), or as to the jurisdiction of the Court (RP 34, 35(A), 113), or in bar of trial (RP 36), or as to accused's mental fitness to stand trial (AA 130, RP 37), or by one of several accused charged jointly to be tried separately (RP 16, 71), such plea, the addresses made in support or against, the evidence, if any, and finding are recorded per Notes. For forms of record see references in fns to RoP cited. Insert in AB rank and name of the accused making the plea.)

A9. The accused is (are) arraigned (separately) on all charges in the charge sheet.(1) The accused does (does) not object to any charge.(2) There is no amendment to be made to the Charge Sheet.(3) The President records the pleas in Part I of the Schedule.

(1. RP 31, 112. See para 1 of Instrs p 2. When more than one Charge Sheet see RP 62; unless several accused to be tried separately see RP 71(C), and use separate copies of CF 40s to record proceedings. 2. RP 32, RP 33. If otherwise, delete and make appropriate record per Notes.)

A10. The Court (is closed and) considers the Instrs on Procedure after Arraignment at top of p 2. Proceedings are continued on Record Form D

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS

INSTRUCTIONS ON PROCEDURE AFTER ARRAIGNMENT.

1. *The accused may not plead or be found Guilty on more than one of two or more charges laid in the alternative.* (*RP* 37(*A*).) *As to withdrawal of alternative charges by Prosecutor see RP* 35(*C*). *No other charge can be withdrawn for any reason without authy from Convening Offr. If Convening Offr concurs, Court may accept pleas of Guilty to lesser, etc, offence.* (*RP* 44(*H*).) *Accused may change a plea of Not Guilty to Guilty during trial.* (*RP* 38.) *As to refusing to plead or not pleading intelligibly see RP* 35(*A*). *As to plea when sentence may be death see RP* 35(*D*).

2. *The proceedings on each charge sheet* (*RP* 62) *after arraignment will be conducted as follows in the respective circumstances stated :*

I. If pleas to all charges are GUILTY, use Record Form B below.

II. If pleas to all charges are NOT GUILTY, use Record Form D on p [redacted] *3.*

III. If pleas to some charges are GUILTY and to other charges are NOT GUILTY and,

(a) *Such mixed pleas occur when there are no alternative charges in the Charge Sheet, use Record Form C below.* (*RP* 37(*A*).)

(b) *Such mixed pleas occur in a set of two or more charges laid in the alternative, see RP* 37 (*A*) *and fn* 2 *as to discretion of Court,* (i) *to try the accused on all such alternative charges as if he had pleaded Not Guilty thereto, or,* (ii) *to record the pleas as the findings of Court. After deciding between* (i) *and* (ii), *Court will proceed under foregoing instrs as may be appropriate to result of its decision. See M M L p* 744 *Instrs* (2).

3. *As to responsibility of President to accused see RP* 59, 60(*C*) ; *powers and duties of JA see RP* 103 ; *duty of Prosecutor see RP* 60(*A*) (*B*) ; *duty and privileges of accused and Defending Offr see RP* 60(*C*), 87(*C*), 91, 92 ; *swearing and withdrawal of witnesses from Court see RP* 81, 82 ; *questioning of accused see RP* 80, 87(*C*), 92(*B*), *and of witnesses see RP* 83-85 ; *calling or re-calling of witnesses by Court etc see RP* 75-79, 86, 116 ; *use of Summary of Evidence at Trial see RP* 17(*E*) *fn* 6 ; *and responsibility of JA or Pres to record proceedings see RP* 94, 96.

RECORD FORM B—PROCEEDINGS ON PLEAS OF GUILTY TO ALL CHARGES.

B1. The President or JA, if any, complies with RP 35(B) by explaining to the accused the nature and meaning of the charge(s)(1), and that on his plea of Guilty there will be no regular trial but merely a consideration of the sentence to be awarded after he has been given an opportunity to make a statement in reference to the charge(s), call witnesses as to character and make an address in mitigation of punishment.(2)
(*1. RP 35 fn 3. 2. MML p 54 para 47.*)

B2. President to accused : The Court will now receive any statement you desire to make in reference to the charge(s).(1) If it appears from your statement that there are circumstances which indicate that you do not understand the effect of the plea of Guilty(2), or which show provocation or extenuation in respect of which in your interest the witnesses for the Prosecution should be examined(3), we shall advise you to change your plea to Not Guilty. In making a statement you will not be sworn or subject to cross-examination ; and anything you say will not be used in evidence against you after you change your plea. If, however, it appears to the Court that your statement affects only the amount of punishment to which you are liable, you will not be advised to change your plea and you will be given an opportunity later to prove your statement by sworn testimony, if you so desire.(4)

President to accused : Do you wish to make a statement ? Ans ..... (5)
(*1. RP 37(B). 2. RP 37(D) fn 6. 3. RP 35(B) fn 5 para 3, MML p 54 para 47. 4. See para E3 of Record Form E. 5. Statement, if any, recorded per Notes.*)

B3. The Court considers the accused's statement.(1) The Court decides (not) to advise accused to change his (their) plea(s) of Guilty to Not Guilty on ..... charge(s). The accused is (are) so informed, and he (they) change(s) his (their) plea(s) on ..... charge(s). Part I of the Schedule is amended accordingly.
(*1. Court may be closed to consider the statement. Delete whole or part not used.*)

B4. On the charge(s) to which the plea(s) of Guilty is (are) not changed the President records finding(s) of Guilty in Part I of the Schedule.(1)
(*1. RP 35(B). If any plea(s) is (are) changed, use Record Form C or D as appropriate.*)

B5. The Summary of Evidence is marked Ex ....., initialled and read aloud by the President.(1)
(*1. If there is no Summary, or if it is inadequate, comply with RP 37(B). If there is any evidence inconsistent with any plea standing as Guilty, Court will advise accused to change such plea and, if changed to Not Guilty, try such charge(s) by use of paras D1 to D8 inclusive of Record Form D on p 3. RP 37(D).*)

B6. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

RECORD FORM C—PROCEEDINGS ON MIXED PLEAS OF GUILTY AND NOT GUILTY.

C1. As to the charges on which accused pleaded NOT GUILTY the trial is continued by using paras D1 to D8 inclusive of Record Form D on p 3 before proceeding with C 2.(1)
(*1. RP 37(A) (E).*)

C2. The charges on which accused pleaded GUILTY are read to him (them) again, and the trial is continued by using paras B1 to B5 of Record Form B above.(1)
(*1. Under B5 such parts only of the Summary of Evidence are read as relate to the charges dealt with under C2. If any plea is changed to Not Guilty, trial thereon proceeds by complying with paras D1 to D8 inclusive in Record Form D on p 3 and making an appropriate record thereof on a separate sheet.*)

C3. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

RECORD FORM D—PROCEEDINGS ON PLEAS OF NOT GUILTY TO ALL CHARGES.

D1. President to accused : Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity to prepare your defence ? Ans NO - SIR (1)
(*1. If "yes", see RP 39(A) for procedure. Statement or evidence, if any, is recorded per Notes.*)

D2. The Prosecutor makes ~~no~~ (no) opening address.(1)
(*1. RP 39(B), 60(A) (B), 90, 92(C) (D). Record address per Notes, subject to RP 95(C).*)

D3. The evidence for the Prosecution is taken.(1) NOTE - ATT
(*1. RP 39(C), 114, KR Can 555. Record evidence per Notes. As to Prosecutor giving evidence himself see RP 39(D) (E).*)

D4. The Prosecution is closed.(1) ~~The Defending Offr submits that the evidence for the Prosecution does not establish a prima facie case against the accused on the ..... charge(s).(2) The Court is closed, and considers the submission.(3) The Court is re-opened, and the President announces that the submission is disallowed on the ..... charge(s), and allowed on the ..... charge(s), and that, accordingly, the trial will proceed on the former, but the accused is (are) found Not Guilty on the latter charge(s).~~(4)
(*1. Delete remainder of this para. If submission not made. 2. Arguments on submission, answer and reply are recorded per Notes. 3. RP 40 fn 1. See MML p 72 paras 12-14 and p 81 para 42. 4. Delete part not used. If accused acquitted on all charges, use second alternative in para D8.*)
NB : If trial proceeds, accused must be allowed great latitude in making his defence, and the Court should not stop his defence solely on ground of irrelevance. (*RP 60(C), 114, 115.*)

D5. President to accused : You will now proceed with your defence.(1) You may, if you wish, give evidence yourself on oath as to the facts or your character or both, in which case you will be subject to cross-examination.(2) You may, however, make a statement without being sworn, and you will not be subject to cross-examination.(3) But a statement which could have been made on oath will not carry with the Court the same weight as sworn testimony.(4) You may call witnesses in your defence and as to character, whether you give evidence or make a statement or do neither.

President to accused : Do you wish to give evidence yourself as a witness, make a statement, or do neither ?
Ans To Give Evidence ..... Do you intend to call witnesses on your behalf ?
Ans Yes Sir. Are they witnesses as to character only ? Ans No Sir
(*1. RP115. 2. RP 40(A), see 80(D). 3. RP 40 fn 10. 4. RP 40 fns 2, 9.*)

D6. Consequent on the answers recorded in para D5 the appropriate procedure for the defence is followed.(1) NOTE ATT
(*1. RP 114, 115, 116. For procedure see Notes on back of Convening Order, CF A95. Evidence for accused as to his character should, if in his interest, be given before the finding. See RP 46(A) fn 1, 86(C). Note the further opportunity in para E1 of Record Form E. Record per Notes addresses, statement, evidence and any summing up by the JA under RP 42, 103(e).*)

D7. The Court is closed to consider the finding(s).(1) The finding(s) of the Court is (are) recorded in Part I of the Schedule.(2) The Court is re-opened.
(*1. RP 43, 117(A). See Notes in Part I of Schedule. 2. RP 44(A).*)

D8. ~~The President announces the finding(s), if any, of Not Guilty, and states to the accused that the finding(s) of the Court on the ..... charge(s), being subject to confirmation, will be promulgated later.(1)~~
~~Or, The President announces that the accused is found Not Guilty on all charges and is to be released forthwith, and that the proceedings are accordingly terminated. Part I of the Schedule is dated and signed.~~(1)
(*1. AA 54(3) (6), RP 45, 120(A). 2. AA 54(3), RP 45, 117. This alternative announcement is not applicable when there are pleas of Guilty outstanding and dealt with under Record Form B or C.*)

D9. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E below.

RECORD FORM E—PROCEEDINGS ON CONVICTION BEFORE SENTENCE.

E1. President to accused : Do you wish to give evidence yourself or to call any witnesses as to your character ?(1)
Ans NO - SIR
(*1. If evidence has already been given by accused or his witnesses as to his character, delete this para. RP 37(C) fn 4, 46 fn 1. Accused and witnesses are sworn. Evidence recorded per Notes.*)

E2. The Prosecutor produces Statement(s) as to Character and Particulars of Service(1), and certified true copy (~~copies~~) of Conduct Sheet(s)(2), purporting to refer to the accused, which he submits to the Defending Offr for examination, and then to the Court for admission in evidence. The Court is satisfied that these documents refer to the accused, because (i) they purport to be signed in the manner required by AA 163(1) (g) (h), and (ii) they purport to refer to (a) soldier(s) having the same number, rank, name and corps as the accused. Admitted in evidence and marked Ex B and Ex C respectively.(3)
(*1. MFB 351 or AFB 296. 2. MFB 6. 3. RP 46, KR Can 558. If above documents not produced, see RP 46 fn 1 para 1.*)

E3. President to accused : Do you wish to address the Court on the Statement(s) and Conduct Sheet(s), and in mitigation of punishment ?(1) Ans Under stay no Defending Officer (2)
(*1. RP 37(C), 46(D). 2. Address, if any, recorded per Notes. Court should permit accused or his witnesses to prove on oath anything here or previously stated which would affect the amount of punishment. RP 37(F) fn 7.*)

E4. The President states that the Court is closed to consider the sentence, and that the sentence to be awarded by the Court, being subject to confirmation, will not be announced, but will be promulgated later, and the proceedings in open court are accordingly terminated.(1)
(*1. AA 54(6), RP 120(A).*)

E5. The Court considers the sentence.(1) The President records the sentence in Part I of the Schedule, which is dated and signed by him ~~and the JA, if any.~~(2)
(*1. When several accused tried separately see RP 82(D). One sentence only, comprised of the punishment or punishments laid down in AA 41, 44 and its proviso, is to be awarded to cover all charges in all charge sheets on which accused found guilty. RP 48. As to sentences see AA 44, 138, 182, RP 46-50, 69, 118, 119(A), KR Can 308, 330, 563-566, Overseas RO 309, 2323, MML p 60, 757-759. As to sentences assigned for civil offences by the law of England see AA 41(5), MML p 130. When accused already under sentence of imprisonment or detention see AA 44(18), 68(1), KR Can 564. 2. RP 50. As to release from arrest by Confirming Offr see KR Can 567. As to assembly and disposal of record after trial see instrs on back of Convening Order.*)

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

CHARGE SHEET

The accused B-31539 PTE. WALTER GROVELINTI GROVE, Royal Canadian Ordnance Corps on strength of No.1 Canadian Ordnance Reinforcement Unit, a soldier of the Canadian Army Overseas, is charged with, when on Active Service:

1st Charge
SECTION 15(1)
Army Act.

ABSENTING HIMSELF WITHOUT LEAVE

in that he

at Bordon Hants, absented himself without leave from 0800 hrs. 27 April 43 until apprehended by the Provost Corps at Wimbledon, at 1615 hrs., 7 Sept. 43. (Total Absence 133 days, 8 hours 15 minutes).

2nd Charge
SECTION 41
Army Act.

COMMITTING A CIVIL OFFENCE, THAT IS TO SAY, STEALING, CONTRARY TO SEC.2 OF THE LARCENCY ACT, 1916

in that he

at Onslow Village about 3 Sept. 43 stole £12-0-0, a wallet and a raincoat, from Mrs. D.E. Willmott.

3rd Charge
SECTION 41
Army Act.

COMMITTING A CIVIL OFFENCE, THAT IS TO SAY, STEALING, CONTRARY TO SEC.2 OF THE LARCENCY ACT, 1916

in that he

at Leatherhead, Surrey about 6 Sept. 43 stole 30/-d, a wallet and a clothing coupon book, from S.B. Proctor.

Bordon, Hants.
14 Dec. 43

.....
(Harold M. Bailey) Colonel,
Commanding Officer,
No.1 Cdn. Ord. Rft. Unit.

To be tried by Field General Court Martial.

Bordon, Hants.
17 Dec 1943

(LOUIS KEENE) Colonel
Commander "F" Group, C.R.U.

FIELD GENERAL COURT-MARTIAL

CFA95 (In lieu of AF A32 40/PAM/1907 [illegible])

(Whether the accused to be tried is under his comd or not, a FGCM may on application to him be convened by any offr of Cdn Army Overseas, or of any other force if authorized in law, in immediate comd of troops on active service, subject to RP 105(C) and restrictions imposed by appropriate authy. AA 49, 50, RP 104-107, 114. As to the duties and privileges of the Convening Offr in dealing with the application see MML Chap V paras 20 and 23, RP 87(B).

There should be a separate Convening Order for each person to be tried separately by the same Court. RP 71(C), 109. As to separate charge sheets see RP 62, and as to separate trial on charges in the same charge sheet see RP 108. As to two or more accused charged jointly see RP 16, 109.

As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Can 308, 328, 332.)

ACCUSED.

Number.	(a) Prmnt R.	(b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
B31539	Pte.		Walter Grovelinti	GROVE	1 C.O.R.U.

CONVENING ORDER.

1. Whereas complaint has been made to me, the undersigned, that the person(s) named above as the accused, being subject to military law, has (~~have~~) committed the offence(s) set forth in the Charge Sheet(s) attached and on (date) 17 Dec 1943 endorsed by me, ~~or by any other authority~~ (as the case may be), To be tried by Field General Court-Martial".

2. And whereas I am of opinion that it is not practicable that such offence(s) should be tried by an ordinary (general Court-Martial; ~~and that it is not practicable to delay the trial of the offence(s) to enable a competent authority~~ (Delete part in brackets when not required for compliance with RP 105(C).)

3. I hereby convene a Field General Court-Martial to try the said person(s), and to consist of the Offrs appointed or detailed hereunder.

4. ~~I am unable to appoint to this Offr Establishment Cmd, Base HQ Officer President, therefore I have~~ ~~detailed the~~

(AA 49, RP 106(B), 107(A). Delete the whole or part, if not applicable.)

5. ~~I also appoint as Judge Advocate the officer mentioned hereunder.~~

(RP 106(E). Delete, if none appointed.)

PRESIDENT.

(Rank.)	(Must be named. RP 106.)	(Unit.)
Lt.Col.	D.L. Redman, V.D.	H.Q., C.R.U.

MEMBERS.

(Rank.)	(Named or detailed. RP 106.)	(Unit.)
A Captain	from	1 C.O.R.U.
A Lieutenant	from	1 C.O.R.U.

WAITING MEMBER.

(Rank.)	(Named or detailed, if any. RP 106.)	(Unit.)

JUDGE-ADVOCATE.

(Rank.)	(Must be named, if any. RP 106.)	(Unit.)

On Active Service in the Fd

in England (Country.)

Date 17 Dec 1943

(Signed personally. RP 105 fn 2.)

Colonel (Rank.)

Commanding "F" Group, C.R.U.
Convening Officer.

CONVENING OFFR WILL INITIAL ALL DELETIONS AND ALTERATIONS

(See overleaf for oaths and notes for use on trial.)

MM

Trial of B 315-39 Pte W. T. Howie 1 C.O.R.H.

Page 1

NOTE D-3

Evidence for the Prosecution

1st witness for the Prosecution

Capt R. T. Burrows of 1 C.O.R.H. being duly sworn states

I am the adjt of this unit and I produce a F.B. 115 from unit records which relates to the accused.

(a F.B. 115 marked Ex 1 by Court)

Bordon is in the County of Hampshire and Hants is the Capital abbreviation of Hampshire

Cross Examd by the D. of Office

The records office comes under me as adjt. This has been read a document from M.I. Rooms which states that the Category of the accused is E and which states he is fit for trial and punishment

It is the practice when a recruit is made E Cat. unless there is some reason to the contrary that he be despatched to R.E.T.D. immediately and that accused be got ready for F.E. in and by middle he was told to prepare for R.E.T.D. but such instructions were cancelled

R.P. & S. - B was explained with.

2nd witness for the Prosecution

E 30629 Sjt Sgt L. a Hewitt of 2 Provo duly sworn states

I am a member of S.I.S. 2 Provo Coy H.Q. on 7 Sept 43 together with Sgt Hammond we proceeded to Winchester Key Stn at 1615 hrs I saw the accused whom I now recognize dressed in civilian clothes and a light fawn raincoat I approached him and after telling him who I was and who I thought he was, he first denied

his true identity. after some words
he admitted he was Pte Fromes of the
Army ~~and an absentee~~ I placed the accused
under arrest and gave him a rough
search for concealed weapons. I
observed 2 rows of service ribbons worn
on the left breast of his waistcoat. This
is the tunic he was wearing
(marked EX 2 for identification by court)
He was wearing a 3 piece grey tweed suit
~~the~~ ~~H.C.~~ This and the ribbons worn I cut
off his waistcoat
(marked EX 3 by court)
From his army records he is not entitled
to any of these ribbons
The following articles were found on his
person.
1 Leather wallet empty one
marked EX 4 by court
1 Leather wallet larger one
marked EX 5 by court
also various pills and coins
1 Civilian clothing coupon Book
U.K 411735 and in name of S B Proctor
37 A The address Moorlawn Bournemouth
Hants
(marked EX 6 by court)
The accused then made a statement to
me
(Prosecution said he was not binding
the statement in evidence at the moment
Cross by accused by Hq officer
The accused appeared to be normal speaking
as a layman. He was smelling of intoxicants

... K P 83 B was conferred with.

NOTE D-3

3rd witness for the Prosecution

C 42004 Sgt H F Hammond of 315 C Prov C C M P being duly sworn states on 7 Sept/43 I went with A/Sgt Hanton to Wimbledon Police Stn. at 1615 hrs. we arrested the accused (pointing to him) I identified myself and asked per was Identity Card. He handed me a clothing Ration book. (This Ex E is the book) He was dressed in a Raincoat (This Ex F is similar to the raincoat he wore) He wore a grey suit, a uniform that I noticed he had 2 rows of service ribbons on his waistcoat.

Cross examd by A of Appln

when we arrested accused I would say his condition was normal He said he had one or two drinks. I could smell it but I did not think he was under the influence

K P 83 (B) was conferred with.

4th witness for the Prosecution

Dorothy Ena Wellsmith of 34 Hedgeway Basbow village Enfield Police Const. duly sworn states

I was introduced to the accused in the Town Hall Enfield at 10 min to 1 P m on Friday 3rd Sept/43. He was dressed in civilian clothes He said he was Major Tex Texas of American army air forces. He came into a sport and leather shop of which I am manageress at a quarter to 5 that afternoon. He asked me to have

Mr Tim with him. Later we went to a dance and he asked if he might take me home we arrived home at 20 to 25 past twelve Mr Hodgson asked if I would like him a cup of coffee. It was pretty cold. I did (This Ex 2. is the cup) He said he would bring it into my shop the following morning. He did it at 6 m/s & London the following Thursday when I saw the accused upon request I pointed him out as a group. It was late returned to me my suit Jackson of C. Row & at about 5-15 p m Saturday I noticed my suitcase which was in my bedroom during which the previous evening when I returned from the dance I had put £12 in it. I had not looked for this money no one else had been in the house I must have my purse next at 6 m/s on Thursday. (This ex what 4 is my purse & some coin. talking about)

Cross examined by Mr Hoffnung

He the accused had not been drinking in the bar of the Iron Hotel. He was talking a drink. He was pretty sober. He and I and the 2 gentlemen who introduced him me crossed to the Star where we stayed until 2.30 p.m. or 3 o'clock again met accused at a garage in Tarrant and we went to the

NOTE B-3

cape about the Playhouse Theatre where we had tea I next met him at 5.30 P.M. in Lyon Hotel with the other two. Groves was drinking. We stayed a while and went to the dance in the Lyon Hotel. There was a bar there. Groves had a drink from time to time until the bar closed at 10 P.M. He said he intended to get tight because he had to endure some hours per the privations of war. I last saw the lads on my bag was when I was paid £13 on Thursday ~~I must have to be out~~ I work out for charge for Friday. This left £12. I can't remember who I took the bag from when I kept my handbag with EX 4, 5, 6 in it on the dustyard when I went to the dance. I took it to work with me Saturday but I did not take ~~the note case~~ EX 4 for the note case EX 4 until my return at 5.15 P.M. I waited for it coming out of the picture show at 5.15 P.M. Saturday. The account contained the dustin at the time my recollected.

(A.P. 83 B was marked with)

5th witness for the Prosecution

J. B. Proctor of 37 A the Avenue Moordown Bournemouth duly sworn states On 6 Sep 43 I was in Southampton. I met a man at 11 o'clock outside an hotel in Bournemouth. He was dressed as a civilian but said he was a member of the original Eagle Squadron. He said his name was James or Groves. That is the man (pointing to the accused) We entered the hotel and each had two bottles and Groves had an extra. We walked to Kings Road Southampton and we left there and I

went home to my father's house in Heathcote
for lunch. after lunch he left and my
wife then discovered that her wallet
was missing. It contained 1 Pd note and a
10 shillings note which I gave my wife
that morning and which she put in her
wallet in the handbag. my personal
passport book was in my trouser wallet
as well as some snapshots. This EX 6
is my clothing coupon book. This EX 5
is the wallet. I have not seen either
since they were issued until now

Cross Examined by Mr Upton

I went back another 2 pints of bitter
at the King's Head when I met him at
Boothham he did not appear to have been
drinking. The money I gave my wife that
morning was part of the household money

Re-examined by the Prosecutor

at Boothham I went to account we both
appear to be waiting for the door they
- for the door to open. The agreed and
we both went in when it opened
R P 83 B was typed with.

The Prosecution is closed
at 1230 hrs the Court adjourned and it
re assembled at 1400 hrs

NOTE D-6

Evidence for the Defence

1st witness for the Defence

The Accused being duly sworn states
I that I was born in April 10 at
Chamberlaney Pennsylvania. my first
memory is living with my parents at
Altoona I am certain that my name
was Harold Hayden I had three and
Brothers and my sister living I was

then sent to my Grandmother at Warsaw Indiana I was then 5 or 6 yrs old. Her name was Mrs Charles Moats. I returned to my parents when about 12 yrs old at Harrisburg Pa. My father was a Heating engineer and was anxious that I should learn that business. I worked with him during my school years until I think I graduated from High School. For one season I was sent to a Public Health school. My father lost his business and the family split up. I went with my father. In about 1928 or 30 I was in an accident where a pedestrian struck I was badly injured. A girl of six passed to many was killed in a motor accident. I saw the car she was in strike a street car. She and 3 or 4 others were killed. Later I was with my brother in his car. There was an accident from then on things were unpleasant for me. I would wander away from home and my father would come to get me. He put me down in Baltimore. I can't give you a clear account of these yrs. I think it was in 1930 ~~2000~~ 20 I have totally blocked out Basingstoke that I had my first trouble respecting a forgery. I have a faint memory of going to a prison farm.

(The prosecution must be willing to tell the def. & jury that if the character of accused was good in case he would be free to go into the whole question)

I had a policy I was always dying to find something. I then was taken sick mentally and physically I was returned and put under the care

of a psychiatrist. For the next 10 years
while I remain imprisoned pictures I buy
are delivered from me and cannot be put
in order I don't know how I got the name
of Evans. I don't remember the tape they
say I have on Kingston Ont. I do not
remember going the Eden army or of
being in Canada. My impression of my
present arrest is that I was being arrested
as Harold Snyder in 1930. When arrested
I was still hearing persons thing I
can't explain I was mixed up as to
who and where I was was I given
Snyder or who was I. I am clear I am
Harold Snyder but I don't know what
is happening

Cross examined by the Prosecutor

Prosecutor shows witness a photo holder
with photographs in and a slip of paper
witness says he never saw them nor
wrote the note.

Note is marked exhibit 8 for identification
Photo holder and photographs EX 9 for identification
(Prosecutor tenders a statement entitled and
says in his handwriting, wrist print &
name.

Statement is marked EX 10 not admitted
in evidence but only for identification)
~~My address is~~ witness testimony
Altoona is in Pennsylvania
(Prosecutor shows witness a pay book.
Record and signature on Page 3 is his
marked EX 11 for identification
(Prosecutor shows witness another pay
book. Record and signatures Page 3
is his. (marked EX 12 for identification)
witness testimony
I don't know whether I or someone

NOTE D6

that pulled on EX 11. EX 12 appears on some
many to be on same handwriting as EX 11.
I dont know who made out either of them
I dont think I was in the Philippines
I dont remember being in any jail in England
I dont remember what I was doing in
September of this year

I dont remember writing EX 10 altho the
handwriting is mine at present I know
the difference between right and wrong
I would be very much ashamed if I stole
I know that one should not go AWOL in
the army.

Trial of B 315 39 Pte 207 Yorks & Lancs R.
Page 10

NOTE D-6

2nd Lieut Ernest Cumbers of Reserve
posted to 3rd Battn Yorks & Lancs Regt
Surgical Hospital of Command Depot
duty sworn & tells

I was in charge of the accused
in Basingstoke from 14 Sep to 3 Dec 43
My diagnosis is that accused has a
psychopathic personality i.e. one
which prevents the patient from adjusting
himself normally to society. From
what he told me it appears that he
has not in the past adjusted himself
to society. He told us of past
breaks of care made by him on
his attempts at adjustment were
inadequate. The reasons given
by him indicate that his character
is unstable. He described periods
of emotional confusion from which
S/S Regt and from which he told us his
instinct in the army has shown the
same pattern of instability as in civil
life. There is no physical cause for his
the symptoms which he claims such
as loss of memory. Observation in
custody has not revealed any mental
disorder. Having my opinion based
upon my observation the accused is
sane. In my opinion he has not been
insane in any recent period such as
six months. Based on my observation
that we found no evidence of his
having been insane. We in fact found
no evidence other than statements made

by the accused that he has been
insane I am of opinion he
is fit to undergo trial today.
I think he is fit to undergo it within a
reasonable period consideration should
be given to the nature of his delusions.
In the Hospital we gave him sedatives
and psycho-therapy (conversation) I
believe his answers to our questions
were true. The effect of liquor on
such a nature is very injurious
and would tend to make him more
irresponsible and lessen his emotional
control. Liquor is more injurious to
such a character my recollection is that
(The Prosecution objected that my
evidence of a Magistrate's conclusion
together is inadmissible)
(Objection withdrawn)
My recollection is that, the accused had
been in another Ward in the Hosp. at the
time my opinion was that he had a
neurotic condition. That does not
mean insanity. Liquor will more
quickly cause a neurotic person to
lose the steps when they don't
know, what they are doing than a
normal person. I think the accused
~~was examined by Prosecution~~
~~If this man committed an offence~~
~~while suffering from a temporary~~
~~he is alleged to have committed it~~
~~I don't think there is nothing unusual~~
~~about~~ signs of a delirium tremens in prison
are improved as the intoxication the
nature of his illness and the effect

which it was hoped upon him
and that he will settle himself to
adjust himself for this reason it is
felt that he requires an encouragement
He appears to me to have the
intelligence to take advantage of this
The Prosecution is closed.
The Prosecutor asked time to recall
D/Sgt Watson to prove Ex 10 which was
admitted by the accused - Granted.
Watson This is Ex 11 was found on accused when arrested
My This is the Ex 10 is the statement written by
the accused —
(The Adj Offs objection to the admission of the
statement) witness continues -
I informed the accused on 5/5 appn I
gave him the usual caution which I wrote
out at the beginning of the statement and which
caution he signed and after reading it.
I asked him if he wished to make a
statement he said he did I said if you
should like to make a statement write
it yourself I sat in a room alone
and left him there for about 2 hours.
when he handed me this statement which
he signed I do not suggest any part of the
others were in the room but I was the
only one interested in getting this statement
This was 9th Sept/43
Cross examined by Adj Offs
The Adj Offs objected that the
statement could have been put in when
this witness was first called and it
was to recall the witness for this
purpose should not have been granted

that the student was not referred to in the summary. I was not notice that it would be needed but I was told some days ago there was a statement and I was shown a copy of a statement when I read yesterday. Also a court was admitted to Bail some 5 days after and would not have been his right mind when he wrote it
My friend the Prosecutor is right. Page 14
The Court is aware the Court respond.
The President stated that the Court would admit the Statement
unless contrary
This is the statement I was present when accused signed each page after he wrote at signed 6 pages. He asked he wanted to put in Swahili more he then wrote 2 more pages.
(Statement is admitted and marked EX 10)
The DP appear and he did not want an adjournment to cross examine the witness
The DP appear and he did not wish to cross examine further as he had already asked all questions he wished
End of evidence

Prosecutions Reply re Objection of Defg Offr to admission of evidence as to Exh 10.

1. It was not in Summary as it was not necessary for prima facie case.
2. omitted from Summary as parts of it refer to previous offences which might be unfair to accused.
3. Does not require to be listed as an Exhibit R.P. 76 only refers to new witnesses
4. No prejudice now to accused adjournment would be only thing which could be granted accused now.
5. Undoubtedly if it is proved, merely affects credence to accuseds story but does not affect admissability
6. The Prosecutions whole file including this Report copy of Exh 10. was placed at disposal of Defending officer some days ago. Yesterday in discussing the matter I showed him a copy of Exh 10. which he read and studied in my office. I told him why I had not put it in the Summary and said I would might have to put it in if the Defts gave evidence and the case resumed it.

J. Mc Nair
Treasury Offr

My

21 Dec. 43.

ARGUMENT IN MITIGATION OF SENTENCE

B.31559 Pte. Grove, W.G.

---

1. All evidence submitted in defence and all evidence brought out in cross examination of witnesses for the prosecution is hereby repeated in Mitigation.

2. In addition certain other points should be considered, C.A.(G) R.O. 1301 para 7 states that all evidence of psychiatric disability should be included in the proceedings and the President may attach a covering letter refering to the special features of the case. It is requested that such a letter be so attached.

3. Due to this psychiatric disability Pte. Grove has been Medically boarded 1111115 in accordance with the new Pulhems classification. In other words Pte. Grove has been Boarded Cat. E. and unfit for Service. According to normal procedure soldiers "Unfit for Service" are S.O.S. to N.D.H.Q. and returned to Canada on the next available draft. It is submitted that the sooner this takes place the better in the interests of the Service.

4. Capt. Armstrong R.C.A.M.C. has stated that due to instability of the accused a long period of detention would be injurious.

5. Capt. Armstrong has stated that Pte. Grove's prospects for recovery are good, keeping in mind para 4 above and providing Pte. Grove receives the encouragement for recovery which he needs.

6. Evidence has been given that social conduct in the accused's life has been of a cyclical nature. While working for his father prior to 1930 his record is good. His troubles commenced about 1930 due to various causes and continue for some time. A period of good conduct arises again on about the time Pte. Grove enlisted in the Canadian Army. His M.F.H. 6 (conduct sheet) shows no entries for first 6 months of service. Attached hereto are letters indicating his family life and conduct during this time. For convenience I have marked in red relevant portions of these letters.

(a) Christmas card from Church Secretary Kingston

(b) Letter No. 680 from wife refering to Minister, letter No. 484 from wife refering to Minister and Parsonage.

(c) Letter from friend Norman in Kingston

(d) Letter No. 505 from wife indicating good friend Miss. Girvin

(e) Letter No. 440 from wife indicating friend Bertha

7. It is submitted therefore in conclusion that Pte. Grove's case is a psychiatric problem and not a penal one.

21 Dec. 43.

ARGUMENT IN MITIGATION OF PUNISHMENT

B.31539 Pte. Grove, W.C.

---

1. All evidence submitted in defence and all evidence brought out in cross examination of witnesses for the prosecution in hereby repeated in mitigation.

2. In addition certain other points should be considered, C.A.(C) R.O. 1301 para 7 states that all evidence of psycchiatric disability should be included in the proceedings and the President may attach a covering letter refering to the special features of the case. It is requested that such a letter be so attached.

3. Due to this psycchiatric disability Pte. Grove has been Medically boarded 1111115 in accordance with the new Pulhems classification. In other words Pte. Grove has been Boarded Cat. E. and unfit for Service. According to normal procedure soldiers "Unfit for Service" are S.C.S. to N.S.T.D. and returned to Canada on the next available draft. It is submitted that the sooner this takes place the better in the interests of the Service.

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(d) Letter No. 505 from wife indicating good friend Miss. Girdin

(e) Letter No. 440 from wife indicating friend Bertha

7. It is submitted therefore in conclusion that Pte. Grove's case is a psycchiatric problem and not a penal one.

Quote No.....

CANADIAN PROVOST CORPS
LONDON AREA

EXHIBIT

TELEPHONE: TEMPLE BAR 3633.

A. P. M.'s OFFICE,
30, HENRIETTA STREET,
COVENT GARDEN,
LONDON, W.C.2.

CANADA

9th Sept. 43

I Reg. No. B. 31539, Pte. GROVE, W. S.
have been cautioned by Sgt. Devlin that I am
not obliged to say anything unless I wish
to do so, but that anything I do say will
be taken down in writing and may be used
in evidence.

This is to certify that I have read over
the above caution and to show that I
understand its meaning I sign my name
here.

W. S. Grove

As Walter Grove of the Canadian Army
I, in the past months since about May 1943
have been absent from the same. During
this absence, to the best of my knowledge,
these are the things that have occured.

For the first few weeks I wandered
about in a manner quite unknown to
myself. Then in and about Winchester I
worked as a helper for truckers operating
out of this city. These truckers are not

W. S. Grove

Quote No. 4

CANADIAN PROVOST CORPS

LONDON AREA

CANADA

TELEPHONE: TEMPLE BAR 2618.

A. P. M.'s OFFICE,
30, HENRIETTA STREET,
COVENT GARDEN,
LONDON, W.C.2.

doubt confirm this by identification
There names I do not know but one
such place the trunk was refunded each
day at the Hants and Dorset bus station.

In August I was employed on
farms anything from one day to a full
weeks employment. These farms were
near and about Topluck, Twyford and
Sodalming. One farm farman that
treated me very well was a man by
the name of Cook.

I then went from this area to the
City of Bilford. While in Bilford
the first time I resorted to stealing. This
by taking a wallet containing a sum of
money, (10 pounds) to my mind); from the
home of a lady ~~who~~ with whom I spent
the evening. This lady also loaned me
a raincoat ~~with~~ which I did not return.
All else that may have happen in
Bilford is quite blank but I feel sure
nothing in the way of crime.

W. H. Grove

Quote No. 3

CANADIAN PROVOST CORPS
LONDON AREA

A. P. M.'s OFFICE,
20, HENRIETTA STREET,
COVENT GARDEN,
LONDON, W.C.2.

TELEPHONE: TEMPLE BAR 3615.

CANADA

Left United Kingdom Base, Canteen
and Egypt for very personal reasons.
Again at Fatherland I left a home with
a valise containing some valuable
papers, a clothing ration book and one
pound ten shillings in cash. I used some
of these coupons to buy small articles of
clothing.

I next came to London via Kingston
Bus and on by tube. Before taking the
tube I bought a second hand suit at
a store near the Kingston tube Station.
In London I stayed at the Wasling ton
Club and spent quite a bit of time in Pubs.
I feel it right in this to explain the
blanks of time. I come to realize in the
very recent past that I am not Walter
Grove. How, where or just when this
identity appeared in my life I do not
know. All things in regards this identity
are false (including military Ribbons and
Service) The following is the true story

W. K. Grove

Quote No. 4

CANADIAN PROVOST CORPS
LONDON AREA

A. P. M.'s OFFICE,
30, HENRIETTA STREET,
COVENT GARDEN,
LONDON, W.C.2.

TELEPHONE: TEMPLE BAR 5625.

CANADA

of my life in brief:

I am Harold D. Snyder and was born at Shamokin, Penna. April 14, 1910. The first school years of my life were spent at a Country school near Waynesboro, Penna; living at this time with my Grandmother, Mrs Charles Woods. The last known address of my people and also my residence was 1734 Walnut St. Harrisburg, Penna. My father Frank H. Snyder, Mother Julia Snyder and Brother William F. Snyder also lived at this address.

Just after leaving Edison High School in Harrisburg, Penna. while living at 1530 Market St. I was taken ill with complete loss of memory, was found in Baltimore, Md. by my father and was medically treated by Dr. Emerick of 1426 Market St. Harrisburg, Penna. for considerable more than a year.

From this time onward I wanted

W. S. Grove

Quote No. 5

CANADIAN PROVOST CORPS

LONDON AREA

CANADA

TELEPHONE: TEMPLE BAR 2513.

A. P. M.'s OFFICE,
30, HENRIETTA STREET,
COVENT GARDEN,
LONDON, W.C.2.

say that the happenings or events which took place were many times as dreams from some outside source. There were long periods of fine success in employment, Once just after school as a Newspaper photographer with the "Evening News" at Harrisburg, Penna. Then come the first serious blank of my life which resulted in a case of forgery by check for which I eventually was sentenced to a prison at Huntingdon, Penna. I came out of this prison with excellent recommendations and good practical training as a Mechanic (High school training was Manual Arts) Again after returning home in Harrisburg I made a moderate success at my trade as a mechanic.

Somewhere about this time while I was employed by the Wolf Engineering Works as a general mechanic and Heating

W. H. Rowe.

Quote No. Ge

CANADIAN PROVOST CORPS

LONDON AREA

CANADA

TELEPHONE: TEMPLE Bar 2618.

A. P. M.'s OFFICE,
80, HENRIETTA STREET,
COVENT GARDEN,
LONDON, W.C.2.

engineer (dates unknown but circa 1937-39)
I, as Harold Snyder became lost in
some unexplained way. I would like
here to point out that during this
period there does occur within myself
a great conflict of ruling thoughts and
actions totally unexplained by myself.
All actions that have taken place as
Walter Stove I fear I cannot relate
for to such is unknown to myself. I
do know and can swear that my true
identity as Harold Snyder at this time
is somewhat clear. Therefore I would
like to state that somewhere since about
1930 I feel sure something is wrong with
me that can be corrected for prior to
that time I lived a normal life with
no crime or other trouble entirely.

I shall sign this statement as true in
two names the latter being correct and
all information in regards Harold Snyder
true in all respects for fear of this does again.

W. S. Stove
Harold Snyder

Pam A Dentin Sgt. 9-9-43.

Quote No. 1

CANADIAN PROVOST CORPS

LONDON AREA

CANADA

TELEPHONE: TEMPLE BAR 3615.

A. P. M.'s OFFICE,
30, HENRIETTA STREET,
COVENT GARDEN,
LONDON, W.C.2.

This is further thoughts of past that I feel ~~I~~ sure can be of some use at some future time. What time in the past these things fit into my life I cannot say.

At sometime I recall living at 1530 Regina St., Harrisburg, Penna. My father I am sure was in the business as a ~~Heating~~ Engineer and I was employed by my father as mechanic. As far as I can recall life for me at this time was not only normal but good. This picture has also reminded me of another person I believe to be a wife of my brother — Esther Snyder. There was a child about. This has me very much worried. Was this child mine? Was I married?

Again I remember being treated by a doctor G. A. Zimmerman of Harrisburg, Penna. And something in connection with this doctor or Dr. Emerick W. H. Grove — Harold Snyder

Quote No. 2

CANADIAN PROVOST CORPS

LONDON AREA

A. P. M.'s OFFICE,
30, HENRIETTA STREET,
COVENT GARDEN,
LONDON, W.C.2.

TELEPHONE: TEMPLE BAR 3618.

CANADA

leaves me under the impression that the child mentioned is mine. Therefore, if this is so where is my wife for the past 2

One other point of some trouble is :- I am sure there are persons close to me at Waynesboro, Penna and Chambersburg, Penna. These two towns I am sure could unfold quite a bit of the information needed. At Waynesboro and nearby I do know of living wife a Grandmother. In fact this locality seems to be the last I remember of Harold Snyder.

W. G. Grove
Harold Snyder

Pte Hewitt Sgt.
9th Sept. 43

461 Albert street

Letter
No 505

Invercargill

Sunday June 7th/42

My darling Husband -

Another Sunday without you - I wonder and wonder, how many more shall pass before we are re-united. Darling, it is so lonely without your wonderful love and your dear sweet self.

How I miss you dear one - is beyond description. The thought uppermost in my mind - "where is my loved one to-day" If only I always had memories. each moment of the day - of our separation - the most cruel heart-rending moment of our lives:

Hey dear - I met a lady recently who met you while here. Miss Girvin. Do you remember her? She said you are a clever chap. I told her - the best in the world No one better - and no one dare claim you either, darling

So now again I shall send you - night - night across the seas. With God's blessing ever with you and all my love and kisses x x x x x x x x x x Your Lover

that now, she too, does the same.
You see dearest. so many of the boys from here, have returned home on furlough after being in England 18 months. So "your lonely loving wife" is hoping that you may have that glorious privilege. Yes dear - it is almost 18 months - next Saturday - brings about another 13th and how I dread to see that date approaching.

I know - if only you were here - oh! the wishing and yearning. (Guess it only makes us more lonely.) Eh! dear. Well I was fortunate to day in getting a chance out to see mother. Left here at 6.45 A.M. so had a nice long day at home. Yes dear, Mother is feeling much better. In fact looks real well. Better than she has for months. She has heard me counting the months, since our separation - so often

frequently since all day, as it has done to-day.
Guess you have lots of it in England too - eh! The dampness and fog - do you mind it much darling?
I did not get out to see mother - in fact had no way of going. You know Lex dear, we are rationed on gasoline here, so not many people can take

many pleasure drives, so I suppose my chances of going home will be few and far between.
Went over to church this a.m. and as usual Mr. Liddle was asking about you. Every time he go by the corner and glance at the parsonage - oh! darling what memories it brings - the night of Dec. 12th - when I became the wife of the

4

most wonderful man in the world. How happy we were darling for oh! such a wee short while - then to be torn apart by this cruel war - and now - so lonely and sad - away from each others arms.
God speed the day dear when we shall be re-united.
I miss you more and more every moment Luv dear.
Night night and God bless you
With all my love and
for ever and ever kisses - Sweetie Yours Louie

Letter
No 484.

461 Albert Street
Kingston
Sunday May 17th

My darling husband.
Such a day as this has been Raining and dreary outside and more dreary and lonely in our room, without you dearest.
It has rained every day here for nearly a month. At last some time there has been showers, and

No 37.

105 Dillon St. W.
Kingston, Ont:
Nov. 13/42.

Dear Joe:

Received your Christmas cards the other day also your letter & was real glad to hear from you. Lou is a happy girl these days after receiving so much mail from you lately. What has been the hold-up I don't know but she was certainly worried when she was so long without any letters. Others here have been the same & it is hard to understand why there has been so much delay I sincerely hope the future mail both ways will be more regular. Have you

be no use on account of the difference in voltage. As you say they have the portable battery sets in the States but importation of radios into Canada is prohibited. Some two in the way things are I think you best bet if possible would be to pick up used one over there.

Well it will soon be two years since you went away & I hope before long this mess will be cleaned up & you will be back here again.

Lou is fine these days & we see her quite often. She-Bert got to the Y.M.C.A. to Barriefield to entertain the soldiers. There must be a hundred women in the band they go with &

In my last (3) letter I mentioned about the radio you said you would like. Just in case that one should have gone astray, here's the data again. When I was told I went all over the city trying to locate one, but that was impossible. In fact they told me they did not think I would be able to bring one in Canada. I guess it must be a year ago since they made up radios for private use in the country. Their whole output being for war purposes. Then there is the question of batteries for the portable. A friend of mine has one, but can't get batteries for it. That is another thing there is a shortage of batteries. Then an electric set would

been getting mine? (2)

This morning there is a regular blizzard but don't think the snow will stay, hope not anyway.

Well I see it will be a year ago Sunday since I returned from Toronto I am sorry to say there is no improvement yet, in fact for the last week I have been real sick & don't know when I suffered so much. Boy believe me it is terrible & the only relief I get is when I take Asprin, go to sleep & forget. Still they say everything has to come to an end sometimes, so here's hoping

(8)

He is real busy & as to work nearly every night.

The coffee pot is still here & we have coffee, so all we need is you & then we will have a party & boy you can have all the coffee & all the eats you want. And say Pat I am looking forward to that day just as much as you are & believe me we will make up to you all the things you have missed & the sacrifices you are making for us. So get the job done & come home.

By the time you receive this Christmas will be nearly here & with all my heart I wish you the Merriest one possible I

(9)

I guess the boys are glad there is something to help them pass away the evenings.

Do you see any of the boys who were around when you were here. If so, remember me to them.

Our dog (at least she calls it hers) was real sick last week in fact I thought I was going to lose it last week end. I took him to the Vet who told me he had inflamation of the intestines. We have had a sick dog for a while, but is getting over it now though weak.

Leopard Lake Ontario Park. She like the work fine. Last week she started on shift - tomorrow tomorrow night starts her first spell of the graveyard shift midnight to eight in the morning. She has had infection in four or five of her fingers but they are just about OK now.

We are wondering what we are going to do with the forest. It is hard to get seed any more, though fortunately so far I have been able to get all the seeds I tried to grow some seed this year but it did'nt want to anything.

Mr. & Mrs Johnstone are both well

(b)

Yesterday was my birthday (no young you should have seen the cards & present I got, don't know what everybody is so good to me. I got fifteen cards, cigarettes, money, pyjamas, subscription to Pofacias Mechanics & Vivian gave me a beautiful electric clock in the shape of a ship. Walnut base with the dial set in a steering wheel & highly polished metal parts. Boy wish you could see it. Just is one thing I like model ships.

Vivian is working at the Nylon Plant. It is located on the lake just

sincerely hope that long before the next
year is Jon will be together again.

All here join me in wishing
you the best of luck + a speedy
return. Will be looking for you
Jon will be the happiest girl
in the world when you are together
again. Eric would like I think of
her as my sister.

This is a rambling note but
my brain ain't functioning properly
this morning, but hope you can read
it anyway.

and
Yours as ever
F Gorman

401 Albert Street

Letter (C)
No 440

Friday April 2nd.

My dear darling husband.-

Again dear one I have just spent "our appointed time" with you, and sent an extra plea for a letter or word from you dearest. What we have suffered darling since a year ago last December

the happy reunion.
Norm is much the same.
I have nothing different to
tell you dear, concerning his
condition. but now he is
getting full disability pension
so the doctors have decided
there is no one for him.
What a pity that he must
suffer so: and he certainly
thinks the world of you dearest.
How precious mi ~~right~~ right.
and every I hear from you its more
God bless you darling. With all my love
and kisses
Yours of Love

is tearing our hearts in shreds.
Your dear sweet photo is
right beside me darling and
as I gaze ~~and~~ and shower
it with tears, I ask myself.
"Where is my precious husband?
"What can be the matter
with our mail"; oh a million
wishes that I could grasp
you in my arms, and
cover your dear brow
with tons of kisses that

are in store for you dearest.
To be in your arms darling
and hear you say those three
wonderful words that mean the
world to me "I love you"
How my heart craves for
your dear love. Yes dear.
Bertha says to tell you to
hurry up and come home
or I will be sick with
worry and loneliness.
She will make you several
cups of coffee to celebrate

No 39

105 William St (E)
Kingston
Jan 30/16

Dear Tex -

Please excuse pencil but my writing
thro' in bed where I have been for the last
eleven weeks. Have been real sick Dear. Last
Sept 15th. In November I had another X-ray
& they found another ulcer of the stomach
very extended & decided to investigate whether
that is the cause of all my trouble or just
another complication. I don't know though
& am inclined to argue the latter with
them. I have a lot of trouble with my chest
& heart. The doctor is not sure yet whether he
will have to operate but doesn't want to if
it can be avoided, as it will mean removing
about half of the stomach. I have had
eighteen weeks of milk & I hope that three long
weeks on the medicine will do the trick. I am
on the weeks on a diet of just milk & am not
to look or see or think of food. I am now getting
soft cooked eggs & cream of wheat for
breakfast. Sounds awful, of course but I am
even getting fat on it. Ha!

Well we have had one of the worst
winters here I have ever seen. Lots of snow
cold weather the kind of winter that

I miss you more and more. It brings to mind the first night we met there. What wonderful memories darling. Those happy, happy days. May we soon be re-united to have them forever more. Poor Norm is really on the downward trend. Has been very ill for the past few days. Let dearest how are you keeping? I worry so much about your health. You always say O.K. I know

AIR LETTER TO ARMED FORCES

C2

BY AIR MAIL

IF ANYTHING IS ENCLOSED, THIS LETTER WILL BE SENT BY ORDINARY MAIL.

Number, Rank or Rating and Name: B 31539 Signmn. Grove W.G.

Unit (Company, Battery, Ship, Squadron, etc.): ~~1st Can Signals Reinf Unit~~

Regiment, Branch, Establishment or Station: Royal Can Corp Signals

Service: Canadian Army Overseas

[redacted] OVERSEAS.

FROM (Sender's full name and address)

Mrs W. G. Grove
481 Albert Street
Kingston Ontario Canada

Letter
No 680

161 albert street
Kingston
Sunday. Nov 8th

My own darling husband.

Well dearest one, this has been one of my "lonely" (especially lonely) days. This is the first Sunday I have missed, going out home for some time. It has rained nearly all day. I slept in until 10.30 then went over to "our church" Mr Fidoles always asks for you and wishes to be kindly remembered. Says he hopes in the very near future that you shall be sitting beside me in the pew. How I hope, pray and long for that time too darling.

Bert called up about 4. p m and asked me over for supper. I was glad to accept. But yet, my dear every time I go in their home.

But I do know you are so cheerful about everything - you would not tell me if you were not A-1. Would you? I must now tumble in to my lonely bed. First - cover your picture with dozens of kisses. How I wish dear, I could phone my xxx to the original. With all my love and Gods blessing xx x x x x x x x x x x all for you alone from your devoted wife Louise

Army Form B 115.

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Exhibit F

Record of the Declaration of a Court of Inquiry on the Illegal Absence of a Soldier.

RECORD of the Declaration of a Court of Inquiry assembled at No. 1. C.C.R.U. on the 19 th day of May 1943, for the purpose of investigating and recording the absence, without leave, from his duty, and deficiency, if any, in the Arms, Ammunition, Equipments, Instruments, Regimental Necessaries, or Clothing of No. B-31539 Pte Grove W.G.

Ex 1

DECLARATION.

The Court declare, that B-31539 Pte Grove W.G. No. 1. CCRU RCOC illegally absented himself without leave (or other sufficient cause) at Burdenton the 27th of April 1943, that he is still so absent and that on the 29th day of April 1943 he was deficient & that he is still deficient of the following articles, (see attached list) to the value of £[illegible]. 2.6.4

President — D.D. Gordon Carmichael Major
(D.D. Gordon-Carmichael) Major

Members — [illegible] Lieut.
(A.D. McKendrick) Lieut.

[illegible] Lieut.
([illegible] Hicks) Lieut.

Names of President and Members

Signature of Commanding Officer [signature]

CERTIFIED TRUE COPY.

D.D. Gordon Carmichael Major
Signature of Officer having custody of the Original Record.

(10959) W.L.36988/1865 120,000 1/41 A.A.E.W.Ltd. Gp.498 Forms/B115/56
(17986) W.L.11504/172 200,000 5/43

NO.1 CANADIAN ORDNANCE REINFORCEMENT UNIT. 18 May 43.
RECEPTION PLATOON NO.8 COY.

B.31630 Pte. Grove, W.G.

The m/n soldier's kit on being inspected on this date was found to be deficient in the following articles:-

ARTICLES		QUANTITY	75 % Value. £ s. d.	100 % Value. £ s. d.
Blouses, Battle-dress		1	1 4 2	1 7 10
Boots, ankle	prs.	1	1 1 6	1 1 6
Drawers, cellular, short,	prs.	1	1 6½	2 3
Drawers, Woollen,	prs.	2	7 10½	10 6
Gloves, knitted, drab.	prs.	1	2 -	2 7½
Greatcoats drab		1	2 13 9	3 17 6
Shirts, aowols drab.		2	3 4	4 4
Shoes, canvas	prs.	1	1 - 11	1 7 11
Trousers, Battle-dress		1	7 8	10 9
Vests, woollen		2	4½	6
Badges, cap		1	1 1	1 1
Brace,	prs.	1	0 6½	1 1
Brushes, cloth		1	0 6½	0 6
Brushes, hair		1	0 7½	0 9
Brushes, shoe blacking		1	1 1	1 1
Brushes, shoe polishing		1	0 9½	1 1
Combs, hair,		1	0 6½	0 8
Dressings, first field,		1	1 2 3	1 11
Shorts, gymnasium,		2	2 6	3 -
Vests, cotton, gym,		1	0 11	0 11
Towels, hand.		1	2 6½	2 6½
Tins, mess, rectangular,		1	1 4	1 4
Eyeshields, anti-gas,		2	1 3	1 3
Detectors, individual	prs.	1	1 11½	1 11½
Frogs, bayonet,		1	1 1	1 1
Slings, Rifle,		1	1 -	1 -
Bayonets, Rifle,		1	1 -	1 -
Bottles, oil,		1	6	7 6
Pullthrough		1	7 6 -	8 6
Rifle, No.1Mk.IIIs		1	8 6	10 9
Scabbards, bayonet		1	10 9	1
Sheets, ground		1	1	1
Mugs, drinking		1	5	5
			£ 18 1 4	£ 20 8 10½

The above kit inspection was witnessed by:

(B.37[illegible] Pte. Mulhall, W.

W. J. Motton
(B.7661 Pte. Motton, W.J.)
No.8 Coy. Storeman, A/Cpl.
No.1 C.O.R.U.

F.G.C.M. B-31539 PTE. GROVE W.G.

LIST OF EXHIBITS

A. Ribbons.
B. Clothing Coupon Book.
C. Leather Note Case.
D. Leather Billfold.
} Retained in Unit

E. Pay Book.
F. AFB 115.
G. Raincoat (to be produced at trial).

(Harold M. Bailey) Colonel
Officer Commanding No.1 CCRU.

7 Dec. 43

Received B. C. D. & G. to Safe Keeping

I acknowledge receipt of a copy of Summary of evidence and of the Charge Sheet against me. I have been advised that an officer of legal experience may be detailed to prosecute these charges.

I request that Lieut. W.R. Learmonth, if available, or an officer of experience be detailed to act as my defending officer.

Dated at Bordon this 14 December 43.

W. G. Grove

B-31539, (Pte. W.G. Grove.)

F.G.C.M. B-31339 PTE. GROVE W.G.

LIST OF WITNESSES

FOR PROSECUTION:

1. C-30629 Sgt. L.A. Denton S.I.S. (C. PROVO C.)
2. Sgt. H.W. Hammond S.I.S. (C. PROVO C.)
3. Mrs. D.E. Willmott, 54 Hedgeway, Onslow Village.
4. S.B. Proctor, 13 Sunmead Close, Leatherhead.
5. Capt. H.S. Burrows #1 CORU.

FOR DEFENCE:

1. Capt. Armstrong, No. 1 Neuro. Hospital.

7 Dec. 43

(Harold M. Bailey) Colonel
Officer Commanding No.1 CORU.

SUMMARY OF EVIDENCE in the case of PTE. WALTER GROVELINTI GROVE, NO. 1 C.O.R.U.

By direction of C.O. evidence will be taken on oath.

1st Witness.

C-30629 S/SGT. DENTON L.A. SIS C.PROVO C. C.M.H.Q. SWORN, STATES:

"On 7 Sept. 43 at 1615 hrs. at Wimbledon Railway Station I arrested the accused whom I now recognize. He was dressed in civilian clothes, a grey suit and a light fawn raincoat. This raincoat I later delivered to Mrs. D.E. Willmott, 34 Hedgeway, Onslow Village, Guildford. I was accompanied by Sgt. Hammond when I arrested the accused. I took the accused to the S.I.S. Office, 30 Henrietta St. London, where I searched him. He was wearing the two rows of ribbons(8 ribbons) which I now produce, sewn on the left breast of his civilian waistcoat,(Marked exhibit "A"). In his pocket was the 1942 Civilian Clothing Coupon Book No. DE 411735 bearing the name of Stanley Bloomfield Proctor which I now produce,(Marked Exhibit "B"). In his pocket was a Billfold(Small leather) which I now produce,(Marked Exhibit "C"). Also a larger leather note case which I now produce,(Marked Exhibit "D"). The accused also had his paybook which I produce,(Marked Exhibit "E")."

(The accused does not wish to question this witness).

2nd Witness. (sgd.) LEWIS A. DENTON S/SGT.

C-42004 SGT. HAMMOND SIS C.PROVO C. C.M.H.Q., SWORN, STATES:

"At Wimbledon Railway Station on 7 Sept. 43 at about 1615 hrs., I accompanied S/Sgt. Denton when he arrested the accused, whom I now recognize. He was then dressed in a raincoat and a grey civilian suit. Before he was arrested I asked him for his identity, whereupon he produced from his pocket a civilian clothing ration book which I now recognize(Exhibit "B").

(The accused does not wish to cross-examine this witness).

(sgd.) W.H. HAMMOND SGT.

3rd Witness.

MRS. D.E. WILLMOTT 34 HEDGEWAY ONSLOW VILLAGE GUILDFORD,

Notice is given the ACCUSED, under R.P.76, that this witness will be called at the trial and will give evidence to the following effect:

"On 3 Sept. 43, I met a man in civilian clothes who informed me his name was Major Tex Grove. I took him to my home. I loaned him a raincoat which he said he

would return next morning. He did not return the coat, which was later returned to me by the Provost and which will be produced and identified. After Grove left I missed my note case containing £12 from the room in which I had left Grove while I made coffee. I identify the note case produced to me by the Provost as my property.

4th Witness.

L.B. PROCTOR 13 SURREAD CLOSE LEATHERHEAD SURREY.

Notice is given the accused under R.P. 4 that this witness will be called and will give evidence to the following effect:

"I identify the accused Grove as a man I took to my father's home at Leatherhead on 6 Sept.43. After he left, a wallet containing 30/- and a clothing coupon book issued to me were missing. I identify the wallet and coupon book produced by the Provost as my property.

(The accused does not demand the attendance of th 3rd and 4th witnesses for cross-examination. Having regard to the expense and loss of time involved, the attendance of these witnesses for the summary cannot in my opinion be readily procurred).

(S.M. Miller) Major.

5th Witness.

CAPT. R.G. BURROWS NO. 1 C.C.R.U., SWORN, STATES:

"I am adjutant #1 C.C.R.U. I produce AFB 115 (Marked Exhibit "F") declaring the absence of the accused whom I recognize, from 0800 hrs. 27 April 43."

(The accused does not wish to cross-examine this witness)

(R.G. Burrows) Capt.

The accused having been duly cautioned in accordance with R.P. 4(E), reserves his defence. I certify that R.P. 4(C)(D)(E)(F)and(G) have complied with and that the foregoing summary of evidence (2 Pages) was taken down by me in the presence and hearing of the accused at Borden, 15 Dec. 43.

(S.M. Miller) Major.
Officer detailed to take the Summary of evidence

Summary of Evidence in the case of B 31539
Pte Walter Trevelyan Grose. 1 COKU.

By direction of C.O. evidence will be taken on oath.

Before D.D.C.Prov C.C.M. H.Q. [illegible]

First Witness C 30679. D/Sgt. Denton L.A. Sworn States:
on 7 Sept 43. at 1615 hrs at Wimbledon ~~Sta~~ Railway
Station I arrested the accused whom I now
recognize. He was dressed in civilian clothes
a grey suit and a light fawn raincoat.
This raincoat I later delivered to Mrs. E.E.
Wilmott 34 Hedgeway Onslow Village Guildford.
I was accompanied by Sgt. Hammond when I
arrested the accused. I took the accused to
the A.D.P. office 30 Henrietta St. London where
I searched him. He was wearing the two rows of
ribbons (8 ribbons) which I now produce, sewn
on the left breast of his civilian waistcoat.
(Marked Exhibit 'A') In his pocket was the
1942 Civilian Clothing Coupon Book No DE 411 735
bearing the name of Stanley Bloomfield Proctor
which I now produce (Marked Exhibit 'B')
In his pocket was a Billfold (small leather)
which I now produce (Marked Exhibit 'C').
Also a larger leather note case which I now
produce (Marked Exhibit 'D'). The accused
also had his pay book which I produce.
(Marked Exhibit 'E').
(The accused does not wish to question the witness.)

Denton 8/Sgt

Second Witness C 42004 Sgt. Hammond. D.I.I. C&C Cadre
Sworn States: at Wimbledon Railway Station on
7 Sept 43 at about 1615 hrs. I accompanied S/Sgt Denton
when he arrested the accused whom I now
recognize. He was then dressed in a raincoat

and a grey civilian suit. Before he was arrested I asked him for his identity when he produced from his pocket a civilian clothing ration book which I now recognize (Exhibit "B".) (The accused does not wish to cross-examine this witness).

A. Heaman Sgt
C. 11004 A.D. Ch. Pro. Sqn. R.A.F.

3rd Witness Mrs E. Willmott 3 of Hedgeway Oxslow Village. near R.P.O.

Notice is given the accused that this witness will be called at the trial and will give evidence to the following effect:

"On 3 Sept 43 I met a man in civilian clothes who informed me his name was Major Joe Gross. I took him to my home. I loaned him a raincoat which he said he would return next morning. He did not return the Coat, which was late returned to me by the Provost and which will be produced and identified. After he left I missed my note case containing £12 from the room in which I had left Gross while I made coffee. I identify the note case produced to me by the Provost as my property."

4th Witness D.B. Proctor. 13 Sunnycroft Close. Leatherhead Surrey.

Notice is given the accused under R.P. that this witness will be called and will give evidence to the following effect:

I identify the accused Gross as a man I took my father's home at Leatherhead on 6 Sept 43. After he left a wallet and containing 30/- and a clothing Coupon Book issued to me were missing. I identify the wallet and Coupon Book produced by the Provost as my property.

The accused does not demand the attendance of the 3rd & 4th witnesses for cross examination. Having

regard to the expense and loss of time involved. The attendance of these witnesses for the Summary cannot in my opinion be readily procurred. J/Lt. Miller Major.

5th Witness Capt R.G. Burrows, Co Rtt Quarm & Adjt: I am adjutant, Co Rtt. I produce A F B 115 (Marked Exhibit "F") declaring the absence of the accused whom I recognise, from 0800 hrs 27 Apr 43.

(R.G. Burrows) Capt.

The accused does not wish to cross-examine the witness.

The accused having been duly cautioned in accordance with R P 44(E), reserves his defence.

I certify that R P 44 (C) (D) (E) (F) and (G) have been complied with and that the foregoing summary of evidence (3 pages) was taken down by me in the presence and hearing of the accused at Borden 13 Dec 43

J/Lt. Miller Major

M.F.M. 6
(A.F. B.1321)
40/P & /8138 (2665)

No. Name — Sqn., Battery, or Company — Corps — Date of enlistment — G.C. Badges — Service or Proficiency Pay — Character

Date of last entry in Company Conduct Sheet — No. and date of last drunk — Period not reckoning towards freedom from extra fine — Sheet No. 2. — Signature O.C. Company, etc.

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of roster cleared-ing with trial	By whom awarded	Remarks
Field.		Sigmn.		CIVIL CONVICTION. Having appeared before the Chatteris Justices on two charges of larceny, the u/m soldier was on 1 Sep 42 sentenced to one months hard labor on each charge sentence to run consecutively. Forfeits 61 days pay (FR&I 149(1)(b) Forfeits 9 days pay under FR&I 149 (1)(c)(ii) whilst in civil custody from 23 Aug 42 until 31 Aug 42(9 days). Total forfeiture 70 days pay(Auth. Lr from Isle of Ely Constabulary d/3 Sep 42).					

(over);

(P.T.O.)

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Field	[illegible]	Sigmn		AA 15(1) AWL (absent 90 days 2 Mins) AA 40 Impersonating an officer of the United States of America.	DOCUMENTARY.	Six Months Detention. Forfeits 282 days pay Stoppages of £1-15-0 for cost of apprehension.	F.G.C.M.	1 C.S.R.U. Order 245	Pt II d/15 Oct 42.

CERTIFIED TRUE COPY.

[illegible] Lieut.
Officer having custody of the original documents.

EXC

M.F.M. 6

No. B31539 Name GROVE, WALTER GROVELINI | Sqn., Battery, or Company | Corps R.C.O.C. | Date of enlistment 4/10/40 | G.C. Badges | Service or Proficiency Pay

Date of last entry in Company Conduct Sheet | No. and date of last drunk | Period not reckoning towards freedom from extra fine | Sheet No. 2. | Signature O.C. Company, etc. J. Wallis Lieut. | Character

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order directing trial	By whom awarded	Remarks
	No entries after completion of first six months service.								
				1st Charge.					
Field	31 Nov 41.	Sgm		A.A.(15) (1) A.W.L. 1200 hrs 31 Mar 40 to 1550 hrs 12 Apr 41 Apprehended by Cdn Military Police in London. Absent 12 days 3 hrs 50 mins.	Documentary. Sgt Ogden G.F. Cpl White J.D.	27 Days Detention.	14 Apr 41.	Major Smart	A.M.Millar, Capt.
				2nd Charge.					
Field	12Apr41.			A.A.(40) bring in possession of a Document purporting to be a genuine leave pass, knowing it not to be genuine.	Documentary.	Forfeits 13 days pay under F.R.&.I.			RELEASED FROM DETENTION BARRACK WILLEY ON MAY 10 1941 SENTENCE HAVING EXPIRED. Remission earned under "Rules for Detention Barracks and Military Prisons" 11 da ys
Field	12Apr41			3rd Charge. A.A. (40) Apprehended wearing badges of a W.O.II to which he was not entitled.	Documentary	Total For feiture 40 days pay.			Commandants Initials

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Field	19/8/41	L/Cpl		AA(15)(2) Absent from P T Parade	S/Sgt Cavana	Admonished	19/8/41	Capt Leech	GBL
Field	17/9/41	L/Cpl		AA Sec 40 Failing to comply with order given by superior offr. Failed to make a tool when ordered to do so.	L/Sgt Parsons E.C.	Reduced to rank of Sigmn.	19/9/41	Lt Col Tyner	SWL
Field	18/9/41	L/Cpl.		AA Sec 40 WOAS Conduct to etc used insolent language to superior offr.	L/Sgt Parsons E.C.				
Field	1Jun41	Sgmn		WOAS convicted fo civil offence stole wireless set and camera from Rene Garrow, Headley.		1 month hard labor(Southampton) Pay £2 for value of camera Wireless set to be restored to owner		Civil Court.	

M.F.B. 353
22M—5-41 (572-3)
H.Q. 1772-80-620
A.F.B. 206

STATEMENT AS TO CHARACTER AND PARTICULARS OF SERVICE OF ACCUSED

Number	Rank	Name	~~Regiment (or unit)~~
B-31539	Private	Walter GROVE	1 C.O.R.U.

1. The following is a fair and true summary of the entries in the ~~Conduct sheets~~ Service and General or Company Conduct sheets of the accused, exclusive of convictions by a Court-Martial or a Civil Court, ~~Air Force Act~~ Regimental and Squadron, Battery of summary awards under Section 47 of the Army Act and of cases in which trial has been dispensed with.

	Within last 12 months	Since enlistment or appointment
For	NIL	times A.W.L. 2 times
For		times A.A.Sec 40 4 times
For		times times
For		times times
For		times times

Number of instances of gallantry or distinguished conduct NIL

or,

~~There are no entries in the conduct sheets of the accused.~~

NOTE.—If the charge is for drunkenness, the entries for drunkenness must be stated separately.

2. ~~The accused has not been previously convicted.~~

or,

Previous convictions of the accused by a court-martial or a civil court, ~~A.F.A. 73~~ of summary awards under ~~Air Force Act~~ Section 47 of the Army Act and dispensations with trial under A.A. 73 are set out in the Schedule annexed to this statement.

3. The accused is not under sentence at the present time.

or,

~~The accused at the present time is under sentence for _____ beginning on the _____ day of _____~~

4. The accused has been in confinement awaiting trial on the present charges, for _____ days in ~~Air Force~~ civil custody, and 105 days in military custody, making a total of 105 days in custody, of which 80 days were spent in hospital.

5. The present age of the accused according to his ~~record of service~~ attestation paper is 5 May 1922

6. The date of his ~~enlistment~~ attestation specified in his ~~record of service~~ attestation paper is 4 Oct 1940

7. The service which the accused is allowed to reckon towards discharge is 4 Oct 1940

8. ~~The accused is entitled to reckon _____ service for the purpose of determining his pension, etc.~~

9. The accused is in possession of or entitled to no ~~air force~~ military decoration, or ~~air force~~ military reward ~~(or is in possession of or entitled to)~~. State any air force decoration or reward. NIL

10. ~~(If the accused is a warrant officer.) The accused before he was made a warrant officer last held the regimental rank of _____~~
~~Air Force~~

11. (In the case of an officer.) The accused holds in the Royal Canadian Air Force the rank of Permanent Force unit dated , and in his regiment (or corps), the rank of dated .

12. The accused has served as a non-commissioned officer continuously, without reduction, to the present date:—

In the rank of Date of promotion.
In the rank of years.
In the rank of years.
In the rank of years.

NOTE.—If any matter in any of the above paragraphs cannot be stated from the Regimental books the paragraph must be struck through.

SCHEDULE

Of convictions by a court-martial or civil court, of summary awards under Section 47 of the Army Act, and of cases in which trial has been dispensed with of accused, Number B31539 Rank Private

Name Walter GROVE of 1 Cdn Ord Reinf Unit Unit

NOTE.—A verbatim extract from the regimental books stating these convictions and dispensations with trial must be inserted.

Description of Court by which tried	Date and Place of Trial	Charge upon which convicted	Sentence of the Court	Punishment Remitted
Civil Court Whitehill County of Southampton	Whitehill County of Sothampton 2 Feb 42	Theft of wireless set and camera.	1 month hard labour. To pay £2, value of camera and wireless set to be restored to owner.	
Civil Court Isle of Ely	Chatteris Justices Isle of Ely 1 Sept 42	Two charges of larceny	Two months hard labour	
F.G.C.M.	Field 15 Oct 42	(1) AA Sec 15 (1) (2) AA Sec 40	6 months detention	59 days

I hereby certify that the foregoing schedule of convictions and dispensations with trial is a true extract from the regimental books in my custody.

Signed this 21 day of Dec 42 (Signature) Lieut
Asst Records Officer
for No.1. Cdn Ord Reinf Unit

The above statement (with the schedule of convictions and of cases in which trial has been dispensed with) is read, marked Ex B signed by the president, and annexed to the proceedings.

22-52

PTE GROVER A.E.

22-52

FIELD GENERAL COURT-MARTIAL

(CFA86 (In lieu of AFA3) 40/P & S/1608 (2804))

Convened by Order of Maj Gen J.H.Roberts, G.O.Comd Cdn Rft Units dated 13 Dec 43

ACCUSED.

(As to the trial of two or more charged jointly see RP 16, 71, 109. As to reasons for showing (a) permanent or confirmed rank, and (b) apptmt, A/rank or A/apptmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

Number.	(a) Prmnt R. (b) Apptmt, A/R or A/Apptmt.	Full Christian Names.	Surname.	Unit.
A79317	Pte	Albert Edward	GROVER	1 Cdn Admin Tpt Coy RCASC

PROCEEDINGS REVIEWED
20 Jan 44
J.S.N. Stacey Lt Col
REVIEWING OFFICER, JAG BRANCH, C.M.H.Q.

PROCEEDINGS OF TRIAL.

Held in the Fd in (country) England on (date(s)) 20th and 22nd Dec/43

RECORD FORM A—OPENING PROCEEDINGS AND ARRAIGNMENT.

A1. The President, Members, ~~waiting Member, JA, if any~~, and Offrs under instr, if any, assemble, and the Court is closed.

(PRINTED MATTER, NOT IN ITALICS FOR GUIDANCE, WILL BE DELETED IF NOT USED OR APPLICABLE, AND INITIALLED BY PRES OR JA. The Schedule referred to throughout is on p 4. Citations do NOT include all relevant fmn ROs. For guidance on procedure when a variation in this form arises, see form for GCM in MML pp 741 to 759. A brief record of such variation will be made and given a number having reference to appropriate or preceding para number herein. See back of Convening Order, CF A95, for oaths and instrs on how to record addresses, evidence, etc, which instrs are hereafter called "Notes". As to general provisions for conducting the trial see AA 53, RP 56, 63-70, 73, 74, 94, 103, 119, 432.)

A2. The President initials and lays before the Court the Convening Order and Charge Sheet(s) attached thereto.(1) The Court is satisfied that it is properly convened and constituted(2), accused is (are) amenable to military law, and each charge discloses an offence.(3)

(1. As to use of Summary of Evidence see RP 17 fn b. 2. AA 49, 50, RP 105-107. 3. RP 11-13, 23, 24.)

A3. The Court is opened. The accused is ~~(are)~~ brought before the Court. At 1400 hours trial commences.

A4. The Prosecutor produces a Medical Certificate that accused is ~~(are)~~ fit to undergo trial by court-martial.(1) ~~The Prosecutor informs the Court that accused elected to be tried by court-martial instead of being dealt with summarily by the CO.~~(2)

(1. KR Can 557. 2. AA 46(8), RP 60 fn 1. For effect see KR Can 563(c). Delete, if not applicable.)

A5. President to accused: Do you object to ~~the Interpreter is sworn.(1)~~ as interpreter ? Ans

Do you object to ~~The shorthand writer is sworn.(1)~~ as shorthand writer ? Ans

(1. RP 72. Delete, if none employed.)

A6. The Convening Order and names of the President and Members of the Court are read to the accused.(1) President to accused: Do you object to be tried by me as President or by any of the Members of the Court ?

Ans NO SIR.(2)

(1. RP 110. 2. If no objection, waiting member retires. RP 68(8). If objection, see procedure AA 51, RP 25, 71, 18, MML p 742.)

A7. The President, Members, JA, if any, and Offrs under instr, if any, are sworn.(1) The following are the ranks, names and units of the offrs comprising the Court, etc:

President	Lt Col	D.Z. Rubenu	HQ CRU
Member	Capt	F.W.W. Howard	HQ CRU
Member	Lt	J.G.Y. Rose	1 Cdn Admin Tpt Coy
~~Judge-Advocate~~			
Prosecutor	Capt	A.G. Hutchison	1 Cdn Admin Tpt Coy
Defending Offr	Major	S.A. Germain	1 CASC RCE

Questions by President: Is the Prosecutor a lawyer ? Ans NO Is the Defending Offr a lawyer ? Ans YES (2)

(1. RP 26, 27, 109, 111. List of offrs under instr will be returned separately with proceedings for information of Conv Offr.)
(2. If Pros a lawyer and Def Offr not, accused is entitled to an adjournment when RP 69 (8) and fn 2 were not followed. See DI p 3.)

A8. The accused before arraignment make(s) (no) ~~(a)~~ plea (3)

(1. If a special plea is made for separate trial on one or more charges (RP 62(E), 108), or as to the jurisdiction of the Court (RP 34, 35(A), 113), or in bar of trial (RP 36), or as to accused's mental fitness to stand trial (AA 130, RP 57), or by one of several accused charged jointly to be tried separately (RP 16, 71), such plea, the addresses made in support or against, the evidence, if any, and finding are recorded per Notes. For forms of record see references in fns to RoP cited. Insert in AB rank and name of the accused making the plea.)

A9. The accused is ~~(are)~~ arraigned ~~(separately)~~ on all charges in the charge sheet.(1) The accused does (~~does~~) not object to any charge.(2) There is no amendment to be made to the Charge Sheet.(3) The President records the pleas in Part I of the Schedule.

(1. RP 36, 112. See para 1 of Instrs p 2. When more than one Charge Sheet see RP 62; when several accused to be tried separately see RP 71(C), and use separate copies of CF A96 to record proceedings. 2. RP 32, RP 33. If otherwise, delete and make appropriate record per Notes.)

A10. The Court ~~(is closed and)~~ considers the Instrs on Procedure after Arraignment at top of p 2. The proceedings are continued on Record Form D

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

INSTRUCTIONS ON PROCEDURE AFTER ARRAIGNMENT.

1. *The accused may not plead or be found Guilty on more than one of two or more charges laid in the alternative (RP 37(A).) As to withdrawal of alternative charges by Prosecutor see RP 35(C). No other charge can be withdrawn for any reason without authy from Convening Offr. If Convening Offr concurs, Court may accept plea of Guilty to lesser, etc, offence. (RP 44(H).) Accused may change a plea of Not Guilty to Guilty during trial. (RP 38.) As to refusing to plead or not pleading intelligibly see RP 35(A). As to plea when sentence may be death see RP 35(D).*

2. *The proceedings on each charge sheet (RP 62) after arraignment will be conducted as follows in the respective circumstances stated :*

I. If pleas to all charges are GUILTY, use Record Form B below.

II. If pleas to all charges are NOT GUILTY, use Record Form D on p [redacted] 3.

III. If pleas to some charges are GUILTY and to other charges are NOT GUILTY and,

(a) Such mixed pleas occur when there are no alternative charges in the Charge Sheet, use Record Form C below. (RP 37(A).)

(b) Such mixed pleas occur in a set of two or more charges laid in the alternative, see RP 37 (A) and fn 2 as to discretion of Court, (i) to try the accused on all such alternative charges as if he had pleaded Not Guilty thereto, or, (ii) to record the pleas as the findings of Court. After deciding between (i) and (ii), Court will proceed under foregoing instrs as may be appropriate to result of its decision. See MML p 744 Instrs (2).

3. As to responsibility of President to accused see RP 59, 60(C); powers and duties of JA see RP 103; duty of Prosecutor see RP 60(A) (B); duty and privileges of accused and Defending Offr see RP 60(C), 87(C), 91, 92; swearing and withdrawal of witnesses from Court see RP 81, 82; questioning of accused see RP 86, 87(C), 92(B), and of witness see RP 83-85; calling or re-calling of witnesses by Court etc see RP 75-79, 86, 116; use of Summary of Evidence at Trial see RP 17(E) fn 6; and responsibility of JA or Pres to record proceedings see RP 94, 96.

RECORD FORM B—PROCEEDINGS ON PLEAS OF GUILTY TO ALL CHARGES.

B1. The President or JA, if any, complies with RP 35(B) by explaining to the accused the nature and meaning of the charge(s)(1), and that on his plea of Guilty there will be no regular trial but merely a consideration of the sentence to be awarded after he has been given an opportunity to make a statement in reference to the charge(s), call witnesses as to character and make an address in mitigation of punishment.(2)

(1. RP 35 fn 3. 2. MML p 54 para 47.)

B2. President to accused : The Court will now receive any statement you desire to make in reference to the charge(s).(1) If it appears from your statement that there are circumstances which indicate that you do not understand the effect of the plea of Guilty(2), or which show provocation or extenuation in respect of which in your interest the witnesses for the Prosecution should be examined(3), we shall advise you to change your plea to Not Guilty. In making a statement you will not be sworn or subject to cross-examination ; and anything you say will not be used in evidence against you after you change your plea. If, however, it appears to the Court that your statement affects only the amount of punishment to which you are liable, you will not be advised to change your plea and you will be given an opportunity later to prove your statement by sworn testimony, if you so desire.(4)

President to accused : Do you wish to make a statement ? Ans.....(5)

(1. RP 37(B). 2. RP 37(D) fn 6. 3. RP 35(B) fn 5 para 2, MML p 54 para 47. 4. See para E3 of Record Form E.
5. Statement, if any, recorded per Notes.)

B3. The Court considers the accused's statement.(1) The Court decides (not) to advise accused to change his (their) plea(s) of Guilty to Not Guilty on ..... charge(s). The accused is (are) so informed, and he (they) change(s) his (their) plea(s) on ..... charge(s). Part I of the Schedule is amended accordingly.

(1. Court may be closed to consider the statement. Delete whole or part not used.)

B4. On the charge(s) to which the plea(s) of Guilty is (are) not changed the President records finding(s) of Guilty in Part I of the Schedule.(1)

(1. RP 35(B). If any plea(s) is (are) changed, use Record Form C or D as appropriate.)

B5. The Summary of Evidence is marked Ex. , initialled and read aloud by the President.(1)

(1. If there is no Summary, or if it is inadequate, comply with RP 37(B). If there is any evidence inconsistent with any plea standing as Guilty, Court will advise accused to change such plea and, if changed to Not Guilty, try such charge(s) by use of paras D1 to D8 inclusive of Record Form D on p 3. RP 37(D).)

B6. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

RECORD FORM C—PROCEEDINGS ON MIXED PLEAS OF GUILTY AND NOT GUILTY.

C1. As to the charges on which accused pleaded NOT GUILTY the trial is continued by using paras D1 to D8 inclusive of Record Form D on p 3 before proceeding with C 2.(1)

(1. RP 37(A) (E).)

C2. The charges on which accused pleaded GUILTY are read to him (them) again, and the trial is continued by using paras B1 to B5 of Record Form B above.(1)

(1. Under B5 such parts only of the Summary of Evidence are read as relate to the charges denit with under C2. If any plea is changed to Not Guilty, trial thereon proceeds by complying with paras D1 to D8 inclusive in Record Form D on p 3 and making an appropriate record thereof on a separate sheet.)

C3. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

CHARGE SHEET

The accused, A-9337 Pte. Albert Edward Grover No.1 Cdn. Admin. Tpt. Coy., R.C.A.S.C., a soldier of the Canadian Army Overseas, is charged with:-

FIRST CHARGE

Sec. 40 A.A.

WHEN ON ACTIVE SERVICE CONDUCT TO THE PREJUDICE OF GOOD ORDER AND MILITARY DISCIPLINE

In that he

At Farnborough, Hants at 1845 hours, 25 Oct 43., did improperly and without authority use W.D. vehicle CM 195425, thereby occasioning damage to the said vehicle of £161-17-0.

SECOND CHARGE

Sec 40 A.A.

WHEN ON ACTIVE SERVICE CONDUCT TO THE PREJUDICE OF GOOD ORDER AND MILITARY DISCIPLINE

In that he

At Hounslow, Essex, between 1945 hours and 2300 hours, 25 Oct 43, did improperly and without authority carry two civilian passengers in W.D. vehicle CM 195425, contrary to Chapter 2, para 42 of M.T. Drivers Regulations, authorized by Overseas Routine Order No. 3510, dated June 1943.

Farnborough, Hants
13 December 1943.

G.C.Macarthur
(G.C.McArthur)Lt-Col.,
Commanding Officer,
No.1 Cdn.Adm.Tpt.Coy.,
R.C.A.S.C. C.A.(5)

To be tried by Field General Court Martial.

In the Field
14 December 1943.

J.H. Roberts
(J.H. Roberts)Maj-Gen.,
G.O.C.Comd., Cdn Rft Units.

4 7

CFA95 (In lieu of AFA2)
40/PAM/1697 [20052]

FIELD GENERAL COURT-MARTIAL

(Whether the accused to be tried is under his comd or not, a FGCM may on application to him be convened by any offr of Cdn Army Overseas, or of any other force if authorized in law, in immediate comd of troops on active service, subject to RP 105(C) and restrictions imposed by appropriate authy, AA 49, 50, RP 104-107, 114. As to the duties and privileges of the Convening Offr in dealing with the application see MML Chap V paras 20 and 23, RP 87(B).

There should be a separate Convening Order for each person to be tried separately by the same Court. RP 71(C), 109. As to separate charge sheets see RP 62, and as to separate trial on charges in the same charge sheet see RP 108. As to two or more accused charged jointly see RP 16, 109.

As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

ACCUSED.

Number.	(a) Prmnt R.	(b) Appmt, A/R or A/Appmt	Full Christian Names.	Surname.	Unit.
A-9337	Pte		Albert Edward	GROVER	1 Cdn Admin Tpt Coy RCASC

CONVENING ORDER.

1. Whereas complaint has been made to me, the undersigned, that the person(s) named above as the accused, being subject to military law, has (~~have~~) committed the offence(s) set forth in the Charge Sheet(s) attached and on (date) 13 Dec 43 endorsed by me, (or by an offr of my staff for me), " To be tried by Field General Court-Martial ".

2. And whereas I am of opinion that it is not practicable that such offence(s) should be tried by an ordinary General Court-Martial ; ~~and that it is not practicable to defer the trial for reference to a superior qualified offr.~~ (Delete part in brackets when not required for compliance with RP 105(C).)

3. I hereby convene a Field General Court-Martial to try the said person(s), and to consist of ~~five~~ Offrs appointed or detailed hereunder.

4. ~~I am unable to appoint (a) three Offrs to form the Court, (b) a Fd Offr as President, for the reasons stated hereto.~~ (AA 49, RP 106(B), 107(A). Delete the whole or part, if not applicable.)

5. ~~I also appoint as Judge-Advocate thereat the Offr mentioned hereunder.~~ (RP 106(E). Delete, if none appointed.)

PRESIDENT.

(Rank.)		(Must be named. RP 106.)	(Unit.)
Lt-col	D.L. Redman VD		Hq CRU

MEMBERS.

(Rank.)		(Named or detailed. RP 106.)	(Unit.)
Capt		from	Hq CRU
Lieut		from	1 Cdn Admin Tpt Coy RCASC

WAITING MEMBER.

(Rank.)		(Named or detailed, if any. RP 106.)	(Unit.)

JUDGE-ADVOCATE.

(Rank.)		(Must be named, if any. RP 106.)	(Unit.)

On Active Service in the Fd

in England (Country.)

Date 13 Dec 43

J.L. Roberts (Signed personally. RP 105 fn 2.)

(J.H. Roberts) Maj Gen
G.O. Commanding Cdn Mft Units
Convening Officer.

Maj Gen (Rank.)

CONVENING OFFR WILL INITIAL ALL DELETIONS AND ALTERATIONS

(See overleaf for notes and notes for use on trial.)

Trial of A 9337 Pte A E Trower 1 Edn adm 7 pl Coy

NOTE D - 3

Page 1

Evidence for the Prosecution

1st witness for the Prosecution

M 6155 & Pte J. F. Hayes of 1 Edn adm 7 pl Coy being duly sworn states

On 25 Oct 43 I was going to Hounslow from Farnboro to Kings a date with Miss Rosina Bird & during the day I & the accused decided to go down in the car. It was the accused's car and I agreed. We left at about 1545 hrs and we arrived at Hounslow at about 1945 hrs. The accused was driving. At Hounslow by str we met Miss Bird and a friend Miss Rose Read. We decided it would be nice to go to a show at Oxford. The four of us got in the car and we started off proceeding some distance it began to become very foggy and the accused said even then we decided to go about and go back to Hounslow. We were driving slowly. The accused had his door open and his head out to see when suddenly everything went black for me & I remember someone helping me off the floor of the car and upon getting out I saw that we had run into the back of a civilian lorry which was parked at the kerb with no lights after the panic had died down a bit, I helped several civilians to push the car into the grass verge with the lights showing on the road. This was some hour & 45 minutes after we had first left Farnboro. The accused asked me to leave

the scene of the accident. He opened me my train fare. He advised me to be wrapped up in this approaching car stopped and took the accused to the Hospital and a little later a passing American staff car took the 2 girls and myself to a first aid station at Heyshott where after being treated we spent the night there. We left at 0600 hrs next morning and reported to the M.O at our unit 7 a.m. He sent me to R.O.S Eng. C for X-Ray. Later I reported to the Orderly Room and gave the story.

Cross examined by D of officer

It was extremely foggy before we turned around. I was in left-hand seat. Miss Reed was in the front. I was driving very slowly and he wiped the windshield off from time to time. Sometimes his speed was between 5 and 10 miles, sometimes a little faster. It was very foggy at the accident. Just before the accident I was driving between 15 and 20 m.p.h. It was the off side of our car which struck the parked lorry. Our lights were on bright but we had no fog light. After the accident all our lights were still on. The accused was out of the car before I was. It was about ¾ of an hour before he was taken to hospital during this period he had painful fits. I had not seen the lorry before we hit it. I examined the lorry after the accident. No lights were on. I understood the electric system was

turned out. It was on a main road I believe with a white line. The lorry was against the kerb but it was wide enough to the white line. I had seen no obstruction whatever on the road. When I went out to Hospital our lights were burning. I left about 1 or 1¼ hrs after the accident. There was no indication of pie. I didn't see the stop car again until it came back here. The engine was not running. The lorry driver said he knew our lights or to show up his. This I didn't need as it was midnight. Trower gave me the money per my fare home. He advised me to go as there might be a court martial. I was not negligent. he was very careful. He took all reasonable precautions. The left front of our car was badly damaged and side when I left the depot. I left the depot with the doors of our car unfastened by one side. Trower didn't say anything to me about taking the girls home but I presume I would take them back

2nd witness for the Prosecution

Mr Charles Eades of 107 Morley Road Leyton E 10 lorry driver being duly sworn states

I drive a lorry for E Hillard Ltd. on night of 23-Oct/43 & was driving my lorry I had to stop because my lights short circuited. This was at first by London

at about 2245 hrs. I drew to the left curb and parked my car and stood right behind it. There was room in front but not where I parked. I lit a cigarette and went it to signal with. I saw the lights of a car coming. I shouted and I got out of the way. The car hit the back of the lorry. The right rear corner was taken out of the body of my lorry. There were 4 people in the car 2 soldiers and two female civilians. They got out of the car which we stood into the large the lights of the car were on. I can identify the soldiers. I know the number of the car in my wallet at home the way my lorry is Z m H 627.

(The Defence asked the Court to grant him the right at any time to ask that this evidence of this witness be struck out because he has not adduced the charge or accusation and stated that he would like same without prejudice to that right. The Court agreed.)

Witness Examined by Military Officer

Millards do a haulage business with many lorries. I go out on distances not exceeding 50 miles, often at night. I am not equipped with a lantern to warn traffic with. Later I found that the ammeter had burned out which caused a short circuit. I was driving when the lights did went out. I drove into the kerb. I couldn't get it onto the verge. My lorry is an open box & was

: Trial of A 9337 Pte A E Crowe.
NOTE D-3 Pages 5- 1/Cdn adm 7pt Log

lorry - our all with about 6 pet
on Austin about a year old It was
about 20 minutes after I stopped that
the army car came along I was smoking
P Players' weights which I flashed for
a warning. Often people flash cigarettes
to get a lift. It was a dull night
The driver could not have seen the
lorry or he would not have run it
when we showed the army car back on
the verge with its lights shining on
my lorry it was about 20 ft behind
my lorry. Over ½ hr after the accident
one of the soldiers was taken away.
The lights of the army car were then
burning. Later the other 3 went away in
an american car - The same lights were
still burning. The Local Police came
They kept me a torch and went to get
2 lamps. They returned with the lamps
which I put in front of and behind my
lorry - I kept with the Police The
light on the army car were still
burning. This was about 1 o'clock.
There was no indication of a fire
I ~~was~~ saw my lorry again at about
1 in O'clock next morning The army
car was smouldering just as we
came up it had all burnt in flames.
I threw some grass on the flames
~~1st witness~~
~~1st witness for the prosecution~~
C R P & 3 (B) was cross-examined

3rd witness for the Prosecution.

P.C. 11 George Henry Bradbury of Chepping-borne Bucks. being duly sworn states at about 2320 hrs. 25 Oct 143 I was called to an accident which had occured on West bay corbe Road between a civilian Lorry and a Ford V8 Edn army car. # C M 193-425. On arrival the lorry was agust the kerb on north side it showed no lights. The army car was on the grass verge with no attendant. The army car appeared to be a total wreck the front was pushed in at nsr side badly damaged. at least one front light was burning.

Later I saw Pte J E. Hayes and 2 gurs Bird and Read. at the amb station I saw the driver of the civilian Lorry at the same as the accident. His name was Charles Eades I exam his drivers licence # 2/22083 issued by Essex County Council to Charles Eades. It was also signed by him. I recognise Charles Eades who is going under the oath as that driver of that lorry

Cross Examined by the Defence

I think the off side front light on the army car was burning when I arrived that night. There was no indication of fire in the army car.

R.M. 83(B) was taught exerts.

Fourth witness for the Prosecution
Major JH Worrall of 1 Can Adm Tpt Wg
being duly sworn states
I am Workshop officer of this unit I
examined Mr 195-425 on 8 Nov 43 I cannot
remember what unit it came in I made an estimate
of the cost of repair This is the estimate I
made on 8 Nov 43
(Marked Ex 1 by Court)
Mj This is a true and correct estimate
to the best of my ability
I obtained the various parts myself I regulated all parts I got from R.A.D.O.S. They could not give workshops boom with prices as they say the prices are constantly changing This is the only way on the price list the Daily R.A.D.O.S. had to get this information from C.M.H.Q. This is the only way a workshop can get the actual parts for a repair job under existing regulations in the Can Army
(The Dep officer registered his objection to all this evidence there being hearsay)
The Prosecutor referred to C.A.O.R.O 2183 Para 4 which indicates that the workshop officer is the competent officer to estimate costs of repairs
(at 2130 hrs the Court adjourned and the same Court reassembled at 0930 hrs 22 Dec 43)
Cross examined by the Dep Officer
The greater portion of the damage to this car was caused by the fire in the car. The following items were due to enemy

by price
1 Body complete £134-0-0
not before the price the front coming at
left was driven back at least 2 feet also
the left front door was damaged beyond
repair other than that I cant say what
other damage if any was caused by the
collision to the body the front coming
would be straightened out by labor
the only replacment would be the left
front door and I believe the windshield would
have been broken by the collision a single part
of the damage to the car was caused by the
collision not the balance by price.
The following parts require replacment
on acc of the collision
1 left front fender £ 2-10-0
1 engine hood £ 4-15-0
1 left front door £ 15-0-0
1 left front windshield glass £ 1-10 £23-15-0
That is all I can prove was caused by the
collision The labour required to replace
these articles on the car is as follows. due to mechanics on acc of collision
Fender 2 hrs.
Engine Hood 1 "
Repair Radiator 5 "
Wind Shield Glass 3 "
Repair left front of
body and fit door .75 "
Total hours 36 hrs at 3sh. = £12-15-0
Parts £23-15
Total £36-15-0
I warrant a statement of above
(amended £1 x £3 by the court)

Trial of A 9337 Pte A. E. Glover 1 adm 7pt Coy.

Page 4.

From my experience I think it is probable that the fire was caused by a short circuit of the wiring switch in line against the post behind the canvas. It would smoulder all night. I have seen that happen the lights apparently continued to burn for some time after the accident. I can remember this by saying that the wire was bare but may [illegible] by the witness and that later removal by wind and people getting in and out may have snapped or burnt the wire causing the fire at a later date time. With weight lights left on a nothing would probably burn down in about 10 hours. R & F 3(B) was supplied with 7 pitch lanterns for the Mess

major Edmondson of RCOC being duty senior officer

I am S.A.D.O.S. at C.H.Q. and I do not possess [illegible] stores in my care. The issue of parts on 1 x 1 [illegible] are approved by me. I have one the forms which are available in my office. We get them from H.B.M. forms of written Please vocabulary which is applied

lines - explained by H.B. officer

Our fire vocabulary covers all [illegible] parts. I have found the total no of items in our vocabulary ground at 150.000.

6 The evidence for the Prosecution

major J W Watmore of 1 Can Ord Pt Coy duty senior officer

I am the 7 pt Officer and 2 i/c of this

This unit. Vehicle C m 185-425-wms
assigned to the accused in March 143.
and has been on his charge until the
accident on 25-Oct 143. ~~In~~ Early
in July 143 the unit got the new
M 4 Sherman Regs (2 ma 143. and more
distributed to D Units.
Uwas examined by the D of Ordnance
I cannot swear that the accused got
one & dont get enough copies for
all our drivers

MJ

2t A R C Bedson of 1 Can Armd Ppt Wg
duly sworn states

I am asst adjt of this unit I produce
unit Pt Bk # 12 for 1 Jan 43 to 31 Dec 43
the accused per pres of 17 Oct is 25 Oct 43
The last entry 25 Oct 43 is a disp "Commdg
Officers Disciplinary Reprimand 17 Oct 43 recvd"
Marked Ex 2 by Court

This car the 1 ton car is normally kept
in a garage behind the Offrs mess of this
unit which garage is normally locked
The key is kept on the ring with the car
Keys which are normally kept by the
driver of that car who was the accused
I am the officer who took the summary of
Evidence in this case when the evidence of
the witness had been taken I cautioned
the accused using the words contained in
R of I 4(E) when this was done the accused
elected to give evidence on oath. I administered
the oath to him The unit had previously
received a letter purporting to be from the
accused setting forth what he wished
to say and to be put in the summary dated
18 Nov 43. I had written out his statement
from this letter I gave
him the statement which I had prepared
he agreed to send. He signed it
& I witnessed it & he signed it
(The Orf officer objected saying that letter
was written from Hospital 20 days after
the accident. He was naturally worried
He had had no advice and he was bound

from Hospital about 10 o'clock. He is given what purports to be a summary and a statement prepared from his letter. He was not asked if he wished to change it. He was sworn and the Court adjourned until 10 am on 3rd Nov. the Court resumed at 10 am. The Summary was not taken in accordance with proper practice. Accused had no chance to compare statement with his letter. He was still sick and nervous. The statement in the summary is materially different from the letter. There is added a sentence to the effect that he was a w/t when he took the car. The statements of the other witnesses were taken when accused was in Hospital. He was not present.

The Prosecutor said in reply that he had based his statement of the facts surrounding the taking of the summary on 3rd Nov. I went to the Hosp to take the summary on the case of Hayes. Accused wished to make a statement. I advised him not to but to take his time. Then on 10 Nov. he of his own free will wrote this letter.

The Court was closed to consider the question.

The Court reopened.

The President announced that the Court would not admit the statement by the accused in the summary.

The witness continues

There were no further relevant points

in the log book or on the papers found in the car after the accident.

Cross examined by the Def Offcr.

Of my personal knowledge I am not sure that no civilian release forms were ever signed. There is no central transport office controlling work tickets in this unit. The Bn could authorize a trip such as this without anyone knowing it. any commissioned officer can authorize a vehicle trip. No record is kept in the unit except the work ticket.

A # 3 (B) was marked with

The Prosecution is closed.

NOTE P 4.

The D-f Offr's summons is attached.

(cont from Page 14)

him and Frank Lewellen to go with Lt McArthur in Jan 43. Unit's record was under my command he was always energetic, very reliable and always available. He took a keen interest in his work and supervised the maintenance of the 4 d Kas vehicles

MY

N

Character witness
Major W A McArthur of 1 CASC R A
duly sworn states
I have been in command of the accused
from Jan/41 until Dec/42. He came
and was detailed to drive the C.O. His
appearance and deportment were
excellent. In 2 or 3 calls he paraded that
he became my driver. He drove for me
standing until Aug/42 when I left
The Depot. Day & night I could not arrange to
take him with me or I would have
His record was excellent. He kept his
car in perfect condition working extra
hours. He was always willing to help
others in their work. The NCO i/c said
he made a Capt which was done
the time drove the C R A & C of 1st Cdn Div.
He was 4½ when he enlisted. He was left to
in Canada for a time on acc of his age
He is upset with his wife & family
guns, friends, cattle. He was frequently
Drunk as sick man & a drunk. He
served me faithfully and I never
had cause to complain of his conduct
I have already done what I could
to get him transferred to me when he
is released. I submit humbly, my letter
of application to me

2nd character witness
Major Gunn of 1 CASC R A duly
sworn states
I recommend Major McArthur as
Dec/42 and accused enlisted as my
driver. I knew Lt Col McArthur when

(OVER to P.13)

IN THE CASE OF A.9337, Pte. Albert Edward Grover, No. 1 Cdn. Adm. Transport Coy., R.C.A.S.C.

ADDRESS to the Court by Major S. A. German in support of an application for "Non Suit" at the conclusion of the case presented by the prosecution.

Sir:

I am making an application for a "Non Suit" in respect of both charges which have been preferred against the accused. I shall deal with the first charge in two parts, firstly with the question of improperly and without authority using W.D.Vehicle CM195425 and secondly with the question of damages.

I submit that the Prosecution has failed to establish that the accused had the vehicle in question on the night of 25 Oct 43 without authority. The Prosecution has only made the statement that it was there without authority and was being improperly used but has produced absolutely no evidence or any person to state definitely that such was the case. On the contrary, it has been shown that this vehicle was assigned to the Officer Commanding the Unit and that the accused was his driver. The evidence shows that work tickets are issued in blank for this particular vehicle and that it is entirely under the control and direction of the Officer Commanding. Work tickets were not turned in to the Unit Headquarters or the Transport Officer until each and every sheet is completely filled. Therefore it is not necessarily known by any one but the driver and the Officer Commanding what his instructions or directions are. It is within the power of the Officer Commanding to authorize recreational transport and for such purpose he can direct the use of his own vehicle as well as any other vehicle on the strength of the Unit. The Assistant Adjutant of the Unit has presented a work ticket pertaining to the vehicle which shows a certain trip or trips performed on that date but that is not conclusive as I think it has been brought to the attention of the Court that the nature of the duties carried out by this Unit require the Officer Commanding to visit various points and places and it is not always known when he starts off at the beginning of the day just where and when he will be required to go and, consequently, the trips are filled in at the completion. Therefore, I submit that recreational transport could have been authorized and a work ticket to have been completed at the conclusion thereof.

I submit that the onus of proof of "improper and unauthorized use" lies upon the Prosecution. I cannot find any law nor any order which shifts the onus onto the accused purely on an allegation of such "improper and unauthorized use".

Dealing with the second part of the charge, namely that the accused, by ~~some~~ improper and unauthorized use, did "thereby occasion damage to the said vehicle of £161-17-0", my submissions are as follows:

(a) That is has not been shown here during the trial that these damages were a consequence of, or occasioned by, an act of the accused. I submit that on the evidence of the Prosecution witnesses it is well established that the accident was the result of the negligence of the driver of the civilian lorry involved ~~and~~ that he did not take any precautions to warn traffic of the position of his lorry on the highway. There is not a scintilla of evidence nor allegation of negligence on the part of the accused. Reference A.A. Sec. 137 and footnote 4 thereto which reads as follows:-"in the case however of the continuing wrongful act of improperly using War Department property, e.g. a motor vehicle, any loss or damage happening to such property during the continuance of such user may be held to be occasioned thereby". The last words of the aforementioned footnote namely:-"may be held to be occasioned thereby", places the question entirely in the discretion of this Court and I submit that, before the Court can hold that such damages were occasioned by the improper and unauthorized use, then it must be shown that the damage flowed as either a natural result of such act or by negligent operation on the part of the accused. Negligence has not been shown and it cannot, I submit, be suggested that it was a natural result of "improper and unauthorized use" if the Court should find him guilty of that offence.

(b) My second submission is that, should the Court find him guilty of unauthorized use, then the question of the quantum of damages arises. It has been proven here by the Prosecution witnesses that the accident occurred at approximately 2245 hrs and that the accused was removed to hospital at approximately 2315 to 2330 hrs. The evidence shows that the other occupants of the vehicle left the scene of the accident at approximately 2330 to 2345 hrs and that, at that time, the W. D. vehicle had been backed off onto the verge of the road, all lights left burning and the front headlights left on bright to throw light on the civilian lorry to give warning to other traffic on the highway. It is also shown by the police and the civilian lorry driver that when they left the scene of the accident at 0100 hrs the vehicle remained in the same position and the lights continued to burn. It is established by the Prosecution witnesses that the fire did not occur until 1000 hrs on the morning of 26 Oct 43, approximately twelve hours after the accident. The Work Shops Officer, who gave evidence on behalf of the Prosecution in respect to the damages, has estimated the damage caused by the fire at approximately 85% and the damage caused by the accident at approximately 15%. He has also stated that it is impossible to establish the cause of the fire and offers the theory that it was caused by wires being stretched, causing a friction against the metal panel, ultimately resulting in fire. This, however, is only theory and no evidence has been, and I submit cannot be, produced to connect it with the accident. The Work Shops Officer has, on cross examination, stated that, in his estimation, the life of a new battery would, on these conditions, not have been for a longer period than ten hours. My submissions, therefore are:-(a) that when the accused was removed to hospital at approximately 2315 to 2330 hrs, there ceased to be any continuing wrongful act on his part for which he could be held responsible: (b) that the damages by fire are too remote as it may have been caused by any one of several different things and my submission is that it was not caused by reason of short circuit as, on the basis of the evidence of the Prosecution witnesses, the battery would have been dead some time prior thereto, thereby ending any current throughout the ignition system, and (c) that, in order to fix the responsibility for such damage on the accused, the cause must be shown conclusively and that it was a result of some wrongful act or neglect on his part. This has not been done.

(c) My third submission is that the whole claim is not the subject matter of a Court Martial Proceeding but is a matter for reference to the Claims Commission for the following reasons: There are obviously claims against the civilian owner and driver of the lorry in question by the Canadian Government in the right of the Crown for damages to the W. D. vehicle, for hospitalization, etc. in respect of the accused, and by the accused himself for injuries received, all of which flowed from the negligent action or omission of the civilian driver. Because of any possible question of pension, it has been directed that where an Officer, N. C. O. or soldier has any claim or claims against a civilian or civilians, his right of action is subrogated and the action is conducted by the Claims Commission and, accordingly, I make the submission that the question of any claim or assessment against this soldier should be held in abeyance until the aforementioned action has been disposed of.

(d) In any event, it is submitted that the soldier can only be put under stoppages of ninety days' pay of rank pursuant to R. R. (Can.) 539a.

With reference to the second charge, I submit that there should be a "Non Suit" for the reason that it has not been established in this Court that M. T. Drivers' Regulations as authorized by Overseas Routine Order 3510, dated June, 1943, ever came to the attention of the accused. The 2 i/c of the Unit was called to give evidence that these pamphlets had been distributed amongst the drivers of the Unit but, on cross examination, admitted that he did not know the number of pamphlets

distributed but knew that the number was not sufficient to provide one for each driver and he could not state what drivers had received them as no receipt or signature had been obtained therefor. I submit that, since there was an insufficient number of these pamphlets, then all personnel should have been notified by the publication of the regulations in Unit Orders. Secondly, there is no evidence that Overseas Routine Order 3510 was ever republished in Unit Orders nor that the N. B. I. was ever posted and brought to the attention of the accused, nor is it shown that the accused was on the strength of the Unit at the date of the Routine Order, namely June, 1943. It is well established that, in order to obtain a conviction in respect to a breach of any order, the fact that the order was duly published and posted and that the accused was on strength of the Unit at the time of such publication and should have had knowledge of the same must be clearly proven. As stated, this has not been done in this case and I, therefore, submit that the accused cannot be found to have had knowledge of para. 42 of chapter 2 of the said regulations and, accordingly, cannot be held to be bound thereby.

Summarizing, I submit that there should be a "Non Suit" for the reasons:-(a) that there is no evidence of improper and unauthorized use: (b) that if the Court should hold that there was improper and unauthorized use, then 85% of the damages alleged are too remote and the remaining 15% cannot be held to be a result of, or occasioned by, such use: (c) that there is no evidence of publication to fix the accused with knowledge of the orders and instructions contained in M. T. Drivers' Regulations.

... D. Thomson Lowry

After the Court had made its decision in respect to the application for "Non Suit", the Defence did not call in evidence and asked that the above be also considered as an Address prior to the Court making its finding.

CLOSING ADDRESS BY PROSECUTOR

NOTE D 4 and D 6

The facts of the case against the accused are very simple and the testimony of witnesses clear and conclusive. On the first charge, the evidence of Pte. Hayes establishes the fact that the accused did use a Canadian Military vehicle at the place and time mentioned in the particulars of the charge. Pte. Hayes also stated that the accused was driving this car at the time it ran into the back of a civilian lorry, thereby occasioning certain damage to the staff car, and that this happened near High Wycombe. He also stated that at the time of the accident they were lost and he did not know exactly where they were.

P.C. Bradbury has stated that on the night mentioned in the charge he went to the scene of an accident 200 yards west of West Wycombe, where he found Canadian staff car No. CM195425, the car named in the charge, which had been involved in an accident. He further stated that he examined the car and found it extensively damaged, mentioning several details, such as the fact that the dash had been pushed back towards the seat and the front offside damaged. He further stated that Pte. Hayes, whom he interviewed at the First Aid Station, High Wycombe, was an occupant of the car. No evidence has been produced by the defence to suggest that Pte. Grover did not take the car mentioned in the charge, or that he was not driving it at the time it was damaged.

Two points remain in connection with the first charge. The first of these is embodied in the words "without authority", and Lieut. Bedson has produced the vehicle Work Ticket for the vehicle named for the day in question, on which the entry is "7 and 1 Neuro". There is not sufficient space provided on these Work Tickets for much detail, and in this instance it would have been practically impossible to have written "No. 7 Canadian General Hospital and Basingstoke Neurological and Plastic Surgery Hospital", the two places which this "shorthand" immediately suggests to members of this Unit.

As a further protection the Officer Commanding had written across the face of the Work Ticket and signed "Commanding Officer's Duties", thus clearly indicating that it was not his intention that the car should be used for any other purpose. It can hardly be argued that there is anything in this Work Ticket which could be construed as authority for transporting Pte. Hayes to Hounslow, picking up two girls and going for a drive in the direction of Oxford. It certainly does not come under the head of visits to Canadian Hospitals or other Commanding Officer's Duties.

Lacking the Defending Officer's legal training, I hesitate to suggest that this is a case in which the burden of proof "shifts", But I would suggest to the Court that if this is not such a case, then it is certainly one in which the subject matter of the allegation, insofar as lack of authority is concerned, is peculiarly within the knowledge of the accused. It is conceivable, although highly improbable, that the accused may have had access to another Work Ticket to which he secured the signature of an Officer unknown to the prosecution, and I submit that the Court, to quote M.M.L. Chap. VI para 13, "must have regard to the opportunities of knowledge with respect to the fact to be proved which may be possessed by the parties respectively."

The second point whcih remains in connection with the first charge is the amount of the damage to the vehicle mentioned, as a result of the alleged actions of the accused. I am unable to find in Overseas R.Os. any instructions regarding the method of assessing the amount of damage to Canadian Military vehicles involved in an accident, other than those contained in Overseas R.O. 2163 para 4, which states that "Part II (of the Road Accident Report) will be completed in detail by the L.A.D. or Workshop

Officer serving the formation or Unit." As the Court knows, Part II of the Road Accident Report is entitled "Damage to Canadian Army Vehicle" and includes the following:

Particulars of Damage
Estimated Cost of Repairs
Labour
Materials
Total

Overseas R.O. 3647 states that only the estimate of repair total cost of ~~labour and material~~ need be shown, whereas, in support of this charge and in fairness to the accused, a detailed list of parts required has been furnished signed by a competent Officer duly authorised to do so, and, at the direction of the Court, certified by D.A.D.O.S. of the formation. It is submitted for the consideration of the Court that the provisions of A.A.138 Note 16 have thus been adequately complied with. (of Army supply)

See attached

The Defending Officer seems concerned about several points in connection with the damage done to the vehicle. First, as regards the price of materials, which has been shown to have been arrived at in a perfectly proper and authorized manner with an extra safeguard provided by the Court, and, secondly, as to the weather conditions, lack of lights on the civilian vehicle involved, and the amount of damage occasioned by the second phase of the accident, namely, the fire. The prosecution is quite willing to admit that fog may have been present at the time and place of the accident, despite the testimony of Mr. Eades to the contrary, and that the civilian lorry may have been parked without lights, and also that some of the damage named in the particulars of the charge may have been caused by fire. However, it is submitted for the consideration of the Court that the entire responsibility for the alleged unauthorized use of the vehicle and the consequent damage to it, however caused, rests with the accused. It is clearly intended by the addition to Note 4 of A.A. 137, which applies equally to A.A.138, that in the improper use of a War Department vehicle the user may be held responsible for any loss or damage resulting from such improper use, and I would ask the Court so to find in this case.

As to the second charge, the place and times have been shown to have been as stated in the particulars. Pte. Hayes has supplied the names of the civilians carried in the vehicle, and Mr. Eades has stated that two soldiers and two civilians got out of the car following the accident. Lieut. Bedson has stated that all Release Forms for Civilian Passengers in the Unit are in his custody, and to his certain knowledge the Officer Commanding, the only Officer authorized to do so, did not sign one for use by the accused for the night in question. The Court will realise that any suggestion that the Commanding Officer did is preposterous.

As in the case of the first charge, this is a matter of which might be said to be peculiarly within the knowledge of the accused, if there is any suggestion that the forms and authorization were obtained from another Unit, another highly improbable suggestion. That the accused was in possession of M.T. Drivers' Regulations has been shown in the evidence of Major Watmore.

In relation to the first charge, if not to the second also, the attention of the Court is invited to the evidence of Pte. Hayes that the offence alleged was premeditated, a fact to which the Court must have special regard, in accordance with M.M.L. Part I, Chap V para 80.

IN THE CASE OF A.9337, Pte. Albert Edward Grover, No. 1 Cdn. Adm. Transport Coy., RCASC.

ADDRESS to the Court by Major S. A. German, Defence Officer, in mitigation of sentence.

Sir:

I, in addition to the character evidence given by the former Commanding Officer of this soldier, Major W. A. McArthur, and of myself, wish to draw your attention to the age of this soldier. His recorded age is 22 but, actually, he is only 20 years of age, as a result of which he was not able to come overseas in 1939 with his original Unit. His conduct sheet is free of major crimes and there has not been an entry for a considerable period of time. You have had an opportunity of observing him in this Court Room and I feel that you will agree with the statement that he is keen and has an excellent demeanour.

This soldier has been desirous of being with his former Officer Commanding, the above named, and when that Officer was posted to the Planning Staff at C. M. H. Q., it was found that Pte. Grover could not accompany him. In the interval, he was transferred to C.R.A.S.C., 1st Cdn. Div. Shortly after, however, C.R.A.S.C., 1st Div. was posted as Officer Commanding at 1 Cdn. Adm. Transport Coy., a base installation. This soldier was not happy about that situation. He was keen and anxious and because of his age, category (which was "A"), he wanted to be in action with the lads of the First Division with whom he had served. In that regard, I am advised that he has made two applications for transfer, but there has not been any action so far as he knows in respect to either one of them. Consequently, he was not very happy with the prospect of an indefinite period in a base installation which, I submit, is understandable and for which he could hardly be blamed. The result was that he became a bit "fed up" and took an evening off without going through the proper channels.

I would ask the Court to bear in mind that this soldier has been in close arrest for a period of 41 days, 28 of which were spent in hospital as a consequence of injuries received in the accident.

Accordingly, I ask that the result be very carefully considered by the Court and only a minimum sentence imposed.

.....

19 December 1943

A-9537 Pte. A.E. Grover
No.1 Cdn.Adm.Tpt.Coy., RCASC

NOTICE OF INTENTION TO CALL WITNESSES

1. Notice is hereby given in accordance with R.P.76 of intention to call as an additional witness at your trial by Field General Court Martial, Police Constable George Bradbury of High Wycombe Borough Police.

2. It is proposed that he will testify as to the place at which accident to CM 105425 occurred on the night of 25 October 1943, the extent of the damage and any other matters in relation to the accident of which he has personal knowledge.

3. It is further proposed that Capt. A.G. Hudson will give evidence to show that the vehicle in question was kept in a locked garage, the keys to which as well as the ignition keys of the vehicle were in your possession at all times.

(A.G. Hudson) Captain
Prosecutor

I, A-9337 Pte. ALBERT EDWARD GROVER, desire to have an officer assigned to represent me at my trial by Court-Martial.

Farnborough, Hants
13 December 1943.

No. 1 CDN. ADMINISTRATIVE TRANSPORT COMPANY R.C.A.S.C. C.A.(C).

Medical Officer's Certificate
K.R. (Can) Para 557

I certify that I have this morning examined No. A-9337 Pte. Grover, A.E (rank) (name)
No.1 Cdn.Adm.Tpt.
of Coy RCASC and in my opinion he is ~~unfit~~ fit to undergo
trial by Court Martial. a.p.

Station Farnborough, Hants

Date 20 Dec. 1943

My Sgd. Asberg Capt. R.A.M.C.
(Medical Officer)

IN THE CASE OF: A9337 Pte. Grover, A.E.

Notice of intention to call additional witness.

The Prosecution in the above case intend to call an addition witness in the person of Major J.W. Watmore, Area Transport Officer of No. 1 Cdn Adm Tpt Coy, RCASC.

It is proposed that he will give evidence to the effect that Pte. Grover was in possession of M.T. Drivers' Regulation, and that Pte. Grover was the driver assigned to vehicle CM135425.

(A.G. Hudson) Capt.
Prosecuting Officer

22 Dec 43.

NO. 1 CDN. ADMINISTRATIVE TRANSPORT COMPANY R.C.A.S.C. C.A.(O)

22 Dec 43

This is to certify that I have this date examined

Reg. no: A-9337 Rank: Pte Name: Grover A.E.

And find him fit ~~unfit~~ to undergo trial by Court Martial

Farnborough, Hants

Medical Officer

Maj Cumming

20 Dec 43

Comd 1 C.A.S.C. R.U.,
C.A. (O)

CONFIDENTIAL

A-9337 Pte. Grover, A.E.
No.1 Adm.Pt.Coy., RCASC
C.A. (O)

1. The m/n soldier, is to-day standing trial at a FGCM, on charges concerning the unlawful use of a WD vehicle.

2. For eighteen months, from June 1941 to Dec 1942, he was my driver. When I was posted to H.Q. First Cdn Army last Dec I was unable to take him with, and he was subsequently posted to his present unit. During his service with me, his conduct was above reproach, he was an excellent worker, and a good soldier. There is one instance of reckless driving on his MFW 6 of which I am aware. Pte. Grover considered that this case was unjustly handled, but felt that it was of insufficient consequence to warrant his seeking redress.

3. When Pte. Grover is released from custody, should he be convicted on the charges, he will eventually be posted to No.1 CASC RU. May this letter be considered a request that Pte. Grover be posted as a rft. to a RCASC unit in whatsoever formation I may be serving at the time he is available. I will then be able to contact him. I am interested in the man and wish him with me. Pte. Grover, on the other hand, has earnestly expressed his desire to return to service with me.

4. May a copy of this letter be included in the soldier's file for easy future reference, and the request it embodies have your favourable consideration, please.

Your obedient servant.

(W.A.MacArthur)Major,
No.1 C.A.S.C. R.U. C.A.(O)

COPIES TO:
DAAG, M.D. 1 C.C.R.U. (request of Capt. Cummings)
Pte. Grover, A.E.
File.

Trial of A-9537 Pte. Albert Edward Grover,
No. 1 Cdn. Administrative Transport Company, R.C.A.S.C. C.A. (O)

List of Witnesses for the Prosecution

Major J.H. Cornell, No. 1 Cdn. Adm. Tpt. Coy., R.C.A.S.C. C.A. (O)

Lieutenant D.R.C. Bedson, No. 1 Cdn. Adm. Tpt. Coy., R.C.A.S.C. C.A.(O)

M-61558 Private Hayes, J.G., No. 1 Cdn. Adm. Tpt. Coy., R.C.A.S.C. C.A. (O)

Mr. Charles Eades, 107 Morley Road, Leyton, E.10.

Miss Rose Read, 53 Hounslow Road, Whitton.

Miss Rosina Bird, 57 Whitton Dene, Hounslow.

Farnborough, Hants.
13 December 1943.

APPENDIX

Miss Rosina Bird of 57 Whitton Dene, Hounslow states:-

On 25th Oct 43 my friend Miss Rosa Read and I had planned to meet Pte. Hayes at Hounslow Tube Station at 7.30 p.m. When Pte. Hayes arrived we decided to go to a show. Pte. Hayes arrived in a car which was driven by Pte. Grover. We got into the car and drove to Oxford where we went to a show. We came out of the show about nine o'clock and started to drive home. Miss Read was in the front seat with Pte. Grover who was driving. I was sitting in the back seat behind the driver with Pte. Hayes. It was very foggy and Pte. Grover kept opening the car door to see out. We were driving along for awhile when all of a sudden there was a crash. We got out of the car and Pte. Grover seemed to be the worst injured. His left hand was bleeding. He got out of the car by himself and we all managed to get out. Another car coming along the road stopped and they decided to take Pte. Grover to hospital. There were no police or anyone else around so we three just waited until an American Army car came along and took us to a First Aid Station in High Wycombe, where we spent the night.

Certified True Copy

APPENDIX "B"

C-O-P-Y

Miss Rose Read of 53 Hounslow Road, Whitton, laundress, states:-

Miss Rosina Bird and I met Pte. Hayes and Pte. Grover at Hounslow Station at about 7.30 p.m. on 25th Oct. 43. We decided to go to a show at first. We were on the way to the show in the car which the two boys had. I suppose it was an army car. I remember hearing the siren. We were going along and it was very foggy and we started talking about coming back. We decided to turn around and we were driving along when all of a sudden there was a bang. I thought at first a bomb had dropped. I was dazed and didn't remember anything until Pte. Grover pulled me from the car. I stood there and in about half an hour a car came along and took him to hospital. We had run into the back of a lorry. Then an American car came and took us to the First Aid Post in High Wycombe.

Certified True Copy.

APPENDIX "A"

COPY

Mr. Charles Eades of 107 Morley Rd., Leyton, E.10 lorry driver for Messers H.Hilliard, Ltd., of Stonebridge Wharf Limehouse, states:-

Proceeding from Oxford towards West Wycombe on the night of 25th. October driving Austin lorry No. LMH627 at approximately ten forty five p.m. the wiring under the dash burned out and I had no lights. I pulled the lorry to the left side of the road about a quarter of a mile west of West Wycombe. I got out and stood behind the lorry with a lighted cigarette.

About twenty minutes after I stopped an Army car came along from the same direction I had come. I tried to signal with my cigarette which was the only means I had. The Army car tried to pull to the right but he was too late and he ran into the rear offside of my lorry. The car stopped immediately it struck and the occupants got out. The offside rear of my lorry was damaged, the rear wing was bent and torn, the cross member and runner of body were broken. The tarpaulin cover was torn.

I helped push the car back onto the verge. His lights were still on. A passing car stopped and took the occupants of the Army car away. They notified the police who came and gave me two lamps to use on the front and rear of the lorry. I stopped with it all night.

Certified True Copy

A.F.G. 3518 (Revised 1942)
40/P&S/400/(2749)

Exhibit "H"

MAKE OF VEHICLE: Ford V8 | CLASS: Sedan | UNIT: No. 1 CDN. ADM. TPT. COY. R.C.A.S.C.

TRANSPORT WORK TICKET

COPY

SECTION: H.Q. | DRIVER'S NAME: Grover, A.E. | No. SX 12 | W.D. No. 145425 | MONTH & YEAR: Oct. 1943

DATE (1)	FOR WHOM JOURNEY IS PERFORMED (2)	DETAILS OF LOAD (3)	ROUTE From (4)	ROUTE To (5)	ROUTE Via (6)	SIGNATURE OF PERSON AUTHORIZING JOURNEY (7)	LUBRICATING OILS Type (8)	LUBRICATING OILS Pints (9)	FUEL GALLONS At Hours (10)	FUEL GALLONS Drawn (11)	FUEL GALLONS At End (12)	FUEL GALLONS Used (13)	TIME Out (14)	TIME In (15)	SPEEDOMETER In (16)	SPEEDOMETER Run (17)	SPEEDOMETER Disc (18)
			Brought forward from Work Ticket No.														
17	Col. McArthur	2	HQ Unit	Aree	Bantley	OC McArthur	--										
18	Col. McArthur	4	" "	"	12 Gen. Hosp	OC McArthur	20			12	11						
20	Col. McArthur	2	" "	Smallfield	1 Gen. Hosp	OC McArthur	30								10001600	400	24347 53
21	Col. McArthur	3	HQ Unit	Colchester	London	OC McArthur	30			10							
22	Col. McArthur	2	HQ Unit	7 Gen. Hosp.	Staines	OC McArthur	30	1pt	3	15	3	9				436	
23	Col. McArthur		" "	17 " "	Crow-Thorne	OC McArthur	30	1pt	9½	3½	9½		10001700			543	
25	Col. McArthur		" "	Inspection	17 & Naurd	OC McArthur							1330			743	

No.1 Cdn.Admt.Transport Company,R.C.A.S.C. C.A. (O)

File 9-8-8

EXHIBIT "B" C-O-P-Y

8 Nov.43

Officer Commanding
No.1 Cdn.Admt.Transport Coy.
R.C.A.S.C. C.A. (O)

Estimated cost of Parts and Labour to repair Ford Sedan CM-195425 damaged by Fire.

Parts:-	
1 Body (Complete)	£134- 0- 0
1 Steering Wheel	1- 2- 0
1 Fender (Left Front)	2-10- 0
1 Engine Hood	4-18- 0
1 Battery	1- 7- 6½
2 Hub Caps @ 1/6 each.	3- 0
1 Wiring Harness	12- 2
1 Voltage Regulator	1- 1- 0
1 Starter Switch	3- 2
1 Instrument Panel	1- 2- 3
1 Speedometer Head	11- 8
1 Petrol Gauge	3- 4
1 Oil Gauge	1- 5½
1 Heat Indicator	1- 5½
1 Ammeter	13- 5½
1 Throttle Control	3- 0
1 Choke Control	3- 0
1 Light Switch	3- 6
3 Small Snap Light Switches @ 1/- each	3- 0
1 Windshield Wiper Motor Assy.complete with remote controls and Wiper Blades and Control Switch.	1-15- 0
2 Top Radiator Hoses @ 2/- each.	4- 0
2 Lower Radiator Hoses @ 1/- each	2- 0
1 Flexible Gas Line	3- 0
Total	£151- 7- 0

Labour:-	
To replace Body	40 Hrs.
To replace Left Front Fender	2 "
To replace Hood	1 Hr.
To replace Steering Wheel	1 "
To remove and repair and replace Rad.	5 Hrs.
To replace Instrument Panel,Switches, Instruments,Throttle and Choke Controls Wiring Harness,Battery and complete Windshield Wiper Assy.	20 Hrs.
To repair Gas Lines and replace Flexible Gas Lines.	1 Hr.
Total Labour 70 Hrs.@ 3/- per Hr.=	£ 10-10- 0
Total Cost of Labour and Parts	£161-17- 0

The above prices are certified correct
(T.Eldon Veitch)Major
D.A.D.O.S. Cdn.Reinf. Units

J.H.Cornell.....Major
(J.H.Cornell)
Officer i/c Workshops
No.1 Cdn.Admt.Transport
Coy.R.C.A.S.C. C.A. (O)

Certified True Copy.

Approximate damage to CM-195425, Ford Sedan.
(before fire).

Parts.	
1 Left Front Fender.	£ 2-10- 0
1 Engine Hood.	4-18- 0
1 Left front door Complete.	15- 0- 0
1 Left wind shield glass	1-10- 0
Total.	£23-18- 0

Labor.		
To replace left front fender,	2	Hrs.
To " engine hood.	1	"
Remove & repair Radiator	5	"
Install windshield glass	3	"
Repair left front of body and fit new door.	75	"
Total	86 Hrs @3/-	£12-18- 0
		£36-16- 0

Mr J. Hornell Mayer
Rqr Adm Transport Coy.
R.C.A.S.C.

COPY

Summary of Evidence in the case of No. A-9337 Pte. Grover, A.E., No. 1 Cdn. Admn. Tpt. Coy., R.C.A.S.C.? a soldier of the Canadian Army Overseas.

By direction of the commanding officer, the Summary of Evidence is taken on oath.

1st Witness: M-61558 Pte. Hayes, J.G., No. 1 Cdn. Admn. Tpt. Coy., R.C.A.S.C. a soldier of the Canadian Army Overseas, having been duly sworn, states as follows:

On the evening of the 25 Oct 43 I had an appointment with Miss Rosina Bird who lives in Hounslow. During the day A-9337 Pte. A.E. Grover had asked me what I was doing that evening. I told him of my plans and he asked me if I would like to drive up with him in the car. I agreed and we left about 1845 hrs. We arrived at Hounslow Station at approximately 1945. Miss Bird was waiting for me and with her was a friend, Miss Rose Read. We discussed what we should do and decided we should go to a show. We got into the car and started off for Oxford. During the trip it began to get foggy and the air-raid siren sounded. We then decided that under these circumstances we should go back to Hounslow. We turned around and drove about trying to discover where we were. Owing to the dense fog, Pte. Grover had to drive with his head out the window and stop frequently to wipe the windshield. I do not remember hearing a crash. The first thing after the accident that I can remember, was my being helped out of the car. When I got out, I saw that we had run into the rear of a lorry which was standing at the curb. I helped push the staff car in which we had been riding, No. CM-195425, back onto the grass verge off the road. It was in such a position that the lights, which we left on, shone on the parked lorry as a warning to other traffic. While we were waiting for someone to come along, Pte. Grover tried to persuade me to go back to the unit and offered me money for train fare. I refused to leave the scene of the accident. We stopped a civilian car and asked the driver to take Pte. Grover, who seemed to be injured, to a hospital. Shortly after, an American Army staff car took us to the first Aid station in High Wycombe where we receive first aid. We stayed there for the night as it was then about 0100 hrs 26 Oct 43. At 0600 hrs., I left on the first train and on arrival at the Unit, I reported to Capt. Cherry the M.O. He sent me to No. 8 Cdn. General Hospital for an X-ray, after which I went to my unit Orderly Room and reported the circumstances.

The accused declines to cross-examine this witness.

Sgd. (J.G. Hayes)

2nd Witness: Mr. Charles Eades of 107 Morley Road, Leyton, E.10, lorry driver for Messrs. H. Hilliard, Ltd., of Storehouse Wharf, Limehouse; a written statement of this witness's evidence purporting to be signed by him has been read to the accused and is included in this Summary of Evidence and marked Appendix "A".

Having regard to the loss of time involved the attendance of this witness cannot in my opinion be readily procured.

Sgd. (D.R.C. Bedson) Lieut.

The accused does not demand the attendance of this witness for cross-examination.

3rd Witness: Miss Rose Read of 53 Hounslow Road, Whitton; a written statement of this witness's evidence purporting to be signed by her has been read to the accused and is included in this Summary of Evidence and marked Appendix "B".

Having regard to the loss of time involved the attendance of this witness cannot in my opinion be readily procured.

Sgd. (D.R.C. Bedson) Lieut.

The accused does not demand the attendance of this witness for cross-examination.

4th Witness: Miss Rosina Bird of 57 Whitton Dene, Hounslow; a written statement of this witness's evidence purporting to be signed by her has been read to the accused and is included in this Summary of Evidence and marked Appendix "C".

Having regard to the loss of time involved, the attendance of this witness cannot in my opinion be readily procured.

Sgd. (D.R.C. Bedson) Lieut.

The accused does not demand the attendance of this witness for cross-examination.

5th Witness: Lieut. D.R.C. Bedson, No. 1 Cdn. Admn. Tpt. Coy., R.C.A.S.C.; an officer of the Canadian Army Overseas, having been duly sworn, states:

I produce vehicle work ticket 12 for Ford V8 Sedan CM-196425 driver Pte. Grover, A.E., for dates between 17 Oct 43 and 25 Oct 43 (Marked Exhibit "A")

The accused declines to cross-examine this witness.

Sgd. (D.R.C. Bedson) Lieut.

6th Witness: Major J.H. Cornell, No. 1 Cdn. Admn. Tpt. Coy., R.C.A.S.C., an officer of the Canadian Army Overseas, having been duly sworn, states:

I produce a list of the estimated cost of Parts and Labour to repair Ford Sedan CM-195425, damaged by accident and fire on 26 Oct 43. As Officer in charge of Workshops of No. 1 Cdn. Admn. Tpt. Coy., I certify that the estimated cost of repairs as submitted is correct, - £161-17-0. (Exhibit "B")

The accused declines to cross-examine this witness.

Sgd. (J.H. Cornell) Major.

The accused was cautioned as follows: "Do you wish to make any statement or give evidence on oath? You are not obliged to say anything or give evidence, unless you wish to do so, but whatever you say or any evidence you may give, will be taken down in writing and may be given in evidence."

The accused elects to give evidence on oath.

A-9337 Pte. Grover, A.E. No. 1 Cdn. Admn. Tpt. Coy.,R.C.A.S.C., a soldier of the Canadian Army Overseas, having been duly sworn, states as follows:

On the evening of the 25 Oct 45, I took Ford Sedan CM-198425 from its garage at the officers mess of No. 1 Cdn. Admn. Tpt. Coy., at approximately 1845 hrs. I had asked M-61558 Pte. Hayes, J.G. on the afternoon of the same day what he was doing that evening, and Pte. Hayes had told me his plans. I asked him if he would like to drive up to his appointment at Hounslow. Pte. Hayesagreed to this and we arrived at Hounslow Station, the meeting point, at approximately 1945 hrs. We met two young ladies, Miss Read and Miss Bird. We all discussed what we should do during the evening, and decided we should all go to a cinema show.

Getting into the car, we started off in the direction of Oxford. I was driving along the road, when the air-raid siren sounded at the outskirts of Hounslow. We all thought that we should return, so I turned the car around. Because the fog was so dense, I had to drive with my head out of the right hand window, and stop every so often to wipe off the windshield and look at the sign posts to discover where I was. I found that I was on the wrong road and lost. The last Sign Post stated that I was headed in the direction of High Wycombe, but on this particular road, the fog was very thick. I turned on the fog lights which were reflected in the "Cats Eyes" on the road. (These are designed to show up when your lights shine upon them). Suddenly a lorry appeared in fron of me. I attempted to turn hard to the right but my effort was not sufficient to miss the lorry which had no lights on. My vehicle collided with the right side of the lorry and immediately came to a halt. I remember that I said "Get out Jack (Pte Hayes) and open the door to get me out". I was pinned behind the wheel of the car, because it was bent to the right and wedgedagainst my stomach. Pte. Hayes had been thrown on the floor in the back of the car. Having got out of the car, I found that I had pains in the right side and centre of my stomach. I helped Miss Read out of the car, and then turned to ask the driver of the lorry why his lights were not turned on, and why he had not parked off the road on the left hand side. I bent down to try to turn the front wheels of the car, and then lost consciousness.

I can remember nothing until I arrived at Amersham Emergency Hospital and operated on.
I was not happy in my unit, No. 1 Cdn. Admn. Tpt. Coy., I had submitted two transfer forms to the Orderly Room, requesting my return to my former Unit, 3 Cdn. Infantry Bde. Coy., R.C.A.S.C., 1st Cdn. Div.. I had trained with the latter Unit. However, nothing came of my papers, and I became "fed up". I went absent without leave and took the vehicle mentioned before. I should still like to transfer to my Field unit after serving any sentence imposed on me by Court-Martial.

Sgd. (A.E. Grover).

I certify that the foregoing Summary of Evidence consisting of five pages was taken down by me in the presence and hearing of the accused, and that Rules of Procedure 4 (c), (d), (e), (f) and (g) have been complied with.

Sgd. (D.R.C. Bedson) Lieut.

Farnborough,
Hants.

10 Dec. 43.

Certified true copy

MFM 6
(AFB 122)
40(P&S)126 (3458)

No A9337 Name GROVER, A.E. | Sqn, Battery, or Company | Corps R.C.A.S.C. | Date of enlistment 15-9-39 | GC Badges | Service or Proficiency Pay | Character

Date of last entry in Company Conduct Sheet | No and date of last drunk | Period not reckoning towards freedom from extra fine | Sheet No | Signature OC Company, etc

Place	Date of offence	Rank	Cases of absentee-ism	OFFENCE	Name of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
				This soldier completed six months service, no entries from previous sheet destroyed 16 Mar. 40.				Major R.J. Williams	Forfeits 1 days pay FR&I 149(1)a
H.Q. 7th. Corps	20-8-40	Pte		Sec. 15(1)A.A. WOAS A.W.L. from 2359 hrs. 20-8-40 until 0700 hrs 21-8-40.	C.S.M. Wilde	Admonished			
Field	12-4-41	Pte		Sec. 40 A.A. Conduct to the prej. of good order and military discip. i.e. speeding and driving reckless dn restricted area.	Cpl. Thoburn Cpl. Durkshire	Forfeits 6 days pay FR&I 149(2)		Major Ardag	
Field	14-1-42	Pte		Sec. 40 A.A. Conduct to the prej. of good order and military discip. i.e. he did operate a W.D. Vehicle in reckless manner within camp area on a road rendered dangerous by snow & ice.	Sgt. Hall, W. Lt-Col. McArthur	Forfeits 3 days pay FR&I 149(2) 7 days C.B.		Major L.J. Perry	

P.T.O.

(PTO)

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
				CERTIFIED TRUE COPY:					
				No. 1 Cdn. Adm. Tpt. Coy., R.C.A.S.C. C.A. (O)					
	December 43			Officer having custody of the original documents.					

D.C. Dodson Lieut. & Adjt.

EXC

Army Form B296.

Statement as to Character and Particulars of Service of Accused.

A-9337 Pte. ALBERT EDWARD GROVER of the No.1 Cdn. Adm. Tpt. Coy., RCASC

Note.—The Regimental and Squadron, Battery or Company Conduct Sheets are to be produced in Court with this statement but are not to be recorded in the proceedings.

1. The following is a fair and true summary of the entries in the Regimental and ~~Squadron, Battery or~~ Company Conduct sheets† of the accused, exclusive of convictions by a court martial or a civil court, of summary awards under Section 47 of the Army Act, and of cases in which trial has been dispensed with:—

See Form 464, K.R. 1926.

*The entries should be carefully compared with the particulars of Entries in the Conduct sheets, preference being given to the most serious offence in each entry and to any recognised special acts of gallantry or distinguished conduct.

	*Within last 12 months.	*Since Enlistment.
For A.W.L.	times 1	times
For Conduct to the Prej.,etc. (reckless driving)	times 2	times
For	times	times
For	times	times

Instruction.—If the charge is for drunkenness the entries for drunkenness must be stated separately and dated.

~~Number of instances of gallantry or distinguished conduct~~

or, N.A.C.M.

~~There are no entries in the Conduct sheets of the accused.~~

2. The accused has not been previously convicted,

~~or~~

Previous convictions† of the ~~accused~~ N.A.C.M. by a court martial or a civil court, summary awards ~~under~~ Section 47 of the Army Act, and dispensations with trial ~~under~~ Section 73 of the Army Act, are set out in the Schedule annexed to this statement.

W[illegible] 30,000 7-40 W. S. LAL. 12—8936

3. The accused is not under sentence at the present time,

or,

The accused at the present time is under sentence for BACK
beginning on the day of

4. The accused has been in confinement, awaiting trial on the present charges

for Nil days in Civil Custody,

and 41 days in Military Custody.

Total 41 days.

Of which 28 days were spent in hospital.

5. The present age of the accused according to his ~~corrected~~ attestation paper is 22

6. The date of his ~~enrolment~~ attestation specified in his ~~corrected~~ attestation paper is 15 Sep 39

7. The service which the accused is allowed to reckon towards discharge or transfer to the reserve is 4 Years, 3 months, 1 day

~~8. The accused is entitled to deferred pay or gratuity in respect of~~ years' service.

9. The accused is entitled to reckon years' service for the purpose of determining his pension, &c.

10. The accused is in possession of, or entitled to, no military decoration or military reward [*or* is in possession of *or* entitled to

]

11. (*If the accused is a warrant officer.*) The accused before he was made a warrant officer last held the regimental rank of BACK

12. (*In the case of an officer.*) The accused holds in the army the rank of , dated , and in his regiment (*or* corps *or* department) the rank of dated

13. The accused has served as a non-commissioned officer continuously, without reduction, to the present date,

		Date of Promotion.
In the rank of	, years,	
In the rank of	, years,	
In the rank of	, years,	

(INSTRUCTION.—*If any matter in any of the above paragraphs cannot be stated from the regimental books the paragraph must be struck through.*)

The above statement (with the schedule of convictions and of cases in which trial has been dispensed with) is read, marked , signed by the president, and annexed to the proceedings.

Schedule of Convictions by a Court Martial or Civil Court, of summary awards under Section 47 of the Army Act, and of Cases in which Trial has been dispensed with.

of the

Army Number, Rank and Name

NOTE.—A verbatim extract from the regimental books, stating these convictions and dispensations with trial, must be inserted.

Description of Court by which tried, or status of Officer dispensing of the charge or dispensing with Trial.	Date and place of Trial, or summary award, or of Order dispensing with Trial.	Charges upon which convicted, or in respect of which Trial was dispensed with.	Sentence of the Court or Authority disposing of the charge, or Order of the Dispensing Authority.	Punishment remitted.
			BACK	

(*Continued overleaf.*)

Description of Court by which tried, or ~~whether a Court of disposing of the charge or~~ disposing with Trial	Date and place of Trial or summary award, or of Order disposing with Trial	Charges upon which convicted, or in respect of which Trial was dispensed with	Sentence of the Court or Authority disposing of the charge, or Order of the Disposing Authority	Punishment remitted

I HEREBY CERTIFY that the foregoing Schedule of convictions and dispensations with trial is a true extract from the regimental books in my custody.

Signed this 27th day of December 1943

(J.R.C. Hodson) Lieut. Records Offr.
No.1 Cdn. Admn. Tpt. Coy.,
R.C.A.S.C. C.A.(O.)

EX 43

Army Form B.286.

Statement as to Character and Particulars of Service of Accused.

A-9337 Pte. ALBERT EDWARD GROVER of the No.1 Cdn. Admn. Tpt. Coy., RCASC

1. The following is a fair and true summary of the entries in the Regimental and ~~Squadron, Battery, or~~ Company Conduct sheets† of the accused, exclusive of convictions by a court martial or a civil court, of summary awards under Section 47 of the Army Act, and of cases in which trial has been dispensed with:—

	*Within last 12 months.	*Since Enlistment.
For A.W.L.	times	1 times
For Conduct to the Prej.,etc. (reckless driving)	times	2 times
For	times	times
For	times	times

~~Number of instances of gallantry or distinguished conduct~~

~~There are no entries in the Conduct sheets of the accused.~~

2. The accused has not been previously convicted.

~~or~~

Previous convictions† of the accused by a court martial or a civil court, ~~summary awards under Section 47 of the Army Act, and dispensations with trial under Section 73 of the Army Act,~~ are set out in the Schedule annexed to this statement.

Wt. 42644/864 30,000 2/43 W. S. Ltd. 53—5509

RECORD FORM D—PROCEEDINGS ON PLEAS OF NOT GUILTY TO ALL CHARGES.

D1. President to accused: Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity to prepare your defence? Ans NO - SIR (1)
(1. If "yes", see RP 39(A) for procedure. Statement or evidence, if any, is recorded per Notes.)

K D2. The Prosecutor makes (an) (no) opening address.(1)
(1. RP 39(B), 60(A) (B), 90, 92(C) (D). Record address per Notes, subject to RP 95(C).)

D3. The evidence for the Prosecution is taken.(1) NOTE ATT
(1. RP 39(C), 114, KR Can 555. Record evidence per Notes. As to Prosecutor giving evidence himself see RP 39(D) (E).)

D4. The Prosecution is closed.(1) The Defending Offr submits that the evidence for the Prosecution does not establish a prima facie case against the accused on the 1st and 2nd charge(s).(2) The Court is closed, and considers the submission.(3) The Court is re-opened, and the President announces that the submission K is disallowed on the 1st charge(s), and allowed on the 2nd charge K
K charge(s), and that, accordingly, the trial will proceed on the former, but the accused is (are) found Not Guilty on the latter charge(s).(4)
(1. Delete remainder of this para, if submission not made. 2. Arguments on submission, answer and reply are recorded per Notes. 3. RP 40 fn 1. See MML p 72 paras 12-14 and p 81 para 42. 4. Delete part not used. If accused acquitted on all charges, use second alternative in para D8.)
NB: If trial proceeds, accused must be allowed great latitude in making his defence, and the Court should not stop his defence solely on ground of irrelevance. (RP 60(C), 114, 115.)

D5. President to accused: You will now proceed with your defence.(1) You may, if you wish, give evidence yourself on oath as to the facts or your character or both, in which case you will be subject to cross-examination.(2) You may, however, make a statement without being sworn, and you will not be subject to cross-examination.(3) But a statement which could have been made on oath will not carry with the Court the same weight as sworn testimony.(3) You may call witnesses in your defence and as to character, whether you give evidence or make a statement or do neither.

President to accused: Do you wish to give evidence yourself as a witness, make a statement, or do neither?
Ans Neither - see Do you intend to call witnesses on your behalf?
Ans yes - see Are they witnesses as to character only? Ans yes - see
(1. RP 155. 2. RP 40(A), see 80(D). 3. RP 40 fn 10. 4. RP 40 fns 2, 9.)

D6. Consequent on the answers recorded in para D5 the appropriate procedure for the defence is followed.(1)
(1. RP 114, 115, 116. For procedure see Notes on back of Convening Order, CF AF5. Evidence for accused as to his character should, if in his interest, be given before the finding. See RP 46(A) fn 1, 86(C). Note the further opportunity in para E1 of Record Form E. Record per Notes addresses, statement, evidence and any summing up by the JA under RP 42, 103(e).) NOTE ATT.

K D7. The Court is closed to consider the finding(s).(1) The finding(s) of the Court is (are) recorded in Part I of the Schedule.(2) The Court is re-opened.
(1. RP 43, 117(A). See Notes in Part I of Schedule. 2. RP 44(A).)

A D8. ~~The President announces the finding(s), if any, of Not Guilty, and states to the accused that the finding(s)~~
A ~~of the Court on the charge(s), being subject to confirmation, will be promulgated later.(1)~~
A ~~Or, The President announces that the accused is found Not Guilty on all charges and is to be released forth with,~~
R ~~and that the proceedings are accordingly terminated. Part I of the Schedule is dated and signed.(2)~~
(1. AA 54(3) (6), RP 45, 120(A). 2. AA 54(3), RP 45, 117. This alternative announcement is not applicable when there are plea of Guilty outstanding and dealt with under Record Form B or C.)

D9. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E below.

RECORD FORM E—PROCEEDINGS ON CONVICTION BEFORE SENTENCE.

E1. President to accused: Do you wish to give evidence yourself or to call any witnesses as to your character?(1)
Ans NO - SIR
(1. If evidence has already been given by accused or his witnesses as to his character, delete this para. RP 37(C) fn 4, 46 fn 1. Accused and witnesses are sworn. Evidence recorded per Notes.)

K E2. The Prosecutor produces Statement(s) as to Character and Particulars of Service(1), and certified true K copy (copies) of Conduct Sheet(s)(2), purporting to refer to the accused, which he submits to the Defending Offr for examination, and then to the Court for admission in evidence. The Court is satisfied that these documents refer to the accused, because (i) they purport to be signed in the manner required by AA 163(1) (g) (h), and (ii) they purport K to refer to (a) soldiers having the same number, rank, name and corps as the accused. Admitted in evidence and marked Ex B and Ex C respectively.(3)
(1. MFB 355 or MFB 296. 2. MFM 6. 3. RP 46, KR Can 558. If above documents not produced, see RP 46 fn 1 para 1.)

E3. President to accused: Do you wish to address the Court on the Statement(s) and Conduct Sheet(s), and in mitigation of punishment?(1) Ans Only to say Husband Offrd (2)
(1. RP 37(C), 46(D). 2. Address, if any, recorded per Notes. Court should permit accused or his witnesses to prove on oath anything here or previously stated which would affect the amount of punishment. RP 37(F) fn 7.)

E4. The President states that the Court is closed to consider the sentence, and that the sentence to be awarded by the Court, being subject to confirmation, will not be announced, but will be promulgated later, and the proceedings in open court are accordingly terminated.(1)
(1. AA 54(6), RP 120(A).)

E5. The Court considers the sentence.(1) The President records the sentence in Part I of the Schedule, which K is dated and signed by him and the JA, if any.(2) ~~77 (C)~~
(1. When several accused tried separately see RP 78(b). One sentence only, comprised of the punishments or punishments laid down in AA 41, 44 and its passion, is to be awarded to cover all charges in all charge sheets on which accused found guilty. RP 48. As to sentences see AA 44, 138, 182, RP 46-50, dif. 118, 119(A), KR Can 308, 330, 563-566. Overseas RO 309, 2313, MML p 60, 757-759. As to sentences assigned for civil offences by the law of England see AA 41(5), MML p 130. When accused already under sentence of imprisonment or detention see AA 44(1)(b), 68(1), KR Can 564. 2. RP 50. As to release from arrest by Confirming Offr see KR Can 567. As to assembly and disposal of record after trial see instrs on back of Convening Order.)

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

SCHEDULE.

PART I. PLEA(S), FINDING(S) AND SENTENCE.

Accused :

Charge. (Insert "alternative" where applicable.)	Plea (See Instrs p 2.)	Finding. (See note below.)	(Space for use as required for further charges, accused charged jointly, special findings, etc.)
1st	Not Guilty	Guilty	except that the damage was £38-15-0 not £161-11-0
2nd	Not Guilty	Not Guilty	
3rd			
4th			
5th			
6th			

(Note : As to findings for lesser offences see AA 56, RP 44 ; findings on alternative charges see MML p 463 fn 4 para 2, RP 44 ; special findings see RP 44 and MML p 753, and in lieu of kit see RP 44 fn 6.) (2)

K At present under sentence for (1. Insert sentence being served, or delete, if not applicable. See RP 46(A). Information should be found on MF B355 or AF B296.) beginning on (date)

Time in confinement awaiting present trial—a total of 41 days, of which 25 days were spent in hospital.(1)
(1. See RP 46(A) fn 2. Information should be found on MF B355 or AF B296 admitted in evidence under E2.)

Sentence Awarded by the Court :
To undergo detention for a period of six(6) months and to be put under stoppages of pay until he has made good £15-2-0 a portion of the loss occasioned by the Unit. 2 2 Months suspended

(Sgd) Judge-Advocate, if any. (Sgd) President. Members.
(See back of Convening Order as to assembly and dispersal of record after trial.)

PART II. MINUTE WHERE CONFIRMATION RESERVED. (AA 54(3), RP 120(F), MML p 760.)

Date (Sgd) Commanding (3)

PART III. DECISION OF CONFIRMING OFFR ON FINDING(S) AND SENTENCE.

(For duties and powers see AA 54, 57, RP 37(D) fn 6, 46(A), 51-56, 120, MML pp 759-761, KR Con 567-577. Acquittals require no confirmation and cannot be revised : AA 54(3). Sending back finding or sentence for revision by Court : AA 54(2), RP 120(G). If not confirmed, accused may be tried again : AA 157, MML p 64. Minute of confirmation or non-confirmation may be altered before promulgation : RP 53, MML p 65. Quashing after promulgation : KR Con 573. Duties and powers of reviewing offrs : AA 57, 57A, RP 53A, 54. The Confirming Offr must sign here personally. AA 172 fn 1.)

My decision on the finding(s) and sentence set forth in Part I is :

Not confirmed.

I direct that the accused be not committed to prison or detention barracks until further orders.(1)
(1. AA 57A. Delete if not used.)

(Sgd) Lt-Col. Asst. Adjt. Gen.
Date 24 Dec 43 G.O.C. Canadian Corps Reinf. Units Confirming Officer.

PART IV. PROMULGATED AND EXTRACTS TAKEN. (RP 53, KR Con 574, 577.)

Accused. Date. Signature of Offr.
A 4937 Pte Albert Edward Grover 25 Dec 43 [illegible] Capt

ALL DELETIONS AND ALTERATIONS WILL BE INITIALLED.

22-53

PTE GROVER A.E.

22-53

FIELD GENERAL COURT-MARTIAL

CFA96 (To Back of AFA2) 40-P & B-1608 (2864)

...ed by Order of Maj-Gen JH Roberts DSO MC Comd Cdn Rft Units dated 4 Jan 44

ACCUSED.

(As to the trial of two or more charged jointly see RP 16, 71, 109. As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Con 308, 328, 330.)

...er.	(a) Prmnt R.	(b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
A9337	Pte		Albert Edward	GROVER	1 Cdn Adm Tpt Coy RCASC

PROCEEDINGS REVIEWED
21 Jan 44
JJ McVeigh Capt
REVIEWING OFFICER, JAG BRANCH C.M.H.Q.

PROCEEDINGS OF TRIAL.

Held in the Fd in (country) England on (date(s)) 6 Jan 44.

RECORD FORM A—OPENING PROCEEDINGS AND ARRAIGNMENT.

A1. The President, Members, ~~waiting Member, JA, if any~~, and Offrs under instr, ~~if any~~, assemble, and the Court is closed.

(PRINTED MATTER, NOT IN ITALICS FOR GUIDANCE, WILL BE DELETED IF NOT USED OR APPLICABLE, AND INITIALLED BY PRES OR JA. The Schedule referred to throughout is on p 4. Citations do NOT include all relevant fmn ROs. For guidance on procedure when a variation in this form arises, see form for GCM in MML pp 741 to 759. A brief record of such variation will be made and given a number having reference to appropriate or preceding para number herein. See back of Convening Order, CF A95, for oaths and instrs on how to record addresses, evidence, etc, which instrs are hereafter called "Notes". As to general provisions for conducting the trial see AA 53, RP 56, 63-70, 73, 74, 94, 103, 119, 132.)

A2. The President initials and lays before the Court the Convening Order and Charge Sheet(~~s~~) attached thereto.(1) The Court is satisfied that it is properly convened and constituted(2), accused is (~~are~~) amenable to military law, and each charge discloses an offence.(3)

(1. As to use of Summary of Evidence see RP 17 to 24. 2. AA 49, 50, RP 105-107. 3. RP 11-13, 23, 24.)

A3. The Court is opened. The accused is (~~are~~) brought before the Court. At 1100 hours trial com~~menced~~.

A4. The Prosecutor produces a Medical Certificate that accused is (~~are~~) fit to undergo trial by court-martial.(1) ~~The Prosecutor informs the Court that accused elected to be tried by court-martial instead of being dealt with summarily by the CO.(2)~~

(1. KR Can 557. 2. AA 46(8), RP 60 fn 1. For effect see KR Can 562(c). Delete, if not applicable.)

A5. President to accused: ~~Do you object to~~ as interpreter ? Ans ~~No~~.

~~The Interpreter is sworn.(1)~~ Do you object to Pte R.J. Bradley as shorthand writer ? Ans No.
The shorthand writer is sworn.(1)

(1. RP 72. Delete, if none employed.)

A6. The Convening Order and names of the President and Members of the Court are read to the accused.(1)
President to accused: Do you object to be tried by me as President or by any of the Members of the Court ?

Ans No.(2)

(1. RP 110. 2. If no objection, waiting member retires. RP 60(8). If objection, see procedure AA 51, RP 25, 71, 18, MML p 742.)

A7. The President, Members, JA, if any, and Offrs under instr, if any, are sworn.(1) The following are the ranks, names and units of the offrs comprising the Court, etc:

President	Lt-Col.	F.R. Turcotte	H.Q.C.R.U.
Member	Capt.	R. Dawkins	1 C.I.R.U.
Member	Lieut	J. Geo. Jewell	3 C.I.R.U.
Judge-Advocate			
Prosecutor	Lieut	J.B. Grant	5 C.I.R.U.
Defending Offr	Maj.	S.A. Seman	1 CASC R4

Questions by President: Is the Prosecutor a lawyer ? Ans Yes. Is the Defending Offr a lawyer ? Ans Yes.(2)

(1. RP 26, 27, 109, 111. List of offrs under instr will be returned separately with proceedings for information of Conv Offr.) (2. If Pros a lawyer and Def Offr not, accused is entitled to an adjournment when RP 59 (8) and fn 2 were not followed. See DI p 33.)

A8. The accused before arraignment make(s) (~~no~~) (a) plea. (1)

~~Pte proceedings attacked~~

(1. If a special plea is made for separate trial on one or more charges (RP 62(E), 108), or as to the jurisdiction of the Court (RP 34, 35(A), 113), or in bar of trial (RP 36), or as to accused's mental fitness to stand trial (AA 130, RP 57), or by one of several accused charged jointly to be tried separately (RP 16, 71), such plea, the addresses made in support or against, the evidence, if any, and finding are recorded per Notes. For forms of record see references in fns to RsP cited. Insert in AB rank and name of the accused making the plea.)

A9. The accused is (~~are~~) arraigned (~~separately~~) on all charges in the charge sheet.(1) The accused does (~~not~~) object to any charge.(2) There is no amendment to be made to the Charge Sheet.(3) The President records the pleas in Part I of the Schedule.

(1. RP 31, 112. See para 1 of Instrs p 2. 2. RP 32, RP 33. 3. When more than one Charge Sheet see RP 62; when several accused to be tried separately see RP 71(C), and use separate copies of CF A96 to record proceedings. If otherwise, delete and make appropriate record per Notes.)

A10. The Court (~~is cleared and~~) considers the Instrs on Procedure after Arraignment at top of p 2. The proceedings are continued on Record Form D & E

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS

INSTRUCTIONS ON PROCEDURE AFTER ARRAIGNMENT.

1. *The accused may not plead or be found Guilty on more than one of two or more charges laid in the alternative.* (*RP* 37(*A*).) *As to withdrawal of alternative charges by Prosecutor see RP* 35(*C*). *No other charge can be withdrawn for any reason without authy from Convening Offr. If Convening Offr concurs, Court may accept plea of Guilty to lesser, etc, offence.* (*RP* 44(*H*).) *Accused may change a plea of Not Guilty to Guilty during trial.* (*RP* 38.) *As to refusing to plead or not pleading intelligibly see RP* 35(*A*). *As to plea when sentence may be death see RP* 35(*D*).

2. *The proceedings on each charge sheet* (*RP* 62) *after arraignment will be conducted as follows in the respective circumstances stated :*

I. If pleas to all charges are GUILTY, use Record Form B below.

II. If pleas to all charges are NOT GUILTY, use Record Form D on p [redacted] *3.*

III. If pleas to some charges are GUILTY and to other charges are NOT GUILTY and,

(a) *Such mixed pleas occur when there are no alternative charges in the Charge Sheet, use Record Form C below.* (*RP* 37(*A*).)

(b) *Such mixed pleas occur in a set of two or more charges laid in the alternative, see RP* 37 (*A*) *and fn* 2 *as to discretion of Court,* (i) *to try the accused on all such alternative charges as if he had pleaded Not Guilty thereto, or,* (ii) *to record the pleas as the findings of Court. After deciding between* (i) *and* (ii), *Court will proceed under foregoing instrs as may be appropriate to result of its decision. See MML p* 744 *Instrs* (2).

3. *As to responsibility of President to accused see RP* 59, 60(*C*) ; *powers and duties of JA see RP* 103 ; *duty of Prosecutor see RP* 60(*A*) (*B*) ; *duty and privileges of accused and Defending Offr see RP* 60(*C*), 87(*C*), 91, 92 ; *swearing and withdrawal of witnesses from Court see RP* 81, 82 ; *questioning of accused see RP* 80, 87(*C*), 92(*B*), *and of witnesses see RP* 83-85 ; *calling or re-calling of witnesses by Court etc see RP* 75-79, 86, 116 ; *use of Summary of Evidence at Trial see RP* 17(*E*) *fn* 6 ; *and responsibility of JA or Pros to record proceedings see RP* 94, 96.

RECORD FORM B—PROCEEDINGS ON PLEAS OF GUILTY TO ALL CHARGES.

B1. ~~The President or JA, if any, complies with RP 35(B) by explaining to the accused the nature and meaning~~ of the charge(s)(1), and that on his plea of Guilty there will be no regular trial but merely a consideration of the sentence to be awarded after he has been given an opportunity to make a statement in reference to the charge(s), call witnesses as to character and make an address in mitigation of punishment.(2)

(1. *RP 35 fn 3.* 2. *MML p 54 para 47.*)

B2. President to accused : The Court will now receive any statement you desire to make in reference to the charge(s).(1) If it appears from your statement that there are circumstances which indicate that you do not understand the effect of the plea of Guilty(2), or which show provocation or extenuation in respect of which in your interest the witnesses for the Prosecution should be examined(3), we shall advise you to change your plea to Not Guilty. In making a statement you will not be sworn or subject to cross-examination ; and anything you say will not be used in evidence against you after you change your plea. If, however, it appears to the Court that your statement affects only the amount of punishment to which you are liable, you will not be advised to change your plea and you will be given an opportunity later to prove your statement by sworn testimony, if you so desire.(4)

President to accused : Do you wish to make a statement ? Ans .....(5)

(1. *RP 27(6).* 2. *RP 37(D) fn 6.* 3. *RP 35(B) fn 5 para 3, MML p 54 para 47.* 4. *See para E3 of Record Form E.*
5. *Statement, if any, recorded per Notes.*)

B3. The Court considers the accused's statement.(1) The Court decides (not) to advise accused to change his (their) plea(s) of Guilty to Not Guilty on ..... charge(s). The accused is (are) so informed, and he (they) change(s) his (their) plea(s) on ..... charge(s). Part I of the Schedule is amended accordingly.

(1. *Court may be closed to consider the statement. Delete whole or part not used.*)

B4. On the charge(s) to which the plea(s) of Guilty is (are) not changed the President records finding(s) of Guilty in Part I of the Schedule.(1)

(1. *RP 35(B). If any plea(s) is (are) changed, use Record Form C or D as appropriate.*)

B5. The Summary of Evidence is marked Ex ....., initialled and read aloud by the President.(1)

(1. *If there is no Summary, or if it is inadequate, comply with RP 37(B). If there is any evidence inconsistent with any plea standing as Guilty, Court will advise accused to change such plea and, if changed to Not Guilty, try such charge(s) by use of paras D1 to D8 inclusive of Record Form D on p 3. RP 37(D).*)

B6. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by ~~using Record Form E on p 8~~.

RECORD FORM C—PROCEEDINGS ON MIXED PLEAS OF GUILTY AND NOT GUILTY.

C1. ~~As to the charges on which accused pleaded NOT GUILTY the trial is continued by using paras D1 to D8~~ inclusive of Record Form D on p 3 before proceeding with C 2.(1)

(1. *RP 37(A) (E).*)

C2. The charges on which accused pleaded GUILTY are read to him (them) again, and the trial is continued by using paras B1 to B5 of Record Form B above.(1)

(1. *Under B5 such parts only of the Summary of Evidence are read as relate to the charges dealt with under C2. If any plea is changed to Not Guilty, trial thereon proceeds by complying with paras D1 to D8 inclusive in Record Form D on p 3 and making as appropriate record thereof on a separate sheet.*)

C3. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using ~~Record Form E on p 8~~.

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

CHARGE SHEET

The accused, A-9237 Pte. Albert Edward Grover
No.1 Cdn. Adm. Tpt. Coy., R.C.A.S.C. a soldier
of the Canadian Army Overseas, is charged with:-

FIRST CHARGE — WHEN ON ACTIVE SERVICE CONDUCT TO THE PREJUDICE OF GOOD ORDER AND MILITARY DISCIPLINE

Sec. 40 A.A.

in that he

At Farnborough, Hants at 1845 hours, 25 Oct 43., did improperly and without authority use W.D. vehicle CM 105425, thereby occasioning damage to the said vehicle of £1-17-0

G.C. McArthur
(G.C. McArthur) Lieut-Col.,
Commanding Officer,
No.1 Cdn.Adm.Tpt.Coy.,
R.C.A.S.C. C.A.(C)

Farnborough, Hants,
30 December 1943.

To be tried by Field General Court Martial

J.H. Roberts
(J.H. Roberts) Major-Gen.,
Commander,
Cdn. Rft. Units.

In the Field
4 Jan 44

5/01.

ORDER

IN THE MATTER OF A.9337 Pte Albert Edward Grover, 1 Cdn Adm Tpt Coy RCASC.

1. WHEREAS the above mentioned soldier was tried by Field General Court Martial on the 20th and 22nd days of December, 1943, for two offences under Sec 40 of the Army Act, namely, improper and unauthorized use of a W D vehicle and improperly carrying Civilian passengers in same.

2. AND whereas the above mentioned soldier was found GUILTY on the 1st Charge and NOT GUILTY on the 2nd Charge and the finding and sentence were not confirmed.

3. AND whereas it is deemed advisable and expedient in the interests of Military Discipline and Justice that the above mentioned soldier should be re-tried for the first offence shewn on the Charge Sheet hereunto annexed.

4. IT is hereby directed that a Field General Court Martial be convened for the purpose of the re-trial of the above mentioned soldier for an offence under Army Act Sec 40 - namely, improper and unauthorized use of a W D Vehicle.

Dated at Farnborough, Hants this Fourth day of January, 1944

(J.H. Roberts) Maj-Gen
GOC
Cdn Rft Units

FIELD GENERAL COURT-MARTIAL

CPA96 (In lieu of AFA40/PAM/1697 (2nd Ed))

(Whether the accused to be tried is under his comd or not, a FGCM may on application to him be convened by any offr of Cdn Army Overseas, or of any other force if authorized in law, in immediate comd of troops on active service, subject to RP 105(C) and restrictions imposed by appropriate authy. AA 49, 50, RP 104-107, 114. As to the duties and privileges of the Convening Offr in dealing with the application see MML Chap V paras 20 and 23, RP 87(B).

There should be a separate Convening Order for each person to be tried separately by the same Court. RP 71(C), 109. As to separate charge sheets see RP 62, and as to separate trial on charges in the same charge sheet see RP 108. As to two or more accused charged jointly see RP 16, 109.

As to reasons for showing (a) permanent or confirmed rank, and (b) apptmt, A/rank or A/apptmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

ACCUSED.

Number.	(a) Prmnt R.	(b) Apptmt, A/R or A/Apptmt.	Full Christian Names.	Surname.	Unit.
A9337	Pte		Albert Edward	GROVER	1 Cdn Adm Tpt Coy RCASC

CONVENING ORDER.

1. Whereas complaint has been made to me, the undersigned, that the person~~s~~ named above as the accused, being subject to military law, has (~~have~~) committed the offence~~s~~ set forth in the Charge Sheet~~s~~ attached and on (date) 4 Jan 44 endorsed by me, (~~or by order of my staff for me~~), "To be tried by Field General Court-Martial".

2. And whereas I am of opinion that it is not practicable that such offence~~s~~ should be tried by an ordinary General Court-Martial; ~~(and that it is not practicable to delay the trial for reference to a superior qualified offr.)~~
(Delete part in brackets when not required for compliance with RP 105(C).)

3. I hereby convene a Field General Court-Martial to try the said person~~s~~, and to consist of the Offrs appointed or detailed hereunder.

4. ~~"I am unable to of myself my three Offrs to form the Court, the next Offr as President, for the reasons I have attached hereto.~~
(AA 49, RP 106(B), 107(A). Delete the whole or part, if not applicable.)

5. ~~I also appoint as Judge Advocate thereat the Offr mentioned hereunder.~~
(RP 106(E). Delete, if none appointed.)

PRESIDENT.

(Rank.)	(Must be named. RP 106.)	(Unit.)
LT-COL	F.D. TWEEDIE	HQ CRU

MEMBERS.

(Rank.)	(Named or detailed. RP 106.)	(Unit.)
A CAPTAIN	FROM	1 CIRU
A LIEUT.	FROM	3 CIRU

WAITING MEMBER.

(Rank.)	(Named or detailed, if any. RP 106.)	(Unit.)

JUDGE-ADVOCATE.

(Rank.)	(Must be named, if any. RP 106.)	(Unit.)

On Active Service in the Fd

in England (Country.)

Date 4 Jan 44

(Signed personally. RP 105 fn 2.)

(J.H. Roberts) Maj-Gen
Commanding Cdn Rft Units
Convening Officer.

Maj-Gen (Rank.)

CONVENING OFFR WILL INITIAL ALL DELETIONS AND ALTERATIONS

(See overleaf for oaths and notes for use on trial.)

Field General Court Martial of
A93337 Pte Albert Edward Grover
#1 Cdn Administrative Tpt Coy, RCASC
held on 6 Jan 44.

The defending officer before court objects to the accused being tried on the charge as framed, in that, according to the order for re-trial of J H Roberts, Major General, dated 4th day of January, it is directed that the re-trial be for the offence of improper and unauthorized use of WD Vehicle; whereas the charge as drafted is for improper and unauthorized use of a vehicle whereby damage to the said vehicle to the extent of £16/17/- was occasioned.

It is submitted that the charge is the same as that on which the accused was charged on the first trial.

The prosecutor submits that the objection is a mere play of words and not valid.

The court is closed to consider this submission.

The court is re-opened.

The president states that the decision of the court is that the objection is dissallowed and that the trial will proceed.

PLEA IN BAR OF TRIAL:

The accused, sir, has already stood his trial or a trial, on the offence as charged before this court to-day. At the time of trial, as I then submitted, and still submit, there was absolutely no evidence before the court to support the charge of improperly and without authority using WD vehicle CM195425. Unfortunately I am not able to refer you to the arguments and points raised by the president of the court, nor of the statement made by him, this because of the fact that there was no court reporter; but the statement was made and the court did rule, prior to the close of the prosecutions case, that the court was agreed that the vehicle was taken without authority.

Now, I submit, that such a statement was based on a decision or an acceptance by the court of a work ticket as evidence of the fact that the vehicle was in that location at the time alleged and that the accused did not have authority to use it at any time during the night.

That, sir, I submit, is a question of law and I submit that, in arriving at that ruling or at that decision, the learned president and members of his court erred. As a field general court martial, you, sir, and the members of your court to-day, are in a position of judge and jury. Jury as to facts, judge as to the law. The facts of that case did not substantiate the charge, the facts as shown, and it resolved itself to a point of law, the facts being in favour of the accused. He, however, had the benefit of the doubt and the fact that the court erred in accepting a work ticket that the vehicle was there without authority, was wrong and the charge should have been dismissed.

If the proceedings of that court are before you to-day, sir, I think after perusal you will agree with me that there was no evidence of taking without authority. It may be argued by my learned friend that all they did to establish that was the fact that a WD vehicle was at the time and

of this position and that Private Grover was the driver. We did not question that but we did not feel that was sufficient cause to shift the burden of onus on the defence. The prosecution must establish the facts to prove the charge. I think, sir, you will agree with me that only by statutory law is any presumption acceptable or prima facia case sufficient to put an accused in the position of explaining why. In this particular end, carrying it into the army, there is no routine order by which it is established that an accused, or rather that the burden shifts on the defence to immediately say that he had authority to have a vehicle at a certain place at a certain time. Reference to page 73 of MML, last sentence of second paragraph, quote "Still, in law, the burden remains on the prosecution to the end, and it would be improper to direct a jury that they ought to convict".

There is a strong presumption, granted, but the jury cannot be directed to convict on that evidence and that is what happened in the first trial. There was a strong presumption and the jury was directed to convict on that presumption.

My next point is, sir, that the question has arisen and may arise here to-day, namely, that the accused did not himself take the box nor did he call any witnesses in his defence, and in that regard I wish to make this statement - that it is a question of interpretation of what is cross examination and the results thereto. I submit to the court that it was not necessary for me to call any witnesses. From the cross examination I was able to bring out the fact that there was no one before that court that could prove that he either did or did not have that vehicle improperly and without authority. The practice within the unit was shown from prosecution witnesses. I mean the procedure with regard to transport.

I submit that I do not have to call witnesses for defence in proof of my points of defence when that evidence is obtained through cross examination from prosecution witnesses.

I refer, sir, to MML, page 64, para 95, quote "As a conviction and sentence are not valid until confirmed, a refusal of confirmation, duly entered upon the proceedings, operates to annul the whole trial. In such a case the accused has not been convicted and may legally be tried again; but re-trials should rarely be resorted to, and only when the needs of discipline and justice demand that an offender shall not escape punishment on account of a legal technicality". Now I ask, sir, where was there a legal technicality in the first trial. The charges laid I submit then and now were not provable. That court agreed with me in respect of the second charge but not with the first charge, but made their decision on what I have already said is a wrongful direction as to the law and not as to the facts. Going on further in respect of page 64, para 95, quote "It must be remembered that if an accused at the first trial has disclosed his defence, that defence at a second trial may thereby be prejudiced." Once again, sir, I submit that the defence of the accused was disclosed on the first trial, not by defence witnesses nor the accused taking the box himself, but by cross examination and to carry out the proper cross examination and bring out evidence I want, we only disclosed our defence. It is known now. While confirming authority has certain things he can do, namely confirmation, non-confirmation, and under that heading he may recommend the court to reconsider its findings or sentence or both; or a re-trial may be ordered, it strikes me, sir, as not being fair to a man. It smatters of persecution rather than prosecution. If, with due respect to the court, he can be put back on his trial from time to time and, having first disclosed his defence which he has to-day, not only through cross examination but through defence witnesses and go back for re-trial after a time has elapsed at which greater investigation can be made, additional witnesses, maybe they will have some effect maybe not, but knowing where his defence is; I submit it is not correct. In other words

is it fair that knowing that the trial was thrown out/~~xxxix~~ to go back to work and start over again. It may be thrown out again and the same thing happen. I submit it is not.

I am making further statements with respect to the summary of evidence and with particular reference to the statement of one Private Grover. At the first trial after considerable argument the statement was not admitted to the court. There was evidence of the fact that this statement was drawn from an alleged letter written by the accused while he was in hospital. On his return to the unit the whole summary was presented to him and he signed it. At the first trial the letter was produced for my examination and that statement is not correct, in that additions have been added thereto. The court did not see the letter it is admitted but it had reference, and it will be noted in the proceedings of the last court, to one particular sentence. The officer taking the summary said there were some grammatical changes. There should have been no changes grammatically. There was one statement in that summary which said 'I became fed up, went AWL and took the vehicle'. This summary is re-drafted for the new trial and it was agreed there that it was there in error.

Summarizing, sir, my points are:-

Firstly, that the court erred in a matter of law and accordingly convicted for that reason only. They erred because they thought they could presume certain facts to exist and it was on that presumption that the conviction was made and on nothing else. On erring on that the prosecution failed on the first trial and the charge should have been dismissed.

Secondly, it was NOT encumbent, in view of the evidence produced in the cross examination, for the defence to take the box or call witnesses which we could have done but it would have been superfluous.

Thirdly, the burden of proof was entirely on the prosecution and it failed to fulfil that burden.

Fourthly, that in accordance with the citation already made, re-trial shall only be resorted to when the needs of discipline and justice demand that an offender shall not escape punishment ~~xxx~~ on account of legal technicality, reiterating, there was no legal technicality. It was an error of judgement at the trial before. Again, an offender is not an offender until he is proven as such.

My next point is that the defence was fully disclosed through cross examination and that accordingly the accused is now prejudiced stainding his re-trial.

My next and final point, sir, is that there should be some question, as a plea in bar, that this court can either accept that plea or reject it. They are now sitting in a position of a court of appeal but have full powers to deal with that plea which may mean a direction that the accused is not required to stand his re-trial in spite of the order before the court to-day. That is the only means, insofar as I can find, of submitting an appeal.

The foregoing is submitted for your consideration, please.

In the opinion of the court it is unnecessary that RP 83B be complied with.

PROSECUTION:

I have not had the benefit of being at the other trial and am not clear as to what happened. All I can say is that we are acting on an order for a re-trial which is permitted under section 157 of the Army Act and as such, that is all I am concerned with. Any question as to burden of proof, we wont go into at this point . In my opinion it is the type

of case that the provision dealing with re-trial is designed to be sued for. As I understand it, the reason why the new trial was directed was because the prosecution did not prove sufficiently that the vehicle was being used without authority. That being true or not merely shows that the court erred themselves in coming to a decision of guilt without submitting sufficient evidence.

There were witnesses who could have supplied that evidence that were not required by the court.

I submit that the whole reason for the new trial rests purely on a legal technicality and that in no way is the defence prejudiced and that we proceed with the trial and the defence can cross examine witnesses as they did before.

In the opinion of the court it is unnecessary that RP 83B be complied with.

BY THE COURT

You stated as I understand it that the reason for the new trid is the fact that there was not sufficient evidence before the court to justify the conviction. Is that correct?

PROSECUTION

That is not the way I intended it to be interpretted. I have not seen the documents from the first trial and maybe I do not know what I am speaking about. I think that we should get this matter cleared up if we may.

The court is closed to consider the submission.

The court is re-opened and the accused is brought before it. The President states that the decision of the court is that as a plea in bar cannot be and are not allowed, and the court, if they dealt with them otherwise, would be dealing with them by way of an appeal from the order of the convening officer directing the new trial and that the court has no authority to so ~~delay~~ deal.

In the opinion of the court it is unnecessary that RP 83B becomplied with.

DEFENDING OFFICER

I make my plea in bar. The court has made its decision and I am of the opinion that this appeal, as such, should be cleared and dealt with before the accused is called to trial. I have not had the opportunity to get a copy of the former proceedings; they are not available. On monday, it was understood that it was laid before the J A G for final instructions. It was not before noon yesterday that I knew that the trial was coming up to-day.

There are two things necessary if it is coming to trial. I have certain investigations to make to DDST, CMHQ, files to obtain and secondly, I feel, as I think you outlined this morning, that to carry on to-day would prejudice the accused. I think that in the interest of the accused, firstly that what has been presented to-day should be presented by way of an appeal through channels which at the moment I do not know, but there will be a channel of appeal. After we are prepared to come to trial I will know what to prepare for. We have had only 24 hours which is not sufficient. You have heard the argument, perhaps you will agree with me that there is some merit to it and that sufficient merit should be given the hearing, otherwise the accused will be prejudiced. If that appeal reaches the convening authority or superior authority, there will be some question about it.

In the opinion of the court it is unnecessary that RP 83B be complied with.

The court is closed to consider the application.

The court is re-opened.

The accused will appear before the court.

The president states that the decision of the court on the plea in bar, is subject to confirmation; that the accused will not be prejudiced by the trial being proceeded with now and the application for an adjournment is refused.

FIRST WITNESS: M61558 Pte Hayes, J G, No.1 Cdn Administrative Tnt Coy, RCASC, having been duly sworn states:

Q1 Do you recognize the accused?

A1 Yes, sir.

Q2 Where and when did you meet him that evening?

A2 I saw him all day because he lived in the same room in the officers mess.

Q3 Did you have any converstion with him that day in connection with any affairs in the evening?

A3 That evening I had a date with Miss Rosine Bird at Hounslow. He asked if I would like to go in the car with him. I said yes.

Q4 Where did you agree to meet?

A4 We left from the Officers Mess.

Q5 About what time in theevening?

A5 About 1845 hrs.

Q6 Did you walk or ride?

A6 We rode.

Q7 Military or ordinary vehicle?

A7 Military vehicle.

Q8 Did you know the number or where it came from?

A8 I think it was CM195425.

Q9 Is that a vehicle used in this unit.

A9 It is.

Q10 Do you know what it was used for here?

A10 It was the COs staff car.

Q11 Who was ~~dix~~ driving the vehicle?

A11 Private Grover.

Q12 Did he continue to drive the same vehicle all evening?

A12 Yes, sir.

Q13 As I understand it you left here at 1845 hrs and started for Hounslow.

A13 Yes, sir.

Q14 Tell us the details of the trip from the time you arrived at Hounslow till late in the evening.

A14 We arrived at Hounslow at 1945 hrs. Miss Bird was waiting at the station and with her was a friend Miss Rose Reid. We decided to go to a show in Oxford and started out. ~~xx~~ During the journey it became foggy and the air raid siren ~~xxxx~~ blew so we decided to go back to Hounslow. We turned

round and drove around trying to find out the right road to take. Owing to the dense fog we were not travelling very fast and Pte Grover had to drive with his head out of the window most of the time. I dont remember the crash and all I remember is being helped out of the floor of the car. Upon recovering myself I found that we had crashed into a parked lorry, which had no lights showing. Immediately after I helped several civilians to push the staff car on to the grass gerge at the side of the road in such a position that the headlights shone on the lorry as a warning to other traffic. While we were waiting Private Grover asked me to go back to the unit and offered me train fair but I refused. After a while we stopped a civilian car and as Private Grover seemed to be hurt we took him to the hospital. About 15 minutes later a passing American Staff Car took myself and the 2 girls to a First Aid Station in ~~Xxxx~~ High Wycombe where we were treated and also spent the night there. I left in the morning and reported to my orderly room.

Q15 How fast was the vehicle travelling at the time of the accident

A15 Going about 15 to 20 miles per hour.

Q16 How far is the place where accident occurred from here by road?

A16 It is in Bucks.

Q17 How far from High Wycombe?

A17 Only about 3/4 to 1 mile.

Q18 Can you tell the court where High Wycombe is?

A18 I am not sure, it was very dark and foggy. It is in Bucks. That is all I know.

Q19 Did you see the vehicle after the accident?

A19 Yes.

Q20 Can you tell us what damage was done to the vehicle as a result of the accident?

A20 The left side was smashed in, not directly head on, but at the side where we swerved. The side of the vehicle hit the truck.

Q21 Tell us of any detailed damage that you saw yourself, such as fenders, etc.?

A21 I did not pay very much attention. I only noticed left side.

Q22 Do you know what was done with the vehicle after the accident?

A22 It was left on the grass after I left.

Q23 What time did you leave?

A23 Close to midnight.

Q24 Can you tell us what time in the evening this accident did happen.

A24 About 2345 hrs.

In the opinion of the court it is unnecessary that RP 83B be complied with

CROSS EXAMINATION

Q25 On the question of damages. You have said the left side was smashed in. Do you mean that the whole left side was smashed in?

A25 No sir. I mean that from what I saw that it was more or less the front not the whole side. I

Q26 I suggest that when he swerved he caught the left front fender on the right rear of the parked lorry.?

A26 Yes, sir.

Q27 The body on the left side was not smashed up?

A27 I am still hazy about it.

Q28 It is going to come to the attention of this court that a certain amount of the accident and a certain amount by fire and evidence will show that fire had not started approximately 12 hours after accident. Therefore, my my object of a few moments ago is that it should be broken down into detail.
Are you a driver with the transport?

A28 Yes, sir.

Q29 Your are familiar with vehicles?

A29 Yes, sir.

Q30 Would you say that the doors on the left side, the glass, the frame, body and dash were all damaged as a result of the accident?

A30 No, sir.

Q31 You said the left side was smashed. Am i correct in saying the left frong wing and immediate area, possibly some damage to the hood?

A31 Yes, sir.

Q32 You said that you left from the officers mess at approximately 1845 hrs?

A32 Yes,sir.

Q33 Is that or is it not a normal place for Pte Grover to eat?

A33 Yes it is,sir.

Q34 The reason for that was that the garage where the vehicle was kept is immediately behind that?

A34 Yes, it was kept there at all times.

Q35 Was vehicle equipped with fog lamp.

A35 No, sir.

Q36 What part of the car were you sitting in at time of accident?

A36 In the back of car on the left side.

Q37 Did you continue in that seat during the journey from Hounslow?

A37 Yes, sir.

Q38 What was the condition of the weather?

A38 It was starting to be very foggy. When we left Hounslow it was very dense.

Q39 On the way back what was the condition of the fog?

A39 Worse.

Q40 What do you think about Pte Grover's driving?

A40 Very good, very careful. He did not take any chances.

Q41 At the point where the accident occurred what was the condition of the fog?

A41 Dense.

Q42 Prior to the accident did you have any warning of any obstruction on that highway?

A42 No sir.

Q43 At the time of the accident there were no lights on the civilian lorry?

A43 That is right.

Q44 Was there at that time anyone in charge of that lorry - at the accident?

A44 The driver was there.

Q45 Did you have any conversation with him?

A45 I do not think so. I was in a daze.

Q46 At the time of accident were the lights on the staff car showing?

A46 Yes, sir.

Q47 Sitting in the back seat you were aware of that?

A47 Yes, sir.

Q48 After the accident did these lights continue to burn?

A48 Yes, sir.

Q49 After you left the vehicle on the grass were the lights still burning?

A49 Yes. The lights were left on as a warning.

Q50 The staff car was in a position on the grass so that lights shone on rear of civilian lorry?

A50 Yes, sir.

Q51 Describe the civilian lorry. Was it open or large covered van?

A51 It was a wooden box with cover over top. Not an open lorry. Very large.

Q52 What was the position of that lorry on the highway?

A52 It was parked close against the curb.

Q53 Did you take notice of the width of road at this particular point?

A53 No, sir. The main road is fairly wide.

Q54 Did you notice whether the centre was marked by a white line?

A54 It was.

Q55 How far was the right side of the vehicle distant from the white line?

A55 It was very close to it. About 1½ to 2 feet away.

Q56 How long was it after the accident that Private Grover was removed to hospital?

A56 Almost an hour.

Q57 How long after Private Grover would you say that you proceeded to the RAF.

A57 About 15 minutes.

Q58 Somewhere in the neighbourhood of 1200 o'clock you and the young ladies left. Was the driver of the civilian vehicle still there? Were the lights of the staff car still burning?

A58 Yes, sir.

Q59 Were there any indications of fire when you left?

A59 No, sir.

Q60 Was anyone else present at that time, outside of the young laidies, civilians, etc.

A60 There were 3 or 4 civilians from other cars.

Q61 Do you know whether staff car was locked when you left?

A61 It was not locked.

Q62 No one locked it?

A62 No, sir.

Q63 Then before you left you did not have conversation with civilian driver?

A63 No sir.

Q64 Did you hear Pte Grover have any conversation with him?

A64 No, sir.

In the opinion of the court it is unnecessary that RP 83B be complied with

BY COURT

Q65 You said you left at 1845 hrs. Where did you leave from?

A65 The garage at the officers mess.

Q66 What barracks?

A66 Cudenard House.

Q67 What town?

A67 Farnborough.

SECOND WITNESS:

Miss Rosina Bird, 57 Whitton Dane, Hounslow, having been duly sworn states:

Q68 Do you recognize the accused.

A68 Yes.

Q69 On the evening of October 25th last did you meet Pte Grover and Pte Hayes?

A69 Yes, my friend and I met them at Hounslow station at 1930 hrs.

Q70 Can you tell me what you did after you met these chaps?

A70 We drove to a place somewhere near Oxford.

Q71 In a vehicle?

A71 Yes.

Q72 Were you sitting inthe front or rear seat?

A72 Rear seat.

Q73 Do you remember anything that happened near High Wycombe. Anything of interest?

A73 Only that it was very foggy that night. Somebody mentioned turn back I believe.

Q74 Did you turn back?

A74 Yes, it was on the road back that the accident happened.

Q75 Can you give any details of the accident?

A75 Only that the headlights of the car we were in were on.

Q76 You did not see anything parked in front of you?

A76 No, it was too foggy.

Q77 Did you feel a jolt as if you had hit something?

A77 I do not remember. I only heard a crash and lost unconsciousness.

Q77 Who was driving this vehicle?

A77 Private Grover.

Q78 Did any of you visit any "pubs"?

A78 No, none at all.

Q79 No evidence of drinking?

A79 None.

The defending officer states that to facilitate proceedings that the car was at a place near High Wycombe at the time of the accident; that Miss Rosina Bird and Miss Rose Reid were in the car and that the accused was the driver of that car.

In the opinion of the court it is unnecessary that RP 83B be complied with.

THIRD WITNESS:

Chief Constable George Henry Bradshaw of High Wycombe Borough Police having been duly sworn states:

At about 1130 PM Monday 25th October 1943, I was called to an accident which had occurred on the West Wycombe road High Wycombe. On my arrival on the scene I saw a [illegible] vehicle standing against the curb on the north side of the road. It was damaged on the rear off side. I also saw a Ford V8 motor car #CM195425 standing on the grass verge on the North side of the road. This car was extensively damaged at the front and on the near side. No one was in charge of it. I ascertained that the driver had been taken to hospital. Later that night I saw Pte E Grover, Pte Hayes J G and Rosina Bird and Rose Reid at the ambulance Station at High Wycombe. They made to me a statement. That is my evidence.

Q80 What time was it that you investigated this accident first?

A81 1130 PM.

Q82 Can you tell me approximately how far the place the accident occurred is from here?

A82 About 60 miles.

Q83 Have you any comment to make on road vehicle regulations with regard to lights on vehicles?

A83 No.

Q84 You say that when you arrived at the scene of the accident there were no people in site?

A84 The driver of the lorry was present.

Q85 Private Grover, Private Hayes and the 2 girls were not there?

A85 Not when I arrived.

Q86 Where did they make this statement to you.

A86 At the ambulance station.

Q87 How many people made a statement to you?

A87 I had nothing in writing. Three people - Pte Hayes and the 2 girls.

Q88 Was Pte Grover there?

A88 No.

Q89 When did you leave the vehicle?

A89 1150 PM or 1155 PM.

Q90 Did you return there again?

A90 I did not return.

Q91 Did anyone?

A91 Yes, our van driver with some red lamps to place by the lorry which had no lights on.

Q92 Did you see the military vehicle again?

A92 No.

Q93 You knew nothing as to what happened to it after the accident?

A93 No

Q94 Can you give us a little more detail as to the damage you saw to the vehicle?

A94 The front side of the radiator was pushed in, the dash was pushed right back to the driving seat. The near side was partly torn away. The front near part of the radiator, almost all of the radiator was pushed in, that is on the left side.

Q95 Was there any damage to the vehicle other than the left front of radiator?

A95 Yes, to the near side of the vehicle. It was torn along left hand side or near side.

Q96 You say it was torn.

A96 Yes, torn or pushed in.

Q97 Anything else?

A97 No.

Q98 That, then is all the damage you could see.

A98 Yes.

CROSS EXAMINATION:

Q99 Do you remember giving evidence here approximately two weeks ago?

A99 Yes.

Q100 Did you at that time say the left front radiator and the left front side of the vehicle was badly damaged?

A100 I was not asked that.

Q101 Do you recall at the last trial you stated that at the time of your arrival and time of your departure from the scene of the accident the headlights of this WD vehicle were burning?

A101 I did not say that. I said that to the best of my knowledge the side light was burning on the car when I arrived.

Q102 Was it not the case that the WD vehicle was backed onto the verge of the road so that the lights were thrown on the rear of the lorry.

A102 Yes.

Q103 Do you know the position of the left hand or off side headlight or headlamp on that car?

A103 No.

Q104 You think that to the best of your knowledge it was burning.

A104 No. I said the side light. The headlight is an entirely different thing.

Q105 You say that it was a side light. What do you mean by a side light?

A105 One of the little lamps on the side of the wing.

Q106 It was still burning?

A106 Yes, and throwing a light towards the road.

Q107 Are those lights strong enough to throw a light sufficient distance and of sufficient light to give evidence of an obstruction on the road.

A107 No.

Q108 But, in fact, they were warning traffice of that civilian lorry

A108 The light would not be strong enough for that purpose.

Q109 You think that light was intact and burning in spite of the fact that the left front part of the vehicle and the left or off side was badly damaged.

A109 I said the left or near side.

Q110 That little light remained burning?

A110 Yes.

Q111 Are you positive that the time was 1130 PM that night you were there?

A111 Yes, within 5 minutes. I said approximately 1130 hrs. If I may add this is approximately 3 miles I had to go.

Q112 What, can you tell the court, is the width of the pavement where the accident occurred.

A112 About 30 feet wide.

Q113 And I understand and have been told that there is a centre line

A114 Yes, there is a white line in the middle of the road.

Q115 What was the position of the rear side of the lorry with respect to that white line?

A115 The lorry was close against the kerb and the lorry was about

7 feet wide. The road is about 30 feet wide at that spot. That would leave about 23 feet clear road for other traffic.

Q116 The owner of the lorry was there at the time?

A116 No, the driver.

Q117 There were no lights exhibited on the lorry?

A117 No.

Q118 No warning lights of the presence of the lorry on the highway?

A118 No.

Q119 No lights until your van sent lamps back?

A119 No.

Q120 During your presence there and at the time of your departure was there any indication of fire.

A120 No.

Q121 Do you remember the last trial of Pte Grover when you attended?

A121 Yes.

I draw to your attention when you were questioned about the lights and your evidence; in chief is the statement - "one front light was burning". "I think the off front side light on the army car was burning on that night when I arrived."

In the opinion of the court it is unnecessary that RP 83B be complied with.

FOURTH WITNESS:

Lieut Colonel McArthur, G.C. RCASC, having been duly sworn states:

Q122 Do you recognize the accused?

A122 Yes

Q123 Was the accused your own personal driver?

A123 Yes, he was.

Q124 For how long a period?

A124 He started back for me around January or February 1943.

Q125 He was your driver until recently?

A125 Yes, I am not sure of the dates.

Q126 Is Ford Sedan Serial CM195425 your own personal vehicle?

A126 Yes, when I came to this unit.

Q127 Where is that vehicle kept?

A127 It is kept in a garage beside my quarters, at Oudenard House.

Q128 Did you have the keys or key to this vehicle?

A128 I had a key to the vehicle and key to the lock on door and so did the accused.

Q129 There were two sets of keys

A129 Yes.

Q130 I have a tpt work ticket #12. It is the work ticket for vehicle CM195425. Do you recognize that work ticket?

A130 Yes, I recognize that work ticket.

Q131 That is the work ticket used to show type of work your own vehicle was doing?

A131 Yes, that is what it is for.

Q132 The record of work that this vehicle performed begins on the 17th of October 1943 and continues 17, 18, 20, 21, 22 23 and 25th October. According to this on 25th October last this vehicle CM195425 went to #17 General and Neurological and purpose was an inspection trip?

A132 That is correct.

Q133 On her is written the word inspection. Can you clear that up?

A133 All vehicles on WE of Cdn Hospitals are allotted from this unit. I make periodic inspections.

Q134 According to this you left on 25th October to make an inspection trip to 17 General and Neurological?

A134 Yes.

Q135 What time did you leave on that day?

A135 This was an afternoon run and we were back here about 4 PM.

Q136 Could it have been after 5 PM.

A136 No, it was between 4 and 5 PM.

Q137 Was the vehicle put away?

A137 Yes, it was put away in the garage.

Q138 Is there any other person in this unit or any other unit who has authority to issue a work ticket for the use of that vehicle other than yourself?

A138 None.

Q139 Did you give any authority, written or verbal, for the use of this vehicle after that vehicle was put away in the garage in the late afternoon of October 25th.

A139 I did not.

Q140 Is this the only evidence that the driver of your vehicle would have that he asked?

A140 That is all he would have

BY THE COURT Work ticket offered as evidence received as evidence marked exhibit "A".

CROSS EXAMINATION:

Q141 What was the practice in filling out your trips. Did you do that or did the driver, or both?

A141 The driver would do it and some times I did it. On 25th October that is my hand writing.

Q141a In the nature of your duties you are required to go from place to place. When is that work ticket completed, at the end of the day or end of each journey? When is it signed by you?

A141a I sign that ticket before the car goes out of the gate. The driver has certain duties - he signs time of arrival back and amount of petrol he draws. I sign this ticket when

I get in the car to go away.

Q142 Let us say that you went to 12 and 10 General and had occasion to make another call on the way home?

A142 There would be another entry put on there.

Q143 If this car is used with your authority by one of your officers or by yourself, which you are entitled to do for recreational purposes, the same thing applies?

A143 The officers name goes on.

The recreational work tickets are kept under lock and key and signed by me and me only.

BY THE COURT:

Q144 Did you, either by work ticket or otherwise, authorize the accused to use that car CM195425 on the night of October 25th/26th.

A144 I have never allowed my driver to use my car at any time expept when I was in the car or authorized him to take any other officer on a trip. No.

In the opinion of the court it is unnecessary that RP 83B be complied with

FIFTH WITNESS: Lieut J H Cornell, RCASC, O IC W/S, 1 Cdn Administrative Spt Coy, RCASC, having been duly sworn states:

Q145 I have here an estimate of cost of parts and labour to repair Ford Sedan CM195425. Could you tell me if that is the one you drew up and is it correct?

A145 Yes, it is correct.

Q146 Signed by you and certified by Major T Elland Beech, DADOS CRU.

A146 Yes.

Q147 When did you first see this vehicle after it had been damaged?

A147 The next afternoon.

Q148 Was it able to move under its own power?

A148 It was brought in on a breakdown.

Q149 What was done with it?

A149 It was parked between two buildings out of the way and left there.

Q150 When was this?

A150 8th of November.

Q151 It is divided into two portions. First of all cost of parts and cost of labour. Parts total cost £151/7/-, labour 10/10/-. Total cost £161/17/-. Is that correct?

A151 Yes.

Q152 Is the vehicle now repaired and being used again?

A152 I could not say as it was evacuated to 4 Sub Depot, Bordon

Q153 Was there any damage caused to this vehicle by fire?

A153 Yes, the complete body was demolished by fire, and the steering wheel, instruments and door glass and things of that

nature.

Q154 Can you account for any of this damage which was caused by fire?

A154 I cannot say.

BY THE COURT: Paper writing being estimate of cost of parts and labour to Ford Sedan CM195425, damaged by fire made by Major J H Cornell received as evidence and marked exhibit 'B'.

Estimate of damage to said vehicle before fire made by J H Cornell, Major, amounting to £36/16/- offered and received as evidence and marked exhibit 'C'.

CROSS EXAMINATION:

Q155 How long after the 25th October was it before you saw the car?

A155 I saw the car on the morning of the 26th October.

Q156 On its arrival here did you examine it immediately?

A156 Yes.

Q157 Was the damage as set forth in exhibit "B", totalling, including labour, £161/17/-, the result of an accident entirely.

A157 I cannot say.

Q158 I suggest to you there are two phases. There are immediate physical damages resulting from a collision and ~~s~~their is a second portion resulting from fire. Can you tell the court what, in your estimation, were the immediate physical damages by reason of collision. In your opinion Major Cornell the difference between these two amounts, roughly £125/-/- represents damage done by fire in the vehicle?

A158 Yes.

Q159 I believe that it is not possible to say whether that fire resulted in consequence of the accident or from unknown sources?

A159 I could give a technical theory, that is all.

Q160 What type of battery was in this car?

A160 6 volt battery.

Q161 Did it bear any fender side lights.

A161 No.

Q162 It is equipped with the normal WD headlamps?

A162 Yes.

Q163 Supposing we took a new 6 volt battery, assuming that the headlights and the tail light are left burning, approximately how long would they burn before the battery would go ~~xxx~~ dead?

A163 Approximately 10 hours.

Q164 You mentioned that the only thing you can do is give theory. You are going to say that a short resulted on account of the collision of the body of the vehicle which in time would cause combustion or would cause a fire and the results indicated. Following upon that is it correct to say that when the battery is dead there is no circuit whatsoever?

A165 There would be no circuit.

PROSECUTION:

Q166 Speaking of this short that defence has been speaking of, is there anything inflammable that a short might catch on fire in a vehicle of that kind?

A166 Not at the particular spot where I think it started.

BY THE COURT:

Q167 Did you test the battery when you got the car back here?

A167 Yes, the battery was dead and the car was damaged by fire.

The case for the prosecution is closed.

In the opinion of the court it is unnecessary that RP 83B be complied with.

SUMMARY BY PROSECUTION:

The facts of the case are clear. We have proved that accused had the vehicle in question improperly and without authority. We have also proved that he was driving the car at the time of the accident and have proved that damages resulted to the vehicle as a result of that unauthorized driving. The amount is hard to assess and must rest upon the court to assess the damages. I feel that we have proven everything that is necessary to establish the charge.

In the opinion of the court it is unnecessary that RP 83B be complied with.

SUMMARY BY DEFENCE:

Sir, I again wish to reiterate the object already noted to the charge as being in conflict with the order of the GOC CRU, and that consequently the question of damages should not now be dealt with. Therefore, the question before the court is the one of whether or not the accused was on the night of October 25th, 1943, in authorized possession of a vehicle.

The only evidence on that point is that of Lieut Colonel McArthur, CO of the unit concerned. Admitted, Private Grover kept the vehicle in the garage at Oudenard House and had a set of keys to it. Has it been shown to the satisfaction of the court that the system of the work ticket in respect of that car is correct.

Colonel McArthur has stated that the ticket is often filled in by the driver except for a signature authorizing the journey. Examination of this work ticket I submit will show that in each case that work ticket shows the journeys are not filled in at the same time, and are done possibly at a later time.

It is obvious here by the ink, that they are done at least with different pens and different ink which I submit at different times and the different times and the definite times at the conclusion of the day when he knows what journeys he has to do. I submit that the nature of the duties are such that he does not know just where he is to go but he has himself stated that a new entry is not made for each and every individual trip.

Now, I have before us this work ticket from the 17 to 25 October on which there are 7 entries. Of these 7 entries the only entry made by Colonel McArthur is that on the 25th of the month: the day in question.

He did not in answer to the question put to him in the

examination in chief state that authority had not been given. On the other hand, however, to the question put by you, sir, he stated that no authority had been given by him or by anyone on his behalf. To what extent can that be interpretted. He has stated in his evidence of cross examination that it is usual to enter recreational transport on this work ticket although it is endorsed across the left hand - COs duties. This is a question entirely for the court to decide.

Now, in respect of the question of damages. I submit firstly, sir, that the damages, other than those totalling some 36/-/-, are the only damages proven here to-day as resulting from the direct physical contact. There is no evidence before the court as to how, when, nor why the damage by fire was caused. On the contrary, there is the evidence of the prosecution witnesses to the effect that at 2330 hrs on the night of 25th October 1943, after the accused had been removed from hospital and after the vehicle was out of his control, there was no indication of fire. However, on its return to this unit the next day, it has been badly damaged by fire and I submit, that to succeed, the prosecution must not only prove the damages, but directly connect them as a result of the accident.

With regard to the point concerning the wrongful use and the responsibility for any damages arising during that period. The original foot note 4 on page 546 of MML read as follows - "In order to put an officer under stoppages by way of penal deduction, under either para (2) or para (4) it is not sufficient to show merely that the loss etc was facilitated or made possible by his act or neglect. It is necessary to show that the loss was "occasioned by" in the sense of being the natural result of the conduct of the officer." However, there is an amendment and new note 4 reads as follows - "In the case, however, of the continuing wrongful act of improperly using War Department property, e.g., a motor vehicle, any loss or damage happening to such property during the continuance of such user may be held to be occasioned thereby". There is no evidence before this court this afternoon that there is any negligence on the part of the accused. On the contrary there is evidence of a great negligence on the part of the civilian lorry driver by prosecution witnesses; that accused was operating vehicle in a most cautious and careful manner. Consequently I submit that since these damages cannot be connected with the act the charge in respect therto should be dismissed.

In the alternative, I make another submission, sir. The damages of £36/-/- are directly attributable to the negligence of the civilian lorry driver and consequently there is a right in Crown in the Dominion of Canada in an action for damages for any damage which is suffered by reason of neglect and in addition, the accused himself by reason of such negligence suffered personal injuries and was in hospital for some considerable period of time. His right to an action against the civilian owner and driver will be subjugated and handled by the claims commission. The government also have a claim for the damages to this vehicle and also for hospital and medical attention until he was placed in a military institution.

By reason of that I submit, the question of these damages are not, therefore, the proper subject matter for charge of court martial.

In the opinion of the court it is unnecessary that RP 83B be complied with.

The court is closed to consider the findings.

In the opinion of the court it is unnecessary that RP 83B be complied with.

PLEA OF MITIGATION:

In respect of the matter of damages and in question of stoppages, I would draw the attention of the court to KR (Can) 539(a) which places the minimum stoppages at 90 days pay of rank. Further in rgard to damges or stoppages I am not going to labour the court by again reviewing the situation as I submitted to the court prior to its finding, but I would ask the court to bear that in mind.

With regard to the charge of taking and using I draw the courts attention to the conduct sheet of the accused which over a period of years, since 1939, I submit, is good. A former commanding officer, Major W A McArthur, gave certain character evidence on behalf of the accused at his last trial. Since Major Mc Arthur xxx is not able to be here to-day by reason of the fact that he has just recently returned from Canada, having attended a staff course there, and has been sent to points which make it impossible to make his attendance, I, therefore, propose to read the statement of Major McArthur as taken into the evidence by the president of the court at the last trial and I quote - "I have been in command of the accused from June 1941 until December 1942. He came and was detailed to drive the CO. His appearance and deportment were excellent. In 2 or 3 weeks I arranged that he become my driver and he drove steadily for me until December of 1942. It was at that time that I left the Supply Coy and I could not arrange to take him with me or I would have. His work was excellent, he kept his car in perfect condition, working after hours. He was always willing to help others in their work. The NCOs insisted he be made a L/Cpl which was done. Later he drove the Comd RCASC of the 1 Cdn Div. He was 17 years old when he enlisted and was left in Canada for a time on account of his age. He is excellent with his weapons, including machine gun, grenades and carbine, and was frequently chosen stick man from the guards. He served me faithfully and I have had no cause to complain of his conduct. I have already done what I could to get him transferred to me when he is released and I submit herewith a copy of my letter of application."

To that I would like to state that I succeeded Major McArthur in command of the then 1 Cdn Div Supply Coy, RCASC, in July 1942. The accused continued to serve in that unit and act as my driver and I can substantiate the remarks of Major McArthur. It was Major McArthur's wish to take him with him to London if at all possible, as he was then employed with the planning staff.

In the meantime, however, Colonel McArthur, the then CRASC of the Division wished to have Pte Grover as his driver and he went to him on the condition that if and when the opportunity arose, he could return or go to Major McArthur. This, the latter part of January or early February. It was not long after that that Colonel McArthur was posted to the command of this unit and brought the accused with him. He has served him from that day until now.

However, Pte Grover was not happy. He is young, has the training, is keen and anxious to be with the lads with whom he signed up, the late first Division. He thought he was happy and pretty well assured his going up to CRASC HQ as driver but finds himself at a base installation. He has made two applications for transfer hoping to get back with the 1st Division or into the field with some prospect of going into action.

The result is the situation which arises here to-day. In view of the facts which I have not presented to the court I would ask that the deepest consideration be given to his case and dealt with as leniently as possible.

In the opinion of the court it is unnecessary that RP 83B be complied with.

30 December, 1943.

A-9337 Pte. A.E. Grover
No.1 Gdn.Adm.Tpt.Coy., RCASC

NOTICE OF INTENTION TO CALL WITNESSES:

Notice is hereby given in accordance withR.P.70 of intention to call as an additional witness at your trial by Field General Court Martial, Police Constable George Bradbury of High Wycombe Borough Police.

2. It is proposed that he will testify as to the place at which accident to CM.196425 occurred on the night of 28 October 1943, the extent of the damage and any other matters in relation to the accident of which he has personal knowledge.

3. It is further proposed that Lieut.Col. C.C. MacArthur will give evidence to show that the vehicle in question was kept in a locked garage, the keys to which as well as the ignition keys of the vehicle being in your possession at all times. He will also state that he did not authorize you to use the vehicle in question at the time and place stated in the Charge Sheet.

(A.G. Hudson) Captain & Adjt.,
No. 1 Gdn. Adm. Tpt. Coy.,
R.C.A.S.C. O.A.(C).

APPENDIX "A"

Mr. Charles Eades of 107 Morley Rd., Leyton, E.10 lorry driver for Messers H.Hilliard, Ltd., of Stonebridge Wharf Limehouse, states:-

Proceeding from Oxford towards West Wycombe on the night of 25th. October driving Austin lorry No. LMH627 at approximately ten forty five p.m. the wiring under the dash burned out and I had no lights. I pulled the lorry to the left side of the road about a quarter of a mile west of West Wycombe. I got out and stood behind the lorry with a lighted cigarette.

About twenty minutes after I stopped an Army car came along from the same direction I had come. I tried to signal with my cigarette which was the only means I had. The Army car tried to pull to the right but he was too late and he ran into the rear offside of my lorry. The car stopped immediately it struck and the occupants got out. The offside rear of my lorry was damaged, the rear wing was bent and torn, the cross member and runner of body were broken. The tarpaulin cover was torn.

I helped push the car back onto the verge. His lights were still on. A passing car stopped and took the occupants of the Army car away. They notified the police who came and gave me two lamps to use on the front and rear of the lorry. I stopped with it all night.

707

Charles Eades

APPENDIX "B"

Miss Rose Read of 53 Hounslow Road, Whitton, laundress, states:-

Miss Rosina Bird and I met Pte. Hayes and Pte. Grover at Hounslow Station at about 7.30 p.m. on 25th Oct. 43. We decided to go to a show at first. We were on the way to the show in the car which the two boys had. I suppose it was an army car. I remember hearing the siren. We were going along and it was very foggy and we started talking about coming back. We decided to turn around and we were driving along when all of a sudden there was a bang. I thought at first a bomb had dropped. I was dazed and didn't remember anything until Pte. Grover pulled me from the car. I stood there and in about half an hour a car came along and took him to hospital. We had run into the back of a lorry. Then an American car came and took us to the First Aid Post in High Wycombe.

Rose Read

Miss Rosina Bird of 57 Whitton Dene, Hounslow states:-

ADENTITY "C"

On 25th Oct 43 my friend Miss Rosa Read and I had planned to meet Pte. Hayes at Hounslow Tube Station at 7.30 p.m. When Pte. Hayes arrived we decided to go to a show. Pte. Hayes arrived in a car which was driven by Pte. Grover. We got into the car and drove to Oxford where we went to a show. We came out of the show about nine o'clock and started to drive home. Miss Read was in the front seat with Pte. Grover who was driving. I was sitting in the back seat behind the driver with Pte. Hayes. It was very foggy and Pte. Grover kept opening the car door to see out. We were driving along for awhile when all of a sudden there was a crash. We got out of the car and Pte. Grover seemed to be the worst injured. His left hand was bleeding. He got out of the car by himself and we all managed to get out. Another car coming along the road stopped and they decided to take Pte. Grover to hospital. There were no police or anyone else around so we three just waited until an American Army car came along and took us to a First Aid Station in High Wycombe, where we spent the night.

R. Bird

£51

Trial of A-9037 Pte. Albert Edward Grover,
No. 1 Cdn. Administrative Transport Company, R.C.A.S.C. C.A. (O)

List of Witnesses for the Prosecution

Lieut. Col., G.C. McArthur, No. 1 Cdn. Adm. Tpt. Coy., R.C.A.S.C. C.A.(O)

Major J.H. Cornell, No. 1 Cdn. Adm. Tpt. Coy., R.C.A.S.C. C.A. (O)

Lieutenant D.R.C. Bedson, No. 1 Cdn. Adm. Tpt. Coy., R.C.A.S.C. C.A. (O)

M-61558 Private Hayes, J.C., No. 1 Cdn. Adm. Tpt. Coy., R.C.A.S.C. C.A.(O)

Police Constable George Henry Bradbury, of High Wycombe Borough Police

Mr. Charles Wades, 107 Morley Road, Leyton, E. 10.

Miss Rose Read, 53 Hounslow Road, Whitton.

Miss Rosina Bird, 87 Whitton Dene, Hounslow.

Farnborough, Hants.
30 December 1943.

I, A-9337 Pte. ALBERT EDWARD GROVER, desire to have an officer assigned to represent me at my trial by Court-Martial.

I desire the services of Major S.A. Guman if he is ~~available~~ available

A.E. Grover

Farnborough, Hants
30 December 1943.

NO. 1 CDN. ADMINISTRATIVE TRANSPORT COMPANY R.C.A.S.C.

A-9337 PTE GROVER A.E.

Certified that I have this date examined the m/n soldier and find him fit to undergo trial by F. G. C. M.

A Cherry Capt Reams Capt
Medical Officer

Farnborough, Hants
6 Jan. 1944.

JBT.

A.F.G. 3518 (Revised 1943)
40 P&S 400 (3749)

EXHIBIT "H"

TRANSPORT WORK TICKET

No. 2[illegible] 12

MAKE OF VEHICLE: Dodge — CLASS: 7.D.J. 6 jan 42 — UNIT: No. 1 COM. ZONE, ETO, U.S.A. — SECTION: 12C — DRIVER'S NAME: [illegible] — W.D. No. [illegible] — MONTH & YEAR: Oct. 1943.

DATE (1)	FOR WHOM JOURNEY IS PERFORMED (2)	DETAILS OF LOAD (3)	ROUTE From (4)	To (5)	Via (6)	SIGNATURE OF PERSON AUTHORIZING JOURNEY (7)	LUBRICATING OILS Type (8)	Pints (9)	FUEL GALLONS At Start (10)	Drawn (11)	At End (12)	Used (13)	TIME Out (14)	In (15)	SPEEDOMETER In (16)	Run (17)	Date (18)
			Brought forward from Work Ticket No. [illegible]														
17	Col. McCarthy 2		H2 Unit	Area		G.C. McArthur	20		12	11			10		406	430	93
18	Col. McCarthy 2		"	"		G.C. McArthur	20									436	
19	Col. McCarthy 2		"	"		G.C. McArthur	20			10						643	
20	Col. McCarthy 2		"	Smaglia		G.C. McArthur	20	11½	2	10	3	9	10	1		745	
21	Col. McCarthy 2		H2 Unit	Colchester	London	G.C. McArthur	20	11½	9½	3½	9½		11½				
22	Col. McCarthy 2		H2 Unit	7 Gen Hosp	Staines	G.C. McArthur	20										
23	Col. McCarthy		"	17 "	" Crow Thorn	G.C. McArthur											
25			"	Ingatestone	11½ Miles	G.C. McArthur											

Ex 2

[illegible] for week — no totals carried over

No.1 Co.

File 9-8-8

8 Nov.43

Officer Commanding,
No.1 Cdn.Admt.Transpor Company,R.C.A.S.C. C.A. (O)
R.C.A.S.C. C.A. (O)

Estimated cost of Parts & repair Ford Sedan CM 195425 damaged by Fire.

		£
Parts:-		
1 Body (Complete)		1- 2-
1 Steering Wheel		2-10- 0
1 Fender (Left front)		4-18- 0
1 Engine Hood		1- 7- 6½
1 Battery		3- 0
2 Hub Caps 1/6 each		12- 2
1 Wiring Harness		1- 1- 0
1 Voltage Regulator		3- 2
1 Starter Switch		1- 2- 3
1 Instrument Panel		11- 8
1 Speedometer Head		3- 4
1 Petrol Guage		1- 5½
1 Oil Guage		1- 5½
1 Heat Indicator		13- 5½
1 Ammeter		3- 0
1 Throttle Control		3- 0
1 Choke Control		3- 0
1 Light Switch		3- 6
3 Small snap light Switches 1/- each		3- 0
1 Windshield Wiper Motor Assy.complete with remote controls and Wiper Blades and Control Switch.		1-15- 0
2 Top Radiator Hoses 2/- each		4- 0
2 Lower Radiator Hoses 1/- each		2- 0
1 Flexible Gas Line		3- 0
	Total	£151- 7- 0

Labour:-

To replace Body	40 Hrs.	
" " Left Front Fender	2 "	
" " Hood	1 "	
" " Steering Wheel	1 "	
" R & R and repair Radiator	5 "	
" replace Instrument Panel, Switches, Instruments, Throttle & Choke Controls, Wiring Harness, Battery and complete Windshield Wiper Assy.	20 Hrs.	
Repair Gas Lines and replace Flexible Gas Line	1 "	
Total Labour 70 Hrs. @ 3/- per hr. =		£ 10-10- 0

Total cost of Labour, Parts £161-17- 0

The above prices are certified correct.

J. Eldon Deitch Major.
D.A.D.O.S., Cdn Reinf. Units.

J.E. Cornell ....Maj.
(J.E.Cornell)
Officer i/c Workshops
No.1 Cdn.Admt.Transport Co
R.C.A.S.C. C.A. (O)

Dr 'B'
A.B.T.

Exhibit "B"

File 9-8-8

No.1 Cdn.Admt.Transport Company,R.C.A.S.C. C.A. (O)

8 Nov.43

Officer Commanding,
No.1 Cdn.Admt.Transport Coy,
R.C.A.S.C. C.A. (O)

E X 1
1m

Estimated cost of Parts and Labour to repair Ford Sedan CM 195425 damaged by Fire.

Parts:-

1	Body (Complete)	£134- 0- 0
1	Steering Wheel	1- 2- 0
1	Fender (Left front)	2-10- 0
1	Engine Hood	4-18- 0
1	Battery	1- 7- 6½
2	Hub Caps 1/6 each	3- 0
1	Wiring Harness	12- 2
1	Voltage Regulator	1- 1- 0
1	Starter Switch	3- 2
1	Instrument Panel	1- 2- 3
1	Speedometer Head	11- 8
1	Petrol Guage	3- 4
1	Oil Guage	1- 5½
1	Heat Indicator	1- 5½
1	Ammeter	13- 5½
1	Throttle Control	3- 0
1	Choke Control	3- 0
1	Light Switch	3- 6
3	Small snap light Switches 1/- each	3- 0
1	Windshield Wiper Motor Assy.complete with remote controls and Wiper Blades and Control Switch.	1-15- 0
2	Top Radiator Hoses 2/- each	4- 0
2	Lower Radiator Hoses 1/- each	2- 0
1	Flexible Gas Line	3- 0
	Total	£151- 7- 6

Labour:-

To replace Body	40 Hrs,
" " Left Front Fender	2 "
" " Hood	1 "
" " Steering Wheel	1 "
" R & R and repair Radiator	5 "
" replace Instrument Panel, Switches,Instruments, Throttle & Choke Controls, Wiring Harness,Battery and complete Windshield Wiper Assy.	20 Hrs.
Repair Gas Lines and replace Flexible Gas Line	1 "
Total Labour 70 Hrs. @ 3/- per hr. =	£ 10-10- 0

The above prices are certified correct.

J. Elton Veitch ....Major.
D.A.D.O.S., Cdn. Reinf. Units.

Total cost of Labour,Parts £161-17- 0

J.H.Cornell ....Major
(J.H.Cornell)
Officer i/c Workshops
No.1 Cdn.Admt.Transport Coy.
R.C.A.S.C. C.A. (O)

Ex 'B'
C.A.D.T.

8 Nov 43.

Officer Commanding.
No.1. Adm. Transport. Coy.,
R.C.A.S.C.

Approximate damage to C M- 195425, Ford Sedan,
(before fire).

Parts.

1	Left front fender.	£ 2-10-0
1	Engine hood.	4-18-0
1	Left front door complete.	15- 0-0
1	left windshield glass.	1- 0-0
	Total.	£ 23-18-0

Labour.

To replace left front fender,	2hrs.		
To replace engine hood.	1 "		
Remove & repair radiator.	5 "		
Install windshield glass.	3 "		
Repair left front of body, and fit new door.	75 "		
Total.	86	hrs @ 3/-	£ 12-18-0

Total cost. £ 36-16- 0

J H Cornell Major.
O I/C Work Shop.
No.1. Adm. Transport. Coy.,
R.C.A.S.C.

2 "C"
F.D.I.

Summary of Evidence in the case of No. A-9337 Pte. Grover, A. E., No. 1 Cdn. Administrative Transport Company, R.C.A.S.C., a soldier of the Canadian Army Overseas.

By direction of the Commanding Officer, the Summary of Evidence is taken on oath.

FIRST WITNESS

M-61558 Pte. Hayes, J. G., No. 1 Cdn. Admn. Tpt. Coy, R.C.A.S.C., a soldier of the Canadian Army Overseas, having been duly sworn, states as follows:

On the evening of 25 Oct 43 I had an appointment with Miss Rosina Ward who lives in Hounslow. During the day A-9337 Pte. A.E. Grover had asked me what I was doing that evening. I told him of my plans and he asked me if I would like to drive up with him in the car. I agreed and we left about 1845 hrs. We arrived at Hounslow Station at approximately 1945. Miss Ward was waiting for me and with her was a friend, Miss Rose Reed. We discussed what we should do and decided we should go to a show. We got into the car and started off for Oxford. During the trip it began to get foggy and the air raid siren sounded. We then decided that under these circumstances we should go back to Hounslow. We turned around and drove about trying to discover where we were. Owing to the dense fog, Pte. Grover had to drive with his head at the window and stop frequently to wipe the windshield. I do not remember hearing a crash. The first thing after the accident that I can remember, was my being helped out of the car. When I got out, I saw that we had run into the rear of a lorry which was stationary at the curb. I helped push the staff car in which we had been riding, No. CM-195425, back into the ~~the~~ grass verge off the road. It was in such a position that the lights, which we left on, shone on the parked lorry as a warning to other traffic. While we were waiting for someone to come along, Pte. Grover tried to persuade me to go back to the unit and offered me money for train fare. I refused to leave the scene of the accident. We stopped a civilian car and asked the driver to take Pte. Grover, who seemed to be injured, to a hospital. Shortly after, an American Army staff car took us to the First Aid Station in High Wycombe where we received first aid. We stayed there for the night as it was then about 0100 hrs 26 Oct 43. At 0600 hrs, I left on the first train and

on arrival at the unit, I reported to Capt. Cherry The M.O. He sent me to No. 8 Cdn. General Hospital for an X-ray, after which I went to my unit Orderly Room and reported the circumstances

The accused declines to cross-examine this witness.

SECOND WITNESS

J. S. Hayes.

Mr. Charles Eades of 107 Morley Road, Leyton, E.10. Lorry driver for Messrs. H. Hilliard, Ltd., of Stonehouse Wharf, Limehouse; a written statement of this witness's evidence purporting to be signed by him has been read to the accused and is included in this Summary of Evidence and marked Appendix "A".

Having regard to the loss of time involved the attendance of this witness cannot in my opinion be readily procured.

D.R.C. Dickson Lieut.

The accused does not demand the attendance of this witness for cross-examination.

THIRD WITNESS

Miss Rose Read of 53 Hounslow Road, Whitton; a written statement of this witness's evidence purporting to be signed by her has been read to the accused and is included in this Summary of Evidence and marked Appendix "B".

Having regard to the loss of time involved the attendance of this witness cannot in my opinion be readily procured.

D.R.C. Dickson Lieut.

The accused does not demand the attendance of this witness for cross-examination.

FOURTH WITNESS

Miss Rosina Bird of 57 Whitton Dene, Hounslow; a written statement of this witness's evidence purporting to be signed by her has been read to the accused and is included in this Summary of Evidence and marked Appendix "C".

Having regard to the loss of time involved, the attendance of this witness cannot in my opinion be readily procured.

D.R.C. Dickson Lieut.

The accused does not demand the attendance of this witness for cross-examination.

FIFTH WITNESS

Lieut. D.R.C. Dickson, No. 1 Cdn. Admn. Tpt. Coy, R.C.A.S.C. an officer of the Canadian Army Overseas, having been duly sworn, states:

I produce Vehicle Work Ticket 12 for 2nd 18 Ledson CM 195420, Driver Pte. Grover A.E. for dates between 17 Oct 43 and 25 Oct 43 (Marked Exhibit "A")

The accused declines to cross-examine this witness.

D.R.C. Dickson Lieut.

GPT.

SIXTH WITNESS:

Major J. H. Cornell, No. 1 Cdn Admn. Unit Coy, R.C.A.S.C., an officer of the Canadian Army Overseas, having been duly sworn, states:

I produce a list of the estimated cost of Parts and labour to repair Ford Sedan CM 195425, damaged by accident of Vic on 26 Oct 43. As Officer in charge of Workshops of No. Cdn. Admn. Unit Coy, I certify that the estimated cost of repairs as submitted is correct, - £ 161-17-0. (Ex "B")

The accused declines to cross-examine this witness

J. H. Cornell Major

EXH.

The accused was cautioned as follows: "Do you wish to make any statement or to give evidence on oath? You are not obliged to say anything or give evidence, unless you wish to do so, but whatever you say or any evidence you may give, will be taken down in writing and may be given in evidence."

The accused elects to give evidence on oath.

A-9337 Pte. Drover, A. E., No. 1 Cdn. Admn. Tpt. Coy, R.C.A.S.C, a soldier of the Canadian Army Overseas, having been duly sworn, states as follows:

On the evening of 25 Oct 43, I took Ford sedan CM-195425 from its garage at the officers' mess of No. 1 Cdn. Admn. Tpt. Coy at approximately 1845 hrs. I had asked M-61558 Pte. Hayes, J. S. on the afternoon of the same day what he was doing that evening, and Pte. Hayes had told me his plans. I asked him if he would like to drive up to his appointment at Hounslow. Pte. Hayes agreed to this and we arrived at Hounslow Station, the meeting point, at approximately 1945 hrs. We met two young ladies, Miss Read and Miss Bird. We all discussed what we should do during the evening, and decided we should all go to a cinema [illegible].

Getting into the car, we started off in the direction of Oxford. I was driving along the road, when the air raid siren sounded at the outskirts of Hounslow. We all thought that we should return, so I turned the car around. Because the fog was so dense, I had to drive with my head out of the right hand window, and stop every so often to wipe off the wind shield and look at the sign Posts to discover where I was. I found that I was on the wrong road and lost.

The last sign Post stated that I was headed in the direction of High Wycombe, but on this particular road the fog was very thick. I turned on the fog lights which were reflected in the "Cats Eyes" on the road (these are designed to show up when your lights shine upon them) suddenly a lorry appeared in front of me. I attempted to turn hard to the right but my effort was not sufficient to miss the lorry which had no lights on. My vehicle

collided with the right side of the lorry and immediately came to a halt. I remember that I said "Get out Jack (Pte Hayes) and open the door to get me out." I was pinned behind the wheel of the car, because it was bent to the right and wedged against my stomach. Pte Hayes had been thrown on the floor in the back of the car. Having got out of the car, I found that I had pains in the right side and centre of my stomach. I helped Pte Read out of the car, and then turned to ask the driver of the lorry why his lights were not turned on, and why he had not parked off the road on the left hand side. I bent down to try to turn the front wheels of the car, and then lost consciousness. I can remember nothing until I arrived at Amersham Emergency Hospital and operated on.

I was not happy in my unit, No. 1 Cdn. Adm. Tpt. Coy. I had submitted two transfer forms to the Orderly Room, requesting my return to my former unit, 3 Cdn Infantry Bde. Coy, R.C.A.S.C., 1st Cdn. Div., I had trained with the latter unit. However, nothing came of my papers, and I became "fed up". I went absent without leave and took the vehicle mentioned before. I should still like to transfer to my field unit after serving any sentence imposed on me by Court Martial.

P.C.2 Grover

I certify that the foregoing summary of Evidence consisting of five pages was taken down by me in the presence and hearing of the accused, and that Rules of Procedure 4 (c), (D), (E), (F), and (G) have been complied with.

D.R.C. Bedson Lieut.

FARNBOROUGH, HANTS
10 Dec 43

GPO.

No A9337 Name GROVER, A.E. | Sqn, Battery or Company | Corps R.C.A.S.C. | Date of enlistment 15 Sep. 39 | Sheet No | Service or Proficiency Pay | MFM 6 (AFB 132) 40/P&S/138 (Drafts)

Date of last entry in Company Conduct Sheet | No and date of last drunk | Period not reckoning towards freedom from extra fine | OC Badges | Signature OC Company, etc | Character

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
				SIX MONTHS SERVICE - NO ENTRIES FROM PREVIOUS SHEET DESTROYED 16 MAR. 40.				Major R.J. Williams	Forfeits 1 dy pay FR&I 149 (1)a.
THIS SOLDIER COMPLETED H.Q.7th. Corps	20 Aug 40	Pte		Sec. 15(1) A.A. A.W.L. from 2359 hrs 20 Aug. 40 until 0700 hrs 21 Aug. 40.	CSM Wilde	Admonished		Major Ardag.	
Field	12 Apr 41	Pte		Sec. 40 A.A. Conduct to the prej. of good order and military discipline i.e. speeding & driving reckless in restricted area.	Cpl. Thorburn Cpl. Durkshire	Forfeits 6 days pay FR&I 149(2)		Major L.J. Perry	
Field	14 Jan 42	Pte		Sec. 40 A.A. Conduct to the prej. of good order and military discipline i.e. he did operate a M.D. Vehicle in reckless manner within camp area on a road rendered dangerous by snow & ice.	Sgt. Hall, W. Lt-Col., G.C. McArthur	3 days pay FR&I 149(2) 7 days C.B.			

(PTO)

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
				CERTIFIED TRUE COPY:					
				D.W.C. Gibson Lieut. & Records Officer					
				No. 1 Cdn. Adm. Tpt. Coy., R.C.A.S.C. C.A.(O)					
6 JAN. 44				OFFICER HAVING CUSTODY OF THE ORIGINAL DOCUMENTS.					

Description of Court by which tried, or status of Officer disposing of the charge or dispensing with Trial.	Date and place of Trial, or summary award, or of Order dispensing with Trial.	Charges upon which convicted, or in respect of which Trial was dispensed with.	Sentence of the Court or Authority disposing of the charge, or Order of the Dispensing Authority.	Punishment remitted.

I HEREBY CERTIFY that the foregoing Schedule of convictions and dispensations with trial is a true extract from the regimental books in my custody.

Signed this 6 day of January 1944

(D.H.C. Bedson) Lieut.& Records Offr.,
No.1 Cdn. Admn. Tpt. Coy.,
R.C.A.S.C. C.A. (O.)

Army Form B.296.

Statement as to Character and Particulars of Service of Accused.

A-9537 Pte. ALBERT EDWARD GROVER of the No.1 Cdn. Admn. Tpt. Coy., RCASC

1. The following is a fair and true summary of the entries in the ~~[illegible]~~ Regimental and ~~[illegible]~~ Company Conduct sheets[†] of the above accused, exclusive of convictions by a court martial or a civil court, of which particulars are given in the schedule, and of cases in which summary awards under Section 47 of the Army Act, and of cases in which trial has been dispensed with :—

	*Within last 12 months.	*Since Enlistment.
For A.W.L.	times 1	times
For Conduct to the Prej. etc. (reckless driving)	times 2	times
For	times	times
For	times	times

~~Number of instances of gallantry or distinguished conduct~~

~~There are no entries in the Conduct sheets of the accused.~~

2. The accused has not been previously convicted.

Previous convictions[†] of the accused by a court martial or a civil court, summary awards under Section 47 of the Army Act, and dispensations with trial under Section 73 of the Army Act, are set out in the Schedule annexed to this statement.

[†] Strike out words not applicable.

3. ~~The accused is not under sentence at the present time,~~

or, 2 AC.U

The accused at the present time is under sentence for
beginning on the day of

4. The accused has been in confinement, awaiting trial on the present charges

for Nil days in Civil Custody,

and 41 days under close arrest and 4 days under open arrest
~~days in Military Custody~~ 2 AC.U.

Total 45 days.

Of which 28 days were spent in hospital.

5. The present age of the accused according to his ~~xxxxxxxxxx~~ attestation paper 2 AC.U is 22.

6. The date of his ~~xxxxxxxxx~~ attestation specified in his ~~xxxxxxxxxxxxx~~ attestation paper 2 AC.U is 15 Sep 39

7. The service which the accused is allowed to reckon towards discharge or transfer to the reserve is 4 years, 3 months, 15 days (as of 30 Dec 43)

8. ~~The accused is entitled to deferred pay or gratuity in respect of~~
years' service.

9. The accused is entitled to reckon years' service for the purpose of determining his pension, &c.

10. The accused is in possession of, or entitled to, no military decoration or military reward [*or* is in possession of *or* entitled to

11. (*If the accused is a warrant officer.*) The accused before he was made a warrant officer last held the regimental rank of 2 AC.U]

12. (*In the case of an officer.*) The accused holds in the army the rank of
, dated , and in his regiment (*or* corps
or department) the rank of dated

13. The accused has served as a non-commissioned officer continuously, without reduction, to the present date,

		Date of Promotion
In the rank of	years,	
In the rank of	years,	
In the rank of	years,	

(INSTRUCTION.—*If any matter in any of the above paragraphs cannot be stated from the regimental books the paragraph must be struck through.*)

The above statement (with the schedule of convictions and of cases in which trial has been dispensed with) is read, marked , signed by the president, and annexed to the proceedings.

Schedule of Convictions by a Court Martial or Civil Court, of summary awards under Section 47 of the Army Act, and of Cases in which Trial has been dispensed with.

Army Number, Rank and Name of the

NOTE.—*A verbatim extract from the regimental books, stating these conditions and dispensations with trial, must be inserted.*

Description of Court by which tried, or status of officer disposing of the charge in dispensing with Trial	Date and place of Trial, or summary award, or of Order dispensing with Trial	Charges upon which convicted, or in respect of which Trial was dispensed with	Sentence of the Court or Authority disposing of the charge, or Order of the Dispensing Authority	Punishment remitted

(*Continued overleaf.*

RECORD FORM D—PROCEEDINGS ON PLEAS OF NOT GUILTY TO ALL CHARGES.

D1. President to accused: Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity to prepare your defence? Ans. Yes. Sir (1).
(1. If "yes", see RP 39(A) for procedure. Statement or evidence, if any, is recorded per Notes.)

D2. The Prosecutor makes ~~(an)~~ (no) opening address.(1)
(1. RP 39(B), 60(A) (B), 90, 92(C) (D). Record address per Notes, subject to RP 95(C).)

D3. The evidence for the Prosecution is taken.(1)
(1. RP 39(C), 114, KR Can 555. Record evidence per Notes. As to Prosecutor giving evidence himself see RP 39(D) (E).)

D4. The Prosecution is closed.(1) ~~The Defending Offr submits that the evidence for the Prosecution does not~~ establish a prima facie case against the accused on the ..... charge(s).(2) The Court is re-opened and the President announces that the submission is closed, and considers the submission.(3) The Court is disallowed on the ..... charge(s), and allowed on the ..... charge(s), and that, accordingly, the trial will proceed on the former, but the accused is (are) found Not Guilty on the latter charge(s).(4)
(1. Delete remainder of this para, if submission not made. 2. Arguments on submission, answer and reply are recorded per Notes. 3. RP 40 fn 1. See MML p 72 paras 12-14 and p 81 para 42. 4. Delete part not used. If accused acquitted on all charges, use second alternative in para D8.)
NB: If trial proceeds, accused must be allowed great latitude in making his defence, and the Court should not stop his defence solely on ground of irrelevance. (RP 60(C), 114, 115.)

D5. President to accused: You will now proceed with your defence.(1) You may, if you wish, give evidence yourself on oath as to the facts or your character or both, in which case you will be subject to cross-examination.(2) You may, however, make a statement without being sworn, and you will not be subject to cross-examination.(3) But a statement which could have been made on oath will not carry with the Court the same weight as sworn testimony.(4) You may call witnesses in your defence and as to character, whether you give evidence or make a statement or do neither.

President to accused: Do you wish to give evidence yourself as a witness, make a statement, or do neither?
Ans. No neither. Do you intend to call witnesses on your behalf?
Ans. No. Are they witnesses as to character only? Ans. ——.
(1. RP 114, 115, 116. 2. RP 40(A), see 80(D). 3. RP 40 fn 10. 4. RP 40 fns 2, 9.)

D6. Consequent on the answers recorded in para D5 the appropriate procedure for the defence is followed.(1)
(1. RP 114, 115, 116. For procedure see Notes on back of Convening Order, CF A95. Evidence for accused as to his character should, if in his interest, be given before the finding. See RP 46(A) fn 1, 86(C). Note the further opportunity in para E1 of Record Form E. Record per Notes addresses, statement, evidence and any summing up by the jk under RP 42, 103(e).)

D7. The Court is closed to consider the finding(s).(1) The finding(s) of the Court is (are) recorded in Part I of the Schedule.(2) The Court is re-opened.
(1. RP 42, 117(A). See Notes in Part I of Schedule. 2. RP 44(A).)

D8. The President ~~announces the finding(s), if any, of Not Guilty, and~~ states to the accused that the finding(s) of the Court on the ..... charge(s), being subject to confirmation, will be promulgated later.(1)
~~Or, The President announces that the accused is found Not Guilty on all charges and is to be released forthwith, and that the proceedings are accordingly terminated.~~ Part I of the Schedule is dated and signed.(2)
(1. AA 54(2) (6), RP 45, 120(A). 2. AA 54(2), RP 45, 117. This alternative announcement is not applicable where there are pleas of Guilty outstanding and dealt with under Record Form B or C.)

D9. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E below.

RECORD FORM E—PROCEEDINGS ON CONVICTION BEFORE SENTENCE.

E1. President to accused: Do you wish to give evidence yourself or to call any witnesses as to your character?(1)
Ans. No.
(1. If evidence has already been given by accused or his witnesses as to his character, delete this para. RP 37(C) fn 4, 46 fn 1. Accused and witnesses are sworn. Evidence recorded per Notes.)

E2. The Prosecutor produces Statement(s) as to Character and Particulars of Service(1), and certified true ~~copies~~ copy of Conduct Sheet(s)(2), purporting to refer to the accused, which he submits to the Defending Offr for examination, and then to the Court for admission in evidence. The Court is satisfied that these documents refer to the accused, because (i) they purport to be signed in the manner required by AA 163(l) (g) (h), and (ii) they purport to refer to (a) soldier(s) having the same number, rank, name and corps as the accused. Admitted in evidence and marked Ex. D and Ex. E respectively.(3)
(1. MFB 255 or MFB 296. 2. MFB 6. 3. RP 46, KR Can 551. If above documents not produced, see RP 46 fn 1 para 1.)

E3. President to accused: Do you wish to address the Court on the Statement(s) and Conduct Sheet(s), and in mitigation of punishment?(1) Ans. Yes.
(1. RP 37(C), 46(D). 2. Address, if any, recorded per Notes. Court should permit accused or his witnesses to prove on oath anything here or previously stated which would affect the amount of punishment. RP 37(F) fn 7.)

E4. The President states that the Court is closed to consider the sentence, and that the sentence to be awarded by the Court, being subject to confirmation, will not be announced, but will be promulgated later, and the proceedings in open court are accordingly terminated.(1)
(1. AA 54(6), RP 120(A).)

E5. The Court considers the sentence.(1) The President records the sentence in Part I of the Schedule, which is dated and signed by him ~~and the J.A., if any.~~(2)
(1. When several accused tried separately see RP 94(b). One sentence only, comprised of the punishments or punishments laid down in AA 41, 44 and its proviso, is to be awarded to cover all charges in all charge sheets on which accused found guilty. RP 48. As to sentences see AA 44, 130, 182, RP 46-50, 49, 118, 119(A), KR Can 308, 330, 563-566, Ordinances RO 209, 2323, MAML p 60, 757-759. As to sentences assigned for civil offences by the law of England see AA 41(5), MML p 130. When accused already under sentence of imprisonment or detention see AA 44(1)(b), 98(1), KR Can 564. 2. RP 50. As to release from arrest by Confirming Offr see KR Can 567. As to assembly and disposal of record after trial see instrs on back of Convening Order.)

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

SCHEDULE.

PART I. PLEA(S), FINDING(S) AND SENTENCE.

Accused: 49337 Pte Albert Edward GROVER, 1 Cdn Adm Tpt Coy RCASC

Charge. (Insert "alternative" where applicable.)	Plea. (See instrs p 2.)	Finding. (See note below.)	(Space for use as required for further charges, accused charged jointly, special findings, etc.)
1st Sec 40 AA	Not guilty	Guilty -	except that the damage occasioned was £36-16-0.
2nd			
3rd			
4th			
5th			
6th			

(Note: As to findings for lesser offences see AA 56, RP 44; findings on alternative charges see MML p 483 fn 4 para 2. RP 44; special findings see RP 44 and MML p 753, and as loss of rot see RP 44 fn 6.)

~~Not proved under sections for~~

(1. Insert sentence being served, or delete, if not applicable. See RP 46(A). Information should be found on MF 8355 or MF 8296.)

Time in confinement awaiting present trial—a total of 45 days, of which 28 days were spent in hospital (1)

(1. See RP 46(A) fn 2. Information should be found on MF 8355 or MF 8296 admitted in evidence under E2.)

Sentence Awarded by the Court:

To undergo detention for a period of nine months.
To be put under stoppages of Pay until he has made good
the sum of £30-4-0 (thirty pounds and four shillings) in
respect of damage to MD vehicle CM 195425.

A.D. Tweedie Lt-Col
(A.D. Tweedie) President

6 Jan 44
Date awarded

PART III. DECISION OF CONFIRMING OFFR ON FINDING(S) AND SENTENCE.

(For duties and powers see AA 54, 57, RP 37(D) fn 6.46(A), 51-56, 120, MML pp 759-761, KR Con 567-577. Suggestions require no confirmation and cannot be revised; AA 54(3). Sending back finding or sentence for revision by Court: AA 54(2), RP 120(G). If not confirmed, accused may be tried again; AA 154, MML p 64. Minute of confirmation or non-confirmation may be altered before promulgation; RP 53, MML p 65. Quashing after promulgation: KR Con 573. Duties and powers of reviewing offrs: AA 57, 57A, RP 53A, 54. The Confirming Offr must sign here personally. AA 172 fn 1.)

My decision on the finding(s) and sentence set forth in Part I is: Quashed, but I remit - 3 months detention and stoppages of Pay. The finding of the Court that the Compound £15-2-0 in lieu of £36-16-0 is not confirmed

(1. AA 57A. Delete if not used.)

(Sgd) J.W. Lobb Colonel
Confirming Officer

Date 11 Jan 44 G.O. Commanding

PART IV. PROMULGATED AND EXTRACTS TAKEN. (RP 53, KR Con 576, 577.)

Accused: A9337 Pte Albert Edward Grover Date 10 Jan 44 Signature of Offr. A Johnson

ALL DELETIONS AND ALTERATIONS WILL BE INITIALLED.

JJ-139

PTE GROVER ED.

Correspondence to be PINNED here.

F.G.C.M.. L-13418 Pte Grover, E.D.
1 CASCRU
BGHQ 5-6-2/243

JJ-139

Army Form A.8.

Form for Assembly and Proceedings of Field General Court Martial on Active Service.

PROCEEDINGS.

A.

On Active Service, this eleventh day of July, 1943. Order convening the Court.

Whereas it appears to me, the undersigned, an officer in Command of "B" Group Canadian Reinforcement Units, on active service, that the persons named in the annexed Schedule, being subject to Military Law, have committed the offences in the said Schedule mentioned,

And whereas I am of opinion that it is not practicable that such offences should be tried by an ordinary General Court Martial; *[and that it is not practicable to delay the trial for reference to superior authority];

*Omit where Convening Officer is a Commanding Officer or is of Field Rank.

I hereby convene a Field General Court Martial to try the said persons, and to consist of the Officers appointed or detailed hereunder.

*[I am unable to appoint :—
"[Three officers to form the Court
including a Field Officer as President
for the following reasons, namely,]

* Omit if not applicable.

Notes.—The President must be named. The members and waiting members (if any) may be mentioned by name, or the number and ranks and the unit to which they belong may alone be named. In the latter event, the ranks, names, &c., of the members of the court, as constituted, will be recorded on the proceedings.

President.

Rank.	Name.	Regiment.
Major	A.S. Pettapiece	H.Q. C.R.U.

Members.

Rank.	Name.	Regiment.
A Captain	from	1 CSRU
A Lieutenant	from	1 CERU

* Must be signed personally by the Officer actually in command at the time, and all alterations in the composition of the Court to be initialled by him.

*Signed E.D. Grover Lieut-Colonel
A/ Commanding "B" Gp Cdn Rft Units
Convening Officer.

Actg Adjt Pettapiece Maj'n

SCHEDULE.

Number, Rank (a), Name and Unit of Accused (b)	Offence charged	*Plea	Finding, and if Convicted, Sentence (c)	How dealt with by Confirming Officer (d)
L-13418 Pte GROVER, Edward, Dawson 1 C.A.S.C.R.U.	First Charge A.A. Sec 15(4)	Not Guilty	Guilty	Confirmed RR Dawe Brig 16 Jul 43
	Second Charge A.A. Sec 40 Alternative Charge	Not Guilty	Not Guilty	
	Third Charge A.A. Sec 40	Not Guilty	Guilty except the words "to the detriment of discipline" & a period of ninety (90) days. 19 Jul 43. AHP	
	See Attached Charge Sheet			

* Question to be asked of accused, if he pleads not guilty (R. of P. 39 (a)):—
"Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity for preparing your defence?"
Answer *(to be recorded on separate sheet if necessary)*:—

(Signed) H.R. Tyner (H.R. Tyner) Colonel
A/Commanding "B" Gp Cdn Rft Units
Convening Officer (e)

(Signed) Arthur L. Pettapiece Major
President.

(a) Appointment acting rank or acting appointment, if any, to be stated in brackets after the substantive rank.

(b) Unless unavoidable, not more than three names are to be entered on one form, and in serious cases one only.

(c) Recommendation to mercy, if any, to be inserted in this column.

(d) It is not necessary that the Confirming Officer should sign his name in this column. Initials are sufficient.

(e) Must be signed by the same Officer who signs on the first page, and all alterations in the first two columns of the Schedule to be initialled by him.

Evidence and Charge Sheets (if necessary) to be PINNED here.

B. Certificate of President as to proceedings.

I certify that the above Court assembled on the 13th day of July 1943, and duly tried the persons named in the Schedule, and that the plea, finding, and sentence in the case of each such person were as stated in the third and fourth columns of that Schedule.

I also certify that :—

1. The members of the Court
2. The witnesses
*(3. ~~The interpreter~~)
*(4. The officers under instruction)

were duly sworn. AHP

* Omit if not applicable.

Signed this 13th day of July 1943.

Arthur L. Pettapiece, Major
President of the Court Martial.

C. Certificate in case of death sentences. AHP

* See footnote (b) on page 782 M.M.L. 1929.

~~I certify that the terms of *A.C.I. 570 of 1918 have been complied with.~~

~~Signed this day of 19 .~~

~~*President of the Court Martial.*~~ AHP

D. Confirmation.

I have dealt with the findings and sentences in the manner stated in the last column of the Schedule, and, subject to what I have there stated, I hereby confirm the above findings and sentences.

~~*(I direct that the soldier named in the margin be not committed to prison or detention barrack until further orders.)~~ Pa.

* To be committed unless penal servitude, imprisonment or detention having been awarded, the Confirming Officer either has no authority to commit to prison or detention barrack, or, having such authority, recommends suspension.

Signed this 16 day of July 1943.

RR Dawe Brig
Confirming Officer.

Promulgated and extracts taken in the case of

(a) (Dated) 19 July 43 (Signed) RR Bannick Capt

Promulgated and extracts taken in the case of

(Dated) 20.175 21 July 43 (Signed) E.H. Fitzsimmons Lt.
Officer i/c Records
1 Cdn. A.S.C. Reinf. Unit

Promulgated and extracts taken in the case of

(Dated) (Signed)

(a) When several cases are promulgated in one unit on the same day the Officer need only sign once.

W.T. 47787/1667 50 M. 5/43 K.P.-52602 Gp. 098/1

CHARGE SHEET

The accused, L-127415 Pte. Edward Dawson GROVER, of 1 Cdn ASC Rft Unit, a soldier of the Cdn Army Overseas, when on active service, is charged with:

1st Charge Sec.15(1) A.A.

STEALING PROPERTY BELONGING TO A PERSON SUBJECT TO MILITARY LAW

in that he, at Farnborough, Hampshire, at approximately 2300 hrs 2 Jun 43 stole a radio set valued at £8-10-0, the property of Lt-Col. Walter C. Fletcher, of No.1 Cdn ASC Rft Unit, a person subject to Military Law.

2nd Charge Sec.40 A.A.

CONDUCT TO THE PREJUDICE OF GOOD ORDER AND MILITARY DISCIPLINE

in that he, at Thatcham, Berkshire, at approximately 0130 hours on the night of 2 Jun 43, was improperly in possession of a radio, the property of Lt-Col. Walter C. Fletcher of 1 Cdn A.S.C. Rft Unit.

Alternative Charge.

2nd Charge Sec.40 A.A.

CONDUCT TO THE PREJUDICE OF GOOD ORDER AND MILITARY DISCIPLINE

in that he, at Farnborough, Hampshire, on the night of 2 Jun 43, improperly and without authority was concerned in the taking and using of a Cdn. Military Vehicle No. CM-195107, thereby occasioning a loss to the public of £0-6-8½, the value of the petrol consumed.

(H.P. Bonnick) Lt-Col,
Comd., 2 Tyne Wing (A/T),
1 Cdn ASC Rft Unit.

Farnborough, Hampshire,
2 July 43.

To be tried by Field General Court Martial.

(H.R. Tyner) Colonel
A/Comd "B" Gp
Cdn Rft Units

In the Field,
11 Jul 43

Actg J. Adjt Capn/Maj
President

Medical Officers' Certificate.
R.R. (Can.) Para 557

I have this morning examined No. L.13418 Pte. Yeomans, Ed.;
and find him in my opinion he is fit to undergo
unfit
training.

Sgd. A. D. McDonald Capt
Arthur S. Lefaguer, Major (Medical Officer)

PROCEEDINGS OF A FIELD GENERAL COURT MARTIAL
HELD AT Reginia Barracks, Pampisford, Kent
ON THE 13th DAY OF July 1943

The accused. 4134191 Pte Lee, C.H. .....Unit. C.R.A.S.C. 44 Div.....

The order convening the Court and charge sheet are laid before the Court, who satisfied themselves as provided by Rs.P. 22 and 23.

The accused is brought before the Court.
The Medical Certificate is laid before the Court.
The order convening the Court is read by the President, and the accused having been asked, stated that he had no objection to the president or any member of the Court.
The Court is duly sworn.

The following constitute the Court:-

President. Maj. A.J. Nettyman ....Unit. H.Q. C.R.A.S.C. 44 Div....

Members. Capt. T. Keston .....Unit. 16 C.R.A.S.C. 44 Div.....

Lt. P.C. Fuller .....Unit. 16 C.R.A.S.C. 44 Div.....

Lt. T.A.C. Taylor 16 C.R.A.S.C. 44 Div.....

The officers under instruction are duly sworn:-

Lt. W.J.F. Morris ..Unit. 16 C.R.A.S.C. 44 Div.....

.....Unit.....

Prosecutor. W.O.C. Lindmer .....Unit. 16 C.R.A.S.C. 44 Div.....

Defending Officer. W/O C.H. Smith ...Unit. 16 C.R.A.S.C. 44 Div.....

The charge sheet is signed by the President and the accused is arraigned.
~~The accused pleads guilty to the charge(s) and R.P. 35(B)~~ N/A is complied with.
The accused does not desire to make a statement in reference to the charge(s). R.P. 37(B).
The Summary of Evidence is read.
The Prosecutor produces MFB 355, AFB 296 and MFM 6.
The Court complies with R.P. 46(B).

Pursuant to R.P. 37 THE ACCUSED:-

(a) Makes a statement in mitigation of punishment.
(b) Calls witnesses as to character.
(c) Calls witnesses in mitigation of punishment.
(d) Addresses the Court by his Defending Officer.

Overseas R.O. 3262 complied with.
The Court is closed to consider the sentence.

SUMMARY OF STATEMENT IN MITIGATION, CHARACTER EVIDENCE and ADDRESS ~~OF ACCUSED OR HIS DEFENDING OFFICER~~ N/A

The accused pleads "Not Guilty" to all the charges.

R.P. 39(A) is complied with.

The Prosecution proceeds to call witnesses.

1st Witness for Prosecution — No. 21 Sgt. Stott, D.C., of No. 1 Sig. Coy. being duly sworn, states.

On the night in question I returned to my room about mid-night & noted the code, Exhibit "C" was gone. It was there when I went out. I left Hilyer there when I went out. I left Hilyer there when I went out. I left Hilyer

Exhibit "C" which is the statement the accused made to me after caution.

Cross-examined.

The deposits of the cafe identified the accused as one of the soldiers who had been in the cafe. The accused had said that he was to stay at the camp, but did not want to tell this story to Lieut. Smith. He admitted that he had given different stories in connection with the matter.

Mr. Evans re-examined.

C 304.6 Pte Mr. Cracken, R. 1 C.A. & C.R.A. having been duly sworn, states.

On Oct 15th in question I met the accused at the Queens Hotel. I then with Pte Hemingway we the accused selling a radio which I was told to sell. Later we left. I went to the garage and Sam and Hemingway went on. I got to see from the C.R.A garage and picked up Hemingway. Then we went to Rhodes house and Sam got into the car with a radio wrapped in a blanket. On then eventually sold it at Corbyn's Cafe at Thetford. We got £5 for it. I gave Sam £1-10-0 & Sam and Hemingway and myself each got £1-15-0. Sam was present at the Queens when we discussed getting the car.

Cross-examined.

I do not remember anything in pig-latin at the Queens but I did use it at Corbyn's Cafe. I asked Hemingway approval in pig-latin as to the price of the radio. I did not want Sam to understand. I never told Sam that we got only £5. Sam did not have anything to do with the transaction after he got into the car. Sam did not handle any radio that was at the Queens. We agreed to split the money 3 ways. Sam did donate a radio to me which was of little use.

Re-examination Witness did not explain as to his whereabouts of the money. Exhibit "B" is the radio.

5th Witness for Prosecution D26133 Pte Dunlop, W. H. of C.G.A.S.C.A.U. being duly sworn, states

On the night in question, the accused, Mc Cracken and I discussed selling a radio set to Queen Hotel. We decided to try and get the money that way. Evans wanted us to sell after the night. We left the Barracks and Mc Cracken went to get the car and Evans and I went to Chisholm House. They returned & myself went to Queen & waited looking for his radio. He did not and it was at that time. Then we went back to Chisholm House. Then I went to meet Mc Cracken. Mc Cracken & I came back to the house and Evans got in the car with the radio. We sold the radio at Cully's Cafe. My evidence was read to radio at Cully's Cafe. My evidence was

P/- 15-2. Etc

Cross-examination

Does not remember telling pay-station to Mc Cracken at the Queen Hotel. Evans only said he had a radio Does not remember anything about a coat. Does not remember seeing a coat in Evans room. Evans and I went to Queen room to look for a radio.

The Prosecution is closed.

The Defence makes a submission under R.P. 40(1) for the dismissal of the 2nd charge.

The submission is dismissed.

R.P. 40 (7)(8) complied with.

1st Witness for Defence

I assumed having been duly sworn, testified. On the night in question I met McCracken & Humphrey at the Crown Hotel. The arrangement was that I should get a certain MQ&T radio and that we should all go together. I did not see Exhibit "A" at all. McCracken and Humphrey after seeing pictures at the Crown. Late Humphrey and myself looked in the window at Crowns quarter for the MQ&T radio. We could not find it. Later that evening Humphrey suggested we take Roy's Crown radio. I moved out to the Crown where Col. Tolputt was with Exhibit "A" when he was to have pulled it out of the rack and handed it down. I reached to light up and Humphrey got Exhibit "A" down. The two both left the room. Late Humphrey left the building and I did not see him for some time after when he and McCracken drove up in the car. I got into the car and the radio Exhibit "A" was in the back seat. I recognized it as Col. Tolputt's. We went to Carbo Cafe and I got $1-10-0 and $5 the deal. They told me that they had got only £4 for the radio. I never said that I had any radios. There was talk about at the Crown we bring them to me and that how if I may remember. I did not know McCracken went to get the car. I do not know why I got into the car except that they were both in the party. I did not see Exhibit "A".

Cross-examination

I gave a different story at McCracken's enquiry

because of what they said to me in the meeting. I do not remember discussing the price of the Cameras with anyone. I went to obtain a M.O.F. radio, not to obtain "X". I did not stop Channing buying from taking Exhibit "A". I did not stop Channing buying from taking Col Fletcher's radio because I am not empowered. Mc Cracken and Channing both asked me to jump into the car. I knew they were trying to sell the radio in the back of the car. I did not object. I took the many names I mentioned it. I did not object.

Re-examination I gave different stories to different people because Channing lied and Mc Cracken and Lieutenant were lying. I did not take the names for the radio. They told me if I did not take the names for the radio they would beat me up. I told Mr Cody that is what would happen. I did not want to assign criminal conspiracy. I did not want to assign criminal conspiracy — Lie and that I did not want to assign them. He said I asked to.

And Witness for Defence. D105586 Pte. Coyne, W.F. of O.C.R.C. being duly sworn, states.

On 8th June at about 2200 hrs I heard a scuffle going on in the floor above me. I think Col Fletcher's room.

3rd Witness for Defence Lt. J.S. Cody being duly sworn, states.

I took the testimony of Cruchon in the case of Mc Cracken. I remember the accused stating on that what he had said in the Mc Cracken and Channing case was not true and that he was afraid of being murdered by the other two if he had not lied. Later on we took Lie in camera. I had not lied. Later on we took Lie in camera. The accused was asked what he said was to be true. The accused was separated from the others and after we had taken the evidence

Sgt. Snyder
3rd Witness
for Prosecution

1471958 Sgt Snyder, J.C. 91st A.A.S.C. R.A.
Having been duly sworn, states:
On 15th of June the accused was put
in my care & custody. He was wounded on the 15th
of June for a summary punishment. They were together in
the Guard Room until after the 15th.

5th Witness
for Prosecution
(re-called)

Sayer (Assistant) the accused at any time use duress
or any argument with the three Pvts - regarding
their charges.

4th Witness
for Prosecution
(recalled)

Sawyer engaged the accused at any time, that we
should take certain blame for this. It was merely
suggested that the accused would be found guilty
of the charges, & should be found guilty of the
and pleading guilty of the each other.

The Defending Officer makes a closing address. (attached hereto)

The Prosecuting officer. (attached hereto)
The Court is closed for consideration of finding
The Court is re-opened and it is announced that the accused has
been found "Not Guilty" of the second charge.
Queens R.O. 526 2 is complied with.
The Prosecution submits the 1471355 and 1471706 of the accused.
The Defending Officer addresses the Court. (attached hereto).
Queens R.O. 526 2 is complied with.
The Court is closed for consideration of sentence

Arthur S. Pratt Lieut. Major

Prosecution's address

L-13418 US Brown B.P.

This is a case of two diametrically opposed stories. Brown in his evidence states that he saw Dannenberg in Gt Fletcher Road with the radio in question under his arm. The next time he saw the radio was in the car when McCracken and Dannenberg picked him up behind Blunden House. About the time of them went to Sunleys Café in Shaftesbury and the radio was sold for five pounds. Each one received £1-10-0 as his cut.

Dannenberg and McCracken state that Brown approached them at the Queens Hotel and stated he had a radio for sale. If it were sold that night each would get ⅓ of the proceeds. Then after discussing the question, the three left the Queens Hotel. McCracken departed to get a car. Dannenberg and Brown went to Queens Quarters to get the radio. It couldn't be found so the two returned to Brown's room. After a short interval, Dannenberg left to find McCracken. The two of them returned to Blunden House and Brown got into the car with the radio. Then the two stories tally. The three went to Sunleys Café at Shaftesbury and sold the radio. Each one obtained an equal share of the proceeds.

It appears to be a case of common intent. Brown states that the radio the three intended to take was not the particular radio in question but one belonging to N.A.A.F.I. and hidden at Queens Quarters. That doesn't make a particle of difference. The three of them decided to take a radio unlawfully, no matter which radio and as a consequence Gt Fletchers radio was stolen. If several persons combine together for an unlawful purpose, each is responsible for any offence committed by any one of them in furtherance of that purpose (Page 107 M.M.L.) Secondly, it is a rule of law where missing articles are private property and are found in the possession of another, there is a strong presumption that they were stolen especially if accused is discovered to have sold them. This is right on point. The onus now shifts from the prosecution to the defence to give this Court a reasonable explanation. I submit the defence has failed in this obligation and the accused is guilty of the first charge. All the evidence clears out this point - each receiving ⅓ of the proceeds of the sale, the sale taking place quite early that night, the radio being unemployed in a blanket etc.

In the alternative, if the Court deems that the prosecution has not satisfied the onus of proving intent (mens rea) then the Court is justified in finding the accused guilty on the second charge. I refer to page 73 M.M.L. The improper procedure rules there is no hardship if it is not an offence against the Comrade, but an offence against military rules, and may irrespective of any fraudulent intent be punishable under S 40. There is no question that the accused rode in possession of the radio at Shaftesbury and as to radio not legally entitled to [illegible] the first charge. I submit, therefore, if the Court [illegible]

Possession under S. 40

Now the third charge " improperly and without authority" was concerned in the taking and using of a Govt. Military Vehicle". The evidence clearly proves that Brewer knew McCracken had left to obtain a car. When the car did arrive, he did not hesitate, but upon being called went immediately into it and drove to Chatham. Both Dunenberg and McCracken testify that Brewer knew the car was being obtained. McCracken states he did take the car without authorization and as Brewer knew this he was an accomplice and guilty of the 3rd charge. I again refer to the doctrine of "Common intent" page 107 M.M.L.

K. Shankman Lieut
A.H.

Plea in Defence

R v. Grover. 13 Jul 43

1st charge - Stealing Radio - Dec 1943

the Court is confronted with two stories diametrically opposed - if it believes Mc Cracken & Dannyburg then Grover is guilty as charged and the second charge is dismissed. But if it believes Grover is telling the truth then he will be not guilty on this charge.

What corroboration is there for Grover's story?:

1. Mc + Dannyburg did go to Queens Pks to look for a radio in the coal bins

2. Dannyburg + Mc Cracken did talk in Prq latrine

3. Pte Payne did hear the thump of (~~the~~) a fall in Lt Col

I left his room about 1230 hrs
on 8 June 43
4. Both Ute Fracken and
Dannenberg did tell, at this
time, the story that Grover
had was arranged by
intimidation in the Guardroom.

2nd charge – Conduct improper
possession of radio (alternative)
Accused to not guilty as:
(a) If he did plead it, then
the prosecution has proven
no possession by Grover – all
3 agree to that.
(b) At 0130 hrs or night of 8-9
June the radio was at
that time being used and
Grover had nothing to do
with it then.

3rd charge Conduct - taking and using W D vehicle.

Accused had no part in the taking of the vehicle - this was admittedly done by Mc Cracken. He admits riding in the vehicle and knew that Dunnigan signed the worksheet. It is submitted that he is not guilty of taking and using the vehicle.

II

Plea in Mitigation:

1. Accused has a clear conduct sheet.
2. He has been in custody since 33 days
3. Sgt Collin admitted

not taking his statement as he did not think he was involved on 9 June 43.

4. Had it not been for Green the rods would not have been removed as there was no evidence against him.

5. He assisted the police in finding the rods and gave an early statement on 9 June 43.

6. It appears that the accused is easily led and that Dunnington and the Crichton were really the "brains" behind this offence.

HAMPSHIRE CONSTABULARY

PERSON'S STATEMENT.

This form will be used when a person desires a Police Officer to take down a statement he wishes to make

CAUTION
(To be read to person)

You are not obliged to say anything unless you wish to do so, but whatever you say will be taken down in writing and may be given in evidence.

CERTIFICATE.

I, Edward Dawson Grover , having been cautioned that I am not bound to say anything, and that what I say may be given in evidence, wish to make a statement, which I have asked P.R. Smith W.P. to write down for me.

Signature Grover E.D.

Date 10 June 1943 Time commenced 11-45 a.m.

I am a private soldier of the 1st CASCRU stationed at Blenheim Barracks. I am employed as a batman to Major Turner of my unit and live in the servants quarters of Blenheim Barracks. At about 8-20 pm on the 8th inst I left my quarters in company with L/Cpl Poff, and we both went to the Queen's Hotel. We remained there drinking until about 9-30 pm, when we were joined by Daningburg and McCracken. We all had a drink together and we all left the Queen's Hotel at closing time. On the way to Blenheim Officers Mess McCracken left us. In company with Daningburg, we went to my quarters. That would be at about 10-20 pm. I left Daningburg in my room whilst I went to attend to the blackout. On my return to my room Daningburg had left. I was then joined by L/Cpl Poff, who had with him two bottles of beer. We drank one bottle of beer, and then we both left the room and went downstairs. That would be at about 10-45 pm. Poff then left me and went to the mess kitchen. I was then joined by the batman on duty named Sam. Together we left the quarters and went in the direction of Queens Quarters. Later I returned to the mess and went in to the mess kitchen. About 10 minutes later a car driven by a Canadian soldier now known to me as McCracken drove up to the back of the mess at Blenheim Barracks. At that time I was standing by the mess kitchen window. Daningburg who was sat in the front of the car with McCracken called out to me and said "Jump in", which I did and I sat in the back of the car by myself. On the seat at the back of the car was a radio set covered over with an Army blanket. I recognized the set as the one I have seen in my room, and knew it to be the property of Col Fletcher. I made no comment to either Daningburg or McCracken about the Colonel's wireless being in the car. McCracken then drove away, and we went in the direction of Reading. Passing Reading we went to Jacks Cafe at Sonning. Arriving there we all got out of the car and went into the cafe, leaving the radio in the car. McCracken left Daningburg and myself, and he went up to the counter and spoke to the waiter. After a few moments he rejoined us, and Daningburg and McCracken got up and left me sitting at the table. McCracken then went out to see the proprietor of the cafe, by himself. He was gone about 5 minutes. He then returned to the cafe and asked several of the people in the cafe if they would like to buy a radio set. McCracken then said "Come on we will go to another cafe about 8 miles up the road. We then left the cafe and McCracken drove the car in the direction of Reading, and took the Newbury Road. When we arrived at a place called Theale we stopped and asked a policeman who was pushing a bike, where there was an all night cafe open. He directed us to Macs cafe at Thatcham. We went to this cafe and on arrival there

This statement has been read by me and is correct.
I have been allowed to make any corrections I wish.

over to me at my request,

Countersigned W.P. Smith Sgt 8

Signature of person making statement. Grover E.D.

there/

we all got out of the car and went into the cafe. McCracken spoke to a man at the counter. I did not hear what he said. Daningburg and myself stood by the fruit machine. McCracken and a lorry driver went out of the cafe leaving Daningburg and myself inside the cafe. Daningburg and myself went up to the counter and bought three cups of tea, and we then returned to the table. McCracken then left the cafe again with the lorry driver. We then heard music from a wireless set outside in the storeroom of the cafe. Daningburg then left me in the cafe alone, he going outside. Later both Daningburg and McCracken rejoined me at the table. McCracken said to the lorry driver "Don't worry it's not hot". Daningburg then went up to the counter and bought 3 cups of tea which he paid for with a pound note. We all left the cafe and Daningburg drove back to Farnborough. McCracken was sitting beside him on the front seat, and I sat at the back. I went to sleep and was awakened by them when we got back to the mess, at about 3-30 am. I did not receive any part of the proceeds of the sale of the wireless set, but I saw McCracken give a pound note to Daningburg as we sat at the table.

This statement has been read by me and is correct. I have been allowed to make any corrections I wish.

Grove F.D.

Signature of person making statement.

Countersigned W.T. Smith

This statement was taken down by me on the 10th Jun 43 (date) at Farnborough Police Station. (place) Time completed 12-45 pm

W.T. Smith

1st F.R.KI.

Signature and Rank of Officer taking the statement.

Received original statement by
L-13418 Pte Prowse E D in triplicate
for delivery to the adjt. 1 C.A.S.C. RU

A-67858 Pte Loupos D.C.
7 Jul 43
Pte Loupos D.C.

The accused was cautioned as follows: Do you wish to make any statement or to give evidence on Oath? You are not obliged to say anything or give evidence, unless you wish to do so, but whatever you say or any evidence you give will be taken down in writing and may be given in evidence.

The accused makes the following statement on Oath.

"On the evening of 8 Jun 43, at approximately 2000 hours, I went to the Queen's Hotel with L/Cpl. Poff where we sat down by the window s and had a few drinks. About 2130 hours Daningburg came over to me and asked me if I had any money and I told him No. He talked to me for a while. He asked me if Brown was in. Brown is Col. Fletcher's batman and I told him No, Then he went back to his table. I got up to get some more beer for me and L/Cpl. Poff and Daningburg called me over to his table and asked me to buy him a beer. I bought them a beer. After buying them the beer, I went back to L/Cpl. Poff and told him to drink up and I would try and get two more, as the bells had rung. I went back to Daningburg and McCracken's table and they asked me if I had anything to sell. I told them that Sam, Capt. Ryerson's batman, was supposed to have a radio to sell and that it was hidden in a coal bin in Queen's Quarters. Daningburg said "Lets go over and get it."

We then left the Queen's and started towards Blenheim House. McCracken left us here to go and get his car. Daningburg, Poff and I, stopped at Blenheim House to get some beer. Poff went to get the beer. Daningburg and I went to Queen's Quarters to look for the radio in the coal bins. We couldn't find the radio, so we returned to Blenheim House and went upstairs to my room. I left him in the room and went to put the black-outs up in Maj. Turner's room. Daningburg came in to Maj. Turner's room and said "Lets take this radio". I told him not to take the radio, so he stepped out the door and I finished putting the blackouts up. Daningburg was in Col. Fletcher's room. The door was open and I looked in and saw him over by the radio. He tore the wires on the radio loose. A light fell off the wall, and I walked in and picked it up and put it on the table. Daningburg went out and I came out behind him, closing the door. The radio was still in the room. We went back to my room, L/Cpl. Poff came in just after we got back. He had some beer with him. Daningburg went out. I drank a bottle of beer with L/Cpl. Poff. L/Cpl Poff and I went out together. He left me to go to the mess. I stayed talking to the cooks and Sam, the duty batman. After talking for a little while, McCracken's car came up behind Blenheim House, with Daningburg sitting in it. They opened the door and said "jump in". I got in the back and McCracken drove off. After leaving the yard, McCracken said, what will we do about the ticket, and Daningburg asked if he wanted him to sign it, which he did.

I lifted up the blanket on the back seat and saw a radio, which I recognized as Col. Fletcher's. This is the radio I see before me (Exhibit No. 3).

We stopped at a place in Sonning known as Jack's Cafe. McCracken went in and came out and then we all went in and had something to eat. McCracken tried to sell the radio here and couldn't. We went to a place which I now know as Curley's Cafe at Thatcham. I played the slot machine and McCracken went out with somebody and I later on came back in to talk to Daningburg. The fellow who was with him went up to the counter. McCracken and this chap went out again and I heard the radio playing.

McCracken came in and told Daningburg, I got rid of it alright for £4. We split the money three ways and after having some more tea, we then came home. I received £1-10-0.

The radio was discussed on the way to Blenheim House by the three of us, regarding the price and sharing of same."

(L-134188, Pte. Grover, E.H.)

Exhibit "C"

Witness
B.A. Calder

10.6.43.

I am Reg N° L13418. Pte Grover G.D.
I have been warned that I need not say anything unless I wish to do so. I know I have nothing to fear and and expect no favor and that anything I say will be taken down in writing and used as evidence. To show that I understand this I sign herewith.

G.D. Grover

I am a private soldier of the RCASC stationed at Bremerhaven Area. After 7am employed as a batman to Major Turner and him at the sergeants qtr. at the mess. At about 2020 hrs on 8th June 43 I left my quarters in company of L/Cpl Poff and we left next to the Queens Hotel: we remained there drinking until about 2130 hrs when we were joined by Hannigan and Mr. Bracken: we had a drink.

Sgt Cpl CMP

together and we all left the Queens Hotel together at closing time: that would be about 3200 hrs. We carried on with drinking in various pubs. I left Hannigan in my room whilst I went to attend to the lockout. On my return to the room Hannigan had left. I was then joined by L/Cpl Poff who had with him two bottles of Vin. I paid for the two bottles. We drank our bottle and then we left the room and went downstairs at about 3245 hrs. Poff then left me and went into the mess kitchen: I was then joined by the Latimer on duty named Sam. Together we left the mess and went in the direction of Queens Quarters later I returned to the mess and went into the mess kitchen. About 10 minutes later a car

was driven up by a Canadian soldier now known to me to be Mr Bracken to the back of the Officers Mess, Aberdeen Pier. At that time I was standing outside the Mess Kitchen window. Manageress who was sat in the front of the car with Mr Bracken called out to me and said "Jump in" which I did and I sat on the seat at the back of the car by myself. On the seat at the side of the car was a radio set covered over with an Army blanket. I lifted the blanket and recognised the set as the one I had seen in my room and which I knew to be the property of Sgt. Fletcher. I made no comment to either Mr Bracken or Mr Bracken about the set unless seeing it in the car. Mr Bracken then drove away and we went in the direction of Peterhead. Passing

Reading - we went on to "Jacks Cafe" at Sonning: we all got out of the car and went into the cafe leaving the wireless in the car. Mr Bracken left Brandy and myself and he went up to the counter and spoke to the waiter: after a few moments he rejoined us and Brandy leaving Mr Bracken walked away leaving us sitting at the table. Mr Bracken left the cafe to see the owner of the cafe: he was gone about 5 minutes. When he returned to the cafe and asked several people in the cafe if they wanted to buy a radio: getting no reply Mr Bracken said "Come on, we will go to another cafe about 8 miles up the road: we all left the cafe in the car and went in the direction of Reading and picked up the Newbury Road. Arriving at

a place called Theale we stopped a policeman who was pushing a bike and asked him where there was an all night cafe open: he directed us to Mac's Cafe at Calcham: we went to this cafe: we all got out of the car and went outside: McCracken went up and spoke to a man by the counter. I did not hear what McCracken said. Manningham and myself stood by the fruit machine inside the cafe: McCracken and a lorry driver then went out of the cafe leaving Manningham & myself inside the cafe. McCracken then returned to Manningham and myself went up to the counter, bought 3 cups of tea and returned to the table where Manningham and McCracken were sitting. McCracken again left the cafe with the lorry driver

We heard music from a wireless set outside in a storeroom of the café. Dawnglung then left us alone in the café and went outside. Both they left returned + rejoined us at the table. Mebroeken said to the lorry driver "Don't worry, it not hot". Mebroeken then sat at the table and handed Dawnglung a 5 note and Dawnglung went to the counter and brought 3 cups of tea with it and returned to the table. We then all left the café, Dawnglung driving back. Mebroeken was sitting beside him on the front seat. I was on the back seat. I must to sleep and was awaken'd by them when we got back to the officers mess at about 0330hrs. I did not receive any part of the proceeds of the radio sale. The radio

or thereabout was definately not
in the back of the car when we
took back.

I have read the above statement
it is correct and the truth +
I sign such herewith.

Yours &c.

A Cobb

SUMMARY OF EVIDENCE

L-13418 Pte. Grover, E.D.
Royal Canadian Army Service Corps.

Summary of Evidence in the case of L-13418, Pte. Grover, E.D., R.C.A.S.C. 1 Cdn. ASC Rft. Unit, a soldier of the Can. Army Overseas.

By order of Colonel J.R. Pocock, Commanding Officer, 1 Cdn. ASC Rft. Unit the Summary of Evidence is taken on oath.

First Witness for the Prosecution

Lieut-Col. W.C. Fletcher, Wing Commander, RCASC, 1 Cdn. ASC Rft. Unit, having been duly sworn states:

"I am a Lieutenant Colonel of the Cdn. forces stationed at Blenheim Barracks, and reside at Blenheim House, Blenheim Barracks, Farnborough, Hampshire.
On the 8th Jun 43 I left my quarters at about 7.45 P.M. to attend a meeting at Aldershot. When I left, the Ferguson Wireless set of which I had custody, was in its place in my room. On my return about midnight, I found that the wireless lead had been drawn away from the wall connection, and the wireless set removed from the room. Next morning at about 8 a.m. I notified the Police. I did not give permission to any person to take the set away. The set can be identified by two beer stains on the top of the set. I value the set at £8-10-0d". The set is the property of C-X11481 Pte. A.. Findley and was left in my custody for safe keeping.

The accused declines to cross examine this witness.

W.C. Fletcher
(W.C. Fletcher) Lt-col.,
1 Cdn. ASC Rft. Unit.

2nd Witness for the Prosecution

William Frederick Smith - P.C., Hampshire Constabulary, Farnborough.

I hereby certify that the attendance of the second witness owing to the expense and loss of time involved is not readily procurable and a written statement made by the accused and taken down by said witness has been read to the accused and is attached hereto.

A.S. Shenkman
(A.S. Shenkman) Lieut.
1 Cdn. ASC Rft. Unit.

I do not require the attendance of the second witness for the prosecution for the purpose of cross examination.

Grover E.D.
L-13418 Pte. Grover, E.D.

3rd Witness for the Prosecution

P-76940, Sgt. Collis, A.H., D.A.P.M.'s Office, Hants., Cdn Rft. Units, having been duly sworn states:

"As a result of a complaint I spoke to the accused at approximately 0030 hrs. 9 Jun 43 but did not warn him as I did not at that time have reason to believe he would be placed in arrest or charged. As a result of that conversation he accompanied me and Constable Smith of Farnborough Police and others to Corner Cafe - Guiltycop - North Road - Thatcham Parks. (locally known as "Curley's Cafe"), and which place the accused pointed out as the Cafe where the radio had beendisposed of. As the result of a talk between Sgt. Walker of Thatcham police and C.A.C. Goodall, the Cafe proprietor, Mr. Goodall produced the radio, from the rear of his building. This radio was identified by the accused as the one which had been in Col. Fletcher's room and which he knew to be the property of Col. Fletcher.

3rd Witness for the Prosecution

(Continued)

On 10 Jun 43 I again saw the accused who was not in custody and carefully warned him and he gave me a statement which is produced (Exhibit) consisting of seven pages from my note book. This statement was taken in Constable Smith's presence."

"A R Collis"

(F-78049 Sgt. Collis, A.R.)

I hereby certify that the attendance of the 3rd witness for the prosecution owing to the loss of time involved is not readily procurable and the witnesses evidence has been read over to the accused.

A C Shankman
(L.C. Shankman) Lieut.
1 Cdn. ASC Mft. Unit.

I do not require the attendance of the 3rd witness for cross examination.

Grover E.D.
L-13418 Pte. Grover E.D.

4th Witness for the Prosecution

C-30616, Pte. McCracken, K., R.C.A.S.C. on strength of 1 Cdn. ASC Mft. Unit and attached for all purposes to Hdqts. Can. Mft. Units, having been duly sworn states:-

"On the evening of 8 Jun 43, accompanied by Pte. Daningburg, I entered the Lounge Bar in the Queens' Hotel between 2030 hrs. and 2100 hrs. We sat down and had a few drinks, Daningburg saw the accused, whom I now recognize, at another table and went over to speak to him. Daningburg returned to our table and asked me if I would like to make a few pounds. I said "Yes" "How do I have to do it?" He then told me Grover had a radio he would like to sell. Grover came to our table and I then spoke to him about the radio asking him what kind of radio it was and how much he expected to get. Grover told me that he paid £15 for the radio and said that the radio was a table model set and that he would be satisfied with whatever price Daningburg thought was right. And if it was sold the same night the money would be split three ways. I agreed to get a car and help sell the radio for this share.

We left the Queen's Hotel at closing time accompanied by L/Col. Poff, who joined us at this time, and proceeded about 60 yards along Duke of Connaught Rd, where I left to go to the garage at R.A.S.C.

I took the car assigned to me and Daningburg came to meet me and I drove from the garage to the back of Blenheim House. Daningburg was sitting beside me.

When I came to Blenheim House, I saw Pte. Grover standing near the window with something wrapped in a blanket. I stopped and he got in the back with the parcel, which I later knew to be the radio. I drove from there to Canning, where we all went into the cafe. I asked the proprietor, Jack, and was told that he had gone to bed. One of the men in the cafe showed me where he lived and I called him, asking if he would care to buy the radio. Jack said it was too late and he didn't care to trouble. I returned to the cafe where I attempted to sell the radio to anyone interested I was told that I could probably sell the radio at "Carley's Cafe" at Thatcham. We started for Thatcham and stopped along the way to ask the policemen if he knew where Carley's Cafe was. He directed me there.

4th Witness for the Prosecution (Continued)

On arrival we all went in. I approached a truck driver, and asked him if he cared to buy a radio. He said he would have a look at it and we went out to the car. He took the radio to the store room and I returned to the cafe. Later I joined him again outside, and he asked my price. I told him £9. He asked me to come into the back when the radio was being tested and where I met another lorry driver, whom I now know as Atkinson. After talking for a while he made me an offer of £5. We went outside where I asked Deningburg if the offer was O.K. and he said yes, and I then accepted the offer.

We returned to the cafe. I gave Deningburg £1 and he went to the counter to buy three cups of tea. When he came back, we decided to flip coins, odd man taking the short end, and Grover lost. I then gave Deningburg 15/0 and Grover £1-10-0 and I kept £1-10-0 for myself. We then went out to the car, and started back to Camp, and arriving there I let Grover out on Lynchford Rd. near Blenheim House."

The accused declines to cross examine the witness

C-36416 Pte. MacGregor, D.

5th Witness for the Prosecution

D-26135, Pte. Deningburg, D.E. of 1 Cdn. ASC Sft Unit, having been duly sworn st states:

"On the evening of 8 Jun 43, about 2030 hours I went to the Queen's Hotel with Pte. McCracken. After sitting at a table and having a few drinks, I was approached by Pte. Grover, who had a radio for sale. We talked about the radio, Pte. McCracken and myself were to receive 1/3 of the amount received, each. We were led to believe that the radio was the personal property of Pte. Grover.

At closing time of the Queen's Hotel we all left. McCracken headed for C.R.C. Garage for his car and Pte. Grover and myself, along with a third party, L/Cpl. Roff, went to Blenheim House. L/Cpl. Roff went to get some beer. Grover and I went to Grover's room. The L/Cpl. returned with the beer and I opened one bottle, while Grover looked for some glasses. I did not drink any of the beer, but left to see what was keeping McCracken. I met McCracken at R.C., C.R.C. Garage and waited for a few minutes for him to bring his car, out. We returned to Blenheim House, McCracken driving where we saw Pte. Grover standing in the rear. He got in the car with what he said was a radio wrapped in an Army blanket. The radio shown to me is the one (Exhibit A).

We proceeded from there in the direction of Reading and first we stopped at Sonning, at a place called Jack's Cafe. Pte. McCracken tried to sell the radio there, but was unsuccessful. We then left for Curley's Cafe at Thatcham.

On reaching there we all went in and McCracken finally sold the radio to a lorry driver. The money was divided between us. I received £1-15-0 and I don't know what the others got. On leaving Curley's Cafe we started back for Farnborough and dropped Pte. Grover at the back of Blenheim House."

The accused declines to cross examine the witness.

D-26135 Pte. Deningburg, D.E.

6th Witness for the Prosecution — Frederick James Atkinson, of 42 Crenham Road, Bermondsey, London, S.E. 16.

7th Witness for the Prosecution — Louis Arthur Cress Woodall, Proprietor of the Corner House Cafe, Thatcham Berks.

6th & 7th Witness for the Prosecution (Continued)

I hereby certify that the attendance of the 6th and 7th witnesses owing to the expense and loss of time involved are not readily procurable and written statements made by them have been read to the accused and attached hereto.

L.C. Shankman
(L.C. Shankman) Lieut.
1 Cdn. ASC Rft.Unit.

I do not require the attendance of the sixth and seventh witnesses for the purpose of cross examination.

L-13418, Pte. Grover, E.D.

The accused was cautioned as follows: "Do you wish to make any statement or to give evidence on Oath?" You are not obliged to say anything or give evidence, unless you wish to do,so, but whatever you say or any evidence you give will be taken down in writing and may be given in evidence.

The accused makes the following statement on Oath.

"On the evening of 8 Jun 43, at approximately 2000 hrs. I went to the Queen's Hotel with L/Cpl. Poff where we sat down by the windows and had a few drinks. About 2130 hrs. Daningburg came over to me and asked me if I had any money and I told him No. He talked to me for a while. He asked me if Brown was in. Brown is Cpl. Fletcher's batman and I told him No. Then he went back to his table. I got up to get some more beer for me and L/Cpl. Poff and Daningburg called me over to his tableand asked me to buy him a beer. I bought them a beer. After buying them the beer, I went back to L/Cpl. Poff and told him to drink up and I would try and get two more, as the bellax had rung. I went back to Daningburg and McCracken's table and they asked me if I had anything to sell. I told them that Sam, Capt.Ryerson's batman, was supposed to have a radio to sell and that it was hidden in a coal bin in Queen's Quarters. Daningburg said "Lets go over and get it.".

We then left the Queen's and started towards Blenheim House. McCracken left us here to go and get his car. Daningburg, Poff and I, stopped at Blenheim House to get some beer. Poff went to get the beer. Daningburg and I went to Queen's Quarters to look for the radio in the coal bins. We couldn't find the radio, so we returned to Blenheim House and went upstairs to my room. I left him in the room and went to put the black-outs up in Maj. Turner's room. Daningburg came in to Maj. Turner's room and said "Lets take this radio". I told him not to take the radio, so he stepped out the door and I finished putting the blackouts up. Daningburg was in Cpl. Fletcher's room. The door was open and I looked in and saw him over by the radio. He tore the wires on the radio loose. A light fell off the wall, and I walked in and picked it up and put it on the table. Daningburg went out and I came out behind him, closing the door. The radio was still in the room. We went back to my room, L/Cpl. Poff came in just after we got back. We had some beer with him. Daningburg went out. I drank a bottle of beer with L/Cpl. Poff. L/Cpl. Poff and I went out together. We left me to go to the mess. I stayed talking to the cooks and Sam, the duty batmen. After talking for a little while, McCracken's car came up behind Blenheim House, with Daningburg sitting in the back and McCracken drove off. After leaving the yard, McCracken said, what will we do about the ticket, and Daningburg asked if he wanted him to sign it, which he did.

STATEMENT of L-13418, Pte. Grover, E.D. (Continued)

I lifted up the blanket on the back seat and saw a radio, which I recognized as Col. Fletcher's. This is the radio I see before me (Exhibit A)

We stopped at a place in Sonning known as Jack's Cafe. McCracken went in and came out and then we all went in and had something to eat. McCracken tried to sell the radio here and couldn't. We went to a place which I now know as Curley's Cafe, at Thatcham. I played the slot machine and McCracken went out with somebody and later on came back in to talk to Wokingburg. The fellow who was with him went up to the counter. McCracken and this chap went out again and I heard the radio playing. McCracken came in and told Wokingburg, I got rid of it alright for £4. We split the money three ways and after having some more tea, we then came home. I received £1-10-0.

The radio was discussed on the way to Blenheim House by thethree of us, regarding the price and sharing of same.".

Grover E.D.
L-13418, Pte. Grover, E.D.
1 Cdn. ASC Pte. Unit.

I certify that the foregoing summary of evidence consisting of Five pages was taken down by me in the presence and hearing of the accused, and that Rules of Procedure 4(c), (d), (e), (f) and (g) have been complied with.

L.C. Shankman
(L.C. Shankman) Lieut.
1 Cdn. ASC Pte. Unit.

Farnborough, Hampshire
7 July 45.

In accordance with Rule 14(B) of R.C.F. the following is a statement by the accused requesting an officer to defend him at his trial by Court Martial.

"I respectfully request that, Major L. Smith, of 1 Cdn. ASC Rft. Unit be detailed to represent me at my forthcoming trial by Field General Court Martial.

L-13418, Pte. Grover, E.D.
1 Cdn. ASC Rft. Unit.

EXHIBITS

A - Radio Property of Lt.-Col. W.C. Fletcher,
B - Confession of the accused.
C - Statement of Frederick James Atkinson
D - Statement of Louis Arthur Cree Goodall.

WITNESSES FOR THE PROSECUTION

1.- Lt-Col. W.C. Fletcher, Wing Commander, 1 Cdn. ASC Rft. Unit.
2.- William Frederick Smith - P.C., Hampshire Constabulary, Farnborough, Hants.
3.- F-76940, Sgt. Collis, A.R. D.A.P.M. [illegible] Office, H&Qts. Can. Rft. Units.
4.- C-30418 Pte. McCracken, A. 1 Cdn. ASC Rft. Unit, Attached for all purposes to H.Q. Cdn. Rft. Units.
5.- D-26135, Pte. Denisburg, D.-.
1 Cdn. ASC Rft. Unit.
6.- Frederick James Atkinson, 42 Crosham Rd. Bermondsey, London, S.E. 16.
7.- Louis Arthur Cree Goodall, Corner house Cafe, Thatcham Berkshire.

WITNESSES FOR THE DEFENCE

NIL.

APPENDIX "A"

Statement of Louis Arthur Crew Goodall re Pte. McCracken.

"I am a heavy goods transport caterer, and the proprietor of the Corner House Cafe, Thatcham, Berks.

At approximately 1-45 a.m. on Wednesday 9th June 1943 my cafe was entered by three Canadian soldiers who called for three cups of tea. I served them and they all sat down at one of the tables and drank them. The tall fair one spoke to some of the lorry drivers who were in the Cafe. One of the boys employed on the lorries came up to the counter and asked me if I wanted to buy a wireless set, as one of the Canadian soldiers had one to sell. I replied "Definitely No as I already had two sets". The soldier then went out of the cafe with the boy and a lorry driver named Atkinson who works for a firm named Pye (Counties) Limited of Bermondsey, London. The fair soldier and Atkinson then went into my scullery with my permission to try the set. After they had tried the set by plugging in to the wall connection they went out and Atkinson came back into the cafe with the set under his arm. He said to me "Will you look after this wireless set for me until I come back tonight?" I took the set from him and placed it in my store room by the side of my own set where I went and got it from, and handed it over to the Police. I don't know how much Atkinson paid for the set. At 10-30 p.m. on the 10th instant I attended an identification parade at Blenheim Barracks Farnborough where I picked out Daningburg as one of the three men who entered my cafe when the wireless set was sold".

Signed. L.A.C. Goodall

certified true Copy
J. F. Cody Lieut

HAMPSHIRE CONSTABULARY

PERSON'S STATEMENT.

This form will be used when a person desires a Police Officer to take down a statement he wishes to make

CAUTION
(To be read to person)

You are not obliged to say anything unless you wish to do so, but whatever you say will be taken down in writing and may be given in evidence.

CERTIFICATE.

I, Edward Dawson Grover , having been cautioned that I am not bound to say anything, and that what I say may be given in evidence, wish to make a statement, which I have asked P.R. Smith W.P. to write down for me.

Grover ED

Signature

Date 10 June 1945 Time commenced 11-45 a.m.

I am a private soldier of the 1st CASCRU stationed at Blenheim Barracks. I am employed as a batman to Major Turner of my unit and live in the servants quarters of Blenheim Barracks. At about 8-20 pm on the 8th inst I left my quarters in company with L/Cpl Poff, and we both went to the Queen's Hotel. We remained there drinking until about 9-30 pm, when we were joined by Daningburg and McCracken. We all had a drink together and we all left the Queen's Hotel at closing time. On the way to Blenheim Officers Mess McCracken left us. In company with Daningburg, we went to my quarters. That would be at about 10-20 pm. I left Daningburg in my room whilst I went to attend to the blackout. On my return to my room Daningburg had left. I was then joined by L/Cpl Poff, who had with him two bottles of beer. We drank one bottle of beer, and then we both left the room and went downstairs. That would be at about 10-45 pm. Poff then left me and went to the mess kitchen. I was then joined by the batman on duty named Sam. Together we left the quarters and went in the direction of Queens Quarters. Later I returned to the mess and went in to the mess kitchen. About 10 minutes later a car driven by a Canadian soldier now known to me as McCracken drove up to the back of the mess at Blenheim Barracks. At that time I was standing by the mess kitchen window. Daningburg who was sat in the front of the car with McCracken called out to me and said "Jump in", which I did and I sat in the back of the car by myself. On the seat at the back of the car was a radio set covered over with an Army blanket. I recognized the set as the one I have seen in my room, and knew it to be the property of Col Fletcher. I made no comment to either Daningburg or McCracken about the Colonel's wireless being in the car. McCracken then drove away, and we went in the direction of Reading. Passing Reading we went to Jacks Cafe at Sonning. Arriving there we all got out of the car and went into the cafe, leaving the radio in the car. McCracken left Daningburg and myself, and he went up to the counter and spoke to the waiter. After a few moments he rejoined us, and Daningburg and McCracken got up and left me sitting at the table. McCracken then went out to see the proprietor of the cafe, by himself. He was gone about 5 minutes. He then returned to the cafe and asked several of the people in the cafe if they would like to buy a radio set. McCracken then said "Come on we will go to another cafe about 8 miles up the road. We then left the cafe and McCracken drove the car in the direction of Reading, and took the Maidenhead Road. When we arrived at a place called Theale we stopped and asked a policeman who was pushing a bike, where there was an all night cafe open. He directed us to Maos cafe at Thatcham. We went to this cafe and on arrival there

This statement has been read by me and is correct.

I have been allowed to make any corrections I wish.

Grover ED

Signature of person making statement.

Countersigned W.P. Smith

APPENDIX "B"

Statement of Frederick James Atkinson re Pte. McCracken.

"I have been cautioned and make the following statement quite voluntarily. I am a lorry driver employed by Messrs. Pye Ltd., of Cranham Road, Bermondsey. On the night of the 8th instant, I was driving a lorry from London to Bristol. At about 1.30 a.m. on the 9th instant, I stopped at "Curley's Cafe", Thatcham. Whilst I was in the cafe having my supper, three Canadian soldiers came in. They spoke to another lorry driver and he went outside with them. The driver came in and told me that they had a wireless set for sale, the set was brought into the cafe and was tried out and it worked alright. Three of us wanted to buy it. The soldiers were asking £9 for it. We decided that that was too much for it and I offered them £5 and they decided to let me have it for that amount. I then paid £5 to a tall thin fellow with a dark moustache. I had no receipt for the money. I asked Mr. Goodall if I could leave the set there until the evening of the 9th as I did not want to take it to Bristol and then bring it back again in case it got damaged. Mr. Goodall took charge of the set. The soldiers also had some rugs or blankets for sale but I was not interested in them. I did not think that it was Government property or otherwise I would not have bought it."

Signed. F.J. Atkinson

Certified true copy
[illegible]

M.F.M. 6
(A.F.B. 122)
40/P & S/136 (2637)

No. L/13418 Name Grover, E.D. Sqn., Battery, or Company — Corps R.C.A.S.C. Date of enlistment 18-5-42 G.C. Badges — Service or Proficiency Pay N/A

Date of last entry in Company Conduct Sheet N/A — No. and date of last drunk N/A — Period not reckoning towards freedom from extra fine N/A — Sheet No. 1 — Signature G.C. Company, etc. J.E. Rutledge, Lt. — Character

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order directing trial	By whom awarded	Remarks
				"Sheet destroyed 18-11-42. Last entry 5-7-42; nil cases of drunkenness"					

CERTIFIED TRUE COPY
Officer i/c Records
No. 1 A.B.O. Reinf. Unit.

HAMPSHIRE CONSTABULARY

PERSON'S STATEMENT.

This form will be used when a person desires a Police Officer to take down a statement he wishes to make

CAUTION
(To be read to person)

You are not obliged to say anything unless you wish to do so, but whatever you say will be taken down in writing and may be given in evidence.

CERTIFICATE.

I, Edward Dawson Grover , having been cautioned that I am not bound to say anything, and that what I say may be given in evidence, wish to make a statement, which I have asked P.R. Smith W.P. to write down for me.

Grover ED

Signature

Date 10 June 1943 Time commenced 11-45 a.m.

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This statement has been read by me and is correct.
over to me at my request,
I have been allowed to make any corrections I wish.

Grover ED

Countersigned W.P. Smith

Signature of person making statement.

there/

we all got out of the car and went into the cafe. McCracken spoke to a man at the counter. I did not hear what he said. Daningburg and myself stood by the fruit machine. McCracken and a lorry driver went out of the cafe leaving Daningburg and myself inside the cafe. Daningburg and myself went up to the counter and bought three cups of tea, and we then returned to the table. McCracken then left the cafe again with the lorry driver. We then heard music from a wireless set outside in the storeroom of the cafe. Daningburg then left me in the cafe alone, he going outside. Later both Daningburg and McCracken rejoined me at the table. McCracken said to the lorry driver "Don't worry it's not hot". Daningburg then went up to the counter and bought 3 cups of tea which he paid for with a pound note. We all left the cafe and Daningburg drove back to Farnborough. McCracken was sitting beside him on the front seat, and I sat at the back. I went to sleep and was awakened by them when we got back to the mess, at about 3-30 am. I did not receive any part of the proceeds of the sale of the wireless set, but I saw McCracken give a pound note to Daningburg as we sat at the table.

This statement has been read by me and is correct. I have been allowed to make any corrections I wish.

Grover L.D.

Signature of person making statement.

Countersigned W.H. Smith

This statement was taken down by me on the 10th Jun 43 (date) at Farnborough Police Station. (place) Time completed 12-45 pm

W.H. Smith

Signature and Rank of Officer taking the statement

1st P.S. KI.

APPENDIX "B"

Statement of Frederick James Atkinson re Pte. McCracken.

"I have been cautioned and make the following statement quite voluntarily. I am a lorry driver employed by Messrs. Pye Ltd., of Cranham Road, Bermondsey. On the night of the 8th instant, I was driving a lorry from London to Bristol. At about 1.30 a.m. on the 9th instant, I stopped at "Curley's Cafe", Thatcham. Whilst I was in the cafe having my supper, three Canadian soldiers came in. They spoke to another lorry driver and he went outside with them. The driver came in and told me that they had a wireless set for sale, the set was brought into the cafe and was tried out and it worked alright. Three of us wanted to buy it. The soldiers were asking £9 for it. We decided that that was too much for it and I offered them £5 and they decided to let me have it for that amount. I then paid £5 to a tall thin fellow with a dark moustache. I had no receipt for the money. I asked Mr. Goodall if I could leave the set there until the evening of the 9th as I did not want to take it to Bristol and then bring it back again in case it got damaged. Mr. Goodall took charge of the set. The soldiers also had some rugs or blankets for sale but I was not interested in them. I did not think that it was Government property or otherwise I would not have bought it."

Signed. F.J. Atkinson

certified true Copy
J P Cody Lieut

No. L/13418 Name Grover, E.D. Sqn., Battery, or Company

Corps R.C.A.S.C.

Date of last entry in Company Conduct Sheet: N/A

No. and date of last drunk: N/A

Period not reckoning towards freedom from extra fine: N/A

Date of enlistment: 18-5-42 G.C.

Sheet No. 1

Badges

Signature O.C. Company, etc.: J.R. Rutledge, Lt.

Service or Proficiency Pay: N/A

Character

M.F.M. 6

(A.F.B. 122) 40/F & S/138 (2637)

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order directing trial	By whom awarded	Remarks
"Sheet destroyed 18-11-42. Last entry 5-7-42; nil cases of drunkenness"									

CERTIFIED TRUE COPY

Officer i/c Records

No. 1 Can. A.S.C. Reinf. Unit.

(P.T.O.)

M.F.B. 488
21M—5-41 (572-3)
H.Q. 1772-99-620
A.F.B. 296

STATEMENT AS TO CHARACTER AND PARTICULARS OF SERVICE OF ACCUSED

Number	Rank	Name	Regiment (or unit)
L-13418	Pte.	Grover, E.D.	1 Cdn. ASC Rft. Unit

1. The following is a fair and true summary of the entries in the Regimental Service and General Conduct sheets of the accused, exclusive of convictions by a Court-Martial or a Civil Court, of summary awards under Section 47 of the Army Act and of cases in which trial has been dispensed with.

	Within last 12 months	Since enlistment or appointment
Nil	times	Nil times
For	times	times
For	times	times
For	times	times
For	times	times

Number of instances of gallantry or distinguished conduct Nil

or,

There are no entries in the conduct sheets of the accused.

NOTE.—If the charge is for drunkenness, the entries for drunkenness must be stated separately.

2. The accused has not been previously convicted

or,

3. The accused is not under sentence at the present time.

or,

beginning on the

4. The accused has been in confinement awaiting trial on the present charge, for 0 days in civil custody, and 33 days in military custody, making a total of 33 days in custody, of which 0 days were spent in hospital.

5. The present age of the accused according to his attestation paper is 34

6. The date of his attestation specified in his attestation paper is 18 May 42.

7. The service which the accused is allowed to reckon towards discharge is 1 year, 1 month and three days

8. The accused is entitled to reckon 37 months 3 days service for the purpose of determining his pension, etc.

9. The accused is in possession of or entitled to no military decoration or reward. or is in possession of or entitled to). State any military

10.

the regimental rank of

11. (In the case of an officer.) The accused holds in the Royal Canadian Air Force the rank of Permanent Force unit

dated , and in his regiment (or corps), the rank of

dated .

12. The accused has served as a non-commissioned officer continuously, without reduction, to the present date:— Date of promotion.

In the rank of years.

In the rank of years.

In the rank of years.

NOTE.—If any matter in any of the above paragraphs cannot be stated from the Regimental books, the paragraph must be struck through.

SCHEDULE

Of convictions by a court-martial or civil court, of summary awards under Section 47 of the Army Air Force Act, and of cases in which trial has been dispensed with of accused, Number Rank Unit Name of Regiment

NOTE.—A verbatim extract from the regimental books stating these convictions and dispensations with trial must be inserted.

Description of Court by which tried	Date and Place of Trial	Charge upon which convicted	Sentence of the Court	Punishment Remitted

Officer i/c Records,
1 Cdn. ASC Flt. Unit.

I hereby certify that the foregoing schedule of convictions and dispensations with trial is a true extract from the regimental books in my custody.

Signed this 13th day of July 1943.

The above statement (with the schedule of convictions and of cases in which trial has been dispensed with) is read, marked signed by the president, and annexed to the proceedings.

3 m - 145

The Grower, F.R.

RECORDED AT CMHQ IN AB 160. 5M-145.

FIELD GENERAL COURT-MARTIAL

CPA 856 (To be used for APMS 40 W & M 1/40)

4/3865

Convened by Order of Brig J S H LIND DSO Comd 3 CDBRG dated 21 JUN 45

ACCUSED.

(As to the trial of two or more charged jointly see RP 16, 71, 109. As to reasons for shewing (a) permanent or confirmed and (b) apparent, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

Number.	(a) Prmnt R. (b) Appmt, A/R or A/Appmt.	Full Christian Name.	Surname.	Unit.
A 55128	Pte	Frank Russell	GROVER	(X 4 List CIC) att 1 Cdn Discipline Centre

PROCEEDINGS REVIEWED

29 Jul 45

REVIEWING OFFICER, JAG BRANCH, CMHQ

PROCEEDINGS OF TRIAL.

Held in the Fd in ~~country~~ BELGIUM on ~~date(s)~~ 25 JUN 45

RECORD FORM A—OPENING PROCEEDINGS AND ARRAIGNMENT.

A1. The President, Members, ~~waiting Members, J.A. if any, and Offrs under instr, if any,~~ assemble, and the Court is closed.

(PRINTED MATTER, NOT IN ITALICS FOR GUIDANCE, WILL BE DELETED, IF NOT USED OR APPLICABLE, AND INITIALLED BY PRES OR J.A. This Schedule referred to throughout is on p 4. Citations do NOT include all relevant fmn RQs. For guidance on procedure when a variation in this form arises, see forms for GCM in MML pp 741 to 759. A brief record of such variation will be made and given a number having reference to appropriate or preceding para number herein. See back of Convening Order, CF A95, for leaflet and instrs on how to record addresses, evidence, etc, which insers are hereafter called "Notes". As to general provisions for conducting the trial see AA 53, RP 56, 63-70, 73, 74, 94, 103, 119, 122.)

A2. The President initials and lays before the Court the Convening Order and Charge Sheet (~~is~~) attached thereto.(1) The Court is satisfied that it is properly convened and constituted(2), accused is (~~are~~) amenable to military law, and each charge discloses an offence.(3)

(1. As to use of Summary of Evidence see RP 17 fn 6. 2. AA 49, 50, RP 105-107. 3. RP 11-13, 23, 24.)

A3. The Court is opened. The accused is (~~are~~) brought before the Court. At 1400 hours trial commences.

A4. The Prosecutor produces a Medical Certificate that accused is (~~are~~) fit to undergo trial by court-martial.(1) ~~The Prosecutor informs the Court that accused elected to be tried by court-martial instead of being dealt with summarily by the CO (2).~~

(1. KR Can 557. 2. AA 46(B), RP 60 fn 1. For effect see KR Can 563(c). Delete, if not applicable.

~~A5. President to accused: Do you object to no interpreter? Ans~~

~~The Interpreter is sworn.(1) Do you object to no shorthand writer? Ans~~

~~The shorthand writer is sworn.(1)~~

(1. RP 72. Delete, if none employed.)

A6. The Convening Order and names of the President and Members of the Court are read to the accused.(1) President to accused: Do you object to be tried by me as President or by any of the Members of the Court? Ans NO (2)

(1. RP 110. 2. If no objection, waiting member recites. RP 60(B). If objection, see procedure AA 51, RP 25, 71, 18, MML p 742.)

A7. The President, Members, ~~J.A. if any, and Offrs under instr, if any,~~ are sworn.(1) The following are the ranks, names and units of the offrs comprising the Court, etc:

President	Major	P A BAILLARGEON		Cdn C M Centre
Member	Capt	E B VAN DINE	RCASC	Cdn C M Centre
Member	Capt	K AUER	RCA	Cdn C M Centre
~~Judge Advocate~~				
Prosecutor	CAPT	Lt. VARTY	Lord Strathcona Horse (RC)	Cdn C M Centre
Defending Offr	CAPT	ARM DALE	RCA	Cdn C M Centre

Questions by President: Is the Prosecutor a lawyer? Ans NO Is the Defending Offr a lawyer? Ans NO (2)

(1. RP 26, 27, 109, 111. List of offrs under instr will be returned separately with proceedings for information of Conv Offr.)
(2. If Pros a lawyer and Def Offr not, accused is entitled to an adjournment when RP 89 (B) and fn 2 were not followed. See DI p 3.)

A8. The accused A 55126 Pte GROVER F R before arraignment make(s) (no) (~~or~~) plea (2)

(1. If a special plea is made for separate trial on one or more charges (RP 62(E), 108), or as to the jurisdiction of the Court (RP 34, 35(A), 148), or in bar of trial (RP 36), or as to accused's mental fitness to stand trial (AA 130, RP 57), or by one of several accused charged jointly to be tried separately (RP 16, 71), such plea, the addresses made in support or against, the evidence, if any, and finding are recorded per Notes. For forms of record see references in fns to RoP cited. Insert in AB rank and name of the accused making the plea.)

A9. The accused is (~~are~~) arraigned ~~separately~~ on all charges in the charge sheet.(1) The accused does (~~do~~) not object to any charge.(2) There is no amendment to be made to the Charge Sheet.(3) The President records the pleas in Part I of the Schedule.

(1. RP 31, 112. See para 1 of instrs p 2. When more than one Charge Sheet see RP 62; when several accused to be tried separately see RP 71(C), and use separate copies of CF A96 to record proceedings. 2. RP 32, RP 33. If otherwise, delete and make appropriate record per Notes.)

A10. The Court ~~is closed and~~ considers the Instrs on Procedure after Arraignment at top of p 2. The proceedings are continued on Record Form D

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

24 6 3CBRG 46-1-102 1 HS Inc.

4

SCHEDULE.

PART I. PLEA(S), FINDING(S) AND SENTENCE.

Frank Russell GROVER (X4 List CIC) att 1 Cdn Discipline Centre

	where	Plea. (See Instrs p 2.)	Finding. (See note below.)	(Space for use as required for further charges, accused charged jointly, special findings, etc.)
1st	A. 15 (1)	NOT GUILTY	NOT GUILTY	
2nd				
3rd				
4th				
5th				
6th				

(Note: As to findings for lesser offences see AA 56, RP 44; findings on alternative charges see MML p 483 fn 4 para 2, RP 44; special findings see RP 44 and MML p 753, and in lieu of list see RP 44 fn 6.)

~~At present under sentence for: beginning on (date) (1)~~

(1. Insert sentence being served, or delete, if not applicable. See RP 46(A). Information should be found on MF B355 or AF B296.)

~~Time in confinement awaiting present trial—a total of days, of which days were spent in hospital.(1)~~

(1. See RP 46(A) fn 2. Information should be found on MF B355 or AF B296 admitted in evidence under E2.)

Sentence Awarded by the Court:

ACQUITTAL

~~(Sgd) Judge Advocate, if any.~~ 26 JUNE 45 Date awarded. (Sgd) P Baillargeon President. (RP 45, 50) Major

(See back of Convening Order as to assembly and disposal of record after trial.)

PART II. MINUTE WHERE CONFIRMATION RESERVED. (AA 54(5), RP 120(F), MML p 760.)

Date (Sgd) Commanding

PART III. DECISION OF CONFIRMING OFFR ON FINDING(S) AND SENTENCE.

(For duties and powers see AA 54, 57, RP 37(D) fn 6.46(A), 51-56, 120, MML pp 759-761, KR Can 567-577. Acquittals require no confirmation and cannot be revised: AA 54(3). Sending back finding or sentence for revision by Court: AA 54(2), RP 120(G). If not confirmed, accused may be tried again: AA 157, MML p 64. Minute of confirmation or non-confirmation may be altered before promulgation: RP 53, MML p 65. Quashing after promulgation: KR Can 573. Duties and powers of reviewing offrs: AA 57, 57A, RP 53A, 54. The Confirming Offr must sign here personally. AA 172 fn 1.)

My decision on the finding(s) and sentence set forth in Part I is:

Quashed

I ~~direct that the accused be not committed to prison or detention barracks until further orders.~~ (1) (1. AA 57A. Delete if not used.)

(Sgd) D. Lind Brig

Date 28 Jun 45 Commanding 3 Cdn Inf Bde Gp Confirming Officer.

PART IV. PROMULGATED AND EXTRACTS TAKEN. (RP 53, KR Can 576, 577.)

Accused.	Date.	Signature of Offr.

ALL DELETIONS AND ALTERATIONS WILL BE INITIALLED.

SCHEDULE.

PART I. PLEA(S), FINDING(S) AND SENTENCE.

Accused : A 55128 Pte Frank Russell GROVER (X4 List CIC) att 1 Cdn Discipline Centre

Charge. (Insert "alternative" where applicable.)	Plea. (See Instrs p 2.)	Finding. (See note below.)	(Space for use as required for further charges, accused charged jointly, special findings, etc.)
1st AA 15(1)	NOT GUILTY	NOT GUILTY	
2nd			
3rd			
4th			
5th			
6th			

(Note : As to findings for lesser offences see AA 56, RP 44 ; findings on alternative charges see MML p 463 fn 4 para 2, RP 44 ; special findings see RP 44 and MML p 753, and as to loss of kit see RP 44 fn 3.)

~~At present under sentence from~~ ~~beginning on (date)~~ (1)

(1. Insert sentence being served, or delete, if not applicable. See RP 46(A). Information should be found on MF B355 or AF B296.)

~~Time in confinement awaiting present trial : a total of days, of which days were spent in hospital~~ (1)

(1. See RP 46(A) fn 2. Information should be found on MF B355 or AF B296 admitted in evidence under E2.)

Sentence Awarded by the Court :

ACQUITTAL

~~(Hard)~~ ~~Judge Advocate, if any~~

26 June 45 (Sgd) F A Baillargeon President. (RP 45, 50.)

Date awarded.

Major

(See back of Convening Order as to assembly and disposal of record after trial.)

PART II. MINUTE WHERE CONFIRMATION RESERVED. (AA 54(5), RP 120(F), MML p 760.)

Date (Sgd) Commanding

PART III. DECISION OF CONFIRMING OFFR ON FINDING(S) AND SENTENCE.

(For duties and powers see AA 54, 57, RP 37(D) fn 6.46(A), 51-56, 120, MML pp 759-761, KR Con 567-577. Acquittals require no confirmation and cannot be revised : AA 54(7). Sending back finding or sentence for revision by Court : AA 54(2), RP 120(G). If not confirmed, accused may be tried again : AA 157, MML p 64. Minute of confirmation or non-confirmation may be altered before promulgation : RP 53, MML p 65. Quashing after promulgation : KR Con 573. Duties and powers of reviewing offrs : AA 57, 57A, INF 53A, 54. The Confirming Offr must sign here personally. AA 172 fn 1.)

My decision on the finding(s) and sentence set forth in Part I is :

I ~~direct that the accused be not committed to prison or detention barracks until further orders~~ (1). (1. AA 57A. Delete if not used.)

(Sgd)

Date 28 June 45 Commanding 3 Can Base Sub Group Confirming Officer.

PART IV. PROMULGATED AND EXTRACTS TAKEN. (RP 53, KR Con 570, 577.)

Accused. Date. Signature of Offr.

ALL DELETIONS AND ALTERATIONS WILL BE INITIALLED.

RECORDED AT CMHQ IN AB 160. 5M-145.

FIELD GENERAL COURT-MARTIAL

CPA66 (To Issue of APA21 40/P & S/1943) (1000) 4/38B

Convened by Order of Brig J S H LIND DSO Comd 3 CBRG dated 21 JUN 45

9 JUL 1945 JAG Directorate C.M.H.Q.

ACCUSED.

(Refer to the trial of two or more charged jointly see RP 16, 71, 109. As to reasons for ~~not approving~~ (a) terminent or confirmed and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Con 308, 328, 332.)

Number.	(a) Prmnt R. (b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
A 55128	Pte	Frank Russell	GROVER	(X 4 List CIC) att 1 Cdn Discipline Centre

PROCEEDINGS REVIEWED 29 Jun 45 [illegible] Hunter Capt. REVIEWING OFFICER, JAG BRANCH, C.M.H.Q.

PROCEEDINGS OF TRIAL.

Held in the Fd in ~~(country)~~ BELGIUM on ~~(date(s))~~ 26 JUN 45

RECORD FORM A—OPENING PROCEEDINGS AND ARRAIGNMENT.

A1. The President, Members, ~~waiting Member, JA, if any, and Offrs under instr, if any~~ assemble, and the Court is closed.

(PRINTED MATTER, NOT IN ITALICS FOR GUIDANCE, WILL BE DELETED, IF NOT USED OR APPLICABLE, AND INITIALLED BY PRES OR JA. The Schedule referred to throughout is on p 4. Questions do NOT include all relevant Instr ROs. For guidance on procedure when a variation in this form occurs, see form for GCM in MML pp 745 to 749. A brief record of such variation will be made and given a number having reference to appropriate or preceding para number herein. See back of Convening Order, CF 893, for oaths and instrs on how to record addresses, evidence, etc, which insert are hereafter called "Notes". As to general provisions for conducting the trial see AA 53, RP 56, 63-70, 73, 74, 94, 103, 119, 132.)

A2. The President initials and lays before the Court the Convening Order and Charge Sheet(s) attached thereto.(1) The Court is satisfied that it is properly convened and constituted(2), accused is (are) amenable to military law, and each charge discloses an offence.(3)

(1. As to use of Summary of Evidence see RP 17 fn 6. 2. AA 49, 50, RP 105-107. 3. RP 11-13, 23, 24.)

A3. The Court is opened. The accused is (are) brought before the Court. At 1400 hours trial commences.

A4. The Prosecutor produces a Medical Certificate that accused is (are) fit to undergo trial by court-martial.(1) ~~The Prosecutor informs the Court that accused elected to be tried by court-martial instead of being dealt with summarily by the CO (Pr)~~

(1. KR Con 557. 2. AA 46(B), RP 60 fn 1. For effect see KR Con 563(c). Delete, if not applicable.)

~~A5. President to accused : Do you object to an interpreter ? Ans~~

~~The Interpreter is sworn.(1) Do you object to an shorthand writer ? Ans~~

~~The shorthand writer is sworn.(1)~~

(1. RP 72. Delete, if none employed.)

A6. The Convening Order and names of the President and Members of the Court are read to the accused.(1)

President to accused : Do you object to be tried by me as President or by any of the Members of the Court ?

Ans NO Sir (1)

(1. RP 110. 2. If no objection, waiting member retires. RP 68(B). If objection, see procedure AA 51, RP 25, 71, 72, MML p 742.)

A7. The President, Members, ~~Jde if any, and Offrs under instr, if any,~~ are sworn.(1) The following are the ranks, names and units of the offrs composing the Court, etc :

President	Major	F A BAILLARGEON		Cdn C M Centre
Member	Capt	E B VAN DINE	RCASC	Cdn C M Centre
Member	Capt	K AUER	RCA	Cdn C M Centre
~~Judge Advocate~~				
Prosecutor	CAPT	J.M. VERTY	Lord Strathcona's Horse	Cdn C M Centre
Defending Offr	CAPT	A.R.M. DALE	RCA.	Cdn C M Centre

Questions by President : Is the Prosecutor a lawyer ? Ans NO Is the Defending Offr a lawyer ? Ans NO (1)

(1. RP 26, 27, 109, 111. List of offrs under instr will be returned separately with proceedings for information of Conv Offr.)

2. If Pros a lawyer and Def Offr not, accused is entitled to an adjournment where RP 89 (B) and fn 2 were not followed. See DI p 2.)

A8. The accused A 55128 Pte GROVER F R before arraignment make(s) (no) ~~(one)~~ plea (1)

(1. If a special plea is made for separate trial on one or more charges (RP 62(E), 102), or as to the jurisdiction of the Court (RP 34, 35(A), 110), or in bar of trial (RP 36), or as to accused's mental Fitness to stand trial (AA 130, RP 37), or to one of several accused charged jointly to be tried separately (RP 16, 71), such plea, the submissions made in support or against, the evidence, if any, and finding are recorded per Notes. For forms of record see references in fns to Rule cited. Insert in AB rank and name of the accused making the plea.)

A9. The accused is (are) arraigned (separately) on all charges in the charge sheet.(1) The accused does (does) not object to any charge.(2) There is no amendment to be made to the Charge Sheet.(3) The President records the pleas in Part I of the Schedule.

(1. RP 31, 112. See para 1 of Instrs p 2. When more than one Charge Sheet see RP 62 ; when several accused to be tried separately see RP 71(C), and use separate copies of CF 893 to record proceedings. 2. RP 32, RP 33. If otherwise, delete and make appropriate record per Notes.)

A10. The Court (~~is cleared and~~) considers the Instrs on Procedure after Arraignment at top of p 2. The proceedings are continued on Record Form D

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

FA B JCBKG AR.M. DALE I MS Jcc

INSTRUCTIONS ON PROCEDURE AFTER ARRAIGNMENT.

1. *The accused may not plead or be found Guilty on more than one of two or more charges laid in the alternative.* (RP 37(A).) *As to withdrawal of alternative charges by Prosecutor see RP 35(C). No other charge can be withdrawn for any reason without authy from Convening Offr. If Convening Offr concurs, Court may accept plea of Guilty to lesser, ete, offence.* (RP 44(H).) *Accused may change a plea of Not Guilty to Guilty during trial.* (RP 38.) *As to refusing to plead or not pleading intelligibly see RP 35(A). As to plea when sentence may be death see RP 35(D).*

2. *The proceedings on each charge sheet* (RP 62) *after arraignment will be conducted as follows in the respective circumstances stated:*

I. *If pleas to all charges are GUILTY, use Record Form B below.*

II. *If pleas to all charges are NOT GUILTY, use Record Form D on p 3.*

III. *If pleas to some charges are GUILTY and to other charges are NOT GUILTY and,*

(a) *Such mixed pleas occur when there are no alternative charges in the Charge Sheet, use Record Form C below.* (RP 37(A).)

(b) *Such mixed pleas occur in a set of two or more charges laid in the alternative, see RP 37 (A) and fn 2 as to discretion of Court, (i) to try the accused on all such alternative charges as if he had pleaded Not Guilty thereto, or, (ii) to record the pleas as the findings of Court. After deciding between (i) and (ii), Court will proceed under foregoing instrs as may be appropriate to result of its decision. See M M L p 744 Instrs* (2).

3. *As to responsibility of President to accused see RP 59, 60(C); powers and duties of JA see RP 103; duty of Prosecutor see RP 60(A) (ii); duty and privileges of accused and Defending Offr see RP 60(C), 87(C), 91, 92; swearing and withdrawal of witnesses from Court see RP 81, 82; questioning of accused see RP 80, 87(C), 92(E), and of witnesses see RP 83-85; calling or re-calling of witnesses by Court, etc, see RP 75-79, 86, 116; use of Summary of Evidence at Trial see RP 17(E) fn 6; and responsibility of JA or Pres to record proceedings see RP 94, 96.*

RECORD FORM B—PROCEEDINGS ON PLEAS OF GUILTY TO ALL CHARGES.

B1. The President or JA, if any, complies with RP 35(B) by explaining to the accused the nature and meaning of the charge(s)(1), and that on his plea of Guilty there will be no regular trial but merely a consideration of the sentence to be awarded after he has been given an opportunity to make a statement in reference to the charge(s), call witnesses as to character and make an address in mitigation of punishment.(2)
(1. *RP 35 fn 3.* 2. *MML p 54 para 47.*)

B2. President to accused: The Court will now receive any statement you desire to make in reference to the charge(s).(1) If it appears from your statement that there are circumstances which indicate that you do not understand the effect of the plea of Guilty(2), or which show provocation or extenuation in respect of which in your interest the witnesses for the Prosecution should be examined(3), we shall advise you to change your plea to Not Guilty. In making a statement you will not be sworn or subject to cross-examination, and anything you say will not be used in evidence against you after you change your plea. If, however, it appears to the Court that your statement affects only the amount of punishment to which you are liable, you will not be advised to change your plea and you will be given an opportunity later to prove your statement by sworn testimony, if you so desire.(4)

President to accused: Do you wish to make a statement ? Ans.....(5)
(1. *RP 37(B).* 2. *RP 37(D) fn 6.* 3. *RP 35(B) fn 3, para 3, MML p 54 para 47.* 4. *See para E3 of Record Form E.* 5. *Statement, if any, recorded per Notes.*)

B3. The Court considers the accused's statement.(1) The Court decides (not) to advise accused to change his (their) plea(s) of Guilty to Not Guilty on.....charge(s). The accused is (are) so informed, and he (they) change(s) his (their) plea(s) on.....charge(s). Part I of the Schedule is amended accordingly.
(1. *Court may be cleared to consider the statement. Delete whole or part not used.*)

B4. On the charge(s) to which the plea(s) of Guilty is (are) not changed the President records finding(s) of Guilty in Part I of the Schedule.(1)
(1. *RP 35(B). If any plea(s) is (are) changed, use Record Form C or D as appropriate.*)

B5. The Summary of Evidence is marked Ex....., initialled and read aloud by the President.(1)
(1. *If there is no Summary, or if it is inadequate, comply with RP 37(B). If there is any evidence inconsistent with any plea standing as Guilty, Court will advise accused to change such plea and, if changed to Not Guilty, try such charge(s) by use of paras D1 to D8 inclusive of Record Form D on p 3.* RP 37(D).)

B6. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

RECORD FORM C—PROCEEDINGS ON MIXED PLEAS OF GUILTY AND NOT GUILTY.

C1. As to the charges on which accused pleaded NOT GUILTY the trial is continued by using paras D1 to D8 inclusive of Record Form D on p 3 before proceeding with C 2.(1)
(1. *RP 37(A) (ii).*)

C2. The charges on which accused pleaded GUILTY are read to him (them) again, and the trial is continued by using paras B1 to B5 of Record Form B above.(1)
(1. *Under B5 such parts only of the Summary of Evidence are read as relate to the charges dealt with under C2. If any plea is changed to Not Guilty, trial thereof proceeds by complying with paras D1 to D8 inclusive in Record Form D on p 3 and making an appropriate record thereof on a separate sheet.*)

C3. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

RECORD FORM D—PROCEEDINGS ON PLEAS OF NOT GUILTY TO ALL CHARGES.

D1. President to accused: Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity to prepare your defence ? Ans. NO SIR (1)
(1. *If "yes", see RP 39(A) for procedure. Statement or evidence, if any, is recorded per Notes.*)

D2. The Prosecutor makes (an) (no) opening address.(1)
(1. *RP 39(B), 60(A) (B), 90, 92(C) (D). Record address per Notes, subject to RP 95(C).*)

D3. The evidence for the Prosecution is taken.(1)
(1. *RP 39(C), 114, KR Can 555. Record evidence per Notes. As to Prosecutor giving evidence himself see RP 39(D) (E).*)

D4. The Prosecution is closed.(1) The Defending Offr submits that the evidence for the Prosecution does not establish a prima facie case against the accused on the FIRST charge(s).(2) The Court is closed, and considers the submission.(3) The Court is re-opened, and the President announces that the submission is disallowed on the FIRST charge(s), and allowed on the.....charge(s), and that, accordingly, the trial will proceed on the former; but the accused is (are) found Not Guilty on the latter charge(s).(4) ~~charge(s), and that, accordingly, the trial will proceed on the former; but the accused is (are) found Not Guilty on the latter charge(s).(4)~~ ~~ACCORDINGLY~~
(1. *Delete remainder of this para, if submission not made.* 2. *Arguments on submission, answer and reply are recorded per Notes.* 3. *RP 40 fn 1. See MML p 72 paras 12-14 and p 81 para 42.* 4. *Delete parts not used. If accused acquitted on all charges use second alternative in para D8.*)

D5. President to accused: You will now proceed with your defence.(1) You may, if you wish, give evidence yourself on oath as to the facts or your character or both, in which case you will be subject to cross-examination.(2) You may, however, make a statement without being sworn, and you will not be subject to cross-examination.(3) But a statement which could have been made on oath will not carry with the Court the same weight as sworn testimony.(4) You may call witnesses in your defence and as to character, whether you give evidence or make a statement or do neither.

President to accused: Do you wish to give evidence yourself as a witness, make a statement, or do neither ?
Ans. MAKE A STATEMENT. Do you intend to call witnesses on your behalf ?
Ans. YES SIR. Are they witnesses as to character only ? Ans. NO SIR.
(1. *RP 115.* 2. *RP 40(A), see 80(2).* 3. *RP 40 fn 10.* 4. *RP 40 fns 2, 9.*)

D6. Consequent on the answers recorded in para D5 the appropriate procedure for the defence is followed.(1)
(1. *RP 114, 115, 116. For procedure see Notes on back of Convening Order, CF A95. Evidence for accused as to his character should, if in his interest, be given before the finding. See RP 46(A) fn 1, 86(C). Note the further opportunity in para E1 of Record Form E. Record per Notes addresses, statement, evidence and any summing up by the JA under RP 42, 103(e).*)

D7. The Court is closed to consider the finding(s).(1) The finding(s) of the Court is (are) recorded in Part I of the Schedule.(2) The Court is re-opened.
(1. *RP 43, 117(A). See Notes in Para 1 of Schedule.* 2. *RP 44(A).*)

~~D8. The President announces the finding(s), if any, of Not Guilty, and states to the accused that the finding(s) of the Court on the.....charge(s), being subject to confirmation, will be promulgated later on.~~

D8. The President announces that the accused is found Not Guilty on all charges and is to be released forthwith, and that the proceedings are accordingly terminated. Part I of the Schedule is dated and signed.(1)
(1. *AA 54(3), RP 45, 120(A).* 2. *AA 54(3), RP 45, 117. The alternative announcement is not applicable when there are pleas of Guilty outstanding and dealt with under Record Form B or C.*)

D9. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E below.

RECORD FORM E—PROCEEDINGS ON CONVICTION BEFORE SENTENCE.

E1. President to accused: Do you wish to give evidence yourself or to call any witnesses as to your character ?(1)
Ans.....
(1. *If evidence has already been given by accused or his witnesses as to his character, delete this para. RP 37(C) fn 4, 46 fn 1. Accused and witnesses are sworn. Evidence recorded per Notes.*)

E2. The Prosecutor produces Statement(s) as to Character and Particulars of Service(1), and certified true copy (copies) of Conduct Sheet(s)(2), purporting to refer to the accused, which he submits to the Defending Offr for examination, and then to the Court for admission in evidence. The Court is satisfied that these documents refer to the accused, because (i) they purport to be signed in the manner required by AA 163(2) (g) (h), and (ii) they purport to refer to (a) soldier(s) having the same number, rank, name and corps as the accused. Admitted in evidence and marked Ex..... and Ex..... respectively.(3)
(1. *MFB 385 or MFB 294.* 2. *MFM 6.* 3. *RP 46; KR Can 558. If above documents not produced, see RP 46 fn 1 para 1.*)

E3. President to accused: Do you wish to address the Court on the Statement(s) and Conduct Sheet(s), and in mitigation of punishment ?(1) Ans.....(2)
(1. *RP 37(C), 46(2).* 2. *Address, if any, recorded per Notes. Court should permit accused or his witnesses to prove on oath anything here or previously stated which would affect the amount of punishment. RP 37(F) fn 7.*)

E4. The President states that the Court is closed to consider the sentence, and that the sentence to be awarded by the Court, being subject to confirmation, will not be announced, but will be promulgated later, and the proceedings in open court are accordingly terminated.(1)
(1. *AA 54(6), RP 120(A).*)

E5. The Court considers the sentence.(1) The President records the sentence in Part I of the Schedule, which is dated and signed by him and the J.A. if any.(2)
(1. *When several accused tried separately see RP 71 (D). One sentence only, comprised of the punishment or punishments laid down in AA 41, 44 and its proviso, or to be awarded to cover all charges on all charge sheets on which accused found guilty. RP 99. As to sentences see AA 44, 138, 182, RP 46-50, 69, 118, 119(A), KR Can 808, 330, 562-566, Overseas RO 309, 2323, MML p 60, 737-739. As to sentences assigned for civil offences by the law of England see AA 41(2), MML p 130. When accused already under sentence of imprisonment or detention see AA 44(1)(b), 68(1), KR Can 564.* 2. *RP 50. As to release from arrest by Confirming Offr see KR Can 567. As to assembly and disposal of record after trial see instrs on back of Convening Order.*)

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

MFB 246

MEDICAL OFFICERS CERTIFICATE

(KR(Can) Para 55)
(CM&A CL 173)

I certify that I have this day examined A66128 (No.)
Pte. (Rank) GROVER E.R. (Name) and in my opinion he is
fit to undergo trial by Court-Martial.

(Medical Officer) (Sgd)

Station FIELD.

Date 26 JUNE 43.

Unit #1. CDN. DISC. CENTRE.

MFB 246

MEDICAL OFFICERS CERTIFICATE

(KR(Can) Para 55)
(CMHQ CL 175)

I certify that I have this day examined R59128 (No.)
Pte (Rank) GRAVER F R (Name) and in my opinion he is
fit ~~unfit~~ to undergo trial by Court-Martial.

Station FIELD. (Sgd) (Medical Officer)

Date 28 June 1943 Unit #1 CDN. DISC. CENTRE.

FIELD GENERAL COURT-MARTIAL

(Whether the accused to be tried is under his comd or not, a FGCM may on application to him be convened by any offr of Cdn Army Overseas, or of any other force if authorized in law, in immediate comd of troops on active service, subject to RP 105(C) and restrictions imposed by appropriate authy. AA 49, 50, RP 104-107, 114. As to the duties and privileges of the Convening Offr in dealing with the application see MML Chap V paras 20 and 23, RP 87(B).

There should be a separate Convening Order for each person to be tried separately by the same Court. RP 71(C), 109. As to separate charge sheets see RP 62, and as to separate trial on charges in the same charge sheet see RP 108. As to two or more accused charged jointly see RP 16, 109.

As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

ACCUSED.

Number.	(a) Prmnt R. (b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
A 55128	Pte	Frank Russell	GROVER	(X4 List CIC) att 1 Cdn Discipline Centre

CONVENING ORDER.

1. Whereas complaint has been made to me, the undersigned, that the person(s) named above as the accused, being subject to military law, has (~~have~~) committed the offence(s) set forth in the Charge Sheet(s) attached and on (*date*) 21 JUN 45 endorsed by me, (~~or by an offr of my staff for me~~), "To be tried by Field General Court-Martial".

2. And whereas I am of opinion that it is not practicable that such offence(s) should be tried by an ordinary General Court-Martial; (~~and that it is not practicable to delay the trial for reference to a superior qualified offr.~~)

(*Delete part in brackets when not required for compliance with RP 105(C).*)

3. I hereby convene a Field General Court-Martial to try the said person(s), and to consist of the Offrs appointed or detailed hereunder.

4. ~~I am unable to appoint (a) three Offrs to form the Court, (b) a Fd Offr as President, for the reasons I have attached hereto.~~

(*AA 49, RP 106(B), 107(A). Delete the whole or part, if not applicable.*)

5. ~~I also appoint as Judge Advocate thereof the Offr mentioned hereunder.~~

(*RP 106(E). Delete, if none appointed.*)

PRESIDENT.

(Rank.)	(Must be named. RP 106.)	(Unit.)
Major	F A BAILLARGEON	Cdn C M Centre

MEMBERS.

(Rank.)	(Named or detailed. RP 106.)	(Unit.)
Capt	E B VAN DINE RCASC	C dn CM Centre
Capt	K AUER RCA	Cdn C M Centre

WAITING MEMBER.

(Rank.)	(Named or detailed, if any. RP 106.)	(Unit.)

JUDGE-ADVOCATE.

(Rank.)	(Must be named, if any. RP 106.)	(Unit.)

On Active Service in the Fd

in BELGIUM
(Country.)

(Signed personally. RP 105 fn 2.)

Brigadier
(Rank.)

Date 21 JUN 45

(J S H LIND)
Commanding 3 Cdn Base Rft Gp
Convening Officer.

CONVENING OFFR WILL INITIAL ALL DELETIONS AND ALTERATIONS

4/38A CFAES (Dp Dirn of AFAS) 40/F 38-8/1097 (4601)

(See overleaf for oaths and notes for use on trial.)

CHARGE SHEET

The accused, A-55128 Pte Frank Russell GROVER, X-4 List CIC, attached to 1 Cdn Discipline Centre, a soldier of the Canadian Army Overseas, is charged with:-

FIRST CHARGE WHEN ON ACTIVE SERVICE ABSENTING HIMSELF WITHOUT LEAVE

Sec 15 (1) Army Act

in that he

in the Field, absented himself without leave from 1030 hrs 17 Nov 44 until surrendering himself at 2359 hrs 26 Jan 45.

(Total absence: 70 days 13 hrs 29 minutes)

(V S J Richmond) Lt col
Commanding
1 Cdn Discipline Centre

In the Field
15 Jun 45

To be tried by Field General Court-Martial

(J S H LIND) Brigadier
Commanding
3 Cdn Base Rft Gp

In the Field
21 JUN 45

1. A 55-128 Pte Brown, F.R., x-4 list CIC, att 1 Rte Div. Centre.

D-3

- The prosecution submits a declaration of a Court of Inquiry to establish the date of commencement of AWL of accused.
- The defense objects to the admissability of the afm document on the grounds that it is not complete and not a proper one in the particulars specified are not included and in view of the fact that the admissability of this document is permitted by statute it must be complete and strictly adhered to to be admissable
- The prosecution replies that misspelt particulars go the accused is not charged in that regard and the declaration of the Court of Inquiry is complete insofar as the charge of AWL is concerned.

The court is cleared to consider the submission

The court reopens and the president announces that the submission of the defense is disallowed and that the declaration of the Court of Inquiry is admissable in evidence. The declaration is produced by the prosecution and marked as exhibit #1.

The prosecution submits a Pt II Order extract from x9 list dated 13 Jun 45 pertaining to Pt II Order No 56 dated 15 Jun 45.

The defense submits that this document is not admissable on the following ground.

1. It does not prove fact relevant to the charge. Evidence not mere logic ascertaining truth

B

as to fact in truth. Shows TOS on surrender from desertion. He is not charged with desertion. Raising an issue not in question and a charge more serious. I refer the Court to the law of relevancy in admissability in evidence. Oleman's Rule p 48 and Phipson more appropriate authority also 2 review sheets FGCM dated 10 May 45 by D J A. It is not evidence of termination of AWL. Only acceptable if accused pleads guilty.

2. Further it is not the best evidence available — Rule of best evidence. It is not best in 2 ways. Firstly because statement contained in the document does not reflect a true picture of past events - secondly because other evidence documentary and oral does exists and was available to prosecution before the summary was taken. The document has an artificial air - 2359 hrs most unusual - Unit X-9 Art - accused referred to as on X-4 list

dated 15 Jun 45. summary
dated 15 Jun 45.

Trial written a Trial

1st witness for defence

L 1345 Sgt Donnelly W.M. 1 Cdn Dis Centre sworn states.

I am chief clerk at 1 Cdn Dis Centre. I/c all records. I recognize "hold 6" unit record of 465128 Pte Brown F.R. This card is made out on every man who enters the Dis Centre - produced and marked exhibit "A".

Cross-examination

There are many of these documents in our possession. We would not make amendment to our "hold 6" from Pay & Adjts. He goes to X-4 list only on release "TOS X9 list" so entered from our own Casualty Return. The date appearing in "hold 6" is the date he comes to the Dis Centre.

By the Court

I never had a course in "A" work - X-9 List is personnel awaiting disposal. I cannot say card to correct it was made out by one of my clerks. RP. 53(B) complied with

AB

2nd witness for defence

B 9499 Lgt Cowden A Pte, Can CM Centre being duly sworn states.

I recognize file of FBCM/ 64/Grover FR/10JA which is part of office records of Can CM Centre. In the file are matters concerning A 55-218 Pte Grover F.R. as follows.

1. Copy of letter dated 7 Feb 45 addressed to 159 WEA.
2. ~~AFW 3072 Order~~ LETTER from Can Sec GH dated 3 Apr 45
3. In lieu of AFW 3012A dated 12 Feb 45 159 (WEA) 33 RHU 101 Pte Grp 2 Army Tps
4. Memorandum DJA dated 13 Jan 45
5. In lieu of AFW 3012A dated 26 Jan 45 159 (WEA) 33 RHU 101 Pte Grp 2 Army Tps

No cross-examination

RP 83(B) complied with.

Prosecution calls no witness in reply.

Defence

Best evidence was available and it was easy to find and much better evidence than submitted by prosecution. Refer to MML p 98 para 107.

KB

Reply by Prosecution

Abstract form has to do with desertion is satisfactory and therefore on application must be TOS from desertion. The defence also had second pt B objection to document "from desertion 2359 hrs 26 Jan 45." which is quite clear. Time is the nearest time records show accused surrendered and it is incorporated into Pt II Order extract. What truer picture of return from AWL than the time he surrendered himself. The other objection by defence - accused on X-9 list at time of Pt II Order. I believe Court will agree that it is same person as accused shown on charge sheet as on X-4 list. Witness Sgt Donnelly who showed man taken on X-9 list 2 2 Mar 45 shows Pt II Order extract correct in that respect. He referred to several matters in attempt to show that best evidence was not produced. That attempt has failed because nothing in the file shows a definite termination of absence whereas the document objected to

BB

does. Reverse sheet has no bearing in this particular case Reference to another Pt II Order extract which is not admissable by Prosecution because it is improper as it only shows TOS and not time of surrender.

Court is closed to consider the submission.

Court is re-opened. The submission of the defending Officer is dis-allowed and the Court rules that the Pt II Order extract is admissable in evidence.

4. The defending Officer submits that the prosecution have failed to establish a prima facie case on the evidence before the Court. Not proper evidence of termination of A.W.L. Pt II Order extract admissable in evidence but irrelevant to charge.

Prosecution in reply

Documents in evidence establish a prima facie case. Pt II Order extract is relevant. It relates to the accused and termination of his absence.

"the accused" 9.

Statement by 1 Pte. GROOER not on oath. AB

I left 11 Bde on or about 12 NOV. 44 as a reinforcement for the S.S.R. The vehicles in the convoy became separated and the drivers of my vehicle decided that we were lost. The Cpl. i/c asked me to throw my torch in the ditch so the driver could see to turn around. I was almost in the tract again when the tract started reversing, causing me to fall off. A short time later I managed to stop a lorry and the drivers agreed to take me closer to 6 Bde. H.Q., under whose command my regiment was.

We crossed the Nijmegen Bridge and shortly afterwards were put down at a depot and given instructions on how to reach Bde. H.Q. I was to follow a track and I would come to Bde. I followed this track and the next thing I knew was I had a rifle pointed at me. I grabbed for the muzzle and shouted I accidentally discharged harmlessly into the air. The next thing I knew another soldier had remained unseen hit me from behind with his rifle.

During the next few days I was repeatedly interrogated. Questions asked pertained to guns, tanks, infantry etc. on the Canadian front. I was treated well at this place.

at the next camp a place I was sent to I was sent to and treated very well. The same questions were asked and because I would give only my name rank and number I was beaten. My clothes were all taken away from me. I removed them all week except my greatcoat and tunic. At night I only had one blanket to sleep with.

After a period of about three days at this interrogation camp I was to go to a P.O.W. camp. We were handcuffed and a chain passed between the cuffs and our bodies. [illegible] long tower the Allied Air Force started strafing and bombing. The guards (x) took cover in a slit trench. We were able to release ourselves and made a dash for the nearby woods.

During the next few days we travelled very slowly and cautiously. We travelled as often as we could by [illegible] and [illegible] during the hours as and the scene of our escape as possible. We lived off the land and [illegible] we could find in cocktails from huts.

I continued to hide and escape detection existed on a about 25 Lemons reached the British lines.

The first officer I met was Lieut Meredith of the 6th Dragoon Gds. Y Arm. Div 2nd Br Army. He gave me a brief interrogation. — Went with me to the edge of the minefield in which I said I left my two companions and I believe I can state

that he saw only one set of tracks coming out of the field he knew definitely to be mine.

After feeding me and bidding me down Lieut. Merideth in company with an M.P. went to find the R.Es. to get my companions out of the field. —

The next morning I was sent on to 7 Armd Div. HQ.

At 7th Armd Div. HQ I was interrogated by Lieut H.W. Taylor. He took me to the Officers mess and fed me. I had on a set of German clothing which I am sure he was. that is true.

While awaiting transport at 7 Armd Div. HQ I was asked for my story by an Officer who had been discussing a set of plans, they had got off a German W.O. — If a new set plans to Camel 166. After hearing my story he said I would only be briefly interrogated here and then flown to England to be fully interrogated.

I was sent to 12 Corps HQ and the B.I.G.S. there told me I would be staying at 12 CRE for the night. From there I went to 15. G. W.E.A. — Then I was interrogated — issued with new clothing and again received treatment for trench mouth and [illegible]. I was in

#10

KB

Hospital for 6 or 7 days.

On or about 13 Feb. I was told I was going to the Canadians to be disposed of. I was taken to D.F.P. at 1 Cdn. Army HQ main and there placed under arrest as a deserter. For almost a month they kept me there, then finally told me that as there were no charges or grounds for charges against me, I would be taken to the S.S.R.'s. I arrived at the regt. and I believe it was a Capt. D.A.A.G. of the S.S.R. who was told that I was being turned over to the regiment until such charges against me, except loss of equipment. I was taken to it - the informed that I had not reached the regt. I was put on that strength and that I was being returned to 11 Bn. 2 C.B.K.R.

The next day I was picked up by a Cdn. Insp. Det. HQ Prov. and taken to 11 Bn. where method was using an officer's method of charge against me I was placed in a cell under close guard. I repeatedly asked to see the Adjt. or the CO. Each time I was informed by the cell block orderly Room that I could not.

When I was told that I was going to POC I asked on what orders - and was told - on the 5.CO i/c Cell Block orders. I was never up on any charge or before any officer for any until about 16 Jan. when I was remanded for A.W.L. for alleged A.W.L. from 17 Mar. 44 to 26 Jan 45, when I was with a firearm in escaping.

RB

I have been held in custody since my return to the Allied forces and at 1 CDE I have been subjected to ridicule and taunting by an officer Lieut. Beardmore.

When asked by S.I.S. to give a statement I said "No" I was then told that I would not ~~not~~ have if I didn't.

1st witness for defence

B 9499 Lieut Cowden A. B, 1 Can C M Centre having been already sworn states:

In the office file 1 Can C M Centre AS. 59/Grower F R, are the following documents.

1. Copy of letter dated 7 Feb 45 from CGS to Army G 1 S 9 (WEA)
2. Letter from Can Sec GHQ dated 3 Apr 45.
3. In lieu of AFW 3012A dated 12 Feb 45 1 S 9 (WEA) 33 RHU 101 Rpts kp to Army Tps
4. Memorandum DJA dated 13 Jan 45
5. In lieu of AFW 3012A dated 26 Jan 45 1 S 9 (WEA) 33 RHU 101 Rpts kp to Army Tps

The Court rules that these documents are not admissable in evidence.

Court adjourns until 1000 hrs 26 Jun 45.

Court re-assembles at 1000 hrs 26 Jun 45 pursuant to adjournment. Same members present.

~~Court is closed to consider & its finding.~~

Defense sums up - all attached

Prosecution sums up - all attached.

13.

Summoning of by D.O.
in case of
Pte. Prosecutor Pte Fraser

Ref. M.m.L. P. 44. "Involuntary absence is not ordinarily an offence under section 15."

Pte. Fraser has stated that he returned to the British lines on or about 25 Jan. after being an escaped prisoner of war for over two months.

Five months ago the authorities felt that his case should be investigated and his story, either verified or proven false. For five months Pte Fraser has been deprived of his liberty and treated like a criminal - with no opportunity to prove his story.

To day he appears before you on a charge of A.W.L. I suggest, Gentlemen, that Pte Fraser should never have been tried charged with A.W.L.; that a more serious charge should have

been preferred against him - or he should have been declared a free man.

I further suggest that in order to prove a case of H.W.L. against Green before a Court of Justice the Prosecution must produce very substantial evidence firstly to prove that he was absent as claimed in the charge and secondly, sufficient to deny the facts which he has stated to exist.

The Pros. has not denied the statement of Pte. Green.

The evidence presented in support of the charge consists solely of two documents which I suggest but skim beneath the barrier of admissibility.

Termination of A.W.L. is proved by a P.T. II Order only which was created for the trial and one which has been declared irrelevant to the charge by D.J.A (Pros) and Sec. 1 Ed.

You must also remember that the Prosecution has had not only five months, but all the faculties of the Army at their disposal to frame a case against Pte Green.

I suggest that at least a doubt must exist as to the circumstances of his absence and remind you that if a reasonable doubt exists in your mind - you must find in favour of the accused.

Reasonable Doubt

The Prosecution summing up & Judgment JBB.

May it please the President members of the Court

A Prima facia case has been established by the prosecution by production of

1 Declaration of a Court of Inquiry exhibit "A" for commencement & continuance of absence

2 Pt II Order by Unit showing termination of absence.

The defence has not disproven any of these

The statement made by the accused has not been substantiated by any witnesses or documentary evidence as to fact

I believe the Court will agree with me that an offence has been committed and the accused should be brought to justice for the offence.

Judge Advocate.

J Baillargeon
Pres.

EXHIBIT "I" to Barbarigo Files Exhibit A to M. Rousseau Capt

RECORD of the Declaration of a Court of Inquiry assembled at in the Field on the 2nd day of January 1945, for the purpose of investigating and recording the absence, without leave, from his duty, and deficiency, if any, in the Arms, Ammunition, Equipments, Instruments, Regimental Necessaries, or Clothing of No. A-55128 Pte CROVER F.R. (X-4 List) OIC, 44 Fwd Rft Coy. 13 CSR Bn. 2 CSR Gp.

DECLARATION

The Court declare that No. A-55128 Pte CROVER, F.R. (X-4 List) OIC, 13 CSR Bn. 2 CSR Gp.

illegally absented himself without leave in the Field at 1030 Hrs on the 17th day of November 1944, that he is still so absent, and that on the 12 Nov 44 he was deficient, and that he is still deficient of the following articles:—

ARTICLES	VALUE	ARTICLES	VALUE
Attached as Appendix "A"			

Lieut. R.A. Shand, X-4 List (Tor. Scot) 44 Fwd Rft Coy 13 CSR Bn. — President

Lieut. A.R. Percheluk, X-4 List (Essex Scot) 44 Fwd Rft Coy 13 CSR Bn. — Member

Lieut. R.A. Wallis, X-4 List (Tor Scot) 44 Fwd Rft Coy 13 CSR Bn. — Member

Signed at in the Field this 8th day of Jan 19 45

Signature of Commanding Officer (W.M. Bingham Lt. Col. Comd. 13 CSR Bn.)

Certified true copy M.A. Frank Capt & Adj. 13 CSR Bn.

Signature of Officer having custody of original record

M.F.S. 335
A.F.D. 132
(Rev. 4-42 (700))
E.Q. 1772-10-207

EXHIBIT "A" to Baselmans Dec X 9

NAME GROVER, [redacted] REG'T'L NO A62128

FIELD UNIT CIC DATE ARRIVED ENGLAND 24 July 1941

PLACE OF BIRTH London, Ont. DATE OF BIRTH 21 May 20

CATEGORY RANK

DATE OF ENLISTMENT 21 year 41 MARITAL STATUS

ENLISTED AT London, Ont. RELIGION C of E.

PREVIOUS SERVICE

PROMOTIONS, ETC AND DATE RELATIONSHIP

NEXT OF KIN Elizabeth Grover wife

ADDRESS OF 41 Thorncliffe Ave. London, Ont.

TRADE OR PROFESSION Librarian

EDUCATIONAL QUALIFICATIONS Grade 12

MILITARY QUALIFICATIONS Librarian

INOC & VACC

2/21 HOLD—6
40/P & S/69 (7214)

CASUALTIES, Etc

NATURE E.O., ABSENCE, PROMOTION, ETC	PART II DO		REMARKS IF IN HOSPITAL, NOTE NAME, ETC
	NO.	DATE	
TOS X 9 list from # 9 CBR. Dtd. Aug 22 1945			

2T5128 R.N. [illegible] Pvt. U.S. F.C.

AGE 24 HEIGHT 5ft 1" WEIGHT 145

EYES Grey HAIR Brown FACE fair comp.

BUILD Slim

TATTOO MARKS, SCARS, ETC Tattoo on left arm
heart with dagger through.

DATE ADMITTED

21 Mar 45

PROBABLE DATE OF DISCHARGE

CHARGES:

Desertion

SENTENCE

EXHIBIT "2" Haulwright's Pers. Exhibit P

PART II ORDER EXTRACT FORM

99/20/ A5X9 24 Rocket Van Corps

TO:

13 Jun 45 19

EXTRACTS FROM: UNIT X9 List

Part II Order No. 56 dated 15 Jun 45

STRENGTH INCREASE

TOS wef 26 Jan 45 and att 1 Cdn Discipline Centre having surrendered from desertion at 2359 hrs 26 Jan 45

A 55128 PTE GROVER F R S SASK R

The following documents are { attached. Please acknowledge receipt on attached duplicate. required. Please forward same

W H Laughlin Capt

Originating Clerk's Initials ewb

(W H LAUGHLIN) CAPT for

Officer in Charge
Canadian Section, GHQ, 2nd Echelon

1/70 [illegible]

Summary of Evidence in the case of A-[illegible] Pte GROVER F R, X-4 List CIC, 44 Fwd Rft Coy 13 CBR Bn, 2 CBHQ, attached to 1 Cdn Discipline Centre, a soldier of the Canadian Army Overseas.

Charge - Absence without leave

By direction of the CO the evidence is taken on oath.

The following documents are read over to the accused, marked as exhibits and are attached to the proceedings.

Exhibit "A" - Certified true Record of the Declaration of a Court of Inquiry dated 8 Jan 45

Exhibit "B" - Certified true copy of Extract from Pt II Order No 56 dated 15 Jun 45

Q. Do you wish to make any statement or to give evidence on oath? You are not obliged to say anything or to give evidence unless you wish to do so but whatever you say or any evidence you give will be taken down in writing and may be given in evidence.

A. I have nothing to say

The accused does not call any witness.

I certify that the foregoing Summary of Evidence consisting of one page was taken down by me in the presence of the accused and that RP 4 (C)(D)(E)(F) and (G) have been complied with.

M. Rousseau Capt
(Maurice Rousseau) Capt

Officer detailed to take Summary of Evidence

Dated in the Field
15 Jun 45

PP. 15
PTE GROVER G.M.

805/1CBCW/4
F95006 Pte George Melvin GROVES
1 C.B.C.W.

PP.15

Correspondence to be PINNED here.

Army Form A.3.

Form for Assembly and Proceedings of Field General Court Martial on Active Service.

PROCEEDINGS.

A.
Order convening the Court

On Active Service, this SIXTH day of SEPTEMBER, 19 43.

Whereas it appears to me, the undersigned, an officer in Command of 1st GROUP CANADIAN REINFORCEMENT UNITS CANADIAN ARMY OVERSEAS, on active service, that the persons named in the annexed Schedule, being subject to Military Law, have committed the offences in the said Schedule mentioned.

And whereas I am of opinion that it is not practicable that such offences should be tried by an ordinary General Court Martial; *[and that it is not practicable to delay the trial per reference to a superior detailed officer];

*Omit where Convening Officer is a Commanding Officer or is of Field Rank.

I hereby convene a Field General Court Martial to try the said persons, and to consist of the Officers appointed or detailed hereunder.

*[I am unable to appoint

*(1) [Three Officers to form the Court]

*(2) [A Field Officer as President

for the following reasons, namely:—]

*Omit if not applicable.

NOTE.—The President must be named. The members and waiting members (if any) may be mentioned by name, or the number and ranks and the unit to which they belong may alone be named. In the latter event, the ranks, names, &c., of the members of the Court, as constituted, will be recorded on the proceedings.

*Must be signed personally by the Officer actually in command at the time, and all alterations in the composition of the Court to be initialled by him.

President.

Rank.	Name.	Regiment.
Lt.Col.	D.L. REDMAN, V.D.	H.Q., C.R.U.

Members.

Rank.	Name.	Regiment.
Capt.	T.J. MARION	1 C.C.R.U
Lieut.	C.F. ROWAN	1 C.C.R.U.

*Signed Lorne Keene Col.
(LORNE KEENE) Colonel
Commanding 1st Group, C.R.U.
Convening Officer.

SCHEDULE

Number, Rank (a), Name and Unit of Accused (b)	Offence charged	*Plea	Finding, and if Convicted, Sentence (c)	How dealt with by Confirming Officer (d)
F95006 Pte George Melvin GROVES I.C.S.O.W.	Sect 15(1) Army Act	Guilty	Guilty except that he surrender was not at Leuto. Sentence To perform all ordinary duty for a period of forty-five (45) days and to be put under stoppages of pay until he has made good £2-5-7 the expense of his current return 7th Sept 1943 MM	Confirmed subject to [illegible]

(See attached charge sheet)

*Question to be asked of accused, if he pleads not guilty (R. of P. 30 (a)): "Do you wish to apply for an adjournment on the ground that you have been prejudiced thereby, or on the ground that you require further time for preparing your defence?"

(Dated) 7th Sept 1943 (Signed) [signature]

(LOUIS KEENE) Colonel
Commanding "Z" Group, C.R.U.
Commanding Officer (e) President.

(a) Appointment acting rank or acting appointment, if any, to be stated in brackets after the substantive rank.

(b) Unless unavoidable, not more than three names are to be entered on one form, and in serious cases one only.

(c) Recommendation to mercy, if any, to be inserted in this column.

(d) It is not necessary that the Confirming Officer should sign his name in this column. Initials are sufficient.

(e) Must be signed by the same Officer who signs on the first page, and all alterations in the first two columns of the Schedule to be initialled by him.

Evidence and Charge Sheets (if necessary) to be PINNED here.

B. Certificate of President as to proceedings.

I certify that the above Court assembled on the 7th day of Sept 1943 and duly tried the persons named in the Schedule, and that the plea, finding, and sentence in the case of each such person were as stated in the third and fourth columns of that Schedule.

I also certify that :—

1. The members of the Court
2. ~~The witnesses~~
3. The Interpreter)
4. ~~The officers under instruction~~)

*Omit if not applicable.

were duly sworn.

Signed this 7th day of Sept 1943

[signature]
President of the Court Martial.

C. Certificate in case of death sentences.

*See footnote (d) on page 732 M.M.L. 1929.

~~I certify that the terms of A.C.I. 670 of 1918 have been complied with.~~

~~Signed this day of 19~~

President of the Court Martial.

D. Confirmation.

I have dealt with the findings and sentences in the manner stated in the last column of the Schedule, and, subject to what I have there stated, I hereby confirm the above findings and sentences.

*To be omitted unless penal servitude, imprisonment or detention having been awarded, the Confirming Officer either has no authority to commit to prison or detention barrack, or, having such authority, recommends suspension.

~~*I direct that the soldier named in the margin be not committed to prison or detention barrack until further orders.)~~

Signed this 8 day of Sept 1943.

[signature]
Confirming Officer.

Promulgated and extracts taken in the case of F95006 Pte. Groves, G.M.

(a) (Dated) 8 Sep 43 (Signed) [signature] Capt Adj. 1st C.B.M.

Promulgated and extracts taken in the case of

(Dated) (Signed)

Promulgated and extracts taken in the case of

(Dated) (Signed)

(a) When several cases are promulgated in one unit on the same day the Officer need only sign once.

Gp.8/43

805/1CROW/4
P95006 Pte George Melvin GROVES
1 C.R.C.W.

PP 15

Correspondence to be PINNED here.

Army Form A.3.

Form for Assembly and Proceedings of Field General Court Martial on Active Service.

PROCEEDINGS.

A.

Order convening the Court.

On Active Service, this SIXTH day of SEPTEMBER, 19 43.

Whereas it appears to me, the undersigned, an officer in Command of 8th GROUP CANADIAN REINFORCEMENT UNITS CANADIAN ARMY OVERSEAS, on active service, that the persons named in the annexed Schedule, being subject to Military Law, have committed the offences in the said Schedule mentioned.

And whereas I am of opinion that it is not practicable that such offences should be tried by an ordinary General Court Martial; *~~and that it is not practicable to delay the trial for reference to a superior qualified officer;~~

*Omit where Convening Officer is a Commanding Officer or is of Field Rank.

I hereby convene a Field General Court Martial to try the said persons, and to consist of the Officers appointed or detailed hereunder.

*~~I am unable to appoint~~

*~~Three Officers to form the Court~~

*~~A Field Officer as President~~

~~for the following reasons, namely~~

*Omit if not applicable.

Notes.—The President must be named. The members and waiting members (if any) may be mentioned by name, or the number and ranks and the unit to which they belong may alone be named. In the latter event, the name, names, &c., of the members of the Court, as constituted, will be recorded on the proceedings.

President.

Rank.		Name.	Regiment.
Lt.Col.	D.L.	REDMAN, V.D.	H.Q., C.R.U.

Members.

Rank.		Name.	Regiment.
Capt.	T.J.	MARION	1 C.C.R.U
Lieut.	C.P.	ROWAN	1 C.C.R.U.

*Must be signed personally by the Officer actually in command at the time, and all alterations in the composition of the Court to be initialled by him.

*Signed Louis Keene

(LOUIS KEENE) Colonel

Commanding 8th Group, C.R.U.

Convening Officer.

SCHEDULE

Number, Rank (a), Name and Unit of Accused (b)	Offence charged	*Plea	Finding, and if Convicted, Sentence (c)	How dealt with by Confirming Officer (d)
F95006 Pte George Melvin GROVES 1 C.B.C.W.	Sect 15(1) Army Act	Guilty	Guilty. except that his surrender was not at Leeds	

Sentence
To forfeit all ordinary pay for a period of forty-four (44) days and to be put under stoppages to make good £25-9 MB
The date of the commencement of the above sentence 7th Sept 1943 MB

confirmed subject to the above

(See attached charge sheet)

* Question to be asked of accused, if he pleads not guilty (R. of P. 39 (a)) —
"Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity for preparing your defence?"
Answer (*to be recorded on separate sheet if necessary*) —

(Signed) KWKeene Lt Col (Signed) [illegible] Lt Col
(LOUIS KEENE) Colonel
Commanding 4th Group, C.R.U. *President.*
Convening Officer (e)

(a) Appointment acting rank or acting appointment, if any, to be stated in brackets after the substantive rank.

(b) Unless unavoidable, not more than three names are to be entered on one form, and in serious cases one only.

(c) Recommendation to mercy, if any, to be inserted in this column.

(d) It is not necessary that the Confirming Officer should sign his name in this column. Initials are sufficient.

(e) Must be signed by the same Officer who signs on the first page, and all alterations in the first two columns of the Schedule to be initialled by him.

Medical Officer's Certificates
K.R. (Can.) para.557

I certify that I have this morning examined No. F.95006 Pte. Graves G.M.
(Rank) (Name)
of Lab. C.A.D.O.R. and in my opinion he is ~~unfit~~ fit to undergo trial by Court Martial.

Station. Borden.

Date. Sept. 7/43 Sgd. [signature] Capt.
(Medical Officer)

CHARGE SHEET

The Accused, F-95006, Pte. George Melvin GROVES, Royal Canadian Ordnance Corps, on strength of 1st. Canadian Base Ordnance Workshop, a soldier of the Canadian Army Overseas, is charged with, while on Active Service:-

First Charge - ABSENTING HIMSELF WITHOUT LEAVE,
Sec.15(1)
Army Act

in that he,

at Guadaloupe Barracks, Bordon, Hants., at 0645 hours on the 8th day of August, 1943, absented himself without leave until he surrendered to the Corps of Miliary Police at LEEDS at 1400 hours on the 30th day of August, 1943, thereby incurring expenses to the amount of £2/5/7 for his return.

(Total absence: 22 days 7 hours 15 minutes)

Bordon, Hants.
2 Sep 43.

Lt/Colonel
A/Commanding Officer
1st. Cdn. Base Ordnance Workshop, RCOC.

To be tried by Field General Court Martial

Bordon, Hants
6 Sept.1943

(LOUIS KEENE) Colonel
Commander
"P" Group C.R.U.

PROCEEDINGS OF A FIELD GENERAL COURT-MARTIAL
HELD AT 1 C O R U — Bowden Wood
ON THE 7th DAY OF Sept , 1943

The accused F.95999 Pte Evans G.M. Unit. 1 C.O.R.U. R.C.O.C.

The order convening the Court and charge sheet are laid before the Court, who satisfied themselves as provided by Rs.P. 22 and 23.

The accused is brought before the Court.
The Medical Certificate is laid before the Court.
The order convening the Court is read by the President, and the accused having been asked, stated that he had no objection to the President or any Member of the Court.
The Court is duly sworn.

The following constitute the Court:-

President Lt. C.A.L. Redman M.C. Unit. H.Q. C.M.E.
Members. Capt. T.T. Marawa ... Unit. 1 C.O.R.U. R.C.O.C.
Lt. T.C.F. Rowan ..... Unit. 1 C.O.R.U. R.C.O.C.

The officers under instruction are duly sworn:-

..... Unit.....
..... Unit.....

Prosecutor Capt. R.N. Brook ..... Unit. 1 C.O.R.U. R.C.O.C.
Defending Officer Lt. J.K. Roberts Unit. 1 C.O.R.U. R.C.O.C.

The charge sheet is signed by the President and the accused is arraigned.
The accused pleads guilty to the charge(s) and R.P. 35(B) is complied with. ~~XX~~ insert here ~~XX~~ on previous
The accused does not desire to make a statement in reference to the charge(s). R.P. 37(B).
The Summary of Evidence is read.
The Prosecutor produces MWB 355, ~~AFB 296~~ and MFM 6.
The Court complies with R.P. 36(B).

Pursuant to R.P. 37 THE ACCUSED:-

(a) Makes a statement in mitigation of punishment. before
(b) ~~Calls witnesses as to character.~~
(c) ~~Calls witnesses in mitigation of punishment.~~
(d) Addresses the Court by his Defending Officer. attached

Overseas R.O. 3262 complied with.
The Court is closed to consider the sentence.

SUMMARY OF STATEMENT IN MITIGATION, CHARACTER EVIDENCE and ADDRESS OF ACCUSED OR HIS DEFENDING OFFICER.

Statement by accused in mitigation

I am 35 yrs I was born in Nova Scotia
I am Canadian electrician per 7 yrs before
joining I am married I built myself a
home and raised family from my trade
I have been all my training 3 mos out of 2 yrs
in the Army (OVER)

I have been doing Criminal practice. My Brown record is good I wanted to transfer to "C" corps to market my trade.

WM

XX insert on front
the accused plead guilty with an explan
The Prosecution explained the circumstances
the arresting Officer and the Court being
satisfied with the justice of the case
accepted and recorded a plea of guilty
with the explan as recorded in the
charge sheet

WM

6 Sept. 43.

1 CBO W/Shops

In the Case of,
F 95005 Pte. Groves, G.M.

We have in the accused a hard working family man who left a good job in civilian life, to join the army. He joined the army to do his best and his bit for his country. When he came overseas he left behind him a wife and four children in a home that he built with the money he earned at his trade as an electrician.

Pte. Groves joined the R.C.O.C. because he is a tradesman and naturally expected he would be employed in the army at his trade, where he would not only receive his trades pay but have a chance to get promotion, and be of more use to the war effort.

He has been in the army for two years and has been employed at his trade for only three months, the remainder of the time he has been doing general fatigues, some of them menial tasks. Whatever task he was given to do, he did it and did it good (this I can personally vouch for). Outside of being A.W.L. a few times he has been a good dependable soldier.

In Pte. Groves, we have a man who has committed a crime by being A.W.L. and he must be punished. Gentlemen of the Court, I plead with you to make your sentence as lenient as your duty will allow you. Give the accused a chance to come out again and mingle with his comrades, start life in the army anew, do a good job, something a proud man will be proud to do. I am sure he will be an entirely different soldier and a man.

.....Lieut.
(G.M. Roberts, Lieut.)

SUMMARY OF EVIDENCE

in the case of

No. F-95006, Pte. George Melvin GROVES, R.C.O.C., on strength of 1st. Cdn. Base Ordnance Workshop, a soldier of the Canadian Army, Overseas.

By direction of the Commanding Officer this Summary of Evidence is taken on Oath.

First Witness for the prosecution: Capt. R.H. BECK, Officer Commanding "HQ" Company, 1st. Cdn. Base Ordnance Workshop, having been duly sworn, states as follows:

I am Capt. R.H. BECK. I am the Officer Commanding "HQ" Company of 1st. Cdn. Base Ordnance Workshop, and I produce:

(A) A certified true copy of 1st. Cdn. Base Ordnance Workshop Part II Order #101, dated 16 Aug 43, concerning the absence of the accused.

(B) A certified true copy of 1st. Cdn. Base Ordnance Workshop Part II Order #107, dated 30 Aug 43, concerning the absence of the accused.

(C) A certificate of surrender of the accused, dated 31 Aug 43.

(D) A Certificate of Expenses incurred in the return of the accused, dated 1 Sep 43.

as Exhibits A,B,C and D for the Prosecution and pertaining to the accused whom I now recognize. I have initialled the Exhibits for the purpose of identification.

The accused declines to cross-examine the witness.

(Signed) R.H. Beck, Capt.

The Accused was cautioned as follows:
"Do you wish to make any statement or to give evidence on Oath? You are not obliged to say anything or give evidence unless you wish to do so, but whatever you say or any evidence you give, will be taken down in writing and may be given in evidence.

The Accused declines to make a statement and reserves his defence.

I certify that the foregoing Summary of Evidence consisting of one page was taken down by me in the presence and hearing of the accused, and that Rules of Procedure 4(C),(D),(E),(F) and (G) have been complied with.

(R.N. Brooks) Capt.
Officer detailed to take the Summary of Evidence.

Bordon, Hants.
2 Sep 43.

Appendix A

[illegible] CANADIAN [illegible] CONSTRUCTION WORKERS, R.C.A.S.C.

Amdt. 101

Amdt IT Orders - Page 5 - 18 Aug 45

8. LEAVE OF ABSENCE (Cont'd)

(c) Cont'd.

L-9281	Pte.	GRAHAM, E.J.	"D"	K-2007	Pte.	STRONG, R.	"D"
M-60180	Pte.	GUNN, D.C.	"D"	D-132066	Pte.	[illegible]	"D"
M-67550	Pte.	HAMILL, [illegible]	"D"	[illegible]	Pte.	[illegible]	"D"
[illegible]	Pte.	[illegible]	"D"	[illegible]	Pte.	[illegible]	"D"
M-40288	Pte.	[illegible]	"D"	[illegible]	Pte.	SCOTT, [illegible]	"D"
[illegible]	Pte.	SCOTT, [illegible]	"D"	[illegible]	Pte.	SCOTT, [illegible]	"D"
[illegible]	Pte.	[illegible]	"D"	[illegible]	Pte.	[illegible]	"D"
M-2660	Pte.	[illegible]	"D"	[illegible]	Pte.	[illegible]	"D"
M-87008	Pte.	JOHNS, [illegible]	"D"	[illegible]	Pte.	[illegible]	"D"
M-87611	Pte.	[illegible]	"D"	[illegible]	Pte.	[illegible]	"D"
[illegible]

10. ABSENT WITHOUT LEAVE (Cont'd)
(c) A.W.L. From 0615 hrs. 7 Aug 43. Still absent 0615 hrs. 15 Aug 43. H.Q. Coy.
(8th day).
B-32277 Pte. ORLOW, W.H.

(d) A.W.L. from 0800 hrs. 11 Aug 43. Ret. 0230 hrs. 12 Aug 43. H.Q. Coy.
B-63466 Pte. McGUNK, A.J.

11. REVERSION
(a) Reverts to permanent rank of Pte. on being S.O.S. w.e.f. 16 Aug 43. H.Q. Coy.
B-53658 A/L/Cpl. PALSEN, H.E.F.

12. TRADESMEN'S QUALIFICATIONS
(a) Trade tested by C.A.P.C. as Ramsgrph Grp. "C" and qual. w.o.f. 29 Jul 43.
(Auth. R.P.S. Report No. 17264 d/13 Aug 43.) "C" Coy.
P-5013 Pte. MARVIN, L.A.

(b) Trade tested by C.A.P.C. as Painter & D.coy.gar Grp. "B" and "Qualfd" H.Q. Coy.
w.e.f. 29 Jul 43. (Auth. R.P.S. Report No. 17267 d/13 Aug 43.)
B-6760 Pte. MICHAUD, D.S.

(c) AMENDMENTS
1. D.O. Pt.II #100, d/15 Aug 43, para 12(a), is amended to read "Plsgn. Wood".

2. D.O.96 d/5 Aug 43, para 11(a) is amended by deleting "Qualfd" and adding "Qual. Grp. "C"" (Auth.1 CCRU D.C. 199 d/12 Aug 43.) "C" Coy.
B-17662 A/Sgt. CAMPBELL, F.C.

3. D.C. 96 d/5 Aug 43, para 11(c) is amended by deleting "Qualfd" and adding "Qual. Grp. "B"" (Auth. 1 CCRU D.C. 199 d/12 Aug 43.) "C" Coy.
B-40662 Sgt. ROGERS, E.D.

13. TRADESMEN'S RATES OF PAY
(a) Trade tested and qual. is granted Tradesmen's rate of pay as Fitter Grp. "C" w.e.f. 11 Aug 43. (Auth.1 CCRU D.C. 199 d/12 Aug 43.) "C" Coy.
B-53806 Pte. McCANN, A.A.

(b) Trade tested and qual. is granted Tradesmen's rate of pay as Mech. Instal Grp. "C" w.e.f. 11 Aug 43. "C" Coy.
B-47913 Pte. BLOT, L.A.

(c) AMENDMENT
D.O. Pt. II No. 98 d/11 Aug 43, para 12(f) insofar as it concerns the A/Cpl is amended to read "Radio Mech. Grp. "B" w.e.f. 3 Jun 43." "B" Coy.
D-106531 Pte. JOHNSON, L.S. (Attd. R.C.A.S.C. to 1st CCRU)

14. PUNISHMENTS
(a) On the 10 Aug 43 awarded 7 days C.B. for an offence under Sec. 15(1) A.A., A.W.L. from 0200 hrs. 11 Aug to 0230 hrs. 12 Aug 43. Absent 1 day 30 hrs. 40 mins. Forfeits 2 days pay daily R.D.& I. 149(1)(a). Total forfeiture of 2 days pay. H.Q. Coy.
B-63466 Pte. McGUNK, A.J.

(b) On the 14 Aug 43 awarded 7 days C.B. and a forfeiture of 2 days pay. for an offence under Sec. 40 A.A., Conduct prejudice of good order and military discipline in that he at 1015 hrs. 13 Aug 43 failed to report for Guard Mounting as duly warned. Forfeits 2 days pay under R.D.& I. 149(2). Total forfeiture of 2 days pay. H.Q. Coy.
B-6706 Pte. DUFOIS, C.J.

Appendix B to HHB.

1ST CANADIAN ARMY ORDNANCE WORKSHOP, R.C.O.C.

Part II Orders - Page 2 - No. 107
30 Aug 43

6. LEAVE OF ABSENCE (Cont'd)

(a) Granted 7 days P.L. with 48 hr. leave with money allowance in lieu of ration from 28 Aug 43 to 6 Sep 43. Total entitlement - 9 days.

B-25800	Spr.	BEAUDRY, L.L.	"D"	L-23002	A/Cpl.	KLUINGORGE, E.	"C"
C-26658	L/Cpl.	BELL, G.W.	"C"	C-33641	Pte.	LAMOUR, A.J.	"A"
K-73527	Pte.	BENSEN, B.R.	"A"	K-76139	Pte.	LAWRENCE, R.E.	"A"
B-33380	Pte.	BLACK, N.	H.Q.	B-55510	Pte.	LOWRY, W.J.C.	"C"
M-60063	Pte.	BOSTON, J.	"D"	L-0839	Pte.	LYONS, C.R.	"A"
B-17213	Pte.	BROWN, R.	"C"	B-94550	Pte.	MALLOY, J.	"A"
B-67063	Pte.	BRYNER, A.L.	"D"	H-84698	Pte.	McDONALD, H.J.B.	"C"
K-70302	Pte.	BUCKHAM, G.R.	"B"	A-84887	Pte.	McRAILD, G.	H.Q.
M-28270	Pte.	BURNS, W.	"D"	K-75772	A/Cpl.	NEWELL, R.S.	H.Q.
B-26241	A/Sgt.	CARTER, S.M.	"A"	P-93628	Pte.	O'DONNELL, G.R.	H.Q.
M-5251	Cpl.	CALHOUN, T.J.	"A"	B-53433	Pte.	O'HARE, R.I.	"C"
H-84506	Pte.	CARTER, D.	"B"	B-2844	Pte.	PAUL, C.	H.Q.
M-31028	Pte.	CHARLTON, R.	"C"	K-67671	A/L/Cpl	RADBOURN, W.E.	"C"
D-106555	Pte.	CHEVALIER, R.	H.Q.	L-10072	L/Cpl	RAINS, D.S.	"D"
L-12707	Pte.	COLE, A.O.	"C"	L-22067	A/Cpl.	RICHELL, C.	"C"
M-60042	Pte.	CONWAY, E.R.	"D"	M-85789	Pte.	REIDY, W.J.	H.Q.
M-62031	A/L/Cpl.	CORDELL, L.J.	"A"	-60141	Pte.	REYNOLDS, J.G.	"A"
L-8081	A/Sgt.	CORNISH, L.J.	"B"	B-87547	Pte.	RHODS, P.C.	"A"
L-51302	Pte.	COULDWELL, L.C.	"D"	B-83946	Pte.	RICHARDSON, P.C.	"A"
B-8417	Pte.	COULTER, R.C.	"D"	B-57675	Pte.	SAUNDERS, J.C.	H.Q.
B-57612	Pte.	DALZELL, D.P.	"D"	B-8322	Pte.	SAYER, A.E.	H.Q.
M-31412	Pte.	DAVIS, G.H.	"B"	L-9177	A/Cpl.	SCOTT, H.J.	H.Q.
A-40821	Pte.	DICKOUT, O.C.	"A"	B-94610	Pte.	SEARS, C.F.	"A"
M-60656	Pte.	DUCKETT, A.P.	"A"	M-28374	Pte.	SHANNON, J.E.	"A"
L-22583	Pte.	ELDER, A.C.	"D"	A-75666	Pte.	STEWSON, R.G.	H.Q.
D-95168	Pte.	EVANS, D.J.	"A"	A-22379	Pte.	SULLIVAN, C.J.	H.Q.
R-96171	Armt.S/S	FANTHAM, H.	"A"	A-88390	Pte.	TAYLOR, J.	"B"
H-87062	Pte.	FEDIUK, M.	H.Q.	K-87337	Pte.	TAYLOR, R.S.	"D"
B-52656	Sgt.	FISHER, J.T.	"A"	M-62657	A/L/C.	TOOLEY, J.E.	"C"
D-82657	Cpl.	GRIENER, L.C.	"A"	P-81666	Pte.	TURNER, G.D.	"C"
A-82007	A/Cpl.	HARRIS, H.P.	"C"	L-57548	Pte.	WATSON,	"C"
A-11143	Pte.	HOLLANDER,	"B"	B-82666	A/A/S/S.	WEBB, R.	"D"
M-28665	Pte.	HOUGHTON, W.	"C"	C-2630	Pte.	WILSON, H.L.	"D"
L-51294	A/Cpl.	JAMES, C.	"A"	K-21066	S/Sgt.	WOOD, E.L.	"A"
B-59750	Pte.	JENKINS, R.	"C"	L-89608	Pte.	WRIGHT, G.C.	"D"
K-11116	Cpl.	KELLY, J.	"A"				
B-9130	C.S.M.	DEWSBURY, T.R.	(Att. from No. 1 A.B.T.)				"A" Coy.
B-5383	Pte.	MORGAN, E.C.	(Att. from 16 Cdn. Base Dom. Coy. CDC)				H.Q. Coy.
B-94706	Sgt.	McEWEN, D.	(Att. from No. 1 A.B.T.)				"A" Coy.
L-7088	Cpl.	PELROE, C.S.	(Att. from No. 1 A.B.T.)				"A" Coy.
B-5277	Sgt.	TAIT, A.J.	(Att. from 16 Cdn. Base Dom. Coy. CDC)				H.Q.
L-7686	Pte.	TANNER, L.H.	(Att. from No. 1 A.B.T.)				"A" Coy.
M-69662	Armt. S/Sgt.	TUCKER, I.B.	(Att. from No. 1 A.B.T.)				"A" Coy.

7. ABSENT WITHOUT LEAVE

(a) Rct. from A.W.L. at 2300 hrs. 28 Aug 43.

B-62636 A/Cpl. CECI, A. H.Q. C-42205 Pte. HOLLYWOOD, K.H. H.Q.

(b) A.W.L. from 0645 hrs. 8 Aug 43. Still absent 0645 hrs. 29 Aug 43. (21st. day)

P-86006 Pte. GROVES, G.M. H.Q. Co.

(c) A.W.L. from 0615 hrs. 7 Aug 43. Still absent 0615 hrs. 28 Aug 43. (21st. day)

B-62277 Pte. ORLOFF, T. H.Q. Co.

8. APPOINTMENTS

(a) Appointed A/L/Sgt. (without pay) w.e.f. 2 Aug 43 while on Armt. Maint. (Wpns) Course at #1 Tech. Trng. Centre (Auth. CMHQ/S/RCOC/14(AMC)(19) A/1/RLD/1 d/12 -pr 40.)

M-85946 Pte. BAILEY, T.S. "D" B-51910 Pte. MURRAY, R.I. "D"
M-89240 Pte. GIBB, J.D. "D"

Certified true copy
A.W. Roberts Capt.
1st C.B.O.W.

5 Sep 43

1ST CANADIAN BASE ORDNANCE WORKSHOP, R.C.O.C.
DAILY ORDERS PART II
issued by
COLONEL G.A. SHOORD
COMMANDING OFFICER

Last Order
No. 106
27 Aug 43

No. 107
30 Aug 43

"A" - OFFICERS

1. COMMAND
(a) On Command to Greenford w.e.f. 0730 hrs. 11 Aug 43 and Off Command w.e.f. 2130 hrs. 11 Aug 43. (Auth. Lt/Col. McGregor)
Lieut. H.S. GALLAGHER "D" Coy.

(b) On Command to Greenford w.e.f. 0730 hrs. 18 Aug 43 and Off Command w.e.f. 2130 hrs. 18 Aug 43. (Auth. Lt/Col. McGregor)
Lieut. H.S. GALLAGHER "D" Coy.

(c) On Command to Greenford w.e.f. 0730 hrs. 25 Aug 43 and Off Command w.e.f. 2130 hrs. 25 Aug 43. (Auth. Lt/Col. McGregor)
Lieut. H.S. GALLAGHER "D" Coy.

2. MEDICAL CATEGORY
(a) Change of medical category from "A" to "C-8". All documents to be amended accordingly. (Auth. M.F.R. 827 d/22 Mar 43.)
Capt. W.F. MOORE "C" Coy.

"B" - OTHER RANKS

3. ATTACHED
(a) C/Ltt. f.a.p. from No. 1 C.B.O.U. w.e.f. 27 Aug 43. (Auth. Capt. Davis (verbal)).
Capt. Bartlett
H-2929 Cpl. TAYLOR, W.H.R. "A" Coy.

4. COURSES
(a) Ptte. from CMHQ Course No. 1163 (Wright Thirlwind) and C/Ltt. f.a.p. to No. 2 School of Tech. Trng. w.e.f. 27 Aug 43.
P-80042 Cpl. DOUCET, J.A. (Ltt. from No. 1 C.B.O.U.) "A" Coy.

(b) Proc. on CMHQ Course No. 4 Serial 21 (Regt'l Motor Duties) and Ltt. f.a.p. ex-pay to No. 1 C.B.O.U. w.e.f. 22 Aug 43. (Auth: 87%/Med/ & S.R./21 d/3 Jul 43.)
L-9858 Pte. SCOTT, A.E. H.Q. Coy.

5. COMMAND
(a) AMENDMENT
D.O. Pt. II No. 103 d/20 Aug 43, para 9(c) is amended to read "On Command w.e.f. 2130 hrs. 18 Aug 43."
H-85444 Pte. GAUER, G. H.Q. Coy

6. LEAVE OF ABSENCE
(a) Granted 7 days P.L. with 48 hr. leave with money all'ce in lieu of rations w.e.f. 28 Aug 43 to 6 Sep 43. Total entitlement - 9 days. (Without Proc Travel Warrant.)
F-28467 Pte. KING, M.R. "B" Coy.

(b) Granted 14 days P.L. with 48 hr. leave with money all'ce in lieu of rations w.e.f. 28 Aug 43 to 13 Sep 43. Total entitlement - 16 days.
M-36110 Pte. HETLAND, [illegible] "D" B-94110 Pte. SOMME, J.R. "D"
[illegible]-99422 Cpl. McELDERRY, J.R. "B"

Appendix C LHB.

CERTIFICATE UNDER THE ARMY ACT, SECTION 163 (i) (j).

I, W. Fern, Capt. D.A.P.M. LONDON AREA . . . . . certify that

Reg. No. F-95006 Rank Pte. . . . . Name GROVES, C.M. . . . . .

Regiment No.1. C.B.C.W., No.1. R.C.C.C. . . . . .

Unit . . . . . .

Stationed at . . . . . .

Surrendered himself to H.Q. 4542714 Rank L/Cpl. Name ROWE, A. . . . . .

of the . . CORPS OF MILITARY POLICE . . . . . .

on the 30 day of August 19 43, at 1400 hours

. . . . . AS AN ABSENTEE WITHOUT LEAVE . . . . . .

At the time of his surrender he was wearing (military uniform)/(civilian clothes)*

Signature of Provost-Marshal, Assistant Provost-Marshal or other officer or the Commanding Officer of the portion of His Majesty's Forces or the officer, warrant-officer or non-commissioned officer in charge of the detachment of the Canadian Provost Corps, Canadian Army, into whose custody the above named person was taken on surrendor.

(Strike out part inapplicable)*

LONDON
31 Aug. 43.

(W. Fern) Capt., D.A.P.M., C. M. P. C.

Appendix D CAB

Expense Voucher Re[illegible] Ref. K.R. & O. (C[illegible]539

Reg. No. F9506 Rank Pte Name Groves, T.H. Unit 1 C.B.O. W/S RC&C

The following expenses were incurred in apprehending and returning the M/N Soldier to ~~his Unit From~~ London from Leeds

Date	Particulars (Apl.)	Amount £	s	d
1st Sept. 43	Escorts return fare from LONDON To Leeds	1	8	6
	Prisoners single fare to LONDON From Leeds		14	3
	Prisoners fare from To			
	Escorts & Prisoners expenses for ~~Bed~~, Meals, Bus fares (Apl.)		2	10
	Total £	2	5	7

I certify that the above statement of Expenses is Correct, and that the amounts are fair and just.

Capt.

Officer Issuing Railway Warrant and Expense monies
No. 6 Area Provost Company, Canadian Provost Corps, London.

C.M.H.Q. 10000-5/43
4(F & E.s)(5.12/43)

Summary of Evidence
in the case of.

No F 95006. Pte. Jorge Melvin Simms Fd. C.C. on strength of 1st Can. Base Ordnance Workshop a soldier of the Canadian Army Overseas.

Day duration of the Commanding Officer this Summary of Evidence is taken on Oath.

Evidence for the prosecution

Capt. R.H. Beck. Officer Commanding, HQ Company, 1st Can. Base Ordnance Workshop having been duly sworn states as follows:

"I am Capt R. H. Beck, I am the Officer Commanding, HQ Company of 1st Can. Base Ordnance Workshop & I produce:

(A) A certified true copy of 1st Can. Base Ordnance Workshop Part II Order #101 dated 16 Aug 43 concerning the absence of the accused.

(B) A certified true copy of 1st Can. Base Ordnance Workshop Part II Order #107 dated 30 Aug 43 concerning the absence of the accused.

(C) A certificate of surrender of the accused dated 31 Aug 43.

(D) A certificate of expenses incurred in the return of the accused dated 1 Sept 43.

as Exhibits A, B, C & D for the Prosecution pertaining to the accused whom I now recognize. I have initialled the Exhibits for the purpose of identification.

The accused declines to cross examine the witness.

Signed R.H. Beck Capt

The accused was cautioned as follows: "Do you wish to make any statement or to give evidence on Oath? You are not obliged to say anything or give evidence

unless you wish to do so, but whatever you say or any evidence you give, will be taken down in writing & may be given in evidence.

The Accused declines to make a statement & reserves his defence.

I certify that the foregoing Summary of Evidence consisting of one page was taken down by me in the presence & hearing of the accused, & that Rules of Procedure 44 (C), (D) (E), (F) & (G) have been complied with.

K.D. Brooks Capt.
Officer detailed to take the Summary of Evidence

Borden, Man.
2 Sept 43.

LIST OF WITNESSES

In the case of F-95006, Pte. George Melvin GROVES, R.C.O.C., on strength of 1st. Cdn. Base Ordnance Workshop.

(For the Prosecution)

1. Capt. R.H. BECK - West Nova Scotia Regiment attached 1st. C.B.O.W./R.C.O.C.

PROSECUTOR

Capt. R.N. BROOKS - 1st. C.B.O.W./R.C.O.C.

(For the Defence)

None.

LIST OF EXHIBITS

In the case of F-95006, Pte. George Melvin GROVES, R.C.O.C., on strength of 1st. Cdn. Base Ordnance Workshop.

(For the Prosecution)

"A" Certified true copy of 1st. Cdn. Base Ordnance Workshop Part II Order #101, dated 16 Aug 43.

"B" Certified true copy of 1st. Cdn. Base Ordnance Workshop Part II Order #107, dated 30 Aug 43.

"C" Certificate of Surrender of the accused, dated 31 Aug 43.

"D" Certificate of Expenses incurred in the return of the accused, dated 1 Sep 43.

(For the Defence)

None.

I hereby request that the Convening Officer appoint.....
.....Lieut. J.H. Roberts.....to represent me at my forthcoming
Court Martial.

Bordon, Hants.
2 Sep 43

.....G.M. Groves.....
(F-95006 Pte. Groves, G.M.)

I hereby acknowledge that I have received a true copy of the Summary of Evidence taken at Bordon preliminary to my Court Martial and I further acknowledge receipt of a copy of the Charge Sheet under which I am being brought to Court Martial.

Bordon, Hants.
2 Sep 43

.....G.M. Groves.....
(F-95006 Pte. Groves, G.M.)

No. F-95006 Name GROVES, G.M. Sqn., Battery, or Company N/A Corps R.C.O.C. Date of enlistment 3-9-41 G.C. Badges NIL Service or Proficiency Pay N/A

Date of last entry in Company Conduct Sheet 17/10/41 No. and date of last drunk N/A Period not reckoning towards freedom from extra fine N/A Sheet No. 1 Signature O.C. Company, etc. D.Campbell Capt. Character

M.F.M. 6 (A.F. B.1225) 40/P & /S1295 (2965)

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of earlier disposal with trial	By whom awarded	Remarks
Field	1/8/42	Pte		AWL from 0730 hrs until 1900 hrs 31-7-42.Absent 11 hrs 30 min	Sgt.Hamilton	2 days C.B. extrs fat.	1/8/42	D.Campbell Capt.	1 days pay Auto.forf.
Field	12/6/43	Pte		WOAS. AWL. 2 days 7 hrs AA.15	L/Cpl.Stanley	6 days F.P. & forf.of pay	14 Jun 43	A.T.Field Major	3 days pay under FRAI 149
Field	7/7/43	Pte		(A.A.15) WOAS. AWL. 8 days 11 hrs 45 minutes.	Doc.R.P's L/Cpl. Stanley	21 days F.P. & forf of pay	8 Jul 43	A.T.Field Major	Auto.forf. of 9 days pay (149)

Certified to be a true copy of the original in my possession:

Date... 7 Sept 43

(R.N. Brooks) Capt. A. Adjt.
Officer having the custody of the original document.

(P.T.O.)

M.F.B. 355
2054—11-41 (2273)
H.Q. 1772-99-629
A.F.B. 266

STATEMENT AS TO CHARACTER AND PARTICULARS OF SERVICE OF ACCUSED

Number	Rank	Name	Regiment (or unit)
F-95006	Pte.	George Melvin GROVES	1st. C.B.C.W./R.C.C.C.

1. The following is a fair and true summary of the entries in the Service and General conduct sheets of the accused, exclusive of convictions by a Court-Martial or a Civil Court, of summary awards under Section 47 of the Army Act and of cases in which trial has been dispensed with.

	Within last 12 months		Since enlistment or appointment	
For	AWL AA.15(1)	2 times	AWL AA.15(1)	3 times
For	NIL	times	NIL	times
For	NIL	times	NIL	times
For	NIL	times	NIL	times

or,

There are no entries in the conduct sheets of the accused.

NOTE.—If the charge is for drunkenness, the entries for drunkenness must be stated separately.

2. The accused has not been previously convicted

3. The accused is not under sentence at the present time.

or,

4. The accused has been in confinement awaiting trial on the present charges for Nil days in civil custody, and 8 days in military custody, making a total of 8 days in custody, of which Nil days were spent in hospital.

5. The present age of the accused according to his attestation paper is 34 yrs. 9 months

6. The date of his attestation specified in his attestation paper 3 Sep 41

7.

9. The accused is in possession of or entitled to no military decoration, or military reward

10.

Permanent Force
unit

.....dated.....

.....dated.....

(b) The accused has served as a non-commissioned officer continuously, without reduction, to the present date:—

.....Date of promotion.

In the rank of.....years.

In the rank of.....years.

In the rank of.....years.

NOTE.—If any matter in any of the above paragraphs cannot be stated from the Regimental books, the paragraph must be struck through.

SCHEDULE

Of convictions by a court-martial or civil court, of summary awards under Section 47 of the Army Act, and of cases in which trial has been dispensed with of accused, Number.....Rank.....Unit

Name.....of.....Regiment

NOTE.—A verbatim extract from the regimental books stating these convictions and dispensations with trial must be inserted.

Description of Court by which tried	Date and Place of Trial	Charge upon which convicted	Sentence of the Court	Punishment Remitted

I hereby certify that the foregoing schedule of convictions and dispensations with trial is a true extract from the regimental books in my custody.

Signed this Seventh day of September, 1943

The above statement (with the schedule of convictions and of cases in which trial has been dispensed with) is read, marked.....signed by the president, and annexed to the proceedings.

R.N. Brooks

(R.N. Brooks) Capt. & Adjt.
1st. C.B.C.W./R.C.O.C.

HQ-67

Pte. Grover S. A.

SCHEDULE.

PART I. PLEA(S), FINDING(S) AND SENTENCE.

Accused: B-115502 Pte Sydney Allen GROVER, RCASC, 12 CBR Bn

Charge. (insert "alternative" where applicable.)	Plea. (See Instrs p 2.)	Finding. (See note below.)	(Space for use as required for further charges, accused charged jointly, special findings, etc.)
1st	Guilty	Guilty	
2nd			
3rd			
4th			
5th			
6th			

(Note: As to findings for lesser offences see AA 56, RP 44; findings on alternative charges see MML p 683 fn 4 para 2, RP 46; special findings see RP 44 and MML p 752, and in lieu of NG see RP 44 fn 6.)

~~At present under sentence for~~ ~~beginning on (date)~~ (1)

(1. Insert sentence being served, or delete, if not applicable. See RP 46(A). Information should be found on MF B355 or AF B296.)

Time in confinement awaiting present trial—a total of 210 days, of which 114 days were spent in hospital.(1)

(1. See RP 46(A) fn 2. Information should be found on MF B355 or AF B296 admitted in evidence under E2.)

Sentence Awarded by the Court:

To undergo 9 months detention

(Sgd) ~~Judge Advocate, if any.~~ 22 Dec 44 Date awarded. (Sgd) President. (RP 45, 50.)

(See back of Convening Order as to assembly and disposal of record after trial.)

PART II. MINUTE WHERE CONFIRMATION RESERVED. (AA 54(5), RP 120(F), MML p 760.)

Date (Sgd) Commanding

PART III. DECISION OF CONFIRMING OFFR ON FINDING(S) AND SENTENCE.

(For duties and powers see AA 54, 57, RP 37(D) fn 6, 46(A), 51-56, 120, MML pp 759-761, KR Can 567-577. Acquittals require no confirmation and cannot be revised: AA 54(3). Sending back finding or sentence for revision by Court: AA 54(2), RP 120(C). If not confirmed, accused may be tried again: AA 157, MML p 64. Minute of confirmation or non-confirmation may be altered before promulgation: RP 53, MML p 65. Quashing after promulgation: KR Can 573. Duties and powers of reviewing offrs: AA 57, 57A, RP 53A, 54. The Confirming Offr must sign here personally. AA 172 fn 1.)

My decision on the finding(s) and sentence set forth in Part I is:

I confirm the finding but remit(5) five months of detention

~~I direct that the accused be not committed to prison or detention barracks until further orders.~~ (1) ~~or~~

(1. AA 57A. Delete if not used.)

(Sgd) C Francoeur

Date 23 Dec '44 Commanding 2 CBRG Brig Confirming Officer

PART IV. PROMULGATED AND EXTRACTS TAKEN. (RP 52, KR Can 576, 577.)

Accused.	Date.	Signature of Offr.
B115502 Pte Grover, S.A. RCASC, 12 CBRBn	28 Dec 44	A O'Neill

O.C., 12 Bn., 2 C.B.R. Group

ALL DELETIONS AND ALTERATIONS WILL BE INITIALLED.

RECEIVED 2 FEB 1945 JAG BRANCH

FIELD GENERAL COURT-MARTIAL

CFAIR (TS) Form 52 APAR 40/1 & B.1662 (6/44) 4/38B

4967

Convened by Order of Brig C Francoeur Comd 2 CBRG dated 21 DEC 44

ACCUSED.

(As to the trial of two or more charged jointly see RP 16, 71, 109. As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

Number.	(a) Prmnt R. (b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
B-115502	PROCEEDINGS REVIEWED	Sydney Allen	GROVER	RCASC

Mal Wrazej Major REVIEWING OFFICER, J.A. BRANCH C.M.H.Q.

PROCEEDINGS OF TRIAL.

Held in the Fd in (country) BELGIUM on (date(s)) 22 DEC 44

RECORD FORM A—OPENING PROCEEDINGS AND ARRAIGNMENT.

A1. The President, Members, ~~waiting Member, JA, if any, and Offrs under instr, if any~~, assemble, and the Court is closed.

(PRINTED MATTER, NOT IN ITALICS FOR GUIDANCE, WILL BE DELETED, IF NOT USED OR APPLICABLE, AND INITIALLED BY PRES OR JA. The Schedule referred to throughout is on p 4. Citations do NOT include all relevant fns RDs. For guidance as procedure when a variation in this form arises, see form for GCM in MML pp 741 to 759. A brief record of such variation will be made and given a number having reference to appropriate or preceding para number herein. See back of Convening Order, CF AFS, for seals and instrs on how to record addresses, evidence, etc, which matrs are hereafter called "Notes". As to general provisions for conducting the trial see AA 53, RP 36, 63-70, 73, 74, 94, 103, 119, 132.)

A2. The President initials and lays before the Court the Convening Order and Charge Sheet(1) attached thereto.(1) The Court is satisfied that it is properly convened and constituted(2), accused is (are) amenable to military law, and each charge discloses an offence.(2)

(1. As to use of Summary of Evidence see RP 17 fn 6. 2. AA 49, 50, RP 105-107. 3. RP 11-13, 23, 24.)

A3. The Court is opened. The accused is (are) brought before the Court. At 1600 hours trial commences.

A4. The Prosecutor produces a Medical Certificate that accused is (are) fit to undergo trial by court-martial.(1) ~~The Prosecutor informs the Court that accused elected to be tried by court-martial instead of being dealt with summarily by the CO.~~(2)

(1. KR Can 557. 2. AA 46(B), RP 60 fn 1. For effect see KR Can 563(c). Delete, if not applicable.)

A5. President to accused: ~~Do you object to~~ as interpreter? Ans ~~—~~

~~The Interpreter is sworn.~~(1) Do you ~~object to~~ as shorthand writer? Ans ~~—~~

~~The shorthand writer is sworn.~~(1)

(1. RP 72. Delete, if none employed.)

A6. The Convening Order and names of the President and Members of the Court are read to the accused.(1)

President to accused: Do you object to be tried by me as President or by any of the Members of the Court?

Ans No (2)

(1. RP 110. 2. If no objection, waiting member retires. RP 68(B). If objection, see procedure AA 51, RP 25, 71, 78, MML p 742.)

A7. The President, Members, ~~JA, if any, and Offrs under instr, if any~~, are sworn.(1) The following are the ranks, names and units of the offrs comprising the Court, etc:

President	Major	F.F. Blue	CIC	10 CBR Bn
Member	Capt.	J.D. Forrest	RCEME	7 CBR Bn
Member	Lieut	F.A. Grobb	RCCS	7 CBR Bn
~~Judge Advocate~~				
Prosecutor	Lieut	L.C. Gunby	RCASC	12 CBR Bn
Defending Offr	Capt	D.L. McJannet	RCASC	12 CBR Bn

Questions by President: Is the Prosecutor a lawyer? Ans No. Is the Defending Offr a lawyer? Ans No (2)

(1. RP 26, 27, 109, 111. List of offrs under instr will be returned separately with proceedings for information of Conv Offr.)
(2. If Pros a lawyer and Def Offr not, accused is entitled to an adjournment when RP 89 (B) and fn 2 were not followed. See DI p 3.)

A8. The accused B-115502 Pte GROVER S.A. before arraignment make(s) (no) ~~(a)~~ plea.(1)

(1. If a special plea is made for separate trial on one or more charges (RP 62(E), 108), or as to the jurisdiction of the Court, RP 34, 35(A), 112), or in bar of trial (RP 36), or as to accused's mental fitness to stand trial (AA 130, RP 57), or (in one of several accused charged jointly to be tried separately (RP 16, 71), such plea, the addresses made in support or against, the evidence, if any, and Finding are recorded per Notes. For forms of record see references in fns to RsP cited. Insert in AB rank and name of the accused making the plea.)

A9. The accused is (are) arraigned ~~(separately)~~ on all charges in the charge sheet.(1) The accused does (~~does~~ not object to any charge.(2) There is no amendment to be made to the Charge Sheet.(1) The President records the pleas in Part I of the Schedule.

(1. RP 31, 112. See para 1 of Instrs p 2. Where more than one Charge Sheet see RP 62; when several accused to be tried separately see RP 71(C), and use separate copies of CF AFB to record proceedings. 2. RP 32, RP 33. If otherwise, delete and make appropriate record per Notes.)

A10. The Court ~~is cleared and~~ considers the Instrs on Procedure after Arraignment at top of p 2. The proceedings are continued on Record Form B

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

2 CBRG WLB P106

INSTRUCTIONS ON PROCEDURE AFTER ARRAIGNMENT.

1. *The accused may not plead or be found Guilty on more than one of two or more charges laid in the alternative.* (*RP* 37(*A*).) *As to withdrawal of alternative charges by Prosecutor see RP* 35(*C*). *No other charge can be withdrawn for any reason without authy from Convening Offr. If Convening Offr concurs, Court may accept plea of Guilty to lesser, etc, offence.* (*RP* 44(*H*).) *Accused may change a plea of Not Guilty to Guilty during trial.* (*RP* 38.) *As to refusing to plead or not pleading intelligibly see RP* 35(*A*). *As to plea when sentence may be death see RP* 35(*D*).

2. *The proceedings on each charge sheet* (*RP* 62) *after arraignment will be conducted as follows in the respective circumstances stated:*

I. If pleas to all charges are GUILTY, use Record Form B below.

II. If pleas to all charges are NOT GUILTY, use Record Form D on p 3.

III. If pleas to some charges are GUILTY and to other charges are NOT GUILTY and,

(a) *Such mixed pleas occur when there are no alternative charges in the Charge Sheet, use Record Form C below.* (*RP* 37(*A*).)

(b) *Such mixed pleas occur in a set of two or more charges laid in the alternative, see RP* 37 (*A*) *and fn* 2 *as to discretion of Court, (i) to try the accused on all such alternative charges as if he had pleaded Not Guilty thereto, or, (ii) to record the pleas as the findings of Court. After deciding between (i) and (ii), Court will proceed under foregoing instrs as may be appropriate to result of its decision. See M M L p 744 Instrs* (2).

3. *As to responsibility of President to accused see RP 59, 60(C); powers and duties of J A see RP 103; duty of Prosecutor see RP 60(A) (B); duty and privileges of accused and Defending Offr see RP 60(C), 87(C), 91, 92; swearing and withdrawal of witnesses from Court see RP 81, 82; questioning of accused see RP 80, 87(C), 92(B), and of witnesses see RP 85-85; calling or re-calling of witnesses by Court, etc, see RP 75-79, 86, 116; use of Summary of Evidence at Trial see RP 17(E) fn 6; and responsibility of J A or Pres to record proceedings see RP 94, 96.*

RECORD FORM B—PROCEEDINGS ON PLEAS OF GUILTY TO ALL CHARGES.

B1. The President ~~or JA, if any~~, complies with RP 35(B) by explaining to the accused the nature and meaning of the charge(s)(1), and that on his plea of Guilty there will be no regular trial but merely a consideration of the sentence to be awarded after he has been given an opportunity to make a statement in reference to the charge(s), call witnesses as to character and make an address in mitigation of punishment.(2)
(*1. RP 35 fn 3. 2. MML p 54 para 47.*)

B2. President to accused: The Court will now receive any statement you desire to make in reference to the charge(s).(1) If it appears from your statement that there are circumstances which indicate that you do not understand the effect of the plea of Guilty(2), or which show provocation or extenuation in respect of which in your interest the witnesses for the Prosecution should be examined(3), we shall advise you to change your plea to Not Guilty. In making a statement you will not be sworn or subject to cross-examination; and anything you say will not be used in evidence against you after you change your plea. If, however, it appears to the Court that your statement affects only the amount of punishment to which you are liable, you will not be advised to change your plea and you will be given an opportunity later to prove your statement by sworn testimony, if you so desire.(4)

President to accused: Do you wish to make a statement? Ans. No (5)
(*1. RP 37(B). 2. RP 37(D) fn 6. 3. RP 35(B) fn 5 para 3, MML p 54 para 47. 4. See para E3 of Record Form E. 5. Statement, if any, recorded per Notes.*)

B3. ~~The Court considers the accused's statement.(1) The Court decides (next) to advise accused to change his (their) plea(s) of Guilty to Not Guilty on charge(s). The accused is (are) so informed, and he (they) change(s) his (their) plea(s) on charge(s). Part I of the Schedule is amended accordingly.~~
(*1. Court may be closed to consider the statement. Delete whole or part not used.*)

B4. On the charge(s) to which the plea(s) of Guilty is (~~are~~ not changed the President records finding(s) of Guilty in Part I of the Schedule.(1)
(*1. RP 35(B). If any plea(s) is (are) changed, use Record Form C or D as appropriate.*)

B5. The Summary of Evidence is marked Ex A, initialled and read aloud by the President.(1)
(*1. If there is no Summary, or if it is inadequate, comply with RP 37(B). If there is any evidence inconsistent with any plea standing as Guilty, Court will advise accused to change such plea and, if changed to Not Guilty, try such charge(s) by use of paras D1 to D8 inclusive of Record Form D on p 3. RP 37(D).*)

B6. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

RECORD FORM C—PROCEEDINGS ON MIXED PLEAS OF GUILTY AND NOT GUILTY.

C1. As to the charges on which accused pleaded NOT GUILTY the trial is continued by using paras D1 to D8 inclusive of Record Form D on p 3 before proceeding with C 2.(1)
(*1. RP 37(A) (E).*)

C2. The charges on which accused pleaded GUILTY are read to him (them) again, and the trial is continued by using paras B1 to B5 of Record Form B above.(1)
(*1. Under B5 such paras only of the Summary of Evidence are read as relate to the charges dealt with under C2. If any plea is changed to Not Guilty, trial thereon proceeds by complying with paras D1 to D8 inclusive in Record Form D on p 3 and making an appropriate record thereof on a separate sheet.*)

C3. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

RECORD FORM D—PROCEEDINGS ON PLEAS OF NOT GUILTY TO ALL CHARGES.

D1. President to accused: Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity to prepare your defence? Ans.....(1)
(*1. If "yes", see RP 39(A) for procedure. Statement or evidence, if any, is recorded per Notes.*)

D2. The Prosecutor makes (an) (no) opening address.(1)
(*1. RP 39(B), 60(A) (B), 90, 92(C) (D). Record address per Notes, subject to RP 95(C).*)

D3. The evidence for the Prosecution is taken.(1)
(*1. RP 39(C), 114, KR Can 555. Record evidence per Notes. As to Prosecutor giving evidence himself see RP 39(D) (E).*)

D4. The Prosecution is closed.(1) The Defending Offr submits that the evidence for the Prosecution does not establish a prima facie case against the accused on the.....charge(s).(2) The Court is closed, and considers the submission.(3) The Court is re-opened, and the President announces that the submission is disallowed on the.....charge(s), and allowed on the.....charge(s), and that, accordingly, the trial will proceed on the former, but the accused is (are) found Not Guilty on the latter charge(s).(4)
(*1. Delete remainder of this para, if submission not made. 2. Arguments on submission, answer and reply are recorded per Notes. 3. RP 40 fn 1. See MML p 72 paras 12-14 and p 81 para 42. 4. Delete part not used. If accused acquitted on all charges, use second alternative in para D8.*)
NB: *If trial proceeds, accused must be allowed great latitude in making his defence, and the Court should not stop his defence solely on ground of irrelevance.* (*RP 60(C), 114, 115.*)

D5. President to accused: You will now proceed with your defence.(1) You may, if you wish, give evidence yourself on oath as to the facts or your character or both, in which case you will be subject to cross-examination.(2) You may, however, make a statement without being sworn, and you will not be subject to cross-examination.(3) But a statement which could have been made on oath will not carry with the Court the same weight as sworn testimony.(4) You may call witnesses in your defence and as to character, whether you give evidence or make a statement or do neither.

President to accused: Do you wish to give evidence yourself as a witness, make a statement, or do neither?
Ans.....Do you intend to call witnesses on your behalf?
Ans.....Are they witnesses as to character only? Ans.....
(*1. RP 115. 2. RP 40(A), see 80(D). 3. RP 40 fn 10. 4. RP 40 fns 2, 9.*)

D6. Consequent on the answers recorded in para D5 the appropriate procedure for the defence is followed.(1)
(*1. RP 114, 115, 116. For procedure see Notes on back of Convening Order. Cf. AR5. Evidence for accused as to his character should, if in his interest, be given before the finding. See RP 46(A) fn 1, 86(C). Note the further opportunity in para E1 of Record Form E. Record per Notes addresses, statement, evidence and any summing up by the JA under RP 42, 103(e).*)

D7. The Court is closed to consider the finding(s).(1) The finding(s) of the Court is (are) recorded in Part I of the Schedule.(2) The Court is re-opened.
(*1. RP 43, 117(A). See Notes in Part I of Schedule. 2. RP 44(A).*)

D8. The President announces the finding(s), if any, of Not Guilty, and states to the accused that the finding(s) of the Court on the.....charge(s), being subject to confirmation, will be promulgated later.(1)
Or, The President announces that the accused is found Not Guilty on all charges and is to be released forthwith, and that the proceedings are accordingly terminated. Part I of the Schedule is dated and signed.(2)
(*1. AA 54(2) (6), RP 45, 120(A). 2. AA 54(2), RP 45, 117. This alternative announcement is not applicable when there are pleas of Guilty outstanding and dealt with under Record Form B or C.*)

D9. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E below.

RECORD FORM E—PROCEEDINGS ON CONVICTION BEFORE SENTENCE.

E1. President to accused: Do you wish to give evidence yourself or to call any witnesses as to your character?(1)
Ans. No
(*1. If evidence has already been given by accused or his witnesses as to his character, delete this para. RP 37(C) fn 4, 46 fn 1. Accused and witnesses are sworn. Evidence recorded per Notes.*)

E2. The Prosecutor produces Statement(s) as to Character and Particulars of Service(1), and certified true copy (copies) of Conduct Sheet(s)(2), purporting to refer to the accused, which he submits to the Defending Offr for examination, and then to the Court for admission in evidence. The Court is satisfied that these documents refer to the accused, because (i) they purport to be signed in the manner required by AA 163(1) (g) (h), and (ii) they purport to refer to (a) soldier(s) having the same number, rank, name and corps as the accused. Admitted in evidence and marked Ex D and Ex E respectively.(3)
(*1. AFB 255 or AFB 296. 2. MFM s. 3. RP 46, KR Can 558. If above documents not produced, see RP 46 fn 1 para 1.*)

E3. President to accused: Do you wish to address the Court on the Statement(s) and Conduct Sheet(s), and in mitigation of punishment?(1) Ans. Yes - in mitigation of punishment Ex F (2)
(*1. RP 37(C), 46(D). 2. Address, if any, recorded per Notes. Court should permit accused or his witnesses to prove on oath anything here or previously stated which would affect the amount of punishment. RP 37(F) fn 7.*)

E4. The President states that the Court is closed to consider the sentence, and that the sentence to be awarded by the Court, being subject to confirmation, will not be announced, but will be promulgated later, and the proceedings in open court are accordingly terminated.(1)
(*1. AA 54(6), RP 120(A).*)

E5. The Court considers the sentence.(1) The President records the sentence in Part I of the Schedule, which is dated and signed by him and the J A, if any.(2)
(*1. When several accused tried separately see RP 71 (D). One sentence only, comprised of the punishment or punishments laid down in AA 41, 44 and its proviso, is to be awarded to cover all charges in all charge sheets on which accused found guilty. RP 48. As to sentences see AA 44, 138, 182. RP 46-50, 69, 118, 119(A), KR Can 308, 330, 563-566, Overseas RO 309, 2323, MML p 66, 737-739. As to sentences assigned for civil offences by the law of England see AA 41(5), MML p 130. When accused already under sentence of imprisonment or detention see AA 44(1B), 68(1), KR Can 564. 2. RP 50. As to release from arrest by Confirming Offr see KR Can 567. As to assembly and disposal of record after trial see instrs on back of Convening Order.*)

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

CHARGE SHEET

The accused B. 115502 Pte. GROVER, Sydney Allen RCASC on strength 12 Bn. 2 C.B.R.Gp. a soldier of the Cdn Army (Overseas) is charged with:-

FIRST CHARGE

A.A. Sec. 15 (1)

While on active service absenting himself without leave

in that he

when in military custody did absent himself without leave from 12 Bn., 2 C.B.R.Gp. from 2300hrs. 29 Nov 44 until he was apprehended in Brussels by the C.P.C. at 2245hrs. 2 Dec 44. (Absent 2 days 23 hrs. 45 mins.)

.....(A.C. Hood) Lt Col.
Commanding
12 Bn., 2 CBRGp.

Place: In the Field, in Belgium
Date: 12 DEC 44

TO BE TRIED BY FIELD GENERAL COURT MARTIAL

(G Brancoeur) Brig
Comd
2 Cdn Base Rft Gp

In the Field
21 DEC 44

FIELD GENERAL COURT-MARTIAL

(Whether the accused to be tried is under his comd or not, a FGCM may on application to him be convened by any offr of Cdn Army Overseas, or of any other force if authorized in law, in immediate comd of troops on active service, subject to RP 105(C) and restrictions imposed by appropriate authy. AA 49, 50, RP 104-107, 114. As to the duties and privileges of the Convening Offr in dealing with the application see MML Chap V paras 20 and 23, RP 87(B).

There should be a separate Convening Order for each person to be tried separately by the same Court. RP 71(C), 109. As to separate charge sheets see RP 62, and as to separate trial on charges in the same charge sheet see RP 108. As to two or more accused charged jointly see RP 16, 109.

As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns. KR Can 308, 328, 330.)

ACCUSED.

Number.	(a) Prmnt R.	(b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
B-115502	Pte		Sydney Allen	GROVER	RCASC, 12 CBR Bn

CONVENING ORDER.

1. Whereas complaint has been made to me, the undersigned, that the person(s) named above as the accused, being subject to military law, has ~~(have)~~ committed the offence(s) set forth in the Charge Sheet(s) attached and on (date) 27 DEC 44 endorsed by me, ~~(or by an offr of my staff for me)~~, "To be tried by Field General Court-Martial",

2. And whereas I am of opinion that it is not practicable that such offence(s) should be tried by an ordinary General Court-Martial; ~~(and that it is not practicable to delay the trial for reference to a superior qualified offr.)~~

(Delete part in brackets when not required for compliance with RP 105(C).)

3. I hereby convene a Field General Court-Martial to try the said person(s), and to consist of the Offrs appointed or detailed hereunder.

4. ~~I am unable to appoint (a) three Offrs to form the Court, (b) a Fd Offr as President, for the reasons I have attached hereto.~~

(AA 49, RP 106(B), 107(A). Delete the whole or part, if not applicable.)

5. ~~I also appoint as Judge Advocate thereat the Offr mentioned hereunder.~~

(RP 106(E). Delete, if none appointed.)

PRESIDENT.

(Rank.)	(Must be named. RP 106.)	(Unit.)
Major	J L BLUE,	GID, 10 CBR Bn

MEMBERS.

(Rank.)	(Named or detailed. RP 106.)	(Unit.)
Capt	To be detailed by OC 9 CBR Bn	9 CBR Bn
Lieut	To be detailed by OC 9 CBR Bn	9 CBR Bn

WAITING MEMBER.

(Rank.)	(Named or detailed, if any. RP 106.)	(Unit.)
Capt	To be detailed by OC 12 CBR Bn	12 CBR Bn

~~JUDGE ADVOCATE.~~

(Rank.)	(Must be named, if any. RP 106.)	(Unit.)

On Active Service in the Fd

in BELGIUM (Country.)

(Signed personally. RP 105 fn 2.) Brigadier (Rank.)

(G Francoeur)

Date 31 DEC 44

Commanding 2 Cdn Base Sft Gp

Convening Officer.

CONVENING OFFR WILL INITIAL ALL DELETIONS AND ALTERATIONS

4/38A CFAES (In lieu of AFAS) 40-7 & 8-7/1697 (6851)

(See overleaf for oaths and notes for use on trial.)

jlb

MEDICAL OFFICERS CERTIFICATE

(KR(Can) Para 557)

I certify that I have this day examined B1,55502 (No.)

Pte (Rank) Grower, S.A. (Name) and in my opinion he is

fit ~~unfit~~ to undergo trial by Court-Martial.

Station Field (Belg.)

Date. 22 Dec 44

A.C. Gardiner Capt (Sgd)
Medical Officer
Unit 2 Bn 2 CBRA

mitigation for the accused which is attached.

B 115502 Grover S. A.

E 3

F

The President, members of the court

In pleading guilty and pleading himself upon the mercy of the court the defendant wishes in mitigation that there the following circumstances be given kindly consideration.

After becoming old enough, 17 years of age, & successfully passed himself through an Army recruiting Office, he did so. He realized his duty and although actually too young for foreign service he made himself a volunteer. A year after he enlisted to prove himself in a theatre of war. But the trials that beset the mind of a boy, are great, though to us of a more mature age these trials all, or many appear to be mere trivials. I would ask you to consider the strain on a boy's mind, a lad of 18 years when he finds himself in the middle of the greatest war civilization has ever known without the comfort of correspondence from home. As the days pass the shadow becomes greater and as he find that suddenly a clean military record is tarnished, he begins drinking, and as so many of us have discovered before, he finds that instead of the release, the consolation he had hoped for, he finds increased - more trouble.

The defendant as he stands before you is not only a chastened soldier, he is a wiser boy, and trusts that as you learned gentlemen of the court pardon this case, that as you will realize that already he has paid for his folly - he has realized the error of his ways and now asents the opportunity to prove himself the good soldier we believe him to be.

Defence Counsel Capt
C.A.S.C.

SUMMARY OF EVIDENCE IN THE CASE OF

B115502 PTE GROVER, SYDNEY ALLEN 47 Coy 12 Bn 2 CBRG

The Commanding Officer directs that the evidence be taken on oath.

FIRST WITNESS

Captain E.M. BROWN, R.C.A.- Adjutant, 12 Bn. 2CBRG, having been duly sworn states:

Herewith certificate in accordence with P.C. 2797 of 10 April 42 which is Certificate of Apprehension of B.115502 Pte Grover S.A.

Certificate received by Officer taking the summary, marked with the identifying letter "A" and attached to the proceedings.

The accused declines to cross-examine th witness.

.....
Capt. E.M.Brown R.C.A.
Adj. 12 Bn. 2 CBRG.

SECOND WITNESS

B17247 Sgt. MACDONALD, Donald Ian, Regimental Provost Sgt. 12 Bn. #2 CBRG, having been duly sworn states:

The accused Pte Grover, whom I recognize was T.O.S. 12 CBR Bn. Unit Detention 25 Nov 1944 at approximately 0125 hours and was seen by me. He was sentenced to 28 days F.P. on 28 Nov 1944 by the C.O. 12 CBR Bn. and was confined to 12 CBR Bn Sub-Detention at St. Peters Barracks, Ghent, by me at approximately 1000hours, 28 Nov 1944. On 29 Nov 1944 at approximately 2300 hours, while on duty I checked the occupants of the Sub-Detention Barracks and found the accused's bed empty. I immediately called the roll and the accused did not answer his name. I again called the roll at approximately 0745 hours 30 Nov 1944 and the accused again failed to answer his name. He was returned to 12 CBR Unit Detention under close a rest by C.P.C. on 4 Dec 1944.

The accused declined to cross-examine the witness.

D. J. MacDonald
.....
B17247 Sgt. MacDonald D.I.
R.P 12 Bn 2 CBRG.

THIRD WITNESS

C53094 Cpl. LEVALLEE, A. 8 Sec. 2 Cdn. L of C Provost Coy.

I certify that in my opinion the attendance of this witness, owing to the exigencies of the service, not readily procurable, and a written statement of his evidence, signed by him, has been read to the accused and is attached hereto as Exhibit "B".

E. B. VanDine
.....
E.B. VanDine Capt.
(Officer detailed to take summary)

I do not require the attendance of this witness for the purpose of cross-examination.

S.A. Grover
.....
S.A. Grover, Pte.
(accused)

The accused was cautioned as follows:--

Do you wish to make any statement or to give evidence on oath? You are not obliged to say anything or give evidence unless you wish to do so, but whatever you say or any evidence you give will be taken down in writing and may be given in evidence.

The accused does not wish to make a statement.

The accused does not call any witnesses for the defence.

I certify that the foregoing Summary of Evidence consisting of two (2) pages was taken down by me and that Rules of Procedure 4 (c),(d),(e),(f) and (b) have been complied with.

E. B. VanDine
.....
E.B. VanDine Capt.
47 Coy. 12 Bn. 2 CBRD.

In the Field, in Belgium.
7 Dec 1944

CERTIFICATE IN ACCORDANCE WITH P.C. 2797 of 10 Apr 42

I CERTIFY THAT No B-115502 Rank Pte. Name GROVER S.A.
Unit R.C.A.S.C. 12 C.B.R.G. ARMY TROOPS was arrested at Brussels (Place)

at 2245 (hour) on 2 Dec 44 (date) and that at the time of his arrest he was wearing (military uniform) ~~of~~.

Signature of Provost-Marshal, Assistant Provost-Marshal or other officer or the Commanding Officer of the portion of His Majesty's Forces or the officer, warrant officer or non-commissioned officer in charge of the detachment of the Canadian Provost Corps, Canadian Army, into whose custody the above named person was taken on arrest.

DAPM, Cdo Sec.
HQ BRUSSELS GARRISON

Field
2 Dec 44

(J.Tweddle) A/Capt
Officer Commanding
20dn.Loff Pro.Coy.

Exhibit "A"

CHARGE D-204

Army Form B 252
(See King's Regulations)

R.C.A.S.C. — Regiment

12 C.B.R.G. ARMY TROOPS. — Battery / Squadron / Troop or Company

CHARGE against No. D-115502 Rank Pte.

Name GROVER S.A.

Place BRUSSELS Date of Offence 2 Dec 44

OFFENCE WOAS: AWL. from ? until ,
apprehended by the Cdn. Provost Corps,
at 2245 Hrs. 2 Dec 44. (2) Not in possesion
o f Pay Books Part I,II, III, or identit
diee.

(J.Tweddle) A/Capt
Officer Commanding
2 Cdn.Lofc Pro.Coy.

Names of Witnesses

C-53064 Cpl Levallee A.
H-56075 L/C. Benvie W.W.
S Sec 2 Cdn.Lofc Pro.Coy.

Signature of O.C. Battery, Squadron, Troop or Company

Punishment Awarded

By whom Awarded

Adjutant.

P.T.O.

30000 W.W.P.(1)6/45(1) 2/000,000 10-45 H.A.H.,Ltd. 9652-45

Statement of **EVIDENCE** in case of:-

B-115502 Pte. GROVER S.A.
R.C.A.S.C. 12 C.B.R.G.
ARMY TROOPS.

Sir:-

At Brussels on 2 Dec 44, I was on duty in company with L/C. Benvie W.W. at NORTH STN. Rogier Sqr.

At approx. 2245 Hrs., I checked the a/m soldier for his pass, which he failed to produce. He was AWL.

He was not in possession of Pay Book Parts I,II,III., or identity discs.

I placed the a/m soldier under close arrest and escorted him to Prince Albert Bks., where he was handed over to the NCO. i/c Guard Room to be detained awaiting escort to his Unit.

Field
2 Dec 44

P. Levallee
C-53094 Cpl. Levallee A
8 Sec 2 Cdn.LofC Pro.Coy.

Sir:-

I have read over and corroborate the a/m statement.

W. Benvie
H-59076 L/C. Benvie W.W.
8 Sec 2 Cdn. LofC Pro. Coy.

REMARKS

Exhibit "B"

D/GB

ARMY FORM B.296

Statement as to Character and Particulars of Service of Accused.

Number	*Rank*	*Name*	*Regiment (or as the case may be)*
B.115502	Pte.	GROVER, S.A.	12Bn., 2 CBRGp.

1. The following is a fair and true summary of the entries in the regimental and squadron, battery or company conduct sheets† of the accused, exclusive of convictions by a court martial or a civil court, of summary awards under section 47 of the Army Act, and of cases in which trial has been dispensed with :—

NOTE.—At a trial by field general court martial this summary may be compiled from the field conduct sheet.
The conduct sheet(s) mentioned should be produced in court with this statement but not annexed to the proceedings.
† See para. 677, K.R., 1940.
* The numbers herein stated should correspond with the number of entries in the conduct sheets, consideration being given to the most serious offence to each entry, and to any recognised special acts of gallantry or distinguished conduct.
INSTRUCTION.—If the charge is for drunkenness the entries for drunkenness must be stated separately and dated.

	* Within last 12 months	* Since Enlistment
For A.A. Sec. 15(3)	two times	two times
For A.A.Sec. 10(4)	one times	one times
For	times	times
For	times	times
For	times	times

~~Number of sentences of gallantry or distinguished conduct~~

or

~~There are no entries in the conduct sheets of the accused~~

2. ~~The accused has not been previously convicted, or~~ Previous convictions† of the accused by a court martial or a civil court, summary awards under section 47 of the Army Act, ~~and dispensations with trial under section 73 of the Army Act, are set out in the schedule annexed to this statement~~

3. The accused is not under sentence at the present time, *or* The accused at the present time is under sentence for 28 days F.P beginning on the day of 29 Nov 44

4. The accused has been in confinement, awaiting trial on the present charges, for Nil days in civil custody, and 20 days in military custody, making a total of 20 days, of which Nil days were spent in hospital

5. The present age of the accused according to his ~~record of service~~ ~~attestation paper~~ MEM 1 PtI is 19yr, 3 mos.

6. The date of his ~~commission~~ attestation specified in his ~~record of service~~ ~~attestation paper~~ MEM1, PtI is Aug.19,1943

7. The service which the accused is allowed to reckon towards discharge or transfer to the reserve is 1 yr, 2mos, 14 days

8. The accused is entitled to deferred pay or gratuity in respect of 1yr, 2 mos, 14 days service

9. The accused is entitled to reckon 1yr, 2mos, 14days service for the purpose of determining his pension, etc.

10. ~~The accused is in possession of, or entitled to, no military decoration or military award (or is in possession of, or entitled to (state any military decoration or award))~~

11. ~~(If the accused is a warrant officer.) The accused before he was made a warrant officer had held the regimental rank of~~

12. ~~(In the case of an officer.) The accused holds in the army the rank of dated and in his regiment (or corps or department) the rank of dated~~

Schedule of Convictions by a Court Martial or Civil Court, of summary awards under Section 47 of the Army Act and of cases in which trial has been dispensed with of accused.

No. _____ *Rank* _____ Name _____ of _____ Regiment (or as the case may be).

(INSTRUCTION—A verbatim extract from the regimental books, stating these convictions and dispensations with trial, must be inserted.)

Description of court by which tried, or status of officer disposing of the charge or dispensing with trial	Date and place of trial, or summary award under A.A. 47, or of order dispensing with trial	Charges upon which convicted, or in respect of which trial was dispensed with	Sentence of the court or authority disposing of the charge, or order of the dispensing authority.	Punishment remitted.

I HEREBY CERTIFY that the foregoing schedule of convictions and dispensations with trial is a true extract from the regimental books in my custody.

Signed this 22 day of December

Capt
Adj

13. The accused has served as a non-commissioned officer continuously, without reduction, to the present date.

In the rank of _____ Date of Promotion.

In the rank of _____ years.

In the rank of _____ years.

(INSTRUCTION—If any entries as to any of the above paragraph cannot be copied from the regimental books the paragraph must be struck through in red ink and a note made in the margin explaining why. Any such entries in the paragraph concerned should be proved accordingly.)

E JB

3/17 MFM 6 (AFB 122)

No. B115502 Name GROVER, S.A. Sqn, Battery, or Company Corps RCASC Date of enlistment 19/8/43 OC Badges Service or Proficiency Pay

Date of last entry in Company Conduct Sheet | No. and date of last drunk | Period not reckoning towards freedom from extra fine | Sheet No 1 | Signature OC Company, etc | Character

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order determining with trial	By whom awarded	Remarks
						28 days FP.	4 Oct 44		
63 ATC	4 Oct 44	Pte		AWL 19 hrs 30 mins.		29 days Pay-stop pay $20.00			
				Damaged DND Vehicle		7 days C.B.	23 Nov 44	A.O.Hood Lt.Col.	FR&I 149 (2)
Field	22 Nov 44			WOAS Sec 15 (3) A.A. out of barracks after curfew	Doc	3 days Pay			
Field	25 Nov 44	Pte		1st Charge					
				WOAS being found beyond the limits fixed by Regt'l Orders without a pass A.A Sec 15 (3)	Doc	28 days F.P.	29 Nov 44	A.O.Hood Lt.Col.	For 28 days pay FR&I 149 (1) (b)
				2nd Charge					
				WOAS Breaking out of barracks A.A.Sec 10 (4)	Doc Sgt Dunwell				

(FTO)

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or if under disposing with trial	By whom awarded	Remarks

Certified true copy of the records and doc's in my custody.

.....Capt.,
Adjt.,
12 Bn. 2 C.B.R.Gp.

EEE-73

GNR GRUBIC G P.

SCHEDULE.

PART I. PLEA(S), FINDING(S) AND SENTENCE.

Accused : B139103 Gnr George P Grubic 6 Bn 2 CBRD.

Charge. (Insert "alternative" where applicable.)	Plea. (See instrs p 2.)	Finding. (See note below.)	(Space for use as required for further charges, accused charged jointly, special findings, etc.)
1st	Guilty	Guilty	
2nd	Guilty	Guilty	
3rd			
4th			
5th			
6th			

(Note : As to findings for lesser offences see AA 56, RP 44 ; findings on alternative charges see MML p 483 fn 4 para 2, RP 44 ; special findings see RP 44 and MML p 753, and in lieu of kit see RP 44 fn 6.)

At present under sentence for _____ beginning on (date) _____ (1) Ent

(1. Insert sentence being served, or delete, if not applicable. See RP 46(A). Information should be found on MF B355 or AF B296.)

Time in confinement awaiting present trial—a total of 18 days, of which Nil days were spent in hospital.(1)

(1. See RP 46(A) fn 2. Information should be found on MF B355 or AF B296 admitted in evidence under E2.)

Sentence Awarded by the Court : To undergo 120 days detention, and to be put under stoppages of pay of 25¢ per diem during period of detention.

(Sgd) _____ 28 Jan 44 (Sgd) Lyle Story major

Judge-Advocate, if any. Date awarded. President. (RP 45, 50.)

(See back of Convening Order as to assembly and disposal of record after trial.)

PART II. MINUTE WHERE CONFIRMATION RESERVED. (AA 54(5), RP 120(F), MML p 760.)

Date _____ (Sgd) _____ Commanding _____

PART III. DECISION OF CONFIRMING OFFR ON FINDING(S) AND SENTENCE.

(For duties and powers see AA 54, 57, RP 37(D) fn 6.46(A), 51 56, 120, MML pp 759-761, KR Can 567-577. Acquittals require no confirmation and cannot be revised : AA 54(3). Sending back finding or sentence for revision by Court : AA 54(2), RP 120(G). If not confirmed, accused may be tried again : AA 157, MML p 64. Mitigate of confirmation or non-confirmation may be altered before promulgation : RP 53, MML p 65. Quashing after promulgation : KR Can 573. Duties and powers of reviewing offrs : AA 57, 57A, RP 53A, 54. The Confirming Offr must sign here personally. AA 172 fn 1.)

My decision on the finding(s) and sentence set forth in Part I is : Confirmed

~~I direct that the accused be not committed to prison or detention barracks until further order.~~(1) Ent

(1. AA 57A. Delete if not used.)

Date 28 Jan 44 (Sgd) G.W. Haedenty B.G.
COMMANDER
Commanding 1 CDN BASE RET GROUP
Confirming Officer.

PART IV. PROMULGATED AND EXTRACTS TAKEN. (RP 53, KR Can 576, 577.)

Accused. Date. Signature of Offr.

B139103 Gnr Grubic G.P. 2.2.44 [signature] LT-COL.
CO. 6 BN. 2 C.B.R.D.

ALL DELETIONS AND ALTERATIONS WILL BE INITIALLED.

ENTERED IN RECORDS OF C.M. EEE 73

FIELD GENERAL COURT-MARTIAL

CFA96 (To take place of AFA81) (C.P.L.S. 5000 (2/44))

Convened by Order of Col S.H. LEE Comd R.C.A.R. GROUP dated 25 Jan 44

ACCUSED.

(As to the trial of two or more charged jointly see RP 16, 71, 109. As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns. KR Can 308, 328, 330.)

Number.	(a) Prmnt R. (b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
B139103	GUNNER	GEORGE P	GRUBIC	6 FD. 2 CBRD

PROCEEDINGS REVIEWED
R. Beaulieu capt.
14 Mar 44
REVIEWING OFFICER, JAG/DJAG C.M.H.Q.

PROCEEDINGS OF TRIAL.

Held in the Fd in (country) CANADA on (date(s)) 28 JAN 44

RECORD FORM A—OPENING PROCEEDINGS AND ARRAIGNMENT.

A1. The President, Members, waiting Member, JA, if any, and Offrs under instr, if any, assemble, and the Court is closed.

(PRINTED MATTER, NOT IN ITALICS FOR GUIDANCE, WILL BE DELETED, IF NOT USED OR APPLICABLE, AND INITIALLED BY PRES OR JA. The Schedule referred to throughout is on p 4. Citations do NOT include all relevant fns. For guidance on procedure when a variation in this form arises, see form for GCM in MML pp. 741 to 759. A brief record of such variation will be made and given a number having reference to appropriate or preceding para number herein. See back of Convening Order, CF 885, for oaths and instrs on how to record addresses, evidence, etc., which instrs are hereafter called "Notes". As to general provisions for conducting the trial see AA 53, RP 56, 63-70, 73, 74, 94, 103, 119, 132.)

A2. The President initials and lays before the Court the Convening Order and Charge Sheet(s) attached thereto.(1) The Court is satisfied that it is properly convened and constituted(2), accused is (~~not~~) amenable to military law, and each charge discloses an offence.(3)

(1. As to use of Summary of Evidence see RP 17 fn 6. 2. AA 49, 50, RP 105-107. 3. RP 11-(3, 23, 24).)

A3. The Court is opened. The accused is (~~not~~) brought before the Court. At 1055 hours trial commences.

A4. The Prosecutor produces a Medical Certificate that accused is (~~not~~) fit to undergo trial by court-martial.(1) The Prosecutor informs the Court that accused elected to be tried by court-martial instead of being dealt with summarily by the CO.(2)

(1. KR Can 557. 2. AA 46(B), RP 60 fn 1. For effect see KR Can 567(c). Delete, if not applicable.)

A5. President to accused : Do you object to N/I as interpreter ? Ans ... Ent

The Interpreter is sworn.(1) Do you object to as shorthand writer ? Ans ... Ent
The shorthand writer is sworn.(1) Ent

(1. RP 72. Delete, if none employed.)

A6. The Convening Order and names of the President and Members of the Court are read to the accused.(1) President to accused : Do you object to be tried by me as President or by any of the Members of the Court ?

Ans ...(2)

(1. RP 110. 2. If no objection, waiting member retires. RP 68(B). If objection, see procedure AA 51, RP 25, 71, (B, MML p 742.))

A7. The President, Members, JA, if any, and Offrs under instr, if any, are sworn.(1) The following are the ranks, names and units of the offrs comprising the Court, etc :

President	MAJOR	L.A. GERRY	CAC	6 Fd. 2 CBRD
Member	LIEUT	R.D. MAGUIRE	RCA	6 Bn 2 CBRD Ent
Member	CAPT	W.P. HOGG	RCASC	7 Bn 2 CBRD
Member	A/CAPT	J.G. BENEDETTI	RCASC	7 Bn 2 CBRD
Judge-Advocate				
Prosecutor	LIEUT	J.J. McKENNA	R.C.A.	6 Bn 2 CBRD
Defending Offr	LIEUT	R.A. BROWN	R.C.A.	6 Bn 2 CBRD.

Questions by President : Is the Prosecutor a lawyer ? Ans No Is the Defending Offr a lawyer ? Ans No (2)

(1. RP 26, 27, 109, 111. Lists of offrs under instr will be returned separately with proceedings for information of Conv. Offr.)
(2. If Pros a lawyer and Def Offr not, accused is entitled to an adjournment when RP 89 (B) and fn 2 were not followed. See DI p 3.)

A8. The accused ~~before arraignment~~ make(s) (no) plea (1) Ent

(1. If a special plea is made for separate trial on one or more charges (RP 62(E), 108), or as to the jurisdiction of the Court (RP 34, 35(A), 113), or in bar of trial (RP 36), or as to accused's mental fitness to stand trial (AA 130, RP 57), or by one of several accused charged jointly to be tried separately (RP 16, 71), such plea, the addresses made in support or against, the evidence, if any, and finding are recorded per Notes. For forms of record see references in fns to RsP cited. Insert in AB rank and name of the accused making the plea.)

A9. The accused is (~~not~~) arraigned (~~separately~~) on all charges in the charge sheet.(1) The accused does (~~not~~) not object to any charge.(2) There is no amendment to be made to the Charge Sheet.(3) The President records the pleas in Part I of the Schedule.

(1. RP 31, 112. See para 1 of Instrs p. 2. When more than one Charge Sheet see RP 62 ; when several accused to be tried separately see RP 71(C), and use separate copies of CF 496 to record proceedings. 2. RP 32, RP 33. If otherwise, delete and make appropriate record per Notes.)

A10. The Court (is closed and) considers the Instrs on Procedure after Arraignment at top of p 2. The proceedings are continued on Record Form B

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

INSTRUCTIONS ON PROCEDURE AFTER ARRAIGNMENT.

1. *The accused may not plead or be found Guilty on more than one of two or more charges laid in the alternative.* (*RP 37(A).*) *As to withdrawal of alternative charges by Prosecutor see RP 35(C). No other charge can be withdrawn for any reason without authy from Convening Offr. If Convening Offr concurs, Court may accept plea of Guilty to lesser, etc, offence.* (*RP 44(H).*) *Accused may change a plea of Not Guilty to Guilty during trial.* (*RP 38.*) *As to refusing to plead or not pleading intelligibly see RP 35(A). As to plea when sentence may be death see RP 35(D).*

2. *The proceedings on each charge sheet* (*RP 62*) *after arraignment will be conducted as follows in the respective circumstances stated :*

I. If pleas to all charges are GUILTY, use Record Form B below.

II. If pleas to all charges are NOT GUILTY, use Record Form D on p 3.

III. If pleas to some charges are GUILTY and to other charges are NOT GUILTY and,

(a) Such mixed pleas occur when there are no alternative charges in the Charge Sheet, use Record Form C below. (*RP 37(A).*)

(b) Such mixed pleas occur in a set of two or more charges laid in the alternative, see RP 37 (A) and fn 2 as to discretion of Court, (i) to try the accused on all such alternative charges as if he had pleaded Not Guilty thereto, or, (ii) to record the pleas as the findings of Court. After deciding between (i) and (ii), Court will proceed under foregoing instrs as may be appropriate to result of its decision. See MML p 744 Instrs (2).

3. *As to responsibility of President to accused see RP 59, 60(C) ; powers and duties of JA see RP 103 ; duty of Prosecutor see RP 60(A) (B) ; duty and privileges of accused and Defending Offr see RP 60(C), 87(C), 91, 92 ; swearing and withdrawal of witnesses from Court see RP 81, 82 ; questioning of accused see RP 80, 87(C), 92(B), and of witnesses see RP 83-85 ; calling or re-calling of witnesses by Court etc see RP 75-79, 86, 116 ; use of Summary of Evidence at Trial see RP 17(E) fn 6 ; and responsibility of JA or Pros to record proceedings see RP 94, 96.*

RECORD FORM B—PROCEEDINGS ON PLEAS OF GUILTY TO ALL CHARGES.

B1. The President or JA, if any, complies with RP 35(B) by explaining to the accused the nature and meaning of the charge(s)(1), and that on his plea of Guilty there will be no regular trial but merely a consideration of the sentence to be awarded after he has been given an opportunity to make a statement in reference to the charge(s), call witnesses as to character and make an address in mitigation of punishment.(2)

(*1. RP 35 fn 3. 2. MML p 54 para 47.*)

B2. President to accused : The Court will now receive any statement you desire to make in reference to the charge(s).(1) If it appears from your statement that there are circumstances which indicate that you do not understand the effect of the plea of Guilty(2), or which show provocation or extenuation in respect of which in your interest the witnesses for the Prosecution should be examined(3), we shall advise you to change your plea to Not Guilty. In making a statement you will not be sworn or subject to cross-examination ; and anything you say will not be used in evidence against you after you change your plea. If, however, it appears to the Court that your statement affects only the amount of punishment to which you are liable, you will not be advised to change your plea and you will be given an opportunity later to prove your statement by sworn testimony, if you so desire.(4)

President to accused : Do you wish to make a statement ? Ans Yes.(5)

(*1. RP 37(B). 2. RP 37(D) fn 6. 3. RP 35(B) fn 5 para 3, MML p 54 para 47. 4. See para E3 of Record Form E. 5. Statement, if any, recorded per Notes.*)

B3. The Court considers the accused's statement.(1) The Court decides (not) to advise accused to change his ~~(their)~~ plea(s) of Guilty to Not Guilty on all charge(s). ~~The accused is (not) so informed and he (they) (has) (have) changed(s) his (their) plea(s) on charge(s). Part I of the Schedule is amended accordingly.~~

(*1. Court may be closed to consider the statement. Delete whole or part not used.*)

B4. On the charge(s) to which the plea(s) of Guilty is (are) not changed the President records finding(s) of Guilty in Part I of the Schedule.(1)

(*1. RP 35(B). If any plea(s) is (are) changed, use Record Form C or D as appropriate.*)

B5. The Summary of Evidence is marked Ex "A", initialled and read aloud by the President.(1)

(*1. If there is no Summary, or if it is inadequate, comply with RP 37(B). If there is any evidence inconsistent with any plea standing as Guilty, Court will advise accused to change such plea and, if changed to Not Guilty, try such charge(s) by use of paras D1 to D8 inclusive of Record Form D on p 3. RP 37(D).*)

B6. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

RECORD FORM C—PROCEEDINGS ON MIXED PLEAS OF GUILTY AND NOT GUILTY.

C1. As to the charges on which accused pleaded NOT GUILTY the trial is continued by using paras D1 to D8 inclusive of Record Form D on p 3 before proceeding with C 2.(1)

(*1. RP 37(A) (E).*)

C2. The charges on which accused pleaded GUILTY are read to him (them) again, and the trial is continued by using paras B4 to B5 of Record Form B above.(1)

(*1. Under B5 such parts only of the Summary of Evidence are read as relate to the charges dealt with under C2. If any plea is changed to Not Guilty, trial thereon proceeds by complying with paras D1 to D8 inclusive in Record Form D on p 3 and making an appropriate record thereof on a separate sheet.*)

C3. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

RECORD FORM D—PROCEEDINGS ON PLEAS OF NOT GUILTY TO ALL CHARGES.

D1. President to accused : Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity to prepare your defence ? Ans .....(1)

(*1. If "yes", see RP 39(A) for procedure. Statement or evidence, if any, is recorded per Notes.*)

D2. The Prosecutor makes (an) (no) opening address.(1)

(*1. RP 39(B), 60(A) (B), 90, 92(C) (D). Record address per Notes, subject to RP 95(C).*)

D3. The evidence for the Prosecution is taken.(1)

(*1. RP 39(C), 114, KR Can 555. Record evidence per Notes. As to Prosecutor giving evidence himself see RP 39(D) (E).*)

D4. The Prosecution is closed.(1) The Defending Offr submits that the evidence for the Prosecution does not establish a prima facie case against the accused on the ..... charge(s).(2) The Court is closed, and considers the submission.(3) The Court is re-opened, and the President announces that the submission is disallowed on the ..... charge(s), and allowed on the ..... charge(s), and that, accordingly, the trial will proceed on the former, but the accused is (are) found Not Guilty on the latter charge(s).(4)

(*1. Delete remainder of this para, if submission not made. 2. Arguments on submission, answer and reply are recorded per Notes. 3. RP 40 fn 1. See MML p 72 paras 12-14 and p 81 para 42. 4. Delete part not used. If accused acquitted on all charges, use record alternative in para D8.*)

NB : If trial proceeds, accused must be allowed great latitude in making his defence, and the Court should not stop his defence solely on ground of irrelevance. (RP 80(C), 114, 115.)

D5. President to accused : You will now proceed with your defence.(1) You may, if you wish, give evidence yourself on oath as to the facts or your character or both, in which case you will be subject to cross-examination.(2) You may, however, make a statement without being sworn, and you will not be subject to cross-examination.(3) But a statement which could have been made on oath will not carry with the Court the same weight as sworn testimony.(4) You may call witnesses in your defence and as to character, whether you give evidence or make a statement or do neither.

President to accused : Do you wish to give evidence yourself as a witness, make a statement, or do neither ?

Ans ..... Do you intend to call witnesses on your behalf ?

Ans ..... Are they witnesses as to character only ? Ans .....

(*1. RP ~~55~~ 115. 2. RP 40(A), see 80(D). 3. RP 40 fn 10. 4. RP 40 fns 2, 9.*)

D6. Consequent on the answers recorded in para D5 the appropriate procedure for the defence is followed.(1)

(*1. RP 114, 115, 116. For procedure see Notes on back of Convening Order, CF ARS. Evidence for accused as to his character should, if in his interest, be given before the Finding. See RP 46(A) fn 1, 86(C). Note the further opportunity in para E1 of Record Form E. Record per Notes addresses, statement, evidence and any summing up by the JA under RP 42, 103(e).*)

D7. The Court is closed to consider the finding(s).(1) The finding(s) of the Court is (are) recorded in Part I of the Schedule.(2) The Court is re-opened.

(*1. RP 43, 117(A). See Notes in Part I of Schedule. 2. RP 44(A).*)

D8. The President announces the finding(s), if any, of Not Guilty, and states to the accused that the finding(s) of the Court on the ..... charge(s), being subject to confirmation, will be promulgated later.(1)

Or, The President announces that the accused is found Not Guilty on all charges and is to be released forthwith, and that the proceedings are accordingly terminated. Part I of the Schedule is dated and signed.(2)

(*1. AA 54(3) (6), RP 45, 120(A). 2. AA 54(3), RP 45, 117. This alternative announcement is not applicable when there are pleas of Guilty outstanding and dealt with under Record Form B or C.*)

D9. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E below.

RECORD FORM E—PROCEEDINGS ON CONVICTION BEFORE SENTENCE.

E1. President to accused : Do you wish to give evidence yourself or to call any witnesses as to your character ?(1)

Ans No.

(*1. If evidence has already been given by accused or his witnesses as to his character, delete this para. RP 37(C) fn 4, 46 fn 1. Accused and witnesses are sworn. Evidence recorded per Notes.*)

E2. The Prosecutor produces Statement(s) as to Character and Particulars of Service(1), and certified true copy (copies) of Conduct Sheet(s)(2), purporting to refer to the accused, which he submits to the Defending Offr for examination, and then to the Court for admission in evidence. The Court is satisfied that these documents refer to the accused, because (i) they purport to be signed in the manner required by AA 163(1) (g) (h), and (ii) they purport to refer to (a) soldier(s) having the same number, rank, name and corps as the accused. Admitted in evidence and marked Ex B and Ex C respectively.(3)

(*1. AFB 203 or AFB 256. 2. MFM 6. 3. RP 46, KR Can 558. If above documents not produced, see RP 46 fn 1 para 1.*)

E3. President to accused : Do you wish to address the Court on the Statement(s) and Conduct Sheet(s), and in mitigation of punishment ?(1) Ans Yes.(2)

(*1. RP 37(C), 46(D). 2. Address, if any, recorded per Notes. Court should permit accused or his witnesses to prove on oath anything here or previously stated which would affect the amount of punishment. RP 37(F) fn 7.*)

E4. The President states that the Court is closed to consider the sentence, and that the sentence to be awarded by the Court, being subject to confirmation, will not be announced, but will be promulgated later, and the proceedings in open court are accordingly terminated.(1)

(*1. AA 54(6), RP 120(A).*)

E5. The Court considers the sentence.(1) The President records the sentence in Part I of the Schedule, which is dated and signed by him and the JA, if any.(2)

(*1. Where several accused tried separately see RP 94(b). One sentence only, comprised of the punishment or punishments laid down in AA 41, 44 and its provisos, is to be awarded to cover all charges in all charge sheets on which accused found guilty. RP 48. As to sentences see AA 44, 138, 182, RP 46-50, 69, 118, 119(A), KR Can 308, 330, 563-566, Overseas RO 309, 2313, MML p 66, 737-739. As to sentences assigned for civil offences by the law of England see AA 41(3), MML p 130. When accused already under sentence of imprisonment or detention see AA 44(18), 68(1), KR Can 564. 2. RP 50. As to release from arrest by Confirming Offr see KR Can 567. As to assembly and disposal of record after trial see instrs on back of Convening Order.*)

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

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CHARGE SHEET

FIRST CHARGE

SECTION 15(1) ARMY ACT

The accused, B.139103, Gnr. Grubic, George P., a soldier on the strength of 6 Bn., No.2 Canadian Base Reinforcement Depot, Canadian Army Overseas, is charged with, WHEN ON ACTIVE SERVICE,

ABSENTING HIMSELF WITHOUT LEAVE,

in that he

in the Field, on 19 Nov 43 did absent himself without leave from 1900 hrs 19 Nov 43 till apprehended by the C.M. Police at approximately 0105 hrs 11 Jan 44 at Naples.
Total absence 52 days 6 hrs 5 minutes.

SECOND CHARGE

SECTION 24(2) ARMY ACT

WHEN ON ACTIVE SERVICE,

LOSING BY NEGLECT HIS EQUIPMENT, CLOTHING, AND REGIMENTAL NECESSARIES,

in that he

in the Field, on 14 Dec 43, was deficient of his equipment, clothing, and regimental necessaries as follows:

Articles		Value	75%
1	B dress blouse	6.18	4.64
1	" trousers	6.24	4.68
1	cap FS	.82	.62
2	prs boots ankle	9.62	7.21
1	pr gloves woollen	.59	.44
1	pullover jersey	1.51	1.13
2	shirts angora drab	4.10	3.07
1	pr shoes canvas	1.97	1.48
1	pr socks wool	.37	.28
1	pr braces	.29	.22
1	brush tooth	.08	.06
1	comb hair	.04	.03
1	dressing F F	.24	.18
1	fork table	.09	.07
1	housewife	.50	.38
1	clasp knife	1.16	.87
		35.60	26.46

25 Jan 1944

(J.E. Wright) Lt.-Col.,
Officer Commanding,
6 Bn. 2 CBRD

TO BE TRIED BY FIELD GENERAL COURT MARTIAL

Col.
A/Comd. 2 Cdn Base Rft Group.

25 Jan 44

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FIELD GENERAL COURT-MARTIAL

CFA95 (In lieu of AFA2) 40/PAM/1697 [2592]

(Whether the accused to be tried is under his comd or not, a FGCM may on application to him be convened by any offr of Cdn Army Overseas, or of any other force if authorized in law, in immediate comd of troops on active service, subject to RP 105(C) and restrictions imposed by appropriate authy. AA 49, 50, RP 104-107, 114. As to the duties and privileges of the Convening Offr in dealing with the application see MML Chap V paras 20 and 23. RP 87(B).

There should be a separate Convening Order for each person to be tried separately by the same Court. RP 71(C), 109. As to separate charge sheets see RP 62, and as to separate trial on charges in the same charge sheet see RP 108. As to two or more accused charged jointly see RP 16, 109.

As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fnt, KR Can 308, 328, 330.)

ACCUSED.

Number.	(a) Prmnt R.	(b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
R.139103	Gunner		George P	GRUBIC	6 Bn, 2 CSRD.

CONVENING ORDER.

1. Whereas complaint has been made to me, the undersigned, that the person(s) named above as the accused, being subject to military law, has committed the offence(s) set forth in the Charge Sheet(s) attached and dated (date) 25 Jan 44 endorsed by me, (or by an offr acting for me), "To be tried by Field General Court-Martial",

2. And whereas I am of opinion that it is not practicable that such offence(s) should be tried by an ordinary General Court-Martial; ~~and that it is not practicable to delay the trial for reference to a superior qualified offr;~~
(Delete part in brackets when not required for compliance with RP 105(C).)

3. I hereby convene a Field General Court-Martial to try the said person(s), and to consist of the Offrs appointed or detailed hereunder.

4. ~~I am unable to appoint (a) three offrs to form the court, (b) a Bd offr as President, for the reasons I have attached hereto.~~
(AA 49, RP 106(B), 107(A). Delete the whole or part, if not applicable.)

5. ~~I also appoint as Judge-Advocate thereat the Offr mentioned hereunder.~~
(RP 106(E). Delete, if none appointed.)

PRESIDENT.

(Rank.)	(Must be named. RP 106.)		(Unit.)
Major	L.A. HENRY	CAC	5 Bn, 2 CSRD

MEMBERS.

(Rank.)	(Named or detailed. RP 106.)		(Unit.)
Captain	W.R.HOAG	RCASC	7 Bn, 2 CSRD
A/Captain	J.G. Benedetti	RCASC	7 Bn, 2 CSRD

WAITING MEMBER.

(Rank.)	(Named or detailed, if any. RP 106.)		(Unit.)
Lieutenant	R.D.Maguire	RCA	6 Bn, 2 CSRD

JUDGE-ADVOCATE.

(Rank.)	(Must be named, if any. RP 106.)	(Unit.)

On Active Service in the Fd

in Italy (Country.)

(Signed personally. RP 105 fn 2.)

Col. (Rank.)

Date 25 Jan 44

A/ Commanding 1 Cdn Base Rft Group
Convening Officer.

CONVENING OFFR WILL INITIAL ALL DELETIONS AND ALTERATIONS

(See overleaf for oaths and notes for use on trial.)

MEDICAL OFFICER'S CERTIFICATE
(K.R. (Can) para 557)

I certify that I have this morning examined B139103 GNR
GRUBIC, G.P. ..... of 6 Bn. 2 CBRD ..... and in my opinion he is fit/
~~unfit~~ to undergo trial by Court Martial.

Station Alvpalda, Italy

Date 28/1/44.....

J.E. Clarke Capt
(Medical Officer)

Evidence

B-139/02.

B-2. Sn. Sgt. Grubb, Geo. P. states I have a brother in 1st Inf. Div. 82nd American Army. I had been getting letters from my mother while I was in England continually asking me if I had got in touch with him in any way. Not knowing what particular branch he was attached to with 36th Div I could not very well locate him. We had not been writing home for approximately 3 or 4 years which was a cause of worry to my folks back home. When I landed in Italy I found out that the 36th had made the invasion at Salerno. The particular outfit was practically wiped out. I had not seen him myself in approximately 6 years and it commenced to worry me and I wanted to find out just actually what happened to him. I found out that remnants of his outfit were up on the Venafro front so I decided to go there and find out if he was alive or whatever had happened to him. I caught a ride with the 376 Airborne, American, who were loaded towards that particular front. I was with them for about three days and nights. I gave them a hand casting ammunition up & hand grenades, towards the front. The last day I was with them we were in for a terrific shelling.

The same afternoon I met a Staff Sergeant who had all the maps. He told me the.

all stating that they had received no word from the missing brother and asking the accused to obtain information, and on the other hand knowing that his brother was with a unit which had lost a large percentage of its members in casualties. Accused technically guilty of being A.W.L. but in interests of equity would remind the Court that the accused when absent not with any desire to benefit himself: he had no desire to escape his normal duties as a soldier, he was not a coward as evidenced by fact he went to the front and, according to his evidence, was in action there. Would ask the Court for leniency on behalf of accused and would suggest that they deal with the charge not as straight case of A.W.L. but in light of compassionate leave.

Lyle Berry Major

"H" 116

SUMMARY OF EVIDENCE

In the case of B.139103, Gnr. George P. GRUBIC, RCA, on strength of 6 Bn. 2 Canadian Base Reinforcement Depot, a soldier of the Canadian Army Overseas.

By direction of the Commanding Officer, the summary of evidence is taken on oath.

FIRST WITNESS for the PROSECUTION

No. L.4118, B.S.M. Minkley, J.C., RCA, on strength of 6 Bn. 2 CBRD, a soldier of the Canadian Army Overseas, having been duly sworn states:

"I am B.S.M. Minkley of "B" Coy., 6 Bn 2 CBRD. On the night of Nov 19 at 1900 hours I called the Tattoo roll call. At that time we were stationed near Casoria. I called Gnr. Grubic's name twice, and he failed to answer Tattoo roll call. On Muster parades and Company parades, until such time as we had had a Court of Inquiry striking him off our strength, I would again call his name. On no occasion did he answer as being present."

The accused declines to cross examine this witness.

B.M. Minkley J.C.
(B.S.M. Minkley, J.C.)

SECOND WITNESS for the PROSECUTION

Lieut. D.F. Johnstone, on strength of 6 Bn. 2 CBRD., having been duly sworn states:

"I produce the following documentary evidence with respect to the accused;
(1) Certified true copy of Declaration of Court of Inquiry dated 14 Dec 43.
(2) Certificate of Apprehension under Sec. 165-1(j) of the Army Act.

D. Johnstone
(D.F. Johnstone) Lieut.

THIRD WITNESS for the PROSECUTION

No. M.62281, B.Q.M.S Hunter, J.E., on strength of 6 Bn. 2 CBRD, a soldier of the Canadian Army Overseas, having been duly sworn states:

"On the apprehension of the accused, I inspected his kit and found him to be still deficient of his kit to the amount of $33.80, as set out in the Declaration of the Court of Inquiry."

James E. Hunter
(B.Q.M.S Hunter, J.E.)

The accused, having been duly warned in accordance with R.F. 4 (e), reserves his defence.

I certify that the foregoing Summary of Evidence consisting of one page was taken down by me in the presence and in the hearing of the accused and that Rules of Procedure 4 C, D, E, F, and G have been complied with.

F.A. Little
(F.A. Little Capt.
Officer detailed to take down Summary of Evidence.

RECORD of the Declaration of a Court of Inquiry assembled at ATRIPALDA on the 14th day of December 1943, for the purpose of investigating and recording the absence, without leave, from his duty, and deficiency, if any, in the Arms, Ammunition, Equipments, Instruments, Regimental Necessaries, or Clothing of No. B.139103 Cnr. Grubic G.P.

DECLARATION

The Court declare that No. B.139103 Cnr. Grubic G.P. illegally absented himself without leave 1900 hrs at ATRIPALDA on the 19th day of November, 43 and that on the 14 Dec 43 he was deficient, and that he is still deficient of the following articles:--

ARTICLES	VALUE
1 F dress blouse	6.18
1 " trousers	6.24
1 cap FS	.82
2 prs boots ankle	9.82
1 pr gloves woollen	.52
1 pullover jersey	1.81
2 shirts angora grab	4.10
1 pr shoes canvas	1.97
1 pr socks wool	.27
1 pr braces	.29
1 brush tooth	.08
1 comb hair	.04
1 dressing F F	.24
1 fork table	.09
1 housewife	.50
1 clasp knife	1.16
	34.16

(Signed) A. Mobberley Capt PRESIDENT

(Signed) T.D. Joslin Lieut MEMBER

Signed at ATRIPALDA this 14th day of Dec 1943

(Signed) J.J. Meekin Lieut MEMBER

Signature of Commanding Officer (Signed) E.W. Wigley Lt.Col.

CERTIFIED TRUE COPY 15 Jan 44 .....

(N.A. Iliffe) Capt.,
Officer i/c Regimental Books and Records,
6 Bn. 2 CSRD.

I, B.139103, Gnr. Grubic, G.P., request that my Commanding Officer appoint Lieut. A.H. Brown to defend me at my forthcoming Field General Court Martial.

G. P. Grubic.
(B.139103 Gnr. Grubic G.P.

119 7Br.

B.139193 ... CMR. ... CRUBIS, C.P.

...NADIAN ARTILLERY. ... 9105 ... wearing AMERICAN ARMY UNIFORM. ... NAPLES. ...

on 11 JAN 44. ...

E.O. Powell. Lieut.

M.F.M. 6
(A.F. B.122)
40/P.&C./8136 (2965)

No. B.139103 Name GRUBIC G.P. Sqn., Battery, or Company Corps RCA Date of enlistment Jan 16 1943 G.C. Badges Service or Proficiency Pay Character

Date of last entry in Company Conduct Sheet | No. and date of last drunk | Period not reckoning towards freedom from extra fine | Sheet No. 1 | Signature O.C. Company, etc.

Place	Date of offence	Rank	Cause of drunkenness	OFFENCE	Name of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
				TEMPORARY SHEET M.F.M.4 shows 1 offence under Army Act Sec. 40		28 days			

CERTIFIED TO BE A TRUE COPY TAKEN FROM THE REGIMENTAL BOOKS IN MY CUSTODY

.....Capt. & Adjt.
(F.A. Ritter)

(P.T.O.)

ARMY FORM B.296.

Statement as to Character and Particulars of Service of Accused.

Number.	*Rank.*	*Name.*	*Regiment (or as the case may be).*
B.139103	Gunner	GRUBIC, George Peter	RCA(A/A) 6 Bn 2 CBRD

1. The following is a fair and true summary of the entries in the regimental and squadron, battery or company conduct sheets† of the accused, exclusive of convictions by a court martial or a civil court, of summary awards under section 47 of the Army Act, and of cases in which trial has been dispensed with :—

Note.—At a trial by field general court martial this summary may be compiled from the field conduct sheet.

The conduct sheet(s) mentioned should be produced in court with this statement but not annexed to the proceedings.

† See para. 677, K.R., 1940.

* The periods herein stated should correspond with the number of years in the conduct sheets, preference being given to the most serious offence in each entry, and to any recognized special acts of gallantry or distinguished conduct.

Instructions.—If the charge is of drunkenness the entries for drunkenness must be stated separately and dated.

	* Within last 12 months.		*Since Enlistment.	
For	Sec. 40 Army Act	one times.	one	times.
For		times.		times.
For		times.		times.
For		times.		times.
For		times.		times.

~~Number of instances of gallantry or distinguished conduct~~

~~There are no entries in the conduct sheets of the accused.~~

2. The accused has not been previously convicted, *or*

~~Previous convictions of the accused by a court martial or a civil court, summary awards under section 47 of the Army Act, and dispensations with trial under section 78 of the Army Act, are set out in the schedule annexed to this statement.~~

3. The accused is not under sentence at the present time, [redacted]

4. The accused has been in confinement awaiting trial on the present charges, for Nil days in civil custody, and 18 days in military custody, making a total of 18 days, of which Nil days were spent in hospital.

5. The present age of the accused according to his [redacted] attestation paper is 26 years

6. The date of his [redacted] attestation specified in his [redacted] attestation paper is Jan 16, 1943

7. The service which the accused is allowed to reckon towards discharge or transfer to the reserve is [redacted]

~~8. The accused is entitled to deferred pay or gratuity in respect of service.~~

9. The accused is entitled to reckon 307 days service for the purpose of determining his pension, etc.

10. The accused is in possession of, or entitled to, no military decoration or military award [redacted] (*state any military decoration or reward*).

11. (*If the accused is a warrant officer.*) [redacted]

12. (*In the case of an officer.*) [redacted]

(72247) Wt. 42750/1917 10,000 10/42 A & E.W.Ltd. Gp.698

Schedule of Convictions by a Court Martial or Civil Court, of summary awards under Section 47 of the Army Act and of cases in which trial has been dispensed with of accused.

No. B.139103 Rank Gunner Name GRUBIC, George Peter of 6 Bn 2 CBRD Regiment (or as the case may be).

(INSTRUCTION—A verbatim extract from the regimental books, stating these convictions and dispensations with trial, must be inserted.)

Description of court by which tried, or status of officer disposing of the charge or dispensing with trial.	Date and place of trial, or summary award under A.A. 47, or of order dispensing with trial.	Charges upon which convicted, or in respect of which trial was dispensed with.	Sentence of the court or authority disposing of the charge, or order of the dispensing authority.	Punishment remitted.

I HEREBY CERTIFY that the foregoing schedule of convictions and dispensations with trial is a true extract from the regimental books in my custody.

Signed this 28th day of January 1944

Capt
O.C. 2 Regt Records

13 [redacted]

Date of Promotion.

In the rank of [redacted] years,

In the rank of [redacted] years

In the rank of [redacted] years,

(INSTRUCTIONS.—*If any matter in any of the above paragraphs cannot be stated from the regimental books the paragraph must be struck through except that in the case of a trial by field general court-martial the information may be collected from such sources as are available and the paragraphs completed accordingly.*)

HY 5.9

~~L. H~~

Pte. Gambia N.P.

4

SCHEDULE.

PART I. PLEA(S), FINDING(S) AND SENTENCE.

Accused : B139103 Pte (L/Cpl) George Peter GRUBIC Lan & Ren Scot R

Charge. (Insert "alternative" where applicable.)	Plea. (See Instrs p 2.)	Finding. (See note below.)	(Space for use as required for further charges, accused charged jointly, special findings, etc.)
1st	Guilty	Guilty	
2nd			
3rd			
4th			
5th			
6th			

(Note : As to findings for lesser offences see AA 56, RP 44 ; findings on alternative charges see MML p 463 fn 6 para 2, RP 44 ; special findings see RP 44 and MML p 753, and in lieu of Kit see RP 44 fn 6.)

JAG ~~At present under sentence for~~ beginning on (date) (1)

(1. Insert sentence being served, or delete, if not applicable. See RP 46(A). Information should be found on MF B355 or AF B296.)

Time in confinement awaiting present trial—a total of ..... days, of which ..... days were spent in hospital.(1)

(1. See RP 46(A) fn 2. Information should be found on MF B355 or AF B296 admitted in evidence under 62.)

Sentence Awarded by the Court : To be imprisoned with hard labour for a term of two (2) years.

(Sgd) ..... Judge-Advocate, if any. 25 Feb 45 Date awarded. (Sgd) Geo A Henderson Maj President. (RP 45, 50.)

(See back of Convening Order as to assembly and disposal of record after trial.)

PART II. MINUTE WHERE CONFIRMATION RESERVED. (AA 54(2), RP 120(F), MML p 760.)

Date ..... (Sgd) ..... Commanding .....

PART III. DECISION OF CONFIRMING OFFR ON FINDING(S) AND SENTENCE.

(For duties and powers see AA 54, 57, RP 37(D) fn 6.46(A), 51-56, 120, MML pp 759-761, KR Con 567-577. Acquittals require no confirmation and cannot be revised : AA 54(3). Sending back finding or sentence for revision by Court : AA 54(2), RP 120(C). If not confirmed, accused may be tried again : AA 157, MML p 64. Minute of confirmation or non-confirmation may be altered before promulgation : RP 53, MML p 65. Quashing after promulgation : KR Con 573. Duties and powers of reviewing offrs : AA 57, 57A, RP 53A, 54. The Confirming Offr must sign here personally. AA 172 fn 1.)

My decision on the finding(s) and sentence set forth in Part I is : I confirm the finding and septence of the court.

~~I direct that the accused be not committed to prison or detention barracks until further order~~(1). JCL

(1. AA 57A. Delete if not used.)

(Sgd) J C Lind Brig

Date 25 Feb 45 Commanding 12 Cdn Inf Bde Confirming Officer.

PART IV. PROMULGATED AND EXTRACTS TAKEN. (RP 53, KR Con 576, 577.)

Accused.	Date.	Signature of Offr.
B139103 Pte (L/Cpl) George Peter GRUBIC	25 Feb 45	RG McKenzie Capt

ALL DELETIONS AND ALTERATIONS WILL BE INITIALLED.

FIELD GENERAL COURT-MARTIAL

CPA595-1-1 (Rev. 12-44) (AFAM 40) P.W.D. No. 4/365

Convened by Order of Brig JSH Lind Comd 12 Cdn Inf Bde Dated 24 Feb 45

ACCUSED.

(As to the trial of two or more charged jointly see RP 16, 71, 109. As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

Number.	(a) Prmnt R.	(b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
B.139103	Pte	L/Cpl	George Peter	GRUBIC	Lan & Ren Scot Regt

CERTIFIED TRUE COPY
24 hours Immediate Int 23 Aug Brunch

PROCEEDINGS OF TRIAL.

Held in the Fd in (country) Italy on (date(s)) 25 Feb 45

RECORD FORM A—OPENING PROCEEDINGS AND ARRAIGNMENT. 25/91

A1. The President, Members, waiting Member, JA, if any, and Offrs under instr, if any, assemble, and the Court is closed.

(PRINTED MATTER, NOT IN ITALICS FOR GUIDANCE, WILL BE DELETED, IF NOT USED OR APPLICABLE, AND INITIALLED BY PRES OR JA. The Schedule referred to throughout is on p 4. Citations do NOT include all relevant fns ROs. For guidance on procedure when a variation in this form arises, see form for GCM in MML pp 761 to 759. A brief record of such variation will be made and given a number having reference to appropriate or preceding para number herein. See back of Convening Order, CF 695, for notes and instrs on how to record addresses, evidence, etc, which matters are hereafter called "Notes". As to general provisions for conducting the trial see AA 53, RP 56, 63-70, 73, 74, 94, 102, 119, 132.)

A2. The President initials and lays before the Court the Convening Order and Charge Sheet(1) attached thereto.(2)

GAH The Court is satisfied that it is properly convened and constituted(2), accused is ~~were~~ amenable to military law, and each charge discloses an offence.(2)

(1. As to use of Summary of Evidence see RP 17 fn 6. 2. AA 49, 50, RP 103-107. 3. RP 11-13, 23, 24.)

A3. The Court is opened. The accused is ~~were~~ brought before the Court. At 0900 hours trial commences.

A4. The Prosecutor produces a Medical Certificate that accused is ~~are~~ fit to undergo trial by court-martial.(1)

~~The Prosecutor informs the Court that accused elected to be tried by court-martial instead of being dealt with summarily by the CO~~(2)

GAH (1. KR Con 557. 2. AA 46(8), RP 60 fn 1. For effect see KR Con 563(c). Delete, if not applicable.

A5. ~~President to accused : Do you object to ..... as interpreter ? Ans .....~~

GAH ~~The Interpreter is sworn.(1) Do you object to ..... as shorthand writer ? Ans .....~~

~~The shorthand writer is sworn.(1)~~

(1. RP 72. Delete, if none employed.)

A6. The Convening Order and names of the President and Members of the Court are read to the accused.(1) President to accused : Do you object to be tried by me as President or by any of the Members of the Court ?

Ans No (2)

(1. RP 110. 2. If no objection, waiting member retires. RP 60(B). If objection, see procedure AA 51, RP 25, 71, 78, MML p 742.)

A7. The President, Members, JA, if any, and Offrs under instr, if any, are sworn.(1) The following are the ranks, names and units of the offrs comprising the Court, etc :

President	Major	GA	Henderson	Lan & Ren ScotR
Member	Capt	JA	Cunningham	Lan & Ren ScotR
Member	Lieut	GH	Reid	Lan & Ren ScotR
Judge-Advocate				
Prosecutor	Lieut	AI	~~KF~~ MacDonald	Lan & Ren ScotR
Defending Offr	Lieut	JE	Price	Lan & Ren ScotR

Questions by President : Is the Prosecutor a lawyer ? Ans No Is the Defending Offr a lawyer ? Ans No (2)

(1. RP 26, 27, 109, 111. List of offrs under instr will be returned separately with proceedings for information of Conv Offr.)
(2. If Pros a lawyer and Def Offr not, accused is entitled to an adjournment when RP 89 (B) and fn 2 were not followed. See D1 p 3.)

A8. The accused B139103 Pte(L/Cpl)GP Grubic before arraignment make(s) (no) (~~a~~) plea. (2)

(1. If a special plea is made for separate trial on one or more charges (RP 62(E), 108), or as to the jurisdiction of the Court (RP 34, 35(4), 113), or in bar of trial (RP 36), or as to accused's mental fitness to stand trial (AA 130, RP 57), or by one of several accused charged jointly to be tried separately (RP 16, 71), such plea, the addresses made in support or against, the evidence, if any, and finding are recorded per Notes. For forms of record see references in fns to RoP cited. Insert in A8 rank and name of the accused making the plea.)

GAH A9. The accused is ~~are~~ arraigned ~~separately~~ on all charges in the charge sheet.(1) The accused does ~~do~~ not object to any charge.(2) There is no amendment to be made to the Charge Sheet.(2) The President records the pleas in Part 1 of the Schedule.

(1. RP 31, 112. See Instrs 1 of Instrs p 2. When more than one Charge Sheet see RP 62 ; when several accused to be tried separately see RP 71(C), and use separate copies of CF 695 to record proceedings. 2. RP 32, RP 33. If otherwise, delete and make appropriate record per Notes.)

A10. The Court (is closed and) considers the Instrs on Procedure after Arraignment at top of p 2. The proceedings are continued on Record Form B

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

INSTRUCTIONS ON PROCEDURE AFTER ARRAIGNMENT.

1. *The accused may not plead or be found Guilty on more than one of two or more charges laid in the alternative.* (*RP* 37(*A*).) *As to withdrawal of alternative charges by Prosecutor see RP* 35(*C*). *No other charge can be withdrawn for any reason without authy from Convening Offr. If Convening Offr concurs, Court may accept plea of Guilty to lesser, etc, offence.* (*RP* 44(*H*).) *Accused may change a plea of Not Guilty to Guilty during trial.* (*RP* 38.) *As to refusing to plead or not pleading intelligibly see RP* 35(*A*). *As to plea when sentence may be death see RP* 35(*D*).

2. *The proceedings on each charge sheet* (*RP* 62) *after arraignment will be conducted as follows in the respective circumstances stated:*

I. If pleas to all charges are GUILTY, use Record Form B below.

II. If pleas to all charges are NOT GUILTY, use Record Form D on p 3.

III. If pleas to some charges are GUILTY and to other charges are NOT GUILTY and,

(a) *Such mixed pleas occur when there are no alternative charges in the Charge Sheet, use Record Form C below.* (*RP* 37(*A*).)

(b) *Such mixed pleas occur in a set of two or more charges laid in the alternative, see RP* 37 (*A*) *and fn* 2 *as to discretion of Court,* (i) *to try the accused on all such alternative charges as if he had pleaded Not Guilty thereto, or,* (ii) *to record the pleas as the findings of Court. After deciding between* (i) *and* (ii), *Court will proceed under foregoing instrs as may be appropriate to result of its decision. See MML p* 744 *Instrs* (2).

3. *As to responsibility of President to accused see RP* 59, 60(*C*); *powers and duties of JA see RP* 103; *duty of Prosecutor see RP* 60(*A*) (*B*); *duty and privileges of accused and Defending Offr see RP* 60(*C*), 87(*C*), 91, 92; *swearing and withdrawal of witnesses from Court see RP* 81, 82; *questioning of accused see RP* 80, 87(*C*), 92(*B*), *and of witnesses see RP* 83-85; *calling or re-calling of witnesses by Court, etc, see RP* 75-79, 86, 116; *use of Summary of Evidence at Trial see RP* 17(*E*) *fn* 3; *and responsibility of JA or Pres to record proceedings see RP* 94, 96.

RECORD FORM B—PROCEEDINGS ON PLEAS OF GUILTY TO ALL CHARGES.

B1. The President or JA, if any, complies with RP 35(B) by explaining to the accused the nature and meaning of the charge(s)(1), and that on his pleas of Guilty there will be no regular trial but merely a consideration of the sentence to be awarded after he has been given an opportunity to make a statement in reference to the charge(s), call witnesses as to character and make an address in mitigation of punishment.(2)
(1. *RP* 35 *fn* 3. 2. *MML p* 54 *para* 47.)

B2. President to accused: The Court will now receive any statement you desire to make in reference to the charge(s).(1) If it appears from your statement that there are circumstances which indicate that you do not understand the effect of the plea of Guilty(2), or which show provocation or extenuation in respect of which in your interest the witnesses for the Prosecution should be examined(3), we shall advise you to change your ples to Not Guilty. In making a statement you will not be sworn or subject to cross-examination; and anything you say will not be used in evidence against you after you change your plea. If, however, it appears to the Court that your statement affects only the amount of punishment to which you are liable, you will not be advised to change your plea and you will be given an opportunity later to prove your statement by sworn testimony, if you so desire.(4)

President to accused: Do you wish to make a statement ? Ans No.(5)
(1. *RP* 37(*B*). 2. *RP* 37(*D*) *fn* 6. 3. *RP* 35(*B*) *fn* 5 *para* 3, *MML p* 54 *para* 47. 4. *See para* E3 *of Record Form E.*
5. *Statement, if any, recorded per Notes.*)

B3. ~~The Court considers the accused's statement (1). The Court decides (not) to advise accused to change his (their) plea(s) of Guilty to Not Guilty on charge(s). The accused in fact so informed, and he (they) (does) (do) not change his (their) plea(s) on charge(s). Part I of the Schedule is amended accordingly.~~
(1. *Court may be closed to consider the statement. Delete whole or part not used.*)

B4. On the charge(s) to which the plea(s) of Guilty is (are) not changed the President records finding(s) of Guilty in Part I of the Schedule.(1)
(1. *RP* 25(*B*). *If any plea(s) is (are) changed, use Record Form C or D as appropriate.*)

B5. The Summary of Evidence is marked Ex. P, initialled and read aloud by the President.(1)
(1. *If there is no Summary, or if it is inadequate, comply with RP* 37(*B*). *If there is any evidence inconsistent with any plea standing as Guilty, Court will advise accused to change such plea and, if changed to Not Guilty, try such charge(s) by use of paras D1 to D8 inclusive of Record Form D on p* 3. *RP* 37(*D*).)

B6. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

RECORD FORM C—PROCEEDINGS ON MIXED PLEAS OF GUILTY AND NOT GUILTY.

C1. As to the charge(s) on which accused pleaded NOT GUILTY the trial is continued by using paras D1 to D8 inclusive of Record Form D on p 3 before proceeding with C 2.(1)
(1. *RP* 37(*A*) (*E*).)

C2. The charges on which accused pleaded GUILTY are read to him (them) again, and the trial is continued by using paras B1 to B5 of Record Form B above.(1)
(1. *Under B5 such parts only of the Summary of Evidence are read as relate to the charges dealt with under C2. If any plea is changed to Not Guilty, trial thereon proceeds by complying with paras D1 to D8 inclusive in Record Form D on p* 3 *and making an appropriate record thereof on a separate sheet.*)

C3. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

Fix here Loose Sheets of Record.

RECORD FORM D—PROCEEDINGS ON PLEAS OF NOT GUILTY TO ALL CHARGES.

D1. President to accused: Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity to prepare your defence ? Ans .....(1)
(1. *If "yes", see RP* 39(*A*) *for procedure. Statement or evidence, if any, is recorded per Notes.*)

D2. The Prosecutor makes (an) (no) opening address.(1)
(1. *RP* 39(*B*), 60(*A*) (*B*), 90, 92(*C*) (*D*). *Record address per Notes, subject to RP* 95(*C*).)

D3. The evidence for the Prosecution is taken.(1)
(1. *RP* 39(*C*), 114, *KR Con* 555. *Record evidence per Notes. As to Prosecutor giving evidence himself see RP* 39(*D*) (*E*).)

D4. The Prosecution is closed.(1) The Defending Offr submits that the evidence for the Prosecution does not establish a prima facie case against the accused on the .....charge(s).(2) The Court is closed, and considers the submission.(3) The Court is re-opened, and the President announces that the submission is disallowed on the .....charge(s), and allowed on the .....charge(s), and that, accordingly, the trial will proceed on the former, but the accused is (are) found Not Guilty on the latter charge(s).(4)
(1. *Delete remainder of this para if submission not made.* 2. *Arguments on submission, answer and reply are recorded per Notes.* 3. *RP* 40 *fn* 1. *See MML p* 72 *paras* 12-14 *and p* 81 *para* 42. 4. *Delete para not used. If accused acquitted on all charges, use second alternative in para* D8.)
NB: If trial proceeds, accused must be allowed great latitude in making his defence, and the Court should not stop his defence solely on ground of irrelevance. (*RP* 60(*C*), 114(1)(*a*).)

D5. President to accused: You will now have the opportunity of making your defence.(1) You may, if you wish, give evidence yourself on oath as to the facts or your character or both, in which case you will be subject to cross-examination.(2) You may, however, make a statement without being sworn, and you will not be subject to cross-examination.(3) But a statement which could have been made on oath will not carry with the Court the same weight as sworn testimony.(4) You may call witnesses in your defence and as to character, whether you give evidence or make a statement or do neither.

President to accused: Do you wish to give evidence yourself as a witness, make a statement, or do neither ?
Ans .....
Do you intend to call witnesses on your behalf ?
Ans .....
Are they witnesses as to character only ? Ans .....
(1. *RP* 115. 2. *RP* 40(*A*), *see* 80(*D*). 3. *RP* 40 *fn* 10. 4. *RP* 40 *fns* 2, 9.)

D6. Consequent on the answers recorded in para D5 the appropriate procedure for the defence is followed.(1)
(1. *RP* 114, 115, 116. *For procedure see Notes on back of Convening Order. FF* 485. *Evidence for accused as to his character should, if in his interest, be given before the finding. See RP* 46(*A*) *fn* 1, 86(*C*). *Note the further opportunity in para* E1 *of Record Form E. Record per Notes addresses, statement, evidence and any summing up by the JA under RP* 42, 103(*e*).)

D7. The Court is closed to consider the finding(s).(1) The finding(s) of the Court is (are) recorded in Part I of the Schedule.(2) The Court is re-opened.
(1. *RP* 42, 117(*A*). *See Notes in Part I of Schedule.* 2. *RP* 44(*F*).)

D8. The President announces the finding(s), if any, of Not Guilty, and states to the accused that the finding(s) of the Court on the .....charge(s), being subject to confirmation, will be promulgated later.(1)
Or, The President announces that the accused is found Not Guilty on all charges and is to be released forthwith, and that the proceedings are accordingly terminated. Part I of the Schedule is dated and signed.(2)
(1. *AA* 54(3) (*b*), *RP* 45, 120(*f*). 2. *AA* 54(3), *RP* 45, 117. *The alternative announcement is not applicable where there are pleas of Guilty outstanding and dealt with under Record Form B or C.*)

D9. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E below.

RECORD FORM E—PROCEEDINGS ON CONVICTION BEFORE SENTENCE.

E1. President to accused: Do you wish to give evidence yourself or to call any witnesses as to your character ?(1)
Ans No.
(1. *If evidence has already been given by accused or his witnesses as to his character, delete this para. RP* 37(*C*) *fn* 4, 46 *fn* 1. *Accused and witnesses are sworn. Evidence recorded per Notes.*)

E2. The Prosecutor produces Statement(s) as to Character and Particulars of Service(1), and certified true copy (copies) of Conduct Sheet(s)(2), purporting to refer to the accused, which he submits to the Defending Offr for examination, and then to the Court for admission in evidence. The Court is satisfied that these documents refer to the accused, because (i) they purport to be signed in the manner required by AA 163(1) (g) (h), and (ii) they purport to refer to (a) soldier(s) having the same number, rank, name and corps as the accused. Admitted in evidence and marked Ex. C and Ex. ~~D~~ respectively.(3)
(1. *MFB* 355 *or AFB* 296. 2. *MFM* 6. 3. *RP* 46, *KR Con* 558. *If above documents not produced, see RP* 46 *fn* 1 *para* 1.)

E3. President to accused: Do you wish to address the Court on the Statement(s) and Conduct Sheet(s), and in mitigation of punishment ?(1) Ans .....
(1. *RP* 37(*C*), 46(*D*). 2. *Address, if any, recorded per Notes. Court should permit accused or his witnesses to prove on oath anything here or previously stated which would affect the amount of punishment. RP* 37(*F*) *fn* 7.)

E4. The President states that the Court is closed to consider the sentence, and that the sentence to be awarded by the Court, being subject to confirmation, will not be announced, but will be promulgated later, and the proceedings in open court are accordingly terminated.(1)
(1. *AA* 54(6), *RP* 120(*f*).)

E5. The Court considers the sentence.(1) The President records the sentence in Part I of the Schedule, which is dated and signed by him and the J.A. if any.(2)
(1. *When several accused tried separately see RP* 71 (*D*). *One sentence only, comprised of the punishment or punishments laid down in AA* 41, 44 *and its proviso, is to be awarded to cover all charges in all charge sheets on which accused found guilty. RP* 48. *As to sentences see AA* 44, 139, 182, *RP* 46-50, 69, 118, 119(*A*), *KR Con* 330, 338, 563-566, *Overseas RO* 309, 2323, *MML p* 80, 757-759. *As to sentences assigned for civil offences by the law of England see AA* 41(5), *MML p* 130. *When accused already under sentence of imprisonment or detention see AA* 44(18), 68(5), *KR Con* 564. 2. *RP* 50. *As to release from arrest by Confirming Offr see KR Con* 567. *As to assembly and disposal of record after trial see notes on back of Convening Order.*)

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

CHARGE SHEET

The accused, B139103 Pte (L/Cpl) George Peter GRUBIC, Lanark & Renfrew Scottish Regiment a soldier of the Canadian Army Overseas, is charged with:

FIRST CHARGE

When on Active Service, absenting himself without leave,

in that he,

in the field, absented himself without leave from 1300 hrs 17 Oct 44 until apprehended at FLORENCE by the Corps of Military Police at 0230 hrs 15 Feb 45.

Total time absent 120 days, 13 hrs, 30 mins)

sgd
(W.H. Bucharan) Lt.Col.
Commanding
Lanark & Renfrew Scottish

To BE TRIED BY FIELD GENERAL COURT MARTIAL

24 Feb 45

(J S H Lind) Brig
Comd 12 Cdn Inf Bde

FIELD GENERAL COURT-MARTIAL

(Whether the accused to be tried is under his comd or not, a FGCM may on application to him be convened by any offr of Cdn Army Overseas, or of any other force if authorized in law, in immediate comd of troops on active service, subject to RP 105(C) and restrictions imposed by appropriate authy. AA 49, 50, RP 104-107, 114. As to the duties and privileges of the Convening Offr in dealing with the application see MML Chap V paras 20 and 23. RP 87(B).

There should be a separate Convening Order for each person to be tried separately by the same Court. RP 71(C), 109. As to separate charge sheets see RP 62, and as to separate trial on charges in the same charge sheet see RP 108. As to trial of two or more accused charged jointly see RP 16, 109.

As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

ACCUSED.

Number.	(a) Prmnt R.	(b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
B139103	Pte	L/Cpl	George Peter	SHUBIC	Lan & Ren Scot R

CONVENING ORDER.

1. Whereas complaint has been made to me, the undersigned, that the person named above as the accused, being subject to military law, has committed the offence(s) set forth in the Charge Sheet attached and on (date) 24 Feb 45 endorsed by me, ~~[if by error not so]~~ To be tried by Field General Court-Martial ". JL

2. And whereas I am of opinion that it is not practicable that such offence(s) should be tried by an ordinary General Court-Martial; ~~and that it is not practicable or delay the trial for reference to a superior qualified offr~~ JL

(Delete part in brackets when not required for compliance with RP 103(C).)

3. I hereby convene a Field General Court-Martial to try the said person(s), and to consist of the Offrs appointed or detailed hereunder. JL

4. ~~Duty unable to appoint (a) more Offrs to form the Court, (b) a Jd Offr as President, for the reasons I have~~ JL ~~attached hereto.~~

(AA 49, RP 106(B), 107(A). Delete the whole or part, if not applicable.)

5. ~~I also appoint as Judge Advocate Maj ... Offr mentioned hereunder.~~ JL

(RP 106(E). Delete, if none appointed.)

PRESIDENT.

(Rank.)	(Must be named. RP 106.)	(Unit.)
Maj	CA Henderson	Lan & Ren Scot R

MEMBERS.

(Rank.)	(Named or detailed. RP 106.)	(Unit.)
Captain	To be detailed by CO Lan & Ren Scot R	
Captain or Lieut	To be detailed by CO Lan & Ren Scot R	

WAITING MEMBER.

(Rank.)	(Named or detailed, if any. RP 106.)	(Unit.)
Lieut	To be detailed by CO Lan & Ren Scot R	

JUDGE-ADVOCATE.

(Rank.)	(Must be named, if any. RP 106.)	(Unit.)

On Active Service in the Fd

in ITALY (Country.)

JSH Lind (Signed personally. RP 105 fn 2.)

Brig (Rank.)

Date 24 Feb 45

Commanding 12 Cdn Inf Bde Convening Officer.

CONVENING OFFR WILL INITIAL ALL DELETIONS AND ALTERATIONS

(See overleaf for oaths and notes for use on trial.)

MEDICAL OFFICER'S CERTIFICATE

This is to certify that I have this date examined the soldier, B.139103 Pte(L/Cpl) GRUBIC, G.P., of the Lanark & Renfrew Scottish Regiment, and found him to be free from disease and fit to undergo trial by Field General Court Martial

25 Feb 45

sgd
M Hendleman Capt
Medical Officer
Lanark & Renfrew Scottish

FIELD GENERAL COURT MARTIAL

B.139103 Pte (L/Cpl) Grubic, GP

Held in the Field Sunday, 25 Feb 1945

Due to the exigencies of the service it was found necessary to hold this Field General Court Martial on Sunday.

sgd
(G.A. Henderson) Major
President of the Court

SUMMARY OF EVIDENCE

in the case of

B139103 Pte(L/Cpl) GRUBIC, G.P., Lanark & Renfrew Scottish Regiment, Canadian Army Overseas.

Taken on Oath at the direction of the Commanding Officer

The Certificate under the Army Act Sec. 163(1)(JJ) purported to be signed by Capt. H. Brookes, O.C., 507 Provost Company, C.M.P., showing that B139103 Pte (L/Cpl) Grubic, G.P. was arrested at Florence at 0230 hrs on the 15th of February 1945, produced as documentary evidence, was read over to the accused, marked Exhibit "A", signed by me and attached hereto.

A.I. MacDonald
(A.I. Macdonald) Lieut
OfficerTaking the Summary

to page 2

The accused was warned asfollows:

"Do you wish to make any statement or give evidence on oath? You are not obliged to say anything or give evidence unless you wish to do so, but whatever you say will be taken down in writing and may be given in evidence".

The accused, having been duly warned, makes the following statement:

at 1300 hrs
"On 17 Oct 44, while a patient in #14 Canadian General Hospital, I went absent and did not return to the hospital."

G P Grubic
(G.P. Grubic) B139103

Certified that Rules of Procedure 4 (C), (D), (E), (F) and (G) have been complied with.

Taken down by me in the presence and hearing of the accused, in the Field, this 23rd day of February, 1945.

Respectfully submitted this 23rd day of February, 1945.

A I MacDonald Lieut
(A.I. MacDonald) Lieut
Officer Taking the Summary

To Page 3

LIST OF WITNESSES FORTHEPHOSECUTION

Documentary

LIST OF WITNESSES FOR THEDEFENCE

Nil

LIST OF EXHIBITS

Exhibit "A" : Certificate in accordance with the Army Act Sec. 165(1)(jj) dated 15 Feb 45 pruported to be signed by H. Brookes, Capt., OC 507 Provost Company, C.M.P.

Exhibit "B" : Statement purported to be signed by L/Cpl H. Murren, C.M.P., dated 15 Feb 45.

STATEMENTS BY THE ACCUSED

I desire that theCommanding Officer detail Capt. G.L. VanKoughnett of 5 Canadian Armoured Brigade to represent me at my forthcoming trial by F.G.C.M. if available.

G P Grubic
(G.P. Grubic) B139103

I acknowledge receipt of one copy of the Charge Sheet and onecopy of the Summary of Evidence.

G P Grubic
(B.P. Grubic) B139103

CERTIFICATE IN ACCORDANCE WITH THE ARMY ACT SEC. 163 (1)(ii)

I certify that

No. D139103 Rank L/Cpl Name GRUBIC J.P.

of the 'B' Coy 89/109 INFANTRY BATTALION, 3 CDN DIVISION

was arrested at FLORENCE at 02.30 hrs

on the 15th day of FEB 1945

Signature of P.M., A.P.M. or other Officer into whose custody the above named person was taken on arrest.

LT Brookes Capt
OC 578 Provost Coy
Corps of Military Police

Date 15 FEB 45

This is Certificate "A" referred to in the Summary of Evidence in the case of D139103 L/Cpl Grubic J.P. taken before me this 23rd day of ~~FEBRUARY~~ Feb 1945

A S MacDonald Lieut

No B13910 Name GRUBIC, J.P. Sqn. Battery or Company | Corps C I C | Date of enlistment | OC Badges | Service or Proficiency Pay | MFM 6 (AFB 122) 40/PAS/138 (3438)

Company Conduct Sheets Date of last entry in | No and date of last drunk | Period not reckoning towards freedom from extra fine | Sheet No | Signature OC Company, etc | Character

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Name of Witness	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
				TEMPORARY SHEET - ORIGINAL NOT AVAILABLE					
				sgd (T.G. McKenzie) Capt Adjt Lanark & Renfrew Scottish Regiment Officer having custody to the ~~Regiment~~ Blocks					

(P.T.O.

STATEMENT AS TO CHARACTER AND SERVICES OF ACCUSED

(For Use at Trials by Field General Court-Martial only)

Number	Rank	Name	Regiment (or as the case may be)
B.130103	Pte(L/Cpl)	GERBIC J. P.	Lanark and Renfrew Scottish

NOTE.- The Field Conduct Sheet is to be produced in Court with this statement but is not to be annexed to the Proceedings. The numbers herein stated should correspond with the number of entries in the Field Conduct Sheet, prominence being given to the most serious offence in each entry. If the charge is for drunkenness or absence without leave, the entries for drunkenness or absence, as the case may be, should be stated separately. Any recognised special acts of gallantry or distinguished conduct recorded on the Field Conduct Sheet should also be inserted here.

* Strike out if not applicable

1. LGM

For .... times

For .... times

For .... times

For .... times

2.

3.*

.....

.....

4. The accused has been awaiting trial on the present charges for .nil. days in civil custody; and for 10.. days in military custody, making a total of ..10... days of which nil... days were spent in hosp.

5. The present age of the accused is 26 yrs.....

6. The date of his attestation is 15 Jan 45.....

7. The service which the accused is allowed to reckon is .N/A.....

* State the military decorations (if any) held by accused.

8. The accused is in possession of 1 CVSM & Clasp

9. (If the accused is a warrant officer or NCO). The accused has served continuously, without reduction, to the present date - N/A

Date of promotion

In the substantive rank of ....

In the war substantive rank of ....

In the acting rank of ....

INSTRUCTION - If any matter in any of the above paragraphs cannot be stated from the regimental books the paragraph must be struck through.

Army Form B.296 (War)

SCHEDULE OF CONVICTIONS BY A COURT - MARTIAL OR CIVIL COURT

Description of Court by which tried	Date and place of trial	Charges upon which convicted	Sentence of Court	Punishment remitted or sentence suspended
		NIL		

I HEREBY CERTIFY that the foregoing particulars, which have been extracted from the regimental books in my custody, are correct to the best of my knowledge and belief.

Signed this 23rd day of February, 1945

sgd
(I.G. McKenzie) Capt & Adjt
Lanark & Renfrew Scottish

PLEA IN MITIGATION of sentence for B.139103 PTE (L/CPL) George Peter GRUBIC, Lanark & Renfrew Scottish Regiment.

The a/m soldier arrived in Italy on the 11 Nov 43 with the 5th L.A.A. Regiment and served with them until his transfer the to 1st L.A.A. Infantry Regiment.

He was in action with the 1st L.A.A. Infantry Regiment in all their engagements until October 1944 when he was ordered out of the line as a result of battle fatigue. When in hospital he received a letter advising of the death of his brother who was killed in action in France while serving with the 36th American Division.

This news being received while the accused was in an extremely high strung condition undoubtedly was instrumental to his subsequent action.

Signed J E Price Lt

.....
(J.E. Price) Lieut.

4P-136

Pte. Grambly N.B.

SCHEDULE.

PART I. PLEA(S), FINDING(S) AND SENTENCE.

Accused: L101701 Pte. Grumbly, H.H. S. Sask R.

Charge. (Insert "alternative" where applicable.)	Plea. (See Instrs p 2.)	Finding. (See note below.)	(Space for use as required for further charges, accused charged jointly, special findings, etc.)
1st	Guilty	Guilty	
2nd			
3rd			
4th			
5th			
6th			

(Note: As to findings for lesser offences see AA 56, RP 44; findings on alternative charges see MML p 483 fn 4 para 2, RP 44; special findings see RP 44 and MML p 753, and in lieu of kit see RP 44 fn 8.)

SWLM

At present under sentence for ... (beginning on date) ... (1)

(1. Insert sentence being served, or delete, if not applicable. See RP 46(A). Information should be found on MF B355 or AF B296.)

Time in confinement awaiting present trial—a total of 10 days, of which 0 days were spent in hospital.(1)

(1. See RP 46(A) fn 2. Information should be found on MF B355 or AF B296 admitted in evidence under E2.)

Sentence Awarded by the Court: to undergo Detention for one (1) year.

(Sgd) Ernest McDonald, Judge-Advocate, if any (Capt) — 6 JAN 45, Date awarded. (Sgd) F. Mousseau Major, President. (RP 45, 50.)

(See back of Convening Order as to assembly and disposal of record after trial.)

PART II. MINUTE WHERE CONFIRMATION RESERVED. (AA 54(5), RP 120(F), MML p 760.)

Date ... (Sgd) ... Commanding ...

PART III. DECISION OF CONFIRMING OFFR ON FINDING(S) AND SENTENCE.

(For duties and powers see AA 54, 57, RP 371(D) fn 6, 46(A), 51-56, 120, MML pp 759-761, KR Con 567-577. Acquittals require no confirmation and cannot be revised: AA 54(3). Sending back finding or sentence for revision by Court: AA 54(2), RP 120(G). If not confirmed, accused may be tried again: AA 157, MML p 64. Minute of confirmation or non-confirmation may be altered before promulgation: RP 53, MML p 65. Quashing after promulgation: KR Con 573. Duties and powers of reviewing offrs: AA 57, 57A, RP 53A, 54. The Confirming Offr must sign here personally. AA 172 fn 1.)

My decision on the finding(s) and sentence set forth in Part I is:

Confirmed

~~I direct that the accused be not committed to prison or detention barracks until further order.~~(1) O.K.R

(1. AA 57A. Delete if not used.)

Date 6 Jan 45 (Sgd) Brig. R.H. Keefler Commanding Confirming Officer.

PART IV. PROMULGATED AND EXTRACTS TAKEN. (RP 53, KR Con 576, 577.)

Accused. Date. Signature of Offr.

L101701 Pte. Grumbly, H.H. 6 Jan 45 [illegible] Lt.-Col.

ALL DELETIONS AND ALTERATIONS WILL BE INITIALLED.

RECORDED AT CMHQ IN AG 160 4P-136

2 FEB 1945

FIELD GENERAL COURT-MARTIAL

CPA96 (To form of AF B5) 40/P & S/1608 4588

Convened by Order of Brig. R.H. Keefler Comd 6 C.I.B. dated 5 JAN 45

ACCUSED.

(As to the trial of two or more charged jointly see RP 16, 71, 109. As to reasons for showing (a) permanent or confirmed rank, and (b) apprnt, A/rank or A/apprnt, if any, see AA 182, 183, fn, KR Con 308, 328, 330.)

Number.	(a) Prmnt R. (b) Apprnt, A/R or A/Appnt.	Full Christian Names.	Surname.	Unit.
L101701	Pte.	Harvey Henry	Grumbly	S Sask R

PROCEEDINGS REVIEWED 2 FEB 45 REVIEWING OFFICER, JAG BRANCH, CMHQ

PROCEEDINGS OF TRIAL.

Held in the Fd in (country) Holland on (date(s)) 6 JAN 45

RECORD FORM A—OPENING PROCEEDINGS AND ARRAIGNMENT.

A1. The President, Members, waiting Member, JA, if any, and Offrs under instr, if any, assemble, and the Court is closed.

(PRINTED MATTER, NOT IN ITALICS FOR GUIDANCE, WILL BE DELETED, IF NOT USED OR APPLICABLE, AND INITIALLED BY PRES OF JA. The Schedule referred to throughout is on p 4. Citations do NOT include all relevant fns. For guidance on procedure when a variation in this form arises, see form for GCM in MML pp 741 to 758. A brief record of such variation will be made and given a number having reference to appropriate or preceding para number hereon. See back of Convening Order, CF A95, for duties and instrs on how to record addresses, evidence etc, which instrs are hereafter called "Notes". As to general provisions for conducting the trial see AA 53, RP 56, 63-70, 73, 74, 94, 103, 119, 132.)

A2. The President initials and lays before the Court the Convening Order and Charge Sheet(1) attached thereto.(2) The Court is satisfied that it is properly convened and constituted(3), accused is (are) amenable to military jurs, and each charge discloses an offence.(4)

(1. As to use of Summary of Evidence see RP 13 fn 6. 2. AA 49, 50, RP 105-107. 3. RP 11-13, 23, 24.)

A3. The Court is opened. The accused is (are) brought before the Court. At 1620 hours trial commences.

A4. The Prosecutor produces a Medical Certificate that accused is (are) fit to undergo trial by court-martial.(1) ~~The Prosecutor informs the Court that accused elected to be tried by court-martial instead of being dealt with summarily by the CO.~~(1) SWLM

(1. KR Can 557. 2. AA 46(B), RP 60 fn 1. For effect see KR Can 563(c). Delete, if not applicable.)

A5. President to accused: ~~Do you object to ... as interpreter?~~ Ans ~~...~~ SWLM

~~The Interpreter is sworn.(1) Do you object to ... as shorthand writer? Ans ...~~ ~~The shorthand writer is sworn.~~ SWLM

(1. RP 72. Delete, if none employed.)

A6. The Convening Order and names of the President and Members of the Court are read to the accused.(1) President to accused: Do you object to be tried by me as President or by any of the Members of the Court? Ans ND (2)

(1. RP 108. 2. If no objection, waiting member retires. RP 68(B). If objection, see procedure AA 51, RP 25, 71, 18, MML p 742.)

A7. The President, Members, JA, if any, and Offrs under instr, if any, are sworn.(1) The following are the ranks, names and units of the offrs comprising the Court, viz:

President	MAJOR	F. Mousseau	Fus MR
Member	Capt.	L.P. Beech	Camo R C
Member	Lt.	K. Coltman	S Sask R
Judge-Advocate	Capt.	E.K. McDonald	HQ 2 Cdn Log Div
Prosecutor	Lt.	[redacted] N.M. Clyde	S Sask R
Defending Offr	Lt.	J.D. Campbell	S Sask R

Questions by President: Is the Prosecutor a lawyer? Ans No Is the Defending Offr a lawyer? Ans No (2)

(1. RP 26, 27, 109, 111. List of offrs under instr will be returned separately with proceedings for information of Conv Offr.)
(2. If Pros a lawyer and Def Offr not, accused is entitled to an adjournment when RP 89 (B) and fn 2 were not followed. See Dr p 32.)

A8. The accused L101701 Pte. Grumbly, H.H. before arraignment make(s) (no) ~~...~~ plea. SWLM (2)

(1. If a special plea is made for separate trial on one or more charges (RP 62(E), 108B), or as to the jurisdiction of the Court (RP 34, 35(A), 113), or in bar of trial (RP 36), or as to accused's mental fitness to stand trial (AA 130, RP 37), or by one of several accused charged jointly to be tried separately (RP 16, 71), such plea, the submissions made in support or against, the evidence, if any, and finding are recorded per Notes. For forms of record see references in fns to RoP cited. Insert in AB rank and name of the accused making the plea.)

A9. The accused is (are) ~~arraigned (separately)~~ on all charges in the charge sheet.(1) The accused does (does not) object to any charge.(2) There is no amendment to be made to the Charge Sheet.(3) The President records the pleas in Part I of the Schedule. SWLM

(1. RP 31, 112. See para 1 of Instrs p 2. When more than one Charge Sheet see RP 62; when several accused to be tried separately see RP 71(C), and use separate copies of CF A96 to record proceedings. 2. RP 32, RP 33. If otherwise, delete and make appropriate record per Notes.)

A10. The Court ~~(is closed and)~~ considers the Instrs on Procedure after Arraignment at top of p 2. The proceedings are continued on Record Form B-A. SWLM

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

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INSTRUCTIONS ON PROCEDURE AFTER ARRAIGNMENT.

1. *The accused may not plead or be found Guilty on more than one of two or more charges laid in the alternative.* (*RP* 37(*A*).) *As to withdrawal of alternative charges by Prosecutor see RP* 35(*C*). *No other charge can be withdrawn for any reason without authy from Convening Offr. If Convening Offr concurs, Court may accept plea of Guilty to lesser, etc, offence.* (*RP* 44(*H*).) *Accused may change a plea of Not Guilty to Guilty during trial.* (*RP* 38.) *As to refusing to plead or not pleading intelligibly see RP* 35(*A*). *As to plea when sentence may be death see RP* 35(*D*).

2. *The proceedings on each charge sheet* (*RP* 62) *after arraignment will be conducted as follows in the respective circumstances stated :*

I. If pleas to all charges are GUILTY, use Record Form B below.

II. If pleas to all charges are NOT GUILTY, use Record Form D on p 3.

III. If pleas to some charges are GUILTY and to other charges are NOT GUILTY and,

(a) *Such mixed pleas occur when there are no alternative charges in the Charge Sheet, use Record Form C below.* (*RP* 37(*A*).)

(b) *Such mixed pleas occur in a set of two or more charges laid in the alternative, see RP* 37 (*A*) *and fn* 2 *as to discretion of Court,* (i) *to try the accused on all such alternative charges as if he had pleaded Not Guilty thereto, or,* (ii) *to record the pleas as the findings of Court. After deciding between* (i) *and* (ii), *Court will proceed under foregoing instrs as may be appropriate to result of its decision. See M M L p* 744 *Instrs* (2).

3. *As to responsibility of President to accused see RP* 39, 60(*C*) ; *powers and duties of JA see RP* 103 ; *duty of Prosecutor see RP* 60(*A*) (*B*) ; *duty and privileges of accused and Defending Offr see RP* 60(*C*), 87(*C*), 91, 92 ; *swearing and withdrawal of witnesses from Court see RP* 81, 82 ; *questioning of accused see RP* 80, 87(*C*), 92(*B*), *and of witnesses see RP* 83-85 ; *calling or re-calling of witnesses by Court, etc, see RP* 75-79, 86, 116 ; *use of Summary of Evidence at Trial see RP* 17(*E*) *fn* 6 ; *and responsibility of JA or Pros to record proceedings see RP* 94, 96.

RECORD FORM B—PROCEEDINGS ON PLEAS OF GUILTY TO ALL CHARGES.

B1. The President or JA, if any, complies with RP 35(B) by explaining to the accused the nature and meaning of the charge(s)[1], and that on his plea of Guilty there will be no regular trial but merely a consideration of the sentence to be awarded after he has been given an opportunity to make a statement in reference to the charge(s), call witnesses as to character and make an address in mitigation of punishment.[2]
(*1. RP 35 fn 3. 2. MML p 54 para 47.*)

B2. President to accused : The Court will now receive any statement you desire to make in reference to the charge(s).[1] If it appears from your statement that there are circumstances which indicate that you do not understand the effect of the plea of Guilty[2], or which show provocation or extenuation in respect of which in your interest the witnesses for the Prosecution should be examined[3], we shall advise you to change your plea to Not Guilty. In making a statement you will not be sworn or subject to cross-examination ; and anything you say will not be used in evidence against you after you change your plea. If, however, it appears to the Court that your statement affects only the amount of punishment to which you are liable, you will not be advised to change your plea and you will be given an opportunity later to prove your statement by sworn testimony, if you so desire.[4]

President to accused : Do you wish to make a statement ? Ans. No sir.[5]
(*1. RP 37(B). 2. RP 37(D) fn 6. 3. RP 35(B) fn 5 para 3, M M L p 54 para 47. * 4. See para E3 of Record Form E.*
5. Statement, if any, recorded per Notes.)

B3. The Court considers the accused's statement.[1] The Court decides (not) to advise accused to change his (their) plea(s) of Guilty to Not Guilty on ..... charge(s). The accused is (are) so informed, and he (they) change(s) his (their) plea(s) on ..... charge(s). Part I of the Schedule is amended accordingly.
(*1. Court may be closed to consider the statement. Delete whole or part not used.*)

B4. On the charge(s) to which the plea(s) of Guilty is (are) not changed the President records finding(s) of Guilty in Part I of the Schedule.[1]
(*1. RP 35(B). If any plea(s) is (are) changed, use Record Form C or D as appropriate.*)

B5. The Summary of Evidence is marked Ex A, initialled and read aloud by the President.[1]
(*1. If there is no Summary, or if it is inadequate, comply with RP 37(B). If there is any evidence inconsistent with any plea standing as Guilty, Court will advise accused to change such plea and, if changed to Not Guilty, try such charge(s) by use of paras D1 to D8 inclusive of Record Form D on p 3. RP 37(D).*)

B6. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

RECORD FORM C—PROCEEDINGS ON MIXED PLEAS OF GUILTY AND NOT GUILTY.

C1. As to the charge(s) on which accused pleaded NOT GUILTY the trial is continued by using paras D1 to D8 inclusive of Record Form D on p 3 before proceeding with C 2.[1]
(*1. RP 37(A) (E).*)

C2. The charges on which accused pleaded GUILTY are read to him (them) again, and the trial is continued by using paras B1 to B5 of Record Form B above.[1]
(*1. Under B5 such parts only of the Summary of Evidence are read as relate to the charges dealt with under C2. If any plea is changed to Not Guilty, trial thereon proceeds by complying with paras D1 to D8 inclusive in Record Form D on p 3 and making an appropriate record thereof on a separate sheet.*)

C3. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

Fix here [illegible] sheets of Record.

RECORD FORM D—PROCEEDINGS ON PLEAS OF NOT GUILTY TO ALL CHARGES.

D1. President to accused : Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity to prepare your defence ? Ans. .....[1]
(*1. If "yes", see RP 39(A) for procedure. Statement or evidence, if any, is recorded per Notes.*)

D2. The Prosecutor makes (am) (no) opening address.[1]
(*1. RP 39(B), 60(A) (B), 90, 92(C) (D). Record address per Notes, subject to RP 95(C).*)

D3. The evidence for the Prosecution is taken.[1]
(*1. RP 39(C), 114, KR Can 555. Record evidence per Notes. As to Prosecutor giving evidence himself see RP 39(D) (E).*)

D4. The Prosecution is closed.[1] The Defending Offr submits that the evidence for the Prosecution does not establish a prima facie case against the accused on the ..... charge(s).[2] The Court is closed, and considers the submission.[3] The Court is re-opened, and the President announces that the submission is disallowed on the ..... charge(s), and allowed on the ..... charge(s), and that, accordingly, the trial will proceed on the former, but the accused is (are) found Not Guilty on the latter charge(s).[4]
(*1. Delete remainder of this para, if submission not made. 2. Arguments on submission, answer and reply are recorded per Notes. 3. RP 40 fn 1. See M M L p 72 paras 12-14 and p 81 para 42. 4. Delete part not used. If accused acquitted on all charges, use second alternative in para D8.*)

D5. President to accused : You will now proceed with your defence.[1] You may, if you wish, give evidence yourself on oath as to the facts or your character or both, in which case you will be subject to cross-examination.[2] You may, however, make a statement without being sworn and you will not be subject to cross-examination.[3] But a statement which could have been made on oath will not carry with the Court the same weight as sworn testimony.[4] You may call witnesses in your defence and as to character, whether you give evidence or make a statement or do neither.

President to accused : Do you wish to give evidence yourself as a witness, make a statement, or do neither ? Ans. .....
Do you intend to call witnesses on your behalf ? Ans. .....
Are they witnesses as to character only ? Ans. .....
(*1. RP 115. 2. RP 40(A), see 80(D). 3. RP 40 fn 10. 4. RP 40 fns 2, 9.*)

D6. Consequent on the answers recorded in para D5 the appropriate procedure for the defence is followed.[1]
(*1. RP 114, 115, 116. For procedure see Notes on back of Convening Order. CF #85. Evidence for accused as to his character should, if in his interest, be given before the finding. See RP 46(A) fn 1, 86(C). Note the further opportunity in para E1 of Record Form E. Record see Notes addresses, statement, evidence and any summing up by the JA under RP 42, 103(e).*)

D7. The Court is closed to consider the finding(s).[1] The finding(s) of the Court is (are) recorded in Part I of the Schedule.[2] The Court is re-opened.
(*1. RP 42, 117(A). See Notes in Part I of Schedule. 2. RP 44(A).*)

D8. The President announces the finding(s), if any, of Not Guilty, and states to the accused that the finding(s) of the Court on the ..... charge(s), being subject to confirmation, will be promulgated later.[1]
Or, The President announces that the accused is found Not Guilty on all charges and is to be released forthwith, and that the proceedings are accordingly terminated. Part I of the Schedule is dated and signed.[2]
(*1. AA 54(3) (6), RP 45, 120(A). 2. AA 54(2), RP 45, 117. This alternative announcement is not applicable when there are pleas of Guilty outstanding and dealt with under Record Form B or C.*)

D9. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E below.

RECORD FORM E—PROCEEDINGS ON CONVICTION BEFORE SENTENCE.

E1. President to accused : Do you wish to give evidence yourself or to call any witnesses as to your character ?[1]
Ans. Signed statement handed in as it was unavoidable due to a superior's - I address the Court & submit a statement
(*1. If evidence has already been given by accused or his witnesses as to his character, delete this para. RP 37(C) fn 4, 46 fn 1. Accused and witnesses are sworn. Evidence recorded per Notes.*)

E2. The Prosecutor produces Statement(s) as to Character and Particulars of Service[1], and certified true copy (copies) of Conduct Sheet(s)[2], purporting to refer to the accused, which he submits to the Defending Offr for examination, and then to the Court for admission in evidence. The Court is satisfied that these documents refer to the accused, because (i) they purport to be signed in the manner required by A A 163(1) (g) (h), and (ii) they purport to refer to (a) soldier(s) having the same number, rank, name and corps as the accused. Admitted in evidence and marked Ex Y and Ex Z respectively.[3]
(*1. AFB 355 or AFB 2596. 2. M F M 6. 3. RP 46, KR Can 558. If above documents not produced, see RP 46 fn 1 para 1.*)

E3. President to accused : Do you wish to address the Court on the Statement(s) and Conduct Sheet(s), and in mitigation of punishment ?[1] Ans. By My Defending Officer.[2]
(*1. RP 37(C), 46(D). 2. Address, if any, recorded per Notes. Court should permit accused or his witnesses to prove on oath anything here or previously stated which would affect the amount of punishment. RP 37(F) fn 7.*)

E4. The President states that the Court is closed to consider the sentence, and that the sentence to be awarded by the Court, being subject to confirmation, will not be announced, but will be promulgated later, and the proceedings in open court are accordingly terminated.[1]
(*1. AA 54(6), RP 120(A).*)

E5. The Court considers the sentence.[1] The President records the sentence in Part I of the Schedule, which is dated and signed by him and the JA, if any.[2]
(*1. When several accused tried separately see RP 71 (D). One sentence only, comprised of the punishment or punishments laid down in AA 41, 44 and its proviso, is to be awarded to cover all charges in all charge sheets on which accused found guilty. RP 48. As to sentences see AA 64, 136, 182, RP 46-50, 69, 118, 119(A), KR Can 308, 330, 563-566, Overseas RO 309, 2302, M M L p 60, 737-759. As to sentences assigned for civil offences by the law of England see AA 41(5), M M L p 130. When accused already under sentence of imprisonment or detention see AA 44(18), 68(1), KR Can 564. 2. RP 50. As to release from arrest for Confirming Offr see KR Can 567. As to assembly and disposal of record after trial see Instrs on back of Convening Order.*)

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

CHARGE SHEET

The accused L 101701 Pte GRUMBLY, Harvey Henry, South Saskatchewan Regiment, a soldier of the Canadian Army Overseas is charged with:

FIRST CHARGE
A.A. Sec 15 (1)

WHEN ON ACTIVE SERVICE

ABSENTING HIMSELF WITHOUT LEAVE

in that he

In the Field absented himself without leave from 1400 hrs 8 Dec 44 until surrendering himself to the Cdn Pro Corps in TURNHOUT at 2200 hrs 26 Dec 44.

Absent 18 days 8 hrs.

In the Field
1 Jan 45

(G.B. Buchanan) Major
A/Officer Commanding
South Sask Regt CA (O)

To be tried by a Field General Court Martial.

(R.H. Keefler) Brig
Comd 6 Cdn Inf Bde

In the Field
5 Jan 45

FIELD GENERAL COURT-MARTIAL

(Whether the accused to be tried is under his comd or not, a FGCM may on application to him be convened by any offr of Cdn Army Overseas, or of any other force if authorized in law, in immediate comd of troops on active service, subject to RP 105(C) and restrictions imposed by appropriate authy, AA 49, 50, RP 104-107, 114. As to the duties and privileges of the Convening Offr in dealing with the application see MML Chap V paras 20 and 23, RP 87(B).

There should be a separate Convening Order for each person to be tried separately by the same Court. RP 71(C), 109. As to separate charge sheets see RP 62, and as to separate trial on charges in the same charge sheet see RP 108. As to two or more accused charged jointly see RP 14, 109.

As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

ACCUSED.

Number.	(a) Prmnt R.	(b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
L101701	Pte.		HARVEY HENRY.	GRUMBLY	S. SASK R

Prmnt

CONVENING ORDER.

1. Whereas complaint has been made to me, the undersigned, that the person(s) named above as the accused, being subject to military law, has (have) committed the offence(s) set forth in the Charge Sheet(s) attached and on (date) 5 JAN 46 endorsed by me, (~~or by an offr of my staff for me~~), "To be tried by Field General Court-Martial".

2. And whereas I am of opinion that it is not practicable that such offence(s) should be tried by an ordinary General Court-Martial; (~~and that it is not practicable to delay the trial for reference to a superior qualified offr.~~)

(Delete part in brackets when not required for compliance with RP 105(C).)

3. I hereby convene a Field General Court-Martial to try the said person(s), and to consist of the Offrs appointed or detailed hereunder.

4. ~~I am unable to appoint~~ (a) three Offrs to form the Court, (b) a Fd Offr as President, for the ~~reasons~~ I have attached hereto.

(AA 49, RP 106(B), 107(A). Delete the whole or part, if not applicable.)

5. I also appoint as Judge-Advocate thereat the Offr mentioned hereunder.

(RP 106(E). Delete, if none appointed.)

PRESIDENT.

(Rank.)		(Must be named. RP 106.)	(Unit.)
MAJOR	E. MOUSSEAU.		Fd. M.R.

MEMBERS.

(Rank.)		(Named or detailed. RP 106.)	(Unit.)
CAPT	L. P. BEECH		Comd C.
LT	K. COLTMAN		S. SASK R

WAITING MEMBER.

(Rank.)		(Named or detailed, if any. RP 106.)	(Unit.)
L.T.	R.C. ROSS.		Com of C

JUDGE-ADVOCATE.

(Rank.)		(Must be named, if any. RP 106.)	(Unit.)
CAPT.	E.K. McDOUGALL		HQ 2 CDN INF BDE.

On Active Service in the Fd in HOLLAND. (Country.)

(Signed personally. RP 105 fn 2.)

(Rank.)

Date 5 JAN 46

Commanding 6 CDN INF BDE

Convening Officer.

CONVENING OFFR WILL INITIAL ALL DELETIONS AND ALTERATIONS

(See overleaf for oaths and notes for use at trial.)

4/38A CPASS (To Issue of APAS) 40/P & S/1849 (4601)

MEDICAL OFFICERS CERTIFICATE
(K.R. (Can) Para 557)

I certify that I have this morning examined No....L.10179.....
1Rte....Abercrombie....Hqtr....of South Saskatchewan Regiment, and in my
opinion he is fit/~~unfit~~ to undergo trial by Court Martial.

Station..Field.....
Date..June...6...45.....

Medical Officer

I first met L 101701 Pte Grumbly, H.H., when I became platoon commander of 14 Pl of C Coy. He was at that time in No. 4 Sec and had been since 8 Oct 44.

He was in every action from that time until the time of his absence. Through his actions during this time he gained the respect of myself, and the men who were fighting by his side. At no time did he ever say, or do anything that would be held against his character as a soldier. I offered him promotion on several occasions but each time he refused the offer because as he put it "lack of training".

Before he joined this regiment he was in another branch of the service.

(E.H. Marriott) Lt.

Annual

To each of us, as we approach battle, and find ourselves involved in its turmoil, there comes a purely personal and individual reaction to the noise and danger surrounding us. Each of us possess a nervous system which has only a certain capacity for terror and noise.

To those of us who, from the moment of entering the army, were assigned to the infantry, there has been an opportunity throughout the months and years of training to accustom ourselves gradually to the fact that we must prepare for the arduous and dangerous life of an infantry man.

Consider this gentleman, the man you see before you in this light. This man stepped forward to offer himself in any capacity in which the army could use him. At that time the army saw fit to train him as a driver in the R.C.A.S.C. For two and one half years this man trained and worked at that job.

Regardless of the motives and bravery of a man who has made this great decision, to serve his country; to find that you have been chosen to do a comparatively safe, though essential, job, a man experiences a sense of relief. During his training he builds up a shell of confidence and sense of security. He is not going to be committed to actual battle, and at the time that he is adjusting his mind in that direction, his comrades in arms in the infantry are preparing themselves for the day that they will be thrown in.

To have that shell or crust of security suddenly smashed, to have the steering wheel wrenched out of your hands, and placed there instead, a rifle, to go from the rear to the front and find yourself face to face with the enemy, with a total of 22 days infantry training, I repeat, 22 days, is a staggering blow to a man's balance.

Some men, in their 22 days, do not have time to readjust themselves, to get a grip on their feelings in order to be completely their own masters, and if they have not time before they are committed to battle

they do not have the opportunity to do so after.

However, this man, who for two and one half years had been a driver, and who had been prepared for this life of ours by 22 days training, hung on at the front, not a matter of hours, or days - but for weeks - fighting not only the enemy, but bitterly. During these weeks our unit saw much action, the fighting at Hazebrouck, the sealing off of the Bendale peninsula, the clearing of the peninsula, and then the static positions on our own front, and this man was haunted all of this time by the spectre of ignorance. In one position which his platoon occupied, they were mortared almost incessantly, and in one barrage alone, they had a counted number of 105 bombs land around them. During this time, he was above reproach in any way, a soldier of the finest calibre.

When platoon ~~Commander~~ said to me - "When you defend this man, remember you are defending a bloody fine soldier."

I, myself, have taken this man on ~~a~~ another hazardous fighting patrol, and found him exceedingly good man.

I have here a signed statement from his platoon ~~Commander~~, testifying as to his good character and reliability while he was with him.

However - following this period of heavy stress and strain, came one of relative relaxation the period during which we guarded the bridge at Treves. During periods of rest, when tension is slackened, and a man has time to think back over the ordeals through which he has passed, the occasions when he has looked death in the eye face and escaped, and of the friends who did not, one tends to brood over them, and to enlarge on them, until they become almost an obsession with him.

To clasp at the straw, to see the opportunity to escape his troubles, and to go back to the job for which he has been trained, driving, as a driver Batman at Brigade as B Echy only to find that someone else had been boosted into the job, the old old story, that straw he clutched at was the proverbial

straw which broke the camel's back. A state of absolute confusion exists in a man's mind void of help & depression. During this period of temporary instability he could fight himself no longer, and he took what appeared to him then, the easy way out. He went to Antwerp. There he regained control of himself, and realizing the rashness of his action, he did not wait to be apprehended, but surrendered himself to the ~~M~~C. P. C.

In closing, gentlemen, I wish to ask you to remember that story when you pass sentence, two and one half years to twenty two days - a man who, in spite of lack of training has done a fine job, is a man deserving of leniency.

To each of us, as we approach battle, and find ourselves involved in its turmoil, there comes a purely personal and individual reaction, to the noise and dangers surrounding us. Each of us possess a nervous system which has only a certain capacity, for terror and noise.

To those of us who, from the moment of entering the army, were assigned to the Infantry there has been an opportunity throughout the months and years of training to accustom the ourselves gradually to the fact that we must prepare for the arduous and dangerous life of an infantry man.

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Regardless of the motives and bravery of a man when he makes this great decision, to serve his country; to find that you have been chosen to do a comparatively safe, though essential job, a man experiences a sense of relief. During his training he builds up a shelll of confidence and sense of security. He is not going to be committed to actual battle, and at the time that he is adjusting his mind in that direction, his comrades in arms in the infantry are preparing themselves for the day that they will be thrown in.

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Some men, in their 22 days, do not have time to readjust themselves, to get a grip on their feelings in order to be completely their own masters, and if they have not time before they are committed to battle they do not have the opportunity to do so after.

However, this man, who for two and one half years had been a driver, and who had been prepared for this life of ours by 22 days training, hung on at the front, not a matter of hours or days but for weeks - fighting not only the enemy but himself. During those weeks our unit saw much action, the fighting a Hoogerheide, the sealing off of the Bevdard peninsula, the clearing of the peninsula, and then the static positions on our own ground front, and this man was haunted all of this time by the spectre of ignorance. In one position which his platoon occuppied, they were mortared almost incessently, and in one barrage alone, they had a counted number of 115 bombs land around them. During this time, he was above reproach in any way, a soldier of the finest calibre.

As his platoon commander said to me - "when you defend this man, remember you are defending a bloody fine soldier".

I, myself have taken this man on a rather hazardous fighting patrol, and found him an exceedingly good man.

I have here a signed statement from his platoon commander, testifying as to his good character and reliability while he was with him.

However - following this period of heavy stress and strain, came one of relative relaxation the period during which we guarded the bridge of Traves. During periods of rest, when tension slackened, and a man has time to think back over the ordeals through which he has passed, the occasions when he has looked death in the very face and escaped, and of the friends who did not, one tends to brood over them, and to enlarge on them until they become almost an obsession with him.

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In closing, gentlemen, I wish to ask you to remember that story when you pass sentence, two and one half years to twenty two days. Aman who, in spite of lack of training has done a fine job, is a man deserving of leniency.

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A.

SUMMARY OF EVIDENCE IN THE CASE OF No. L101701 Pte GRUMBLY, Harvey Henry, of the South Saskatchewan Regiment, a soldier of the Canadian Army Overseas charged with:-

(1) AWOL - Absence without leave. A.A. Sec 15 (1).

By direction of the Commanding Officer the evidence is to be taken on oath.

FIRST WITNESS - Lieut. H.M. Clyde, South Saskatchewan Regiment, Canadian Army Overseas, sworn states:-

I present Certified True Copy of Army Form W 3011A signed by Officer in charge of Records South Saskatchewan Regiment, purporting to show the accused L101701 Pte Grumbly, H.H. still absent at 1400 hrs 1c Dec 44 (8th day)(Attached as Exhibit "A"). I present also Army Form B 452 signed by L/Cpl. C.P. Farr, #7 Cdn Provost Coy, purporting to show the accused L101701 Pte Grumbly, H.H. surrendered himself at TURNHOUT at 2200 hrs 26 Dec 44 (Attached as Exhibit "B"). I present also Certificate Under Army Act Section 162 (1)(J) signed by H.C. Forbes, DAPM, H.Q. 1 Cdn L of C Terminal, purporting to show the accused L101701 Pte Grumbly, H.H. surrendered himself at TURNHOUT at 2200 hrs 26 Dec 44 (Attached as Exhibit "C").

The accused declines to cross-examine.

(H.M. Clyde) Lieut.
South Sask Regt CA (O)

SECOND WITNESS - L104417 A/Cpl HERMISTON, W.F., South Saskatchewan Regiment, Canadian Army Overseas, sworn states:

We had orders to move at 1400 hrs 8 Dec 44 and I checked the roll and found Pte GRUMBLY, H.H. missing.

I checked the platoon from time to time for Pte Grumbly and he was still absent. The first I learned of Pte Grumbly's return to the Bn was when he was under close arrest with the Regimental Provost.

The accused declines to cross-examine.

(L104417 A/Cpl Hermiston, W.F.)
South Saskatchewan Regiment CA (O)

The accused having been duly cautioned in accordance with R.P. 4 (e) says:-

"I do not wish to make a statement."

(L101701 Pte Grumbly, H.H.)
South Saskatchewan Regiment CA (O)

The accused does not wish to call witnesses in his defence.

Certified that RP 4 has been complied with.

In the Field
1 Jan 45

(H.R. Robertson) Lieut.
Officer detailed to take the Summary

(Margin for filing purposes)

Exhibit "A"

Army Form W.3011A.

Serial No. 174

Number of sheets to this return Page 2

CASUALTIES (OTHER THAN BATTLE, ACCIDENTS AND SICKNESS)—OTHER RANKS.

Army No.	Rank	Name and Initials	Corps or Regt.	Casualty: Nature of Casualty	Casualty: Date	Remarks
ABSENT WITHOUT LEAVE						
AWL from 1400 hrs 2 Dec 44. Still absent				1400 hrs 16 Dec 44.		(8th Day).
1101701	Pte.	Grumbly	H.M.			

CERTIFIED TRUE [illegible]

(A.F.W. Watkinson) Lieut.,
Adjutant, S.Sask.R. C.A.(C).

SOUTH SASKATCHEWAN REGIMENT (Unit)
5 Cdn Inf Bde, 2 Cdn Inf Div.
(Hdr., Bde., Area, etc., with which unit is serving)

Date 17 Dec 44 194

(Signature and appointment of Officer)

Exh. 6.1 B Exhibit —

CHARGE

Army Form B 252
(See King's Regulations)

SOUTH SASKATCHEWAN Regiment
Battery / Squadron / Troop or / Company

CHARGE against No. L 101 701 Rank PTE.

Name GRUMBLY, H.H.

Place TURNHOUT Date of Offence 26 DEC 44

OFFENCE W.O.A.S.

A.W.L. FROM

TIME 2200 HRS. 26 DEC 44

Names of Witnesses :—

H63612 L/CPL. TARR, C.R.

F32285 L/CPL. MARTIN, V.

Signature of O.C. Battery, Squadron, Troop or Company

Punishment Awarded

By whom Awarded

Adjutant.

P.T.O.

30M 41.W.P.(G.P.) 2,000,000 8/42 K. & H., Ltd. Gmf.7.42

STATEMENT OF EVIDENCE IN THE CASE OF

L 101701 PTE GRUMBLY, H.H.
SOUTH SASK. REGT.

At approx 2200 hrs 26 Dec 44 whilst on patrol in farmhouse accompanied by Cpl Martin the a/m soldier surrendered himself to me as being A.W.L. He stated that he was absent without leave since 2400 hrs 24 Dec 44. I placed him under close arrest and informed him to my station. He went quietly from his unit

C.P. Tarr
H63012 Lt. C.P. TARR, C.A.
'G' SECT. 7 CDN PROVOST COY

REMARKS

I HAVE READ OVER AND CORROBORATE THE ABOVE STATEMENT

[illegible]
G'SECT 7 CDN PROVOST COY

Exhibit "C"

L/101701 PTE. GRUMBLY, H.H.
HQ 3012
SOUTH SASKATCHEWAN
4 CPL. TARR, C.P. 7TH CDN. PROVOST
COMPANY TURNOUT 2200P
26TH DECEMBER 44

TURNOUT
26 DEC 44

DAPM
HQ 1 Can. C. of C. Terminal

Y. Original

ARMY FORM B.2195.

Statement as to Character and Particulars of Service of Accused.

Number.	Rank.	Name.	Regiment (or as the case may be).
L101701	Pte	Grumbly HH	5 Sask R.

1. The following is a fair and true summary of the entries in the regimental and squadron, battery or company conduct sheets† of the accused, exclusive of convictions by a court martial or a civil court, of summary awards under section 47 of the Army Act, and of cases in which trial has been dispensed with:—

Note.—At a trial by field general court martial this summary must be compiled from the field conduct sheet.
The conduct sheet(s) mentioned should be produced in court with this statement but not entered in the proceedings.

† See para. 677, K.R., 1940.

* The number herein stated should correspond with the number of entries in the conduct sheet, parentheses being given to the most serious offence in each entry, and to any recognized special acts of gallantry or distinguished conduct.

INSTRUCTION.—If the charge is for drunkenness the entries for drunkenness must be stated separately and dated.

	* Within last 12 months.	*Since Enlistment.
For AWL AA Sec 15(1)	ONE times	FIVE times.
For AA Sec 15 (2)	NIL times	TWO times.
For AA Sec 40	NIL ~~THREE~~ times	THREE times.
For	times	times.
For	times	times.

Number of instances of gallantry or distinguished conduct, NIL

or

There are no entries in the conduct sheets of the accused. N/A

2. The accused has not been previously convicted, *or* ———

Previous convictions† of the accused by a court martial or a civil court, summary awards under section 47 of the Army Act, and dispensations with trial under section 73 of the Army Act, are set out in the schedule annexed to this statement.

3. The accused is not under sentence at the present time, *or* The accused at the present time is under sentence for ——— beginning on the ——— day of ———

4. The accused has been in confinement, awaiting trial on the present charges, for ——— days in civil custody, and 10 days in military custody, making a total of 10 days, of which ——— days were spent in hospital.

5. The present age of the accused according to his record of service / attestation paper is 20

6. The date of his ~~commission~~ attestation specified in his record of service / attestation paper is 3 AUG 42

7. The service which the accused is allowed to reckon towards discharge or transfer to the reserve is ———

8. The accused is entitled to deferred pay or gratuity in respect of ——— service.

9. The accused is entitled to reckon ——— service for the purpose of determining his pension, etc.

10. The accused is in possession of, or entitled to, no military decoration or military award (*or* is in possession of or entitled to (*state any military decoration or reward*)). NIL

11. (*If the accused is a warrant officer.*) The accused before he was made a warrant officer last held the regimental rank of ———

12. (*In the case of an officer.*) The accused holds in the army the rank of ———, dated ———, and in his regiment (*or* corps or department) the rank of ——— dated ———

(*Reprint) (Reprint) W1.24440/1730 30,000 10/43 A.A.F.W.Ltd. Gp.698
W1.24440/1499 15,000 5/44 " "

Schedule of Convictions by a Court Martial or Civil Court, of summary awards under Section 47 of the Army Act and of cases in which trial has been dispensed with of accused.

No. L101701 Rank Pte Name Grumbly HH of 5 Sask Regiment (or as the case may be).

(INSTRUCTION—A verbatim extract from the regimental books, stating these convictions and dispensations with trial, must be inserted.)

Description of court by which tried, or status of officer disposing of the charge or dispensing with trial	Date and place of trial, or summary award under A.A. 47, or of order dispensing with trial.	Charges upon which convicted, or in respect of which trial was dispensed with.	Sentence of the court or authority disposing of the charge, or order of the dispensing authority.	Punishment remitted.
		NIL		

I HEREBY CERTIFY that the foregoing schedule of convictions and dispensations with trial is a true extract from the regimental books in my custody.

Signed this 6th day of January 45

H.H. Bathenson Lt

13. The accused has served as a non-commissioned officer continuously, without reduction, to the present date.

In the rank of , Date of Promotion

In the rank of , years, ,

In the rank of , years, ,

In the rank of , years, ,

(INSTRUCTION.—If any matter in any of the above five columns has been struck through, except that in the case of a trial by field general court-martial the confirmation may be inserted, and the paragraphs countersigned accordingly.)

(Instructions—If any matter in any of the above five columns has been struck through, except that in the case of a trial by field general court-martial the confirmation may be inserted, and the paragraphs countersigned accordingly.)

MFM 6
(AFB 122)
40/P&S/136 (3458)

No. 101701 Name Grumbly, H.H. | Sqn. Battery or Company | Corps CIC | Date of enlistment 3Aug42 | OC Badges | Service or Proficiency Pay | Character

Date of last entry in Company Conduct Sheet | No and date of last drunk | Period not reckoning towards freedom from extra fine | Sheet No | Signature OC Company, etc (Sgd) A.M. Gilmore Lt

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Name of Witness	Punishment awarded	Date of award or remainder disposed of with trial	By whom awarded	Remarks
				Sheet destroyed on completion of six months service 7 Feb					
Red Deer	19-3-43	Pte.		AWL from 0600 hrs 19 Mar 43 to 2015 hrs 23 Mar 43(Absent 4 days, 14 hrs. 15 mins) AA Sec 15(1)	Documentary	Forf 5 days pay AA	24Mar43	Capt. A.H. Mitchell	Forfs 5 dye pay & allowces
Red Deer Alta	25-4-43	Pte.		AWL from 2200 hrs 25 Apr until 1245 hrs 26 Apr 43 (Absent 14 hrs. 45 mins) A.A. Sec 15(1)	Documentary	Forfeits 3 days pay	27Apr43	Capt.A.H. Mitchell	RAI 149(1 (a)
Red Deer	27-5-43	Pte.		Conduct to the prejudice of good order and military discipline in that he at Red Deer Alta on 27May 43 did appear on parade in a dirty and untidy condition. AA Sec 40	CSM Williams	3 days CB	29May43	Capt JE Brown	
Red Deer	3Jun43	Pte.		Failing to appear at a place of parade Cpl. appointed by his commanding offr.	Stevens	3 days CB	3 Jun 43	JE Brown Captain	

(PTO)

Place	Date of offence	Rank	Case of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Red Deer	15Jul43	Pte		Failing to appear at a place of parade appointed by his commanding officer AA Sec 15(2)	Cpl Simmonds	7 Days CB	19Jul43	JE Brown Captain	
Red Deer	16Jul43	Pte.		AWL from 0600 hrs 16Jul43 until 0100 hrs 19 Jul 43(Absent 2 days 19 hrs) AA Sec 15(1)	Documentary	Forf 5 days pay	19 Jul43	JE Brawn Captain	Forfs 3 days pay 149(1)(a)
Red Deer	22Aug43	Pte.		AWL from 2200 hrs 22 Aug 43 until 1330 hrs 30 Aug 43(Absent 7 days 16 hrs, 30 mins) AA Sec 15(1)	Documentary	12 dys detn	31Aug43	JJ Burton Williscn Colonel	Forfs 5 days pay FRA149
Red Deer	22Sep43	Pte.		Conduct to the prejudice of good order and military discipline AA Sec 40.	CSM McLeod	Forfs 1 days pay	23Sep43	Capt. WH Martin	
Red Deer	3Oct43	Pte		(1) AWL from 2130 hrs 3 Oct 43 until 0600 hrs 4 Oct 43 (Absent 8 hrs 30 mins) AA Sec 15(1)	CPl Kidd AT	Forfs 3 days pay	4Oct43	Captain WH Martin	1 days forf pay
Red Deer	8Oct43	Pte		Breaking into barracks AA Sec 10 Conduct to the Pej of good ord & Military Discipline AA Sec 40	Pte Gaskell A, CSM McLeod	Forfs 1 5 days pay	8 Oct43	Captain WH Martin	

No. L101701 Name Grumbly HH | Sqn, Battery or Company | Corps CIC | Date of enlistment 3 Aug 44 | QC Badges | Service or Proficiency Pay | MFM 6 (AFB 122): 60/PAG/136 (3638)

Date of last entry in Company Conduct Sheet | No and date of last drunk | Period not reckoning towards freedom from extra fine | Sheet No Two | Signature OC Company, etc | Character

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Field	20-9-44	Pte.		AWL from 2230 hrs 20 Sep 44 to 1035 hrs 21 Sep 44 (Total absence 12 hrs 5 mins) Sec 15(1) AA	Sgt Miller Documentary	5 days pay	22 Sep 44	NC Dawson Major	Automati 1 days pay FR&I 1-3 (1)(a)

CERTIFIED TRUE COPY In POSSESSION OF UNIT

(A.F.W. Watkinson) Lieut.
Adjutant, S.Sask.R. C.A.(C).

FIELD GENERAL COURT-MARTIAL

4088

(Convened by Order of Brig R. H. Keefler Comd 6 C.I.B. dated 5 Jan 45)

SCHEDULE.

PART I. PLEA(S), FINDING(S) AND SENTENCE.

Accused: L-101701 Pte Grumbly H.H. S Sask R

Charge. (Insert "alternative" where applicable.)	Plea. (See Instrs p 2.)	Finding. (See note below.)	(Space for use as required for further charges, accused charged jointly, special findings, etc.)
1st	Guilty	Guilty	
2nd			
3rd			
4th			
5th			
6th			

(Note: As to findings for lesser offences see AA 36, RP 44; findings on alternative charges see MML p 483 fn 4 para 2, RP 44; special findings see RP 44 and MML p 733, and in lieu of kit see RP 44 fn 6.)

(1) EKM

~~At present under sentence~~ for ~~Awaiting~~ (date)

(1. Insert sentence being served, or delete, if not applicable. See RP 46(A). Information should be found on MF B355 or AF B276.)

Time in confinement awaiting present trial—a total of 10 days, of which 0 days were spent in hospital.(1)

(1. See RP 46(A) fn 2. Information should be found on MF B355 or AF B276 admitted in evidence under E2.)

Sentence Awarded by the Court:

To undergo detention for one (1) year.

(Sgd) "E.K. McDougall" 6 Jan 45 (Sgd) "F. Mousseau" Major

Judge-Advocate, if any Capt Date awarded. President. (RP 45, 52.)

(See back of Convening Order as to assembly and disposal of record after trial.)

PART II. MINUTE WHERE CONFIRMATION RESERVED. (AA 54(5), RP 120(F), MML p 760.)

Date (Sgd) Commanding

PART III. DECISION OF CONFIRMING OFFR ON FINDING(S) AND SENTENCE.

(For duties and powers see AA 54, 57, RP 31(D) fn 6, 46(A), 51-56, 120, MML pp 739-761, KR Con 567-577. Acquittals require no confirmation and cannot be revised: AA 54(3). Sending back finding or sentence for revision by Court: AA 54(2), RP 120(C). If not confirmed, accused may be tried again: AA 157, MML p 64. Minute of confirmation or non-confirmation may be altered before promulgation: RP 53, MML p 65. Quashing after promulgation: KR Con 573. Duties and powers of reviewing offrs: AA 57, 57A, RP 53A, 54. The Confirming Offr must sign here personally. AA 172 fn 1.)

My decision on the finding(s) and sentence set forth in Part I is:

Confirmed

~~I direct that the accused be sub committed to prison or detention barracks until further orders.~~(1) RHK

(1. AA 57A. Delete if not used.)

(Sgd) "R. H. Keefler" Brig

Date 6 Jan 45 Commanding 6 Cdn Inf Bde

Confirming Officer.

PART IV. PROMULGATED AND EXTRACTS TAKEN. (RP 53, KR Con 576, 577.)

Accused. Date. Signature of Offr.

L-101701 Pte Grumbly H.H. 6 Jan 45 "V. Stott" Lt Col

ALL DELETIONS AND ALTERATIONS WILL BE INITIALLED.

4/P/132

CFAME (To conv. to AFA) C.P.S.C. (To conv. to AFA) 4088

ACCUSED.

(As to the trial of two or more charged jointly see RP 16, 71, 109. As to reasons for showing (a) permanent or confirmed rank, and (b) apptmt, A/rank or A/apptmt, if any, see AA 182, 183, fns, KR Con 308, 328, 330.)

Number.	(a) Prmnt R. (b) Apptmt, A/R or A/Apptmt.	Full Christian Names.	Surname.	Unit.
L-101701	Pte	Harvey Henry	GRUMBLY	S SASK R

CERTIFIED TRUE COPY

[signature] Capt.

A.D.J.A.,

Cdn. Sec. [illegible]

PROCEEDINGS OF TRIAL.

Held in the Fd in (country) Holland on (date(s)) 6 Jan 45

RECORD FORM A—OPENING PROCEEDINGS AND ARRAIGNMENT. 19/54

A1. The President, Members, waiting Member, JA, if any, and Offrs under instr, if any, assemble, and the Court is closed.

(PRINTED MATTER, NOT IN ITALICS FOR GUIDANCE, WILL BE DELETED, IF NOT USED OR APPLICABLE, AND INITIALLED BY PRES OR JA. The Schedule referred to throughout is on p 4. Citations do NOT include all relevent fns ROs. For guidance on procedure when a variation in this form arises, see forms for GCM in MML pp 741 to 759. A brief record of such variation will be made and given a number having reference to appropriate or preceding para number herein. See back of Convening Order, CF 895, for oaths and instrs on how to record addresses, evidence, etc, which sworn are hereafter called "Notes". As to general provisions for conducting the trial see AA 53, RP 56, 62-70, 73, 74, 94, 103, 119, 132.)

A2. The President initials and lays before the Court the Convening Order and Charge Sheet (if) attached thereto.(1) The Court is satisfied that it is properly convened and constituted,(2) accused is (are) amenable to military law, and each charge discloses an offence.(3)

(1. As to use of Summary of Evidence see RP 17 fn 4. 2. AA 49, 50, RP 105-107. 3. RP 11-13, 23, 24.)

A3. The Court is opened. The accused is (are) brought before the Court. At 1620 hours trial commences.

A4. The Prosecutor produces a Medical Certificate that accused is (are) fit to undergo trial by court-martial.(1) ~~The Prosecutor informs the Court that accused elected to be tried by court-martial instead of being dealt with summarily by the CO.(2)~~ EKM

(1. KR Con 557. 2. AA 46(B), RP 60 fn 1. For effect see KR Con 563(c). Delete, if not applicable.)

A5. President to accused: ~~Do you object to~~ ~~a stenographer / him~~ EKM

~~No Interpreter is sworn.(1) Do you object to~~ ~~a shorthand writer / him~~ EKM

~~The shorthand writer is sworn.(1)~~ EKM

(1. RP 72. Delete, if none employed.)

A6. The Convening Order and names of the President and Members of the Court are read to the accused.(1)

President to accused: Do you object to be tried by me as President or by any of the Members of the Court?

Ans N O (2)

(1. RP 110. 2. If no objection, waiting member retires. RP 68(E). If objection, see procedure AA 51, RP 55, 75, 78, MML p 760.)

A7. The President, Members, JA, if any, and Offrs under instr, if any, are sworn.(1) The following are the ranks, names and units of the offrs comprising the Court, etc:

President	Major	F. MOUSSEAU	Fus M R
Member	Capt	L. F. Beech	Cam of C
Member	~~Lt~~	K. Coltman	S Sask R
Judge-Advocate	Capt	E. K. McDougall	HQ 2 Cdn Inf Div
Prosecutor	Lt	N. M. Clyde	S Sask R
Defending Offr	Lt	T. D. Campbell	S Sask R

Questions by President: Is the Prosecutor a lawyer? Ans No Is the Defending Offr a lawyer? Ans No (2)

(1. RP 26, 27, 109, 111. List of offrs under instr will be returned unopened with proceedings for information of Conv Offr.) (2. If Pros a lawyer and Def Offr not, accused is entitled to an adjournment when RP 89 (B) and fn 2 were not followed. See DI p 93.)

A8. The accused L-101701 Pte Grumbly H.H. before arraignment makes(s) (no) (~~of~~ plea. EKM (1)

(1. If a special plea is made for separate trial on one or more charges (RP 62(E), 108), or as to the jurisdiction of the Court (RP 34, 35(A), 113), or in bar of trial (RP 36), or as to accused's mental fitness to stand trial (AA 130, RP 57), or by one of several accused charged jointly to be tried separately (RP 16, 71), such plea, the addresses made in support or against, the evidence, if any, and finding are recorded per Notes. For forms of record see references in fns to RsP cited. Insert in A8 rank and name of the accused making the plea.)

A9. The accused is (are) arraigned ~~separately~~ on all charges in the charge sheet.(1) The accused does (~~do~~) not object to any charge.(2) There is no amendment to be made to the Charge Sheet (3). The President records the pleas in Part I of the Schedule. EKM

(1. RP 31, 112. See para 1 of Instrs p 2. When more than one Charge Sheet see RP 62; when several accused to be tried separately see RP 81(C), and use separate copies of CF 886 to record proceedings. 2. RP 32, RP 33. If otherwise, delete and make appropriate record per Notes.)

A10. The Court ~~is closed and~~ considers the Instrs on Procedure after Arraignment at top of p 2. The proceedings are continued on Record Form B & E EKM

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

INSTRUCTIONS ON PROCEDURE AFTER ARRAIGNMENT.

1. *The accused may not plead or be found Guilty on more than one of two or more charges laid in the alternative.* (*RP* 37(*A*).) *As to withdrawal of alternative charges by Prosecutor see RP* 35(*C*). *No other charge can be withdrawn for any reason without authy from Convening Offr. If Convening Offr concurs, Court may accept plea of Guilty to lesser, etc, offence.* (*RP* 44(*H*).) *Accused may change a plea of Not Guilty to Guilty during trial.* (*RP* 38.) *As to refusing to plead or not pleading intelligibly see RP* 35(*A*). *As to plea when sentence may be death see RP* 35(*D*).

2. *The proceedings on each charge sheet* (*RP* 62) *after arraignment will be conducted as follows in the respective circumstances stated:*

I. If pleas to all charges are GUILTY, use Record Form B below.

II. If pleas to all charges are NOT GUILTY, use Record Form D on p 3.

III. If pleas to some charges are GUILTY and to other charges are NOT GUILTY and,

(a) *Such mixed pleas occur when there are no alternative charges in the Charge Sheet, use Record Form C below.* (*RP* 37(*A*).)

(b) *Such mixed pleas occur in a set of two or more charges laid in the alternative, see RP* 37 (*A*) *and fn* 2 *as to discretion of Court,* (i) *to try the accused on all such alternative charges as if he had pleaded Not Guilty thereto, or,* (ii) *to record the pleas as the findings of Court. After deciding between* (i) *and* (ii), *Court will proceed under foregoing instrs as may be appropriate to result of its decision. See M M L p* 744 *Instrs* (2).

3. *As to responsibility of President to accused see RP* 59, 60(*C*); *powers and duties of JA see RP* 102; *duty of Prosecutor see RP* 60(*A*) (*B*); *duty and privileges of accused and Defending Offr see RP* 60(*C*), 87(*C*), 91, 92; *swearing and withdrawal of witnesses from Court see RP* 81, 82; *questioning of accused see RP* 80, 87(*C*), 92(*B*); *and of witnesses see RP* 83-85; *calling or re-calling of witnesses by Court, etc, see RP* 75-79, 86, 116; *use of Summary of Evidence at Trial see RP* 17(*E*) *fn* 6; *and responsibility of JA or Pres to record proceedings see RP* 94, 96.

RECORD FORM B—PROCEEDINGS ON PLEAS OF GUILTY TO ALL CHARGES.

B1. The President or JA, if any, complies with RP 35(B) by explaining to the accused the nature and meaning of the charge(s)(1), and that on his plea of Guilty there will be no regular trial but merely a consideration of the sentence to be awarded after he has been given an opportunity to make a statement in reference to the charge(s), call witnesses as to character and make an address in mitigation of punishment.(2)
(1. *RP 35 fn 3.* 2. *MML p 54 para 47.*)

B2. President to accused: The Court will now receive any statement you desire to make in reference to the charge(s).(1) If it appears from your statement that there are circumstances which indicate that you do not understand the effect of the plea of Guilty(2), or which show provocation or extenuation in respect of which in your interest the witnesses for the Prosecution should be examined(3), we shall advise you to change your plea to Not Guilty. In making a statement you will not be sworn or subject to cross-examination; and anything you say will not be used in evidence against you after you change your plea. If, however, it appears to the Court that your statement affects only the amount of punishment to which you are liable, you will not be advised to change your plea and you will be given an opportunity later to prove your statement by sworn testimony, if you so desire.(4)

President to accused: Do you wish to make a statement? Ans NO SIR (5)
(1. *RP 37(B).* 2. *RP 37(D) fn 6.* 3. *RP 35(B) fn 5 para 3, MML p 54 para 47.* 4. *See para E3 of Record Form E.* 5. *Statement, if any, recorded per Notes.*)

B3. The Court considers the accused's statement.(1) The Court decides (not) to advise accused to change his (their) plea(s) of Guilty to Not Guilty on EHM charge(s). The accused is (are) so informed, and he (they) change(s) his (their) plea(s) on ..... charge(s). Part I of the Schedule is amended accordingly.
(1. *Court may be cleared to consider the statement. Delete whole or part not used.*)

B4. On the charge(s) to which the plea(s) of Guilty is (are) not changed the President records finding(s) of Guilty in Part I of the Schedule.(1)
(1. *RP 35(B). If any plea(s) is (are) changed, use Record Form C or D as appropriate.*)

B5. The Summary of Evidence is marked Ex A, initialled and read aloud by the President.(1)
(1. *If there is no Summary, or if it is inadequate, comply with RP 37(B). If there is any evidence inconsistent with any plea standing as Guilty, Court will advise accused to change such plea and, if changed to Not Guilty, try such charge(s) by use of paras D1 to D8 inclusive of Record Form D on p 3. RP 37(D).*)

B6. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

RECORD FORM C—PROCEEDINGS ON MIXED PLEAS OF GUILTY AND NOT GUILTY.

C1. As to the charges on which accused pleaded NOT GUILTY the trial is continued by using paras D1 to D8 inclusive of Record Form D on p 3 before proceeding with C 2.(1)
(1. *RP 37(A) (E).*)

C2. The charges on which accused pleaded GUILTY are read to him (them) again, and the trial is continued by using paras B1 to B5 of Record Form B above.(1) EHM
(1. *Under B5 such parts only of the Summary of Evidence are read as relate to the charges dealt with under C2. If any plea is changed to Not Guilty, trial thereon proceeds by complying with paras D1 to D8 inclusive in Record Form D on p 3 and making an appropriate record thereof on a separate sheet.*)

C3. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

RECORD FORM D—PROCEEDINGS ON PLEAS OF NOT GUILTY TO ALL CHARGES.

D1. President to accused: Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity to prepare your defence? Ans ..... (1)
(1. *If "yes", see RP 39(A) for procedure. Statement or evidence, if any, is recorded per Notes.*)

D2. The Prosecutor makes (an) (no) opening address.(1)
(1. *RP 39(B), 60(A) (B), 90, 92(C) (D). Record address per Notes, subject to RP 95(C).*)

D3. The evidence for the Prosecution is taken.(1)
(1. *RP 39(C), 114, KR Can 552. Record evidence per Notes. As to Prosecutor giving evidence himself see RP 39(D) (E).*)

D4. The Prosecution is closed.(1) The Defending Offr submits that the evidence for the Prosecution does not establish a prima facie case against the accused on the ..... charge(s).(2) The Court is closed, and considers the submission.(3) The Court is re-opened, and the President announces that the submission is disallowed on the ..... charge(s), and allowed on the ..... charge(s), and that, accordingly, the trial will proceed on the former, but the accused is (are) found Not Guilty on the latter charge(s).(4)
(1. *Delete remainder of this para. If submission not made.* 2. *Arguments on submission, answer and reply are recorded per Notes.* 3. *RP 40 fn 1. See MML p 72 paras 12-14 and p 81 para 42.* 4. *Delete part not used. If accused acquitted on all charges use second alternative in para D8.*)
NB: *If trial proceeds, accused must be allowed great latitude in making his defence, and the Court should not stop his defence solely on ground of irrelevance.* (*RP 80(C), 114, 115.*)

D5. President to accused: You will now proceed with your defence.(1) You may, if you wish, give evidence yourself on oath as to the facts or your character or both, in which case you will be subject to cross-examination.(2) You may, however, make a statement without being sworn, and you will not be subject to cross-examination.(3) But a statement which could have been made on oath will not carry with the Court the same weight as sworn testimony.(4) You may call witnesses in your defence and as to character, whether you give evidence or make a statement or do neither. EHM

President to accused: Do you wish to give evidence yourself as a witness, make a statement, or do neither? Ans ..... Do you intend to call witnesses on your behalf? Ans ..... Are they witnesses as to character only? Ans .....
(1. *RP 115.* 2. *RP 40(A), see 80(D).* 3. *RP 40 fn 10.* 4. *RP 40 fns 2, 9.*)

D6. Consequent on the answers recorded in para D5 the appropriate procedure for the defence is followed.(1)
(1. *RP 114, 115, 116. For procedure see Notes on back of Convening Order. CF A95. Evidence for accused as to his character should, if in his interest, be given before the finding. See RP 46(A) fn 1, 80(C). Note the further opportunity in para E1 of Record Form E. Record per Notes addresses, statement, evidence and any summing up by the JA under RP 42, 103(e).*)

D7. The Court is closed to consider the finding(s).(1) The finding(s) of the Court is (are) recorded in Part I of the Schedule.(2) The Court is re-opened.
(1. *RP 43, 117(A). See Notes in Part I of Schedule.* 2. *RP 44(A).*)

D8. The President announces the finding(s), if any, of Not Guilty, and states to the accused that the finding(s) of the Court on the ..... charge(s), being subject to confirmation, will be promulgated later.(1)
Or. The President announces that the accused is found Not Guilty on all charges and is to be released forthwith, and that the proceedings are accordingly terminated. Part I of the Schedule is dated and signed.(2)
(1. *AA 54(2) (6), RP 45, 120(A).* 2. *AA 54(3), RP 45, 107. This alternative announcement is not applicable when there are pleas of Guilty outstanding and dealt with under Record Form B or C.*)

D9. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E below.

RECORD FORM E—PROCEEDINGS ON CONVICTION BEFORE SENTENCE.

E1. President to accused: Do you wish to give evidence yourself or to call any witnesses as to your character?(1)
Ans Signed statement handed in as witness unavailable due to operational commitments 3 Engrs CF to be read to the Court
(1. *If evidence has already been given by accused or his witnesses as to his character, delete this para. RP 37(C) fn 4, 46 fn 1. Accused and witnesses are sworn. Evidence recorded per Notes.*)

E2. The Prosecutor produces Statement(s) as to Character and Particulars of Service(1), and certified true copy (copies) of Conduct Sheet(s)(2), purporting to refer to the accused, which he submits to the Defending Offr for examination, and then to the Court for admission in evidence. The Court is satisfied that these documents refer to the accused, because (i) they purport to be signed in the manner required by AA 163(1) (g) (h), and (ii) they purport to refer to (a) soldier(s) having the same number, rank, name and corps as the accused. Admitted in evidence and marked Ex 1 and Ex 2 respectively.(3)
(1. *AFB 353 or AFB 296.* 2. *AFM 6.* 3. *RP 46, KR Can 558. If above documents not produced, see RP 46 fn 1 para 1.*)

E3. President to accused: Do you wish to address the Court on the Statement(s) and Conduct Sheet(s), and in mitigation of punishment?(1) Ans By my defending officer (2)
(1. *RP 37(C), 46(D).* 2. *Address, if any, recorded per Notes. Court should permit accused or his witnesses to prove on oath anything here or previously stated which would affect the amount of punishment. RP 37(F) fn 7.*)

E4. The President states that the Court is closed to consider the sentence, and that the sentence to be awarded by the Court, being subject to confirmation, will not be announced, but will be promulgated later, and the proceedings in open court are accordingly terminated.(1)
(1. *AA 54(6), RP 120(A).*)

E5. The Court considers the sentence.(1) The President records the sentence in Part I of the Schedule, which is dated and signed by him and the JA, if any.(2)
(1. *When several accused tried separately see RP 71 (D). One sentence only, comprised of the punishment or punishments laid down in AA 41, 44 and its proviso, so as to be awarded to cover all charges in all charge sheets on which accused found guilty. RP 48. As to sentences see AA 44, 138, 182, RP 46-50, 69, 108, 119(A), KR Can 308, 330, 563-566, Overseas RO 309, 2323, MML p 60, 757-759. As to sentences assigned for civil offences by the law of England see AA 41(5), MML p 130. When accused already under sentence of imprisonment or detention see AA 44(1)(b), (d)(1), KR Can 564.* 2. *RP 50. As to release from arrest by Confirming Offr see KR Can 567. As to assembly and disposal of record after trial see Instrs on back of Convening Order.*)

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

CHARGE SHEET

The accused L-101701 Pte GRUMBLY, Harvey Henry, South Saskatchewan Regiment, a soldier of the Canadian Army Overseas, is charged with:

FIRST CHARGE
~~A.A. Sec 15~~ (1)

WHEN ON ACTIVE SERVICE

ABSENTING HIMSELF WITHOUT LEAVE

in that he

In the Field absented himself without leave from 1400 hours 8 Dec 44 until surrendering himself to the Cdn Pro Corps in TURNHOUT at 2200 hrs 26 Dec 44.

Absent 18 days 8 hours.

In the Field
1 Jan 45

"G. B. Buchanan"

(C.B.Buchanan) Major
A/Officer Commanding
South Sask Regt CA(O)

TO BE TRIED BY FIELD GENERAL COURT MARTIAL

In the Field
5 Jan 45

"R. H. Keefler"

(R. H. Keefler) Brig
Comd 6 Cdn Inf Bde

FIELD GENERAL COURT-MARTIAL

(Whether the accused to be tried is under his command or not, a FGCM may on application to him be convened by any offr of Cdn Army Overseas, or of any other force if authorized in law, in immediate command of troops on active service, subject to RP 105(C) and restrictions imposed by appropriate authy. AA 49, 50, RP 104-107, 114. As to the duties and privileges of the Convening Offr in dealing with the application see MML Chap V paras 20 and 23, RP 87(B).

There should be a separate Convening Order for each person to be tried separately by the same Court. RP 71(C), 109. As to separate charge sheets see RP 62, and as to separate trial on charges in the same charge sheet see RP 108. As to two or more accused charged jointly see RP 16, 109.

As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, Ins, KR Can 306, 328, 330.)

ACCUSED.

Number.	(a) Prmnt R.	(b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
L-101701		Pte	Harvey Henry	GRUMBLY	S Sask R

CONVENING ORDER.

1. Whereas complaint has been made to me, the undersigned, that the person(s) named above as the accused, being subject to military law, has (have) committed the offence(s) set forth in the Charge Sheet(s) attached and on ~~FMK~~ (date) 5 Jan 45 endorsed by me, ~~(or by an offr of my staff for me)~~, "To be tried by Field General Court-Martial".

2. And whereas I am of opinion that it is not practicable that such offence(s) should be tried by an ordinary General Court-Martial; ~~(and that it is not practicable to delay the trial for reference to a superior qualified offr.)~~ ~~FMK~~

(Delete parts in brackets when not required for compliance with RP 105(C).)

3. I hereby convene a Field General Court-Martial to try the said person(s), and to consist of the Offrs appointed or detailed hereunder. ~~FMK~~

4. ~~I am unable to appoint (a) three Offrs to form the Court, (b) a Fd Offr as President, for the reasons I have attached hereto.~~

(AA 49, RP 106(B), 107(A). Delete the whole or part, if not applicable.)

5. I also appoint as Judge-Advocate thereat the Offr mentioned hereunder.

(RP 106(E). Delete, if none appointed.)

PRESIDENT.

(Rank.)		(Must be named. RP 106.)	(Unit.)
Major	F. Mousseau		Fus M R

MEMBERS.

(Rank.)		(Named or detailed. RP 106.)	(Unit.)
Capt	L. P. Beech		Cam of C
Lt	K. Coltman		S Sask R

WAITING MEMBER.

(Rank.)		(Named or detailed, if any. RP 106.)	(Unit.)
Lt	C. R. Ross		Cam of C

JUDGE-ADVOCATE.

(Rank.)		(Must be named, if any. RP 106.)	(Unit.)
Capt	K. K. McDougall		HQ 2 Cdn Inf Div

On Active Service in the Fd

in Holland (Country.)

"R. H. Keefler" (Signed personally. RP 105 fn 2.) Brigadier (Rank.)

Dat 5 Jan 45 Commanding 6 Cdn Inf Bde Convening Officer.

CONVENING OFFR WILL INITIAL ALL DELETIONS AND ALTERATIONS

(See overleaf for oaths and notes for use on trial.)

MEDICAL OFFICERS CERTIFICATE

(K.R. (Can) Para 557)

I certify that I have this morning examined No. L-101701 Pte Grumbly, H.H. of South Saskatchewan Regiment and in my opinion he is fit to undergo trial by Court Martial

Field
6 Jan 45

"W Reff" Capt

Medical Officer

SUMMARY OF EVIDENCE IN THE CASE OF NO. L-101701 Pte GRUMBLY H.H. of the South Saskatchewan Regiment, a soldier of the Canadian Army Overseas is charged with:

(1) WOAS - Absence without leave. A.A. Sec 15 (1)

By direction of the Commanding Officer the evidence is to be taken on oath.

FIRST WITNESS - Lieut N. M. Clyde, South Saskatchewan Regiment, Canadian Army Overseas, sworn states:

I present certified True Copy of Army Form W 3011A signed by Officer in charge of Records South Saskatchewan Regiment, purporting to show the accused L-101701 Pte Grumbly H.H. still absent at 1400 hrs 16 Dec 44 (8th day). (Attached Exhibit "A"). I present also army form B 252 signed by L/Cpl C. P. Tarr, #7 Cdn Provost Coy, purporting to show the accused L-101701 Pte Grumbly H.H. surrendered himself ta TURNHOUT at 2200 hrs 26 Dec 44 (Attached as Exhibit "B") I present also Certificate under Army Act Section 162 (i) (j) signed by H.C. Forbes, DAPM, HQ 1 Cdn L of C Terminal, purporting to show the accused L-101701 Pte Grumbly, H.H. surrendered himself at TURNHOUT at 2200 hrs 26 Dec 44 (Attached as Exhibit "C").

The accused declines to cross examine.

"N. M. Clyde"

(N.M. Clyde) Lieut
South Sask Regt CA (O)

SECOND WITNESS L-104417 A/Cpl HERMISTON, W.F., South Saskatchewan Regiment, Canadian Army Overseas, sworn states:

We had orders to move at 1400 hrs 8 Dec 44 and I checked the roll and found Pte GRUMBLY H.H. missing.

I checked the platoon from time to time for Pte Grumbly and he was still absent. The first I learned of Pte Grumbly's return to the Bn was when he was under close arrest with the Regimental Provost.

The accused declines to cross-examine.

"L-104417 A/Cpl Hermiston W.F."

(L-104417 A/Cpl Hermiston W.F.)
South Saskatchewan Regiment CA (O)

The acused having been duly cautioned in accordance with RP 4 (e) says: I do not wish to make a statement.

"L-101701 Pte Grumbly H.H."

(L-101701 Pte Grumbly H.H.)
South Saskatchewan Regiment CA (O)

The accused does not wish to call witnesses in his defence.

Certified that RP 4 has been complied with.

In the Field
1 Jan 45

"W. K. Robertson" Lieut
(W. K. Robertson) Lieut
Officer detailed to take the Summary

(Margin for filing purposes)

Army Form W. 3011A.

CASUALTIES (OTHER THAN BATTLE, ACCIDENTS AND SICKNESS) OTHER RANKS

Serial No. 174

Number of sheets to this return 2

Army No.	Rank	Name and Initials	Corps or Regt.	Casualty: Nature of Casualty	Casualty: Date	Remarks
ABSENT WITHOUT LEAVE						
		AWL from 1400 hrs 8 Dec 44 Still absent 1400 hrs 16 Dec 44 (8th day) L-101701 Pte Grumbly H.M.				

Certified True Copy
"A.P.W. Watkinson" Lt

(A.P.W. Watkinson) Lieut
Adjutant S Sask Regt C.A.(O)

(Date) 17 Dec 1944

(Signature and appointment of Officer)

SOUTH SASKATCHEWAN REGIMENT (Unit)

6 Cdn Inf Bde 2 Cdn Inf Div

(Bde., Div., Area, etc., with which unit is serving.)

CHARGE

SOUTH SASKATCHEWAN REGIMENT

CHARGE AGAINST L-101701 Pte GRUMBLY H.H.

PLACE TURNHOUT DATE OF OFFENCE 26 Dec 44

OFFENCE W.O.A.S.

AWL from ??????????
Till 2200 hrs 26 Dec 44.

NAME OF WITNESSES

H-63012 L/Cpl Tarr, C.P.
E-37282 L/Cpl Martin, V.

EVIDENCE

Statement of Evidence in the case of L-101701 Pte Grumbly H.H., South Saskatchewan Regiment.

At appr ox 2200 hrs 26 Dec 44, whilst on patrol in TURNHOUT, accompanied by L/Cpl Martin, the a/m soldier surrendered himself to me as being A.WL. He stated that he was absent eighteen days. I placed him under close arrest and escorted him to my detach HQ. to await escort from his unit.

"C. P. Tarr"
H-63012 L/Cpl Tarr, C.P.
G Sect No. 7 Cdn Provost Coy

REMARKS

I have read over and corroborate the above statement.

"V. Martin"
E-37285 L/Cpl Martin V
G Sect No. 7 Cdn Provost Coy

CERTIFICATE UNDER ARMY ACT SECTION 163 (1) (jj)

Certified that L-101701 Pte Grumbly H.H. of the South Saskatchewwan Regiment surrendered to H-63012 L/Cpl Tarr, C.P. of the 7th Cdn Provost Company, at TURNHOUT at 2200 hrs, on the 26th Day of December 44 as an absentee without leave. He was wearing Military Uniform at the time of his Surrender.

"H. C. Forbes"
D.A.P.M.
HQ 1 Cdn L of C Terminal

TURNHOUT
26 Dec 44

No. 7 Cdn Provost Company
First Canadian Army Troops.

No. L-101708 Name GRUMBLY H.H. Sqn, Battery, or Company — Corps CIC — Date of enlistment 3 Aug 42 — GC Badges — Service or Proficiency Pay — Character

Date of last entry in Company Conduct Sheet — No. and date of last drunk — Period not reckoning towards freedom from extra fine — Sheet No — Signature OC Company, etc

3/17 NFM 6 (AFB 122)

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or if under dispute, date with Brief	By whom awarded	Remarks
				Sheet destroyed on completion of six months service 3 Feb 43					
Red Deer Alta	19-3-43	Pte		AWL from 0600 hrs 19 Mar 43 to 2015 hrs 23 Mar 43 (ab 4 days, 14 hrs. 15 mins) AA Sec 15 (1)	Documentary	Forf 5 days pay AA	24-3-43	Capt A.H. Mitchell	Forf 5 d.p. & allce FRI 149(1)
Red Deer Alta	25-4-43	Pte		AWL from 2200 hrs 25 Apr until 1245 hrs 26 Apr 43 (absent 14 hrs 45 mins. (AA. Sec 15 (1)	Documentary	Forf 3 days pay	27-4-43	Capt A.H. Mitchell	
Red Deer Alta	27-5-43	Pte		Conduct to the prejudice of good order and military discipline in that he did appear on parade in a dirty and untidy condition.AA40	CSM Williams	3 days C.B.	29-5-43	Capt J.E. Brown	
Red Deer	3-6-43	Pte		Failing to appear at a place of parade appointed by his C.O.	Cpl Stevens	3 days C.B.	3-6-43	Capt J.E. Brown	
Red Deer	15-7	Pte		Failing to appear at a place of parade appointed by his C.O. AA Sec 15 (2)	Cpl Simmonds	7 days C.B.	19-7-43	Capt J.E. Brown	

(PTO)

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Red Deer	16-7-43	Pte		AWL from 0600 hrs 16-7-43 until 0100 hrs 19-7-43 (ab 2 dys 19 hrs)	Documentary	Forf 5 d.p.	19-7-43	Capt J.E. Brown	Forf 3 d.p. 149 (1)(a)
Red Deer	22-8-43	Pte		AWL from 2200 hrs 22-8-43 until 1330 hrs 30-8-43 (ab 7 days 15 hr and 30 mins) AA Sec 15 (1)	Documentary	12 dys detn	31-8-43	Col J.J. Burton Willison	Forf 8 d.p. FRI 149
Red Deer	22-9-43	Pte		Conduct to the Prej of good order and military discipline AA Sec 40	CSM McLeod	Forf 1 day pay	23-9-43	Capt W.H. Martin	
Red Deer	30-10-43	Pte		AWL from 2130 hrs 3-10-43 until 0600 hrs 4-10-43 (absent 8 hrs 30 mins) AA Sec 15 (1)	Cpl Kidd	Forf 3 day pay	4-10-43	Capt W.H. Martin	Forf 1 d.p.
Red Deer	8-10	Pte		Breaking into Barracks AA Sec10 Conduct to the prejudice of good order and Military discipline.	CSM McLeod	Forf 1 days pay	8-10-43	Capt W.H. Martin	
Field	20-9-44	Pte		AWL from 2230 hrs 30-9-44 to 1035 hrs 21 Sep 44 (total absence 12 hrs 5 mins) Sec 15 (1) AA	Sgt Miller	5 days pay	22-9-44	NO Dawson Major	1 days pay autom. FRI 149(1)

CERTIFIED TRUE COPY IN POSSESSION OF UNIT
"A.P.W. Watkinson" Lieut.
Adjutant, S Sask R., CA.(O).

M.F.B. 355
(OSM—5-41 (572-3))
H.Q. 1772-39-620
A.F.B. 266

STATEMENT AS TO CHARACTER AND PARTICULARS OF SERVICE OF ACCUSED

Number	Rank	Name	Regiment (or unit)
L-101701	Pte	GRUMBLY H.H.	S.SASK. R.

1. The following is a fair and true summary of the entries in the Service and General Conduct sheets Regimental and Squadron, Battery or Company Conduct sheets of the accused, exclusive of convictions by a Court-Martial or a Civil Court, of summary awards under Section 47 of the Air Force Act Army Act and of cases in which trial has been dispensed with.

	Within last 12 months	Since enlistment or appointment
For AWL AA Sec 15 (1)	One times	Five times
For AA Sec 15 (2)	nil times	Two times
For AA Sec 40	nil times	Three times
For	times	times

Number of instances of gallantry or distinguished conduct Nil

or,

There are no entries in the conduct sheets of the accused. N/A

NOTE.—If the charge is for drunkenness, the entries for drunkenness must be stated separately.

2. The accused has not been previously convicted

or,

Previous convictions of the accused by a court-martial or a civil court, of summary awards under Air Force Act A.F.A. 73 Section 47 of the Army Act and dispensations with trial under A.A. 73 are set out in the Schedule annexed to this statement.

3. The accused is not under sentence at the present time.

or,

The accused at the present time is under sentence for beginning on the day of

4. The accused has been in confinement awaiting trial on the present charges, for days in civil custody, and 10 days in military Air Force custody, making a total of 10 days in custody, of which days were spent in hospital.

5. The present age of the accused according to his record of service is attestation paper is 20 yrs

6. The date of his ~~enlistment~~ attestation specified in his record of service is attestation paper 3 Aug 42

7. The service which the accused is allowed to reckon towards discharge is

8. The accused is entitled to reckon service for the purpose of determining his pension, etc.

9. The accused is in possession of or entitled to no air force decoration, or air force reward (or is in military military possession of or entitled to). State any air force decoration or reward. Nil military

10. (If the accused is a warrant officer.) The accused before he was made a warrant officer last held Air Force the regimental rank of

11. (In the case of an officer.) The accused holds in the Royal Canadian Air Force the rank of Permanent Force

..... dated ....., and in his regiment (or corps), the rank of unit

..... dated .....

12. The accused has served as a non-commissioned officer continuously, without reduction, to the present date:—

..... Date of promotion.

In the rank of ..... years.

In the rank of ..... years.

In the rank of ..... years.

NOTE.—If any matter in any of the above paragraphs cannot be stated from the Regimental books, the paragraph must be struck through.

SCHEDULE

Of convictions by a court-martial or civil court, of summary awards under Section 47 of the Army Act, and of cases in which trial has been dispensed with of accused, Number ..... Rank ..... Unit Air Force

Name ..... of ..... Regiment

NOTE.—A verbatim extract from the regimental books stating these convictions and dispensations with trial must be inserted.

Description of Court by which tried	Date and Place of Trial	Charge upon which convicted	Sentence of the Court	Punishment Remitted
		NIL		

I hereby certify that the foregoing schedule of convictions and dispensations with trial is a true extract from the regimental books in my custody.

Signed this 6th day of Jan 45

The above statement (with the schedule of convictions and of cases in which trial has been dispensed with) is read, marked "A.P.W. Watkinson"Lt. signed by the president, and annexed to the proceedings.

I first met L-101701 Pte Grumbly W.H., when I became platoon commander of 14 Pl of C Coy. He was at that time in No. 4 Sec and had been since 8 Oct 44.

He was in every action from that time until the time of his absence. Through his actions during this time he gained the respect of myself, and the men who were fighting by his side. At no time did he ever say, or do anything that would be held against his character as a soldier. I offered him promotion on several occasions but each time he refused the offer because as he put it "lack of training".

Before he joined this regiment he was in another branch of the service.

"E. H. Marriott" Lt
(E.H. Marriott) Lt.

5H-68

Rfn. Trammell K.

RECORDED AT CMHQ IN AB 160 5H-68.

FIELD GENERAL COURT-MARTIAL

4/388

Convened by Order of Brigadier G S N Gostling, ED Comd 2 CBRG dated 6 Apr 45

RECEIVED 15 MAY 1945 JAG BRANCH C.M.H.Q.

PROCEEDINGS REVIEWED 17 May 45 W.M.W. Shaw Capt

REVIEWING OFFICER, JAG BRANCH C.M.H.Q.

ACCUSED.

(As to the trial of two or more charged jointly see RP 16, 71, 109. As to reasons for showing (a) permanent or confirmed rank and (b) apptmt, A/rank or A/apptmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

Number.	(a) Prmnt R. (b) Apptmt, A/R or A/Apptmt.	Full Christian Names.	Surname.	Unit.
B-117832	Rfn	Kenneth	GRUMMETT	R Wpg R att 1 Cdn Disciplinary Centre

PROCEEDINGS OF TRIAL.

Held in the Fd in (country) BELG IUM on (date(s)) 9 Apr 45

RECORD FORM A--OPENING PROCEEDINGS AND ARRAIGNMENT.

A1. The President, Members, ~~waiting Member, J.A. if any, and Offrs under instr. if any,~~ assemble, and the Court is closed.

(PRINTED MATTER NOT IN ITALICS FOR GUIDANCE, WILL BE DELETED IF NOT USED OR APPLICABLE, AND INITIALLED BY PRES OR JA. This Schedule referred to throughout it as p 4. Citation do NOT include all relevants from RDs. For guidance as procedure when a variation in this form occurs, see form for GCM in MML pp 740 to 759. A brief record of such variation will be made and given a number having reference to appropriate or preceding para number herein. See back of Convening Order, CF 305, for oaths and instrs on how to record addresses, evidence, etc, which must are hereafter called "Notes". As to general provisions for conducting the trial see AA 52, RP 34, 63-70, 72, 74, 94, 103, 119, 122.)

A2. The President initials and lays before the Court the Convening Order and Charge Sheet(s) attached thereto.(1) The Court is satisfied that it is properly convened and constituted(2), accused is (are) amenable to military law, and each charge discloses an offence.(3)

(1. As to use of Summary of Evidence see RP 17 fn 6. 2. AA 49, 50, RP 105-107. 3. RP 11-13, 23, 24.)

A3. The Court is opened. The accused is (are) brought before the Court. At 1015 hours trial commences.

A4. The Prosecutor produces a Medical Certificate that accused is (are) fit to undergo trial by court-martial.(1) ~~The Prosecutor informs the Court that accused elected to be tried by court-martial instead of being dealt with summarily by the CO.(2)~~

(1. KR Can 557. 2. AA 46(8), RP 60 fn 1. For effect see KR Can 563(c). Delete, if not applicable.

A5. President to accused: Do you object to ____ as interpreter? Ans ____

~~The interpreter is sworn.(1) Do you object to ____ as shorthand writer? Ans ____~~

(1. RP 72. Delete, if none employed.)

A6. The Convening Order and names of the President and Members of the Court are read to the accused.(1) President to accused: Do you object to be tried by me as President or by any of the Members of the Court? Ans No.(2)

(1. RP 110. 2. If no objection, waiting member retires. RP 60(8). If objection, see procedure AA 51, RP 25, 71, 72, MML p 742.)

A7. The President, Members, ~~JA, if any,~~ and Offrs under instr, if any, are sworn.(1) The following are the ranks, names and units of the offrs comprising the Court, etc:

President	Major	G B H COX	CAC att 1 Cdn Disciplinary Centre
Member	Major	A E Lefory - Seaforth Highrs att 1 Cdn Dis Centre	
Member	Captain	J B Cartmel - RCA att 1 Cdn Dis Centre	
Judge-Advocate	____	____	
Prosecutor	Captain	J H Labrie - R de Mont att 1 Cdn Dis Centre	
Defending Offr	Captain	H D Bowler - R RR att 1 Cdn Dis Centre	

Questions by President: Is the Prosecutor a lawyer? Ans No. Is the Defending Offr a lawyer? Ans No.(2)

(1. RP 2a, 27, 109, 111. Use of offrs under instr will be retained separately with proceedings for information of Conv Offr.)
(2. If Pros a lawyer and Def Offr not, accused is entitled to an adjournment when RP 89 (2) and fn 2 were not followed. See 2d p 3.)

A8. The accused B-117832 Rfn Kenneth GRUMMETT before arraignment make(s) (no) (at plea ____

____(3)

(1. If a special plea is made for separate trial on one or more charges (RP 62(E), 108), or as to the jurisdiction of the Court (RP 34, 35(A), 112), or in bar of trial (RP 36), or as to accused's mental fitness to stand trial (AA 130, RP 37), or by one of several accused charged jointly to be tried separately (RP 16, 71), such plea, the addresses made in support or against, the evidence, if any, and finding are recorded per Notes. For forms of record see references in fns to RoP cited. Insert in AB rank and name of the accused making the plea.)

A9. The accused is (are) arraigned (separately) on all charges in the charge sheet.(1) The accused does (do) not object to any charge.(2) There is no amendment to be made to the Charge Sheet.(3) The President records the pleas in Part I of the Schedule.

(1. RP 31, 112. See para 1 of Instrs p 2. When more than one Charge Sheet see RP 62; when several accused to be tried separately see RP 71(C), and use separate copies of CF A96 to record proceedings. 2. RP 32, RP 33. If otherwise, delete and make appropriate record per Notes.)

A10. The Court (is closed and) considers the Instrs on Procedure after Arraignment at top of p 2. The proceedings are continued on Record Form B.

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

2 CBRG W.M.C. P 42.

4

SCHEDULE.

PART I. PLEA(S), FINDING(S) AND SENTENCE.

Accused: B-117832 Rfn Kenneth GRUMMETT R Wpg R att 1 Cdn Disciplinary Centre

	Charge. (Insert "alternative" where applicable.)	Plea. (See Instrs p 2.)	Finding. (See note below.)	(Space for use as required for further charges, accused charged jointly, special findings, etc.)
1st	AA 15(1)	Guilty.	Guilty.	
2nd				
3rd				
4th				
5th				
6th				

(Note: As to findings for lesser offences see AA 36, RP 44; findings on alternative charges see MML p 483 fn 4 para 2, RP 44; special findings see RP 44 and MML p 713, and in lieu of kit see RP 44 fn 8.)

~~At present under sentence for ____ beginning on (date) ____~~
(1. Insert sentence being served, or delete, if not applicable. See RP 46(4). Information should be found on MF B355 or MF B296.)

Time in confinement awaiting present trial—a total of 14 days, of which Nil days were spent in hospital.(1)
(1. See RP 46(A) fn 2, information should be found on MF B355 or MF B296 admitted in evidence under E2.)

Sentence Awarded by the Court:

To undergo detention for a period of Six months

(Sgd) ____ Judge-Advocate, if any. 9 Apr 45 Date awarded. (Sgd) [signature] President. (RP 45, 50.)
(See back of Convening Order as to assembly and disposal of record after trial.)

PART II. MINUTE WHERE CONFIRMATION RESERVED. (AA 54(5), RP 120(F), MML p 760.)

Date ____ (Sgd) ____ Commanding

PART III. DECISION OF CONFIRMING OFFR ON FINDING(S) AND SENTENCE.

(For duties and powers see AA 54, 57, RP 37(D) fn 9, 46(A), 51-56, 120, MML pp 759-761, KR Can 567-577. Acquittals require no confirmation and cannot be revised: AA 54(2). Sending back finding or sentence for revision by Court: AA 54(2), RP 120(G). If not confirmed, accused may be tried again: AA 157, MML p 64. Minute of confirmation or non-confirmation may be altered before promulgation: RP 53, MML p 65. Quashing after promulgation: KR Can 573. Duties and powers of reviewing offrs: AA 57, 57A, RP 53A, 54. The Confirming Offr must sign here personally. AA 172 fn 1.)

My decision on the finding(s) and sentence set forth in Part I is:

Confirmed

~~I direct that the accused be not committed to prison or detention barracks until further orders.(1)~~
(1. AA 57A. Delete if not used.)

(Sgd) [signature] (G S N Gostling) Brigadier, Commanding 2 Cdn Base Rft Gp Confirming Officer.

Date 10 Apr 45

PART IV. PROMULGATED AND EXTRACTS TAKEN. (RP 53, KR Can 576, 577.)

Accused.	Date.	Signature of Offr.
B117832 Rfn Grummett, K.	11 Apr 45	[signature] Lt-Col. Commdg, 1 Cdn Disciplinary Centre

CR No 55 dd 11 Apr 45

ALL DELETIONS AND ALTERATIONS WILL BE INITIALLED.

INSTRUCTIONS ON PROCEDURE AFTER ARRAIGNMENT.

1. *The accused may not plead or be found Guilty on more than one of two or more charges laid in the alternative.* (*RP* 37(*A*).) *As to withdrawal of alternative charges by Prosecutor see RP* 35(*C*). *No other charge can be withdrawn for any reason without authy from Convening Offr. If Convening Offr concurs, Court may accept plea of Guilty to lesser, etc, offence.* (*RP* 44(*H*).) *Accused may change a plea of Not Guilty to Guilty during trial.* (*RP* 38.) *As to refusing to plead or not pleading intelligibly see RP* 35(*A*). *As to plea when sentence may be death see RP* 35(*D*).

2. *The proceedings on each charge sheet* (*RP* 62) *after arraignment will be conducted as follows in the respective circumstances stated :*

I. If pleas to all charges are GUILTY, use Record Form B below.

II. If pleas to all charges are NOT GUILTY, see Record Form D on p 3.

III. If pleas to some charges are GUILTY and to other charges are NOT GUILTY and,

(*a*) *Such mixed pleas occur when there are no alternative charges in the Charge Sheet, see Record Form C below.* (*RP* 37(*A*).)

(*b*) *Such mixed pleas occur in a set of two or more charges laid in the alternative, see RP* 37(*A*) *and fn* 2 *as to discretion of Court,* (*i*) *to try the accused on all such alternative charges as if he had pleaded Not Guilty thereto, or,* (*ii*) *to record the pleas as the findings of Court. After deciding between* (*i*) *and* (*ii*), *Court will proceed under foregoing instrs as may be appropriate to result of its decision. See MML p* 744 *Instrs* (2).

3. *As to responsibility of President to accused see RP* 59, 60(*C*) ; *powers and duties of JA see RP* 103 ; *duty of Prosecutor see RP* 60(*A*) (*ii*) ; *duty and privileges of accused and Defending Offr see RP* 60(*C*), 87(*C*), 91, 92 ; *swearing and withdrawal of witnesses from Court see RP* 81, 82 ; *questioning of accused see RP* 80, 87(*C*), 92(*B*), *and of witnesses see RP* 85-85 ; *calling or re-calling of witnesses by Court, etc, see RP* 75-79, 85, 116 ; *use of Summary of Evidence at Trial see RP* 17(*E*) *fn* 6 ; *and responsibility of JA or Pros to record proceedings see RP* 94, 96.

RECORD FORM B—PROCEEDINGS ON PLEAS OF GUILTY TO ALL CHARGES.

B1. The President or JA, if any, complies with RP 35(B) by explaining to the accused the nature and meaning of the charge(*s*)(1), and that on his plea of Guilty there will be no regular trial but merely a consideration of the sentence to be awarded after he has been given an opportunity to make a statement in reference to the charge(*s*), call witnesses as to character and make an address in mitigation of punishment.(2)
(*1. RP 35 fn 3. 2. MML p 54 para 47.*)

B2. President to accused : The Court will now receive any statement you desire to make in reference to the charge(*s*).(1) If it appears from your statement that there are circumstances which indicate that you do not understand the effect of the plea of Guilty(2), or which show provocation or extenuation in respect of which in your interest the witnesses for the Prosecution should be examined(3), we shall advise you to change your plea to Not Guilty. In making a statement you will not be sworn or subject to cross-examination ; and anything you say will not be used in evidence against you after you change your plea. If, however, it appears to the Court that your statement affects only the amount of punishment to which you are liable, you will not be advised to change your plea and you will be given an opportunity later to prove your statement by sworn testimony, if you so desire.(4)

President to accused : Do you wish to make a statement ? Ans N O .(5)
(*1. RP 37(B). 2. RP 37(D) fn 6. 3. RP 35(B) fn 5 para 3, MML p 54 para 47. 4. See para E3 of Record Form E. 5. Statement, if any, recorded per Notes.*)

B3. ~~The Court considers the accused's statement.(1) The Court decides (not) to advise accused to change his (their) plea(s) of Guilty to Not Guilty on charge(s). The accused is (are) so informed, and he (they) change(s) his (their) plea(s) on charge(s). Part I of the Schedule is amended accordingly.~~
(*1. Court may be closed to consider the statement. Delete whole or part not used.*)

B4. On the charge(*s*) to which the plea(*s*) of Guilty is (~~are~~) not changed the President records finding(*s*) of Guilty in Part I of the Schedule.(1)
(*1. RP 35(B). If any plea(s) is (are) changed, use Record Form C or D as appropriate.*)

B5. The Summary of Evidence is marked Ex A , initialled and read aloud by the President.(1)
(*1. If there is no Summary, or if it is inadequate, comply with RP 37(B). If there is any evidence inconsistent with any plea standing as Guilty, Court will advise accused to change such plea and, if changed to Not Guilty, try such charge(s) by use of paras D1 to D8 inclusive of Record Form D on p 3. RP 37(D).*)

B6. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

RECORD FORM C—PROCEEDINGS ON MIXED PLEAS OF GUILTY AND NOT GUILTY.

C1. As to the charges on which accused pleaded NOT GUILTY the trial is continued by using paras D1 to D8 inclusive of Record Form D on p 3 before proceeding with C 2.(1)
(*1. RP 37(A) (E).*)

C2. The charges on which accused pleaded GUILTY are read to him (them) again, and the trial is continued by using paras B1 to B5 of Record Form B above.(1)
(*1. Under B5 such parts only of the Summary of Evidence are read as relate to the charges dealt with under C2. If any plea is changed to Not Guilty, trial thereon proceeds by complying with paras D1 to D8 inclusive in Record Form D on p 3 and making an appropriate record thereof on a separate sheet.*)

C3. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

RECORD FORM D—PROCEEDINGS ON PLEAS OF NOT GUILTY TO ALL CHARGES.

D1. President to accused : Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity to prepare your defence ? Ans .....(1)
(*1. If "yes", see RP 39(A) for procedure. Statement or evidence, if any, is recorded per Notes.*)

D2. The Prosecutor makes (an) (no) opening address.(1)
(*1. RP 39(B), 60(A) (B), 90, 92(C) (D). Record address per Notes, subject to RP 93(C).*)

D3. The evidence for the Prosecution is taken.(1)
(*1. RP 39(C), 114, KR Can 555. Record evidence per Notes. As to Prosecutor giving evidence himself see RP 39(D) (E).*)

D4. The Prosecution is closed.(1) The Defending Offr submits that the evidence for the Prosecution does not establish a prima facie case against the accused on the .....charge(s).(2) The Court is closed, and considers the submission.(3) The Court is re-opened, and the President announces that the submission is disallowed on the .....charge(s), and allowed on the .....charge(s), and that, accordingly, the trial will proceed on the former, but the accused is (are) found Not Guilty on the latter charge(s).(4)
(*1. Delete remainder of this para, if submission not made. 2. Arguments on submission, answer and reply are recorded per Notes. 3. RP 40 fn 1. See MML p 72 paras 12-14 and p 81 para 42. 4. Delete part not used. If accused acquitted on all charges, use second alternative in para D6.*)
NB : If trial proceeds, accused must be allowed great latitude in making his defence, and the Court should not stop his defence solely on ground of irrelevance. (*RP 60(C), 114, 115.*)

D5. President to accused : You will now proceed with your defence.(1) You may, if you wish, give evidence yourself on oath as to the facts or your character or both, in which case you will be subject to cross-examination.(2) You may, however, make a statement without being sworn, and you will not be subject to cross-examination.(3) But a statement which could have been made on oath will not carry with the Court the same weight as sworn testimony.(4) You may call witnesses in your defence and as to character, whether you give evidence or make a statement or do neither.

President to accused : Do you wish to give evidence yourself as a witness, make a statement, or do neither ?
Ans ..... Do you intend to call witnesses on your behalf ?
Ans ..... Are they witnesses as to character only ? Ans .....
(*1. RP 115. 2. RP 40(A), see 60(D). 3. RP 40 fn 10. 4. RP 40 fns 2, 9.*)

D6. Consequent on the answers recorded in para D5 the appropriate procedure for the defence is followed.(1)
(*1. RP 114, 115, 116. For procedure see Notes on back of Convening Order, CF 495. Evidence for accused as to his character should, if in his interest, be given before the finding. See RP 46(A) fn 1, 86(C). Note the further opportunity in para E1 of Record Form E. Record per Notes addresses, statement, evidence and any summing up by the JA under RP 42, 103(e).*)

D7. The Court is closed to consider the finding(s).(1) The finding(s) of the Court is (are) recorded in Part I of the Schedule.(2) The Court is re-opened.
(*1. RP 43, 117(A). See Notes in Part I of Schedule. 2. RP 44(A).*)

D8. The President announces the finding(s), if any, of Not Guilty, and states to the accused that the finding(s) of the Court on the .....charge(s), being subject to confirmation, will be promulgated later.(1)
Or, The President announces that the accused is found Not Guilty on all charges and is to be released forthwith, and that the proceedings are accordingly terminated. Part I of the Schedule is dated and signed.(2)
(*1. AA 54(13) (d), RP 45, 120(A). 2. AA 54(3), RP 43, 117. This alternative announcement is not applicable when there are pleas of Guilty outstanding and dealt with under Record Form B or C.*)

D9. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E below.

RECORD FORM E—PROCEEDINGS ON CONVICTION BEFORE SENTENCE.

E1. President to accused : Do you wish to give evidence yourself or to call any witnesses as to your character ?(1)
Ans N O .
(*1. If evidence has already been given by accused or his witnesses as to his character, delete this para. RP 37(C) fn 4, 46 fn 1. Accused and witnesses are sworn. Evidence recorded per Notes.*)

E2. The Prosecutor produces Statement(*s*) as to Character and Particulars of Service(1), and certified true copy (copies) of Conduct Sheet(*s*)(2), purporting to refer to the accused, which he submits to the Defending Offr for examination, and then to the Court for admission in evidence. The Court is satisfied that these documents refer to the accused, because (i) they purport to be signed in the manner required by AA 165(l) (g) (h), and (ii) they purport to refer to (a) soldier(*s*) having the same number, rank, name and corps as the accused. Admitted in evidence and marked Ex B and Ex C respectively.(3)
(*1. MFB 355 or AFB 2993. 2. MFM 6. 3. RP 46, KR Can 558. If above documents not produced, see RP 46 fn 1 para 1.*)

E3. President to accused : Do you wish to address the Court on the Statement(*s*) and Conduct Sheet(*s*), and in mitigation of punishment ?(1) Ans Yes in mitigation & summing up, all as exhibited
(*1. RP 37(C), 46(D). 2. Address, if any, recorded per Notes. Court should permit accused or his witnesses to prove on oath anything here or previously stated which would affect the amount of punishment. RP 37(F) fn 7.*)

E4. The President states that the Court is closed to consider the sentence, and that the sentence to be awarded by the Court, being subject to confirmation, will not be announced, but will be promulgated later, and the proceedings in open court are accordingly terminated.(1)
(*1. AA 54(6), RP 120(A).*)

E5. The Court considers the sentence.(1) The President records the sentence in Part I of the Schedule, which is dated and signed by him ~~and those of the JA, if any~~.(2)
(*1. When several accused tried separately see RP 71 (D). One sentence only, comprised of the punishment or punishments laid down in AA 41, 44 and its proviso, is to be awarded to cover all charges in all charge sheets on which accused found guilty. RP 48. As to sentences see AA 44, 136, 182, RP 46-50, 69, 118, 120(A), KR Can 308, 330, 563-566. Overseas HO 309, 2323, MML p 65, 757-759. As to sentences assigned for civil offences by the law of England see AA 41(5), MML p 130. When accused already under sentence of imprisonment or detention see AA 44(18), 68(1), KR Can 564. 2. RP 50. As to release from arrest by Confirming Offr see KR Can 567. As to assembly and disposal of record after trial see notes on back of Convening Order.*)

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

Exhibit F-[illegible]

MFB 246

MEDICAL OFFICERS CERTIFICATE

(KR(Can) Para 55)
(CMHQ CL 173)

I certify that I have this day examined [illegible] (No.)
[illegible] (Rank) [illegible] (Name) and in my opinion he is
~~unfit~~ fit to undergo trial by Court-Martial.

Station 1 Cdn Disciplinary Centre

Date 2 Jan 45

(Sgd) [illegible]
(Medical Officer)
1 Cdn Disciplinary Centre
Unit

FIELD GENERAL COURT-MARTIAL

(Whether the accused to be tried is under his comd or not, a FGCM may on application to him be convened by any offr of Cdn Army Overseas, or of any other force if authorized in law, in immediate comd of troops on active service, subject to RP 105(C) and restrictions imposed by appropriate authy. AA 49, 50, RP 104-107, 114. As to the duties and privileges of the Convening Offr in dealing with the application see MML Chap V paras 20 and 23, RP 87(b).

There should be a separate Convening Order for each person to be tried separately by the same Court. RP 71(C), 109. As to separate charge sheets see RP 62, and as to separate trial on charges in the same charge sheet see RP 108. As to two or more accused charged jointly see RP 16, 109.

As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

ACCUSED.

Number.	(a) Prmnt B.	(b) Appmt, A/B or A/Appmt.	Full Christian Names.	Surname.	Unit.
B-117832	Rfn		Kenneth	GRUBETT	R Wpg R att 1 Cdn Disciplinary Centre

CONVENING ORDER.

1. Whereas complaint has been made to me, the undersigned, that the person(s) named above as the accused, being subject to military law, has (~~have~~) committed the offence(s) set forth in the Charge Sheet(s) attached and on (date) 6 Apr 45 endorsed by me, (~~or by an offr of my staff for me~~), " To be tried by Field General Court-Martial ".

2. And whereas I am of opinion that it is not practicable that such offence(s) should be tried by an ordinary General Court-Martial ; (~~and that it is not practicable to delay the trial for reference to a superior qualified offr~~)
(Delete part in brackets when not required for compliance with RP 105(C).)

3. I hereby convene a Field General Court-Martial to try the said person(s), and to consist of the Offrs appointed or detailed hereunder.

~~4. I am unable to appoint (a) three Offrs to form the Court, (b) a Fd Offr as President, for the reasons I have attached hereto.~~
(AA 49, RP 106(B), 107(A). Delete the whole or part, if not applicable.)

~~5. I also appoint as Judge Advocate thereat the Offr mentioned hereunder.~~
(RP 106(E). Delete, if none appointed.)

PRESIDENT.

(Rank.)		(Must be named. RP 106.)	(Unit.)
Major	G B K COX		GAC att 1 Cdn Disciplinary Centre

MEMBERS.

(Rank.)		(Named or detailed. RP 106.)	(Unit.)
Major	A E LEFROY		Seaforth Highrs att 1 Cdn Disciplinary Centre
Dvpt	G B GARTHEL		MDA att 1 Cdn Disciplinary Centre

WAITING MEMBER.

(Rank.)		(Named or detailed, if any. RP 106.)	(Unit.)

~~JUDGE-ADVOCATE.~~

(Rank.)		(Must be named, if any. RP 106.)	(Unit.)

On Active Service in the Fd

In BELGIUM (Country.)

Dat 6 Apr 45

(Signed personally. RP 105 fn 2.)
(O S K Gostling)
Commanding 2 Cdn Base Rft Gp
Convening Officer.

Brigadier (Rank.)

CONVENING OFFR WILL INITIAL ALL DELETIONS AND ALTERATIONS

4/38A CFA 16 (In lieu of AFA 3) 40/F & S/1697 181453)

(See overleaf for oaths and notes for use on trial.)

C H A R G E S H E E T

The accused, B-117832 Rfn Kenneth GRUMMETT, R Wpg Rifles, attached to 1 Cdn Disciplinary Centre, a soldier of the Canadian Army Overseas, is charged with:-

FIRST CHARGE
Sec 15 (1)
Army Act

WHEN ON ACTIVE SERVICE ABSENTING HIMSELF WITHOUT LEAVE

in that he

In the Field, absented himself without leave from 0800 hrs 25 Feb 45 until surrendering himself at GHENT, Belgium at 2045 hrs 25 Mar 45.

(Total absence: 28 days 12 hrs 45 minutes)

(A O Hood) Lt col
Commanding
1 Cdn Disc Centre

In the Field
4 Apr 45

To be tried by Field General Court-Martial

(G S N Gostling) Brig
Comd
2 Cdn Base Rft Gp

In the Field
6 Apr 45

Exhibit "D"

Plea in Mitigation

B117832 Rfn GRUMMETT K.

The accused is 20 yrs of age, enlisted 8 Oct 43 at 18 yrs and arrived overseas 6 May 44. He went into action 13 June 44, was wounded 28 Aug 44 and evacuated to England He returned to action 6 Jan 45 and served with his Unit until 25 Feb 45 when he went absent from his Unit while back in the rest area.

The accused states that he went absent simply because he was browned off. The fact that he has served so long in action and had returned to the line once after being wounded indicates his willingness to fight. The accused is quite anxious to return to the line again.

I ask that the Court consider this man's repentant conduct shut and long time in action and award the most lenient sentence so that he may again serve in the front line.

W.D. Lowder Capt.

Defending Officer.

Exhibit A Ex

Summary of Evidence in the case of B-117832 Rfn GRUMMETT K, Royal Winnipeg Rifles, attached to 1 Cdn Disciplinary Centre, a soldier of the Canadian army Overseas.

Charge - Absence without leave

By direction of the CO the evidence is taken on oath.

The following documents are read over to the accused, marked as exhibits and are attached to the proceedings.

Exhibit "A" - Certified true copy of Extract from Pt II Order No 12 dated 9 Mar 45

Exhibit "B" - Certificate of surrender dated 25Mar 45

Q. Do you wish to make any statement or to give evidence on oath? You are not obliged to say anything or give evidence unless you wish to do so but whatever you say or any evidence you give will be taken down in writing and may be given in evidence.

A. I have nothing to say

The accused does not call any witness.

I certify that the foregoing Summary of Evidence consisting of one page was taken down by me in the presence of the accused and that RP 4 (C)(D)(E)(F) and (G) have been complied with.

Maurice Rousseau Capt
(Maurice Rousseau) Capt

Officer detailed to take Summary of Evidence

Dated in the Field
4 Apr 45

Exhibit 24
W Kauffman Capt

PART II ORDER EXTRACT FORM

99/20/ RWB/1(A50)

2 ECH. SECTION

30 MAR 19 45.

EXTRACTS FROM: UNIT R MPS RIFS

Part II Order No. 12 dated 9 MAR 45

ABSENT WITHOUT LEAVE from 0800 hrs 25 FEB 45 Still absent
0800 hrs 5 MAR 45 (8th day)
E117832 Rfn GRUMMETT, K.

Certified as to ... entered in the regimental books ... in my custody.

Officer i/c Records
Can. Sec. 2 Ech, HQ 21 Army Gp.

The following documents are { attached. Please acknowledge receipt on attached duplicate. / required. Please forward same.

for

Originating Clerk's Initials

Officer in Charge
Canadian Section, GHQ, 2nd Echelon

1/70 M/R—4

Exhibit "

PART II ORDER EXTRACT FORM

TO: 2 ECH. LINE & PAY SECTION

99/20/RWR/1(A50)

30 MAR 19

EXTRACTS FROM: UNIT R WPG RIFS

Part II Order No. 12 dated 9 MAR 45

ABSENT WITHOUT LEAVE from 0800 hrs 25 FEB 45 Still absent 0800 hrs 5 MAR 45 (8th day)

B117832 Rfn GRUMMETT, K.

Certified to be a true extract from the regimental books of the unit in my custody.

Officer IC Records
Can. Sec. 2 Ech, HQ 21 Army Gp.

The following documents are { attached. Please acknowledge receipt on attached duplicate. / required. Please forward same.

Originating Clerk's Initials

Officer in Charge for
Canadian Section, GHQ, 2nd Echelon

1/70 W.D. A.

Exhibit "B"

CERTIFICATE UNDER ARMY ACT. SECTION 53 (1) (a)

Certified that No. B.217312 Rank. Pte. Name. CRAWETT F. M. Regiment No. S.24491

of the 3 Can. Inf. Bde. Regt., surrendered to No. 8 Can. Corps. Provost Corps.

Rank. Pte. Name. Mackenzie M.P. of the 8 Can. 2 Cdn. Inf. Bde.

Ghent Detachment at Ghent at 2045 hrs, on the 25th.

day of March 1945, as an absentee without leave.

He was wearing Military Uniform at the time of his Surrender / arrest.
Civilian clothes.

Place Ghent
Date 25 Mar 1945

Capt.
2 CDN. I. of C. (Can.) DAPM. 2 C.M.P.C.
PROVOST CORPS
Canadian Provost Corps.

Exhibit "B" [illegible]

ARMY FORM B.296 (WAR).

[illegible]ent as to Character and Particulars of Service of Accused.

(For Use at Trials by Field General Courts-Martial only).

Number.	*Rank.*	*Name.*	*Regiment (or as the case may be).*
B117832	Pte	GRUMMETT K	R WFD RIFLES

NOTE.—The Field Conduct Sheet is to be produced in Court with this statement but is not to be annexed to the proceedings. The numbers herein stated should correspond with the number of entries in the Field Conduct Sheet, prominence being given to the most serious offence in each entry. If the charge is for drunkenness or absence without leave, the entries for drunkenness or absence, as the case may be, should be stated separately. Any recognized special acts of gallantry or distinguished conduct recorded on the Field Conduct Sheet should also be inserted here.

1. The following is a fair and true summary of the entries in the Field Conduct Sheet of the accused, exclusive of convictions by a court martial or a civil court :—

For 15 (1) ____ 1 times.
For ____ ____ times.
For ____ ____ times.
For ____ ____ times.

Date of first entry in Field Conduct Sheet 4 Dec 43
Date of last entry in Field Conduct Sheet ////////

2. Previous convictions of the accused by a court martial or a civil court are set out in the Schedule overleaf.

*3. The accused at the present time is under sentence for NIL
beginning on the N/A day of N/A

*Strike out if not applicable.

4. The accused has been awaiting trial on the present charges for NO days in civil custody; and for 14 days in military custody, i.e., NO days in open arrest, 14 CR days in close arrest; of which NO days were spent in hospital.

5. The present age of the accused is 20 years 0 [illegible]

6. The date of his attestation / calling up for military service is 11 Oct 43

7. The service which the accused is allowed to reckon is ____

8. The accused is in possession of‡

‡State the military decoration (if any) held by accused.

9. (*If the accused is a warrant officer or N.C.O.*). The accused has served continuously, without reduction, to the present date—

	Date of Promotion.
In the substantive rank of ////	
In the war substantive rank of ///	
In the acting rank of ///	

INSTRUCTION.—*If any matter in any of the above paragraphs cannot be stated from the regimental books the paragraph must be struck through.*

(27853) W1.24939/3404 24,000 7/44 A.& E.W.Ltd. Gp.699 Forms/B.296(War)/3

SCHEDULE OF CONVICTIONS BY A COURT-MARTIAL OR CIVIL COURT.

Description of Court by which tried.	Date and Place of Trial.	Charges upon which convicted.	Sentence of the Court.	Punishment remitted or sentence suspended.
		NO RECORD OF CONVICTION BY COURT MARTIAL ON MFMO		

I HEREBY CERTIFY that the foregoing particulars, which have been extracted from the regimental books in my custody, are correct to the best of my knowledge and belief.

Signed this 4th day of April 1918 [illegible]

No. B-11178 Name GRUMMETT K Sqn, Battery, or Company — Corps CIC — Date of enlistment 11Oct43 — Sheet No 1 — Badges — Signature OC Company, etc

Exhibit C

Date of last entry in Company Conduct Sheet								Service or Proficiency Pay	Character	
Place	Date of offence	Rank	Cause of absence same	No and date of last drunk	Period not reckoning towards freedom from extra fine	OFFENCE	Name of Witness	Punishment awarded	Date of award or of earlier charge with which dealt	By whom awarded	Remarks
A-10 CITC	1DEC43	Pte				AWL from 0200 hrs to 0900 hrs 3 Dec 43		3 days CB	4 Dec 43		
						Duplicate received from WF# 4 on 30 Mar 45. Record of conduct in Canadgarrforto 103 Cdn Army Overseas 26 Apr 44 not available Penelon Capt Officer in Records C Can Spc & Ech HQ 21 A Gp					
						Certified true copy of WF# 6 in my possession					

LIST OF WITNESSES

N/A

LIST OF EXHIBITS

Certified true copy of Extract from Pt II Order No 12 dated 9 Mar 45 "A"

Certificate of surrender dated 25 Mar 45 "B"

I, B-117632 Rfn GRUMMETT K, acknowledge having received one copy of the summary of evidence and one copy of the Charge Sheet free of charge on 4 Apr 45.

K. Grummett

B-117632 Rfn Grummett K

46-81

Pte. Drummond. S.

4581

FIELD GENERAL COURT-MARTIAL

CPA95 (To Encl of AFA3) 40/P & S/1698 (4/00) 4/38B

Convened by Order of Brig W.J. Megill Comd 5 C.I.B. dated 17 Oct 44

ACCUSED.

(As to the trial of two or more charged jointly see RP 16, 71, 109. As to reasons for showing (a) permanent or confirmed rank, and (b) apptmt, A/rank or A/apptmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

Number.	(a) Prmnt R.	(b) Apptmt, A/R or A/Apptmt.	Full Christian Names.	Surname.	Unit.
D 57268	Pte	certified true copy [illegible]	Stanley	Guimond	R de Mais

D. J. A.,
Cdn Sec G.H.Q. 2 Echelon 21 Army Gp

Date 2 Nov 44

PROCEEDINGS OF TRIAL.

Held in the Fd in (country) N'Bal and on (date(s)) 18 Oct 44

RECORD FORM A—OPENING PROCEEDINGS AND ARRAIGNMENT. 13/102

A1. The President, Members, waiting Member, JA, if any, and Offrs under instr, if any, assemble, and the Court is closed.

(PRINTED MATTER, NOT IN ITALICS FOR GUIDANCE, WILL BE DELETED, IF NOT USED OR APPLICABLE, AND INITIALLED BY PRES OR JA. The Schedule referred to throughout is on p 4. Citations do NOT include all relevant fmn ROs. For guidance on procedure when a variation in this form arises, see form for GCM in MML pp 741 to 759. A brief record of such variation will be made and given a number having reference to appropriate or preceding para number herein. See back of Convening Order, CF A95, for oaths and instrs on how to record addresses, evidence, etc, which instrs are hereafter called "Notes". As to general provisions for conducting the trial see AA 53, RP 56, 62-70, 73, 74, 94, 102, 119, 132.)

A2. The President initials and lays before the Court the Convening Order and Charge Sheet(1) attached thereto.(2) The Court is satisfied that it is properly convened and constituted(3), accused is (are) amenable to military law, and each charge discloses an offence.(4)

(1. As to use of Summary of Evidence see RP 17 fn 6. 2. AA 49, 52, RP 105-107. 3. RP 11-13, 23, 24.)

A3. The Court is opened. The accused is (are) brought before the Court. At 1545 hours trial commences.

A4. The Prosecutor produces a Medical Certificate that accused is (are) fit to undergo trial by court-martial.(1) ~~The Prosecutor informs the Court that accused directed to be tried by court-martial instead of being dealt with summarily by the C.O.(2)~~

(1. KR Can 557. 2. AA 46(B), RP 60 fn 1. For effect see KR Can 563(c). Delete, if not applicable.)

A5. ~~President to accused: Do you object to as interpreter? Ans~~ ~~The interpreter is sworn.(1)~~ Do you object to ~~as shorthand writer? Ans~~ ~~The shorthand writer is sworn.(1)~~

(1. RP 72. Delete, if none employed.)

A6. The Convening Order and names of the President and Members of the Court are read to the accused.(1) President to accused: Do you object to be tried by me as President or by any of the Members of the Court? Ans (2)

(1. RP 100. 2. If no objection, waiting member retires. RP 68(B). If objection, see procedure AA 51, RP 25, 71, 18, MML p 742.)

A7. The President, Members, JA, if any, and Offrs under instr, if any, are sworn.(1) The following are the ranks, names and units of the offrs comprising the Court, etc:

President	Maj	A.G. Stevenson	R.H.C.
Member	Capt	E.E. Teagle	Calg Highrs
Member	Lt	J.L. Fontaine	HQ 5 Cdn Inf Bde (R de Mais)
Judge-Advocate	Capt	E.K. McDougall	MJA 2 Cdn Inf Div
Prosecutor	Capt	F.D. Boucier	R de Mais
Defending Offr	Capt	J.M. Mathieu	R de Mais

Questions by President: Is the Prosecutor a lawyer? Ans No Is the Defending Offr a lawyer? Ans No (2)

(1. RP 26, 27, 109, 111. List of offrs under instr will be returned separately with proceedings for information of Conv Offr.) (2. If Pros a lawyer and Def Offr not, accused is entitled to an adjournment when RP 89 (B) and fn 2 were not followed. See D1 p 3.)

A8. The accused Pte Guimond S. before arraignment make(s) (no) plea(s).(1)

(1. If a special plea is made for separate trial on one or more charges (RP 43(E), 108), or as to the jurisdiction of the Court (RP 34, 35(A), 113), or in bar of trial (RP 36), or as to accused's mental fitness to stand trial (AA 130, RP 37), or by one of several accused charged jointly to be tried separately (RP 16, 71), such plea, the addresses made in support or against, the evidence, if any, and finding are recorded per Notes. For forms of record see references in fns to RoP cited. Insert in AB rank and name of the accused making the plea.)

A9. The accused is (are) arraigned (separately) on all charges in the charge sheet.(1) The accused does not object to any charge.(2) There is no amendment to be made to the Charge Sheet.(3) The President records the pleas in Part I of the Schedule.

(1. RP 31, 112. See para 1 of Instrs p 2. When more than one Charge Sheet see RP 62; when several accused to be tried separately see RP 71(C), and use separate copies of CF A96 to record proceedings. 2. RP 32, RP 33. If otherwise, delete and make appropriate record per Notes.)

A10. The Court (is closed and) considers the Instrs on Procedure after Arraignment at top of p 2. The proceedings are continued on Record Form 10

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

A.B., 160 Ref Vol 1 fol 232

4

SCHEDULE.

PART I. PLEA(S), FINDING(S) AND SENTENCE.

Accused: D 57268 Pte Guimond S R de Mais

Charge. (Insert "alternative" where applicable.)	Plea. (See Instrs p 2.)	Finding. (See note below.)	(Space for use as required for further charges, accused charged jointly, special findings, etc.)
1st	Not Guilty	Guilty	
2nd			
3rd			
4th			
5th			
6th			

(Note: As to findings for lesser offences see AA 56, RP 44; findings on alternative charges see MML p 483 fn 4 para 2, RP 44; special findings see RP 44 and MML p 733, and in lieu of kit see RP 44 fn 6.)

At present under sentence for beginning on (date) (1)

(1. Insert sentence being served, or delete, if not applicable. See RP 46(A). Information should be found on MF B355 or AF B296.)

Time in confinement awaiting present trial—a total of 25 days, of which 0 days were spent in hospital.(1)

(1. See RP 46(A) fn 2. Information should be found on MF B355 or AF B296 admitted in evidence under E2.)

Sentence Awarded by the Court:
To suffer penal servitude for the term of five (5) years and to be discharged with ignominy from his Majesty's service

(Sgd) Errol K McDougall, Judge-Advocate, if any. 18 Oct 44, Date awarded. (Sgd) A.G. Stevenson Maj, President. (RP 45, 50.)

(See back of Convening Order as to assembly and disposal of record after trial.)

PART II. MINUTE WHERE CONFIRMATION RESERVED. (AA 54(3), RP 120(F), MML p 760.)

I reserve the finding and sentence for confirmation

Date 2 Oct 44 (Sgd) W.J. Megill Brig Commanding 5 Cdn Inf Bde

PART III. DECISION OF CONFIRMING OFFR ON FINDING(S) AND SENTENCE.

(For duties and powers see AA 54, 57, RP 37(D) fn 6, 46(A), 51-56, 120, MML pp 759-761, KR Can 567-577. Acquittals require no confirmation and cannot be revised: AA 54(3). Sending back finding or sentence for revision by Court: AA 54(2), RP 120(G). If not confirmed, accused may be tried again: AA 157, MML p 64. Minute of confirmation or non-confirmation may be altered before promulgation: RP 53, MML p 65. Quashing after promulgation: KR Can 573. Duties and powers of reviewing offrs: AA 57, 57A, RP 53A, 54. The Confirming Offr must sign here personally. AA 172 fn 1.)

My decision on the finding(s) and sentence set forth in Part I is:
I confirm the finding but mitigate the sentence so that it shall read to suffer penal servitude for the term of three (3) years and to be discharged with ignominy from His Majesty's Service and confirm the sentence as mitigated.

~~I direct that the accused be not committed to prison or detention barracks until further orders.~~(1) 995.

(1. AA 57A. Delete if not used.)

(Sgd) G.G. Simonds Lt Col
The General Officer of the Cdn Militia
Commanding First Canadian Army
Confirming Officer.

Date 6 Nov 44

PART IV. PROMULGATED AND EXTRACTS TAKEN. (RP 53, KR Can 576, 577.)

Accused.	Date.	Signature of Offr.
D 57268 Pte Guimond, S.	14 Nov 1944	"G.Leclere Lt Adjt R de Mais

ALL DELETIONS AND ALTERATIONS WILL BE INITIALLED.

No illegalities or irregularities such as would warrant withholding confirmation.

Date 6 Nov 44

INSTRUCTIONS ON PROCEDURE AFTER ARRAIGNMENT.

1. *The accused may not plead or be found Guilty on more than one of two or more charges laid in the alternative.* (RP 37(A).) *As to withdrawal of alternative charges by Prosecutor see RP 35(C). No other charge can be withdrawn for any reason without authy from Convening Offr. If Convening Offr concurs, Court may accept plea of Guilty to lesser, etc, offence.* (RP 44(H).) *Accused may change a plea of Not Guilty to Guilty during trial.* (RP 38.) *As to refusing to plead or not pleading intelligibly see RP 35(A). As to plea when sentence may be death see RP 35(D).*

2. *The proceedings on each charge sheet* (RP 62) *after arraignment will be conducted as follows in the respective circumstances stated :*

I. *If pleas to all charges are GUILTY, use Record Form B below.*

II. *If pleas to all charges are NOT GUILTY, use Record Form D on p 3.*

III. *If pleas to some charges are GUILTY and to other charges are NOT GUILTY and,*

(a) *Such mixed pleas occur when there are no alternative charges in the Charge Sheet, use Record Form C below.* (RP 37(A).)

(b) *Such mixed pleas occur in a set of two or more charges laid in the alternative, see RP 37 (A) and fn 2 as to discretion of Court, (i) to try the accused on all such alternative charges as if he had pleaded Not Guilty thereto, or, (ii) to record the pleas as the findings of Court. After deciding between (i) and (ii), Court will proceed under foregoing instrs as may be appropriate to result of its decision. See M M L p 744 instrs (2).*

3. *As to responsibility of President to accused see RP 59, 60(C) ; powers and duties of JA see RP 105 ; duty of Prosecutor see RP 60(A) (B) ; duty and privileges of accused and Defending Offr see RP 60(C), 87(C), 91, 92 ; swearing and withdrawal of witnesses from Court see RP 81, 82 ; questioning of accused see RP 80, 87(C), 92(B), and of witnesses see RP 85-88 ; calling or re-calling of witnesses by Court, etc, see RP 75-79, 86, 116 ; use of Summary of Evidence at Trial see RP 17(E) fn 6 ; and responsibility of JA or Pres to record proceedings see RP 94, 96.*

RECORD FORM B—PROCEEDINGS ON PLEAS OF GUILTY TO ALL CHARGES.

B1. The President or JA, if any, complies with RP 35(B) by explaining to the accused the nature and meaning of the charge(s)(1), and that on his plea of Guilty there will be no regular trial but merely a consideration of the sentence to be awarded after he has been given an opportunity to make a statement in reference to the charge(s), call witnesses as to character and make an address in mitigation of punishment.(2)

(1. *RP 35 fn 3.* 2. *MML p 54 para 47.*)

B2. President to accused : The Court will now receive any statement you desire to make in reference to the charge(s).(1) If it appears from your statement that there are circumstances which indicate that you do not understand the effect of the plea of Guilty(2), or which show provocation or extenuation in respect of which in your interest the witnesses for the Prosecution should be examined(3), we shall advise you to change your plea to Not Guilty. In making a statement you will not be sworn or subject to cross-examination ; and anything you say will not be used in evidence against you after you change your plea. If, however, it appears to the Court that your statement affects only the amount of punishment to which you are liable, you will not be advised to change your plea and you will be given an opportunity later to prove your statement by sworn testimony, if you so desire.(4)

President to accused : Do you wish to make a statement ? Ans _____(5)

(1. *RP 37(B).* 2. *RP 37(D) fn 6.* 3. *RP 85 fn 5 para 3, MML p 54 para 47.* 4. *See para E3 of Record Form E.* 5. *Statement, if any, recorded per Notes.*)

B3. The Court considers the accused's statement.(1) The Court decides (not) to advise accused to change his (their) plea(s) of Guilty to Not Guilty on _____ charge(s). The accused is (are) so informed, and he (they) change(s) his (their) plea(s) on _____ charge(s). Part I of the Schedule is amended accordingly.

(1. *Court may be closed to consider the statement.* Delete whole or part not used.)

B4. On the charge(s) to which the plea(s) of Guilty is (are) not changed the President records finding(s) of Guilty in Part I of the Schedule.(1)

(1. *RP 35(B).* If any plea(s) is (are) changed, use Record Form C or D as appropriate.)

B5. The Summary of Evidence is marked Ex _____, initialled and read aloud by the President.(1) The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

(1. *If there is no Summary, or if it is inadequate, comply with RP 37(B). If there is any evidence incompatible with any plea standing as Guilty, Court will advise accused to change such plea and, if changed to Not Guilty, try such charge(s) by use of paras D1 to D8 inclusive of Record Form D on p 3. RP 37(D).*)

RECORD FORM C—PROCEEDINGS ON MIXED PLEAS OF GUILTY AND NOT GUILTY.

C1. As to the charges on which accused pleaded NOT GUILTY the trial is continued by using paras D1 to D8 inclusive of Record Form D on p 3 before proceeding with B2.(1)

(1. *RP 37(A) (E).*)

C2. The charges on which accused pleaded GUILTY are read to him (them) again, and the trial is continued by using paras B1 to B5 of Record Form B above.(1)

(1. *Under B5 such part only of the Summary of Evidence are read as relate to the charges dealt with under C2. If any plea is changed to Not Guilty, trial thereon proceeds by complying with paras D1 to D8 inclusive in Record Form D on p 3 and making an appropriate record thereof on a separate sheet.*)

C3. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

Pte Jeff Lloyd Records of Record.

RECORD FORM D—PROCEEDINGS ON PLEAS OF NOT GUILTY TO ALL CHARGES.

D1. President to accused : Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity to prepare your defence ? Ans No Sir (1)

(1. *If "yes", see RP 39(A) for procedure. Statement or evidence, if any, is recorded per Notes.*)

D2. The Prosecutor makes (his) (no) opening address.(1) Ed KM

(1. *RP 39(B), 60(A) (B), 90, 92(C) (D). Record address per Notes, subject to RP 95(C).*)

D3. The evidence for the Prosecution is taken.(1)

(1. *RP 39(C), 114, KR Can 555. Record evidence per Notes. As to Prosecutor giving evidence himself see RP 39(D) (E).*)

D4. The Prosecution ~~closed (,) and the Defending Offr submits that the evidence for the Prosecution~~ does not establish a prima facie case against the accused on the _____ charge(s).(2) The Court is closed, and considers the submission.(3) The ~~Court is opened~~, and the President announces that the submission is disallowed on the _____ charge(s), and allowed on the _____ charge(s), and that, accordingly, the trial will proceed on the former, but the accused is (are) found ~~Not~~ Guilty, on the latter charge(s).(4)

(1. *Delete remainder of this para, if submission not made.* 2. *Arguments on submission, answer and reply are recorded per Notes.* 3. *RP 40 fn 1. See MML p 72 paras 12-14 and p 81 para 42.* 4. *Delete part not used. If accused acquitted on all charges use second alternative in para D8.*)

NB : If trial proceeds, accused must be allowed great latitude in making his defence, and the Court should not stop his defence sooner on ground of irrelevance. (*RP 90(C), 114, 115.*)

D5. President to accused : You will now proceed with your defence.(1) You may, if you wish, give evidence yourself on oath as to the facts or your character or both, in which case you will be subject to cross-examination.(2) You may, however, make a statement, without being sworn, and you will not be subject to cross-examination.(3) But a statement which could have been made on oath will not carry with the Court the same weight as sworn testimony.(4) You may call witnesses in your defence and as to character, whether you give evidence or make a statement or do neither.

President to accused : Do you wish to give evidence yourself as a witness, make a statement, or do neither ? Ans Evidence on oath Do you intend to call witnesses on your behalf ? Ans No Are they witnesses as to character only ? Ans _____

(1. *RP 115.* 2. *RP 40(A), see 80(D).* 3. *RP 40 fn 10.* 4. *RP 40 fns 2, 9.*)

D6. Consequent on the answers recorded in para D5 the appropriate procedure for the defence is followed.(1)

(1. *RP 114, 115, 116. For procedure see Notes on back of Convening Order, CF A95. Evidence for accused as to his character should, if in his interest, be given before the Finding. See RP 46(A) fn 1, 86(C). Note the further opportunity in para E1 of Record Form E. Record per Notes addresses, statement, evidence and any summing up by the JA under RP 42. 103(e).*)

D7. The Court is closed to consider the finding(s).(1) The finding(s) of the Court is (are) recorded in Part I of the Schedule.(2) The Court is re-opened.

(1. *RP 42, 117(A). See Notes re Part I of Schedule.* 2. *RP 44(A).*)

D8. The President ~~announces the finding(s), if any, of Not Guilty, and~~ states to the accused that the finding(s) of the Court on the _____ charge(s), being subject to confirmation, will be promulgated later.(1) ~~(or The President announces that the accused is found Not Guilty on all charges and is to be released forthwith, and that the proceedings are accordingly terminated.)~~ Part I of the Schedule is dated and signed.(2) Ed KM

(1. *AA 54(3) (b). RP 45. (120(A).* 2. *AA 54(3), RP 45, 117. This alternative announcement is not applicable when there are pleas of Guilty outstanding one dealt with under Record Form B or C.*)

D9. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E below.

RECORD FORM E—PROCEEDINGS ON CONVICTION BEFORE SENTENCE.

E1. President to accused : Do you wish to give evidence yourself or to call any witnesses as to your character ?(1) Ans No Sir

(1. *If evidence has already been given by accused or his witnesses as to his character, delete this para. RP 37(C) fn 4, 46 fn 1. Accused and witnesses are sworn. Evidence recorded per Notes.*)

E2. The Prosecutor produces Statement(s) as to Character and Particulars of Service(1), and certified true copy (copies) of Conduct Sheet(s)(2), purporting to refer to the accused, which he submits to the Defending Offr for examination, and then to the Court for admission in evidence. The Court is satisfied that these documents refer to the accused, because (i) they purport to be signed in the manner required by AA 163(1) (g) (h), and (ii) they purport to refer to (a) soldier(s) having the same number, rank, name and corps as the accused. Admitted in evidence and marked Ex 1 and Ex 2 respectively.(3)

(1. *AFB 355 or AFB 296.* 2. *MFM 6.* 3. *RP 46, KR Can 558. If above documents not produced, see RP 46 fn 1 para 1.*)

E3. President to accused : Do you wish to address the Court on the Statement(s) and Conduct Sheet(s), and in mitigation of punishment ?(1) Ans I have nothing more to say (2)

(1. *RP 37(C), 46(D).* 2. *Address, if any, recorded per Notes. Court should permit accused or his witnesses to prove on oath anything here or previously stated which would affect the amounts of punishment. RP 37(F) fn 7.*)

E4. The President states that the Court is closed to consider the sentence, and that the sentence to be awarded by the Court, being subject to confirmation, will not be announced, but will be promulgated later, and the proceedings in open court are accordingly terminated.(1)

(1. *AA 54(6). RP 120(A).*)

E5. The Court considers the sentence.(1) The President records the sentence in Part I of the Schedule, which is dated and signed by him and the JA, if any.(2)

(1. *When several accused tried separately see RP 71 (D). One sentence only, comprised of the punishment or punishments laid down in AA 41, 44 and its proviso, is to be awarded to cover all charges in all charge sheets on which accused found guilty. RP 48. As to sentences see AA 44, 138. 182, RP 46-50, 69, 118, 119(A), KR Can 308, 330, 563-566, Chemmps RO 309, 1323, MML p 85, 757-759. As to sentences assigned for civil offences by the law of England see AA 41(5), MML p 130. When accused already under sentence of imprisonment or detention see AA 44(1B), 68(1), KR Can 564. As to assembly and disposal of record after trial see instrs on back of Convening Order.* 2. *RP 50. As to release from arrest by Convening Offr see KR Can 567.*)

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

A95

CHARGE

Army Act
Sec (2)

The accused D 57258 Pte Guimond Stanley, Regiment de Maisonneuve a soldier of the Can Army (O) is charged with

WHILE ON ACTIVE SERVICE

DISOBEYING A LAWFUL COMMAND GIVEN BY HIS SUPERIOR OFFICER

in that he

In the field on the 24 Sept 44, when ordered personally by Major de Grandpre to return to his platoon did not do so.

"J.Bibeau"
(J.Bibeau) Lt Col
Commanding Officer
Regt de Maisonneuve

Dated
In the Field
7 October, 1944.

To be tried by F.G.C.M.

"W.J.Megill Brig
Comd 5 Can Inf Bde

17 Oct 44

FIELD GENERAL COURT-MARTIAL

(Whether the accused to be tried is under his comd or not, a FGCM may on application to him be convened by any offr of Cdn Army Overseas, or of any other force if authorized in law, in immediate comd of troops on active service, subject to Rr 105(C) and restrictions imposed by appropriate authy. AA 49, 50, RP 104-107, 114. As to the duties and privileges of the Convening Offr in dealing with the application see MML Chap V paras 20 and 23. RP 87(B).

There should be a separate Convening Order for each person to be tried separately by the same Court. RP 71(C), 109. As to separate charge sheets see RP 62, and as to separate trial on charges in the same charge sheet see RP 108. As to two or more accused charged jointly see RP 1a, 109.

As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns. KR Can 308, 328, 330.)

ACCUSED.

Number.	(a) Prmnt R.	(b) Appmt, A/R or A/Appmt	Full Christian Names.	Surname.	Unit.
D 57288		Pte	Stanley	GUIMOND	R de Mais

CONVENING ORDER.

1. Whereas complaint has been made to me, the undersigned, that the person named above by the accused, being subject to military law, has ~~(each committed the offence(s) set forth~~ in the Charge Sheet ~~(s)~~ attached and on (date) 17 Oct 44 endorsed by me, ~~(or by an offr of any Army Corps)~~ "To be tried by Field General Court-Martial".

2. And whereas I am of opinion that it is not practicable that such offence(s) should be tried by an ordinary General Court-Martial; ~~(and that it is not practicable to delay the trial for reference to a superior qualified offr)~~

(Delete part in brackets when not required for compliance with RP 105(C).)

3. I hereby convene a Field General Court-Martial to try the said person(s), and to consist of the Offrs appointed or detailed hereunder.

4. ~~I am unable to appoint~~ (a) three Offrs to form the Court, (b) a Fd Offr as President, for the reasons I have ~~attached hereto~~

(AA 49, RP 106(B), 107(A). Delete the whole or part, if not applicable.)

5. I also appoint as Judge-Advocate thereat the Offr mentioned hereunder.

(RP 106(E). Delete, if none appointed.)

PRESIDENT.

(Rank.)		(Must be named. RP 106.)	(Unit.)
Major	A.G. Stevenson		R.H.G.

MEMBERS.

(Rank.)		(Named or detailed. RP 106.)	(Unit.)
Capt	E.B. Teagle		Calg Highrs
Lt	J.L. Fontaine		HQ 5 Cdn Inf Bde (R de Mais)

WAITING MEMBER.

(Rank.)		(Named or detailed, if any. RP 106.)	(Unit.)
Lt	J.D.Moffatt		Calg Highrs

JUDGE-ADVOCATE.

(Rank.)		(Must be named, if any. RP 106.)	(Unit.)
Capt	E.B. McDougal		ADJA 2 Cdn Inf Div

On Active Service in the Fd

in Holland (Country.)

(W.J. Megill) (Signed personally. RP 105 fn 2.) Brigadier (Rank.)

Date 17 Oct 44

Commanding 5 Cdn Inf Bde
Convening Officer.

CONVENING OFFR WILL INITIAL ALL DELETIONS AND ALTERATIONS

4/38A (PAM (to lieu of AFA) 40/P & (C) 1867 (1401))

(See overleaf for oaths and notes for use on trial.)

MEDICAL CERTIFICATE K.R. Can 557

I certify that I have this morning examined No 5 57288

Pte Guimond, S. of Reg de Mais and in my opinion he is fit to undergo trial by court martial

Station Field

Date 18 Oct 44

??????Capt
Medical officer.

1st Pros Wit Maj J.G.A.D. le Grandpre, R de Mais
sworn deposes.

I am OC A Coy R de Mais. I identify the accused. On
we Sep I sent accused to the M.O. as he said he was sick and could not
stay in position with his Pln. As a result of the m.Os report I
ordered the acc to report back to his pln which at the time was in
contact withthe enemy. I definitely ordered him back. The next day I
discovered he had not gone back. The next day I again ordered him to
report back immediately and left. Two hours later he was still there.
I ordered the C.S.M. to place him under arrest on a charge of disobeying
an order.

Cross Ex Acc said he was sick when I ordered him back I had already sent
him to see the m.O. the previous day.

No re ex

Court
His pln was forward and in contact with the enemy. The acc understood the
order as I explained it. He said he couldn't get as he was scared. He
certainly must have known I was an officer I was properly dressed.

R.P. 83(B(complied with.

2nd Pros wit. D 58045 CSM Perrier R.R de Mais sworn deposes.
I am CSM of A Coy R de Mais. I recognize the accused
A Coy was in contact withthe enemy. The acc was in A Coy. We debussed
near the enemy on 24 Sep. He wouldn't go back to his pln. I saw the
Major about it and the Major gave him an order to report back to his pln.
The Coy was prepared to attack. The order was given at coy H.Q. The pln
of the accused was in front of coy H.Q. The acc did not go back after
receiving the order.

No Cross ex

Court When ordered to go back he said he wouldn't go as he was sick.
Wouldn't say any more than this. Just said he had a head ache and was
dizzy.

R.P. 83(b) complied with

3rd Pros wit Capt J.M.P. Robert, RCAMC attd R de Mais sworn deposes.
I am M.O. R de Mais. I identify the accused here today.
He came to me on 23 Sep. I remember the general nature of his complaint
but can't remember whether he said he couldn't stand it or whether he
had medical complaints. I concluded that his complaint was he couldn't
stand the strain of fighting.

Cross ex I don't remember giving him anything. He didn't show any
agitation. I may have given him some pills but I can't remember. Sometimes
I give a mild sedative. I haven't the necessary equipment to diagnose
stomach complaints. I have no X ray or lab. I can only give a clinical
opinion.

Re ex With cases of shell shock we treat themdifferently. I used to
evacuate them. We were to have exhaustion centres. Such cases were to
remain in the division. Used also to keep cases in R.A.F. lines. Now
either I send a man to his coy if his claims are unfounded. If I think his
complaint is justified I'll send him out for a rest at B Ech or A Ech.
There was no reason for me to send this accused to A or B I felt he was
capable of going back withthe rest of his Pl and so sent him back.

R.P. 83(b) complied with

Acc duly sworn deposes.

On 24 Sep I was ordered to go back to my pln. I was not thinking clearly. I had had spells that made me dizzy. I couldn't act clearly. I saw the doctor three times over a period of a week. I was given pills which effected me in no way at all. I had the same treatment every time I saw him. My trouble is that I have weak lungs I've had symptons of collapsing. If I stretch myself I get dizzy. If I take a deep breath I also get dizzy. I told the Doctor where the soreness was. The doctor exam'ed my chest and breathing. Used his fingers as a stethoscope. Sometimes he'd said I might be sick at other times he'd say he didn't know

Cross Ex I've been in the army for five years approximately. I was A category when I entered army. In England I went on all our schemes & battle train'ng. I went to the doctor in England as well as seeing him in France. In England I last saw the Dr I don't remember just when.

No re ex

Court Q. 23 Sep when I saw the Dr he gave me a talk on cowardice. Then he became appeasing. He went over my chest. After he examined me he told me to go back to my coy. I know the importance of obeying orders in the army. I went to coy H.Q. I didn't go back to my pln as I was sick. I had chest trouble that day. It made contact with my head. I used to play hockey in England and I got a hard body check. I just went to the doctor in France just about the time of 23 Sep.

R.P. 73(B) complied with.

Pros Closing address

The charge is a hard one but I am sure that the evidence speaks for itself. I have nothing further to offer.

Close of Defence in the case of D 57268 Pte Guimond, S.anley.

This man did not disobey a comand but was not in condition to execute the order given to h . When this soldier reported himself to coy H.Q. he was sick and was notable to do his job so his duty was to report to coy H.Q. to tell his commanding officer that he was unable to stay at h's post.

As soon as he arrived there he was ordered to go back to his position. He could not go back because he was too sick.

Pte Guimond suffers from stomach troubles for a long time. He has seen the Regt M.O. 3 times. Each time he was given pills but h's condition still the same.

In my opinion h's man should be sent to hospital where he could be given more attention.

J.A. Sums up

I must advise the court at the outset that this is indeed a serious charge with which we are dealing this afternoon. The evidence has disclosed the facts surrounding the circs of this alleged offence and you should approach it carefully. You must decide if the particulars of the charge have been proved and if you feel that they have then you must decide if those facts constitute the offence charged. With this charge the following must be proved.

(a) A command was given (b) that it was a lawful command (c) that it was given by a superior officer (d) that the order was disobeyed. In addition to this you must further be satisfied that any disobedience that may have occurred was immediately or proximate to the demand. (Note 1 of AA 9 read to the court)

So there is is. Allthese must be proved by the Prosecution and the burden of proof rests upon the prosecution throughout The acc need not prove his innocence. The Pros must prove his guilty beyond a reasonable doubt and if any such doubt exists inthe mind of any members of this court then he bound by law to interpret it in favour of the acc soldier.

A word now on thecredibility of the witnesses. You officers have heard and seen the witnesses here this afternoon and noone is better qualified than you to determine which are telling the truth and which are not. The question of credibility is entirely one for the court. You can believe all, or part, or nothing of a witnesses evidence according to how it strikes you as reasonable persons.

The facts are not in dispute. I think I am fair in stating that he order was never carried out. The acc himself says as much but offers in defence that he was too ill to comply withthe order. If you believe that in part the accused could not carry out the order, that it was beyond his physical capacities, then you should acquit him of the charge. If not, and if all the other necessary elements have been proved then you may legally find him guilty of this offence.

There is nothing else I can say. You are Regtl officers all used to handling men and I feel most capable of disposing of this charge in accordance with the oath which you have all to en.

Mr. President are there any fur her matters on which you wish me to direct the court NO

Mr. Pros Off " NO " " " " " " " " " " " "

Mr. Def Off " No

No D57288 Name Guimond, S. | Sqn, Battery or Company | COPY Corps C.I.C. | Date of enlistment 21.5.40 | OC Badges | Service or Proficiency Pay | MFM 6 (WH 122) 40-7765/136 (3438)

Company Conduct Sheet Date of last entry in | No and date of last drunk | Period not reckoning towards freedom from extra fine | Sheet No One | Signature OC Company, etc G.D.de Grenadier Major | Character

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Field	15.7.41	Pte		AASec 11 Neglect to obey standing orders in that he was not in bed after lights out (B.O.#682)	Sgt Desrochers L/Cpl Dumond	5 days pay	16.7.41	Major W Levigne	
Field	25.1.42	L/Cpl		AA 40 Act to the prejudice of good order and military discipline in that he had p t discipline for an NCO on 25.11.42	Sgt Godin	Reduced to rank of Pte	27.1.42	Lt Col H Elsbaillon	
Field	21.8.44	Pte		AWL from 0900 hrs 21 Aug 44 till 0730 hrs 23 Aug 44 total 1 day 22 hrs 30 min AA Sec 15	CSM Perrier Sgt Moïssan	Forf 2 days pay	5 Sep 44	Lt Col Pineau	
Field	26.8.44	Pte		AWL from 2359 hrs 26 Aug 44 till 1500 hrs 4 Sep 44 Total 8 days 15 hrs 1 min AA Sec 15	CSM Perrier Sgt Moïssan	Forf 9 days pay 26 days pay	5-9-44	Lt Col Pineau	FBI 148 Forf 9 days pay

CERTIFIED TRUE COPY
P.Pafard Capt

(FTO)

112 4

STATEMENT OF CHARACTER & PARTICULARS OF SERVICE OF ACCUSED

No D 572?8 Rank Pte Name GUIMOND STANLEY Unit R de Mais

Age 24 Married or single SINGLE No of dependants NON

Date of attestation 21.5.40

Number of days in close arrest awaiting trial 25 days

Civil	Military V	Hospital	Total

Dates of appointments, promotions, etc (if any) L/Cpl 25/1/42 Reverts to Pte 27.11.42 L/Cpl 10-121-43 Reverts to Pte 14.1.44

In the field
18 Oct 44
Date

P Falfard Capt
Officer i/c records

Certified true copy of N.F.M. 6 must accompany this form

SUMMARY OF EVIDENCE
in the case of

D 57288 Pte Guimond, Stanley, Regt de Maisonneuve, a soldier of the Cdn Army (O) while on active service is charged with

Short statement of the charge.

DISOBEYING A LAWFUL COMMAND GIVEN BY HIS SUPERIOR OFFICER
Sec 9(2) Army Act

The Commanding Officer has directed that the evidence be taken on oath.

FIRST WITNESS FOR THE PROSECUTION

Major J.G.A.D. de Grandpre, Regt de Mais, Cdn Army (O) having been duly sworn and having identified the accused states:

"I Major J.G.A.D. de Grandpre OC "A" Coy, Regt de Mais. At WESTMALLE at approx 1800 hrs 24 Sept 44 D 57288 Pte Guimond Stanley, came to my coy H.Q. C.S.M. Perrier H reported to me that D 57288 Pte Guimond Standly was there complaining that he was not well and could not stay out with his Platoon. I had had this man examined by the Medical officer the previous day The Medical officer reported there was nothing wrong with him. I went outside and gave Pte Guimond Stanley, an order to report back to his platoon within five minutes. He said he could not do that. About an hour later Pte Guimond Stanley was still at my coy H.Q. I then gave an order to C.S.M. Perrier H to place him under arrest and charged him with disobeying an order.

THE ACCUSED DOES NOTWISH TO CROSS EXAMINE THE WITNESS

"J.G.A.D. de Grandpre Major
(J.G.A.D. De Grandpre) Major
Regt de Maisonneuve

SECOND WITNESS FOR THE PROSECUTION

D 56045 C.S.M. Perrier, H. Regt de Mais, Cdn Army (O) having been duly sworn and having identified the accused states.

"I CSM Perrier, H. of "A" Coy Regt de Mais, On the 24 Sept 44 at 1800 hrs at WESTMALLE, Pte Guimond Stanley, complained to me that he was sick. I took him before Major de Grandpre because the accused had been before our Medical Officer who said nothing was wrong with him. Major de Grandpre ordered him to go back to his platoon after Guimond said he couldn't go back because he was too sick. Major de Grandpre immediately placed the accused under close arrest. I then detailed two men as escorts for Pte Guimond. On the morning of the 24 Sept 44 we sent Pte Guimond to Detention room

THE ACCUSED DOES NOT WISH TO CROSS EXAMINE THE WITNESS

"H.Perrier"
(D 56045 CSm Perrier H)
Regt de Maisonneuve

THIRD WITNESS FOR THE PROSECUTION

Capt P Robert M.O. Regt Mais Cdn Army(O) having been duly sworn and having identified the accused states:

"I Capt P. Robert, M.O. R de Mais, on the 23 Sept 44 I examined D 50288 Pte Guimond, G. at the R.A.P. This man complained that he could not longer stand the condition of the active service. He examination failed to show anything to support his claim on the Medical graound and I returned him to his lines so that his case be dealt with on the disciplinary ground.

"P.Robert Capt
(P.Robert) Capt M.O.
Regt de Maisonneuve.

I CERTIFY THAT THIS SUMMARY OF EVIDENCE OF (2) two pages has been taken down by me in the presence xxxxxxxxxxxx and the hearing of the accused.
The accused having been duly cautioned in accordance with R.P. 14 (A)(B)(C)(D)(E)(F) says,
I donot wish to give evidence or make a statement. The accused does not wish to call witnesses in his defence at this point.

Dated in the field
7 Oct 44

"F.D.Boucier"
(F.D. Boucier) Capt
Regt de Maisonneuve

SCHEDULE.

PART I. PLEA(S), FINDING(S) AND SENTENCE.

Accused: D 57288 Pte Guimond S R de Mais

Charge. (Insert "alternative" where applicable.)	Plea. (See Instrs p 2.)	Finding. (See note below.)	(Space for use as required for further charges, accused charged jointly, special findings, etc.)
1st	Not Guilty	Guilty	
2nd			
3rd			
4th			
5th			
6th			

(Note: As to findings for lesser offences see AA 56, RP 44; findings on alternative charges see MML p 483 fn 4 para 2, RP 44; special findings see RP 44 and MML p 753, and in loss of kit see RP 44 fn 6.)

At present under sentence for ~~(beginning on date)~~ (1)

(1. Insert sentence being served, or delete, if not applicable. See RP 46(A). Information should be found on MF B355 or AF B296.)

Time in confinement awaiting present trial—a total of 25 days, of which 0 days were spent in hospital.(1)

(1. See RP 46(A) fn 2. Information should be found on MF B355 or AF B296 admitted in evidence under S2.)

Sentence Awarded by the Court:

To suffer penal servitude for the term of five (5) years and to be discharged with ignominy from his Majesty's service

(Sgd) Errol K McDougall, Judge-Advocate, if any. 16 Oct 44, Date awarded. (Sgd) A.G. Stevenson Maj, President. (RP 45, 50.)

(See back of Convening Order as to assembly and disposal of record after trial.)

PART II. MINUTE WHERE CONFIRMATION RESERVED. (AA 54(5), RP 120(F), MML p 760.)

I reserve the finding and sentence for confirmation

Date 22 Oct 44 (Sgd) W.J. Megill Brig, Commanding 5 Cdn Inf Bde

PART III. DECISION OF CONFIRMING OFFR ON FINDING(S) AND SENTENCE.

(For duties and powers see AA 54, 57, RP 120(D) fn 6, 46(A), 51-56, 120, MML pp 759-761, KR Can 567-577. Acquittals require no confirmation and cannot be revised: AA 54(3). Sending back finding or sentence for revision by Court: AA 54(2), RP 120(G). If not confirmed, accused may be tried again: AA 157, MML p 64. Minute of confirmation or non-confirmation may be altered before promulgation: RP 53, MML p 65. Quashing after promulgation: KR Can 573. Duties and powers of reviewing offrs: AA 57, 57A, RP 53A, 54. The Confirming Offr must sign here personally. AA 172 fn 1.)

My decision on the finding(s) and sentence set forth in Part I is:

I confirm the finding but mitigate the sentence so that it shall read To suffer penal servitude for the term of three (3) years and to be discharged with ignominy from His Majesty's Service and confirm the sentence as mitigated.

~~I direct that the accused be not committed to prison or detention barracks until further orders.~~ (1)

(1. AA 57A. Delete if not used.)

Date 6 Nov 44 (Sgd) G.G. Simonds Lt Col, The General Officer Commanding First Canadian Army, Confirming Officer.

PART IV. PROMULGATED AND EXTRACTS TAKEN. (RP 53, KR Can 576, 577.)

Accused.	Date.	Signature of Offr.
D 57288 Pte Guimond, S.	14 Nov 1944	"G.Leclare Lt Adjt R de Mais

ALL DELETIONS AND ALTERATIONS WILL BE INITIALLED.

No illegalities or irregularities such as would warrant withholding confirmation.

Date 11/11/44

4681

FIELD GENERAL COURT-MARTIAL

CPA66 (To face of AFB40/P & S/1068)

4388

Convened by Order of Brig W.J. Megill Comd 5 C.I.B. dated 17 Oct 44

ACCUSED.

(As to the trial of two or more charged jointly see RP 16, 71, 109. As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

Number.	(a) Prmnt R. (b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
D 57288	Pte (a) Certified true Copy (b) A/Sgt	Stanley	Guimond	R de Mais

PROCEEDINGS RECEIVED Date 2 Dec 44 Cdr, GHQ 21 Army Gp

Con Sec GHQ 2 ech 21 Army Gp.

PROCEEDINGS OF TRIAL.

Held in the Fd in (country) Holland on (date(s)) 18 Oct 44

RECORD FORM A—OPENING PROCEEDINGS AND ARRAIGNMENT. 15/102

A1. The President, Members, waiting Member, JA, if any, and Offrs under instr, if any, assemble, and the Court is closed.

(PRINTED MATTER: NOT IN ITALICS FOR GUIDANCE. WILL BE DELETED. IF NOT USED OR APPLICABLE, AND INITIALLED BY PRES OR JA. The Schedule referred to throughout is on p 4. Citations do NOT include all relevant fmn ROs. For guidance on procedure when a variation in this form arises, see Instrs for GCM in MML pp 741 to 759. A brief record of such variation will be made and given a number having reference to appropriate or preceding para number herein. See back of Convening Order, CF A93, for oaths and instrs on how to record addresses, evidence, etc., which instrs are hereafter called "Notes". As to general provisions for conducting the trial see AA 53, RP 56, 63-96, 73, 74, 94, 102, 109, 122.)

A2. The President initials and lays before the Court the Convening Order and Charge Sheet (and attached thereto ~~(if any)~~). The Court is satisfied that it is properly convened and constituted(1), accused is (are) amenable to military law, and ~~the~~ each charge discloses an offence.(2)

(1. As to use of Summary of Evidence see RP 17 fn 6. 2. AA 49, 50, RP 105-107. 3. RP 11-13, 23, 24.)

A3. The Court is opened. The accused is (are) brought before the Court. At 1545 hours trial commences.

A4. The Prosecutor produces a Medical Certificate that accused is (are) fit to undergo trial by court-martial. (1)

~~The Prosecutor informs the Court that accused elected to be tried by court-martial instead of being dealt with summarily by the CO.(2)~~

(1. KR Can 557. 2. AA 46(8), RP 60 fn 1. For effect see KR Can 563(c). Delete, if not applicable.)

A5. ~~President (or assistant): Do you object to~~ as interpreter? Ans

~~The Prosecutor (or accused): Do you object to~~ as shorthand writer? Ans

(1. RP 72. Delete, if none employed.)

A6. The Convening Order and names of the President and Members of the Court are read to the accused. (1) President to accused: Do you object to be tried by me as President or by any of the Members of the Court?

Ans (2)

(1. RP 110. 2. If no objection, waiting member retires. RP 66(B). If objection, see procedure AA 51, RP 25, 71, 18, MML p 742.)

A7. The President, Members, JA, if any, and Offrs under instr, if any, are sworn.(1) The following are the ranks, names and units of the offrs comprising the Court, etc:

President	Maj	A.C. Stevenson	R.H.C.
Member	Capt	E.E. Teagle	Celg Highrs
Member	Lt	J.L. Fontaine	HQ 5 Cdn Inf Bde
Judge-Advocate	Capt	E.K. McDougall	DJA 2 Cdn Inf Div
Prosecutor	Capt	F.D. Demeier	R de Mais
Defending Offr	Capt	E.N. Mathieu	R de Mais

Questions by President: Is the Prosecutor a lawyer? Ans No Is the Defending Offr a lawyer? Ans No (2)

(1. RP 26, 27, 109, 111. List of offrs under instr will be returned separately with proceedings for information of Conv Offr.)
(2. If Pros a lawyer and Def Offr not, accused is entitled to an adjournment when RP 89 (B) and fn 2 were not followed. See D1 p 2.)

A8. The accused D 57288 Pte Guimond before arraignment make(s) (no) plea

(1. If a special plea is made for separate trial on one or more charges (RP 62(E), 108), or as to the jurisdiction of the Court (RP 34, 35(A), 113), or in bar of trial (RP 36), or as to accused's mental fitness to attend trial (AA 130, RP 57), or by one of several accused charged jointly to be tried separately (RP 16, 71), such plea, the addresses made in support or against, the evidence, if any, and finding are recorded per Notes. For forms of record see references in fns to RoF cited. Insert in AB rank and name of the accused making the plea.)

A9. The accused is (are) arraigned (separately) on all charges in the charge sheet.(1) The accused does (does not) object to any charge.(2) There is no amendment to be made to the Charge Sheet.(3) The President records the pleas in Part I of the Schedule.

(1. RP 36, 112. See para 1 of Instrs p 2. When more than one Charge Sheet see RP 62; when several accused to be tried separately see RP 71(C), and use separate copies of CF A66 to record proceedings. 2. RP 32, RP 33. If otherwise, delete and make appropriate record per Notes.)

A10. The Court ~~(or charged offr)~~ considers the Instrs on Procedure after Arraignment at top of p 2. The proceedings are continued on Record Form

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

A.B., 160 Ref Vol 1 fol 132

INSTRUCTIONS ON PROCEDURE AFTER ARRAIGNMENT.

1. *The accused may not plead or be found Guilty on more than one of two or more charges laid in the alternative. (RP 37(A).) As to withdrawal of alternative charges by Prosecutor see RP 35(C). No other charge can be withdrawn for any reason without authy from Convening Offr. If Convening Offr concurs, Court may accept plea of Guilty to lesser, etc, offence. (RP 44(H).) Accused may change a plea of Not Guilty to Guilty during trial. (RP 38.) As to refusing to plead or not pleading intelligibly see RP 35(A). As to plea when sentence may be death see RP 35(D).*

2. *The proceedings on each charge sheet (RP 62) after arraignment will be conducted as follows in the respective circumstances stated:*

I. If pleas to all charges are GUILTY, use Record Form B below.

II. If pleas to all charges are NOT GUILTY, use Record Form D on p 3.

III. If pleas to some charges are GUILTY and to other charges are NOT GUILTY and,

(a) Such mixed pleas occur when there are no alternative charges in the Charge Sheet, use Record Form C below. (RP 37(A).)

(b) Such mixed pleas occur in a set of two or more charges laid in the alternative, see RP 37 (A) and fn 2 as to discretion of Court, (i) to try the accused on all such alternative charges as if he had pleaded Not Guilty thereto, or, (ii) to record the pleas as the findings of Court. After deciding between (i) and (ii), Court will proceed under foregoing instrs as may be appropriate to result of its decision. See MML p 744 Instrs (2).

3. *As to responsibility of President to accused see RP 59, 60(C); powers and duties of JA see RP 103; duty of Prosecutor see RP 60(A) (B); duty and privileges of accused and Defending Offr see RP 60(C), 87(C), 91, 92; swearing and withdrawal of witnesses from Court see RP 81, 82; questioning of accused see RP 80, 87(C), 92(B), and of witnesses see RP 85-85; calling or re-calling of witnesses by Court, etc, see RP 75-79, 86, 116; use of Summary of Evidence at Trial see RP 17(E) fn 6; and responsibility of JA or Pres to record proceedings see RP 94, 96.*

RECORD FORM B—PROCEEDINGS ON PLEAS OF GUILTY TO ALL CHARGES.

B1. The President or JA, if any, complies with RP 35(B) by explaining to the accused the nature and meaning of the charge(s)(1), and that on his plea of Guilty there will be no regular trial but merely a consideration of the sentence to be awarded after he has been given an opportunity to make a statement in reference to the charge(s), call witnesses as to character and make an address in mitigation of punishment.(2)
(1. RP 35 fn 3. 2. MML p 54 para 47.)

B2. President to accused: The Court will now receive any statement you desire to make in reference to the charge(s).(1) If it appears from your statement that there are circumstances which indicate that you do not understand the effect of the plea of Guilty(2), or which show provocation or extenuation in respect of which in your interest the witnesses for the Prosecution should be examined(3), we shall advise you to change your plea to Not Guilty. In making a statement you will not be sworn or subject to cross-examination; and anything you say will not be used in evidence against you after you change your plea. If, however, it appears to the Court that your statement affects only the amount of punishment to which you are liable, you will be advised to change your plea and you will be given an opportunity later to prove your statement by sworn testimony, if you so desire.(4)

President to accused: Do you wish to make a statement? Ans.....(5)
(1. RP 37(B). 2. RP 37(D) fn 6. 3. RP 35(B) fn 5, para 3, MML p 54 para 47. 4. See para E3 of Record Form E. 5. Statement, if any, recorded per Notes.)

B3. The Court considers the accused's statement.(1) The Court decides (not) to advise accused to change his (their) plea(s) of Guilty to Not Guilty on.....charge(s). The accused is (are) so informed, and he (they) change(s) his (their) plea(s) on.....charge(s). Part I of the Schedule is amended accordingly.
(1. Court may be closed to consider the statement. Delete whole or part not used.)

B4. On the charge(s) to which the plea(s) of Guilty is (are) not changed the President records finding(s) of Guilty in Part I of the Schedule.(1)
(1. RP 35(B). If any plea(s) is (are) changed, use Record Form C or D as appropriate.)

B5. The Summary of Evidence is marked Ex....., initialled and read aloud by the President.(1)
(1. If there is no Summary, or if it is inadequate, comply with RP 37(B). If there is any evidence inconsistent with any plea standing as Guilty, Court will advise accused to change such plea and, if changed to Not Guilty, try such charge(s) by use of paras D1 to D8 inclusive of Record Form D on p 3. RP 37(D).)

B6. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

RECORD FORM C—PROCEEDINGS ON MIXED PLEAS OF GUILTY AND NOT GUILTY.

C1. As to the charges on which accused pleaded NOT GUILTY the trial is continued by using paras D1 to D8 inclusive of Record Form D on p 3 before proceeding with C 2.(1)
(1. RP 37(A) (E).)

C2. The charges on which accused pleaded NOT GUILTY are read to him (them) again, and the trial is continued by using paras B1 to B5 of Record Form B above.(1)
(1. Under B5 such parts only of the Summary of Evidence are read as relate to the charges dealt with under C2. If any plea is changed to Not Guilty, trial thereon proceeds by complying with paras D1 to D8 inclusive in Record Form D on p 3 and making an appropriate record thereof on a separate sheet.)

C3. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

RECORD FORM D—PROCEEDINGS ON PLEAS OF NOT GUILTY TO ALL CHARGES.

D1. President to accused: Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity to prepare your defence? Ans. No.....(1)
(1. If "yes", see RP 39(A) for procedure. Statement or evidence, if any, is recorded per Notes.)

D2. The Prosecutor makes (no) (no) opening address.(1) None
(1. RP 39(B), 60(A) (B), 90, 92(C) (D). Record address per Notes, subject to RP 95(C).)

D3. The evidence for the Prosecution is taken.(1)
(1. RP 39(C), 114, KR Can 555. Record evidence per Notes. As to Prosecutor giving evidence himself see RP 39(D) (E).)

D4. The Prosecution is closed.(1) ~~The Defending Offr submits that the evidence for the Prosecution does not~~ establish a prima facie case against the accused on the.....charge(s).(2) The Court is closed, and considers the submission.(3) The Court is reopened, and the President announces that the submission is disallowed on the.....charge(s), and allowed on the.....charge(s), and that, accordingly, the trial will proceed on the former, but the accused is (are) found Not Guilty on the latter charge(s).(4)
(1. Delete remainder of this para, if submission not made. 2. Arguments on submission, answer and reply are recorded per Notes. 3. RP 40 fn 1. See MML p 72 paras 12-14 and p 81 para 42. 4. Delete part not used. If accused acquitted on all charges use second alternative in para D8.)
NB: If trial proceeds, accused must be allowed great latitude in making his defence, and the Court should not stop his defence solely on ground of irrelevance. (RP 90(C), 114, 115.)

D5. President to accused: You will now proceed with your defence.(1) You may, if you wish, give evidence yourself on oath as to the facts or your character or both, in which case you will be subject to cross-examination.(2) You may, however, make a statement without being sworn, and you will not be subject to cross-examination.(3) But a statement which could have been made on oath will not carry with the Court the same weight as sworn testimony.(4) You may call witnesses in your defence and as to character, whether you give evidence or make a statement or do neither.

President to accused: Do you wish to give evidence yourself as a witness, make a statement, or do neither? Ans. Evidence on oath. Do you intend to call witnesses on your behalf? Ans. No. Are they witnesses as to character only? Ans.....
(1. RP 115. 2. RP 40(A), see 80(D). 3. RP 40 fn 10. 4. RP 40 fns 2, 9.)

D6. Consequent on the answers recorded in para D5 the appropriate procedure for the defence is followed.(1)
(1. RP 114, 115, 116. For procedure see Notes on back of Convening Order, CF A95. Evidence for accused as to his character should, if so his interest, be given before the finding. See RP 46(A) fn 1, 86(C). Note the further opportunity in para E1 of Record Form E. Record per Notes addresses, statement, evidence and any summing up by the JA under RP 42, 103(e).)

D7. The Court is closed to consider the finding(s).(1) The finding(s) of the Court is (are) recorded in Part I of the Schedule.(2) The Court is re-opened.
(1. RP 42, 117(A). See Notes in Part I of Schedule. 2. RP 44(A).)

D8. The President ~~announces the finding(s), if any, of Not Guilty,~~ and states to the accused that the finding(s) of the Court on the.....charge(s), being subject to confirmation, will be promulgated later.(1)
Or The President announces that the accused is found Not Guilty on all charges and is to be released forthwith, and that the proceedings are accordingly terminated. Part I of the Schedule is dated and signed.(2)
(1. AA 54(2) (6), RP 45, 120(A). 2. AA 54(3), RP 45, 117. This alternative announcement is not applicable when there are pleas of Guilty outstanding and dealt with under Record Form B or C.)

D9. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E below.

RECORD FORM E—PROCEEDINGS ON CONVICTION BEFORE SENTENCE.

E1. President to accused: Do you wish to give evidence yourself or to call any witnesses as to your character?(1)
Ans. No.
(1. If evidence has already been given by accused or his witnesses as to his character, delete this para. RP 37(C) fn 4, 46 fn 1. Accused and witnesses are sworn. Evidence recorded per Notes.)

E2. The Prosecutor produces Statement(s) as to Character and Particulars of Service(1), and certified true copy (copies) of Conduct Sheet(s)(2), purporting to refer to the accused, which he submits to the Defending Offr for examination, and then to the Court for admission in evidence. The Court is satisfied that these documents refer to the accused, because (i) they purport to be signed in the manner required by AA 163(3) (g) (h), and (ii) they purport to refer to (a) soldier(s) having the same number, rank, name and corps as the accused. Admitted in evidence and marked Ex. 1 and Ex. 2 respectively.(3)
(1. AFB 355 or AFB 296. 2. MFM 6. 3. RP 46, KR Can 558. If above documents not produced, see RP 46 fn 1 para 1.)

E3. President to accused: Do you wish to address the Court on the Statement(s) and Conduct Sheet(s), and in mitigation of punishment?(1) Ans. I have nothing more to say.(2)
(1. RP 37(C), 46(D). 2. Address, if any, recorded per Notes. Court should permit accused or his witnesses to prove on oath anything here or previously stated which would affect the amount of punishment. RP 37(F) fn 7.)

E4. The President states that the Court is closed to consider the sentence, and that the sentence to be awarded by the Court, being subject to confirmation, will not be announced, but will be promulgated later, and the proceedings in open court are accordingly terminated.(1)
(1. AA 54(6), RP 120(A).)

E5. The Court considers the sentence.(1) The President records the sentence in Part I of the Schedule, which is dated and signed by him and the J.A., if any.(2)
(1. When several accused tried separately see RP 71 (D). One sentence only, comprised of the punishment or punishments laid down in AA 41, 44 and 45 proviso, is to be awarded to cover all charges in all charge sheets on which accused found guilty. RP 48. As to sentences see AA 44, 138, 182, RP 46-50, 69, 118, 119(A), KR Can 308, 330, 563-566, Overseas RO 309, 2323, MML p 60, 757-759. As to sentences assigned for civil offences by the law of England see AA 41(1), MML p 130. When accused already under sentence of imprisonment or detention see AA 44(18), 68(1), KR Can 564. 2. RP 50. As to release from arrest by Confirming Offr see KR Can 567. As to assembly and disposal of record after trial see instrs on back of Convening Order.)

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

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CHARGE

Army Act Sec 9(2)

The accused D 57288 Pte Guimond Stanley, Regiment de Maisonneuve a soldier of the Cdn Army (O) is charged with

WHILE ON ACTIVE SERVICE

DISOBEYING A LAWFUL COMMAND GIVEN BY HIS SUPERIOR OFFICER

in that he

In the field on the 24 Sept 44, when ordered personally by Major de Grandpre to return to his platoon did not do so.

"J.Bibeau"
(J.Bibeau) Lt Col
Commanding Officer
Regt de Maisonneuve

Dated
In the Field
7 October, 1944.

To be tried by F.G.C.M.

"W.J.Megill Brig
Comd 5 Cdn Inf Bde

17 Oct 44

FIELD GENERAL COURT-MARTIAL

(Whether the accused to be tried is under his comd or not, a FGCM may on application to him be convened by any offr of Cdn Army Overseas, or of any other force if authorized in law, in immediate comd of troops on active service, subject to RP 105(C) and restrictions imposed by appropriate authy. AA 49, 50, RP 104-107, 114. As to the duties and privileges of the Convening Offr in dealing with the application see MML Chap V paras 20 and 23, RP 87(B).

There should be a separate Convening Order for each person to be tried separately by the same Court, RP 71(C), 109. As to separate charge sheets see RP 62, and as to separate trial on charges in the same charge sheet see RP 108. As to two or more accused charged jointly see RP 16, 109. As to reasons for showing (a) permanent or confirmed rank, and (b) apprnt, A/rank or A/apprnt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

ACCUSED.

Number.	(a) Prmnt R.	(b) Apprnt, A/R or A/Apprnt.	Full Christian Names.	Surname.	Unit.
D 57288	Pte		Stanley	GUINARD	R de Mais

CONVENING ORDER.

1. Whereas complaint has been made to me, the undersigned, that the person(s) named above as the accused, being subject to military law, has ~~(have)~~ committed the offence(s) set forth in the Charge Sheet(s) attached and on (date) 17 Oct 44 endorsed by me, ~~for by an offr of my staff for apn~~, To be tried by Field General Court-Martial".

2. And whereas I am of opinion that it is not practicable that such offence(s) should be tried by an ordinary General Court-Martial ; (~~and that it is not practicable to delay the trial for reference to a superior qualified offr~~.)
(Delete part in brackets when not required for compliance with RP 105(C).)

3. I hereby convene a Field General Court-Martial to try the said person(s), and to consist of the Offrs appointed or detailed hereunder.

4. ~~I am unable to appoint (a) three Offrs to form the Court, (b) a Fd Offr as President, for the reasons I have attached hereto.~~ N/A
(AA 49, RP 106(B), 107(A). Delete the whole or part, if not applicable.)

5. I also appoint as Judge-Advocate thereat the Offr mentioned hereunder.
(RP 106(E). Delete, if none appointed.)

PRESIDENT.

Major (Rank.)	A.G. Stevenson (Must be named. RP 106.)		R.H.C. (Unit.)

MEMBERS.

Capt	E.E. Teagle		Calg H'ghrs
Lt (Rank.)	J.L. Fontaine (Named or detailed. RP 106.)		HQ 5 Cdn Inf Bde (R de Mais (Unit.)

WAITING MEMBER.

Lt (Rank.)	J.D.Moffatt (Named or detailed, if any. RP 106.)	Calg H'ghrs (Unit.)

JUDGE-ADVOCATE.

Capt (Rank.)	W.F. McDougal (Must be named, if any. RP 106.)	ADJA 2 Cdn Inf Div (Unit.)

On Active Service in the Fd

in Holland (Country.)

"W.J.Megill" Brigadier
(W.J. Megill) Brigadier (Rank.)

Date 17 Oct 44

Commanding 5 Cdn Inf Bde
Convening Officer.

CONVENING OFFR WILL INITIAL ALL DELETIONS AND ALTERATIONS

(See overleaf for oaths and notes for use on trial.)

MEDICAL CERTIFICATE K.R. Can 557

I certify that I have this morning examined No D 57288

Pte Guimond, E. of Reg de Mais and in my opinion he is fit to undergo trial by court martial

Station Field

Date 18 Oct 44

????????Capt
Medical officer.

#7.

1st Pros Wit Maj J.G.A.D. de Grandpre, R de Mais
sworn deposes.

I am OC A Coy R de Mais. I identify the accused. On
we Sep I sent accused to the M.O. as he said he was sick and could not
stay in position with his Pln. As a result of the M.Os report I
ordered the acc to report back to his pln which at the time was in
contact withthe enemy. I definitely ordered him back. The next day I
discovered he had not gone back. The next day I again ordered him to
report back immediately and left. Two hours later he was still there.
I ordered the C.S.M. to place him under arrest on a charge of disobeying
an order.

Cross Ex Acc said he was sick when I ordered him back I had already sent
him to see the M.O. the previous day.

No re ex

Court
His pln was forward and in contact with the enemy. The acc understood the
order as I explained it. He said he couldn't get as he was scared. He
certainly must have known I was an officer I was properly dressed.

R.P. 83(b) complied with.

2nd Pros Wit. No 56045 CSM Perrier R R de Mais sworn deposes.

I am CSM of A Coy R de Mais. I recognize the accused
A Coy was in contact withthe enemy. The acc was in A Coy. We debussed
near the enemy on 24 Sep. He wouldn't go back to his pln. I saw the
Major about it and the Major gave him an order to report back to his Pln.
The Coy was prepared to attack. The order was given at coy H.Q. the pln
of the accused was in front of coy H.Q. The acc did not go back after
receiving the order.

No Cross ex

Court When ordered to go back he said he wouldn't go as he was sick.
Wouldn't say any more than this. Just said he had a head ache and was
dizzy.

R.P. 83(b) complied with

3rd Pros wit Capt J.M.P. Robert, RCAMC attd R de Mais sworn deposes.

I am M.O. R de Mais. I identify the accused here today.
He came to me on 23 Sep. I remember the general nature of his complaint
but can't remember whether he said he couldn't stand it or whether he
had medical complaints. I concluded that his complaint was he couldn't
stand the strain of fighting.

Cross ex I don't remember giving him anything. He didn't show any
agitation. I may have given him some pills but I can't remember. Sometimes
I give a mild sedative. I haven't the necessary equipment to diagnose
stomach complaints. I have no X ray or lab. I can only give a clinical
opinion.

Re ex with cases of shell shock we try at themdirectly. I used to
evacuate them. We were to have exhaustion centres. Such cases were to
remain in the division. Used also to keep cases in F.A.P. lines. Now
either I send a man to his coy if his claims are unfounded. If I think his
complaint is justified I'll send him out for a rest at B Ech or A Ech.
There was no reason for me to send this accused to A or B I felt he was
capable of going back to the rest of his Pl and so sent him back.

R.P. 83(b) complied with

Acc duly sworn deposes.

On 24 Sep I was ordered to go back to my pln. I was not thinking clearly. I had had spells that made me dizzy. I couldn't act clearly. I saw the doctor three times over a period of a week. I was given pills which effected me in no way at all. I had the same treatment every time I saw him. My trouble is that I have weak lungs I've had symptoms of collapsing. If I stretch myself I get dizzy. If I take a deep breath I also get dizzy. I told the Doctor where the soreness was. The doctor examined my chest and breathing. Used his fingers as a stethoscope. Sometimes he'd said I might be sick at other times he'd say he didn't know

Cross Ex I've been in the army for five years approximately. I was a category when I entered army. In England I went on all our schemes & battle training. I went to the doctor in England as well as seeing him in France. In England I last saw the Dr I don't remember just when.

No re ex

Court C. 23 Sep when I saw the Dr he gave me a talk on cowardice. When he became appeasing. He went over my chest. After he examined me he told me to go back to my coy. I know the importance of obeying orders in the army. I went to coy H.Q. I didn't go back to my pln as I was sick. I had chest trouble that day. It made contact with my head. I used to play hockey in England and I got a hard body check. I just went to the doctor in France just about the time of 23 Sep

R.P. 73(2) complied with.

Pros Closing address

The charge is a hard one but I am sure that the evidence speaks for itself. I have nothing further to offer.

Close of Defence in the case of
D 92288 Pte Guimond, S.anley.

This man did not disobey a comand but was not in condition to execute the order given to him. When this soldier reported himself to coy H.Q. he was sick and was notable to do his job so his duty was to report to coy H.Q. to tell his commanding officer that he was unable to stay at his post.

As soon as he arrived there he was ordered to go back to his position. He could not go back because he was too sick.

Pte Guimond suffers from stomach troubles for a long time. He has seen the Regt M.O. 3 times. Each time he was given pills but his conditio still the same.

In my opinion his man should be sent to hospital where he could be given more attention.

J.A. Sums up

I must advise the court at the outset that this is indeed a serious charge with which we are dealing this afternoon. The evidence has disclosed the facts surrounding the circs of this alleged offence and you should approach it carefully. You must decide if the particulars of the charge have been proved and if you feel that they have then you must decide if those facts constitute the offence charged. With this charge the following must be proved.

(a) A command was given (b) that it was a lawful command (c) that it was given by a superior officer (d) that the order was disobeyed. In addition to this you must further be satisfied that any disobedience that may have occurred was immediately or proximate to the de and. (Note 1 of AA 9 read to the court)

So there is is. Allthese must be proved by the Prosecution and the burden of proof rests upon the prosecution throughout The acc need not prove his innocence. The Pros must prove his guilty beyond a reasonable doubt and if any such doubt exists inthe mind of any members of this court then he bound by law to interpret it in favour of the acc soldier.

A word now on thecredibility of the witnesses. You officers have heard and seen the witnesses here this afternoon and no one is better qualified than you to determine which are telling the truth and which are not. The question of credibility is entirely one for the court. You can believe all, or part, or nothing of a witnesses evidence according to how it strikes you as reasonable persons.

The facts are not in dispute. I think I am fair in stating that he order was never carried out. The acc himself says as much but offers in defence that he was too ill to comply with the order. If you believe that in part the accused could not carry out the order, that it was beyond his physical capacities, then you should acquit him of the charge. If not, and if all the other necessary elements have been proved then you may legally find him guilty of this offence.

There is nothing else I can say You are Regtl officers all used to handling men and I feel most capable of disposing of this charge in accordance with the oath which you have all taken.

Mr. President are there any further matters on which you wish me to direct the court NO

Mr. Pros Off " " " " " " " " " " " " " "

Mr. Def Off " " " " " " " " " " " " " "

No

No. D57288 Name Guimond, S. Bqn. Battery or Company COPY Corps C.I.C.

Company Conduct Sheet Date of last entry in — No and date of last drunk — Period not reckoning towards freedom from extra fine — Date of enlistment 21.5.40 — GC Badges — Service or Proficiency Pay — Sheet No One — Signature (OC Company, etc) G.D.de Grenadrs Major — Character

MFM 6 (AFB 128) 40-[illegible]/136 (3438)

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Name of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Field	15.7.41	Pte		AA Sec 11 Neglect to obey standing orders in that he was not in bed after lights out (B.O.#682)	L/Cpl Dumond Sgt Desrochers	5 days pay	16.7.41	Major W Lavigne	
Field	25.1.42	L/Cpl		AA 40 Act to the prejudice of good order and military discipline in that he had not disciplined for an NCO on 25.11.42	Sgt Godin	Reduced to rank of Pte	27.1.42	Lt Col H Bisbaillon	
Field	21.5.44	Pte		AWL from 0900 hrs 21 Aug 44 till 0730 hrs 23 Aug 44 total 1 day 22 hrs 30 min AA Sec 15	CSM Perrier Sgt Moissan	Forf 2 days pay	5 Sep 44	Lt Col Bibeau	
Field	26.8.44	Pte		AWL from 1359 hrs 26 Aug 44 till 1500 hrs 4 Sep 44 Total 8 days 15 hrs 1 min AA Sec 15	CSM Perrier Sgt Moissan	Forf 9 days pay 28 days pay	5-9-44	Lt Col Bibeau	FRI 149 forf 9 days pay

CERTIFIED TRUE COPY

P.Pefard Capt

(PTO)

STATEMENT OF CHARACTER & PARTICULARS OF SERVICE OF ACCUSED

No D 57288 Rank Pte Name GUIMOND STANLEY UNIT R de Mais

Age 24 Married or single SINGLE No of dependants NON

Date of attestation 21.5.40

Number of days in close arrest awaiting trial 25 days

Civil Military V Hospital Total

Dates of appointments, promotions, etc (if any) L/Cpl 15/1/42 Reverts to Pte 27.11.42 L/Cpl 10-121-43 Reverts to Pte 14.1.44

In the field
18 Oct 44
Date

P Palfard Capt
Officer i/c records

Certified true copy of M.F.H. 6 must accompany this form

SUMMARY OF EVIDENCE
in the case of

D 57288 Pte Guimond, Stanley, Regt de Maisonneuve, a soldier of the Cdn Army (O) while on active service is charged with

Short statement of the charge.

DISOBEYING A LAWFUL COMMAND GIVEN BY HIS SUPERIOR OFFICER
Sec 9(2) Army Act

The Commanding Officer has directed that the evidence be taken on oath.

FIRST WITNESS FOR THE PROSECUTION

Major J.G.A.D. de Grandpre, Regt de Mais, Cdn Army (O) having been duly sworn and having identified the accused states:

"I Major J.G.A.D. de Grandpre OC "A" Coy, Regt de Mais. At WESTWALLE at approx 1800 hrs 24 Sept 44 D 57288 Pte Guimond Stanley, came to my coy H.Q. C.S.M. Perrier H reported to me that D 57288 Pte Guimond Standly was there complaining that he was not well and could not stay out with his Platoon. I had this man examined by the Medical officer the previous day The Medical officer reported there was nothing wrong with him. I went outside and ave Pte Guimond Stanley, an order to report back to h's platoon within five minutes. He said he could n t do that. About an hour later Pte Guimond Stanley was still at my coy H.Q. I then gave an order to C.S.M. Perrier H to place h'm under arrest and charged him with disobey'ng an order.

THE ACCUSED DOES NOTWISH TO CROSS EXAMINE THE WITNESS

"J.G.A.D. de Grandpre Major
(J.G.A.D. De Grandpre) Major
Regt de Maisonneuve

SECOND WITNESS FOR TE PROSECUTION

D 56045 C.S.M. Perrier, H. Regt de Mais, Cdn Army (O) having been duly sworn and having identified the accused states.

"I CSM Perrier, H. of "A" Coy Regt de Mais, On the 24 Sept 44 at 1800 hrs at WESTWALLE, Pte Guimond Stanley, complained to me that he was sick. I took him before Major de Grandpre because the accused had been before our Medical Officer who said nothing was wrong with him. Major de Grandpre ordered him to go back to h's platoon after Guimond said he couldn't go back because he was too sick. Major de Grandpre immediately placed the accused under close arrest. I then detailed two men as escorts for Pte Guimond. On the moving of the 24 Sept 44 we sent Pte Guimond to Detention room

THE ACCUSED DOES NOT WISH TO CROSS EXAMINE THE WITNESS

"H.Perrier"
(D 56045 CSm Perrier H)
Regt de Maisonneuve

THIRD WITNESS FOR THE PROSECUTION

Capt P Robert M.O. Regt Mais Cdn Army(O) having been duly sworn and having identified the accused states:

"I Capt P. Robert, M.O. R de Mais, on the 23 Sept 44 I exami ed D 59288 Pte Guimond, G. at the R.A.P. This man complained that he could not longer stand the condition of the active service. He examination failed o show anything to support his claim on the Medical graound and I returned him to his lines so that his case be dealt with on the ciplinary ground.

"P.Robert Capt
(P.Robert) Capt M.O.
Regt de Maisonneuve.

I CERTIFY THAT THIS SUMMARY OF EVIDENCE OF (2) wo pa es has been taken down by me in the presence xfxxxxxxxxxxxx and the hearing of the accused.
The accused having been duly cautioned in accordance with R.P. 14 (A)(B)(C)(D)(E)(F) says,
I donot wish to give evidence or make a statement. The accused does no wish to call witnesses in his defence at this po t.

Dated in the field
7 Oct 44

"F.D.Boucier"
(F.D. Boucier) Capt
Regt de Maisonneuve

KK-88

PTE GRUNDY J.

Correspondence to be PINNED here.

"A-7"

H-19449 Pte James Grundy,
2 Bn, 1 CBRD.

KK-88

Army Form A.8.

Form for Assembly and Proceedings of Field General Court Martial on Active Service.

PROCEEDINGS.

A. Order convening the Court.

On Active Service, this TWENTY-FIRST day of JUNE, 19 . FORTY-THREE

Whereas it appears to me, the undersigned, an officer in Command of CANADIAN REINFORCEMENT UNITS, CANADIAN ARMY OVERSEAS, on active service, that the persons named in the annexed Schedule, being subject to Military Law, have committed the offences in the said Schedule mentioned.

And whereas I am of opinion that it is not practicable that such offences should be tried by an ordinary General Court Martial; *[and that it is not practicable to delay the same for reference to superior authority]

*Omit where Convening Officer is a Commanding Officer or is of Field Rank.

I hereby convene a Field General Court Martial to try the said persons, and to consist of the Officers appointed or detailed hereunder.

*[I have omitted to appoint
*(Three Officers to form the Court)
*(a Field Officer as President)]

*Omit if not applicable.

Note.—The President must be named. The members and waiting members (if any) may be mentioned by name, or the number and ranks and the unit to which they belong may alone be named. In the latter event, the ranks, names, &c., of the members of the court, as constituted, will be recorded on the proceedings.

President.

Rank.	Name.	Regiment.
LT-COL	D.L. REDMAN, V.D.	H.Q. C.R.U.

Members.

Rank.	Name.	Regiment.
A CAPTAIN	FROM	1 CASCRU.
A LIEUT.	FROM	1 CSRU.

* Must be signed personally by the Officer actually in command at the time, and all alterations in the composition of the Court to be initialled by him.

*Signed (J.H.E. ROBERTS) Maj-Gen.,
Commanding Cdn Rft Units.
Convening Officer.

SCHEDULE.

Number, Rank (a), Name and Unit of Accused (b)	Offence charged	*Plea	Finding, and if Convicted, Sentence (c)	How dealt with by Confirming Officer (d)
H-19449 Pte James Grundy, 2 Bn, 1 CBRD.	FIRST CHARGE Sec 15(1) A.A.	Guilty	Guilty Sentenced to undergo detention for a period of Forty (40) Days and to be put under stoppages of pay until he has made good $20-15-6 the expenses of his arrest and return 21st of June 1943	Confirmed J.W.R.

See Charge Sheet Attached.

* Question to be asked of accused, if he pleads not guilty (R. of P. 89 (A)) :—
"Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity for preparing your defence?"
Answer (to be recorded on separate sheet if necessary) :—

(Signed) J.W. Roberts (J.W. ROBERTS) Maj-Gen., Commanding Cdn Aft Units. — Convening Officer (c)

(Signed) [illegible] — President.

(a) Appointment acting rank or acting appointment, if any, to be stated in brackets after the substantive rank.

(b) Unless unavoidable, not more than three names are to be entered on one form, and in serious cases one only.

(c) Recommendation to mercy, if any, to be inserted in this column.

(d) It is not necessary that the Confirming Officer should sign his name in this column. Initials are sufficient.

(e) Must be signed by the same Officer who signs on the first page, and all alterations in the first two columns of the Schedule to be initialled by him.

Evidence and Charge Sheets (if necessary) to be PINNED here.

B. Certificate of President as to proceedings.

I certify that the above Court assembled on the 21st day of June 1943, and duly tried the persons named in the Schedule, and that the plea, finding, and sentence in the case of each such person were as stated in the third and fourth columns of that Schedule.

I also certify that :—

1. The members of the Court
2. The witnesses
3. ~~The interpreter~~
4. The officers under instruction)

* Omit if not applicable.

were duly sworn.

Signed this 21st day of June 1943

[illegible]
President of the Court Martial.

C. Certificate in case of death sentences.

* See footnote (b) on page 782 M.M.L. 1929

~~I certify that the terms of A.C.I. 370 of 1918 have been complied with.~~

Signed this ~~day of 19~~.

President of the Court Martial.

D. Confirming Officer.

I have dealt with the findings and sentences in the manner stated in the last column of the Schedule, and, subject to what I have there stated, I hereby confirm the above findings and sentences.

* To be omitted unless penal servitude, imprisonment or detention having been awarded, the Confirming Officer either has no authority to commit to prison or detention barrack, or, having such authority, recommends suspension.

*~~(I direct that the soldier named in the margin be not committed to prison or detention barrack until further orders.)~~ J.W.R.

Signed this 22 day of June 1943.

J.W. Roberts
J.W. ROBERTS, Maj-Gen.
Comd, Cdn. Aft. Units.
Confirming Officer.

Promulgated and extracts taken in the case of Casualty Return R-249

(a) (Dated) 22 Jul 43 (Signed) W.L. Griffin Capt. Adjutant

Promulgated and extracts taken in the case of

(Dated) (Signed)

Promulgated and extracts taken in the case of

(Dated) (Signed)

(a) When several cases are promulgated in one unit on the same day the Officer need only sign once.

W/L 67297/1927 30 M. 5/41 K.H.,S.(S.D.) Gp. 488/3

CHARGE SHEET

The accused H-19449 Pte. Grundy, James on the strength of the X-List Saskatoon Light Infantry (M.G.), 2nd. Bn., No.1 Cdn. Base Reinf. Depot, a soldier of the Canadian Army Overseas is charged with

FIRST CHARGE
SEC.15(1)
ARMY ACT

WHEN ON ACTIVE SERVICE ABSENTING HIMSELF WITHOUT LEAVE

in that he

2nd Bn., No.1 Cdn. Base Reinf. Depot, Cdn Army (Oversees) absented himself without leave from 2200 hrs. 16 May 1943 until apprehended in Bognor Regis by a War Reserve Constable, No.57, Police Station, Bognor Regis,at about 2245 hrs., 10 June 1943, thereby incurring expense to the public in the amount of $ 0 . 15 . 6 costs of apprehension

C W Campbell .....Major
(C.W.Campbell) Commanding,
2nd. Bn.,1CB,R.I.

To be tried by Field General Court Martial.

J H Roberts
(J.H. ROBERTS) Maj-Gen.,
Comd
CANADIAN REINFORCEMENT UNITS

In the Field,
21 Jun 43

2ND. BN., NO.1 CDN. BASE REINF. DEPOT

2nd. Bn., 1 C.B.R.D.,
Cdn. Army, England.

21 Jun. 43

H-19449 Pte GRUNDY, ...

1. This is so certify
that the m/n has been examined by me this date
and is found to be fit to undergo trial
by Court Martial.

R. G. Hart, Capt.
(R. G. Hart) Medical Officer.
2nd. Bn., 1 C.B.R.D.

PROCEEDINGS OF A FIELD GENERAL COURT MARTIAL
HELD AT N.A.A.F. GODMANDE
ON THE 21 DAY OF JUNE 1943

The accused. H19349 Pte JAMES G. .....Unit. 2 BN. A.I.C.B.R.D. ...

The order convening the Court and charge sheet are laid before the Court, who satisfied themselves as provided by Rs.P. 22 and 23.

The accused is brought before the Court.
The Medical Certificate is laid before the Court.
The order convening the Court is read by the President, and the accused having been asked, stated that he had no objection to the president or any member of the Court.
The Court is duly sworn.

The following constitute the Court:-

President Lt. Col REDMAN D.L. (MD) .Unit.....

Members. CAPT. CAMPBELL R.H. .Unit. R.C.A.S.C.....

LIEUT. FLEURY R. .....Unit R.C. Sigs. 2 I.C.B.R.D.

The officers under instruction are duly sworn:-

NIL OFFICERS DULY SWORN .Unit.....

.....Unit.....

Prosecutor Lieut. OWEN D.M. .....Unit. A.I.C.B.R.D. .....

Defending Officer CAPTAIN S.G. ...Unit A.I.C.B.R.D. .....

The charge sheet is signed by the President and the accused is arraigned.
The accused pleads guilty to the charge(s) and R.P. 35(B) is complied with.
The accused does not desire to make a statement in reference to the charge(s). R.P. 37(B).
The Summary of Evidence is read.
The Prosecutor produces ~~MFR 355~~ AFB 296 and MFM 6.
The Court complies with R.P. 46(B).

Pursuant to R.P. 37 THE ACCUSED:-

(a) Makes a statement in mitigation of punishment.
(b) Calls witnesses as to character.
(c) ~~Calls witnesses in mitigation of punishment.~~
(d) Addresses the Court by his Defending Officer.

Overseas R.O. 3262 complied with.
The Court is closed to consider the sentence.

SUMMARY OF STATEMENT IN MITIGATION, CHARACTER EVIDENCE and ADDRESS OF ACCUSED OR HIS DEFENDING OFFICER

(Over) for Character and Statement Plea in mitigation is attached

letters as to character.

Major C H Campbell 2nd Bn 1 C B R D
being duly sworn states
. I comm the 2nd B.n. I have made
all enquiries and find him to be of
good character, willing & industrious
He has been subject to "Parade Pain"
correspondence respecting his family
I applied for clemency.

The accused being duly sworn states
in mitigation
I have been receiving letters from so
called friends in Nigeria man
saying my wife was Running round
I don't know whether its true. Also
I was dropped from my Right to
1 C B R D. Both these things got me down
I had a few drinks out went A W L. I
intended to return. This is my first
offence. Service in nearly 4 years.

Plea in Grundy

I am asking the Court for leniency when considering what sentence to impose upon this accused. To me it is apparent that Grundy was driven by domestic worries to go absent. The series of "poison-pen" letters concerning his wife, in combination with his transfer from the familiar associations of his field unit to a strange unit, preyed upon his mind to such an extent as to cause a normally sober & industrious soldier to do something he would not do at other times. The accused's conduct since speaks for itself. In nearly four years in the Army he has never been guilty of any serious crime. His present Commanding Officer has given evidence today & speaks highly of the accused. If the Court can see its way clear to avoid giving the accused detention it will be much appreciated by him & I'm sure he will never give the Court cause to regret it.

Army Form B 115.

Exhibit A.

Record of the Declaration of a Court of Inquiry on the Illegal Absence of a Soldier.

RECORD of the Declaration of a Court of Inquiry assembled at In the Field on the 7th day of June 19 43, for the purpose of investigating and recording the absence, without leave, from his duty, and deficiency, if any, in the Arms, Ammunition, Equipments, Instruments, Regimental Necessaries, or Clothing of No. H 19449 Pte. Grundy J.

DECLARATION.

The Court declare that H 19449 Pte. Grundy J. "D" Coy. No. 2 Bn. 1 C.B.R.D. illegally absented himself without leave (or other sufficient cause) in the field at 2200 hrs. on the 16th day of May 1943, that he is still so absent and that on the 7th day of June 1943 he was deficient and that he is still deficient the following articles:-

1 pr anklets 3-5½	3 - 5½	1 razor safety 1-10½	1 - 10½	
1 cap F.S. drab 3-8	3 - 8	1 great coat 3-17-0½	3- 17-0½	
1 pr drawers cell. short @ 2-0½	4 - 1	1 pr short gym 1 -11	1 - 11	
1 brush boot polish 1-9	1 - 9	2 vests woollen 5-1	10- 2	
1 brush shaving 1-4	1 - 4	1 bottle oil 0-3	0 - 3	
1 brush tooth 0-4½	0 - 4½	1 sling rifle web 1-1	1 - 1	
1 fork table 0-5	0 - 5	1 tin mess 2-6½	2 - 6½	
1 spoon desert 0-4½	0 - 4½	1 blanket G.S. 16-4½	16- 4½	
1 knife table 0-9½	0 - 9½		£6 - 10 - 6	
1 holdall 0-9	0 - 9	25% off	£5 - 9 - 4½	
housewife 2-3	2 - 3			

Signed in the field this 7th day of June 1943

Names of President and Members

President R. A. Outhet Lieut.

Member P.J. Dagnell Lieut.

Member A.L. Robertson Lieut.

Signature of Commanding Officer

CERTIFIED TRUE COPY.

Signature of Officer having custody of the Original Record.

Exhibit A. True copy of declaration of Court of Inquiry re Grundy J. H.19449 Pte. Marked Exhibit A. Sgt. Thomas Clerk

H24.

(33551) W1.34315/1022 75,000 10/39 A.A.E.W.Ltd. Gp.699 Forms/B115/56
(33441) W1.43725/380 625,000 1/40

DESCRIPTIVE RETURN OF Pte, H, 19449, Grundy James.

Apprehended at Bognor Regis (hour) 10.45 on Thu. 10th (day) of June. 1943, and was xxxxxxxxxxxxxxxx was handed over to Military Escort. on the 11-6-43. day of June 1943. as a xxxxx (or Absentee without leave) from the Bn. of the Queens Own Cameron regt of Canada. Regiment of

Age 36 years.	Height 5ft	feet 8½	inches
Complexion Fresh	Hair Dark Brown.	Eyes Grey.	
Marks Scar over left eye.	In uniform or plain clothes Uniform		

Probable date and place of attestation	11-9-39. Winnipeg Man Canada.
Probable date of desertion or beginning of absence and from what place	About 13-5-43. Aldershot.
Name, occupation and address of the person by whom or through whose means the Deserter (or Absentee without leave) was apprehended and secured	W.R.C.Warner.No,57,Police Station. Bognor Regis.

Particulars in the evidence on which the prisoner is committed, and showing in what manner and upon what grounds he was apprehended. The fullest possible details to be given.

* At 10.45pm,Thurday 10th,June,1943,War Reserve Warner called at 1a,Essex Road,Bognor where he saw Pte Grundy, he told him that he had reason to believe that he was an absentee, to which he replied,"Yes I have been away about 3 weeks".

I DO HEREBY CERTIFY that the Prisoner has been duly examined before me as to the circumstances herein stated, and has declared in my presence that he† the before-mentioned Corps.

Signature
Residence
Post Town
Date of Signature
Signature of Prisoner
Frederick G. Warner. W.57. Signature of Informant

of Committing Magistrate

Or where the Prisoner confessed, and evidence of the truth or falsehood of such confession is not then forthcoming

I HEREBY CERTIFY that the above-named Prisoner confessed to the circumstances above stated, but that evidence of the truth or falsehood of such confession is not forthcoming, and that the case was adjourned until the day of for the purpose of obtaining such evidence.

Signature
Residence
Post Town
Date of Signature

Magistrate

* Care should be taken to insert Army No. and Rank.
† Insert "was apprehended" or "surrendered," as the case may be.
‡ It is important for the public Service, and for the interest of the Deserter or Absentee without leave, that this part of the return should be accurately filled up, and the details should be inserted by the Justice in his own handwriting, or under his direction, by his Clerk.
† Insert "is" or "is not a Deserter" or "Absentee without leave from," or "belongs," or "does not belong to," as the case may be.

Army Form O.1618.

PART II.

This portion of the Form, after the Magistrate has committed the soldier and completed the recommendations as to reward, will be handed by the Clerk of the Court to the Police, who will add overleaf a statement of any expenses incurred by them.

Apprehension of No. of

Regiment at on by

who was committed as a Deserter (or Absentee without leave) on the

RECOMMENDATION FOR REWARD.

I RECOMMEND*

Address

for a reward of

(Signature of Committing Magistrate.

Date

*The Magistrate will insert the name and address (in full) of the person for whom the reward is recommended, and the amount (5/-, 10/-, 15/-, or 20/-) which in his opinion should be granted in this particular case, having regard to the following rules :—

1. When soldiers are apprehended in uniform near their quarters it is considered that as a general rule 5/- is a sufficient reward. Not more than 10/- will be allowed in any case where the soldiers were in uniform.

2. When soldiers are apprehended in plain clothes, at a distance from their units, and after having been absent for some time, the reward may be increased to 10/- or 15/- according to the nature of the cases and the trouble incurred in apprehension. A reward in excess of 15/- will seldom be granted.

3. The reward of 20/- should be strictly reserved for cases where superior intelligence has been displayed in apprehending men in plain clothes, or under difficult or exceptional circumstances.

Rewards and expenses attendant upon apprehensions will be paid by the Command Paymaster of the Command or District in which the soldier's Unit is stationed.

4. No reward can be authorised if the Deserter or Absentee voluntarily surrendered, or if it shall appear that he was in collusion with the person who apprehended him, or if the apprehended man was not a Deserter or Absentee.

The following Statement of expenses (if any) incurred by the Police and chargeable to Army Funds should be certified by a Superintendent or Officer in charge of a station.

No expenses incurred in conveying a Deserter or Absentee from the Court to prison should be charged to Army funds. Such expenses can be included in the claim made on the Prison Commissioners.

The total amount allowed on account of expenses before committal will not together with the reward exceed 40/-.

I CERTIFY that the following expenses were incurred by the.....

Police in connection with the apprehension of.....

.....and are

payable to.....

.....
(Superintendent or Officer i/c Police Station at

Date.....

AUTHORITY for the PAYMENT of a REWARD. *(For Army use only.)*

The Command Paymaster.....is hereby authorised to pay to.....being the person recommended by the Committing Magistrate, a reward of.....for the apprehension of.....

Date.....
(O.C. Unit)
Officer Commanding.

Where no reward is authorised though one was recommended by the Magistrate, or where the reward authorised is less than that recommended, a brief explanation will be given below :—

IMMEDIATE. Army Form C.1618.

PART I.

DESCRIPTIVE RETURN of a Deserter or Absentee without Leave.

INSTRUCTIONS FOR THE GUIDANCE OF MAGISTRATES.

(1) When a man is apprehended by the Civil Power as an absentee without leave, or as a deserter, if the information tendered leaves no doubt in the mind of the Magistrate that the prisoner is a soldier, this return should be completed and given to the Police to hand to the escort on arrival.

(2) To avoid delay in the arrival of the escort a telegram stating the Number, Rank, Name and Unit of the soldier should be sent by the Police, as soon as the man is committed, to the Officer Commanding the soldier's Unit. The place where the escort is required to attend should be stated, also whether the soldier *surrendered* or was *arrested*.

(3) Any recommendation for a reward should be made on Part II of this return.

(4) The Court fees chargeable for Descriptive Returns should be claimed periodically from the Command Paymaster of the Command in which the Court is situated.

(5) The stations of all Units are shown in the Monthly Army List, as are also the Depots of Corps.

In the case of doubt as to the location of a particular Unit reference should be made to the nearest O.C. Troops. Where the soldier's Unit is stationed overseas (outside Great Britain, Northern Ireland District, and the Channel Islands) the telegram for an escort should be despatched to the O.C. Depot, who will take all necessary action for its provision.

(71611) Wt.30611/1611 10,000 12/40 A & E (Gp.69) Forms/C.1618/2

Expense Voucher Re—: Ref: K.R. & O. (Can) 539

Reg. No. H19449 Rank P/L Name Grundy, J. Unit 1 C.B.R.K.D.

The following expenses were incurred in apprehending and returning the M/N Soldier to ~~his Unit From~~ London from Boynor Regis.

Date	Particulars	Amount £	s	d
13 June 43	Escorts return fare from LONDON To Boynor Regis		10	4
	Prisoners single fare to LONDON From Boynor Regis		5	2
	Prisoners fare from To			
	Escorts & Prisoners expenses for Bed, Meals, Bus fares			
	Total £		15	6

I certify that the above statement of Expenses is Correct, and that the amounts are fair and just.

CAPT.
(W. FERN) D.A.P.M.
LONDON AREA.

Officer Issuing Railway Warrant and Expense monies
No. 6 Provost Company, Canadian Provost Corps, London.

C.M.H.Q. 1000:55
60-P & S/483

Summary of Evidence

In the case of H-1994 Pte Grundy, J. of the X-List- Saskatoon Light Infantry (M.D.), 2nd Bn., No. 1 Can. Base Reinf. Depot, Can Army (Overseas)

By direction of the Commanding Officer this Summary of Evidence is taken down.

First Witness for the Prosecution — Lieut- R.L. Griffin 2nd Bn, No1 Can Base Reinf Depot, Can Army (Overseas) having been duly sworn states:-

"I am the Adjutant of the 2nd Bn, No. 1 Can Base Reinf. Depot, Can. Army (Overseas). I produce herewith certified true copies of Declaration of the Court of Inquiry, relating to the accused, duly initialled by me for purposes of identification. This document is marked Exhibit- A.

The accused declines to cross examine the witness.

RLGriffin Lieut-
(R.L. Griffin) Adj
2nd Bn, No1 C.B.R.D.

Second Witness for the Prosecution — H-21367 Sgt May PJ. 2nd Bn, No1 Can Base Reinf. Depot, Can. Army (Overseas) having been duly sworn states

"I am the Provost sergeant of the 2nd Bn No1 Can Base Reinf. Depot, Can Army (Overseas). On the 15th June 43 at 1650 hrs. the accused was delivered

into my custody by a representative of the Provost Corps. The accused was sober and properly dressed. At the same time A.F.S. 1618 (Description Return of a Deserter or Absentee Without Leave) and Expense Voucher for ~~prisoner and~~ escort return from London to Bognor Regis and for prisoner from Bognor Regis to London. These have been duly initialled by me and presented as Exhibit "B" and "C" respectively.

The accused declines to cross examine the witness

Prov/Sgt. May J.J. Sgt.
(J.J. May) 1A-21367

The accused having been duly cautioned in accordance with Rule of Procedure 47(c) reserves his defence.

I certify that the foregoing Summary of Evidence consisting of two (2) pages was taken down by me in the presence and hearing of the accused and the Rules of Procedure 47(c)(d)(e)(f) and (g), have been complied with.

C.S. Munro Lieut.
(C.S. Munro) Officer detailed to take Summary of Evidence

On the Field.
15 May 1943.

SUMMARY OF EVIDENCE

In the case of H-19449 Pte Grundy, J. on strength of the X-List Saskatoon Light Infantry (M.G.), 2nd.Bn., No.1 Cdn. Base Reinf. Depot, Cdn. Army (Overseas).

By direction of the Commanding Officer this Summary of Evidence is taken on oath.

First Witness for the Prosecution

Lieut R.L.Griffin, 2nd. Bn., No.1 Cdn. Base Reinf. Depot, Cdn. Army, (Overseas), having been duly sworn states:-

" I am the Adjutant of the 2nd. Bn., No.1 Cdn. Base Reinf. Depot, Cdn. Army, (Overseas). I produce herewith certified true copy of Declaration of Court of Inquiry, relating to the accused, duly initialled by me for purposes of identification. This document is marked Exhibit A

The accused declines to cross examine the witness.

R.L.Griffin .....Lieut
(R.L.Griffin) Adj.
2nd.Bn., No.1 CB.R.D.

Second Witness for the Prosecution

A-21367 Stf. Sgt. May, J.J., 2nd. Bn., No.1 Cdn. Base Reinf. Depot, Cdn. Army, (Overseas) having been duly sworn states:-

" I am the Provost Sergeant of the 2nd. Bn., No.1 Cdn. Base Reinf. Depot, Cdn. Army, (Overseas) On the 13 June 1943 at 1650 hrs., the accused was delivered into my custody by a representative of the Cdn. Provost Corps The accused was sober and properly dressed. At the same time A.F.C.1618 (Descriptive Return of a Deserter or Absentee Without Leave) and Expense Voucher for escort return fare from London to Bognor Regis and prisoners fare from Bognor Regis to London. These have been duly initialled by me and presented as Exhibits B and C respectively.

The accused declines to cross examine the witness.

Prov. Sgt. May J.J. Sgt.
(J.J. May) A-213[illegible]

The accused having been duly cautioned in accordance wi with Rule of Procedure 4 (e) reserves his defence

I certify that the foregoing Summaty of Evidence consisting of Two (2) pages was taken down by me in the presence and hearing of the accused and the Rules of Procedure 4 (c)(d)(e)(f) and (g) have been complied with.

C.S.Munro ...Lieut..
(C.S.Munro) Officer detailed to take Summary of Evidence.

In the Field
16 May 1943

This is to certify receipt by me of one copy of of the charge sheet and one copy of the Summary of Evidence pertaining to the charges against me,

Signed this 16 day of
June 1943

Pte Leo Gerundy

I would like the following named officer to defend me in my case if he is available

Lieut J. Graham

No. H19449 Name GRUNDY, J. Sqn., Battery, or Company "D" Corps Casevors of Canada Date of enlistment 11-9-39 G.C. Badges Last sheet destroyed 11-3-42 Service or Proficiency Pay

M.F.M. 6
(A.F.B. 127)
(P & S/136 (2637)

Date of last entry in Company Conduct Sheet 29-4-42 No. and date of last drunk Nil Period not reckoning towards freedom from extra fine Sheet No. Signature C.O. Company, etc. Charges

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order directing with trial	By whom awarded	Remarks
Field	28-3-42	Pte	Nil	W.O.A.S., Absent in that he was absent without leave from 1330 hrs 28-3-42 until 1130 hrs 1-4-42 3 days 22 hrs Sec 15(1) A.A.	Pte'y C.S.M Orlesky Sgt Welsh Cpl Warren	4 days pay 14 days C.B.	4-4-42	Lt.Col A.C. Gostling.	
Field	No date Available			(1) W.O.A.S. Absent Without Leave from 2130 hrs 30/5/42 to 0700 hrs 31-5-42 9 hrs 30 mins Sec 15 (1) A.A. (2) Breaking out of camp 15 A.A.	Cpl Cochrane Cpl Smith K.A. Sgt Fleming	7 days CB.	2-6-42	R.M. Campbell Capt	
Field	3-7-42	"	"	W.O.A.S. Absent Without Leave from 0600 hrs 4-7-42 to 1645 hrs 24-7-42 10 hrs 15 mins Sec 15(1)A.A.	L/Cpl Taylor	1 days pay Admonished	24-7-42	H.C. Kent, Lieut	

(P.T.O.)

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Field	29-12-42	Pte	-	Sec 40 A.A. (i.e.) In possession of a dirty rifle.	B75680 Sgt Simpson, F.A.	7 days C.B.	30-Dec-42	Cpl R.S. Snider	
Field	11-1-43	Pte		Sec 15 A.A. Absent 2 days 16 hrs (0600 hrs 11-1-43 to 2200 hrs 13-1-43	H19169 Sgt Everson, W.E.		14-Jan43	Lt.Col D.C. Cunningham, D.S.O.	Forfs 3 days Pay

CERTIFIED TRUE COPY OF M.F.M. 6 CONSISTING OF 1 SHEET

OFFICER HAVING CUSTODY OF ORIGINAL DOCUMENTS

H.L. Griffin Lieut.,
(H.L. Griffin, M.C.) Adjt.,
No 2 Bn., 1 Cdn Base Hrt Depot.

ARMY FORM B.296.

Statement as to Character and Particulars of Service of Accused.

Number.	Rank.	Name.	Regiment (or as the case may be).
H-19449	Pte	GRUNDY, James	2nd. Bn., Cdn. Base Reinf. Depot.

1. The following is a fair and true summary of the entries in the regimental ~~unit squadron battery or company~~ conduct sheet† of the accused, exclusive of convictions by a court martial or a civil court, of summary awards under section 47 of the Army Act, and of cases in which trial has been dispensed with :—

Note.—At a trial by field general court martial this summary may be completed from the field conduct sheet.

† Conduct sheet(s) mentioned should be produced in court with this statement but not marked in the proceedings.

‡ See para. 617, K.R., 1940.

* The numbers herein stated should correspond with the number in entries in the conduct sheets, preference being given to the most serious offence in each entry, and to any recognised special acts of gallantry or distinguished conduct.

INSTRUCTION.—If the charge is for drunkenness the entries for drunkenness must be stated separately and dated.

	* Within last 12 months.	*Since Enlistment.
For A.A. 15(1)	2 times	4 times.
For A.A. 40	1 times	1 times.
For	times	times.
For	times	times.
For	times	times.

~~Number of instances of gallantry or distinguished conduct~~

or

~~There are no entries in the conduct sheets of the accused~~

2. The accused has not been previously convicted, or

~~Previous convictions† of the accused by a court martial or a civil court, summary awards under section 47 of the Army Act, and dispensations with trial under section 72 of the Army Act, are set out in the schedule annexed to this statement.~~

3. The accused is not under sentence at the present time, ~~or The accused at the present time is under sentence for~~

~~_____~~ beginning on the ~~_____~~ day of ~~_____~~

4. The accused has been in confinement awaiting trial on the present charges, for 1 day, 11 days, in civil custody Nil, 10 days in military custody, making a total of 11 days, of which Nil. days were spent in hospital.

5. The present age of the accused according to his ~~record of service~~ attestation paper is 36 yrs 11 mos 21 days

6. The date of his ~~commission~~ attestation specified in his ~~record of service~~ attestation paper is 11-Sep 1939

7. The service which the accused is allowed to reckon towards discharge or transfer to the reserve is 45 mos 6 days

8. The accused is entitled to deferred pay or gratuity in respect of 45 mos 6 days service.

9. The accused is entitled to reckon 45 mos 6 days service for the purpose of determining his pension, etc.

10. The accused is in possession of, or entitled to, no military decoration or military award ~~(or is in possession of or entitled to (state any military decoration or award))~~

11. ~~(If the accused is a warrant officer.) The accused before he was made a warrant officer had held the regimental rank of _____~~

12. ~~(In the case of an officer.) The accused held in the army the rank of _____ from _____ and in his regiment (or corps or department) the rank of _____ from _____~~

(71855) Wt.31551/P.C. 75,000. 12/40. A.& R.W.Ltd. 19/1198

Schedule of Convictions by a Court Martial or Civil Court, of summary awards under Section 47 of the Army Act and of cases in which trial has been dispensed with of accused.

No. ..... Rank ..... Name ..... of ..... Regiment (or as the case may be).

(INSTRUCTION—A verbatim extract from the regimental books, stating these convictions and dispensations with trial, must be inserted.)

Description of court by which tried, or status of officer disposing of the charge or dispensing with trial.	Date and place of trial, or summary award under A.A. 47, or of order dispensing with trial.	Charges upon which convicted, or in respect of which trial was dispensed with.	Sentence of the court or authority disposing of the charge, or order of the disposing authority.	Punishment remitted.

I HEREBY CERTIFY that the foregoing schedule of convictions and dispensations with trial is a true extract from the regimental books in my custody.

Signed this 21st day of June 1943.

R.E.Griffin Lieut.
(R.E.Griffin) Adj.

13. The accused has served as a non-commissioned officer continuously, without reduction, to the present date.

In the rank of ..... years.
Date of Promotion.
In the rank of ..... years.
In the rank of ..... years
In the rank of ..... years.

(INSTRUCTION.—*If any matter in any of the above paragraphs cannot be stated from the regimental books the paragraph must be struck through, except that in the case of a trial by field general court martial the information must be collected from such sources as are available and the paragraph retained amended accordingly.*)

EE-125

PTE GRUNDY J.J

EE 125 1

Correspondence to be PINNED here.

Army Form A.3.

Form for Assembly and Proceedings of Field General Court Martial on Active Service.

PROCEEDINGS.

A.

Order convening the Court.

On Active Service, this 8th day of May, 1943.

Whereas it appears to me, the undersigned, an officer in Command of 11 Cdn Inf Bde.,5 Cdn Armd Div.

, on active service, that the persons named in the annexed Schedule, being subject to Military Law, have committed the offences in the said Schedule mentioned.

And whereas I am of opinion that it is not practicable that such offences should be tried by an ordinary General Court Martial; * xxxx

SCHEDULE

Number, Rank (a), Name and Unit of Accused (b)	Offence charged	*Plea	Finding, and if Convicted, Sentence (c)	How dealt with by Confirming Officer (d)
A43059 Pte John James GRUNDY The Irish Regt of Can., 5 Cdn Armd Div.	1st CHARGE When on active service, conduct to the prejudice of good order and military discipline in that he (see charge sheet att) Sec 40.A.A.	Guilty	To undergo 90 days detention & forfeit 90 days of Pay. Reprimanded. 1/2 of cont. £14-0-6 E.H. Rockingham Pte 10 May 43	Confirmed HS. Confirmed HS.

*Question to be asked of accused, if he pleads not guilty (R. of P. 39 (A)):—"Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity for preparing your defence?"
Answer (to be recorded on separate sheet if necessary):—

(Signed) H Sharp. (Signed) E.H. Rockingham Pte
(H Sharp) Brigadier — Commanding 11 Cdn Inf Bde
Commanding Officer (d) — Examinee.

(a) Appointment acting rank or acting appointment, if any, to be stated in brackets after the substantive rank.
(b) Unless unavoidable, not more than three names are to be entered on one form, and in serious cases one only.
(c) Recommendation to mercy, if any, to be inserted in this column.
(d) It is not necessary that the Confirming Officer should sign his name in this column. Initials are sufficient.
(e) Must be signed by the same Officer who signs on the first page, and all alterations in the first two columns of the Schedule to be initialled by him.

Evidence and Charge Sheets (if necessary) to be PINNED here.

I certify that the above Court
day of 10/29 43, an
the Schedule, and that the ple
of each such person were as s
of that Schedule.

I also certify that
1. The members of the
2. The witnesses
*(3. The Interpreter) C.P.
*(4. The officers under instruction)
were duly sworn.

*Omit if not applicable.

Signed this 10-4 day of May 19 43
E.H. Rockingham Pte
President of the Court Martial.

C.
Certificate in case of death sentences.

*See footnote (b) on page 760 M.M.L. 1929.

I certify that the terms of *A.C.I. 570 of 1918 have been complied with.

Signed this day of 19
President of the Court Martial.

D.

I have dealt with the findings and sentences in the manner stated in the last column of the Schedule, and, subject to what is stated, I hereby confirm the above findings and sentences.

*To be omitted unless penal servitude, imprisonment or detention having been awarded, the Confirming Officer either has no authority to commit to prison or detention barrack, or, having such authority, recommends suspension.

~~A.I. direct that the soldier named in the margin be not committed to prison or detention barrack until further orders.~~

Signed this 12th day of May 1943
H Sharp BRIG.
Confirming Officer COMD 11 CDN INF BDE

Promulgated and extracts taken in the case of A-43059 Pte. Grundy, J.J.

(a) (Dated) 14 May, 1943 (Signed) R.C. Clark, Lt.-Col. R.C. Clark, Lt.-Col. The Irish Regt. of Canada, CA

Promulgated and extracts taken in the case of

(Dated) (Signed)

Promulgated and extracts taken in the case of

(Dated) (Signed)

(a) When several cases are promulgated in one unit on the same day the Officer need only sign once.

2

SCHEDULE

Number, Rank (*a*), Name and Unit of Accused (*b*)	Offence charged	*Plea	Finding, and if Convicted, Sentence (*c*)	How dealt with by Confirming Officer (*d*)
A43059 Pte John James GRUNDY The Irish Regt of Can., 5 Cdn Armd Div.	1st CHARGE When on active service, conduct to the prejudice of good order and military discipline in that he (see charge sheet att) Sec 40.A.A.	guilty	guilty To undergo 90 Days Detention & Stoppage of Pay. Repair of Clothes 1/20 cost. £11-0-6 E.E.Rodney Pte 10 May 43	Confirmed H.S. Confirmed H.S.

*Question to be asked of accused, if he pleads not guilty (R. of P. 39 (a)) —
"Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity for preparing your defence?"
Answer (*to be recorded on separate sheet if necessary*) —

(Signed) H.Sharp. (Signed) E.E.Rodney Pte

(H Sharp) Brigadier — Commanding 11 Cdn Inf Bde
Commanding Officer (*e*) — *President.*

(*a*) Appointment acting rank or acting appointment, if any, to be stated in brackets after the substantive rank.

(*b*) Unless unavoidable, not more than three names are to be entered on one form, and in serious cases one only.

(*c*) Recommendation to mercy, if any, to be inserted in this column.

(*d*) It is not necessary that the Confirming Officer should sign his name in this column. Initials are sufficient.

(*e*) Must be signed by the same Officer who signs on the first page, and all alterations in the first two columns of the Schedule to be initialled by him.

Evidence and Charge Sheets (if necessary) to be PINNED here.

3

I certify that the above Court assembled on the 10th day of May 43, and duly tried the persons named in the Schedule, and that the plea, finding, and sentence in the case of each such person were as stated in the third and fourth columns of that Schedule. **B.** Certificate of President as to proceedings

I also certify that :—
1. The members of the Court
2. The witnesses
*(3. ~~The Interpreter~~) ~~Nil~~
*(4. The officers under instruction)
were duly sworn.

*Omit if not applicable.

Signed this 10th day of May 1943

E.E.Rodney Pte
President of the Court Martial.

C. Certificate in case of death sentences.

I certify that the terms of *A.C.I. 570 of 1918 have been complied with.

*See footnote (b) on page 760 M.M.L. 1921.

Signed this day of 19

President of the Court Martial.

D. Confirmation.

I have dealt with the findings and sentences in the manner stated in the last column of the Schedule, and, subject to what I have there stated, I hereby confirm the above findings and sentences.

*To be omitted unless penal servitude, imprisonment or detention having been awarded, the Confirming Officer either has no authority to commit to prison or detention barrack, or, having such authority, recommends suspension.

~~*I direct that the soldier named in the margin be not committed to prison or detention barrack until further order.~~ H.S.

Signed this 12th day of May 1943

H.Sharp BRIG
Confirming Officer COMD 11 CDN INF BDE

Promulgated and extracts taken in the case of A-43059 Pte. Grundy, J.J.

(*a*) (Dated) 14 May, 1943 (Signed) R.C. Clark, Lt.-Col. Comd The Irish Regt. of Canada, CA

Promulgated and extracts taken in the case of

(Dated) (Signed)

Promulgated and extracts taken in the case of

(Dated) (Signed)

(*a*) When several cases are promulgated in one unit on the same day the Officer need only sign once.

(20784) W1473(D)2/42 25,000 2/42 A.A.T.S.B. Ltd. Gp.698
(21785) W1190(D)1/42 40,000 7/42

CHARGE SHEET

E.F./Reach with/in Ptes

The accused, A.43059 Pte John James GRUNDY, of the Irish Regt of Can., C.A., a soldier of the Canadian Army Overseas placed on Active Service, is charged with:

FIRST CHARGE
Sec 40 Army Act — WHEN ON ACTIVE SERVICE, CONDUCT TO THE PREJUDICE OF GOOD ORDER AND MILITARY DISCIPLINE,

In that he,

In the Field on or about the 22nd February 1943 together with K.42623 Pte (A/L/Cpl Styan,D., improperly and without authority took and used Ford Station Wagon, W.D. No.CM4202637, on charge to the Irish Regt of Can., C.A., thereby occasioning damage to the said vehicle in the amount of £26/1/0d.

In the Field
31 Mar 43

(E L Clark) Lt-Col
Comd, Irish Regt of Can.

To be tried by Field General Court-Martial

In the Field
8 May 43

(H Sharp) Brigadier
Comd 11 Cdn Inf Bde

R.A.P.,
The Irish Regt. of Canada, (Field)
C.A.O.S.,
May the 10th/43.

5

To: G/Capt. Camp
Pres.

Coy. "A"

No. A 42049

Name. Pte. Grundy, J.J.

The m/m soldier is in a good state of health, and is fit

to undergo Court Martial

Date. 10 May 43.

Station. Field

S. Vaisnys, Capt.
Medical Officer
The Ir. R. C. (CA)

E.J. Read-Wood per Pte.

PROCEEDINGS OF A FIELD COURT-MARTIAL
HELD AT The Field
ON THE 10 DAY OF May 1943

The accused [redacted] John Frank Edwards ..... Unit Inf. Bn. C.A.P.C. .....

The order convening the Court and charge sheet are laid before the Court who satisfied themselves as provided by Rs.P. 22 & 23.

The accused is brought before the Court
The medical Certificate is laid before the Court, signed by the president and attached to the proceedings.
The order convening the Court is read by the president and the accused having no objection to the president or any member of the Court, the Court is duly sworn.

The following constitute the Court:

President. Maj. E.J. Read ..... Unit. C.A.P.C. (W.A.) Area

Members Capt. A.C. Nesbitt ... Unit. C.A.P.C. (W.A.) Area
Capt. J.S. Wright ... Unit. R.C.A.M.C.

The officers under instructions are duly sworn.
Prosecutor. Capt. V.H. Adam ..... Unit. Inf. Bn. C.A.P.C.
Defending Officer. Lieut. H.C. Mitchell Unit. Inf. Bn. C.A.P.C.

The charge sheet is signed by the President and the accused is Arraigned.
The accused pleads guilty to the charge (s) and R.P. 35(B) is complied with.
The accused does not desire to make a statement in reference to the charge (s)
The summary of evidence is read, signed by the President and attached to the proceedings.
The Prosecutor is sworn and produces ~~R36 385~~ and 1PM 6.
The Court complies with R.P. 46(B)

Pursuant to R.P. 37 THE ACCUSED
(a) ~~makes a statement in mitigation of punishment~~
(b) ~~calls witness as to character or~~
(c) ~~calls witness in mitigation of punishment~~
(d) addresses the Court by his defending Officer
(e) ~~or in person.~~

The Court is closed to consider the sentence.
Summary of Statement in Mitigation character Evidence and address of accused or his defending Officer.

(See Statement of defending officer attached).

(To be signed by the President and attached to A.F.A. 3 (over)

E.C. Hook 2nd Lt. A.S.C. 9

Defending office - pleads for mitigation on the following grounds

1. Has been drinking heavily
2. Vehicle was not immobilized - should have been
3. Guard failed to stop vehicle at gate.
4. 3 yrs in army - only minor offences - not a bad record

Fined £1 or 21 days

SUMMARY OF EVIDENCE

E.G. Roads 1945 13

in the case of

K-42623 Lance Corporal Douglas Styan, and A-43059 Private John James Grundy, both of The Irish Regiment of Canada, C.A., and M.C.O. and a soldier placed on Active Service.

Charges --

1. Conduct to the prejudice of good order and military discipline, in that they improperly took and without authority used a Military Vehicle, thereby occasioning damage to the same.

The Commanding Officer directs that the evidence be taken on oath.

First Witness — P.C. Herbert H. Horn, No. 87, Hastings Police Force, having been duly sworn, states as follows:

"At 0105 hrs, 23 February, 1945, I was on duty at Harold Place, Hastings. I saw an army station wagon proceed down Cambridge Road, through York Bldgs toward Castle St. About half a minute afterwards I heard a crash, and saw what appeared to be a large motor vehicle broadside across the road, at the west end of Castle St. I was walking towards the place when I saw someone leave the wagon and run away through Castle St. I then saw that a station wagon like the one which had previously passed me had collided with and smashed the ornamental base of a trolley bus standard outside 15 Castle St. It had wrecked the front part of the station wagon. There were no occupants in the wagon. I ran through Castle St., where I met a duty officer of the P.L.D.Cs on an M.C. I took steps to cover the various roads in the vicinity and notified Police Headquarters. I later saw two men detained at the police box at the Fish Market in Hastings. They were conveyed to police Headquarters. They were the same men who are now identified to me on this enquiry as L/Cpl Styan and Pte. Grundy, both of the Irish Regiment of Canada, C.A. Both stated that they were the driver of the car. Finally Pte. Grundy stated that he was actually the driver.

The station wagon was GM Ford Station Wagon #4204637. Both men were detained pending the arrival of an escort. Both were sober, and I am unable to say whether they had been drinking. L/Cpl. Styan in particular was suffering from shock.

Herbert H. Horn

The accused declined to cross-examine the witness.

Second Witness — Police Officer War Reserve #11, Charles French, Hastings Police Force, having been duly sworn, states as follows:

"At 0130 hrs on the morning of 23February, 1945, I was instructed to make a search of the "Front" and "Old Town" area in Hastings for the driver of an army vehicle which had smashed up in front of 15 Castle St. I searched for some time without result, and eventually found two soldiers, wearing green bonnets, standing looking out to sea on the West Hill. I asked them if they were looking after the guns, and they replied "Yes". There being no gun there, I asked them to accompany me. After some hesitation they did so. I took them to Police Box #5, and examined their pay books. According to these pay books, one was K-42623 Pte. Douglas Styan, and the other was A-43059 Pte. John James Grundy, both of The Irish Regt. of Canada, 5th Canadian Armoured Division.

Second Witness Continued

I asked them where they were stationed, and Grundy replied "Wadhurst". I asked them what they were doing in Hastings. Grundy replied "We were sent out to look for a stolen car". I asked them for the number, and Grundy replied "Divisional number 63". Styan then admitted that they were both A.W.L.

I accompanied them both to Police H.Q., where they were questioned. Grundy admitted that he was the driver of the vehicle which had smashed up at No. 15 Castle St., Hastings. Both men admitted driving the car at first, but later Grundy admitted that he was the driver.

I saw the damaged car myself which was a Ford Station Wagon #CM 4202637, bearing Divisional Number 63. L/Cpl Styan had no stripe on his sleeve, but threads were hanging from his sleeve and shoulder. All identification marks were missing from his uniform."

Question by L/Cpl. Styan - Are you sure that the Divisional Patch was missing from my uniform?

Answer -- The red patch was there. The "Canada" badges were missing.

The accused declined to cross-examine the witness further.

Arthur C. Grant

Third Witness

P.S. James W. Wills, Hastings Police Force, having been duly sworn, states as follows:

"I was on duty in charge of Central Police Station Hastings, on the morning of 23 February, 1943. At 1150 hrs on the morning of the 23rd February, 1943, two soldiers of the Irish Regiment of Canada were handed over by me to a military escort. One of them was Pte. Grundy of the Irish Regiment of Canada. He admitted in my presence that he had no license either civilian or military to drive a vehicle. I recognize the man now present at this enquiry as Pte. Grundy, the man who made this admission to me. I obtained from Lieut. Gordon, T.O. of the Irish Regiment of Canada, a receipt of the work ticket for the vehicle concerned and a receipt for the vehicle itself. This receipt is for station wagon No. CM 4202637 in damaged condition."

The accused declined to cross-examine the witness.

James W. Wills

Fourth Witness

Lieut. Chas. A. Gordon, The Irish Regiment of Canada, C.A., having been duly sworn, states as follows:
"I am Transport Officer of The Irish Regiment of Canada, CA."
"Station Wagon No. CM4202637 was taken on charge of the Irish Regiment of Canada on Saturday February 20th, 1943. It was in proper running condition and was kept parked in the courtyard immediately outside Wadhurst Castle, pending its being assigned to a permanent driver. The only person who had authority to drive it was Pte. Wilson, J.M., who was authorized to drive it for the Commanding Officer. No other person had authority to drive or use the vehicle.

At 0500 hrs on February 23rd, I was duty Officer at Battalion Headquarters. At that time I received a telephone call from the Central Police Station at Hastings. As a result of the information I received,

Fourth Witness Continued

I went to Hastings in company with the Regimental Provost Sergeant and my Sergeant Fitter, and inspected the vehicle, which was the vehicle mentioned above. It was in the Police Garage at Hastings in shadly damaged condition. It was in an untowable condition, and I made arrangements to have it picked up. It was taken to the Ordnance Workshop via Brigade L.A.D.

I then went to the Police Station and witnessed our Provost Sergeant take custody of L/Cpl Styan and Pte. Grundy, both of this Regiment. I signed the necessary release papers for the vehicle.

While I was in the police station, both men were questioned by the police sergeant in charge. During this questioning, Pte. Grundy admitted that he had been the driver of the car, and that he held no license to drive either civil or military vehicles. L/Cpl Styan admitted that he had been with Grundy in the car.

Later in the same day, I visited both Styan and Grundy in the Regimental Guardhouse, for the purpose of obtaining information to make out an accident report. Both men admitted having had the car, and Pte. Grundy admitted driving it. Neither man, however, had any recollection of their acquiring the car or of the accident itself. They ascribed this to the amount they had had to drink.

The station wagon was normally parked in the Courtyard outside Wadhurst Castle. It would normally have been immobilized by removal of the key. On the evening in question the wagon was being fitted with wireless in anticipation of a forthcoming scheme. During this process it was occasionally necessary for the signallers to move the vehicle, and the key was consequently left in the wagon.

The area in which the vehicle was parked is some 200 yards inside the gates of Wadhurst Castle. This is the only exit, and there is a 24 hour guard mounted on it."

The accused declined to cross-examine the witness.

Wm. A. Gordon, Capt. T.D.

Fifth Witness

B-78824 Pte. Wilson, J.M., having been duly sworn, states as follows:

"Station Wagon No. CM 4202637 was taken on charge of the Irish Regiment of Canada on 20th February, 1943. It was not assigned to me, but I was authorized to drive it on Monday 22nd February for the purpose of driving the Commanding Officer to a meeting at Brigade HQ. I returned from that trip about 1630 or 1700 hrs, and left the Wagon parked in the courtyard of Wadhurst Castle.

Fifth Witness Continued

The Wagon was being fitted for wireless in anticipation of a scheme, and the key was consequently left in it, for the convenience of the signallers. It was occasionally necessary for them to move it during the process of installation of the wireless set.

The courtyard in which the wagon was left is immediately outside the Battalian Orderly Room, and is some 200 yards within the castle gates. These gates are the only entrance or exit to the Courtyard, and a guard is always mounted on the gates.

The occasion mentioned above is the last time I have seen the station wagon.

The accused declined to cross-examine the witness.

Sixth Witness

Lieut. J.C. Wilkin, 11 Cdn Infantry Bde W/Shop having been duly sworn, states as follows:

Officer Commanding
Irish Regt. of Canada

Evaluation of Damage
Ford Station Wagon 011Ad CM4202376

1.	Parts Required	
	1 Radiator	$ 16.94
	1 Grille Rad. R.H.	1.00
	1 Grille Rad. L.H.	1.00
	1 Fan Assembly	2.27
	2 Hose connections, lower	1.20
	2 Hose connections, upper	1.25
	1 Bumper Assy, front	9.00
	2 Bumper brackets R.H.	3.00
	1 Glass Windshield L.H.	
	1 Glass Windshield R.H.	
		$ 31.86
	Miscellaneous, including motor front support plate (price not available) paint and small parts	10.00
		$ 41.86 £ 9/7/0
		18/14/0
2.	Labour 125 man hours at 3/0 per hr. (estimated by 5 Cdn Army Tps W/S)	112/1/6
	Total Damage	

This is to certify that on the grounds of exigencies of the service, and owing to expense and loss of time involved, the attendance of this witness cannot readily be procured.

(J.C.Wilkin) Lieut.
11 Cdn Infantry Bde W/Shop

J.C. Sanderson
Adjutant

Question to the Accused:--

Do you wish to make any statement or to give evidence upon oath? You are not obliged to say anything or give evidence unless you wish to do so, but whatever you say or any evidence you give will be taken down in writing and may be given in evidence.

Answer by Accused:--

I have nothing to say.

I certify that Rules of Procedure 4 (C), (D), (E), and (F) have been complied with.

Taken down by me in the presence of the accused in the Field, this 30th day of March, 1943.

N.H. Shaw, A/Capt.
The Irish Regiment of Canada, CA.

Trial of No. H-49023 Acting Lance-Corporal Douglas Styan, and A-43089 Private John James Grundy, both of The Irish Regiment of Canada, CA.

List of Witnesses for the Prosecution

Lieut. Chas. A. Gordon	The Irish Regiment of Canada, CA.
Lieut. J.G. Wilkin	R.C.O.C. 11 Cdn Inf Bde W/Shop
P.S. James H. Wills	Hastings Police Force
P.C. Herbert H. Horn	No. 87, Hastings Police Force
P.C. Bar Reserve #11 Charles French,	Hastings Police Force
B-78824 Pte. Wilson, J.M.	The Irish Regiment of Canada, C.A.

Dated in the Field this 31st day of March, 1943.

J.H. Tyler

J.H. Tyler, Lieut.
Adjutant,
The Irish Regiment of Canada, CA

No. A43059 Name Grundy J.J. Sqn., Battery, or Company — Corps I.R. of C. — Date of enlistment 27-6-40 — G.C. Badges — Tradesmen's Rates of Pay — M.F.M. 6

No. and date of last drunk NA — Period not reckoning towards freedom from extra fine NA — Sheet No. — Signature O.C. Company, etc. — Character

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
London Ont.	23/3/41	Pte		A.A. Sec 15 (1) Absence without leave from 0630 hrs until 0630 24-3-42 (24 hrs)	A/Cpl. Anderson	3 Days C.B.	26/3/41	Maj. Nairn	Forfeits 1 day pay FR & I
Toronto Ont.	30/3/41	Pte.		A.A. Sec 15 (1) Absence without leave from 0630 hrs 30-3-41 till 2200hrs 30-3-41 (15 hrs 30 mins)	Sgt. Jack	5 Days C.B.	1-4-41	Capt. Leitch	Forfeits 1 day pay FR & I
Toronto Ont.	11/4/41	Pte.		A.A. Sec. (15) (1) Absence without leave from 0630hrs 11-4-41 till 2030 hrs 14-4-41 (86½ hrs.	Sgt. Harnett	7 Days C.B.	15-4-41	Capt. Leitch	Forfeits 4 days pay FR & I
Valcartier P.Q.	19-5-41	Pte.		A.A. Sec 15 (1) Absence without leave from 0600 hrs 19-5-41 till 0500 hrs 22-5-41 (71) hrs.	Sgt. Harnett	7 Days C.B.	23-5-41	Maj. Nairn	Forfeits 3 days pay FR & I

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order directing trial	By whom awarded	Remarks
Bulgrave N.S.	16-8-42	Pte.		A.A. Sec 15 (1) Absence without leave from 1715 hrs 16-8-42 until 1330 hrs 18-8-42 (43 hrs 15 min)	Cpl. Currie Documentary Evidence.	7 Days Pay 14 Days C.B. Cost of apprehension $37.09	24-8-42	Lt.-Col. M.C.Clark	Forfeits 7 days pay FR & I.
Flel 6	24/9/42	Pte.		A.A. Sec 15 (1) A.W.L. from 2200 hrs 24/9/42 until apprehended in Toronto at 0005 hrs. 1/10/42	CSM Hemmings Documentary Evidence	14 Days C.B. under A.A.46 21 days pay Cost of apprehension $4.00	12-10-42	Lt.-Col. R.C.Clark	Forfeits 7 days pay F.R. & I

Certified true copy.

J.R. Tyler, Lieut & A/Adjutant
The Irish Regiment of Canada C.A.

E.D. Reads and Pays

21

M.F.B. 155
40M—11-41 (2276)
H.Q. 1772-39-620
A.F.B. 206

STATEMENT AS TO CHARACTER AND PARTICULARS OF SERVICE OF ACCUSED

Number	Rank	Name	Regiment (or unit)
A-43059	Private	John James ORMSBY	The Irish Regiment of Canada, C.A.

1. The following is a fair and true summary of the entries in the Regimental or Company Conduct sheets of the accused, exclusive of convictions by a Court-Martial or a Civil Court, of summary awards under Section 47 of the Army Act and of cases in which trial has been dispensed with.

	Within last 12 months		Since enlistment or appointment	
For A.W.L.	two	times	A.W.L.	six times
For		times		times
For		times		times
For		times		times

NOTE.—If the charge is for drunkenness, the entries for drunkenness must be stated separately.

2. The accused has not been previously convicted

3. The accused is not under sentence at the present time.

4. The accused has been in confinement awaiting trial on the present charge for 5 days in civil custody, and 11 days in military custody, making a total of 16 days in custody, of which 360 days were spent in hospital. 26 days in unit custody.

5. The present age of the accused according to his attestation paper is 23 years 11 months

6. The date of his attestation specified in his attestation paper is 27 June, 1940

9. The accused is in possession of or entitled to no military decoration, or military reward

the regimental office.

28

11. (In the case of an officer.) The accused holds in the Royal Canadian Air Force the rank of [redacted] Permanent Force unit

..... dated ....., and in his regiment (or corps), the rank of

..... dated .....

12. The accused has served as a non-commissioned officer continuously, without reduction, to the present date:—

..... Date of promotion.

In the rank of ..... years.

In the rank of ..... years.

In the rank of ..... years.

NOTE.—If any matter in any of the above paragraphs cannot be stated from the Regimental books, the paragraph must be struck through.

SCHEDULE

Of convictions by a court-martial or civil court, of summary awards under Section 47 of the Army Air Force Act, and of cases in which trial has been dispensed with of accused, Number ..... Rank ..... Name ..... of ..... Unit Regiment

NOTE.—A verbatim extract from the regimental books stating these convictions and dispensations with trial must be inserted.

Description of Court by which tried	Date and Place of Trial	Charge upon which convicted	Sentence of the Court	Punishment Remitted

I hereby certify that the foregoing schedule of convictions and dispensations with trial is a true extract from the regimental books in my custody.

Signed this 10th day of January 1945 [signature]

Adjutant [illegible]

The above statement (with the schedule of convictions and dispensations with trial [illegible]) is read, marked ..... signed by the president, and annexed to the proceedings.

E. F. Coates Capt. "H"

7 May, 1943

I, A-43059 Pte. John James Grundy, desire to have an officer assigned to represent me at my trial by Court-Martial.

(Signature) J. J. Grundy.

COUNTER NUMBER 437959

HOUR 11:40

OPERATOR'S INITIALS [illegible]

RELIEVING OPERATOR _____

END

FIRST

SIDE


REEL
NO.
44.26

START OF RETAKE

THE IMAGES APPEARING BETWEEN THIS POINT AND THE "END OF RETAKE" ARE TRUE COPIES OF RECORDS, MICROPHOTOGRAPHS OF WHICH WERE MISSING OR PROVED UNSATISFACTORY ON INSPECTION OF THE ORIGINAL MICROFILM REEL.

THE ABOVE MENTIONED RECORDS WERE REPHOTOGRAPHED AS AN ADDENDUM TO THE ORIGINAL REEL.

FOR DESCRIPTION OF REPHOTOGRAPHED MATERIAL SEE THE OPERATOR'S "RETAKE CERTIFICATE" AT END OF THIS RETAKE SECTION.

5 T-152

Ste. Genevieve, Mo.

SCHEDULE.

PART I. PLEA(S), FINDING(S) AND SENTENCE.

Accused: D-82903 Pte GREENWOOD, Walter - 2 CGRU

Charge. (Insert "alternative" where applicable.)	Plea. (See instrs p 2.)	Finding. (See note below.)	(Space for use as required for further charges, accused charged jointly, special findings, etc.)
1st AA Sec 15(1)	GUILTY	GUILTY	
~~2nd~~			
~~3rd~~			
~~4th~~			
~~5th~~			
~~6th~~			

(Note: As to findings for lesser offences see AA 56, RP 44; findings on alternative charges see MML p 483 fn 4 para 2, RP 44; special findings see RP 44 and MML p 753, and in loss of kit see RP 44 fn 6.)

~~At present under sentence for~~ ..... ~~beginning on (date)~~ .....(1)

(1. Insert sentence being served, or delete, if not applicable. See RP 46(A). Information should be found on MF B355 or AF B296.)

Time in confinement awaiting present trial—a total of 12 days, of which Nil days were spent in hospital.(1)

(1. See RP 46(A) fn 2. Information should be found on MF B355 or AF B296 admitted in evidence under E2.)

Sentence Awarded by the Court:

To be kept all Under stoppages of pay until he has made good £0-7-11 the expenses of his return to unit on 20 SEP 45

(Sgd) ..... (Sgd) .....

Judge-Advocate, if any. Date awarded. President. (RP 45, 50.)

(See back of Convening Order as to assembly and disposal of record after trial.)

PART II. MINUTE WHERE CONFIRMATION RESERVED. (AA 54(5), RP 120(F), MML p 760.)

Date ..... (Sgd) ..... Commanding .....

PART III. DECISION OF CONFIRMING OFFR ON FINDING(S) AND SENTENCE.

(For duties and powers see AA 54, 57, RP 37(D) fn 6, 46(A), 51-56, 120, MML pp 759-761, KR Con 567-577. Acquittals require no confirmation and cannot be revised: AA 54(3). Sending back finding or sentence for revision by Court: AA 54(2), RP 120(G). If not confirmed, accused may be tried again: AA 157, MML p 64. Minute of confirmation or non-confirmation may be altered before promulgation: RP 53, MML p 65. Quashing after promulgation: KR Con 573. Duties and powers of reviewing offrs: AA 57, 57A, RP 53A, 54. The Confirming Offr must sign here personally. AA 172 fn 1.)

My decision on the finding(s) and sentence set forth in Part I is:

Confirmed

I ~~direct that the accused be not committed to prison or detention barracks until further order.~~(1) (1. AA 57A. Delete if not used.)

Date 21 Sep 45 (Sgd) .....

Commanding ..... Brigadier, Commanding "C" Group, Cdn. Reinforcement Units, Confirming Officer.

PART IV. PROMULGATED AND EXTRACTS TAKEN. (RP 53, KR Con 576, 577.)

Accused.	Date.	Signature of Offr.
D-82903 Pte Greenwood, Walter 2 CGRU	22 Sep 45	

Published in 2 CGRU DO 55/26 Sep 45.

ALL DELETIONS AND ALTERATIONS WILL BE INITIALLED.

5T-152

FIELD GENERAL COURT-MARTIAL

CFA96 (In lieu of AFAM) 40/P & R/1098 (5144) 4/38B

Convened by Order of Brig HON Brownfield CBE MC Comd "C" Gp, CRU dated 17 Sep 45

RECEIVED 10 OCT 1945 JAG BRANCH C.M.H.Q.

ACCUSED.

(As to the trial of two or more charged jointly see RP 14, 71, 109. As to reasons for showing (a) permanent or confirmed ranks and (b) appmt, A/rank or A/appmt, if any, see AA 182, 182, fns, KR Con 308, 328, 330.)

Number.	(a) Prmnt R.	(b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
D-82903	Pte		Walter	GREENWOOD	2 CGRU

PROCEEDINGS REVIEWED 10 Oct 45 K J Brod Maj REVIEWING OFFICER, JAG BRANCH C.M.H.Q.

PROCEEDINGS OF TRIAL.

Held in the Fd in (country) ENGLAND on (date(s)) 20 SEP 45

RECORD FORM A—OPENING PROCEEDINGS AND ARRAIGNMENT.

A1. The President, Members, ~~waiting Member, JA, if any, and Offrs under instr, if any~~, assemble, and the Court is closed.

(PRINTED MATTER, NOT IN ITALICS FOR GUIDANCE, WILL BE DELETED, IF NOT USED OR APPLICABLE, AND INITIALLED BY PRES OR JA. The Schedule referred to throughout is on p 4. Citations do NOT include all relevant fmn ROs. For guidance on procedure when a variation in this form arises, see form for GCM in MML pp 741 to 759. A brief record of such variation will be made and given a number having reference to appropriate or preceding para number herein. See back of Convening Order, CF A95, for oaths and instrs on how to record addresses, evidence, etc, which instrs are hereafter called "Notes". As to general provisions for conducting the trial see AA 53, RP 56, 63-70, 73, 74, 94, 103, 119, 132.)

A2. The President initials and lays before the Court the Convening Order and Charge Sheet(s) attached thereto.(1) The Court is satisfied that it is properly convened and constituted(2), accused is (are) amenable to military law, and each charge discloses an offence.(3)

(1. As to use of Summary of Evidence see RP 17 fn 6. 2. AA 46, 50, RP 105-107. 3. RP 11-13, 23, 24.)

A3. The Court is opened. The accused is (~~are~~) brought before the Court. At 1130 hours trial commences.

A4. The Prosecutor produces a Medical Certificate that accused is (~~are~~) fit to undergo trial by court-martial.(1) ~~The Prosecutor informs the Court that accused elected to be tried by court-martial instead of being dealt with summarily by the CO.~~(2)

(1. KR Can 557. 2. AA 46(B), RP 60 fn 1. For effect see KR Can 563(c). Delete, if not applicable.)

A5. ~~President to accused: Do you object to ..... as interpreter? Ans .....~~

~~The Interpreter is sworn.~~(1) Do you object to C 79667 Sgt CHAMBERLAIN as shorthand writer? Ans NO SIR. The shorthand writer is sworn.(1)

(1. RP 72. Delete, if none employed.)

A6. The Convening Order and names of the President and Members of the Court are read to the accused.(1) President to accused: Do you object to be tried by me as President or by any of the Members of the Court?

Ans NO SIR (2)

(1. RP 110. 2. If no objection, waiting member retires. RP 68(B). If objection, see procedure AA 51, RP 25, 71, 18, MML p 742.)

A7. The President, Members, ~~JA, if any, and Offrs under instr, if any~~, are sworn.(1) The following are the ranks, names and units of the offrs comprising the Court, etc:

President	LT-COL	D L REDMAN	HQ CRU
Member	CAPT	A C HOLLAND	1 CGRU
Member	LIEUT	M J FRASER	1 CGRU
~~Judge-Advocate~~			
Prosecutor	CAPT	J C P HARDY	2 CGRU
Defending Offr	LIEUT	L G GIBBINS	2 CGRU

Questions by President: Is the Prosecutor a lawyer? Ans NO Is the Defending Offr a lawyer? Ans NO (2)

(1. RP 26, 27, 109, 111. List of offrs under instr will be returned separately with proceedings for information of Conv Offr.)
(2. If Pros a lawyer and Def Offr not, accused is entitled to an adjournment when RP 89 (B) and fn 2 were not followed. See DI p 3.)

A8. The accused ..... before arraignment make(s) (no) (~~of~~ plea .....(1)

(1. If a special plea is made for separate trial on one or more charges (RP 62(E), 108), or as to the jurisdiction of the Court (RP 34, 25(A), 113), or in bar of trial (RP 36), or as to accused's mental fitness to stand trial (AA 130, RP 57), or by one of several accused charged jointly to be tried separately (RP 16, 71), such plea, the addresses made in support or against, the evidence, if any, and finding are recorded per Notes. For forms of record see references in fns to RsP cited. Insert in AB rank and name of the accused making the plea.)

A9. The accused is (~~are~~) arraigned (~~separately~~) on all charges in the charge sheet.(1) The accused does (~~do~~) not object to any charge.(2) There is no amendment to be made to the Charge Sheet.(3) The President records the pleas in Part I of the Schedule.

(1. RP 31, 112. See para 1 of Instrs p 2. When more than one Charge Sheet see RP 62; when several accused to be tried separately see RP 71(C), and use separate copies of CF A96 to record proceedings. 2. RP 32, RP 33. If otherwise, delete and make appropriate record per Notes.)

A10. The Court (~~is closed and~~) considers the Instrs on Procedure after Arraignment at top of p 2. The proceedings are continued on Record Form "B"

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

INSTRUCTIONS ON PROCEDURE AFTER ARRAIGNMENT.

1. *The accused may not plead or be found Guilty on more than one of two or more charges laid in the alternative. (RP 37(A).) As to withdrawal of alternative charges by Prosecutor see RP 35(C). No other charge can be withdrawn for any reason without authy from Convening Offr. If Convening Offr concurs, Court may accept plea of Guilty to lesser, etc, offence. (RP 44(H).) Accused may change a plea of Not Guilty to Guilty during trial. (RP 38.) As to refusing to plead or not pleading intelligibly see RP 35(A). As to plea when sentence may be death see RP 35(D).*

2. *The proceedings on each charge sheet (RP 62) after arraignment will be conducted as follows in the respective circumstances stated :*

I. If pleas to all charges are GUILTY, use Record Form B below.

II. If pleas to all charges are NOT GUILTY, use Record Form D on p 3.

III. If pleas to some charges are GUILTY and to other charges are NOT GUILTY and,

(a) Such mixed pleas occur when there are no alternative charges in the Charge Sheet, use Record Form C below. (RP 37(A).)

(b) Such mixed pleas occur in a set of two or more charges laid in the alternative, see RP 37 (A) and fn 2 as to discretion of Court, (i) to try the accused on all such alternative charges as if he had pleaded Not Guilty thereto, or, (ii) to record the pleas as the findings of Court. After deciding between (i) and (ii), Court will proceed under foregoing instrs as may be appropriate to result of its decision. See MML p 744 Instrs (2).

3. *As to responsibility of President to accused see RP 59, 60(C); powers and duties of JA see RP 103; duty of Prosecutor see RP 60(A) (B); duty and privileges of accused and Defending Offr see RP 60(C), 87(C), 91, 92; swearing and withdrawal of witnesses from Court see RP 81, 82; questioning of accused see RP 80, 87(C), 92(B), and of witnesses see RP 83-85; calling or re-calling of witnesses by Court, etc, see RP 75-79, 86, 116; use of Summary of Evidence at Trial see RP 17(E) fn 6; and responsibility of JA or Pres to record proceedings see RP 94, 96.*

RECORD FORM B—PROCEEDINGS ON PLEAS OF GUILTY TO ALL CHARGES.

B1. The President ~~or JA, if any~~, complies with RP 35(B) by explaining to the accused the nature and meaning of the charge(s)(1), and that on his plea of Guilty there will be no regular trial but merely a consideration of the sentence to be awarded after he has been given an opportunity to make a statement in reference to the charge(s), call witnesses as to character and make an address in mitigation of punishment.(2)
(1. RP 35 fn 3. 2. MML p 54 para 47.)

B2. President to accused : The Court will now receive any statement you desire to make in reference to the charge(s).(1) If it appears from your statement that there are circumstances which indicate that you do not understand the effect of the plea of Guilty(2), or which show provocation or extenuation in respect of which in your interest the witnesses for the Prosecution should be examined(3), we shall advise you to change your plea to Not Guilty. In making a statement you will not be sworn or subject to cross-examination ; and anything you say will not be used in evidence against you after you change your plea. If, however, it appears to the Court that your statement affects only the amount of punishment to which you are liable, you will not be advised to change your plea and you will be given an opportunity later to prove your statement by sworn testimony, if you so desire.(4)

President to accused : Do you wish to make a statement ? Ans ..... NO, SIR ..... (5)
(1. RP 37(B). 2. RP 37(D) fn 6. 3. RP 35(B) fn 5 para 3, MML p 54 para 47. 4. See para E3 of Record Form E. 5. Statement, if any, recorded per Notes.)

B3. ~~The Court considers the accused's statement.(1) The Court decides (not) to advise accused to change his (their) plea(s) of Guilty to Not Guilty on ..... charge(s). The accused is (are) so informed, and he (they) change(s) his (their) plea(s) on ..... charge(s). Part I of the Schedule is amended accordingly.~~
(1. Court may be closed to consider the statement. Delete whole or part not used.)

B4. On the charge(s) to which the plea(s) of Guilty is ~~(are)~~ not changed the President records finding(s) of Guilty in Part I of the Schedule.(1)
(1. RP 35(B). If any plea(s) is (are) changed, use Record Form C or D as appropriate.)

B5. The Summary of Evidence is marked Ex 'A', initialled and read aloud by the President.(1)
(1. If there is no Summary, or if it is inadequate, comply with RP 37(B). If there is any evidence inconsistent with any plea standing as Guilty, Court will advise accused to change such plea and, if changed to Not Guilty, try such charge(s) by use of paras D1 to D8 inclusive of Record Form D on p 3. RP 37(D).)

B6. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

RECORD FORM C—PROCEEDINGS ON MIXED PLEAS OF GUILTY AND NOT GUILTY.

C1. As to the charges on which accused pleaded NOT GUILTY the trial is continued by using paras D1 to D8 inclusive of Record Form D on p 3 before proceeding with C 2.(1)
(1. RP 37(A) (E).)

C2. The charges on which accused pleaded GUILTY are read to him (them) again, and the trial is continued by using paras B1 to B5 of Record Form B above.(1)
(1. Under B5 such parts only of the Summary of Evidence are read as relate to the charges dealt with under C2. If any plea is changed to Not Guilty, trial thereon proceeds by complying with paras D1 to D8 inclusive in Record Form D on p 3 and making an appropriate record thereof on a separate sheet.)

C3. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

Pin here Loose Sheets of Record.

RECORD FORM D—PROCEEDINGS ON PLEAS OF NOT GUILTY TO ALL CHARGES.

D1. President to accused : Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity to prepare your defence ? Ans ..... (1)
(1. If "yes", see RP 39(A) for procedure. Statement or evidence, if any, is recorded per Notes.)

D2. The Prosecutor makes (an) (no) opening address.(1)
(1. RP 39(B), 60(A) (B), 90, 92(C) (D). Record address per Notes, subject to RP 95(C).)

D3. The evidence for the Prosecution is taken.(1)
(1. RP 39(C), 114, KR Can 555. Record evidence per Notes. As to Prosecutor giving evidence himself see RP 39(D) (E).)

D4. The Prosecution is closed.(1) The Defending Offr submits that the evidence for the Prosecution does not establish a prima facie case against the accused on the ..... charge(s).(2) The Court is closed, and considers the submission.(3) The Court is re-opened, and the President announces that the submission is disallowed on the ..... charge(s), and allowed on the ..... charge(s), and that, accordingly, the trial will proceed on the former, but the accused is (are) found Not Guilty on the latter charge(s).(4)
(1. Delete remainder of this para, if submission not made. 2. Arguments on submission, answer and reply are recorded per Notes. 3. RP 40 fn 1. See MML p 72 paras 12-14 and p 81 para 42. 4. Delete part not used. If accused acquitted on all charges, use second alternative in para D8.)
NB : If trial proceeds, accused must be allowed great latitude in making his defence, and the Court should not stop his defence solely on ground of irrelevance. (RP 60(C), 114, 115.)

D5. President to accused : You will now proceed with your defence.(1) You may, if you wish, give evidence yourself on oath as to the facts or your character or both, in which case you will be subject to cross-examination.(2) You may, however, make a statement without being sworn, and you will not be subject to cross-examination.(3) But a statement which could have been made on oath will not carry with the Court the same weight as sworn testimony.(4) You may call witnesses in your defence and as to character, whether you give evidence or make a statement or do neither.

President to accused : Do you wish to give evidence yourself as a witness, make a statement, or do neither ? Ans ..... Do you intend to call witnesses on your behalf ? Ans ..... Are they witnesses as to character only ? Ans .....
(1. RP 115. 2. RP 40(A), see 80(D). 3. RP 40 fn 10. 4. RP 40 fns 2, 9.)

D6. Consequent on the answers recorded in para D5 the appropriate procedure for the defence is followed.(1)
(1. RP 114, 115, 116. For procedure see Notes on back of Convening Order, CF A95. Evidence for accused as to his character should, if in his interest, be given before the finding. See RP 46(A) fn 1, 86(C). Note the further opportunity in para E1 of Record Form E. Record per Notes addresses, statement, evidence and any summing up by the JA under RP 42, 103(e).)

D7. The Court is closed to consider the finding(s).(1) The finding(s) of the Court is (are) recorded in Part I of the Schedule.(2) The Court is re-opened.
(1. RP 43, 117(A). See Notes in Part I of Schedule. 2. RP 44(A).)

D8. The President announces the finding(s), if any, of Not Guilty, and states to the accused that the finding(s) of the Court on the ..... charge(s), being subject to confirmation, will be promulgated later.(1)
Or, The President announces that the accused is found Not Guilty on all charges and is to be released forthwith, and that the proceedings are accordingly terminated. Part I of the Schedule is dated and signed.(2)
(1. AA 54(3) (6), RP 45, 120(A). 2. AA 54(3), RP 45, 117. This alternative announcement is not applicable when there are pleas of Guilty outstanding and dealt with under Record Form B or C.)

D9. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E below.

RECORD FORM E—PROCEEDINGS ON CONVICTION BEFORE SENTENCE.

E1. President to accused : Do you wish to give evidence yourself or to call any witnesses as to your character ?(1)
Ans ..... NO - SIR .....
(1. If evidence has already been given by accused or his witnesses as to his character, delete this para. RP 37(C) fn 4, 46 fn 1. Accused and witnesses are sworn. Evidence recorded per Notes.)

E2. The Prosecutor produces Statement(s) as to Character and Particulars of Service(1), and certified true copy (~~copies~~) of Conduct Sheet(s)(2), purporting to refer to the accused, which he submits to the Defending Offr for examination, and then to the Court for admission in evidence. The Court is satisfied that these documents refer to the accused, because (i) they purport to be signed in the manner required by AA 163(l) (g) (h), and (ii) they purport to refer to (a) soldier(s) having the same number, rank, name and corps as the accused. Admitted in evidence and marked Ex 'B' and Ex 'C' respectively.(3)
(1. MFB 355 or AFB 296. 2. MFM 6. 3. RP 46, KR Can 558. If above documents not produced, see RP 46 fn 1 para 1.)

E3. President to accused : Do you wish to address the Court on the Statement(s) and Conduct Sheet(s), and in mitigation of punishment ?(1) Ans ..... (NOTE A ...) (2)
(1. RP 37(C), 46(D). 2. Address, if any, recorded per Notes. Court should permit accused or his witnesses to prove on oath anything here or previously stated which would affect the amount of punishment. RP 37(F) fn 7.)

E4. The President states that the Court is closed to consider the sentence, and that the sentence to be awarded by the Court, being subject to confirmation, will not be announced, but will be promulgated later, and the proceedings in open court are accordingly terminated.(1)
(1. AA 54(6), RP 120(A).)

E5. The Court considers the sentence.(1) The President records the sentence in Part I of the Schedule, which is dated and signed by him ~~and the JA, if any~~.(2)
(1. When several accused tried separately see RP 71 (D). One sentence only, comprised of the punishment or punishments laid down in AA 41, 44 and its proviso, is to be awarded to cover all charges in all charge sheets on which accused found guilty. RP 48. As to sentences see AA 44, 138, 182, RP 46-50, 69, 118, 119(A), KR Can 308, 330, 563-566, Overseas RO 309, 2323, MML p 60, 757-759. As to sentences assigned for civil offences by the law of England see AA 41(5), MML p 130. When accused already under sentence of imprisonment or detention see AA 44(1B), 68(1), KR Can 564. 2. RP 50. As to release from arrest by Confirming Offr see KR Can 567. As to assembly and disposal of record after trial see instrs on back of Convening Order.)

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

CHARGE SHEET

The accused, D.82903, Pte. Walter GREENWOOD, CIC, on strength of No. 2 Cdn. Gen. Reinf. Unit, a soldier of the Cdn. Army Overseas, is charged with:-

FIRST CHARGE
Sec. 15 (1)
Army Act.

WHEN ON ACTIVE SERVICE
ABSENTING HIMSELF WITH-
OUT LEAVE

in that he

In the Field, did absent himself without leave from 1700 hrs. 14 Aug 45, until apprehended by the Cdn. Provost Corps at Brighton at 0040 hrs. 7 Sep 45, thereby incurring costs of return to his unit in the amount of £0-7-11.

(Time absent:- 23 days, 7 hrs. 40 min.)

In the Field.

14 Sep 45.

W.A. Bruce
(W.A.Townsley) Col.,
Commanding Officer,
No. 2 Cdn.Gen.Reinf.Unit.

To be tried by Field General Court Martial

Hon Brownlow Brigadier
Commanding "C" Group, Cdn Reinforcement Units
(Convening Officer)

17 Sep 45
Bordon, Hants.

FIELD GENERAL COURT-MARTIAL

(Whether the accused to be tried is under his comd or not, a FGCM may on application to him be convened by any offr of Cdn Army Overseas, or of any other force if authorized in law, in immediate comd of troops on active service, subject to RP 105(C) and restrictions imposed by appropriate authy. AA 49, 50, RP 104-107, 114. As to the duties and privileges of the Convening Offr in dealing with the application see MML Chap V paras 20 and 23, RP 87(B).

There should be a separate Convening Order for each person to be tried separately by the same Court. RP 71(C), 109. As to separate charge sheets see RP 62, and as to separate trial on charges in the same charge sheet see RP 108. As to two or more accused charged jointly see RP 16, 109.

As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

ACCUSED.

Number.	(a) Prmnt R.	(b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
D-82903	Pte		Walter	GREENWOOD	2 CGRU

CONVENING ORDER.

1. Whereas complaint has been made to me, the undersigned, that the person(~~s~~) named above as the accused, being subject to military law, has (~~have~~) committed the offence(~~s~~) set forth in the Charge Sheet(~~s~~) attached and on (*date*) this date endorsed by me, (~~or by an officer subordinate to me~~), " To be tried by Field General Court-Martial ". N/S

2. And whereas I am of opinion that it is not practicable that such offence(~~s~~) should be tried by an ordinary General Court-Martial ; ~~and whereas it appears to me that the delay that would be occasioned by~~ N/S
(Delete part in brackets when not required for compliance with RP 105(C).)

3. I hereby convene a Field General Court-Martial to try the said person(~~s~~), and to consist of the Offrs appointed or detailed hereunder.

4. ~~I am unable to appoint officers duly to form the Court, the Fd Offr as President, for the reason that they are not present~~ N/S
(AA 49, RP 106(B), 107(A). Delete the whole or part, if not applicable.)

5. ~~I have appointed the officers named to form the Offr mentioned hereunder.~~ N/S
(RP 106(E). Delete, if none appointed.)

PRESIDENT.

(Rank.)	(Must be named. RP 106.)	(Unit.)
Lt-Colonel	D.L. Redman, VD	HQ CRU

MEMBERS.

(Rank.)	(Named or detailed. RP 106.)	(Unit.)
Captain	To be detailed by CO	1 CGRU
Lieutenant	To be detailed by CO	1 CGRU

WAITING MEMBER.

(Rank.)	(Named or detailed, if any. RP 106.)	(Unit.)

JUDGE-ADVOCATE.

(Rank.)	(Must be named, if any. RP 106.)	(Unit.)

On Active Service in the Fd

in ENGLAND (Country.)

(Signed personally. RP 105 fn 2.) Jon Brownfield Brigadier (Rank.)

Dat 17 Sep 45

Commanding "C" Group, Cdn Reinf Units
Convening Officer.

CONVENING OFFR WILL INITIAL ALL DELETIONS AND ALTERATIONS

4/38A CFA 95 (In Lieu of AFA 3) 40/P & S/1697 (6143)

(See overleaf for oaths and notes for use on trial.)

Medical Offr's Certificate
K R (Can) para 557

I certify that I have this morning examined No: D-82903 (Rank) Pte
GREENWOOD (Name) W of 4 C I D B and in my opinion he is
fit to undergo trial by Court Martial.

Station Bordon
Date 20-9-45

Signed [signature] (Medical Offr)

PLEA OF MITIGATION

D-82903 Pte. Walter Greenwood.

This soldier enlisted in the Canadian Army, July 1941, and arrived overseas in Sept. 1942. Up to this time he has a comparatively good record, with the one charge of A.W.L. which resulted in the forfeiture of 7 days pay. He is a married man, and his wife resides in Canada. Since arriving in this country he made the acquaintance of a young lady, but had informed her that he was married, and had a wife back in Canada. Later he learned through her father, that the girl was going to have a baby, and that he was the father, and forbid him to see the girl again, or come around the home. Later he was summoned to court, and not denying the fact that he was the father, was compelled to pay the sum of 10 shillings a week plus the costs, which amounted to 7 Pounds. This took place on the Second of May 1945, and up to this date, no deductions had been made from his pay. The accused ~~payed~~ paid several trips to the Pay Office, to see why these deductions were not made, but received the reply that they had no authority to do so. Knowing this debt was piling up, and being in a troubled state of mind, the accused figured the only way out, was to try and see this girl in person. He did not wish to go near the home, as the father is a cripple, and did not wish to cause a scene, so he hung around that neighbourhood in the chance that he may run into her, but was not successful. Since that time, he has received the bill for backpayment which amounts roughly to 20 Pounds.

In passing sentence, I ask the court to take ~~into consideration~~

liency, and consideration on this soldier, for the mess he has got himself into, due to a few reckless moments

E-3

SUMMARY OF EVIDENCE

In the case of D.82903, Pte. Walter GREENWOOD, CIC, on strngth of No. 2 Cdn. Gen. Reinf. Unit, a soldier of the Cdn. Army Overseas.

By direction of the Commanding Officer, this Summary of Evidence is taken on oath.

First Witness for Prosecution. Capt. W.C. Mathews, 2 CGRU, ~~on strength~~ having been duly sworn, states as follows:-

"I am Capt. W.C. Mathews, 2 CGRU, and I produce the following documents pursuant to Overseas R.O.5352, which have been read over and shown to the accused and which are attached hereto as exhibits:-

Exhibit "A":- Absentee Report, signed by Capt. J.L. Lambert, 2 i/c R.& D.Wing, 2 CIDB, showing D.82903 Pte. Greenwood, W. AWL from 1700 hrs. 14 Aug 45.

Exhibit "B":- Certificate in accord. with P.C. 2797, showing D.82903, Pte. Greenwood, W. was arrested at Brighton by the Cdn Provost Corps at 0040 hrs. 7 Sep 45.

Exhibit "C":- Expense Voucher showing costs of apprehension & return of D.82903, Pte. Greenwood, W. to his unit in the amount of £0-7-11.

Which above exhibits pertain to the accused herein."

The accused declines to cross-examine this witness.

W.C. Mathews Capt.
(W.C.Mathews)

The accused was cautioned as follows:-

"Do you wish to make any statement or to give any evidence on oath? You are not obliged to say anything or give evidence unless you wish to do so, but whatever you say or any evidence you give will be taken down in writing and may be given in evidence."

The accused declines to make a statement and reserves his defence.

I certify that the foregoing Summary of Evidence consisting of one page was taken down by me in the presence and hearing of the accused, and that Rules of Procedure 4 (C) (D) (E) and (F) have been complied with.

In the Field.
14 Sep 45.

J.R. Mathieu Lieut.
(J.R. Mathieu)
Officer detailed to take the Summary of Evidence.

EXA

ABSENTEE REPORT

E.A.

No 4 CIDB (Squadron / Battery / Company) RECEPTION & DESPATCH WING 15 Aug 1945

Regt'l No	Rank & Name	When Absent	Hour of Return	In What State	Remarks
-82903	Pte GREENWOOD W	ABL FROM MUSTER PARADE AT 4 CITH W/Chillington Camp 1700 hrs 14 Aug 45			

3/60 MFH 273
40/P & S/391 (6200)

J. L. Lambert Cpl
.....Orderly Sergeant
2 i/c R.& D. Wing, 2 CIDB.

CERTIFICATE IN ACCORDANCE WITH P.C. 2797 of 10 Apr 42. EXHIBIT "C"

I CERTIFY THAT NO. D-82903. Rank Pte. Name Greenwood, W.

Unit No.4.C.I.T.R. Was arrested at Brighton (Place)

at 0040 (Hour) on 7&8Sept-45. (Date) and that at the time of his arrest he was wearing (Military uniform) ~~CIVILIAN CLOTHES~~. Signature of Provost-Marshal, Assistant Provost-Marshal, or other Officer or the Commanding Officer of the portion of H is Majesty's Forces or the Officer, Warrant Officer, or non-commissioned officer in charge of the detachment of the Canadian Provost Corps, Canadian Army, into whose custody the above named person was taken on arrest. (Strike out part inapplicable.)

London
8-Sept-45

CAPT.
D.A.P.M. C.M.H.Q.
(R.J.Stinson)

EXH. C

Expense Voucher Re— Ref: KR & O (Can) 539

Reg No D-82903 Rank Pte. Name Greenwood, W Unit "4 C.I.T.R.

The following expenses were incurred in apprehending and returning the M/N Soldier to his Unit from London from Brighton

Date	Particulars (Vs Leaton)	Amount		
	Escorts return fare from LONDON To Brighton		4	
7 Sept 45	Prisoners single fare to LONDON From Brighton		3	11
	Prisoners fare from to			
	Escorts & Prisoners expenses for Bed, Meals, Bus fares			
	Total £		7	11

I certify that the above statement of Expenses is Correct, and that the amounts are fair and just.

R Harrison Capt

Officer Issuing Railway Warrant and Expense monies
No. 6 Area Provost Company, Canadian Provost Corps, London

1/35 CMHQ 100-55 40-P & S/483 (6762)

LIST OF WITNESSES

In the case of D.82903, Pte. Greenwood, W.
CIC, on strength of 2 CGRU a soldier of the Cdn. Army Overseas.

(For Prosecution)

1. Capt. W.C.Mathews. 2 CGRU

(For Defence)

NIL.

LIST OF EXHIBITS

(For Prosecution)

Exhibit "A":- Absentee Report, signed by Capt. J.L.Lambert, showing accused AWL from 1700 hrs. 14 Aug 45.

Exhibit "B":- Certif. in accord. with P.C. 2797, showing accused arrested at 0040 hrs. 7 Sep 45.

Exhibit "C":- Expense Voucher showing costs of appreh and return of accused to his unit in amt of £0-7-11.

(For Defence)

NIL.

REQUEST FOR DEFENDING OFFICER

I, D.82903, Pte Greenwood, W. hereby request that the Convening Officer appoint an English Speaking Officer to represent me at my forthcoming trial by Court-Martial, should he be available.

In the Field,
14 Sep 45.

W. Greenwood
(W. Greenwood) Pte.

RECEIPT FOR DOCUMENTS

I, D.82903, Pte, Greenwood, W. hereby acknowledge that I have received a true copy of the Summary of Evidence taken in England preliminary to my Court-Martial, and I further acknowledge receipt of a true copy of the charge sheet under which I am being brought to Court-Martial.

14 Sep 45.
(Date)

W. Greenwood
(W. Greenwood) Pte.

ARMY FORM B.296 (WAR).

Statement as to Character and Particulars of Service of Accused.

(For Use at Trials by Field General Courts-Martial only).

Number.	*Rank.*	*Name.*	*Regiment (or as the case may be).*
D.82903,	Pte.	Greenwood, W.	2 CGRU

NOTE.—The Field Conduct Sheet is to be produced in Court with this statement but is not to be annexed to the proceedings. The numbers herein stated should correspond with the number of Entries in the Field Conduct Sheet, punishments being given to the most serious offence in each entry. If the charge is for drunkenness or absence without leave, the entries for drunkenness or absence, as the case may be, should be stated separately. Any recognized special acts of gallantry or distinguished conduct recorded on the Field Conduct Sheet should also be inserted here.

1. The following is a fair and true summary of the entries in the Field Conduct Sheet of the accused, exclusive of convictions by a court martial or a civil court :—

For Sec.15(1) ..... 2 times.

For ..... times.

For ..... times.

For ..... times.

Date of first entry in Field Conduct Sheet 19 Jul 43.

Date of last entry in Field Conduct Sheet 20 Feb 44.

2. Previous convictions of the accused by a court martial or a civil court are set out in the Schedule overleaf.

*Strike out if not applicable.

~~3. The accused at the present time is under sentence for .....~~

~~beginning on the ..... day of .....~~

4. The accused has been awaiting trial on the present charges for NIL days in civil custody; and for 12 days in military custody, *i.e.*, NIL days in open arrest, NIL days in close arrest; of which NIL days were spent in hospital.

5. The present age of the accused is 21 yrs.

6. The date of his attestation ~~calling up for military service~~ 1 Jul 41.

~~7. The service which the accused is allowed to reckon is .....~~

‡State the military decorations (if any) held by accused.

8. The accused is in possession of‡ CVSM & Clasp.

9. (*If the accused is a warrant officer or N.C.O.*). The accused has served continuously, without reduction, to the present date—

	Date of Promotion.
In the substantive rank of	.....
In the war substantive rank of	.....
In the acting rank of	.....

EXB

INSTRUCTION.—*If any matter in any of the above paragraphs cannot be stated from the regimental books the paragraph must be struck through.*

(*28072) Wt.30721/3701 82,000 9.44 A.& E.W.Ltd. Gp.698

SCHEDULE OF CONVICTIONS BY A COURT-MARTIAL OR CIVIL COURT.

Description of Court by which tried.	Date and Place of Trial.	Charges upon which convicted.	Sentence of the Court.	Punishment remitted or sentence suspended.

I HEREBY CERTIFY that the foregoing particulars, which have been extracted from the regimental books in my custody, are correct to the best of my knowledge and belief.

Signed this 20th day of Sept 45

J. R. Matthieu Lt.

Officer having Custody of Regtl Books

No. 2903 Name Brennwood, Sqn, Battery, or Company COY Corps Date of enlistment 1-7-41 GC Badges Service or Proficiency Pay 3/17 MFM 6 (AFB 122) 40.7&8/136 (7808)

Date of last entry in Company Conduct Sheet — No. and date of last drunk — For ol not reckoning towards freedom from extra fine — Sheet No. — Signature OC Company, etc — Character

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
~~Sydney~~	~~Sydney~~	~~Pte.~~							
Field 19	Jul 43	Pte.		Sec.15(1) AWL 1 day 6 hrs 45 min.	Cpl.Metcalf Dooley	5 days forf pay RAAI 149 (2)	22 Jul 43	Lt-Col. H.T.S Kempton.	5 days forf pay RAAI 149(1)(a)
Fields9	Feb 44	Pte.		Sec.15(1) AWL 6 hrs.30 min.	Cpl.Metcalf	6 dys CB	21-3-44	Maj.E. Scott.	

Certified True Copy consisting of one page

14 Sep 45. F.Rattle Lt.

Officer having custody of original.

(PTO)

JOB NUMBER 44 REEL NUMBER 26 XXX

RETAKE CERTIFICATE

I HEREBY CERTIFY THAT THE MICROPHOTOGRAPHS APPEARING BETWEEN "START OF RETAKE" AND THIS "RETAKE CERTIFICATE" ARE TRUE COPIES OF THE RECORDS DESCRIBED BELOW.

"A" SIDE
GREENWOOD, W.

DATE SIGNATURE OF CAMERA OPERATOR

DEC. 18 1958 [signature]

BOOK NO. 13-4 GM

END OF RETAKE

START

SECOND

SIDE


REEL
NO.
44.26

HD 117

PR GUADAGNOLA H.D.

SCHEDULE.

PART I. PLEA(S), FINDING(S) AND SENTENCE.

Accused: D1147756 Private Henry Daniel GUADAGNOLA - 3 Battle Wing CTS

	Charge. (Insert "alternative" where applicable.)	Plea. (See Instrs p 2.)	Finding. (See note below.)	(Space for use as required for further charges, accused charged jointly, special findings, etc.)
1st	9(2)	NOT GUILTY	GUILTY	
2nd	40	NOT GUILTY	GUILTY	
3rd	11	NOT GUILTY	GUILTY	
4th				
5th				
6th				

(Note: As to findings for lesser offences see AA 56, RP 44; findings on alternative charges see MML p 683 fn 4 para 2, RP 44; special findings see RP 44 and MML p 753, and in lieu of kit see RP 44 fn 6.)

~~At present~~ under sentence for ~~beginning on (date)~~ (1)

(1. Insert sentence being served, or delete. If not applicable. See RP 46(A). Information should be found on MF B355 or AF B296.)

Time in confinement awaiting present trial—a total of 61 days, of which NIL days were spent in hospital.(1)

(1. See RP 46(A) fn 2. Information should be found on MF B355 or AF B296 admitted in evidence under E2.)

Sentence Awarded by the Court:
10 months detention for a period of sixty (60) days.

(Sgd) _____ Judge-Advocate, if any. 10 Nov 44 Date awarded. (Sgd) _____ President. (RP 45, 80.)

(See back of Convening Order as to assembly and disposal of record after trial.)

PART II. MINUTE WHERE CONFIRMATION RESERVED. (AA 54(3), RP 120(F), MML p 760.)

Date ~~10 Nov 44~~ (Sgd) _____ Commanding _____

PART III. DECISION OF CONFIRMING OFFR ON FINDING(S) AND SENTENCE.

(For duties and powers see AA 54, 57, RP 37(D) fn 6, 46(A), 51-56, 120, MML pp 759-761, KR Con 567-577. Acquittals require no confirmation and cannot be revised: AA 54(3). Sending back finding or sentence for revision by Court: AA 54(2), RP 120(G). If not confirmed, accused may be tried again: AA 157, MML p 64. Minute of confirmation or non-confirmation may be altered before promulgation: RP 53, MML p 65. Quashing after promulgation: KR Con 573. Duties and powers of reviewing offrs: AA 57, 57A, RP 53A, 54. The Confirming Offr must sign here personally. AA 172 fn 1.)

My decision on the finding(s) and sentence set forth in Part I is:

Confirms. J.H.R.

~~I direct that the accused be not committed to prison or detention barracks until further orders.~~ (1)

(1. AA 57A. Delete if not used.)

Date 13 Nov 44. (Sgd) J.H. ROBERTS, Maj-Gen., Comd. Can. Rit. Units. Commanding Confirming Officer.

PART IV. PROMULGATED AND EXTRACTS TAKEN. (RP 53, KR Con 576, 577.)

Date 16 Nov 44 Signature of Offr. _____

Accused. D1147756 Pte Guadagnola H D

ALL DELETIONS AND ALTERATIONS WILL BE INITIALLED.

RECORDED AT CMHQ IN AB 160 40-117

RENEWED AUG 1944 CMHQ BRANCH CANADA

FIELD GENERAL COURT-MARTIAL

CFA86 (Its Rev of AFA81) 40/F & H/1688 (A/44) 4/38B

Convened by Order of Maj-Gen J.E. Roberts DSO MC Comd CRU dated 6 Nov 1944

ACCUSED.

(As to the trial of two or more charged jointly see RP 16, 71, 109. As to recitals for showing (a) permanent or confirmed rank, and (b) apptmt, A/rank or A/apptmt, if any, see AA 181, 183, fns, KR Con 308, 328, 330.)

Number.	(a) Prmnt R. (b) Apptmt. A/R or A/Apptmt.	Full Christian Names.	Surname.	Unit.
D114775	Private	Henry Daniel	GUADAGNOLA	3 Battle Wing CTS

PROCEEDINGS REVIEWED 20 Nov 44

REVIEWING OFFICER, [illegible] BRANCH CMHQ

PROCEEDINGS OF TRIAL.

Held in the Fd in (country) England on (date) 10 Nov 44

RECORD FORM A—OPENING PROCEEDINGS AND ARRAIGNMENT.

A1. The President, Members, ~~waiting Member, JA, if any,~~ and Offrs under instr, ~~if any,~~ assemble, and the Court is closed.

(PRINTED MATTER NOT IN ITALICS FOR GUIDANCE. WILL BE DELETED, IF NOT USED OR APPLICABLE, AND INITIALLED BY PRES OR JA. The Schedule referred to throughout is on p 4. Citations do NOT include all relevant fmn ROs. For guidance as to procedure where a variation to this form arises, see form for GCM in MML pp 741 to 759. A brief record of such variation will be made and given a number bearing reference to appropriate or preceding queue number herein. See back of Convening Order, CF A93, for oaths and instrs on how to record addresses, evidence, etc, which inserts are hereafter called "Notes". As to general provisions for conducting the trial see AA 53, RP 36, 63-70, 72, 74, 94, 103, 169, 122.)

A2. The President initials and legs before the Court the Convening Order and Charge Sheet(s) attached thereto.(1) The Court is satisfied that it is properly convened and constituted; ~~he~~, accused is (are) amenable to military law, and each charge discloses an offence.(2)

(1. As to use of Summary of Evidence see RP 17 fn 6. 2. As to, see 49, 50, RP 105-107. 3. RP 11-13, 23, 24.)

A3. The Court is opened. The accused is (are) brought before the Court. At 1715 hours trial commences.

A4. The Prosecutor produces a Medical Certificate that accused is ~~was~~ fit to undergo trial by court-martial.(1) ~~The Prosecutor informs the Court that accused elected to be tried by court-martial instead of being dealt with summarily by the CO.~~(2)

(1. KR Con 557. 2. AA ~~46(2)~~, RP 60 fn 1. For effect see KR Con 563(c). Delete, if not applicable.)

A5. ~~Presidents to accused:~~ Do you object to ~~Private P 114775~~ as interpreter? Ans _____

~~The Interpreter is sworn.~~(1) Do you object to ~~SGT JOHNSTON~~ shorthand writer? Ans NO

~~The shorthand writer is sworn.~~(1)

(1. RP 72. Delete, if none employed.)

A6. The Convening Order and names of the President and Members of the Court are read to the accused.(1) President to accused: Do you object to be tried by me as President or by any of the Members of the Court?

Ans No, Sir (2)

(1. RP 116. 2. If no objection, waiting member retires. RP 68(6). If objection, see procedure AA 51, RP 25, 71, 18, MML p 746.)

A7. The President, Members, ~~JAs, if any,~~ and Offrs under instr, ~~if any,~~ are sworn.(1) The following are the ranks, names and units of the offrs comprising the Court, etc:

President	Lt.Col	D.L. Redman VD	HQ CRU
Member	Capt	J.M. STEWART	1 CASCAU
Member	Lt	K.P. CLARKE	1 CASCAU
~~Judge-Advocate~~			
Prosecutor	CAPT	J.D. CHANTER	CTS
Defending Offr	LT	D.R.C. BEDSON	1 ADM TPT COY

Questions by President: Is the Prosecutor a lawyer? Ans NO Is the Defending Offr a lawyer? Ans NO (2)

(1. RP 26, 27, 109, 111. List of offrs under instr will be returned separately with proceedings for information of Conv Offr. 2. If Pros a lawyer and Def Offr not, accused is entitled to an adjournment when RP 89 (B) and fn 2 were not followed. See Def p 3.)

A8. The accused ~~before arraignment make(s) (no)~~ plea (3)

(1. If a special plea is made for separate trial on one or more charges (RP 62(E), 108), or as to the jurisdiction of the Court (RP 34, 35(4), 113), or in bar of trial (RP 36), or as to accused's mental fitness to stand trial (AA 130, RP 57), or by one of several accused charged jointly to be tried separately (RP 16, 71), such plea, the witnesses made in support or against, the evidence, if any, and finding are recorded per Notes. For forms of record see references in fns to RoP cited. Insert in A8 rank and name of the accused making the plea.)

A9. The accused is (~~are~~) arraigned (~~separately~~) on all charges in the charge sheet.(1) The accused does ~~(do)~~ not object to any charge.(2) There is no amendment to be made to the Charge Sheet.(3) The President records the pleas in Part I of the Schedule.

(1. RP 31, 112. See para 1 of Instrs p 2. When more than one Charge Sheet see RP 27 — when several accused to be tried separately see RP 71(C), and use separate copies of CF B96 to record proceedings. 2. RP 32, RP 33. If otherwise, delete and make appropriate record per Notes.)

A10. The Court (~~is cleared and~~) considers the Instrs on Procedure after Arraignment at top of p 2. The proceedings are continued on Record Form "D"

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

INSTRUCTIONS ON PROCEDURE AFTER ARRAIGNMENT.

1. *The accused may not plead or be found Guilty on more than one of two or more charges laid in the alternative.* (*RP* 37(*A*).) *As to withdrawal of alternative charges by Prosecutor see RP* 35(*C*). *No other charge can be withdrawn for any reason without authy from Convening Offr. If Convening Offr concurs, Court may accept plea of Guilty to lesser, etc, offence.* (*RP* 44(*H*).) *Accused may change a plea of Not Guilty to Guilty during trial.* (*RP* 38.) *As to refusing to plead or not pleading intelligibly see RP* 35(*A*). *As to plea when sentence may be death see RP* 35(*D*).

2. *The proceedings on each charge sheet* (*RP* 62) *after arraignment will be conducted as follows in the respective circumstances stated:*

I. If pleas to all charges are GUILTY, use Record Form B below.

II. If pleas to all charges are NOT GUILTY, use Record Form D on p 3.

III. If pleas to some charges are GUILTY and to other charges are NOT GUILTY and,

(a) Such mixed pleas occur when there are no alternative charges in the Charge Sheet, use Record Form C below. (*RP* 37(*A*).)

(b) Such mixed pleas occur in a set of two or more charges laid in the alternative, see RP 37 (*A*) *and fn* 2 *as to discretion of Court,* (i) *to try the accused on all such alternative charges as if he had pleaded Not Guilty thereto, or,* (ii) *to record the pleas as the findings of Court. After deciding between* (i) *and* (ii), *Court will proceed under foregoing instrs as may be appropriate to result of its decision. See M M L p 744 Instrs* (2).

3. *As to responsibility of President to accused see RP* 59, 60(*C*); *powers and duties of J A see RP* 103; *duty of Prosecutor see RP* 60(*A*) (*B*); *duty and privileges of accused and Defending Offr see RP* 60(*C*), 87(*C*), 91, 92; *swearing and withdrawal of witnesses from Court see RP* 81, 82; *questioning of accused see RP* 80, 87(*C*), 92(*B*), *and of witnesses see RP* 83-85; *calling or re-calling of witnesses by Court, etc, see RP* 75-79, 86, 116; *use of Summary of Evidence at Trial see RP* 17(*E*) *fn* 6; *and responsibility of J A or Pres to record proceedings see RP* 94, 96.

RECORD FORM B—PROCEEDINGS ON PLEAS OF GUILTY TO ALL CHARGES.

B1. The President or JA, if any, complies with RP 35(B) by explaining to the accused the nature and meaning of the charge(s)(1), and that on his plea of Guilty there will be no regular trial but merely a consideration of the sentence to be awarded after he has been given an opportunity to make a statement in reference to the charge(s), call witnesses as to character and make an address in mitigation of punishment.(2)
(*1. RP 35 fn 3. 2. MML p 54 para 47.*)

B2. President to accused: The Court will now receive any statement you desire to make in reference to the charge(s).(1) If it appears from your statement that there are circumstances which indicate that you do not understand the effect of the plea of Guilty(2), or which show provocation or extenuation in respect of which in your interest the witnesses for the Prosecution should be examined(3), we shall advise you to change your plea to Not Guilty. In making a statement you will not be sworn or subject to cross-examination; and anything you say will not be used in evidence against you after you change your plea. If, however, it appears to the Court that your statement affects only the amount of punishment to which you are liable, you will not be advised to change your plea and you will be given an opportunity later to prove your statement by sworn testimony, if you so desire.(4)

President to accused: Do you wish to make a statement? Ans .....(5)
(*1. RP 37(B). 2. RP 37(D) fn 6. 3. RP 35(B) fn 3 para 3, MML p 54 para 47. 4. See para E3 of Record Form E. 5. Statement, if any, recorded per Notes.*)

B3. The Court considers the accused's statement.(1) The Court decides (not) to advise accused to change his (their) plea(s) of Guilty to Not Guilty on .....charge(s). The accused is (are) so informed, and he (they) change(s) his (their) plea(s) on .....charge(s). Part I of the Schedule is amended accordingly.
(*1. Court may be closed to consider the statement. Delete whole or part not used.*)

B4. On the charge(s) to which the plea(s) of Guilty is (are) not changed the President records finding(s) of Guilty in Part I of the Schedule.(1)
(*1. RP 35(B). If any plea(s) is (are) changed, use Record Form C or D as appropriate.*)

B5. The Summary of Evidence is marked Ex ....., initialled and read aloud by the President.(1)
(*1. If there is no Summary, or if it is inadequate, comply with RP 37(B). If there is any evidence inconsistent with any plea standing as Guilty, Court will advise accused to change such plea and, if changed to Not Guilty, try such charge(s) by use of paras D1 to D8 inclusive of Record Form D on p 3. RP 37(D).*)

B6. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

RECORD FORM C—PROCEEDINGS ON MIXED PLEAS OF GUILTY AND NOT GUILTY.

C1. As to the charges on which accused pleaded NOT GUILTY the trial is continued by using paras D1 to D8 inclusive of Record Form D on p 3 before proceeding with C 2.(1)
(*1. RP 37(A) (E).*)

C2. The charges on which accused pleaded GUILTY are read to him (them) again, and the trial is continued by using paras B1 to B5 of Record Form B above.(1)
(*1. Under B5 such parts only of the Summary of Evidence are read as relate to the charges dealt with under C2. If any plea is changed to Not Guilty, trial thereon proceeds by complying with paras D1 to D8 inclusive in Record Form D on p 3 and making an appropriate record thereof on a separate sheet.*)

C3. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

Pin here Loose Sheets of Record.

RECORD FORM D—PROCEEDINGS ON PLEAS OF NOT GUILTY TO ALL CHARGES.

D1. President to accused: Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity to prepare your defence? Ans. NO, SIR
(*1. If "yes", see RP 39(A) for procedure. Statement or evidence, if any, is recorded per Notes.*)

D2. The Prosecutor makes (an) (no) opening address.(1)
(*1. RP 39(B), 60(A) (B), 90, 92(C) (D). Record address per Notes, subject to RP 95(C).*)

D3. The evidence for the Prosecution is taken.(1)
(*1. RP 39(C), 114, KR Can 555. Record evidence per Notes. As to Prosecutor giving evidence himself see RP 39(D) (E).*)

D4. The Prosecution is closed.(1) The Defending Offr submits that the evidence for the Prosecution does not establish a prima facie case against the accused on the 1st 2nd & 3rd charge(s).(2) The Court is closed, and considers the submission.(3) The Court is re-opened, and the President announces that the submission is disallowed on the 1st 2nd and 3rd charge(s), and allowed on the ..... charge(s), and that, accordingly, the trial will proceed on the former, but the accused is (are) found Not Guilty on the latter charge(s).(4)
(*1. Delete remainder of this para. if submission not made. 2. Arguments on submission, answer and reply are recorded per Notes. 3. RP 40 fn 1. See MML p 72 paras 12-14 and p 81 para 42. 4. Delete part not used. If accused acquitted on all charges use second alternative in para D8.*)
NB: If trial proceeds, accused must be allowed great latitude in making his defence, and the Court should not stop his defence solely on ground of irrelevance. (*RP 60(C), 114, 115.*)

D5. President to accused: You will now proceed with your defence.(1) You may, if you wish, give evidence yourself on oath as to the facts or your character or both, in which case you will be subject to cross-examination.(2) You may, however, make a statement without being sworn, and you will not be subject to cross-examination.(3) But a statement which could have been made on oath will not carry with the Court the same weight as sworn testimony.(4) You may call witnesses in your defence and as to character, whether you give evidence or make a statement or do neither.

President to accused: Do you wish to give evidence yourself as a witness, make a statement, or do neither? Ans. TO GIVE EVIDENCE. Do you intend to call witnesses on your behalf? Ans. NO - SIR. Are they witnesses as to character only? Ans .....
(*1. RP 115. 2. RP 40(A), see 80(D). 3. RP 40 fn 10. 4. RP 40 fns 2, 9.*)

D6. Consequent on the answers recorded in para D5 the appropriate procedure for the defence is followed.(1)
(*1. RP 114, 115, 116. For procedure see Notes on back of Convening Order. Cf A95. Evidence for accused as to his character should, if in his interest, be given before the finding. See RP 46(A) fn 1. 86(C). Note the further opportunity in para E1 of Record Form E. Record per Notes addresses, statement, evidence and any summing up by the JA under RP 42, 103(e).*)

D7. The Court is closed to consider the finding(s).(1) The finding(s) of the Court is (are) recorded in Part I of the Schedule.(2) The Court is re-opened.
(*1. RP 43, 117(A). See Notes in Part I of Schedule. 2. RP 44(A).*)

D8. ~~The President announces the finding(s), if any, of Not Guilty, and states to the accused that the finding(s) of the Court on the ..... charge(s), being subject to confirmation, will be promulgated later.~~(1)
Or. ~~The President announces that the accused is found Not Guilty on all charges and is to be released forthwith, and that the proceedings are accordingly terminated. Part I of the Schedule is dated and signed.~~(2)
(*1. AA 54(3) (a). RP 45, 120(4). 2. AA 54(3), RP 45, 117. This alternative announcement is not applicable when there are pleas of Guilty outstanding and dealt with under Record Form B at C.*)

D9. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E below.

RECORD FORM E—PROCEEDINGS ON CONVICTION BEFORE SENTENCE.

E1. President to accused: Do you wish to give evidence yourself or to call any witnesses as to your character?(1)
Ans. NO - SIR
(*1. If evidence has already been given by accused or his witnesses as to his character, delete this para. RP 37(C) fn 4, 46 fn 1. Accused and witnesses are sworn. Evidence recorded per Notes.*)

E2. The Prosecutor produces Statements as to Character and Particulars of Service(1), and certified true copy (copies) of Conduct Sheet(s)(2), purporting to refer to the accused, which he submits to the Defending Offr for examination, and then to the Court for admission in evidence. The Court is satisfied that these documents refer to the accused, because (i) they purport to be signed in the manner required by AA 163(1) (g) (h), and (ii) they purport to refer to (a) soldier(s) having the same number, rank, name and corps as the accused. Admitted in evidence and marked Ex B and Ex C respectively.(3)
(*1. MFB 355 or MFB 296. 2. MFB 6. 3. RP 46, KR Can 558. If shown documents not produced, see RP 46 fn 1 para 1.*)

E3. President to accused: Do you wish to address the Court on the Statement(s) and Conduct Sheet(s), and in mitigation of punishment?(1) Ans. SAY HE'S NOT-ATI(2)
(*1. RP 37(C), 46(D). 2. Address, if any, recorded per Notes. Court should permit accused or his witnesses to prove on oath anything here or previously stated which would affect the amount of punishment. RP 37(F) fn 7.*)

E4. The President states that the Court is closed to consider the sentence, and that the sentence to be awarded by the Court, being subject to confirmation, will not be announced, but will be promulgated later, and the proceedings in open court are accordingly terminated.(1)
(*1. AA 54(6), RP 120(A).*)

E5. The Court considers the sentence.(1) The President records the sentence in Part I of the Schedule, which is dated and signed by him and the J.A. *(if any).*(2)
(*1. When several accused tried separately see RP 71 (D). One sentence only, comprised of the punishment or punishments laid down in AA 41, 44 and its proviso, is to be awarded to cover all charges in all charge sheets on which accused found guilty. RP 48. As to sentences see AA 44, 138, 182, RP 46-50, 69, 118, 119(A), KR Can 388, 390, 563-566, Exercises RO 309, 2222, MML p 60, 737-739. As to sentences assigned for civil offences by the law of England see AA 41(5), MML p 130. When accused already under sentence of imprisonment or detention see AA 44(1)(b), 68(1), KR Can 564. 2. RP 50. As to release from arrest for Confirming Offr see KR Can 567. As to assembly and disposal of record after trial see Instrs on back of Convening Order.*)

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

CHARGE SHEET

The accused, No D-114775 Pte Henry Daniel GUADAGNOLA, Royal Canadian Army Service Corps, attached to No 3 (Battle) Wing, Canadian Training School, Canadian Army (Overseas) is charged with, while on active service

FIRST CHARGE

A.A. Sec 9(2)

Disobeying a lawful command given by his superior officer

in that he

at Steyning, Sussex on 28 Oct 44 did not slow down WD vehicle No CL 198359 which he was driving at an excessive rate of speed when ordered to do so by Capt (A/Major) L.H. Taylor, Canadian Armoured Corps, officer in charge of said vehicle.

SECOND CHARGE

A.A. Sec 40

Conduct to the prejudice of good order and military discipline

in that he

at Wappingthorne Farm, Steyning, Sussex on 28 Oct 44 did not produce his paybook when asked for same by Capt (A/Major) L.H. Taylor, Canadian Armoured Corps.

THIRD CHARGE

A.A. Sec 11

Neglecting to obey unit orders

in that he

at Steyning, Sussex on 28 Oct 44 drove a 60 cwt WD vehicle No CL 198359 at approximately 40 mph contrary to a unit order No 226 para 4 dated 22 Sep 44 directing the attention of all MT drivers to the speed limits of Canadian Military vehicles.

Frank Barber Col

(F. Barber) Col, RM Rang,
Commandant
Canadian Training School.

7 November 1944

Wiston House
No 3 (Battle) Wing,
Canadian Training School

To be tried by Field General Court Martial.

(J.H. Roberts) Maj-Gen
Comd
Cdn Rft Units

In the Field
6 Nov 1944

FIELD GENERAL COURT-MARTIAL

(Whether the accused to be tried is under his comd or not, a FGCM may on application to him be convened by any offr of Cdn Army Overseas, or of any other force if authorized in law, in immediate comd of troops on active service, subject to RP 105(C) and restrictions imposed by appropriate authy, AA 49, 50, RP 104-107, 114. As to the duties and privileges of the Convening Offr in dealing with the application see MML Chap V paras 22 and 23, RP 87(B).

There should be a separate Convening Order for each person to be tried separately by the same Court. RP 71(C), 109. As to separate charge sheets see RP 62, and as to separate trial on charges in the same charge sheet see RP 108. As to two or more accused charged jointly see RP 16, 109.

As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

ACCUSED.

Number.	(a) Prmnt R.	(b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
D114775	Private		Henry Daniel	GUADAGNOLA	3 Battle Wing CTS

CONVENING ORDER.

1. Whereas complaint has been made to me, the undersigned, that the person(s) named above as the accused, being subject to military law, has (have) committed the offence(s) set forth in the Charge Sheet(s) attached and on (date) 6 Nov 1944 endorsed by me, ~~for by an offr of my staff (or me)~~, " To be tried by Field General Court-Martial ".

2. And whereas I am of opinion that it is not practicable that such offence(s) should be tried by an ordinary General Court-Martial; (and that it is not practicable to delay the trial for reference to a superior qualified offr.)
(Delete part in brackets when not required for compliance with RP 105(C).)

3. I hereby convene a Field General Court-Martial to try the said person(s), and to consist of the Offrs appointed or detailed hereunder.

4. ~~XXXX

Medical Officer's Certificate
K.R. (Can) para. 557.

I certify that I have this morning examined No. D.11.4.7.2.5.....

.Lt. Tuadagnola, H.D and in my opinion he is ~~unfit~~ fit to
(rank) (name)

undergo trial by Court Martial.

Station

Date 10 Nov 44

(Sgd).....
(Medical Officer)

F.G.C.M. IN THE CASE OF

D 114775 Pte GUADAGNOLA, 3 Battle Wing CTS

10 Nov 44

EVIDENCE FOR THE PROSECUTION NOTE D-3

Prosecutor:

I produce Certified true copy of Unit Part I Order of No 3 Battle Wing, No 226, dated 22 Sep 44.

(Part I order No 226 marked Ex 1 by the Court)

1st WITNESS FOR THE PROSECUTION

Capt (A/Major) L.H. Taylor, att to 3 Battle Wing, CTS, having been duly sworn states:

On Sat morning 28 Oct I was detailed as comd No 7 Pl, A Coy at CTS. On completion of the morning lectures my pl was embussed at Wiston House, I mounted in the cab of the leading veh. As the veh moved off I told the driver, who is the accused here today, to drive slowly as excessive speed caused inconvenience to the passengers in the rear of the veh. We moved down a narrow lane at what I considered an excessive speed, when we gained the main highway the driver accelerated and I warned him to drive slower. He questioned my right to be in the cab as I was not a member of the staff and he said that he did not take orders from students. I said "I am an officer, and in charge of this pl and I am telling you to drive slower." The speed of the veh increased, we passed a sign painted on the road "dead slow" at a speed of 40 mph, according to the speedometer of the veh, and in my opinion it was excessive. It was a 60-cwt truck. I remonstrated again and pointed to the speed markings of the truck on the windshield which showed the maximum speed of the veh to be "25". We continued on to Woppingthorne, our ultimate desination, there was very little conversation from that point on. I warned the accused that he was piling up trouble for himself and he said "so are you". When the party dismounted at Woppingthorne the driver went to the rear and let down the tail gate and when he came back to the front I asked for his pay book. He xxx did not give it to me, I said "you are under open arrest"and he replied "that's what you think". He mounted his veh and drove off. The instruction of our Pl Capt C McArthur was at Woppingthorne and I immediately brought this matter to his attention, I submitted a statement in writing to support my charge, Capt McArthur then took the matter in to his hands.

CROSS EXAMINATION BY THE DEF OFFR

Q Could you tell the Court what you were wearing when this occurence took place?

A I was wearing no sign of rank, I was in black overalls, which is the authorized dress of this school.

Q Did you offer the accused any proof that you were an officer?

A I did not, the course was for officers only and I told him that I was the offr in charge of the pl. 3 Battle Wing have only been holding courses for officers for some months.

Q The only means you have of judging the speed is by the speedometer?

A Yes.

Q Do you know that the speedometer was correct, have you tested it or had it tested since?

A I was relying on the needle and my own judgement which told me we were travelling at an excessive speed.

In the opinion of the Court it is unnecessary to comply with RP 83(B)

2nd WITNESS FOR THE PROSECUTION
Lt (A/Capt) H.L.C. Hembroff, on strength No 3 Battle Wing CTS having been duly sworn states:

On the 28 Oct 44 I was posted to No 3 Battle Wing, CTS as an instructor. I am the Pl Comd No 7 Pl, A Coy, CTS. I detailed Major Taylor as Pl Comd No 7 Pl for the day of 28 Oct 44. He was responsible to see that the pl was embussed and was responsible for the transportation of the pl from Winston House to Woppingthorne. I was at Woppingthorne when the students arrived, at which time Major Taylor reported an incident to me.

CROSS EXAMINATION BY THE DEF OFFR

Q Was the accused present when you instructed Maj Taylor to take over the pl?
A No.

Q Was he informed that/any that Major Taylor was in charge?
A No, it is an understanding that the tpt take the students to Winston House and bring them back.

Q Was the accused told that Major Taylor was in charge of the tpt?
A No.

In the opinion of the Court it is unnecessary to comply with RP 83(B)

3rd WITNESS FOR THE PROSECUTION
Capt A.R. PALLISTER, on strngth No 3 Battle Wing, CTS, having been duly sworn states:

I am the tpt offr at 3 Battle Wing, CTS. In the tpt office there is a file of ~~xxx~~ daily orders kept on the wall for the information of all MT personnel. Part I Orders for the 22 Sep 44 repeated the RO order regarding the maximum speeds laid down for WD vehs in the case of 60-cwt, the maximum speed quoted by this order was 25 mph. (Witness is shown Ex 1) This is the order I have been referring to. I checked this file two times since posting it there the last time less than a week ago and it was still~~xxx~~ there. All drivers come into the office at least twice a day to get their mail and to get their work tickets and instructions for the day.

CROSS EXAMINATION BY THE DEF OFFR

Q When was the accused first att to your section?
A Between the 7 and 10 Oct 44.

Q As tpt offr you are responsible for the drivers duties?
A He gets his orders from myself or my NCOs.

Q Did you ever speak to the accused about his duties? About duties regarding driving students?
A I never did personally, he would report into the office each morning and get his instructions from some NCO there, probably the despatcher, the usual job was to drive the officers from their quarters and take them wherever the instructors wanted them taken. I never outlined his duties to him, but he would be detailed on jobs each morning.

Q Can you tell the Court where these orders were hanging?
A The office~~x~~ is divided into two parts, a place for the drivers and the other part is where the work, office work is carried out, the orders are right beside the door and in the part where the drivers come into. I never read the orders to the accused or showed him where they were, but there was a sign above them they were in plain view and he could not have helped but seen them.

BY THE COURT

Q Did you give any instruction to your drivers as to whether they were to take orders from the officer students?

A I am not prepared to say I have given orders to any individual but at various times I have told them they are responsible for speed and are liable to be charged by anyone riding with them I have told them that they are responsible as well as the officer riding with them.

In the opinion of the Court it is unnecessary to comply with RP 83(B)

CASE FOR THE PROSECUTION IS CLOSED

SUBMISSION BY THE DEF OFFR Note D-4

Sir,

I ask the Court to consider that the evidence produced by the Prosecution is of such that has not made a prima facie case on any of the three charges, in as much as the officer who issued these orders was a student and did not have any badges of rank showing, which would enable the accused to realize that he was an officer and therefore should be obeyed. I point out that the Part I order produced was published before the accused arrived at 3 Battle Wing and no evidence has been produced to show that the accused ever read or saw it.

REPLY BY THE PROSECUTOR

Sir,

Regarding the Part I order, I would like to draw the attention of the Court to MML, Page 436, under Sec 11, the foot note. I consider that the Prosecution, through witnesses has proved the orders were there and I contend that the accused being an MT driver oughtto have, in the ordinary course of events should have read and known what was in that order. On the 1st Charge, I contend that the evidence is sufficient inspite of the fact that the officer was not wearing rank badges at the time, he declared that he was an offr and having declared such, the order should be carried out and any question the accused had should be looked into later, but owing to the nature of the duty no badges of rank are worn. The accused has been driving officers for a period of some weeks and there is no reasonable doubt that he should these students are officers. On the 2nd Charge the same remarks apply, the driver knew he was talking to an officer, and should have produced his pay book.

COURT IS CLOSED TO CONSIDER THE SUBMISSION

COURT IS RE OPENED AND THE PRESIDENT ANNOUNCES THAT THE SUBMISSION IS DISALLOWED.

EVIDENCE FOR THE DEF NOTE D-6

1st WITNESS FOR THE DEF

The accused, att to 3 Battle Wing, CTS, having been duly sworn states:

On the 15 Oct 44 I and two other drivers with trucks went to 3 Battle Wing CTS to replace three other trucks that had to go in for repairs. We arrived there on Sun and were told to report to the office on the following morning. This we did. The other boys told us what our duties were, the chaps who were driving in the convoy with us. They told us we were not supposed to take any orders from the students as one time a student made one of the drivers go on a recreation trip and this chap said for us not to take orders from students, but only from instuctorrs.

Q Do you remember having seen Major Taylor the first witness before?
A I have never seen him before.

Q Will you tell the Court what happened on the 26 Oct 44?
A Around 1200 hours the busses were lined up and down the road for the students and as they came running down the road the made a dive to see who could get into the front of the trucks first. I did not pay any attention who was in the front of my truck and when ~~xxxxxxxx~~ I went around to shut the tail gate and came back to the cab an officer was sitting in the cab. We proceeded down the road. As we were going down he said that I was driving too fast which I was not at the time or afterwards. He said for me to slow down that I was going too fast, which I did. So we got down to the bottom of the lane and we changed gears and practically stopped, it is the Steyning-Washington Road I believe. We proceeded at an average speed of 25 mph and there was a little grade or hill which caused me to slacken down, the speedometer registered 28 mph at the time. When I got into Woppingthorne I slowed right down to turn into the gate. He said I was still travelling too fast at that time and I asked him who was driving, I did not take him for an officer. He had no badges of rank on. I went down the road and he said I was still driving too fast and I slowed right down to practically nothing and after I got over there and stopped I got out and opened the tail gate and as he got down out of the truck and I got in he went around the side and asked for my name, I said it was not necessary as I did not know who the person was. I drove back to Winston House again as my journey was finished.

Q When the major told you he was an officer did you ask him for any proof of that?
A He did not say he was an officer, he said"I am in charge." Anybody could have said that, a private or corporal.

Q Had anyone in charge told you he was in charge?
A No Sir.

Q Did anyone ever tell you that everyone at 3 Battle Wing were officers?
A No Sir.

Q When you come into the Court did you know that all the students of 3 Battle Wing were officers?
A No Sir, I still do not know that, we had no instructions.

Q Are you certain in your own mind that no one had pointed out the Pt I Orders to you in the MT office.
A No Sir, I never knew that they were hanging in there.

Q The road from Steyning to Woppingthorne, what is it like?
A There is one curve, there are two hills that are fairly long, you must go up them in secondgear.

Q Has the speedometer in your veh been tested in the last two months?
A No Sir.

CROSS EXAMINATION BY THE PROSECUTOR

Q Previous to going down to 3 Battle Wing you were a driver in 1 Cdn Adm Tpt Coy?
A Yes Sir for three years and 8 months.

Q You are familiar with the maximum speeds for MD Vehs?
A Yes Sir.

Q You also know that Pt I orders should be read each day?
A Yes Sir if they are handy.

Q Did you realize that it is your responsibility to find out where Pt I orders is, did you ask anyone else where they were and get and read them?

A Well Sir it is my business to find out where Pt I orders is but when ever you ask anyone no one seems to know where they are.

Q In your statement on oath you state you were given no specific orders, of any kind, is that correct, were you told to take these officers to Woppingthorne?

A I received no orders Sir.

Q In that case how did you know where you were going?

A The work tickets are made out and signed and they say where we are to go. We just went in and got the work tickts and came out and followed the rest of the tpt. They were in the MT office in a ~~KKK~~ pigeon hole.

Q Is that the first time you had driven students to their work?

A Yes Sir.

Q You said in your evidence also you were told that you were not to take orders from anybody except the instructors?

A That is right sir the other drivers told me that.

Q Are you in the habit of taking orders from fellow drivers?

A When there is no one else around to give them.

Q There was the tpt officer and some NCOs available?

A Yes but they are supposed to give you orders when you are att ached out.

Q When the student who was riding with you in the cab told you were driving too fast you replied "who is driving" and told him no one was supposed to in the front with you, what made you say or think that?

A Well Sir it is up to the driver, I was always told since being in the army that whenever you are out on a detail like that you needn't have anyone in the cab with you.

Q Who told you that?

A The people at myown place and the other drivers.

Q When the student who was riding with you in front told you he was in charge No 7 Pl why did not you slow down the veh when he ordered you to do so?

A I did Sir.

BY THE COURT

Q Did you know where the MT office is?

A Yes Sir.

Q Have you ever been inside the office?

A Yes Sir to get work tickets.

In the opinion of the Court it is unnecessary to comply with RP 83(B)

CASE FOR THE DEF IS CLOSED

Prosecutor asked leave to recall CaptPALLISTER, to rebut the evidence given by the accused.
Leave granted.

Capt Pallister, already sworn states:

Q The accused states that he has never during the time he was at 3 Battle Wing has been given any order from either yourself or Tpt Sgt, but other drivers, can you tell the Court how orders are given?

A He would normally be detailed by the despatcher who is a L/Cpl.

Q In other words it would be impossible for him to take a truck and students anywhere without the instructions of the despatcher?

A He would normally come into the office and find the orders for the day and the despatcher will tell them by name what their duties for the day are.

Q Is it possible for a driver to enter the MT office, pick up a work ticketxxxxtand proceed on his duties without anyother order or instruction.

Q It might be possible but not normal, it would not be possible except in cases of people permanently detailed to tpt the trg coy, and that is a permanent detail.

Q To the best or your knowledge do you know whether drivers have been given instructions that xhxix they are responsible entirely for their vehs and th t nobody else is allowed to ride in the cab.

Q I have given the opposite instructions, that anybody riding with them is also responsible in the event of my catching them speeding both people in front would be responsible. There is no definite instruction from me or my office, or NCOs that they do not have anyone in the cab.

Q The accused has said that the 28 Oct was the first time he drove students?

A That is not correct, I know by our records that he has driven students before that date. And on the same run.

CROSS EXAMINATION BY THE DEF OFFR

Q The question of responsibility for knowing the orders and particularly MT orders, I wonder did you imply that you are certain that the accused was among those drivers that were told these things?

A They are things that are brought up from time to time and by the time they are repeated several times all the drivers must know them.

REEXAMINED BY THE PROSECUTOR

Q The accused states that he has received instructions that he was not to take orders from anybody other than instructions, have you ever instruction other drivers to that effect?

A Definitely not.

of the Court.

In the opinion/it is unnecessary to comply with RP §3(B)

PROSECUTOR ADDRESSES THE COURT ON THE FINDING:

Sir,

I with to repeat what I said on the submission and add:

On these charges we have here witness, Major Taylor who makes definite statements that he ordered the driver to slow down the veh as it was going at an excessive rate of speed and he warned the driver that he was an officer and in charge of the pl. Major Taylor also states in his evidence that the driver did not do so, and he made an insolent remark to this Major. The accused pointed out all sorts of things such as Major Taylor was not an instructor, he should not be in the cab, and he had not right to be giving orders. Major Taylor left it at that and at the end of the journey asked the man for his pay book, the

The accused said it was not necessary. I think that order and resulting answer is a direct form of prejudice to mil discipline along with the other evidence that has been produced by Major Taylor. The accused say he was instructed by other drivers not to take orders from students, the MT officer says he issued no such orders, the accused has been an MT driver a long time and knows quite well that one must take orders from a superior officer, whether he is a student or not. The accused stated he had not driven this run before, the MT officer has cleared any doubt in any one's minds as to the truthfulness of that statement, besides the accused having been there two weeks. The Pt I Orders were available and should have been read. We have the evidence of the Pl Commander, Capt Hembroff that Major Taylor had been put in charge, which leads us to believe that officers were usually put in charge, the accused could not but have been aware of that. I say the accused is guilty of the three charges and I believe I have produced evidence to prove them.

DEFENDING OFFICER ADDRESSES THE COURT ON THE FINDING:

Sir,

I submit that the accused has been charged three times on evidence of one other person alone. I refer to Para 67, Ch 5 MML.

In producing one witness, and I am far from saying that Maj Taylor is not a creditable witness, I say that he might have misinterpreted the speedometer, he might have failed to give the driver every opportunity to learn his identity and he might possibly have provoked the accused while he was driving his veh. The fact that the first witness is ~~xxx~~ an officer will not influence the Court in deciding this case, is something I am confident of, and I say that Major Taylor did make his identity clear to the accused. His appearance probably ressembled anything but an officer as the accused is used to seeing officers. The accused is an RCASC driver, knew he was in charge of his veh as he was out on attachment. He had not been told that someone of the students had been put in charge of the pl, he still does not recognize Major Taylor as the individual who sat beside him. The accused say he was not driving at an excessive speed, the road was hilly and he had to go up the hills in second gear, on the down grade he might have went a little over the 25 mph limit, but it is laid down that drivers will not use their brakes unless necessary. The speedometer has not been checked since that time. I have mentioned the Pt I orders in my submission and I repeat that they should have been shown to the accused, they were not, as Pt I orders are published on each week day there would be some considerable pile in front of the one that the accused is charged for having failed to comply with. The accused has stated and the Prosecution proved that the accused was never given any instructions regarding his duties at 3 Battle Wing, he learned all he knew from other drivers, men well acquainted with the rules at the school. The accused states that he had no knowledge that all the students were officers, no one ever told him and he had no reason to know it. Regarding the neglect to produce his pay book, there again Major Taylor did not make his identity known to the accused, I do not believe that the accused is villanous enough to deliberately defy a field officer when ordered by him to do something, and to drive away while being spoken to by this fd offr. In conclusion I ask that if any doubt as to the guilt or innocence of the accused rests in the minds of the Court then that that doubt go in favour of the accused.

COURT IS CLOSED TO CONSIDER THE FINDING
COURT IS REOPENED

NOTE E-3

PLEA IN MITIGATION

Sir,

I ask the Court to consider that the accused certainly did not act as he did in any malice of forethought, he merely did not recognize Major Taylor to be an officer. The driver was away on attachement and not familiar with the rules that governed the school and he took his instructions from the other drivers and acted accordingly. This man has driven several officers around the country, he has been on attachment at various times and this the first complaint that has been received against his driving or himself. From personal knowledge of the accused who has served under my command, he is a good driver and under normal conditions a careful driver. Frankly I do not think the accused is of such gigantic mental power to cause him to scheme up ways and means of going about insulting people, and I do not believe he understood the serious of this offence which resulted in three charges.

EXHIBIT "A"

WING ORDERS
BY

Lt-COL A.A. KENNEDY, DSO, ED, MAST & PER
OC No 3 (Battle) Wing, C.T.S.

PART I ORDERS — 22 SEP 44 — No 226

1. BLACKOUTS: Commences.....1934 hrs
Ends.....0615 hrs

2. DETAIL OF DUTIES

WILTON HOUSE

Fri 22 Sep 44 - 1900 hrs - 0700 hrs - Lt KB WILKINSON
Sat 23 Sep 44 - 1400 hrs - 1100 hrs - Lt DS BRUCE
Sun 24 Sep 44 - 1100 hrs - 0700 hrs - Lt JE THORPE
Mon 25 Sep 44 - 1900 hrs - 0700 hrs - Lt AH ALLEN

FIELD OFFR OF THE DAY

Sat 23 Sep 44 - 1300 hrs - 1100 hrs - Capt D MENSON
Sun 24 Sep 44 - 1100 hrs - 0700 hrs - Capt CM McARTHUR

DUTY ORDERLY NCO OF THE DAY

Fri 22 Sep 44 - 1800 hrs - 0700 hrs - Sgt ARGYLE PE
Sat 23 Sep 44 - 1300 hrs - 1100 hrs - L/Cpl GRIFFITHS WC
Sun 24 Sep 44 - 1100 hrs - 0700 hrs - Sgt HUTCHESON JJA
Mon 25 Sep 44 - 1800 hrs - 0700 hrs - Cpl GIBB CH

WAPPING THORNE FARM

Fri 22 Sep 44 - 1900 hrs - 0700 hrs - Lt HJ BARNETT
Sat 23 Sep 44 - 1400 hrs - 1100 hrs - Lt HE BEARDMORE
Sun 24 Sep 44 - 1100 hrs - 0700 hrs - Lt LJ BENNETT
Mon 25 Sep 44 - 1900 hrs - 0700 hrs - Lt SM BERKOWITZ

FIRE PICQUET - WAPPING THORNE FARM for week ending 30 Sep 44

NCO IC	Duty R.P.				
B-26314	Pte	Bell, G.	B-100625	Pte	Berry, C.E.
A-106623	Pte	BOOKER, O.H.	B-37010	Pte	Buckle, J.S.
D-6106	Gnr	Bolduc, R.	B-54538	Pte	Charbonneau, A.M.

3. RECREATIONAL TRANSPORT

There will be no Recreational Transport to Worthing this weekend 23 and 24 Sep 44.
Transport will be supplied to and from Shoreham.
The last train from Worthing to Shoreham leaves Worthing at 2220 hrs.

4. SPEED LIMITS AND TRAFFIC REGS FOR CDN GOV'T VEHS ONLY.

(i) It is brought to the attention of all MT Dvrs that the speed limit of Cdn Mil Vehs as set out hereunder is not being complied with.

(ii) Speed limited of Cdn Mil Vehs as detailed in Overseas RO 3511 as amended are as follows:-

M/Cs, solo, light	40 mph.
M/Cs, solo, heavy and M/Cs combinations	35 mph.
Staff Cars, 2 str.	40 mph.
Staff Cars, 4 str.	40 mph.
Cars 5 cwt (4 X 4)	35 mph.
Vehs, 8 cwt.	30 mph.
Vehs, 15 cwt.	30 mph.

SEE PAGE 2 OF THIS ORDER

Vehs, 30 cwt.	25 mph.
Vehs over 30 cwt.	25 mph.
Motorcoaches	25 mph.
Vehs with trailers	20 mph.
Tracked Vehs (Other than tractors & those vehs referred to in Overseas RO 2635)	20 mph.
Tractors	15 mph.

(iii) All dvrs of mil vehs and MCs and civ vehs under mil control will at all times comply with the obligations imposed upon them by law to observe the speed restrictions:

a) In built up areas
b) In the Royal Parks
c) In other special area when a local speed limit is in force.
d) Applicable during the blackout.

No Offr, soldier or civ under mil control can give, or be given, authority to disregard the above legal restrictions.

(iv) The maximum speeds indicated in sub para (b) for the various types of vehs will not be exceeded even if they are less than speeds permitted under sub para C.

(v) In no case will the dvr of a Cdn Mil Veh smoke while actually driving any veh (MT Dvr's Regulations Sec 9 (f))

(vi) Disciplinary action will be taken against personnel failing to comply with the above regulations.

(vii) It is the duty of all offrs, WOs and NCOs to report all breaches of these instrs which come to their notice, giving serial numbers, Mil registration number, and wherever possible the dvrs name and number.

(J.D. Chanter) Capt, Gen List,
Adjutant
No 3 (Battle) Wing, C.T.S.

/GJS

Certified to be a true copy of the original in my custody.

Chanter capt.
Adjt 3 (Battle) Wing
C.T.S.

EX I

A TRIHX4

Vehs, 30 cwt.	25 mph.
Vehs over 30 cwt.	25 mph.
Motorcoaches	25 mph.
Vehs with trailers	20 mph.
Tracked Vehs (Other than tractors & those vehs referred to in Overseas RO 2635)	20 mph.
Tractors	15 mph.

(iii) All dvrs of mil vehs and NCOs and civ vehs under mil control will at all times comply with the obligations imposed upon them by law to observe the speed restrictions:

a) In built up areas
b) In the Royal Parks
c) In other special area when a local speed limit is in force.
d) Applicable during the blackout.

No Offr, soldier or civ under mil control can give, or be given, authority to disregard the above legal restrictions.

(iv) The maximum speeds indicated in sub para (b) for the various types of vehs will not be exceeded even if they are less than speeds permitted under sub para C.

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(vii) It is the duty of all offrs, WOs and NCOs to report all breaches of these instrs which come to their notice, giving serial numbers, Mil registration number, and wherever possible the dvrs name and number.

(J.D. Chanter) Capt, Gen List,
Adjutant
No 3 (Battle) Wing, C.T.S.

/GJS

Certified to be a true copy of the original in my custody.

Chanter capt.
Adjt 3 (Battle) Wing
C.T.S.

EY 1
MS

A TRAINEX

No D114775 Name Guadagnola H.D | Sqn, Battery, or Company | Corps RCASC | Date of enlistment 27-9-40 | GC Badges | Service or Proficiency Pay | 3/17 MFM 6 (AFB 122) 60/P&S/138 (5-41)

Date of last entry in Company Conduct Sheet | No. and date of last drunk | Period not reckoning towards freedom from extra fine | Sheet No | Signature OC Company, etc JC Cook Lt | Character

Place	Date of offence	Rank	Cases of drunkenness	Offence	Name of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
				Revised Sheet in accordance with	RO 2084				
Eng	7-6-41	Pte	Nil	AWL - Sec 15.1.AA. Absent 2 days 23 hrs 30 mins	Pte Hatton Pte James	Forf: 6 days pay	10-6-41	Major Bulmer	Forf: 3 days pay
Eng	16-4-42	Pte		Sec.40 Conduct to the prej.failed to get up at reveille	Sgt Clark Cpl Marshall	5 days CB	16-4-42	Capt Shiles	
Eng	1-7-42	Pte		Sec.40 AA Conduct to the prej. was imprcperly dressed	Documentary	14 days CB Forf 3 days pay	3-7-42	Maj. Bulmer	
Eng	4-10-42	Pte		Sec.15.1.AA AWL from 2359 hrs 4-10-42 to 0049 hrs 5-10-42	Cpl Densmore	7 days CB	7-10-42	Capt Shiles	

Awarded Cdn Volunteer Service Medal and Clasp wef 15 Jan 44 (AUTH ORO 4167) DO 8 6/18 Jan 44.

(PTO)

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order directing trial	By whom awarded	Remarks
Field	17-9-43	Pte		Sec.15(1)AA WOAS AWL from 1700 hrs 17-9-43 to 2300 hrs 19-9-43 TTA 2 days 6 hours.	L/Cpl G.E. Armstrong Sgt J.R. Noel	7 days CB	21-9-43	Lt.Col G.C. McArthur	3 days pay FR&I 149(1)(a)
Field	28-11-43	Pte		Sec.15(1)AA WOAS AWL from 2359 hrs 28-11-43 until 0730 hrs 29-11-43. TTA 7 hrs 31 mins	Documentary	3 days C.B. Forf 3 days pay FR&I 149(2)	30 Nov 43	Lt-Col E.J. Young	Forf 1 days pay FR&I 149(1)(a)

CERTIFIED TRUE COPY OF ORIGINAL IN MY POSSESSION

(J.D. Chanter) Capt.
Offr IC Regimental Books.

ARMY FORM B.296 (WAR).

Statement as to Character and Particulars of Service of Accused

(For Use at Trials by Field General Courts-Martial only)

Number.	Rank.	Name.	Regiment (or as the case may be).
D 114775	Pte	Guadagnola, H.D.	RCASC att No 3 (Battle) Wing CTS

NOTE.—The Field Conduct Sheet is to be produced in Court with this statement but is not to be annexed to the proceedings. The numbers herein stated should correspond with the number of ENTRIES in the Field Conduct Sheet, prominence being given to the most serious offence in each entry. If the charge is for drunkenness or absence without leave, the entries for drunkenness or absence, as the case may be, should be stated separately. Any recognized special acts of gallantry or distinguished conduct recorded on the Field Conduct Sheet should also be inserted here.

1. The following is a fair and true summary of the entries in the Field Conduct Sheet of the accused, exclusive of convictions by a court martial or a civil court:—

For AWL ... 4 times.

For Conduct to the prej. etc ... 2 times.

For ... times.

For ... times.

Date of first entry in Field Conduct Sheet 7 Jun 41

Date of last entry in Field Conduct Sheet 28 Nov 43

2. Previous convictions of the accused by a court martial or a civil court are set out in the Schedule overleaf.

*3. [redacted]

*Strike out if not applicable.

4. The accused has been awaiting trial on the present charges for Nil days in civil custody; and for [redacted] days in military custody, i.e., 1 days in open arrest, [redacted] 10 days in close arrest; of which Nil days were spent in hospital.

5. The present age of the accused is 29 years

6. The date of his attestation [redacted] is 27 Sep 40

7. [redacted]

8. [redacted]

*State the military decoration(s) (if any) held by accused.

9. [redacted]

Date of Promotion.

[redacted]

EX B

INSTRUCTION.—If any matter in any of the above paragraphs cannot be stated from the regimental books the paragraph must be struck through.

Wt. 13429/1857 30,000 5/44 Sl. 431 T.Ltd. Forms/B.296(War)/2

SCHEDULE OF CONVICTIONS BY A COURT-MARTIAL OR CIVIL COURT

Description of Court by which tried	Date and Place of Trial	Charges upon which convicted.	Sentence of the Court.	Punishment remitted or sentence suspended.

I HEREBY CERTIFY that the foregoing particulars, which have been extracted from the regimental books in my custody, are correct to the best of my knowledge and belief.

Signed this 10th day of Nov 44

Lt Col

SUMMARY OF EVIDENCE

in the case of D 114775 Pte Guadagnola, H.D. Royal Canadian Army Service Corps att to No 3 (Battle) Wing, C.T.S. a soldier of the Canadian Army (Overseas) taken by Capt J.D. Chanter, Gen List posted to No 3 (Battle) Wing, C.T.S., Wiston House, Steyning, Sussex.

on

30 Oct 44

Summary of Evidence taken on oath by order of the Commanding Officer

FIRST WITNESS FOR PROSECUTION

Capt (A/Major) L.H. Taylor, Canadian Armoured Corps att to No 3 (Battle) Wing, Canadian Training School, having been duly sworn states:-

On 28 Oct 44 at approx 1200 hrs as student Pl Comd No 7 Pl "A" Coy I saw my pl embussed and mounted the cab of the leading vehicle which was WD No CL 198359. As the vehicle moved off down the lane from Wiston House to Steyning, I told the driver whom I recognise as the accused, to drive slowly, as excessive speed caused jostling to the passengers in the rear of the vehicle. I kept my eye on the speed guage and at times we were travelling at 25 mph on a very narrow lane. I mentioned the fact thatthe speed was too great. When we gained the main road at Steyning the driver accelerated until the speed indicator showed more than 30 mph. At this point I ordered the accused to slow down. With considerable heat the accused replied "Are you an instr". I replied "No, but I am an offr IC of a pl and I'm telling you to drive slowly." He replied "You are not an instr, you should not be in the cab and I do not take orders from students." The speed of the vehicle increased passing over a road sign marked "Dead Slow" on an S curve. I noted at that point the speed indicator readingg 40 mph. I cannot specificaly recall any further conversation with the driver until we reached Wappingthorne, although I do recall cautioning him to the effect that he was piling up trouble for himself to which he replied "And so are you." At Wappingthorne I asked for his paybook which he refused to give me. I said "You are under open arrest." and he replied "Thats what you think." He then mounted his vehicle and drove off. I reported the incident to Capt McArthur my Coy Comd.

Cross examined by the accused.

Question 1
Whereabouts was the road sign marked "Dead Slow"?

Answer 1
On the surface of the main Washington, Steyning road at approx MR (Sheet 133) 609315.

Question 2
Are you sure that you asked me for my paybook?

Answer 2
Yes

The accused declines to question the witness further.

L.H. Taylor, Major

(L.H. Taylor) Major, C.A.C.

SECOND WITNESS FOR PROSECUTION

Capt J.D. Chanter, Gen List, Adjutant No 3 (Battle) Wing, Canadian Training School having been duly sworn, states:-

"I hereby produce in evidence copy of Unit Daily Order No 226 dated 22 Sep 44, para 4 of which brings to the attention of all MT drivers the speed limit of Canadian Military Vehicles as detailed in Overseas RO 3511 and is marked exhibit "A" hereto.

Accused declines to cross examine the witness.

J.D. Chanter Capt

(J.D. Chanter) Capt, Gen List
Offr detailed to take the
Summary of Evidence.

The accused is cautioned as follows: Do you wish to make any statement or to give evidence on Oath? You are not obliged to say anything or give evidence, unless you wish to do so, but whatever you say or any evidence you give will be taken down in writing and may be given in evidence.

The accused elects to give evidence on oath.

The accused No D 114775 Pte Guadagnola, H.D. Royal Canadian Army Service Corps attached to No 3 (Battle) Wing, Canadian Training School a soldier of the Canadian Army (Overseas) having been duly sworn states:-

On 28 Oct 44 I was driving a 60 cwt truck No CL 198359 taking the students over to Wappingthorne. While driving down a lane the student in the cab with me said "Slow down" which I did. When I arrived at the main road at Steyning I changed gears over to third and as I was proceeding at about 25 mph he told me I was still going too fast and asked me if I knew the speed limit. I replied "Yes" and as we approached an S corner on a hill towards the turn off to Wappingthorne, I was travelling at about 28 mph. After I arrived at the top of the hill I slowed down to between 22 and 25 mph. On arriving at the entrance to Wappingthorne I changed into second gear. He told me he was IC of No 7 Pl of "A" Coy. While travelling up the driveway to Wappingthorne he said, you are still travelling too fast. I said to him "Who's driving and told him that nobody was supposed to be in the front with me". When we arrived and the students debussed he asked me for my name and I told him that that was not necessary. I then got back in the truck and drove back to Wiston.

H.D. Guadagnola

(H.D. Guadagnola) D 114775.

I certify that the foregoing summary of Evidence consisting of three pages was taken down by me in the presence and hearing of the accused and that Rules of Procedure 4 (C) (D) (E) (F) and (G) have been complied with.

J. Chanter capt.

(J.D. Chanter) Capt., Gen List
Adjutant
No 3 (Battle) Wing, C.T.S.
Offr detailed to take the Summary
of Evidence

Wiston House
Steyning, Sussex
30 October 44

ADDITIONAL SUMMARY OF EVIDENCE

THIRD WITNESS FOR PROSECUTION

Lt (A/Capt) H.L.C. Hembroff, CIC posted to No 3 (Battle) Wing, C.T.S. having been duly sworn, states:-

As Pl Comd of No 7 Pl "A" Coy I detailed Capt (A/Major) L.H. Taylor to be the student pl comd of No 7 Pl for Sat 28 Oct 44. He was responsible to see that the pl embussed at Wiston and return to Wappingthorne. There were two trucks allotted to No 7 Pl for the return trip and I Told Major Taylor who was pl comd that he was IC of and responsible for the trucks.

The Accused declines to Question the witness

H.L.C. Hembroff Capt

(H.L.C. Hembroff) Capt, CIC

Taken by me at Wiston House, Steyning, Sussex in the presence and hearing of the accused this 1 day of November 1944.

J.D. Chanter Capt

(J.D. Chanter) Capt, Gen List,
Adjutant,
No 3 (Battle) Wing, C.TS

ADDITIONAL SUMMARY OF EVIDENCE

FOURTH WITNESS FOR PROSECUTION

Capt A.R. Pallister, Gen List posted to No 3(Battle) Wing, CTS as MT officer, having been duly sworn, states:-

"In the MT office of No.3(Battle) Wing, CTS a file is kept on the wall of Pt 1 Daily Orders. On 22 Sep 44 pt 1 order No.226 was posted on this file for the information of all MT personnel. This order is still on the file at the time this statement is made."

The Accused declines to question the witness.

A R Pallister

(A.R. Pallister) Capt, Gen List

Taken by me at Wiston House, Steyning, Sussex in the presence and hearing of the accused this sixth day of November 1944.

J D Chanter Capt

(J.D. Chanter) Capt, Gen List
Adjutant
No 3(Battle) Wing, C.T.S.

LIST OF EXHIBITS

Exhibit "A" - Unit Pt I Daily Order No 226, d/22 Sep 44

APPLICATION FOR DEFENDING OFFICER ETC.

PRECEDENT

To:- The Commanding Officer, No. 3 (Battle) Wing, CTS.

With reference to my pending trial by Field General Court Martial.

(a) ~~I propose to employ counsel for the purpose of conducting my defence.~~

@Delete as Applicable (b) I wish @ that an officer be assigned ~~do not wish~~ to act as defending officer.

@Insert as Applicable If Lt Benson, Cdn Admn Tpt Coy is available, I wish that he may be assigned for this purpose. @

H D Guadagnolo

WITNESS FOR THE PROSECUTION

1st Witness	Capt (A/Major) L.H. Taylor, CAC
2nd Witness	Capt J.D. Chanter, Gen List
3rd Witness	Lt(A/Capt) H.L.C. Hembroff, CIC
4th Witness.	Capt A R Pallister Gen List.

RECEIPT FOR SUMMARY OF EVIDENCE AND CHARGE SHEET

I, No D 114775 Pte Guadagnola, H.D. RCASC att to #3 (Battle) Wing, C.T.S. hereby admit receipt of a copy of the Summary of Evidence in the forthcoming case against me, and state that my right under Rules of Procedure 14 (B) in the Manual of Military Law as to preparing my defence have been explained to me by:-

Capt J.D. Chanter, Adjutant #3 Wing, C.T.S.

I also admit receipt of a copy of the Charge Sheet in the said case and state that said charge sheet has been explained to me in accordance with Rules of Procedure 15 (B) by the a/m offr. This Summary of Evidence and Charge Sheet have been handed to me and explained this

31st day of October 1944

H D Guadagnola

(D.114775 Pte Guadagnola, H.D.)

GNR GUARD H.D.

Evidence and Charge Sheets (if necessary) to be PINNED here.

B.

I certify that the above Court assembled on the 25 day of September, and duly tried the persons named in the Schedule, and that the plea, finding, and sentence in the case of each such person were as stated in the third and fourth columns of that Schedule. Certificate of President as to proceedings.

I also certify that :—

1. The members of the Court
2. The witnesses
*(3. ~~The Interpreter~~)
*(4. ~~The officers under instruction~~) Judge Advocate

*Omit if not applicable

were duly sworn.

Signed this 25 day of Sept. 1943

[signature]
President of the Court Martial.

C.

Certificate in case of death sentences.

~~I certify that the terms of *A.C.I. 570 of 1918 have been complied with.~~

*See footnote (b) on page 742 M.M.L. 1929.

Signed this day of 19

President of the Court Martial.

D.

Confirmation.

I have dealt with the findings and sentences in the manner stated in the last column of the Schedule, and, subject to what I have there stated, I hereby confirm the above findings and sentences.

~~*I direct that the soldier named in the margin be not committed to prison, detention barrack, or military prison, but be released with further orders.~~

*To be omitted unless penal servitude, imprisonment or detention having been awarded, the Confirming Officer either has no authority to commit to prison or detention barrack, or, having such authority, recommends suspension.

Signed this 27 day of Sept 1943.

[signature]
Confirming Officer.
A/C.R.A.C. 3 Aust. Inf. Div.

Promulgated and extracts taken in the case of

(a) (Dated) 29 September '43 (Signed) [signature] Capt

Promulgated and extracts taken in the case of

(Dated) (Signed)

Promulgated and extracts taken in the case of

(Dated) (Signed)

(a) When several cases are promulgated in one unit on the same day the Officer need only sign once.

(33571) W.A.661/79/910 50,000 2-43 A.S.R.W. Ltd. Gp.693
(34326) W.A.111/80/71 100,000 2-43 " "

11. (In the case of an officer.) The accused holds in the Royal Canadian Air Force the rank of Permanent Force unit dated, and in his regiment (or corps), the rank of dated.

12. The accused has served as a non-commissioned officer continuously, without reduction, to the present date:—

Date of promotion.

In the rank of years.

In the rank of years.

In the rank of years.

NOTE.—If any matter in any of the above paragraphs cannot be stated from the Regimental books, the paragraph must be struck through.

SCHEDULE

Of convictions by a court-martial or civil court, of summary awards under Section 47 of the Air Force Act, and of cases in which trial has been dispensed with of accused, Number Rank Name of Regiment

NOTE.—A verbatim extract from the regimental books stating these convictions and dispensations with trial must be inserted.

Description of Court by which tried	Date and Place of Trial	Charge upon which convicted	Sentence of the Court	Punishment Remitted
	ASH			

I hereby certify that the foregoing schedule of convictions and dispensations with trial is a true extract from the regimental books in my custody.

Signed this 25 day of September '43 A/Wilson Capt

The above statement (with the schedule of convictions and of cases in which trial has been dispensed with) is read, marked signed by the president, and annexed to the proceedings.

M.F.B. 3602
40/P Jr S/675

STATEMENT AS TO CHARACTER AND PARTICULARS OF SERVICE OF ACCUSED

Number MA3995 Rank Gunner Name Herbert Dalton Guard Regiment (or unit) 13 Cdn Fd Regt R.C.A.

1. The following is a fair and true summary of the entries in the Regimental Conduct sheets of the accused, exclusive of convictions by a Court-Martial or a Civil Court, of summary awards under Section 47 of the Army Act and of cases in which trial has been dispensed with.

	Within last 12 months	Since enlistment
For Sec 11 A.A.	One times	Sec 11 A.A. One times
For	times	times
For	times	times
For	times	times

Number of instances of gallantry or distinguished conduct Nil

or,

There are no entries in the regimental conduct sheets of the accused.

NOTE.—If the charge is for drunkenness, the entries for drunkenness must be stated separately.

2. The accused has not been previously convicted

or,

3. The accused is not under sentence at the present time.

or,

4. The accused has been in confinement awaiting trial on the present charges, for 87 days in civil custody, and 87 days in military custody, making a total of 87 days in custody, of which Nil days were spent in hospital.

5. The present age of the accused according to his attestation paper is 23 yrs 3 days

6.

7. The service which the accused is allowed to reckon towards discharge is 3 yrs 3 months

8. The accused is entitled to reckon 3 yrs 3 mons service for the purpose of determining his pension, etc.

9.

10.

R. Chesley Capt

M.F.M. 6
(A.F. B.122)
40/F & /8138 (2965)

No. M43995 Name Guard H.D. | Sqn., Battery, or Company | Corps R.C.A. | Date of enlistment 4 Jun 40 | G.C. Badges 1 | Service or Proficiency Pay | Character

Date of last entry in Company Conduct Sheet: N/A | No. and date of last drunk: N/A | Period not reckoning towards freedom from extra fine: N/A | Sheet No. 1 | Signature O.C. Company, etc.

Place	Date of Offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order directing trial with trial	By whom awarded	Remarks
	4 Jun 42	Gnr		Sheet destroyed on completion of two years service free from regimental entries.					
Field	30 Nov 42	Gnr		Sec 11 A.A.- Neglecting to obey R.O.#272, did leave W.D. vehicle unattended.	Documentary	10 days C.B. Forf.4 days pay.	15 Dec 42	Lt. Col. H.A. Sparling	

R.S. Wilson Capt.

CERTIFIED TRUE COPY 27 Sep 43

(P.T.O.)

QQ-87

Correspondence to be PINNED here

Army Form A.3.

Form for Assembly and Proceedings of Field General Court Martial on Active Service.

PROCEEDINGS.

A.

Order convening the Court.

On Active Service, this 22nd day of September, 1943.

Whereas it appears to me, the undersigned, an officer in Command of Royal Canadian Artillery, 3 Can Inf Division, on active service, that the persons named in the annexed Schedule, being subject to Military Law, have committed the offences in the said Schedule mentioned.

And whereas I am of opinion that it is not practicable that such offences should be tried by an ordinary General Court Martial; ~~*[and that it is not practicable to delay the trial, because]~~

*Omit where Convening Officer is a Commanding Officer or is of Field Rank.

~~[reference to superior authority]~~

I hereby convene a Field General Court Martial to try the said persons, and to consist of the Officers appointed or detailed hereunder.

~~*[I am unable to appoint]~~

~~*[Three Officers to form the Court]~~

~~*[An Field Officer as President]~~

~~[and the following persons namely:-]~~

*Omit if not applicable.

CAPT. A.C. HALL HQ 3 CDN DIV

Note.—The President must be named. The members and waiting members (if any) may be mentioned by name, or the number and ranks and the unit to which they belong, may alone be named. In the latter event, the ranks, names, &c., of the members of the Court, as constituted, will be recorded on the proceedings.

President.

Rank.	Name.	Regiment.
Major	F.E. GOULDING	6 A Fd Regt RCA

Members.

Rank.	Name.	Regiment.
Capt.	D. McCARTHY	3 A Tk Regt RCA
Lieut.	F.P. F. CLAY	13 Fd Regt RCA
Waiting Member Lieut.	J.A. HORSHAW	12 Fd Regt RCA

*Must be signed personally by the Officer actually in command at the time, and all alterations in the composition of the Court to be initialled by him.

*Signed (H.S. Griffin) Lt.-Col.,
Commanding A/C.R.A., 3 Can Inf Div.
Convening Officer.

SCHEDULE

Number, Rank (*a*), Name and Unit of Accused (*b*)	Offence charged	*Plea	Finding, and if Convicted, Sentence (*c*)	How dealt with by Confirming Officer (*d*)
M-47995 Gnr. Herbert Dalton GUARD 13 Fd Regt RCA	(1) Sec. 6 (2) A.A.	Not guilty	not guilty	27 Sept 43. J Compain Lt Col. AAG 3 Cdn Inf Div.
	(2) Sec. 6 (2) A.A.	not guilty	not guilty	
	(3) Sec. 40 A.A.	guilty	guilty	
	(4) Sec. 3 (2) A.A.	guilty	guilty. Sentence to Serve 7 (seven) days detention R Stirling Major 27 Sept 43	

*Question to be asked of accused, if he pleads not guilty (R. of P. 39 (a)):—
"Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity for preparing your defence?"
Answer (*to be recorded on separate sheet if necessary*):—

(Signed) (Signed)
(H.S. Griffin) Lt.-Col.,
Commanding A/C.R.A., 3 Cdn Inf Div. *President.*
Convening Officer (e)

(*a*) Appointment acting rank or acting appointment, if any, to be stated in brackets after the substantive rank.
(*b*) Unless unavoidable, not more than three names are to be entered on one form, and in serious cases one only.
(*c*) Recommendation to mercy, if any, to be inserted in this column.
(*d*) It is not necessary that the Confirming Officer should sign his name in this column. Initials are sufficient.
(*e*) Must be signed by the same Officer who signs on the first page, and all alterations in the first two columns of the Schedule to be initialled by him.

CHARGE SHEET

The accused M 43995 Gunner Herbert Dalton Guard, 22 Field Battery, 13 Canadian Field Regiment, R.C.A. (AF) a soldier of the Canadian Army (Overseas) while on Active Service is charged with:

First Charge
Sec. 8 (2)
Army Act.

Striking his Superior Officer

in that he

In the Field, at approx 2230 hours 16 Sep 43 did strike with his fist on the side of the head K 9027 R.S.M. Harman, A.E.V. his Superior Officer.

Second Charge
Sec. 8 (2)
Army Act

Offering Violence to his Superior Officer

in that he

In the Field, at about 2230 hours 16 Sep 43, while L-26332 Sgt Jones, A.E., 13 Cdn Fd Regt, R.C.A. was attempting to place M-43523 Gnr. Hoppus, L.L. into a regimental vehicle, did attempt to strike L-26332 Sgt Jones, A.E., his Superior Officer.

Third Charge
Sec. 40
Army Act

An Act to the Prejudice of Good Conduct and Military Discipline

in that he,

In the Field, at about 2230 hours 16 Sep 43, did strike a member of the Regimental Police, M-3834 Gnr. Jordon, J.T.S., 13 Cdn Fd Regt, R.C.A., on the forehead.

Fourth Charge
Sec. 8 (2)
Army Act

Disobeying a Lawful Command Given by His Superior Officer

In that he,

In the Field, at about 2220 hours 16 Sep 43, when ordered by K-73340 Sgt. Reif, M.H., 13 Cdn Fd Regt R.C.A. his Superior Officer, to enter a W.D. truck, refused to do so.

(G.F. Rainnie) Major,
A/Comd, 13 Cdn Fd Regt RCA.

In the Field,
22 Sep 43.

To be tried by F.G.C.M.

(H.S. Griffin) Lt.-Col.,
A/C.R.A., 3 Cdn Inf Div.

22 Sep 43.

MEDICAL OFFICER'S CERTIFICATE
P.R. (Can) para 607.

I certify that I have this day examined

M42995 Gnr GUARD Herbert D. and in my opinion
number rank name
is fit to undergo trial by court martial.

Date. Sept. 25/43.

Medical officer (Unit) 15 Can Fd Regt RCA.

*All printed matter not applicable to the particular Court being held should be struck out and initialled by the President.

A

**Form of Proceedings for General and District Courts-Martial

Proceedings of a FIELD GENERAL Court-Martial held at IN THE field
on the 25 day of Sep. 1943 by order of LT. Col
H S GRIFFIN Commanding A/CRA 3 Cdn Div.
dated the 22 day of Sep. 1943

President.

MAJOR F.E. Goulding 8 A Fd Regt RCA
Members.

CAPT D McCARTHY 3 A TK Regt RCA
LIEUT P.P. CLAY 13 Fd Regt RCA

CAPT A.C. HALL H.Q. 3 Cdn. Div
Judge Advocate.

Trial of* M 43995 Cdn. Guard H.D. 13 Bn Regt RCA

The order convening the Court, the charge-sheet and the summary (or abstract) of evidence are laid before the Court.

~~The Court satisfy themselves that~~ ~~is not available~~ ~~to serve owing to~~

~~, waiting member takes his place as a member of the Court.~~

The Court satisfy themselves as provided by Rules of Procedure 22 and 23.

The accused is brought before the Court.

Prosecutor,† LIEUT W.H. GRASS

Counsel‡ or defending officer† CAPT C.E. MORRIS

At 1530 o'clock the Trial commences.

The order convening the Court is read, and is marked signed by the President, and attached to the proceedings.

The names of the President and members of the Court are read over in the hearing of the accused, and they severally answer to their names.

Question by the President to the accused. Do you object to be tried by me as President, or by any of the officers whose names you have heard read over?

Answer by accused. No.

(N.B.—If objection is made it should be recorded, together with the decision of the Court, on a separate sheet.)

* Here insert No., Rank, full Name, Regiment, and Appointment (if any).
† Here state Rank and Name, and Regiment (if any).
‡ Qualification to be stated.

Mil. Form. H. 271
10M—9-42 (3219)
H-Q 1272-89-224

B

The President, members and judge-advocate are duly sworn.

The following officers under instruction are duly sworn.

Charge-Sheet

Instruction.
If the accused has elected to be tried under Army Act, sec. 56 (8) the fact should be here recorded.

The charge sheet is signed by the President, marked B 2 and annexed to the proceedings.

The accused is arraigned upon each charge in the above-mentioned charge-sheet.

Are you guilty or not guilty of the [first] charge against you, which you have heard read? *Question to the accused.*

Not guilty *Answer.*

Are you guilty or not guilty of the second charge against you, which you have heard read? *Question.*

Not guilty *Answer.*

Are you guilty or not guilty of the third charge against you, which you have heard read? *Question.*

Guilty *Answer.*

Are you guilty or not guilty of the fourth charge against you, which you have heard read? *Question.*

Guilty. *Answer.*

The accused having pleaded Guilty to charge, the provisions of Rule of Procedure 35 (B) are here complied with.

If the trial proceeds upon any charge to which there is a plea of "Not Guilty," the Court will not proceed upon the record of a plea of "Guilty," until after the finding on that other charge. *Instruction.*

SCHEDULE

Number, Rank (a), Name and Unit of Accused (b)	Offence charged	*Plea	Finding, and if Convicted, Sentence (c)	How dealt with by Confirming Officer (d)
M-47995 Gnr. Herbert Dalton GUARD 13 Fd Regt RCA	(1) Sec. 8 (2) A.A.	Not guilty	not guilty	27 Sept 43. I confirm [illegible]
	(2) Sec. 8 (2) A.A.	not guilty	not guilty	
	(3) Sec. 40 A.A.	guilty	guilty	A.G.A.A. 3 Cdn Inf. Div.
	(4) Sec. 9 (2) A.A.	guilty	guilty Sentenced to Serve 7 (seven) days detention [illegible] 27 Sept 43	

*Question to be asked of accused, if he pleads not guilty (R. of P. 39 (a)) :—
"Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity for preparing your defence?"
Answer (*to be recorded on separate sheet if necessary*) :—

(Signed) [illegible] (H.S. Griffin) Lt.-Col.,
Commanding A/C.R.A., 3 Cdn Inf Div.
Convening Officer (e)

(Signed) [illegible]
President.

(a) Appointment acting rank or acting appointment, if any, to be stated in brackets after the substantive rank.

(b) Unless unavoidable, not more than three names are to be entered on one form, and in serious cases one only.

(c) Recommendations to mercy, if any, to be inserted in this column.

(d) It is not necessary that the Confirming Officer should sign his name in this column. Initials are sufficient.

(e) Must be signed by the same Officer who signs on the first page, and all alterations in the first two columns of the Schedule to be initialled by him.

QQ-87

Correspondence to be PINNED here

Army Form A.3.

Form for Assembly and Proceedings of Field General Court Martial on Active Service.

PROCEEDINGS.

A.

Order convening the Court

On Active Service, this 22nd day of September, 1943.

Whereas it appears to me, the undersigned, an officer in Command of Royal Canadian Artillery, 3 Can Inf Division, on active service, that the persons named in the annexed Schedule, being subject to Military Law, have committed the offences in the said Schedule mentioned.

And whereas I am of opinion that it is not practicable that such offences should be tried by an ordinary General Court Martial; ~~and that it is not practicable to delay the matter~~ ~~because no superior qualified officer~~

*Omit where Convening Officer is a Commanding Officer or is of Field Rank.

I hereby convene a Field General Court Martial to try the said persons, and to consist of the Officers appointed or detailed hereunder.

~~I do nominate to appoint~~
~~Three Officers to form the Court~~
~~A Field Officer as President~~

*Omit if not applicable.

~~for the following reasons namely:-~~

12 Sept 43

CAPT. D.C. HALL HQ 3 CDN DIV

J.A. Goulding Major

Note.—The President must be named. The members and waiting members (if any) may be mentioned by name, or the number and ranks and the unit to which they belong may alone be named. In the latter event, the ranks, names, &c., of the members of the Court, as constituted, will be recorded on the proceedings.

*Must be signed personally by the Officer actually in command at the time, and all alterations in the composition of the Court to be initialled by him.

President.		
Rank.	Name.	Regiment.
Major	F.E. GOULDING	6 A Fd Regt RCA
Members.		
Rank.	Name.	Regiment.
Capt.	D. McCARTHY	3 A Tk Regt RCA
Lieut.	P.P. F. CLAY	13 Fd Regt RCA
Waiting Member Lieut.	J.A. HORSHAW	12 Fd Regt RCA

*Signed H.E. Griffin Lt.-Col.,
Commanding A/C.R.A., 3 Can Inf Div.,
Convening Officer.

C

*Instruction.
(See R. P. 39 (A))

Proceedings on Plea of Not Guilty

Question. *Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity for preparing your defence?

Answer. No.

The prosecutor makes an opening address [hands in a written address, which is read, marked , signed by the President, and attached to the proceedings].

The prosecutor proceeds to call witnesses.

First witness for prosecution.

being duly sworn, is examined by the prosecutor.

CC

Proceedings on Plea of Guilty

*To be struck out in case no plea of "Not Guilty" has been proceeded with.

*[The Court having been re-opened, the accused is again brought before it, and the charge to which he has pleaded "Guilty" read to him again.]

The accused M 43995 Gnr. Guard I.A.O.
is found guilty of the third and fourth charges

*The summary (or abstract) of evidence is read, marked , signed by the President, and attached to the proceedings.

Question to the accused. Do you wish to make any statement in mitigation of punishment?

Yes

Answer. The accused in mitigation of punishment says:—

[or hands in a written statement, which is read, marked , signed by the President, and attached to the proceedings.]

Instruction.

* If there is no summary or abstract of evidence, sufficient evidence to enable the Court to determine the sentence, and to enable the confirming officer to know all the circumstances connected with the case, will be taken on a separate sheet in the same manner as on a plea of "Not Guilty."

If from the statement of the accused, or from the summary or abstract of evidence, or otherwise, it appears to the Court that the accused did not understand the effect of his plea of "Guilty," the Court shall alter the record, and enter a plea of "Not Guilty," and proceed with the trial accordingly.

M.43935 Gnr Guard, H.D.

K.3627 Pte Herman, M.C. 13th Bgt. AIF

In summary of evidence

Prisoner once examined stated:

The Guard jumped on Sgt Jones during the scuffle but me. He then hit prisoner who hit him back knocking him to the ground.

K.73340 Sgt. Chf. Mr. 13th Bgt AIF 1108 A.P.O.

In summary of evidence.

Between 2100-2200 hrs 16 Sep 45 the accused was in a crowd of men outside of the pub. I saw the accused push Sgt Jones off a kerb the latter was getting stepped on. I saw him strike the accused & the ground

M.43939 Pte Cockell M.T. 13th Bgt AIF

In summary of evidence

I saw the Guard trying to pull off Sgt Jones from behind. I later saw him hit a ground the ground hit him back & knocked him down.

[signature]
Maj

M. 3234 Pvt. Jordan, J. S. 78 Coy. 13th Batt. A.I.F.

I saw the Guard come out of the pub & walk straight to the fight. There were 10 or 12 people in the ring. Two minutes after I saw Guard get Hayes off the ground & the Guard hit him. I left work & broke him down & held him. I then put him into the truck. He offered no resistance & did not refuse to go back. I did not see Guard at any other time.

2. 26332 Sgt. Jones, S.S. 13th Batt. A.I.F. Duty Sgt.

The first time I saw the accused was after the fight in which accused & Pte. Hayes came out of the truck. Guard was one of those pointing at me, urging me to draw Hayes alone & they'd take him home. To my knowledge he did not strike or threaten to strike me. He afterwards put him aboard the vehicle & took him home.

Prisoner objected to 1st & 2nd charges. He accused did go over to fight & fought with Jordan, but was out of the fight from then on.

M 42335 Pte Guard, H. D. 13 Bd Sgt Co A
when I left the pub, alone, after Stillwell &
Hoppin, I paused at the door, crossed the
street & saw Sgt Jones holding Hoppin down
& Pvt Harman standing him with a billy
stick. I went to help, met Jordan & struck
him twice. He struck back & knocked me down.
I am sure I did not strike Sgt Jones or Pvt
Harman.

M 45408 Pte Haynes, W. 22 Co. 13 Bd Sgt Co A
I was in proper duty 16 Sep 93 & was an eye
witness to the fight. About the middle of the
fight the accused came out of the pub, staggered
across the road & came to the rear of the vehicle
where he met & struck Pte Jordan. The latter
struck back, knocked him down & held him
down. He was later put into the truck &
taken home. Pte Guard did not meet anyone
else. He didn't go near the Pvt M & he was in
the centre of parties. I could not see Sgt Jones.

The defence stressed the point that a witness, not
involved in the fight & in a position to see,
saw accused strike Jordan only, without seeing

involved in the rest of the fight.
Sgt Jones does not say he was struck by accused
but that he was pulled by him.
Under the circumstances it was possible that
the R.M.P. Sgt Jones were so excited that they
could not be positive of the action.
Accused acquitted on 1st & 2nd charges.

Prosecution stated:
1. Sgt. Rif saw accused strike R.M.P. Sgt Jones
2. R.M.P. saw accused involved with Sgt Jones
3. Sgt Jones says he was pulled by accused.

Capt Skelton, N.S. of Sgt 15 Bn. Regt. R.C.A.
submitted R.M.P.'s statement as to character
of accused.

J. E. Gordon
Major

MH6995. Gar. Guard. H.D.

J.E. Gordon Major

Flow for Investigation:

1. Re 9(2) Army Act. - The accused was but one of a group of singing, noisy soldiers proceeding down the Street, - & he was one of the many to whom the order was directed. He did not get into a fracas, - nor in fact did any of the group he was with. It thus is not a serious isolated case of disobedience - but merely a happy he kept moving with the crowd

2. Re AO. A.A. - The accused "staggered" out of the pub & saw a general fight. Being told, & to his eye sadly Scotsm was one of his former companions. He entered the fight for a second, - & was then knocked out of it. By point of fact he had insufficient time to effect the fight or interfere to any degree. He is but one of the many but was recognized.

3. He was willing to be escorted home, - & after the event seemed was over showed no disobedience whatsoever.

E

Finding

*To be struck out except in cases where trial has taken place on a plea of "Not Guilty."

The Court is closed for the consideration of the finding.

The Court find that the accused

not guilty on the first and second charges.

J G Gourley
major

Proceedings on Conviction *before Sentence*

*When the Court is already open this sentence will be struck out.

*The Court being re-opened, the accused is again brought before it.

Evidence of character, &c.

is duly sworn.

Question by the President.

Have you any evidence to produce as to the character and particulars of service of the accused? *Answer by the Witness.*

The above statement [with the schedule of convictions and of cases in which trial has been dispensed with] is read, marked , signed by the President, and annexed to the proceedings.

Question by the President.

Is the accused the person named in the statement which you have heard read? *Answer by the Witness.*

Question.

Have you compared the contents of the above statement with the regimental books? *Answer.*

Question.

Are they true extracts from the regimental books, and is the statement of entries in the conduct sheets a fair and true summary of those entries? *Answer.*

[Instruction.—If by reason of the nature of the services of the accused in a disciplinary corps, or otherwise, the finding of the Court renders him liable to any exceptional punishment in addition to that to be awarded by the Court the prosecutor must call the attention of the Court to the fact, and the Court must inquire into the nature and amount of that additional punishment.]

Cross-examined by the accused.

Question to the accused.

Do you wish to address the Court? *Answer.*

The Court is closed for the consideration of the sentence.

F

Sentence

The Court sentence the accused
To Seven (7) days detainment.

Sentence.

J. E. Chadburn
Major

SUMMARY OF EVIDENCE

Summary of Evidence in the case of:- M43995 Gunner Herbert Dalton Guard, 22 Field Battery, 13 Canadian Field Regiment, R.C.A.(AF)

Major G.F.Rainnie, Acting Officer Commanding 13 Canadian Field Regiment, R.C.A.(AF) directs that all evidence be taken on oath.

1st Witness:- K73340 Sgt. Reif M.H., 22 Field Battery. 13 Canadian Field Regiment, R.C.A.(AF) having been duly sworn, states:-

On the 16 Sep 43 I was N.C.O.provost for 13 Canadian Field Regiment R.C.A., in Lymington. At approximately 2200 hours I received word that the Adjutant had sent for me to go to the other end of town and contact a group of our men who were creating a disturbance. I contacted this group of which Gnr. Guard was a member. I ordered them to come down to the vehicle and return to camp. They refused. I did not have enough men at the time, so I could not handle the situation. I contacted the Adjutant and informed him. Later on a fight ensued outside the Ship Inn betw een R.S.M. Harman and Gnr. Hoppus, and shortly afterwards a general melee started betw een the group of men and the provost. ~~xxx~~ I saw Gnr. Guard strike Sgt. Jones and the R.S.M. during the fight and also saw him strike one of the provost. The provost also struck Gnr. Guard leaving a gash over his left eye.

Question:- Are you positive you saw me hit Sgt. Jones.

Answer :- Yes.

Question:- Did you hear me refuse to go home.

Answer :- You were with the group I ordered to get in the truck and you did not get into the truck.

Signature of Witness: M.H.Reif
(M.H.Reif)

2nd Witness:- K9027 R.S.M. Harman A.E.V., Headquarters, 13 Canadian Field Regiment, R.C.A.(AF) having been duly sworn, states:-

I am R.S.M. 13 Canadian Field Regiment, R.C.A. On the 16 Sep 43 at approximately 2230 hrs while Sgt. Jones, Sgt. Reif and I were attempting to take Gnrs. Hoppus, and Stillwell home, as they had been creating a disturbance During the course of this struggle Gnr. Guard grabbed me and hit me with his fist on the side of the head. I also saw him hit one of the provost, who retaliated by striking Gnr. Guard and knocking him to the ground. ~~Intervening~~ I saw his jump on Sgt. Jones while he was attempting to get Gnr. Hoppus in the vehicle. He was sober and very capable of handling himself at this time.

Signature of Witness: A.E.V.Harman
(A.E.V.Harman)

.....2/

3rd Witness:-

L26332 Sgt. Jones A.E., Headquarters, 13 Canadian Field Regiment, R.C.A.(AF) having been duly sworn, states:-

I am Duty Sergeant, R.H.Q., 13 Canadian Field Regiment, R.C.A.(AF). On 16 Sep 43 at approximately 2215 hrs I was called out by the Adjutant, together with R.S.M. Harman to proceed to the Ship Inn in Lymington, as some of our men were creating a disturbance. After we contacted two Gunners of this group a fight started. Gnr. Guard was one of the men who joined in with the two men we were trying to get into the vehicle. I did not see him strike anyone but he was definitely trying to work against the provost. Later on when the provost, R.S.M. and I were going back to the 22 Battery, Gnr. Guard jumped in the back of the vehicle and was heard to remark that he was going to jump out of the vehicle before getting into the lines so he could keep his nose clean as there was going to be trouble, or words to that effect.

Question:- Do you definitely say I was in the fight at all times.

Answer :- Yes.

Signature of Witness: A.E. Jones
(A.E.Jones)

4th Witness:-

M43499 L/Bdr. Tisdale S.G., Headquarters, 13 Canadian Field Regiment, R.C.A.(AF) having been duly sworn states:-

I was on provost duty on 16 Sep 43 in the townof Lymington. At approximately 2230 hrs a fight started between a group of our gunners , RSM Harman, Sgt.Jones and the Provost. Gnr. Guard was one of the men involved in the fight. I saw him strike one of the provost from the 78 Battery. I also saw him trying to pull Sgt. Jones away from Gnr. Hoppus whom he was trying to get into the truck.

Signature of Witness: S.G.Tisdale
(S.G.Tisdale)

5th Witness:-

M3834 Gnr. Jerdan J.T.S., 78 Field Battery, 13 Canadian Field Regiment, R.C.A.(AF) having been duly sworn states:-

I was a member of 13 Canadian Field Regiment Provost on the night of 16 Sep 43 in Lymington. At approximately 2 230 hrs at the Ship Inn we were trying to get Gnr. Hoppus into a vehicle and while performing my duty some one struck me with his fist on the side of the head. I raised my head and then I was struck above the eye. It was Gnr. Guard who struck me. I then struck Gnr. Guard and knocked him to the ground. I saw Gnr. Guard come out of the "pub" and he was engaged against the provost during the course of the entire struggle. After I knocked Gnr. Guard down he got up and got into the vehicle and did not participate in any further fighting. I assisted Gnr. Guard into the truck.

Signature of Witness: J.T.S Jerdan
(J.T.S Jerdan)

M43995 Gunner Herbert Dalton Guard, 22 Field Battery, 13 Canadian Field Regiment, R.C.A.(AF) was asked:-

"Do you wish to make any statement or give any evidence on oath? You are not obliged to say anything or to give evidence unless you wish to do so, but whatever you say, or any evidence you give will be taken down in writing and may be used in evidence".

The accused declined to make any statement.

I hereby certify that Rules of Procedure 4 (c)(d)(e)(f)(g) have been complied with.

Taken before me in the field, this 19th day of September 1943.

(W.T.Wilson) Capt. RCA
13 Cdn Fd Regt., R.C.A.(AF)

4C-115
CFN GUAM E

SCHEDULE.

PART I. PLEA(S), FINDING(S) AND SENTENCE.

Accused: D-61634 Cfn. GUAY, Edward - 1 COMERU

Charge. (Insert "alternative" where applicable.)	Plea. (See Instrs p 2.)	Finding. (See note below.)	(Space for use as required for further charges, accused charged jointly, special findings, etc.)
1st AA Sec 15(1)	Guilty	Guilty	
~~2nd~~			
~~3rd~~			
~~4th~~			
~~5th~~			

(Note: As to findings for lesser offences see AA 56, RP 44; findings on alternative charges see MML p 683 fn 4 para 2, RP 44; special findings see RP 44 and MML p 753, and in lieu of kit see RP 44 fn 6.)

~~At present under sentence for~~ ..... beginning on (date) ..... (1)
(1. Insert sentence being served, or delete, if not applicable. See RP 46(A). Information should be found on MF B355 or AF B296.)

Time in confinement awaiting present trial—a total of 22 days, of which NIL days were spent in hospital.(1)
(1. See RP 46(A) fn 2. Information should be found on MF B355 or AF B296 admitted in evidence under E2.)

Sentence Awarded by the Court:
To undergo detention for a period of
Forty (40) days.

30 Oct/44 (Sgd) [illegible] President.
(Sgd) ..... Judge-Advocate, if any. Date awarded. (RP 45, 50.)
(See back of Convening Order as to assembly and disposal of record after trial.)

PART II. MINUTE WHERE CONFIRMATION RESERVED. (AA 54(3), RP 120(F), MML p 760.)

Date ..... (Sgd) ..... Commanding

PART III. DECISION OF CONFIRMING OFFR ON FINDING(S) AND SENTENCE.

(For duties and powers see AA 54, 57, RP 37(D) fn 6, 46(A), 51-56, 120, MML pp 759-761, KR Can 567-577. Acquittals require no confirmation and cannot be revised: AA 54(3). Sending back finding or sentence for revision by Court: AA 54(2), RP 120(G). If not confirmed, accused may be tried again: AA 157, MML p 64. Minute of confirmation or non-confirmation may be altered before promulgation: RP 53, MML p 65. Quashing after promulgation: KR Can 573. Duties and powers of reviewing offrs: AA 57, 57A, RP 53A, 54. The Confirming Offr must sign here personally. AA 172 fn 1.)

My decision on the finding(s) and sentence set forth in Part I is:

Confirmed

~~I direct that the accused be released from custody on the expiration of the period of detention awarded.~~ (1. AA 57A. Delete if not used.)

(Sgd) J. C. STEWART, Brigadier,
Commanding "C" Group,
Cdn. Reinforcement Units.

Date 31 Oct 44 Commanding

PART IV. PROMULGATED AND EXTRACTS TAKEN. (RP 53, KR Can 576, 577.)

Accused. Date. Signature of Offr.

D 61634 Cfn GUAY EDWARD — 2 NOV. 44 — Pte Staff Lt Col. 2 i/c 1 COMERU

ALL DELETIONS AND ALTERATIONS WILL BE INITIALLED.

RECORDED AT CMHQ IN AB 160 42-115

CFAPM (In lieu of AFAM) 40/P & R/1698 (5 44) 4/38B

FIELD GENERAL COURT-MARTIAL

RECEIVED 4 NOV 1944 AHQ (illegible)

Convened by Brig. J.C. Stewart, CBE DSO Comd "C" Gp, CRU dated 27 Oct 44

ACCUSED.

(As to the trial of two or more charged jointly see RP 16, 71, 109. As to reasons for showing (a) permanent or confirmed rank, and (b) apptmt, A/rank or A/apptmt, if any, see AA 182, 183, fns, KR Can 308, 338, 339.)

Number.	(a) Prmnt R. (b) Apptmt, A/R or A/Apptmt.	Full Christian Names.	Surname.	Unit.
D-61634 Cfn		Edward	GUAY	1 COMERU

PROCEEDINGS REVIEWED JCC Trial Proceedings 8 Nov 44 REVIEWING OFFICER, JAG BRANCH CMHQ

PROCEEDINGS OF TRIAL.

Held in the Fd in (country) ENGLAND on (date(s)) 30 Oct 44

RECORD FORM A—OPENING PROCEEDINGS AND ARRAIGNMENT.

A1. The President, Members, ~~waiting Member, JA, if any, and Offrs under instr, if any,~~ assemble, and the Court is closed.

(PRINTED MATTER, NOT IN ITALICS FOR GUIDANCE, WILL BE DELETED, IF NOT USED OR APPLICABLE, AND INITIALLED BY PRES OR JA. The Schedule referred to throughout is on p 4. Citations do NOT include all relevant fns RDs. For guidance on procedure when a variation in this form arises, see form for GCM in MML pp 741 to 759. A brief record of such variation will be made and given a number having reference to abbreviations or preceding para number herein. See back of Convening Order, CF A45, for waste and instrs on how to record addresses, evidence, etc, which instrs are hereafter called "Notes". As to general provisions for conducting the trial see AA 52, RP 56, 63-70, 73, 74, 94, 103, 118, 132.)

A2. The President initials and lays before the Court the Convening Order and Charge Sheet(s) attached thereto.(1) The Court is satisfied that it is properly convened and constituted(2) composed as (from seniority) is recorded in (from precedence) each charge discloses an offence.(3)

(1. As to use of Summary of Evidence see RP 17 fn 6. 2. AA 49, 50, RP 105-107. 3. RP 11-12, 23, 24.)

A3. The Court is opened. The accused is (~~are~~) brought before the Court. At 1122 hours trial commences.

A4. The Prosecutor produces a Medical Certificate that accused is (~~are~~) fit to undergo trial by court-martial. ~~The Prosecutor informs the Court that accused elected to be tried by court-martial instead of being dealt with summarily by the CO.(1)~~

(1. KR Can 557. 2. AA 46(2), RP 60 fn 1. For effect see KR Can 563(c). Delete, if not applicable.)

A5. President to accused: Do you object to ~~the interpreter~~ [illegible] as interpreter? Ans ~~No~~

~~The interpreter is sworn.~~(1) Do you object to S/SGT SHUKTZ N [illegible] P. 38776 shorthand writer? Ans No

~~The shorthand writer is sworn.~~(1)

(1. RP 72. Delete, if none employed.)

A6. The Convening Order and names of the President and Members of the Court are read to the accused.(1)
President to accused: Do you object to be tried by me as President or by any of the Members of the Court?
Ans No

(1. RP 110. 2. If no objection, waiting member retires. RP 60(B). If objection, see procedure AA 51, RP 25, 71, 18, MML p 742.)

A7. The President, Members, ~~JA, if any, and Offrs under instr, if any,~~ are sworn.(1) The following are the ranks, names and units of the offrs comprising the Court, etc:

President	LT COL	D.K. REDMAN MD, AC	HQ CRU
Member	CAPT	R.D. BAKER	1 CMAU
Member	CAPT	D.H. MANRO	1 COMERU
~~Judge-Advocate~~			
Prosecutor	LT	M.H. JOUBERT	1 COMERU
Defending Offr	LT	W WRIGHT	1 COMERU

Questions by President: Is the Prosecutor a lawyer? Ans No Is the Defending Offr a lawyer? Ans No (2)

(1. RP 26, 27, 109, 111. List of offrs under instr will be returned separately with proceedings for information of Conv Offr.)
(2. If Pros a lawyer and Def Offr not, accused is entitled to an adjournment when RP 89 (2) and fn 2 were not followed. See DI p 31.)

A8. The accused ..... before arraignment make(s) (no) ~~no~~ plea. (1)

(1. If a special plea is made for separate trial on one or more charges (RP 42(E), 108), or as to the jurisdiction of the Court (RP 34, 35(A), 113), or in bar of trial (RP 36), or as to accused's mental fitness to stand trial (AA 130, RP 57), or by one of several accused charged jointly to be tried separately (RP 16, 71), such plea, the addresses made in support or against, the evidence, if any, and finding are recorded per Notes. For forms of record see references in fns to RsP cited. Insert in A8 rank and name of the accused making the plea.)

A9. The accused is (~~are~~) arraigned ~~separately~~ on all charges in the charge sheet.(1) The accused does (~~do~~) not object to any charge.(2) There is no amendment to be made to the Charge Sheet.(3) The President records the pleas in Part I of the Schedule.

(1. RP 31, 112. See para 1 of Instrs p 2. 2. When more than one Charge Sheet see RP 62; when several accused to be tried separately see RP 71(C), and use separate copies of CF A84 to record proceedings. 3. RP 32, RP 33. If otherwise, delete and make appropriate record per Notes.)

A10. The Court (~~is cleared and~~) considers the Instrs on Procedure after Arraignment at top of p 2. The proceedings are continued on Record Form B

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

INSTRUCTIONS ON PROCEDURE AFTER ARRAIGNMENT.

1. *The accused may not plead or be found Guilty on more than one of two or more charges laid in the alternative.* (RP 37(A).) *As to withdrawal of alternative charges by Prosecutor see RP 35(C). No other charge can be withdrawn for any reason without ruthy from Convening Offr. If Convening Offr concurs, Court may accept plea of Guilty to lesser, etc, offence.* (RP 44(H).) *Accused may change a plea of Not Guilty to Guilty during trial.* (RP 38.) *As to refusing to plead or not pleading intelligibly see RP 35(A). As to plea when sentence may be death see RP 35(D).*

2. *The proceedings on each charge sheet (RP 62) after arraignment will be conducted as follows in the respective circumstances stated:*

I. If pleas to all charges are GUILTY, use Record Form B below.

II. If pleas to all charges are NOT GUILTY, use Record Form D on p 3.

III. If pleas to some charges are GUILTY and to other charges are NOT GUILTY and,

(a) Such mixed pleas occur when there are no alternative charges in the Charge Sheet, use Record Forms C below. (RP 37(A).)

(b) Such mixed pleas occur in a set of two or more charges laid in the alternative, see RP 37 (A) and fn 2 as to discretion of Court, (i) to try the accused on all such alternative charges as if he had pleaded Not Guilty thereto, or, (ii) to record the pleas as the findings of Court. After deciding between (i) and (ii), Court will proceed under foregoing instrs as may be appropriate to result of its decision. See M M L p 744 Instrs (2).

3. *As to responsibility of President to accused see RP 59, 60(C); powers and duties of JA see RP 103; duty of Prosecutor see RP 60(A) (B); duty and privileges of accused and Defending Offr see RP 60(C), 87(C), 91, 92; summoning and withdrawal of witnesses from Court see RP 81, 82; questioning of accused see RP 80, 87(C), 92(B), and of witnesses see RP 83-85; calling or re-calling of witnesses by Court, etc, see RP 75-79, 86, 116; use of Summary of Evidence at Trial see RP 17(E) fn 6; and responsibility of JA or Pres to record proceedings see RP 94, 96.*

RECORD FORM B—PROCEEDINGS ON PLEAS OF GUILTY TO ALL CHARGES.

B1. The President or ~~JA, if any,~~ complies with RP 35(B) by explaining to the accused the nature and meaning of the charge(s).(1), and that on his plea of Guilty there will be no regular trial but merely a consideration of the sentence to be awarded after he has been given an opportunity to make a statement in reference to the charge(s), call witnesses as to character and make an address in mitigation of punishment.(2)

(1. *RP 35 fn 3.* 2. *MML p 54 para 47.*)

B2. President to accused: The Court will now receive any statement you desire to make in reference to the charge(s).(1) If it appears from your statement that there are circumstances which indicate that you do not understand the effect of the plea of Guilty(2), or which show provocation or extenuation in respect of which in your interest the witnesses for the Prosecution should be examined(2), we shall advise you to change your plea to Not Guilty. In making a statement you will not be sworn or subject to cross-examination; and anything you say will not be used in evidence against you after you change your plea. If, however, it appears to the Court that your statement affects only the amount of punishment to which you are liable, you will not be advised to change your plea and you will be given an opportunity later to prove your statement by sworn testimony, if you so desire.(3)

President to accused: Do you wish to make a statement? Ans. NO - SIR (5)

(1. *RP 37(B).* 2. *RP 37(D) fn 6.* 3. *RP 35(B) fn 3 para 3, MML p 54 para 47.* 4. *See para E3 of Record Form E.* 5. *Statement, if any, recorded per Notes.*)

B3. The Court considers the accused's statement.(1) The Court decides (not) to advise accused to change ~~his (their) plea(s) of Guilty to Not Guilty on~~ charge(s). The accused is (are) so informed, and he (they) ~~change(s) his (their) plea(s)~~ on charge(s). ~~Part I of the Schedule is amended accordingly~~

(1. *Court may be closed to consider the statement. Delete whole or part not used.*)

B4. On the charge(s) to which the plea(s) of Guilty is (are) not changed the President records finding(s) of Guilty in Part I of the Schedule.(1)

(1. *RP 35(B). If any plea(s) is (are) changed, use Record Form C or D as appropriate.*)

B5. The Summary of Evidence is marked Ex A, initialled and read aloud by the President.(1)

(1. *If there is no Summary, or if it is inadequate, comply with RP 37(B). If there is any evidence inconsistent with any plea standing as Guilty, Court will advise accused to change such plea and, if changed to Not Guilty, try such charge(s) by use of paras D1 to D8 inclusive of Record Form D on p 3. RP 37(D).*)

B6. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

RECORD FORM C—PROCEEDINGS ON MIXED PLEAS OF GUILTY AND NOT GUILTY.

C1. As to the charges on which accused pleaded NOT GUILTY the trial is continued by using paras D1 to D8 inclusive of Record Form D on p 3 before proceeding with C 2.(1)

(1. *RP 37(A) (E).*)

C2. The charges on which accused pleaded GUILTY are read to him (them) again, and the trial is continued by using paras B1 to B5 of Record Form B above.(1)

(1. *Under B5 such parts only of the Summary of Evidence are read as relate to the charges dealt with under C2. If any plea is changed to Not Guilty, trial thereon proceeds by complying with paras D1 to D8 inclusive in Record Form D on p 3 and making an appropriate record thereof on a separate sheet.*)

C3. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

RECORD FORM D—PROCEEDINGS ON PLEAS OF NOT GUILTY TO ALL CHARGES.

D1. President to accused: Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity to prepare your defence? Ans.....(1)

(1. *If "yes", see RP 39(A) for procedure. Statement or evidence, if any, is recorded per Notes.*)

D2. The Prosecutor makes (an) (no) opening address.(1)

(1. *RP 39(B), 60(A) (B), 90, 92(C) (D). Record address per Notes, subject to RP 93(C).*)

D3. The evidence for the Prosecution is taken.(1)

(1. *RP 39(C), 114, KR Can 555. Record evidence per Notes. As to Prosecutor giving evidence himself see RP 39(D) (E).*)

D4. The Prosecution is closed.(1) The Defending Offr submits that the evidence for the Prosecution does not establish a prima facie case against the accused on the ..... charge(s).(2) The Court is closed, and considers the submission.(3) The Court is re-opened, and the President announces that the submission is disallowed on the ..... charge(s), and allowed on the ..... charge(s), and that, accordingly, the trial will proceed on the former, but the accused is (are) found Not Guilty on the latter charge(s).(4)

(1. *Delete remainder of this para, if submission not made.* 2. *Arguments on submission, answer and reply are recorded per Notes.* 3. *RP 40 fn 1. See MML p 72 paras 12-14 and p 81 para 42.* 4. *Delete part not used. If accused acquitted on all charges, use second alternative in para D6.*)

NB: If trial proceeds, accused must be allowed great latitude in making his defence, and the Court should not stop his defence solely on ground of irrelevance. (RP 60(C), 114, 115.)

D5. President to accused: You will now proceed with your defence.(1) You may, if you wish, give evidence yourself on oath as to the facts or your character or both, in which case you will be subject to cross-examination.(2) You may, however, make a statement without being sworn, and you will not be subject to cross-examination.(3) But a statement which could have been made on oath will not carry with the Court the same weight as sworn testimony.(4) You may call witnesses in your defence and as to character, whether you give evidence or make a statement or do neither.

President to accused: Do you wish to give evidence yourself as a witness, make a statement, or do neither? Ans.....

Do you intend to call witnesses on your behalf? Ans.....

Are they witnesses as to character only? Ans.....

(1. *RP 115.* 2. *RP 40(A), see 60(D).* 3. *RP 40 fn 10.* 4. *RP 40 fns 2, 9.*)

D6. Consequent on the answers recorded in para D5 the appropriate procedure for the defence is followed.(1)

(1. *RP 114, 115, 116. For procedure see Notes on back of Convening Order. CF A95. Evidence for accused as to his character should, if in his interest, be given before the finding. See RP 46(A) fn 1, 86(C). Note the further opportunity in para E1 of Record Form E. Record per Notes addresses, statement, evidence and any summing up by the JA under RP 42, 103(e).*)

D7. The Court is closed to consider the finding(s).(1) The finding(s) of the Court is (are) recorded in Part I of the Schedule.(2) The Court is re-opened.

(1. *RP 42, 117(A). See Notes in Part I of Schedule.* 2. *RP 44(A).*)

D8. The President announces the finding(s), if any, of Not Guilty, and states to the accused that the finding(s) of the Court on the ..... charge(s), being subject to confirmation, will be promulgated later.(1)

Or, The President announces that the accused is found Not Guilty on all charges and is to be released forthwith, and that the proceedings are accordingly terminated. Part I of the Schedule is dated and signed.(2)

(1. *AA 54(3) (6), RP 45, 120(A).* 2. *AA 54(3), RP 45, 117. The alternative announcement is not applicable when there are pleas of Guilty outstanding and dealt with under Record Form B or C.*)

D9. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E below.

RECORD FORM E—PROCEEDINGS ON CONVICTION BEFORE SENTENCE.

E1. President to accused: Do you wish to give evidence yourself or to call any witnesses as to your character?(1)

Ans. NO - SIR

(1. *If evidence has already been given by accused or his witnesses as to his character, delete this para. RP 37(C) fn 4, 46 fn 1. Accused and witnesses are sworn. Evidence recorded per Notes.*)

E2. The Prosecutor produces Statement(s) as to Character and Particulars of Service(1), and certified true copy (copies) of Conduct Sheet(s)(2), purporting to refer to the accused, which he submits to the Defending Offr for examination, and then to the Court for admission in evidence. The Court is satisfied that these documents refer to the accused, because (i) they purport to be signed in the manner required by AA 163(1) (g) (h), and (ii) they purport to refer to (a) soldier(s) having the same number, rank, name and corps as the accused. Admitted in evidence and marked Ex ..... and Ex ..... respectively.(3)

(1. *AFB 255 or AFB 296.* 2. *AFM 6.* 3. *RP 46, KR Can 158. If above documents not produced, see RP 46 fn 1 para 1.*)

E3. President to accused: Do you wish to address the Court on the Statement(s) and Conduct Sheet(s), and in mitigation of punishment?(1) Ans. SEE ANOTHER NOTE - AIT

(1. *RP 37(C), 46(D).* 2. *Address, if any, recorded per Notes. Court should permit accused or his witnesses to say on oath anything here or previously stated which would affect the amount of punishment. RP 37(F) fn 7.*)

E4. The President states that the Court is closed to consider the sentence, and that the sentence to be awarded by the Court, being subject to confirmation, will not be announced, but will be promulgated later, and the proceedings in open court are accordingly terminated.(1)

(1. *AA 54(6), RP 120(A).*)

E5. The Court considers the sentence.(1) The President records the sentence in Part I of the Schedule, which is dated and signed by him ~~and the J.A., if any~~.(2)

(1. *When several accused tried separately see RP 71 (2). One sentence only, comprised of the punishment or punishments laid down in AA 41, 44 and its proviso, is to be awarded to cover all charges in all charge sheets on which accused found guilty. RP 46. As to sentences see AA 44, 138, 182, RP 46-50, 69, 118, 119(A), KR Can 308, 330, 563-566, Overseas AO 309, 2503, MML p 60, 757-759. As to sentences assigned for civil offences by the law of England see AA 41(5), MML p 130. When accused currently under sentence of imprisonment or detention see AA 44(1)(b), 68(1), KR Can 564. As to assembly and dispersal of record after trial see Instrs on back of Convening Order. Confirming Offr see KR Can 567.* 2. *RP 50. As to release from arrest or Confirming Offr see KR Can 567. As to assembly and dispersal of record after trial see Instrs on back of Convening Order.*)

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Field	7-5-41	Tpr.		A.W.L. from 2200 hrs 6-5-41 until 0600 hrs 7-5-41. Total Absence 8 hrs.A.A. Sec 15(1)	Cpl. Chauvin	28 days F.P. 28 days Pay	9-5-41	Lt.-Col C.B. Mann	
Field	28-11-41	Tpr.		A.A. Sec 40. Disorderly on meal parade	Cpl Lenchuck	7 days C.B.	28-11-41 CRH	Capt. Porteous	
Field	8-5-44	Pte.		1. WOAS Neglect to the prejudice of good order and military discipline i.e. meglected to turn in his pass at 1000 hrs 7 May 44 contrary to Squadron Orders. A.A. 40 2. WOAS Neglect to the prejudice of good order and military discipline i.e. at 1000 hrs 7-5-44 was not available for duty. AA 40	Sgt Jones A.B.	10 days C.B.	11-5-44	Lt-Col REA Morton	

CERTIFIED TRUE COPY

Capt & Adjt.

OFFICER HAVING CUSTODY OF ORIGINAL DOCUMENT.

First Sheet Destroyed 30-4-40 on completion of six months service.

No D61634 Name GUAY, E | Sqn, Battery, or Company | Corps R.C.E.M.E. | Date of enlistment 30-10-39 | GC Badges nil | Service or Proficiency Pay $1.50 | MFM 6 (AFB 122) 40 PAS/158 (3438)

Date of last entry in Company Conduct Sheet 15-2-40 | No and date of last drunk N/A | Period not reckoning towards freedom from extra fine N/A | Sheet No 1 | Signature OC Company, [signature] | Character

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order (Corresponding with trial)	By whom awarded	Remarks
Field	28-5-40	Tpr.		A.W.L. from 0600 hrs 22-5-40 to 2230 hrs 22-5-40 Total Time Absent 16 hrs 30 Mins A.A. Sec 15(1)	CSM Rocray	Admonished	28/5/40	Major Chaput	
Field	3-6-40	Tpr.		A.W.L. from 0600 hrs 3-6-40 until 1600 hrs 21-6-40 Total time absent 18 days 10 hrs Sec 15(1)	CSM Rocray	14 Days C.B.	21-6-40	Major Chaput	Forf. 19 Days Pay F&I
In The Field	20/7/40	Tpr		A.A. Sec 40 Disturbing the peace	L/C Rushford	1 days pay	21-7-40	Maj. Trudeau	
In the Field	19/10/40	Tpr		A.A. sec 40 Refusing to obey an	Order L/C Lalonde	1 Days pay	19/10/40	Capt. Gauvreau	
In the Field	15/4/41	Cpl		A.W.L. from 0800 hrs 14/4/41 to 1130 hrs 14-4-41 Total time Absent 3hrs ½ min A.A. Sec. 15(1)	Lieut Bourbonnais	Reverted to perm. rank	16/4/41	Lt.-Col C.C. Mann	

(P.T.O.)

SCHEDULE OF CONVICTIONS BY A COURT-MARTIAL OR CIVIL COURT

Description of Court by which tried	Date and Place of Trial	Charges upon which convicted.	Sentence of the Court.	Punishment remitted or sentence suspended.
NIL	NIL	NIL	NIL	NIL

I HEREBY CERTIFY that the foregoing particulars, which have been extracted from the regimental books in my custody, are correct to the best of my knowledge and belief.

Signed this 30th day of Oct 1944

Capt & Adjt
No.2. Can Ord & Mech Engrs Reinf Unit

ARMY FORM B.296 (WAR).

Statement as to Character and Particulars of Service of Accused

(For Use at Trials by Field General Courts-Martial only)

Number.	Rank.	Name.	Regiment (or as the case may be).
D-61634	Private	Edouard GUAY	No.1. C.O.M.E.R.U.

NOTE.—The Field Conduct Sheet is to be produced in Court with this statement but is not to be annexed to the proceedings. The numbers herein stated should correspond with the number of ENTRIES in the Field Conduct Sheet, punishments being given to the most serious offence in each entry. If the charge is for drunkenness or absence without leave, the entries for drunkenness or absence, as the case may be, should be stated separately. Any recognised special acts of gallantry or distinguished conduct recorded on the Field Conduct Sheet should also be inserted here.

1. The following is a fair and true summary of the entries in the Field Conduct Sheet of the accused, exclusive of convictions by a court martial or a civil court:—

For	AA Sec 15(1)	4 times.
For	AA Sec 40	5 times.
For		times.
For		times.

Date of first entry in Field Conduct Sheet 28 May 40

Date of last entry in Field Conduct Sheet 8 May 44

2. Previous convictions of the accused by a court martial or a civil court are set out in the Schedule overleaf.

*Strike out if not applicable

*3. ~~The accused at the present time is under sentence for~~ [illegible]
~~beginning on the~~ [illegible] ~~day of~~ [illegible]

4. The accused has been awaiting trial on the present charges for Nil days in civil custody; and for 22 days in military custody, i.e., [illegible] days in open arrest, 22 days in close arrest; of which None days were spent in hospital.

5. The present age of the accused is 22 Aug 12

6. The date of his ~~attestation~~ calling up for military service is 2 Oct 1939

7. The service which the accused is allowed to reckon is 2 Oct 39

†State the military decorations (if any) held by accused

8. The accused is in possession of † C.V.S. MEDAL

9. (If the accused is a warrant officer or N.C.O.). The accused has served continously, without reduction, to the present date—

	Date of Promotion.
In the substantive rank of N/A	
In the war substantive rank of N/A	
In the acting rank of N/A	

E+B
PMY

INSTRUCTION.—If any matter in any of the above paragraphs cannot be stated from the regimental books the paragraph must be struck through.

Wt. (3479/3867) 30,000 3/44 S1-433 T.Ltd. Forms/B 296/War/1

NO I CANADIAN ORDNANCE AND MECHANICAL ENGINEERS
REINFORCEMENT UNIT

CERTIFICATE OF KIT DEFICIENCIES

D61634 GFN GUAY, E.

I was present at the Kit Inspection and checked the Kit of the accused on 9 Sept 1944 and found that he was deficient the following articles:

ARTICLES	QTY	FULL VALUE £	S	D	75% RO 4585 Value Less Depn. £	S	D	TOTAL CDN
✓Battledress Blouses Serge	1	1	3	6	0	17	6	$ 3.94
✓Battledress TrousersSerge	1	1	4	11½	0	18	2	4.04
✓Caps Field Service	1	0	2	6	0	1	10	0.42
✓Bags Kit Universal	1	0	4	7	0	3	6	0.78
✓Combs hair	1	0	0	2	0	0	1	0.03
✓Holdalls	1	0	0	10	0	0	8	0.15
✓Shorts Gym	1	0	1	11	0	1	0	0.34
✓Vests cotton gym	1	0	1	7	0	1	7	0.28
✓Towels Hand	1	0	1	5	0	1	1	0.24
✓Belts waist web WE patt'37	1	0	3	4	0	2	6	0.56
TOTAL		3	3	11½	2	8	3	$10.78

Prices are per O.R.O. #3959 d/27 Oct 43, and O.R.O. #4585

A. T. Shelton Lieut
A.M. NO. 1 C.O.M.E.R.U.

T.T. Shoebridge Major

KAR/GER

PRESIDENT (F.T. Shoebridge) Major #1 C.O.M.E.R.U.

(W.A. Reid) Capt. #1 C.O.M.E.R.U.

Names of President and Members

(W.H. Joubert) Lieut. #1 C.O.M.E.R.U.

(Harold H. Bailey) Colonel
Commanding Officer
No. 1 Con Org & Mech Engrs Reinf Unit.

Signature of Commanding Officer

CERTIFIED TRUE COPY.

Signature of Officer having custody of the Original Record.

(18949) W.1.39001-43950 -/120,000 1/41 A.& E.W.Ltd Gp.438 Forms/S(11)/54
(17946) W.1.11501-13713 " 200,000 1/41

Exhibit "A"

Army Form B 115.

Record of the Declaration of a Court of Inquiry on the Illegal Absence of a Soldier.

RECORD of the Declaration of a Court of Inquiry assembled at BORDON, Hants on the 26 day of SEPTEMBER 194 , for the purpose of investigating and recording the absence, without leave, from his duty, and deficiency, if any, in the Arms, Ammunition, Equipments, Instruments, Regimental Necessaries, or Clothing of No. D-61634 CFN GUAY, E.

DECLARATION.

The Court declare that D61634 Cfn Guay E., RCEME on strength of No 1 Canadian Ordnance and Mechanical Engineers Reinforcement Unit, did illegally absent himself without leave at Bordon, Hants, at 0740hrs 4 September 1944 and that he is still so absent, and that on 26 September 1944, he was deficient and is still deficient the articles of clothing and equipment listed on the attached sheet, and of the value stated.

CHARGE SHEET

The accused, D-61634 Cfn. Edward GUAY, Royal Canadian Ordnance and Mechanical Engineers, on strength of 1 Canadian Ordnance and Mechanical Engineers Reinforcement Unit, a soldier of the Canadian Army Overseas is charged with;-

SECTION 15(1) ARMY ACT

WHILE ON ACTIVE SERVICE
ABSENTING HIMSELF WITHOUT LEAVE

in that he

at New Martinique Barracks, Bordon, Hants at 0740 hrs. on the 4th day of September 1944 absented himself without leave until 1350 hrs. on the 9th day of October, 1944.
Total absence 35 days, 6 hrs, 10 mins.

.....Col
(Harold M. Bailey)Col.
Officer Commanding
1 C.O.M.E.R.U.

Bordon, Hants

To be tried by Field General Court Martial

Commanding [illegible] Group, Cdn Reinforcement Units
Brigadier.

27 Oct 44
Bordon, Hants

FIELD GENERAL COURT-MARTIAL

(Whether the accused to be tried is under his comd or not, a FGCM may on application to him be convened by any offr of Cdn Army Overseas, or of any other force if authorized in law, in immediate comd of troops on active service, subject to RP 105(C) and restrictions imposed by appropriate authy. AA 49, 50, RP 104-107, 114. As to the duties and privileges of the Convening Offr in dealing with the application see MML Chap V paras 20 and 23. RP 87(B).
There should be a separate Convening Order for each person to be tried separately by the same Court. RP 71(C), 109. As to separate charge sheets see RP 62, and as to separate trial on charges in the same charge sheet see RP 108. As to two or more accused charged jointly see RP 16, 109. As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

ACCUSED.

Number.	(a) Prmnt R. (b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
D-61634	Cfn.	Edward	GUAY	1 COMERU

CONVENING ORDER.

1. Whereas complaint has been made to me, the undersigned, that the person[S] named above as the accused, being subject to military law, has ([illegible] committed the offence[s] set forth in the Charge Sheet[s] attached and on this date endorsed by me, [illegible]." To be tried by Field General Court-Martial ".
(date)

2. And whereas I am of opinion that it is not practicable that such offence[s] should be tried by an ordinary General Court-Martial ; ([illegible]
(Delete part in brackets when not required for compliance with RP 105(C).)

3. I hereby convene a Field General Court-Martial to try the said person[s], and to consist of the Offrs appointed or detailed hereunder.

4. [illegible]
(AA 49, RP 106(5), 107(A). Delete the whole or part, if not applicable.)

5. [illegible]
(RP 106(E). Delete, if none appointed.)

PRESIDENT.

(Rank.)		(Must be named. RP 106.)	(Unit.)
Lt-Colonel	D. L. Redman, VD		HQ CRU

MEMBERS.

(Rank.)		(Named or detailed. RP 106.)	(Unit.)
Captain	to be detailed by CO		1 CARU
Lieutenant	to be detailed by CO		2 CARU

WAITING MEMBER.

(Rank.)		(Named or detailed, if any. RP 106.)	(Unit.)
Captain	to be detailed by CO		1 COMERU

JUDGE-ADVOCATE.

(Rank.)		(Must be named, if any. RP 106.)	(Unit.)

On Active Service in the Fd

in ENGLAND
(Country.)

Dat 27 Oct 44

(Signed personally. RP 105 fn 2.)

Brigadier
(Rank.)

Commanding "C" Group, Cdn Rft Units
Convening Officer.

CONVENING OFFR WILL INITIAL ALL DELETIONS AND ALTERATIONS

4/38A (CFA 96 (In lieu of AFA 3) 40/P & S/1697 (S143)

(See overleaf for oaths and notes for use on trial.)

Medical Officers' Certificate
K.R. (Can) para 557

I certify that I have this morning examined No. D 61634 (Rank) Tpr (Name) Hussey E
of NO.1 C.O.R.U. and in my opinion he is ~~unfit~~ fit to undergo
trial by Court Martial.

Station Border Hants

Date 20 Oct 44

Sgd. [illegible] Robertson Capt
(Medical Officer)

F.G.C.M. IN THE CASE OF

D 61634 Cfn GUAM, M., 1 CHMEDU

30 Oct 44

PLEA IN MITIGATION BY DEF OFFR NOTE E-3

Sir,

I would like to tell the Court certain facts concerning the service life and private life of the accused, which I feel have considerable bearing on his behaviour in this case. He enlisted in the active army in Oct 39 and since that time has spent approx 4½ years overseas. He had, when he left Canada, a home a wife and two children, during the first two years overseas he was reasonably happy, everything was alright at home, he received mail and the odd parcels of cigarettes, then nothing. He received indirect word that his wife had sold his furniture, he does not know what has become of his children, she has broken up his home. He wrote to his wife and asked about this and got a vague reply that she needed the money but no good reason was forthcoming, he would not mind if it were necessary that she do this, but she has given him no satisfaction at all, and he does not know on what she spent the money. He knows nothing except that his home has been broken up. He took his problem to the Padre about two years ago, the Padre was sympathetic but was unable to help him. The accused worried about this and it has almost got him beaten. He went to France and was there a short while, until wounded and returned, whilst there again he was happy, he was busy and his mind was off his personal problems, but since being put on hosp and back with little to occupy his mind he has again become worried and has let it beat him again, he has asked to be returned as quickly as possible to the active theatre, he asked in the Conv Depot, and was told that it was very likely he would get the chance, on his return from a short leave to 1 CHMEDU the accused paraded to the CPO and asked that he be sent back to France as soon as possible. He was accordingly posted to the draft Coy to await a draft. He was there two weeks and saw drafts go out, he tried to get on them but failed, he became discouraged, browned off and went away. He is a qualified motor mech, and as he was not on the drafts and from talking to others he got the idea that motor mechs were not in demand and he got the idea that it would be a long time before he got away again.

Under these circumstances I do not think it unusual that he went AWL, I admit and so does he that he has committed an offence, but he surrendered and came back voluntarily and you will see by his MFM 6 that he is not an habitual offender, this AWL was not a lack of appreciation of military discipline, but merely that he allowed his personal worries to get the better of his good judgement. He has asked me to ask for a chance for him to return to active service, he is category "A" and says he is physically fit.

SUMMARY OF EVIDENCE

In the Case of D-61634 Cfn. Edward GUAY
on strength of 1 Canadian Ordnance Mechanical
Engineers Reinforcement Unit, A soldier of the
Canadian Army Overseas.

By direction of the Commanding Officer this
Summary of Evidence is taken on Oath.

No. 1 C.O.M.E.R.U.

First Witness F-89794 Cpl. MacKenzie, G. Regimental Police
Prosecution 1 C.O.M.E.R.U. having been duly sworn states:

"I am F-89794 Cpl. MacKenzie, G. Regimental Police 1 C.O.M.E.R.U. I hereby produce declaration of Court of Enquiry marked Exhibit "A" onthe absence of Cfn. Guay, E. and whom I now recognize. I have initialled the exhibit for identification. D-61634 Cfn. Guay, E. surr endered himself to me at Unit Guard Room at 1350 hrs Oct 9, 1944. He was sober and properly dressed, and I placed him under close arrest at once and admitted him to the Guard Room.

The accused declines to cross-examine the witness

Cpl. G. MacKenzie
(F-89794 Cpl. MacKenzie, G.)

The accused having been duly cautioned as follows:
do you wish to make any statement or to give evidence on Oath? You are not obliged to say anything unless you wish to do so, but whatever you say or any evidence you give will be taken down in writing and may be given in evidence.

Reserves his defence.

I certify that the foregoing summary of evidence consisting of one page was taken down by me in the presence and in the hearing of the accused and that Rule of Procedure 4 (c) (d) (e) (f) have been complied with.

Bordon, Hants
12 Oct 44

M.M. Joubert
(M.M. Joubert Lieut.)
Officer detailed to take down
Summary of Evidence

E + A

SK-9.

Gen. Gray, L.

SCHEDULE.

PART I. PLEA(S), FINDING(S) AND SENTENCE.

Accused : D 128094 Sgt. Lawrence Gray, 4 Cdn Mtr. Regt. R.C.A.

	Charge. (Insert "alternative" where applicable.)	Plea. (See Instrs p 2.)	Finding. (See note below.)	(Space for use as required for further charges, accused charged jointly, special findings, etc.)
1st	AA 41	Not guilty	Not guilty	noted accepted Mag.
2nd	AA 40 (and Not guilty	Not guilty		
3rd				
4th				
5th				
6th				

(Note : As to findings for lesser offences see AA 56, RP 44 ; findings on alternative charges see MML p 483 fn 4 para 2, RP 44 ; special findings see RP 44 and MML p 753, and in lieu of kit see RP 44 fn 6.)

At present under sentence for ..... beginning on (date) ..... (1)

(1. Insert sentence being served, or delete, if not applicable. See RP 46(A). Information should be found on MF B355 or AF B296.)

Time in confinement awaiting present trial—a total of Nil days, of which Nil days were spent in hospital.(1)

(1. See RP 46(A) fn 2. Information should be found on MF B355 or AF B296 admitted in evidence under E2.)

Sentence Awarded by the Court :

(Sgd) ..... Judge-Advocate, if any.

8 May 45 Date awarded.

(Sgd) Thomas Watt A/C/Mil President. (RP 45, 50.)

(See back of Convening Order as to assembly and disposal of record after trial.)

PART II. MINUTE WHERE CONFIRMATION RESERVED. (AA 54(5), RP 120(F), MML p 760.)

Date ..... (Sgd) ..... Commanding

PART III. DECISION OF CONFIRMING OFFR ON FINDING(S) AND SENTENCE.

(For duties and powers see AA 54, 57, RP 37(D) fn 6, 46(A), 51-56, 120, MML pp 759-761, KR Can 567-577. Acquittals require no confirmation and cannot be revised : AA 54(3). Sending back finding or sentence for revision by Court : AA 54(2), RP 120(G). If not confirmed, accused may be tried again : AA 157, MML p 64. Minute of confirmation or non-confirmation may be altered before promulgation : RP 53, MML p 65. Quashing after promulgation : KR Can 573. Duties and powers of reviewing offrs : AA 57, 57A, RP 53A, 54. The Confirming Offr must sign here personally. AA 172 fn 1.)

My decision on the finding(s) and sentence set forth in Part I is :

I direct that the accused be not committed to prison or detention barracks until further orders.(1)

(1. AA 57A. Delete if not used.)

(Sgd) .....

Date ..... Commanding ..... Confirming Officer.

PART IV. PROMULGATED AND EXTRACTS TAKEN. (RP 52, KR Can 574, 577.)

Accused. Date. Signature of Offr.

ALL DELETIONS AND ALTERATIONS WILL BE INITIALLED.

RECORDED AT CMHQ IN AB 160. 5K-9

(PAGE (in lieu of AB 491) AB/P.R.O. 81/1808 (2004))

RECEIVED 21 MAY 1945 CANADIAN ARMY OVERSEAS

FIELD GENERAL COURT-MARTIAL

Convened by Brig W.E. Bingham Comd 2 Cdn AGRA dated 2 May 45.

ACCUSED.

(As to the trial of two or more charged jointly see RP 16, 71, 109. As to reasons for differing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

Number.	(a) Prmnt R. (b) Appmt, A/R or A/Appmt.	Full Christian Names	Surname.	Unit.
D 128094	(a) Sgt	Laurence	Gray	4 Cdn Mtr. Regt. R.C.A.

PROCEEDINGS REVIEWED

W.D. Williams Capt

14 June 45.

REVIEWING OFFICER, JAG BRANCH C.M.H.Q.

PROCEEDINGS OF TRIAL.

Held in the Fd in (country) Germany on (date(s)) 8 May 45.

RECORD FORM A—OPENING PROCEEDINGS AND ARRAIGNMENT.

A1. The President, Members, waiting Member, JA, if any, and Offrs under instr, if any, assemble, and the Court is closed.

(PRINTED MATTER, NOT IN ITALICS FOR GUIDANCE, WILL BE DELETED. IF NOT USED OR APPLICABLE, AND INITIALLED BY PRES OR JA. The Schedule referred to throughout is on p 4. Citations do NOT include all relevant fns RQs. For guidance on procedure when a variation in this form arises, see form for GCM in MML pp 741 to 759. A brief record of such variation will be made and given a number having references to appropriate or preceding para number herein. See back of Convening Order, CF A95, for duties and instrs on how to record addresses, evidence, etc, which instrs are hereafter called "Notes". As to general provisions for conducting the trial see AA 53, RP 36, 63-70, 73, 74, 94, 103, 119, 132.)

A2. The President initials and lays before the Court the Convening Order and Charge Sheet (or) attached thereto.(1) The Court is satisfied that it is properly convened and constituted(2), accused is (are) amenable to military law, and each charge discloses an offence.(3)

(1. As to use of Summary of Evidence see RP 17 fn 6. 2. AA 49, 50, RP 105-107. 3. RP 11-13, 23, 24.)

A3. The Court is opened. The accused is (are) brought before the Court. At 1430 hours trial commences.

A4. The Prosecutor produces a Medical Certificate that accused is (are) fit to undergo trial by court-martial.(1) The Prosecutor informs the Court that accused elected to be tried by court-martial instead of being dealt with summarily by the CO.(2)

(1. KR Can 557. 2. AA 46(B), RP 60 fn 1. For effect see KR Can 563(c). Delete, if not applicable.)

A5. President to accused : Do you object to Lt. J. Lemaistre as interpreter ? Ans No. Lt. J. Lemaistre is sworn as interpreter. (1) ~~Do you object to~~ ~~The interpreter is sworn.~~ ~~The shorthand writer is sworn.~~ (2)

(1. RP 72. Delete, if none employed.)

A6. The Convening Order and names of the President and Members of the Court are read to the accused.(1) President to accused : Do you object to be tried by me as President or by any of the Members of the Court ?

Ans No. (2)

(1. RP 110. 2. If no objection, waiting member retires. RP 60(B). If objection, see procedure AA 51, RP 25, 71, 18, MML p 742.)

A7. The President, Members, JA, if any, and Offrs under instr, if any, are sworn.(1) The following are the ranks, names and units of the offrs comprising the Court, etc :

President	Lt-Col.	T.D. Watt	6 Cdn Tk Regt
Member	Major	F.E. Dumaresq	HQ 2 Cdn AGRA
Member	Capt.	H.R. Rose	2 Cdn Army Tk
Judge-Advocate	Capt.	D. Dian.	HQ 2 Cdn Corps
Prosecutor	Capt.	A/C. Cullen	HQ 2 Cdn Corps
Defending Offr	Lt.	A.C. Edgson	4 Cdn Mtr Regt

Questions by President : Is the Prosecutor a lawyer ? Ans Yes. Is the Defending Offr a lawyer ? Ans Yes.(2)

(1. RP 26, 27, 109, 111. List of offrs under instr will be returned separately with proceedings for information of Conv Offr.)
(2. If Pros a lawyer and Def Offr not, accused is entitled to an adjournment when RP 89 (B) and fn 2 were not followed. See DI p 3.)

A8. The accused ..... before arraignment make(s) (no) (1) plea.

(1. If a special plea is made for separate trial on one or more charges (RP 62(5), 108), or as to the jurisdiction of the Court (RP 34, 35(A), 113), or in bar of trial (RP 36), or as to accused's mental fitness to stand trial (AA 130, RP 37), or be one of several accused charged jointly to be tried separately (RP fn, 71), such plea, the addresses made in support or against, the evidence, if any, and finding are recorded per Notes. For forms of record see references in fns to RoP cited. Insert in AB name and name of the accused making the plea.)

A9. The accused is (severally) arraigned (severally) on all charges in the charge sheet.(1) The accused does (does not object to any charge.(2) There is no amendment to be made to the Charge Sheet.(3) The President records the pleas in Part I of the Schedule.

(1. RP 31, 111. See para 1 of Instrs p 2. When more than one Charge Sheet see RP 62 ; when several accused to be tried separately see RP 71(C), and use separate copies of CF A96 to record proceedings. 2. RP 32, RP 33. If otherwise, delete and make appropriate record per Notes.)

A10. The Court is closed and considers the Instrs on Procedure after Arraignment at top of p 2. The proceedings are continued on Record Form B.

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

2 Can C.R. 17 p. 90

INSTRUCTIONS ON PROCEDURE AFTER ARRAIGNMENT.

1. *The accused may not plead or be found Guilty on more than one of two or more charges laid in the alternative (RP 37(A).) As to withdrawal of alternative charges by Prosecutor see RP 35(C). No other charge can be withdrawn for any reason without authy from Convening Offr. If Convening Offr concurs, Court may accept plea of Guilty to lesser, etc, offence. (RP 44(H).) Accused may change a plea of Not Guilty to Guilty during trial. (RP 38.) As to refusing to plead or not pleading intelligibly see RP 35(A). As to plea when sentence may be death see RP 35(D).*

2. *The proceedings on each charge sheet (RP 62) after arraignment will be conducted as follows in the respective circumstances stated:*

I. If pleas to all charges are GUILTY, use Record Form B below.

II. If pleas to all charges are NOT GUILTY, use Record Form D on p ■ 3.

III. If pleas to some charges are GUILTY and to other charges are NOT GUILTY and,

(a) Such mixed pleas occur when there are no alternative charges in the Charge Sheet, use Record Form C below. (RP 37(A).)

(b) Such mixed pleas occur in a set of two or more charges laid in the alternative, see RP 37 (A) and fn 2 as to discretion of Court, (i) to try the accused on all such alternative charges as if he had pleaded Not Guilty thereto, or, (ii) to record the pleas as the findings of Court. After deciding between (i) and (ii), Court will proceed under foregoing instrs as may be appropriate to result of its decision. See MML p 744 Instrs (2).

3. *As to responsibility of President to accused see RP 59, 60(C); powers and duties of JA see RP 103; duty of Prosecutor see RP 60(A)-(B); duty and privileges of accused and Defending Offr see RP 60(C), 87(C), 91, 92; swearing and withdrawal of witnesses from Court see RP 81, 82; questioning of accused see RP 80, 87(C), 92(B), and of witnesses see RP 83-85; calling or re-calling of witnesses by Court etc see RP 75-79, 86, 116; use of Summary of Evidence at Trial see RP 17(6) fn 6; and responsibility of JA or Pres to record proceedings see RP 94, 96.*

RECORD FORM B—PROCEEDINGS ON PLEAS OF GUILTY TO ALL CHARGES.

B1. The President or JA, if any, complies with RP 35(B) by explaining to the accused the nature and meaning of the charge(s)(1), and that on his plea of Guilty there will be no regular trial but merely a consideration of the sentence to be awarded after he has been given an opportunity to make a statement in reference to the charge(s), call witnesses as to character and make an address in mitigation of punishment.(2)
(1. RP 35 fn 3. 2. MML p 54 para 47.)

B2. President to accused: The Court will now receive any statement you desire to make in reference to the charge(s).(1) If it appears from your statement that there are circumstances which indicate that you do not understand the effect of the plea of Guilty(2), or which show provocation or extenuation in respect of which in your interest the witnesses for the Prosecution should be examined(3), we shall advise you to change your plea to Not Guilty. In making a statement you will not be sworn or subject to cross-examination; and anything you say will not be used in evidence against you after you change your plea. If, however, it appears to the Court that your statement affects only the amount of punishment to which you are liable, you will not be advised to change your plea and you will be given an opportunity later to prove your statement by sworn testimony, if you so desire.(4)

President to accused: Do you wish to make a statement? Ans .....(5)
(1. RP 37(3). 2. RP 37(D) fn 6. 3. RP 35(B) fn 3 para 2. MML p 54 para 47. 4. See para E3 of Record Form E. 5. Statement, if any, recorded per Notes.)

B3. The Court considers the accused's statement.(1) The Court decides (not) to advise accused to change his (their) plea(s) of Guilty to Not Guilty on ..... charge(s). The accused is (are) so informed, and he (they) change(s) his (their) plea(s) on ..... charge(s). Part I of the Schedule is amended accordingly.
(1. Court may be cleared to consider the statement. Delete whole or part not used.)

B4. On the charge(s) to which the plea(s) of Guilty is (are) not changed the President records finding(s) of Guilty in Part I of the Schedule.(1)
(1. RP 35(B). If any plea(s) is (are) changed, use Record Form C or D as appropriate.)

B5. The Summary of Evidence is marked Ex ....., initialled and read aloud by the President.(1)
(1. If there is no Summary, or if it is inadequate, comply with RP 37(B). If there is any evidence inconsistent with any plea standing at Guilty, Court will advise accused to change such plea and, if changed to Not Guilty, try such charge(s) by use of paras D1 to D8 inclusive of Record Form D on p 3. RP 37(D).)

B6. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

RECORD FORM C—PROCEEDINGS ON MIXED PLEAS OF GUILTY AND NOT GUILTY.

C1. As to the charges on which accused pleaded NOT GUILTY the trial is continued by using paras D1 to D8 inclusive of Record Form D on p 3 before proceeding with C 2.(1)
(1. RP 37(A) (E).)

C2. The charges on which accused pleaded GUILTY are read to him (them) again, and the trial is continued by using paras B1 to B5 of Record Form B above.(1)
(1. Under B5 such parts only of the Summary of Evidence are read as relate to the charges dealt with under C2. If any plea is changed to Not Guilty, trial thereon proceeds by complying with paras D1 to D8 inclusive in Record Form D on p 3 and making an appropriate record thereof on a supernus sheet.)

C3. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

Pin here Loose Sheets of Record.

RECORD FORM D—PROCEEDINGS ON PLEAS OF NOT GUILTY TO ALL CHARGES.

D1. President to accused: Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity to prepare your defence? Ans No sir.(1)
(1. If "yes", see RP 39(A) for procedure. Statement or evidence, if any, is recorded per Notes.)

D2. The Prosecutor makes (an) (no) opening address.(1)
(1. RP 39(B), 60(A) (B), 90, 92(C) (D). Record address per Notes, subject to RP 95(C).)

D3. The evidence for the Prosecution is taken.(1)
(1. RP 39(C), 114, KR Can 555. Record evidence per Notes. As to Prosecutor giving evidence himself see RP 39(D) (E).)

D4. The Prosecution is closed.(1) ~~The Defending Offr submits that the evidence for the Prosecution does not~~ establish a prima facie case against the accused on the ..... charge(s).(2) The Court is closed, and considers the submission.(3) The Court is reopened, and the President announces that the submission is disallowed on the ..... charge(s), and allowed on the ..... charge(s), and that, accordingly, the trial will proceed on the former, but the accused is (are) found Not Guilty on the latter charge(s).(4)
(1. Delete remainder of this para, if submission not made. 2. Arguments on submission, answer and reply are recorded per Notes. 3. RP 40 fn 1. See MML p 72 paras 12-14 and p 81 para 42. 4. Delete part not used. If accused acquitted on all charges, use second alternative in para D8.)
NB: If trial proceeds, accused must be allowed great latitude in making his defence, and the Court should not stop his defence solely on ground of irrelevance. (RP 60(C), 114, 115.)

D5. President to accused: You will now proceed with your defence.(1) You may, if you wish, give evidence yourself on oath as to the facts or your character or both, in which case you will be subject to cross-examination.(2) You may, however, make a statement without being sworn, and you will not be subject to cross-examination.(3) But a statement which could have been made on oath will not carry with the Court the same weight as sworn testimony.(4) You may call witnesses in your defence and as to character, whether you give evidence or make a statement or do neither.

President to accused: Do you wish to give evidence yourself as a witness, make a statement, or do neither?
Ans .....
Ans ..... Do you intend to call witnesses on your behalf?
Ans ..... Are they witnesses as to character only? Ans .....
(1. RP 155. 2. RP 40(A), see 80(D). 3. RP 40 fn 10. 4. RP 40 fns 2, 9.)

D6. Consequent on the answers recorded in para D5 the appropriate procedure for the defence is followed.(1)
(1. RP 114, 115, 116. For procedure see Notes on back of Convening Order, CF 865. Evidence for accused as to his character should, if in his interest, be given before the finding. See RP 46(A) fn 1, 86(C). Note the further opportunity in para E1 of Record Form E. Record per Notes addresses, statement, evidence and any summing up to the JA under RP 42, 103(e).)

D7. The Court is closed to consider the finding(s).(1) The finding(s) of the Court ■ (are) recorded in Part I of the Schedule.(2) The Court is re-opened.
(1. RP 43, 117(A). See Notes in Part I of Schedule. 2. RP 44(A).)

~~Or. The President announces the findings, if any, of Not Guilty, and states to the accused that the findings~~ of the Court on the ..... charge(s), being subject to confirmation, will be promulgated later, and that the proceedings are accordingly terminated. Part I of the Schedule is dated and signed.(1)
(1. AA 54(3) (6), RP 45, 120(A). 2. AA 54(3), RP 45, 117. This alternative announcement is not applicable when there are pleas of Guilty outstanding and dealt with under Record Form B or C.)

Or. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E below.

RECORD FORM E—PROCEEDINGS ON CONVICTION BEFORE SENTENCE.

E1. President to accused: Do you wish to give evidence yourself or to call any witnesses as to your character?(1)
Ans .....
(1. If evidence has already been given by accused or his witnesses as to his character, delete this para. RP 37(C) fn 4, 46 fn 1. Accused and witnesses are sworn. Evidence recorded per Notes.)

E2. The Prosecutor produces Statement(s) as to Character and Particulars of Service(1), and certified true copy (copies) of Conduct Sheet(s)(2), purporting to refer to the accused, which he submits to the Defending Offr for examination, and then to the Court for admission in evidence. The Court is satisfied that these documents refer to the accused, because (i) they purport to be signed in the manner required by AA 163(3) (g) (h), and (ii) they purport to refer to (a) soldier(s) having the same number, rank, name and corps as the accused. Admitted in evidence and marked Ex ..... and Ex ..... respectively.(3)
(1. AFB 355 or AFB 296. 2. MFM 6. 3. RP 46, KR Can 558. If above documents not produced, see RP 46 fn 1 para 1.)

E3. President to accused: Do you wish to address the Court on the statement(s) and Conduct Sheet(s), and in mitigation of punishment?(1) Ans .....(2)
(1. RP 39(C), 46(D). 2. Address, if any, recorded per Notes. Court should permit accused or his witnesses to prove on oath anything here or previously stated which would affect the amount of punishment. RP 37(C) fn 7.)

E4. The President states that the Court is closed to consider the sentence, and that the sentence to be awarded by the Court, being subject to confirmation, will not be announced, but will be promulgated later, and the proceedings in open court are accordingly terminated.(1)
(1. AA 54(6), RP 120(A).)

E5. The Court considers the sentence.(1) The President records the sentence in Part I of the Schedule, which is dated and signed by him and the JA, if any.(2)
(1. When several accused tried separately see RP 120. One sentence only, comprised of the punishment or punishments laid down in AA 41, 44 and its proviso, is to be awarded to cover all charges in all charge sheets on which accused found guilty. RP 48. As to sentences see AA 44, 138, 182, RP 46-50, 69, 118, 119(A), KR Can 308, 330, 363-366, Overseas RO 309, 2323, MML p 60, 757-759. As to sentences assigned for civil offences by the law of England see AA 40(2), MML p 130. When accused already under sentence of imprisonment or detention see AA 44(1)(b), 68(1), KR Can 564. 2. RP 50. As to release from arrest by Confirming Offr see KR Can 567. As to assembly and dispersal of record after trial see instrs on back of Convening Order.)

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

This is to certify that I, have, this 9th day, examined

No. D-126094 Rank Sgt. Name Gurney L.

and I find him fit to undergo trial by Court Martial.

Date May 8th 45.

Signature W.O. Brennan Capt.

FIELD GENERAL COURT-MARTIAL

(Whether the accused to be tried is under his comd or not, a FGCM may on application to him be convened by any offr of Cdn Army Overseas, or of any other force if authorized in law, in immediate comd of troops on active service, subject to RP 105(C) and restrictions imposed by appropriate authy. AA 49, 50, RP 104-107, 114. As to the duties and privileges of the Convening Offr in dealing with the application see MML Chap V paras 20 and 23, RP 87(B).

There should be a separate Convening Order for each person to be tried separately by the same Court. RP 71(C), 109. As to separate charge sheets see RP 62, and as to separate trial on charges in the same charge sheet see RP 108. As to two or more accused charged jointly see RP 16, 109.

As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns. KR Can 308, 328, 330.)

ACCUSED.

Number.	(a) Prmnt R. (b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
D 128094	Gnr.	LAURENT	GUAY	4 Cdn Med Regt RCA

CONVENING ORDER.

1. Whereas complaint has been made to me, the undersigned, that the person(s) named above as the accused, being subject to military law, has (have) committed the offence(s) set forth in the Charge Sheet(s) attached and on (date) 2 May 45 endorsed by me, (or by an offr of my staff for me), " To be tried by Field General Court-Martial ".

2. And whereas I am of opinion that it is not practicable that such offence(s) should be tried by an ordinary General Court-Martial ; (and that it is not practicable to delay the trial for reference to a superior qualified offr.)
(Delete part in brackets if not required for compliance with RP 105(C).)

3. I hereby convene a Field General Court-Martial to try the said person(s), and to consist of the Offrs appointed or detailed hereunder.

4. ~~I am unable to appoint the three Offrs to form the Court, (b) a Fd Offr as President, for the reasons I have attached hereto.~~
(AA 49, RP 106(B), 107(A). Delete the whole or part, if not applicable.)

5. I also appoint as Judge-Advocate thereat the Offr mentioned hereunder.
(RP 106(E). Delete, if none appointed.)

PRESIDENT.

Lt Col (Rank.)	J D WATT (Must be named. RP 106.)	6 Cdn Atk Regt RCA (Unit.)	

MEMBERS.

Major	J P DUMARESQ	HQ 2 CDN AGRA	
Captain (Rank.)	P R LOMAS (Named or detailed. RP 106.)	1 HEAVY REGT RA (Unit.)	

WAITING MEMBER.

Captain (Rank.)	H G ROSE (Named or detailed, if any. RP 106.)	82 Cdn Arty Coy RCASC (Unit.)

JUDGE-ADVOCATE.

Captain (Rank.)	DALTON DEAN (Must be named, if any. RP 106.)	JAG 2 Cdn Corps (Unit.)

1st Lieut Th de MEESTER INTERPRETER. DUTCH L.O.
On Active Service in the Fd

in GERMANY (Country.)

(Signed personally. RP 105 fn 2.) Brigadier (Rank.)

Dat 2 May 45

(W.C. Leggat)
Commanding 2 Cdn AGRA
Convening Officer.

CONVENING OFFR WILL INITIAL ALL DELETIONS AND ALTERATIONS

(See overleaf for oaths and notes for use on trial.)

4/38A CFA 96 (In lieu of AFA 3) 40/F & S/1697 (8142)

CHARGE SHEET

The accused, D.128094 Gnr Laurent GUAY, 50 Med Bty RCA, 4 Cdn Med Regt RCA a soldier of the Canadian Army Overseas is charged with:

FIRST CHARGE
A.A.Sec. 41

WHEN ON ACTIVE SERVICE COMMITTING A CIVIL OFFENCE, THAT IS TO SAY RAPE

in that he

in the Field in Germany on or about 24 Apr 45 had carnal knowledge of Aline Gosling without her consent.

SECOND CHARGE
(Alternative)
A.A.Sec. 40

WHEN ON ACTIVE SERVICE CONDUCT TO THE PREJUDICE OF GOOD ORDER AND MILITARY DISCIPLINE

in that he

in the Field, in Germany in a part of the country recently occupied on or about 24 Apr 45 fraternized with Aline Gosling, an inhabitant of Germany not his wife by having sexual intercourse with the said Aline Gosling with her consent.

Raul Lagnon Hol
(J.H.A. Lagnon) Lt-col
Comd 4 Cdn Med Regt RCA

In the Field
29 Apr 45

TO BE TRIED BY FIELD GENERAL COURT-MARTIAL

(W.C. Leggat) Brigadier
Comd 2 CGRA

In the Field
2 May 45

Approved in accordance with KR (Can) 570 and 080 4756

Hq
ADJA 2 Cdn Corps

Lt de Meester is sworn in as German-English interpreter and Lt. Houle as French-English interpreter

First Prosecution Witness -

Aline Ording, Flachsmeer Germany, duly sworn, states -

I have lived in Flachsmeer Germany for 10 years. I was born 10 Aug. 1921. I recognize the accused whom I first saw on Monday about 12 days ago. It was a quarter to one Monday night. He came to the house with two other soldiers and I was in bed. One of the other soldiers pulled me out of bed while the accused got us all out of bed. One can easily see the kitchen from the bedroom. I produce a sketch of our house.

(Defending officer has no objection & the sketch is produced as Ex A)

I was in the bedroom marked C. I think the dark soldier pulled me by the arm & got us out of bed & we went to the kitchen. There was no light except the soldier's torch which was on for about two minutes when the dark soldier shot at the accused. Then the accused raped me. I was not clothed as I had undressed before the soldiers arrived. I had only my shirt on, which reaches just above my ankles.

The accused raped me in the kitchen standing. I think he did it as he would have shot me & killed me. The dark one had said "Boom. Boom" meaning that. The accused also said "Boom boom", when we didn't want to do it. The dark one had a pistol & the accused had a pistol hanging on his side. Late Schmidt was

in the bed then two of the three soldiers. The accused raped me & then another soldier raped me. He had intercourse with me. I saw his penis which he put in my sexual organs but not very deep. I was with him five minutes, I can't say. I didn't see him again.

I saw him again on an identification parade when I recognized him

I told my mother immediately after that the accused had raped me

I am single.

Cross-examined

The accused left my house at 1.30. The lamp was flashed in the accused's face when they first came & then again. It was shone in his face twice, the second time about 10 after one. I saw his penis when the light shone on it. I didn't notice the accused was drunk. I was standing when he raped me. At the summary I said he told me to lie down & he raped me, but I was standing when he raped me. When I complained to my mother I told her both about this soldier and the dark soldier raping me. A man was in the house from 12.45 to 1.30. I am also certain it was the accused.

Questions by the Court

There was no candle lit while the accused was there. I saw only one flashlight which the dark one had. He never gave it to the accused. The accused didn't come into my bedroom. At 12.45 there were 3 soldiers present. The accused was dressed as he is now present.

in battle dress. I think he had OR trousers on but am not sure. He had on a battle dress jacket but I don't ~~think I should~~ know if he had any thing on his head.

By J.A.

The accused never had his pistol out of his soldier the dark one had his pistol out of his holster in his hand when we first came out of the bedroom.

R 122 (3) complied with

Second Prosecution witness.

Kete Smith, Papenburg, woman states.

I live at Hempelt, Papenburg, Germany. and was born 19 May 20. On 24 April ~~about~~ 4 I was in Dulenstone, in bed, three soldiers broke into the house. I recognize no-one here as one of them. They came in at ~~about~~ towards one o'clock, ~~then~~ the dark one got up out of bed by saying "Baby shall I get up" and I got up & went to the kitchen. Also Gerding ~~and~~ another soldier were there. There was no light in the kitchen. I went because ~~the~~ the soldier said we should & I was afraid. I could not see what happened to Alma. We were there about 15 & 20 minutes, then the soldiers left ~~about~~ towards 2 o'clock & we went to bed. ~~Alma was in the kitchen~~.

Cross Examination.

The dark soldier had a flashlight which he flashed on & few times & shone it on the bed

He never flashed the light on in the kitchen. I came to the kitchen ~~and~~ the same time as Alice but I left first, Alice following a few minutes after, about 5 minutes.

3rd Q.
I could not see Alice while I was in the kitchen but could hear her crying. I do not know whether there was a soldier with her or if she was alone.
RP&I (B) complied with

Third Prosecution Witness

Major R.J. Cooper. Examined. Oath duly administered.

I know the accused who is in my battery. On 20 April I was on a Identification parade of 10 men. The accused was on the parade. Alice Young identified ~~her~~ before first and then the accused as men she had complaints against. ~~She~~ The accused is a D on R with the battery Command Post. I don't know if he was on duty that night or not. There are other men of the accused's approximate size & complexion in my battery.

X-examination
Miss Young also pointed out an A.H.Q. Clerk who I soon corrected her. She also pointed out another gunner. I include the accused

the parade because the complainant described the soldier complained against as a tall man with a fair complexion.

When Adams identified him I told him he had been identified & he said nothing. I had warned the whole parade they should say nothing if identified.

R.P. & 38 applied us to prosecution dropped.

First Defence Witness.

Accused, duly sworn states -

I am a D.A. in the Canadian Regt. On the night of 23 April I started work at 8 pm & in the evening & worked through until 8 in the morning of 24 April. At 2.30 in the evening the airlosers phoned for a D.R. & an Duss sent to the canteen for tobacco. I was directed from there to the Duke of Connaught where I was told the man whom the canteen was. I went to the door there, but the door was locked & I came back. Lt. P. Slater was on duty at the Camp and I met that night, at 5 to 12 that night I came back from a trip & saw Saint Cloud another O.R. I also saw Lt. P. Slater. He told me I could go to bed. It was then I saw St Cloud for 4 or 5 minutes on the way to the toilet. I told him I was going to bed right after I went to the toilet. I was in the toilet 5 or 10

minutes and then Sgt. Coen who was on guard in front of the Command Post said Lt. Pelletier wanted to see me. I ~~went~~ went to see Mr. Pelletier who told me I was on guard that was close to one o'clock. Then I went to bed. I was to go on guard 6.30 to 8.30 in the morning. I never left the Q. duties hours between one and two. I stayed in bed until 6.30. During the night ~~of~~ events I had on a DR outfit with a combat jacket until I went to bed. I had my pistol and my goggles on too.

On the identification parade every one was armed except the Galvers, myself and the who were standing to attention. Dr Bastarache was also on the parade.

I had my pistol with me on the night of 23rd April

Re-examination

Beneath my camouflage jacket I was wearing my tunic. The Q. duties house is about 200 yards from the Command Post.

Second Defence Witness

Lt. P. Pelletier ~~was~~ was sworn and examined. He said, I am a C.P.O. 50 ~~Fr~~ Co. and I know the accused who was a D.R. in

our battery On the night 23 April he was on duty as D.R attd to the Battn Command post. He was on duty until breakfast time 24th April.

I saw accused at the Command Post about 11 and again at 10 to twelve. He left the post again about 5 to twelve. I saw him again later sometime between 12.30 and two. I think around one, when Saint Cœur sent him into me. Accused was quite sober. I warned him for guard duty, he was dressed in battle dress tunic without his crash helmet. I believe he had on his battle dress tunic but am not absolutely certain. Accused may have had a camouflage jacket, I would not swear to the fact.

Cross examined.

R.D.S.O. (1) complied with

Third Defence Witness

4/23910 Pte. A. Saint Cœur, 4 Cdn Armd Regt. duly sworn states -

I am a D.R., On 23 April I went to bed about 11.10 at night. I saw me. I may that night from 9.30 to 11. and again from 12 clock. to 12.45. At 12.45 he was in my room where I was sleeping. He was with me from 12 until 12.45, talking. At 12.45 I may left me saying he was going to the toilet. then the Cpl. told me to be on guard at 1 o'clock. I went on guard at 5 to one. At about one the Cpl asked me. Exactly I may I may came in order to me about five after one when

I was on guard & said he was going to bed. I told him Lt. P. Slatter wanted to see him & he went into the Command Post. I saw Cpl Quay come out of the Command Post three or four minutes later. He went away & about a quarter to two I went into the billet and saw Quay asleep there.

On the identification parade there were 12 and two others had no arms. I think the others did.

Cross-examination

When I was talking to Cpl Quay we were about 3/4 of a mile from the guns — 5.5's. I hardly know Cpl Quay at all. Quay has discussed the case with me a little.

When I was talking to him in my room he had a camouflage jacket.

RP & 3(B) complied with.

Presiding Officer sums up.

Alive or dead, identification of the accused is not dependable as it is based upon seeing him only for a very short time. There is no corroboration of this evidence. The accused denies that he is the soldier involved. He has an alibi for the time when he is alleged to have committed the offence.

Prosecuting Officer sums up.

Discrepancies in the exact time of the incident do not render the charge worthless. I admit there is no corroboration of identity and while that is not necessary to support the ~~charge~~ record does

Jdg. sums up.

1. Court to judge the facts but to take law from Jdg.
2. Defines Rape (Reading definition from Archbold)
3. It is legally permissable but dangerous to convict on the uncorroborated evidence of the complainant. In this case there is no corroboration of the complainants evidence insofar as it relates to the identity of the accused.
4. Recent complaint is evidence of consistency of complainants conduct.
5. Onus of proof and reasonable doubt.

SUMMARY OF EVIDENCE

in the case of

D128094 Gnr GUAY Laurent, 50 Med Bty RCA, 4 Cdn Med Regt RCA, a soldier of the Cdn Army Oversess, while on active service.

The Commanding Officer directs that the evidence be taken on oath.

FIRST WITNESS Miss ALINE GOSLING of FLACHSMEER, GERMANY, having been duly sworn states:

I am Aline GOSLING, born 10 Aug 27, I live on a farm near FLACHSMEER, with my grandfather Frans Ottjes, my mother Mrs Duken, my sisters Mobkea, Theresa, my brothers Frederic, Heinrich, Dridrich and Ihrhard.

On Monday, 23 Apr 45, at approximately 1000 hrs, I was in the house with my grandfather and my sister Theresa when two soldiers entered the house and asked for eggs. I told them that we had two eggs and the soldiers did not want to take them. I saw the two soldiers go towards the next farm. These two soldiers were Gnr Jean Claude LEFEBVRE and Gnr Emile LAVERGNE which I have identified both on an identification parade on 26 Apr 45. Later on the two soldiers came back and asked for schnapps. I told them that I could get some schnapps for them and I got a small bottle of cognac and gave it to Gnr Lefebvre. Gnr Lefebvre asked me to have a drink out of the bottle first in case it was poisoned. The two soldiers gave me some chocolate and cigarettes and went away. Gnr Lefebvre came back to the house in the afternoon with Gnr Lavergne and another soldier which I do not know. I offered the three soldiers some tea in the kitchen. A short while after Gnr Lavergne left with the soldier I cannot identify and Gnr Lefebvre stayed till approximately 1730 hrs, and he came back at approximately ~~at~~ 2030 hrs and he asked me to sit on his knees. I said that I did not want to. At that time my mother, my grandfather, Mrs Helene Schmidt and Mrs Diederike Sichler were all in the kitchen of my house. Gnr Lefebvre pulled me on his knees where I had to sit. He put his hand under my skirt and my underpants. I was told by my mother to go to my room which I did. Gnr Lefebvre drank constantly from the bottle. A few minutes later Gnr Lefebvre ~~xxxx~~ came into my room with a lighted candle and told me to hurry up putting my sister to bed and went back into the kitchen. A few minutes after that, Miss Kete Schmidt came into the house with two small boys. The two small boys were put to bed and Kete Schmidt remained in the kitchen. I then went to bed and after a while Gnr Lefebvre came into the room; he was drunk and was holding a lighted candle. He could not find me because I was hiding underneath the blankets. Gnr Lefebvre left the room and came back after a while accompanied by my mother. I overheard him saying that I might be in the cellar. My mother said that I was not in the cellar but was tired and had gone to bed. I saw Gnr Lefebvre point a revolver at my mother and order her to undress and go to bed. Lefebvre placed a mattress in the kitchen, I saw through the open door Gnr Lefebvre take his penis out and rape my mother in a standing position. Then my mother was ordered back to bed. During the whole time Gnr Lefebvre had a pistol in his hand. My grandfather who cannot walk was always sitting in the kitchen. Then Gnr Lefebvre ordered me to lie down on the bed in the kitchen. He gave this order pointing his revolver at me. He was very drunk then. He ordered me to undress and he raped me. His penis penetrated into my body. When he had finished raping me he forced me to suck his penis.

Page /2

Lefebvre ordered me back to my bedroom and he ordered Kete Schmidt out of her bed. I heard him order Kete Schmidt to undress and I saw Gnr Lefebvre and Kete Schmidt lying on the bed but I saw no movement. They were there for about five minutes. He then called Mrs Schmidt, Kete's mother. At approximately 2400 hrs, Gnr Lefebvre left and my mother bolted the door; we all went to bed. At approximately 0045 hrs, Gnr Lefebvre came back with two other soldiers and forced the door open. Gnr Lefebvre had a revolver in his hand. I recognized one of the two soldiers as being Gnr Laurent GUAY, whom I have identified on an identification parade, on 26 Apr 45. The other soldier I did not recognize. Gnr Lefebvre came into the bedroom and shone his torch in the eyes of my mother. Lefebvre ordered me and Kete Schmidt out of bed at the point of his revolver. I said: "No" but he threatened me and said:"Boom boom!" showing his revolver and the way to the kitchen. Kete and I had to undress in the kitchen and we both started crying. Gnr Lefebvre made gestures as to show that if we did not stop crying he would slap us. Gnr Guay ordered me to lie down and he raped me. During that time Lefebvre was trying to rape Kete while sitting on a chair. When Gnr Guay was finished with me Gnr Lefebvre ordered Kete to lie down and ~~xxx~~ I saw Gnr Lefebvre raping Kete. When this was over Gnr Lefebvre, Gnr Guay and the other soldier who had been waiting left the house.

Sgd Aline Gosling
Aline Gosling

Question by the accused D128094 Gnr Laurent GUAY:

"How do you recognize me?"

Answer by Miss Aline GOSLING:

"By a flashlight that shone in your face."

Question by the accused, D128094 Gnr Laurent GUAY;

"At what time am I suppose to have left the house?"

Answer by Miss Aline GOSLING:

"I am not sure but around 0200 hrs."

Question by the accused D128094 Gnr Laurent GUAY:

"Have you any witnesses to say that I am the soldier who raped you and how was he dressed?"

Answer by Miss Aline GOSLING:

"I don't think anyone else can recognize you. I only recognize you by your face. You were wearing a battle dress blouse, but I don't know if you had DP trousers."

I, Lieut Th. H. de MEESTER, Royal Netherland Forces, (Liaison), have been appointed by Comd 2 Cdn AGRA to act as interpretor in this summary of evidence, and I certify that the above statement of Miss Aline GOSLING is a correct translation in English of what she said in GERMAN.

Sgd Th. H. de Meester
(Th. H. de Meester) Lieut

Page/3

SECOND WITNESS Miss Kete SCHMIDT, of HAMPOLT (PAPENBURG), having been duly sworn, states:

I am Kete SCHMIDT, born 19 May 30. At approximately 2030 hrs, 23 Apr 45, I ~~xxxxx~~ entered Mrs Duken's house and I saw a soldier sitting in a chair in the kitchen besides the grandfather, Mr Frans Ottjes. The soldier was slightly drunk. In the kitchen at the moment besides the grandfather and the soldier were Mrs Schmidt, my mother, Mrs Sichler and myself. We were all ordered to bed except Mrs Duken and the grandfather and this order was given by the soldier whom I have identified on an identification parade held on 26 Apr 45, as being Gnr Lefebvre. I saw nothing that was going on in the kitchen but I heard Mrs Duken crying and protesting. Fifteen minutes later Mrs Duken came back into the room. Lefebvre came into the room and ordered Aline Gosling out of bed. I did not see what happened to Aline Gosling but I ~~xxxx~~ heard her cry and protest. Approximately fifteen minutes later Aline Gosling came back into the room. Gnr Lefebvre then ordered me out of bed and pointing his revolver at me he ordered me to undress in the kitchen. Lefebvre tried to penetrate his penis into my vagina, but he did not succeed, so he used his finger instead. While we were doing that we were standing. Lefebvre then ordered me to bend down and to take his penis in my mouth. After that I was ordered back to my bed. Then Lefebvre ordered my mother, Mrs Helene Schmidt, out of bed. I did not see what happened to my mother. I heard Lefebvre leave the house. Mrs Duken left the room and proceeded to clock the door. At approximately 0100 hrs, 24 Apr 45, three soldiers came back to the house. I recognized one of them as being Gnr Lefebvre but I do not know who the two others are. Lefebvre came into the room with a torch and ordered Aline Gosling and myself out of bed. He was pointing a pistol at us. The kitchen was in complete darkness so I could not see what happened to Aline Gosling. Lefebvre again tried to penetrate his penis into my vagina and again he did not succeed. He ordered me to take his penis in my mouth; he applied buccal suction to my genitals. I was then sent to the other soldier who was standing by the door; this soldier kissed me and I felt his fingers touching my genitals. This soldier did not do anything else. I was then sent to bed with Aline Gosling. The soldiers left a few minutes after.

Sgd Kete Schmidt
Kete Schmidt

The accused, D128094 Gnr Laurent GUAY, declines to ~~cross~~examine the witness.

I, Lieut Th. H. de Meester, Royal Netherland Forces, (Liaison), have been appointed by Comd 2 Cdn AGRA to act as interpreter in this summary of evidence, and I certify that the above statement of Miss Kete Schmidt is a correct translation in English of what she said in German.

Jules
THIRD WITNESS Major Roland CODERE, 4 Cnd Med Regt RCA, having been duly sworn, states:

I am Major Roland Jules CODERE, Officer Commanding 50 Med Bty, 4 Cdn Med Regt RCA. On 25 Apr 45, I was made aware that a rape had taken place near my Unit lines. Conducting a personal investigation in three nearby houses, I made up the following list of witnesses:

Aline GOSLING, Kete SCHMIDT, Thelke DUKEN, Helene SCHMIDT, Driderike SICHLER, Frans OTTJES, Janette VENHHUS, Wobkea VENHHUS. Guided by the descriptions obtained by these witnesses, I ordered on 26 Apr 45 an identification parade of ten men to include Gnr Jean Claude Lefebvre, Gnr Laurent Guay and Gnr Emile Lavergne. The witnesses were walked up and down the parade, in my presence and that of Lieut de Meester (Interpretor). The following results were obtained: Aline Gosling identified and pointed out Gnr Jean Claude Lefebvre, Gnr Laurent Guay and Gnr Emile Lavergne.

Certified true copy.
Lieut Canadian Army

Sgd _____
(R.J. Codere) Major

The accused, D128094 Gnr Laurent GUAY, declines to cross-examine the third witness.

Question to the accused, D128094 Gnr Laurent GUAY:
"Do you wish to make any statement or to give any evidence upon oath? You are not obliged to say anything or give evidence unless you wish to do so, but whatever you say or any evidence you give will be taken down in writing and may be given in evidence."

Answer by the accused, D128094 Gnr Laurent GUAY:
"No, sir."

Sgd L. Guay
Laurent Guay

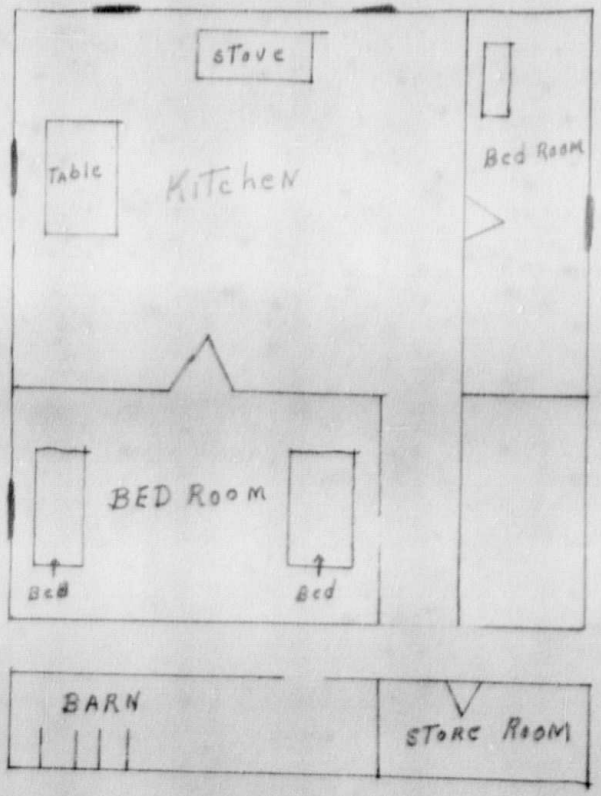
I certify that Rules of Procedure 4(c), (d), (e) and (f) have been complied with.
I certify that the foregoing statement, consisting of four (4) pages, was taken in writing by me in the presence of the accused, D128094 Gnr Laurent GUAY.

Date: 29 Apr 45 Sgd _____
(L P LaPlante) Capt
4 Cdn Med Regt RCA

Exhibit A.

SKETCH of Home of THELKE DUKEN

NOT to Scale



43-84

Pte. Guenther F. C.

missing

5 T-92

Pte. Lupine, L.

SCHEDULE.

PART I. PLEA(S), FINDING(S) AND SENTENCE.

Accused: D-157511 Pte Lespin R x-4 Lnst C1C 13 Can Base Sqn Pers

Charge. (Insert "alternative" where applicable.)	Plea. (See Instrs p 2.)	Finding. (See note below.)	(Space for use as required for further charges, accused charged jointly, special findings, etc.)
1st	GUILTY	GUILTY	
2nd			
3rd			
4th			
5th			
6th			

(Note: As to findings for lesser offences see AA 56, RP 44; findings on alternative charges see MML p 483 fn 4 para 2, RP 44; special findings see RP 44 and MML p 733, and in lieu of kit see RP 44 fn 6.)

As present under sentence for: Nil beginning on (date): ..... (1)

(1. Insert sentence being served, or delete, if not applicable. See RP 46(A), information should be found on AF B355 or AF B296.)

Time in confinement awaiting present trial—a total of 69 days, of which 0 days were spent in hospital.(1)

(1. See RP 46(A) fn 2. Information should be found on AF B355 or AF B296 admitted in evidence under E2.)

Sentence Awarded by the Court:

To suffer field punishment for 1 day and to forfeit all ordinary pay for a period of 1 day.

(Sgd) Gordon N. Jennings Judge-Advocate, if any: Nil Date awarded: 21 Sep 45 (Sgd) H A C Ross Major President (RP 45, 50.)

(See back of Convening Order as to assembly and disposal of record after trial.)

PART II. MINUTE WHERE CONFIRMATION RESERVED. (AA 54(5), RP 120(F), MML p 760.)

Date ..... (Sgd) ..... Commanding

PART III. DECISION OF CONFIRMING OFFR ON FINDING(S) AND SENTENCE.

(For duties and powers see AA 54, 57, RP 37(D) fn 6.46(A), 51-56, 120, MML pp 759-761, KR Can 567-577. Acquittals require no confirmation and cannot be revised: AA 54(3). Sending back finding or sentence for revision by Court: AA 54(2), RP 120(G). If not confirmed, accused may be tried again: AA 157, MML p 64. Minute of confirmation or non-confirmation may be altered before promulgation: RP 53, MML p 65. Quashing after promulgation: KR Can 573. Duties and powers of reviewing offrs: AA 57, 57A, RP 53A, 54. The Confirming Offr must sign here personally. AA 172 fn 1.)

My decision on the finding(s) and sentence set forth in Part I is:

CONFIRMED

[illegible] (1)

(1. AA 57A. Delete if not used.)

(Sgd) .....

Date 21 Sep 45 (J.G. Spragge) Brigadier

Commanding 2 Canadian Base Reinforcement Group

Confirming Officer.

PART IV. PROMULGATED AND EXTRACTS TAKEN. (RP 53, KR(Can 576, 577.)

Accused.	Date.	Signature of Offr.
D157511 Pte Lespin R.	23 Sep 45	H A C Ross Capt 13 C B R Sqn.

ALL DELETIONS AND ALTERATIONS WILL BE INITIALLED.

RECEIVED 2 OCT 1945 JAG BRANCH G.W.H.Q.

RECORDED AT CMHQ IN AB 102 ST-92

FIELD GENERAL COURT-MARTIAL

4/38B

Convened by Order of Brig J.G. Spragge Comd 2 Can Base Reinf Gp dated 18 Sep 45

ACCUSED.

(As to the trial of two or more charged jointly see RP 16, 71, 109. As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

Number.	(a) Prmnt R. (b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
D-157511	Pte	Rene	Lespin	x-4 Lnst C1C 13 Can Base Sqn Pers

PROCEEDINGS REVIEWED 22 Oct 45

J.M. Richmond Capt. REVIEWING OFFICER, JAG BRANCH G.W.H.Q.

PROCEEDINGS OF TRIAL.

Held in the Fd in (country) Holland on (date(s)) 21 Sep 45

RECORD FORM A—OPENING PROCEEDINGS AND ARRAIGNMENT.

A1. The President, Members, waiting Member, JA, ~~if any, and Offrs~~ under instr, if any, assemble, and the Court is closed.

(PRINTED MATTER: NOT IN ITALICS FOR GUIDANCE, WILL BE DELETED IF NOT USED OR APPLICABLE, AND INITIALLED BY PRES OR JA. The Schedule referred to throughout is on p 4. Citations do NOT include all relevant fens RDs. For guidance on procedure when a variation in this form arises, see form for GCM in MML pp 741 to 759. A brief record of each variation will be made and given a number having reference to appropriate or preceding para number herein. See back of Convening Order, CF AF5, for notes and instrs on how to record addresses, evidence, etc. which notes are hereafter called "Notes". As to general provisions for conducting the trial see AA 53, RP 56, 63-70, 73, 74, 94, 103, 118, 122.)

A2. The President initials and lays before the Court the Convening Order and Charge Sheet [~~if~~] attached thereto.(1) The Court is satisfied that it is properly convened and constituted(2), accused is (~~not~~) amenable to military law, and each charge discloses an offence.(3)

(1. As to use of Summary of Evidence see RP 17 fn 6. 2. AA 49, 50, RP 105-107. 3. RP 11-13, 23, 24.)

A3. The Court is opened. The accused is (~~not~~) brought before the Court. At 1100 hours trial commences.

A4. The Prosecutor produces a Medical Certificate that accused is (~~not~~) fit to undergo trial by court-martial.(1) ~~The Prosecutor informs the Court that accused elected to be tried by court-martial instead of being dealt with summarily by the CO.~~(2)

(1. KR Can 557. 2. AA 46(B), RP 60 fn 1. For effect see KR Can 563(c). Delete, if not applicable.)

A5. President to accused: Do you object to ~~Lt.~~ as interpreter? Ans .....

The Interpreter is sworn.(1) Do you object to ..... as shorthand writer? Ans .....

~~The shorthand writer is sworn.(1)~~

(1. RP 72. Delete, if none employed.)

A6. The Convening Order and names of the President and Members of the Court are read to the accused.(1) President to accused: Do you object to be tried by me as President or by any of the Members of the Court? Ans No Obj. (2)

(1. RP 110. 2. If no objection, waiting member retires. RP 60(B). If objection, see procedure AA 51, RP 13, 71, 18, MML p 742.)

A7. The President, Members, JA, ~~if any, and Offrs under instr, if any~~ are sworn.(1) The following are the ranks, names and units of the offrs comprising the Court, etc:

President	Major	H A C Ross	13 Can Base Sqn Pers
Member	Capt	E R Michon	13 Can Base Sqn Pers
Member	Lt	R F Hall	13 Can Base Sqn Pers
Judge-Advocate	Major	G N Jennings	HQ 2 Can Base Reinf Gp
Prosecutor	Capt	J C Bingham	13 Can Base Sqn Pers
Defending Offr	Lt	F F Hall	13 Can Base Sqn Pers

Questions by President: Is the Prosecutor a lawyer? Ans No Is the Defending Offr a lawyer? Ans No (2)

(1. RP 26, 27, 109, 111. List of offrs under instr will be returned separately with proceedings for information of Conv Offr. 2. If Pros a lawyer and Def Offr not, accused is entitled to an adjournment when RP 89 (B) and fn 2 were not followed. See Dir p 23.)

A8. The accused D-157511 Pte Lespin R before arraignment make(s) (no) plea (1)

(1. If a special plea is made for separate trial on one or more charges (RP 62(E), 108), or as to the jurisdiction of the Court (RP 34, 35(A), 112), or in bar of trial (RP 36), or as to accused's mental fitness to stand trial (AA 130, RP 57), or by one of several accused charged jointly to be tried separately (RP 16, 71), such plea, the addresses made in support or against, the evidence, if any, and finding are recorded per Notes. For forms of record see references in fns to RoP cited. Insert in AB rank and name of the accused making the plea.)

A9. The accused is (~~not~~) arraigned (~~separately~~) on all charges in the charge sheet.(1) The accused does (~~not~~) not object to any charge.(2) There is no amendment to be made to the Charge Sheet.(3) The President records the pleas in Part I of the Schedule.

(1. RP 31, 112. See para 1 of Instrs p 2. When more than one Charge Sheet see RP 62; when several accused to be tried separately see RP 71(C), and use separate copies of CF AF6 to record proceedings. 2. RP 32, RP 33. If otherwise, delete and make appropriate record per Notes.)

A10. The Court (~~is cleared~~) considers the Instrs on Procedure after Arraignment at top of p 2. The proceedings are continued on Record Form B & E

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

INSTRUCTIONS ON PROCEDURE AFTER ARRAIGNMENT.

1. *The accused may not plead or be found Guilty on more than one of two or more charges laid in the alternative.* (*RP* 37(*A*).) *As to withdrawal of alternative charges by Prosecutor see RP* 35(*C*). *No other charge can be withdrawn for any reason without authy from Convening Offr. If Convening Offr concurs, Court may accept plea of Guilty to lesser, etc, offence.* (*RP* 44(*H*).) *Accused may change a plea of Not Guilty to Guilty during trial.* (*RP* 38.) *As to refusing to plead or not pleading intelligibly see RP* 35(*A*). *As to plea when sentence may be death see RP* 35(*D*).

2. *The proceedings on each charge sheet* (*RP* 62) *after arraignment will be conducted as follows in the respective circumstances stated :*

I. If pleas to all charges are GUILTY, use Record Form B below.

II. If pleas to all charges are NOT GUILTY, use Record Form D on p 3.

III. If pleas to some charges are GUILTY and to other charges are NOT GUILTY and,

(a) *Such mixed pleas occur when there are no alternative charges in the Charge Sheet, use Record Form C below.* (*RP* 37(*A*).)

(b) *Such mixed pleas occur in a set of two or more charges laid in the alternative, see RP* 37 (*A*) *and fn* 2 *as to discretion of Court,* (i) *to try the accused on all such alternative charges as if he had pleaded Not Guilty thereto, or,* (ii) *to record the pleas as the findings of Court. After deciding between* (i) *and* (ii), *Court will proceed under foregoing instrs as may be appropriate to result of its decision. See M M L p* 744 *Instrs* (2).

3. *As to responsibility of President to accused see RP* 59, 60(*C*) ; *powers and duties of JA. see RP* 105 ; *duty of Prosecutor see RP* 60(*A*) (*B*) ; *duty and privileges of accused and Defending Offr see RP* 60(*C*), 87(*C*), 91, 92 ; *swearing and withdrawal of witnesses from Court see RP* 81, 82 ; *questioning of accused see RP* 80, 87(*C*), 92(*B*), *and of witnesses see RP* 83-85 ; *calling or re-calling of witnesses by Court, etc, see RP* 75-79, 86, 116 ; *use of Summary of Evidence at Trial see RP* 17(*E*) *fn* 6 ; *and responsibility of JA or Pres to record proceedings see RP* 94, 96.

RECORD FORM B—PROCEEDINGS ON PLEAS OF GUILTY TO ALL CHARGES.

B1. The ~~President~~/~~Prosecutor~~ JA, ~~if not~~, complies with RP 35(B) by explaining to the accused the nature and meaning of the charge(s)(1), and that on his plea of Guilty there will be no regular trial but merely a consideration of the sentence to be awarded after he has been given an opportunity to make a statement in reference to the charge(s) or call witnesses as to character and make an address in mitigation of punishment.(2)
(*I. RP* 35 *fn* 3. 2. *MML p* 54 *para* 47.)

B2. President to accused : The Court will now receive any statement you desire to make in reference to the charge(s)(1). If it appears from your statement that there are circumstances which indicate that you do not understand the effect of the plea of Guilty(2), or which show provocation or extenuation in respect of which in your interest the witnesses for the Prosecution should be examined(3), we shall advise you to change your plea to Not Guilty. In making a statement you will not be sworn or subject to cross-examination ; and anything you say will not be used in evidence against you after you change your plea. If, however, it appears to the Court that your statement affects only the amount of punishment to which you are liable, you will not be advised to change your plea and you will be given an opportunity later to prove your statement by sworn testimony, if you so desire.(4)

President to accused : Do you wish to make a statement ? Ans No Sir.(5)
(*I. RP* 37(*B*). 2. *RP* 37(*D*) *fn* 6. 3. *RP* 35(*B*) *fn* 5 *para* 3, *MML p* 54 *para* 47. 4. *See para* E3 *of Record Form E.* 5. *Statement, if any, recorded per Notes.*)

~~B3. The Court considers the accused's statement.(1) The Court decides (not) to advise accused to change his (their) plea(s) of Guilty to Not Guilty on charge(s). The accused is (are) so informed, and he (they) change(s) his (their) plea(s) on charge(s). Part I of the Schedule is amended accordingly.~~
(*I. Court may be closed to consider the statement. Delete whole or part not used.*)

B4. On the charge(s) to which the plea(s) of Guilty is (are) not changed the President records finding(s) of Guilty in Part I of the Schedule.(1)
(*I. RP* 35(*B*). *If any plea(s) is (are) changed, use Record Form C or D as appropriate.*)

B5. The Summary of Evidence is marked Ex A, initialled and read aloud by the President.(1)
(*I. If there is no Summary, or if it is inadequate, comply with RP* 37(*B*). *If there is any evidence inconsistent with any plea standing as Guilty, Court will advise accused to change such plea and, if changed to Not Guilty, try such charge(s) by use of paras D1 to D8 inclusive of Record Form D on p* 3. *RP* 37(*D*).)

B6. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

RECORD FORM C—PROCEEDINGS ON MIXED PLEAS OF GUILTY AND NOT GUILTY.

C1. As to the charges on which accused pleaded NOT GUILTY the trial is continued by using paras D1 to D8 inclusive of Record Form D on p 3 before proceeding with C 2.(1)
(*I. RP* 37(*A*) (*E*).)

C2. The charges on which accused pleaded GUILTY are read to him (them) again, and the trial is continued by using paras B1 to B5 of Record Form B above.(1)
(*I. Under B5 such parts only of the Summary of Evidence are read as relate to the charges dealt with under C2. If any plea is changed to Not Guilty, trial thereon proceeds by complying with paras D1 to D8 inclusive in Record Form D on p 3 and making an appropriate record thereof on a separate sheet.*)

C3. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

RECORD FORM D—PROCEEDINGS ON PLEAS OF NOT GUILTY TO ALL CHARGES.

D1. President to accused : Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity to prepare your defence ? Ans .....(1)
(*I. If "yes", see RP* 39(*A*) *for procedure. Statement or evidence, if any, is recorded per Notes.*)

D2. The Prosecutor makes (an) (no) opening address.(1)
(*I. RP* 39(*B*), 60(*A*) (*B*), 90, 92(*C*) (*D*). *Record address per Notes, subject to RP* 95(*C*).)

D3. The evidence for the Prosecution is taken.(1)
(*I. RP* 39(*C*), 114, *KR Con* 555. *Record evidence per Notes. As to Prosecutor giving evidence himself see RP* 39(*D*) (*E*).)

D4. The Prosecution is closed.(1) The Defending Offr submits that the evidence for the Prosecution does not establish a prima facie case against the accused on the ..... charge(s).(2) The Court is closed, and considers the submission.(3) The Court is re-opened, and the President announces that the submission is disallowed on the ..... charge(s), and allowed on the ..... charge(s), and that, accordingly, the trial will proceed on the former, but the accused is (are) found Not Guilty on the latter charge(s).(4)
(*I. Delete remainder of this para, if submission not made.* 2. *Arguments on submission, answer and reply are recorded per Notes.* 3. *RP* 40 *fn* 1. *See MML p* 72 *para* 2-14 *and p* 81 *para* 42. 4. *Delete part not used. If accused acquitted on all charges use second alternative in para* D8.)
NB : If trial proceeds, accused must be allowed great latitude in making his defence, and the Court should not stop his defence solely on ground of irrelevance. (*RP* 60(*C*), 114, 115.)

D5. President to accused : You will now proceed with your defence.(1) You may, if you wish, give evidence yourself on oath as to the facts or your character or both, in which case you will be subject to cross-examination.(2) You may, however, make a statement without being sworn, and you will not be subject to cross-examination.(3) But a statement which could have been made on oath will not carry with the Court the same weight as sworn testimony.(4) You may call witnesses in your defence and as to character, whether you give evidence or make a statement or do neither.

President to accused : Do you wish to give evidence yourself as a witness, make a statement, or do neither ? Ans .....

Do you intend to call witnesses on your behalf ? Ans .....

Are they witnesses as to character only ? Ans .....
(*I. RP* 115. 2. *RP* 40(*A*), *see* 20(*D*). 3. *RP* 40 *fn* 10. 4. *RP* 40 *fns* 2, 9.)

D6. Consequent on the answers recorded in para D5 the appropriate procedure for the defence is followed.(1)
(*I. RP* 114, 115, 116. *For procedure see Notes on back of Convening Order. CF* 895. *Evidence for accused as to his character should, if in his interest, be given before the finding. See RP* 46(*A*) *fn* 1, 86(*C*). *Note the further opportunity in para E1 of Record Form E. Record per Notes addresses, statement, evidence and any summing up by the JA under RP* 42, 103(*e*).)

D7. The Court is closed to consider the finding(s).(1) The finding(s) of the Court is (are) recorded in Part II of the Schedule.(2) The Court is re-opened.
(*I. RP* 43, 117(*A*). *See Notes in Part I of Schedule.* 2. *RP* 44(*A*).)

D8. The President announces the finding(s), if any, of Not Guilty, and states to the accused that the finding(s) of the Court on the ..... charge(s), being subject to confirmation, will be promulgated later.(1)
Or, The President announces that the accused is found Not Guilty on all charges and is to be released forthwith, and that the proceedings are accordingly terminated. Part I of the Schedule is dated and signed.(2)
(*I. AA* 54(3) (*d*), *RP* 45, 120(*A*). 2. *AA* 54(7), *RP* 45, 117. *This alternative announcement is not applicable when there are pleas of Guilty outstanding and dealt with under Record Form B or C.*)

D9. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E below.

RECORD FORM E—PROCEEDINGS ON CONVICTION BEFORE SENTENCE.

E1. President to accused : Do you wish to give evidence yourself or to call any witnesses as to your character ?(1)
Ans Nil Sir.
(*I. If evidence has already been given by accused or his witnesses as to his character, delete this para. RP* 37(*C*) *fn* 4, 46 *fn* 1. *Accused and witnesses are sworn. Evidence recorded per Notes.*)

E2. The Prosecutor produces Statement of Service as to Character and Particulars of Service(1), and certified true copy ~~of~~ of Conduct Sheet(2), purporting to refer to the accused, which he submits to the Defending Offr for examination, and then to the Court for admission in evidence. The Court is satisfied that these documents refer to the accused, because (i) they purport to be signed in the manner required by AA 183(5) (g) (b), and (ii) they purport to refer to (a) soldier having the same number, rank, name and corps as the accused. Admitted in evidence and marked Ex B and Ex C respectively.(3)
(*I. MFB* 355 *or AFB* 296. 2. *MFM* 6. 3. *RP* 46, *KR Con* 558. *If above documents not produced, see RP* 46 *fn* 1 *para* 1.)

E3. President to accused : Do you wish to address the Court on the Statement and Conduct Sheet and in mitigation of punishment ?(1) Ans I do not by any defending officer.(2)
(*I. RP* 37(*C*), 46(*D*). 2. *Address, if any, recorded per Notes. Court should permit accused or his witnesses to prove or with anything here or previously stated which would affect the amount of punishment. RP* 37(*F*) *fn* 7.)

E4. The President states that the Court is closed to consider the sentence, and that the sentence to be awarded by the Court, being subject to confirmation, will not be announced, but will be promulgated later, and the proceedings in open court are accordingly terminated.(1)
(*I. AA* 54(6), *RP* 120(*A*).)

E5. The Court considers the sentence.(1) The President records the sentence in Part I of the Schedule, which is dated and signed by him and the JA, if any.(2)
(*I. When several accused tried separately see RP* 71 (*D*). *One sentence only, comprised of the punishment or punishments laid down in AA* 41, 44 *and its proviso, is to be awarded to cover all charges in all charge sheets on which accused found guilty. RP* 48. *As to sentences see AA* 44, 126. 182, *RP* 46-50, 69, 118, 119(*A*), *KR Con* 308, 330, 563-566. *Overseas AO* 109, 2323, *MML p* 60, 737-739. *As to sentences consigned for civil offences by the law of England see AA* 41(5), *MML p* 130. *When accused already under sentence of imprisonment or detention see AA* 44(1)(*b*), 68(7), *KR Con* 564. 2. *RP* 50. *As to release from arrest by Confirming Offr see KR Con* 567. *As to assembly and dispersal of record after trial see instrs on back of Convening Order.*)

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

EXHIBIT "C"

No D157511 Name GUEPIN, R. | Sqn, Battery or Company | Corps CIC | Date of enlistment 12 Mar 42 | GC Badges | Service or Proficiency Pay | MFM 6 (AFB 122) 40/Pubs/130 (5438)

Company Conduct Sheet Date of last entry in | No and date of last drunk | Period not reckoning towards freedom from extra fine | Sheet No | Signature OC Company, etc | Character

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
				TEMPORARY SHEET - ORIGINAL NOT AVAILABLE					
				12 Sep45 (R.V. Swetnam) Capt., Officer having custody of Regt'l Books					

(FTO

EXHIBIT 'B'
Hack

ARMY FORM B.296

Statement as to Character and Particulars of Service of Accused.

Number	*Rank*	*Name*	*Regiment (or as the case may be)*
D157511	Pte.	Rene GUERIN	X-4 List CIC (13 CBR Fd)

1. The following is a fair and true summary of the entries in the regimental and squadron, battery or company conduct sheets† of the accused, exclusive of convictions by a court martial or a civil court, of summary awards under section 47 of the Army Act, and of cases in which trial has been dispensed with :—

NOTE.—At a trial by field general court martial this summary may be compiled from the field conduct sheet. The conduct sheet(s) mentioned should be produced in court with this statement but not annexed to the proceedings.

† See para. 627, K.R., 1940.

* The numbers herein stated should correspond with the number of entries in the conduct sheets, no allowance being given to the most serious offence in each entry, and to any recognised special acts of gallantry or distinguished conduct.

INSTRUCTION. — If the charge is for drunkenness, the entries for drunkenness must be stated separately and dated.

	* Within last 12 months	* Since Enlistment
For TEMPORARY SHEET ONLY	times	times
For	times	times
For	times	times
For	times	times
For	times	times

~~Number of instances of gallantry or distinguished conduct~~ N/A.

or

There are no entries in the conduct sheets of the accused.

2. The accused has not been previously convicted, *or*

~~Previous convictions† of the accused by a court martial or a civil court, summary awards under section 47 of the Army Act, and dispensations with trial under section 75 of the Army Act, are set out in the schedule annexed to this statement.~~ N/A.

3. The accused is not under sentence at the present time, *or* ~~The accused at the present time is under sentence for~~ N/A.

~~beginning on the day of~~

4. The accused has been in confinement, awaiting trial on the present charges, for N/A days in civil custody, and 69 days in military custody, making a total of 69 days, of which N/A days were spent in hospital.

5. The present age of the accused according to his ~~attestation~~ record of service is ~~as specified in his attestation~~ 24 years 10 months.

6. The date of his ~~attestation~~ record of service is 12 March 1942 ~~as specified in his attestation~~.

7. ~~The service which the accused is allowed to reckon towards discharge or transfer to the reserve~~ N/A.

8. ~~The accused is entitled to deferred pay or gratuity in respect of~~ service N/A.

9. ~~The accused is entitled to reckon~~ service for the purpose of determining his pension N/A.

10. The accused ~~is in possession of, or~~ entitled to, no military decoration or military award (or is in possession of or entitled to (*state any military decoration or reward*) CVSM & Clasp, 1939-45 Star, France & Germany Star.

11. (*If the accused is a warrant officer.*) ~~The accused before he was made a warrant officer was~~ N/A.

of

12. (*In the case of an officer.*) ~~The accused holds in the army the rank of~~ dated

~~and in his regiment (or corps or department) the rank of~~ dated

W.3707/1589 30M. 3/40. P. Ltd. 870-A.

Schedule of Convictions by a Court Martial or Civil Court, of summary awards under Section 47 of the Army Act and of cases in which trial has been dispensed with of accused.

No. _____ *Rank* _____ *Name* _____ of _____ Regiment (or as the case may be)

(INSTRUCTION—A verbatim extract from the regimental books, stating these convictions and dispensations with trial, must be inserted.)

Description of court by which tried, or status of officer disposing of the charge or dispensing with trial	Date and place of trial, or summary award under A.A. 47, or of order dispensing with trial	Charges upon which convicted, or in respect of which trial was dispensed with	Sentence of the court or authority disposing of the charge, or order of the dispensing authority	Punishment remitted

I HEREBY CERTIFY that the foregoing schedule of convictions and dispensations with trial is a true extract from the regimental books in my custody.

Signed this 21st day of September

J. H. Watson, Lieut.

(a) The accused has served as a non-commissioned officer continuously, without reduction, to the present date.

In the rank of _____ years.

In the rank of _____ years.

In the rank of _____ years.

(INSTRUCTION—If any name in any of the above paragraphs cannot be found from the regimental books the paragraph must be struck through, except when the case of a trial by field general court-martial, in which the information may be collected from such source as are available and the paragraph returned amended accordingly.)

Date of Promotion

LIST OF WITNESSES

In the case of D157511 Pte. GUEPIN, R.

(For the Prosecution)

1. Lieut. J.H. Watson - 13 C.B.R. Bn (P.R.)

(For the Defence)

N I L

- -

LIST OF EXHIBITS

In the case of D157511 Pte. GUEPIN, R.

(For the Prosecution)

Exhibit 'A' - Certified true copy of Part 11 Order Extract Form, of K-4 List Pus M.R. (13 Bn) Part 11 Order No. 90, d/24 Aug 45, showing that D157511 Pte. GUEPIN, R., illegally absented himself without leave from 1200 hrs on the 19 June 1945.

Exhibit 'B' - Certificate under the Army Act Section 163(i)(j), dated 16 July 1945, and signed by Sgt. J.E. Broughton, B73403, and certifying that D157511 Pte. GUEPIN,R surrendered himself to the C. Pro Corps, in Paris, at 1030 hrs on the 14 July 1945.

(For the Defence)

N I L

- -

STATEMENT OF ACCUSED

In the case of D157511 Pte. GUEPIN, R.

I, D157511 Pte. Rene GUEPIN, hereby acknowledge that I have received free of charge a copy of the Charge Sheet and Summary of Evidence herein.

I wish that an Officer be assigned to act as Defending Officer at my trial by F.G.C.M.

In the Field
11 Sep 45

.....
(D157511 Pte. GUEPIN, R.)

EXHIBIT 'B'

CERTIFICATE under the ARMY ACT, Section 163 (1) (d)

I B-73403 Sgt J.E.Broughton, Cdn Pro Corps certify that

Reg No. D-157511, Rank Pte, Name GUERIN, R.

Regiment (Fus Mopt Royal) Unit 11 Bn 2 C.B.R.G.

Stationed at N/A surrendered himself to

No. M-109608, Rank Cpl. Name Farquharson A.

of the CANADIAN PROVOST CORPS DETACHMENT (PARIS)

on the 14 th, day of ~~June~~ JULY, 1945, at 10.30 hrs

as an absentee without leave.

At the time of his surrender he was wearing (military uniform)

~~or (civilian clothes)~~.

Signature of Provost-Marshal, Assistant Provost-Marshal or other Officer or the Commanding Officer of the portion of His Majesty's Forces, or the Officer, Warrant Officer, or non-commissioned Officer in charge of the detachment of the Canadian Provost Corps, Canadian Army, into whose custody the above-named person was taken on surrender.

J.E. Broughton SGT.
(B-73403 J.E.Broughton)
N.C.O. I/C
Cdn Pro Detachment (PARIS).

Paris
16/July/45

EXHIBIT 'A'

PART II ORDER EXTRACT FORM

TO:

99/20/

6 Sep 45 19

EXTRACTS FROM: UNIT A-4 List (13 Bn) Fus M R

Part II Order No. 90 dated 24 Aug 45

Para 7 ABSENT WITHOUT LEAVE

(a) AWL from 1200 hrs 19 Jun 45

D157511 Pte GUERIN R.

(b) AWL from 1200 hrs 19 Jun 45 Ret 1030 hrs 14 Jul 45
(Time absent 24 days 22 hrs 30 min)

D157511 Pte GUERIN R.

The following documents are { attached. Please acknowledge receipt on attached duplicate.
required. Please forward same.

Originating Clerk's Initials TMcK

for Officer in Charge
Canadian Section, GHQ, 2nd Echelon

1/70 ECH—6

EXHIBIT 'A'
Hack

SUMMARY OF EVIDENCE

In the case of D157511 Pte. Rene GUEPIN, X-4 List CIC, on strength of 13 Canadian Base Reinforcement Battalion, 2 C.B.R. Gp., a soldier of the Canadian Army Overseas.

By direction of the Commanding Officer the Summary of Evidence is taken on oath.

First Witness Prosecution

Lieut. J.H. Watson, P.E. 13 C.B.R. Bn, having been duly sworn, states as follows:

I am Lieut. J.H. Watson, P.E. 13 C.B.R. Bn, and I produce the following exhibits for prosecution:

Exhibit 'A' - Certified True Copy of Part 11 Order Extract Form, of X-4 List Fus M.R. (13 Bn) Part 11 Order No. 90, d/24 Aug 45, showing that D157511 Pte. GUEPIN, R., illegally absented himself without leave from 1200 hrs on the 19 June 1945.
Exhibit 'B' - Certificate under the Army Act Section 163(i)(j), dated 16 July 1945, and signed by Sgt. J.E. Broughton B-73403, and certifying that D157511 Pte. GUEPIN, R, surrendered himself to the C Pro C in Paris, at 1030 hrs on the 14 July 1945.

J.H. Watson Lieut.
(J.H. Watson) Lieut.

The accused declines to cross-examine the witness.

The accused was cautioned as follows: "Do you wish to make any statement or to give evidence upon oath? You are not obliged to say anything or give evidence unless you wish to do so, but whatever you say or any evidence you give will be taken down in writing, and may be given in evidence".

The accused declines to give any evidence, and reserves his defence.

I certify that the foregoing Summary of Evidence consisting of one page was taken down by me in the presence and hearing of the accused, and that Rules of Procedure 4(c) (d) (e) and (f) have been complied with.

In the Field
11 Sep 45

W.L. Liscombe Capt.
(W.L. Liscombe) Capt.,
Officer detailed to take the Summary of Evidence.

in Europe was over at the time of the offense.

Therefore I offer that Pfc. Swepin is a loyal, willing soldier who has offended in one of his less serious dangerous duties.

I thank you.

J. S. Hall 1st.

He was held in the Caserne Mortier Quartier Paris under close arrest from the 14 July to about the 7 Aug.

accused and another man.
Pte Gulpin was in hospital with shrapnel in the face and perforated ear drum for 39 days, resulting in a confirmed Pulham H3. Whilst in hospital, his doctor said sick leave was automatic, but on discharge to the Leopold Barracks Shuft he was unable to get this since it was over a year from his last privilege leave, he applied for and received 9 days P.L. commencing June 10/45. This he used to visit his grandfather in Southern France, last seen in 1929. There Pte Gulpins remained until July 14 when he journied to Paris and surrendered himself to the provost (M 10608 Sergt Barman RP) the 69 days since he has spent under close custody
His M.F.M. 6 has no entries previous to this offence.
served over 7 months at the front the infantry and there was no form of organised battle as the war

E-3.

Plea of Mitigation on Behalf of
D-15 75 11 Pte Guepin Rene

President and Members of the court,
should like to outline the details of
the case of D-15 75 11 Pte Guepin R.

The accused (D15 75 11 Pte Guepin R) entered
the Can Army on 12 Mar 1942. Volunteered
for overseas the following year and
arrived in England July 1944 as an
engineer. He was transferred to the
infantry and joined the Fusiliers Mont-
Royal in Sept. of the same year. Here he
served as a bren-gunner for 7 months
3 weeks including the operations of

The Leopold Canal
Kapellen
Eeckeland
Hechtwald
Rhine

On April 12th in Holland, his
carrier was hit by a bazooka which
killed the sgt + driver, wounded the

Attack

CHARGE SHEET

The accused, D157511 Pte. Rene GUEPIN, X-4 List CIC, an strength of 13 Canadian Base Reinforcement Battalion, 2 C.B.R. Gp., a soldier of the Canadian Army Overseas, is charged with:

First Charge
AA Sec 15(1)

WHEN ON ACTIVE SERVICE, ABSENTING HIMSELF WITHOUT LEAVE

in that he

In the Field, at 1200 hrs on the 19 June 1945, absented himself without leave until he surrendered himself at Paris, at 1030 hrs on the 14 July 1945. (Total time absent: 24 days, 22 hrs, and 30 mins)

Signed in the Field
11 Sep 45

M.A. Frank
(M.A. Frank) Major,
T/Commander, 13 CBR Bn.

To Be tried by Field General Court Marshal

J G Spragge

Holland
18 Sep 45

(J G SPRAGGE) Brig
Comd -2 Cdn Base Rft Gp

Hack

FIELD GENERAL COURT-MARTIAL

(Whether the accused to be tried is under his comd or not, a FGCM may on application to him be convened by any offr of Cdn Army Overseas, or of any other force if authorized in law, in immediate comd of troops on active service, subject to RP 105(C) and restrictions imposed by appropriate authy. AA 49, 50, RP 104-107, 114. As to the duties and privileges of the Convening Offr in dealing with the application see MML Chap V paras 20 and 23, RP 87(B).

There should be a separate Convening Order for each person to be tried separately by the same Court. RP 71(C), 109. As to separate charge sheets see RP 62, and as to separate trial on charges in the same charge sheet see RP 108. As to two or more accused charged jointly see RP 16, 109.

As to reasons for showing (a) permanent or confirmed rank, and (b) apptmt, A/rank or A/apptmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

ACCUSED.

Number.	(a) Prmnt R.	(b) Apptmt, A/B or A/Apptmt.	Full Christian Names.	Surname.	Unit.
D 157511	Pte		Rene	GUEPIN	X-4 List CIC 13 CBR Bn

CONVENING ORDER.

1. Whereas complaint has been made to me, the undersigned, that the person named above as the accused, being subject to military law, has committed the offences set forth in the Charge Sheet attached and on (*date*) 18 Sep 45 endorsed by me, [illegible], "To be tried by Field General Court-Martial".

2. And whereas I am of opinion that it is not practicable that such offences should be tried by an ordinary General Court-Martial; [illegible]

(Delete part in brackets when not required for compliance with RP 105(C).)

3. I hereby convene a Field General Court-Martial to try the said person, and to consist of the Offrs appointed or detailed hereunder.

4. [illegible]

5. I also appoint as Judge-Advocate thereat the Offr mentioned hereunder.
(RP 106(E). Delete, if none appointed.)

PRESIDENT.

Major (Rank.)	H A C	ROSE (Must be named. RP 106.)	CIC	PE 13 CBR Bn (Unit.)

MEMBERS.

Capt	E A	MICHON	CIC	PE 13 CBR Bn
Lt (Rank.)	R G	HILL (Named or detailed. RP 106.)	CIC	PE 13 CBR Bn (Unit.)

WAITING MEMBER.

Lt (Rank.)	H E	BRAZEN (Named or detailed, if any. RP 106.)	CIC	PE 13 CBR Bn (Unit.)

JUDGE-ADVOCATE.

Major (Rank.)	G H	JERMYN (Must be named, if any. RP 106.)	GEN LIST	HQ 2 CBR Gp (Unit.)

On Active Service in the Fd

in Holland (Country.)

(Signed personally. RP 105 fn 24) Brig (Rank.)

Date 18 Sep 45 Commanding 2 Cdn Base Rft Gp
Convening Officer.

CONVENING OFFR WILL INITIAL ALL DELETIONS AND ALTERATIONS

4/38A (FAMO (To Item of AFAS 40/F & S/Unif (4631))

(See overleaf for oaths and notes for use on trial.)

HEADQUARTERS 13 CANADIAN BASE REINFORCEMENT BATTALION

2 C. B. R. Gp.

Hack

MEDICAL CERTIFICATE

I certify that I have this day examined D157511 Pte.

GUESPIN, R. of X-4 List CIC 13 Cdn Base

Rft Bn., 2 C.B.R. Gp. and find him ~~unfit~~ fit to undergo trial by Court Martial.

21 September 1945

J. Ahrens Major
M.O. 13 C.B.R. Bn.

5'K-29.

Symm. Everard, S. J.

SCHEDULE.

PART I. PLEA(S), FINDING(S) AND SENTENCE.

Accused: B55325 Sgmn Donald Joseph Guerard

Charge. (Insert "alternative" where applicable.)	Plea. (See Instrs p 2.)	Finding. (See note below.)	(Space for use as required for further charges, accused charged jointly, special findings, etc.)
1st AA 6(3)(d)	Not Guilty	Guilty	
2nd AA 6(3)(d)	Not Guilty	Guilty	
3rd			
4th			
5th			
6th			

(Note: As to findings for lesser offences see AA 56, RP 44; findings on alternative charges see MML p 483 fn 4 para 2, RP 44; special findings see RP 44 and MML p 753, and in lieu of kit see RP 44 fn 6.)

~~Mi-period under sentence (or~~ beginning on (date) ~~)~~ (1)

(1. Insert sentence being served, or delete, if not applicable. See RP 46(A). Information should be found on MF B355 or AF B296.)

Time in confinement awaiting present trial—a total of 24 days, of which nil days were spent in hospital.(1)

(1. See RP 46(A) fn 2. Information should be found on MF B355 or AF B296 admitted in evidence under E2.)

Sentence Awarded by the Court:

To be imprisoned without hard labor for one (1) year.

(Sgd) "R R BROWN" Capt — Judge-Advocate, if any. 20 April 45 — Date awarded. (Sgd) "D MacDougall" Major — President. (RP 45, 50.)

(See back of Convening Order as to assembly and disposal of record after trial.)

PART II. MINUTE WHERE CONFIRMATION RESERVED. (AA 54(3), RP 120(F), MML p 768.)

Date (Sgd) Commanding

PART III. DECISION OF CONFIRMING OFFR ON FINDING(S) AND SENTENCE.

(For duties and powers see AA 54, 57, RP 27(D) fn 6.46(A), 51-56, 120, MML pp 759-761, KR Can 567-577. Acquittals require no confirmation and cannot be revised: AA 54(3). Sending back finding or sentence for revision by Court: AA 54(2), RP 120(G). If not confirmed, accused may be tried again: AA 157, MML p 64. Minute of confirmation or non-confirmation may be altered before promulgation: RP 53, MML p 65. Quashing after promulgation: KR Can 572. Duties and powers of reviewing offrs: AA 57, 57A, RP 53A, 54. The Confirming Offr must sign here personally. AA 172 fn 1.)

My decision on the finding(s) and sentence set forth in Part I is:

Confirmed

~~I direct that the accused be not required to serve or undergo imprisonment and that he be released.~~ "JSL" (1. AA 57A. Delete if not used.)

Date 23 Apr 45 (Sgd) "J S Lind" Brig

Commanding 3 CBR Gp

Confirming Officer.

PART IV. PROMULGATED AND EXTRACTS TAKEN. (RP 52, KR Can 576, 577.)

Accused.	Date.	Signature of Offr.
B55325 Sgmn Donald Joseph GUERARD 9 CBR Bn	25 Apr 1945	"C L Nelson" Capt & Adjt 9 Bn 3 CBRGp

ALL DELETIONS AND ALTERATIONS WILL BE INITIALLED.

3K-29

FIELD GENERAL COURT-MARTIAL

CP485 (To face of AFAC 40/P/A/1688 4/45)

4388

Convened by Order of Brig J S H Lind DSO Comd 3 CBRG dated 16 Apr 45

ACCUSED.

(As to the trial of two or more charged jointly see RP 16, 71, 109. As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

Number.	(a) Prmnt R. (b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
B55325	Sigmn	Donald Joseph	GUERARD	9 CBR Bn RCCS

CERTIFIED TRUE COPY

PROCEEDINGS OF TRIAL.

Held in the Fd in (country) BELGIUM on (date) 20 April 45

RECORD FORM A—OPENING PROCEEDINGS AND ARRAIGNMENT. 30/18

A1. The President, Members, waiting Member, JA, if any, ~~and Offrs under instr, if any~~, assemble, and the "RRB" Court is closed.

(PRINTED MATTER NOT IN ITALICS FOR GUIDANCE, WILL BE DELETED, IF NOT USED OR APPLICABLE, AND INITIALLED BY PRES OR JA. The Schedule referred to throughout is on p 4. Citations do NOT include all relevant fns KRs. For guidance on procedure when a variation in this form arises, see form for GCM in MML pp 741 to 759. A brief record of such variation will be made and given a number having reference to appropriate or preceding para number hereon. See back of Convening Order, CF A95, for words and instrs on how to record addresses, evidence, etc, which instrs are hereafter called "Notes". As to general provisions for conducting the trial see AA 53, RP 56, 62-70, 73, 74, 94, 103, 119, 132.)

A2. The President initials and lays before the Court the Convening Order and Charge Sheet(s) attached thereto.(1) The Court is satisfied that it is properly convened and constituted(2), accused is (are) amenable to military law, and "RRB" each charge discloses an offence.(3)

(1. As to use of Summary of Evidence see RP 17 fn 6. 2. AA 49, 50, RP 105-107. 3. RP 11-13, 23, 24.)

A3. The Court is opened. The accused is (are) brought before the Court. At 1330 hours trial commences.

A4. The Prosecutor produces a Medical Certificate that accused is (are) fit to undergo trial by court-martial.(1) ~~The Prosecutor informs the Court that accused elected to be tried by court-martial instead of being dealt with summarily by the CO.(2)~~ "RRB"

(1. KR Can 557. 2. AA 46(B), RP 60 fn 1. For effect see KR Can 563(c). Delete, if not applicable.)

A5. President to accused: Do you object to D95830 Cpl Kolthoff as Interpreter? Ans

The Interpreter is sworn.(1) ~~He/she/they object to the Interpreter who is sworn.~~ Ans "RRB"

(1. RP 72. Delete, if none employed.)

A6. The Convening Order and names of the President and Members of the Court are read to the accused.(1) President to accused: Do you object to be tried by me as President or by any of the Members of the Court?

Ans NO sir (2)

(1. RP 108. 2. If no objection, waiting member retires. RP 68(B). If objection, see procedure AA 51, RP 25, 71, 18, MML p 742.)

A7. The President, Members, JA, if any, ~~and Offrs under instr, if any~~, are sworn.(1) The following are the "RRB" ranks, names and units of the offrs comprising the Court, etc:

President	Major	D C MacDOUGALL	9 CBR Bn
Member	Capt	F J LOWDAY	9 CBR Bn
Member	Capt	R ROBERTS	9 CBR Bn
Judge-Advocate	Capt	R R BROWN	HQ 3 CBRG
Prosecutor	Lieut	J R FIRTH	9 CBR Bn
Defending Offr	Lieut	K B HUNT	9 CBR Bn

Questions by President: Is the Prosecutor a lawyer? Ans NO Is the Defending Offr a lawyer? Ans NO (2)

(1. RP 26, 27, 109, 111. List of offrs under instr will be returned separately with proceedings for information of Conv Offr.) (2. If Pros a lawyer and Def Offr not, accused is entitled to an adjournment when RP 89 (3) and fn 2 were not followed. See D1 p 3.)

A8. The accused B55325 Sigmn Guerard D J before arraignment makes(s) (no) (a) plea. (3)

25 May 45 JJB

(1. If a special plea is made for separate trial on one or more charges (RP 62(E), 108), or as to the jurisdiction of the Court (RP 34, 120(F), 113), or in bar of trial (RP 38), or as to accused's mental fitness to stand trial (AA 130, RP 57), or by one of several accused charged jointly to be tried separately (RP 16, 71), such plea, the addresses made in support or against, the evidence, if any, and finding are recorded per Notes. For forms of record see references in fns to RoP cited. Insert in A8 rank and name of the accused making the plea.)

A9. The accused is (are) arraigned (separately) on all charges in the charge sheet.(1) The accused does (do) not object to any charge.(2) There is no amendment to be made to the Charge Sheet.(3) The President records the pleas in Part I of the Schedule. "RRB"

(1. RP 31, 112. See para 1 of Instrs p 2. When more than one Charge Sheet see RP 62; when several accused to be tried separately see RP 71(C), and use separate copies of CF 486 to record proceedings. 2. RP 32, RP 33. If otherwise, delete and make appropriate record per Notes.)

A10. The Court ~~is cleared and~~ considers the Instrs on Procedure after Arraignment at top of p 2. The proceedings are continued on Record Form D "RRB"

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

INSTRUCTIONS ON PROCEDURE AFTER ARRAIGNMENT.

1. *The accused may not plead or be found Guilty on more than one of two or more charges laid in the alternative.* (*RP 37(A).*) *As to withdrawal of alternative charges by Prosecutor see RP 35(C). No other charge can be withdrawn for any reason without authy from Convening Offr. If Convening Offr concurs, Court may accept plea of Guilty to lesser, etc, offence.* (*RP 44(H).*) *Accused may change a plea of Not Guilty to Guilty during trial.* (*RP 38.*) *As to refusing to plead or not pleading intelligibly see RP 35(A). As to plea when sentence may be death see RP 35(D).*

2. *The proceedings on each charge sheet* (*RP 62*) *after arraignment will be conducted as follows in the respective circumstances stated :*

I. If pleas to all charges are GUILTY, use Record Form B below.

II. If pleas to all charges are NOT GUILTY, use Record Form D on p 3.

III. If pleas to some charges are GUILTY and to other charges are NOT GUILTY and,

(a) Such mixed pleas occur when there are no alternative charges in the Charge Sheet, use Record Form C below. (*RP 37(A).*)

(b) Such mixed pleas occur in a set of two or more charges laid in the alternative, see RP 37 (A) and fn 2 as to discretion of Court, (i) to try the accused on all such alternative charges as if he had pleaded Not Guilty thereto, or, (ii) to record the pleas as the findings of Court. After deciding between (i) and (ii), Court will proceed under foregoing instrs as may be appropriate to result of its decision. See M M L p 744 Instrs (2).

3. *As to responsibility of President to accused see RP 59, 60(C) ; powers and duties of J A see RP 103 ; duty of Prosecutor see RP 60(A) (B) ; duty and privileges of accused and Defending Offr see RP 60(C), 87(C), 91, 92 ; assisting and withdrawal of witnesses from Court see RP 81, 82 ; questioning of accused see RP 80, 87(C), 92(B), and of witnesses see RP 83-86 ; calling or re-calling of witnesses by Court, etc, see RP 75-79, 86, 116 ; use of Summary of Evidence at Trial see RP 17(E) fn 6 ; and responsibility of J A or Pres to record proceedings see RP 94, 96.*

RECORD FORM B—PROCEEDINGS ON PLEAS OF GUILTY TO ALL CHARGES.

B1. The President or JA, if any, complies with RP 35(B) by explaining to the accused the nature and meaning of the charge(s)(1), and that on his plea of Guilty there will be no regular trial but merely a consideration of the sentence to be awarded after he has been given an opportunity to make a statement in reference to the charge(s), call witnesses as to character and make an address in mitigation of punishment.(2)
(1. *RP 35 fn 3.* 2. *MML p 54 para 47.*)

B2. President to accused : The Court will now receive any statement you desire to make in reference to the charge(s).(1) If it appears from your statement that there are circumstances which indicate that you do not understand the effect of the plea of Guilty(2), or which show provocation or extenuation in respect of which in your interest the witnesses for the Prosecution should be examined(3), we shall advise you to change your plea to Not Guilty. In the witnesses for the Prosecution should be examined(3), we shall advise you to change your plea to Not Guilty. In making a statement you will not be sworn or subject to cross-examination ; and anything you say will not be used in evidence against you after you change your plea. If, however, it appears to the Court that your statement affects only the amount of punishment to which you are liable, you will not be advised to change your plea and you will be given an opportunity later to prove your statement by sworn testimony, if you so desire.(4)

President to accused : Do you wish to make a statement? Ans .....(5)
(1. *RP 37(B).* 2. *RP 37(D) fn 6.* 3. *RP 35(B) fn 4, para 2.* 4. *MML p 54 para 47.* 5. *See para E3 of Record Form E.*
Statement, if any, recorded per Notes.)

B3. The Court considers the accused's statement.(1) The Court decides (not) to advise accused to change his (their) plea(s) of Guilty to Not Guilty on ..... charge(s). The accused is (are) so informed, and he (they) change(s) his (their) plea(s) on ..... charge(s). Part I of the Schedule is amended accordingly.
(1. *Court may be closed to consider the statement. Delete whole or part not used.*)

B4. On the charge(s) to which the plea(s) of Guilty is (are) not changed the President records finding(s) of Guilty in Part I of the Schedule.(1)
(1. *RP 25(B). If any plea(s) is (are) changed, use Record Form C or D as appropriate.*)

B5. The Summary of Evidence is marked Ex ....., initialled and read aloud by the President.(1)
(1. *If there is no Summary, or if it is inadequate, comply with RP 37(B). If there is any evidence inconsistent with any plea standing as Guilty, Court will advise accused to change such plea and, if changed to Not Guilty, try such charge(s) by use of paras D1 to D8 inclusive of Record Form D on p 3. RP 37(D).*)

B6. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

RECORD FORM C—PROCEEDINGS ON MIXED PLEAS OF GUILTY AND NOT GUILTY.

C1. As to the charges on which accused pleaded NOT GUILTY the trial is continued by using paras D1 to D8 inclusive of Record Form D on p 3 before proceeding with C 2.(1)
(1. *RP 37(A) (E).*)

C2. The charges on which accused pleaded GUILTY are read to him (them) again, and the trial is continued by using paras B1 to B5 of Record Form B above.(1)
(1. *Under B5 such parts only of the Summary of Evidence are read as relate to the charges dealt with under C2. If any plea is changed to Not Guilty, trial thereon proceeds by complying with paras D1 to D8 inclusive of Record Form D on p 3 and making an appropriate record thereof on a separate sheet.*)

C3. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

RECORD FORM D—PROCEEDINGS ON PLEAS OF NOT GUILTY TO ALL CHARGES.

D1. President to accused : Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity to prepare your defence ? Ans ..... (1)
(1. *If "yes", see RP 39(B) for procedure. Statement or evidence, if any, is recorded per Notes.*)

D2. The Prosecutor makes (his) (no) opening address.(1)
(1. *RP 39(B), 60(A) (B), 90, 92(C) (D). Record address per Notes, subject to RP 35(C).*)

D3. The evidence for the Prosecution is taken.(1)
(1. *RP 39(C), 114, KR Can 555. Record evidence per Notes. As to Prosecutor giving evidence himself see RP 39(D) (E).*)

D4. The Prosecution is closed.(1) The Defending Offr submits that the evidence for the Prosecution does not establish a prima facie case against the accused on the ..... charge(s).(2) The Court, is closed, and considers the submission.(3) The Court is re-opened, and the President announces that the submission is disallowed on the ..... charge(s), and allowed on the ..... charge(s), and that, accordingly, the trial will proceed on the former, but the accused is (are) found Not Guilty on the latter charge(s).(4)
(1. *Delete remainder of this para, if submission not made.* 2. *Arguments on submission, answer and reply are recorded per Notes.* 3. *RP 40 fn 1. See MML p 72 paras 12-14 and p 81 para 42.* 4. *Delete part not used. If accused acquitted on all charges use second alternative in para D8.*
NB : If trial proceeds, accused must be allowed great latitude in making his defence, and the Court should not stop his defence solely on ground of irrelevance. (*RP 60(C), 114, 115.*)

D5. President to accused : You will now proceed with your defence.(1) You may, if you wish, give evidence yourself on oath as to the facts or your character or both, in which case you will be subject to cross-examination.(2) You may, however, make a statement without being sworn, and you will not be subject to cross-examination.(3) But a statement which could have been made on oath will not carry with the Court the same weight as sworn testimony.(4) You may call witnesses in your defence and as to character, whether you give evidence or make a statement or do neither.

President to accused : Do you wish to give evidence yourself as a witness, make a statement, or do neither ?
Ans .....
Do you intend to call witnesses on your behalf ?
Ans .....
Are they witnesses as to character only ? Ans .....
(1. *RP 115.* 2. *RP 40(A), see 80(D).* 3. *RP 40 fn 92.* 4. *RP 40 fns 2, 9.*)

D6. Consequent on the answers recorded in para D5 the appropriate procedure for the defence is followed.(1)
(1. *RP 114, 115, 116. For procedure see Notes on back of Convening Order. CF A95. Evidence for accused as to his character should, if in his interest, be given before the finding. See RP 46(A) fn 1, 86(C). Note the further opportunity in para E1 of Record Form E. Record per Notes addresses, statement, evidence and any summing up by the JA under RP 42, 103(6).*)

D7. The Court is closed to consider the finding(s).(1) The finding(s) of the Court is (are) recorded in Part I of the Schedule.(2) The Court is re-opened.
(1. *RP 43, 117(A). See Notes in Part I of Schedule.* 2. *RP 44(A).*)

D8. The President announces the finding(s), if any, of Not Guilty, and states to the accused that the finding(s) of the Court on the ..... charge(s), being subject to confirmation, will be promulgated later.(1) (or, The President announces that the accused is found Not Guilty on all charges and is to be released forthwith, and that the proceedings are accordingly terminated. Part I of the Schedule is dated and signed.(2)
(1. *AA 54(3) (b), RP 45, 120(A).* 2. *AA 54(3), RP 45, 117. This alternative announcement is not applicable where there are pleas of Guilty outstanding and dealt with under Record Form B or C.*)

D9. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E below.

RECORD FORM E—PROCEEDINGS ON CONVICTION BEFORE SENTENCE.

E1. President to accused : Do you wish to give evidence yourself or to call any witnesses as to your character ?(1)
Ans .....
(1. *If evidence has already been given by accused or his witnesses as to his character, delete this para. RP 37(C) fn 4, 46 fn 1. Accused and witnesses are sworn. Evidence recorded per Notes.*)

E2. The Prosecutor produces Statement(s) as to Character and Particulars of Service(1), and certified true copy (copies) of Conduct Sheet(s)(2), purporting to refer to the accused, which he submits to the Defending Offr for examination, and then to the Court for admission in evidence. The Court is satisfied that these documents refer to the accused, because (a) they purport to be signed in the manner required by AA 163(1) (g) (h), and (b) they purport to refer to (a) soldier(s) having the same number, rank, name and corps as the accused. Admitted in evidence and marked Ex ..... and Ex ..... respectively.(3)
(1. *MFB 355 or MFB 296.* 2. *MFM 6.* 3. *RP 46, KR Can 558. If above documents not produced, see RP 46 fn 1 para 1.*)

E3. President to accused : Do you wish to address the Court on the Statement(s) and Conduct Sheet(s), and in mitigation of punishment (or) Ans .....(1)
(1. *RP 37(C), 46(2).* 2. *Address, if any, recorded per Notes. Court should permit accused or his witnesses to prove on oath anything here or previously stated which would affect the amount of punishment. RP 37(F) fn 7.*)

E4. The President states that the Court is closed to consider the sentence, and that the sentence to be awarded by the Court, being subject to confirmation, will not be announced, but will be promulgated later, and the proceedings in open court are accordingly terminated.(1)
(1. *AA 54(5), RP 120(A).*)

E5. The Court considers the sentence.(1) The President records the sentence in Part I of the Schedule, which is dated and signed by him and the JA, if any.(2)
(1. *When several accused tried separately see RP 71 (D). One sentence only, comprised of the punishment or punishments laid down in AA 41, 44 and its proviso, in to be awarded to cover all charges in all charge sheets on which accused found guilty. RP 48. As to sentences see AA 44, 128, 182, RP 46-50, 69, 118, 119(A), KR Can 308, 330, 563-566, Overseas 80 309, 2323, MML p 60, 757-759. As to sentences assigned for civil offences by the law of England see AA 41(5), MML p 120. When accused already under sentence of imprisonment or detention see AA 44(1)(b), 68(1), KR Can 564.* 2. *RP 50. As to release from arrest by Confirming Offr see KR Can 567. As to assembly and disposal of record after trial see instrs on back of Convening Order.*)

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

TEMPORARY CONDUCT SHEET

3/17 MFM 6
(AFB 122)
40/PAM/126 (54GR

No. B55325 Name GUERARD D J | Sqn, Battery, or Company | Corps RCCS | Date of enlistment | GC Badges | Service or Proficiency Pay | Character

Date of last entry in Company Conduct Sheet | No. and date of last drunk | Period not reckoning towards freedom from extra fine | Sheet No | Signature OC Company, etc

Place	Date of offence	Rank	Cause of drunkenness	OFFENCE	Name of Witnesses	Punishment awarded	Date of award of order dispensing with trial	By whom awarded	Remarks
				CERTIFIED TRUE EXTRACT OF REGIMENTALS CONDUCT BOOKS HELD IN MY CUSTODY "C L NELSON" (C L NELSON) Capt Adjt 9 Bn 3 C.B.R.G.				EXHIBIT "B" "RB"	

(710)

SCHEDULE OF CONVICTIONS BY A COURT - MARTIAL OR CIVIL COURT

Description of Court by which tried	Date and place of trial	Charges upon which convicted	Sentence of Court	Punishment remitted or sentence suspended

I HEREBY CERTIFY that the foregoing particulars, which have been extracted from the regimental books in my custody, are correct to the best of my knowledge and belief.

Signed this 20 day of Apr 45

"C L NELSON" Capt & Adjt
9 Bn 3 CBRG

Ex A. 888

STATEMENT AS TO CHARACTER AND PARTICULARS OF SERVICE OF ACCUSED

(For Use at Trials by Field General Court-Martial only)

Number	Rank	Name	Regiment (or as the case may be)
B55325	Sgmn	GUERARD D J	9 Bn 3 CBRG

NOTE.- The Field Conduct Sheet is to be produced in Court with this statement but is not to be annexed to the Proceedings. The numbers herein stated should correspond with the number of entries in the Field Conduct Sheet, prominence being given to the most serious offence in each entry. If the charge is for drunkenness or absence without leave, the entries for drunkenness or absence, as the case may be, should be stated separately. Any recognized special acts of gallantry or distinguished conduct recorded on the Field Conduct Sheet should also be inserted here.

* Strike out if not applicable

1. The following is a fair and true summary of the entries in the Field Conduct Sheet of the Accused, exclusive of convictions by a court martial or a civil court:-

For .... times

For .... times

For .... times

For .... times

Field Conduct Sheet Not Available

2. ~~Previous convictions of the present date by a court martial or civil court are as follows:-~~

3.* ~~The accused is under the present sentence~~ "CLN"

~~sentence for .....~~

~~beginning on the ..... day of .....~~ "CLN"

4. The accused has been awaiting trial on the present charges for no... days in civil custody and for 24.... days in military custody, making a total of 24.... days of which ..... no days were spent in hosp.

5. The present age of the accused is 23

6. The date of his attestation is ..... 4 Aug 1940

7. The service which the accused is allowed to reckon is .4.yrs.8.mos.....

State the military decorations (if any) held by accused.

8. The accused is in possession of #

C.V.S.M. & CLASP

Exhibit "A" "B"

9. ~~If the accused is a warrant officer or sergeant~~ the "CLN"

accused has served continuously, without reduction,

to the present date

Date of Promotion

In the substantive rank of .... dem.

In the war substantive rank of ....

~~In the~~ ting rank of ....

INSTRUCTION - If any matter in any of the above paragraphs cannot be stated from the regimental books the paragraph must be struck through.

Army Form B.296 (War)

SCHEDULE.

PART I. PLEA(S), FINDING(S) AND SENTENCE.

Accused: B.55325 Sgmn Donald Joseph Guevard

	Charge. (Insert "alternative" where applicable.)	Plea. (See Instrs p 2.)	Finding. (See note below.)	(Space for use as required for further charges, accused charged jointly, special findings, etc.)
1st	AA 6(3)(d)	not Guilty	Guilty	
2nd	AA 6(3)(d)	not Guilty	Guilty	
3rd				
4th				
5th				
6th				

(Note: As to findings for lesser offences see ~~AA 56~~, RP 44; findings on alternative charges see MML p 403 fn 4 para 2, RP 44; special findings see RP 44 and MML p 753, and on loss of kit see RP 44 fn 6.)

~~Add present sentence for~~ _____ beginning on (date) _____.(1)
(1. Insert sentence being served, or delete, if not applicable. See RP 46(A). Information should be found on MF B355 or AF B296.)

Time in confinement awaiting present trial—a total of 24 days, of which Nil days were spent in hospital.(1)
(1. See RP 46(A) fn 2. Information should be found on MF B355 or AF B296 admitted in evidence under E2.)

Sentence Awarded by the Court:

To be imprisoned without hard labour for one (1) year

(Sgd) [illegible] Capt — Judge-Advocate, if any. 20 April 45 — Date awarded. (Sgd) D. MacD. Dougall Maj — President. (RP 45, 50.)
(See back of Convening Order as to assembly and disposal of record after trial.)

PART II. MINUTE WHERE CONFIRMATION RESERVED. (AA 54(5), RP 120(F), MML p 706.)

Date _____ (Sgd) _____ Commanding _____

PART III. DECISION OF CONFIRMING OFFR ON FINDING(S) AND SENTENCE.

(For duties and powers see AA 54, 57, RP 27(2)(b) fn 6, 46(A), 51-56, 120, MML pp 759-761, KR Con 567-577. Acquittals require no confirmation and cannot be revised: AA 54(2). Sending back finding or sentence for revision by Court: AA 54(2), RP 120(G). If not confirmed, accused may be tried again: AA 157, MML p 64. Minute of confirmation or non-confirmation may be altered before promulgation: RP 53, MML p 65. Quashing after promulgation: KR Con 573. Duties and powers of reviewing offrs: AA 57, 57A, RP 53A, 54. The Confirming Offr must sign here personally. AA 172 fn 1.)

My decision on the finding(s) and sentence set forth in Part I is: Confirmed.

~~I direct that the accused be not committed to prison or detention barracks until further order.~~ (1. AA 57A. Delete if not used.)

Date 23/4/45 (Sgd) J.D. Lund Brig
Commanding 3 CBR Gp.
Confirming Officer.

PART IV. PROMULGATED AND EXTRACTS TAKEN. (RP 53, KR Con 576, 577.)

Accused.	Date.	Signature of Offr.
B55325 Sgmn Donald Joseph GUEVARD 9 CBR Bn	APR 25 1945	

ALL DELETIONS AND ALTERATIONS WILL BE INITIALLED.

RECORDED AT CMHQ IN AB 104, 5K-27

RECEIVED 1 JUN 1945 JAG BRANCH C.M.H.Q.

CF A96 (To be used at Army) (Militia) 4/38B

FIELD GENERAL COURT-MARTIAL

Convened by Brig J.D.H. Lind DSO Comd 3 Can Base Reinf dated 16 Apr 45

ACCUSED.

(As to the trial of two or more charged jointly see RP 16, 71, 109. As to reasons for showing (a) permanent or confirmed rank, and (b) apptmt, A/rank or A/apptmt, if any, see AA 182, 183, fns, KR Con 308, 328, 330.)

Number.	(a) Prmnt R. (b) Apptmt, A/R or A/Apptmt.	Full Christian Names.	Surname.	Unit.
B-55325	Sgmn	Donald Joseph	Guevard	9 CBR Bn (R.C.C.S.)

PROCEEDINGS REVIEWED 2 Sept 45 REVIEWING OFFICER, JAG BRANCH C.M.H.Q.

PROCEEDINGS OF TRIAL.

Held in the Fd In (country) Belgium on (date(s)) 20 Apr 45

RECORD FORM A—OPENING PROCEEDINGS AND ARRAIGNMENT.

A1. The President, Members, waiting Member, JA, if any, ~~and Offrs under instr, if any~~, assemble, and the Court is closed.

(PRINTED MATTER, NOT IN ITALICS FOR GUIDANCE, WILL BE DELETED IF NOT USED OR APPLICABLE, AND INITIALLED BY PRES OR JA. The Schedule referred to throughout is on p 4. Citations do NOT include all relevant fnns ROs. For guidance as procedure when a variation in this form arises, see form for GCM in MML pp 741 to 759. A brief record of such variation will be made and given a number having reference to appropriate or preceding para number herein. See back of Convening Order CF A95, for oaths and instrs on how to record addresses, evidence, etc, which instrs are hereafter called "Notes". As to general provisions for conducting the trial see AA 33, RP 36, 63-70, 73, 74, 94, 102, 119, 132.)

A2. The President initials and lays before the Court the Convening Order and Charge Sheet(A) attached thereto.(1) The Court is satisfied that it is properly convened and constituted(2), accused is (are) amenable to military law, and each charge discloses an offence.(3)
(1. As to use of Summary of Evidence see RP 17 fn 6. 2. AA 49, 50, RP 105-107. 3. RP 11-13, 23, 24.)

A3. The Court is opened. The accused is (are) brought before the Court. At 1330 hours trial commences.

A4. The Prosecutor produces a Medical Certificate that accused is (are) fit to undergo trial by court-martial.(1) ~~The Prosecutor informs the Court that accused elected to be tried by court-martial instead of being dealt with summarily by the CO.~~ (2)
(1. KR Con 557. 2. AA 46(8), RP 60 fn 1. For effect see KR Con 563(c). Delete, if not applicable.)

A5. President to accused: Do you object to B55325 Cpl Kathless T.S. as interpreter? Ans _____
The Interpreter is sworn.(1) ~~Do you object to~~ _____ as shorthand writer? Ans _____
~~The shorthand writer is sworn.~~ (1)
(1. RP 72. Delete, if none employed.)

A6. The Convening Order and names of the President and Members of the Court are read to the accused.(1) President to accused: Do you object to be tried by me as President or by any of the Members of the Court?
Ans No Sir (2)
(1. RP 110. 2. If no objection, waiting member retires. RP 60(8). If objection, see procedure AA 51, RP 25, 71, 98, MML p 742.)

A7. The President, Members, JA, if any, ~~and Offrs under instr, if any~~ are sworn.(1) The following are the ranks, names and units of the offrs comprising the Court, etc:

President	Major	D.C MacDougall	9 CBR Bn
Member	Capt	F.J. Lowday	9 CBR Bn
Member	Capt	R. Roberts	9 CBR Bn
Judge-Advocate	Capt	R.R. Brown	HQ 3 CBRG
Prosecutor	Lieut	J.R. Forth	9 CBR Bn
Defending Offr	Lieut	K.B. Hunt	9 CBR Bn

Questions by President: Is the Prosecutor a lawyer? Ans No. Is the Defending Offr a lawyer? Ans No.(2)
(1. RP 26, 27, 109, 111. List of offrs under instr will be returned separately with proceedings for information of Conv Offr.)
(2. If Pros a lawyer and Def Offr not, accused is entitled to an adjournment when RP 89 (E) and fn 2 were not followed. See DI p 3.)

A8. The accused B-55325 Sgmn Guevard D.J. before arraignment makes (no) plea (s) _____.(1)
(1. If a special plea is made for separate trial on one or more charges (RP 62(E), 108), or as to the jurisdiction of the Court (RP 24, 25(A), 112), or in bar of trial (RP 36), or as to accused's mental fitness to stand trial (AA 130, RP 57), or by one of several accused charged jointly to be tried separately (RP 16, 71), such plea, the addresses made in support or against, the evidence, if any, and finding are recorded per Notes. For forms of record see references in fns to Ref cited. Insert in AB rank and name of the accused making the plea.)

A9. The accused is (are) arraigned (separately) on all charges in the charge sheet.(1) The accused does (do) not object to any charge.(2) There is no amendment to be made to the Charge Sheet.(3) The President records the pleas in Part I of the Schedule.
(1. RP 31, 112. See para 1 of Instrs p 2. When more than one Charge Sheet see RP 62; when several accused to be tried separately see RP 71(C), and one separate copies of CF A96 to record proceedings. 2. RP 32, RP 33. If otherwise, delete and make appropriate record per Notes.)

A10. The Court (~~is sworn and~~) considers the Instrs on Procedure after Arraignment at top of p 2. The proceedings are continued on Record Form D.

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

HQ 3 CBRG Vol 1 P. 43

INSTRUCTIONS ON PROCEDURE AFTER ARRAIGNMENT.

1. *The accused may not plead or be found Guilty on more than one of two or more charges laid in the alternative.* (*RP 37(A).*) *As to withdrawal of alternative charges by Prosecutor see RP 35(C). No other charge can be withdrawn for any reason without authy from Convening Offr. If Convening Offr concurs, Court may accept plea of Guilty to lesser, etc, offence.* (*RP 44(H).*) *Accused may change a plea of Not Guilty to Guilty during trial.* (*RP 38.*) *As to refusing to plead or not pleading intelligibly see RP 35(A). As to plea when sentence may be death see RP 35(D).*

2. *The proceedings on each charge sheet* (*RP 62*) *after arraignment will be conducted as follows in the respective circumstances stated:*

I. If pleas to all charges are GUILTY, use Record Form B below.

II. If pleas to all charges are NOT GUILTY, use Record Form D on p 3.

III. If pleas to some charges are GUILTY and to other charges are NOT GUILTY and,

(a) Such mixed pleas occur when there are no alternative charges in the Charge Sheet, use Record Form C below. (*RP 37(A).*)

(b) Such mixed pleas occur in a set of two or more charges laid in the alternative, see RP 37 (A) and fn 2 as to discretion of Court, (i) to try the accused on all such alternative charges as if he had pleaded Not Guilty thereto, or, (ii) to record the pleas as the findings of Court. After deciding between (i) and (ii), Court will proceed under foregoing instrs as may be appropriate to result of its decision. See MML p 744A Instrs (2).

3. *As to responsibility of President to accused see RP 59, 60(C); powers and duties of JA see RP 103; duty of Prosecutor see RP 60(A) (B); duty and privileges of accused and Defending Offr see RP 60(C), 87(C), 91, 92; swearing and withdrawal of witnesses from Court see RP 81, 82; questioning of accused see RP 80, 87(C), 92(B), oath of witnesses see RP 85-85; calling or re-calling of witnesses by Court, etc, see RP 75-79, 86, 116; use of Summary of Evidence at Trial see RP 17(E) fn 6; and responsibility of JA or Pros to record proceedings see RP 94, 96.*

RECORD FORM B—PROCEEDINGS ON PLEAS OF GUILTY TO ALL CHARGES.

B1. The President or JA, if any, complies with RP 35(B) by explaining to the accused the nature and meaning of the charge(s)(1), and that on his plea of Guilty there will be no regular trial but merely a consideration of the sentence to be awarded after he has been given an opportunity to make a statement in reference to the charge(s), call witnesses as to character and make an address in mitigation of punishment.(2)
(*1. RP 35 fn 3. 2. MML p 54 para 47.*)

B2. President to accused: The Court will now receive any statement you desire to make in reference to the charge(s).(1) If it appears from your statement that there are circumstances which indicate that you do not understand the effect of the plea of Guilty(2), or which show provocation or extenuation in respect of which in your interest the witnesses for the Prosecution should be examined(3), we shall advise you to change your plea to Not Guilty. In making a statement you will not be sworn or subject to cross-examination; and anything you say will not be used in evidence against you after you change your plea. If, however, it appears to the Court that your statement affects only the amount of punishment to which you are liable, you will not be advised to change your plea and you will be given an opportunity later to prove your statement by sworn testimony, if you so desire.(4)

President to accused: Do you wish to make a statement? Ans .....(5)
(*1. RP 37(B). 2. RP 37(D) fn 6. 3. RP 35(B) fn 3 para 4, MML p 54 para 47. 4. See para E3 of Record Form E. 5. Statement, if any, recorded per Notes.*)

B3. The Court considers the accused's statement.(1) The Court decides (not) to advise accused to change his (their) plea(s) of Guilty to Not Guilty on ..... charge(s). The accused is (are) so informed, and he (they) change(s) his (their) plea(s) on ..... charge(s). Part I of the Schedule is amended accordingly.
(*1. Court may be closed to consider the statement. Delete whole or part not used.*)

B4. On the charge(s) to which the plea(s) of Guilty is (are) not changed the President records finding(s) of Guilty in Part I of the Schedule.(1)
(*1. RP 35(B). If any plea(s) is (are) changed, use Record Form C or D as appropriate.*)

B5. The Summary of Evidence is marked Ex ....., initialled and read aloud by the President.(1)
(*1. If there is no Summary, or if it is inadequate, comply with RP 37(B). If there is any evidence inconsistent with any plea standing as Guilty, Court will advise accused to change such plea and, if changed to Not Guilty, try such charge(s) by use of paras D1 to D8 inclusive of Record Form D on p 3. RP 37(D).*)

B6. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

RECORD FORM C—PROCEEDINGS ON MIXED PLEAS OF GUILTY AND NOT GUILTY.

C1. As to the charges on which accused pleaded NOT GUILTY the trial is continued by using paras D1 to D8 inclusive of Record Form D on p 3 before proceeding with C 2.(1)
(*1. RP 37(A) (E).*)

C2. The charges on which accused pleaded GUILTY are read to him (them) again, and the trial is continued by using paras B1 to B5 of Record Form B above.(1)
(*1. Under B5 such parts only of the Summary of Evidence are read as relate to the charges dealt with under C2. If any plea is changed to Not Guilty, trial thereon proceeds by complying with paras D1 to D8 inclusive of Record Form D on p 3 and making an appropriate record thereof on a separate sheet.*)

C3. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

RECORD FORM D—PROCEEDINGS ON PLEAS OF NOT GUILTY TO ALL CHARGES.

D1. President to accused: Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity to prepare your defence? Ans No Sir.(1)
(*1. If "yes", see RP 39(A) for procedure. Statement or evidence, if any, is recorded per Notes.*)

D2. The Prosecutor makes his (no) opening address.(1)
(*1. RP 39(B), 60(A) (B), 90, 92(C) (D). Record address per Notes, subject to RP 92(C).*)

D3. The evidence for the Prosecution is taken.(1)
(*1. RP 39(C), 114, KR Can 555. Record evidence per Notes. As to Prosecutor giving evidence himself see RP 39(D) (E).*)

D4. The Prosecution is closed.(1) ~~The Defending Offr submits that the evidence for the Prosecution does not establish a prima facie case against the accused on the ..... charge(s).(2) The Court is cleared, and considers the submission.(3) The Court is re-opened, and the President announces that the submission is disallowed on the ..... charge(s), and allowed on the ..... charge(s), and that, accordingly, the trial will proceed on the former, but the accused is (are) found Not Guilty on the latter charge(s).(4)~~
(*1. Delete remainder of this para, if submission not made. 2. Arguments on submission, answer and reply are recorded per Notes. 3. RP 40 fn 1. See MML p 72 paras 12-14 and p 81 para 42. 4. Delete part not used. If accused acquitted on all charges, use second alternative in para D8.*)
NB. If trial proceeds, accused must be allowed great latitude in making his defence, and the Court should not stop his defence solely on ground of irrelevance. (*RP 60(C), 114, 115.*)

D5. President to accused: You will now proceed with your defence.(1) You may, if you wish, give evidence yourself on oath as to the facts or your character or both, in which case you will be subject to cross-examination.(2) You may, however, make a statement without being sworn, and you will not be subject to cross-examination.(3) But a statement which could have been made on oath will not carry with the Court the same weight as sworn testimony.(4) You may call witnesses in your defence and as to character, whether you give evidence or make a statement or do neither.

President to accused: Do you wish to give evidence yourself as a witness, make a statement, or do neither? Ans Going to make a statement on oath. Do you intend to call witnesses on your behalf? Ans Yes Sir. Are they witnesses as to character only? Ans Yes Sir.
(*1. RP 115. 2. RP 40(A), see 80(D). 3. RP 40 fn 10. 4. RP 40 fns 2, 9.*)

D6. Consequent on the answers recorded in para D5 the appropriate procedure for the defence is followed.(1)
(*1. RP 114, 115, 116. For procedure see Notes on back of Convening Order, CF A95. Evidence for accused as to his character should, if in his interest, be given before the finding. See RP 46(A) fn 1, 86(C). Note the further opportunity in para E1 of Record Form E. Record per Notes addresses, statement, evidence and any summing up by the JA under RP 42, 103(e).*)

D7. The Court is closed to consider the finding(s).(1) The finding(s) of the Court is (are) recorded in Part I of the Schedule.(2) The Court is re-opened.
(*1. RP 42, 117(A). See Notes in Part I of Schedule. 2. RP 44(A).*)

D8. The President announces the finding(s), if any, of Not Guilty, and states to the accused that the finding(s) of the Court on the Nil charge(s), being subject to confirmation, will be promulgated later. (1) Or, The President announces that the accused is found Not Guilty on all charges and is to be released forthwith and that the proceedings are accordingly terminated. Part I of the Schedule is dated and signed.(2)
(*1. AA 54(3) (d), RP 45, 120(A). 2. AA 54(3), RP 45, 117. This alternative announcement is not applicable when there are pleas of Guilty outstanding and dealt with under Record Form B or C.*)

D9. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E below.

RECORD FORM E—PROCEEDINGS ON CONVICTION BEFORE SENTENCE.

E1. President to accused: Do you wish to give evidence yourself or to call any witnesses as to your character?(1)
Ans No Sir.
(*1. If evidence has already been given by accused or his witnesses as to his character, delete this para. RP 27(C) fn 4, 46 fn 1. Accused and witnesses are sworn. Evidence recorded per Notes.*)

E2. The Prosecutor produces Statement(s) as to Character and Particulars of Service(1), and certified true copy (copies) of Conduct Sheet(s)(2), purporting to refer to the accused, which he submits to the Defending Offr for examination, and then to the Court for admission in evidence. The Court is satisfied that these documents refer to the accused, because (i) they purport to be signed in the manner required by AA 163(3) (g) (h), and (ii) they purport to refer to (a) soldier(s) having the same number, rank, name and corps as the accused. Admitted in evidence and marked Ex A and Ex B respectively.(3)
(*1. MFB 255 or AFB 296. 2. MFM 6. 3. RP 45, KR Can 158. If above documents not produced, see RP 46 fn 1 para 1.*)

E3. President to accused: Do you wish to address the Court on the Statement(s) and Conduct Sheet(s), and in mitigation of punishment?(1) Ans Yes Through my defending Officer.(2)
(*1. RP 37(C), 46(D). 2. Address, if any, recorded per Notes. Court should permit accused or his witnesses to prove on oath anything here or previously stated which would affect the amount of punishment. RP 37(F) fn 7.*)

E4. The President states that the Court is closed to consider the sentence, and that the sentence to be awarded by the Court, being subject to confirmation, will not be announced, but will be promulgated later, and the proceedings in open court are accordingly terminated.(1)
(*1. AA 54(3), RP 120(A).*)

E5. The Court considers the sentence.(1) The President records the sentence in Part I of the Schedule, which is dated and signed by him and the JA, if any.(2)
(*1. When several accused tried separately see RP 71 (D). One sentence only, comprised of the punishment or punishments laid down in AA 41, 44 and its proviso, is to be awarded to cover all charges in all charge sheets on which accused found guilty. RP 48. As to sentences see AA 44, 138, 182, RP 46-50, 69, 118, 119(A), KR Can 308, 330, 563-566, Overseas RO 309, 2323, MML p 60, 737-738. As to sentences assigned for civil offences by the law of England see AA 41(2), MML p 130. When accused already under sentence of imprisonment or detention see AA 44(1)(b), 68(1), KR Can 564. 2. RP 50. As to release from arrest by Confirming Offr see KR Can 567. As to assembly and disposal of record after trial see instrs on back of Convening Order.*)

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

CHARGE SHEET

The accused, B.55325 Sgmn Donald Joseph GUERARD, X-4 List RCCS, on strength 9 CBR Bn, a soldier of the Canadian Army Overseas, is charged with:

FIRST CHARGE
Army Act
Sec 8(1)

~~WHEN ON ACTIVE SERVICE STRIKING HIS SUPERIOR OFFICER BEING IN THE EXECUTION OF HIS OFFICE~~

in that he

~~In the Field, at about 1730 hrs, on 28 Mar 45, did kick No. 7861154 Rfn (WO I) DONOVAN, E.E.W., 158 Fd Ambulance RAMC, who was at that time attempting to effect his arrest.~~

SECOND CHARGE
Army Act
Sec 6(3)(d)

WHEN ON ACTIVE SERVICE COMMITTING AN OFFENCE AGAINST THE PROPERTY OF A RESIDENT IN THE COUNTRY IN WHICH HE WAS SERVING

in that he

In the Field, at about 1730 hrs, on 28 Mar 45, did break a window of a house the property of Camiel Van der Heyden, 11 Brussells Street Wettern (Quatrecht) Belgium, by throwing a bottle of cognac through the window.

THIRD CHARGE
Army Act
Sec 6(3)(d)

WHEN ON ACTIVE SERVICE COMMITTING AN OFFENCE AGAINST THE PERSON OF AN INHABITANT OF THE COUNTRY IN WHICH HE WAS SERVING

in that he

In the Field, when serving in Belgium, at about 1730 hrs, on 28 Mar 45, assaulted Camiel Van der Heyden, Brussels street, Wettern (Quatrecht) an inhabitant of Belgium.

In the Field,
11 Apr 45.

(H.W. Rick) Lt-Col
Commanding
9 CBR Bn 3 CBRD.

TO BE TRIED BY FIELD GENERAL COURT MARTIAL.

In the Field,
16 Apr 45.

(J.S.E. Lind) Brig
Comd
3 Cdn Base Rft Gp

FIELD GENERAL COURT-MARTIAL

(Whether the accused to be tried is under his comd or not, a FGCM may on application to him be convened by any offr of Cdn Army Overseas, or of any other force if authorized in law, in immediate comd of troops on active service, subject to RP 105(C) and restrictions imposed by appropriate authy, AA 49, 50, RP 104-107, 114. As to the duties and privileges of the Convening Offr in dealing with the application see MML Chap V paras 20 and 23, RP 87(B).

There should be a separate Convening Order for each person to be tried separately by the same Court. RP 71(C), 109. As to separate charge sheets see RP 62, and as to separate trial on charges in the same charge sheet see RP 108. As to two or more accused charged jointly see RP 16, 109.

As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

ACCUSED.

Number.	(a) Prmnt R.	(b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
B-55325	Sigmn		Donald Joseph	GUERARD	RCCS 9 CBR Bn

CONVENING ORDER.

1. Whereas complaint has been made to me, the undersigned, that the person(s) named above as the accused, being subject to military law, has ~~(have)~~ committed the offence(s) set forth in the Charge Sheet(s) attached and on (date) 16 Apr 45 endorsed by me, ~~(or by an offr of my staff for me)~~, "To be tried by Field General Court-Martial".

2. And whereas I am of opinion that it is not practicable that such offence(s) should be tried by an ordinary General Court-Martial; ~~(and that it is not practicable to delay the trial for reference to a superior qualified offr.)~~

(Delete part in brackets when not required for compliance with RP 105(C).)

3. I hereby convene a Field General Court-Martial to try the said person(s), and to consist of the Offrs appointed or detailed hereunder.

~~4. I am unable to appoint (a) three Offrs to form the Court, (b) a Fd Offr as President, for the reasons I have attached hereto.~~

(AA 49, RP 106(B), 107(A). Delete the whole or part, if not applicable.)

5. I also appoint as Judge-Advocate thereat the Offr mentioned hereunder.

(RP 106(E). Delete, if none appointed.)

PRESIDENT.

Major (Rank.)	D C MacDOUGALL (Must be named. RP 106.)	CAC 9 CBR Bn (Unit.)

MEMBERS.

Capt	To be detailed by 9 CBR Bn	
Capt or Lt (Rank.)	To be detailed by 9 CBR Bn (Named or detailed. RP 106.)	(Unit.)

WAITING MEMBER.

Capt or Lt (Rank.)	To be detailed by 9 CBR Bn (Named or detailed, if any. RP 106.)	(Unit.)

JUDGE-ADVOCATE.

~~Capt~~ Capt (Rank.)	~~R.A. MacCARTHY~~ R.R. Brown (Must be named, if any. RP 106.)	HQ 3 CBR Gp (Unit.)

On Active Service in the Fd

in BELGIUM (Country.)

Dat 16 Apr 45

(Signed personally. RP 105 fn 2.)

(J S H Lind)

Commanding 3 Cdn Base Rft Gp

Convening Officer.

Brig (Rank.)

CONVENING OFFR WILL INITIAL ALL DELETIONS AND ALTERATIONS

4/38A CFA 85 (In lieu of AFA 3) 40/F A S/1697 (6143)

(See overleaf for oaths and notes for use on trial.)

D.C. MacDougall Maj
President

K-55-325

SIGMN, GUERARD, D J

FIELD

Date 20-4-45

Thomas Boyd Maj
pres

S A Sinnicatt
9 Bn, 3 C B R C

Evidence for Prosecution

1. Witness: A 10802 Cpl. McGarvey HW. 9CBRB.

Having been duly sworn states:

I recognize the accused as Sergeant Arnold. On approx 17th to 28th March 44 Capt. Sargent and I were in the front room of Van Gent's house. We were visited by a detachment of the M.I.R. at the factory. We proceeded there and found the accused getting treatment for his hand. I got him under door and escorted him back to the quadroom. We were visited that morning by the accused & there was a civilian present accompanied by Sgt. Dunne & at as an interpreter. There I saw a man, a woman and 3 children. The front room window was broken and there was pieces of broken glass and broken bottle on the floor. I do not know the name of the owner of the house but I could identify him (Mr. Van der Heyden identified by witness as the owner of the house concerned.)

The accused had been drinking, but in my opinion, was not drunk. He asked for a cigarette which I gave him, and he accompanied me from the M.I.R. back to the quadroom, walking.

Cross Examination:

Q.1. Was there any marks on the face of Mr. Van der Heyden when you saw him?

A.1. No Sir.

Q.2. Did either Mr. Van der Heyden or the accused make any marks to indicate that he

(P.T.O)

may have been involved in a scuffle?

A.2. No Sir.

Re-Examination: Q.1. Was Mr. Van der Heyden running or was he quite calm?

A.1. He was quite calm, Sir.

R.P. 83(b) complied with.

Second Witness Mr. Van der Heyden, Camiel. of Brussels Street number 11, Wetteren, Oudrecht, Belgium. I was at home. A soldier had my son's bicycle. I asked him what he was going to do with it. He put the bicycle against the wall and came at me. He spoke several words but I could not understand him. Then the soldier grabbed me by my clothes and he hit me with his fist in the face. I went in the house and locked the door. I then opened the door again to bring in the bicycle. The soldier tried to hit me again but he did not succeed. I took the bicycle inside and closed the door. As I was doing that the soldier threw a bottle through the window. It was a cognac bottle, partly full of liquor. I walked to the rear of the house and got a hammer, which I placed on the table so as to defend myself if necessary. Later I again opened the door - the soldier was about 3 yds away from the door. He tried to enter the house. I didn't allow him to enter, and I pushed him outside

the soldier then came to me with a second bottle and wished to hit me over the head with it, so I ran to the rear of the house, grabbed the hammer, and I smashed the bottle in his hand with the hammer. This occured on the threshold of the door. The soldier then ran away. and then the piece of bottle in his hand at me. He did not hit me. That is all.

I recognize the accused as the soldier who assaulted me that day. - witness points to the accused. Pte. Smeaton.

The costs of repairs of the window were 210 francs which I paid for myself.

Cross Examination

Q.1. How long was it from the time the window was broken till the Corporal came to your house.

A-1. About 15 or 20 minutes.

Q.2. Was your thumb in the fire by the soldiers fist?

A-2. Yes with his closed fist, in the fire.

Q.3. Where were you standing when the window was broken.

A-3. Behind the door.

Q.4. Did you actually see the soldier break the window.

A-4. No, but I saw the bottle come through the window.

Q-5. Was the soldier holding the two bottles when you first saw him?

A-5. No sir. He carried them in the pockets of his blouse.

Q-6. Were you frightened of the soldier?

A-6. Yes. I was afraid he would hit me over the head with the bottle.

Q-7. Instead of running with the women, why didn't you not just close the door and stay inside.

A-7. I did not want any more bottles thrown.

Q-8. Was this soldier drunk?

A-8. Yes sir, in my opinion he was. His attitude was belligerent and he was like a drunk man. I could not smell liquor on his breath.

R.T. 83(b) complied with.

The prosecution is closed

Evidence for Defence

19 Witness: B55325 Sgt Guevara DJ, 9CBRBn.

Having been duly sworn states:

On Aug 4, 1940, I enlisted with 1 Bn Algonquin Regt. I remained with that regt until 6 March 41. I was then discharged on medical grounds. I re-enlisted in the C.O.B. two weeks later and remained in Canada until 10 March 42. I then proceeded overseas. I asked for a transfer, and was posted a Tranfer to Recs. While with the Signal Coy I had a M.C. incident and was re-posted to 2 - 3. My C.O. would not place me on draft for overseas because of my category. I then made application to see the C.O. of 1 CSRU. I saw him and my case was referred to 4 CMC. and they allowed me to come overseas on 12 Nov. 1944. I came to 9 Bn. then to 1 Can Inf Div in Antwerp.

At approx 1945 hrs 1 Feb 45, a V-2 bomb landed on our H.Q. and killed 34 and 37 wounded. I was then brought to No. 9. B.G.H. and later to 109 B.G.H. Few days after, I went to 121 B.G.H. in France. On 22 March I was discharged from hosp to No 3 Reception and Re-mustering Coy. S-4 category. I later was sent to 9 Bn.

At approx 1700 hrs 28 March 45, I left camp and proceeded to a city near on Canal Line. There I had 3 or 4 drinks of Belgian Rum -

I remember getting up from the table in the cafe and when I opened the door my mind must have gone blank because I remember only vague details of being in the M.I.R and I woke up in the guard-room next morning.

R.P. 83(b) complied with.

2nd W. Iness: Capt. T.G. Polanik, RCAMC, 9 CBRBn, having been duly sworn states:

At approx 1700 hrs 29 March, the accused, whom I recognize as Sgmn Sweard was brought into my M.I.R for inspection & a head inquiry. In my opinion, Sgmn Sweard was drunk. He was partially undressed, quite obscene talked in his breath unsteady on his feet, argued about irrelevant things.

In ~~my~~ opinion it has been recommended that Sgmn Sweard be seen by a psychiatrist.

RP 83(b) complied with.

Prosecution

— Closing Address —

At this time I would like to point out to the court that I have definitely proved that the accused is guilty of the two charges as laid. I have proved every item of the charge. In connection with the first charge; Mr. Van der Heyden was in habitant of Belgium when the accused was serving. I have definitely shown that both Sergeant was known through his uniform and caused damage to the accused and the power who threw it.

The second charge of assault has been shown that the accused struck Van der Heyden, struck him with his fist and came at him with a knife. This incident was sufficient to cause Mr. Van der Heyden to be afraid and give a sufficient grounds to prove an assault. Therefore I ask the court to find the accused guilty of the two charges as laid.

A. Smith Lt

B. MacKay Maj
— President —

Summing up by the Judge Advocate

I "Assault" defined for Court. "The use of force, however slight, in attempt to justify a condition for assault." (Ch VII Sec 34 M.M.L.) I counsel with the station to cause, or compare to the use force"

II Defence of Duress: Principle of English law that duress is no excuse for crime (Sec 49, Ch II M.M.L.) (Also Sec 9 Ch VII of M.M.L. and Halsbury's Laws Volume 10 Pleading, Evidence and Practice P. 14 (Crimes - Duress.)

III Onus of proof on the prosecution to prove beyond a reasonable doubt, that accused committed offence charged. Benefit of any reasonable doubt must go to the accused

IV Nature and strength of evidence necessary to justify conviction. Before the Court finds an accused person guilty or innocent of the offence charged it must be satisfied not only that the circumstances connected with the accused having committed the act but that they are inconsistent with any other rational conclusion than that the accused was the guilty person (Sec 42 Ch VI M.M.L.)

V Court sitting as both judge and jury. They must judge the facts and on the evidence presented arrive at a conclusion as to the guilt or innocence of the accused

VI The Judge Advocate and Defending Officer agree that there are no other points upon which they desire the assistance of the Judge Advocate

Brown Capt
Judge Advocate

Summary for the Defence

1st Charge:

The only witness for the prosecution did not see the accused break the window in question.

2nd Charge

No marks of violence on Van der Heyden's face or effects were noticed by the first witness 15 minutes after the assault is said to have taken place.

If Inglis I submit the window would have closed and locked his door and remained inside — the accused was outside the house when Van der Heyden received his wounds.

D. MacDougall Maj
— president —

K.B. Kent Lt.
Defence Officer

Obs of Mitigation

1. Letter

2. I ask the court in answering the case to bear these points in mind.

1) the good character of the accused.

2) the valuable service performed both in England & in this theatre.

3) the severe shock to the nervous system resulting from the bombing to which he was subjected at Antwerp.

I feel that ample evidence has been presented to the court to prove the accused was drunk at the time in question and although ~~drunken~~ this does not excuse the action, I offer it as a plea for a very light sentence.

~~He~~ The accused's C.O. would like to have him back with the unit (see letter attached) I ask the Court to pronounce minimum sentence so the accused may rejoin his unit as quickly as possible

K. C. Hurst Lt.
Defence Officer

Hdqrs 1 Chem Lab Co Engrs.
7 Apr 45

Sergeant Howard D. Jones Dongan Hills
9 Bn 2 C.B.R.D. President

Dear Howard:

Ref your log book.

This was forwarded by Limit Personnel to you c/o 9 Bn. Hospital to which your unit S.O.S. on 1 Feb. They should have forwarded it to 109 Bn. and thence to 121 Bn as you were moved on. They have not apparently done so to date. Enclosed are copies of mess orgs. I have sent to each of them for your information.

If the whereabouts of this missing book are discovered I will forward it to you immediately I receive it

this way like I would suggest you obtain a temporary book from Maj Martin 2CBRG if you are still there, on which your own Brad pay.

I regret there has been such a long delay, but after receiving your 1st 109 Pr money I sent the P.M. to find out your book to you. But he had already sent it to 9 Pr where you were first admitted. They should have sent it on at once. Your letter took until 5 April to reach us. Where it has been I don't know.

Hunting you are again in good health and hoping you will soon be returning I remain

D. Hanna for Capt.
Admin Offr 2 S Coy

ARMY FORM B.296 (WAR).

Statement as to Character and Particulars of Service of Accused.

(For Use at Trials by Field General Courts-Martial only).

Number.	*Rank.*	*Name.*	*Regiment (or as the case may be).*
B55325	Sgmn.	GUERARD D.J.	9 Bn. 3 CBRG

NOTE.—The Field Conduct Sheet is to be produced in Court with this statement but is not to be shewn to the proceedings. The numbers hereinafter stated should correspond with the number of entries in the Field Conduct Sheet, pre-eminence being given to the most serious offence in each entry. If the charge is for drunkenness or absence without leave, the entries for drunkenness or absence, as the case may be, should be stated separately. Any recorded good conduct, gallantry or distinguished conduct rewarded to the Field Conduct Sheet should also be inserted here.

1. The following is a fair and true summary of the entries in the Field Conduct Sheet of the accused, exclusive of convictions by a court martial or a civil court :—

For ~~times.~~

For ~~times.~~

For ~~times.~~

For ~~times.~~

Nil.

Date of first entry in Field Conduct Sheet not available,

Date of last entry in Field Conduct Sheet not available,

2. ~~Previous convictions of the accused by a court martial or a civil court are set out in the Schedule overleaf.~~

3. ~~The accused at the present time is under sentence for~~

~~beginning on the~~ day of

4. The accused has been awaiting trial on the present charges for 710 days in civil custody; and for 24 days in military custody, *i.e.*, 3 days in open arrest, 24 days in close arrest; of which 710 days were spent in hospital.

5. The present age of the accused is 23

6. The date of his ~~attestation~~ ~~calling up for military service~~ is 4 Aug. 1940

7. The service which the accused is allowed to reckon is 4yrs 8 mos

8. The accused is in possession of C.V.S.M. & CLASP

9. (*If the accused is a warrant officer or N.C.O.*). The accused has served continuously, without reduction, to the present date—

	Date of Promotion.
~~In the substantive rank of~~	
In the war substantive rank of	
~~In the acting rank of~~	

INSTRUCTION.—*If any matter in any of the above paragraphs cannot be stated from the regimental books the paragraph must be struck through.*

*Strike out if not applicable.

*State the military operations (if any) held by accused.

(27833) W.14858/3408. 24,000 7/44 A.& E.W.Ltd. Gp.698 Forms/B.296(War)/2

SCHEDULE OF CONVICTIONS BY A COURT-MARTIAL OR CIVIL COURT.

Description of Court by which tried.	Date and Place of Trial.	Charges upon which convicted.	Sentence of the Court.	Punishment remitted or sentence suspended.

I HEREBY CERTIFY that the foregoing particulars, which have been extracted from the regimental books in my custody, are correct to the best of my knowledge and belief.

Signed this 20 day of Apr 15

TEMPORARY CONDUCT SHEET

No. B55325 Name GUERARD D.J. | Sqn, Battery, or Company | Corps RCCS | Date of enlistment | GC Badges | Service or Proficiency Pay | 3/17 MSPC & (AFB 122, 40(PAY)(CON)(MED))

Date of last entry in Company Conduct Sheet | No. and date of last drunk | Period not reckoning towards freedom from extra fine | Sheet No | Signature OC Company, etc | Character

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
							Exhibit 'B'		

CERTIFIED THUE EXTRACT OF REGIMENTALS CONDUCT BOOKS
HELD IN MY CUSTODY

.....

(C.L. NELSON) Capt.
Adjt,
9 Bn. 3 C.B.R.G.

SUMMARY OF EVIDENCE

In the case of B-55325 Sgn GUERARD D.J. of 29 Coy, 9 Bn. 3 C.B.R.C. Canadian Army Overseas.

By direction of the Commanding Officer all the evidence is taken on oath.

FIRST WITNESS:- A-108082 Cpl. McGAFFY H.W. of 9 Bn. 3 C.B.R.C. having been duly sworn states:-

I, A-108082 Cpl. McGaffy H.W., am 2 i/c of 9 Bn. Guard Room.

At about 1745 hrs. 28 Mar. 45 I was notified by CSM Hams of 65 Coy. that a soldier was causing a disturbance in the M.I.R. Accompanied by L/Cpl Siegrist I went immediately to the M.I.R. and escorted the soldier, later identified as B-55325 Sgn. Guerard D.J. back to the Guard Room. He was under the influence of alcoholic liquor but was not drunk at that time. On escorting Sgn. Guerard to the Guard Room I noticed a woman standing by the gate. After placing Guerard in custody I returned to the gate with Spr. Dionne to act as interpreter. The woman led us back to her home where we found the window of the frontroom broken and pices of broken bottle lying inside the room. I noticed that on a projection inside the window there were a row of bottles. It was impossible for me to assess whether the window had been broken by the throwing of a bottle from outside or whether some other instrument had been used and one of the bottles on the projection broken in the process. The woman, Mde. Keremech Van Der Heydon of 11 Brusselsche Straat, identified Sgn Guerard at the gate as the soldier who had caused the trouble. At the house, Mr. Keremech Van Der Heydon was present. He had no cuts on his face but complained of being struck twice in the face by the soldier.

The accused declines to cross-examine the witness.

.....
(A-108082 Cpl. McGAFFY H.W.)
9 Bn. 3 C.B.R.C.

SECOND WITNESS:- Van der Heyden, Camiel, of Brussels' street, in the municipality of Wetteren (Quatrecht), having been duly sworn, states:-

I was here, at home, and my son opened the door and called out:" Father, a soldier wants to take away my bicycle." I went outside and asked the soldier, what he was going to do with it. The soldier turned to me (the soldier has come to me) and grabbed me(fast) by my clothes and he bit me in the face(has given me a pound in the face). He said something, but I could'nt understand that. This took place on Wednesday, March 28th. 1945, at about a quarter past five, or five, thirty (half past five).

I then closed the door, but I opened it again, to take the bicycle inside. The soldier tried to hit(pound) me again, but I took the bicycle inside (I mean the bicycle inside) and then he was not able to touch me. I then closed the door (once) again. By that time, he threw a bottle of cognac, through the windows. I walked then to the rear (of the house) and I took a hammer, which I placed on the table in the kitchen, this to defend myself, if and when necessary. The soldier went away and I went outside, to look at the broken window. Then the soldier returned and he tried to come inside (he would come in, by me) and he attempted violence in order to enter (and he did me violence, to come inside){{ properly translated it would be better to say

SECOND WITNESS:- (Continued) he tried to force his way inside)) and he tried to push me. Then I pushed him back and he came at me with a bottle (flask), to hit me over the head(to throw it to me, on the head). I walked to the rear (of the house) took the hammer, returned and smashed the bottle in his hand. He still had a piece of the flask in his hand and he threw it at me, but did'nt touch me. Then the soldier walked away, and that is all.

QUESTIONED BY THE COURT:-

Q.1. Do you recognise this soldier, here with me, as the soldier in question?

A.1. Yes, Sir.

Q.2. Who repaired the front-window and what was the const?

A.2. Charles Brunfout, repaired the window at a cost of 170 francs. Marcel Leroy repaired the woodwork at a cost of 40 frames. In total a cost of 210 francs.

CROSS EXAMINED BY THE ACCUSED:-

Q.1. Was I drunk at that time?

A.1. Yes, Sir.

(SGD) (Van Der Heyden, Camiel)

THIRD WITNESS:- 7261155 R.S.M. (W.O) DONOVAN E.H.W. of 158 Field Ambulance R.A.M.C. having been duly sworn states:-

At 1730 hrs. 28 Mar. 45 on the Brussels Road near Quatreck Station I saw B-55385 Sigm Guerard D.J. of 62 Coy 9 Bn. 3 C.B.R.C. He was drunk. I detailed Cpl. Thomas R.A.M.C. of 158 Field Ambulance to report to the Detention Bks for an escort.

Whilst waiting for the escort Sigm Guerard walked towards the Detention Bks and struck a soldier of 158 Field Ambulance. As he passed where I was standing he kicked me and as I moved away he attempted to do so the second time but slipped and fell over. Sigmn Guerard was then stopped by a soldier with a rifle and was taken into custody.

Q. What the name of the soldier of your unit who was struck?

A. Driver Moore, RASC of 158 Field Amb.

The accused declines to cross-examine the witness.

E Mc Donovan

(7261155 R.S.M. DONOVAN E.H.W.
158 Field Ambulance R.A.M.C.

FOURTH WITNESS:- 14660281 Dvr. KEETLEY H. of 158 Field Ambulance RAMC having been duly sworn states:

At about 1745 hrs on the 28 Mar 45 I was in our Guard Room. Looking out of the window I saw the Canadian Soldier whom I recognize attempting to kick R&M Donovan. In this process the Canadian fell down, then got up and ran towards the archway in the bridge. He had a brick in his hand which he threw. I didn't actualy see the Canadian assault the R.S.M.

I ran out of our Guard Room with my rifle and chased the soldier down toward the 9 Bn. Guard Room. I succeeded in halting the Canadian soldier just outside the gate. The sentry on duty challenged him and examined his papers.

FOURTH WITNESS:- (Continued)

Q.1. Was Sigm Guerard Drunk at that time ?
A.1. I could smell liquor on his breath.

Q.2. Did he attempt to assault you?
A.2. No, Sir.

The accused declines to cross examine the witness.

.....
(14660281 Dvr. KEETLEY H.)
158 Field Ambulance RAAMC

FIFTH WITNESS:-

T/132784 Dvr. WHITTAKER R. of 158 Field Ambulance RAAMC having been duly sworn states:-

On the 28 th March at approx 1730 hrs. I was proceeding towards our car park when I saw the accused strike the vehicle's guard. As he passed under the bridge he assaulted RSM Donovan once and attempted the second time but fell down. As he got up he pick up a brick and threw it at the RSM but failed to hit him. One of our guards along with myself ran after the accused and he was halted at the gate of 9 Bn. Guard Room by the sentry on duty there.

The accused declines to cross examine the witness.

.....
(T/132784 Dvr. WHITTAKER R.)
158 Field Ambulance RAAMC

SIXTH WITNESS:-

D-95830 Cpl. KOLTHOFF F.S. of 64 Coy. 9 Bn. 3CBRG having been duly sworn as an interpreter states:-

I certify that the evidence of Camiel Van der Heyden of 11 Brussells street, Quatrecht in the case of B-55325 Sigman Guerard D.J. was taken down by me and the translation is exact and true to the best of my ability.

The accused declines to cross-examine the witness.

.....
(D-95830 Cpl. KOLTHOFF F.S.)
64 Coy 9 Bn. 3 C.B.R.G.

THE ACCUSED WAS CAUTIONED AS FOLLOWS:-

Q. Do you wish to make a statement or give evidence on oath? You are not obliged to say anything unless you wish to do so but anything you say will be taked down in writing and may be used as evidence.

A. Yes Sir. I wish to make a statement on oath.

B-55325 Sigmn Guerard D.J. of 29 Coy 9 Bn 3 CBRG having been duly sworn states:

Shortly after 1700 hrs. on the 28 Mar 45 I went to one of the cafes near our Coy. and there I had three or four drinks of Rum (Belgian) These were my first drinks since I recovered from head injuries sustained a by bombing in Antwerp some two months ago. I remember getting up from the table of the Cafe and leaving the cafe but from that time on with the exception

STATEMENT OF THE ACCUSED:- Cont'd.

of vague details of my visit to the M.O. I remember nothing.

D.J. Guerard
(B-55325 Sigmn GUERARD D.J.)
29 Coy 9 Bn. 3 C.B.R.G.

The accused declines to call any witnesses.

I certify that the foregoing summary of Evidence in the case of B-55325 Sigmn Guerard D.J. consisting of 4 pages was taken down by me in the presence of the accused and that R.P. 4(c)(d)(e) and (f) have been complied with.

W. Lloyd Wornell Lt.
(W. LLOYD WORNELL) - Lieut.
Officer detailed to take
the Summary of Evidence

In the Field
10 April 1945

SUMMARY OF EVIDENCE

In the case of B-55325 Sgn GUERARD D.J. of 29 Coy, 9 Bn. 3 C.B.R.G. Canadian Army Overseas.

By direction of the Commanding Officer all the evidence is taken on oath.

FIRST WITNESS:- A-108082 Cpl. McGAFFY H.W. of 9 Bn. 3 C.B.R.G. having been duly sworn states:-

I, A-108082 Cpl. McGaffy H.W., am i/c of 9 Bn. Guard Room.

At about 1745 hrs. 28 Mar. 45 I was notified by CSM Hams of 65 Coy. that a soldier was causing a disturbance in the M.I.R. Accompanied by L/Cpl Siegrist I went immediately to the M.I.R. and escorted the soldier, later identified as B-55325 Sgn. Guerard D.J. back to the Guard Room. He was under the influence of alcoholic liquor but was not drunk at that time. On escorting Sgn. Guerard to the Guard Room I noticed a woman standing by the gate. After placing Guerard in custody I returned to the gate with Spr. Dionne to act as interpreter. The woman led us back to her home where we found the window of the frontroom broken and pieces of broken bottle lying inside the room. I noticed that on a projection inside the window there were a row of bottles. It was impossible for me to assess whether the window had been broken by the throwing of a bottle from outside or whether some other instrument had been used and one of the bottles on the projection broken in the process. The woman, Mde. Keremech Van Der Sleydon of 11 Brusselsche Strast, identified Sgn Guerard at the gate as the soldier who had caused the trouble. At the house, Mr. Keremech Van Der Sleydon was present. He had no cuts on his face but complained of being struck twice in the face by the soldier.

The accused declines to cross-examine the witness.

.....
(A-108082 Cpl. McGAFFY H.W.)
9 Bn. 3 C.B.R.G.

SECOND WITNESS:- Van der Sleyden, Camiel, of Brussels' street, in the municipality of Wetteren (Quatrecht), having been duly sworn, states:-

I was here, at home, and my son opened the door and called out:" Father, a soldier wants to take away my bicycle." I went outside and asked the soldier, what he was going to do with it. The soldier turned to me (the soldier has come to me) and grabbed me(fast) by my clothes and he hit me in the face(has given me a pound in the face). He said something, but I could'nt understand that. This took place on Wednesday, March 28th. 1945, at about a quarter past five, or five, thirty (half past five).

I then closed the door, but I opened it again, to take the bicycle inside. The soldier tried to hit(pound) me again, but I took the bicycle inside (I hauled the bicycle inside) and then he was not able to touch me. I then closed the door (once) again. By that time, he threw a bottle of cognac, through the windows. I walked then to the rear (of the house) and I took a hammer, which I placed on the table in the kitchen, this to defend myself, if and when necessary. The soldier went away and I went outside, to look at the broken window. Then the soldier returned and he tried to come inside (he would come in, by me) and he attempted violence in order to enter (and he did me violence, to some inside)((properly translated it would be better to say

FOURTH WITNESS:- (Continued)

Q.1. Was Sigm Guerard Drunk at that time ?
A.1. I could smell liquor on his breath.

Q.2. Did he attempt to assault you?
A.2. No, Sir.

The accused declines to cross examine the witness.

H. Keetley
.....
(14660281 Dvr. KEETLEY H.)
158 Field Ambulance RCAMC

FIFTH WITNESS:-

T/132784 Dvr. WHITTAKER R. of 158 Field Ambulance RCAMC having been duly sworn states:-

On the 26 th March at approx 1730 hrs. I was proceeding towards our car park when I saw the accused strike the vehicle's guard. As he passed under the bridge he assaulted RSM Donovan once and attempted the second time but fell down. As he got up he pick up a brick and threw it at the RSM but failed to hit him. One of our guards along with myself ran after the accused and he was halted at the gate of 9 Bn. Guard Room by the sentry on duty there.

The accused declines to cross examine the witness.

R. Whitt.
.....
(T/132784 Dvr. WHITTAKER R.)
158 Field Ambulance RCAMC

SIXTH WITNESS:-

D-95830 Cpl. KOLTHOFF F.S. of 64 Coy. 9 Bn. 3CBRG having been duly sworn as an interpreter states:-

I certify that the evidence of Camiel Van der Heyden of 11 Brussells street, Quatrecht in the case of B-55325 Sigmn Guerard D.J. was taken down by me and the translation is exact and true to the best of my ability.

The accused declines to cross-examine the witness.

.....
(D-95830 Cpl. KOLTHOFF F.S.)
64 Coy 9 Bn. 3 C.B.R.G.

THE ACCUSED WAS CAUTIONED AS FOLLOWS:-

Q. Do you wish to make a statement or give evidence on oath? You are not obliged to say anything unless you wish to do so but anything you say will be taken down in writing and may be used as evidence.

A. Yes Sir. I wish to make a statement on oath.

B-55325 Sigmn Guerard D.J. of 29 Coy 9 Bn 3 CBRG having been duly sworn states:

Shortly after 1700 hrs. on the 26 Mar 45 I went to one of the cafes near our Coy. and there I had three or four drinks of Rum (Belgian) These were my first drinks since I recovered from head injuries sustained by bombing in Antwerp some two months ago. I remember getting up from the table of the Cafe and leaving the cafe but from that time on with the exception

STATEMENT OF THE ACCUSED:- Cont'd.

of vague details of my visit to the M.O. I remember nothing.

D. J. Guerard
.....
(B-55325 Sigmn GUERARD D.J.)
29 Coy 9 Bn. 3 C.B.R.C.

The accused declines to call any witnesses.

I certify that the foregoing summary of Evidence in the case of B-55325 Sigmn Guerard D.J. consisting of 4 pages was taken down by me in the presence of the accused and that R.P. 4(c)(d)(e) and (f) have been complied with.

W. Lloyd Wornell Lt
.....
(W. LLOYD WORNELL) - Lieut.
Officer detailed to take
the Summary of Evidence

In the Field
10 April 1945

SECOND WITNESS:- (continued) he tried to force his way inside)) and he tried to push me. Then I pushed him back and he came at me with a bottle (flask), to hit me over the head(to throw it to me, on the head). I walked to the rear (of the house) took the hammer, returned and smashed the bottle in his hand. He still had a piece of the flask in his hand and he threw it at me, but did'nt touch me. Then the soldier walked away, and that is all.

QUESTIONED BY THE COURT:-

Q.1. Do you recognise this soldier, here with me, as the soldier in question?

A.1. Yes, Sir.

Q.2. Who repaired the front-window and what was the coust?

A.2. Charles Brunfaut, repaired the window at a cost of 170 francs. Marcel Leroy repaired the woodwork at a cost of 40 francs. In total a cost of 210 francs.

CROSS EXAMINED BY THE ACCUSED:-

Q.1. Was I drunk at that time?

A.1. Yes, Sir.

(S G D) .....
(Van Der Heyden, Daniel)

THIRD WITNESS:- 7981156 R.S.M. (W.O) DONOVAN E.M.W. of 156 Field Ambulance R.A.M.C. having been duly sworn states:-

At 1730 hrs. 28 Mar. 45 on the Brussels Road near Quatreck Station I saw 5-55226 Sign Guerard D.J. of 68 Coy 9 Bn. S C.B.S.C. He was drunk. I detailed Cpl. Thomas R.A.M.C. of 156 Field Ambulance to report to the Detention Bks for an escort.

Whilst waiting for the escort Sign Guerard walked towards the Detention Bks and struck a soldier of 156 Field Ambulance. As he passed whom I was standing he kicked me and as I moved away he attempted to do so the second time but slipped and fell over. Sign Guerard was then stopped by a soldier with a rifle and was taken into custody.

Q. What the name of the soldier of your unit who was struck?

A. Driver Moore, RASC of 156 Field Amb.

The accused declines to cross-examine the witness.

E M W Donovan
.....
(7981156 R.S.M. DONOVAN E.M.W.
156 Field Ambulance R.A.M.C.

FOURTH WITNESS:- 14660831 Dvr. HENTLEY H. of 156 Field Ambulance RASC having been duly sworn states:

At about 1745 hrs on the 28 Mar 45 I was in our Guard Room. Looking out of the window I saw the Canadian Soldier whom I recognize attempting to kick RSM Donovan. In this process the Canadian fell down, then got up and run towards the archway in the bridge. He had a brick in his hand which he threw. I didn't actualy see the Canadian assault the R.S.M.

I run out of our Guard Room with my rifle and stopped the soldier from toward the 9 Bn. Guard Room. I succeeded in halting the Canadian soldier just outside the gate. The sentry on duty challenged him and examined his papers.

9 Bn. 3 C.B.B. Jp.

14 Apr 45

O.J. Sunard.

(Unit)

H. Smith.

(Unit)

O.J. Sunard.

(Signature of Accused)

I hereby certify that Lt K B Hunt

defendant 855325 Sgm Sunard O.J.

(number, rank and name)

and that the said Lt R. B. Hunt

(rank and name)

was notified that he was to act as Defending Officer on 14 Apr 45.

(date)

(Adj't of Unit) 3

WHEN PROSECUTING OFFICER POSSESSES LEGAL QUALIFICATIONS (MML Ch 5 Sec 5 SS 23)

I hereby certify that I have been duly warned that the Prosecutor is an officer possessing legal qualifications.

O.J. Sunard.

(Signature of Accused)

Date _____

_____

I hereby acknowledge receipt of one copy of charges preferred
one copy of the Summary of Evidence delivered to me

_____

(a) I request that _____
if available, be my officer,

(b) I request that an officer be detailed as
Defending Officer at my trial by General Court-Martial.

_____

I hereby certify that _____
_____ at the forthcoming trial
by Court-Martial and that the said _____
was notified that he was defending officer on _____

_____ Captain.

CHARGE SHEET

The accused, H.55385 Sgm Donald Joseph GUERARD, A-4 List NCOS, on strength 9 CBR Bn, a soldier of the Canadian Army Overseas, is charged with:

FIRST CHARGE
Army Act
Sec 6(1)

~~WHEN ON ACTIVE SERVICE STRIKING HIS SUPERIOR OFFICER BEING IN THE EXECUTION OF HIS OFFICE~~

in that he

In the Field, at about 1730 hrs, on 28 Mar 45, did kick No. 7261155 Rfn (NO 1) DONOVAN, E.H.W., 156 Fd Ambulance RAMC, who was at that time attempting to effect his arrest.

FIRST
SECOND CHARGE
Army Act
Sec 6(3)(d)

WHEN ON ACTIVE SERVICE COMMITTING AN OFFENCE AGAINST THE PROPERTY OF A RESIDENT IN THE COUNTRY IN WHICH HE WAS SERVING

in that he

In the Field, at about 1730 hrs, on 28 Mar 45, did break a window of a house the property of Cornel Van der Heyden, 11 Brussels Street Wettern (Eastrecht) Belgium, by throwing a bottle of cognac through the window.

SECOND
THIRD CHARGE
Army Act
Sec 6(3)(d)

WHEN ON ACTIVE SERVICE COMMITTING AN OFFENCE AGAINST THE PERSON OF AN INHABITANT OF THE COUNTRY IN WHICH HE WAS SERVING

in that he

In the Field, when serving in Belgium, at about 1730 hrs, on 28 Mar 45, assaulted Cornel Van der Heyden, Brussels street, Wettern (Eastrecht) an inhabitant of Belgium.

In the Field,
11 Apr 45.

(H.W. Rick) Lt-Col
Commanding
9 CBR Bn 3 CBRD.

TO BE TRIED BY FIELD GENERAL COURT MARTIAL.

In the Field,
16 Apr 45.

(J.S.M. Lind) Brig
Cond
3 Cdn Base Rft Gp

FIELD GENERAL COURT-MARTIAL

CFAAS (2A Rev of AFA3)
40/FAS/1697 (2003)

(Whether the accused to be tried is under his comd or not, a FGCM may on application to him be convened by any offr of Cdn Army Overseas, or of any other force if authorized in law, in immediate comd of troops on active service, subject to RP 105(C) and restrictions imposed by appropriate authy. AA 49, 50, RP 104-107, 114. As to the duties and privileges of the Convening Offr in dealing with the application see MML Chap V paras 20 and 23, RP 87(B).

There should be a separate Convening Order for each person to be tried separately by the same Court. RP 71(C), 109. As to separate charge sheets see RP 62, and as to separate trial on charges in the same charge sheet see RP 108. As to two or more accused charged jointly see RP 16, 109.

As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Con 308, 328, 330.)

ACCUSED.

Number.	(a) Prmnt R.	(b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
B55325	Sigmn		Donald Joseph	GUERARD	RCCS 9 CBR Bn

CONVENING ORDER.

1. Whereas complaint has been made to me, the undersigned, that the person(s) named above as the accused, being subject to military law, has (~~have~~) committed the offence(s) set forth in the Charge Sheet(s) attached and on "JSL" (date) 16 APR 45 endorsed by me, (~~or by an offr of my staff for me~~), " To be tried by Field General Court-Martial ".

2. And whereas I am of opinion that it is not practicable that such offence(s) should be tried by an ordinary General Court-Martial ; (~~and that it is not practicable to delay the trial for reference to a superior qualified offr.~~) "JSL"

(Delete part in brackets when not required for compliance with RP 105(C).)

3. I hereby convene a Field General Court-Martial to try the said person(s), and to consist of the Offrs appointed or detailed hereunder.

4. ~~I am unable to appoint (a) three Offrs to form the Court, (b) a Pd Offr as President, for the reasons I have~~ "JSL" ~~attached hereto.~~

(AA 49, RP 106(3), 107(A). Delete the whole or part, if not applicable.)

5. I also appoint as Judge-Advocate thereat the Offr mentioned hereunder.

(RP 106(E). Delete, if none appointed.)

PRESIDENT.

(Rank.)	(Must be named. RP 106.)	(Unit.)
Major	D C MACDOUGALL	CAC 9 CBR Bn

MEMBERS.

(Rank.)	(Named or detailed. RP 106.)	(Unit.)
Capt	To be detailed by 9 CBR Bn	
Capt or Lt	To be detailed by 9 CBR Bn	

WAITING MEMBER.

(Rank.)	(Named or detailed, if any. RP 106.)	(Unit.)
Capt or Lt	To be detailed by 9 CBR Bn	

JUDGE-ADVOCATE.

(Rank.)	(Must be named, if any. RP 106.)	(Unit.)
Capt	R R Brown	HQ 3 CBR Gp

On Active Service in the Fd

in BELGIUM (Country.)

Date 16 Apr 45

"J S Lind" (Signed personally. RP 105 fn 2.) Brig (Rank.)

(J S H Lind)

Commanding 3 Cdn Base Rft Gp

Convening Officer.

CONVENING OFFR WILL INITIAL ALL DELETIONS AND ALTERATIONS

(See overleaf for oaths and notes for use on trial.)

"D C MacDougall" Major
President

MEDICAL CERTIFICATE

(KR(Can) Para 567)

I certify that I have this day examined 355325 Sigmn Guerard D J

and in my opinion he is fit~~unfit~~ to undergo trial by Court Martial.

Station Field

Date 20-4-45

"S A Simon Capt"
Medical Officer

9 Bn 3 CBRG
Unit

"D MacDougall" Major President

Evidence for Prosecution

1st Witness: A108082 Cpl McCaffey H W 9 CBR Bn, having been duly sworn states:

I recognize the accused as Sigmn Guerard. At approx 1745 hrs 28 March. L/Cpl Siegrist and I were in the office of 9 Bn Qd room - We were notified of a disturbance in the MIR at the factory - we proceeded there and found the accused getting treatment for his hand. I put him under close arrest and escorted him back to the guardroom. I then went to a civilian house, accompanied by Tpr Dionne To act as an interpreter. There I saw a man, a woman and 3 children. The front room window was broken and there were pieces of broken glass and broken bottle on the floor. I do not know the name of the owner of the house, but I could identify him (Mr Van der Heyden identified by witness as the owner of the house concerned).

The accused had been drinking, but, in my opinion, was not drunk. He asked for a cigarette, which I gave him, and he accompanied me from the MIR back to the guardroom, walking.

Cross Examination:

Q1 Were there any marks on the face of Mr Van der Hayden when you saw him?

A1 No sir

Q2 Did either Mr Van der Hayden's face or clothes bear any marks to indicate that he may have been involved in a scuffle?

A2 No sir.

Re Examination:

Q1 Was Mr Van der Hayden's manner one of excitement or was he quite calm?

A1 He was quite calm, sir.

RP 83(b) complied with

SECOND WITNESS Mr Van der Heyden, Camiel, of Brussesl Street, No 11, Wetteren, Quatrecht, Belgium.

I was at house. A soldier had my son's bicycle. I asked him what he was going to do with it. He put the bicycle against the wall and came at me. He spoke several words, but I could not understand him. Then the soldier grabbed me by my clothes and he hit me with his fist in the face. I went into the house and locked the door. I then opened the door again to bring the bicycle in. The soldier tried to hit me again, but he did not succeed. I took the bicycle inside and closed the door. As I was doing that the soldier threw a bottle through the window. It was a cognac bottle, partly full of liquor. I walked to the rear of the house and got a hammer, which I placed on the table, to use to defend myself if necessary. Later I again opened the door, the soldier was about 3 yds away from the door. He tried to enter the house. I didn't allow him to enter, and I pushed him outside. The soldier then came at me with a second bottle and wished to hit me over the head with it, so I ran to the rear of the house, grabbed the hammer, and I smashed the bottle in his hand with the hammer. This occurred on the threshold of the door. The soldier then ran away, and threw the piece of bottle in his hand at me. He didn't hit me. That is all. I recognize the accused as the soldier who assaulted me that day - witness points to the accused, Pte Guerard.

The costs of repair of the window were 210 francs which I paid for myself.

Cross Examination

Q1 How long was it from the time the window was broken until the corporal came to your house?

A1 About 15 or 20 minutes.

Q2 Were you struck in the face by the soldier's fist?

A2 Yes. With his closed fist, in the face.

Q3 Where were you standing when the window was broken?

A3 Behind the door.

Q4 Did you actually see the soldier break the window?

A4 No but I saw the bottle come through the window.

Q5 Was the soldier holding the two bottles when you first saw him?

A5 No sir. He carried them in the pockets of his blouse.

Q6 Were you frightened of the soldier?
A6 Yes. I was afraid he would hit me over the head with the bottle.
Q7 Instead of returning with the hammer, why did you not just close the door and stay inside.
A7 I did not want any more bottles thrown.
Q8 Was this soldier drunk?
A8 Yes sir, in my opinion he was. His attitude was belligerent and he was like a drunk man. I could not smell liquor on his breath.

RP 83(b) complied with

The prosecution is closed.

Evidence for Defence

FIRST WITNESS: B55325 Sgmn Guerard D J 9 CBR Bn having been duly sworn states

On Aug 4, 1940, I enlisted with 1 Bn Algonquin Regt. I remained with that regt until 6 March 41. I was then discharged on medical grounds. I re-enlisted in the QOR two weeks later and remained in Canada until 10 March 42. I then proceeded overseas. I asked for a transfer, and was granted a transfer to RCCS. While with the Signal Corps, I had a MC accident and was re-graded to L-3. My CO would not place me on draft for overseas because of my category. I then made application to see the CO of 1 CSRU. I saw him, and my case was referred to 4 CMC and they allowed me to come overseas on 12 Nov 1944. I came to 9 Bn, then to 1 Cdn LofC in Antwerp. At approx 1645 hrs 1 Feb 45, a V-2 bomb landed on our HQ and killed 34 out of 37 occupants. I was then brought to No 9 BGH and later to 109 BGH. Four days after, I went to 121 BGH in France. On 22 March I was discharged from hosp to No 3 Reallocation and recommended for a S-4 category. I later was sent to 9 Bn.

At approx 1700 hrs 28 March 45, I left camp and proceeded to a cafe near our coy lines. There I had 3 or 4 drinks of Belgian Rum. I remember getting up from the table in the cafe and when I opened the door, my mind must have gone blank, because I remember only vague details of being in the MIR and I woke up in the guard room next morning.

RP 83(b) complied with

SECOND WITNESS: Capt F G Palanek, RCAMC, 9 CBR Bn, having been duly sworn states:

At approx 1700 hrs 28 March the accused, whom I recognize as Sgmn Guerard was brought into my MIR for inspection of a hand injury. In my opinion, Sgmn Guerard was drunk. He was partially incoherent, querulous, definite alcohol on his breath, unsteady on his feet, argued about irrelevant things.

It has been recommended that Sgmn Guerard be seen by a psychiatrist.

RP 83(b) complied with

PROSECUTION CLOSING ADDRESS

At this time I would like to present to the court that I have definitely proved that the accused is guilty of the two charges as laid. I feel I have proved every item of the charges. In connection with the first charge, Mr Van der Heyden is an inhabitant of Belgium where the accused was serving. I have definitely shown that a bottle of cognac was thrown through his window and caused damage and that the accused was the person who threw it.

The second charge of assault- I have shown that the accused took hold of Mr Van der Heyden, struck him on his face and came at him with a bottle. This incident was sufficient to cause Mr Van der Heyden to be afraid and fear is sufficient grounds to prove an assault. Therefore I ask the court to find the accused guilty of the two charges as laid.

"J R Firth" Lt

"D MacDougall" Major
President

SUMMING UP BY JUDGE ADVOCATE

1. "Assault" defined for Court." The use of force, however, slight, is sufficient to justify a conviction for assault". (Ch VII Sec 34 MML) if exercised with the intention to cause, or with the knowledge that it is likely to cause injury, fear or annoyance to the other person."

2. Defence of drunkeness "Principle of English law that drunkeness is no excuse for crime (Sec 48, Ch III MML) (Also Sec 9 Ch VII of MML and Archibold's Criminal Pleading, Evidence and Practice p 17 Excuses - Drunkeness)

3. Onus of proof on the prosecution to prove beyond a reasonable doubt, that the accused committed offence alleged. The benefit of any reasonable doubt must go to the accused.

4. Nature and strength of circumstantial evidence be pointed out to court "Before the court finds an accused person guilty on circumstantial evidence, it must be satisfied not only that the circumstances are consistent with the accused having committed the act, but that they are inconsistent with any other rational conclusion than that the accused was the guilty person. (Sec 42 Ch VI MML)

5. Court acting as both judge and jury. They must judge the facts and, on the evidence produced, arrive at a conclusion as to the guilt or innocence of the accused.

6. The President, Prosecutor and Defending Officer signify that there are no other points upon which they desire the assistance of the Judge Advocate.

"R R Brown" Capt
Judge Advocate

SUMMARY FOR THE DEFENCE

1st Charge

The only witness for the prosecution did not see the accused break the window in question

2nd Charge

No marks of violence on Van der Heyden's face or effects were noticed by the first witness 15 minutes after the assault is said to have taken place.

If frightened I submit the civilian would have closed and locked his door and remained inside - the accused was outside the house when Van der Heyden resorted to his hammer.

"K B Hunt" Lt
Defence officer

"D MacDougall" Maj
President

PLEA OF MITIGATION

1. Letter "DM"

2. I ask the court in reviewing the case to bear these points in mind;

(1) the good character of the accused.

(2) the valuesble service performed both in England and in this theatre.

(3) the severe shock to the nervous system resulting from the bombing to which he was subjected at Antwerp.

I feel that ample evidence has been presented to the court to prove the accused was drunk at the time in question and although this does not excuse the action, I offer it as a plea for a very light sentence.

The accused's CO would like to have him back with the unit (see letter attached) I ask the court to pronounce minimum sentence so the accused may rejoin his unit as quickly as possible.

"K A Hunt" Lt
Defence Officer

3 Coy 1 Cdn LofC Sigs
7 Apr 45

Sigmn Gerard D J
9 Bn 2 CBRC

Dear Guerard:

Ref: your pay book.

This was forwarded by unit paymaster to you c/o 9 Bn Hospital to which you were SOS on 1 Feb. They should have forwarded it to 109 Br and thence to 121 Br as you were moved on. They have not apparently done so to date. Enclosed are copies of messages I have sent to each of them for your information.

If the whereabouts of this missing book are discovered, I will forward it to you immediately I receive it. Meanwhile I would suggest you obtain a temporary book from paymaster 2 CBRC if you are still there, on which you can draw pay.

I regret there has been such a long delay, but after visiting you in 109 Br Hosp I asked the P.M. to forward your book to you, but he had already sent it to 9 Br where you were first admitted. They should have sent it on at once. Your letter took until 5 April to reach me. Where it has been I don't know.

Trusting you are again in good health and hoping you will soon be returning

Sincerely

"D Mansford" Capt
Admin offr 3 Coy

"D MacDougall" Maj
President

5 T – 12 3

Pte. Durand, J. M.

Missing

FEE 15

PTE GUERIN C.

Correspondence to be PINNED here

D 77

Army Form A.8.

Form for Assembly and Proceedings of Field General Court Martial on Active Service.

PROCEEDINGS.

A. Order convening the Court.

On Active Service, this Thirty-first day of January, 1944

Whereas it appears to me, the undersigned, an officer in Command of 3 Cdn Inf Bde, on active service, that the persons named in the annexed Schedule, being subject to Military Law, have committed the offences in the said Schedule mentioned.

And whereas I am of opinion that it is not practicable that such offences should be tried by an ordinary General Court Martial; *~~[and that it is not practicable to delay the trial for reference to a superior military officer]~~

*Omit where Convening Officer is a Commanding Officer or is of Field Rank.

I hereby convene a Field General Court Martial to try the said persons, and to consist of the Officers appointed or detailed hereunder.

* Omit if not applicable.

*~~[it not being practicable to appoint Three Officers to form the Court] A Field Officer as President~~ for the following reasons, namely:—

PROCEEDINGS REVIEWED
J. Lefiquet Capt
21 Mar 44
REVIEWING OFFICER, JAG BRANCH C.M.H.Q.

NOTE.—The President must be named. The members and waiting members (if any) may be mentioned by name, or the number and ranks and the unit to which they belong may alone be named. In the latter event, the ranks, names, &c., of the members of the court, as constituted, will be recorded on the proceedings.

President.

Rank.	Name.	Regiment.
Major	A.E. Rogers	West NSR

Members.

Rank.	Name.	Regiment.
Captain	J.M. Bursey	Carlt & York R
Captain	G.L. Bastedo	3 Cdn Inf Bde Sp Gp (Sask LI)
Lieut	R.L. Donohon	West NSR

Waiting

* Must be signed personally by the Officer actually in command at the time, and all alterations in the composition of the Court to be initialled by him.

*Signed H.W. Wilson Brigadier
Commanding 3 Cdn Inf Bde.
Convening Officer.

(A) C.W. Rogers Major

D73

SCHEDULE.

Number, Rank (a) Name and Unit o. Accused (b)	Offence charged	*Plea	Finding, and if Convicted, Sentence (c)	How dealt with by Confirming Officer (d)
D. B02815 Pte Claude GUERIN, R 22e R	First Charge An Sec 9(2)	Guilty	Guilty two years imprisonment with hard labour 18th Feb 44 C.W.K.	Confirmed Alex

* Question to be asked of accused, if he pleads not guilty (R. of P. 39 (a)):—
"Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity for preparing your defence?"
Answer (to be recorded, as far as practicable, in words used if necessary):—

(Signed) Brigadier (Signed) Major
Commanding 3 Can Inf Bde — President.
Convening Officer (c)

(a) Appointment acting rank or acting appointment, if any, to be stated in brackets after the substantive rank.
(b) Unless unavoidable, not more than three names are to be entered on one form, and in serious cases one only.
(c) Recommendation to mercy, if any, to be inserted in this column.
(d) It is not necessary that the Confirming Officer should sign his name in this column. Initials are sufficient.
(e) Must be signed by the same Officer who signs on the first page, and all alterations in the first two columns of the Schedule to be initialled by him.

Evidence and Charge Sheets (if necessary) to be PINNED here.

B. Certificate of President as to proceedings.

I certify that the above Court assembled on the 1st day of February, and duly tried the persons named in the Schedule, and that the plea, finding, and sentence in the case of each such person were as stated in the third and fourth columns of that Schedule.

I also certify that :—
1. The members of the Court
2. The witnesses
*(3. The interpreter)
*(4. ~~The officers under instruction~~) Capt R.

were duly sworn.

* Omit if not applicable.

Signed this 1st day of February 1944.

Odel Rogers Major
President of the Court Martial.

C. Certificate in case of death sentences.

* See footnote (b) on page 702 M.M.L. 1929.

I certify that the terms of *A.Cl. 570 of 1918 have been complied with.

Signed this day of 19

President of the Court Martial.

D. Confirmation.

I have dealt with the findings and sentences in the manner stated in the last column of the Schedule, and, subject to what I have there stated, I hereby confirm the above findings and sentences.

*(I direct that the soldier named in the margin be not committed to prison or detention barrack until further orders.)

* To be omitted unless penal servitude, imprisonment or detention having been awarded, the Confirming Officer either has no authority to commit to prison or detention barrack, or, having such authority, recommends suspension.

Signed this 3 day of Feb 19 44

N.W. Gibson Brig
Confirming Officer.

Promulgated and extracts taken in the case of D 62815 Pte Guerin, C. R 22e R.

(a) (Dated) 5 Feb. 44 (Signed) Maj Commanding R 22e R

Promulgated and extracts taken in the case of

(Dated) (Signed)

Promulgated and extracts taken in the case of

(Dated) (Signed)

(a) When several cases are promulgated in one unit on the same day the Officer need only sign once.

A

Army Form A 9.

**All printed matter not applicable to the particular Court being held should be struck out and initialled by the President.

**Form of Proceedings for General and District Courts-Martial.

Proceedings of a Field General Court-Martial held at Field on the 12th day of February 19 44 by order of Brigadier General T. G. Gibson Commanding 3rd Canadian Infantry dated the 31st day of January 19 44

President.

Major A.S. Logan West N.S.R.

Members.

Captain J.M. Burney Carl. & York R. attd 8th Can Inf Bde

Captain S.L. Bastedo ~~Capt. York R. C.A.R.~~ Sask L.I.

Trial of* D- 62815 Pte Claude Guerin R22eR.

~~, Judge Advocate~~

The order convening the Court, the charge-sheet and the summary (or abstract) of evidence are laid before the Court.

~~The Court satisfy themselves that to serve owing to G.S.R. is not available~~

~~, waiting member takes his place as a member of the Court.~~

The Court satisfy themselves as provided by Rules of Procedure 22 & 23.

The accused is brought before the Court.

Prosecutor,† Lieut J.A. Guilemin R22eR.

Counsel‡ or defending officer† Lieut. J.P.T. Charette R22eR.

At ~~1450hrs~~ o'clock the Trial commences.

The order convening the Court is read, and is marked (A) signed by the President, and attached to the proceedings.

The names of the President and members of the Court are read over in the hearing of the accused, and they severally answer to their names.

Question by the President to the accused. Do you object to be tried by me as President, or by any of the officers whose names you have heard read over? *Answer* No.

(N.B.—If objection is made it should be recorded, together with the decision of the Court, on a separate sheet.)

*Here insert No., Rank, full Name, Regiment, and Appointment (if any).
† Here state Rank and Name, and Regiment (if any).
‡ Qualification to be stated.

33057 Wt.W4084/P2. 10,000 sets. 12/43. K. & S., Ltd. 6462/11. Forms A9/2.

B

The President, members and judge-advocate are duly sworn. O.W.K.

The following officers under instruction are duly sworn. O.W.K.

Q- Do you object to K-44237 Pte Lamoureux A. Rzeck acting as interpreter?

A- No, sir

The interpreter is duly sworn

Charge-Sheet.

The charge-sheet is signed by the President, marked B 2 and annexed to the proceedings.

Instruction. If the accused has elected to be tried under Army Act, sec. 46 (8) the fact should be here recorded.

The accused is arraigned upon each charge in the above-mentioned charge-sheet.

Are you guilty or not guilty of the [first] charge against you, which you have heard read? Guilty *Question to the accused.*

Answer.

Are you guilty or not guilty of the second charge against you, which you have heard read? O.W.K. *Question.*

Answer.

Are you guilty or not guilty of the third charge against you, which you have heard read? O.W.K. *Question.*

Answer.

Are you guilty or not guilty of the fourth charge against you, which you have heard read? O.W.K *Question.*

Answer.

The accused having pleaded Guilty to the charge, the provisions of Rule of Procedure 35 (B) are here complied with.

If the trial proceeds upon any charge to which there is a plea of "Not Guilty," the Court will not proceed upon the record of a plea of "Guilty," until after the finding on that other charge. *Instructions.*

CHARGE SHEET

The accused D.62815 Private Claude GUERIN, a soldier of the Royal 22e Regiment, Canadian Army Overseas, On Active Service, is charged with:

B2

1st Charge:
A.A. Sec. 9(2)

WHEN ON ACTIVE SERVICE DISOBEYING A LAWFUL COMMAND GIVEN BY HIS SUPERIOR OFFICER,

in that he,

In the Field, at about 1130 hours on the 5th January 1944, did not proceed to his company on the front line when ordered to do so by Captain J.B. Jalbert, Royal 22eRegiment.

(J.V. Allard), Lt-Col.,
Commanding Royal 22e Regiment.

In the Field
6th January 1944.

TO BE TRIED BY FIELD GENERAL COURT MARTIAL

In the Field
31 Jan 44

(T.G. Gibson), Brigadier,
Commanding 3 Can Inf Bde.

(A)

MEDICAL OFFICERS CERTIFICATE

I certify that I have this morning examined No Can D6 2815

Rank Pte Name Guerin C. of Royal 22e Regt

and in my opinion he is fit/~~unfit~~ to undergo Trial by Court Martial.

Station In the Field

Date 1/2/44

C W Fagan
Major

Richard S Burbs Capt
Medical Officer.

CC

Proceedings on Plea of Guilty.

* To be struck out in case no plea of "Not Guilty" has been proceeded with.

*~~[The Court having been re-opened, the accused is again brought before it, and the charge to which he has pleaded "Guilty" read to him again:]~~

The accused D-62815 Pte Claude Guerin R22eR is found guilty of the charge.

†The summary ~~(or abstract)~~ of evidence is read, marked (B), signed by the President, and attached to the proceedings.

Question to the accused. Do you wish to make any statement in mitigation of punishment?

Answer. Yes

The accused in mitigation of punishment ~~says:~~ Good.

~~Good~~ hands in a written statement, which is read, marked (C), signed by the President, and attached to the proceedings.]

Instruction.

† If there is no summary or abstract of evidence, sufficient evidence to enable the Court to determine the sentence, and to enable the confirming officer to know all the circumstances connected with the case, will be taken on a separate sheet in the same manner as on a plea of "Not Guilty."

If from the statement of the accused, or from the summary or abstract of evidence, or otherwise, it appears to the Court that the accused did not understand the effect of his plea of "Guilty," the Court shall alter the record, and enter a plea of "Not Guilty," and proceed with the trial accordingly.

DD

Do you wish to give evidence yourself or to call any witnesses as to character?

Question to the accused.

Answer. NO

Evidence as to character.

E

Finding.*

*To be struck out except in cases where trial has taken place on a plea of "Not Guilty."

~~The Court is closed for the consideration of the finding.~~

~~The Court find that the accused...~~

Proceedings on Conviction *before Sentence.*

*When the Court is already open this sentence will be struck out.

*The Court being re-opened, the accused is again brought before it.

Evidence of character, &c.

Lieut J.A. Girolami R.A.A.C. is duly sworn.

Question by the President.

Have you any evidence to produce as to the character and particulars of service of the accused? *Answer by the Witness.* Yes

The above statement [with the schedule of convictions and of cases in which trial has been dispensed with] is read, marked D signed by the President, and annexed to the proceedings.

Question by the President.

Is the accused the person named in the statement which you have heard read? *Answer by the Witness.* Yes

Question.

Have you compared the contents of the above statement with the regimental books? *Answer.* Yes

Question.

Are they true extracts from the regimental books, and is the statement of entries in the conduct sheets a fair and true summary of those entries? *Answer.* yes

(Instruction.—If the nature of the service of the accused is a disciplinary corps, or otherwise the finding of the Court renders him liable to any exceptional punishment in addition to that to be awarded by the Court, the prosecutor must call the attention of the Court to the fact, and the Court must inquire into the nature and amount of the additional punishment.)

Cross-examined by the accused.

The accused declines to cross-examine this witness

Question to the accused.

Do you wish to address the Court? *Answer.* No

The Court is closed for the consideration of the sentence.

F

Sentence.

The Court sentence the accused D-62815 Pte Claude Guerin Bell Sentence to be imprisoned with hard labour for two years

C. W. Rogers Majr
[illegible] Capt.
[illegible]

Signed at Field this 1st day of February 1944

C W Rogers Majr
President.

1. 2. 44

Plea of Mitigation ~~Closing address~~ ~~of the Defence~~.

D. 62815 Pte Guérin C.

This man is now 28 years old, he enlisted in July 40. He has been 3 years overseas. And as a reinforcement, has been with this Unit for the last 6 months. Has seen action in Sicily and Italy. He is married and has a 10 years old boy. He has a clean crime sheet. This man is very willing but considering his age he can't very well follow his comrades, as he is not very well fit.

So I ask the Clemency of this Court for this man, as he is willing and sincere.

J.H. Chenelle Lieut
Royal 22nd Regt

C.W. Rogers
Major

SUMMARY OF EVIDENCE

In the case of M.62815 Private Claude GUERIN, a soldier of the Royal 22e Regiment, Canadian Army Overseas, On Active Service.

By direction of the Commanding Officer this summary of evidence is taken under oath.

1st Witness: For the Prosecution.

Captain, J.B. Jalbert, Royal 22e Regiment, having been duly sworn states:-

" I am Captain J.B. Jalbert, R.22e.R. On the 5th January 1944, I, Captain J.B. Jalbert, was O.C. "HQ" company of the Royal 22e Regiment, andin charge of the "B" Echelon. At about 1130 hours on the 5th January 1944, I had a parade of soldiers A.W.L. I explained to them the situation that now they have had a night or two of good sleeping and a good rest they were to go back to their respective company. I told them that their absence will be judged by their company commander but I was now giving them a definite order to get in the truck and rejoin their company at the front line; if they refused now they were refusing to obey an order given by a superior officer according to the Military Law. I then called each name and gave toe ach one the order to get in the truck, when I called the name of the accused Pte. Guerin, C. whom I now recognize, the accused answered "I dont go" or words to that effect. After I had organised those who were going back, i.e. at least five minutes later, the accused still refused to go and did not go. He was then put under close arrest.

The accused declines to cross examine the witness.

Capt.

2nd Witness: For the Prosecution.

E.4591 P/Sgt. Despres, R.O. Royal 22e Regiment, having been duly sworn states:-

" I am E.4591 P/Sgt. Despres, R.O. Regimental Provost Sergeant of the Royal 22e Regiment. On the 5th January 1944, at about 1130 hours, I was present when Capt. J.B. Jalbert, gave the order to Pte. Guerin,C. the accused, whom I now recognize, to rejoin his company on the front line. Pte. Guerin, C. did not do so and refused saying "I dont go" or words to that effect. The accused did not go forward and after four or five minutes, time taken by Capt. J.B. Jalbert, to organise the ones going forward as the accused has not yet obeyed the order given though this order had been repeated, he was turned to the guard room.

The accused declines to cross examine the witness.

Major

P/Sgt.

In the case of E.62815 Private Claude GUERIN, a soldier of the Royal 22e Regiment, Canadian Army Overseas, On Active Service.

3rd Witness: For the Prosecution.

E.4671 L/Cpl. Beaudet, E. Royal 22e Regiment, having been duly sworn states:-

" I am E.4671 L/Cpl. Beaudet, E. clerk at "HQ" company of the Royal 22e Regiment. On the 5th January 1944, at about 1130 hours, I was present when Captain J.B. Jalbert ordered Pte. Guerin, C. the accused, whom I now recognize, to rejoin his company on the front line. The accused refused saying "I dont go" or words to that effect. he did not go forward and after four or five minutes, time taken by Captain Jalbert to organise the ones going forward, as the accused had not yet obeyed this order given though this order had been repeated, he was then turned to the guard room.

The accused declines to cross examine the witness.

Beaudet E. L/Cpl.

The accused having been duly cautioned in French in accordance with R.O. 1424 reserves his defence.

I certify that foregoing summary of evidence consisting of two (2) pages was taken down by me in the presence and hearing of the accused and that rules of procedure 4 (c),(d),(e),(f) and (g) were duly complied with.

Lieut.
Officer taking Summary.

In the Field
6th January 1944.

G.W. Rogers
Major

No. D-62815 Name GUÉRIN, C. Sqn., Battery, or Company B Corps INF Date of enlistment 11-7-40 G.C. Badges 1 Service or Proficiency Pay M.F.M. 6 (A.F. B.122) 40/P & /8130 (20000)

Date of last entry in Company Conduct Sheet | No. and date of last drunk | Period not reckoning towards freedom from extra fine | Sheet No. 1 | Signature O.C. Company, etc. G. Poulin Maj | Character

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
				Sheets 1 and 2 destroyed acc. R.O. 319 & 2084 Oct 42	G. Poulin Maj				
FIELD	24-4-43	Pte	—	(1) AA sec 15(1) AWL FROM 2300 hrs 24 APR 43 until 0800 hrs 25 APR 43 Total 9 hrs.	L/Cpl Blais C.	3 Days C.B	25-4-43	Maj ARNOLD	1 R + 1 14 (1) A A 1 DAY'S PAY
"	25-4-43	Pte		(2) AA sec 15(1) AWL FROM 2300 hrs 25 APR 43 until 2140 hrs 26 APR 43 Total 22 hrs 40 mins					G.P. Maj

D

D.W. Lapsley Major

Guerin C. Capt Royal 22e Regt

COPY

(PTO)

ARMY FORM B.296.

Statement as to Character and Particulars of Service of Accused.

Number.	*Rank.*	*Name.*	*Regiment (or as the case may be).*
D62815	Pte.	Thorning C.	R.22e R.

1. The following is a fair and true summary of the entries in the regimental ~~and squadron, battery~~ or company conduct sheets† of the accused, exclusive of convictions by a court martial or a civil court, of summary awards under section 47 of the Army Act, and of cases in which trial has been dispensed with :—

Note.—At a trial by field general court martial this statement may be compiled from the field conduct sheet.

The conduct sheets mentioned should be produced in court with this statement but not annexed to the proceedings.

† See para. 617, K.R., 1919.

* The numbers inserted should correspond with the number to entries in the conduct sheets, the nearest being given in the case of several offences in each entry, and to any recognized special acts of gallantry or distinguished conduct.

Instructions.—If the charge is for drunkenness note the entries for drunkenness noted on dated separately and dated.

	* Within last 12 months.	*Since Enlistment.
For A.A. Sec 15(1)	two times	times
For	times	times
For	times	times
For	times	times
For	times	times

Number of instances of gallantry or distinguished conduct, Nil

or

There are ~~no entries~~ in the conduct sheets of the accused.

2. The accused has not been previously convicted, *or*

Previous convictions† of the accused by a court martial or a civil court, summary awards under section 47 of the Army Act, and dispensations with trial under section 73 of the Army Act, are set out in the schedule annexed to this statement.

3. The accused is not under sentence at the present time, *or* ~~The accused at the present time is under sentence for~~ beginning on the ____ day of ____

4. The accused has been in confinement, awaiting trial on the present charges, for ____ days in civil custody, and 64 days in military custody, making a total of 64 days, of which Nil days were spent in hospital.

5. The present age of the accused according to his ~~attestation paper~~ record of service is 37 years old.

6. The date of his ~~enlistment~~ attestation specified in his ~~attestation paper~~ record of service is 11 July 40

7. The service which the accused is allowed to reckon towards discharge or transfer to the reserve is ____

8. The accused is entitled to deferred pay or gratuity in respect of ____ service.

9. The accused is entitled to reckon ____ service for the purpose of determining his pension, etc.

10. The accused is in possession of, or entitled to, no military decoration or military award (*or* is in possession of *or* entitled to *state any military decoration or reward*).

11. (*If the accused is a warrant officer.*) The accused before he was made a warrant officer last held the regimental rank of ____

12. (*In the case of an officer.*) The accused holds in the army the rank of ____ dated ____ and in his regiment (*or corps or department*) the rank of ____ dated ____

(*2944) W.3317/30 1917 10,000 2/18 A.& E.W.,Ltd. Gp.699
(22857) W.[illegible] 1,017 75,000 5-41

D.A.A.G. Base

Major

Schedule of Convictions by a Court Martial or Civil Court, of summary awards under Section 47 of the Army Act and of cases in which trial has been dispensed with of accused.

No. _____ Rank _____ Name _____ of _____ Regiment (or as the case may be).

(INSTRUCTION—A verbatim extract from the regimental books, stating these convictions and dispensations with trial, must be inserted.)

Description of court by which tried, or status of officer disposing of the charge or dispensing with trial.	Date and place of trial, or summary award under A.A. 47, or of order dispensing with trial.	Charges upon which convicted, or in respect of which trial was dispensed with.	Sentence of the court or authority disposing of the charge, or order of the dispensing authority.	Punishment remitted.

I HEREBY CERTIFY that the foregoing schedule of convictions and dispensations with trial is a true extract from the regimental books in my custody.

Signed this sixth day of January 1914

James and Copplestone

13. The accused has served as a non-commissioned officer continuously, without reduction, to the present date.

Date of Promotion.

In the rank of _____ years, _____

In the rank of _____ years _____

In the rank of _____ years, _____

(Instructions—*If any matter in any of the above paragraphs cannot be stated from the regimental books the paragraph must be struck through, except that in the case of a trial by field general court-martial the information may be collected from such extracts as are available and the paragraphs retained amended accordingly.*)

EEE-15

Correspondence to be PINNED here.

Army Form A.3.

Form for Assembly and Proceedings of Field General Court Martial on Active Service.

PROCEEDINGS.

A.

Order convening the Court.

On Active Service, this Thirty-first day of January, 1944.

Whereas it appears to me, the undersigned, an officer in Command of 3 Cdn Inf Bde, on active service, that the persons named in the annexed Schedule, being subject to Military Law, have committed the offences in the said Schedule mentioned.

And whereas I am of opinion that it is not practicable that such offences should be tried by an ordinary General Court Martial; * [~~and that it is not practicable to delay the trial for reference to a superior qualified officer~~] "JGG"

*Omit where convening Officer is a Commanding Officer or is of Field Rank.

I hereby convene a Field General Court Martial to try the said persons, and to consist of the Officers appointed or detailed hereunder.

*Omit if not applicable.

* [~~I am unable to appoint :-~~

~~*(1. Three Officers to form the Court.)~~

~~*(2. A Field Officer as President.)~~ "JGG"

~~for the following reasons, namely :—~~]

Note.—The President must be named. The members and (if any) may be mentioned by name, or the number and ranks and the unit to which they belong may be given in general terms. In the latter event, the ranks, names, &c., of the members of the Court, as constituted, will be recorded on the proceedings.

Wording

*Must be signed personally by the Officer actually convening the Court, and not by any officer on his behalf.

President.

Rank.	Name.	Regiment.
Major	A.W. Rogers	West N.S.R.

Members.

Rank.	Name.	Regiment.
Captain	J.M. Bursey	Carlt. & York Regt.
Captain	G.L. Bastedo	3 Cdn Inf Bde Sp Gp (Sask L.I.)
Lieut	R.L. Dennison	West NSR

*Signed "T.G. Gibson." Brigadier

Commanding 3 Cdn Inf Bde.

Convening Officer.

(A) "A.W. Rogers Major"

SCHEDULE

Number, Rank (*a*), Name and Unit of Accused (*b*)	Offence charged	*Plea	Finding, and if Convicted, Sentence (*c*)	How dealt with by Confirming Officer (*d*)
D62815 Pte Claude GUERIN, R 22e R.	First Charge AA Sec 9(2)	Guilty	Guilty two years imprisonment with hard labour 1 Feb 44 "AWR"	Confirmed "TGG"

*Question to be asked of accused, if he pleads not guilty (R. of P. 39 (a)) :—
"Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity for preparing your defence ?"
Answer *(to be recorded on separate sheet if necessary)* :—

(*Signed*) "T.G. Gibson" Brigadier (*Signed*) "A.W. Rogers" Major

Commanding 3 Can Inf Bde West N.S.R.
Convening Officer (c) *President.*

(*a*) Appointment acting rank or acting appointment, if any, to be stated in brackets after the substantive rank.

(*b*) Unless unavoidable, not more than three names are to be entered on one form, and in serious cases one only.

(*c*) Recommendation to mercy, if any, to be inserted in this column.

(*d*) It is not necessary that the Confirming Officer should sign his name in this column. Initials are sufficient.

(*e*) Must be signed by the same Officer who signs on the first page, and all alterations in the first two columns of the Schedule to be initialled by him.

Evidence and Charge Sheets (if necessary) to be PINNED here.

B. Certificate of President as to proceedings.

I certify that the above Court assembled on the 1st day of February, and duly tried the persons named in the Schedule, and that the plea, finding, and sentence in the case of each such person were as stated in the third and fourth columns of that Schedule.

I also certify that :—

1. The members of the Court
2. The witnesses
*(3. The Interpreter)
*(4. ~~The officers under instruction~~) "AWR"

*Omit if not applicable.

were duly sworn.

Signed this 1st day of February 1944

"A.W. Rogers, Major"
President of the Court Martial.

C. Certificate in case of death sentences.

*See footnote (b) on page 767 M.M.L. 1929.

I certify that the terms of *A.C.I. 570 of 1918 have been complied with.

Signed this day of 19

President of the Court Martial.

D. Confirmation.

I have dealt with the findings and sentences in the manner stated in the last column of the Schedule, and, subject to what I have there stated, I hereby confirm the above findings and sentences.

*(I direct that the soldier named in the margin be not committed to prison or detention barrack until further orders.)

*To be omitted unless penal servitude, imprisonment or detention having been awarded, the Confirming Officer either has the authority to commit to prison or detention barrack, or, having such authority, recommends suspension.

Signed this 3 day of Feb 1944.

"T.G. Gibson, Brig."
Confirming Officer.

Promulgated and extracts taken in the case of D62815 Pte Guerin C. R. 22e. R.

(*a*) (Dated) 5 Feb 44. (Signed) "F.R. Lotoin Capt." R. 22e R.

Promulgated and extracts taken in the case of

(Dated) (Signed)

Promulgated and extracts taken in the case of

(Dated) (Signed)

(*a*) When several cases are promulgated in one unit on the same day the Officer need only sign once.

(20)724) W1-47553/247) 35,000) 12/42 A.& E.W.Ltd. Gp.A99
(21)761) W1-19938/1313) 45,000) 7/43

CHARGE SHEET

The accused D.62815 Private Claude GUERIN, a soldier of the Royal 22e Regiment, Canadian Army Overseas, On Active Service, is charged with:

B 2

1st Charge
A.A. Sec.9(2)

WHEN ON ACTIVE SERVICE DISOBEYING A LAWFUL COMMAND GIVEN BY HIS SUPERIOR OFFICER,

in that he,

In the Field, at about 1130 hours on the 5th January 1944 did not proceed to his company on the front line when ordered to do so by Captain J.B. Jalbert, Royal 22e Regiment.

"Geanallard."
(J.V. Allard), Lt-Col.
Commanding Royal 22e Regiment.

In the Field
6th January 1944.

TO BE TRIED BY FIELD GENERAL COURT MARTIAL

"T.G. Gibson"
(T.G. Gibson), Brigadier,
Commanding 3 Can Inf Bde.

In the Field
31 Jan 44

"A.W. Rogers Major"

MEDICAL OFFICERS CERTIFICATE

"AWR"

I certify that I have this morning examined No. D62815 Pte Guerin, C. of Royal 22e Regt. and in my opinion he is fit/~~unfit~~ to undergo Trial by Court Martial.

"Richard.S..Perks.Capt.".. Medical Officer.

Station In the Field

Date 1/2/44

"A.W. Rogers Major"

A Army Form A 9.

**All printed matter not applicable to the particular Court being held should be struck out as directed by the President.

**Form of Proceedings for General and District Courts-Martial.

Proceedings of a Field General Court-Martial held at Kiel
on the 1st day of February 1944 by order of
Brigadier General J.G. Gibson
Commanding 3rd Canadian Infantry
dated the 31st day of January 1944

President.

Major A.W. Rogers West N.S.R.

Members.

Captain. J.M. Bursey Carlt & York R.

Captain. J.L. Basteds Sask L.I.

~~, Judge Advocate~~

Trial of* D-62815 Pte Claude Guerin R. 22e. R.
"A.W.R."

The order convening the Court, the charge-sheet and the summary (or abstract) of evidence are laid before the Court.

~~The Court satisfy themselves that~~ ~~is not available~~ "A.W.R."
~~is absent owing to~~ "A.W.R."

, waiting member takes his place as a member of the Court.

The Court satisfy themselves as provided by Rules of Procedure 22 & 23.

The accused is brought before the Court.

Prosecutor,† Lieut J.A. Girolami. R. 22e. R.

Counsel‡ or defending officer† Lieut J.P.J. Charette R. 22e. R.

At 1450 ~~hrs~~ o'clock the Trial commences.

The order convening the Court is read, and is marked (A) signed by the President, and attached to the proceedings.

The names of the President and members of the Court are read over in the hearing of the accused, and they severally answer to their names.

Question by the President to the accused.

Do you object to be tried by ~~me as President, or~~ by any of the officers whose names you have heard read over? *Answer.* No.

(N.B.—If objection is made it should be recorded, together with the decision of the Court, on a separate sheet.)

*Here insert No., Rank, full Name, Regiment, and Appointment (if any).
† Here state Rank and Name, and Regiment (if any).
‡ Qualification to be stated.

Q(Ott) W.W.P.B.C.(O.) 80,000 wh. 240. E. & M. Ltd. G.G.(1)... Forms A 9(1).

B

"A.W.R."

The President, members and ~~judge-advocate~~ are duly sworn.

~~The following officers under instruction are duly sworn.~~ "A.W.R."

Q. Do you object to E-4437 Pte Lamoureux. A R 22e R. acting as interpreter ?

A - No, Sir. The interpreter is duly sworn.

Charge-Sheet.

The charge-sheet is signed by the President, marked B 2 and annexed to the proceedings.

Instruction. If the accused has elected to be tried under Army Act, sec. 40 (3) the fact should be here recorded.

The accused is arraigned upon each charge in the above-mentioned charge-sheet.

Are you guilty or not guilty of the [first] charge against you, which you have heard read ? Guilty

Question to the accused.

Answer.

~~Are you guilty or not guilty of the second charge against you, which you have heard read~~ ? "A.W.R."

Question.

Answer.

~~Are you guilty or not guilty of the third charge against you, which you have heard read?~~ "A.W.R."

Question.

Answer.

~~Are you guilty or not guilty of the fourth charge against you, which you have heard read?~~ "A.W.R."

Question.

Answer.

The accused having ~~pleaded Guilty~~ to the charge, the provisions of Rule of Procedure 35 (B) are here complied with.

Instruction. If the trial proceeds upon any charge to which there is a plea of "Not Guilty," the Court will not proceed upon the record of a plea of "Guilty," until after the finding on that other charge.

CC

Proceedings on Plea of Guilty.

* To be struck out in case no plea of "Not Guilty" has been proceeded with.

*~~The Court having been re-opened, the accused is again brought before it, and the charge to which he has pleaded "Guilty" read to him again:~~

The accused D-62815 Pte Claude Guerin R. 22e. R. is found guilty of the charge.

†The summary (~~or abstract~~) of evidence is read, marked (B) signed by the President, and attached to the proceedings.

Question to the accused. Do you wish to make any statement in mitigation of punishment ?

Yes

Answer. The accused in mitigation of punishment ~~says~~:— "a.w.B."

a.w.B.

[~~or~~ hands in a written statement, which is read, marked (C), signed by the President, and attached to the proceedings.]

Instruction.

* If there is no summary or abstract of evidence, sufficient evidence to enable the Court to determine the sentence, and to enable the confirming officer to know all the circumstances connected with the case, will be taken on a separate sheet in the same manner as on a plea of "Not Guilty."

† If from the statement of the accused, or from the summary or abstract of evidence, or otherwise, it appears to the Court that the accused did not understand the effect of his plea of "Guilty," the Court shall alter the record, and enter a plea of "Not Guilty," and proceed with the trial accordingly.

E

Finding.*

*To be struck out except in cases where trial has taken place on a plea of "Not Guilty."

~~The Court is closed for the consideration of the finding.~~

~~The Court find that the accused~~

Proceedings on Conviction *before Sentence.*

*When the Court is already open this sentence will be struck out.

*The Court being re-opened, the accused is again brought before it.

Evidence of character, &c.

Lieut F. A. Girolami R.22e. R. is duly sworn.

Question by the President.

Have you any evidence to produce as to the character and particulars of service of the accused? *Answer by the Witness.* Yes

The above statement [with the schedule of convictions and of cases in which trial has been dispensed with] is read, marked (1) signed by the President, and annexed to the proceedings.

Question by the President.

Is the accused the person named in the statement which you have heard read? *Answer by the Witness.* Yes

Question.

Have you compared the contents of the above statement with the regimental books? *Answer.* Yes

Question.

Are they true extracts from the regimental books, and is the statement of entries in the conduct sheets a fair and true summary of those entries? *Answer.* Yes

Cross-examined by the accused.

The accused declines to cross-examine this witness

Question to the accused.

Do you wish to address the Court? *Answer.* No.

The Court is closed for the consideration of the sentence.

1-2-44

(C) PLEA OF MITIGATION

D-62815 Pte Guerin C.

This man is now 38 years old, he enlisted on July 40. He has been 3 years overseas. And as a reinforcement, has been with this unit for the last six months. He has seen action in Sicily and Italy. He has a clean crime sheet. This man is very willing but considering his age he can't very well follow his comrades, as he is not very well fit.

He is married and has a ten years old boy

So I ask the clemency of this Court for this man, as he is willingand sincere.

"J.H. Charette. Lieut"
Royal 22nd Regt.

"A.W. Rogers Major."

M.F.M. 6
(A.F.R. 111)
40/P.A.S/136 (2827)

No. D-62815 Name GUERIN C. Sqn., Battery, or Company B Corps Inf Date of enlistment 11-7-40 G.C. Badges 1 Service or Proficiency Pay

Date of last entry in Company Conduct Sheet | No. and date of last drunk | Period not reckoning towards freedom from extra fine | Sheet No. 1 | Signature O.C. Company, etc. G. Poulin Major

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded *	Remarks
				Sheets 1 and 2 destroyed amc. R.O. 319 & 2084 Oct 42	G Poulin Maj				
Field	24-4-43	Pte	-(1)	A.A. Sec 15(1) AWL from 2300 hrs 24 Apr 43 until 0800 hrs 25 Apr 43 Total 9 hrs	L/Cpl Blais C.	3 day C.B.	25-4-43	Maj Arnoldi A.	FR&I 149(1)(a) 1 days pay G.P. Major
"	25-4-43	Pte	(2)	A.A. Sec 15(1) AWL from 2300 hrs 25 Apr 43 until 2140 hrs 26 Apr 43 Total: 22 hrs 40 minutes					

"B.J. Guimond"
Capt Adj
R. 22e. Regt.

(D) "A.W. Rogers major"

(P.T.O.)

M.F.B. 233
22M—5-41 (373-2)
H.Q. 1773-39-(3)
A.F.B. 200

STATEMENT AS TO CHARACTER AND PARTICULARS OF SERVICE OF ACCUSED

Number	Rank	Name	Regiment (or unit)
D62815	Pte	Guerin C.	R. 22e R.

1. The following is a fair and true summary of the entries in the Service and General / ~~Regimental and Squadron, Battery,~~ Conduct sheets / or Company Conduct sheets of the accused, exclusive of convictions by a Court-Martial or a Civil Court, of summary awards under Section 47 of the ~~Air Force Act~~ Army Act and of cases in which trial has been dispensed with.

	Within last 12 months	Since enlistment or appointment
For A.A. Sec 15 (1)	two times	times
For	times	times
For	times	times
For	times	times

~~Number of instances of gallantry or distinguished conduct~~ Nil

or,

There are no entries in the conduct sheets of the accused.

NOTE.—If the charge is for drunkenness, the entries for drunkenness must be stated separately.

2. The accused has not been previously convicted

or,

Previous convictions of the accused by a court-martial or a civil court, of summary awards under Section 47 of the ~~Air Force Act~~ Army Act and dispensations with trial under A.F.A. 73 / A.A. 73 are set out in the Schedule annexed to this statement.

3. The accused is not under sentence at the present time.

or,

~~The accused at the present time is under sentence for~~ beginning on the day of

4. The accused has been in confinement awaiting trial on the present charges, for days in civil custody, and 64 days in ~~Air Force~~ military custody, making a total of 64 days in custody, of which Nil days were spent in hospital.

5. The present age of the accused according to his record of service is 37 years old ~~attestation paper is~~

6. The date of his ~~enlistment~~ attestation specified in his record of service is 11 July 40 ~~attestation paper~~

7. The service which the accused is allowed to reckon towards discharge is

(D) 8. The accused is entitled to reckon service for the purpose of determining his pension, etc.

9. The accused is in possession of or entitled to no ~~air force~~ military decoration, or ~~air force~~ military reward (or is in possession of or entitled to). State any air force ~~military~~ decoration or reward.

10. (If the accused is a warrant officer.) The accused before he was made a warrant officer last held ~~Air Force~~ the regimental rank of

"A.W. Rogers Major"

SUMMARY OF EVIDENCE

In the case of D.62815 Private Claude GUERIN, a soldier of the Royal 22e Regiment, Canadian Army Overseas, On Active Service.

By direction of the Commanding Officer, this summary of evidence is taken under oath.

1st Witness: For the Prosecution.

Captain, J.B. Jalbert, Royal 22e Regiment, having been duly sworn states:-

" I am Captain J.B. Jalbert, R.22e.R. On the 5th January 1944, I, Captain J.B. Jalbert, was O.C. "HQ" company of the Royal 22e Regiment, and in charge of "B" Echelon. At about 1130 hours on the 5th January 1944, I had a parade of soldiers A.W.L. I explained to them the situation that now they have had a night or two of good sleeping and a good rest they were to go back to their respective company. I told them that their absence will be judged by their company any commander but I was now giving them a definate order to get in the truck and rejoin their company at the front line; if they refused now they were refusing to obey an order given by a superior officer according to the Military Law. I then called each name and gave to each of the accused Pte. Guerin, C. whom I now recognize, the accused answered "I dont go" or words to that effect. After I had organized those who were going back, i.e. at least five minutes later, the accused still refused to go and did not go. He was then put under close arrest

(B)

the order to get in the truck when I called the names

The accused declines to cross examine the witness.

"J.B. Jalbert" Capt.

2nd Witness: For the Prosecution

E.4591 P/Sgt. Despres, R.O. Royal 22e Regiment, having been duly sworn states:-

" I am E.4591 P/Sgt. Despres, R.O. Regimental Provst Sergeant of the Royal 22e Regiment. On the 5th January 1944, at about 1130 hours, I was present when Capt. J.B. Jalbert gave the order to Pte Guerin, C. the accused, whom I now recognize, to rejoin his company on the front line. Pte Guerin, C. did not do and refused saying "I dont go" or words to that effect. The accused di not go forward and after four or five minutes, time taken by Capt, J.B. Jalbert, to organize the ones going forward as the accused has not yet obeyed the order given though this order had been repeated, he was turned to the guard room.

The accused declines to cross examine the witness.

"Despres R.O." P/Sgt.

"AW. Rogers Major"

In the case of E.62815 Private Claude GUERIN, a soldier of the Royal 22e Regiment, Canadian Army Overseas, On Active Service.

3rd Witness: For the Prosecution.

E.4671 L/Cpl. Beaudet, E Royal 22e Regiment, having been duly sworn states:-

" I am E.4671 L/Cpl. Beaudet, E. clerk at "HQ" company of the Royal 22e Regiment, On the 5th January 1944, at about 1130 hours, I was present when Captain J.B. Jalbert ordered Pte Guerin, C. the accused, whom I now recofnize, to rejoin his company on the front line. The accused refusedsaying "I dont (B) go" or words to that effect. He did not go forward and after four or five minutes, time taken by Captain Jalbert to organize the ones going forward, as the accused had not yet obeyed this order given though this order had been repeated, he was then turned to the guard room.

The accused declines to cross examine the witness.

"Beaudet, E. L/Cpl.

The accused having been duly cautioned in French in accordance with R.O. 1124 reserves his defence.

I certify that foregoing summary of evidence consisting of two (2) pages was taken down by me in the presence and hearing of the accused and that rules of procedure 4 (c), (d), (e), (f) and (g) were duly complied with,

"Undesignerable" Lieut.
Officer taking Summary

In the Field
6th January 1944.

"A.W. Rogers, Major."

FFF-111
PTE GOERIN M.

SCHEDULE.

PART I. PLEA(S), FINDING(S) AND SENTENCE.

Accused: D 57395 Pte Marcel Guerin, R. de Mair.

Charge. (Insert "alternative" where applicable.)	Plea. (See Instrs p 2.)	Finding. (See note below.)	(Space for use as required for further charges, accused charged jointly, special findings, etc.)
1st	Not Guilty	Guilty	
2nd			
3rd			
4th			
5th			
6th			

(Note: As to findings for lesser offences see AA 56, RP 44; findings on alternative charges see MML p 483 fn 4 para 2, RP 44; special findings see RP 44 and MML p 753, and in loss of kit see RP 44 fn 6.)

~~Amount under sentence for~~ beginning on (date) (1)

(1. Insert sentence being served, or delete, if not applicable. See RP 46(A). Information should be found on MF B355 or AF B296.)

Time in confinement awaiting present trial—a total of 1 days, of which 0 days were spent in hospital.(1)

(1. See RP 46(A) fn 2. Information should be found on MF B355 or AF B296 admitted in evidence under E2.)

Sentence Awarded by the Court: to undergo detention for sixteen (16) months

(Sgd) Ewd Wilkie Mitchell (Judge-Advocate, if any) 4 MAR 44 (Date awarded) (Sgd) [signature] (President) (RP 45, 50.)

(See back of Convening Order as to assembly and disposal of record after trial.)

PART II. MINUTE WHERE CONFIRMATION RESERVED. (AA 54(5), RP 120(F), MML p 740.)

Date (Sgd) Commanding

PART III. DECISION OF CONFIRMING OFFR ON FINDING(S) AND SENTENCE.

(For duties and powers see AA 54, 57, RP 37(D) fn 6,46(A), 51-56, 120, MML pp 759-761, KR Can 567-577. Acquittals require no confirmation and cannot be revised: AA 54(3). Sending back finding or sentence for revision by Court: AA 54(2), RP 120(G). If not confirmed, accused may be tried again: AA 157, MML p 64. Minute of confirmation or non-confirmation may be altered before promulgation: RP 53, MML p 65. Quashing after promulgation: KR Can 573. Duties and powers of reviewing offrs: AA 57, 57A, RP 53A, 54. The Confirming Offr must sign here personally. AA 172 fn 1.)

My decision on the finding(s) and sentence set forth in Part I is:

I confirm the finding and sentence but remit seven months detention

~~I direct that the accused be not required to undergo detention until further order.~~ (1)

(1. AA 57A. Delete if not used.)

(Sgd) [signature] Brig.

Date MAR 04 1944 Commanding COMD 5 CDN INF BDE, Confirming Officer.

PART IV. PROMULGATED AND EXTRACTS TAKEN. (RP 52, KR Can 576, 577.)

Accused.	Date.	Signature of Offr.
D57395 pte Marcel Guerin	6 mar 44	Cyril Ruddy Capt

ALL DELETIONS AND ALTERATIONS WILL BE INITIALLED.

ALTERED TO RECORDS OF C.M. FFF 111

CPA96 (To item of AFA3) 4/0 & 5/1658 (1/44)

FIELD GENERAL COURT-MARTIAL

Convened by Order of Brig. W. J. Megill Comd 5 C.I.B. dated 3 MAR 44

ACCUSED.

(As to the trial of two or more charged jointly see RP 16, 71, 109. As to reasons for showing (a) permanent or confirmed rank, and (b) apptmt, A/rank or A/apptmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

Number.	(a) Prmnt R. (b) Apptmt, A/R or A/Apptmt.	Full Christian Names.	Surname.	Unit.
D57395	Pte (a) Lance Corpl (b)	Marcel	Guerin	R. de Mair.

PROCEEDINGS REVIEWED IN F.C. 30 Mar 44 Rev 3 REVIEWING OFFICER, JAG BRANCH C.M.H.Q.

PROCEEDINGS OF TRIAL.

Held at or in the Fd in (country) England on (date(s)) 4 MAR 44

RECORD FORM A—OPENING PROCEEDINGS AND ARRAIGNMENT.

A1. The President, Members, waiting Member, JA, if any, and Offrs under instr, if any, assemble, and the Court is closed.

(PRINTED MATTER, NOT IN ITALICS FOR GUIDANCE, WILL BE DELETED. IF NOT USED OR APPLICABLE, AND INITIALLED BY PRES OR JA. The Schedule referred to throughout is on p 4. Citations do NOT include all relevant fns RoEs. For guidance on procedure when a variation in this Form arises, see form for GCM in MML pp 741 to 759. A brief record of such variation will be made and given a number having reference to appropriate or preceding para number hereon. See back of Convening Order, CF A95, for oaths and instrs on how to record addresses, evidence, etc, which instrs are hereafter called "Notes". As to general provisions for conducting the trial see AA 58, RP 56, 62-70, 73, 74, 94, 103, 119, 132.)

A2. The President initials and lays before the Court the Convening Order and Charge Sheet(1) attached thereto.(2) The Court is satisfied that it is properly convened and constituted(3), accused is ~~not~~ amenable to military law, and each charge discloses an offence.(4)

(1. As to use of Summary of Evidence see RP 17 fn 6. 2. AA 49, 50, RP 105-107. 3. RP 11-13, 23, 24.)

A3. The Court is opened. The accused is ~~not~~ brought before the Court. At 1010 hours trial commences.

A4. The Prosecutor produces a Medical Certificate that accused is ~~not~~ fit to undergo trial by court-martial.(1) The Prosecutor informs the Court that accused elected to be tried by court-martial instead of being dealt with summarily by the CO.(2)

(1. KR Can 557. 2. AA 46(B), RP 60 fn 1. For effect see KR Can 563(c). Delete, if not applicable.)

A5. President to accused: Do you object to Lt J.C. Paradis, R de Mair as interpreter? Ans No sir

~~The Interpreter is sworn.~~ (1) Do you object to ~~as shorthand writer?~~ Ans

~~The shorthand writer is sworn.~~ (1)

(1. RP 72. Delete, if none employed.)

A6. The Convening Order and names of the President and Members of the Court are read to the accused.(1) President to accused: Do you object to be tried by me as President or by any of the Members of the Court?

Ans No sir (2)

(1. RP 110. 2. If no objection, waiting member retires. RP 68(B). If objection, see procedure AA 51, RP 25, 71, 187, MML p 742.)

A7. The President, Members, JA, if any, and Offrs under instr, if any, are sworn.(1) The following are the ranks, names and units of the offrs comprising the Court, etc:

President	Major	E Archibald	RWC.
Member	Captn	W B McDonald	Calg Hrse
Member	Lieut	[illegible] Price	RWC.
Judge-Advocate	Captn	E K McDougall	ADJA 2 Can Div
Prosecutor	Lieut	D Tremblay	R de Mair
Defending Offr	Captn	C M [illegible] de Salaberry	R de Mair

Questions by President: Is the Prosecutor a lawyer? Ans NO Is the Defending Offr a lawyer? Ans. NO (2)

(1. RP 26, 27, 109, 111. List of offrs under instr will be returned separately with proceedings for information of Conv Offr.)
(2. If no lawyer and Def Offr not, accused is entitled to an adjournment when RP 89 (B) and fn 2 were not followed. See DI p 2.)

A8. The accused before arraignment make(s) (no) ~~a~~ plea. (1)

(1. If a special plea is made for separate trial on one or more charges (RP 62(E), 108), or as to the jurisdiction of the Court (RP 34, 35(A), 112), or in bar of trial (RP 36), or as to accused's mental fitness to stand trial (AA 130, RP 57), or to one of several accused charged jointly to be tried separately (RP 16, 71), such plea, the addresses made in support or against, the evidence, if any, and finding are recorded per Notes. For forms of record see references in fns to RoP cited. Insert in AB rank and name of the accused making the plea.)

A9. The accused is ~~not~~ arraigned ~~separately~~ on all charges in the charge sheet.(1) The accused does ~~not~~ object to any charge.(2) There is no amendment to be made to the Charge Sheet.(3) The President records the pleas in Part I of the Schedule.

(1. RP 31, 112. See para 1 of Instrs p 2. When more than one Charge Sheet see RP 62; when several accused to be tried separately see RP 71(C), and use separate copies of CF A96 to record proceedings. 2. RP 32, RP 33. If otherwise, delete and make appropriate record per Notes.)

A10. The Court is closed and considers the Instrs on Procedure after Arraignment at top of p 2. The proceedings are continued on Record Form D.

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

INSTRUCTIONS ON PROCEDURE AFTER ARRAIGNMENT.

1. *The accused may not plead or be found Guilty on more than one of two or more charges laid in the alternative.* (RP 37(A).) *As to withdrawal of alternative charges by Prosecutor see RP 35(C). No other charge can be withdrawn for any reason without asthy from Convening Offr. If Convening Offr concurs, Court may accept plea of Guilty to lesser, etc, offence.* (RP 44(H).) *Accused may change a plea of Not Guilty to Guilty during trial.* (RP 38.) *As to refusing to plead or not pleading intelligibly see RP 35(A). As to plea when sentence may be death see RP 35(D).*

2. *The proceedings on each charge sheet (RP 62) after arraignment will be conducted as follows in the respective circumstances stated:*

I. If pleas to all charges are GUILTY, use Record Form B below.

II. If pleas to all charges are NOT GUILTY, use Record Form D on p [redacted] *3.*

III. If pleas to some charges are GUILTY and to other charges are NOT GUILTY and,

(a) Such mixed pleas occur when there are no alternative charges in the Charge Sheet, use Record Form C below. (RP 37(A).)

(b) Such mixed pleas occur in a set of two or more charges laid in the alternative, see RP 37 (A) and fn 2 as to discretion of Court, (i) to try the accused on all such alternative charges as if he had pleaded Not Guilty thereto, or, (ii) to record the pleas as the findings of Court. After deciding between (i) and (ii), Court will proceed under foregoing instrs as may be appropriate to result of its decision. See MML p 744 Instrs (2).

3. As to responsibility of President to accused see RP 59, 60(C); powers and duties of J.A. see RP 103; duty of Prosecutor see RP 60(A) (B); duty and privileges of accused and Defending Offr see RP 60(C), 87(C), 91, 92; swearing and withdrawal of witnesses from Court see RP 81, 82; questioning of accused see RP 80, 87(C), 92(B), and of witnesses see RP 83-85; calling or re-calling of witnesses by Court etc see RP 75-79, 86, 116; use of Summary of Evidence at Trial see RP 17(E) fn 6; and responsibility of J.A. or Pres to record proceedings see RP 94, 96.

RECORD FORM B—PROCEEDINGS ON PLEAS OF GUILTY TO ALL CHARGES.

B1. The President or J.A. if any, complies with RP 35(B) by explaining to the accused the nature and meaning of the charge(s)(1), and that on his plea of Guilty there will be no regular trial but merely a consideration of the sentence to be awarded after he has been given an opportunity to make a statement in reference to the charge(s), call witnesses as to character and make an address in mitigation of punishment.(2)

(1. RP 35 fn 2. 2. MML p 54 para 47.)

B2. President to accused: The Court will now receive any statement you desire to make in reference to the charge(s).(1) If it appears from your statement that there are circumstances which indicate that you do not understand the effect of the plea of Guilty(2), or which show provocation or extenuation in respect of which in your interest the witnesses for the Prosecution should be examined(3), we shall advise you to change your plea to Not Guilty. In making a statement you will not be sworn or subject to cross-examination; and anything you say will not be used in evidence against you after you change your plea. If, however, it appears to the Court that your statement affects only the amount of punishment for which you are liable, you will not be advised to change your plea and you will be given an opportunity later to prove your statement by sworn testimony, if you so desire.(4)

President to accused: Do you wish to make a statement? Ans _____(5)

(1. RP 37(B). 2. RP 37(D) fn 6. 3. RP 37(D) fn 5 para 2, MML p 54 para 47. 4. See para E3 of Record Form E. 5. Statement, if any, recorded per Notes.)

B3. The Court considers the accused's statement.(1) The Court decides (not) to advise accused to change his (their) plea(s) of Guilty to Not Guilty on _____ charge(s). The accused is (are) so informed, and he (they) change(s) his (their) plea(s) on _____ charge(s). Part I of the Schedule is amended accordingly.

(1. Court may be cleared to consider the statement. Delete whole or part not used.)

B4. On the charge(s) to which the plea(s) of Guilty is (are) not changed the President records finding(s) of Guilty in Part I of the Schedule.(1)

(1. RP 35(B). If any plea(s) is (are) changed, use Record Form C or D as appropriate.)

B5. The Summary of Evidence is marked Ex _____, initialled and read aloud by the President.(1)

(1. If there is no Summary, or if it is inadequate, comply with RP 37(B). If there is any evidence inconsistent with any plea standing as Guilty, Court will advise accused to change such plea and, if changed to Not Guilty, try such charge(s) by one of paras D1 to D8 inclusive of Record Form D on p 3. RP 37(D).)

B6. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

RECORD FORM C—PROCEEDINGS ON MIXED PLEAS OF GUILTY AND NOT GUILTY.

C1. As to the charge(s) on which accused pleaded NOT GUILTY the trial is continued by using paras D1 to D8 inclusive of Record Form D on p 3 before proceeding with C 2.(1)

(1. RP 37(A) (E).)

C2. The charges on which accused pleaded GUILTY are read to him (them) again, and the trial is continued by using paras B1 to B5 of Record Form B above.(1)

(1. Under B5 such parts only of the Summary of Evidence will be read as relate to the charges dealt with under C2. If any plea is changed to Not Guilty, trial thereon proceeded to by complying with paras D1 to D8 inclusive in Record Form D on p 3 and making an appropriate record thereof on a separate sheet.)

C3. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

Pin here Loose Sheets of Record.

RECORD FORM D—PROCEEDINGS ON PLEAS OF NOT GUILTY TO ALL CHARGES.

D1. President to accused: Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity to prepare your defence? Ans No (1)

(1. If "yes", see RP 39(A) for procedure. Statement or evidence, if any, is recorded per Notes.)

D2. The Prosecutor makes [redacted] (no) opening address.(1)

(1. RP 39(B), 60(A) (B), 90, 92(C) (D). Record address per Notes, subject to RP 95(C).)

D3. The evidence for the Prosecution is taken.(1)

(1. RP 39(C), 114, KR Can 555. Record evidence per Notes. As to Prosecutor giving evidence himself see RP 39(D) (E).)

D4. The Prosecution is closed.(1) The Defending Offr submits that the evidence for the Prosecution does not establish a prima facie case against the accused on the _____ charge(s).(2) The Court is reopened, and the President announces that the submission is closed, and considers the submission.(3) The Court is reopened, and allowed on the _____ charge(s), and allowed on the _____ charge(s), and is disallowed on the _____ charge(s), and that, accordingly, the trial will proceed on the former, but the accused is (are) found Not Guilty on the latter charge(s).(4)

(1. Delete remainder of this para, if submission not made. 2. Arguments on submission, answer and reply are recorded per Notes. 3. RP 40 fn 1. See MML p 72 paras 12-14 and p 81 para 42. 4. Delete part not used. If accused acquitted on all charges, use second alternative in para D8.)

NB: If trial proceeds, accused must be allowed great latitude in making his defence, and the Court should not stop his defence solely on ground of irrelevance. (RP 60(C), 114, 115.)

D5. President to accused: You will now proceed with your defence.(1) You may, if you wish, give evidence yourself on oath as to the facts or your character or both, in which case you will be subject to cross-examination.(2) You may, however, make a statement without being sworn, and you will not be subject to cross-examination.(3) But a statement which could have been made on oath will not carry with the Court the same weight as sworn testimony.(4) You may call witnesses in your defence and as to character, whether you give evidence or make a statement or do neither.

President to accused: Do you wish to give evidence yourself as a witness, make a statement, or do neither? Ans I wish to give evidence on oath. Do you intend to call witnesses on your behalf? Ans No Sir. Are they witnesses as to character only? Ans _____

(1. RP [redacted] 2. RP 40(A), see 80(D). 3. RP 40 fn 10. 4. RP 40 fns 2, 9.)

D6. Consequent on the answers recorded in para D5 the appropriate procedure for the defence is followed.(1)

(1. RP 114, 115, 116. For procedure see Notes on back of Convening Order, CF A95. Evidence for accused as to his character should, if in his interest, be given before the finding. See RP 46(A) fn 1, 86(C). Note the further opportunity in para E1 of Record Form E. Record per Notes addresses, statement, evidence and any summing up by the JA under RP 42, 103(e).)

D7. The Court is closed to consider the finding(s).(1) The finding(s) of the Court is (are) recorded in Part I of the Schedule.(2) The Court is re-opened.

(1. RP 43, 117(A). See Notes in Part I of Schedule. 2. RP 44(A).)

D8. The President announces the finding(s), if any, of Not Guilty, and states to the accused that the finding(s) of the Court on the _____ charge(s), being subject to confirmation, will be promulgated later.(1)

On the President announces that the accused is adjudged Not Guilty on all charges and is to be returned forthwith, and that the proceedings are accordingly terminated.(2)

(1. AA 54(J) (6), RP 45, 120(A). 2. AA 54(J), RP 45, 117. This alternative announcement is not applicable when there are pleas of Guilty outstanding and dealt with under Record Form B or C.)

D9. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E below.

RECORD FORM E—PROCEEDINGS ON CONVICTION BEFORE SENTENCE.

E1. President to accused: Do you wish to give evidence yourself or to call any witnesses as to your character?(1)

Ans No Sir

(1. If evidence has already been given by accused or his witnesses as to his character, delete this para. RP 37(C) fn 4, 46 fn 1. Accused and witnesses are sworn. Evidence recorded per Notes.)

E2. The Prosecutor produces Statement(s) as to Character and Particulars of Service(1), and certified true copy (copies) of Conduct Sheet(s)(2), purporting to refer to the accused, which he submits to the Defending Offr for examination, and then to the Court for admission in evidence. The Court is satisfied that these documents refer to the accused, because (i) they purport to be signed in the manner required by AA 163(1) (g) (h), and (ii) they purport to refer to (a) soldier(s) having the same number, rank, name and corps as the accused. Admitted in evidence and marked Ex 7 and Ex 2 respectively.(3)

(1. MFB 353 or AFB 296. 2. MFM 6. 3. RP 46, KR Can 558. If above documents not produced, see RP 46 fn 1 para 1.)

E3. President to accused: Do you wish to address the Court on the Statement(s) and Conduct Sheet(s), and in mitigation of punishment?(1) Ans Yes, I have my Defence

(1. RP 37(C), 46(D). 2. Address, if any, recorded per Notes. Court should permit accused or his witnesses to prove on such anything here or previously stated which would affect the amount of punishment. RP 37(F) fn 7.)

E4. The President states that the Court is closed to consider the sentence, and that the sentence to be awarded by the Court, being subject to confirmation, will not be announced, but will be promulgated later, and the proceedings in open court are accordingly terminated.(1)

(1. AA 54(6), RP 120(A).)

E5. The Court considers the sentence.(1) The President records the sentence in Part I of the Schedule, which is dated and signed by him and the J.A. if any.(2) [illegible]

(1. When several accused tried separately see RP 82(b). One sentence only, comprised of the punishment or punishments laid down in AA 41, 44 and its proviso, is to be awarded to cover all charges in all charge sheets on which accused found guilty. RP 48. As to sentences see AA 44, 136, 182, RP 46-50, 69, 118, 119(A), KR Can 308, 330, 563-566, Overseas AO 309, 2323, MML p 60, 737-739. As to sentences assigned for civil offences by the law of England see AA 41(5), MML p 130. Where accused already under sentence of imprisonment or detention see AA 44(1B), 68(1), KR Can 564. 2. RP 50. As to release from arrest by Confirming Offr see KR Can 567. As to assembly and disposal of record after trial see instrs on back of Convening Order.)

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

2 Motfreal Mayor
Pte.

CHARGE SHEET

The accused, D-57395 Pte Marcel Guerin,
Le Regiment de Maisonneuve, a soldier of the Canadian Army
Overseas, is charged with:

FIRST CHARGE
Sec 8 (1)
Army Act

STRIKING HIS SUPERIOR OFFICER BEING IN THE EXECUTION OF THE OFFICE,

in that he,

in the field, at approximately 2220 hours, on the 26 Feb 44, struck with his fist in the face D61676 Pte (A/Cpl) Gagne W. R. de Mais, who was at the time company orderly corporal engaged in making his tattoo report.

Dated this 27th day
of Feb 1944

(H.L.-Hisaillon), Lt.-Col.,
Commanding Officer
Regiment de Maisonneuve CA(AF)

TO BE TRIED BY F.G.C.M.

3 Mar 44 (W.J.Megill) Brigadier
Comd 5 Cdn Inf Bde

E. Motzfeldt, Major
Prosecutor

FIELD GENERAL COURT-MARTIAL

CFAA5 (In lieu of AFAP 40/PAM/1687 (2nd))

(Whether the accused to be tried is under his comd or not, a FGCM may on application to him be convened by any offr of Cdn Army Overseas, or of any other force if authorized in law, in immediate comd of troops on active service, subject to RP 105(C) and restrictions imposed by appropriate authy. AA 49, 50, RP 104-107, 114. As to the duties and privileges of the Convening Offr in dealing with the application see MML Chap V paras 20 and 23, RP 87(B).

There should be a separate Convening Order for each person to be tried separately by the same Court. RP 71(C), 109. As to separate charge sheets see RP 62, and as to separate trial on charges in the same charge sheet see RP 106. As to two or more accused charged jointly see RP 16, 109.

As to reasons for showing (a) permanent or confirmed rank, and (b) apptmt, A/rank or A/apptmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

ACCUSED.

Number.	(a) Prmnt R.	(b) Apptmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
D57395	Pte		GUERIN,	Marcel	R de Mais.

CONVENING ORDER.

1. Whereas complaint has been made to me, the undersigned, that the person named above as the accused, being subject to military law, has committed the offence(s) set forth in the Charge Sheet attached and endorsed by me on (date) 3 Mar 44 To be tried by Field General Court-Martial ",

2. And whereas I am of opinion that it is not practicable that such offence(s) should be tried by an ordinary General Court-Martial ;

(Delete part in brackets when not required for compliance with RP 105(C).)

3. I hereby convene a Field General Court-Martial to try the said person and to consist of the Offrs appointed or detailed hereunder.

(AA 49, RP 106(3), 107(A). Delete the whole or part, if not applicable.)

(RP 106(E). Delete, if none appointed.)

PRESIDENT.

Major (Rank.)	E. Motzfeldt (Must be named. RP 106.)	R H C (Unit.)

MEMBERS.

Capt.	W.B.McQueen	Calg Highrs
Lieut (Rank.)	E.D.Price (CIC) (Named or detailed. RP 106.)	R H C (Unit.)

WAITING MEMBER.

Lieut (Rank.)	To be detailed by OC R de Mais. (Named or detailed, if any. RP 106.)	R de Mais (Unit.)

JUDGE-ADVOCATE.

Capt. (Rank.)	E.K. McDougall (Must be named, if any. RP 106.)	ADJA 2 Cdn Inf Div (Unit.)

On Active Service in the Fd

in UK (Country.)

(Signed personally. RP 105 fn 2) Brigadier (Rank.)

(W.J.Megill) Brigadier
Comd 5 Cdn Inf Bde

Date: 3 Mar 44 Commanding Convening Officer.

CONVENING OFFR WILL INITIAL ALL DELETIONS AND ALTERATIONS

(See overleaf for oaths and notes for use on trial.)

D57395 Pte

Guérin M of R de Maisonneuve CAAF

In The Field

Boulrobert Capt

4th D.F.
6 March 1944

A/Maj for Major

1st Witness for Prosecution. D 6607 Cpl. Greene A.W.
Regt de Main, having been duly sworn.

On 23 Feb 44 at approx. 2220 hrs I was doing my duties as C.O.C re the latter reports. I entered No 1 Room to see if there was a Corporal in the room to give me the report of those present. The Rec. was in the room. He answered as I asked for the Cpl. He ordered me to get out of the room & told me that he was the Cpl. I turned to leave the room and he closed the door roughly. I opened it & Guerin caught me by the collar and pushed me into the hallway & then struck me.

Cross Ex. There was a Cpl in the room but he was asleep. The door was locked when I was in the hallway then I heard the kick. The lights were on in the room. I didn't want any arguments in the room and that's why I started to leave the room. That is why I didn't want him for being in the room.

Doke Ex.

By J.A. It happened on the 26th not the 23rd. I was in uniform at the time & properly dressed. My stripes were on that uniform. The lights were on in the room. It is part of my duties as C.O.C. to check up on every room. I was carrying out my orders any duties at that time. I have known the Rec. for about a year. I don't know if he recognised me or not that night. Guerin is not a member of the Coy. I was checking on the list me in the place with him first. This was the usual time for checking the rooms. The report must be in by 2030.

The offence was actually committed in the hall there was no light actually in the hall but two doors were open & light shone through. I know Rec in Bogwor. I was not a Cpl then. It was light enough for him to see my stripes. Before that night I had no reason to believe he knew I was a Cpl. I was in battledress

RP 83 (6) complied with.

2nd Pvt. Int. D 66084 Cpl Cowtie, H. E. de Main, duly sworn is examined :-

At about 2230 hours on 26 Feb 44 I was returning to my room by the bed. I saw a private soldier hit Cpl. Cowie in the face. I did not know the soldier at the time but when he was paraded the next night I could identify him as the door was open.

Cross Exam

I came in between 2215 & 2230 hours. The striking took place on the 2nd landing on part of the door of my bed room. The 2nd landing is on the same level as the room where the men sleep. I met Cpl before he hit him - I don't know what happened. On coming the stairs I saw nothing. I heard an argument before I saw the actual striking. I did not hear what the argument was about. I heard the two voices only. I made out no words at all. There was no light on the hall. When I saw the Cpl struck, Cowie told me I'd be a witness. The dec then let him go. The blow was struck by the right fist

No Re Ex.

RP 83 (6) complied with

Defence

The Accused

D 57395 Pte. Manuel Fuscas, Rde Main, sworn is examined :-

On the night I left after supper went to the pub. I drank beer & spirits mixed all evening. I left pub at closing time & did not know what was going on. Before leaving it I found I was on D Coy lines I don't remember any thing that happened from the time I left the pub. I don't know Cowie.

No Cross Ex

By Court - I don't know if light was on or not. I don't know whether I was dressed or not. I had £5-10-0 when I went out. I was at three pubs.

I heard about a pound the next morning. I got drunk like that now & then. Sometimes twice a month sometimes once.

R Pos (b) complied with.

D 61677 Cpl Empey recalled by the Court:.

I cant say whether next he was sober but I would say he had had some liquor. I could understand his words easily. I dont know how he got to his own room. It was a hard preach. It was not in shoes.

I saw the Acc. the next day.

Acc. walked steadily from where he stood to the door.

R Pos b complied with

CANADIAN LEGION WAR SERVICES Inc.

CANADIAN KNIGHTS OF COLUMBUS WAR SERVICES

ON ACTIVE SERVICE

CANADIAN Y.M.C.A. OVERSEAS

THE SALVATION ARMY CANADIAN WAR SERVICES

The Def submits that the accused did not know the identity of Cpl. Bryant.

There was no direct light where the blow was struck and Cpl Bryant did not identify himself to the accused.

The accused could have ordered out of the room by someone whom he did not know and when he refused that order was certainly not taken - whether justifiably convinced the accused that he was dealing with another private. Otherwise he would have been placed under arrest immediately.

The accused does not belong to the same corp as the Cpl and in the insufficient light we have only right to think that the accused did not realize it was Cpl Bryant as all Cpls, especially as he was in a inebriated state.

Sgt

CFA 170 (4/65)

PLEASE WRITE ON BOTH SIDES

I A Sums Up

Ct. has heard facts. Now must deal with them
Certain elements must be proved by the prosecution
Out lines the elements necessary. Will explain law, ask facts.
Acc. has raised defense of drunkenness. In this
respect reads MML p106. Explains the element of
intent. Credibility of witnesses explained.
Pros. must prove charge.
Reasonable doubt must be construed in favour of
the Acc. Reasonable doubt defined.
Acc innocent until proved guilty

Statement in Mitigation

Ask for clemency of Court.
Acc. was drunk. This is no excuse but is
a reason for leniency. Guess had had too
much to drink. Acc. has always done
his job.
Ask Court for leniency.

LIST OF WITNESSES FOR THE PROSECUTION

D-60364 Cpl. Contre F. — F. de Nels.
D-61076 A/Cpl. Cagne V. — F. de Nels.

LIST OF WITNESSES FOR THE DEFENCE

Nil

LIST OF EXHIBITS

Nil

SUMMARY OF EVIDENCE IN THE CASE OF No. D57395 Pte Marcel Guerin, Le Regiment de Maisonneuve, a soldier of the Canadian Army Overseas.

SHORT STATEMENT OF CHARGE.

(1) USING VIOLENCE TO HIS SUPERIOR OFFICER. Sec 8(1)

The accused is informed of his rights.

The accused demands the evidence be taken on oath.

FIRST WITNESS FOR THE PROSECUTION

D-66084 Cpl Contre A., Le Regiment de Maisonneuve, having been duly sworn, states:

At 2220 hrs on the 26th of Feb 44, I was returning to my room. On reaching the hallway on the second floor, I saw an unknown soldier strike D-61676 A/Cpl Gagne W. in the face. I now recognise the accused as the soldier, who struck the corporal.

(D-66084 Cpl Contre A.)

The accused declines to cross-examine

SECOND WITNESS FOR THE PROSECUTION

D-61676 A/Cpl Gagne W. Le Regiment de Maisonneuve, having been duly sworn, states:

At 2220 hrs on the 26th Feb 44, while I was making the tattoo, I went in room No 1 of my billet, to see if there was an N.C.O. in the room to report his men present, and D57395 Pte Guerin M. said that he was the N.C.O. and ordered me to get out of the room, and not to bother him. I told him to mind his own business, then D57395 Pte Guerin M. grabbed me by the collar, pushed me in the hallway and struck me on the face. I was in uniform and my stripes were visible. I have known Guerin for some time. On that day I was company orderly corporal and it was part of my duties to check up every room in the company and submit a report thereon to the Orderly Room.

(D-61676 A/Cpl Gagne W.)

The accused declines to cross-examine.

The accused having been duly cautioned in accordance with R.P. 4 (E) says:-

" I do not wish to say anything".

The accused does not wish to call witnesses in his defence at this point.

CERTIFIED THAT R.P. 4 complied with
In the Field
28th Feb.44

(D.V. Trembley), Lieut.
Officer detailed to take the summary .

No D-5[illegible] Name Gunner H Sqn, Battery, or Company [illegible] Corps Date of enlistment 19 JUN 40 Badges Service or Proficiency Pay MFM 6 (AFB 532) 40/1488(30)52438A

Date of last entry in Company Conduct Sheet N/A No and date of last drunk N/A Period not reckoning towards freedom from extra fine N/A Sheet No 1 Signature OC Company, etc A Capt 4F Character

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of other disposing with trial	By whom awarded	Remarks
Field	19 Jun 40	Pte		A.A.O. 431 Absent from 1930 hrs 16 Dec 41 - until 1700 hrs 16 Dec 41 (8 hrs - 30 MINS)	Lt H. Brandon	7 days F.P	17 Dec 41	Capt H. E. Cartwright	8 days Conf FP 1 & 2
Field	19 Jun 40	Pte		A.A.O. Neglect to do his guard duty	Lt J.E. Colyer	21 days F.P	20 Jan 42	Capt J. Cochrane	21 days Conf FP 1 & 2
Field	19 Jun 40	Pte		Committing a civil offence	Detective Sgt	1 month imp.	4 Feb 42	Civil Court	2 months FP
Field	19 Jun 40	Pte		A.A.O. Conduct to the prejudice of good order & discipline in that he when acting as Friend to go absent without leave	Cpl H Desbrisay & Sgt Cunningham	15 days Pay	19 Feb 42	Major	15 days Pay
Field	19 Jun 40	Pte		Civil offence - Breaking plate glass	Police	1 month imp.	22 Feb 42	Civil Court	1 month FP 1 & 2
Field	19 Jun 40	Pte		A.A.O. 40 Absent from 2200 hrs 7 June 42 until 1030 hrs 7 June 42 (12 hrs 30 MINS)	Sgt Cunningham & Cpl Bassett	7 days F.P	11 June 42	Lt Col Mathews	7 days Pay
Field	19 June 40	Pte		A.A.O. 40 Absent from 2200 hrs 14 June 42 until 1400 hrs 15 June 42 (16 hrs)	Cpl Bassett & Sgt Brown	21 days F.P	19 June 42	Lt Col Mathews	21 days Pay
Field	19 June 40	Pte		A.A.O. 40 Absent from 2300 hrs 18 June 42 until [illegible]	Cpl Bassett & Sgt Cunningham	[illegible]	[illegible]	[illegible]	[illegible]

(PTO)

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
				1. Absent A.W.L. from 2030 hrs 16 Aug 43 until apprehended by Regt. Police at 2030 hrs 17 Aug 43 (3 DAYS)	Capt Talbot Lieut Cuthbert				
Camp 43				Loss Identity Disc (Serial) No Record Available					
Field	1-2-44	26		1. (a) Was rude & insolent in language toward his superior officer	Lt. Racine Maj. Massue CSM. Perrin	7 days C.B.	3-2-44	Maj. Massue	
Field	1-3-44	26		1. (a) Conduct to the prejudice of good order & discipline in that he was late on parade for Reveille	Maj. Massue	2 days C.B.	12-2-44	Maj. Massue	

Certified True copy from the Regt'l Books in my custody

Capt'n & Adjt'y 43 Fd Regt

No D-5[illegible] Name [illegible] Sqn, Battery, or Company [illegible] Corps

Date of last entry in Company Conduct Sheet N/A | No and date of last drunk N/A | Period not reckoning towards freedom from extra fine N/A | Date of enlistment 19 JUN 42 | Sheet No 1 | Badges | Signature OC Company, etc P. GRAVEL Lt | Service or Proficiency Pay | Character

MFM 6
[AFB 122]
40/PAM/126 (3438)

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or order dispensing with trial	By whom awarded	Remarks
Field	16 DEC 42	Pte		A.D.(W) 4 hrs from 1200 hrs on 16 DEC 42 until 1200 hrs 18 DEC 42 (48 hrs - 30 MINS)	C.S.M. Richardson	7 days F.P.	18 DEC 42	Capt. W. E. [illegible]	7 days F.P.
Field	17 Dec 42	Pte		[illegible]					
Field	[illegible]	[illegible]		[illegible]	Lt. J.C. Robson	21 days F.P.	22 Jan 43	Capt. J. Morgan	21 days F.P.
Field	[illegible]	Pte		A.D.(W) Conduct [illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]
Field	[illegible]	Pte		Found to go A.W.L.	C.S.M. Richardson	14 days F.P.	18 Feb 43	[illegible]	14 days F.P.
Field	[illegible]	Pte		[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]
Field	[illegible]	Pte		[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]
Field	[illegible]	Pte		[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]
Field	[illegible]	Pte		[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]

(PTO)

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
				1. 5.12.43 2. Wilful damage per Sec 17 Army Act absented himself from Parade at 2.30 hrs 17 Aug 43 (SIX DAYS)	Lieut Cabot Sgt. Cullen				
Aug 43				Left Normandy Front (Covid) No Record available					
Ficht	1-2-44	6		Used obscene language towards his superior officer	A Racine Maj. Mason CSM. Harris	7 days C.B.	3-2-44	Maj. Mason	
Ficht	1-2-44	16		Drunk & disorderly conduct, assaulted his wife in Perth Restaurant	Maj. Mason	2 days C.B.	12-2-44	Maj. Mason	
				Certified true copy from the Regt'l Books				in my custody	
				Paymaster Capt					
				for Major					
				R de Main					

Y 2/11

Sc. No. 57 372 ... Rank ... Pte ... Name ... [illegible] ... Unit ... R de Mai

Age ... 24 ... Married or Single ... Single ... No. of Dependents ... none

Number of days in close arrest awaiting trial ...

Civil N/A ... Military ... 6 ... Hospital N/A ... Total ... 6

Dates of appointments, promotions etc. (if any) ...

4 Mar. 1944
Date

Cyril Riddell Lt
Officer i/c records

R de Mai
Unit

Q.C-146 (Case #2)
PTE GUERIN O.
see V-17 for 1st case

E-4442 Pte Oscar GUERIN
R. 22e R., 5 Cdn Inf Bde Unit

QQ-146

Correspondence to be PINNED here.

Army Form A.3.

Form for Assembly and Proceedings of Field General Court Martial on Active Service.

PROCEEDINGS.

A.

Order convening the Court

On Active Service, this second day of October, 1943.

Whereas it appears to me, the undersigned, an officer in Command of "A" Group Canadian Reinforcement Units, Canadian Army, Overseas, on active service, that the persons named in the annexed Schedule, being subject to Military Law, have committed the offences in the said Schedule mentioned.

And whereas I am of opinion that it is not practicable that such offences should be tried by an ordinary General Court Martial; *[and that it is not practicable to delay the trial for reference to a superior qualified officer.]

*Omit where Convening Officer is a Commanding Officer or is of Field Rank.

I hereby convene a Field General Court Martial to try the said persons, and to consist of the Officers appointed or detailed hereunder.

*[I am unable to appoint ~~xxxx~~
*(1) Three Officers to form the Court.]
*(2) A Field Officer as President.]
for the following reasons, namely:—]

*Omit if not applicable.

15 Oct 43

Nota.—The President must be named. The members and waiting members (if any) may be mentioned by name, or the number and ranks and the unit to which they belong may alone be named. In the latter event, the ranks, names, &c., of the members of the Court, as constituted, will be recorded on the proceedings.

President.

Rank.	Name.	Regiment.
Lt.-Col.	D.L. Redman, VD	HQ CRU

Members.

Rank.	Name.	Regiment.
Capt.	W.R. Skinner (R. Sup. R.)	2 CRU
Lt.	W.F. Aitken (R. Wpg. R.)	"
Waiting Member Lt.	A. Johannesson (Governors of C.)	"

*Must be signed personally by the Officer actually in command at the time, and all alterations in the composition of the Court to be initialled by him.

*Signed J.A. Calder
(J.A. Calder) A/Col.,
Commanding A" Gp Cdn Rft Units,
(A.O.). Convening Officer.

SCHEDULE

Number, Rank (*a*), Name and Unit of Accused (*b*)	Offence charged	*Plea	Finding, and if Convicted, Sentence (*c*)	How dealt with by Confirming Officer (*d*)
E-4442, Pte. Oscar GUERIN R. 22e R., 6 CIRU	First Charge A.A. Sec. 15 (1)	Guilty	Guilty Sentence To undergo detention for a period of ninety (90) days. (SEE CHARGE SHEET ATTACHED) 4th Oct 1943 MM	Confirmed A.C.A.

I have satisfied myself that none of the Officers detailed as members of this Court have previously served upon any Court of Inquiry respecting the matters forming the subject of the charge before this Court Martial.

Date 4th Oct, 43 — President of the Court.

*Question to be asked of accused, if he pleads not guilty (R. of P. 39 (a)) :—
"Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity for preparing your defence?"
Answer (*to be recorded on separate sheet if necessary*) :—

(Signed) A.A. Calder — (Signed) MM
(A.A. Calder) A/Col., Commanding "A" Gp. Con Bft Units, C.A.(O). — Confirming Officer (*d*) — President.

(*a*) Appointment acting rank or acting appointment, if any, to be stated in brackets after the substantive rank.
(*b*) Unless unavoidable, not more than three names are to be entered on one form, and in serious cases one only.
(*c*) Recommendation to mercy, if any, to be inserted in this column.
(*d*) It is not necessary that the Confirming Officer should sign his name in this column. Initials are sufficient.
(*e*) Must be signed by the same Officer who signs on the first page, and all alterations in the first two columns of the Schedule to be initialled by him.

Evidence and Charge Sheets (if necessary) to be PINNED here.

B. Certificate of President as to proceedings.

I certify that the above Court assembled on the 4th day of October 1943, and duly tried the persons named in the Schedule, and that the plea, finding, and sentence in the case of each such person were as stated in the third and fourth columns of that Schedule.

I also certify that :—

*Omit if not applicable.

1. The members of the Court
MM 2. ~~The witnesses~~
MM *(3. ~~The Interpreter~~)
*(4. The officers under instruction)

were duly sworn.

Signed this 4th day of Oct 1943

MM
President of the Court Martial.

C. Certificate in case of death sentences.

*See footnote (3) on page 1364, M.M.L. 1929.

MM ~~I certify that the terms of *A.C.I. 370 of 1918 have been complied with.~~

MM ~~Signed this day of 19~~

President of the Court Martial.

D. Confirmation.

I have dealt with the findings and sentences in the manner stated in the last column of the Schedule, and, subject to what I have there stated, I hereby confirm the above findings and sentences.

*To be omitted unless penal servitude, imprisonment or detention having been awarded, the Confirming Officer either has no authority to commit to prison or detention barrack, or, having such authority, recommends suspension.

~~*(I direct that the soldier named in the margin be not committed to prison or detention barrack until further orders.)~~ Good

Signed this 4th day of Oct 1943.

A.A. Calder A/Col
Confirming Officer.

COMMANDING "A" GROUP CONSTRUCTION UNITS. C.A.(O.)

Promulgated and extracts taken in the case of E/4442, Pte. Oscar Guerin R.22e R. 6 C.I.R.U.

(a) (Dated) 5 Oct 43 (Signed) Lt. Barrette a/capt Adjt 6 C.I.R.U.

Promulgated and extracts taken in the case of

(Dated) (Signed)

Promulgated and extracts taken in the case of

(Dated) (Signed)

(*a*) When several cases are promulgated in one unit on the same day the Officer need only sign once.

(23844) W1.23300/411 40,000 12-42 A.& E.W.Ltd. Op.688

CHARGE SHEET

The accused, No E-4442, Private Oscar GUERIN, of the Royal 22e Regiment, on the strength of No 6 Canadian Infantry Reinforcement Unit, a soldier of the Canadian Army Overseas, is charged with:

FIRST CHARGE
SECTION 15 (1) ARMY ACT. WHILST ON ACTIVE SERVICE, ABSENTING HIMSELF WITHOUT LEAVE,

in that he,

at Algonquin Camp, Witley, Surrey, did, absent himself without leave from 2359 hours on the 23rd of August, 1943, until he was arrested in London at 1900 hours on the 20th day of September, 1943.
(Total absence: 27 days, 19 hours, 1 minutes)

W Taschereau
.....
(G.O. TASCHEREAU), Lt/Col.
Officer Commanding,
"H" Wing, 6 Cdn Inf Rft Unit

Algonquin Camp,
Witley, Surrey,
30th day of Sep, 1943.

To be tried by Field General Court Martial.

2 Oct 43

(J.A. Calder) A/Col.,
Comd.,
"A" Gp Cdn Rft Units,
C.A.(O).

Medical Officers' Certificate
K.R. (Can) para 557

I certify that I have this morning examined No. E 4442 (Rank) Pte (Name) GUERIN. O.
of R 22 R and in my opinion he is fit to undergo
unfit
trial by C ourt Martial.
Station #6 C.A.R.D.
Date 1st Oct: /43

Sgd _____ (Medical Officer)

PROCEEDINGS OF A FIELD GENERAL COURT-MARTIAL
HELD AT Algonquin Camp, Wilby, Surrey, 1943
ON THE 14th DAY OF October

The accused Pte Cpl Turvin .....Unit. R.C.A.S.C. 33rd Regt ..... 6 C.I.R.U

The order convening the Court and charge sheet are laid before the Court, who satisfied themselves as provided by Rs.P. 22 and 23.

The accused is brought before the Court.
The Medical Certificate is laid before the Court.
The order convening the Court is read by the President.
And the accused having been asked stated that he had no objection to the President or any Member of the Court.
The Court is duly sworn.

The following constitute the Court:-

President. Lt-Col. E.S. Rumsey R.A. Unit. 7 Cdn. C.R.U.

Members. Capt. W.K. Shirley .....Unit. 2 C.I.R.U.

Lt. N.E. Luther .....Unit. 2 C.I.R.U.

The officers under instruction are duly sworn:-

Lt A Johannesen .....Unit. 2 C.I.R.U.

Capt. H.A. St. Amand .....Unit. 6 C.I.R.U.

Prosecutor. Lt. M.P. Menard .....Unit. 6 C.I.R.U.

Defending Officer Lt R Charlton .....Unit. 6 C.I.R.U.

The charge sheet is signed by the President and the accused is arraigned.
The accused pleads guilty to the charge(s) and R.P. 35(3) is complied with.
The accused does not desire to make a statement in reference to the charge(s). R.P. 37(3).
The Summary of Evidence is read.
The Prosecutor produces ~~AFB 375~~ AFB 296 and MFM 6.
The Court complies with R.P. 35(5).

Pursuant to R.P. 37 THE ACCUSED:-

(a) Makes a statement in mitigation of punishment.
(b) ~~Calls witnesses as to character.~~
(c) Calls witnesses in mitigation of punishment.
(d) Addresses the Court by his Defending Officer.

Overseer R.O. 3262 complied with.
The Court is closed to consider the sentence.

SUMMARY OF STATEMENT IN MITIGATION, CHARACTER EVIDENCE and ADDRESS OF ACCUSED OR HIS DEFENDING OFFICER.

(OVER)

The accused said in mitigation:
I am category B
I was a guard 20th Glen until Sept 1941.
Went to London on 3 days leave. I got V.D.S.
in right eye. I was in Bloomsbury Hospital
11 months it cost £30 doctors in pay.
I got out and was very good. I got
again and went to London Road end of 1942
My eyes got bad again. I didn't want to go to
Hospital I stayed a W & 47 days. When I was
put up in Worcester. I was sent to Basingstoke
I had loss of memory for 21 days. I was
condemned and was not capable of a W & or
any loss of memory I was capable of shooting
a pistol. I came out in June/43. I suffered
fevers for 2 mos. I had no money. I got
discouraged at camp A.W.L. because my eyes
were getting bad again. I am not married.
I am a fur cutter in Montreal. I had no
trouble in civil life. I have not heard from
home for two years.
The Deputy Officer called for clearing
of the court on account of the troubles
which accused has had.

Exhibit "A"

RECORD of the Declaration of a Court of Inquiry assembled at Algonquin Camp Witley, Surrey on the 15th Sep 43 day of September 19 43 for the purpose of investigating and recording the absence, without leave, from his duty, and deficiency, if any, in the Arms, Ammunition, Equipments, Instruments, Regimental necessaries or Clothing of No. **Z-4442**, Pte Guerin O.

DECLARATION

The Court declare, that, No Z-4442, Private Guerin O. of the Royal 22e Regiment on the strength of No 6 Canadian Infantry Reinforcement Unit,

1. Did illegally absent himself without leave as from 2359 hours on the 23rd of August, 1943, and his still absent at 1645 hours on the 15th day of Sept 1943.

2. Was on the 15th September 1943 deficient of articles of Kit listed below to the value of £7-1-3½.

ARTICLES	VOCABULARY PRICE £	s	d	APPRAISED VALUE £	s	d
Pr Anklets	0	0	4½	0	0	3
1 Badge Cap	0	1	4½	0	1	0
1 Chair Shoulder Cap.	1	7	8	1	0	3
1 Blouse Serge	1	7	11	1	1	0
1 Trouser Serge	2	3	0	1	12	0
2 Prs Boots Ankle	0	1	3½	0	1	1
1 Brace	0	0	9	0	0	6½
1 Brush Shoe Polishing	0	0	8	0	0	6
1 Brush Button Brass	0	1	4	0	1	0
1 Brush Shaving	0	1	4	0	1	0
1 Brush Hair	0	3	8	0	2	9
1 Cap Field Service	0	0	2	0	0	1½
1 Comb hair	0	0	9	0	0	6½
1 Holdall	0	6	9	0	5	3
1 Jacket Sweater	0	1	10½	0	1	6
1 Razor Safety and Blade	0	18	4	0	13	9
2 Shirts Angola Drab	0	5	0	0	3	3
2 Pairs of socks	0	1	11	0	1	3
2 Towels hand	0	4	1	0	3	1
2 Prs Drawers Cell., Shirt	0	3	0	0	2	3
2 Vest Cotton Gym	1	6	8½	1	0	0
1 Respirator anti-gas Complete	0	0	1½	0	0	1
1 Outfit anti-dim	0	2	4	0	1	9
2 Tins ointment A/G	0	4	8	0	3	6
1 Box Eyeshield A/G						
£	9	8	6½	£	7	1	3½

Names of President and Members:

President: Lieut. Andre Rivest Of Les fusiliers Mont-Royal
Member : Lieut. Aime Parisseau Regiment de Maisonneuve
Member : Lieut. R.P.-O. Turcotte Voltigeurs de Quebec.

Signature of Commanding Officer H.E. Morgan Colonel
Officer Commanding
6 Cdn Inf Rft Unit.

Certified true copy [signature] CAPT.,
ADJT., 6 CDN. INF. RFT. UNIT
Signature of Officer having custody of original record

H.F.H.Q.
87-4-43

DESCRIPTIVE RETURN OF † M E/144442 Pte Oscar GUERIN who was apprehended at Covent St. (hour) 7 pm 20th day of Sept 1943 and was committed to confinement at Grays Inn Road Police Stn on the 20th day of September 1943 as an Absentee without leave) from the Regt of the Royal 22nd Regt Royal Canadian Army Regiment of Whitley Surrey

Age 23	Height 5 feet 6 inches
Complexion Fresh	Hair Brown Eyes Brown
Marks None	In uniform or plain clothes Uniform
Probable date and place of attestation	26-10-1939, Montreal Canada
Probable date of desertion or beginning of absence and from what place	23-8-1943 Whitley
Name, occupation and address of the person by whom or through whose means the Deserter (or Absentee without leave) was apprehended and secured.	Richard Lancaster PC 126 "E" Divn Grays Inn Road Police Station on oath
Particulars in the evidence on which the prisoner is committed, and showing in what manner and upon what grounds he was apprehended. The fullest possible details to be given.	On 20th September 1943 Invasion duty in Covent Street where I saw the accused I asked him for his leave pass. He was unable to produce one and admitted he was an absentee from the Canadian Army. He was arrested and on being charged he made no reply

I DO HEREBY CERTIFY that the Prisoner has been duly examined before me as to the circumstances herein stated, and has declared in my presence that he is An Absentee

the before-mentioned Corps.

28/9/43

Signature of the Magistrate

Police Court

Residence

Post Town

The Police Courts

Date of Signature

Signature of Prisoner

Richard Lancaster PC 126E

Signature of Informant

Or where the Prisoner confessed, and evidence of the truth or falsehood of such confession is not then forthcoming:

POLICE COURTS POLICE COURTS

I, the above-named Magistrate, am satisfied from the circumstances of the case that evidence of the truth or falsehood of the confession is not forthcoming, and that the ends of justice will be defeated by delay occasioned until such evidence can be obtained.

Signature of Magistrate

Residence

Post Town

Date of Signature

† Insert Army No. and Rank.

* Insert "was apprehended" or "surrendered," as the case may be.

* It is important for the public Service, and for the interest of the Deserter or Absentee without leave, that this part of the return should be accurately filled up, and the details should be inserted by the Justice in his own handwriting, or under his direction, by his Clerk.

† Insert "is" or "is not a Deserter" or "Absentee without leave from," or "belongs," or "does not belong to," as the case may be.

PART II. Army Form C.1613.

This portion of the Form, after the Magistrate has committed the soldier and completed the recommendations as to reward, will be handed by the Clerk of the Court to the Police, who will add overleaf a statement of any expenses incurred by them.

Apprehension of No. of

Regiment at on by

who was committed as a Deserter (or Absentee without leave) on the

RECOMMENDATION FOR REWARD.

I RECOMMEND*

Address

for a reward of

(Signature of Committing Magistrate.

Date.

*The Magistrate will insert the name and address (in full) of the person for whom the reward is recommended, and the amount (5/-, 10/-, 15/-, or 20/-) which in his opinion should be granted in this particular case, having regard to the following rules:—

1. When soldiers are apprehended in uniform near their quarters it is considered that as a general rule 5/- is a sufficient reward. Not more than 10/- will be allowed in any case where the soldiers were in uniform.

2. When soldiers are apprehended in plain clothes, at a distance from their units, and after having been absent for some time, the reward may be increased to 10/- or 15/- according to the nature of the cases and the trouble incurred in apprehension. A reward in excess of 15/- will seldom be granted.

3. The reward of 20/- should be strictly reserved for cases where superior intelligence has been displayed in apprehending men in plain clothes, or under difficult or exceptional circumstances.

Rewards and expenses attendant upon apprehensions will be paid by the Command Paymaster of the Command or District in which the soldier's Unit is stationed.

4. No reward can be authorised if the Deserter or Absentee voluntarily surrendered, or if it shall appear that he was in collusion with the person who apprehended him, or if the apprehended man was not a Deserter or Absentee.

The following Statement of expenses (if any) incurred by the Police and chargeable to Army Funds should be certified by a Superintendent or Officer in charge of a station.

No expenses incurred in conveying a Deserter or Absentee from the Court to prison should be charged to Army funds. Such expenses can be included in the claim made on the Prison Commissioners.

The total amount allowed on account of expenses before committal will not together with the reward exceed 40/-.

I CERTIFY that the following expenses were incurred by the ..... Police in connection with the apprehension of .....

..... and are payable to .....

..... (Superintendent or Officer
..... (In Police Station at
Date .....

AUTHORITY for the PAYMENT of a REWARD. *(For Army use only.)*

The Command Paymaster ..... is hereby authorised to pay to ..... being the person recommended by the Committing Magistrate, a reward of ..... for the apprehension of .....

Date ....(O.C. Unit)
Officer Commanding.

Where no reward is authorised though one was recommended by the Magistrate, or where the reward authorised is less than that recommended, a brief explanation will be given below :—

8

IMMEDIATE. Army Form O.1618.

PART I.

DESCRIPTIVE RETURN of a Deserter or Absentee without Leave.

INSTRUCTIONS FOR THE GUIDANCE OF MAGISTRATES.

(1) When a man is apprehended by the Civil Power as an absentee without leave, or as a deserter, if the information tendered leaves no doubt in the mind of the Magistrate that the prisoner is a soldier, this return should be completed and given to the Police to hand to the escort on arrival.

(2) To avoid delay in the arrival of the escort a telegram stating the Number, Rank, Name and Unit of the soldier should be sent by the Police, as soon as the man is committed, to the Officer Commanding the soldier's Unit. The place where the escort is required to attend should be stated, also whether the soldier *surrendered* or was *arrested*.

(3) Any recommendation for a reward should be made on Part II of this return.

(4) The Court fees chargeable for Descriptive Returns should be claimed periodically from the Command Paymaster of the Command in which the Court is situated.

(5) The stations of all Units are shown in the Monthly Army List, as are also the Depots of Corps.

In the case of doubt as to the location of a particular Unit reference should be made to the nearest O.C. Troops. Where the soldier's Unit is stationed overseas (outside Great Britain, Northern Ireland District, and the Channel Islands) the telegram for an escort should be despatched to the O.C. Depot, who will take all necessary action for its provision.

(*17338) W.L.11512/244 50,000 5/45 A.& E.W.,Ltd. Gp.678 Forms/O.1618/53

SUMMARY OF EVIDENCE

In the case of No E-4442, Private Oscar GUERIN, of the Royal 22e Regiment, on the strength of No 6 Canadian Infantry Reinforcement Unit, a soldier of the Canadian Army Overseas.

By direction of the Commanding Officer, this Summary of Evidence was taken under oath.

FIRST WITNESS FOR THE PROSECUTION — Lieut. W.R. Michaud, of Le Regiment de la Chaudiere, on the strength of No 6 Canadian Infantry Reinforcement Unit, having been duly sworn, states as follows.

I hereby produce the following documents concerning the accused No E-4442, Pte Guerin O. of the Royal 22e Regiment, on the strength of No 6 Cdn Inf Rft Unit.

(a) Record of the Declaration of a Court of Inquiry assembled at Algonquin Camp, Witley, Surrey, on the 15 Sep 43 and purporting to be signed by L.G.A. Barrette Capt. Adjt No 6 CIRU.

(b) Descriptive return of an Absentee without leave dated 28 Sep 43 and purporting to be signed by the magistrate of the police of "The police Court Guildhall Ldn"

The accused declines to cross-examine this witness.

W.R. Michaud .....Lieut.

The accused was cautioned as follows: "Do you wish to make any statement or to give evidence on Oath ? You are not obliged to say anything or give evidence, unless you wish to do so, but whatever you say or any evidence you give, will be taken down in writing and me be given in evidence. This caution was given in French.

The accused declines to make a statement and reserves his defence.

I certify that the foregoing Summary of Evidence, consisting of one page, was taken down by me in the presence and hearing of the accused and that Rules of Procedure 4 (C), (D), (E), (F), and (G) have been complied with.

W.P. McConnell .....Lieut.
Officer detailed to take the Summary of Evidence.

Algonquin Camp,
Witley, Surrey,
29th day of Sep, 1943.

MPM

Place	Date of offence	Rank	Casualty or detention	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order disposing with trial	By whom awarded	Remarks
Field	10 apr 41	Pte		A.A. s5(1) Allh fr 1400 hrs 16 apr 41 till 2330 hrs 27 apr 41 (11 days 9 hrs 30 mins)	Cpl Solis 4 Cpl Quinn	21 days F.P. 21 days Forf	29 apr 41	Maj R.A. Jones	Forf 12 days pay for Allh.
Field	May 41	Pte		A.A. 5(1) Allh fr 2330 hrs 17 aug 41 till 1200 hrs 18 aug 41 (14 hrs 40 mins)	4 Cpl H. Adams Cpl Solis 4 Cpl Phillips	7 days F.P. 7 days Forf	20 aug 41	Maj R.A. Jones	Forf 1 day pay for Allh
Field		Pte		1) A.A. 18 (4) 2) A.A. 19 (4)		9 months detn	24 dec 42	FSCM	Forf 53 days pay for time in arrest
				Certified true & Copy containing proceedings		Rel for detn	23 jun 43	90 days rem.	
					Officer having custody of original document				

Last sheet destroyed 26 apr 40 M.F.M. 6

No. 6/4442 Name Guerini Scott Sqn., Battery, or Company — Corps R & R — Date of enlistment 26 oct 39 — G.C. Badges N/A — Service or Proficiency Pay N/A — A.F.B. 122 (40) 2 & 3/150 (2637)

Date of last entry in Company Conduct Sheet 19 feb 40 — No. and date of last drunk N/A — Period not reckoning towards freedom from extra fine N/A — Sheet No. 2 — Signature O.C. Company, etc. [illegible] H.A. — Character very good

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Fr. Feld	6 may 40	Pte		(1) A.A. 15(1) Absent fr 1100 hrs 6 may 40 till 2215 hrs 6 may 40 (11 hrs 15 min) (2) A.A. 15(1) Absent fr 0130 hrs 7 may 40 till 2215 hrs 7 may 40 (13 hrs 45 min	6 pl Solis	4 days C.B.	9 may 40	Capt Dr Lawler	Forf 1 day pay for each
Fr. Feld	14 oct 40	Pte		A.A. 15(1) Absent fr 2230 hrs 14 oct 40 till 1330 hrs 22 oct 40 (7 days 14 hrs)	Sgt Stewart 4 pl machinegun	7 days F.P. 7 days Forf pay	29 oct 40	D.O. 59/40	Forf 8 days pay for each
Fr. Feld	2 jan 41	Pte		A.A. 15(1) Absent fr 2 jan 41 till 1055 hrs 4 jan 41 (1 day 10 hrs 55 min)	Sgt Marble Bpl Sumstad	4 days C.B.	6 jan 41	Capt G Samson	Forf 2 days pay for each
Fr. Feld		Pte		A.A. 15(1) Absent 3 days		14 days F.P. 14 days Forf pay	20 jan 41	Lt Samson	Forf 3 days pay for each

(P.T.O.)

Certified true copy [signature] Officer having custody of original document

ARMY FORM B.290.

Statement as to Character and Particulars of Service of Accused.

Number.	*Rank.*	*Name.*	*Regiment (or as the case may be).*
E-4442	Pte	Guerin, O	Royal 22e Regiment, 6 CIRU

1. The following is a fair and true summary of the entries in the regimental and squadron, battery or company conduct sheets† of the accused, exclusive of convictions by a court martial or a civil court, of summary awards under section 47 of the Army Act, and of cases in which trial has been dispensed with :—

NOTE.—At a trial by field general court martial this summary may be compiled from the field conduct sheet.

The conduct sheet(s) mentioned should be produced in court with this statement but not inserted in the proceedings.

† See para. 877, K.R., 1940.

* The numbers inserted should correspond with the number of entries in the conduct sheets, punishments being given in the most serious offence in each entry, and to any recognised special acts of gallantry or distinguished conduct.

INSTRUCTION.—If the charge is drunkenness the entries for drunkenness must be stated separately and dated.

	* Within last 12 months.	*Since Enlistment.
For Army Act 15 (1)	— times	7 times.
For	times	times.
For	times	times.
For	times	times.
For	times	times.

Number of instances of gallantry or distinguished conduct, Nil.

or

~~There are no entries on the conduct sheets of the accused.~~

2. ~~The accused has not been previously convicted, or~~

Previous convictions† of the accused by a court martial or a civil court, summary awards under section 47 of the Army Act, and dispensations with trial under section 73 of the Army Act, are set out in the schedule annexed to this statement.

3. The accused is not under sentence at the present time. ~~or The accused at the present time is under sentence for~~ ~~imprisonment~~ ~~detention~~ ~~penal servitude~~ ~~for life~~ on the ~~day of~~

4. The accused has been in confinement, awaiting trial on the present charges, for 9 days in civil custody, and 3 days in military custody, making a total of 12 days, of which Nil days were spent in hospital.

5. The present age of the accused according to his ~~record of service~~ attestation paper is 25

6. The date of his ~~enrolment~~ attestation specified in his ~~record of service~~ attestation paper is 26 Oct 39

7. The service which the accused is allowed to reckon towards discharge or transfer to the reserve is 2 years 353 days

8. The accused is entitled to deferred pay or gratuity in respect of 2 years 353 days service.

9. The accused is entitled to reckon 2 years 353 days service for the purpose of determining his pension, etc.

10. The accused is in possession of, or entitled to, no military decoration or military award ~~(or is in possession of or entitled to (state any military decoration or reward)).~~

11. ~~(If the accused is a warrant officer.) The accused before he was made a warrant officer last held the regimental rank of~~

12. ~~(In the case of an officer.) The accused holds in the army the rank of dated~~ and in his regiment (or corps or department) the rank of dated

(*14546) Wt.30048/8452 10,000 12/40 A.R.E.W.Ltd. Gp.499

Schedule of Convictions by a Court Martial or Civil Court, of summary awards under Section 47 of the Army Act and of cases in which trial has been dispensed with of accused.

No. E-4442 Rank Private Name Guerin, O of R 22e R, 6 Cdn Regiment (or as the case may be).

(INSTRUCTION—A verbatim extract from the regimental books, stating these convictions and dispensations with trial, must be inserted.)

Description of court by which tried, or status of officer disposing of the charge or dispensing with trial.	Date and place of trial, or summary award under A.A. 47, or of order dispensing with trial.	Charges upon which convicted, or in respect of which trial was dispensed with.	Sentence of the court or authority disposing of the charge, or order of the dispensing authority.	Punishment remitted.
FGCM	Field 24 Dec 42	(1) Army Act 18 (4)	9 months detention	90 days
		(2) Army Act 18 (4)		

I HEREBY CERTIFY that the foregoing schedule of convictions and dispensations with trial is a true extract from the regimental books in my custody.

Signed this 4th day of Feb 43

Officer having custody of original documents

Record Officer

13—The accused has served as a non-commissioned officer continuously without reduction to the present date—

In the rank of ..... Date of Promotion.

In the rank of ..... years ..... months.

In the rank of ..... years ..... months.

In this rank of ..... years ..... months.

Observations.—If any matter in any of the above paragraphs cannot be stated from the regimental books the paragraph must be struck through, except that in the case of a trial by field general court-martial the information must be obtained from such sources as are available and the paragraphs concerned amended accordingly.

Lost sheet destroyed 26 apr 40

No. 6442 Name Guerini [illegible] Sqn., Battery, or Company — Corps R A R — Date of enlistment 26 oct 39 — G.C. Badges N/A — Service or Proficiency Pay N/A — M.F.M. 6 (A.F.B. 122) 40/7 & 8/130 (2027)

Date of last entry in Company Conduct Sheet 19 feb 40 — No. and date of last drunk N/A — Period not reckoning towards freedom from extra fine N/A — Sheet No. 2 — Signature C.O., Company, etc. [illegible] Lieut — Character

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Fi eld	6 may 40	Pte		(1) A.A. 15 (1) Absent fr 1100 hrs 6 may 40 till 2215 hrs 6 may 40 (11 hrs 15 min.) (2) A.A. 15 (1) Absent fr 0130 hrs 7 may 40 till 2215 hrs 7 may 40 (13 hrs 45 min	Cpl Solis	4 Days C B	9 may 40	Capt W Lowther	Forf 1 day pay for A.W.L.
Fi eld	14 oct 40	Pte		A.A. 15 (1) Absent fr 2230 hrs 14 oct 40 till 1330 hrs 22 oct 40 (7 days 14 hrs)	Sgt Stewart 4 Cpl Mendham	7 days F.P. 7 days Pay	29 oct 40	D.O.U. 4 Armd	Forf 8 days pay for absence
Fi eld	2 jan 41	Pte		A.A. 15 (1) Absent fr 2 jan 41 till 1015 hrs 4 jan 41 (1 day 2 hrs 45 min)	Sgt Neville Cpl Dunstal	4 days C B	6 jan 41	Capt T Somers	Forf 2 days pay for absence
Fi eld		Pte		A.A. 15 (1) Absent 3 days		14 days F.P. 14 days Pay	20 feb 41	Lt Somers	Forf 3 days pay for absence

I certify this is a true copy [signature] Officer having custody of original document

(P.T.O.)

Place	Date of offence	Rank	Cause of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order directing trial with title	By whom awarded	Remarks
Field	10 apr 41	Pte		A.A. 15(1) Absent fr 1400 hrs 10 apr 41 till 2330 hrs 17 apr 41 (11 days 9 hrs 30 mins)	Capt Solis 4 Capt Shiva	21 days F.P. 21 days Forf	29 apr 41	Lt Col Murphy	Forf 12 days pay for abs.
Field	7 aug 41	Pte		A.A. 15(1) Absent fr 2230 hrs 17 aug 41 till 1210 hrs 18 aug 41 (14 hrs 40 mins)	4 Cpl H. Williams Capt Solis 4 Cpl Philips	7 days F.P. 7 days Forf	20 aug 41	Maj Robinson	Forf 1 day pay for abs.
Field		Pte		(1) A.A. 18 (4) (2) A.A. 18 (4)		9 months detn	24 dec 42	FSCM	Forf 53 days pay for time in arrest
						Rel for detn	23 jan 43	Col Hopson	
				Certified true Copy covering Conduct Sheet					
						Officer i/c Records			

1. I acknowledge that I have been served with a copy of the Summary of Evidence taken at Algonquin Camp, Witley, Surrey, prior to my trial by Court-Martial. I further acknowledge that I have been served with a true copy of the charges upon which I am being brought to trial by Court-Martial.

2. I desire the services of an Officer to represent me at my trial by Court-Martial. I request the services of

.....Lt. K. Chas. James, Cdn. For. Corps. & C.I.R.D.....

if he is available.

.D. Hanson.....

Algonquin Camp,
Witley, Surrey.
1st day of October 1945.
1530 hours.

III-139
PTE GUERIN V

Certified True Copy
A MacDougall Capt

I.I.I-139.

Correspondence to be PINNED here.

Army Form A.3.

Form for Assembly and Proceedings of Field General Court Martial on Active Service.

PROCEEDINGS.

A.

Order convening the Court.

On Active Service, this Eighth day of November, 1943.

Whereas it appears to me, the undersigned, an officer in Command of , on active service, that the persons named in the annexed Schedule, being subject to Military Law, have committed the offences in the said Schedule mentioned.

And whereas I am of opinion that it is not practicable that such offences should be tried by an ordinary General Court Martial; * ~~[and that it is not practicable to delay the trial for reference to a superior qualified officer.]~~ "A.A.A."

*Omit where Convening Officer is a Commanding Officer or is of Field Rank.

I hereby convene a Field General Court Martial to try the said persons, and to consist of the Officers appointed or detailed hereunder.

*Omit if not applicable.

* ~~[I am unable to appoint~~

~~*(1. Three Officers to form the Court)~~

~~*(2. A Field Officer as President)~~

~~for the following reasons, namely:-]~~ "A.A.2"

NOTE.—The President must be named. The members and waiting members (if any) may be mentioned by name, or the number and ranks and the unit to which they belong may alone be quoted. In the latter event, the ranks, names, &c., of the members of the Court, as constituted, will be recorded on the proceedings.

*Must be signed personally by the Officer actually in command at the time, and all alterations in the composition of the Court to be initialled by him.

President.

Rank.	Name.	Regiment.
Major	A. S. E. Waterman	West N.S.R.

Members.

Rank.	Name.	Regiment.
Capt	J. W. K. Smeltzer	West N.S.R.
Capt	W. R. Moore	West N.S.R.
Lieut	P. Brunet	R. 22e R.
Waiting		

*Signed "A. A. Adson" Brigadier

Commanding 3 Cdn Inf Bde
Convening Officer.

SCHEDULE

Number, Rank (a), Name and Unit of Accused (b)	Offence charged	*Plea	Finding, and if Convicted, Sentence (c)	How dealt with by Confirming Officer (d)
D-136545 Pte Guerin V. R. 22e R.	First Charge A.A. Sec 15 (1)	Guilty "R.W."	Guilty R.W. To be imprisoned with hard labour for 18 months 10 Nov 43 "R. Waterman" Mjr	Confirmed "J. H. G."

*Question to be asked of accused, if he pleads not guilty (R. of F. 39 (A)) :—
"Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity for preparing your defence?"
Answer (*to be recorded on separate sheet if necessary*) :—

(Signed) "J. H. Gibson" Brigadier — (Signed) "R. Waterman" Major
Commanding 3 Cdn Inf Bde — West N.S.R.
Convening Officer (a) — President.

(a) Appointment acting rank or acting appointment, if any, to be stated in brackets after the substantive rank.
(b) Unless unavoidable, not more than three names are to be entered on one form, and in serious cases one only.
(c) Recommendation to mercy, if any, to be inserted in this column.
(d) It is not necessary that the Confirming Officer should sign his name in this column. Initials are sufficient.
(e) Must be signed by the same Officer who signs on the first page, and all alterations in the first two columns of the Schedule to be initialled by him.

Evidence and Charge Sheets (If necessary) to be PINNED here.

B. Certificate of President as to proceedings.

I certify that the above Court assembled on the 10th day of November 1943, and duly tried the persons named in the Schedule, and that the plea, finding, and sentence in the case of each such person were as stated in the third and fourth columns of that Schedule.

I also certify that :—
1. The members of the Court
2. The witnesses
*(3. The Interpreter)
~~(4. The officers under instruction~~

*Omit if not applicable.

were duly sworn.

Signed this 10th day of November 1943

"R. Waterman" Major
President of the Court Martial.

C. Certificate in case of death sentences.

*See footnote (f) on page 702 M.M.L. 1929.

I certify that the terms of *A.C.I. 570 of 1918 have been complied with.

Signed this day of 19 .

President of the Court Martial.

D. Confirmation.

I have dealt with the findings and sentences in the manner stated in the last column of the Schedule, and, subject to what I have there stated, I hereby confirm the above findings and sentences.

*To be omitted unless penal servitude, imprisonment or detention having been awarded, the Confirming Officer either has no authority to commit to prison or detention barracks, or, having such authority, recommends suspension.

*(I direct that the soldier named in the margin be not committed to prison or detention barrack until further orders.)

Signed this 11 day of Nov 1943.

"J. H. Gibson" Brig
Confirming Officer.

Promulgated and extracts taken in the case of D136545 Pte Guerin V. R. 22e R.

(a) (Dated) 12 Nov 43 (Signed) "B. Richmond" Capt. Adjutant Royal 22e Regiment

Promulgated and extracts taken in the case of

(Dated) (Signed)

Promulgated and extracts taken in the case of

(Dated) (Signed)

(a) When several cases are promulgated in one unit on the same day the Officer need only sign once.

[illegible] W.33000/411 90,000 12/42 A.A.G.W.(Ad) Op.699

Army Form A 9

A

FORM OF PROCEEDINGS FOR GENERAL AND DISTRICT COURTS-MARTIAL

Proceedings of a Field General Court-Martial held at On the Field 1948 by order of
on the 10th day of November,

Brig H. H. Hebson,

Commanding 3rd Cdn Inf Bde

dated the 8th day of November 1948

President

Major R.S.C. Waterman, West N.S.R.

Members

Capt J.W.K. Smeltzer West N.S.R.

Capt W.R. Moore West N.S.R.

~~Judge Advocate~~

Trial of D136545 Pte Victor Guerin
R. 22e R.

The order convening the Court, the charge-sheet and the summary (or abstract) of evidence are laid before the Court.

~~The Court satisfy themselves that ... is not suitable to be the duty to ... , waiting member to be duly placed as a member of the Court.~~ R is

The Court satisfy themselves as provided by Rules of Procedure 22 & 23.

The accused is brought before the Court.

Prosecutor Lt C.E. Levesque, R. 22e R.

Counsel or defending officer Lt A. Letourneau R. 22e R.

At 1400 o'clock the Trial commences.

The order convening the Court is read, and is marked signed by the President, and attached to the proceedings.

The names of the President and members of the Court are read over in the hearing of the accused, and they severally answer to their names.

Do you object to be tried by me as President, or by any of the officers whose names you have heard read over? Answer No

(N.B. - If objection is made it should be recorded, together with the decision of the Court, on a separate sheet.)

"R. Waterman"
Major

CC

PROCEEDINGS ON PLEA OF GUILTY

(The Court having been re-opened, the accused is again brought before it, and the charge to which he has pleaded "Guilty" read to him again.)

The accused

is found guilty of absence without leave for a period of 12 days, 21 hrs, 15 mins

The summary (or abstract) of evidence is read, marked signed by the President, and attached to the proceedings.

Question to the accused. Do you wish to make any statement in mitigation of punishment?

Answer. no ~~The accused in mitigation of punishment says: (or hands in a written statement, which is read, marked signed by the President, and attached to the proceedings.)~~,

"R.W."

- -

Instruction.

If there is no summary of evidence, sufficient evidence to enable the Court to determine the sentence, and to enable the confirming officer to know all the circumstances connected with the case, will be taken on a separate sheet in the same manner as on a plea of "Not Guilty".

If from the statement of the accused, or from the summary or abstract of evidence, or otherwise, it appears to the Court that the accused did not understand the effect of his plea of "Guilty", the Court shall alter the record, and enter a plea of "Not Guilty", and proceed with the trial accordingly.

"R. Paterson"

Major

SUMMARY OF EVIDENCE

In the case of D.136545 Private Victor GUERIN, a soldier of the Royal 22e Regiment, Canadian Army Overseas, On Active Service.

By direction of the Commanding Officer this summary of evidence was taken under oath.

1st Witness: For the prosecution. E.42060 Cpl. Avoine, L. Royal 22e Regiment, posted to "D" coy. having been duly sworn states:-

" I am E.42060 Cpl. Avoine, L. R.22e.R. posted to "D" coy. On October 22nd 1943, at about 1545 hrs, I made the roll call of my section and found out that Pte. Guerin, V., whom I now recognize and who belongs to my section, was absent without leave. He had left a few minutes before our Platoon moved forward after a few days of rest. He had not been advised personally of that actual move.

"L Avoine" Cpl

The accused declines to cross examine the witness.

2nd Witness: For the prosecution. E.4401 L/Sgt. Deschene, H. Royal 22e Regiment, posted to "D" coy. having been duly sworn states:-

" I am E.4401 L/Sgt. Deschene, H. R.22e.R. posted to "D" coy. On October 22nd 1943, I was Platoon Sgt. of No.16 Platoon. Pte Guerin, V. whom I now recognize, was found to be absent at about 1545 hrs. At that moment my Platoon was preparing to move forward after a rest of a few days. The accused had left before we could advise him personally of the actual move.

"H Deschene" L/Sgt

The accused declines to cross examine the witness.

3rnd Witness: E.5695 Cpl. Belanger, R. Royal 22e Regiment, posted to "D" coy. having been duly sworn states:-

" I am E.5695 Cpl. Belanger, R. R.22eR. posted to "D" coy. On November 4th 1943, I was acting as OrderlySgt. of "D" coy. R.22e.R. At about 1300 hrs Pte. Guerin, V. whom I now recognize reported himself from A.W.O.L. He was sober and properly dress.

"R. Belanger", Cpl

The accused declines to cross examine the witness.

The accused having been duly cautioned in French in accordance with R.O. 1424 reserves his defence.

I certify that the foregoing Summary of Evidence was taken down by me in presence and hearing of the accused and that rules of procedure 4 (e),(d), (e),(f) and (g) were duly complied with.

"Charles E. Levesque" Lieut
Officer taking Summary

"R Waterman" Major

In the Field
6th November 1943

CC

PROCEEDINGS ON PLEA OF GUILTY

(The Court having been re-opened, the accused is again brought before it, and the charge to which he has pleaded "Guilty" read to him again.)

The accused is found guilty of absence without leave for a period of 12 days, 21 hrs, 15 mins

*The summary (or abstract) of evidence is read, marked signed by the President, and attached to the proceedings.

Question to the accused. Do you wish to make any statement in mitigation of punishment?

Answer. no ~~The accused in mitigation of punishment says:~~ ~~(or hands in a written statement, which is read, marked , signed by the President, and attached to the proceedings.)~~ "R.W."

Instruction. * If there is no summary of evidence, sufficient evidence to enable the Court to determine the sentence, and to enable the confirming officer to know all the circumstances connected with the case, will be taken on a separate sheet in the same manner as on a plea of "Not Guilty".

If from the statement of the accused, or from the summary or abstract of evidence, or otherwise, it appears to the Court that the accused did not understand the effect of his plea of "Guilty", the Court shall alter the record, and enter a plea of "Not Guilty", and proceed with the trial accordingly.

"R. Patterson"
Maja

CC

PROCEEDINGS ON PLEA OF GUILTY

(The Court having been re-opened, the accused is again brought before it, and the charge to which he has pleaded "Guilty" read to him again.)

The accused

is found guilty of absence without leave for a period of 12 days, 21 hrs, 15 mins

The summary (or abstract) of evidence is read, marked signed by the President, and attached to the proceedings.

Question to the accused. Do you wish to make any statement in mitigation of punishment?

Answer. no ~~The accused in mitigation of punishment says:-~~

~~(or hands in a written statement, which is read, marked signed by the President, and attached to the proceedings.)~~,

"R. No"

- -

Instruction. If there is no summary of evidence, sufficient evidence to enable the Court to determine the sentence, and to enable the confirming officer to know all the circumstances connected with the case, will be taken on a separate sheet in the same manner as on a plea of "Not Guilty".

If from the statement of the accused, or from the summary or abstract of evidence, or otherwise, it appears to the Court that the accused did not understand the effect of his plea of "Guilty", the Court shall alter the record, and enter a plea of "Not Guilty", and proceed with the trial accordingly.

"R Paterson"

Maja

Do you wish to give evidence yourself or to call any witnesses as to character?

Question to the Accused

Answer No

~~Evidence as to character~~.

" R. W -

MEDICAL OFFICERS CERTIFICATE

KR (CAN) 557

I certify that I have this morning examined

No. D.136545 Pte Name Guerin V

of Royal 22e Regt and in my opinion he is fit to undergo Trial by Court Martial.

Station. in the Field

Date. 10th Nov 1943

"Guy Fortune", Capt
Medical Officer

"R Waterman" Major

E·2

M.F.B. 358
22M—5-41 (372-3)
H.Q. 1773-39-(2)
A.F.B. 266

STATEMENT AS TO CHARACTER AND PARTICULARS OF SERVICE OF ACCUSED

Number	Rank	Name	Regiment (or unit)
D-136545	Private	Guerin, J.C.V.	R.22.R.

1. The following is a fair and true summary of the entries in the Service and General Conduct sheets / Regimental and Squadron, Battery or Company Conduct sheets of the accused, exclusive of convictions by a Court-Martial or a Civil Court, of summary awards under Section 47 of the Army Act / Air Force Act and of cases in which trial has been dispensed with.

	Within last 12 months	Since enlistment or appointment
For AA Sec 40	3 times	3 times
For AA Sec 15 (1)	3 times	4 times
For	times	times
For	times	times

Number of instances of gallantry or distinguished conduct Nil

or,

~~There are no entries in the conduct sheets of the account.~~

NOTE.—If the charge is for drunkenness, the entries for drunkenness must be stated separately.

2. The accused has not been previously convicted

or,

~~Previous convictions of the accused by a court-martial or a civil court, of summary awards under Section 47 of the Army Act / Air Force Act and dispensations with trial under A.A. 73 / A.F.A. 73 are set out in the Schedule annexed to this statement.~~

3. The accused is not under sentence at the present time.

or,

The accused at the present time is under sentence for Nil beginning on the Nil day of Nil

4. The accused has been in confinement awaiting trial on the present charges, for Nil days in civil custody, and 6 days in military / Air Force custody, making a total of 6 days in custody, of which Nil days were spent in hospital.

5. The present age of the accused according to his ~~attestation paper is~~ record of service is 22 years old

6. The date of his ~~enlistment~~ attestation specified in his record of service is 5 Aug. 42 ~~attestation paper~~

7. The service which the accused is allowed to reckon towards discharge is 1 year 72 days

8. The accused is entitled to reckon ~~1 yr 72 days~~ 1 yr 72 days service for the purpose of determining his pension, etc.

9. The accused is in possession of or entitled to no air force decoration, or air force reward / military ~~(or is in possession of or entitled to). State any air force decoration or reward~~ / military.

10. (If the accused is a warrant officer.) The accused before he was made a warrant officer / Air Force held the regimental rank of N/A

11. (In the case of an officer.) The accused holds in the Royal Canadian Air Force the rank of Permanent Force

n/a dated n/a, and in his regiment (or corps), the rank of unit

n/a dated n/a.

12. The accused has served as a non-commissioned officer continuously, without reduction, to the present date:— Date of promotion.

In the rank of n/a years.

In the rank of n/a years.

In the rank of n/a years.

NOTE.—If any matter in any of the above paragraphs cannot be stated from the Regimental books, the paragraph must be struck through.

SCHEDULE

Of convictions by a court-martial or civil court, of summary awards under Section 47 of the Army Act, and of cases in which trial has been dispensed with of accused. Number D136595 Rank Pte Air Force Unit

Name Austin, J of R 22e R. Regiment

NOTE.—A verbatim extract from the regimental books stating these convictions and dispensations with trial must be inserted.

Description of Court by which tried	Date and Place of Trial	Charge upon which convicted	Sentence of the Court	Punishment Remitted
		n/a		

"B Quimond" adjutant
Royal 22e Regiment

I hereby certify that the foregoing schedule of convictions and dispensations with trial is a true extract from the regimental books in my custody.

Signed this 10th day of Nov 1943

The above statement (with the schedule of convictions and of cases in which trial has been dispensed with) is read, marked signed by the president, and annexed to the proceedings.

"R Waterman"
Major

Place	Date of offence	Rank	Cause of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
In the field	23-9-43	Pte		AA Sec 15(1) WOAS. A AWL from 1430 hrs the 23 Sept 43 untill 2000 hrs 23 Sept 43 Total absence 5 hrs 30 min	Sgt Garrent J J R	2 extra dutids	24-9-43	Forf 1 day pay under FR&I 149 "B" Capt Commd	

Copy No. 136545 Name Guerin, J.C.V. Sqn., Battery, or Company D Corps R22eR Date of enlistment 4-8-42 G.C. Badges Service or Proficiency Pay Nil M.F.M. 6 (A.F. B.122) 40/P & /5138 (2968)

Date of last entry in Company Conduct Sheet N/A No. and date of last drunk N/A Period not reckoning towards freedom from extra fine N/A Sheet No. 2 Signature O.C. Company, etc. "R J Finard Capt Character E.1

Place	Date of offence	Rank	Cause of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order directing trial	By whom awarded	Remarks
In the field	20-8-43	Pte		A A Sec 40 Conduct to the prejudice of good order and military discipline in that he on the Aug 20, 43 did not stand properly at attention on parade(2)A A Sec 8(2)Using insubordinate language to his superior officer in that he in the field 20 Aug 43 when being told by his superior officer that he was open arrest replied"Be careful I may settle your case right here	Summeray of Evidence	10 days C B 5 days pay	21-8-43	Lt-Col Bernatchez	"R.J.F" "R.W"

Place	Date of offence	Rank	Class of Institution	OFFENCE	Name of Witnesses	Punishment awarded	Date of award or of order directing trial	By whom awarded	Remarks
In the Field	7-6 43	Pte		A A Sec 40 WOAS Conduct to the prejudice of good order and military discipline in that he in the field fired a live round on a rifle range without permission endangering the life of ths comrades.	Sgt Deschenes C	7 days C B	8-6-43	Capt B J Guimond	"RJP"
In the field	17-8 43	Pte		A A Sec 40 WOAS.1 Conduct to the prejudice of good order and military disciple in that he in the field was found unshaved on parade	Sgt Caueau M	2 days C B	28-8-43	Capt B J Guimond	"RJP"

Certified true Copy

"B J Guimond"
Ajutant,
Roy 22e Regiment, C.A.C.

Copy

No. D136545 Name Guerin, J.C.V. Sqn., Battery, or Company D Corps R22eR

Date of last entry in Company Conduct Sheet — No. and date of last drunk N/A — Period not reckoning towards freedom from extra fine N/A — Date of enlistment 4-8-42 — Sheet No. 1 — Badges — Service or Proficiency Pay Nil — Signature O.C. Company, etc. "R. J. Finard" Capt — Character

M.F.M. 6 (A.F. B.1225) 40/P & /8138

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Valleyfield	25-10-42	Pte		A A Sec 15(1) A.W.L. from 2300 hrs the 25 Oct 42 until 1455 hrs the 27 Oct 42 Total of absence 1 day 15 hrs 55 mins	Cpl Nantel CSM Paquette	14 days C B 10 days pay	28-10-42	Cpt Spenard	Aut forf 2 days pay FRxI "RJP"
Valcartier Camp PQ	30-12-42	Pte		A A Sec15(1) A.W.L. from 2359 hrs 30 Dec 42 until 2000 hrs 31 Dec 42 Total absence 20 hrs 1 min	Cpl Dorris M Cpl Dagne, A	Admonished	2-1-43	Lieut A. Cyr	Forfiets 1 days pay under FR'I "RJP"
Valcartier Camp P Q	28-2-43	Pte		A A Sec 15(1) A.W.L. from 0630 hrs 28-2-43 until 0800 hrs 2 Mar 43 Total absence 2 days 11 hrs 30 min	Written Evd M.F.M. 216 Coy Order	7 days C B	3-3-43	J A Forget Cpt	FFT 1 day pay under FRxI "R Waterman" Major (RSM)

E

FINDING

The Court is closed for the consideration of the finding.

The Court find that the accused

Guilty of absence without leave for

a period of 12 days, 21 hrs, 15 min.

"R. Waterman"

Maja

PROCEEDINGS ON CONVICTION BEFORE SENTENCE

The Court being re-opened, the accused is again brought before it.

Lt C E Levesque, R 22e R. is duly sworn.

Have you any evidence to produce as to the character and particulars of service of the accused? Answer by the Witness. Yes

The above statement (with the schedule of convictions and of cases in which trial has been dispensed with) is read, marked E | 4 E 2, signed by the President, and annexed to the proceedings.

Question by the President — Is the accused the person named in the statement which you have read? Answer by the Witness. Yes

Question — Have you compared the contents of the above statement with the regimental books? Answer. Yes

Question — Are they true extracts from the regimental books, and is the statement of entries in the conduct sheets a fair and true summary of those entries?

Answer. Yes

~~Crime admitted by the accused.~~

"R.W"

Do you wish to address the Court? Answer No

The Court is closed for the consideration of the sentence.

I hereby acknowledge the receipt of a true copy of the Summary of Evidence taking prior to my trial by D.G.C.M. I further acknowledge the receipt of a true copy of a charge sheet upon which I am being brought into Court-Martial

I desire the services of an Officer to represent me at my trial.

I disire the services of Lt B Pilleteu

if he is available.

"Guerin B", Pte

In the Field
2nd November 1943

List of Witnesses for the Prosecution

Case of D-136545 Pte Guerin, B

E-9427	Cpl	~~Lajoie~~ Lajoie E	"D" Coy	R.22 R
E-4401	L/Sgt	Deschene, H	"D" Coy	R.22 R
E-5695	Cpl	Belanger R	"D" Coy	R.22 R

Defence

Nil

FORM OF APPLICATION FOR A COURT-MARTIAL

Station In the field Royal 22e Regiment

Date 5 Nov 19 43

Application for a Field General **Court-Martial**

Sir,

I have the honour to submit One charge against No. D-136545 Private Victor Guerin of the Unit under my command, and request you will obtain the sanction of Higher Authority that a Fd Gen Court-Martial may be assembled for his trial at In the field

The case was investigated by (a) Lt-Col J P E Bernatchez Capt O Gaulau and Lieut C E Levesque

A Court of Inquiry was held on (b) N/A (date) at (Station).

President N/A
Members N/A
N/A
} Ranks, names and corps.

The accused is now at Unit His general character is (c) bad

I enclose the following documents (d):—

1. One Charge Sheet (in duplicate) (e).
2. Summary of Evidence, original (f) and One copy.
3. ~~Original Exhibits (g)~~
4. List of witnesses for the prosecution and defence (with their present stations or addresses) (g).
5. ~~Statements of witnesses (g)~~
6. ~~Original exhibits (g)~~
7. Statement as to character (M.F.B. 355) and regimental and company, etc., conduct sheets (or Field Conduct sheets) of accused (g).
8. Statement by accused as to whether or not he desires to have an officer assigned by the Convening Officer to represent him at the trial (R.P. 14 (B)) (A).

Your obedient servant,

Signature of Commanding Officer "J P E Bernatchez"
(J P E Bernatche z) Lt-Col
Commanding Officer
Royal 22 Regiment

To: Commander
3rd Cdn Inf Bde

MEDICAL OFFICER'S CERTIFICATE

I certify that No. D-136545 Pte Guerin, V Regiment is* fit to undergo trial by Court-Martial.

"Mary Fortune" "Undicipherable" Capt
Signature of the Medical Officer.

* Insert "fit" or "unfit."

(a) Here insert name of:—
(i) Officer who investigated the charges.
(ii) Company, etc., Commander who made preliminary enquiry into the case.
(iii) Officer who took down the Summary of Evidence (R.P. 19 (B) (iii)).
(b) To be filled in if there has been a Court of Enquiry respecting any matters connected with the charges; otherwise to be struck out (R.P. 19 (B) (iii)).
(c) To be filled in by the Commanding Officer.
(d) Any items not applicable to be struck out.
(e) One copy to be sent to the President; one copy to be filed with the application for trial.
(f) Original summary of evidence to be sent to the President.
(g) 3, 4, 6 and 7 to be returned to the Officer Commanding the unit of the accused with the notice of trial.
(h) 5 and 8 to be sent to the President.
(I) the accused has elected to be tried under A.A. (8), the fact should be recorded at the top of this form.)

M.F.B. 22b
(A.F.B. 156)
20M—5-41 (365)
H.Q. 1772-39-462

CERTIFIED TRUE COPY RECORDED AT CMHQ IN AB 169

R. Gordeau CAPT
(R. GORDEAU.)

III-139

Correspondence to be PINNED here.

Army Form A.3.

Form for Assembly and Proceedings of Field General Court Martial on Active Service.

D-1

PROCEEDINGS.

A.

Order convening the Court.

On Active Service, this Eighth day of November, 1943.

Whereas it appears to me, the undersigned, an officer in Command of , on active service, that the persons named in the annexed Schedule, being subject to Military Law, have committed the offences in the said Schedule mentioned.

And whereas I am of opinion that it is not practicable that such offences should be tried by an ordinary General Court Martial; * ~~[and that it is not practicable to delay the trial for reference to a superior qualified officer]~~ "T.G.G."

*Omit where Convening Officer is a Commanding Officer or is of Field Rank.

I hereby convene a Field General Court Martial to try the said persons, and to consist of the Officers appointed or detailed hereunder.

*Omit if not applicable.

* ~~I am unable to appoint :—~~

~~*(1.—Three Officers (to form the Court.)~~

~~*(2.—A Field Officer as President)~~ "T.G.G.

~~for the following reasons, namely :—]~~

PROCEEDINGS REVIEWED

R. Deaulieu Capt.
28 Dec 44

REVIEWING OFFICER, JAG BRANCH C.M.H.Q.

NOTE.—The President must be named. The members and waiting members (if any) may be mentioned by name, or the number and ranks and the unit to which they belong may alone be named. In the latter event, the ranks, names, &c., of the members of the Court, as constituted, will be recorded on the proceedings.

Waiting

*Must be signed personally by the Officer actually in command at the time, and all alterations in the composition of the Court to be initialled by him.

President.

Rank.	Name.	Regiment.
Major	R.S.E. Waterman	West N.S.R.

Members.

Rank.	Name.	Regiment.
Capt	J.W.K. Smeltzer	West N.S.R.
Capt	W.R. Moore	West N.S.R.
Lieut	F. Brunet	R 22e R

*Signed "T.G. Gibson" Brigadier

Commanding 3 Cdn Inf Bde

Convening Officer.

SCHEDULE

Number, Rank (a), Name and Unit of Accused (b)	Offence charged	*Plea	Finding, and if Convicted, Sentence (c)	How dealt with by Confirming Officer (d)
D-136545 Pte Guerin V. R 22e R	First Charge A.A. Sec 15(1)	Guilty "R.W."	Guilty "R.W." To be imprisoned with hard labour for 18 months 10 Nov. 43. "R. Waterman" Major	Confirmed T.G.G.

*Question to be asked of accused, if he pleads not guilty (R. of P. 39 (a)) :—
"Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity for preparing your defence ?"
Answer (to be recorded on separate sheet if necessary) :—

(Signed) "T.G. Gibson" Brigadier (Signed) "R. Waterman" Major

Commanding S Cdn Inf Bde *Convening Officer (e)* West N.S.R. *President.*

(a) Appointment acting rank or acting appointment, if any, to be stated in brackets after the substantive rank.

(b) Unless unavoidable, not more than three names are to be entered on one form, and in serious cases one only.

(c) Recommendation to mercy, if any, to be inserted in this column.

(d) It is not necessary that the Confirming Officer should sign his name in this column. Initials are sufficient.

(e) Must be signed by the same Officer who signs on the first page, and all alterations in the first two columns of the Schedule to be initialled by him.

Evidence and Charge Sheets (if necessary) to be PINNED here.

B. Certificate of President as to proceedings.

I certify that the above Court assembled on the 10th day of November 1943, and duly tried the persons named in the Schedule, and that the plea, finding, and sentence in the case of each such person were as stated in the third and fourth columns of that Schedule.

I also certify that :—

1. The members of the Court
2. The witnesses
*(3. The Interpreter)
*(4. ~~The officers under instruction~~)

*Omit if not applicable.

were duly sworn.

Signed this 10th day of November 1943

"R. Waterman" Major
President of the Court Martial.

C. Certificate in case of death sentences.

*See footnote (b) on page 762 M.M.L. 1929.

I certify that the terms of *A.C.I. 570 of 1918 have been complied with.

Signed this ... day of ... 19..

President of the Court Martial.

D. Confirmation.

I have dealt with the findings and sentences in the manner stated in the last column of the Schedule, and, subject to what I have there stated, I hereby confirm the above findings and sentences.

*(I direct that the soldier named in the margin be not committed to prison or detention barrack until further orders.)

*To be omitted unless penal servitude, imprisonment or detention having been awarded, the Confirming Officer either has no authority to commit to prison or detention barrack, or, having such authority, recommends suspension.

Signed this 11th day of November 19 43.

"T. G. Gibson" Brig.
Confirming Officer.

Promulgated and extracts taken in the case of D 136545 Pte Guerin V. R 22e R

(a) (Dated) 12 Nov. 43 (Signed) "B. Guimond" Capt, Adjutant Royal 22e Regiment

Promulgated and extracts taken in the case of

(Dated) ... (Signed) ...

Promulgated and extracts taken in the case of

(Dated) ... (Signed) ...

(a) When several cases are promulgated in one unit on the same day the Officer need only sign once.

[illegible] W:20270/411 60,000 12/42 A.& E.W.Ltd. Gp.698

A

Army Form A 9

**All printed matter not applicable to the particular Court being held should be struck out and initialled by the President.

**Form of Proceedings for General and District Courts-Martial.

Proceedings of a Field General Court-Martial held at In the Field

on the 10th day of November, 19 43 by order of

Brig. T.G. Gibson,

Commanding 3rd Cdn Inf Bde

dated the 8th day of November, 19 43.

President

Major R.S.E. Waterman, West N.S.R.

Members

Capt. J.W.K. Smeltzer West N.S.R.

Capt. W.R. Moore West N.S.R.

~~, Judge Advocate~~

Trial of* D 136545 Pte. Victor Guerin
R 22e R

The order convening the Court, the charge-sheet and the summary (or abstract) of evidence are laid before the Court.

~~The Court satisfy themselves that [illegible] is not available to serve owing to~~ ~~, waiting member takes his place as a member of the Court~~ "R.N."

The Court satisfy themselves as provided by Rules of Procedure 22 & 23.

The accused is brought before the Court.

Prosecutor,† Lt. C.E. Levesque, R. 22e R.

Counsel‡ or defending officer† Lt. A. Letourneau R. 22e R.

At 1400 o'clock the Trial commences.

The order convening the Court is read, and is marked signed by the President, and attached to the proceedings.

The names of the President and members of the Court are read over in the hearing of the accused, and they severally answer to their names.

Question by the President to the accused. Do you object to be tried by me as President, or by any of the officers whose names you have heard read over? *Answer.* No

(N.B.—If objection is made it should be recorded, together with the decision of the Court, on a separate sheet.)

*Here insert No., Rank, full Name, Regiment, and Appointment (if any).
† Here state Rank and Name, and Regiment (if any).
‡ Qualification to be stated.

"R. Waterman" Major

[illegible] K. & H., Ltd. Gp. [illegible] Form A9.

CHARGE SHEET B 2

The accused D.136545Private Victor GUERIN, a soldier of the Royal 22e Regiment, Canadian Army Overseas, On Active Service is charged with:-

1st Charge:- ABSENTING HIMSELF WITHOUT LEAVE,
A.A. Sec, 15 (1)

in that he,

In the Field, on October 22nd 1943, did absent hiself without leave from 1545 hrs until he reported himself at about 1300 hrs the 4th November 1943.

Total absence: 12 days, 21 hrs, 15 mins.

"J P E Bernatchez"
"J P E Bernatchez), Lt-Col.,
Commanding Royal 22e Regiment.

In the Field

6th November 1943.

TO BE TRIED BY FIELD GENERAL COURT MARTIAL

"T G Gibson"
(T G Gibson), Brigadier
Commanding 3 Cdn Inf Bde.

In the Field,
8 Nov 43.

"R Waterman", Major

A

Army Form A 9

**All printed matter not applicable to the particular Court being held should be struck out and initialled by the President.

**Form of Proceedings for General and District Courts-Martial.

Proceedings of a Field General Court-Martial held ~~at~~ In the Field on the 10th day of November, 1943 by order of Brig. T.G. Gibson,

Commanding 3rd Cdn Inf Bde

dated the 8th day of November, 1943.

President

Major R.S.E. Waterman, West N.S.R.

Members

Capt. J.W.K. Smeltzer West N.S.R.

Capt. W.R. Moore West N.S.R.

~~, Judge Advocate~~

Trial of* D 136545 Pte. Victor Guerin
R 22e R

The order convening the Court, the charge-sheet and the summary (or abstract) of evidence are laid before the Court.

~~The Court satisfy themselves that ... to serve owing to ...~~ "R.W."

~~, waiting member takes his place as a member of the Court~~

The Court satisfy themselves as provided by Rules of Procedure 22 & 23.

The accused is brought before the Court.

Prosecutor,† Lt. C.E. Levesque, R. 22e R.

Counsel‡ or defending officer† Lt. A. Letourneau R. 22e R.

At 1400 o'clock the Trial commences.

The order convening the Court is read, and is marked signed by the President, and attached to the proceedings.

The names of the President and members of the Court are read over in the hearing of the accused, and they severally answer to their names.

Question by the President to the accused

Do you object to be tried by me as President, or by any of the officers whose names you have heard read over? *Answer.* NO

(N.B.—If objection is made it should be recorded, together with the decision of the Court, on a separate sheet.)

*Here insert No., Rank, full Name, Regiment, and Appointment (if any).
† Here state Rank and Name, and Regiment (if any).
‡ Qualification to be stated.

(1)

"R. Waterman" Major

[illegible] 10,000 sets. 7/43. M. & W. Ltd. 6465/1. Form A 9.

B

The President, members and judge-advocate are duly sworn.

"R.W."

The following officers under instruction are duly sworn.

Charge-Sheet.

The charge-sheet is signed by the President, marked B 2 and annexed to the proceedings.

Instruction. If the accused has elected to be tried under Army Act, sec. 46 (8) the fact should be here recorded.

The accused is arraigned upon each charge in the above-mentioned charge-sheet.

Are you guilty or not guilty of the [first] charge against you, which you have heard read? *Question to the accused.*

Guilty *Answer.*

Are you guilty or not guilty of the second charge against you, which you have heard read? *Question.*

Answer.

Are you guilty or not guilty of the third charge against you, which you have heard read? *Question.*

Answer.

Are you guilty or not guilty of the fourth charge against you, which you have heard read? *Question.*

Answer.

The accused having pleaded Guilty to the charge, the provisions of Rule of Procedure 35 (B) are here complied with.

"R.W."

If the trial proceeds upon any charge to which there is a plea of "Not Guilty," the Court will not proceed upon the record of a plea of "Guilty" until after the finding on that other charge. *Instruction.*

"R. Waterman"

CC

Proceedings on Plea of Guilty.

* To be struck out in case any plea of "Not Guilty" has been proceeded with.

~~*[The Court having been re-opened, the accused is again brought before it, and the charge to which he has pleaded "Guilty," read to him again.]~~

The accused

is found guilty of absence without leave for a period of 12 days, 21 hrs, 15 mins.

†The summary (or abstract) of evidence is read, marked signed by the President, and attached to the proceedings.

Question to the accused. Do you wish to make any statement in mitigation of punishment?

Answer. No ~~The accused in mitigation of punishment says—~~

~~[or hands in a written statement, which is read, marked , signed by the President, and attached to the proceedings.]~~

"J.W."

Instruction.

† If there is no summary or abstract of evidence, sufficient evidence to enable the Court to determine the sentence, and to enable the confirming officer to know all the circumstances connected with the case, will be taken on a separate sheet in the same manner as on a plea of "Not Guilty."

If from the statement of the accused, or from the summary or abstract of evidence, or otherwise, it appears to the Court that the accused did not understand the effect of his plea of "Guilty," the Court shall alter the record, and enter a plea of "Not Guilty," and proceed with the trial accordingly.

"R Waterman"
Major

DD

Do you wish to give evidence yourself or to call any witnesses as to character ?

Question to the accused.

Answer. No

~~Evidence as to character.~~

"R.W."

CC1

SUMMARY OF EVIDENCE

In the case of D.136545 Private Victor GUERIN, a soldier of the Royal 22e Regiment, Canadian Army Overseas, On Active Service.

By direction of the Commanding Officer this summary of evidence was taken under oath.

1st Witness: For the Prosecution. E.42060 Cpl. Avoine, L. Royal 22e Regiment, posted to "D" coy. having been duly sworn states:-

" I am E.42060 Cpl. Avoine, L. R.22e.R. posted to "D" coy. On October 22nd 1943, at about 1545 hrs, I made the roll call of my section and found out that Pte. Guerin, V., whom I now recognize and who belongs to my section, was absent without leave. He had left a few minutes before our Platoon moved forward after a few days of rest. He had not been advised personally of that actual move.

"L Avoine" Cpl

The accused declines to cross examine the witness.

2nd Witness: For the Prosecution. E.4401 L/Sgt. Deschene, H. Royal 22e Regiment, posted to "D" coy having been duly sworn states:-

" I am E.4401 L/Sgt. Deschene, H. R.22e.R. posted to "D" coy. On October 22nd 1943, I was Platoon Sgt. of No. 16 Platoon. Pte Guerin, V. whom I now recognize, was found to be absent at about 1545 hrs. At that moment my Platoon was preparing to move forward after a rest of a few days. The accused had left before we could advise him personally of the actual move.

"H Deschene" L/Sgt

The accused declines to cross examine the witness.

3rd Witness: E.5695 Cpl. Belanger, R. Royal 22e Regiment, posted to "D" coy. having been duly sworn states:-

" I am E. 5695 Cpl. Belanger, R. R.22eR. posted to "D" Coy. On November 4th 1943, I was acting as Orderly Sgt. of "D" coy. R.22e.R. At about 1300 hrs Pte. Guerin, V. whom I now recognize reported himself from A.W.L. He was sober and properly dress.

"R. Belanger", Cpl

The accused declines to cross examine the witness.

The accused having been duly cautioned in French in accordance with R.O. 1424 reserves his defence.

I certify that the foregoing Summary of Evidence was taken down by me in presence and hearing of the accused and that rules of procedure 4 (c), (d), (e), (f) and (g) were duly complied with.

"Charles E Levesque" Lieut
Officer taking Summary

In the Field
6th November 1943

"R Waterman" Major

MEDICAL OFFICERS CERTIFICATE

KR (CAN) 557

I certify that I have this morning examined

No. D.136545 Pte Name Guerin V

of Royal 22e Regt and in my opinion he is fit to undergo Trial by Court Martial.

"Guy Fortune", Capt
Medical Officer

Station. in the Field

Date. 10th Nov 1943

"R Waterman" Major

E

Finding.*

*To be struck out except in cases where trial has taken place on a plea of "Not Guilty."

The Court is closed for the consideration of the finding.

The Court find that the accused

Guilty of absence without leave for a period of 12 days, 21 hrs, 15 mins.

"R Waterman"
Major

Proceedings on Conviction *before Sentence.*

*When the Court is already open this sentence will be struck out.

*The Court being re-opened, the accused is again brought before it.

Lt. C.E. Levesque, R.22eR. is duly sworn.

Evidence of character, &c.

Question by the President.

Have you any evidence to produce as to the character and particulars of service of the accused? *Answer by the Witness.* Yes

The above statement (with the schedule of convictions and of cases in which trial has been dispensed with) is read, marked E1&E2 signed by the President, and annexed to the proceedings.

Question by the President.

Is the accused the person named in the statement which you have heard read? *Answer by the Witness.* Yes

Question.

Have you compared the contents of the above statement with the regimental books? *Answer.* Yes

Question.

Are they true extracts from the regimental books, and is the statement of entries in the conduct sheets a fair and true summary of those entries?

Answer. Yes

~~Cross-examined by the accused.~~

"R.W."

Instructions.—If by reason of the nature of the service of the accused in a disobedience case, or otherwise, the finding of the Court renders [illegible] exceptional punishment, or of which it is to be awarded by the Court the president will call the attention of the Court to the fact, and the Court must inquire into the nature and amount of that additional punishment.

Question to the accused.

Do you wish to address the Court? *Answer.* No

The Court is closed for the consideration of the sentence.

F

Sentence.

The Court sentence the accused D 136545 Pte Guerin, Victor *Sentence.*

to be imprisoned with hard labour
for 18 months

"R. Waterman"
Major

WWW-25

Pte. Guinetta J C

SCHEDULE.

PART I. PLEA(S), FINDING(S) AND SENTENCE.

Accused: E-3018 Pte Jean Cyrile GUERRETE RCASC 12 Bn 2 CBRG

	Charge. (Insert "alternative" where applicable.)	Plea. (See Instrs p 2.)	Finding. (See note below.)	(Space for use as required for further charges, accused charged jointly, special findings, etc.)
1st	Sec 8(2)AA	Not Guilty	Not Guilty	
2nd	Sec 40 AA	Not Guilty	Guilty.	
3rd				
4th				
5th				
6th				

(Note: As to findings for lesser offences see AA 36, RP 44; findings on alternative charges see MML p 483 fn 4 para 2, RP 44; special findings see RP 44 and MML p 752, and as to loss of kit see RP 44 fn 6.)

ORK To be kept under sentence for ..... (1)

(1. Insert sentence being served, or delete, if not applicable. See RP 46(A). Information should be found on MF B355 or AF B296.)

Time in confinement awaiting present trial—a total of 6 days, of which Nil days were spent in hospital.(1)

(1. See RP 46(A) fn 2. Information should be found on MF B355 or AF B296 admitted in evidence under E2.)

Sentence Awarded by the Court:

to undergo imprisonment with hard labour for a period of six months.

(Sgd) E S Pearlman Capt — Judge-Advocate, if any. — 6 Sep 44 — Date awarded. — (Sgd) J D Ross Major RCA — President. (RP 45, 50.)

(See back of Convening Order as to assembly and disposal of record after trial.)

PART II. MINUTE WHERE CONFIRMATION RESERVED. (AA 54(5), RP 120(F), MML p 760.)

Date ..... (Sgd) ..... Commanding .....

PART III. DECISION OF CONFIRMING OFFR ON FINDING(S) AND SENTENCE.

(For duties and powers see AA 54, 57, RP 37(D) fn 6.46(A), 51-56, 120, MML pp 759-761, KR Can 567-577. Acquittals require no confirmation and cannot be revised: AA 54(3). Sending back finding or sentence for revision by Court: AA 54(2), RP 120(G). If not confirmed, accused may be tried again: AA 157, MML p 64. Minute of confirmation or non-confirmation may be altered before promulgation: RP 53, MML p 65. Quashing after promulgation: KR Can 573. Duties and powers of reviewing offrs: AA 57, 57A, RP 52A, 54. The Confirming Offr must sign here personally. AA 172 fn 1.)

My decision on the finding(s) and sentence set forth in Part I is:

I confirm.

~~I direct that the accused be not committed to prison or detention barracks until further ordered.~~ (1)

(1. AA 57A. Delete if not used.)

(Sgd) "G Francoeur"

Date 6 Sep 44. — Commanding 2 CBRG Brig. — Confirming Officer.

PART IV. PROMULGATED AND EXTRACTS TAKEN. (RP 53, KR Can 576, 577.)

Accused.	Date.	Signature of Offr.
E-3018 Pte Guerrette JC RCASC (x-6 List 12 Bn 2 CBRG.	8 Sep 44	"A V HOOD" Lt-Col OC 12 Bn 2 CBRG

ALL DELETIONS AND ALTERATIONS WILL BE INITIALLED.

WWW-25

FIELD GENERAL COURT-MARTIAL

CFA68 (To Dup of AFA81) 40/P.M.R.1868 (6/50) 4/38B

Convened by Order of Brig G Francoeur Comd 2 CBRG dated 2 Sep 44

ACCUSED.

(As to the trial of two or more charged jointly see RP 16, 71, 109. As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

Number.	(a) Prmnt R. (b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit, etc.
E-3018	Certified True Copy (F.P. Lt-Col) Major Deputy Judge Advocate Genl Sec GHQ 21 Army Gp	Jean Cyrile	GUERRETTE	RCASC 12 Bn 2 CBRG

PROCEEDINGS REVISED BY DIR. A. Sec G.H.Q. 21 Army Gp Date

PROCEEDINGS OF TRIAL.

Held in the Fd in (country) France on (date(s)) 6 Sep 44

RECORD FORM A—OPENING PROCEEDINGS AND ARRAIGNMENT.

A1. The President, Members, waiting Member, JA, if any, and Offrs under instr, if any, assemble, and the Court is closed.

(PRINTED MATTER, NOT IN ITALICS FOR GUIDANCE, WILL BE DELETED, IF NOT USED OR APPLICABLE, AND INITIALLED BY PRES OR JA. The Schedule referred to throughout is on p 4. Citations do NOT include all relevant fns. For guidance on procedure when a variation in this form arises, see form for GCM in MML pp 741 to 759. A brief record of such variation will be made and given a number having reference to appropriate or preceding para number herein. See back of Convening Order, CF 895, for oaths and instrs on how to record addresses, evidence, etc, which instrs are hereafter called "Notes". As to general provisions for conducting the trial see AA 53, RP 56, 63-70, 73, 74, 94, 103, 119, 132.)

A2. The President initials and lays before the Court the Convening Order and Charge Sheet(s) attached thereto.(1) The Court is satisfied that it is properly convened and constituted(2), accused is (are) amenable to military law, and each charge discloses an offence.(3)

(1. As to use of Summary of Evidence see RP 17 fn 6. 2. AA 49, 50, RP 105-107. 3. RP 11-13, 23, 24.)

A3. The Court is opened. The accused is (are) brought before the Court. At 0930 hours trial commences.

A4. The Prosecutor produces a Medical Certificate that accused is (are) fit to undergo trial by court-martial.(1) ~~The Prosecutor informs the Court that accused elected to be tried by court-martial instead of being dealt with summarily by [illegible].~~

(1. KR Can 557. 2. AA 46(B), RP 60 fn 1. For effect see KR Can 563(c). Delete, if not applicable.)

A5. President to accused: Do you object to ..... as interpreter? Ans .....
~~The Interpreter sworn.~~ ~~Do you object to ..... as shorthand writer? Ans~~
~~The shorthand writer sworn.~~ (1)

(1. RP 72. Delete, if none employed.)

A6. The Convening Order and names of the President and Members of the Court are read to the accused.(1) President to accused: Do you object to be tried by me as President or by any of the Members of the Court?

Ans Nil (2)

(1. RP 110. 2. If no objection, waiting member retires. RP 66(B). If objection, see procedure AA 51, RP 23, 71, 110, MML p 742.)

A7. The President, Members, JA, if any, and Offrs under instr, if any, are sworn.(1) The following are the ranks, names and units of the offrs comprising the Court, viz:

President	Major	J D ROSS	RCA	12 Bn 2 CBRG
Member	Capt	H H HOUSE		10 Bn 2 CBRG
Member	Lieut	D L WISSBERRY		10 Bn 2 CBRG
Judge-Advocate	Capt	E S PEARLMAN	ADJA	HQ 2 CBRG
Prosecutor	Lieut	J R McLean		12 Bn 2 CBRG
Defending Offr	Lieut	F.E: Genest		12 Bn 2 CBRG

Questions by President: Is the Prosecutor a lawyer? Ans No. Is the Defending Offr a lawyer? Ans No. (2)

(1. RP 2a, 27, 109, 111. List of offrs under instr will be returned separately with proceedings for information of Conv Offr. 2. If Pros a lawyer and Def Offr not, accused is entitled to an adjournment when RP 89 (B) and fn 2 were not followed. See DI p 3.)

A8. The accused E.3018 Pte GUERRETTE J.C. before arraignment make(s) (no) (a) plea ..... (1)

(1. If a special plea is made for separate trial on one or more charges (RP 62(E), 108), or as to the jurisdiction of the Court (RP 34, 35(A), 113), or in bar of trial (RP 36), or as to accused's mental fitness to stand trial (AA 130, RP 57), or by one of several accused charged jointly to be tried separately (RP 16, 71), such plea, the addresses made in support or against, the evidence, if any, and finding are recorded per Notes. For forms of record see references in fns to RoP cited. Insert in full rank and name of the accused making the plea.)

A9. The accused is (are) arraigned (severally) on all charges in the charge sheet.(1) The accused does (do) not object to any charge.(2) There is no amendment to be made to the Charge Sheet.(3) The President records the pleas in Part I of the Schedule.

(1. RP 21, 112. See para 1 of Instrs p 2. When more than one Charge Sheet see RP 62; when several accused to be tried separately see RP 71(C), and use separate copies of CF A96 to record proceedings. 2. RP 32, RP 33. If otherwise, delete and make appropriate record per Notes.)

A10. The Court ~~is cleared~~ and considers the Instrs on Procedure after Arraignment at top of p 2. The proceedings are continued on Record Form D

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

INSTRUCTIONS ON PROCEDURE AFTER ARRAIGNMENT.

1. *The accused may not plead or be found Guilty on more than one of two or more charges laid in the alternative.* (*RP 37(A).*) *As to withdrawal of alternative charges by Prosecutor see RP 35(C). No other charge can be withdrawn for any reason without authy from Convening Offr. If Convening Offr concurs, Court may accept plea of Guilty to lesser, etc, offence.* (*RP 44(H).*) *Accused may change a plea of Not Guilty to Guilty during trial.* (*RP 38.*) *As to refusing to plead or not pleading intelligibly see RP 35(A). As to plea when sentence may be death see RP 35(D).*

2. *The proceedings on each charge sheet* (*RP 62*) *after arraignment will be conducted as follows in the respective circumstances stated:*

I. If pleas to all charges are GUILTY, use Record Form B below.

II. If pleas to all charges are NOT GUILTY, use Record Form D on p 3.

III. If pleas to some charges are GUILTY and to other charges are NOT GUILTY and,

(a) Such mixed pleas occur when there are no alternative charges in the Charge Sheet, use Record Form C below. (*RP 37(A).*)

(b) Such mixed pleas occur in a set of two or more charges laid in the alternative, see RP 37 (A) and fn 2 as to discretion of Court, (i) to try the accused on all such alternative charges as if he had pleaded Not Guilty thereto, or, (ii) to record the pleas as the findings of Court. After deciding between (i) and (ii), Court will proceed under foregoing instrs as may be appropriate to result of its decision. See M M L p 744 Instrs (2).

3. *As to responsibility of President to accused see RP 59, 60(C); powers and duties of JA see RP 103; duty of Prosecutor see RP 60(A) (B); duty and privileges of accused and Defending Offr see RP 60(C), 87(C), 91, 92; swearing and withdrawal of witnesses from Court see RP 81, 82; questioning of accused see RP 80, 87(C), 92(B), and of witnesses see RP 83-85; calling or re-calling of witnesses by Court, etc, see RP 75-79, 86, 116; use of Summary of Evidence at Trial see RP 17(B) fn 6; and responsibility of JA or Pres to record proceedings see RP 94, 96.*

RECORD FORM B—PROCEEDINGS ON PLEAS OF GUILTY TO ALL CHARGES.

B1. The President or JA, if any, complies with RP 35(B) by explaining to the accused the nature and meaning of the charge(s)(1), and that on his plea of Guilty there will be no regular trial but merely a consideration of the sentence to be awarded after he has been given an opportunity to make a statement in reference to the charge(s), call witnesses as to character and make an address in mitigation of punishment.(2)
(1. *RP 35 fn 3.* 2. *MML p 54 para 47.*)

B2. President to accused: The Court will now receive any statement you desire to make in reference to the charge(s).(1) If it appears from your statement that there are circumstances which indicate that you do not understand the effect of the plea of Guilty(2), or which show provocation or extenuation in respect of which in your interest the witnesses for the Prosecution should be examined(3), we shall advise you to change your pleas to Not Guilty. In making a statement you will not be sworn or subject to cross-examination; and anything you say will not be used in evidence against you after you change your plea. If, however, it appears to the Court that your statement affects only the amount of punishment to which you are liable, you will not be advised to change your plea and you will be given an opportunity later to prove your statement by sworn testimony, if you so desire.(4)

President to accused: Do you wish to make a statement? Ans .....(5)
(1. *RP 37(B).* 2. *RP 37(D) fn 6.* 3. *RP 37(B) fn 3 para 3, MML p 54 para 47.* 4. *See para E3 of Record Form E.* 5. *Statement, if any, recorded per Notes.*)

B3. The Court considers the accused's statement.(1) The Court decides (not) to advise accused to change his (their) plea(s) of Guilty to Not Guilty on ..... charge(s). The accused is (are) so informed, and he (they) change(s) his (their) plea(s) on ..... charge(s). Part I of the Schedule is amended accordingly.
(1. *Court may be cleared to consider the statement. Delete whole or part not used.*)

B4. On the charge(s) to which the plea(s) of Guilty is (are) not changed the President records finding(s) of Guilty in Part I of the Schedule.(2)
(1. *RP 35(B). If any plea(s) is (are) changed, use Record Form C or D as appropriate.*)

B5. The Summary of Evidence is marked Ex ....., initialled and read aloud by the President.(1)
(1. *If there is no Summary, or if it is inadequate, comply with RP 37(B). If there is any evidence inconsistent with any plea standing as Guilty, Court will advise accused to change such plea and, if changed to Not Guilty, try such charge(s) by use of paras D1 to D8 inclusive of Record Form D on p 3. RP 37(D).*)

B6. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

RECORD FORM C—PROCEEDINGS ON MIXED PLEAS OF GUILTY AND NOT GUILTY.

C1. As to the charges on which accused pleaded NOT GUILTY the trial is continued by using paras D1 to D9 inclusive of Record Form D on p 3 before proceeding with C 2.(1)
(1. *RP 37(A) (E).*)

C2. The charges on which accused pleaded GUILTY are read to him (them) again, and the trial is continued by using paras B1 to B5 of Record Form B above.(1)
(1. *Under B5 such parts only of the Summary of Evidence or exhibits as relate to the charges dealt with under C2. If any plea is changed to Not Guilty, trial thereon proceeds by completing with paras D1 to D8 inclusive in Record Form D on p 3 and marking on appropriate record thereof on a separate sheet.*)

C3. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

RECORD FORM D—PROCEEDINGS ON PLEAS OF NOT GUILTY TO ALL CHARGES.

D1. President to accused: Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity to prepare your defence? Ans No (1)
(1. *If "yes", see RP 35(A) for procedure. Statement or evidence, if any, is recorded per Notes.*)

D2. The Prosecutor makes (an) (no) opening address.(1)
(1. *RP 39(B), 60(A) (B), 90, 92(C) (D). Record address per Notes, subject to RP 95(C).*)

D3. The evidence for the Prosecution is taken.(1)
(1. *RP 39(C), 114, KR Can 555. Record evidence per Notes. As to Prosecutor giving evidence himself see RP 39(D) (E).*)

D4. The Prosecution is closed.(1) The Defending Offr submits that the evidence for the Prosecution does not establish a prima facie case against the accused on the ..... charge(s).(2) The Court is closed, and considers the submission.(3) The Court is re-opened, and the President announces that the submission is disallowed on the ..... charge(s), and allowed on the ..... charge(s); and that, accordingly, the trial will proceed on the former, but the accused is (are) found Not Guilty on the latter charge(s).(4)
(1. *Delete remainder of this para, if submission not made.* 2. *Arguments on submission, answer and reply are recorded per Notes.* 3. *RP 40 fn 1. See MML p 72 paras 12-14 and p 81 para 42.* 4. *Delete part not used. If accused acquitted on all charges use second alternative in para D8.*)
NB: If trial proceeds, accused must be allowed great latitude in making his defence, and the Court should not stop his defence solely on ground of irrelevance. (*RP 60(C), 114, 115.*)

D5. President to accused: You will now proceed with your defence.(1) You may, if you wish, give evidence yourself on oath as to the facts or your character or both, in which case you will be subject to cross-examination.(2) You may, however, make a statement without being sworn, and you will not be subject to cross-examination.(3) But a statement which could have been made on oath will not carry with the Court the same weight as sworn testimony.(4) You may call witnesses in your defence and as to character, whether you give evidence or make a statement or do neither.

President to accused: Do you wish to give evidence yourself as a witness, make a statement, or do neither? Ans Intends to give evidence on oath. Do you intend to call witnesses on your behalf? Ans Yes. Are they witnesses as to character only? Ans No
(1. *RP 115.* 2. *RP 40(A), see 80(D).* 3. *RP 40 fn 10.* 4. *RP 40 fns 2, 9.*)

D6. Consequent on the answers recorded in para D5 the appropriate procedure for the defence is followed.(1)
(1. *RP 114, 115, 116. For procedure see Notes on back of Convening Order, CF 895. Evidence for accused as to his character should, if in his interest, be given before the finding. See RP 46(A) fn 1, 86(C). Note the further opportunity in para E1 of Record Form E. Record per Notes addresses, statement, evidence and any summing up by the JA under RP 42, 103(e).*)

D7. The Court is closed to consider the finding(s).(1) The finding(s) of the Court is (are) recorded in Part I of the Schedule.(2) The Court is re-opened.
(1. *RP 43, 117(A). See Notes in Part I of Schedule.* 2. *RP 44(E).*)

D8. The President announces the finding(s), if any, of Not Guilty, and states to the accused that the finding(s) of the Court on the First Charge charge(s), being subject to confirmation, will be promulgated later.(1)
Or, The President announces that the accused is found Not Guilty on all charges and that the proceedings are accordingly terminated. Part I of the Schedule is dated and signed.(2)
(1. *AA 54(3) (d), RP 45, 120(A).* 2. *AA 54(3), RP 45, 117. This alternative announcement is not applicable when there are pleas of Guilty outstanding and dealt with under Record Form B or C.*)

D9. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E below.

RECORD FORM E—PROCEEDINGS ON CONVICTION BEFORE SENTENCE.

E1. President to accused: Do you wish to give evidence yourself or to call any witnesses as to your character?(1) Ans He wishes to call witnesses but I do not wish to call a character witness.
(1. *If evidence has already been given by accused or his witnesses as to his character, delete this para. RP 37(C) fn 4, 46 fn 1. Accused and witnesses are sworn. Evidence recorded per Notes.*)

E2. The Prosecutor produces Statement(s) as to Character and Particulars of Service(1), and certified true copy (copies) of Conduct Sheet(s)(2), purporting to refer to the accused, which he submits to the Defending Offr for examination, and then to the Court for admission in evidence. The Court is satisfied that these documents refer to the accused, because (i) they purport to be signed in the manner required by AA 163(3) (g) (h), and (ii) they purport to refer to (a) soldier(s) having the same number, rank, name and corps as the accused. Admitted in evidence and marked Ex B and Ex C respectively.(3)
(1. *MFE 35S or AFB 296.* 2. *MFM 6.* 3. *RP 46, KR Can 558. If above documents not produced, see RP 46 fn 1 para 1.*)

E3. President to accused: Do you wish to address the Court on the Statement(s) and Conduct Sheet(s), and in mitigation of punishment?(1) Ans I am not stating my Defence Officer.(2)
(1. *RP 37(C), 46(D).* 2. *Address, if any, recorded per Notes. Court should permit accused or his witnesses to prove on oath anything here or previously stated which would affect the amount of punishment. RP 37(F), fn 7.*)

E4. The President states that the Court is closed to consider the sentence, and that the sentence to be awarded by the Court, being subject to confirmation, will not be announced, but will be promulgated later, and the proceedings in open court are accordingly terminated.(1)
(1. *AA 54(6), RP 120(A).*)

E5. The Court considers the sentence.(1) The President records the sentence in Part I of the Schedule, which is dated and signed by him and the JA, if any.(2)
(1. *When several accused tried separately see RP 71 (D). One sentence only, comprised of the punishment or punishments laid down in AA 41, 44 and its proviso, is to be awarded to cover all charges in all charge sheets on which accused found guilty. RP 48. As to sentences see AA 44, 138, 182, RP 46-50, 69, 118, 119(A), KR Can 308, 336, 343-366, Overseas RO 309, 1323, MML p 66, 757-759. As to sentences assigned for civil offences by the law of England see AA 41(5), MML p 130. When accused already under sentence of imprisonment or detention see AA 44(1B), 68(1), KR Can 564.* 2. *RP 50. As to release from arrest by Confirming Offr see KR Can 567. As to assembly and dispersal of record after trial see instrs on back of Convening Order.*)

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

Exhibit "C" E2

MFM 6 (AFB 122) 40/PAS/130

No E-3018 Name GUERRETTE JC | Sqn, Battery, or Company | Corps R.C.E. | Date of enlistment 5Sep39 | GC Badge | Service or Proficiency Pay N/A | Character

Date of last entry in Company Conduct Sheet 18 Apr 40 | No and date of last drunk N/A | Period not reckoning towards freedom from extra fine N/A | Sheet No 3 | Signature OC Company, etc BGuchoin Major

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with same	By whom awarded	Remarks
Sheet No. 2 destroyed on completion of 2 yrs service in accordance with K.R. (Can) 1518 Sgd (Edw H. Webb) Capt OC "A" Coy 1st Bn RCE CA									
Field 14	Jul 42	Spr		AA 15(1) AWL from 0645 hrs 14 Jul 42 until apprehended at 1930 hrs 21 Jul 42 (Absent 7 days 12 hrs 45 mins)	Sgt Dussault Cpl Corrigan	Forf of 21 Bas Pay and 14 days pay	27Jul 42	Major MCTavish OC A Coy 1 Bn RCE	Forf 8 dys pay Art 148(1)(a) forf 21 dys pay Ary 142(2)
								Total for 29 day pay	
Field 25	Oct 42	Spr		AA Sec 15(1) AWL from 2300 hrs 25 Oct 42 to 0420 hrs 26 Oct 42 (Absent 5 hrs 30 mins)	L/Cpl Anderson D	3 days CB	31 Oct42	Maj McTavish OC "A" Coy	

Place	Date of offence	Rank	Cases of previous conviction	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Field	25 Oct 42	Spr		AA Sec 40 Conduct to the prejudice of good order & Mil disc in that he was involved in a rd accident while riding MC Norton C-4193413 on 11 Dec 42.	Documentary	Forf of 5 days pay	20 Jan 43	Maj JT Williams CC "A" COy	Forf 5 days pay Art 149(2)
Field	25 Feb 43	Spr		ABsent fro work.	I/Sgt Gagnon	5 dys pay	23 Feb 43	Capt Darey	
Field	30 Mar 43	Spr		AA Sec 40 bein in passession of a pr of army boots in belonging to SSD No 1 CBOD	Sgt Van Dusan	Forf 14 days pay	31 Mar 43	Maj Williams	FRAI 149(2)
Field	9 Apr 43	Spr		AA Sec 15(1) 4 days 17 hrs 46 mins	Cpl Camplin	21 days FP Aut forf of 5 dys pay FRI 149(1)(a)	12 Apr	Maj J T Williams	

CERTIFIED TRUE COPY MADE FROM ORIGINAL IN MY POSSESSION
"L B Skinner"
(L.B. SKINNER) Capt
Offr in charge of Records.

SCHEDULE.

PART I. PLEA(S), FINDING(S) AND SENTENCE.

Accused: E-3018 Pte Jean Cyrille GUERRETTE, RCASC, 12 CBR Bn

Charge. (Insert "alternative" where applicable.)	Plea. (See Instrs p 2.)	Finding. (See note below.)	(Space for use as required for further charges, accused charged jointly, special findings, etc.)
1st Sec 8(2) AA	NOT GUILTY	NOT GUILTY	
2nd Sec 40 AA	NOT GUILTY	GUILTY	
3rd			
4th			
5th			
6th			

(Note: As to findings for lesser offences see AA 56, RP 44; findings on alternative charges see MML p 483 fn 4 para 2, RP 44; special findings see RP 44 and MML p 753, and in lieu of kit see RP 44 fn 6.)

~~At present under sentence for~~ ..... beginning on (date) ..... (1)

(1. Insert sentence being served, or delete, if not applicable. See RP 46(A). Information should be found on MF B355 or AF B296.)

Time in confinement awaiting present trial—a total of 6 days, of which Nil days were spent in hospital.(1)

(1. Sch RP 46(A) fn 2. Information should be found on MF B355 or AF B296 admitted in evidence under E2.)

Sentence Awarded by the Court:

To undergo imprisonment with hard labour for a period of six months.

(Sgd) C.C. Pearkman Capt. 6 SEPT. 44 (Sgd) J. D. Ross, Majors RCA
Judge-Advocate, if any. Date awarded. President. (RP 45, 50.)

(See back of Convening Order as to assembly and disposal of record after trial.)

PART II. MINUTE WHERE CONFIRMATION RESERVED. (AA 54(3), RP 120(F), MML p 760.)

Date ..... (Sgd) ..... Commanding .....

PART III. DECISION OF CONFIRMING OFFR ON FINDING(S) AND SENTENCE.

(For duties and powers see AA 54, 57, RP 37(D) fn 2, 46(A), 51-56, 120, MML pp 759-761, KR Can 567-577. Acquittals require no confirmation and cannot be revised: AA 54(3). Sending back finding or sentence for revision by Court: AA 54(2), RP 120(G). If not confirmed, accused may be tried again: AA 157, MML p 64. Minute of confirmation or non-confirmation may be altered before promulgation: RP 53, MML p 65. Quashing after promulgation: KR Can 573. Duties and powers of reviewing offrs: AA 57, 57A, RP 53A, 54. The Confirming Offr must sign here personally. AA 172 fn 1.)

My decision on the finding(s) and sentence set forth in Part I is:

I confirm

~~I direct that the accused be not committed to prison or detention barracks until further orders.~~ (1)

(1. AA 57A. Delete if not used.)

Date 6 Sep 44 (Sgd) Granocque
Commanding 2 CBRG Brig
Confirming Officer.

PART IV. PROMULGATED AND EXTRACTS TAKEN. (RP 53, KR Can 576, 577.)

Accused.	Date.	Signature of Offr.
E3018 Pte GUERRETTE J.C. RCASC (X-A) 12 Fd Bn 2 CBRG	8 SEPT 44	A Hall Lieut A Adjt 2 CBR Group

ALL DELETIONS AND ALTERATIONS WILL BE INITIALLED.

RECEIVED 18 SEP 1944 JAG BRANCH C.M.H.Q.

RECORDED AT CMHQ IN AB 168, WWW-257

FIELD GENERAL COURT-MARTIAL

Order of Brig G Francoeur Comd 2 CBRG dated 2 SEP 44

ACCUSED.

(As to the trial of two or more charged jointly see RP 16, 71, 109. As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

Number.	(a) Prmnt R. (b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
E-3018	Pte	Jean Cyrille	GUERRETTE	RCASC, 12 CBR Bn

PROCEEDINGS REVIEWED
J. R. Ligueckon Capt
20 Sept 44.
REVIEWING OFFICER, JAG BRANCH C.M.H.Q.

PROCEEDINGS OF TRIAL.

Held in the Fd in (country) FRANCE on (date(s)) 6 SEP 44

PROCEEDINGS REVIEWED Gen Sec GHQ 21 Army Gp Date 1 DEC 44

RECORD FORM A—OPENING PROCEEDINGS AND ARRAIGNMENT. 10/76

A1. The President, Members, waiting Member, JA, if any, ~~and Offrs under instr~~ Pros if any, assemble, and the Court is closed.

(PRINTED MATTER, NOT IN ITALICS FOR GUIDANCE, WILL BE DELETED IF NOT USED OR APPLICABLE, AND INITIALLED BY PRES OR JA. The Schedule referred to throughout is on p 4. Courses do NOT include all relevant fns. For guidance on procedure when a variation on this form arises, see form for GCM in MML pp 741 to 758. A brief record of such variation will be made and given a number having reference to appropriate or preceding para number herein. See back of Convening Order, CF 495, for oaths and instrs on how to record witnesses, evidence, etc., which instrs are hereafter called "Notes". As to general provisions for conducting the trial see AA 53, RP 36, 63-70, 73, 74, 94, 103, 119, 132.)

A2. The President initials and lays before the Court the Convening Order and Charge Sheet ~~if~~ attached thereto.(1) The Court is satisfied that it is properly convened and constituted(2), accused is (~~are~~) amenable to military law, and each charge discloses an offence.(3)

(1. As to use of Summary of Evidence see RP 107 fn 6. 2. AA 49, 50, RP 105-107. 3. RP 11-13, 23, 24.)

A3. The Court is opened. The accused is (~~are~~) brought before the Court. At 0930 hours trial commences.

A4. The Prosecutor produces a Medical Certificate that accused is (~~are~~) fit to undergo trial by court-martial.(1) ~~The Prosecutor informs the Court that accused elected to be tried by court-martial instead of being dealt with summarily by the CO.~~(2)

(1. KR Can 557. 2. AA 46(8), RP 60 fn 1. For effect see KR Can 563(c). Delete, if not applicable.)

A5. ~~President to accused: Do you object to [illegible] as interpreter? Ans N/C~~

The Interpreter is sworn.(1) ~~Do you object to~~ ..... as shorthand writer? Ans .....

The ~~shorthand writer is sworn~~.(2)

(1. RP 72. Delete, if none employed.)

A6. The Convening Order and names of the President and Members of the Court are read to the accused.(1) President to accused: Do you object to be tried by me as President or by any of the Members of the Court?

Ans N/C.(2)

(1. RP 110. 2. If no objection, waiting member retires. RP 60(8). If objection, see procedure AA 51, RP 25, 71, 18, MML p 742.)

A7. The President, Members, JA, if any, ~~and Offrs under instr, if any~~ are sworn.(1) The following are the ranks, names and units of the offrs comprising the Court, etc:

President	Major	J D ROSS, RCA,	12 CBR Bn
Member	CAPT.	H H HOUSE	10 CBR Bn
Member	LIEUT	D L RIESBERRY	10 CBR Bn
Judge-Advocate	Capt	E E PEARLMAN, ADJA,	HQ 2 CBRG
Prosecutor	LT. J.E. McLEAN		12 CBR Bn
Defending Offr	LT. P.E. GENEST		12 CBR Bn

Questions by President: Is the Prosecutor a lawyer? Ans N/C. Is the Defending Offr a lawyer? Ans ~~N/C~~.(2)

(1. RP 2a, 27, 109, 111. Use of offrs under instr will be returned separately with proceedings for information of Conv Offr. 2. If Pros a lawyer and Def Offr not, accused is entitled to an adjournment when RP 80 (8) and fn 2 were not followed. See 2a p 3.)

A8. The accused E-3018 Pte GUERRETTE J.C. before arraignment make(s) (no) ~~a~~ plea(1)

(1. If a special plea is made for separate trial on one or more charges (RP 62(E), 108), or as to the jurisdiction of the Court (RP 34, 35(A), 113), or in bar of trial (RP 36), or as to accused's mental fitness to stand trial (AA 130, RP 37), or by one of several accused charged jointly to be tried separately (RP 16, 71), such plea, the addresses made in support or against, the evidence, if any, and findings are recorded per Notes. For forms of record see references in fns to RP cited. Insert in A8 rank and name of the accused making the plea.)

A9. The accused is (~~are~~) arraigned (~~separately~~) on all charges in the charge sheet.(1) The accused does (~~do~~) not object to any charge.(2) There is no amendment to be made to the Charge Sheet.(3) The President records the pleas in Part I of the Schedule.

(1. RP 31, 112. See para 1 of Instrs p 2. When more than one Charge Sheet see RP 62; when several accused to be tried separately see RP 71(C), and use separate copies of CF 496 to record proceedings. 2. RP 32, RP 33. If otherwise, delete and make appropriate record per Notes.)

A10. The Court (~~reviewed and~~) considers the Instrs on Procedure after Arraignment at top of p 2. The proceedings are continued on Record Form D

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

INSTRUCTIONS ON PROCEDURE AFTER ARRAIGNMENT.

1. *The accused may not plead or be found Guilty on more than one of two or more charges laid in the alternative.* (*RP* 37(*A*).) *As to withdrawal of alternative charges by Prosecutor see RP* 35(*C*). *No other charge can be withdrawn for any reason without authy from Convening Offr. If Convening Offr concurs, Court may accept plea of Guilty to lesser, etc, offence.* (*RP* 44(*H*).) *Accused may change a plea of Not Guilty to Guilty during trial.* (*RP* 38.) *As to refusing to plead or not pleading intelligibly see RP* 35(*A*). *As to plea when sentence may be death see RP* 35(*D*).

2. *The proceedings on each charge sheet* (*RP* 62) *after arraignment will be conducted as follows in the respective circumstances stated:*

I. If pleas to all charges are GUILTY, use Record Form B below.

II. If pleas to all charges are NOT GUILTY, use Record Form D on p 3.

III. If pleas to some charges are GUILTY and to other charges are NOT GUILTY and,

(a) Such mixed pleas occur when there are no alternative charges in the Charge Sheet, use Record Form C below. (*RP* 37(*A*).)

(b) Such mixed pleas occur in a set of two or more charges laid in the alternative, see RP 37 (*A*) *and fn* 2 *as to discretion of Court, (i) to try the accused on all such alternative charges as if he had pleaded Not Guilty thereto, or, (ii) to record the pleas as the findings of Court. After deciding between (i) and (ii), Court will proceed under foregoing instrs as may be appropriate to result of its decision. See MML p 744 Instrs* (2).

3. *As to responsibility of President to accused see RP 59, 60(C); powers and duties of JA see RP 103; duty of Prosecutor see RP 98(A) (B); duty and privileges of accused and Defending Offr see RP 60(C), 87(C), 91, 92; swearing and withdrawal of witnesses from Court see RP 81, 82; questioning of accused see RP 80, 87(C), 92(B), and of witnesses see RP 83-85; calling or re-calling of witnesses by Court, etc, see RP 75-79, 85, 116; use of Summary of Evidence at Trial see RP 37(E) fn 6; and responsibility of JA or Pres to record proceedings see RP 94, 96.*

RECORD FORM B—PROCEEDINGS ON PLEAS OF GUILTY TO ALL CHARGES.

B1. The President or JA, if any, complies with RP 35(B) by explaining to the accused the nature and meaning of the charge(s).(1) and that on his plea of Guilty there will be no regular trial but merely a consideration of the sentence to be awarded after he has been given an opportunity to make a statement in reference to the charge(s), call witnesses as to character and make an address in mitigation of punishment.(2)
(1. *RP 35 fn 3.* 2. *MML p 54 para 47.*)

B2. President to accused: The Court will now receive any statement you desire to make in reference to the charge(s).(1) If it appears from your statement that there are circumstances which indicate that you do not understand the effect of the plea of Guilty(2), or which show provocation or extenuation in respect of which in your interest the witnesses for the Prosecution should be examined(3), we shall advise you to change your plea to Not Guilty. In making a statement you will not be sworn or subject to cross-examination; and anything you say will not be used in evidence against you after you change your plea. If, however, it appears to the Court that your statement affects only the amount of punishment to which you are liable, you will not be advised to change your plea and you will be given an opportunity later to prove your statement by sworn testimony, if you so desire.(4)

President to accused: Do you wish to make a statement? Ans .....(5)
(1. *RP 37(B).* 2. *RP 37(D) fn 6.* 3. *RP 35(B) fn 5 para 3, MML p 54 para 47.* 4. *See para E3 of Record Form E.* 5. *Statement, if any, recorded per Notes.*)

B3. The Court considers the accused's statement.(1) The Court decides (not) to advise accused to change his (their) plea(s) of Guilty to Not Guilty on ..... charge(s). The accused is (are) so informed, and he (they) change(s) his (their) plea(s) on ..... charge(s). Part I of the Schedule is amended accordingly.
(1. *Court may be closed to consider the statement. Delete whole or part not used.*)

B4. On the charge(s) to which the plea(s) of Guilty is (are) not changed the President records finding(s) of Guilty in Part I of the Schedule.(1)
(1. *RP 35(B). If any plea(s) is (are) changed, use Record Form C or D as appropriate.*)

B5. The Summary of Evidence is marked Ex ....., initialled and read aloud by the President.(1)
(1. *If there is no Summary, or if it is inadequate, comply with RP 37(B). If there is any evidence inconsistent with any plea standing at Guilty, Court will advise accused to change such plea and, if changed to Not Guilty, try such charge(s) by use of paras C1 to D8 inclusive of Record Form D on p 3. RP 37(D).*)

B6. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 5.

RECORD FORM C—PROCEEDINGS ON MIXED PLEAS OF GUILTY AND NOT GUILTY.

C1. As to the charges on which accused pleaded NOT GUILTY the trial is continued by using paras D1 to D8 inclusive of Record Form D on p 3 before proceeding with C 2.(1)
(1. *RP 37(C) (E).*)

C2. The charges on which accused pleaded GUILTY are read to him (them) again, and the trial is continued by using paras B1 to B5 of Record Form B above.(1)
(1. *Under B5 such parts only of the Summary of Evidence are read as relate to the charges dealt with under C2. If any plea is changed to Not Guilty, trial thereon proceeds by complying with paras D1 to D8 inclusive in Record Form D on p 3 and making an appropriate record thereof on a separate sheet.*)

C3. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 5.

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

RECORD FORM D—PROCEEDINGS ON PLEAS OF NOT GUILTY TO ALL CHARGES.

D1. President to accused: Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity to prepare your defence? Ans NO SIR (1)
(1. *If "yes", see RP 39(A) for procedure. Statement or evidence, if any, is recorded per Notes.*)

D2. The Prosecutor makes (his) (no) opening address.(1)
(1. *RP 39(B), 60(A) (B), 90, 92(C) (D). Record address per Notes, subject to RP 95(C).*)

D3. The evidence for the Prosecution is taken.(1)
(1. *RP 39(C), 114, KR Can 555. Record evidence per Notes. As to Prosecutor giving evidence himself see RP 39(D) (E).*)

D4. The Prosecution is closed.(1) ~~The Defending Offr submits that the evidence for the Prosecution does not establish a prima facie case against the accused on the ..... charge(s).~~(2) The Court is closed, and considers the submission.(3) The Court is re-opened, and the President announces that the submission is disallowed on the ..... charge(s), and allowed on the ..... charge(s), and that, accordingly, the trial will proceed on the former, but the accused is (are) found Not Guilty on the latter charge(s).(4)
(1. *Delete remainder of this para. If submission not made.* 2. *Arguments on submission, answer and reply are recorded per Notes.* 3. *RP 40 fn 1. See MML p 72 paras 12-14 and p 81 para 42.* 4. *Delete part not used. If accused acquitted on all charges, use record alternative in para D8.*)
NB: *If trial proceeds, accused must be allowed great latitude in making his defence, and the Court should not stop his defence solely on ground of irrelevance.* (*RP 60(C), 114, 115.*)

D5. President to accused: You will now proceed with your defence.(1) You may, if you wish, give evidence yourself on oath as to the facts or your character or both, in which case you will be subject to cross-examination.(2) You may, however, make a statement without being sworn, and you will not be subject to cross-examination.(3) But a statement which could have been made on oath will not carry with the Court the same weight as sworn testimony.(4) You may call witnesses in your defence and as to character, whether you give evidence or make a statement or do neither.

President to accused: Do you wish to give evidence yourself as a witness, make a statement, or do neither?
Ans I wish to give evidence myself. Do you intend to call witnesses on your behalf?
Ans YES SIR. Are they witnesses as to character only? Ans NO
(1. *RP 115.* 2. *RP 40(A), see 80(D).* 3. *RP 40 fn 10.* 4. *RP 40 fns 2, 9.*)

D6. Consequent on the answers recorded in para D5 the appropriate procedure for the defence is followed.(1)
(1. *RP 114, 115, 116. For procedure see Notes on back of Convening Order, CF A95. Evidence for accused as to his character should, if in his interest, be given before the Finding. See RP 46(A) fn 1, 86(C). Note the further opportunity in para E1 of Record Form E. Record per Notes addresses, statement, evidence and any summing up by the JA under RP 41, 103(e).*)

D7. The Court is closed to consider the finding(s).(1) The finding(s) of the Court is (are) recorded in Part I of the Schedule.(2) The Court is re-opened.
(1. *RP 43, 117(A). See Notes in Part I of Schedule.* 2. *RP 44(A).*)

D8. The President announces the finding(s), if any, of Not Guilty, and states to the accused that the finding(s) of the Court on the 2ND ALTERNATIVE charge(s), being subject to confirmation, will be promulgated later.(1) Or, The President announces that the accused is found Not Guilty on all charges and is to be released forthwith, and that the proceedings are accordingly terminated. Part I of the Schedule is dated and signed.(2)
(1. *AA 54(2) (a), RP 45, 120(A).* 2. *AA 54(2), RP 45, 117. This alternative announcement is not applicable when there are pleas of Guilty outstanding and dealt with under Record Form B at C.*)

D9. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E below.

RECORD FORM E—PROCEEDINGS ON CONVICTION BEFORE SENTENCE.

E1. President to accused: Do you wish to give evidence yourself or to call any witnesses as to your character?(1)
Ans NO SIR - BUT I WISH TO CALL A CHARACTER WITNESS.
(1. *If evidence has already been given by accused or his witnesses as to his character, delete this para. RP 37(C) fn 4, 46 fn 1. Accused and witnesses are sworn. Evidence recorded per Notes.*)

E2. The Prosecutor produces Statement(s) as to Character and Particulars of Service(1), and certified true copy (copies) of Conduct Sheet(s)(2), purporting to refer to the accused, which he submits to the Defending Offr for examination, and then to the Court for admission in evidence. The Court is satisfied that these documents refer to the accused, because (i) they purport to be signed in the manner required by AA 163(1) (g) (b), and (ii) they purport to refer to (a) soldier(s) having the same number, rank, name and corps as the accused. Admitted in evidence and marked Ex B and Ex C respectively.(3)
(1. *MFB 355 or AFB 296.* 2. *MFM 6.* 3. *RP 46, KR Can 538. If above documents not produced, see RP 46 fn 1 para 1.*)

E3. President to accused: Do you wish to address the Court on the Statement(s) and Conduct Sheet(s), and in mitigation of punishment?(1) Ans YES SIR - I WISH MY DEFENDING OFFICER (2)
(1. *RP 37(C), 46(D).* 2. *Address, if any, recorded per Notes. Court should permit accused or his witnesses to prove on oath anything here or previously stated which would affect the amount of punishment. RP 37(F) fn 7.*)

E4. The President states that the Court is closed to consider the sentence, and that the sentence to be awarded by the Court, being subject to confirmation, will not be announced, but will be promulgated later, and the proceedings in open court are accordingly terminated.(1)
(1. *AA 54(6), RP 120(A).*)

E5. The Court considers the sentence.(1) The President records the sentence in Part I of the Schedule, which is dated and signed by him and the J.A., if any.(2)
(1. *When several accused tried separately see RP 71 (D). One sentence only, comprised of the punishment or punishments laid down in AA 41, 44 and its purview, is to be awarded to cover all charges in all charge sheets on which accused found guilty. RP 48. As to sentences see AA 44, 138, 182, RP 46-50, 69, 118, 119(A)(B), KR Can 308, 332, 563-566, Overseas RO 309, 2323, MML p 60, 737-759. As to sentences assigned for civil offences by the law of England see AA 41(5), MML p 130. When accused already under sentence of imprisonment or detention see AA 44(1)(B), 68(1), KR Can 564.* 2. *RP 50. As to release from arrest by Confirming Offr see KR Can 567. As to assembly and disposal of record after trial see Instrs on back of Convening Order.*)

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

J.D. Ross, Maj

CHARGE SHEET

E-3018 Pte Jean Cyrile GUERRETTE, 12 CHR Bn, 2 Cdn Base Rft Gp, a soldier of the Canadian Army Overseas, is charged with,

FIRST CHARGE
AA Sec 8(2)

WHEN ON ACTIVE SERVICE - OFFERING VIOLENCE TO HIS SUPERIOR OFFICER

in that he

In the Field, at approximately 2140 hrs 30 Aug 44 did fire a pistol at E-22430 L/Cpl FISCHER F W.

SECOND CHARGE
ALTERNATIVE
AA Sec 40

WHEN ON ACTIVE SERVICE - AN ACT TO THE PREJUDICE OF GOOD ORDER AND MILITARY DISCIPLINE

in that he

In the Field, in the kitchen of 47 Coy, 12 CHR Bn at approximately 2140 hrs 30 Aug 44 did fire a pistol without due authority or justification.

A O Hood

(A O Hood) Lt-col
Commanding Officer
12 Cdn Base Rft Bn, 2 CBRGp

In the Field, FRANCE,
1 SEP 44

TO BE TRIED BY FIELD GENERAL COURT MARTIAL

G Tremblay

(G Tremblay) Brig
Comd
2 Cdn Base Rft Gp

In the Field
2 SEP 44

FIELD GENERAL COURT-MARTIAL

J. D Ross, Maj

(Whether the accused to be tried is under his comd or not, a FGCM may on application to him be convened by any offr of Cdn Army Overseas, or of any other force if authorized in law, in immediate comd of troops on active service, subject to RP 105(C) and restrictions imposed by appropriate authy. AA 49, 50, RP 104-107, 114. As to the duties and privileges of the Convening Offr in dealing with the application see MML Chap V paras 20 and 23, RP 87(B).

There should be a separate Convening Order for each person to be tried separately by the same Court. RP 71(C), 109. As to separate charge sheets see RP 62, and as to separate trial on charges in the same charge sheet see RP 108. As to two or more accused charged jointly see RP 16, 109.

As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

ACCUSED.

Number.	(a) Prmnt R.	(b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
E-3018	Pte		Jean Cyrile	GUERRETTE	RCASC, 12 CBR Bn

CONVENING ORDER.

1. Whereas complaint has been made to me, the undersigned, that the person(s) named above as the accused, being subject to military law, has ~~(have)~~ committed the offence(s) set forth in the Charge Sheet(s) attached and on (date) 2 SEP 44 endorsed by me, ~~(or by an offr of my staff for me)~~, " To be tried by Field General Court-Martial ".

2. And whereas I am of opinion that it is not practicable that such offence(s) should be tried by an ordinary General Court-Martial ; ~~(and that it is not practicable to delay the trial for reference to a superior qualified offr.)~~

(Delete part in brackets when not required for compliance with RP 105(C).)

3. I hereby convene a Field General Court-Martial to try the said person(s), and to consist of the Offrs appointed or detailed hereunder.

4. ~~I am unable to appoint (a) three Offrs to form the Court, (b) a Fd Offr as President, for the reasons I have attached hereto.~~

(AA 49, RP 106(B), 107(A). Delete the whole or part, if not applicable.)

5. I also appoint as Judge-Advocate thereat the Offr mentioned hereunder.

(RP 106(E). Delete, if none appointed.)

PRESIDENT.

(Rank.)	(Must be named. RP 106.)	(Unit.)
Major	J D ROSS, RCA,	12 CBR Bn

MEMBERS.

(Rank.)	(Named or detailed. RP 106.)	(Unit.)
Capt	To be detailed by OC 10 CBR Bn	10 CBR Bn
Lieut	To be detailed by OC 10 CBR Bn	10 CBR Bn

WAITING MEMBER.

(Rank.)	(Named or detailed, if any. RP 106.)	(Unit.)
Capt	To be detailed by OC 10 CBR Bn	10 CBR Bn

JUDGE-ADVOCATE.

(Rank.)	(Must be named, if any. RP 106.)	(Unit.)
Capt	E E PEARLMAN,	ADJA, HQ 2 CBRG

On Active Service in the Fd

in FRANCE
(Country.)

G Francoeur Brigadier
(Signed personally. RP 105 fn 2.) (Rank.)

Date 2 SEP 44

(G Francoeur)
Commanding 2 Cdn Base Sub Gp
Convening Officer.

CONVENING OFFR WILL INITIAL ALL DELETIONS AND ALTERATIONS

4/38A CFABS (In lieu of AFB2) 40/P & S/1897 14/231

(See overleaf for oaths and notes for use on trial.)

MEDICAL OFFICERS CERTIFICATE

(KR(Can) Para 557)
(CMHQ CL 173)

I certify that I have this day examined E 3018. (No.)
Pte (Rank) GUERRETTE J.C. (Name) and in my opinion he is

fit ~~unfit~~ to undergo trial by Court-Martial.

Station Aldershot
Date. 6th Sept 1944.

(Sgd) Capt.
Medical Officer
(unit) 12 CBR Bn
2 CBR 44.

D 3

1st witness for Prosecution - B 22430 L/Cpl T. W. Pinchen 12 Bn having been duly sworn states:-

30th Aug 17 at approx 2.35 hrs accused came to me in Hutchem 47 Coy 12 Bn where I was in charge & asked for some coffee - I told him we didn't have any & I couldn't give him any & he tried to persuade me for about 5 minutes to give him some - then he said "If you won't give me any I'll serve it & get it." & then he drew his revolver & when he drew his revolver I stepped back & to the right & he fired the revolver in front of me - then he turned walked a short distance & started to run.

Cross examd by Def Officer

Q. You saw him draw revolver
A. Yes
Q. Did you keep facing him
A. Yes
Q. Did you see in which direction shot was fired
A. I can only say it was fired in front of him
Q. Where you directly in front of him when shot was fired
A - No - I was to the right somewhat
Q. Had the accused been drinking
A - Yes in my opinion he had been

Questnd by the Pres. witness states. I was not sure just where revolver was pointed - it was fairly dark - it could have been pointed up in air or down to the ground - we looked for bullet or marks but didn't find any. He was from 6 to 10 ft. from me when the shot was fired

RP. 83(B) complied with

2nd witness for Prosecution – D 76737 A/Cpl Wm Edward Parry – 12 Bn 2C B.R.C. – duly sworn states

I am a cooks helper at # 7 Coy 12 Bn and on the night of 30 Aug 44 about 2130 hrs the accused came in to the kitchen & asked for coffee – he didn't have a cup so he said I'll go & get a cup & come back. He came back in ten minutes & all the coffee was gone. He went over to L/Cpl Pinchen & asked for something to eat – I heard something said by accused to the effect "I got nothing to eat?" and I heard a shot – I stood up looked around & saw the accused walk away a short distance & then start to run.

Cross Examn by Def. Officer –

Q. When you saw accused did he appear to have been drinking
A. He had a drink
Q when you heard the shot did you see a flash
A. No – I was busy getting up some meat.

By Pres: – Q In your opinion was he drunk
A. No I wouldn't say he was drunk – he had a few drinks. I never saw the pistol & don't know who fired the shot – when I heard the shot & looked up the accused was not facing me – it would have been possible for him to have something in his hand without me seeing it.

R.P. 83(6) completed mutt

3rd witness for Prosecution - H19315 C/Sgt S.A. East
12 Bde duly sworn states -

On the 30th Aug 44 at approx 2140 hrs I visited Cookhouse at 47 Coy 12 CBA Bde - While there I heard conversation between accused & Ration staff. The Accused was demanding something to eat & drink - noticing 2 NCOs in Ration I thought it best to leave them in charge. I went to walk away & overheard the accused say to L/Sgt Pinches "If I don't get something to eat & drink I'll come in & get it" I then turned around to go back towards the Kitchen & as I turned around a shot was fired by the accused - I saw his hand up & a flash came from it - at the same time L/Sgt Pinches stepped to one side - I called for the accused to halt as he had started to walk away & as he did not halt I went to walk after him - he then started to run - I then gave orders for his arrest & for the removal of his weapon. After he had been arrested, some 15 or 20 minutes after the shot was fired, I assisted in the search for the weapon as he was not in possession of a weapon when arrested. I found a pistol behind our area just over a hedge with Canvas case & Ammunition - it had 5 live rounds in Cylinder & one fired round. The accused was wearing a belt & holster when ~~the shot was fired~~. In my opinion accused was sober when I saw him in the Kitchen on the night in question. 1C 9347 Enfield .38 Pistol as produced and identified by the witness as the pistol found by him and marked Ex A by the Court

Cross Examn by Def Officer -

The witness states - I was not in Kitchen when accused came in 1st time - When I saw him arguing with NCOs in charge I did not interfere - the argument continued during the short time I was in the vicinity. I am not able to say whether accused had been drinking or not. I did not interfere during argument I was of the opinion that the NCOs in the kitchen should not

I was approx 10 ft away facing the accused when the shot was fired, the shot was fired after I turned around. The accused - After the pistol was found a check of ownership was made - it was not on my records. The accused's records disclose that he had on charge a Sten gun only & not a pistol. He

Ques By the President - the witness states -
The accused was approx 3 ft from L/Cpl Pinchen when shot was fired - I could not see exactly in what direction pistol was fired. It was fired roughly I would say in the direction of L/Cpl Pinchen but I cannot say it was fired directly at him. I looked the next morning for a trace or marking of a bullet but could not find any sign of a bullet. There is no doubt in my mind that the accused fired a shot at the place & time described by me.
RP 83(B) complied with

4th Witness for Prosecution - 456617 Cpl. Kenneth G. Player 17 Bn - duly sworn states —

On 30 Aug 44 I was Cpl of Guard at 2130 hrs I heard a shot fired & turned to see where it came from & saw the accused walking away from 47 coy lines. C/M S. East called for the Guard & I answered it - I searched the area & found the accused in another soldiers tent about 5 or 6 minutes later & I placed him under arrest. He was not wearing a belt or holster when I arrested him. He had been drinking but I would not say he was drunk. I later searched for a weapon but didn't find it that night.

On Cross Examn the witness states - I can say he was drinking but in my opinion he was not drunk.
Ques by Pres the witness states I saw accused wearing a pistol & holster the day of the shooting. I recog the same belt as the accused.
RP 83(B) complied with.

Defence

The accused having been sworn states:—

On the 30th Aug 44 about 1300 hrs I went to C.S.M. 47 Coy I asked for permission to go out for the afternoon to go for a swim. I received permission & went out. I stopped in at a coffee shop & my friend & I had a few drinks of Calvados. I then got into a crap game there & won a lot of money. ~~a C.S.M. of the players in~~ the game ~~he~~ lost all his money & put up his pistol instead of money. I won the pistol. I won all the money & the game ended. I continued to drink Calvados during the game. After that I don't remember just what I did except that I bought a bottle of Calvados & took it back to camp in a taxi. I went to the kitchen of 47 Coy about 2100 hrs, I asked for coffee I went back & my tent to get my ~~pistol~~ & when I returned the coffee was all gone. I then asked for some bread & I don't know just what happened. I was drunk but I remember saying if I can't get something here I'll go some place else. I took out the pistol I won from my holster feeling pretty cocky, I twirled it in my hand & it went off in the air. I didn't even know it was loaded as various people had handled it & played with it earlier. After that I don't remember much I was nervous & scared. I heard the bullet pass close to my ear.

On Cross Exam by Pres Officer —

I never heard the C.S.M. tell me to halt. I was running because I was scared. I don't remember what I did with the pistol, I don't remember whether I went to my own tent or not. I believe I did & then I went to visit a friend in the next tent. I didn't know someone was after me. I didn't know what I was arrested for — After the shot was fired I do not remember just what happened.

Ex "A" Pistol #23607 is examined by accused who states it was a pistol similar to the exhibit which he won.

By the Pres Did you fire the Pistol at R/Capt Pinches
Ans. No Sir — I had no intention of firing it at all.

RP 83(6) Complied With

2nd Witness for Defence - D156624 Pte Bevington.

duly sworn states - on 30 Aug 44 between 2030 hrs & 2100 hrs. I saw the accused in camp - ~~he was a distance from me~~, he had a bottle of Calvados, he gave me a drink & took a drink. In my opinion he was drunk - he didn't walk straight, he talked like a fellow intoxicated.

No Cross Examination RP 83(B) complied with

3rd witness for Defence 15715 Pte Horsbrugh G.J.

duly sworn states.

On 30 Aug 44 between 2000 & 2100 hrs. the accused came over to my tent & joined in a game of dice there. He brought a bottle of Calvados with him about quarter full. After playing a while he offered me a drink out of the bottle. During the time I saw him I would say he had been drinking but I cannot say he was drunk.

no cross Examination

RP 83B) complied with.

RES

Address by Defending Officer

It has been brought out that accused was intoxicated at the time and it has not been proved that the accused intended to fire the pistol at all & especially that he intended to fire it at Lt/Cpl Pinches. I submit that the C.Q.M.S. as senior N.C.O. should have intervened in time to avoid any trouble. No sign of a bullet was found which corroborates accused's statement that the shot was fired in the air.

The accused admits that the whole thing is very vague after drinking considerable Calvados and I feel that the prosecution has failed to prove the facts which it must in order for the accused to be found guilty.

E&E

Address by Prosecuting Officer

In my opinion the evidence of the witnesses establishes that the accused was not drunk.

The evidence also indicates that the pistol was drawn deliberately but whether it was fired at Lt/Col Pinchin or whether there was an intention to shoot at Lt/Col Pinchin is for the Court to determine according to the evidence. Certainly there is no doubt that the accused did fire a pistol without justification or authority at the time & place mentioned in the particulars of the 2nd Charge

E.C.P.

ER? 06p3

Address by Judge Advocate

The accused is charged with offering violence to a superior Officer by firing a pistol at L/Cpl Pinches at a certain time & place. Offering violence is defined in the 2nd footnote to Sec 8 A.A. (The footnote is read in full) I do not think I can say anything which will in anyway further define "offering violence" than is contained in this footnote. The court should apply the facts in evidence before it to the definition and determine whether or not these facts constitute an "offering of violence". The court is the sole judge of the facts and anything I may have said or may say now which indicate my personal opinion as to the facts should be disregarded. The facts are not complicated or greatly in dispute. The accused admits firing a shot at the time & place set out in the particulars to the charge. He denies firing at L/Cpl Pinches & says he never intended to fire a shot at all, but that the pistol accidentally went off as he twirled it in his fingers & that the shot went up into the air. The witnesses for the prosecution do not go so far as to state that they saw the accused point the pistol or shoot at the L/Cpl Pinches. The witnesses do state however that the accused fired a shot and that he fired "in front of him" - it is for the court to weigh this evidence carefully & to determine whether or not it constitutes an "offering of violence" within the meaning of the definition previously quoted.

With respect to the 2nd (Alternative) charge there is little to be said - the Court will use its military knowledge and experience in deciding whether or not the 2nd alternative charge has been proved.

It will be kept in mind that the accused can be convicted of one charge only - by that I do not mean that he cannot be acquitted of both Charges - I mean that the Court only considers the 2nd alternative Charge if it comes to the conclusion that the 1st charge has not been proven.

Considerable evidence has been heard on the condition of the accused - whether or not he understands. On this feature I wish to read a few abstracts from M.M.L. at Page 25. Para 48. It is a principle of English Law that drunkenness is no excuse for crime - the remainder of the paragraph was also read & explained to the Court

At Page 106 - Para 9 - "Temporary intoxication ... - this para is read & explained.

It is a principle of British law that an accused must be found guilty - it is not for him to prove himself innocent.

The accused is also entitled to the benefit of any reasonable doubt - that is not a fanciful or imaginary doubt but a doubt based on the facts and a doubt which an ordinary reasonable man would have under those circumstances. Accordingly if after weighing & considering the evidence the Court has a reasonable doubt as to the guilt of the accused then the accused is entitled to the benefit of that Doubt.

If no further Comments by me are desired by the Court or Pros. or Def. Officers that is all I have to say.

E 1.

Evidence of Character Witness

CAPT. H.A. Harding - 9 Bn. 2 CBRG. duly sworn states -

In the summer of 1942 I was attached to a Coy in which the accused was attached. He was with me for a period of 3 months. During that time I found him to be an exceptionally good worker and at no time did I have any trouble with him.

E. 3.

Address in Mitigation by Defending Officer

I would like to bring out that accused has been in the army for 5 years as of yesterday. He has had no Crime since April 1943. In view of the circumstance surrounding the incident I ask the Court to be lenient as possible so that he may be free to continue to serve.

Exhibit "B" - E.2 - 8.

ARMY FORM B.296.

Statement as to Character and Particulars of Service of Accused.

Number	Rank	Name	Regiment (or as the case may be)
E-3018	PTE	GUERRETTE, J.C.	12 BN, 2 C.B.R. DP.

1. The following is a fair and true summary of the entries in the regimental and squadron, battery or company conduct sheets† of the accused, exclusive of convictions by a court martial or a civil court, of summary awards under section 47 of the Army Act, and of cases in which trial has been dispensed with :—

NOTE.—At a trial by field general court martial this summary may be compiled from the field conduct sheet. The conduct sheet(s) mentioned should be produced in court with this statement but not annexed to the proceedings.

† See para. 627, K.R., 1940.

* The numbers herein stated should correspond with the number of entries in the conduct sheets, prominence being given to the most serious offence in each entry, and to any recognized special service or gallantry or distinguished conduct.

INSTRUCTION. — If the charge is for drunkenness, the entries for drunkenness must be stated separately and dated.

	* Within last 12 months.	* Since Enlistment.
For AA Sec 15(1)	Nil times	4 times
For AA Sec 40	Nil times	2 times
For	times	times
For	times	times
For	times	times

Number of instances of gallantry or distinguished conduct: LAS

or

There are no entries in the conduct sheets of the accused LAS

2. The accused has not been previously convicted, or LAS

Previous convictions† of the accused by a court martial or a civil court, summary awards under section 47 of the Army Act, and dispensations with trial under section 76 of the Army Act, are set out in the schedule annexed to this statement LAS

The accused is not under sentence at the present time, or The accused at the present time is under sentence for LAS

beginning on the day of LAS

4. The accused has been in confinement, awaiting trial on the present charge, for LAS days in civil custody, and X LAS 6 days in military custody, making a total of X LAS 6 days of which Nil days were spent in hospital.

5. The present age of the accused according to his Nom I Part I. record of service LAS is 26 yrs 203 days

attestation paper LAS

6. The date of his record of service LAS attestation specified in his Nom I Pt I LAS is 5 Sep 39

attestation paper LAS

7. The service which the accused is allowed to reckon towards discharge or transfer to the reserve LAS is 4 yrs 361 dys

8. The accused is entitled to deferred pay or gratuity in respect of LAS

9. The accused is entitled to reckon LAS service for the purpose of determining his pension, etc.

10. The accused is in possession of, or entitled to, no military decorations or military badges or is in possession of, or entitled to, the following military decorations or badges: LAS C.V.S.M. and Clasp.

11. (If the accused is a warrant officer.) The accused before he was made a warrant officer held the regimental rank of LAS

12. (In the case of an officer.) The accused holds in the army the rank of LAS and in his regiment (or corps or department) the rank of X dated LAS

W1/3031/1939 20M. 5/40 P. Ltd. TH.-S.

Schedule of Convictions by a Court Martial or Civil Court, of summary awards under Section 47 of the Army Act and of cases in which trial has been dispensed with of accused.

No. 83018 *Rank* Pte *Name* Charette J.C. of 12 Bn. 2 C.B.R. Regiment (or as the case may be).

(INSTRUCTION—A verbatim extract from the regimental books, stating there convictions and dispensations with trial, must be inserted.)

Description of court by which tried, or status of officer disposing of the charge or dispensing with trial	Date and place of trial, or summary award under A.A. 47, or of order dispensing with trial.	Charges upon which convicted, or in respect of which trial was dispensed with.	Sentence of the court or authority disposing of the charge, or order of the dispensing authority.	Punishment remitted.

I HEREBY CERTIFY that the foregoing schedule of convictions and dispensations with trial is a true extract from the regimental books in my custody.

Signed this 16 day of September 1944

Officer having charge of Regt. Records. Capt.

11. The accused has served as a non-commissioned officer continuously, without reduction, to the present date.

Date of Promotion

In the rank of ..... years.

In the rank of ..... years.

In the rank of ..... years.

(INSTRUCTION—If any matter in any of the above paragraphs cannot be stated from the regimental books the paragraph must be struck out, except that in the case of a trial by field general court-martial the non-existence may be inferred from such entries at any probable and the reasons why the information required cannot be given must be stated.)

Exhibit C - 62

M.F.M. 6
A.F.B. 122
MOM—11-40 (3626)
H.Q. 1772-42-18

No. E3016 Name GUERRETTE, J.C. Sqn., Battery, or Company — Corps R.C.E. — Date of enlistment 5 Sep 39 G.C. Badges — Service or Proficiency Pay N/A

Date of last entry in Company Conduct Sheet 15 Apr — No. and date of last drunk N/A — Period not reckoning towards freedom from extra fine — N/A Sheet No. 3 — Signature O.C. Company, etc. P. Duchein Maj — Character

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Sheet No. 2 Destroyed on completion of 2 yrs service in accordance with K.R. (Can) 1615 (Army Order 464/40) Maj 00 'A' Coy									
Field 14Jul 42	Pte			AA 15(1) AWL from 0600 hrs 14 Jul 42 till apprehended at 1330 hrs 21 Jul 42 (Absent 7 days 7 hrs 45 mins)	Sjt Duranleau Cpl Dorrington	Forf 28 dys pay Pay and AS days C.B.	27Jul42	Maj Macfarlan For 2 OC 'A' Coy dys pay 1 Bn RCE Art 149(1)(a) Forf 21 dys pay Art 149(2). Total forf 28 dys pay.	
Field 25Oct 42	Spr			AA Sec 15(1) AWL from 2300 hrs 25 Oct 42 to 0420 hrs 26 Oct 42 (Absent 5 hrs 30 mins)	L/Cpl Anderson D.	3 dys C.B.	31Oct42	Maj Macfarlan OC 'A' Coy	

(P.T.O.)

Place	Date of offence	Rank	Cause of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Field	25Oct 42	Spr		AASec 40 Conduct to the prejudice of good order & mil discp in that he was involved in a rd accident while riding MC Norton C/A103413 on 11 Dec 42	Documentary	Forf of 5 days pay	20Jan43	Maj ST Williams OC 'A' Coy	Forf 3 days pay Art 140(2)
Field	22Feb43	Spr		Absent from work.	1/Sgt Gagnon	5 dys pay	23 Feb43	Capt Dare	
Field	30Mar43	Spr		AA Sec 40 Being in possession of a pr of army boots belonging to RSD No 1 CBOD	S/Sgt Van Dusen	Forf 14 days pay	31 Mar 43	Maj Williams	FR&I 140(2)
Field	5Apr43	Spr		AA Sec 15(1) AWL 4 days 17 hrs 40 mins	Obst Constbln	21 days F.P. Alt Forf of 5 dys pay FRI 140(1)(a)	12Apr43	Maj J.T. Williams	

CERTIFIED TRUE COPY MADE FROM ORIGINAL IN MY POSSESSION.

(L.E. [illegible] ER) Capt
Offr in charge Records.

SUMMARY OF EVIDENCE

Summary of evidence in the case of:

E-3018 Pte Jean Cyrile GUERRETTE, RCASC,
12 Bn, 2 C.B.R. Gp.

A soldier of the Canadian Army Overseas.

The Commanding Officer directs that the evidence be taken under oath.

First witness for the Prosecution:- B22430 L/Cpl Frederick William Pinchen RCASC, 12 Bn, 2 CBRGp having been duly sworn, states:

I am B22430 L/Cpl Frederick William Pinchen. On 30th August 1944, at approximately 2135 hrs, Pte Guerrette J.C. whom I now recognize, came to the kitchen and asked for a cup of coffee. I told him that we had none left and he insisted that he have some. The conversation went on for about five minutes at the end of which time Pte Guerrette, J.C. stated that, "If I wouldn't give him some he would come after it." He then drew his pistol from his holster, raised it and fired. While he was drawing his pistol, I stepped back and to my right. As soon as Pte Guerrette fired he turned and walked away about ten or fifteen yards and then began to run.

Q. In what direction did the accused point the revolver after taking it from the holster?

A. Ahead of him, Sir.

Q. Had you not moved would the bullet have hit you?

A. I can't say for sure as I was only interested in getting out of the way, Sir.

Q. Was the accused facing you before you moved?

A. Yes Sir.

Cross Examined by the accused:-

Q. Did I shoot at you?

A. I couldn't swear that you shot directly at me as I was only concerned with getting out of the way.

The accused declines to further cross-examine the witness.

F. Pinchen

(B22430 L/Cpl PINCHEN F.W.)

Second Witness for the Prosecution:- D76737 A/Cpl William Edward Perry, RCASC, 12 Bn, 2 CBRG, having been duly sworn, states:

I am a cook's helper in the kitchen at 47 Coy 12 Bn 2 CBRG. At approximately 2130 hrs 30th August 1944, Pte Guerrette J.C. whom I now recognize, came up to the kitchen for some coffee. I asked him, "Where is your cup" and he replied, "I haven't got one but I'll go and get one and will be back." He asked me to save some coffee and I told him, "You will have to hurry up or there will be none left." Pte Guerrette returned in about ten minutes time and by then the coffee was all finished. He then walked over to L/Cpl Pinchen and I heard him ask for something to eat. I was cutting meat at the time and didn't pay more attention to what was going on. Then I heard Pte Guerrette say "I don't get nothing to eat?" The next thing I heard was the pistol shot. I did not see the incident. After the shot was fired I looked up and saw Pte Guerrette walking away and after a few paces began to run.

The accused declines to cross-examine this witness.

W E Perry

(D76737 A/Cpl Perry, W.E.)

Third Witness for the Prosecution:- H19315 CQMS Frederick Albert East, Queen's Own Camerons of Canada, 12 Bn, 2 CBRG, having been duly sworn, states:

At approximately 2140 hrs 30th August 1944, I had reason to visit the kitchen to see that haversack lunches were being prepared for a morning work party. I found Pte Guerrette, whom I now recognize, standing by a serving table demanding something to eat and drink from L/Cpl Pinchen. Noticing two NCOs in the kitchen I thought best to leave them in charge. As I turned to walk away I heard Pte Guerrette say to L/Cpl Pinchen "If I don't get something to eat or drink I will come in and get it." I then thought it best to intervene and as I turned around a pistol shot was fired by Pte Guerrette. At the same time I saw L/Cpl Pinchen step to one side. Pte Guerrette then went to walk away and I told him to halt. As he didn't do so I went towards him and at that moment he broke into a run. I then called for the Cpl of the Coy Guard to cause his arrest and at the same time to relieve him of his weapon. I assisted in the search for the weapon of the accused from 2200 hrs to 2300 hrs 30th August 1944 and continued the search in the morning 31st August 1944. I found a pistol which is produced as Exhibit "A" under a hedge back of 47 Coy area at 0745 hrs, 31st August 1944. The pistol contained five (5) live rounds and one expended round immediately in the chamber.

Q. Was the accused sober?

A. Yes Sir.

Cross Examined by the accused:-

Q. Did I say "If I don't get something to eat or drink I will come in and get it."

A. Yes.

The accused declines to further cross examine the witness.

H East
(H19315 CQMS East, F.A.)

Fourth Witness for the Prosecution:- A56617 Cpl Kenneth Gordon Player RCASC, 12 Bn, 2 CBRD, having been duly sworn, states:

I was Cpl of 47 Coy Guard on 30th August 1944 and at approximately 2130 hrs I proceeded to the kitchen for tea. I couldn't get any so I proceeded back towards my tent. I had just reached my tent when I heard a shot fired. I turned and saw Pte Guerrette walking away from the kitchen. The CQMS called for the guard and I answered. He told me to get the man and put him under arrest which I did five or six minutes later when I caught him. I escorted him to 12 Bn Guard Room and proceeded back to 47 Coy lines to find the weapon but could not.

Q. Was the accused sober?

A. He wasn't drunk but he had been drinking.

The accused declines to cross examine this witness.

Cpl Player KR
(A56617 Cpl Player, K.G.)

The accused was cautioned as follows:-in both English and French:-

Do you wish to make any statement or to give evidence upon oath? You are not obliged to say anything or give evidence unless you wish to do so, but whatever you say or any evidence you give will be taken down in writing and may be given in evidence.

After the above caution, the accused declined to give evidence or make a statement and reserves his defence.

I certify that the foregoing Summary of Evidence consisting of four (4) pages was taken down by me in the presence of the accused and that R.P. 4 (C) (D) (E) and (F) have been complied with.

In the Field, FRANCE.
1st September 1944.

(W. A. WALKER) Capt
Officer detailed to take
the Summary.

WWW 25

FIELD GENERAL COURT-MARTIAL

CPA66 (To issue of AFA81) 40/P 80 M. (1966) (40/81)

4/38B

Convened by Order of Brig G Francoeur Comd 2 CBRG dated 2 Sep 44

ACCUSED.

(As to the trial of two or more charged jointly see RP 16, 71, 109. As to reasons for showing (a) permanent or substantive rank, and (b) apptmt, A/rank or A/apptmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

Number.	(a) Prmnt R.	(b) Apptmt, A/R or A/Apptmt.	Full Christian Names.	Surname.	Unit.
E-3018	Pte		Jean Cyrile	GUERRETTE	RCASC 12 Bn 2 CBRG

Certified true Copy
(E.E. Pearlman) Capt
Judge Advocate

PROCEEDINGS OF TRIAL.

Held in the Fd in (country) France on (date(s)) 6 Sep 44

RECORD FORM A—OPENING PROCEEDINGS AND ARRAIGNMENT.

A1. The President, Members, waiting Member, JA, if any, ~~and Deputy Judge Advocate~~ if any, assemble, and the Court is closed.

(PRINTED MATTER NOT IN ITALICS FOR GUIDANCE. WILL BE DELETED IF NOT USED OR APPLICABLE, AND INITIALLED BY PRES OR JA. The Schedule referred to throughout is on p 4. Citations do NOT include all relevant fns RQs. For guidance on procedure when a question in this form occurs, see form for GCM in MML pp 741 to 752. A brief record of such variations will be made and given a number having reference to appropriate or preceding para number herein. See back of Convening Order, CF 893, for oaths and instrs on how to record addresses, evidence, etc, which instrs are hereafter called "Notes". As to general provisions for conducting the trial see AA 33, RP 36, 63-70, 73, 74, 94, 103, 119, 122.)

A2. The President initials and lays before the Court the Convening Order and Charge Sheet as attached thereto.(1) The Court is satisfied that it is properly convened and constituted(2), accused is (are) amenable to military law, and each charge discloses an offence.(2)

(1. As to use of Summary of Evidence see RP 17 fn 6. 2. AA 49, 50, RP 105-107. 3. RP 11-13, 23, 24.)

A3. The Court is opened. The accused is (are) brought before the Court. At 0930 hours trial commences.

A4. The Prosecutor produces a Medical Certificate that accused is (are) fit to undergo trial by court-martial.(1) ~~The Prosecutor informs the Court that counsel elected to be tried by court-martial is unable to be present and requests that the trial be postponed until such time as counsel will be available.~~ ~~The request is granted by the DJA (2).~~

(1. KR Can 557. 2. AA 46(E), RP 60 fn 1. For effect see KR Can 563(c). Delete, if not applicable.

A5. ~~Does/Do~~ accused desire ~~to~~ you object to ~~be tried by any member of the Court.~~ ~~The accused elects to be tried by the Court.~~ ~~No objection is made by the accused.~~ ~~The accused objects to be tried by~~ ~~the following members of the Court:~~ ~~Accused objects to be tried by the President.~~ ~~The following objection is made by the accused:~~ ~~No objection is made by the accused.~~ (1)

(1. RP 72. Delete, if none employed.)

A6. The Convening Order and names of the President and Members of the Court are read to the accused.(1) President to accused: Do you object to be tried by me as President or by any of the Members of the Court ?

Ans No. (2)

(1. RP 110. 2. If no objection, waiting member retires. RP 68(E). If objection, see procedure AA 51, RP 25, 71, 16, MML p 742.)

A7. The President, Members, JA, if any, ~~and Deputy Judge Advocate~~ sworn.(1) The following are the ranks, names and units of the offrs comprising the Court, etc:

President	Major	J D ROSS	RCA	12 Bn 2 CBRG
Member	Capt	H E HOUSE		10 Bn 2 CBRG
Member	Lieut	D L FIESBERRY		10 Bn 2 CBRG
Judge-Advocate	Capt	E E PEARLMAN	ADJA	HQ 2 CBRG
Prosecutor	Lieut	J E McLean		12 Bn 2 CBRG
Defending Offr	Lieut	P.E: Genest		12 Bn 2 CBRG

Questions by President: Is the Prosecutor a lawyer ? Ans No. Is the Defending Offr a lawyer ? Ans No. (2)

(1. RP 26, 27, 109, 111. List of offrs under instr will be returned separately with proceedings for information of Conv Offr.)
(2. If Pros a lawyer and Def Offr not, accused is entitled to an adjournment when RP 89 (B) and fn 2 were not followed. See Dir p 2.)

A8. The accused E.3018 Pte GUERRETTE J.C. before arraignment make(s) (no) ~~a~~ plea (1)

(1. If a special plea is made for separate trial on one or more charges (RP 62(E), 108), or as to the jurisdiction of the Court (RP 34, 35(A), 113), or in bar of trial (RP 36), or as to accused's mental fitness to stand trial (AA 130, RP 57), or by one of several accused charged jointly to be tried separately (RP 16, 71), such plea, the addresses made in support or against, the evidence, if any, and finding are recorded per Notes. For forms of record see references in fns to RP cited. Insert in A8 rank and name of the accused making the plea.)

A9. The accused is (are) arraigned (~~severally~~) on all charges in the charge sheet.(1) The accused does (do) not object to any charge.(2) There is no amendment to be made to the Charge Sheet.(2) The President records the pleas in Part I of the Schedule.

(1. RP 30, 112. See para 1 of Instrs p 2. When more than one Charge Sheet see RP 62; when several accused to be tried separately see RP 71(C), and use separate copies of CF 896 to record proceedings. 2. RP 32, RP 33. If otherwise, delete and make appropriate record per Notes.)

A10. The Court (~~is cleared and~~) considers the Instrs on Procedure after Arraignment at top of p 2. The proceedings are continued on Record Form D

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

PART I. PLEA(S), FINDING(S) AND SENTENCE.

Accused: E-3018 Pte Jean Cyrile GUERRETE RCASC 12 Bn 2 CBRG

	Charge. (Insert "alternative" where applicable.)	Plea. (See Instrs p 2.)	Finding. (See note below.)	(Space for use as required for further charges, accused charged jointly, special findings, etc.)
1st	Sec 8(2)AA	Not Guilty	Not Guilty	
2nd	Sec 40 AA	Not Guilty	Guilty.	
3rd				
4th				
5th				
6th				

(Note: As to findings for lesser offences see AA 56, RP 44; findings on alternative charges see MML p 483 fn 4 para 2, RP 44; special findings see RP 44 and MML p 753, and in lieu of kit see RP 44 fn 6.)

~~Sentence postponed pending the~~ ~~(1)~~

(1. Insert sentence being served, or delete, if not applicable. See RP 46(A). Information should be found on MF B355 or AF B296.)

Time in confinement awaiting present trial—a total of 6 days, of which Nil days were spent in hospital.(1)

(1. See RP 46(A) fn 2. Information should be found on MF B355 or AF B296 admitted in evidence under E2.)

Sentence Awarded by the Court:

to undergo imprisonment with hard labour for a period of six months.

(Sgd) E E Pearlman Capt — Judge-Advocate, if any.
6 Sep 44 — Date awarded.
(Sgd) J D Ross Major RCA — President. (RP 45, 50.)

(See back of Convening Order as to assembly and disposal of record after trial.)

PART II. MINUTE WHERE CONFIRMATION RESERVED. (AA 54(5), RP 120(F), MML p 760.)

Date (Sgd) Commanding

PART III. DECISION OF CONFIRMING OFFR ON FINDING(S) AND SENTENCE.

(For duties and powers see AA 54, 57, RP 37(D) fn 6.46(A), 51-56, 120, MML pp 759-761, KR Can 567-577. Acquittals require no confirmation and cannot be revised: AA 54(3). Sending back finding or sentence for revision by Court: AA 54(2), RP 120(G). If not confirmed, accused may be tried again: AA 157, MML p 64. Minute of confirmation or non-confirmation may be altered before promulgation: RP 53, MML p 65. Quashing after promulgation: KR Can 573. Duties and powers of reviewing offrs: AA 57, 57A, RP 53A, 54. The Confirming Offr must sign here personally. AA 172 fn 1.)

My decision on the finding(s) and sentence set forth in Part I is:

I confirm.

~~I direct that the record be not promulgated but that accused be tried further when fit~~ (1)

(1. AA 57A. Delete if not used.)

(Sgd) "G Francoeur"
Commanding 2 CBRG Brig.
Confirming Officer.

Date 6 Sep 44.

PART IV. PROMULGATED AND EXTRACTS TAKEN. (RP 53, KR Can 576, 577.)

Accused.	Date.	Signature of Offr.
E-3018 Pte Guerrette JC RCASC (x-6 List 12 Bn 2 CBRG.	8 Sep 44	"A V HOOD" Lt-Col OC 12 Bn 2 CBRG

ALL DELETIONS AND ALTERATIONS WILL BE INITIALLED.

INSTRUCTIONS ON PROCEDURE AFTER ARRAIGNMENT.

1. *The accused may not plead or be found Guilty on more than one of two or more charges laid in the alternative.* (*RP 37(A).*) *As to withdrawal of alternative charges by Prosecutor see RP 35(C). No other charge can be withdrawn for any reason without authy from Convening Offr. If Convening Offr concurs, Court may accept plea of Guilty to lesser, etc, offence.* (*RP 44(H).*) *Accused may change a plea of Not Guilty to Guilty during trial.* (*RP 38.*) *As to refusing to plead or not pleading intelligibly see RP 35(A). As to plea when sentence may be death see RP 35(D).*

2. *The proceedings on each charge sheet* (*RP 62*) *after arraignment will be conducted as follows in the respective circumstances stated :*

I. *If pleas to all charges are GUILTY, use Record Form E below.*

II. *If pleas to all charges are NOT GUILTY, use Record Form D on p 3.*

III. *If pleas to some charges are GUILTY and to other charges are NOT GUILTY and,*

(a) *Such mixed pleas occur when there are no alternative charges in the Charge Sheet, use Record Form C below.* (*RP 37(A).*)

(b) *Such mixed pleas occur in a set of two or more charges laid in the alternative, see RP 37 (A) and fn 2 as to discretion of Court,* (i) *to try the accused on all such alternative charges as if he had pleaded Not Guilty thereto, or,* (ii) *to record the pleas as the findings of Court. After deciding between* (i) *and* (ii), *Court will proceed under foregoing instrs as may be appropriate to result of its decision. See M M L p 744 Instrs* (2).

3. *As to responsibility of President to accused see RP 59, 60(C) ; powers and duties of JA see RP 103 ; duty of Prosecutor see RP 60(A) (B) ; duty and privileges of accused and Defending Offr see RP 60(C), 87(C), 91, 92 ; swearing and withdrawal of witnesses from Court see RP 81, 82 ; questioning of accused see RP 80, 87(C), 92(B), and of witnesses see RP 83-85 ; calling or re-calling of witnesses by Court, etc, see RP 75-79, 86, 116 ; see of Summary of Evidence at Trial see RP 17(E) fn 6 ; and responsibility of JA or Pres to record proceedings see RP 94, 96.*

RECORD FORM B—PROCEEDINGS ON PLEAS OF GUILTY TO ALL CHARGES.

B1. The President or JA, if any, complies with RP 35(B) by explaining to the accused the nature and meaning of the charge(s)(1), and that on his plea of Guilty there will be no regular trial but merely a consideration of the sentence to be awarded after he has been given an opportunity to make a statement in reference to the charge(s), call witnesses as to character and make an address in mitigation of punishment.(2)
(1. *RP 37 fn 3.* 2. *MML p 54 para 47.*)

B2. President to accused : The Court will now receive any statement you desire to make in reference to the charge(s).(1) If it appears from your statement that there are circumstances which indicate that you do not understand the effect of the plea of Guilty(2), or which show provocation or extenuation in respect of which in your interest the witnesses for the Prosecution should be examined(3), we shall advise you to change your plea to Not Guilty. In making a statement you will not be sworn or subject to cross-examination ; and anything you say will not be used in evidence against you after you change your plea. If however, it appears to the Court that your statement affects only the amount of punishment to which you are liable, you will not be advised to change your plea and you will be given an opportunity later to prove your statement by sworn testimony, if you so desire.(4)

President to accused : Do you wish to make a statement ? Ans .....(5)
(1. *RP 37(B).* 2. *RP 37(D) fn 6.* 3. *RP 35(B) fn 5 para 3, MML p 54 para 47.* 4. *See para E3 of Record Form E.* 5. *Statement, if any, recorded per Notes.*)

B3. The Court considers the accused's statement.(1) The Court decides (not) to advise accused to change his (their) plea(s) of Guilty to Not Guilty on ..... charge(s). The accused is (are) so informed, and he (they) change(s) his (their) plea(s) on ..... charge(s). Part I of the Schedule is amended accordingly.
(1. *Court may be cleared to consider the statement. Delete whole or part not used.*)

B4. On the charge(s) to which the plea(s) of Guilty is (are) not changed the President records finding(s) of Guilty in Part I of the Schedule.(1)
(1. *RP 35(B). If any plea(s) is (are) changed, use Record Form C or D as appropriate.*)

B5. The Summary of Evidence is marked Ex ....., initialled and read aloud by the President.(1)
(1. *If there is no Summary, or if it is inadequate, comply with RP 37(B). If there is any evidence inconsistent with any plea standing at Guilty, Court will advise accused to change such plea and, if changed to Not Guilty, try such charge(s) by use of paras D1 to D8 inclusive of Record Form D on p 3. RP 37(D).*)

B6. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

RECORD FORM C—PROCEEDINGS ON MIXED PLEAS OF GUILTY AND NOT GUILTY.

C1. As to the charges on which accused pleaded NOT GUILTY the trial is continued by using paras D1 to D8 inclusive of Record Form D on p 3 before proceeding with C 2.(1)
(1. *RP 37(A) (E).*)

C2. The charges on which accused pleaded GUILTY are read to him (them) again, and the trial is continued by using paras B1 to B5 of Record Form B above.(1)
(1. *Under B5 such parts only of the Summary of Evidence are read as relate to the charges dealt with under C2. If any plea is changed to Not Guilty, trial thereon proceeds by completing with paras D1 to D8 inclusive in Record Form D on p 3 and making an appropriate record thereof on a separate sheet.*)

C3. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

RD FORM D—PROCEE... OF NOT GUILTY TO ALL CHARGES.

D1. ..... you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity to prepare your defence ? Ans No .....(1)
(1. *If "yes", see RP 39(A) for procedure. Statement or evidence, if any, is recorded per Notes.*)

D2. The Prosecutor makes ~~(no)~~ (no) opening address.(1)
(1. *RP 39(B), 60(A) (B), 90, 92(C) (D). Record address per Notes, subject to RP 93(C).*)

D3. The evidence for the Prosecution is taken.(1)
(1. *RP 39(C), 114, KR Con 555. Record evidence per Notes. As to Prosecutor giving evidence himself see RP 39(D) (E).*)

D4. The Prosecution is closed.(1) The Defending Offr submits that the evidence for the Prosecution does not establish a prima facie case against the accused on the ..... charge(s).(2) The Court is cleared, and considers the submission.(3) The Court is re-opened, and the President announces that the submission is disallowed on the ..... charge(s), and allowed on the ..... charge(s), and that, accordingly, the trial will proceed on the former, but the accused is (are) found Not Guilty on the latter charge(s).(4)
(1. *Delete remainder of this para, if submission not made.* 2. *Arguments on submission, answer and reply are recorded per Notes.* 3. *RP 40 fn 1. See MML p 72 paras 12-14 and p 81 para 42.* 4. *Delete part not used. If accused acquitted on all charges, use second alternative in para D8.*)
NB : If trial proceeds, accused must be allowed great latitude in making his defence, and the Court should not stop his defence solely on ground of irrelevance. (*RP 60(C), 114, 115.*)

D5. President to accused : You will now proceed with your defence.(1) You may, if you wish, give evidence yourself on oath as to the facts or your character or both, in which case you will be subject to cross-examination.(2) You may, however, make a statement without being sworn, and you will not be subject to cross-examination.(3) But a statement which could have been made on oath will not carry with the Court the same weight as sworn testimony.(4) You may call witnesses in your defence and as to character, whether you give evidence or make a statement or do neither.

President to accused : Do you wish to give evidence yourself as a witness, make a statement, or do neither ?
Ans Intends to give evidence himself. Do you intend to call witnesses on your behalf ?
Ans Yes. Are they witnesses as to character only ? Ans Yes
(1. *RP 115.* 2. *RP 40(A), see 80(D).* 3. *RP 40 fn 10.* 4. *RP 40 fns 2, 9.*)

D6. Consequent on the answers recorded in para D5 the appropriate procedure for the defence is followed.(1)
(1. *RP 114, 115, 116. For procedure see Notes on back of Convening Order, CF 495. Evidence for accused as to his character should, if in his interest, be given before the finding. See RP 46(A) fn 1, 86(C). Note the further opportunity in para E1 of Record Form E. Record per Notes addresses, statement, evidence and any summing up by the JA under RP 42, 103(e).*)

D7. The Court is closed to consider the finding(s).(1) The finding(s) of the Court is (are) recorded in Part I of the Schedule.(2) The Court is re-opened.
(1. *RP 42, 117(A). See Notes in Part I of Schedule.* 2. *RP 44(A).*)

D8. The President announces the finding(s), if any, of Not Guilty, and states to the accused that the finding(s) of the Court on the ..... charge(s), being subject to confirmation, will be promulgated later.(1)
Or, The President announces that the accused is found Not Guilty on all charges and is to be released forthwith, and that the proceedings are accordingly terminated. Part I of the Schedule is dated and signed.(1)
(1. *AA 54(3), 86. RP 45, 120(A).* 2. *AA 54(3), RP 45, 117. This alternative announcement is not applicable when there are pleas of Guilty outstanding and dealt with under Record Forms B or C.*)

D9. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E below.

RECORD FORM E—PROCEEDINGS ON CONVICTION BEFORE SENTENCE.

E1. President to accused : Do you wish to give evidence yourself or to call any witnesses as to your character ?(1)
Ans No evidence here but I wish to call a character witness.
(1. *If evidence has already been given by accused or his witnesses as to his character, delete this para. RP 37(C) fn 4, 46 fn 1. Accused and witnesses are sworn. Evidence recorded per Notes.*)

E2. The Prosecutor produces Statement(s) as to Character and Particulars of Service(1), and certified true copy (copies) of Conduct Sheet(s)(2), purporting to refer to the accused, which he submits to the Defending Offr for examination, and then to the Court for admission in evidence. The Court is satisfied that these documents refer to the accused, because (i) they purport to be signed in the manner required by AA 163(3) (g) (h), and (ii) they purport to refer to (a) soldier(s) having the same number, rank, name and corps as the accused. Admitted in evidence and marked Ex ..... and Ex ..... respectively.(3)
(1. *MFB 355 or MFB 296.* 2. *MFM 6.* 3. *RP 46, KR Con 558. If above documents not produced, see RP 46 fn 1 para 1.*)

E3. President to accused : Do you wish to address the Court on the Statement(s) and Conduct Sheet(s), and in mitigation of punishment ?(1) Ans Yes he through my defending Officer.(2)
(1. *RP 37(C), 46(D).* 2. *Address, if any, recorded per Notes. Court should permit accused or his witnesses to prove on oath anything here or previously stated which would affect the amount of punishment. RP 37(F) fn 7.*)

E4. The President states that the Court is closed to consider the sentence, and that the sentence to be awarded by the Court, being subject to confirmation, will not be announced, but will be promulgated later, and the proceedings in open court are accordingly terminated.(1)
(1. *AA 54(6), RP 120(A).*)

E5. The Court considers the sentence.(1) The President records the sentence in Part I of the Schedule, which is dated and signed by him and the JA, if any.(2)
(1. *When several accused tried separately see RP 71 (D). Give sentence only, comprised of the punishment or punishments laid down in AA 41, 44 and its provis, is to be awarded to career off charges on all charge sheets on which accused found guilty. RP 48. As to sentences see AA 44, 138, 182, RP 46-50, 69, 116, 119(A), KR Con 308, 330, 563-564, Overseas AO 309, 2323, MML p 60, 757-759. As to sentences assigned for civil offences by the law of England see AA 41(3), MML p 130. When accused already under sentence of imprisonment or detention see AA 44(1)(b), 45(1), KR Con 564.* 2. *RP 50. As to release from arrest by Confirming Offr see KR Con 567. As to assembly and disposal of record after trial see instrs on back of Convening Order.*)

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

CHARGE SHEET

E-30188 Pte Jean Cyrile GUERRETTE 12 Bn 2 CBRG a soldier of the Canadian Army Overseas is charged with,

First Charge
AA Sec 8(2) WHEN ON ACTIVE SERVICE- OFFERING VIOLENCE TO HIS SUPERIOR OFFICER

in that he

In the Field at approximately 2140 hrs 30 Aug 44 did fire a pistol at B-22430L/Cpl PINCHEN F.W.

Second Charge
(Alternative)
AA Sec 40 WHEN ON ACTIVE SERVICE- an act to the prejudice of good order and military discipline.

in that he

In the Field in the kitchen at 47 Coy12 CBR Bn at approximately 2140 hrs 30 Aug 44 did fire a pistol without due authority or justification.

"A O Hood"
(A O Hood) Lt-Col
Commanding Officer
12 Cdn Base Rft Bn, 2 CBRG

In the Field FRANCE
1 SEP 44

TO BE TRIED BY FIELD GENERAL COURT MARTIAL

"G Francoeur"
(G Francoeur) Brig
Comd
2 Cdn Base Rft Gp

In the Field
2 Sep 44.

CHARGE SHEET

E-3018 Pte Jean Cyrile GUERRETTE 12 Bn 2 CBRG a soldier of the Canadian Army Overseas is charged with,

First Charge
AA Sec 8(2)

WHEN ON ACTIVE SERVICE- OFFERING VIOLENCE TO HIS SUPERIOR OFFICER

in that he

In the Field at approximately 2140 hrs 30 Aug 44 did fire a pistol at B-22830L/Cpl PINCHEN F.W.

Second Charge
(Alternative)
AA Sec 40

WHEN ON ACTIVE SERVICE- an act to the prejudice of good order and military discipline.

in that he

In the Field in the kitchen at 47 Coy12 CBR Bn at approximately 2140 hrs 30 Aug 44 did fire a pistol without due authority or justification.

"A O Hood)"
(A O Hood) Lt-Col
Commanding Officer
12 Cdn Base Rft Bn, 2 CBRG

In the Field FRANCE
1 SEP 44

OTC BE TRIED BY FIELD GENERAL COURT MARTIAL

"G Francoeur"
(G Francoeur) Brig
Comd
2 Cdn Base Rft Gp

In the Field
2 Sep 44.

FIELD GENERAL COURT-MARTIAL

CFAO 69 (In lieu of AFAO 40/PAM/1607 (1956))

(Whether the accused to be tried is under his comd or not, a FGCM may on application to him be convened by any offr of Cdn Army Overseas, or of any other force if authorized in law, in immediate comd of troops on active service, subject to RP 105(C) and restrictions imposed by appropriate authy. AA 49, 50, RP 104-107, 114. As to the duties and privileges of the Convening Offr in dealing with the application see MML Chap V paras 20 and 23. RP 87(B).

There should be a seperate Convening Order for each person to be tried separately by the same Court. RP 71(C), 109. As to seaarate charge sheets see RP 62, and as to separate trial on charges in the same charge sheet see RP 108. As to two or more accused charged jointly see RP 16, 109.

As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

ACCUSED.

Number.	(a) Prmnt R.	(b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
E-3018	Pte		Jean Cyrille	GUERRETTE RCASC	12 Bn 2 CBRG

CONVENING ORDER.

1. Whereas complaint has been made to me, the undersigned, that the person named above as the accused, being subject to military law, has (~~done~~) committed the offence(s) set forth in the Charge Sheet(s) attached and on (date) ..... endorsed by me, ~~as to which I am of opinion that I should be competent~~ To be tried by Field General Court-Martial ".

2. And whereas I am of opinion that it is not practicable that such offence(s) should be tried by an ordinary General Court-Martial ; ~~and that it is not practicable that the trial thereof should be delayed for the purpose of obtaining the direction thereon of a superior competent authority.~~]

(Delete part in brackets when not required for compliance with RP 105(C).)

3. I hereby convene a Field General Court-Martial to try the said person(s), and to consist of the Offrs appointed or detailed hereunder.

4. ~~It was not practicable to appoint the aforesaid Offrs to form the Court, the nearest Offr so appointed, for other reasons, being stationed at [illegible].~~

(AA 49, RP 106(B), 107(A). Delete the whole or part, if not applicable.)

5. I also appoint as Judge-Advocate thereat the Offr mentioned hereunder.
(RP 106(E). Delete, if none appointed.)

PRESIDENT.

Major (Rank.)	J D Ross *(Must be named. RP 106.)*	RCA	12 Bn 2 CBRG (Unit.)

MEMBERS.

Capt	To be detailed by OIC 10 CBR Bn	10 CBR Bn
Lieut (Rank.)	To be detailed by OC 10 CBR Bn *(Named or detailed. RP 106.)*	10 CBR Bn (Unit.)

WAITING MEMBER.

Capt (Rank.)	To be detailed by OC 10 CBR Bn *(Named or detailed, if any. RP 106.)*	10 CBR Bn (Unit.)

JUDGE-ADVOCATE.

Capt (Rank.)	E E PEARLMAN *(Must be named, if any. RP 106.)*	ADJA	HQ 2 CBRG (Unit.)

On Active Service in the Fd

in FRANCE (Country.)

G Francoeur — Brigadier (Rank.)
(Signed personally. RP 105 fn 2.)
(G Francoeur)
Commanding 2 Cdn Base Rft Gp
Convening Officer.

Date 2 Sep 44

CONVENING OFFR WILL INITIAL ALL DELETIONS AND ALTERATIONS

(See overleaf for oaths and notes for use on trial.)

MEDICAL OFFICER S CERTIFICATE

K R (Can Para 557)
(CMER CL 175)

I certify that I have this day examined E-3018 Pte GUERRETTE JC and in my opinion he is fit to undergo trial by COURT MARTIAL.

Stantion Field.
Date 6 Sep 44

?????????? Sgd
Medical Officer
(unit) 12 Bn 2 CBRG

EEP

6.

First Witness for Prosecution - B-2243 L/Cpl F W Pinchen 12 Bn having been duly sworn states. 30 Aug 44 at approx 2135 hrs acused came to me in the kitchen 47 Coy 12 Bn where I was in charge and asked for some coffee I told him we didn't have any and I could n't give him any and he tried to persuade me for about 5 minutes to give him some. then he said "if you won't give me any I'll come in and get it The he drew his revolver and when he drew his revolver I stepped back and to the right and he fired the revolver in front of me. then he turned walked a short distance and started to run.

Crsoo-Exmnn by Def Officer.
Q. You saq him draw his revolver
A. Yes
Q. Did you keep facing him.
A. Yes.
Q. Did you see in which direction shot was fired.
A. I can only say it was fired in front of him
Q. Where you directly in fron of him when shot was fired.
A. No- I was to the right somewhat
Q. Had the accused been drinking
A. Yes in my opinion he had been.

Questioned by the Pres witness states I was not sure just where revolver was pointed it was fairly dark it could have been pointed up in the air or down to the ground. we looked for the bullet or marks but didn't find any. He was from 6 to 10 ft from me when the shot was fired.

RP 83Bcomplied with.

2nd Witness for Prosecution - D-78736 A/Cpl Wm Edward Parry 12 Bn 2 CBRD duly sworn states. I am a cook helper at 47 Coy 12 Bn and on the night of 30 Aug 44about 2130 hrs the accused came in to the kitchen and asked for coffee. he didn't have a cup so he said I'll go and a get a cup and come back. He came back and in ten minutes and all the goffee was gone. He went over to L/Cpl Pinchen and asked for something to eat p I heard something said by accused to the effect "I get notheing to eat"? and I head a shot - I stood up looked around and saw the accused walk away a short distance and then start to run.

Cross -exami e by Def Offr.
Q. When you saw accused did he appear t have been drinking.
A. He had a drink.
Q. When you heard the shot did you see a flash.
A. No. I was busy cutting some meat.

By pres.
Q. In your opinion he was drunk
A. No I couldn't say he was drunk he had a few drinks. I never saw the pistol and don't know who fired the shot when I heard the shot and looked up the accused was not facing me. It would have been possible for him to have something in his hand without me seeing it.

RP 83S complied with.

E&P

Third witness for Prosecution - H-19315 CQMS F A East 12 Bn duly sworn states.

On the 30 Aug 44 at approx 2140 hrs I visited cookhouse at 47 Coy 12 Bn while there I heard conversat on between accused and kitchen staff. The accused was demanding something to eat or drink Noticing 2 NCO(s in kitchen I thought it best to leave them in charge. I went to walk away and overh ard the accused say to L/Cpl Pinchen "If I don't get something to eat or drink I'll come in and get it". I then turned around to go back towards the kitchen and as a turned around a shot was fired by the accused. I say his hand up and a flash come from it at the same time L/Cpl Pinchen stepped to one side I called for the accused to halt as he had started to walk away as he didn't halt I went to walk after him he t hen started to run. I then gave orders for his arrest and for the removal of his weapon. After hw had been arrested saome 15 or 20 minutes after the shot was fired I assisted with search for the weapon as he was not in possession of a weapo when a rested. I found a pistol behind our area just over a hedge with compass case a nd a munition. it had 5 live rounds in Cylinder and one fired round. The accused was wearing a belt and holster when the shot was fired. In my opinion accused was sober when I saw him in the kitchen on the night in quwstion.

LC 2367 Enfield .38 pistol is produced and identified by the witness as the pistol found by him and is marked Ex "A" by the President.

Cross Examine by D f officer. The witness states I was not in kitchen when accused came 1st time when I saw him arguing with NCO's in charge I did not interfere the argument continued during the short tiem I was in the vicinity . I am not able to say whether accused had been drinking or not. I did not intervene during argument because I was of the opinion that the NCO's in the kitchen could handle situation. I was approx 10 ft away facing the accused when the shot was fired, the shot was fired after I turned around. After the pistol was found a check of ownership was made it was not on my records. The accused's records disclose that he had on charge a Sten gun only and not a pistol.

Ques by the President the witness states.

The accused was approx 3 ft from L/Cpl Pinchen when shot was fired I could not see exactly in what d irection pistol was fired. It was fired roughly I would say in the direct on of L/Cpl Pinchen but I cannot say it was fired directly at him. I looked the next morning for a trace or marki g of a bullet in but could not find any sign of a bullet. There is no doubt in my mind that the accused fired a shot at the place and time described by me.

RP 83(B) complied with.

Fourth Witness for Prosecution - A-56617 Cpl Kenneth G Player 12 Bn duly sworn states

On 30 Aug 44 I was Cpl of Guard at 2130 hrs I heard a shot fired and turned to see where it came from and saw the accused walking away from 47 Coy kitchen. CQMS East called for the Guard and I answered I searched t e area and fo nd the accused in another soldiers tent about 5 or 6 minutes later and I placed him under arrest. He was not wearing a belt or holster when I arrested him. He had been drinking but I would not say he was drunk. I later searched for a weapon but didn't find it that night.

On cross-examination the witness states I can say he was drinking but in my opinion he was not drunk.

Qes by Pres. The witness states I sa accused wearing a pistol and holster the day of the shooting. I occupy the same tent as the accused.

RP 83(B) complied with.

D6

DEFENCE

The accused having been sworn states - on the 30 Aug 44 about 1300 hrs I went to CSM of 47 Coy and asked for permission to go out for the afternoon to go for a swim. I recei ed permission and went out. I stopped in at a coffee shop and my friend and I had a few drinks of Calvados. I then got into a crap game there and won a lot of money one of the players in the game lost all his money and put up his pistol instead of money I won the pistol I won all the money and the game ended. I cont nued to dri k Calvados during the game. After that I don't remember just what I did except that I bought a bottle of Calvados and took it back to camp in the evening. I went to the kitchen of 47 Coy about 2100 hrs I asked for coffee I went back to my tent to get my cup and when I returned the coffee was all gone. I then asked for some bread and I don't know just what happened I was drunk but I remember saying if I can't get something here I'll go some place else. I took out the pistol I won from my holster feeling pretty cocky I twirled it in my hand and it went off in the air. I didn't even know it was loaded as v arious people had handled it and played with it earlier. After that I don't remember much I was nervous and scared I heard the bullet pass close to my ear

On cross-exami ation by Prosecuting Officer -
I never heard the CQMS tell me to halt. I was running because I was scared I don't remember what I did with the p stol. I don't remember whether I went to my own tent or not I believe I did and then I went to visit a friend in the next tent. I didn't know someone was after me. I didn't know what I was arrested for. After the shot was fired I do not remember just what happened.
Ex "A" Pistod #2367 is examined by accused who states it was a pi ztol smilar to the exhibit which he won.
By the Pres.
Did you fire the Pistol at L/Cpl P inchen .
Ans No Sir I had no intention f firing it at all.

RP 83(B) complied with.

Second witness for Defence. D-15664 Pte Bissong.

Duly sworn states. On 30 Aug 44 between 2030 hrs and 2100 hrs I saw the accused in camp he is an acquaintance he had a b ottle of Calvados he gave me a drink and took a drink In my opinion he was drunk. he didn't walk straight, he talkid like a fellow intoxicated.

No cross examination

RP 83(B) complied with.

Thire witness for theDefence B-15715 Pte Hoshooley GJ duly sworn states On 30 Aug 44 between 2000 and 2100 hrs the accused came over to my tent and joined in a game of dice there. He brought a bottle of Calvados with him about quarter full After p laying a while he offered me a drink out of the bottle D uring the time I saw him I would say he had been drinking but I cannot say he was drunk.

No Cross-examination

RP 83(B) complied with.

D6

Address by Defending Officer

It has been bright out that accused was intoxicated at the time and it has not been proved that the accused intended to fire the pistol at all and especially that he intended to fire at L/Cpl Pinchen. I submit thatthe CQMS as senior NCO should have intervened in time to avoid any trouble no sign of a bullet was found which corroborates accused's statement that the shot was fired in the air.

The accused admits that the whole thing is very vague after drinking considerable Calvados and I feel that the prosecution has failed to prove the facts which it must in order for the accused to be found guilty.

Address by Prosecuting Officer

D6P2

In my opinion the evidence of the witnesses established that the accused was not drunk.
The evidence also indicates that the pistol was drawn deliberately but whether it was pointed at L/Cpl Pinchen or whether ~~it was~~ there was an intention to shoot at L/Cpl Pinchen is for the court to determine according to the evidence certainly there is no doubt that the accused did fire a pistol without justification or authority at the time and place mentioned in the particulars of 2nd charge.

Address by Judge Advocate

D6P3

The accused is charged with offering Violence to a superior officer by firing a pistol at L/Cpl Pinchen at a certain time and place. offering violence is defined in the footnote to Sec 8 AA (The footnote is read in full) I do not think I can say anything which will in anyway better define "Offering Violence" that is contained in the footnote. The court should apply the facts in evidence before it to this definition and determine whether or not these facts constitute an offering of Violence. The court is the sole judge of the facts ~~xxxxid~~ and anything I may have said or may say now which indicate my personal opinion as to the facts should be disregarded. The facts are not complicated or greatly in dispute. The accused admits firing a shot at the time and place set out in the particulars to the charge. He denies firing at L/Cpl Pinchen and says he never intended to fire a shot at all, but that the pistol accidentlly went off as he twirled it in his fingers and that the shot went up into the air The witnesses for the prosecution do not go so far as to state that they saw the accused point the pistol or shoot at L/Cpl Pinchen. The witnesses do state however that the accused fired a shot and that he fired "in fron of him" - it is for the court to weigh this evidence carefully and to determine whether or not it constitutes on "offering Violence" within the meaning of the definition previously quoted.

With respect to the 2nd (Alternative) charge there is little to be said the court willuse its militaryknowledge and theexperience in deciding whether or not this 2nd (Alternative charge has been proved. It will be kept in mind that the accused can be convicted of one charge only by that I do not mean that he cannot be acquitted of both charges. I mean that the court only considers that 2nd Alternative charge if it comes to the conclusion that the 1st charge has not been proved.

Considerable evidence has been heard on the condition of the accused whether or not he was drunk. On this feature I wish to read a few abstracts from MML at Page 25 Para 48 It is a principle of English Law that drunkenness is no excuse for crime the remainder of the paragraph was also read and explained to the court.
At Page 106 Para 9 "Temporary intoxicat on this para is read and explained. It is a principle of British Law that an accused must be proved guilty it is not for him to prove himself innocent.
The accused is also entitled to the benefit of any reasonable doubt that is not a fanciful or imaginary doubt but a doubt based on the facts and a doubt which an ordinary reasonable man would have under those circumstance Accordingly if after weighing and considering the evidence of the court the court has a reasonable doubt as to the guilty of the accused then the accused is entitled to the benefit of that doubt.

If no further comments by me are desired by the court or Pres of Def or Pros Officer that is all I have to say.

E1

EVIDENCE of Character Witness.

Capt. H A Hasking 9 Bn 2 CERG Duly sworn states.

In the summer of 1942 I was attached to a Coy in which the accused was attached . He was with me for a period of 3 months During that time I found him to be an exceptionally good worker and at no time did I have any trouble with him

Address in Mitigation by Defending Officer

I would lke to bring out that accused has been in the army for 5 years as of yesterday. He has had no crime since Apr;1943. In view of this and of the circumstance surrounding the incident I ask the Court to be lenient as possible so that he may be free to continue to serve.

Exhibit D 6

M.F.B. 185
ZM—5-41 (572-3)
H.Q. 1772-39-620
A.F.B. 296

STATEMENT AS TO CHARACTER AND PARTICULARS OF SERVICE OF ACCUSED

Number	Rank	Name	Regiment (or unit)
E-3018	Pte	GUERRETTE J.C.	12 Bn 2 CBRD

1. The following is a fair and true summary of the entries in the Service and General Conduct sheets Regimental and Squadron, Battery or Company Conduct sheets of the accused, exclusive of convictions by a Court-Martial or a Civil Court, of summary awards under Section 47 of the Air Force Act Army Act and of cases in which trial has been dispensed with.

	Within last 12 months	Since enlistment or appointment
For AA Sec 15(1)	Nil times	4 times
For AA Sec 40	Nil times	2 times
For	times	times
For	times	times

Number of instances of gallantry or distinguished conduct.—

or,

There are no entries in the conduct sheets of the accused.—

NOTE.—If the charge is for drunkenness, the entries for drunkenness must be stated separately.

2. The accused has not been previously convicted

or,

Previous convictions of the accused by a court-martial or a civil court, of summary awards under Air Force Act Section 47 of the Army Act and dispensations with trial under A.A. 75 A.F.A. 76 are set out in the Schedule annexed to this statement.

3. The accused is not under sentence at the present time.

or,

The accused at the present time is under sentence for beginning on the day of

4. The accused has been in confinement awaiting trial on the present charges, for Nil days in civil custody, and 6 Air Force days in military custody, making a total of 6 days in custody, of which Nil days were spent in hospital.

5. The present age of the accused according to his record of service is attestation paper is 26 yrs 203 days.

6. The date of his commission specified in his record of service is attestation attestation paper 5 Sep 39

7. The service which the accused is allowed to reckon towards discharge is 4 years 361 days.

8. The accused is entitled to reckon service for the purpose of determining his pension, etc.

9. The accused is in possession of or entitled to no air force decoration, or air force reward (or is in military military possession of or entitled to). State any air force decoration or reward.
military
C.V.S.M. and Clasp.

10. (If the accused is a warrant officer.) The accused before he was made a warrant officer last held Air Force the regimental rank of

11. (In the case of an officer.) The accused holds in the Royal Canadian Air Force the rank of
Permanent Force
.....dated....., and in his regiment (or corps), the rank of unit
.....dated.....

12. The accused has served as a non-commissioned officer continuously, without reduction, to the present date:—

.....Date of promotion.

In the rank of.....years.

In the rank of.....years.

In the rank of.....years.

NOTE.—If any matter in any of the above paragraphs cannot be stated from the Regimental books, the paragraph must be struck through.

SCHEDULE

Of convictions by a court-martial or civil court, of summary awards under Section 47 of the Army Act, and of cases in which trial has been dispensed with of accused, Number.....Rank.....Air Force
Name.....of.....Unit
Regiment

NOTE.—A verbatim extract from the regimental books stating these convictions and dispensations with trial must be inserted.

Description of Court by which tried	Date and Place of Trial	Charge upon which convicted	Sentence of the Court	Punishment Remitted

I hereby certify that the foregoing schedule of convictions and dispensations with trial is a true extract from the regimental books in my custody.

Signed this 6 Sep 44 day of

The above statement (with the schedule of convictions and of cases in which trial has been dispensed with) is read, marked L B Skinner Capt Officer having charge of Regt Records by the president, and annexed to the proceedings.

SUMMARY OF EVIDENCE

Summary of evidence in the Case of:

E-3018 Pte Jean Cyrile GUERRETTE RCASC
12 Bn 2 CBRG

A soldier of the Canadian Army Overseas.

The Commanding Officer diredts that the evidence be taken under oath.

First Witness for the Prosecution - B22430 L/Cpl Frederick Willima Pinchen RCASC, 12 Bn 2 CBRG having been duly sown states;

I am B22430 L/Cpl Frederick William Pinchan. On 30th Aug 44 at approx mately 2135 hrs Pte Guerrette J.C. whom I now recognize came to the kitchen and asked for a cup of coffee. I told him that we had none left and he insisted that he have some. The conversation went on for about five minutes at the end of which time Pte Guerret te J.C. stated that "if I wouldn't give him some he would come after it" He then drew his pistol from his holster, raised it and fired. While he was drawing his pistol I stepped back and to my right. As soon as Pte Guerrette fired he turned and walked away about ten or fifteen yards and then began to run.

Q. In what direction did the accused point the revolver after taking it from the holster.

A. Ahead of him, Sir.
Q. Had you not moved would the bullet have hit you?
A. I can't say for sure as I was only interested in getting out of the way, Sir.
Q. Was the accused facing you before you moved?
A. Yes Sir.

Cross Examined by the Accused:-
Q. Did I shoot at you?
A. I couldn't say that you shot directly at me as I was only co cerned with getting out of the way.

The accused declines to fubther cross-examine the witness.

"F Pinchen"

(B22430 L/C I PINCHEN F.W.)

Second witness for the Prosecution:- D-76737 A/Cpl William Edward Parry, RCASC 12 Bn 2 CBRG having been duly sworn states:

I am a cook's helper in the kitchen at 47 Coy 12 Bn 2CBRG. at approx mately 2130 hrs 30 Aug 1944 Pt e Guerrette J.C. whome I recognize came up to the kitchen for somecoffee. I asked him, "Where is your cup" and he replied "I haven't got one but I'll go and get one and will be back." He asked me to save some coffee and I told him "You will have to hurry up or there will be none left." Pte Guerrette returned in about ten minutes time and by then the coffee was all finished. He then walked over to L/Cpl Pinchen and I heard him ask for something to eat. I was cutting meat at the time and didn't pay more attention to what was going on. Then I heard Pte Guerrette say "I don't get nothing to eat?" The next thing I heard was the pistol shot. I did not see the incident. After the shot was fired I looked up and saw Pte Guerrette walking away after a few paced began to run.

The accused declines to cross examine the witness "W.E. Parry"
(D76737 A/Cpl Parry W.E.

Cross Examined by the accused:-

Q. Did I say "If I don't get something to eat or drink I will come in and get it".

A. Yes.

The accused declines to further cross examine the witness.

"F A East"
(H19315 CQMS East, F A)

Fourth Witness for the Prosecution:- A56617 Cpl Kenneth Gordon Player RCASC 12 Bn 2 CBRG, having been duly sworn, states.

I was Cpl of 47 Coy Guard on 30th August 1944 and at approximately 2130 hrs I proceeded to the kitchen for tea. I couldn't get any so I proceeded back towards my tent. I had just reached my tent when I heard a shot fired. I turned and saw Pte Guerrette walking away from the kitchen. The CQMS called for the guard and I answered. He told me to get the man and put him under arrest which I did five or six minutes later when I caught him. I escorted him to 12 Bn Guard Room and proceeded Back to 47 Coy lines to find the weapon but could not.

Q. Was the accused sober?
A. He wasn't drunk but he had been drinking.

The accused declines to cross examine this witness.

"Cpl Player KG"
(A56617 Cpl Player K.G)

The accused was cautioned as follows: in both English and French

Do you wish to make any statement or to give evidence upon oath? You are not obliged to do so or say anything or give evidence unless you wish to do so, but whatever you say or any evidence you give will be taken down in writing and may be given in evidence.

After the above caution, the accused declined to give evidence or make a statement and reserves his defence.

I certify that the foregoing Summary of Evidence consisting of four(4) pages was taken down by me in the presence of the accused and that R.P.4(C)(D)(E) and (F) have been complied with

In the Field FRANCE
1st September 1944

"W A WALKER"
Officer (W A WALKER) Capt detailed to take the Summary.

Exhibit "C" E2

MFM 6

No E-3018 Name GUERRETTE JC Sqn, Battery, or Company — Corps R.C.E. — Date of enlistment 5Sep39 — GC Badges — Service or Proficiency Pay N/A — Character

Date of last entry in Company Conduct Sheet 18 Apr 40 — No and date of last drunk N/A — Period not reckoning towards freedom from extra fine N/A — Sheet No 3 — Signature OC Company, etc BGuchoin Major

Place	Date of offence	Rank	Cause of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Sheet No. 2 destroyed on completion of 2 yrs service in accordance with K.R. (Can) 1518 Sgd (Edw H. Webb) Capt OC "A" Coy 1st Bn RCE CA									
Field	14 Jul 42	Spr		AA 15(1) AWL from 0645 hrs 14 Jul 42 until apprehended at 1930 hrs 21 Jul 42 (Absent 7 days 12 hrs 45 mins)	Sgt Dussault Cpl Corrigan	Forf of 21 Days Pay and 14 days pay	27Jul 42	Major MCTavish OC A Coy 1 Bn RCE	Forf 8 dys pay Art 142(1)(a) forf 21 dys p Ary 142(2) Total forf 28 day pay
Field	25 Oct 42	Spr		AA Sec 15(1) AWL from 2300 hrs 25 Oct 42 to 0420 hrs 26 Oct 42 (Absent 5 hrs 30 mins)	L/Cpl Anderson D	3 days CB	31 Oct42	Maj McTavish OC "A" Coy	

Place	Date of offence	Rank	Cause of circumstance	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Field	25 Oct 42	Spr		AA Sec 40 Conduct to the prejudice of good order & Mil disc in that he was involved in a rd accident while riding MC Norton C-4193413 on 11 Dec 42.	Documentary	Forf of 5 days pay	20 Jan 43	Maj JT Williams CC "A" COy	Forf 3 days pay Art 149(2)
Field	25 Feb 43	Spr		Absent from work.	L/Sgt Gagnon	5 dys pay	23 Feb 43	Capt Darey	
Field	30 Mar 43	Spr		AA Sec 40 bein in pssession of a pr of army boots in belonging to RSD No 1 CBOD	Sgt Van Dusan	Forf 14 days pay	31 Mar 43	Maj Williams	FR&I 149(2)
Field	9 Apr 43	Spr		AA Sec 15(1) 4 days 17 hrs 46 mins	Cpl Camplin	21 days FP Aut forf of 5 dys pay FRI 149(1)(a)	12 Apr	Maj J T Williams	

CERTIFIED TRUE COPY MADE FROM ORIGINAL IN MY POSSESSION
"L B Skinner"
(L.B. SKINNER) Capt
Offr in charge of Records.

CHARGE SHEET

E-3018 Pte Jean Cyrile GUERRETTE 12 Bn 2 CBRC a soldier of the Canadian Army Overseas is charged with,

First Charge
AA Sec 8(2) WHEN ON ACTIVE SERVICE- OFFERING VIOLENCE TO HIS SUPERIOR OFFICER

In that he

In the Field at approximately 2140 hrs 30 Aug 44 did fire a pistol at B-22430L/Cpl PINCHEN F.W.

Second Charge
(Alternative)
AA Sec 40 WHEN ON ACTIVE SERVICE- an act to the prejudice of good order and military discipline.

In that he

In the Field in the kitchen at 47 Coy12 CBR Bn at approximately 2140 hrs 30 Aug 44 did fire a pistol without due authority or justification.

"A O Hood)"
(A O Hood) Lt-Col
Commanding Officer
12 Cdn Base Rft Bn, 2 CBRC

In the Field FRANCE
1 SEP 44

OTC BE TRIED BY FIELD GENERAL COURT MARTIAL

"G Francoeur"
(G Francoeur) Brig
Comd
2 Cdn Base Rft Gp

In the Field
2 Sep 44

FIELD GENERAL COURT-MARTIAL

CFA95 (In lieu of AF A2) 40/FA3/1697 (1998)

(Whether the accused to be tried is under his comd or not, a FGCM may on application to him be convened by any offr of Cdn Army Overseas, or of any other force if authorized in law, in immediate comd of troops on active service, subject to RP 105(C) and restrictions imposed by appropriate authy. AA 49, 50, RP 104-107, 114. As to the duties and privileges of the Convening Offr in dealing with the application see MML Chap V paras 20 and 23. RP 87(B).

There should be a separate Convening Order for each person to be tried separately by the same Court. RP 71(C), 109. As to separate charge sheets see RP 62, and as to separate trial on charges in the same charge sheet see RP 108. As to two or more accused charged jointly see RP 16, 109.

As to reasons for showing (a) permanent or confirmed rank, and (b) apptmt, A/rank or A/apptmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

ACCUSED.

Number.	(a) Prmnt R. (b) Apptmt, A/R or A/Apptmt.	Full Christian Names.	Surname.	Unit.
E-3016	Pte	Jean Cyrille	GUERRETTE	RCASC 12 Bn 2 CBRG

CONVENING ORDER.

1. Whereas complaint has been made to me, the undersigned, that the person(s) named above as the accused, being subject to military law, has (have) committed the offence(s) set forth in the Charge Sheet(s) attached and endorsed by me, (date) ..... viz: an offence not triable by service tribunal ", To be tried by Field General Court-Martial ",

2. And whereas I am of opinion that it is not practicable that such offence(s) should be tried by an ordinary General Court-Martial ; ~~and that it is not practicable to delay the trial for reference to a superior qualified offr.~~)
(Delete part in brackets when not required for compliance with RP 105(C).)

3. I hereby convene a Field General Court-Martial to try the said person(s), and to consist of the Offrs appointed or detailed hereunder.

4. ~~I am unable to appoint the three Offrs to form the Court. I(b) a Fd Offr as President for the reasons I have~~ attached hereto
(AA 49, RP 106(B), 107(A). Delete the whole or part, if not applicable.)

5. I also appoint as Judge-Advocate thereat the Offr mentioned hereunder.
(RP 106(E). Delete, if none appointed.)

PRESIDENT.

Major (Rank.)	J D ROSS (Must be named. RP 106.)	RCA	12 Bn 2 CBRG (Unit.)

MEMBERS.

Capt	To be detailed by OIC 10 CBR Bn	10 CBR Bn
Lieut (Rank.)	To be detailed by OC 10 CBR Bn (Named or detailed. RP 106.)	10 CBR Bn (Unit.)

WAITING MEMBER.

Capt (Rank.)	To be detailed by OC 10 CBR Bn (Named or detailed, if any. RP 106.)	10 CBR Bn (Unit.)

JUDGE-ADVOCATE.

Capt (Rank.)	K E PEARLMAN (Must be named, if any. RP 106.)	ADJA	HQ 2 C Eng (Unit.)

On Active Service in the Fd

in FRANCE (Country.)

G Francoeur (Signed personally. RP 105 fn 2.) Brigadier (Rank.)

(G Francoeur)
Commanding 2 Cdn Base Brt Gp
Convening Officer.

Date 2 Sep 44

CONVENING OFFR WILL INITIAL ALL DELETIONS AND ALTERATIONS

(See overleaf for oaths and notes for use on trial.)

OATHS FOR USE IN COURTS-MARTIAL.

1. PRESIDENT AND MEMBERS. (*AA 52, KR Can 562, RP 26, 29, 111.*)

I swear by Almighty God that I will well and truly try the accused (or accused persons) before the Court according to the evidence, and that I will duly administer justice according to the laws in force for the Government of the Militia of Canada, without partiality, favour or affection, and I do further swear that, except so far as may be permitted by instructions of the Minister for the purpose of communicating the sentence to the accused, I will not divulge the sentence of the Court until it is duly confirmed, and I do further swear that I will not on any account at any time whatsoever disclose or discover the vote or opinion of any particular member of this court-martial unless thereunto required in due course of law.

2. JUDGE-ADVOCATE. (*AA 52, MML 762, RP 27, 111.*)

I swear by Almighty God that I will not, unless it is necessary for the due discharge of my official duties, divulge the sentence of this court-martial until it is duly confirmed; and that I will not on any account, at any time whatsoever, disclose or discover the vote or opinion of any particular member of this court-martial, unless thereunto required in due course of law.

3. OFFR UNDER INSTRUCTION. (*AA 52, MML 762, RP 27, 111.*)

I swear by Almighty God that I will not divulge the sentence of this court-martial until it is duly confirmed; and that I will not on any account, at any time whatsoever, disclose or discover the vote or opinion of any particular member of this court-martial unless thereunto required in due course of law.

4. SHORTHAND WRITER. (*AA 52, MML 762, RP 27, 111.*)

I swear by Almighty God that I will truly take down to the best of my power the evidence to be given before this court-martial and such other matters as may be required, and will, when required, deliver to the court a true transcript of the same.

5. INTERPRETER. (*AA 52, MML 762, RP 27, 111.*)

I swear by Almighty God that I will to the best of my ability truly interpret and translate, as I shall be required to do, touching the matter before this court-martial.

6. WITNESS. (*AA 52, MML 763, RP 82, 111.*)

I swear by Almighty God that the evidence which I shall give before this court shall be the truth, the whole truth, and nothing but the truth.

POUR LES TEMOINS. (*RO (Can) 2692.*)

Je jure, par Dieu Tout-Puissant, que le témoignage que je rendrai devant cette Cour sera la vérité, toute la vérité, et rien que la vérité.

7. As to other forms for swearing see AA 52(4), RP 28, 30, 82, 111, MML p 763.

NOTES ON RECORDING PROCEEDINGS AND ON DEFENCE PROCEDURE.

(*Referred to throughout CF A 96 as "Notes".*)

1. RECORDING PROCEEDINGS: When no shorthand writer is employed the addresses of Prosecutor and Defending Offr (*RP 95(C)*), any objections (*RP 95(B)*), and any statements by accused, may be summarized and, the evidence, subject to RP 95(A) and 114(B), may be recorded in narrative form as follows:

First Witness for Prosecution.

A 12345 Cpl B. Jones, RWR, sworn, states:

I am a cpl of the pl to which Pte Smith belongs. The accsd in Court is Pte Smith. About 1400 hrs on 15 Jan 43 I ordered the accsd to go on parade. He refused and did not go on parade.

Cross-exam: He did not say he was sick. (or, None.)

Re-exam: None.

Exam by Court: He said—" I've had enough parades ".

RP 83(B) complied with.

2. When a shorthand writer is employed, addresses, statements, evidence and objections need not, subject to RP 95(A), be taken by him verbatim. (*RP 95 fn 1.*) If the evidence is taken by him in narrative form, RP 83(B) should be complied with. If taken verbatim, RP 83(C) will be complied with.

3. The record of addresses, statements and evidence will be given a marginal number which corresponds with the number of the para in CF A 96, under which it is taken. Both sides of paper should be used.

4. DEFENCE PROCEDURE: RP 116 provides that for procedure on defence RP 40-42 will apply so far as practicable, having due regard to the public service. (*RP 122.*) If the Court consider such compliance not practicable, the following order of procedure (whether all items are used or not) is suggested as being fair to the accused:

(i) Opening address by Defending Offr. (*RP 60(C), 87(C), 92(C) (D).*)

(ii) At option of accused, statement by accused (*not sworn or subject to cross-exam by Prosecutor, Court or J.A.* (*RP 46 fn 10*)), or evidence by accused, as to facts or his character or both. (*See RP 45 fns 3, 46 fn 1, 80.*)

(iii) Evidence of witnesses for accused as to facts or his character or both. (*See RP 46 fn 1.*)

(iv) Evidence for prosecution in rebuttal or on new matter, if allowed by Court (*RP 86(B)*), or to prove previous convictions when accused has called witnesses as to character. (*RP 86(C).*)

(v) Closing address (*on matters other than in mitigation of punishment*) by Defending Offr or accused. (*See RP 40 fns 9-12, 87(C), 92(C) (D).*) But Defending Offr or accused will make his address after the Prosecutor, if there has been no statement by accused or any evidence given as to facts, or if accused alone has given evidence on oath as to facts, whether any evidence as to his character has been given or not. (*When accused charged jointly see RP 61.*)

(vi) Closing address by Prosecutor. (*See RP 40 fn 7, 87(C), 92(C) (D). Prosecutor has no right to address Court on subject of sentence except as provided by RP 46(F), KR Can 563(a).*)

(vii) Summing up by J.A. if any. (*RP 42.*)

ASSEMBLY AND DISPOSAL OF RECORD AFTER TRIAL.

1. All deletions and alterations in printed and written record MUST BE INITIALLED by President or J.A. if any. RECORD FORMS B, C OR D NOT USED MUST BE DELETED BY A DIAGONAL LINE AND INITIALLED.

2. All loose sheets of record and exhibits comprising the proceedings of the trial MUST BE INITIALLED by President or J.A. if any, and then pinned by top left corner to p 3 of CF A 96 in following order:

(i) Charge Sheet. (*On top.*)

(ii) Convening Order with any declarations made by Convening Offr under RP 104, 106, 107, 114.

(iii) Medical Certificate(s). (*KR Can 557.*)

(iv) Addresses, statements and evidence in order taken during trial, pages being numbered and on both sides when both sides used. (*As to admitting in evidence a certified copy in lieu of original see KR Can 560. As to certified copies of registered books see AA 163 (1) (g) (h).*)

(v) Exhibits numbered Ex A, Ex B, etc. (*As to admitting as evidence a certified copy in lieu of original see KR Can 560. As to certified copies of registered books see AA 163 (1) (g) (h).*)

(vi) Summary of Evidence, if not already an exhibit.

3. Any report or remarks by President or Court for attention of Confirming Offr will be attached to p 4 of CF A 96 and not form part of record of proceedings. (*RP 95(D).*) A recommendation for mercy will be inserted in Part I of Schedule on p 4 after minute of sentence awarded. (*AA 53(9), RP 118(C), MML p 759.*)

4. The President or J.A. if any, will return proceedings promptly with covering letter and in an envelope marked " Confidential ", or as otherwise directed.

MEDICAL OFFICER'S CERTIFICATE

K R (Can Para 557)
(CMHQ CL 175)

I certify that I have this day examined E-3018 Pte GUERRETTE JC and in my opinion he is fit to undergo trial by COURT MARTIAL.

Stanton Field.
Date 6 Sep 44

??????????? Sgd
Medical Officer
(unit) 12 Bn 2 CHRG

D3.

First Witness for Prosecution - B-2243 L/Cpl P W Pinchen 12 Bn having been duly sworn states. 30 Aug 44 at approx 2135 hrs accused came to me in the kitchen 47 Coy 12 Bn where I was in charge and asked for some coffee I told him we didn't have any and I could n't give him any and he tried to persuade me for about 5 minutes to give him some. then he said "if you won't give me any I'll come in and get it The he drew his revolver and when he drew his revolver I stepped back and to the right and he fired the revolver in front of me. then he turned walked a short distance and started to run.

Crsoo-Exmn by Def Officer.
Q. You saw him draw his revolver
A. Yes
Q. Did you keep facing him.
A. Yes.
Q. Did you see in which direction shot was fired.
A. I can only say it was fired in front of him
Q. Where you directly in fron of him when shot was fired.
A. No- I was to the right somewhat
Q. Had the accused been drinking
A. Yes in my opinion he had been.

Questioned by the Pres witness states I was not sure just where revolver was pointed it was fairly dark it could have been pointed up in the air or down to the ground. we looked for the bullet or marks but didn't find any. He was from 6 to 10 ft from me when the shot was fired.

RP 83Bcomplied with.

2nd Witness for Prosec tion - D-76736 A/Cpl Wm Edward Parry 12 Bn 2 CHKG duly sworn states. I am a cook helper at 47 Coy 12 Bn and on the night of 30 Aug 44about 2130 hrs the accused came in to the kitchen and asked for coffee. he didn't have a cup so he said I'll go and a get a cup and come back. He came back and in ten minutes and all the coffee was gone. He went over to L/Cpl Pinchen and asked for something to eat p I heard something said by accused to the effect "I get nothing to eat"? and I head a shot - I stood up looked around and saw the accused walk away a short distance and then start to run.

Cross -exami e b Def Offr.
Q. When you saw accused did he appear t have been drinking.
A. He had a drink.
Q. When you heard the shot did you see a flash.
A. No, I was busy cutting some meat.

By Pres.
Q. In your opinion he was drunk
A. No I couldn't say he was drunk he had a few drinks. I never saw the pistol and don't know who fired the shot when I heard the shot and looked up the accused was not facing me. It would have been possible for him to have something in his hand without me seeing it.

RP 83B complied with.

Third witness for Prosecution - H-19315 CQMS F A East 12 Bn
duly sworn states.
On the 30 Aug 44 at approx 2140 hrs I visited cookhouse at 47 Coy
12 Bn while there I heard conversat on between accused and kitchen
staff. The accused was demanding something to eat or drink Noticing
2 NCO(s in kitchen I thought it best to leave them in charge. I
went to walk away and overh ard the accused say to L/Cpl Pinchen
"If I don't get something to eat or drink I'll come in and get it".
I then turned around to go back towards the kitchen and as a turned
around a shot was fired by the accused. I saw his hand up and
a flash come from it at the same time L/Cpl Pinchen stepped to one
side I called for the accused to halt as he had started to run.
ac he didn't halt I went to walk after him he t hen started to run.
I then gave orders for his arrest and for the removal of his weapon.
After hw had been arrested saome 15 or 20 minutes after the shot
was fired I assisted with search for the weapon as he was not in
possession of a weapo when a rested. I found a pistol behind our
area just over a hedge with compass case a d a munition. It had 5
live rounds in cylinder and one fired round. The accused was wearing
a belt and holster when the shot was fired. In my opinion accused was
sober when I saw him in the kitchen on the night in question.
LC 2367 Enfield .38 pistol is produced and identified by the witness
as the pistol found by him and is marked Ex "A" by the President.

Cross Examine by D f officer. The witness states I was not in kitchen
when accused came 1st time when I saw him arguing with NCO's in
char e I did not interfere the argument continued d ring the short
tiem I was in the vicinity . I am not able to sa whether accused
had been drinking or not. I did not intervere during argument because
I was of the opinion that the NCO's in the kitchen could handle
situation. I was approx 10 ft away facing the accused when the shot
was fired, th shot was fired after I turned around. After the
pistol was found a check of ownership was made it was not on my
records. The accused's records disclose that he had on charge a
Sten gun only and not a pistol.

Ques by the President the witness states.

The accused was approx 3 ft from L/Cpl Pinchen when shot was fired
I could not see exactly in what d irection pistol was fired. It
was fired roughly I would say in the direct on of L/Cpl Pinchen but I
cannot say it was fired directly at him. I looked the next morning
for a trace or marki g of a bullet in but could not find any sign
of a bullet. There is no doubt in my mind that the accused fired a
shot at the place and time described by me.

RP 83(B) complied with.

Fourth Witness for Prosecution - A-56617 Cpl Kenneth G Player 12 Bn
duly sworn states
On 30 Aug 44 I was Cpl of Guard at 2130 hrs I heard a shot fired
and turned to see where it cam from and saw the accused walking
away from 47 Co kitchen. CQMS East called for the Guard and I answered
I searched t e area and fo nd the accused in another soldiers tent
about 5 or 6 minutes later and I placed him under arrest. He was
not wearing a belt or holster when I arrested him. He had been drink-
ing but I would not say he was drunk. I later searched for a weapon
but didn't find it that night.
On cross-examination the witness states I can say he was drinking
but in my opinion he was not drunk.
Qes by Pres. The witness states I saw accused wearing a pistol
and holster the day of the shooting. I occupy the same tent as
the accused.

RP 83(B) complied with.

DEFENCE

The accused having been sworn states - on the 30 Aug 44 about 1300 hrs I went to CSM of 47 Coy and asked for permission to go out for the afternoon to go for a swim. I recei ed permission and went out. I stopped in at a coffee shop and my friend and I had a few drinks of Calvados. I then got into a crap game there and won a lot of money one of the players in the game lost all his money and put up his p stol instead of money I won the pistol I won all the money and the game ended. I cont nued to drink Calvados during the game. After that I don't remember just what I did except that I bought a bottle of Calvados and took it back to camp in the evening. I went to the kitchen of 47 Coy about 2100 hrs I asked for coffee I went back to my tent to get my cup and when I returned the coffee was all gone. I then asked for some bread and I don't know just what happened I was drunk but I remember saying if I can't get something here I'll go some place else. I took out the pistol I won from my holster feeling pretty cocky I twirled it in my hand and it went off in the air. I didn't even know it was loaded as v arious people had handled it and played with it earlier. After that I don't remember much I was nervous and scared I heard the bullet pass close to my ear

On cross-exami ation by prosecuting officer
I never heard the CQMS tell me to halt. I was running because I was scared I don't remember what I did with the p stol. I don't remember whether I went to my own tent or not I believe I did and then I went to visit a friend in the next tent. I didn't know someone was after me. I didn't know what I was arrested for. After the shot was fired I do not remember just what happened.
Ex "A" Pistol #2367 is examined by accused who states it was a pi ztol smilar to the exhibit which he won.

By the Pres.
Did you fire the Pistol at L/Cpl P inchen .
Ans No Sir I had no intention f firing it at all.

RP 83(3) complied with.

Second witness for Defence. D-15664 Pte Bissong.

Duly sworn states. On 30 Aug 44 between 2030 hrs and 2100 hrs I saw the accused in camp he is an acquaintance he had a b ottle of Calvados he gave me a drink and took a drink In my opinion he was drunk. he didn't walk straight, he talkid like a fellow intoxicated.

No cross examination

RP 83(3) complied with.

Thire witness for theDefence B-15715 Pte Hoshooley GJ duly sworn states On 30 Aug 44 between 2000 and 2100 hrs the accused came over to my tent and joined in a game of dice there. H e brought a bottle of Calvados with him about quarter full After p laying a while he offered me a drink out of the bottle D uring the time I saw him I would say he had been drinking but I cannot say he was drunk.

No Cross-examination

RP 83(3) complied with.

Address by Defending Officer

It has been bright out that accused was intoxicated at the time and it has not been proved that the accused intended to fire the pistol at all and especially that he intended to fire at L/Cpl Pinchen. I submit thatthe CQMS was senior NCO should have intervened in time to avoid any trouble no sign of a bullet was found which corroborates accused's statement that the shot was fired in the air.

The accused admits that the whole thing is very vague after drinking considerable Calvados and I feel that the prosecution has failed to prove the facts which it must in order for the accused to be found guilty.

Address by Prosecuting Officer

In my opinion th e evidence of the witnesses established that the accused was not drunk.
The evidence also indicates that the pistol was drawn deliberately but whether it was pointed at L/Cpl Pinchen or whether ~~it was pointed~~ there was an intention to shoot at L/Cpl Pinchen is for the court to determine according to the evidence certainly there is no doubt that the accused did fire a pistol without justification or authority at the time and place mentioned in the particulars of 2nd charge.

Address by Judge Advocate

The accused is charged with offering Violence to a superior officer by firing a ppistol at L/Cpl Pinchen at a certain time and place. offering violence is defined in the footnote to Sec 8 AA (The footnote is read in full) I do not think I can say anything which will in anyway better define "Offering Violence" that is contained in the footnote. The court should apply the facts in evidence before it to this definition and determine whether or not these facts co stitute an offering of Violence. The court is the sole judge of the facts and anything I may have said or may say now which indicate my personal opinion as to the facts sho ld be disregarded. The facts ar e not complicated or greatly in dispute. The accused admits firing a shot at the time and place set out in the partic lars to the charge. He denie s firing at L/Cpl Pinchen and says he never intended to fire a shot at all, but that the pistol accidentlly went off as he twirled it in his fingers and that the shot went up into the air The witnesses for the prosecution do not go so far as to state that they saw the accused point the pistol or shoot at L/Cpl Pinchen. The witnesses do state however that the accused fired a shot and that he fired "in fron of him" - it is for the c court to weigh this evidence carefully and to determine whether or not it constitutes on "offering Violence" within the meaning of the definition previously quoted.

With respect to the 2nd (alternative) charge there is little to be said the court willuse its militaryknowledge and theexperience in deciding whether or not this 2nd (Alternative charge has been proved. It will be kept in mind that the accused can be convicted of one charge only by that I do not mean that he cannot be acquitted of both charges. I mean that the court only considers that 2nd Albernative charge if it comes to the conclusion that the 1st charge has not been proved.

Considerable evidence has been heard on the condition of the accused whether or not he was drunk. On this feature I wish to read a few abstracts from MML at Page 25 Para 48 It is a principle of English Law that drunkenness is no excuse for crime the remainder of the paragraph was also read and expla ned to the court.
At Page 106 Para 9 "Temporary Intoxicat on this para is read and explained. It is a principle of British Law that an accused must be proved guilty it is not for him to prove himself innocent. The accused is also entitled to the benefit of any reasonable doubt that is not a fanciful or imanginary doubt but a doubt based on the facts and a doubt which an ordinary reasonable man would have under those circumstance Accordingly if after weighing and considering the evidence of the court the court has a reasonable doubt as to the guilty of the accused then the accused is entitled to the benefit of that doubt.

If no further comments by me are desired by the court or Pres of Def or Pros Officer that is all I have to say.

EVIDENCE of Character Witness.

Capt. H A Basking 9 Bn 2 CHRG Duly sworn states.

In the summer of 1942 I was attached to a Coy in which the accused was attached . He was with me for a period of 3 months During that time I found him to be an exceptionally good worker and at no time did I have any trouble with him

Address in Mitigation by Defending Officer

I would like to bring out that accused has been in the army for 5 years as of yesterday. He has had no crime since Apr 1943. In view of this and of the circumstance surrounding the incident I ask the Court to be lenient as possible so that he may be free to continue to serve.

Exhibit 8 C~

W.P.F. 353
2/51—6442 (372-0)
H.Q. 1772-30-620
A.F.B. 206

STATEMENT AS TO CHARACTER AND PARTICULARS OF SERVICE OF ACCUSED

Number	Rank	Name	Regiment (or unit)
E-3018	Pte	GUERRETTE J.C.	12 Bn 2 CBRG

1. The following is a fair and true summary of the entries in the Service and General Conduct sheets Regimental and Squadron, Battery or Company Conduct sheets of the accused, exclusive of convictions by a Court-Martial or a Civil Court, Air Force Act of summary awards under Section 47 of the Army Act and of cases in which trial has been dispensed with.

	Within last 12 months	Since enlistment or appointment
For AA Sec 15(1)	Nil times	4 times
For AA Sec 40	Nil times	2 times
For	times	times
	times	times
Number of instances of gallantry or distinguished conduct		times

or,

There are no entries in the conduct sheets of the accused.

NOTE.—If the charge is for drunkenness, the entries for drunkenness must be stated separately.

2. The accused has not been previously convicted

or,

Previous convictions of the accused by a court-martial or a civil court, of summary awards under Air Force Act A.F.A. 75 Section 47 of the Army Act and dispensations with trial under A.A. 75 are set out in the Schedule annexed to this statement.

3. The accused is not under sentence at the present time

or,

The accused at the present time is under sentence for beginning on the day of

4. The accused has been in confinement awaiting trial on the present charges, for Nil days in civil custody, and 6 Air Force days in military custody, making a total of 6 days in custody, of which Nil days were spent in hospital.

5. The present age of the accused according to his record of service is attestation paper is 26 yrs 203 days.

6. The date of his commission specified in his record of service is attestation attestation paper 5 Sep 39

7. The service which the accused is allowed to reckon towards discharge is 4 years 361 days.

8. The accused is entitled to reckon service for the purpose of determining his pension, etc.

9. The accused is in possession of or entitled to no air force decoration, or air force reward (or is in military military possession of or entitled to). State any air force decoration or reward.

C.V.S.M. and Clasp.

10. (If the accused is a warrant officer.) The accused before he was made a warrant officer last held Air Force the regimental rank of

11. (In the case of an officer.) The accused holds in the Royal Canadian Air Force the rank of Permanent Force
..... dated ....., and in his regiment (or corps), the rank of unit
..... dated .....

12. The accused has served as a non-commissioned officer continuously, without reduction, to the present date:—

..... Date of promotion.
In the rank of ..... years.
In the rank of ..... years.
In the rank of ..... years.

NOTE.—If any matter in any of the above paragraphs cannot be stated from the Regimental books, the paragraph must be struck through.

SCHEDULE

Of convictions by a court-martial or civil court, of summary awards under Section 47 of the Army Air Force Act, and of cases in which trial has been dispensed with of accused, Number ..... Rank .....
Name ..... of ..... Unit Regiment

NOTE.—A verbatim extract from the regimental books stating these convictions and dispensations with trial must be inserted.

Description of Court by which tried	Date and Place of Trial	Charge upon which convicted	Sentence of the Court	Punishment Remitted

I hereby certify that the foregoing schedule of convictions and dispensations with trial is a true extract from the regimental books in my custody.

Signed this 6 Sep 44 day of .....

The above statement (with the schedule of convictions and of cases in which trial has been dispensed with) is read, marked L B Skinner Capt and signed by the president, and annexed to the proceedings. Officer having charge of Regt Records

SUMMARY OF EVIDENCE

Summary of evidence in the case of:

E-3018 Pte Jean Cyrile GUERRETTE RCASC
12 Bn 2 CBRG

A soldier of the Canadian Army Overseas.

The Commanding Officer directs that the evidence be taken under oath.

First Witness for the Prosecution - B22430 L/Cpl Frederick William Pinchen RCASC, 12 Bn 2 CBRG having been duly sown states:

I am B22430 L/Cpl Frederick William Pinchen. On 30th Aug 44 at approximately 2135 hrs Pte Guerrette J.C. whom I now recognize came to the kitchen and asked for a cup of coffee. I told him that we had none left and he insisted that he have some. The conversation went on for about five minutes at the end of which time Pte Guerrette J.C. stated that "if I wouldn't give him some he would come after it" He then drew his pistol from his holster, raised it and fired. While he was drawing his pistol I stepped back and to my right. As soon as Pte Guerrette fired he turned and walked away about ten or fifteen yards and then began to run.

Q. In what direction did the accused point the revolver after taking it from the holster.

A. Ahead of him, Sir.
Q. Had you not moved would the bullet have hit you?
A. I can't say for sure as I was only interested in getting out of the way, Sir.
Q. Was the accused facing you before you moved?
A. Yes Sir.

Cross Examined by the Accused:-
Q. Did I shoot at you?
A. I couldn't say that you shot directly at me as I was only concerned with getting out of the way.

The accused declines to further cross-examine the witness.

"F Pinchen"

(B22430 L/C L PINCHEN F.W.)

Second witness for the Prosecution:- D-76737 A/Cpl William Edward Parry, RCASC 12 Bn 2 CBRG having been duly sworn states:

I am a cook's helper in the kitchen at 47 Coy 12 Bn 2CBRG. at approximately 2130 hrs 30 Aug 1944 Pte Guerrette J.C. whome I recognize came up to the kitchen for some coffee. I asked him, "Where is your cup" and he replied "I haven't got one but I'll go and get one and will be back." He asked me to save some coffee and I told him "You will have to hurry up or there will be none left." Pte Guerrette returned in about ten minutes time and by then the coffee was all finished. He then walked over to L/Cpl Pinchen and I heard him ask for something to eat. I was cutting meat at the time and didn't pay more attention to what was going on. Then I heard Pte Guerrette say "I don't get nothing to eat?" The next thing I heard was the pistol shot. I did not see the incident. After the shot was fired I looked up and saw Pte Guerrette walking away after a few paced began to run.

"W.E. Parry"

The accused declines to cross examine the witness (D76737 A/Cpl Parry W.E.

Cross Examined by the accused:-

Q. Did I say "If I don't get something to eat or drink I will come in and get it",

A. Yes.

The accused declines to further cross examine the witness.

"F A East"
(H19315 CQMS East, F A)

Fourth Witness for the Prosecution:- A86617 Cpl Kenneth Gordon Player RCASC 12 Bn 2 CBRG, having been duly sworn, states.

I was Cpl of 47 Coy Guard on 30th August 1944 and at approximately 2130 hrs I proceeded to the kitchen for tea. I couldn't get any so I proceeded back towards my tent. I had just reached my tent when I heard a shot fired. I turned and saw Pte Guerrette walking away from the kitchen. The CQMS called for the guard and I answered. He told me to get the man and put him under arrest which I did five or six minutes later when I caught him. I escorted him to 12 Bn Guard Room and proceeded back to 47 Coy lines to find the weapon but could not.

Q. Was the accused sober?
A. He wasn't drunk but he had been drinking.

The accused declines to cross examine this witness.

"Cpl Player KG"
(A86617 Cpl Player K.G)

The accused was cautioned as follows: in both English and French

Do you wish to make any statement or to give evidence upon oath? You are not obliged to do so or say anything or give evidence unless you wish to do so, but whatever you say or any evidence you give will be taken down in writing and may be given in evidence.

After the above caution, the accused declined to give evidence or make a statement and reserves his defence.

I certify that the foregoing Summary of Evidence consisting of four(4) pages was taken down by me in the presence of the accused and that R.P.A(C)(D)(E) and (F) have been complied with

In the Field FRANCE
1st September 1944

"W A WALKER"
(W A WALKER) Capt
Officer detailed to take the Summary.

XXX-127

Sgt. Gurtin A.S.

RECEIVED
19 OCT 1944
AHQ BRANCH
CMHQ

RECORDED AT CMHQ IN AB 160 XXX-127

FIELD GENERAL COURT-MARTIAL

4/38B

Convened by Order of Lt-Col H B STICK A/Comd 9 CBR Bn, 2 CBRG dated 23 SEP 44

ACCUSED.

(As to the trial of two or more charged jointly see RP 16, 71, 109. As to reasons for showing (a) permanent or confirmed rank, and (b) apptmt, A/rank or A/apptmt, if any, see AA 182, 183, fns, KR Con 308, 328, 330.)

Number.	(a) Prmnt R. (b) Apptmt, A/R or A/Apptmt.	Full Christian Names.	Surname.
C-2236	Sgt	Albert George	GUERTIN

PROCEEDINGS REVIEWED / Cdr 4H

[illegible] H.C. Coate Capt

REVIEWING OFFICER, JAG BRANCH, CMHQ on (date) 22 SEP 44

PROCEEDINGS OF TRIAL.

RECORD FORM A—OPENING PROCEEDINGS AND ARRAIGNMENT. 10/139

A1. The President, Members, waiting Member, JA, if any, and Offrs under instr, if any, assemble, and the Court is closed.

(PRINTED MATTER, NOT IN ITALICS FOR GUIDANCE, WILL BE DELETED IF NOT USED OR APPLICABLE, AND INITIALLED BY PRES OR JA. The Schedule referred to throughout is on p 4. Citations do NOT include all relevant fns ROL. For guidance on procedure when a variation in this form arises, see form for GCM in MML pp 741 to 759. A brief record of such variation will be made and given a number, having reference to appropriate or preceding para number herein. See back of Convening Order, CF A93, for oaths and instrs on how to record addresses, evidence, etc, which instrs are hereafter called "Notes". As to general provisions for conducting the trial see AA 53, RP 56, 62-70, 73, 74, 94, 103, 119, 122.)

A2. The President initials and lays before the Court the Convening Order and Charge Sheet(s) attached thereto.(1) The Court is satisfied that it is properly convened and constituted(2), accused is (are) amenable to military law, and each charge discloses an offence.(3)

(1. As to use of Summary of Evidence see RP 17 fn 6. 2. AA 49, 50, RP 105-107. 3. RP 11-13, 23, 24.)

A3. The Court is opened. The accused is ~~(are)~~ brought before the Court. At 10.00 hours trial commences.

A4. The Prosecutor produces a Medical Certificate that accused is ~~(are)~~ fit to undergo trial by court-martial.(1) ~~The Prosecutor informs the Court that accused elected to be tried by court-martial instead of being dealt with summarily by the CO.(2)~~

(1. KR Con 557. 2. AA 46(B), RP 60 fn 1. For effect see KR Con 563(c). Delete, if not applicable.)

A5. President to accused: Do you object to ~~as interpreter I Asst~~ as shorthand writer I Asst

The Interpreter is sworn.(1) Do you object to ~~as shorthand writer I Asst~~ The shorthand writer is sworn.(1)

(1. RP 72. Delete, if ones employed.)

A6. The Convening Order and names of the President and Members of the Court are read to the accused.(1) President to accused: Do you object to be tried by me as President or by any of the Members of the Court?

Ans No.(2)

(1. RP 110. 2. If no objection, waiting member retires. RP 68(B). If objection, see procedure AA 51, RP 25, 71, 18, MML p 742.)

A7. The President, Members, JA, if any, and Offrs under instr, if any, are sworn.(1) The following are the ranks, names and units of the offrs comprising the Court, etc:

President	Major	G'L MacDOUGALL	29 CAMR, 9 CBR Bn.
Member	CAPT.	E.B. DODGSON	RHLI 11 CBR Bn.
Member	LIEUT	J.C. KIRBY	NNS HIGH. 11 CBR Bn
Judge-Advocate	CAPT.	E.E. PEARLMAN	ADJA HQ 2CBRG.
Prosecutor	CAPT.	J.E. PARKER.	2 HQ 9 CBR Bn
Defending Offr	CAPT.	J.C. CLARKE	CIC 9 CBR Bn.

Questions by President: Is the Prosecutor a lawyer? Ans N/O. Is the Defending Offr a lawyer? Ans N/O.(1)

(1. RP 26, 27, 109, 111. List of offrs under instr will be returned separately with proceedings for information of Conv Offr.)
(2. If Pros a lawyer and Def Offr not, accused is entitled to an adjournment when RP 89 (B) and fn 2 were not followed. See DI p 2.)

A8. The accused C-2236 Sgt GUERTIN A. G. before arraignment makes(s) ~~no~~ plea(s).(1)

(1. If a special plea is made for separate trial on one or more charges (RP 62(E), 108), or as to the jurisdiction of the Court (RP 34, 35(A), 113), or in bar of trial (RP 36), or as to accused's mental fitness to stand trial (AA 13C, RP 37), or by one of several accused charged jointly to be tried separately (RP 16, 71), such plea, the addresses made in support or against, the evidence, if any, and finding are recorded per Notes. For forms of record see references in fns to RoP cited. Insert in AB note and name of the accused making the plea.)

A9. The accused is (~~are~~) arraigned (separately) on all charges in the charge sheet.(1) The accused does (~~do~~) not object to any charge.(2) There is no amendment to be made to the Charge Sheet.(3) The President records the pleas in Part I of the Schedule.

(1. RP 31, 112. See para 1 of Instrs p 2. When more than one Charge Sheet see RP 62; when several accused to be tried separately see RP 71(C), and see separate copies of CF A96 to record proceedings. 2. RP 32, RP 33. If otherwise, address and make appropriate record per Notes.)

A10. The Court (is closed and) considers the Instrs on Procedure after Arraignment at top of p 2. The proceedings are continued on Record Form D

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

2CBRG Vol 2 p 15

4

SCHEDULE.

PART I. PLEA(S), FINDING(S) AND SENTENCE.

Accused: C-2236 Sgt Albert George GUERTIN, RCR, 9 CBR Bn

	Charge. (Insert "alternative" where applicable.)	Plea. (See Instrs p 2.)	Finding. (See note below.)	(Space for use as required for further charges, accused charged jointly, special findings, etc.)
1st	15(1) AA.	Not Guilty	Not guilty	Ordered admitted if acquitted Released immediately
2nd				
3rd				
4th				
5th				
6th				

(Note: As to findings for lesser offences see AA 56, RP 44; findings on alternative charges see MML p 483 fn 4 para 2, RP 44; special findings see RP 44 and MML p 753, and in lieu of kit see RP 44 fn 6.)

ERC At present under sentence for beginning on (date) (1)
(1. Insert sentence being served, or delete, if not applicable. See RP 46(A). Information should be found on MF B355 or AF B296.)

Time in confinement awaiting present trial—a total of 11 days, of which Nil days were spent in hospital.(1)
(1. See RP 46(A) fn 2. Information should be found on MF B355 or AF B296 admitted in evidence under E2.)

~~Sentence Awarded by the Court:~~

(Sgd) E.E. Pearlman Capt. 22 Sept 44 (Sgd) E. Maude Lt-Col President. (RP 57) Chapter.
Judge-Advocate, if any. Date awarded.
(See back of Convening Order as to assembly and disposal of record after trial.)

PART II. MINUTE WHERE CONFIRMATION RESERVED. (AA 54(5), RP 120(F), MML p 760.)

Date (Sgd) Commanding

PART III. DECISION OF CONFIRMING OFFR ON FINDING(S) AND SENTENCE.

(For duties and powers see AA 54, 57, RP 37(D) fn 6.46(A), 51-56, 120, MML pp 759-761, KR Con 567-577. Acquittals require no confirmation and cannot be revised: AA 54(2). Sending back finding or sentence for revision by Court: AA 54(2). RP 120(G). If not confirmed, accused may be tried again: AA 157, MML p 64. Minute of confirmation or non-confirmation may be altered before promulgation: RP 53, MML p 65. Quashing after promulgation: KR Con 573. Duties and powers of reviewing offrs: AA 57, 57A, RP 53A, 54. The Confirming Offr must sign here personally. AA 172 fn 1.)

My decision on the finding(s) and sentence set forth in Part I is:

I direct that the accused be not committed to prison or detention barracks until further orders.(1)
(1. AA 57A. Delete if not used.)

(Sgd)
Date Commanding Confirming Officer.

PART IV. PROMULGATED AND EXTRACTS TAKEN. (RP 53, KR Con 576, 577.)

Accused. Date. Signature of Offr.

ALL DELETIONS AND ALTERATIONS WILL BE INITIALLED.

INSTRUCTIONS ON PROCEDURE AFTER ARRAIGNMENT.

1. *The accused may not plead or be found Guilty on more than one of two or more charges laid in the alternative. (RP 37(A).) As to withdrawal of alternative charges by Prosecutor see RP 35(C). No other charge can be withdrawn for any reason without authy from Convening Offr. If Convening Offr concurs, Court may accept plea of Guilty to lesser, etc, offence. (RP 44(H).) Accused may change a plea of Not Guilty to Guilty during trial. (RP 38.) As to refusing to plead or not pleading intelligibly see RP 35(A). As to plea when sentence may be death see RP 35(D).*

2. *The proceedings on each charge sheet (RP 62) after arraignment will be conducted as follows in the respective circumstances stated :*

I. If pleas to all charges are GUILTY, use Record Form B below.

II. If pleas to all charges are NOT GUILTY, use Record Form D on p 3.

III. If pleas to some charges are GUILTY and to other charges are NOT GUILTY and,

(a) Such mixed pleas occur when there are no alternative charges in the Charge Sheet, use Record Form C below. (RP 37(A).)

(b) Such mixed pleas occur in a set of two or more charges laid in the alternative, see RP 37 (A) and fn 2 as to discretion of Court, (i) to try the accused on all such alternative charges as if he had pleaded Not Guilty thereto, or, (ii) to record the pleas as the findings of Court. After deciding between (i) and (ii), Court will proceed under foregoing instrs as may be appropriate to result of its decision. See MML p 744 Instrs (2).

3. *As to responsibility of President to accused see RP 59, 60(C) ; powers and duties of JA see RP 103 ; duty of Prosecutor see RP 60(A) (B) ; duty and privileges of accused and Defending Offr see RP 60(C), 87(C), 91, 92 ; swearing and withdrawal of witnesses from Court see RP 81, 82 ; questioning of accused see RP 80, 87(C), 92(B), and of witnesses see RP 83-85 ; calling or re-calling of witnesses by Court, etc, see RP 75-79, 86, 116 ; use of Summary of Evidence at Trial see RP 17(E) fn 6 ; and responsibility of JA or Pros to record proceedings see RP 94, 96.*

RECORD FORM B—PROCEEDINGS ON PLEAS OF GUILTY TO ALL CHARGES.

B1. The President or JA, if any, complies with RP 35(B) by explaining to the accused the nature and meaning of the charge(s)(1), and that on his plea of Guilty there will be no regular trial but merely a consideration of the sentence to be awarded after he has been given an opportunity to make a statement in reference to the charge(s), call witnesses as to character and make an address in mitigation of punishment.(2)
(1. *RP 35 fn 3.* 2. *MML p 34 para 47.*)

B2. President to accused : The Court will now receive any statement you desire to make in reference to the charge(s).(1) If it appears from your statement that there are circumstances which indicate that you do not understand the effect of the plea of Guilty(2), or which show provocation or extenuation in respect of which in your interest the witnesses for the Prosecution should be examined(3), we shall advise you to change your plea to Not Guilty. In making a statement you will not be sworn or subject to cross-examination ; and anything you say will not be used in evidence against you after you change your plea. If, however, it appears to the Court that your statement affects only the amount of punishment to which you are liable, you will not be advised to change your plea and you will be given an opportunity later to prove your statement by sworn testimony, if you so desire.(4)

President to accused : Do you wish to make a statement ? Ans .....(5)
(1. *RP 37(B).* 2. *RP 37(D) fn 6.* 3. *RP 35(B) fn 5 para 2, MML p 54 para 47.* 4. *See para E3 of Record Form E.* 5. *Statement, if any, recorded per Notes.*)

B3. The Court considers the accused's statement.(1) The Court decides (not) to advise accused to change his (their) plea(s) of Guilty to Not Guilty on ..... charge(s). The accused is (are) so informed, and he (they) change(s) his (their) plea(s) on ..... charge(s). Part I of the Schedule is amended accordingly.
(1. *Court may be closed to consider the statement. Delete whole or part not used.*)

B4. On the charge(s) to which the plea(s) of Guilty is (are) not changed the President records finding(s) of Guilty in Part I of the Schedule.(1)
(1. *RP 35(B). If any plea(s) is (are) changed, use Record Form C or D as appropriate.*)

B5. The Summary of Evidence is marked Ex ....., initialled and read aloud by the President.(1)
(1. *If there is no Summary, or if it is inadequate, comply with RP 37(B). If there is any evidence inconsistent with any plea standing as Guilty, Court will advise accused to change such plea and, if changed to Not Guilty, try such charge(s) by use of paras D1 to D8 inclusive of Record Form D on p 3. RP 37(D).*)

B6. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

RECORD FORM C—PROCEEDINGS ON MIXED PLEAS OF GUILTY AND NOT GUILTY.

C1. As to the charges on which accused pleaded NOT GUILTY the trial is continued by using paras D1 to D8 inclusive of Record Form D on p 3 before proceeding with C 2.(1)
(1. *RP 37(A) (E).*)

C2. The charges on which accused pleaded GUILTY are read to him (them) again, and the trial is continued by using paras B1 to B5 of Record Form B above.(1)
(1. *Under B5 such parts only of the Summary of Evidence are read as relate to the charges dealt with under C2. If any plea is changed to Not Guilty, trial thereon proceeds by complying with paras D1 to D8 inclusive in Record Form D on p 3 and making an appropriate record thereof on a separate sheet.*)

C3. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

RECORD FORM D—PROCEEDINGS ON PLEAS OF NOT GUILTY TO ALL CHARGES.

D1. President to accused : Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity to prepare your defence ? Ans No (2)
(1. *If "yes", see RP 39(A) for procedure. Statement or evidence, if any, is recorded per Notes.*)

D2. The Prosecutor makes a (no) opening address.(1)
(1. *RP 39(B), 60(A) (B), 90, 92(C) (D). Record address per Notes, subject to RP 95(C).*)

D3. The evidence for the Prosecution is taken.(1)
(1. *RP 39(C), 114, KR Can 555. Record evidence per Notes. As to Prosecutor giving evidence himself see RP 39(D) (E).*)

D4. The Prosecution is closed.(1) The Defending Offr submits that the evidence for the Prosecution does not establish a prima facie case against the accused on the ..... charge(s).(2) The Court is closed, and considers the submission.(3) The Court is re-opened, and the President announces that the submission is disallowed on the ..... charge(s), and allowed on the ..... charge(s), and that, accordingly, the trial will proceed on the former, but the accused is (are) found Not Guilty of the latter charge(s).(4)
(1. *Delete remainder of this para, if submission not made.* 2. *Arguments on submission, answer and reply are recorded per Notes.* 3. *RP 40 fn 1. See MML p 72 paras 12-14 and p 81 para 42.* 4. *Delete part not used. If accused acquitted on all charges, use second alternative in para D8.*)
NB : If trial proceeds, accused must be allowed great latitude in making his defence, and the Court should not stop his defence solely on ground of irrelevance. (RP 60(C), 114, 115.)

D5. President to accused : You will now proceed with your defence.(1) You may, if you wish, give evidence yourself on oath as to the facts or your character or both, in which case you will be subject to cross-examination.(2) You may, however, make a statement without being sworn, and you will not be subject to cross-examination.(3) But a statement which could have been made on oath will not carry with the Court the same weight as sworn testimony.(4) You may call witnesses in your defence and as to character, whether you give evidence or make a statement or do neither.

President to accused : Do you wish to give evidence yourself as a witness, make a statement, or do neither ? Ans ..... Do you intend to call witnesses on your behalf ? Ans ..... Are they witnesses as to character only ? Ans .....
(1. *RP 115.* 2. *RP 40(A), see 80(D).* 3. *RP 40 fn 10.* 4. *RP 40 fns 2, 9.*)

D6. Consequent on the answers recorded in para D5 the appropriate procedure for the defence is followed.(1)
(1. *RP 114, 115, 116. For procedure see Notes on back of Convening Order, CF A95. Evidence for accused as to his character should, if in his interest, be given before the finding. See RP 46(A) fn 1, 86(C). Note the further opportunity in para E1 of Record Form E. Record per Notes addresses, statement, evidence and any summing up by the JA under RP 42, 103(6).*)

D7. The Court is closed to consider the finding(s).(1) The Court is re-opened.
The finding(s) of the Court is (are) recorded in Part I of the Schedule.(2)
(1. *RP 43, 117(A). See Notes at Part I of Schedule.* 2. *RP 44(A).*)

D8. The President announces the finding(s), if any, of Not Guilty, and states to the accused that the finding(s) of the Court on the ..... charge(s), being subject to confirmation, will be promulgated later.(1)
Or, The President announces that the accused is found Not Guilty on all charges and is to be released forthwith, and that the proceedings are accordingly terminated. Part I of the Schedule is dated and signed.(2)
(1. *AA 54(3) (6), RP 45, 120(6).* 2. *AA 54(3), RP 45, 117. This alternative announcement is not applicable when there are pleas of Guilty outstanding and dealt with under Record Form B or C.*)

D9. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E below.

RECORD FORM E—PROCEEDINGS ON CONVICTION BEFORE SENTENCE.

E1. President to accused : Do you wish to give evidence yourself or to call any witnesses as to your character ?(1) Ans .....
(1. *If evidence has already been given by accused or his witnesses as to his character, delete this para. RP 37(C) fn 4, 46 fn 1. Accused and witnesses are sworn. Evidence recorded per Notes.*)

E2. The Prosecutor produces Statement(s) as to Character and Particulars of Service(1), and certified true copy (copies) of Conduct Sheet(s)(2), purporting to refer to the accused, which he submits to the Defending Offr for examination, and then to the Court for admission in evidence. The Court is satisfied that these documents refer to the accused, because (i) they purport to be signed in the manner required by AA 183(1) (g) (h), and (ii) they purport to refer to (a) soldier(s) having the same number, rank, name and corps as the accused. Admitted in evidence and marked Ex ..... and Ex ..... respectively.(3)
(1. *MFB 355 or AFB 296.* 2. *MFB 6.* 3. *RP 46, KR Can 558. If above documents not produced, see RP 46 fn 1 para 1.*)

E3. President to accused : Do you wish to address the Court on the Statement(s) and Conduct Sheet(s), and in mitigation of punishment ?(1) Ans .....(2)
(1. *RP 37(C), 46(D).* 2. *Address, if any, recorded per Notes. Court should permit accused or his witnesses to answer on both anything here or previously stated which would affect the amount of punishment. RP 37(F) fn 7.*)

E4. The President states that the Court is closed to consider the sentence, and that the sentence to be awarded by the Court, being subject to confirmation, will not be announced, but will be promulgated later, and the proceedings in open court are accordingly terminated.(1)
(1. *AA 54(6), RP 120(4).*)

E5. The Court considers the sentence.(1) The President records the sentence in Part I of the Schedule, which is dated and signed by him and the J.S. if any.(2)
(1. *When several accused tried separately see RP 71 (D). One sentence only, comprised of the punishment or punishments laid down in AA 41, 44 and its proviso, is to be awarded to cover all charges in all charge sheets on which accused found guilty. RP 48. As to sentences see AA 44, 138, 182, RP 46-50, 89, 118, 119(A), KR Can 308, 330, 563-566, Overseas RO 209, 2323, MML p 60, 757-759. As to sentences assigned for civil offences by the law of England see AA 41(5), MML p 130. When accused already under sentence of imprisonment or detention see AA 44(18), 98(1), KR Can 564.* 2. *RP 50. As to release from arrest on Confirming Offr see KR Can 567. As to assembly and disposal of record after trial see instrs on back of Convening Order.*)

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

CHARGE SHEET

The accused, C-2236, Sgt. Albert George GUERTIN, 9 Bn, 2 Canadian Base Reinforcement Group, a soldier of the Canadian Army Overseas, charged with

First Charge Sec 15(1) Army Act

WHEN ON ACTIVE SERVICE, ABSENTING HIMSELF WITHOUT LEAVE

in that he

in the Field, did absent himself without leave from 9 Bn, 2 C.B.R.Gp, from 1400 hours, 13 Sep 44 until 1110 hours, 14 Sep 44. Total time absent 21 hours, 10 minutes.

H.L. Williamson/Major
~~(H.W. Rick), Lt.-Col.~~
Acting/Commanding,
9 Bn, 2 C.B.R.Gp.

In the Field.

19 Sep 44

TO BE TRIED BY FIELD GENERAL COURT MARTIAL

In the Field
21 SEP 44

A/(H W RICK) Lt-col
Comd ~~9 Bn~~, 2 CBRD

FIELD GENERAL COURT-MARTIAL

(Whether the accused to be tried is under his comd or not, a FGCM may on application to him be convened by any offr of Cdn Army Overseas, or of any other force if authorized in law, in immediate comd of troops on active service, subject to RP 105(C) and restrictions imposed by appropriate authy. AA 49, 50, RP 104-107, 114. As to the duties and privileges of the Convening Offr in dealing with the application see MML Chap V paras 20 and 23. RP 87(B).

There should be a separate Convening Order for each person to be tried separately by the same Court. RP 71(C), 109. As to separate charge sheets see RP 62, and as to separate trial on charges in the same charge sheet see RP 108. As to two or more accused charged jointly see RP 16, 109. As to reasons for showing (a) permanent or confirmed rank, and (b) apptmt, A/rank or A/apptmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

ACCUSED.

Number.	(a) Prmnt R.	(b) Apptmt, A/R or A/Apptmt	Full Christian Names.	Surname.	Unit.
G-2236	Sgt		Albert George	GUERTIN	RCE, 9 CBR Bn

CONVENING ORDER.

1. Whereas complaint has been made to me, the undersigned, that the person(s) named above, the accused, being subject to military law, has (have) committed the offence(s) set forth in the Charge Sheet(s) attached and on (date) 21 SEP 44 endorsed by me, ~~(or by an offr of my staff for me)~~, To be tried by Field General Court-Martial ";

2. And whereas I am of opinion that it is not practicable that such offence(s) should be tried by an ordinary General Court-Martial ; ~~and that it is not practicable to delay the trial for reference to a superior qualified offr~~

(Delete part in brackets when not required for compliance with RP 105(C).)

3. I hereby convene a Field General Court-Martial to try the said person(s), and to consist of the Offrs appointed or detailed hereunder.

4. ~~I am unable to appoint (a) three Offrs to form the Court, (b) a Fd Offr as President, for the reasons I have attached hereto~~

(AA 49, RP 106(B), 107(A). Delete the whole or part, if not applicable.)

5. I also appoint as Judge-Advocate thereat the Offr mentioned hereunder.
(RP 106(E). Delete, if none appointed.)

PRESIDENT.

(Rank.)	(Must be named. RP 106.)		(Unit.)
Major	G L McDOUGALL	29 CAMR	9 CBR Bn

MEMBERS.

(Rank.)	(Named or detailed. RP 106.)		(Unit.)
Capt	To be detailed by OC 11 CBR Bn		11 CBR Bn
Lieut	To be detailed by OC 11 CBR Bn		11 CBR Bn

WAITING MEMBER.

(Rank.)	(Named or detailed, if any. RP 106.)		(Unit.)
Capt	To be detailed by OC 9 CBR Bn		9 CBR Bn

JUDGE-ADVOCATE.

(Rank.)	(Must be named, if any. RP 106.)		(Unit.)
Capt	K E PEARLMAN,	ADJA,	HQ 2 CBRD

On Active Service in the Fd

in FRANCE
(Country.)

(Signed personally. RP 105 fn 2.)

Date 21 SEP 44 (H W RICE) Lt-col
(Rank.)

Commanding A/Comd, 2 Cdn Base Rft Gp
Convening Officer.

CONVENING OFFR WILL INITIAL ALL DELETIONS AND ALTERATIONS

4/38A CPASS (In Duplicate) 40/P & S/1867 (4021)

(See overleaf for oaths and notes for use on trial.)

MEDICAL OFFICER'S CERTIFICATE

(KR(Can)Para 577)
CMHQ CL 173)

I certify that I have this day examined G 2236 (Number)

SGT. GUERTIN AG and in my opinion he is
(Rank) (Name)

fit / ~~unfit~~ to undergo trial by Court - Martial.

Station 4 Fd 2 CBRG

Date 22 Sept 44

W. S. Acheson Capt (Sgd) RCAMC
Medical Officer
(Unit) 4 Fd 2 CBRG

D3. ✓ E&S.

1st witness for Prosecution

D 26001 R S M. Percival W.O. 9 Bn

having been duly sworn states —

at appro 0930 hrs 14 Sept 44 I proceeded to inspect the lines to ensure that all was in order. When I came to the Armourer's tent, the accused was not present. I searched his quarters & and B H Q lines and made enquiries & failed to locate him. I then issued instructions that when the accused returned he be placed under arrest as I presumed he was A.W.L. The accused should have been in his tent or on the lines at that hour. According to the regular routine followed if the accused intended to leave the lines he should notify me so that his whereabouts would be known.

Cross Examn —

Q. How many times were you in the Armourers shop and his quarters & B H Q lines during the period of alleged absence?

Ans. twice in Armourers shop - once in his quarters and a search through the lines.

Q. Would it have been possible in your search to have missed the accused - he might have been present in the lines?

A. It would have been possible.

Q - would the accused need permission to leave his shop.

A - No he would not - except for leaving the camp.

There is no bed check at night of Sgts. There is no morning parade of B.H.Q. Sgts. R.R. 83(3) complied with.

D.3.P (1) 88

2nd witness for Prosecution C 5489 Sgt Alexander J.H. 9 Bn

Duly sworn states —

At 1400 hrs 13 Sept 44 in the course of my duties I required the services of the Armourer Sgt, the accused. I went to his wksp. and his quarters and did not find him - thereafter I checked at various places from 1500 until 1900 hrs and I did not see him at any time. At 0900 hrs 14 Sept I went to his shop and quarters and could not find him. At 1000 hrs on 14 Sept I again checked his wksp and quarters and did not find him. At 1110 hrs on the 14th Sept I saw the accused standing on the entrance to his wksp. Later I put him under arrest.

Cross Examn —

Did you search the Sgts lines or only the accused's tent.

Ans - Sgt Quarters tent only.

Q Was it possible during the search you made that he was in the lavatory or in one of many places in B.H.Q lines where you may have missed him.

A. It is possible.

There was no bed check on the night of 13 Sept.

There was no roll call on the morning of Sept 14th we do not have a roll call.

Did you look for the accused between 1500 hrs 13 Sept & 0500 hrs the 14 Sept.

A. I did not.

I did not know if he was in his bed that night.

Was there a shave on the camp that night

I do not recall.

Re Examn — It is expected that all B.H.Q Sgts be

on duty at 0500 hrs in the morning and to stay on duty until at least 1630 hrs the same day.

By the Pres. - When you visited the accused quarters on the morning of the 14th at approx 0900 hrs. did the accused's bed appear to have been slept in?

Ans. It did not.

By J.A. During the Period from 1400 hrs on the 13 Sept to 1000 hrs on the 14th Sept in the course of your normal duties and routine would you normally have occasion to see the accused in his shop or in the lines.

Ans. I would Sir and during this period I did not see him.

R.P. 83(2) complied with

The Prosecution is closed.

Sgt A/G Gwerlin D.5

having been duly sworn states - I am Armourer Sgt of 4 Bn. In the course of my duties I am in & out of my shop frequently. I never leave the camp area. I am not kept busy in this camp. It gets monotonous.

From about 1400 hrs on 13 Sept, seeing there was no work to do I proceeded to the various coy lines to see if there was any work to do. I returned to my shop at approx 1500 hrs. About this time I went to the laundry just behind the Sgts lines - then I went to the orchard in the Sgts lines to get some apples then I returned to my shop. I remained there 15 or 20 minutes & then I went to my quarters as it was near [illegible]

D.S.P.Z

Sgt Guertin (continued) (7) E&D

I went for Duffer with Sgt Grover & we then went together to the Cinema in the Barlines. At approx 2.200 hrs I went to bed. Next morning at approx 0730 hrs I had breakfast and at approx 0800 hrs again went to Lavatory & then went to call Coy lines for inspection. After I had finished my own inspection at approx 0930 hrs. I returned to my shop where the Coy Quartermaster showed me that R S M Percival was looking for me. I remained there in the shop & noticed Sgt Alexander coming & I called out to him. He did not answer. He did not come in the shop. At approx 1145 Sgt Alexander arrested me I was under arrest.

Cross Examn.

From approx 0930 hrs until approx 1145 hrs 14th Sept I was in my shop. How do you explain Sgt Alexanders evidence that he checked your shop at 1000 hrs and did not see you? Ans. I was not right in the shop continuously I was in the vicinity of the shop. Between 1400 hrs 13 Sept & 1110 hrs 14 Sept I did not pick up any mail - I usually pick it up in the morning.

On meal parades there are two tents, when one is full we use the other. I did not see Sgt Alexander during the period in question.

By the Pres: Did you see the R S M during this period - Ans. I can't be sure.

By " Do you normally make the rounds of the Coys you mentioned - Ans yes - quite often

Q - On the night of 13th 14th did you sleep in your regular bed.

Ans - yes.

Q Are you and the ASM on friendly terms
A No Sir.
RP & 3 (B) complied with.
2nd Witness for Defence
7 2974 Spr Green. J.G. duly sworn states
I am a shoemaker employed in the same shop as the accused. On 13 Sept 44 I saw the accused sometime between 1400 hrs and 1630 hrs - at least one Sgt. Quentin was never away from his shop all afternoon any day of the same week. On the 14 Sept 44 I saw the accused in the shop sometime between 0900 hrs and 1130 hrs. Sgt Quentin is in and out frequently. He usually arrives at 0830 hrs every morning.

Cross Examn: On the afternoon Sept 13th after 1400 hrs. several persons called to look for the accused - I can't say whether Sgt Alexander was in or not. I did not see the accused after 1630 hrs on the 13th.

3rd Witness for the Defence
Pte Goodman J.E.M. having been duly sworn states - I am a shoemaker at B H Q & Co & share the same shop as the accused. On the 13th Sept in the afternoon I recall seeing the accused in the shop. I don't know what hour he comes & goes often. I am of opinion he was never absent an entire half day during the week of 13 Sept. On the 14th Sept in the morning I saw the accused. I do not know what time it was. On the 14th Sept Sgt Alexander came in to the shop & asked for the accused. I don't know the time. On the 14th Sgt Quentin was not later than usual in getting in

Cross Examn - It was between 2 & 4 o'clock on the afternoon when I saw the accused in the whp on the 13th and it was sometime after 9 o'clock when I saw him the next morning. I did not see him in the evening of the 13th Sept.

RP 83 (B) complied with.

4th Witness for Defence 9 Gnr. C58741 W. Malloy - 9 Bn

duly sworn states.

I am a shoemaker for 45 coy 9 CBR Bn & I occupy the same whp as the accused.

On wed 13 Sept 44 between 1400 and 1630 hrs he came in & out of the tent several times. The accused has never been away an entire afternoon to my knowledge. On the 14th Sept. I saw the accused in the whp between 0830 hrs & 1100 hrs.

Cross Examn — I have always seen the accused in the whp before leaving in the afternoon around 1600 hrs - he is generally there when I leave. On the 13th he was in the tent when I left at approx 1500 hrs. It was approx 1000 hrs when I saw him on the 14th Sept.

By the Pres. - Do you know Sgt Alexander - no Sir

I know the R.S.M. and saw him around the tent on the 13th & 14th I see him every day. I don't recall seeing Sgt Alexander or the R.S.M. coming into the tent & making enquiries for the accused.

RP 83(B) complied with.

5th Witness for the Defence B83065 - Bdr. Pendarvis HE

duly sworn states — I am attached to R Q Mr stores as storeman & clerk BHQ 9 Bn.

On the 14th Sept 44 I saw the accused in his whp between 1030 & 1130 hrs.

Cross Examn — I do not recall seeing the accused the previous day RP 83(B) complied with.

6th — Witness for Defence A4406 Sgt Groves H.R. 9 Bn — sworn states —

I am draftorderly Sgt 57 coy 9 Bn. and I sleep in the same tent as the accused. On the evening of Sept 13th about 1700 hrs I saw the accused in our tent. I had supper with him. After supper we went to the show. After the show which was in our Bn we returned & went to bed. I got up the next morning at 0630 hrs & saw the accused in his bed.

No Cross examn by Prosecuting Officer. RB 83(B) Complied with

7th — Witness for Defence D46726 Sgt R Allison duly sworn states —

I am a Reinft Sgt of 9 Bn & sleep in the same tent as the accused. During the evening of 13th Sept before supper, at approx 1700 hrs I saw the accused. I saw the accused next at approx 0645 hrs 14 Sept. There was no bed check at night.

Cross Examn —

I don't know whether the accused came in on the night of the 13th 14th. I went to bed about 2400 hrs & went to sleep.

By the Court — It is possible under existing conditions for me to eat meals seeing the accused at meal hrs. There are two tents & same eats in both tents.

(8) D.5.p.6

E&S.

8th witness for defence — B 4820 Sgt Martin JF.

duly sworn states —

I am a Reg Sgt & sleep in the same tent as the accused. I saw the accused on the 14th Sept a few minutes after Reveille in his bed. I do not recall any morning since I've been there that the accused has not been in his bed.

No Cross Examn —

R.B.R. 83(B) complied with

D.6 The Defending Officer declines to sum up.

The Prosecuting Officer declines to sum up

The Court and the Judge Advocate are of the opinion that it is not necessary for the Judge Advocate to sum up.

D.J.

SUMMARY OF EVIDENCE

in the case of

C-2236, Sgt. Albert George GUERTIN, 9 Bn, 2 Canadian Base Reinforcement Group, a soldier of the Canadian Army Overseas, who is charged with:-

(1) When on Active Service, Absenting Himself Without Leave. A.A. Sec 15(1).

The Commanding Officer directs that evidence be taken on oath.

FIRST WITNESS D-26001, R.S.M. Percival, W.O., 9 Bn, 2 C.B.R.Gp, having been duly sworn, states:-

"At approximately 0930 hrs on 14 Sep 44, I was making a tour of B.H.Q. lines, 9 Bn, 2 C.B.R.G. and Regtl workshops, to ensure that everything was in order for a D.V. visit which we were expecting. When I inspected the Armourers Workshop, Sgt. Guertin was not there. His place needed tidying up so I then proceeded to his quarters to locate him. Again he was not there. I then inquired from a few members of B.H.Q. if they had seen Sgt. Guertin around. Their answer was in the negative. At approximately an hour later, C-5489, Sgt. Alexander, J.H., informed me that he was also looking for Sgt. Guertin and could not locate him anywhere. He further informed me that on the previous day, 13 Sep 44, at approximately 1345 hours, he also had occasion to look for Sgt. Guertin, but could not find him. I instructed Sgt. Alexander to have Sgt. Guertin placed on charge upon his return to camp."

Witness cross-examined by the accused.

Q.1. Did you look in the Company Lines for me?
A.1. No, but Sgt Guertin did admit, when tried by his Commanding Officer, that he was guilty of the charge as read to him.

The accused declines to cross-examine the witness further.

W. O. Percival

D-26001, R.S.M. Percival, W.O.

SECOND WITNESS C-5489, Sgt. Alexander, J.H., 9 Bn, 2 C.B.R.Gp, having been duly sworn, states:-

"The services of Sgt Guertin, who is the Battalion Armourer Sgt, were required at 1400 hours, 13 Sep 44. I checked at the Armourers Shop and at his quarters, and he could not be found at that time. I checked periodically from then until 1900 hours, at both locations, and was unable to find him. I assumed he was not in camp. At 0900 hrs on 14 Sep 44, I again checked both locations but Sgt Guertin was still not to be found. At approximately 1000 hrs, 14 Sep 44, while making an inspection of H.Q. Coy Lines with the Coy Commander, I found two reinforcement Privates who were waiting at the Armourers Shop to have their weapons repaired. In the absence of Sgt. Guertin it was necessary to take them to the Quartermaster Stores. At 1110 hrs, 14 Sep 44, I saw Sgt Guertin standing in the doorway of his shop. I verified the time with the Coy Commander and said to him, "That is the time I'll have to show as Sgt Guertin's hour of return". At approximately 1145 hours, I warned Sgt. Guertin that he was under open arrest."

Witness cross-examined by the accused.

Q.2. Did you check the Coy Lines to see if I was there?
A.2. No.

Q.3. You say you saw me at 1110 hours, 14 Sep 44?
A.3. Yes, that is the first time I saw you.

Q.4. You told me I was under open arrest about 12 o'clock?
A.4. Yes, approximately then.

Q.5. Did you see me at all between 1110 hours and 1145 hours?
A.5. No, during that time I was busy making up the charge sheet.

The accused declines to cross-examine the witness further.

J.H. Alexander Sgt.

C-5489, Sgt. Alexander, J.H.

The accused was cautioned as follows:-

Do you wish to make any statement or to give evidence on oath? You are not obliged to say anything or give evidence unless you wish to do so, but whatever you say or any evidence you give will be taken down in writing and may be given in evidence.

The accused declines to make a statement or give evidence on oath.

The accused does not call any witnesses for the defence.

I certify that the foregoing Summary of Evidence, consisting of two pages, was taken down by me in the presence of the accused, and that R.P. 4(c), (d), (e), and (f) have been complied with.

E. Parker A/Capt

(J.E. Parker), A/Captain,
Officer detailed to take
the Summary of Evidence.

COUNTER NUMBER 438322

HOUR 12 12

OPERATOR'S INITIALS GM

RELIEVING OPERATOR _____

COUNTER NUMBER 438322

HOUR 12 12

OPERATOR'S INITIALS GM

RELIEVING OPERATOR R.D.

5H-91
b. Guertin, J.M.

SCHEDULE.

PART I. PLEA(S), FINDING(S) AND SENTENCE.

Accused: B 51810 Pte Joseph Marcel GUERTIN - 4 Cdn Repat Dep

Charge. (Insert "alternative" where applicable.)	Plea. (See Instrs p 2.)	Finding. (See note below.)	(Space for use as required for further charges, accused charged jointly, special findings, etc.)
1st AA Sec 15(1)	GUILTY	GUILTY	
2nd AA Sec 24(2)	NOT GUILTY	NOT GUILTY	
3rd			
4th			
5th			
6th			

(Note: As to findings for lesser offences see AA 56, RP 44; findings on alternative charges see MML p 483 fn 4 para 2, RP 44; special findings see RP 44 and MML p 753, and in lieu of list see RP 44 fn 6.)

At present under sentence for ..... beginning on (date) ..... (1)
(1. Insert sentence being served, or delete, if not applicable. See RP 46(A). Information should be found on MF B355 or AF B296.)

Time in confinement awaiting present trial—a total of 12 days, of which NIL days were spent in hospital.(1)
(1. See RP 46(A) fn 2. Information should be found on MF B355 or AF B296 admitted in evidence under E2.)

Sentence Awarded by the Court:
To forfeit all ordinary Pay for a period of Forty-Five (45) Days.

(Sgd) ..... Judge-Advocate, if any. 5 DEC 45 Date awarded. (Sgd) [signature] President. (RP 45, 50.)
(See back of Convening Order as to assembly and disposal of record after trial.)

PART II. MINUTE WHERE CONFIRMATION RESERVED. (AA 54(5), RP 120(F), MML p 760.)

Date ..... (Sgd) ..... Commanding .....

PART III. DECISION OF CONFIRMING OFFR ON FINDING(S) AND SENTENCE.

(For duties and powers see AA 54, 57, RP 37(D) fn 6, 46(A), 51-56, 120, MML pp 759-761, KR Con 567-577. Acquittals require no confirmation and cannot be revised: AA 54(3). Sending back finding or sentence for revision by Court: AA 54(2), RP 120(G). If not confirmed, accused may be tried again: AA 137, MML p 64. Minute of confirmation or non-confirmation may be altered before promulgation: RP 53, MML p 65. Quashing after promulgation: KR Con 573. Duties and powers of reviewing offrs: AA 57, 57A, RP 53A, 54. The Confirming Offr must sign here personally. AA 172 fn 1.)

My decision on the finding(s) and sentence set forth in Part I is:
Finding and sentence confirmed

~~I direct that the accused be not committed to prison or detention barracks until further orders.(*)~~
~~(*. AA 57A. Delete if not used.)~~

(Sgd) [signature]
Date 6 Dec 45 Commanding 2 Gp CRU. Confirming Officer.

PART IV. PROMULGATED AND EXTRACTS TAKEN. (RP 53, KR Con 576, 577.)

Accused. Date. Signature of Offr.
B51810 Pte GUERTIN, J M. 7 Dec 45 H.G. Fowler Capt

ALL DELETIONS AND ALTERATIONS WILL BE INITIALLED.

MHQ IN AB 160A 5-4-91

FIELD GENERAL COURT-MARTIAL

CFA68 (To item of AFA81 40/P & S/ 1698 (E/44)) 4/38B

Convened by Order of Col J A Wilson A/Comd "E" Gp CRU dated 3 Dec 45

RECEIVED 14 DEC 45 AAG BR MHQ

ACCUSED.

(As to the trial of two or more charged jointly see RP 16, 71, 109. As to reasons for showing (a) permanent or confirmed rank, and (b) apprnt, A/rank or A/apprnt, if any, see AA 182, 183, fns, KR Con 308, 328, 330.)

Number.	(a) Prmnt R. (b) Apprnt, A/R or A/Apprnt.	Full Christian Names.	Surname.	Unit.
B 51810	Pte	Joseph Marcel	GUERTIN	4 Cdn Repat Dep

PROCEEDINGS REVIEWED

14 Dec 45 by Brody maj

PROCEEDINGS OF TRIAL.

Held in the Fd in (country) England on (date(s)) 5 Dec 45

RECORD FORM A—OPENING PROCEEDINGS AND ARRAIGNMENT.

A1. The President, Members, ~~waiting Member, JA, if any, and Offrs under instr, if any,~~ assemble, and the Court is closed.

(PRINTED MATTER, NOT IN ITALICS FOR GUIDANCE, WILL BE DELETED IF NOT USED OR APPLICABLE, AND INITIALLED BY PRES OR JA. The Schedule referred to throughout is on p 4. Citations do NOT include all relevant fmn ROs. For guidance on procedure when a variation in this form arises, see form for GCM in MML pp 741 to 759. A brief record of such variation will be made and given a number having reference to appropriate to preceding para number hereto. See back of Convening Order, CF 49/5, for oaths and instrs on how to record addresses, evidence, etc, which instrs are hereafter called "Notes". As to general provisions for conducting the trial see AA 52, RP 36, 63-70, 73, 74, 94, 103, 119, 132.)

A2. The President initials and lays before the Court the Convening Order and Charge Sheet(s) attached thereto.(1) The Court is satisfied that it is properly convened and constituted(2), accused is ~~(are)~~ amenable to military law, and each charge discloses an offence.(3)
(1. As to use of Summary of Evidence see RP 17 fn 6. 2. AA 49, 50, RP 105-107. 3. RP 11-13, 23, 24.)

A3. The Court is opened. The accused is ~~(are)~~ brought before the Court. At 1000 hours trial commences.

A4. The Prosecutor produces a Medical Certificate that accused is ~~(are)~~ fit to undergo trial by court-martial.(1) ~~The Prosecutor informs the Court that accused elected to be tried by court-martial instead of being dealt with summarily by the CO.(*)~~
(1. KR Con 557. 2. AA 46(B), RP 60 fn 1. For effect see KR Con 563(c). Delete, if not applicable.

A5. President to accused: ~~Do you object to ..... as interpreter?~~ Ans ~~The Interpreter is sworn.(1)~~ Do you object to E100404 Pte OWENS, JF as shorthand writer? Ans NO SIR The shorthand writer is sworn.(1)
(1. RP 72. Delete, if none employed.)

A6. The Convening Order and names of the President and Members of the Court are read to the accused.(1) President to accused: Do you object to be tried by me as President or by any of the Members of the Court?
Ans NO SIR (1)
(1. RP 110. 2. If no objection, waiting member retires. RP 60(B). If objection, see procedure AA 51, RP 25, 71, 18, MML p 742.)

A7. The President, Members, ~~JA, if any, and Offrs under instr, if any,~~ are sworn.(1) The following are the ranks, names and units of the offrs comprising the Court, etc:

President	LT Col	D L REDMAN VD	HQ CRU
Member	CAPT	J E KNOWLES	3 CDN REPAT DEP
Member	LIEUT	J E BAMFORD	3 CDN REPAT DEP
~~Judge-Advocate~~			
Prosecutor	CAPT	M L MAGILL	4 CDN REPAT DEP
Defending Offr	LIEUT	C J SMITH	4 CDN REPAT DEP

Questions by President: Is the Prosecutor a lawyer? Ans NO. Is the Defending Offr a lawyer? Ans NO (1)
(1. RP 26, 27, 109, 111. List of offrs under instr will be returned separately with proceedings for information of Conv Offr.)
(2. If Pros a lawyer and Def Offr not, accused is entitled to an adjournment when RP 89 (B) and fn 2 were not followed. See DI p 2.)

A8. The accused ..... before arraignment make(s) (no) ~~(a)~~ plea. (1)
(1. If a special plea is made for separate trial on one or more charges (RP 62(E), 108), or as to the jurisdiction of the Court (RP 34, 35(A), 113), or in bar of trial (RP 36), or as to accused's mental fitness to stand trial (AA 130, RP 57), or by one of several accused charged jointly to be tried separately (RP 16, 71), such plea, the addresses made in support or against, the evidence, if any, and finding are recorded per Notes. For forms of record see references on fns to RoP cited. Insert in A8 rank and name of the accused making the plea.)

A9. The accused is ~~(are)~~ arraigned ~~(separately)~~ on all charges in the charge sheet.(1) The accused does ~~(do)~~ not object to any charge.(2) There is no amendment to be made to the Charge Sheet.(2) The President records the pleas in Part I of the Schedule.
(1. RP 31, 112. See para 1 of Instrs p 2. When more than one Charge Sheet see RP 62; when several accused to be tried separately see RP 71(C), and use separate copies of CF A96 to record proceedings. 2. RP 32, RP 33. If otherwise, delete and make appropriate record per Notes.)

A10. The Court ~~(is closed and)~~ considers the Instrs on Procedure after Arraignment at top of p 2. The proceedings are continued on Record Form ~~B~~ and B.

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

INSTRUCTIONS ON PROCEDURE AFTER ARRAIGNMENT.

1. *The accused may not plead or be found Guilty on more than one of two or more charges laid in the alternative.* (*RP* 37(*A*).) *As to withdrawal of alternative charges by Prosecutor see RP* 35(*C*). *No other charge can be withdrawn for any reason without authy from Convening Offr. If Convening Offr concurs, Court may accept plea of Guilty to lesser, etc, offence.* (*RP* 44(*H*).) *Accused may change a plea of Not Guilty to Guilty during trial.* (*RP* 38.) *As to refusing to plead or not pleading intelligibly see RP* 35(*A*). *As to plea when sentence may be death see RP* 35(*D*).

2. *The proceedings on each charge sheet* (*RP* 62) *after arraignment will be conducted as follows in the respective circumstances stated :*

I. If pleas to all charges are GUILTY, use Record Form B below.

II. If pleas to all charges are NOT GUILTY, use Record Form D on p 3.

III. If pleas to some charges are GUILTY and to other charges are NOT GUILTY and,

(a) Such mixed pleas occur when there are no alternative charges in the Charge Sheet, use Record Form C below. (*RP* 37(*A*).)

(b) Such mixed pleas occur in a set of two or more charges laid in the alternative, see RP 37 (*A*) *and fn* 2 *as to discretion of Court, (i) to try the accused on all such alternative charges as if he had pleaded Not Guilty thereto, or, (ii) to record the pleas as the findings of Court. After deciding between (i) and (ii), Court will proceed under foregoing instrs as may be appropriate to result of its decision. See M M L p* 744 *Instrs* (2).

3. *As to responsibility of President to accused see RP* 59, 60(*C*) ; *powers and duties of JA see RP* 103 ; *duty of Prosecutor see RP* 60(*A*) (*B*) ; *duty and privileges of accused and Defending Offr see RP* 60(*C*), 87(*C*), 91, 92 ; *swearing and withdrawal of witnesses from Court see RP* 81, 82 ; *questioning of accused see RP* 80, 87(*C*), 92(*B*), *and of witnesses see RP* 83-85 ; *calling or re-calling of witnesses by Court, etc, see RP* 75-79, 86, 116 ; *use of Summary of Evidence at Trial see RP* 17(*E*) *fn* 6 ; *and responsibility of JA or Pres to record proceedings see RP* 94, 96.

RECORD FORM B—PROCEEDINGS ON PLEAS OF GUILTY TO ALL CHARGES.

B1. The President ~~or JA, if any~~, complies with RP 35(B) by explaining to the accused the nature and meaning of the charge(s)(1), and that on his plea of Guilty there will be no regular trial but merely a consideration of the sentence to be awarded after he has been given an opportunity to make a statement in reference to the charge(s), call witnesses as to character and make an address in mitigation of punishment.(2)
(*1. RP 35 fn 3. 2. MML p 54 para 47.*)

B2. President to accused : The Court will now receive any statement you desire to make in reference to the charge(s).(1) If it appears from your statement that there are circumstances which indicate that you do not understand the effect of the plea of Guilty(2), or which show provocation or extenuation in respect of which in your interest the witnesses for the Prosecution should be examined(3), we shall advise you to change your plea to Not Guilty. In making a statement you will not be sworn or subject to cross-examination ; and anything you say will not be used in evidence against you after you change your plea. If, however, it appears to the Court that your statement affects only the amount of punishment to which you are liable, you will not be advised to change your plea and you will be given an opportunity later to prove your statement by sworn testimony, if you so desire.(4)

President to accused : Do you wish to make a statement ? Ans. NO - SIR (5)
(*1. RP 37(B). 2. RP 37(D) fn 6. 3. RP 35(B) fn 5 para 3, MML p 54 para 47. 4. See para E3 of Record Form E.*
5. Statement, if any, recorded per Notes.)

B3. ~~The Court considers the accused's statement.(1) The Court decides (not) to advise accused to change his (their) plea(s) of Guilty to Not Guilty on charge(s). The accused is (are) so informed, and he (they) change(s) his (their) plea(s) on charge(s). Part I of the Schedule is amended accordingly.~~
(*1. Court may be closed to consider the statement. Delete whole or part not used.*)

B4. On the charge(s) to which the plea(s) of Guilty is (are) not changed the President records finding(s) of Guilty in Part I of the Schedule.(1)
(*1. RP 35(B). If any plea(s) is (are) changed, use Record Form C or D as appropriate.*)

B5. The Summary of Evidence is marked Ex A, initialled and read aloud by the President.(1)
(*1. If there is no Summary, or if it is inadequate, comply with RP 37(B). If there is any evidence inconsistent with any plea of guilty, Court will advise accused to change such plea and, if changed to Not Guilty, try such charge(s) by use of paras D1 to D8 inclusive of Record Form D on p 3. RP 37(D).*)

B6. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

RECORD FORM C—PROCEEDINGS ON MIXED PLEAS OF GUILTY AND NOT GUILTY.

C1. As to the charges on which accused pleaded NOT GUILTY the trial is continued by using paras D1 to D8 inclusive of Record Form D on p 3 before proceeding with C 2.(1)
(*1. RP 37(A) (E).*)

C2. The charges on which accused pleaded GUILTY are read to him (them) again, and the trial is continued by using paras B1 to B5 of Record Form B above.(1)
(*1. Under B5 such parts only of the Summary of Evidence are read as relate to the charges dealt with under C2. If any plea is changed to Not Guilty, trial thereon proceeds by complying with paras D1 to D8 inclusive in Record Form D on p 3 and making an appropriate record thereof on a separate sheet.*)

C3. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

RECORD FORM D—PROCEEDINGS ON PLEAS OF NOT GUILTY TO ALL CHARGES.

D1. President to accused : Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity to prepare your defence ? Ans. NO - SIR (1)
(*1. If "yes", see RP 39(A) for procedure. Statement or evidence, if any, is recorded per Notes.*)

D2. The Prosecutor makes (no) opening address.(1)
(*1. RP 39(B), 60(A) (B), 90, 92(C) (D). Record address per Notes, subject to RP 95(C).*)

D3. The evidence for the Prosecution is taken.(1) NOTE - ATT
(*1. RP 39(C), 114, KR Con 555. Record evidence per Notes. As to Prosecutor giving evidence himself see RP 39(D) (E).*)

D4. The Prosecution is closed.(1) The Defending Offr submits that the evidence for the Prosecution does not establish a prima facie case against the accused on the 2nd charge(s).(2) The Court is closed, and considers the submission.(3) The Court is re-opened, and the President announces that the submission ~~is disallowed on the charge(s), and~~ allowed on the 2nd charge(s), and that, accordingly, ~~the trial will proceed on the former, but~~ the accused is (are) found Not Guilty on the latter charge(s).(4)
(*1. Delete remainder of this para. if submission not made. 2. Arguments on submission, answer and reply are recorded per Notes. 3. RP 40 fn 1. See MML p 72 paras 12-14 and p 81 para 42. 4. Delete part not used. If accused acquitted on all charges, use second alternative in para D8.*)
NB : *If trial proceeds, accused must be allowed great latitude in making his defence, and the Court should not stop his defence solely on ground of irrelevance.* (*RP* 60(*C*), *114, 115.*)

D5. President to accused : You will now proceed with your defence.(1) You may, if you wish, give evidence yourself on oath as to the facts or your character or both, in which case you will be subject to cross-examination.(2) You may, however, make a statement without being sworn, and you will not be subject to cross-examination.(3) But a statement which could have been made on oath will not carry with the Court the same weight as sworn testimony.(4) You may call witnesses in your defence and as to character, whether you give evidence or make a statement or do neither.

President to accused : Do you wish to give evidence yourself as a witness, make a statement, or do neither ?
Ans. .....
Do you intend to call witnesses on your behalf ?
Ans. .....
Are they witnesses as to character only ? Ans. .....
(*1. RP 115. 2. RP 40(A), see 80(D). 3. RP 80 fn 10. 4. RP 40 fns 2, 9.*)

D6. Consequent on the answers recorded in para D5 the appropriate procedure for the defence is followed.(1)
(*1. RP 114, 115, 116. For procedure see Notes on back of Convening Order, CF A95. Evidence for accused as to his character should, if in his interest, be given before the finding. See RP 46(A) fn 1, 56(C). Note the further opportunity in para E1 of Record Form E. Record per Notes addresses, statement, evidence and any summing up by the JA under RP 42, 103(e).*)

D7. The Court is closed to consider the finding(s).(1) The finding(s) of the Court is (are) recorded in Part I of the Schedule.(2) The Court is re-opened.
(*1. RP 43, 117(A). See Notes in Part I of Schedule. 2. RP 44(A).*)

D8. The President announces the finding(s), if any, of Not Guilty, and states to the accused that the finding(s) of the Court on the charge(s), being subject to confirmation, will be promulgated later.(1)
Or, The President announces that the accused is found Not Guilty on all charges and is to be released forthwith and that the proceedings are accordingly terminated. Part I of the Schedule is dated and signed.(2)
(*1. AA 54(3) (c), RP 45, 120(A). 2. AA 54(3), RP 45, 117. This alternative announcement is not applicable when there are pleas of Guilty outstanding and dealt with under Record Form B or C.*)

D9. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E ~~below~~. above

RECORD FORM E—PROCEEDINGS ON CONVICTION BEFORE SENTENCE.

E1. President to accused : Do you wish to give evidence yourself or to call any witnesses as to your character ?(1)
Ans. Give evidence NOTE - ATT
(*1. If evidence has already been given by accused or his witnesses as to his character, delete this para. RP 37(C) fn 4, 46 fn 1. Accused and witnesses are sworn. Evidence recorded per Notes.*)

E2. The Prosecutor produces Statement(s) as to Character and Particulars of Service(1), and certified true copy (copies) of Conduct Sheet(s)(2), purporting to refer to the accused, which he submits to the Defending Offr for examination, and then to the Court for admission in evidence. The Court is satisfied that these documents refer to the accused, because (i) they purport to be signed in the manner required by AA 143(1) (g) (h), and (ii) they purport to refer to (a) soldier(s) having the same number, rank, name and corps as the accused. Admitted in evidence and marked Ex B and Ex C respectively.(3)
(*1. MFB 355 or AFB 296. 2. MFM 6. 3. RP 46, KR Con 558. If above documents not produced, see RP 46 fn 1 para 1.*)

E3. President to accused : Do you wish to address the Court on the Statement(s) and Conduct Sheet(s), and in mitigation of punishment ?(1) Ans. By Defence NOTE - ATT NO -(2)
(*1. RP 37(C), 46(D). 2. Address, if any, recorded per Notes. Court should permit accused or his witnesses to prove on oath anything here or previously stated which would affect the amount of punishment. RP 37(F) fn 7.*)

E4. The President states that the Court is closed to consider the sentence, and that the sentence to be awarded by the Court, being subject to confirmation, will not be announced, but will be promulgated later, and the proceedings in open court are accordingly terminated.(1)
(*1. AA 54(6), RP 120(A).*)

E5. The Court considers the sentence.(1) The President records the sentence in Part I of the Schedule, which is dated and signed by him and the JA, if any.(2)
(*1. When several accused tried separately see RP 71 (D). One sentence only, comprised of the punishment or punishments laid down in AA 41, 44 and its proviso, is to be awarded to cover all charges in all charge sheets on which accused found guilty. RP 48. As to sentences see AA 44, 138, 182, RP 46-50, 69, 118, 119(A), KR Can 308, 330, 563-566, Overseas RO 309, 2323, MML p 60, 757-759. As to sentences assigned for civil offences by the law of England see AA 44(5), MML p 130. When accused already under sentence of imprisonment or detention see AA 44(18), 68(1), KR Can 564. 2. RP 50. As to release from arrest by Confirming Offr see KR Can 567. As to assembly and disposal of record after trial see instrs on back of Convening Order.*)

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

CHARGE SHEET

The accused, B.51810 Private Marcel Joseph GUERTIN, on transient strength of No 4 Canadian Repatriation Depot, a soldier of the Canadian Army Overseas, is charged with:-

FIRST CHARGE
AA Sec 15(1)

WHEN ON ACTIVE SERVICE, ABSENTING HIMSELF WITHOUT LEAVE

in that he

at No 4 Cdn Repat Depot, absented himself without leave from 0830 hrs 22 Oct 45 until apprehended by the Cdn Provost in London at 2330 hrs 22 Nov 45. (Total time absent: 31 days 15 hrs)

SECOND CHARGE
AA Sec 24(2)

LOSING BY NEGLECT HIS CLOTHING, EQUIPMENTS AND REGIMENTAL NECESSARIES

in that he

at No 4 Cdn Repat Depot on 26 Nov 45 was deficient the following articles:-

ARTICLE	QTY	100% Vocab Price	50% Vocab Price
Attachments brace	2	.34	.17
Bottles water	1	.82	.41
Braces W.E.	2	.60	.30
Haversack W.E.	1	1.79	.90
Straps Shoulder L & R	2	.64	.32
Straps web supporting	2	.26	.13
Mess tins rect	1	.32	.16
Mugs drinking	1	.17	.09
Capes anti-gas	1	2.64	1.32
Blouses battle dress	1	6.50	3.25
Trousers battle dress	1	6.55	3.28
Greatcoat	1	11.31	5.66
Bags Kit	1	1.02	.51
Brushes hair	1	.34	.17
Brushes tooth	1	.11	.06
Brasses cleaning	1	.04	.02
Combs hair	1	.04	.02
Forks table	1	.07	.04
Knives table	1	.15	.08
Spoons dessert	1	.09	.05
Knives clasp & lanyard	1	.86	.43
Drawers woollen	2	2.80	1.40
Gloves woollen	1	.47	.24
Holdall	1	.19	.10
Housewife	1	.17	.09
Shirts flannel w/collar	1	2.40	1.20
Socks worsted prs	1	.46	.23
Jersey pullover	1	1.79	.90
Ties black	1	.19	.10
Towels hand	1	.34	.17
Vests woollen	2	2.40	1.20
Boots ankle prs	1	5.82	2.92
TOTAL		$ 51.69	$ 25.91

(R.E.A. Morton) Colonel
Commanding
4 Cdn Repat Depot

TO BE TRIED BY FIELD GENERAL COURT MARTIAL

(J A WILSON) Colonel
A/Comd
"E" Gp CRU

IN THE FD
5 DEC 45

FIELD GENERAL COURT-MARTIAL

(Whether the accused to be tried is under his comd or not, a FGCM may on application to him be convened by any offr of Cdn Army Overseas, or of any other force if authorized in law, in immediate comd of troops on active service, subject to RP 105(C) and restrictions imposed by appropriate authy. AA 49, 50, RP 104-107, 114. As to the duties and privileges of the Convening Offr in dealing with the application see MML Chap V paras 20 and 23, RP 87(B).

There should be a separate Convening Order for each person to be tried separately by the same Court. RP 71(C), 109. As to separate charge sheets see RP 62, and as to separate trial on charges in the same charge sheet see RP 108. As to two or more accused charged jointly see RP 16, 109.

As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

ACCUSED.

Number.	(a) Prmnt R.	(b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
B 51810	Pte		Joseph Marcel	GUERTIN	4 Cdn Repat Dep

CONVENING ORDER.

1. Whereas complaint has been made to me, the undersigned, that the person(s) named above as the accused, being subject to military law, has [have] committed the offence(s) set forth in the Charge Sheet(s) attached and on (date) 3 Dec 45 endorsed by me, [in respect of which I have received a report in writing from the officer in charge of the case.] [I am informed] by Field General Court-Martial".

2. And whereas I am of opinion that it is not practicable that such offence(s) should be tried by an ordinary General Court-Martial; [and that it is necessary in order to maintain discipline that such person(s) be tried by a Field General Court-Martial.]
(Delete part in brackets when not required for compliance with RP 105(C).)

3. I hereby convene a Field General Court-Martial to try the said person(s), and to consist of the Offrs appointed or detailed hereunder.

4. [And that ... be appointed Deputy Judge Advocate for the Court.]
(AA 49, RP 106(B), 107(A). Delete the whole or part, if not applicable.)

5. [And that ... be appointed Judge Advocate of the Court.]
(RP 106(E). Delete, if none appointed.)

PRESIDENT.

Lt Col (Rank.)	D L Redman, VD (Must be named. RP 106.)	HQ CRU (Unit.)

MEMBERS.

Capt	To be detailed by CO 3 Cdn Repat Dep	3 Repat Dep
Lt (Rank.)	To be detailed by CO 3 Cdn Repat Dep (Named or detailed. RP 106.)	3 Repat Dep (Unit.)

WAITING MEMBER.

(Rank.) (Named or detailed, if any. RP 106.) (Unit.)

JUDGE ADVOCATE.

(Rank.) (Must be named, if any. RP 106.) (Unit.)

On Active Service in the Fd

in England (Country.)

Date 3 DEC 45

(Signed personally. RP 105 fn 2.) Colonel (Rank.)

(J A WILSON)

A/ Commanding "E" Gp CRU

Convening Officer.

CONVENING OFFR WILL INITIAL ALL DELETIONS AND ALTERATIONS

4/38A CFAES (To Users and AFAS) 40/F & S/1687 (4621)

(See overleaf for oaths and notes for use on trial.)

Medical Officers' Certificate
K.R.(Can) para 557.

I certify that I have this morning examined:-

Regt'l No. B51810 Rank PTE Name GUERTIN M.J.

of A WING #4 C.R.D. (unit) and in my opinion he is

~~Fit~~ Unfit to undergo trial by Court Martial.

#(cross out one N/A and initial)

Station: FIELD

Date (of Court Martial) 2-12-45

Sgd. ..... (Rank)
Unit
Medical Officer, RCAMC.

PLEA OF MITIGATION - B51810 Pte GUERTIN M J 30 NOV 45

I am a plain man, and therefore I shall put these words down plainly.

I met a girl in 1941, with whom I fell in love, and in a short while I became engaged to her. I was stationed near her until 1943, when my Regt pulled out to go to Sicily.

I was in Sicily and Italy 23 months, and during all that time we corresponded, and everything seemed to be as it always was between us. Doris, my girl, had been writing to my family in Canada, and my people were very happy for us, and we were very happy for ourselves.

I was wounded just prior to the German stalemate in Italy and when my Regt went to France, I was left behind in hospital. Then in July of this year, I returned to England, full of high hopes.

I was granted a 30 day leave on 18 SEP and stayed around camp till I finally procured my permission to marry on 16 OCT. I cashed a draft for sixty-seven pounds to be married with so that when I got there I could make it a big surprise for her. I had not seen her before this time. While waiting I kept in touch with her by telephone and letters explaining the delay.

With only 2 days leave left I went at once to her, where I found that she had been in a state of pregnancy for eight months. The whole bottom fell out of my world. I was to say the least, astounded, for when I left her in /43 she was a good girl, and perhaps she still is, for who am I to judge.

I did not finish my leave with her but came back to camp, and I confess, I stayed intoxicated for the remainder of my leave. Then suddenly, I was struck again. My mother wrote and told me that she knew about mine and Doris' baby and that she did not mind. My girl friend had written her and told her I was the father, and quite naturally my people believed her, but how could that be when I was in Italy at the time?

MJG

I did not know what to do. I could not write home and tell mother that it was not so, for she is very sick and the shock would be very harmful to her.

I got a 48 hour pass with the intentions of going to a quiet Club in London and of deciding what to do in peace and quiet. I nearly went crazy thinking about it so I started to drink and before I knew it I was a few days late. (As a rule I am a sober man) As I had a hundred pounds, I was not short of money, so I got myself a room and stayed there. I could not think of what else to do. I know now that things were at the time very distorted in my mind and I could have straightened everything up much more easily than I can now, but believe me, I think I was dazed to say the least, for I could not coherently describe those days I spent in London.

I am very sorry to have done wrong, and I know I must pay the price, but I hope that the facts which I have put down here will be taken into consideration, and that I will be judged accordingly.

My most fervent wish now is that I can forget this episode of my life and when I return to Canada, to live it down.

I hope that a little mercy will be shown to a man whose destiny, through a series of queer circumstances, has been brought to such a state as this.

E-1
MM

TRIAL OF

B.51810 Pte GUERTIN JM, 4 Cdn Repat Dep

ON THE SECOND CHARGE

The Prosecutor stated he had no evidence to submit as subsequent to the signing of the charge sheet the articles in question had been found.

The Defending Officer moved that the Second Charge be dismissed as the Prosecution had failed to make a prima facie case.

THE COURT IS CLOSED

THE COURT RE-OPENED

The President announced that the submission of the Defending Officer was allowed and that the accused was found not guilty of the second charge.

TRIAL OF

B.51810 Pte GUERTIN JM, 4 Cdn Repat Dep

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SUMMARY OF EVIDENCE

Summary of Evidence in the case of B.51810 Pte Guertin, M.J., on transient strength of No 4 Canadian Repatriation Depot, a soldier of the Canadian Army Overseas.

The Commanding Officer directs that all evidence be taken on oath.

First Witness for the Prosecution

Capt H.A. Fowler, on the strength of "A" Wing, No 4 Canadian Repatriation Depot, an officer of the Canadian Army Overseas, having been duly sworn, states:-

I hereby produce as documentary evidence a certified true extract from No 4 Cdn Repat Depot Part II Daily Order No 85 d/22 Nov 45, showing that B.51810 Pte Guertin, M.J. was S.O.S. transit strength as a deserter 15 Nov 45, having been declared illegally absent without leave from 0830 hrs 22 Oct 45 by a Court of Inquiry. I also produce a certificate of apprehension in accordance with Sec 165 (1) (m) of the Army Act showing that B.51810 Pte Guertin, M.J. was apprehended at 2330 hrs 22 Nov 45. This certificate is purported to be signed by R.J. Stinson, D.A.P.M., C.M.H.Q.

The accused declines to cross-examine the witness.

H.A. Fowler Capt

(H.A. Fowler) Capt
"A" Wing, 4 Cdn Repat Depot

The above mentioned documents have been shown to the accused, marked by me as Exhibits "A" and "B" respectively and attached to the Summary of Evidence.

H.W. Hayne Capt

(H.W. Hayne) Capt
Officer detailed to take
The Summary of Evidence

Second Witness for the Prosecution

B.3964 Sgt MacLeod, D.M., on the strength of "A" Wing, No 4 Canadian Repatriation Depot, a soldier of the Canadian Army Overseas, having been duly sworn, states:-

I am B.3964 Sgt MacLeod, D.M., employed in the Q.M. Stores of "A" Wing No 4 Cdn Repat Depot. On 26 Nov 45 at approx 1330 hrs, in the presence of the accused whom I now recognize, I made a check of his kit using a supplementary MCSM 1 Part III and found his kit to be deficient the following articles:-

ARTICLE	QTY	100% Vocab Price	50% Vocab Price
Attachments Brace	2	.34	.17
Bottles water	1	.82	.41
Braces W.E.	2	.60	.30
Haversack W.E.	1	1.79	.90
Straps shoulder L & R	2	.64	.32
Straps web supporting	2	.26	.13
Mess tins rect	1	.32	.16
Mugs drinking	1	.17	.09
Capes anti-gas	1	2.64	1.32
Blouses battle dress	1	6.50	3.25
Trousers battle dress	1	6.55	3.28
Greatcoat	1	11.31	5.66
Bags kit	1	1.02	.51
Brushes hair	1	.34	.17
" tooth	1	.11	.06
Brasses cleaning	1	.04	.02
Combs hair	1	.04	.02
Forks table	1	.07	.04
Knives table	1	.15	.08
Spoons dessert	1	.09	.05
Knives clasp & lanyard	2	.86	.43
Drawers woollen	1	2.80	1.40
Gloves woollen	1	.47	.24
Holdall	1	.19	.10
Housewife	1	.17	.09
Shirts flannel w/collar	1	2.40	1.20
Socks worsted prs	1	.46	.23
Jersey pullover	1	1.79	.90
Ties black	1	.19	.10
Towels hand	2	.34	.17
Vests woollen	1	2.40	1.20
Boots ankle prs	1	5.82	2.91
TOTAL		$ 51.69	$ 25.91

The accused declines to cross-examine the witness.

D. MacLeod

H.3964 Sgt MacLeod, D.M.
"A" Wing 4 Cdn Repat Depot

The accused was cautioned as follows:-

Do you wish to make a statement or to give evidence on oath? You are not obliged to say anything or give evidence unless you wish to do so, but whatever you say or any evidence you give will be taken down in writing and may be given in evidence.

The accused declines to make a statement or give evidence on oath.

The accused does not wish to call any witnesses for the defence.

MY

I certify that the foregoing Summary of Evidence consisting of three pages was taken down by me in the presence of the accused and that Rules of Procedure 4 (c), (d), (e), (f) and (g) have been complied with.

(H.W. Hayne) Capt
Officer detailed to take
The Summary of Evidence

In the Field
27 Nov 45

EXTRACT "B"

NO. 4 CANADIAN REPATRIATION DEPOT, C.A.C.

Part II Orders

BY

Last Order No. 92 dated 21 Nov 45 | Colonel R E A MORTON, D.S.O. Officer Commanding | This order No. 93 dated 22 Nov 45

"B"

13. STRENGTH DECREASE

(e) SOS Transit Strength as a des wef 15 Nov 45 having been decl illegally absent without leave from 0630 hrs 22 Oct 45 by a Ct Inq held 15 Nov 45. Def in kit in the value of $28.85

B 51810 Pte GUERTIN, M J

(Signed) A. Edmondson, Capt
for (R E A MORTON) Colonel,
Officer Commanding
4 Cdn Repat Depot, CAC

Extract from No 4 Cdn Repat Depot Regt'l Part II daily order No 93 d/22 Nov 45 and certified to be a true extract from the original document.

H.A. Fowler Capt

(H.A. Fowler) Capt
Adjt "A" Wing
4 Cdn Repat Depot

EXHIBIT "B"

CERTIFICATE IN ACCORDANCE WITH P.C. 2797 of 10 APR 42

I certify that No. B-51810 Rank Pte. Name Guertin, M.J.

Unit No. 4 Cdn. Repat.Depot was arrested at London (place)

at 2330 (Hour) On 22-Nov.45. (date) and that at the time of his arrest he was wearing (Military uniform) or ~~(XXXXXXXXXXXXXXXX)~~, Signature of Provost-Marshal, Assistant Provost-Marshal, or other officer or the commanding officer of the protion of His Majesty's Forces or the officer, warrantofficer, or non-commissioned officer in charge of the detachment of the Canadian Provost Corps, Canadian Army into whose custody the above named person was taken on arrest (Strike out part inapplicable.)

London
24-Nov.45.

.....CAPT.
D.A.P.M. -- C.M.H.Q.
(R.J. Stinson)

ARMY FORM B.296 (WAR).

Statement as to Character and Particulars of Service of Accused.

(For Use at Trials by Field General Courts-Martial only).

Number.	*Rank.*	*Name.*	*Regiment (or as the case may be).*
B-51810	Pte	Guertin, E.J.	4 Gin Repat Depot.

NOTE.—The Field Conduct Sheet is to be produced in Court with this statement but is not to be annexed to the proceedings. The numbers herein stated should correspond with the gaining of Entries in the Field Conduct Sheet, punishment being given in the most serious offence in each entry. If the charge is for drunkenness or absence without leave, the entries for drunkenness or absence, as the case may be, should be stated separately. Any exemplary special acts of gallantry or distinguished conduct recorded in the Field Conduct Sheet should also be inserted here.

1. The following is a fair and true summary of the entries in the Field Conduct Sheet of the accused, exclusive of convictions by a court martial or a civil court :—

For A.A. Sec. 15 (1) 7 times.

For A.A. Sec. 6 (2) 1 times.

For A.A. Sec. 40 2 times.

For _____ times.

Date of first entry in Field Conduct Sheet 1 Nov 41

Date of last entry in Field Conduct Sheet 21 Oct 45

2. Previous convictions of the accused by a court martial or a civil court are set out in the Schedule overleaf.

*Strike out if not applicable.

~~*3. Short particulars of circumstances leading to any entry in Field Conduct Sheet beginning on the~~ N/A

4. The accused has been awaiting trial on the present charges for N/A days in civil custody; and for 8 12 days in military custody, i.e., No days in open arrest, 8 12 days in close arrest; of which No days were spent in hospital.

5. The present age of the accused is 23

6. The date of his attestation is 28 April 41

~~enlisting or his entering military service~~ N/A

7. The service which the accused is allowed to reckon is 4 years 6 mos

8. The accused is in possession of 39-45 Star, Italy Star, France & Germany Star, C.V.S.M. & Clasp.

[State the military decorations and/or badges worn by accused.

9. ~~If the accused is a warrant officer or N.C.O.—The record of his conduct while~~ ~~on active service, to the present date~~ The record has been published ~~in~~

	Date of Promotion.
In the substantive rank of	
In the war substantive rank of	
In the acting rank of	

EXB

INSTRUCTION.—*If any matter in any of the above paragraphs cannot be stated from the regimental books the paragraph must be struck through.*

(26594) W1.42128/4390 42,000 11/44 A.& E.W.Ltd. Gp.498 Forms B.2 & (War).

SCHEDULE OF CONVICTIONS BY A COURT-MARTIAL OR CIVIL COURT.

Description of Court by which tried.	Date and Place of Trial.	Charges upon which convicted.	Sentence of the Court.	Punishment remitted or sentence suspended.
Civil Court			180 days	Granted remission of 55 days wef 1 SEP 42
FGCM		A.A. 6 (2)	90 days detn.	Granted 24 days remission wef 8 APR 44

I HEREBY CERTIFY that the foregoing particulars, which have been extracted from the regimental books in my custody, are correct to the best of my knowledge and belief.

Signed this 5 Dec day of Nov 45

H.Q. Lowder Capt
Adjt.

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award of or order directing trial	By whom awarded	Remarks
Field	26 Oct 43	Pte		A.A. Sec. 15 (1) AWL 16 hrs 30 mins.		28 Days F.P.			Total Forf. 19 days pay.
Field	13 May 44	Pte		A.A. Sec. 40 (b)		28 Days F.P. 28 Days pay.			
Field	2 Nov 44	Pte		A.A. Sec. 40 (t) Damage to a MD Vehicle		28 Days pay Forf 11/0			
Field	21 Dec 44	Pte		A.A. Sec. 40		5 Days pay.			
Field	2 Feb	Pte		Tried by FGCM for charges under A.A. 6 (2)- Guilty - Findings and Sentence confirmed by ADMS CMF, 1 Con Div - Close Arrest - Mil		90 days Detn. (remitted 24 days remission wef 8 Apr 44			Total Forf. 90 Days pay

3/17 MFM 6
(AFB 122)
40/PAM/180 (34185)

No. 51810 Name Guertin, M. Sqn. Battery, or Company Corps CIC Date of enlistment 28 April 41 Badges Service or Proficiency Pay

Date of last entry in Company Conduct Sheet Sheet No 1. Signature OC Company, etc

No. and date of last drunk Period not reckoning towards freedom from extra fine

Character

Place	Date of offence	Rank	Dates of detention incurred	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Field	1 Nov 41	Pte		A.A. Sec. 15 (1)		3 days C.B. 1 days pay.			
Field	13 Jan 42	Pte		A.A. Sec. 6 (2)		28 days F.P. 28 days pay.			
Field	30 Apr 42	Pte		Committed to His Majesty's Prison, Lewes.		180 days Granted remission of 55 days wef 1 Sep 42 Total 5 days pay.			
Field	22 Oct 42	Pte		A.A. Sec. 15 (1)		14 days Det. 5 Days pay.			Total Forf. 19 days Pay.
Field	24 Jan 43								

No. B-51810 Name Guertin, M. J. Sqn, Battery, or Company — Corps CIC — Date of enlistment 28 Apr 41 — GC Badges — Service or Proficiency Pay — 3/17 MFM 6 (AFB 122) 40(P&S/130 (5415)

Sheet No 2 — Signature OC Company, etc — Character

Date of last entry in Company Conduct Sheet: Place	Date of offence	Rank	No. and date of last drunk: Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of earlier dispatch with trial	By whom awarded	Remarks
									Total Forf. 45 days pay
Field	3 May 45	Pte		AA Sec. 15 (1) AWL from 0900 hrs 13 Apr 45 until 1415 hrs 2 May 45 (Absent 19 days 5 hrs 15 mins) (2) AA Sec. 24 (2)		20 days pay FR&I 149 (1) (a) 25 days pay FR&I 149 (2) Sep Pay amount $17-20			
Field	15 June 45	Pte		AA Sec. 15 (1) AWL from 1800 hrs 15 June 45 until 1955 hrs 25 June 45 (Total Absent 10 days 1 hour, 55 mins) Completely concurrent with awd of 27 June 45 for AWL 9 hours. 45 mins.		14 days C.B. 25 days pay Total Forf 39 days pay			
Field	21 Oct			AA Sec. 15 (1) AWL from 2359 hrs					

(Ptes)

Place	Date of offence	Rank	Cause of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
	45			21 Oct 45 and still absent at 0830 hrs. 11 Nov 45 (21 days)					
				Certified true copy of the document held in my possession. H.A. Fowler Capt (H.A. Fowler) Capt Adjt "A" Wing. 4 Din Depat Depot					
				29 Nov 45.					

I, 2.51810 Pte Guertin, M.J., request the services of an Officer to defend me at my forthcoming trial by Court Martial. St Only.

2.51810 Pte Guertin, M.J.

LIST OF WITNESSES IN THE CASE OF

B.51610 Pte Guertin, M.J.

FOR THE PROSECUTION

1. Capt H.A. Fowler - "A" Wing 4 Cdn Repat Depot
2. B.3964 Sgt MacLeod, D.M. - "A" Wing 4 Cdn Repat Depot

FOR THE DEFENCE

N I L

LIST OF EXHIBITS IN THE CASE OF

B.51610 Pte Guertin, M.J.

FOR THE PROSECUTION

Exhibit "A" - Certified true extract from R
Depot Part II Daily Order No

Exhibit "B" - Certificate of apprehension in
with Sec 163 (1) (m) of the A
purporting to be signed by H.
D.A.P.M., C.M.H.Q.

FOR THE DEFENCE

N I L

I, B.51810 Pte Guertin, M.J., request the services of an Officer to defend me at my forthcoming trial by Court Martial. Lt. Carey.

M Guertin

B.51810 Pte Guertin, M.J.

42- 138

Ste Genevieve J. M.

SCHEDULE.

B 51810

PART I. PLEA(S), FINDING(S) AND SENTENCE.

Accused: Pte Joseph Marcel Guertin 1 Cdn Inf Div Def Empl Pl.

	Charge. (Insert "alternative" where applicable.)	Plea. (See instrs p 2.)	Finding. (See note below.)	(Space for use as required for further charges, accused charged jointly, special findings, etc.)
1st	S 6 (2)(c) RA (alternative)	Not Guilty	Guilty	
2nd	S. 6(2)(h) RA	Not Guilty	Not Guilty	
3rd				
4th				
5th				
6th				

(Note: As to findings for lesser offences see AA 56, RP 44; findings on alternative charges see MML p 493 fn 4 para 2, RP 44; special findings see RP 44 and MML p 753, and in lieu of kit see RP 44 fn 6.)

As proved 10 days sentence for ... beginning on (date) ... (1)
(1. Insert sentence being served, or delete, if not applicable. See RP 46(A). Information should be found on MF B355 or AF B296.)

Time in confinement awaiting present trial—a total of 8 days of which 0 days were spent in hospital.(2)
(2. See RP 46(A) fn 2. Information should be found on MF B355 or AF B296 admitted in evidence under E2.)

Sentence Awarded by the Court:

To undergo detention For ninety Days

(Sgd) N.A. — Judge-Advocate, if any. 5 Feb 45 — Date awarded. (Sgd) F.W. McEwen Maj — President. (RP 45, 50)

(See back of Convening Order as to assembly and disposal of record after trial.)

PART II. MINUTE WHERE CONFIRMATION RESERVED. (AA 54(3), RP 120(F), MML p 760.)

Date ... (Sgd) ... Commanding

PART III. DECISION OF CONFIRMING OFFR ON FINDING(S) AND SENTENCE.

(For duties and powers see AA 54, 57, RP 37(D) fn 6.46(A), 51-56, 120, MML pp 759-761, KR Can 567-577. Acquittals require no confirmation and cannot be revised: AA 54(3). Sending back finding or sentence for revision by Court: AA 54(2), RP 120(C). If not confirmed, accused may be tried again: AA 157, MML p 64. Minute of confirmation or non-confirmation may be altered before promulgation: RP 53, MML p 65. Quashing after promulgation: KR Can 573. Duties and powers of reviewing offrs: AA 57, 57A, RP 53A, 54. The Confirming Offr must sign here personally. AA 172 fn 1.)

~~No decision on the finding~~

PGCM-B51810 Pte Joseph Marcel GUERTIN I Cdn Inf Div Def ~~A Empl Pl~~

My decision on the finding and sentence set forth in Part I is:

I Confirm the finding and sentence of the Court

DATE 6 FEB 45

W.L. Coke Col.
(W.L. Coke)
ADMS I Cdn Inf Div
Confirming Officer

PART IV. PROMULGATED AND EXTRACTS TAKEN. (RP 53, KR Can 576, 577.)

Accused.	Date.	Signature of Offr.
B51810 Pte JOSEPH MARCEL GUERTIN	8 FEB 45	G.R.N.P. Capt. Offr i/c Records 1 Cdn Inf Div

ALL DELETIONS AND ALTERATIONS WILL BE INITIALLED.

RECORDED AT CMHQ

RECEIVED 12 NOV 1945 AAG BRANCH CMHQ

FIELD GENERAL

Convening Order of Col W.L. Coke

... to the trial of two or more charged jointly ... and (b) appmt, A/rank or Acappmt, if any, see ...

Number. (a) Prmnt R. (b) Appmt, A/R ...

B 51810 Pte Josep

PROCEEDINGS REVIEWED

15 Mar 45

K.Y. Dick Lt Col

REVIEWING OFFICER, JAG

Held in the Fd in (country) ON

INSTRUCTIONS ...

1. The accused may not plead or be ... (RP 37(d)). As to withdrawal of ... for any reason, without ... dec. offence. (RP 44(III).) Accused may ... to plead or not pleading intelligibly ...

2. The proceedings on each ... circumstances dictate:

I. If pleas to all charges ...
II. If pleas to some ...
III. If ... pleas ...

(a) Such ... below.
(b) Such ...

3. As to ... Prosecutor ... and withdrawal ... was RP 42(3) ... was RP 111(5).

RECO ...

El ... of the ... sentence ... call ...

RECORD FORM A—

A1. The President, Members, waiting Court is closed.

(PRINTED MATTER, NOT IN ITALICS FOR GUIDANCE ... BY PRES OR JA. The Schedule referred to throughout is ... an procedure when a variation in this form arises, see form ... will be made and given a number having reference to appropriate ... CF 195, for oaths and instrs on how to record addresses, evidence, ... provisions for conducting the trial see AA 51, RP 36, 63-70, 73, 74, 94, ...

A2. The President initials and lays before the Court the Convening ... The Court is satisfied that it is properly convened and constituted(1), ... each charge discloses an offence.(2)
(1. As to use of Summary of Evidence see RP 17 fn 6, ... AA 49, 50, RP 105-107.)

A3. The Court is opened. The accused is (not) brought before the Court. A...

A4. The Prosecutor produces a Medical Certificate that accused is (not) fit to un... ~~The Prosecutor informs the Court that accused elected to be tried by court martial in... summarily by the CO(1).~~
(1. KR Can 557. 2. AA 46(B), RP 60 fn 1. For effect see KR Can 563(c). Delete, if not applicable.)

A5. President to accused: Do you object to ... as interpreter? ...
The Interpreter is sworn.(1) Do you object to ... as shorthand writer? ...
The shorthand writer is sworn.(1)
(1. RP 72. Delete, if none employed.)

A6. The Convening Order and names of the President and Members of the Court are read to the accused. President to accused: Do you object to be tried by me as President or by any of the Members of the Court.

Ans No (2)
(1. RP 110. 2. If no objection, waiting member retires. RP 68(5). If objection, see procedure AA 51, RP 22, 71, 78, MML p 74...)

A7. The President, Members, JA, if any, and Offrs under instr, if any, are sworn.(1) The following are the ranks, names and units of the offrs comprising the Court, etc:

President	Major	F.W. McEwen	1 C.I.B. w/i 3 RCR
Member	Capt.	W.L. Carroll	1 C.I.B. Coy RCR
Member	Lt	D Hickson	Sigs 1 Cdn Inf Div
Judge-Advocate	N.A.		
Prosecutor	Lt	P.E. Beauvais	R 22nd R. att HQ 1 Cdn Inf Div
Defending Offr	Major	M Turner	HQ 1 Cdn Inf Div

Questions by President: Is the Prosecutor a lawyer? Ans No Is the Defending Offr a lawyer? Ans No (2)
(1. RP 26, 27, 108, 111. List of offrs under instr will be returned separately with proceedings for information of Conv Offr.)
(2. If Pros a lawyer and Def Offr not, accused is entitled to an adjournment when RP 99 (B) and fn 2 were not followed. See DI p 3.)

A8. The accused ... before arraignment makes(s) (no) (~~...~~) plea. Guilty
(1. If a special plea is made for separate trial on one or more charges (RP 62(E), 108), or as to the jurisdiction of the Court (RP 34, 35(A), 113), or in bar of trial (RP 36), or as to accused's mental fitness to stand trial (AA 130, RP 37), or by one of several accused charged jointly to be tried separately (RP 16, 71), such plea, the addresses made in support or against, the evidence, if any, and finding are recorded per Notes. For forms of record see references in fns to RoP cited. Insert in AB rank and name of the accused making the plea.)

A9. The accused is (~~not~~) arraigned (~~separately~~) on all charges in the charge sheet.(1) The accused does (~~not~~) object to any charge.(2) There is no amendment to be made to the Charge Sheet.(3) The President records the pleas in Part I of the Schedule.
(1. RP 31, 112. See para 1 of Instrs p 2. When more than one Charge Sheet see RP 62; when several accused to be tried separately see RP 71(C), and use separate copies of CF AB6 to record proceedings. 2. RP 32, RP 33. If otherwise, delete and make appropriate record per Notes.)

A10. The Court (~~is closed and~~) considers the Instrs on Procedure after Arraignment at top of p 2. The proceedings are continued on Record Form D

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS

C-147

RECORDED AT CMHQ IN AB 160 42-138

FIELD GENERAL COURT-MARTIAL

(Para 10, Sec III of AFAR; AO's P & R/1668 (1939))

4/38B

RECEIVED 12 FEB 45 JAG BRANCH CMHQ

Convening Order of Col W.L. Coke Comd ADMS I Cdn Div dated 9 Feb 45

ACCUSED.

(As to the trial of two or more charged jointly see RP 16, 71, 109. As to reasons for showing (a) permanent or confirmed and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

Number	(a) Prmnt R. (b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
B 51810	PTE	Joseph Marcel	Guertin	H.Q. 1 Cdn Inf Div Def & Emp. Pl.

PROCEEDINGS REVIEWED
5 Mar 45
K.Y. Dick Capt
REVIEWING OFFICER, JAG BRANCH CMHQ

PROCEEDINGS OF TRIAL.

Held in the Fd in (country) NW EUROPE on (date(s)) 5 Feb 45

RECORD FORM A—OPENING PROCEEDINGS AND ARRAIGNMENT.

A1. The President, Members, waiting Member, JA, if any, and Offrs under instr, if any, assemble, and the Court is closed.

(PRINTED MATTER, NOT IN ITALICS FOR GUIDANCE, WILL BE DELETED, IF NOT USED OR APPLICABLE, AND INITIALLED BY PRES OR JA. The Schedule referred to throughout is on p 4. Citations do NOT include all relevant fns ROS. For guidance as procedure when a variation in this form arises, see form for GCM on MML pp 741 to 758. A brief record of such variation will be made and given a number having reference to appropriate or preceding para number hereof. See back of Convening Order, CF A45, for duties and instrs on how to record addresses, evidence, etc, which must not be brought called "Notes". As to general provisions for conducting the trial see AA 53, RP 56, 63-70, 73, 74, 94, 103, 119, 132.)

A2. The President initials and lays before the Court the Convening Order and Charge Sheet(s) attached thereto.(1) The Court is satisfied that it is properly convened and constituted(2), accused is amenable to military law, and each charge discloses an offence.(3)

(1. As to use of Summary of Evidence see RP 17 fn 6. AA 49, 50, RP 105-107. 2. RP 11-13, 23, 24.)

A3. The Court is opened. The accused is (not) brought before the Court. At 0920 hours trial commences.

A4. The Prosecutor produces a Medical Certificate that accused is fit to undergo trial by court-martial.(1) ~~The Prosecutor informs the Court that accused elected to be tried by court-martial instead of being dealt with summarily by the CO.(2)~~

(1. KR Can 557. 2. AA 46(8), RP 60 fn 1. For effect see KR Can 563(c). Delete, if not applicable.)

A5. ~~President to accused: Do you object to~~ the Court as interpreter ? Ans

The Interpreter is sworn.(1) ~~Do you object to~~ as shorthand writer ? Ans

The shorthand writer is sworn.(1)

(1, RP 72. Delete, if none employed.)

A6. The Convening Order and names of the President and Members of the Court are read to the accused.(1) President to accused: Do you object to be tried by me as President or by any of the Members of the Court ?

Ans No (2)

(1. RP 110. 2. If no objection, waiting member retires. RP 60(8). If objection, see procedure AA 51, RP 25, 71, 18, MML p 742.)

A7. The President, Members, JA, if any, and Offrs under instr, if any, are sworn.(1) The following are the ranks, names and units of the offrs comprising the Court, etc:

President	Major	F.W. McEwen	1 C.I.B. W.I.S.R.C.M.P.
Member	Capt.	W.L. Carroll	1 C.I.B. Coy R.C.A.S.C.
Member	Lt	D Hickson	Sigs 1 Cdn Div
Judge-Advocate		N.A.	
Prosecutor	Lt	P.E. Beaurais	R 22nd R. H.Q. 1 Cdn Inf Div
Defending Offr	Major	M Turner	H.Q. 1 Cdn Div

Questions by President: Is the Prosecutor a lawyer ? Ans No Is the Defending Offr a lawyer ? Ans No (2)

(1. RP 26, 27, 109, 111. List of offrs under instr will be returned separately with proceedings for information of Conv Offr.)
(2. If Pros is lawyer and Def Offr not, accused is entitled to an adjournment when RP 89 (3) and fn 2 were not followed. See DI p 3.)

A8. The accused before arraignment make(s) (no) special plea. (1)

(1, If a special plea is made for separate trial on one or more charges (RP 62(E), 108), or as to the jurisdiction of the Court (RP 34, 35(A), 113), or in bar of trial (RP 36), or as to accused's mental fitness to stand trial (AA 130, RP 57), or by one of several accused charged jointly to be tried separately (RP 14, 71), such plea, the addresses made in support or against, the evidence, if any, and finding are recorded per Notes. For forms of record see references in fns to RoP cited. Insert in A8 rank and name of the accused making the plea.)

A9. The accused is (not) arraigned (separately) on all charges in the charge sheet.(1) The accused does (not) object to any charge.(2) There is no amendment to be made to the Charge Sheet.(3) The President records the pleas in Part I of the Schedule.

(1, RP 31, 112. See para 1 of Instrs p 2. When more than one Charge Sheet see RP 62; when several accused to be tried separately see RP 71(C), and use separate copies of CF A84 to record proceedings. 2. RP 32, RP 33. If otherwise, advise and make appropriate record per Notes.)

A10. The Court is closed and considers the Instrs on Procedure after Arraignment at top of p 2. The proceedings are continued on Record Form D

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

C-147

4

SCHEDULE.

PART I. PLEA(S), FINDING(S) AND SENTENCE.

B 51810 Accused: Pte Joseph Marcel Guertin 1 Cdn Inf Div Def & Emp Pl.

	Charge. (Insert "alternative" where applicable.)	Plea. (See Instrs p 2.)	Finding. (See note below.)	(Space for use as required for further charges, accused charged jointly, special findings, etc.)
1st	96 (2)(a) RP (A) Army Act s 15	Not Guilty	Guilty	
2nd	S 6 (c)(4) RP.	Not Guilty	Not Guilty	
3rd				
4th				
5th				
6th				

(Note: As to findings for lesser offences see AA 56, RP 44; findings on alternative charges see MML p 483 fn 4 para 2, RP 44; special findings see RP 44 and MML p 733, and in loss of kit see RP 44 fn 8.)

At present [illegible] beginning on (date) (1)

(1. Insert sentence being served, or delete, if not applicable. See RP 46(A). Information should be found on MF B355 or MF B296.)

Time in confinement awaiting present trial—a total of 8 days of which 0 days were spent in hospital.(1)

(1. See RP 46(A) fn 2. Information should be found on MF B355 or AF B296 admitted in evidence under E2.)

Sentence Awarded by the Court:

To undergo detention For ninety Days

(Sgd) N/A Judge-Advocate, if any. 5 Feb 45 Date awarded. (Sgd) [signature] President. (RP 45, 52.)

(See back of Convening Order as to assembly and disposal of record after trial.)

PART II. MINUTE WHERE CONFIRMATION RESERVED. (AA 54(3), RP 120(F), MML p 760.)

Date (Sgd) Commanding

PART III. DECISION OF CONFIRMING OFFR ON FINDING(S) AND SENTENCE.

(For duties and powers see AA 54, 57, RP 37(D) fn 6, 46(A), 51-56, 120, MML pp 759-761, KR Can 567-571. Acquittals require no confirmation and cannot be revised: AA 54(2). Sending back finding or sentence for revision by Court: AA 54(2), RP 120(G). If not confirmed, accused may be tried again: AA 157, MML p 64. Minute of confirmation or non-confirmation may be altered before promulgation: RP 53, MML p 65. Quashing after promulgation: KR Can 573. Duties and powers of reviewing offrs: AA 57, 57A, RP 53A, 54. The Confirming Offr must sign here personally. AA 172 fn 1.)

~~No decision on the finding~~

FGCM-B51810 Pte Joseph Marcel GUERTIN I Cdn Inf Div Def & Emp Pl

My decision on the finding and sentence of the Court

I Confirm the finding and sentence

DATE 6 FEB 45 (W.L. Coke) Col.

ADMS I Cdn Inf Div
Confirming Officer

PART IV. PROMULGATED AND EXTRACTS TAKEN. (RP 53, KR Can 576, 577.)

Accused.	Date.	Signature of Offr.
B51810 Pte JOSEPH MARCEL GUERTIN	8 FEB 45	[signature]

ALL DELETIONS AND ALTERATIONS WILL BE INITIALLED.

...EDURE AFTER ARRAIGNMENT.

...on more than one of two or more charges laid in the alternative.
...by Prosecutor see RP 35(C). No other charge can be withdrawn
...may change a plea of Not Guilty to Guilty during trial. (RP 38.) As to refusing to plead or answer intelligibly see RP 35(A). As to plea when sentence may be death see RP 35(D).

2. *The proceedings on each charge sheet (RP 62) after arraignment will be conducted as follows in the respective circumstances stated :*

I. If pleas to all charges are GUILTY, use Record Form B below.

II. If pleas to all charges are NOT GUILTY, use Record Form D on p 3.

III. If pleas to some charges are GUILTY and to other charges are NOT GUILTY and,

(a) Such mixed pleas occur when there are no alternative charges in the Charge Sheet, use Record Form C below. (RP 37(A).)

(b) Such mixed pleas occur in a set of two or more charges laid in the alternative, see RP 37 (A) and fn 2 as to discretion of Court, (i) to try the accused on all such alternative charges as if he had pleaded Not Guilty thereto, or, (ii) to record the pleas as the findings of Court. After deciding between (i) and (ii), Court will proceed under foregoing instrs as may be appropriate to result of its decision. See MML p 744 fnotes (2).

3. *As to responsibility of President to accused see RP 39, 60(C) ; powers and duties of JA see RP 103 ; duty of Prosecutor see RP 60(A) (B) ; duty and privileges of accused and Defending Offr see RP 60(C), 87(C), 91, 92 ; swearing and withdrawal of witnesses from Court see RP 81, 82 ; questioning of accused see RP 80, 87(C), 92(B), and of witnesses see RP 83-85 ; calling or re-calling of witnesses by Court, etc, see RP 75-79, 86, 116 ; use of Summary of Evidence at Trial see RP 17(E) fn 6 ; and responsibility of JA or Pres to record proceedings see RP 94, 96.*

RECORD FORM B—PROCEEDINGS ON PLEAS OF GUILTY TO ALL CHARGES.

B1. The President or JA, if any, complies with RP 35(B) by explaining to the accused the nature and meaning of the charge(s)(1), and that on his plea of Guilty there will be no regular trial but merely a consideration of the sentence to be awarded after he has been given an opportunity to make a statement in reference to the charge(s), call witnesses as to character and make an address in mitigation of punishment.(2)

(1. RP 35 fn 3. 2. MML p 54 para 47.)

B2. President to accused : The Court will now receive any statement you desire to make in reference to the charge(s).(1) If it appears from your statement that there are circumstances which indicate that you do not understand the effect of the plea of Guilty(2), or which show provocation or extenuation in respect of which in your interest the witnesses for the Prosecution should be examined(3), we shall advise you to change your plea to Not Guilty. In making a statement you will not be sworn or subject to cross-examination ; and anything you say will not be used in evidence against you after you change your plea. If, however, it appears to the Court that your statement affects only the amount of punishment to which you are liable, you will not be advised to change your plea and you will be given an opportunity later to prove your statement by sworn testimony, if you so desire.(4)

President to accused : Do you wish to make a statement ? Ans.....(5)

(1. RP 37(B). 2. RP 37(D) fn 6. 3. RP 35(B) fn 5 para 2. MML p 54 para 47. 4. See para E3 of Record Form E. 5. Statement, if any, recorded per Notes.)

B3. The Court considers the accused's statement. The Court decides (not) to advise accused to change his (their) plea(s) of Guilty to Not Guilty on charge(s). The accused is (are) so informed, and he (they) change(s) his (their) plea(s) on charge(s). Part I of the Schedule is amended accordingly.

(1. Court may be closed to consider this statement. Delete whole or part not used.)

B4. On the charge(s) to which the plea(s) of Guilty is (are) not changed the President records finding(s) of Guilty in Part I of the Schedule.(1)

(1. RP 35(B). If any plea(s) is (are) changed, use Record Form C or D as appropriate.)

B5. The Summary of Evidence is marked Ex ....., initialled and read aloud by the President.(1) The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

(1. If there is no Summary, or if it is inadequate, comply with RP 37(B). If there is any evidence inconsistent with any plea standing as Guilty, Court will advise accused as to charges, such plea and, if changed to Not Guilty, try such charge(s) by use of paras C1 to D8 inclusive of Record Form D on p 3. RP 37(D).)

RECORD FORM C—PROCEEDINGS ON MIXED PLEAS OF GUILTY AND NOT GUILTY.

C1. As to the charges on which accused pleaded NOT GUILTY the trial is continued by using paras D1 to D8 inclusive of Record Form D on p 3 before proceeding with C 2.(1)

(1. RP 37(A) (E).)

C2. The charges on which accused pleaded GUILTY are read to him (them) again, and the trial is continued by using paras B1 to B5 of Record Form B above.(1)

(1. Under B5 such parts only of the Summary of Evidence are read as relate to the charges dealt with under C2. If any plea is changed to Not Guilty, trial thereon proceeds as directed in C1 and the Summary of Evidence are read as relate to the charges dealt with under C1. If any plea is changed to Not Guilty, trial thereon proceeds as directed in C1 and complying with paras D1 to D8 inclusive in Record Form D on p 3 and making an appropriate record thereof on a separate sheet.)

C3. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

RECORD FORM D—PROCEEDINGS ON PLEAS OF NOT GUILTY TO ALL CHARGES.

D1. President to accused : Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity to prepare your defence ? Ans. No

(1. If "yes", see RP 39(A) for procedure. 2. Statement or evidence, if any, is recorded per Notes.)

D2. The Prosecutor makes (and hands in) opening address.(1)

(1. RP 39(B), 60(A) (B), 90, 91(C) (D). Record address per Notes, subject to RP 95(C).)

D3. The evidence for the Prosecution is taken.(1)

(1. RP 39(C), 114, KR Can 552. Record evidence per Notes.)

D4. The Prosecution is closed.(1) The Defending Offr submits that the evidence for the Prosecution does not establish a prima facie case against the accused on the Two charge(s).(2) The Court is re-opened, and the President announces that the submission is closed, and considers the submission.(3) The Court is re-opened, and the President announces that the submission is disallowed on the Second/First charge(s) and allowed on the Second charge(s) and that, accordingly, the trial will proceed on the former, but the accused is (are) found Not Guilty on the latter charge(s)(4) and discharged from custody on that charge(s).

(1. Delete remainder of this para, if submission not made. 2. RP 40 fn 1. See MML p 72 paras 12-14 and p 81 para 42. 3. Arguments on submission, answers and reply are recorded per Notes. 4. Delete part not used. If accused convicted on all charges, use second alternative in para D6.)

NB : If trial proceeds, accused must be allowed great latitude in making his defence, and the Court should not stop his defence solely on ground of irrelevance. (RP 80(C), 116, 115.)

D5. President to accused : You will now proceed with your defence.(1) You may, if you wish, give evidence yourself on oath as to the facts or your character or both, in which case you will be subject to cross-examination.(2) You may, however, make a statement without being sworn, and you will not be subject to cross-examination.(3) But a statement which could have been made on oath will not carry with the Court the same weight as sworn testimony.(4) You may call witnesses in your defence and as to character, whether you give evidence or make a statement or do neither.

President to accused : Do you wish to give evidence yourself as a witness, make a statement, or do neither ? Ans Yes give evidence. Do you intend to call witnesses on your behalf ? Ans Yes. Are they witnesses as to character only ? Ans Yes.

(1. RP 115. 2. RP 40(A), see 80(D). 3. RP 40 fn 10. 4. RP 40 fns 2, 9.)

D6. Consequent on the answers recorded in para D5 the appropriate procedure for the defence is followed.(1)

(1. RP 114, 115, 116. For procedure see Notes on back of Convening Order, CF 4805. Evidence for accused as to his character should, if in his interest, be given before the finding. See RP 40(A)(b) fn 7, 86(C). Make one further opportunity in para E1 of Record Form E. Record per Notes addresses, statement, evidence and any summing up by the JA under RP 42, 103(c).)

D7. The Court is closed to consider the finding.(1) The finding(s) of the Court is (are) recorded in Part I of the Schedule.(2) The Court is re-opened.

(1. RP 42, 117(A). See Notes in Part I of Schedule. 2. RP 44(5).)

D8. The President announces the finding(s) in respect of Not Guilty and states to the accused that the finding(s), being subject to confirmation, will be promulgated later.(1) Or the President announces that the Court has no jurisdiction to try the charge(s) and that the proceedings are terminated. Part I of the Schedule is amended accordingly. The announced finding is not applicable when there are pleas of Guilty outstanding and dealt with under Record Form B or C.)

(1. AA 54(3) (6), RP 45, 120(A). 2. AA 54(3), RP 45, 117. The announced finding is not applicable when there are pleas of Guilty outstanding and dealt with under Record Form B or C.)

D9. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E below.

RECORD FORM E—PROCEEDINGS ON CONVICTION BEFORE SENTENCE.

E1. President to accused : Do you wish to give evidence yourself or to call any witnesses as to your character ?(1) Ans. No.

(1. If evidence has already been given by accused or his witnesses as to his character, delete this para. RP 37(C) fn 4, 44 fn 4. Accused and witnesses are sworn. Evidence recorded per Notes.)

E2. The Prosecutor produces Statement of Service(1), and certified true copy (copies) of Conduct Sheet(s) purporting to refer to the accused, which he submits to the Defending Offr for examination, and then to the Court for admission in evidence. The Court is satisfied that these documents refer to the accused because (i) they purport to be signed in the manner required by AA 163(1) (g) (h), and (ii) they purport to refer to (a) soldier(s) having the same number, rank, name and corps as the accused. Admitted in evidence and marked Ex A and Ex B respectively.(2)

(1. MFB 351 or AFB 2980. 2. MFM 2. 3. RP 46, KR Can 152. If above documents not produced, see RP 46 fn 4.)

E3. President to accused : Do you wish to address the Court on the Statement(s) and Conduct Sheet(s), and in mitigation of punishment ?(1) Ans. No.

(1. RP 27(C), 46(D). 2. Address, if any, recorded per Notes. Court should permit accused or his witnesses to prove on oath anything here or previously stated which would affect the amount of punishment. RP 27(F) fn 7.)

E4. The President states that the Court is closed to consider the sentence, and that the sentence to be awarded by the Court, being subject to confirmation, will not be announced, but will be promulgated later, and the proceedings in open court are accordingly terminated.(1)

(1. AA 54(6), RP 120(A).)

E5. The Court considers the sentence.(1) The President records the sentence in Part I of the Schedule, which is dated and signed by him and the JA, if any.(2)

(1. When several accused tried separately see RP 71 (D). One sentence only, comprised of the punishment or punishments to be awarded to cover all charges in all charge sheets on which accused found guilty, laid down in AA 41, 44 and its provision as to be awarded to cover all charges in all charge sheets on which accused found guilty, RP 48. As to sentences see AA 44, 138, 182, RP 46-52, 69, 118, 119(A), KR Can 308, 330, 562-566, Overseas Sentences, MAML p 60, 737-739. As to sentences assigned for civil offences by the law of England see AA 44(3), MAML p 130, 209, 232). As to sentences assigned for civil offences by the law of England see AA 44(3), MAML p 130, 209, 232). already under sentence of imprisonment or detention see AA 44(1)(8), 68(1), KR Can 564. 2. RP 52. As to release from arrest by Confirming Offr see KR Can 567. As to assembly and dispersal of record after trial see Notes on back of Convening Order.)

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

SCHEDULE.

PART I. PLEA(S), FINDING(S) AND SENTENCE.

B 51810 Accused: Pte Joseph Marcel Guertin 1 Cdn Inf Div Def & Empl Pl.

Charge. (Insert "alternative" where applicable.)	Plea. (See instrs p 2.)	Finding. (See note below.)	(Space for use as required for further charges, accused charged jointly, special findings, etc.)
1st 96 (2)(c) RP (AWOL 17 days)	Not Guilty	Guilty	
2nd 5.6(e)(4) RP.	Not Guilty	Not Guilty	
3rd			
4th			
5th			
6th			

(Note: As to findings for lesser offences see AA 56, RP 44; findings on alternative charges see MML p 483 fn 4 para 2, RP 44; special findings see RP 44 and MML p 753, and in loss of kit see RP 44 fn 6.)

At prov Coy Depot Holding Unit for beginning on (date) (1)

(1. Insert sentence being served, or delete, if not applicable. See RP 46(A). Information should be found on MF B355 or AF B296.)

Time in confinement awaiting present trial—a total of 8 days, of which 0 days were spent in hospital.(1) (On open arrest) Less

(1. See RP 46(A) fn 2. Information should be found on MF B355 or AF B296 admitted in evidence under E2.)

Sentence Awarded by the Court:

To undergo detention For ninety Days

(Sgd) N/A (Judge-Advocate, if any.) 5 Feb 45 (Date awarded.) (Sgd) [signature] (President. (RP 45, 50.))

(See back of Convening Order as to assembly and disposal of record after trial.)

PART II. MINUTE WHERE CONFIRMATION RESERVED. (AA 54(5), RP 120(F), MML p 760.)

Date (Sgd) Commanding

PART III. DECISION OF CONFIRMING OFFR ON FINDING(S) AND SENTENCE.

(For duties and powers see AA 54, 57, RP 37(D) fn 6.46(A), 51-56, 120, MML pp 759-761, KR Can 567-577. Acquittals require no confirmation and cannot be revised: AA 54(3). Sending back finding or sentence for revision by Court: AA 54(2), RP 120(G). If not confirmed, accused may be tried again: AA 137, MML p 64. Mitigation of confirmation or non-confirmation may be altered before promulgation: RP 53, MML p 65. Quashing after promulgation: KR Can 573. Duties and powers of reviewing offrs: AA 57, 57A, RP 53A, 54. The Confirming Offr must sign here personally. AA 172 fn 1.)

My decision on the finding and sentence set forth in Part I is:

PGCM-B51810 Pte Joseph Marcel GUERTIN 1 Cdn Inf Div Def & Emp Pl

My decision on the finding and sentence set forth in Part I is:

I Confirm the finding and Sentence of the Court

DATE 6 FEB 45

[signature] Col.
(W.L. Coke)
ADMS I Cdn Inf Div
Confirming Officer

PART IV. PROMULGATED AND EXTRACTS TAKEN. (RP 53, KR Can 576, 577.)

Accused.	Date.	Signature of Offr.
B51810 Pte JOSEPH MARCEL GUERTIN	1 FEB 45	[signature] CAMP COMD HQ 1 CDN DIV

ALL DELETIONS AND ALTERATIONS WILL BE INITIALLED.

RECORDED AT CMHQ IN AB 160 4-2-138

FIELD GENERAL COURT-MARTIAL (CP&SR (to 31st of Apr 43) 40/P & S (1st of May 43)) 4388

RECEIVED 12 MAY 1945 JAG BRANCH CMHQ

Convening Order of Col W.L. Coke Comd ADMS I Cdn Div dated 4 Feb 45

ACCUSED.

(As to the trial of two or more charged jointly see RP 16, 71, 109. As to reasons for showing (a) permanent or confirmed and (b) apprnt, A/rank or A/apprnt, if any, see AA 182, 183, fns. KR Can 308, 328, 330.)

Number. (a) Prmnt R. (b) Apprnt, A/R or A/Apprnt.	Full Christian Names.	Surname.	Unit.
B 51810 Pte	Joseph Marcel	Guertin	HQ. 1 Cdn Inf Div Def & Emp. Pl.

PROCEEDINGS REVIEWED 15 May 45 K.Y. Dick Capt REVIEWING OFFICER, JAG BRANCH CMHQ

PROCEEDINGS OF TRIAL.

Held in the Fd in (country) ITALY on (date(s)) 5 Feb 45

RECORD FORM A—OPENING PROCEEDINGS AND ARRAIGNMENT. 23/152.

A1. The President, Members, waiting Member, JA, if any, and Offrs under instr, if any, assemble, and the Court is closed.

(PRINTED MATTER, NOT IN ITALICS FOR GUIDANCE, WILL BE DELETED IF NOT USED OR APPLICABLE AND INITIALLED BY PRES OR JA. The Schedule referred to throughout is on p 4. Questions do NOT include all relevant fms. For guidance on procedure when a variation in this form arises, see form for GCM in MML pp 741 to 759. A brief record of such variation will be made and given a number having reference to appropriate or preceding para number herein. See back of Convening Order, CF 885, for duties and oaths on how to record addresses, evidence, etc., which instrs are hereafter called "Notes". As to general provisions for conducting the trial see AA 53, RP 36, 63-70, 73, 74, 84, 103, 119, 132.)

A2. The President initials and lays before the Court the Convening Order and Charge Sheet [illegible] attached thereto.(1) The Court is satisfied that it is properly convened and constituted(2), accused is [illegible] amenable to military law, and each charge discloses an offence.(3)

(1. As to use of Summary of Evidence see RP 17 fn 6. 2. AA 49, 50, RP 105-107. 3. RP 11-13, 23, 24.)

A3. The Court is opened. The accused is [illegible] brought before the Court. At 0920 hours trial commences.

A4. The Prosecutor produces a Medical Certificate that accused is [illegible] fit to undergo trial by court-martial.(1) The Prosecutor informs the Court that accused elected to be tried by court-martial instead of being dealt with summarily by the CO.(2)

(1. KR Can 557. 2. AA 46(B), RP 60 fn 1. For effect see KR Can 563(c). Delete, if not applicable.)

A5. President to accused: Do you object to [illegible] as Interpreter? Ans

The Interpreter is sworn.(1) Do you object to [illegible] as shorthand writer? Ans

The shorthand writer is sworn.(1)

(1. RP 72. Delete, if none employed.)

A6. The Convening Order and names of the President and Members of the Court are read to the accused.(1) President to accused: Do you object to be tried by me as President or by any of the Members of the Court?

Ans No (2)

(1. RP 160. 2. If no objection, waiting member retires. RP 60(B). If objection, see procedure AA 51, RP 25, 71, 18, MML p 742.)

A7. The President, Members, JA, if any, and Offrs under instr, if any, are sworn.(1) The following are the ranks, names and units of the offrs comprising the Court, etc.:

President	Major	F.W. McEwen	1 C.I.B. W.I.S. R.C.E.M.E
Member	Capt.	W.L. Carroll	1 C.I.B. Coy R.C.A.S.C.
Member	Lt	D Hickson	Sigs 1 Cdn Div
Judge-Advocate	N.A.		
Prosecutor	Lt	P.E. Beaurais	R 22nd R HQ 1 Cdn Inf Div
Defending Offr	Major	M Turner	HQ 1 Cdn Div

Questions by President: Is the Prosecutor a lawyer? Ans No Is the Defending Offr a lawyer? Ans No (2)

(1. RP 2n, 27, 109, 111. List of offrs under instr will be returned separately with proceedings for information of Conv Offr. 2. If Pros a lawyer and Def Offr not, accused is entitled to an adjournment when RP 89 (B) and fn 2 were not followed. See 2(i) p 3.)

A8. The accused before arraignment make(s) (no) [illegible] plea(s). (1)

(1. If a special plea is made for separate trial on one or more charges (RP 62(E), 108), or as to the jurisdiction of the Court (RP 34, 35(A), 113), or in bar of trial (RP 36), or as to accused's mental fitness to stand trial (AA 130, RP 57), or by one of several accused charged jointly to be tried separately (RP fn. 71), such plea, the addresses made in support or against, the evidence, if any, and finding are recorded per Notes. For forms of record see references in fns to RoP cited. Insert in AB rank and name of the accused making the plea.)

A9. The accused is [illegible] arraigned [illegible] on all charges in the charge sheet.(1) The accused does [illegible] not object to any charge.(2) There is no amendment to be made to the Charge Sheet.(3) The President records the pleas in Part I of the Schedule.

(1. RP 31, 112. See para 1 of Instrs p 2. When more than one Charge Sheet see RP 62; when several accused to be tried separately see RP 71(C), and use separate copies of CF 486 to record proceedings. 2. RP 32, RP 33. If otherwise, delete and make appropriate record per Notes.)

A10. The Court [illegible] considers the Instrs on Procedure after Arraignment at top of p 2. The proceedings are continued on Record Form D

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

C-147

INSTRUCTIONS ON PROCEDURE AFTER ARRAIGNMENT.

1. *The accused may not plead or be found Guilty on more than one of two or more charges laid in the alternative.* (*RP 37(A).*) *As to withdrawal of alternative charges by Prosecutor see RP 35(C). No other charge can be withdrawn for any reason without authy from Convening Offr. If Convening Offr concurs, Court may accept plea of Guilty to lesser, etc, offence.* (*RP 44(H).*) *Accused may change a plea of Not Guilty to Guilty during trial.* (*RP 38.*) *As to refusing to plead or not pleading intelligibly see RP 35(A). As to plea when sentence may be death see RP 35(D).*

2. *The proceedings on each charge sheet* (*RP 62*) *after arraignment will be conducted as follows in the respective circumstances stated :*

I. If pleas to all charges are GUILTY, use Record Form B below.

II. If pleas to all charges are NOT GUILTY, use Record Form D on p 3.

III. If pleas to some charges are GUILTY and to other charges are NOT GUILTY and,

(a) Such mixed pleas occur when there are no alternative charges in the Charge Sheet, use Record Form C below. (*RP 37(A).*)

(b) Such mixed pleas occur in a set of two or more charges laid in the alternative, see RP 27 (A) and fn 2 as to discretion of Court, (i) to try the accused on all such alternative charges as if he had pleaded Not Guilty thereto, or, (ii) to record the pleas as the findings of Court. After deciding between (i) and (ii), Court will proceed under foregoing instrs as may be appropriate to result of its decision. See M.M.L. p 744 Instrs (2).

3. *As to responsibility of President to accused see RP 59, 60(C) ; powers and duties of JA see RP 103 ; duty of Prosecutor see RP 60(A) (B) ; duty and privileges of accused and Defending Offr see RP 60(C), 87(C), 91, 92 ; ascertng and withdrawal of witnesses from Court see RP 81, 82 ; questioning of accused see RP 80, 87(C), 92(B), and of witnesses see RP 85-85 ; calling or re-calling of witnesses by Court, etc, see RP 75-79, 86, 116 ; use of Summary of Evidence at Trial see RP 17(E) fn 6 ; and responsibility of JA or Pres to record proceedings see RP 94, 96.*

RECORD FORM B—PROCEEDINGS ON PLEAS OF GUILTY TO ALL CHARGES.

B1. The President or JA, if any, complies with RP 35(B) by explaining to the accused the nature and meaning of the charge(s)(1), and that on his plea of Guilty there will be no regular trial but merely a consideration of the sentence to be awarded after he has been given an opportunity to make a statement in reference to the charge(s), call witnesses as to character and make an address in mitigation of punishment.(2)
(1. *RP 35 fn 3.* 2. *MML p 54 para 47.*)

B2. President to accused : The Court will now receive any statement you desire to make in reference to the charge(s).(1) If it appears from your statement that there are circumstances which indicate that you do not understand the effect of the plea of Guilty(2), or which show provocation or extenuation in respect of which it is your interest the witnesses for the Prosecution should be examined(3), we shall advise you to change your plea to Not Guilty. In making a statement you will not be sworn or subject to cross-examination ; and anything you say will not be used in evidence against you after you change your plea. If, however, it appears to the Court that your statement affects only the amount of punishment to which you are liable, you will not be advised to change your plea and you will be given an opportunity later to prove your statement by sworn testimony, if you so desire.(4)

President to accused : Do you wish to make a statement ? Ans ..... (5)
(1. *RP 37(B).* 2. *RP 37(D) fn 6.* 3. *RP 35(B) fn 5 para 3, MML p 54 para 47.* 4. *See para E3 of Record Form E.* 5. *Statement, if any, recorded per Notes.*)

B3. The Court considers the accused's statement. The Court decides (not) to advise accused to change his (their) plea(s) of Guilty to Not Guilty on ..... charge(s). The accused is (are) so informed, and he (they) change(s) his (their) plea(s) on ..... charge(s). Part I of the Schedule is amended accordingly.
(1. *Court may be closed to consider the statement. Delete whole or part not used.*)

B4. On the charge(s) to which the plea(s) of Guilty is (are) not changed the President records finding(s) of Guilty in Part I of the Schedule.(1)
(1. *RP 35(B). If any plea(s) is (are) changed, use Record Form C or D as appropriate.*)

B5. The Summary of Evidence is marked Ex ....., initialled and read aloud by the President.(1)
(1. *If there is no Summary, or if it is inadequate, comply with RP 37(B). If there is any evidence inconsistent with any plea standing or Guilty, Court will advise accused to change such plea and, if changed to Not Guilty, try such charge(s) by use of paras D1 to D8 inclusive of Record Form D on p 3. RP 37(D).*)

B6. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

RECORD FORM C—PROCEEDINGS ON MIXED PLEAS OF GUILTY AND NOT GUILTY.

C1. As to the charges on which accused pleaded NOT GUILTY the trial is continued by using paras D1 to D8 inclusive of Record Form D on p 3 before proceeding with C 2.(1)
(1. *RP 37(A) (E).*)

C2. The charges on which accused pleaded GUILTY are read to him (them) again, and the trial is continued by using paras B1 to B5 of Record Form B above.(1)
(1. *Under B5 such parts only of the Summary of Evidence are read as relate to the charges dealt with under C2. If any plea is changed to Not Guilty, trial thereon proceeds by commencing with paras D1 to D8 inclusive in Record Form D on p 3 and making an appropriate record thereof on a separate sheet.*)

C3. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

RECORD FORM D—PROCEEDINGS ON PLEAS OF NOT GUILTY TO ALL CHARGES.

D1. President to accused : Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity to prepare your defence ? Ans No .....(1)
(1. *If "yes", see RP 39(A) for procedure. Statement or evidence, if any, is recorded per Notes.*)

D2. The Prosecutor makes (no) opening address.(1)
(1. *RP 39(B), 60(A) (B), 90, 92(C) (D). Record address per Notes, subject to RP 95(C).*)

D3. The evidence for the Prosecution is taken.(1)
(1. *RP 39(C), 114, KR Can 335. Record evidence per Notes. As to Prosecutor giving evidence himself see RP 39(D) (E).*)

D4. The Prosecution is closed.(1) The Defending Offr submits that the evidence for the Prosecution does not establish a prima facie case against the accused on the Two charge(s).(2) The Court is closed, and considers the submission.(3) The Court is re-opened, and the President announces that the submission is disallowed on the Second, First charge(s), and allowed on the Second charge(s), and that, accordingly, the trial will proceed on the former, but the accused is (are) found Not Guilty on the latter charge(s).(4)
(1. *Delete remainder of this para, if submission not made.* 2. *Arguments on submission, answer and reply are recorded per Notes.* 3. *RP 40 fn 1. See MML p 72 paras 12-14 and p 81 para 42.* 4. *Delete part not used. If accused acquitted on all charges, use second alternative in para D8.*)
NB : *If trial proceeds, accused must be allowed great latitude in making his defence, and the Court should not stop his defence solely on ground of irrelevance.* (*RP 60(C), 114, 115.*)

D5. President to accused : You will now proceed with your defence.(1) You may, if you wish, give evidence yourself on oath as to the facts or your character or both, in which case you will be subject to cross-examination.(2) You may, however, make a statement without being sworn, and you will not be subject to cross-examination.(3) But a statement which could have been made on oath will not carry with the Court the same weight as sworn testimony.(4) You may call witnesses in your defence and as to character, whether you give evidence or make a statement or do neither.

President to accused : Do you wish to give evidence yourself as a witness, make a statement, or do neither ? Ans Yes give evidence. Do you intend to call witnesses on your behalf ? Ans Yes ..... Are they witnesses as to character only ? Ans Yes .....
(1. *RP 115.* 2. *RP 40(A), see 80(D).* 3. *RP 40 fn 10.* 4. *RP 40 fns 2, 9.*)

D6. Consequent on the answers recorded in para D5 the appropriate procedure for the defence is followed.(1)
(1. *RP 114, 115, 116. For procedure see Notes on back of Convening Order, CF 495. Evidence for accused as to his character should, if in his interest, be given before the finding. See RP 40(A) fn 1, 86(C). Note the further opportunity in para E1 of Record Form E. Record per Notes addresses, statement, evidence and any summing up by the JA under RP 42, 103(e).*)

D7. The Court is closed to consider the finding(s).(1) The finding(s) of the Court is (are) recorded in Part I of the Schedule.(2) The Court is re-opened.
(1. *RP 42, 117(A). See Notes in Part I of Schedule.* 2. *RP 44(A).*)

D8. The President announces the finding(s), if any, of Not Guilty, and states to the accused that the finding(s) of the Court on the First charge(s), being subject to confirmation, will be promulgated later.(1) On the President announcing that the accused is found Not Guilty on all charges, he is discharged forthwith, and that the proceedings are accordingly terminated. Part I of the Schedule is amended accordingly.
(1. *AA 54(2) (c), RP 45, 120(A).* 2. *AA 54(3), RP 45, 117. This alternative announcement is not applicable where there are pleas of Guilty outstanding and dealt with under Record Form B or C.*)

D9. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E below.

RECORD FORM E—PROCEEDINGS ON CONVICTION BEFORE SENTENCE.

E1. President to accused : Do you wish to give evidence yourself or to call any witnesses as to your character ?(1)
Ans Yes.
(1. *If evidence has already been given by accused or his witnesses as to his character, delete this para. RP 37(C) fn 6, 46 fn 1. Accused and witnesses are sworn. Evidence recorded per Notes.*)

E2. The Prosecutor produces Statement(1) as to Character and Particulars of Service(2), and certified true copy (extract) of Conduct Sheet(3), purporting to refer to the accused, which he submits to the Defending Offr for examination, and then to the Court for admission in evidence. The Court is satisfied that these documents refer to the accused, because (i) they purport to be signed in the manner required by AA 163(1) (g) (h), and (ii) they purport to refer to (a) soldier(4) having the same number, rank, name and corps as the accused. Admitted in evidence and marked Ex A and Ex B respectively.(5)
(1. *AFB 255 or AFB 256.* 2. *MFM 6.* 3. *RP 46, KR Can 338. If above documents not produced, see RP 46 fn 1 para 1.*)

E3. President to accused : Do you wish to address the Court on the Statement(1) and Conduct Sheet(s), and on mitigation of punishment ?(2) Ans Yes.
(1. *RP 37(C), 46(D).* 2. *Address, if any, recorded per Notes. Court should permit accused or his witnesses to prove on oath anything here or previously stated which would affect the amount of punishment. RP 37(F) fn 7.*)

E4. The President states that the Court is closed to consider the sentence, and that the sentence to be awarded by the Court, being subject to confirmation, will not be announced, but will be promulgated later, and the proceedings in open court are accordingly terminated.(1)
(1. *AA 54(4), RP 120(A).*)

E5. The Court considers the sentence.(1) The President records the sentence in Part I of the Schedule, which is dated and signed by him and the JA, if any.(2)
(1. *When several accused tried separately see RP 71 (D). One sentence only, comprised of the punishment or punishments laid down in AA 41, 44 and 45, permitted, is to be awarded to cover all charges in all charge sheets on which accused found guilty. RP 48. As to sentences see AA 64, 138, 182, RP 46-50, 69, 118, 119(A), KR Can 308, 330, 562-566. Overseas RO 309, 2323, MML p 80, 757-759. As to sentences assigned for civil offences by the law of England see AA 61(3), MML p 130. When accused already under sentence of imprisonment or detention see AA 44(1)(b), 68(1), KR Can 564.* 2. *RP 50. As to release from arrest by Confirming Offr see KR Can 567. As to assembly and disposal of record after trial see Notes on back of Convening Order.*)

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

CHARGE SHEET

The accused No.B-51810 Pte. Joseph Marcel GUERTIN, HQ I Cdn Inf Div Def & Emp Pl, a soldier of the Canadian Army Overseas(CMF) on active service, is charged with:

FIRST CHARGE WHEN ON ACTIVE SERVICE,WHEN A SOLDIER ACTING AS SENTINEL
Sec 6(2)(e) SLEEPING ON HIS POST,
Army Act

in that he,

in the Field, in Italy, at approx 0400 hrs 28 JAN 45, when sentry at the A & Q Bldg,Rear HQ, I Cdn Inf Div, was asleep.

SECOND CHARGE WHEN ON ACTIVE SERVICE,WHEN A SOLDIER ACTING AS SENTINEL
(Alternative) LEAVING HIS POST BEFORE HE WAS REGULARLY RELIEVED,
Sec 6(2)(h)
Army Act

in that he,

in the Field, in Italy, between approx 0200 hrs 28 JAN 45 and approx 0400 hrs 28 JAN 45, after being posted as a sentry at the A & Q Bldg,Rear HQ,I Cdn Inf Div,left his post without having been regularly relieved.

In the Field
2 FEB 45

(D.G. Drummond-Young)Major
Camp Commandant,
HQ,I Cdn Inf Div

TO BE TRIED BY FIELD GENERAL COURT MARTIAL.

In the Fd
4 FEB 45

(W.L.Coke)Col.
ADMS I Cdn Inf Div

from

FIELD GENERAL COURT-MARTIAL

CFA55 (In lieu of AFAS) 40-FA&R-1697 (2449)

(Whether the accused to be tried is under his comd or not, a FGCM may on application to him be convened by any offr of Cdn Army Overseas, or of any other force if authorized in law, in immediate comd of troops on active service, subject to RP 105(C) and restrictions imposed by appropriate authy. AA 49, 50, RP 104-107, 114. As to the duties and privileges of the Convening Offr in dealing with the application see MML Chap V paras 20 and 23. RP 87(B).

There should be a separate Convening Order for each person to be tried separately by the same Court. RP 71(C), 109. As to separate charge sheets see RP 62, and as to separate trial on charges in the same charge sheet see RP 108. As to two or more accused charged jointly see RP 16, 109.

As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

ACCUSED.

Number.	(a) Prmnt R.	(b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
B-51810	Pte		Joseph Marcel	GUERTIN	No.I Cdn Inf Div Def & Empl Pl

CONVENING ORDER.

1. Whereas complaint has been made to me, the undersigned, that the person(s) named above as the accused, being subject to military law, has ~~(have)~~ committed the offence(s) set forth in the Charge Sheet(s) attached and on (date) 4 FEB 45 endorsed by me, ~~(or by an offr of my staff for me)~~, "To be tried by Field General Court-Martial".

2. And whereas I am of opinion that it is not practicable that such offence(s) should be tried by an ordinary General Court-Martial; ~~(and that it is not practicable to delay the trial for reference to a superior qualified offr.)~~ (Delete part in brackets when not required for compliance with RP 105(C).)

3. I hereby convene a Field General Court-Martial to try the said person(s), and to consist of the Offrs appointed or detailed hereunder.

~~4. I am unable to appoint (a) three Offrs to form the Court, (b) a Fd Offr as President, for the reasons I have attached hereto.~~ (AA 49, RP 106(3), 107(A). Delete the whole or part, if not applicable.)

~~5. I also appoint as Judge-Advocate thereat the Offr mentioned hereunder.~~ (RP 106(E). Delete, if none appointed.)

PRESIDENT.

(Rank.)		(Must be named. RP 106.)	(Unit.)
Major	F.W. McEwen		I CIB W/S RCEME

MEMBERS.

(Rank.)		(Named or detailed. RP 106.)	(Unit.)
Capt	W.L. Carroll		I CIB Coy RCASC
Lt	D. Hickson		Sigs I Cdn Div

WAITING MEMBER.

(Rank.)		(Named or detailed, if any. RP 106.)	(Unit.)

JUDGE-ADVOCATE.

(Rank.)		(Must be named, if any. RP 106.)	(Unit.)
	N/A		

On Active Service in the Fd

in Italy (Country.)

Date 4 FEB 45

Signature (RP 105 fn 2.) Col (Rank.)

W.I. Cooke

Commanding ADMS I Cdn Inf Div Convening Officer.

CONVENING OFFR WILL INITIAL ALL DELETIONS AND ALTERATIONS

(See overleaf for notes and notes for use on trial.)

MEDICAL OFFICER'S CERTIFICATE
(KR(Can)para 557)

I CERTIFY that I have this morning examined No.B-51810 Pte.Joseph Marcel GUERTIN,HQ I Cdn Inf Div Def & Emp Pl, and in my opinion he is fit/unfit to undergo trial by Court-Martial.

In the Field
5 FEB 45

J.B. Brook Capt.
Medical Officer
HQ I Cdn Inf Div
(Unit)

P1

B 54810 PTE JOSEPH MARCEL GUERTIN

COURT DULY SWORN IN

CONVENING ORDER READ

CHARGE SHEET READ — NO OBJECTIONS TO CHARGE

NO OPENING ADDRESS BY PROSECUTOR.

{ F 88438 PTE. McMULLIN T.W.
M 51402 a/CPL. HUGHES, E.J.

F-88438 PTE McMULLIN T.W. Sworn Stokes

PROS Do you know what you are here for.

WITNESS Yes Sir

PROS Do you recognize the accused

WITNESS Yes Sir (pointing to the accused)

PROS Will you tell what you know of the charge concerning the charge on your own words.

WITNESS At approx. 0400h CPL HUGHES told me to be at the A.A.C. building to [illegible] relieving Pte Guertin. When I went about Pte Guertin was not at the gate so I went to the building and looked around. I did not see Pte Guertin, I could not find him. I then told Cpl. Hughes.

Cpl. Hughes that he was sick and
passed me his tommy gun & I
went in the building and they walked
away. Earlier in the day Pte Smith
told me he was not feeling well.

Pros. What was the date of the 24th hrs?

Witness It was 28 Jan 1945 Sir

Pros. Was it the "A-O" building Roermond

Witness Yes Sir

Pros. Did you go into "A-O" yourself & see
Pte Smith by Cpl Hughes. you told to go & check for

Witness No. Cpl. Hughes sent me.

Pros How many minutes was it you were in
the house

Witness I don't think I was one minute

Pros. Did you get an answer from the accused

Witness No Sir

Pros "The early afternoon" on which the accused
complained of being sick was what day

Witness 27 Jan 1945

Pros. Just what do you do when you go on duty at the A.T.S. building

Wit. ~~Very seldom~~ Stop people coming & going patrol the area around building watch jeep. We seldom stay in the same spot.

Def. ~~Before you started to~~ There are many places you could post Pte Guertin in the area on duty is that correct.

Wit. yes Sir.

Def. Did Pte Guertin look the type ~~yes~~ yes he looked alright but the night was dark.

Def. ~~In~~ the normal procedure to pass the Gun to the next relief.

Witness. The Cpl of the Guard take over from the Gun Crew. He ~~had~~ passed over his shoulder ~~pass~~ then patrol around

Def. Did you say at that particular time

Witness. No he was talking to Cpl Hughes.

End of cross examination by defence. Witness to be

PROSECUTOR (4) Like you described to me
Divorced
Area in question.
WITNESS Building enclosed by fence. Gate at the front
17 premises.
PROS Was there any gate — one sir.
PROS Any steps in front there — yes sir
PROS How long since you had changing guards on the
did not know but it was a long time.

Def drawings rejected on grounds that they were the idea and drawings of the prosecutor only. and not of the witness

Court Any questions for the Court.

Answer RP 83(B) Complied with
EXIT of FIRST WITNESS

Second Witness Sworn Shaken
F 31403 L/CPL HUGHES

PROS Do you see the accused in the dock.
CPL. HUGHES WITNESS Yes
Does Cpl of the guard on the night of
the 27th/28th Jan I took Pte Sweeten to
his place of guard at the H46 "building
His hour of duty was from 8.00 hr to 0400 hr
Between 0345 hr & 0400 hr I took Pte Sweeten to
to relieve the Guard as I could see nobody there. The
relief and I went up & down also we did not find the
Guards at the gate and the McGuillen called the Guard

the building of he did not answer. I went over to [illegible] and found him asleep. I had to shake him to make him open his eyes. I told him it was a pity when his answers did not seem satisfactory to me and threatened to report the matter to higher authorities in the morning.

Pros. Do you understand the seriousness of the charge against the accused.

Witness Yes

Pros. Do you also understand that your evidence that a while ago during your evidence that the accused was sleeping before you.

Witness Yes

Defender

Def. How long have you known the accused

Witness Since last Oct the 1st NOU

Def. He had been used to wards of a Guard before?

Wit. Yes Sir

Def. What is the duty of a sentry?

Wit. To challenge & identify all persons taken

(6)

the W & O. building that night.

Def. Were there any other duties such as look after the jeep

Wit. Yes to make sure they had authority to take jeeps out.

Def Would you consider it part of his duty to be down in the area

Wit Yes it was part of his duty

Def He could have been there and still on duty

Wit Yes Sir

Def In a sworn statement in front of accused you stated you "I looked around with Pte Rachuliss"

Wit We looked around the area of Depots Pte Rachuliss went inside and called Pte Guenter but received no answer. Next time I the jeeps out found Pte Guenter

Question

Def Had it been reported to you that Pte Guenter was sick.

Wit Just previous to going on guard Pte Guenter said he had a bad ache.

Def During your tour of duty did you visit the jeeps during the night

(7)

Wit: To her

Re-Examines Leon

PROSECUTOR

Prosecutor Where is the entry supposed to be?

Wit: Am. at the front of gate when he can challenge everybody.

Court And he took off he could be relieved of his duty

WIT: No.

COURT Did Pltff Mr. Mullen call loudly for Pte Gwada

No

At what time digitally did he enter J Headed

Just on his way to leave the home

at approx. 0145 hr. & 0155 hr.

RP 83(B) Complied with Leon

COURT ADJOURNED 5 MINS

PROSECUTION IS CLOSED

DEFENCE

Desmond

Drink to present to court that the

has failed to submit evidence to convict the accused

that there is no evidence of improper

conduct or negligence on the accused part

Accused

although he did go to the "O.R.C." building and come back from it must have sat the Cpl of the guard and received from the accused the weapon which is used for the defence. A the building report. The witness stated that the grounds of the duties could take him anywhere within the perimeter of the "O.R.C." building. The time has been stated by the witness was but a minute, no more than. Draught of your Honour, I respectfully submit that the accused was fulfilling his function as a guard moving from place to place within his post.

With regard to the second witness statement it will be noted please that the accused had complained prior to his tour of duty as suffering from a headache. It is suggested by the members of the court that he endeavoured to carry out his tour of duty under the circumstances rather than have a replacement who would have to do double duty, that he went on duty respectively.

I do suggest to the court further, that it was not the intent of Pte. Guerin was relieved and the weapon turned over properly to his relief as either inconceivable for the Cpl of the guard to state that the accused was asleep and had to shake it be awakened

Mr President & members of the court, a man awaking from his sleep and charging guard take

(7)

takes more than one minute

I submit Mr President — (pointing to the) that with regard to charge no. 2 the attitude of the Court is regularly defined and must be found not guilty of that charge. In regard to charge no. I myself can hardly see it in your opinion. I suggest that consume the time he was asleep. It was result of his headache.

Prosecutor

If you look at AA. sec 6 footnote 2 Page 430 you will find the said marking of post or sentinel.

The duty of a sentry is to be on his post at all times and to be attentive at all times. The Cpl. of the guard has testified that the post allotted to the sentry on the N.C.O. building was at the front where he could challenge everyone coming in. The sentry and the building was allowed only when he was outside leaving the front doorway for the purpose of challenging. In regard to the weapon given to the sentry the guard and the time to make his report. It is quite understandable to normally take

19/4 Jan

there is missing to make up. I should
more be surprised. I leave that to the Courts to
decide how long it would take for a man to be
his feet again.

As regard his sickness (headache & the day
before) It is a definite rule in the army that
a doctor must decide if the is sick or not and
have the privilege to be present at the mo. at all
times if they feel that their health will not permit
them to carry on with their duties.

Therefore with for no consideration do I
understand how a sentry can be fulfilling
the duty of a sentry at the same time be in
asleep.

Ken

In Defence (11)
PTE GUERIN STATES
Accused Sworn

I am B-51810 Pte Guerin J.M 8/10th Inf. Bn. attached to Def. & Employment Platoon Home Secty. On the morning of the 28 Jan 1945 I was awakened at approx 0745 hrs. by L/Cpl. Hughes to do my turn of duty. I immediately got up, dressed and was conducted to my place of duty by L/Cpl. Hughes. On being taken to my place of duty I told L/Cpl. Hughes that I was sick with a bad ache. Arriving at my place of duty I took over as the #10 building I duly relieved the guard who was there and took over my post at approx 0750 hrs. As was my custom I made a round check of the area and then took my post at the main gate. At approx 0845 hrs I made a check in rear of the building and around the vehicles. As I was not feeling very well I sat in a Jeep close by the gate where I could observe all personal leaving or entering the gate. At approx 0850 hrs I observed L/Cpl. Hughes and Pte. Mc Millen who was my relief entering the gate. Pte Mc Millen immediately upon entering went straight up to the building and looked inside the door. Cpl. Hughes came over to the Jeep and laid a hand upon my shoulder.

I do not remember his exact words but
it sounded something like a "good shot." I
said I do not understand and Lt/Col. Hughes said
something to the effect that we would see about
it in the morning. In the meantime I had
got out of the Jeep and told Lt/Col. Hughes that
I was sick. I passed the guard weapon
to Pte. Prachuller and walked to billets
with Lt/Col. Hughes.

Defence - What is the length of your duty?

Wit. - 2 hours Sir.

Hay - What hours of duty were you on on the night?

" - 17-18 1945

Wit. - 0200 hrs. 0400 hrs Sir.

Def. - You have given your oath, were you drunk
or not asleep during your hours of
duty.

Wit. - I was not asleep Sir.

Witness

Presents

Upon examination by Court

Prosecutor - Have you had anything more or
previous disagreement with Lt/Col Hughes.

witness - Off the record, yes sir. We just never
agreed over anything. Lt/Col Hughes
could not see things my way and
I could not see things his way.

~~one day we were [illegible] but not to work~~

Pros. How far was the Jeep from the gate

Wit 10 feet

Pros When the MacMillen the guard commander arrived at the gate was it not proper to challenge them

Wit. As a rule we did not challenge them when we knew them.

Pros As a rule did you sit on the Jeep?

Wit. Yes Sir.

Pros. Would you wait until the Corporal came right up and touched you.

Wit. Not as a rule but that night we not feeling well.

Pros Can you give us a definite angle

Wit. One day we were breaking bricks. He did not like the way I was doing it afterward that day we took off our coats and had at it

RP 83(B) complied with

2ND WITNESS FOR DEFENSE (Rec)

H:16684 RSM ROCALE V. A. Sworn

Sworn ~~examination~~

The accused was with and attached to the home Scots for appx. 4 months in which time I was Comp Sgt-Major. I found him very satisfactory and a very willing soldier in that he was always neatly dressed and whenever asked to do a job - no matter what he had just finished or was doing he went to do it without any complaint that the job was going to be done properly.

NO FURTHER QUESTIONING BY THE DEFENSE OR PROSECUTOR

PROSECUTORS CLOSING ADDRESS

(ATTACHED)

Closing address.

Mr The President of The Court: —

1- In my opinion Sir, The Court has proved without doubt the charge of Sleeping on post against the accused.

2- First, what is a post? If the Court wish to consult Sec 6 of The Army Act footnote #2 + 7, It is well explained.

3- The witness has come and proved underoath that he found The accused asleep. This witness is a ranking ICO who has just done his duty without doubt. The accused was on a sentinel beat and was definitely found sound asleep Therefore the reason of The charge.

I conclude with respect to The Court.

H. Ogunsoy Lieut

Defence closing address (16) Stone

Mr Const Pres & Members. ~~The~~ the evidence produced by the accused ~~& the~~ ~~prosecution~~ and L/Cpl Hughes, has been no more and no less against Arthur. At no time has the prosecution produced any definite evidence in regard to the accused ~~Arthur is the one that~~ that. If the court is of the opinion that there is an element of doubt in their minds the accused must be given the benefit of the doubt and found not guilty.

Allen

P17

PLEA IN MITIGATION (E 3) form

Mr. President & Brethren, The privilege of
pieces of paper such as MFR 6 and MFR 296
only show the record of offences for which
and not the good deeds of the delinquent. I
bear that in mind in the mitigation of sentence
of punishment. Sometimes under exceptional
judgment and sometimes under exceptional
circumstances. I would ask the Court
for leniency in respect of the charges the R.S.M.
true character as it is said by the

Exhibit "A"

ARMY FORM B.296 (WAR).

Statement as to Character and Particulars of Service of Accused

(For Use at Trials by Field General Courts-Martial only)

Number.	Rank.	Name.	Regiment (or as the case may be).
B51810	Pte	GUERTIN, Joseph Honoré	H.Q. 1 CDN INF DIV DEPT EMP PLN

NOTE.—The Field Conduct Sheet is to be produced in Court with this statement but is not to be annexed to the proceedings. The numbers herein stated should correspond with the number of ENTRIES in the Field Conduct Sheet, prominence being given to the most serious offence in each entry. If the charge is for drunkenness or absence without leave, the entries for drunkenness or absence, as the case may be, should be stated separately. Any recognized special acts of gallantry or distinguished conduct recorded on the Field Conduct Sheet should also be inserted here.

1. The following is a fair and true summary of the entries in the Field Conduct Sheet of the accused, exclusive of convictions by a court martial or a civil court:—

For A.A.40	5	times.
For AA15(1) AWL	7	times.
For AA6 LEAVING POST	1	times.
For AA22(1) ESCAPING AA9 DISOBEYING COMMAND	1	times.

Date of first entry in Field Conduct Sheet 29 OCT 41

Date of last entry in Field Conduct Sheet 20 DEC 44

2. Previous convictions of the accused by a court martial or a civil court are set out in the Schedule overleaf.

*Strike out if not applicable.

*3. ~~The accused at the present time is under sentence for~~ ~~beginning on the~~ ~~day of~~ NIL

4. The accused has been awaiting trial on the present charges for ~~days in civil custody~~; and for NIL days in military custody, i.e., NIL days in open arrest, ~~days in close arrest~~ NIL of which NIL days were spent in hospital.

5. The present age of the accused is 23

6. The date of his attestation is 28 APR 41

7. The service which the accused is allowed to reckon is 3 YEARS 9 MONTHS

†State the military decorations (if any) held by accused.

8. The accused is in possession of C.V.S.M. & CLASP — 1943 STAR EFFICIENCY MEDAL

9. ~~(If the accused is a warrant officer or N.C.O.). The accused has served continuously~~ NIL without reduction, to the present date—

	Date of Promotion.
In the substantive rank of ~~NIL~~	
In the war substantive rank of	
In the acting rank of	

INSTRUCTION.—*If any matter in any of the above paragraphs cannot be completed from the regimental books the paragraph must be struck through.*

W's 88000/1602 20,000 8/44 81-4751. Forms/B.296/(War)/5

SCHEDULE OF CONVICTIONS BY A COURT-MARTIAL OR CIVIL COURT

*Description of Court by which tried.	Date and Place of Trial.	Charges upon which convicted.	Sentence of the Court.	Punishment remitted or sentence suspended.

I HEREBY CERTIFY that the foregoing particulars, which have been extracted from the regimental books in my custody, are correct to the best of my knowledge and belief.

Signed this second day of February 1945

CAMP COMDT HQ & COM DEV

No R51810 Name Guertin, M J | Sqn, Battery, or Company | 1 Cdn Corps Prot Unit | Corps (LORNE SCOTS) | Date of enlistment 26/4/41 | GC Badges | Service or Proficiency Pay | MFM 6 (AFB 122) 40/PAM/134 (34350)

Date of last entry in Company Conduct Sheet | No and date of last drunk Nil | Period not reckoning towards freedom from extra fine | Sheet No 2 | Signature OC Company, etc Major F H Chisholm | Character

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with same	By whom awarded	Remarks
				Sheet No.1 destroyed on completion of 6 months service 26/10/41					
Field	29/10/41	Pte		WOAS AWL 9 hrs 1 min AA 15 (1)	L/Cpl Parkenham M A	3 days CB	31/10/41	Major F H Chisholm	Forf 1 days pay FRsI(CAN) 149(1) (a)
Field	6/11/41	Pte		WOAS leaving his post or piquet without orders from 2345 hrs 6/11/41 until 0700 hrs 7/11/41 AA 6 (2) (f)	L/Cpl McGibbon Pte Gibbs H	28days FP	19/1/42	Major F H Chisholm	Forf 28 days Pay FRsI(CAN) 149 (b)
Field	21/2/42	Pte		WOAS improperly using a MD veh AA Sec 40	Cpl McNally L/Cpl Thrayds	Forf 28 days pay	24/2/42	Major F H Chisholm	FRsI (CAN) 149(1)(a)
Field	29/3/42	Pte		WOAS AWL 30 mins AA 15 (1)	Sgt Gollier E W L/Cpl Drew C W	4 days CB	30/3/42	Capt M S McAlpine	

(PTO)

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Field	1/4/42	Pte		WOAS absent from Guard inspection A S Sec 15 (1)	Cpl Sadler L/Cpl Drew C W	7 days CB	6/4/42	Capt M S McAlpine	

CERTIFIED TRUE COPY

(M S McAlpine) Capt
A/OC 1 Cdn Corps Protective Unit
(Lorne Scots)

MFM 6
(AFB 122)

No B51810 Name Guertin, H J | Sqn, Battery, or Company | 1 Cdn Corps Prot Unit Corps (Lorne Scots) | Date of enlistment 28/4/41 | GC Badges | Service or Proficiency Pay |

Date of last entry in Company Conduct Sheet 20 Oct 42 | No and date of last drunk NIL | Period not reckoning towards freedom from extra fine | Sheet No 3 | Signature OC Company, etc H E Doucet | Character

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Name of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Field	18/1/43	Pte		(1) WOAS AWL from 1400 hrs 18 Jan 43 to 1350 hrs 20 Jan 43 (1 day 23 hrs 50 mins) AA Sec 15 (1) (2) WOAS AWL from 1715 hrs 20 Jan 43 to 2045 hrs 22 Jan 43 (2 days 3 hrs 30 mins) AA Sec 15 (1) (3) WOAS when in lawful custody escaping, AA Sec 22.	Cpl Colwill Cpl Bowman Cpl Smith	14 days detention Forf 14 days pay FR&I 149 (1) (b)	27 Jan43	H E Doucet Major	Forf 6 days pay FR&I 149 (1) (a)

(PTO)

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order (Superseding with date)	By whom awarded	Remarks
Field	2/2/43	Pte		AA Sec 9(2) WOAS disobeyed a lawful command when ordered to get dressed to accompany superior officer to RAP replied "I am sorry but I refuse to obey that order".	Pte Duncan L/Cpl McCann	21 days FP	2/2/43 to be effective 9 Feb 43	Lt-col T E Snow RCR	Forf 21 days pay FRAI 149 (1)
Field	11/5/43	Pte		AA 40 Failing to get up at Rev CEM Armstrong and being late for parade		7 days CB	12 May 43	Capt F W B LeBlond	
Field	20 May 43	Pte		Sec 15(1) AA WOAS AWL from 1700 hrs 15 May to 2300 hrs 15 May absent 6 hrs.	Sgt Rupert Z	10 days FP 10 days Forf pay FRAI 149 (2)			
Field	24/10/43	Pte		WOAS absent without leave from 1700 hrs 24/10/43 until 0930 hrs 25/10/43. ~~AA Sec 15 (1)~~	11178 Sgt Erickson AG	1 day forf pay 28 days FP 28 days pay FRAI 149(2)		Major R C Irving	

No B51810 Name Guertin M J | Sqn, Battery, or Company | 1 Cdn Corps Prot Unit Corps (LORNE SCOTS) | Date of enlistment 28/4/41 | GC Badges | Service or Proficiency Pay | MFM 6 (AFB 122)

Date of last entry in Company Conduct Sheet | No and date of last drunk | Period not reckoning towards freedom from extra fine | Sheet No 4 | Signature OC Company, etc H E Doucet | Character

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Field	12/5/44	Pte		Sec 40 Prejudice etc.	C/QMS Connolly	28 days FF 28 days pay FM&I 149 (a)		Major Reynolds	
Field	29/10/44	Pte		WOAS conduct to the prejudice of good order and militarydiscipline in that he with B64982 Pte LeFage L/Cpl D F in the field at approx 2200 hrs 29 Oct 44 improperly and without authority used Cdn MD veh MC No.4868485 thereby occasioning damage to the said veh to the amount of £1-3-3d. AA Sec 40.	Cpl Knight K H Greenhill J W	Forf 28 days pay Under FM&I 149 (2) Pays damage amount of 11s 8d		(C E DesRosiers) Capt Camp Commandant Rear H.Q. 1 Cdn Inf Div	

(PTO)

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Field	20/12/44	Pte		ACAS neglect to the prejudice of good order and military discipline in that he at 0645 hrs 20 Dec 44 after being awakened by his Cpl neglected to get up. AA Sec 40	Cpl Woods H G	Forf 5 days pay under FR&I 149 (2). Total forf 5 days pay.	20 Dec 44	(C E DesRosiers) Capt Camp Commandant Rear HQ 1 Cdn Inf Div	

CERTIFIED TRUE COPY

(D G Drummond-Young) Major
Camp Commandant
Headquarters 1 Cdn Inf Div

2 Witnesses

officer having custody of the original

Summary of evidence in the case of B51610 Pte GUERTIN, Joseph Marcel, Hq 1 Cdn Inf Div Def and Emp Pl Canadian Army Overseas, Central Mediterranean Forces.

The Commanding Officer directs that this summary by taken on oath.

1st Witness

F - 88435 Pte McMullin, J W having been duly sworn states;

I am F-88435 Pte McMullin, J W, Hq 1 Cdn Inf Div Def and Emp Pl. On the 26 Jan 45, at approximately 0400 hrs, I was conducted to my place of duty, this place being the A & Q building, by the Cpl of the guard. I was to relieve Pte Guertin, the accused. At first, when I arrived, I did not see Pte Guertin, and entered the building in search of him. When I came out of the said building Pte Guertin was outside telling L/Cpl Hughes that he was sick. On the afternoon of 27 Jan 45, Pte Guertin had told me that he was not feeling very well at the time.

Question by the accused — When you came to relieve me would you say that you came in search of me or was it usual that the guard stood inside the building?

Answer — I did not search particularly for you. It was usual for the guard to stand inside the building on account of the weather.

Question — If you did not find the guard inside the building would you say that it was unusual or might he not be outside checking vehicles or making a check around the building?

Answer — No, it would not be unusual and furthermore it is quite correct that the guard might have been checking vehicles or walking around the building checking the area.

Question — When you first met me did you notice anything out of place or wrong with me?

Answer — No, you passed me the Tommy gun and were talking with L/Cpl Hughes.

F.88435 Pte J.W. McMullin

F88435 Pte McMullin, J W

2nd Witness

F31403 L/Cpl Hughes, E J having been duly sworn states:

I am F31403 L/Cpl Hughes, E J, Hq 1 Cdn Inf Div Def and Emp Pl. On the night of 27 - 28 Jan 45 I was Cpl of the guard at Rear Hq 1 Cdn Inf Div. At approximately 0200 hrs I took Pte Guertin to his place of duty at the A & Q building at Rear Div Hq. His tour of duty was from 0200 hrs 26 Jan 45 to 0400 hrs 26 Jan 45.

Between 0345 hrs and 0400 hrs I took Pte Guertin's relief, Pte McMullin to the A & Q building, but when we arrived there no guard was to be seen. I looked around with Pte McMullin. Pte McMullin went to the door of the A & Q building and called Pte Guertin, the accused, but nobody answered. There were some jeeps around and I went over to them to look for Pte Guertin. I found him sound asleep in one of them and had to shake him to wake him up. After telling him it was a poor show, his answer to me was not satisfactory so I reported the facts to higher authority on the same morning.

Question by the accused — Previous to my tour of duty did I say anything to you pertaining to myself?

Answer — You said something about a headache.

Question — During my tour of duty did you visit my post?

Answer — No.

Question by the Officer taking summary — In your opinion was the accused asleep or sick when you found him in the jeep?

Answer — In my opinion he was asleep.

Question — Could you swear that he was asleep?

Answer — Yes.

F/14028 Cpl Hughes, R J
F/14028 L/Cpl Hughes, R J

The accused was cautioned "Do you wish to make any statement or to give evidence upon oath? You are not obliged to say anything or give evidence unless you wish to do so, but whatever you say or any evidence you give will be taken down in writing and may be given in evidence."

The accused reserved his defence.

Certified that Rules of Procedure 4 (c) (d) (e) and (f) have been complied with.

Taken down by me in the presence and hearing of the accused this 1st day of February 1945.

(J E Beauvais) Lieut
RAOC
H Q 1 Cdn Inf Div

1 Feb 45
In the Field

IN THE CASE OF NO.B-51810 Pte. GUERTIN,M.J.,Lorne Scots att.
HQ I Cdn Inf Div

A. LIST OF WITNESSES

For Prosecution

1. F-88438 Pte. McMullin,J.W. Lorne Scots att HQ I Cdn Div
2. F-31403 L/Cpl.Hughes,E.J. "

For Defence - NIL

. . . . . .

B. LIST OF EXHIBITS - NIL

. . . . . .

C. RECEIPT BY ACCUSED

I acknowledge that I was given, free of charge, a copy of the Charge Sheet and Summary of Evidence in my case at 2150 hrs this 2nd day of February, 1945.

B-51810 M.J. Guertin
(Signature of accused)

. . . . . .

D. REQUEST FOR DEFENDING OFFICER

If I am to be tried by Court-Martial, I request that a Defending Officer be appointed to represent me at my trial. I prefer the services of Capt. C. Pearson if available.

2 FEB 45 B-51810 Pte Guertin M.J.
(Signature of accused)

UU-25
PTE GUERTIN U.

UK-25

Correspondence to be PINNED here.

Army Form A.3.

Form for Assembly and Proceedings of Field General Court Martial on Active Service.

PROCEEDINGS.

A.

Order convening the Court.

On Active Service, this 8th day of October, 1943.

Whereas it appears to me, the undersigned, an officer in Command of Hq 2 Cdn Corps Tps, R.C.A.S.C.

, on active service, that the persons named in the annexed Schedule, being subject to Military Law, have committed the offences in the said Schedule mentioned.

And whereas I am of opinion that it is not practicable that such offences should be tried by an ordinary General Court Martial; *[and that it is not practicable to delay the trial for the assembly of a superior qualified officer].

*Omit where Convening Officer is a Commanding Officer or is of Field Rank.

I hereby convene a Field General Court Martial to try the said persons, and to consist of the Officers appointed or detailed hereunder.

*[illegible]

*Omit if not applicable.

R Deau Wille Capt 18 Nov 43.

Nors.—The President must be named. The members and waiting members (if any) may be mentioned by name, or the number and ranks and the unit to which they belong may alone be named. In the latter event, the ranks, names, &c., of the members of the Court, as constituted, will be recorded on the proceedings.

President.

Rank.	Name.	Regiment.
Major	R L Mummery	2 Cdn MAC RCASC

Members.

Rank.	Name.	Regiment.
Captain	J S Rogers	3rd Cdn Corps Tps Coy RCASC
Lieutenant	W R Mead	3rd Cdn Corps Tps Cpy RCASC
Captain	G H Jermyn	Hq 2 Cdn Corps

J A

*Must be signed personally by the Officer actually in command at the time, and all alterations in the composition of the Court to be initialled by him.

*Signed [signature]

Commanding Hq 2 Cdn Corps Tps RCASC

Convening Officer.

SCHEDULE

Number, Rank (*a*), Name and Unit of Accused (*b*)	Offence charged	*Plea	Finding, and if Convicted, Sentence (*c*)	How dealt with by Confirming Officer (*d*)
C.21124 Pte Louis Napoleon Ulysse, GUERTIN 33 Cin Corps Tpe Coy RCASC	First Charge AA Sec 40 CONDUCT TO THE PRE/JUDICE OF GOOD ORDER AND MILITARY DIS/CIPLINE in that he refused to show his paybook to a military policeman.	N/A Guilty	Not Guilty	
	Second Charge AA Sec 8 (2) Using insubordinate language to his superior Officer.	N/A Guilty	Not Guilty	Note J.G.B. Para 3
	Third Charge In the Alternative AA Sec 40 CONDUCT TO THE PREJUDICE OF GOOD ORDER AND MILITARY DISCIPLINE in that he used improper language to his superior officer.	N/A Guilty	Not Guilty	
	Fourth Charge AA Sec 8 (2) Using insubordinate language to his superior officer.	N/A Guilty	Not Guilty Sgt Lt-Col Capt J.A.	

* Question to be asked of accused, if he pleads not guilty (R. of P. 39 (A)) :—
"Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity for preparing your defence ?"
Answer *(to be recorded on separate sheet if necessary)* :—

(Signed) ..... (Signed) .....

Commanding 2 Cdn C Tp RASC *President.*
Convening Officer (c)

(*a*) Appointment acting rank or acting appointment, if any, to be stated in brackets after the substantive rank.

(*b*) Unless unavoidable, not more than three names are to be entered on one form, and in serious cases one only.

(*c*) Recommendation to mercy, if any, to be inserted in this column.

(*d*) It is not necessary that the Confirming Officer should sign his name in this column. Initials are sufficient.

(*e*) Must be signed by the same Officer who signs on the first page, and all alterations in the first two columns of the Schedule to be initialled by him.

Evidence and Charge Sheets (if necessary) to be PINNED here.

B. Certificate of President as to proceedings.

I certify that the above Court assembled on the 5th day of October, and duly tried the persons named in the Schedule, and that the plea, finding, and sentence in the case of each such person were as stated in the third and fourth columns of that Schedule.

I also certify that :—

1. The members of the Court
2. The witnesses
*(3. The ~~Interpreter~~)
*(4. ~~The officers under instruction~~)

*Omit if not applicable.

were duly sworn.

Signed this 9th day of October 19 42.

J.G. Bernatchez Capt J.A.

President of the Court Martial.

C. Certificate in case of death sentences.

*See footnote (*b*) on page 762 M.M.L. 1929.

I certify that the terms of *A.C.I. 570 of 1918 have been complied with.

Signed this day of 19 .

President of the Court Martial.

D. Confirmation.

I have dealt with the findings and sentences in the manner stated in the last column of the Schedule, and, subject to what I have there stated, I hereby confirm the above findings and sentences.

*(I direct that the soldier named in the margin be not committed to prison or detention barrack until further orders.)

*To be omitted unless penal servitude, imprisonment or detention having been awarded, the Confirming Officer either has no authority to commit to prison or detention barrack, or, having such authority, recommends suppression.

Signed this day of 19 .

Confirming Officer.

Promulgated and extracts taken in the case of

(*a*) (Dated) ..... (Signed) .....

Promulgated and extracts taken in the case of

(Dated) ..... (Signed) .....

Promulgated and extracts taken in the case of

(Dated) ..... (Signed) .....

(*a*) When several cases are promulgated in one unit on the same day the Officer need only sign once.

(22079) W1.44179-850 50,000 2/42 A.R.E.W.Ltd. 42p-468

JAG BRANCH - REVIEW RECORD

C 21124 Pte Gunter L.N.W. Accused
33 C.C. Troops Coy RCASC

Remarks	Date
Trial in (Country) Eng	8 Oct
Charges 40	
Sentence Acquittal	8 Oct
Rec'd from CR at JAG Branch	12 Nov
To DW for ~~(pre)~~ (post) review	12 Nov
Recommendations by	
(1) Pass and record.	
(2) ~~Rev on Appellant's~~	
(3) Quash charge(s).	
(4)	
Retd to JAG Rev 1 by	
Passed to	
Passed to	
To AG 6 for	
Retd from AG 6 to JAG Rev 1	
Instrs by JAG Rev 1 on disposal	
Record to file Brief	18 Nov 43
Instrs completed by	

XI

SCHEDULE

Number, Rank (*a*), Name and Unit of Accused (*b*)	Offence charged	*Plea	Finding, and if Convicted, Sentence (*c*)	How dealt with by Confirming Officer (*d*)
	Fifth Charge In the alternative AA Sec 40 CONDUCT TO THE PREJUDICE OF GOOD ORDER AND MILITARY DISBIPLINE in that he used improper language to a superior officer. Sixth Charge AA Sec 8 (2) Striking his superior officer. Seventh Charge In the alternative AA Sec 40 CONDUCT TO THE PREJUDICE OF GOOD ORDER AND MILITARY DISCIPLINE in that he provoked a fight with his superior officer.	Not Guilty Not Guilty Not Guilty	Not Guilty Not Guilty Not Guilty Reduced to Ranks To be Severely Reprimanded and Fined £4	Reduced Reduced to Ranks

Correspondence to be PINNED here.

Army Form A.3.

Form for Assembly and Proceedings of Field General Court Martial on Active Service.

PROCEEDINGS.

A.

Order convening the Court.

On Active Service, this day of , 19 .

Whereas it appears to me, the undersigned, an officer in Command of , on active service, that the persons named in the annexed Schedule, being subject to Military Law, have committed the offences in the said Schedule mentioned.

And whereas I am of opinion that it is not practicable that such offences should be tried by an ordinary General Court Martial; * [and that it is not practicable to delay the trial for reference to a superior qualified officer.]

*Omit where Convening Officer is a Commanding Officer, or is of Field Rank.

I hereby convene a Field General Court Martial to try the said persons, and to consist of the Officers appointed or detailed hereunder.

*Omit if not applicable.

* [I am unable to appoint :—

*(1. Three Officers to form the Court.)

*(2. A Field Officer as President.)

for the following reasons, namely :—]

NOTE.—The President must be named. The members and waiting members

President.

"B" 1 Can

CHARGE SHEET

The accused C21124 Pte. Louis Napoleon Ulysse, Guertin, 33 Cdn. Corps Troops Coy R.C.A.S.C., a soldier of the Cdn. Army Overseas is charged with, when on active service.

FIRST CHARGE
A.A. SEC. 40 CONDUCT TO THE PREJUDICE OF GOOD ORDER AND MILITARY DISCIPLINE

in that he

In the Field at about 15:00 hours on the 26th day of September, 1943, refused to show his pay book to a military policeman, who was in the course of his duty, namely, M44999 Sgt. Matheson, D. of No.11 Provost Company.

SECOND CHARGE
A.A. SEC 8 (2) USING INSUBORDINATE LANGUAGE TO HIS SUPERIOR OFFICER

in that he

In the Field at about 15:00 hours on the 26th day of September 1943, used insubordinate language to his superior officer, M44999 Sgt. Matheson, D. of No.11 Provost Company, by calling him a "God damned rat."

THIRD CHARGE
IN THE ALTERNATIVE
A.A. SEC 40 CONDUCT TO THE PREJUDICE OF GOOD ORDER AND MILITARY DISCIPLINE

in that he

In the Field at about 15:00 hours on the 26th day of September 1943, used improper language to his superior officer, M44999 Sgt. Matheson, D., of No.11 Provost Company, by calling him a "God damned rat."

FOURTH CHARGE
A.A. SEC 8 (2) USING INSUBORDINATE LANGUAGE TO HIS SUPERIOR OFFICER

in that he

In the Field at about 22:35 hours on the 1st day of October 1943, used insubordinate language to his superior officer, M44999 Sgt. Matheson, D. of No.11 Provost Company, by saying "Well, you God damned rat, do you feel as tough as you did on Sunday? You rats always travel in pairs but you're alone tonight and I would like to see how tough you are."

FIFTH CHARGE
IN THE ALTERNATIVE
A.A.SEC 40

CONDUCT TO THE PREJUDICE OF GOOD ORDER AND MILITARY DISCIPLINE

in that he

In the Field at about 22:35 hours on the 1st day of October 1943, used improper language to his superior officer, M44999 Sgt. Matheson, D., of No. 11 Provost Company, by saying, "Well, you God damned rat, do you feel as tough as you did on Sunday? You rats always travel in pairs but you're alone tonight and I would like to see how tough you are,"

SIXTH CHARGE
A.A.SEC 8 (2)

STRIKING HIS SUPERIOR OFFICER

in that he

In the Field at about 22:35 hours on the 1st day of October 1943, struck his superior officer, M44999 Sgt. Matheson, D., of No.11 Provost Company.

SEVENTH CHARGE
IN THE ALTERNATIVE
A.A.SEC 40

CONDUCT TO THE PREJUDICE OF GOOD ORDER AND MILITARY DISCIPLINE

in that he

In the Field at about 22:35 hours on the 1st day of October 1943, provoked a fight with his superior officer, M44999 Sgt. Matheson, D., of No.11 Provost Company.

.....
(W.H. Copeland) Major
Commanding 33 Cdn Corps Troops Coy RCASC

TO BE TRIED BY FIELD GENERAL COURT MARTIAL

FIELD
4 Oct 43.

.....Lt. Col.
(J. C. Bisson)
COMMANDER
H.Q. 2 CDN. CORPS TPS., R.C.A.S.C.

7 Oct 43

"B"

MEDICAL OFFICER'S CERTIFICATE

I certify that No. C.21124, Pte. Guertin, L.N.U. of 33 Cdn. Corps Troops Coy., R.C.A.S.C. is fit to undergo trial by Court-Martial.

(J. Tanzman) Major
Medical Officer
HQ Comd 2 Corps Tps
R. C. A. S. C.

Station..... Fwd

Date... 8.Oct.43..

PAGE 1

Record of Proceedings of a Field General Court Martial

Held in the Field in England (Country) on 9 Oct 43 (Date) to try

Accused C-21124 (Number) Pte (Rank) Louis Napoleon Ulysses Everton (Christian Names) 33 Cdn Corps Tps Coy (Surname) RCASC (Unit)

	Rank	Name	Unit
President	Major	R. L. Mummery	2 Cdn MAC RCASC
Member	Capt	~~Capt~~ J. L. Rogers	24 Cdn Corps Tps Coy RCASC
Member	Lt	W. R. Mead	24 Cdn Corps Tps Coy RCASC
Judge Advocate (if any)	Capt	G.H. Jennings	HQ 2 Cdn Corps
Officers Under Instruction (if any)			
Prosecuting Officer	Capt.	A. C. Wicking	
Lawyer? Ans	No		
Defending Officer	Lt.	A. J. Legge	
Lawyer? Ans	No		

(The following procedure must actually be carried out)

1. The President produces the Convening Order, Charge Sheet(s) and Summary of Evidence. (Rs.P.17(E), 22(A)).

   (If a waiting member substituted, record is on separate sheet, initialled by the President and attached hereto). (For form of record see M.M.L. p.742 top).

2. The President, in closed court (R.P.22, fn 1) reads the Convening Order and the Charge Sheet(s) to the Members, and the Court satisfy themselves that it is properly convened (A.A.49; R.P.105) and constituted (A.A.49: Rs.P.106, 107), that the accused is (~~are~~) amenable to Military Law, and that each charge discloses an offence (Rs.P.23,108).

3. The accused is (~~are~~) brought before the Court and at 1430 hours the trial commences.

4. The Prosecuting Officer produces a Medical Certificate under K.R.(Can) 557 (See CMHQ Circular Letter 173) that the accused has ~~(have)~~ this ~~day~~ been examined and is (~~are~~) fit to undergo trial by Court Martial. The certificate is signed by the President and attached to the proceedings.

(Over)

~~5. President to accused:~~

Q - Do you object to _____ as interpreter?
A - _____ N.T.

The interpreter is duly sworn. (Form of oath on Page "D").

Q - Do you object to _____ as shorthand writer?
A - _____

~~The shorthand writer is duly sworn. (Form of oath on Page "D").~~

6. The Convening Order is read in the hearing of the accused. The names of the President and Members of the Court are read to the accused and they severally answer to their names (R.P.25).

7. President to accused:

Q - Do you object to be tried by me as President, or by any of the officers whose names you have heard read over?
A - No SIR

(If objection is made it is recorded on separate sheet, initialled by the President and attached hereto. (R.P.25). (For form of record see M.M.L. p. 742 Variation).

8. The President, Members, Judge-Advocate ~~and officers and/or Interpreter~~ are duly sworn (Rs.P.26, 27). (Forms of oath on page "D").

9. The Charge Sheet(s) ~~is~~ (are) signed by the President.

10. The Prosecuting Officer informs the Court that the accused ~~has~~ (has not) elected trial by Court Martial (A.A.46(8)).

(If special plea(s) is (are) made for separate trial on one or more charges (Rs.P.62(E), 108); or as to the jurisdiction of the Court (R.P.54); or in bar of trial (R.P.36); or as to accused's mental fitness to stand trial (A.A.130; R.P.57), such pleas and evidence (if any) are recorded on separate sheet(s), initialled by the President and attached hereto). (For form of record see M.M.L. p. 744, 745, Variations).

11. Each charge is read to the accused and he is asked as each charge is read whether he pleads guilty or not guilty (R.P.112). He pleads as follows:

First Charge NOT GUILTY
Second Charge NOT GUILTY
Third Charge NOT GUILTY
Fourth Charge NOT GUILTY
Fifth Charge NOT GUILTY
Sixth Charge NOT GUILTY
Seventh Charge NOT GUILTY
Eighth Charge N.T.

(For procedure on alternative charges, see R.P. 37(A) and fn. 2). (For form of record see M.M.L. p. 744 Instructions).

Further proceedings are recorded on pages _____ hereto attached.

PAGE 'B'

(For use when accused pleads "Not Guilty" to all charges)

(All printed matter not applicable to be struck out and all alterations, erasures and additions to be initialled by the President).

1. The accused is asked the question set out below the Schedule on p.2 of A.F.A.3 and his answer there recorded. (R.P.39(A)).

2. The Prosecutor's opening address (if any) (R.P.39(B)) and the evidence for the Prosecution are recorded on separate sheets, initialled by the President and attached hereto.

(See RECORD OF EVIDENCE on Page 'D')

3. The Prosecution is closed.

(If submission is made by Defence that no prima facie case has been established, such submission, Prosecutor's reply and decision of the Court are recorded on separate sheet, initialled by the President and attached hereto). (Rs.P.40, fn 1; 70, fn 1).

4. The accused is informed that he may, if he wishes give evidence but if he does so he will be liable to cross-examination (R.P.40, fn 2) or that he may, if he wishes, make an unsworn statement upon which he can not be cross-examined. (R.P.40(D) (ii) (a)).

5. President to accused:

Q - Do you apply to give evidence yourself as a witness?
A - YES SIR
Q - Do you intend to call any other witness in your defence?
A - YES SIR
Q - Is he a witness as to character only?
A - NO SIR

6. The evidence for the Defence (if any) is recorded on separate sheets, initialled by the President and attached hereto.

7. The closing addresses of the Prosecutor, Defending Officer and Judge-Advocate (if any) are recorded on separate sheets, initialled by the President and attached hereto. (For order of same see Rs.P.40,41,42).

8. The Court is closed to consider the finding(s). (Rs.P.43,44,117).

9. The finding(s) of the Court is (are) recorded on p.2 of A.F.A.3.

10. The Court being re-opened, the accused is again brought before it.

11.(A) (If finding(s) "Not Guilty" on all charges)

The finding(s) is (are) announced and the accused is released.

O R

~~(B) (If finding(s) "Not Guilty" on one or more charge(s) and finding(s) "Guilty" on one or more charge(s)).~~

~~The finding(s) of "Not Guilty" are announced and the President states "The finding(s) of the Court on the ____, ____, ____, ____, ____, ____ and ____ charge(s) being subject to confirmation, will be promulgated later".~~

O R

~~(C) (If finding(s) "Guilty" on all charges).~~

~~The President announces "The finding(s) of the Court being subject to confirmation, will be promulgated later".~~

(Over)

12. Statement of Character and Service (A.F.B.296 or M.F.B.355) and Field Conduct Sheet (M.F.M.6), signed in the manner required by A.A.163 (1) (h) and purporting to refer to the accused by his number, rank, name and Corps, are produced to the Court, read, marked " " and " ", signed by the President and attached to the proceedings. (R.P.46; Overseas R.O.3131).

13. President to accused:

Q - Do you wish to address the Court on your Statements of Character, Service and Conduct in further mitigation of punishment? (R.P.46(D)).

A - _____

(Address (if any) not on oath and on which accused is not subject to cross-examination is recorded on separate sheet, initialled by the President and attached hereto).

14. The President announces:

" The Court is closed for consideration of the sentence. The sentence to be awarded by the Court, being subject to confirmation, will not be announced but will be promulgated later and the proceedings in Open Court are accordingly terminated",

15. The Court is closed to consider the sentence.

16. The sentence is recorded, dated and signed by the President (R.P.50) on p.2 of A.F.A.3.

(Punishments, A.A.44; M.M.L. p.130-134; K.R.(Can)563-566; Overseas R.Os.309,2323).
(One sentence is awarded in respect of all offences,R.P.48).
(For form of sentence see M.M.L.p.756-759).

17.

_____
(Signature of President)

(2 Cdn Corps 15-6-45)

Gordon N. Jenny Jr Capt
J.A.

The defending officer objects to the 4th 5th 6th and 7th charges and quotes para 2 of fm 3 6 R.P. 13 in support of his objection

The court is closed to consider the objection

The court is re-opened and the accused is again brought before it.

The President announces that the objection is not allowed.

Opening address by Prosecuting Officer

The prosecution will prove by evidence that Pte Guertin on two separate occasions used insubordinate language to his superior officer and that on one occasion he struck his superior officer

First witness for Prosecution M-44999 Sgt Matheson, D. sworn states,

At approx 15.00 hrs on 26 Sep. self & Sgt Jr. Arthur of 11 Para Coy were standing at end of High St Woolwich watching a parade. A staff car pulled to the curb directly in front of us being blocked by the civilian policeman on point duty. The civilian police informed us there was a civilian passenger riding in an army vehicle. We immediately blocked and found it to be true. Sgt Jr. Arthur took particulars of the car and driver. I requested the civilian passenger for her identity card since the driver did not have a civilian drivers license. Both car doors were opened by accused and the civilian passenger came out onto the street they were about four feet away facing me. The civilian passenger opened her purse. He showed no objection to showing her identification. The accused reached over grabbing her purse saying that we had no right to ask her for it. I stated that we had since she was riding in a W.D. vehicle and I would obtain same if I had to take her to a civilian police station.

The accused said "you God damned rats you haven't even got an arm band on."

I replied that regardless of arm band we were duty bound to act if we saw anything wrong.

The accused then said "This is one time you won't eat. I'll teach you military law."

At this time Sgt Jr. Arthur was taking down particulars of the car and driver just a few feet from me.

I requested the accused to show me his pay book. I had ordered him not to interfere. He refused to show his pay book saying I had no authority as am referring to the arm band.

I asked him if he had read the instructions in his pay book. He just looked at me and said bad.

The civilian constable came over and requested the civilian passenger to show her identification which she did. The constable then advised the accused to produce his pay book. The accused handed his pay book to the constable who in turn handed it to me. I warned the accused that charges would be preferred.

The accused then warned me that the next time we met it would be me or him for it and then turned and walked away.

At about 22.35 hours on 1 Oct I entered the Tec H canteen in the course of my tour of duty to buy and find the driver of an unattended car in the park. I asked a general question if there was a driver in the room or if there was anyone who knew where the officer in charge of the vehicle might be found.

The accused spoke up saying. "Hello cat, do you think you've been tough today as you were Sunday" This was his first remarks.

I answered, "yes, but I don't see any need for that remark"

He said "you were generally heard in peace, now you are alone, will you come outside with me I'd like to see just how tough you are"

I answered that it wasn't in my line of duty to fight. That I had a duty to perform which I was trying to do.

The accused said he would get me no matter what I did. That he would wait for me.

I then warned him that if he made any effort to carry out his threat I would arrest him.

He replied that I had no authority to do same. He then asked me if I was going outside.

I answered that I was that I had had a purpose in entering the canteen and so far as I was concerned the purpose was fulfilled.

He said "alright we'll see how tough you are.

I walked to the door and again warned him. I opened the door and said all right if you are going out go ahead.

He asked "why are you afraid"

I said "I am not looking for a knife in the back" I said this because I was walking close behind me.

~~I asked~~

I got outside you go down a flight of about 12 steps. I followed the accused downstairs. I got on the side near the street and looking towards the alley line saw the accused. I then warned the accused a third time urging him not to make it tough for himself by forcing an issue.

The accused followed me to the street with his hands up in a sparring position. On reaching the street I stopped. The accused came near me. Hesitated for a moment or two and then I warned him he was under arrest. He said "all right let him pass" and he struck ~~me~~ me several times. I clinched with him and steadied to my protect

and to the civilian policeman who as I saw up the street.

A sgt and two women had us apart. I stated I was a military policeman and was effecting an arrest. The accused ran back with the civilian policeman and was effecting an arrest. The accused ran back with the Tor H. The civilian policeman and I entered the Tor H. we found the accused. I told him he was under arrest. He looked at me and laughed. I told him he was under arrest and he said "alright I will go with you" but will not go with that rat.

We escorted accused to the Barking Police station. I secured an escort and took accused to 11 Pro Coy. The accused requested to see an orderly officer. The duty officer came to the guard room. The accused needed to see a doctor. He said his arm had gone paralized. We took the accused to the doctor.

Cross-examined by defending Officer

On the 26th I was on the north side of the car. The civilian police report of his own accord.

On 1 Oct. I followed the accused from the Tor H.

Q. - At the summary of evidence did you not say "we both went outside he followed me"

A. - after we went down the steps I managed to get next to the street with the accused following me.

In the Tor H caution the accused addressed me as a rat, and refused to obey an order. I went outside to continue the duty I was on. It was not necessary to take particulars because I had taken them from him on the previous Sunday.

The accused went out the door first we went down the stairs at the foot of the stairs I got by him and next to the street. He followed me to the street.

R.P. § 3 (b) complied with

The witness withdrew.

Second witness for Prosecution H-5905 Sgt Mc Arthur, J. A. sworn states.

On 26 Sep. I was with Sgt Matheson when a W.D. vehicle stopped in front of us carrying a civilian passing us. A civilian policeman brought her to our notice. I checked the driver for his work ticket and civilian clearance slip. While I was doing this the lady passing us and the Guertin got out of the back seat. Sgt Matheson asked her for her identification. I was on the sidewalk. Sgt Matheson was to one side of me. The lady had started to open her handbag. P.O Guertin reached over and took the top of her handbag, closing it. He told us we were on duty and had us right to see her identification. Sgt Matheson told him we were on duty whether we had arm bands or not.

Sgt Matheson ordered accused to show his pay book. I was just a pace away facing the group.

he refused & do so. I turned and called the civilian policeman. He came over asked her for her credentials. PC Guertin also produced his ~~civilian~~ pay book & the civilian policeman who gave them to me. I started to copy their particulars. I do not remember the words that passed between Sgt Matheson and PC Guertin but they was enough to draw my attention. I turned round and stepped back on the sidewalk put my hand on PC Guertin arm and told him to question down. Sgt Matheson warned PC Guertin that a charge would be preferred against him. PC Guertin said something about why the damn prowels didn't keep their noses out of other people business when they weren't on duty. I gave back the documents. As I was leaving I said that next time I met either one of us it would be with him or us for it. I do not know the exact words used but I know the word ~~cat~~ was used.

Cross-examination

During the conversation between Matheson and Guertin I was about 3 feet away. I called on the civil policeman for assistance.

By the Court

The policeman was standing off at a distance. I ~~obtained~~ to him. Sgt Matheson beckoned to him.

R.P. § 3 (B) complied with.

The witness withdrawn.

Third Witness for Prosecution

P.C. Ramsay, Woking Constabulary sworn, states.

At about 8.30 p.m. on 18 Oct I was in the High St Woking in the vicinity of the Town Station. Sgt Matheson asked me to arrest a soldier for assault. I went into the station with Sgt Matheson and then I saw the accused hiding on a stairway. I told him the Sgt was charging him with assault and had asked for my assistance.

The accused took the names of one or two witnesses and then accompanied us to the police station.

~~I duly to~~

Cross-examined

Guertin behaved very well while I was there.

R.P. § 3 (A) complied with

The witness withdrawn

The Prosecution is closed

Bericht über die Kämpfe der Kampfgruppe

C 2 11 14 Kp Kamin N U Einheiten, unsere Stelle,

Lage in der Nacht vom 14. zum 15. Oktober

Am 14. Oktober 1944 wurde der Kampfgruppe Oberstleutnant [illegible] der Befehl über die Kampfgruppe [illegible] übertragen. Die Kampfgruppe [illegible] hatte den Auftrag, [illegible] zu halten

I was not warned that I would be placed under arrest.

I fell down the stairs I don't think I touched them. ~~Any body in the~~ Any body in the canteen could see the push. The door opens right at the head of the stairs. The stairs was 8 or 9 feet.

I did not run back into the canteen nor did I hide under the stairs. I went back into the canteen to wash the blood off my face. I did this in the mens lavatory. I was going upstairs when the policeman was called in.

By the Court

I am well known in the Tec H. There was 7 or 8 people there. The civilian ~~I~~ requested by T Matheson to call the civilian police over to us at the car. This was on the first incident
R.P. § 3 (B) complied with.
The witness withdrawn.

Second Witness for defence

Percy Hubert Hambleton, sworn states

I am employed by P.C. Everton. On 26 Sep. there was a procession. We stopped in climbing High St. The Provost Sgt asked the driver for the work ticket. P.C. Everton and I got out of the car. He went to help me. The Sgt. restrained him. He pushed him very slightly. The Sgt. asked me for my identification card. P.C. Everton said I should not show my card to them as they weren't on duty and that a civilian policeman should be called. He did not touch one and I took my pass. There was no profanity. I did not hear P.C. Everton call Sgt Matheson a God damned rat. Sgt Matheson asked P.C. Everton for his pay book. P.C. Everton did not refuse to show it. He showed it to the provost at the same time I showed my identity card to the civilian police.

Cross-examined

P.C. Everton did not restrain me from showing my identity card. The Provost did not ask P.C. Everton for his pay book before the civilian policeman was there. The Provost Sgt pushed P.C. Everton who lost his balance and fell back against the car. I was close enough to hear all the conversation. P.C. Everton did not challenge the Provost to a fight. ?

By the Court

The Provost Sgt or one of them called over the civilian policeman or signalled to him in some way. Sgt Matheson was very abrupt.
R.P. § 3 (6) complied with.
The witness withdrawn.

Third Witness for Defence

B-9015 36 PC Hedgeman, H. B. sworn states

A week ago Sunday I was down town in Sterling watching the Battle of ~~Trafalgar~~ Britain Parade. I was on my way back to Coy H.Q. with Cpl Duffy. When I saw this car being stopped by the two provosts. I saw provost apparently ordered Guertin out of the car and after speaking to him for a few minutes took him by the arms and directed him to the sidewalk. They were talking there for perhaps a while. I was about 5 or 6 feet away I could hear the conversation. I heard one provost say something about the girls identification card. Guertin told them he thought they ought to get the civilian police. I saw Guertin hand over his pay book to the civilian police. I did not at any time hear Guertin refuse to hand over his pay book. I did not see Guertin reach over and put his hand on the girls hand bag.

Cross-examination

I saw the car just as it stopped. I did not see the Provost push Guertin I did not see him fall against the car. I did not hear Guertin curse or swear at the Provost.

R.P. §3(b) complied with.

The witness withdrawn

Fourth Witness for Defence

B-941149 Cpl Duffy H.F. sworn states

I saw car stop. Guertin opened door and got out. Provost grabbed him by the arm. They stood there talking for a few minutes about the girls identification P.C. Guertin stopped the girl may lady from showing her identification by saying "you'll have to get the civilian police. I couldn't hear anything else what was said. Guertin showed his pay book to the Provost before the civilian Policeman got there. The Provost seemed very snotty

Cross-examination

I was paying attention. I did not see ~~Guertin~~ the Provost push Guertin. I saw P.C. Guertin show his pay book to the Provost before the civilian policeman was there.

RP §3(b) complied with

The witness withdrawn.

Fourth Witness for defence

128935 Pte Lawrence D.P. (A.T.S.) sworn states

I was sitting in the canteen. The accused came in and we started talking. The Provost sgt entered and questioned the two boys on the whereabouts of some officer. The accused and the sgt. turned away and entered into conversation. I heard very little of what was said. They seemed to be in argument until just at the end when it got a little heated. Both boys then went to the door. The couldn't seem to make their mind up who went to the door. The sgt made the Pte go down should go down first. In the end the Provost sgt made the Pte go down first. I took no notice until the accused came back looking as if he had been in a fight. The Provosts attitude was a little officious. The Provost sgt put his hand on Pte Everton's shoulder and more or less pushed him down.

Cross examination

I just saw his hand on his shoulder and the Pte went. I did not hear the accused swear at the sgt. The sgt. did not make a general statement to the audience before speaking to Pte Everton. Their voices were moderate. I heard a clatter of feet as they went downstairs. When Everton returned there was blood on his face.

RP. § 3 (h) complied with

The witness withdrawn.

Sixth Witness for defence

W 67320 Pte Smith. J. (ATS) sworn states

Was at canteen. accused was there. Provost came in looking as though he was looking for trouble. I did not hear any quarrel or any moment. Then they went to the door. The sgt put his hand on the pte shoulder and forced him down the steps. The pushed the canteen to one side. They had been standing at the door about ten minutes. Everton behaved quite naturally. I did not hear the conversation.

Cross examination

I did not say I would swear to anything for Everton I have only spoken to him twice.

By the Court.

The sgt. seemed to be in a temper he looked as if he wanted to quarrel with someone. The sgt started speaking to Everton first. He put his hand on Everton shoulder. I heard a rumble as ~~of somebody being pushed downstairs~~ of someone had slipped downstairs.

RP § 3(h) complied with

The witness withdrawn.

Seventh Witness for the Defence

64928 Pte Hawley, D.P. (A.T.S.) sworn states.

I was playing table tennis. The sgt provost came in. I heard very little of the conversation. As far as I know he just spoke to the pte. I did not hear any of the argument at all. The sgt put his hand on the ptes shoulder as-bing him to go down the steps. We didn't see anything of the fight. About ten minutes later the pte came back in again. The sgt came in a few seconds afterwards with the Egyptian policeman. The ptes voice was normal. The sgts was just a little bit up. The sgt seemed a little bit agitated. The sgt didn't do anything for about five minutes then he spoke to the pte. The sgt put his hand on the ptes shoulder and asked him to go down stairs. He made him go down stairs.

Cross examination

I wasn't paying particular attention but I did see the sgt push the pte downstairs.

By the Court

They stood at the door a matter of seconds. The door was open. The sgt pushed him downstairs. There was a slight scuffle. It was the sound of somebody falling downstairs.

RP §3(b) complied with

The witness withdrew.

The defence is Closed.

Defending Officers Closing Address

There is no clear evidence of refusal to produce pay book. It came out that he did in fact produce his pay book. None of the defence witnesses heard any violent language. The prosecution evidence is now to clear as to what did actually happen.

On the night of 28/3/44 we have Sgt Matheson who says the Guerton provoked a fight. There were three A.T.S. also who heard no violent language. After being pushed downstairs Guerton grappled with the Sgt. purely in self defence. It seems to me that in the case the sgt. exceeds the previous days brutality. If all this violent language was used the sgt. should have arrested Guerton on the spot but he did not do so.

The Prosecuting Officer declined to make a closing address.

In the opinion of the Court and the Judge Advocate no summing up is required by the Judge Advocate.

J. Cumming Major
Pros.

SUMMARY OF EVIDENCE

In the case of C 21124 Pte Guertin, Louis Napoleon Ulysse, 33 Cdn Corps Troops Coy RCASC., a soldier of the Canadian Army Overseas.

By the direction of the Officer Commanding the evidence is taken on oath.

FIRST WITNESS Prosecution (1) M44999 Sgt. Matheson, D., of No.11. Provost Company

The evidence of M44999 Sgt. Matheson, D., of No. 11 Provost Company, consists of two typewritten statements, marked Exhibits 1 and 2 respectively, purporting to be signed by him. I hereby certify that on account of the expense and loss of time involved the attendance of this witness cannot readily be procurred. The accused stated that he did not wish to cross-examine this witness.

(M.I. Friedman) Lieut
Officer Taking the Summary of Evidence

SECOND WITNESS Prosecution (2) H59058 Sgt. McArthur, J.A. of No.11 Provost Company,

The evidence of H59058 Sgt. McArthur J.A., of No. 11 Provost Company, consists of a typewritten statement, Exhibit I, purporting to have been signed by him. I hereby certify that on account of the expense and loss of time involved the attendance of this witness cannot readily be procurred. The accused stated that he did not wish to cross-examine this witness.

(M.I. Friedman) Lieut
Officer Taking the Summary of Evidence

THIRD WITNESS Prosecution

H37497 Pte. Workman, T.A., 1st Cdn. Army H.Q., M. T. Company, having been duly sworn, states:

"I am H37497 Pte. T.A. Workman of 1st Cdn. Army H.Q., M.T. Coy. At about 15:00 hours on 26 Sept. 43, I was driving a W.D. Ford Station Wagon in Dorking. I had as passengers, the accused, whom I now recognize, and his lady friend. I was giving them a lift from Homewood to Dorking. Two Provost Sergeants stopped me and asked for my civilian release, paybook and work ticket. The accused and the girl got out of the car and they asked her for her Identity Card. There was talking between one Sergeant and the accused but I didn't hear it as the other Sergeant was questioning me at that time. A civilian policeman came over and the Provost I noticed, then had the Identity Card. I showed the Provost my pay book. I didn't hear the accused asked for his but I

noticed the Provost examining it. I didn't hear the accused use any foul language or swear at the Provost Sergeant but they were a little distance from the car and I cannot swear that he did not use improper language. I did not hear him call the Provost a God damned rat or challenge him to fight. I heard nothing of what went on as I was too busy looking for a civilian release except the request by the Provost to see the girl's Identity Card and the accused say he wanted to know if she was obliged toshow it to the military police or just the civil police.

Cross-Examination by the Accused.

Q. Are you sure I objected to her showing her Identity Card?

A. There was no objection. You just asked in a civil tone if the military police had the right to ask a civilian for it.

"Pte. Workman, T.A."
H. 37497 Pte. Workman, T.A.

The accused was duly warned pursuant to R.P. 4E as follows:

Q. "Do you wish to make any statement or to give evidence upon oath? You are not obliged to say anything or give evidence unless you wish to do so, but whatever you say or any evidence you give will be taken down in writing and may be given in evidence."

A. "I don't wish to say anything at this time."

I hereby certify that the foregoing Summary of Evidence consisting of two pages was taken down in writing in the presence and hearing of the accused at H.Q. 33 C.C.T. Coy., R.C.A.S.C. and H.Q. 1st Cdn. Army, M.T. Coy., this 4th and 5th days of October, 1943, and that R.P. 4 (C)(D)(E)(F)(G) was complied with.

M. I. Friedman, Lieut.
Officer taking Summary.
of Evidence.

I desire the Convening Officer to appoint an officer to appear in my defence at my forthcoming F.G.C.M.

C21127 Pte. Cuertin, L.N.U.

D Rem

Statement Of Character

This is to certify that C21124 Pte. Guertin, L.N.U. has been employed in my Platoon since April 1943 and that he, in in my opinion, has made an honest endeauvour to reform and be a good soldier. His conduct up until his present difficulties has been exemplary. In performance of military duties he has been willing and has done good work.

Witnessed:
R.B. Oglesby
Lieut

(S.M.Adams) Lt.,
Officer i/c B Platoon
33 Cdn Corps Troops Coy RCASC

LIST OF EXHIBITS

Exhibit I - Statement of M-44999 Sgt. Matheson, D.
No.11 Provost Coy

and Statement of H-59058 Sgt, MacArthur, J.A.
No.11 Provost Coy

Exhibit II - Statement of M-44999 Sgt. Matheson, D.

Y 106

PTE GUERTIN. U.

See 123 S. for 1st Case.

Correspondence to be PINNED here.

A² G.H.Q. Corps Troops Reinforcement Y 106

Army Form A.8.

Form for Assembly and Proceedings of Field General Court Martial on Active Service.

PROCEEDINGS.

A.

On Active Service, this 4th day of January, 1943. Order convening the Court.

Whereas it appears to me, the undersigned, an officer in Command of R.C.A.S.C. 1 Canadian Corps, on active service, that the persons named in the annexed Schedule, being subject to Military Law, have committed the offences in the said Schedule mentioned.

And whereas I am of opinion that it is not practicable that such offences should be tried by an ordinary General Court Martial; *[and that it is not practicable to delay the trial for reference to a superior qualified officer.]

*Omit where Convening Officer is a Commanding Officer or is of Field Rank.

I hereby convene a Field General Court Martial to try the said persons, and to consist of the Officers appointed or detailed hereunder.

*[I am unable to appoint:—

*(1. Three Officers to form the Court.)

*(2. A Field Officer as President.)

for the following reasons, namely:—]

* Omit if not applicable.

4 Mat in Capt

2 Mar 43

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NOTE.—The President must be named. The members and waiting members (if any) may be mentioned by name, or the number and ranks and the unit to which they belong may alone be named. In the latter event, the ranks, names, &c., of the members of the court, as constituted, will be recorded on the proceedings.

President.

Rank.	Name.	Regiment.
Major	G.W. Craig	R.C.A. att'd 1 Cdn C.T. Amn Coy

Members.

Rank.	Name.	Regiment.
Captain	V.L. Marshall	61 Cdn Gen Tpt Coy
Lieutenant	A.H. McLellan	64 Cdn Gen Tpt Coy

* Must be signed personally by the Officer actually in command at the time, and all alterations in the composition of the Court to be initialled by him.

*Signed (W.V. McQueen) Colonel
Commanding R.C.A.S.C. 1 Cdn Corps

Convening

SCHEDULE.

Number, Rank (a), Name and Unit of Accused (b)	Offence charged	*Plea	Finding, and if Convicted, Sentence (c)	How dealt with by Confirming Officer (d)
C.21124 Private Ulysses Guertin 1 Cdn C.T. Sup Coy	1st Charge Sec. 28(4) A.A. 2nd Charge Sec. 28(4) A.A.	NOT GUILTY NOT GUILTY	Guilty on all charges, and he to undergo 14 days detention 4 Jan 43 Geo Leary Maj President	Confirmed M-C

" The Judge-Advocate-General, Canadian Army Overseas, having advised that the convictions upon both charges in these proceedings are invalid, I hereby direct that the record of the convictions on the said charges be and the same are hereby removed and the accused relieved of all consequences of his trial thereon.

(M.V. McQueen) Colonel,
R.C.A.S.C., 1 Cdn Corps.

In the Field
17 Feb 43

* Question to be asked of accused, if he pleads not guilty (R. of P. 39 (a)):—
"Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity for preparing your defence?"
Answer (*to be recorded on separate sheet if necessary*):— No

(Signed) (M.V. McQueen), Colonel,
Commanding R.C.A.S.C. 1 Cdn Corps
Convening Officer (e)

(Signed) G.W. Leary Major
RCA (attached for CMF Coy RCASC)
President.

(a) Appointment acting rank or acting appointment, if any, to be stated in brackets after the substantive rank.

(b) Unless unavoidable, not more than three names are to be entered on one form, and in serious cases one only.

(c) Recommendation to mercy, if any, to be inserted in this column.

(d) It is not necessary that the Confirming Officer should sign his name in this column. Initials are sufficient.

(e) Must be signed by the same Officer who signs on the first page, and all alterations in the first two columns of the Schedule to be initialled by him.

Evidence and Charge Sheets (if necessary) to be PINNED here.

B. Certificate of President as to proceedings.

I certify that the above Court assembled on the 4th day of January 43 and duly tried the persons named in the Schedule, and that the plea, finding, and sentence in the case of ~~each~~ such person were as stated in the third and fourth columns of that Schedule.

I also certify that :—

1. The members of the Court
2. The witnesses
*(3. ~~The interpreter~~) Nil
*(4. ~~The officers under instruction~~) Nil

were duly sworn.

* Omit if not applicable.

Signed this 4th day of January 1943.

G.W. Leary Major
President of the Court Martial.

C. Certificate in case of death sentences.

* See footnote (b) on page 742 M.M.L. 1929.

~~I certify that the terms of A.C.A. 39 (2) (a) have been complied with~~

~~Signed this 4th day of January 1943.~~

President of the Court Martial.

D. Confirmation.

I have dealt with the findings and sentences in the manner stated in the last column of the Schedule, and, subject to what I have there stated, I hereby confirm the above findings and sentences.

* To be omitted unless penal servitude, imprisonment or detention having been awarded, the Confirming Officer either has no authority to commit to prison or detention barrack, or, having such authority, recommends suspension.

~~*I direct that the soldier named in the margin be not committed to prison or detention barrack until further orders.~~)

Signed this 6th day of January 1943

M.V. McQueen Col.
Confirming Officer.

Promulgated and extracts taken in the case of

(a) (Dated) 7-Jan-43. (Signed) [illegible]

Promulgated and extracts taken in the case of

(Dated) 20 Feb 43 (Signed) [illegible]
CANADIAN MILITARY PRISON AND DETENTION BARRACK
COMMANDANT

Promulgated and extracts taken in the case of

(Dated) (Signed)
CANADIAN MILITARY PRISON AND DETENTION BARRACK
COMMANDANT

(a) When several cases are promulgated in one unit on the same day the Officer need only sign once.

W.L. 47760/1607 30 M. 1/43 K.P./[illegible] Gp. 698.3

"B" - 2

CHARGE SHEET

The accused C.21124 Pte. GUERTIN, Ulysses, 1 Cdn. Corps. Tps Sup Coy is charged with when on active Service:-

First Charge
A.A. Sec. 28 (4) Refusing, when a witness, to answer a question to which a Court Martial may legally require an answer,

in that he,

at Field on 26th day of December, 1942 when a witness at the Court Martial of D.121379 Pte. Zarbatany, N., refused to answer the following question, "Who let you out?"

Second Charge
A.A. Sec. 28 (4) Refusing, when a witness, to answer a question to which a Court Martial may legally require an answer,

in that he,

at Field on 26th day of December 1942 when a witness at the Court Martial of D.121379 Pte. Zarbatany, N., refused to answer the following question, "Will you tell the Court the name of the person who opened the door and let you out?"

W. H. Heffernan Captain

(W.H.Heffernan) Capt.
A/O.C. C.T.Sup.Coy.(33 Coy)
R.C.A.S.C.

Field
31 Dec. 42.

Field
4 Jan 43 To be tried by Field General Court Martial.

(W.W.McQueen) Colonel
D.D.S.T.
1 Cdn. Corps.

K
Transferred to Provost

MEDICAL OFFICER'S REPORT

I certify that No. C21124 Guertin U.

of 1st. Corps Tp. Supply Co. is in a fit state of health,

and fit to undergo Trial by court martial.

Medical Officer
CANADIAN DETENTION BARRACKS

Station C.D.B. Detn. Bks.

Date (January 4,1943.) Morning.

A

Army Form A 9.

**All printed matter not applicable to the particular Court being held should be struck out and initialled by the President.

**Form of Proceedings for General and District Courts-Martial.

Proceedings of a Field General Court-Martial held at Field

on the 4th day of January 1943 by order of

Colonel M. J. the Queen

Commanding RCASC 1 Cdn Corps

dated the 4th day of January 1943

President,

Maj. S. W. Craig. R.C.A.
Asst. A. 1 Cdn Corps Amn Coy
RCASC

Members.

Captain J. L. Marshall
64 Fd Gen Wpt Coy
RCASC

Lieutenant A. H. Mc Kibbon
64 Fd Gen Wpt Coy
RCASC

Asst. Judge Advocate.

Trial of* C. 21124 Pte Guertin, Ulysses
1 Cdn A.S.C. Reinf Unit

The order convening the Court, the charge-sheet and the summary (or abstract) of evidence are laid before the Court.

~~The Court satisfy themselves that~~ ~~is not available to serve owing to~~

Asst. J.A.G. , ~~waiting member takes his place as a member of the Court.~~

The Court satisfy themselves as provided by Rules of Procedure 22 & 23.

The accused is brought before the Court.

Prosecutor,† Lieutenant J. G. Christie. 1 Cdn Gd Amn Coy RCASC

Counsel‡ or defending officer† Lieutenant R. A. Rawlinson Fitzgerald 1 Cdn Gd Amn Coy RCASC

At 11 00 o'clock the Trial commences.

The order convening the Court is read, and is marked A.I. signed by the President, and attached to the proceedings.

The names of the President and members of the Court are read over in the hearing of the accused, and they severally answer to their names.

Question by the President to the accused. Do you object to be tried by me as President, or by any of the officers whose names you have heard read over? Answer. Yes No

(N.B.—If objection is made it should be recorded, together with the decision of the Court, on a separate sheet.)

*Here insert No., Rank, full Name, Regiment, and Appointment (if any).
† Here state Rank and Name, and Regiment (if any).
‡ Qualification to be stated.

Q4274. Wt.W10630/78. 20,000 sets. 6/40. K. & H., Ltd. G657/11. Forms A 9/20.

B

The President, members and judge-advocate are duly sworn.

~~The following officers under instruction are duly sworn.~~

Charge-Sheet.

Instruction. If the accused has elected to be tried under Army Act, sec. 46 (8) the fact should be here recorded.

The charge-sheet is signed by the President, marked B 2 and annexed to the proceedings.

The accused is arraigned upon each charge in the above-mentioned charge-sheet.

Are you guilty or not guilty of the [first] charge against you, which you have heard read? *Question to the accused.*

N/G *Answer.*

Are you guilty or not guilty of the second charge against you, which you have heard read? *Question.*

N/G *Answer.*

~~Are you guilty or not guilty of the third charge against you, which you have heard read?~~ *Question.*

Answer.

~~Are you guilty or not guilty of the fourth charge against you, which you have heard read?~~ *Question.*

Answer.

~~The accused having pleaded Guilty to charge, the provisions of Rule of Procedure 35 (B) are here complied with.~~

Instruction. If the trial proceeds upon any charge to which there is a plea of "Not Guilty," the Court will not proceed upon the record of a plea of "Guilty," until after the finding on that other charge.

C

Proceedings on Plea of Not Guilty.

*Instruction. (See R. P. 39 (A)) Question.

*Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity for preparing your defence?

N/C

Answer.

~~The prosecutor makes an opening address (hands in a written address which is read, marked , signed by the President, and attached to the proceedings)~~

The prosecutor proceeds to call witnesses.

First witness for prosecution. Major R. Buckner Cond. 1 C.T. Regt.

being duly sworn, is examined by the prosecutor.

States. I am Major R Buckner of Cond. Corps troops R Regt. and I was the president of a F.G.C.M. on 26 Dec 42 which was convened by Col. M.V. McInnes R Regt 1 Can. Corps. in which Pte Garbetary W. was being tried. Pte Yaeton H. whom I now see and recognize, was a witness for the prosecution at this trial. Pte Yuertis was asked by the prosecuting affirm Lt M.J. Friedman, if he knew the name of the person who opened the door of the cell in the detention room & let him out. Pte Yuertis answered yes. The prosecutor, further questioned him as to the name of the man who had let him out, this he refused to answer saying. "I am not ~~(illegible)~~ rat, but I will tell you this much, that it was not Pte Garbetary."

The prosecutor, then warned Pte Justin that he was liable to prosecution under the army act if he continued to refuse to answer questions put to him while a witness on a Court Martial. The accused still refused to answer, saying, "You have threatened me with that before."

Question by Prosecutor

Q 1 Were the questions referred to in your statement, made as direct questions to the accused.

A 1 Yes.

Q 2 How many questions did the accused refuse to answer?

A 2 Two

Q 3 Will you tell the court what those questions were?

A 3 One was, "Who let you out"
The other was, "will you tell the court the name of the person who opened the door and let you out."

Questions by the Defending Officer

Q 1 Was there a shot hand stenographer at the court.

A 1 "No"

Q 2 Did the court then re read the evidence of the accused, then the witness, back to him.

A 2 I believe so.

Q 3 When the witness refused to answer the question did the court rule that the question had to be answered.

A 3 "No"

Q 4 As the witness refused, and the court did not rule that he was compelled to, he was not under any obligation to answer, is that not right?

A 4 This I can not say.

Q5 You allowed the prosecutor to inform the witness that he could be punished for refusing to answer the question. Is that right?

A5 Yes.

Q6 As President of the court did you rule that the witness would answer the question.

A6 No

Q7 Capt. Costigan states on the Summary of Evidence that the accused was cross examined by the prosecutor. Then you, as President must have allowed the prosecutor to cross examine his own witness, is that correct?

A7 If it could be classed as such, as the prosecutor was trying to establish the fact that Pte Jarbeday opened the door.

Q8 Then do you agree that the witness was cross examined by the prosecutor.

A8 No

Q9 Would you say then, that the prosecutor and the witness were in full accord.

A9 Not fully.

Q10 Did you as President of the Court, declare the accused, a hostile witness

A10 No

Prosecutor re examines

Q1 Major Buckner, the court did not rule that the question had to be answered, but, did the prosecutor have any doubt as to the accused's obligation to answer the question?

A1 No. K.R. 83 (3) complied with

Second witness (For prosecution) — Capt H. D. Costigan 62 Can. Fd. Pt. Coy. R.C.A.S.C.

Having been duly sworn states — I am Capt H.D. Costigan of 62 Can. Fd. Pt. Coy R.C.A.S.C. and was a sitting member of F.G.C.M. held

on 26 Dec 42, when Pte Garbatany M was being tried.

Questioned by Prosecution

Q 1 Was the accused, Pte Curtin a witness at that court martial?

A 1 He was.

Q 2 Did he reply to all questions put to him?

A 2 He replied in many cases, "I do not remember," and in two instances he refused to give the information requested.

Q 3 Will you tell the court in what instances he refused to answer?

A 3 When being examined by the prosecutor the accused was asked, "Who let you out" and he refused to answer. In the second case following repeated questions on examination, during which the accused admitted that he knew who pulled the bar of the door, the prosecutor asked, "Will you tell the court who let you out" or words to that effect. To this the accused refused to answer, adding, I will say this much, It was not Garbatany.

Cross-Examined by Defence

Q 1 You say in the summary in reference to the accused, that he was cross examined by the prosecutor, is that correct?

A 1 It is not correct. He was examined.

Q 2 Did you sign the Summary of Evidence?

A 2 Yes.

Q 3 Was the accused, then a witness, declared a hostile witness?

A 3 No he was not.

Q 4 Did the court rule that he was compelled to answer the two questions?

A 4 No the court did not.

Q 5 The charge before the court was against a Pte Garbatany, is that correct?

A 5 Yes.

Q 6 The accused definately made the statement. It was not Garbutary, is that correct?

A 6 That is correct.

Q 7 As a member of the court, was that sufficient information for you?

A 7 As a member of the court I felt that that answered the question.

Q 8 Then would you say that the question was not particularly revelant to the charge for that court?

A 8 The question was revelant

Q 9 were you not in a position to dispose of the charge against Pte Garbutary, without the witness answering that question?

A 9 We were put in the position of having to dispose of it without his answer.

Q 10 was the accused's evidence as a witness read to him?

A 10 It was not read to him in its entirety.

Q 11 The prosecutor warned the witness that he might be court martialled for refusing to answer the question, is that correct?

A 11 Yes.

Q 12 Did the court so warn him?

A 12 The court did not. - Re re-examination R.P. 73131 complied with.

Third witness for prosecution — Lieut J. J. L. Wilkinson 62 Can Inf Bty R.C.A.-L.C. Having been duly sworn, is examined by the prosecutor.

Q 1 were you a member of a F. J. C. M. sitting on the case of Pte Garbutary on 26 Dec 42?

A 1 I was.

Q 2 Do you recognize the accused in this case as the witness in the case of Pte Garbatany?

A 2 I do.

Q 3 Did Pte Juertin give an answer to all questions put to him by the prosecutor?

A 3 no

Q 4 Will you tell the court in what instances he did not give an answer?

A 4 On being asked by the prosecutor to tell who opened the door, he would not tell, but said, "it was not Pte Garbatany." On being asked by the present Prosecutor to name the man, he would not do so.

Q 5 What was the exact question put to the accused during his evidence?

A 5 I do not remember the exact words.

Q 6 Was it made clear to the accused, Pte Juertin, that he was obliged to answer the question?

A 6 Yes he was told he was committing a crime against the army act, for which he could be charged.

Q 7 Who told him that?

A 7 The prosecuting officer.

Q 8 Did the court voice agreement to that warning?

A 8 Yes they did.

"The accused declines to cross-examine this witness."

Question by the Court.

Q 1 When asked by the Prosecutor to tell who opened the door, what was Pte Juertin's reply?

A 1 As near as I can recall, his reply was, "I wont tell, but it was not Pte Garbatany"

R P 93 (3) complied with.

C.7

Fourth witness for the Prosecution — Capt H. G. Smith 1 Colrd Corps Troops Supply Coy R.E.A.S.C.

Having been duly sworn, states.

I am Capt H. G. Smith, and I was defending Pte Jarbatany at a Court martial in which Pte Juertin was a witness, held on 26 Dec 42. During the proceedings of the Court martial I heard the Prosecutor ask Pte Juertin, the accused whom I now recognise, whether or not he knew who had opened the door of the cell. The accused answered that he did know who it was. The Prosecutor then asked Juertin to give the name of the man in question, this, Juertin refused to do, the prosecutor then warned Pte Juertin that he would be committing an offence against the Army Act by refusing to answer a question at a Court martial. Pte Juertin replied that he was aware of that fact, and still refused to answer. The president of the Court martial also asked Pte Juertin and received the same reply. I, as defending Offier, also asked Juertin & he refused to name the man concerned.

"Accused declines to cross-examine this witness."

Question by the Court.

Q. What words, if any, did Pte Juertin use in his refusal to answer questions put to him by the Prosecutor, as to whether or not he knew who opened the door of the cell, and let him out?

A. He stated he knew, but that he would not be a "rat" and tell.

Ques 2 was he asked a second time to answer, and if so, by whom?

a 2 Yes he was asked a second time, by the Prosecutor.

Q 3 Did he again refuse to answer?

a 3 Yes.

Q 4 Was he warned before he was asked a second time to answer?

a 4 He was warned that it was an offence against the Army Act to refuse to answer a question. He replied that he was aware of that.

Q 5 Who else besides the Prosecutor asked him to answer the question?

a 5 The court and myself.

Q 6 Did he still refuse to answer?

a 6 He refused on all cases

The Defence cross-examines.

Q 1 Are you sure the court asked him to answer?

a 1 Yes, the court asked & advised him to answer per re-examination R.P.93(a) complied with

5th.

Witness for Prosecution — Lieut WH. J. Friedman

1 Edn. Corps Troops Supply Coy. R.C.A.S.C.

Having been duly sworn states. — I was detailed to prosecute Pte Farbatany on a charge of assisting Pte Green & the accused, whom I recognize, to escape.

Question by the Prosecutor

Q 1 What date was that?

a 1 21 Nov. 42 was the date of the escape
26 Dec 42 was the date of the Court martial

Q 2 Were you Prosecutor that day?

a 2 Yes

Q 3 Was Pte Guertin a witness?

a 3 He was.

Q4 Did Pte Yuetin reply to all questions asked by you?

A4 He refused to answer certain questions

Q5 Would you tell the court the manner of that refusal and give an account of it?

A5 Yuetin admitted in reply to my questions that he was confined on 20 Nov 42 in the cell behind Coy H.Q. awaiting removal to Field Punishment camp. He also admitted that he and Green another prisoner with him, escaped on 21 Nov 42 with the assistance of some person who opened the door. I then asked him the question, "who let you out?" and he replied, "I refuse to answer that question." I questioned him further and he admitted that the person who let him out was someone with whom he had made a prior arrangement to assist him, that the bolt had been drawn and the door opened by this person who said "O.K. boys," and he recognized him and knew who he was. I then asked him, "will you tell the court the name of the person who opened the door and let you out." He replied again, "I refuse to answer that question." I reminded the witness that his refusal was an offence under the Army Act, I had previously warned him and read the section to him when he refused to answer questions on taking the summary of Evidence. He said, "you have threatened me before, and I am not a rat, and if the army wants it that way it's alright." I asked him if he would rather see an innocent man convicted and the

guilty go free, and pointed out that the Court may not be satisfied with his answer and refuse to accept his denial of Garbetany's guilt if he refused to answer to the question, but this appeal to him was not successful.

The accused declines to cross-examine this witness.

Question by the Court.

Q1 Can you remember if the Court asked the accused to answer?

A1 His reply to most questions by the Court was, "I don't remember."

Q2 Did the Court advise him to answer?

A2 The Court urged him to answer certain questions which would assist them in arriving at a conclusion.

Q3 When did you warn the accused that he was liable to be punished by not answering questions put to him during a Court Martial, and was it after he had refused the first time or the second time?

A3 I warned him on two occasions, first when the summary of Evidence was taken, and then at the Court Martial, after I had asked him the usual question.

Q4 Did he or did he not refuse to answer?

A4 He still refused to answer.

Q5 Was it at that time you read the section to him?

A5 I read the section when I took the summary of Evidence.

Re-examined by the Prosecutor

Q1 Would you have been able to put a better case before the Court, if Guertin had answered this question?

A1 If Guertin had told the whole story there could have been no doubt at the end of the case as to Garbetany's guilt or innocence.

Cross-examined by the Defence

Q 1 You say there could have been no doubt at the end of the case, is this Court to take from that, that there was doubt?

A 1 Quite, as Jarbat Amy was acquitted.

Q 2 You are then of the opinion that the witness's answer was necessary.

A 2 Yes.

Q 3 Then why did you not get a ruling from the court?

A 3 Having pointed out to the witness that in refusing to answer he was committing an offence under the Army Act, I felt I had done my duty both to the witness and the court who must make the decision as to whether the witness was in contempt of Court and should be prosecuted. So far as the Court's ruling that the answer was material was concerned, it was never suggested by the defending officer, or by anyone that it was not material.

Q 4 Is this, in brief your statement, that you did not ask the Court to make a ruling as to whether or not the witness was compelled to answer, and that in fact, they made no such ruling?

A 4 It is a fact that I did not ask the court to make a ruling, and the Court did not compell an answer, Guertin was my witness.

Q 5 Does the witness have to answer every question asked him?

A 5 No, but the answer requires elaboration.

R P 93 (3) complied with

C 12

Closing address by the Prosecutor

I must to draw the attention of the Court to details which I believe may be of interest to the Court. Under Sec. 28 Sub. Sec 4 of the Army Act, it states that every person subject to military law who commits any of the following offences; that is to say, Refuses when a witness to answer any question to which a Court Martial may legally require an answer, is subject to punishment under this act.

Sir, I think I have proved through witnesses, & the evidence of the accused has substantiated the fact that the accused did refuse to answer certain questions, I would suggest to the court that these questions had a direct bearing on the finding of the Court at the case at which they were asked, therefore, were questions that a Court Martial could legally require an answer. Had Gurtin been a friend of Barbatany it is quite understandable that Gurtin might have acknowledged knowing the guilty party, and asserted that it was not Barbatany in order to create a doubt in the courts mind & thus free Barbatany.

I respectfully submit Sir, that both charges on this case have been proven.

J. W. Leary, Major.
President.

Closing address by the Defending Officer

The accused is charged under section 28 and section 4, of which the important words are, a Court martial may legally require an answer. I would point out to the Court page 96 para 94. It by no means follows that because a person be competant to give evidence, he is therefore compellable to do so. In this case the accused is charged with refusing to answer a question to which a Court martial may legally require an answer. Major Buckner's evidence was to the effect that the accused was not notified by the Court that he was compelled to answer. The accused had every right to object and refuse to answer the questions asked. It was then for the Court to notify him that he was compelled to answer, and this was not done. There was no apparent discussion at that Court as to whether an answer could be required. This Court therefore must decide a question which should have been answered then. That is, was the accused's answer legally required. We can take it from the decision of the Court that it was not. One Pte Garbatany was on charge, all that Court had to decide was whether or not he let Pte Guertin out of the detention room. All the witnesses have agreed that Pte Guertin told the Court that it was not Garbatany that let him out. I submit to the Court that the case against the accused must be dismissed. Firstly because the Court Martial never did require the answer from him, and secondly because there was no apparent

necessity to obtain the answer in disposing of that case. It may be that the accused should have refused to answer in a different manner, that is plainly the privilege of not answering from the Court. The prosecution, I submit in this case, has failed to prove any part of the charges other than that the accused did refuse to answer.

L. W. Cosey
Major
President

D

The prosecution is closed.

Defence.

Question to the accused. Do you apply to give evidence yourself as a witness?

Answer. Yes.

Question. Do you intend to call any other witness in your defence?

Answer. No.

Question. ~~Is he a witness as to character only?~~ *Answer.*

INSTRUCTIONS TO THE COURT.

(i) When the answers to the above questions have been recorded, the Court will follow the provisions of Rules of Procedure 40 and 41 respecting the order of evidence and addresses which is applicable to the circumstances of the case.

(ii) All addresses by prosecutor, counsel or defending officer, whether recorded by the Court or handed in in writing will be attached to the proceedings in the order in which they are made. Any address which the accused is entitled to make pursuant to Rules of Procedure 40 (C) (iv) and 41 (A) (i) and (ii) will be similarly dealt with. Written addresses will be read to the Court, marked and signed by the President. If any person who is entitled to make an address declines to do so, a record will be made to that effect.

(*Where any evidence is given for the defence.*)

~~Case F~~ The evidence of the accused (~~and of the witnesses for the defence including witnesses as to character~~) is recorded on a separate page (*see overleaf*).

(~~*Where the accused does not give evidence upon oath.*~~)

Have you anything to say in your defence?

~~The accused in his defence says:~~

[Hands in a written address which is read, marked ~~signed by the President~~ and attached to the proceedings.]

Question to the accused.

Answer.

Instruction.

† In this space will be recorded any oral statement or address made by the accused in his defence when he has not given evidence as a witness. (For any additional address he is entitled to make, see Instructions to the Court above.)

D

The prosecution is closed.

Defence.

Question to the accused. Do you apply to give evidence yourself as a witness?

Answer. Yes.

Question. Do you intend to call any other witness in your defence?

Answer. No.

Question. ~~Is he a witness as to character only?~~ *Answer.*

INSTRUCTIONS TO THE COURT.

(i) When the answers to the above questions have been recorded, the Court will follow the provisions of Rules of Procedure 40 and 41 respecting the order of evidence and addresses which is applicable to the circumstances of the case.

(ii) All addresses by prosecutor, counsel or defending officer, whether recorded by the Court or handed in in writing will be attached to the proceedings in the order in which they are made. Any address which the accused is entitled to make pursuant to Rules of Procedure 40 (C) (iv) and 41 (A) (ii) and (iii) will be similarly dealt with. Written addresses will be read to the Court, marked and signed by the President. If any person who is entitled to make an address declines to do so, a record will be made to that effect.

(*Where any evidence is given for the defence.*)

~~Q. & A.~~ The evidence of the accused (~~and of the witnesses for the defence~~ (~~including witnesses as to character~~)) is recorded on a separate page (*see overleaf*).

(*Where the accused does not give evidence upon oath.*)

Question to the accused. Have you anything to say in your defence?

Answer. ~~The accused in his defence says~~†

[~~hands in a written address which is read, marked signed by the President and attached to the proceedings.~~]

Instruction.

† In this space will be recorded any oral statement or address made by the accused in his defence when he has not given evidence as a witness. (For any additional address which he is entitled to make, *see* Instructions to the Court *above*.)

D 2

The evidence of the witnesses for the defence, including that of the accused, if he is a witness, will be taken here in the order in which they give evidence.

First witness for the Defence

C 21124 Pte Jurtin H. 1 Coy. Det. Barracks having been duly sworn, is examined by the Defending officer.

Q 1 Why did you refuse to answer the questions?
A 1 I could not see why they were required as I had already told the Court that Pte Garbatany had nothing to do with my escape.
Q 2 Who was on charge when you gave evidence?
A 2 Pte Garbatany.
Q 3 Was your evidence re read to you at that time?
A 3 No Sir, the evidence was not re-read.
Q 4 When you objected to answering certain questions did the President of the Court tell you that you were compelled to answer?
A 4 No.

Cross-examined by the Prosecution

Q 1 Did you know there was a direct accusation against Pte Garbatany?
A 1 I believe that I was told.
no re-examination

Questions by the Court.

Q 1 Can you tell the Court the question or questions, if any, that you were asked and refused to answer?
A 1 I was asked by the Prosecutor "who let you out," and "Will you tell the name of the person who let you out"
Q 2 What were your answers?
A 2 My answer was "I refuse to answer and if you are looking for a rat, you haven't got one."

K.P. 15. (5) complied with

E

Finding.*

*To be struck out except in cases where trial has taken place on a plea of "Not Guilty."

The Court is closed for the consideration of the finding.

The Court find that the accused – C 21124 Pte Gwatkin R. Glynne.

is guilty on all charges

Proceedings on Conviction before Sentence.

*When the Court is already open this sentence will be struck out.

*~~The Court being re-opened, the accused is again brought before it.~~

Evidence of character, &c.

~~is duly sworn.~~

Question by the President.

Have you any evidence to produce as to the character and particulars of service of the accused? *Answer by the Witness.* YES

The above statement [with the schedule of convictions and of cases in which trial has been dispensed with] is read, marked 'E/92' signed by the President, and annexed to the proceedings.

Question by the President.

Is the accused the person named in the statement which you have heard read? *Answer by the Witness.* YES

Question.

Have you compared the contents of the above statement with the regimental books? *Answer.* YES

Question.

Are they true extracts from the regimental books, and is the statement of entries in the conduct sheets a fair and true summary of those entries? *Answer.* YES

Cross-examined by the accused.

The Accused declines to cross-examine the witness

(Instruction.—If in cases of the service of the accused in a dependency only, or otherwise, the sentence the Court accepts non-notice to any additional punishment in addition to that to be awarded by the Court, the prosecutor must call the attention of the Court to the fact, and the Court must require proof of the nature and amount of the additional punishment.)

Question to the accused.

Do you wish to address the Court? *Answer.* No

The Court is closed for the consideration of the sentence.

on the fourth January 1945

[5] General Court Martial

President

Summary of Evidence in the Case
of C.21124 Pte. GUERTIN, U., of
1 Cdn A.S.C. Reinf Unit R.C.A.S.C.

The Commanding Officer directs that
Evidence be under Oath.

First Witness
Prosecution

Major R. Buckner, of Comd. 1 C.T.
R.C.A.S.C., being duly sworn, states:-

"As President of the F.G.C.M. of Pte. Zarbotny, N., on 26 Dec 42, C.21124 Pte. Guertin, U., while giving evidence as a witness was asked by the prosecuting officer if he knew and recognized the person who opened the door of the cell and let him out. The witness replied "Yes". He was then asked by the prosecuting officer to name that person. This he refused to do, adding, "I will not be sent, and if this is the way the Canadian Army is being run it is alright with me". He was then reminded by the prosecuting officer that he was liable to be punished for refusing to answer a question. Guertin then replied "You have threatened me with that before". Guertin was again asked by the prosecutor to name the person who let him out and he refused to do so.

Pte. Guertin wishes to cross-examine.

Q.1. Would you say that the way I refused to answer those questions is the same way as you say in your statement?

A.1 To the best of my knowledge, yes.

Q.2. When I said, "If you're looking for a rat, you won't find one here" was it after being warned that I could be crimed for it, or before ?

A.2 That I cannot say.

R Buckner

"R. Buckner, Major"

Second Witness
Prosecution

Capt. H.T. Costigan, of 62 Cdn Gen Tpt Coy having been duly sworn, states:

"On the 26 Dec 42, I being a member of the F.G.C.M. in the case of Pte. Zarbotny, when the accused Pte. Guertin, whom I now recognize was brought in by prosecution as a witness. He was cross-examined by the prosecution giving in reply to a number of questions, the answer "I don't remember". The prosecution did through a series of questions, obtain from Pte. Guertin the information that he knew who opened the door and that the party opening the door said "O.K." (The above should read "pulling the bar"). The prosecution pointed out to Pte. Guertin that his failure to name the party might lead to an innocent man going to Detention. Pte. Guertin made no direct reply that I recall. The prosecution then stated "You realize that you may be Court Martialled if you persist in refusing to name the individual" - To this,

Guertin replied, "Yes, you have threatened me with that before, but I will not be a rat". I will say this much however, It was not Zarbatany".

Pte. Guertin declines to cross-examine the witness

"H.T. Costigan" Capt

Third Witness Prosecution

Lieut. T.J. L. Wilkinson, 62 Cdn Gen Tpt Coy having been duly sworn, states as follows:

"On the 26 Dec 42 I was a member of a F.G.C.M. held at Cdn C.T.Sup Coy where Pte. Guertin gave evidence. On being asked the question "Who let you out?" he replied "Iwon't tell but I'll say this much, it was not Pte. Zarbatany" or words to that effect. On being re-questioned by the prosecuting officer, to give the name of the person who let him out, he said that he would not tell. The prosecutor said "Do you realize that you can be charged under the Army Act for refusing to tell", he replied, "you threatened me with that be Before".

Pte. Guertin declines to cross-examine the witness.

"J.T.L. Wilkinson" Lieut.

Fourth Witness Prosecution

Capt. H.G. Smith, Cdn C.T.Sup Coy having been duly sworn, states as follows:-

"I am Capt. H.G. Smith, and I was defending officer in the case of Pte. Zarbatany, on 26 Dec 42. I heard the proceedings throughout. I heard Lieut. Friedman, the prosecuting officer, ask Pte. Guertin whether or not he knew who had allowed him to escape. I heard Pte. Guertin answer in the affirmative. Lieut. Friedman then asked Pte. Guerting to tell the Court who the man in question was. This, Pte. Guertin refused to do but said that it definitely was not Pte. Zarbatany. Lieut. Friedman then warned Pte. Guertin that it was an offence under the Army Act to refuse to answer a question. Pte. Guertin replied that he was aware of that fact.The president of the Court then asked Pte. Guertin the same question and received the same reply. I, during my examination of Pte. Guertin, also asked him to state who had let him escape. He refused to tell".

Pte. Guertin wishes to cross-examine the witness

Q.1 When you accepted to defend Pte. Zarbatany, were you satisfied that he was not guilty?

A.1. After I had examined the case, and spoken to Pte Zarbatany, I was almost certain that he was innocent.

Q.2 Are you satisfied now that he was innocent?

A.2 He has been proven innocent by Court Martial and I am satisfied.

"Hugh G. Smith." Capt.

Fifth Witness Prosecution

Lieut. M.I. Friedman, Cdn C.T.Sup Coy, having been duly sworn, states as follows:

"I am Lieut. M.I. Friedman, of Cdn C.T.Sup Coy. I was ordered to take summary of Evidence and prosecute the case against Pte. Zarbatany I came to Headley Downs in the course of taking of Summary, to obtain the evidence of Ptes. Green and the accused, Guertin, whom I now recognize. At that time, the accused refused to answer certain questions and refused to disclose the name of the person who opened the door of the cell from which he and Green escaped. Zarbatany was accused of assisting the prisoners to escape. I warned Guertin that in refusing to answer before a Court Martial, he was committing an offence under the Army Act, and read the section to him. He persisted in his refusal. On 26 Dec 42, at 1 Cdn C.T.Sup Coy., Pte. Zarbatany was tried before a Court Martial on the charge mentioned. The accused was a witness. All the evidence for the prosecution was given in answer to the questions which I put to the witnesses, but as there was no short hand writer, it was taken down in long hand in the form of a summary. I first established from Guertin the fact that he and Green were on the 20 Nov 42 confined in the detention cell behind Company Headquarters, 1 Cdn C.T.Sup Coy and that they escaped sometime after midnight on 21 Dec 42 with the assistance of some person who drew the bolt on the door. I then asked Guertin the question, "who let you out?" He answered, "I refuse to answer that question, but one thing sure, Zarbatany didn't". I further questioned the accused, and he admitted that the person who opened the door was a person with whom he had made an arrangement the day previous to assist him, that the person in question looked in and said "O.K. boys" and that he recognized him andknew who he was. I then asked the accused "Will you tell the Court the name of the person who opened the door and let you out". He said, "I refuse to answer that question". I reminded him that he was committing an offence under the Army Act in refusing to answer. He said "You have threatened me with that before. I'm not a rat. If the army wants it that way, alright". I pointed out to him that the Court might not be able to accept his evidence in favour of Zarbatany if he did not disclose the name of the person, but he would not answer the question.

Pte. Guertin declines to cross-examine the witness.

M.I. Friedman

"M.I. Friedman, Lieut"

The accused was duly warned according to R.P.4 and declined to make a statement.

"U. Guertin"

I, Lieut. J.G. Christie, 1 Cdn C.T.Sup Coy RCASC do certify that the above summary of evidence consisting of ten sheets was taken by me at Cdn Detention Barracks, in the presence and hearing of the accused, and that R.P. 4 (c)(d)(e) and (f) was complied with.

J.G. Christie

(J.G. Christie) Lieut

Officer taking Summary of Evidence.

ARMY FORM B 2195.

Statement as to Character and Particulars of Service of Accused.

Number.	*Rank.*	*Name.*	*Regiment (or as the case may be).*
C.21124	Pte.	GUERTIN, U.	C.T.SUP COY (33 Coy) R.C.A.S.C.

1. The following is a fair and true summary of the entries in the regimental and squadron, battery or company conduct sheets† of the accused, exclusive of convictions by a court martial or a civil court, of summary awards under section 47 of the Army Act, and of cases in which trial has been dispensed with :—

NOTE.—At a trial by field general court martial this summary may be completed from the field conduct sheet.
The conduct sheet(s) mentioned should be produced in court with this statement but not annexed to the proceedings.

† See para. 977, K.R., 1940.

* The accused herein stated should correspond with the number of entries in the conduct sheets, preference being given to the most serious offence in each entry, and to any recognised special acts of gallantry or distinguished conduct.

† INSTRUCTION.—If the charge is for drunkenness the entries for drunkenness must be stated separately and dated.

	* Within last 12 months.		*Since Enlistment.	
For Sec 11	one	times	one	times.
For Sec 15 (1)	two	times	three	times.
For Sec 40	two	times	six	times.
For Sec 8 (2)		times	four	times.
For Sec 9 (2)		times	three	times.

[redacted]

or

[redacted]

2. [redacted]

Previous convictions† of the accused by a court martial [redacted] are set out in the schedule annexed to this statement.

3. [redacted] The accused at the present time is under sentence for 90 days detention beginning on the 20th day of Nov, 42

4. The accused has been in confinement, awaiting trial on the present charges, for N/A days in civil custody, and N/A days in military custody, making a total of A/A days, of which A/A days were spent in hospital.

5. The present age of the accused according to his [redacted] attestation paper is 22

6. The date of his [redacted] attestation specified in his [redacted] attestation paper is 16 Sep 39

7. The service which the accused is allowed to reckon towards discharge or transfer to the reserve is

8. The accused is entitled to deferred pay or gratuity in respect of service.

9. The accused is entitled to reckon service for the purpose of determining his pension, etc.

10. The accused is in possession of, or entitled to, no military decoration or military award (*or is in possession of or entitled to (state any military decoration or reward)*).

11. (*If the accused is a warrant officer.*) The accused before he was made a warrant officer last held the regimental rank of dated

12. (*In the case of an officer.*) The accused holds in the army the rank of dated and in his regiment (*or corps or department*) the rank of dated

(*18540) W[illegible] 75,000 12/40 A.A.S.W.Ltd. Gp.698

E.1

Schedule of Convictions by a Court Martial or Civil Court, of summary awards under Section 47 of the Army Act and of cases in which trial has been dispensed with of accused.

No. C. 21124 Rank Pte; Name GUERTIN, U. of 1 ASC R.U. Regiment (or as the case may be)

(INSTRUCTION—A verbatim extract from the regimental books, stating these convictions and dispensations with trial, must be inserted.)

Description of court by which tried, or status of officer disposing of the charge or dispensing with trial.	Date and place of trial, or summary award under A.A. 47, or of order dispensing with trial.	Charge upon which convicted, or in respect of which trial was dispensed with.	Sentence of the court or authority disposing of the charge, or order of the dispensing authority.	Punishment remitted.
F.G.C.M.	28 Nov 42 FIELD	Sec 15 (1) When under arrest, absenting himself without leave	90 days Det.	

I HEREBY CERTIFY that the foregoing schedule of convictions and dispensations with trial is a true extract from the regimental books in my custody.

Signed this 1st day of January, 1943

for (W.H. Copeland) Major
Commanding C.T.SUP COY (33 Coy) RCASC

13. The accused has served as a non-commissioned officer continuously, without reduction, to the present date.

Date of Promotion.

In the rank of ..... years. .....

In the rank of ..... years. .....

In the rank of ..... years. .....

Instructions.—If any entry in any of the above paragraphs cannot be stated from the regimental books the paragraph must be struck through, except that in the case of a trial by field general court-martial the information may be collected from such sources as are available and the paragraphs concerned amended accordingly.)

4/D-126

GDSM - GUEST WA

SCHEDULE.

PART I. PLEA(S), FINDING(S) AND SENTENCE.

Accused: C58448 Gnr Wilbert Allen Guest 21 CAR

	Charge. (Insert "alternative" where applicable.)	Plea. (See Instrs p 2.)	Finding. (See note below.)	(Space for use as required for further charges, accused charged jointly, special findings, etc.)
1st	AA 40	Not guilty	Guilty	
2nd	AA 19	Guilty	Guilty	
3rd				
4th				
5th				
6th				

(Note: As to findings for lesser offences see AA 56, RP 44; findings on alternative charges see MML p 483 fn 4 para 2, RP 44; special findings see RP 44 and MML p 153, and in loss of kit see RP 44 fn 6.)

At present under sentence for ——— beginning on (date) ——— (1)

(1. Insert sentence being served, or delete, if not applicable. See RP 46(A). Information should be found on MF B355 or AF B296.)

Time in confinement awaiting present trial—a total of 15 days, of which 0 days were spent in hospital.(1)

(1. See RP 46(A) fn 2. Information should be found on MF B355 or AF B296 admitted in evidence under E2.)

Sentence Awarded by the Court: To undergo detention for ~~to~~ 150 days.

(Sgd) Kerlaveren Capt 18 Nov 44 (Sgd) R. F. Millsop Major

Judge-Advocate, if any. Date awarded. President. (RP 45, 50.)

(See back of Convening Order as to assembly and disposal of record after trial.)

PART II. MINUTE WHERE CONFIRMATION RESERVED. (AA 54(5), RP 120(F), MML p 760.)

Date ——— (Sgd) ——— Commanding ———

PART III. DECISION OF CONFIRMING OFFR ON FINDING(S) AND SENTENCE.

(As to duties and powers see AA 54, 57, RP 37(2)b fn 6.46(A), 51-56, 120, MML pp 759-761, KR Con 567-577. Acquittals require no confirmation and cannot be revised: AA 54(2). Sending back finding or sentence for revision by Court: AA 54(2), RP 120(G). If not confirmed, accused may be tried again: AA 157, MML p 64. Minute of confirmation or non-confirmation may be altered before promulgation: RP 53, MML p 65. Quashing after promulgation: KR Con 573. Duties and powers of reviewing offrs: AA 57, 57A, RP 53A, 54. The Confirming Offr must sign here personally. AA 172 fn 1.)

My decision on the finding(s) and sentence set forth in Part I is: I confirm the finding and sentence of the Court.

I direct that the accused be ~~[illegible]~~ detained in detention barracks until further order.(1) Kerlaveren Capt ADJAG H.Q. 4 Cdn Armd Bde

(1. AA 57A. Delete if not used.)

(Sgd) R. F. Millsop Major

Date 27 Nov 44 Commanding 4 Cdn Armd Bde. Confirming Officer.

Date 30 Nov 44

PART IV. PROMULGATED AND EXTRACTS TAKEN. (RP 53, KR Con 576, 577.)

Accused.	Date.	Signature of Offr.
C58448 Gnr Guest, WA	31 Oct 1944	K K Mercer Major

ALL DELETIONS AND ALTERATIONS WILL BE INITIALLED.

No illegalities or irregularities such as would warrant withholding confirmation

RECORDED AT CMHQ IN AB 160 40-126

FIELD GENERAL COURT-MARTIAL

CF AMS (The Issue of AFAs) 40-7 (6.3.) 1/6/40 (40701) 4/38B

Convened by Order of Brig R W Mercer Comd 4 Cdn Armd Bde dated 18 Nov 44

ACCUSED.

(As to the trial of two or more charged jointly see RP 16, 71, 109. As to reasons for showing (a) permanent or confirmed rank, and (b) apptmt, A/rank or A/apptmt, if any, see AA 182, 183, fns, KR Con 308, 328, 330.)

Number.	(a) Prmnt R. (b) Apptmt, A/R or A/Apptmt.	Full Christian Names.	Surname.	Unit.
C58448	Gnr	Wilbert Allen	Guest	21 CAR

PROCEEDINGS REVIEWED 21 Nov 44

JCAC

REVIEWING OFFICER'S BRANCH C.M.H.Q.

PROCEEDINGS OF TRIAL.

Held in the Fd in (country) Belgium on (date(s)) 18 Nov 44.

RECORD FORM A—OPENING PROCEEDINGS AND ARRAIGNMENT. 12/02

A1. The President, Members, waiting Member, JA, if any, and Offrs under instr, if any, assemble, and the Court is closed.

(PRINTED MATTER, NOT IN ITALICS FOR GUIDANCE, WILL BE DELETED IF NOT USED OR APPLICABLE, AND INITIALLED BY PRES OR JA. The Schedule referred to throughout is on p 4. Citations do NOT include all relevant fns RQs. For guidance on procedure when a variation in this form arises, see form for GCM in MML pp 741 to 759. A brief record of such variation will be made and given a number having reference to appropriate or preceding para number herein. See back of Convening Order, CF AFs, for oaths and instrs on how to record addresses, evidence, etc, which instrs are hereafter called "Notes". As to general provisions for conducting the trial see AA 52, RP 36, 63-70, 73, 74, 94, 103, 119, 132.)

A2. The President initials and lays before the Court the Convening Order and Charge Sheet ~~is~~ attached thereto.(1) The Court is satisfied that it is properly convened and constituted(2), accused is ~~are~~ amenable to military law, and each charge discloses an offence.(3)

(1. As to use of Summary of Evidence see RP 17 fn 8. 2. AA 49, 50, RP 105-107. 3. RP 11-13, 23, 24.)

A3. The Court is opened. The accused is ~~are~~ brought before the Court. At 1400 hours trial commences.

A4. The Prosecutor produces a Medical Certificate that accused is (are) fit to undergo trial by court-martial.(1) ~~The Prosecutor informs the Court that accused desires to be tried by court-martial instead of being dealt with summarily by the CO.(2)~~

(1. KR Con 557. 2. AA 46(B), RP 60 fn 1. For effect see KR Con 563(c). Delete, if not applicable.)

A5. President to accused: Do you object to Mne Hyde Estinger as interpreter? Ans No

The Interpreter is sworn.(1) ~~Do you object to ——— as shorthand writer? Ans ———~~ The shorthand writer is sworn.(1)

(1. RP 72. Delete, if none employed.)

A6. The Convening Order and names of the President and Members of the Court are read to the accused.(1) President to accused: Do you object to be tried by me as President or by any of the Members of the Court?

Ans No (2)

(1. RP 110. 2. If no objection, waiting member retires. RP 68(B). If objection, see procedure AA 51, RP 25, 71, 78, MML p 742.)

A7. The President, Members, JA, if any, and Offrs under instr, if any, are sworn.(1) The following are the ranks, names and units of the offrs comprising the Court, etc:

President	Maj	R F Millsop	Lincoln R.
Member	Lt	K W McKeown	15 Can Fd Bty RCA
Member	Lt	A H Cross	21 CAR.
Judge-Advocate	Capt	Kerlaveren	HQ 4 Cdn Armd Bde
Prosecutor	Capt	G Jessup	21 CAR
Defending Offr	Lt	L Hawley	21 CAR

Questions by President: Is the Prosecutor a lawyer? Ans Yes Is the Defending Offr a lawyer? Ans Yes

(1. RP 26, 27, 109, 111. List of offrs under instr will be returned separately with proceedings for information of Conv Offr.)
(2. If Pros a lawyer and Def Offr not, accused is entitled to an adjournment when RP 89 (B) and fn 2 were not followed. See DI p 3.)

A8. The accused ——— before arraignment make(s) ~~(no)~~ (a) plea(s) (1)

(1. If a special plea is made for separate trial on one or more charges (RP 52(F), 108), or as to the jurisdiction of the Court (RP 34, 35(A), 112), or in bar of trial (RP 36), or as to accused's mental fitness to stand trial (AA 130, RP 37), or by one of several accused charged jointly to be tried separately (RP 16, 71), such plea, the addresses made in support or against, the evidence, if any, and Finding are recorded per Notes. For forms of record see references in fns to RoP cited. Insert in AB mark and name of the accused making the plea.)

A9. The accused is (are) arraigned ~~separately~~ jointly on all charges in the charge sheet.(1) The accused does (do) not object to any charge.(2) There is no amendment to be made to the Charge Sheet.(3) The President records the pleas in Part I of the Schedule.

(1. RP 31, 112. See para 1 of Instrs p 2. When more than one Charge Sheet see RP 62; when several accused to be tried separately see RP 71(C), and use separate copies of CF AFs to record proceedings. 2. RP 32, RP 33. If otherwise, delete and make appropriate record per Notes.)

A10. The Court (is closed and) considers the Instrs on Procedure after Arraignment at top of p 2. The proceedings are continued on Record Form COB + E

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

No 21

INSTRUCTIONS ON PROCEDURE AFTER ARRAIGNMENT.

1. *The accused may not plead or be found Guilty on more than one of two or more charges laid in the alternative.* (RP 37(A).) *As to withdrawal of alternative charges by Prosecutor see RP 35(C). No other charge can be withdrawn for any reason without authy from Convening Offr. If Convening Offr concurs, Court may accept plea of Guilty to lesser, etc, offence.* (RP 44(H).) *Accused may change a plea of Not Guilty to Guilty during trial.* (RP 38.) *As to refusing to plead or not pleading intelligibly see RP 35(A). As to plea when sentence may be death see RP 35(D).*

2. *The proceedings on each charge sheet* (RP 62) *after arraignment will be conducted as follows in the respective circumstances stated :*

I. If pleas to all charges are GUILTY, use Record Form B below.

II. If pleas to all charges are NOT GUILTY, use Record Form D on p 3.

III. If pleas to some charges are GUILTY and to other charges are NOT GUILTY and,

(a) Such mixed pleas occur when there are no alternative charges in the Charge Sheet, use Record Form C below. (RP 37(A).)

(b) Such mixed pleas occur in a set of two or more charges laid in the alternative, see RP 37 (A) and fn 2 as to discretion of Court, (i) to try the accused on all such alternative charges as if he had pleaded Not Guilty thereto, or, (ii) to record the pleas as the findings of Court. After deciding between (i) and (ii), Court will proceed under foregoing instrs as may be appropriate to result of its decision. See M M L p 744 Instrs (2).

3. *As to responsibility of President to accused see RP 59, 60(C); powers and duties of JA see RP 103; duty of Prosecutor see RP 60(A) (B); duty and privileges of accused and Defending Offr see RP 60(C), 87(C), 91, 92; swearing and withdrawal of witnesses from Court see RP 81, 82; questioning of accused see RP 80, 87(C), 92(B), and of witnesses see RP 83-85; calling or re-calling of witnesses by Court, etc, see RP 75-79, 86, 116; use of Summary of Evidence at Trial see RP 17(E) fn 6; and responsibility of JA or Pres to record proceedings see RP 94, 96.*

RECORD FORM B—PROCEEDINGS ON PLEAS OF GUILTY TO ALL CHARGES.

B1. The President or JA, if any, complies with RP 35(B) by explaining to the accused the nature and meaning of the charge(s)[1], and that on his plea of Guilty there will be no regular trial but merely a consideration of the sentence to be awarded after he has been given an opportunity to make a statement in reference to the charge(s), call witnesses as to character and make an address in mitigation of punishment.[2]
(*1. RP 35 fn 3. 2. MML p 54 para 47.*)

B2. President to accused : The Court will now receive any statement you desire to make in reference to the charge(s).[1] If it appears from your statement that there are circumstances which indicate that you do not understand the effect of the plea of Guilty[2], or which show provocation or extenuation in respect of which in your interest the witnesses for the Prosecution should be examined[3], we shall advise you to change your plea to Not Guilty. In making a statement you will not be sworn or subject to cross-examination ; and anything you say will not be used in evidence against you after you change your plea. If, however, it appears to the Court that your statement affects only the amount of punishment to which you are liable, you will not be advised to change your plea and you will be given an opportunity later to prove your statement by sworn testimony, if you so desire.[4]

President to accused : Do you wish to make a statement ? Ans No.[5]
(*1. RP 37(B). 2. RP 37(D) fn 6. 3. RP 35(B) fn 5 para 3, MML p 54 para 47. 4. See paras E3 of Record Form E.*
5. Statement, if any, recorded per Notes.)

B3. The ~~Court considers the accused's statement (5). The Offr decides (not) to advise accused to change~~ his (their) ~~plea(s) of Guilty to Not Guilty of~~ charge(s). ~~The accused is (are) so informed, and he (they) change(s) his (their) plea(s) to~~ charge(s). ~~Part I of the Schedule is amended accordingly.~~
(*1. Court may be closed to consider the statement. Delete whole or part not used.*)

B4. On the charge(s) to which the plea(s) of Guilty is (are) not changed the President records finding(s) of Guilty in Part I of the Schedule.[1]
(*1. RP 35(B). If any plea(s) is (are) changed, use Record Form C or D as appropriate.*)

B5. The Summary of Evidence is marked Ex A, initialled and read aloud by the President.[1]
(*1. If there is no Summary, or if it is inadequate, comply with RP 37(B). If there is any evidence inconsistent with any plea standing as Guilty, Court will advise accused to change such plea and, if charged to Not Guilty, try such charge(s) by use of paras D1 to D8 inclusive of Record Form D on p 3. RP 37(D).*)

B6. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

RECORD FORM C—PROCEEDINGS ON MIXED PLEAS OF GUILTY AND NOT GUILTY.

C1. As to the charges on which accused pleaded NOT GUILTY the trial is continued by using paras D1 to D8 inclusive of Record Form D on p 3 before proceeding with C 2.[1]
(*1. RP 37(A) (E).*)

C2. The charges on which accused pleaded GUILTY are read to him (them) again, and the trial is continued by using paras B1 to B5 of Record Form B above.[1]
(*1. Under B5 such parts only of the Summary of Evidence are read as relate to the charges dealt with under C2. If any plea is changed to Not Guilty, trial thereon proceeds by complying with paras D1 to D8 inclusive in Record Form D on p 3 and making an appropriate record thereof on a separate sheet.*)

C3. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

Pin here Loose Sheets of Record.

RECORD FORM D—PROCEEDINGS ON PLEAS OF NOT GUILTY TO ALL CHARGES.

D1. President to accused : Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity to prepare your defence ? Ans No.[1]
(*1. If "yes", see RP 39(A) for procedure. Statement or evidence, if any, is recorded per Notes.*)

D2. The Prosecutor makes (~~no~~) opening address.[1]
(*1. RP 39(B), 60(A) (B), 90, 92(C) (D). Record address per Notes, subject to RP 95(C).*)

D3. The evidence for the Prosecution is taken.[1]
(*1. RP 39(C), 114, KR Can 555. Record evidence per Notes. As to Prosecutor giving evidence himself see RP 39(D) (E).*)

D4. The Prosecution is closed.[1] ~~The Defending Offr submits that the evidence for the Prosecution does not~~ establish a prima facie case against the accused on the charge(s).[2] The Court is closed, and considers the submission.[3] The Court is re-opened, and the President announces that the submission is disallowed on the charge(s), and allowed on the charge(s), and that ~~accordingly~~, the trial will proceed on the former, but the accused is (are) found Not Guilty on ~~the latter charge(s)~~.[4]
(*1. Delete remainder of this para. If submission not made. 2. Arguments on submission, answers and reply are recorded per Notes. 3. RP 40 fn 1. See MML p 72 paras 12-14 and p 81 para 41. 4. Delete part not used. If accused acquitted on all charges, use second alternative in para D8.*)
NB : If trial proceeds, accused must be allowed great latitude in making his defence, and the Court should not stop his defence solely on ground of irrelevance. (RP 60(C), 114, 115.)

D5. President to accused : You will now proceed with your defence.[1] You may, if you wish, give evidence yourself on oath as to the facts or your character or both, in which case you will be subject to cross-examination.[2] You may, however, make a statement without being sworn, and you will not be subject to cross-examination.[3] But a statement which could have been made on oath will not carry with the Court the same weight as sworn testimony.[4] You may call witnesses in your defence and as to character, whether you give evidence or make a statement or do neither.

President to accused : Do you wish to give evidence yourself as a witness, make a statement, or do neither ? Ans Wish to make a statement. Do you intend to call witnesses on your behalf ? Ans Yes. Are they witnesses as to character only ? Ans Yes.
(*1. RP 115. 2. RP 40(A), see 80(C)(D). 3. RP 40 fn 10. 4. RP 40 fns 2, 9.*)

D6. Consequent on the answers recorded in para D5 the appropriate procedure for the defence is followed.[1]
(*1. RP 114, 115, 116. For procedure see Notes on back of Convening Order, CF A95. Evidence for accused as to his character should, if in his interest, be given before the finding. See RP 46(A) fn 1, 86(C). Note the further opportunity in para E1 of Record Form E. Record per Notes oddresses, statement, evidence and any summing up by the JA under RP 42, 103(e).*)

D7. The Court is closed to consider the finding(s).[1] The findings of the Court is (are) recorded in Part I of the Schedule.[2] The Court is re-opened.
(*1. RP 43, 117(A). See Notes in Part I of Schedule. 2. RP 44(A).*)

D8. The President announces the finding(s), if any, of Not Guilty, and states to the accused that the finding(s) of the Court on the charge(s), being subject to confirmation, will be promulgated later.[1]
Or, The President announces that the accused is found Not Guilty on all charges and that he is to be released forthwith, and ~~that the proceedings are accordingly terminated~~. Part I of the Schedule is marked and signed as are pleas of Guilty outstanding and dealt with under Record Form B or C.)
(*1. AA 54(3) (6), RP 45, 120(A). 2. AA 54(3), RP 45, 117. The alternative announcement is not applicable when there*)

D9. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E below.

RECORD FORM E—PROCEEDINGS ON CONVICTION BEFORE SENTENCE.

E1. President to accused : Do you wish to give evidence yourself or to call any witnesses as to your character ?[1] Ans No.
(*1. If evidence has already been given by accused or his witnesses as to his character, delete this para. RP 37(C) fn 6, 46 fn 1. Accused and witnesses are sworn. Evidence recorded per Notes.*)

E2. The Prosecutor produces Statements as to Character and Particulars of Service[1], and certified true copy (copies) of Conduct Sheet(s)[2], purporting to refer to the accused, which he submits to the Defending Offr for examination, and then to the Court for admission in evidence. The Court is satisfied that these documents refer to the accused, because (i) they purport to be signed in the manner required by AA 163(3) (g) (h), and (ii) they purport to refer to (a) soldier(s) having the same number, rank, name and corps as the accused. Admitted in evidence and marked Ex B and Ex C respectively.[3]
(*1. MFB 155 or AFB 296. 2. As fn 6. 3. RP 46, KR Can 558. If above documents not produced, see RP 46 fn 1 para 1.*)

E3. President to accused : Do you wish to address the Court on the Statement(s) and Conduct Sheet(s), and in mitigation of punishment ?[1] Ans No.[2]
(*1. RP 37(C), 46(D). 2. Addresses, if any, recorded per Notes. Court should permit accused or his witnesses to prove on oath anything born or previously stated which would affect the amount of punishment. RP 37(F), fn 7.*)

E4. The President states that the Court is closed to consider the sentence, and that the sentence to be awarded by the Court, being subject to confirmation, will not be announced, but will be promulgated later, and the proceedings in open court are accordingly terminated.[1]
(*1. AA 54(6), RP 120(A).*)

E5. The Court considers the sentence.[1] The President records the sentence in Part I of the Schedule, which is dated and signed by him and the JA, if any.[2]
(*1. When several accused tried separately see RP 71 (D). One sentence only, comprised of one punishment or punishments laid down in AA 41, 44 and its proviso, as to be awarded to cover all charges in all charge sheets on which accused found guilty. RP 48. As to sentences see AA 64, 128B, 182, RP 46-50, 89, 118, 119(A), KR Can 308, 330, 568-568. Overseas RD 309, 2203, MML p 60, 737-738. As to sentences assigned for civil offences by the law of England see AA 40(2), MML p 130. When accused already under sentence of imprisonment or detention see AA 44(1)(b), 68(1), KR Can 564. 2. RP 52. As to release from arrest by Confirming Offr see KR Can 567. As to assembly and disposal of record after trial see instrs on back of Convening Order.*)

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

RJH

CHARGE SHEET

The accused, C 58,248 Guardsman Wilbert Allan GUEST, 21 Cdn. Armd. Regt. (GGFG)(CA), a soldier of the Canadian Army Overseas, is charged with:

FIRST CHARGE — When on active service, conduct to the prejudice of good order and military discipline,

SEC 40 ARMY ACT

in that he,

in the field, on 28 September, 1944 brandished a pistol and caused a disturbance in a public place.

SECOND CHARGE — When on active service, drunkenness,

SEC 19 ARMY ACT

in that he,

in the field, on 28 September, 1944 was drunk.

(E.M. Smith) Lt.-Col
Officer Commanding,
21 Cdn. Armd. Regt. (GGFG)(CA)

In the field
12 October, 1944

Appointed to be tried by Field General Court-Martial.

In the field
17 Oct 44.

[illegible]
Armd & Cdn Armd Bde.

R 31

FIELD GENERAL COURT-MARTIAL

CFAAG (In lieu of AFAZI 40/FAB/1697 (2nd))

(Whether the accused to be tried is under his comd or not, a FGCM may on application to him be convened by any offr of Cdn Army Overseas, or of any other force if authorized in law, in immediate comd of troops on active service, subject to RP 105(C) and restrictions imposed by appropriate authy. AA 49, 50, RP 104-107, 114. As to the duties and privileges of the Convening Offr in dealing with the application see MML Chap V paras 20 and 23, RP 87(B).

There should be a separate Convening Order for each person to be tried separately by the same Court. RP 71(C), 109. As to separate charge sheets see RP 62, and as to separate trial on charges in the same charge sheet see RP 108. As to two or more accused charged jointly see RP 16, 109.

As to reasons for showing (a) permanent or confirmed rank, and (b) apptmt, A/rank or A/apptmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

ACCUSED.

Number.	(a) Prmnt R.	(b) Apptmt, A/R or A/Apptmt	Full Christian Names.	Surname.	Unit.
C58248	Gdsn		Wilbert Allan	GUEST	21 Cdn Armd Regt.

CONVENING ORDER.

1. Whereas complaint has been made to me, the undersigned, that the person named above as the accused, being subject to military law, has (since) committed the offence(s) set forth in the Charge Sheet(s) attached and on (date) 17 Oct 44 at Antwerp (or by an offr of my staff for me), "To be tried by Field General Court-Martial".

2. And whereas I am of opinion that it is not practicable that such offence(s) should be tried by an ordinary General Court-Martial; (and that it is not practicable to delay the trial for reference to a superior qualified offr.)

(Delete part in brackets when not required for compliance with RP 105(C).)

3. I hereby convene a Field General Court-Martial to try the said person(s), and to consist of the Offrs appointed or detailed hereunder.

4. (Being unable to appoint (a) three Offrs to form the Court, (b) a Fd Offr as President, for the reasons I have stated herein.)

(AA 49, RP 106(B), 107(A). Delete the whole or part, if not applicable.)

5. I also appoint as Judge-Advocate thereat the Offr mentioned hereunder.

(RP 106(E). Delete, if none appointed.)

PRESIDENT.

(Rank.)		(Must be named. RP 106.)	(Unit.)
Major	R.F. WILSON		Linc & Welld Regt

MEMBERS.

(Rank.)		(Named or detailed. RP 106.)	(Unit.)
Lieut	K.V. McKEARNS		15 Cdn Fd Regt RCA
Lieut	A.K.L. EAVES.		28 Cdn Armd Regt

WAITING MEMBER.

(Rank.)		(Named or detailed, if any. RP 106.)	(Unit.)
Capt	G.B.W. BECKETT		4 Cdn Armd Div Sigs.

JUDGE-ADVOCATE.

(Rank.)		(Must be named, if any. RP 106.)	(Unit.)
Capt.	H.A. HANSON		HQ 4 Cdn Armd Div

On Active Service in the Fd

in Belgium (Country.)

(R.W. MOORE) (Signed personally. RP 105 fn 2.)

Brigadier (Rank.)

Date 17 Oct 44

Commanding 4 Cdn Armd Bde
Convening Officer.

CONVENING OFFR WILL INITIAL ALL DELETIONS AND ALTERATIONS

(See overleaf for audits and notes for use on trial.)

18 October, 1944

This is to certify that I have this date examined C 58,248 Gdsm. GUEST, W.A. and find him medically fit ~~unfit~~ to undergo trial by Field General Court Martial.

Medical Officer

Prosecution

IW
PW3 Acton Dupont adjoining Commissaire Bungay Police sworn.

On Thursday 2 & Sep xx at about 6 o'clock I was a car outside drunk in Academie St. One of the men was the accused. The man was not as drunk as the other. They went to Langue Hustis house. The contents of the parcel was in his holster. I took it from him.

He was searching his pockets in Academie St and put it back in his holster before he reached Langue Hustis house.

K Evans.

The accused was running about with the parcel in his hand He did not do anything.

Evans by Court

~~Upon~~ After people in the street ran away when the accused and his companion brandished their revolvers.

RP 63 (B) empties int.

Defence

C.S. 5248 Gnr Grant W. S. 21 CAR

IN Def

Sworn

On 21 Sep 17 any return and I went to a cafe where we spent the afternoon where we drank. I had 1½ bottles of cognac & some beer. I don't remember anything after we left the cafe.

No X Ex am

RP FSR(B) complied with.

Capt E. L Mowers. 21 CAR sworn.

SW Def

Known accused since Mar 17. He was an excellent man and his work was good. His behaviour was that of a first class soldier

No X Ex am:

RP FSR(B) complied with.

Lt L. M. Stanway 21 CAR sworn

SW. Def.

Known accused 1½ yrs — a good soldier and well behaved. On my TP I sent in the fuse & his work was as good as any man I have ever had.

No X Exam

RP FSR(B) complied with

Pros opp during & sum up.

Def opp.

Can draw inf. The accused could come towards but was not serious enough to constitute a charge under 66 40.

Pros. Must be shown that accused prejudiced to conduct good order & mil'y discip.

Matter of fact

Remember Amer.

"A"

SUMMARY OF EVIDENCE

in the case of

C 55,248 Gdsm. Wilbert Allan GUEST, 21 Cdn.Armd.Regt.(GGFG)(CA) charged with:

1. Committing a Civil Offence, that is to say, stealing. A.A. 41.
2. Conduct to the prejudice of good order and military discipline. A.A. 40.
3. Drunkenness. A.A. 19.

By direction of the Commanding Officer, 21 Cdn.Armd.Regt.(GGFG)(CA) the evidence is taken on oath.

I am satisfied to have Mme. Olga Calmeyn, 1 Quai de la Porterie, Bruges, Belgium act as interpreter at my summary of evidence.

W.A. Guest
C 55,248 Gdsm. Guest, W.A.
21 Cdn.Armd.Regt.(GGFG)(CA)

The interpreter is then sworn.

FIRST WITNESS: Octave LUPONT, Adjoint Commissaire, Bruges Police, sworn states:

"I am Octave LUPONT, an Assistant Commissar of the Bruges Police. On Thursday, 28 September, 1944 about 6 o'clock I met two Canadian soldiers drunk in Academie St. They both had revolvers in their hands and were menacing people. The accused was one of these men. In Spanish Street they both went into the house of the lawyer Neate. While they were in the corridor of the house I took the revolvers from them and took them to the police station. The accused was dead drunk but not as violent as the other soldier. The accused had no wounds."

Octave LUPONT,
Adjoint Commissaire,
Bruges Police.

The accused declines to cross examine this witness.

SECOND WITNESS: Mme. Werner ROELS, 21 Rue de la Academie, Bruges, sworn states:

"I am Mrs. Werner ROELS, 21 Rue de la Academie, Bruges. On the 28 September, 1944 between 6 and 6.30 two Canadian soldiers entered my shop, drunk. The accused went to the counter, put his elbows on the weighing machine. The accused went to the ham machine and began shaking it for all his worth and then he went away from the ham machine and followed my husband, took hold of him by his shoulders and wanted to shove him against the wall. I asked my husband to go away. My husband then ran away followed by the accused, into the residential part of the store and but the private entrance into the street. That is the last I saw of the accused. The other soldier went to follow and fell down and I was then occupied with him. My weighing machine was broken, but this was done by the other man. The accused was dead drunk but not as violent as the other men. The accused did not take any money. This accused I could have calmed better than the other one. This accused did not menace me with a pistol."

Mme Werner ROELS
21 Rue de la Academie,
Bruges.

The accused declines to cross examine this witness.

THIRD WITNESS: Mon. Werner ROELS, 21 Rue de la Academie, Bruges, Sworn states:

"I am Mr. Werner ROELS, 21 Rue de la Academie, Bruges. On 28 September, 1944 between 6 and 6.30 two Canadian soldiers drunk, entered my shop in Academie street. I was there with my wife when the soldiers entered. One of them fell on the window ledge and the accused stood in the middle of the shop. The one that fell stood up and they both went to the counter and put their elbows on the weighing machine. When I asked the accused to remove his elbows he did so and went to the beer machine and shook it so much I thought it was done for. I went to the soldier telling him to leave it alone and then I sent behind the counter. The accused followed me and shoved me against the wall. I ran away into the residential part of the house and by the private entrance into the street. The accused followed me. As I was asking someone in the street for help I saw the accused was following me so I ran back into my house. The accused did not follow me. The accused was drunk but not so violent as the other soldier. The glass of my weighing machine was broken and the indicator bent but I don't know by which soldier."

Mon. Werner ROELS
21 Rue de la Academie,
Bruges.

The accused declines to cross examine this witness.

QUESTION TO THE ACCUSED: "Do you wish to make any statement or to give evidence on oath? You are not obliged to say anything or give evidence unless you wish to do so, but whatever you say, or any evidence you give will be taken down in writing and may be given in evidence".

A. I want to make a statement.
Q. On oath or not on oath?
A. On oath.

The accused sworn states:

"I am C 58,248 Gdsm. Guest, W.A., 21 Cdn.Armd.Regt.(3CDN)(CA). On 28 September, 1944 after I left the cafe where I had spent the afternoon my mind is blank.

C 58,248 Gdsm. Guest, W.A.
21 Cdn.Armd.Regt.(3CDN)(CA)

The accused does not call any witnesses.

I certify that the foregoing Summary of Evidence consisting of two pages was taken down by me in the presence of the accused and that R.P. 4 (c) (d) (e) (f) and (g) have been complied with.

(A.H. Jessup) Capt.
21 Cdn.Armd.Regt.(3CDN)(CA)

In the field
2 October, 1944

Exhibit "B" R.M.

M.F.B. 355
5M-10-39 (2482)
H.Q. 1772-39-620

STATEMENT AS TO CHARACTER AND PARTICULARS OF SERVICE OF ACCUSED

Number	Rank	Name	Regiment (or unit)
C 58,248	Guardsman	Wilbert Allan GUEST	21 Cdn.Armd.Regt.(GGFG)(CA)

1. The following is a fair and true summary of the entries in the field Conduct sheet of the accused, exclusive of convictions by a Court-Martial or a Civil Court, of summary awards under Section 47 of the Army Act and of cases in which trial has been dispensed with.

	Within last 12 months	Since enlistment
For AA 40	one times	two times

Number of instances of gallantry or distinguished conduct NIL

2. The accused has not been previously convicted

3. The accused is not under sentence at the present time.

4. The accused has been in confinement awaiting trial on the present charges, for One days in civil custody, and fourteen days in military custody, making a total of fifteen days in custody, of which no days were spent in hospital.

5. The present age of the accused according to his attestation paper is 23 years 5 months

6. The date of his attestation specified in his attestation paper is 25 Jun.40

9. The accused is in possession of State any military decoration or reward. Canadian Volunteer Service Medal and clasp

N. (In the case of an officer.) The accused holds in the Royal Canadian Air Force the rank of Permanent Force unit

dated ; and in his regiment (or corps), the rank of

dated

12. The accused has served as a non-commissioned officer continuously, without reduction, to the present date:—

Date of promotion.

In the rank of years.

In the rank of years.

In the rank of years.

NOTE:—If any matter in any of the above paragraphs cannot be stated from the Regimental books, the paragraph must be struck through.

SCHEDULE

Of convictions by a court-martial or civil court, of summary awards under Section 47 of the Army Air Force Act, and of cases in which trial has been dispensed with of accused, Number Rank

Name of Regiment

NOTE:—A verbatim extract from the regimental books stating these convictions and dispensations with trial must be inserted.

Description of Court by which tried	Date and Place of Trial	Charge upon which convicted	Sentence of the Court	Punishment Remitted

I hereby certify that the foregoing schedule of convictions and dispensations with trial is a true extract from the regimental books in my custody.

Signed this Twelfth day of October, 1944

(H.V.Fritchard) Capt.
Adjutant
21 Cdn.Armd.Regt.(GGFG)(CA)

The above statement (with the schedule of convictions and of cases in which trial has been dispensed with) is read, marked signed by the president, and annexed to the proceedings.

R. Sly. 8/4/43

MFM 6
(AFB 122)
40/P&S/136 (5438)

No C58248 Name GUEST, W.A. | Sqn. Battery or Company | Corps C.A.C. | Date of enlistment 25Jan40 | GC Badges 1st 9Jul 42. | Service or Proficiency Pay N/A

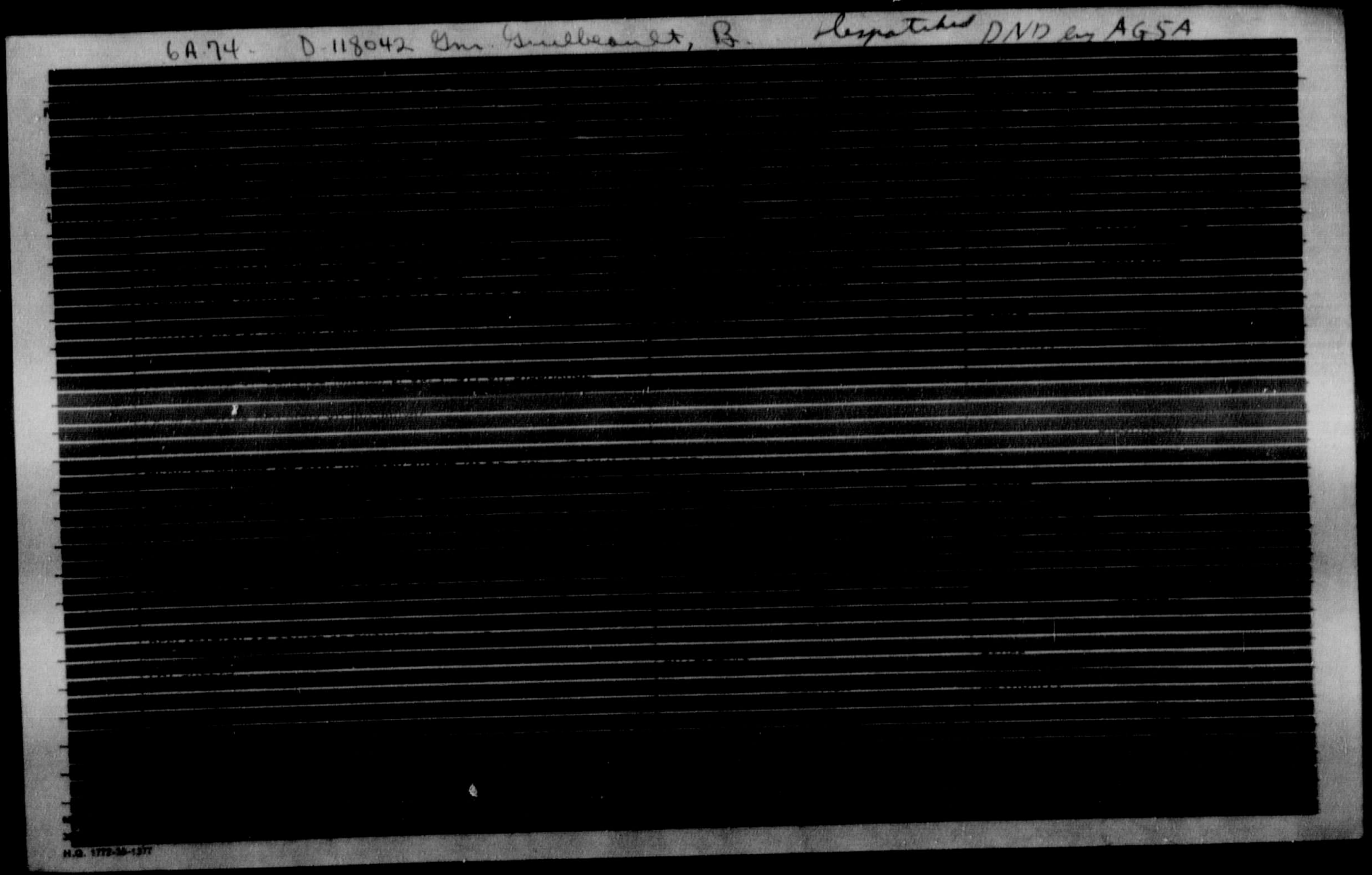
Company Conduct Sheet Date of last entry in N/A | No and date of last drunk N/A | Period not reckoning towards freedom from extra fine N/A | Sheet No 1 | Signature OC Company, etc C.E. Slack, Major | Character

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Sheet Destroyed 25 Dec 40.									
Field	21Feb43	Gdsm.		A.A.40. Conduct to the prej. etc. in that he failed to carry out his duties as Hut Orderly	Cpl. Jack, G.L.	7 days C.B.	22Feb43	Maj. F.P. Andre	Last instance being on. NIL. C.E. Slack, Major. C.E.S.
Field	22Dec43	"		A.A.40. Conduct to the prej. etc. in that he at 1500hrs on 22Dec43 was improperly in possession of a spoon (cutlery) the property of the NAAFI	Sgt. Jennings	Reprimanded	27Dec43	Maj. M.C. Finley	C.E.S.

Certified True Copy W.T. Whitehead Capt.

(P10)

6A 74 - D 118042 Gen. Gerhardt, R. Separated DND as AGSA



N.Q. 1772-58-1377

Z-8

DVR GUILBAULT G.

Z-8

Correspondence to be PINNED here.

Army Form A.3.

Form for Assembly and Proceedings of Field General Court Martial on Active Service.

PROCEEDINGS.

A.
Order convening the Court

On Active Service, this - - - - 9th - - - - - - - - day of- - - - February - - - - - , 1943.

Whereas it appears to me, the undersigned, an officer in Command of 5th Canadian Armoured Division - , on active service, that the persons named in the annexed Schedule, being subject to Military Law, have committed the offences in the said Schedule mentioned.

And whereas I am of opinion that it is not practicable that such offences should be tried by an ordinary General Court Martial; *~~and that it is not practicable to delay the trial in reference to a superior qualified officer;~~

* Omit where Convening Officer is a Commanding Officer or is of Field Rank.

I hereby convene a Field General Court Martial to try the said persons, and to consist of the Officers hereunder named.

* Omit if not applicable.

*~~I am unable to appoint:-~~

*~~1. Three Officers to form the Court;~~

*~~2. A Field Officer as President;~~

*~~3. Three Officers having more than one year's service;~~

~~for the following reasons, namely:—~~

Proceedings forwarded

Brig. Gen. Staff

10 Mar 43

President.

Rank.	Name.	Regiment.
Major	C.H.Drury,	8 Cdn Army Fd Regt RCA

Members.

Rank.	Name.	Regiment.
Captain	G.B.Tolson,	5 Cdn Lt A A Regt RCA
Captain	G.F.Colclough,	8 Cdn Army Fd Regt RCA
	WAITING MEMBER	
Lieut.	T.L.Williams,	5 Cdn Lt A A Regt RCA
	JUDGE ADVOCATE	
Captain	G.M.Morrison, Nth K[illegible]	Lt HQ 5 Cdn Armd Div.

* Must be signed personally by the Officer actually in command at the time, and all alterations in the composition of the Court to be initialled by him

(C.R.S.Stein) Major-General,
Commanding 5th Canadian Armoured Divis[illegible]
Convening Officer.

SCHEDULE.

Number, Rank (a), Name and Unit of Accused (b)	Offence charged	*Plea	Finding, and if Convicted, Sentence (c)	How dealt with by Confirming Officer (d)
D-57114, Dr. Gerard GUILBAULT 11 Cdn Inf Bde Coy RCASC	1st Ch.Sec 6(2)(h) AA	guilty	guilty	to be confined 10 Feb 43
	2d Ch.,Sec 8(2) AA	guilty	guilty	to be confined 15 Feb 43
	3d Ch.,Sec 8(2) AA	guilty	guilty	to be confined 15 Feb 43
	See att charge-sheet		To undergo detention for a period of 9 days C.St.A.Drury maj 10 feb 1943	to be confined 15 Feb 43

* Question to be asked of accused, if he pleads not guilty (R. of P. 39 (a)) :—
"Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity for preparing your defence?"

Answer (to be recorded if necessary) :—

(Signed) (C.R.S.Stein) Major-General
Commanding 5 Cdn Armd Div

(Signed) C.St.A.Drury maj
8 Cdn A. Fd Regt.
Convening Officer (e) *President.*

Gmellonnesse Capt
Judge Advocate

(a) Appointment acting rank or acting appointment, if any, to be stated in brackets after the substantive rank.
(b) Unless unavoidable, not more than three names are to be entered on one form, and in serious cases one only.
(c) Recommendation to mercy, if any, to be inserted in this column.
(d) It is not necessary that the Confirming Officer should sign his name in this column. Initials are sufficient.
(e) Must be signed by the same Officer who signs on the first page, and all alterations in the first two columns of the Schedule to be initialled by him.

Evidence and Charge Sheets (if necessary) to be PINNED here.

B. Certificate of President as to proceedings.

I certify that the above Court assembled on the tenth day of february 1943, and duly tried the persons named in the Schedule, and that the plea, finding, and sentence in the case of each such person were as stated in the third and fourth columns of that Schedule.

I also certify that :—
1. The members of the Court, the Judge Advocate, and the shorthand writer,
2. The witnesses
*(3. The ~~interpreter~~ Interpreter e.a.t.
*(4. The officers under instruction)

* Omit if not applicable.

were duly sworn.

Signed this tenth day of february 1943.

Gmellonnesse Capt
Judge Advocate

C.St.A.Drury maj
President of the Court Martial.

C. Certificate in case of death sentences.

* See footnote (b) on page 762 M.M.L. 1939.

~~I certify that the terms of *A.C.I. 570 of 1918 have been~~ complied with.

Signed this day of 19

~~President of the Court Martial.~~

D. Confirmation.

I have dealt with the findings and sentences in the manner stated in the last column of the Schedule, and, subject to what I have there stated, I hereby confirm the above findings and sentences.

~~*I direct that the soldier named in the margin be not committed to prison until further orders.~~

* To be omitted unless penal servitude or imprisonment having been awarded, the Confirming Officer either has no authority to commit to prison, or, having such authority, recommends suspension.

Signed this 15th day of February 19 43

(C.R.S.Stein) Maj. Gen.
Confirming Officer. 5 ARMD. DIV.

Promulgated and extracts taken in the case of D-57114 Gd Guilbault G. 11 Cdn Inf Bde Coy RCASC

(a) (Dated) 18 Feb 43 (Signed) H.D.G.Crerar Lieut-Col
A/Adjutant
11 Cdn Inf Bde Coy
RCASC—5 C(A)D

Promulgated and extracts taken in the case of

(Dated) (Signed)

Promulgated and extracts taken in the case of

(Dated) (Signed)

(a) When several cases are promulgated in one unit on the same day the Officer need only sign once.

CHARGE SHEET

The ACCUSED D.57114 DR. Gerard, GUILBAULT of the 11 CDN.INF BDE COY RCASC - 5 CDN ARMD DIV, a soldier of the Canadian Army Overseas is charged with:

1ST CHARGE
Sec.5(2)(E)AA. WHEN A SOLDIER ACTING AS SENTINAL, WHEN ON ACTIVE SERVICE, LEAVING HIS POST BEFORE HE WAS REGULARLY RELIEVED

In that he

In the Field, at 2025 hrs on 30 Jan 43 after being posted as a sentry on No.1 Post Vehicle Guard left his post without being regularly relieved.

2ND CHARGE
Sec.8(2)A.A. WHEN ON ACTIVE SERVICE, OFFERING VIOLENCE TO HIS SUPERIOR OFFICER

In that he,

In the Field, at 2210 hrs 30 Jan 43, when checked and ordered to his bed by D.116441 Sgt. Guilbault, R.J.C. did push the said Sergeant.

3RD CHARGE
Sec.8(2)A.A. WHEN ON ACTIVE SERVICE, STRIKING HIS SUPERIOR OFFICER

In that he,

In the Field, at 2240 hrs on 30 Jan 43 did strike D.18089 Pte(A/L/Cpl) Birnie,L., who was at the time Corporal of the Guard.

Field
3 Feb 43.

(J.E. Black) Major
Officer Commanding.
11 Cdn Inf Bde Coy RCASC

To be tried by Field General Court-Martial

Signed in the field this 9th February 1943.

Maj. Gen.
G.O.C. 5 Cdn Armd Div

11 CDN INFANTRY BRIGADE COMPANY, R.C.A.S.C. C.A.Drury maj
5 CDN ARMD DIV

10 Feb 43

MEDICAL CERTIFICATE

R.C.C.M. - D57114 PRIVATE OUIMAUT, Gerard

This is to certify that I have this day examined the m/n soldier and find him FIT/~~UNFIT~~ to undergo trial by Field General Court Martial.

Medical Officer

Trial of D-57114, Dr.Gerard Guilbault, 11 Cdn Inf Bde Coy RCASC.

Held in the Field on 10 February, 1943.

PRESIDENT:

Major C.H.Drury, 8 Cdn Army Fd Regt RCA.

MEMBERS:

Captain G.B.Tolson, 5 Cdn Lt A A Regt RCA
Captain G.F.Colclough, 8 Cdn Army Fd Regt RCA.

JUDGE ADVOCATE:

Captain G.M.Morrison, Nth N S Highrs att HQ 5 Cdn Armd Div.

The order convening the court, the charge-sheet, and the summary of evidence are laid before the court.

The court satisfy themselves as provided by Rules of Procedure 22 and 23.

The accused is brought before the court.

Prosecutor:-Capt.R.D.J.Weathersbee, 11 Cdn Inf Bde Coy RCASC.

Defending Officer:-Capt.J.F.Jensen, 11 Cdn Inf Bde Coy RCASC.

The order convening the court is read in the hearing of the accused.

The accused does not object to the President, or any member of the court.

The court, the judge advocate, and the following officer under instruction, are sworn:-

Lieut.T.L.Williams, 5 Cdn Lt A A Regt RCA.

The accused does not object to K-57793, S/Sgt.J.R. Mahood, CMSC, HQ 5 Cdn Armd Div, acting as shorthand writer.

The shorthand writer is sworn.

The accused does not object to D-115558,Cpl.G.Cardinal, 11 Cdn Inf Bde Coy RCASC, acting as interpreter.

The interpreter is sworn.

The accused answers his name and number, and is arraigned on the charges. Charge-sheet marked "C" signed by the President, and annexed to the proceedings.

PLEA The accused pleads guilty to the charges.

R.P.35(B) is complied with.

FINDING — The court find the accused, D-57114, Dr.Gerard Guilbault, 11 Cdn Inf Bde Coy RCASC, is guilty of the charges.

The summary of evidence is read, marked "H" signed by the President, and attached to the proceedings.

EVIDENCE AS TO CHARACTER, ETC. — Capt.R.D.J.Weathersbee, 11 Cdn Inf Bde Coy RCASC, the Prosecutor, sworn, states:--I produce M.F.B.355 and certified copy of M.F.M.6 relating to the accused, which I have compared with the regimental books, and which are true statements as to character and particulars of service of the accused. (Documents read, marked "Y" and "Z" respectively, signed by the President, and attached to the proceedings).

No cross-examination.

The accused does not apply to make a statement or give evidence, or to call witnesses in mitigation or as to character, but desires that the Defending Officer make a plea in his behalf.

Defending Officer:--I would like to say on the first charge that the guard on that post have no particular guardroom, the corporal sleeps at a different place than the rest. The accused was not to be posted until some time after supper and he figured he would go down and have a few drinks, not having a regular guardroom or knowing where the Cpl was. After having had these few beers he went back and was going to stay on post, but there was a chap there that he talked into taking over the post, and he again left.

As you can see from the summary of evidence there is a certain amount of family trouble there. As I say he had been drinking and thought that as long as there was somebody on that post he couldn't get into any trouble. Went back up to the pub and stayed there. As I said before there is a certain amount of family trouble there between the two brothers and I have no doubt there was a certain amount of trouble in civilian life. One brother is a Sgt and orders the other around. The accused is very high strung and very quick tempered and when accused of those things he figured his brother was picking on him, and I believe that if he had been left alone he would have gone to bed and behaved himself, but he was ordered around and ordered around, and being high strung he started flailing his arms around and accusing people of trying to ride him. I don't think any of this was necessary.

The accused has tried to get away from this particular brother, to be transferred to a different pl but cannot seem to do so. I believe that if he was transferred to a different pl and given a chance he would not have been brought up on these charges. I think that if the court take this into consideration they will see that this lad deserves a chance.

The court is closed for the consideration of the sentence.

SENTENCE The court sentence the accused, D-57114, Dr.Gerard Guilbault, 11 Cdn Inf Bde Coy RCASC, to undergo detention for Ninety (90) days.

CERTIFIED A TRUE RECORD OF THIS TRIAL, this 10th day of February, 1943.

Guilbault Captain
Judge Advocate

"H" Q.D. Army 8A

SUMMARY OF EVIDENCE in the case of No. D.57114 DVR. GUILBAULT, G. of the 11 Cdn Inf Bde Coy R.C.A.S.C. 6 Cdn Armd Div.

By direction of the Commanding Officer the Summary of evidence is taken on oath.

1ST WITNESS FOR THE PROSECUTION D.115441 Sergeant GUILBAULT, R.J.O. of the 11 Cdn Inf Bde Coy R.C.A.S.C. having been duly sworn states:

At 20.05 hrs, on the 30th of January 1943, I passed by the vehicle park to see if Dvr. Guilbault was on guard as I had to see him in regards to taking a jeep off his charge and turning it over to Dvr. Hubley. On arriving at the vehicle park I found Dvr. Regan on guard duty. As a result of information received, I went to the public house and found Dvr. Guilbault under the influence of intoxicating beverages. I asked him what he was doing in the public house, he replied "Someone else was on his post and he paid five shillings to be replaced" I asked him to go back to his post, he replied "I have paid someone to take over my post on guard duty". This was about 2100 hrs. I then left him in the public house because I realized due to his intoxicated condition it was no use to try and get Dvr. Guilbault out of the public house and thereby creating a disturbance.

The next time I saw Dvr. Guilbault was outside of the Orderly Room at Coy H.Q. at 2210 hrs. He was walking towards the Nisson hut which is in the rear of Coy.H.Q. orderly room. I asked Dvr, Guilbault where he was going but he did not answer, so I told him to return to his billets.

I then went to the Orderly Room and in company with Cpl. McCubbin who was Coy.H.Q. Duty N.C.O. proceeded to make a tour of the barracks to check the roll call and lights. As we passed by the vehicle park on our way to the hut behind the Officers' Mess, Dvr. Regan who was on guard challenged us and right after this I heard another voice challenge us. I recognized the voice of Dvr. Guilbault, we approached the guard and looked around with the aid of a flashlight and saw Dvr. Guilbault with his greatcoat on but no hat. I said to Dvr. Guilbault whom I recognized "What are you doing here" he replied "I am taking my post on guard duty". So seeing that Dvr. Guilbault was in no condition to go on guard duty I ordered him to his quarters. Dvr. Guilbault then said "Here" to Dvr Regan as he handed him five(5) rounds of ammunition, after which Dvr. Guilbault went to his quarters.

The Accused declines to cross examine the witness.

G. Guilbault Sgt.
(Signature of Witness)

2ND WITNESS FOR THE PROSECUTION B.92073 Driver, REGAN, W.P. of the 11 Cdn Inf Bde Coy, R.C.A.S.C. having been duly sworn states:

At 2010 hrs, 30th January 1943, I was in my quarters when Dvr. Guilbault entered and asked me to take over his guard duty for a while. I said "O.K" as I was not doing anything I would do it. As Dvr. Guilbault walked out of the hut he threw two shillings on my bed. I went on guard duty till I was relieved at 2315 hrs. During that time Sgt. Guilbault came and asked me where Dvr. Guilbault was. At about 2230 hrs Dvr. Guilbault returned to do his guard duty and while he was standing close by I heard someone approaching. I challenged the persons approaching and I heard the ~~rxi~~ reply "Cpl. McCubbin", as Cpl. McCubbin came closer I recognized Sgt. Guilbault who was with him. Sgt. Guilbault spoke to Dvr. Guilbault in French. Dvr. Guilbault then said "Here Regan" and gave me five rounds of ammunition which I had given him on his return. I was in possession of Dvr. Guilbault's rifle which I was using whilst taking his tour of duty for him and when Dvr. Guilbault came up to me I assumed he had been drinking so I took the bolt rom the rifle and put it in my pocket.

Exhibit "B"

It was about 2235 hrs when Dvr. Guilbault returned to his quarters, after Sgt. Guilbault had ordered him to do so.

Does the Accused wish to cross-examine the Witness.

"Yes"

Question 1. When I came to ask you to take my place on guard did I appear to have been drinking.

Answer. I wouldn't say Dvr. Guilbault was drunk but he appeared to have been drinking and when I went with Dvr. Guilbault to his post he offered me a drink from a bottle which he took from the back of a jeep.

Dvr. W.P. Rogers.....
(Signature of Witness)

3RD WITNESS FOR THE PROSECUTION. D.18069 L/Cpl. Birnie, L. of the 11 Cdn Inf Coy. R.C.A.S.C. Having been duly sworn states:

On January 30th, 1943, I took charge of the Guard and posted Dvr. Guilbault on his post which was No.1 post at H.Q. Vehicle park, at 1955 hrs. At this time Dvr. Guilbault appeared normal in every respect. After this I returned to the Orderly Room where I was on duty. The tour of duty as laid down in Unit Standing Orders for Guard is 2 hours.

The Accused declines to cross-examine the witness.

L/Cpl. L. Birnie.....
(Signature of Witness)

SUMMARY OF EVIDENCE in the case of No. D.57114 DVR. GUILBAULT, G. of the 11 CDN INF BDE COY R.C.A.S.C. 5 Cdn Armd Div.

By direction of the Commanding Officer the Summary of evidence is taken on oath:

1ST WITNESS FOR THE PROSECUTION

D.115441 Sergeant GUILBAULT, R.J.C. of the 11 Cdn Inf Bde Coy R.C.A.S.C. having been duly sworn states:

At 2220 hrs on 30 Jan 43 I was in company with Cpl. McCubbin in the men's quarters behind the Officer's mess. I told Dvr. Guilbault to go to bed and I had to order him to go to bed so Dvr. Guilbault stood up and came over to the centre of the hut and said "You have something against me" I then ordered him back to his bed and he pushed me with his hands this knocked me back a little, I then ordered Dvr. Kenig the Regimental Police to place Dvr. Guilbault under close arrest. At this time Dvr. Kenig the Regimental Police was in his bed and by the time he got up and dressed, I walked out of the hut and as I did I heard Dvr. Guilbault voice which I recognized saying " You are going to put me under close arrest but you are going to put me under close arrest for something" I was just on the outside of the hut when this happened and I turned around as I heard someone approaching me, I turned my flash-light on the person and recognized Dvr. Guilbault. With the light turned on Dvr. Guilbault it made it hard for him to see where I was, I turned off my flashlight and stepped back a couple of paces and he went right past me.

I then returned to my quarters at Coy H.Q. with Cpl. McCubbin, this was approximately 2255 hrs. As soon as I opened the door to enter the quarters, I saw Dvr. Guilbault running down the stairs from my room. I ordered Dvr. Guilbault back to his billets, At that time I started to go up the srairs to my room and I saw Dvr. Guilbault was following me and seemed to be looking for an argument. I was on the second step of the stairs and Dvr. Guilbault came over and pushed me over, I then walked into the Orderly Room and ordered the Corporal of the guard to send Dvr. Guilbault to his billets, The Cpl. of the Guard tried to convince Dvr. Guilbault to return to his quarters and he did not seem to do as he was ordered. So L/Cpl. Birnie laid his hand upon Dvr. Guilbault's shoulder and said "Go back to your quarters". Dvr. Guilbault turned around and struck at L/Cpl Birnie. L/Cpl. Birnie tried to protect himself, but was not very successful and turned to me and said"I can't do anything" As L/Cpl. Birnie said this Dvr. Guilbault jumped at L/Cpl. Birnie and struck him in the face with his left hand. I left the scene at that time as my presence seemed to antagonize Dvr. Guilbault and I thought he could possibly handle him better if I got out of the way. I walked up the stairs to my room and was standing in front of the fireplace when the door was flung open and Dvr. Guilbault said "Your going to pay for that" At this time Dvr. Kenig the Regimental Police came into the room and he took charge of Dvr. Guilbault. During the time of all these happenings Dvr. Guilbault in my estimation was under the influence of intoxicatants, although he was fairly steady on his feet.

The Accused declines to cross examine the witness.

R Guilbault sgt
(Signature of Witness)

2ND WITNESS FOR THE PROSECUTION D.115576 Corporal McCUBBIN, D. of the 11 Cdn Inf Bde Coy, R.C.A.S.C. having been duly sworn states:

I was on duty as Duty N.C.O. at Coy H.Q. on Saturday January 30th, 1943. At 2200 hrs Sgt. Guilbault stated that he would accompany me when I made Tattoo Roll Call. Sgt. Guilbault and myself proceeded to do this at 2215 hrs. On arriving at Coy. H.Q. Vehicle lines we found Dvr. Regan and Dvr. Guilbault there, Sgt. Guilbault asked Dvr. Guilbault what he was doing there. Dvr Guilbault replied "He was taking back his post on guard duty from Dvr. Regan whom he had asked to replace him" Dvr. Guilbault appeared to be under the influence of intoxicants, and Sgt. Guilbault ordered him to his quarters.
On arriving at the quarters behind the Officer's mess, I proceeded to call the roll. Dvr. Guilbault assumed a threatening attitude towards Sgt. Guilbault stating that "If he was going to be put in, he was going to be put in for something good. As Sgt. Guilbault and myself were preparing to leave Dvr. Guilbault pushed Sgt. Guilbault and Sgt. Guilbault then ordered Dvr. Kenig the Regimental Police to place Dvr. Guilbault under close arrest, and also warned Dvr. Guilbault for Orderly Room Monday morning.
Sgt. Guilbault and myself then left the hut and stayed in the vicinity of the hut for a few minutes because upon leaving we heard someone slam the door and saw the blackout fall down. Also loud talking ensuing from inside the hut. At 2240 hrs Sgt. Guilbault re-entered the hut and asked Dvr. Guilbault why he was not undressed and in bed as it was then past time for lights out. I was standing just inside the door when this took place. We left the hut then and Dvr. Guilbault followed us outside. Dvr. Guilbault could not see us in the blackout although he seemed to be looking for Sgt. Guilbault and myself. I recognized it was Dvr. Guilbault as he came out of the hut which was still lighted inside. Sgt. Guilbault and myself then returned to the Orderly Room at Coy H.Q. When opening the door to enter I perceived Dvr. Guilbault coming down the stairs from the Sgts' quarters, Dvr. Guilbault assumed a threatening attitude towards Sgt. Guilbault and struck him once. Sgt. Guilbault called L/Cpl. Birnie, Cpl of the guard to come and take Dvr. Guilbault to the guard room. L/Cpl. Birnie came out from the guard room and tried to persuade Dvr. Guilbault to go with him to the guard room quietly. Dvr. Guilbault and L/Cpl. Birnie then came to grips and L/Cpl. Birnie with Dvr. Kenig who had then arrived took Dvr. Guilbault into the orderly room. At this time Sgt. Guilbault was on the stairs leading to his quarters. I returned upstairs to my quarters as did Sgt. Guilbault. I entered Sgt. Guilbault's room and shortly afterwards Dvr. Guilbault came running up the stairs and entered Sgt. Guilbault's room and threatened him again, pulling back his arm threatening to strike although he did not strike him. Dvr. Kenig the Regimental Police arrived on the scene and took Dvr. Guilbault in charge.

The Accused declines to cross examine the witness.

D. Mc. Cubbin
(Signature of Witness)

3RD WITNESS FOR THE PROSECUTION

I.54614 Driver KENIG, G. of the 11 Cdn Inf Bde Coy R.C.A.S.C. having been duly sworn states:

At about 2220 hrs on Saturday January 30th, I was in my quarters in the hut behind the Officer's mess. I was in bed. Sgt. Guilbault with Cpl. McCubbin entered the hut. Cpl. McCubbin was calling the roll and Sgt. Guilbault was talking to Dvr. Guilbault in French.

Shortly after this Sgt Guilbault and Cpl. McCubbin left the hut and a few minutes later Sgt. Guilbault re-entered the hut. Sgt Guilbault again spoke to Dvr. Guilbault in French, then turned to me and ordered me to place Dvr. Guilbault under close arrest. During the time I was dressing Dvr. Guilbault left the hut.

As son as I had dressed I went out to the vehicle park were I found Dvr. Regan on guard duty. I asked him if he had seen Dvr. Guilbault, he replied "No" I then proceeded to the Orderly Room and found Dvr. Guilbault with C.Q.M.S. Pelletier and L/Cpl. Birnie who was Cpl of the guard. Dvr. Guilbault walked out of the Orderly Room with me to proceed over to the guard room and he got away from me and ran up the stairs. I followed him up the srairs leading to the Sergeants' quarters and found Dvr. Guilbault in Sgt Guilbault's room. Dvr. Guilbault was speaking to his brother in French and as I do not understand the language I do not know what was said. I then took Dvr. Guilbault to the guard room.

The Accused declines to cross examine the witness.

G. Kenig
(Signature of Witness)

4TH WITNESS FOR THE PROSECUTION

D.115562 C.Q.M.S. Pelletier, P.J. of the 11 Cdn Inf Bde Coy R.C.A.S.C. having been duly sworn states:

On Saturday January 30th between the hour of 2200 hrs and 2300 hrs, I heard a disturbance outside the Orderly Room at Coy H.Q. 11 Cdn Inf Bde Coy. I went out of the Orderly Room into the hall and saw Dvr. Guilbault and Sgt. Guilbault. There was an argument on at the time. L/Cpl. Birnie came out of the Orderly Room with me on hearing the disturbance, as he was Cpl of the guard at the time. I tried to quieten the argumen Sgt. Guilbault told L/Cpl. Birnie to put Dvr. Guilbault under close arrest. After this I returned to my room. I heard Sgt. Guilbault tell L/Cpl. Birnie to hit Dvr. Guilbault.

The Accused declines to cross examine the witness.

P. J. Pelletier
(Signature of Witness)

5TH WITNESS FOR THE PROSECUTION

D.18069 L/Cpl. BIRNIE, L. of the 11 Cdn Inf Bde Coy R.C.A.S.C. having been duly sworn states:

At 2240 hrs on Saturday the 30th January, I heard some noise in the way of arguments outside of the Orderly room in the main hall. Sgt. Guilbault called to me and told me to take Dvr. Guilbault to his billets which I proceeded to do when Dvr. Guilbault got excited and attempted to strike me, but he did not actually strike me, he pushed me, I held on to him by his arms till he quietened down then I left him with CSMS Pelletier whil-st I changed the other guard who were on duty at the time. After arriving back to the Orderly Room I found Dvr. Guilbault was under the charge of the Regimental Police Dvr. Kenig.

The Accused declines to cross examine the witness.

L/Cpl L. Birnie
(Signature of Witness)

C.A.D. 103

THE ACCUSED having been duly cautioned in accordance with Rule of Procedure 4(E) as shown below:

"Do you wish to make any statement or to give evidence upon oath?" You are not obliged to say anything or give evidence unless you wish to do so, but whatever you say or any evidence you give will be taken down in writing and may be given in evidence."

THE ACCUSED RESERVES HIS DEFENCE.

L. Pritchett

Certified that Rule of Procedure 4(C) (D) (E) and (F) have been complied with.

Taken down by me in the presence and hearing of the ACCUSED this

Third day of February, 1943 AT In the Field.

Ewart Read
(E. Ward) Lieut.

M.F.B. 155

22M—5-41 (572-3)
H.Q. 1772-39-620
A.F.B. 286

STATEMENT AS TO CHARACTER AND PARTICULARS OF SERVICE OF ACCUSED

Number	Rank	Name	Regiment (or unit)
D57114	Private	Gerard GUILBAULT	11 Cdn Inf Bde Coy R.C.A.S.C.

1. The following is a fair and true summary of the entries in the ~~Service and Casualty Form (Active Army) (A.F.W. 3121) or Regimental and Squadron (Battery) Conduct Sheet~~ Field Conduct Sheet of the accused, exclusive of convictions by a Court-Martial or a Civil Court, ~~Air Force Act~~ of summary awards under Section 47 of the Army Act and of cases in which trial has been dispensed with.

	Within last 12 months	Since enlistment or appointment
For Sec 8(2) AA	one times	Sec 19 AA - DRUNKENESS - one times F.C.C.M. - 19Mar41
For Sec 15(1) AA	One times	times
For	times	times
For	times	times
~~Number of instances of gallantry or distinguished conduct~~		times

or,

~~There are no entries in the conduct sheets of the accused.~~

NOTE.—If the charge is for drunkenness, the entries for drunkenness must be stated separately.

2. ~~The accused has not been previously convicted.~~

or,

Previous convictions of the accused by a court-martial or a civil court, of summary awards under ~~Air Force Act~~ Section 47 of the Army Act and dispensations with trial under ~~A.F.A. 73~~ A.A. 73 are set out in the Schedule annexed to this statement.

3. The accused is not under sentence at the present time.

or,

~~The accused at the present time is under sentence for ..... beginning on the ..... day of .....~~

4. The accused has been in confinement awaiting trial on the present charges, for ~~civil custody~~ NO days in civil custody, and 10 days in ~~military~~ Air Force custody, making a total of 10 days in custody, of which NO days were spent in hospital.

5. The present age of the accused according to his ~~record of service~~ attestation paper is 30 years

6. The date of his ~~enrolment~~ attestation specified in his ~~record of service~~ attestation paper is 10/4/40

7. The service which the accused is allowed to reckon towards discharge is 2 yrs 9 months

8. The accused is entitled to reckon 5½ yrs service for the purpose of determining his pension, etc.

9. The accused is in possession of or entitled to no ~~air force~~ decoration, or ~~air force~~ reward (~~or is in possession of or entitled to~~). State any ~~air force~~ military decoration or reward. NIL

10. ~~(If the accused is a warrant officer.) The accused before he was made a warrant officer last held the regimental rank of~~ Air Force

11. (In the case of an officer.) The accused holds in the ~~Royal Canadian Air Force~~ Permanent Force the rank of ~~—~~ unit

dated , and in his regiment (or corps), the rank of

dated .

12. The accused has served as a non-commissioned officer continuously, without reduction, to the present date:—

Date of promotion.

In the rank of years.

In the rank of years.

In the rank of years.

NOTE.—If any matter in any of the above paragraphs cannot be stated from the Regimental books, the paragraph must be struck through.

SCHEDULE

Of convictions by a court-martial or civil court, of summary awards under Section 47 of the Army Air Force Act, and of cases in which trial has been dispensed with of accused, Number D-57114 Rank Pvr Unit

Name Guilmaudr, Gerard of H.Q. 1 Bde Gp RCASC Regiment

NOTE.—A verbatim extract from the regimental books stating these convictions and dispensations with trial must be inserted.

Description of Court by which tried	Date and Place of Trial	Charge upon which convicted	Sentence of the Court	Punishment Remitted
F.G.C.M.	In the Field 19 Mar 41	Sec.19 A.A. DISHONEST	60 days detention	19 days

I hereby certify that the foregoing schedule of convictions and dispensations with trial is a true extract from the regimental books in my custody.

Signed this 10th day of February 1943

[illegible] Capt. 1 Cdn Inf Bde Gp RCASC.

The above statement (with the schedule of convictions and of cases in which trial has been dispensed with) is read, marked signed by the president, and annexed to the proceedings.

EXTRACT OF LE REGIMENT DE MAISONNEUVE
Part II Order 30 dated 8 Apr 41

D57114 Pte Guilbault, G

"A" Tried by F.G.C.M. on 19 Mar 41 on:
1st Charge: An Offence under A.A. Sec.8(2)
2nd Charge: An Offence under A.A. Sec.22.
3rd Charge: An Offence under A.A. Sec.19.
"Drunkeness" Alternative

Found not guilty of first two charges and guilty of third.
Sentenced to 60 days Detention on 19 Mar 41
Proceedings were confirmed by AG.O.C 2 Cdn Div on 30 Mar 41
Under Close arrest 37 days while waiting trial 1400 hrs 10 Feb 41 to 0900 hrs 19 Mar 41
For feits 60 days pay under F.R.&I 149(1)(b)
Forfeits 37 days pay under F.R.&I 149(1)(c)(i).
Total forfeiture of pay 97 days.

FIELD GENERAL COURT MARTIAL

Reference para 2 of the attached form and schedule on reverse side as the information of the Court Martial is not on record in this Unit we have contacted the Officer i/c Records, C.M.H.Q. who is sending full particulars immediately and they will be available at time of Court Martial.

Ellis Hunt

for [illegible] Black] Major,
Officer Commanding,
11 Cdn Inf Bde Coy.,
R.C.A.S.C.

No. D57114 Name GUILBAULT, Gerard | Sqn., Battery, or Company: 11 Can Inf Bde Coy | Corps: R.C.A.S.C. | Date of enlistment: 10/4/40 G.C. | Badges: | Service or Proficiency Pay: | Character: Cert Very Good

Date of last entry in Company Conduct Sheet: N/A | No. and date of last drunk: 19/3/41 | Period not reckoning towards freedom from extra fine: | Sheet No. 3 | Signature O.C. Company, etc.:

M.F.(M. 2 (A.F.B. 122) 15SM—7-41 (1215—26) H.Q. 1772-39-1552

Place	Date of offence	Rank	Cases of drunkenness since	OFFENCE	Name of Witness	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Field,	17Nov42	Dvr		A.A. Sec. 8(3) Using Insubordinate language to his superior Offr Col Broun	Col.Feeney C.B.	14 days	18 Nov42	Major A.W. Black	
Field	30Dec42	Dvr		A.A. Sec.15(1) A.W.L. from 2215 hrs until 2315 hrs 30Dec42(Absent 1 hour)	Sgt.Guilebult R.F.C	14 days C.B.	2 Jan 43	Major A.W Black	

Certified true Copy
from Regimental Records in my Custody
R.S.M. Quartermaster Sgt. 11 Can Inf Bde Coy RCASC

(P.T.O.)

HK93.
Cpl (a/Sgt) Guilbeault J.

4

SCHEDULE.

PART I. PLEA(S), FINDING(S) AND SENTENCE.

Accused: D 106214 Pte (CPL) GUILBEAULT Joseph

	Charge. (Insert "alternative" where applicable.)	Plea. (See Instrs p 2.)	Finding. (See note below.)	(Space for use as required for further charges, accused charged jointly, special findings, etc.)
1st	AA 15 (a)	GUILTY	GUILTY	
2nd				
3rd				
4th				
5th				
6th				

(Note: As to findings for lesser offences see AA 56, RP 44; findings on alternative charges see MML p 483 fn 4 para 2, RP 44; special findings see RP 44 and MML p 753, and in lieu of kit see RP 44 fn 6.)

~~At present under sentence for~~ ~~, beginning on (date)~~ (1)

(1. Insert sentence being served, or delete, if not applicable. See RP 46(A). Information should be found on MF B355 or AF B296.)

Time in confinement awaiting present trial—a total of 8 days, of which NIL days were spent in hospital.(1)

(1. See RP 46(A) fn 2. Information should be found on MF B355 or AF B296 admitted in evidence under E2.)

Sentence Awarded by the Court:

TO BE REDUCED TO THE RANK OF PTE AND TO SUFFER FIELD PUNISHMENT FOR TWENTY EIGHT DAYS AND TO FORFEIT ALL ORDINARY PAY FOR TWENTY EIGHT DAYS

(Sgd) ~~Judge Advocate, if any~~ 19 DEC 44 (Sgd) [illegible] President (RP 45, 50.)

Date awarded.

~~(Direction of Convening Order as to assembly and disposal of record after trial.)~~

PART II. MINUTE WHERE CONFIRMATION RESERVED. (AA 54(3), RP 120(F), MML p 760.)

Date ..... (Sgd) ..... Commanding .....

PART III. DECISION OF CONFIRMING OFFR ON FINDING(S) AND SENTENCE.

(For duties and powers see AA 54, 57, RP 37(D) fn 6, 46(A), 51-56, 120, MML pp 759-761, KR Con 567-577. Acquittals require no confirmation and cannot be revised: AA 54(7). Sending back finding or sentence for revision by Court: AA 54(2), RP 120(G). If not confirmed, accused may be tried again: AA 157, MML p 64. Minute of confirmation or non-confirmation may be altered before promulgation: RP 53, MML p 65. Quashing after promulgation: KR Con 573. Duties and powers of reviewing offrs: AA 57, 57A, RP 53A, 54. The Confirming Offr must sign here personally. AA 172 fn 1.)

My decision on the finding(s) and sentence set forth in Part I is:

Confirmed

I direct that the accused be kept committed to prison or detention barracks until further orders. (1. AA 57A. Delete if not used.)

(Sgd) [illegible] Brig.

Date 20 Dec 44

Commanding COMMANDER 1 CDN BASE RET GROUP (Commanding Officer)

PART IV. PROMULGATED AND EXTRACTS TAKEN. (RP 53, KR Con 576, 577.)

Accused.	Date.	Signature of Offr.
D 106214 Pte. Guilbeault, J.	22 Dec. 44	[illegible] Maj. A/Asst. J.A.G.

ALL DELETIONS AND ALTERATIONS WILL BE INITIALLED.

RECEIVED 28 JAN 1945 REGISTRY

RECORDED AT CMHQ IN AB 160 4K-93

FIELD GENERAL COURT-MARTIAL

(AFB39) (To 10m) (AF A33) (40-P-R 8C) (1000) 4/38B

Convened by Order of BRIGADIER T.G. GIBSON Comd 1 CDN ARMD RET'D FCE dated 6 DEC 44

ACCUSED.

(As to the trial of two or more charged jointly see RP 16, 71, 109. As to reasons for showing (a) permanent or confirmed rank, and (b) apprmt, A/rank or A/appmt, if any, see AA 181, 183, fns, KR Con 308, 328, 330.)

Number.	(a) Prmnt R.	(b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
D 106214	C PL	10 Jan 43 A/SGT	JOSEPH	GUILBEAULT	CONV DEPOT

(Now) serving with (unit, formation or branch) CMHQ

(Tried) in the Fd in (country) ITALY on (date(s)) 19 DEC 44

PROCEEDINGS OF TRIAL.

RECORD FORM A—OPENING PROCEEDINGS AND ARRAIGNMENT. 2F-102

A1. The President, Members, waiting Member, JA, if any, and Offrs under instr, if any, assemble, and the Court is closed.

(PRINTED MATTER, NOT IN ITALICS FOR GUIDANCE, WILL BE DELETED, IF NOT USED OR APPLICABLE, AND INITIALLED BY PRES OR JA. The Schedule referred to throughout is at p 4. Citations do NOT include all relevant fns 80s. For guidance as procedure when a quotation in this form varies, see form for GCM in MML pp 740 to 759. A brief record of such variation will be made and given a number having reference to appropriate or preceding para number herein. See back of Convening Order, CF 895, for oaths and instrs on how to record addresses, evidence, etc, which instrs are hereafter called "Note". As to general provisions for conducting the trial see AA 53, RP 50, 63-70, 73, 74, 94, 103, 119, 122.)

A2. The President initials and lays before the Court the Convening Order and Charge Sheet(s) attached thereto.(1) The Court is satisfied that it is properly convened and constituted(2), accused is (are) amenable to military law, and each charge discloses an offence.(3)

(1. As to use of Summary of Evidence see RP 17 fn 6. 2. AA 49, 50, RP 105-107. 3. RP 11-13, 23, 24.)

A3. The Court is opened. The accused is (are) brought before the Court. At 1550 hours trial commences.

A4. The Prosecutor produces a Medical Certificate that accused is (are) fit to undergo trial by court-martial.(1) ~~The Prosecutor informs the Court that accused elected to be tried by court-martial instead of being dealt with summarily by the CO.(2)~~

(1. KR Con 557. 2. AA 46(3), RP 60 fn 1. For effect see KR Con 563(c). Delete, if not applicable.)

A5. ~~President to accused:~~ Do you object to ~~an interpreter~~ ~~a shorthand writer~~ ? Ans ~~No~~

~~The Interpreter is sworn.(1) Do you object to a shorthand writer is sworn.(1)~~ ~~an shorthand writer~~ ? Ans ~~No~~

(1. RP 72. Delete, if none employed.)

A6. The Convening Order and names of the President and Members of the Court are read to the accused.(1) President to accused: Do you object to be tried by me as President or by any of the Members of the Court ? Ans No.(2)

(1. RP 110. 2. If no objection, waiting member retires. RP 68(B). If objections, see procedure AA 51, RP 71, 72, 118, MML p 742.)

A7. The President, Members, JA, if any, and Offrs under instr, if any, are sworn.(1) The following are the ranks, names and units of the offrs comprising the Court, etc:

President	MAJOR	R.M. RUSSELL (RCE)	1 AN 1 CBRD
Member	CAPT	R.E. CHOWN (RCA)	6 AN 2 CBRD
Member	LIEUT	B.A. HUMPHREY (RCE)	1 CAN CMHQ DEPOT
Judge-Advocate			
Prosecutor	LIEUT	C.S. KENNEDY (RCA)	1 CAN CMHQ DEPOT
Defending Offr	CAPT	H.R. YOUNG (RCE)	1 CAN CMHQ DEPOT

Questions by President: Is the Prosecutor a lawyer ? Ans No. Is the Defending Offr a lawyer ? Ans YES (2)

(1. RP 26, 27, 109, 111. List of offrs under instr will be returned separately with proceedings for information of Conv Offr.) (2. If Pros a lawyer and Def Offr not, accused is entitled to an adjournment when RP 26 (B) and fn 1 were not followed. See also p 3.)

A8. The accused ~~before arraignment make(s) (no)~~ plea. NO PLEA (1)

(1. If a special plea is made for separate trial on one or more charges (RP 62(E), 108), or as to the jurisdiction of the Court (RP 36, 35(A), 113), or on bar of trial (RP 36), or as to accused's mental fitness to stand trial (AA 130, RP 57), or by one of several accused charged jointly to be tried separately (RP 16, 71), such plea, the submissions made in support or against, the evidence, if any, and finding are recorded per Notes. For forms of record see references in fns to RP cited. Insert in A8 rank and name of the accused making the plea.)

A9. The accused is ~~(are)~~ arraigned ~~separately~~ on all charges in the charge sheet.(1) The accused does ~~(do)~~ not object to any charge.(2) There is no amendment to be made to the Charge Sheet.(3) The President records the pleas in Part I of the Schedule.

(1. RP 31, 112. See para 1 of Instrs p 2. When more than one Charge Sheet see RP 62; when several accused to be tried separately see RP 71(C), and use separate copies of CF 896 to record proceedings. 2. RP 32, RP 33. If otherwise, delete and make appropriate record per Notes.)

A10. The Court ~~is sworn and~~ considers the Instrs on Procedure after Arraignment at top of p 2. The proceedings are continued on Recorded Form 2.

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

M79

INSTRUCTIONS ON PROCEDURE AFTER ARRAIGNMENT.

1. *The accused may not plead or be found Guilty on more than one of two or more charges laid in the alternative. (RP 37(A).) As to withdrawal of alternative charges by Prosecutor see RP 35(C). No other charge can be withdrawn for any reason without authy from Convening Offr. If Convening Offr concurs, Court may accept plea of Guilty to lesser, etc, offence. (RP 44(H).) Accused may change a plea of Not Guilty to Guilty during trial. (RP 38.) As to refusing to plead or not pleading intelligibly see RP 35(A). As to plea when sentence may be death see RP 35(D).*

2. *The proceedings on each charge sheet (RP 62) after arraignment will be conducted as follows in the respective circumstances stated:*

I. If pleas to all charges are GUILTY, use Record Form B below.

II. If pleas to all charges are NOT GUILTY, use Record Form D on p 3.

III. If pleas to some charges are GUILTY and to other charges are NOT GUILTY and,

(a) Such mixed pleas occur when there are no alternative charges in the Charge Sheet, use Record Form C below. (RP 37(A).)

(b) Such mixed pleas occur in a set of two or more charges laid in the alternative, see RP 37 (A) and fn 2 as to discretion of Court, (i) to try the accused on all such alternative charges as if he had pleaded Not Guilty thereto, or, (ii) to record the pleas as the findings of Court. After deciding between (i) and (ii), Court will proceed under foregoing instrs as may be appropriate to result of its decision. See MML p 744 Instrs (2).

3. *As to responsibility of Presidents to accused see RP 59, 60(C); powers and duties of JA see RP 103; duty of Prosecutor see RP 68(A) (B); duty and privileges of accused and Defending Offr see RP 60(C), 87(C), 91, 92; swearing and withdrawal of witnesses from Court see RP 81, 82; questioning of accused see RP 80, 87(C), 92(B), and of witnesses see RP 85-85; calling or re-calling of witnesses by Court, etc, see RP 75-79, 86, 116; use of Summary of Evidence at Trial see RP 17(E) fn 6; and responsibility of JA or Pres to record proceedings see RP 94, 96.*

RECORD FORM B—PROCEEDINGS ON PLEAS OF GUILTY TO ALL CHARGES.

B1. The President or JA, if any, complies with RP 35(B) by explaining to the accused the nature and meaning of the charge(s)(1), and that on his plea of Guilty there will be no regular trial but merely a consideration of the sentence to be awarded after he has been given an opportunity to make a statement in reference to the charge(s), call witnesses as to character and make an address in mitigation of punishment.(2)
(1. *RP 35 fn 3.* 2. *MML p 54 para 47.*)

B2. President to accused: The Court will now receive any statement you desire to make in reference to the charge(s).(1) If it appears from your statement that there are circumstances which indicate that you do not understand the effect of the plea of Guilty(2), or which show provocation or extenuation in respect of which in your interest the witnesses for the Prosecution should be examined(2), we shall advise you to change your plea to Not Guilty. In making a statement you will not be sworn or subject to cross-examination; and anything you say will not be used in evidence against you after you change your plea. If, however, it appears to the Court that your statement affects only the amount of punishment to which you are liable, you will not be advised to change your plea and you will be given an opportunity later to prove your statement by sworn testimony, if you so desire.(3)

President to accused: Do you wish to make a statement? Ans .....(5)
(1. *RP 37(B).* 2. *RP 37(D) fn 6.* 3. *RP 35(B) fn 3 para 3, MML p 54 para 47.* 4. *See para E3 of Record Form E.* 5. *Statement, if any, recorded per Notes.*)

B3. ~~The Court considers the accused's statement.(1)~~ The Court decides (not) to advise accused to change ~~his (their) plea(s) of Guilty to Not Guilty on ..... charge(s). The accused is (are) so informed, and he (they) change(s) his (their) plea(s) on ..... charge(s).~~ Part I of the Schedule is amended accordingly.
(1. *Court may be closed to consider the statement. Delete whole or part not used.*)

B4. On the charge(s) to which the plea(s) of Guilty is ~~(are)~~ not changed the President records finding(s) of Guilty in Part I of the Schedule.(1)
(1. *RP 35(B). If any plea(s) is (are) changed, use Record Form C or D as appropriate.*)

B5. The Summary of Evidence is marked Ex ....., initialled and read aloud by the President.(1)
(1. *If there is no Summary, or if it is inadequate, comply with RP 37(B). If there is any evidence inconsistent with any plea standing as Guilty, Court will advise accused to change such plea and, if changed to Not Guilty, try such charge(s) by use of paras D1 to D8 inclusive of Record Form D on p 3. RP 37(D).*)

B6. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

RECORD FORM C—PROCEEDINGS ON MIXED PLEAS OF GUILTY AND NOT GUILTY.

C1. As to the charges on which accused pleaded NOT GUILTY the trial is continued by using paras D1 to D8 inclusive of Record Form D on p 3 before proceeding with C 2.(1)
(1. *RP 37(A) (E).*)

C2. The charges on which accused pleaded GUILTY are read to him (them) again, and the trial is continued by using paras B1 to B5 of Record Form B above.(1)
(1. *Under B5 such parts only of the Summary of Evidence are read as relate to the charges dealt with under C2. If any plea is changed to Not Guilty, trial thereon proceeds by complying with paras D1 to D8 inclusive in Record Form D on p 3 and making an appropriate record thereof on a separate sheet.*)

C3. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

RECORD FORM D—PROCEEDINGS ON PLEAS OF NOT GUILTY TO ALL CHARGES.

D1. President to accused: Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity to prepare your defence? Ans .....(1)
(1. *If "yes", see RP 39(A) for procedure. Statement or evidence, if any, is recorded per Notes.*)

D2. The Prosecutor makes (an) (no) opening address.(1)
(1. *RP 39(B), 60(A) (B), 90, 92(C) (D). Record address per Notes, subject to RP 93(C).*)

D3. The evidence for the Prosecution is taken.(1)
(1. *RP 39(C), 114, KR Can 535. Record evidence per Notes. As to Prosecutor giving evidence himself see RP 39(D) (E).*)

D4. The Prosecution is closed.(1) The Defending Offr submits that the evidence for the Prosecution does not establish a prima facie case against the accused on the ..... charge(s).(2) The Court is re-opened, and the President announces that the submission is closed, and considers the submission.(3) The Court is re-opened, and the President announces that the submission is disallowed on the ..... charge(s), and allowed on the ..... charge(s), and that, accordingly, the trial will proceed on the former, but the accused is (are) found Not Guilty on the latter charge(s).(4)
(1. *Delete remainder of this para, if submission not made.* 2. *Arguments on submission, answer and reply are recorded per Notes.* 3. *RP 40 fn 1. See MML p 72 paras 12-14 and p 81 para 42.* 4. *Delete part not used. If accused acquitted on all charges use second alternative in para D8.*)
NB: If trial proceeds, accused must be allowed great latitude in making his defence, and the Court should not stop his defence solely on ground of irrelevance. (RP 60(C), 114, 115.)

D5. President to accused: You will now proceed with your defence.(1) You may, if you wish, give evidence yourself on oath as to the facts or your character or both; in which case you will be subject to cross-examination.(2) You may, however, make a statement without being sworn, and you will not be subject to cross-examination.(3) But a statement which could have been made on oath will not carry with the Court the same weight as sworn testimony.(4) You may call witnesses in your defence and as to character, whether you give evidence or make a statement or do neither.

President to accused: Do you wish to give evidence yourself as a witness, make a statement, or do neither?
Ans .....
Do you intend to call witnesses on your behalf?
Ans .....
Are any witnesses as to character only? Ans .....
(1. *RP 115.* 2. *RP 40(A), see 80(D).* 3. *RP 40 fn 10.* 4. *RP 40 fns 2, 9.*)

D6. Consequent on the answers recorded in para D5 the appropriate procedure for the defence is followed.(1)
(1. *RP 114, 115, 116. For procedure see Notes on back of Convening Order, CF A95. Evidence for accused as to his character should, if in his interest, be given before the finding. See RP 40(A) fn 1, 84(C). Note the further opportunity in para E1 of Record Form E. Record per Notes addresses, statement, evidence and any summing up by the JA under RP 42, 103(f).*)

D7. The Court is closed to consider the finding(s).(1) The finding(s) of the Court is (are) recorded in Part I of the Schedule.(2) The Court is re-opened.
(1. *RP 42, 117(A). See Notes in Part I of Schedule.* 2. *RP 44(A).*)

D8. The President announces the finding(s), if any, of Not Guilty, and states to the accused that the finding(s) of the Court on the ..... charge(s), being subject to confirmation, will be promulgated later.(1)
Or, The President announces that the accused is found Not Guilty on all charges and is to be released forthwith, and that the proceedings are accordingly terminated. Part I of the Schedule is dated and signed.(2)
(1. *AA 54(3) (6), RP 45, 120(A).* 2. *AA 54(3), RP 45, 117. This alternative announcement is not applicable when there are pleas of Guilty outstanding and dealt with under Record Form B or C.*)

D9. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E below.

RECORD FORM E—PROCEEDINGS ON CONVICTION BEFORE SENTENCE.

E1. President to accused: Do you wish to give evidence yourself ~~or to call any witnesses as to your character~~?(1)
Ans YES
(1. *If evidence has already been given by accused or his witnesses as to his character, delete this para. RP 37(C) fn 4, 46 fn 1. Accused and witnesses are sworn. Evidence recorded per Notes.*)

E2. The Prosecutor produces Statement(s) as to Character and Particulars of Service(1), and certified true ~~copy~~ (copies) of Conduct Sheet(s)(2), purporting to refer to the accused, which he submits to the Defending Offr for examination, and then to the Court for admission in evidence. The Court is satisfied that these documents refer to the accused, because (i) they purport to be signed in the manner required by AA 163(1) (g) (h), and (ii) they purport to refer to (a) soldier(s) having the same number, rank, name and corps as the accused. Admitted in evidence and marked Ex ..... and Ex ..... respectively.(3)
(1. *MFB 335 or AFB 296.* 2. *MFM 6.* 3. *RP 46, KR Can 538. If above documents not produced, see RP 46 fn 1 para 1.*)

E3. President to accused: Do you wish to address the Court on the Statement(s) and Conduct Sheet(s), and in mitigation of punishment?(1) Ans YES, BY DEFENDING OFFICER
(1. *RP 39(C), 46(D).* 2. *Address, if any, recorded per Notes. Court should permit accused or his witnesses to prove on oath anything here or previously stated which would affect the amount of punishment. RP 39(F) fn 7.*)

E4. The President states that the Court is closed to consider the sentence, and that the sentence to be awarded by the Court, being subject to confirmation, will not be announced, but will be promulgated later, and the proceedings in open court are accordingly terminated.(1)
(1. *AA 54(6), RP 120(A).*)

E5. The Court considers the sentence.(1) The President records the sentence in Part I of the Schedule, which is dated and signed by him and the J.A. if any.(2)
(1. *When several accused tried separately see RP 71 (D). One sentence only, comprised of the punishment or punishments laid down in AA 41, 44 and its promotion, is to be awarded to cover all charges in all charge sheets on which accused found guilty. RP 48. As to sentences see AA 44, 138, 182, RP 46-52, 69, 118, 119(A), KR Can 308, 330, 563-566, Overseas RO 309, 2323, MML p 60, 737-759. As to sentences assigned for civil offences by the law of England see AA 43(2), MML p 130. When accused already under sentence of imprisonment or detention see AA 44(18), 68(1), KR Can 564.* 2. *RP 52. As to release from arrest by Confirming Offr see KR Can 547. As to assembly and disposal of record after trial see instrs on back of Convening Order.*)

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

CHARGE SHEET

The accused, D 106204 ~~Lance~~ Sergeant (Corporal) (ACTING) Joseph Guilbeault, Royal 22nd Regiment, presently a convalescent at 1 Canadian Convalescent Depot, a soldier of the Canadian Army Overseas is charged with :-

FIRST CHARGE
Army Act
Sec 15 (1)

WHEN ON ACTIVE SERVICE, ABSENTING HIMSELF WITHOUT LEAVE

in that he

In the Field, in Italy absented himself without leave from 0800 hrs 19th November 1944 until he reported to M 10756 C.S.M. Giles N.L. at 1130 hours 5th December 1944.

In the Field
10 Dec 44

---------- Lt-col., RCAMC
(C.R. Corrigan)
Commanding Officer
1. Cdn. Convalescent Depot

TO BE TRIED BY FIELD GENERAL COURT MARTIAL

In the Fd
In Italy
16 Dec 44

(T.G. Gibson) Brig
Comd 1 Cdn Base Rft Gp
Cdn Army - CMF

FIELD GENERAL COURT-MARTIAL

(Whether the accused to be tried is under his comd or not, a FGCM may on application to him be convened by any offr of Cdn Army Overseas, or of any other force if authorized in law, in immediate comd of troops on active service, subject to RP 105(C) and restrictions imposed by appropriate authy. AA 49, 50, RP 104-107, 114. As to the duties and privileges of the Convening Offr in dealing with the application see MML Chap V paras 20 and 23, RP 87(B).
There should be a separate Convening Order for each person to be tried separately by the same Court. RP 71(C), 109. As to separate charge sheets see RP 62, and as to separate trial on charges in the same charge sheet see RP 108. As to two or more accused charged jointly see RP 16, 109.
As to reasons for showing (a) permanent or confirmed rank, and (b) apptmt, A/rank or A/apptmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

ACCUSED.

Number.	(a) Prmnt R.	(b) Apptmt. A/R or A/Apptmt.	Full Christian Names.	Surname.	Unit.
D,106244	Cpl	A/Sgt	Joseph	GUILBEAULT	1 Cdn Conv Depot

CONVENING ORDER.

1. Whereas complaint has been made to me, the undersigned, that the person(s) named above as the accused, being subject to military law, has (have) committed the offence(s) set forth in the Charge Sheet(s) attached and on (date) 16 Dec 44 endorsed by me, (or by an offr of my staff (or me)), " To be tried by Field General Court-Martial ".

2. And whereas I am of opinion that it is not practicable that such offence(s) should be tried by an ordinary General Court-Martial ; (and that it is not practicable to delay the trial for reference to a superior qualified offr.)
(Delete part in brackets when not required for compliance with RP 105(C).)

3. I hereby convene a Field General Court-Martial to try the said person(s), and to consist of the Offrs appointed or detailed hereunder.

4. ~~I am unable to appoint (a) three Offrs to form the Court, (b) a Fd Offr as President, for the reasons I have attached here~~to.
(AA 49, RP 106(B), 107(A). Delete the whole or part, if not applicable.)

5. ~~I also appoint as Judge-Advocate thereat the Offr mentioned hereunder.~~
(RP 106(E). Delete, if none appointed.)

PRESIDENT.

(Rank.)		(Unit.)
Major	A.M. Russell (CIC) (Must be named. RP 106.)	1 Bn 1 CBRD

MEMBERS.

Capt or Lt to be detailed by OC 6 Bn 2 CBRD

(Rank.)	(Named or detailed. RP 106.)	(Unit.)
Capt or Lt to be detailed by OC 1 Cdn Conv Depot		

WAITING MEMBER.

(Rank.)	(Named or detailed, if any. RP 106.)	(Unit.)
Capt or Lt to be detailed by OC 1 Cdn Conv Depot		

JUDGE-ADVOCATE.

(Rank.)	(Must be named, if any. RP 106.)	(Unit.)

On Active Service in the Fd

in Italy (Country.)

Date 16 Dec 44

(Signed personally. RP 105 fn 2.)
(T.G. Gibson)
Brigadier (Rank.)
Commanding 1 Cdn Base Rft Gp, Cdn Army - CMF
Convening Officer.

CONVENING OFFR WILL INITIAL ALL DELETIONS AND ALTERATIONS

4/38A (For use (in lieu of AFAG 40/7 & 8/1687 (40)).

(See overleaf for oaths and notes for use on trial.)

NO 1 CANADIAN CONVALESCENT DEPOT, C.M.P.

MEDICAL OFFICER'S REPORT

I certify that I have this morning examined Regtl No D.106.214
Rank Pte Name GUILBEAULT J Unit R.22eR
and that he is in a fit state of health to undergo
trial by Court Martial.

Date 14 Dec/44

Signature of Medical Officer

D10621 A/Sgt Guildhall Joseph Rank having been duly sworn states:-

E.1. When I ordered to be sent to my unit, the W.O. at 7 Pers. Con Pool said it was impossible; after I protesting was told a home as School unit that I could go for 12 months; I then went to W.A. where I enlisted. Shortly after I returned to my field unit and remained home. I returned overseas 4th Aug 41 Dieppe and left there 18th July 42 surrounded with shortage, returned to there in Oct 42. Since with short continually until I left 4th Nov 43 when I was wounded again near Reninghelst. Since leaving the Pool, I have only been away from my unit the two times when I was wounded.

Prev. declines to cross-examine the witness

Questions by Court.

Q- Have you ever asked for leave?

A- I asked on the 4th Nov 42 at Div Headquarters, but was told on account of shortage not to go. I did not ask for a pass while in England Camp.

Q- Did you know that you could request leave from the Pre. Commander if refused by your Coy. Comm.

A- No Sir.

(RP.633 complied with.)

Summary of Statement in
Mitigation of Punishment

F. 3. Accused has had 4½ years service during which he has seen action in Sicily and Italy and has been twice wounded.

His M.F.M. 6 shows a very creditable record during that time.

He asked the M.O. at 1 Base Depot to be sent back to his unit but he was apparently not medically fit to leave the Convalescent Depot for active duty.

He states that he had not had leave for a year and that he wanted to get back to his unit so he could get leave. Since he was apparently going to be "stuck" in 1 Base Depot for some time he took two weeks leave on his own.

Because of his long service with

E3 his regiment, his good record as evidenced by his M.F.M.G and the fact that he has been twice wounded and was not fit for active duty at present I submit that the punishment of the court be no more than what might be awarded by the commanding officer had he chosen to try the case.

W.R. Young A/Capt
Defending Officer.

EXHIBIT R 5

SUMMARY OF EVIDENCE

Summary of Evidence in the case of D 106204 Lance - Sargeant (Corporal) Joseph Guilbeault, Royal 22nd Regiment, presently a convalescent at 1 Canadian Convalescent Depot, a soldier of the Canadian Army Overseas.

The Commanding Officer directs the evidence be taken on oath.

FIRST WITNESS for the Prosecution

M-10756 C.S.M. Giles, N.L. 1 Canadian Convalescent Depot having been duly sworn states as follows:

I am employed as O.C. "A" Company in "A" Division of 1 Canadian Convalescent Depot. I was on duty on the 18th November 1944 at which date I called the roll of "A" Company at approximately 0800 hrs. The accused Sargeant Guilbeault who is on the strength of my Company failed to answer his name. He was absent at all subsequent roll calls at which I was present untill reporting himself in to me at 1130 hours 5th December 1944.

The accused declines to question the witness.

M.J. Giles.

The accused was asked, "Do you wish to make any statement or give evidence on oath? You are not obliged to say anything or to give evidence unless you wish to do so but, whatever you say in any evidence you give will be taken down in writing and may be given in evidence."

The accused declines to make any statement and reserves his defence.

Taken down by me in the presence of the accused this 9th day of December 1944. I hereby certify that R.P. 4 (c) (d) (e) (f) and (g) have been complied with.

Capt
(J. McConvey)
Officer detailed to take Summary of Evidence.

EXHIBIT 4.

ARMY FORM B.296 (WAR)

Statement as to Character and Particulars of Service of Accused.

(For Use at Trials by Field General Courts-Martial only).

Number	Rank	Name	Regiment (or as the case may be)
D 104328	L/Sgt (Ch.)	Guilbeault, J.	R 22 e R

NOTE.—The Field Conduct Sheet is to be produced in Court with this statement but is not to be annexed to the proceedings. The numbers herein stated should correspond with the number of Entries in the Field Conduct Sheet, promotions being given to the most serious offence in each entry. If the charge is for drunkenness or absence without leave, the entries for drunkenness or absence, as the case may be, should be stated separately. Any recognized special acts of gallantry or distinguished conduct recorded on the Field Conduct Sheet should also be inserted here.

1. The following is a fair and true summary of the entries in the Field Conduct Sheet of the accused, exclusive of convictions by a court martial or a civil court:—

For A. A. 15 (1) ..... 3 times.

For A. A. 11 ..... 1 times.

For ..... times.

For ..... times.

Date of first entry in Field Conduct Sheet 13 Sep. 43

Date of last entry in Field Conduct Sheet 7 Oct. 43

2. ~~Previous convictions of the accused by a court martial or a civil court are set out in the Schedule overleaf.~~

~~3. The accused at the present time is under sentence for ..... beginning on the ..... day of .....~~

4. The accused has been awaiting trial on the present charges for Nil days in civil custody; and for 8 days in military custody, *i.e.*, 7 days in open arrest, Nil 1 days in close arrest; of which Nil days were spent in hospital.

5. The present age of the accused is 24 Yrs

6. The date of his ~~attestation~~ ~~enlisting up for military service~~ is 14 July 1940

~~7. The service which the accused is allowed to reckon is .....~~

Delete the military decorations (if any) held by accused.

8. The accused is in possession of 1939-43 Star C.V.S.M.

9. (*If the accused is a warrant officer or N.C.O.*) The accused has served continuously, without reduction, to the present date—

	Date of Promotion.
In the substantive rank of Corporal	3-4-44
In the war substantive rank of	
In the acting rank of Sergeant	19-8-44

INSTRUCTION.—*If any matter in any of the above paragraphs cannot be stated from the regimental books the paragraph must be struck through.*

DEFS. UDF ME. 4145/41—4,000—221 UDF 8

SCHEDULE OF CONVICTIONS BY A COURT-MARTIAL OR CIVIL COURT.

Description of Court by which tried	Date and Place of Trial	Charges upon which convicted	Sentence of the Court	Punishment remitted or sentence suspended

I HEREBY CERTIFY that the foregoing particulars, which have been extracted from the regimental books in my custody, are correct to the best of my knowledge and belief.

Signed this 19th day of [illegible]

CERTIFIED TRUE EXTRACTS TAKEN FROM MFM 4

No D106214 Name GUILBEAULT, V. Sqn, Battery, or Company — Corps CIC — Sheet No — Date of enlistment 4 Jul 40 — OC Badges 1 — Service or Proficiency Pay F/P

Date of last entry in Company Conduct Sheet — No and date of last drunk — Period not reckoning towards freedom from extra fine — Signature OC Company, etc — Character

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Name of Witnesses	Punishment awarded	Date of award or of order directing with trial	By whom awarded	Remarks
				AA 15(1)			17Sep43	O.C.	Forfs 1 days pay 149(1)(a)
				AA15(1)			25 Sep43	O.C.	Forfs 1 days pay 149(1)(a)
Field		Pte		AA 11 AA 15(1) AWL 2 hrs 15 mins		14 days F.F. 14 days pay	7 Oct 43	O.C.	Forfs 14 days pay 149(2)
Field		Pte							
Field		Pte							

CERTIFIED TRUE EXTRACTS FROM DOCUMENTS IN MY POSSESSION

(J.L. Hayes) Captain,
for Officer i/c
Canadian Section, GHQ 2 Echelon, AAI

(179)

SE-127.

Pte. Guibeault, J.L.

SCHEDULE.

PART I. PLEA(S), FINDING(S) AND SENTENCE.

Accused: D 157824 Pte Jean Louis GUILBAULT — Regt de Mais/att 1 Cdn Dis Centre (11 CBR Bn)

Charge. (Insert "alternative" where applicable.)	Plea. (See Instrs p 2.)	Finding. (See note below.)	(Space for use as required for further charges, accused charged jointly, special findings, etc.)
1st A.A. 15 (1).	Guilty.	Guilty.	
2nd			
3rd			
4th			
5th			
6th			

(Note: As to findings for lesser offences see AA 36, RP 44; findings on alternative charges see MML p 483 fn 4 para 2, RP 44; special findings see RP 44 and MML p 713, and in lieu of kit see RP 44 fn 6.)

At present under sentence for ..... beginning on (date) ..... (1). N/A

(1. Insert sentence being served, or delete, if not applicable. See RP 46(A). Information should be found on MF B355 or AF B296.)

Time in confinement awaiting present trial—a total of 52 days, of which Nil days were spent in hospital.(1)

(1. See RP 46(A) fn 2. Information should be found on MF B355 or AF B296 admitted in evidence under E2.)

Sentence Awarded by the Court:

To undergo one years detention.

(Sgd) ..... Judge-Advocate, if any. 15 March Date awarded. (Sgd) George Kitching Maj President. (RP 45, 50.)

(See back of Convening Order as to assembly and disposal of record after trial.)

PART II. MINUTE WHERE CONFIRMATION RESERVED. (AA 54(5), RP 120(F), MML p 760.)

Date ..... (Sgd) ..... Commanding .....

PART III. DECISION OF CONFIRMING OFFR ON FINDING(S) AND SENTENCE.

(For duties and powers see AA 54, 57, RP 37(D) fn 6.46(A), 51-56, 120, MML pp 759-761, KR Can 567-577. Acquittals require no confirmation and cannot be revised: AA 54(3). Sending back finding or sentence for revision by Court: AA 54(2), RP 120(G). If not confirmed, accused may be tried again: AA 157, MML p 64. Minute of confirmation or non-confirmation may be altered before promulgation: RP 53, MML p 65. Quashing after promulgation: KR Can 573. Duties and powers of reviewing offrs: AA 57, 57A, RP 53A, 54. The Confirming Offr must sign here personally. AA 172 fn 1.)

My decision on the finding(s) and sentence set forth in Part I is:

Confirmed

~~I direct that the accused be not committed to prison or detention barracks until further order.~~ (1. AA 57A. Delete if not used.)

Date 20 Mar 45 (Sgd) ..... Brig Commanding 2 CARG

Confirming Officer.

PART IV. PROMULGATED AND EXTRACTS TAKEN. (RP 53, KR Can 576, 577.)

Accused. Date. Signature of Offr.

D 157824 Pte Guilbault, J.L. 27 Mar 45 ..... Lt-Col. Comdg, 1 Cdn Disciplinary Centre

C.R. #78 7-4 d/27 Mar 45

ALL DELETIONS AND ALTERATIONS WILL BE INITIALLED.

RECORDED AT CMHQ IN AB 160 56-127

RECEIVED 28 APR 1945 JAG LM C.M.H.Q.

FIELD GENERAL COURT-MARTIAL

(CFAO 6 (in lieu of AFAO) 40 (P.N.S. 1946))

4/38B

Convened by Order of Brigadier G S N Gostling, ED Comd 2 CBRG dated 13 Mar 45

ACCUSED.

(As to the trial of two or more charged jointly see RP 16, 71, 109. As to reasons for showing (a) permanent or confirmed rank, and (b) apptmt, A/rank or A/apptmt, if any, see AA 182, 183, (iii), KR Can 308, 328, 330.)

Number.	(a) Prmnt R.	(b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	
D 157824	Pte		Jean Louis	GUILBAULT	Regt de Mais 11 CBR Bn att 1 Cdn Disciplinary Centre

PROCEEDINGS REVIEWED Joseph de Billy Capt 28 Apr 45 JAG

PROCEEDINGS OF TRIAL.

Held in the Fd in (country) BELGIUM on (date(s)) 15 Mar 45

RECORD FORM A—OPENING PROCEEDINGS AND ARRAIGNMENT.

A1. The President, Members, ~~waiting Member, JA, if any, and Offrs under instr, if any~~, assemble, and the Court is closed.

(PRINTED MATTER, NOT IN ITALICS FOR GUIDANCE, WILL BE DELETED IF NOT USED OR APPLICABLE, AND INITIALLED BY PRES OR JA. The Schedule referred to throughout is on p 4. Citations do NOT include all relevant Fmn ROs. For guidance on procedure when a variation in this form arises, see form for GCM in MML pp 741 to 759. A brief record of such variation will be made and given a number having reference to appropriate or preceding para number herein. See back of Convening Order, CF 895, for oaths and instrs on how to record addresses, evidence, etc, which instrs are hereafter called "Notes". As to general provisions for conducting the trial see AA 53, RP 26, 63-70, 73, 74, 94, 103, 119, 132.)

A2. The President initials and lays before the Court the Convening Order and Charge Sheet(s) attached thereto.(1) The Court is satisfied that it is properly convened and constituted(2), accused is (are) amenable to military law, and each charge discloses an offence.(3)

(1. As to use of Summary of Evidence see RP 17 fn 6. 2. AA 49, 50, RP 105-107. 3. RP 11-13, 23, 24.)

A3. The Court is opened. The accused is (are) brought before the Court. At 1015 hours trial commences.

A4. The Prosecutor produces a Medical Certificate that accused is (are) fit to undergo trial by court-martial.(1) ~~The Prosecutor informs the Court that accused elected to be tried by court-martial instead of being dealt with summarily by the CO.~~(2)

(1. KR Can 557. 2. AA 46(B), RP 60 fn 1. For effect see KR Can 563(c). Delete, if not applicable.)

A5. President to accused: Do you object to ..... as interpreter? Ans. ..... The Interpreter is sworn.(1) Do you object to ..... as shorthand writer? Ans. ..... The shorthand writer is sworn.(1)

(1. RP 72. Delete, if none employed.)

A6. The Convening Order and names of the President and Members of the Court are read to the accused.(1)
President to accused: Do you object to be tried by me as President or by any of the Members of the Court?

Ans N.O.(2)

(1. RP 110. 2. If no objection, waiting member retires. RP 68(B). If objection, see procedure AA 51, RP 25, 71, 18, MML p 742.)

A7. The President, Members, ~~JA, if any, and Offrs under instr, if any,~~ are sworn.(1) The following are the ranks, names and units of the offrs comprising the Court, etc:

President	Major	G B H COX	CAC - att 1 Cdn Dis Centre
Member	Major	A LEFROY Seaforth Highrs	att 1 Cdn Dis Centre
Member	Lieut	T. J. Robinson CIC	11 Bn CBRG
Judge-Advocate	—	—	—
Prosecutor	Captain	J. D. Pollock Can Fus	att 1 Cdn Dis Centre
Defending Offr	Captain	J. H. Labrie R de Mais	att 1 Cdn Dis Centre

Questions by President: Is the Prosecutor a lawyer? Ans. N.O.(1) Is the Defending Offr a lawyer? Ans. N.O.(1)

(1. RP 26, 27, 109, 111. List of offrs under instr will be returned separately with proceedings for information of Conv Offr.)
(2. If Pros a lawyer and Def Offr not, accused is entitled to an adjournment when RP 89 (B) and fn 2 were not followed. See D1 p 3.)

A8. The accused D 157824 Pte Jean Louis GUILBAULT before arraignment make(s) (not) the plea ..... (1)

(1. If a special plea is made for separate trial on one or more charges (RP 62(E), 108), or as to the jurisdiction of the Court (RP 34, 35(A), 113), or as to accused's mental fitness to stand trial (AA 130, RP 37), or by one of several accused charged jointly to be tried separately (RP 16, 71), such plea, the addresses made in support or against, the evidence, if any, and finding are recorded per Notes. For forms of record see references in fns to RsP cited. Insert in AB name and name of the accused making the plea.)

A9. The accused is (are) arraigned (separately) on all charges in the charge sheet.(1) The accused does (do) not object to any charge.(2) There is no amendment to be made to the Charge Sheet.(3) The President records the plea in Part I of the Schedule.

(1. RP 31, 112. See para 1 of Instrs p 2. When more than one Charge Sheet see RP 62; when several accused to be tried separately see RP 71(C), and use separate copies of CF 896 to record proceedings. 2. RP 32, RP 33. If otherwise, delete and make appropriate record (see Notes.)

25/4/45

A10. The Court (is closed and) considers the Instrs on Procedure after Arraignment at top of p 2. The proceedings are continued on Record Form B

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

2 CBRG Vol 5 P 69.

INSTRUCTIONS ON PROCEDURE AFTER ARRAIGNMENT.

1. *The accused may not plead or be found Guilty on more than one of two or more charges laid in the alternative.* (*RP* 37(*A*).) *As to withdrawal of alternative charges by Prosecutor see RP* 35(*C*). *No other charge can be withdrawn for any reason without authy from Convening Offr. If Convening Offr concurs, Court may accept plea of Guilty to lesser, etc, offence.* (*RP* 44(*H*).) *Accused may change a plea of Not Guilty to Guilty during trial.* (*RP* 38.) *As to refusing to plead or not pleading intelligibly see RP* 35(*A*). *As to plea when sentence may be death see RP* 35(*D*).

2. *The proceedings on each charge sheet* (*RP* 62) *after arraignment will be conducted as follows in the respective circumstances stated:*

I. If pleas to all charges are GUILTY, use Record Form B below.

II. If pleas to all charges are NOT GUILTY, use Record Form D on p 3.

III. If pleas to some charges are GUILTY and to other charges are NOT GUILTY and,

(a) *Such mixed pleas occur when there are no alternative charges in the Charge Sheet, use Record Form C below.* (*RP* 37(*A*).)

(b) *Such mixed pleas occur in a set of two or more charges laid in the alternative, see RP* 37 (*A*) *and fn* 2 *as to discretion of Court,* (i) *to try the accused on all such alternative charges as if he had pleaded Not Guilty thereto, or,* (ii) *to record the pleas as the findings of Court. After deciding between* (i) *and* (ii), *Court will proceed under foregoing instrs as may be appropriate to result of its decision. See MML p* 744 *Instrs* (2).

3. *As to responsibility of President to accused see RP* 59, 60(*C*); *powers and duties of JA see RP* 103; *duty of Prosecutor see RP* 60(*A*) (*ii*); *duty and privileges of accused and Defending Offr see RP* 60(*C*), 87(*C*), 91, 92; *swearing and withdrawal of witnesses from Court see RP* 81, 82; *questioning of accused see RP* 80, 87(*C*), 92(*B*), *and of witnesses see RP* 85-86; *calling or re-calling of witnesses by Court, etc, see RP* 75-79, 86, 116; *use of Summary of Evidence at Trial see RP* 17(*E*) *fn* 6; *and responsibility of JA or Pros to record proceedings see RP* 94, 96.

RECORD FORM B—PROCEEDINGS ON PLEAS OF GUILTY TO ALL CHARGES.

B1. The President or ~~Judge~~ if any, complies with RP 35(B) by explaining to the accused the nature and meaning of the charge(s).(1), and that on his plea of Guilty there will be no regular trial but merely a consideration of the sentence to be awarded after he has been given an opportunity to make a statement in reference to the charge(s), call witnesses as to character and make an address in mitigation of punishment.(2)

(1. *RP* 35 *fn* 3. 2. *MML p* 54 *para* 47.)

B2. President to accused: The Court will now receive any statement you desire to make in reference to the charge(s).(1) If it appears from your statement that there are circumstances which indicate that you do not understand the effect of the plea of Guilty(2), or which show provocation or extenuation in respect of which in your interest the witnesses for the Prosecution should be examined(3), we shall advise you to change your plea to Not Guilty. In making a statement you will not be sworn or subject to cross-examination; and anything you say will not be used in evidence against you after you change your plea. If, however, it appears to the Court that your statement affects only the amount of punishment to which you are liable, you will not be advised to change your plea and you will be given an opportunity later to prove your statement by sworn testimony, if you so desire.(4)

President to accused: Do you wish to make a statement? Ans. NO.(5)

(1. *RP* 37(*B*). 2. *RP* 37(*D*) *fn* 6. 3. *RP* 35(*B*) *fn* 5 *para* 3, *MML p* 54 *para* 47. 4. *See para* E3 *of Record Form E.* 5. *Statement, if any, recorded per Notes.*)

B3. ~~The Court considers the accused's statement.(1) The Court decides (not) to advise accused to change his (their) plea(s) of Guilty to Not Guilty on ..... charge(s). The accused is (are) so informed, and he (they) change(s) his (their) plea(s) on ..... charge(s). Part I of the Schedule is amended accordingly.~~

(1. *Court may be closed to consider the statement. Delete whole or part not used.*)

B4. On the charge(s) to which the plea(s) of Guilty is (~~are~~) not changed the President records finding(s) of Guilty in Part I of the Schedule.(1)

(1. *RP* 35(*B*). *If any plea(s) is (are) changed, use Record Form C or D as appropriate.*)

B5. The Summary of Evidence is marked Ex A, initialled and read aloud by the President.(1)

(1. *If there is no Summary, or if it is inadequate, comply with RP* 37(*B*). *If there is any evidence inconsistent with any plea standing as Guilty, Court will advise accused to change such plea and, if changed to Not Guilty, try such charge(s) by use of paras D1 to D8 inclusive of Record Form D on p* 3. *RP* 37(*D*).)

B6. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

RECORD FORM C—PROCEEDINGS ON MIXED PLEAS OF GUILTY AND NOT GUILTY.

C1. As to the charges on which accused pleaded NOT GUILTY the trial is continued by using paras D1 to D8 inclusive of Record Form D on p 3 before proceeding with C 2.(1)

(1. *RP* 37(*A*) (*E*).)

C2. The charges on which accused pleaded GUILTY are read to him (them) again, and the trial is continued by using paras B1 to B5 of Record Form B above.(1)

(1. *Under B5 such parts only of the Summary of Evidence are read as relate to the charges dealt with under C2. If any plea is changed to Not Guilty, trial thereon proceeds by complying with paras D1 to D8 inclusive in Record Form D on p 3 and making an appropriate record thereof on a separate sheet.*)

C3. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

RECORD FORM D—PROCEEDINGS ON PLEAS OF NOT GUILTY TO ALL CHARGES.

D1. President to accused: Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity to prepare your defence? Ans. .....(1)

(1. *If "yes", see RP* 39(*A*) *for procedure. Statement or evidence, if any, is recorded per Notes.*)

D2. The Prosecutor makes (an) (no) opening address.(1)

(1. *RP* 39(*B*), 60(*A*) (*B*), 90, 92(*C*) (*D*). *Record address per Notes, subject to RP* 95(*C*).)

D3. The evidence for the Prosecution is taken.(1)

(1. *RP* 39(*C*), *114, KR Can* 555. *Record evidence per Notes. As to Prosecutor giving evidence himself see RP* 39(*D*) (*E*).)

D4. The Prosecution is closed.(1) The Defending Offr submits that the evidence for the Prosecution does not establish a prima facie case against the accused on the ..... charge(s).(2) The Court is closed, and considers the submission.(3) The Court is re-opened, and the President announces that the submission is disallowed on the ..... charge(s), and allowed on the ..... charge(s), and that, accordingly, the trial will proceed on the former, but the accused is (are) found Not Guilty on the latter charge(s).(4)

(1. *Delete remainder of this para, if submission not made.* 2. *Arguments on submission, answer and reply are recorded per Notes.* 3. *RP* 40 *fn* 1. *See MML p* 72 *paras* 12-14 *and p* 81 *para* 42. 4. *Delete part not used. If accused acquitted on all charges use second alternative in para D8.*

NB: If trial proceeds, accused must be allowed great latitude in making his defence, and the Court should not stop his defence solely on ground of irrelevance. (*RP* 80(*C*), *114, 115.*)

D5. President to accused: You will now proceed with your defence.(1) You may, if you wish, give evidence yourself on oath as to the facts or your character or both, in which case you will be subject to cross-examination.(2) You may, however, make a statement without being sworn, and you will not be subject to cross-examination.(3) But a statement which could have been made on oath will not carry with the Court the same weight as sworn testimony.(4) You may call witnesses in your defence and as to character, whether you give evidence or make a statement or do neither.

President to accused: Do you wish to give evidence yourself as a witness, make a statement, or do neither? Ans. ..... Do you intend to call witnesses on your behalf? Ans. ..... Are they witnesses as to character only? Ans. .....

(1. *RP* 115. 2. *RP* 40(*A*), *see* 80(*D*). 3. *RP* 40 *fn* 10. 4. *RP* 40 *fns* 2, 9.)

D6. Consequent on the answers recorded in para D5 the appropriate procedure for the defence is followed.(1)

(1. *RP* 114, 115, 116. *For procedure see Notes on back of Convening Order, CF* 495. *Evidence for accused as to his character should, if in his interest, be given before the finding. See RP* 46(*A*) *fn* 1, 86(*C*). *Note the further opportunity in para E1 of Record Form E. Record per Notes addresses, statement, evidence and any summing up by the JA under RP* 42, 102(*e*).)

D7. The Court is closed to consider the finding(s).(1) The finding(s) of the Court is (are) recorded in Part I of the Schedule.(2) The Court is re-opened.

(1. *RP* 42, 117(*A*). *See Notes in Part I of Schedule.* 2. *RP* 46(*A*).)

D8. The President announces the finding(s), if any, of Not Guilty, and states to the accused that the finding(s) of the Court on the ..... charge(s), being subject to confirmation, will be promulgated later.(1)

Or, The President announces that the accused is found Not Guilty on all charges and is to be released forthwith, and that the proceedings are accordingly terminated. Part I of the Schedule is dated and signed.(2)

(1. *AA* 54(3) (*b*). *RP* 45-120(*A*). 2. *AA* 54(3). *RP* 45, *117. This alternative announcement is not applicable when there are pleas of Guilty outstanding and dealt with under Record Form B or C.*)

D9. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E below.

RECORD FORM E—PROCEEDINGS ON CONVICTION BEFORE SENTENCE.

E1. President to accused: Do you wish to give evidence yourself or to call any witnesses as to your character?(1) Ans. NO.

(1. *If evidence has already been given by accused or his witnesses as to his character, delete this para. RP* 37(*C*) *fn* 4, 46 *fn* 1. *Accused and witnesses are sworn. Evidence recorded per Notes.*)

E2. The Prosecutor produces Statement(s) as to Character and Particulars of Service(1), and certified true copy (~~copies~~) of Conduct Sheet(s)(2), purporting to refer to the accused, which he submits to the Defending Offr for examination, and then to the Court for admission in evidence. The Court is satisfied that these documents refer to the accused, because (i) they purport to be signed in the manner required by AA 163(1) (g) (h), and (ii) they purport to refer to (a) soldier's having the same number, rank, name and corps as the accused. Admitted in evidence and marked Ex B and Ex C respectively.(3)

(1. *MFB* 255 *or AFB* 296. 2. *MJM* 6. 3. *RP* 46, *KR Can* 558. *If above documents not produced, see RP* 46 *fn* 1 *para* 1.)

E3. President to accused: Do you wish to address the Court on the Statement(s) and Conduct Sheet(s), and in mitigation of punishment?(1) Ans. Yes in mitigation of punishment.(2)

(1. *RP* 37(*C*), 46(*D*). 2. *Address, if any, recorded per Notes. Court should permit accused or his witnesses to prove on oath anything here or previously stated which would affect the amount of punishment. RP* 37(*F*) *fn* 7.)

E4. The President states that the Court is closed to consider the sentence, and that the sentence to be awarded by the Court, being subject to confirmation, will not be announced, but will be promulgated later, and the proceedings in open court are accordingly terminated.(1)

(1. *AA* 54(*E*), *RP* 120(*A*).)

E5. The Court considers the sentence.(1) The President records the sentence in Part I of the Schedule, which is dated and signed by him and ~~the J.A., if any~~.(2)

(1. *When several accused tried separately see RP* 71 (*D*). *One sentence only, comprised of the punishment or punishments laid down in AA* 41, 44 *and its proviso, is to be awarded to cover all charges in all charge sheets on which accused found guilty. RP* 40. *As to sentences see AA* 44, 138, 182, *RP* 46-50, 69, 118, 119(*A*), *KR Can* 308, 330, 363-566. *Overseas RO* 309, 2323, *MML p* 66, 757-759. *As to sentences assigned for civil offences by the law of England see AA* 41(5), *MML p* 130. *When accused already under sentence of imprisonment or detention see AA* 44(18), 68(1), *KR Can* 564. 2. *RP* 50. *As to release from arrest by Confirming Offr see KR Can* 567. *As to assembly and disposal of record after trial see instrs on back of Convening Order.*)

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

CHARGE SHEET

698

The accused, D-157824 Pte Jean Louis GUILBAULT, X-4 List (11 Bn) Regt de Mais, attached to 1 Cdn Disciplinary Centre, a soldier of the Canadian Army Overseas, is charged with:-

FIRST CHARGE
Sec 15 (1)
Army Act

WHEN ON ACTIVE SERVICE, ABSENTING HIMSELF WITHOUT LEAVE

in that he

In the Field, absented himself without leave from 0800 hrs 6 Dec 44 until apprehended by Czech Mil Police at ESQUELBEC, France at 0800 hrs 22 Jan 45. (Absent 47 days)

In the Field
8 Mar 45

(A O Hood) Lt col
Commanding
1 Cdn Disciplinary Centre

To be tried by Field General Court-Martial

In the Field
13 Mar 45

(G S McGostling) Maj
Cond
2 Cdn Base Rft Gp

FIELD GENERAL COURT-M

(Whether the accused to be tried is under his comd or not, a FGCM may on application t
of any other force if authorized in law, in immediate comd of troops on active service, subject
3A 49, 50, RP 104-107, 114. As to the duties and privileges of the Convening Offr in dea
RP 87(8).
There should be a separate Convening Order for each person to be tried separately by th
see RP 62, and as to separate trial on charges in the same charge sheet see RP 108. As to two
As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt,

ACCUSED.

Number.	(a) Prmnt R. (b) Appmt, A/R or A/Appmt	Full Christian Names.	
D 157824	Pte	Jean Louis	GUILBAULT

CONVENING ORDER.

1. Whereas complaint has been made to me, the undersigned, that the person named above as the accused, being subject to military law, has ~~(been)~~ committed the offence(s) set forth in the Charge Sheet(s) attached and on (date) 13 Mar 45 endorsed by me, ~~or by an offr of my staff (or me)~~, "To be tried by Field General Court-Martial";

2. And whereas I am of opinion that it is not practicable that such offence(s) should be tried by an ordinary General Court-Martial; ~~and that it is not practicable to delay the trial for reference to a superior qualified offr;~~
(Delete part in brackets when not required for compliance with RP 105(C).)

3. I hereby convene a Field General Court-Martial to try the said person(s), and to consist of the Offrs appointed or detailed hereunder.

~~4. I am unable to appoint (a) three Offrs to form the Court, (b) a Fd Offr as President, for the reasons I have attached hereto.~~
(AA 49, RP 106(5), 107(A). Delete the whole or part, if not applicable.)

~~5. I also appoint as Judge-Advocate thereat the Offr mentioned hereunder.~~
(RP 106(E). Delete, if none appointed.)

PRESIDENT.

Major	G B E COX		OAG - stt 1 Cdn Dis Centre
(Rank.)	(Must be named. RP 106.)		(Unit.)

MEMBERS.

Major	A LEPOY		Seaforth Highrs stt 1 Cdn Dis Centre
(Rank.)	(Named or detailed. RP 106.)		(Unit.)
Lt	to be detailed by OC 11 CHR Bn		11 CHR Bn
(Rank.)	(Named or detailed. RP 106.)		(Unit.)
	WAITING MEMBER.		
(Rank.)	(Named or detailed, if any. RP 106.)		(Unit.)
	~~JUDGE-ADVOCATE.~~		
(Rank.)	(Must be named, if any. RP 106.)		(Unit.)

On Active Service in the Fd

in BELGIUM (Country.)

Dat: 13 Mar 45

(Signed personally. RP 105 fn 2.)
(G S M Gostling)
Commanding 2 Cdn Base Rft Gp

Brigadier (Rank.)
Convening Officer.

CONVENING OFFR WILL INITIAL ALL DELETIONS AND ALTERATIONS

(See overleaf for oaths and notes for use on trial.)

4/38A CFA 96. (In lieu of AFA 3)
Mod/F 46 8/1697 (8143)

FIELD GENERAL COURT-MARTIAL

(Whether the accused to be tried is under his comd or not, a FGCM may on application to him be convened by any offr of Cdn Army Overseas, or of any other force if authorized in law, in immediate comd of troops on active service, subject to RP 105(C) and restrictions imposed by appropriate authy. AA 49, 50, RP 104-107, 114. As to the duties and privileges of the Convening Offr in dealing with the application see MML Chap V paras 20 and 23, RP 87(B).

There should be a separate Convening Order for each person to be tried separately by the same Court. RP 71(C), 109. As to separate charge sheets see RP 62, and as to separate trial on charges in the same charge sheet see RP 108. As to two or more accused charged jointly see RP 76, 109.

As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fnt, KR Can 308, 328, 330.)

ACCUSED.

Number.	(a) Prmnt R. (b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
D 157824	Pte	Jean Louis	GUILBAULT	Regt de Hull 11 CBR Bn att 1 Cdn Dis Centre

CONVENING ORDER.

1. Whereas complaint has been made to me, the undersigned, that the person(s) named above as the accused, being subject to military law, has (~~have~~) committed the offence(s) set forth in the Charge Sheet(s) attached and on (date) 13 Mar 45 endorsed by me, (~~or by an offr of my staff for me~~), "To be tried by Field General Court-Martial".

2. And whereas I am of opinion that it is not practicable that such offence(s) should be tried by an ordinary General Court-Martial; (~~and that it is not practicable to delay the trial for reference to a superior qualified offr~~)

(Delete part in brackets when not required for compliance with RP 105(C).)

3. I hereby convene a Field General Court-Martial to try the said person(s), and to consist of the Offrs appointed or detailed hereunder.

~~4. I am unable to appoint (a) three Offrs to form the Court, (b) a Fd Offr as President, for the reasons I have attached hereto.~~

(AA 49, RP 106(B), 107(A). Delete the whole or part, if not applicable.)

~~5. I also appoint as Judge Advocate thereat the Offr mentioned hereunder.~~

(RP 106(E). Delete, if none appointed.)

PRESIDENT.

(Rank.)	(Must be named. RP 106.)	(Unit.)
Major	G B H COX	CAC - att 1 Cdn Dis Centre

MEMBERS.

(Rank.)	(Named or detailed. RP 106.)	(Unit.)
Major	A LEFROY	Seaforth Highrs att 1 Cdn Dis Centre
Lt	to be detailed by OC 11 CBR Bn	11 CBR Bn

WAITING MEMBER.

(Rank.)	(Named or detailed, if any. RP 106.)	(Unit.)

~~JUDGE ADVOCATE.~~

(Rank.)	(Must be named, if any. RP 106.)	(Unit.)

On Active Service in the Fd

in BELGIUM (Country.)

Dat 13 Mar 45

(Signed personally. RP 105 fn 2.)
(G B H Cortling)
Commanding 2 Cdn Base Repl Gp
Convening Officer.

Brigadier (Rank.)

CONVENING OFFR WILL INITIAL ALL DELETIONS AND ALTERATIONS

(See overleaf for oaths and notes for use on trial.)

Exhibit F

MFB 246

MEDICAL OFFICERS CERTIFICATE

(KR(Can) Para 55)
(CMHQ CL 173)

I certify that I have this day examined D/5-1824 (No.)

Rt Southwell J L and in my opinion he is
(Rank) (Name)

fit to undergo trial by Court-Martial.

Station 1 Cdn Disciplinary Centre

Date 15 Mar 45

(Sgd) (Medical Officer)

Unit 1 Cdn Disciplinary Centre

Exhibit D GRC

PLEA OF MITIGATION
in the Case of

D-157824 Pte JEAN LOUIS GUILBEAULT
(RdeMAIS)

Gentlemen of the Court

Pte Guilbeault enlisted July 43, came to England June 44 and landed in France July 44
He is wounded in Belgium at the end of oct 44 and evacuated for six weeks in Hospital in England.
He came back as reinforcement at 2 CBRG, felt sick and after ~~trying~~ stating that he was souffring of sore feet & still had pains by his wounds, the M.O. did not listen to him, so he went away.
I have to say to this court that this soldier has a clean conduct sheet and he is well trained and ready going back on the front as an Infantry man. He regret his mistake and he promess never be AWL again.
I ask the court to do his best for helping him going on the right way and so by a light sentence.

Henri Labrie
Cpl
Def. C.

Note: A Category
26 years old.
52 days close arrest waiting for trial

Ex Libit 'A' GBG

Summary of Evidence in the case of D-157824 Pte Jean Louis GUILBAULT, X-4 List (11 Bn) Regt de Mais, attached to 1 Cdn Disciplinary Centre, a soldier of the Canadian Army Overseas.

Charge - Absence without leave.

By directions of the CO the evidence is taken on oath.

The following documents are read over to the accused, marked as Exhibits and are attached to the proceedings.

Exhibit "A" - Certified true copy of Extract from Pt II Order No 83 dated 16 Dec 44.

FIRST WITNESS A-3379 Cpl GRANGER A W SIS 1 Cdn Disciplinary Centre sworn states:-

On 11 Mar 45, I interviewed the accused D-157824 Pte Jean Louis GUILBAULT, attached to 1 Cdn Disciplinary Centre, whom I now recognize. After making known my identity I cautioned him as follows: -"You are not obliged to say anything unless you wish to do so but anything you do say will be taken down in writing and may be used in evidence". The accused understood the caution and signed his name to the statement which was read over to him. It is attached to these proceedings as Exhibit "B".

A-3379 Cpl GRANGER A W

The accused declines to cross-examine this witness.

Q. Do you wish to make any statement or to give evidence on oath? You are not obliged to say anything or give evidence unless you wish to do so but whatever you say or any evidence you give will be taken down in writing and may be given in evidence.

A. No.

The accused does not call any witness.

I certify that the foregoing Summary of Evidence consisting of one page was taken down by me in the presence of the accused and that RP 4 (C) (D) (E) (F) and (G) have been complied with.

(W D Hungerford) Capt
Officer detailed to take Summary of Evidence.

Dated in the Field
12 Mar 45

PART II ORDER EXTRACT FORM

This is Exhibit "H" W.D. Thurnauer Capt

TO: Discipline & Pay

99/20/

5 MAR 45

EXTRACTS FROM: UNIT X4 List (11 Bn) Regt de Maisonneuve

Part II Order No. 83 dated 16 DEC 44

ABSENT WITHOUT LEAVE

(a) AWL from 0800 hrs 6 DEC 44
D157824 Pte GUILBAULT JL X4 List (11 Bn)

This is Exhibit "A" W.D. Thurnauer Capt

Certified to be a true extract from regimental Books of the [illegible] in my custody.

Capt

The following documents are { attached. Please acknowledge receipt on attached duplicate. / required. Please forward same.

Originating Clerk's Initials WVC for (J.R. Fenelon) Capt for Officer in Charge Canadian Section, GHQ, 2nd Echelon

1/70 [illegible]

1 Can Reinforcement Units

Exhibit "A" to Statement of Capt. W.D. Kennedy 11 March 1945

D-157824 Pte Jean Louis Guilbault, Regt. De Maisonneuve, 6th Bde. 2nd Can Inf Div.

I have been cautioned by Cpl Granger A.W. S.D.S., Can Pro Corps that I need not say anything unless I wish to do so, but that anything I did say would be taken down in writing and may be used as evidence. I understand this caution and make the following statement voluntarily

(Sgt) Guilbault. J.L.

I am 25 years old, I joined the Can Army on 7 July 1943. I took my basic training at Sherbrooke Que, and advance training at different places in Canada before coming overseas to U.K. on 6 June 1944. I only stayed in England approx 6 weeks before coming to France about the end of July 1944 as a reinforcement for Regt de Mais. I stayed with the regt until 29 Oct 1944 when I was wounded and sent back to Eng. to 9 Can Gen Hosp. Aft[illegible] I was in Hospital I had seven days leave and on returning from leave reported to the holding unit at Witley. I was only in holding unit a short time before I was sent back to Europe to 10 Batt. 2 C.I.R.G. at Gent. I don't remember the date I landed at Gent but it must have been about the end of November.

On the morning of 6 Dec 1944 I was on a back parade with 52 coy, 10 Batt. On the way to the back lines I decided to go A.W.L. When I left the parade I went to a friends place in Gent and stayed there for about a week.

After that I decided to go to France to see some friends that I had made on my way through with my Regt. I first went to Bourbourg where I stayed for two (2) weeks. From there I went to Paris where I stayed for only two (2) days before I went to Dieppe where I stayed for four (4) days. From there I went from one place to another and ended up in Bourbourg and was arrested by the Czech Military Police on 22 Jan 1945 at about 0800 hrs in the morning. I was taken back to their H.Q. at Capelle, France where I remained for 18 days before I was picked up by the Can Military Police and brought back to Lent.

My only reason for going A.W.L is that I was fed up with the way I was being treated (N.Y.A.) in the army and wanted to live like a man for awhile.

(Sgd) Guilbault. J.L.

Statement taken down in writing and Witnessed by Cpl Granger A.W. att 4 D & L Regt 1 Can Div. Base

Army Form B 296 (War).

Statement as to Character and Particulars of Service of Accused.

(For Use at Trials by Field General Courts-Martial only).

Number.	*Rank.*	*Name.*	*Regiment (or as the case may be).*
D-157824	Pte	GUILBAULT J L	Regt de Mais - 1 Can Disc Centre

NOTE.—The Field Conduct Sheet is to be produced in Court with this statement but is not to be annexed to the proceedings. The numbers herein stated should correspond with the number of entries in the Field Conduct Sheet, prominence being given to the most serious offence in each entry. If the charge is for drunkenness or absence without leave, the entries for drunkenness or absence, as the case may be, should be stated separately. Any recognized special acts of gallantry or distinguished conduct recorded on the Field Conduct Sheet should also be inserted here.

1. The following is a fair and true summary of the entries in the Field Conduct Sheet of the accused, exclusive of convictions by a court martial or a civil court :—

For ..... times.

For ..... times.

For ..... times.

For ..... times.

Date of first entry in Field Conduct Sheet NIL

Date of last entry in Field Conduct Sheet .....

2. Previous convictions of the accused by a court martial or a civil court are set out in the Schedule overleaf.

*Strike out if not applicable.

*3. The accused at the present time is under sentence for N/A

beginning on the ..... day of .....

4. The accused has been awaiting trial on the present charges for Nil

days in civil custody; and for 8552 days in military custody, *i.e.*, ... days in open arrest, 8552 days in close arrest; of which NIL days were spent in hospital.

5. The present age of the accused is 25

6. The date of his attestation / calling up for military service is 5 July 43

7. The service which the accused is allowed to reckon is .....

†State the military decoration (if any) held by accused.

8. The accused is in possession of† CVSM & Clasp

9. (*If the accused is a warrant officer or N.C.O.*). The accused has served continuously, without reduction, to the present date—

Date of Promotion.

In the substantive rank of ....

In the war substantive rank of ....

In the acting rank of ....

INSTRUCTION.—*If any matter in any of the above paragraphs cannot be stated from the regimental books the paragraph must be struck through.*

(27553) Wt.24928/3434 24,000 7/44 A.& E. W.Ltd. Gp.699 Forms/B.296(War)/3

SCHEDULE OF CONVICTIONS BY A COURT-MARTIAL OR CIVIL COURT.

Description of Court by which tried.	Date and Place of Trial.	Charges upon which convicted.	Sentence of the Court.	Punishment remitted or sentence suspended.

I HEREBY CERTIFY that the foregoing particulars, which have been extracted from the regimental books in my custody, are correct to the best of my knowledge and belief.

Signed this 15th day of March 1945

1 Cdn Disc... Admin. Offr.

D157824 GUILBAULT
No. Name Jean Louis

Sqn, Battery, or Company CIC Corps

Period not reckoning towards freedom from extra fine

Date of enlistment 5-7-43 Sheet No

Signature OC Company, etc

Service or Proficiency Pay

3/17 MFM 6
(AFB 121)
80/PAS/136/1413

Character

Date of last entry in Company Conduct Sheet		No. and date of last drunk		OFFENCE	Name of Witnesses	Punishment awarded	Date of award or of roster-dispatch 804 with 670	By whom awarded	Remarks
Place	Date of offence	Rank	Cause of drunkenness						
				NIL ENTRIES EXTRACTED FROM MFM A 5 MAR 45 RECORD OF CONDUCT IN CANADA NOT AVAILABLE "G T SAUNDERS" Capt Officer i/c Records "X" Can Sec 2 Reh HQ 21 Army Gp					

Certified to be a true copy of MFM 6 in my possession

1 Can Reinforcement Centre

(FTO)

LIST OF WITNESSES

PROSECUTION

Capt J P DUHAIME Staff Capt 2 Cdn Base Rft Gp

DEFENCE

N/A

LIST OF EXHIBITS

Certified true copy of Extract from Pt II Order No 83 dated 16 Dec 44. "A"

Statement of absent witness Capt J P DUHAIME dated 6 Feb 45 "B"

I, D-157824 Pte GUILBAULT J L acknowledge having received one copy of the Summary of Evidence and one copy of the Charge Sheet, free of charge on 8 March 45.

Guilbault J.L.

D-157824 Pte GUILBAULT J L

Guilbault J.L.

SCHEDULE.

PART I. PLEA(S), FINDING(S) AND SENTENCE.

Accused: D 157824 Pte Jean Louis GUILBAULT Regt de Mais 11 CSR Bn att 1 Cdn Dis Centre

Charge. (Insert "alternative" where applicable.)	Plea. (See instrs p 2.)	Finding. (See note below.)	(Space for use as required for further charges, accused charged jointly, special findings, etc.)
1st AA 15(1)	Guilty	Guilty	
2nd			
3rd			
4th			
5th			
6th			

(Note: As to findings for lesser offences see AA 56, RP 44; findings on alternative charges see MML p 483 fn 4 para 2, RP 44; special findings see RP 44 and MML p 753, and in loss of kit see RP 44 fn 6.)

At present under sentence for ... beginning on (date) ...
(I. Insert sentence being served, or delete, if not applicable. See RP 46(A). Information should be found on MF B355 or AF B296.)

Time in confinement awaiting present trial—a total of 58 days, of which No days were spent in hospital.(1)
(I. See RP 46(A) fn 2. Information should be found on MF B355 or AF B296 admitted in evidence under E2.)

Sentence Awarded by the Court: To undergo one year's detention.

(Sgd) ... Judge-Advocate, if any. 15 Mar 45 Date awarded. (Sgd) "George BH Cox" Major President. (RP 45, 50.)
(See back of Convening Order as to assembly and disposal of record after trial.)

PART II. MINUTE WHERE CONFIRMATION RESERVED. (AA 54(5), RP 120(F), MML p 760.)

Date ... (Sgd) ... Commanding

PART III. DECISION OF CONFIRMING OFFR ON FINDING(S) AND SENTENCE.

(For duties and powers see AA 54, 57, RP 37(D) fn 6, 46(A), 51-56, 120, MML pp 739-761, KR Can 567-577. Acquittals require no confirmation and cannot be revised: AA 54(3). Sending back finding or sentence for revision by Court: AA 54(2), RP 120(C). If not confirmed, accused may be tried again: AA 157, MML p 64. Minute of confirmation or non-confirmation may be attached before promulgation: RP 53, MML p 65. Quashing after promulgation: KR Can 573. Duties and powers of reviewing offrs: AA 57, 57A, RP 53A, 54. The Confirming Offr must sign here personally. AA 172 fn 1.)

My decision on the finding(s) and sentence set forth in Part I is:

Confirmed.

I direct that the accused be not committed to prison or detention barracks until further orders.(1)
(I. AA 57A. Delete if not used.)

Date 30 Mar 45 (Sgd) "G S N Gostling" Brig
Commanding 2 CBRD
Confirming Officer

PART IV. PROMULGATED AND EXTRACTS TAKEN. (RP 53, KR Can 576, 577.)

Accused.	Date.	Signature of Offr.
D157824 Pte Guilbault JL	27 Mar 45	"A G Hood" Lt Col Comdg 1 Cdn Disciplinary Centre

GB 478
7-4
d/27Mar45

ALL DELETIONS AND ALTERATIONS WILL BE INITIALLED.

SE-127

FIELD GENERAL COURT-MARTIAL

(PAGE 1 (to face of AF A3))
40 P 45 (1000) (1)

4388

Convened by Order of Brigadier GSN Gostling, ED Comd 2 CBRD dated 13 Mar 45

ACCUSED.

(As to the trial of two or more charged jointly see RP 16, 71, 109. As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

Number.	(a) Prmnt R. (b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.
D 157824	Pte	Jean Louis	GUILBAULT Regt de Mais 11 CSR Bn att 1 Cdn Disciplinary Centre

CERTIFIED TRUE COPY

26 Apr 45

PROCEEDINGS OF TRIAL.

Held in the Fd in (country) BELGIUM on (date(s)) 15 Mar 45

RECORD FORM A—OPENING PROCEEDINGS AND ARRAIGNMENT.

27/96

A1. The President, Members, ~~waiting Member~~, JA, if any, and Offrs under instr, if any, assemble, and the Court is closed.

(PRINTED MATTER, NOT IN ITALICS FOR GUIDANCE, WILL BE DELETED. IF NOT USED OR APPLICABLE, AND INITIALLED BY PRES OR JA. The Schedule referred to throughout is on p 4. Citations do NOT include all relevant fms RDs. For guidance on procedure when a variation in this form arises, see form for GCM in MML pp 741 to 758. A brief record of such variation will be made and given a number having reference to appropriate or preceding para number thereof. See back of Convening Order, CF A95, for suffix and instrs on how to record addresses, evidence, etc, which instrs are hereafter called "recds". As to general provisions for conducting the trial see AA 53, RP 36, 53-70, 73, 74, 94, 103, 119, 122.)

A2. The President initials and lays before the Court the Convening Order and Charge Sheet(1) attached thereto (2). The Court is satisfied that it is properly convened and constituted(3), accused is (are) amenable to military law, and each charge discloses an offence.(4)
(I. As to use of Summary of Evidence see RP 17 fn 6. 2. AA 49, 50, RP 105-107. 3. RP 11-13, 22, 24.)

A3. The Court is opened. The accused is (are) brought before the Court. At 1015 hours trial commences.

A4. The Prosecutor produces a Medical Certificate that accused is (~~are~~) fit to undergo trial by court-martial (1) ~~The Prosecutor informs the Court that accused elected to be tried by court-martial instead of being dealt with summarily by the CO (2)~~
(I. KR Can 557. 2. AA 86(8), RP 60 fn 1. For effect see KR Can 563(c). Delete, if not applicable.)

A5. President to accused: Do you object to ... as interpreter? Ans ...
The interpreter is sworn.(1) Do you object to ... as shorthand writer? Ans ...
The shorthand writer is sworn.(1)
(I. RP 72. Delete, if none employed.)

A6. The Convening Order and names of the President and Members of the Court are read to the accused.(1) President to accused: Do you object to be tried by me as President or by any of the Members of the Court? Ans No (2)
(I. RP 110. 2. If no objection, waiting member retires. RP 68(8). If objection, see procedure AA 51, RP 25, 71, 18, MML p 742.)

A7. The President, Members, JA, if any, and Offrs under instr, if any, are sworn.(1) The following are the ranks, names and units of the offrs comprising the Court, etc:

President	Major	G B H COX	CAC att 1 Cdn Dis Centre
Member	Major	A JEFFROY Seaforth Highrs	att 1 Cdn Dis Centre
Member	Lieut	T J ROBINSON	CIC 11 Bn CSRG
Judge-Advocate			
Prosecutor	Captain	J D POLLOCK	Can Pus att 1 Cdn Dis Cen.
Defending Offr	Captain	J H LABRIE	R de Mais att 1 Cdn Dis Cen.

Questions by President: Is the Prosecutor a lawyer? Ans No Is the Defending Offr a lawyer? Ans No (2)
(I. RP 26, 27, 109, 111. List of offrs under instr will be returned separately with proceedings for information of Conv Offr.)
2. If Pros a lawyer and Def Offr not, accused is entitled to an adjournment when RP 89 (2) and fn 2 were not followed. See DI p 21.)

A8. The accused D157824 Pte Jean Louis GUILBAULT before arraignment make(s) (no) (~~a~~) plea ...
(I. If a special plea is made for separate trial on one or more charges (RP 62(E), 108), or as to the jurisdiction of the Court (RP 34, 35(A), 111), or in bar of trial (RP 36), or as to accused's mental fitness to stand trial (AA 130, RP 37), or by one of several accused charged jointly to be tried separately (RP 16, 71), such plea, the addresses made in support or against, the evidence, if any, and finding are recorded (per Notes. For forms of record see references in fns to RoF cited. Insert in A8 rank and name of the accused making the plea.)

A9. The accused is (are) arraigned (~~separately~~) on all charges in the charge sheet.(1) The accused does (~~not~~) object to any charge.(2) There is no amendment to be made to the Charge Sheet.(3) The President records the pleas in Part I of the Schedule.
(I. RP 31, 102. See para 1 of Instrs p 2. When more than one Charge Sheet see RP 62; when several accused to be tried separately see RP 71(C), and use separate copies of CF A95 to record proceedings. 2. RP 32, RP 33. If otherwise, delete and make appropriate record per Notes.)

A10. The Court ~~is ordered and~~ considers the Instrs on Procedure after Arraignment at top of p 2. The proceedings are continued on Record Form B

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

2 CBRD Vol 5 P.69

INSTRUCTIONS ON PROCEDURE AFTER ARRAIGNMENT.

1. *The accused may not plead or be found Guilty on more than one of two or more charges laid in the alternative.* (RP 37(A).) *As to withdrawal of alternative charges by Prosecutor see RP 35(C). No other charge can be withdrawn for any reason without authy from Convening Offr. If Convening Offr concurs, Court may accept plea of Guilty to lesser, etc, offence.* (RP 44(H).) *Accused may change a plea of Not Guilty to Guilty during trial.* (RP 38.) *As to refusing to plead or not pleading intelligibly see RP 35(A). As to plea when sentence may be death see RP 35(D).*

2. *The proceedings on each charge sheet* (RP 62) *after arraignment will be conducted as follows in the respective circumstances stated :*

I. If pleas to all charges are GUILTY, use Record Form B below.

II. If pleas to all charges are NOT GUILTY, use Record Form D on p 3.

III. If pleas to some charges are GUILTY and to other charges are NOT GUILTY and,

(a) Such mixed pleas occur when there are no alternative charges in the Charge Sheet, use Record Form C below. (RP 37(A).)

(b) Such mixed pleas occur in a set of two or more charges laid in the alternative, see RP 37 (A) and fn 2 as to discretion of Court, (i) to try the accused on all such alternative charges as if he had pleaded Not Guilty thereto, or, (ii) to record the pleas as the findings of Court. After deciding between (i) and (ii), Court will proceed under foregoing instrs as may be appropriate to result of its decision. See MML p 744 Instrs (2).

3. *As to responsibility of President to accused see RP 59, 60(C) ; powers and duties of JA see RP 103 ; duty of Prosecutor see RP 60(A) (ii) ; duty and privileges of accused and Defending Offr see RP 60(C), 87(C), 91, 92 ; swearing and withdrawal of witnesses from Court see RP 81, 92 ; questioning of accused see RP 80, 87(C), 92(B), and of witnesses see RP 85,86 ; calling or re-calling of witnesses by Court, etc, see RP 75-79, 86, 116 ; use of Summary of Evidence at Trial see RP 17(E) fn 6 ; and responsibility of JA or Pres to record proceedings see RP 94, 96.*

RECORD FORM B—PROCEEDINGS ON PLEAS OF GUILTY TO ALL CHARGES.

B1. The President or ~~JA~~, if any, complies with RP 35(B) by explaining to the accused the nature and meaning of the charge(s)(1), and that on his plea of Guilty there will be no regular trial but merely a consideration of the sentence to be awarded after he has been given an opportunity to make a statement in reference to the charge(s), call witnesses as to character and make an address in mitigation of punishment.(2)
(1. *RP 35 fn 3.* 2. *MML p 54 para 47.*)

B2. President to accused : The Court will now receive any statement you desire to make in reference to the charge(s).(1) If it appears from your statement that there are circumstances which indicate that you do not understand the effect of the plea of Guilty(2), or which show provocation or extenuation in respect of which in your interest the witnesses for the Prosecution should be examined(3), we shall advise you to change your plea to Not Guilty. In making a statement you will not be sworn or subject to cross-examination ; and anything you say will not be used in evidence against you after you change your plea. If, however, it appears to the Court that your statement affects only the amount of punishment to which you are liable, you will not be advised to change your plea and you will be given an opportunity later to prove your statement by sworn testimony, if you so desire.(4)

President to accused : Do you wish to make a statement ? Ans No (5)
(1. *RP 37(B).* 2. *RP 37(D) fn 4.* 3. *RP 35(B) fn 3 para 3, MML p 54 para 47.* 4. *See para E3 of Record Form E.* 5. *Statement, if any, recorded per Notes.*)

B3. ~~The Court considers the accused's statement.(1) The Court decides (not) to advise accused to change his (their) plea(s) of Guilty to Not Guilty on charge(s). The accused is (are) so informed, and he (they) change(s) his (their) plea(s) on charge(s). Part I of the Schedule is amended accordingly.~~
(1. *Court may be closed to consider the statement. Delete whole or part not used.*)

B4. On the charge(s) to which the plea(s) of Guilty is (~~are~~) not changed the President records findings of Guilty in Part I of the Schedule.(1)
(1. *RP 35(B). If any plea(s) is (are) changed, use Record Form C or D as appropriate.*)

B5. The Summary of Evidence is marked Ex A, initialled and read aloud by the President.(1)
(1. *If there is no Summary, or if it is inadequate, comply with RP 37(E). If there is any evidence inconsistent with any plea standing as Guilty, Court will advise accused to change such plea and, if changed to Not Guilty, try such charge(s) by use of paras D1 to D8 inclusive of Record Form D on p 3.* RP 37(D).)

B6. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

RECORD FORM C—PROCEEDINGS ON MIXED PLEAS OF GUILTY AND NOT GUILTY.

C1. As to the charges on which accused pleaded NOT GUILTY the trial is continued by using paras D1 to D8 inclusive of Record Form D on p 3 before proceeding with C 2.(1)
(1. *RP 37(A) (E).*)

C2. The charges on which accused pleaded GUILTY are read to him (them) again, and the trial is continued by using paras B1 to B5 of Record Form B above.(1)
(1. *Under B5 such parts only of the Summary of Evidence are read as relate to the charges dealt with under C2. If any plea is changed to Not Guilty, trial thereon proceeds by complying with paras D1 to D8 inclusive in Record Form D on p 3 and making an appropriate record thereof on a separate sheet.*)

C3. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

Pin left Loose Sheets of Record.

RECORD FORM D—PROCEEDINGS ON PLEAS OF NOT GUILTY TO ALL CHARGES.

D1. President to accused : Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity to prepare your defence ? Ans .....(1)
(1. *If "yes", see RP 39(A) for procedure. Statement or evidence, if any, is recorded per Notes.*)

D2. The Prosecutor makes (an) (no) opening address.(1)
(1. *RP 39(B), 60(A) (B), 90, 92(C) (D). Record address per Notes, subject to RP 95(C).*)

D3. The evidence for the Prosecution is taken.(1)
(1. *RP 39(C), 114, KR Can 555. Record evidence per Notes. As to Prosecutor giving evidence himself see RP 39(D) (E).*)

D4. The Prosecution is closed.(1) The Defending Offr submits that the evidence for the Prosecution does not establish a prima facie case against the accused on the .....charge(s).(2) The Court is closed, and considers the submission.(3) The Court is re-opened, and the President announces that the submission is disallowed on the .....charge(s), and allowed on the .....charge(s), and that, accordingly, the trial will proceed on the former, but the accused is (are) found Not Guilty on the latter charge(s).(4)
(1. *Delete remainder of this para. if submission not made.* 2. *Arguments on submission, answer and reply are recorded per Notes.* 3. *RP 40 fn 1. See MML p 72 paras 12-14 and p 81 para 42.* 4. *Delete part not used. If accused acquitted on all charges, use second alternative in para D6.*)
NB : If trial proceeds, accused must be allowed great latitude in making his defence, and the Court should not stop his defence solely on ground of irrelevance. (RP 60(C), 114, 115.)

D5. President to accused : You will now proceed with your defence.(1) You may, if you wish, give evidence yourself on oath as to the facts or your character or both, in which case you will be subject to cross-examination.(2) You may, however, make a statement without being sworn, and you will not be subject to cross-examination.(3) But a statement which could have been made on oath will not carry with the Court the same weight as sworn testimony.(4) You may call witnesses in your defence and as to character, whether you give evidence or make a statement or do neither.

President to accused : Do you wish to give evidence yourself as a witness, make a statement, or do neither ?
Ans ..... Do you intend to call witnesses on your behalf ?
Ans ..... Are they witnesses as to character only ? Ans .....
(1. *RP 115.* 2. *RP 42(A), see 80(D).* 3. *RP 40 fn 10.* 4. *RP 40 fns 2, 9.*)

D6. Consequent on the answers recorded in para D5 the appropriate procedure for the defence is followed.(1)
(1. *RP 114, 115, 116. For procedure see Notes on back of Convening Order. CF A65. Evidence for accused as to his character should, if in his interest, be given before the finding. See RP 46(A) fn 1, 86(C). Note the further opportunity in para E1 of Record Form E. Record per Notes addresses, statement, evidence and any summing up by the JA under RP 42, 103(B).*)

D7. The Court is closed to consider the finding(s).(1) The finding(s) of the Court is (are) recorded in Part I of the Schedule.(2) The Court is re-opened.
(1. *RP 43, 117(A). See Notes in Part I of Schedule.* 2. *RP 44(A).*)

D8. The President announces the finding(s), if any, of Not Guilty, and states to the accused that the finding(s) of the Court on the .....charge(s), being subject to confirmation, will be promulgated later.(1)
Or, The President announces that the accused is found Not Guilty on all charges and is to be released forthwith, and that the proceedings are accordingly terminated. Part I of the Schedule is dated and signed.(1)
(1. *AA 54(2) (6), RP 45, 120(A).* 2. *AA 54(2), RP 45, 117. This alternative announcement is not applicable when there are pleas of Guilty outstanding and dealt with under Record Form B or C.*)

D9. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E below.

RECORD FORM E—PROCEEDINGS ON CONVICTION BEFORE SENTENCE.

E1. President to accused : Do you wish to give evidence yourself or to call any witnesses as to your character ?(1)
Ans No
(1. *If evidence has already been given by accused or his witnesses as to his character, delete this para. RP 27(C) fn 4, 46 fn 1. Accused and witnesses are sworn. Evidence recorded per Notes.*)

E2. The Prosecutor produces Statement(s) as to Character and Particulars of Service(1), and certified true copy (~~copies~~) of Conduct Sheet(s)(2), purporting to refer to the accused, which he submits to the Defending Offr for examination, and then to the Court for admission in evidence. The Court is satisfied that these documents refer to the accused, because (i) they purport to be signed in the manner required by AA 163(1) (g) (h), and (ii) they purport to refer to (a) soldier(s) having the same number, rank, name and corps as the accused. Admitted in evidence and marked Ex B and Ex C respectively.(3)
(1. *MFB 253 or AFB 296.* 2. *MFM 6.* 3. *RP 46, KR Can 538. If above documents not produced, see RP 46 fn 1 para 1.*)

E3. President to accused : Do you wish to address the Court on the Statement(s) and Conduct Sheet(s), and in mitigation of punishment ?(1) Ans No on mitigation of punishment (2)
(1. *RP 27(C), 46(D).* 2. *Address, if any, recorded per Notes. Court should permit accused or his witnesses to prove on oath anything here or previously stated which would affect the amount of punishment. RP 27(F) fn 7.*)

E4. The President states that the Court is closed to consider the sentence, and that the sentence to be awarded by the Court, being subject to confirmation, will not be announced, but will be promulgated later, and the proceedings in open court are accordingly terminated.(1)
(1. *AA 54(6), RP 120(A).*)

E5. The Court considers the sentence.(1) The President records the sentence in Part I of the Schedule, which is dated and signed by him ~~and the JA, if any~~.(2)
(1. *When several accused tried separately see RP 71 (D). One sentence only, comprised of the punishment or punishments laid down in AA 41, 44 and its proviso, is to be awarded to cover all charges in all charge sheets on which accused found guilty. RP 48. As to sentences see AA 44, 138, 182, RP 46-50, 69, 118, 119(A), KR Can 308, 330, 563-566. Overseas RO 309, 2323, MML p 660, 757-759. As to sentences assigned for civil offences by the law of England see AA 41(5), MML p 130. When accused already under sentence of imprisonment or detention see AA 44(18), 68(7), KR Can 564.* 2. *RP 50. As to release from arrest by Confirming Offr see KR Can 567. As to assembly and disposal of record after trial see Instrs on back of Convening Order.*)

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

GBC

CHARGE SHEET

The accused, D-157824 Pte Jean Louis GUILBAULT, X-4 List (11 Bn) Regt de Mais, attached to 1 Cdn Disciplinary Centre, a soldier of the Cana dian Army Overseas, is charged with:-

FIRST CHARGE
Sec 15(1)
Army Act

WHEN ON ACTIVE SERVICE, ABSENTING HIMSELF WITHOUT LEAVE

in that he

In the Field, absented himself without leave from 0800 hrs 6 Dec 44 until apprehended by Czech Mil Police at ESQUELBEC, France a t 0800 hrs 22 Jan 45. (Absent 47 days)

In the Field
8 Mar 45

"A O Hood"
(A O Hood) Lt Col
Commanding
1 Cdn Disciplinary Centre

To be tried by Field General Court Martial.

In the Field
13 Mar 45

"G S M Gostling"
(G S M Gostling) Brig
Comd
2 Cdn Base Rft Gp

GBC

FIELD GENERAL COURT-MARTIAL

(Whether the accused to be tried is under his comd or not, a FGCM may on application to him be convened by any offr of Cdn Army Overseas, or of any other force if authorized in law, in immediate comd of troops on active service, subject to RP 105(C) and restrictions imposed by appropriate authy. AA 49, 50, RP 104-107, 114. As to the duties and privileges of the Convening Offr in dealing with the application see MML Chap V paras 20 and 23, RP 87(B).

There should be a separate Convening Order for each person to be tried separately by the same Court. RP 71(C), 109. As to separate charge sheets see RP 62, and as to separate trial on charges in the same charge sheet see RP 108. As to two or more accused charged jointly see RP 16, 109.

As to reasons for showing (a) permanent or confirmed rank, and (b) apprnt, A/rank or A/apprnt, if any, see AA 182, 183, fns, KR Can 306, 328, 330.)

ACCUSED.

Number.	(a) Prmnt R.	(b) Apprnt, A/R or A/Apprnt	Full Christian Names.	Surname.	Unit.
D 157824	Pte		Jean Louis	GUILBAULT	Regt de Mais 11 CBR Bn att 1 Cdn Dis Centre

CONVENING ORDER.

1. Whereas complaint has been made to me, the undersigned, that the person(s) named above as the accused, being subject to military law, has ~~(have)~~ committed the offence(s) set forth in the Charge Sheet(s) attached and on (date) 13 MAR 45 endorsed by me, (or by an offr of my staff for me), " To be tried by Field General Court-Martial ".

2. And whereas I am of opinion that it is not practicable that such offence(s) should be tried by an ordinary General Court-Martial ; (~~and that it is not practicable~~ to delay the trial for reference to a superior qualified offr.)

(Delete part in brackets when not required for compliance with RP 105(C).)

3. I hereby convene a Field General Court-Martial to try the said person(s), and to consist of the Offrs appointed or detailed hereunder.

4. ~~I am unable to appoint (a) three~~ Offrs to form the Court, (b) a Fd Offr as President, for the reasons I have ~~attached hereto.~~

(AA 49, RP 106(B), 107(A). Delete the whole or part, if not applicable.)

5. I ~~also appoint as Judge Advocate thereat the Offr~~ mentioned hereunder.

(RP 106(E). Delete, if none appointed.)

PRESIDENT.

(Rank.)	(Must be named. RP 106.)	(Unit.)
Major	G B E COX	CAC att 1 Cdn Dis Centre

MEMBERS.

(Rank.)	(Named or detailed. RP 106.)	(Unit.)
Major	A LEFROY	Seaforth Highrs att 1 Cdn Dis C.
Lt	to be detailed by OC 11 CBR Bn	11 CBR Bn

WAITING MEMBER.

(Rank.)	(Named or detailed, if any. RP 106.)	(Unit.)

~~JUDGE ADVOCATE.~~

(Rank.)	(Must be named, if any. RP 106.)	(Unit.)

On Active Service in the Fd

(Country.)	(Signed personally. RP 105 fn 2.)	(Rank.)
in BELGIUM	"G S N Gostling"	Brigadier

Date 13 Mar 45

(G S N Gostling)
Commanding 2 Cdn Base Rft Gp
Convening Officer

CONVENING OFFR WILL INITIAL ALL DELETIONS AND ALTERATIONS

4/38A CFAES (To Hqs of AFAS) 40/P & S/1647 (4681)

(See overleaf for oaths and notes for use on trial.)

Exhibit "P"

MFB 246

MEDICAL CERTIFICATE (KH(Can)Para 657)
(CMHQ CF 173)

I certify that I have this day examined D 157824 (No.)

Rte Guilbault J L and in my opinion he is fit/~~unfit~~
(Rank) (Name)
to undergo trial by Court Martial.

Station 1 Cdn Disciplinary Centre "A A Toms" Capt (Sgd)
Medical Officer

Date 15 Mar 45 1 Cdn Disciplinary Centre
Unit

Exhibit "D" GBC

PLEA OF MITIGATION
in the case of

D 157824 Pte Jean Louis GUILBAULT (R de Mais)

Gentlemen of the court

Pte Guilbault enlisted July 43, came to England June 44 and landed in France July 44.
He as wounded in Belgium at the end of Oct 44 and evacuated for six weeks in Hospital in England.
He came back as reinforcement at 2 CBRD, felt sick and after ~~crying~~ stating that he was suffering of sore feet (still had pains by his wounds, the M O didnt listen to him, so he went away.
I have to say to this court that this soldier has a clean conduct sheet and he is well trained and ready going back on the front as an Infantry man. He regret his mistake and he promise never be AWL again.
I ask thecourt to do his best for helping him going on the right way and so by a light sentence.

"Henri Labrie"
Capt
Def. Offr.

Note:-"A" Category
25 years old
52 days close arrest waiting for trial.

Exhibit "A" GBC

Summary of Evidence in the case of D-157824 Pte Jean Louis GUILBAULT, X-4 List (11 Bn) Regt de Mais, atta ched to 1 Cdn Disciplinary Centre, a soldier of the Canadian Army Overseas.

Charge - Absence without leave.

By directions of the CO the evidence is taken on oath.

The following documents are read over to the accused, marked as Exhibits and are attached to the proceedings.

Exhibit "A" - Certified true copy of Extract from Pt II Order No 83 dated 16 Dec 44.

FIRST WITNESS A-3379 Cpl GRANGER A W SIS 1 Cdn Disciplinary Centre sworn states:-

On 11 Mar 45, I interviewed the accused D-157824 Pte Jean Louis GUILBAULT, attached to 1 Cdn Disciplinary Centre, whom I now recognize. After making known my identity I cautioned him as follows: -"You are not obliged to say anyting unless you wish to do so but anything you do say will be taken down in writing and may be used in evidence". The accused understood the caution and signed his name to the statement which was read over to him. It is attached to these proceedings as Exhibit "B".

"A W Granger"
A-3379 Cpl GRANGER A W

The accused declines to cross-examine this witness.

Q Do you wish to make any statement or to give evidence on oath? You are not obliged to say anything or give evidence unless you wish to do so but whatever you say or any evidence you give will be taken down in writing and may be given in evidence.

A No.

The accused does not call any witness.

I certify that the foregoing Summary of Evidence consisting of one page was taken down by me in the presence of the accused and the RP 4 (C) (D) (E) (F) and (G) have been complied with.

"W D Hungerford" Capt
(W D Hungerford) Capt
Officer detailed to take Summary of Evidence.

Dated in the Field
12 Mar 45

TO: Discipline & Pay

This is Exhibit "A"
99/20/"W D Hungerford" Capt

PART II ORDER EXTRACT FORM

EXTRACTS FROM: UNIT X4 List (11 Bn) Regt de Mais

6 MAR 45 19

Part II Order No 83 dated 16 DEC 44

ABSENT WITHOUT LEAVE

(a) SWL from CRDO hrs 6 DEC 44
D157824 Pte GUILBAULT JL X4 List (11 Bn)

This is Exhibit "A"
"W D Hungerford" Capt

Certified to be a true extract from the regimental books and documents as custody

"J B Penelon" Capt
Officer IC Records
Cdn Reg CMC 2 Echn 21 A Gp

The following documents are attached. Please ack receipt on att duplicate required. Please forward same.

originating clerks initials WVG for (J.B.Penelon) Capt for
officer in charge
Canadian Section GHQ 2nd Echelon

Exhibit "B"
"W D Hungerford" Capt

1 Cdn Disciplinary Centre
11 March 1945

D-187824 Pte Jean Louis Guilbault, Regt De Mais, 5th Bde
2nd Cdn Inf Div.

I have been cautioned by Cpl Granger A W SIS Cdn Pro Corps that I need not say any thing unless I wish to do so, but that any thing I did say would be taken down in writing and may be used as evidence. I understand this caution and make the following statement voluntarily.

(Sgd) Guilbault J L"

I am 25 years old, I joined the Cdn Army on 7 July 1943. I took my basic traiing at Sherbrook Que, and advance training at different places in Canada before coming overseas to U K on 5 June 1944. I only stayed in England appros 6 weeks before coming to France about the end of July 1944 as a reinforcement for Regt De Mais. I stayed with the regt until 29 Oct 1944 when I was wounded and sent back to Eng. to 9th Cdn Gen Hosp. While I was in Hospital I had seven days leave and on returning from leave reported to the holding unit at Witley. I was only in holding unit a short time before I was sent back to Europe to 10 Batt, 2 CBRG at Gent. I don't remember the date I landed at Gent but it must have been about the end of November.

On the morning of 5 Dec 1944 I was on a bath parade with 52 Coy, 10 Batt. On the way to the bath house I decided to go AWL. When I left the parade I went to a friends place in Gent and stayed there for about a week. After that I decided to go to France to see some friends that I had made on my way through with my Regt. I first went to Bourbourg where I stayed for two (2) weeks. From there I went to Paris where I stayed for only two (2) days before I went to Deippe where I stayed for four (4) days. From there I went from one place to another and ended up in Bourbourg and was arrested by the Czech Military Police on 22 Jan 45 at about 0800 hrs in the morning. I was taken back to their HQ at Esquelbec, France where I remained for 18 days before I was picked up by the Cdn Military Police and brought back to Gent.

My only reason for going AWL is that I was fed up with the way I was being treated in the army and wanted to live like a man for awhile.

(Sgd) "Guilbault"J L"

Statement taken down in writing and Witnesses by Cpl Granger A W att SIS C Pro C
1 Cdn Disc Centre

Exhibit B GBC ARMY FORM B.206 (War).

Statement as to Character and Particulars of Service of Accused.

(For Use at Trials by Field General Courts-Martial only).

Number.	*Rank.*	*Name.*	*Regiment (or as the case may be).*
D-157824	Pte	GUILBAULT J L	Regt de Mais 1 Cin Disc Centre

NOTE.—The Field Conduct Sheet is to be produced in Court with this statement but is not to be annexed to the proceedings. The numbers herein stated should correspond with the number of entries in the Field Conduct Sheet, punishments being given to the most serious offence in each entry. If the charge is for drunkenness or absence without leave, the entries for drunkenness or absence, as the case may be, should be stated separately. Any suspended period not at present in force should also be inserted.

Strike out if not applicable.

1. The following is a fair and true summary of the entries in the Field Conduct Sheet of the accused, exclusive of convictions by a court martial or a civil court :—

For _____ _____ times.

For _____ _____ times.

For _____ _____ times.

For _____ _____ times.

Date of first entry in Field Conduct Sheet NIL

Date of last entry in Field Conduct Sheet _____

2. Previous convictions of the accused by a court martial or a civil court are set out in the Schedule overleaf.

*3. The accused at the present time is under sentence for N/A

beginning on the _____ day of _____

4. The accused has been awaiting trial on the present charges for NIL days in civil custody; and for 52 days in military custody, i.e., _____ days in open arrest, 52 days in close arrest; of which NIL days were spent in hospital.

5. The present age of the accused is 25

6. The date of his attestation is 5 July 43

7. The service which the accused is allowed to reckon is _____

8. The accused is in possession of GVSM & Clasp

State the military operations in which held by accused.

9. (*If the accused is a warrant officer or N.C.O.*) The accused has served continuously, without reduction, to the present date

Date of Promotion.

In the substantive rank of _____

In the war substantive rank of _____

In the acting rank of _____

INSTRUCTION.—*If any matter in any of the above paragraphs cannot be stated from the regimental books the paragraph must be struck through.*

(2N564) Wt.42129-4200 42,000 11/43 A.& E.W.Ltd. Gp.698 Forms/F.2.6/Wt.p/A

SCHEDULE OF CONVICTIONS BY A COURT-MARTIAL OR CIVIL COURT.

Description of Court by which tried.	Date and Place of Trial.	Charges upon which convicted.	Sentence of the Court.	Punishment remitted or sentence suspended.

I HEREBY CERTIFY that the foregoing particulars, which have been extracted from the regimental books in my custody, are correct to the best of my knowledge and belief.

Signed this ~~21st~~ 12th day of March 1943

"J E Dibb" Capt Admin Offr.
1 Cdn Disciplinary Centre

Exhibit C GBC

No D157824 Name GUILBAULT Jean Louis | Sqn, Battery, or Company | Corps CIC | Date of enlistment 5-7-43 | GC Badges | Service or Proficiency Pay | MFM (AFB 40/PAM/138 [illegible])

Date of last entry in Company Conduct Sheet | No and date of last drunk | Period not reckoning towards freedom from extra fine | Sheet No | Signature OC Company, etc | Character

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order directing trial	By whom awarded	Remarks
				NIL ENTRIES EXTRACTED FROM MFM 4 5 MAR 45 RECORD OF CONDUCT IN CANADA NOT AVAILABLE "B T SAUNDERS" Capt Officer i/c Records "X" Cdn Sec 2 Ech HQ 21 Army Gp					

Certified to be a true copy of MFM 6 in my possession
"J E Dibb" Capt Admin Offr.
1 Cdn Disciplinary Centre

LIST OF WITNESSES

PROSECUTION

Capt J P DUHAIMES Staff Capt 2 Cdn Base Sft Op

DEFENCE

N/A

LIST OF EXHIBITS

Certified true copy of Extract from Pt II Order No 83 dated 16 Dec 44. "A"

Statement of absent witness Capt J P DUHAIME da ted 6 Feb 45. "B"

I, D-157824 Pte GUILBAULT J L
acknowledge having received one copy of the Summary of Evidence and one copy of the Charge Sheet, free of charge on 8 March 45.

"Guilbault J L"
D-157824 Pte GUILBAULT J L

"Guilbault J L"

5D-1.

Pte. Guillotte, HO.

PP120 (AFRICA)
PTE GUILTNER H

PP120

A104

Correspondence to be PINNED here.

Army Form A.3.

Form for Assembly and Proceedings of Field General Court Martial on Active Service.

PROCEEDINGS.

A.

Order convening the Court.

On Active Service, this Twenty-eighth day of August, 1943.

Whereas it appears to me, the undersigned, an officer in Command of 2 Canadian Infantry Brigade, on active service, that the persons named in the annexed Schedule, being subject to Military Law, have committed the offences in the said Schedule mentioned.

And whereas I am of opinion that it is not practicable that such offences should be tried by an ordinary General Court Martial; *~~and that it is not practicable to delay the trial for reference to a superior qualified officer~~

*Omit where Convening Officer is a Commanding Officer or is of Field Rank.

I hereby convene a Field General Court Martial to try the said persons, and to consist of the Officers appointed or detailed hereunder.

*~~I am unable to appoint~~

*~~(1) Three Officers to form the Court~~

*~~(2) A Field Officer as President~~

*Omit if not applicable.

~~for the following reasons, namely~~

	President.	
Rank.	Name.	Regiment.
Major	H.P. Bell-Irving	Seaforth of C.
	Members.	
Rank.	Name.	Regiment.
Captain	H.G. Munro	P.P.C.L.I.
Lieutenant	G.A. Garbutt	P.P.C.L.I.
Lieutenant	F.M. Healy	Seaforth of C.

NOTE.—The President must be named. The members and waiting members (if any) may be mentioned by name, or the number and ranks and the unit to which they belong may alone be named. In the latter event, the ranks, names, &c., of the members of the Court, as constituted, will be recorded on the proceedings.

*Signed (C. Vokes) Brig
Commanding 2 Can Inf Bde
Convening Officer.

*Must be signed personally by the Officer actually in command at the time, and all alterations in the composition of the Court to be initialled by him.

SCHEDULE

Number, Rank (*a*), Name and Unit of Accused (*b*)	Offence charged	*Plea	Finding, and if Convicted, Sentence (*c*)	How dealt with by Confirming Officer (*d*)
M-17465 Private Harvey GUILTNER Edmonton Regiment	1st Charge Sec 11 A.A. INVOLVC LWV TO ORDERS DIVISIONAL ORDERS	GUILTY	Guilty Fifteen days field punishment & Twenty eight days deprivation of pay. W.W. Burdon Maj 30 Aug 43	I confirm the finding but reduce sentence to fourteen days fd punishment and forfeiture dys and forfeiture of pay A.G. Bray Brig.

* Question to be asked of accused, if he pleads not guilty (R. of P. 39 (a)) :—

"Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity for preparing your defence ?"

Answer (*to be recorded on separate sheet if necessary*) :—

(Signed) A.G. Bray (Signed) W.W. Burdon Maj

(C. Voxes) Brig
Commanding 2 Cdn Inf Bde — Convening Officer (*e*)

Secretary F.G.C. — President.

(*a*) Appointment acting rank or acting appointment, if any, to be stated in brackets after the substantive rank.

(*b*) Unless unavoidable, not more than three names are to be entered on one form, and in serious cases one only.

(*c*) Recommendation to mercy, if any, to be inserted in this column.

(*d*) It is not necessary that the Confirming Officer should sign his name in this column. Initials are sufficient.

(*e*) Must be signed by the same Officer who signs on the first page, and all alterations in the first two columns of the Schedule to be initialled by him.

Evidence and Charge Sheets (if necessary) to be PINNED here.

W.W. Burdon Maj.

I certify that the above Court assembled on the Thirtieth day of August 1943, and duly tried the persons named in the Schedule, and that the plea, finding, and sentence in the case of each such person were as stated in the third and fourth columns of that Schedule. **B.** Certificate of President as to proceedings.

I also certify that :—

1. The members of the Court
2. The witnesses
*(3. ~~The Interpreter~~) N/A
*(4. The officers under instruction)

*Omit if not applicable.

were duly sworn.

Signed this Thirtieth day of August 1943

W.W. Burdon Maj

President of the Court Martial.

*See footnote (*b*) on page 702 M.M.L. 1939.

I certify that the terms of *A.C.I. 570 of 1918 have been complied with. **C.** N/A Certificate in case of death sentences.

Signed this day of 19 .

President of the Court Martial.

I have dealt with the findings and sentences in the manner stated in the last column of the Schedule, and, subject to what I have there stated, I hereby confirm the above findings and sentences. **D.** Confirmation.

*To be omitted unless penal servitude, imprisonment or detention having been awarded, the Confirming Officer either has no authority to commit to prison or detention barrack, or, having such authority, recommends suspension.

*~~(I direct that the soldier named in the margin be not committed to prison or detention barrack until further orders.)~~ N/A

Signed this 31st day of August 1943.

A.G. Bray Brig.

Confirming Officer:
Comd 2 Cdn Inf Bde

Promulgated and extracts taken in the case of M-17465 Private Harvey Guiltner

(a) (Dated) Sept. 1943. (Signed) D. Jefferson Lieut.

Promulgated and extracts taken in the case of

(Dated) (Signed)

Promulgated and extracts taken in the case of

(Dated) (Signed)

(*a*) When several cases are promulgated in one unit on the same day the Officer need only sign once.

81-46179-500 10,000 2-43 A.G. H.Q. 7-17-2-16. Gp.488

CHARGE SHEET

M17465 Pte GOULTNER, Harvey of The Edmonton Regiment a soldier of The Cdn Army Overseas (C.M.F.) is charged with:-

1st Charge
Sec 11 AA.

Whilst on Active Service:-

NEGLECTING TO OBEY DIVISIONAL ORDERS

in that he

on 15 Aug 43 entered the town of Militello, not being in possession of a pass, contrary to 1 Cdn Div Routine Orders 4/11 Aug 43.

J.C. Jefferson

Date 21 Aug 43. (J.C. Jefferson) Lt-Col
Commanding Edmn R

TO BE TRIED BY FIELD GENERAL COURT MARTIAL

Date 23 Aug 43. ..... Brig
Commanding 2 Cdn Inf Bde.

B2
W Ben Irwin
major

MEDICAL CERTIFICATE
(F.R. CAN)

E

This is to certify that I have this morning examined

M17465 Pte GUILLEMER, Harvey

of the Edmonton Regiment

and find him fit/~~unfit~~ to be tried by Field General Court Martial.

(I.L. Lazareck) Capt
Medical Officer Edmn R

Date. 30 Aug. 41.

*All printed matter not applicable to the particular Court being held should be struck out and initialled by the President.

A

Maj Irwin

**Form of Proceedings for General and District Courts-Martial

Proceedings of a Field ~~General~~ Court-Martial held at Field on the 30 day of August 1943 by order of Brig. C. Vokes, D.S.O. Commanding 2 Cdn Inf Bde dated the 28 day of August 1943

President.

Major H.B. Bill Irwin, Seaforth D.C.

Members.

Capt H.G. Munro, P.P.C.L.I.

~~Capt~~ Lieut G.A. Garbutt, P.P.C.L.I.

~~Judge Advocate.~~ Maj

Trial of* M17465 Private Harvey Guiltner

The order convening the Court, the charge-sheet and the summary (or abstract) of evidence are laid before the Court.

~~The Court satisfy themselves that is not available to serve owing to~~

~~waiting member takes his place as a member of the Court.~~ Maj

The Court satisfy themselves as provided by Rules of Procedure 22 and 23.

The accused is brought before the Court.

Prosecutor,† Capt J.R. Stone, The Edmonton Regt

~~Counsel~~‡ or defending officer† Capt E.H. Pritchard, The Edmonton Regt

At 08 h. o'clock the Trial commences.

The order convening the Court is read, and is marked A signed by the President, and attached to the proceedings.

The names of the President and members of the Court are read over in the hearing of the accused, and they severally answer to their names.

Question by the President to the accused. Do you object to be tried by me as President, or by any of the officers whose names you have heard read over?

Medical Certificate A produced, marked B, signed by the President & attached to proceedings.

Answer by accused. NO.

(N.B.—If objection is made it should be recorded, together with the decision of the Court, on a separate sheet.)

* Here insert No., Rank, full Name, Regiment, and Appointment (if any).
† Here state Rank and Name, and Regiment (if any).
‡ Qualification to be stated.

Mil. Form B. 271
10M—8-41 (3318)
H.Q. 1772-49-224

B

The President, members ~~and judge-advocate~~ are duly sworn.

The following officers under instruction are duly sworn.

Lieut J.W. Healy Seaforth R.C.

Charge-Sheet

Instruction.
If the accused has elected to be tried under Army Act, sec. 46 (8) the fact should be here recorded.

The charge sheet is signed by the President, marked B 2 and annexed to the proceedings.

The accused is arraigned upon ~~each~~ the charge in the above-mentioned charge-sheet.

Are you guilty or not guilty of the ~~first~~ charge against you, which you have heard read? *Question to the accused.*

~~(1)~~ Guilty, *Answer.*

~~Are you guilty or not guilty of the second charge against you, which you have heard read?~~ *Question.*

Answer.

~~Are you guilty or not guilty of the third charge against you, which you have heard read?~~ *Question.*

Answer.

~~Are you guilty or not guilty of the fourth charge against you, which you have heard read?~~ *Question.*

Answer.

The accused having pleaded Guilty to the charge, the provisions of Rule of Procedure 35 (B) are here complied with.

If the trial proceeds upon any charge to which there is a plea of "Not Guilty," the Court will not proceed upon the record of a plea of "Guilty," until after the finding on that other charge. *Instruction.*

CC

Proceedings on Plea of Guilty

*To be struck out in case no plea of "Not Guilty" has been proceeded with.

*[The Court having been re-opened, the accused is again brought before it, and the charge to which he has pleaded "Guilty" read to him again.]

The accused M17465 Private Harvey, Guiltner, Edmonton Regt is found guilty of the charge

*The summary (or abstract) of evidence is read, marked F, signed by the President, and attached to the proceedings.

Question to the accused. Do you wish to make any statement in mitigation of punishment?

Answer. The accused in mitigation of punishment says:—

~~[~~He hands in a written statement, which is read, marked G, signed by the President, and attached to the proceedings.]

Instruction.

* If there is no summary or abstract of evidence, sufficient evidence to enable the Court to determine the sentence, and to enable the confirming officer to know all the circumstances connected with the case, will be taken on a separate sheet in the same manner as on a plea of "Not Guilty."

If from the statement of the accused, or from the summary or abstract of evidence, or otherwise, it appears to the Court that the accused did not understand the effect of his plea of "Guilty," the Court shall alter the record, and enter a plea of "Not Guilty," and proceed with the trial accordingly.

DD

Do you wish to give evidence yourself or to call any witnesses as to character?

Question to the accused.

No

Answer.

Evidence as to character.

E

Finding

*To be struck out except in cases where trial has taken place on a plea of "Not Guilty."

~~The Court is closed for the consideration of the finding.~~ N/A

~~The Court find that the accused~~ N/A

Proceedings on Conviction *before Sentence*

*When the Court is already open this sentence will be struck out.

~~The Court being re-opened, the accused is again brought before the~~ N/A

Capt J R Stone, The Edmonton Regt. is duly sworn.

Evidence of character, &c.

Question by the President.

Have you any evidence to produce as to the character and particulars of service of the accused? *Answer by the Witness.* Yes, I produce MFA 355 a certified copy from 6

The above statement [with the schedule of convictions and of cases in which trial has been dispensed with] is read, marked H, signed by the President, and annexed to the proceedings.

Question by the President.

Is the accused the person named in the statement which you have heard read? *Answer by the Witness.* Yes

Question.

Have you compared the contents of the above statement with the regimental books? *Answer.* Yes

Question.

Are they true extracts from the regimental books, and is the statement of entries in the conduct sheets a fair and true summary of those entries? *Answer.* Yes

(Instruction.—If by reason of the nature of the service of the accused in a departmental corps, or otherwise, the finding of the Court renders him liable to any exceptional punishment in addition to that to be awarded by the Court the prosecutor must call the attention of the Court to the fact, and the Court must inquire into the nature and amount of that additional punishment.)

Declined

Question to the accused.

Do you wish to address the Court? *Answer.* No

The Court is closed for the consideration of the sentence.

W P Burtonwood
Mon

F

Sentence

The Court sentence the accused

Sentence.

Fifteen days field punishment and
twenty eight days deprivation of pay.

G

Plea in Mitigation

No 17056 Pte Smithson A.

1. The accused has served for over three years and his record shows one rather minor entry on his A.F. B. 196. A good record I think.

2. The crime charged against the accused can hardly be considered an extremely serious one. In fact it could have been laid as a simple case of Out of Bounds.

3. In passing sentence I would respectfully ask that the court take into consideration Pte Smithson previous good record and the degree of seriousness of the crime charged.

[signature]
Capt
Adjutant, 1st Bn

CHARGE SHEET

M17465 Pte GUILTNER, Harvey of The Edmonton Regiment a soldier of The Cdn Army Overseas (C.M.F.) is charged with:-

1st Charge

Whilst on Active Service:-

NEGLECTING TO OBEY DIVISIONAL ORDERS

in that he

on 15 Aug 43 entered the town of Militello, not being in possession of a pass, contrary to 1 Cdn Div Routine Orders d/11 Aug 43.

J.C. Jefferson

(J.C. Jefferson) Lt-col
Commanding Edmn R

Date 21 Aug. 43.

TO BE TRIED BY FIELD GENERAL COURT MARTIAL

.....Brig
Commanding 2 Cdn Inf Bde.

Date 23 Aug 43

Read & accepted - marked B 2
23 Aug 43.
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Summary of Evidence in the Case of No 77463 Pte
Dingwall Harvey of the Canadian Army overseas C.M.S
Soldier of the Canadian Army overseas C.M.S
By order of the Commanding Officer the summary
of evidence is taken on this

The Court

The certificate attached as appendix A
is duly read to the accused.

Lieut L Downey of
the Corps of Canadian Provost Corps being duly sworn states -
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List of Witnesses

FOR THE PROSECUTION:-

Lieut L. Domoney
FPCLI
Cdn Army Overseas (CAO)

K69078 Pte Manberry, T.
FPCLI
Cdn Army Overseas (CAO)

Pt1300 Pte Snyder, F.A.
FPCLI
Cdn Army Overseas (CAO)

M103078 Pte Grenier, A.E.
FPCLI
Cdn Army Overseas (CAO)

FOR THE DEFENCE:-

Nil

written statement submitted in mitigation of punishment on trial of M 17283 Pte COTE J.A.
25 Aug 43. marked CC1

Pres

STATEMENT AS TO WHETHER OR NOT THE ACCUSED WISHES TO HAVE AN OFFICER REPRESENT HIM AT HIS TRIAL BY F.G.C.M.

I hereby request that Capt E.H. Pritchard defend me at my trial by F.G.C.M.

H. Gultner
M17465 Pte Gultner, H.

~~XXXXX~~
Appendix 'A'

20-Aug-43

F

It is hereby certified that Divisional Order R.O.No.17 d 11-Aug-43 has been read to all ranks of Support Coy on three separate occasions.

Capt.
For A.S.Donald, Maj.
O.C.Support Coy.
Edmonton Regt.

CERTIFIED TRUE COPY OF
1 CDN DIV ROUTINE ORDERS
d/11 Aug 43 - para 17.

appendix 'B'
H.Q.

DISCIPLINE

(a) All towns in SICILY are Out of Bounds to all tps NOT on duty.

(b) Lorries will NOT stop in towns.

(30 Corps HO 164/43)

CERTIFIED TRUE COPY

W.C. Longhurst Capt & Adjt

(W.C. Longhurst)
Edmonton Regiment

SUMMARY OF EVIDENCE in the case of M17465 Pte GUILTNER, Harvey of The Edmonton Regiment, a soldier of the Cdn Army Overseas (C.M.P.)

F

By Order of The Commanding Officer the Summary of Evidence is taken on oath.

By Court
The certificate attached as appendix 'A' is duly read to the accused.

1st Witness Prosecution

Lieut L. Domoney of PPCLI having been duly sworn states:-

I am Lieut L. Domoney of PPCLI. On 15 Aug 43 I was in command of the town patrol Militello. At approximately 2030 hrs a complaint of soldiers creating a disturbance in town came into patrol HQ. I took a patrol out to investigate. The accused was arrested, at which time he was sober.

The accused declines to cross examine this witness.

L. Domoney
Lieut L. Domoney

2nd Witness Prosecution

K69872 Pte Hanberry T. of PPCLI having been duly sworn states:-

I am K69872 Pte Hanberry T. of PPCLI. I was with the officer arresting at approximately 2030 hrs.

Questioned by the Court

Q.1 Do you recognize the accused as the man arrested?
A.1 Yes.

The accused declines to cross examine this witness.

T. Hanberry
K69872 Pte Hanberry T.

3rd Witness Prosecution

P21300 Pte Sugden, J.A. of PPCLI having been duly sworn states:-

I am P21300 Pte Sugden, J.A. of PPCLI. On 15 Aug 43 at approximately 2030 hrs I was on patrol under Lieut Domoney when this man was picked up. He was sober and properly dressed.

Questioned by the Court

Q.1 Do you recognize the accused as the man in question?
A.1 Yes.

The accused declines to cross examine this witness.

J. A. Sugden
P21300 Pte Sugden, J.A.

46th Witness
Prosecution

M103572 Pte Grenier, A.K.M of PPCLI having been duly sworn states:-

I am M103572 Pte Grenier, A.K.M of PPCLI. I was with Lieut Domoney when the accused was arrested.

Questioned by the Court

Q.1 Do you recognize the accused as one of the men arrested?
A.1 It was fairly dark, I could not definitely recognize him.

The accused declines to cross examine this witness.

.....
M103572 Pte Grenier, A.K.M

The accused was asked if he wished to make a statement:-

You may make a statement if you wish to, but I must warn you that any statement you may make will be recorded and used in evidence against you. Do you wish to make a statement?

The accused declines to make a statement.

I submit this summary of evidence as taken by me, and consisting of two pages, on 21 Aug 43, and Rules of Procedure 4 (C) (D) (E) (F) and (G) have been complied with.

J.R. Stone) Capt
Officer Taking Summary

Read & received remanded
CO 25 Aug 43.

Pte

FURTHER SUMMARY OF EVIDENCE in the case of H17483 Pte GUILTNER, Harvey of The Edmonton Regiment, a soldier of The Cdn Army Overseas, (CMF)

F

By Order of The Commanding Officer the evidence is taken on oath.

5th Witness Prosecution

Major A.S. Donald of The Edmonton Regiment having been duly sworn states:-

I am Major A.S. Donald of The Edmonton Regiment Comd of Sp Coy. I swear that this copy of 1 Cdn Div Routine Order attached as appendix 'B' was read to all ranks of Sp Coy on coy parade three times.

.....
(A.S. Donald) Major

This order is duly read to the accused. The accused declines to cross examine this witness.

The court admits this to the Summary of Evidence marks it appendix 'B' and attaches it hereto.

The accused was asked if he wished to make a statement.

You may make a statement if you wish to, but I must warn you that any statement you may make will be recorded and used in evidence against you. Do you wish to make a statement?

The accused declines to make a statement.

I submit this Summary of Evidence as taken by me and consisting of one page on 27 Aug 43 and that Rules of Procedure 4 (C)(D)(E)(F) and (G) have been complied with.

.....
(J.R. Stone) Capt
Officer Taking Summary

Time of Signature 1900 hrs.

No. M17465 Name Guiltner, H. Sqn., Battery, or Company — Corps Edmn R — Date of enlistment 20.6.40 — G.C. Badges — Service and Proficiency Pay — Character

Date of last entry in Company Conduct Sheet — No. and date of last drunk — Period not reckoning towards freedom from extra fine — Sheet No. — Signature O.C. Company, etc.

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Undergone award or if under distribution with total	By whom awarded	Remarks
Currie Barracks	7.7.41	Pte	nil	Sec 40 AA - conduct to the prej etc in that he at Calgary Alta did use insolent language to a superior offr.	Cpl Davey Pte Kenney	3 days CB	8.7.41	Major J.R. Evans	
1 CIRU	28.4.43	Pte	nil	WOAS Sec 15(1) AA - AWL from 2359 hrs 26 Apr 43 to 2130 hrs 29 Apr 43. Absent 21 hrs 31 mins)	Sgt Jones, V.D.	10 days CB	30 Apr 43	Lt-col Hewitt	1 days aut o forf

Awarded 5 days 43
10 days
Rem

CERTIFIED TRUE COPY

H.W.G. Longhurst) Capt & Adjt
Edmonton Regiment

(P.T.O.)

M.F.B. 333
RDM—5-41 (372-3)
H.Q. 1772-28-629
A.F.B. 286

STATEMENT AS TO CHARACTER AND PARTICULARS OF SERVICE OF ACCUSED

Number	Rank	Name	Regiment (or unit)
M17465	Pte	GUILTNER, H.	Edmn R

1. The following is a fair and true summary of the entries in the ~~Conduct sheets~~ Regimental of the accused, exclusive of convictions by a Court-Martial or a Civil Court, of summary awards under Section 47 of the ~~Army Act~~ A.F.A. and of cases in which trial has been dispensed with.

	Within last 12 months		Since enlistment or appointment	
For Sec 15 (1) AA	1	times	1	times
For Sec 40 AA	nil	times	1	times
For		times		times
For		times		times

Number of instances of gallantry or distinguished conduct

or,

There are no entries in the conduct sheets of the accused. N/A

NOTE.—If the charge is for drunkenness, the entries for drunkenness must be stated separately.

2. The accused has not been previously convicted N/A

or,

Previous convictions of the accused by a court-martial or a civil court, of summary awards under ~~Air Force Act~~ A.F.A. 73 Section 47 of the ~~Army Act~~ and dispensations with trial under A.A. 73 are set out in the Schedule annexed to this statement. N/A

3. The accused is not under sentence at the present time. N/A

or,

The accused at the present time is under sentence for N/A beginning on the day of

4. The accused has been in confinement awaiting trial on the present charges, for nil days in civil custody, and 13 ~~Mos~~ days in military custody, making a total of 13 days in custody, of which nil days were spent in hospital.

5. The present age of the accused according to his record of service is 23

6. The date of his ~~attestation~~ enlistment specified in his record of service is 20 Jun 40

7. The service which the accused is allowed to reckon towards discharge is ~~N/A~~ 3 yrs

8. The accused is entitled to reckon 3 yrs service for the purpose of determining his pension, etc.

9. The accused is in possession of or entitled to no ~~air force~~ military decoration, or ~~air force~~ military reward (or is in possession of or entitled to). State any ~~air force~~ military decoration or reward. N/A

10. (If the accused is a warrant officer.) The accused before he was made a warrant officer last held the regimental rank of ~~Air Force~~ N/A

11. (In the case of an officer.) The accused holds in the Royal Canadian Air Force the rank ..... Permanent Force
..... dated N/A unit, and in his regiment (or corps), the rank of
..... dated .....

12. The accused has served as a non-commissioned officer continuously, without reduction, to the present date:—

..... Date of promotion.

In the rank of N/A years.

In the rank of ..... years.

In the rank of ..... years.

NOTE.—If any matter in any of the above paragraphs cannot be stated from the Regimental books, the paragraph must be struck through.

SCHEDULE

Of convictions by a court-martial or civil court, of summary awards under Section 47 of the Air Force Act, and of cases in which trial has been dispensed with of accused, Number ..... Rank .....
Name ..... of ..... Unit
..... Regiment

NOTE.—A verbatim extract from the regimental books stating these convictions and dispensations with trial must be inserted.

Description of Court by which tried	Date and Place of Trial	Charge upon which convicted	Sentence of the Court	Punishment Remitted

I hereby certify that the foregoing schedule of convictions and dispensations with trial is a true extract from the regimental books in my custody.

Signed this 21st day of Aug 43 [signature] (Commanding Officer)

The above statement (with the schedule of convictions and of cases in which trial has been dispensed with) is read, marked ..... signed by the president, and annexed to the proceedings.

A.103

Regt	No	Rank and Name	Description of Court-Martial	Date and place of Trial
Loy Edm Regt 2 Cdn Inf Bde	M17465	Pte Quiltner, H.	F.G.C.M.	Field 30 Aug 43

CHARGES

1. AA 11 - Neglecting to obey divisional orders - 15 Aug 43 in Militello without a pass, contrar to 1 Cdn Div RO dated 11 Aug 43

President and members of Court	Plea	Finding
Maj R.P. Bell-Irving, Seaforths of C Capt W.G. Munro PPCLI Lt G.A. Garbutt PPCLI	1. Guilty	1. Guilty

FORMER CONVICTIONS

Date and Place of Trial	Offence	Punishment Awarded
	1. AA 40 1. AA 10(1)	

SENTENCE AND MINUTE OF CONFIRMATION

15 days FP and 28 days forfeiture of pay
Confirmed and sentence reduced to 14 days FP and 14 days forfeiture of pay by Brig C Vokes 2 Cdn Inf Bde 31 Aug 43

Transmitted for Promulgation	When and where Promulgated	Court dissolved 19 .
Proceedings sent to CMHQ - 24 Sep 43 Date - 24 Sep 43	Field 1 Sep 43 CERTIFIED TRUE COPY W. L. Bate (W.L. Bate) Captain ADJA 1 Cdn Base Rft Group	Certified correct, Signature W.H. Bredin Rank and Appt Capt, ADJA 1 CBRD.

SA-101

Cpl. Guimond, K.

SCHEDULE.

PART I. PLEA(S), FINDING(S) AND SENTENCE.

Accused: E.47451 Cpl GUIMOND. R.

Charge. (Insert "alternative" where applicable.)	Plea. (See Instrs p 2.)	Finding. (See note below.)	(Space for use as required for further charges, accused charged jointly, special findings, etc.)
1st A.A. Sec 18(h)	NOT GUILTY	NOT GUILTY	
2nd A.A. Sec 40	NOT GUILTY	GUILTY	
3rd A.A. Sec 15(1)	GUILTY	GUILTY	
4th A.A. Sec 15(1)	NOT GUILTY	GUILTY	
5th			
6th			

(Note: As to findings for lesser offences see AA 56, RP 44; findings on alternative charges see MML p 483 fn 4 para 2, RP 44; special findings see RP 44 and MML p 733, and in lieu of kit see RP 44 fn 6.)

At present under sentence for N/A beginning on (date) N/A (1)

(1. Insert sentence being served, or delete, if not applicable. See RP 46(A). Information should be found on MF B355 or AF B296.)

Time in confinement awaiting present trial—a total of 44 days, of which Nil days were spent in hospital.(1)

(1. See RP 46(A) fn 2. Information should be found on MF B355 or AF B296 admitted in evidence under E2.)

Sentence Awarded by the Court:

To be reduced to the ranks and to undergo detention for six (6) months.

(Sgd) N/A Judge-Advocate, if any. 3 Mar 45 Date awarded. (Sgd) Donald Mackenzie President. (RP 45, 50.)

(See back of Convening Order as to assembly and disposal of record after trial.)

PART II. MINUTE WHERE CONFIRMATION RESERVED. (AA 54(5), RP 120(F), MML p 760.)

Date (Sgd) Commanding

PART III. DECISION OF CONFIRMING OFFR ON FINDING(S) AND SENTENCE.

(For duties and powers see AA 54, 57, RP 37(D) fn 6, 46(A), 51-56, 120, MML pp 739-761, KR Con 567-577. Acquittals require no confirmation and cannot be revised: AA 54(3). Sending back finding or sentence for revision by Court: AA 54(2), RP 120(C). If not confirmed, accused may be tried again: AA 157, MML p 64. Minute of confirmation or non-confirmation may be altered before promulgation: RP 53, MML p 65. Quashing after promulgation: KR Con 573. Duties and powers of reviewing offrs: AA 57, 57A, RP 53A, 54. The Confirming Offr must sign here personally. AA 172 fn 1.)

My decision on the finding(s) and sentence set forth in Part I is:

Confirmed

~~I direct that the accused be duly committed to prison or detention barracks until further orders.~~ (1. AA 57A. Delete if not used.)

(Sgd) E. L. Burns

Date Commanding Confirming Officer.

I certify that there are no illegalities or irregularities to justify withholding confirmation of these proceedings.

PART IV. PROMULGATED AND EXTRACTS TAKEN. (RP 53, KR Con 576, 577.)

Accused.	Date.	Signature of Offr.
E.47451 Cpl Guimond R	10 Mar 45	

ALL DELETIONS AND ALTERATIONS WILL BE INITIALLED.

RECORDED AT CMHQ IN AB 160 3 A 181

RECEIVED 6 APR 1945 A.G. BRANCH C.M.H.Q.

FIELD GENERAL COURT-MARTIAL

CANADIAN ARMY OVERSEAS

4/388

Convened by Comd 2 Can Inf Div dated 15 Feb 45

ACCUSED.

(Give the trial of two or more charged jointly see RP 16, 71, 109. As to reasons for showing (a) permanent or confirmed rank, and (b) apptmt, A/rank or A/apptmt, if any, see AA 182, 183, fns, KR Con 308, 328, 330.)

Number.	(a) Prmnt R. (b) Apptmt, A/R or A/Apptmt.	Full Christian Names.	Surname.	Unit.
E.47451	—	Romeo	GUIMOND	3 Bn. R.C.E.

PROCEEDINGS REVIEWED

REVIEWING OFFICER, JAG BRANCH C.M.H.Q.

PROCEEDINGS RECEIVED 6 APR 45 Can Sec CMHQ 3 Sqn 4th Fd Park Coy. R.C.E. 2 Armd Div

PROCEEDINGS OF TRIAL.

Held in the Fd in (country) BELGIUM on (date(s)) 2 MAR 45 3 MAR 45

RECORD FORM A—OPENING PROCEEDINGS AND ARRAIGNMENT.

A1. The President, Members, ~~waiting Member, J.A. if any, and Offrs under instr, if any~~, assemble, and the Court is closed.

(PRINTED MATTER, NOT IN ITALICS FOR GUIDANCE, WILL BE DELETED IF NOT USED OR APPLICABLE, AND INITIALLED BY PRES OR JA. The Schedule referred to throughout is on p 4. Cautions do NOT include all relevant fms RDs. For guidance on procedure when a variation in this form arises, see form for GCM in MML pp 741 to 759. A brief record of such variation will be made and given a number having reference to appropriate or preceding para number herein. See back of Convening Order, CF A95, for oaths and instrs on how to record addresses, evidence, etc., which terms are hereafter called "Notes". As to general provision for conducting the trial see AA 53, RP 36, 62-70, 73, 74, 94, 102, 119, 122.)

A2. The President initials and lays before the Court the Convening Order and Charge Sheet(1) attached thereto. The Court is satisfied that it is properly convened and constituted(2), accused is (are) amenable to military law, and each charge discloses an offence.(3)

(1. As to use of Summary of Evidence see RP 17 fn 6. 2. AA 49, 50, RP 105-107. 3. RP 11-13, 23, 24.)

A3. The Court is opened. The accused is (are) brought before the Court. At 09.30 hours trial commences.

A4. The Prosecutor produces a Medical Certificate that accused is (are) fit to undergo trial by court-martial.(1) ~~The Prosecutor informs the Court that accused elected to be tried by court-martial instead of being dealt with summarily by the CO.(2)~~

(1. KR Con 557. 2. AA 46(B), RP 60 fn 1. For effect see KR Con 563(c). Delete, if not applicable.)

A5. President to accused: Do you object to E.47451 Cpl GUIMOND R Bde 4 Tn Interpreter? Ans NO

The Interpreter is sworn.(1) Do you object to N/A as shorthand writer? Ans N/A

The shorthand writer is sworn.(1)

(1. RP 72. Delete, if none employed.)

A6. The Convening Order and names of the President and Members of the Court are read to the accused.(1) President to accused: Do you object to be tried by me as President or by any of the Members of the Court? Ans NO (2)

(1. RP 110. 2. If no objection, waiting member retires. RP 60(B). If objection, see procedure AA 51, RP 25, 71, 18, MML p 742.)

A7. The President, Members, ~~JA, if any, and Offrs under instr, if any~~, are sworn.(1) The following are the ranks, names and units of the offrs comprising the Court, etc:

President	MAJOR	D. MACKENZIE	ESSEX SCOTTISH R.C.A.C.
Member	CAPT.	E.A. BAILLARGEON	1 CDN DISC CENTRE
Member	CAPT.	E.B. VANDINE	1 CDN DISC CENTRE
Judge-Advocate	N/A	N/A	N/A
Prosecutor	CAPT.	MICHAUD. J.M.	3 BN R.C.E.
Defending Offr	LT.	DOWDEN. A.F.	3 BN R.C.E.

Questions by President: Is the Prosecutor a lawyer? Ans NO Is the Defending Offr a lawyer? Ans NO (2)

(1. RP 26, 27, 109, 111. List of offrs under instr will be returned separately with proceedings for information of Conv Offr.
2. If Pros a lawyer and Def Offr not, accused is entitled to an adjournment when RP 89 (B) and fn 2 were not followed. See D1 p 3.)

A8. The accused E47451 Cpl GUIMOND R. before arraignment make(s) (no) ~~a~~ plea. (1)

(1. If a special plea is made for separate trial on one or more charges (RP 62(E), 108), or as to the jurisdiction of the Court (RP 34, 35(A), 113), or in bar of trial (RP 36), or as to accused's mental fitness to stand trial (AA 130, RP 57), or by one of several accused charged jointly to be tried separately (RP 16, 71), such plea, the addresses made in support or against, the evidence, if any, and finding are recorded per Notes. For forms of record see references in fns to RsP cited. Insert in A8 rank and name of the accused making the plea.)

A9. The accused is (are) arraigned (separately) on all charges in the charge sheet.(1) The accused does (do) not object to any charge.(2) There is no amendment to be made to the Charge Sheet.(3) The President records the pleas in Part I of the Schedule.

(1. RP 31, 112. See para 1 of Instrs p 2. When more than one Charge Sheet see RP 62; when several accused to be tried separately see RP 71(C), and use separate copies of CF A96 to record proceedings. 2. RP 32, RP 33. If otherwise, delete and make appropriate record per Notes.)

A10. The Court ~~is cleared and~~ considers the Instrs on Procedure after Arraignment at top of p 2. The proceedings are continued on Record Form C 08 E

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

INSTRUCTIONS ON PROCEDURE AFTER ARRAIGNMENT.

1. *The accused may not plead or be found Guilty on more than one of two or more charges laid in the alternative.* (RP 37(A).) *As to withdrawal of alternative charges by Prosecutor see RP 35(C). No other charge can be withdrawn for any reason without authy from Convening Offr. If Convening Offr concurs, Court may accept plea of Guilty to lesser, etc, offence.* (RP 44(H).) *Accused may change a plea of Not Guilty to Guilty during trial.* (RP 38.) *As to refusing to plead or not pleading intelligibly see RP 35(A). As to plea when sentence may be death see RP 35(D).*

2. *The proceedings on each charge sheet* (RP 62) *after arraignment will be conducted as follows in the respective circumstances stated:*

I. If pleas to all charges are GUILTY, use Record Form B below.

II. If pleas to all charges are NOT GUILTY, use Record Form D on p 3.

III. If pleas to some charges are GUILTY and to other charges are NOT GUILTY and,

(a) *Such mixed pleas occur when there are no alternative charges in the Charge Sheet, use Record Form C below.* (RP 37(A).)

(b) *Such mixed pleas occur in a set of two or more charges laid in the alternative, see RP 37 (A) and fn 2 as to discretion of Court, (i) to try the accused on all such alternative charges as if he had pleaded Not Guilty thereto, or, (ii) to record the pleas as the findings of Court. After deciding between (i) and (ii), Court will proceed under foregoing instrs as may be appropriate to result of its decision. See MML p 744 Instrs (2).*

3. *As to responsibility of President to accused see RP 59, 60(C); powers and duties of JA see RP 103; duty of Prosecutor see RP 60(A) (B); duty and privileges of accused and Defending Offr see RP 60(C), 87(C), 91, 92; swearing and withdrawal of witnesses from Court see RP 81, 82; questioning of accused see RP 80, 87(C), 92(B), and of witnesses see RP 85-86; calling or re-calling of witnesses by Court, etc, see RP 75-79, 86, 116; use of Summary of Evidence at Trial see RP 17(F) fn 6; and responsibility of JA or Pros to record proceedings see RP 94, 96.*

RECORD FORM B—PROCEEDINGS ON PLEAS OF GUILTY TO ALL CHARGES.

B1. The President or JA, if any, complies with RP 35(B) by explaining to the accused the nature and meaning of the charge(s), and that on his plea of Guilty there will be no regular trial but merely a consideration of the sentence to be awarded after he has been given an opportunity to make a statement in reference to the charge(s) and call witnesses as to character and make an address in mitigation of punishment.(2)
(1. RP 35 fn 3. 2. MML p 54 para 47.)

B2. President to accused: The Court will now receive any statement you desire to make in reference to the charge(s). If it appears from your statement that there are circumstances which indicate that you do not understand the effect of the plea of Guilty(3), or which show provocation or extenuation in respect of which in your interest the witnesses for the Prosecution should be examined(4), we shall advise you to change your plea to Not Guilty. In making a statement you will not be sworn or subject to cross-examination; and anything you say will not be used in evidence against you after you change your plea. If, however, it appears to the Court that your statement affects only the amount of punishment to which you are liable, you will not be advised to change your plea and you will be given an opportunity later to prove your statement by sworn testimony, if you so desire.(4)

President to accused: Do you wish to make a statement? Ans. NO.(5)
(1. RP 37(B). 2. RP 37(D) fn 6. 3. RP 35(B) fn 3 para 3, MML p 54 para 47. 4. See para E3 of Record Form E. 5. Statement, if any, recorded per Notes.)

B3. ~~The Court considers the accused's statement.~~ The Court decides (not) to advise accused to change his ~~(their)~~ plea(s) of Guilty to Not Guilty on THIRD charge(s). The accused is (not) so informed, ~~and he (they)~~ ~~charge(s) his (their) plea(s) on~~ ~~charge(s).~~ ~~Part I of the Schedule is amended accordingly.~~
(1. Court may be closed to consider the statement. Delete whole or part not used.)

B4. On the charge(s) to which the plea(s) of Guilty is (are) not changed the President records finding(s) of Guilty in Part I of the Schedule.(1)
(1. RP 35(B). If any plea(s) is (are) changed, use Record Form C or D as appropriate.)

B5. The Summary of Evidence is marked Ex C, initialled and read aloud by the President.(1)
(1. If there is no Summary, or if it is inadequate, comply with RP 37(B). If there is any evidence inconsistent with any plea standing as Guilty, Court will advise accused to change such plea and, if changed to Not Guilty, try such charge(s) by use of paras D1 to D8 inclusive of Record Form D on p 3. RP 37(D).)

B6. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

RECORD FORM C—PROCEEDINGS ON MIXED PLEAS OF GUILTY AND NOT GUILTY.

C1. As to the charges on which accused pleaded NOT GUILTY the trial is continued by using paras D1 to D8 inclusive of Record Form D on p 3 before proceeding with C 2.(1)
(1. RP 37(A) (E).)

C2. The charges on which accused pleaded GUILTY are read to him (them) again, and the trial is continued by using paras B1 to B5 of Record Form B above.(1)
(1. Under B5 such parts only of the Summary of Evidence are read as relate to the charges dealt with under C2. If any plea is changed to Not Guilty, trial thereon proceeds by complying with paras D1 to D8 inclusive in Record Form D on p 3 and making an appropriate record thereof on a separate sheet.)

C3. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

RECORD FORM D—PROCEEDINGS ON PLEAS OF NOT GUILTY TO ALL C

D1. President to accused: Do you wish to apply for an adjournment on the ground that any relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, the ground that you have not had sufficient opportunity to prepare your defence? Ans. NO.
(1. If "yes", see RP 39(A) for procedure. Statement or evidence, if any, is recorded per Notes.)

D2. The Prosecutor makes (an) ~~his~~ opening address.(1)
(1. RP 39(B), 60(A) (B), 90, 92(C) (D). Record address per Notes, subject to RP 93(C).)

D3. The evidence for the Prosecution is taken.(1)
(1. RP 39(C), 114, KR Can 555. Record evidence per Notes. As to Prosecutor giving evidence himself see RP 39(D) (E).)

D4. The Prosecution is closed.(1) The Defending Offr submits that the evidence for the Prosecution does not establish a prima facie case against the accused on the FIRST AND SECOND charge(s).(2) The Court is closed, and considers the submission.(3) The Court is re-opened, and the President announces that the submission is disallowed on the SECOND charge(s), and allowed on the FIRST charge(s), and that, accordingly, the trial will proceed on the former, but the accused is (are) found Not Guilty on the latter charge(s).(4)
(1. Delete remainder of this para. if submission not made. 2. Arguments on submission, answer and reply are recorded per Notes. 3. RP 40 fn 1. See MML p 72 paras 12-14 and p 81 para 42. 4. Delete part not used. If accused acquitted on all charges, use second alternative in para D8.)
NB: If trial proceeds, accused must be allowed great latitude in making his defence, and the Court should not stop his defence solely on ground of irrelevance. (RP 80(C), 114, 115.)

D5. President to accused: You will now proceed with your defence.(1) You may, if you wish, give evidence yourself on oath as to the facts or your character or both, in which case you will be subject to cross-examination.(2) You may, however, make a statement without being sworn, and you will not be subject to cross-examination.(3) But a statement which could have been made on oath will not carry with the Court the same weight as sworn testimony.(4) You may call witnesses in your defence and as to character, whether you give evidence or make a statement or do neither.

President to accused: Do you wish to give evidence yourself as a witness, make a statement, or do neither?
Ans. AS A WITNESS, ON OATH. Do you intend to call witnesses on your behalf?
Ans. YES. Are they witnesses as to character only? Ans. YES.
(1. RP 115. 2. RP 40(A), see 80(D). 3. RP 40 fn 10. 4. RP 40 fns 2, 9.)

D6. Consequent on the answers recorded in para D5 the appropriate procedure for the defence is followed.(1)
(1. RP 114, 115, 116. For procedure see Notes on back of Convening Order, CF A95. Evidence for accused as to his character should, if in his interest, be given before the finding. See RP 46(A) fn 1, 86(C). Note the further opportunity in para E1 of Record Form E. Record per Notes addresses, statement, evidence and any summing up by the JA under RP 42, 103(e).)

D7. The Court is closed to consider the finding(s).(1) The finding(s) of the Court (are) recorded in Part I of the Schedule.(2) The Court is re-opened.
(1. RP 43, 117(A). See Notes in Part I of Schedule. 2. RP 44(A).)

D8. The President ~~announces the finding(s), if any, of Not Guilty, and~~ states to the accused that the finding(s) of the Court on the SECOND AND FOURTH charge(s), being subject to confirmation, will be promulgated later.(1)
~~(2. The President announces that the accused is found Not Guilty on all charges and is to be released forthwith. Part I of the Schedule is dated and signed by him and the proceedings are accordingly terminated.~~
(1. AA 54(2), RP 45, 120(A). 2. AA 54(2), RP 45, 117. The alternative commencement is not applicable when there are pleas of Guilty outstanding and dealt with under Record Form B or C.)

D9. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E below.

RECORD FORM E—PROCEEDINGS ON CONVICTION BEFORE SENTENCE.

E1. President to accused: Do you wish to give evidence yourself or to call any witnesses as to your character?(1)
Ans. YES. WITNESS AS TO CHARACTER. AT BOKORMI.
(1. If evidence has already been given by accused or his witnesses as to his character, delete this para. RP 37(C) fn 4, 46 fn 1. Accused and witnesses are sworn. Evidence recorded per Notes.)

E2. The Prosecutor produces Statement(s) as to Character and Particulars of Service(1), and certified true copy ~~(copies)~~ of Conduct Sheet(s) purporting to refer to the accused, which he submits to the Defending Offr for examination, and then to the Court for admission in evidence. The Court is satisfied that these documents refer to the accused, because (i) they purport to be signed in the manner required by AA 143(3)(f) (g) (h), and (ii) they purport to refer to (a) soldier(s) having the same number, rank, name and corps as the accused. Admitted in evidence and marked Ex D and Ex E respectively.(2)
(1. MFB 255 or AFB 296. 2. MFM 6. 3. RP 46, KR Can 538. If above documents not produced, see RP 46 fn 1 para 1.)

E3. President to accused: Do you wish to address the Court on the Statement(s) and Conduct Sheet(s), and in mitigation of punishment?(1) Ans. YES. THRO' MY DEFENDING OFFICER.
(1. RP 37(C), 46(D). 2. Address, if any, recorded per Notes. Court should permit accused or his witnesses to give on each anything here or previously stated which would affect the amount of punishment. RP 37(F) fn 7.)

E4. The President states that the Court is closed to consider the sentence, and that the sentence to be awarded by the Court, being subject to confirmation, will not be announced, but will be promulgated later, and the proceedings in open court are accordingly terminated.(1)
(1. AA 54(6), RP 120(A).)

E5. The Court considers the sentence.(1) The President records the sentence in Part I of the Schedule, which is dated and signed by him and the J.A., if any.(2)
(1. When several accused arraign separately see RP 71 (D). One sentence only, comprised of the punishment or punishments laid down in AA 41, 44 and its generics, in to be awarded to cover all charges in all charge sheets on which accused found guilty. RP 48. As to sentences see AA 44, 138, 182, RP 46-50, 69, 118, 119(A), KR Can 308, 330, 563-566, Overseas KO 309, 1113, MML p 60, 757-759. As to sentences assigned for civil offences by the law of England see AA 40(3), MML p 132. When accused already under sentence of imprisonment or detention see AA 44(18), 68(1), KR Can 564. 2. RP 50. As to release from arrest by Confirming Offr see KR Can 567. As to assembly and disposal of record after trial see Instrs on back of Convening Order.)

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

CHARGE SHEET

The accused, No E47451 Corporal Renée GUIMOND, of B Coy, 3rd Battalion, Royal Canadian Engineers, a soldier of the Canadian Army Overseas on active service, is charged with:-

1st Charge — WHILE ON ACTIVE SERVICE STEALING PUBLIC PROPERTY

Section 15 (4) Army Act — in that he

at about 1730 hrs 25 Jan 45 did steal WD vehicle registration No CL4270198 from B Coy vehicle car park.

2nd Charge — WHILE ON ACTIVE SERVICE AN ACT TO THE PREJUDICE OF GOOD ORDER AND MILITARY DISCIPLINE

Section 40 Army Act — in that he

at or about 0900 hrs on 16 Jan 45, improperly and without authority, did use WD vehicle CL4270030.

3rd Charge — WHILE ON ACTIVE SERVICE ABSENCE WITHOUT LEAVE

Section 15 (1) Army Act — in that he

absented himself without leave from 0730 hrs 16 Jan 45 until 0905 hrs 16 Jan 45 (total absence - 1 hr and 35 mins).

4th Charge — WHILE ON ACTIVE SERVICE ABSENCE WITHOUT LEAVE

Section 15 (1) Army Act — in that he

absented himself without leave when under open arrest, from 2000 hrs 23 Jan 45 until 2240 hrs 25 Jan 45 (total absence - 5 days 2 hrs and 40 mins).

(Geo. W. Smith) Lt.-Col
Officer Commanding
3rd Battalion, R.C.E.

FIELD
7 Feb 45

To be tried by Field General Court Martial.

In the Field
13 Feb 45.

(E.L.M. Burns) Maj-Gen
GO I/C
Cdn Sec 1 Echn - HQ 21 Army Gp

Approved KR(Can) 540

DJA Maj

CFA56 (In lieu of AFA5)
40/FA&T/1007 (1944)

FIELD GENERAL COURT-MARTIAL

(Whether the accused to be tried is under his comd or not, a FGCM may on application to him be convened by any offr of Cdn Army Overseas, or of any other force if authorized in law, in immediate comd of troops on active service, subject to RP 105(C) and restrictions imposed by appropriate authy, AA 49, 50, RP 104-107, 114. As to the duties and privileges of the Convening Offr in dealing with the application see MML Chap V paras 20 and 23, RP 87(B).

There should be a separate Convening Order for each person to be tried separately by the same Court. RP 71(C), 109. As to separate charge sheets see RP 62, and as to separate trial on charges in the same charge sheet see RP 108. As to two or more accused charged jointly see RP 16, 109. As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

ACCUSED.

Number.	(a) Prmnt R. (b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
E-47451	Cpl	Romeo	GUIMOND	'B' Coy 3 Bn RCE

CONVENING ORDER.

1. Whereas complaint has been made to me, the undersigned, that the person(s) named above as the accused, being subject to military law, has (~~have~~) committed the offence(s) set forth in the Charge Sheet(s) attached and on (date) 15 Feb 45 endorsed by me, (~~or by a person of whose hand writing I am aware~~) "It is expedient that he be tried by Field General Court-Martial".

2. And whereas I am of opinion that it is not practicable that such offence(s) should be tried by an ordinary general Court-Martial; ~~and that it is not practicable to delay the trial for reasons not superior quoniam sic~~

(Delete part in brackets when not required for compliance with RP 105(C).)

3. I hereby convene a Field General Court-Martial to try the said person(s), and to consist of the Offrs appointed or detailed hereunder.

4. ~~Deputy Judge Advocate Officers for the Court: Lt a Fd Offr as President for the General Court Martial~~

(AA 49, RP 106(E), 107(A). Delete the whole or part, if not applicable.)

5. ~~Duke appoint as Judge Advocate thereof the Officer named hereunder~~

(RP 106(E). Delete, if none appointed.)

PRESIDENT.

(Rank.)	(Must be named. RP 106.)	(Unit.)
Major	D. MacKenzie	Essex Scot

MEMBERS.

(Rank.)	(Named or detailed. RP 106.)	(Unit.)
Captain	F.A. Baillargeon	1 Cdn Disciplinary Centre
Captain	E.B. Van Dine	1 Cdn Disciplinary Centre

WAITING MEMBER.

(Rank.)	(Named or detailed, if any. RP 106.)	(Unit.)
Lieut	(to be detailed by AA & QMG, Cdn Sec HQ Brussels Garrison)	

JUDGE-ADVOCATE.

(Rank.)	(Must be named, if any. RP 106.)	(Unit.)

On Active Service in the Fd

in Belgium (Country.)

Date 15 Feb 45

E.L.M. Burns (Signed personally. RP 105 fn 2)

(E.L.M. Burns)

Maj-Gen (Rank.)

Commanding Cdn Sec 1 Con HQ 21 Army Gp

Convening Officer.

CONVENING OFFR WILL INITIAL ALL DELETIONS AND ALTERATIONS

(See overleaf for oaths and notes for use on trial.)

Approved

Maj

DJA

QM

MEDICAL CERTIFICATE

I certify that I have this day examined E-47451 Cpl. ROMEO GUIMOND and in my opinion he is fit to undergo trial by Court Martial.

Qd St Chevrier Capt
(Medical Officer)
Unit 3 Bn RCE

Station FIELD, BELGIUM

Date 2 Mar 45

MEDICAL OFFICER'S REPORT

I certify that I have this day examined E-47451 Guimont R

CPL
Dm
as an RCE and in my opinion he is fit

to undergo trial by Court Martial.

Ed'd. Devery Capt
Medical Officer
Unit.....

Station... Field.....

Date... 3-3-45.....

D — 2

OPENING ADDRESS OF PROSECUTOR IN THE CASE OF

E- 47451 Cpl GUIMOND R

I wish to give in a chronological order a summary of events leading to the charges against the accused.

On 16 Jan 45, the accused, Cpl Guimond, was reported AWL from morning parade at 0730 hrs. At about the same time, Spr Talbot, driver of WD veh No CL 4270030 noticed his vehicle was missing from the car park where he had left it the previous day.

At about 0900 hrs, the same day, the accused and two other soldiers, namely Spr Mongeau and Spr Lavoie were seen coming into the coy lines in the vehicle that had been missing. No authority had been given them to use that said vehicle. The accused and the two other soldiers were placed under open arrest. This covers charges (2) and (3)

As for charges (1) and (4), these are the events.

On 23 Jan 45, at 2000 hrs, the coy orderly corporal checked the CB list and noticed that the accused along with Spr Mongeau, who were under open arrest, and therefore CB were now AWL.

On 24 Jan 45 at 1015 hrs Spr Bland J P, driver of vehicle No CL 4270198 noticed his vehicle was missing from the car park where he had left it the previous day at 1600 hrs.

(2)

At about 1730 hrs on 25 Jan 45, the accused and Spr Hongsan were seen by two witnesses, near the car park where the said vehicle had been left, and were seen to enter a 60-cwt. At the same time, another witness saw two soldiers unknown to him enter a 60-cwt, start the motor and pull out of the car park. ~~The~~ These witnesses only saw one vehicle leave the car park at that time, and no authority was given for any vehicle to leave the coy lines at that time.

Marcel Michaud Capt
(J M MICHAUD) CAPT
3 Bn RCE

1. E 47451 Cpl Romeo Guimond
3 Bn RCE. ("B" Coy.)

D-2 Prosecutor's Opening Address – written by Prosecutor, is attached.

D-3

1st Witness for the Prosecution:

E,47468, Spr. Michaud, J.P. 3 Bn. RCE, having been duly sworn states:

I am driver of ~~E~~ 42701~~9~~8, WD vehicle. I parked my veh in a car park at 4 o'clock on 25 Jan 45. At 10 o'clock on the 26th my veh was gone. I notified ~~Spr~~ Lwesque who was i/c tpt. ~~Spr~~ Lwesque looked for the veh. We could not find it anywhere on the 26th Jan at 10 o'clock. The veh is still missing

No Cross-examination.

By the court:

I left my veh in the car park at 1600 hrs on 25 Jan. The number of my veh is CL 42701~~9~~8. The veh was on charge to me. It was at 1000 hrs that I saw it was gone.

RP 83(B) complied with.

2nd Witness for the Prosecution:

D 155763 Spr. Lwesque, R. 3 Bn RCE having been duly sworn states:

I was Tpt NCO in B Coy tpt on 25/26 Jan ~~Between 4 and 5:30~~ 3&0 About 1000 hrs Spr Michaud reported to me that his

veh was missing. I went into the veh park ~~and~~ search for it. I could not find it. It is not back in the camp now and I don't think it has been found since 25/26 Jan. It was brought into the veh park at approx 1600 on 25 Jan. I did not check it in. ~~At 1830 hrs I sent Spr Darnell to Waterloo in another veh. He went to the car park~~

Cross Examination:

My car park was not checked at any time in the evening. I made my search for the veh the next day at 1015 hrs.

By the court:

The number of the missing veh is 4270198. It is a Ford 60 cwt 4x4. No auth was given during night of 25/26 Jan to anyone to drive this veh. I do not work in the tpt office. It was customary to leave log books in the office. Spr Michaud left his log book there 25 Jan. The log book was gone on a.m 26 Jan. It has not been seen since. The veh was on Spr Michaud's charge at this time. It is a "B" Coy veh.

RP 83(13) complied with.

3rd Witness for the Prosecution

E 47470, Cpl. Tremblay G., 3 Bn. R.C.E. having been duly sworn states:

I was orderly cpl on 23 Jan 45. I checked the CB list at 2000 hrs.

Cpl Guimond and Pers Mongeaux were missing. I search for them at that time. I am sure they were missing. They could have left before 2000 hrs. I ~~can't~~ can state that they could have left about 2 hrs. before. I spoke to them at ~~1800 hrs~~ 1700 hrs. after supper 1730 hrs. I had no contact with them between 1730 and 2000 hrs.

Cross examination:

Cpl Guimond was under open arrest at the time. He was working at splitting wood and in the vicinity. I don't think anybody was watching him all the time I did not notice him around the bldg previous to 1730 hrs.

Re examination:

I came on duty at 0600 hrs that a.m. No one gave any duties to the accused. I don't know who told him to cut wood. Maybe the Sgt Major did. I don't know.

By the Court:

I go off duty at 2400 hrs. I checked CB Pers. at 2330 hrs. The accused was not present on that check. I recognize the accused.

RP 83(3) complied with.

4. Witness for the Prosecution

E 29767 Sgt. Hazard L. D 604, 3 Bn RCE having been duly sworn states:

I recognize the accused. His name is Cpl Guimond. On 25 Jan 45 when I came back from work around 1700 - 1740 hrs Cpl Guimond was coming in to get in a truck. Cpl Guimond and Sgt Mangeau did get in a truck. I heard the motor start. Sgt Mangeau was at the wheel. I did not see the veh drive off. I was with Pvtes Martin, Lavigne when I saw the accused enter the veh. I cannot tell if they were in a position to see what I saw about the veh. I was about 40 ft. away when I saw the accused enter the veh. The others were entering the car park with me. I did not notice where the others were.

Cross Examination.

On 25th Jan we had supper between 1730 and 1740 hours. When we come back from work we go to supper - not to our billets to wash up. We got out of the car after coming from

work and go quickly to supper. We do not frequently run to supper to get in line for an early supper. That night it was clear and bright enough, but not as clear as daytime. I did not have a watch

RP 83(a) complied with.

5th Witness for the Prosecution

6 49358 - Spr Lavigne P. J. - 3 Bon RCE having been duly sworn states:

We usually come back from work around 5:30 p.m. On 25 Jan 45 when coming back from work we saw a truck coming out of the parking lot. I did not see who was in the truck. There was only one truck leaving the parking lot. I was on the same truck as Spr Lessard coming in. He got in the house before I did

Cross Examination:

Spr. Lessard got out of the truck and ran into the house. Every night they got out of the truck and run to the house on the double.

Re examination:

I did not see Spr. Lessard run. He must have run.

By the Court.

I saw a big truck. I've been in the army 3½ years. It is the biggest type truck we've got. It is a "60". To me it was just a truck. I don't know if it belonged to our Coy. or Bn.

RP 83(B) complied with.

6th Witness for the Prosecution

F 5703 Spr Pineau A., 3 Bn RCE having been duly sworn states:

On 25 Jan 45 coming back from works I did not notice anything particular in the car park. I know the accused. I saw him on the road when we were coming back that night. He was with someone else; I don't know who. I saw no veh leaving the car park. I heard no veh starting. I saw no veh in the car park being started. There was a veh in there. When I got out of the veh we all ran into the billets.

No Cross-examination

By the Court.

Cpl Grimond was about 25 yds from the car park when I saw him. He was walking towards the car park on the highway.

RP 83(B) complied with.

7th Witness for the Prosecution

E 28435 Spr Martin G., 3 ~~Sig~~ Sqn. RCE having been duly sworn states:

On 25 Jan 45 I was with Sprs Puisan, Lavigne & Lessard. When we came back from works I saw a veh leave the veh park. Two men in it; that is all. I do not know who went into the car. I saw them get in, start the veh and leave the car park. I know the accused. I did not know him at that time. I did not remember seeing him 25 Jan. I do not recognize the 2 soldiers who got into the veh. That was the only veh I saw leave the veh park. I was just walking through the veh park. I saw only one veh going out.

No cross-examination:

By the court:

I do not know if it was a 10 or 6 cwt. I did not think it unusual about 4 or 5 days I was questioned about it. I remembered then. I think there were 2 other vehs in the park. I just remember a veh pulling out. I do not know if Sprs Puisan, Lavigne and Lessard

were ahead or behind me. We got off the same truck.

RP 83(B) complied with.

8th Witness for the Prosecution

L 19778 Spr. Rallon A.R. B Coy 3 Bn RCE having been duly sworn states. I am a driver at B Coy. My veh is No. ~~CC 47200~~ CC 427 0030. My veh was missing on 15 or 16 Jan. I left it about 0910 hrs. I noticed it was missing the next a.m. at 0730. I did not check to see if it was there between those times. I reported it missing to Tpt Cpl, Cpl Coto. We both looked for it. It was brought back the same a.m. I don't remember the time. I recognize the work ticket as mine. It was one I had the time the veh was missing. At 9 o'clock the mileage reading was ~~6757~~ TDN 6761. I recognize the other work ticket. The mileage reading is 7024 when the veh came back. Total miles travelled 263. But I did a road test of 10 miles before that. So the miles travelled while it was away was 253. Ex A and Ex B produced.

Ex A is Work ticket S 14/2.
Ex B is Work ticket S 14/3.

Cross examination:

I got "Ex A" from the log Book in the Cpls Office. I don't remember if I did any work between 12 and 15 Jan. At that time it wasn't running good. It doesn't happen very often if we have an inactive truck for 3 days. It happens very seldom. It is my truck. No one else would drive it. I can't remember. On "Ex B" the first item marked cancelled was the trip I was supposed to make when I found my truck was missing. I did not see my truck between 0900 hrs one day and 0730 hrs the next day. I didn't look for it between those times. I don't know whether it was there or not.

Re-examination:

My truck was not running very well before that date. On 12 Jan it was at LAD. I can't remember if it stayed there or came back the next day. I always enter the mileage and time in the log book each day.

By the Court.

I found the vehicle later than 0730 hrs the same a.m. It was where I had left it.

RP 83(B) complied with.

9th Witness for the Prosecution

C 24819 Cpl Cote J.P. 3 Bn RCE having been duly sworn states:

I am B Coy Tpt Cpl. On 16 Jan 43 Spr Rallon reported that his veh was missing. I searched for it. I couldn't find it. I reported this fact to Lieut. Lavergne, my Tpt Offr. No authority was given to use Spr Rallon's veh DO CL 4270030 at that date after the days work on 15th around 1700 or 1800 until the next a.m. I recognize Ex A. 6761 miles represents the mileage at the end of the day, Jan 15th at night. I started work ticket Ex B. The mileage was read when the veh was returned and had a road test. It is 7014

No Cross examination.

By the Court:

I did not see the veh come back. Checks are made on the veh park during the hours of darkness. The guard did not report any veh missing to me. I was in Camp that night. The guard did not report any veh leaving the

Veh park without authority.
RP 83(B) complied with.

10B Witness for the Prosecution

Mlle Jeanne Deschamps, 80 rue Malebrant, Ixelles, Bruxelles, having been ~~duly~~ sworn states:

~~I know~~ the accused. I know Cpl Guimond by sight. He is in this room. He is sitting there with 2 V's on his arm. I do not know him as a friend. I do not remember seeing the accused on 11 Jan 45. I saw a truck going out at 1730 hrs 11 Jan 45 before the guard was on. I certify that this truck had nothing in it; ~~I know~~ a Cpl, Jacques Morgeau and Lavoie were in the veh. You have told me the name of the Cpl a few minutes ago. He is ~~not~~ in the other room. I remember well. I would not know him by sight. By hearing his name I would know. You have said the name a few minutes ago. I am sure there were 1 Cpl and 2 soldiers in the vehicle.

The veh was going towards Brussels.

No Cross examination:

By the Court:

I did not talk to any of the men in the truck. I was 20 metres away from the truck.

RP 83(1) complied with.

11th Witness for the Prosecution

E-4991 Spr. Lavergne J.H., B Coy. 3 Bn. RCE having been duly sworn states:

I recognize the accused. On 15 Jan 45 I took the guard at 1500 hrs and ~~on the~~ at 8 a.m. of the 16th The Sgt Major woke me up and told me a lorry was missing. During my tour of duty from 1500 hrs to 2200 hrs. no veh left the park. I looked around the N.T. and I saw a veh coming in. This about 0905 hrs. It came in the parking area and backed up and I saw Spr ~~Heard~~ Morgeau getting out of the drivers seat. I saw Spr Guimond and Lavoie getting out of the front of the veh. I went over to the Office and repeated to Capt Richard. Spr Berube and Spr Litalien were near me when the veh came in.

Cross examination:

I was on duty from 1800 hrs 15 Jan to ~~2200~~ 0600 hrs 16 Jan. I was on guard

from 1800 hrs 15 Jan to 0200 hrs 15 Jan I am absolutely certain no veh left the parking area.

By the Court:

The veh that Spr Mongeau got out of is the veh that Spr Rallon drives. There were 4 vehs in the park where I was on guard.

RP 86(13) complied with.

12. Witness for the Prosecution

E 39088 Spr Bombe Z., B Coy 3 Bn RCE having been duly sworn states:

~~I noted a veh come in~~ I recognize the accused. On 15 Jan ~~45~~ about 0900 hrs I saw a truck entering We were standing at the door of the garage. Spr Mongeau was driving the veh. There were 3 in the cab. One setting inside whom I could not recognize. Spr Lavoie was in the cab, too. I am sure there were 3 in the veh.

No Cross-examination

By the Court: The truck was entering the parking area. It came from the direction of Brussels. It was a Ford 6 cwt 4x4. It was an Army veh. I did not recognize the accused as being one ~~of~~ in the truck. I just know Cpl Guimond by sight at that time

because I had it been long with the Coy.
RP 83(B) complied with.

13th Witness for the
~~Accused~~ Prosecution

E 47427 Cpl Duquet F., Bn. Coy.
3 Bn RCE having been duly
Sworn states:

On 28 Jan 45 I was Guard Cpl.
Cpl Guimond and Spr Morgan
reported to me at 2240 hrs. They
reported because they were coming
back from AWL.

No Cross examination

By the Court:

I recognize the accused. I knew
he was AWL. He didn't tell me
RP 83(B) complied with.

Sprs Guay H, Godbout, R, Litalien, M, and
Sgt Smith witnesses named in the Summary
are not called by the Prosecution and the
Defence does not require those witnesses in
Cross-examination.

Submission by the Defending Officer

The defence feels it should ask the Court to consider the following. 1st charge of stealing: The Pros. has only 1 witness who can identify the accused as having got into a veh. No witnesses who saw the veh drive off with the accused in it have been produced. There was a veh which drove off about the same time. One witness who identified the accused was running to get supper. He could easily have mistaken the identity of the person who got into the veh. Reads R141 - stealing. There is no intention here to steal. The evidence on 2nd charge is very flimsy. Spr Levesque JH is very positive no veh left the Park. Only 1 witness has been able to say that Spr Hongean the accused was in the veh when it returned. He was not driving. There is no evidence that there was no auth for Spr Hongean not to have the veh.

Reply by Prosecution:

Only one witness saw the accused drive off. But there was only 1 veh and circumstances are very strong against the accused. I don't recall Spr Levesque saying another veh drove off. One witness positively identified

the accused. He said he was walking. He should know. No auth was given for any veh to go out. The Tpt Cpl gave evidence to that.

D-b

1st Witness for the Defence

The accused, E 47451 Cpl Romeo Guimond, B Coy 3 Bn RCE having been duly sworn states:

At 0700 hrs I was still in a house downtown where I slept. This was 16 Jan 45. I went out of the house with Spr Hongan and Lavoie around 0800 hrs. I went in the direction of Gare du Midi to take the tram for Petits Espuatts. When I arrived at Blvd I said to myself where is the bridge that goes over the blvd. I saw that truck. There was nobody around. It was no place to park a veh. I realized it was an abandoned truck. Spr Hongan & Lavoie told me they were sure it was a "D" Coy truck so I thought as I was an NCO I took the responsibility of the truck to bring it back to Camp as I was with drivers. The intention of explanning the matter with Superior Officers once in Camp. I didn't have the chance. The Tpt Offr, Mr Lavigne,

called us at the Orderly Room and directly put us under close arrest by the C.S.M.

Cross examination:

Spr Lavergne was the 1st person I saw when I returned with the veh. He was on guard duty. I said absolutely nothing to him. I entered my billets as soon as I got out of the veh. The Orderly Room is not in my billets. Lt Lavigne came and saw me himself. I did not go to the Orderly Room directly because I had my greatcoat I wanted to get rid of. I met Lt Lavigne at the door of my billets as I was going out to the ~~door~~ of Orderly Room. Spr Morgeau belonged to RT and I had the responsibility of the truck Spr Morgeau had no business to stay there in the veh park. Spr Lavoie ~~was~~ ~~still outside~~ stayed outside near the veh when he got out of the veh. According to what I saw Spr Morgeau has been driving vehs long enough to be qualified. I cannot say if he had a veh under his charge. He had just transfered to H.T. Hq & he had a veh under his charge in B Coy. I cannot say exactly but he had a veh under his charge about a month before the 15th. Spr Morgeau had never been "grounded" to my knowledge. I immediately report anything unusual like that to the Orderly Room. I am not a driver. I do not know

if vehs usually report to the Orderly Room.

By the Court:

I left the truck that a.m. when I brought it back in the Parking Area. The Park is from 80 to 100 yds from the Orderly Room. The billets are about 20 ft. from the veh Park, right beside it. Myself I was not absolutely sure it was a B Coy truck but I was certain it was a Pon truck and the others recognized it by its few details. It was at 0800 hrs. I knew it had been abandoned because the drivers who were with me knew they are not to leave a veh by itself and where it was stationed was not a place to Park cars. There were bldgs each side of the blod where it was parked. We waited and looked around to see if anyone was in charge of the truck. We waited from 10 to 15 minutes. The veh was not immobilized according to what the drivers told me. I did not pass the Orderly Room when going to the veh park. Spr Mongeau at B Coy ~~was dri~~ led a truck. I do not know his duties on 15 Jan 45. Spr Mongeau was transferred to HQ Coy MT a few days before the 16th

I do not wish to say anything about the 4th charge. I do not deny being absent for that period of time. I was absent the whole time. I was under open arrest at the time.

Prosecuter's Closing Address:

On charge 4 the facts have been brought out. On charge 2 the accused and 2 others were seen entering the car park in a veh which they had been given no authority to drive. The accused has stated he intended to report his bringing the veh in but rather than drive to the Orderly Room he went directly to his billet and an Offr went to him. Also he states that Spr Morgan went directly to his own coy without explanation.

Defending Offrs Closing address:

The accused made a statement under oath. He has been questioned to the satisfaction of all and it appears his story is correct. This man is a Cpl and a good one and he acted as an NCO should, used his initiative and got a driver for it to bring it back to coy lines. He may have had no authority, written or oral. It was an emergency. He did not act improperly; rather he

acted as a Cpl should. It is natural to bring the veh back to the veh park where it is safe. Hes billets are a step away. He went to take his coat off. Then on the way he met the Tpt Offr. That is all I have to say. The accused has given evidence on the last charge.

E-1 Lieut George Bokonny — 3rd Bn RCE having been duly sworn states.

I know the accused. Known him 15 mos. I was his Pl Offr from Feb 43 to June 44. Throughout my charge of 4 Pl I found the accused competent, reliable and obedient. I was responsible for his promotion to Cpl. At that time Cpl Guimond had the full confidence of the Coy + respect of his men.

"The present Pl Offr is too far away to call so I thought his old Pl Offr would serve as well." — by the Defending Offr.

E-3 In mitigation:

You have the character evidence and sheets. He is a Cpl and has done good work. He has worked himself up to his position. [illegible] years this is his first lapse.

TRANSPORT WORK TICKET No B.14/2.

AND " " " No B 14/3

EVIDENCE IN CASES OF

E 47451 CPL GUIMOND. R. "B" Coy 3 Bn. R.C.E.

E 14822 PTE LAVOIE. H "B" Coy 3 Bn R.C.E.

Donald Mackenzie
Major

TRANSPORT WORK TICKET

Appx A-1

No. B 14/2 EXR

TYPE OF VEH.		CLASS		UNIT				DRIVER'S NAME			WO No.		MONTH & YEAR												
Ford		Lt Cml		3 Bn Rkt				Bleay			Kellaway A.L.		CL 43700		30		Jan. 43								
DATE (1)		FOR WHOM JOURNEY IS PERFORMED (2)	DETAILS OF LOAD (3)	ROUTE			SIGNATURE OF PERSON AUTHORIZING JOURNEY (7)	LUBRICATING OILS		FUEL GALLONS				TIME		SPEEDOMETER									
				From (4)	To (5)	Via (6)		Type (8)	Pints (9)	As Starts (10)	Drawn (11)	As End (12)	Used (13)	Out (14)	In (15)	Reading (16)	Run (17)	Day (18)							
	A			Brought forward from Work Ticket No. B 14/1				—		15				—	—	6627									
	B			636459																					
7	C	Bleay	Tpt Offr	636459	Waterlog	Aberaeron								1400	2200	6633	8								
8	D	Bleay	Wksp	636459	15 miles	Area					17			0800	1700	6686	47								
9	E	Bleay	Workshop	636459	15 miles	Area					15			0800	1200	6740	54								
11	F	Bleay	Admin HQ	636459	L.A.D.	Aberaeron								1000	1K	6742	2								
12	G	9216	on test	Rhode	Area	Return								1100	1330	6757	15								
16	H	Bleay	Workshop	636459	15 miles	Area	John Keele	30	3					0800	1030	6761	4								
	I																								
	K																								
	L																								
	M												24	12	—	—									

MPG for week

or totals carried over

Appx. A

TRANSPORT WORK TICKET

No. B-14/3

Ex 13

MAKE OF VEHICLE: Ford

CLASS: 60 cwt

UNIT: 3 Tn Rct

DRIVER'S NAME: Bleay Kellow Pte

W.D. No.: 21/270030

MONTH & YEAR: Jan. 43

DATE (1)		FOR WHOM JOURNEY IS PERFORMED (2)	DETAILS OF LOAD (3)	ROUTE From (4)	ROUTE To (5)	ROUTE Via	SIGNATURE OF PERSON AUTHORIZING JOURNEY (7)	LUBRICATING OILS Type (8)	LUBRICATING OILS Pints (9)	FUEL GALLONS At Start (10)	FUEL GALLONS Drawn (11)	FUEL GALLONS At End (12)	FUEL GALLONS Used (13)	TIMES Out (14)	TIMES In (15)	SPEEDOMETER In (16)	SPEEDOMETER Run (17)	SPEEDOMETER Diff. (18)
	A			Brought forward from Work Ticket No.		B14/2	John Kate			24				--	--	6761		
	B										Cancelled - 0 Load							
16	B	B Leay	Winter	6&6/43	10 miles	Orca	John Kate				17			1030		7824	263	
16	C	B Leay	Road Art	6&6/43	10 miles	journey	John Kate											
	D																	
	E																	
	F																	
	G																	
	H																	
	J																	
	K																	
	L																	
	M													--	--			

MPG for week ..... or tasks carried over

SUMMARY OF EVIDENCE IN THE CASE OF

E47451 Cpl GUIMOND R

"B" Coy 3 Bn RCE

is charged with:-

(1) AA Sec 15(4) WOAS - at about 1730 hrs 25 Jan 45 stealing WD vehicle registration No CL427019* from B Coy vehicle car park;

(2) AA Sec 40 WOAS - at or about 0900 hrs on 16 Jan 45, improperly and without authority, using WD vehicle No CL4270030;

(3) AA Sec 15(1) WOAS - absenting himself without leave from 0730 hrs 16 Jan 45 until 0905 hrs 16 Jan 45 (total absence - 1 hr and 35 mins);

(4) AA Sec 15(1) WOAS - absenting himself without leave from 2000 hrs 23 Jan 45 until 2240 hrs 25 Jan 45 (total absence - 5 days 2 hrs and 40 mins)

THE COMMANDING OFFICER DIRECTS THAT THE EVIDENCE BE TAKEN ON OATH:

First Witness For Prosecution

E4991 Sapper LAVESQUE, J.H., B Coy 3 Bn RCE, having been duly sworn, states:-

"I was on guard duty at B Coy billets from 1700 hrs 15 Jan 45 to 0600 hrs 16 Jan 45, along with Sappers GOAI and GODBOUT whom I relieved at intervals during the night. It was my duty to patrol from the sentry box to the parking area and no vehicles could have gone out without my seeing them. Not a single vehicle left that night during my tour of duty. At about 0700 hrs 16 Jan 45, after my tour of duty, CSM NADEAU came to me to enquire if I had seen a vehicle leave during the night which I told him I had not. He placed me on duty to watch for any vehicle coming into the parking lot. At 0905 hrs, I saw a 60-cwt come into the yard park, and I saw Sapper MONGEAU come out of the driver's seat and Corporal GUIMOND and Sapper LAVOIE, H. come out of the front of the vehicle. Sappers LITALIEN and SAMSON were next to me at the time and I believe they saw the same men in that vehicle that came in."

"On 26 Jan 45 I was on guard duty between 0200 hrs and 0600 hrs. My duty was to patrol from the sentry box to the vehicle park. I was at my post continuously during my tour of duty and no vehicle could have left without my knowing it. No vehicle went out during my tour of duty. There were four vehicles at the start of my tour of duty and four at the end of my tour."

The accused declines to cross-examine the witness

J.H. Lavesque

.....

(E4991 Spr LAVESQUE J H)

Re: GUIMOND

Second Witness for Prosecution

D15275 Sapper GUAY, H., B Coy 3 Bn RCE, having been duly sworn, states:-

"I was on guard duty at B Coy billets from 1800 hrs 5 Jan 45 to 0600 hrs 16 Jan 45. At 0200 hrs 16 Jan 45, I relieved Sapper LEVESQUE, J.H. at the sentry box and the section patrol duty till 0600hrs 16 Jan 45, from the sentry box to the parking area. No vehicle could have left the parking area during my tour of duty without my seeing it, and I did not see any vehicle leave the parking area."

"I was on guard duty on 4 Jan 45, between 1800 and 2200 hrs. My post was at the sentry box next to the vehicle car park. I remained at my post continuously during my tour of duty and no vehicle could have left without my seeing it. Only one vehicle left, that is, Spr Demell in a vehicle, but he returned before my tour of duty ended. No other vehicle left the parking lot. There were four vehicles when I went on duty and four when my tour of duty was complete."

The accused declines to cross-examine the witness.

.....
(D15275 Spr GUAY, H.)

Third Witness For Prosecution

E29254 Sapper GODBOUT, R., B Coy 3 Bn RCE, having been duly sworn, states:-

"I was on guard duty at B Coy billets from 1800 hrs 15 Jan 45 to 0600 hrs 16 Jan 45. My tour of duty was from 1800 hrs to 2200 hrs 15 Jan 45. During my tour of duty I patrolled from sentry box to the parking area. No vehicle could have left the parking area during my tour of duty without my seeing them. No vehicle left the parking area during my tour of duty."

"On the night of 25-26 Jan 45 I was on guard duty between 2200 hrs and 0200 hrs. My duty was as before. I was at my post continuously during my tour of duty and no vehicle could have gone out without my seeing it. No vehicle left the car park during that time. There were four vehicles at the start of my tour of duty and four at the end of my tour. The vehicles were parked in the parking space at the end furthest from the road (Chaussée Waterlee) with space for two vehicles between the nearest vehicle and the end of the parking space by the trees."

The accused declines to cross-examine the witness.

.....
(E29254 Spr GODBOUT, R.)

Fourth Witness For Prosecution

E39085 Sapper BERUBE, L., B Coy 3 Bn RCE, having been duly sworn, states:-

"On 16 Jan 45 at about 0900 hrs, I was working in the vehicle park at B Coy billets. I saw a 60-cwt come into the yard and park. Sapper MONGEAU, whom I recognized ..

continued ....

Fourth Witness For Prosecution — continued ....

came out of the driver's seat. Two other soldiers came out of the other seat of whom I recognized Sapper LAVOIE H. That is all I know of the occurrence."

The accused declines to cross examine the witness

.....
(E39088 Spr BERUBE, Z)

Fifth Witness For Prosecution

E41450 Sapper LITALIEN, M., B Coy 3 Bn RCE, having been duly sworn, states:-

"On 16 Jan 45 at about 0900 hrs, I was working in the vehicle park at B Coy billets. I saw a 60-cwt go by me in which I noticed Sapper MONGEAU driving and two others in the front seat whom I did not recognize at the time. The vehicle was parked and I noticed three soldiers leave the vehicle. This is all I know of the occurrence."

The accused declines to cross examine the witness.

.....
(E41450 Spr LITALIEN, M)

Sixth Witness For Prosecution

E24719 Cpl COTE, J.P., B Coy 3 Bn RCE, having been duly sworn, states:-

"On 16 Jan 45 at about 0720 hrs, Sapper RALLON, A.R. reported to me that WD vehicle CL4270030 was missing from the vehicle park where he (Spr Rallon) had left it the previous day. I went with Spr Rallen and noticed that the vehicle was missing. and this was reported to Lieut. L.E. Lavigne."

Q. 1 Was any authority given for anyone to use vehicle No CL4270030 from 0910 hrs 15 Jan 45 till 0900 hrs 16 Jan 45?

A. 1 No, Sir. No one was given authority except Sapper RALLON, A.R., at 0730 hrs 16 Jan 45, when he noticed the vehicle was missing.

Q. 2 Do you know the mileage the vehicle had when it was left at the vehicle park on 15 Jan 45 by Sapper RALLON?

A. 2 Yes. I produce herewith work ticket No B14/2 Jan 45, showing a mileage of 6761 and work ticket No B14/3 shewing a mileage of 7024 when Sapper RALLON returned from a trip of a maximum of 10 miles, showing the vehicle travelled at least 253 miles without authority.

f

The accused declines to cross examine the witness.

.....
(E24719 Cpl COTE, JP)

"Work Tickets B14/2 and B14/3 referred to in testimony of Cpl COTE, J.P. above, marked 'Exhibit A' and 'Exhibit B' and attached as exhibits to Summary of Evidence of E47451 Cpl GUIMOND, R. being conjointly tried."

Second Witness for Prosecution

D15275 Sapper GUAY, R., B Coy 3 Bn RCE, having been duly sworn, states:-

"I was on guard duty at B Coy billets from 1500 hrs 15 Jan 45 to 0600 hrs 16 Jan 45. At 0200 hrs 16 Jan 45, I relieved Sapper LEVESQUE, J.H. at the sentry box and remained on patrol duty till 0600hrs 16 Jan 45, from the sentry box to the parking area. No vehicle could have left the parking area during my tour of duty without my seeing it, and I did not see any vehicle leave the parking area."

"I was on guard duty on 25 Jan 45, between 1500 and 2200 hrs. My post was at the sentry box next to the vehicle car park. I remained at my post continuously during my tour of duty and no vehicle could have left without my seeing it. Only one vehicle left, that is, Spr Demell in a vehicle, but he returned before my tour of duty ended. No other vehicle left the parking lot. There were four vehicles when I went on duty and four when my tour of duty was complete."

The accused declines to cross-examine the witness.

.....
(D15275 Spr GUAY, R.)

Third Witness For Prosecution

E29254 Sapper GODBOUT, R., B Coy 3 Bn RCE, having been duly sworn, states:-

"I was on guard duty at B Coy billets from 1500 hrs 15 Jan 45 to 0600 hrs 16 Jan 45. My tour of duty was from 1500 hrs to 2200 hrs 15 Jan 45. During my tour of duty I patrolled from sentry box to the parking area. No vehicle could have left the parking area during my tour of duty without my seeing them. No vehicle left the parking area during my tour of duty."

"On the night of 25-26 Jan 45 I was on guard duty between 2200 hrs and 0200 hrs. My duty was as before. I was at my post continuously during my tour of duty and no vehicle could have gone out without my seeing it. No vehicle left the car park during that time. There were four vehicles at the start of my tour of duty and four at the end of my tour. The vehicles were parked in the parking space at the end furthest from the road (Chaussée Waterloo) with space for two vehicles between the nearest vehicle and the end of the parking space by the trees."

The accused declines to cross-examine the witness.

.....
(E29254 Spr GODBOUT, R.)

Fourth Witness For Prosecution

E39088 Sapper BERUBE, Z., B Coy 3 Bn RCE, having been duly sworn, states:-

"On 16 Jan 45 at about 0900 hrs, I was working in the vehicle park at B Coy billets. I saw a 60-cwt come into the yard and park. Sapper MONGEAU, whom I recognized ..

continued ....

Fourth Witness For Prosecution

continued ....

came out of the driver's seat. Two other soldiers came out of the other seat of whom I recognized Sapper LAVOIE, H. That is all I know of the occurrence."

The accused declines to cross examine the witness

.....
(E39085 Spr BARUBE, Z)

Fifth Witness For Prosecution

E41450 Sapper LITALIEN, M., B Coy 3 Bn RCE, having been duly sworn, states:-

"On 16 Jan 45 at about 0900 hrs, I was working in the vehicle park at B Coy billets. I saw a 60-cwt go by me in which I noticed Sapper MONGEAU driving and two others in the front seat whom I did not recognize at the time. The vehicle was parked and I noticed three soldiers leave the vehicle. This is all I know of the occurrence."

The accused declines to cross examine the witness.

.....
(E41450 Spr LITALIEN, M)

Sixth Witness For Prosecution

E24719 Cpl COTE, J.P., B Coy 3 Bn RCE, having been duly sworn, states:-

"On 16 Jan 45 at about 0720 hrs, Sapper RALLON, A.R. reported to me that MD vehicle CL4270030 was missing from the vehicle park where he (Spr Rallon) had left it the previous day. I went with Spr Rallon and noticed that the vehicle was missing, and this was reported to Lieut. L.E. Lavigne."

Q. 1 Was any authority given for anyone to use vehicle No CL4270030 from 0910 hrs 15 Jan 45 till 0900 hrs 16 Jan 45?

A. 1 No, Sir. No one was given authority except Sapper RALLON, A.R., at 0730 hrs 16 Jan 45, when he noticed the vehicle was missing.

Q. 2 Do you know the mileage the vehicle had when it was left at the vehicle park on 15 Jan 45 by Sapper RALLON?

A. 2 Yes. I produce herewith work ticket No B14/2 Jan 45, showing a mileage of 6761 and work ticket No B14/3 showing a mileage of 7024 when Sapper RALLON returned from a trip of a maximum of 10 miles, showing the vehicle travelled at least 253 miles without authority.

The accused declines to cross examine the witness.

.....
(E24719 Cpl COTE, JP)

"Work Tickets B14/2 and B14/3 referred to in testimony of Cpl COTE, J.P. above, marked 'Exhibit A' and 'Exhibit B' and attached as exhibits to Summary of Evidence of E47451 Cpl GUIMOND, R. being conjointly tried."

Seventh Witness For Prosecution

L1977* Sapper RALLON, A.R., B Coy 3 Bn RCE, having been duly sworn, states:-

"I am in charge of vehicle No CL4270030, B Coy 3 Bn RCE. On 15 Jan 45 at 0910 hrs I left my vehicle at Coy carpark. I made no other trips until the next morning at 1030 hrs. At about 0730 hrs 16 Jan 45. I noticed my vehicle was missing, and saw it later that morning when I took it out for a road test."

Q. 1 From examination of work tickets B14/2 and B14/3, can you certify that the entries are correct?

A. 1 Yes. I made the entries myself, and from the alleged record it is evident that at least 253 miles were performed without authority."

The accused declines to cross examine the witness.

G A Rallon
.....
(L1977* Spr RALLON,AR)

Eight Witness For Prosecution

E29267 Sapper LESSARD, L., B Coy 3 Bn RCE, having been duly sworn, states:-

"On 25 Jan 45, at about 1720 hrs, I was with others of my platoon near B Coy vehicle park. I saw Cpl GUIMOND and Spr MONGEAU go into a vehicle, start the engine of a 60-cwt. That is all I saw."

The accused declines to cross examine the witness.

L Lessard
.....
(E29267 Spr LESSARD,L)

Ninth Witness For Prosecution

G4935* Spr LAVIGNE, P.J., B Coy 3 Bn RCE, having been duly sworn, states:-

"On 25 Jan 45, at about 1730 hrs, I was with others of my platoon returning from works. As I raised the tail-board of our vehicle, I saw a 60-cwt go out of the vehicle park. I did not see who was in it."

The accused declines to cross examine the witness.

P J Lavigne
.....
(G4935* Spr LAVIGNE)

Tenth Witness For Prosecution

E47470 Cpl TREMBLAY, G., B Coy 3 Bn RCE, having been duly sworn, states:-

"On 23 Jan 45, I was Coy duty Cpl. At 2000 hrs, I checked the C.B. list and found Cpl GUIMOND and Spr MONGEAU who were under open arrest, were absent and nowhere to be found."

The accused declines to cross examine the witness.

G. Tremblay
.....
(E47470 Cpl TREMBLAY,G)

Eleventh Witness For Prosecution

F5703 Spr PINEAU, A., B Coy 3 Bn RCE, having been duly sworn, states:-

"On 25 Jan 45, at about 1730 hrs, I was with others of my platoon returning from works. We passed Cpl GUIMOND and Spr MONGEAU who were entering the car park. A little while after, time enough to get out of the vehicle we were in, I noticed a 60-cwt in the yard having its engine started."

The accused declines to cross examine the witness.

A. Pineau
(F5703 Spr PINEAU, A)

Twelfth Witness For Prosecution

E2#435 Spr MARTIN, G., B Coy 3 Bn RCE, having been duly sworn, states:-

"On 25 Jan 45, at about 1720-1730 hrs I was with others of my platoon returning from works. I noticed two soldiers, whom I do not know, enter a 60-cwt in vehicle car park; start the motor and move out of the gate."

The accused declines to cross examine the witness.

G. Martin
(E2#435 Spr MARTIN, G)

Thirteen Witness For Prosecution

E47427 Corporal DUQUET, F., B Coy 3 Bn RCE, having been duly sworn, states:-

"On 2nd Jan 45 at 2240 hrs, I was duty Cpl. Spr MONGEAU and Cpl GUIMOND reported to me from AML. I placed them under close arrest and advised the C.S.M."

F. Duquet
(E47427 Cpl DUQUET, F)

Fourteenth Witness For Prosecution

E47414 Sergeant SMITH, V., B Coy 3 Bn RCE, having been duly sworn, states:-

"On 16 Jan 45, at 0730 hrs, I made the roll call of my platoon and E47451 Cpl GUIMOND, R. was absent and was nowhere to be found."

The accused declines to cross examine the witness.

V. Smith
(E47414 Sjt SMITH, V.)

Fifteenth Witness For Prosecution

E4746* Spr MICHAUD J.P., B Coy 3 Bn RCE, having been duly sworn, states:-

"I am in charge of vehicle No CL427019*. On 25 Jan 45 at about 1600hrs, I left my vehicle in B Coy vehicle car park. I brought my log book AB412 to the tpt office and had some entries checked there by Lieut. Lavigne. I left the log book at the tpt office. On 26 Jan 45 at about 1015hrs, I noticed that my vehicle was missing from the parking lot and was nowhere to be found. I reported this to Spr Levesque, who is now acting tpt NCO and we together made a search but without avail. My log book was also missing from the tpt office. That is all I know."

.....
(E4746* Spr MICHAUD JP)

Sixteenth Witness For Prosecution

D15563 Spr LEVESQUE, R., B Coy 3 Bn RCE, having been duly sworn, states:-

"At about 1630 hrs on 25 Jan 45, I was in the Coy tpt office and noticed Spr Michaud leave his log book at the office. I remained in the office till about 1730 hrs when I went for supper. I returned to the tpt office at 1745 hrs and remained there until 1830 hrs, when I left, locking the door after me. No one came for the log book during the time I was at the office. I returned to the office between 2030 and 2100 hrs, and remained there till 0700 hrs 26 Jan 45. I slept in the office, and was in and out during the morning of 26 Jan 45. At about 1000 hrs on 26 Jan 45, Spr Michaud reported to me his vehicle was missing. We went out together and I found it to be true. I searched for the log book but it also was missing."

The accused declines to cross examine the witness.

.....
(D15563 Spr LEVESQUE, R)

Seventeenth Witness

Statement By:

Miss Jeanne Deschamps, 50 rue Malibrant, IXELLES, Bruxelles, sworn, states:-

"I saw a covered vehicle come out of the vehicle park of B Coy at about 1730 hrs 15 Jan 45. The guard was not yet on duty. In the vehicle were Sappers MONGEAU, LAVOIE and a corporal. At that time I was next to the sentry box. From what I heard say, it was to make a business of cognac. The vehicle left in the direction of Bruxelles."

.....
(Jeanne Deschamps)

Certified true translation.

29 JAN 45

.....
(J.M. Michaud) Capt MCE

Mlle Jeanne Deschamps, 50 rue Malebrant, IXELLES, Bruxelles, sworn, states:

"J'ai vu le camion couvert sortir de la cour des vehicules de la cie B à peu près à 1730 hrs le 15 janvier 45. La garde n'était pas encore en devoir. Dans le camion étaient sapeur MONGEAU, LAVOIE et un caporal. J'étais à ce temps devant la boite de sentinelle. D'après ce que j'ai entendu dire c'était pour faire du commerce de cognac. Le camion est parti dans la direction de Bruxelles."

29 JAN 45

.....
(Jeanne Deschamps)

E47451 GUIMOND

Re: ~~87621 2 Spr MONGEAU, Jvd.~~

The accused was cautioned as follows:-

Do you wish to make any statement or to give evidence on oath? You are not obliged to say anything or give evidence unless you wish to do so, but whatever you say or any evidence you give will be taken down in writing and may be given in evidence.

After the above caution the accused elected to give evidence as follows:-

The accused, E47451 Cpl GUIMOND, R., wishes to make the following statement under oath:-

"On 15 Jan 45 at about 1730-1800 hrs, I went to Petite Espinette (village) to take the tramway to Brussels. While waiting for the tramway, Sprs LAVOIE and MONGEAU came along and we went together to Brussels by tramway. We went to a few cafés and at about 2200 hrs went by Gare du Midi and there saw a vehicle bearing the 316 unit sign but did not bother about it. We went to a house of ill repute and slept there. The next morning at about 0800 hrs we saw the same vehicle parked by the Gare du Midi. Spr MONGEAU drove it and we rode with it to B Coy billets."

.....
(E47451 Cpl GUIMOND, R)

Above evidence taken on Summary of Evidence held on 20 Jan 45 in connection with Charges (2) and (3a). On Summary of Evidence taken in connection with Charges arising from alleged subsequent offences, accused declines to make any statement or to give evidence under oath.

The accused does not call any witness for the defence.

I certify that the above statements are true translations of the statements made in French to me.

I certify that the foregoing Summary of Evidence consisting of 8 pages was taken down by me in presence of the accused and that Rules of Procedures e(C), (D), (E) and (F) have been complied with.

(J.M. Michaud) Capt RCE
3 Bn RCE

M.F.B. 335
22M—5-41 (373-9)
H.Q. 1775-39-620
A.F.B. 296

EXD

STATEMENT AS TO CHARACTER AND PARTICULARS OF SERVICE OF ACCUSED

Number	Rank	Name	Regiment (or unit)
E-47451	Cpl	Guimond, Romeo,	3 Bn RCE

1. The following is a fair and true summary of the entries in the ~~Service and General~~ Regimental ~~and Squadron, Battery~~ ~~Conduct sheets~~ ~~or Company~~ Conduct sheets of the accused, exclusive of convictions by a Court-Martial or a Civil Court, of summary awards under Section 47 of the ~~Air Force Act~~ Army Act and of cases in which trial has been dispensed with.

	Within last 12 months	Since enlistment or appointment
For	Nil times	Nil times
For	times	times
For	times	times
For	times	times

~~Number of instances of gallantry or distinguished conduct~~ Nil

or,

There are no entries in the conduct sheets of the accused.

NOTE.—If the charge is for drunkenness, the entries for drunkenness must be stated separately.

2. The accused has not been previously convicted

or,

~~Previous convictions of the accused by a court-martial or a civil court, of summary awards under Section 47 of the Air Force Act Army Act and dispensations with trial under A.A. 73~~ are set out in the Schedule annexed to this statement.

3. ~~The accused is not under sentence at the present time~~

or,

~~The accused at the present time is under sentence for~~ (illegible) ~~beginning on the day of~~

4. The accused has been in confinement awaiting trial on the present charges, for 0 days in civil custody, and ~~30~~ 24 days in ~~military~~ Air Force custody, making a total of ~~30~~ 24 days in custody, of which 0 days were spent in hospital.

5. The present age of the accused according to his ~~record of service~~ attestation paper is 24 yrs 10 mos 1 day

6. The date of his ~~commission~~ attestation specified in his ~~record of service~~ attestation paper is 8 Oct 1941.

7. The service which the accused is allowed to reckon towards discharge is 3 yrs ~~3~~ 5 mos.

8. The accused is entitled to reckon ~~3 yrs 5 mos~~ service for the purpose of determining his pension, etc.

9. The accused is in possession of or entitled to ~~no air force decoration,~~ or ~~air force reward~~ (or is in military military possession of or entitled to). State any ~~air force~~ decoration or reward. CVSM and Clasp

10. (If the accused is a warrant officer.) The accused before he was made a warrant ~~officer last held the regimental rank of~~ Air Force (illegible)

11. (In the case of an officer.) The accused holds in the Royal Canadian Air Force the rank of Permanent Force unit dated , and in his regiment (or corps), the rank of dated .

12. The accused has served as a non-commissioned officer continuously, without reduction, to the present date:—

Date of promotion.

In the rank of years.

In the rank of years.

In the rank of years.

NOTE.—If any matter in any of the above paragraphs cannot be stated from the Regimental books, the paragraph must be struck through.

SCHEDULE

Of convictions by a court-martial or civil court, of summary awards under Section 47 of the Air Force Act, and of cases in which trial has been dispensed with of accused. Number Rank

Name of Unit Regiment

NOTE.—A verbatim extract from the regimental books stating these convictions and dispensations with trial must be inserted.

Description of Court by which tried	Date and Place of Trial	Charge upon which convicted	Sentence of the Court	Punishment Remitted

I hereby certify that the foregoing schedule of convictions and dispensations with trial is a true extract from the regimental books in my custody.

Signed this 23 day of Jan 45 A Rawden Lt

The above statement (with the schedule of convictions and of cases in which trial has been dispensed with) is read, marked signed by the president, and annexed to the proceedings.

MFM 6
(AFB 122)

No E47451	Name GUILFOND, R	Sqn, Battery, or Company R C E Corps	Date of enlistment 4 Oct 41	GC Badge 1	Service or Proficiency Pay	Character
Date of last entry in Company Conduct Sheet N/A	No and date of last drunk N/A	Period not reckoning towards freedom from extra fine N/A	Sheet No 3	Signature OC Company, etc D.W. Milnes		

Place	Date of offence	Rank	Cause of [illegible] time	OFFENCE	Name of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
				Sheet No 2 destroyed on completion of two years service - no entries CAMO 2170					
				Awarded FIRST C.U.B. wef 5 MAR 44 DO 28/44					
				Awarded DSM & CLASP wef 15 JAN 44 DO 9/44					
				Certified to be a true and correct extract from regimental book held in my custody.					
				(J.M. Michaud) Capt 21c B Coy 5 Fd RCE					
22 JAN 45									

LIST OF WITNESSES

in the case of

E47451 Cpl GUIMOND, R.

For Prosecution

✓1.	E4991	Spr	LaVESQUE, J.n., B Coy 3 Bn RCE
— X2.	D15275	Spr	GUAY, H., B Coy 3 Bn RCE
— X3.	E29254	Spr	GODBOUT, R., B Coy 3 Bn RCE
✓4.	E390**	Spr	BERUBE, Z..., B Coy 3 Bn RCE
— X5.	E41450	Spr	LITALIEN, M., B Coy 3 Bn RCE
✓6.	E24*19	Cpl	COTE, J.P., B Coy 3 Bn RCE
✓7.	L1977*	Spr	RALLON, A.R., B Coy 3 Bn RCE
✓ *.	E29267	Spr	LABBARD, L., B Coy 3 Bn RCE
✓9.	G4935*	Spr	LAVIGNE, P.J., B Coy 3 Bn RCE
✓10.	E47470	Cpl	TREMBLAY, G., B Coy 3 Bn RCE
✓11.	F5703	Spr	PINEAU, A., B Coy 3 Bn RCE
✓12.	E2*435	Spr	MARTIN, G., B Coy 3 Bn RCE
✓13.	E47427	Cpl	DUQUET, F., B Coy 3 Bn RCE
— X14.	E47414	Sjt	SMITH, V., B Coy 3 Bn RCE
✓15.	E4746*	Spr	MICHAUD, J.P., B Coy 3 Bn RCE
✓16.	D15563	Spr	LaVESQUE, R., B Coy 3 Bn RCE
✓17.	Mlle Jeanne Deschamps, *O, rue Malebrant, IXELLES, Bruxelles.		

QQ-88 (case #3)
PTE GUINANE J.P.
See P. 75 for 1st case
" X-11 " 2nd.

Correspondence to be PINNED here.

QQ-88

Army Form A.3.

Form for Assembly and Proceedings of Field General Court Martial on Active Service.

PROCEEDINGS.

A.
Order convening the Court.

On Active Service, this SEVENTEENTH day of SEPTEMBER, 1943.

Whereas it appears to me, the undersigned, an officer in Command of 6 Canadian Infantry Brigade, on active service, that the persons named in the annexed Schedule, being subject to Military Law, have committed the offences in the said Schedule mentioned.

And whereas I am of opinion that it is not practicable that such offences should be tried by an ordinary General Court Martial;

* Omit where Convening Officer is a Commanding Officer or is of Field Rank.

I hereby convene a Field General Court Martial to try the said persons, and to consist of the Officers hereunder named.

* Omit if not applicable.

(Signature)

President.

Rank.	Name.	Regiment.
Major	N.A. Adams	S Sask R

Members.

Rank.	Name.	Regiment.
Capt or Lieut	To be detailed by O.C. Fus M R	
Capt. or Lieut	To be detailed by O.C. Camerons of C	
Waiting Member Lieut	To be detailed by O.C. Camerons of C	

* Must be signed personally by the Officer actually in command at the time, and all alterations in the composition of the Court to be initialled by him.

*Signed (J.G. Gauvreau), Lt-Col.,
T/ Commanding 6 Cdn Inf Bde
Convening Officer.

SCHEDULE.

Number, Rank (*a*), Name and Unit of Accused (*b*)	Offence charged	*Plea	Finding, and if Convicted, Sentence (*c*)	How dealt with by Confirming Officer (*d*)
H-20292 Pte JOHN PATRICK GUINANE Camerons of C	First Charge AA Sec 15(1) See charge sheet attached.	~~Not~~ Guilty Guilty	~~Guilty~~ ~~Absolutely~~ Discharge detention for 120 days and to be struck off strength 6 Cdn. Inf. Bde.	Confirmed Gauvreau
	Second Charge AA Sec 15(1)	Guilty	under stoppage of pay in the sum of $13 4 make up costs of appellant 18 Sep 43 W.Adams Maj	28 Sep 43.

* Question to be asked of accused, if he pleads not guilty (R. of P. 39 (A)):—
"Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity for preparing your defence?"
Answer (*to be recorded on separate sheet if necessary*) :— No Sir

(Signed) J.C. Gauvreau (J.C. Gauvreau), Lt-Col., T/ Commanding 6 Cdn Inf Bde
Convening Officer (*e*)

(Signed) W.Adams Maj
President.

(*a*) Appointment acting rank or acting appointment, if any, to be stated in brackets after the substantive rank.
(*b*) Unless unavoidable, not more than three names are to be entered on one form, and in serious cases one only.
(*c*) Recommendation to mercy, if any, to be inserted in this column.
(*d*) It is not necessary that the Confirming Officer should sign his name in this column. Initials are sufficient.
(*e*) Must be signed by the same Officer who signs on the first page, and all alterations in the first two columns of the Schedule to be initialled by him.

Evidence and Charge Sheets (if necessary) to be PINNED here.

B. Certificate of President as to proceedings.

I certify that the above Court assembled on the 18 day of Sept 1943, and duly tried the persons named in the Schedule, and that the plea, finding, and sentence in the case of each such person were as stated in the third and fourth columns of that Schedule.

I also certify that :—
1. The members of the Court
2. The witnesses
* (Omit if not applicable.) Nil *(3. ~~The interpreter~~)
*(4. ~~The officers under instruction~~)
were duly sworn.

Signed this 18th day of September 1943

W.Adams Maj
President of the Court Martial.

C. Certificate in case of death sentences.

* See footnote (*b*) on page 762 M.M.L. 1929.

I ~~certify that the terms of *A.C.I. 570 of 1918 have been complied with.~~

~~Signed this~~ ~~day of~~ ~~19~~

President of the Court Martial.

D. Confirmation.

I have dealt with the findings and sentences in the manner stated in the last columns of the Schedule, and, subject to what I have there stated, I hereby confirm the above findings and sentences.

*~~I direct that the soldier named in the margin be not committed to prison until further orders.~~

Gau

* To be omitted unless penal servitude or imprisonment having been awarded, the Confirming Officer either has no authority to commit to prison, or having such authority, recommends suspension.

Signed this ~~Twenty eighth~~ day of September 1943.

J.C. Gauvreau
Confirming Officer.
6 Cdn. Inf. Bde.

Promulgated and extracts taken in the case of

(*a*) (Dated) 30th Sep 43 (Signed) G.P. Hill, Capt.

Promulgated and extracts taken in the case of Pte Guinane of Camerons of Canada.

(Dated) (Signed)

Promulgated and extracts taken in the case of

(Dated) (Signed)

(*a*) When several cases are promulgated in one unit on the same day the Officer need only sign once.

[illegible]

CHARGE SHEET

The accused, H-20292 Private John Patrick GUINANE, of the Queen's Own Cameron Highlanders of Canada, a soldier in the Canadian Army Overseas is charged with:-

FIRST CHARGE
A.A. Sec 15(1)

While on Active Service, Absence without leave

in that he,

in the field, absented himself from his unit from 0600 hrs, 22 Jul 43 until apprehended by the Cdn Provost Corps at the Westminster YMCA London, at about 0400 hrs, 3 Aug 43, incurring and expense of eight shillings, three pence (8/3d) for his return to his unit. Absent 11 days 22 hrs.

In the Field
6 Aug 43

SECOND CHARGE
A.A. Sec 15(1)

While on Active Service, Absence without leave,

in that he,

in the field, absented himself from his unit, when in arrest, from 0400 hrs 3 Sep 43 until apprehended by the Cdn Provost Corps at 1950 hrs 4 Sep 43. Absent 1 day 15 hrs 50 mins.

In the Field
16 Sep 43

G.T. Laws Lt-Col
(A.T. Law)
Comd Camerons of Canada

To be tried by Field General Court Martial.

In the Field
17 Sep 43

(J.G. Gauvreau), Lt-Col.,
T/Comd 6 Cdn Inf Bde.

By Maj
W.A. Adams
President

H.20292. Pte. Guinane, J.P.

A

F, S.C., M.

A Maung Capt

Commdg. 4th Coy. 1st Bn. N.S.

I hereby acknowledge receipt of one copy of the Summary of Evidence and one copy of the Charge Sheet.

J Guinane
(H-20292 Pte Guinane, J.P.)

I request that an officer be appointed to represent me at my trial

J Guinane
(H-20292 Pte Guinane, J.P.)

H 20292 Pte John Patrick Quinan 18 Sep 1943

Ref A/m soldier the court recommend that prior to A/m ongoing detention that he be given a complete check over at No. 1 Hospital

Malcolm Mg
President

(2)

*All printed matter not applicable to the particular Court being held should be struck out and initialled by the President.

A

**Form of Proceedings for General and District Courts-Martial

Proceedings of a Field Gen Court-Martial held at In the Field
on the 18 day of Sept 19 43 by order of
Lt Col J. G. Gauvreau Commanding 6 Can Inf Bde
dated the 17 day of Sept , 19 43

President.

Maj. W.A. Adams S. Sask. R.

Members.

Capt R. S. Snider Cameron of Can
Lieut J Forget F. M. R.

, Judge Advocate.

Trial of* H-20292 Pte John Patrick Quinane Comm of Can

The order convening the Court, the charge-sheet and the summary (or abstract) of evidence are laid before the Court.

The Court satisfy themselves that N/A is not available to serve owing to N/A, waiting member takes his place as a member of the Court.

The Court satisfy themselves as provided by Rules of Procedure 22 and 23.

The accused is brought before the Court.

Prosecutor,† Lieut W. F. Bawlf

Counsel or defending officer† Lieut W. B. Gunn

At 1045 o'clock the Trial commences.

The order convening the Court is read, and is marked "X" signed by the President, and attached to the proceedings.

The names of the President and members of the Court are read over in the hearing of the accused, and they severally answer to their names.

Question by the President to the accused. Do you object to be tried by me as President, or by any of the officers whose names you have heard read over?

Answer by accused. No Sir

(N.B.—If objection is made it should be recorded, together with the decision of the Court, on a separate sheet.)

* Here insert No., Rank, Full Name, Regiment, and Appointment (if any).
† Here state Rank and Name, and Regiment (if any).
‡ Qualification to be stated.

Mil. Forms B. 271
10M—3-41 (9870)
H.Q. 1772-99-224

B

The President, members and judge-advocate are duly sworn.

The following officers under instruction are duly sworn.

Charge-Sheet

The charge sheet is signed by the President, marked B 2 and annexed to the proceedings.

Instruction. If the accused has elected to be tried under Army Act, sec. 46 (8) the fact should be here recorded.

The accused is arraigned upon each charge in the above-mentioned charge-sheet.

Are you guilty or not guilty of the [first] charge against you, which you have heard read? *Question to the accused.*

Not Guilty Sir *Answer.*

Are you guilty or not guilty of the second charge against you, which you have heard read? *Question.*

Not Guilty Sir *Answer.*

~~Are you guilty or not guilty of the third charge against you, which you have heard read?~~ *Question.*

Not *Answer.*

~~Are you guilty or not guilty of the fourth charge against you, which you have heard read?~~ *Question.*

Not *Answer.*

The accused having pleaded Guilty to both charge, the provisions of Rule of Procedure 35 (B) are here complied with.

If the trial proceeds upon any charge to which there is a plea of "Not Guilty," the Court will not proceed upon the record of a plea of "Guilty," until after the finding on that other charge. *Instruction.*

CC

Proceedings on Plea of Guilty

*To be struck out in case no plea of "Not Guilty" was recorded with.

*[The Court having been re-opened, the accused is again brought before it, and the charge to which he has pleaded "Guilty" read to him again proceeded]

The accused H-20272 Pte John Patrick Quinan C of C

is found guilty of the charge.

*The summary (or abstract) of evidence is read, marked signed by the President, and attached to the proceedings.

Question to the accused. Do you wish to make any statement in mitigation of punishment?

Answer. The accused in mitigation of punishment says:—

Yes Sir

While I was up in London on leave I had kind of dizzy spells and about all I can remember before my head was up I remember of standing at Waterloo Station. That thing I remember when they took me out of the shower room at the YMCA.

[or hands in a written statement, which is read, marked , signed by the President, and attached to the proceedings.]

Instruction.

* If there is no summary or abstract of evidence, sufficient evidence to enable the Court to determine the sentence, and to enable the confirming officer to know all the circumstances connected with the case, will be taken on a separate sheet in the same manner as on a plea of "Not Guilty."

If from the statement of the accused, or from the summary or abstract of evidence, or otherwise, it appears to the Court that the accused did not understand the effect of his plea of "Guilty," the Court shall alter the record, and enter a plea of "Not Guilty," and proceed with the trial accordingly.

DD

Do you wish to give evidence yourself or to call any witnesses as to character?

Question to the accused.

Answer.

Evidence as to character.

E

Finding*

*To be struck out except in cases where trial has taken place on plea of "Not Guilty."

The ~~Court is closed for the consideration of the finding.~~

The ~~Court find that the accused~~ Held

Proceedings on Conviction *before Sentence*

*When the Court is already open this sentence will be struck out.

*~~The Court being re-opened, the accused is again brought before it.~~ Held

Prosecutor ~~is duly sworn~~ is duly sworn.

Evidence of character, &c.

Question by the President.

Have you any evidence to produce as to the character and particulars of service of the accused? *Answer by the Witness.* Yes Sir MP 3357 Pte G

The above statement [with the schedule of convictions and of cases in which trial has been dispensed with] is read, marked "A" 1", signed by the President, and annexed to the proceedings.

Question by the President.

Is the accused the person named in the statement which you have heard read? *Answer by the Witness.* Yes Sir

Question.

Have you compared the contents of the above statement with the regimental books? *Answer.* Yes Sir

Question.

Are they true extracts from the regimental books, and is the statement of entries in the conduct sheets a fair and true summary of those entries? *Answer.* Yes Sir

[Instruction.—If by reason of the nature of the finding of the accused in a court-martial cases, or otherwise, the finding of the Court renders him liable to any exceptional punishment in addition to that to be awarded by the Court the prosecutor must call the attention of the Court to the fact, and the Court must inquire into the nature and amount of that additional punishment.]

Cross-examined by the accused.

No questions

Question to the accused.

Do you wish to address the Court? *Answer.* No Sir

The Court is closed for the consideration of the sentence.

F

Sentence

~~The Court sentence the accused.—~~

Sentence.

W. Adams M.G.
President

CHARGE

Army Form B 252
(See King's Regulations)

..... Regiment

..... Battery / Squadron

..... Troop or / Company

CHARGE against No. ..... Rank .....

Name .....

Place ..... Date of Offence .....

OFFENCE .....

.....

.....

.....

.....

.....

Names of Witnesses :—

.....

.....

Signature of O.C. Battery, Squadron, Troop or Company .....

Punishment Awarded .....

By whom Awarded .....

Adjutant.

P.T.O.

Statement of **EVIDENCE** in the case of

H- 20250 Pte. ARTHUR, J.P.

Number Name Regiment "A"Coy.

Sir;-

At LONDON at about 0400 hrs 3 AUG. 43 I was on duty at the RECEPTION C.I.C.A. in company with L/Cpl [illegible] R.E. when I saw the a/s soldier. I checked his pay book he could not produce one, he was A.W.L. I placed him under close arrest and escorted him to H.Q.(CANAL) DIV. GUN. PARROTT COY. detention room where he was handed to over to the R.C.O.i/c or cells to be detained.

J. Graham ..... CPL

London
3 AUG.43

Sir;-

I have read over the above statement and corroborate same.

B.S. Hebert ..... L/Cpl

London
3 AUG.43

L-27870 R.E. [illegible]

REMARKS

CHARGE

Army Form B 252

QUEENS OWN CAMERON HIGHLANDERS (CANADA) Regiment

"A" COMPANY. Battery / Squadron / Troop / Company

CHARGE against No. H-20292 Rank Pte.

Name GUIMANE, P.

Place LONDN Date of Offence 4 Sept. 43.

OFFENCE W.O.A.S. was A.W.L. from ? Until being apprehended by the CANADIAN PROVOST CORPS, at LONDON, at bout 1950 hours on the 4 Sept. 43.

(2) Refusing to obey a Lawful order given to him by a M.C.O. of the CANADIAN PROVOST CORPS, at the same time, date and place.

L. S. Sandpoint (and) [illegible] CAPT.
(W. PERRY) D.A.P.M.
LONDON AREA.

Names of Witnesses :—

L/Cpl. BERRY, CANADIAN PROVOST CORPS.

L/Cpl. LAMB, CANADIAN PROVOST CORPS.

Signature of O.C. Battery, Squadron, Troop or Company

Punishment Awarded

By whom Awarded

Adjutant.

F.T.O

...t ment of **EVIDENCE** in the case of

H-20292 Pte. CUINANE, F.
QUEENS OWN CAMERON HIGHLANDERS OF CANADA.
"A" COMPANY.

Sir.

At about 1950 hours on the 4 Sept. 43 at LONDON, I was on duty in WATERLOO ROAD, LONDON and in company with L/Cpl. LANE, CANADIAN [illegible] CORPS, when I had the occasion to check the a/m soldier for his pass. This he failed to produce. He was A.W.L. I placed him under close arrest and asked him what Unit he belonged to, and he refused to tell me. I then ordered him to tell me what Unit he belonged to, and this order he also refused. He was then escorted to No.6. Cdn. Prov. Coy. Detention Room, where he was handed over to the N.C.O. i/c cells to be detained.

London
4 Sept. 43.

L/Cpl.
B-11146 HENRY, C.L.

Sir.

I have read over and corroborate the above statement.

London
4 Sept. 43.

REMARKS ..... L/Cpl.
H-100227 LANE, R.

Expense Voucher Re—: Ref: K.R. & O. (Can) 539

Reg. No. 120292 Rank Pte Name Leonard, J.C. Unit Cameron H. Canada

The following expenses were incurred in apprehending and returning the M/N Soldier to his Unit From London

Date	Particulars	Amount		
	Escort's fare from LONDON To Peterborough			
3 Aug 43	Prisoners single fare to LONDON From Peterborough		4	5
	Prisoners fare from London To			
	Escorts & Prisoners expenses for Bed, Meals, Bus fares		3	10
	Total £		8	3

I certify that the above statement of Expenses is Correct, and that the amounts are fair and just.

Officer Issuing Railway Warrant and Expense monies
No. 6 Provost Company, Canadian Provost Corps, London

C.M.H.Q. 1000/55
40/F & S/483

SUMMARY OF EVIDENCE

In the case of H-20292 Private John Patrick GUINANE, of the Queen's Own Cameron Highlanders of Canada, a soldier in the Canadian Army Overseas.

The accused is informed of his rights.

The Commanding Officer directs that the evidence be given under oath.

FIRST WITNESS — H-19121 L/Cpl Jamieson, S.H.A., Camerons of Canada, Cdn Army Overseas, having been duly sworn states:-

I am H-19121 L/Cpl Jamieson, S.H.A., Camerons of Canada, Cdn Army Overseas. On 22 Jul 43 I was acting Company Orderly Sergeant. At 0600 hrs I found that the accused H-20292 Pte Guinane, J.P. whom I recognize, was absent from his quarters.

S'Ha Jamieson
(H19121 L/Cpl Jamieson, S.H.A.)

Accused declines to question the witness.

SECOND WITNESS — H-19503 L/Cpl Emmons, M.J., Camerons of Canada, Cdn Army Overseas, having been duly sworn states:-

I am H-19503 L/Cpl Emmons, M.J., Camerons of Canada, Cdn Army Overseas. At 1530 hrs 4 Aug 43 I met the train from London at Billingshurst Station and picked up the accused, H-20292 Pte Guinane, J.P., whom I recognize, from the Cdn Provost Corps, and received from them A.F.B. 252 stating that the accused had been arrested by them at Westminster YMCA at about 0400 hrs 3 Aug 43 and also an expense statement showing that the cost of apprehension was eight shillings and three pence (8/3d).
A.F.B. 252 is produced as Exhibit "A"
Expense statement is produced as Exhibit "B".

M J Emmons
(H-19503 L/Cpl Emmons, M.J.)

Accused declines to question the witness

STATEMENT OF ABSENT WITNESS — C-40851 Cpl Graham, F., Cdn Provst Corps.

A written statement of this witness' evidence, purporting to have been signed by him has been read to the accused and is included in the summary as Exhibit "A" having regard to the apprehension of H-20292 Pte Guinane, J.P. at about 0400 hrs 3 Aug 43.

The attendance of this witness cannot, in my opinion, be readily procurred.

'G'
Maj
Camerons

The accused having been duly cautioned in accordance with R.P. 4(e) says:-

"I wish to make a statement under oath."

The accused having been duly sworn states:-

While on my leave from 9 Jul 43 to 22 Jul 43 I was in London during a period of intensely hot weather. During this time I suffered from the heat and was ill from different periods. I have no recollection of my actions until apprehended by the Provost in a YMCA shower room. The Provost had been called by an attendant. A further cause of my illness was from a head injury received in Canada after I joined the Army. This injury required fourteen stitches.

J. Guinane
(H-ZC292 Pte. Guinane, J.F.)

Taken down by me in the presence of the accused on 6 Aug 43 in Newpound Common Camp.

I hereby certify that R.P. 4(e) to (e) have been complied with.

A.C. Kavanagh Capt
(A.C. Kavanagh)
Cameron's of Canada

SUPPLEMENTARY SUMMARY OF EVIDENCE

In the case of H-20292 Private John Patrick GUINANE, of the Queen's Own Cameron Highlanders of Canada, a soldier in the Canadian Army Overseas.

The accused is informed of his rights.

The Commanding Officer directs that the evidence been given under oath.

FIRST WITNESS

H-19503 L/Cpl Emmons, M.J., Camerons of Canada, Cdn Army Overseas, having been duly sworn states:-

I am H-19503 L/Cpl Emmons, M.J., Camerons of Canada, Cdn Army Overseas. While under close arrest at Hursley Camp on 3 Sep 43 the accused, whom I recognize as H-20292 Pte Guinane, J.P. escaped from custody at 0400 hrs. I present Certificate of Apprehension purporting to be signed by Capt. L.S. Grayson, Cdn Provost Corps, London Area. Attached as Exhibit "C" which relates to the accused whom I recognize.

M.J. Emmons

(H-19503 L/Cpl Emmons, M.J.)

STATEMENT OF ABSENT WITNESS

B-11146 L/Cpl Berry, G.L., Cdn Provost Corps.

A written statement of this witness' evidence purporting to have been signed by him has been read to the accused and is included in this summary as Exhibit "D" having regard to the apprehension of H-20292 Pte Guinane, J.P., at about 1950 hrs 4 Sep 43.

The attendance of this witness cannot, in my opinion, be readily procurred.

The accused having been duly cautioned in accordance with R.P. 4 (c) says:-

I do not wish to make any further statement at this time.

Taken down by me in the presence of the accused on 16 Sep 43 in Newpound Common Camp.

I hereby certify that R.P. 4(c) to (e) have been complied with.

A.C. Kavanagh Capt

(A.C. Kavanagh)
Camerons of Canada

M.F.H. 385
40/P & S/675

STATEMENT AS TO CHARACTER AND PARTICULARS OF SERVICE OF ACCUSED

Number	Rank	Name	Regiment (or unit)
H-20292	Pte	John Patrick GUINANE	Camerons of Canada

1. The following is a fair and true summary of the entries in the ~~Service and General~~ Regimental and Squadron, Battery Conduct sheets ~~or Company Conduct sheets~~ of the accused, exclusive of convictions by a Court-Martial or a Civil Court, ~~Air Force Act~~ of summary awards under Section 47 of the Army Act and of cases in which trial has been dispensed with.

	Within last 12 months	Since enlistment
For Absent without leave	1 times	Absence Twice times
For	times	Sec 40 Twice times
For	times	times
For	times	times

Number of instances of gallantry or distinguished conduct

or,

~~There are no entries in the conduct sheets of the accused.~~

NOTE:—If the charge is for drunkenness, the entries for drunkenness must be stated separately.

2. ~~The accused has not been previously convicted~~

or,

Previous convictions of the accused by a court-martial or a civil court, of summary awards under ~~Air Force Act~~ A.F.A. 78 Section 47 of the Army Act and dispensations with trial under A.A. 73 are set out in the Schedule annexed to this statement.

3. The accused is not under sentence at the present time.

or,

~~The accused at the present time is under sentence for ..... beginning on the ..... day of .....~~

4. The accused has been in confinement awaiting trial on the present charges, for NIL days in civil custody, and ~~45~~ 45 days in military custody, making a total of ~~45~~ 45 days in custody, of which 9 days were spent in hospital.

5. The present age of the accused according to his record of service is ~~attestation paper is~~ 35 years 3 months

6. The date of his ~~attestation~~ specified in his record of service is ~~attestation paper~~ 12 Jun 40

7. The service which the accused is allowed to reckon towards discharge is 3 yrs 3 months 4 days 3 yrs 3 months 4 days

8. The accused is entitled to reckon ..... service for the purpose of determining his pension, etc.

9. The accused is in possession of or entitled to no air force decoration, or air force reward (or is in possession of or entitled to). State any air force decoration or reward. military military

10. (If the accused is a warrant officer.) The accused before he was made a warrant officer held the regimental rank of NA

H
Nathans Wks

11. (In the case of an officer.) The accused holds in the Royal Canadian Air Force the rank of Permanent Force
.....dated..... unit, and in his regiment (or corps), the rank of
.....dated.....

12. The accused has served as a non-commissioned officer continuously, without reduction, to the present date:—

.....Date of promotion.

In the rank of.....years.

In the rank of.....years.

In the rank of.....years.

NOTE:—If any matter in any of the above paragraphs cannot be stated from the Regimental books, the paragraph must be struck through.

SCHEDULE

Of convictions by a court-martial or civil court, of summary awards under Section 47 of the Army Act, and of cases in which trial has been dispensed with of accused, Number R62972 Rank Pte
Name John Patrick GUINANE of Camerons of Canada Regiment

NOTE:—A verbatim extract from the regimental books stating these convictions and dispensations with trial must be inserted.

Description of Court by which tried	Date and Place of Trial	Charge upon which convicted	Sentence of the Court	Punishment Remitted
FGCM	26 Sep 42	AWL 20 days 19 hrs 45 mins	60 days detention	20 days remission

I hereby certify that the foregoing schedule of convictions and dispensations with trial is a true extract from the regimental books in my custody.

Signed this 16 day of Sep 43

Adjt (C.P. Kidd) Capt
Camerons of Canada

The above statement (with the schedule of convictions and of cases in which trial has been dispensed with) is read, marked ..... signed by the president, and annexed to the proceedings.

No. H20792 Name GUIHANE, J.P. Sqn., Battery, or Company — Corps Q.O.C.H. of C. Date of enlistment 12/6/40 G.C. Badges — Service or Proficiency Pay — M.F.M. 6 (A.F.H. 122) 40-P & S/130 (2857)

Date of last entry in Company Conduct Sheet — No. and date of last drunk — Period not reckoning towards freedom from extra fine — Sheet No. 2. — Signature G.C. Company, etc. — Character

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order thereon- sting with true	By whom awarded	Remarks
Ft. Cdo. Nr. Brs.	1/2/41	Pte.		1. ABSENT FROM FIRE PIQUET, CAUSING ANOTHER MAN TO TAKE HIS PLACE.	Doc'y. Sgt. EDWARDS, H.A. H/Cpl. MITCHELL, R.	28 days DETENTION.	7/2/41	Lt. Col. R. G. Graham.	28 days pay.
				2. AWL. FROM 1800 hrs 1/2/41 TO 0700 hrs 2/2/41. (13 hrs).					
				3. BREAKING OUT OF BKS. WHILE UNDER OPEN ARREST.					
				4. BREAKING INTO BKS. AT 1820 hrs 6/2/41. WHILE UNDER OPEN ARREST.					
				5. AWL WHILE UNDER OPEN ARREST. FROM 2130 hrs 2/2/41 TO 1830 hrs 6/2/41. (3 days 21 hrs 30 mins).					
Field	4/5/41	Pte.		AWL 28 days 19 hrs 45 mins.	Doc'y	56 days detention	28/9/41	F.S.C.M.	21 days Pay. (P.I.O.)

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award of or order dispensing with trial	By whom awarded	Remarks
Fieldd	28/5/43.	Pte.		AA Sec 15. AWL From 0800 hrs 29 May 43. To 0730 hrs 30 May 43. (23 hrs. 31 mins).	Cpl Blair. Pte Cy.	28 days. F.P.	3/6/43	Lt Col A.T. Law.	1 days Pay.

Certified True Copy - 6 Aug 43.

I
Paddams Maj

46-126

Pte Gaisnane J.P.

O. H. M. S.

M. F. B. 270

SCHEDULE.

PART I. PLEA(S), FINDING(S) AND SENTENCE.

Accused: H20292 Pte John Patrick GUINANE - CIC - 2 CITH

Charge. (Insert "alternative" where applicable.)	Plea. (See instrs p 2.)	Finding. (See note below.)	(Space for use as required for further charges, accused charged jointly, special findings, etc.)
1st AA Sec 15(1)	GUILTY	GUILTY	
2nd AA Sec 15(1)	GUILTY	GUILTY	
3rd AA Sec 16(1)	GUILTY	GUILTY	
4th AA Sec 15(1)	GUILTY	GUILTY	
5th			
6th			

(Note: As to findings for lesser offences see AA 56, RP 44; findings on alternative charges see MML p 483 fn 4 para 2, RP 44; special findings see RP 44 and MML p 753, and in lieu of kit see RP 44 fn 6.)

~~At present under sentence for~~ ~~beginning on (date)~~ (1)
(1. Insert sentence being served, or delete, if not applicable. See RP 46(A). Information should be found on MF B355 or AF B296.)

Time in confinement awaiting present trial—a total of 80 days, of which 66 days were spent in hospital.(1)
(1. See RP 46(A) fn 2. Information should be found on MF B355 or AF B296 admitted in evidence under E2.)

Sentence Awarded by the Court:
To undergo Detention for a period of One(1) Year and to be put under stoppages of pay until he has made good £1-4-8 the expenses of his arrest and return to his unit 17 Jan/45

(Sgd) ..... (Sgd) .....
Judge-Advocate, if any. Date awarded. President. (RP 45, 50.)
(See back of Convening Order as to assembly and disposal of record after trial.)

PART II. MINUTE WHERE CONFIRMATION RESERVED. (AA 54(5), RP 120(F), MML p 760.)

Date ..... (Sgd) ..... Commanding .....

PART III. DECISION OF CONFIRMING OFFR ON FINDING(S) AND SENTENCE.

(For duties and powers see AA 54, 57, RP 27(2) fn 6.46(A), 51-56, 120, MML pp 759-761, KR Can 567-577. Acquittals require no confirmation and cannot be revised: AA 54(7). Sending back finding or sentence for revision by Court: AA 54(2), RP 120(G). If not confirmed, accused may be tried again: AA 157, MML p 64. Minute of confirmation or non-confirmation must be altered before promulgation: RP 53, MML p 65. Quashing after promulgation: KR Can 573. Duties and powers of reviewing offrs: AA 57, 57A, RP 53A, 54. The Confirming Offr must sign here personally, AA 172 fn 1.)

My decision on the finding(s) and sentence set forth in Part I is:

Confirmed

~~I direct that the accused be not committed to prison or detention barracks until further orders.~~ (1)
(1. AA 57A. Delete if not used.)

Date 18 Jan 45. (Sgd) ..... Brig
Commanding 18 Cdn Inf Bde Comd

PART IV. PROMULGATED AND EXTRACTS TAKEN. (RP 53, KR Can 576, 577.)

Accused.	Date.	Signature of Offr.
H20292 Pte John Patrick GUINANE	29 Jan 45	..... (~~AA Part~~ Adjt) ~~and~~ Adm Offr 2 CITH

ENTERED ORDER No. 27
DATE 1 Feb 45
BY [illegible]

ALL DELETIONS AND ALTERATIONS WILL BE INITIALLED.

RECORDED AT CMHQ IN AP 100, 40-126

FIELD GENERAL COURT-MARTIAL

CPA95 (In lieu of AFA81) 40/F & R/1688 (61441) 4/38B

Convened by Order of Colonel C B Ware, DSO A/Comd 13 CITH dated 13 Jan 45

ACCUSED.

(As to the trial of two or more charged jointly see RP 16, 71, 109. As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

Number.	(a) Prmnt R. (b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
H20292	Pte	John Patrick	GUINANE	CIC 2 CITH

PROCEEDINGS REVIEWED
[illegible]
REVIEWING OFFICER, AG BRANCH C.M.H.Q.

PROCEEDINGS OF TRIAL.

Held in the Fd in (country) England on (date(s)) 17 Jan 45

RECORD FORM A—OPENING PROCEEDINGS AND ARRAIGNMENT.

A1. The President, Members, waiting ~~Member, JA, if any,~~ and ~~Offrs under instr, if any,~~ assemble, and the Court is closed.

(PRINTED MATTER, NOT IN ITALICS FOR GUIDANCE, WILL BE DELETED, IF NOT USED OR APPLICABLE, AND INITIALLED BY PRES OR JA. The Schedule referred to throughout is on p 4. Citations do NOT include all relevant fns RQs. For guidance on procedure when a variation in this form arises, see Form for GCM in MML pp 741 to 759. A brief record of such variation will be made and given a number having reference in appropriate or preceding para number herein. See back of Convening Order, CF A95, for oaths and instrs on how to record addresses, evidence, etc, which insets are hereafter called "Notes". As to general provisions for conducting the trial see AA 53, RP 56, 63-70, 73, 74, 94, 103, 119, 132.)

A2. The President initials and lays before the Court the Convening Order and Charge Sheet(s) attached thereto.(1) The Court is satisfied that it is properly convened and constituted,(2) accused is (are) amenable to military law, and each charge discloses an offence.(3)
(1. As to use of Summary of Evidence see RP 17 fn 6. 2. AA 49, 50, RP 105-107. 3. RP 11-13, 23, 24.)

A3. The Court is opened. The accused is (are) brought before the Court. At 1235 hours trial commences.

A4. The Prosecutor produces a Medical Certificate that accused is (are) fit to undergo trial by court-martial.(1) ~~The Prosecutor informs the Court that accused elected to be tried by court-martial instead of being dealt with summarily by the CO.~~(2)
(1. KR Can 557. 2. AA 46(B), RP 60 fn 1. For effect see KR Can 563(c). Delete, if not applicable.)

A5. ~~President to accused:~~ Do you object to ~~the interpreter~~ ~~as interpreter~~? Ans .....
~~The Interpreter is sworn.~~(1) Do you object to Pte [illegible] as shorthand writer? Ans No
The shorthand writer is sworn.(1) C-7603c Cpl CHANLEY, N.D.
(1. RP 72. Delete, if none employed.)

A6. The Convening Order and names of the President and Members of the Court are read to the accused.(1) President to accused: Do you object to be tried by me as President or by any of the Members of the Court?
Ans No (sd)
(1. RP 110. 2. If no objection, waiting member retires. RP 66(B). If objection, see procedure AA 51, RP 25, 71, 118, MML p 742.)

A7. The President, Members, ~~JA, if any, and Offrs under instr, if any,~~ are sworn.(1) The following are the ranks, names and units of the offrs comprising the Court, etc:

President	LT-COL	D.L. REDMAN	HQ CRU
Member	CAPT	R.D. YUILE	3 CITH
Member	LT	L.P. POIRIER	4 CITH
~~Judge-Advocate~~			
Prosecutor	LT	J.E. LAKE	2 CITH
Defending Offr	LT	J. CADIEUX	2 CITH

Questions by President: Is the Prosecutor a lawyer? Ans Yes Is the Defending Offr a lawyer? Ans No (2)
(1. RP 26, 27, 109, 111. List of offrs under instr will be returned separately with proceedings for information of Conv Offr.)
(2. If Pros a lawyer and Def Offr not, accused is entitled to an adjournment when RP 89 (B) and fn 2 were not followed. See D1 p 3.)

A8. The accused ..... before arraignment make(s) (no) (~~of~~ plea
The accused waives 7 days notice that Pros is a lawyer (1)
(1. If a special plea is made for separate trial on one or more charges (RP 62(E), 106), or as to the jurisdiction of the Court (RP 34, 35(A), 113), or in bar of trial (RP 36), or as to accused's mental fitness to stand trial (AA 130, RP 57), or by one of several accused charged jointly to be tried separately (RP 16, 71), such plea, the addresses made in support or against, the evidence, if any, and finding are recorded per Notes. For forms of record see references in fns to RoP cited. Insert in AB rank and name of the accused making the plea.)

A9. The accused is (are) arraigned (separately) on all charges in the charge sheet.(1) The accused does (~~do~~) not object to any charge.(2) There is no amendment to be made to the Charge Sheet.(3) The President records the pleas in Part I of the Schedule.
(1. RP 31, 112. See para 1 of Instrs p 2. When more than one Charge Sheet see RP 62; when several accused to be tried separately see RP 71(C), and use separate copies of CF A96 to record proceedings. 2. RP 32, RP 33. If otherwise, delete and make appropriate record per Notes.)

A10. The Court (is closed and) considers the Instrs on Procedure after Arraignment at top of p 2. The proceedings are continued on Record Form No 3

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

INSTRUCTIONS ON PROCEDURE AFTER ARRAIGNMENT.

1. *The accused may not plead or be found Guilty on more than one of two or more charges laid in the alternative. (RP 37(A).) As to withdrawal of alternative charges by Prosecutor see RP 35(C). No other charge can be withdrawn for any reason without authy from Convening Offr. If Convening Offr concurs, Court may accept plea of Guilty to lesser, etc, offence. (RP 44(H).) Accused may change a plea of Not Guilty to Guilty during trial. (RP 38.) As to refusing to plead or not pleading intelligibly see RP 35(A). As to plea when sentence may be death see RP 35(D).*

2. *The proceedings on each charge sheet (RP 62) after arraignment will be conducted as follows in the respective circumstances stated:*

I. If pleas to all charges are GUILTY, use Record Form B below.

II. If pleas to all charges are NOT GUILTY, use Record Form D on p 3.

III. If pleas to some charges are GUILTY and to other charges are NOT GUILTY and,

(a) *Such mixed pleas occur when there are no alternative charges in the Charge Sheet, use Record Form C below. (RP 37(A).)*

(b) *Such mixed pleas occur in a set of two or more charges laid in the alternative, see RP 37 (A) and fn 2 as to discretion of Court, (i) to try the accused on all such alternative charges as if he had pleaded Not Guilty thereto, or, (ii) to record the pleas as the findings of Court. After deciding between (i) and (ii), Court will proceed under foregoing instrs as may be appropriate to result of its decision. See MML p 144 Instrs (2).*

3. *As to responsibility of President to accused see RP 59, 60(C); powers and duties of JA see RP 103; duty of Prosecutor see RP 60(A) (B); duty and privileges of accused and Defending Offr see RP 60(C), 87(C), 91, 92; swearing and withdrawal of witnesses from Court see RP 81, 82; questioning of accused see RP 80, 87(C), 92(B), and of witnesses see RP 83-85; calling or re-calling of witnesses by Court, etc, see RP 75-79, 86, 116; use of Summary of Evidence at Trial see RP 17(E) fn 6; and responsibility of JA or Pres to record proceedings see RP 94, 96.*

RECORD FORM B—PROCEEDINGS ON PLEAS OF GUILTY TO ALL CHARGES.

B1. The President ~~or JA~~, if any, complies with RP 35(B) by explaining to the accused the nature and meaning of the charge(s)(1), and that on his plea of Guilty there will be no regular trial but merely a consideration of the sentence to be awarded after he has been given an opportunity to make a statement in reference to the charge(s), call witnesses as to character and make an address in mitigation of punishment.(2)
(1. *RP 35 fn 3.* 2. *MML p 54 para 47.*)

B2. President to accused: The Court will now receive any statement you desire to make in reference to the charge(s).(1) If it appears from your statement that there are circumstances which indicate that you do not understand the effect of the plea of Guilty(2), or which show provocation or extenuation in respect of which in your interest the witnesses for the Prosecution should be examined(3), we shall advise you to change your plea to Not Guilty. In making a statement you will not be sworn or subject to cross-examination; and anything you say will not be used in evidence against you after you change your plea. If, however, it appears to the Court that your statement affects only the amount of punishment to which you are liable, you will not be advised to change your plea and you will be given an opportunity later to prove your statement by sworn testimony, if you so desire.(4)

President to accused: Do you wish to make a statement? Ans NO - SIR (5)
(1. *RP 37(B).* 2. *RP 37(D) fn 6.* 3. *RP 35(B) fn 5 para 3, MML p 54 para 47.* 4. *See para E3 of Record Form E.* 5. *Statement, if any, recorded per Notes.*)

B3. ~~The Court considers the accused's statement.(1) The Court decides (not) to advise accused to change his (their) plea(s) of Guilty to Not Guilty on charge(s). The accused is (are) so informed, and he (they) change(s) his (their) plea(s) on charge(s). Part I of the Schedule is amended accordingly.~~
(1. *Court may be closed to consider the statement. Delete whole or part not used.*)

B4. On the charge(s) to which the plea(s) of Guilty is (are) not changed the President records finding(s) of Guilty in Part I of the Schedule.(1)
(1. *RP 35(B). If any plea(s) is (are) changed, use Record Form C or D as appropriate.*)

B5. The Summary of Evidence is marked Ex A, initialled and read aloud by the President.(1)
(1. *If there is no Summary, or if it is inadequate, comply with RP 37(B). If there is any evidence inconsistent with any plea standing as Guilty, Court will advise accused to change such plea and, if changed to Not Guilty, try such charge(s) by use of paras D1 to D8 inclusive of Record Form D on p 3.* RP 37(D).)

B6. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

RECORD FORM C—PROCEEDINGS ON MIXED PLEAS OF GUILTY AND NOT GUILTY.

C1. As to the charges on which accused pleaded NOT GUILTY the trial is continued by using paras D1 to D8 inclusive of Record Form D on p 3 before proceeding with C 2.(1)
(1. *RP 37(A) (E).*)

C2. The charges on which accused pleaded GUILTY are read to him (them) again, and the trial is continued by using paras B1 to B5 of Record Form B above.(1)
(1. *Under B5 such parts only of the Summary of Evidence are read as relate to the charges dealt with under C2. If any plea is changed to Not Guilty, trial thereon proceeds by complying with paras D1 to D8 inclusive in Record Form D on p 3 and making an appropriate record thereof on a separate sheet.*)

C3. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

RECORD FORM D—PROCEEDINGS ON PLEAS OF NOT GUILTY TO ALL CHARGES.

D1. President to accused: Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity to prepare your defence? Ans.....(1)
(1. *If "yes", see RP 39(A) for procedure. Statement or evidence, if any, is recorded per Notes.*)

D2. The Prosecutor makes (an) (no) opening address.(1)
(1. *RP 39(B), 60(A) (B), 90, 92(C) (D). Record address per Notes, subject to RP 95(C).*)

D3. The evidence for the Prosecution is taken.(1)
(1. *RP 39(C), 114, KR Can 555. Record evidence per Notes. As to Prosecutor giving evidence himself see RP 39(D) (E).*)

D4. The Prosecution is closed.(1) The Defending Offr submits that the evidence for the Prosecution does not establish a prima facie case against the accused on the charge(s).(2) The Court is closed, and considers the submission.(3) The Court is re-opened, and the President announces that the submission is disallowed on the charge(s), and allowed on the charge(s), and that, accordingly, the trial will proceed on the former, but the accused is (are) found Not Guilty on the latter charge(s).(4)
(1. *Delete remainder of this para, if submission not made.* 2. *Arguments on submission, answer and reply are recorded per Notes.* 3. *RP 40 fn 1. See MML p 72 paras 12-14 and p 81 para 42.* 4. *Delete part not used. If accused acquitted on all charges, use second alternative in para D8.*
NB: If trial proceeds, accused must be allowed great latitude in making his defence, and the Court should not stop his defence solely on ground of irrelevance. (RP 60(C), 114, 115.)

D5. President to accused: You will now proceed with your defence.(1) You may, if you wish, give evidence yourself on oath as to the facts or your character or both, in which case you will be subject to cross-examination.(2) You may, however, make a statement without being sworn, and you will not be subject to cross-examination.(3) But a statement which could have been made on oath will not carry with the Court the same weight as sworn testimony.(4) You may call witnesses in your defence and as to character, whether you give evidence or make a statement or do neither.

President to accused: Do you wish to give evidence yourself as a witness, make a statement, or do neither? Ans..... Do you intend to call witnesses on your behalf? Ans....., Are they witnesses as to character only? Ans.....
(1. *RP 115.* 2. *RP 40(A), see 80(D).* 3. *RP 40 fn 10.* 4. *RP 40 fns 2, 9.*)

D6. Consequent on the answers recorded in para D5 the appropriate procedure for the defence is followed.(1)
(1. *RP 114, 115, 116. For procedure see Notes on back of Convening Order. CF A65. Evidence for accused as to his character should, if in his interest, be given before the finding. See RP 46(A) fn 1, 86(C). Note the further opportunity in para E1 of Record Form E. Record per Notes addresses, statement, evidence and any summing up to the JA under RP 42, 103(e).*)

D7. The Court is closed to consider the finding(s).(1) The finding(s) of the Court is (are) recorded in Part I of the Schedule.(2) The Court is re-opened.
(1. *RP 43, 117(A). See Notes in Part I of Schedule.* 2. *RP 44(A).*)

D8. The President announces the finding(s), if any, of Not Guilty, and states to the accused that the finding(s) of the Court on the charge(s), being subject to confirmation, will be promulgated later.(1)
Or, The President announces that the accused is found Not Guilty on all charges and is to be released forthwith, and that the proceedings are accordingly terminated. Part I of the Schedule is dated and signed.(2)
(1. *AA 54(3) (6), RP 45, 120(A).* 2. *AA 54(3), RP 45, 117. This alternative pronouncement is not applicable when there are pleas of Guilty outstanding and dealt with under Record Form B as C.*)

D9. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E below.

RECORD FORM E—PROCEEDINGS ON CONVICTION BEFORE SENTENCE.

E1. President to accused: Do you wish to give evidence yourself or to call any witnesses as to your character?(1)
Ans NO - SIR
(1. *If evidence has already been given by accused or his witnesses as to his character, delete this para. RP 37(C) fn 4, 46 fn 1. Accused and witnesses are sworn. Evidence recorded per Notes.*)

E2. The Prosecutor produces Statement(s) as to Character and Particulars of Service(1), and certified true copy (copies) of Conduct Sheet(s)(2), purporting to refer to the accused, which he submits to the Defending Offr for examination, and then to the Court for admission in evidence. The Court is satisfied that these documents refer to the accused, because (i) they purport to be signed in the manner required by AA 163(1) (g) (h), and (ii) they purport to refer to (a) soldier(s) having the same number, rank, name and corps as the accused. Admitted in evidence and marked Ex B and Ex C respectively.(3)
(1. *AFB 355 or AFB 256.* 2. *MFM 6.* 3. *RP 46, KR Can 558. If above documents not produced, see RP 46 fn 1 para 1.*)

E3. President to accused: Do you wish to address the Court on the Statement(s) and Conduct Sheet(s), and in mitigation of punishment?(1) Ans By my Letter (2)
(1. *RP 37(C), 46(D).* 2. *Address, if any, recorded per Notes. Court should permit accused or his witnesses to prove on oath anything here or previously stated which would affect the amount of punishment. RP 37(F) fn 7.*)

E4. The President states that the Court is closed to consider the sentence, and that the sentence to be awarded by the Court, being subject to confirmation, will not be announced, but will be promulgated later, and the proceedings in open court are accordingly terminated.(1)
(1. *AA 54(6), RP 120(A).*)

E5. The Court considers the sentence.(1) The President records the sentence in Part I of the Schedule, which is dated and signed by him and the JA, if any.(2)
(1. *When several accused tried separately see RP 71 (D). One sentence only, comprised of the punishment or punishments laid down in AA 41, 44 and its proviso, is to be awarded to cover all charges in all charge sheets on which accused found guilty. RP 48. As to sentences see AA 44, 138, 182, RP 46-50, 69, 118, 119(A), KR Can 308, 330, 563-566, Overseas RO 309, 2323, MML p 60, 757-759. As to sentences assigned for civil offences by the law of England see AA 41(5), MML p 130. When accused already under sentence of imprisonment or detention see AA 44(18), 68(7), KR Can 564.* 2. *RP 50. As to release from arrest by Confirming Offr see KR Can 567. As to assembly and dispersal of record after trial see instrs on back of Convening Order.*)

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

CHARGE SHEET

The accused, H.20292, Pte. John Patrick QUINANE, CIC, on strength of 2 Cdn. Inf. Trng. Regt., a soldier of the Cdn. Army Overseas, is charged with:-

FIRST CHARGE
Sec 15(1) Army Act

WHEN ON ACTIVE SERVICE, ABSENTING HIMSELF WITHOUT LEAVE

in that he

In the Field at 0845 hrs. 3 Jul 44 illegally absented himself without leave from 4 Cdn. Conv. Depot, RCAMC, until he was apprehended by the Cdn. Provost Corps at York at 1450 hrs. 28 Jul 44.

(Total time absent: 25 days, 6 hrs. 5 min.)

SECOND CHARGE
Sec 15(1) Army Act

WHEN ON ACTIVE SERVICE, ABSENTING HIMSELF WITHOUT LEAVE

in that he

In the Field, at 0615 hrs. 11 Aug 44 illegally absented himself without leave from 2 CIRU until he surrendered himself to the C.M.P. at Nottingham at 2330 hrs. 19 Aug 44.

(Total time absent: 8 days, 17 hrs. 15 min.)

THIRD CHARGE
Sec 15(1) Army Act

WHEN ON ACTIVE SERVICE, ABSENTING HIMSELF WITHOUT LEAVE

in that he

In the Field, at 2100 hrs. 30 Sep 44 illegally absented himself without leave from Ragley Hall Hospital, Worcester, until he was arrested by the Cdn. Provost Corps at 2310 hrs. 5 Oct 44, thereby incurring costs of apprehension and return in amount of £1-4-8.

(Total time absent: 5 days, 2 hrs. 10 min.)

FOURTH CHARGE
Sec 15(1) Army Act

WHEN ON ACTIVE SERVICE, ABSENTING HIMSELF WITHOUT LEAVE

in that he

In the Field at 2100 hrs. 9 Oct 44 illegally absented himself without leave from Ragley Hall Hospital, Worcester, untilhe was apprehended at Birmingham at 0115 hrs. 29 Oct 44.

(Total time absent: 19 days, 4 hrs. 15 min.)

Laurentide Camp.
18 Jan 45.

(J A Wilson) Col
Comdr.
2 CITR.

To be tried by Field General Court Martial.

In the Field
13 Jan 45

(C B Ware) Col
A/Comd
13 Cdn Inf Trg Bde

FIELD GENERAL COURT-MARTIAL

(Whether the accused to be tried is under his consent or not, a FGCM may on application to him be convened by any offr of Cdn Army Overseas, or of any other force if authorized in law, in immediate comd of troops on active service, subject to RP 105(C) and restrictions imposed by appropriate authy. AA 49, 50, RP 104-107, 114. As to the duties and privileges of the Convening Offr in dealing with the application see MML Chap V paras 20 and 23. RP 87(B).

There should be a separate Convening Order for each person to be tried separately by the same Court. RP 71(C), 109. As to separate charge sheets see RP 62, and as to separate trial on charges in the same charge sheet see RP 108. As to two or more accused charged jointly see RP 16, 109.

As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

ACCUSED.

Number.	(a) Prmnt R.	(b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
H20292	Pte		John Patrick	GUINANE	CIC 2 CITR

CONVENING ORDER.

1. Whereas complaint has been made to me, the undersigned, that the person(s) named above as the accused, being subject to military law, has (have) committed the offence(s) set forth in the Charge Sheet(s) attached and on (date) 10 JAN 45 endorsed by me, ~~for by my offr of my rank or rank~~ " To be tried by Field General Court-Martial ";

2. And whereas I am of opinion that it is not practicable that such offence(s) should be tried by an ordinary General Court-Martial ; (~~and that it is not practicable to delay the trial for reference to a superior qualified offr.~~)
(Delete part in brackets when not required for compliance with RP 105(C).)

3. I hereby convene a Field General Court-Martial to try the said person(s), and to consist of the Offrs appointed or detailed hereunder.

~~I am unable to appoint to this office before the Court, (b) a Bde Offr as President, for the reasons I have attached hereto.~~
(AA 49, RP 106(B), 107(A). Delete the whole or part, if not applicable.)

~~I also appoint as Judge Advocate thereat the Offr mentioned hereunder.~~
(RP 106(E). Delete, if none appointed.)

PRESIDENT.

(Rank.)	(Must be named. RP 106.)	(Unit.)
LT COL	D L REDMAN, VD	HQ CBU

MEMBERS.

(Rank.)	(Named or detailed. RP 106.)	(Unit.)
Captain	to be detailed by Commanding officer	3 CITR
Lieutenant	to be detailed by Commanding officer	4 CITR

WAITING MEMBER.

(Rank.)	(Named or detailed, if any. RP 106.)	(Unit.)
Captain	to be detailed by Commanding officer	1 CITR

~~JUDGE ADVOCATE.~~ (Nil)

(Rank.)	(Must be named, if any. RP 106.)	(Unit.)

On Active Service in the Fd

in England (Country.)

(Signed personally. RP 105 fn 2.) Colonel (Rank.)

(C B Ware)

Date 13 Jan 45

Commanding 13 Cdn Inf Trg Bde
Convening Officer.

CONVENING OFFR WILL INITIAL ALL DELETIONS AND ALTERATIONS

4/38A (FAMS (Tp Strs) Of AFAS) (See overleaf for oaths and notes for use on trial.)

MED OFFRS CERTIFICATE 2 CITR/21

K.R.Can Para 557

I certify that I have this morning examined No H222.92.....

....PTE. CHINNAK...J.P..... and in my opinion he

is ~~UNFIT~~ FIT to undergo trial by Court Martial.

Station: Laurentide Camp ..... Attached to 2/CITR

Date: 17-JAN-42

7/H-70292 Pte. John Patrick Guinane

He was enlisted in 1940 at Sydney and he came to England in 1941, has been in hospital most all the time.

In January 1944 he broke his leg and was sent to hospital

No reason for being A.W.L. but when absent never did any thing wrong, on the contrary he work with farmers all the time.

We are ready to accept sentence of the court, but considering his age, I will ask the court to be lenient in giving the sentence

Has been in detention since 29 Oct. 19-4.

Remand Cadiem to
Depending appeal

E-3
1M7

SUMMARY OF EVIDENCE

In the case of H.20292, Pte. John Patrick GUINANE, CIC, on strength of 2 Cdn. Inf. Training Regiment, a soldier of the Cdn. Army Overseas.

BY DIRECTION OF THE COMMANDING OFFICER, THIS SUMMARY OF EVIDENCE IS TAKEN ON OATH.

.....

First Witness Prosecution.

Lt. H.J. Boake, Reg. H.Q., 2 C I T R, having been duly sworn, states as follows:-

"I am Lt. H.J. Boake, Reg. H.Q., 2 C I T R, and I produce the following exhibits for the prosecution:

Exhibit "A": Certif. True Extracts from 4 Cdn. Convalescent Depot, RCAMC, Pt. II Daily Orders No. 6 of 14 Jul 44 and No. 8 of 28 Jul 44, showing A.20292, Pte. Guinane, J.P. illegally absented himself without leave from 0845 hrs. 3 Jul 44 and that he was still so absent on the 8th and 22nd day.

Exhibit "B":- Certificate dated 29 Jul 44, signed by Lt. T. Crawshaw of No. 7 Provost Coy., Cdn. Prov. Corps, showing that H.20292, Pte. GUINANE, J.P. was apprehended by the Cdn. Prov. Corps at York at approx 1450 hrs. on 28 Jul 44.

Exhibit "C": Certified Extract from 2 CITR, Pt. II Daily Order No. 195, d/17 Aug 44 showing H.20292, Pte. Guinane, J.P. illegally absented himself without leave from 0615 hrs. 11 Aug 44.

Exhibit "D":- Certif. under A.A. Sec. 163 (1) (j) showing that H.20290, Pte. Guinane, J.P. surrendered himself to the C.M.P. at Nottingham at 2330 hrs. 19 Aug 44.

Exhibit "E": Certif. in accordance with P.C. 2797, showing that H.20292, Pte. Guinane, J.P. was arrested at London at 2310 hrs. 5 Oct 44.

Exhibit "F":- Expense Voucher showing costs of appreh. & return of H.20292, Pte. Guinane, J.P. from London to Evesham in amount of £1-4-8.

Exhibit "G": Certif. in accord. with A.A. Sec 163 (1) (j) showing that H20292, Pte. Guinane, J. was arrested at Birmingham at 0115 hrs. 29 Oct 44.

WHICH ABOVE EXHIBITS PERTAIN TO THE ACCUSED HEREIN.

The accused declines to cross-examine this witness.

H.J. Boake Lieut.
(H.J. Boake)

(Cont'd Page 2)

SUMMARY OF EVIDENCE

In the case of H.20292, Pte. John Patrick GUINANE,CIC, on strength of 2 C.I.T.R., a soldier of the C.A.(O)

(Continued)

Second Witness Prosecution. Major D.J.E. Lamb, Military Registrar, Group Officer, W9/78 H.Q., Ronkswood Emergency Hospital, Newtown Road, Worcester.

A written statement of this witness's evidence purporting to be signed by him has been read to the accused and is included in this Summary of Evidence and marked Appendix "A".

Having regard to the expense and loss of time involved, attendance of this witness cannot in my opinion be readily procured.

The accused does not demand the attendance of this witness for cross-examination.

.....(P. Saperia).....Lieut.
Officer detailed to take the Summary of Evidence.

Third Witness Prosecution. C.S.M. Warner, J.W. of Rugley Hall Hospital, Worcester.

A written statement of this witness's evidence purporting to be signed by him has been read to the accused and is included in this Summary of Evidence and marked Appendix "B".

Having regard to the expense and loss of time involved, attendance of this witness cannot in my opinion be readily procured.

The accused does not demand the attendance of this witness for cross-examination.

.....(P. Saperia).....Lieut.
Officer detailed to take the Summary of Evidence.

The accused was cautioned as follows:

"Do you wish to make any statement or to give evidence on oath? You are not obliged to say anything or give evidence unless you wish to do so, but whatever you say or any evidence you give will be taken down in writing and may be given in evidence."

The accused declines to make a statement and reserves his defence.

I certify that the foregoing Summary of Evidence consisting of two pages was taken down by me in the presence and hearing of the accused and that Rules of Procedure 4 (C) (D) (E) (F) and (G) have been complied with.

.....(P. Saperia).....Lieut.
Officer detailed to take the Summary of Evidence.

Laurentide Camp,
10 Jan 45.

EXA

4 CANADIAN CONVALESCENT DEPOT, RCAMC

4CD 6-0
3 Jan 45

Exhibit A

Officer Commanding
2 C.I.T.R.
Cdn Army England.

Attn. Lieut. Sayeria, WRC

1. Below are certified true extracts of our Part II Order No.6 Para. 8(a) d/14 Jul 44 and Part II Order No. 8 Para. 6 (a) d/28 Jul 44 in regard to the illegal absence of A20292, Pte. Guimane, J.P.

ABSENT WITHOUT LEAVE

(a) AWL from 0845 hrs 3 Jul 44 Still absent 0845 hrs 11 Jul 44.
A20292, Pte. Guimane, J.P. 2 CIRU (8 Days)

(a) AWL from 0845 hrs 3 Jul 44 Still absent 0845 hrs 25 Jul 44.
A20292, Pte. Guimane, J.P. 2 CIRU (22 Days)

Certified True Copies.
A. E. Locke (Capt.)
O/C Records
No 4 Cdn Conv Depot

2. For your information please.

W. T. Abbott

(W.T. Ibbott) Lt Col
Commanding Officer
4 Canadian Convalescent Depot, RCAMC.

WTI/lw

2 C.I.T.R. RECEIVED 5 - JAN 1945 1400 hrs

MJ

No.7 PROVOST COMPANY,
CANADIAN PROVOST CORPS.

Exhibit "B"

5-4-5

Date 29 July 44

I certify that Reg. No. H-20292 Rank PTE.

NAME GUINANE, J.P. UNIT #4 C.D.

WAS APPREHENDED BY L/CPL. JACKSON OF THE CDN. PROVOST CORPS.

No.7 PROVOST COY. IN CITY OF YORK

ON THE 28th DAY OF JULY 1944, AT approx. 1450 HRS.

AT THE TIME OF HIS APPREHENSION HE WAS WEARING MILITARY UNIFORM

CDN. CONV. DET. ORDERLY ROOM JUL 31 1944 1630 R.C.A.M.C.

(T.Crawshaw) Lieut.
No.7 Provost Company,
Canadian Provost Corps

Exhibit C

2 CANADIAN INFANTRY TRAINING REGIMENT

Last Order No: 194 d/ 16 Aug 44

PART II DAILY ORDERS BY: A/COLONEL J A WILSON, COM'ANDER

This Order No: 195 d/ 17 Aug 44

Para

12. ABSENTEES

(a) Absent more than 24 hrs from 0615 hrs 11 Aug 44.

H-20292 PTE GUINANE J P (QOCH)

M

D. E. Edmondson Capt

CERTIFIED TRUE COPY OF PART II ORDERS J.L. Wenslowe Capt
PURPORTING TO BE SIGNED BY .....
Records Officer 2 C.I.T.R.

6 Jan 1945

.....

Certificate under Army Act, Section 183(1)(i). Exhibit D

...Major J.G. SUTTON... certify that No.H/20290 PTE. GUNAVE, of the QUEENS OWN CAMERON HIGHLANDERS CANADIAN ARMY Regiment surrendered himself to 6/16 PRTE [illegible] 1/Cpl. WOOD, T.H.... 152 H.Q. Provost Company, Corps of Military Police at 23.30 hours... on the 18th day of AUGUST.... 1944, as a deserter/absentee without leave.

Date. 20 Aug 44.

J.G. Sutton Major
152 H.Q. PROVOST COMPANY
NORTHERN COMMAND

ASSISTANT PROVOST-MARSHAL

EXHIBIT E

CERTIFICATE IN ACCORDANCE WITH P.C. 2797 of 10 APR.43

I certify that No. H-20292 Rank Pte Name Guinane.J.P.

Unit Alcester Conv.Hosp was arrested at London (place)

at 2310hrs (hour) on 5-Oct-44. (date) and that at the time of his arrest he was wearing (military uniform) or (xxxxxxxxxxxxxxx)

Signature of Provost-Marshal, Assistant Provost-Marshall, or other officer or the Commanding Officer of the portion of His Majesty's Forces or the officer, warrant-officer, or non-commissioned officer in charge of the detachment of the Canadian Provost Corps, Canadian Army into whose custody the above named person was taken on arrest. (Strike out part inapplicable).

(W.J. Stinson) Capt.
D.A.P.M. C.M.H.Q.

London
6-Oct-44.

Expense Voucher Re—

Ref: KR & O (Can) 539

Reg No. 1120297 Rank Pte Name Quinane, J.P. Unit Aldershot Canad Hosp

The following expenses were incurred in apprehending and returning the M/N Soldier to his Unit From Aldershot

Date	Particulars	Amount		
6 Oct. 14	Escorts return fare from LONDON To Evesham		16	5
	Prisoners single fare to LONDON From Evesham		8	3
	Prisoners fare from To			
	Escorts & Prisoners expenses for Bed, Meals, Bus fares			
	Total £	1	4	8

I certify that the above statement of Expenses is Correct, and that the amounts are fair and just.

CAPT. Capt

R. E. BIRCH.

Officer Issuing Railway Warrant and Expense Voucher
No. 6 Area Provost Company, Canadian Overseas Ord. Units C.P.M.'s 9R.
C.M.H.Q.

CMHQ 1000-51
8/7483/4353650

CERTIFICATE IN ACCORDANCE WITH THE ARMY ACT, SECTION 16

I (already sent No. H/20292 Rank PTE. GUNNER

GUNNER OGG CALDERON was arrested at

01.15 hours hours 29 OCT 1944

HEERTJESBERG

29 OCT 1944

Signature of Provost Marshal or other officer into whose hands the above named Gunner OGG was delivered.

A/Lt.

A.P.C. Brigade

Tele. No. Worcester 4335.

Subject. Discipline. Ref. M1/2/44.

To: The Adjutant,
19 Canadian General Hospital,
Marston Green,
Birmingham.

Appendix A

H.20292 Pte. J.E. Guinane. C.O.C.H. Canadian Army.

1. The above named soldier was transferred from Lincoln Military Hospital to Bagley Hall Auxiliary Hospital on 22nd Sep 44.

2. At 2100hrs on 30th Sep 44 he was found to be absent and remained absent until arrested by Canadian Provost Corps at 2310hrs on 5th Oct 44. On this charge he was remanded by me for trial by Canadian Authorities on discharge from Bagley Hall, and was released from close arrest as it was not practicable to keep him under close arrest.

3. Application was made to you for transfer. I was referred by your Registrar to 23 Canadian General Hospital and by them to 22 Canadian General Hospital who promised to telephone if acceptance was ratified by D.M.S., Canadian Forces. On 9th Oct I was instructed by D.M.S. to transfer GUINANE to you.

4. On 9th Oct Guinane again went absent, and remained absent until arrested in Birmingham by the C.M.P.

5. Enclosed
1. A.F.B.252 (2) in respect of charges preferred 5th Oct 44.
2. Expenses incurred by Canadian Provost Corps.
3. A.F.B.252 in respect of charges arising out of absence para.4 above.
4. D.M.S. letter 10/GUINANE 2R/1 (MO.2) dated 19th Sep 44. To O/C Canada Corps

6. Please ack.

Major, Military Registrar,
Group Officer, #9/18, H.Q.,
Bonkswood Emergency Hospital.

Newtown Road,
Worcester.
2nd Nov 44.

4-1-4

RECEIVED
3 NOV 1944
A.M.

Appendix B

Army Form B 252
(See King's Regulations)

CHARGE

Queen's Own Cameron Highlanders, (Canada). | Regiment / Battery / Squadron / Troop or / Company

"Y" List

CHARGE against No H/20292. Rank Pte.

Name Guinane J. P.

Place Ragley Hall Aux. H. Date of Offence 29/10/44.

OFFENCE W.O.A.S. and a patient in hospital was absent from 2100 hrs. 9/10/44. until arrested at 0115 hrs. 29/10/44.

(Absent 19 days, 4 hrs. 15 mins.)

Names of Witnesses:—

Signature of O.C. Battery, Squadron, Troop or Company: Passed to 19 Coy Essex Regt

Punishment Awarded:

By whom Awarded: Adjutant.

P.T.O.

Appendix B

EVIDENCE

H/20292 Pte Guinane, J. P. has been an absentee from this Hospital from 2100 hrs. 9/10/44, and has not returned since.

C.S.M. Cameron 1 W

REMARKS

M.F.B. 355
22M—5-41 (373-3)
H.Q. 1773-39-620
A.F.B. 390

STATEMENT AS TO CHARACTER AND PARTICULARS OF SERVICE OF ACCUSED

Number	Rank	Name	Regiment (or unit)
H.20292,	Pte.	Patrick GUINANE,	2 CITR.

1. The following is a fair and true summary of the entries in the ~~Conduct sheets~~ or Company Conduct sheets of the accused, exclusive of convictions by a Court-Martial or a Civil Court, ~~Service and Pay Record~~ Regimental and Squadron, Battery of summary awards under Section 47 of the ~~Air Force Act~~ Army Act and of cases in which trial has been dispensed with.

	Within last 12 months		Since enlistment or appointment
For Sec. 15(1)	1	times Sec. 15(1)	5 times
For Sec. 15(2)	0	times Sec. 15(2)	1 times
For Sec 10 (4)	0	times Sec. 10(4)	1 times
For		times	times

~~Number of instances of gallantry or distinguished conduct~~

~~or~~

There are no entries in the conduct sheets of the accused.

NOTE.—If the charge is for drunkenness, the entries for drunkenness must be stated separately.

2. ~~The accused has not been previously convicted~~

~~or~~

Previous convictions of the accused by a court-martial or a civil court, of summary awards under Section 47 of the ~~Air Force Act~~ Army Act and dispensations with trial under ~~A.F.A. 79~~ A.A. 73 are set out in the Schedule annexed to this statement.

3. The accused is not under sentence at the present time.

~~or~~

~~The accused at the present time is under sentence for beginning on the day of~~

4. The accused has been in confinement awaiting trial on the present charges, for 0 days in civil custody, and 80 ~~Air Force~~ days in military custody, making a total of 80 days in custody, of which 66 days were spent in hospital.

5. The present age of the accused according to his ~~record of service~~ attestation paper is 35yrs. 7 mos.

6. The date of his ~~commission~~ attestation specified in his ~~record of service~~ attestation paper is 12 Jun 40

~~7. The service which the accused is allowed to reckon towards discharge is~~

~~8. The accused is entitled to reckon service for the purpose of determining his pension, etc.~~

9. The accused is in possession of or entitled to ~~no air force~~ military decoration, or ~~air force~~ military reward (~~or is entitled to~~ possession of or entitled to). State any ~~air force~~ military decoration or reward.

CVSM & CLASP

10. ~~(If the accused is a warrant officer.) The accused before he was made a warrant officer last held the regimental rank of~~

ET

11. (In the case of an officer.) The accused holds in the Royal Canadian Air Force the rank of Permanent Force
..... dated ....., and in his regiment (or corps), the rank of unit
..... dated .....

12. The accused has served as a non-commissioned officer continuously, without reduction, to the present date:—

In the rank of ..... Date of promotion.
In the rank of ..... years.
In the rank of ..... years.
In the rank of ..... years.

NOTE.—If any matter in any of the above paragraphs cannot be stated from the Regimental books, the paragraph must be struck through.

SCHEDULE

Of convictions by a court-martial or civil court, of summary awards under Section 47 of the Army Act, and of cases in which trial has been dispensed with of accused. Number H20292 Rank Pte. Unit
Name Guinane, J.P. of 2 CITR. Regiment

NOTE.—A verbatim extract from the regimental books stating these convictions and dispensations with trial must be inserted.

Description of Court by which tried	Date and Place of Trial	Charge upon which convicted	Sentence of the Court	Punishment Remitted
FGCM	Field 20-9-42	Sec. 15(1)	60 days Detention. (21 dys pay)	
FGCM	Field 12 Sep 43	Sec. 15(1) (2 charges)	120 days Detention	40 days Remission

I hereby certify that the foregoing schedule of convictions and dispensations with trial is a true extract from the regimental books in my custody.

Signed this 19th day of Jan 45 Captain Lieut Asst Adjt 4th Bde

The above statement (with the schedule of convictions and of cases in which trial has been dispensed with) is read, marked ..... signed by the president, and annexed to the proceedings.

3/17 MFM 6
(AFB 122)

No. H20292 Name GUTHRIE, J.P. Sqn, Battery, or Company — Corps — Date of enlistment 12-6-40 GC Badge — Service or Proficiency Pay — Character

Date of last entry in Company Conduct Sheet — No. and date of last drunk — Persnl not reckoning towards freedom from extra fine — Sheet No 2. — Signature OC Company, etc

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order quoted in reg with final	By whom awarded	Remarks
Ft.Osb.Bks. Wpg.	1-2-41	Pte.		(1) Absent from Fire Piquet, i.e. he at P.O.Bks.when warned to do fire piquet was absent thus causing another man to do his duties. (2) AWL 1200 hrs 1-2-41 to 0700 hrs. 2-2-41. (3) Breaking out of bks while under open arrest. (4) Breaking into bks. at 1830 hrs. 6-2-41. (5) AWL 2130 hrs. 2-2-41 to 1820 hrs. 6-2-41 (3 days, 21hrs. 50 min.)	D.C'y Sgt. Edwards	28 days Detention.		Lt.Col. Graham	5 dy pay

~~Released from Det.Bks. on Dec 5,40, sentence having expired. Remission earned 40 days.~~

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order approving sentence	By whom awarded	Remarks
Field	18-8-42	Pte	✓	AWL 20 days, 19 hrs. 45 min.	Doc'y	60 dys det'n	20-9-42	FGCM	21 dys pay
Field	29-5-43	"	✓	Sec 15(1) AWL 0600 hrs. 29-5-43 to 0530 Hrs. 30-5-43 (23hrs, 31min)	Cpl. Blair	27 Dys F.P.	3-6-43	Lt-Col Law	1 days Pay
Field	22 Jul 43	Pte	✓	(1) AWL 0600 hrs 22 Jul 43 to 0400 hrs 3 Aug 43.	Doc'y	120 days Detention.	12 Sep 43	FGCM	Total F- 120 dys pay
	3 Sep 43		✓	(2) AWL 0400 hrs 3 Sep 43 to 1950 hrs. 4 Sep 43.		Released on Dec 5,43. Remission 40 days.			
Field	10 Dec 43	Pte	✓	Sec 15(1) AWL 7 days, 12 hrs. 45 min.)	Doc'y.	21 dys F.P. - Forf	20 Dec 43	Lt.-Col. Bingham	3 dys forf.
Field	28 Mar 44	Pte.	✓	AWL 1400 hrs 28 Mar 44 to 1815 hrs. 31 May 44.	Lt.Byrne Documentary	12 dys CB & forf of pay	3 June 44	Lt.-Col. Bingham	4 days FR&I (1)

Certif. True copy consisting of 2 pages.

11 Jan 45.

.....Lt. Officer having custody of Regt. Books

LIST OF WITNESSES

In the case of H.20292, Pte. John Patrick GUINANE, CIC, on strength of 2 CITR, a soldier of the C.A.(O)

(For Prosecution)

1. Lieut. H.J. Boake, Reg.H.Q., 2 CITR.
2. Maj.D.J.E.Lamb, Ronkswood Hospital Newtown Road, Worcester.
3. CSM Warner, J.W. Regley Hall Hosp., Worcester.

(For Defence)

NIL.

.....

LIST OF EXHIBITS

In the case of H.20292, Pte. John Patrick GUINANE, CIC, on strength of 2 CITR, a soldier of the CA(O).

(For Prosecution)

Exhibit "A" - Certif. True Extracts from 4 Cdn. Conv. ~~xxx~~ Depot, Pt. II D.O. Nos. 6 & 8 showing accused AWL from 0845 hrs 3 Jul 44.

Exhibit "B" - Certif. d/29 Jul 44, showing accused was appreh. at York at 1450 hrs. 28 Jul 44.

Exhibit "C": - Certified Extract from 2 CITR Pt. II D.O. 195, d/ 17 Aug 44, showing accused AWL from 0615 hrs 11 Aug 44.

Exhibit "D" - Certif. under A.A.Sec.163 (1) (j) showing accused surrendered himself at Nottingham at 2330 hrs. 19 Aug 44.

Exhibit "E" - Certif. in accord. with P.C.2797, showing accused was arrested at London at 2310 hrs. 5 Oct 44.

Exhibit "F" - Expense Voucher showing costs of appreh. & return of accused in amt. of £1-4-8.

Exhibit "G" - Certif. in accord with A.A. Sec 163 (1) (jj) showing accused arrested at Birmingham at 0115 hrs. 29 Oct 44.

(For Defence)

NIL

.....

REQUEST FOR DEFENDING OFFICER

I, H.20292, Pte. John Patrick GUINANE, CIC, hereby request that the Convening Officer appoint Capt D McNaughton to represent me at my forthcoming Court-Martial should he be available.

Laurentide Camp.
10 Jan 45.

.....Pte.
(J.P. Guinane)

RECEIPT FOR DOCUMENTS

I, H.20292, Pte. John Patrick GUINANE, CIC, hereby acknowledge receipt of a true copy of the Summary of Evidence taken in England preliminary to my Court-Martial and I further acknowledge receipt of a true copy of the Charge Sheet under which I am being brought to Court-Martial.

Laurentide Camp.
10 Jan 45.

.....Pte.
(J.P. Guinane)

SE-48

Re. Guindon, A.A.

SCHEDULE.

PART I. PLEA(S), FINDING(S) AND SENTENCE.

Accused: C-77972 Pte Saunders A.R. 23 Cdn Fd Amb RCAMC

	Charge. (Insert "alternative" where applicable.)	Plea. (See Instrs p 2.)	Finding. (See note below.)	(Space for use as required for further charges, accused charged jointly, special findings, etc.)
1st	15(1) AA	Guilty	Guilty	
2nd				
3rd				
4th				
5th				
6th				

(Note: As to findings for lesser offences see AA 36, RP 44; findings on alternative charges see MML p 483 fn 4 para 2, RP 44; special findings see RP 44 and MML p 753, and in loss of kit see RP 44 fn 6.)

At present under sentence for [illegible] beginning on (date) 7 Mar 45 (1)
(1. Insert sentence being served, or delete, if not applicable. See RP 46(3). Information should be found on MF B355 or AF B296.)

Time in confinement awaiting present trial—a total of 44 days, of which Nil days were spent in hospital.(1)
(1. See RP 46(A) fn 2. Information should be found on MF B355 or AF B296 admitted in evidence under E2.)

Sentence Awarded by the Court:

To undergo detention for ninety days.

(Sgd) [illegible] Judge Advocate, if any. 18 Mar 45 Date awarded. (Sgd) A McKeand Major President. (RP 45, 50.)

(See back of Convening Order as to assembly and disposal of record after trial.)

PART II. MINUTE WHERE CONFIRMATION RESERVED. (AA 54(5), RP 120(F), MML p 760.)

Date (Sgd) Commanding

PART III. DECISION OF CONFIRMING OFFR ON FINDING(S) AND SENTENCE.

(For duties and powers see AA 54, 57, RP 37(D) fn 6,46(A), 51-56, 120, MML pp 759-761, KR Con 567-577. Acquittals require no confirmation and cannot be revised: AA 54(3). Sending back finding or sentence for revision by Court: AA 54(2), RP 120(G). If not confirmed, accused may be tried again: AA 157, MML p 64. Minute of confirmation or non-confirmation may be altered before promulgation: RP 53, MML p 65. Quashing after promulgation: KR Con 573. Duties and powers of reviewing offrs: AA 57, 57A, RP 53A, 54. The Confirming Offr must sign here personally. AA 172 fn 1.)

My decision on the finding(s) and sentence set forth in Part I is:

CONFIRMED

~~I direct that the accused be not committed to prison or detention barracks until [illegible] (or earlier).~~
(1. AA 57A. Delete if not used.)

(Sgd) H Robertson Bruce
(H Robertson) Brigadier
Commanding CRA 3 Cdn Inf Div
Confirming Officer.

Date 23 Mar 45

PART IV. PROMULGATED AND EXTRACTS TAKEN. (RP 53, KR Con 576, 577.)

Accused.	Date.	Signature of Offr.
C-77972 Pte GRINDON A.R.	26 March 1945	[illegible] Capt 23 Cdn Fd Amb RCAMC

ALL DELETIONS AND ALTERATIONS WILL BE INITIALLED.

RECORDED AT CMHQ IN WD 10A 5 E 45

FIELD GENERAL COURT-MARTIAL

CPA85-50 (Rev of AFA42-40) 8/1600

4/388

CONFIDENTIAL

21 APR 1945

Convened by Order of Deputy JAG Ltr Conv C 2083 dated 17 Mar 45

ACCUSED.

(As to the trial of two or more charged jointly see RP 16, 71, 109. As to reasons for showing (a) permanent or confirmed rank, (b) apptmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Con 308, 328, 330.)

Number.	(a) Prmnt R. (b) Apptmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
C-77972	Pte	Arthur Reid	Saunders	23 Cdn Fd Amb RCAMC

PROCEEDINGS REVIEWED
23 Apr 45
R.G. Dick, Capt.
REVIEWING OFFICER, JAG BRANCH, CMHQ

PROCEEDINGS OF TRIAL.

Held in the Fd in (country) Germany on (date(s)) 18 Mar 45

RECORD FORM A—OPENING PROCEEDINGS AND ARRAIGNMENT.

A1. The President, Members, ~~waiting Member, JA, if any, and Offrs under instr, if any~~, assemble, and the Court is closed.

(PRINTED MATTER, NOT IN ITALICS FOR GUIDANCE, WILL BE DELETED, IF NOT USED OR APPLICABLE, AND INITIALLED BY PRES OR JA. The Schedule referred to throughout is on p 4. Citations do NOT include all relevant fns from ROs. For guidance on procedure when a variation in this form arises, see form for GCM in MML pp 741 to 759. A brief record of such variation will be made and given a number having reference to appropriate or preceding para number herein. See back of Convening Order, CF 485, for oaths and instrs on how to record addresses, evidence, etc, which instrs are hereafter called "Notes". As to general provisions for conducting the trial see AA 22, RP 36, 63-70, 73, 74, 94, 103, 118, 122.)

A2. The President initials and lays before the Court the Convening Order and Charge Sheet ~~s~~ attached thereto.(1) The Court is satisfied that it is properly convened and constituted(2), accused is (~~are~~) amenable to military law, and each charge discloses an offence.(3)

(1. As to use of Summary of Evidence see RP 17 fn 6. 2. AA 49, 50, RP 105-107. 3. RP 11-13, 23, 24.)

A3. The Court is opened. The accused is (~~are~~) brought before the Court. At 1225 hours trial commences.

A4. The Prosecutor produces a Medical Certificate that accused is (~~are~~) fit to undergo trial by court-martial.(1) ~~The Prosecutor informs the Court that accused elected to be tried by court-martial instead of being dealt with summarily by the CO(2).~~

(1. KR Con 557. 2. AA 46(3), RP 80 fn 1. For effect see KR Con 563(c). Delete, if not applicable.)

A5. President to accused: ~~Do you object to [illegible] as interpreter? Ans~~

~~The interpreter is sworn.(*) Do you object to [illegible] as shorthand writer? Ans~~
~~The shorthand writer is sworn.(*)~~

(1. RP 72. Delete, if none employed.)

A6. The Convening Order and names of the President and Members of the Court are read to the accused.(1) President to accused: Do you object to be tried by me as President or by any of the Members of the Court?

Ans NO (2)

(1. RP 110. 2. If no objection, ~~waiting member retires~~. RP 66(3). If objection, see procedure AA 51(2), RP 23, 71, 78, MML p 742.)

A7. The President, Members, ~~JA, if any~~, and Offrs under instr, if any, are sworn.(1) The following are the ranks, names and units of the offrs composing the Court, etc:

President	Major	A E Reid	6 H & C Regt
Member	Capt	W A W Eadie	12 A & S H
Member	2/Lt (A/Capt)	J O Brodie	7 A Recce Regt
~~Judge Advocate~~			
Prosecutor	Capt	J. Thomlinson	23 Cdn Fd Amb
Defending Offr	2/Lt	J H Higgins	23 Cdn Fd Amb

Questions by President: Is the Prosecutor a lawyer? Ans NO. Is the Defending Offr a lawyer? Ans NO (1)

(1. RP 28, 27, 109, 111. List of offrs under instr will be returned separately with proceedings for information of Conv Offr.)
(2. If Pros a lawyer and Def Offr not, accused is entitled to an adjournment when RP 89 (B) and fn 2 were not followed. See D1 p 3.)

A8. The accused C-77972 Pte Saunders A.R. before arraignment make(s) (no) ~~a~~ plea. (1)

(1. If a special plea a made for separate trial on one or more charges (RP 62(E), 108), or as to the jurisdiction of the Court (RP 24, 35(A), 102), or in bar of trial (RP 36), or as to accused's mental fitness to stand trial (AA 130, RP 57), or the one of several accused charged jointly to be tried separately (RP 16, 71), such plea, the addresses made in support or against, the evidence, if any, and Finding are recorded per Notes. For forms of record see references in fns to RoP cited. Insert in AB rank and name of the accused making the plea.)

A9. The accused is (~~are~~) arraigned (~~separately~~) on all charges in the charge sheet.(1) The accused does (~~do~~) not object to any charge.(2) There is no amendment to be made to the Charge Sheet.(3) The President records the pleas in Part I of the Schedule.

(1. RP 31, 112. See para 1 of Instrs p 2. When more than one Charge Sheet see RP 62; when several accused to be tried separately see RP 71(C), and use separate copies of CF 696 to record proceedings. 2. RP 32, RP 33. If otherwise, delete and make appropriate insert per Notes.)

A10. The Court (~~is cleared and~~) considers the Instrs on Procedure after Arraignment at top of p 2. The proceedings are continued on Record Form B

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

AB 160 Vol GS fs 57

INSTRUCTIONS ON PROCEDURE AFTER ARRAIGNMENT.

1. *The accused may not plead or be found Guilty on more than one of two or more charges laid in the alternative.* (*RP 37(A).*) *As to withdrawal of alternative charges by Prosecutor see RP 35(C). No other charge can be withdrawn for any reason without authy from Convening Offr. If Convening Offr concurs, Court may accept plea of Guilty to lesser, etc, offence.* (*RP 44(H).*) *Accused may change a plea of Not Guilty to Guilty during trial.* (*RP 38.*) *As to refusing to plead or not pleading intelligibly see RP 35(A). As to plea when sentence may be death see RP 35(D).*

2. *The proceedings on each charge sheet* (*RP 62*) *after arraignment will be conducted as follows in the respective circumstances stated:*

I. If pleas to all charges are GUILTY, use Record Form B below.

II. If pleas to all charges are NOT GUILTY, use Record Form D on p 3.

III. If pleas to some charges are GUILTY and to other charges are NOT GUILTY and,

(a) *Such mixed pleas occur when there are no alternative charges in the Charge Sheet, use Record Form C below.* (*RP 37(A).*)

(b) *Such mixed pleas occur in a set of two or more charges laid in the alternative, see RP 37 (A) and fn 2 as to discretion of Court, (i) to try the accused on all such alternative charges as if he had pleaded Not Guilty thereto, or, (ii) to record the pleas as the findings of Court. After deciding between (i) and (ii), Court will proceed under foregoing instrs as may be appropriate to result of its decision. See MML p 744 Instrs* (2).

3. *As to responsibility of President to accused see RP 59, 60(C); powers and duties of JA see RP 103; duty of Prosecutor see RP 60(A) (B); duty and privileges of accused and Defending Offr see RP 60(C), 87(C), 91, 92; swearing and withdrawal of witnesses from Court see RP 81, 82; questioning of accused see RP 80, 87(C), 92(B), and of witnesses see RP 85-85; calling or re-calling of witnesses by Court, etc, see RP 75-79, 86, 116; use of Summary of Evidence at Trial see RP 17(E) fn 6; and responsibility of JA or Pres to record proceedings see RP 94, 96.*

RECORD FORM B—PROCEEDINGS ON PLEAS OF GUILTY TO ALL CHARGES.

B1. The President ~~or JA, if any~~, complies with RP 35(B) by explaining to the accused the nature and meaning of the charge(s).(1) and that on his plea of Guilty there will be no regular trial but merely a consideration of the sentence to be awarded after he has been given an opportunity to make a statement in reference to the charge(s) call witnesses as to character and make an address in mitigation of punishment.(2)
(*1. RP 35 fn 3. 2. MML p 54 para 47.*)

B2. President to accused: The Court will now receive any statement you desire to make in reference to the charge(s).(1) If it appears from your statement that there are circumstances which indicate that you do not understand the effect of the plea of Guilty(2), or which show provocation or extenuation in respect of which in your interest the witnesses for the Prosecution should be examined(2), we shall advise you to change your plea to Not Guilty. In making a statement you will not be sworn or subject to cross-examination; and anything you say will not be used in evidence against you after you change your plea. If, however, it appears to the Court that your statement affects only the amount of punishment to which you are liable, you will not be advised to change your plea and you will be given an opportunity later to prove your statement by sworn testimony, if you so desire.(4)

President to accused: Do you wish to make a statement? Ans ~~No~~ (5)
(*1. RP 37(B). 2. RP 37(D) fn 6. 3. RP 35(B) fn 3 para 3, MML p 54 para 47. 4. See para E3 of Record Form E. 5. Statement, if any, recorded per Notes.*)

B3. The ~~court considers the accused's statement.~~(1) ~~The Court decides (not) to advise accused to change his (their) plea(s) of Guilty to Not Guilty on charge(s). The accused is (are) so informed and he (they) change(s) his (their) plea(s) on charge(s). Part I of the Schedule is amended accordingly.~~
(*1. Court may be closed to consider the statement. Delete whole or part not used.*)

B4. On the charge(s) to which the plea(s) of Guilty is (are) not charged the President records finding(s) of Guilty in Part I of the Schedule.(1)
(*1. RP 35(B). If any plea(s) is (are) changed, use Record Form C or D as appropriate.*)

B5. The Summary of Evidence is marked Ex A, initialled and read aloud by the President.(1)
(*1. If there is no Summary, or if it is inadequate, comply with RP 37(B). If there is any evidence inconsistent with any plea standing as Guilty, Court will advise accused to change such plea and, if changed to Not Guilty, try such charge(s) by use of paras D1 to D8 inclusive of Record Form D on p 3. RP 37(D).*)

B6. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

RECORD FORM C—PROCEEDINGS ON MIXED PLEAS OF GUILTY AND NOT GUILTY.

C1. As to the charges on which accused pleaded NOT GUILTY the trial is continued by using paras D1 to D8 inclusive of Record Form D on p 3 before proceeding with C 2.(1)
(*1. RP 37(A) (E).*)

C2. The charges on which accused pleaded GUILTY are read to him (them) again, and the trial is continued by using paras B1 to B5 of Record Form B above.(1)
(*1. Under B5 such parts only of the Summary of Evidence are read as relate to the charges dealt with under C2. If any plea is changed to Not Guilty, trial thereon proceeds by complying with paras D1 to D8 inclusive in Record Form D on p 3 and making an appropriate record thereof on a separate sheet.*)

C3. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

RECORD FORM D—PROCEEDINGS ON PLEAS OF NOT GUILTY TO ALL CHARGES.

D1. President to accused: Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity to prepare your defence? Ans ..... (1)
(*1. If "yes", see RP 39(A) for procedure. Statement or evidence, if any, is recorded per Notes.*)

D2. The Prosecutor makes (an) (no) opening address.(1)
(*1. RP 39(B), 60(A) (B), 90, 92(C) (D). Record address per Notes, subject to RP 95(C).*)

D3. The evidence for the Prosecution is taken.(1)
(*1. RP 39(C), 114, KR Can 555. Record evidence per Notes. As to Prosecutor giving evidence himself see RP 39(D) (E).*)

D4. The Prosecution is closed.(1) The Defending Offr submits that the evidence for the Prosecution does not establish a prima facie case against the accused on the ..... charge(s).(2) The Court is closed, and considers the submission.(3) The Court is re-opened, and the President announces that the submission is disallowed on the ..... charge(s), and allowed on the ..... charge(s), and that, accordingly, the trial will proceed on the former, but the accused is (are) found Not Guilty on the latter charge(s).(4)
(*1. Delete remainder of this para, if submission not made. 2. Arguments on submission, answer and reply are recorded per Notes. 3. RP 40 fn 1. See MML p 72 paras 12-14 and p 81 para 42. 4. Delete part not used. If accused acquitted on all charges, use record alternative in para D8.*)
NB: If trial proceeds, accused must be allowed great latitude in making his defence, and the Court should not stop his defence solely on ground of irrelevance. (RP 60(C), 114, 115.)

D5. President to accused: You will now proceed with your defence.(1) You may, if you wish, give evidence yourself on oath as to the facts or your character or both, in which case you will be subject to cross-examination.(2) You may, however, make a statement without being sworn, and you will not be subject to cross-examination.(3) But a statement which could have been made on oath will not carry with the Court the same weight as sworn testimony.(4) You may call witnesses in your defence and as to character, whether you give evidence or make a statement or do neither.

President to accused: Do you wish to give evidence yourself as a witness, make a statement, or do neither?
Ans ..... Do you intend to call witnesses on your behalf?
Ans ..... Are they witnesses as to character only? Ans .....
(*1. RP 115. 2. RP 40(A), see 80(2). 3. RP 40 fn 10. 4. RP 40 fns 2, 9.*)

D6. Consequent on the answers recorded in para D5 the appropriate procedure for the defence is followed.(1)
(*1. RP 114, 115, 116. For procedure see Notes on back of Convening Order, CF 849. Evidence for accused as to his character should, if in his interest, be given before the finding. See RP 46(A) fn 1, 86(C). Note the further opportunity in para E1 of Record Form E. Record per Notes addresses, statement, evidence and any summing up by the JA under RP 42, 103(E).*)

D7. The Court is closed to consider the finding(s).(1) The finding(s) of the Court is (are) recorded in Part I of the Schedule.(2) The Court is re-opened.
(*1. RP 43, 117(A). See Notes in Part I of Schedule. 2. RP 44(A).*)

D8. The President announces the finding(s), if any, of Not Guilty, and states to the accused that the finding(s) of the Court on the ..... charge(s), being subject to confirmation, will be promulgated later.(1)
Or, The President announces that the accused is found Not Guilty on all charges and is to be released forthwith, and that the proceedings are accordingly terminated. Part I of the Schedule is dated and signed.(2)
(*1. AA 34(2) (a), RP 45, 120(A). 2. AA 34(3), RP 45, 117. This alternative announcement is not applicable when there are pleas of Guilty outstanding and dealt with under Record Form B or C.*)

D9. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E below.

RECORD FORM E—PROCEEDINGS ON CONVICTION BEFORE SENTENCE.

E1. President to accused: Do you wish to give evidence yourself or to call any witnesses as to your character?(1)
Ans Yes, I propose to call three character witnesses.
(*1. If evidence has already been given by accused or his witnesses as to his character, delete this para. RP 37(C) fn 4, 46 fn 1. Accused and witnesses are sworn. Evidence recorded per Notes.*)

E2. The Prosecutor produces Statement(s) as to Character and Particulars of Service(1), and certified true copy (copies) of Conduct Sheet(s)(2), purporting to refer to the accused, which he submits to the Defending Offr for examination, and then to the Court for admission in evidence. The Court is satisfied that these documents refer to the accused, because (i) they purport to be signed in the manner required by AA 163(1) (g) (h), and (ii) they purport to refer to (a) soldier(s) having the same number, rank, name and corps as the accused. Admitted in evidence and marked Ex E and Ex C respectively.(3)
(*1. AFB 255 or AFB 296. 2. MFM 6. 3. RP 46, KR Can 552. If above documents not produced, see RP 46 fn 1 para 1.*)

E3. President to accused: Do you wish to address the Court on the Statement(s) and Conduct Sheet(s), and in mitigation of punishment?(1) Ans Yes, my Prog Officer will address the Court.(2)
(*1. RP 37(C), 46(D). 2. Address, if any, recorded per Notes. Court should permit accused or his witnesses to prove on oath anything here or previously stated which would affect the amount of punishment. RP 37(F) fn 7.*)

E4. The President states that the Court is closed to consider the sentence, and that the sentence to be awarded by the Court, being subject to confirmation, will not be announced, but will be promulgated later, and the proceedings in open court are accordingly terminated.(1)
(*1. AA 54(6), RP 120(A).*)

E5. The Court considers the sentence.(1) The President records the sentence in Part I of the Schedule, which is dated and signed by him ~~and the JA, if any~~.(2)
(*1. When several accused tried separately see RP 71 (D). One sentence only, comprised of the punishment or punishments laid down in AA 41, 44 and its proviso, is to be awarded to cover all charges in all charge sheets on which accused found guilty. RP 48. As to sentences see AA 44, 138, 182, RP 46-50, 69, 118, 119(A), KR Can 308, 320, 562-566, Overseas RO 309, 2323, MML p 85, 757-759. As to sentences assigned for civil offences by the law of England see AA 41(5), MML p 130. When accused already under sentence of imprisonment or detention see AA 44(1B), 68(1), KR Can 564. 2. RP 50. As to release from arrest by Confirming Offr see KR Can 567. As to assembly and disposal of record after trial see instrs on back of Convening Order.*)

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

CHARGE SHEET

The accused C77972 Pte. GUINDON, Arthur Aurell "A" Coy 23 Canadian Field Ambulance, RCAMC, a soldier of the Canadian Army Overseas, is charged with:-

Sec 15 (1) Army Act

When on ACTIVE SERVICE ABSENTING HIMSELF WITHOUT LEAVE

in that he

In the field, in Germany, absented himself without leave from 2200 hours 10 Mar 45 until 0600 hours 11 Mar 45.

(Absent 8 hours)

(J.W. Merritt) Lt-Col
Officer Commanding
23 Cdn Fd Ambulance,
R.C.A.M.C.

In the Field
13 Mar 45

/wts

To be Tried by F.G.C.M.

(E.A. Suttie) Brigadier,
CRA 3 Cdn Inf Div.

17 Mar 45.

FIELD GENERAL COURT-MARTIAL

CFA98 (To Sec. of AFAB)
W.F.B.C./1007 (2008)

(Whether the accused to be tried is under his comd or not, a FGCM may on application to him be convened by any offr of Cdn Army Overseas, or of any other force if authorized in law, in immediate comd of troops on active service, subject to RP 105(C) and restrictions imposed by appropriate authy, AA 49, 50, RP 104-107, 114. As to the duties and privileges of the Convening Offr in dealing with the application see MML Chap V paras 20 and 23, RP 87(B).

There should be a separate Convening Order for each person to be tried separately by the same Court. RP 71(C), 109. As to separate charge sheets see RP 62, and as to separate trial on charges in the same charge sheet see RP 108. As to two or more accused charged jointly see RP 1a, 109.

As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

ACCUSED.

Number.	(a) Prmnt R.	(b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
C.77972	Pte.		Arthur Aurell	GUINDON	23 Cdn Fd Ambulance

CONVENING ORDER.

1. Whereas complaint has been made to me, the undersigned, that the person named above as the accused, being subject to military law, has ~~(since)~~ committed the offence(s) set forth in the Charge Sheet attached and on (date) 17 MAR 45 endorsed by me, ~~(or by an offr of my staff for me)~~, "To be tried by Field General Court-Martial".

2. And whereas I am of opinion that it is not practicable that such offence(s) should be tried by an ordinary General Court-Martial; ~~(and that it is not practicable to delay the trial for reference to a superior qualified offr)~~

(Delete part in brackets when not required for compliance with RP 105(C).)

3. I hereby convene a Field General Court-Martial to try the said person, and to consist of the Offrs appointed or detailed hereunder.

4. ~~I am unable to appoint (a) three Offrs to form the Court, (b) a Fd Offr as President, for the reasons I have attached hereto.~~

(AA 49, RP 106(B), 107(A). Delete the whole or part, if not applicable.)

5. ~~I also appoint as Judge-Advocate thereat the Offr mentioned hereunder.~~

(RP 106(E). Delete, if none appointed.)

PRESIDENT.

(Rank.)	(Must be named. RP 106.)	(Unit.)
MAJOR	W.C. BAIRD	C R OF C

MEMBERS.

(Rank.)	(Named or detailed. RP 106.)	(Unit.)
CAPT OR LIEUT FROM A DETAILED BY 7 CDN RECCE REGIMENT		
CAPT OR LIEUT FROM A DETAILED BY 12 FD REGT RCA		

WAITING MEMBER.

(Rank.)	(Named or detailed, if any. RP 106.)	(Unit.)
CAPT OR LIEUT FROM A DETAILED BY 14 FD REGT RCA		

JUDGE-ADVOCATE.

(Rank.)	(Must be named, if any. RP 106.)	(Unit.)

On Active Service in the Fd

in GERMANY
(Country.)

Date 17 Mar 45

(Signed personally. RP 105 fn 2.)
(E.R. Suttie)

Brigadier
(Rank.)

Commanding CRA 3 Cdn Inf Div
Convening Officer.

CONVENING OFFR WILL INITIAL ALL DELETIONS AND ALTERATIONS

(See overleaf for oaths and notes for use on trial.)

MEDICAL OFFICER'S CERTIFICATE
(K.R.(Can)Para 557)

I certify that I have this morning examined No. C77972 Pte. Arthur Aurell GUINDON, of 23 Cdn Fd Amb, and in my opinion he is fit to undergo trial by court-martial.

In the Field
18 Mar 45

Medical Officer
23 Cdn Fd Amb. RCAMC

E 1.

23 Edm Fd Ambulance RCAMC

First witness as to character B 89754 - S/Sgt Hudson, T.G.
having been duly sworn states: Pte Guindon has been with A Coy since just prior to D day, 6 June and has been employed as a cook in #1 sec. His work has always been of the best. Pte Guindon has been in charge of the cooks of A Coy and has directed them in an able manner. He has been perfectly satisfactory and I would be willing to take him back in the Coy.
Question by Defence Officer: Did Pte Guindon as a man raise or lower the morale of the Coy?
Ans: He was liked by all the men.
Question by Defence Officer: Did Pte Guindon as a cook raise or lower the morale of the Coy?
Ans: He is one of the best army cooks I have known and this I think would be agreed to by all the men of the coy.

No cross-examination
R.P. 83(8) complied with.

Second witness as to character C 51582 Cpl. McRae. A.
23 Edm Fd Ambulance RCAMC duly sworn states:
I have been with A Coy ever since it was formed. Pte Guindon came to us in England shortly before we came overseas. Ever since I have known him in our Coy he has been a very good cook, the best we have ever had in the coy. Anything that I have ever asked Pte Guindon to do he has always done in an efficient manner.
Question by Defence Officer: Did Pte Guindon as a man raise or lower the morale of the Coy?

A. He did not do the coy any harm.
Question by Defence Officer: Did Pte Guindon as a cook raise or lower the morale of the coy.
A. As a cook he raised the morale of the men a lot.

No cross examination
A.F. 83(B) complied with.

E 3.
Plea of mitigation by Defending Officer.
You have heard the sworn statements of the character witnesses and I believe you will bear with me that the accused is not only materially but morally a keystone in the coy. At the time of the crime the coy was not in action but in a rear area. Pte Guindon cooked the supper and did his normal duty before leaving the camp area. His absence did not impair the work in the ~~regt~~ kitchen. Pte Guindon was absent for a period of 8 hrs only, a charge usually handled by an OC. Bearing the character witnesses statements in mind as well as the length of absence I wish to make a very strong plea of leniency to the court.

Copy of Exhibit "A"

SUMMARY OF EVIDENCE

Summary of Evidence in the case of C 77972 Pte Guindon, AA "A" Company 23 Cdn Fd Ambulance, RCAMC Cdn Army Overseas, charged with Absence without Leave (AA Sec 15 (1))

By direction of the Commanding Officer the evidence is taken on oath.

FIRST WITNESS

B 89754 S/Sgt Anderson, TG senior NCO of "A" Coy 23 Cdn Fd Ambulance, RCAMC sworn states:- " At approximately 2200 hrs 10 Mar 45 I made a bed check of "A" Coy personnel and I found that Pte Guindon, AA was absent from his quarters. I satisfied myself that Pte Guindon was not in the Coy area and I detailed L/Cpl Haley to check Pte Guindon's bed at an hourly interval throughout the night and to report to me the time that Pte Guindon returned to camp. L/Cpl Haley reported to me at 0700 hrs 11 Mar 45 that Pte Guindon had returned at 0600 hrs".

The accused declines to cross-examine the witness.

SECOND WITNESS

P79459 Sgt Reid, GW senior NCO No. 3 Section "A" Coy 23 Cdn Fd Ambulance, RCAMC sworn states:- " At approximately 2200 hrs 10 Mar 45 I accompanied S/Sgt Anderson in checking the beds of "A" Coy and found Pte Guindon absent".

The accused declines to cross-examine the witness.

THIRD WITNESS

G50051 Pte (A/L/Cpl) Haley, HD "A" Coy 23 Cdn Fd Ambulance, RCAMC sworn states:- " On the night of 10 Mar 45 I was detailed by S/Sgt Anderson to make an hourly check on Pte Guindon's bed and report to him what time Pte Guindon returned. At 0600 hrs 11 Mar 45 I was standing in the vehicle park and I saw Pte Guindon returning in a jeep. I told him he was under open arrest. I reported to S/Sgt Anderson that Pte Guindon returned at 0600 hrs 11 Mar 45.

The accused was cautioned as follows:-

The accused declines to cross-examine the witness.

Q. Do you wish to make any statement or to give evidence on oath? You are not obliged to say anything or give evidence unless you wish to do so but whatever you say or give in evidence you give will be taken down in writing and may be

A. No sir.

The accused does not call any witnesses.

Exhibit H.

(1)

Summary of Evidence

Summary of Evidence in the case of C 77912 Pte Saunders A.A. 'A' Coy 23 Cdn Fd Ambulance RCAMC Cdn Army Overseas charged with Absence without Leave (AA Sec 15(1))

By direction of the Commanding Officer the evidence is taken on oath.

First witness

Mess B 84154 S/Sgt Anderson T.G. senior N.C.O. of 'A' Coy 23 Cdn Fd Ambulance sworn states - at approximately 2200 hrs 10 March I made a bed check of 'A' Coy personnel and found that Pte Saunders A.A. was absent from his quarters. I satisfied myself that Pte Saunders was not in the Company area and I detailed L/Cpl Haley to check Pte Saunders bed at an hourly interval throughout the night and to report to me the time that Pte Saunders returned to camp. At 0700 hrs L/Cpl Haley reported to me at 0700 hrs that Pte Saunders had returned at 0600 hrs.

The accused declines to cross-examine the witness.

Sgt. Anderson

Second Witness

F 78454 Sgt Reid E.W. senior N.C.O. #3 Section 'A' Coy 23 Cdn Fd Ambulance sworn states

at approximately 2200 hrs 10 March I accompanied S/Sgt Anderson on checking the beds

of A Coy and found Pte Saundra absent

The accused declines to cross-examine this witness

Pte Kelly

Third witness

D 500051 Pte (A/L/Cpl) Haley H D

A Coy 23 Cdo to Unbalance sworn states:— On the night of 10 March 45 I was detailed by S/Sgt Anderson to make an hourly check on Pte Saunders bed and report to him what time Pte Saunders returned. At 0600 hrs I was standing in the vicinity of Pte Saunders bed and saw Pte Saunders returning to bed. At 0700 hrs I reported to S/Sgt Anderson that Pte Saunders returned at 0600 hrs 11 March 45.

The accused declines to cross-examine this witness

Pte Haley

The accused was cautioned as follows:—

Q. Do you wish to make any statement or to give evidence on oath? You are not obliged to say anything or give evidence unless you wish to do so but whatever you say or any evidence you give will be taken down in writing and may be given in evidence

A No sir.

T.A. Saunders

The accused does not call any witnesses

I certify that the foregoing Summary of Evidence consisting of two pages was taken down by me

. . . in the presence of the accused and that RPN(C), (D), (E), and (F) have been complied with.

In the field
13 March 45

J. Grunthal Capt
23 Can Fd Amb
RCAMC

Copy of Exhibit "A"

SUMMARY OF EVIDENCE

Summary of Evidence in the case of C 77972 Pte Guindon, AA "A" Company 23 Cdn Fd Ambulance, RCAMC Cdn Army Overseas, charged with Absence without Leave (AA Sec 15 (1))

By direction of the Commanding Officer the evidence is taken on oath.

FIRST WITNESS

B 89754 S/Sgt Anderson, TG senior NCO of "A" Coy 23 Cdn Fd Ambulance, RCAMC sworn states:- " At approximately 2200 hrs 10 Mar 45 I made a bed check of "A" Coy personnel and I found that Pte Guindon, AA was absent from his quarters. I satisfied myself that Pte Guindon was not in the Coy area and I detailed L/Cpl Haley to check Pte Guindon's bed at an hourly interval throughout the night and to report to me the time that Pte Guindon returned to camp. L/Cpl Haley reported to me at 0700 hrs 11 Mar 45 that Pte Guindon had returned at 0600 hrs".

The accused declines to cross-examine the witness.

Thos J. Anderson

SECOND WITNESS

P78459 Sgt Reid, GW senior NCO No. 3 Section "A" Coy 23 Cdn Fd Ambulance, RCAMC sworn states:- " At approximately 2200 hrs 10 Mar 45 I accompanied S/Sgt Anderson in checking the beds of "A" Coy and found Pte Guindon absent".

The accused declines to cross-examine the witness.

G Reid

THIRD WITNESS

G50051 Pte (A/L/Cpl) Haley, HD "A" Coy 23 Cdn Fd Ambulance, RCAMC sworn states:- " On the night of 10 Mar 45 I was detailed by S/Sgt Anderson to make an hourly check on Pte Guindon's bed and report to him what time Pte Guindon returned. At 0600 hrs 11 Mar 45 I was standing in the vehicle park and I saw Pte Guindon returning in a jeep. I told him he was under open arrest. At 0700 hrs I reported to S/Sgt Anderson that Pte Guindon returned at 0600 hrs 11 Mar 45.

The accused declines to cross-examine the witness.

H O Haley

The accused was cautioned as follows:-

Q. Do you wish to make any statement or to give evidence on oath? You are not obliged to say anything or give evidence unless you wish to do so but whatever you say or any evidence you give will be taken down in writing and may be given in evidence.

A. No sir.

.....

The accused does not call any witnesses.

2.

I certify that the forgoing Summary of Evidence consisting of ...5...pages was taken down by me in the presence of the accused and that RP 4(C), (D),(E) and (F) have been complied with.

J. Greenblatt Capt

.....
(J Greenblatt) Capt
23 Cdn Fd Ambulance,
RCAMC.

IN THE FIELD

DATE...13.Mar.45

Ex. B

ARMY FORM B.296 (WAR).

Statement as to Character and Particulars of Service of Accused

(For Use at Trials by Field General Courts-Martial only)

Number C77972 Rank Pte. Name Regiment (or at the case may be).

C 77972 Pte. GUINDON A.A. 23 Cdn Fd Amb, RCAMC

NOTE.—The Field Conduct Sheet is to be produced in Court with this statement but is not to be annexed to the proceedings. The numbers herein stated should correspond with the number of entries in the Field Conduct Sheet, prominence being given to the most serious offence in each entry. If the charge is for drunkenness or absence without leave, the entries for drunkenness or absence, as the case may be, should be stated separately. Any recognized special acts of gallantry or distinguished conduct recorded on the Field Conduct Sheet should also be inserted here.

1. The following is a fair and true summary of the entries in the Field Conduct Sheet of the accused, exclusive of convictions by a court martial or a civil court :—

For AWL (AA sec 15) 3 times.

For AA Sec 40 4 times.

For AA Sec 18(4) 1 times.

For ..... times.

Date of first entry in Field Conduct Sheet 23 Aug 42

Date of last entry in Field Conduct Sheet 4 Mar 45

2. Previous convictions of the accused by a court martial or a civil court are set out in the Schedule overleaf.

*3. The accused at the present time is under sentence for N/A beginning on the ..... day of .....

4. The accused has been awaiting trial on the present charges for Nil days in civil custody; and for two days in military custody, *viz.*, 2 days in open arrest, nil days in close arrest; of which nil days were spent in hospital.

*Strike out if not applicable.

5. The present age of the accused is 24

6. The date of his attestation is 1 May 45

7. The service which the accused is allowed to reckon is 2 years 10 month 13 days

8. The accused is in possession of CVSM

9. (*If the accused is a warrant officer or N.C.O.*) The accused has served continuously, without reduction, in the present date—

*State the military decorations (if any) held by accused.

Date of Promotion.

In the substantive rank of .....

In the war substantive rank of .....

In the acting rank of .....

INSTRUCTION.—*If any matter in any of the above paragraphs cannot be stated from the regimental books the paragraph must be struck through.*

(Over)4501 30,000 3/44 22-4751. Forms/B.296(War)/2

SCHEDULE OF CONVICTIONS BY A COURT-MARTIAL OR CIVIL COURT

Description of Court by which tried.	Date and Place of Trial.	Charges upon which convicted.	Sentence of the Court.	Punishment remitted or sentence suspended.
		N I L		

I HEREBY CERTIFY that the foregoing particulars, which have been extracted from the regimental books in my custody, are correct to the best of my knowledge and belief.

Signed this 18th day of March 1945

(JWB Berry) Maj OF
21/c 23 Cdn Fd. Amb.
RCAMC

No. C77972 Name GUINDON AA | Sqn., Battery, or Company | Corps RCASC | Date of enlistment 1 May 42 | O.C. Badges | Service or Proficiency Pay | M.F.M. 6 (A.F. B.122) 40/P & /5130 (2865)

Date of last entry in Company Conduct Sheet | No. and date of last drunk | Period not reckoning towards freedom from extra fine | Sheet No. 1 | Signature O.C. Company, etc. | Character

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or if under disposal with trial	By whom awarded	Remarks
Cove Hants	23/8 42	Sigmn		AA Sec 15(1) AWL from church parade 23 Aug 42	Cpl Eedy A	7 days CB	25 Aug 42	Lt-Col FB Conrad	
Field	23/12 42	"		AA Sec 40 did drive WD vehicle at an excessive rate of speed	Lt Newman	2 day forf pay	24 Dec 45	Capt. Hilborn	
Field				AA Sec 40 Drive in a reckless manner	Lt New Man				
Field		"		AA Sec 40 Improper use of WD Veh	Bailey	28 days dets plus £7/18/0 fine		RW Hilborn CApt	
Field		"		AA Sec 18(a) stealing Army rations	Bailey	28 day FP	16 Aug 43	Capt Barrett SC	

(PTO?)

(PTO)

Place	Date of offence	Rank	Cause of circumstances	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Field	5-12-44	Pte.		AA Sec 15 ~~XX~~ AWL(TTA 4 Hrs 30 min)	S/Sgt Anderson Cpl Campbell	14 days CB 14 days Pay	7 Dec 44	LT/COL IA LORE	
Field	4-3/45	Pte		AA Sec 15 AWL (TTA 2 days 6 hrs)	S/Sgt ~~XXXXXXXXXX~~ay Anderson G	14 day Pay FR&I 149(1)(a)	7 Mar 45	Lt-Col JW Merritt	2 days Auto Forf Pay FR&I 149(1)(a)

Certified True Copy of original ~~page~~ entry
J Swan Capt
17 March 45

4P 137

Pte. Guindon J. M.

RECORDED AT CMHQ IN AB 160 4P-137

FIELD GENERAL COURT-MARTIAL

4/38B

Convened by Order of Brigadier J.A. Roberts Comd 8 Cdn Inf Bde dated ~~20 Dec 44~~ 17 Jan 45

ACCUSED.

(As to the trial of two or more charged jointly see RP 16, 71, 109. As to reasons for showing (a) promotion or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 181, 183, fns, KR Con 308, 328, 330.)

Number.	(a) Prmnt R. (b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
D139287	Pte	Joseph Maurice	Guindon	R de Chaud

PROCEEDINGS OF TRIAL.

Held in the Fd in (*country*) Holland on (*date(s)*) 20 Jan 45

RECORD FORM A—OPENING PROCEEDINGS AND ARRAIGNMENT.

A1. The President, Members, waiting Member, JA, if any, and Offrs under instr, if any, assemble, and the Court is closed.

(PRINTED MATTER, NOT IN ITALICS FOR GUIDANCE, WILL BE DELETED, IF NOT USED OR APPLICABLE, AND INITIALLED BY PRES OR JA. The Schedule referred to throughout is on p 4. Citations do NOT include all relevant Fmn ROs. For guidance on procedure when a variation in this Form arises, see Form for GCM in MML pp 741 to 759. A brief record of such variation will be made and given a number having reference to appropriate or preceding para number hereon. See back of Convening Order, CF A95, for oaths and instrs on how to record addresses, evidence, etc, which instrs are hereinafter called "Notes". As to general provisions for conducting the trial see AA 53, RP 56, 63-70, 73, 74, 94, 102, 119, 132.)

A2. The President initials and lays before the Court the Convening Order and Charge Sheet(s) attached thereto.(1) The Court is satisfied that it is properly convened and constituted(2), accused is (~~his~~) amenable to military law, and each charge discloses an offence.(3)

(1. As to use of Summary of Evidence see RP 17 fn b. 2. AA 49, 50, RP 105-107. 3. RP 11-13, 23, 24.)

A3. The Court is opened. The accused is (~~his~~) brought before the Court. At 1000 hours trial commences.

A4. The Prosecutor produces a Medical Certificate that accused is (are) fit to undergo trial by court-martial.(1) ~~The Prosecutor informs the Court that accused elected to be tried by court-martial instead of being dealt with summarily by the CO.~~(2)

(1. KR Con 557. 2. AA 46(8), RP 60 fn 1. For effect see KR Con 563(c). Delete, if not applicable.

A5. President to accused: Do you object to Lt P. Trempe as interpreter? Ans No

The Interpreter is sworn.(1) ~~Do you object to as shorthand writer? Ans~~

~~The shorthand writer is sworn.~~(2)

(1. RP 72. Delete, if none employed.)

A6. The Convening Order and names of the President and Members of the Court are read to the accused.(1) President to accused: Do you object to be tried by me as President or by any of the Members of the Court?

Ans No (2)

(1. RP 110. 2. If no objection, waiting member retires. RP 68(8). If objection, see procedure AA 51, RP 23, 71, 18, MML p 742.)

A7. The President, Members, JA, if any, and Offrs under instr, if any, are sworn.(1) The following are the ranks, names and units of the offrs comprising the Court, etc:

President	Major	Ted F. Bloom	N Shs R.
Member	Capt	W. Atkinson	R de C
Member	Lt	B.A.J. McElwaine	N Shs R.*
Judge-Advocate			
Prosecutor	Lt	~~R Lord~~ H.M. Taubman	R de Chauds
Defending Offr	Lt	R Lord	R de Chauds

Questions by President: Is the Prosecutor a lawyer? Ans No Is the Defending Offr a lawyer? Ans No (2)

(1. RP 26, 27, 109, 111. List of offrs under instr will be returned separately with proceedings for information of Conv Offr.)
(2. If Pros a lawyer and Def Offr not, accused is entitled to an adjournment when RP 38 (3) and fn 2 were not followed. See DI p 3.)

A8. The accused D139 287 Pte Joseph Maurice Guindon R de C before arraignment make(s) (no) plea (3)

(1. If a special plea is made for separate trial on one or more charges (RP 42(E), 108), or as to the jurisdiction of the Court (RP 34, 35(A), 113), or in bar of trial (RP 36), or as to accused's mental fitness to stand trial (AA 130, RP 57), or by one of several accused charged jointly to be tried separately (RP 16, 71), such plea, the submissions made in support or against, the evidence, if any, and finding are recorded per Notes. For forms of record see references on fns to RoP cited. Insert in A8 rank and name of the accused making the plea.)

A9. The accused is (~~are~~) arraigned (~~severally~~) on all charges in the charge sheet.(1) The accused does (~~not~~) not object to any charge.(2) There is no amendment to be made to the Charge Sheet.(3) The President records the pleas in Part I of the Schedule.

(1. RP 31, 112. See para 1 of Instrs p 2. When more than one Charge Sheet see RP 62; when several accused to be tried separately see RP 71(C), and use separate copies of CF A96 to record proceedings. 2. RP 32, RP 33. If otherwise, delete and make appropriate record per Notes.)

A10. The Court (is closed and) considers the Instrs on Procedure after Arraignment at top of p 2. The proceedings are continued on Record Form B & C.

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

* Capt Pe Roe was not available when member had to be sworn

SCHEDULE.

PART I. PLEA(S), FINDING(S) AND SENTENCE.

Accused: D139287 Pte Joseph Maurice Guindon R de Chauds

Charge. (Insert "alternative" where applicable.)	Plea. (See Instrs p 2.)	Finding. (See note below.)	(Space for use as required for further charges, accused charged jointly, special findings, etc.)
1st See 15 (1)	Guilty	Guilty	
2nd See 15 (1)	Guilty	Guilty	
3rd			
4th			
5th			
6th			

(Note: As to findings for lesser offences see AA 56, RP 44; findings on alternative charges see MML p 483 fn 4 para 2, RP 44; special findings see RP 44 and MML p 753, and in loss of kit see RP 44 fn 6.)

At present under sentence for ~~(1)~~ beginning on (*date*) ~~(1)~~

(1. Insert sentence being served, or delete, if not applicable. See RP 46(A). Information should be found on MF B355 or MF B296.)

Time in confinement awaiting present trial—a total of 18 days, of which Nil days were spent in hospital.(1)

(1. See RP 46(A) fn 2. Information should be found on MF B355 or MF B296 admitted in evidence under E2.)

Sentence Awarded by the Court: To undergo Detention for a Period of six (6) Months.

(Sgd) ~~Judge-Advocate~~, if any. Date awarded: 20 Jan 45 (Sgd) Ted F. Bloom Major President. (RP 45, 50.)

(See back of Convening Order as to assembly and disposal of record after trial.)

PART II. MINUTE WHERE CONFIRMATION RESERVED. (AA 54(5), RP 120(F), MML p 760.)

Date (Sgd) Commanding

PART III. DECISION OF CONFIRMING OFFR ON FINDING(S) AND SENTENCE.

(For duties and powers see AA 54, 57, RP 37(D) fn 6.46(A), 51-56, 120, MML pp 759-761, KR Con 567-577. Acquittals require no confirmation and cannot be revised: AA 54(3). Sending back finding or sentence for revision by Court: AA 54(2), RP 120(G). If not confirmed, accused may be tried again: AA 157, MML p 64. Minute of confirmation or non-confirmation may be altered before promulgation: RP 53, MML p 65. Quashing after promulgation: KR Con 573. Duties and powers of reviewing offrs: AA 57, 57A, RP 53A, 54. The Confirming Offr must sign here personally. AA 172 fn 1.)

My decision on the finding(s) and sentence set forth in Part I is:

Confirmed

~~I direct that the accused be not committed to prison or detention barracks until further orders.~~(1) bbl

(1. AA 57A. Delete if not used.)

Date 21 Jan 45 (Sgd) bbl Roberts Brig Commanding 8 Cdn Inf Bde Confirming Officer.

PART IV. PROMULGATED AND EXTRACTS TAKEN. (RP 53, KR Con 576, 577.)

Accused.	Date.	Signature of Offr.
D139287 Guindon J.M.	22 Jan 45	W Taubman Lt

ALL DELETIONS AND ALTERATIONS WILL BE INITIALLED.

INSTRUCTIONS ON PROCEDURE AFTER ARRAIGNMENT.

1. *The accused may not plead or be found Guilty on more than one of two or more charges laid in the alternative.* (*RP* 37(*A*).) *As to withdrawal of alternative charges by Prosecutor see RP* 35(*C*). *No other charge can be withdrawn for any reason without authy from Convening Offr. If Convening Offr concurs, Court may accept plea of Guilty to lesser, etc, offence.* (*RP* 44(*H*).) *Accused may change a plea of Not Guilty to Guilty during trial.* (*RP* 38.) *As to refusing to plead or not pleading intelligibly see RP* 35(*A*). *As to plea when sentence may be death see RP* 35(*D*).

2. *The proceedings on each charge sheet* (*RP* 62) *after arraignment will be conducted as follows in the respective circumstances stated:*

I. If pleas to all charges are GUILTY, use Record Form B below.

II. If pleas to all charges are NOT GUILTY, use Record Form D on p 3.

III. If pleas to some charges are GUILTY and to other charges are NOT GUILTY and,

(a) *Such mixed pleas occur when there are no alternative charges in the Charge Sheet, use Record Form C below.* (*RP* 37(*A*).)

(b) *Such mixed pleas occur in a set of two or more charges laid in the alternative, see RP* 37 (*A*) *and fn* 2 *as to discretion of Court,* (i) *to try the accused on all such alternative charges as if he had pleaded Not Guilty thereto, or,* (ii) *to record the pleas as the findings of Court. After deciding between* (i) *and* (ii), *Court will proceed under foregoing instrs as may be appropriate to result of its decision. See MML p* 744 *Instrs* (2).

3. *As to responsibility of President to accused see RP* 59, 60(*C*); *powers and duties of JA see RP* 103; *duty of Prosecutor see RP* 60(*A*) (*B*); *duty and privileges of accused and Defending Offr see RP* 80(*C*), 87(*C*), 91, 92; *swearing and withdrawal of witnesses from Court see RP* 81, 82; *questioning of accused see RP* 80, 87(*C*), 92(*B*), *and of witnesses see RP* 83-85; *calling or re-calling of witnesses by Court, etc, see RP* 75-79, 85, 116; *use of Summary of Evidence at Trial see RP* 17(*E*) *fn* 6; *and responsibility of JA or Pres to record proceedings see RP* 94, 96.

RECORD FORM B—PROCEEDINGS ON PLEAS OF GUILTY TO ALL CHARGES.

B1. The President or JA, if any, complies with RP 35(B) by explaining to the accused the nature and meaning of the charge(s)(1), and that on his plea of Guilty there will be no regular trial but merely a consideration of the sentence to be awarded after he has been given an opportunity to make a statement in reference to the charge(s), call witnesses as to character and make an address in mitigation of punishment.(2)
(1. *RP* 35 *fn* 3. 2. *MML p* 54 *para* 47.)

B2. President to accused: The Court will now receive any statement you desire to make in reference to the charge(s).(1) If it appears from your statement that there are circumstances which indicate that you do not understand the effect of the plea of Guilty(2), or which show provocation or extenuation in respect of which in your interest the witnesses for the Prosecution should be examined(3), we shall advise you to change your plea to Not Guilty. In making a statement you will not be sworn or subject to cross-examination; and anything you say will not be used in evidence against you after you change your plea. If, however, it appears to the Court that your statement affects only the amount of punishment to which you are liable, you will not be advised to change your plea and you will be given an opportunity later to prove your statement by sworn testimony, if you so desire.(4)

President to accused: Do you wish to make a statement? Ans. No.(5)
(1. *RP* 37(*B*). 2. *RP* 37(*D*) *fn* 6. 3. *RP* 35(*B*) *fn* 5 *para* 2, *MML p* 54 *para* 47. 4. *See para* C3 *of Record Form* C.
5. *Statement, if any, recorded per Notes.*)

B3. The Court considers the accused's statement.(1) The Court decides (not) to advise accused to change his (their) plea(s) of Guilty to Not Guilty on ..... charge(s). The accused is (are) so informed, and he (they) change(s) his (their) plea(s) on ..... charge(s). Part I of the Schedule is amended accordingly.
(1. *Court may be closed to consider the statement. Delete whole or part not used.*)

B4. On the charge(s) to which the plea(s) of Guilty is (are) not changed the President records finding(s) of Guilty in Part I of the Schedule.(1)
(1. *RP* 35(*B*). *If any plea(s) is (are) changed, use Record Form C or D as appropriate.*)

B5. The Summary of Evidence is marked Ex. D, initialled and read aloud by the President.(1)
(1. *If there is no Summary, or if it is inadequate, comply with RP* 37(*B*). *If there is any evidence inconsistent with any plea standing as Guilty, Court will advise accused to change such plea and, if changed to Not Guilty, try such charge(s) by use of paras D1 to D8 inclusive of Record Form D on p* 3. *RP* 37(*D*).)

B6. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

RECORD FORM C—PROCEEDINGS ON MIXED PLEAS OF GUILTY AND NOT GUILTY.

C1. As to the charges on which accused pleaded NOT GUILTY the trial is continued by using paras D1 to D8 inclusive of Record Form D on p 3 before proceeding with C 2.(1)
(1. *RP* 37(*A*) (*E*).)

C2. The charges on which accused pleaded GUILTY are read to him (them) again, and the trial is continued by using paras B1 to B5 of Record Form B above.(1)
(1. *Under B5 such parts only of the Summary of Evidence are read as relate to the charges dealt with under C2. If any plea is changed to Not Guilty, same thereon proceeds by complying with paras D1 to D8 inclusive of Record Form D on p* 3 *and making an appropriate record thereof on a separate sheet.*)

C3. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

RECORD FORM D—PROCEEDINGS ON PLEAS OF NOT GUILTY TO ALL CHARGES.

D1. President to accused: Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity to prepare your defence? Ans. .....(1)
(1. *If "yes", see RP* 39(*A*) *for procedure. Statement or evidence, if any, is recorded per Notes.*)

D2. The Prosecutor makes (an) (no) opening address.(1)
(1. *RP* 39(*B*), 60(*A*) (*B*), 90, 92(*C*) (*D*). *Record address per Notes, subject to RP* 92(*C*).)

D3. The evidence for the Prosecution is taken.(1)
(1. *RP* 39(*C*), *114, KR Can* 555. *Record evidence per Notes. As to Prosecutor giving evidence himself see RP* 39(*D*) (*E*).)

D4. The Prosecution is closed.(1) The Defending Offr submits that the evidence for the Prosecution does not establish a prima facie case against the accused on the ..... charge(s).(2) The Court is closed, and considers the submission.(3) The Court is re-opened, and the President announces that the submission is disallowed on the ..... charge(s), and allowed on the ..... charge(s), and that, accordingly, the trial will proceed on the former, but the accused is (are) found Not Guilty on the latter charge(s).(4)
(1. *Delete remainder of this para, if submission not made.* 2. *Arguments on submission, answer and reply are recorded per Notes.* 3. *RP* 40 *fn* 1. *See MML p* 72 *paras* 12-14 *and p* 81 *para* 42. 4. *Delete part not used. If accused acquitted on all charges use second alternative in para D8.*)
NB. If trial proceeds, accused must be allowed great latitude in making his defence, and the Court should not stop his defence solely on ground of irrelevance. (*RP* 60(*C*), *114, 115.*)

D5. President to accused: You will now proceed with your defence.(1) You may, if you wish, give evidence yourself on oath as to the facts or your character or both, in which case you will be subject to cross-examination.(2) You may, however, make a statement without being sworn, and you will not be subject to cross-examination.(3) But a statement which could have been made on oath will not carry with the Court the same weight as sworn testimony.(4) You may call witnesses in your defence and as to character, whether you give evidence or make a statement or do neither.

President to accused: Do you wish to give evidence yourself as a witness, make a statement, or do neither? Ans. ..... Do you intend to call witnesses on your behalf? Ans. ..... Are they witnesses as to character only? Ans. .....
(1. *RP* 115. 2. *RP* 40(*A*), *see* 80(*D*). 3. *RP* 40 *fn* 10. 4. *RP* 40 *fns* 2, 9.)

D6. Consequent on the answers recorded in para D5 the appropriate procedure for the defence is followed.(1)
(1. *RP* 114, 115, 116. *For procedure see Notes on back of Convening Order. CF RP* 95. *Evidence for accused as to his character should, if in his interest, be given before the finding. See RP* 46(*A*) *fn* 1, 80(*C*). *Note the further opportunity in para* E1 *of Record Form* E. *Record per Notes addresses, statement, evidence and any summing up by the JA under RP* 42, 103(*e*).)

D7. The Court is closed to consider the finding(s).(1) The finding(s) of the Court is (are) recorded in Part I of the Schedule.(2) The Court is re-opened.
(1. *RP* 43, 117(*A*). *See Notes in Part I of Schedule.* 2. *RP* 44(*A*).)

D8. The President announces the finding(s), if any, of Not Guilty, and states to the accused that the finding(s) of the Court on the ..... charge(s), being subject to confirmation, will be promulgated later.(1)
Or, The President announces that the accused is found Not Guilty on all charges and is to be released forthwith, and that the proceedings are accordingly terminated. Part I of the Schedule is dated and signed.(2)
(1. *AA* 54(3) (*b*), *RP* 45, 120(*A*). 2. *AA* 54(3), *RP* 45, 117. *This alternative announcement is not applicable when there are pleas of Guilty outstanding and deals with under Record Form B or C.*)

D9. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E below.

RECORD FORM E—PROCEEDINGS ON CONVICTION BEFORE SENTENCE.

E1. President to accused: Do you wish to give evidence yourself or to call any witnesses as to your character?(1)
Ans. No.
(1. *If evidence has already been given by accused or his witnesses as to his character, delete this para. RP* 37(*C*) *fn* 4, 46 *fn* 1. *Accused and witnesses are sworn. Evidence recorded per Notes.*)

E2. The Prosecutor produces Statement(s) as to Character and Particulars of Service(1), and certified true copy (copies) of Conduct Sheet(s)(2), purporting to refer to the accused, which he submits to the Defending Offr for examination, and then to the Court for admission in evidence. The Court is satisfied that these documents refer to the accused, because (i) they purport to be signed in the manner required by AA 163(1) (g) (b), and (ii) they purport to refer to (a) soldier(s) having the same number, rank, name and corps as the accused. Admitted in evidence and marked Ex. E and Ex. F respectively.(3)
(1. *MFB* 355 *or AFB* 296. 2. *Below* 6. 3. *RP* 46, *KR Can* 558. *If above documents not produced, see RP* 46 *fn* 1 *para* 1.)

E3. President to accused: Do you wish to address the Court on the Statement(s) and Conduct Sheet(s), and in mitigation of punishment?(1) Ans. Yes. I thought my Defending Officer.(2)
(1. *RP* 37(*C*), 46(*D*). 2. *Address, if any, recorded per Notes. Court should permit accused or his witnesses to prove on oath anything here or previously stated which would affect the amount of punishment. RP* 37(*F*) *fn* 7.)

E4. The President states that the Court is closed to consider the sentence, and that the sentence to be awarded by the Court, being subject to confirmation, will not be announced, but will be promulgated later, and the proceedings in open court are accordingly terminated.(1)
(1. *AA* 54(6). *RP* 120(*A*).)

E5. The Court considers the sentence.(1) The President records the sentence in Part I of the Schedule, which is dated and signed by him and the JA, if any.(2)
(1. *When several accused tried separately see RP* 71 (*D*). *One sentence only, comprised of the punishment or punishments laid down in AA* 41, 44 *and its proviso, is to be awarded to cover all charges in all charge sheets on which accused found guilty. RP* 48. *As to sentences see AA* 44, 138, 182, *RP* 46-50, 89, 118, 119(*A*), *KR Can* 308, 330, 363-366, *Overseas RO* 309, 2323, *MML p* 60, 757-759. *As to sentences assigned for civil offences by the law of England see AA* 41(5), *MMEL p* 130. *When accused already under sentence of imprisonment or detention see AA* 44(1)(*b*), 68(1), *KR Can* 564. 2. *RP* 50. *As to release from arrest by Confirming Offr see KR Can* 567. *As to assembly and disposal of record after trial see instrs on back of Convening Order.*)

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

CHARGE SHEET

The accused B-139287 Pte Joseph Maurice Guindon, 1st Bn Le Regiment de la Chaudiere CAO, a soldier of the Canadian Army Overseas placed on Active Service, is charged with:

WHEN ON ACTIVE SERVICE

ABSENTING HIMSELF WITHOUT LEAVE

FIRST CHARGE
A.A. SEC. 15 (1)

in that he

when on active service, in the field avsented himself without leave from 0900 hrs on the 8 Nov 44 until he was apprehended by the Military Police at 1200 hrs on the 1st Dec 44. Total absence: 23 days, 3 hours.

WHEN ON ACTIVE SERVICE?

ABSENTING HIMSELF WITHOUT LEAVE

SECOND CHARGE
A.A. SEC. 15 (1)

in that he

in the field, when close arrest absented himself without leave from 0700 hrs 21 st Dec 44 until he surrendered himself to the Canadian Provost Corps at 2200hrs 31st Dec 44. Total absence 10 days 15 hours

Signed in the Field

this 16 day of January 1945

W Tasheresau

[W.W. Tasheresau] Lt. Col.
Commanding Officer
Le Regiment de la Chaudiere

TO BE TRIED BY F G C M

17 January 1945

Jas A Roberts

[J.A. Roberts] Brigadier
Comd 6 Cdn Inf Bde

FIELD GENERAL COURT-MARTIAL

(Whether the accused to be tried is under his comd or not, a FGCM may on application to him be convened by any offr of Cdn Army Overseas, or of any other force if authorized in law, in immediate comd of troops on active service, subject to RP 105(C) and restrictions imposed by appropriate authy. AA 49, 50, RP 104-107, 114. As to the duties and privileges of the Convening Offr in dealing with the application see MML Chap V paras 20 and 23, RP 87(B).

There should be a separate Convening Order for each person to be tried separately by the same Court. RP 71(C), 109. As to separate charge sheets see RP 62, and as to separate trial on charges in the same charge sheet see RP 108. As to two or more accused charged jointly see RP 16, 109.

As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, frs, KR Can 308, 328, 330.)

ACCUSED.

Number.	(a) Prmnt Rk.	(b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
D139287	Pte		Joseph Maurice	GUINDON	R de Chaud

CONVENING ORDER.

1. Whereas complaint has been made to me, the undersigned, that the person named above as the accused, being subject to military law, has committed the offence set forth in the Charge Sheet attached and on (date) 17 Jan 45 endorsed by me, "To be tried by Field General Court-Martial".

2. And whereas I am of opinion that it is not practicable that such offence should be tried by an ordinary General Court-Martial; [illegible]
(Delete part in brackets when not required for compliance with RP 105(C).)

3. I hereby convene a Field General Court-Martial to try the said person, and to consist of the Offrs appointed or detailed hereunder.

X. [illegible]
(AA 49, RP 106(B), 107(A). Delete the whole or part, if not applicable.)

X. [illegible]
(RP 106(E). Delete, if none appointed.)

PRESIDENT.

(Rank.)		(Must be named. RP 106.)	(Unit.)
Maj		F.F. Mosr	N Shore R

MEMBERS.

(Rank.)		(Named or detailed. RP 106.)	(Unit.)
Capt		P.C. Rea	QOR of C
Capt		W. Atkinson	R de Chaud

WAITING MEMBER.

(Rank.)		(Named or detailed, if any. RP 106.)	(Unit.)
Lt		B.A.J. McElwaine	N Shore R

JUDGE-ADVOCATE.

(Rank.)		(Must be named, if any. RP 106.)	(Unit.)

On Active Service in the Fd

in Holland (Country.)

Jas A Roberts (Signed personally. RP 105 fn 2.) Brigadier (Rank.)

Dat 17 Jan 45

Commanding 8 Cdn Inf Bde

Convening Officer.

CONVENING OFFR WILL INITIAL ALL DELETIONS AND ALTERATIONS

(See overleaf for oaths and notes for use on trial.)

LE REGIMENT DE LA CHAUDIERE

DATE 20th January 43

MEDICAL REPORT

I certify that I have this morning examined

R139267 Pte ... No. ... Gunner ... M. ...

by ... and find him fit to undergo trial by Court-Martial.

P. Gauthier Capt.

P. GAUTHIER CAPT. REGMT
M.O. R DE CHAUD

This man is allowed to appear on a court-martial but has to report back to hospital to-day - Because he is under medical treatment

P.G.

D 139287 Pte Swindon M.

The accused being very young, disembarked in France with V.D. he was never looked after concerning the Disease. as a result he still suffers from the Disease. This physical state influenced his frequent absences from his Unit.

"D"

SUMMARY OF EVIDENCE

In the case of B-139267 Pte Joseph Maurice Guindon, Le Regiment de la Chaudiere CAO. a soldier of the Candian Army placed on Active Service.

The C.O. directs that the evidence be taken on oath.

1st Witness: A/Capt H.J. Rutledge T/Adjt of Le Regiment de la Chaudiere CAO. having been duly sworn, States;

I am A/Capt H.J. Rutledge T/Adjt of le Regiment de la Chaudiere CAO. I produce certified true copy of part 11 Orders No. 96 dated 3 Dec 44 (extract of) relating to the accused.
(Extract of Part 11 Orders No. 96 Dated 3 Dec 44 was read to the accused and marked Exhibit "A")
I also produce two certificates of apprehension relating to the accused:
1) Army Act Sec. 163 (1)(J) Dated 15 Dec 44
2) Army Act Sec. 163 (1)(J) Dated 21 Dec 44
The two certificates were read to the accused and marked Exhibit "B" "C".

The accused declines to cross-examine this witness.

H.J. Rutledge

(H.J. Rutledge) A/Capt
O I/C of Unit Records
Regiment de la Chaudiere

2nd Witness: E-9353 Sgt. Leblanc E. of le Regiment de la Chaudiere CAO. having been duly sworn states;

I am E-9353 Sgt Leblanc E. of Le Regiemnt de la Chaudiere CAO. On the 20th Dec 44 at 2300 hrs I called the roll of the prisonners. Pte Guindon J.M. , whom I now recognize, was present. At 0700 hours on the 21st Dec 44 I noticed that Pte Guindon J.M. was absent. The accused was close arrest when he went absent without leave.

The accused declines to cross-examine this witness.

E-9353 Sgt Leblanc E.
Regiment de la Chaudiere

Question to the accused:-
Desirez-vous faire une declaration ou rendre temoignage sous serment? Vous n'etes pas oblige de dire quoique ce soit Mais tout ce que vous direz ~~xxxx~~ ou tout evidence que vous apporteres sera pris par ecrit et pourra servir de preuve.

Answer by the accused:-
I have nothing to say.

B-139267 Pte Guindon J.M.
Regiment de la Chaudiere

I certify that the foregoing Summary of Evidence counting of one page was taken down by me in the presence and hearing of the accused and that R.P. 4 C/D/E/F/G have been complied with.

Signed in the Field
This 16 day January 1945

A/Capt. D.A.J. Pare

Exhibit "A"

LE REGIMENT DE LA CHAUDIERE

Part 11 Orders issued by

CANADIAN SECTION GHQ 2nd ECHELON

21 st ARMY GROUP

No. 96
5 Dec 44

6:- ABSENT WITHOUT LEAVE

A9 A.W.L. from 0900 hrs 8 Nov 44. Still absent at 0900hrs 5 Dec 44.

D-139287 Pte Guindon J.M.

Certified true Copy

A/Capt H.J. Rutledge
Officer I/C of Unit Records

This is Exhibit "B" referred to in the affidavit of [illegible] sworn before me this [illegible] day of [illegible] 1945

B

CERTIFICATE UNDER ARMY ACT, SECTION 163 (1) (i)

Certified that No. S.130287 Rank Pte Name Quinden

of the Arty de Chasl R.Can.Div was apprehended by

Rank Sgt Name C.W.T.C. J.F. of the R Can A Provost Co

Detach at Ghent Belgium at 1200 hrs on the

1st day of December absence without leave.

He was wearing Military Uniform at the time of his apprehension Arrest.

Place Ghent Belgium

Date 1 Dec 44

[illegible] Capt. Lieut.
(R.A. McDonald)
R.A. McDonald
i/c Ghent Detach
R Can A Provost Coy
21 Army Grp

"C"

CERTIFICATE UNDER ARMY ACT, SECTION 53 (1) (j)

I certified that No. D.139287 Rank Pte Name Guindon, J.M.
of the Regt De Chaud 3 Cdn Div Regt., surrendered to No. L.72
Rank L/Cpl Name Puff, J.E. of the 2 Cdn L of C Provost Coy
at Det ach Ghent Belgium at 2200 hrs, on the 31 Dec 44
day of Dec as an absentee without leave.

He was wearing Military Uniform at the time of his surrender. ~~Civilian Clothes.~~

Ghent Belgium
Place
Date 31 Dec 44

H.W. Mahaffy Lieut. & C.
H.W. Mahaffy
Canadian Provost Corps
i/c Ghent Detach

SURRENDER DET. PROVOST COY

No. D139287 Name Pte Guindon Joseph Maurice | Sqn. Battery, or Company | Corps Inf (N) C.A. | Date of enlistment 6 Feb 1943 | GC Badges | Service or Proficiency Pay 3/17 MFM 6 (AFB 122) 40/FAS/528(1)(13) | E

Date of last entry in Company Conduct Sheet | No. and date of last drunk | Period not reckoning towards freedom from extra fine | Sheet No | Signature OC Company, etc | Character

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Farnham Que	SHEET NO.1 DESTROYED ON 6 Aug 43 UPON COMPLETION OF SIX MONTHS SERVICE AFTER DATE OF ENLISTMENT.								
Sorel Que	8 mar 1943	Pte		A.A. Sec.15: AWL from 22 hours 23-3-43 to 2105 hrs 17-3-43 Abs. 6 days 23 hrs 5 Min.	Pte Hamel R. Pte Vo result detention	14 days	18-3-43	Major Milletta	Auto Forf 9 days pay under F. & I.
Farnham Que	11 Aug 1943	Pte	for the amount of $9.47	Losing by Neglect his equipment clothing and regimental necessaries A.A.Sec 24 (2)	Cpl MS Mathieu C.	5 days sum. forfeiture	17-8-43	Col. A.T. Howard	Pay the sum of Charge $9.47
Farnham	23 Aug 43	Pte		A.W.L. from 0100 hr. 23 Aug 43 until 1400 hrs 23 Aug. 43 (A.A. Sec 15(1) Absent: 13 hrs.	F/Cpl Melin Adm A.		24 Aug 43	Capt J C Pontbriand	Auto Forf. 1 Day's pay under F.P.& I.
Farnham	13 Sep 1943	Pte		Conduct to the Prejudice of Good Order and Military Discipline held in Open Arrest (A.A. Sec 40)	Lt. Dupras Sgt Hebert C	3 days C.B.	13 Sep 1943	Major C.E. Cousins	

(PTO)

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Farnham Que	20 Sept 1943	Pte		Neglect to the Prejudice of Good Order and Military Discipline Held in open Arrest (A.A. Sec 40).	CQMS Stote W.F.	3 days C.B.	20 sept 43	Major C.E. Cousins	
Farnham Que	11 oct 1943	Pte		A.W.L. from 0100 hrs 11 oct 43 to 1400 hrs 11 oct 43 Held in open Arrest. (abs.13 hrs) (A.A. Sec 15(1)	Pte Dingras Doc	5 days C.B.	12 oct 43	Capt J.C. Pontbriand	Auto Forf. 1 day pay FR & I 149 (1)a
Farnham Que	25-Jan 1944	pPte		Conduct to the Prejudice of Good Order and Military Discipline A.A. Sec 40	Dupuis A.	3 days C.B.	25 Jan 1944	Capt G. Hebert	
Farnham Que	11 Feb 1944	Pte		AWL from 2200 hrs 11 Feb 44 until 0050 hrs 14 Feb 44. Held in civile arrest. Absent 2 days 2 hrs 50 mins. A.A. Sec 15 (1)	Documentary Evidence	7 days C.B.	14 Feb 1944	Capt JMC Hebert	Auto Forf. 3 days pay FR & I 149 (1)

Certified true Copy

Lt Boulanger Capt & Adjt
Offr. i/c Unit Records

ARMY FORM B.296 (WAR)

Statement as to Character and Particulars of Service of Accused.

(For Use at Trials by Field General Courts-Martial only).

Number.	*Rank.*	*Name.*	*Regiment (or as the case may be).*
D139287	Pte	Joseph Maurice Guindon	Le Regiment de la Chaudiere

NOTE.—The Field Conduct Sheet is to be produced in Court with this statement but is not to be annexed to the proceedings. The numbers herein stated should correspond with the number of ENTRIES in the Field Conduct Sheet, progressive being given to the most serious offence in each entry. If the charge is for drunkenness or absence without leave, the entries for drunkenness or absence, as the case may be, should be stated separately. Any recognised special acts of gallantry or distinguished conduct recorded in the Field Conduct Sheet should also be inserted here.

1. The following is a fair and true summary of the entries in the Field Conduct Sheet of the accused, exclusive of convictions by a court martial or a civil court :—

For A.A. Sec 15 (1) ..... four times.

For A.A. Sec 24 (2) ..... one times.

For A.A. Sec 40 ..... three times.

For ..... times.

Date of first entry in Field Conduct Sheet 8 mar 43

Date of last entry in Field Conduct Sheet 11 feb 44

2. Previous convictions of the accused by a court martial or a civil court are set out in the Schedule overleaf.

*3. The accused at the present time is under sentence for n/a

beginning on the n/a day of

4. The accused has been awaiting trial on the present charges for n/a days in civil custody; and for nineteen days in military custody, *i.e.*, n/a days in open arrest, ... days in close arrest; of which n/a ? days were spent in hospital.

5. The present age of the accused is 18 ~~months~~ years and 4 months

6. The date of his attestation ~~enlistment~~ is 6 Feb 43

7. The service which the accused is allowed to reckon is 22 months

†State the military decorations (if any) held by accused.

8. The accused is in possession of† ~~nil~~ n

9. (*If the accused is a warrant officer or N.C.O.*). The accused has served continuously, without reduction, to the present date—

Date of Promotion.

In the substantive rank of .....

In the war substantive rank of .....

In the acting rank of .....

INSTRUCTION.—*If any matter in any of the above paragraphs cannot be stated from the regimental books the paragraph must be struck through.*

(81114) W.L.5670/668 200,000 4/42 A.&E.W.Ltd. Gp.698
(81459) W.L.22256/1873 60,000 3/42 Forms/B.296(War)/2

SCHEDULE OF CONVICTIONS BY A COURT-MARTIAL OR CIVIL COURT.

Description of Court by which tried.	Date and Place of Trial.	Charges upon which convicted.	Sentence of the Court.	Punishment remitted or sentence suspended.

I HEREBY CERTIFY that the foregoing particulars, which have been extracted from the regimental books in my custody, are correct to the best of my knowledge and belief.

Signed this 20th day of December 1944.

A R Boulanger Capt AGD
OIC Unit Records

41-91

Sgt. Quinn A.E.

SCHEDULE.

PART I. PLEA(S), FINDING(S) AND SENTENCE.

Accused: M 107819 Sgt Alvin Edward Guinn

Charge. (Insert "alternative" where applicable.)	Plea. (See Instrs p 2.)	Finding. (See note below.)	(Space for use as required for further charges, accused charged jointly, special findings, etc.)
1st AA Sec 15(1)	Guilty	Guilty	
2nd			
3rd			
4th			
5th			
6th			

(Note: As to findings for lesser offences see AA 56, RP 44; findings on alternative charges see MML p 483 fn 4 para 2, RP 44; special findings see RP 44 and MML p 733, and in lieu of kit see RP 44 fn 6.)

~~All present, under sentence for~~ [illegible] commencing on [illegible] (1)

(I. Insert sentence being served, or delete, if not applicable. See RP 46(A). Information should be found on MF B355 or AF B296.)

Time in confinement awaiting present trial—a total of 6 days, of which Nil days were spent in hospital.(1)

(I. See RP 46(A) fn 2. Information should be found on MF B355 or AF B296 admitted in evidence under E2.)

Sentence Awarded by the Court:

To be reduced to the ranks.

(Sgd) [illegible] Capt — Judge-Advocate, if any.
9 Jan 45 — Date awarded.
(Sgd) J.W. Beauclerk Major — President. (RP 45, 50.)

(See back of Convening Order as to assembly and disposal of record after trial.)

PART II. MINUTE WHERE CONFIRMATION RESERVED. (AA 54(3), RP 120(F), MML p 760.)

Date ..... (Sgd) ..... Commanding

PART III. DECISION OF CONFIRMING OFFR ON FINDING(S) AND SENTENCE.

(For duties and powers see AA 54, 57, RP 27(D) fn 6.46(A), 51-56, 120, MML pp 759-761, KR Can 567-572. Acquittals require no confirmation and cannot be revised: AA 54(13). Sending back finding or sentence for revision by Court: AA 54(2), RP 120(G). If not confirmed, accused may be tried again: AA 137, MML p 64. Minute of confirmation or non-confirmation may be altered before promulgation: RP 53, MML p 85. Quashing after promulgation: KR Can 572. Duties and powers of reviewing offrs: AA 57, 57A, RP 53A, 54. The Confirming Offr must sign here personally. AA 172 fn 1.)

My decision on the finding(s) and sentence set forth in Part I is:

Confirmed

I direct that the accused be not committed to prison or detention barracks until further orders.(1)

(I. AA 57A. Delete if not used.)

Date 8 Jan 45 (Sgd) [illegible] Brig
Commanding COMMANDER 1 CDN BASE RET GROUP
Confirming Officer.

PART IV. PROMULGATED AND EXTRACTS TAKED. (RP 53, KR Can 576, 577.)

Accused.	Date.	Signature of Offr.
M107819 Sgt Alvin Edward Guinn	9 Jan 45	[illegible] Lt Col 2 Bn - 1 CBRD.

ALL DELETIONS AND ALTERATIONS WILL BE INITIALLED.

RECORDED AT CMHQ IN AB 160 4L-91

FIELD GENERAL COURT-MARTIAL

CFA96 (10 Lines to AFA81 40 P to R 1898) 4-38B

Convened by Order of Colonel S A Lee M.C. 1 Cdn Armd 1 CBRGp CMF dated 4 Jan 45

ACCUSED.

(As to the trial of two or more charged jointly see RP 16, 71, 109. As to reasons for showing (a) permanent or confirmed rank, and (b) apptmt, A/rank or A/apptmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

Number.	(a) Prmnt R. (b) Apptmt, A/R or A/Apptmt.	Full Christian Names.	Surname.	Unit.
M-107819	Sgt.	Alvin Edward	Guinn	2 Bn 1 CBRD

Tried at [illegible] 1945 [illegible]

Held in the Fd in (country) Italy on (dates) 8 Jan 45

PROCEEDINGS OF TRIAL.

RECORD FORM A—OPENING PROCEEDINGS AND ARRAIGNMENT. 2G-27

A1. The President, Members, waiting Member, JA, if any, and Offrs under instr, if any, assemble, and the Court is closed.

(PRINTED MATTER, NOT IN ITALICS FOR GUIDANCE, WILL BE DELETED, IF NOT USED OR APPLICABLE, AND INITIALLED BY PRES OR JA. The Schedule referred to throughout is on p 4. Citations do NOT include all relevant Instr RDs. For guidance on procedure when a variation in this form arises, see form for GCM in MML pp 741 to 759. A brief record of such variation will be made and given a number having reference to interruptions or preceding pars number hereto. See back of Convening Order, CF AB5, for suitable and correct wording as to how to record addresses, evidence etc, which instrs are hereafter called "Notes". As to general provisions for conducting the trial see AA 53, RP 56, 63-70, 73, 74, 94, 102, 119, 132.)

A2. The President initials and lays before the Court the Convening Order and Charge Sheet(s) attached thereto (1) and the Court is satisfied that it is properly convened and constituted(2), accused is (are) amenable to military law, and each charge discloses an offence.(3)

(I. As to use of Summary of Evidence see RP 17 fn 6. 2. AA 49, 50, RP 105-107. 3. RP 11-13, 23, 24.)

A3. The Court is opened. The accused is (are) brought before the Court. At 1000 hours trial commences.

A4. The Prosecutor produces a Medical Certificate that accused is (are) fit to undergo trial by court-martial (1) ~~The Prosecutor informs the Court that accused elected to be tried by court-martial instead of being dealt with summarily by the C.O.(2)~~

(I. KR Can 557. 2. AA 46(B), RP 60 fn 1. For effect see KR Can 563(c). Delete, if not applicable.

A5. ~~President to accused~~: ~~Do you object to~~ ~~the Interpreter is sworn~~ (1) ~~Do you object to~~ ~~the shorthand writer is sworn~~(1) as interpreter? Ans [illegible] as shorthand writer? Ans [illegible]

(I. RP 72. Delete, if none employed.)

A6. The Convening Order and names of the President and Members of the Court are read to the accused (1). President to accused: Do you object to be tried by me as President or by any of the Members of the Court? Ans NO (2)

(I. RP 110. 2. If no objection, waiting member retires. RP 68(B). If objection, see procedure AA 51, RP 25, 71, 78, MML p 742.)

A7. The President, Members, JA, if any, and Offrs under instr, if any, are sworn.(1) The following are the ranks, names and units of the offrs comprising the Court, etc.:

President	Major	J. W. Beauclerk	C/C	2 Cdn Field Centre
Member	Lieut	W. R. Boucher	C/C	2 Cdn Field Centre
Member	Lieut	J. L. Bond	R.C.[illegible]	2 Cdn Field Centre
Judge-Advocate	Capt	H. W. Rose	C/C	Actg HQ 1 CBRGp
Prosecutor	Lieut	J. G. Bruce	C/C	2 Bn 1 CBRD
Defending Offr	Lieut	R. D. Evans	C/C	2 Bn 1 CBRD

Questions by President: Is the Prosecutor a lawyer? Ans NO. Is the Defending Offr a lawyer? Ans NO (1)

(I. RP 26, 27, 109, 110. List of offrs under instr will be returned separately with proceedings for information of Conv Offr.)

G. If Pros a lawyer and Def Offr not, accused is entitled to an adjournment when RP 26 (B) and fn 2, were not followed. See D1 p 33.

A8. The accused [illegible] [illegible] [illegible]

INSTRUCTIONS ON PROCEDURE AFTER ARRAIGNMENT.

1. *The accused may not plead or be found Guilty on more than one of two or more charges laid in the alternative. (RP 37(A).) As to withdrawal of alternative charges by Prosecutor see RP 35(C). No other charge can be withdrawn for any reason without asthy from Convening Offr. If Convening Offr concurs, Court may accept plea of Guilty to lesser, etc, offence. (RP 44(H).) Accused may change a plea of Not Guilty to Guilty during trial. (RP 38.) As to refusing to plead or not pleading intelligibly see RP 35(A). As to plea when sentence may be death see RP 35(D).*

2. *The proceedings on each charge sheet (RP 62) after arraignment will be conducted as follows in the respective circumstances stated :*

I. If pleas to all charges are GUILTY, use Record Form B below.

II. If pleas to all charges are NOT GUILTY, use Record Form D on p 3.

III. If pleas to some charges are GUILTY and to other charges are NOT GUILTY and,

(a) Such mixed pleas occur when there are no alternative charges in the Charge Sheet, use Record Form C below. (RP 37(A).)

(b) Such mixed pleas occur in a set of two or more charges laid in the alternative, see RP 37 (A) and fn 2 as to discretion of Court, (i) to try the accused on all such alternative charges as if he had pleaded Not Guilty thereto, or, (ii) to record the pleas as the findings of Court. After deciding between (i) and (ii), Court will proceed under foregoing instrs as may be appropriate to result of its decision. See MML p 744 Instrs (2).

3. *As to responsibility of President to accused see RP 59, 60(C); powers and duties of JA see RP 103; duty of Prosecutor see RP 60(A) (B); duty and privileges of accused and Defending Offr see RP 60(C), 87(C), 91, 92; swearing and withdrawal of witnesses from Court see RP 81, 82; questioning of accused see RP 80, 87(C), 92(B), and of witnesses see RP 83-85; calling or re-calling of witnesses by Court, etc, see RP 75-79, 86, 116; use of Summary of Evidence at Trial see RP 17(E) fn 6; and responsibility of JA or Pres to record proceedings see RP 94, 96.*

RECORD FORM B—PROCEEDINGS ON PLEAS OF GUILTY TO ALL CHARGES.

B1. The President or JA, if any, complies with RP 35(B) by explaining to the accused the nature and meaning of the charge(s).(1), and that on his plea of Guilty there will be no regular trial but merely a consideration of the sentence to be awarded after he has been given an opportunity to make a statement in reference to the charge(s), call witnesses as to character and make an address in mitigation of punishment.(2)

(I. RP 35 fn 3. 2. MML p 54 para 47.)

B2. President to accused : The Court will now receive any statement you desire to make in reference to the charge(s).(1) If it appears from your statement that there are circumstances which indicate that you do not understand the effect of the plea of Guilty(2), or which show provocation or extenuation in respect of which in your interest the witnesses for the Prosecution should be examined(3), we shall advise you to change your plea to Not Guilty. In making a statement you will not be sworn or subject to cross-examination ; and anything you say will not be used in evidence against you after you change your plea. If, however, it appears to the Court that your statement affects only the amount of punishment to which you are liable, you will not be advised to change your plea and you will be given an opportunity later to prove your statement by sworn testimony, if you so desire.(4)

President to accused : Do you wish to make a statement ? Ans NO . (5)

(I. RP 37(E). 2. RP 37(D) fn 6. 3. RP 35(B) fn 5 para 3, MML p 54 para 47. 4. See para E3 of Record Form E. 5. Statement, if any, recorded per Notes.)

B3. The Court considers the accused's statement.(1) The Court decides (not) to advise accused to change his (their) plea(s) of Guilty to Not Guilty on charge(s). The accused is (are) so informed, and he (they) change(s) his (their) plea(s) on charge(s). Part I of the Schedule is amended accordingly.

(I. Court may be closed to consider the statement. Delete whole or part not used.)

B4. ~~On the charge(s) to which the plea(s) of Guilty is (are) not changed the President records findings of guilty in Part I of the Schedule.~~(1)

(I. RP 35(B). If any plea(s) is (are) changed, use Record Form C or D as appropriate.)

B5. The Summary of Evidence is marked Ex A, initialled and read aloud by the President.(1)

(I. If there is no Summary, or if it is inadequate, comply with RP 37(B). If there is any evidence inconsistent with any plea standing as Guilty, Court will advise accused to change such plea and, if changed to Not Guilty, try such charge(s) by use of paras D1 to D8 inclusive of Record Form D on p 3. RP 37(D).)

B6. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

RECORD FORM C—PROCEEDINGS ON MIXED PLEAS OF GUILTY AND NOT GUILTY.

C1. As to the charges on which accused pleaded NOT GUILTY the trial is continued by using paras D1 to D8 inclusive of Record Form D on p 3 before proceeding with C 2.(1)

(I. RP 37(A) (E).)

C2. The charges on which accused pleaded GUILTY are read to him (them) again, and the trial is continued by using paras B1 to B5 of Record Form B above.(1)

(I. Under B5 such parts only of the Summary of Evidence are read as relate to the charges dealt with under C2. If any plea is changed to Not Guilty, trial thereon proceeds by complying with paras D1 to D8 inclusive in Record Form D on p 3 and making an appropriate record thereof on a separate sheet.)

C3. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

RECORD FORM D—PROCEEDINGS ON PLEAS OF NOT GUILTY TO ALL CHARGES.

D1. President to accused : Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity to prepare your defence ? Ans (1)

(I. If "yes", see RP 39(A) for procedure. Statement or evidence, if any, is recorded per Notes.)

D2. The Prosecutor makes (an) (no) opening address.(1)

(I. RP 39(B), 60(A) (B), 90, 92(C) (D). Record address per Notes, subject to RP 95(C).)

D3. The evidence for the Prosecution is taken.(1)

(I. RP 39(C), 114, KR Can 555. Record evidence per Notes. As to Prosecutor giving evidence himself see RP 39(D) (E).)

D4. The Prosecution is closed.(1) The Defending Offr submits that the evidence for the Prosecution does not establish a prima facie case against the accused on the charge(s).(2) The Court is closed, and considers the submission.(3) The Court is re-opened, and the President announces that the submission is disallowed on the charge(s), and allowed on the charge(s), and that, accordingly, the trial will proceed on the former, but the accused is (are) found Not Guilty on the latter charge(s).(4)

(I. Delete remainder of this para, if submission not made. 2. Arguments on submission, answer and reply are recorded per Notes. 3. RP 40 fn 1. See MML p 72 paras 12-14 and p 81 para 42. 4. Delete part not used. If accused acquitted on all charges, use second alternative to para D8.)

NB : If trial proceeds, accused must be allowed great latitude in making his defence, and the Court should not stop his defence solely on ground of irrelevance. (RP 60(C), 114, 115.)

D5. President to accused : You will now proceed with your defence.(1) You may, if you wish, give evidence yourself on oath as to the facts or your character or both, in which case you will be subject to cross-examination.(2) You may, however, make a statement without being sworn, and you will not be subject to cross-examination.(3) But a statement which could have been made on oath will not carry with the Court the same weight as sworn testimony.(4) You may call witnesses in your defence and as to character, whether you give evidence or make a statement or do neither.

President to accused : Do you wish to give evidence yourself as a witness, make a statement, or do neither ? Ans Do you intend to call witnesses on your behalf ? Ans Are they witnesses as to character only ? Ans

(I. RP 115. 2. RP 40(A), see 80(D). 3. RP 40 fn 10. 4. RP 40 fns 2, 9.)

D6. Consequent on the answers recorded in para D5 the appropriate procedure for the defence is followed.(1)

(I. RP 114, 115, 116. For procedure see Notes on back of Convening Order, CF A95. Evidence for accused as to his character should, if in his interest, be given before the finding. See RP 46(A) fn 1, 86(C). Note the further opportunity in para E1 of Record Form E. Record per Notes addresses, statement, evidence and any summing up by the JA under RP 42, 103(e).)

D7. The Court is closed to consider the finding(s).(1) The finding(s) of the Court is (are) recorded in Part I of the Schedule.(2) The Court is re-opened.

(I. RP 43, 117(A). See Notes in Part I of Schedule. 2. RP 44(A).)

D8. The President announces the finding(s), if any, of Not Guilty, and states to the accused that the finding(s) of the Court on the charge(s), being subject to confirmation, will be promulgated later.(1)

Or, The President announces that the accused is found Not Guilty on all charges and is to be released forthwith, and that the proceedings are accordingly terminated. Part I of the Schedule is dated and signed.(2)

(I. AA 54(2) (d), RP 45, 120(A). 2. AA 54(3), RP 45, 117. This alternative announcement is not applicable when there are pleas of Guilty outstanding and dealt with under Record Form B or C.)

D9. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E below.

RECORD FORM E—PROCEEDINGS ON CONVICTION BEFORE SENTENCE.

E1. President to accused : Do you wish to give evidence yourself or to call any witnesses as to your character ?(1)

Ans NO

(I. If evidence has already been given by accused or his witnesses as to his character, delete this para. RP 37(C) fn 4, 46 fn 1. Accused and witnesses are sworn. Evidence recorded per Notes.)

E2. The Prosecutor produces Statements as to Character and Particulars of Service(1), and certified true copy ~~copies~~ of Conduct Sheet ~~Sheets~~(2), purporting to refer to the accused, which he submits to the Defending Offr for examination, and then to the Court for admission in evidence. The Court is satisfied that these documents refer to the accused, because (i) they purport to be signed in the manner required by AA 163(j) (g) (h), and (ii) they purport to refer to (a) soldier ~~s~~ having the same number, rank, name and corps as the accused. Admitted in evidence and marked Ex B and Ex. C respectively.(3)

(I. MFB 355 or MFB 296. 2. MFM 6. 3. RP 46, KR Can 558. If above documents not produced, see RP 46 fn 1 para 1.)

E3. President to accused : Do you wish to address the Court on the Statements and Conduct Sheet ~~s~~ and in mitigation of punishment ?(1) Ans Yes Plea in mitigation (2)

(I. RP 37(C), 46(D). 2. Address, if any, recorded per Notes. Court should permit accused or his witnesses to prove on oath anything here or previously stated which would affect the amount of punishment. RP 37(F) fn 7.)

E4. The President states that the Court is closed to consider the sentence, and that the sentence to be awarded by the Court, being subject to confirmation, will not be announced, but will be promulgated later, and the proceedings in open court are accordingly terminated.(1)

(I. AA 54(6), RP 120(A).)

E5. The Court considers the sentence.(1) The President records the sentence in Part I of the Schedule, which is dated and signed by him and the JA, if any.(2)

(I. When several accused tried separately see RP 71 (D). One sentence only, comprised of the punishment or punishments laid down in AA 41, 44 and its proviso, is to be awarded to cover all charges in all charge sheets on which accused found guilty. RP 48. As to sentences see AA 44, 138, 182, RP 46-50, 69, 118, 119(A), KR Can 308, 330, 563-564, Overseas RO 309, 2323, MML p 60, 737-739. As to sentences assigned for civil offences by the law of England see AA 41(5), MML p 130. When accused already under sentence of imprisonment or detention see AA 44(3), 68(1), KR Can 564. 2. RP 50. As to release from arrest by Confirming Offr see KR Can 567. As to assembly and disposal of record after trial see Instrs on back of Convening Order.)

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

CHARGE SHEET

The accused, M107819 Sgt Alvin Edward QUINN (The Loyal Edmonton Regiment), 2 Canadian Base Reinforcement Battalion, 1 Canadian Base Reinforcement Depot, a soldier of the Canadian Army Overseas, is charged with:-

FIRST CHARGE
Sec 15 (1)
Army Act

WHEN ON ACTIVE SERVICE, ABSENTING HIMSELF WITHOUT LEAVE

in that he

in the field in Italy absented himself without leave from about 0830 hours 27th December 1944 until surrendering himself at about 0900 hours 2nd January 1945. (Total absence 6 days, 30 minutes.)

(R. W. LENT) Lt.-Col.,
O.C., 2 Cdn Base Rft Bn,
1 C.B.R.D., Cdn Army, C.M.F.

In the Field,
2nd January 1945.

TO BE TRIED BY FIELD GENERAL COURT MARTIAL

In the Field
In Italy
4 Jan 45

(S. A. LEE) Colonel
A/Cond, 1 Cdn Base Rft Dp
Cdn Army-CMF

The appointment of Capt D W ROSE, an
Legal Qualifications, as Judge Advocate
approved by me on behalf of the JAG, pu
Overseas R O 4756.

W B
Lt

FIELD GENERAL COURT-MARTIAL

(Whether the accused to be tried is under his comd or not, a FGCM may on application to him be convened by any offr of Cdn Army Overseas, or of any other force if authorized in law, in immediate comd of troops on active service, subject to RP 105(C) and restrictions imposed by appropriate authy, AA 49, 50, RP 104-107, 114. As to the duties and privileges of the Convening Offr in dealing with the application see MML Chap V paras 20 and 23. RP 87(B).

There should be a separate Convening Order for each person to be tried separately by the same Court. RP 71(C), 109. As to separate charge sheets see RP 62, and as to separate trial on charges in the same charge sheet see RP 108. As to two or more accused charged jointly see RP 16, 109.

As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

ACCUSED.

Number.	(a) Prmnt R.	(b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
M107819	Sgt		Alvin Edward	GUINN	2 Em 1 CERD

CONVENING ORDER.

1. Whereas complaint has been made to me, the undersigned, that the person(s) named above as the accused, being subject to military law, has ~~(have)~~ committed the offence(s) set forth in the Charge Sheet(s) attached and on (date) 4 Jan 45 endorsed by me, ~~(or by an offr of my staff for me)~~, "To be tried by Field General Court-Martial".

2. And whereas I am of opinion that it is not practicable that such offence(s) should be tried by an ordinary General Court-Martial; ~~(and that it is not practicable to delay the trial for reference to a superior qualified offr.)~~

(Delete part in brackets when not required for compliance with RP 105(C).)

3. I hereby convene a Field General Court-Martial to try the said person(s), and to consist of the Offrs appointed or detailed hereunder.

~~(, I am unable to appoint (a) three Offrs to form the Court, (b) a Fd Offr as President, for the reasons I have attached hereto.~~

(AA 49, RP 106(B), 107(A). Delete the whole or part, if not applicable.)

5. I also appoint as Judge-Advocate thereat the Offr mentioned hereunder.
(RP 106(E). Delete, if none appointed.)

PRESIDENT.

(Rank.)			(Unit.)
Major	T W BEAUCLERK (CIC) (Must be named. RP 106.)		2 Cdn Reallocation Centre

MEMBERS.

(Rank.)			(Unit.)
Lieut	P S BAKER (CIC)		2 Cdn Reallocation Centre
Lieut	W X BOUCHER (CIC) (Named or detailed. RP 106.)		2 Cdn Reallocation Centre

WAITING MEMBER.

(Rank.)			(Unit.)
Lieut	J L BOND (RCA) (Named or detailed, if any. RP 106.)		2 Cdn Reallocation Centre

JUDGE-ADVOCATE.

(Rank.)			(Unit.)
Capt	D W ROSE (CIC) (Must be named, if any. RP 106.)		Hq 1 C B R Gp

On Active Service in the Fd

in Italy (Country.)

Date 4 Jan 45

(Signed personally. RP 105 fn 2.)
(S. A. LEE)
F/ Commanding 1 Cdn Base Rft Gp-CMF
Convening Officer.

Colonel (Rank.)

CONVENING OFFR WILL INITIAL ALL DELETIONS AND ALTERATIONS

(See overleaf for oaths and notes for use on trial.)

4/38A (FAMS (2) Dept of AFAIRS 40-7 & 8/1697 (1000))

2 CAMERON BASS BRIGADE CAMEL BATTALION

I certify that I have this morning examined

...Capt. Evans, A.E. ...

and he is fit to undergo trial by Court Martial.

...8th June... 1945. ...Lt.Col. 2.D.S. 2 Cam Bass Bde Bn, I Cmd

Lieut P.S. Baker (C I C) 2 Cdn Reallocation Centre
not being available the waiting member Lieut J. L.
Bond (R C A) 2 Cdn Reallocation Centre is sworn in as
member.

Lieut P.S. Baker (C I C) 2 Cdn Reallocation Centre not being available the waiting member Lieut S. L. Bond (R C A) 2 Cdn Reallocation Centre is sworn in as member.

Mr. President & Gentlemen of the Court:-

In the following few minutes I wish to place before the Court on behalf of the accused the sequence of events in the Active Service career of Sgt. Quinn. This is a period of time that has been well and truly recognized, in an exemplary manner in the Cdn. Army Overseas, while serving with the Special Service Brigade of the Allied Armies.

The accused has pleaded guilty to the charge of being absent without leave for 6 days and some minutes. There are approximately 40 periods of 6 days in the length of time that Sgt. Quinn spent fighting the enemy and under fire. We realize that the evidence of A.W.L. is a matter of record before the Court that is not before the Court however, is a record of service for the preceding months and possible extenuating circumstances leading up to the present position of the accused. (Introduce Certificate)

When the call came for volunteers to form the Cdn section of the S.S. Brigade, intended for use as shock troops and assault landing warfare, Sgt Quinn was among the first to volunteer. Within a short space of time, approximately 3 weeks of intensive training. The accused was one of a company which established, and held, the Anzio beach head that was to play a large part in the Allied advance in Italy. When the Allied forces broke the enemy ring at Anzio they fought with Italy's capital city, Rome,

RWL

was liberated. The S.S. Brigade were the first Allied troops to enter the city.

Then followed a strenuous period of training & amphibious operations. Objective as yet unknown, but that further action was imminent was a certainty. At 0700 hrs on Aug 15th the S.S. Brigade made the first assault landing of the Armies of Liberation on the Southern coast of France. 10th days of bitter fighting followed in which the accused served throughout as a machine-gunner. The advance never stopped until Nice had been liberated, and there also was reached the decision to disband the S.S. Brigade and return the personnel to their respective Armies, Colonial and American.

It is unfortunate, in the interests of Sgt. Stein, that he was attached to the American section of the S.S. Brigade as neither his former Officers or N.C.O's were returned to this theatre of war to come forward and give evidence before this Court as to the ability, trustworthiness and fighting qualities of this N.C.O. Since joining the Army, not one entry of any nature whatsoever has been recorded on the N.P.M.S. of the accused. I trust it will speak in the absence of the character witnesses.

After the return of Sgt. Stein to this theatre of operations for remustering into the Colonial Army, he was detailed for training, while the majority of his former comrades were posted to units in the forward area of 1st Colonial Corps. Xmas was at hand and on

seems usual at this time of the year, alcohol in excess of what is wise was consumed. The potency of Italian liquors is recognized by our troops and is brought to the attention of all ranks through the medium of Part II Orders. The quantity and quality of alcohol consumed, along with the substances while on service where it was not available was lessened, led to intoxication which assisted materially in the accused committing his first army offence. Owing to the exigencies of the service Sgt. Hunn has not had a leave since prior to embarkation for overseas in 1942. The defence does not offer this as any excuse whatsoever for going "absent without leave", but does respectfully bring to the attention of the Court, that the offence was not committed during the period when Hunn may have missed the difference between life and death for his comrades with whom he was fighting as himself. In conclusion I would like to summarize the points which I trust will be the deciding factor in establishing the fact that, the accused though guilty, is deserving of the mercy of the Court.

(a.) That Sgt. Hunn, the accused, has never in any time committed an offence in the Army, prior to this.

(b.) That he has, by his ability and initiative, attained the rank of a confirmed senior N.C.O. in a Unit where a high standard of personnel was required.

Ex "D"

Paymaster's Office,
2 Cdn Base Reinf Bn., #1 CBRD.

6 Jan 45.

To whom it may concern:

Re: M10/7810 Sgt. Quinn, A.H.

1. This is to certify that according to regimental documents (MFM.14), the marginally noted NCO was on strength of 1 Cdn Special Service Bn., from 1 Apr. 44 until 17 Dec. 44.

Major.
J. Bernier, Paymaster.
2 Cdn Base Reinf Bn., #1 CBRD.

Ex "E"

CERTIFIED TRUE COPY OF PARA 561 of 2 CDN BASE RFT BN, 1 CBRD PART I ORDER No. 64 dated 23rd December 1944, ISSUED BY Lt.-Col. R. W. LENT, ED.

561. WINES AND SPIRITUOUS LIQUORS:

1. All ranks are advised to use restraint in the consumption of local wines. They are cheap and potent. Less reputable establishments are almost certain to "doctor" them with the object of causing complete drunkenness. Over-indulgence causes gastric trouble.

2. The consumption in Camp Areas of alcoholic drinks in places other than authorized messes or canteens is forbidden.

3. All ranks are warned that it is contrary to regulations to carry wines or other spirituous liquors on the person. Wines or spirituous liquors found in the possession of a person subject to military law will be confiscated and a charge laid.

.....

1 Bn 1 Cdn Base Reinforcement Depot

Ex "A"

SUMMARY of EVIDENCE

Summary of Evidence in the case of M107819 Sgt QUINN, A. E., (The Loyal Edmonton Regiment), 2 Canadian Base Reinforcement Battalion, 1 Canadian Base Reinforcement Depot, a soldier of the Canadian Army Overseas.

By direction of The Commanding Officer the evidence is taken on oath.

FIRST WITNESS for the PROSECUTION

M7197 Cpl Brandson, L., 2 Cdn Base Rft Bn, 1 C.B.R.D., having been duly sworn, states:

"On 27th December 1944 I was acting Company Orderly Sgt. At 0830 hours I called the roll and found the accused, whom I now recognize, absent. I reported this to the Coy Office. At 0900 hours 2nd January 1945 Sgt Quinn reported in to me at the Coy Office. I warned him at that time that he was in open arrest. He was clean shaven, properly dressed and sober."

L. L. Brandson
(M7197 Cpl Brandson, L.)

The accused declines to cross examine this witness.

The accused was cautioned as follows:

"Do you wish to make any statement or to give any evidence on oath? You are not obliged to say anything or give any evidence unless you wish to do so, but whatever you say, or any evidence you give, will be taken down in writing and may be given as evidence."

The accused declines to make any statement or give evidence on oath.

Certified that Rules of Procedure 4 (c), (d), (e) and (f) have been complied with.

I certify that the foregoing Summary of Evidence, consisting of one page, was taken down by me in the presence and hearing of the accused this 2nd day of January 1945.

G. J. Murphy Lt
(Officer detailed to take Summary)

In the Field,
2nd January 1945.

Ex "B"

Army Form B.296.

Statement as to Character and Particulars of Service of Accused.

Number.	Rank.	Name.	Regiment (or as the case may be).
M107819	Sgt	Gurney, A. E.	2 Can. Base Repl. Bn, 1 CBRD.

1. The following is a fair and true summary of the entries in the regimental and squadron, battery or company conduct sheet[s†] of the accused, exclusive of convictions by a court martial or a civil court, of summary awards under section 47 of the Army Act, and of cases in which trial has been dispensed with :—

Note.—If a trial by field general court martial has been dispensed with it may be completed from the field conduct sheet.

The conduct sheet(s) mentioned should be produced by the unit with this statement but not annexed to the proceedings.

† See para. 627, K.R., Vol. I.

* The accounts to be stated should have regard to the number of days to the conduct sheets, produced being given to the most advantage to the accused in each entry, and to any exceptional acts of gallantry or distinguished conduct.

Instruction (a) If the charge is for drunkenness, the entries for drunkenness must be stated separately and dated.

* Within last 12 months.

	*Since Enlistment.
For ~~Number of instances of gallantry or distinguished conduct,~~	
For ~~There are no entries in the conduct sheets of the accused.~~	times
For	times
For	times
For	times
For	times

or

2. The accused has not been previously convicted, *or*

~~The previous convictions of the accused by a court martial or a civil court, summary awards under section 47 of the Army Act, and dispensations with trial under section 53 of the Army Act, are set out in the schedule annexed to this statement.~~

3. The accused is not under sentence at the present time, *or* ~~The accused at the present time is under sentence, imposed on the day of beginning on the day of~~

4. The accused has been in continement, awaiting trial on the present charges, for Nil days in civil custody, and ~~13 days~~ 6 days in military custody, making a total of 6 days, of which Nil days were spent in hospital. on 7 Dec 41. 7 Dec 41.

5. The present age of the accused according to his record of service is 29 yrs 1 month.

6. The date of ~~his enlistment~~ attestation specified in his record of service is 26 May 1939

~~7. The service which the accused is allowed to reckon towards discharge or transfer to the reserve is~~

~~8. The accused is entitled to deferred pay or gratuity in respect of~~

~~9. The accused is entitled to reckon service for the purpose of determining his pension, etc.~~

10. The accused ~~is in possession of, or~~ entitled to, no military decoration or military award for or in possession of or entitled to (*state any military decoration or reward*).

~~11. (If the accused is a warrant officer.) The accused before he was made a warrant officer last held the rank of~~

~~12. (In the case of an officer.) The accused holds in the army the rank of and in his regiment (or corps or department) the rank of dated~~

[72847] W.H.(P.A.)1917 30,000 10/42 A.& E. (C.)1st Gp.4/9
[69807] W1.15554/1227 30,000 5/42

Schedule of Convictions by a Court Martial or Civil Court, of summary awards under Section 47 of the Army Act and of cases in which trial has been dispensed with of accused.

No. M 107817 Rank Sgt Name [illegible] A E of 2044 Bty Regiment (or as the case may be).

(INSTRUCTION—*A verbatim extract from the regimental books, stating these convictions and dispensations with trial, must be inserted.*)

Description of court by which tried, or status of officer disposing of the charge or dispensing with trial.	Date and place of trial, or summary award under A.A. 47, or of order dispensing with trial.	Charges upon which convicted, or in respect of which trial was dispensed with.	Sentence of the court or authority disposing of the charge, or order of the dispensing authority.	Punishment remitted.

I HEREBY CERTIFY that the foregoing schedule of convictions and dispensations with trial is a true extract from the regimental books in my custody.

Signed this 8th day of Jan 45'

[signature] Capt Adjutant

2 Bn 1 Cdn Base Reinforcement Depot

13. The accused has served as a non-commissioned officer continuously, without reduction, to the present date.

In the rank of Sgt from 4th March 43 Date of Promotion.

To the rank of [illegible] from [illegible]

In the rank of [illegible] from [illegible]

(Instructions.—If any matter in any of the above paragraphs cannot be stated from the regimental books the paragraph must be struck through, except that in the case of a trial by field general court martial the information may be collected from such sources as are available and the paragraphs completed accordingly.)

No M107819 Name GUINN, Alvin Edward. Sqn. Battery or Company: Corps C.I.C. "C" EX

Date of last entry in Company Conduct Sheet | No and date of last drunk | Period not reckoning towards freedom from extra fine | Date of enlistment 26 May 43 | Sheet No One | Badges | Signature OC Company, etc "W. L. Lamb" Capt | Service or Proficiency Pay | Character

MFM 6 (AFB 122) 40/PAB/136 (9458)

Fine	Date of Offence	Rank	Cause of disqualification	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
						"C. A. Marsh Capt"	30 Sept 43		

CERTIFIED TRUE COPY FROM THE REGIMENTAL BOOKS IN MY CUSTODY

3 Jan 45 [signature] Lieut. Inf. Platoon Commander

2 Bn 1 Gds Para Reinforcement Depot

(PTO)

Exh 11.

LIST of WITNESSES
in the case of
M107819 Sgt Quinn, A. E.

For the Prosecution:

(1) M7197 Cpl Brandson, L. 2 Cdn Base Rft Bn, 1 C.B.R.D.

For the Defence:

(1) N i l.

LIST of EXHIBITS
in the case of
M107819 Sgt Quinn, A. E.

N i l

I, M107819 Sgt Quinn, A. E., The Loyal Edmonton Regiment, 2 Cdn Base Rft Bn, 1 C.B.R.D., request that ..... ~~(an)~~ an officer be appointed to represent me at my trial by Court Martial.

2nd January 1945 .....
(M107819 Sgt Quinn, A. E.)

I certify that I have been given gratis, a copy of the Charge Sheet, a copy of the Summary of Evidence, a copy of the List of Witnesses, and a copy of the List of Exhibits pertaining to my trial by Court Martial.

2nd January 1945 .....
(M107819 Sgt Quinn, A. E.)

FLASH NUMBER ONE

FLASH NUMBER ONE

FLASH NUMBER ONE

FLASH NUMBER ONE

FLASH NUMBER ONE

FLASH NUMBER ONE

TT-107
PTE GUITAR G.

TT-107

Correspondence to be PINNED here.

Army Form A.3.

Form for Assembly and Proceedings of Field General Court Martial on Active Service.

PROCEEDINGS.

A.

Order convening the Court.

On Active Service, this TWELTH day of OCTOBER, 1943.

Whereas it appears to me, the undersigned, an officer in Command of EIGHTH CANADIAN INFANTRY BRIGADE, on active service, that the persons named in the annexed Schedule, being subject to Military Law, have committed the offences in the said Schedule mentioned.

And whereas I am of opinion that it is not practicable that such offences should be tried by an ordinary General Court Martial; *[and that it is not practicable to delay the trial for reference to a superior qualified officer]

*Omit where Convening Officer is a Commanding Officer or is of Field Rank.

I hereby convene a Field General Court Martial to try the said persons, and to consist of the Officers appointed or detailed hereunder.

* [I am unable to appoint—

*(1.) Three Officers to form the Court; and

*(2.) A Field Officer as President;

for the following reasons, namely:—]

*Omit if not applicable.

15 Nov 43

Notes.—The President must be named. The members and waiting members (if any) may be mentioned by name, or the number and ranks and the unit to which they belong may alone be named. In the latter event, the ranks, names, &c., of the members of the Court, so constituted, will be recorded on the proceedings.

President.

Rank.	Name.	Regiment.
Major	G.L. TASCHEREAU	R de Chaud

Members.

Rank.	Name.	Regiment.
Captain	W.C. BAIRD	8 CDN INF BDE GP GP (CHofC)
Lieutenant	E.A. CULTON	N SHORE R
W/Member Lieutenant	W.D. STEWART	Q O R of C

*Must be signed personally by the Officer actually in command at the time, and all alterations in the composition of the Court to be initialled by him.

*Signed [illegible]

Commanding 8 CDN INF BDE
Convening Officer.

SCHEDULE

Number, Rank (a), Name and Unit of Accused (b)	Offence charged	*Plea	Finding, and if Convicted, Sentence (c)	How dealt with by Confirming Officer (d)
G-18408 Pte GUITAR, George North Shore (New Brunswick) Regt				
First Charge Sec 10 (a) A A	BREAKING OUT OF BARRACKS	Guilty	Guilty. To undergo detention for 3 (three) months.	
Second Charge Sec 15 (1) A A	ABSENTING HIMSELF WITHOUT LEAVE	Guilty	Guilty. To undergo detention for 90 days. Sentence to commence on 13/10/43	Confirmed
(See attached Charge Sheet)				

*Question to be asked of accused, if he pleads not guilty (R. of P. 39 (a)):—
"Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity for preparing your defence?"
Answer (to be recorded on separate sheet if necessary):—

(Signed) H Blackader Brig. (Signed) Geo Lagueux Maj.
Commanding 8 Cdn Inf Bde. F.E.C. Pres.
Convening Officer (e) President.

(a) Appointment acting rank or acting appointment, if any, to be stated in brackets after the substantive rank.

(b) Unless unavoidable, not more than three names are to be entered on one form, and in serious cases one only.

(c) Recommendation to mercy, if any, to be inserted in this column.

(d) It is not necessary that the Confirming Officer should sign his name in this column. Initials are sufficient.

(e) Must be signed by the same Officer who signs on the first page, and all alterations in the first two columns of the Schedule to be initialled by him.

Evidence and Charge Sheets (if necessary) to be PINNED here.

B. Certificate of President as to proceedings.

I certify that the above Court assembled on the 13th day of Oct., and duly tried the persons named in the Schedule, and that the plea, finding, and sentence in the case of each such person were as stated in the third and fourth columns of that Schedule.

I also certify that:—

1. The members of the Court
2. The witnesses
*(3. ~~The Interpreter~~)
*(4. ~~The officers under instruction~~)

*Omit if not applicable.

were duly sworn.

Signed this 23rd day of Oct 1943.

Geo Lagueux Maj.
President of the Court Martial.

C. Certificate in case of death sentences.

*See footnote (3) on page 765 M.M.L. 1929.

*~~I certify that the terms of A.C.I. 570 of 1918 have been complied with.~~

Signed this ~~day of 19~~

President of the Court Martial.

D. Confirmation.

I have dealt with the findings and sentences in the manner stated in the last column of the Schedule, and, subject to what I have there stated, I hereby confirm the above findings and sentences.

*To be omitted unless penal servitude, imprisonment or detention having been awarded, the Confirming Officer either has no authority to commit to prison or detention barrack, or, having such authority, recommends suspension.

*~~(I direct that the soldier named in the margin be not committed to prison or detention barrack until further orders.)~~

Signed this 23rd day of Oct 1943.

H Blackader Brig.
Confirming Officer.

Promulgated and extracts taken in the case of

(a) (Dated) 26 Oct 43 (Signed) G. C. Richmond Maj. A/Cond 11 Inf Bde

Promulgated and extracts taken in the case of

(Dated) (Signed)

Promulgated and extracts taken in the case of

(Dated) (Signed)

(a) When several cases are promulgated in one unit on the same day the Officer need only sign once.

Gp.449

"B"

CHARGE SHEET

The Accused, G/18408 PTE. GUITAR, G, the North Shore (New Brunswick) Regiment, a soldier of the Canadian Army, (Overseas) is charged with:

FIRST CHARGE
A.A. SEC 10 (4)

WHILE ON ACTIVE SERVICE:

BREAKING OUT OF BARRACKS,

in that he,

in the field at approximately 2120 hrs, 26 Sep 43 did escape from Close Arrest while undergoing Field Punishment.

SECOND CHARGE
A.A. SEC 15 (1)

WHILE ON ACTIVE SERVICE:

ABSENTING HIMSELF WITHOUT LEAVE,

in that he,

in the field, absented himself at 2120 hrs, 26 Sep 43 until 0050 hrs, 6 Oct 43. (Absent 9 days 3 hrs 30 mins). Cost of Apprehension, £5/6/7.

In The Field
11 Oct 43.

(D.B. Buell) Lt.-Col.
Commanding N. Shore R.

To be tried by Field General Court Martial.

Date 12 Oct 43

(K.G. BLACKADER) Brigadier,
Commanding 8 Cdn Inf Bde.

MEDICAL CERTIFICATE

I, have this day examined G/16408 PTE. GUITAR, G.

of NORTH SHORE

(NEW BRUNSWICK) REGIMENT C.A. (O/S)

and find him fit ~~unfit~~ to undergo Trial by Court Martial.

Date 13 OCT 43

JAG BRANCH - REVIEW RECORD

Accused

B. 18408 Pte. Gunter, B.
N.S. (NB) Regt.

Remarks	Date
Trial in (Country) Eng	13 Oct
Charges 40(4) - 15 (1)	
Sentence 90 days det	13 Oct.
Rec'd from CR at JAG Branch	15 Nov.
To D.W. for (~~pre~~)(post) rev	15 Nov.
Recommendations by JAG CM1 (1) Pass and record. (2) ~~Btr on irregularities~~ (3) Quash ~~charge(s)~~. (4)	
Ret'd to JAG Rev 1 by JAG CM1	15 Nov 43
Passed to	
Passed to	
To AG 5 for	
Ret'd from AG 5 to JAG Rev 1	
Instrs by JAG Rev 1 on disposal	
Record file	15 Nov 43
Instrs completed by	

**All printed matter not applicable to the particular Court being held should be struck out and initialled by the President.

A

**Form of Proceedings for General and District Courts-Martial

Proceedings of a ~~Field General~~ Court-Martial held ~~at~~ in the Field on the 15th day of Oct 1943 by order of Brig K. G. Blackader Commanding 8 Cdn Inf Bde dated the 12th day of Oct 1943

President.
Lt Col Fraser Hqs
R. Le Chand.

Members.
W. C. Baird Capt
8 Cdn Inf Bde Sig Coy (Lt-Col)
B. A. Cutler Lieut
N. SHORE R.

Trial of* KG 1840816 Georges Gaston N. SHORE R. Judge Advocate

The order convening the Court, the charge-sheet and the summary ~~(or abstract)~~ of evidence are laid before the Court.

~~The Court satisfy themselves that is not available to serve owing to~~

~~, waiting member takes his place as a member of the Court.~~

The Court satisfy themselves as provided by Rules of Procedure 22 and 23.

The accused is brought before the Court.

Prosecutor,† ~~Lieut~~ Lieut L. S. Regt. N. Shore R.

~~Counsel~~‡ or defending officer† Capt A A L Robichaud N Shore R.

At 1610 o'clock the Trial commences.

The order convening the Court is read, and is marked X signed by the President, and attached to the proceedings.

The names of the President and members of the Court are read over in the hearing of the accused, and they severally answer to their names.

Question by the President to the accused. / Do you object to be tried by me as President, or by any of the officers whose names you have heard read over?

Answer by accused. / No Sir,

(N.B.—If objection is made it should be recorded, together with the decision of the Court, on a separate sheet.)

* Here insert No., Rank, full Name, Regiment, and Appointment (if any).
† Here state Rank and Name, and Regiment (if any).
‡ Qualification to be stated.

M.S.O.
807 & 808

B

The President, members and judge-advocate are duly sworn.

The following officers under instruction are duly sworn.

Charge-Sheet

The charge-sheet is signed by the President, marked B 2 and annexed to the proceedings.

Instruction. *If the accused has elected to be tried under Army Act, sec. 28 (3) the fact should be here recorded.*

Q1 The accused is arraigned upon each charge in the above-mentioned charge-sheet.

A1 ~~Guilty~~

Q2 Are you guilty or not guilty of the [first] charge against you, which you have heard read? *Question to the accused.*

A2 Guilty

Answer.

~~Q3 Are you guilty or not guilty of the second charge against you, which you have heard read?~~ *Question.*

A3 Guilty

Answer.

~~Q4 Are you guilty or not guilty of the third charge against you, which you have heard read?~~ *Question.*

Answer.

~~Q5 Are you guilty or not guilty of the fourth charge against you, which you have heard read?~~ *Question.*

Answer.

The accused having pleaded Guilty to Both charges, the provisions of Rule of Procedure 35 (B) are here complied with.

Instruction. If the trial proceeds upon any charge to which there is a plea of "Not Guilty," the Court will not proceed upon the record of a plea of "Guilty," until after the finding on that other charge.

CC

Proceedings on Plea of Guilty

*To be struck out in case no plea of "Not Guilty" has been proceeded with.

*[~~The Court having been re-opened, the accused is again brought before it, and the charge~~ to which he has pleaded "Guilty" ~~read to him again.~~]

The accused No C. 18408 Pte George Hunter N. SHORE R. is found guilty of both charges

*The summary (~~or abstract~~) of evidence is read, marked "J", signed by the President, and attached to the proceedings.

Question to the accused. Do you wish to make any statement in mitigation of punishment?

Answer. No Sir

~~The accused in mitigation of punishment says:~~ —

~~[or hands in a written statement, which is read, marked , signed by the President, and attached to the proceedings.]~~

Instruction.

* If there is no summary or abstract of evidence, sufficient evidence to enable the Court to determine the sentence, and to enable the confirming officer to know all the circumstances connected with the case, will be taken on a separate sheet in the same manner as on a plea of "Not Guilty."

If from the statement of the accused, or from the summary or abstract of evidence, or otherwise, it appears to the Court that the accused did not understand the effect of his plea of "Guilty," the Court shall alter the record, and enter a plea of "Not Guilty," and proceed with the trial accordingly.

"Z 11"

Q 5 Do you wish to give evidence yourself or to call any witnesses as to character? *Question to the accused.*

A 5 No Sir, *Answer.*

Evidence as to character.

"Z 15"

"J"

SUMMARY OF EVIDENCE IN THE CASE OF G-18408. PTE. GUITAR, GEORGE, "D" COY. NORTH SHORE (NEW BRUNSWICK) REGIMENT.

By direction of the Commanding Officer the Summary of Evidence is taken on oath.

FIRST WITNESS FOR THE PROSECUTION

G-18379. Cpl. Wiggins, L.W., Sp. Coy. North Shore (New Brunswick) Regiment, having been duly sworn states:

On September 21st, 1943 I was detailed for Guard Duty and was told to report to Sgt. Scott, H.J.(Regimental Police) My instructions from him were to keep in custody Pte. Guitar, G., and Pte. Pinette, G., both having been apprehended earlier in the day in Glasgow for being A.W.L. These two men being awarded 14 days Field Punishment ~~under the Commanding Officer~~ to be served in the unit.

So during my tour of duty, the sentries kept a close watch on both men.

The Accused declines to cross-examine the witness

(G-18379. L.W. Wiggins) Cpl.

SECOND WITNESS FOR THE PROSECUTION

G-22786. L/Cpl. Sharpe, W.C., "C" Coy. North Shore (New Brunswick) Regiment, having been duly sworn states:

On the 26 September 1943, I was Guard Commander. Having duly received my instructions from the previous Guard Commander, in particular with reference to Pte. Guitar, G., and Pte. Pinette, G.

At approximately 1800 hrs. same date, I detailed Pte. Guitar, G. for kitchen fatigue under the escort of two sentries.

Between the hours of 1830 and 2030 hrs., I visited the kitchen several times and everything was in order.

Around 2150 hrs. one of the sentries reported to me that the two prisoners had escaped. I immediately warned the Bn. Orderly Room of this matter.

The Accused declines to cross-examine the Witness.

(G-22786. L/Cpl. Sharpe, W.C.)

The Accused having been duly cautioned in accordance with RULE OF PROCEDURE 4 (E) reserves his defence.

CERTFIED THAT RULE OF PROCEDURE 4 (C) (D) (E) and (G) have been complied with.

CERTFIED THAT RULE OF PROCEDURE 83 (B) has been complied with.

TAKEN DOWN BY ME IN THE PRESENCE AND HEARING OF THE ACCUSED THIS 9 th DAY OF OCTOBER 1943, IN THE FIELD.

(L.F. Roy.) Lieut.
NORTH SHORE (NB) REGIMENT..

E

Finding*

*To be struck out except in cases where trial has taken place on a plea of "Not Guilty."

The Court is closed for the consideration of the finding.

The Court find that the accused

Proceedings on Conviction *before Sentence*

*When the Court is already open this sentence will be struck out.

*~~The Court being re-opened, the accused is again brought before it.~~

Lieut L.S. Roy N. SHAKER is duly sworn.

Evidence of character, &c.

Question by the President. 6 A 6 Have you any evidence to produce as to the character and particulars of service of the accused? *Answer by the Witness.* Yes. I produce M.F.B. 352

The above statement [with the schedule of convictions ~~and of cases~~ in which trial has been dispensed with] is read, marked "L", signed by the President, and annexed to the proceedings.

Question by the President. 7 A 7 Is the accused the person named in the statement which you have heard read? *Answer by the Witness.* Yes

Question. 8 A 8 Have you compared the contents of the above statement with the regimental books? *Answer.* Yes

Question. 9 A 9 Are they true extracts from the regimental books, and is the statement of entries in the conduct sheets a fair and true summary of those entries? *Answer.* Yes

[Observation.—If by reason of the nature of the service of the accused in a department, corps or otherwise, the finding of the Court renders him liable to any exceptional punishment in addition to that to be awarded by the Court the prosecutor must call the attention of the Court to the fact, and the Court must inquire into the nature and amount of that additional punishment.]

~~Cross-examined by the accused.~~ "Yes" The Defending Officer declined to cross examine.

Question to the accused. 10 A 10 Do you wish to address the Court? *Answer.* No sir

The Court is closed for the consideration of the sentence.

F

Sentence

The Court sentence the accused No 6 15408 Pte Gray Sentence.
Gunner W. SHORE R. to undergo
detention for (90) ninety days and to be
put under stoppages of pay until
he has made good the sum of
£ 5/6/7 in respect of the cost of
apprehension and return to his
unit.

Signed in the Field this 13th day
October 1943

J. A Jacobsen
Maj
R. de Brand.

CITY OF GLASGOW POLICE

FORM 388a W970

"A" Division

Central Police Station [redacted]

6th. October, 1943.

Subject:- Surrendered Absentee:- No. G.18408. Private George Guitar. N.S.R. Regiment, Canadian Forces.

With reference to subject matter I beg to report that at 12-50 a.m. on this date, the above named called at this Office and stated that he was an absentee without leave from the North Shore New Brunswick Regiment since 3rd. October, 1943, and wished to surrender himself as such.

He was unable to give any information regarding the location of his unit but stated that he thought it was near Southampton.

He was detained at this Office pending the arrival of a Military Escort.

Guitar was in uniform.

Alex Sutherland
No. 250 Constable
Reg. No. F.353.

The Superintendent.

Forwarded/

Forwarded for the information of The Officer Commanding.

Lieutenant
for Superintendent

6th October, 1943.

Expense Voucher Re—: Ref: K.R. & O. (Can) 539

No 6 18408 Rank Pte Name Hunter, H Unit N S R 17 Coy

The following expenses were incurred in apprehending and returning the M/N Soldier to his ~~Unit From~~ London from Glasgow

Date	Particulars		Amount		
7 Oct 43	Escorts return fare from LONDON To	Glasgow	3	1	7
	Prisoners single fare to LONDON From	Glasgow	1	10	10
	Prisoners fare from	To			
	Escorts & Prisoners expenses for ~~Bed, Meals~~, Bus fares			4	0
		Total £	4	16	5

I certify that the above statement of Expenses is Correct, and that the amounts are fair and just.

Capt.

Officer Issuing Railway Warrant and Expense monies
No. 6 Area Provost Company, Canadian Provost Corps, London.

C.M.H.Q. 1000/20
6/P.R.&M/13497/3

Expense Voucher Re— To: D Coy. Ref: K.R. & O. (Can) 539

No. 6/18408 Rank Pte Name Guitar, E. Unit N. Shore Regt.

The following expenses were incurred in apprehending and returning the M/N Soldier to his Unit From London

Date	Particulars	Amount		
	½ Portion			
20 Oct 43.	Escorts return fare from LONDON To Winchester		5	1
	Prisoners single fare to LONDON From Winchester		5	1
	Prisoners fare from London To			
	Escorts & Prisoners expenses for Bed, Meals, Bus fares			
	Total £		10	2

I certify that the above statement of Expenses is Correct, and that the amounts are fair and just.

Capt.

Officer Issuing Railway Warrant and Expense monies
No. 6 Area Provost Company, Canadian Provost Corps, London.

C.M.H.Q. 1000/43
80(F.S.)43(0)(2271)

F.M. 6

No. G184[illegible] Name Guitar, G. | Sqn., Battery, or Company | Corps N. Shore R. | Date of enlistment 2 Apr 40 | G.C. Badges | Service or Proficiency Pay | Character

Date of last entry in Company Conduct Sheet N/A | No. and date of last drunk N/A | Period not reckoning towards freedom from extra fine N/A | Sheet No. 2 | Signature O.C. Company, etc.

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Name of Witnesses	Punishment awarded	Date of award or of order (Appointing with trial)	By whom awarded	Remarks
				"SHEET DESTROYED - 2 Oct 42" "LAST ENTRY 28 JUL 43 NO OF CASES OF DRUNKENNESS - NIL"					
In The Field.	22 Aug 43	Pte.		A.A. Sec 15 (1) W.O.A.S. A.W.L. from 2359 hrs 22 Aug 43 until apprehended at 0330 hrs 23 Aug 43. (Absent 3 hrs 31 mins)	Documentary	14 Days C.B.	24 Aug 43	Lt.-Col. D.B. Buell	
In The Field.	14 Sep 43			A.A. Sec 15 (1) W.O.A.S. A.W.L. in that he absented himself from his quarters from 2230 hrs 14 Sep 43 until apprehended by Provost at 2000 hrs 20 Sep 43. (Absent 5 days 21 hrs 30 mins)	Cpl. Theriault A.L. Sgt Smith, M.R. L/Cpl.Snider, M.E. (Documentary)	14 Days F.P.	23 Sep 43	Lt.-Col. D.B. Buell	Forfeits 14 days pay under F.R. & I. 149 1 (b) Forfeits 6 days pay under F.R. & I. 149 (1) (a) Total forfeiture 20 Days pay

J. Robertson Rsm Sgt

Certified True Copy

N. ShoreR. In The Field. 11 Oct 43

"L"

M.F.B. 355
22M—5-41 (3734-3)
H.Q. 1779-39-420
A.F.B. 206

STATEMENT AS TO CHARACTER AND PARTICULARS OF SERVICE OF ACCUSED

Number	Rank	Name	Regiment (or unit)
G/18408	Pte	GUITAR, G.	N. Shore (Mx) R.

1. The following is a fair and true summary of the entries in the Service and General Regimental and Squadron, Battery or Company Conduct sheets of the accused, exclusive of convictions by a Court-Martial or a Civil Court, Air Force Act of summary awards under Section 47 of the Army Act and of cases in which trial has been dispensed with.

	Within last 12 months	Since enlistment or appointment
For AWL	2 times	2 times
For Conduct etc,	times	1 times
For	times	times
For	times	times

Number of instances of gallantry or distinguished service

Nil

There are no entries in the conduct sheets of the accused.

NOTE.—If the charge is for drunkenness, the entries for drunkenness must be stated separately.

2. The accused has not been previously convicted

Nil

Previous convictions of the accused by a court-martial or award under summary powers under Air Force Act / Army Act, and dispensations with trial, under A.A. 79 (3) set out in the Schedule annexed to this statement.

3. The accused is not under sentence at the present time.

Nil

The accused at the present time is under sentence for beginning on the day of

4. The accused has been in confinement awaiting trial on the present charges, for 2 days in civil custody, and days in military custody, making a total of 2 days in custody, of which days were spent in hospital.

5. The present age of the accused according to his attestation paper is 24 yrs 5 Mos.

6. The date of his enlistment specified in his attestation / record of service / attestation paper 2 Apr 40

7. The service which the accused is allowed to reckon towards discharge is 3 yrs 6 Mos 9 days
3 yrs 6 Mos

8. The accused is entitled to reckon 9 days service for the purpose of determining his pension, etc.

9. The accused is in possession of / is entitled to / is in possession of or entitled to) a good conduct / efficiency / good conduct or efficiency

10. If the accused is a warrant officer / The accused holds / was a warrant officer last held in the Regimental Rank of

11. (In the case of an officer.) The accused holds in the Royal Canadian Air Force the rank of Permanent Force

[illegible] held [illegible] and is registered for [illegible] the rank of [illegible] dated [illegible]

12. The accused has served as a non-commissioned officer continuously without reduction since promotion to [illegible] date of promotion [illegible]

To the rank of [illegible] years

To the rank of [illegible] years

To the rank of [illegible] years

NOTE.—If any matter in any of the above paragraphs cannot be stated from the Regimental books, the paragraph must be struck through.

SCHEDULE

Of convictions by a court-martial or civil court, of summary awards under Section 47 of the Army Act, and of cases in which trial has been dispensed with of accused, Number ..... Rank ..... Unit ..... Name ..... of ..... Regiment

NOTE.—A verbatim extract from the regimental books stating these convictions and dispensations with trial must be inserted.

Description of Court by which tried	Date and Place of Trial	Charge upon which convicted	Sentence of the Court	Punishment Remitted
		N/A		

I hereby certify that the foregoing schedule of convictions and dispensations with trial is a true extract from the regimental books in my custody.

Signed this 13 day of October 1943.

The above statement (with the schedule of convictions and of cases in which trial has been dispensed with) is read, marked ..... signed by the president, and annexed to the proceedings.

CCC-83
GNR GUITAR RJ.

SCHEDULE.

PART I. PLEA(S), FINDING(S) AND SENTENCE.

Accused: B.44866 GNR. Raymond Joseph Guetar, 5 Bty, 5 Cdn. Fd Regt RCA.

	Charge. (Insert "alternative" where applicable.)	Plea. (See Instrs p 2.)	Finding. (See note below.)	(Space for use as required for further charges, accused charged jointly, special findings, etc.)
1st		Guilty	Guilty	
2nd	alternative	Withdrawn	Not guilty	
3rd		Guilty	Guilty	
4th		Guilty	Guilty	
5th				
6th				

(Note: As to findings for lesser offences see AA 36, RP 44; findings on alternative charges see MML p 483 fn 4 para 2, RP 44; special findings see RP 44 and MML p 733, and in lieu of kit see RP 44 fn 6.)

~~As proved under sentence for~~ ..... (beginning on (date)) (1)

(1. Insert sentence being served, or delete, if not applicable. See RP 46(A). Information should be found on MF B355 or AF B296.)

Time in confinement awaiting present trial—a total of 9 days, of which 0 days were spent in hospital.(1)

(1. See RP 46(A) fn 2. Information should be found on MF B355 or AF B296 admitted in evidence under E2.)

Sentence Awarded by the Court: To undergo Detention for one (1) year.

(Sgd) Enid Kille McDougall Capt — Judge-Advocate, if any. Date awarded: 21 Jan 1944

(Sgd) ..... President. (RP 45, 50.)

(See back of Convening Order as to assembly and disposal of record after trial.)

PART II. MINUTE WHERE CONFIRMATION RESERVED. (AA 54(5), RP 120(F), MML p 760.)

Date ..... (Sgd) ..... Commanding

PART III. DECISION OF CONFIRMING OFFR ON FINDING(S) AND SENTENCE.

(For duties and powers see AA 54, 57, RP 37(D) fn 6.46(A), 51-56, 120, MML pp 759-761, KR Con 567-577. Acquittals require no confirmation and cannot be revised: AA 54(2). Sending back finding or sentence for revision by Court: AA 54(2), RP 120(G). If not confirmed, accused may be tried again: AA 157, MML p 64. Minute of confirmation or non-confirmation may be altered before promulgation: RP 53, MML p 65. Quashing after promulgation: KR Con 573. Duties and powers of reviewing offrs: AA 57, 57A, RP 53A, 54. The Confirming Offr must sign hers personally. AA 172 fn 1.)

My decision on the finding(s) and sentence set forth in Part I is:

Confirmed

~~I direct that the accused be not committed to prison or detention barracks until further orders.~~(1) Rest

(1. AA 57A. Delete if not used.)

Date 21 Jan 44 (Sgd) R.W. Keefler Brigadier

Commanding C.R.A., 2 CON. DIV.

Confirming Officer.

PART IV. PROMULGATED AND EXTRACTS TAKEN. (RP 53, KR Con 576, 577.)

Accused: B 44866 Gnr Raymond Joseph Guetar — Date: 22 Jan 44 — Signature of Offr: J.W. Kilgour Lt Col, CO 5 Cdn Fd Regt RCA

ALL DELETIONS AND ALTERATIONS WILL BE INITIALLED.

CCC-83

FIELD GENERAL COURT-MARTIAL

(CF AMS 3 (In lieu of AFAAS 3) W.D. A.G. R.C. 1608 (3-1944))

Convened by Order of Brig. R.H. Keefler ~~Admnt~~ C.R.A. 2 Cdn. Inf Div, dated 20 Jan 44

ACCUSED.

(As to the trial of two or more charged jointly see RP 16, 71, 109. As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Con 308, 328, 330.)

Number.	(a) Prmnt R. (b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
B44866	GNR.	Raymond Joseph	Guetar	5 Cdn. Fd Regt. RCA.

J. Kilgour Lt Col. 24 Feb 44.

REVIEWING OFFICER, JAG BRANCH — PROCEEDINGS REVIEWED — Date 17 Mar 44 — A/AJAG FIRST CDN ARMY

PROCEEDINGS OF TRIAL.

Held in the Fd in (country) England on (date(s)) 21 JAN 44

RECORD FORM A—OPENING PROCEEDINGS AND ARRAIGNMENT.

A1. The President, Members, waiting Member, JA, if any, and Offrs under instr, if any, assemble, and the Court is closed.

(PRINTED MATTER, NOT IN ITALICS FOR GUIDANCE, WILL BE DELETED IF NOT USED OR APPLICABLE, AND INITIALLED BY PRES OR JA. The Schedule referred to throughout is on p 4. Citations do NOT include all relevant fns RQs. For guidance on procedure when a variation in this form arises, see form for GCM in MML pp 741 to 759. A brief record of such variation CF AMS, for audits and instrs on how to record addresses, evidence, etc, which cases are hereafter called "Notes". As to general provisions for conducting the trial see AA 53, RP 56, 63-70, 73, 74, 94, 103, 119, 122.)

A2. The President initials and lays before the Court the Convening Order and Charge Sheet(1) attached thereto.(1) The Court is satisfied that it is properly convened and constituted(2), accused is ~~were~~ amenable to military law, and each charge discloses an offence.(3)

(1. As to use of Summary of Evidence see RP 17 fn 6. 2. AA 49, 50, RP 105-107. 3. RP 11-13, 23, 24.)

A3. The Court is opened. The accused is ~~were~~ brought before the Court. At 1450 hours trial commences.

A4. The Prosecutor produces a Medical Certificate that accused is ~~were~~ fit to undergo trial by court-martial.(1) ~~The Prosecutor informs the Court that accused elected to be tried by court-martial instead of being dealt with summarily by the CO.~~(2)

(1. KR Con 557. 2. AA 46(B), RP 60 fn 1. For effect see KR Con 563(c). Delete, if not applicable.)

A5. President to accused: ~~Do you object to~~ ..... no interpreter? Ans .....

~~The Interpreter is sworn.(1) Do you object to~~ ..... ~~as shorthand writer? Ans .....~~

~~The shorthand writer is sworn.(1)~~

(1. RP 72. Delete, if none employed.)

A6. The Convening Order and names of the President and Members of the Court are read to the accused.(1) President to accused: Do you object to be tried by me as President or by any of the Members of the Court? Ans No (2)

(1. RP 110. 2. If no objection, waiting member retires. RP 66(B). If objection, see procedure AA 51, RP 25, 71, 116, MML p 742.)

A7. The President, Members, JA, ~~if any, and Offrs under instr, if any~~, are sworn.(1) The following are the ranks, names and units of the offrs comprising the Court, etc:

President	Major	R.W. Coristine	4 Fd. Regt RCA
Member	Capt.	T.W. Mone	6 Fd Regt RCA
Member	Lt.	R.M. Cowelin	5 Fd Regt RCA
Judge-Advocate	Capt	E.K. McDougall	HQ 2 Cdn Inf. Div.
Prosecutor	Capt.	W.J. Riley	5 Fd Regt RCA
Defending Offr	Capt.	R.M. Leathem	5 Fd Regt RCA

Questions by President: Is the Prosecutor a lawyer? Ans NO Is the Defending Offr a lawyer? Ans NO (1)

(1. RP 26, 27, 109, 111. List of offrs under instr will be returned separately with proceedings for information of Conv Offr.)
(2. If Pros a lawyer and Def Offr not, accused is entitled to an adjournment when RP 89 (B) and fn 2 were not followed. See DI p 2.)

A8. The accused ..... before arraignment make(s) ~~(not)~~ (1) plea

(1. If a special plea is made for separate trial on one or more charges (RP 62(2), 108), or as to the jurisdiction of the Court (RP 34, 35(A), 113), or in bar of trial (RP 36), or as to accused's mental fitness to stand trial (AA 130, RP 37), or by one of several accused charged jointly to be tried separately (RP 16, 71), such plea, the addresses made in support or against, the evidence, if any, and finding are recorded per Notes. For forms of record see references in fns to RP cited. Insert in A8 name and name of the accused making the plea.)

A9. The accused is ~~were~~ arraigned ~~separately~~ on all charges in the charge sheet.(1) The accused does ~~do~~ not object to any charge.(2) There is no amendment to be made to the Charge Sheet.(3) The President records the pleas in Part I of the Schedule.

(1. RP 31, 112. See para 1 of Instrs p 2. When more than one Charge Sheet see RP 62; when several accused to be tried separately see RP 71(C), and see separate copies of CF AB6 to record proceedings. 2. RP 32, RP 33. If otherwise, delete and make appropriate record per Notes.)

A10. The Court ~~is closed and~~ considers the Instrs on Procedure after Arraignment at top of p 2. The proceedings are continued on Record Form 6

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

INSTRUCTIONS ON PROCEDURE AFTER ARRAIGNMENT.

1. *The accused may not plead or be found Guilty on more than one of two or more charges laid in the alternative.* (*RP* 37(*A*).) *As to withdrawal of alternative charges by Prosecutor see RP* 35(*C*). *No other charge can be withdrawn for any reason without authy from Convening Offr. If Convening Offr concurs, Court may accept plea of Guilty to lesser, etc, offence.* (*RP* 44(*H*).) *Accused may change a plea of Not Guilty to Guilty during trial.* (*RP* 38.) *As to refusing to plead or not pleading intelligibly see RP* 35(*A*). *As to plea when sentence may be death see RP* 35(*D*).

2. *The proceedings on each charge sheet* (*RP* 62) *after arraignment will be conducted as follows in the respective circumstances stated:*

I. If pleas to all charges are GUILTY, use Record Form B below.

II. If pleas to all charges are NOT GUILTY, use Record Form D on p 3.

III. If pleas to some charges are GUILTY and to other charges are NOT GUILTY and,

(a) *Such mixed pleas occur when there are no alternative charges in the Charge Sheet, use Record Form C below.* (*RP* 37(*A*).)

(b) *Such mixed pleas occur in a set of two or more charges laid in the alternative, see RP* 37 (*A*) *and fn* 2 *as to discretion of Court,* (i) *to try the accused on all such alternative charges as if he had pleaded Not Guilty thereto, or,* (ii) *to record the pleas as the findings of Court. After deciding between* (i) *and* (ii), *Court will proceed under foregoing instrs as may be appropriate to result of its decision. See MML p* 744 *Instrs* (2).

3. *As to responsibility of President to accused see RP* 59, 60(*C*); *powers and duties of JA see RP* 103; *duty of Prosecutor see RP* 60(*A*) (*b*); *duty and privileges of accused and Defending Offr see RP* 60(*C*), 87(*C*), 91, 92; *swearing and withdrawal of witnesses from Court see RP* 81, 82; *questioning of accused see RP* 80, 87(*C*), 92(*E*); *and of witnesses see RP* 83-85; *calling or re-calling of witnesses by Court etc see RP* 75-79, 86, 116; *use of Summary of Evidence at Trial see RP* 17(*E*) *fn* 6; *and responsibility of JA or Pres to record proceedings see RP* 94, 96.

RECORD FORM B—PROCEEDINGS ON PLEAS OF GUILTY TO ALL CHARGES.

B1. The President or JA, if any, complies with RP 35(B) by explaining to the accused the nature and meaning of the charge(s)(1), and that on his plea of Guilty there will be no regular trial but merely a consideration of the sentence to be awarded after he has been given an opportunity to make a statement in reference to the charge(s), call witnesses as to character and make an address in mitigation of punishment.(2)

(1. *RP* 35 *fn* 3. 2. *MML p* 54 *para* 47.)

B2. President to accused: The Court will now receive any statement you desire to make in reference to the charge(s).(1) If it appears from your statement that there are circumstances which indicate that you do not understand the effect of the plea of Guilty(2), or which show provocation or extenuation in respect of which in your interest the witnesses for the Prosecution should be examined(3), we shall advise you to change your plea to Not Guilty. In making a statement you will not be sworn or subject to cross-examination; and anything you say will not be used in evidence against you after you change your plea. If, however, it appears to the Court that your statement affects only the amount of punishment to which you are liable, you will not be advised to change your plea and you will be given an opportunity later to prove your statement by sworn testimony, if you so desire.(4)

President to accused: Do you wish to make a statement? Ans No, SJT (5)

(1. *RP* 37(*B*). 2. *RP* 37(*D*) *fn* 6. 3. *RP* 35(*B*) *fn* 5 *para* 3, *MML p* 54 *para* 47. 4. *See para* E3 *of Record Form E.* 5. *Statement, if any, recorded per Notes.*)

B3. ~~The Court considers the accused's statement.(1)~~ The Court decides (not) to advise accused to change ~~his~~ (their) plea(s) of Guilty to Not Guilty on ~~charge(s).~~ The accused is (are) so informed, and he (~~his~~ ~~their~~) ~~changes~~ his (their) plea(s) on ~~charge(s).~~ Part I of the Schedule is amended accordingly.

(1. *Court may be closed to consider the statement. Delete whole or part not used.*)

B4. On the charge(s) to which the plea(s) of Guilty is (are) not changed the President records finding(s) of Guilty in Part I of the Schedule.(1)

(1. *RP* 35(*B*). *If any plea(s) is (are) changed, use Record Form C or D as appropriate.*)

B5. The Summary of Evidence is marked Ex A, initialled and read aloud by the President.(1)

(1. *If there is no Summary, or if it is inadequate, comply with RP* 37(*B*). *If there is any evidence inconsistent with any plea standing as Guilty, Court will advise accused to change such plea and, if changed to Not Guilty, try such charge(s) by use of paras D1 to D8 inclusive of Record Form D on p* 3. *RP* 37(*D*).)

B6. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

RECORD FORM C—PROCEEDINGS ON MIXED PLEAS OF GUILTY AND NOT GUILTY.

C1. As to the charges on which accused pleaded NOT GUILTY the trial is continued by using paras D1 to D8 inclusive of Record Form D on p 3 before proceeding with C 2.(1)

(1. *RP* 37(*A*) (*E*).)

C2. The charges on which accused pleaded GUILTY are read to him (them) again, and the trial is continued by using paras B1 to B5 of Record Form B above.(1)

(1. *Under B5 such parts only of the Summary of Evidence are read as relate to the charges dealt with under C2. If any plea is changed to Not Guilty, trial shall not proceed by complying with paras D1 to D8 inclusive in Record Form D on p 3 and making an appropriate record thereof on a separate sheet.*)

C3. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

Pin here Loose Sheets of Record.

RECORD FORM D—PROCEEDINGS ON PLEAS OF NOT GUILTY TO ALL CHARGES.

D1. President to accused: Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity to prepare your defence? Ans ..... (1)

(1. *If "yes", see RP* 39(*A*) *for procedure. Statement or evidence, if any, is recorded per Notes.*)

D2. The Prosecutor makes (an) (no) opening address.(1)

(1. *RP* 39(*B*), 60(*A*) (*B*), 90, 92(*C*) (*D*). *Record address per Notes, subject to RP* 95(*C*).)

D3. The evidence for the Prosecution is taken.(1)

(1. *RP* 39(*C*), 114, *KR Can* 555. *Record evidence per Notes. As to Prosecutor giving evidence himself see RP* 39(*D*) (*E*).)

D4. The Prosecution is closed.(1) The Defending Offr submits that the evidence for the Prosecution does not establish a prima facie case against the accused on the ..... charge(s).(2) The Court is closed, and considers the submission.(3) The Court is re-opened, and the President announces that the submission is disallowed on the ..... charge(s), and allowed on the ..... charge(s), and that, accordingly, the trial will proceed on the former, but the accused is (are) found Not Guilty on the latter charge(s).(4)

(1. *Delete remainder of this para, if submission not made.* 2. *Arguments on submission, answer and reply are recorded per Notes.* 3. *RP* 40 *fn* 1. *See MML p* 72 *paras* 12-14 *and p* 81 *para* 42. 4. *Delete part not used. If accused acquitted on all charges, use second alternative in para* D8.)

NB: If trial proceeds, accused must be allowed great latitude in making his defence, and the Court should not stop his defence solely on ground of irrelevance. (*RP* 60(*C*), 114, 115.)

D5. President to accused: You will now proceed with your defence.(1) You may, if you wish, give evidence yourself on oath as to the facts or your character or both, in which case you will be subject to cross-examination.(2) You may, however, make a statement without being sworn, and you will not be subject to cross-examination.(3) But a statement which could have been made on oath will not carry with the Court the same weight as sworn testimony.(4) You may call witnesses in your defence and as to character, whether you give evidence or make a statement or do neither.

President to accused: Do you wish to give evidence yourself as a witness, make a statement, or do neither? Ans ..... Do you intend to call witnesses on your behalf? Ans ..... Are they witnesses as to character only? Ans .....

(1. *RP* 155. 2. *RP* 40(*A*), *see* 80(*D*). 3. *RP* 40 *fn* 10. 4. *RP* 40 *fns* 2, 9.)

D6. Consequent on the answers recorded in para D5 the appropriate procedure for the defence is followed.(1)

(1. *RP* 114, 115, 116. *For procedure see Notes on back of Convening Order. CF A95. Evidence for accused as to his character should, if in his interest, be given before the finding. See RP* 46(*A*) *fn* 1, 86(*C*). *Note the further opportunity in para* E3 *of Record Form E. Record per Notes addresses, statement, evidence and any summing up by the JA under RP* 42, 103(*e*).)

D7. The Court is closed to consider the finding(s).(1) The finding(s) of the Court is (are) recorded in Part I of the Schedule.(2) The Court is re-opened.

(1. *RP* 42, 117(*A*). *See Notes in Part I of Schedule.* 2. *RP* 44(*A*).)

D8. The President announces the finding(s), if any, of Not Guilty, and states to the accused that the finding(s) of the Court on the ..... charge(s), being subject to confirmation, will be promulgated later.(1)

Or, The President announces that the accused is found Not Guilty on all charges and is to be released forthwith, and that the proceedings are accordingly terminated. Part I of the Schedule is dated and signed.(2)

(1. *AA* 54(3) (*c*), *RP* 45, 120(*A*), 122. *AA* 54(3), *RP* 45, 117. *This alternative announcement is not applicable when there are pleas of Guilty outstanding and dealt with under Record Form B or C.*)

D9. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E below.

RECORD FORM E—PROCEEDINGS ON CONVICTION BEFORE SENTENCE.

E1. President to accused: Do you wish to give evidence yourself or to call any witnesses as to your character?(1) Ans No, SJT

(1. *If evidence has already been given by accused or his witnesses as to his character, delete this para. RP* 37(*C*) *fn* 4, 46 *fn* 1. *Accused and witnesses are sworn. Evidence recorded per Notes.*)

E2. The Prosecutor produces Statement(s) as to Character and Particulars of Service(1), and certified true copy (copies) of Conduct Sheet(s)(2), purporting to refer to the accused, which he submits to the Defending Offr for examination, and then to the Court for admission in evidence. The Court is satisfied that these documents refer to the accused, because (i) they purport to be signed in the manner required by AA 163(l) (g) (h), and (ii) they purport to refer to (a) soldier(s) having the same number, rank, name and corps as the accused. Admitted in evidence and marked Ex C and Ex D respectively.(3)

(1. *MFB* 355 *or AFB* 296. 2. *MFM a.* 3. *RP* 46, *KR Can* 558. *If above documents not produced, see RP* 46 *fn* 1 *para* 1.)

E3. President to accused: Do you wish to address the Court on the Statement(s) and Conduct Sheet(s), and in mitigation of punishment?(1) Ans Yes, through my Defending Officer (Sec E) (2)

(1. *RP* 37(*C*), 46(*D*). 2. *Address, if any, recorded per Notes. Court should permit accused or his witnesses to prove on oath anything here or previously stated which would affect the amount of punishment. RP* 37(*F*) *fn* 7.)

E4. The President states that the Court is closed to consider the sentence, and that the sentence to be awarded by the Court, being subject to confirmation, will not be announced, but will be promulgated later, and the proceedings in open court are accordingly terminated.(1)

(1. *AA* 54(6), *RP* 120(*A*).)

E5. The Court considers the sentence.(1) The President records the sentence in Part I of the Schedule, which is dated and signed by him and the JA, if any.(2)

(1. *When several accused tried separately see RP* 7(*D*). *One sentence only, comprised of the punishment or punishments laid down in AA* 41, 44 *and its proviso, is to be awarded to cover all charges in all charge sheets on which accused found guilty. RP* 48. *As to sentences see AA* 44, 138, 182. *RP* 46-50, 59, 138, 139(*A*). *KR Can* 308, 330, 563-566. *Overseas RO* 309, 2303. *MML p* 60, 757-759. *As to sentences assigned for civil offences by the law of England see AA* 41(5), *MML p* 130. *When accused already under sentence of imprisonment or detention see AA* 44(18), (*d*)(i), *KR Can* 564. 2. *RP* 50. *As to release from arrest by Confirming Offr see KR Can* 567. *As to assembly and dispersal of court after trial see instrs on back of Convening Order.*)

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

CHARGE SHEET

The accused B-44866 Gnr. RAYMOND JOSEPH GUITAR of 5 Battery, 5 Cdn Field Regt., R.C.A. a soldier of the Canadian Army Overseas is charged with:

FIRST CHARGE
A.A.Sec 18(4)

WOAS. Stealing property belonging to a person subject to military law, in that he in the field on or about the 10 Jan 44 stole 300 tax free British Consul cigarettes belonging to Lieut C.D. Hardy, 5 Fd Regt, a person subject to military law.

SECOND CHARGE Alternative
A.A.Sec ~~4~~ 11

WOAS. Neglecting to obey C.A.O.R.O. in that he, in the field did sell 300 Canadian tax free British Consul cigarettes to a soldier in the British Forces, contrary to C.A.O.R.O. No. 3062 d/25 Jan 43.

THIRD CHARGE
A.A.Sec 40

WOAS. Conduct to the prejudice of good order and military discipline in that he in the field on the 12th Jan 44 was wrongly in possession of an identity bracelet, belonging to Lieut. R.W. Ainscough, 5 Fd Regt, a person subject to military law.

FOURTH CHARGE
A.A.Sec 40

WOAS. Conduct to the prejudice of good order and military discipline in that he in the field on or about 12 Jan 44, having taken the gloves belonging to Lieut G.A. Van Vliet 5 Fd Regt, wrongly persuaded M-105152 Gnr McLeay, D.R. to hide them.

(E.D. HIGHSWANDER) LT-COL R.C.A.
Comd., 5 Cdn Field Regt., R.C.A.

In the Field
To be tried by FGCM
20 Jan 44

Brig
CRA 2 Cdn Inf Div

54.

b.

Statement of accused as to whether he desires to have an officer assigned by the Convening Officer to represent him at trial (R.P.14(b)

"I wish a defending officer. I desire the services of Capt R.M. Leathem if he is available."

In the Field

Date:18 Jan 44

R. J. Guitar

B-44868 Gnr. Guitar, R.J.

(Christine Copy)

FIELD GENERAL COURT-MARTIAL

CFAO (In lieu of AFAB) 40/PAM/1607 (2003)

(Whether the accused to be tried is under his comd or not, a FGCM may on application to him be convened by any offr of Cdn Army Overseas, or of any other force if authorized in law, in immediate comd of troops on active service, subject to RP 105(C) and restrictions imposed by appropriate authy. AA 49, 50, RP 104-107, 114. As to the duties and privileges of the Convening Offr in dealing with the application see MML Chap V paras 20 and 23. RP 87(B).

There should be a separate Convening Order for each person to be tried separately by the same Court. RP 71(C), 109. As to separate charge sheets see RP 62, and as to separate trial on charges in the same charge sheet see RP 108. As to two or more accused charged jointly see RP 16, 109.

As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

ACCUSED.

Number.	(a) Prmnt R.	(b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
B44866	Gnr.		Raymond Joseph	GUITAR	5 Cdn Fd Regt

CONVENING ORDER.

1. Whereas complaint has been made to me, the undersigned, that the person named above as the accused, being subject to military law, has committed the offence(s) set forth in the Charge Sheet attached and on (date) 20 Jan 44 endorsed by me, "To be tried by Field General Court Martial".

2. And whereas I am of opinion that it is not practicable that such offence(s) should be tried by an ordinary General Court-Martial;

(Delete part in brackets when not required for compliance with RP 105(C).)

3. I hereby convene a Field General Court-Martial to try the said person, and to consist of the Offrs appointed or detailed hereunder.

(AA 49, RP 106(B), 107(A). Delete the whole or part, if not applicable.)

5. I also appoint as Judge-Advocate thereat the Offr mentioned hereunder.
(RP 106(E). Delete, if none appointed.)

PRESIDENT.

Major (Rank.)	R W Coristine (Must be named. RP 106.)	4 Cdn Fd Regt (Unit.)

MEMBERS.

Capt	T W Moore	6 Cdn Fd Regt
Lieut (Rank.)	R M Cornelius (Named or detailed. RP 106.)	5 Cdn Fd Regt (Unit.)

WAITING MEMBER.

Lieut (Rank.)	K D Guy (Named or detailed, if any. RP 106.)	3 Cdn LAA Regt (Unit.)

JUDGE-ADVOCATE.

Capt (Rank.)	E K McDougall (Must be named, if any. RP 106.)	HQ 2 Cdn Inf Div (Unit.)

On Active Service in the Fd

in England (Country.)

B McCreery (Signed personally. RP 105 fn 2.) Brigadier (Rank.)

Date 20 Jan 44

Commanding CRA 2 Cdn Inf Div
Convening Officer.

CONVENING OFFR WILL INITIAL ALL DELETIONS AND ALTERATIONS

(See overleaf for oaths and notes for use on trial.)

MEDICAL OFFICER'S REPORT

I certify that No. 344886 Gnr Guiton, W.J

of 5 FD Bty is in a good state of health,

and fit to undergo Trial by Court martial.

this day 31 January 1946.

(J.H. Fleming) Capt., R.A.M.C.

Medical Officer

Station Field

31 Jan 46.

Date

M. F. B. 246

M.S.M.—3-46 (43849)
H.Q. 1772-39-464

Statement in Mitigation "D"

3 Circumstances worthy of mention
Conduct since the first charge stoppages.
Still passing. Gets little pay is financially
embarrassed.

Upset mentally due to dental trouble. Tooth
have bothered him. Guitar now refuses all
dental treatment.

Has domestic troubles. Must be considered.
His mind is not free from considerable worry.

That is all I have to say.

Statement (Pres) 12 Jan 44

Statement of B-44866 Lt Gunner GUITAR R.J.
H.A. TROOP 5th Bty 5th Field Regiment R.C.A.

You are not obliged to say or state anything unless you wish to do so, but if you do, anything you say will be taken down in writing and may be given in evidence.

Gnr Guitar R.J.
witness W.R. Caudle.

I am a gunner acting as batman to Lt Gaugh of 5th Bty 5th Field Regt R.C.A. On Monday night 10 Jan 44 I about 6.45 pm. I took 300 cigarettes British Consols from a chair in the ~~living room~~ bottom in the officers quarters. I knew the cigarettes belonged to Lt. Hardy of 5th Bty 5 R.C.A. I took them to the English N.A.A.F.I. Post on the sea road towards Brighton, where I sold half of them to a soldier over the guns for 5 shillings, the remainder I sold to a soldier in the mess at the gun site for a further 5 shillings. This is the only lot of cigarettes I have ever stolen from anywhere or anybody.

Regarding the Identity Disc found in my kit bag. Belonging to Lt Kinnaugh. I found it behind a trunk in the ante room leading to the officers mess main door, about a week before Christmas while I was cleaning up. I had no intention of keeping it but forgot all about it and until the Provost [redacted] showed it to me I didn't recall where I was.

Statement of B-44766 Gunter R.J Contd. 2 Gunter R.J

The shirt and handkerchief belonging to Mr. Van Vliet were found in my bag. I intended to wash, and return. I washed the handkerchief but forgot about the shirt. The sewing kit I took from Mr Van Vliet and used it to sew on new RCA flashes for my greatcoat the flashes came from Mr Van Vliet's sewing kit

The second shirt with M.O.R.U.S. on a laundry mark on it. I know nothing about, either who owns it, or how it came to be in my kit bag.

About a month ago I took a pair of light coloured leather gloves from Mr Van Vliet's room for my own use, while wearing the gloves I tore the thumb of one glove right hand. As a result I did not know what to do with them. ~~I finally decided to give them to Gnr. McKay who said he would~~ ~~have them or he as I heard~~

This morning 12 Jan 44 at about 0900 hrs I gave the gloves to Gnr. McCleary and asked him to hide them for me

The above is all I know of any thefts, that have taken place in the 5th Fld Coy RCE.

RJ Gunter

I have read over the above statement and it is correct.

RJ Gunter

2100 hrs 12 Jan 44.

Witness W.R. Escott Pte.

A.B. Yeomans Sgt.

SUMMARY OF EVIDENCE

In the case of

D44606 Gnr RAYMOND JOSEPH GUITAR, 5 Cdn Fd Regt R.C.A.,

a soldier of the Canadian Army Overseas.

The accused is informed of his right.

The C.O. directs that the evidence be taken on oath.

WITNESS FOR THE PROSECUTION:

D6037, B.S.M. Gough, A.A.S Dty, 5 Cdn Field Regt., R.C.A., sworn, states:

"I asked to have the provost called in. I accompanied the provost Cpl on the investigation. I asked Major Watson permission to search Gnr Guitar's kit in his absence. Major Watson granted permission. The provost Cpl went through Gnr Guitar's kit, and found the following articles, two dress shirts, one housewife, a handkerchief and a gold identity bracelet. Capt Byers, Lieut VanVliet, Lieut Hardy, and Cpl Escott were present when the above articles were found and removed from Gnr Guitar's kit. He immediately placed Gnr Guitar under close arrest. I was present when Gnr Guitar made a statement of taking cigarettes and selling them".

(D6037 B.S.M. Gough, A.A.S.)

The accused declines to cross examine the witness.

WITNESS FOR THE PROSECUTION:

D6036, Cpl ESCOTT, W.R. 5 Provost Coy, 5 Cdn Div., sworn, states:

"On the 18 of Jan I contacted BSM Gough of 5 Dty, 5 Fd Regt. I thought that Guitar's kit should be searched. With the permission of Major Watson, this I proceeded to do, accompanied by BSM Gough, Capt Byers, Lieut VanVliet and Lieut Hardy. In the kit bag I found an identity bracelet marked Lieut Kingsmith. I also found a shirt, a handkerchief and a sewing kit, identified by Lieut VanVliet as his own personal property. Gnr Guitar was placed under close arrest. I questioned Gnr Guitar regarding the articles found in his kit and the missing cigarettes and told them to personnel on the A.A. post on the Brighton Road. I warned Guitar that he would be charged and that I would take a statement from him. Guitar readily agreed to give me a statement in the presence of BSM Gough. This statement was read over by Lieut Hamerell who was a witness. I now submit this statement signed by Gnr Guitar. As a result of Guitar's statement concerning the gloves, Gnr McCoy was instructed by BSM Gough to turn them into the Dty Office. When asked how he came to have them in his possession, McCoy answered, "Guitar gave them to me to hide."

Cross examined by the office taking summary.

Q.1: Did you duly warn the Guitar that he did not have to make a statement, and that if he did it would be taken in writing and used as evidence?

A.1: I did sir.

(sgnd) W. P. Escott

(sgnd Cpl Escott, W.R.)

The accused declines to cross examine the witness.

FOURTH WITNESS FOR THE PROSECUTION:

Lieut R.W. Ainscough, 5 Bty, 5 Cdn Fd Regt, R.C.A., sworn, states:

"My identity bracelet has been in my trunk for the last two or three months, I had noticed it there on several occasions. I did not know it was missing until Cpl Escott showed it to me, and asked me to identify it. It was my bracelet."

R.W. Ainscough

(R.W. Ainscough) Lieut, RCA.,

The accused declines to cross examine the witness.

FIFTH WITNESS FOR THE PROSECUTION:

Lieut. C.D. Hardy, 5 Bty, 5 Cdn Fd Regt, R.C.A., sworn, states:

"On the morning of 11 Jan I missed a carton of 300 British Consols cigarettes from my bedroom. I was present when the accused's kit was searched by the provost. The following articles were found, two dress shirts, one housewife, a handkerchief, and a gold identity bracelet."

(C.D. Hardy) Lieut, RCA.,

The accused declines to cross examine the witness.

SIXTH WITNESS FOR THE PROSECUTION:

Lieut. C.A. VanVliet, 5 Bty, 5 Cdn Fd Regt, R.C.A., sworn, states:

"On 2 Jan 44, while preparing to go on a 48 hr pass, I gave Gnr Guitar my lined kid gloves and told him to pack them in my bag. On my arrival in London I found that the gloves were not there. Upon my return I questioned him as to there whereabouts. He claimed no knowledge of the whereabouts of the gloves, and helped me look for them. Later he handed the gloves over to the provost and I indentified them as mine. I was present when Gnr Guitar's kit was searched, and identified a shirt, handkerchief, and sewing kit. Gnr Guitar was my batman".

C.A. VanVliet

(C.A. VanVliet) Lieut, RCA.,

The accused declines to cross examine the witness.

SEVEN WITNESS FOR THE PROSECUTION:

BDR/130 Gnr McLeay, D.H. 5 Bty, 5 Cdn Fd Regt, R.C.A., sworn, states:

"At approx 0800 hrs 12 Jan 44 I was asked by Gnr Guitar to take the gloves shown me by the Provost, and hide them. Guitar took the gloves from a shelf in the pantry at the Officers mess, gave them to me with the words, "Hide them anywhere, but in my kit". I did as he asked and at approx 0830 hrs 12 Jan 44 I was asked by BSM Gough to bring the gloves to the Battery Office. I did so and turned them over to the Provost in the presence of Guitar.

D R McLeay

(BDR/130 Gnr McLeay, D.H.)

The accused declines to cross examine the witness.

The accused, having been duly cautioned in accordance with R.P.C (2) says:-

"I don't wish to make a statement now, I have already made one".

Certified that R.P.C complied with.
In the field.
19 Jan 44.

G.W. McLean

(G.W. McLean) Lieut R.C.A.
Officer detailed to take the Summary.

EXHIBIT "B"

In the case of B44816 Gnr RAYMOND JOSEPH GUITAR.

You are not obliged to say or state anything unless you wish to do so, but if you do, anything you say will be taken down in writing and used as evidence.

Signed: Gnr Guitar.R.J.
Witness: W.E. Escott.

I am a gunner acting as batman to Lt Van Vliet of 5 Bty, 5 Field Regt RCA. On Monday night 10 Jan 44, at about 845 pm. I took 300 cigarettes, British Consols from a chair in the large bedroom in the Officers quarters. I knew the cigarettes belonged to Lt.Hardy of 5 Bty, 5 R.C.A. I took them to the English L.A.A. Post on the sea road towards Brighton, where I sold half of them to a soldier on the gun for 5 shillings, the remainder I sold to a soldier in the mess at the gun site for a further 5 shillings. This is the only lot of cigarettes I have ever stolen from anywhere or anybody.

Regarding the Identity bracelet found in my kit bag, belonging to Lieut Ainscough. I found it behind a trunk in the ante room leading to the Officer's mess main door about a week before Christmas, while I was cleaning up. I had no intention of keeping it, but forgot all about it, and until the Provost showed it to me I didn't recall where it was.

The shirt and handkerchief belonging to Mr Van Vliet also found in my bag. I intended to wash, and return, I washed the handkerchief but forgot about the shirt. The sewing kit I took from Mr Van Vliet and used it to sew on new R.C.A. flashes for my greatcoat the flashes came from Mr Van Vliet's sewing kit.

About a month ago I took a pair of light coloured leather gloves from Mr VanVliet's room for my own use, while wearing the gloves I tore the thumb of one glove(right hand), as a result I didn't know what to do with them. This morning 12 Jan 44 at about 0800 hrs I gave the gloves to Gnr McLeay and asked him to hide them for me.

The above is all I know of any thefts that have taken place in the 5th Bty, 5 R.C.A.

Signed: R.J. Guitar.

I have read over the above statement and it is correct.

Signed: R.J. Guitar
Witness: W.E. Escott Cpl
A.G. Gough BSM
Lieut C.R. Maundrell

2100 hrs.
12 Jan 44.

CERTIFIED TRUE COPY of Original Statement on file at HQ. 2 Provost Coy, 2 Cdn Inf Div.

H.C. FORBES. LIEUT.
for(J.J. PLATT) Capt.
Commanding Officer.,
2 Provost Coy, 2 Cdn Inf Div.

Certified true copy.

(G.F.MacLean) Lieut., R.C.A.
5 Cdn Field Regt., R.C.A.

M.F.M. 6
(A.F. B.122)
40/P & /5136 (2568)

No. B46866 Name GUITAR, RAYMOND, JOSEPH | Sqn., Battery, or Company 88th | Corps | Date of enlistment 2-11-1942 | G.C. Badges | Service or Proficiency Pay | Character

Date of last entry in Company Conduct Sheet | No. and date of last drunk | Period not reckoning towards freedom from extra fine | Sheet No. | Signature O.C. Company, etc.

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Name of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
In Fd.	1-3-43.	Gnr		(1)A.W.L. from 0600 hrs 1-3-43 to 0330 hrs 1-3-43 (Absent 17 hrs 30 mins) A.A.15(1)	Documents p. 72 hrs detn. BQr Kochen,		6-3-43.	Sel. C.O.	Fort Wlsn.	1 days pay F.O.I.
				(2)To pay cost of return to Unit	Documentary evidence to Art of F10.17				
				(3)To pay cost of returning his kit to Unit	Documentary Art F.10.		6-3-43.	Sel. C.O.	Fort Wlsn.
In Fd.	3-3-43	Gnr		A.A. Sec 15(1) WOB AWL from 0600 hrs 3.3.43 until 0110 hrs 4.3.43 - 1 day 19 hrs 10 mins.	Documents p. 21 days detn.		8-3-43.	Sel. C.O.	Fort Wlsn.	21 days pay F.O.I.

Forfeiture waived (Pte)

(P.T.O.)

Place	Date of offence	Number	Causes of detention/arrest	OFFENCE	Name of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Field.	3-5-45. am			Cost of return to unit $160.00		Documents placed under Stoppage of pay in the sum of $160.00	6-6-45	Col. J.B. Price.	
Field.	7-12-45			Contrary to the custom of the service, in that he, at Rowden, on the 7 Dec 45, while in the [illegible] was absent without leave from his unit from about 1900 hrs on the 7 Dec 45 until about 1900 hrs on the 8 Dec 45.		To be severely reprimanded and forfeit seven days pay	7-12-45	CAPT. W.A. HAWTIN.	

D.B. Howard, Lieut., R.C.A.
Adjt. 6 Corps Fd. Regt., R.C.A.

B

M.F.H. 355
2250—5-41 (372-3)
H.Q. 1772-39-620
A.F.H. 200

STATEMENT AS TO CHARACTER AND PARTICULARS OF SERVICE OF ACCUSED

Number	Rank	Name	Regiment (or unit)
[illegible]	[illegible]	[illegible]	[illegible]

1. The following is a fair and true summary of the entries in the Service and Regimental and Squadron, Battery Conduct sheets or Company Conduct sheets of the accused, exclusive of convictions by a Court-Martial or a Civil Court, Air Force Act of summary awards under Section 47 of the Army Act and of cases in which trial has been dispensed with.

	Within last 12 months	Since enlistment or appointment
For	A.A. 78 (1) 2 times	A.A. 18 (1) 2 times
For	A.A. 40 etc. 1 times	A.A. 40 (1) times
For	times	times
For	times	times

Number of instances of gallantry or distinguished conduct NIL

or

There are no entries in the conduct sheets of the accused. S.B.M.

NOTE.—If the charge is for drunkenness, the entries for drunkenness must be stated separately. N.A.

2. The accused has not been previously convicted

or

Previous convictions of the accused by a court-martial or a civil court, of summary awards under Air Force Act A.F.A. 78 Section 47 of the Army Act and dispensations with trial under A.A. 78 are set out in the Schedule annexed to this statement. S.B.M.

3. The accused is not under sentence at the present time.

or

The accused at the present time is under sentence for ..... beginning on the ..... day of .....

(close arrest 1130 hrs 12 Jan 44)

4. The accused has been in confinement awaiting trial on the present charges, for 4 days in civil custody, and ..... days in military custody, making a total of ..... days in custody, S.B.M. of which NIL days were spent in hospital. Air Force

5. The present age of the accused according to his record of service is attestation paper is 21 years.

6. The date of his commission specified in his record of service is 2 November 1942. attestation attestation paper

7. The service which the accused is allowed to reckon towards discharge is N.A.

8. The accused is entitled to reckon N.A. service for the purpose of determining his pension, etc.

9. The accused is in possession of or entitled to no air force decoration, or air force reward (or is in military military possession of or entitled to). State any air force decoration or reward. military

10. (If the accused is a warrant officer.) The accused before he was made a warrant officer last held Air Force the regimental rank of .....

11. (In the case of an officer.) The accused holds in the Royal Canadian Air Force the rank of Permanent Force

N.A. dated N.A. unit, and in his regiment (or corps), the rank of

N.A. dated N.A.

12. The accused has served as a non-commissioned officer continuously, without reduction, to the present date:—

N.A. Date of promotion.

In the rank of N.A. years.

In the rank of N.A. years.

In the rank of N.A. years.

NOTE.—If any matter in any of the above paragraphs cannot be stated from the Regimental books, the paragraph must be struck through.

SCHEDULE

Of convictions by a court-martial or civil court, of summary awards under Section 47 of the Army Act, and of cases in which trial has been dispensed with of accused, Number N.A. Rank N.A. Air Force

Name N.A. of N.A. Unit Regiment

NOTE.—A verbatim extract from the regimental books stating these convictions and dispensations with trial must be inserted.

Description of Court by which tried	Date and Place of Trial	Charge upon which convicted	Sentence of the Court	Punishment Remitted

I hereby certify that the foregoing schedule of convictions and dispensations with trial is a true extract from the regimental books in my custody.

Signed this 21st day of January 1944

D. B. Howard Lt
(D.B. HOWARD) Lieut. RCA
Adjt 5 Cdn Fd Regt RC

The above statement (with the schedule of convictions and of cases in which trial has been dispensed with) is read, marked signed by the president, and annexed to the proceedings.

HJ-133

PTE GUITAR R J

SCHEDULE.

PART I. PLEA(S), FINDING(S) AND SENTENCE.

Accused: G 17483 Pte Ralph Joseph GUITAR CYR

Charge. (Insert "alternative" where applicable.)	Plea. (See Instrs p 2.)	Finding. (See note below.)	(Space for use as required for further charges, accused charged jointly, special findings, etc.)
1st Sec12(1)(a)AA	NOT GUILTY	GUILTY	
2nd Sec12(1)(a)AA	NOT GUILTY	GUILTY	
3rd			
4th			
5th			
6th			

(Note: As to findings for lesser offences see AA 56, RP 44; findings on alternative charges see MML p 483 fn 4 para 2, RP 44; special findings see RP 44 and MML p 722, and in loss of kit see RP 44 fn 6.)

At present under sentence for Nil "GMcN" (1)
(1. Insert sentence being served, or delete, if not applicable. See RP 46(A). Information should be found on MF B355 or AF B296.)

Time in confinement awaiting present trial—a total of 26 days, of which nil days were spent in hospital.(1)
(1. See RP 46(A) fn 2. Information should be found on MF B355 or AF B296 admitted in evidence under E2.)

Sentence Awarded by the Court:

To be imprisoned with hard labor for two years.

"GMcN" 21 Nov 1944 (Sgd) "G.L. McNeil" Major
Date awarded. President. (RP 45, 50.)
(See back of Convening Order as to assembly and disposal of record after trial.)

PART II. MINUTE WHERE CONFIRMATION RESERVED. (AA 54(3), RP 120(F), MML p 760.)

Date (Sgd) Commanding

PART III. DECISION OF CONFIRMING OFFR ON FINDING(S) AND SENTENCE.

(For duties and powers see AA 54, 57, RP 37(D) fn 6, 46(A), 51-56, 120, MML pp 759-761, KR Con 567-577. Acquittals require no confirmation and cannot be revised: AA 54(3). Sending back finding or sentence for revision by Court: AA 54(2), RP 120(G). If not confirmed, accused may be tried again: AA 137, MML p 64. Minute of confirmation or non-confirmation may be altered before promulgation: RP 53, MML p 65. Quashing after promulgation: KR Con 573. Duties and powers of reviewing offrs: AA 57, 57A, RP 53A, 54. The Confirming Offr must sign here personally. AA 171 fn 1.)

My decision on the finding(s) and sentence set forth in Part I is:

Findings and sentence confirmed

"PEB"
(1. AA 57A. Delete if not used.)

(Sgd) "P.E. Bernatchez" Brig
Date 24 Nov 44 Commanding 3 Cdn Inf Bde
Confirming Officer.

PART IV. PROMULGATED AND EXTRACTS TAKEN. (RP 53, KR Con 576, 577.)

Accused.	Date.	Signature of Offr.
G.17483 Pte R.J. Guitar	27 Nov 44	"J.P. Enser" Lt Col

ALL DELETIONS AND ALTERATIONS WILL BE INITIALLED.

CERTIFIED TRUE COPY

RECORDED AT CMHQ IN A8 166 HT-133

FIELD GENERAL COURT-MARTIAL

(D.W. Owen) Capt

CPA96 (To [illegible] of AFA41) 40-9-'43 (8,000) 4/388

Convened by Order of Brig P.E. Bernatchez DSO Comd 3 C I B dated 19 Nov 44
Cdn Sec GHQ 2 Ech AAI
24 Dec 44

ACCUSED.

(As to the trial of two or more charged jointly see RP 16, 71, 109. As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Con 308, 328, 330.)

Number.	(a) Prmnt R. (b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
G17483	Pte	Ralph Joseph	GUITAR	CYR

PROCEEDINGS REVEIWED
"W.P. TAYLOR"
18 Dec 44 DJA

PROCEEDINGS OF TRIAL

Held in the Fd in (country) Italy on (date(s)) "GMcN" X 20 & 21 Nov 1944 Cdn Sec GHQ 2 Ech AAI

RECORD FORM A—OPENING PROCEEDINGS AND ARRAIGNMENT.

"GMcN" A1. The President, Members, [redacted] assemble, and the Court is closed.

(PRINTED MATTER, NOT IN ITALICS FOR GUIDANCE, WILL BE DELETED, IF NOT USED OR APPLICABLE, AND INITIALLED BY PRES OR JA. The Schedule referred to throughout is on p 4. Citations do NOT include all relevant fns RDs. For guidance on procedure when a variation in this form arises, see form for GCM in MML pp 741 to 755. A brief record of such variation will be made and given a number having reference to appropriate or preceding para number herein. See back of Convening Order, CF A95, for oaths and instrs on how to record addresses, evidence, etc, which instrs are hereafter called "Notes". As to general provisions for conducting the trial see AA 33, RP 36, 63-70, 73, 74, 94, 103, 119, 122.)

"GMcN" A2. The President initials and lays before the Court the Convening Order and Charge Sheet(1) X attached thereto.(2) The Court is satisfied that it is properly convened and constituted(3), accused is [redacted] amenable to military law, and each charge discloses an offence.(3) "GMcN"

(1. As to use of Summary of Evidence see RP 17 fn 6. 2. AA 49, 50, RP 105-107. 3. RP 11-13, 23, 24.)

A3. The Court is opened. The accused is (XX brought before the Court. At 0930 hours trial commences.

A4. The Prosecutor produces a Medical Certificate that accused is [redacted] fit to undergo trial by court-martial.(1) [redacted] "GMcN" "GMcN"

(1. KR Con 557. 2. AA 46(B), RP 60 fn 1. For effect see KR Con 563(c). Delete, if not applicable.)

A5. [redacted] "GMcN" [redacted] "GMcN" [redacted] "GMcN"

(1. RP 72. Delete, if none employed.)

A6. The Convening Order and names of the President and Members of the Court are read to the accused.(1) President to accused: Do you object to be tried by me as President or by any of the Members of the Court?

Ans No (2)

(1. RP 110. 2. If no objection, waiting member retires. RP 60(B). If objection, see procedure AA 51, RP 25, 71, 18, MML p 742.)

A7. The President, Members, J[redacted], are sworn.(1) The following are the ranks, names and units of the offrs comprising the Court, etc: "GMcN"

President	Major	G.L.P. McNeil	W.N.S.R.
Member	Capt	P.E. Aubut	R 22e R
Member	Capt	C.R. Segee	C.Y.R.
[redacted] "GMcN"			
Prosecutor	Lieut	W.C. Gallagher	C.Y.R.
Defending Offr	Lieut	C.N. Mackie	C.Y.R.

Questions by President: Is the Prosecutor a lawyer? Ans No Is the Defending Offr a lawyer? Ans No (2)

(1. RP 26, 27, 109, 111. List of offrs under instr will be returned separately with proceedings for information of Conv Offr.)
(2. If Pros a lawyer and Def Offr not, accused is entitled to an adjournment when RP 89 (B) and fn 2 were not followed. See Dir 6(b) "GMcN"

A8. The accused G 17483 Pte Guitar, R.J. before arraignment make(s) (no) XX plea. (1)

(1. If a special plea is made for separate trial on one or more charges (RP 62(E), 108), or as to the jurisdiction of the Court (RP 34, 35(A), 113), or in bar of trial (RP 36), or as to accused's mental fitness to stand trial (AA 130, RP 37), or by one of several accused charged jointly to be tried separately (RP 16, 71), such plea, the addresses made in support or against, the evidence, if any, and finding are recorded per Notes. For forms of record see references in fns to Rule cited. Insert in A8 rank and name of the accused making the plea.)

A9. The accused is (XX arraigned [redacted] on all charges in the charge sheet.(1) The accused does (XX not object to any charge.(2) There is no amendment to be made to the Charge Sheet.(3) The President records the pleas in Part I of the Schedule. "GMcN"

(1. RP 31, 112. See para 1 of Instrs p 2. When more than one Charge Sheet see RP 62; when several accused to be tried separately see RP 71(C), and use separate copies of CF A96 to record proceedings. 2. RP 32, RP 33. If otherwise, delete and make appropriate record per Notes.)

A10. The Court (is closed and) considers the Instrs on Procedure after Arraignment at top of p 2. The proceedings are continued on Record Form D

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

INSTRUCTIONS ON PROCEDURE AFTER ARRAIGNMENT.

1. *The accused may not plead or be found Guilty on more than one of two or more charges laid in the alternative.* (*RP 37(A).*) *As to withdrawal of alternative charges by Prosecutor see RP 35(C). No other charge can be withdrawn for any reason without authy from Convening Offr. If Convening Offr concurs, Court may accept plea of Guilty to lesser, etc, offence.* (*RP 44(H).*) *Accused may change a plea of Not Guilty to Guilty during trial.* (*RP 38.*) *As to refusing to plead or not pleading intelligibly see RP 35(A). As to plea when sentence may be death see RP 35(D).*

2. *The proceedings on each charge sheet* (*RP 62*) *after arraignment will be conducted as follows in the respective circumstances stated:*

I. If pleas to all charges are GUILTY, use Record Form B below.

II. If pleas to all charges are NOT GUILTY, use Record Form D on p 3.

III. If pleas to some charges are GUILTY and to other charges are NOT GUILTY and,

(a) Such mixed pleas occur when there are no alternative charges in the Charge Sheet, use Record Form C below. (*RP 37(A).*)

(b) Such mixed pleas occur in a set of two or more charges laid in the alternative, see RP 37 (A) and fn 2 as to discretion of Court, (i) to try the accused on all such alternative charges as if he had pleaded Not Guilty thereto, or, (ii) to record the pleas as the findings of Court. After deciding between (i) and (ii), Court will proceed under foregoing instrs as may be appropriate to result of its decision. See MML p 744 Instrs (2).

3. *As to responsibility of President to accused see RP 59, 60(C); powers and duties of JA see RP 103; duty of Prosecutor see RP 60(A) (B); duty and privileges of accused and Defending Offr see RP 60(C), 87(C), 91, 92; swearing and withdrawal of witnesses from Court see RP 81, 82; questioning of accused see RP 80, 87(C), 92(B), and of witnesses see RP 83-85; calling or re-calling of witnesses by Court, etc, see RP 75-79, 86, 116; use of Summary of Evidence at Trial see RP 17(E) fn 6; and responsibility of JA or Pres to record proceedings see RP 94, 96.*

RECORD FORM B—PROCEEDINGS ON PLEAS OF GUILTY TO ALL CHARGES.

B1. The President or JA, if any, complies with RP 35(B) by explaining to the accused the nature and meaning of the charge(s)(1), and that on his plea of Guilty there will be no regular trial but merely a consideration of the sentence to be awarded after he has been given an opportunity to make a statement in reference to the charge(s), call witnesses as to character and make an address in mitigation of punishment.(2)
(*1. RP 35 fn 3. 2. MML p 54 para 47.*)

B2. President to accused: The Court will now receive any statement you desire to make in reference to the charge(s).(1) If it appears from your statement that there are circumstances which indicate that you do not understand the effect of the plea of Guilty(2), or which show provocation or extenuation in respect of which in your interest the witnesses for the Prosecution should be examined(3), we shall advise you to change your plea to Not Guilty. In making a statement you will not be sworn or subject to cross-examination; and anything you say will not be used in evidence against you after you change your plea. If, however, it appears to the Court that your statement affects only the amount of punishment to which you are liable, you will not be advised to change your plea and you will be given an opportunity later to prove your statement by sworn testimony, if you so desire.(4)

President to accused: Do you wish to make a statement? Ans. .....(5)
(*1. RP 37(B). 2. RP 37(D) fn 6. 3. RP 35(B) last para 3, MML p 54 para 47. 4. See para E3 of Record Form E. 5. Statement, if any, recorded per Notes.*)

B3. The Court considers the accused's statement.(1) The Court decides (not) to advise accused to change his (their) plea(s) of Guilty to Not Guilty on ..... charge(s). The accused is (are) so informed, and he (they) change(s) his (their) plea(s) on ..... charge(s). Part I of the Schedule is amended accordingly.
(*1. Court may be closed to consider the statement. Delete whole or part not used.*)

B4. On the charge(s) to which the plea(s) of Guilty is (are) not changed the President records finding(s) of Guilty in Part I of the Schedule.(1)
(*1. RP 35(B). If any plea(s) is (are) changed, use Record Form C or D as appropriate.*)

B5. The Summary of Evidence is marked Ex ....., initialled and read aloud by the President.(1)
(*1. If there is no Summary, or if it is inadequate, comply with RP 17(B). If there is any evidence inconsistent with any plea standing as Guilty, Court will advise accused to change such plea and, if changed to Not Guilty, try such charge(s) in case of paras D1 to D8 inclusive of Record Form D on p 3. RP 37(D).*)

B6. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

RECORD FORM C—PROCEEDINGS ON MIXED PLEAS OF GUILTY AND NOT GUILTY.

C1. As to the charges on which accused pleaded NOT GUILTY the trial is continued by using paras D1 to D8 inclusive of Record Form D on p 3 before proceeding with C 2.(1)
(*1. RP 37(A) (E).*)

C2. The charges on which accused pleaded GUILTY are read to him (them) again, and the trial is continued by using paras B1 to B5 of Record Form B above.(1)
(*1. Under B5 such parts only of the Summary of Evidence are read as relate to the charges dealt with under C2. If any plea is changed to Not Guilty, trial thereon proceeds by complying with paras D1 to D8 inclusive in Record Form D on p 3 and making an appropriate record thereof on a separate sheet.*)

C3. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

RECORD FORM D—PROCEEDINGS ON PLEAS OF NOT GUILTY TO ALL CHARGES.

D1. President to accused: Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity to prepare your defence? Ans. Yes (1)
(*1. If "yes", see RP 39(A) for procedure. Statement or evidence, if any, is recorded per Notes.*)

D2. The Prosecutor makes XX (no) opening address.(1)
(*1. RP 39(B), 60(A) (B), 90, 92(C) (D). Record address per Notes, subject to RP 95(C).*)

D3. The evidence for the Prosecution is taken.(1)
(*1. RP 39(C), 114, KR Can 555. Record evidence per Notes. As to Prosecutor giving evidence himself see RP 39(D) (E).*)

D4. [redacted] "GMcN"
(*1. Delete remainder of this para, if submission not made. 2. Arguments on submission, answer and reply are recorded per Notes. 3. RP 40 fn 1. See MML p 72 paras 12-14 and p 81 para 42. 4. Delete part not used. If accused acquitted on all charges, use second alternative in para D8.*)
NB. If trial proceeds, accused must be allowed great latitude in making his defence, and the Court should not stop his defence solely on ground of irrelevance. (*RP 60(C), 114, 115.*)

D5. President to accused: You will now proceed with your defence.(1) You may, if you wish, give evidence yourself on oath as to the facts or your character or both, in which case you will be subject to cross-examination.(2) You may, however, make a statement without being sworn, and you will not be subject to cross-examination.(3) But a statement which could have been made on oath will not carry with the Court the same weight as sworn testimony.(4) You may call witnesses in your defence and as to character, whether you give evidence or make a statement or do neither.

President to accused: Do you wish to give evidence yourself as a witness, make a statement, or do neither? Ans. Give evidence Do you intend to call witnesses on your behalf? Ans. Yes Are they witnesses as to character only? Ans. No
(*1. RP 115. 2. RP 46(A), see 80(D). 3. RP 40 fn 10. 4. RP 40 fns 2, 9.*)

D6. Consequent on the answers recorded in para D5 the appropriate procedure for the defence is followed.(1)
(*1. RP 114, 115, 116. For procedure see Notes on back of Convening Order, CF A95. Evidence for accused as to his character should, if in his interest, be given before the finding. See RP 46(A) fn 1, B6(C). Note the further opportunity in para E1 of Record Form E. Record per Notes addresses, statement, evidence and any summing up by the JA under RP 42, 103(e).*)

D7. The Court is closed to consider the finding(s).(1) The finding(s) of the Court XX(are) recorded in Part I of the Schedule.(2) The Court is re-opened. "GMcN"
(*1. RP 43, 117(A). See Notes in Part I of Schedule. 2. RP 44(B).*)

"GMcN" D8. The President a[redacted] states to the accused that the finding(s) of the Court on the 1st & 2nd charge(s), being subject to confirmation, will be promulgated later.(1)
Or [redacted] Part I of the Schedule is dated and signed.(2) "GMcN"
(*1. AA 54(3) (b), RP 45, 120(A). 2. AA 54(3), RP 45, 117. This alternative announcement is not applicable when there are pleas of Guilty outstanding and dealt with under Record Form B or C.*)

D9. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E below.

RECORD FORM E—PROCEEDINGS ON CONVICTION BEFORE SENTENCE.

E1. President to accused: Do you wish to give evidence yourself or to call any witnesses as to your character?(1)
Ans. No
(*1. If evidence has already been given by accused or his witnesses as to his character, delete this para. RP 37(C) fn 4, 46 fn 1. Accused and witnesses are sworn. Evidence recorded per Notes.*)

"GMcN" E2. The Prosecutor produces Statement(s) as to Character and Particulars of Service(1), and certified true copy (of XXX of Conduct Sheet(s)(2), purporting to refer to the accused, which he submits to the Defending Offr for examination, and then to the Court for admission in evidence. The Court is satisfied that these documents refer to the accused, because (i) they purport to be signed in the manner required by AA 145(3) (g) (h), and (ii) they purport to refer to (a) soldier X having the same number, rank, name and corps as the accused. Admitted in evidence and "GMcN" marked Ex B and Ex C respectively.(3)
(*1. AFB 355 or AFB 296. 2. MFM 6. 3. RP 46, KR Can 558. If above documents not produced, see RP 46 fn 1 para 1.*)

E3. President to accused: Do you wish to address the Court on the Statement(s) X and Conduct Sheet X, and in mitigation of punishment 1(1) Ans. Yes (2)
(*1. RP 37(C), 46(D). 2. Address, if any, recorded per Notes. Court should permit accused or his witnesses to prove on oath anything here or previously stated which would affect the amount of punishment. RP 27(F) fn 7.*)

E4. The President states that the Court is closed to consider the sentence, and that the sentence to be awarded by the Court, being subject to confirmation, will not be announced, but will be promulgated later, and the proceedings in open court are accordingly terminated.(1)
(*1. AA 54(6), RP 120(A).*)

E5. The Court considers the sentence.(1) The President records the sentence in Part I of the Schedule, which is dated and signed by him [redacted] "GMcN"
(*1. When several accused tried separately see RP 71 (D). One sentence only, comprised of the punishment or punishments laid down in AA 41, 44 and its proviso, is to be awarded to cover all charges in all charge sheets on which accused found guilty. RP 48. As to sentences see AA 44, 138, 182, RP 46-50, 69, 118, 119(A), KR Can 308, 330, 563-566, Overseas RD 309, 2323, MML p 60, 757-759. As to sentences assigned for civil offences by the law of England see AA 41(5), MML p 130. When accused already under sentence of imprisonment or detention see AA 44(1B), 68(1), KR Can 564. 2. RP 50. As to release from arrest by Confirming Offr see KR Can 567. As to assembly and disposal of record after trial see instrs on back of Convening Order.*)

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

CHARGE SHEET "GMcN"

The accused, G17483 Pte Ralph Joseph Guitar, a soldier of the Canadian Army (Overseas) on the strength of the Carlt & York R, on active service is charged with:-

First Charge
Sec 12 (1)(a)
A.A.

When on Active Service, deserting his Majesty's Service,

in that he

In the Field, in Italy, on the 18 Oct 44 after having been duly warned to proceed forward with his company with intent to avoid so proceeding absented himself from approximately 1600 hrs 18 Oct 44 until ordered to proceed forward by Capt. D.E. Smith in X-area at approximately 1200 hrs 19 Oct 44.
Total Absence - 20 hrs.

Second Charge
Sec 12 (1)(a)
A.A.

When on Active Service, deserting his Majesty's Service,

in that he,

in the field, in Italy, on 20 Oct 44, after having been duly warned to proceed forward to his company, with intent to avoid so proceeding absented himself without leave from approximately 0930 hrs 20 Oct 44 until apprehended at ANCONA at 1715 hrs 25 Oct 44.

Total absence - 5 days, 7 hrs, 45 minutes.

In the Field

Date 7 Nov 44

"E.D. Danby"
(E.D. Danby) Lt Col
Comd Carlt & York R.

TO BE TRIED BY FIELD GENERAL COURT MARTIAL

In the Field
19 Nov 44.

"P.E. Bernatchez"Brigadier
Comd 3 Cdn Inf Bde

"GMGN"

FIELD GENERAL COURT-MARTIAL

(Whether the accused to be tried is under his comd or not, a FGCM may on application to him be convened by any offr of Cdn Army Overseas, or of any other force if authorized in law, in immediate comd of troops on active service, subject to RP 105(C) and restrictions imposed by appropriate authy. AA 49, 50, RP 104-107, 114. As to the duties and privileges of the Convening Offr in dealing with the application see MML Chap V paras 20 and 22. RP 87(B).

There should be a separate Convening Order for each person to be tried separately by the same Court. RP 71(C), 109. As to separate charge sheets see RP 62, and as to separate trial on charges in the same charge sheet see RP 108. As to two or more accused charged jointly see RP 16, 109.

As to reasons for showing (a) permanent or confirmed rank, and (b) apptmt, A/rank or A/apptmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

ACCUSED.

Number.	(a) Prmnt R. (b) Apptmt, A/R or A/Apptmt	Full Christian Names	Surname.	Unit.
G 17483	Pte	Ralph Jospeh	GUITAR	CYR

CONVENING ORDER.

1. Whereas complaint has been made to me, the undersigned, that the person[X] named above as the accused, being subject to military law, has ([XXX] committed the offence(s) set forth in the Charge Sheet[X] attached and on (date) 19 Nov 44 endorsed by me, ([XXXXXXXXXXXXXXXXXXXX] "PEB". " To be tried by Field General Court-Martial ".

2. And whereas I am of opinion that it is not practicable that such offence(s) should be tried by an ordinary General Court-Martial ; (a[XXXXXXXXXXXXXXXXXXX

"GMcN"

MEDICAL OFFICERS CERTIFICATE

KR (CAN) PARA 357

I certify that I have this morning examined

No G.17483 Pte Guitar, R.J.

of the Carleton & York Regiment and in my opinion he is

fit to undergo Trial by Court Martial

Station In the Field

Date 20 Nov 1944

"?????????" Capt
Medical Officer
R.M.O. Carlt & York Regiment.

"GMcN"

MEDICAL OFFICERS CERTIFICATE

KR (CAN) PARA 357

Icertify that I have this morning examined

No. G17483 Pte Guitar, R.J.

of the Carleton & York Regiment and in my opinion he is

fit to undergo Trial by Court Martial.

"?????????" Capt
Medical Officer
R.M.O. Carlt & York Regiment.

Station In the Field

Date 21st Nov 1944

Court was adjourned until 0930 hrs 21 Nov 44 on the grounds that the defending officer hadn't sufficient time to prepare his case.

First Witness for the Prosecution:

G.17817 L/Cpl Ricker, E.M. Sworn States:

I am Sec Comd 9 Sec 15 Pl C Coy CYR. I recognize the accused as Pte Guitar. Approx 1300 hrs 18 Oct 44 I checked my sec. just before moving off and found Pte Guitar absent. I reported this to Sgt Bartom.

Cross Examination by the defence:

Q. How long before 18 Oct did you know the accused?

A. I never knew him.

Q. The morning of 18 Oct he reported to you, is that right?

A. Yes, Sir he reported to me saying I am Pte Guitar and I am in your Sec.

Q. When did you see him again?

A. In Coy office more than a week later.

Q. Did you give any particular instructions to Pte Guitar other than, your in my sec?

A. I had two Bren Mags and I told him he came in handy just then as I was short one man.

RP 83 b complied with.

Second Witness for the Prosecution:

G.17760 Sgt Barton, J.J. CYR Sworn states:-

I am Pl Sgt 15 Pl C Coy CYR. I recognize the accused as Pte Guitar. Pte Guitar reported to my Pl 18 Oct 44 approx 1300 hrs. I warned him that the Coy would be moving forward that date and that he would be in 9 Sec of which L/Cpl Ricker was in comd. I told him to report to Cpl Ricker. At 1630 hrs Coy parade was called, the sec comd's called the roll of their secs and Cpl Ricker reported to me that Pte Guitar was absent from his sec. I asked CSM if he had seen Guitar around anywhere and he said that he had not. Therefore I marked him absent.

Cross Examination by Defence:

Q. Did you know the accused before the 18 Oct?

A. Slightly - not very well.

Q. By what authority did you warn the accused that the Coy was going forward?

A. Maj Pell the OC Coy.

Q. Where you at the "O" Grp when the OC Coy gave the warning to move forward?

A. No.

Q. Was your Pl Comd at that meeting?

A. Yes.

Q. What orders did you get from him when he returned from "O" Grp?

A. He warned us that after 0500 hrs 18 Oct 44 that we would be on one hours notice. That the time we would be moving forward would be given to us later.

Q. What did you do on receiving these instructions?

A. I had the Pl gather around and gave them the orders I had received from my Pl Comd.

Q. Was the accused present in that gathering?

A. No, Sir.

Q. When the accused reported to you can you tell the Court just what you told him.

A. I warned him that the Coy would be moving forward that day, that he would be in Cpl Rickers Sec and then told him to report to Cpl Ricker and where to find him.

Q. Did the accused make any answer?

A. I don't remember any Sir.

Q. At that time did you know the exact time the Coy were moving forward?

A. I didn't know the exact time, I just had a fair idea.

Q. You say that Cpl Ricker reported the accused absent at that date?

A. Yes.

Q. Did you report this to Lt Senechal?

A. Yes, Sir.

Q. What did you do after reporting the absentee to Lt Senechal?

A. The Coy moved off and I was with it.

Q. When the accused reported to you did he have any kit with him?

A. No, Sir.

Q. Did you know where his kit was?

A. I didn't at the time.

Q. Did you search for the accused at all?

A. I asked the CSM - he phoned HQ coy two or three times.

Q. How far was HQ Coy away?

A. Not quite a mile. 5 to 10 minutes walk.

Q. To your knowledge you don't know but what the accused was asleep?

A. He wasn't asleep in my Pl or Coy area.

Q. At 1630 you checked the Pl did you not?

A. Yes, Sir.

R.P. 83 b complied with

Third Witness for Prosecution:

Capt D.E. Smith MC CYR Sworn states:-

I am 2 i/c of C Coy. I recognize the accused as Pte Guitar. On the 18 Oct 44 the accused asked for interview I granted him interview where he stated he wished to be transferred to the Sig Pl as he felt he could not

go forward with a Rifle Pl. I had been informed by the adj that all specialists posted to Rifle Coys would have to remain where they were until the reinforcement situation improved. I informed the accused of this and told him he would have to remain with the Coy. He said that he felt that he could not go forward. I told him he'ed have to and if he did not he would get himself into very serious trouble. At 1630 hrs that day just prior to moving forward the CSM on turning the Coy over to me reported that accused was absent. We moved off in TCV's without the accused. The following morning between 1130 and 1200 hrs I arrived back to X area and saw the accused near HQ Coy.office. I called him over and told him to get his equipment together and go forward with Capt Leonard at about 1230.

Cross Examined by Defence:

Q. Did you receive any other reinforcements from the Sig Pl?

A. Yes.

Q. How were they conducted to C Coy?

A. I don't know.

Q. Do you know if the Reinf's came in with complete kit?

A. I don't know but if they weren't complete they most certainly were fitted out by the CQMS as they were checked.

Q. Do you know if the accused came over with any kit whatsoever?

A. I dontt know - he didn't complain ~~of~~ any lack of equipment when I interviewed him.

Q. When you came back on the 19th in what area did you find the accused?

A. Near HQ Coy office.

Q. Did the conversation you had with him speak ~~of~~ where the accused was staying at the time?

A. No.

Q. When you recognized him on the 19th did he seem for all purposes normal to you?

A. Yes.

RP 83 b Complied with

Fourth Witness - Prosecution

Major B.A. Kennedy A/2 IC CYR sworn states:

I recognize the accused as Pte Guitar. I've known him for a period of approx five years. On N/19 Oct at approx 1800 hrs Pte

Guitar came to me and requested to see an MO. I asked him what was wrong and he said his nerves were bad. I told him our Unit MO was forward of Bn HQ and we ahd none at "B" Ech. He didn't seem to be suffering any imediate illness. I told him he could see the MO the following morning when he arrived at Bn HQ.

No cross Exam.

RP 83 b complied with

Fifth Witness for Prosecution:

Capt E.M. Leonard CYR Sworn states:-

I recognize the accused as Pte Guitar. On the afternoon of 19th Oct. I proceeded from X area to B Ech CYR. Capt Smith of C Coy told me to take one of his men Pte Guitar forward with me. I did so. On arrival at B Ech I told Pte Guitar that he would be proceeding forward to his Coy the following morning. We had some conversation and he told me to the effect that his nerves were bad and he did not want to go forward.

Q. Was the accused under arrest at that time?

A. I had no knowledge.

Q. Was he the only man who proceeded forward with you?

A. No my batman was with me also.

Q. Was he on hand when you were ready to leave X area?

A. He was in the truck.

Q. The conversation you had with him at B Ech did that lead to his interview with Maj. Kennedy?

A. That was before the accused spoke to Maj Kennedy.

Q. Did you have anything to do with the interview with the Maj?

A. No. I didn't think it necessary.

Q. Was the accused handed over to the CSM or any other NCO at B Ech?

A. No I told the accused to find quarters for himself in the building in which B Ech was and to be on hand in the morning.

Q. To be on hand in the morning - For what purpose?

A. To go forward to his Coy.

Q. From what source did you receive orders that the accused was to proceed to his coy?

A. Capt Smith.

R P 83 b complied with.

Sixth Witness:-

RQMS K.H. Otis CYR Sworn states:

I recognize the accused as Pte Guitar, approx 0930 hrs 20 Oct Maj Kennedy ordered me to take Pte Guitar along with three other men to rear Bn I checked the area and Pte Guitar could not be found.

Cross Examination - Defence

Q. Did you see the accused on the evening of 19 Oct 44?

A. No, Sir.

Q. Did you see him anytime on the 20 Oct prior to 0930 hrs?

A. Yes Sir.

Q. How did he appear to you at that time?

A. He appeared to be nervous.

Q. Did you warn him you were taking him forward?

A. No.

Q. To your knowledge did the accused know he was going forward that day?

A. No.

Question by Prosecution:

Q. Did you take other men forward that morning?

A. Yes Sir.

The Prosecution produces Cert of Apprehension Marked Exhibit "A".

COURT CLOSES FROM 1200 hrs - REOPENS 1330 hrs.

First Witness for the Defence:

G.17415 CSM Coy CAA C Coy CYR Sworn states:

I recognize the accused as Pte Guiter.

Q. Do you remember how many reinforcements came in on 18 Oct 44?

A. I do not know. Reinforcements came and went all day, but I do remember that two came from HQ Coy - One was the accused.

Q. Can you remember if anyone was in charge of these reinfs?

A. No, Sir. There was no onein charge of the reinfs.

Prosecution refusesto cross exanine the witness.

R.P. 83 b Complied with.

Statement by the Accused (On Oath)

G.17463 Pte Guiter R.J. CYR Sworn states:

I signed up 10 Nov 39. Came overseas following Dec with CYR. I remained in th Regt until approx 6 Apr 43. I was SOS to the Signal Holding Unit England. I was after wards put on dreft to CYR at approx 27 Apr 44. I arrived at the Regt about 2 May 44. During that time I had no crime against me. On arrival to CYR I was posted to the Signal Pl where I stayed until 18 Oct when I was posted to C Coy. I was quite nervous becau e I did not know any thing about infantry Pl work. When I reported to Capt Smith I asked him if I could get back to my original pl. and he told me "No" I was told to report to Sgt Barton which I did and was told to report to L/Cpl Ricker which I also did, and was informed I was in L/Cpl Rickers Sec. I then went back to HQ Coy and asked Capt McIntyre OC HQ Coy if I could get a job and that my Nerves were too bad to go into the line. I remained there in HQ Coy until the following day when Capt Smith came to the Coy office and told me I was to go forward on a vehicle which was leaving after dinner.

I did this and Capt Leonard asked"are you the man who isgoing forward." I answered "Yes". When we reached B Ech he told me to find a bed for the night at approx 1800 hrs I had an interview with Maj Kennedy and told him my nerves were had and I should like see the MO and he said "There is nothing I can do for you". I then found a bed in the house and the following morning I was walking around the building area. I was not told what time I was moving or who with. I left the area at approx 1000 hrs. I was picked up in Ancona and taken back to CYR Guard Room. I am 28 yrs old and single. I have 2 brothers in the army. My father is living and my mother died three yrs ago.

RP 83 b Complied with.

Cross Examination by Prosecution:

Q. When you came to the Regt where did you go?

A. I went to B Coy as a signaler when they were in a static position.

Q. How long were you with then when the coy was in a static position?

A. Approx one month.

Q. How many days were you in action with B coy?

A. About 5 days.

Q. Did you go to see the Coy Comd of HQ Coy before the coy moved off?

A. I went before the coy moved off.

Q. When you arrived at B Ech were you warned that you were going forward?

A. No I was not warned.

Q. Were you warned at X area?

A. At X area I was ~~warned~~ told to go forward.

Q. What instructions did Capt Leonard give you when you arrived at B Ech?

A. To find quarters for the night.

Q. When you asked Capt McIntyre for a job what was his answer?

A. He told me that he did not have any at the time.

Q. Did he give you the permission to stay at HQ coy?

A. No he did not.

Q. Did you had the permission from your C Coy to go to HQ Coy?

A. No Sir.

Q. Did Maj Kennedy tell you that you would see the MO at Bn HQ the next day?

A. Major Kennedy just told me that he cannot do any thing for me.

"GMcN"

RP 83 b complied with.

"CMcN"

Closing address Pros:

Gentlemen:

In the case of desertion its necessary to prove intent and the evidence brought before the Court by the prosecution has proven that the accused did NOT intend to go forward with his coy. But remained behind after he was duly warned by his Pl Sgt, Capt Smith, Capt Leonard. But I would recommend that he be found guilty of both charges.

Page 15 (1) Over for page 16

By Defending Officer

The criterion between desertion and AWL is intention to desert. If a man conceals himself in barracks etc the court may be justified in presuming and intention to escape frm important service on which he was ordered to serve. These are extracts from Sec 17 and Sec 20 of MML.

The accused was not in hiding or concealed for all intents and purposes according to the evidence given in Court. His CSM and Pl Sgt knew where he was. Therefore he was not concealed. If he had intended to desert - he would have deserted upon

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(2) Page 16

being warned of the Coys moving forward by the Pl Sgt. But he did not even go AWL and they knew where he was all the time. Therefore that doesn't constitute grounds for a charge of desertion against the accused. He's solely AWL.

The fact that the accused kit was not in the new area (C Coy) is enough to claim that he was not ready to move to C Coy which is another Sec of the AA altogether but surely not desertion. He could have been packing his kit while the Coy moved. This assumption was not in any way disproved. To the new area as the case of the man.

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(3) Page 17

When he was told by Capt Smith the Coy had gone forward he went with Capt Leonard to B Ech willing. Does that show intention to desert? I ask the member of the Court.

At B Echelon the accused's mind was greatly confused. The fact that he had been transferred from the Signal Pl to an Infantry Coy [illegible] was almost too much for him. He is by nature a very nervous type. He asked to see an MO but this was impossible

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Page 18 Over

He received a variety of orders at B Echelon and this to the accused confused him even more.

The accused wanted time to think things over and to his confused brain the only pos ible thing to do was go AWL.

"C.N. MacKie"
Defending Officer

"CMcN" (1) 20 Nov 44

Plea for Mitigation of Sentence

In passing sentence on this man, Pte Ralph Joseph Guitar may the following facts be brought to the attention of the Court.

Pte Guitar joined the army on 10th Nov 39 with the CYR. He left Canada with the Regt on the 12th Dec 39. He was with the Regt in England until Mar 43. He then was transferrred to No.1 CSRU at Cove. He stayed at this Holding Unit until proceeding to Italy in Apr 44. After having spent about 4 days in Avellino he came to his old Regt as a signaller. He was with the Signal Platoon until 16th of Oct 44 when he was transferred to C Coy

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"CMcN" (2)

during this long period he proved himself to be a good soldier in his

majesty's Service. He has only one mark on his MFR 6 which is AWL for approx 10 hours.

This soldier has been doing Signal work for the past 1½ yrs both in Eng and Italy and he firmly believed he was not sufficiently trained at the time in question to be an Infantry man. He inquired at HQ Coy his former coy to see if hecould be transferred to another job but nothing could be done at that time. This greatly worked on his mind and he is normally a very nervous high strung type.

The fact that he didn't

"GMcN" (3)

leave the Bn immediately shows conclusively that he didn't intend to desert. His mind was in a quandry as what to do and he sought solice by being alone. In the meantime the Bn went forward.

When told the Bn had gone forward he went then with Capt Leonard to B Ech. From B Echelon he went AWL.

Pte Guitar has three brothers in the army. One in Italy and one in France. When hostilities ceases may it be the courts wish to have these three brothers and their brother here all go home together.

I wish the Court to consider the evidence and these facts

before passing sentence on this man.

"GMcN"

"C.N. MacKie" Lt
Defending Officer

(4)

Exhibit "A" CERTIFICATE IN ACCORDANCE WITH THE ARMY ACT
"??????"Lt SEC 165 (1)(ii)

"CMcN"

No. G.17483 Rank Pte Name GUITAR, R.J.

of the 48 CARLTON YORK REGT, CANADIAN ARMY.

was arrested at ANCONA at 1715 hrs

on the 25th day of OCTOBER 1944

Signature of PM, APM., or other officer into whose custody the above named person was taken on arrest. "???????"

Rank Capt

Appointment if any

Commanding 49 Coy C.M. Police

Date 26 Oct 44.

Exhibit "B" "GMcN"

ARMY FORM B.296.

Statement as to Character and Particulars of Service of Accused.

Number.	*Rank.*	*Name.*	*Regiment (or as the case may be).*
G17483	Pte	Guitar, R.J.	Carleton & York Regt

1. The following is a fair and true summary of the entries in the Field conduct sheets† of the accused, exclusive of convictions by a court martial or a civil court, of summary awards under section 47 of the Army Act, and of cases in which trial has been dispensed with :—

Note.—At a trial by field general court martial this summary may be compiled from the field conduct sheet.

The conduct sheet(s) mentioned should be produced in court with this statement but not attached to the proceedings.

† See para. 677, K.R., 1940.

* The portions herein stated should correspond with the number of entries in the conduct sheets, permission being given to the most senior officer in each entry, and to any recognised special acts of gallantry or distinguished conduct.

Instruction.—If the charge is for desertion with the sentence for drunkenness must be stated separately and dated.

	* Within last 12 months.	*Since Enlistment.
For Sec 15(1) AA	(1) time X	(1) time X
For	times	times
For	times	times
For	times	times
For	times	times

Number of instances of gallantry or distinguished conduct, "NIL" or

There are no entries in the conduct sheets of the accused.

2. The accused has not been previously convicted, *or*

Previous convictions† of the accused by a court martial or a civil court, summary awards under section 47 of the Army Act, and dispensations with trial under section 73 of the Army Act, are set out in the "NIL" appended to this statement.

3. The accused is not under sentence at the present time, *or* The accused at the present time is under sentence for "NIL" beginning on the day of

4. The accused has been in confinement, awaiting trial on the present charges, for Nil days in civil custody, and 26 days in military custody, making a total of 26 days, of which Nil days were spent in hospital.

5. The present age of the accused according to his record of service is 28 yrs

6. The date of his "NIL" attestation specified in his record of service is 10 Nov 39

7. The service which the accused is allowed to reckon towards discharge or transfer to the reserve is 5 yrs

8. The accused is entitled to deferred pay or gratuity in respect of 5 yrs service.

9. The accused is entitled to reckon 5 yrs service for the purpose of determining his pension, etc.

10. The accused is in possession of, or entitled to, no military decoration or military award (*or* is in possession of *or* entitled to (*state any military decoration or reward*)). CVSM and Clasp

11. (*If the accused is a warrant officer.*) The accused before he was made a warrant officer last held the regimental rank of "NIL"

(*If the accused is an officer.*) The accused holds in the army the rank of "NIL" dated and in his regiment (*or corps or department*) the rank of dated

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(Printed) W.1.2827/483 20,000 5/43

Schedule of Convictions by a Court Martial or Civil Court, of summary awards under Section 47 of the Army Act and of cases in which trial has been dispensed with of accused.

No. ~~G~~ 3 17480 Rank Pte Name Guitar, R.J. of C & Y Regiment (or as the case may be).

(INSTRUCTION—A verbatim extract from the regimental books, stating these convictions and dispensations with trial, must be inserted.)

Description of court by which tried, or status of officer disposing of the charge or dispensing with trial	Date and place of trial, or summary award under A.A. 47, or of order dispensing with trial.	Charge upon which convicted, or in respect of which trial was dispensed with.	Sentence of the court or authority disposing of the charge, or order of the dispensing authority	Punishment remitted
		"WTM"		
		"WTM"		

I HEREBY CERTIFY that the foregoing schedule of convictions and dispensations with trial is a true extract from the regimental books in my custody.

Signed this 21st day of Nov 44

"W Mc Grath" Capt
Officer i/c Records
Carlt & York R

---

23 The accused has served as a non-commissioned officer continuously without reduction, to the present date.

Date of Promotion.

To the rank of ..... years ..... months ..... days.

To the rank of ..... years ..... months ..... days.

To the rank of ..... years ..... months ..... days.

In the rank of ..... years ..... months ..... days.

"WTM"

(Instruction—In case answer to any of the above paragraphs cannot be stated from the regimental books the paragraph must be struck through, except that in the case of a trial by field general court-martial the presumption may be assumed from such omission as are available and the paragraph completed accordingly.)

Exhibit "C" "GMcN"

No G17483 Name GUITAR R.J. Sqn, Battery, or Company — Corps CIC — Date of enlistment 10-11-39 — GC Badges — Service or Proficiency Pay — MFM 6 (AFB 232)

Date of last entry in Company Conduct Sheet: N/A — No and date of last drunk: N/A — Period not reckoning towards freedom from extra fine — Sheet No 1 — Signature OC Company, etc — Character

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Sheet destroyed 13 Sep 44. Last entry 19-12-40 No cases of drunkenness (M.R.Lorin) Lt									
Field	19 May 44	Pte		Sec 15(1) AA AWL 0430 hrs 19 May 44 to 1525 hrs 19 May 44.	Maj Kennedy	Forf 7 days pay	7 Jun 44	Lt Col E.D. ??	Forf 1 days pay for AWL

CERTIFIED TRUE COPY
Officer i/c Records
Carlt & York Regt
"W McGrath" Capt.

(PTO)

AAA123
SPR GULLION E

AAA-123

FIELD GENERAL COURT-MARTIAL

(CPA86 (in lieu of AFA2) 40/P & R/1608 (28804))

Convened by Order of Lt-Col. N.I. Fraser Comd Can CRE Wks dated 4 Jan 44

ACCUSED.

(As to the trial of two or more charged jointly see RP 16, 71, 109. As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

Number.	(a) Prmnt R. (b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
M 36742	Sapper	Ernest	Gullion	3 Can Fd Svy Coy. RCE

PROCEEDINGS REVIEWED 8 Feb. 44. R. Desaulniers Capt.

PROCEEDINGS OF TRIAL.

REVIEWING OFFICER, JAG BRANCH, C.M.H.Q.

Held in the Fd in (country) ENGLAND on (date(s)) 6 JAN 44.

RECORD FORM A—OPENING PROCEEDINGS AND ARRAIGNMENT.

A1. The President, Members, waiting Member, ~~Jr, if any~~, and Offrs under instr, if any, assemble, and the Court is closed.

(PRINTED MATTER, NOT IN ITALICS FOR GUIDANCE, WILL BE DELETED IF NOT USED OR APPLICABLE, AND INITIALLED BY PRES OR JA. The Schedule referred to throughout is on p 4. Citations do NOT include all relevant fins RDs. For guidance on procedure when a variation in this form arises, see form for GCM in MML pp 741 to 759. A brief record of such variation will be made and given a number having reference to appropriate or preceding para number herein. See back of Convening Order, CF A95, for matters and instrs on how to record addresses, evidence, etc, which instrs are hereafter called "Notes". As to general provisions for conducting the trial see AA 53, RP 56, 63-70, 73, 74, 94, 103, 119, 132.)

A2. The President initials and lays before the Court the Convening Order and Charge Sheet, ~~and~~ attached thereto.(1) The Court is satisfied that it is properly convened and constituted(2), accused is ~~(are)~~ amenable to military law, and each charge discloses an offence.(3)

(1. As to use of Summary of Evidence see RP 17 fn 6(b). 2. AA 49, 50, RP 105-107. 3. RP 11-13, 23, 24.)

A3. The Court is opened. The accused is ~~(are)~~ brought before the Court. At 1015 hours trial commences.

A4. The Prosecutor produces a Medical Certificate that accused is ~~(are)~~ fit to undergo trial by court-martial.(1) ~~The Prosecutor informs the Court that accused elected to be tried by court-martial instead of being dealt with summarily by the CO.(2)~~

(1. KR Can 557. 2. AA 46(B), RP 60 fn 1. For effect see KR Can 561(c). Delete, if not applicable.)

A5. President to accused: ~~Do you object to~~ ~~the Interpreter is sworn.~~ ~~as interpreter?~~ Ans ~~Do you object to~~ B 3110 L/Cpl Robertson, W.J. as shorthand writer? Ans NO.

The shorthand writer is sworn.(1)

(1. RP 72. Delete, if none employed.)

A6. The Convening Order and names of the President and Members of the Court are read to the accused.(1) President to accused: Do you object to be tried by me as President or by any of the Members of the Court?

Ans NO.(2)

(1. RP 110. 2. If no objection, waiting member returns. RP 66(8). If objection, see procedure AA 51, RP 25, 71, 18, MML p 742.)

A7. The President, Members, ~~Jr, if any~~, and Offrs under instr, if any, are sworn.(1) The following are the ranks, names and units of the offrs comprising the Court, etc:

President	Major	G.S. Andrews,	30 Can Air (Svy) Liaison Sec, RCE.
Member	Captain	H.C. Hammond,	4 Can Fd Svy Coy, RCE
Member	Lieutenant	A.W. Wolfe-Milner	2 Can Fd Svy Coy, RCE.
Judge-Advocate			
Prosecutor	Lieutenant	John Arthur Thornton,	3 Can Fd Svy Coy, RCE.
Defending Offr	Captain	Alfred Vincent Holland	3 Can Fd Svy Coy, RCE.

Questions by President: Is the Prosecutor a lawyer? Ans NO Is the Defending Offr a lawyer? Ans NO (2)

(1. RP 26, 27, 109, 111. List of offrs under instr will be returned separately with proceedings for information of Conv Offr.) (2. If Pros a lawyer and Def Offr not, accused is entitled to an adjournment when RP 89 (8) and fn 2 were not followed. See D/ p 3.)

A8. The accused M36742 Spr Gullion, Ernest before arraignment makes(s) (no) ~~(no)~~ plea(s).(1)

(1. If a special plea is made for separate trial on one or more charges (RP 62(E), 108), or as to the jurisdiction of the Court (RP 34, 35(A), 113), or in bar of trial (RP 36), or as to an accused's mental fitness to stand trial (AA 130, RP 57), or by one of several accused charged jointly to be tried separately (RP 16, 71), such plea, the addresses made in support or against, the evidence, if any, and finding are recorded per Notes. For forms of record see references in fns to RsP cited. Insert in AB rank and name of the accused making the plea.)

A9. The accused is ~~(are)~~ arraigned (separately) on all charges in the charge sheet.(1) The accused does ~~(do)~~ not object to any charge.(2) There is no amendment to be made to the Charge Sheet.(3) The President records the pleas in Part I of the Schedule.

(1. RP 21, 112. See para 1 of reasons p 2. When more than one Charge Sheet see RP 62; when several accused to be tried separately see RP 71(C), and see separate copies of CF A96 to record proceedings. 2. RP 32, RP 33. If otherwise, delete and make appropriate record per Notes.)

A10. The Court (is closed and) considers the Instns on Procedure after Arraignment at top of p 2. The proceedings are continued on Record Form C

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

SCHEDULE.

PART I. PLEA(S), FINDING(S) AND SENTENCE.

Accused:

Charge. (Insert "alternative" where applicable.)	Plea. (See instrs p 2.)	Finding. (See note below.)	(Space for use as required for further charges, accused charged jointly, special findings, etc.)
1st	NOT GUILTY	NOT GUILTY	
2nd alternative	-GUILTY-	-GUILTY-	
3rd			
4th			
5th			
6th			

(Note: As to findings for lesser offences see AA 56, RP 44; findings on alternative charges see MML p 483 fn 4 para 2, RP 44; special findings see RP 44 and MML p 753, and in loss of kit see RP 44 fn 8.)

~~At present under sentence for~~ ~~(beginning) (on) (date)~~

(1. Insert sentence being served, or delete, if not applicable. See RP 46(A). Information should be found on MF B355 or AF B296.)

Time in confinement awaiting present trial—a total of 14 days, ~~of which ... days were spent in hospital.~~(1)

(1. See RP 46(A) fn 2. Information should be found on MF B355 or AF B296 admitted in evidence under E2.)

Sentence Awarded by the Court:

To undergo Detention for Fifty-six Days.

6 JAN 44 (Sgd) Major, RCE.

Date awarded. President. (RP 45, 50)

(Sgd) Judge-Advocate, if any.

(See back of Convening Order as to assembly and disposal of record after trial.)

PART II. MINUTE WHERE CONFIRMATION RESERVED. (AA 54(5), RP 120(F), MML p 760.)

Date (Sgd) Commanding

PART III. DECISION OF CONFIRMING OFFR ON FINDING(S) AND SENTENCE.

(For duties and powers see AA 54, 57, RP 37(D) fn 6, 46(A), 51-56, 120, MML pp 759-761, KR Can 567-577. Acquittals require no confirmation and cannot be revised: AA 54(2). RP 120(G). If not confirmed, accused may be tried again: AA 157, MML p 64. Minute of confirmation or non-confirmation may be altered before promulgation: RP 53, MML p 65. Quashing after promulgation: KR Can 573. Duties and powers of reviewing offrs: AA 57, 57A, RP 53A, 54. The Confirming Offr must sign here personally. AA 172 fn 1.)

My decision on the finding(s) and sentence set forth in Part I is:

I confirm the findings and sentence of the Court

~~I direct that the accused be not committed to prison or detention barracks until further ordered.~~(1)

(1. AA 57A. Delete if not used.)

(Sgd) Lt-Col., RCE

Date 8 Jan 44 Commanding Cdn CRE Wks Confirming Officer.

PART IV. PROMULGATED AND EXTRACTS TAKEN. (RP 53, KR Can 576, 577.)

Accused.	Date.	Signature of Offr.
M 36742 Spr Gullion E.	19 Jan 44.	L.J. Wood Major 3 Can Fd Svy Coy

ALL DELETIONS AND ALTERATIONS WILL BE INITIALLED. R.C.E.

INSTRUCTIONS ON PROCEDURE AFTER ARRAIGNMENT.

1. *The accused may not plead or be found Guilty on more than one of two or more charges laid in the alternative.* (RP 37(A).) *As to withdrawal of alternative charges by Prosecutor see RP 35(C). No other charge can be withdrawn for any reason without authy from Convening Offr. If Convening Offr concurs, Court may accept plea of Guilty to lesser, etc, offence.* (RP 44(H).) *Accused may change a plea of Not Guilty to Guilty during trial.* (RP 38.) *As to refusing to plead or not pleading intelligibly see RP 35(A). As to plea when sentence may be death see RP 35(D).*

2. *The proceedings on each charge sheet* (RP 62) *after arraignment will be conducted as follows in the respective circumstances stated:*

I. If pleas to all charges are GUILTY, use Record Form B below.

II. If pleas to all charges are NOT GUILTY, use Record Form D on p 3.

III. If pleas to some charges are GUILTY and to other charges are NOT GUILTY and,

(a) Such mixed pleas occur when there are no alternative charges in the Charge Sheet, use Record Form C below. (RP 37(A).)

(b) Such mixed pleas occur in a set of two or more charges laid in the alternative, see RP 37(A) and fn 2 as to discretion of Court, (i) to try the accused on all such alternative charges as if he had pleaded Not Guilty thereto, or, (ii) to record the pleas as the findings of Court. After deciding between (i) and (ii), Court will proceed under foregoing instrs as may be appropriate to result of its decision. See MML p 744 Instrs (2).

3. *As to responsibility of President to accused see RP 59, 60(C); powers and duties of JA see RP 103; duty of Prosecutor see RP 60(A) (H); duty and privileges of accused and Defending Offr see RP 60(C), 87(C), 91, 92; swearing and withdrawal of witnesses from Court see RP 81, 82; questioning of accused see RP 80, 87(C), 92(B), and of witnesses see RP 83-85; calling or re-calling of witnesses by Court etc see RP 75-79, 86, 116; use of Summary of Evidence at Trial see RP 17(E) fn 6; and responsibility of JA or Pres to record proceedings see RP 94, 96.*

RECORD FORM B—PROCEEDINGS ON PLEAS OF GUILTY TO ALL CHARGES.

B1. The President or JA, if any, complies with RP 35(B) by explaining to the accused the nature and meaning of the charge(s)(1), and that on his plea of Guilty there will be no regular trial but merely a consideration of the sentence to be awarded after he has been given an opportunity to make a statement in reference to the charge(s), call witnesses as to character and make an address in mitigation of punishment.(2)
(I. RP 35 fn 3. 2. MAML p 54 para 47.)

B2. President to accused: The Court will now receive any statement you desire to make in reference to the charge(s).(1) If it appears from your statement that there are circumstances which indicate that you do not understand the effect of the plea of Guilty(2), or which show provocation or extenuation in respect of which in your interest the witnesses for the Prosecution should be examined(3), we shall advise you to change your plea to Not Guilty. In making a statement you will not be sworn or subject to cross-examination; and anything you say will not be used in evidence against you after you change your plea. If, however, it appears to the Court that your statement affects only the amount of punishment to which you are liable, you will not be advised to change your plea and you will be given an opportunity later to prove your statement by sworn testimony, if you so desire.(4)

President to accused: Do you wish to make a statement? Ans NO (5)
(I. RP 37(B). 2. RP 37(D) fn 6. 3. RP 35(B) fn 5 para 3, MAML p 54 para 47. 4. See para E3 of Record Form E. 5. Statement, if any, recorded per Notes.)

B3. The Court considers the accused's statement.(1) The Court decides (~~not~~) to advise accused to change his (~~their~~) plea(s) of Guilty to Not Guilty on SECOND charge(s). The accused is (~~not~~) so informed, ~~and he (they) change(s) his (their) plea(s) on charge(s). Part I of the Schedule is amended accordingly.~~
(I. Court may be closed to consider the statement. Delete whole or part not used.)

B4. On the charge(s) to which the plea(s) of Guilty is (~~are~~) not changed the President records finding(s) of Guilty in Part I of the Schedule.(1)
(I. RP 35(B). If any plea(s) is (are) changed, use Record Form C or D as appropriate.)

B5. The Summary of Evidence is marked Ex A, initialled and read aloud by the President.(1)
(I. If there is no Summary, or if it is inadequate, comply with RP 37(B). If there is any evidence inconsistent with any plea standing as Guilty, Court will advise accused to change such plea and, if changed to Not Guilty, try such charge(s) by use of paras D1 to D8 inclusive of Record Form D on p 3. RP 37(D).)

B6. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

RECORD FORM C—PROCEEDINGS ON MIXED PLEAS OF GUILTY AND NOT GUILTY.

C1. As to the charges on which accused pleaded NOT GUILTY the trial is continued by using paras D1 to D8 inclusive of Record Form D on p 3 before proceeding with C 2.(1)
(I. RP 37(A) (E).)

C2. The charges on which accused pleaded GUILTY are read to him (them) again, and the trial is continued by using paras B1 to B5 of Record Form B above.(1)
(I. Under B5 such parts only of the Summary of Evidence are read as relate to the charges dealt with under C2. If any plea is changed to Not Guilty, trial thereon proceeds by complying with paras D1 to D8 inclusive in Record Form D on p 3 and making an appropriate record thereof on a separate sheet.)

C3. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

Pin here Loose Sheets of Record.

RECORD FORM D—PROCEEDINGS ON PLEAS OF NOT GUILTY TO ALL CHARGES.

D1. President to accused: Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity to prepare your defence? Ans NO (1)
(I. If "yes", see RP 39(A) for procedure. Statement or evidence, if any, is recorded per Notes.)

D2. The Prosecutor makes (~~an~~) (no) opening address.(1)
(I. RP 39(B), 60(A) (B), 90, 92(C) (D). Record address per Notes, subject to RP 95(C).)

D3. The evidence for the Prosecution is taken.(1)
(I. RP 39(C), 114, KR Can 555. Record evidence per Notes. As to Prosecutor giving evidence himself see RP 39(D) (E).)

D4. The Prosecution is closed.(1) ~~The Defending Offr submits that the evidence for the Prosecution does not establish a prima facie case against the accused on the charge(s).(2) The Court is re-opened, and the President announces that the submission is disallowed on the charge(s), and allowed on the charge(s), and that, accordingly, the trial will proceed on the former, but the accused is (are) found Not Guilty on the latter charge(s).(3)~~
(I. Delete remainder of this para, if submission not made. 2. Arguments on submission, answer and reply are recorded per Notes. 3. RP 40 fn 1. See MML p 72 paras 12-14 and p 81 para 42. 4. Delete part not used. If accused acquitted on all charges, use second alternative in para D8.)
NB: If trial proceeds, accused must be allowed great latitude in making his defence, and the Court should not stop his defence solely on ground of irrelevance. (RP 60(C), 114, 115.)

D5. President to accused: You will now proceed with your defence.(1) You may, if you wish, give evidence yourself on oath as to the facts or your character or both, in which case you will be subject to cross-examination.(2) You may, however, make a statement without being sworn, and you will not be subject to cross-examination.(3) But a statement which could have been made on oath will not carry with the Court the same weight as sworn testimony.(4) You may call witnesses in your defence and as to character, whether you give evidence or make a statement or do neither.

President to accused: Do you wish to give evidence yourself as a witness, make a statement, or do neither?
Ans NEITHER
Ans NO Do you intend to call witnesses on your behalf? ~~Are there witnesses as to character only? Ans~~
(I. RP 155. 2. RP 40(A), see 80(D). 3. RP 40 fn 10. 4. RP 40 fns 2, 9.)

D6. Consequent on the answers recorded in para D5 the appropriate procedure for the defence is followed.(1)
(I. RP 114, 115, 116. For procedure see Notes on back of Convening Order. CF A95. Evidence for accused as to his character should, if in his interest, be given before the finding. See RP 46(A) fn 1, 86(C). Note the further opportunity in para E1 of Record Form E. Record per Notes addresses, statement, evidence and any summing up by the JA under RP 42-44(D)(E).)

D7. The Court is closed to consider the finding(s).(1) The finding(s) of the Court is (are) recorded in Part I of the Schedule.(2) The Court is re-opened.
(I. RP 43, 117(A). See Notes in Part I of Schedule. 2. RP 44(A).)

D8. The President announces the finding(s) ~~of the Court~~ on the FIRST charge(s) ~~being subject to confirmation, will be promulgated later on, and that the proceedings are accordingly terminated. Or, The President announces that the accused is found Not Guilty on all charges and is to be released forthwith.~~ Part I of the Schedule is dated and signed.(2)
(I. AA 54(3) (6), RP 45, 120(A). 2. AA 54(3), RP 45, 117. This alternative announcement is not applicable when there are pleas of Guilty outstanding and dealt with under Record Form B or C.)

D9. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E below.

RECORD FORM E—PROCEEDINGS ON CONVICTION BEFORE SENTENCE.

E1. President to accused: Do you wish to give evidence yourself or to call any witnesses as to your character?(1)
Ans NO
(I. If evidence has already been given by accused or his witnesses as to his character, delete this para. RP 27(C) fn 4, 46 fn 1. Accused and witnesses are sworn. Evidence recorded per Notes.)

E2. The Prosecutor produces Statements as to Character and Particulars of Service(1), and certified true copy (copies) of Conduct Sheet(s)(2), purporting to refer to the accused, which he submits to the Defending Offr for examination, and then to the Court for admission in evidence. The Court is satisfied that these documents refer to the accused, because (i) they purport to be signed in the manner required by AA 163(1) (g) (h), and (ii) they purport to refer to (a) soldier(s) having the same number, rank, name and corps as the accused. Admitted in evidence and marked Ex B and Ex C respectively.(3)
(I. AFB 353 or AFB 292. 2. MFM 6. 3. RP 46, KR Can 558. If above documents not produced, see RP 46 fn para 1.)

E3. President to accused: Do you wish to address the Court on the Statement(s) and Conduct Sheet(s), and in mitigation of punishment?(1) Ans YES, Always that Defending Offr be allowed to speak for him. Afterwards.(2)
(I. RP 37(C), 46(D). 2. Address, if any, recorded per Notes. Court should permit accused or his witnesses to prove on oath anything here or previously stated which would affect the amount of punishment. RP 37(F) fn 7.)

E4. The President states that the Court is closed to consider the sentence, and that the sentence to be awarded by the Court, being subject to confirmation, will not be announced, but will be promulgated later, and the proceedings in open court are accordingly terminated.(1)
(I. AA 54(6), RP 120(A).)

E5. The Court considers the sentence.(1) The President records the sentence in Part I of the Schedule, which is dated and signed by him and the JA, if any.(2)
(I. When several accused tried separately see RP 9(D). One sentence only, comprised of the punishment or punishments laid down in AA 41, 44 and its purview, is to be awarded to cover all charges in all charge sheets on which accused found guilty. RP 48. As to sentences see AA 44, 138, 142, RP 49-50, 89, 118, 119(A), KR Can 308, 330, 563-566, Overseas RO 309, 2323, MML p 60, 757-759. As to sentences assigned for civil offences by the law of England see AA 41(5), MML p 130. When accused already under sentence of imprisonment or detention see AA 44(1)(B), 68(1), KR Can 564. 2. RP 50. As to release from arrest by Confirming Offr see KR Can 567. As to assembly and disposal of record after trial see Instrns on back of Convening Order.)

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

CHARGE SHEET

The accused, M36742 Spr. Gullion, E., 3 Cdn. Fd. Svy. Coy., R.C.E. a soldier of the Canadian Army Overseas, is charged with:-

FIRST CHARGE
A.A. Sec. 18

While on active service, stealing public property, in that he, while confined in Field Punishment Camp, on or about 25 Nov. 43., did steal a Coat, Waterproof, D.H., being public property.

ALTERNATIVE CHARGE
A.A. Sec. 40

While on active service, conduct to the prejudice of good order and military discipline in that he was in improper possession of a Coat, Waterproof, D.H., removed from a Field Punishment Camp on or about 25 Nov. 43.

In the Field
28 Dec. 43

L.F. Wans

(L.F. Wans) Major,
Officer Commanding,
3 Cdn. Fd. Svy. Coy.,
R.C.E.

Approved for trial under A.A. Sec. 70 and 71
.....
A.D.J.A.
H.Q. First Cdn. Army

To be tried by FGCM.

4 Jan 44

N.I. Fraser Lt.-Col.
Cdn CRE Works

Major, RCE.
6 Jan 44.

(i)

FIELD GENERAL COURT-MARTIAL

CFA 80 (Rv Sec of AFA(2) 81/PAM/1601 (DMS)

(Whether the accused to be tried is under his command or not, a FGCM may on application to him be convened by any offr of Cdn Army Overseas, or of any other force if authorized in law, in immediate command of troops on active service, subject to RP 105(C) and restrictions imposed by appropriate authy, AA 49, 50, RP 104-107, 114. As to the duties and privileges of the Convening Offr in dealing with the application see MML Chap V paras 20 and 23, RP 87(B).
There should be a separate Convening Order for each person to be tried separately by the same Court. RP 71(C), 109. As to separate charge sheets see RP 62, and as to separate trial on charges in the same charge sheet see RP 108. As to two or more accused charged jointly see RP 16, 109.
As to reasons for showing (a) permanent or confirmed rank, and (b) appnt, A/rank or A/appnt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

ACCUSED.

Number.	(a) Prmnt R.	(b) Appnt, A/R or A/Appnt.	Full Christian Names.	Surname.	Unit.
M36742	Sapper		Ernest	Gullion	3 Cdn Fd Svy Coy

CONVENING ORDER.

1. Whereas complaint has been made to me, the undersigned, that the person(s) named above was the accused, being subject to military law, has (~~have~~) committed the offence(s) set forth in the Charge Sheet(s) attached and on (date) 4 January 44 endorsed by me, ~~or in accordance with rule 3~~, "To be tried by Field General Court-Martial".

2. And whereas I am of opinion that it is not practicable that such offence(s) should be tried by an ordinary General Court-Martial; ~~AND WHEREAS IN ANY PROCEEDINGS BEFORE THIS COURT THE EVIDENCE OF AN EXPERT CONSTABLE MAY BE~~
(Delete part in brackets when not required for compliance with RP 105(C).)

3. I hereby convene a Field General Court-Martial to try the said person(s), and to consist of the Offrs appointed or detailed hereunder.

4. ~~The undersigned appoints the above Offr to be the Judge-Advocate for the trial, or if he is unable to act for any reason~~
(AA 49, RP 106(B), 107(A). Delete the whole or part, if not applicable.)

5. ~~The appointment to be vacated as soon as the trial is completed~~
(RP 106(E). Delete, if none appointed.)

PRESIDENT.

Major (Rank.)	G.S. Andrews (Must be named. RP 106.)	30 Cdn Air (Svy) Liaison Sec, RCE (Unit.)

MEMBERS.

Captain (Rank.)	H.C. Hammond	4 Cdn Fd Svy Coy RCE (Unit.)
Lieutenant (Rank.)	A.W. Wolfe-Milner (Named or detailed. RP 106.)	2 Cdn Fd Svy Coy RCE (Unit.)

WAITING MEMBER.

(Rank.)	(Named or detailed, if any. RP 106.)	(Unit.)

JUDGE-ADVOCATE.

(Rank.)	(Must be named, if any. RP 106.)	(Unit.)

On Active Service in the Fd

in England (Country.)

(N.I. FRASER) (Signed personally. RP 105 fn 2.)

Lt.-Col., RCE (Rank.)

Date 4 Jan 44

Commanding CDN CRE WKS
Convening Officer.

(ii)

CONVENING OFFR WILL INITIAL ALL DELETIONS AND ALTERATIONS

(Con. overleaf for oaths and notes for use on trial.)

4/1/44.

MEDICAL OFFICER'S CERTIFICATE

I CERTIFY THAT I HAVE THIS MORNING EXAMINED M36742 SPR. GULLION, E., 3 CANADIAN FIELD SURVEY COMPANY, ROYAL CANADIAN ENGINEERS, AND IN MY OPINION HE IS FIT TO UNDERGO TRIAL BY COURT-MARTIAL.

6 JANUARY, 1944

MEDICAL OFFICER
3 CDN. FD. SVY. COY.,
R.C.E.

6/44

(iii)

NOTES AND RECORD OF PROCEEDINGS OF A FIELD GENERAL COURT-MARTIAL CONVENED ON THE ORDER OF LT-COL N I FRASER, CDN CRE MKS, FOR TRYING ACCUSED SPR ERNEST GULLION M36742, OF THE 3 CDN FD SVY COY, RCE, BEING SUPPLEMENTARY TO CFA96, HERETO ATTACHED.

(Indices opposite each note refer to Record Form)
(A, B, C, D, and E of CFA96. Notes are listed below)
(in chronological sequence.)

A7 List of Offrs under Instruction:
Captain I H Wood 4 Cdn Fd Svy Coy, RCE
Lieutenant F R Dufton 4 Cdn Fd Svy Coy RCE
Lieutenant J H Douglas 2 Cdn Fd Svy Coy, RCE

D5 No evidence on the FIRST Charge is offered by the Prosecutor.

D6 No address by the Defending Offr. No evidence submitted and no witnesses for the Accused called, nor witnesses for the Prosecution cross-examined by the Defending Offr.

B4 Accused elects NOT to change his plea of "GUILTY" on the SECOND charge.

E3 The Defending Offr asks the Court to consider the following points with respect to the Accused:
(i) He is 21 years old now.
(ii) He has been two years, 3 months in the Service.
(iii) He has been 18 months overseas.
(iv) He is a volunteer from Northern Canada, a very different environment from that in which his service as a Soldier has placed him.
(v) His past record and present crime suggest that the use of liquor has been an accessory factor.

6 1/2 A

(iv)

Page 1 of 1.

Exhibit "A"

CANADIAN PROVOST CORPS.

DATE: 23 December 43

SUBJECT. Theft of Provost Coat

STATEMENT OF REGT NO. W36742 Spr. Gullion, E.

OF: 3 Cdn. Svy. Coy., R.C.E. TAKEN AT: Field

" I have been warned that I am not obliged to say anything unless I wish to do so, but that anything I now say will be taken down in writing and may be given in evidence.

To show that I fully understand the above warning, I make this statement voluntarily and sign my name hereunder".

SIGNED: E. H. Gullion

STATES:-

While I was serving twenty-eight days at Field Punishment Camp at Oxsnot, I took a Provost Coat out of a back shed which is located alongside of the Q.M. Stores there. This was about a week before I had completed my sentence there. I kept my kit with me in the hut, so I just put it with the rest of my kit. My kit was not checked by anyone when I left there on 2 Dec. 43. After I had returned to my unit, Spr. Strong asked me if I wanted to sell it. Because it was too small for me, I decided to sell it. Spr. Strong paid me £1-0-0 for it and I told him that it had been given to me at Field Punishment from Q.M. Stores. As far as Spr. Strong is concerned, he thought I had obtained it quite properly.

I have read over the above statement and it is true.

E. Gullion

WITNESSES:

J. T. Harmon - SGT. A-55251.

R. R. Latta. SGT. G 45426.

(V) Ex A

Page 3 of 3

6/44.

3 CANADIAN FIELD SURVEY COY.
ROYAL CANADIAN ENGINEERS

"E" A

SUMMARY OF EVIDENCE

In the case of M36742 Spr. Gullion, E., 3 Cdn. Fd. Svy. Coy., R.C.E.

By direction of the Commanding Officer, the Summary of Evidence is taken on oath:

K76819 Spr. Strong, K.C., 3 Cdn. Fd. Svy. Coy., R.C.E. having been duly sworn, states:-

First Witness for the Prosecution.

When Spr. Gullion returned from detention he had a rain coat which was too small for him. I offered to buy it and agreed to give him £1-0-0 (one pound) for it. This was on Friday 3 Dec. 43.
I proceeded on 7 days leave which started 16 Dec. 43 and while on leave in London on 16 Dec. 43, I was wearing the coat walking along Whitehall, when two Provosts stopped me, examined the coat thoroughly and took me up to Cdn. Provost Corps H.Q. to the special investigation Section. I gave them a statement as to how I got possession of the coat. They kept the coat and I carried on with my leave.

K. C. Strong
K76819 Spr. Strong, K.C.

The accused M36742 Spr. Gullion, E., declines to cross examine the witness.

The accused M36742 Spr. Gullion, E., having been duly cautioned in accordance with Rules of Procedure 4 (e) declines to make any statement.

E. Gullion
M36742 Spr. Gullion, E.

Certified that Rules of Procedure 4 (c) (d) (e) (f) and (g) have been duly complied with.

J. A. Thornton Lt
J.A. Thornton, Lieut.

Taken down by me in the presence of the accused, in the Field, this 24th day of December, 1943.

J. A. Thornton Lt
J.A. Thornton, Lieut.

6 Jan 44.

(V) Ex A.
page 1 of 3.

SUPPLEMENT TO SUMMARY OF EVIDENCE

In the case of M36742 Spr. Gullion, E., 3 Cdn. Fd. Svy. Coy., R.C.E.

By direction of the Commanding Officer, this supplement to the Summary of Evidence is taken on oath.

A55251 Sgt. Harrison, J.T., A.P.M. Office., 2 Cdn. Corps, having been duly sworn states:

Second Witness for the Prosecution

Sir: - On 23 Dec. 43, in company with Sgt. Latta of No. 1 S.I.S. we interrogated M36742 Spr. Gullion, E. with regard to the theft of a Coat, Waterproof, D.R. taken from Field Punishment Camp situated at Oxshott. As a result of this interrogation, Spr. Gullion elected to make a statement after he had been properly warned. The statement was taken down in writing and is hereby tendered in evidence and attached as Exhibit "A".

J. T. Harrison
A55251 Sgt. Harrison, J.T.

The accused, M36742 Spr. Gullion, E. declines to cross examine the witness.

E Gullion
M36742 Spr. Gullion, E.

G45426 Sgt. Latta, R.R., A.P.M. Office, 2 Cdn. Corps having been duly sworn states:

3rd Witness for the Prosecution.

On the 23rd Dec. 43, I accompanied Sgt. Harrison, J.T. and was present during interrogation of Spr. Gullion. After being interrogated he was properly warned by Sgt. Harrison and elected to make a voluntary statement. I recognise Exhibit "A" as the statement made by Spr. Gullion

R.R. Latta.
G45426 Sgt. Latta, R.R.

The accused, M36742 Spr. Gullion, E. declines to cross examine the witness.

The accused, M36742 Spr. Gullion, E. having been duly cautioned in accordance with Rules of Procedure 4 (e) declines to make any statement.

E Gullion
M36742 Spr. Gullion, E.

Certified that Rules of Procedure 4 (c)(d)(e)(f) and (g) have been duly complied with.

J.A. Thornton Lieut.
J.A. Thornton, Lieut.

Taken down by me in the presence of the accused, in the Field, this 3rd day of January, 1944.

(V) Ex A
page 2 of 3

6/1/44

J.A. Thornton Lieut.
J.A. Thornton, Lieut.

M.F.M. 6
(A.F. B.122)
40/P & /8136 (2068)

Old sheet destroyed. Reviewed in accordance with CARO 2084 - 6 Nov. 42 (Sgd) Capt. 11 Dec. 42

No. M36742 Name Gullion, Ernest | Sqn., Battery, or Company: Corps R.C.E. | Date of enlistment: 24/11/41 | G.C. Badges | Service or Proficiency Pay: NA | Character

Date of last entry in Company Conduct Sheet: Nil | No. and date of last drunk: Nil | Period not reckoning towards freedom from extra fine: NA | Sheet No. | Signature O.C. Company, etc.: (Sgd) Capt.

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award of or under dispensing with trial	By whom awarded	Remarks
Saskatoon, Sask.	1/7/42	Spr		DRUNKENNESS	Doc. Evid.	7 days C.B.	2/7/42	H.E.Ford Major	
Chilliwhack, B. C.	1/8/42	Spr		Conduct to the prejudice of good order and military discipline in that he appeared on duty 30 mins. late. 1 Aug. 42. A.A. Sec. 40	Sgt. Doyle Spr. Day	3 days C.B.	1 Aug. 42	S.G. Parker, Capt.	
Chilliwhack, B.C. Field	5/11/42	Spr		Verified to date, 10 Aug. 42 R.B.J. WOAS A.W.L. from 2200 hrs. 2 Nov. 42 until 1200 hrs. 5 Nov. 42. Absent 2 days 14 hrs A.A. Sec. 15(1)	Doc.	2 days pay		Lt.-Col C.N. Mitchell	2 days pay FRI 149(1)(a)
Field	29/7/43	Spr		WOAS conduct to the prej of good order and military discipline in that he did cause a disturbance on a public thoroughfare. A.A. Sec. 40	Doc.	7 days C.B.	30/7/43	(GH Smith) Maj	forf 7 days pay FRI 149(2)

(F.T.O.)

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Field	30/7/43	Spr		AA 11 WOAS disobeying a standing order in that he was in the canteen at 1100 hrs 30 Jul 43	Capt. Hass Lt. Holland	3 days C.B.	30/7/43	(C.H. Smith) Major	
Field	3/11/43	Spr		AA Sec 40: WOAS conduct to the prejudice of good order and military discipline in that on a/m date at 0100 hrs. drover Coy. Doc. M/C to Cobham station without authorisation	CSM Lebeau	28 days FP	4 Nov 43	(L.F. Hass) Major	Forfs 28 days pay or FRI 149(2)

CERTIFIED TRUE COPY:

24 Dec 43

(L.F. Hass) Major,
Officer Commanding,
3 Cdn. Fd. Svy. Coy.,
R.C.E.

Ex "B"

M.F.B. 388
22M—5-41 (579-8)
H.Q. 1772-99-626
A.F.B. 206

STATEMENT AS TO CHARACTER AND PARTICULARS OF SERVICE OF ACCUSED

Number	Rank	Name	Regiment (or unit)
M36742	Sapper	Gullion	3 Cdn. Fd. Svy. Coy., R.C.E.

1. The following is a fair and true summary of the entries in the [redacted] Conduct sheets of the accused, exclusive of convictions by a Court-Martial or a Civil Court, of summary awards under Section 47 of the Army Act and of cases in which trial has been dispensed with.

	Within last 12 months		Since enlistment or appointment	
For	A.A. 40	2 times	3	times
For	A.A. 11	1 times		times
For	A.A. 15(1)	times	1	times
For	Drunkenness	times	1	times

[redacted]

NOTE.—If the charge is for drunkenness, the entries for drunkenness must be stated separately.

[redacted]

or,

Previous convictions of the accused by a court-martial or a civil court, of summary awards under Air Force Act Section 47 of the Army Act and dispensations with trial under A.F.A. 73 A.A. 73 are set out in the Schedule annexed to this statement.

3. The accused is not under sentence at the present time.

or,

[redacted] days.

4. The accused has been in confinement awaiting trial on the present charges, for No days in civil custody, and No days in military custody, making a total of No days in custody, of which No days were spent in hospital.

5. The present age of the accused according to his record of service is 21 yrs 10 months

6. [redacted]

7. [redacted]

8. [redacted]

9. The accused is in possession of or entitled to no military decoration, or military reward (military). State any military decoration or reward.

10. [redacted]

(V) Ex B

11. (In the case of an officer.) The accused holds in the Royal Canadian Air Force the rank of Permanent Force unit, and in his regiment (or corps), the rank of ..... dated .....

..... dated .....

12. The accused has served as a non-commissioned officer continuously, without reduction, to the present date:— ..... Date of promotion.

In the rank of ..... years.

In the rank of ..... years.

In the rank of ..... years.

NOTE.—If any matter in any of the above paragraphs cannot be stated from the Regimental books, the paragraph must be struck through.

SCHEDULE

Air Force

Of convictions by a court-martial or civil court, of summary awards under Section 47 of the Army Act, and of cases in which trial has been dispensed with of accused, Number ..... Rank ..... Unit Regiment of .....

Name .....

NOTE.—A verbatim extract from the regimental books stating these convictions and dispensations with trial must be inserted.

Description of Court by which tried	Date and Place of Trial	Charge upon which convicted	Sentence of the Court	Punishment Remitted

I hereby certify that the foregoing schedule of convictions and dispensations with trial is a true extract from the regimental books in my custody.

Signed this ~~[illegible]~~ Toronto Ont day of December 1943

The above statement (with the schedule of convictions and of cases in which trial has been dispensed with) is read, marked ..... signed by the president, and annexed to the proceedings.

L. J. Wilson Major
O.C. 3 Can Ad Sup Coy.
R.C.E.

40-63

Pte. Gunnerson F. A.

SCHEDULE.

PART I. PLEA(S), FINDING(S) AND SENTENCE.

Accused: B.130041 Pte Frederick Aaron GUMMERSON

Charge. (Insert "alternative" where applicable.)	Plea. (See Instrs p 2.)	Finding. (See note below.)	(Space for use as required for further charges, accused charged jointly, special findings, etc.)
1st	Guilty	Guilty	
2nd			
3rd			
4th			
5th			
6th			

(Note: As to findings for lesser offences see AA 56, RP 46; findings on alternative charges see MML p 483 fn 4 para 2, RP 44; special findings see RP 44 and MML p 753, and in lieu of his see RP 44 fn 6.)

~~At present under sentence for~~ beginning on (date) "DSM" (1)

(1. Insert sentence being served, or delete, if not applicable. See RP 46(A). Information should be found on MF B355 or AF B296.)

Time in confinement awaiting present trial—a total of 20 days, of which 7 days were spent in hospital.(1)

(1. See RP 46(A) fn 2. Information should be found on MF B355 or AF B296 admitted in evidence under E2.)

Sentence Awarded by the Court:

To undergo detention for two years.

4 Jan 45 (Sgd) "D.E.McKenzie Major"

(Sgd) Judge-Advocate, if any. Date awarded. President. (RP 45, 50.)

(See back of Convening Order as to assembly and disposal of record after trial.)

PART II. MINUTE WHERE CONFIRMATION RESERVED. (AA 54(5), RP 120(F), MML p 760.)

Date (Sgd) Commanding

PART III. DECISION OF CONFIRMING OFFR ON FINDING(S) AND SENTENCE.

(For duties and powers see AA 54, 57, RP 37(D) fn 6, 46(A), 51-56, 120, MML pp 759-761, KR Con 567-577. Acquittals require no confirmation and cannot be revised: AA 54(3). Sending back finding or sentence for revision by Court: AA 54(2), RP 120(G). If not confirmed, accused may be tried again: AA 157, MML p 64. Minute of confirmation or non-confirmation may be altered before promulgation: RP 53, MML p 65. Quashing after promulgation: KR Con 573. Duties and powers of reviewing offrs: AA 57, 57A, RP 53A, 54. The Confirming Offr must sign here personally. AA 172 fn 1.)

My decision on the finding[X] and sentence set forth in Part I is: Confirmed

~~I direct that the accused be placed in close arrest until further orders.~~(1) "JSL"

(1. AA 57A. Delete if not used.)

(Sgd) "JS Lind Brig"

Date 5 Jan 45 Commanding 12 Cdn Inf Bde Confirming Officer.

PART IV. PROMULGATED AND EXTRACTS TAKEN. (RP 53, KR Con 574, 577.)

Accused. Date. Signature of Offr.

B.130041 Pte GUMMERSON F.A. Lanark & Renfrew Scottish — 7 Jan 1945 — "R.P. Neil Capt".

ALL DELETIONS AND ALTERATIONS WILL BE INITIALLED.

4Q 63

CERTIFIED TRUE COPY

(DM CDN CORPS)

CDN SVC GHS 2

7 Jan 45

CPA396 (Rv Item of AFA2) 40-P-E M 7606 (2864)

FIELD GENERAL COURT-MARTIAL

Convened by Order of Brig JSH Lind Comd 12 Cdn Inf Bde Dated 2 Jan 45

ACCUSED.

(As to the trial of two or more charged jointly see RP 14, 71, 109. As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Con 308, 328, 330.)

Number.	(a) Prmnt R. (b) Appmt. A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
B. 130041	Pte	Frederick AARON	GUMMERSON	LANK REN SCOT R.

PROCEEDINGS OF TRIAL.

Held in the Fd in (country) ITALY on (date(s)) 4 Jan 45

RECORD FORM A—OPENING PROCEEDINGS AND ARRAIGNMENT.

A1. The President, Members, waiting Member, ~~JA, if any, and Offrs under instrs, if any~~, assemble, and the Court is closed. "DSM"

(PRINTED MATTER, NOT IN ITALICS FOR GUIDANCE, WILL BE DELETED IF NOT USED OR APPLICABLE, AND INITIALLED BY PRES OR JA. The Schedule referred to throughout is on p 4. Citations do NOT include all relevant fnns RQs. For guidance on procedure where a variation in this form arises, see Form for GCM in MML pp 741 to 759. A brief record of such variation will be made and given a number having reference to appropriate or preceding para number hereon. See back of Convening Order, CF A95, for units and instrs on how to record addresses, evidence, etc, which instrs are hereafter called "Notes". As to general provisions for conducting the trial see AA 53, RP 56, 65-70, 73, 74, 94, 103, 119, 132.)

A2. The President initials and lays before the Court the Convening Order and Charge Sheet(2) attached thereto.(2) The Court is satisfied that it is properly convened and constituted(3), accused is (was) amenable to military law, and each charge discloses an offence.(4)

(1. As to use of Summary of Evidence see RP 17 fn 6. 2. AA 49, 50, RP 105-107. 3. RP 11-13, 23, 24.)

A3. The Court is opened. The accused is ~~were~~ brought before the Court. At 1110 hours trial commences.

A4. The Prosecutor produces a Medical Certificate that accused is ~~(are)~~ fit to undergo trial by court-martial.(1) ~~The Prosecutor informs the Court that accused elected to be tried by court-martial instead of being dealt with summarily by the CO.(2)~~ "DSM"

(1. KR Con 557. 2. AA 46(B), RP 60 fn 1. For effect see KR Con 563(c). Delete, if not applicable.)

A5. ~~President to accused: Do you object to~~ ~~as interpreter? Ans~~ "DSM"

~~The Interpreter is sworn.(1) Do you object to~~ ~~as shorthand writer? Ans~~ "DSM"

~~The shorthand writer is sworn.(1)~~ "DSM"

(1. RP 72. Delete, if none employed.)

A6. The Convening Order and names of the President and Members of the Court are read to the accused.(1) President to accused: Do you object to be tried by me as President or by any of the Members of the Court?

Ans No. (2) "DSM"

(1. RP 102. 2. If no objection, waiting member retires. RP 68(B). If objection, see procedure AA 51, RP 25, 71, 18, MML p 742.)

A7. The President, Members, ~~JA, if any, and Offrs under instrs, if any~~, are sworn.(1) The following are the ranks, names and units of the offrs comprising the Court, etc:

President	Major	D.E. MacKenzie	Westmr R (MG)
Member	Capt	T.S.A. Sutherland	12 Cdn Indep (Wel) PLF)
Member	Capt	W.R. Chamberlain	4 PLDG.
Judge-Advocate	- - -

INSTRUCTIONS ON PROCEDURE AFTER ARRAIGNMENT.

1. *The accused may not plead or be found Guilty on more than one of two or more charges laid in the alternative.* (*RP* 37(*A*).) *As to withdrawal of alternative charges by Prosecutor see RP* 35(*C*). *No other charge can be withdrawn for any reason without authy from Convening Offr. If Convening Offr concurs, Court may accept plea of Guilty to lesser, ete, offence.* (*RP* 44(*H*).) *Accused may change a plea of Not Guilty to Guilty during trial.* (*RP* 38.) *As to refusing to plead or not pleading intelligibly see RP* 35(*A*). *As to plea when sentence may be death see RP* 35(*D*).

2. *The proceedings on each charge sheet* (*RP* 62) *after arraignment will be conducted as follows in the respective circumstances stated :*

I. If pleas to all charges are GUILTY, use Record Form B below.

II. If pleas to all charges are NOT GUILTY, use Record Form D on p 3.

III. If pleas to some charges are GUILTY and to other charges are NOT GUILTY and,

(a) *Such mixed pleas occur when there are no alternative charges in the Charge Sheet, use Record Form C below.* (*RP* 37(*A*).)

(b) *Such mixed pleas occur in a set of two or more charges laid in the alternative, see RP* 37 (*A*) *and fn* 2 *as to discretion of Court,* (i) *to try the accused on all such alternative charges as if he had pleaded Not Guilty thereto, or,* (ii) *to record the pleas as the findings of Court. After deciding between* (i) *and* (ii), *Court will proceed under foregoing instrs as may be appropriate to result of its decision. See MML p* 744 *Instrs* (2).

3. *As to responsibility of President to accused see RP* 59, 60(*C*) ; *powers and duties of JA see RP* 103 ; *duty of Prosecutor see RP* 60(*A*) (*B*) ; *duty and privileges of accused and Defending Offr see RP* 60(*C*), 87(*C*), 91, 92 ; *swearing and withdrawal of witnesses from Court see RP* 81, 82 ; *questioning of accused see RP* 80, 87(*C*), 92(*B*), *and of witness see RP* 85-85 ; *calling or re-calling of witnesses by Court etc see RP* 75-79, 86, 116 ; *use of Summary of Evidence at Trial see RP* 17(*E*) *fn* 6 ; *and responsibility of JA or Pres to record proceedings see RP* 94, 96.

RECORD FORM B—PROCEEDINGS ON PLEAS OF GUILTY TO ALL CHARGES.

B1. The President or JA, if any, complies with RP 35(B) by explaining to the accused the nature and meaning of the charge(s)(1), and that on his plea of Guilty there will be no regular trial but merely a consideration of the sentence to be awarded after he has been given an opportunity to make a statement in reference to the charge(s), call witnesses as to character and make an address in mitigation of punishment.(2)

(*1. RP 35 fn 3. 2. MML p 54 para 47.*)

B2. President to accused : The Court will now receive any statement you desire to make in reference to the charge(s).(1) If it appears from your statement that there are circumstances which indicate that you do not understand the effect of the plea of Guilty(2), or which show provocation or extenuation in respect of which in your interest the witnesses for the Prosecution should be examined(3), we shall advise you to change your plea to Not Guilty. In making a statement you will not be sworn or subject to cross-examination ; and anything you say will not be used in evidence against you after you change your plea. If, however, it appears to the Court that your statement affects only the amount of punishment to which you are liable, you will not be advised to change your plea and you will be given an opportunity later to prove your statement by sworn testimony, if you so desire.(4)

President to accused : Do you wish to make a statement ? Ans. No (5)

(*1. RP 37(B). 2. RP 37(D) fn 6. 3. RP 35(B) fn 5 para 3, MML p 54 para 47. 4. See para E3 of Record Form E. 5. Statement, if any, recorded per Notes.*)

B3. The Court considers the accused's statement.(1) The Court decides (not) to advise accused to change his (their) plea(s) of Guilty to Not Guilty on ..... charge(s). The accused is (are) so informed, and he (they) change(s) his (their) plea(s) on ..... charge(s). Part I of the Schedule is amended accordingly.

(*1. Court may be closed to consider the statement. Delete whole or part not used.*)

B4. On the charge(s) to which the plea(s) of Guilty is (are) not changed the President records finding(s) of Guilty in Part I of the Schedule.(1)

(*1. RP 35(B). If any plea(s) is (are) changed, use Record Form C or D as appropriate.*)

B5. The Summary of Evidence is marked Ex A , initialled and read aloud by the President.(1)

(*1. If there is no Summary, or if it is inadequate, comply with RP 37(B). If there is any evidence inconsistent with any plea standing as Guilty, Court will advise accused to change such plea and, if changed to Not Guilty, try such charge(s) by use of paras D1 to D8 inclusive of Record Form D on p 3. RP 37(D).*)

B6. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

RECORD FORM C—PROCEEDINGS ON MIXED PLEAS OF GUILTY AND NOT GUILTY.

C1. As to the charges on which accused pleaded NOT GUILTY the trial is continued by using paras D1 to D8 inclusive of Record Form D on p 3 before proceeding with C 2.(1)

(*1. RP 37(A) (E).*)

C2. The charges on which accused pleaded GUILTY are read to him (them) again, and the trial is continued by using paras B1 to B5 of Record Form B above.(1)

(*1. Under B5 such parts only of the Summary of Evidence are read as relate to the charges dealt with under C2. If any plea is changed to Not Guilty, trial thereon proceeds by complying with paras D1 to D8 inclusive in Record Form D on p 3 and making an appropriate record thereof on a separate sheet.*)

C3. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

RECORD FORM D—PROCEEDINGS ON PLEAS OF NOT GUILTY TO ALL CHARGES.

D1. President to accused : Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity to prepare your defence ? Ans. ..... (1)

(*1. If "yes", see RP 39(A) for procedure. Statement or evidence, if any, is recorded per Notes.*)

D2. The Prosecutor makes (an) (no) opening address.(1)

(*1. RP 39(B), 60(A) (B), 90, 92(C) (D). Record address per Notes, subject to RP 95(C).*)

D3. The evidence for the Prosecution is taken.(1)

(*1. RP 39(C), 114, KR Can 555. Record evidence per Notes. As to Prosecutor giving evidence himself see RP 39(D) (E).*)

D4. The Prosecution is closed.(1) The Defending Offr submits that the evidence for the Prosecution does not establish a prima facie case against the accused on the ..... charge(s).(2) The Court is closed, and considers the submission.(3) The Court is re-opened, and the President announces that the submission is disallowed on the ..... charge(s), and allowed on the ..... charge(s), and that, accordingly, the trial will proceed on the former, but the accused is (are) found Not Guilty on the latter charge(s).(4)

(*1. Delete remainder of this para, if submission not made. 2. Arguments on submission, answer and reply are recorded per Notes. 3. RP 40 fn 1. See MML p 72 paras 12-14 and p 81 para 42. 4. Delete part not used. If accused acquitted on all charges, use second alternative in para D8.*)

NB : *If trial proceeds, accused must be allowed great latitude in making his defence, and the Court should not stop his defence solely on ground of irrelevance.* (*RP* 60(*C*), *114*, *115*.)

D5. President to accused : You will now proceed with your defence.(1) You may, if you wish, give evidence yourself on oath as to the facts or your character or both, in which case you will be subject to cross-examination.(2) You may, however, make a statement without being sworn, and you will not be subject to cross-examination.(3) But a statement which could have been made on oath will not carry with the Court the same weight as sworn testimony.(4) You may call witnesses in your defence and as to character, whether you give evidence or make a statement or do neither.

President to accused : Do you wish to give evidence yourself as a witness, make a statement, or do neither ?

Ans. .....

Do you intend to call witnesses on your behalf ?

Ans. .....

Are they witnesses as to character only ? Ans. .....

(*1. RP 155. 2. RP 40(A), see 80(D). 3. RP 40 fn 10. 4. RP 40 fns 2, 9.*)

D6. Consequent on the answers recorded in para D5 the appropriate procedure for the defence is followed.(1)

(*1. RP 114, 115, 116. For procedure see Notes on back of Convening Order, CF A95. Evidence for accused as to his character should, if in his interest, be given before the finding. See RP 46(A) fn 1, 86(C). Note the further opportunity in para E1 of Record Form E. Record per Notes, addresses, statement, evidence and any summing up by the JA under RP 42, 103(e).*)

D7. The Court is closed to consider the finding(s).(1) The finding(s) of the Court is (are) recorded in Part I of the Schedule.(2) The Court is re-opened.

(*1. RP 43, 117(A). See Notes in Part I of Schedule. 2. RP 44(A).*)

D8. The President announces the finding(s), if any, of Not Guilty, and states to the accused that the finding(s) of the Court on the ..... charge(s), being subject to confirmation, will be promulgated later.(1)

Or. The President announces that the accused is found Not Guilty on all charges and is to be released forthwith, and that the proceedings are accordingly terminated. Part I of the Schedule is dated and signed.(2)

(*1. AA 54(3) (b), RP 45, 120(A). 2. AA 54(3), RP 45, 117. This alternative announcement is not applicable when there are Pleas of Guilty outstanding and dealt with under Record Form B or C.*)

D9. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E below.

RECORD FORM E—PROCEEDINGS ON CONVICTION BEFORE SENTENCE.

E1. President to accused : Do you wish to give evidence yourself or to call any witnesses as to your character ?(1)

Ans. No

(*1. If evidence has already been given by accused or his witnesses as to his character, delete this para. RP 37(C) fn 4, 46 fn 1. Accused and witnesses are sworn. Evidence recorded per Notes.*)

E2. The Prosecutor produces Statement(s) as to Character and Particulars of Service(1), and certified true copy (copies) of Conduct Sheet(s)(2), purporting to refer to the accused, which he submits to the Defending Offr for examination, and then to the Court for admission in evidence. The Court is satisfied that these documents refer to the accused, because (i) they purport to be signed in the manner required by AA 163(1) (g) (h), and (ii) they purport to refer to (a) soldier(s) having the same number, rank, name and corps as the accused. Admitted in evidence and marked Ex B and Ex C respectively.(3)

(*1. MFB 355 or AFB 296. 2. MFM 6. 3. RP 46, KR Can 558. If above documents not produced, see RP 46 fn 1 para 1.*)

E3. President to accused : Do you wish to address the Court on the Statement(s) and Conduct Sheet(s), and in mitigation of punishment ?(1) Ans. Yes (see attached Ex "D") (2)

(*1. RP 37(C), 46(D). 2. Address, if any, recorded per Notes. Court should permit accused or his witnesses to prove on oath anything here or previously stated which would affect the amount of punishment. RP 37(F) fn 7.*)

E4. The President states that the Court is closed to consider the sentence, and that the sentence to be awarded by the Court, being subject to confirmation, will not be announced, but will be promulgated later, and the proceedings in open court are accordingly terminated.(1)

(*1. AA 54(6), RP 120(A).*)

E5. The Court considers the sentence.(1) The President records the sentence in Part I of the Schedule, which is dated and signed by him and the JA, if any.(2)

(*1. When several accused tried separately see RP 7(D). One sentence only, comprised of the punishment or punishments laid down in AA 41, 44 and its proviso, is to be awarded to cover all charges in all charge sheets on which accused found guilty. RP 48. As to consecutive see AA 44, 138, 182, RP 46-50, 69, 118, 119(A), KR Can 308, 330, 563-566, Overseas RO 309, 2303, RP 48. As to consecutive see AA 44, 138, 182, RP 46-50, 69, 118, 119(A), KR Can 308, 330, 563-566, Overseas RO 309, 2303, RP 48. As to consecutive see AA 44, 138, 182, RP 46-50, 69, 118, 119(A), KR Can 308, 330, 563-566, Overseas RO 309, 2303, RP 48. As to sentences

CHARGE SHEET

The accused, B.130041 Pte Frederick AAAron GUMMERSON, Lanark & Renfrew Scottish Regiment, a soldier of the Canadian Army Overseas, is charged with:

FIRST CHARGE
Army Act
Sec 9 (1)

When on Active Service, disobeying in such a manner as to show a wilful defiance of authority, a lawful command given personally by his superior officer in the execution of his office,

in that he

in the Field, on 15 Dec 44, when personally ordered by Capt. R.P. Neil, A/OC "C" Coy, Lanark & Renfrew Scottish Regiment, to proceed with the Company into the attack, refused to do so, and did not go.

XXXXX
"W. H. Buchanan Lt Col"
(W.H. Buchanan) Lt.-Col.
Commanding,
Lanark & Renfrew Scottish.

TO BE TRIED BY FIELD GENERAL COURT MARTIAL

2 Jan 45

"JSH Lind"
(J.S. H. Lind) Brig
Comd 12 Cdn Inf Bde.

FIELD GENERAL COURT-MARTIAL

CFAO (In lieu of AFAS) 20/P&S/1697 (5/60)

(Whether the accused to be tried is under his comd or not, a FGCM may on application to him be convened by any offr of Cdn Army Overseas, or of any other force if authorized in law, in immediate comd of troops on active service, subject to RP 105(C) and restrictions imposed by appropriate authy. AA 49, 50, RP 104-107, 114. As to the duties and privileges of the Convening Offr in dealing with the application see MML Chap V paras 20 and 23, RP 87(B).

There should be a separate Convening Order for each person to be tried separately by the same Court. RP 71(C), 109. As to separate charge sheets see RP 62, and as to separate trial on charges in the same charge sheet see RP 108. As to two or more accused charged jointly see RP 16, 109.

As to reasons for showing (a) permanent or confirmed rank, and (b) apptmt, A/rank or A/apptmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

ACCUSED.

Number.	(a) Prmnt R. (b) Apptmt, A/R or A/Apptmt.	Full Christian Names.	Surname.	Unit.
B.130041	Pte	Frederick AARON	GUMMERSON	LAN & REN SCOT R.

CONVENING ORDER.

1. Whereas complaint has been made to me, the undersigned, that the person(s) named above as the accused, being subject to military law, has (have) committed the offence(s) set forth in the Charge Sheet(s) attached and on (date) 2 Jan 45 endorsed by me, (~~or by an offr of my staff for me~~), "To be tried by Field General Court-Martial",

2. And whereas I am of opinion that it is not practicable that such offence(s) should be tried by an ordinary General Court-Martial; (and ~~that it is not practicable to delay the trial for reference to a superior qualified offr.~~)
(Delete part in brackets when not required for compliance with RP 105(C).)

3. I hereby convene a Field General Court-Martial to try the said person(s) and to consist of the Offrs appointed or detailed hereunder.

4. I ~~am unable to appoint (a) three Offrs to form the Court, (b) a Fd Offr as President, for the reasons I have attached hereto~~.
(AA 49, RP 106(B), 107(A). Delete the whole or part, if not applicable.)

5. ~~I also appoint as Judge-Advocate thereat the Offr mentioned hereunder~~.
(RP 106(E). Delete, if none appointed.)

PRESIDENT.

(Rank.)	(Must be named. RP 106.)	(Unit.)
Major	D.B. MacKENZIE	WESTMR R (M)

MEMBERS.

(Rank.)	(Named or detailed. RP 106.)	(Unit.)
Capt	to be detailed by CO 4 PLDG	
Capt or ~~Lieut~~	Lieut to be detailed by CO 12 Cdn Indep MG Coy (PL Fus)	

WAITING MEMBER.

(Rank.)	(Named or detailed, if any. RP 106.)	(Unit.)
Lieut	to be detailed by CO WESTMR R (M)	

JUDGE-ADVOCATE.

(Rank.)	(Must be named, if any. RP 106.)	(Unit.)

On Active Service in the Fd

in ITALY (Country.)

"J.S. LIND" (Signed personally. RP 105 fn 2.) Brig (Rank.)

Date 2 Jan 45

Commanding 12 Cdn Inf Bde
Convening Officer.

CONVENING OFFR WILL INITIAL ALL DELETIONS AND ALTERATIONS

(See overleaf for oaths and notes for use on trial.)

"DBM"

4 Jan 44

This is to certify that No. B.130041 Pte Gummerson, F.A. has been medically examined by me on this date and found to be fit to stand trial by Field General Court Martial.

Signed "W.H. White Capt"
Medical Officer
8 Cdn Lt Fd Amb.
Unit

"DBM"

Ex "D"

Plea in Mitigation of Sentence. A.130041 Pte Gummeron F.A.

1 Two and one half years service with no other crimes.
2 Volunteered for Active Service.
3 Served with PLF's as driver and in CBRD as storeman. In both cases did good work with no complaints on his conduct.
4 His lack of infantry training has great deal to do with his inability to stand shelling which is the reason he would not go into the company attack.
5. Psychiatrist advises that he be given RCASC duties after trial and punishment if any is given and that he is unfit for infantry duties.

"DBM"

Ex "A"

SUMMARY OF EVIDENCE

in the case of

B.130041 Pte GUMMERSON, F.A., Lanark & Renfrew Scottish Regiment.

Taken on Oath at the direction of the Commanding Officer.

FIRST WITNESS for the Prosecution:

Capt. R.P. NEIL, 2 i/c "C" Coy., Lanark & Renfrew Scottish Regiment, having been duly sworn, states:

"I am Capt R.P. Neil, Acting Company Commander of "C" Company, Lanrk & Renfrew Scottish Regiment.

At approximately 1900 hours on 15 Dec 44, B.130041 Pte Gummerson, F.A., Lanark & Renfrew Scottish Regiment, whom I recognize before me as the accused, when I ordered him to go with the Coy into an attack aginst the enemy, refused to go. The Coy was at the time in a forward area in direct contact with the enemy. I warned him of the seriousness of this offence and of the penalty it would incur. He still refused to go and I placed him under arrest.

"R.P. NEIL CAPT"
(R.P. Neil) Capt.

The accused declines to cross-examine the witness.

"F.A. Gummerson"
(F.A. Gummerson) B.130041. "DBM"

THE ACCUSED was warned as follows:

"Do you wish to make any statement or to give evidence upon oath? You are not obliged to say anything or give evidence unless you wish to do so, but whatever you say or any evidence you give will be taken down in writing and may be given in evidence."

THE ACCUSED having been duly warned declines to make any statement.

·cont'd.

Certified that Rules of Procedure 4 (C), (D), (E), (F) and (G) have been complied with.

Taken down by me in the presence and hearing of the accused, in the Field, this 28th day of December 1944.

Respectfully submitted this 28th day of December, 1944.

"G.H. Reid"
(G.H. Reid) Lieut.
Officer taking Summary
of Evidence.

xxxx

Ex "B"

ARMY FORM B.296 (WAR).

Statement as to Character and Particulars of Service of Accused

(For Use at Trials by Field General Courts-Martial only)

Number.	*Rank.*	*Name.*	*Regiment (or as the case may be).*
B.130041	Pte	GUMMERSON, F.A.,	Lanark & Renfrew Scottish

NOTE.—The Field Conduct Sheet is to be produced in Court with this STATEMENT but is not to be annexed to the proceedings. The numbers herein stated should correspond with the number of ENTRIES in the Field Conduct Sheet, prominence being given to the most serious offence in each entry. If the charge is for drunkenness or absence without leave, the entries for drunkenness or absence, as the case may be, should be stated separately. Any recognised special acts of gallantry or distinguished conduct recorded on the Field Conduct Sheet should also be inserted here.

1. The following is a fair and true summary of the entries in the Field Conduct Sheet of the accused, exclusive of convictions by a court martial or a civil court :—

For .... times.

For .... times.

For .... times.

For .... times.

Date of first entry in Field Conduct Sheet .....

Date of last entry in Field Conduct Sheet .....

2. Previous convictions of the accused by a court martial or a civil court are set out in the Schedule overleaf.

*Strike out if not applicable.

*3. The accused at the present time is NOT under sentence for .....

"LGM" beginning on the ..... day of .....

4. The accused has been awaiting trial on the present charges for ..... days in civil custody; and for 20 days in military custody, *i.e.*, ... days in open arrest, ... days in close arrest; of which 7 days were spent in hospital.

5. The present age of the accused is 20

"LGM" 6. The date of his ~~enlisting up for military service~~ attestation is 2-7-42

"LGM" 7. ~~The service which the accused is allowed to reckon as~~

8. The accused is in possession of†

†State the military decorations (if any) held by accused.

9. ~~(If the accused is a warrant officer or N.C.O.) The accused has served continuously, without reduction, to the present date.~~ "LGM"

Date of Promotion.

~~In the substantive rank of~~ .....

~~In the war substantive rank of~~ .....

~~In the acting rank of~~ .....

INSTRUCTION.—*If any matter in any of the above paragraphs cannot be stated from the regimental books the paragraph must be struck through.*

Wt. 83906/1602 20,000 3/44 H.L.4751. Forms/B.296/War/2

"DBM"

SCHEDULE OF CONVICTIONS BY A COURT-MARTIAL OR CIVIL COURT

Description of Court by which tried.	Date and Place of Trial.	Charges upon which convicted.	Sentence of the Court.	Punishment remitted or sentence suspended.
		No MFM 6 Available.		

I HEREBY CERTIFY that the foregoing particulars, which have been extracted from the regimental books in my custody, are correct to the best of my knowledge and belief.

Signed this 4th day of January 1945

"L.J. McKenzie" Capt.
(L.J. McKenzie) Capt & Adj
Lanark & Renfrew Scot R.

No B13004 Name GUMMERSON F.A. Sqn, Battery, or Company — Corps CIC — Date of enlistment — EX "C". — Service or Proficiency Pay — MFM 6 (AFB 122)

Date of last entry in Company Conduct Sheet — No and date of last drunk — Period not reckoning towards freedom from extra fine — Sheet No — Signature OC Company, etc — Character

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Name of Witness	Punishment awarded	Date of award or of order directing trial	By whom awarded	Remarks
				TEMPORARY SHEET.					
				ORIGINAL MFM 6 NOT AVAILABLE.					
				"L.G. McKenzie Capt".					
				(L.G. McKenzie) Capt Adjutant					
				Lanark & Renfrew Scottish Regiment.					
				Officer having custody of Regimental Books				"DBM"	

(PTO)

EXAMINATION

Med height, W.D. W.N. no tremors. Tears well into his eyes. Average intelligence, Non-psychotic. Aware of difference between right and wrong. No physical factors of note.

Opinions:-

Fit to stand trial. Mild inadequate personality. Extenuating circumstances are his previous good conduct and his lack of infantry training and his willingness to perform full RCASC duties. He is unsuitable for combatant infantry duties, and at conclusion of any punishment which may be awarded should be returned to this Unit for reallocation to another branch of the service.

Recommendations:-

R.T.U. for settlement of charges pending.

BMEA:W
In the Field
22 Dec 44 (Signed) B.M.E. Allan, Major
Neuropsychiatrist,
#2 Cdn Exhaustion Unit.

I certify this is a true copy from Neuropsychiatrist report taken at #2 Cdn Exhaustion Unit,
taken
In Field
22 Dec 44 .

Field
4 Jan 44 (Signed) "R.F. Neil" Capt.
RFN:C (R.F. Neil) Capt.
O.C. "X" Area 12 CIB.

"DBM"

5V — 60

Pb. Gunnoot, C+B

RECORDED AT CMHQ IN AB 160 P 5V-60

FIELD GENERAL COURT-MARTIAL

CPA98 (To take the place of AFA81) 40/PA&S/1598 (4144) 4/388

Convened by Order of Brig TJ Rutherford, CBE, ED comd "E" Gp CRU dated 6 Nov 45

RECEIVED 20 Nov 45 AIR BRANCH JAG'S DEPT

ACCUSED.

(As to the trial of two or more charged jointly see RP 16, 71, 109. As to reasons for showing (a) permanent or confirmed rank, and (b) apptmt, A/rank or A/apptmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

Number.	(a) Prmnt R. (b) Apptmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
K 71199	Pte	Charleston Bert	GUNANOOT	1 Cdn Repat Dep

PROCEEDINGS REVIEWED 20 Nov 1945

REVIEWING OFFICER, JAG BRANCH, CMHQ

PROCEEDINGS OF TRIAL.

Held in the Fd in (*country*) England on (*date*(s)) 7 Nov 45

RECORD FORM A—OPENING PROCEEDINGS AND ARRAIGNMENT.

A1. The President, Members, ~~waiting Member, JA, if any, and Offrs under instr, if any,~~ assemble, and the Court is closed.

(PRINTED MATTER, NOT IN ITALICS FOR GUIDANCE, WILL BE DELETED, IF NOT USED OR APPLICABLE, AND INITIALLED BY PRES OR JA. The Schedule referred to throughout is on p 4. Citations do NOT include all relevant fmn ROs. For guidance on procedure when a variation in this form arises, see form for GCM in MML pp 741 to 759. A brief record of such variation will be made and given a number having reference to appropriate or preceding para number herein. See back of Convening Order, CF A65, for oaths and instrs on how to record addresses, evidence, etc., which instrs are hereafter called "Notes". As to general provisions for conducting the trial see AA 53, RP 36, 61-70, 73, 74, 84, 103, 119, 132.)

A2. The President initials and lays before the Court the Convening Order and Charge Sheet ~~(s)~~ attached thereto.(1) The Court is satisfied that it is properly convened and constituted(2), accused is (~~are~~) amenable to military law, and each charge discloses an offence.(3)

(1. As to use of Summary of Evidence see RP 17 fn 6. 2. AA 49, 50, RP 105-107. 3. RP 11-13, 23, 24.)

A3. The Court is opened. The accused is ~~(are)~~ brought before the Court. At 1120 hours trial commences.

A4. The Prosecutor produces a Medical Certificate that accused is ~~(are)~~ fit to undergo trial by court-martial.(1) ~~The Prosecutor informs the Court that accused elected to be tried by court-martial instead of being dealt with summarily by the CO.(2)~~

(1. KR Can 557. 2. AA 46(8), RP 60 fn 1. For effect see KR Can 563(c). Delete, if not applicable.

A5. President to accused: ~~Do you object to ... as interpreter?~~ Ans ...

~~The Interpreter is sworn.~~(1) Do you object to M.69158 Pte RIMMINGTON as shorthand writer? Ans NO - SIR. The shorthand writer is sworn.(2)

(1. RP 72. Delete, if none employed.)

A6. The Convening Order and names of the President and Members of the Court are read to the accused.(1) President to accused: Do you object to be tried by me as President or by any of the Members of the Court?

Ans NO - SIR (2)

(1. RP 110. 2. If no objection, waiting member retires. RP 66(8). If objection, see procedure AA 51, RP 25, 71, 18, MML p 742.)

A7. The President, Members, ~~JA, if any, and Offrs under instr, if any,~~ are sworn.(1) The following are the ranks, names and units of the offrs comprising the Court, *etc*:

President	Lt-Col.	D.L. REDMAN ED	HQ CRU
Member	CAPT.	R. MORENCY	3 C. REP DEP
Member	LIEUT.	R.G. COTTON	3 C. REP DEP
~~Judge Advocate~~			
Prosecutor	LIEUT.	H.B. THIRLWELL	1 C REP DEP
Defending Offr	LIEUT.	G.H. AIKEN	1 C REP DEP

Questions by President: Is the Prosecutor a lawyer? Ans NO. Is the Defending Offr a lawyer? Ans YES (2)

(1. RP 26, 27, 109, 111. List of offrs under instr will be returned separately with proceedings for information of Conv Offr.
2. If Pros a lawyer and Def Offr not, accused is entitled to an adjournment when RP 89 (B) and fn 2 were not followed. See Dir p 2.)

A8. The accused ... before arraignment make(s) (no) ~~(all)~~ plea ...(1)

(1. If a special plea is made for separate trial on one or more charges (RP 62(2), 108), or as to the jurisdiction of the Court (RP 34, 35(A), 113), or in bar of trial (RP 36), or as to accused's mental fitness to stand trial (AA 130, RP 57), or by one of several accused charged jointly to be tried separately (RP 16, 71), such plea, the addresses made in support or against, the evidence, if any, and finding are recorded per Notes. For forms of record see references in fns to PoP used. Insert in A8 rank and name of the accused making the plea.)

A9. The accused is ~~(are)~~ ~~(separately)~~ arraigned on all charges in the charge sheet.(1) The accused does ~~(do)~~ not object to any charge.(2) There is no amendment to be made to the Charge Sheet.(3) The President records the pleas in Part I of the Schedule.

(1. RP 31, 112. See para 1 of Instrs p 2. When more than one Charge Sheet see RP 62; when several accused to be tried separately see RP 71(C), and see separate copies of CF A96 to record proceedings. 2. RP 32, RP 33. If otherwise, delete and make appropriate record per Notes.)

A10. The Court ~~(is closed and)~~ considers the Instrs on Procedure after Arraignment at top of p 2. The proceedings are continued on Record Form 13

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

SCHEDULE.

PART I. PLEA(S), FINDING(S) AND SENTENCE.

Accused: K 71199 Pte Charleston Bert GUNANOOT - 1 Cdn Repat Dep

	Charge. (Insert "alternative" where applicable.)	Plea. (See Instrs p 2.)	Finding. (See note below.)	(Space for use as required for further charges, accused charged jointly, special findings, etc.)
1st	AA Sec 15(1)	GUILTY	GUILTY	
2nd				
3rd				
4th				
5th				
6th				

(Note: As to findings for lesser offences see AA 56, RP 44; findings on alternative charges see MML p 483 fn 4 para 2, RP 44; special findings see RP 44 and MML p 753, and in lieu of kit see RP 44 fn 5.)

At present under sentence for ... beginning on (date) ...(1)

(1. Insert sentence being served, or delete, if not applicable. See RP 46(A). Information should be found on MF B355 or AF B296.)

Time in confinement awaiting present trial—a total of 17 days, of which NIL days were spent in hospital.(1)

(1. See RP 46(A) fn 2. Information should be found on MF B355 or AF B296 admitted in evidence under E7.)

Sentence Awarded by the Court:

To undergo detention for a period of six (6) months and to be put under stoppages of pay until he has made good £3-7-5 the expenses of his return to his unit.

(Sgd) ... Judge-Advocate, if any. 7 NOV/45 Date awarded. (Sgd) ... President. (RP 45, 50.)

(See back of Convening Order as to assembly and disposal of record after trial.)

PART II. MINUTE WHERE CONFIRMATION RESERVED. (AA 54(5), RP 120(F), MML p 760.)

Date ... (Sgd) ... Commanding ...

PART III. DECISION OF CONFIRMING OFFR ON FINDING(S) AND SENTENCE.

(For duties and powers see AA 54, 57, RP 37(D) fn 6, 46(A), 51-56, 120, MML pp 759-761, KR Can 567-577. Acquittals require no confirmation and cannot be revised: AA 54(2). Sending back finding or sentence for revision by Court: AA 54(2), RP 120(G). If not confirmed, accused may be tried again: AA 157, MML p 64. Minute of confirmation or non-confirmation may be altered before promulgation: RP 53, MML p 65. Quashing after promulgation: KR Can 573. Duties and powers of reviewing offrs: AA 57, 57A, RP 52A, 54. The Confirming Offr must sign here personally. AA 172 fn 1.)

My decision on the finding(s) and sentence set forth in Part I is:

Finding and sentence confirmed

~~I direct that the accused be not committed to prison or detention barracks until further orders.~~(1) Sgd

(1. AA 57A. Delete if not used.)

(Sgd) R Rutherford Brig

Date 7 Nov 45 Commanding E Gp CRU. Confirming Officer.

PART IV. PROMULGATED AND EXTRACTS TAKEN. (RP 53, KR Can 576, 577.)

Accused.	Date.	Signature of Offr.
K 71199 Pte Gunanoot CP 80-193A.	10 Nov 45	[illegible]

ALL DELETIONS AND ALTERATIONS WILL BE INITIALLED.

INSTRUCTIONS ON PROCEDURE AFTER ARRAIGNMENT.

1. *The accused may not plead or be found Guilty on more than one of two or more charges laid in the alternative.* (RP 37(A).) *As to withdrawal of alternative charges by Prosecutor see RP 35(C). No other charge can be withdrawn for any reason without authy from Convening Offr. If Convening Offr concurs, Court may accept plea of Guilty to lesser, etc, offence.* (RP 44(H).) *Accused may change a plea of Not Guilty to Guilty during trial.* (RP 38.) *As to refusing to plead or not pleading intelligibly see RP 35(A). As to plea when sentence may be death see RP 35(D).*

2. *The proceedings on each charge sheet* (RP 62) *after arraignment will be conducted as follows in the respective circumstances stated:*

I. If pleas to all charges are GUILTY, use Record Form B below.

II. If pleas to all charges are NOT GUILTY, use Record Form D on p 3.

III. If pleas to some charges are GUILTY and to other charges are NOT GUILTY and,

(a) Such mixed pleas occur when there are no alternative charges in the Charge Sheet, use Record Form C below. (RP 37(A).)

(b) Such mixed pleas occur in a set of two or more charges laid in the alternative, see RP 37 (A) and fn 2 as to discretion of Court, (i) to try the accused on all such alternative charges as if he had pleaded Not Guilty thereto, or, (ii) to record the pleas as the findings of Court. After deciding between (i) and (ii), Court will proceed under foregoing instrs as may be appropriate to result of its decision. See MML p 744 Instrs (2).

3. *As to responsibility of President to accused see RP 59, 60(C); powers and duties of JA see RP 103; duty of Prosecutor see RP 60(A) (B); duty and privileges of accused and Defending Offr see RP 60(C), 87(C), 91, 92; swearing and withdrawal of witnesses from Court see RP 81, 82; questioning of accused see RP 80, 87(C), 92(B), and of witnesses see RP 83-85; calling or re-calling of witnesses by Court, etc, see RP 75-79, 86, 116; use of Summary of Evidence at Trial see RP 17(E) fn 6; and responsibility of JA or Pres to record proceedings see RP 94, 96.*

RECORD FORM B—PROCEEDINGS ON PLEAS OF GUILTY TO ALL CHARGES.

B1. The President ~~or JA, if any,~~ complies with RP 35(B) by explaining to the accused the nature and meaning of the charge(s)(1), and that on his plea of Guilty there will be no regular trial but merely a consideration of the sentence to be awarded after he has been given an opportunity to make a statement in reference to the charge(s), call witnesses as to character and make an address in mitigation of punishment.(2)

(1. *RP 35 fn 3.* 2. *MML p 54 para 47.*)

B2. President to accused: The Court will now receive any statement you desire to make in reference to the charge(s).(1) If it appears from your statement that there are circumstances which indicate that you do not understand the effect of the plea of Guilty(2), or which show provocation or extenuation in respect of which in your interest the witnesses for the Prosecution should be examined(3), we shall advise you to change your plea to Not Guilty. In making a statement you will not be sworn or subject to cross-examination; and anything you say will not be used in evidence against you after you change your plea. If, however, it appears to the Court that your statement affects only the amount of punishment to which you are liable, you will not be advised to change your plea and you will be given an opportunity later to prove your statement by sworn testimony, if you so desire.(4)

President to accused: Do you wish to make a statement? Ans. N/A (5)

(1. *RP 37(B).* 2. *RP 37(D) fn 6.* 3. *RP 35(B) fn 5 para 3, MML p 54 para 47.* 4. *See para E3 of Record Form E.* 5. *Statement, if any, recorded per Notes.*)

B3. ~~The Court considers the accused's statement.(1) The Court decides (not) to advise accused to change his (their) plea(s) of Guilty to Not Guilty on charge(s). The accused is (are) so informed, and he (they) change(s) his (their) plea(s) on charge(s). Part I of the Schedule is amended accordingly.~~

(1. *Court may be closed to consider the statement. Delete whole or part not used.*)

B4. On the charge(s) to which the plea(s) of Guilty is ~~(are)~~ not changed the President records finding(s) of Guilty in Part I of the Schedule.(1)

(1. *RP 35(B). If any plea(s) is (are) changed, use Record Form C or D as appropriate.*)

B5. The Summary of Evidence is marked Ex P, initialled and read aloud by the President.(1)

(1. *If there is no Summary, or if it is inadequate, comply with RP 37(B). If there is any evidence inconsistent with any plea standing as Guilty, Court will advise accused to change such plea and, if changed to Not Guilty, try such charge(s) by use of paras D1 to D8 inclusive of Record Form D on p 3. RP 37(D).*)

B6. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 5.

RECORD FORM C—PROCEEDINGS ON MIXED PLEAS OF GUILTY AND NOT GUILTY.

C1. As to the charges on which accused pleaded NOT GUILTY the trial is continued by using paras D1 to D8 inclusive of Record Form D on p 3 before proceeding with C 2.(1)

(1. *RP 37(A) (E).*)

C2. The charges on which accused pleaded GUILTY are read to him (them) again, and the trial is continued by using paras B1 to B5 of Record Form B above.(1)

(1. *Under B5 such parts only of the Summary of Evidence entered as relate to the charges dealt with under C2. If any plea is changed to Not Guilty, trial thereon proceeds by complying with paras D1 to D8 inclusive in Record Form D on p 3 and making an appropriate record thereof on a separate sheet.*)

C3. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 5.

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

RECORD FORM D—PROCEEDINGS ON PLEAS OF NOT GUILTY TO ALL CHARGES.

D1. President to accused: Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity to prepare your defence? Ans.....(1)

(1. *If "yes", see RP 39(A) for procedure. Statement or evidence, if any, is recorded per Notes.*)

D2. The Prosecutor makes (an) (no) opening address.(1)

(1. *RP 39(B), 60(A) (B), 90, 92(C) (D). Record address per Notes, subject to RP 95(C).*)

D3. The evidence for the Prosecution is taken.(1)

(1. *RP 39(C), 114, KR Can 555. Record evidence per Notes. As to Prosecutor giving evidence himself see RP 39(D) (E).*)

D4. The Prosecution is closed.(1) The Defending Offr submits that the evidence for the Prosecution does not establish a prima facie case against the accused on the.....charge(s).(2) The Court is closed, and considers the submission.(3) The Court is re-opened, and the President announces that the submission is disallowed on the.....charge(s), and allowed on the..... charge(s), and that, accordingly, the trial will proceed on the former, but the accused is (are) found Not Guilty on the latter charge(s).(4)

(1. *Delete remainder of this para, if submission not made.* 2. *Arguments on submission, answer and reply are recorded per Notes.* 3. *RP 40 fn 1. See MML p 72 paras 12-14 and p 81 para 42.* 4. *Delete part not used. If accused acquitted on all charges, use second alternative in para D8.*)

NB: If trial proceeds, accused must be allowed great latitude in making his defence, and the Court should not stop his defence solely on ground of irrelevance. (RP 60(C), 114, 115.)

D5. President to accused: You will now proceed with your defence.(1) You may, if you wish, give evidence yourself on oath as to the facts or your character or both, in which case you will be subject to cross-examination.(2) You may, however, make a statement without being sworn, and you will not be subject to cross-examination.(3) But a statement which could have been made on oath will not carry with the Court the same weight as sworn testimony.(4) You may call witnesses in your defence and as to character, whether you give evidence or make a statement or do neither.

President to accused: Do you wish to give evidence yourself as a witness, make a statement, or do neither? Ans..... Do you intend to call witnesses on your behalf? Ans..... Are they witnesses as to character only? Ans.....

(1. *RP 115.* 2. *RP 40(A), see 80(D).* 3. *RP 40 fn 10.* 4. *RP 40 fns 2, 9.*)

D6. Consequent on the answers recorded in para D5 the appropriate procedure for the defence is followed.(1)

(1. *RP 114, 115, 116. For procedure see Notes on back of Convening Order, CF A95. Evidence for accused as to his character should, if in his interest, be given before the finding. See RP 46(A) fn 1, 86(C). Note the further opportunity in para E1 of Record Form E. Record per Notes addresses, statement, evidence and any summing up by the JA under RP 42, 103(e).*)

D7. The Court is closed to consider the finding(s).(1) The finding(s) of the Court is (are) recorded in Part I of the Schedule.(2) The Court is re-opened.

(1. *RP 43, 117(A). See Notes in Part I of Schedule.* 2. *RP 44(A).*)

D8. The President announces the finding(s), if any, of Not Guilty, and states to the accused that the finding(s) of the Court on the.....charge(s), being subject to confirmation, will be promulgated later.(1)

Or, The President announces that the accused is found Not Guilty on all charges and is to be released forthwith, and that the proceedings are accordingly terminated. Part I of the Schedule is dated and signed.(2)

(1. *AA 54(2) (e), RP 45, 120(A).* 2. *AA 54(3), RP 45, 117. This alternative announcement is not applicable when there are pleas of Guilty outstanding and dealt with under Record Form B or C.*)

D9. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E below.

RECORD FORM E—PROCEEDINGS ON CONVICTION BEFORE SENTENCE.

E1. President to accused: Do you wish to give evidence yourself or to call any witnesses as to your character 1(1)

Ans. NO - SIR

(1. *If evidence has already been given by accused or his witnesses as to his character, delete this para. RP 37(C) fn 4, 46 fn 1. Accused and witnesses are sworn. Evidence recorded per Notes.*)

E2. The Prosecutor produces Statement(s) as to Character and Particulars of Service(1), and certified true copy (copies) of Conduct Sheet(s)(2), purporting to refer to the accused, which he submits to the Defending Offr for examination, and then to the Court for admission in evidence. The Court is satisfied that these documents refer to the accused, because (i) they purport to be signed in the manner required by AA 163(1) (g) (h), and (ii) they purport to refer to (a) soldier(s) having the same number, rank, name and corps as the accused. Admitted in evidence and marked Ex B and Ex C, respectively.(3)

(1. *MFB 355 or AFB 296.* 2. *MFM 6.* 3. *RP 46, KR Can 558. If above documents not produced, see RP 46 fn 1 para 1.*)

E3. President to accused: Do you wish to address the Court on the Statement(s) and Conduct Sheet(s), and in mitigation of punishment 1(1) Ans. BY WAY OF NOTE - ATT (2)

(1. *RP 37(C), 46(D).* 2. *Address, if any, recorded per Notes. Court should permit accused or his witnesses to prove or add anything been or previously stated which would affect the amount of punishment. RP 37(F) fn 7.*)

E4. The President states that the Court is closed to consider the sentence, and that the sentence to be awarded by the Court, being subject to confirmation, will not be announced, but will be promulgated later, and the proceedings in open court are accordingly terminated.(1)

(1. *AA 54(6), RP 120(A).*)

E5. The Court considers the sentence.(1) The President records the sentence in Part I of the Schedule, which is dated and signed by him ~~and the J.A., if any.~~(2)

(1. *When several accused tried separately see RP 71 (D). One sentence only, comprised of the punishment or punishments laid down in AA 41, 44 and its proviso, is to be awarded to cover all charges in all charge sheets on which accused found guilty. RP 40. As to sentences see AA 44, 138, 182, RP 46-50, 69, 118, 119(A), KR Can 306, 330, 563-566, Overseas Rl 309, 2323, MML p 60, 757-759. As to sentences assigned for civil offences by the law of England see AA 41(5), MML p 130. When accused already under sentence of imprisonment or detention see AA 44(1B), 68(1), KR Can 564.* 2. *RP 32. As to release from arrest by Confirming Offr see KR Can 567. As to assembly and disposal of record after trial see Instrs on back of Convening Order.*)

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

CHARGE SHEET

The accused, K71199, Pte. Gunanoot, Charlston Bert, No. 1 Cdn Repatriation Depot, a soldier of the Canadian Army Overseas, is charged with:

FIRST CHARGE — WHEN ON ACTIVE SERVICE, ABSENTING HIMSELF WITHOUT LEAVE

A.A. Sec 15(1)

IN THAT HE

in the Field absented himself without leave from 2000 hrs, 16 Jun 45 until 2315 hrs, 23 Oct 45. (Total Time Absent: 129 days, 3 hrs, 15 mins.) Cost of Apprehension: £3-7-8

M.B.K. Gordon

In the Fd
4 Nov 45

(M.B.K. Gordon) Colonel,
Commanding Officer,
1 Cdn Repatriation Depot.

TO BE TRIED BY FIELD GENERAL COURT MARTIAL

(P J RUTHERFORD) Brig
Comd
"E" Gp CRU

In the Fd
6 NOV 45

FIELD GENERAL COURT-MARTIAL

(Whether the accused to be tried is under his comd or not, a FGCM may on application to him be convened by any offr of Cdn Army Overseas, or of any other force if authorized in law, in immediate comd of troops on active service, subject to RP 105(C) and restrictions imposed by appropriate authy. AA 47, 50, RP 104-107, 114. As to the duties and privileges of the Convening Offr in dealing with the application see MML Chap V paras 20 and 23, RP 87(B).

There should be a separate Convening Order for each person to be tried seperately by the same Court. RP 71(C), 109. As to separate charge sheets see RP 62, and as to separate trial on charges in the same charge sheet see RP 108. As to two or more accused charged jointly see RP 1c, 109.

As to reasons for showing (a) permanent or confirmed rank, and (b) apptmt, A/rank or A/apptmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

ACCUSED.

Number.	(a) Prmnt R.	(b) Apptmt. A/R or A/Apptmt.	Full Christian Names.	Surname.	Unit.
K 71199	Pte		Charlston Bert	GUNANOOT	1 Cdn Repat Dep

CONVENING ORDER.

1. Whereas complaint has been made to me, the undersigned, that the person(s) named above as the accused, being subject to military law, has committed the offence(s) set forth in the Charge Sheet(s) attached and on (date) 6 Nov 45 endorsed by me, "To be tried by Field General Court-Martial".

2. And whereas I am of opinion that it is not practicable that such offence(s) should be tried by an ordinary General Court-Martial;

(Delete part in brackets when not required for compliance with RP 105(C).)

3. I hereby convene a Field General Court-Martial to try the said person(s), and to consist of the Offrs appointed or detailed hereunder.

4.

(AA 49, RP 106(B), 107(A). Delete the whole or part, if not applicable.)

5.

(RP 106(E). Delete, if none appointed.)

PRESIDENT.

(Rank.)	(Must be named. RP 106.)	(Unit.)
Lt Col	D L Redman, VD	HQ CRU

MEMBERS.

(Rank.)	(Named or detailed. RP 106.)	(Unit.)
Capt	To be detailed by CO 3 Cdn Repat Dep	3 Repat Dep
Lt	To be detailed by CO 3 Cdn Repat Dep	3 Repat Dep

WAITING MEMBER.

(Rank.)	(Named or detailed, if any. RP 106.)	(Unit.)

JUDGE-ADVOCATE.

(Rank.)	(Must be named, if any. RP 106.)	(Unit.)

On Active Service in the Fd

in England
(Country.)

Date 6 Nov 45

(Signature, RP 105 fn 2)
(T J RUTHERFORD)
Commanding "E" Gp CRU
Convening Officer.

Brig
(Rank.)

CONVENING OFFR WILL INITIAL ALL DELETIONS AND ALTERATIONS

4/38A OPASS (To take place of AFAS 40/P & S/1067 (4021))

(See overleaf for oaths and notes for use on trial.)

MEDICAL CERTIFICATE OF FITNESS FOR TRIAL

Date 7 Nov 45

NUMBER K-71199 RANK Pte NAME Gunnwood C.S.

The a/m has this day been medically examined and found fit/[redacted], to travel and to undergo trial by court martial.

W. J. Innes Capt.
M.O. No 4 Wing (B)
No 1 Can Repat Depot

K 71199 Pte Guhanoot C. B.

STATEMENT IN MITIGATION OF SENTENCE

1. Accused is 28 years of age, and unmarried. He enlisted in Canada on 27 Nov 41 and came overseas in Jun/42. He went to France on D-Day with the S D & G Highrs, and was with them until the 28th July 44, when he suffered concussion from a shell bursting nearby. He was evacuated to the U.K. and was in hospital about four weeks. He has been in the U.K. since then, although he tried to get back to the continent several times.

2. There are several AWL charges on the accused's conduct sheet, but they are all for a few days absence only. This is the first instance of a long absence. Furthermore, one charge of desertion as shown on the conduct sheet was dismissed, and should have been erased entirely from the record. Evidence of this fact has been submitted to the court, and it is urged that this error should not prejudice the court against accused.

3. The accused has lost two brothers killed in the U. S. forces. One was killed in Burma, and the other with the U. S. navy. He also had a friend killed beside him in France, and these things have all been on his mind. The shock suffered by concussion last year has affected him, and he has felt that nothing matters any more. Accused was doing kitchen fatigues when he went away for the week-end on pass. While on leave, he got drunk, and as he had some money, managed to stay drunk for quite a time. When he became sober, he was afraid to come back to camp, on account of his former charges of AWL. He apparently did not consider that he would eventually have to come back.

4. Finally, I would point out that accused surrendered voluntarily at Edinburgh. He is said to be a good worker, and willing to do any tasks allotted to him. I request that the court deal leniently with this man, and point out the provisions of KRL, which states that punishment must be the least possible, consistent with the maintenance of discipline.

Defending Officer

E-3

SUMMARY OF EVIDENCE

In the case of K71199, Pte. Gunanoot, C.B., No. 4 Wing, No. 1 Cdn Repat Depot, a soldier of the Canadian Army Overseas.

By direction of the Officer Commanding this Summary of Evidence is taken on oath.

FIRST WITNESS FOR THE PROSECUTION — Capt. R.M. Smith, Officer in Charge Records, at No. 1 Cdn Repat Depot, No. 4 Wing, having been duly sworn states:

"I am Capt. R.M. Smith, Officer in Charge Records, at No. 4 Wing, No. 1 Cdn Repat Depot. I submit a certified true copy of a Court of Inquiry dated 9 Jul 45, pertaining to K71199, Pte. Gunanoot, C.B. whom I now recognize, marked as Exhibit "A". I also submit a Certificate of Apprehension signed by the D.A.P.M., C.M.H.Q., marked as Exhibit "B". I also submit expenses voucher in the amount of £3-7-8, cost of return for escort and accused marked as Exhibit "C".

(R.M. Smith) Capt.,

THE ACCUSED DECLINES TO CROSS-EXAMINE THIS WITNESS.

QUESTION TO THE ACCUSED

"Do you wish to make a statement or give evidence on oath? You are not obliged to make a statement or give any evidence on oath, but if you do make a statement or give evidence on oath it will be taken down in writing and may be brought up in evidence."

THE ACCUSED DECLINES TO MAKE A STATEMENT AND RESERVES HIS DEFENCE.

I certify that the foregoing Summary of Evidence consisting of one (1) page was taken by me in the presence and hearing of the accused and that Rules of Procedure 4(c), (d), (e) and (f) have been complied with.

(W.F. Swayne) Lieut.,
Officer Detailed to take
Summary of Evidence.

Bramshott, Hants.
30 Oct 45.

EX A

SUMMARY OF EVIDENCE

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FIRST WITNESS FOR THE PROSECUTION

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(W.F. Swayne) Lieut.,
Officer Detailed to take
Summary of Evidence.

Bramshott, Hants.
30 Oct 45.

RECORD of the Declaration of a Court of Inquiry assembled at No. 4 Wing, No. 1 Cdn. Repat Depot (Lorne Scots) Ontario Camp, Bramshott, Hants. on the 9th day of JULY 1945, for the purpose of investigating and recording the absence, without leave, from his duty, and deficiency, if any, in the Arms, Ammunition, Equipments, Instruments, Regimental Necessaries, or Clothing of No. K 71199 Pte. GUNANOOT, C.B.

DECLARATION

The Court declare that No. K 71199 Pte. Gunanoot, C.B. No. 4 Wing, No. 1 Cdn Repat Depot (Lorne Scots) Ontario Camp, Bramshott, Hants, illegally absented himself without leave from No. 4 Wing, No. 1 Cdn Repat Depot at 2000 hrs on the 16th day of June, 1945, that he is still so absent, and that on the 9th July 45 he was deficient, and that he is still deficient of the following articles :—

ARTICLES	VALUE	ARTICLES	VALUE
As per Attached list			

(H.E. Couch) Major, Gen List — President
1 Cdn Repat Depot (Lorne Scots)

Signed at Bramshott, Hants, (G.P. Adamson) Capt., C.I.C. — Member
1 Cdn Repat Depot (Lorne Scots)

this 9th day of July 1945 — Member

Signature of Commanding Officer M.B.K. GORDON Col.

3/608 MFB 375-AFB 115 No. P&C/992 (44-10)

Certified true copy

Signature of Officer having custody of original record

EXHIBIT "A"

This is Exhibit "A" referred to by me in the case of K71199, Pte. Gunanoot, C.B.

W.F. Swayne Lt

(W.F. Swayne) Lieut.,
Officer detailed to take
Summary of Evidence.

APPENDIX "A"

Herewith is a list of kit deficiencies of K 71199 Pte Gunanoot, C.E.F. as at 9 July 1945.

ARTICLE	NO	VOC PRICE	EXPENDED VALUE LESS 25%	CANADIAN EQUIVALENT
		£-S-D	£-S-D	$. ¢
B/D Blouse	1	1-9-1	1-1-10	4.68
B/D Trousers	1	1-9-3½	1-2-0	4.91
Boots, ankle, prs.	1	1-6-0	0-19-7	4.37
Drawers, woollen, prs.	2	0-12-7	0-9-4½	2.10
Shirts, flannel, w/c	2	0-18-2	0-13-7½	3.05
Ties, black	1	0-0-10	0-0-7½	.14
Brasses, cleaning	1	0-0-2	0-0-1½	.03
Brushes, clothes	1	0-2-2	0-1-7½	.36
Brushes, hair	1	0-1-6	0-1-1½	.25
Forks, N.S. table	1	0-0-4	0-0-2	.06
Knives, table	1	0-0-8	0-0-6	.12
Spoons, dessert	1	0-0-5	0-0-4	.07
Vests, cotton gym	2	0-3-8-	0-2-9	.51
Braces, W.D.	1	0-1-4	0-1-0	.23
Tins, mess	1	0-1-6	0-1-1	.24
Beret, khaki	1	0-0-5	0-0-4	.00
		6-13-1½	4-19-10½	22.32

Compiled by _____

Checked by _____

Exhibit 'B'

CERTIFICATE UNDER THE ARMY ACT, SECTION 163 (4). (1)

I Lieut. Rose, C.A. D.A.P.M. (C.M.H.Q.) certify that

Regt. No. K-71199 RANK Pte. NAME Gunanoot, C.B.

REGIMENT Glengarian Highlanders

UNIT No. 1 Cdn. Repatriation Depot

STATIONED AT

Surrendered himself to No. 1744463 Rank Cpl. Name Kidger, I.

Of the Kings Own Scottish Borders

On the 23 day of Oct. 1945. at 2315 Hours

AS AN ABSENTEE WITHOUT LEAVE

At the time of his surrender he was wearing (Military Uniform) or(~~XXXXXXX~~ XXXXXX).

Signature of Provost-Marshal, Assistant Provost-Marshal or other Officer or Commanding Officer of the Portion of His Majesty's Forces or the Officer, Warrant Officer, or the non-commissioned Officer in charge of the detachment of the Canadian Provost Corps, Canadian Army, into whose custody the above named person was taken on surrendering. (Strike out part inapplicable).

Hussong
My

London
28-Oct.45.

(C.A. Rose) XXX
D.A.P.M. - CMH

EXHIBIT "B"

This is Exhibit "B" referred to by me in the case of K71199, Pte. Gunanoot, C.B.

W.F. Swayne Lt

(W.F. Swayne) Lieut.,
Officer detailed to take
Summary of Evidence.

EXHIBIT "C"

This is Exhibit "C" referred to by me in the case of K71199, Pte. Gunanoot, C.B.

W.F. Swayne Lt

(W.F. Swayne) Lieut.,
Officer detailed to take
Summary of Evidence.

Expense Voucher Re—

Ref: KR & O (Can) 539

Edinburgh

Reg No. K-71179 Rank Pte. Name Cunanaot, C.P. Unit 1 Cdn. Repat Depot

The following expenses were incurred in apprehending and returning the M/N Soldier to his ~~Unit from~~

London from Edinburgh

Date	Particulars (1½ Patron)	Amount		
27 Oct 45	Escorts return fare from LONDON To Edinburgh	1	10	4
	Prisoners single fare to LONDON From Edinburgh	1	10	4
	Prisoners fare from to			
	Escorts & Prisoners expenses for Bed, Meals, Bus fares		7	—
	Total £	3	7	8

I certify that the above statement of Expenses is Correct, and that the amounts are fair and just.

Capt

Officer Issuing Railway Warrant and Expense monies
No. 6 Area Provost Company, Canadian Provost Corps, London

1/35 CMHQ 100-55
40/P & S/483 (67629)

K-71199 PTE GUNANOOT, C B

"Returned from AWL at 1055 hrs 20 Oct 44. Tried by FGCM. Charge: AA Sec 12 (1) (A) AWL when ordered for special duty. Absent 18 days, 5 hrs, 55 mins. Cost of apprehension £2-4-4.

Findings: Not guilty of desertion, but guilty of AWL AA Sec 56 (4)

Sentence: 120 days detn, stoppages £2-4-4 (Cost of apprehension) In close arrest (16 days, 13 hrs, 5 mins)

Total forfeiture: of 155 days pay and cost of apprehension £2-4-4."

Certified true extract of M.F.M. 4

(R.M. SMITH) Capt
Officer i/c records
"D" Wing,
No 1 Cdn Repat Depot.

1 CANADIAN REPATRIATION DEPOT
LORNE SCOTS
7 NOV 1945
ORDERLY ROOM
4 WING

EXC

ARMY FORM B.296

Statement as to Character and Particulars of Service of Accused.

Number	Rank	Name	Regiment (or as the case may be)
K71199	Pte.	Gunanoot, C.B.	1 Cdn Repat Depot

1. The following is a fair and true summary of the entries in the regimental and squadron, battery or company conduct sheets† of the accused, exclusive of convictions by a court martial or a civil court, of summary awards under section 47 of the Army Act, and of cases in which trial has been dispensed with :—

NOTE.—At a trial by field general court martial this summary may be compiled from the field conduct sheet. The conduct sheet(s) mentioned should be produced in court with this statement but not annexed to the proceedings.

† See para. 677, K.R., 1940.

* The numbers herein stated should correspond with the number of entries in the conduct sheets, provision being given to the least serious offence in each entry, and to any recognised special acts of gallantry or distinguished conduct.

INSTRUCTION.—If the charge is for drunkenness the entries for drunkenness must be stated separately and dated.

	* Within last 12 months.	* Since Enlistment.
For A.A. Sec 15(1)	times 2	times
For A.A. Sec 19	times 1	times
For	times	times
For	times	times
For	times	times

~~Number of instances of gallantry or distinguished conduct~~ 1/A/1 or 1/B/1

~~There are no entries in the conduct sheets of the accused~~ B.F.

2. ~~The accused has not been previously convicted, or~~ 1/B/1

Previous convictions† of the accused by a court martial or a civil court, summary awards under section 47 of the Army Act, and dispensations with trial under section 73 of the Army Act, are set out in the schedule annexed to this statement.

3. ~~The accused is not under~~ sentence at the present time, or ~~The accused at the present time is under sentence for~~ 1/B/1 ~~beginning on the day of~~ 1/B/1

4. The accused has been in confinement, awaiting trial on the present charges, for ____ days in civil custody, and 21 14 days in military custody, making a total of 21 14 days, of which nil days were spent in hospital.

5. The present age of the accused according to his ~~record of service~~ 1/B/5 is 28 yrs. attestation paper

6. The date of his ~~enlistment~~ 1/B/1 attestation specified in his ~~record of service~~ 1/B/1 is 27 Nov 41 attestation paper

7. ~~The service which the accused is allowed to reckon towards discharge or transfer to the reserve is~~ 1/B/5 ____

8. ~~The accused is entitled to deferred pay or gratuity in respect of~~ 1/B/5 ____ ~~service~~ 1/B/6

9. ~~The accused is entitled to reckon~~ 1/B/6 ____ ~~service for the purpose of determining his pension, etc.~~ 1/B/9

10. The accused ~~is in possession of, or entitled to, no military decoration or military award (or~~ 1/B/6 is in possession of *or* entitled to (*state any military decoration or reward*). C.V.S.M. & Clasp

11. ~~(If the accused is a warrant officer.) The accused before he was made a warrant officer last held the regimental rank~~ 1/B/5 ~~of~~ ____

12. ~~(In the case of an officer.) The accused holds in the army the rank of~~ 1/B/5 ____ ~~dated~~ 1/B/5 ____ ~~and in his regiment (or corps or department) the rank of~~ 1/B/5 ____ ~~dated~~ 1/B/5 ____

W/A.5763/1559 20M. 5/40. P. L/G. T31-3.

EXB
P19.

Schedule of Convictions by a Court Martial or Civil Court, of summary awards under Section 47 of the Army Act and of cases in which trial has been dispensed with of accused.

No. K71199 *Rank* Pte. *Name* Gunanoot, C.B. of 1 Can Repat D Regiment (or as the case may be)

(INSTRUCTION—A verbatim extract from the regimental books, stating these convictions and dispensations with trial, must be inserted.)

Description of court by which tried, or status of officer disposing of the charge or dispensing with trial	Date and place of trial, or summary award under A.A. 47, or of order dispensing with trial.	Charges upon which convicted, or in respect of which trial was dispensed with.	Sentence of the court or authority disposing of the charge, or order of the dispensing authority.	Punishment remitted.
F.G.C.M.	20 Oct 44	A.A. Sec 56(4)	120 days Detention	41 days
F.G.C.M.	15 Feb 45	A.A. Sec 15(1)	60 days Detention	20 days

I HEREBY CERTIFY that the foregoing schedule of convictions and dispensations with trial is a true extract from the regimental books in my custody.

Signed this 7 day of Nov 45

(A.B. Gibbins) Lieut.,
Officer having custody of original Documents.

The record has served a good commissioned officer continuously without reduction to the present date.

In the rank of

In the rank of

Date of Promotion

(INSTRUCTION—If any entry in any of the above paragraphs cannot be found from the regimental books the paragraph must be struck through, except that in the case of a trial by a General Court Martial a fair statement of the proceedings must be inserted in the paragraph concerned awarded accordingly.)

Particulars of any other matter which may

No. K71199 Name Gunanoot C B | Sqn, Battery, or Company | Corps CIC | Date of enlistment 27Nov41 | Service or Proficiency Pay 1.50 1 Jan 43 | 3/17 MFM 6 (B 122) 40/PAY/136 (7010)

Date of last entry in Company Conduct Sheet | No. and date of last drunk | Period not reckoning towards freedom from extra fine | Sheet No. 1 | Signature OC Company, etc | Character

Place	Date of offence	Rank	Cause of Detention cert.	OFFENCE	Name of Witness	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Original Field	sheet 4Feb 44	dest P[te]		royed 27 Nov 43 on completion of two years consecutive service Drunkeness 1[st] offence AA Sec 19	Documen[t]ary	Admonished	14 Feb 44	Maj N M Gemmell	
Field	28Aug 44	P[te]		AA Sec 15(1) AWL 2200 hrs 28 Aug 44 [to] 0245 hrs 31 Aug 44(+o[t]al absence 2 dys, 4 hrs 45 mins)	Documen[t]ary	10 dys For of pay FR&I149(2)	4 Sep44	A/Lt-Col A F MacPherson	Forf 3 dys pay FR&I149 (1)(a)
Field	15Sep 44	Pte		AA Sec 12(1)(a) WOAS deserting his majes[t]ys service in tha[t] he when under special du[t]y, wi[th] int[en]t [to] avoid such special du[t]y absented himself wi[th]out leave from 0500 hrs 15 Sep 44 until appr'H by CPC in Crewe at1055 hrs 3 Oct 44(+o[t]al absence 18 dys 5 hrs, 55 mins)	Documen[t]ary	120 dys de[t]n & Cos[t] of apprn £2-4-4	22 Oc[t] 44	FGCM	Forf 19 dys pay under FR&I 149(1)(a)
						Released from de[t]n on 6 Jan 45 sen[t]ence having expired. Remission earned under rules for de[t]en[t]ion barracks & Mili[t]ary prisons 40 dys.			

ARMY FORM B.296

Statement as to Character and Particulars of Service of Accused.

Number	Rank	Name	Regiment (or as the case may be)
K71199	Pte.	Gunanoot, C.B.	1 Cdn Repat Depot

1. The following is a fair and true summary of the entries in the regimental and squadron, battery or company conduct sheets† of the accused, exclusive of convictions by a court martial or a civil court, of summary awards under section 47 of the Army Act, and of cases in which trial has been dispensed with :—

NOTE.—At a trial by field general court martial this summary may be extracted from the field conduct sheet. The conduct sheet(s) mentioned should be produced in court with this statement but not annexed to the proceedings.

† See para. 677, K.R., 1940.

* The numbers herein stated should correspond with the number of entries in the conduct sheets, proportionate heavy gives to the most serious offence in each entry, and to any recorded special acts of gallantry or distinguished conduct.

INSTRUCTION.—If the charge is for drunkenness the entries for drunkenness must be stated separately and dated.

	* Within last 12 months	* Since Enlistment
For A.A. Sec 15(1)	times	2 times
For A.A. Sec 19	times	1 times
For	times	times
For	times	times
For	times	times

~~Number of instances of gallantry or distinguished conduct~~ Nil

~~There are no entries in the conduct sheets of the accused~~

2. ~~The accused has not been previously convicted, or~~

Previous convictions† of the accused by a court martial or a civil court, summary awards under section 47 of the Army Act, and dispensations with trial under section 73 of the Army Act, are set out in the schedule annexed to this statement.

3. ~~The accused is not under~~ sentence at the present time, or ~~The accused at the present time is under sentence for~~

~~beginning on the day of~~

4. The accused has been in confinement, awaiting trial on the present charges, for ~~days~~

in civil custody, and M 14 days in military custody, making a total of M 14 days

of which nil days were spent in hospital

5. The present age of the accused according to his ~~record of service~~ attestation paper is 28 yrs.

6. The date of his ~~commission~~ attestation specified in his ~~record of service~~ attestation paper is 27 Nov 41

7. ~~The service which the accused is allowed to reckon towards discharge or transfer to the reserve is~~

8. ~~The accused is entitled to deferred pay or gratuity in respect of~~ service

9. ~~The accused is entitled to reckon~~ service for the purpose of determining his pension, etc.

10. The accused ~~is in possession of, or entitled to, no military decoration or military award for~~ is in possession of or entitled to (*state any military decoration or reward*) C.V.S.M. & Clasp

11. (*If the accused is a warrant officer*) ~~The accused before he was made a warrant officer last held the regimental rank~~

of

12. (*In the case of an officer*) ~~The accused holds in the army the rank of~~ dated

~~and in his regiment (or corps or department) the rank of~~ dated

W1.5707/1319 20M. 5/44. P. Ltd. TS-5

EXD
PM

Schedule of Convictions by a Court Martial or Civil Court, of summary awards under Section 47 of the Army Act and of cases in which trial has been dispensed with of accused.

No. K71199 *Rank* Pte. *Name* Gunanoot, C.S. of 1 Can Repat D Regiment (or as the case may be).

(INSTRUCTION—A verbatim extract from the regimental books, stating these convictions and dispensations with trial, must be inserted.)

Description of court by which tried, or status of officer disposing of the charge or dispensing with trial	Date and place of trial, or summary award under A.A. 47, or of order dispensing with trial	Charges upon which convicted, or in respect of which trial was dispensed with.	Sentence of the court or authority disposing of the charge, or order of the dispensing authority.	Punishment remitted.
F.G.C.M.	20 Oct 44	A.A. Sec 56(4)	120 days Detention	41 days
F.G.C.M.	15 Feb 45	A.A. Sec 15(1)	60 days Detention	20 days

I HEREBY CERTIFY that the foregoing schedule of convictions and dispensations with trial is a true extract from the regimental books in my custody.

Signed this 7 day of Nov 45

(A.B. Gibbins) Lieut.,
Officer having custody of original Documents.

If the accused has served in a non-commissioned officer's rank, without reduction, to the present date.

In the rank of ____ Date of Promotion ____

In the rank of ____ Date of Promotion ____

In the rank of ____ Date of Promotion ____

(INSTRUCTION—If the entry in any of the above paragraphs cannot be copied from the regimental books the paragraph must be struck through, except that in the case of a trial by general court-martial the information may be obtained from such records as are available and the paragraph inserted accordingly.)

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Field	29 Jan 45	Pte		AA Sec 15(1) WOAS AWL from 2359 hrs 29 Jan 45 to 0240 hrs 1 Feb 45 (Absent 2 dys,2 hrs,41 mins)	Doc'y	14 dys FP 14 dys pay FR&I 149 (1)(b)	12 Feb 45	Lt-Col A M Young	3 dys Pay FR&I 149(1)(a)
Field	18 Jan 45	Pte		AA Sec 40 Cond to Prej at 0125 hrs 18 Jan 45 did have a female in camp contrary to Unit standing orders	Doc'y	7 dys pay FR&I 149 (2)	18 Jan45	Lt-Col A M Young	
Field	3Feb 45	Pte		AA Sec 15(1) WOAS AWL while undergoing field punishment did absent himself from 0800 hrs 3 Feb 45 until apprh in London at 1100 hrs 6 Feb 45 (Total Absence 3 dys 3 hrs and 10 mins)	Doc'y	Undergo detn for(60) sixty days	14 Feb 45	FGCM	Forfeits 4 dys pay FR&I 149(1)(a)
						Released from Detention Barracks on 24 Mar 45 sentence having expired. Remission earned under "Rules of Detention Barracks and Military prisons 20 days			

No. K71199 Name Gunanoot C B | Sqn, Battery, or Company | Corps CIC | Date of enlistment 27Nov41 | GC Badges | Service or Proficiency Pay 1.50 3/17 MFM 6 1 Jan 43 (B 122) 40/PAS 130 (7010)

Date of last entry in Company Conduct Sheet | No. and date of last drunk | Period not reckoning towards freedom from extra fine | Sheet No. 1 | Signature OC Company, etc | Character

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Name of Witness	Punishment awarded	Date of award or of order (Days with Unit)	By whom awarded	Remarks
Original	sheet	dest	royed	27 Nov 43 on completion of two years consecutive service					
Field	4Feb 44	Pte		Drunkeness 1st offence AA Sec 19	Documentary	Admonished	14 Feb 44	Maj N M Gemmell	
Field	28Aug 44	Pte		AA Sec 15(1) AWL 2200 hrs 28 Aug 44 to 0245 hrs 31 Aug 44(total absence 2 dys, 4 hrs 45 mins)	Documentary	10 dys For of 4 Sep44 pay FR&I149(2)		A/Lt-Col A F MacPherson	Forf 3 dys pay FR&I149 (1)(a)
Field	15Sep 44	Pte		AA Sec 12(1)(a) WOAS deserting his majestys service in that he when under special duty,with intent to avoid such special duty absented himself without leave from 0500 hrs 15 Sep 44 until appr'H by CPC in Crewe at1055 hrs 3 Oct 44(total absence 18 dys 5 hrs, 55 mins)	Documentary	120 dys detn & Cost of apprh £2-4-4	22 Oct 44	FGCM	Forf 19 dys pay under FR&I 149(1)(a)
						Released from detn on 6 Jan 45 sentence having expired. Remission earned under rules for detention barracks & Military prisons 40 dys.			

No. X71199 Name Gunnancot, C B | Sqn, Battery, or Company | Corps CIC | Date of enlistment | GC Badges | Service or Proficiency Pay | 3/17 MFM 6 (AFB 122) 40/P&S/126 (7910)

Date of last entry in Company Conduct Sheet | No. and date of last drunk | Period not reckoning towards freedom from extra fine | Sheet No. 2 | Signature OC Company, etc | Character

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order directing trial to be held	By whom awarded	Remarks
Field	3Jun 45	Pte		AWL from 2300 hrs 3 Jun 45 until 0400 hrs 12 Jun 45 (Absent 8 dys 5 hrs) Sec 15 (1) A A	B42522 Sgt Smiley, W J	8 days Auto forf Pay 28 dys forf Pay of rank	14 Jun 45	Major W O Stockdale	

Certified true copy of original

(A B Gibbins) Lieut
Officer having custody of
Original Document

(PTO)

ACCUSED RECEIPT OF DOCUMENTS

I hereby acknowledge receipt of Charge Sheet and Summary of Evidence relative to my forthcoming trial by F.G.C.M.

C B Gunanoot

(K71199, Pte. Gunanoot, C.B.)

STATEMENT OF ACCUSED RE DEFENDING OFFICER

I hereby request that the Commanding Officer, 1 Can Repat Depot detail a defending officer for my forthcoming trial by F.G.C.M.

C B Gunanoot

(K71199, Pte. Gunanoot, C.B.)

LIST OF EXHIBITS

IN THE PROSECUTION

Exhibit "A" - Certified True copy of Court of Inquiry, dated 9 Jul 45.

Exhibit "B" - Certificate of Apprehension from D.A.P.M., C.M.H.Q.,

Exhibit "C" - Expense Voucher re cost of apprehension.

IN THE DEFENCE

NIL

W.F. Swayne Lt

(W.F. Swayne) Lieut.,
Officer Detailed to take
Summary of Evidence.

LIST OF WITNESSES

IN THE PROSECUTION — Capt. R.M. Smith, 1 Cdn Repat Depot (4 Wing)

IN THE DEFENCE — NIL

W.F. Swayne Lt

(W. F. Swayne) Lieut.,
Officer detailed to take
Summary of Evidence.

LIST OF EXHIBITS

IN THE PROSECUTION

Exhibit "A" - Certified True copy of Court of Inquiry, dated 9 Jul 45.

Exhibit "B" - Certificate of Apprehension from D.A.P.M., C.M.H.Q.,

Exhibit "C" - Expense Voucher re cost of apprehension.

IN THE DEFENCE

NIL

W.F. Swayne Lt

(W.F. Swayne) Lieut.,
Officer Detailed to take
Summary of Evidence.

LIST OF WITNESSES

IN THE PROSECUTION — Capt. R.M. Smith, 1 Cdn Repat Depot (4 Wing)

IN THE DEFENCE — NIL

W.F. Swayne Lt

(W. F. Swayne) Lieut.,
Officer detailed to take
Summary of Evidence.

4B-46.

Rte. Gunanoot C.B.

SCHEDULE.

PART I. PLEA(S), FINDING(S) AND SENTENCE.

Accused: K 71199 Pte Charleston Birt GUNANCOOT - SD & G Highrs - 4 CIRU

	Charge. (Insert "alternative" where applicable.)	Plea. (See Instrs p 2.)	Finding. (See note below.)	(Space for use as required for further charges, accused charged jointly, special findings, etc.)
1st	AA Sec 12 (1)(a)	Not guilty	Not guilty	Not guilty of desertion but guilty of being absent without leave AA sec 15 (4)
2nd				
3rd		20 Oct. 44		
4th				
5th				
6th				

(Note: As to findings for lesser offences see AA 56, RP 44; findings on alternative charges see MML p 483 fn 4 para 2, RP 44; special findings see RP 44 and MML p 753, and in lieu of kit see RP 44 fn 6.)

At present under sentence for N.A. beginning on (date) N.A. (1)

(1. Insert sentence being served, or delete, if not applicable. See RP 46(A). Information should be found on MF B355 or AF B296.)

Time in confinement awaiting present trial—a total of 17 days, of which Nil days were spent in hospital.(1)

(1. See RP 46(A) fn 2. Information should be found on MF B355 or AF B296 admitted in evidence under £2.)

Sentence Awarded by the Court: To undergo detention for one hundred and twenty days, and to be put under stoppages of pay until he has made good the sum of £ 2-4-4 cost of apprehension.

(Sgd) N.A. Judge-Advocate, if any. 20 OCT. 44 Date awarded. (Sgd) J.E. Bowman Major President. (RP 45, 50.)

(See back of Convening Order as to assembly and disposal of record after trial.)

PART II. MINUTE WHERE CONFIRMATION RESERVED. (AA 54(5), RP 120(F), MML p 760.)

Date (Sgd) Commanding

PART III. DECISION OF CONFIRMING OFFR ON FINDING(S) AND SENTENCE.

(For duties and powers see AA 54, 57, RP 37(D) fn 6, 46(A), 51-56, 120, MML pp 759-761, KR Con 567-577. Acquittals require no confirmation and cannot be revised: AA 54(3). Sending back finding or sentence for revision by Court: AA 54(2), RP 120(C). If not confirmed, accused may be tried again: AA 137, MML p 64. Minute of confirmation or non-confirmation may be altered before promulgation: RP 53, MML p 65. Quashing after promulgation: KR Con 572. Duties and powers of reviewing offrs: AA 57, 57A, RP 53A, 54. The Confirming Offr must sign here personally. AA 172 fn 1.)

My decision on the finding(s) and sentence set forth in Part I is:

Confirmed

~~I direct that the accused be not committed to prison or detention barracks until further orders.~~ (1. AA 57A. Delete if not used.)

Date 23 Oct 44 (Sgd) Brig Comd, Commanding "D" Gp, Can Rft Units Confirming Officer.

PART IV. PROMULGATED AND EXTRACTS TAKEN. (RP 53, KR Con 576, 577.)

Accused.	Date.	Signature of Offr.
K 71199 Pte. Gunanoot, C.B.	25 Oct 44 D.O. 269 d/25 Oct 44	(A. [illegible]elsier) Lt. & A/Adjt. 4 Cdn Inf Rft Unit, C.A.E.

ALL DELETIONS AND ALTERATIONS WILL BE INITIALLED.

RECEIVED 27 OCT 1944 JAG BRANCH C.M.H.Q.

RECORDED AT CMHQ IN AB 160 4388

FIELD GENERAL COURT-MARTIAL

CFAAB (1st Div) (2nd Div) 40/P AC 8/1638 (2nd Div)

Convened by Brigadier J.E. Ganong, ED Comd HQ "D" Gp CRU dated 19 Oct 44

ACCUSED.

(As to the trial of two or more charged jointly see RP 16, 71, 109. As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Con 308, 328, 330.)

Number.	(a) Prmnt R. (b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Units.
K 71199	Pte	Charleston Birt	GUNANCOOT	SD& G Highrs 4 CIRU

PROCEEDINGS REVIEWED

[illegible] K Lieutenant

2 Nov 44

REVIEWING OFFICER, JAG BRANCH C.M.H.Q.

PROCEEDINGS OF TRIAL.

Held in the Fd in (country) England on (date(s)) 20 OCT. 44

RECORD FORM A—OPENING PROCEEDINGS AND ARRAIGNMENT.

A1. The President, Members, waiting Member, JA, if any, and Offrs under instr, if any, assemble, and the Court is closed.

(PRINTED MATTER, NOT IN ITALICS FOR GUIDANCE, WILL BE DELETED, IF NOT USED OR APPLICABLE, AND INITIALLED BY PRES OR JA. The Schedule referred to throughout is on p 4. Citations do NOT include all relevant fns RoL. For guidance on procedure when a variation in this form arises, see Item for GCM in MML pp 741 to 759. A brief record of such variation will be made and given a number having reference to appropriate or preceding point number herein. See back of Convening Order, CF A95, for oaths and instrs on how to record addresses, evidence, etc, which matters are hereafter called "Notes". As to general provisions for conducting the trial see AA 53, RP 50, 62-70, 72, 74, 94, 102, 119, 132.)

A2. The President initials and lays before the Court the Convening Order and Charge Sheet(1) attached thereto.(2) The Court is satisfied that it is properly convened and constituted(3), accused is (are) amenable to military law, and each charge discloses an offence.(3)

(1. As to use of Summary of Evidence see RP 17 fn 6. 2. AA 49, 50, RP 103-107. 3. RP 11-13, 23, 24.)

A3. The Court is opened. The accused is (are) brought before the Court. At 1330 hours trial commences.

A4. The Prosecutor produces a Medical Certificate that accused is (are) fit to undergo trial by court-martial. ~~The Prosecutor informs the Court that accused elected to be tried by court-martial instead of being dealt with summarily by the CO.~~(1)

(1. KR Con 557. 2. AA 46(2), RP 60 fn 1. For effect see KR Con 563(c). Delete, if not applicable.)

A5. President to accused: Do you object to N.A. as interpreter? Ans N.A.

The Interpreter is sworn.(1) Do you object to 2400 hrs 26 Oct 44 as shorthand writer? Ans No

The shorthand writer is sworn.(1)

(1. RP 72. Delete, if none employed.)

A6. The Convening Order and names of the President and Members of the Court are read to the accused.(1) President to accused: Do you object to be tried by me as President or by any of the Members of the Court? Ans No (2)

(1. RP 110. 2. If no objection, waiting member retires. RP 68(B). If objection, see procedure AA 51, RP 25, 71, 78, MML p 762.)

A7. The President, Members, JA, if any, and Offrs under instr, if any, are sworn.(1) The following are the ranks, names and units of the offrs comprising the Court, etc:

President	Major	J.E. Bowman	AB Highrs	3 CIRU
Member	Capt.	D.M. Jacquest	L. Fusrs	1 CIRU
Member	Lieut.	H.C. Gow	N'ld N.S. Highrs	4 CIRU
Judge-Advocate				
Prosecutor	Lieut.	C.B. Welch	S.D.G.	4 CIRU
Defending Offr	Lieut.	G.L. Pullett	HPE	4 CIRU

Questions by President: Is the Prosecutor a lawyer? Ans No Is the Defending Offr a lawyer? Ans No (2)

(1. RP 26, 27, 109, 111. List of offrs under instr will be returned separately with proceedings for information of Conv Offr.)
(2. If Pros a lawyer and Def Offr not, accused is entitled to an adjournment when RP 89 (B) and fn 2 were not followed. See D1 p 3.)

A8. The accused A71199 Pte Charleston Birt Gunanoot before arraignment make(s) (no) (a) plea.

(1. If a special plea is made for separate trial on one or more charges (RP 62(E), 108), or as to the jurisdiction of the Court (RP 34, 35(A), 113), or in bar of trial (RP 36), or as to accused's mental fitness to stand trial (AA 130, RP 57), or in one of several accused charged jointly to be tried separately (RP 16, 71), such plea, the addresses made in support or against, the evidence, if any, and finding are recorded per Notes. For forms of record see references in fns to RoP cited. Insert in AB rank and name of the accused making the plea.)

A9. The accused is (are) arraigned (separately) on all charges in the charge sheet.(1) The accused does (does not) object to any charge.(2) There is no amendment to be made to the Charge Sheet.(3) The President records the pleas in Part I of the Schedule.

(1. RP 34, 112. See para 1 of Instrs p 2. When more than one Charge Sheet see RP 62; when several accused to be tried separately see RP 71(C), and use separate copies of CF A96 to record proceedings. 2. RP 32, RP 33. If otherwise, delete and make appropriate record per Notes.)

A10. The Court (is closed and) considers the Instrs on Procedure after Arraignment at top of p 2. The proceedings are continued on Record Form Part E

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

INSTRUCTIONS ON PROCEDURE AFTER ARRAIGNMENT.

1. *The accused may not plead or be found Guilty on more than one of two or more charges laid in the alternative.* (*RP* 37(*A*).) *As to withdrawal of alternative charges by Prosecutor see RP* 35(*C*). *No other charge can be withdrawn for any reason without authy from Convening Offr. If Convening Offr concurs, Court may accept plea of Guilty to lesser, etc, offence.* (*RP* 44(*H*).) *Accused may change a plea of Not Guilty to Guilty during trial.* (*RP* 38.) *As to refusing to plead or not pleading intelligibly see RP* 35(*A*). *As to plea when sentence may be death see RP* 35(*D*).

2. *The proceedings on each charge sheet* (*RP* 62) *after arraignment will be conducted as follows in the respective circumstances stated :*

I. If pleas to all charges are GUILTY, use Record Form B below.

II. If pleas to all charges are NOT GUILTY, use Record Form D on p 3.

III. If pleas to some charges are GUILTY and to other charges are NOT GUILTY and,

(a) Such mixed pleas occur when there are no alternative charges in the Charge Sheet, use Record Form C below. (*RP* 37(*A*).)

(b) Such mixed pleas occur in a set of two or more charges laid in the alternative, see RP 37 (*A*) *and fn* 2 *as to discretion of Court,* (i) *to try the accused on all such alternative charges as if he had pleaded Not Guilty thereto, or,* (ii) *to record the pleas as the findings of Court. After deciding between* (i) *and* (ii), *Court will proceed under foregoing instrs as may be appropriate to result of its decision. See M M L p* 744 *Instrs* (2).

3. *As to responsibility of President to accused see RP* 59, 60(*C*) ; *powers and duties of JA see RP* 103 ; *duty of Prosecutor see RP* 60(*A*) (*ii*) ; *duty and privileges of accused and Defending Offr see RP* 60(*C*), 87(*C*), 91, 92 ; *swearing and withdrawal of witnesses from Court see RP* 81, 82 ; *questioning of accused see RP* 80, 87(*C*), 92(*B*), *and of witnesses see RP* 83-85 ; *calling or re-calling of witnesses by Court, etc, see RP* 75-79, 86, 116 ; *use of Summary of Evidence at Trial see RP* 17(*E*) *fn* 6 ; *and responsibility of JA or Pros to record proceedings see RP* 94, 96.

RECORD FORM B—PROCEEDINGS ON PLEAS OF GUILTY TO ALL CHARGES.

B1. The President or JA, if any, complies with RP 35(B) by explaining to the accused the nature and meaning of the charge(s)(1), and that on his plea of Guilty there will be no regular trial but merely a consideration of the sentence to be awarded after he has been given an opportunity to make a statement in reference to the charge(s), call witnesses as to character and make an address in mitigation of punishment.(2)
(1. *RP* 35 *fn* 3. 2. *MML p* 54 *para* 47.)

B2. President to accused : The Court will now receive any statement you desire to make in reference to the charge(s).(1) If it appears from your statement that there are circumstances which indicate that you do not understand the effect of the plea of Guilty(2), or which show provocation or extenuation in respect of which in your interest the witnesses for the Prosecution should be examined(3), we shall advise you to change your plea to Not Guilty. In making a statement you will not be sworn or subject to cross-examination ; and anything you say will not be used in evidence against you after you change your plea. If, however, it appears to the Court that your statement affects only the amount of punishment to which you are liable, you will not be advised to change your plea and you will be given an opportunity later to prove your statement by sworn testimony, if you so desire.(4)

President to accused : Do you wish to make a statement ? Ans ..... (5)
(1. *RP* 37(*B*). 2. *RP* 37(*D*) *fn* 6. 3. *RP* 35(*B*) *fn* 5 *para* 3, *MML p* 54 *para* 47. 4. *See para* E3 *of Record Form* E.
5. *Statement, if any, recorded per Notes.*)

B3. The Court considers the accused's statement.(1) The Court decides (not) to advise accused to change his (their) plea(s) of Guilty to Not Guilty on ..... charge(s). The accused is (are) so informed, and he (they) change(s) his (their) plea(s) on ..... charge(s). Part I of the Schedule is amended accordingly.
(1. *Court may be closed to consider the statement. Delete whole or part not used.*)

B4. On the charge(s) to which the plea(s) of Guilty is (are) not changed the President records finding(s) of Guilty in Part I of the Schedule.(1)
(1. *RP* 35(*B*). *If any plea(s) is (are) changed, use Record Form C or D as appropriate.*)

B5. The Summary of Evidence is marked Ex ....., initialled and read aloud by the President.(1)
(1. *If there is no Summary, or if it is inadequate, comply with RP* 37(*B*). *If there is any evidence inconsistent with any plea standing as Guilty, Court will advise accused to change such plea and, if changed to Not Guilty, try such charge(s) by use of paras* D1 *to* D8 *inclusive of Record Form D on p* 3. *RP* 37(*D*).)

B6. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

RECORD FORM C—PROCEEDINGS ON MIXED PLEAS OF GUILTY AND NOT GUILTY.

C1. As to the charges on which accused pleaded NOT GUILTY the trial is continued by using paras D1 to D8 inclusive of Record Form D on p 3 before proceeding with C 2.(1)
(1. *RP* 37(*A*) (*E*).)

C2. The charges on which accused pleaded GUILTY to be read to him (them) again, and the trial is continued by using paras B1 to B5 of Record Form B above.(1)
(1. *Under B5 such parts only of the Summary of Evidence to be read as relate to the charges dealt with under C2. If any plea is changed to Not Guilty, trial thereon proceeds by complying with paras D1 to D8 inclusive in Record Form D on p 3 and making an appropriate record thereof on a separate sheet.*)

C3. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

Pin here Loose Sheets of Record.

RECORD FORM D—PROCEEDINGS ON PLEAS OF NOT GUILTY TO ALL CHARGES.

D1. President to accused : Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity to prepare your defence ? Ans NO (1)
(1. *If "yes", see RP* 39(*A*) *for procedure. Statement or evidence, if any, is recorded per Notes.*)

D2. The Prosecutor makes (an) (no) opening address.(1)
(1. *RP* 39(*B*), 60(*A*) (*B*), 90, 92(*C*) (*D*). *Record address per Notes, subject to RP* 95(*C*).)

D3. The evidence for the Prosecution is taken.(1)
(1. *RP* 39(*C*), 114, *KR Can* 555. *Record evidence per Notes. As to Prosecutor giving evidence himself see RP* 39(*D*) (*E*).)

D4. The Prosecution is closed.(1) The Defending Offr submits that the evidence for the Prosecution does not establish a prima facie case against the accused on the NA charge(s).(2) The Court is closed, and considers the submission.(3) The Court is re-opened, and the President announces that the submission is disallowed on the NIL charge(s), and allowed on the NIL charge(s), and that, accordingly, the trial will proceed on the former, but the accused is (are) found Not Guilty on the latter charge(s).(4)
(1. *Delete remainder of this para, if submission not made.* 2. *Arguments on submission, answer and reply are recorded per Notes.* 3. *RP* 40 *fn* 1. *See MML p* 72 *paras* 12-14 *and p* 81 *para* 42. 4. *Delete part not used. If accused acquitted on all charges, use second alternative in para* D8.)
NB : If trial proceeds, accused must be allowed great latitude in making his defence, and the Court should not stop his defence solely on ground of irrelevance. (*RP* 60(*C*), 114, 115.)

D5. President to accused : You will now proceed with your defence.(1) You may, if you wish, give evidence yourself on oath as to the facts or your character or both, in which case you will be subject to cross-examination.(2) You may, however, make a statement without being sworn, and you will not be subject to cross-examination.(3) But a statement which could have been made on oath will not carry with the Court the same weight as sworn testimony.(4) You may call witnesses in your defence and as to character, whether you give evidence or make a statement or do neither.

President to accused : Do you wish to give evidence yourself as a witness, make a statement, or do neither ?
Ans [illegible] Do you intend to call witnesses on your behalf ?
Ans Yes Are they witnesses as to character only ? Ans NO
(1. *RP* 115. 2. *RP* 40(*A*), *see* 80(*D*). 3. *RP* 40 *fn* 10. 4. *RP* 40 *fns* 2, 9.)

D6. Consequent on the answers recorded in para D5 the appropriate procedure for the defence is followed.(1)
(1. *RP* 114, 115, 116. *For procedure see Notes on back of Convening Order. Cf RP* 85. *Evidence for accused as to his character should, if in his interest, be given before the finding. See RP* 46(*A*) *fn* 1, 86(*C*). *Notes the further opportunity in para* E1 *of Record Form* E. *Record per Notes addresses, statement, evidence and any summing up by the JA under RP* 42, 103(*e*).)

D7. The Court is closed to consider the finding(s).(1) The finding(s) of the Court is (are) recorded in Part I of the Schedule.(2) The Court is re-opened.
(1. *RP* 43, 117(*A*). *See Notes in Part I of Schedule.* 2. *RP* 44(*E*).)

D8. The President announces the finding(s), if any, of Not Guilty, and states to the accused that the finding(s) of the Court on the NIL charge(s), being subject to confirmation, will be promulgated later.(1)
Or, The President announces that the accused is found Not Guilty on all charges and is to be released forthwith, and that the proceedings are accordingly terminated. Part I of the Schedule is dated and signed.(2)
(1. *AA* 54(*7*) (*d*), *RP* 45, 120(*6*). 2. *AA* 54(*7*), *RP* 45, 117. *The alternative announcement is not applicable when there are pleas of Guilty outstanding and dealt with under Record Form B or C.*)

D9. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E below.

RECORD FORM E—PROCEEDINGS ON CONVICTION BEFORE SENTENCE.

E1. President to accused : Do you wish to give evidence yourself or to call any witnesses as to your character ?(1)
Ans NO.
(1. *If evidence has already been given by accused or his witnesses as to his character, delete this para. RP* 37(*C*) *fn* 4, 46 *fn* 1. *Accused and witnesses are sworn. Evidence recorded per Notes.*)

E2. The Prosecutor produces Statement(s) as to Character and Particulars of Service(1), and certified true copy (copies) of Conduct Sheet(s)(2), purporting to refer to the accused, which he submits to the Defending Offr for examination, and then to the Court for admission in evidence. The Court is satisfied that these documents refer to the accused, because (i) they purport to be signed in the manner required by AA 163(1) (g) (h), and (ii) they purport to refer to (a) soldier(s) having the same number, rank, name and corps as the accused. Admitted in evidence and marked Ex "K" and Ex "L" respectively.(3)
(1. *MFB* 355 *or MFB* 296. 2. *MFM* 6. 3. *RP* 46, *KR Can* 558. *If above documents not produced, see RP* 46 *fn* 1 *para* 1.)

E3. President to accused : Do you wish to address the Court on the Statement(s) and Conduct Sheet(s), and in mitigation of punishment ?(1) Ans NOTHING FURTHER (2)
(1. *RP* 37(*C*), 46(*D*). 2. *Address, if any, recorded per Notes. Court should permit accused or his witnesses to prove on oath anything here or previously stated which would affect the amount of punishment. RP* 37(*F*) *fn* 7.)

E4. The President states that the Court is closed to consider the sentence, and that the sentence to be awarded by the Court, being subject to confirmation, will not be announced, but will be promulgated later, and the proceedings in open court are accordingly terminated.(1)
(1. *AA* 54(*6*), *RP* 120(*A*).)

E5. The Court considers the sentence.(1) The President records the sentence in Part I of the Schedule, which is dated and signed by him and the JA, if any.(2)
(1. *When several accused tried separately see RP* 71 (*D*). *One sentence only, comprised of the punishment or punishments laid down in AA* 41, 44 *and its proviso, is to be awarded to cover all charges in all charge sheets on which accused found guilty. RP* 48. *As to sentences see AA* 44, 138, 182, *RP* 46-50, 69, 118, 119(*A*), *KR Can* 308, 330, 563-566, *Overseas RO* 309, 2322, *MML p* 60, 757-759. *As to sentences assigned for civil offences by the law of England see AA* 41(*5*), *MML p* 130. *When accused already under sentence of imprisonment or detention see AA* 44(1B), 68(1), *KR Can* 564. 2. *RP* 50. *As to releases from arrest by Confirming Offr see KR Can* 567. *As to assembly and disposal of record after trial see Instrs on back of Convening Order.*)

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

Ex. "A"

CHARGE SHEET

The accused, K 71199 Private Charleston Birt GUNAWOOT, Stormont, Dundas, and Glengarry Highlanders, on the strength of No 4 Canadian Infantry Reinforcement Unit, a Soldier of the Canadian Army Overseas, is charged with:

FIRST CHARGE — WHILE ON ACTIVE SERVICE, Deserting His Majesty's Service,

Section 12(1)(a) Army Act

in that he,

In the Field, when under orders for a special duty, with intent to avoid such special duty absented himself without leave from 0600 hours 15 September 1944 until apprehended by the C.P.C. in Crewe at approximately 1055 hours 3 October 1944, thereby incurring cost of returning him to his unit in the amount of £2-4-4. Total Absence 18 days 5 hours 55 minutes.

(G.H. Christiansen) Lt-Col.
A/Commander
4 Cdn Inf Rft Unit, C.A.E.

IN THE FIELD
12 OCTOBER 1944

To be tried by Field General Court Martial

(J.E. Ganong) Brigadier
Commanding
"D" Group, Cdn Rft Units

In the Field
19 Oct 44

Ex. "B"

FIELD GENERAL COURT-MARTIAL

CF.A.86 (In lieu of AF.A.86) 40/P.&N./1697 (2nd ed.)

(Whether the accused to be tried is under his comd or not, a FGCM may on application to him be convened by any offr of Cdn Army Overseas, or of any other force if authorized in law, in immediate comd of troops on active service, subject to RP 105(C) and restrictions imposed by appropriate authy. AA 49, 50, RP 104-107, 114. As to the duties and privileges of the Convening Offr in dealing with the application see MML Chap V paras 20 and 23. RP 87(B).

There should be a separate Convening Order for each person to be tried separately by the same Court. RP 71(C), 109. As to separate charge sheets see RP 62, and as to separate trial on charges in the same charge sheet see RP 108. As to two or more accused charged jointly see RP 16, 109.

As to reasons for showing (a) permanent or confirmed rank, and (b) apptmt, A/rank or A/apptmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

ACCUSED.

Number.	(a) Prmnt R. (b) Apptmt, A/R or A/Apptmt.	Full Christian Names. Surname.	Unit.
K 71199	Pte	Charleston Birt GUNANOOT	SD & G Highrs 4 CIRU

CONVENING ORDER.

1. Whereas complaint has been made to me, the undersigned, that the person(s) named above as the accused, being subject to military law, has (~~have~~) committed the offence(s) set forth in the Charge Sheet(s) attached and on (date) 19 Oct 44 endorsed by me, (~~or by an offr of my staff for me~~), "To be tried by Field General Court-Martial".

2. And whereas I am of opinion that it is not practicable that such offence(s) should be tried by an ordinary General Court-Martial; (~~and that it is not practicable to delay the trial for reference to a superior authority etc.~~)

(Delete part in brackets when not required for compliance with RP 105(C).)

3. I hereby convene a Field General Court-Martial to try the said person(s), and to consist of the Offrs appointed or detailed hereunder.

4. ~~I am unable to appoint (a) three Offrs to form the Court, (b) a Fd Offr as Presidente, for the reasons I have attached hereto.~~

(AA 49, RP 106(B), 107(A). Delete the whole or part, if not applicable.)

5. ~~I also appoint as Judge-Advocate thereat the Offr mentioned hereunder.~~

(RP 106(E). Delete, if none appointed.)

PRESIDENT.

(Rank.)	(Must be named. RP 104.)	(Unit.)
Major	J.M. Bowman 46 Highrs	3 CIRU

MEMBERS.

(Rank.)	(Named or detailed. RP 106.)	(Unit.)
1 Captain	to be detailed by Commanding Officer	1 CIRU
1 Lieutenant	to be detailed by Commanding Officer	4 CIRU

WAITING MEMBER.

(Rank.)	(Named or detailed, if any. RP 106.)	(Unit.)

JUDGE-ADVOCATE.

(Rank.)	(Must be named, if any. RP 106.)	(Unit.)

On Active Service in the Fd

in England
(Country.)

Date 19 Oct 44

(Signed personally. RP 105 fn 2.)

Brigadier
(Rank.)

Commanding HQ "D" Group, Cdn Rft Units
Convening Officer.

CONVENING OFFR WILL INITIAL ALL DELETIONS AND ALTERATIONS

(See overleaf for oaths and notes for use on trial.)

Ex. "C"

Medical Officer's Certificate. 40/25
K.R. (Can.), para 557.

I certify that I have this morning examined No. A 711 82
Pte. Gal. Albert C. of H.Q.C.A.B.A.
and in my opinion, he is fit to undergo trial by Court martial.
Station. F.I.E.L.D.
Date. 20-10-44 (Sgd.) [signature] (Medical Officer)

(Canadian Reinforcement Units Routine Order No. 3, para 27, d/6 Jan 42)

At commencement of the trial the Prosecutor presented to the Court extract from Part II Orders marked Exhibit "G", certificate of apprehension marked Exhibit "H" and Certificate relating to cost of apprehension marked Exhibit "I". The documents all purported to refer to a person of the same number, rank, name and unit as the accused. The documents were accepted by the Court. Defence has no objections.

Major

 Ex. D

In the case of Number K71199, Private C.B. GUNANOOT, Stormont, Dundas and Glengarry Highlaners, on the strength of No 4 Canadian Infantry Reinf. Unit.

OPENING ADDRESS BY THE PROSECUTING OFFICER

The accused, Pte. Gunanoot, was charged with desertion under Section 12 (1)(c) Army Act, in order to prove desertion. It is necessary to prove definitely the time of the absence, and to prove that he went absent with the intention of avoiding some special duty. I have witnesses to prove the time the absence started xxxxxxxx, and witnesses to prove definitely that he was warned for draft and he signed statement acknowledging that he had been warned , and after that went A.W.L., and now call on Sgt. Scourse, as the first witness:

R.P. 83 B 105 6000 Graphic Press Ltd Bowman Ont

FIRST WITNESS FOR THE PROSECUTION

Number B36676, Sgt. Scourse, T.R., on the strength of 4 Canadian Infantry Reinforcement Unit, having been duly sworn states as follows:-

I am No. B36676, Sgt. Scourse, T.R., on the strength of 4 Canadian Infantry Reinforcement Unit, employed as Orderly Sergeant in the Draft Company, "P" Coy, at 4 CIRU.

Q.1 What is your job?
A.1 I am Orderly Sgt. in "P" Coy, 4 C.I.R.U.

Q.2 Is that a permanent job?
A.2 Yes sir.

Q.3 When did you first report the absence of the accused?
A.3 At 0500 hours, 15 September, 1944, sir.

Q.4 Did you have any definite proof that he was absent that morning or did you just assume it?
A.4 He was not in his bed. On his bed there a large piece of cardboard with his number, rank and his name, and a notation at the bottom of it "Please take someone".

Q.5 Would you recognize that if you saw it?
A.5 Yes sir.

Q.6 Is this the piece of cardboard you mention?
A.6 Yes sir.

Q.7 What did you do then?
A.7 I made an immediate search of "P" Coy Lines.

Q.8 Was he on parade at approximately the time when you had a roll call?
A.8 We took the men on a blanket parade, and then from there to breakfast and from breakfast we mustered them, and he failed to answer his name.

Q.9 Was he on parades previous to that?
A.9 In the morning first thing, sir.

Q.10 Did you see him around or did you see him on any parades subsequent to the times you first reported him absent?
A.10 I wouldn't say, sir.

The witness is now cross-examined by the Defence

Q.1 You say you saw the accused on parade on the morning of the 14th, September, 1944, that is the day prior to his going absent without leave. Did you see him on parade in the afternoon.
A.1 I wasn't on that parade, sir.

Q.2 What were you doing in the afternoon.
A.2 I was in the Orderly Room, sir.

Q.3 Did you see the accused in the Orderly Room?
A.3 No sir.

MB

Ex. D

FIRST WITNESS FOR THE PROSECUTION (con'd)

Q.4 Are you sure?
A.4 Not in the Orderly Room, sir.

Q.5 Did you see the accused during the afternoon?
A.5 No, I didn't, sir.

Q.6 You never left the Orderly Room all afternoon?
A.6 I wouldn't say that sir.

Q.7 Did you send anyone out to tell the accused to report to the Orderly Room?
A.7 No sir.

Q.8 It was quite possible you did though?
Q.8 I wouldn't say that either, sir.

Q.9 Who was the Orderly Corporal that afternoon?
A.9 At that time there were a number of different Orderly Corporals and other duties, sir, as there were a lot of men in the company.

Q.10 Was there a Corporal Chisholm on that parade?
A.10 I don't remember that, sir. There are such a lot of men going in and out of that company, that it is hard to remember what happens.

Rules of Procedure 83(b) have been complied with.

Major

SECOND WITNESS FOR THE PROSECUTION

Lieut-Colonel G.H. Christiansen, Stormont, Dundas and Glengarry Highlanders, on the strength of 4 Canadian Infantry Reinforcement Unit, Officer Commanding "A" Wing, having been duly sworn states as follows:-

I am Lt.-Col. G.H. Christiansen, S.D. & G. Highrs, on the strength of 4 Canadian Infantry Reinforcement Unit, as Officer Commanding "A" Wing.

Q.1 Did you hold a Muster Parade at "F" Coy, 4 C.I.R.U. on the 14th of September, 1944.
A.1 Yes, at 1335 hours on the 14 Sep 44. I read the Warning Order to a draft in Waterloo Theatre.

Q.2 Do you remember, sir, if there was any absentees from that parade?
A.2 Major Stainton had called the roll, and when I arrived, he reported to me that all members of the draft were present.

Q.3 You definitely read out the warning as to what the effect would be if anyone skipped that draft, did you?
A.3 I read out the Warning Order that are laid down for such parades, and signed the copy that I read out at that time.

The witness is cross-examined by the Defence

Q.1 Would you know whether the accused was or was not on that parade?
A.1 Not to my own knowledge.

Q.2 Were you present and did you see the personnel on that parade sign this Nominal Roll?
A.2 I was not present at the signing.

Rules of Procedure 83(b) have been complied with.

Major

THIRD WITNESS FOR THE PROSECUTION

Major J.K. Stainton, Canadian Infantry Corps, on the strength of 4 Canadian Infantry Reinforcement Unit, Officer Commanding "F" Company, having been sworn, states as follows:

JKS

I am Major J.K. Stainton, C.I.C., on the strength of 4 Canadian Infantry Reinforcement Unit, Officer Commanding "F" Company.

Ex. D

THIRD WITNESS FOR THE PROSECUTION

Q.1 Do you recognize the accused?
A.1 Yes. It is Pte. Gunanoot.

Q.2 Were you present on a Muster Parade held on the 14th of September, 1944? by Col. Christiansen
A.2 The Muster Parade was held at 1345 hours.

Q.3 Were any absentees reported?
A.3 No sir.

Q.4 Did you personally check the roll?
A.4 I called the roll myself on the Muster Parade and all names were answered.

Q.5 Was Pte. Gunanoot's name on that roll?
A.5 Yes, it was.

Q.6 Do you witness the members of the draft signing?
A.6 Documents to the effect that they had been warned were there. I waited to see that they were signed.

Q.7 Can you definitely say, sir, that the accused did sign?
A.7 Yes.

Q.8 You definitely saw him sign?
A.8 Yes.

Q.9 Have you the roll?
A.9 The original is in the files of 4 C.I.R.U.

(The Court examined this roll but it is not submitted as an Exhibit)

Q.10 Were you present when Colonel Christiansen warned these people?
A.10 Yes.

Q.11 Was there any doubt in your mind that some of the members might not have heard the warning?
A.11 It was in a closed building.

Q.12 How many men were on that draft?
A.12 Roughly about 60 on the draft.

Q.13 Who called the Muster Roll that day?
A.13 I called the roll.

The witness is now cross-examined by the Defence

Q.1 You check off whether a man is present or absent.
A.1 Yes sir.

Q.2 When did Pte. Gunanoot sign this original draft warning?
A.2 It would be approximately 1400 hours by the time the warning order was read, and as they were listed alphabetically, it would be some time before it came down to his name.

Q.3 This Appendix "A" was signed where?
A.3 In Waterloo Theatre.

Q.4 Why was Pte. Gunanoot called over to the Orderly Room at 1600 hours that afternoon?
A.4 There was some question as to his medical standing as to whether he was fit to go on the draft. I phoned the M.O. to see if he was fit, and the M.O. said he was fit, and I called him in to tell him that he was physically fit to go on draft.

AHB

Ex. D

THIRD WITNESS FOR THE PROSECUTION (con'd)

Q.5 Was Sgt. Scourse present at that time?
A.5 I do not recall. Usually the men are brought in by an N.C.O.

Q.6 Was it Cpl Chisholm?
A.6 Cpl Chisholm was only in the Unit a short time. He was an OCTU candidate.

Q.7 You know if the accused was in the Orderly Room on that afternoon?
A.7 Yes, I recall having him in there to warn him that he was physically fit for draft.

Q.8 He did not sign any papers that afternoon?
A.8 Not to my knowledge.

Rules of Procedure 83(b) have been complied with.

FOURTH WITNESS FOR THE PROSECUTION

B36518, C.S.M. Porter, G., on the strength of 4 Canadian Infantry Reinforcement Unit as Company Sgt-Major of "F" Coy (Draft Coy), having been duly sworn, states as follows:-

I am B36518, C.S.M. Porter, G. on the strength of 4 Canadian Infantry Reinforcement Unit, employed as C.S.M. of the Draft Coy ("F" Coy)

Q.1 Do you recognize the accused sitting there?
A.1 Yes sir.

Q.2 What is his name?
A.2 Private Gunanoot, sir.

Q.3 Were you present on the Muster Parade on 14 Sep 44?
A.3 Yes sir.

Q.4 Did you call the roll?
A.4 I paraded the draft to the Theatre at 1330 hours, and the accused was present on that parade. I had the draft seated for a warning by the Colonel. Just before 1345 hours, the accused, Pte. Gunanoot, came in. He sat just inside the door, and I asked him where he had been, because he was absent at 1100 hours. He told me he had been down to get his treatment for V.D. I was present when the draft warning was read by the Colonel and witnessed the signature the accused signed on the sheet.

Q.5 You witnessed him signing the sheet?
A.5 Yes sir.

The witness is cross-examined by the Defence

Q.1 At 1330 hours, you say the accused was absent from the original muster roll called?
A1 Yes sir.

Q.2 That roll call was taken by whom?
A.2 I called the roll, sir.

Q.3 Was there a second roll call?
A.3 Yes sir. By Major Stainton, when they got into the theatre. The accused was present on that parade.

Q.4 Who arrived in the Hall first, Colonel Christiansen or the accused?
A.4 The accused, sir.

Q.5 You are positive?
A.5 Yes sir. I looked at my watch when the accused arrived and it was just about 2 minutes before 1345

FOURTH WITNESS FOR THE PROSECUTION (con'd)

A.5 and the warning had not taken place yet.

Q.6 Had the roll been called?
A.6 The Major calls the roll in the presence of the Colonel.

Q.7 He did that day?
A.7 Yes sir.

Q.8 Did you see the accused sign this?
A.8 Yes.

Q.9 Whereabouts was that done?
A.9 At the Legion Theatre.

Q.10 Did you see the accused in the "F" Coy Orderly Room?
A.10 No sir.

Q.11 Can you tell me who would be duty Corporal on that date?
A.11 We have permanent Orderly Sergeants. For Orderly Corporal we usually have a Cpl that is going on draft. I cannot say which Cpl it was, sir.

Rules of Procedure 83(b) have been complied with.

J.H. Bowman, Judge

FIRST WITNESS FOR THE DEFENCE

K71199, Pte. C.B. Gunanoot, S.D.& G. Highrs, on the strength of 4 C.I.R.U., being the accused, and previously having been sworn, states in his own defence:-

Q.1 (By the Court) You may wish to give evidence yourself as to the qualities or character, or both, in which case you will be subject to Court's examination. You may, however, make a statement without being sworn.

Q.1 Will you tell the Court in your own words what you did from 1330 hours 14 Sep 44?
A.1 I was present at the 1200 parade at 4 C.I.R.U. The Orderly Cpl came over to the billets which we were staying in, and said that I was to report at 3 C.M.C. at 1:00 o'clock. ~~I~~ I did report to 3 C.M.C. at approximately 1:00 o'clock.

Q.2 Who treated you at 3 C.M.C.? Do you recall his name?
A.2 Sgt. Anderson, sir.

Q.3 How long were you at 3 C.M.C.
A.3 Sgt. Anderson made me wait until practically 2:00 oclock.

Q.4 Did he give you a reason for keeping you?
A.4 He was on duty and very busy.

Q.5 Were you at any time in the Legion Theatre that afternoon?
A.5 No sir, I have not been there.

Q.6 Were you ever present on a parade where Colonel Christiansen spoke to you?
A.6 No sir.

Q.7 Not that day at all?
A.7 Not on the 14th of September.

Q.8 Tell me now what took place after you came back from 3 C.M.C.?
A.8 I went to the Paymaster and was paid.

JHB

Ex. D

FIRST WITNESS
FOR THE DEFENCE
(continued)

Q.9 From there where did you go?
A.9 I went to the rifle range.

Q.10 For what purpose?
A.10 For zeroing rifles, sir.

Q.11 While you were at the range, someone came out to speak to you?
A.11 Cpl Chisholm came to me, and told me to report to "F" Coy Orderly Room for something else to be done. He told me that I was absent from the 1:00 o'clock parade, and would have to report at the Orderly Room at approximately 4:00 o'clock

Q.12 When you went to the Orderly Room at 4:00 o'clock, what did you do there?
A.12 They called me in, and the C.S.M. said I had been marked absent from the 1:00 o'clock parade, and would have to sign this paper.

Q.13 Did you sign this roll? (The Muster Roll is shown to the accused) You signed this paper?
A.13 I looked around and saw some officers standing around the room. They gave me a pen; the C.S.M. handed me this paper to sign and I signed it.

Q.14 At the time you signed this, were the other signatures on this sheet there at that time?
A.14 Yes sir.

Q.15 Did they point out to you where to sign?
A.15 Yes sir.

Q.16 After that, you went where?
A.16 I had a friend down-town whom I had a date with. I went back and washed up and went to town. I never came back again.

Q.17 Did you get drunk that night?
A.17 Yes sir.

Q.18 Where did you go from down-town?
A.18 I went to Farnham.

Q.19 How long have you been in the Army?
A.19 Since the 27 November, 1941, sir.

Q.20 You have been with the Glengarrians all that time?
A.20 I was with the Canadian Scottish when I was first in. I went to the hospital and when I came back to 1 CIRU they sent me as a reinforcement to 5 CIRU

Q.21 Have you been in France?
A.21 I went in on "D" Day.

Q.22 You came out when?
A.22 On the 25th July, 1944.

Q.23 Have you ever had any worry or fear of going back?
A.23 I am not afraid of going back, sir.

The witness is cross-examined by the Prosecution.

Q.1 Were you present on a parade about 1100 hours on the morning of the 14th of September, 1944?
A.1 Yes sir, I was present at 1100 hrs on that date.

Q.2 Why is it that you were marked absent?
A.2 I don't remember that I was marked absent, sir.

Q.3 The M.O. stated that you were over at the R.A.P. after 1000 hours in the morning. What time were you on parade at the R.A.P.?

Ex. 'D'

FIRST WITNESS FOR THE DEFENCE (continued)

A.3 At approximately 1000 hours in the morning, sir, after we have inspection. Quite a few men went through and it took quite a time. By the time we broke off after medical inspection at the R.A.P., it was nearly dinner-time.

Q.4 You say you went to the C.M.C. at what time?
A.4 At 1:00 o'clock, sir.

Q.5 What did you do as soon as you came back from there?
A.5 I went to the Paymaster.

Q.6 Weren't you told to report back to your company?
A.6 The boys told me that I would be paid at 2:00 o'clock, so instead of going to company office, I went straight to the Paymaster.

Q.7 What made you leave camp that night?
A.7 I had a date down-town, and I went to see about the date.

Q.8 Did you hear anything about a draft going out?
A.8 I never heard anything about a draft going out.

Q.9 You did not know about the draft going?
A.9 As soon as we were broken off at 4:00 o'clock, I washed up and went down-town.

Q.10 None of the officers or N.C.O.s in "F" Coy told you anything about it in the afternoon. Did they give you some inclination about the draft, when you were in the office?
A.10 No sir.

(A large square of cardboard is produced by the Prosecutor)

Q.11 You recognize this cardboard?
A.11 I may have written on it but I do not remember.

Q.12 When did you first see it?
A.12 I first saw it when the Sgt. put it out, and then again at the Summary of Evidence.

(This card is a piece of beaver-board 2½ ft by 4 ft, and written on it in chalk is "K71199, Pte. Gunanoot, "F" Coy, S.D.C. 'Please take someone')

Q.13 You have no idea how it got on your bed?
A.13 I don't remember. I know my hand-writing.

Q.14 That is not your hand-writing?
A.14 I know my name, rank and number. I have not been to school much, and I always write my name on the walls and places.

Q.15 How did you get to C.R.U.?
A.15 I was wandering about and went around Scotland with the girl-friend. I was beginning to run out of money so I decided to come back and give myself up. On my way back, they caught me.

The Court now questions the accused.

Q.1 Did any of the Officers or NCOs in the Company Office tell you what you were signing?
A.1 I saw the officers standing around. They did not explain what I was signing. It was only a piece of paper which was rolled together. The C.S.M. gave it to me, and they gave me a pen, and he showed me where to sign.

J.H.D. J.H.D. Lawson, Capt. Rules of Procedure 83(b) have been complied with.

Ex. 'D'

SECOND WITNESS FOR THE DEFENCE

Capt. D.B. McKee, Unit Medical Officer on the strength of 4 Canadian INfantry Reinforcement Unit, having been duly sworn states as follows:-

I am Capt. D.B. McKee, RCAMC, employed as Medical Officer, at 4 Canadian Infantry Reinforcement Unit.

Q.1 Do you recognize the chap on your right?
A.1 I do.

Q.2 That is who?
A.2 Pte. Gunanoot.

Q.3 On the morning of the 14th September, 1944, you held what kind of a parade?
A.3 An examination for draft parade.

Q.4 Was the accused on that parade?
A.4 He was.

Q.5 At that time you knew something that the accused was to do?
A.5 He was due to go the following day for a treatment to 3 C.M.C.

Q.6 You were compelled to make other arrangements for him?
A.6 The draft was to leave earlier and I arranged for him to go the same day.

Q.7 What time was he on your parade?
A.7 I am not perfectly sure, I believe it was made in the morning?

Q.8 What time?
A.8 Sometime after 1000 hours.

Q.9 Up to that time he had not been to 3 C.M.C.?
A.9 As far as I know, he had not been up until that time.

Rules of Procedure 83(b) have been complied with.

THIRD WITNESS FOR THE DEFENCE

A17058, Sgt. Anderson, R.C., C.I.C., on the strength of C.M.C., having been duly sworn, states as follows:-

I am A17058, Sgt. Anderson, R.C., C.I.C. employed at 3 C.M.C.

Q.1 What is your job at 3 C.M.C.?
A.1 Dispenser.

Q.2 What do you do?
A.2 Mix medicines, etc. for the wards, give treatments.

Q.3 Do you recognize the accused sitting on your right?
A.3 Yes sir.

Q.4 He is who?
A.4 Pte. Gunanoot, sir.

Q.5 On the 14th of September, 1944, do you recall seeing him on that date?
A.5 Yes sir.

Q.6 At what time?
A.6 A few minutes before 1:00 o'clock in the afternoon.

Q.7 Where did you see him?
A.7 Just outside the Dispensery, 3 C.M.C.

Ex. 'D'

THIRD WITNESS
FOR THE DEFENCE
(continued)

Q.8 Why was he there?
A.8 He was there for a V.D. treatment.

Q.9 Did you treat him that day?
A.9 Yes sir.

Q.10 What time was it when you eventually got around to treating him?
A.10 Shortly after 1:30 o'clock, sir.

Q.11 Would it be closer to 2:00 o'clock?
A.11 It might have been about 1:45 o'clock.

Q.12 How far is the 3 C.M.C. from where we are sitting right now?
A.12 Approximately ¾ of a mile to a mile.

Q.13 At 1:45 o'clock, he was still at 3 C.M.C.?
A.13 At approximately that time.

The witness is cross-examined by the Prosecution.

Q.1 Did you not check what time it was?
A.1 At 1:00 o'clock we had a kit inspection - that lasted for half an hour.

Q.2 You cannot say definitely what time he left?
A.2 No sir.

Q.3 In other words, you are not ready to swear at what time he left?
A.3 No sir.

Q.4 But you are prepared to say that it was after 1:30 o'clock?
A.4 Yes sir.

R.P.S 3 B. 103 been complied with

Address by the Defence

The substance of the Defence is to the effect that the accused was not on the Muster Parade, and it is immaterial to this Court whether he knew of the warning or whether he signed this sheet and knew what he was signing. To substantiate the Prosecution, they must fulfil two complete steps. That the accused was on a Muster Parade, heard the warning, and then to substantiate that claim, they had him sign a sheet which was submitted. You have heard contradictory evidence of the Prosecution as to what times these things took place. Colonel Christiansen said that he read this warning at 1335 hours; the C.S.M. said that he read the warning at 1345 hours. I believe Colonel Christiansen said that when he came into the room, the parade was turned over to him and he read the warning. The C.S.M. said that Major Stainton called the roll in the presence of the Colonel. We have had before the Defence a non-biased witness, who has nothing to gain by saying anything, and who came down here and is prepared to swear that the accused was at 3 C.M.C. later than 1:30 o'clock, and suggests it was 1:45 o'clock, and if he was there at even 1:35 o'clock, he could not have got down here at the Legion Theatre, which is about a ¼ of a mile away. If he had hurried, he may have been down here in 10 minutes. However, I do not believe the accused is familiar enough with the ways of the world, in his mind to concoct such a developed story if it were not true. Quite obviously I am going to ask the Court to believe, and I cannot see how they can do anything else. I have evidence that he was not at that Muster Parade. The Officers of "F" Coy got hold of him as quickly as they possibly could that afternoon; whipped the signature on this piece of paper. We have got to tell the Court

Ex. 'D'

Address by the Defence (con'd)

the complete story to make a charge of Desertion stand, and I do not think they got it much further. In turning back to Rules of Evidence, and what must be done and what must be proven, I would like to say that this is a very serious charge, and unless the Court has evidence beyond a reasonable doubt as to the complete truthfulness of the Prosecution, then the charge of desertion should be dismissed. As to the A.W.L. charge, we are not forming any defence for that. The accused will plead guilty to A.W.L., and the Court can alternate the charge to deal with that. Speaking now as to a mitigation of sentence, I will go on to talk of the accused. The accused has served in France for almost seven (7) weeks. I believe he has a very good MFM 6. (Original MFM 6 is produced) On this sheet in front of me, he has two charges - one of drunkenness and one of A.W.L. for a small period of time. This is a very good record in four years of service. So in dealing with the A.W.L. charge, sir, I wish you would take into consideration his past record. He has served in France, his willingness to go back in there, and further, when a man has been in action and who is not afraid to go back to it, he could serve his country better, than looking out from behind bars.

R.P. 83 B has been complied with

J.L.L. Kennedy Judge

Address by the Prosecution

I said a little while ago it was necessary to prove in a case of desertion, the time of absence, the starting and ending of AWL and definite reasons for it, or that the accused intended to dodge some special duty. The time of absence is admitted by the accused. Regarding the intentions of the accused to avoid special duty, draft or whatever you like to call it. You have been asked by the Defence to disbelieve what was said, and instead to believe what the accused has said. I do not say that the Sgt. witnessing for the Defence was not speaking the truth. He admitted that he could not swear to any particular time so that his evidence was of no importance at all. I think we have definite proof that the accused left when he did to avoid going on that draft which he knew was going the next day, and he left the sign on his bed to that effect.

R.P. 83 B has been complied with

J.L.L. Kennedy Judge

Case closes

J.L.L.D.

Ex. F. Ex. A. 499

4 CANADIAN INFANTRY REINFORCEMENT UNIT, C.A.E. 4C/80

14 Sep 44
Date

WARNING FOR DRAFT

1. At 1345 hours, on 14 Sep 44 the personnel whose names appear on Appendix "A" attached, were paraded before me, and I read to them the full text of C.R.U. Routine Order No 114 dated 22 Oct 43 and explained to them its full meaning, in the presence of the witnesses whose signatures appear below the names of these personnel.

2. It was furthermore explained to the personnel being warned herein that it was their responsibility to hold themselves available to be made ready for the draft in order that they may be cleared by the Medical Officer, Dental Officer, Quartermaster, Records Officer and, lastly, by Officer Commanding "F" Company, and that they must be present when the final warning is given and hold themselves available to move at a moment's notice after the final warning is given, in the event of the time and date of departure being advanced.

3. Each man then appended his signature to this document and by so doing acknowledged that he completely understood the full meaning of C.R.U. Routine Order No. 114.

"G.H. Christiansen Lt-Col"
~~(G.H. Christiansen Lt-Col)~~
Commanding Officer,
4 Cdn Inf Reinforcement Unit, CAE.

(See Appendix "A" attached)

CERTIFIED TRUE COPY
A J Sanderson

OFFICER HAVING CUSTODY OF ORIGINAL RECORD

4 CANADIAN INFANTRY REINFORCEMENT UNIT, C.A.E. 4C/80

Date

WARNING FOR DRAFT

1. At hours, on the personnel whose names appear on Appendix "A" attached, were paraded before me, and I read to them the full text of C.R.U. Routine Order No 114 dated 22 Oct 43 and explained to them its full meaning, in the presence of the witnesses whose signatures appear below the names of these personnel.

2. It was furthermore explained to the personnel being warned herein that it was their responsibility to hold themselves available to be made ready for the draft in order that they may be cleared by the Medical Officer, Dental Officer, Quartermaster, Records Officer and, lastly, by Officer Commanding "F" Company, and that they must be present when the final warning is given and hold themselves available to move at a moment's notice after the final warning is given, in the event of the time and date of departure being advanced.

3. Each man then appended his signature to this document and by so doing acknowledged that he completely understood the full meaning of C.R.U. Routine Order No. 114.

(J.H. Christie) Col.,
Commanding Officer,
4 Cdn Inf Reinforcement Unit, CA

(See Appendix "A" attached)

Ex. 'F'

Ex B

APPENDIX "A"

4C/80

NOMINAL ROLL OF PERSONNEL WARNED FOR DRAFT

SIGNATURES

K 71199 Pte Gunanoot, C.B.

"C.B. Gunanoot"

WITNESSES NOT PROCEEDING ON DRAFT

H.W. Kernaghan, Lt
J.K. Stainton, Maj
G. Porter, CSM
J.H. Price, Sgt

WITNESSES PROCEEDING ON DRAFT

R.H. Smith Capt
J.E.H. LeBlanc Capt

Original document, containing signatures of witnesses and personnel warned for draft, in possession of Commanding Officer.

Distribution
1. Commanding Officer
2. Records Officer
3. Part I Orders
4. O.C. "H" Wing
5. O.C. "P" Coy
6. File

CERTIFIED TRUE COPY

OFFICER HAVING CUSTODY OF ORIGINAL
Commanding Officer,
4 Cdn Inf Reinforcement Unit, CAF

Ex. G.

D Ex D

NO 4 CANADIAN INFANTRY REINFORCEMENT UNIT CA(E)
PART II DAILY ORDERS
Issued by
LT-COL G H CHRISTIANSEN A/Commander

LAST ORDER NO. 242 23 SEP 44

THIS ORDER NO. 243 25 SEP 44

8. ABSENTEES

AWL from 0500 hrs 15 Sep 44
K 71199 PTE GUNANCOT C B

"SDGH"

"E.T. Stewart"
(E.T. Stewart) A/Capt & Adjutant,
No. 4 Cdn Inf Reinf Unit CA(E)

CERTIFIED TRUE COPY 10 Oct 44

A J Gar 6 10

OFFICER HAVING CUSTODY OF ORIGINAL RECORD

JMP

Ex. H.

~~Ex B.~~
~~Ex~~
Ex F
Ex

CERTIFICATE OF ARREST.

SECTION 163 A.A. (1) (ii)

I.....Sergt.....certify that No. K/.711.99..... ...
Rank.PRIVATE... Name.GUNAMOOT. C. B.....Unit.1ST.BN.GREENSABRAIN. HIGHLANDERS
was arrested at GREWE. RAILWAY. STATION... on the..10..65.....hours
on the 3RD.....OCTOBER.....1944.

In nature of Proceedings, e.g., Court Martial, A.F.S., or other Civilian into whose custody the above named was taken on arrest.

.....Sergt.....

CREWE.
3/10/44

A/c DETACH. 165 H. .. (P)Coy C.M.Police.

Ex. 1

Expense Voucher Re—: Ref: KR & O (Can) 539

Reg No K 11499 Rank Pte Name Yanovoot, C.B. Unit 4 C I R C

The following expenses were incurred in apprehending and returning the A/N Soldier to his Unit From Kildonan from Crewe

Date	Particulars	Amount		
4 Oct 44	Escorts return fare from LONDON To Crewe	1	4	4
	Prisoners single fare to LONDON From Crewe		12	2
	Prisoners fare from To			
	Escorts & Prisoners expenses for Bed, Meals, Bus fares		7	10
	Total £	2	4	4

I certify that the above statement of Expenses is Correct, and that the amounts are fair and just.

J.W.B

R.F. Birch CAPT. Capt

Officer Issuing Railway Warrant and Expense Money BIRCH.
No. 6 Area Provost Company, Canadian Provost Corps, London. D.P.M's BR.
C.M.H.Q.

MHQ 1900-55
A/1/PRN/A653859

Ex. 'K'

ARMY FORM B.296 (WAR)

Statement as to Character and Particulars of Service of Accused

(For Use at Trials by Field General Courts-Martial only)

Number.	Rank.	Name.	Regiment (or as the case may be).
K 71199	Pte	Gunanoot, C.B.	4 C.I.R.U.

NOTE.—The Field Conduct Sheet is to be produced in Court with this statement but is not to be annexed to the proceedings. The numbers herein stated should correspond with the number of ENTRIES in the Field Conduct Sheet, prominence being given to the most serious offence in each entry. If the charge is for drunkenness or absence without leave, the entries for drunkenness or absence, as the case may be, should be stated separately. Any recognized special case of gallantry or distinguished conduct recorded on the Field Conduct Sheet should also be inserted here.

1. The following is a fair and true summary of the entries in the Field Conduct Sheet of the accused, exclusive of convictions by a court martial or a civil court:—

For A.A. Sec 15(1) ..... 1 times.

For A.A. Sec 19 ..... 1 times.

~~For nil~~ ..... ~~times.~~

~~For nil~~ ..... ~~times.~~

Date of first entry in Field Conduct Sheet 14 Feb 44

Date of last entry in Field Conduct Sheet 4 Sep 44

2. Previous convictions of the accused by a court martial or a civil court are set out in the Schedule overleaf.

*Strike out if not applicable.

*3. ~~The accused at the present time is under sentence for nil beginning on the nil day of nil~~

4. The accused has been awaiting trial on the present charges for nil days in civil custody; and for 17 days in military custody, i.e., nil days in open arrest, 17 days in close arrest; of which nil days were spent in hospital.

5. The present age of the accused is 27

6. The date of his attestation / ~~calling up for military service~~ is 27 Nov 41

7. The service which the accused is allowed to reckon is 2 yrs 10½ mos

†State the military decorations (if any) held by accused

8. The accused is in possession of † Cdn V.S. Medal and Clasp

~~9. (If the accused is a warrant officer or N.C.O.). The accused has served continuously, without reduction, to the present date—~~

Date of Promotion.

~~In the substantive rank of~~

~~In the war substantive rank of~~

~~In the acting rank of~~

INSTRUCTION.—If any matter in any of the above paragraphs cannot be stated from the regimental books the paragraph must be struck through.

Wt. 13475/2857 30,000 3/44 51-422 T.&A.S. Forms/B.296/War/12

SCHEDULE OF CONVICTIONS BY A COURT-MARTIAL OR CIVIL COURT

Description of Court by which tried.	Date and Place of Trial.	Charges upon which convicted.	Sentence of the Court.	Punishment remitted or sentence suspended.
		NIL		

I HEREBY CERTIFY that the foregoing particulars, which have been extracted from the regimental books in my custody, are correct to the best of my knowledge and belief.

A. J. Gordon Lt Asst Adjt
Officer having charge of Regimental Books

Signed this 28th day of October 1944

Ex. L.

No. 117199 Name Lunaroot C B | Sqn, Battery or Company TB Coy | Corps C I C | Date of enlistment 27 Nov 41 | GC Badges | Service or Proficiency Pay 1.5.0 | 3/17 MFM

Date of last entry in Company Conduct Sheet | No. and date of last drunk | Period not reckoning towards freedom from extra fine | Sheet No | Signature OC Company, etc | Character

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Original Sheet destroyed 27 Nov 43 on completion of two years conduct sheet									
Field	4 Feb 44	Pte	2nd	Drunkenness 1st Offence AA Ser 19	Corning	Admonished	4 Feb 44	NM Lunaroot C B 1st Coy	
Field	22 Aug 44	Pte		AA Ser 1500 A.M. 2200 hrs 20 Aug 44 to 0700 hrs 21 Aug 44 Drunkenness 1st Offence 2 days 4 hrs 45 min		10 days Def Offrs Pay	4 Sep 44	A.F. MACARTHUR A/Lt Col	Forf 2 days Pay FRR 1 MFM

Certified True Copy
A J Gaskin Lt.

Ex. "J"

4 CANADIAN INFANTRY REINFORCEMENT UNIT

SUMMARY OF EVIDENCE

Summary of Evidence in the case of K 71199 Private Charleston Birt GUNANOOT, Stormont, Dundas and Glengarry Highlanders, on the strength of No 4 Canadian Infantry Reinforcement Unit, a soldier of the Canadian Army Overseas.

By Direction of the Commanding Officer, the Summary of Evidence is taken on oath.

FIRST WITNESS

For the Prosecution

Lt-Col G.H. Christiansen, Stormont, Dundas and Glengarry Highlanders, on the strength of No 4 Canadian Infantry Reinforcement Unit, an Officer of the Canadian Army Overseas, having been duly sworn, states:

I am Lt-Col G.H. Christiansen, and on 14 Sep 44 was acting Commander, 4 Cdn Inf Rft Unit. At 1335 hrs 14 Sep 44 the accused, K 71199 Pte Gunanott, C.B., whom I now recognize, was present at a Muster Parade and was warned for draft in the following terms by me:

(a) You have been selected to proceed on a draft for the performace of a special duty, and you are now warned that you must be present and ready to go when the draft is sent off.

(b) Any unauthorised failure on your part to go with the draft when it leaves will result in your being charged with desertion on active service.

(c) Similarly any unauthorixed absence on your part while the draft is in transit or at any intermediate point before its final destination will result in your being charged with desertion on active service.

(d) If you are convicted of desertion the Court has the power to sentence you to a maximum sentence of penal servitude for life.

(e) At some time prior to the departure of the draft a parade will be called on which you must be present, and at which time the exact date and time of departure will be told to you.

I present herewith, marked Exhibit "A", a certified true copy of the Draft Warning Certificate which was signed by me on 14 Sep 44, the original of which is in the files of this unit.

G.H. Christiansen Lt Col

(G.H. Christiansen) Lt-Col.

The accused declines to cross-examine this witness.

SECOND WITNESS

For the Prosecution

Major J.K. Stainton, Canadian Infantry Corps, on the strength of No 4 Canadian Infantry Reinforcement Unit, an Officer of the Canadian Army Overseas, having been duly sworn, states:

I am Major J.K. Stainton and am Commander of "D" Coy, 4 Cdn Inf Rft Unit. As such I was present at a draft muster parade held on 14 Sep 44. The accused, K 71199 Pte Gunanoot, C.B., whom I now recognize, was present on this parade. The parade was warned by Lt-Col G.H. Christiansen in accordance with CRU Administrative No 9. The warning was given in such a manner that there was no possibility of the accused not having heard it.

JKS

Ex. J.

After the warning was read, all personnel of the draft signed their names on Appendix "A" to the Draft Warning Certificate, in the presence of the following witnesses:

Major J.K. Stainton
Lt W.H. Kernaghan
CSM G. Porter
Sgt J.H. Price.

I present herewith, Marked Exhibit "B", certified true extract from this appendix, which shows that the accused did so sign his name in the presence of the above witnesses, and by so doing acknowleged that he completely understood the full meaning of CRU Administrative Instruction No. 9.

J.K. Stainton

(J.K. Stainton) Major.

THIRD

The accused declines to cross-examine this witness.

THIRD WITNESS

For the Prosecution

Lt [illegible] Kernaghan, Stormont, Dundas and Glengarry Highlanders, on the strength of No 4 Canadian Infantry Reinforcement Unit, an officer of the Canadian Army Overseas, having been duly sworn, states:

I am Lt H.W. Kernaghan, and am employed in "P" Coy, 4 Cdn Inf Rft Unit. I was present at a muster parade on 14 Sep 44 when at 1345 hours a draft was warned by Lt-Col G.H. Christiansen, in accordance with CRU Administrative Instruction No 9. Following the warning the personnel of the draft, including K 71199 Pte Gunancot, C.B., the accused, whom I now recognize, signed Appendix "A" appended to the draft warning certificate. An extract from this document is now marked as Exhibit "B".

H.W. Kernaghan

(H.W. Kernaghan) Lt.

The accused declines to cross-examine this witness.

FOURTH WITNESS

For the Prosecution

B 36518 CSM Porter, G., R.H.L.I., on the strength of No 4 Cdn Inf Rft Unit, a soldier of the Canadian Army Overseas, having been duly sworn, states:

I am B 36518 CSM Porter, G., and am employed as Coy Sgt-Major of "P" Coy, 4 Cdn Inf Rft Unit. I was present when the nominal roll of a draft was called at 1345 hours 14 Sep 44 at the Legion Theatre. The accused, K 71199 Pte Gunancot, C.B., whom I now recognize, answered his name. The draft was warned in accordance with CRU Administrative Instruction No 9 by Lt-Col G.H. Christiansen. The warning was read in such a manner that the accused could not have helped but hear it. After the warning was read, the personnel of the draft, including the accused, signed Appendix "A" of the Draft Warning Certificate. An extract of this document is now marked Exhibit "B".

G Porter

(G. Porter) CSM B 36518

The accused declines to cross-examine this witness.

JMD

Ex. A.

FIFTH WITNESS

For the Prosecution

G 28834 Sgt Price, J.H., Canadian Infantry Corps, on the strength of No 4 Canadian Infantry Reinforcement Unit, a soldier of the Canadian Army Overseas, having been duly sworn, states:

I am G 28834 Sgt Price, J.H., of "P" Coy 4 C.I.R.U. At 1335 hours 14 Sep 44 I was present as a witness when the warning was read to a draft by Lt-Col G.H. Christiansen. The accused, K 71199 Pte Gunanoot, C.B., whom I now recognize, answered his name when the roll was called, in the Legion Theatre. Later the accused signed in my presence Appendix "A" to the Draft Warning Certificate, an extract of which is now marked Exhibit "P". The warning was given in such a manner that there could have been no possibility of the accused not hearing the warning.

J. H. Price Sgt.
(J.H. Price) Sgt G 28834

The accused declines to cross-examine this witness.

SIXTH WITNESS

For the Prosecution

B 36676 Sgt Scourse, T.E., R.H.L.I., on the strength of No 4 Canadian Infantry Reinforcement Unit, a soldier of the Canadian Army Overseas, having been duly sworn, states:

I am B 36676 Sgt Scourse, T.E., of "P" Coy, 4 C.I.R.U. On 15 Sep 44 I was on duty as Orderly Sergeant of "P" Coy 4 Cdn Inf Rft Unit. At 0500 hours I was awakening the outgoing draft and the accused, K 71199 Pte Gunanoot, C.B., whom I now recognize, was not in his bed. On his bed was a large piece of cardboard which had written on it "K 71199 Pte Gunanoot, "P" Coy, SDG. Please take someone". I now present this piece of card board marked Exhibit "Q". I searched through the lines and huts and could not find him. The draft moved off without Him. I then had his ~~kit~~ picked up and turned into "P" Coy stores. He has been continuously absent from "P" Coy parades and roll calls since that time.

T E Scourse Sgt
(T.E. Scourse) Sgt B 36676

The accused declines to cross-examine this witness.

The accused was cautioned as follows: Do you wish to make a statement or to give evidence on oath? You are not obliged to say anything or to give evidence, but whatever you say or any evidence you give will be taken down in writing and may be given in evidence.

The accused declines to make a statement or to give evidence on oath.

I certify that the foregoing Summary of Evidence consisting of THREE pages was taken down by me in the presence and hearing of the accused, and that Rules of Procedure 4 (c), (d), (e), (f) and (g) have been complied with.

A. J. Geisler Lt
(A.J. Geisler) Lt,
Officer Detailed to Take Summary.

IN THE FIELD
12 OCTOBER 1944

JAB

 Ex. J

ADDITIONAL SUMMARY OF EVIDENCE

Add Summary of Evidence in the case of K 71199 Private Charleston Birt GUNANOOT, Stormont, Dundas and Glengarry Highlanders, on the strength of No 4 Canadian Infantry Reinforcement Unit, a soldier of the Canadian Army Overseas.

By Direction of the Commanding Officer, the Summary of Evidence is taken on oath.

SEVENTH WITNESS

For the Prosecution

Capt E.T. Stewart, Hastings and Prince Edward Regiment, on the strength of No 4 Canadian Infantry Reinforcement Unit, an Officer of the Canadian Army Overseas, having been duly sworn, states:

I am Capt E.T. Stewart, and am Adjutant, 4 Cdn Inf Rft Unit. I present herewith, marked Exhibit "D", Certified True Extract from 4 CIRU Part II Order No 245 dated 25 Sep 44 which shows that the accused, K 71199 Pte Gunanoot, C.B., whom I now recognize, absented himself without leave from 0800 hours 15 Sep 44. I also present, marked Exhibit "E", Certificate of Arrest which shows that the accused was arrested at Crewe Railway Station at about 1055 hours 3 Oct 44. I also present, marked Exhibit "F", Expense Voucher which shows that the cost of returning the accused to his unit was in the amount of £2-4-4.

E T Stewart

(E.T. Stewart) Capt,

The accused declines to cross-examine this witness.

The accused was cautioned as follows: Do you wish to make a statement or to give evidence on oath? You are not obliged to say anything or to give evidence, but whatever you say or any evidence you give will be taken down in writing and may be given in evidence.

The accused declines to make a statement or to give evidence on oath.

I certify that the foregoing Summary of Evidence consisting of ONE page was taken down by me in the presence and hearing of the accused, and that Rules of Procedure 4 (c), (d), (e), (f) and (g) have been complied with.

A J Geisler

(A.J. Geisler) Lt,
Officer Detailed to Take Summary.

IN THE FIELD
10 OCTOBER 1944

4X-35.

Pte Gunanoot C B.

SCHEDULE.

PART I. PLEA(S), FINDING(S) AND SENTENCE.

Accused: K-71199 Pte Charleston Birt GUNAROOT - CIC - 3 CDN

Charge. (Insert "alternative" where applicable.)	Plea. (See instrs p 2.)	Finding. (See note below.)	(Space for use as required for further charges, accused charged jointly, special findings, etc.)
1st AA 96(1)	GUILTY	GUILTY	
2nd			
3rd			
4th			
5th			
6th			

(Note: As to findings for lesser offences see AA 56, RP 44; findings on alternative charges see MML p 483 fn 4 para 2, RP 44; special findings see RP 44 and MML p 753, and in lieu of AA see RP 44 fn 6.)

M At present under sentence for [illegible] beginning on (date) 2 Feb/45.(1)
(1. Insert sentence being served, or delete, if not applicable. See RP 46(A). Information should be found on MF B355 or AF B296.)

Time in confinement awaiting present trial—a total of Nil days, of which Nil days were spent in hospital.(1)
(1. See RP 46(A) fn 2. Information should be found on MF B355 or AF B296 admitted in evidence under E2.)

Sentence Awarded by the Court:
To undergo detention for a period of Sixty(60) Days—

(Sgd) [illegible] 14/2/45 (Sgd) [illegible] Lt-Col
Judge-Advocate, if any. Date awarded. President. (RP 45, 50.)
(See back of Convening Order as to assembly and disposal of record after trial.)

PART II. MINUTE WHERE CONFIRMATION RESERVED. (AA 54(5), RP 120(F), MML p 760.)

Date (Sgd) Commanding

PART III. DECISION OF CONFIRMING OFFR ON FINDING(S) AND SENTENCE.

(For duties and powers see AA 54, 57, RP 37(D) fn 6, 46(A), 51-56, 120, MML pp 759-761, KR Can 567-577. Acquittals require no confirmation and cannot be revised: AA 54(2). Sending back finding or sentence for revision by Court: AA 54(2), RP 120(G). If not confirmed, accused may be tried again: AA 157, MML p 64. Minute of confirmation or non-confirmation may be altered before promulgation: RP 53, MML p 65. Quashing after promulgation: KR Can 573. Duties and powers of reviewing offrs: AA 57, 57A, RP 53A, 54. The Confirming Offr must sign here personally. AA 172 fn 1.)

My decision on the finding(s) and sentence set forth in Part I is:

Confirmed

I direct that the accused be not committed to prison or detention barracks. (1. AA 57A. Delete if not used.)

Date 15 Feb 45 (Sgd) [illegible] Brig
Comd
Commanding 18 Cdn Inf Bde Confirming Officer.

PART IV. PROMULGATED AND EXTRACTS TAKEN. (RP 53, KR Can 576, 577.)

Accused.	Date.	Signature of Offr.
K-71199 Private GUNAROOT, Charleston Birt	Promulgated 16 Feb 45 Extract D.O. 46 dated 19 Feb 45.	(E.T. Stewart) Capt. & Adjt. 3 Cdn. Inf. Depot Bn.

ALL DELETIONS AND ALTERATIONS WILL BE INITIALLED.

RECORDED AT CMHQ IN AB 160 47 35

FIELD GENERAL COURT-MARTIAL

CPA96 (See Table of Appns) 40-P & S-1698 (6144) 4/38B

Convened by Order of Brigadier E A Kirkpatrick Comd 18 CDN INF BDE dated 13 FEB 45

ACCUSED.

(As to the trial of two or more charged jointly see RP 16, 71, 109. As to reasons for showing (a) permanent or confirmed rank and (b) apptmt, A/rank or A/apptmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

Number.	(a) Prmnt R.	(b) Apptmt, A/R or A/Apptmt.	Full Christian Names.	Surname.	Unit.
K-71199	Pte	NIL	Charleston Birt	GUNAROOT	CIC 3 CDN INF BDE

Prosecutor Capt. J. Rodriguez
Defending Officer 1 Lieut 45

PROCEEDINGS OF TRIAL.

Held in the Fd in (country) England on (date) 14 FEB 45

RECORD FORM A—OPENING PROCEEDINGS AND ARRAIGNMENT.

A1. The President, Members, ~~waiting Member, JA,~~ if any, and ~~Offrs under instr,~~ if any, assemble, and the Court is closed.

(PRINTED MATTER NOT IN ITALICS FOR GUIDANCE, WILL BE DELETED, IF NOT USED OR APPLICABLE, AND INITIALLED BY PRES OR JA. The Schedule referred to throughout is on p 4. Citations do NOT include all relevant fins ROs. For guidance on procedure when a variation in this form arises, see form for GCM in MML pp 741 to 759. A brief record of such variation will be made and given a number having reference to appropriate or preceding para number herein. See back of Convening Order, CF A95, for oaths and instrs on how to record addresses, evidence, etc., which matters are hereafter called "Notes". As to general provisions for conducting the trial see AA 52, RP 36, 63-70, 73, 74, 94, 103, 119, 122.)

A2. The President initials and lays before the Court the Convening Order and Charge Sheet(1) attached thereto.(2) The Court is satisfied that it is properly convened and constituted(2), accused is (are) amenable to military law, and each charge discloses an offence.(3)
(1. As to use of Summary of Evidence see RP 17 fn 6. 2. AA 49, 50, RP 105-107. 3. RP 11-13, 23, 24.)

A3. The Court is opened. The accused is (are) brought before the Court. At 1130 hours trial commences.

A4. The Prosecutor produces a Medical Certificate that accused is (are) fit to undergo trial by court-martial.(1)
~~The Prosecutor informs the Court that accused elected to be tried by court-martial instead of being dealt with summarily by the CO.(1)~~
(1. KR Can 557. 2. AA 46(B), RP 60 fn 1. For effect see KR Can 563(c). Delete, if not applicable.)

A5. ~~President to accused: Do you object to ... as interpreter? Ans ...~~
~~The Interpreter is sworn.(1)~~ Do you object to Sergeant Lincoln A.M. shorthand writer? Ans NO
The shorthand writer is sworn.(1)
(1. RP 72. Delete, if none employed.)

A6. The Convening Order and names of the President and Members of the Court are read to the accused.(1) President to accused: Do you object to be tried by me as President or by any of the Members of the Court?
Ans NO. Sir
(1. RP 110. 2. If no objection, waiting member retires. RP 68(B). If objection, see procedure AA 51, RP 25, 71, 78, MML p 742.)

A7. The President, Members, ~~JA, if any,~~ and ~~Offrs under instr, if any,~~ are sworn.(1) The following are the ranks, names and units of the offrs comprising the Court, etc:

President	LT-COL	D.L.	REDMAN	HQCRU
Member	CAPT	P.N.	BURNETT	1CITR
Member	LT	E.A.	WELCH	2CITR
Judge-Advocate				
Prosecutor	LT	F.C.	GOODMAN	3CITR
Defending Offr	LT	J.O.	MANCHIB	3CITR

Questions by President: Is the Prosecutor a lawyer? Ans NO Is the Defending Offr a lawyer? Ans NO(2)
(1. RP 26, 27, 109, 111. List of offrs under instr will be returned separately with proceedings for information of Convg Offr.)
(2. If Pros a lawyer and Def Offr not, accused is entitled to an adjournment when RP 89 (B) and fn 2 were not followed. See D1 p 2.)

A8. The accused before arraignment make(s) (no) (a) plea.(1)
(1. If a special plea is made for separate trial or one or more charges (RP 62(E), 108), or as to the jurisdiction of the Court (RP 34, 35(A), 112), or as to bar of trial (RP 36), or as to accused's mental fitness to stand trial (AA 130, RP 37), or by one of several accused charged jointly to be tried separately (RP 16, 71), such plea, the addresses made in support or against, the evidence, if any, and Finding are recorded per Notes. For forms of record see references in fns to RoP cited. Insert in ink rank and name of the accused making the plea.)

A9. The accused is (are) arraigned (separately) on all charges in the charge sheet.(1) The accused does (do) not object to any charge.(2) There is no amendment to be made to the Charge Sheet.(3) The President records the pleas in Part I of the Schedule.
(1. RP 31, 112. See para 1 of Instrs p 2. When more than one Charge Sheet see RP 62; when several accused to be tried separately see RP 71(C), and use separate copies of CF A96 to record proceedings. 2. RP 32, RP 33. If otherwise, delete and make appropriate record per Notes.)

A10. The Court (is closed and) considers the Instrs on Procedure after Arraignment at top of p 2. The proceedings are continued on Record Form "B".

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

INSTRUCTIONS ON PROCEDURE AFTER ARRAIGNMENT.

1. *The accused may not plead or be found Guilty on more than one of two or more charges laid in the alternative.* (RP 37(A).) *As to withdrawal of alternative charges by Prosecutor see RP 35(C). No other charge can be withdrawn for any reason without authy from Convening Offr. If Convening Offr concurs, Court may accept plea of Guilty to lesser, etc, offence.* (RP 44(H).) *Accused may change a plea of Not Guilty to Guilty during trial.* (RP 38.) *As to refusing to plead or not pleading intelligibly see RP 35(A). As to plea when sentence may be death see RP 35(D).*

2. *The proceedings on each charge sheet* (RP 62) *after arraignment will be conducted as follows in the respective circumstances stated :*

I. If pleas to all charges are GUILTY, use Record Form B below.

II. If pleas to all charges are NOT GUILTY, use Record Form D on p 3.

III. If pleas to some charges are GUILTY and to other charges are NOT GUILTY and,

(a) Such mixed pleas occur when there are no alternative charges in the Charge Sheet, use Record Form C below. (RP 37(A).)

(b) Such mixed pleas occur in a set of two or more charges laid in the alternative, see RP 37 (A) and fn 2 as to discretion of Court, (i) to try the accused on all such alternative charges as if he had pleaded Not Guilty thereto, or, (ii) to record the pleas as the findings of Court. After deciding between (i) and (ii), Court will proceed under foregoing instrs as may be appropriate to result of its decision. See MML p 744 Instrs (2).

3. *As to responsibility of President to accused see RP 59, 60(C) ; powers and duties of JA see RP 103 ; duty of Prosecutor see RP 60(A) (B) ; duty and privileges of accused and Defending Offr see RP 60(C), 87(C), 91, 92 ; swearing and withdrawal of witnesses from Court see RP 81, 82 ; questioning of accused see RP 80, 87(C), 92(B), and of witnesses see RP 85-86 ; calling or re-calling of witnesses by Court, etc, see RP 75-79, 86, 116 ; use of Summary of Evidence at Trial see RP 17(E) fn 6 ; and responsibility of JA or Pres to record proceedings see RP 94, 96.*

RECORD FORM B—PROCEEDINGS ON PLEAS OF GUILTY TO ALL CHARGES.

B1. The President or JA, if any, complies with RP 35(B) by explaining to the accused the nature and meaning of the charge(s).(1) and that on his plea of Guilty there will be no regular trial but merely a consideration of the sentence to be awarded after he has been given an opportunity to make a statement in reference to the charge(s), call witnesses as to character and make an address in mitigation of punishment.(2)
(*1. RP 35 fn 3. 2. MML p 54 para 47.*)

B2. President to accused : The Court will now receive any statement you desire to make in reference to the charge(s).(1) If it appears from your statement that there are circumstances which indicate that you do not understand the effect of the plea of Guilty(2), or which show provocation or extenuation in respect of which in your interest the witnesses for the Prosecution should be examined(3), we shall advise you to change your plea to Not Guilty. In making a statement you will not be sworn or subject to cross-examination ; and anything you say will not be used in evidence against you after you change your plea. If, however, it appears to the Court that your statement affects only the amount of punishment to which you are liable, you will not be advised to change your plea and you will be given an opportunity later to prove your statement by sworn testimony, if you so desire.(4)

President to accused : Do you wish to make a statement ? Ans NO (5)
(*1. RP 37(B). 2. RP 37(D) fn 6. 3. RP 35(B) fn 5 para 3, MML p 54 para 47. 4. See para E3 of Record Form E.*
5. Statement, if any, recorded per Notes.)

B3. The Court considers the accused's statement.(1) The Court decides (not) to advise accused to change his (their) plea(s) of Guilty to Not Guilty on ..... charge(s). The accused is (are) so informed, and he (they) change(s) his (their) plea(s) to ..... charge(s). Part I of the Schedule is amended accordingly.
(*1. Court may be closed to consider the statement. Delete whole or part not used.*)

B4. On the charge(s) to which the plea(s) of Guilty is (are) not changed the President records finding(s) of Guilty in Part I of the Schedule.(1)
(*1. RP 35(B). If any plea(s) is (are) changed, use Record Form C or D as appropriate.*)

B5. The Summary of Evidence is marked Ex ..., initialled and read aloud by the President.(1)
(*1. If there is no Summary, or if it is inadequate, comply with RP 37(B). If there is any evidence inconsistent with any plea standing as Guilty, Court will advise accused to change such plea and, if changed to Not Guilty, try such charge(s) by use of paras D1 to D8 inclusive of Record Form D on p 3. RP 37(D).*)

B6. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

RECORD FORM C—PROCEEDINGS ON MIXED PLEAS OF GUILTY AND NOT GUILTY.

C1. As to the charges on which accused pleaded NOT GUILTY the trial is continued by using paras D1 to D8 inclusive of Record Form D on p 3 before proceeding with C 2.(1)
(*1. RP 37(A) (E).*)

C2. The charges on which accused pleaded GUILTY are read to him (them) again, and the trial is continued by using paras B1 to B5 of Record Form B above.(1)
(*1. Under B5 such parts only of the Summary of Evidence are read as relate to the charges dealt with under C2. If any plea is changed to Not Guilty, trial thereon proceeds by complying with paras D1 to D8 inclusive in Record Form D on p 3 and making an appropriate record thereof on a seperate sheet.*)

C3. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

RECORD FORM D—PROCEEDINGS ON PLEAS OF NOT GUILTY TO ALL CHARGES.

D1. President to accused : Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity to prepare your defence ? Ans ..... .(1)
(*1. If "yes", see RP 39(A) for procedure. Statement or evidence, if any, is recorded per Notes.*)

D2. The Prosecutor makes (an) (no) opening address.(1)
(*1. RP 39(B), 60(A) (B), 90, 92(C) (D). Record address per Notes, subject to RP 95(C).*)

D3. The evidence for the Prosecution is taken.(1)
(*1. RP 39(C), 114, KR Can 555. Record evidence per Notes. As to Prosecutor giving evidence himself see RP 39(D) (E).*)

D4. The Prosecution is closed.(1) The Defending Offr submits that the evidence for the Prosecution does not establish a prima facie case against the accused on the ..... charge(s).(2) The Court is closed, and considers the submission.(3) The Court is re-opened, and the President announces that the submission is disallowed on the ..... charge(s), and allowed on the ..... charge(s), and that, accordingly, the trial will proceed on the former, but the accused is (are) found Not Guilty on the latter charge(s).(4)
(*1. Delete remainder of this para, if submission not made. 2. Arguments on submission, answer and reply are recorded per Notes. 3. RP 40 fn 1. See MML p 72 paras 12-14 and p 81 para 42. 4. Delete part not used. If accused acquitted on all charges use second alternative in para D8.*)
NB : If trial proceeds, accused must be allowed great latitude in making his defence, and the Court should not stop his defence solely on ground of irrelevance. (RP 60(C), 114, 115.)

D5. President to accused : You will now proceed with your defence.(1) You may, if you wish, give evidence yourself on oath as to the facts or your character or both in which case you will be subject to cross-examination.(2) You may, however, make a statement without being sworn, and you will not be subject to cross-examination.(3) But a statement which could have been made on oath will not carry with the Court the same weight as sworn testimony.(4) You may call witnesses in your defence and as to character, whether you give evidence or make a statement or do neither.

President to accused : Do you wish to give evidence yourself as a witness, make a statement, or do neither ?
Ans ..... Do you intend to call witnesses on your behalf ?
Ans ..... Are they witnesses as to character only ? Ans .....
(*1. RP 115. 2. RP 40(A), see 80(D). 3. RP 40 fn 10. 4. RP 40 fns 2, 9.*)

D6. Consequent on the answers recorded in para D5 the appropriate procedure for the defence is followed.(1)
(*1. RP 114, 115, 116. For procedure see Notes on back of Convening Order. Cf RP 95. Evidence for accused as to his character should, if in his interest, be given before the finding. See RP 46(A) fn 1, 86(C). Note the further opportunity in para E1 of Record Form E. Record per Notes addresses, statement, evidence and any summing up by the JA under RP 42, 103(e).*)

D7. The Court is closed to consider the finding(s).(1) The finding(s) of the Court is (are) recorded in Part I of the Schedule.(2) The Court is re-opened.
(*1. RP 43, 117(A). See Notes in Part I of Schedule. 2. RP 44(A).*)

D8. The President announces the finding(s), if any, of Not Guilty, and states to the accused that the finding(s) of the Court on the ..... charge(s), being subject to confirmation, will be promulgated later.(1)
Or, The President announces that the accused is found Not Guilty on all charges and is to be released forthwith, and that the proceedings are accordingly terminated. Part I of the Schedule is dated and signed.(2)
(*1. AA 54(3) (6), RP 45, 120(A). 2. AA 54(3), RP 45, 117. This alternative announcement is not applicable when there are pleas of Guilty outstanding and deals with under Record Form B or C.*)

D9. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E below.

RECORD FORM E—PROCEEDINGS ON CONVICTION BEFORE SENTENCE.

E1. President to accused : Do you wish to give evidence yourself or to call any witnesses as to your character ?(1)
Ans Give evidence NOTE BTT
(*1. If evidence has already been given by accused or his witnesses as to his character, delete this para. RP 37(C) fn 4, 46 fn 1. Accused and witnesses are sworn. Evidence recorded per Notes.*)

E2. The Prosecutor produces Statement(s) as to Character and Particulars of Service(1), and certified true copy (copies) of Conduct Sheet(s)(2), purporting to refer to the accused, which he submits to the Defending Offr for examination, and then to the Court for admission in evidence. The Court is satisfied that these documents refer to the accused, because (i) they purport to be signed in the manner required by AA 163(l) (g) (h), and (ii) they purport to refer to (a) soldier(s) having the same number, rank, name and corps as the accused. Admitted in evidence and marked Ex ... and Ex ... respectively.(3)
(*1. MFB 355 or AFB 296. 2. MFM 6. 3. RP 46, KR Can 558. If above documents not produced, see RP 46 fn 1 para 1.*)

E3. President to accused : Do you wish to address the Court on the Statement(s) and Conduct Sheet(s), and in mitigation of punishment ?(1) Ans Any help you can give NOTE BTT
(*1. RP 37(C), 46(D). 2. Address, if any, recorded per Notes. Court should permit accused or his witnesses to prove on oath anything here or previously stated which would affect the amount of punishment. RP 37(F) fn 7.*)

E4. The President states that the Court is closed to consider the sentence, and that the sentence to be awarded by the Court, being subject to confirmation, will not be announced, but will be promulgated later, and the proceedings in open court are accordingly terminated.(1)
(*1. AA 54(6), RP 120(A).*)

E5. The Court considers the sentence.(1) The President records the sentence in Part I of the Schedule, which is dated and signed by him and the JA, if any.(2)
(*1. Where several accused tried separately see RP 71 (D). One sentence only, comprised of the punishment or punishments laid down in AA 41, 44 and its proviso, is to be awarded to cover all charges in all charge sheets on which accused found guilty. RP 68. As to sentences see AA 44, 138, 182, RP 46-50, 69, 118, 119(A), KR Can 308, 330, 563-566, Overseas AO 309, 2323, MML p 60, 757-759. As to sentences assigned for civil offences by the law of England see AA 41(5), MML p 130. When accused already under sentence of imprisonment or detention see AA 44(18), 68(1), KR Can 564. 2. RP 50. As to release from arrest by Confirming Offr see KR Can 567. As to assembly and disposal of record after trial see instrs on back of Convening Order.*)

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

CHARGE SHEET

The accused, K71199 Private Charleston Birt GUNANOOT, Stormont, Dundas, and Glengarry Highlanders, on the strength of No 3 Canadian Infantry Training Regiment, a Soldier of the Canadian Army Overseas, is charged with:

FIRST CHARGE

Section 15(1) Army Act

WHILE ON ACTIVE SERVICE, Absenting himself without leave,

in that he,

In the Field, Whilst undergoing Field Punishment, did absent himself without leave from 0800 hours 3 February, 1945, until apprehended in London at 1110 hours 6 February, 1945. Total absence 3 days, 3 hours and 10 minutes.

S.W. Thomson

(S.W. Thomson) Colonel,
Commander,
3 Cdn Inf Trg Regt.

IN THE FIELD
9 February 1945

To be tried by Field General Court Martial.

K.G. Blackader

(K.G. Blackader) Brig
Comd
3 Cdn Inf Trg Bde

In the Field
12 Feb 45

FIELD GENERAL COURT-MARTIAL

(Whether the accused to be tried is under his comd or not, a FGCM may on application to him be convened by any offr of Cdn Army Overseas, or of any other force if authorized in law, in immediate comd of troops on active service, subject to RP 105(C) and restrictions imposed by appropriate authy. AA 49, 50, RP 104-107, 114. As to the duties and privileges of the Convening Offr in dealing with the application see MML Chap V paras 20 and 23, RP 87(B).

There should be a separate Convening Order for each person to be tried separately by the same Court. RP 71(C), 109. As to separate charge sheets see RP 62, and as to separate trial on charges in the same charge sheet see RP 108. As to two or more accused charged jointly see RP 16, 109.

As to reasons for showing (a) permanent or confirmed rank, and (b) apptmt, A/rank or A/apptmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

ACCUSED.

Number.	(a) Prmnt R.	(b) Apptmt, A/R or A/Apptmt.	Full Christian Names.	Surname.	Unit.
K-71196	Pte		Charleston Birt	GUNANOOT	CIC 2 CITR

CONVENING ORDER.

1. Whereas complaint has been made to me, the undersigned, that the person(s) named above as the accused, being subject to military law, has (have) committed the offence(s) set forth in the Charge Sheet(s) attached and on (date) 10 Feb 46 endorsed by me, (or by an offr of my staff for me), "To be tried by Field General Court-Martial".

2. And whereas I am of opinion that it is not practicable that such offence(s) should be tried by an ordinary General Court-Martial; (and that it is not practicable to delay the trial for reference to a superior qualified offr.)
(Delete part in brackets when not required for compliance with RP 105(C).)

3. I hereby convene a Field General Court-Martial to try the said person(s), and to consist of the Offrs appointed or detailed hereunder.

4. I am unable to appoint (a) three Offrs to form the Court, (b) a Fd Offr as President, for the reasons I have attached hereto.
(AA 49, RP 106(B), 107(A). Delete the whole or part, if not applicable.)

5. I also appoint as Judge Advocate thereat the Offr mentioned hereunder.
(RP 106(E). Delete, if none appointed.)

PRESIDENT.

(Rank.)	(Must be named. RP 106.)	(Unit.)
Lt Col	R L Kennedy VC	R. CEC

MEMBERS.

(Rank.)	(Named or detailed. RP 106.)	(Unit.)
Captain	to be detailed by Commanding Officer	1 CITR
Lieutenant	to be detailed by Commanding Officer	2 CITR

WAITING MEMBER.

(Rank.)	(Named or detailed, if any. RP 106.)	(Unit.)
Captain	to be detailed by Commanding Officer	1 CITR

JUDGE ADVOCATE.

(Rank.)	(Must be named, if any. RP 106.)	(Unit.)

On Active Service in the Fd

in England
(Country.)

R Blackader
(Signed personally. RP 105 fn 2.)

Brigadier
(Rank.)

Date 10 Feb 46

(R G Blackader)
Commanding 18 Cdn Inf Tps Bde
Convening Officer.

CONVENING OFFR WILL INITIAL ALL DELETIONS AND ALTERATIONS

4/38A CFAMS (Tp Strength of AP AS) 40/F & S/Staff (Amd)

(See overleaf for oaths and notes for use on trial.)

Medical Officer's Certificate. 40/25
K.R. (Can.), para 557.

I certify that I have this morning examined No. K.71199
Pte Dumaresq C.B. of #3 C.I.T.R
and in my opinion, he is fit to undergo trial by Court Martial.
Station Field
Date 14-2-45 (Sgd.) J.D. Crum Capt
(Medical Officer)

(Canadian Reinforcement Units Routine Order No. 3, para 27, d/6 Jan 42)

IVY

CASE OF

K-71199 Pte GUNNCOT, C.B. 3 CITR

E.1 STATEMENT OF ACCUSED
(UNSWORN)

Sir I was doing my best since joining the army and my record has been fine up to now. I went overseas to France with the Glengarry Highlanders and I was wounded in Normandy. They sent me back. I was wounded at Falaise in the back. They put me as a category "A" again. I am feeling well now. The last time I was on leave I got drunk and overstayed and they put me on 14 days FF. The last time we were at camp some of my friends and I went away again. I wanted to come back on my own but before I could come back I was apprehended. As far as I am concerned I would like to get back to my original unit, sir, and I will do as well as I did before.

NO CROSS-EXAMINATION

IN THE OPINION OF THE COURT IT IS UNNECESSARY TO COMPLY WITH RP 83(B).

K 71199
Pte Gumancot, C.B.

Plea for mitigation.

The accused served in action as per attached letter from his Coy Comd. This action has had an adverse affect on his mind, so that when he went AWL he was not fully aware of his actions. After reaching London he regretted his act & while summoning up courage to surrender he was apprehended. I plead that this man be treated leniently and be given an interview with a psychiatrist. He is unmarried, A Cat, Spade 1 education

E-3

J Gumancot Pte.

"A" Coy, #3 Trg Bn
14 Feb 45

TO WHOM IT MAY CONCERN:

Sir:

K-71199 - Pte Gunanook, C.B.

1. The m/n soldier served in my company in France during June and July 1944.

2. Pte Gunanook fought well, within his limitations, during that time. He was fearless, an excellent shot, and to my knowledge killed several Germans. He caused no trouble, he was a willing soldier who always tried to do his part.

3. I had Pte Gunanook sent to our RAP and I talked to the Medical Officer about him, with the result he was sent back to England.

4. My reason for such action was that in my opinion, substantiated by that of the Medical Officer, Pte Gunanook was of very weak mentality, and his judgement was so unformed that he was a menace to our own neighboring tps.

5. It is still my opinion that Pte Gunanook has an undeveloped mind, that he should undergo medical examination by a specialist. That opinion must surely be borne out by the difficulties Officers here have experienced with him. His offences appear to me to be entirely in keeping with my former opinion.

6. For your info, please.

(J.F.Peterson) MAJOR
OC "A" Coy, #3 Trg Bn

JFP/ejc

SUMMARY OF EVIDENCE

Summary of Evidence in the case of K71199 Private Charleston Birt GUNANOOT, Stormont, Dundas and Glengarry Highlanders, on the strength of No 3 Canadian Infantry Training Regiment, a soldier of the Canadian Army Overseas.

By direction of the Commanding Officer, the Summary is taken onoath.

FIRST WITNESS

For the Prosecution

Capt E.T. Stewart, General List, on the strength of No 3 Cdn Inf Depot Bn., an officer of the Canadian Army Overseas, having been duly sworn, states:

I am Capt E.T. Stewart and an Adjutant of No 3 Cdn Inf Depot Bn. I hereby present marked Exhibit "A" Certified true extract from No 3 Cdn Inf Trg Regt Part II Order No 34, dated 6 Feb 45, which shows that the accused, K71199 Private Gunanoot, C.B., whom I now recognize, was awarded 14 days Field Punishment 2 Feb 45. I present marked Exhibit "B" Certified true extract from No 3 Cdn Inf Trg Regt Part II Order No 36 dated 8 Feb 45, which shows that the accused absented himself without leave from 0800 hours 3 Feb 45. I present marked Exhibit "C" Certificate in Accordance with P.C. 2797 of 10 Apr 42 dated 7 Feb 45, which shows that the accused was apprehended in London at 1110 hours, 6 Feb 45.

(E.T. Stewart) Capt

The accused declines to cross-examine the witness.

The accused was cautioned as follows: Do you wish to make a statement or to give evidence on oath? You are not obliged to say anything or give evidence unless you wish to do so, but whatever you say or any evidence you give will be taken down in writing and may be given in evidence.

The accused declines to make a statement or give evidence on oath.

I certify that the foregoing Summary of Evidence consisting of ONE page was taken down by me in the presence and hearing of the accused, and that Rules of Prodecure 4(c), (d), and (f) have been complied with.

(W.J. Aslin) Lt.
Officer Detailed to Take Summary

IN THE FIELD

9 February 1945

E T A

LAST ORDER NO 33 5 FEB 45

NO 3 CANADIAN INFANTRY TRAINING REGIMENT C A (E)
PART II DAILY ORDERS
Issued by
COLONEL S W THOMSON, DSO, MC, COMMANDER

THIS ORDER NO 34 6 Feb 45

12. PUNISHMENTS

(d) On 2 Feb 45, awarded 14 days F P and a forf of 14 days pay for an offence under AA Sec 15(1), AWL from 2359 hrs 29 Jan 45 to 0240 hrs 1 Feb 45 (absent 2 days 2 hrs 41 mins)
Forf 3 days under FR&I 149(1)(a)
Forf 14 days pay under FR&I 149(2)
Total forf of 17 days pay
K 71199 PTE GUNANOOT C B "SD&GH"

"A.C. Kennedy Lt."
.....
for (R.B. Forbes) Major
Admin Officer
No 3 Cdn Inf Trg Regt,
C A (E)

"CERTIFIED TRUE EXTRACT"
9 February 1945
[signature]
Officer having custody of regimental books.

NO 3 CANADIAN INFANTRY TRAINING REGIMENT C A (E)
PART II DAILY ORDERS
Issued by
COLONEL S W THOMSON, DSO, MC, COMMANDER

LAST ORDER No 35 7 Feb 45

THIS ORDER No 36 8 Feb 45

9. ABSENT WITHOUT LEAVE

(a) AWL from hour and date shown
K 71199 PTE GUNANOOT C B "CIC" 0800 hrs 3 Feb 45

"A.C. Kennedy Lieut."
"for" (R B Forbes) Major
Admin Officer,
No 3 Cdn Inf Trg Regt,
C A (E)

"CERTIFIED TRUE EXTRACT"
9 February 1945
[signature] Lieut
Officer having custody of regimental books.

CERTIFICATE IN ACCORDANCE WITH A.C.I. 1787 OF 10 DEC 42.

I hereby certify that No. K-71199. Rank Pte. Name Cunanoot.C.R.

was arrested at London. Place

on 6-Feb-45. (Date) and taken at the time of his arrest

1110 hrs (Hour) before me (Military Provost Staff Officer) (Governor) (Commandant) (Superintendent) (Assistant Provost Marshal) (Provost Marshal) (Officer in charge of the Police Station) (Officer in charge of the Military Prison) (Officer in charge of the Military Detention Barracks) (Officer in charge of the Military Corrective Establishment) (Officer in charge of the Military Detention Quarters) (Officer in charge of the Military Detention Room) (Officer in charge of the Military Guard Room) (Officer in charge of the Military Lock-up) (Officer in charge of the Military Cells) (Officer in charge of the Military Police Office) (Officer in charge of the Military Police Post) (Officer in charge of the Military Police Detachment) (Officer in charge of the Military Police Section) (Officer in charge of the Military Police Company) (Officer in charge of the Military Police Battalion) (Officer in charge of the Military Police Regiment) (Officer in charge of the Military Police Brigade) (Officer in charge of the Military Police Division) (Officer in charge of the Military Police Corps) (Officer in charge of the Military Police Service) (Officer in charge of the Military Police Department) (Officer in charge of the Military Police Ministry) (Officer in charge of the Military Police Government) (Officer in charge of the Military Police State) (Officer in charge of the Military Police Nation) (Officer in charge of the Military Police World) (Officer in charge of the Military Police Universe) (Officer in charge of the Military Police Infinity) (Officer in charge of the Military Police Eternity) (Officer in charge of the Military Police Time) (Officer in charge of the Military Police Space) (Officer in charge of the Military Police Matter) (Officer in charge of the Military Police Energy) (Officer in charge of the Military Police Force) (Officer in charge of the Military Police Power) (Officer in charge of the Military Police Authority) (Officer in charge of the Military Police Command) (Officer in charge of the Military Police Control) (Officer in charge of the Military Police Supervision) (Officer in charge of the Military Police Inspection) (Officer in charge of the Military Police Audit) (Officer in charge of the Military Police Review) (Officer in charge of the Military Police Appeal) (Officer in charge of the Military Police Petition) (Officer in charge of the Military Police Request) (Officer in charge of the Military Police Demand) (Officer in charge of the Military Police Order) (Officer in charge of the Military Police Instruction) (Officer in charge of the Military Police Direction) (Officer in charge of the Military Police Guidance) (Officer in charge of the Military Police Counsel) (Officer in charge of the Military Police Advice) (Officer in charge of the Military Police Opinion) (Officer in charge of the Military Police Judgment) (Officer in charge of the Military Police Decision) (Officer in charge of the Military Police Verdict) (Officer in charge of the Military Police Sentence) (Officer in charge of the Military Police Punishment) (Officer in charge of the Military Police Reward) (Officer in charge of the Military Police Prize) (Officer in charge of the Military Police Gift) (Officer in charge of the Military Police Present) (Officer in charge of the Military Police Donation) (Officer in charge of the Military Police Contribution) (Officer in charge of the Military Police Subscription) (Officer in charge of the Military Police Membership) (Officer in charge of the Military Police Association) (Officer in charge of the Military Police Society) (Officer in charge of the Military Police Club) (Officer in charge of the Military Police Union) (Officer in charge of the Military Police Federation) (Officer in charge of the Military Police Confederation) (Officer in charge of the Military Police Alliance) (Officer in charge of the Military Police League) (Officer in charge of the Military Police Association) (Officer in charge of the Military Police Society) (Officer in charge of the Military Police Club) (Officer in charge of the Military Police Union) (Officer in charge of the Military Police Federation) (Officer in charge of the Military Police Confederation) (Officer in charge of the Military Police Alliance) (Officer in charge of the Military Police League)

Ex "B" W.J.A.

(R.E.Birch),

7-Feb-45.

ARMY FORM B.296 (WAR).

Statement as to Character and Particulars of Service of Accused.

(For Use at Trials by Field General Courts-Martial only).

Number.	*Rank.*	*Name.*	*Regiment (or as the case may be).*
K71199	Pte.	GUNANOOT, C.B.	"SD&GH" 3 Cdn Inf Trg Regt.

NOTE.—The Field Conduct Sheet is to be produced in Court with this statement but is not to be annexed to the proceedings. The numbers herein stated should correspond with the number of Entries in the Field Conduct Sheet, prominence being given to the most serious offence in each entry. If the charge is for drunkenness or absence without leave, the entries for drunkenness or absence, as the case may be, should be stated separately. Any recognized special acts of gallantry or distinguished conduct recorded on the Field Conduct Sheet should also be inserted here.

1. The following is a fair and true summary of the entries in the Field Conduct Sheet of the accused, exclusive of convictions by a court martial or a civil court :—

For	A.A. Sec 15(1)	2 times.
For	A.A. Sec 16	1 times.
For	A.A. Sec 40	1 times.
~~For~~		~~times.~~

Date of first entry in Field Conduct Sheet 4 Feb 44

Date of last entry in Field Conduct Sheet 18 Jan 45

2. Previous convictions of the accused by a court martial or a civil court are set out in the Schedule overleaf.

*Strike out if not applicable.

*3. The accused at the present time is under sentence for 14 days F.P. beginning on the 2 Feb 45. day of

4. The accused has been awaiting trial on the present charges for Nil days in civil custody; and for — 8 — days in military custody, i.e., Nil days in open arrest, — 8 — days in close arrest; of which Nil days were spent in hospital.

5. The present age of the accused is 28

6. The date of his attestation is 27 Nov 41

7. The service which the accused is allowed to reckon is 3 years 2 months

*State the military decorations (if any) held by accused.

8. The accused is in possession of: C.V.S.M. & Clasp

9. ~~(If the accused is a warrant officer or N.C.O.) The accused has served continuously~~ without reduction, to the present date—

Date of Promotion.

In the substantive rank of

In the war substantive rank of

In the acting rank of

INSTRUCTION.—*If any matter in any of the above paragraphs cannot be stated from the regimental books the paragraph must be struck through.*

(75073) WL30721/3701 2,000 9.45 A.S.E.W.Ltd. Gp.682

SCHEDULE OF CONVICTIONS BY A COURT-MARTIAL OR CIVIL COURT.

Description of Court by which tried.	Date and Place of Trial.	Charges upon which convicted.	Sentence of the Court.	Punishment remitted or sentence suspended.
F.G.C.M.	20 Sep 44	A.A. Sec 12(1) WOAS Deserting his Majesties Service, in that he when under order for a special duty with intent to avoid such special duty absented himself without leave from 0500 hrs 15 Sep 44 until apprehended by CPC in Crewe at 1055 hrs 3 Oct 44. thereby incurring cost of ret him to his unit in the amt of £2-4-4. Total 18 days 5 hrs 55 minutes.	120 days detn & cost of apprn in the amt of £2-4-4	40 days remission

I HEREBY CERTIFY that the foregoing particulars, which have been extracted from the regimental books in my custody, are correct to the best of my knowledge and belief.

Signed this 9th day of February, 1945

No 3 Cdn Inf Trg Regt.

No. K71199 Name GUNNAR OTT CB | Sqn, Battery, or Company | Corps CIC | Date of enlistment 27 NOV 41 | GC Badges 1 | Service or Proficiency Pay | 3/17 MFM 6 (AFB 122) 40/F&S/120/15413

Date of last entry in Company Conduct Sheet | No. and date of last drunk | Period not reckoning towards freedom from extra fine | Sheet No. ONE | Signature OC Company, etc | Character

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or order dispensing with trial	By whom awarded	Remarks
Original Deserted				27 NOV 43 ON COMPLETION of 2 years CONSECUTIVE SERVICE					
Field	4 Feb 44	Pte	One	A.A Sec 19 – DRUNKENESS 1st OFFENCE	Doc'y	ADMONISHED	4 Feb 44	MAJ. N.M. BONNER	
Field	28 Aug 44	Pte	I	AA Sec 15(1) – AWL FROM 2200 HRS 28 Aug 44 to 0245 HRS 31 Aug 44 (2 days 4 HRS 45 MINS)	Doc'y	7 DAYS PAY FINE 14/9(21)	4 SEPT 44	A/LT COL G.E. MACPHERSON	FORF 3 DAYS PAY FINE 6/9 (18)
Field	15 Sept 44	Pte	I	A.A Sec 12(1)(a) – WAS. DESERTING HIS MAJESTIES SERVICE IN THAT HE WHEN UNDER ORDER FOR SPECIAL DUTY did avoid ~~FOR~~ SUCH DUTY by ABSENTING HIMSELF WITHOUT LEAVE.					

(OVER)

(PTO)

Date	Date of offence	Rank	Corps of Regiment-ation	OFFENCE	Name of Witnesses	Punishment awarded	Date of award or of order (appeal-ing with trial	By whom awarded	Remarks
CONTINUED Reverse Side	FROM			FROM 0500 HRS 15 SEPT 44 UNTIL APPR'd by CPO at 1055 HRS 30 Oct 44 thereby incurring Cost of RETURNING UNIT to the AMOUNT of £2-4-4 (Tot ABSENCE 18 days 5 HRS 55 MINS)	Doc'y	28 days + Costs of RETURN	20 Oct 44	F&CM.	14 days Pay (FR(1) 1447(2))
	Released from Detn Bk. Hadley Downs on 6th Jan					42 days Forfeiture	Remission EARNED		40 days.
Field	18 JAN 45	FE		AA Sec 15 (1) (a) (i) & (ii) from 2359 HRS 29 JAN 45 to 0240 HRS 1 FEB 45 (2 days 2 HRS 41 MINS)	Doc'y	14 days F.P. (4 days Pay FR(1) 164 (1)(b))	2 Feb 45	LT Col A.M. JENKYN	3 days Pay FR(1) 1447(2))
Field	16 JAN 45	FE		AA Sec 40 - Cond. to Pay etc. at 0125 HRS 16 JAN 45 did have a female in Camp contrary to Unit Standing Orders.	Doc'y	7 days Pay FR(1) 1447(2)	16 JAN 45	LT Col A.M. JENKYN.	

CERTIFIED TRUE COPY as at 9 FEB 45

W J Robinson Maj A/Adjt 3 C.D.D.

OFFICER HAVING CUSTODY of Regt'l Books.

LIST OF WITNESSES

In the case of K71199 Pte. Gunanoot, C.B., SD&GH, on the strength of 3 Cdn Inf Trg Regt.

FOR THE PROSECUTION

1. Capt E.T. Stewart — No 3 Cdn Inf Trg Regt.

FOR THE DEFENCE

N I L

LIST OF EXHIBITS

In the case of K71199 Pte Gunanoot, C.B., SD&GH, on the strength of No 3 Cdn Inf Trg Regt.

EXHIBIT "A" - Certified true Extract from No 3 Cdn Inf Trg Regt Part II Order No 34, dated 6 Feb 45.

EXHIBIT "B" - Certified true Extract from No 3 Cdn Inf Trg Regt Part II Order No 36, dated 8 Feb 45.

EXHIBIT "C" - Certificate in Accordance with P.R. 2797 of 10 Apr 42 dated 7 Feb 45.

9 February 1945

This is to acknowledge that I have received free of charge, the following papers in connection with my forthcoming trial by F.G.C.M.

1 Copy of Charge Sheet
1 Copy of Summary of Evidence
1 List of Exhibits
1 List of Witnesses

Gunanoot C.B.
K71199 Pte Gunanoot, C.B.

3 CANADIAN INFANTRY TRAINING REGIMENT (C.A.(O)

3D/11

9 February 1945 194..

I, No. K71199 (Rank) Pte (Name) Gunanoot C.B., wish to have an Officer defend me at my forthcoming trial by Court Martial.

I desire the services of ~~AN S.D.&G.~~ OFFICER, if he is available.

(Sgd.) Gunanoot C.B.

4 J 14

PTE GUNDERSON EA

RECORDED AT CMHQ IN AD 160.

FIELD GENERAL COURT-MARTIAL

CFA86 (1st Rev) (A.F.A.C. 81/P.A.S./1660/72604)

Convened by Order of Lt Col V R Jones Comd 1 Cdn A Tpt Coln dated 25 Nov 44

ACCUSED.

(As to the trial of two or more charged jointly see RP 16, 71, 109. As to reasons for showing (a) permanent or substantive rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

Number.	(a) Prmnt R. (b) Appmt. A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
L 41585	PTE	Eldon Alexander	GUNDERSON	45 Cdn A Tpt Coy

PROCEEDINGS REVIEWED

R H Lawry Capt
REVIEWING OFFICER, AG BRANCH, C.M.H.Q.

Date 15 Dec 44

PROCEEDINGS OF TRIAL.

Held in the Fd in (country) Belgium on (date(s)) 27 Nov 1944

RECORD FORM A—OPENING PROCEEDINGS AND ARRAIGNMENT.

A1. The President, Members, waiting Member, ~~if any~~, if any, and Offrs under instr, if any, assemble, and the Court is closed.

(PRINTED MATTER, NOT IN ITALICS FOR GUIDANCE, WILL BE DELETED IF NOT USED OR APPLICABLE, AND INITIALLED BY PRES OR JA. The Schedule referred to throughout is on p 4. Citations do NOT include all relevant Fmn ROs. For guidance on procedure when a variation in this form arises, see form for GCM in MML pp 741 to 759. A brief record of such variation will be made and given a number having reference to appropriate or preceding para number herein. See back of Convening Order, CF A95, for oaths and instrs on how to record addresses, evidence, etc, which instrs are hereafter called "Notes". As to general provisions for conducting the trial see AA 53, RP 36, 63-70, 73, 74, 94, 103, 119, 132.)

A2. The President initials and lays before the Court the Convening Order and Charge Sheet(s) attached thereto.(1) The Court is satisfied that it is properly convened and constituted(2), accused is (are) amenable to military law, and each charge discloses an offence.(3)

(1. As to use of Summary of Evidence see RP 17 fn 6. 2. AA 49, 50, RP 105-107. 3. RP 11-13, 23, 24.)

A3. The Court is opened. The accused is (are) brought before the Court. At 1200 hours trial commences.

A4. The Prosecutor produces a Medical Certificate that accused is (are) fit to undergo trial by court-martial.(1)

~~The Prosecutor informs the Court that accused elected to be tried by court-martial instead of being dealt with summarily by the CO.(2)~~

(1. KR Can 557. 2. AA 46(8), RP 60 fn 1. For effect see KR Can 563(c). Delete, if not applicable.)

A5. ~~President to accused: Do you object to~~ as interpreter ? Ans

The Interpreter is sworn.(1) Do you object to 67346 Pte Robertson C as shorthand writer ? Ans No
The shorthand writer is sworn.(1)

(1. RP 72. Delete, if none employed.)

A6. The Convening Order and names of the President and Members of the Court are read to the accused.(1)
President to accused: Do you object to be tried by me as President or by any of the Members of the Court ?
Ans Not obj.(2)

(1. RP 110. 2. If no objection, waiting member retires. RP 68(3). If objection, see procedure AA 51, RP 25, 71, 98, MML p 742.)

A7. The President, Members, ~~if any~~, if any, and Offrs under instr, if any, are sworn.(1) The following are the ranks, names and units of the offrs comprising the Court, etc:

President	Major	A. D. Allan	HQ 1 Cdn A Tpt Coln
Member	Capt	V. L. Marshall	47 Cdn A Tpt Coy
Member	Lt.	R. H. Smith	4 Cdn Army Dist Tpt Coy.
Judge-Advocate			
Prosecutor	Lt.	J. W. McLean	45 Cdn A Tpt Coy
Defending Offr	Lt.	N. L. Goodman	45 Cdn A Tpt Coy

Questions by President: Is the Prosecutor a lawyer ? Ans No Is the Defending Offr a lawyer ? Ans No (1)

(1. RP 26, 27, 109, 111. List of offrs under instr will be returned separately with proceedings for information of Conv Offr.
2. If Pros a lawyer and Def Offr not, accused is entitled to an adjournment when RP 89 (B) and fn 2 were not followed. See D1 p 2.)

A8. The accused L 41585 Pte Gunderson E.A. before arraignment make(s) (no) (~~no~~) plea.(1)

(1. If a special plea is made for separate trial on one or more charges (RP 62(E), 109), or as to the jurisdiction of the Court (RP 34, 25(A), 112), or in bar of trial (RP 36), or as to accused's mental fitness to stand trial (AA 130, RP 57), or by one of several accused charged jointly to be tried separately (RP 16, 71), such plea, the addresses made in support or against, the evidence, if any, and finding are recorded per Notes. For forms of record see references in fns to RoP cited. Insert in RE rank and name of the accused making the plea.)

A9. The accused is (are) arraigned ~~(separately)~~ on all charges in the charge sheet.(1) The accused does (does not) object to any charge.(2) There is no amendment to be made to the Charge Sheet.(3) The President records the pleas in Part I of the Schedule.

(1. RP 31, 112. See para 1 of footer p 2. When more than one Charge Sheet see RP 62; when accused accused to be tried separately see RP 71(C), and see separate copies of CF A96 to record proceedings. 2. RP 32, RP 33. If otherwise, delete and make appropriate record per Notes.)

A10. The Court (is closed and) considers the Instrs on Procedure after Arraignment at top of p 2. The proceedings are continued on Record Form D-B-C

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS

SCHEDULE.

PART I. PLEA(S), FINDING(S) AND SENTENCE.

Accused: L.41585 Pte Eldon Alexander GUNDERSON 45 Cdn A Tpt Coy

Charge. (Insert "alternative" where applicable.)	Plea. (See Instrs p 2.)	Finding. (See note below.)	(Space for use as required for further charges, accused charged jointly, special findings, etc.)
1st AA 19	Guilty	Guilty	
2nd AA 8(1)	Not Guilty	Not Guilty	
3rd Alternative AA 8(2)	Not Guilty	Guilty	
4th			
5th			
6th			

(Note: As to findings for lesser offences see AA 56, RP 44; findings on alternative charges see MML p 483 fn 4 para 2, RP 44; special findings see RP 44 and MML p 733, and as to loss of kit see RP 44 fn 6.)

At present under sentence for beginning on (date) (1)

(1. Insert sentence being served, or delete, if not applicable. See RP 46(A). Information should be found on MF B355 or AF B296.)

Time in confinement awaiting present trial—a total of 9 days, of which Nil days were spent in hospital.(1)

(1. See RP 46(A) fn 2. Information should be found on MF B355 or AF B296 admitted in evidence under E2.)

Sentence Awarded by the Court: To suffer field punishment for 28 days and to forfeit all ordinary pay for a period of 28 days.

27 Nov (Sgd) A.D. Allan Major
Date awarded. President. (RP 46, 50.)

Judge-Advocate, if any.

(See back of Convening Order as to assembly and disposal of record after trial.)

PART II. MINUTE WHERE CONFIRMATION RESERVED. (AA 54(5), RP 120(F), MML p 760.)

Date (Sgd) Commanding

PART III. DECISION OF CONFIRMING OFFR ON FINDING(S) AND SENTENCE.

(For duties and powers see AA 54, 57, RP 37(D) fn 6, 46(A), 51-56, 120, MML pp 759-761, KR Can 567-577. Acquittals require no confirmation and cannot be revised: AA 54(3). Sending back finding or sentence for revision by Court: AA 54(2), RP 120(G). If not confirmed, accused may be tried again: AA 157, MML p 64. Minute of confirmation or non-confirmation may be altered before promulgation: RP 53, MML p 65. Quashing after promulgation: KR Can 573. Duties and powers of reviewing offrs: AA 57, 57A, RP 53A, 54. The Confirming Offr must sign here personally. AA 172 fn 1.)

My decision on the finding(s) and sentence set forth in Part I is: that I confirm the finding and sentence of the Court

I direct that the accused be not committed to prison or detention barracks until further orders.(1)

(1. AA 57A. Delete if not used.)

(Sgd) H. R. Jones Lt Col
Date 4 Dec 44 Commanding No 1 Cdn Army Tpt Coln
Confirming Officer.

PART IV. PROMULGATED AND EXTRACTS TAKEN. (RP 53, KR Can 576, 577.)

Accused. L.41585 Pte GUNDERSON, E.A. Date. 5 DEC 44 Signature of Offr.

R Gunn Maj. O.C.
45 Cdn. Army Tpt. Coy. R. C. A. S. C.

ALL DELETIONS AND ALTERATIONS WILL BE INITIALLED.

No illegalities or irregularities such as would warrant withholding confirmation.

INSTRUCTIONS ON PROCEDURE AFTER ARRAIGNMENT.

1. *The accused may not plead or be found Guilty on more than one of two or more charges laid in the alternative (RP 37(A).) As to withdrawal of alternative charges by Prosecutor see RP 35(C). No other charge can be withdrawn for any reason without authy from Convening Offr. If Convening Offr concurs, Court may accept plea of Guilty to lesser, etc, offence. (RP 44(H).) Accused may change a plea of Not Guilty to Guilty during trial. (RP 38.) As to refusing to plead or not pleading intelligibly see RP 35(A). As to plea when sentence may be death see RP 35(D).*

2. *The proceedings on each charge sheet (RP 62) after arraignment will be conducted as follows in the respective circumstances stated:*

I. If pleas to all charges are GUILTY, use Record Form B below.

II. If pleas to all charges are NOT GUILTY, use Record Form D on p [redacted] 3.

III. If pleas to some charges are GUILTY and to other charges are NOT GUILTY and,

(a) Such mixed pleas occur when there are no alternative charges in the Charge Sheet, use Record Form C below. (RP 37(A).)

(b) Such mixed pleas occur in a set of two or more charges laid in the alternative, see RP 37 (A) and fn 2 as to discretion of Court, (i) to try the accused on all such alternative charges as if he had pleaded Not Guilty thereto, or, (ii) to record the pleas as the findings of Court. After deciding between (i) and (ii), Court will proceed under foregoing instrs as may be appropriate to result of its decision. See MML p 744 Instrs (2).

3. *As to responsibility of President to accused see RP 59, 60(C); powers and duties of JA see RP 103; duty of Prosecutor see RP 60(A) (B); duty and privileges of accused and Defending Offr see RP 60(C), 87(C), 91, 92; swearing and withdrawal of witnesses from Court see RP 81, 82; questioning of accused see RP 80, 87(C), 92(B), and of witnesses see RP 85-85; calling or re-calling of witnesses by Court etc see RP 75-79, 86, 116; use of Summary of Evidence at Trial see RP 17(E) fn 6; and responsibility of JA or Pros to record proceedings see RP 94, 96.*

RECORD FORM B--PROCEEDINGS ON PLEAS OF GUILTY TO ALL CHARGES.

B1. The President or JA, if any, complies with RP 35(B) by explaining to the accused the nature and meaning of the charge(s).(1) and that on his plea of Guilty there will be no regular trial but merely a consideration of the sentence to be awarded after he has been given an opportunity to make a statement in reference to the charge(s), call witnesses as to character and make an address in mitigation of punishment.(2)
(1. *RP 35 fn 3.* 2. *MML p 54 para 47.*)

B2. President to accused: The Court will now receive any statement you desire to make in reference to the charge(s).(1) If it appears from your statement that there are circumstances which indicate that you do not understand the effect of the plea of Guilty(2), or which show provocation or extenuation in respect of which in your interest the witnesses for the Prosecution should be examined(3), we shall advise you to change your plea to Not Guilty. In making a statement you will not be sworn or subject to cross-examination; and anything you say will not be used in evidence against you after you change your plea. If, however, it appears to the Court that your statement affects only the amount of punishment to which you are liable, you will not be advised to change your plea and you will be given an opportunity later to prove your statement by sworn testimony, if you so desire.(4)

President to accused: Do you wish to make a statement? Ans No (5)
(1. *RP 37(B).* 2. *RP 37(D) fn 6.* 3. *RP 35(B) fn 5 para 3, MML p 54 para 47.* 4. *See para E3 of Record Form E.* 5. *Statement, if any, recorded per Notes.*)

~~B3. The Court considers the accused's statement (1) The Court decides (not) to advise accused to change his (their) plea(s) of Guilty to Not Guilty on charge(s). The accused is (are) so informed, and he (they) change(s) his (their) plea(s) on charge(s). Part I of the Schedule is amended accordingly.~~
(1. *Court may be closed to consider the statement. Delete whole or part not used.*)

B4. On the charge(s) to which the plea(s) of Guilty is (are) not changed the President records finding(s) of Guilty in Part I of the Schedule.(1)
(1. *RP 35(B). If any plea(s) is (are) changed, use Record Form C or D as appropriate.*)

B5. The Summary of Evidence is marked Ex "A", initialled and read aloud by the President.(1)
(1. *If there is no Summary, or if it is inadequate, comply with RP 37(B). If there is any evidence inconsistent with any plea standing as Guilty, Court will advise accused to change such plea and, if changed to Not Guilty, try such charge(s) by use of paras D1 to D8 inclusive of Record Form D on p 3. RP 37(D).*)

B6. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

RECORD FORM C--PROCEEDINGS ON MIXED PLEAS OF GUILTY AND NOT GUILTY.

C1. As to the charges on which accused pleaded NOT GUILTY the trial is continued by using paras D1 to D8 inclusive of Record Form D on p 3 before proceeding with C 2.(1)
(1. *RP 37(A) (E).*)

C2. The charges on which accused pleaded GUILTY are read to him (them) again, and the trial is continued by using paras B1 to B5 of Record Form B above.(1)
(1. *Under B5 such parts only of the Summary of Evidence are read as relate to the charges dealt with under C2. If any plea is changed to Not Guilty, trial thereon proceeds by complying with paras D1 to D8 inclusive in Record Form D on p 3 and making an appropriate record thereof on a separate sheet.*)

C3. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

RECORD FORM D--PROCEEDINGS ON PLEAS OF NOT GUILTY TO ALL CHARGES.

D1. President to accused: Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity to prepare your defence? Ans No Sir (1)
(1. *If "yes", see RP 39(A) for procedure. Statement or evidence, if any, is recorded per Notes.*)

D2. The Prosecutor makes (~~no~~) (no) opening address.(1) No
(1. *RP 39(B), 60(A) (B), 90, 92(C) (D). Record address per Notes, subject to RP 95(C).*)

D3. The evidence for the Prosecution is taken.(1)
(1. *RP 39(C), 114, KR Can 555. Record evidence per Notes. As to Prosecutor giving evidence himself see RP 39(D) (E).*)

D4. The Prosecution is closed.(1) The Defending Offr submits that the evidence for the Prosecution does not establish a prima facie case against the accused on the Second charge(s).(2) The Court is closed, and considers the submission.(3) The Court is re-opened, and the President announces that the submission is ~~disallowed on the charge(s), and~~ allowed on the Second charge(s), and that, accordingly, the trial will proceed ~~on the former~~, but the accused is ~~not~~ found Not Guilty on the ~~latter~~ charge(s).(4) Vide the alternative.
(1. *Delete remainder of this para, if submission not made.* 2. *Arguments on submission, answer and reply are recorded per Notes.* 3. *RP 40 fn 1. See MML p 72 paras 12-14 and p 81 para 42.* 4. *Delete part not used. If accused acquitted on all charges, use second alternative in para D8.*)
NB: If trial proceeds, accused must be allowed great latitude in making his defence, and the Court should not stop his defence solely on ground of irrelevance. (RP 60(C), 114, 115.)

D5. President to accused: You will now proceed with your defence.(1) You may, if you wish, give evidence yourself on oath as to the facts or your character or both, in which case you will be subject to cross-examination.(2) You may, however, make a statement without being sworn, and you will not be subject to cross-examination.(3) But a statement which could have been made on oath will not carry with the Court the same weight as sworn testimony.(4) You may call witnesses in your defence and as to character, whether you give evidence or make a statement or do neither.

President to accused: Do you wish to give evidence yourself as a witness, make a statement, or do neither?
Ans Evidence under oath. Do you intend to call witnesses on your behalf?
Ans Yes Are they witnesses as to character only? Ans No
(1. *RP 155.* 2. *RP 40(A), see 80(D).* 3. *RP 40 fn 10.* 4. *RP 40 fns 2, 9.*)

D6. Consequent on the answers recorded in para D5 the appropriate procedure for the defence is followed.(1)
(1. *RP 114, 115, 116. For procedure see Notes on back of Convening Order, CF A65. Evidence for accused as to his character should, if in his interest, be given before the finding. See RP 46(A) fn 1, 80(C). Note the further opportunity in para E1 of Record Form E. Record per Notes addresses, statement, evidence and any summing up by the JA under RP 42, 103(6).*)

D7. The Court is closed to consider the finding(s).(1) The finding(s) of the Court is (are) recorded in Part I of the Schedule.(2) The Court is re-opened.
(1. *RP 43, 117(A). See Notes in Part I of Schedule.* 2. *RP 44(A).*)

D8. The President announces the finding(s), if any, of Not Guilty, and states to the accused that the finding(s) of the Court on the first and alternative charge(s), being subject to confirmation, will be promulgated later.(1) *Or*, The President announces that the accused is found Not Guilty on all charges and is to be released forthwith, and that the proceedings are accordingly terminated. Part I of the Schedule is dated and signed.(2)
(1. *AA 54(7) (8), RP 45, 120(A).* 2. *AA 54(7), RP 45, 117. This alternative announcement is not applicable when there are pleas of Guilty outstanding and dealt with under Record Form B at C.*)

~~D9. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E below.~~ N.

RECORD FORM E--PROCEEDINGS ON CONVICTION BEFORE SENTENCE.

E1. President to accused: Do you wish to give evidence yourself or to call any witnesses as to your character?(1)
Ans No
(1. *If evidence has already been given by accused or his witnesses as to his character, delete this para. RP 37(C) fn 4, 46 fn 1. Accused and witnesses are sworn. Evidence recorded per Notes.*)

E2. The Prosecutor produces Statement(s) as to Character and Particulars of Service(1), and certified true copy (copies) of Conduct Sheet(s)(2), purporting to refer to the accused, which he submits to the Defending Offr for examination, and then to the Court for admission in evidence. The Court is satisfied that these documents refer to the accused, because (i) they purport to be signed in the manner required by AA 163(1) (g) (h), and (ii) they purport to refer to (a) soldier(s) having the same number, rank, name and corps as the accused. Admitted in evidence and marked Ex B and Ex C respectively.(3)
(1. *MFB 355 or AFB 296.* 2. *MFM 6.* 3. *RP 46, KR Can 558. If above documents not produced, see RP 46 fn 1 para 1.*)

E3. President to accused: Do you wish to address the Court on the Statement(s) and Conduct Sheet(s), and in mitigation of punishment?(1) Ans Yes (2)
(1. *RP 37(C), 46(D).* 2. *Address, if any, recorded per Notes. Court should permit accused or his witnesses to prove on oath anything here or previously stated which would affect the amount of punishment. RP 37(F) fn 7.*)

E4. The President states that the Court is closed to consider the sentence, and that the sentence to be awarded by the Court, being subject to confirmation, will not be announced, but will be promulgated later, and the proceedings in open court are accordingly terminated.(1)
(1. *AA 54(6), RP 120(A).*)

E5. The Court considers the sentence.(1) The President records the sentence in Part I of the Schedule, which is dated and signed by him and the JA, if any.(2)
(1. *When several accused tried separately see RP 7(D). One sentence only, comprised of the punishment or punishments laid down in AA 41, 44 and its proviso, is to be awarded to cover all charges in all charge sheets on which accused found guilty. RP 48. As to sentences see AA 44, 138, 182, RP 46-50, 69, 118, 119(A), KR Can 308, 330, 563-566, Overseas NO 309, 2323, MML p 60, 737-759. As to sentences assigned for civil offences by the law of England see AA 61(5), MML p 130. When accused already under sentence of imprisonment or detention see AA 44(1)(b), 68(1), KR Can 564.* 2. *RP 50. As to release from arrest by Confirming Offr see KR Can 567. As to assembly and disposal of record after trial see instrs on back of Convening Order.*)

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

APPENDIX "F"

CHARGE SHEET

The accused, L.41585 Private Eldon Alexander GUNDERSON, 45 Cdn Army Tpt Coy RCASC, a soldier of the Canadian Army Overseas is charged with:--

FIRST CHARGE
Sec 19
Army Act

WHEN ON ACTIVE SERVICE, DRUNKENNESS

in that he

in the field, on or about 2300 hrs 16 Nov 44, was drunk.

SECOND CHARGE
Sec 8 (1)
Army Act

WHEN ON ACTIVE SERVICE, STRIKING HIS SUPERIOR OFFICER, BEING IN THE EXECUTION OF HIS OFFICE

in that he

in the field, on or about 2300 hrs 16 Nov 44, struck with his fist in the face A.10034 Cpl. WILSON, R.K. who was at the time in the regimental canteen performing his duties as Educational Corporal.

ALTERNATIVE TO SECOND CHARGE
Sec 8 (2)
Army Act

WHEN ON ACTIVE SERVICE, STRIKING HIS SUPERIOR OFFICER

in that he

in the field, at about 2300 hrs 16 Nov 44, struck A.10034 Cpl. WILSON, R.K. of 45 Cdn Army Tpt Coy RCASC.

D. Horison

.....Major
(R.D. Horison)
Officer Commanding
45 Cdn Army Tpt Coy R.C.A.S.C.

Field
22 November 1944
To be tried by GCCM

25 Nov 44
Field

[illegible] Jones] Lt Col
[illegible] 1 Cdn Army Tpt Coln

FIELD GENERAL COURT-MARTIAL

CFA95 (In lieu of AFA52)
40/PAS/1000 (2nd ed.)

(Whether the accused to be tried is under his comd or not, a FGCM may on application to him be convened by any offr of Cdn Army Overseas, or of any other force if authorized in law, in immediate comd of troops on active service, subject to RP 105(C) and restrictions imposed by appropriate authy. AA 49, 50, RP 104-107, 114. As to the duties and privileges of the Convening Offr in dealing with the application see MML Chap V paras 25 and 23, RP 87(B).

There should be a separate Convening Order for each person to be tried separately by the same Court. RP 71(C), 109. As to separate charge sheets see RP 62, and as to separate trial on charges in the same charge sheet see RP 108. As to two or more accused charged jointly see RP 16, 109.

As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns. KR Con 308, 328, 330.)

ACCUSED.

Number.	(a) Prmnt R.	(b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
L.41685	Pte		ELDON ALEXANDER	GUNDERSON	45 Cdn A Tpt Coy

CONVENING ORDER.

1. Whereas complaint has been made to me, the undersigned, that the person(s) named above as the accused, being subject to military law, has (have) committed the offence(s) set forth in the Charge Sheet(s) attached and on (date) 25 Nov 44 endorsed by me, (or by an offr of my staff for me), "To be tried by Field General Court-Martial",

2. And whereas I am of opinion that it is not practicable that such offence(s) should be tried by an ordinary General Court-Martial; (and that it is not practicable to delay the trial for reference to a superior qualified offr)

(Delete part in brackets when not required for compliance with RP 105(C).)

3. I hereby convene a Field General Court-Martial to try the said person(s), and to consist of the Offrs appointed or detailed hereunder.

4. ~~I am unable to appoint (a) three Offrs to form the Court, (b) a Fd Offr as President, for the reasons I have attached hereto.~~

(AA 49, RP 106(B), 107(A). Delete the whole or part, if not applicable.)

5. I also appoint as Judge-Advocate thereat the Offr mentioned hereunder.

(RP 106(E). Delete, if none appointed.)

PRESIDENT.

(Rank.)	(Must be named. RP 106.)	(Unit.)
MAJOR	A C MILLAR	HQ 1 Cdn Army Tpt Coy

MEMBERS.

(Rank.)	(Named or detailed. RP 106.)	(Unit.)
CAPT	V L MARSHALL	47 Cdn Army Tpt Coy
LT	E H SMITH	4 Cdn Armd Div Tpt Coy

WAITING MEMBER.

(Rank.)	(Named or detailed, if any. RP 106.)	(Unit.)
LT	W S DRINKWATER	47 Cdn Army Tpt Coy

JUDGE-ADVOCATE.

(Rank.)	(Must be named, if any. RP 106.)	(Unit.)

On Active Service in the Fd

in Belgium (Country.)

(V Holmes) (Signed personally. RP 105 fn 2.) Lt Col (Rank.)

Date 25 Nov 44

Commanding HQ 1 Cdn Army Tpt Coln
Convening Officer.

CONVENING OFFR WILL INITIAL ALL DELETIONS AND ALTERATIONS

(See overleaf for oaths and notes for use on trial.)

45 CDN ARMY TPT COY RCASC

45 AT 5-7-2

Field
27 Nov 44

This is to certify that L-41585 Private Eldon Alexander SUNDERSON is ~~not~~ to stand trial by Field General Court Martial, having been in custody since the 5th

.....Capt

IN THE CASE OF L.41585 Private GUNDERSON, E.A. of 45 Cdn Army Tpt Coy RCASC

FIRST WITNESS A.10034 Corporal WILSON, R.K. of 45 Cdn Army Tpt Coy RCASC being duly sworn states; I was sitting by the stove reading and Pte Gunderson came in and Pte Larche entered at the same time, Pte Gunderson, Cowan and Larche talked at the counter for some time, and Pte Gunderson called me over to the counter. I was reading and diden't pay any attention to him. Pte Gunderson then came over and started to pull me over to the counter. I picked up a poker and he let me go. I dropped the poker and went back, sat down and started to read again. Pte Gunderson then came over and wanted me to get up and fight with him, I refused and then he hit me some where on the face. I then got up and tried to quiet him down. He hit me again and then I backed up towards the bed he pushed me. I then called on Pte Cowan and Larche to help me get this man out of the room. They apparently took it to be none of their business. He pushed me back on the bed and tried to choke me. He then hit me again, I got loose and left the room. At no time did I hit him. That is all that happened, Sir.

EXAMINED BY THE PROSECUTOR

Q.1 What time do you place the alleged assault at ?

A.1 At 2300 to 2359 hours because the A.E.F. program had signed of shortly before not more than half an hour.

Q.2 According to unit orders are there any personnel allowed in the canteen after 2230 hours?

A.2 No, Sir.

Q.3 Is it your duty and does the excution of your office require you to maintain good discipline in the canteen?

A.3 Yes Sir, it would if I am in charge of the canteen.

Q.4 Are you in charge of the canteen?

A.4 No, Sir.

Q.5 Does your duty as a NCO require you to maintain discipline at any place within the unit lines?

A.5 Yes Sir.

Q.6 Did you order the accused to leave the building as the time stated was after tattoo?

A.6 No, Sir.

Q.7 Did you at any time antagonixe Pte Gunderson by action prior to the assault?

A.7 The only way sir, would be with the poker, but he had his hands on me at the time.

Q.8 Did the accused lay hands on you prior to you threatening him with the poker?

A.8 Yes, Sir.

Q.9 Did you at any time lay hands on or strike the accused?

A.9 I tried to shove him away from me when he was choking me on the bed.

Q.10 Did you at any time order the accused under arrest?

A.10 No, Sir.

Q.11 Why did you not order his arrest?

A.11 Because possibly I didn't think of it and also I hoped to get him from the room without making him any wilder than he was, I thought if I put him under arrest it would only make him wilder than he was.

Q.12 Can you give your belief for the reason for the accused having struck you?

A.12 None except perhaps he had been drinking.

EXAMINED BY THE DEFENCE

Q.1 Did your excution of office as Unit Educational Corporal necessiate you having conversation or connection with Pte Gunderson?

A.1 The Cpl of the YMCA was out that night and as my quarters are in the YMCA I take turns with the YMCA staff in staying in, and we also been holding an informal discussion around the stove with members of "C" Platoon.

Q.2 Was Gunderson one of those in the discussion?

A.2 No, Sir.

Q.3 In your opinion had Pte Gunderson been drinking?

A.3 Yes, Sir.

Q.4 When Gunderson entered the canteen was his at itude on of friendliness or wanting to pick a fight?

A.4 I had nothing to do with him until he called me over to the counter, I was reading.

Q.5 Did he not call you over to the counter to offer you a drink?

A.5 He might have sir I didn't pay any attention.

Q.6 When he came over and tried to have you join them at the counter was his attitude one of friendliness?

A.6 I don't know Sir. He was rough in his method of getting me there.

Q.7 Was that the reason you treatened him with the poker?

A.7 I think sir I picked up the poker unconciously, automatially.

Q.8 Do you normally administer discipline in the canteen by the use of a poker?

A.8 I never had occassion to administer discipline in the canteen before.

Q.9 Was this the first time a man has touched you personally in the canteen?

A.9 Yes, Sir.

Q.10 When he first came into the canteen he was not wild. Is that correct?

A.10 Yes, Sir.

RE
~~CROSS~~-EXAMINED BY PROSECUTOR

Q.1 You say you picked up the poker automatically why did you not use the poker in your defence?

A.1 Because he let go of me , Under any condition I wouldn't strike a man.

Q.2 Have you ever had any trouble with the accused before that night of the alleged assault?

A.2 No, Sir.

The Court considers that it is unnecessary to comply with R.R. 82(2)

SECOND WITNESS: M.57345 Private COWAN, C.W., of 45 Cdn AFM Pt Coy RCASC, being duly sworn is questened by the is questioned by the prosecutor:-

Q.1 Would you tell the court in your own words what happened on the night of the alleged assault?

A.1 On Nov 16 about 2300 hours Cpl Wilson and myself were in the canteen, Pte Gunderson and Larche came into the canteen, Pte Gunderson was drunk when he came in and had a bottle with him. He asked Cpl Wilson to come over and have a drink, Cpl Wilson said no. Pte Gunderson walked over and took Cpl Wilson by the hand and brought him over. Cpl Wilson turned around and got mad at Pte Gunderson. Cpl Wilson turned around and picked up the poker and was going to hit Pte Gunderson with it. He put the poker down and went back and sat down. Pte Gunderson got mad and turned around and hit Cpl Wilson. Then they turned around and argued. Cpl Wilson got up off the chair and walked across the floor, Pte Gunderson went over after him. They started to argue again and Pte Gunderson turned around and hit Cpl Wilson again. Then they argued for a while after that and that was the finish of it, Sir.

EXAMINED BY THE PROSECUTOR

Q.1 Why do you place the time at 2300 hours?

A.1 That is just about the time I thought it was.

Q.2 Did the accused use considerable force in bringing Cpl Wilson over for a drink?

A.2 No, Sir.

Q.3 Did Cpl Wilson antagonize the accused in any way prior to the assault?

A.3 No, Sir.

Q.4 Did the accused lay hands on the person of Cpl Wilson before Cpl Wilson picked up the poker?

A.4 Yes, Sir.

Q.5 Did Cpl Wilson strike the accused at any time?

A.5 No, Sir.

EXAMINED BY THE DEFENCE

Q.1 When the YMCA Cpl goes out is it not customary for you to be in charge of the canteen?

A.1 Yes, Sir.

Q.2 Does not Cpl Wilson merely live in the canteen?

A.2 Yes, Sir.

Q.3 Up to the time Cpl Wilson raised the poker was Gunderson not acting just as a friend or Cpl Wilson?

A.3 He came in a friendly way.

Q.4 When was his first show of anger?

A.4 After Cpl Wilson picked up the poker.

Q.5 How drunk would you say Gunderson was?

A.5 He was pretty drunk, Sir.

Q.6 Do you know if Gunderson came in to see Cpl Wilson the following morning?

A.6 I do not know, Sir.

RE-EXAMINED BY THE PROSECUTOR

Q.1 What words did the accused use when he first asked Cpl Wilson to come over and have a drink?

A.1 He just asked Cpl Wilson to come and have a drink.

Q.2 How far away was Cpl Wilson when he first took the poker?

A.2 About two feet, Sir.

Q.3 Did the accused strike Cpl Wilson as soon as he picked up the poker?

A.3 No, Sir.

QUESTIONS BY THE COURT

Q.1 Did Cpl Wilson say anything to the accused when he had the poker in his hand?

A.1 No, Sir.

Q.2 Do you know wheter Cpl Wilson drinks himself or not?

A.2 He drinks a little, Sir.

The Court considers that it is unnecessary to comply with R.P. 82(b)

THIRD WITNESS

C.33244 Private LARCHE, G. of 45 Cdn Army Tpt Coy RCASC, having been duly sworn is questioned by the Prosecutor:

Q.1 Can you tell the court in your own words what happened on the night of the alleged assault?

A.1 We walked into the canteen together, Pte Gunderson and myself, and were only there a few minutes when Pte Gunderson asked Cpl Wilson to have a drink. At the time Cpl Wilson was reading. He asked him a couple more times and at that time Cpl Wilson got mad and raised the poker over his head, but did not strike Pte Gunderson. When Gunderson saw that he got mad and hit Cpl Wilson. That is all, Sir.

EXAMINED BY THE PROSECUTOR

EXAMINED BY THE PROSECUTER

Q.1 Had you been out with Pte Gunderson prior to coming into the canteen?

A.1 No, Sir.

Q.2 Did Cpl Wilson at any time order you to come to his assistance?

A.2 I don't recall it if he did.

Q.3 Is your mind very clear about what happened that night?

A.3 What I remember is what I said, Sir.

Q.4 Do you recall if Cpl Wilson said anything to Pte Gunderson when he was handling the poker?

A.4 I don't think he did, Sir.

Q.5 Did Cpl Wilson strike the accused at any time?

A.5 No, Sir.

Q.6 When they were over by the bed did the accused try to choke Cpl Wilson?

A.6 I do not know.

EXAMINED BY THE DEFENCE

Q.1 Was Pte Gunderson very drunk?

A.1 Yes, Sir.

Q.2 Would you say he was very drunk?

A.2 Yes Sir, he was.

Q.3 Do you recall speaking to Pte Gunderson the following morning?

A.3 I don't remember.

The Court considers it unnecessary to comply with R.P. 83(B)

CPL WILSON R.E. RECALLED BY THE COURT

Q.1 On the night in question were you or were you not in charge of the canteen?

A.1 I had stayed in that night and therefore I was in charge.

Q.2 If you were in charge of the canteen what were your duties?

A.2 My duties were to see that everyone behaved themself and that nothing was taken from the canteen.

Q.3 What does the canteen consist of? Are the articles for sale?

A.3 I had nothing what so ever to do with the canteen, Sir.

Q.4 The canteen as a canteen was closed?

A.4 Yes, Sir.

Q.5 What part of the canteen were you in charge of?

A.5 It is used as a reading and writing room and canteen, it was the only room that at that time had a stove in it.

Q.6 The term canteen, includes, reading, writing, and recration room?

A.6 Yes, Sir.

Cpl Wilson recalled Cont/d. -6-

Q.7 On this particular night you were in charge of this room?

A.7 Yes, Sir.

Q.8 By what authority?

A.8 The authority of the Cpl of the canteen.

Q.9 Is the Canteen Cpl in a position to detail you to take charge?

A.9 I should imigine he was Sir he is the Aux Cpl.

Q.10 Are there existing any Unit Orders governing the control of this room?

A.10 Not ot my knowledge, Sir.

The Court considers it unnecessary to comply with R.R 83(8) GJ

PTE COWAN C.M. RECALLED BY THE COURT

Questions by the Court

The Court considers

Q.1 On the night in question were you in charge?

A.1 Yes, Sir.

Q.2 By what authority?

A.2 Aux, Cpl.

Q.3 Are you Aux Service?

A.3 No, Sir.

Q.4 What connection have you with the YMCA Aux Service?

A.4 I am just helping out there.

Q.5 When you say you were in charge of the canteen, do you mean the whole thing or just the canteen?

A.5 Just the canteen, Sir.

Q.6 Do you take orders from the Educational Cpl?

A.6 No, Sir.

The Court considers it unnecessary to comply with R.R 83(8) GJ

DEFENCE

ACCUSED:- L.41585 Private Gunderson, E.A. of 45 Cdn Army Tpt Coy RCASC, having been duly sworn is questioned by the Defence:-

Q.1 Would you state briefly in your own words what you know about the night of 16 Nov. 44?

A.1 On the evening of the 16 Nov 44, I returned from detail when I received the mail I had a letter from my wife and one from my mother, in which was very bad news. A friend of mine, Pte Mahormiak the day previous to this had received a letter from his wife which had caused him to be down hearted, after having permission from the Cpl to be off for the day my friend suggested that we go to the cafe to have a few drinks, which would make us feel better soewe went to the cafe and had a few drinks and that is the last I remember until the next morning. In the morning some of the boys told me what I had one I went to apologize to Cpl Wilson, and one of the other lads and myself went out on a detail that morning. I also just met my brother that I hadn't seen in six years. I saw him for about three hours before he left to go to the front, being only 19 years old it also caused me to worry. that is all I have to say, Sir.

NO QUESTIONS

The Court considers it unnecessary to comply with R.R 83(8)

CLOSING ADDRESS OF PROSECUTOR

Summing up the evidence there are only three (3) witness who actually saw the alleged assault, each one of these witnesses states that the accused did strike Cpl Wilson. There has been no evidence submitted by the witnesses to the contrary. It has also been established by each witness that Cpl Wilson did at no time strike the accused.

PROSECUTOR

I hereby submit M.F.H. 6 certified true copy. I have checked the entries against the regimental books and that they are found to be correct. I also submit M.F.H. 355 which has been checked and found to be true.

STATEMENT IN MITIGATION Attached.

EXPLANATION

Sir, Members of the Court:-

I feel that it is a privelege to be able to deliver this plea on behalf of Fte Gunderson. For having had him under my command for approximately two years I feel that I know him thoroughly and also the circumstances surrounding this case.

I would like to state briefly his valuable military service. He enlisted in July 1941 and after his basic training he served as a driving instructor at Red Deer. Coming overseas in May 1942 he attended Trades School and Qualified as a D.M. Class "C". He was posted to this Company in September 1942 and has been with us ever since. While he was with my platoon as a D.M. I asked him to accept a stripe and on his confirmation as a L/Cpl I made him a Cpl. and for over a year he operated on of my most efficient sections. When the pay of the other ranks was raised but not that of the full corporals I accepted his request to revert so that he could go to workshops platoon for training and up-grading in his trade. During this entire period there is not a single entry on his A.F.M. 6 and he has been awarded a good conduct stripe.

On the evening of the 16 November, Gunderson had just returned from detail and was told by his Section Corporal that he would not be needed that evening and that he could go out. He then got his mail and received bad nes of a most personal nature. Firstly that his mother and father had separated after 28 years of married life. Secondly from his wife in England a nsaty letter in which she mentioned going out with another man. As if this were not enough he had the further worry about his 19 year old brother who he had seen, just before he had gone on detail, for the first time in six years and not even knowing that he was overseas met him just in time to say "Good-bye" as he went back into the line with the Canadian Black Watch. This was worrying Gunderson greatly and a claim for his brother had already been put in by this company. At the same time his companion had also recieved a nasty letter from his own wife and perhaps too humanly they decided to slip up to the cafe for a few drinks and to try to relax. My nature Gunderson is not a drinking man, this perhaps accounts for its desastrouseffect upon him on this occassion.

The result of his evening's drinking are already known by this court. That he became intoxicated beyond reason. When he entered the canteen and spoke to Wilson and invited him to join them there was only friendliness in his attitude and when Gunderson tried to insist that Wilson join them it was still in good-fellowship and with no thought of intent to be insubordinate. It was not until Cpl Wilson raised the poker and thus provoked Gunderson in a few minutes had his mind, logical through, lost by drink, snap and he became fighting mad. Not at Wilson as an N.C.O. but at Wilson as a man who had threatened him. His later actions show that he had no control whatsoever over his thoughts or action.

His serous charge in this case and the reason he is before this court is directly the fault of a N.C.O. who acted hastily and with a complete lack of understanding.

In conclusion I would like to sum up the points on which this plea is based.

1. He knew that he had permission to be out.

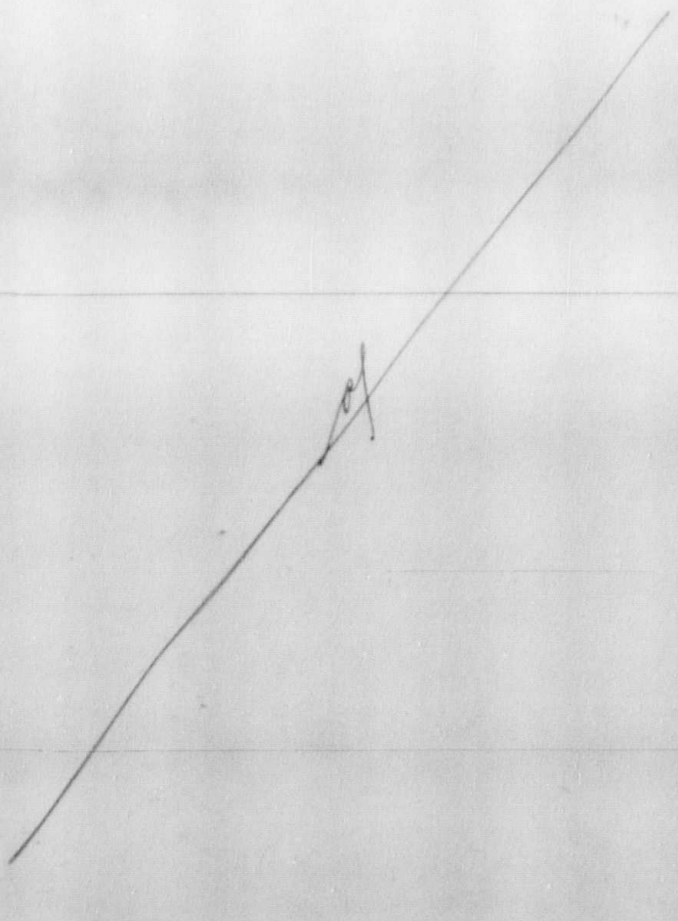
2. His mind was troubled and he was perhaps justified in drinking for relaxation.

3. His excellent record in the Army

4. The fact that his crime of striking was provoked by the threatening up-raised poker.

5. That he was so completely drunk that he was not capable of thinking or control of his action.

6. Finally the plea that he not be given a long term of detention for this his first and only crime in an army career of almost four years and as a result of this detention have his valuable services denied the Army at a time when we urgently require every man.



APPENDIX "O"

SUMMARY OF EVIDENCE Ex 'A'

In the case of

L.41585 Private Eldon Alexander GUNDERSON, of the 45 Cdn Army Tpt Coy RCASC.

The Commanding Officer directs that all evidence be taken under oath.

The accused, having had his rights upon the taking of a summary explained to him in accordance with the Rules of Procedure, the evidence is taken in his presence:

FIRST WITNESS A.10034 Corporal Robert Keith WILSON, 45 Cdn Army Tpt Coy RCASC, having been duly called and sworn states:-

"I am A.10034 Corporal Robert Keith WILSON, of 45 Cdn Army Tpt Coy RCASC., Between 2300 and 2359 hrs on the 16 Nov 44 I was sitting in the Y.M.C.A. Canteen by the stove reading when Pte. Gunderson and Pte Larche came in. They seemed to talk together at the counter and Pte Gunderson called me over and I never paid any attention, then he came over and tried to drag me over to the counter. I resisted, and grabbed the poker and he let go. I put the poker back and then sat down again. He then came over and wanted me to get up and fight. I tried to calm him down and told him to go to bed. He then struck me in the face and I got up and we crossed the room and he struck me again. All this time I was trying to quiet him down. I called on Pte Cowan and Pte Larche to help me get him out of the room, but apparently they considered it none of their business, then backed across the room to one of the beds and Pte Gunderson got his hands around my throat and tried to choke me. When he let go he hit me again and I got away and left the room. At no time did I strike him. As far as I know that is everything that happened."

Q.1. "Why do you place the time between 2300 and 2359 hrs?"

A.1. "Because I think the A.E.F. Station had signed off shortly before."

Q.2. "Were there any others present beside those mentioned in your statement?"

A.2. "There were none."

Q.3. "Did you at any time order Pte Gunderson under arrest?"

A.3. "No, I did not."

Q.4. "Why did you not order him under arrest?"

A.4. "Possibly because I did not think I could handle him and possibly because I did not think of it or that I thought it would make him harder to handle."

Q.5. "Did you order or ask Pte Cowan and Pte Larche to help you?"

A.5. "I asked Pte Cowan and Pte Larche to help me get him out of the room."

Cross-examined by the accused:

Q.1. "Is the radio in the Canteen run by electricity?"

A.1. "It is a battery operated radio."

Q.2. "Did you leave the room before me?"

A.2. "I left the room first."

.....Cpl.
A.10034 Wilson, R.K.
45 Cdn Army Tpt Coy R.C.A.S.C.

SECOND WITNESS H.87345 Private Clement Mossop COWAN, 45 Cdn Army Tpt Coy RCASC, having been duly called and sworn states:-

"I am H.87345 Private Clement Mossop COWAN, 45 Cdn Army Tpt Coy RCASC. At approximately 2300 hours on 16 Nov 44 I was in the canteen with Cpl Wilson when Pte Gunderson and Pte. Larche came in. Pte Gunderson had a bottle and asked Cpl Wilson to have a drink. Cpl Wilson would not come over to have a drink so Pte Gunderson went over and brought him over. Cpl Wilson got mad and turned around and grabbed a poker and threatened to hit Gunderson with it. He put the poker back down again and Pte Gunderson got mad and turned around and hit Cpl Wilson. They argued for a while and Cpl Wilson got up and walked across the floor and Pte Gunderson grabbed him again and hit him. They argued again and Pte Gunderson hit him again and they argued for a while and that was the finish of it."

Q.1. "How did Pte. Gunderson bring Cpl Wilson over for a drink?"

A.1. "He took him by the arm and pulled him over."

Q.2. "Did Pte Gunderson use considerable force?"

A.2. "No Sir."

Q.3. "Had Pte Gunderson appeared to be drinking heavily prior to the alleged assault?"

A.3. "Yes Sir."

Q.4. "Did Cpl Wilson at any time call upon you for help?"

A.4. "No Sir."

Q.5. "Did Cpl Wilson antagonize Pte Gunderson in any way prior to Pte Gunderson laying hands upon him?"

A.5. "No Sir."

Q.6. "Did Cpl Wilson at any time strike Pte Gunderson?"

A.6. "No Sir."

.....Pte.
(H.87345 Pte Cowan, CM)
45 Cdn Army Tpt Coy R.C.A.S.C.

The accused declines to cross examine the witness

THIRD WITNESS C.33244 Private Gerald LARCHE, 45 Cdn Army Tpt Coy RCASC, having been duly called and sworn, states:-

"I am C.33244 Private Gerald LARCHE of 45 Cdn Army Tpt Coy RCASC. Between 2230 and 2300 hours on 16 Nov 44 I was with Pte Gunderson in the Y.M.C.A. Canteen when he asked Cpl Wilson to have a drink. Cpl Wilson said no and continued to read, then Gunderson asked him again and Cpl Wilson got mad and grabbed a poker and lifted it over his head, but did not hit Gunderson. Gunderson got mad at this and hit him two or three times. We then went into our billets and Gunderson appeared to pass out."

Q.1. "Why do you put the time at 2230 to 2300 hours?"

A.1. "I had just returned from seeing a film."

Q.2. "Did Pte Gunderson lay hands on Cpl Wilson at any time prior to Cpl Wilson grabbing the poker?"

A.2. "No Sir."

THIRD WITNESS CONT'D.

Q.3. "Did Cpl Wilson say anything to Pte Gunderson while he was brandishing the poker?"

A.3. "I do not remember."

Q.4. "Did Cpl Wilson at any time strike Pte Gunderson?"

A.4. "No, I don't think he did."

Q.5. "Did Cpl Wilson call upon you or any person for assistance?"

A.5. "It all happened so quickly that I am not sure."

Q.6. "Where there any others present besides you, Cpl Wilson and Pte Gunderson?"

A.6. "Yes Sir, Pte Cowan was there."

Q.7. "Did you recognize Cpl Wilson as an N.C.O. of your company?"

A.7. "Yes Sir."

Q.8. "Why did you not go to his assistance?"

A.8. "I figured it was none of my business."

W. Larche .....Pte.
(C.33244 Larche, G.)
45 Cdn Army Tpt Coy R.C.A.S.C.

The accused declines to cross examine the witness.
The accused declines to call witnesses on his own behalf.
Question to the Accused:-

"Do you wish to make any statement or to give evidence upon oath? You are not obliged to say anything or give evidence unless you wish to do so, but what ever you say or any evidence you give will be taken down in writing and may be given in evidence."

Answer by accused: "I have nothing to say, Sir."

I certify that Rules of Procedure 4(c)(d)(e)(f) have been complied with. Taken down by me in the presence of the accused in the Field, this 19th day of November, 1944.

T.W. McLean .....Lt.
(T.W. McLean)
45 Cdn Army Tpt Coy RCASC.

APPENDIX "C"

No L.41585 Name GUNDERSON Eldon | Sqn. Battery or Company | Corps R.C.A.S.C. | Date of enlistment 19 Jul 41 | GC Badges E.P.C. | Service or Proficiency Pay N/A | MFM 6 (AFB 122) 40/P&S/136 (3438)

Date of last entry in Company Conduct Sheet Alexander and date N/A | Date of last drunk N/A | Period not reckoning towards freedom from extra fine N/A | Sheet No 1/2 | Signature CC Company, etc J.H. MacLaren Capt

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Sheet destroyed 11 Jun 42, Last entry, Nil. Cases of drunkenness - Nil (Sgd) J.H. MacLaren) Capt									

CERTIFIED TRUE COPY

.....Lt.
(C.K. Kempston)
Offr having custody of Regt'l Books

Field
22 Nov 44

(P75)

APPENDIX "D"

M.F.B. 355
H.Q. 1772-39-620
10M-8-40 (M19)

E & B

STATEMENT AS TO CHARACTER AND PARTICULARS OF SERVICE OF ACCUSED

Number	Rank	Name	Regiment (or unit)
L.41585	Private	Eldon, Alexander GUNDERSON	45 Cdn Army Tpt Coy RCASC

1. The following is a fair and true summary of the entries in the [redacted] Company Conduct sheets of the accused, exclusive of convictions by a Court-Martial or a Civil Court, of summary awards under Section 47 of the Army Act and of cases in which trial has been dispensed with. No of previous cases of drunkenness - NIL

	Within last 12 months	Since enlistment
For	times	times
For NIL	times	NIL times
For	times	times
For	times	times

[redacted]

or,

There are no entries in the conduct sheets of the accused.

NOTE:—If the charge is for drunkenness, the entries for drunkenness must be stated separately.

2. The accused has not been previously convicted

or,

[redacted]

3. The accused is not under sentence at the present time.

or,

[redacted]

4. The accused has been in confinement awaiting trial on the present charges, for Nil days in civil custody and 9 days in military custody, making a total of 9 days in custody, of which Nil days were spent in hospital.

5. The present age of the accused according to his [redacted] attestation paper is 23 years, 2 months

6. The date of [redacted] attestation specified in his [redacted] attestation paper 19 July 1941

[redacted]

9. The accused is in possession of or entitled to no air force decoration, or air force reward (or is in possession of or entitled to). State any air force decoration or reward. military military O.V.S.M. and clasp 1 Good Conduct Badge

10. (If the accused is a warrant officer.) The accused before he was made a warrant officer last held the regimental rank of [redacted]

11. (~~In the case of an officer.~~) The accused holds in the Royal Canadian Air Force the rank of Permanent Force unit dated , and in his regiment (or corps), the rank of dated .

12. The accused has served as a non-commissioned officer continuously, without reduction, to the present date:—

Date of promotion.

In the rank of years.

In the rank of years.

In the rank of years.

NOTE:—If any matter in any of the above paragraphs cannot be stated from the Regimental books, the paragraph must be struck through.

SCHEDULE

Of convictions by a court-martial or civil court, of summary awards under Section 47 of the Army Act, Air Force Act, and of cases in which trial has been dispensed with of accused, Number Rank Name of Regiment

NOTE:—A verbatim extract from the regimental books stating these convictions and dispensations with trial must be inserted.

Description of Court by which tried	Date and Place of Trial	Charge upon which convicted	Sentence of the Court	Punishment Remitted

I hereby certify that the foregoing schedule of convictions and dispensations with trials a true extract from the regimental books in my custody.

Signed this ~~27~~ 27th day of November 1944

(R. E. Kempston) Lt
Adjutant

The above statement (with the schedule of convictions and of cases in which trial has been dispensed with) is read, marked A. A. Avery Major signed by the president, and annexed to the proceedings.

A D J A
HQ A Tps Area

29 Nov 44

F.G.C.M.
L.41585 Pte Gunderson E A
45 Cdn Army Tpt Coy

I was the President of a F G C M convened for the trial of m/n soldier in accordance with att proceedings.

2. At the close of the case for the prosecution in respect of the second charge and its alternative, the defence moved for dismissal on the grounds hereafter mentioned. It is now noted that the reporter failed to take down the addresses of the defence and prosecuting officers.

3. The application was particularly directed to the main charge under A A Sec 8(1) and was based upon the one point that the prosecution had failed to show that the N C O was on any duty at the time of the incident and that as between himself and the accused he was not in the "execution of his office."

4. The application was not based in any way upon any alleged illegality or irregularity.

5. After due consideration the Court agreed that the prosecution had not made out a case under the aforementioned section but that a case had been made out in respect of the alternative charge under A A Sec 8 (2).

6. Accordingly the Court allowed the application in respect of the main charge and trial continued on the alternative.

A C Allan

(A C Allan) Major
President

5 D-19.

Gen. Conn, N.W.

SCHEDULE.

PART I. PLEA(S), FINDING(S) AND SENTENCE.

Accused: B-11408 Gnr. GUNN, John Walter - 2 CARU

Charge. (Insert "alternative" where applicable.)	Plea. (See instr p 2.)	Finding. (See note below.)	(Space for use as required for further charges, accused charged jointly, special findings, etc.)
1st AA Sec 15(1)	NOT GUILTY	GUILTY	
~~2nd~~			
~~3rd~~			
~~4th~~			
~~5th~~			

(Note: As to findings for lesser offences see AA 56, RP 44; findings on alternative charges see MML p 483 fn 4 para 2, RP 44; special findings see RP 44 and MML p 753, and in case of kit see RP 44 fn A.)

~~As~~ at present under sentence for ..... beginning on (date) ..... (1)

(1. Insert sentence being served, or delete, if not applicable. See RP 46(A). Information should be found on MF B355 or AF B396.)

Time in confinement awaiting present trial—a total of 13 days, of which ~~Nil~~ days were spent in hospital.(2)

(2. See RP 46(A) fn 2. Information should be found on MF B355 or AF B396 admitted in evidence under E2.)

Sentence Awarded by the Court:

To forfeit all ordinary pay for a period of sixty (60) days

(Sgd) ..... 2 Apl/45 (Sgd) .....

Judge-Advocate, if any. Date awarded. President. (RP 45, 50.)

(See back of Convening Order as to assembly and disposal of record after trial.)

PART II. MINUTE WHERE CONFIRMATION RESERVED. (AA 54(5), RP 120(F), MML p 760.)

Date ..... (Sgd) ..... Commanding .....

PART III. DECISION OF CONFIRMING OFFR ON FINDING(S) AND SENTENCE.

(For duties and powers see AA 54, 57, RP 37(D) fn 6.46(A), 51-56, 120, MML pp 759-761, KR Con 567-577. Acquittals require no confirmation and cannot be revised: AA 54(3). Sending back finding or sentence for revision by Court: AA 54(2), RP 120(G). If not confirmed, accused may be tried again: AA 137, MML p 64. Minute of confirmation or non-confirmation may be altered before promulgation: RP 53, MML p 65. Quashing after promulgation: KR Con 573. Duties and powers of reviewing offrs: AA 57, 57A, RP 53A, 54. The Confirming Offr must sign here personally. AA 172 fn 1.)

My decision on the finding(s) and sentence set forth in Part I is:

Confirmed

I ~~direct that the accused be not committed to the prison or detention barracks until further orders by~~ (1. AA 57A. Delete if not used.)

(Sgd) ..... (HON BROWNFIELD) Brigadier

Date 3 Apr 45 Commanding Land "C" Gp, CRU Units

Confirming Officer.

PART IV. PROMULGATED AND EXTRACTS TAKEN. (RP 53, KR Con 574, 577.)

Accused.	Date.	Signature of Offr.
B11408 Gnr Gunn J.W.	4/7 Apr 45	J.W. Jarvis Capt Actg Dy Judge Advocate

ALL DELETIONS AND ALTERATIONS WILL BE INITIALLED.

RECORDED AT CMHQ IN AB 160 5D-17

CPA96 (To Issue of APAM) 40/P & S, 1688/(R144) 4/388

FIELD GENERAL COURT-MARTIAL

Convened by Order of Brig HON Brownfield, CBE MC Comd "C" Gp, CRU dated 29 Mar 45

RECEIVED 17 APR 1945 CMHQ

ACCUSED.

(For the trial of two or more charged jointly see RP 16, 71, 109. As to reasons for showing (a) permanent or confirmed (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Con 308, 328, 330.)

Number.	(a) Prmnt R.	(b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
B-11408	Gnr		John Walter	GUNN	2 CARU

PROCEEDINGS REVIEWED 14 Apr 45 K.Y. Dick, Capt

PROCEEDINGS OF TRIAL.

Held in the Fd in (country) Holland on (date) 2 APR 45

REVIEWED OFFICER, JAG BRANCH, CMHQ

RECORD FORM A—OPENING PROCEEDINGS AND ARRAIGNMENT.

A1. The President, Members, ~~waiting Member, JA, if any,~~ and Offrs under instr, ~~if any~~, assemble, and the Court is closed.

(PRINTED MATTER, NOT IN ITALICS FOR GUIDANCE, WILL BE DELETED, IF NOT USED OR APPLICABLE, AND INITIALLED BY PRES OF JA. The Schedule referred to throughout is on p 4. Cautions do NOT include all relevant fmn ROs. For guidance on procedure when a variation in this form arises, see form for GCM in MML pp 741 to 759. A brief record of such variation will be made and given a number having reference to appropriate or preceding para number herein. See back of Convening Order, CF A65, for paths and instrs on how to record addresses, evidence, etc, which instrs are hereafter called "Notes". As to general provisions for conducting the trial see AA 53, RP 56, 63-70, 73, 74, 94, 103, 119, 132.)

A2. The President initials and lays before the Court the Convening Order and Charge Sheet(s) attached thereto.(1) The Court is satisfied that it is properly convened and constituted(2), accused is (are) amenable to military law, and each charge discloses an offence.(3)

(1. As to use of Summary of Evidence see RP 17 fn 6. 2. AA 49, 50, RP 103-107. 3. RP 11-13, 23, 24.)

A3. The Court is opened. The accused is (are) brought before the Court. At 1130 hours trial commences.

A4. The Prosecutor produces a Medical Certificate that accused is (are) fit to undergo trial by court-martial.(1)

~~The Prosecutor informs the Court that accused elected to be tried by court-martial instead of being dealt with summarily by the CO.~~(2)

(1. KR Con 557. 2. AA 46(B), RP 60 fn 1. For effect see KR Con 563(c). Delete, if not applicable.)

~~A5. President to accused: Do you object to ..... as interpreter? Ans .....~~

~~The Interpreter is sworn.~~(1) Do you object to MISS SINCLAIR as shorthand writer? Ans NO

The shorthand writer is sworn.(1)

(1. RP 72. Delete, if none employed.)

A6. The Convening Order and names of the President and Members of the Court are read to the accused.(1)
President to accused: Do you object to be tried by me as President or by any of the Members of the Court?

Ans NO SIR

(1. RP 110. 2. If no objection, waiting member retires. RP 60(B). If objection, see procedure AA 51, RP 25, 71, 78, MML p 742.)

A7. The President, Members, ~~JA, if any,~~ and ~~Offrs under instr, if any~~, are sworn.(1) The following are the ranks, names and units of the offrs comprising the Court, etc:

President	LT-COL	D.L. BEDMAN	HQ CRU
Member	CAPT	A.D. GREENWOOD	2 CARU
Member	LT	W.A. OAKEN	2 CARU
~~Judge-Advocate~~			
Prosecutor	LT	L.N. LYONS	2 CARU
Defending Offr	LT	J.J. POPE	2 CARU

Questions by President: Is the Prosecutor a lawyer? Ans NO Is the Defending Offr a lawyer? Ans NO (2)

(1. RP 26, 27, 109, 111. List of offrs under instr will be returned separately with proceedings for information of Conv Offr.)
(2. If Pros a lawyer and Def Offr not, accused is entitled to an adjournment when RP 89 (B) and fn 2 were not followed. See DI p 2.)

A8. The accused ..... before arraignment make(s) (no) (~~a~~) plea ..... (3)

(3. If a special plea is made for separate trial on one or more charges (RP 62(E), 108), or as to the jurisdiction of the Court (RP 34, 35(A), 113), or in bar of trial (RP 36), or as to accused's mental fitness to stand trial (AA 130, RP 37), or by one of several accused charged jointly to be tried separately (RP 16, 71), such plea, the witnesses made in support or against, the evidence, if any, and finding are recorded per Notes. For forms of record see references in fns to RsP cited. Insert in AB rank and name of the accused making the plea.)

A9. The accused is (are) arraigned (separately) on all charges in the charge sheet.(1) The accused does (~~do~~) not object to any charge.(2) There is no amendment to be made to the Charge Sheet.(2) The President records the pleas in Part I of the Schedule.

(1. RP 31, 112. See para 1 of Instrs p 2. When more than one Charge Sheet see RP 62; when several accused to be tried separately see RP 71(C), and see separate copies of CF A96 to record proceedings. 2. RP 32, RP 33. If otherwise, delete and make appropriate record per Notes.)

A10. The Court (is closed and) considers the Instrs on Procedure after Arraignment at top of p 2. The proceedings are continued on Record Form "D"

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

INSTRUCTIONS ON PROCEDURE AFTER ARRAIGNMENT.

1. *The accused may not plead or be found Guilty on more than one of two or more charges laid in the alternative. (RP 37(A).) As to withdrawal of alternative charges by Prosecutor see RP 35(C). No other charge can be withdrawn for any reason without authy from Convening Offr. If Convening Offr concurs, Court may accept plea of Guilty to lesser, etc, offence. (RP 44(H).) Accused may change a plea of Not Guilty to Guilty during trial. (RP 38.) As to refusing to plead or not pleading intelligibly see RP 35(A). As to plea when sentence may be death see RP 35(D).*

2. *The proceedings on each charge sheet (RP 62) after arraignment will be conducted as follows in the respective circumstances stated:*

I. If pleas to all charges are GUILTY, use Record Form B below.

II. If pleas to all charges are NOT GUILTY, use Record Form D on p 3.

III. If pleas to some charges are GUILTY and to other charges are NOT GUILTY and,

(a) Such mixed pleas occur when there are no alternative charges in the Charge Sheet, use Record Form C below. (RP 37(A).)

(b) Such mixed pleas occur in a set of two or more charges laid in the alternative, see RP 37 (A) and fn 2 as to discretion of Court, (i) to try the accused on all such alternative charges as if he had pleaded Not Guilty thereto, or, (ii) to record the pleas as the findings of Court. After deciding between (i) and (ii), Court will proceed under foregoing instrs as may be appropriate to result of its decision. See MML p 744 Instrs (2).

3. *As to responsibility of President to accused see RP 59, 60(C); powers and duties of JA see RP 103; duty of Prosecutor see RP 60(A) (B); duty and privileges of accused and Defending Offr see RP 60(C), 87(C), 91, 92; swearing and withdrawal of witnesses from Court see RP 81, 82; questioning of accused see RP 80, 87(C), 92(B), and of witnesses see RP 85-85; calling or re-calling of witnesses by Court, etc, see RP 75-79, 86, 116; use of Summary of Evidence at Trial see RP 17(E) fn 6; and responsibility of JA or Pres to record proceedings see RP 94, 96.*

RECORD FORM B—PROCEEDINGS ON PLEAS OF GUILTY TO ALL CHARGES.

B1. The President or JA, if any, complies with RP 35(B) by explaining to the accused the nature and meaning of the charge(s)(1), and that on his plea of Guilty there will be no regular trial but merely a consideration of the sentence to be awarded after he has been given an opportunity to make a statement in reference to the charge(s), call witnesses as to character and make an address in mitigation of punishment.(2)
(1. *RP 35 fn 3.* 2. *MML p 54 para 47.*)

B2. President to accused: The Court will now receive any statement you desire to make in reference to the charge(s).(1) If it appears from your statement that there are circumstances which indicate that you do not understand the effect of the plea of Guilty(2), or which show provocation or extenuation in respect of which in your interest the witnesses for the Prosecution should be examined(3), we shall advise you to change your plea to Not Guilty. In making a statement you will not be sworn or subject to cross-examination; and anything you say will not be used in evidence against you after you change your plea. If, however, it appears to the Court that your statement affects only the amount of punishment to which you are liable, you will not be advised to change your plea and you will be given an opportunity later to prove your statement by sworn testimony, if you so desire.(4)

President to accused: Do you wish to make a statement? Ans.....(5)
(1. *RP 37(B).* 2. *RP 37(D) fn 6.* 3. *RP 37(B) fn 3 para 3, MML p 54 para 47.* 4. *See para E3 of Record Form E.* 5. *Statement, if any, recorded per Notes.*)

B3. The Court considers the accused's statement.(1) The Court decides (not) to advise accused to change his (their) plea(s) of Guilty to Not Guilty on.....charge(s). The accused is (are) so informed, and he (they) change(s) his (their) plea(s) on.....charge(s). Part I of the Schedule is amended accordingly.
(1. *Court may be closed to consider the statement. Delete whole or part not used.*)

B4. On the charge(s) to which the plea(s) of Guilty is (are) not changed the President records finding(s) of Guilty in Part I of the Schedule.(1)
(1. *RP 35(B). If any plea(s) is (are) changed, use Record Form C or D as appropriate.*)

B5. The Summary of Evidence is marked Ex....., initialled and read aloud by the President.(1)
(1. *If there is no Summary, or if it is inadequate, comply with RP 37(B). If there is any evidence inconsistent with any plea standing as Guilty, Court will advise accused to change such plea and, if changed to Not Guilty, try such charge(s) by use of paras D1 to D8 inclusive of Record Form D on p 3. RP 37(D).*)

B6. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

RECORD FORM C—PROCEEDINGS ON MIXED PLEAS OF GUILTY AND NOT GUILTY.

C1. As to the charges on which accused pleaded NOT GUILTY the trial is continued by using paras D1 to D8 inclusive of Record Form D on p 3 before proceeding with C 2.(1)
(1. *RP 37(A) (E).*)

C2. The charges on which accused pleaded GUILTY are read to him (them) again, and the trial is continued by using paras B1 to B5 of Record Form B above.(1)
(1. *Under B5 such parts only of the Summary of Evidence are read as relate to the charges dealt with under C2. If any plea is changed to Not Guilty, trial thereon proceeds by complying with paras D1 to D8 inclusive in Record Form D on p 3 and making an appropriate record thereof on a separate sheet.*)

C3. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

RECORD FORM D—PROCEEDINGS ON PLEAS OF NOT GUILTY TO ALL CHARGES.

D1. President to accused: Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity to prepare your defence? Ans. NO SIR (1)
(1. *If "yes", see RP 39(A) for procedure. Statement or evidence, if any, is recorded per Notes.*)

D2. The Prosecutor makes ~~(no)~~ (no) opening address.(1)
(1. *RP 39(B), 60(A) (B), 90, 92(C) (D). Record address per Notes, subject to RP 95(C).*)

D3. The evidence for the Prosecution is taken.(1)
(1. *RP 39(C), 114, KR Can 535. Record evidence per Notes. As to Prosecutor giving evidence himself see RP 39(D) (E).*)

D4. The Prosecution is closed.(1) The Defending Offr submits that the evidence for the Prosecution does not establish a prima facie case against the accused on the 1st charge(s).(2) The Court is closed, and considers the submission.(3) The Court is re-opened, and the President announces that the submission is disallowed on the 1st charge(s), ~~and allowed on the charge(s)~~, and that, accordingly, the trial will proceed ~~on the former, but the accused is (are) found Not Guilty on the latter charge(s)~~.(4)
(1. *Deletes remainder of this para, if submission not made.* 2. *Arguments on submission, answer and reply are recorded per Notes.* 3. *RP 40 fn 1. See MML p 72 paras 12-14 and p 81 para 42.* 4. *Delete part not used. If accused acquitted on all charges, use second alternative in para D8.*
NB: If trial proceeds, accused must be allowed great latitude in making his defence, and the Court should not stop his defence solely on ground of irrelevance. (RP 60(C), 114, 115.)

D5. President to accused: You will now proceed with your defence.(1) You may, if you wish, give evidence yourself on oath as to the facts or your character or both, in which case you will be subject to cross-examination.(2) You may, however, make a statement without being sworn, and you will not be subject to cross-examination.(3) But a statement which could have been made on oath will not carry with the Court the same weight as sworn testimony.(4) You may call witnesses in your defence and as to character, whether you give evidence or make a statement or do neither.

President to accused: Do you wish to give evidence yourself as a witness, make a statement, or do neither? Ans. TO GIVE EVIDENCE. Do you intend to call witnesses on your behalf? Ans. YES SIR. Are they witnesses as to character only? Ans. NO - SIR
(1. *RP 115.* 2. *RP 40(A), see 80(D).* 3. *RP 40 fn 10.* 4. *RP 40 fns 2, 9.*)

D6. Consequent on the answers recorded in para D5 the appropriate procedure for the defence is followed.(1)
(1. *RP 114, 115, 116. For procedure see Notes on back of Convening Order. CF A95. Evidence for accused as to his character should, if in his interest, be given before the finding. See RP 46(A) fn 1, 86(C). Note the further opportunity in para E1 of Record Form E. Record per Notes addresses, statement, evidence and any summing up by the JA under RP 42, 103(e).*) NOIL ATI

D7. The Court is closed to consider the finding(s).(1) The finding(s) of the Court is (are) recorded in Part I of the Schedule.(2) The Court is re-opened.
(1. *RP 43, 117(A). See Notes in Part I of Schedule.* 2. *RP 44(A).*)

D8. The President announces the finding(s), if any, of Not Guilty, and states to the accused that the finding(s) of the Court on the.....charge(s), being subject to confirmation, will be promulgated later.(1) Or, The President announces that the accused is found Not Guilty on all charges and is to be released forthwith, and that the proceedings are accordingly terminated. Part I of the Schedule is dated and signed.(2)
(1. *AA 54(3) (5), RP 45, 120(A).* 2. *AA 54(3), RP 45, 117. This alternative announcement is not applicable when there are pleas of Guilty outstanding and dealt with under Record Form B or C.*)

D9. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E below.

RECORD FORM E—PROCEEDINGS ON CONVICTION BEFORE SENTENCE.

E1. President to accused: Do you wish to give evidence yourself or to call any witnesses as to your character?(1)
Ans. NO-SIR
(1. *If evidence has already been given by accused or his witnesses as to his character, delete this para. RP 37(C) fn 4, 46 fn 1. Accused and witnesses are sworn. Evidence recorded per Notes.*)

E2. The Prosecutor produces Statement(s) as to Character and Particulars of Service(1), and certified true copy (copies) of Conduct Sheet(s)(2), purporting to refer to the accused, which he submits to the Defending Offr for examination, and then to the Court for admission in evidence. The Court is satisfied that these documents refer to the accused, because (i) they purport to be signed in the manner required by AA 163(3) (g) (h), and (ii) they purport to refer to (a) soldier(s) having the same number, rank, name and corps as the accused. Admitted in evidence and marked Ex. B and Ex. C respectively.(3)
(1. *MFB 355 or AFB 296.* 2. *MFM 6.* 3. *RP 46, KR Can 538. If above documents not produced, see RP 46 fn 1 para 1.*)

E3. President to accused: Do you wish to address the Court on the Statement(s) and Conduct Sheet(s), and in mitigation of punishment?(1) Ans. BY DEFENCE (NOTE ATT)(2)
(1. *RP 37(C), 46(D).* 2. *Address, if any, recorded per Notes. Court should permit accused or his witnesses to prove on oath anything there or previously stated which would affect the amount of punishment. RP 37(F) fn 7.*)

E4. The President states that the Court is closed to consider the sentence, and that the sentence to be awarded by the Court, being subject to confirmation, will not be announced, but will be promulgated later, and the proceedings in open court are accordingly terminated.(1)
(1. *AA 54(4), RP 120(A).*)

E5. The Court considers the sentence.(1) The President records the sentence in Part I of the Schedule, which is dated and signed by him ~~and the JA, if any~~.(2)
(1. *When several accused tried separately see RP 71 (D). One sentence only, comprised of the punishment or punishments laid down in AA 46, 44 and its proviso, is to be awarded to cover all charges in all charge sheets on which accused found guilty. RP 48. As to sentences see AA 64, 138, 182, RP 46-50, 69, 118, 119(A), KR Can 308, 330, 563-566, Overseas AO 309, 2323, MML p 60, 757-759. As to sentences assigned for civil offences by the law of England see AA 61(5), MML p 130. When accused already under sentence of imprisonment or detention see AA 44(1)(B), 68(1), KR Can 564.* 2. *RP 38. As to release from arrest by Confirming Offr see KR Can 567. As to assembly and disposal of record after trial see Instrs on back of Convening Order.*)

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

CHARGE SHEET

The accused, No B 11408 Gunner John Walter GUNN, E Battery, Q Wing, on the strength of No 2 Canadian Artillery Reinforcement Unit, a soldier in the Canadian Army (Overseas), is charged with:-

FIRST CHARGE
Army Act
Sec 15(1)

WHEN ON ACTIVE SERVICE,

ABSENTING HIMSELF WITHOUT LEAVE,

in that he,

in the Field, did absent himself without leave from 2230 hours, 4 February 1945, until reporting into the Guard Room, at 1620 hours, 20 March 1945.

(Total absence: 43 days, 17 hours, 50 minutes).

Dated at
Bramshott, Hants,
this 25 days of
March, 1945.

(S.H. Dobell) Colonel, RCA.
Commanding Officer,
No 2 Cdn Arty Rft Unit,
Cdn Army (Overseas).

To be tried by Field General Court Martial

Brigadier,
Commanding "C" Group, Cdn Reinforcement Units

29 Mar 45
Bordon, Hants.

FIELD GENERAL COURT-MARTIAL

(Whether the accused to be tried is under his comd or not, a FGCM may on application to him be convened by any offr of Cdn Army Overseas, or of any other force if authorized in law, in immediate comd of troops on active service, subject to RP 105(C) and restrictions imposed by appropriate authy. AA 49, 50, RP 104-107, 114. As to the duties and privileges of the Convening Offr in dealing with the application see MML Chap V paras 20 and 23, RP 87(B).

There should be a separate Convening Order for each person to be tried separately by the same Court. RP 71(C), 109. As to separate charge sheets see RP 62, and as to separate trial on charges in the same charge sheet see RP 108. As to two or more accused charged jointly see RP 16, 109.

As to reasons for showing (a) permanent or confirmed rank, and (b) apptmt, A/rank or A/apptmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

ACCUSED.

Number.	(a) Prmnt R.	(b) Apptmt, A/R or A/Apptmt.	Full Christian Names.	Surname.	Unit.
B-11408	Gnr		John Walter	GUNN	2 CARU

CONVENING ORDER.

1. Whereas complaint has been made to me, the undersigned, that the person named above as the accused, being subject to military law, has committed the offence set forth in the Charge Sheet attached and on (date) this date endorsed by me, "[redacted]." To be tried by Field General Court-Martial".

2. And whereas I am of opinion that it is not practicable that such offence should be tried by an ordinary General Court-Martial; [redacted]

(Delete part in brackets when not required for compliance with RP 105(C).)

3. I hereby convene a Field General Court-Martial to try the said person, and to consist of the Offrs appointed or detailed hereunder.

4. [redacted]

(AA 49, RP 106(B), 107(A). Delete the whole or part, if not applicable.)

5. [redacted]

(RP 106(E). Delete, if none appointed.)

PRESIDENT.

Lt-Colonel (Rank.)	D.L. Redman, VD (Must be named. RP 106.)	HQ CMU (Unit.)

MEMBERS.

Captain	To be detailed by CO	2 CARU
Lieutenant (Rank.)	To be detailed by CO (Named or detailed. RP 106.)	2 CARU (Unit.)

WAITING MEMBER.

(Rank.)	(Named or detailed, if any. RP 106.)	(Unit.)

JUDGE-ADVOCATE.

(Rank.)	(Must be named, if any. RP 106.)	(Unit.)

On Active Service in the Fd

in ENGLAND (Country.)

Dat 29 Mar 45

(Signed personally. RP 105 fn 2.) Brigadier (Rank.)

Commanding "C" Group, Cdn Reinforcement Units.

Convening Officer.

CONVENING OFFR WILL INITIAL ALL DELETIONS AND ALTERATIONS

4/38A CFA 55 (In lieu of AFs 2; 40/P of 5/1697 (S.D.)) (See overleaf for oaths and notes for use on trial.)

I hereby certify that I have this day examined B.11408 G.N.R. GUNN D.W. and find him fit to undergo trial by Field General Court Martial.

Date 2.APR.17.

L. L. Robertson Capt.
Medical Officer, No 2 C.A.M.C.

ARMY FORM B 296.

Statement as to Character and Particulars of Service of Accused.

Number.	*Rank.*	*Name.*	*Regiment (or as the case may be).*
B 11408	Gunner	GUNN, J.W.	No 2 Cdn Arty Rft Unit

1. The following is a fair and true summary of the entries in the regimental and squadron, battery or company conduct sheets† of the accused, exclusive of convictions by a court martial or a civil court, of summary awards under section 47 of the Army Act, and of cases in which trial has been dispensed with:—

Note.—At a trial by field general court martial this statement may be compiled from the field conduct sheet.

The conduct sheet(s) mentioned should be produced in court with this statement but not annexed to the proceedings.

† See para. 677, K.R., 1940.

* The numbers herein stated should correspond with the number of entries in the conduct sheets, provision being made to show the most serious offence in each entry, and to any recognized special acts of gallantry or distinguished conduct.

Instruction.—If the charge is for drunkenness the entries for drunkenness must be stated separately and dated.

	* Within last 12 months.	*Since Enlistment.
For A A Sec 15(1)	3 times	4 times.
For A A Sec 40	0 times	1 times
For N/A	times	N/A times.
For N/A	times	N/A times.
For N/A	times	N/A times.

~~Number of instances of drunkenness or disorderly conduct~~

~~or~~

~~Date and particulars of the last two entries on the conduct sheets of the accused.~~

2. ~~The accused has not been previously convicted, or~~

~~Previous convictions of the accused by a court martial or a civil court, summary awards under section 47 of the Army Act, and dispensations with trial under section 56 of the Army Act, are not set out in the schedule annexed to this statement.~~

3. The accused is not under sentence at the present time, or ~~The accused at the present time is under sentence for~~ ~~beginning on the~~ ~~day of~~

4. The accused has been in confinement, awaiting trial on the present charges, for NIL days in civil custody, and 6 13 days in military custody, making a total of 6 13 days, of which NIL days were spent in hospital.

5. The present age of the accused according to his ~~attestation paper~~ record of service is 28 yrs days

6. The date of his ~~attestation~~ attestation specified in his ~~attestation paper~~ record of service is 12 Feb 41

7. ~~The service which the accused is allowed to reckon on discharge or transfer to the reserve is~~

8. The accused is entitled to deferred pay or gratuity in respect of 4 yrs days service.

9. ~~The accused is entitled to reckon~~ ~~for service for the purpose of determining his pension, etc.~~

10. The accused is in possession of, or entitled to, ~~no military decoration or military award (or is in possession of or entitled to~~ (*state any military decoration or reward*). CVSM & Clasp

11. (*If the accused is a commissioned officer.*) ~~The accused~~ ~~for war service a warrant office has held the substantive~~ ~~rank of~~

12. ~~(In the case of an officer) The accused holds in the army the rank of~~ ~~temporary~~ ~~and in his regiment (or corps or department) the rank of~~ ~~actual~~

(75150) W1,36000/1/39 20,000 3/42 A.A.S.W.,Ltd. Gp.698
(28904) W1,15000/1/40 15,000 2/44 " "

ET B 1764

Schedule of Convictions by a Court Martial or Civil Court, of summary awards under Section 47 of the Army Act and of cases in which trial has been dispensed with of accused.

No. Rank Name of Regiment (or as the case may be).

(INSTRUCTION.—*A verbatim extract from the regimental books, stating these convictions and dispensations with trial, must be inserted.*)

Description of court by which tried, or status of officer disposing of the charge or dispensing with trial	Date and place of trial, or summary award under A.A. 47, or order dispensing with trial	Charges upon which convicted, or in respect of which trial was dispensed with.	Sentence of the court or authority disposing of the charge, or order of the dispensing authority	Punishment remitted

I HEREBY CERTIFY that the foregoing schedule of convictions and dispensations with trial is a true extract from the regimental books in my custody.

Signed this Second day of April 1945

K. J. Lunn, Capt Adjt.
"Q" Trng. Wing No. 2 C.A.F.J.

13. The present rank was last confirmed after examination by the present Rank Date of Promotion.

In the rank of ..... years, ...

In the rank of ..... years .....

In the rank of ..... years .....

(INSTRUCTION.—If any of the above paragraphs cannot be filled from the regimental books the paragraph must be struck through, except in the case of a trial by field general court-martial the information may be obtained from such sources as are available and the paragraphs completed accordingly.)

EXHIBIT "A" P/W

Army Form B 115.

Record of the Declaration of a Court of Inquiry on the Illegal Absence of a Soldier.

RECORD of the Declaration of a Court of Inquiry assembled at No 2 C.A.R.U. on the 28th day of February 19 45, for the purpose of investigating and recording the absence, without leave, from his duty, and deficiency, if any, in the Arms, Ammunition, Equipments, Instruments, Regimental Necessaries, or Clothing of No. B 11408 Gnr GUNN, J.W.

Ex 1 W

DECLARATION.

The Court declare, that B 11408 Gnr GUNN, J.W. absented himself without leave from 2230 hrs 4 Feb 45 and is still so absent at 0830 hrs 28 Feb 45. He was found to be deficient in kit the articles listed below amounting to £6-5-10.

LIST OF DEFICIENCIES

B 11408 Gnr GUNN, J.W. 2 Mar 45

ARTICLE	QUANTITY	100% Value £ s d	75% Value £ s d
		4 5	3 4
Anklets web prs	1	1 9 1	1 1 10
Blouses B.D.	1	1 9 3½	1 1 11
Trousers B.D. prs	1	5	4
Badges Cap Arty	1	8 0	6 0
Jersey pullover	1	1 11	1 5
Shorts Gym prs	1	13 2	9 10½
Ground Sheet	1	12 4	9 3
Cape A/Gas	1	8	6
Gint A/Gas	1	9 1	6 10
Shirts, angola	1	2 0	1 6
Eyeshields pr 6	1	1 6	1 2
Towels, hand	1	2	10½
Brushes, button	1	3 4	2 6
Belts, waist W.E.	1	1	10½
Dressing F.P.	1	1 6	10 6
Boots, ankle prs	1	1 5	1 1
Braces prs	1	1	1 3
Brushes, shaving	1	2	1½
Comb, hair	1		
Resp complete	1	1 0 11	15 8
		8 7 8½	6 5 10

President: Capt H.M .Hawkings

Members : Lt C.W. Gibson

Lt E.E. Sinclair

Names of President and Members

Signature of Commanding Officer S.E. Dobell Colonel

CERTIFIED TRUE COPY.

Signature of Officer having custody of the Original Record

(R D Mulholland) Major
Administrative Officer, No 2 CAND

A.R.P.M. Ltd. Cp.4/55 Form: B.115/55

TRANSCRIPT BY P.28126 SJT AH SINCLAIR

CASE OF

B.11408 Gnr GUNN JW 2 CARU

PROSECUTION

The Prosecutor produced:

(1) A certified true copy of the Record of the Declaration of the Court of Inquiry relating to the accused.

DOCUMENT MARKED EXHIBIT 1

FIRST WITNESS

C.9787 Bdr NEWMAN JA, 2 CARU, having been duly sworn, states:

I recognize the accused, and I'm the NCO IC of the Unit Guard Room here at 2 CARU. At approx 1620 hrs 20 Mar 45 the accused reported in from AWL.

CROSS-EXAMINED

Q. How did you know he was AWL?
A. In our Absentee Book he was marked AWL, Sir.

QUESTIONS BY THE COURT:

Q. Was there any conversation between you and the accused when he came in?
A. I just asked him for his particulars and Paybook, Sir.

Q. Was there any other conversation?
A. No, Sir.

IN THE OPINION OF THE COURT IT IS UNNECESSARY TO COMPLY WITH RP 83(B).

THE PROSECUTION IS CLOSED

SUBMISSION BY DEF OFFR

I submit, Sir, that the Prosecution has not established a prima facie case and that the charge be dismissed. The Prosecution have produced one sole witness whose evidence was to the effect that the accused reported to him at such and such a time. As to his absence I've not seen any proof at all, so, for those reasons the Defence submits that it has not been proved to this Court that the accused ever left Camp.

REPLY TO DEF OFFR'S SUBMISSION BY THE PROSECUTOR

The Prosecutor said he had nothing to say in reply, and left it to the Court to decide whether he had made a prima facie case or not.

THE COURT IS CLOSED TO CONSIDER THE SUBMISSION

THE COURT IS REOPENED AND THE PRESIDENT ANNOUNCES THAT THE SUBMISSION BY THE DEF OFFR IS DISALLOWED.

DEFENCE

FIRST WITNESS

The accused, having been duly sworn, states:

Sir, I enlisted on 12 Feb 41, and went o/s in Jun 41 from Canada with the 4 LAA Regt. I went into action on D plus 12 and stayed until wounded in late Sep. Early in Nov I left hosp and was TOS 2 CARU. It was then I found myself forced to repeat Basic and AA trg before being allowed to return to action and my unit. I very much wish to stay in action.

NO CROSS-EXAMINATION

IN THE OPINION OF THE COURT IT IS UNNECESSARY TO COMPLY WITH RP63(B).

SECOND WITNESS

Capt AM APPLEBY, 2 CARU, having been duly sworn, states:

I recognize the accused, Sir, and I've been with the 4 LAA Regt since it was formed in this country and the accused was also a member of that unit. I knew him from '41 until '43 and from Dec 43 until Sep 44, and knew him more intimately when I was transferred as Bty Capt to his Bty. The unit went to France on 18 Jun 44 and the accused was a general utility man you might say, being a gun layer spare, a DR and a driver as well as doing clerical work, and at one time he held the rank of Bdr. We found him very useful, cheerful and a willing soldier. What impressed me most was his exceptional willingness to work and he was a very good influence amongst his men.

NO CROSS-EXAMINATION

IN THE OPINION OF THE COURT IT IS UNNECESSARY TO COMPLY WITH RP63(B)

THIRD WITNESS

C.26326 Gnr VAN VALKENBURG AR, 2 CARU, having been duly sworn, states:

I recognize the accused, Sir, and I met him in WINTON, which is a suburb of BOURNEMOUTH on 18 Mar 45 and told him there was a shortage of AA rfts and he said he was going to cut his leave short and come back.

NO CROSS-EXAMINATION

IN THE OPINION OF THE COURT IT IS UNNECESSARY TO COMPLY WITH RP63(B)

THE DEFENCE IS CLOSED

STATEMENT BY THE DEFENDING OFFR ON FINDING

The Defence has tried to show the character and make up of the accused. We find him joining the Army in '41 and being of such intelligence he completed his trg early and was soon into action when the fighting began. He has shown that his unit chose to keep him and it was just because of the fact that he was wounded that he had to leave and come back to England. He now wants to get back into action and it is easy to understand how life in an RU can effect one's state of mind and mentality. Whether he is guilty of the charge or not is up to the Court to decide. The prosecution so far has not proven to the Court, one, the act, and secondly, the intention, and the Court therefore has no alternative but to acquit the accused.

STATEMENT BY THE PROSECUTOR ON THE FINDING

- NIL -

THE COURT IS CLOSED TO CONSIDER ITS FINDING

THE COURT IS REOPENED.

PLEA IN MITIGATION

It appears now that the Court has found the accused guilty of the charge, and so I wish to repeat all I said again on the submission I made, and also my statement on the Finding. If the accused must be punished for this offence might I suggest that it be a forfeiture of pay rather than dtn so that this accused may get back to his unit overseas.

THE COURT IS CLOSED TO CONSIDER ITS SENTENCE

SUMMARY OF EVIDENCE

in the case of

No B 11408 Gunner John Walter GUNN, E Battery, Q Wing, on the strength of No 2 Canadian Artillery Reinforcement Unit, a soldier in the Canadian Army (Overseas).

BY DIRECTION OF THE COMMANDING OFFICER THE EVIDENCE IS TAKEN ON OATH.

FIRST WITNESS
For the Prosecution

No C 9727 Bdr NEWMAN, J.A., Administration Wing, on the strength of No 2 Canadian Artillery Reinforcement Unit, a soldier in the Canadian Army (Overseas), being duly sworn, states:

"I am C 9727 Bdr NEWMAN, J.A., an NCO of the Regimental Police, Q Wing, No 2 Canadian Artillery Reinforcement Unit. At 1620 hours, 20 March 1945, the accused, whom I here recognize as B 11408 Gnr GUNN, J.W., surrendered himself to me as being absent without Leave."

THE ACCUSED DECLINES TO CROSS-EXAMINE THIS WITNESS

(J.A. Newman) C 9727 Bdr.

Pursuant to CAORO No 5352, I produce as exhibit "A", a certified true copy of a declaration of a Court of Inquiry relating to the accused, whom I now recognize, and purporting to be signed by Major R.D. Mulholland, Administrative Officer, No 2 Cdn Arty Rft Unit, which have been read over and shown to the accused.

(G.A. Speer) Lt. RCA, No 2 CARU
Officer detailed to take
this Summary of Evidence.

THE ACCUSED IS CAUTIONED AS FOLLOWS:

"Do you wish to make any statement or to give evidence on oath? You are not obliged to say anything or give evidence, unless you wish to do so, but whatever you say or any evidence you give, will be taken down in writing and may be given in evidence".

(G.A. Speer) Lt. RCA
No 2 Cdn Arty Rft Unit
Officer detailed to take
this Summary of Evidence.

I certify that the foregoing Summary of Evidence was taken down by me, in the presence and hearing of the accused, and that Rules of Procedure 4 (c),(d),(e),(f) have been complied with.

EXA

(G.A. Speer) Lt. RCA
No 2 Cdn Arty Rft Unit
Officer detailed to take
this Summary of Evidence.

Dated at
Bramshott, Hants,
this day of
March, 1945.

No. B 11406 Name GUNN, John, W. Sqn, Battery, or Company Corps RCA Date of enlistment 12-2-41 GC Badges

Date of last entry in Company Conduct Sheet 7-8-41 No. and date of last drunk Period not reckoning towards freedom from extra fine Sheet No. Signature OC Company, etc Service or Proficiency Pay

3/17 MFM 6 (AFB 122) 40/P&S/134 (7010)

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award of punishment (Insert also any entry with this)	By whom awarded	Remarks
Sheet destroyed on completion of six months service, no entries for drunkenness, last entry 7-8-41.									Character
Field	6 Sep 43	Bdr		A.A.Sec 15(1) Absent without leave fr m 0800 hrs 6 Sep 43 until he returned at 1400 hrs 9 Sep 43.(absent 3 days 6 hours)	Pte Murphy, L	Severe Reprimand	14 Sep43	Lt. Col. C.E. Woodrow	4 days pay under FR&I 149(1)(a)
Field	18Sep	Gnr		Sect. 40 A.A. Conduct to the prej. etc. In that his rifle was found in a very dirty condition	Documentary Sgt. Cheevers L.T.	3 days C.B.	Sep 20 1943	Major P.P. Gossage	
Field	5 Jun 44	Gnr		Sec 15(1) A.A. - WOAS AWL from 1700 hrs 5 Jun 44 to 0740 hrs 6 Jun 44.(absent 14 hrs 40 mins)	Sgt Abbott L/Bdr Sutton	Forf 7 days pay FR&I 149(2) 7 days C.B.	7 Jun 44	(AV Malone) Capt	Forf 1 dys pay FR&I 149(1)(a) Forf 7 days pay FR&I 149(2)
								Total	forf 8 days pay

F1 + M + C

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witness	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Field	20 Nov 44	Gnr		A.A.Sec 15(1)WOAS.AWL from 0820 hrs 20 Nov 44 to 1405 hrs 27 Nov 44. Absent 7 days 5 hrs 45 mins.	Documentary	15 days pay	28 Nov 44	W.G. Myatt	Forf 8 d.p, FR&I 149(1)(a) Forf 15 d.p, FR&I 149(2) Total forf 23 days pay
Field	23 Dec 44	Gnr		A.A.Sec 15(1) WOAS AWL from 0800 hrs 23 Dec 44 until 0900 hrs 11 Jan 45. (Absent 19 days 1 hr)	Documentary	26 days pay FR&I 149(2)	11 Jan 45	Lt Col W J Brigger	Forf 20 days pay FR&I 149(1)(a) Total forf 46 days pay.

CERTIFIED TRUE COPY

K. S. Cuss, Capt Adjt.
"Q" Tpsr Wing No 2 C.A.R.U.
Officer having custody of original MFM 6.

LIST OF WITNESSES

For the Prosecution:

C 9727 Bdr NEWMAN, J.A. - No 2 CARU

For the Defence:

NIL

LIST OF EXHIBITS

EXHIBIT "A"

Army Form B 115 - Record of the Declaration of a Court of Inquiry on the Illegal Absence of a Soldier.

25 Mar 45

I, B 11408 Gnr GUNN, J.W., hereby certify that I have received a copy of the Charge Sheet and Summary of Evidence that may be used in my forthcoming trial by Field General Court Martial.

J.W. Gunn

(J.W. Gunn) B 11408 Gnr.

25 Mar 45

I, B 11408 Gnr GUNN, J.W., request my Commanding Officer to appoint an officer to defend me at my forthcoming trial by Field General Court Martial.

J.W. Gunn

(J.W. Gunn) B 11408 Gnr.

COUNTER NUMBER 438896

HOUR 12 50

OPERATOR'S INITIALS R.D.

RELIEVING OPERATOR R.D

KKK-17 (cont#2)

PTE GUNN J.W.L.

See GGG-72 for last case

RECORDED AT CMHQ IN AB 169 KKK-17

Correspondence to be PINNED here.

Army Form A.3.

Form for Assembly and Proceedings of Field General Court Martial on Active Service.

PROCEEDINGS.

A.

Order convening the Court.

On Active Service, this TWELTH day of APRIL, 1944.

Whereas it appears to me, the undersigned, an officer in Command of 3RD PARACHUTE BRIGADE, on active service, that the persons named in the annexed Schedule, being subject to Military Law, have committed the offences in the said Schedule mentioned.

And whereas I am of opinion that it is not practicable that such offences should be tried by an ordinary General Court Martial; *[and that it is not practicable to delay the trial for reference to a superior qualified officer].

*Omit where Convening Officer is a Commanding Officer or is of Field Rank.

I hereby convene a Field General Court Martial to try the said persons, and to consist of the Officers appointed or detailed hereunder.

*[I am unable to appoint a
*(1.) Three Officers to form the Court.]
*(2.) A Field Officer as President.]
for the following reasons, namely:—]

*Omit if not applicable.

PROCEEDINGS REVIEWED 12 May 44.
R. Deane Wills Capt.
PROCEEDING OFFICER, JAG BRANCH CMHQ

NOTE.—The President must be named. The members and waiting members (if any) may be mentioned by name, or the number and ranks and the unit to which they belong may alone be named. In the latter event, the ranks, names, &c., of the members of the Court, as constituted, will be recorded on the proceedings.

*Must be signed personally by the Officer actually in command at the time, and all alterations in the composition of the Court to be initialled by him.

President.

Rank.	Name.	Regiment.
MAJOR	R. PRYNN	HAMPSHIRE RGMT

Members.

Rank.	Name.	Regiment.
A CAPTAIN	TO BE DETAILED BY OC	1 CDN PARA BN
A ~~CAPTAIN~~ SUBALTERN	TO BE DETAILED BY OC	9 PARA BN.

*Signed [signature] BRIG

Commanding 3RD PARACHUTE BRIGADE.
Convening Officer.

SCHEDULE

Number, Rank (*a*), Name and Unit of Accused (*b*)	Offence charged	*Plea	Finding, and if Convicted, Sentence (*c*)	How dealt with by Confirming Officer (*d*)
	See charge Sheet marked 'A' annexed.			Confirmed J.H.L. Hill
No. B 68591. Pte GUNN J.W.L. 1 CDN PARA BN.	See 15(1) A.A. WOAS absented himself without leave.	N.G.	Guilty	17 April 44
			To undergo detention for 112 days & Reduced to Stoppages to the amount of £1-15-8.	

*Question to be asked of accused, if he pleads not guilty (R. of P. 39 (a)) :—
"Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity for preparing your defence?"
Answer (*to be recorded on schedule if any necessary*) :— NO

(Signed) J.H.L. Hill BRIG. (Signed) Rupert Shaw
Commanding 3RD PARACHUTE BRIGADE, Hampshire R.
Convening Officer (*e*) *President.*

(*a*) Appointment acting rank or acting appointment, if any, to be stated in brackets after the substantive rank.

(*b*) Unless unavoidable, not more than three names are to be entered on one form, and in serious cases one only.

(*c*) Recommendation to mercy, if any, to be inserted in this column.

(*d*) It is not necessary that the Confirming Officer should sign his name in this column. Initials are sufficient.

(*e*) Must be signed by the same Officer who signs on the first page, and all alterations in the first two columns of the Schedule to be initialled by him.

Evidence and Charge Sheets (if necessary) to be PINNED here.

B. Certificate of President as to proceedings.

I certify that the above Court assembled on the 15 day of April 44, and duly tried the persons named in the Schedule, and that the plea, finding, and sentence in the case of each such person were as stated in the third and fourth columns of that Schedule.

I also certify that :—

1. The members of the Court
2. The witnesses
*(3. ~~The Interpreter~~ R
*(4. The officers under instruction)

*Omit if not applicable.

were duly sworn.

Signed this 15 day of April 1944.

President of the Court Martial.

C. Certificate in case of death sentences.

*See footnote (2) on page 702 M.M.L. 1929.

I certify that the terms of *A.C.I. 570 of 1918 have been complied with.

Signed this day of 19

President of the Court Martial.

D. Confirmation.

I have dealt with the findings and sentences in the manner stated in the last column of the Schedule, and, subject to what I have there stated, I hereby confirm the above findings and sentences.

*To be omitted unless penal servitude, imprisonment or detention having been awarded, the Confirming Officer either has no authority to commit to prison or detention barrack, or, having such authority, recommends suspension.

*~~I direct that the soldier named in the margin be not committed to prison or detention barrack until further orders.~~)

Signed this 17th day of April 1944.

J.H.L. Hill Brigadier

Cond. 3 Parachute Bde *Confirming Officer.*

Promulgated and extracts taken in the case of B68591 Pte Gunn J.W.L.

(*a*) (Dated) 18 Apr 44 (Signed) R. Lovat Lt.
for Capt. & Adjt. 9 Para Bn. The K.S.L.I.

Promulgated and extracts taken in the case of

(Dated) (Signed)

Promulgated and extracts taken in the case of

(Dated) (Signed)

(*a*) When several cases are promulgated in one unit on the same day the Officer need only sign once.

(22571) W14617/P500 30,000 2/45 A. & E. W. Ltd. Gp. 668
(22584) W1.11338/71 160,000 2/45 " "

'X'

APPENDIX "F"

CHARGE SHEET

The accused, B 68591 Pte. Jack William Lorne GUNN, 1 Cdn. Para Bn., C.A., a soldier of the Canadian Army placed on Active Service is charged with:

WHEN ON ACTIVE SERVICE ABSENTED HIMSELF WITHOUT LEAVE

in that he

A A Sec 15(1) at Carter Barracks, Bulford Wilts, at approximately 2030 hrs 21 Mar 44 absented himself without leave while under close arrest, until apprehended at 0120 hrs 25 Mar 44 at Birmingham. Cost of apprehension £1-15-8.

(G.F.P.Bradbrooke) Lt.Col.
O.C. 1 Cdn Para Bn.,C.A.

10 April 44
Carter Bks., Bulford Camp, Wilts

To be tried by Field General Court Martial.

Home Forces.
Apr 44.

Brig.
Cmd 3 Para Bde.

Members - Capt K. Macdonald, 1st Cdn Para Bn.
Lt. D. S. Catlin, 9th Para Bn.

FORM A

PAGE 1

PROCEEDINGS OF A FIELD GENERAL COURT MARTIAL
HELD IN THE FIELD ON THE DAY OF 194 .

Trial of No. B6859 Pte Gunn, J.W.L., 1st Cdn Para Bn.

Prosecutor Lt. M.W. Chapman, 1st Cdn Para Bn.

Defending Officer Lt. D.A. Clancy 1st Cdn Para Bn.

Officers Under Instruction Lt. D.W.M. McCammon, 1st Cdn Para Bn.
Lt. J.A. Rossiter, 1st Cdn Para Bn.

1. The Order convening the Court is read in the presence of the accused.

2. The accused is asked the following questions:-

Do you object to be tried by the President or any Members of the Court, whose names you have heard read over ?

ANSWER - NO

3. The President, Members, [redacted], Officers under Instruction, [redacted] are duly sworn. R.

4.(a) The accused answers to his name and number, and is duly arraigned on the charges.

(b) The accused having pleaded guilty to the charge(s) [redacted] 57(a) complied with. [redacted] and R.

5. The accused is asked the questions at the foot of page 2 of AF. 3, and answer is recorded beneath the question.

6. The Prosecutor makes (a)([redacted] R) address.

B

DEFENCE

PAGE 3

The accused is informed on his rights in accordance with R.P. 40(A) and Note 2 on page 644 of the Manual of Military Law, 1929 Edition. The accused is asked the following questions:-

Q.1. Do you wish to give evidence as a witness ?

A.1. Yes.

Q.2. Do you intend to call any other witness on your behalf ?

A.2. No.

Q.3. Are they witnesses as to character only ?

A.3. —

2
Prosecution

1st Witness for Prosecution. C. 2549 SPC C. W. STEEVER 1 Cdn Para Bn
Sworn States

I recognise the accused now before the Court. At 2030 hrs on 21 March 44. I took the accused to the showers, which are in H.Q. but at that time was no electric bulb. I & the prisoner started to look for one. Whilst looking for one the accused made a dash for the door. I went to another door to look for the accused in the road whilst he took [illegible]. I made a search for him but could find him.

Cross Examined. I alone was in charge of the two persons when clothing issue to the showers. I did not know there was no light when looking for the electric bulb. I followed behind the accused. I was about 20 feet away from him. I did not know there was another door. I looked in the Guardroom, he was not there.

No Re-examination.

2P836

2nd Witness for Pros. H. 171576 Sgt S. F. CHADWICK. R.A.P.
This witness not being called by Prosecution. R.P.75 Complied with. The Defence do not require his presence.

3rd Witness for Pros. Lt. A. J. ARRIL 1 Cdn Para Bn.
Sworn States

I am assistant Adjt. 1 Cdn Para Bn. I produce Certificate relating to the accused, whom I now recognise, in accordance with P.C. 2797 of 10 Apr 42 in accordance with N.A. Rule 163(1) TT, marked 'A' Signed by Pros & Pl. I also produce Two Certificates C.N. H.Q. 10000-55 relating to the accused marked 'B' Signed by Pros & Adjt. & 'C' Signed by Pros & Adjt.

No Cross Examination.

(Here insert Pge. 3)

4

Accused Swears Stats.

I did not attempt to escape from the showers. I was in a different part of the hut to the escort. When I left the hut I went to the Guardroom. There was no one there. I waited about for a few minutes & then heard cries on my own & went ahead.

Cross Examd. I waited about 5 or 10 minutes in the Centre room of Guardroom. There was no one there. I made no attempt to find the Guard. My reason for returning to the Guardroom was to get some soap, as I had gone to the showers without any. I got my soap but did not ~~return~~ return to the showers. When I went ahead I knew I was under close arrest.

Re Examd. I thought that a man under close arrest was either confined, or had an escort.

Closing Address by Pros.

Read marked 'D' Signed by Pros & Att.

Reply by Defence.

Man at time of absence was not in strict Confinement or escort. Only one escort to two prisoners. Escort in another part of the building. Returned to the Guardroom. As no one was there, he went ahead.

(Here insert Part 5)

Plea in Mitigate.

Subject not proper supervision of the accused at the time. A good character placed before the accused. If proper Guard had been provided, the incident would not have occurred.

FORM C

AFTER FINDING.

Lieut. J.A. CLANEY I/C A.M.P. was sworn and states:-

I produce a certified true copy of AMF 220. relating to the accused, (The said copy is marked E, signed by the President, and attached to the Proceedings).

Question to the accused:-

Do you wish to address the Court, or to call evidence as to character ?

Answer:-

DO.

The [redacted] (Defending Officer) makes the following plea in mitigation of sentence:-

Recorded on Page 6.

Appendix "H"

CERTIFICATE TO ACCOMPANY WEST P.C. 2987 of 10 NOV.42

I certify that No. 3-68591 Rank Pte. Name Gunn, J.W.

Unit No.1 Para, Bn. was arrested at Birmingham (place)

at 0120 hrs. (Hour) on 25 Mar.43 (date) and that at the time of

his arrest he was wearing (military uniform) or (~~civilian clothing~~).

Signature of ~~arresting officer~~, Assistant Provost-Marshal or other

officer or the Commanding Officer of the portion of His Majesty's

Forces or the officer, warrant- officer, or non-commissioned officer

in charge of the detachment of the Canadian Provost Corps, Canadian

(Strike out part inapplicable).

(R. J. Kidston) Major.
Assistant Provost Marshal

D.A.P.M. C.M.H.Q.

Expense Voucher Re—:

Ref: K.R. & O. (Can) 539

B'

Reg. No. B6859/ Rank Lt. Name Gunn, J.W. Unit 1 Cdn Para Bn.

The following expenses were incurred in apprehending and returning the M/N Soldier to his Unit From London.

Date	Particulars	Amount £	s	d
27 Mar 44	Escorts return fare from LONDON To Bullford (½ portion)		6	9
	Prisoners single fare to LONDON From			
	Prisoners fare from London To Bullford		6	9
	Escorts & Prisoners expenses for Best, Meals, Bus fares			
	Total £		13	6

I certify that the above statement of Expenses is Correct, and that the amounts are fair and just.

Officer Issuing Railway Warrant and Expense monies Capt
No. 6 Provost Company, Canadian Provost Corps, London

R. J. STINSON
ADMN. OFFICER - D.P.M.
C.M.H.Q.

C.M.H.Q. 1000/55
40/P & S/483

D

CLOSING ADDRESS OF PROSECUTION

In the evidence brought forth by the prosecution we believe that we have proven beyond doubt that the accused, B-68591, Pte. Gunn, J.W.L. committed an offence against A.A. Sec. 15(1) in that he did absent himself without leave while under close arrest at Carter Barracks, Bulford, Wilts. at approximately 2030 hrs 21 March, 1944.

Secondly we have proven that he was apprehended, wearing military uniform at 0130 hrs, 25 March, 1944, at Birmingham. The cost of apprehension £1-15-8.

(W.W. Holman) Lieut.
1 Cdn. Para. Trg. Coy.

Summary of evidence in the case of Jack William Lowe

B 68691 Pte ~~Gunn~~ ~~Fitter~~ Gunn, 1 Edn. Para Bn C.A. a soldier of the Edn. Army placed on active Service:

Charge I ~~A.A. Sec 22~~ ~~when in confinement escaping~~ A.W.L. escaping ~~from~~ close arrest

The Commanding Officer directs that the evidence be taken in writing.

1st Witness B 23493 Pte. Gunn ~~Fitter~~ Gunn, 1 Edn Para Bn C.A. having been duly sworn states:-

I was on guard duty in the Bn. guard-room on the 21 Mar 44 L/Cpl. Phillips of "C" Coy was i/c the guard. At approx. 2030 hrs. on 21 Mar L/Cpl. Phillips ordered me to take the two prisoners, Pte. Gunn & Kirkman to the showers. This was in the guard room. I took the prisoners to Ablt. Coy huts. There was a light bulb missing in the showers, the two prisoners & myself proceeded to look for one. While the two prisoners were in one of the buildings they made a rush

for the search- door. I made a dash
for the door nearest to me, to gain a
view of the road to see what direction
they took. I saw them running towards
No 1 Gym. Then I lost sight of them.
I looked about for them around H.Q. Guard
hut, also along side the gym, in the
grass + into the old Barrage. I could
not find them so I reported the matter
to the guard Commander L/Cpl. Phillips.

Accused declined to cross-examine.

A.W. Stewart

III

2nd Witness. Attached is a statement of 14 17156 Sgt. Chadwick S.F, Corps of Military Police, Birmingham.

3rd Witness. Lt. K.J. Arril, Asst. Adj (Cdn Para Bn Lt. having been duly sworn states:

I produce form, "Certificate in accordance with P.C. 2791 of 10 Apr 42" relating to the arrest of B 68591 Pte. Gunn J.W. absconder on 25 Mar 47.

~~I Produce Form W 3011 A Appendix Form showing proceedings of Canadian Provost Corps relating to the arrest~~

I Produce Form CMHQ 1000:55 relating to costs of apprehension in the case of Pte. Gunn.

I recognize the accused as Reg. No. B 68591, Pte Gunn J.W. of (Cdn Para Bn.

K.J. Arril Lt.

Question to the accused.

Do you wish to make any statement or to give any evidence upon oath? You are not obliged to say anything or give evidence unless you wish to do so. But whatever you say or any evidence you give will be taken down in writing and may be given in evidence

Answer by the accused

I have nothing to say.

IV

I certify that Rules of Procedure 4 (C) (D) (E) and (F) have been complied with.

Taken down by me in the presence of the accused at Carter Carter, Bullard, Wilts this 9 day of Apr. 44.

D. W. Hannell Capt.

In lieu of Army Form B. 236 (War).

STATEMENT AS TO CHARACTER AND PARTICULARS OF SERVICE OF ACCUSED.

(For Use at Trials by Field General Court-Martial only).

Number.	Rank.	Name.	Regiment (or as the case may be).
B 68591	Private	J.W.L. GUNN	1 Cdn Para Bn

NOTE.- The Field Conduct Sheet is to be produced in Court with this statement but is not to be annexed to the proceedings. The numbers herein stated should correspond with the number of entries in the Field Conduct Sheet, prominence being given to the most serious offence in each entry. If the charge is for drunkenness or absence without leave, the entries for drunkenness or absence, as the case may be, should be stated separately. Any recognised special acts of gallantry or distinguished conduct recorded on the Field Conduct Sheet should also be inserted here.

1. The following is a fair and true summary of the entries in the Field Conduct Sheet of the accused, exclusive of convictions by a court martial or a civil court:-

For Nil ..... times.

For ..... times.

For ..... times.

For ..... times.

Date of first entry in Field Conduct Sheet 25 Jun 43

Date of last entry in Field Conduct Sheet 31 Jan 44

2. Previous convictions of the accused by a court martial or a civil court are set out in the Schedule overleaf.

+Strike out if not applicable.

+ 3. The accused at the present time is under sentence for 84 days detention beginning on the 17th day of March 1944.

4. The accused has been awaiting trial on the present charges for sixteen days whilst under sentence of detn.

of which No days were spent in hospital.

5. The present age of the accused is 19 years 11 months.

6. The date of his attestation 3 May 43

7. [illegible]

8. [illegible]

(State the military decorations (if any) held by accused.

9. [illegible]

INSTRUCTION:- If any matter in any of the above paragraphs cannot be stated from the regimental books the paragraph must be struck through.

SUMMARY OF CONVICTIONS BY A COURT-MARTIAL OR CIVIL COURT.

Description of Court by which tried.	Date and Place of Trial.	Charges upon which convicted.	Punishment of the Court.	Punishment remitted or sentence suspended.
F.G.C.M.	~~16~~ 17 MAR 44	ABSENCE WITHOUT LEAVE, from 2359 hrs 31 Jan 44 until surrendering himself at 1900 hrs 7 Mar 44. (Absent 35 days 19 hrs 1 minute).	84 days detention.	

I HEREBY CERTIFY that the foregoing particulars, which have been extracted from the regimental books in my custody, are correct to the best of my knowledge and belief.

Signed this ~~10th~~ 15th (HOME) day of April 1944

Capt., Adjt.

GGG 12

PTE GUNN J W L

ENTERED IN RECORDS OF C.M. GGG·72

Correspondence to be PINNED here

Army Form A.3.

Form for Assembly and Proceedings of Field General Court Martial on Active Service.

PROCEEDINGS.

A.

Order convening the Court

On Active Service, this FIFTEENTH day of MARCH, 1944.

Whereas it appears to me, the undersigned, an officer in Command of 3rd PARACHUTE BRIGADE, ----------, on active service, that the persons named in the annexed Schedule, being subject to Military Law, have committed the offences in the said Schedule mentioned.

And whereas I am of opinion that it is not practicable that such offences should be tried by an ordinary General Court Martial; *~~(and that it is not practicable to delay the trial for reference to a superior qualified officer.)~~

*Omit where Convening Officer is a Commanding Officer or is of Field Rank.

I hereby convene a Field General Court Martial to try the said persons, and to consist of the Officers appointed or detailed hereunder.

*Omit if not applicable.

*~~(I am unable to appoint:—~~

*~~(1. Three Officers to form the Court.)~~

*~~(2. A Field Officer as President.)~~

for the following reasons, namely:—

PROCEEDINGS REVIEWED
5 Apr 44
REVIEWING OFFICER, JAG BRANCH C.M.H.Q.

Note.—The President must be named. The members and waiting members (if any) may be mentioned by name, or the number and ranks and the unit to which they belong may alone be named. In the latter event, the ranks, names, &c., of the members of the Court, as constituted, will be recorded on the proceedings.

President.

Rank.	Name.	Regiment.
Major	R. Bryan.	Glider Regt.

Members.

Rank.	Name.	Regiment.
A Captain	to be detailed by CO	1 Cdn. Para Bn.
A Subaltern	to be detailed by CO	

*Must be signed personally by the Officer actually in command at the time, and all alterations in the composition of the Court to be initialled by him.

*Signed [signature] Brig.
Commanding 3rd Parachute Brigade.
Convening Officer.

SCHEDULE

Number, Rank (a), Name and Unit of Accused (b)	Offence charged	*Plea	Finding, and if Convicted, Sentence (c)	How dealt with by Confirming Officer (d)
No. [illegible] Pte Gunn, J.H.L. 1st Cdn Para Bn.	See Charge Sheet marked 'A' annexed.			
	1st Charge		Not Guilty of Desertion but Guilty of Absent without leave.	
	Sec 12(1) A.A.	N.G.	To undergo Detention for 84 days.	
	AWAL deserting His Majesty's Service.			
	2nd Charge.			
	Sec 24(2) A.A.		On Authority of Convening Officer	Confirmed J/L Hill
	AWAL, losing by neglect his Regimental necessaries.	Guilty	Admonished	19 March 44

*Question to be asked of accused, if he pleads not guilty (R. of P. 39 (A)):—
"Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity for preparing your defence?"
Answer (*to be recorded on separate sheet if necessary*):—

NO.

(Signed) J/L Hill Brig (Signed) R. Rimmer Maj.

Commanding 3rd Parachute Brigade. Hampshire Rgt
Convening Officer (e) *President.*

(a) Appointment acting rank or acting appointment, if any, to be stated in brackets after the substantive rank.

(b) Unless unavoidable, not more than three names are to be entered on one form, and in serious cases one only.

(c) Recommendation to mercy, if any, to be inserted in this column.

(d) It is not necessary that the Confirming Officer should sign his name in this column. Initials are sufficient.

(e) Must be signed by the same Officer who signs on the first page, and all alterations in the first two columns of the Schedule to be initialled by him.

Evidence and Charge Sheets (if necessary) to be PINNED here.

B. Certificate of President as to proceedings.

I certify that the above Court assembled on the 17 day of March 44, and duly tried the persons named in the Schedule, and that the plea, finding, and sentence in the case of each such person were as stated in the third and fourth columns of that Schedule.

I also certify that :—

1. The members of the Court
2. The witnesses
*(3. ~~The Interpreter~~) R
*(4. ~~The officers under instruction~~) R

*Omit if not applicable.

were duly sworn.

Signed this 17 day of March 1944

R. Rimmer Maj.
President of the Court Martial.

C. Certificate in case of death sentences.

*See footnote (f) on page 743 M.M.L. 1929.

I certify that the terms of *A.C.I. 570 of 1918 have been complied with.

Signed this day of 19

President of the Court Martial.

D. Confirmation.

I have dealt with the findings and sentences in the manner stated in the last column of the Schedule, and, subject to what I have there stated, I hereby confirm the above findings and sentences.

~~*I direct that the soldier named in the margin be not committed to prison or detention barrack until further orders.)~~ NIL

*To be omitted unless penal servitude, imprisonment or detention having been awarded, the Confirming Officer either has no authority to commit to prison or detention barrack, or, having such authority, recommends suppression.

Signed this 19th day of March 1944.

Brigadier
Comd 3 Para Bde.
Confirming Officer.

Promulgated and extracts taken in the case of 3845[illegible] Pte Gunn J.H.L.

(a) (Dated) 21 March 44 (Signed) [illegible] Capt.

Promulgated and extracts taken in the case of

(Dated) (Signed)

Promulgated and extracts taken in the case of

(Dated) (Signed)

(a) When several cases are promulgated in one unit on the same day the Officer need only sign once.

[illegible] A.B.E.W.1166. Gp.672

"X"

APPENDIX F

CHARGE SHEET

B 68591, Private Jack William Lorne Gunn, 1 Cdn Para Bn, C.A., a soldier of the Canadian Army Overseas, placed on Active Service, is charged with:-

WHILST ON ACTIVE SERVICE, DESERTING HIS MAJESTY'S SERVICE

in that he

SEC 12(1) A.A. in the Field did absent himself without leave from 2359 hours 31 Jan 44 until 1900 hours 7 Mar 44, a total absence of 35 days, 19 hours and 1 minute, after having signed his name as having read a document which stated that:-
"I hereby acknowledge that I have been warned to hold myself in readiness for embarkation for active service overseas, and understand that if I absent myself without leave I am liable to be tried by court-martial for desertion."

WHILST ON ACTIVE SERVICE, LOSING BY NEGLECT HIS REGIMENTAL NECESSARIES

in that he

SEC 24(2) A.A. in the Field on or about 10 Mar 44 was deficient of kit to the value of $4.77.

Braces Prs.	1 @	$ .24	$ .24
Drawers Cellular	2 @	.27	.54
Respirater A.G.	1 @	3.50	3.50
Eyeshields A.G.	1 Pk(6) @	.34	.34
Ointment A.G.	1 @	.12	.12
Outfit A.D.	1 @	.03	.03
			$ 4.77

(G.F.P. Bradbrooke), Lt.Col.
C.O., 1 Cdn Para Bn, C.A.O.

Mar 44
Carter Barracks
Bulford, Wilts.

To be tried by Field General Court Martial.

Home Forces.
Mar 44.

Comd. 3 Cdn Inf. Bde.

Capt. P. J. GRIFFIN 1 Cdn Para Bn
Lieut. P. DURANCE 3 Para Bn

FORM A.

PAGE 1

PROCEEDINGS OF A FIELD GENERAL COURT MARTIAL
HELD IN THE FIELD ON THE 17 DAY OF March 44

Trial of No. B 68691 Pte J. W. L GUNN 1 Cdn Para Bn.

Prosecutor Lieut. J. M. GIRVAN 1 Cdn Para Bn

Defending Officer Lieut. J. A. CLANCY 1 Cdn Para Bn.

Officers Under Instruction

1. The Order Convening the Court is read in the presence of the accused.

2. The accused is asked the following questions:-

Do you object to be tried by the President or any Members of the Court, whose names you have heard read over ?

ANSWER - NO

3. The President, Members, [redacted] are duly sworn.

4.(a) The accused answers to his name and number, and is duly arraigned on the charges.

(b) The accused having pleaded guilty to the charge (s) Sec. 35(B) and 37(B) are complied with.

5. The accused is asked the questions at the foot of page 2 of AFn 3, and the answer is recorded beneath the question.

6. The Prosecutor makes (no) (the following) address.

B. DEFENCE.

The accused is informed on his rights in accordance with R.P 40 (A) and Note 2 on page 644 of the Manual of Military Law, 1929. Edition.

The accused is asked the following questions:-

Q.1. Do you wish to give evidence as a witness ?

A.1. Yes

Q.2. Do you intend to call any other witness on your behalf ?

A.2. Yes.

Q.3. Are they witnesses as to character only ?

A.3. Fact.

2

R. Pursuer
Dr

1st Witness for Prosecution. No H 17245 Sgt. G.R. La Croix
1st Cdn Para Bn Sworn State.

I am the O.R. of 1 Cdn Para Bn. I produce Certified Copy of the declaration of my Court of Inquiry held on the absence of the deceased when I was present. Read, marked 'A' Signed by the President + attached. I also produce Certificate in accordance with AA 162(1) which refers to the deceased read, marked 'B' Signed by Pres + Adt. I also produce Warning Order pertaining to be signed by the deceased marked 'C' read, Signed by the Pres + Adt.

To Cross Examn:

R.P83(4)

2nd Witness for Prosecution. Lieut. R.E HARRISON 1st Cdn Para Bn
Sworn State
On 15 Jan 44 I was witnessing officer to the signing of a document warning personnel that should they abscond thereafter they would be liable for trial by C.M. in a charge of Desertion.
Cross Examn. Nil.
By the Court. After the man had signed the document I signed it myself. I checked the unit for any absentees after the period. Each man when he came up to sign was asked if front of me by his Coy Comd if he understood what he was signing. I can't say if their names were called. I do not recognise the deceased.

RP83(4)

No F24312 Sgt. G. DAVIES was called by the Pros. Offered to the Defence for Cross Examn. R.P75
Not required by the Defence.

(Here Inserts Page 3)

The deceased Sworn State:

I never had any intention at any time of deserting. During the period of my absence, I joined Lumpton

Prosecution Case

I did not try and evade either the Civil or Military Police. I returned to my unit & surrendered myself on 7 March 44. I did not go absent to evade any operational duty. I wish to go with the unit into action. I produce a letter written by myself addressed to Pte BROTEN dated 14 Feb 44 marked 'D' Signed by Pros & Att. I also produce a letter written by me to Pte BROTEN dated 17 Feb 44 marked 'E' Signed by Pros & Att. I also produce letter written by me to Pte BROTEN dated 26 Feb 44 marked 'F' Signed by Pros & Att. I had arranged with Pte BROTEN, that should the Bn move the wound would be by telephone or telegram. Case for Defence

Before going on leave I read & signed Exhibit 'E' which I understood. Pte BROTEN was going to Chesterfield to see his wife. I knew that Bn was going to move. I have sent phone calls through to Chesterfield in about 15 months. I was always told that I could not be notified of the phone call. I thought BROTEN would know of any movement of the Bn & would let me know. Re Examination by Court. I knew the movement of the Bn is notified by the C.O. through Company Office & read & was briefed. During this time Broten could have notified me, in sufficient time to reach my unit. I understood the document I signed to mean that an absentee would be liable to be tried for desertion. I can't see quite the object of the document, but I should think it was signed more as law for a formal reason. By the Court. I thought it was only a matter of form.

Pte BROTON would have worked his passage to me "Return to Camp immediately". I do not think that if the unit was preparing to go overseas, the personnel of the unit would be given a warning however, the unit would not leave until 24 or 48 hrs warning before going

5
Pte Breton
17v

answer. I do not think the warning would
stay where one were giving, but would say the
unit is warning. I would say that the personnel
would be given a warning.

RP. 83(b)

2nd Witness Defence.

NO B 61095 Pte R.E BRETON Cdn Pnr Res

Sworn State.

I recognise the accused before the Court. I recognise
Exhibit D. G. F on letter written to me by the accused
I was in contact with him during his absence.
He wrote to me so that I could let him know
if the Bn was going to move. I should have known
or we should have been briefed. I could have
let him know in a few months. I should say
we would have two or three days warning.
Found in an envelope my name of the letter marked G. Signed by Pte Breton
Cross Examined. I have not observing him of any
reluctance. If we are going on active service
we should be issued with kits, I am told
would be handed in. I should say it is impossible
to take all kit with us. I should say it is essential
to hand it in.

Re Examination.

By the Court. I know his home Bn at Charlottetown.
If I was told one of the men a reluctance on
operational move I would have notified the accused.

Closing Address by Defence.

R.P. 83(b)

Accused had no intention of evading to desert or
attempt to desert. The letter written by the accused
shows his intention to return if the unit moved. Did
not try and evade police. Were unsure all the
time. Did not try to evade any important duty.
Could have returned to unit in the matter of hours.
Accused did not understand the true meaning of the
Warning Order. Thought it only formal. Unit would
have known if anything in this matter of operational
[illegible] moving.

Reply by Pros:

Attitude of Court shown to ~~Rule~~ Chapt III para 20 23. If absent for 35 days his duty must be performed by Commonwealth Soldier, & that the the accused would be punished, which remark in his mouth the moment of the Bn. Adjt must be allowed as desertion. Accused admit he read the Warning Order. Any reasonable man must be aware that if they absent themselves at this time they may miss an important service. If W.O. chose to mean anything ~~else~~ he can must be held guilty of desertion.

(Here insert Page 7)

In Case of Jamieson ~~Contents~~ of Statement of Charge

The age of accused as shown is the age as shown in the Attestation Paper of the accused, this document has now been returned to O.C. (Cairo)

Mitigation. The leniency of the Court is asked, in passing sentence, owing to facts which the accused supposes to disclose.

FORM C

AFTER FINDING.

Lieut. J. M. GIRVAN 1 Edn Pnr Bn. Assistant on G Staff

I produce a certified true copy of _____ relating to the accused, (The said copy is marked 'H', signed by the President, and attached to the Proceedings).

Question to the accused:-

Do you wish to address the Court, or to call evidence as to character ?

Answer:- TYD.

The (accused) (Defending Officer) makes the following plea in mitigation of sentence:-

Recorded on Page 6.

[redacted]

"A"

Record of the Declaration of a Court of Inquiry assembled in the Field on the 23rd day of February 1944, for the purpose of investigating and recording the absence, without leave, from his duty, and deficiency, if any, in the Arms, Ammunition, Equipments, Instruments, Regimental Necessaries, or Clothing of No. B 68591 Pte. Gunn, Jack William Lorne, 1 Cdn Para Bn, C.A.O.

DECLARATION

The Court declare that No. B 68591 Pte. Gunn, Jack William Lorne, 1 Cdn Para Bn, C.A.O., illegally absented himself without leave from 1 Cdn Para Bn in the Field at 2359 hours on the 31st day of January 1944, and that he is still so absent, and that on the 1st of February 1944 he deficient, and that he is still deficient of the following articles:-

CERTIFIED TRUE COPY:

(J.M. Girvan), Lieut.
Adjutant
1 Cdn Para Bn, C.A.O.

10 Mar 44
Carter Barracks
Bulford, Wilts.

EXHIBIT B

Record of the Declaration of a Court of Inquiry assembled in the Field on the 23rd day of February 1944, for the purpose of investigating and recording the absence, without leave, from his duty, and deficiency, if any, in the Arms, Ammunition, Equipments, Instruments, Regimental Necessaries, or Clothing of No. B 68591 Pte. Gunn, Jack William Lorne, 1 Cdn Para Bn, C.A.O.

DECLARATION

The Court declare that No. B 68591 Pte. Gunn, Jack William Lorne, 1 Cdn Para Bn, C.A.O., illegally absented himself without leave from 1 Cdn Para Bn in the Field at 2359 hours on the 31st day of January 1944, and that he is still so absent, and that on the 1st of February 1944 he deficient, and that he is still deficient of the following articles:-

CERTIFIED TRUE COPY:

(J.M. Girvan), Lieut.
Adjutant
1 Cdn Para Bn, C.A.O.

10 Mar 44
Carter Barracks
Bulford, Wilts.

B

1 Cdn Para Bn,
Cdn Army,
England.

6 Mar 44

" A CERTIFICATE IN ACCORDANCE WITH AA S. 163 (J) "

B 68591 Pte Gunn J.W. reported to the Guard room at 1900 hrs, on the 7 th day of Mar 44. On his arrival, he was properly dressed and sober.

fn

(G.F.P.Bradbrooke)Lt Col
C.O.1 Cdn Para Bn C A

"C" Coy Nominal Roll, 17 Jan 44. "C" Rangers Mtr

"I hereby acknowledge that I have been warned to hold myself in readiness for embarkation for active service overseas, and understand that if I absent myself without leave I am liable to be tried by court-martial for desertion."

Major MacLeod		H.M.		
Capt. Hanson		J.P.		
Lieut.Madden		J.R.		
Lieut.McGowan		S.W.		
Lieut.Rossiter		J.A.		
G-27452	C.S.M.	S. Blair	S.I.	
G-2871	Sgt.	Bray	A.	
F-24382	"	Davies	G.	
G-32182	"	Fleming	W.R.	
R-20014	"	Johnston	R.F.	
F-50331	"	MacPhee	R.C.	
G-32195	A/Sgt.	Rice	E.W.	
L-36080	L/Sgt.	Clouston	J.D.	
F-25506	"	Minard	W.P.	
D-156859	"	Morgan	G.H.	
G-32933	A/Cpl.	Allen	C.A.	
F-21783	"	Keel	A.T.	
H-195155	"	Kelly	W.R.	
D-166206	"	MacLean	R.C.	
F-12194	"	Mushton	R.G.	
D-72228	"	Trepanier	R.E.	
K-92405	"	Wright	H.L.	
F-7325	L/Cpl.	Brooks	G.V.	
D-166551	"	Flexer	A.E.	
H-17497	"	Phillips	M.A.	
H-106013	"	Rudko	F.	
G-23492	"	Stoever	G.W.	
M-38775	Pte.	Anderson	J.A.	
A-104569	"	Archibald	A.R.	
L-103545	"	Bachmeier	A.G.	
C-77159	"	Ball	M.J.	
B-68930	"	Barrier	H.E.	
D-24321	"	Bismuk	P.I.	

B-1348	Pte. Braidwood	P.	P Braidwood	
B-65095	" Broten	R.S.	R.S. Broten	
B-132939	" Bruno	A.E.	A.E. Bruno	
F-20508	" Burgher	E.C.S.	C.C. Burgher	
F-20546	" Carver	D.D.	D D Carver	
B-127013	" Chaddock	W.J.	W J Chaddock	
B-24616	" Cherkas	W.J.	W.J. Cherkas	
B-17856	" Church	J.T.	J T Church	
B-131098	" Clark	M.M.	M. M. Clark	
B-144527	" Coleman	W.	W. Coleman	
F-64797	" Comeau	G.A.	G A Comeau	
F-51900	" Comeau	G.J.	G J Comeau	
B-111609	" Cunningham	C.J.	C J Cunningham	
F-24546	" Croft	H.R.	H R Croft	
B-51515	" Cuthbert	S.A.	S A Cuthbert	
K-61068	" D'Amour	T.	T. D'Amour	
K-60501	" Davidson	G.H.	G H Davidson	
L-86724	" Delamere	E.J.	E J Delamere	
C-103262	" Dempsey	H.R.	H R Dempsey	
B-145909	" de Vries	J.	J de Vries	
B-M 6174	" Dougherty	S.D.	S D Dougherty	
B-3047	" Ducker	W.G.	W G Ducker	
B-144282	" Elston	J.R.	J R Elston	
C-102959	" Gervais	F.L.J.	F L J Gervais	
A-117288	" Gillespie	J.E.	J E Gillespie	
B-68591	" Gunn	J.W.L.	J W LeGunn	X
B-77282	" Hall	R.C.	R C Hall	
D-131402	" Hewelin	H.H.	H Hewelin	
D-127441	" Harrison	J.W.	J W Harrison	
F-88298	" Hartigan	D.R.	D R Hartigan	
B-137503	" Haveland	G.L.	G L Haveland	
D-132872	" Hetherington	A.	A Hetherington	
B-75875	" Hogarth	A.	A Hogarth	
M-104091	" Herman	R.S.	R S Herman	

B-70510	Pte.	Lynch	O.D.	O.D. Lynch
M-56079	"	McNally	A.J.	A. J. McNally
B-146019	"	McNicoll	J.A.	J.A. McNicoll
C-103413	"	MacDonald	N.N.	N.N. Macdonald
F-35952	"	MacKinnon	G.H.	G.H. MacKinnon
B-43940	"	Mallon	W.C.	W.C. Mallon
L-101214	"	Martin	P.	P. Martin
B-41795	"	Mathers	W.F.	W.F. Mathers
B-77102	"	Middleton	W.H.	W.H. Middleton
B-104098	"	Milburn	G.	G.G. Milburn
M-56747	"	Morrison	C.M.	C.M. Morrison
K-50792	"	Mowat	F.C.	F.C. Mowat
B-44208	"	Murray	W.D.	W.D. Murray
H-1089	"	Petrow	N.M.	N.M. Petrow
G-16602	"	Phee	H.J.	H.J. Phee
A-115510	"	Reich	M.S.	M.S. Reich
B-146227	"	Romanko	R.W.	R.W. Romanko
G-11625	"	Saunders	A.M.	A.M. Saunders
C-102076	"	Shank	A.	A.G. Shank
B-144256	"	Smith	J.A.	J.A. Smith
B-44279	"	Sless	E.J.	E.J. Sless
F-51986	"	Swim	H.B.	H.B. Swim
K-16495	"	Thoms	J.P.	J.P. Thoms
D-06108	"	Thompson	G.A.	G.A. Thompson
B-39039	"	Topham	F.G.	F.G. Topham
B-136209	"	Vansickler	M.	M. Vansickler
B-145754	"	Villeneuve	J.C.	J.C. Villeneuve
A-76154	"	Wilson	I.S.	I.S.A. Wilson
B-139467	"	Wood	J.A.	J.A. Wood
G-14176	"	Wright	W.H.	W.H. Wright
B-144946	"	Young	C.J.A.	C.J.A. Young
A-104757	"	Yurkowski	W.	W. Yurkowski

Pension Bur

witnessed P. Harrison Jr.
declared A. C. Taylor Major
Jan 18-1924

EXHIBIT E

This is to certify that this is a true copy of kit deficiencies of B 68591, Private Gunn J.W.L., 1 Cdn Para Bn, C.A.O., when kit was inspected on his apprehension. He is still deficient the following kit:

		Full Vocab. Rate	75% of Vocab. Rate (Unexpired Wear Value)
Braces Prs.	1	.32	.24
Drawers Cellular	2	.72	.54
Respirator A.G.	1	4.66	3.50
Eyeshields A.G.	6	.45	.34
Ointment A.G.	1	.15	.12
Outfit A.D.	1	.05	.03
		$6.35	$4.77

Certified that the a/m deficiencies exist.

(W.J. Stahl), C.Q.M.S.
"C" Coy
1 Cdn Para Bn, C.A.O.

Certified that the a/m deficiencies exist.
Certified that the prices of items are correct.

(E.R. Friel) Lieut.
Quartermaster, 1st Cdn Para Bn.

Certified that the addition of prices is correct.

(R.W. Munro) Capt.,
Paymaster.

10 Mar 44
Carter Bks.
Bulford, Wilts.

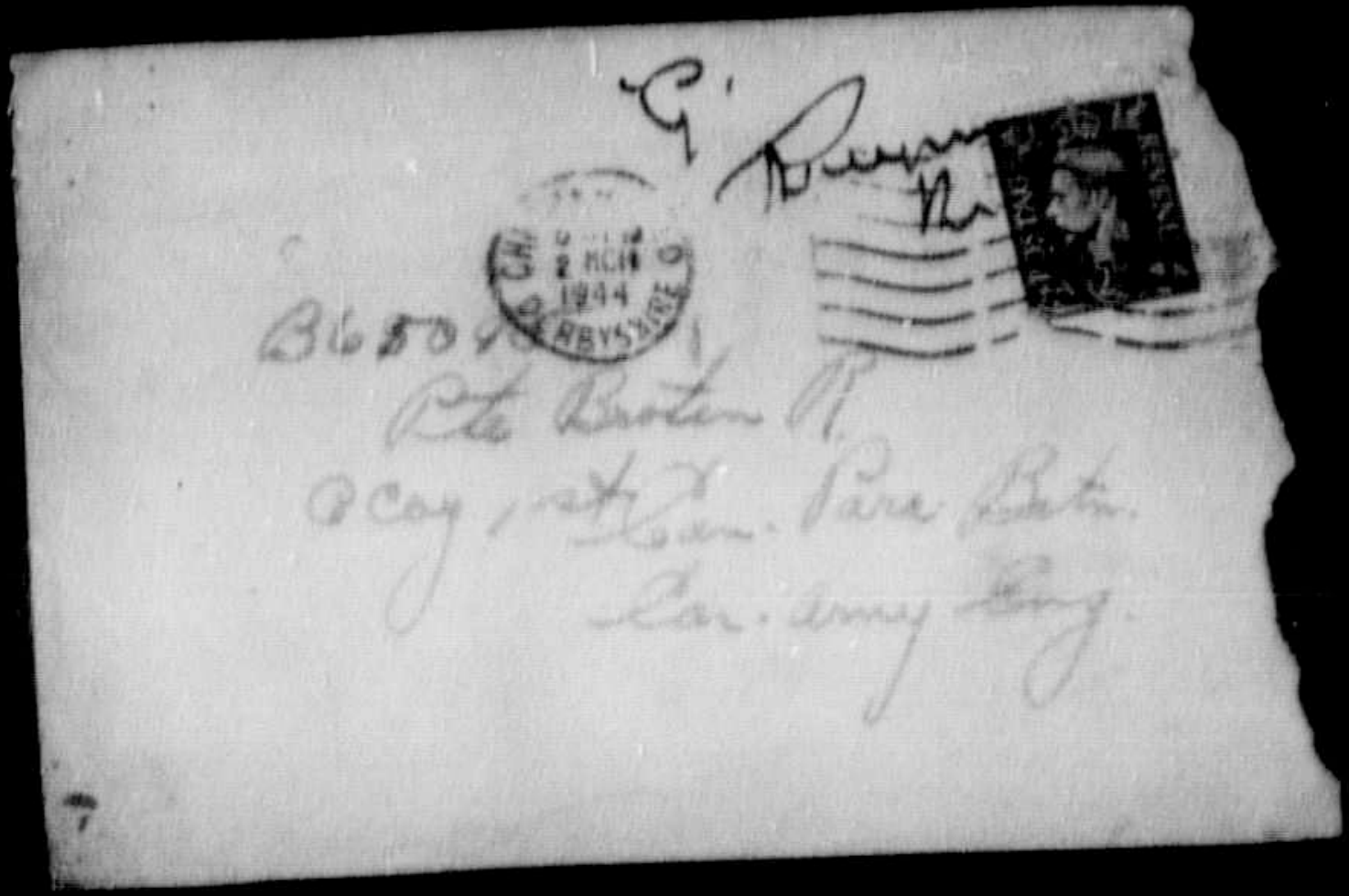
APPENDIX E

I, B 68591, Private JACK WILLIAM LORNE GUNN, desire to have an officer assigned to represent me at my trial by Court-Martial.

(I desire the services of Major D.H. Tayler if he is available.)

J.W.L. Gunn.....

March 1944



Dear Bum

I went to see "Pilot No 5" Last night It was really good Bibb enjoyed it too

I nearly got drunk last night It was club night Sun. so we all went to Wilsons & drank milk

Well Lil Face I must see you now Bibb Listen I It is necessary I send a telegram about our movements back at base.

For P.S. Received Tommie letter from you today X

64 Harpstone Rd Kenmore Feb 19/44.

Dear Bum

Been missing me much dear I hope not Whats doing down at Cargo are they starting it moving yet. If you hear anything let me know I'll climb aboard my horse & fly down

Bibb & I are doing well having a wonderful time wish you were here I miss you so much Dearest

was missing. Hell Ryan
I must confess. I don't
Why I don't know. but I
God forgive me.

Stover was lucky but yo
didn't tell me whether
stripped him or not. Di
they? I hope I'm as lucky
he is.

Probably I'll be back
this letter reaches you
I guess one month is lon
enough eh what?

F Feb 20 44
Ryan

Hya Jerk.

Hats cookin good
lookin. That was a sky
wasn't it. Bill & I were
very happy & I'm sure we
are going to very happy in
the future.

Joe received your
letter today. It took 7
days not bad considering

I hope you received
your pictures allright & I
suppose you noticed one

(3) Rene

That was kind of hard times on that Tigers last but those things will happen you know or don't you!

Have you heard whether we get any more ice or not. I wonder!

I'll get the words to those songs for you.

What do you mean by cool. If its what I'm thinking you had better stick to firecrackers. They are safer

(4) Rene

for children.

Rene was up here on Sat. night for awhile & she told Bill that she was in a bad way but manage to fix it up badly.

She wanted your picture but I refused & told her that if she wanted one, to ask you for it.

Well Darling I must say good bye for now

All My Love
Your Loved Rene
Gobs

Feb 17

E. Rowe Pvt

Hya Rudy

Ohh Boy what's new I received two letters from you one yesterday but you didn't tell me much I'm glad to hear I haven't moved yet as we don't want to lose a good time now I don't want to miss the draft that would do I had to refill Bettie's pen again It doesn't hold very much & I haven't got mine with me.

Have you heard

(2)

Rowe

from Lefty I've only seen her once since you left

I'm sorry the paper don't Boy but its all I can find around the house But after all it carries my love to you & all the best of my feelings towards you dearest

I'm having a wonderful time but I think I should be coming back soon You never told me how much you got for

(3)

Rowe

the week you were away

Well Pal write again soon & if you haven't got a button write or something.

Must close now but Both Bettie & I send our love.

Yours ever pal.

Homer

Summary of Evidence
in the case of
B68591, Pte. Gunn, J.H.L.

First Witness:

K172475, Sgt. La Croix, G.R., 1 Cdn. Para Bn, having been duly sworn, states:

I am K172475, Sgt. La Croix, G.R., 1 Cdn. Para. Bn. Orderly Room Sergeant. I present to the Court a record of the declaration of a Court of Inquiry assembled in the field on the 23rd day of February, 1944 for the purpose of investigating and recording the Absence Without Leave from his duty ~~of~~ and deficiences, if any, in the Arms, Ammunition, Equipments, Instruments, Regimental Necessaries or Clothing of No. B68591, Pte. Gunn, Jack William Lorne, 1 Cdn. Para. Bn., C.A. I also present 1 Cdn. Para. Bn. Part II Order No 15, dated 9 February, 1944, showing promulgation of Absence Without Leave since 2359 hrs, 31 January, 1944, of Pte. Gunn, J.H.L. Also Pt. II Order No 20, dated 22 February, 1944 showing the same promulgation of Absence Without Leave of Pte Gunn, J.H.L. Also Pt. II Order No. ~~K~~ 21 dated 24 February, 1944, showing Pte. Gunn struck off strength as a desrtr from 1 Cdn. Para. Coy, C.A.

I also present to the court a certificate in accordance with Guard

Room Regulations showing that Pte. Gunn reported to 1 Cdn. Para. Bn. Guard-room at 1900 hrs., 7 Mar., 1944, sober and properly dressed.

I also present warning order signed by Pte. Gunn stating: "I hereby acknowledge that I have been warned to hold myself in readiness for embarkation for active service overseas and understand that if I absent myself without leave I am liable to be tried by Court Martial for desertion."

B. R. LaCroix Lgt.

Question to the accused: Do you wish to question the witness?

Answer: No, Sir.

Second Witness:

L 7132, A/C.Q.M.S. Stahl, H. J., of "C" Coy., 1 Cdn. Para. Bn, C.D., having been duly sworn, states:

I am L 7132, A/C.Q.M.S. Stahl, H. J., of "C" Coy, 1 Cdn. Para. Bn.

On 9 March, 1944, I inspected the kit of 0685791, Pte. Gunn, J. H.L. The document which I present to the court is a true copy of the shortages of kit of the above-mentioned soldier. Sir

A/C.Q.M.S. "C" Coy

Question to the Accused: Do you wish to question the witness?

Answer: Yes Sir.

Third Witness: F24322, Sgt. Davies, G., 1 Can. Para. Bn., having been duly sworn, states:

I am F24322, Sgt. Davies, G., Pl. Sgt., 9 Pl., "C" Coy., 1 Can. Para. Bn., C.A.

Lt. Gunn, J. H. L., did not answer roll call between 2359 hrs. 31 January, 1944 and 1900 hrs. 7 March, 1944. He was absent without leave during this period.

Question to the accused:
Do you wish to question the witness?

Answer: No, Sir.

G. Davies.

Question to the Accused:
Do you wish to make any statement or to give evidence on oath? You are not obliged to say anything or give evidence unless you wish to do so, but whatever you say or any evidence you give will be taken down in writing and may be given in evidence.

Answer by the Accused:

All items on the Quartermaster's list of deficiencies dated 10 March, 1944 with the exception of the Drawers Cellular were packed away in my kit before I left on leave on the 22 January, 1944. My respirator had the identification disc attached. My kit was packed, and left in Platoon stores.

I certify that R. P. 4 (C, D, E, & F) have been complied with.

Taken down by me in the presence of the accused at Carter Hts, Bulford, Wilts, this 15th day of March, 1944

J. H. Rossiter Lt.
1 Can. Tank Bn., C. A.

Further summary of Evidence on the case of 3.68591 Pte William Lorne Gunn, 1 Cdn Para Bn CA - a soldier of the Cdn Army placed on Active Service is charged with

1) Desertion
2) Leaving by neglect

Witness Lt R.E. Harrison 1st Cdn Parachute having been duly sworn states - I am Lt R.E. Harrison. On the 18th of Jan. 44 I witnessed Pte Gunn of this bn sign a document warning him for embarkation for active service overseas and pointing out that should he be absent from self without leave, he would be liable for trial by Court Martial for desertion
The accused declines to cross examine this witness.

R.E. Harrison Lt
Lt R.E. Harrison 1st CPB.

I acknowledge that I was made aware of this further summary being produced at 1935 hrs, 15th Oct 1944. J.W. Gunn.

I certify that R.P. 4(c) (D) (E) & 17) have been complied with:

Taken down before me in the presence of the accused at Corsham Police, Bradford, Wilts, this 10th day of March 44.

Capt i/c CPB

APPENDIX "D"

STATEMENT AS TO CHARACTER AND PARTICULARS OF SERVICE OF ACCUSED

Number B 68591 Rank Private Name GUNN J.W.L. Regiment (or Unit) 1 Cdn Para Bn C A

1. The following is a fair and true summary of the entries in the Service and General, ~~Regimental and Squadron, Battery conduct sheets or Company~~ conduct sheets of the accused, exclusive of convictions by a Court-Martial or a civil court, of summary awards under Section 47 of the Army Act Air Force Act.

and of cases in which trial has been dispensed with.

	Within last 12 months	Since Enlistment
for	times	times
for	times	times
for	times	times
for	times	times

~~Number of instances of drunkenness or disgraceful conduct~~

There are no entries in the conduct sheets of the accused.

NOTE: ~~If the entries be for drunkenness, the entries for drunkenness must be stated separately.~~

2. The accused has not been previously convicted

~~Previous convictions of the accused by a court-martial or a civil court, of summary awards under Section 47 of the Army Act and dispensations with trial under Rule 4 are indicated thereunder or annexed hereto.~~

3. The accused is not under sentence at the present time or

~~The accused is at present under sentence for [illegible]~~

4. The accused has been in confinement awaiting trial on the present charges for nil days in civil custody, and 12 days in military custody, making a total of 12 days in custody, of which nil days were spent in hospital.

5. The present age of the accused according to his Record of Service is: 24 years 11 months. Attestation Paper

6. The date of his ~~enrolment~~ attestation specified in his Record of Service is: 3 May 43 Attestation Paper

7. ~~The service which the accused is allowed to reckon towards discharge is~~

8. ~~The accused is entitled to reckon service for the purpose of discharge~~ Military

9. ~~The accused is in possession of or entitled to wear Air Force decoration or Air Force reward or is in possession of or entitled to state any~~ military. The accused is in possession of or entitled to no Military decoration.

Air Force decoration or reward.

10. ~~(If accused is a warrant officer) the accused before he was made a Warrant Officer last held the regimental rank of~~

I hereby certify that the foregoing schedule of convictions and dispensations with trial is a true extract from the regimental books in my custody.

Signed this 17th day of Mar 44

The above statement (with the schedule of convictions and of cases in which trial has been dispensed with) is read, marked signed by the President, and annexed to the proceedings.

DD-134 (case #3)

GNR GUNN W.R.R

See J-16 for 1st case

See K-23 for 2nd case

H-86097 Gnr. Gunn, J.R.R.
No. 1 C.A.R.U.

DD-134

Correspondence to be PINNED here.

Army Form A.3.

Form for Assembly and Proceedings of Field General Court Martial on Active Service.

PROCEEDINGS.

A.
Order convening the Court.

On Active Service, this 16th day of April, 1943.

Whereas it appears to me, the undersigned, an officer in Command of "G" GROUP, CDN REINFORCEMENT UNITS, NWT OVERSEAS, on active service, that the persons named in the annexed Schedule, being subject to Military Law, have committed the offences in the said Schedule mentioned.

And whereas I am of opinion that it is not practicable that such offences should be tried by an ordinary General Court Martial; * [and that it is not practicable to delay the trial for reference to a superior qualified officer.]

*Omit where Convening Officer is a Commanding Officer or is of Field Rank.

I hereby convene a Field General Court Martial to try the said persons, and to consist of the Officers appointed or detailed hereunder.

* [I am unable to appoint :—
*(1. Three Officers to form the Court.)
*(2. A Field Officer as President.]
for the following reasons, namely :—]

*Omit if not applicable.

President.		
Rank.	Name.	Regiment.
Lt-Col.	D.L. Redman V.D.	R.C.A., C.A.R.U.
Members.		
Rank.	Name.	Regiment.
Captain	R.A.D. Wood RCA	3 C.A.R.U.
Lieutenant	M.F. Winningley RCA Waiting Member	3 C.A.R.U.
A/Captain	R.D. Tolk RCA	3 C.A.R.U.

NOTE.—The President must be named. The members and waiting members (if any) may be mentioned by name, or the number and rank and the unit to which they belong may alone be named. In the latter event, the ranks, units, &c., of the members of the Court, as constituted, will be recorded on the proceedings.

*Signed [illegible] Brigadier
Commanding "G" Group, Can Ref Units.
Convening Officer.

Lt-Col.

Note.—The Court must be assembled personally by the Officer or Officers convening it, or by his or their order, at the place and at the time mentioned in the proceedings, and all communications to the Court must be addressed to the President.

SCHEDULE

Number, Rank (a) Name and Unit of Accused (b)	Offence charged	*Plea	Finding, and if Convicted, Sentence (c)	How dealt with by Confirming Officer (d)
H-66097 GUR. GUEN, W.H.S. No. 1 C.A.R.U.	First Charge A.A. sec 15(1)	Guilty	Guilty	Confirmed Jas
	Second Charge A.A. sec 15(1)	"	"	
	Third Charge A.A. sec 15(1)	"	"	
	Fourth Charge A.A. sec 15(1)	"	"	
	Fifth Charge A.A. sec 40	Not Guilty	Guilty Sentence To undergo detention for a period of Two (2) years. 18 April 1943	
	See charge sheet attached.			

*Question to be asked of accused, if he pleads not guilty (R. of P. 39 (a)):—
"Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity for preparing your defence?" Answer - No.
Answer (*to be recorded on separate sheet if necessary*):—

(Signed) [signature] Brigadier (Signed) [signature illegible]

Commanding 70th Group, R.A.O.
Convening Officer (e) Presiding.

(a) Appointment acting rank or acting appointment, if any, to be stated in brackets after the substantive rank.

(b) Unless unavoidable, not more than three names are to be entered on one form, and in serious cases one only.

(c) Recommendation to mercy, if any, to be inserted in this column.

(d) It is not necessary that the Confirming Officer should sign his name in this column. Initials are sufficient.

(e) Must be signed by the same Officer who signs on the first page, and all alterations in the first two columns of the Schedule to be initialled by him.

CHARGE SHEET

The Accused H-26097 Gnr. Gunn, W.R.R., Royal Canadian Artillery, on the strength of No. 1 Canadian Artillery Reinforcement Unit, a soldier of the Canadian Army (Overseas) is charged with:

WHEN ON ACTIVE SERVICE:

1st. Charge A.A. Sec. 15(1) ABSENT WITHOUT LEAVE:

in that he at St. Lucia Barracks, Bordon, Hants., did absent himself without leave from 2200 hours, 16 Dec 42 until 0825 hours 28 Dec 42.
(Absent 11 days, 10 hours, 25 minutes)

2nd Charge A.A. Sec. 15(1) ABSENT WITHOUT LEAVE

in that he while in arrest and undergoing treatment at 15 Cdn. General Hospital, did absent himself without leave from 2130 hours, 4 Jan 43 until apprehended by C.M.P., London, at 0945 hours, 6 Jan 43.
(Absent 3 days, 12 hours, 15 minutes)

3rd Charge A.A. Sec. 15(1) ABSENT WITHOUT LEAVE

in that he while in arrest and undergoing treatment at 15 Cdn General Hospital, did absent himself without leave from 1900 hours, 20 Jan 43 until apprehended by Civil Police, London, at 2200 hours, 3 Feb 43.
(Absent 14 days, 3 hours)

4th Charge A.A. Sec. 15(1) ABSENT WITHOUT LEAVE

in that he while in arrest and undergoing treatment at 15 Cdn. General Hospital, did absent himself without leave from 1905 hours 24 Feb 43 until apprehended by Civil Police, London, at 2200 hours, 25 Mar 43.
(Absent 27 days, 2 hours, 55 minutes)

5th Charge A.A. Sec. 40 AN ACT TO THE PREJUDICE OF GOOD ORDER AND MILITARY DISCIPLINE

in that he at No. 1 C.A.R.U. at approximately 1600 hours, 24 Mar 43 was improperly in possession of:

One (1) Suit of Battle Dress, the property of C-10262 Gnr. Thomas, C.C.
One (1) Great Coat
One (1) Field Service Cap, the property of L-74652 Gnr. Johnson, G.C.
One (1) M.B.M. 1 (Pay Book), the property of D-1652 Gnr McIntosh, D.

Dated at Bordon, Hants.,
13 April 1943

(T.H. Musgrave) Colonel,
Commanding Officer,
No. 1 Cdn. Arty. Rein. Unit.

To be tried by Field General Court Martial,

Commanding 3rd Group, Cdn Reinforcement Units.
(Convening Officer)

Bordon, Hants.
16 Apr 43

MEDICAL OFFICER'S REPORT

I certify that No. [illegible] Gnr. Dunn, A.R.A. of No.1 R.A.A.R.U. is in a good state of health, and fit to undergo Trial by Court Martial.

J.L. Burgess (Lt.)
Medical Officer

Station In the Field

Date 19 Apr 43

M.F.B. 246
40-7 A 30570

TRANSCRIPT OF EVIDENCE

In the case of H 26097 GNR. GUNN, W.R.R. , 1 C.A.H.U., held at Superior Camp, Ludshott Hants., on the 19th day of April, 1943.

The order convening the court, the charge sheet, the summary of evidence and the medical certificate are laid before the court.
The court satisfy themselves as provided by Rs. P. 22 and 23.
The accused is brought before the court.
Prosecutor:- Capt. R.F. Walker 1 C.A.H.U.
Defending Officer:- Capt. J.M. Preedy 1 C.A.H.U.
At 1130 hours the trial commences.
The order convening the court is read, signed by the president, and attached to the proceedings.
The names of the president and emembers of the court are read over in the hearing of the accused, and they severally answer to their names.
Do you object to be tried by me as president, or by any of the officers whose names you have heard read over ?
A:- No, sir.
The president and members are duly sworn.
PRESIDENT:- LT.-COL. D.L. HERMAN, V.D. H.Q., C.H.U.
MEMBERS:- CAPTAIN R.W.S. WOOD RCA) C.A.H.U.
LIEUT. E.F. FINNINGLEY RCA) C.A.H.U.

The following officers under instruction are duly sworn:-
Lieut. W.M. Bensberry 1 CAHU Lieut. D.C. Ricardo 1 CAHU
Lieut. H.J. Staples 1 CAHU Lieut. J.H. Moule 1 CARU
Lieut. D.C. Bragg 1 CARU Lieut. J.M. Church 1 CARU
Do you object to H 20133 Pte. Millard, R., acting as shorthand writer ?
A:- No, sir.
The shorthand writer is duly sworn.
The charge sheet is signed by the president, and annexed to the proceedings.
The accused is arraigned upon the charges in the above mentioned charge sheet, pleading GUILTY to the first four charges, and at this point the defending officer said:-

" I object to that charge, under R.P. 32, as there is no such an 'act' as being improperly in possession of something. R.P. 32 stated that the court may disallow a charge if it does not disclose an offence under the Army Act. I submit that there are enough charges against this man without that. I think the word "conduct" is the word tobe used in such a charge."

Prosecutor:- I claim it is an illegal act to be improperly in possession of anything. I leave it to the discretion of the court. I feel that it is a quibblingpoint, the accused can plead guilty or not guilty to the charge and let it stand on its merits.

The court is closed to consider the application under R.P. 32.

The court re-opens, announcing that the application is disallowed.

The accused was arraigned upon the fifth charge against him, and refused to plead, and under R.P. 35(A) the court entered a plea of Not Guilty on that charge.
R.P. 35(A) complied with in respect to the first four charges.
R.P. 39(B) complied with in respect to the fifth charge.
A:- No, sir.

1ST WITNESS FOR THE PROSECUTION:- C 10262 Gnr. THOMAS, C.C., 1 CAHU, sworn, is examined by the prosecutor:-
Q1:- In this case you lost some of your kit some time while you were stationed here, can you give us some idea when you first noticed that this kit was missing, and whether it was found ?
A1:- I went to bed and laid my clothes at the head of the bed, and got up about 25 past 6 the next morning and reached for my pants, and found them missing, that is, my Battle Dress Trousers. I turned the lights on and reported it tothe Bdr. My Battle Dress Blouse was gone too. My first field dressing and flash light and foutain pen in the pocket was missing. On the pocket of my t nic ie my regimental number, and the pocket of the trousers has a slash where I get my first field dressing in and out of the pocket. There was two keys in the pocket.

Q2:- What does it say on the pocket ?
A2:- C 10250, sir.
Q3:- Is this your tunic and pants ?
A3:- Yes, sir, there is the slit in the pants.
Battle dress pants and tunic identified by the witness and marked exhibit 1 by the court.
"That would be between the 25th and 27th of February, when I lost them. We were called to the guard room on a Monday, at one o'clock this was quite a time after, and we identified them. The MSM and the staff sergeant of the provost were there, I found my tunic and pants there, and identified them the same way as today.
Q4:- Could you be more definite about the time this happened ?
A4:- No, sir, it was quite a while ago.

DEFENSE DECLINES TO CROSS-EXAMINE THIS WITNESS.

2ND WITNESS FOR THE PROSECUTION:- L 74652 Gnr. JOHNSON G.G., 1 CARU, sworn, is examined by the prosecutor:-
Q5:- Sometime ago you had some kit missing ?
A5:- I had my great coat missing off the peg behind my bed, and also my wedge cap.
Q6:- When did you leave it there, and when did you discover it was not there ?
A6:- Between the 24 and 27th of February, I cannot say the exact date. It disappeared overnight, while I was sleeping.
Q7:- You are a sound sleeper ?
A7:- Yes, sir.
Q8:- Could you identify the service cap and great coat that you lost ?
A8:- Yes, sir, by the number on the great coat, and the way the badge is put on. I also had a piece of paper pasted inside with my name on it. About the badge, the pin is down through the top of the badge and through the stay on the inside.
Q9:- Is this your cap ?
A9:- Yes, sir, there is the mark where the paper was glued on.
Field Service Cap with Artillery Badge marked exhibit 2.
Q10:- How would you identify your great coat ?
A10:- By the number, on the right hand pocket, I think, sir., L74652.
Q11:- Is this your great coat ?
A11:- Yes, sir.
Great Coat marked exhibit 3.
Q12:- When did you next see these articles after you lost them ?
A12:- It was possibly three weeks ago, we were called down to the guard room by the sjt. of provost to identify our equipment. I identified my cap and great coat.

DEFENSE DECLINES TO CROSS-EXAMINE THIS WITNESS

3RD WITNESS FOR THE PROSECUTION:- D 1632, Gnr. MCINTOSH, D., 1 CARU, sworn, is examined by the prosecutor:-
Q13:- With reference to the loss of your pay book, tell the court about that.
A13:- On the night before we got paid, the next morning I looked for my pay book, and it was gone. That was the night before we got paid, about the 28th of February of this year.
Q14:- When had you seen your pay book prior to that ?
A14:- The day before we were to get paid..
Q15:- Could you identify your pay book ?
A15:- Yes, sir, by the name and number and particulars.
(Witness made sample signature, which the court compared with the signature in the pay book.)
Witness's sample signature marked exhibit 4.
Q16:- Is this your pay book ?
A16:- Yes, sir.
PAY BOOK MARKED EXHIBIT 5 FOR IDENTIFICATION ONLY.
Q17:- When did you see your pay book last since it was missing ?
A17:- Sometime last week, when they had a court of inquiry over in the guard room. I was called over to see Capt. Bradley. They showed me thatpay book, and asked if I could identify it.
Q18:- Where was the pay book when it was lost ?
A18:- In my tunic, hanging by the bed.

Q19:- Did anyone else lose anthing that night besides you ?
A19:- Yes, sir, Thomas lost his battle dress, and Johnson lost his great coat, the same night.
Defence declines to cross-examine this witness

4TH WITNESS FOR THE PROSECUTION:- Herbert Guiver, P.C., 309(C) West-End Central Division, Metropolitan Police, sworn, is examined by the Prosecutor:-
Q20:- Can you identify in this room, Gn.R. Gunn ?
A20:- Yes, sir, (pointing to the accused)
Q21:- When did you last see him ?
A21:- On the 23rd of March. At 10 A.M. in the morning I was the accused in the Dive Bar in Gerrard Street. I made enquiries, and found that he was still wanted. I told him I was a police officer, and asked for his papers. He attempted to run away. I detained him, and told him I knew he was wanted by the authorities, and he said his name was "McIntosh", and produced a leave pass and pay book of that name. I was not sure at that time that his names was Gunn, as I had seen him before in civilian clothes. I checked the leave pass, and saw that the dates had been changed. Finally he admitted that he was Gunn. At that time, at the police station, he told me that he stole the pay book and leave pass.
Q22:- Had he been duly warned and cautioned ?
A22:- No, sir.
Q23:- Had he been arrested then ?
A23:- Yes, sir.
Q24:- Had he been threatened or promised with anything ?
A24:- No, sir.
Q25:- Is there anything else that you can inform the court of ?
A25:- No, sir.
Q26:- What was the final disposition of the pass and pay book ?
A26:- They were handed to the escort who attended to taking the accused in custody.
Q27:- How was the accused dressed ?
A27:- At that time, in uniform.
Defence declines to cross-examine this witness.

5TH WITNESS FOR THE PROSECUTION:- C 42000 A/SJT. La GIBBS, S.I.S., C. Pro. Corps, sworn, is examined by the prosecutor:-
Q28:- Could you identify Gnr. Gunn if you saw him ?
A28:- Yes, sir, (pointing to the accused)
Q29:- We are concerned at the moment with some kit that was taken from the accused by the Metropolitan Police, and taken by the Provost corps, what happened to it ?
A29:- On the 24th of March I interviewed the accused, and amongst his property was a pay book and leave pass, and a box of tablets.
Q30:- You say they were in his possession ?
A30:- Yes, they were taken from him when he was brought into the detention room in London.
Q31:- What happened to it when he was sent to the unit
A31:- It was parceled up by me and sent to the unit. It came down with the escort that accompanied the accused. I interviewed the accused, and asked him what his trouble was. I asked him if he wished to make a statement, and he said that he did, including all his trouble with regards to being AWL, and how he had escaped from this unit on three different occasions. I told him that he did not need to say anything unless he wished to. I read him the proper warning, and explained it to him. the warning from M.M.L. He said that he fully understood the warning, and wished to make a statement. I wrote the warning down, which is as I previously stated, and he signed this warning. Then he made a verbal statement, and I wrote it down, and he signed the statement. I read the statement over to him after I wrote it down, and he signed the statement, and then made a further addition to the statement, which I wrote down and read over to him, and he signed it. This is the statement to which I have been referring.
Q32:- Do you recognise the signatures on it ?
A32:- Yes, sir, the accused's signature, and my own as witness.
STATEMENT BY ACCUSED MARKED exhibit 5.
I read the following extracts from the statement:-
" I received another letter from Joan saying she was very ill. I escaped again by going out the back door, and over the back fence as

usual, and went over to my unit at 1 CARU. I was dressed only in pyjamas. I went into a hut there and stole a battledress, great coat, and a pay-book. I don't know who the uniform belonged, but the paybook belonged to a Gnr. McIntosh. I had no trouble getting into the grounds of CARU, I entered from the parade square."

" The two keys which I have in my possession were in the uniform when I stole it from 1 CARU "

Defense declines to cross-examine this witness.

CLOSE OF CASE FOR PROSECUTION.

R.P. 40(A) note 2 complied with, and the defending officer stated that he was not bringing any evidence for the defence, but that he was still relying on the motion he had made under R. . 52. The president stated that he felt it was his duty to advise the Defending Officer not to rely upon that motion, but if he had any evidence, to tender it to the court.

The prosecutor said that we would call a witness to prove that the articles mentioned in charge were in the possession of the accused.

6TH WITNESS FOR THE PROSECUTION:- B 6323 S/SJT. COCKER, F, 1 CARU, regtl. police, sworn, is examined by the prosecutor:-

Q33:- On or about the 24th of March, did you see the accused ?
A33:- Yes, sir.
Q34:- Can you identify him ?
A34:- Yes, sir, (pointing to the accused)
Q35:- What happened then ?
A35:- On the 24th of March he was turned over to my custody by the NCO of the Provost Corps as an absentee, in the unit guard room. He was wearing a battledress and an overcoat, and in a small canvas bag the NCO of the Provost Corps had his personal effects. I remember a field service cap and badge particularly.
Q36:- Were you present at any identification of the kit brought by Gnr. Gunn ?
A36:- Yes, sir.
Q37:- You saw those individuals identify their kit ?
A37:- Yes, sir. Thomas and Johnson, I think they were, sir.
Q38:- Was the kit that was identified by Johnson and Thomson being worn by the accused ?
A38:- Yes, sir, all except the cap and badge.
Q39:- Do you know anything about a pay book ?
A39:- No, sir.
Q40:- After that kit was identified, what happened to it ?
A40:- On the day he was admitted to the guard room, the kit overcoat and battledress and cap I marked them, and put them in the kit room, and turned them over today to the orderly at this court-martial.

Cross-examined by the defense

Q41:- Were you in the room when the kit was taken from Gnr. Gunn.
A41:- Yes, sir, I was there.

CLOSING ADDRESS BY THE PROSECUTOR:-

I feel that the prosecution has proven this offence in two ways. First of all, by having produced, in the opinion of the prosecution, sufficient witnesses to prove that this kit was stolen by somebody, and that it was stolen at a period which is so far distant that it is impossible for the people belonging to the kit to pin it down to a definite time and date, but that the period during which this kit was stolen does agree with the time of the escape from arrest by the accused. The pay book was actually removed from the possession of the accused by a constable of the Metropolitan Police, and the remainder of the articles were found in the possession of the accused by the C. Pro. Corps.

The kit has been traced progressively until the time it has been produced in court. I think that is all it is necessary to say.

DEFENDING OFFICER:-

I just want to point out to the court that I still stand by my original objection made under R.P. 32.

The court is closed to consider the finding.

The court re-opens, prosecutor presented AFB 29b and MFM 6, stating that they both related to the accused person.
R.P. 86(B) complied with, and the defending officer said there was no objection to these two documents.

Pursuant to R.P. 37(C), the accused read to the court a written statement, which he submitted to the court, and which is attached hereto. At the conclusion of the accused's statement, the defending officer stated that in view of the very full statement made by the accused, that there was nothing he could usefully add.

THE COURT IS CLOSED FOR THE CONSIDERATION OF THE SENTENCE.

Sir.

18-4-43

This is my plea of mitigation of punishment stating all the facts, since I have joined the army, which was the 7-1-41 leading up to the cause of the charges that are laid against me.

From the 7-1-41 till Oct 41 I had been at the depot approximately two months. I have had very little, or no training, on the 20-9-41 I went on Furlough to Toronto Ont, and the night I arrived there I went home contracted V.D.C. I reported it to the 2nd District Depot, and was sent Hospital at Lamb Wooden Ont I was there from the 29-9-41 till 24-12-41 which was the date of my discharge from that Hospital. I returned to my unit at Petawawa, on the 4-1-42 I again went to Hospital with re-currant V.D.C. I was till 25-1-42. Then I was transferred to the Ottawa Civic Hospital, as they couldn't do any thing for me at Petawawa. At the Civic Hosp. I went through the eight hour treatment of the Fever therapy, which is a best treatment and supposed to be a guaranteed cure. I was discharged for that Hospital on the 19-2-42 and returned to my unit supposedly cured. We sailed from Canada on the 11-3-42 for England, and all this time I had never been on Gun Drill, I do not know to this day how to fire a gun. on the 4-5-42 I reported to the M.O. of the 1 CARU, I was sent to the 15 General Hospital until V.D.C. I was there till 30-5-42 again on the 17-7-42 I returned to the 17th General Hosp. with re-currant V.D.C. I was there two months, when the M.O came in he said I was fit for discharge. I was standing in the stand at ease and could see my chest any time I wished to do so, and I knew that I had had 4 sick cells. so I was paraded to the M.O. and told him this, and he said (quote)

I have tried everything, and nothing can be done for you, it is my opinion you will have this the rest of your life (unquote) I was discharged, three days later I returned to the same hospital. The major on this rounds didn't say any thing over me. Two days later major Spooner of the Gen. Hospt. came to see me, and he asked me if I would like to try the Fever Therapy. I told him I had taken it twice before and that it did not do me any good, that I would take it if he thought it would cure me I was transferred to the Gen. Hospt and was there a month, then returned to 20 16 Gen. Hospt. I still had a Medical Discharge, that was showing negative, I was there about another month I was discharged on the 7-11-42 on Dec I went AWOL for 11 days then reported back to my unit, I was paraded before the K.O., and he noticed I still had a discharge. I was again sent to 15 Gen. when the Major made his rounds, he stopped at my bed, and said, you here again, I dont know why you come here, I cant do any thing for you. Well Sir after all this time away in the Hospt and him saying this, just about drove me crazy that is the reason why I have done what I am charged with. I believe any man that has gone through what I have, since I have been in the Army, would possibly have done the same. I realize now that it was a stupid thing to do, but at the time I had lost all sense of deservation, Sir I am not a criminal I am only 20 yrs old and have my whole life before me. If I had received proper treatment I would not be in the court room today. I spoke to my legal advisor on Monday and I asked him if there was any thing in the K.R.+O. about restoration of rank or pay and he told me that, under Part 5th there was.

I wish that you would consider seeing this
I would like to be able to get out and learn
some thing about my work and I sincerely promise
that this thing will never happen again.
I am the father of a child in London and I would
like to be married and give it a home, ~~and to~~
~~take care~~ care. Sir, it is my honest opinion that if I were Physically
cured I could become a very useful soldier,
I have carried ships both in Peace time and on active service
and if I were given a decent chance I could settle
down and become an efficient soldier but at the
Present time with this disease no one can tell just
how long I would be out of hospital
I do not want to get discharged from the army I could
never face my people if I were to go back to Canada,
I Plead with you sirs for one last chance if I am Brought
up on any charge then I will certainly be willing to
take any Punishment you my decide to give me
hoping you will consider this Plea with your utmost
ability
for suspented sentence
I am yours most obedient servant
H 26097
Ins, Hamm, W.R.

Statement of Reg. No. H 26097 - Gr. GUNN, W. R. - 1 C.A.R.U.

24 Mar. 43.

I have been warned by Sgt. Gibbs of the Special Investigation Section, that I am not obliged to say anything, but anything I do say will be taken down in writing, & may be used as evidence. I fully understand this warning. WRR Gunn

I went A.W.L. in Dec 42, & was away eleven days. I returned to my unit because I wanted to get treatment for V.D. which I have had, & have received treatment for, for about nineteen months. My girl friend Miss Joan Rooks was pregnant, & I wanted to get cleared up so that I might marry her. When I returned to my unit, I went sick, & was sent to No: 15 Gen. Hosp.

I stayed in hospital three or four days. I did not appear to be getting much treatment, in fact the boy told me there was nothing they could do for me.

One night at about 9.00 PM I escaped by going through one of the windows, & climbing the back fence. I was in pyjamas & a greatcoat at the time. I came to London in this dress, & went to my girl friends. I managed to get some civvy clothes. I was picked up after four days, & was returned to hospital.

I received a letter from my girl saying she was sick, so I escaped again by going through a bath room window, & climbing the back fence again. I was dressed in uniform this time, having got out of my own from the park-stores. I came directly to Kingston with a man named Allen who had

on Gerard St. last night, & a C.I.D. man recognised me & arrested me.

The pills that I have in my possession I got from a patient in the hospital. How he got them I do not know. Those I have been taking all the time I have been away.

I want to marry Joan Rooks so that she can get some money to take care of the baby. If I knew that this girl, & the baby was being taken care of I would mind, but at this time she has no money, & as I am not married to her she is not getting an allowance.

While A.W.L. I have not committed any civil offences. I don't know of any other men that are A.W.L., the whole time I was away I kept to myself.

The leave pass which I have in my possession I obtained from a C.A.P.U., from a man who had a whole book of blank passes. His name is NO. Broadstairs. I got this about two months ago I don't know where this man is now, I believe he was in D' Bty. On the first occasion when I went A.W.L., when I turned myself in, I was using another pass which I had obtained from this same man. As far as I know this man did not give away very many of these passes. I obtained about four or five from him altogether.

W R R Jenner

The two keys which I have in my possession were in the uniform when I stole it from 1 C.H.A.U.

Witness: L.Cpl. Gibbs Date: 24 Dec 42. W R R Jenner

also escaped. I stayed there for two days, & then came on to London. I was away for about fifteen days & was picked up again, & returned to hospital.

I received another letter from Joan saying she was very ill. I escaped again by going out the back door, & over the back fence as usual, & went over to my aunt's at 1 C.H.H.U. I was dressed only in pyjamas. I went into an hut there, & stole a battle dress, great coat & a pay book. I don't know who the uniform belonged, but the pay book belonged to a Gnr. Mc Intosh. I had no trouble getting into the grounds of C.H.H.U., I entered from the parade square.

I went from there to Farnham, & then hitch hiked to London. I don't remember what date this was. When I left hospital I had about £10.15.0 in cash. I had won this gambling.

I went to my girl friends at 55 Gloucester Street, & found she was really sick, so I took her to a L.C.C. clinic. When we returned to the house I noticed a car nearby, & I thought it might be the police, so I never went in, & I told Joan I would meet her at Kings Cross. We went to High Barnet & got a room in a hotel, I do don't know the name of it. The next day we came down to Camden Town, & got a room at 27 Mornington Cres. We were there about a week, & then had to go to St. Mary's Hospital to have the baby.

I visited her there about three times. Then I heard from a English soldier that the police had been there checking passes, so I never went back.

Following that I stayed around various clubs, & sleeping there also. I went to a dive bar in Soho

H.Q. CANADIAN REINFORCEMENT UNITS

429/CM"G"/1
15 Apr 43

C Gp.

Application for F.G.C.M.
H-26097 Gnr Gunn, W.R.H.
1 C.A.R.U.

1. Ref your CGHQ 5-4-2/G dated 14 Apr 43.

2. Enclosed F.G.C.M. Proceedings have been checked and are considered to be in order with the following exception:-

(a) MFB.355, Conduct Sheet and statement of the accused as to whether he desires an Officer to defend him pursuant to RP.14(B).

for (A.H. Friedgut) Major
D.J.A.
Cdn Reinforcement Units.

Encl
AHF/EJT
DRLS/POST

STATEMENT OF ACCUSED IN ACCORDANCE WITH R.P. 14 (B).

CAPT J.M. BRADY, R.C.A., No. 1 C.A.R.U.

I, ~~H-26097~~ Gunner Gunn, W.R.R., No. 1 C.A.R.U., Cdn Army (Overseas) desire to have ~~Capt. Heffernen, No. 1 Canadian Supply Corps, R.C.A.S.C., or Capt. Moore, West Nova Scotia Regiment, 7th C.I.R.U.~~, appointed to represent me at my trial by Court Martial if available, otherwise desire to have an Officer assigned by the Convening Officer to represent me.

H-26097 Gnr. Gunn, W.R.R.

This is to certify that I have interviewed the accused and he is satisfied to have me represent him at his Court Martial.

Capt.J.M. Brady. R.C.A.

ARMY FORM C.2123.

MESSAGE FORM

Serial No.

No. of Groups. GR.

OFFICE DATE STAMP

CALL AND INSTRUCTIONS 'IN

OUT

CONFIDENTIAL

(ABOVE THIS LINE IS FOR SIGNALS USE ONLY.)

TO Col Kelman GRU

FROM

Originator's Number | Date | In Reply to Number

THIS MESSAGE MAY BE SENT AS WRITTEN BY ANY MEANS.

IN CLEAR TO BE ENCRYPTED FOR FULL SPEED SECRET HANDLING, THIS MESSAGE MUST BE SENT IN CIPHER.

ORIGINATOR'S INSTRUCTIONS REGARD OF PRIORITY

Time of origin 1610

SIGNED

T.H.I.

(BELOW THIS LINE IS FOR SIGNALS USE ONLY.)

SYSTEM IN	TIME IN	REGION	SERVICE	SYSTEM OUT	TIME OUT	REGION	SERVICE	SYSTEM OUT	TIME OUT	REGION	SERVICE

T.O.R.

Forms C2123/13 41-4808/1704 1,000m pads 12/48. B.B. & N. Ltd. 51-0307.

5-M-2/16

LIST OF EXHIBITS

Property of P-20017 2nd. Lieut. W.Reid.

Exhibit	A	1	Complete Salt Battle Dress
"	B	1	Key Ring
"	C	1	Great Coat
"	D	1	Field Service Cap and Artillery Badge
"	E	1	Pr. Lock

O.M. Noted.

EX 4

Pay Book

EX # 5 - for identification

SUMMARY OF EVIDENCE in the case of H-26097 Gnr. GUNN, W.R.R. on strength of No. 1 Canadian Artillery Reinforcement Unit, a soldier of the Canadian Army (Overseas).

By direction of the Commanding Officer the evidence is taken on Oath.

FIRST WITNESS.

K-75724 Bdr. Younie, J.D. of No. 1 C.A.R.U. having been duly sworn, states:

I am K-75724 Bdr. Younie, J.D. on strength of No. 1 C.A.R.U. At Reveille Roll Call on 28 Dec 42, H-26097 Gnr. Gunn, W.R.R. was present. I knew that he had been A.W.L. and when I asked him, found that he had not yet reported to the Unit Guard Room, so placed him under arrest and had him escorted to the Guard Room at 0825 hours, 28 Dec 42.

The Accused declined to cross-examine this Witness.

K-75724 Bdr. Younie, J.D.

SECOND WITNESS.

H-60413 Bdr. Johnson, E.G. of No. 1 C.A.R.U. having been duly sworn, states:

I am H-60413 Bdr. Johnson, E.G. on strength of No. 1 C.A.R.U. At 2200 hours, 16 Dec 42, H-26097 Gnr. Gunn, W.R.R. was absent at Tattoo Roll Call and was absent from his bed and room. He was reported as being so absent each night and morning until he reported to the Unit Guard Room at 0825 hours, 28 Dec 42.

The Accused declined to cross-examine this witness.

H-60413 Bdr. Johnson, E.G.

THIRD WITNESS.

B-76094 Pte. Spero, C.J. of 48th. Highlanders of Canada.

A signed statement, taken on Oath and which forms part of a Court of Inquiry, taken at 15th. Cdn. Gen. Hospital under date of 5 Jan 43 is read to the Accused and attached to this Summary, marked Appendix "A".

Due to the exigencies of the Service, the attendance of this Witness cannot, in my opinion, be readily procured.

The Accused does not demand the presence of this Witness for cross-examination.

(R.F. Walker) Capt., R.C.A.

FOURTH WITNESS.

A-61767 Pte. Bundscho, G. of Royal Canadian Regiment.

A signed statement, taken on Oath and which forms part of a Court of Inquiry, taken at 15th. Cdn. Gen. Hospital under date of 5 Jan 43 is read to the Accused and attached to this Summary, marked Appendix "A".

Due to the exigencies of the Service, the attendance of this Witness cannot, in my opinion, be readily procured.

The Accused does not demand the presence of this Witness for cross-examination.

(R.F. Walker) Capt., R.C.A.

FIFTH WITNESS.

B-16602 L/Bdr. Hill, J.A. of No. 1 C.A.R.U. having been duly sworn, states:

I am B-16602 L/Bdr. Hill, J.A. clerk of "P" Wing H.Q., No. 1 C.A.R.U. and as such, produce from Wing files the following documents: The first and marked Appendix "B", is Army Form B 252, showing that H-26097 Gnr. Gunn, W.R.R. was apprehended by Corps of Military Police, London, at 0945 hours, 8 Jan 43. The second and marked Appendix "C", is copy of S.I.S., London, report, showing that H-26097 Gnr. Gunn, W.R. was arrested by Civil Police at about 2200 hours, 3 Feb 43. The third and marked Appendix "D", is Army Form C.1617, a Certificate of Surrender to the Civil Police of a Deserter or Absentee without leave, stating that H-26097 Gnr. Gunn, W.R. was arrested by Civil Police, London, at 2200 hours, 25 Mar 43, with statements by witness of Metropolitan Police and S.I.S., Cdn. Provost Corps attached.

The Accused declined to cross-examine this Witness.

J.S. Hill
B-16602 L/Bdr. Hill, J.A.

SIXTH WITNESS.

B-76094 Pte. Spero, C.J. of 48th. Highlanders of Canada.

A signed statement, taken on Oath and which forms part of a Court of Inquiry, taken at the 15th. Cdn. Gen. Hospital under date of 21 Jan 43 is read to the Accused and attached to this Summary, marked Appendix "E".

Due to the exigencies of the Service, the attendance of this Witness cannot, in my opinion, be readily procured.

The Accused does not demand the presence of this Witness for cross-examination.

R.F. Walker
(R.F. Walker) Capt., R.C.A.

SEVENTH WITNESS.

B-93597 Sjt. Hornett, G., R.C.A.M.C.

A signed statement, taken on Oath, of this Witness, is read to the Accused and is attached to this Summary, marked Appendix "F".

Due to the exigencies of the Service, the attendance of this Witness cannot, in my opinion, be readily procured.

The Accused does not demand the presence of this Witness for cross-examination.

R.F. Walker
(R.F. Walker) Capt., R.C.A.

EIGHTH WITNESS.

B-93597 Sjt. Hornett, G., R.C.A.M.C.

A signed statement, taken on Oath and which forms part of a Court of Inquiry, taken at the 15th. Cdn. Gen. Hospital, under date of 25 Feb 43, is read to the Accused and attached to this Summary, marked Appendix "G".

Due to the exigencies of the Service, the attendance of this Witness cannot, in my opinion, be readily procured.

The Accused does not demand the presence of this Witness for cross-examination.

R.F. Walker
(R.F. Walker) Capt., R.C.A.

NINTH WITNESS.

B-6323 S/Sjt. Cocker, F. of No. 1 C.A.R.U. having been duly sworn, states:

I am B-6323 S/Sjt. Cocker, F., N.C.O. i/c Regimental Police, No. 1 C.A.R.U. On 24 Mar 45, at approximately 1600 hours, B-26097 Gnr. Gunn, W.R.E. was turned over to my custody in the Unit Guard Room, by an N.C.O. of the Cdn. Provost Corps. Gnr. Gunn was wearing Battle Dress and a Great Coat. Among the articles turned over by the Cdn. Provost Corps N.C.O. was a Field Service Cap, with an Artillery Cap Badge. The above mentioned articles of clothing have since been identified as belonging to C-10262 Gnr. Thomas, C.C. and L-74652 Gnr. Johnson, G.G., both of No. 1 C.A.R.U.

Q- Were you present at the identification?

A- Yes Sir, the clothing was identified by Regtl. numbers and the cap and Badge by the way the Badge was fastened in the Cap.

The Accused declined to cross-examine this Witness.

F. Cocker.
S/Sjt. Cocker, F.

TENTH WITNESS.

C-10262 Gnr. Thomas, C.C. of No. 1 C.A.R.U. having been duly sworn, states:

I am C-10262 Gnr. Thomas, C.C. of No. 1 C.A.R.U. Between the hour of 2215 and Reveille, 24/25 Feb 45, the following articles of clothing and personal belongings of mine were missing from Block 5, St. Lucia Barracks:

One (1) Complete Battle Dress
One (1) Flash light
One (1) Fountain Pen
One (1) Key Ring with Identification Disc
One (1) First Field Dressing

At 1330 hours, 29 Mar 45, I was called to the Unit Guard Room by the S/Sjt., i/c Regimental Police and I was able to identify the following articles as mine:

One (1) Complete Battle Dress

Identification was made by my name and number on the Battle Dress Blouse and my trousers by a cut in the pocket where the First Field Dressing goes.

At 1630 hours, 7 Apr 45, Capt. H.L.Thorne, A/Adj., of "p" Wing produced a Key Ring which I identified as mine. The Identification Disc and one small key are missing.

The Accused declined to cross-examine this Witness.

C. C. Thomas
C-10262 Gnr. Thomas, C.C.

ELEVENTH WITNESS.

L-74652 Gnr. Johnson, G.G. of No. 1 C.A.R.U. having been duly sworn, states:

I am L-74652 Gnr. Johnson, G.G. of No. 1 C.A.R.U. Between the hour of 2215 and Reveille, 24/25 Feb 45, the following articles of clothing of mine, were missing from Block 5, St. Lucia Barracks:

One (1) Great Coat
One (1) Field Service Cap with Artillery Badge.

At 1330 hours, 29 Mar 45, I was called to the Unit Guard Room by the S/Sjt., i/c Regimental Police and I was able to identify the following articles as mine by the number which was stamped

ELEVENTH WITNESS. Continued.

inside of my Great Coat and my Field Service Cap, by the way the Cap Badge was attached.

The Accused declined to cross-examine this Witness.

H.H. Johnson

L-74852 Gnr. Johnson, G.G.

TWELFTH WITNESS.

D-1632 Gnr. McIntosh, D. of No. 1 C.A.R.U. having been duly sworn, states:

I am D-1632 Gnr. McIntosh, D. of No. 1 C.A.R.U. Around 28 Feb 43 I looked for my Pay Book to see how much money I had coming on Pay Day and I could not find it. At 1630 hours, 7 Apr 43, Capt. H.L.Thorne, A/Adj., of "P" Wing, produced a Pay Book which I identified as mine.

The Accused declined to cross-examine this Witness.

D. McIntosh

D-1632 Gnr. McIntosh, D.

THIRTEENTH WITNESS.

Capt. H.L.Thorne, of No. 1 C.A.R.U. having been duly sworn, states:

I am Capt. H.L.Thorne, A/Adj., of "P" Training Wing, No. 1 C.A.R.U. and as such received certain articles, list of which is attached and marked Appendix "H". These articles were received from Cdn. Provost Corps, S.I.S. Coy., C.M.H.Q., London and were found in possession of H-26097 Gnr. Gunn, W.R.R. when apprehended in London, at 2200 hours, 23 Mar 43.

The Accused declined to cross-examine this Witness.

H.L.Thorne Capt.

(H.L.Thorne) Capt., R.C.A.

The Accused, having been duly cautioned in accordance with R.P. 4(e), declined to make a statement.

Certified that R.P. 4(c), (d), (f) and (g) have been complied with.

Certified that this SUMMARY OF EVIDENCE, consisting of four pages and eight appendices, was taken down before me in the presence and hearing of and also read to the Accused,

H.F.Walker

(H.F.Walker) Capt., R.C.A.
No. 1 C.A.R.U.

Dated at Bordon, Hants.,
this Thirteenth day of
April 1 9 4 3

H.H. Johnson Lt.

APPENDIX "A" Extract from Court of Inquiry assembled at 15 Cdn. Gen. Hosp., 5 Jan 43

Second Witness. The second Witness, having been duly sworn states as follows:-

"I am B-76094 Pte. Spero, C.J. At 1200 hrs on the 4th Jan 43 I went on duty. I checked the men with Pte Robertson and they were all present. At 2015 hrs when they had tea I checked them again and they were present. At 2130 hrs when the new guard came on we checked them and there were two absent, Gnr. Gunn and Pte. Frigon, they had not passed me at any time. There is a bath on the right hand side of the door and a lavatory on the left. There were two men in the bathroom but not Gunn or Frigon. They did not pass me in the hall at all.

Having been relieved at 2130 hrs. I went around to see if I could determine how they had escaped. The window in the annex to A ward was open and the blackout was down. There were no foot marks outside this window.

Q. Had you known Gunn and Frigon?
A. Very well.

Q. Were Gunn and Frigon present at 2015 hrs?
A. Yes, they were having tea, I checked them. There were 27 men.

Q. Where is your post?
A. At the front door of the ward between the lavatory and the bathroom.

(Signed) B-76094 Pte. C.J. Spero

Certified True Copy

Dated at Bordon, Hants, this 12th day of April, 1943

(R.F. Walker) Captain, R.C.A.

File Reference.

C.M.H.Q. 1000:74
40/P & S/805

CANADIAN PROVOST CORPS.

Company. S.I.S. Formation. C.M.H.Q. Corps. Provost
Location. London Date 24 Mar 43.

SUBJECT: Re: Reg. No. H-26097 - Gnr - GUNN, W.R. - 1 C.A.H.U.- Escape from No: 15 Cdn Gen Hosp - Theft of Paybook - Theft of uniform. - Possession of Falsified Leave Pass- Possession of Medical Tablets.

File Number 42/SIS/S-2-32.

1. At 1100 hrs 25 Feb 43 this office was notified by the D.A.P.M. C.M.H., that the above mentioned Cdn. soldier had escaped from 15 Cdn Gen Hosp. He had escaped wearing hospital clothing, and the following morning 1 C.A.H.U. had reported the theft of a battledress and F.S. cap, the property of Sgr. Kirkpatrick, and a complete paybook, the property of Gnr McIntosh. These articles had been stolen from a hut next to the one which Gunn used to sleep in, and in view of this, and his recent escape, they felt he may be responsible for the offence. The D.A.P.M. supplied us with two addresses in London where this man might be staying. These were the addresses of his girl friend's residence, her name was Miss Joan ROOKS.

2. Miss Joan ROOKS was found to be living at 78 Gloucester Street Victoria, S.W.1. This address was kept under observation for sometime, and eventually the young woman arrived home. She claimed she had anot seen GUNN, and to the best of her knowledge he was still in hospital. She informed us that the following day she intended going to a hospital in Derbyshire with a party of pregnant women, as so arranged by the L.C.C.

3. It was learned later that this young woman did not go to derbyshire, also that she had seen GUNN, and was travelling with him. We lost track of their whereabouts, and GUNN was not heard of again until miss ROOKS had her babyin St. Mary's Hospital, Islington. We learned that he had been visiting her, but he again evaded us when he learned that we had been to the hospital looking for him.

4. At 2148 hrs. of the 23rd inst. P.C. GUIVER of West End Central Pol. Stn., notified this office that he had arrested GUNN in a public house in the Soho district. He was subsequently turned over to No. 6 Provost Coy. P.C. GUIVER had arrested this man on a previous occasion when he was A.W.L.

5. On the 24th inst., I interviewed GUNN at the detention room, and after he had been properly warned, received the following statement:

'I went A.W.L. in Dec. 42, and was away eleven days. I returned to my unit because I wanted to get treatment for V.D. (G) which I have had, and have received treatment for, for about nineteen months. My girl friend, Miss Joan ROOKS was pregnant, and I wanted to get cleaned up, so that I might marry her. When I returned to my Unit, I went sick, and was sent to 15 Gen Hosp.

I stayed in hospital three or four days, I did not appear to be getting much treatment, in fact the Major told me there was nothing they could do for me.

One night about 9.00 P.M. I escaped by going through one of the windows, and climbing the back fence. I was in pyjamas and greatcoat at the time. I came to London in this dress, and went to my girl friend's place. I managed to get some civvy clothes. I was picked up after four days, and returned to hospital.

I received a letter from my girl saying that she was sick, so I escaped by going through a bath room window, and climbing the back fence again. I was dressed in uniform this time, having got one of my own from the pack room (THE PACK ROOM) I came directly to Kingston with a man named Allen, who had also escaped. I stayed there for two days, and then came on to London. I was away for about fifteen days, and was picked up again, and returned to hospital.

APPENDIX "D"

Army Form 0.1617

Certificate of surrender to the Civil Police of a Deserter or Absentee without leave.

I certify that the man whose personal description is given below surrendered himself to P.C. 389 'C' Guiver at Gerrard St. W.1 at (hour) 10 P.M. on the 23rd day of March as being No. H-26097 (Rank and Name) Gunner W.R.R. GUNN, a deserter (or absentee without leave from about 1/3/43, and it appears to me from his confession that he is a deserter or absentee without leave.

Age 20 Height 5 feet 7 inches. Complexion dark Hair brown Eyes Hazel Marks. tattoo l.& rt. forearms.
In Uniform or plain clothes. Uniform

Probable date and place of attestation. Toronto, Ontario, Canada. 7-1-41

Probable Date of Desertion or beginning of absence and from what place. About 1/3/43. 15 General Hospital, Bramshot, Surrey. (Sgd) J. Smith.

Signature of Officer of Police in charge of West End Central Station.
23-3-43. Date of Signature.

Certified True Copy.
14 Apr 43.

(R.F. Walker) Capt R.C.A.
No. 1 C.A.R.U.

METROPOLITAN POLICE. No.992

STATEMENT OF WITNESS.

West End Central Station. "C" Division

23 March 1943

Name...Herbert Guiver, P.C. 389 "C"

Address.....Warrent No. 126483

Age.....Occupation.....

Statement: On 23rd March 1943 at 10 P.M. I was on duty in plain clothes at Gerrard Street, W.1. when I saw William Ross Reginald Gunn, No H-26097 whom I knew to be wanted for escaping from Military detention. I stopped him and said, "I am a Police Officer, may I see your identity papers." He produced a Service Book in the name of Donald McIntosh No. D-1362 and also a leave pass which had obviously been altered. I said, "These are not your property." He said, "No, I happened to find them." I told that I was going to detain him and he said, "Yes, you are right. I am Gunn." He was taken to West End Central Police Station where he was detained to await an escort.

Signature (Sgd.) Herbert Guiver, P.C. 389 "C"

I was in charge of West End Central Police Station when this man was brought in in custody.
He conduct was good.

(Sgd.) J. Smith (Insp.)

APPENDIX "B"
Extract from a Court of Inquiry assembled at 15 Cdn Gen. Hosp. 31 January 1943.

First Witness

The first Witness having been duly sworn states as follows:- "I am B-75094 Pte. Spero, C.J., 48 Highlanders of Canada. On the night of the 30 Jan 43 I was posted to guard the entrance to A Wing, West Wing at 1730 hrs., and Gnr. Gunn was a bed patient. What I checked the prisoners a few minutes after 1900 hrs. Pte. Allen and Gnr. Gunn had escaped. How they got out I do not know. After I checked them I went into the annex, and there I found pyjamas and a kimono, and the blackout had been taken down from the window.

Q. You say you were posted at the front end of the ward, were you inside the ward, or in the corridor?
A. Between the double doors in the corridor.

Q. When did you check your men?
A. 1730 hrs. and 1900 hrs.

Q. When you checked them at 1900 hrs were they all there?
A. Yes.

Q. When did you first notice Gnr, Gunn missing?
A. About 1910 hrs.

Q. How often are you instructed to check the men on the ward?
A. Every two hours.

Q. Could you identify these pyjamas and dressing-gown as those worn by the prisoners?
A. Yes.

Q. How many times have you been guard at the front end of the ward in last month?
A. Twice.

Q. In that time how many of your Senior Officers have come to ask you your knowledge of orders and duties?
A. The Sergeant fairly frequently, the Lieut. once in the last five months.

Q. Has the Corporal of the Guard ever come when you are in West Wing?
A. Yes every two hours.

Q. Does he check to see that you carry out your duties?
A. Yes, every two hours.

Q. How long have you been doing guard duty here?
A. Five months.

Q. Have you read standing orders for the Guard?
A. Yes, Sir.

Q. When did you last read them?
A. About a month ago.

(Signed) B-75094 Pte. Spero, C.J.

Certified True Copy
Dated at Borden, Ont., this 13th day of April, 1943

R.P. Walker

(R.P. Walker) Capt. R.C.A.

APPENDIX "P"

B-93597 Sgt Hornett, G., having been duly sworn states as follows:
"I am Sgt. G. Hornett, B-93597 R.C.A.M.C. I was night wardmaster in the West Wing 15th General Hospital on the night of Feb 24/43. I was making my rounds at approximately 1900 hrs. On entering the ward I saw B-93609 Dvr Gunn, W.R.H. by his bed in the centre of the ward. I passed down the entire ward on the right side turned and came back up the left side to the middle doors in the ward, stopped and talked to some patients for a short time and moved up the ward to about three fourths the way to door. I heard someone call 'Sergeant', I turned and saw the sentry approaching me saying 'Gunn has just gone out the back door'. I went out the back door with the sentry. I sent him to the rear of the hospital outside and I came to the front. Not seeing Gunn I called to Pte. Moore to [illegible] the guard as Gunn had left the ward. I saw Cpl. DeSchatelets, V., and told him to make the necessary phone calls and returned inside to look for missing clothes which I did not find. The Guards were sent out to search for Gunn whom they did not find.

(Signed) G. Hornett, Sgt.

Certified True Copy
Dated this 15th day of April, 1943, at Bordon, Hants.

R.E. Walker
(R.E. Walker) Capt. R.C.A.

APPENDIX "G"

Extract from a Court of Inquiry assembled at 15 Cdn. Gen. Hosp. 28 Feb 45

1st Witness

The first Witness having been duly sworn states as follows:-

"I am Sgt. C. Hornett, B-92597, 15 Gen. Hosp. I was night wardmaster in the West Wing, on the night of Feb 24. I started rounds in the neighbourhood of 1900 hrs. I entered "A" Wing, noticed Gnr Gunn in centre of ward by his bed. Went the entire length of the ward, coming back by the other side some patients spoke to me and asked me questions, I answered them and proceeded to leave the ward, I heard "Sergeant" being called, I turned around, the sentry on the back door told me that Gnr Gunn had just gone out the back door, I went back to the back door and took the sentry with me, sending him around to the back of the hospital, I went around the front way. Not seeing Gunn I started for the Guard Room met Pte. Moore, G-17556, coming out of the Guard Room, I told him to turn out the Guard and that Gunn had escaped. The Guard turned out some going on the outside of the fence, some in the compound and some in the hospital. As M.C.C. I met Cpl. Deschatelets, D-24120, I told him to get the necessary phone call through, then returned inside the hospital to look around.

Q. How far away were you from Gunn's bed when you were called?
A. About 20'

Q. You did not see Gunn pass you in the ward?
A. No.

Q. Did you, or yourmen, find any evidence of him being in the grounds or having left the grounds during your search?
A. No, Sir.

Q. Did you find any means by which he could have left the grounds?
A. No, Sir.

Q. What equipment did he take with him?
A. Pyjamas, & deck shoes, we found his hospital blue gown, and greatcoat lying on top of the bed.

Q. Did he have his boots on?
A. No, Sir.

Q. At the time you made your search was the visibility sufficiently good to allow you to be certain that Gunn was not in the grounds of the West Wing?
A. No, Sir, he could have been anywhere in the grounds as there was a heavy fog, and it was dusk.

Q. How far where you away from the door by which Gunn left the hospital, at the time he escaped?
A. 50'

Q. Was there any other clothing missing from the ward?
A. No, Sir.

Q. Did Gunn receive any mail or telegrams?
A. Yes, a telegram.

Q. Do you know what was in the telegram?
A. It came two days previous to his escape, and switchboard phoned to know if there was a Gunn on West Wing, and asked me to find out if it was for him, or for someone else, and Gunn asked me to find out what was in it, if it was for him. It was something like "Dear Reg. come to London, will be leaving London by Friday your loving, Jean.

Q. Did you give this telegram to Gunn?
A. No, I did not give the telegram or message to Gunn, but turned it over to the sergeant of the guard.

Certified True Copy

(Signed) C. Hornett, L/Sgt

Dated at Bordon, Hants, this 13th day of April 45

D. Wallis Capt 2 Cdn Gen Hosp

ARMY FORM B.296.

Statement as to Character and Particulars of Service of Accused.

Number.	*Rank.*	*Name.*	*Regiment (or as the case may be).*
H-26097	Gunner	GUNN, W.R.R.	No. 1 Cdn. Arty. Reinf. Unit.

1. The following is a fair and true summary of the entries in the regimental and squadron, battery or company conduct sheets† of the accused, exclusive of convictions by a court martial or a civil court, of summary awards under section 47 of the Army Act, and of cases in which trial has been dispensed with :—

NOTE.—At a trial by field general court martial this summary may be compiled from the field conduct sheet.

† The conduct sheets mentioned should be produced to court with this statement but not annexed to the proceedings.

‡ See para. 677, K.R., 1940.

* The sentences imposed should correspond with the entries in the conduct sheets, particulars being given in the final column of crimes in civil employ, and in any recognized special acts of gallantry or distinguished conduct.

Instruction.—In the charge sheet the dates are the dates to be transferred from the sealed statement and dated.

	*Within last 12 months.		*Since Enlistment.	
For A.A. Sec 15 (1)	2	times	4	times.
For A.A. Sec 40.	4	times	4	times.
For		times		times.
For		times		times.
For		times		times.

[redacted]

Previous convictions† of the accused by a court martial or a civil court, summary awards under section 47 of the Army Act, and dispensations with trial under section 73 of the Army Act, are set out in the schedule annexed to this statement.

3. The accused is not under sentence at the present time [redacted]

4. The accused has been in confinement, awaiting trial on the present charges, for [redacted] days in civil custody, and 1 [redacted] 26 days in military custody, making a total of 26 days, of which [redacted] 26 days were spent in hospital.

5. The present age of the accused according to his [redacted] attestation paper is 20 yrs. 11 months.

6. The date of his [redacted] attestation specified in his [redacted] attestation paper is 7th Jan 41.

7. The service which the accused is allowed to reckon towards discharge or transfer to the reserve is 2 3/12 yrs.

8. The accused is entitled to deferred pay or gratuity in respect of 2 3-12 yrs. service.

9. The accused is entitled to reckon 2 3/12 yrs service for the purpose of determining his pension, etc.

[redacted]

[redacted]

[redacted]

[redacted]

ARMY FORM B 226.

Statement as to Character and Particulars of Service of Accused.

Number.	*Rank.*	*Name.*	*Regiment (or as the case may be).*
H-26097	Gunner	GUNN, W.R.R.	No. 1 Cdn. Arty. Reinf. Unit.

1. The following is a fair and true summary of the entries in the regimental and squadron, battery or company conduct sheets† of the accused, exclusive of convictions by a court martial or a civil court, of summary awards under section 47 of the Army Act, and of cases in which trial has been dispensed with :—

	* Within last 12 months.	*Since Enlistment.
For A.A. Sec 15 (1)	2 times	4 times.
For A.A. Sec 40.	4 times	4 times.
For	times	times.
For	times	times.
For	times	times.

[redacted]

2. Previous convictions† of the accused by a court martial or a civil court, summary awards under section 47 of the Army Act, and dispensations with trial under section 73 of the Army Act, are set out in the schedule annexed to this statement.

3. The accused is not under sentence at the present time. [redacted]

4. The accused has [redacted] in confinement awaiting trial on the present charges, for [redacted] days in military custody, making a total of 26 days, to civil custody, and [redacted] 26 days were spent in hospital.

5. The present age of the accused according to his attestation paper is 20 yrs. 11 months.

6. The date of his attestation, as specified in his attestation paper is 7th Jan 41.

7. The service which the accused is allowed to reckon towards discharge or transfer to the reserve is 2 3/12 yrs.

8. The accused is entitled to deferred pay or gratuity in respect of 2 3-12 yrs. service

9. The accused is entitled to reckon 2 3/12 yrs service for the purpose of determining his pension, etc.

[redacted]

(*Signature*) [illegible] Capt.

...ns by a Court Martial or Civil Court, of summary awards under Section 47 of the Army Act and of cases in which trial has been dispensed with of accused.

...ank Gunner Name GUNN, W.R.R. of No. 1 C.A.R.U. Regiment (or as the case may be).

(INSTRUCTION—A verbatim extract from the regimental books, stating these convictions and dispensations with trial, must be inserted.)

...k of ...by which ... or status of officer disposing of the charge or dispensing with trial	Date and place of trial, or summary award under A.A. 47, or of order dispensing with trial	Charges upon which convicted, or in respect of which trial was dispensed with	Sentence of the court or authority disposing of the charge, or order of the dispensing authority.	Punishment remitted
F.G.C.M.	Field 2 jun 42	A.A. Sec 40.	120 days detention	
F.G.C.M.	Field 11 Jul 42	A.A. Sec 15 (1)	6 months detention	58 days
		A.A. Sec 40		
		A.A. Sec 40		
		A.A. Sec 40		
		The above two F.G.C.Mls to run concurrently.		

I HEREBY CERTIFY that the foregoing schedule of convictions and dispensations with trial is a true extract from the regimental books in my custody.

Signed this 19th day of April 1943.

(J.B. Killick) Capt & Records Officer.
No. 1 C.A.R.U.

M.F.M. 6
(A.F.B. 122)
17936—7-41 (4125-20)
H.Q. 1772-39-1652

No. [illegible] Name Gunn, W.R. Sqn., Battery, or Company Corps R.C.A.F. Date of enlistment 7 Jan 41 G.C. Badges Service or Proficiency Pay N/A

Date of last entry in Company Conduct Sheet N/A No. and date of last drunk N/A Period not reckoning towards freedom from extra fine N/A Sheet No. 1 Signature O.C. Company, etc. A. Robinson Capt. Character

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
				OLD SHEET DESTROYED 7-7-41				F.A.A.O.	
				NEW SHEET OPENED 7-7-41	Auth. CAM 161 2004				
Petawawa	1 May 42	Gnr		A.W.L. Sec 15(1)A.A. absent from R. Muster Parade 0900 hrs 14/7/41 until 0945 hrs 31/7/41. Absent 16 days 15 hrs 45 mins	A/Sgt J. Meyer A/F.S.M.	7 days Ordinary pay	31/7/41	(L.H. Macpherson) Capt.-Col.	17 days pay F.P.No.I
Petawawa	20 Apr 42	Gnr		A.W.O.L. Absent without leave in that he absented himself without leave from 0630 hrs 20 Apr 42 until 1445 hrs 3 May 42 (Absent 13 days and 15 mins) A.A. Sec 15 (1)	Documentary	27 days Detention	4 May 42	(L.H. Macpherson) Lieut.-Col. C.O. "F" Wing	Ffts 14 days pay F.P.No.I 140 Ffts 27 days pay F.P.No.I (1)(a) (1)(b). Total Ffts 41 days pay.

(P.T.O.)

Place	Date of offence	Rank	Cause of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Tield	6 Jan 42	Gnr		W.C.A.S. Neglect to the Prejudice A.A. Sec 40		Guilty 120 days Detention	12 Jan 42	F.G.C.M.	11 days pay FR 40 149(1)(b) 120 days pay FR 40 149(1)(b) Total F'ture 131 days pay
Released from the Detention Barrack H. Down on Oct. 7 1942 sentence having expired. Remission earned under "Rules for Detention Barracks and Military Prisons" 56 days. Commandant's Initials A.L.									
Tield	[illegible]	Gnr		A.A. Sec 40 A.A. Sec 40		5 mos. Detention	7 Jul 42	F.G.C.M.	Total F'ture 182 days pay
Released from Detention Barrack H. Down on Oct. 7 sentence having expired. Remission earned under "Rules for Detention Barracks and Military Prisons" 56 days. Commandant's Initials [illegible]									
Tield	11 Nov 42	Gnr		WCAS A.A. Sec 15 (1)	Sgt West, J.H. Pr.Serres, V.D.	4 days F.P.	14 Nov 42	(J.T. Incl) Lt.-Col	Total F'ture 5 days Pay
[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]	[illegible]

Evidence and Charge Sheets to be PINNED here. (If necessary)

B. Certificate of President as to proceedings.

I certify that the above Court assembled on the 19th day of April, 1943, and duly tried the persons named in the Schedule, and that the plea, finding, and sentence in the case of each such person were as stated in the third and fourth columns of that Schedule.

I also certify that :—

1. The members of the Court
2. The witnesses
3. ~~The Interpreter~~ The shorthand writer.
4. The officers under instruction)

were duly sworn.

*Omit if not applicable.

Signed this 19th day of April 1943.

President of the Court Martial.

C. Certificate in case of death sentences.

*See footnote (f) on page 782 M.M.L. 1929.

~~I certify that the terms of A.C.I. 570 of 1918 have been complied with.~~

~~Signed this day of 19~~

~~*President of the Court Martial.~~

D. Confirmation.

I have dealt with the findings and sentences in the manner stated in the last column of the Schedule, and, subject to what I have there stated, I hereby confirm the above findings and sentences.

~~*(I direct that the soldier named in the margin be not committed to prison or detention barrack until further orders.)~~

Signed this 23rd day of April 1943.

Confirming Officer.

*To be omitted where penal servitude, imprisonment or detention having been awarded, the Confirming Officer either has no authority to commit to prison or detention barrack, or, having such authority, recommends suspension

Promulgated ~~and extracts taken~~ in the case of H26097 Gnr Dunn W.R.R.

(a) (Dated) April 27/43 (Signed) [signature] Col. O.C.

Promulgated and extracts taken in the case of 15 CANADIAN GENERAL HOSPITAL

(Dated) ..... (Signed) .....

Promulgated and extracts taken in the case of

(Dated) ..... (Signed) .....

(a) When several cases are promulgated in one unit on the same day the Officer need only sign once.

[10704] W1 47026/242 25,000 2/42 A.& L.W.Co.Ltd. Gp.699
[2.180] W1.18066/1359 40,000 7/42

JOINT TRIAL

FF·52 PTE GUNNELL H

FF·53 PTE POWELL JA

FF·54 PTE FAIRBRIDGE D

D95797 Pte Harry Gunnell,
C93009 Pte Julian Alexander Powell,
B73051 Pte Douglas Fairbridge,
2 Cdn Base Depot Med Stores, RCAMC.

FF-52
FF-53
FF-54

Correspondence to be PINNED here.

Army Form A.3.

Form for Assembly and Proceedings of Field General Court Martial on Active Service.

PROCEEDINGS.

A.

Order convening the Court.

On Active Service, this TWENTY-SIXTH day of MAY, 19, FORTY-THREE

Whereas it appears to me, the undersigned, an officer in Command of CANADIAN REINFORCEMENT UNITS, CANADIAN ARMY OVERSEAS, on active service, that the persons named in the annexed Schedule, being subject to Military Law, have committed the offences in the said Schedule mentioned.

And whereas I am of opinion that it is not practicable that such offences should be tried by an ordinary General Court Martial; *[illegible]

*Omit where Convening Officer is a Commanding Officer or is of Field Rank.

I hereby convene a Field General Court Martial to try the said persons, and to consist of the Officers appointed or detailed hereunder.

*Omit if not applicable.

*[illegible]

NOTE.—The President must be named. The members and waiting members (if any) may be mentioned by name, or the number and ranks and the unit to which they belong may alone be named. In the latter event, the ranks, names, &c., of the members of the Court, as constituted, will be recorded on the proceedings.

President.

Rank.	Name.	Regiment.
MAJOR	A.S. PETTAPIECE	H.Q. C.R.U.

Members.

Rank.	Name.	Regiment.
A MAJOR	FROM	1 CASCRU.
A CAPTAIN	FROM	1 CASCRU.

*Must be signed personally by the Officer actually in command at the time, and all alterations in the composition of the Court to be initialled by him.

*Signed (J.C. Stewart) Brigadier,
A/Commanding Cdn Reinforcement Units.
Convening Officer.

Arthur A. Pettapiece Major

SCHEDULE

Number, Rank (a), Name and Unit of Accused (b)	Offence charged	*Plea	Finding, and if Convicted, Sentence (c)	How dealt with by Confirming Officer (d)
D95797 Pte Harry Gunnell, C93009 Pte Julian Alexander Powell, B73051 Pte Douglas Fairbridge, 2 Cdn Base Depot Med. Stores.	FIRST CHARGE Sec 18(4) A.A.	Guilty (by all accused)	Guilty. (as regards all accused). D95797 Pte Gunnell sentenced to undergo detention for a period of six (6) months. C93009 Pte Powell sentenced to undergo detention for a period of six (6) months. B73051 Pte Fairbridge sentenced to undergo detention for a period of one hundred and twenty (120) days. 28 May 43 J.S. Alston K. Pettypiece Major	Confirmed JS

See Charge Sheet Attached.

~~Question to be asked of accused, if he pleads not guilty (R. of P. 29 (a).)~~ ~~"Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity for preparing your defence?"~~ ~~Answer (to be recorded on separate sheet if necessary).~~

(Signed) J. Stewart (Signed) Alston K. Pettypiece, Major

(J.C. Stewart) Brigadier, A/Commanding Cdn Reinforcement Units.

Convening Officer (c) *President.*

(a) Appointment acting rank or acting appointment, if any, to be stated in brackets after the substantive rank.

(b) Unless unavoidable, not more than three names are to be entered on one form, and in serious cases one only.

(c) Recommendation to mercy, if any, to be inserted in this column.

(d) It is not necessary that the Confirming Officer should sign his name in this column. Initials are sufficient.

(e) Must be signed by the same Officer who signs on the first page, and all alterations in the first two columns of the Schedule to be initialled by him.

Evidence and Charge Sheets (if necessary) to be PINNED here.

B. Certificate of President as to proceedings.

I certify that the above Court assembled on the 28th day of May 1943, and duly tried the persons named in the Schedule, and that the plea, finding, and sentence in the case of each such person were as stated in the third and fourth columns of that Schedule.

I also certify that :—

*Omit if not applicable.

1. The members of the Court
2. The witnesses
3. ~~*(3. The Interpreter)~~ N/A
4. ~~*(4. The officers under instruction)~~ N/A

were duly sworn.

Signed this 28th day of May 1943.

Alston K. Pettypiece, Major
President of the Court Martial.

C. Certificate (if any) in case of double sentences.

*See footnote (b) on page 762 M.M.L. 1929.

~~I certify that the terms of *A.C.I. 570 of 1918 have been complied with.~~

~~Signed this day of 19~~

~~President of the Court Martial.~~ N/A

D. Confirmation.

I have dealt with the findings and sentences in the manner stated in the last column of the Schedule, and, subject to what I have there stated, I hereby confirm the above findings and sentences.

*To be omitted unless penal servitude, imprisonment or detention having been awarded, the Confirming Officer either has no authority to commit to prison or detention barrack, or, having such authority, recommends suspension.

~~*(I direct that the soldier named in the margin be not committed to prison or detention barrack until further orders.)~~

Signed this 31st day of May 1943

J. Stewart
Confirming Officer. Brig.
A/Commander C.R.U.

Promulgated and extracts taken in the case of D95797 Pte Gunnell, H. C93009 Pte Julian Alexander Powell B73051 Pte Douglas Fairbridge

(a) (Dated) 1 June 1943 (Signed) J.H. Russell Lieut-Colonel Officer Commanding No. 2 Cdn. Base Depot Medical Stores.

Promulgated and extracts taken in the case of

(Dated) (Signed)

Promulgated and extracts taken in the case of

(Dated) (Signed)

(a) When several cases are promulgated in one unit on the same day the Officer need only sign once.

(23170) W1-46170-500 10/43 [illegible] A.A.F.W.Ltd. Gp.A/50

CHARGE SHEET

The accused, B95797 Pte. Harry Gunnell, C93009 Pte. Julian Alexander Powell, and B73051 Pte. Douglas Fairbridge, all of 2 Cdn Base Depot of Medical Stores, R.C.A.M.C., soldiers of the Canadian Army Overseas, are jointly charged with :

FIRST CHARGE
Section 18(4)
Army Act.

STEALING PUBLIC PROPERTY

in that they

on or about 25 Mar 43, at Aldershot, Hants, stole five one-half gallon jars of alcohol, from 2 Cdn Base Depot of Medical Stores, the property of the public.

J.H.D. MacArthur Major

In the field

21 May 1943.

(J.H.D. MacArthur) Major RCAMC
Officer Commanding 2 Cdn B.D.
M.Stores, R.C.A.M.C.

To be tried by Field General Court-Martial.

(J.C. Stewart) Brigadier,
A/Comd.
Cdn Reinforcement Units.

In the Field,
26 May 43.

Arthur J. Pettigrew, Major
President

MEDICAL CERTIFICATE (K.R. Con 557)

I CERTIFY that I have this morning examined No D95797

(Rank) Pte. (Name) Gunnell,H.

of No. 2 Cdn Base Depot Medical Stores, R.C.A.M.C., and in my opinion he is fit to undergo trial by Court Martial

Station H 2 CBD RU

Date 22-May-43

W O Williams
Medical Officer

Arthur S. Bishop Major

MEDICAL CERTIFICATE (K.R. Can 557)

I CERTIFY that I have this morning examined No C93009

(Rank) Pte. (Name) Powell, J.A.

of No. 2 Cdn Base Depot Medical Stores, R.C.A.M.C., and in my opinion he is fit to undergo trial by Court Martial

Station No 2 C B D R C

Date 28 May 43

W.D. Williams
Medical Officer

Arthur L. Bethune Major

MEDICAL CERTIFICATE (K.R. Can 557)

I CERTIFY that I have this morning examined No B73051

(Rank) Pte. (Name) Fairbridge, D.

of No. 2 Cdn Base Depot Medical Stores, R.C.A.M.C., and in my opinion he is fit to undergo trial by Court Martial

Station #2 CBDMS RU

Date 23 May 43

W.W. Williams
Medical Officer

Arthur J. Pettypiece
Major

PROCEEDINGS OF A ~~GENERAL~~ GENERAL COURT MARTIAL
HELD AT Headquarters Barracks, Fountainhall, Haddo
ON THE 21st DAY OF May 1943

D95297 Pte Tunnell H. 2330991 Pte. The accused ~~Pte~~ Unit 2 C.B.D. (Mod. Stor. R.C.A.M.C.)

The order convening the Court and charge sheet are laid before the Court, who satisfied themselves as provided by Re.P. 22 and 23.

The accused was brought before the Court.
The Medical Certificates were laid before the Court.
The order convening the Court is read by the President, and the accused having been asked, stated that they had no objection to the president or any member of the Court.
The Court is duly sworn.

The following constitute the Court:-

President Maj. A. L. Pettapiece ..... Unit H.Q. C.B.D. .....
Members Maj. W. J. Lyle ..... Unit. 1 C.R.C.R.A. .....
Capt. B.W. Stewart ..... Unit. 1 C.A.C.R.A. .....

~~The officers under instruction are duly sworn:-~~
~~..... Unit .....~~
~~..... Unit .....~~

Prosecutor Capt. A. S. Stephens ..... Unit. 1 C.A.C.R.A. .....
Defending Officers A/Capt. W. J. Mitchell ..... Unit. 3 C.R.A. (for Pte. Tunnell)
Lt. J. Conway, 1 C.R.A. (for Pte. Tunnell).

The charge sheet is signed by the President and the accused is arraigned.
The accused pleads guilty to the charge and R.P. 35(B) is complied with.
The accused does not desire to make a statement in reference to the charge. R.P. 37(B).
The Summary of Evidence is read.
The Prosecutor produces MFB 355 and MFM 6.
The Court complies with R.P. 46(B).

Pursuant to R.P. 37 THE ACCUSED

~~(a) Makes a statement in mitigation of punishment.~~
(b) Calls witnesses as to Character.
~~(c) Calls witnesses in mitigation of punishment.~~
(d) Addresses the Court by his Defending Officers.

The Court is closed to consider the sentence.

~~SUMMARY OF STATEMENT IN MITIGATION~~, CHARACTER EVIDENCE and ADDRESSES OF ~~ACCUSED OR HIS~~ DEFENDING OFFICERS.

1st Character Witness Capt. J. H. C. Moffat, R.C.A.M.C. having been duly sworn, states - (attached hereto)

Takes produces a statement of character signed by Maj's Cable whose signature he identifies and which refers to the Accused. (Exhibit No. 1.)

No cross-examination

Address of both Defending Officers attached hereto.

Alfred Pettapiece
Maj.

EXHIBIT "A"

STATEMENT BY MAJOR H.H. CLARK.

On Monday. 10 May 1943, a representative from H.M.Customs & Excise and one from the Provost Corps , CMHQ, came into my office and asked to have D-95797 Pte. Gunnell,H. brought in.

After being duly warned he made and signed the following statement in my presence to the best of my recollection.

"That in the latter part of March, he conspired with C-93009 Pte. Powell?J.A. and B-73051 Pte. Fairbridge,D. to steal five Winchesters of alcohol from No.2 Base Depot of Medical Stores. Under pretence of night work permission was obtained to enter the stores and the three of them got into the locked alcohol reserve storage by manipulating the door without disturbing the lock. Five(5) Winchesters were siphoned and filled then hidden in an outlying shed pending disposition. A few days later the three of them contacted Sgt. Tomka of No.1 Neurological Hospital who bought two Winchesters of this alcohol, paying five Pounds (£5-0-0) for same. The proceeds were divided amongst them. The three unsold Winchesters were brought back to the outlying shed and eventually disappeared without his knowledge, nor did he know what become of them. He stated that there were no other transactions nor did he know of anyone else in the unit having any transactions whatever."

13 May 1943.

(H.H.Clark)Major RCAMC.

EXHIBIT "B"

S.I.O. S.W.A.C. Provost

London 12 May 43.

Ref: Reg.No. [illegible] - Sgt. - SMITH, J.P. - 1 Neuro. Hosp. SCAMP.
Reg.No. 6-250?2 - Sgt. - TUREA, A. - " " "

Obtaining Money by False Pretences - Basingstoke - Hants.

Reg.No. B-95797 - Pte - CROWELL, R. P S.W.A.C., SCAMP.
Reg.No. C-89069 - Pte - POWELL, J.A. " "
Reg.No. B-77091 - Pte - FAIRWEATHER, P. " "

Theft of Alcohol from P S.W.A.C. - Aldershot - Hants.

SIS/T/1-92

/this office

1. On the 5th inst., Mr. BROWNING of the Customs and Excise Dept., Special Inquiry Section, called at, and informed the Officer i/c S.I.O., that he was investigating the sale of twelve bottles of spirit made by a Canadian soldier, to a theatre manager in Basingstoke. The theatre manager, Mr. KING of the Grand Theatre, claimed that he suspected at the time that there was something wrong with the whisky he was buying, and upon receiving it, he reported the matter to the Local Customs and Excise Officer.

2. The officer noted that none of the bottles was properly sealed, and he took one, and sent it to London where it was analysed by a government chemist. The chemist's analysis read as follows:-

Lab Ref: H.767

"The sample has a spirit strength of 62.7 u.p. Its character is not that of whisky but of patent still spirit (ethyl alcohol) to which colouring matter has been added. It is free from methyl alcohol and, therefore, free from methylated spirits.

(Sgd) A.L. Morton
F.R.M. Hurst

Mil

3. Mr. BROWNING concluded that the alcohol contained in this spirit, could have come from the Neurological Hosp., which is nearby, and this conclusion was further supported by the fact, that the sale had been made by one of the staff of the hospital, a Sgt. J.P. SMITH. Mr. BROWNING asked for our assistance in the investigation.

4. I was detailed to assist Mr. BROWNING, and the following morning we interviewed Mr. KING in his office at the Grand Theatre, Basingstoke. KING gave a statement to Mr. BROWNING, which related how he had known Sgt. J.P. SMITH for a period of about twelve months, and knew him to be connected with the catering at the hospital. On Saturday, April 3rd, he had received a message from SMITH, asking him if he wished to buy any Scotch whisky. KING claimed that he had heard there was an amount of bad liquor circulating about, and stated he had been instructed by his employer, to make a purchase if possible with a view to prosecuting the parties responsible for the sales. He therefore got in touch with SMITH immediately, and the result was that twelve bottles of supposed whisky, was delivered to him at the Grand Theatre on April 5th.

Mil

5. KING paid SMITH £18 for the twelve bottles, and a receipt was supplied by SMITH. The bottles bore the label of several well known brands of Scotch Whisky such as, 'Old Angus', 'White Horse', 'Haddon's Hall' and 'John Haig'. When KING tasted the liquid contained in the bottles, it was quite clear to him that it was not Scotch Whisky.

(cont'd over)

Scotch whisky. KING then reported the matter to the Customs and Excise Officer. Just how long after the purchase he made the report, is not yet clear.

6. During the interview, KING inferred that one or two public houses in Basingstoke were selling bad liquor across the bar, and he named two the 'Cheesheer' and a public house known as the 'Hole in the Wall'. He further stated that a few days after buying the liquor, he received a letter from SMITH, which reads as follows:

April 9th.

'Eddie

Re: the goods you received. I have heard various remarks. I have been unable to get to town this week, will be in town tomorrow.

You took the goods without Customs and Excise receipt, so it would be advisable not to talk in public bars. I got the stuff in good faith, delivered same as I delivered to you.

Hoping to see you tomorrow Saturday.

Sincerely, J.P.'

7. KING accounted for this letter by the fact that he had unfortunately informed somebody of his purchase, and he concluded that word had got back to SMITH.

8. I then accompanied Mr. BROWNING to the 'Cheesheer' and 'Hole in the Wall' public houses, where a check was made of their stocks of whisky, and several bottles tested by Mr. BROWNING for alcoholic content. Everything at these two establishments appeared to be in order.

9. We then proceeded to No: 7 Cdn Neurological Hosp., where all the information so far gathered was handed over to Maj. JOHNSTON, the unit's adjutant. Maj. JOHNSTON doubted if the alcohol contained in the illicit spirit, could have been obtained from the hospital, due to the close check that was maintained on their stock. However, the matter was further discussed with Maj. WYATT of the hospital laboratory, and it was agreed that the only leakage that could occur, was from a container which held rectified alcohol. It was difficult to keep check on this container, due to the fact that it was continually having small quantities added, and taken away from it.

10. Sgt. J.P. SMITH was then interviewed. After being properly warned he made a statement, admitting that he had sold twelve bottles of whisky to Mr. KING. He stated KING had approached him on the matter of buying whisky in the early part of March, and he had agreed to get him what he could. He stated he had informed Sgt. TOMKA, the C.P.C. in charge of the officers bar, of KING's desire to purchase whisky, and a few days later TOMKA told him, he had a dozen bottles, and they were hidden in the bush nearby. SMITH then delivered the whisky to KING, and paid back to TOMKA the sum of £18, which was his price. SMITH claimed he had not made any money out of the deal.

11. Later in the investigation this statement was proved not to be the truth. We were unable to see Sgt. TOMKA this date as he was on pass.

12. The following day the 7th inst., Mr. BROWNING was called away for other duties, and I was accompanied to the hospital by Mr. CHILLMAN of the serve department. We interviewed TOMKA, and at first he claimed that he received the twelve bottles of whisky, from a party who he had met in London. This party he did not know by name, and doubted if he would know the man if he saw him again. TOMKA claimed this story was the truth.

13. We then discussed the matter with Lt.Col.

(cont'd page three)

Re: Reg.No. S-25037 - Sgt - SMITH, J.F. - 1 Neuro. Hosp. SCAND.
Reg.No. S-25032 - Sgt - TOMKA, A. - " " "

Obtaining Money by False Pretences - Basingstoke - Hants.

Reg.No. S-25787 - Pte - CUNNELL, H. 2 N.D.H.S., SCAND.
Reg.No. S-25009 - Pte - POWELL, J.A. " "
Reg.No. S-27951 - Pte - FAIRBAIRN, D. " "

Theft of Alcohol from 2 N.D.H.S. - Aldershot - Hants.

With LT.COL. R.H. JOHNSTON, C.O. of the unit. He stated some six weeks ago he had heard that TOMKA had made a sale of liquor in Basingstoke. Who the sale was made to he did not know, but he had cautioned TOMKA, and warned him that he did not want to hear of any more sales. It appeared quite obvious that this sale was the same one as we were investigating.

14. We again interviewed TOMKA, and he agreed to tell the truth. He was properly warned, and made the following statement: (Sworn) 'I first met Pte. POWELL, of the R.C.A.M.C., back in Ottawa, Canada, in fact we went to school together. After joining the army I got him in the same unit. We were both on the staff of Sail Neurological Base. We came to England together in June 1940, and were stationed together in Basingstoke. About a year and a half ago Powell left the unit, and went to Aldershot to the Holding Unit, and was then transferred to the Medical Supply Stores in Aldershot. Since he left here I have seen him about three times, that is when trucks would come through from his unit.

About six weeks ago POWELL phoned me at this hospital, and asked me certain things which I did not want to discuss on the phone, and furthermore, I could not understand what he was driving at. On this particular subject he had phoned me about eight times.

Powell came down one night, and I met him in a public house, he had two Canadian soldiers with him. Who they were I dont know. We had a couple of beers, and I discussed with Powell the purchase of two large bottles of alcohol. He wanted £15 for them, but I said it was too much, and he finally accepted £8. We went outside, and went to the lane by the pub known as the 'Hole in the Wall'. I gave Powell the money, and he gave me the two bottles of alcohol.

I brought the two bottles to the hospital, and I did not know what to do with them. The same night Sgt. J.F.SMITH took the two bottles off of me, and he said he would fix them up, and make three dozen of whisky out of them. He did not say how much he would give me, but we figured we could make about £40.

I did not see him mix any of the stuff, but I did see some after it was mixed. I saw about twenty bottles. I tasted some, and it did not taste too good, it was also poor in colour, and cloudy. He said he could get rid of it.

At six o'clock two or three days later SMITH gave me £15. He said he had more to get rid of. A couple of days later constants came back from town about the whisky, and Smith said that had tasted it. I dont know what he done with the rest of the stuff. Smith told me he had sold a dozen bottles to a man named KING in Basingstoke at the Grand Theatre, this is the only sale I know of.

This statement is true, and I have nothing more to add. (ends)

(Sgt) A. Tomka.

Witness: L.P. Wilde. 7 May 41.

15. Sgt. SMITH was again interviewed, and after being informed of the nature of TOMKA's statement, he made another statement which he said was the truth. He was properly warned, and his statement is as follows:

(Sworn) 'Between the first of April and the 31st of March, Sgt. TOMKA came to me, and said he could buy alcohol through a party who was with the Medical Centre at Aldershot.

(cont'd over)

AT ALDERSHOT. I told him it was tricky business to get mixed up in. I told him to please himself. He said he was meeting the party that same night at the public house called 'The Hole in the Wall'.

I dont know whether it was the same evening or the next morning, TOMLA brought two jars containing alcohol, to the back of the officer's mess, where I was. He said to 'Can you make whisky out of it', and I said it could be done. He gave me alcohol to me to be made up into whisky, saying that I could share in the profits.

I made fifteen bottles. I added water from the tap, and burnt sugar for colouring.

Before 16 May 47, when I proceeded on leave, Mr. KIRK, of the Grand Theatre, Leamington, asked me if I could get him some whisky while in Scotland. I told him I would do my best.

On a Saturday night, either the latter part of March, or the first of April, I met Mr. KIRK in the 'Royal Exchange' public house. I told him I had a dozen bottles of whisky to sell. I told him it would be 30/- a bottle. He said 'O.K.', bring it down, and I will pay you cash. I said I would bring it down as soon as I could.

I took the whisky I had made down to KIRK, either the following day or the day after that. I took it down in the car with all my other party boxes and crates, and delivered it to Mr. KIRK in his office at the theatre. He counted it and remarked that he would be glad to get some when ever I had any. He gave me £18 cash, and I gave him a receipt.

I came home, and gave TOMLA his £10. I did not get anything out of it, but I had three bottles left, which I thought I would dispose of later.

Some days later I heard bad reports about the whisky I had sold KIRK, so I spoke to Sgt. TOMLA about giving him his money back. He said 'nothing doing, I am going on leave, and quod the case'. I had no money myself, so I left the matter at. I wrote to Mr. KIRK, and told him it would be unwise to talk about the deal. I threw the remaining three bottles of spirits I had away.

This statement has been read over to me, it is true, and it is all I know. (ends)

(Sgd) Keith, A.P.

Witness: C.A. Clubb.

Date: 7 May 47.

Copy

16. Copies of the foregoing statements were handed over to Lieut. [illegible] of the unit, and TOMLA and KEITH, were placed under arrest pending the completion of the investigation. It will be noted that about the only descrepancies between the two statements, is the fact that KEITH claims he paid over £15 to TOMLA, and not gaining anything himself, whereas, TOMLA claims to have only received £10. Mr. COLLARD and I returned to London that date, but before doing so reported the matter to the local police, for their information.

17. The following day, May 8th, I made inquiries regarding pte. TOMLA, and found that he with his unit was located at No 3 Base Depot Medical Stores, a new unit just beginning established in Croydon, Surrey. TOMLA was still on the strength of No 2 [illegible], located in Aldershot. I proceeded to Croydon accompanied by Mr. COLLARD. At this point we met Maj. F.H. CLARK, O.C., 2 B.A.D.M.S. we encountered him with the facts of the investigation, and he informed us of the means by which alcohol was [illegible] from the stores under these conditions. We interviewed TOMLA in the presence of Maj. CLARK, and he made a statement which proved later not to be true, but the statement implicated two men of 2 B.A.D.M.S., viz'z. KEITH and GUNNELL. We returned to London this unit.

18. On Monday the 12th inst., I proceeded to 2 B.A.D.M.S., accompanied by Mr. COLLARD, and upon arrival there found Maj. CLARK was already making a check of his alcohol stores. He stated that, suspected there was a shortage in one drum.

AP

(cont'd page four)

Re: Reg.No. C-29007 - Sgt - SMITH, J.F. - 1 Neuro. Hosp. RCAMC.
Reg.No. C-29032 - Sgt - TOMKA, A. - " " "

Obtaining Money by False Pretences - Basingstoke - Hants.

Reg.No. D-95797 - Pte - GUNNELL, H. - 2 B.D.M.S., RCAMC.
Reg.No. C-93009 - Pte - POWELL, J.A. " "
Reg.No. B-73051 - Pte - FAIRBRIDGE, D. " "

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19. Pte. FAIRBRIDGE was interviewed but he refused to make a statement. Pte. GUNNELL was interviewed, and acquainted with most of the facts of the investigation. He agreed to make a statement. He was first properly warned. The statement is as follows:

(Begins) I have been with 2 B.D.M.S. since the middle of January 1942. All of this time I have worked in the stores, either in the accounting department, or the receiving department. As a rule I do not have to handle stores, my work is entirely clerical.

I was aware that there was alcohol in the stores, and this was kept in locked storage, these stores were built by the unit carpenter. The keys for these stores were kept by the Sgt. Dispenser, and it was not possible for anybody else to have access to the stores. I am not sure whether this is correct or not, but I think it is.

One day about six weeks ago, I discovered that the door to the alcohol stores, could be opened without using a key. I passed this information on to Pte. POWELL, and Pte. FAIRBRIDGE. We then conspired, between the three of us, to steal a quantity of alcohol from the stores. It was agreed that I should go to the stores at night on the pretence of doing some work, and I obtained permission to do this work from R.S.M.S. CREEDON, JL.

I went to the stores at about 7.00 P.M., this would be about the end of March 1943. Very shortly after I had arrived at the stores, Pte's. POWELL & FAIRBRIDGE came in. The three of us went to work, and opened the cupboard. This was not hard to do. All we had to do was push the left hand side of the door in, and then slide it open.

We syphoned the alcohol from the barrel, and filled up five Winchesters, each one contained four or five pounds. We took them out, and hid them behind the shower rooms, they were put behind a sort of a counter in one of these sheds.

POWELL said he knew where he could dispose of the alcohol, and several nights later the three of us went to Basingstoke. We were met there by a Canadian W.O., he belonged to No: 1 Neurological Hospital, I dont know his name. FAIRBRIDGE and I stayed in a public house while POWELL went outside with this Sgt., and sold him two of the Winchesters full for £5. The money was split up between the three of us. I got, I think, £1.5.0., how the rest of the money was divided I dont know.

The other three Winchesters full were brought back and put in the shed again. About a week later the three Winchesters disappeared, where they went to I dont know. I dont think FAIRBRIDGE or POWELL know either. Nobody else in the unit knew of the theft. To the best of my knowledge this is the only alcohol that has been stolen while I have been with the unit.

One day when I returned off a weekend there was a large number of the C.A.C.R.U. drunk, or at least it was reported to me that they were drunk. I think they must have found the alcohol in the shed during the time when they were cleaning out the shower room.

This statement is true, and it is all I have to say. I have read the above statement over. (ends)

(Sgn) H. Gunnell.

Witness: L.A. Gibbs.
Date: 10 May 43 - Aldershot.

20. Having received the above statement from GUNNELL, we again interviewed FAIRBRIDGE, and showed him the statement. He then agreed to tell the truth, and after being warned, gave the following statement:

(Begins) I have read over the statement made by Pte. GUNNELL. It is true in every detail, I have nothing more to add. He stole

(cont'd over)

we STOLE the alcohol on the night of the 30th March, that was a Tuesday night. The purpose of stealing the alcohol was to sell it, and obtain money.

The first I knew of the intention to commit the theft, was one afternoon when I went into the boiler room, and overheard GUNNELL & POWELL talking about it. I got into the conversation, and asked to be allowed to take part in the theft.

Regarding the two bottles sold to Sgt. TOMEA, in Basingstoke, I received about £1.5.0. , after the expenses for the trip had been paid.

I dont know what became of the three Winchesters full which had been left in the shed.

This is the only theft of alcohol that I know of. I dont think anybody else, outside of the three of us, knew of the theft.

This statement is true, I have read it over, and it is all I know.

(Sgn) D. Fairbridge, Pte.
B-73052

Wit: L.A. Gibbs.
Aldershot - 10 May 43.

21. FAIRBRIDGE, GUNNELL and POWELL, were not put under arrest, Maj. CLARKE is a t present waiting for full particulars of the investigation.

22. Before leaving 2 B.D.H.S., the alcohol stores were inspected by Mr. COLLMAN. GUNNELL also pointed out to us how he was able to enter the alcohol storeroom without unlocking the door. This fault has no doubt been corrected by now.. The alcohol was tested by Mr. COLLMAN, and found to be up to strength. The spirit stolen by GUNNELL and his companions was 65 O.P., and ethyl spirit. This spirit is received direct from Canada, and is not at any time handled by the Customs and Excise Dept.

23. On Tuesday the 11th inst., I proceeded to Croydon, and again interviewed Pte. POWELL. He admitted his previous statement was not true, and after reading GUNNELL's statement, made the following himself.

(Begins) I have read over the statement made by Pte. H. GUNNELL, and it is true in almost every detail. I wish to make a new statement, and have the previous statement made to Sgt. Gibbs ignored.

Pte. GUNNELL came to me one afternoon, I think about two months ago, and asked me if I knew of anybody who would by some alcohol if he got it. I told him I had an idea of a chap who I thought would buy some, because I have known this chap to buy up almost anything. The GUNNELL went on to explain how he could enter the alcohol stores, and take out alcohol. This conversation took place in the boiler room, and I feel sure that Pte. FAIRBRIDGE was already in the know on this subject.

It was then decided between the three of us that GUNNELL should go down to the stores that evening on the pretence that he had some work to do, and I was to assist him. FAIRBRIDGE would be allowed to come in by the back door. These plans were followed out.

GUNNELL got into the locker that contains the alcohol, and we syphoned out five Winchesters full. We took them out and hid them in a shed behind the shower room.

I contacted Sgt. TOMEA of No 1 Neurological Hosp. by phone, and asked him if he would meet me in the public house known as the 'Hole in the Wall' in Basingstoke. I told him I had something to sell. He agreed to meet me there. The three of us, GUNNELL, FAIRBRIDGE and I went to Basingstoke, it was a Thursday, I think the 29 Mar 43. We could not find TOMEA in the public house as named, so I phoned him at the hospital from there. He said he would be down inside of a half an hour, and we waited for sometime, but he did not turn up. We looked around a little in a few other pubs, then I told GUNNELL and FAIRBRIDGE to wait in the 'Horse and Jockey', and I went out to look for TOMEA. I returned to the 'Horse and Jockey' sometime

(cont'd page seven)

Re: Reg.No. 6-29007 - Sgt - SMITH, J.F. - 1 Neure. Hosp.RCAMC.
Reg.No. 6-29032 - Sgt - TONKA, A. - " " "

Obtaining Money by False Pretences - Basingstoke - Hants.

Reg.No. D-95797 - Pte - GUNNELL, R. - 2 D.D.S.S., RCAMC.
Reg.No. 6-29009 - Pte - POWELL, J.A. - " "
Reg.No. D-75051 - Pte - FAIRBRIDGE, D. - " "

later, and I found he was already in there talking to GUNNELL and FAIRBRIDGE. They were then talking about the price of the alcohol, and I figured they were talking kind of loud, so I stayed out of the conversation as much as possible.

They wanted to sell the five bottles full to TONKA, at what TONKA described as a stupid price, stating in his way that he was no millionaire. After this discussion TONKA decided he would take two bottles for five pounds. We went outside, TONKA handed us the five pounds, and he picked up two Winchesters of alcohol, which we had planted by the side of the pub. GUNNELL took the three with him. The three of us returned to our unit.

We put the other three bottles back in the shed behind the shower room. A couple of days later, after noticing a few chaps of the Armoured Corps walking around in rather a drunken stupor, we wondered whether they had found the alcohol. We went and had a look and found it was all gone. We said nothing about it, and forget the whole affair.

I know of no other thefts of alcohol from our stores, and this is definitely the only one I was ever in on. This statement is the truth, and I have read it over. I have nothing more to say. (Sgn) Pte. J.A. Powell. (ends)

24. After reading over the statement POWELL decided he would like to add the following to his statement. (Begins) 'Further to the above, I wish to say I received thirty two shillings and sixpence out of the proceeds of the two bottles sold to TONKA in Basingstoke. GUNNELL got about the same, and FAIRBRIDGE received a little more due to the fact that he had paid some expenses of the journey to Basingstoke.
(Sgn) Pte. J.A. Powell

Witness: L.A. Gibbs.
II Hqs 43 - Croydon.

25. In the afternoon of this same date Lieut. PAUL of Neil Neure. Hosp., called at this office, and took statements from Mr. COLLEAR and myself, for the purpose of a summary of evidence. He stated SMITH and TONKA were both being charged with 'Obtaining Money by False Pretences'.

26. All of the statements taken are more or less self explanatory. It will be noted that there are some differences of opinion as to when the alcohol was stolen. However, this can be expected due to the rather long period that has elapsed since the theft occurred. Some of the subjects at first were not too willing to tell the whole truth, but as the investigation developed, they were quite willing to tell all they knew. None of those concerned can be described as the habitual type of miscreant, and it is felt that this is an isolated occurrence in their career.

27. The position of Mr. KING, the theatre manager, is still somewhat vague. In the first place he presented himself in the role of an informer, but with the facts now at hand, this point seems rather debatable. I am inclined to believe, that should he have received good whisky from SMITH, he would certainly not have reported the matter, and well knowing at the same time that SMITH had no right to be selling whisky. However finding himself with spirit on his hands that he could not possibly sell over his bar, he reported the matter, hoping he remain his side. This point is being thoroughly investigated by the Customs and Excise Dept.

28. All of the original statements taken are held on

(cont'd over)

HOLD ON file at this office. The receipt, supplied by [redacted] also his letter, which I received from Mr. [redacted] are covered by Exhibit Report No: 501. A copy of the government chemist's analysis is also covered by this Exhibit Report. I suggest that these articles be forwarded to No: 1 Neuro. Hosp. for evidence. It is unlikely that any of these documents will be required by the other unit concerned.

2. Could a copy of this report be supplied to the Customs and Excise Dept., at City Gate House, London EC 1. Also may copies go to both of the units concerned, extra copies are supplied for this purpose.

3. It is unlikely that any action will be taken by the Customs and Excise Dept., against the men concerned. They are satisfied that disciplinary action, in proportion with the offences committed, will be taken by the Canadian Army.

4. This file will be considered closed at this office.

CONCLUDED
EXHIBIT REPORT ATTACHED

.....Capt.
Asst. Provost Marshal
& O i/c S.I.S., C.M.H.Q.
Can Provost Corps. CMHQ. [illegible]

O.C.
No. 1 Neuro Hosp. R.C.A.M.C.

1. Forwarded for your information and further action, together with Exhibit Report No. 501 and exhibits mentioned therein.

2. May one copy of this Exhibit Report be completed please, to acknowledge receipt of these exhibits and returned to this office.

London.
18 May 43.

(R.J. Kidston) Capt.
Asst. Provost Marshal
& O i/c S.I.S., C.M.H.Q.

O.C.,
D.D.M.S., R.C.A.M.C.

1. Forwarded for your information and further action please.

London.
18 May 43.

(R.J. Kidston) Capt.
Asst. Provost Marshal
& O i/c S.I.S., C.M.H.Q.

Exhibit "C"

STATEMENT BY CAPTAIN J.St.C.MOFFAT

I hereby CERTIFY that the value of the Alcohol referred to in this case according to 24 GENERAL 1940, PERIOD LIST OF MEDICAL EQUIPMENT the WAR OFFICE, 29th OCTOBER 1941, Notified in A.C.Is., 29th October 1941 is 11d per pound in bond.

Total value therefore being 25 lbs @ 11d equalling ONE POUND, TWO SHILLINGS and ELEVEN PENCE.

(J.St.C.Moffat)Capt. RCAMC.

Plea in Mitigation
by
Defending Officer

D95797 Pte Harry Gunnell

This accused is a well educated man having taken a course in Cost Accounting at McGill University & since then having held responsible positions at good salaries

His conduct sheet indicates that he is not an habitual offender and, as his former Commanding Officer has stated, this is an isolated instance in his career

The Court is respectfully requested to bear in mind the fact that the Summary of evidence discloses varying degrees of guilt as between this accused & the others tried jointly with him and also the exceptional evidence given by two of his superior officers as to his character.

All of which is respectfully submitted

Pte Gunnell Friend.

Arthur J. Mathieu
Major

Plea in Mitigation on behalf of accused C73009
Pte Powell. B Pool Pte Fairbridge

The attention of the court is drawn to the evidence of Major Clark & Captain Moffat - both testifying to the general good character of the accused.

The defence wishes to draw particular attention to the history of Pte. Fairbridge.
Fairbridge is now 22 yrs of age. He joined the army at the age of 19 and arrived in England in 1939 with the first contingents of the Canadian Army. He served in the field with the 14th Brigade and subsequently, on being claimed by the R.C.R. an older battalion, with the R.C.R. of Canada. His name was suspended in training and his category was lowered and he was returned to the Holding Unit where he has been serving many months during all this period from the time he arrived in England until the unfortunate incident at the end of March. He commenced out the course of duty without attempt to dream to his statement contained in the summary of Evidence which shows that Fairbridge chanced to overhear the other two discussing the theft & asked to be allowed to share in it.
This is a perfect case of a man with a blameless record, who, bored possibly by the prospect of a long stay

a due recognizal for meritorious & triumphant

It is submitted that in view of the evidence & Cambridge's history conduct that he is deserving of very special consideration on the part of the court

Jno Conway Capt
for accused Private Cambridge

Arthur L. Wagner
Major

SUMMARY OF EVIDENCE

In the case of D95797, Pte Gunnell, H., C93009, Pte Powell, J.A., B73051, Pte Fairbridge, D, of 2 Cdn Base Depot Medical Stores, R.C.A.M.C., all soldiers of the Canadian Army Overseas:

By direction of the Officer Commanding the evidence is taken on oath.

The accused were informed of their rights.

FIRST WITNESS: Major H. H. Clark, R.C.A.M.C.;

A written statement of this witness's evidence, purporting to be signed by him has been read to the accused and is included in this summary of evidence, and marked Exhibit "A" hereto.

Having regard to the exigencies of the service, the attendance of this witness cannot, in my opinion, be readily procured.

The accuseds did not demand the attendance of this witness for purpose of cross-examination.

J.H.D. MacArthur Major
(J.H.D. MacArthur), Capt., RCAMC
Officer taking the Summary

SECOND WITNESS: C42000, A/Sgt Gibbs, SIS Cdn Provost Corps, CMHQ LONDON

A written statement of this witness's evidence, purporting to be signed by him, has been read to the accused and is included in this summary of evidence, and marked Exhibit "B" hereto.

Having regard to the exigencies of the service, the attendance of this witness cannot, in my opinion, be readily procured.

The accuseds did not demand the attendance of this witness for purpose of cross-examination.

J.H.D. MacArthur Major
(J.H.D. MacArthur) Capt. RCAMC
Officer Taking the Summary

Each accused was individually cautioned as follows: Do you wish to make any statement or to give evidence on oath? You are not obliged to say anything or give evidence, unless you wish to do so, but whatever you say or any evidence you give will be taken down in writing and may be given in evidence.

Each of the accused: D95797, Pte Gunnell, H., C93009, Pte. Powell, J.A., and B73051, Pte Fairbridge, D., declined to make a statement or to give evidence on oath.

I CERTIFY that the foregoing summary of evidence consisting of the above page, was taken down by me in the presence and hearing of each of the accused and that Rules of Procedure 4 (C) (D) (E)(F) and (G) were complied with.

J.H.D. MacArthur Major
(J.H.D. MacArthur) Capt., RCAMC
Officer Commanding 2 Cdn Base Depot of Medical Stores RCAMC
Officer taking the Summary.

In the field, this
21st day of May 1943.

ADDITIONAL SUMMARY OF EVIDENCE.

In the case of D95797, Pte. Gunnell,H., C93009, Pte. Powell, J.A., B73051 Pte. Fairbridge,D., of No.2 Cdn Base Depot of Medical Stores, R.C.A.M.C., all soldiers of the Canadian Army Overseas:

By direction of the Officer Commanding the evidence is taken on oath.

The accused were informed of their rights.

FIRST WITNESS : Capt.J.St.C. Moffat, R.C.A.M.C.

A written statement of this witness's evidence, purporting to be signed by him has been read to the accused and is included in this summary of evidence, and marked Exhibit "C" hereto.

Having regard to the exigencies of the service, the attendance of this witness cannot, in my opinion, be readily procured.

The accused did not demand the attendance of this witness for the purpose of cross-examination.

J.H.D.MacArthur Major
(J.H.D.MacArthur)Major RCAMC
Officer Taking the Summary.

Each accused was individually cautioned as follows: Do you wish to make any statement or to give evidence on oath? You are not obliged to say anything or give evidence, unless you wish to do so, but whatever you say or any evidence you give will be taken down in writing and may be given in evidence.

Each of the accused: D95797, Pte. Gunnell,H., C93009, Pte. Powell,J.A., B73051 Pte. Fairbridge,D., declined to make a statement or to give evidence on oath.

I CERTIFY that the foregoing summary of evidence consisting of the above page, was taken down by me in the presence and hearing of each of the accused and that Rules of Procedure 4 (C) (D) (E) (F) and (G) were complied with.

J.H.D.MacArthur Major.
(J.H.D.MacArthur)Major RCAMC
Officer Commanding 2 Cdn Base Depot of Medical Stores RCAMC
Officer Taking the Summary.

In the field, this
21st day of May 1943.

Arthur J. Bethune Major

Copy

No. D95797 Name Gunnell, H. | Sqn., Battery, or Company | Corps RCAMC | Date of enlistment 5 Jun 40 | G.C. Badges | Service or Proficiency Pay | M.F.M. 6 A.F.B. 122 (ITEM—7-41 (1319-26) H.Q. 1772-29-1632

Date of last entry in Company Conduct Sheet | No. and date of last drunk | Period not reckoning towards freedom from extra fine | Sheet No. 1 | Signature O.C. Company, etc. | Character

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Aldershot	1 Jun 42	Pte.		AWL. (Absent 35 hours.) A.A.Sec15	Sgt.Izon,N. Pte.Rougeau,J.	7 days C.B.	3 Jun 42	MH Clark	Forfeits 2 days pay.
Aldershot	24 Apr 43	Pte.		A.A.Sec. 15 (AWL - 56 hours.)	Cpl.Strange ,G.W. Sgt. Bignell G.G.	14 days C.B.	27 Apr 43	MH Clark	Forfeits 3 days pay.
				"Certified that this is a true copy of the original Conduct Sheet (MFM.6) now in my possession."					

J.H.D.MacArthur Major
(J.H.D.MacArthur)Major RCAMC
O.C.No.2 Cdn B.D.M.Stores,C.A.(O)

Arthur S. Bethune, Major

(P.T.O.)

No. C93009 Name POWELL, J.A. Sqn., Battery, or Company — Corps RCAMC — Date of enlistment 6 Sep 39. O.C. Badges — Service or Proficiency Pay — M.F.M. 6 (A.F.H. 122) (25M—7-41 (1519-39)) H.Q. 1772-20-1852

Date of last entry in Company Conduct Sheet N11 — No. and date of last drunk — Period not reckoning towards freedom from extra fine — Sheet No. 1. — Signature O.C. Company, etc. — Character

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
On 6th March, 1940 this soldier completed six month's service and in accordance with R.O.393 CASF (Can) entries are nil. Previous sheet which was then destroyed on March 7th, 1940. Signed by O.C. No.1 Neurological Hospital.									
Hackwood Park Basingstoke.	15 Sep 40.	Pte.		Sec.15(1)(a) Whilst on Active Service A.W.L. from 2300 hrs.14-9-40 until 1115 hrs. 15-9-40 (Absent 12 hrs. 15 min.)	S.M.Burrows J.H.				
				Sec.11 A.A. Neglecting to obey Camp Orders, Unit Standing Orders, Para.10 in that he failed to sign out and in.	Sgt.Maguire, S.A.	21 days in Detn. Bks.	16 Sep 40	Lt.Col. Cross.	
				Sec.11 A.A. Negleting to obey Camp Orders Part 1 No.227, in that he was seen with a woman in P.T.O.	A/Cpl.Smith, J.F. Pte.Tsubota, J.				

(P.T.O.)

Place	Date of offence	Rank	Cause of detention more	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order confirming same with time	By whom awarded	Remarks
				Con't. the Batman's tent at the Officer's Quarters and lines at 0600 hrs. 15-9-40. 4.Sec.10(4)A.A. Breaking out of Quarters, was seen in the Batman's tent at the Officers' quarters & lines at 0600 hrs. 15-9-40.					
Hackwood Park, Basingstoke.	7 Feb 41.			A.A.Sec.15(2)."Whilst on Active Service."(1) Absent without leave in that he, at No.1 Neurological Hosp., failed to appear at appointed place of Parade for Fire-Picquet at 1828 hrs. and was next seen in the Patients' Mess at 1926 hrs. and was placed under open arrest by A/Cpl.O'Shea S.T. (Absent 1 hour.)	A/Cpl.O'Shea, S.T. Pte.LaFrance, L. S/Sgt.Moore, B.C.K.	10 days C.B.	8 Feb 41	Lt.Col. Cross.	

No. C93009 Name POWELL, J.A. | Sqn., Battery, or Company | Corps RCAMC | Date of enlistment | 6 Sep 39 | Badges | Service or Proficiency Pay | Character

Date of last entry in Company Conduct Sheet | No. and date of last drunk | Period not reckoning towards freedom from extra fine | Sheet No. 2 | Signature O.C. Company, etc. Lt Col. Cross

M.F.M. 6

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order suspending trial	By whom awarded	Remarks
Hackwood Park Basingstoke	25 Feb 41	Pte		A.A.Sec.40 (1) Conduct to the Prejudice of Good Order and Military Discipline, in that he, at No.1 Neurological Hosp., on 25-2-41 was fighting in the Men's Mess Hall between 2330 hrs and 2359 hrs., 25-2-41, whilst on duty in thw wards and was injured.	Cpl.Middleton,R.G. Pte.Farrell M.	7 days C.B.	1-3-31	Lt.Col. Cross.	
United Kingdom	23 Dec 42	Pte		A.A.Sec.15 - AWL for 95 hours from 23 Dec 42 to 27 Dec 42.	RQMS.Creedon, J.I.	Forfeits 4 days pay.	28 Dec 42	MH Clark	(Automatic) Forfeits 4 days pay. (Total Forf. 8 days pay.)

"Certified that this is a true copy of the original Conduct Sheet (MFM.6) now in my possession."

(J.H.D.MacArthur) Major RCAMC
O.C. No.2 Can.B.D.M.Stores C.A.(O)

Major

No. B73051 Name FAIRBRIDGE, D. | Sqn., Battery, or Company | Corps Q.C.O.R. of C. | Date of enlistment 13 Sep. 39. | G.C. Badges | Service or Proficiency Pay

M.F.M. 6
A.F.W. 1127
1M—7-41 (2270-2)
H.Q. 1772-39-1652

Date of last entry in Company Conduct Sheet | No. and date of last drunk | Period not reckoning towards freedom from extra fine | Sheet No. 1 | Signature O.C. Company, etc. H.H.Clark | Character

Place	Date of offence	Rank	Cause of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
				N I L. Entries.					

"Certified that this is a true copy of the original Conduct Sheet (M.F.M.6) now in my possession."

J.H.D. MacArthur Major

(J.H.D.MacArthur)Major RCAMC
O.C.No.2 Cdn B.D.M.Stores,C.A.(O)

Arthur S. Pettypas, Maj'r

(P.T.O.)

M.F.B. 355
22M—5-41 (373-3)
H.Q. 1772-39-626
A.F.B. 206

STATEMENT AS TO CHARACTER AND PARTICULARS OF SERVICE OF ACCUSED

Number	Rank	Name	Regiment (or unit)
D95197	Pte	Gunnell, H.	R.C.A.M.C.

1. The following is a fair and true summary of the entries in the Field Conduct sheets of the accused, exclusive of convictions by a Court-Martial or a Civil Court, of summary awards under Section 47 of the Army Act and of cases in which trial has been dispensed with.

	Within last 12 months	Since enlistment or appointment
For 15(1) AWL	2 times	2 times
For	times	times
For	times	times
For	times	times
Number of instances of gallantry or distinguished conduct		Nil

NOTE.—If the charge is for drunkenness, the entries for drunkenness must be stated separately.

2. The accused has not been previously convicted

3. The accused is not under sentence at the present time.

or,

4. The accused has been in confinement awaiting trial on the present charges, for 40-8-8 86 days in civil custody, and 4 days in military custody, making a total of 4 days in custody, of which nil days were spent in hospital.

5. The present age of the accused according to his attestation paper is 26 years old.

6. The date of his [illegible] specified in his attestation paper is 5 Jun 40

7. The service which the accused is allowed to reckon towards discharge is N/A

8. The accused is entitled to reckon N/A service for the purpose of determining his pension, etc.

10. (If the accused is a warrant officer.) The accused before he was made a warrant officer last held Air Force the regimental rank of N/A

11. ~~On the case of an officer:~~ The accused holds in the Royal Canadian Air Force the rank of ~~Permanent Force~~

N/A

.....dated ..... unit

.....dated ....., ~~and in his regiment (or corps), the rank of~~

12. The accused has served as a non-commissioned officer continuously, without reduction, to the present date:—

N/A

In the rank of ..... Date of promotion.

In the rank of ..... years.

In the rank of ..... years.

In the rank of ..... years.

NOTE.—If any matter in any of the above paragraphs cannot be stated from the Regimental books, the paragraph must be struck through.

SCHEDULE

Of convictions by a court-martial or civil court, of summary awards under Section 47 of the Army Act, and of cases in which trial has been dispensed with of accused, Number ..... Rank ..... Unit

Name ..... N/A ..... of ..... N/A ..... Regiment

NOTE.—A verbatim extract from the regimental books stating these convictions and dispensations with trial must be inserted.

Description of Court by which tried	Date and Place of Trial	Charge upon which convicted	Sentence of the Court	Punishment Remitted
		N/A		

I hereby certify that the foregoing schedule of convictions and dispensations with trial is a true extract from the regimental books in my custody.

Signed this 20th day of May 1943

The above statement (~~which consists of [illegible] pages~~) is read, marked ~~[illegible]~~ proceedings, signed by the president, and annexed to the

J.D. Musgrave Major,
Officer Commanding No 2 Clerk Depot
(Officer i/c Records)

A.H.L. McLeod, Maj.

M.F.B. 288
22M—5-41 (3572-3)
H.Q. 1772-39-626
A.F.B. 286

STATEMENT AS TO CHARACTER AND PARTICULARS OF SERVICE OF ACCUSED

Number	Rank	Name	Regiment (or unit)
C93009	Pte	Powell, J. A.	R.C.A.M.C.

1. The following is a fair and true summary of the entries in the Field [redacted] Conduct sheets [redacted] of the accused, exclusive of convictions by a Court-Martial or a Civil Court, of summary awards under Section 47 of the Army Act and of cases in which trial has been dispensed with.

	Within last 12 months	Since enlistment or appointment
For AA 15(1)	times	2 times
For ~~AA 40~~	times	1 times
For	times	AA Sec 11 1 times
For	times	AA Sec 10(4) 1 times

Number of instances of gallantry or distinguished conduct None

[redacted]

NOTE.—If the charge is for drunkenness, the entries for drunkenness must be stated separately.

2. The accused has not been previously convicted

[redacted]

3. The accused is not under sentence at the present time.

[redacted]

4. The accused has been in confinement awaiting trial on the present charges, for nil days in civil custody, and one days in military custody, making a total of one days in custody, of which nil days were spent in hospital.

5. The present age of the accused according to his attestation paper is 22 years old.

6. The date of his [redacted] specified in his attestation paper is 6 Sep 39

7. The service which the accused is allowed to reckon towards discharge is N/A

8. The accused is entitled to reckon N/A service for the purpose of determining his pension, etc.

9. The accused is in possession of or entitled to no air force decoration, or air force reward [redacted] military

Particulars of [redacted] military

10. (If the accused is a warrant officer.) The accused before he was made a warrant officer last held Air Force the regimental rank of N/A

I [redacted]

[redacted] unit

12. The accused has served as a non-commissioned officer continuously, without reduction, to the present date:—

N/A

In the rank of N/A Date of promotion.

In the rank of ..... years.

In the rank of ..... years.

NOTE.—If any matter in any of the above paragraphs cannot be stated from the Regimental books, the paragraph must be struck through.

SCHEDULE

Of convictions by a court-martial or civil court, of summary awards under Section 47 of the Army Act, Air Force Act, and of cases in which trial has been dispensed with of accused, Number ..... Rank ..... Unit ..... Regiment

Name ..... of .....

NOTE.—A verbatim extract from the regimental books stating these convictions and dispensations with trial must be inserted.

Description of Court by which tried	Date and Place of Trial	Charge upon which convicted	Sentence of the Court	Punishment Remitted

I hereby certify that the foregoing schedule of convictions and dispensations with trial is a true extract from the regimental books in my custody.

Signed this 20th day of May 1943

The above statement (with the schedule of convictions and of cases in which trial has been dispensed with) is read, marked ..... signed by the president, and annexed to the proceedings.

J. H. Macarthur-Onslow, Capt.
Officer Commanding.
No. 2 Cdn. Base Depot Medical Stores.
(Officer i/c Records)

M.F.R. 355
22M—9-41 (372-3)
H.Q. 1772-39-620
A.F.B. 390

STATEMENT AS TO CHARACTER AND PARTICULARS OF SERVICE OF ACCUSED

Number	Rank	Name	Regiment (or unit)
B73051	Pte	Fairbridge D	R..C.A.M.C.

1. The following is a fair and true summary of the entries in the Field [illegible] Conduct sheets of the accused, exclusive of convictions by a Court-Martial or a Civil Court, of summary awards under Section 47 of the Army Act and of cases in which trial has been dispensed with.

	Within last 12 months		Since enlistment or appointment	
For	Nil	times	Nil	times
For		times		times
For		times		times
For		times		times

Number of instances of gallantry or distinguished conduct N/A

or,

There are no entries in the conduct sheets of the accused.

NOTE.—If the charge is for drunkenness, the entries for drunkenness must be stated separately.

2. The accused has not been previously convicted

or,

[illegible] Section 47 of the Army Act and dispensations with trial under A.A. 73 are set out in the Schedule annexed to this statement.

3. The accused is not under sentence at the present time.

or,

[illegible]

4. The accused has been in confinement awaiting trial on the present charges, for civil custody, Nil days in and one days in military custody, making a total of one days in custody, of which nil days were spent in hospital.

5. The present age of the accused according to his attestation paper is 22 years old.

6. The date of his attestation specified in his attestation paper is 13 Sep 39

7. The service which the accused is allowed to reckon towards discharge is N/A

8. The accused is entitled to reckon N/A service for the purpose of determining his pension, etc.

9. [illegible]

10. (If the accused is a warrant officer.) The accused before he was made a warrant officer last held Air Force the regimental rank of N/A

11. ~~(In the case of an officer.)~~ The accused holds in the Royal Canadian Air Force the rank of ~~Permanent Force~~

N/A

.....dated ..... unit

.....dated .....

12. The accused has served as a non-commissioned officer continuously, without reduction, to the present date:—

N/A

In the rank of ..... Date of promotion.

In the rank of ..... years.

In the rank of ..... years.

NOTE.—If any matter in any of the above paragraphs cannot be stated from the Regimental books, the paragraph must be struck through.

SCHEDULE

Of convictions by a court-martial or civil court, of summary awards under Section 47 of the Army Act, and of cases in which trial has been dispensed with of accused, Number ..... Rank ..... Unit

Name ..... N/A ..... of ..... Regiment

NOTE.—A verbatim extract from the regimental books stating those convictions and dispensations with trial must be inserted.

Description of Court by which tried	Date and Place of Trial	Charge upon which convicted	Sentence of the Court	Punishment Remitted
	N/A			

I hereby certify that the foregoing schedule of convictions and dispensations with trial is a true extract from the regimental books in my custody.

Signed this 28th day of May 1943

The above statement (~~XXXX

STATEMENT OF ACCUSED IN ACCORDANCE WITH R.P. 14(B)

I (no.) 093009 (Rank) Pte. (Name) Powell, J.A.

desire to have To be appointed by Convening Officer appointed to represent me at my trial by Court Martial, if available; otherwise I request the Convening Officer to assign an officer to represent me

Station: No. 2 Cdn. B.D.M.S.
ORDERLY ROOM
R.C.A.M.C., C.A.(O).

Date. 25 May 1943

J.A. Powell

STATEMENT OF ACCUSED IN ACCORDANCE WITH R.P. 14(B)

I (no.) B73051 (Rank) Pte. (Name) Fairbridge, D.

desire to have Lt Col I.A. Johnstone 48th Highlanders of Canada appointed to represent me at my trial by Court Martial, if available; otherwise I request the Convening Officer to assign an officer to represent me

No. 2 Cdn. B.D.M.S.
ORDERLY
ROOM
R.C.A.M.C., C.A. (O).

Station:

Date. 24 May 1943.

D Fairbridge

STATEMENT OF ACCUSED IN ACCORDANCE WITH R.P. 14(B)

I (no.) D95797 (Rank) Pte. (Name) Gunnell, H.

desire to have An Officer appointed by Convening Officer appointed to represent me at my trial by Court Martial, if available; otherwise I request the Convening Officer to assign an officer to represent me

Station: No. 2 Cdn. B.D.M.S. ORDERLY ROOM R.C.A.M.C., C.A. (O).

Date. 25 MAY 1942.

H Gunnell

ARMY FORM B 116.

2 Cdn Base Medical Stores RCAMC REGIMENT.

STATION Aldershot, Hants Date 22 May 19 43

Application for a Field General *Court-Martial.*

SIR,

I have the honour to submit One charge against No. s D95797, Pte Gunnell H., C93009, Pte Powell, J.A., B73051, Pte Fairbridge D.

of the Unit under my command, and request you will obtain the sanction of Comd General that a Field/ Court-Martial may be assembled for his trial at

The Case was investigated by (*a*) Capt J.H. D. MacArthur and S.I.S. Cdn Provost Corps, LONDON

A Court of Inquiry was held on (*b*) N/A (date) at (Station).

President	n-a	Ranks, Names and Corps.
Members	N/A	

The accused is now at Unit His General Character is (*c*)

I enclose the following documents (*d*) :—

1. 1 Charge Sheet (*e*).
2. Summary of Evidence, original (*f*) and
3. [illegible]
4. List of witnesses for the prosecution and defence (with their present stations or addresses) (*g*).
5. [illegible]
6. [illegible]
7. Statement as to character (A.F.B. 355) and [illegible] Field etc., conduct sheets of accused (*g*).
8. Statement by accused as to whether or not he desires to have an officer assigned by the Convening Officer to represent him at the trial (*h*). [R.P. 14 (1)].

I have the honour to be,
Sir,
Your obedient Servant,

Signature of Commanding Officer J.H. MacArthur Major

To Comd C. R. U.

MEDICAL OFFICER'S CERTIFICATE.

I CERTIFY that No. C93009 Pte Powell J.A. No 2 Can Base depot of Medical Stores Regiment is fit to undergo trial by Court-Martial.

Signature of the M.O.

* Insert "fit" or "unfit."

(*a*) (i) Officer who investigated the charges.
(ii) Company, etc., Commander who made preliminary enquiry into the case.
(iii) Officer who took down the Summary of Evidence [R.P. 19 (1) (a)].
(*b*) To be filled in if there has been a Court of Inquiry respecting any matters connected with the charges; otherwise to be struck out [R.P. 19 (1) (a)].
(*c*) To be filled in by the Commanding Officer.
(*d*) Any items not applicable to be struck out.
(*e*) One copy to be sent to the President; one copy to be filed with the application for trial.
(*f*) Original summary of evidence to be sent to the President.
(*g*) 3, 4, 6 and 7 to be returned to the Officer Commanding the unit of the accused with the notice of trial.
(*h*) 5 and 8 to be sent to the President.

If the accused has elected to be tried under A.A. 22 (2) the fact should be recorded at the top of this form.

21 May 1943.

B-73051 Pte. Fairbridge,D.
D-95797 Pte. Gunnell,H.
C-93009 Pte. Powell,J.A.

CERTIFICATE OF CHARACTER.

I, Capt.J.St.C.Moffat, certify that having been attached for duty to No.2 Cdn Base Depot of Medical Stores, R.C.A.M.C., from September 1942 until the present date, the m/n Other Ranks were employed at No. 2 Cdn B.D.M.S.

B-73051 Pte. Fairbridge,D., was posted to No.2 B.D.M.S. as a Boilerman and was unquestionably satisfactory in this post. He has been a well-behaved soldier while with this unit as is shown by his clean record up to this date.

D-95797 Pte. Gunnell,H., was employed in the Accounting Department for a short time after my arrival here but in the subsequent re-organization of the Receiving Department he was placed in that department. Since I was greatly concerned with this re-organization, I had the opportunity of closely observing Pte. Gunnell,H., and have been much impressed with his efficiency in a difficult task. Receipts were well-handled and no discrepancies were noted. I have felt that Pte. Gunnell's character and behaviour have been excellent and feel this to be an isolated instance of misconduct.

C-93009 Pte. Powell,J.A., has been employed on spectacles during my time at this depot and as such was not directly in my department. I believe his work to have been capably handled and have had no reason to suspect any misdemeanors in his general conduct.

J.St.C. Moffat Capt.

(J.St.C. Moffat)Capt. RCAMC

Acting Lieutenant Major

11/Personnel/543

23 May 43

C.93009 Pte Powell,J.A.
D.85797 Pte Gunnell,H.
D.73061 Pte Fairbridge,D.



CERTIFICATE OF CHARACTER

I Major H.H.Clark hereby certify that having been OC No. 2 Cdn Base Depot of Medical Stores from Sept 1941 to 9th May 1943, the m/n Other Ranks were employed in the #2 B.D.M.Stores in the following capacities.

C.93009 Pte Powell,J.A. in the Issuing Dept for a short period then in charge of the receiving and despatch of spectacles. He was under my command for close to two years and handled his work very capably and during this period his character and general behaviour was satisfactory.

D.85797 Pte Gunnell,H. has been employed in the Accounting Dept for some months and on re-organization of the Goods Received Dept he was moved there. This is a very responsible position in the Base Depot as thousands of dollars worth of supplies and equipment pass through. Pte Gunnell has handled this Dept with great efficiency. No discrepancies have been noted in his receipts and his general character and behaviour has been excellent. It is felt that this instance as far as Pte Gunnell is concerned was an impulsive misdemeanor and not one arising from criminal tendencies.

D.73061 Pte Fairbridge,D. was under my command for about six months as a boilerman. He never worked in the stores proper and in this time his work was satisfactory as well as his general character and behaviour.

(H.H.Clark) Major RCAMC
OC.1 Cdn Adv Depot Med Stores

HHC/ZAP

Lt Col M. C.

Major

4Y60

Pvt. Furman, T. H.

Missing

OD-40
PTE GURR R.W.

00-10

Correspondence to be PINNED here.

Army Form A.3.

Form for Assembly and Proceedings of Field General Court Martial on Active Service.

PROCEEDINGS.

A.

Order convening the Court

On Active Service, this Twenty-first day of August, 19 43

Whereas it appears to me, the undersigned, an officer in Command of 6 Cdn Inf Bde, on active service, that the persons named in the annexed Schedule, being subject to Military Law, have committed the offences in the said Schedule mentioned.

And whereas I am of opinion that it is not practicable that such offences should be tried by an ordinary General Court Martial; *~~and that it is not practicable to delay the trial for reference to a superior qualified officer.~~

* Omit where Convening Officer is a Commanding Officer or is of Field Rank.

I hereby convene a Field General Court Martial to try the said persons, and to consist of the Officers hereunder named.

* Omit if not applicable.

*~~[illegible]~~

for [illegible]

President.

Rank.	Name.	Regiment.
Major	J.R. Mather	S Sask R

Members.

Rank.	Name.	Regiment.
Captain	to be detailed by Fus MR	
~~Captain~~ Lieut	to be detailed by Camerons of C	
Lieut.	to be detailed by Camerons of C	

WAITING MEMBER

* Must be signed personally by the Officer actually in command at the time, and all alterations in the composition of the Court to be initialled by him.

*Signed G.A. McCarter Brig
Commanding 6 Cdn Inf Bde.
Convening Officer.

SCHEDULE.

Number, Rank (a), Name and Unit of Accused (b)	Offence charged	*Plea	Finding, and if Convicted, Sentence (c)	How dealt with by Confirming Officer (d)
H.17055 Pte. Renvielle William GURR Camerons of C	First Charge A.A. Sec 15	guilty	guilty To undergo detention for forty days. 21 Aug 43.	Confirmed Brig. 6 Cdn. Inf. Bde. 23 Aug 43.

* Question to be asked of accused, if he pleads not guilty (R. of P. 39 (A)):—
"Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity for preparing your defence?"
Answer (*to be recorded on separate sheet if necessary*) :—

(Signed) (G.L. McCarter) Brig.
Commanding 6 Cdn Inf Bde.
Convening Officer (c)

(Signed) (J.R. Mather) Major
President.

(a) Appointment acting rank or acting appointment, if any, to be stated in brackets after the substantive rank.
(b) Unless unavoidable, not more than three names are to be entered on one form, and in serious cases one only.
(c) Recommendation to mercy, if any, to be inserted in this column.
(d) It is not necessary that the Confirming Officer should sign his name in this column. Initials are sufficient.
(e) Must be signed by the same Officer who signs on the first page, and all alterations in the first two columns of the Schedule to be initialled by him.

Evidence and Charge Sheets (if necessary) to be PINNED here.

B. Certificate of President as to proceedings.

I certify that the above Court assembled on the 21 day of August 1943, and duly tried the persons named in the Schedule, and that the plea, finding, and sentence in the case of each such person were as stated in the third and fourth columns of that Schedule.

I also certify that :—
1. The members of the Court
2. The witnesses
~~*(3. The interpreter)~~
~~*(4. The officers under instruction)~~
were duly sworn.

* Omit if not applicable.

Signed this 21 day of August 1943.

J.R. Mather Maj D.
President of the Court Martial.

C. Certificate in case of death sentences.

* See footnote (b) on page 764 M.M.L. 1929.

I certify that the terms of *A.C.I. 570 of 1918 have been complied with.

Signed this day of 19 .

President of the Court Martial.

D. Confirmation.

I have dealt with the findings and sentences in the manner stated in the last column of the Schedule, and, subject to what I have there stated, I hereby confirm the above findings and sentences.

~~*(I direct that the soldier named in the margin be not committed to prison until further orders.)~~

* To be omitted unless penal servitude or imprisonment having been awarded, the Confirming Officer either has no authority to commit to prison, or, having such authority, recommends suspension.

Signed this Twenty third day of August 1943.

Confirming Officer Brig.
6 Cdn. Inf. Bde.

Promulgated and extracts taken in the case of H17055 Pte. Renvielle WW.

(a) (Dated) 25 Aug. 1943 (Signed) A.J. Ayotte Capt & Adj.

Promulgated and extracts taken in the case of

(Dated) (Signed)

Promulgated and extracts taken in the case of

(Dated) (Signed)

(a) When several cases are promulgated in one unit on the same day the Officer need only sign once.

(21730) Wt. 40125—893 300-10 1/40 P. St. C. 640

*All printed matter not applicable to the particular Court being held should be struck out and initialled by the President.

A

**Form of Proceedings for General and District Courts-Martial

Proceedings of a Field Court-Martial held In the field
on the 21 day of August 1943 by order of Brig. G. A. McCarten
Commanding 6 Cdn. Inf. Bde.
dated the 21 day of August 1943

President.
Majr. J. R. Martin. S. Sask. R.

Members.
Capt. J. R. Thivierge Que. M.R.
Lieut. A.F. Macdonald. Cons. J R.

, Judge Advocate.

Trial of* H 17055 Pte. Renville William Lyon, Cons J R.

The order convening the Court, the charge-sheet and the summary (or abstract) of evidence are laid before the Court.

The Court satisfy themselves that is not available to serve owing to

, waiting member takes his place as a member of the Court.

The Court satisfy themselves as provided by Rules of Procedure 22 and 23.

The accused is brought before the Court.

Prosecutor,† Lieut. H. Grundy. Cons J R.

Counsel‡ or defending officer† Lieut. D. J. Gillespie Cons J R.

At 1400 o'clock the Trial commences.

The order convening the Court is read, and is marked signed by the President, and attached to the proceedings.

The names of the President and members of the Court are read over in the hearing of the accused, and they severally answer to their names.

Question by the President to the accused. Do you object to be tried by me as President, or by any of the officers whose names you have heard read over?

Answer by accused. No sir.

(N.B.—If objection is made it should be recorded, together with the decision of the Court, on a separate sheet.)

* Here insert No., Rank, full Name, Regiment, and Appointment (if any).
† Here state Rank and Name, and Regiment (if any).
‡ Qualification to be stated.

Mil. Forms B. 271
10M—3-41 (9670)
H.Q. 1772-39-224

B

The President, members and judge-advocate are duly sworn.

~~The following officers under instruction are duly sworn.~~

Charge-Sheet

The charge sheet is signed by the President, marked B 2 and annexed to the proceedings.

Instruction. *If the accused has elected to be tried under Army Act, sec. 40 (8) the fact should be here recorded.*

The accused is arraigned upon each charge in the above-mentioned charge-sheet.

Are you guilty or not guilty of the [first] charge against you, which you have heard read? *Question to the accused.*

guilty sir. *Answer.*

~~Are you guilty or not guilty of the second charge against you, which you have heard read?~~ *Question.*

Answer.

~~Are you guilty or not guilty of the third charge against you, which you have heard read?~~ *Question.*

Answer.

~~Are you guilty or not guilty of the fourth charge against you, which you have heard read?~~ *Question.*

Answer.

The accused having pleaded Guilty to the. charge, the provisions of Rule of Procedure 35 (B) are here complied with.

Instruction. If the trial proceeds upon any charge to which there is a plea of "Not Guilty," the Court will not proceed upon the record of a plea of "Guilty," until after the finding on that other charge.

CC

Proceedings on Plea of Guilty

*To be struck out in case no plea of "Not Guilty" has been proceeded with.

*[~~The Court having been re-opened, the accused is again brought before~~ read to it, and the charge ~~to which he has pleaded "Guilty"~~ ~~him again~~.]

~~The accused~~

~~ordered guilty of~~

*The summary (or abstract) of evidence is read, marked signed by the President, and attached to the proceedings.

Question to the accused. Do you wish to make any statement in mitigation of punishment?

yes Sir.

Answer. The ~~accused~~ defending Officer in mitigation of punishment says:—

[~~or hands in a written statement, which is read, marked~~ , ~~signed by the President, and attached to the proceedings.~~]

I wish to draw attention to the record of the accused. He enlisted on Sept 1939, and has had 4 yrs service. During that time he conducted himself only 7 times all of a minor nature. The last of a minor nature the longest being 7 hrs. This is the first time he has been under close arrest. He had had good reports and will be a loss to the Bn. He was on the escape Orderly, attempted to go back, but on my second his connections was absent 24 hrs, and he stayed away 2 days longer. In view of his record I ask the court to give all leniency possible.

Instruction. *If there is no summary or abstract of evidence, sufficient evidence to enable the Court to determine the sentence, and to enable the confirming officer to know all the circumstances connected with the case, will be taken on a separate sheet in the same manner as on a plea of "Not Guilty."

If from the statement of the accused, or from the summary or abstract of evidence, or otherwise, it appears to the Court that the accused did not understand the effect of his plea of "Guilty," the Court shall alter the record, and enter a plea of "Not Guilty," and proceed with the trial accordingly.

E

Finding*

*To be struck out except in cases where trial has taken place on a plea of "Not Guilty."

~~The Court is closed for the consideration of the finding.~~ J.C.M.

~~The Court find that the accused~~ J.C.M.

Proceedings on Conviction *before Sentence*

*When the Court is already open this sentence will be struck out.

*The Court being re-opened, the accused is again brought before it.

Evidence of character, &c.

Lieut. H. Grundy Coms & A. is duly sworn.

Question by the President.

Have you any evidence to produce as to the character and particulars of service of the accused? *Answer by the Witness.* yes M.F.M.6 and MFB.358.

The above statement [with the schedule of convictions and of cases in which trial has been dispensed with] is read, marked , signed by the President, and annexed to the proceedings.

Question by the President.

Is the accused the person named in the statement which you have heard read? *Answer by the Witness.* yes sir.

Question.

Have you compared the contents of the above statement with the regimental books? *Answer.* yes sir.

Question.

Are they true extracts from the regimental books, and is the statement of entries in the conduct sheets a fair and true summary of those entries? *Answer.* yes sir.

Cross-examined by the accused, NOT

Instruction.—If by reason of the nature of the service of the accused in a departmental corps, or otherwise, the finding of the Court renders him liable to any exceptional punishment in addition to that to be awarded by the Court the prosecutor must call the attention of the Court to the fact, and the Court must inquire into the nature and amount of that additional punishment.]

Question to the accused.

Do you wish to address the Court? *Answer.* no sir.

The Court is closed for the consideration of the sentence.

F

Sentence

Sentence.

The Court sentence the accused to undergo detention for fifty days.

J. A. Martin
May 15.

SUMMARY OF EVIDENCE

In the case of H-17055 Private Renvielle William Gurr, of the Queen's Own Cameron Highlanders of Canada, a soldier in the Canadian Army Overseas.

The accused is informed of his rights.

The Commanding Officer directs that the evidence be given under oath.

FIRST WITNESS — H-33086 Cpl. Erikson, C.G., Camerons of Canada, Cdn Army Overseas having been duly sworn states:-

I am H-33086 Cpl. Erikson, C.G., Camerons of Canada, Cdn Army Overseas. On 7 Aug 43 I was acting Company Orderly Sergeant, I found that the accused H-17055 Private Gurr, R.W., whom I recognize was absent from his quarters at 0600 hrs on the above stated date.

The accused declines to question the witness.

SECOND WITNESS — H-200169 Pte. Pawlosky, J., Camerons of Canada, Cdn Army Overseas having been duly sworn states:-

I am H-200169 Pte. Pawlosky, J., Camerons of Canada, Cdn Army Overseas. I was the clerk in charge of the Rear Party on 10 Aug 43 and the accused H-17055 Pte Gurr, R.W. whom I recognize, reported into camp at 1300 hrs on that date. I asked him if he had seen the Guard Commander or CSM Jack. He had already reported to CSM Jack.

The accused questioned the witness:-

Q What condition was I in when you saw me?

A You were properly dress.

Q Was I sober?

A Yes

The accused having been duly cautioned in accordance with R.P. 4 (e) declines to make a statement.

Taken down by me in the presence of the accused on 19 Aug 43 in Newpound Common Camp.

H. Grundy Lieut.

(H. Grundy)
Camerons of Canada

J. R. Martin Majr.

Previous Sheet Destroyed 15.9.40 — Q.O.C.H. of Cam.

M.F.M. 6
(A.F. B.122)
40/P & /B136

No. H17056 Name GURR R.W. | Sqn., Battery, or Company "C" | Corps | Date of enlistment 1/5/39 | G.C. Badges | Service or Proficiency Pay | Character

Date of last entry in Company Conduct Sheet 26-4-40 | No. and date of last drunk | Period not reckoning towards freedom from extra fine | Sheet No. 1 | Signature O.C. Company, etc. Capt Hurst Lieut

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order directing trial	By whom awarded	Remarks
Witley	17-2-41	Pte		W.O.A.S (A.W.L.) from 2200 HRS 17-2-41 until 0630 HRS 18-2-41	Sgt. Hartell	Admonished	18-2-41	Capt Leach	Ante 7 Fte. 1 days Pay
	Sec 15(1) A.A.			Absent 3 HRS. 30 MINS					
England	9-3-41	Pte		W.O.A.S (A.W.O.L.) from 2359 HRS 9-3-41	L/Cpl Corphill J.	3 days C.B.	10-MAR-41	Capt J.A. Eady	J.A.E. Capt
	Sec 15(1) A.A.			to 0630 HRS 9 MAR 41 ABSENT 31 MINS					
England	9-MAR-41 (PTE)			W.O.A.S (A.W.O.L.) from 2230 HRS 9/MAR/41	L/Cpl Corphill J.	3 days C.B.	10-MAR-41	Capt J.A. Eady	J.A.E. Capt
	Sec 15(1) A.A.			to 2300 HRS 9 MAR 41 ABSENT 30 MINS					
O.A.S.	15/MAR/41 (PTE)			W.O.A.S (A.W.O.L.) from 2230 HRS 15/MAR/41	L/Cpl Hemfield W.	10 days C.B.	17/MAR/41	NSE FALINGS	J.A.E. MASON
				TO 2358 HRS 15/MAR/41 ABSENT 1 HR 29 MINS					
O.A.S	18/4/42	Pte		W.O.A.S (A.W.L.) from 2030 HRS 18/4/42	C.S.M. Wolfson	Forfeits 1 days pay	29/4/42	Capt J.J. Taylor	
	Sec 15(1) A.A.			until 0600 HRS. 19/APR/42 ABSENT 7 HRS 30 MINS	Cpl Falconer	F.R. #1			
O.A.S.	2/5/42	Pte		W.O.A.S Conduct to the prejudice etc	Sgt Brooks W.	5 days C.B.	3/5/42	Capt S.E. Gillett	J.C. H Capt C
				in C on the 2/5/42 did leave him					
				Specimen on ready Condition					

P.T.O.

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Awarded one Good Conduct Badge (W.E.F. 15/April/43								D.O. 24 d/s May 43	

M.F.M. 6
(A.F. B.1251)
40/P & S136 (2962)

No. H-17055 Name Gush R.W. Sqn., Battery, or Company C Corps R.C.O.C.H. of C Date of enlistment 1/SEP/39 G.C. Badges Service or Proficiency Pay

Date of last entry in Company Conduct Sheet 26-4-40 No. and date of last drunk Period not reckoning towards freedom from extra fine TEMP Sheet No. Signature O.C. Company, etc. Character

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Inchkeith	18/JUN/43	Pte		WOAS. Failing to Comply with an order in that he did at 0630 HRS 18 June 43, fail to go on Sick Parade when ordered to do so by an Superior Officer	H-19622 Cpl. Davies	14 days C.B	26/JUN/43	LT Col Law	
						Archd C Rhind Lieut O.C. of C Company			17/6/43

Certified True Copy of M.F.M. 6

(P.T.O.)

M.F.B. 385
40/F & S/675

STATEMENT AS TO CHARACTER AND PARTICULARS OF SERVICE OF ACCUSED

Number	Rank	Name	Regiment (or unit)
H-17055	Pte	Gurr, R.W.	Camerons of Canada

1. The following is a fair and true summary of the entries in the ~~Service and General~~ Regimental and ~~Squadron, Battery~~ Conduct sheets ~~Company Conduct sheets~~ of the accused, exclusive of convictions by a Court-Martial or a Civil Court, ~~An Inquiry~~ of summary awards under Section 47 of the Army Act and of cases in which trial has been dispensed with.

	Within last 12 months		Since enlistment	
For	one charge Sec 40	times	5 charged Sec 15	times
For	one charge Sec 9 (2)	times	2 charges Sec 40	times
For		times	1 charge Sec 9 (2)	times
For		times		times

~~Number of instances of gallantry or distinguished conduct~~

~~or,~~

~~There are no entries in the conduct sheet of the accused.~~

NOTE:—If the charge is for drunkenness, the entries for drunkenness must be stated separately.

2. The accused has not been previously convicted

or,

~~Previous convictions of the accused by a court-martial or a civil court, of summary awards under~~ Air Force Act A.F.A. 79 Section 47 of the Army Act and dispensations with trial under A.A. 75 ~~are as follows and are entered in the Schedule~~ annexed to this statement.

3. The accused is not under sentence at the present time.

or,

~~The accused at the present time is under sentence (or ... beginning on the ... day of ...~~

4. The accused has been in confinement awaiting trial on the present charges, for ~~three~~ nil days in civil custody, and three days in military custody, making a total of ~~three~~ three days in custody, of which N/A days were spent in hospital.

5. The present age of the accused according to his record of service is ~~attestation paper is~~ 27 yrs 7 months

6. The date of his ~~commission~~ attestation specified in his record of service is ~~attestation paper~~ 4 Nov 39

7. The service which the accused is allowed to reckon towards discharge is 3 yrs 9 mo 15 days

8. The accused is entitled to reckon 3 yrs 9 mo 15 days service for the purpose of determining his pension, etc.

9. The accused is in possession of or entitled to no air force decoration, or air force reward (or is in possession of or entitled to). ~~State any air force decoration or reward.~~ military military

10. (If the accused is a warrant officer.) The accused before he was made a warrant officer last held the regimental rank of ...

11. (In the case of an officer.) The accused holds in the Royal Canadian Air Force the rank of Permanent Force

.....dated....., unit, and in his regiment (or corps), the rank of

.....dated.....

12. The accused has served as a non-commissioned officer continuously, without reduction, to the present date:—

.....Date of promotion.

In the rank of.....years.

In the rank of.....years.

In the rank of.....years.

NOTE.—If any matter in any of the above paragraphs cannot be stated from the Regimental books, that paragraph must be struck through.

SCHEDULE

Of convictions by a court-martial or civil court, of summary awards under Section 47 of the Air Force Act, and of cases in which trial has been dispensed with of accused, Number..... Rank.....

Name..... of.....Regiment

NOTE.—A verbatim extract from the regimental books stating these convictions and dispensations with trial must be inserted.

Description of Court by which tried	Date and Place of Trial	Charge upon which convicted	Sentence of the Court	Punishment Remitted

I hereby certify that the foregoing schedule of convictions and dispensations with trial is a true extract from the regimental books in my custody.

Signed this 20 Aug day of Aug 1943 R.J. Ayden Capt.
(R.J. Ayden)
Adjt. Camerons of C

The above statement (with the schedule of convictions and of cases in which trial has been dispensed with) is read, marked ..... signed by the president, and annexed to the proceedings.

I hereby acknowledge receipt of one copy of the Summary of Evidence and one copy of the Charge Sheet.

R. Geo. Gurr

H-17055 Pte. Gurr, R.W.

I request that an officer be appointed to represent me at my trial.

R. Geo. Gurr

H-17055 Pte. Gurr, R.W.

CHARGE SHEET

H-17055 Private Renvielle William Gurr, of the Queen's Own Cameron Highlanders of Canada, a soldier in the Cdn Army Overseas is charged with:-

FIRST CHARGE
A.A. Sec 15

While on Active Service, Absence Without Leave,

in that he,

in the field, absented himself from his unit from 0600 hrs 7 Aug 43 until 1300 hrs 10 Aug 43

A. J. Law Lt-Col
(A.T. Law)
Comd Camerons of Canada

In the Field
19 Aug 43

To be tried by F.G.C.M.

J. P. Martin Maj.

To be tried by Field General Court Martial

General
Brig.
8 Can. Inf. Bde.

21 Aug 43.

21 Aug 43

H-17055 Pte Gurr R. W

A

fit for court martial on this date

H Marantz Capt

J. P. Martin Maj.

4P-138

Rfn. Gurski P.M.

SCHEDULE.

PART I. PLEA(S), FINDING(S) AND SENTENCE.

Accused: B138223 Rfn Peter Michael Gurski R.O.R. of C.

Charge. (Insert "alternative" where applicable.)	Plea. (See Instrs p 2.)	Finding. (See note below.)	(Space for use as required for further charges, accused charged jointly, special findings, etc.)
1st Sec 15 (1)	Guilty	Guilty	
2nd Sec 15 (1)	Guilty	Guilty	
3rd Sec 15 (1)	Guilty	Guilty	
4th			
5th			
6th			

(Note: As to findings for lesser offences see AA 56, RP 44; findings on alternative charges see MML p 483 fn 4 para 3, RP 44; special findings see RP 44 and MML p 753, and in loss of kit see RP 44 fn 6.)

At present under sentence for ..... beginning on (date) ..... (1)
(1. Insert sentence being served, or delete, if not applicable. See RP 46(A). Information should be found on MF B355 or AF B296.)

Time in confinement awaiting present trial—a total of 55 days, of which 0 days were spent in hospital.(1)
(1. See RP 46(A) fn 2. Information should be found on MF B355 or AF B296 admitted in evidence under E2.)

Sentence Awarded by the Court: To undergo Detention for a period of Six (6) months.

(Sgd) ..... Judge-Advocate, if any. 25 Jan 45 Date awarded. (Sgd) Jud B. Moor Major President. (RP 45, 50.)
(See back of Convening Order as to assembly and disposal of record after trial.)

PART II. MINUTE WHERE CONFIRMATION RESERVED. (AA 54(5), RP 120(F), MML p 760.)

Date ..... (Sgd) ..... Commanding .....

PART III. DECISION OF CONFIRMING OFFR ON FINDING(S) AND SENTENCE.

(For duties and powers see AA 54, 57, RP 37(D) fn 6, 46(A), 51-56, 120, MML pp 759-761; KR Can 567-577. Acquittals require no confirmation and cannot be revised: AA 54(3). Sending back finding or sentence for revision by Court: AA 54(2), RP 120(G). If not confirmed, accused may be tried again: AA 157, MML p 64. Minute of confirmation or non-confirmation may be altered before promulgation: RP 53, MML p 65. Quashing after promulgation: KR Can 573. Duties and powers of reviewing offrs: AA 57, 57A, RP 53A, 54. The Confirming Offr must sign here personally. AA 172 fn 1.)

My decision on the finding(s) and sentence set forth in Part I is:

Confirmed

~~I direct that the accused be not committed to prison or detention barracks until further orders.~~ (1)
(1. AA 57A. Delete if not used.)

(Sgd) Jas A Roberts Brig
Date 26 Jan 45 Commanding 5 Cdn Inf Bde.
Confirming Officer.

PART IV. PROMULGATED AND EXTRACTS TAKEN. (RP 53, KR Can 576, 577.)

Accused.	Date.	Signature of Offr.
B138223 Rfn P.M. Gurski	29 Jan 45	J Macdonald Capt

ALL DELETIONS AND ALTERATIONS WILL BE INITIALLED.

RECORDED AT CMHQ IN AB 160 4P-138
10 FEB 1945
CPA96 (In lieu of AFA2) 40/P.M.B./1698 4588

FIELD GENERAL COURT-MARTIAL

Convened by Order of Brigadier J.A. Roberts Comd 5 Cdn Inf Bde dated 24 Jan 45

ACCUSED.

(As to the trial of two or more charged jointly see RP 16, 71, 109. As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

Number.	(a) Prmnt R. (b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
B138223	Rfn	Peter Michael	GURSKI	DOR 5 Cdn Inf Bde HQ 2 Ech, 21 Army Gp

PROCEEDINGS OF TRIAL.

Held in the Fd in (country) Holland on (date(s)) 25 Jan 45

RECORD FORM A—OPENING PROCEEDINGS AND ARRAIGNMENT.

A1. The President, Members, waiting Member, JA, if any, and Offrs under instr, if any, assemble, and the Court is closed.

(PRINTED MATTER, NOT IN ITALICS FOR GUIDANCE, WILL BE DELETED IF NOT USED OR APPLICABLE, AND INITIALLED BY PRES OR JA. The Schedule referred to throughout is on p 4. Citations do NOT include all relevant fns RQs. For guidance on procedure when a variation in this form arises, see form for GCM in MML pp 741 to 758. A brief record of such variation will be made and given a number having reference to appropriate or preceding para number herein. See back of Convening Order, CF A95, for oaths and instrs on how to record addresses, evidence, etc, which instrs are hereafter called "Notes". As to general provisions for conducting the trial see AA 51, RP 16, 62-70, 73, 74, 94, 103, 119, 132.)

A2. The President initials and lays before the Court the Convening Order and Charge Sheet(s) attached thereto.(1) The Court is satisfied that it is properly convened and constituted(2), accused is (are) amenable to military law, and each charge discloses an offence.(3)
(1. As to use of Summary of Evidence see RP 17 fn 6. 2. AA 49, 50, RP 105-107. 3. RP 11-13, 23, 24.)

A3. The Court is opened. The accused is (are) brought before the Court. At 1430 hours trial commences.

A4. The Prosecutor produces a Medical Certificate that accused is (are) fit to undergo trial by court-martial.(1) ~~The Prosecutor informs the Court that accused elected to be tried by court-martial instead of being dealt with summarily by the CO.~~(2)
(1. KR Can 557. 2. AA 46(B), RP 60 fn 1. For effect see KR Can 563(c). Delete, if not applicable.)

A5. President to accused: ~~Do you object to ..... as interpreter?~~ Ans ~~...~~ ~~The Interpreter is sworn.~~(1) Do you object to ..... as shorthand writer? Ans ~~The shorthand writer is sworn.~~
(1. RP 72. Delete, if none employed.)

A6. The Convening Order and names of the President and Members of the Court are read to the accused.(1) President to accused: Do you object to be tried by me as President or by any of the Members of the Court?
Ans Nil.(2)
(1. RP 102. 2. If no objection, waiting member retires. RP 68(B). If objection, see procedure AA 51, RP 25, 71, 18, MML p 742.)

A7. The President, Members, JA, if any, and Offrs under instr, if any, are sworn.(1) The following are the ranks, names and units of the offrs comprising the Court, etc:

President	Major	Jud B. Moor	N. Shore R.
Member	Capt	R.M. Lawigne	R de Chaudy
Member	Capt	W.P. Grassick	R.O.R.d C.
Judge-Advocate			
Prosecutor	Capt	G.W. Beam M.C.	R.O.R. of C.
Defending Offr	Lt	C.W. Fullerton	R.O.R. of C.

Questions by President: Is the Prosecutor a lawyer? Ans No. Is the Defending Offr a lawyer? Ans Yes.(2)
(1. RP 26, 27, 109, 111. List of offrs under instr will be returned separately with proceedings for information of Conv Offr.)
(2. If Pros a lawyer and Def Offr not, accused is entitled to an adjournment when RP 89 (B) and fn 2 were not followed. See fn p 3.)

A8. The accused B138223 Rfn Peter Michael Gurski before arraignment make(s) (no) ~~...~~ plea.(1)
(1. If a special plea is made for separate trial on one or more charges (RP 62(E), 108), or as to the jurisdiction of the Court (RP 34, 35(A), 113), or in bar of trial (RP 36), or as to accused's mental fitness to stand trial (AA 130, RP 57), or by one of several accused charged jointly to be tried separately (RP 16, 71), such plea, the witnesses made in support or against, the evidence, if any, and finding are recorded per Instrs. For forms of record see references in fns to RsP cited. Insert in AB rank and name of the accused making the plea.)

A9. The accused is (are) arraigned (separately) on all charges in the charge sheet.(1) The accused does (~~does~~) not object to any charge.(2) There is no amendment to be made to the Charge Sheet.(3) The President records the pleas in Part I of the Schedule.
(1. RP 31, 112. See para 1 of Instrs p 2. When more than one Charge Sheet see RP 62; when several accused to be tried separately see RP 71(C), and use separate copies of CF A96 to record proceedings. 2. RP 32, RP 33. If otherwise, delete and make appropriate record per Instrs.)

A10. The Court (is closed and) considers the Instrs on Procedure after Arraignment at top of p 2. The proceedings are continued on Record Form B4 2.

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

Evidence 1-103

INSTRUCTIONS ON PROCEDURE AFTER ARRAIGNMENT.

1. *The accused may not plead or be found Guilty on more than one of two or more charges laid in the alternative.* (*RP* 37(*A*).) *As to withdrawal of alternative charges by Prosecutor see RP* 35(*C*). *No other charge can be withdrawn for any reason without authy from Convening Offr. If Convening Offr concurs, Court may accept plea of Guilty to lesser, etc, offence.* (*RP* 44(*H*).) *Accused may change a plea of Not Guilty to Guilty during trial.* (*RP* 38.) *As to refusing to plead or not pleading intelligibly see RP* 35(*A*). *As to plea when sentence may be death see RP* 35(*D*).

2. *The proceedings on each charge sheet* (*RP* 62) *after arraignment will be conducted as follows in the respective circumstances stated :*

I. If pleas to all charges are GUILTY, use Record Form B below.

II. If pleas to all charges are NOT GUILTY, use Record Form D on p 3.

III. If pleas to some charges are GUILTY and to other charges are NOT GUILTY and,

(a) *Such mixed pleas occur when there are no alternative charges in the Charge Sheet, use Record Form C below.* (*RP* 37(*A*).)

(b) *Such mixed pleas occur in a set of two or more charges laid in the alternative, see RP* 37 (*A*) *and fn* 2 *as to discretion of Court,* (i) *to try the accused on all such alternative charges as if he had pleaded Not Guilty thereto, or,* (ii) *to record the pleas as the findings of Court. After deciding between* (i) *and* (ii), *Court will proceed under foregoing instrs as may be appropriate to result of its decision. See M M L p 744 Instrs* (2).

3. *As to responsibility of President to accused see RP* 59, 60(*C*) ; *powers and duties of JA see RP* 103 ; *duty of Prosecutor see RP* 60(*A*) (*B*) ; *duty and privileges of accused and Defending Offr see RP* 60(*C*), 87(*C*), 91, 92 ; *swearing and withdrawal of witnesses from Court see RP* 81, 82 ; *questioning of accused see RP* 80, 87(*C*), 92(*B*), *and of witnesses see RP* 83-85 ; *calling or re-calling of witnesses by Court, etc, see RP* 75-79, 86, 116 ; *use of Summary of Evidence at Trial see RP* 17(*E*) *fn* 6 ; *and responsibility of JA or Pres to record proceedings see RP* 94, 96.

RECORD FORM B—PROCEEDINGS ON PLEAS OF GUILTY TO ALL CHARGES.

B1. The President or JA, if any, complies with RP 35(B) by explaining to the accused the nature and meaning of the charge(s)(1), and that on his plea of Guilty there will be no regular trial but merely a consideration of the sentence to be awarded after he has been given an opportunity to make a statement in reference to the charge(s), call witnesses as to character and make an address in mitigation of punishment.(2)
(1. *RP 35 fn 3.* 2. *MML p 54 para 47.*)

B2. President to accused : The Court will now receive any statement you desire to make in reference to the charge(s).(1) If it appears from your statement that there are circumstances which indicate that you do not understand the effect of the plea of Guilty(2), or which show provocation or extenuation in respect of which in your interest the witnesses for the Prosecution should be examined(3), we shall advise you to change your plea to Not Guilty. In making a statement you will not be sworn or subject to cross-examination : and anything you say will not be used in evidence against you after you change your plea. If, however, it appears to the Court that your statement affects only the amount of punishment to which you are liable, you will not be advised to change your plea and you will be given an opportunity later to prove your statement by sworn testimony, if you so desire.(4)

President to accused : Do you wish to make a statement ? Ans NO (5)
(1. *RP 37(B).* 2. *RP 37(D) fn 6.* 3. *RP 35(B) fn 5 para 3, MML p 54 para 47.* 4. *See para E3 of Record Form E.* 5. *Statement, if any, recorded per Notes.*)

B3. The Court considers the accused's statement.(1) The Court decides (not) to advise accused to change his (their) plea(s) of Guilty to Not Guilty on ..... charge(s). The accused is (are) so informed, and he (they) change(s) his (their) plea(s) on ..... charge(s). Part I of the Schedule is amended accordingly.
(1. *Court may be closed to consider the statement. Delete whole or part not used.*)

B4. ~~On~~ the charge(s) to which the plea(s) of Guilty is (are) not changed the President records finding(s) of Guilty in Part I of the Schedule.(1)
(1. *RP 35(B). If any plea(s) is (are) changed, use Record Form C or D as appropriate.*)

B5. The Summary of Evidence is marked Ex F, initialled and read aloud by the President.(1)
(1. *If there is no Summary, or if it is inadequate, comply with RP 37(B). If there is any evidence inconsistent with any plea standing as Guilty, Court will advise accused to change such plea and, if changed to Not Guilty, try such charge(s) by use of paras D1 to D8 inclusive of Record Form D on p 3. RP 37(D).*)

B6. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

RECORD FORM C—PROCEEDINGS ON MIXED PLEAS OF GUILTY AND NOT GUILTY.

C1. As to the charges on which accused pleaded NOT GUILTY the trial is continued by using paras D1 to D8 inclusive of Record Form D on p 3 before proceeding with C 2.(1)
(1. *RP 37(A) (E).*)

C2. The charges on which accused pleaded GUILTY are read to him (them) again, and the trial is continued by using paras B1 to B5 of Record Form B inclusive.(1)
(1. *Under B5 such parts only of the Summary of Evidence are read as relate to the charges dealt with under C2. If any plea is changed to Not Guilty, trial thereon proceeds by complying with paras D1 to D8 inclusive in Record Form D on p 3 and making an appropriate record thereof on a separate sheet.*)

C3. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

Fin form Loose Sheets of Record. 3

RECORD FORM D—PROCEEDINGS ON PLEAS OF NOT GUILTY TO ALL CHARGES.

D1. President to accused : Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity to prepare your defence ? Ans ..... (1)
(1. *If "yes", see RP 39(A) for procedure. Statement or evidence, if any, is recorded per Notes.*)

D2. The Prosecutor makes (an) (no) opening address.(1)
(1. *RP 39(B), 60(A) (B), 90, 92(C) (D). Record address per Notes, subject to RP 95(C).*)

D3. The evidence for the Prosecution is taken.(1)
(1. *RP 39(C), 114, KR Can 555. Record evidence per Notes. As to Prosecutor giving evidence himself see RP 39(D) (E).*)

D4. The Prosecution is closed.(1) The Defending Offr submits that the evidence for the Prosecution does not establish a prima facie case against the accused on the ..... charge(s).(2) The Court is closed, and considers the submission.(3) The Court is re-opened, and the President announces that the submission is disallowed on the ..... charge(s), and allowed on the ..... charge(s), and that, accordingly, the trial will proceed on the former, but the accused is (are) found Not Guilty on the latter charge(s).(4)
(1. *Delete remainder of this para. If submission not made.* 2. *Arguments on submission, answer and reply are recorded per Notes.* 3. *RP 40 fn 1. See MML p 72 paras 12-14 and p 81 para 32.* 4. *Delete part not used. If accused acquitted on all charges, use second alternative in para D8.*)
NB : If trial proceeds, accused must be allowed great latitude in making his defence, and the Court should not stop his defence solely on ground of irrelevance. (*RP 80(C), 114, 131.*)

D5. President to accused : You will now proceed with your defence.(1) You may, if you wish, give evidence yourself on oath as to the facts or your character or both, in which case you will be subject to cross-examination.(2) You may, however, make a statement without being sworn, and you will not be subject to cross-examination.(3) But a statement which could have been made on oath will not carry with the Court the same weight as sworn testimony.(4) You may call witnesses in your defence and as to character, whether you give evidence or make a statement or do neither.

President to accused : Do you wish to give evidence yourself as a witness, make a statement, or do neither ? Ans ..... Do you intend to call witnesses on your behalf ? Ans ..... Are they witnesses as to character only ? Ans .....
(1. *RP 115.* 2. *RP 40(A), see 80(D).* 3. *RP 40 fn 10.* 4. *RP 40 fns 2, 9.*)

D6. Consequent on the answers recorded in para D5 the appropriate procedure for the defence is followed.(1)
(1. *RP 114, 115, 116. For procedure see Notes on back of Convening Order. CK A95. Evidence for accused as to his character should, if in his interest, be given before the finding. See RP 46(A) fn 3, 86(C). Note the further opportunity in para E1 of Record Form E. Record per Notes addresses, statement, evidence and any summing up by the JA under RP 42, 103(e).*)

D7. The Court is closed to consider the finding(s).(1) The finding(s) of the Court is (are) recorded in Part I of the Schedule.(2) The Court is re-opened.
(1. *RP 42, 117(A). See Notes in Part I of Schedule.* 2. *RP 44(A).*)

D8. The President announces the finding(s), if any, of Not Guilty, and states to the accused that the finding(s) of the Court on the ..... charge(s), being subject to confirmation, will be promulgated later.(1)

D9. The President announces that the accused is found Not Guilty on all charges and is to be released forthwith, and that the proceedings are accordingly terminated. Part I of the Schedule is dated and signed.(1)
(1. *AA 54(3) (b), RP 45, 120(A).* 2. *AA 54(3), RP 45, 117. This alternative announcement is not applicable when there are pleas of Guilty outstanding and dealt with under Record Form B or C.*)

D10. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E below.

RECORD FORM E—PROCEEDINGS ON CONVICTION BEFORE SENTENCE.

E1. President to accused : Do you wish to give evidence yourself or to call any witnesses as to your character ?(1) No
Ans NO
(1. *If evidence has already been given by accused or his witnesses as to his character, delete this para. RP 37(C) fn 4, 46 fn 1. Accused and witnesses are sworn. Evidence recorded per Notes.*)

E2. The Prosecutor produces Statement(s) as to Character and Particulars of Service(1), and certified true copy (copies) of Conduct Sheet(s)(2), purporting to refer to the accused, which he submits to the Defending Offr for examination, and then to the Court for admission in evidence. The Court is satisfied that these documents refer to the accused, because (i) they purport to be signed in the manner required by AA 163(1) (g) (h), and (ii) they purport to refer to (a) soldier(s) having the same number, rank, name and corps as the accused. Admitted in evidence and marked Ex F and Ex G respectively.(3)
(1. *MFB 255 or AFB 296.* 2. *MFM 6.* 3. *RP 46, KR Can 552. If above documents not produced, see RP 46 fn 1 para 1.*)

E3. President to accused : Do you wish to address the Court on the Statement(s) and Conduct Sheet(s), and in mitigation of punishment ?(1) Ans Yes Through my Defending Officer (2)
(1. *RP 37(C), 46(D).* 2. *Address, if any, recorded per Notes. Court should permit accused or his witnesses to prove on oath anything here or previously stated which would affect the amount of punishment. RP 37(F) fn 7.*)

E4. The President states that the Court is closed to consider the sentence, and that the sentence to be awarded by the Court, being subject to confirmation, will not be announced, but will be promulgated later, and the proceedings in open court are accordingly terminated.(1)
(1. *AA 54(6), RP 120(A).*)

E5. The Court considers the sentence.(1) The President records the sentence in Part I of the Schedule, which is dated and signed by him and the JA, if any.(2)
(1. *When several accused tried separately see RP 71 (D). One sentence only, comprised of the punishment or punishments laid down in AA 41, 44 and its proviso, is to be awarded to cover all charges or all charge sheets on which accused found guilty. RP 48. As to sentences see AA 46, 128, 182. RP 46-50, 69, 118, 119(A); KR Can 308, 330, 563-566. Overseas RO 309, 2323, MML p 60, 737-759. As to sentences assigned for civil offences by the law of England see AA 41(5), MML p 130. When accused already under sentence of imprisonment or detention see AA 44(1)(b), 68(1), KR Can 564.* 2. *RP 50. As to release from arrest by Confirming Offr see KR Can 567. As to assembly and disposal of record after trial see instrs on back of Convening Order.*)

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

CHARGE SHEET

The accused, B138223 Rfn Peter Michael GURSKI, 1st Bn The Queen's Own Rifles of Canada, a soldier of the Canadian Army Overseas (AF), B.W.E.F., is charged with:

FIRST CHARGE
SEC 15(1)
ARMY ACT

WHEN ON ACTIVE SERVICE ABSENTING HIMSELF WITHOUT LEAVE

in that he

in the field, did absent himself without leave from 1600 hrs 22 Nov 44 until apprehended at 1400 hrs 23 Nov 44. (Total Time absent 22 hrs)

SECOND CHARGE
SEC 15(1)
ARMY ACT

WHEN ON ACTIVE SERVICE ABSENTING HIMSELF WITHOUT LEAVE

in that he

in the field, did absent himself without leave whilst under open arrest from 1100 hrs 27 Nov 44 until apprehended at 1400 hrs 7 Dec 44 by Cdn Pro Corps at ANTWERP. (Total time absent 10 days, 3 hrs)

THIRD CHARGE
SEC 15(1)
ARMY ACT

WHEN ON ACTIVE SERVICE ABSENTING HIMSELF WITHOUT LEAVE

in that he

in the field, did absent himself without leave whilst under close arrest from 1900 hrs 10 Dec 44 until he surrendered himself at LILLE at approx 2140 hrs 14 Dec 44. (Total time absent - 4 days 2 hrs 40 mins)

In the Field
11 Jan '45

~~(H.R. DALTON)~~ Lt Col
~~Major~~
O/Comd 1st Bn The Q O R of C

To be tried by Field General Court Martial

14 Jan 45

Jas A Roberts Brig
Comd 8 Can Inf Bde.

FIELD GENERAL COURT-MARTIAL

(Whether the accused to be tried is under his comd or not, a FGCM may on application to him be convened by any offr of Cdn Army Overseas, or of any other force if authorized in law, in immediate comd of troops on active service, subject to RP 105(C) and restrictions imposed by appropriate authy, AA 49, 50, RP 104-107, 114. As to the duties and privileges of the Convening Offr in dealing with the application see MML Chap V paras 20 and 23, RP 87(B).
There should be a separate Convening Order for each person to be tried separately by the same Court. RP 71(C), 109. As to separate charge sheets see RP 62, and as to separate trial on charges in the same charge sheet see RP 108. As to two or more accused charged jointly see RP 16, 108.
As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

ACCUSED.

Number.	(a) Prmnt R. (b) Appmt, A/R or A/Appmt	Full Christian Names.	Surname.	Unit.
B138223	Rfn	Peter Michael	GURSKI	QOR of C

CONVENING ORDER.

1. Whereas complaint has been made to me, the undersigned, that the person(s) named above as the accused, being subject to military law, has (~~have~~) committed the offence(s) set forth in the Charge Sheet(s) attached and on (date) 24 Jan 45 endorsed by me, (or by an offr of my staff for me), "To be tried by Field General Court-Martial".

2. And whereas I am of opinion that it is not practicable that such offence(s) should be tried by an ordinary General Court-Martial; (and ~~that it is not expedient that such offence should be tried by a superior military court~~)
(Delete part in brackets when not required for compliance with RP 105(C).)

3. I hereby convene a Field General Court-Martial to try the said person(s), and to consist of the Offrs appointed or detailed hereunder.

4. ~~I appoint as Judge Advocate for the Court, the Officer detailed by the President for the purpose.~~
(AA 49, RP 106(B), 107(A). Delete the whole or part, if not applicable.)

5. ~~I also appoint as Judge Advocate thereat the Offr mentioned hereunder.~~
(RP 106(E). Delete, if none appointed.)

PRESIDENT.

(Rank.)		(Must be named. RP 106.)	(Unit.)
Maj	F.F. Moar		R Shore R

MEMBERS.

(Rank.)		(Named or detailed. RP 106.)	(Unit.)
Capt	R.M. Lavigne		R de Ch and
Capt	W.P. Grassick		QOR of C

WAITING MEMBER.

(Rank.)		(Named or detailed, if any. RP 106.)	(Unit.)
Lt	B.A.J. McElwaine		R Shore R

JUDGE-ADVOCATE.

(Rank.)		(Must be named, if any. RP 106.)	(Unit.)

On Active Service in the Fd

in Holland (Country.)

Dat 24 Jan 45

Jas C Roberts (Signed personally. RP 105 fn 2.) Brigadier (Rank.)

Commanding 8 Cdn Inf Bde Convening Officer.

CONVENING OFFR WILL INITIAL ALL DELETIONS AND ALTERATIONS

(See overleaf for oaths and notes for use on trial.)

25 Jan 45

MEDICAL INSPECTION

This is to certify that I have this day examined B1/30223 RFN GUNNAR, P M of the 1ST BN THE QUEEN'S OWN RIFLES OF CANADA, and have found fit to undergo trial by court martial.

R.D. Astwood Capt.
(Medical Offr)

Re Pte Gurski P M

Plea in Mitigation

Mr President and members of the court

May it please the court to consider the following facts in mitigation of the punishment of the accused. The accused aged 22 volunteered for active service on 7th Jan 1943 and proceeded overseas on 15 June 1943. The accused landed in Normandie 8 June 1944 and was wounded at Carpiquet on 7th July 1944 returned to the unit on 6 Sept 1944 and has served with the D.O.R. Yesterday until 22 Nov 1944 when he went absent without leave - He therefore served over two months with a life century & has not had a day's leave and has been wounded by enemy action. He left the regiment whilst the regiment was out on rest and after not more than 15 days realised the folly of his ways and surrendered himself to the military authorities. He has never been before a court martial in two years of service and in both these cases he was really provoked by normally small causes without leave. Save D day the accused has never been guilty of any crime until now and I submit to the court that this means a record of service and character should be a clear indication of the good heart and devotion to duty and I ask the court shall be as lenient as possible with him.

C.O. Fullerton Lieut

A

Summary of Evidence

in the case of 5138223 Rfn. Smith P. M.
1 Bn 4 R.R.of C. C.A.O. B.W.E.F.

The Commanding Officer directs that the evidence be taken in writing.

1st witness 3 34321 A/Sgt. Harris C. 1 Bn 4 R.R.of C.

Having been duly sworn states: I am platoon sgt of 13 Platoon of which Rfn. Smith was a member. At 1600 hrs. 22 Nov 44 I checked my platoon with found Rfn. Smith missing. He has not been present in the platoon since then.

A. Harris (a/Sgt).

The accused declines to cross-examine this witness.

[illegible]

NB Sec 5 B

Statement of [illegible] B-65777 CoMM King H.J. [illegible]

Same duty shown as before. On or about 1000 hrs.
23 Nov 44 two men were turned over to me by B-65324 CoMM Sewell S.C. of this Dept. One of these men was B138223 Rfn Sushi P.M. whom I now resign. CoMM Sewell stated that they had returned from A/C but did not state whether they were under open or close arrest. I arranged transport to "F" Coh. for them and saw them leave. They were brought back to "A" Coh by Capt I.S. Walshe of this Unit. At about 1030 hrs I looked out the window and saw Rfn Sushi standing in the street. I went and asked him what he was doing there and he told me Capt. Walshe had brought him back. I then made arrangements to send him up to "F" Coh again on the ration truck at 1100 hrs. Rfn Sushi asked permission to get his mail at his Coy office. I gave him permission to go and told him to return immediately to the ration truck. He gave me his word that he would return. At 1100 hrs. Rfn Sushi did not report to the truck. I went to his Coy. office. He was not there but the clerk stated that he had been in there to get his mail. I then checked the lines and found that Rfn Sushi was missing.

Rfn Sushi did not return to "A" Coh but he was brought under escort on 23 Dec 44

C.J. King 6/SGT

The accused declines to cross examine this witness

94.

The accused was cautioned as follows:

"Do you wish to make any statement or to give evidence on oath? You are not obliged to say anything or give evidence unless you wish to do so, but whatever you say or any evidence you give will be taken down in writing and may be given in evidence."

The accused elects to make any statement or give evidence on oath.

The accused does not call any witness.

I certify that the foregoing summary of evidence consisting of three pages was taken down by me in the presence of the accused and that R.P. 4 (c) (d) (e) (f) (g) have been complied with.

— The Field
9 Jan 44

[illegible] Capt
I/C Canadian Section Pool of Lawyers

Additional Summary of Evidence

in the case of B-138223 Pte Smoke P.P.C.
1 St. Bn Queens Own Rifles of Can. (A.C.) B.W.E.F.

The commanding officer directs that the evidence be taken on oath.

2nd Witness

A-3315 Sgt Sleeman R. Sect Detach.
2 Can L. of C. Provost Coy. 2 Army Tp.
A written statement of the evidence of this witness, purporting to be signed by him is read to the accused and marked Ex "A"

I certify that owing to the exigencies of the service the attendance of this witness cannot readily be procured.

Sergt to Pte Capt.

I do not require the attendance of this witness for cross-examination.

P.P.C. Smoke

4th Witness Lieut R.C. Dunn # 7 Can Provost Coy. Antwerp Detach.

A written statement of the evidence of this witness, purporting to be signed by him is read to the accused and marked Ex "B"

I certify that owing to the exigencies of the service the attendance of this witness cannot readily be procured.

George W. Bean Capt.

I do not require the attendance of this witness for cross examination.

Sam Hughes

5th Witness ~~Pte A/B~~ Lt/Col. Partridge 10 C.B.R. Bn.

A written statement of this witness purporting to be signed by him is read to the accused and marked Ex "C"

I certify that owing to the exigencies of the service, the attendance of this witness is not readily procurable.

George W. Bean Capt.

I do not require the attendance of this witness for cross examination

Sam Hughes

6th Witness C/Sgt Procter A.L. 242 HQ Provost Coy. C.M. Police.

A written statement of this witness purporting to be signed by him is read to the accused and marked Ex. "D"

I certify that owing to the exigencies of the service the attendance of this witness cannot readily be procured.

George W. Bean Capt.

I do not require the attendance of this witness for cross examination.

Sgn Accused

The accused was cautioned as follows: Do you wish to make any statement or to give evidence on oath? You are not obliged to say anything or to give evidence unless you wish to do so, but whatever you say, or any evidence you give will be taken down in writing and may be given in evidence.

The accused declines to make any statement or to give evidence on oath.

The accused does not call any witnesses.

I certify that the foregoing summary of evidence consisting of three pages was taken down by me in the presence of the accused and that R.P. 4 (c.X.D.)(E)(6) have been complied with.

From the field
16 Jan. 45

George Graham
Capt.
1 Bn Queen's Own Rifles of Canada.

1224

SUMMARY OF EVIDENCE

in the case of

B138223 Rfn Gurski, P M, 1st Bn The Queen's Own Rifles of Canada, CA(O), B.W.E.F.

The Commanding Officer directs that the evidence be taken on oath.

FIRST WITNESS B39321 A/Sjt Harris, C, 1st Bn The QOR of C, having been duly sworn states:

I am platoon Sjt of 13 Pl "C" Coy of which Rfn Gurksi was a member. At 1600 hrs, 22 Nov 44 I checked my platoon and found Rfn Gurski missing. He has never been present in the platoon since then.

The accused declines to cross-examine this witness.

C. Harris (A/Sjt)

SECOND WITNESS Lt M.G. McIver, 1st Bn The QOR of C, CA(O), B.W.E.F., having been duly sworn states:

I herewith present documents relating to B138223 Rfn Gurski, P.M. whom I now recognize. The first, dated 25 Dec 44, is a list of deficiencies of Kit for Rfn Gurski, signed N.A. Tims, A/CQMS, "C" Coy, which will be attached hereto as exhibit "A". The second is A.F.B. 252 dated 23 Nov 44, received from #2 Cdn L of C Provost Coy, 21 Army Gp, which will be attached hereto as Exhibit "B". The third is a Certificate of Apprehension (AFB 252) received from #7 Cdn Provost Coy dated 7 Dec 44, which will be attached hereto as Exhibit "C". The fourth is a statement signed by B63733 L cpl Partridge, F.G. of 10 Bn, C.B.E.G. which will be attached hereto as exhibit "D". The fifth document is AFB 252 dated 14 Dec 44 and received from 242 HQ Provost Coy, CM Police which is attached hereto as Exhibit "E".

The accused declines to cross-examine this witness.

M.G. McIver, Lt

2 AND THIRD WITNESS B63717 CQMS King, H.J., 1st Bn The Q O R of C, (AF), having been duly sworn states:

At approx 1000 hrs, 27 Nov 44 two men were turned over to me

THIRD WITNESS (Con'd) by B88324 CQMS Garrett, G.C. of this Regiment. One of these men was B138223 Rfn Gurski, P M whom I now recognize. CQMS Garrett stated that they had returned from AWL but did not state whether they were under open or close arrest. I arranged transport to "F" Ech for them and saw them leave. They were brought back to "A" Ech by Capt I.S. Waldie of this unit. At about 1030 hrs I looked out the window and saw Rfn Gurski standing in the street. I went and asked him what he was doing there and he told me Capt I.S. Waldie had brought him back. I then made arrangements to send him up to "F" Ech again on the ration truck at 1100 hrs. Rfn Gurski asked permission to get his mail at coy office. I gave him permission to go and told him to return immediately to the ration truck. He gave me his word that he would return. At 1100 hrs Rfn Gurski did not report to the truck. I went to his coy office. He was not there but the clerk stated that he had been in there to get his mail. I then checked the lines and found that Rfn Gurski was missing. Rfn Gurski did not return to "A" Ech lines till he was brought under close escort on 23 Dec 44.

The accused declines to cross-examine this witness.

H.J. King, S/Sjt

The accused was cautioned as follows:

"Do you wish to make any statement or to give evidence on oath? You are not obliged to say anything or give evidence unless you wish to do so, but whatever you say or any evidence you give will be taken down in writing and may be given in in evidence"

The accused declines to make any statement or to give evidence on oath.

The accused does not call any witnesses.

I certify that the foregoing summary of evidence consisting of Three pages was taken down by me in the presence of the accused and that R.P. 4 (c)(d)(e)g) have been complied with.

In the Field
9 Jan '45

George W. Bean, Capt
1st Bn Queen's Own Rifles of Canada

ADDITIONAL SUMMARY OF EVIDENCE

In the case of B136223 Rfn GURSKI, P M, 1st Bn The Queen's Own Rifles of Canada, (C.A.(O)), B.W.E.F.

The Commanding Officer directs that the evidence be taken on oath:

THIRD WITNESS A3315 Sjt SLEEMAN, R, Ghent Detachment, 2 Cdn L of C Provost Coy, 21 Army Gp:-

A written statement of the evidence of this witness, purporting to be signed by him is read to the accused and marked Exhibit "A".

I certify that owing to the exigencies of the service the attendance of this witness cannot readily be procured.

George W Bean, Capt

I do not require the attendance of this witness for cross-examination.

P.M. Gurski

FOURTH WITNESS Lt R.O. Dunn, #7 Cdn Provost Coy., Antwerp Detachment:-

A written statement of the evidence of this witness, purporting to be signed by him is read to the accused and marked Exhibit "B".

I certify that owing to the exigencies of the service the attendance of this witness cannot readily be procured.

George W. Bean, Capt

I do not require the attendance of this witness for cross-examination.

P.M. Gurski

FIFTH WITNESS B63733 L cpl PARTRIDGE, F L, 10 CBR Bn:-

A written statement of this witness purporting to be signed by him is read to the accused and marked Exhibit "C".

I certify that owing to the exigencies of the service, the attendance of this witness is not readily procurable.

George W. Bean, Capt

I do not require the attendance of this witness for cross-examination

P.M. Gurski

SIXTH WITNESS L cpl Proctor, A L, 242 HQ Provost Coy, C.M. Police:-

A written statement of this witness purporting to be signed by him is read to the accused and marked Exhibit "D".

I certify that owing to the exigencies of the service the attendance of this witness cannot readily be procured.

George W. Bean, Capt

I do not require the attendance of this witness for cross-examination.

P.W. Gurski

The accused was cautioned as follows:

Do you wish to make any statement or to give evidence on oath? You are not obliged to say anything or to give evidence unless you wish to do so, but whatever you say, or any evidence you give will be taken down in writing and may be given in evidence.

The accused declines to make any statement or to give evidence on oath.

The accused does not call any witnesses.

I certify that the foregoing Summary of Evidence consisting of three pages was taken down by me in the presence of the accused and that R.P. 4 (C)(D)(E)(G) have been complied with.

In the Field
16 Jan 45

George W. Bean, Capt
1st Bn The Queen's Own Rifles of Canada

CHARGE ~~Appendix "B"~~ "A" 304

C Coy. George McDonald Capt

(See King's Regulations) Form B 252

Queens Own Rifles Regiment

3 Cdn. Div. Battery / Squadron / Troop or Company

CHARGE against No. B 138223 Rank Rfn.

Name Guraki P.M.

Place Ghent Detach W.O. A.S Date of Offence 22 Nov, 44.

OFFENCE

I. A.W.L. from.....
Until apprehended by a member of the Cdn. Prov. Corps
At approx 1400 Hrs. 23 Nov. 44.

A3315 Sgt. Sleeman R.
i/c Ghent Detach
2 Cdn L of C Prov. Coy.
21 Army Grp.

Names of Witnesses:

A3315 Sgt. Sleeman R

H 16251 L/Cpl. Sones B.M.

Signature of O.C. Battery, Squadron, Troop or Company

Punishment Awarded

By whom Awarded

Adjutant.

(2nd Draft) 1100 hrs 27 Nov 44

P.T.O.

CHARGE ~~[illegible]~~ Army Form B 252

(See King's Regulations)

QUEENS OWN RIFLES 5 DIV. Regiment
C COY. Battery / Squadron / Troop or Company

CHARGE against No. B 138223 Rank PTE.

Name GORSKI P.

Place ANTWERP Date of Offence 7 DEC.44

OFFENCE W.O.A.S.

1. A.W.L. from....until apprehended by a member of the Cdn. Prov. Corps in the City of Antwerp at approx. 1400 hrs. 7 Dec.44
2. Being in possession of a Document proporting to be a leave pass.

[illegible] LIEUT.
R.O. DUNN
NO.7 CDN. PROV. COY.
I/C ANTWERP DET.

Names of Witnesses:—
B 52135 PTE McANDREW R. NO.7 CDN.PROV.COY.
H 1118 PTE. OZOUP W. NO.7 CDN. PROV. COY.

Signature of O.C. Battery, Squadron, Troop or Company

Punishment Awarded

By whom Awarded

[illegible] Adjutant

49 M. ANTWERP 12-50-51 P.T.O.

OVER

In the case of:-

B 138223
PTE. GORSKI P.M.
QUEENS OWN RIFLES
3 DIV.

EVIDENCE

While on patrol inthe City of ANTWERP at approx. 1400 hrs. 7 Dec.44 in company with H1118 PTE OZOUP W. I had occasion to check the A/M. soldier on the MEIR for his authority to be in Antwerp, this he could not produce. On being questioned further he admitted being A.W.L. from his unit. I placed him in close arrest and escorted him to the Town Guard Room. Where I found the att; pass among his personal articuls. The pass is bogus, and the A/M. soldier ~~XXXXXXXXXXXXX~~ stated that he had paid 50 Francs for it. I turned him over to the duty NCO. and obtained a body receipt for him.

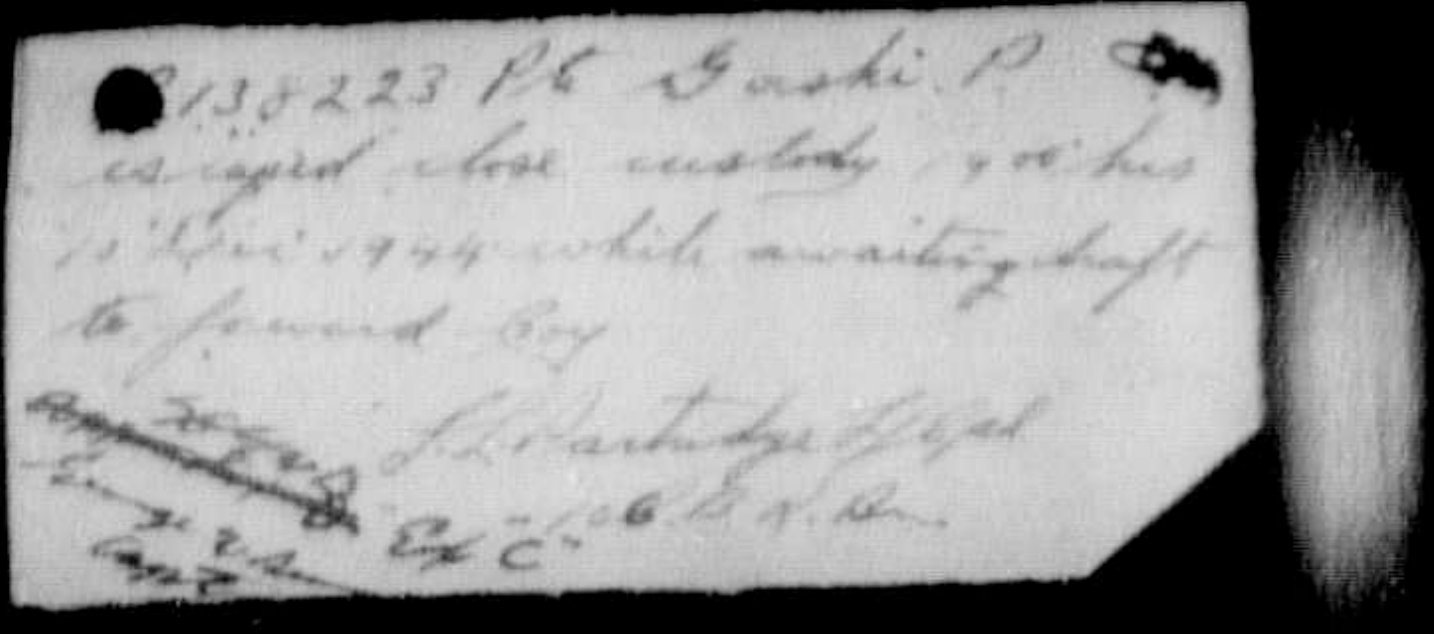
[signature] .....PTE.
B 52135 McANDREW R.
NO.7 CDN. PROV. COY.

I have read over the above statement and corroborate same.

[signature] .....PTE.
H 1118 OZOUP W.
NO.7 CDN. PROV. COY.

REMARKS

4/



On completion to be disposed of in accordance with K.Rs 1940 Para. 562

CHARGE (Army Form B 252)
(See King's Regulations)

QUEENS OWN RIFLES Regiment

D Battery / Squadron / Troop or Company 172

CHARGE against No. B 38223 Rank PTE

Name EUREKA P.M.

Place LILLE Date of Offence

OFFENCE W.O.A.S. ABSENT FROM UNIT SURRENDERING HIMSELF TO THE MILITARY POLICE AT LILLE ON THE [illegible] AT ABOUT [illegible]

Names of Witnesses:— L/CPL PROCTER. A.L. } C.M. POLICE
L/CPL GREEN. B. }
CPL FINBOW. T. — NCO i/c BOARD ROOM

Signature of O.C. Battery, Squadron, Troop or Company } H.Q. No. 15 L. of C. SUB-AREA

Punishment Awarded }

By whom Awarded } [illegible] Capt Adjutant.

P.T.O.

49 C

OVER

STATEMENT OF **EVIDENCE** IN THE CASE OF

B 138223 PTE BORSKI, P. H.
2nd COY.
QUEENS OWN RIFLES.
3rd CANADIAN DIVISION.

SIR.

At LILLE on the 14 DECEMBER 1944 at about 2.140 hours I was on duty at the MILITARY POLICE HEADQUARTERS when the a/m soldier surrendered himself to me.

I arrested him and conducted him to the TOWN GUARD ROOM where I handed him over to the N.C.O. i/c to be detained.

Certificate of surrender and [illegible] slips attached.

LILLE
14 DEC 1944

[illegible]
242 FIELD PROVOST COMPANY.
R.C.M. POLICE.

SIR.

I have read over and corroborate the above statement.

LILLE
14 DEC 1944.

F. [illegible], CPL.
242 FIELD PROVOST COMPANY.
R.C.M. POLICE.

REMARKS

ARMY FORM B.296 (WAR).

Statement as to Character and Particulars of Service of Accused.

(For Use at Trials by Field General Courts-Martial only).

Number.	*Rank.*	*Name.*	*Regiment (or as the case may be).*
B136223	Pte	GUMSKI, Peter Michael	1st Bn The QOR of C (AF)

NOTE.—The Field Conduct Sheet is to be produced in Court with this statement but is not to be annexed to the proceedings. The numbers herein entered should correspond with the number of Entries in the Field Conduct Sheet, precedence being given to the most serious offence for each entry. If the charge is for drunkenness or absence without leave, the entries for drunkenness or absence, as the case may be, should be stated separately. Any recognized special acts of gallantry or distinguished conduct recorded on the Field Conduct Sheet should also be inserted here.

1. The following is a fair and true summary of the entries in the Field Conduct Sheet of the accused, exclusive of convictions by a court martial or a civil court :—

For AWL AA SEC 15(1) ... 1 times.

For AWL AA SEC 15(1) ... 2 times.

For ... times.

For ... times.

Date of first entry in Field Conduct Sheet 13 May 44

Date of last entry in Field Conduct Sheet 20 May 44

2. Previous convictions of the accused by a court martial or a civil court are set out in the Schedule overleaf.

*Strike out if not applicable.

~~3. The accused at the present time is under sentence for ... beginning on the ... day of ...~~

4. The accused has been awaiting trial on the present charges for No days in civil custody; and for 32. 42. days in military custody, i.e., No days in open arrest, 32. 42 days in close arrest; of which No days were spent in hospital.

5. The present age of the accused is 22

6. The date of his attestation [illegible] is 7 Jan 42

7. The service which the accused is allowed to reckon is N/A

†State the military decorations to which held by accused.

8. The accused is in possession of† N/A

~~9.—(If the accused is a warrant officer or N.C.O.).—The accused has served continuously without reduction to the present date.~~

~~He was promoted to the substantive rank of ...~~

~~In the substantive rank of ...~~

~~In the war substantive rank of ...~~

~~In the acting rank of ...~~

INSTRUCTION.—*If any matter in any of the above paragraphs cannot be stated from the regimental books the paragraph must be struck through.*

(E1124) W1,847/.../... 500,000 4/42 A. & E. W. Ltd. Gp.698
(T6455) W 1.2/2/.../1872 ...,000 8/42 Forms/B.296/W et/X

SCHEDULE OF CONVICTIONS BY A COURT-MARTIAL OR CIVIL COURT.

Description of Court by which tried.	Date and Place of Trial.	Charges upon which convicted.	Sentence of the Court.	Punishment remitted or sentence suspended.

N/A

I HEREBY CERTIFY that the foregoing particulars, which have been extracted from the regimental books in my custody, are correct to the best of my knowledge and belief.

Signed this 10th day of January 45

(H V DALTON) MAJOR
T/Comd 1st Bn The O O R of C

No. B13622 Name GURSKI, P M Sqn, Battery, or Company C Corps CIC Date of enlistment 9Jan43 CC Badges

Date of last entry in Company Conduct Sheet N/A No. and date of last drunk NA/ Period not reckoning towards freedom from extra fine N/A Sheet No 1 Signature OC Company, etc W.L. Beatty, Capt Service or Proficiency Pay N/A 3/17 MFM 6 (AFB 522) 40(PAS/138-(5418)

Place	Date of offence	Rank	Cases of Drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of other disposal with trial	By whom awarded	Remarks
	2 June43			Previous Sheet Destroyed on Completion of 6 months Service Certified True Copy of MFM 4		W.L. Beatty, Capt			
Field	13May44 Rfn			A.A. Sec 15(1) AWL from 2230 hrs 13 May 44 to 1045 hrs 16 May 44	Sjt James Documentary	21 dys F.P. 21 days Fex FR&I 149(2)	17May44	Lt-col H.W. Rick	Forf 3 days Pay FR&I 149 (1)(a)
Field	20May44 Rfn			Absent 2 days 12 hrs 15 min A.A. Sec.15(1) AWL from 1820 hrs to 2000 hrs 20 May 44 Absent 1 hr, 50 mins	L/Cpl Nadell Pte Fox	Rfd 4 dys F.P. 22 May44 4 days Pay FR&I 149(2)		Lt-col H.W. Rick	
	CERTIFIED A TRUE COPY FROM THE REGIMENTAL BOOKS IN MY CUSTODY					(J P BRIDGFORD) CAPT Adjt, 1st Bn The QOR of C			

(PTO)

5R-59

Lt. Guichard, C.E.

SCHEDULE.

PART I. PLEA(S), FINDING(S) AND SENTENCE.

Accused: A-9582 Pte Russel l Earl Eugene GUSHARD - CIC - 4 CITR

Charge. (Insert " alternative " where applicable.)	Plea. (See Instrs p 2.)	Finding. (See note below.)	(Space for use as required for further charges, accused charged jointly, special findings, etc.)
1st AA Sec 15(1)	GUILTY	GUILTY	
2nd			
3rd			
4th			
5th			
6th			

(Note: As to findings for lesser offences see AA 56, RP 44; findings on alternative charges see MML p 483 fn 4 para 2, RP 44; special findings see RP 44 and MML p 753, and in lieu of kit see RP 44 fn 6.)

~~At present under sentence for~~ ..... beginning on (date) .....(1)

(1. Insert sentence being served, or delete, if not applicable. See RP 46(A). Information should be found on MF B355 or AF B296.)

Time in confinement awaiting present trial—a total of 16 days, of which Nil days were spent in hospital.(1)

(1. See RP 46(A) fn 2. Information should be found on MF B355 or AF B296 admitted in evidence under E2.)

Sentence Awarded by the Court:

90 days detention for a period of ninety (90) days and to be put under stoppages of Pay until he has made good £2-3-6 the ~~x~~ proceeds of his clothing ~~x~~ ~~x~~ ~~x~~ ~~x~~ unit.

(Sgd) ..... Judge-Advocate, if any. 8 Aug / 45 Date signed. (Sgd) ..... President. (RP 45, 50.)

(See back of Convening Order as to assembly and disposal of record after trial.)

PART II. MINUTE WHERE CONFIRMATION RESERVED. (AA 54(5), RP 120(F), MML p 760.)

Date ..... (Sgd) ..... Commanding .....

PART III. DECISION OF CONFIRMING OFFR ON FINDING(S) AND SENTENCE.

(For duties and powers see AA 54, 57, RP 37(D) fn 6.46(A), 51-56, 120, MML pp 759-761, KR Con 567-577. Acquittals require no confirmation and cannot be revised: AA 54(3). Sending back finding or sentence for revision by Court: AA 54(2), RP 120(C). If not confirmed, accused may be tried again: AA 157, MML p 64. Minute of confirmation or non-confirmation may be altered before promulgation: RP 33, MML p 65. Quashing after promulgation: KR Con 573. Duties and powers of reviewing offrs: AA 57, 57A, RP 53A, 54. The Confirming Offr must sign here personally. AA 172 fn 1.)

My decision on the finding(s) and sentence set forth in Part I is:

Confirmed

~~I direct that the accused be given credit for [illegible] in respect of the finding(s).~~ (1. AA 57A. Delete if not used.)

Date 10 Aug 45 (Sgd) ..... Commanding D Gp Bde Gp Units. Brig Confirming Officer.

PART IV. PROMULGATED AND EXTRACTS TAKEN. (RP 52, KR Con 576, 577.)

Accused.	Date.	Signature of Offr.
A-9582 Pte REE Gushard 4 CITR	10 Aug 45	J.K. Matthews Lt.

Do part II No 184 d/14 Aug 45

ALL DELETIONS AND ALTERATIONS WILL BE INITIALLED.

RECORDED AT CMHQ IN AE 60. 5R-59

FIELD GENERAL COURT-MARTIAL

CFAAS /In lieu of AFAAS 40/P & R/1698 (1)

4/388

RECEIVED 21 AUG 1945 JAG BRANCH CMHQ

Convening Order of Brigadier K G Blackader Comd D Gp CRU dated 7 Aug 45

DSO, MC, ED

ACCUSED.

(If to the trial of two or more charged jointly see RP 16, 71, 109. As to reasons for showing (a) permanent or confirmed and (b) apptmt, A/rank or A/apptmt, if any, see AA 182, 183, fns, KR Con 308, 328, 330.)

(a) Prmnt R.	(b) Apptmt, A/R or A/Apptmt.	Full Christian Names.	Surname.	Unit.
A-9582	Pte	Russell Earl Eugene	GUSHARD	CIC 4 CITR

PROCEEDINGS REVIEWED 22 Aug 45 J. Williams Capt. REVIEWING OFFICER, JAG BRANCH CMHQ

PROCEEDINGS OF TRIAL.

Held in the Fd in (country) England on (date(s)) 8 AUG 45

RECORD FORM A—OPENING PROCEEDINGS AND ARRAIGNMENT.

A1. The President, Members, waiting Member, ~~JA, if any, and Offrs under instr, if any~~, assemble, and the Court is closed.

(PRINTED MATTER, NOT IN ITALICS FOR GUIDANCE, WILL BE DELETED, IF NOT USED OR APPLICABLE, AND INITIALLED BY PRES OR JA. The Schedule referred to throughout is on p 4. Citations do NOT include all relevant fns RDs. For guidance on procedure when a variation in this form arises, see form for GCM in MML pp 741 to 759. A brief record of such variation will be made and given a number having reference to appropriate or preceding para number herein. See back of Convening Order, CF A15, for oaths and instrs on how to record addresses, evidence, etc, which instrs are hereafter called "Notes". As to general provisions for conducting the trial see AA 53, RP 36, 63-70, 73, 74, 94, 103, 119, 133.)

A2. The President initials and lays before the Court the Convening Order and Charge Sheet(s) attached thereto.(1) The Court is satisfied that it is properly convened and constituted(2), accused is (are) amenable to military law, and each charge discloses an offence.(3)

(1. As to use of Summary of Evidence see RP 17 fn 6. 2. AA 49, 50, RP 105-107. 3. RP 11-13, 23, 24.)

A3. The Court is opened. The accused is (are) brought before the Court. At 1040 hours trial commences.

A4. The Prosecutor produces a Medical Certificate that accused is (are) fit to undergo trial by court-martial.(1)

~~The Prosecutor informs the Court that accused elected to be tried by court-martial instead of being dealt with summarily by the CO.~~(2)

(1. KR Con 557. 2. AA 46(B), RP 60 fn 1. For effect see KR Con 563(c). Delete, if not applicable.)

A5. ~~President to accused: Do you object to ..... as interpreter? Ans .....~~

~~The interpreter is sworn.~~(1) Do you object to CPL [illegible] as shorthand writer? Ans NO

The shorthand writer is sworn.(2)

(1. RP 72. Delete, if none employed.)

A6. The Convening Order and names of the President and Members of the Court are read to the accused.(1) President to accused: Do you object to be tried by me as President or by any of the Members of the Court?

Ans NO SIR (2)

(1. RP 110. 2. If no objection, waiting member retires. RP 68(B). If objection, see procedure AA 51, RP 25, 71, 18, MML p 742.)

A7. The President, Members, ~~JA, if any, and Offrs under instr, if any~~, are sworn.(1) The following are the ranks, names and units of the offrs comprising the Court, etc:

President	LT-COL	D.L REDMAN	HQ CR
Member	CAPT	W.E SCYTHES	7 CDN REPAT DEP
Member	LIEUT	J.W BERRY	4 CITR
~~Judge-Advocate~~			
Prosecutor	LIEUT	K.G TRELFORD	4 CITR
Defending Offr	LIEUT	G.K STINSON	4 CITR

Questions by President: Is the Prosecutor a lawyer? Ans Nil Is the Defending Offr a lawyer? Ans Nil (2)

(1. RP 26, 27, 109, 111. List of offrs under instr will be returned separately with proceedings for information of Conv Offr.)
(2. If Pros a lawyer and Def Offr not, accused is entitled to an adjournment when RP 89 (B) and fn 2 were not followed. See D1 p 83.)

A8. The accused ..... before arraignment make(s) (no) (~~a~~) plea. (3)

(1. If a special plea is made for separate trial on one or more charges (RP 62(E), 108), or as to the jurisdiction of the Court (RP 34, 35(A), 113), or in bar of trial (RP 36), or as to accused's mental fitness to stand trial (AA 130, RP 57), or by one of several accused charged jointly to be tried separately (RP 16, 71), such plea, the addresses made in support or against, the evidence, if any, and finding are recorded per Notes. For forms of record see references in fns to RoP cited. Insert in AB rank and name of the accused making the plea.)

A9. The accused is (are) arraigned (separately) on all charges in the charge sheet.(1) The accused does (~~does~~ not object to any charge.(2) There is no amendment to be made to the Charge Sheet.(3) The President records the pleas in Part I of the Schedule.

(1. RP 31, 112. See para 1 of Instrs p 2. When more than one Charge Sheet see RP 62; when several accused to be tried separately see RP 71(C), and use separate copies of CF A86 to record proceedings. 2. RP 32, RP 33. If otherwise, delete and make appropriate record per Notes.)

A10. The Court is closed and considers the Instrs on Procedure after Arraignment at top of p 2. The proceedings are continued on Record Form B

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

INSTRUCTIONS ON PROCEDURE AFTER ARRAIGNMENT.

1. *The accused may not plead or be found Guilty on more than one of two or more charges laid in the alternative.* (*RP* 37(*A*).) *As to withdrawal of alternative charges by Prosecutor see RP* 35(*C*). *No other charge can be withdrawn for any reason without authy from Convening Offr. If Convening Offr concurs, Court may accept plea of Guilty to lesser, etc, offence.* (*RP* 44(*H*).) *Accused may change a plea of Not Guilty to Guilty during trial.* (*RP* 38.) *As to refusing to plead or not pleading intelligibly see RP* 35(*A*). *As to plea when sentence may be death see RP* 35(*D*).

2. *The proceedings on each charge sheet* (*RP* 62) *after arraignment will be conducted as follows in the respective circumstances stated:*

I. If pleas to all charges are GUILTY, use Record Form B below.

II. If pleas to all charges are NOT GUILTY, use Record Form D on p 3.

III. If pleas to some charges are GUILTY and to other charges are NOT GUILTY and,

(a) *Such mixed pleas occur when there are no alternative charges in the Charge Sheet, use Record Form C below.* (*RP* 37(*A*).)

(b) *Such mixed pleas occur in a set of two or more charges laid in the alternative, see RP* 37 (*A*) *and fn* 2 *as to discretion of Court,* (i) *to try the accused on all such alternative charges as if he had pleaded Not Guilty thereto, or,* (ii) *to record the pleas as the findings of Court. After deciding between* (i) *and* (ii), *Court will proceed under foregoing instrs as may be appropriate to result of its decision. See MML p* 744 *Instrs* (2).

3. *As to responsibility of President to accused see RP* 59, 60(*C*); *powers and duties of JA see RP* 103; *duty of Prosecutor see RP* 60(*A*) (*B*); *duty and privileges of accused and Defending Offr see RP* 60(*C*), 87(*C*), 91, 92; *swearing and withdrawal of witnesses from Court see RP* 81, 82; *questioning of accused see RP* 80, 87(*C*), 92(*B*), *and of witnesses see RP* 83-85; *calling or re-calling of witnesses by Court, etc, see RP* 75-79, 86, 116; *use of Summary of Evidence at Trial see RP* 17(*E*) *fn* 6; *and responsibility of JA or Pres to record proceedings see RP* 94, 96.

RECORD FORM B—PROCEEDINGS ON PLEAS OF GUILTY TO ALL CHARGES.

B1. The President ~~or JA, if any,~~ complies with RP 35(B) by explaining to the accused the nature and meaning of the charge(s)(1), and that on his plea of Guilty there will be no regular trial but merely a consideration of the sentence to be awarded after he has been given an opportunity to make a statement in reference to the charge(s), call witnesses as to character and make an address in mitigation of punishment.(2)
(1. *RP* 35 *fn* 3. 2. *MML p* 54 *para* 47.)

B2. President to accused: The Court will now receive any statement you desire to make in reference to the charge(s).(1) If it appears from your statement that there are circumstances which indicate that you do not understand the effect of the plea of Guilty(2), or which show provocation or extenuation in respect of which in your interest the witnesses for the Prosecution should be examined(3), we shall advise you to change your plea to Not Guilty. In making a statement you will not be sworn or subject to cross-examination; and anything you say will not be used in evidence against you after you change your plea. If, however, it appears to the Court that your statement affects only the amount of punishment to which you are liable, you will not be advised to change your plea and you will be given an opportunity later to prove your statement by sworn testimony, if you so desire.(4)

President to accused: Do you wish to make a statement? Ans NO SIR (5)
(1. *RP* 37(*D*). 2. *RP* 37(*D*) *fn* 6. 3. *RP* 35(*B*) *fn* 5 *para* 3, *MML p* 54 *para* 47. 4. *See para* E3 *of Record Form E.* 5. *Statement, if any, recorded per Notes.*)

B3. ~~The Court considers the accused's statement.(1) The Court decides (not) to advise accused to change his (their) plea(s) of Guilty to Not Guilty on charge(s). The accused is (are) so informed, and he (they) change(s) his (their) plea(s) on charge(s). Part I of the Schedule is amended accordingly.~~
(1. *Court may be closed to consider the statement. Delete whole or part not used.*)

B4. On the charge(s) to which the plea(s) of Guilty is (are) not changed the President records finding(s) of Guilty in Part I of the Schedule.(1)
(1. *RP* 35(*B*). *If any plea(s) is (are) changed, use Record Form C or D as appropriate.*)

B5. The Summary of Evidence is marked Ex "A", initialled and read aloud by the President.(1)
(1. *If there is no Summary, or if it is inadequate, comply with RP* 37(*B*). *If there is any evidence inconsistent with any plea standing as Guilty, Court will advise accused to change such plea and, if changed to Not Guilty, try such charge(s) by use of paras* D1 *to* D8 *inclusive of Record Form D on p* 3. *RP* 37(*D*).)

B6. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

RECORD FORM C—PROCEEDINGS ON MIXED PLEAS OF GUILTY AND NOT GUILTY.

C1. As to the charges on which accused pleaded NOT GUILTY the trial is continued by using paras D1 to D8 inclusive of Record Form D on p 3 before proceeding with C 2.(1)
(1. *RP* 37(*A*) (*E*).)

C2. The charges on which accused pleaded GUILTY are read to him (them) again, and the trial is continued by using paras B1 to B5 of Record Form B above.(1)
(1. *Under B5 such parts only of the Summary of Evidence are read as relate to the charges dealt with under C2. If any plea is changed to Not Guilty, trial thereon proceeds by complying with paras* D1 *to* D8 *inclusive in Record Form D on p* 3 *and making an appropriate record thereof on a separate sheet.*)

C3. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

RECORD FORM D—PROCEEDINGS ON PLEAS OF NOT GUILTY TO ALL CHARGES.

D1. President to accused: Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity to prepare your defence? Ans (2)
(1. *If "yes", see RP* 39(*A*) *for procedure. Statement or evidence, if any, is recorded per Notes.*)

D2. The Prosecutor makes (an) (no) opening address.(1)
(1. *RP* 39(*B*), 60(*A*) (*B*), 90, 92(*C*) (*D*). *Record address per Notes, subject to RP* 95(*C*).)

D3. The evidence for the Prosecution is taken.(1)
(1. *RP* 39(*C*), 114, *KR Can* 555. *Record evidence per Notes. As to Prosecutor giving evidence himself see RP* 39(*D*) (*E*).)

D4. The Prosecution is closed.(1) The Defending Offr submits that the evidence for the Prosecution does not establish a prima facie case against the accused on the charge(s).(2) The Court is re-opened, and the President announces that the submission is closed, and considers the submission.(3) The Court is re-opened, and the President announces that the submission is disallowed on the charge(s), and allowed on the charge(s), and that, accordingly, the trial will proceed on the former, but the accused is (are) found Not Guilty on the latter charge(s).(4)
(1. *Delete remainder of this para, if submission not made.* 2. *Arguments on submission, answer and reply are recorded per Notes.* 3. *RP* 40 *fn* 1. *See MML p* 72 *paras* 12-14 *and p* 81 *para* 42. 4. *Delete part not used. If accused acquitted on all charges, use second alternative in para* D8.)
NB: *If trial proceeds, accused must be allowed great latitude in making his defence, and the Court should not stop his defence solely on ground of irrelevance.* (*RP* 60(*C*), 114, 115.)

D5. President to accused: You will now proceed with your defence.(1) You may, if you wish, give evidence yourself on oath as to the facts or your character or both, in which case you will be subject to cross-examination.(2) You may, however, make a statement without being sworn, and you will not be subject to cross-examination.(3) But a statement which could have been made on oath will not carry with the Court the same weight as sworn testimony.(4) You may call witnesses in your defence and as to character, whether you give evidence or make a statement or do neither.

President to accused: Do you wish to give evidence yourself as a witness, make a statement, or do neither? Ans Do you intend to call witnesses on your behalf? Ans . Are they witnesses as to character only? Ans .
(1. *RP* 115. 2. *RP* 40(*A*), *see* 40(*D*). 3. *RP* 40 *fn* 10. 4. *RP* 40 *fns* 2, 9.)

D6. Consequent on the answers recorded in para D5 the appropriate procedure for the defence is followed.(1)
(1. *RP* 114, 115, 116. *For procedure see Notes on back of Convening Order, CF A95. Evidence for accused as to his character should, if in his interest, be given before the finding. See RP* 44(*A*) *fn* 1, 86(*C*). *Note the further opportunity in para* E1 *of Record Form E. Record per Notes addresses, statement, evidence and any summing up by the JA under RP* 42, 103(*e*).)

D7. The Court is closed to consider the finding(s).(1) The Court is re-opened.
The finding(s) of the Court is (are) recorded in Part I of the Schedule.(2)
(1. *RP* 42, 117(*A*). *See Notes in Part I of Schedule.* 2. *RP* 44(*A*).)

D8. The President announces the finding(s), if any, of Not Guilty, and states to the accused that the finding(s) of the Court on the charge(s), being subject to confirmation, will be promulgated later.(1)
Or, The President announces that the accused is found Not Guilty on all charges and is to be released forthwith, and that the proceedings are accordingly terminated. Part I of the Schedule is dated and signed.(2)
(1. *AA* 54(3) (*b*), *RP* 45, 130(*A*). 2. *AA* 54(3), *RP* 45, 117. *This alternative announcement is not applicable when there are pleas of Guilty outstanding and dealt with under Record Form B at C.*)

D9. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E below.

RECORD FORM E—PROCEEDINGS ON CONVICTION BEFORE SENTENCE.

E1. President to accused: Do you wish to give evidence yourself or to call any witnesses as to your character?(1) Ans NO SIR
(1. *If evidence has already been given by accused or his witnesses as to his character, delete this para. RP* 37(*C*) *fn* 4, 46 *fn* 1. *Accused and witnesses are sworn. Evidence recorded per Notes.*)

E2. The Prosecutor produces Statement(s) as to Character and Particulars of Service(1), and certified true copy (copies) of Conduct Sheet(s)(2), purporting to refer to the accused, which he submits to the Defending Offr for examination, and then to the Court for admission in evidence. The Court is satisfied that these documents refer to the accused, because (i) they purport to be signed in the manner required by AA 163(3) (g) (h), and (ii) they purport to refer to (a) soldier(s) having the same number, rank, name and corps as the accused. Admitted in evidence and marked Ex "B" and Ex "C" respectively.(3)
(1. *MFB* 355 *or MFB* 296. 2. *MFM* 6. 3. *RP* 46, *KR Can* 558. *If above documents not produced, see RP* 46 *fn* 1 *para* 1.)

E3. President to accused: Do you wish to address the Court on the Statement(s) and Conduct Sheet(s), and in mitigation of punishment?(1) Ans Nothing further (2)
(1. *RP* 37(*C*), 46(*D*). 2. *Address, if any, recorded per Notes. Court should permit accused or his witnesses to prove on oath anything here or previously stated which would affect the amount of punishment. RP* 37(*F*) *fn* 7.)

E4. The President states that the Court is closed to consider the sentence, and that the sentence to be awarded by the Court, being subject to confirmation, will not be announced, but will be promulgated later, and the proceedings in open court are accordingly terminated.(1)
(1. *AA* 54(6), *RP* 120(*A*).)

E5. The Court considers the sentence.(1) The President records the sentence in Part I of the Schedule, which is dated and signed by him ~~and the JA, if any~~.(2)
(1. *When several accused tried separately see RP* 71 (*D*). *One sentence only, comprised of the punishment or punishments laid down in AA* 41, 44 *and its proviso, is to be awarded to cover all charges in all charge sheets on which accused found guilty. RP* 42. *As to sentences see AA* 44, 136, 182, *RP* 46-50, 69, 118, 119(*A*), *KR Can* 308, 330, 563-566, *Overseas RO* 309, 2323, *MML p* 60, 757-759. *As to sentences assigned for civil offences by the law of England see AA* 41(5), *MML p* 130. *When accused already under sentence of imprisonment or detention see AA* 44(3), 68(1), *KR Can* 554. 2. *RP* 50. *As to release from arrest by Confirming Offr see KR Can* 567. *As to assembly and disposal of record after trial see instrs on back of Convening Order.*)

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

CHARGE SHEET

The accused, No A 9582 Private Russell Earl Eugene GUSNARD of the Canadian Infantry Corps, on the strength of 4 Canadian Infantry Training Regiment, a soldier of the Canadian Army Overseas, is charged with:

FIRST CHARGE
ARMY ACT
Sec 15 (1)

WHEN ON ACTIVE SERVICE ABSENTING HIMSELF WITHOUT LEAVE

in that he

in the Field, did absent himself without leave from 2300 hours on the 26th day of May 1945 until arrested by the Canadian Provost Corps in Glasgow at 0100 hours on the 23rd day of July 1945, thereby incurring an expense to the public for his return to his unit in the amount of two pounds, three shillings and sixpence.

(Total absence: 57 days two hours)

(R C CLARK) COL COMD
4 CDN INF TRG REGT

IN THE FIELD
1 Aug 45

To be tried by Field General Court Martial.

(K G Blackader) Brig
Comd
D Gp Cdn Rft Units

IN THE FIELD
7 Aug 45

FIELD GENERAL COURT-MARTIAL

(Whether the accused to be tried is under his comd or not, a FGCM may on application to him be convened by any offr of Cdn Army Overseas, or of any other force if authorized in law, in immediate comd of troops on active service, subject to RP 105(C) and restrictions imposed by appropriate authy. AA 49, 50, RP 104-107, 114. As to the duties and privileges of the Convening Offr in dealing with the application see MML Chap V paras 20 and 23, RP 87(B).

There should be a separate Convening Order for each person to be tried separately by the same Court. RP 71(C), 109. As to separate charge sheets see RP 62, and as to separate trial on charges in the same charge sheet see RP 108. As to two or more accused charged jointly see RP 16, 109.

As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

ACCUSED.

Number.	(a) Prmnt R.	(b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
A-9582	Pte		Russell Earl Eugene	GUSHARD	CIC 4 CITR

CONVENING ORDER.

1. Whereas complaint has been made to me, the undersigned, that the person(s) named above as the accused, being subject to military law, has (have) committed the offence(s) set forth in the Charge Sheet(s) attached and on (date) 7 Aug 45 endorsed by me, (or in an offr of my staff thereon), "To be tried by Field General Court-Martial".

2. And whereas I am of opinion that it is not practicable that such offence(s) should be tried by an ordinary General Court-Martial; ~~(and that it is not practicable to delay the trial for reference to a superior qualified offr)~~
(Delete part in brackets when not required for compliance with RP 105(C).)

3. I hereby convene a Field General Court-Martial to try the said person(s), and to consist of the Offrs appointed or detailed hereunder.

4. ~~I am unable to appoint (a) three Offrs to form the Court, (b) a Fd Offr as President for the reasons stated hereon~~
(AA 49, RP 106(B), 107(A). Delete the whole or part, if not applicable.)

5. ~~I also appoint as Judge Advocate thereat the Offr mentioned hereunder.~~
(RP 106(E). Delete, if none appointed.)

PRESIDENT.

(Rank.)	(Must be named. RP 106.)	(Unit.)
LT COL	D L REDMAN, VD	HQ CRU

MEMBERS.

(Rank.)	(Named or detailed. RP 106.)	(Unit.)
Captain	to be detailed by Comd	9 Cdn Repat Dep
Lieutenant	to be detailed by Comd	4 CITR

WAITING MEMBER.

(Rank.)	(Named or detailed, if any. RP 106.)	(Unit.)
Captain	to be detailed by Comd	4 CITR

~~JUDGE ADVOCATE~~

(Rank.)	(Must be named, if any. RP 106.)	(Unit.)

On Active Service in the Fd

in England (Country.)

Dat 7 Aug 45

K G Blackader
(Signed personally. RP 105 fn 2.)
(K G Blackader)
Brigadier (Rank.)
Commanding D Gp Cdn Rft Units
Convening Officer.

CONVENING OFFR WILL INITIAL ALL DELETIONS AND ALTERATIONS

4/38A CFA 50 (In lieu of AFA 3) 40/F&S/1697 (6142) (See overleaf for oaths and notes for use on trial.)

Medical Officers' Certificate
K.R. (Can) para 557

I certify that I have this morning examined No: A-93-82 Pte. Bushard. B.E.
(Rank) (Name)
of C.I.C. and in my opinion he is ~~unfit~~ fit to undergo
trial by Court Martial.

Station 4-C.I.T.R.

Date 9 Aug 1945

Sgd S A Stacey Capt
(Medical Officer)

"PLEA FOR MITIGATION OF SENTENCE"

"The accused A9582 PTE GUSHARD R.E.E, to the charge of absenting himself without leave, PLEADS GUILTY" — and wishes to submit to the consideration of the Court the following Plea for Mitigation of Sentence.

E-3

Mr. President

1) This soldier has a total of two hundred and fifteen (215) days – is married in Canada and is the father of two children.

2) He enlisted in the army in February 1940 at the age of 19 years. — He arrived in the U.K 1 Aug 1940.

He trained in Canada and in the field in the United Kingdom with the R.C.A.S.C being employed as a despatch rider.

During his service in the field here and while being attached to the 4th Field Ambulance he was involved in a Motorcycle accident and received a broken spine which necessitated his hospitalization for a Considerable time.

The accused took part in the initial landing in Sicily – Served throughout that Campaign and moved with our forces up through into Italy.

During this part of his service he was still employed as a despatch rider but was transferred to the First Med Battery R.C.A. for the period July 43 to November 1943.

Still employed as a despatch rider he was again transferred to the Canadian Dental Corps for the period Feb 1944 to Jan 1945 –

At this period in his army service he was remustered to the Canadian Infantry Corps – served with and saw action with the Royal Canadian Regiment

At the time that the R.C.R's were despatched with the 1st Canadian Corps to Holland – the accused developed jaundice and was in hospital for 2½ months.

On his discharge from hospital instead of being allowed to join his Regiment in Holland he was sent as a Casual to a Holding Unit in England

After several attempts to rejoin his Regiment in Holland and not being allowed to do so – this soldier along with several pals VOLUNTEERED for BURMA for service with our Pacific force.

What happened to this last patriotic effort of the accused?????

There is what happened Mr President – all the pals of the accused who had volunteered with him for service in the far East were all sent to a Repat Depot to await despatch to Canada and thence to additional training and finally Burma.

But what happened to the accused Pte GUSHARD.

– Well he was posted to the 7th Canadian Garrison Battalion a unit that had a small percentage of long service men or men that had seen any action or even a theatre of war but Composed largely of N.C.O's and men recently arrived from CANADA

Well the Court can appreciate the feelings of the accused

1). Unable to join his Comrades in the R.C.R's with whom he saw action.

2) Unable to leave with pals with whom he Volunteered for far East

3) Thoroughly disgusted with the static life in a Holding unit in the demoralizing Aldershot district

4) Finally after more than five years of active Service forced to a unit of ..... "RECENT ARRIVALS"

Well Mr President – the accused one night failed to return and did go ABSENT WITHOUT LEAVE

(OVER)

A9582 PTE GOSHARD. - PLEA FOR MITIGATION

Yes Mr President the accused has a Crime record in the Army
Three entries on his M.F.M 6 — all for A.W.L

BUT

1). May I bring to the attention of the Court the TOTAL TIME A.W.L.
2) " " " " " " " " " " TOTAL PUNISHMENT AWARDED

TOTAL TIME A.W.L. - 4 1/2 HOURS.
TOTAL PUNISHMENT - 7 DAYS PAY.
5 DAYS C.B.
STOPPAGE OF PAY (TRAIN FARE) - 7 SHILLINGS AND 8 PENCE.

MR PRESIDENT May I once again emphasize

TOTAL SERVICE - 5 1/2 YEARS.
A.W.L - 4 1/2 HOURS.
} NOT EVEN AN AVERAGE OF ONE HOURS A.W.L PER EACH YEAR IN THE ARMY

May I submit Mr. President that the accused for 5 1/2 years has had a nearly exemplary Good service in the army and I am very confident that the accused was driven into the Channels of this infringement against Military discipline by Mishandling and being transferred around so much, and by the extreme responsible consideration of the Authorities, regardless of the wishes of different personnel - a Condition that appears very prevalent in our army and a Condition I believe often is partly responsible for our men being absent without leave.

Signed
K.G. Prelford Lieut
Defending Officer.

A7581 PTE GOSHARD.

Yes Mr President the accused has a Crime record as
Three entries on his MEM 6 — all for A.W.L

BUT

1) may I bring to the attention of the Court the TOTAL TIME A.W.L.
2) " " " " TOTAL PUNISHMENT AWARDED

TOTAL TIME A.W.L. — 4 1/2 HOURS.
TOTAL PUNISHMENT — 7 DAYS PAY
5 DAYS C.B.

STOPPAGE OF PAY (TRAIN FARE) — 7 SHILLINGS AND 8 PENCE.

MR PRESIDENT may I once again emphasize

TOTAL SERVICE — 5 1/2 YEARS.
A.W.L — 4 1/2 HOURS.

} NOT EVEN AN AVERAGE OF ONE HOURS A.W.L FOR EACH YEAR IN THE ARMY.

May I submit Mr. President that the accused for 5 1/2 years has had a nearly exemplary Conduct service in the army and I am very confident that the accused was driven into the charge of this infringement against Military discipline by mishandling and being transferred around so much and by the extreme inconsideration of the authorities regardless of the wishes of different personnel — a Condition that appears very prevalent in our army and a Condition I believe often is partly responsible for our men being absent without leave.

Signed
K. G. Bradford Lieut
Defending officer.

E-3

A9582 PTE GUSHARD - PLEA FOR MITIGATION

Yes Mr President the accused has a Crime record in the Army - Three entries on his M.F.M 6 -- all for A.W.L

BUT

1) may I bring to the attention of the Court the TOTAL TIME A.W.L.
2) " " " " " " " " " " TOTAL PUNISHMENT AWARDED

TOTAL TIME A.W.L. - 4 1/2 HOURS.
TOTAL PUNISHMENT - 7 DAYS PAY.
5 DAYS C.B.

STOPPAGE OF PAY (TRAIN FARE) - 7 SHILLINGS AND 8 PENCE.

MR PRESIDENT May I once again emphasize

TOTAL SERVICE - 5 1/2 YEARS.
A.W.L - 4 1/2 HOURS.

} NOT EVEN AN AVERAGE OF ONE HOURS A.W.L FOR EACH YEAR IN THE ARMY

May I submit Mr President that the accused for 5 1/2 years has had a nearly Exemplary Bonds service in the army and I am very confident that the accused was driven into the Channels of this infringement against Military discipline by Mishandling and being transferred around so much, and by the extreme consideration of the Authorities, regardless of the wishes of different personnel - a Condition that appears very prevalent in our army and a Condition I believe often is partly responsible for our men being absent without leave.

Signed
K.G. Trelford Lieut
Defending Officer.

E-3
AMS

SUMMARY OF EVIDENCE

In the case of NO. A-9562 Pte GUSHARD R.E.G. of the Canadian Infantry Corps, on the strength of 4 Cdn Inf Trg Regt.

By direction of the Commanding Officer, this Summary of Evidence is taken on oath.

FIRST WITNESS FOR THE PROSECUTION

Capt R.Gravel of the Canadian Infantry Corps, on the strength of 4 Cdn Inf Trg Regt, having been duly sworn, states as follows:

" I produce the following documents pursuant to CRO 5382 which have been read over and shown to the accused and which are attached hereto as exhibits.

a) Certified true extract from the MFM 4 of the accused showing the accused as AWL from 2300 hours 26 May 45. This is to show the start of AWL. Produced and marked EXHIBIT "A"

b) Certificate in accordance with PC 2797 of 10 Apr 42 signed by Capt R.E.Birch and showing the accused as having been arrested at Glasgow by the Canadian Provost Corps at 0100 hrs 23 Jul 45. Produced and marked EXHIBIT " B ".

c) Expense Voucher CMHQ form 100:55 signed by Capt R.P.Harrison and showing the cost of transportation of accused and escort, 0-7-8, from London to Pulborough. Produced and marked EXHIBIT " C ".

d) Expense voucher CMHQ form 100:55 signed by Capt R.P.Harrison and showing the cost of transportation of accused and escort from Glasgow to London as 1-15-10. Produced and marked EXHIBIT " D ".

The accused declines to cross-examine this witness.

R.Gravel CAPT
(R.GRAVEL)

The accused was then cautioned as follows: " Do you wish to make any statement or to give evidence on oath ? You are not obliged to make any statement or to say anything unless you wish to do so, but whatever you may say or any evidence you may give will be taken down in writing and may be used in evidence.

The accused decides to make any statement and reserves his defense.

I certify that the foregoing Summary of Evidence, consisting of one page has been taken down by me in the presence and hearing of the accused and that Rules of Procedure 4 (c) (d) (e) & (f) have been duly complied with.

J.R.Mathieu LIEUT
(J.R.MATHIEU)
Officer detailed to take the Summary of evidence.

IN THE FIELD
1 Aug 45

EXA

EXHIBIT "D"

Expense Voucher Re—

Ref : KR & O (Can) 539

Reg No. A9582 Rank A/E Name GUSHARD, R.E. Unit 3 C.I.T.R.

The following expenses were incurred in apprehending and returning the M/N Soldier to ~~his Unit from~~ LONDON FROM GLASGOW

Date	Particulars 1/2 PORTION	Amount		
24 JULY 45	Escorts return fare from LONDON To GLASGOW	1	12	10
	Prisoners single fare to LONDON From GLASGOW	OWN	TICKET	
	Prisoners fare from to			
	Escorts & Prisoners expenses for ~~Bed~~, Meals, Bus fares		5	0
	Total £	1	15	10

I certify that the above statement of Expenses is Correct, and that the amounts are fair and just.

R.K. Larmour

Officer Issuing Railway Warrant and Expense monies
No. 6 Area Provost Company, Canadian Provost Corps, London

Capt

1/35 CMHQ 100-55
40/P & S/463 (6762)

EXHIBIT "C"

Expense Voucher Re— Ref: KR & O (Can) 539

Reg No A7516 Rank Pte Name Sutherland R E Unit 4 C I T R.

The following expenses were incurred in apprehending and returning the M/N Soldier to his Unit from London to Peterborough

Date	Particulars	Amount		
	Escorts return fare from LONDON To Peterborough		3	10
	Prisoners single fare to LONDON From			
	Prisoners fare from London to Peterborough		3	10
	Escorts & Prisoners expenses for Bed, Meals, Bus fares			
	Total £		7	8

I certify that the above statement of Expenses is Correct, and that the amounts are fair and just.

R R Dawson Capt

Officer Issuing Railway Warrant and Expense monies
No. 6 Area Provost Company, Canadian Provost Corps, London

1/35 CMHQ 100-55
40/P & S/483 (6762)

EXHIBIT "B"

CERTIFICATE IN ACCORDANCE WITH P.C. 2797 of 10 Apr 42.

I CERTIFY THAT NO. A95482 Rank Pte. Name Gushard R.E.

Unit No.3-C.I.T.R. Was arrested at Glasgow.

at 0100. (Hour) on 23July45. (Place)

(Date) and that at the time of his arrest he was wearing (Military uniform) ~~xxxxxxxxxxxxxxxxxx~~. Signature of Provost-Marshal, Assistant Provost-Marshal, or other officer or the Commanding officer of the portion of H is Majesty's forces or the officer, warrant officer, or non-commissioned officer in charge of the detachment of the Canadian Provost Corps, Canadian Army, into whose custody the above named person was taken on arrest. (Strike out part inapplicable.)

London
24July 45.

E.Birch
CAPT.
D.A.P.M. C.M.H.Q.
(H.E.Birch)

EXHIBIT "A"

SERVICE AND CASUALTY FORM M.F.M. 4

RECTL NO A-9582

C.I.C.

CUSHARD
Russell Earl Eugene . . . . . .

7 Grn Bn AWL from 2300 hrs 26 may 45 26 May 45 Pte DO/4 /45

Certified true extract:

J.R. Mathieu Lt
(J.R.MATHIEU)
Officer having custody of
original MFM 4

ARMY FORM B.296.

Statement as to Character and Particulars of Service of Accused.

Number.	*Rank.*	*Name.*	*Regiment (or as the case may be).*
A-9562	Pte	Gushard R.E.E.	4 CITR

1. The following is a fair and true summary of the entries in the regimental and squadron, battery or company conduct sheets† of the accused, exclusive of convictions by a court martial or a civil court, of summary awards under section 47 of the Army Act, and of cases in which trial has been dispensed with :—

Note.—At a trial by field general court martial this summary may be compiled from the field conduct sheet.

The conduct sheet(s) mentioned should be produced in court with this statement but not annexed to the proceedings.

† See pars. 477, K.R., 1940.

* The accurate terms stated should correspond with the number of entries in the conduct sheets, provided that the most serious offence in each entry, and to all recognised special acts of gallantry or distinguished conduct.

Instruction.—If the charge is for drunkenness the entries for drunkenness must be stated separately and dated.

	* Within last 12 months.	*Since Enlistment.
For AA sec 15 (1)	1 times	3 times
For	times	times
For	times	times
For	times	times
For	times	times

Number of instances of gallantry or distinguished conduct

or

There are no entries in the conduct sheets of the accused.

2. The accused has not been previously convicted, *or*

~~Previous convictions of the accused by a court martial or a civil court, summary awards under section 47 of the Army Act, and dispensations with trial under section 79 of the Army Act, are set out in the schedule annexed to this statement.~~

3. The accused is not under sentence at the present time, *or* ~~The accused at the present time is under sentence of~~

~~imprisonment~~ commencing on the ~~day of~~

4. The accused has been in confinement, awaiting trial on the present charges, for ~~days~~ 16 days in civil custody, and N i l days in military custody, making a total of ~~days~~ 16 days, of which N i l days were spent in hospital.

5. The present age of the accused according to his ~~attestation paper~~ record of service is 25 yrs 11 mos

6. The date of his ~~attestation~~ specified in his ~~attestation paper~~ record of service is 25 Feb 40

7. The service which the accused is allowed to reckon towards discharge or transfer to the reserve is 5 yrs 91 days

8. The accused is entitled to deferred pay or gratuity in respect of 5 yrs 91 days service.

9. The accused is entitled to reckon 5 yrs 91 days service for the purpose of determining his pension, etc.

10. The accused is ~~in possession of, or~~ entitled to, no military decoration or military award (or is in possession of or entitled to (*state any military decoration or reward*)). CVSM & CLASP

11. (*If the accused is a warrant officer.*) The accused before he was made a warrant officer last held the regimental rank of .....

12. (*In the case of an officer.*) The accused holds in the army the rank of ....., dated .....

and in his regiment (*or corps or department*) the rank of ..... dated .....

(*16640*) Wt.30040/602 75,000 12/40 A.& E.W.Ltd. Gp.698

EX B

Schedule of Convictions by a Court Martial or Civil Court, of summary awards under Section 47 of the Army Act and of cases in which trial has been dispensed with of accused.

No. A-9582 Rank Pte Name Gushard RSS of 4 CITR Regiment (or as the case may be).

INSTRUCTION.—A verbatim extract from the regimental books, stating these convictions and dispensations with trial, must be inserted.

Description of court by which tried, or status of officer disposing of the charge or dispensing with trial.	Date and place of trial, or summary award under A.A. 47, or of order dispensing with trial.	Charge upon which convicted, or in respect of which trial was dispensed with.	Sentence of the court or authority disposing of the charge, or order of the dispensing authority.	Punishment remitted.
		NIL		

I HEREBY CERTIFY that the foregoing schedule of convictions and dispensations with trial is a true extract from the regimental books in my custody.

Signed this 8th day of Aug 1945

J Llathiere Lt
officer having custody of regtl books

13. The accused has served as a non-commissioned officer continuously, without reduction, to the present date.

Date of Promotion.

To the rank of ____ years, ____

To the rank of ____ years ____

To the rank of ____ years, ____

To the rank of ____

(INSTRUCTIONS.—*If any matter in any of the above paragraphs viewed by itself from the regimental books the paragraph must be struck through, except that in the case of a trial by field general court-martial the information may be entered from such memoirs as are available and the paragraphs concerned amended accordingly.*)

COMPILED FROM MFM 4 Original Not Available

No. A-9582 Name GUSHARD R.E. Sqn, Battery, or Company — Corps CIC — Date of enlistment 25 Feb 41 — QC Badges — Service or Proficiency Pay N/A — 3/17 MFM 6 (AFB 122) 40/PAS/336 (7608)

Date of last entry in Company Conduct Sheet N/A — No. and date of last drunk N/A — Period not reckoning towards freedom from extra fine N/A — Sheet No. 1 — Signature OC Company, etc — Character

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order (Despatch) with Offal	By whom awarded	Remarks
						Stoppages 0-7-8	22 Mar 43		
Field	22 Mar 43	Pte		AA sec 15 (1)		5 days pay	22 Nov 43		
"	22 Nov 43	"		AA sec 15 (1)		5 days CB	27 Feb 45		Forf 2 days pay
"	27 Feb 45	"		AA sec 15 (1)					

Certified true copy:

dated.....45

J.R.Mathieu Lieut
(J.R.MATHIEU) Officer having custody of original document

(P190)

MISCELLANEOUS

In the case of No A-9582 ..... Rank .Pte..... Name Gushard R.E. .....
of The Cdn Inf Corps, on the strength of 4 CANADIAN INFANTRY TRAINING BRIGADE, a Soldier of The Canadian Army Overseas.

WITNESSES FOR PROSECUTION

1. ...Capt R.Gravel....., of The Cdn Inf Corps, on strength of 4 C.I.T.B.
2. ....., of The Cdn Inf Corps, on strength of 4 C.I.T.B.
3. ....., of The Cdn Inf Corps, on strength of .....
4. ....., of The Cdn Inf Corps, on strength of .....
5. ....., of The Cdn Inf Corps, on strength of .....

WITNESSES FOR DEFENCE

1. ...Nil....., of The Cdn Inf Corps, on strength of .....
2. ....., of The Cdn Inf Corps, on strength of .....
3. ....., of The Cdn Inf Corps, on strength of .....

REQUEST FOR COUNSEL etc.

1. I acknowledge that I have been served with a copy of the Summary of Evidence taken prior to my trial by Court-martial. I further acknowledge that I have been served with a true copy of the charge (s) upon which I am being brought to trial by C.M.

2. I desire the services of an officer to represent me at my trial by C.M. I request the services of:

.....Capt. Maddox - H. Reinf Depot.....
MC 5111

if he is available.

In the Field

1 day of Aug 1945

R.E. Gushard

LIST OF EXHIBITS of the accused.

EXHIBIT " A " Certified true extract from [illegible] 2797 of 10 Apr 42 signed by Capt RE Birch
EXHIBIT " B " Certificate in accordance with [illegible] signed by Capt R.P.Harrisom
EXHIBIT " C " CMHQ form 100:55 Expense Voucher signed by Capt RP Harrisom
EXHIBIT " D " CMHQ form 100:55 Expense [illegible]

IN THE FIELD
1 AUG 45

MISCELLANEOUS

In the case of No A-9582 ..... Rank Pte ..... Name Gushard RKE .....
of The Cdn Inf Corps, on the strength of 4 CANADIAN INFANTRY TRAINING REGIMENT, a soldier of The Canadian Army Overseas.

WITNESSES FOR PROSECUTION

1. Capt R.Gravel ....., of The Cdn Inf Corps, on strength of 4 C.I.T.R.
2. ....., of The Cdn Inf Corps, on strength of 4 C.I.T.R.
3. ....., of The Cdn Inf Corps, on strength of .....
4. ....., of The Cdn Inf Corps, on strength of .....
5. ....., of The Cdn Inf Corps, on strength of .....

WITNESSES FOR DEFENCE

1. Nil ....., of The Cdn Inf Corps, on strength of .....
2. ....., of The Cdn Inf Corps, on strength of .....
3. ....., of The Cdn Inf Corps, on strength of .....

REQUEST FOR COUNSEL etc.

1. I acknowledge that I have been served with a copy of the Summary of Evidence taken prior to my trial by Court-martial. I further acknowledge that I have been served with a true copy of the charge (s) upon which I am being brought to trial by C.M.

2. I desire the services of an officer to represent me at my trial by C.M. I request the services of:

Capt ~~Maddox~~ - H.Repat Depot.
~~MC 5111~~

if he is available.

In the Field

R.E. Gushard

1 day of ~~Aug~~ Aug 1945

LIST OF EXHIBITS

EXHIBIT " A " Certified true extract from MFM 4 of the accused.
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EXHIBIT " D " CMHQ form 100:55 Expense voucher signed by Capt RF Harrison

IN THE FIELD
1 Aug 45

4P-75.

Inv. Gass R.E.

RECORDED AT CMHQ IN AB 160, 4P. 75

CFAMS (1) (AMS (E) AFA2)
DI/P & S 1808-(2604)

FIELD GENERAL COURT-MARTIAL

REGD 26 FEB 1945

Convened by Order of Brig J.B. Ross Comd 11 Cdn Inf Bde dated 16 Dec 44

ACCUSED.

(As to the trial of two or more charged jointly see RP 16, 71, 109. As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns. KR Can 308, 328, 330.)

Number.	(a) Prmnt R.	(b) Appmt, A/R or A/Appmt.	Full Christian Names	Surname.	Unit.
M23684	GNR		EDWARD GUSS.	ROSS	17 CDN FD REGT. RCA

PROCEEDINGS REVIEWED

PROCEEDINGS OF TRIAL.

Held in the ~~Field~~ in (country) ITALY on (date(s)) 26-37

RECORD FORM A—OPENING PROCEEDINGS AND ARRAIGNMENT.

A1. The President, Members, waiting Member, JA, if any, and Offrs under instr, if any, assemble, and the Court is closed.

(PRINTED MATTER NOT IN ITALICS FOR GUIDANCE. WILL BE DELETED IF NOT USED OR APPLICABLE AND INITIALLED BY PRES OR JA. The Schedule referred to throughout is on p 4. Citations do NOT include all relevant fmn ROs. For guidance on procedure when a variation in this form arises, see form for GCM in MAM pp. 741 to 759. A brief record of such variation will be made and given a number having reference to appropriate or preceding para number herein. See back of Convening Order. CF A95, for oaths and instrs on how to record addresses, evidence, etc, which letters are hereafter called "Notes". As to general provisions for conducting the trial see AA 53, RP 56, 63-70, 73, 74, 94, 103, 119, 132.)

A2. The President initials and lays before the Court the Convening Order and Charge Sheet(s) attached thereto.(1) The Court is satisfied that it is properly convened and constituted(2), accused is (are) amenable to military law, and each charge discloses an offence.(3)

(1. As to use of Summary of Evidence see RP 17 fn 6. 2. AA 49, 50, RP 105-107. 3. RP 11-13, 23, 24.)

A3. The Court is opened. The accused is (are) brought before the Court. At 1530 hours trial commences.

A4. The Prosecutor produces a Medical Certificate that accused is (are) fit to undergo trial by court-martial.(1) ~~The Prosecutor informs the Court that accused elected to be tried by court-martial instead of being dealt with summarily by the CO.(2)~~

(1. KR Can 557. 2. AA 46(B), RP 60 fn 1. For effect see KR Can 563(c). Delete, if not applicable.)

~~A5. President to accused: Do you object to~~ ~~no interpreter? Ans:~~

~~The Interpreter is sworn.(1) Do you object to~~ ~~as shorthand writer? Ans:~~
~~The shorthand writer is sworn.(1)~~

(1. RP 72. Delete, if none employed.)

A6. The Convening Order and names of the President and Members of the Court are read to the accused.(1) President to accused: Do you object to be tried by me as President or by any of the Members of the Court?

Ans: No SIR (2)

(1. RP 110. 2. If no objection, waiting member retires. RP 68(B). If objection, see procedure AA 51, RP 25, 71, 72, MML p 742.)

A7. The President, Members, JA, if any, and Offrs under instr, if any, are sworn.(1) The following are the ranks, names and units of the offrs comprising the Court, etc:

President	MAJOR	E.S. FAIRMAN	5 CDN ARM REGT
Member	CAPT	S.D.H. REID	4 CDN ARM REGT
Member	LT	R.M. WIGLE	8 CDN FD REGT
Judge-Advocate			
Prosecutor	LT	R.A. BROMLEE	17 CDN FD REGT
Defending Offr	LT	A.M. ROSS	" " "

Questions by President: Is the Prosecutor a lawyer? Ans: No Is the Defending Offr a lawyer? Ans: No (2)

(1. RP 26, 27, 109, 111. List of offrs under instr will be returned separately with proceedings for information of Conv Offr.) (2. If Pros a lawyer and Def Offr not, accused is entitled to an adjournment when RP 89 (B) and fn 2 were not followed. See D1 p 2.)

A8. The accused before arraignment makes(s) (no) (X) plea. (2)

(1. If a special plea is made for separate trial on one or more charges (RP 62(E), 108), or as to the jurisdiction of the Court (RP 34, 35(A), 113), or in bar of trial (RP 36), or as to accused's mental fitness to stand trial (AA 130, RP 57), or by one of several accused charged jointly to be tried separately (RP 16, 71), such plea, the addresses made in support or against, the evidence, if any, and finding are recorded per Notes. For forms of record see references in fns to Rs? cited. Insert in AE rank and name of the accused making the plea.)

A9. The accused is (are) arraigned (separately) on all charges in the charge sheet.(1) The accused does (~~does~~) not object to any charge.(2) There is no amendment to be made to the Charge Sheet.(3) The President records the pleas in Part I of the Schedule.

(1. RP 31, 112. See para 1 of Instrs p 2. 2. RP 32, RP 33. If otherwise, delete and make appropriate record per Notes.) Where more than one Charge Sheet see RP 62; when several accused to be tried separately see RP 71(C), and use separate copies of CF A84 to record proceedings.

A10. The Court (~~is cleared and~~) considers the Instrs on Procedure after Arraignment at top of p 2. The proceedings are continued on Record Form C

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS

B3/93

INSTRUCTIONS ON PROCEDURE AFTER ARRAIGNMENT.

1. *The accused may not plead or be found Guilty on more than one of two or more charges laid in the alternative.* (*RP 37(A).*) *As to withdrawal of alternative charges by Prosecutor see RP 35(C). No other charge can be withdrawn for any reason without authy from Convening Offr. If Convening Offr concurs, Court may accept plea of Guilty to lesser, etc, offence.* (*RP 44(H).*) *Accused may change a plea of Not Guilty to Guilty during trial.* (*RP 38.*) *As to refusing to plead or not pleading intelligibly see RP 35(A). As to plea when sentence may be death see RP 35(D).*

2. *The proceedings on each charge sheet* (*RP 62*) *after arraignment will be conducted as follows in the respective circumstances stated:*

I. If pleas to all charges are GUILTY, use Record Form B below.

II. If pleas to all charges are NOT GUILTY, use Record Form D on p [redacted] *3.*

III. If pleas to some charges are GUILTY and to other charges are NOT GUILTY and,

(a) *Such mixed pleas occur when there are no alternative charges in the Charge Sheet, use Record Form C below.* (*RP 37(A).*)

(b) *Such mixed pleas occur in a set of two or more charges laid in the alternative, see RP 37 (A) and fn 2 as to discretion of Court, (i) to try the accused on all such alternative charges as if he had pleaded Not Guilty thereto, or, (ii) to record the pleas as the findings of Court. After deciding between (i) and (ii), Court will proceed under foregoing instrs as may be appropriate to result of its decision. See MML p 744 Instrs (2).*

3. *As to responsibility of President to accused see RP 59, 60(C); powers and duties of JA see RP 103; duty of Prosecutor see RP 60(A) (B); duty and privileges of accused and Defending Offr see RP 60(C), 87(C), 91, 92; swearing and withdrawal of witnesses from Court see RP 81, 82; questioning of accused see RP 80, 87(C), 92(B), and of witnesses see RP 85; calling or re-calling of witnesses by Court etc see RP 75-79, 86, 116; use of Summary of Evidence at Trial see RP 17(E) fn 6; and responsibility of JA or Pres to record proceedings see RP 94, 96.*

RECORD FORM B—PROCEEDINGS ON PLEAS OF GUILTY TO ALL CHARGES.

B1. The President or JA, if any, complies with RP 35(B) by explaining to the accused the nature and meaning of the charge(s)(1), and that on his plea of Guilty there will be no regular trial but merely a consideration of the sentence to be awarded after he has been given an opportunity to make a statement in reference to the charge(s), call witnesses as to character and make an address in mitigation of punishment.(2)
(1. *RP 35 fn 3.* 2. *MML p 54 para 47.*)

B2. President to accused: The Court will now receive any statement you desire to make in reference to the charge(s).(1) If it appears from your statement that there are circumstances which indicate that you do not understand the effect of the plea of Guilty(2), or which show provocation or extenuation in respect of which in your interest the witnesses for the Prosecution should be examined(3), we shall advise you to change your plea to Not Guilty. In making a statement you will not be sworn or subject to cross-examination; and anything you say will not be used in evidence against you after you change your plea. If, however, it appears to the Court that your statement affects only the amount of punishment to which you are liable, you will not be advised to change your plea and you will be given an opportunity later to prove your statement by sworn testimony, if you so desire.(4)

President to accused: Do you wish to make a statement? Ans YES, SIR. I LEFT ALL MY KIT, SOME
(1. *RP 37(B).* 2. *RP 37(D) fn 6.* 3. *RP 35(B) fn 5 para 3, MML p 54 para 47.* 4. *See para E3 of Record Form E.*
5. *Statement, if any, recorded per Notes.*) OF GRAS & SHOT IN GERMAN LINES.

B3. The Court considers the accused's statement.(1) The Court decides (not) to advise accused to change his (their) plea(s) of Guilty to Not Guilty on THE THIRD charge(s). ~~The accused is (are) so informed, and he (they) charge(s) his (their) plea(s) on ..... charge(s). Part I of the Schedule is amended accordingly.~~ E5
(1. *Court may be cleared to consider the statement. Delete whole or part not used.*)

B4. On the charge(s) to which the plea(s) of Guilty is (are) not changed the President records finding(s) of Guilty in Part I of the Schedule.(1)
(1. *RP 35(B). If any plea(s) is (are) changed, use Record Form C or D as appropriate.*)

B5. The Summary of Evidence is marked Ex P1, initialled and read aloud by the President.(1)
(1. *If there is no Summary, or if it is inadequate, comply with RP 37(B). If there is any evidence inconsistent with any plea standing as Guilty, Court will advise accused to change such plea and, if changed to Not Guilty, try such charge(s) by use of paras D1 to D8 inclusive of Record Form D on p 3. RP 37(D).*)

~~B6. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.~~ E5

RECORD FORM C—PROCEEDINGS ON MIXED PLEAS OF GUILTY AND NOT GUILTY.

C1. As to the charges on which accused pleaded NOT GUILTY the trial is continued by using paras D1 to D8 inclusive of Record Form D on p 3 before proceeding with C 2.(1)
(1. *RP 37(A) (E).*)

C2. The charges on which accused pleaded GUILTY are read to him (them) again, and the trial is continued by using paras B1 to B5 of Record Form B above.(1)
(1. *Under B5 such parts only of the Summary of Evidence are read as relate to the charges dealt with under C2. If any plea is changed to Not Guilty, trial thereon proceeds by complying with paras D1 to D8 inclusive in Record Form D on p 3 and making an appropriate record thereof on a separate sheet.*)

C3. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

82

CHARGE SHEET

The accused M-28684 Gnr Ross Edward GUSS, 17 Canadian Field Regiment, R.C.A., a soldier of the Canadian Army, Central Mediterranean Force, is charge with:-

FIRST CHARGE
Sec 15(1)
AA

WHEN ON ACTIVE SERVICE, ABSENTING HIMSELF WITHOUT LEAVE,

in that he,

In the field, on 5 Nov 44 absented himself without leave from 2200 hrs 5 Nov 44 until 2100 hrs 17 Nov 44. (absent 11 days 23 hrs)

SECOND CHARGE
Sec 40
AA

WHEN ON ACTIVE SERVICE, CONDUCT TO THE PREJUDICE OF GOOD ORDER AND MILITARY DISCIPLINE,

in that he,

In the field on 6 Nov 44 did improperly use Willys 5-cwt WD vehicle for private purposes.

THIRD CHARGE
Sec 24(2)
AA

WHEN ON ACTIVE SERVICE, LOSING BY NEGLECT HIS EQUIPMENT, CLOTHING AND REGIMENTAL NECESSARIES,

in that he,

In the field on 21 Nov 44 was deficient of:-

1 Drawers, woollen	@	$1.20	$1.20
1 Gloves, knitted	@	.47	.47
1 Overalls, comb.	@	2.72	2.72
2 Socks, prs	@	.37	.74
1 Vests, woollen	@	1.20	1.20
1 Brasses, cleaning	@	.04	.04
1 Brushes, clothes	@	.48	.48
1 Cap, comforter	@	.34	.34
1 Knife	@	.15	.15
1 Fork	@	.07	.07
1 Spoon	@	.07	.07
1 Knife, clasp	@	.86	.86
1 Housewife	@	.17	.17
1 Field Dressing	@	.24	.24
1 Belts, waist, large	@	.74	.74
1 Braces, W.E. right	@	.30	.30
1 Helmets, steel	@	1.50	1.50
1 Braces, W.E. left	@	.30	.30
2 Straps, web, supp	@	.13	.26
1 Tins, mess, rect	@	.35	.35
1 Mug, enamel	@	.13	.13
	Value		$12.33
	75% Value		$ 9.25

/Cont'd on page 2.

CHARGE SHEET

FOURTH CHARGE
Sec 40
AA

WHEN ON ACTIVE SERVICE, CONDUCT TO THE PREJUDICE OF GOOD ORDER AND MILITARY DISCIPLINE,

in that he

In the field on 17 Nov 44, while employed as a Batman and having been instructed to take kit to a rest area was unable to account for the following articles, the property of Lieut W.T. Athey, 17 Cdn Fd Regt R.C.A.

2	Bottles of Scotch Whisky	$ 3.60
6	Shirts	12.00
1	Pistol .38 WD No 875663	25.03
2	Underwear	3.00
6	Socks, prs	3.00
2	Cardigans	3.00
1	Slide Rule	5.00
	Toilet Articles	4.00
1	Tunic BD	5.25
1	Shoes, prs	10.00
2	Trousers, BD, prs	10.50
2	Pyjamas, prs	2.00
	Value	$86.38

In the Field
29 Nov 44

(G.A. Rankin) Lt-Col. RCA
Comd 17 Cdn Fd Regt R.C.A.

To be tried by Field General Court-Martial.

In the Field
16 Dec 44

(E. Ross) Brig
DAA & Q Cdn Armd Div

C & F.

FIELD GENERAL COURT-MARTIAL

(Whether the accused to be tried is under his comd or not, a FGCM may on application to him be convened by any offr of Cdn Army Overseas, or of any other force if authorized in law, in immediate comd of troops on active service, subject to RP 105(C) and restrictions imposed by appropriate authy. AA 49, 50, RP 104-107, 114. As to the duties and privileges of the Convening Offr in dealing with the application see MML Chap V paras 20 and 23, RP 87(B).

There should be a separate Convening Order for each person to be tried separately by the same Court. RP 71(C), 109. As to separate charge sheets see RP 62, and as to separate trial on charges in the same charge sheet see RP 108. As to two or more accused charged jointly see RP 16, 109.

As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

ACCUSED.

Number.	(a) Prmnt R.	(b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
M25684	Gunner		Ross Edward	GUSS	17 Cdn Fd Regt

CONVENING ORDER.

1. Whereas complaint has been made to me, the undersigned, that the person(s) named above as the accused, being subject to military law, has (have) committed the offence(s) set forth in the Charge Sheet(s) attached and on (date) 16 Dec 44 endorsed by me, (or by an offr of my staff for me), "To be tried by Field General Court-Martial".

2. And whereas I am of opinion that it is not practicable that such offence(s) should be tried by an ordinary General Court-Martial; (and that it is not practicable to delay the trial for reference to a superior qualified offr).

(Delete part in brackets when not required for compliance with RP 105(C).)

3. I hereby convene a Field General Court-Martial to try the said person(s), and to consist of the Offrs appointed or detailed hereunder.

4. I am unable to appoint (a) three Offrs to form the Court, (b) a Fd Offr as President, for the reasons I have attached hereto.

(AA 49, RP 106(B), 107(A). Delete the whole or part, if not applicable.)

5. I also appoint as Judge-Advocate thereat the Offr mentioned hereunder.

(RP 106(E). Delete, if none appointed.)

PRESIDENT.

(Rank.)	(Must be named. RP 106.)	(Unit.)
Major	E.N. Fairman	5 Cdn Lt Regt

MEMBERS.

(Rank.)	(Named or detailed. RP 106.)	(Unit.)
Capt	S. Reid	4 Cdn A Tk Regt
Lieut	R.F. Wigle	5 Cdn Fd Regt

WAITING MEMBER.

(Rank.)	(Named or detailed, if any. RP 106.)	(Unit.)
Lieut	To be detailed by	17 Cdn Fd Regt

JUDGE-ADVOCATE.

(Rank.)	(Must be named, if any. RP 106.)	(Unit.)
	N/A	

On Active Service in the Fd

in ITALY (Country.)

(Signed personally. RP 105 fn 2.) Brigadier (Rank.)

Date 16 Dec 44

Commanding ROA, 5 Cdn Armd Div
Convening Officer.

CONVENING OFFR WILL INITIAL ALL DELETIONS AND ALTERATIONS

4/38A CPA85 (To Dirs of AFAS) 40-P to 67(Int) (40)

(See overleaf for oaths and notes for use on trial.)

2. FT

MEDICAL CERTIFICATE

I certify that I have this morning examined M-28684 Gnr Guss, R.E. of the 17 Cdn Fd Regt R.C.A. and in my opinion he is Fit to undergo trial by Field General Court Martial.

In the Field

23 Dec 44

D. Marcellus Capt.

(D.F. Marcellus) Capt RCAMC
M.O. 17 Cdn Fd Regt R.C.A.

D3

Firstwitness for the prosecution:
Major F.D. Brooks,76 Bty,17 Fd Regt,RCA?sworn,states:
Comd 76 Bty,17 Fd Regt.
At about 1700 hrs 5 Nov 44 I parked a Willys 5 cwt 5468222 in front of the offrs mess. That is the last I saw of it. I first noticed it missing the morning of 6 Nov. I think there was an Air force marking on the hood. I do recall the bright colored paint after the jeep had been washed on 5 Nov.
Cross-exam:
I did tell Gnr Guss,my batman,to clean it up and have it apinted. I do not recall the bumper on the front and do not know what tax signs were on it.
RP 83(B) complied with

Second witness for the prosecution:
Lt W.T.Athey,17 Fd Regt,RCA,sworn,states:
On 6 Nov 44 I was returning from Floence. At approx 1030 hrs,I was travelling east on the road b tween FARRIANO and JESI,when I noticed a jeep approaching with three men in it. The jeep bore 74 Tac sign. I recognized Gnr Guss the accused as a passenger in the jeep. Guss has been my batman off and on,last time for approx one month prior to 28 Oct when I went on leave. He was still my batman when I wnet on leave.
I went on leave on 28 Oct and instruxted him to take my kit to the rest srear if we came out of action. Half of my kit is usually carried in Y and half in H. My kiywas a 4.5 charge box,kit bag,bed roll,bed packs and a pair of boots.. All my kit was in the comd post house when I left and he was to remove it from there.
I saw part of my kit about the 7 Nov. I found bedroll and bed,small pack and pair of boots in H but there was nothing in Y. Charge box and kit bag missing and still missing. I checked the drivers and personnel but they did not have my kit. Contents of the box and bag which are still missing are as follows: (List attd as A1 after being read).
Cross-exam:
Accused was my batman after Hitler line. At that time some of my kit had gone to B Ech but I got it back. Since then I have not lost equip.
Expected him to take kit to offrs quarters or some other place where he could look after it. Quite likely that people could have hepled themselves. Am not acquainted with the batman's quarters in FOSSOMBRONE
I found my bed in the men's quarters.
My binoculars had been turned in to QM stores. They had been in glove compartment in scout car, doubt if he knew they were there.
If kit in MT lines under gd would consider it fairly saffe,batman would be the only ones who could take it without question.
Re-exam:
Charge box had luggage tag with my name. It was not re-painted. Kit bag had my name on it.
Exam by the Court:
I asked Guss for my kit when I say him and he replied"I left it in the MT park". I saw him the night he returned from absence approx a week or more after I returned from leave. He was under close arrest when I saw him. I had instrunted Guss to get my laundry cleaned and when he got it back to pau it with the rest of the stuff and take all of it to the new area. At that time I did not know ehere the rest area was going to be.
RP 83 (B) complied with.

Third witness for the prosecution:
L35134 Sgt Parr,W.J.W.,17 Fd Regt,RCA,sworn,states:
I am MT Sgt 17 Fd Regt. On 6 Nov no authorization was given to Gnr Guss the accused to have a veh,nor was there any authorization to anyone to have a jeep on the road between Fabriano and Jesi. I know WD veh 5468222,it carried tac 74 sign and had American star on hood.
Cross-exam: None
Exam by Court:
I have all work tickets for the unit. I make them out and an offr must sign them. Anyone going outside POSSOMBROME required a work ticket.
RP 83(B) complied with.

Fourth witness for the prosecution:
B11778 Gnr McCue,A.S.,17 Fd Regt,RCA,sworn,states:
On 5 Nov I was guard at 76 bty MT lines when I saw at 1730 hrs Gnr Guss the accused carrying a charge box. I saw him on ehalf hour before around the MT lines. Did not see where he got the box. It looked wnpty he was carrying it under his arm. Did not speak to him. He was walking on the side of the road going towrds RHQ away from town. He was alone and walking normally.
Cross-Exam;
Did not walk as thought the box were full. I did not see him come out of the park with the box. Did not watch to see if he went to the offrs mess-- it is possible to get to the offrs mess that way.
Did not notice anyone with him. He was alone at 1730 hrs. At 1700 hrs there were three of them,Lockett,Hamilton and Guss. When the 3 left they took nothing with them.
Re-exam:
At 1700 hrs when I saw the 3 they were moving away from a veh. I was about 50 yards away.Lot of vehs and trees between us.
Exam by the court:
Had just the one box.
RP 83 (B) complied with

EVIDENCE FOR THE DEFENCE.

First witness for the defence:
M28684 Gnr R.E. Guss,17 Fd Regt,sworn,states.
On afternoon of 5 Nov went on 1300 hrs parade. I helped driver of Y wash truck until 1430 hrs. I then gathered up Mr Atheys laundry and handed in his binoculars. The 4.5 charge box and kit bag were in H and the remainder of his kit was in Y on 5 Nov at POSSOMBROME in Car park.
I went uptown to a cafe and had a few drinks. Stayed about 1 and one half hours and came back for supper. Barracks are about 500 yards from the car park. After supper I wnnt to the car park to get cigarettes. Believe supper at 1630 hrs. Grns Hamilton and Lockett with me. After getting cigs went back to brks. I had a 4.5 box and took it up to my brother in the offrs quarters. Did not see anyone on gd at MT park. I do not recall now I carried the box. My bro had asked for the box.
I then returned to the cafe met Hamilton and Lockett there. Later met couple of English chaps,were drinking,they asked if we would like to go to Fano,so we went. Left Fano 7 oclock or so and arrived Ancona about 10 oclock. Stayed at Ancona 5 or 6 hours,left by 15cwt and went to Rome. Returned to Jesi and gave myself up.
Left offrs kit in MT li es,Had asked Mr McIntyre what to do with it and he thought it best to leave it where it was. I had heard 76 bty offrs were crowded and might not stay in their mess. His kit on 5 Nov was in the vehs under a tarp.
Cross-exam:
When Mr Athey left he did want alundy done. Did not take it out them

because not sure how long we would be in action.
Guess laundry is still in Fossombrome, I did not tell Mr Athey where it was.
Had picked my box up on the road, Am not sure if it is 4.5 or 5.5 box.
My bro lived in the offrs quarters. We had been in FOSSOMBROME 2 days, I firgured I was taking the shortest route. I had not been to the offrs quarters before.
Had just got a kit bag and just decided to take the box up to my bro.
Left Ancons 3 or 330. Left with Gnr Lockett,arrived Rome 5 or 6 next morning. Lockett and I rode in the back.. Only saw the driver when we hailed them. We were dropped in Rome. Did not see Mr Athry on the raod.
Spent night of 6 Nov outside of Fano at form house. Left it about 9 or 915.
Believe the list is about what the box and kit bag of Mr Athey's contained.
Re/exam:
Did not spend all time in Rome
Exam by the court:
Hamilton and Lockett left me at MT park.
Left Fano next morning. I had greatcoat in box and some other kit.
It was an English 15 cwt. We did not speak to the others when we made stops.
RP 83 (B) complied with.

Second witness for the defence:
H29052 ~~Gx~~ Bdr Lalonde,M.L.,17 Fd Regt,sworn,states:
On afternoon of 5 Nov I was uptown in FOSSOMBROME. I had haircut and then went to a cafre. Saw Gnrs Hamilton,Lockett and Guss there. they were not intoxicated.
No exam.
RP 83(B) complied with

Third witness for the defence:
M543 Gnr Guss,D.N.,17 Fd Regt,sworn,states:
Was driver of Maj Brook's jeep in FOSSOMBROME. When we moved to FOSSOMBROME it had no windhsield ,no top and it was muddy.
on afternoon of 5 Nov I washed jeep. Found it had a board wired on in place of a bumper. I took this board off. Were no signs on the front except the RAF bullseye. There was a 74 tac sign on the rear.
I last saw my bro the accused before he went AWL at entrance to offrs mess when he brought charge box to me. It was 4.5 amn box,I still have it.
Cross-exam:
Had spoken to him re charge box several times. I gave him a kit bag while we were in action and he was to give me a charge box.
RP 83 (B) complied with.

Fourth witness for the defence:
L104522 Gnr Heinrich?H,17 Fd Regt,Sworn,states:
On 5 Nov I was Maj Brook's barman. I helped Gnr Guss wash the jeep It had RAF bullseye marking and no bumper. We took a wooden bumper off it when we were washing it.. Do not remember tac signs but it had a 74 s gn on the rear. It had no windshield.
When we arrived at FOSSOMBROME I left some of Maj Brook's kit in ~~Y~~ because we could not keep all of it in the quarters. Only 4 batmen stayed in the offrs quarters,the others stayed about 100 yards away.
Cross-exam:
I noticed in FOSSOMBROME that Guss,accused's brother,had a charge box. I did not notice when he got it.
Do not remember where spare tire was carried on jeep.Do not know if had rear bumper.
R/ 83 (B) complied with.

Defending officer address:
Let us go over the actions of the accused from 5 Nov on. ----- He could therefore not have been in the jeep. Mr Athey must be mistaken. Re Kit, there was doubt whether offrs going to stay in the mess where they were. Accused faced with taking kit to quarters where unguarded or to leave it in veh where there were guards. He has not shown any neglect. Fact that he turned binoculars in shows his good faith. All his actions accounted for in a logical manner.
~~xxxxx~~ Not sufficient evidence to convict and no neflect shown re offrs kit.

Prosecutor in closing:
Kit should have been taken to offrs quarters. Accused wnet AWL and left kit with no precautions for safety. Re laund it is strange that he did not take the laundry out for so many days afger being told to do so but it is stranger still that he has not to this day told Mr Athey where that laundry is.
Rather strange that accused memory so good re times after all the drinking he claims to have done and yet it is so faulty re people he took such a long ride with and the veh it was taken in.
Also seems strange why the accused's cigs were kept in a veh while the remainder of his kit was kept in his quarters.
Suggest Mr Athey straightforward witness and worthy of belief.

Speech in Mitigation for.

M 286 84 Gnr Guss R.E.

The accused is a volunteer in the Can army. He has 3 1/2 years of service of which fourteen months were spent in Italy with the 17 Can Fd Co R.E. His record in action has been good. Although he is shown on strength now as a Gunner, it is known that he never wanted to be one. Of the fourteen months here six were spent as a gunner on the guns in 37 Bty.

A. M. Ross Capt

"EXHIBIT 'A'"

2	Bottles Scotch Whisky	3.60
6	Shirts	12.00
1	Pistol	25.03
2	Underwear	3.00
6	Socks	3.00
2	Cardigans	5.00
1	Slide Rule	2.00
	Toilet Articles	4.00
1	Tunic, B.D.	6.25
1	Shoes, prs.	10.00
2	Trousers, B.D.	10.50
2	Pyjamas, prs.	2.00
		86.38

This is Exhibit "A" referred to in the summary of evidence in the case of M.28684 Gnr. Cuss, R.E., 17 Fd Regt R.C.A., taken before me this 28th day of Nov 1944.

(Officer taking Summary)

Ex "C" - 2 Fs

SUMMARY OF EVIDENCE

Summary of Evidence in the case of M-28684 Gnr Ross Edward GUSS, 17 Cdn Fd Regt R.C.A., Cdn Army, Central Mediterranean Forces.

The Commanding Officer directs that the evidence be taken on oath.

FIRST WITNESS: L-35065 Sgt Payne, C.O., 76 Bty, 17 Cdn Fd Regt R.C.A., having been duly sworn deposed as follows:

I am a Signal Sgt in the 17 Cdn Fd Regt R.C.A. On 5 Nov 44 at 2200 hrs I called the roll of the 76 Bty H.Q. billets, Gnr Guss was absent. I did not see Gnr Guss again until 21 Nov 44 nor had he returned to the unit during this period. I submit as evidence a certificate of surrender received from 163 Pro Coy (Ports) C.M. Police.

The accused declines to cross-examine this witness.

C O Payne
(L35065 Sgt Payne, C.O.)

The certificate of surrender referred to by the witness, produced, read over to the accused, marked Exhibit "C", signed by me and attached hereto.

(Offr taking Summary)

...D. WITNESS:

Major F.D. Brooks, 76 Bty, 17 Cdn Fd Regt R.C.A., having been duly sworn deposed as follows:

I command 76 Bty, 17 Cdn Fd Regt R.C.A. At about 1700 hrs 5 Nov 44, I parked a Willys 5-cwt W.D. No. 5468222 in front of the Officers Mess. I first noticed its absence at 0730 hrs, 6 Nov 44, and it is still missing.

The accused declines to cross-examine the witness.

F.D. Brooks
(F.D. Brooks) Major RCA

THIRD WITNESS:

Lieut. W.T. Athey, 76 Bty, 17 Cdn Fd Regt R.C.A., having been duly sworn deposed as follows:

I am an Officer in the 17 Cdn Fd Regt R.C.A. On 6 Nov 44, I was returning from Florence. At approximately 1030 hrs, I was travelling east on the road between Fabriano and Jesi, when I noticed a jeep approaching with three men in it. The jeep bore a 74 unit sign. I recognized Gnr. Guss as one of the men riding in the jeep. For approximately one month prior to 28 Oct 44, Gnr. Guss had been employed as my batman. Before proceeding on leave on 28 Oct 44, I instructed Gnr. Guss to pack my kit and take it to the rest area. When I returned from leave I made a thorough search for my kit. A 4.5. cartridge box and a kit bag were missing. The missing articles are enumerated in the attached list.

Q:- Where was your kit normally carried?
A:- The charge box and kit bag in "H", remainder in "y"

Cross-examined by the accused.

Q:- Was there just a 74 sign on the jeep?
A:- The only sign I noticed was a 74.

W.T. Athey Lieut.
(W.T. Athey) Lieut. RCA

...../2

SUMMARY OF EVIDENCE

THIRD WITNESS (continued)

The list referred to by the witness, produced, read over to the accused, marked Exhibit "A" signed by me, and attached hereto.

(Officer taking Summary)

FOURTH WITNESS

L35134 Sgt Parr, W.J.W., 76 Bty, 17 Cdn Fd Regt R.C.A., having been duly sworn deposed as follows:

I am M.T. Sgt 76 Bty, 17 Cdn Fd Regt R.C.A. On 6 Nov 44 no authorization was given to Gnr Guss, R.E. to have a veh, neither was there any authority given to anyone to have a jeep on the road between Fabriano and Jesi on that date.

Q. What were the tactical and other signs on Willys 5-cwt WD No 5468222?

A. There was a 74 unit sign on the front bumper and an American star on the hood.

The accused declined to cross-examine this witness.

(L35134 Sgt Parr, W.J.W.)

FIFTH WITNESS:

B-11778 Gnr. McCue, A.S., 76 Bty, 17 Cdn Fd Regt R.C.A., having been duly sworn deposed as follows:

I am a gunner in the 17 Cdn Fd Regt R.C.A. On 5 Nov 44 at about 1750 hrs, I was on guard at 76 Bty Vehicle Park when I noticed Gnr. Guss carrying a 4.5 ammunition box. He was proceeding to the road that runs on the east side of the vehicle park.

Cross-examined by the accused.

Q:- Did you see me at any other time during the day?
A:- Yes. In the vehicle park around G3 (a jeep) at about 1700 hrs.

(B-11778 Gnr. McCue, A.S.)

Cont'd on Page 3

SUMMARY OF EVIDENCE

SIXTH WITNESS:

L35061 BQMS Terry, A.J., 76 Bty, 17 Cdn Fd Regt R.C.A. having been duly sworn deposed as follows:

I am B.Q.M.S. in 76 Bty, 17 Cdn Fd Regt RCA. The kit of Gnr Guss, R.E. was examined by me on the 21 Nov 44 and found to be short the items enumerated in the attached list.

The accused declines to cross-examine this witness.

(L35061 BQMS Terry, A.J.)

The list referred to by the witness, produced, read over to the accused, marked Exhibit "B", signed by me and attached hereto.

(Officer Taking Summary)

STATEMENT OF THE ACCUSED:

The accused was warned as follows:

"Do you wish to make any statement or to give evidence upon oath? You are not obliged to say anything or give evidence unless you wish to do so, but whatever you say or any evidence you give will be taken down in writing and may be given in evidence."

The Accused: "I have nothing to say at this time."

R. E. Guss

(M28684 Gnr Guss, R.E.)

Certified that Rules of Procedure 4 (C), (D), (E) and (F) have been duly complied with.

Taken by me in the Field in the presence and hearing of the accused this 28th day of November, 1944.

(D.H. Weir) Capt RCA
Officer Taking Summary.

"EXHIBIT 'B'"

Kit Deficiencies of: N.28684 Gnr. Cuss, R.E.

1	Drawers, Woollen @	1.20	1.20
1	Gloves, knitted	.47	.47
1	Overalls, comb.	2.72	2.72
2	Socks, prs	.37	.74
1	Vests, woollen	1.20	1.20
1	Brasses, cleaning	.04	.04
1	Brushes, clothes	.48	.48
1	Cap, comforter	.34	.34
1	Knife	.15	.15
1	Fork	.07	.07
1	Spoon	.07	.07
1	Knife, clasp	.86	.86
1	Housewife	.17	.17
1	Field Dressing	.24	.24
1	Belts, waist, large	.74	.74
1	Braces, S.E. right	.30	.30
1	Helmets, steel	1.50	1.50
1	Braces, S.E. left	.30	.30
2	Straps, web, Supp.	.13	.26
1	Tins, mess, Mect.	.35	.35
1	Mug, enamel	.13	.13
			12.53
	Value		12.53
	75% Value		£ 9.35

This is exhibit "B" referred to in the summary of evidence in the case of N.28684 Gnr. Cuss, R.E., 17 rd Dept R.C.A., taken before me this 28th day of Nov 1944

(Officer taking summary)

DUPLICATE

Exhibit No 4

I, Lieut. G. H. Gridland, ... Number. ..... Name ..... of the ..... 17th Field Royal Canadian Artillery. ..... Rank ..... at ..... on the ..... November 17th 41. at about ..... hrs as a prisoner of war, absentus without leave.

Signature

Witness:

(Or if the effect of duress is to be proved, state the circumstances under which the surrender was made)

Et 1 - E.F.

ARMY FORM B.206.

Statement as to Character and Particulars of Service of Accused.

Number.	*Rank.*	*Name.*	*Regiment (or as the case may be).*
M28684	Gnr	GUSS, Ross Edward	17 Cdn Fd Regt R.C.A.

1. The following is a fair and true summary of the entries in the regimental and squadron, battery or company conduct sheets† of the accused, exclusive of convictions by a court martial or a civil court, of summary awards under section 47 of the Army Act, and of cases in which trial has been dispensed with :—

Note.—At a trial by field general court martial this summary may be compiled from the said conduct sheet.

The conduct sheet(s) mentioned should be produced in court with this statement but not annexed to the proceedings.

† See para. 671, K.R., 1940.

* The expression "within the last 12 months" means within the period of twelve months immediately preceding the date on which the accused is charged with the offence in the present charge, provided that any interval during which the accused was undergoing sentence of imprisonment or detention or was absent from his unit or from duty shall be excluded in reckoning the said period of twelve months.

Instructions.—If the charge is for drunkenness state the number of previous convictions for drunkenness to be stated separately and dated.

	* Within last 12 months.	*Since Enlistment.
For AA Sec 11	one times	two times.
For AA Sec 15(1)	one times	one times.
For	times	times.
For	times	times.
For	times	times.

Number of instances of gallantry or distinguished conduct,

or

[redacted]

2. The accused has not been previously convicted, *or*

[redacted]

3. The accused is not under sentence at the present time, *or* [redacted]

4. The accused has been in confinement, awaiting trial on the present charges, for Nil days in civil custody, and 35 days in military custody, making a total of 35 days, of which Nil days were spent in hospital.

5. The present age of the accused according to his record of service is 23 yrs

6. The date of his attestation specified in his record of service is 3 5/12 Yrs

7. The service which the accused is allowed to reckon towards discharge or transfer to the reserve is 3 5/12 yrs

8. The accused is entitled to deferred pay or gratuity in respect of 3 5/12 yrs service.

9. The accused is entitled to reckon 3 5/12 yrs service for the purpose of determining his pension, etc.

10. The accused is in possession of, or entitled to [redacted] (*or* is in possession of *or* entitled to (*state any military decoration or reward*)). CVSM & Clasp

11. [redacted]

12. [redacted] dated

(*)[illegible] W1.13055/144 125,000 5/41 A.G.R.V.Ltd. Gp.4/95

"B"

DUPLICATE

Exhibit No

Lieut. J. H. Griffiths.

No. m/29694. Number.

Name [illegible] Rgt. of the

7th Field Royal Canadian Artillery.

Rank [illegible] Battery.

at [illegible] surrender [illegible].

at about [illegible] hrs on 4 [illegible]

absented without leave.

Commanding [illegible]

(CO of the unit or formation to which surrender was made)

This is Exhibit "G" referred to in the
summary of evidence in the case of
[illegible] Regt R.C.A.
[illegible] Cmdr. D.S.O. in Regt R.C.A.
taken before me this 28th day of May 1944.

[illegible]
(Officer taking Summary)

EL 1 - 87

ARMY FORM B.213.

Statement as to Character and Particulars of Service of Accused.

Number.	*Rank.*	*Name.*	*Regiment (or as the case may be).*
M28684	Gnr	GUSS, Ross Edward	17 Cdn Fd Regt R.C.A.

1. The following is a fair and true summary of the entries in the regimental and squadron, battery or company conduct sheets† of the accused, exclusive of convictions by a court martial or a civil court, of summary awards under section 47 of the Army Act, and of cases in which trial has been dispensed with:—

Note.—At a trial by field general court martial this summary may be compiled from the field conduct sheet.

The conduct sheet(s) mentioned should be produced by court with this statement but not annexed to the proceedings.

† See para. 677, K.R., 1940.

* The maximum punishment awarded should correspond with the number of entries in the conduct sheets, less whatever benefit is given to the record before offences are taken into account, and to any recognized special rule of guidance or distinguished conduct.

Instructions.—If the charge is for drunkenness the entries for drunkenness must be stated separately and dated.

	* Within last 12 months.	*Since Enlistment.
For AA Sec 11	one times	two times.
For AA Sec 15(1)	one times	one times.
For	times	times.
For	times	times.
For	times	times.

Number of instances of gallantry or distinguished conduct,

or

[redacted]

2. The accused has not been previously convicted, *or*

[redacted]

3. The accused is not under sentence at the present time, *or* [redacted]

4. The accused has been in confinement, awaiting trial on the present charges, for Nil days in civil custody, and 35 days in military custody, making a total of 35 days, of which Nil days were spent in hospital.

5. The present age of the accused according to his record of service [redacted] 23 yrs

6. The date of his [redacted] attestation specified in his record of service [redacted] is 3 5/12 Yrs

7. The service which the accused is allowed to reckon towards discharge or transfer to the reserve is 3 5/12 yrs

8. The accused is entitled to deferred pay or gratuity in respect of 3 5/12 yrs service.

9. The accused is entitled to reckon 3 5/12 yrs service for the purpose of determining his pension, etc.

10. The accused is in possession of, or entitled to [redacted] (or is in possession of or entitled to (*state any military decoration or reward*)). CVSM & Clasp

11. [redacted]

12. [redacted] dated

(1) W1.13402/144 125,000 6/41 A.A.F.W.1.(a) Gp.698

5

Schedule of Convictions by a Court Martial or Civil Court, of summary awards under Section 47 of the Army Act and of cases in which trial has been dispensed with of accused.

No. M28684 Rank Gnr Name Guss, R.E. of 17 Cdn Fd Regiment (or as the case may be).

(INSTRUCTION—A verbatim extract from the regimental books, stating these convictions and dispensations with trial, must be inserted.)

Description of court by which tried, or status of officer disposing of the charge or dispensing with trial.	Date and place of trial, or summary award under A.A. 47, or of order dispensing with trial.	Charges upon which convicted, or in respect of which trial was dispensed with.	Sentence of the court or authority disposing of the charge, or order of the dispensing authority.	Punishment remitted.
		N / A		

I HEREBY CERTIFY that the foregoing schedule of convictions and dispensations with trial is a true extract from the regimental books in my custody.

Signed this ~~30th~~ 23 day of ~~November~~ December /44

A.H. Fair Capt.
ADJUTANT, 17th FIELD REGIMENT, R.C.A.

13. The above has served as a non-commissioned officer continuously, without reduction, to the present date.

		Date of Promotion.
In the rank of	n/a	
In the rank of	years	
In the rank of	years	
In the rank of	years	

If extract reads—*If any matter on any of the above paragraphs cannot be copied from the regimental books the paragraph must be struck through in ink in the case of a trial by field general court-martial the information may be obtained from such sources as are available and the paragraphs concerned amended accordingly.*)

No. 26684 Name GOSS, Ross Edward | Sqn. Battery or Company | Corps RCA | Date of enlistment 26-6-41 | GC Badges n/a | Service or Proficiency Pay n/a | MFM 6 (AFB 122) 40/P&S/136 (3428)

Company Conduct Sheet Date of last entry in n/a | No and date of last drunk nil | Period not reckoning towards freedom from extra fine n/a | Sheet No 1 | Signature OC Company, etc | Character

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Field	7 Jun 43	(Old sheet destroyed 7 Jun 43) Nil cases of drunkenness.							
At sea	30 Oct 43	Gnr		A.A.Sec 11, WCAS Neglecting to obey Ship's Part I Orders "Smoking on deck during the hours of black-out.	Documentary	28 days F.P.	31 Oct 43	H.E. Brown Major RCA	forf 28 dy pay FR&I 149 (2)
Field	7 May 44	Gnr		A.A.Sec 11, WCAS Neglecting to obey Regtl Orders - found in village that was out of Bounds	Documentary	28 days F.P.	7 Jun 44	R.W.Armstrong Lt-Col RCA	forf 28 days pay FR&I 149(2)
Field	15 Jul 44	Gnr		A.A.Sec 12(1) WCAS AWL from 0645 hrs,15-7-44 until 0030 hrs,22-7-44 (Absent 6 days 17 hrs 45 mins)	NSM Lloyd	28 days F.P. forf 28 days FR&I 149(2)	26 Jul 44	A.Powess Major RCA	forf 7 dys pay FR&I 149 (1)(a)

.....CERTIFIED TRUE COPY.....See Overleaf.....

(P.T.O.)

(W. Fair) Capt RCA
A/Lt 'i/c Pd Rest H.C.A.

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks

Certified true copy from the Regtl Books in my custody.

Dated in the Fd
This 29 day of Nov 1944

(A.W. Weir) Capt RCA
Adjt 17 Cdn Fd Regt R.C.A.

I desire the services of Lieut C.M. MacIntyre, 17 Cdn Fd Regt R.C.A., if he is available to represent me at my forthcoming trial by Field General Court Martial.

R.E. Guss

(M28684 Gnr Guss, R.E.)

RECORD FORM D—PROCEEDINGS ON PLEAS OF NOT GUILTY TO ALL CHARGES.

D1. President to accused: Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity to prepare your defence? Ans. NO, SIR (1)

(1. If "yes", see RP 39(A) for procedure. Statement or evidence, if any, is recorded per Notes.)

D2. The Prosecutor makes (~~no~~) (no) opening address.(1)

(1. RP 39(B), 60(A) (B), 90, 92(C) (D). Record address per Notes, subject to RP 95(C).)

D3. The evidence for the Prosecution is taken.(1)

(1. RP 39(C), 114, KR Can 555. Record evidence per Notes. As to Prosecutor giving evidence himself see RP 39(D) (E).)

D4. The Prosecution is closed.(1) ~~The Defending Offr submits that the evidence for the Prosecution does not establish a prima facie case against the accused on the ..... charge(s).(2) The Court is closed, and considers the submission.(3) The Court is re-opened, and the President announces that the submission is disallowed on the ..... charge(s), and allowed on the ..... charge(s), and that, accordingly, the trial will proceed on the former, but the accused is (are) found Not Guilty on the latter charge(s).(4)~~ DFr

(1. Delete remainder of this para, if submission not made. 2. Arguments on submission, answer and reply are recorded per Notes. 3. RP 40 fn 1. See MML p 72 paras 12-14 and p 81 para 42. 4. Delete part not used. If accused acquitted on all charges, use second alternative in para D8.)

NB: If trial proceeds, accused must be allowed great latitude in making his defence, and the Court should not stop his defence solely on ground of irrelevance. (RP 60(C), 114, 115.)

D5. President to accused: You will now proceed with your defence.(1) You may, if you wish, give evidence yourself on oath as to the facts or your character or both, in which case you will be subject to cross-examination.(2) You may, however, make a statement without being sworn, and you will not be subject to cross-examination.(3) But a statement which could have been made on oath will not carry with the Court the same weight as sworn testimony.(4) You may call witnesses in your defence and as to character, whether you give evidence or make a statement or do neither.

President to accused: Do you wish to give evidence yourself as a witness, make a statement, or do neither? Ans. GIVE EVIDENCE Do you intend to call witnesses on your behalf? Ans. YES SIR. Are they witnesses as to character only? Ans. NO, SIR

(1. RP ~~88~~ 118. 2. RP 40(A), see 80(D). 3. RP 40 fn 10. 4. RP 40 fns 2, 9.)

D6. Consequent on the answers recorded in para D5 the appropriate procedure for the defence is followed.(1)

(1. RP 114, 115, 116. For procedure see Notes on back of Convening Order, CF A95. Evidence for accused as to his character should, if in his interest, be given before the finding. See RP 46(A) fn 1, 86(C). Note the further opportunity in para E1 of Record Form E. Record per Notes addresses, statement, evidence and any summing up by the JA under RP 42, 103(6).)

D7. The Court is closed to consider the finding(s).(1) The finding(s) of the Court is (are) recorded in Part I of the Schedule.(2) The Court is re-opened.

(1. RP 43, 117(A). See Notes in Part I of Schedule. 2. RP 44(A).)

D8. The President announces the finding(s), if any, of Not Guilty, and states to the accused that the finding(s) of the Court on the ..... charge(s), being subject to confirmation, will be promulgated later.(1) ~~Or, The President announces that the accused is found Not Guilty on all charges and is to be released forthwith, and that the proceedings are accordingly terminated. Part I of the Schedule is dated and signed.(2)~~ DFr

(1. AA 54(3) (6), RP 45, 120(A). 2. AA 54(3), RP 45, 117. This alternative announcement is not applicable when there are pleas of Guilty outstanding and dealt with under Record Form B or C.)

D9. ~~The accused having been found Guilty on one or more of the charges, the proceedings are considered by using Record Form E below.~~ DFr

RECORD FORM E—PROCEEDINGS ON CONVICTION BEFORE SENTENCE.

E1. President to accused: Do you wish to give evidence yourself or to call any witnesses as to your character?(1)

Ans. NO, SIR

(1. If evidence has already been given by accused or his witnesses as to his character, delete this para. RP 37(C) fn 4, 46 fn 1. Accused and witnesses are sworn. Evidence recorded per Notes.)

E2. The Prosecutor produces Statement(s) as to Character and Particulars of Service(1), and certified true copy (copies) of Conduct Sheet(s)(2), purporting to refer to the accused, which he submits to the Defending Offr for examination, and then to the Court for admission in evidence. The Court is satisfied that these documents refer to the accused, because (i) they purport to be signed in the manner required by AA 163(1) (g) (h), and (ii) they purport to refer to (a) soldier(s) having the same number, rank, name and corps as the accused. Admitted in evidence and marked Ex. B and Ex. C respectively.(3)

(1. MFB 355 or AFB 296. 2. MFM 6. 3. RP 46, KR Can 558. If above documents not produced, see RP 46 fn 1 para 1.)

E3. President to accused: Do you wish to address the Court on the Statement(s) and Conduct Sheet(s), and in mitigation of punishment?(1) Ans. YES (ATTACHED)(2)

(1. RP 37(C), 46(D). 2. Address, if any, recorded per Notes. Court should permit accused or his witnesses to prove on oath anything here or previously stated which would affect the amount of punishment. RP 37(F) fn 7.)

E4. The President states that the Court is closed to consider the sentence, and that the sentence to be awarded by the Court, being subject to confirmation, will not be announced, but will be promulgated later, and the proceedings in open court are accordingly terminated.(1)

(1. AA 54(6), RP 120(A).)

E5. The Court considers the sentence.(1) The President records the sentence in Part I of the Schedule, which is dated and signed by him and the JA, if any.(2) DFr

(1. Where several accused tried separately see RP 86(D). One sentence only, comprised of the punishment or punishments laid down in AA 41, 44 and its proviso, is to be awarded to cover all charges in all charge sheets on which accused found guilty. RP 48. As to sentences see AA 44, 138, 182, RP 46-50, 69, 118, 119(A), KR Can 308, 330, 563-566, Overseas RO 309, 1223, MML p 60, 752-757. As to sentences assigned for civil offences by the law of England see AA 41(5), MML p 130. Where accused already under sentence of imprisonment or detention see AA 44(1)(b), 68(1), KR Can 564. 2. RP 50. As to release from arrest by Confirming Offr see KR Can 567. As to assembly and disposal of record after trial see Instrs on back of Convening Order.)

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

SCHEDULE.

PART I. PLEA(S), FINDING(S) AND SENTENCE.

Accused: M28684 GNR ROSS EDWARD GUSS. 17 CON FD REGT

Charge. (Insert "alternative" where applicable.)	Plea. (See instrs p 2.)	Finding. (See note below.)	(Space for use as required for further charges, accused charged jointly, special findings, etc.)
1st	GUILTY	GUILTY	
2nd	NOT GUILTY	GUILTY	
3rd	GUILTY	GUILTY	
4th	NOT GUILTY	GUILTY	
5th			
6th			

(Note: As to findings for lesser offences see AA 56, RP 44; findings on alternative charges see MML p 483 fn 4 para 2, RP 44; special findings see RP 44 and MML p 753, and in loss of kit see RP 44 fn 6.)

~~At present under sentence for~~ (1)
(1. Insert sentence being served, or delete, if not applicable. See RP 46(A). Information should be found on MF B355 or AF B296.)

Time in confinement awaiting present trial—a total of 35 days, of which NIL days were spent in hospital.(1) ~~beginning on (date)~~
(1. See RP 46(A) fn 2. Information should be found on MF B355 or AF B296 admitted in evidence under E2.)

Sentence Awarded by the Court: TO UNDERGO DETENTION FOR SEVEN MONTHS and to be placed under stoppages of pay in the sum of £9.25 to make good deficiencies of his own kit.

(Sgd) E. J. Fachnan, Maj
President (RP 45, 50.)

(Sgd) Judge-Advocate, if any.

23 DEC 44
Date awarded.

(See back of Convening Order as to assembly and disposal of record after trial.)

PART II. MINUTE WHERE CONFIRMATION RESERVED. (AA 54(5), RP 120(F), MML p 760.)

Date (Sgd) Commanding

PART III. DECISION OF CONFIRMING OFFR ON FINDING(S) AND SENTENCE.

(For duties and powers see AA 54, 57, RP 37(D) fn 6, 46(A), 51-56, 120, MML pp 739-761, KR Con 567-577. Acquittals require no confirmation and cannot be revised: AA 54(3). Sending back finding or sentence for revision by Court: AA 54(2), RP 120(G). If not confirmed, accused may be tried again: AA 157, MML p 54. Minute of confirmation or non-confirmation may be altered before promulgation: RP 53, MML p 65. Quashing after promulgation: KR Con 573. Duties and powers of reviewing offrs: AA 57, 57A, RP 53A, 54. The Confirming Offr must sign here personally. AA 172 fn 1.)

My decision on the finding(s) and sentence set forth in Part I is

I confirm the findings and sentence of the court.

~~I direct that the accused be not committed to prison or detention barracks until further orders.~~ (1)
(1. AA 57A. Delete if not used.)

(Sgd) [illegible]

Date 24 Dec 44 Commanding CAA 5 Corps Troops
Confirming Officer.

PART IV. PROMULGATED AND EXTRACTS TAKEN. (RP 53, KR Con 574, 577.)

Accused.	Date.	Signature of Offr.
M28684 Gnr Guss, R.E.	3 Jan 45	[illegible] Lieut

ALL DELETIONS AND ALTERATIONS WILL BE INITIALLED.

RECORD FORM B—PROCEEDINGS ON PLEAS OF GU

B1. The President or JA, if any, complies with RP 35(B) by explaini
of the charge(s)(1), and that on his plea of Guilty there will be no re
sentence to be awarded after he has been given an opportunity to m
call witnesses as to character and make an address in mitigation of pu
(1. RP 35 fn 2. 2. MML p 54 para 47)

B2. President to accused: The Court will now receive ar
charge(s).(1) If it appears from your statement that there are
stand the effect of the plea of Guilty(2), or which show prove
the witnesses for the Prosecution should be examined(3), w
making a statement you will not be sworn or subject to
in evidence against you after you change your plea fr
affects only the amount of punishment to which you
will be given an opportunity later to prove your

President to accused: Do you wish to mak
(1. RP 37(E). 2. RP 37(D) fn 6. 3
5. Statement, if any, recorded per Notes.)

B3. The Court considers the acce
plea(s) of Guilty to Not Guil
AND

ALTERATIONS.

FORM D—PROCEEDINGS ON PLEAS OF NOT GUILTY TO ALL CHARGES

President to accused: Do you wish to apply for an adjournment on the ground that any of the rules
procedure before trial have not been complied with, and that you have been prejudiced thereby, or on
the ground that you have not had sufficient opportunity to prepare your defence? Ans. NO SIR

D2. The Prosecutor makes (no) opening address.(1) (If "yes": see RP 39(4) for procedure. Statement or address, if any, recorded per Notes.)

D3. The evidence for the Prosecution is taken.(1) (I. RP 39(C). 114, KR Can 555. Record evidence per Notes. As to Prosecutor giving evidence himself see RP 39(D) (2).)

D4. The Prosecution is closed.(1) (I. RP 39(C). 114, KR Can 555. Record evidence per Notes. As to Prosecutor giving evidence himself see RP 39(D) (2).)

D5. President to accused: You may, if you wish, give evidence yourself on oath as to the facts or your character, or both, in which case you will be subject to cross-examination.(2) You may, however, make a statement without being sworn, and you will not be subject to cross-examination.(2) But a statement which could have been made on oath will not carry with the Court the same weight as evidence solely on grounds of irrelevance. (RP 60(C) (4), (15).) You may call witnesses in your defence and as to character, whether you give evidence or make a statement, or do neither.

D6. President to accused: Do you wish to give evidence yourself as a witness, make a statement, or do neither? Ans. Give Evidence

D7. President to accused: Do you intend to call witnesses on your behalf? Ans. NO SIR

D8. The Court is closed to consider the finding(s).(1) The finding(s) of the Court is (are) recorded.(2)

D9. The President announces the finding(s), if any, of Not Guilty, and states to the accused that the finding(s) being subject to confirmation, will be promulgated later.(1)

RECORD FORM E—PROCEEDINGS ON CONVICTION BEFORE SENTENCE

E1. President to accused: Do you wish to give evidence yourself or to call any witnesses as to your character? Ans. NO SIR

E2. The Prosecutor produces Statement(s) as to Character and Particulars of Service(1), and certified true copy (copies) of Conduct Sheet(s)(2), purporting to refer to the accused, which he submits to the Court for admission in evidence. The Court is satisfied that these documents refer to the accused, because (i) they purport to be signed in the manner required by AA 160(3) (d) (b), and (ii) they purport to refer to (a) soldier(s) having the same number, rank, name and corps as the accused. Admitted in evidence and marked Ex. (1. Army Act s 77. 2. AFB 296. 2. MML p 54 para 47)

E3. President to accused: Do you wish to address the Court on the Statement(s) and Conduct Sheet(s), and in mitigation of punishment?(1) Ans. Yes, [Attached]

E4. The President states that the Court is closed to consider the sentence, and that the sentence to be awarded or any thing here or previously stated which would affect the amount of punishment. (RP 37(F) fn 7.) The Court, being subject to confirmation, will not be announced, but will be promulgated later, and the proceedings in open court are accordingly terminated.(1)

E5. The President records the sentence in Part I of the Schedule, which is dated and signed by him and the JA (if any).(2) The President announces the sentence.(1) (I. AA 54(2), 54(3), RP 45, 120(4). 2. RP 44(6).)

The Court considers the sentence.(1) One sentence only, comprised of the punishment or punishments of the charge or all charges on which the accused was found guilty, will be awarded. (I. When several accused tried separately as regards charges, see RP 44(2). When several accused tried jointly, see RP 44(3). When accused tried separately as regards charges and jointly as regards charges, see RP 44(4). Where accused tried jointly for some offences and separately for others, see RP 44(5). As to sentences awarded for civil offences by the law of England see AA 44(1), Note 3 to 44, RP 46, 50, 118, 119(3), KR Can 526, 527, 528.

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Pte Serv Loose Sheets of Record. 3 TRIAL CF A95 (In lieu of AF C2) 40 P & S 1008 1964

RECORD FORM D—PROCEEDINGS ON PLEAS OF NOT GUILTY.

D1. President to accused: Do you wish to apply for an adjournment relating to procedure before trial have not been complied with, on the ground that you have not had sufficient opportunity to prepare your defence? (1)

(1. If "yes", see RP 39(A) for procedure. Stat 82, 183, Fns, KR Can 308, 328, 330.)

Number.	(a) Ernmt R. (or) Appt.	Full Christian Names.	Surname.	Unit.
M.88564	Gnr	Ross Edward	GUSS	17 Cdn Fd Regt RCA

PROCEEDINGS REVIEWED
"W.P. TAYLOR" Major
13 Jan 45 DJA
Cdn Sec GHQ 2 Zch AAI.

PROCEEDINGS OF TRIAL.

Held in the Fd in (country) ITALY on (date(s)) 23 DEC 44

RECORD FORM A—OPENING PROCEEDINGS AND ARRAIGNMENT.

A1. The President, Members, waiting Member, JA, if any, and Offrs under instr, if any, assemble, and the Court is closed.

(PRINTED MATTER, NOT IN ITALICS FOR GUIDANCE. WILL BE DELETED, IF NOT USED OR APPLICABLE, AND INITIALLED BY PRES OR JA. The Schedule referred to throughout is on p 4. Chairmen do NOT include all relevant fns in ROs. For guidance on procedure when a variation in this form arises, see form for GCM in MML pp 741 to 759. A brief record of such variation will be made and given a number having reference to appropriate or preceding para number herein. See back of Convening Order, CF A95, for oaths and instrs on how to record addresses, evidence, etc., which instrs are hereafter called "Notes". As to general provisions for conducting the trial see AA 53, RP 56, 63-70, 73, 74, 94, 103, 119, 132.)

A2. The President initials and lays before the Court the Convening Order and Charge Sheet(s) attached thereto.(1) The Court is satisfied that it is properly convened and constituted(2), accused is (are) amenable to military law, and each charge discloses an offence.(3)

(1. As to use of Summary of Evidence see RP 17 fn 6. 2. AA 49, 50, RP 105-107. 3. RP 11-13, 23, 24.)

A3. The Court is opened. The accused is (are) brought before the Court. At 1530 hours trial commences.

A4. The Prosecutor produces a Medical Certificate that accused is (are) fit to undergo trial by court-martial.(1) ~~The Prosecutor informs the Court that counsel elected to be tried by court-martial instead of being dealt with summarily has elected "not"~~ "NOT"

(1. KR Can 557. 2. AA 46(B), RP 60 fn 1. For effect see KR Can 563(c). Delete, if not applicable.)

A5. ~~President to accused: Do you object to~~ as interpreter ~~I~~ Ans

~~The Interpreter is sworn (1). Do you object to~~ as shorthand writer. I Ans "NIL"
~~The shorthand writer is sworn (1).~~

(1. RP 72. Delete, if none employed.)

A6. The Convening Order and names of the President and Members of the Court are read to the accused.(1) President to accused: Do you object to be tried by me as President or by any of the Members of the Court ?

Ans No Sir (2)

(1. RP 110. 2. If no objection, waiting member retires. RP 68(B). If objection, see procedure AA 51, RP 25, 71, 18, MML p 742.)

A7. The President, Members, JA, if any, and Offrs under instr, if any, are sworn.(1) The following are the ranks, names and units of the offrs comprising the Court, etc:

President	Major	E.S. Fairman	5 Cdn LAA Regt
Member	Capt	S.D.H. Reid	4 Cdn A/T REGT
Member	Lt	R.M. Wigle	8 Cdn Fd Regt
Judge-Advocate			
Prosecutor	Lt	E.A. Bromley	17 Cdn Fd Regt
Defending Offr	Lt	A.". Ross	" " " "

Questions by President: Is the Prosecutor a lawyer ? Ans No Is the Defending Offr a lawyer ? Ans No (1)

(1. RP 26, 27, 109, 111. List of offrs under instr will be returned separately with proceedings for information of Conv Offr.)
(2. If Pros a lawyer and Def Offr not, accused is entitled to an adjournment when RP 09 (B) and fn 2 were not followed. See D1 p 3.) "EF

A8. The accused before arraignment make(s) (no) (~~a~~) plea (1)

(1. If a special plea is made for separate trial on one or more charges (RP 62(E), 108), or as to the jurisdiction of the Court (RP 34, 35(A), 113), or in bar of trial (RP 36), or as to accused's mental fitness to stand trial (AA 130, RP 57), or by one of several accused charged jointly to be tried separately (RP 16, 71), such plea, the addresses made in support or against, the evidence, if any, and finding are recorded per Notes. For forms of record see references in fns to RsP cited. Insert in AB rank and name of the accused making the plea.)

A9. The accused is (are) arraigned (separately) on all charges in the charge sheet.(1) The accused does (~~do~~) "EF" not object to any charge.(2) There is no amendment to be made to the Charge Sheet.(3) The President records the pleas in Part I of the Schedule.

(1. RP 31, 111(f). See para i of Instrs p 2. When more than one Charge Sheet see RP 62 ; when several accused to be tried separately see RP 71(C), and use separate copies of CF A96 to record proceedings. 2. RP 32, RP 33. If otherwise, delete and make appropriate record per Notes.)

"EF"

A10. The Court (is) closed and considers the Instrs on Procedure after Arraignment at top of p 2. The proceedings are continued on Record Form C

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

Certified true copy

15

(Rk Offr, Capt) FIELD GENERAL C[illegible] TRIAL (Grade (to level of AFAC) 40 p.a.c. 1608 (2604))

Cdn Inf Div G(A) & Echelon AFHQ. Convd HQA C CAD dated 13 Dec 44

Convened by Order of Brig J.S. Rowe

16 Jan 45

ACCUSED.

(As to the trial of two or more charged jointly rank, and (b) appmt, A/rank or A/appmt, if any, see p 16, 71, 109. As to reasons for showing (a) permanent or confirmed p2. 183, fns. KR Can 308, 328, 330.)

Number.	(a) Prmnt, A/Rk or A/Appmt. (b) Prmnt, A/Rk or A/Appmt.	Full Christian Names.	Surname.	Unit.
M.28684	Gnr	Ross Edward	GUSS	17 Cdn Fd Regt RCA

PROCEEDINGS REVIEWED
"W.P. TAYLOR" Major
13 Jan 45 DJA
Cdn Sec GHQ 2 Echn AAI.

PROCEEDINGS OF TRIAL.

Held in the Fd in (country) 23 DEC 44 on (date(s)) ITALY

RECORD FORM A—OPENING PROCEEDINGS AND ARRAIGNMENT.

A1. The President, Members, waiting Member, JA, if any, and Offrs under instr, if any, assemble, and the Court is closed.

(PRINTED MATTER, NOT IN ITALICS FOR GUIDANCE, WILL BE DELETED, IF NOT USED OR APPLICABLE, AND INITIALLED BY PRES OR JA. The Schedule referred to throughout is on p 4. Citations do NOT include all relevant fns RDs. For guidance on procedure when a variation in this form arises, see form for GCM in MML pp 741 to 759. A brief record of such variation will be made and given a number having reference to appropriate or preceding para number herein. See back of Convening Order, CF A95, for baths and instrs on how to record addresses, evidence, etc, which instrs are hereafter called "Notes". As to general provisions for conducting the trial see AA 53, RP 56, 63-70, 73, 74, 94, 103, 119, 132.)

A2. The President initials and lays before the Court the Convening Order and Charge Sheet(s) attached thereto.(1) The Court is satisfied that it is properly convened and constituted(2), accused is (are) amenable to military law, and each charge discloses an offence.(3)

(1. As to use of Summary of Evidence see RP 17 fn 6. 2. AA 49, 50, RP 105-107. 3. RP 11-13, 23, 24.)

A3. The Court is opened. The accused is (are) brought before the Court. At 1650 hours trial commences.

A4. The Prosecutor produces a Medical Certificate that accused is (are) fit to undergo trial by court-martial.(1) ~~The Prosecutor informs the Court that accused elected to be tried by court-martial instead of being dealt with summarily by the CO(2).~~ "KF"

(1. KR Can 557. 2. AA 46(B). RP 60 fn 1. For effect see KR Can 562(c). Delete, if not applicable.)

A5. ~~President to accused.— Do you object to~~ as interpreter I — Ans "KF"

~~The Interpreter is sworn (1). Do you object to~~ as shorthand writer I — Ans "KF"
~~The shorthand writer is sworn(1).~~

(1. RP 72. Delete, if none employed.)

A6. The Convening Order and names of the President and Members of the Court are read to the accused.(1) President to accused: Do you object to be tried by me as President or by any of the Members of the Court?

Ans No Sir (2)

(1. RP 110. 2. If no objection, waiting member retires. RP 68(5). If objection, see procedure AA 51, RP 25, 71, 18, MML p 782.)

A7. The President, Members, JA, if any, and Offrs under instr, if any, are sworn.(1) The following are the ranks, names and units of the offrs comprising the Court, etc:

President	Major	E.S. Fairman	5 Cdn LAA Regt
Member	Capt	S.D.H. Reid	4 Cdn A/T REGT
Member	Lt	E.M. Wigle	8 Cdn Fd Regt
Judge-Advocate			
Prosecutor	Lt	D.A. Bromley	17 Cdn Fd Regt
Defending Offr	Lt	A.—. Ross	" " " "

Questions by President: Is the Prosecutor a lawyer? Ans No Is the Defending Offr a lawyer? Ans No (2)

(1. RP 26, 27, 109, 111. List of offrs under instr will be returned separately with proceedings for information of Conv Offr. 2. If Pros a lawyer and Def Offr not, accused is entitled to an adjournment when RP 89 (3) and fn 2 were not followed. See 2nd p 3.) "KF"

A8. The accused before arraignment make(s) (no) plea.(1)

(1. If a special plea is made for separate trial on one or more charges (RP 62(E), 108), or as to the jurisdiction of the Court (RP 34, 35(A), 113), or in bar of trial (RP 36), or as to accused's mental fitness to stand trial (AA 130, RP 57), or by one of several accused charged jointly to be tried separately (RP 16, 71), such plea, the addresses made in support or against, the evidence, if any, and finding are recorded per Notes. For forms of record see references in fns to RsP cited. Insert in A8 rank and name of the accused making the plea.)

A9. The accused is ~~(XXX)~~ arraigned (separately) on all charges in the charge sheet.(1) The accused does not object to any charge.(2) There is no amendment to be made to the Charge Sheet.(3) The President records the pleas in Part I of the Schedule. "KF"

(1. RP 21, 11 & see para 1 of instrs p 2. When more than one Charge Sheet see RP 62; when several accused to be tried separately see RP 71(2), and use separate copies of CF A96 to record proceedings. 2. RP 32, RP 33. If otherwise, delete and make appropriate record per Notes.)

A10. The Court (~~is read and~~) considers the Instrs on Procedure after Arraignment at top of p 2. The proceedings are continued on Record Form C

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

INSTRUCTIONS AS TO PROCEDURE AFTER ARRAIGNMENT.

1. *The accused may not plead or be found Guilty of more than one of two or more charges laid in the alternative.* (*RP 37(A).*) *As to withdrawal of alternative charges by prosecutor see RP 35(C). No other charge can be withdrawn for any reason without authy from Convening Offr. If Conv. Offr concurs, Court may accept plea of Guilty to lesser, etc, offence.* (*RP 44(H).*) *Accused may change a plea of Not Guilty to Guilty during trial.* (*RP 38.*) *As to refusal, any to plead or not pleading intelligibly see RP 35(A). As to plea whe[n] sentence may be[gin] see RP 35(D).*

2. *The proceedings on each charge sheet* (*RP 62*) *after arraignment will be conducted as follows in the respective circumstances stated:*

I. If pleas to all charges are GUILTY, use Record Form B below.

II. If pleas to all charges are NOT GUILTY, use Record Form D on p [redacted] *3.*

III. If pleas to some charges are GUILTY and to other charges are NOT GUILTY and,

(a) Such mixed pleas occur when there are no alternative charges in the Charge Sheet, use Record Form C below. (*RP 37(A).*)

(b) Such mixed pleas occur in a set of two or more charges laid in the alternative, see RP 37 (A) and fn 2 as to discretion of Court, (i) to try the accused on all such alternative charges as if he had pleaded Not Guilty thereto, or, (ii) to record the pleas as the findings of Court. After deciding between (i) and (ii), Court will proceed under foregoing heads as may be appropriate to result of its decision. See MML p 744 Instrs (2).

3. *As to responsibility of President to accused see RP 59, 60(C); powers and duties of JA see RP 103; duty of Prosecutor see RP 60(A) (B); duty and privileges of accused and Defending Offr see RP 60(C), 87(C), 91, 92; swearing and withdrawal of witnesses from Court see RP 81, 82; questioning of accused see RP 80, 87(C), 92(B), and of witnesses see RP 83-85; calling or re-calling of witnesses by Court etc see RP 75-79, 86, 116; use of Summary of Evidence at Trial see RP 17(E) fn 6; and responsibility of JA or Pres to record proceedings see RP 94, 96.*

RECORD FORM B—PROCEEDINGS ON PLEAS OF GUILTY TO ALL CHARGES.

B1. The President or JA, if any, complies with RP 35(B) by explaining to the accused the nature and meaning of the charge(s)(1), and that on his plea of Guilty there will be no regular trial but merely a consideration of the sentence to be awarded after he has been given an opportunity to make a statement in reference to the charge(s), call witnesses as to character and make an address in mitigation of punishment.(2)
(*1. RF 35 fn 3. 2. MML p 54 para 47.*)

B2. President to accused: The Court will now receive any statement you desire to make in reference to the charge(s).(1) If it appears from your statement that there are circumstances which indicate that you do not understand the effect of the plea of Guilty(2), or which show provocation or extenuation in respect of which in your interest the witnesses for the Prosecution should be examined(3), we shall advise you to change your plea to Not Guilty. In making a statement you will not be sworn or subject to cross-examination; and anything you say will not be used in evidence against you after you change your plea. If, however, it appears to the Court that your statement affects only the amount of punishment to which you are liable, you will not be advised to change your plea and you will be given an opportunity later to prove your statement by sworn testimony, if you so desire.(4)

President to accused: Do you wish to make a statement? Ans Yes, Sir, I left all my kit, some in bres & part in wagon lines.
(*1. RF 37(B). 2. RF 37(D) fn 6. 3. RP 35(B) fn 5 para 3, MML p 54 para 47. 4. See para E3 of Record Form E. 5. Statement, if any, recorded per Notes.*)

B3. The Court considers the accused's statement.(1) The Court decides (not) to advise accused to change his (their) plea(s) of Guilty to Not Guilty on the Third charge(s). ~~The accused is (are) so informed and he (they) change(s) his (their) plea(s) on [illegible] charge. Part I of the Schedule is awarded accordingly.~~ "EF"
(*1. Court may be closed to consider the statement. Delete whole or part not used.*)

B4. On the charge(s) to which the plea(s) of Guilty is (are) not charged the President records finding(s) of Guilty in Part I of the Schedule.(1)
(*1. RP 35(B). If any plea(s) is (are) changed, use Record Form C or D as appropriate.*)

B5. The Summary of Evidence is marked Ex A, initialled and read aloud by the President.(1)
(*1. If there is no Summary, or if it is inadequate, comply with RP 37(B). If there is any evidence inconsistent with any plea standing as Guilty, Court will advise accused to change such plea and, if changed to Not Guilty, try such charge(s) by one of paras D1 to D8 inclusive of Record Form D on p 3. RP 37(D).*)

B6. ~~The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.~~ "EF"

RECORD FORM C—PROCEEDINGS ON MIXED PLEAS OF GUILTY AND NOT GUILTY.

C1. As to the charges on which accused pleaded NOT GUILTY the trial is continued by using paras D1 to D8 inclusive of Record Form D on p 3 before proceeding with C 2.(1)
(*1. RP 37(A) (E).*)

C2. The charges on which accused pleaded GUILTY are read to him (them) again, and the trial is continued by using paras B1 to B5 of Record Form B above.(1)
(*1. Under B5 such parts only of the Summary of Evidence are read as relate to the charges dealt with under C2. If any plea is changed to Not Guilty, trial thereon proceeds (by completing with paras D1 to D8 inclusive in Record Form D on p 3 and making an appropriate record thereof on a separate sheet.*)

C3. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

RECORD FORM D—PROCEEDINGS ON PLEAS OF NOT GUILTY TO ALL CHARGES.

D1. President to accused: Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity to prepare your defence? Ans No Sir (1)
(*1. If "yes", see RP 39(A) for procedure. Statement or evidence, if any, is recorded per Notes.*)

D2. The Prosecutor makes (~~no~~) opening address.(1)
(*1. RP 39(B), 60(A) (B), 90, 92(C) (D). Record address per Notes, subject to RP 95(C).*)

D3. The evidence for the Prosecution is taken.(1)
(*1. RP 39(C), 114, KR Con 555. Record evidence per Notes. As to Prosecutor giving evidence himself see RP 39(D) (E).*)

D4. The Prosecution is closed.(1) ~~The Defending Offr submits that the evidence for the Prosecution does not establish a prima facie case against the accused on the charge(s)(2). The Court is cleared and considers the submission(3). The Court is re-opened, and the President announces that the submission is sustained on the charge(s), and is allowed on the charge(s) and that accordingly the trial will proceed on the former, but the accused is (are) found Not Guilty on the latter charge(s).(4)~~ "EF"
(*1. Delete remainder of this para. if submission not made. 2. Arguments on submission, answer and reply are recorded per Notes. 3. RP 40 fn 1. See MML p 72 paras 12-14 and p 81 para 42. 4. Delete part not used. If accused acquitted on all charges, use second alternative in para D8.*)
NB: If trial proceeds, accused must be allowed great latitude in making his defence, and the Court should not stop his defence solely on ground of irrelevance. (*RP 60(C), 114, 115.*)

D5. President to accused: You will now proceed with your defence.(1) You may, if you wish, give evidence yourself on oath as to the facts or your character or both, in which case you will be subject to cross-examination.(2) You may, however, make a statement without being sworn, and you will not be subject to cross-examination.(3) But a statement which could have been made on oath will not carry with the Court the same weight as sworn testimony.(4) You may call witnesses in your defence and as to character, whether you give evidence or make a statement or do neither.

President to accused: Do you wish to give evidence yourself as a witness, make a statement, or do neither? Ans Give Evidence Do you intend to call witnesses on your behalf? Ans Yes Sir Are they witnesses as to character only? Ans No Sir
(*1. RP 35 fn 3. 2. RP 40(A), see 86(D). 3. RP 40 fn 10. 4. RP 40 fns 2, 9.*)

D6. Consequent on the answers recorded in para D5 the appropriate procedure for the defence is followed.(1)
(*1. RP 114, 115, 116. For procedure see Notes on back of Convening Order. CF A95. Evidence for accused as to his character should, if in his interest, be given before the Finding. See RP 46(A) fn 1, 86(C). Note the further opportunity in para E1 of Record Form E. Record per Notes addresses, statement, evidence and any summing up by the JA under RP 42, 103(e).*)

D7. The Court is closed to consider the finding(s).(1) The finding(s) of the Court is (are) recorded in Part I of the Schedule.(2) The Court is re-opened.
(*1. RP 42, 117(A). See Notes in Part I of Schedule. 2. RP 44(A).*)

D8. The President announces the finding(s), if any, of Not Guilty, and states to the accused that the finding(s) of the Court on the charge(s), being subject to confirmation, will be promulgated later.(1) ~~(or—The President announces that the accused is found Not Guilty on all charges and is to be released forthwith, and that the proceedings are accordingly terminated. Part I of the Schedule is dated and signed.)~~ "EF"
(*1. AA 54(3) (5), RP 45, 120(A). 2. AA 54(3), RP 45, 117. This alternative announcement is not applicable when there are pleas of Guilty outstanding and dealt with under Record Form B as C.*)

D9. ~~The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E below.~~ "EF"

RECORD FORM E—PROCEEDINGS ON CONVICTION BEFORE SENTENCE.

E1. President to accused: Do you wish to give evidence yourself or to call any witnesses as to your character?(1) Ans No, Sir.
(*1. If evidence has already been given by accused or his witnesses as to his character, delete this para. RP 37(C) fn 4, 46 fn 1. Accused and witnesses are sworn. Evidence recorded per Notes.*)

E2. The Prosecutor produces Statement(s) as to Character and Particulars of Service(1), and certified true copy (copies) of Conduct Sheet(s)(2), purporting to refer to the accused, which he submits to the Defending Offr for examination, and then to the Court for admission in evidence. The Court is satisfied that these documents refer to the accused, because (i) they purport to be signed in the manner required by AA 163(3) (g) (h), and (ii) they purport to refer to (a) soldier(s) having the same number, rank, name and corps as the accused. Admitted in evidence and marked Ex B and Ex C respectively.(3)
(*1. MFB 355 or MFB 296. 2. MFB 6. 3. RP 46, KR Con 558. If above documents not produced, see RP 46 fn 1 para 1.*)

E3. President to accused: Do you wish to address the Court on the Statement(s) and Conduct Sheet(s), and in mitigation of punishment?(1) Ans Yes, (Attached) (2)
(*1. RP 37(C), 46(D). 2. Address, if any, recorded per Notes. Court should permit accused or his witnesses to prove on oath anything here or previously stated which would affect the amount of punishment. RP 37(F) fn 7.*)

E4. The President states that the Court is closed to consider the sentence, and that the sentence to be awarded by the Court, being subject to confirmation, will not be announced, but will be promulgated later, and the proceedings in open court are accordingly terminated.(1)
(*1. AA 54(6), RP 120(A).*)

E5. The Court considers the sentence.(1) The President records the sentence in Part I of the Schedule, which is dated and signed by him and the JA, if any.(2) 71
(*1. When several accused tried separately see RP62(D). One sentence only, comprised of the punishment or punishments laid down in AA 41, 44 and its proviso, is to be awarded to cover all charges in all charge sheets on which accused found guilty. RP 46. As to sentences see AA 44, 132, 182, RP 46-50, 69, 118, 119(A), KR Con 308, 130, 563-566, Overseas RO 309, 1923, MML p 80, 757-759. As to sentences assigned for civil offences by the law of England see AA 41(2), MML p 139. When accused already under sentence of imprisonment or detention see AA 44(1)(b), 68(1), KR Con 564. 2. RP 50. As to release from arrest by Confirming Offr see KR Con 567. As to assembly and disposal of record after trial see instrs on back of Convening Order.*)

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

SCHEDULE.

PART I. PLEA(S), FINDING(S) AND SENTENCE.

Accused: M28684 Gnr Ross Edward GUSS 17 Cdn Fd Regt

Charge. (Insert "alternative" where applicable.)	Plea. (See Instrs p 2.)	Finding. (See note below.)	(Space for use as required for further charges, accused charged jointly, special findings, etc.)
1st	Guilty	Guilty	
2nd	NOT Guilty	Guilty	
3rd	Guilty	Guilty	
4th	NOT guilty	Guilty	
5th			
6th			

(Note: As to findings for lesser offences see AA 56, RP 44; findings on alternative charges see MML p 483 fn 4 para 2, RP 44; special findings see RP 44 and MML p 753, and on loss of kit see RP 44 fn 6.)

~~At present under sentence for ——— beginning on (date) ———~~ (1)

(1. Insert sentence being served, or delete, if not applicable. See RP 46(A). Information should be found on MF B355 or AF B296.)

Time in confinement awaiting present trial—a total of 36 days, of which Nil days were spent in hospital.(1)

(1. See RP 46(A) fn 2. Information should be found on MF B355 or AF B296 admitted in evidence under E2.)

Sentence Awarded by the Court:

TO UNDERGO DETENTION FOR SEVEN MONTHS AND TO BE PLACED UNDER STOPPAGES OF PAY IN THE SUM OF $0.25 toMAKE GOOD DEFICIENCIES OF HIS OWN KIT.

(Sgd) ——— 25 DEC 44 (Sgd) "E.E. FAIRMAN" Maj

Judge-Advocate, if any. Date awarded. President. (RP 45, 50.)

(See back of Convening Order as to assembly and disposal of record after trial.)

PART II. MINUTE WHERE CONFIRMATION RESERVED. (AA 54(5), RP 120(F), MML p 760.)

Date ——— (Sgd) ——— Commanding ———

PART III. DECISION OF CONFIRMING OFFR ON FINDING(S) AND SENTENCE.

(For duties and powers see AA 54, 57, RP 37(D) fn 6, 46(A), 51-56, 120, MML pp 759-761, KR Can 567-577. Acquittals require no confirmation and cannot be revised: AA 54(3). Sending back finding or sentence for revision by Court: AA 54(2), RP 120(G). If not confirmed, accused may be tried again: AA 157, MML p 64. Minute of confirmation or non-confirmation may be altered before promulgation: RP 53, MML p 65. Quashing after promulgation: KR Can 573. Duties and powers of reviewing offrs: AA 57, 57A, RP 53A, 54. The Confirming Offr must sign here personally. AA 172 fn 1.)

My decision on the finding(s) and sentence set forth in Part I is:

I confirm the findings and sentence of the court

~~I direct that the accused be not committed to prison or detention barracks until further orders.(1).~~

(1. AA 57A. Delete if not used.)

(Sgd) "J.C. ROSS" Brig

Date 24 DEC 44

Commanding CRA 5 Cdn Armd Div

Confirming Officer.

PART IV. PROMULGATED AND EXTRACTS TAKEN. (RP 53, KR Can 576, 577.)

Accused.	Date.	Signature of Offr.
M28684 Gnr GUSS R.E.	3 Jan 45	"G.A. RANKIN" Lt Col.

ALL DELETIONS AND ALTERATIONS WILL BE INITIALLED.

"EF"

CHARGE SHEET

The accused M-28684 Gnr Ross Edward GUSS, 17 Canadian Field Regiment, R.C.A., a soldier of the Canadian Army, Central Mediterranean Force, is charge with:-

FIRST CHARGE
Sec 15 (1)
AA

WHEN ON ACTIVE SERVICE, ABSENTING HIMSELF WITHOUT LEAVE,

In that he,

in the field, on 5 Nov 44 absented himself without leave from 2200 hrs 5 Nov 44 until 2100 hrs 17 Nov 44. (absent 11 days 23 hrs)

SECOND CHARGE
Sec 40
AA

WHEN ON ACTIVE SERVICE, CONDUCT TO THE PREJUDICE OF GOOD ORDER AND MILITARY DISCIPLINE.

in that he,

In the field, on 6 Nov 44 did improperly use Willys 8-cwt WD vehicle for private purposes.

THIRD CHARGE
Sec 24 (2)
AA

WHEN ON ACTIVE SERVICE, LOSING BY NEGLECT HIS EQUIPMENT, CLOTHING AND REGIMENTAL NECESSARIES,

in that he,

In the field on 21 Nov 44 was deficient of:-

1 Drawers, woollen	@	$1.20	$1.20
1 Gloves, knitted	@	.47	.47
1 Overalls, comb.	@	2.72	2.72
2 Socks, prs	@	.37	.74
1 Vests, woollen	@	1.20	1.20
1 Brasses, cleaning	@	.04	.04
1 Brushes, clothes	@	.48	.48
1 Cap, comforter	@	.34	.34
1 Knife	@	.15	.15
1 Fork	@	.07	.07
1 Spoon	@	.07	.07
1 Knife, clasp	@	.88	.88
1 Housewife	@	.17	.17
1 Field Dressing	@	.24	.24
1 Belts, waist, large	@	.74	.74
1 Braces, W.E. right	@	.30	.30
1 Helmets, steel	@	1.50	1.50
1 Braces, W.E. left	@	.30	.30
2 Straps, web, supp	@	.15	.30
1 Tins, mess, rect	@	.35	.35
1 Mug, enamel	@	.13	.13
	Value		$12.33
	75% Value		$ 9.25

Cont'd on page 2.

CHARGE SHEET

FOURTH CHARGE
Sec 40
AA

WHEN ON ACTIVE SERVICE, CONDUCT TO THE PREJUDICE OF GOOD ORDER AND MILITARY DISCIPLINE,

in that he

In the field on 17 Nov 44, while employed as a Batman and having been instructed to take kit to a rest area was unable to account for the following articles, the property of Lieut W.T. Athey, 17 Cdn Fd Regt RCA.

Cont'd page 2.

2	Bottles of Scotch Whisky	3.60
6	Shirts	12.00
1	Pistol .38 Wp No.875863	25.03
2	Underwear	3.00
6	Socks, prs	3.00
2	Cardigans	3.00
1	Slide Rule	5.00
	Toilet Articles	4.00
1	Tunic BD	5.25
1	Shoes, prs	10.00
2	Trousers, BD, prs	10.50
2	Pyjamas, prs.	2.00
	Value	$86.38

"G.A. Rankin"
In the Field (G.A. Rankin) Lt-Col. RCA
29 Nov 44 Comd 19 Cdn Fd Regt RCA

To be tried by Field General Court-Martial.

"J.S. Ross"
In the Field (J.S. Ross) Brig
18 Dec 44. CRA 5 Cdn Armd Div.

"EEE"

FIELD GENERAL COURT-MARTIAL

CFA95 (In lieu of AFA3) 40/PAS/1697 (2002)

(Whether the accused to be tried is under his comd or not, a FGCM may on application to him be convened by any offr of Cdn Army Overseas, or of any other force if authorized in law, in immediate comd of troops on active service, subject to RP 105(C) and restrictions imposed by appropriate authy. AA 49, 50, RP 104-107, 114. As to the duties and privileges of the Convening Offr in dealing with the application see MML Chap V paras 20 and 23. RP 87(B).

There should be a separate Convening Order for each person to be tried separately by the same Court. RP 71(C), 109. As to separate charge sheets see RP 62, and as to separate trial on charges in the same charge sheet see RP 108. As to two or more accused charged jointly see RP 16, 109.

As to reasons for showing (a) permanent or confirmed rank, and (b) apptmt, A/rank or A/apptmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

ACCUSED.

Number.	(a) Prmnt R. (b) Apptmt, A/R or A/Apptmt.	Full Christian Names.	Surname.	Unit.
a. 2B684	Gunner	Ross Edward	GUSS	17 Cdn Fd Regt

CONVENING ORDER.

1. Whereas complaint has been made to me, the undersigned, that the person(s) named above as the accused, being subject to military law, has (~~have~~) committed the offence(s) set forth in the Charge Sheet(s) attached and on (date) 15 Dec 44 endorsed by me, (~~or by an offr of my staff for me~~), "To be tried by Field General Court-Martial". "JSR"

2. And whereas I am of opinion that it is not practicable that such offence(s) should be tried by an ordinary General Court-Martial; (~~and that it is not practicable to delay the trial for reference to a superior qualified offr~~) "JSR"
(Delete part in brackets when not required for compliance with RP 105(C).)

3. I hereby convene a Field General Court-Martial to try the said person(s), and to consist of the Offrs appointed or detailed hereunder.

4. ~~I am unable to appoint (a) three Offrs to form the Court, (b) a Fd Offr as President, for the reasons I have attached hereto.~~ "JSR" *(AA 49, RP 106(B), 107(A). Delete the whole or part, if not applicable.)*

5. ~~I also appoint as Judge Advocate thereat the Offr mentioned hereunder.~~ *(RP 106(E). Delete, if none appointed.)*

PRESIDENT.

(Rank.)	(Must be named. RP 106.)	(Unit.)
Major	J.G. Fairman	5 Cdn LAA Regt

MEMBERS.

(Rank.)	(Named or detailed. RP 106.)	(Unit.)
Capt	S. Reid	4 Cdn A Tk Regt
Lieut	R.M. Wigle	8 Cdn Fd Regt.

WAITING MEMBER.

(Rank.)	(Named or detailed, if any. RP 106.)	(Unit.)
Lieut	To be detailed by	17 Cdn Fd Regt

JUDGE-ADVOCATE.

(Rank.)	(Must be named, if any. RP 106.)	(Unit.)
	N/A	

On Active Service in the Fd

in ITALY (Country.) "J. S. Ross" (Signed personally. RP 105 fn 2.) Brigadier (Rank.)

Date 16 Dec 44 Commanding RCA, 5 Cdn Armd Div. Convening Officer.

CONVENING OFFR WILL INITIAL ALL DELETIONS AND ALTERATIONS

(See overleaf for oaths and notes for use on trial.)

"EF"

MEDICAL CERTIFICATE

I Certify that I have this morning examined M.28684 Gnr Guss, R.E. of the 17 Cdn Fd Regt R.C.A. and in my opinion he is fit to undergo trial by Field General Court Martial.

In the Field
23 Dec 44

"D.F. Marcellus" Capt.
(D.F. Marcellus) Capt RCA"C
M.O. 17 Cdn Fd Regt RCA.

Exhibit D. 3

First witness for the prosecution:

Major F.D. Brooks, 76 Bty, 17 Fd Regt, RCA, sworn, states:-
Comd 76 Bty, 17 Fd Regt.
At about 1700 hrs 5 Nov 44 I parked a Willys 3 CWT 5466282 in front of the offrs mess. That is the last I saw of it. I first noticed it missing the morning of 6 Nov. I think there was an Air Force marking on the hood. I do recall the bright colored paint after the jeep had been washed on 5 Nov.

Cross Exam:

I did tell Gnr Guss, my batman, to clean it up and have it painted I do not recall the bumper on the front and do not know what tax signs were on it.

R.P. 83 (b) complied with.

Second Witness for the prosecution:

Lt. W.T. Athey, 17 Fd Regt RCA, sworn states:

On 6 Nov 44 I was returning from Florence. At approx 1030 hrs I was travelling east on the road between FARRIANO and JESI, when I noticed a jeep approaching with three men in it. The jeep bore 74 Tac sign. I recognized Gnr Guss the accused as a passenger in the jeep. Guss has been my batman off and on, last time for approx one month prior to 28 Oct when I went on leave. He was still my batman when I went on leave.

I went on leave on28 Oct and instructed him to take my kit to the rest areas if we came out of action. Half of my kit is usually carried in Y and half in H. My kitwas a 4.5 charge box, kit bag, bed roll, bed packs and a pair of boots. All my kit was in the comd post house when I left and he was to remove it from there.

I saw part of my kit about the 7 Nov. I found bedroll and bed, small pack and pair of boots in H but there was nothing in Y. Charge box and kit bag missing and still missing. I checked the drivers and personnel but they did not have my kit. Contents of the box and bag which are still missing are as follows: (list attd as A1 after being read)

Cross Exam:

Accused was my batman after Hitler line. At that time some of my kit had gone to B Ech but I got it back. Since then I have not lost equip.
Expected him to take kit to offrs quarters or some other place where he could look after it. Quite likely that people could have helped themselves. Am not acquainted with the batman's quarters in FOSSOMBRONE. I found my bed in the men's quarters.
My binoculars had been turned in to Q Stores. They had been in glove compartment in scout car, doubt if he knew they were there.
If kit in MT lines under gd would consider it fairly safe, batman would be the only ones who could take it without question.

Re Exam:

Cont'd.....

Charge box xx had luggage tag with my name. It was not re-painted Kit bag had my name on it.

Exam by the Court:

I asked Guss for my kit when I say him and he replied "I left it in the MT park". I saw him the night he returned from absence approx a week or more after I returned from leave. He was under close arrest when I saw him. I had instructed Guss to get my laundry cleaned and when he got it back to put it with the rest of the stuff and take all of it to the new area. At that time I did not know where the rest area was going to be.

R.P. 83 (b) Complied with.

-2-

Third witness for the prosecution:

L.35134 Sgt Parr, W.J.W., 17 Fd Regt, RCA, sworn, states:

I am MT Sgt 17 Fd Regt. On 6 Nov no authorization was given to Gnr Guss the accused to have a veh, nor was there any authorization to anyone to have a jeep on the road between Fabriano and Jesi. I know WD veh 8466322, it carried the 74 sign and had American star on hood.

Cross-exam: None.
Exam by Court:

I have all work tickets for the unit. I make them out and an offr must sign them. Anyone going outside FOSSOMBRONE required a work ticket.

R.P. 83 (b) complied with.

Fourth witness forthe prosecution:

B.11778 Gnr McCue, A.S., 17 Fd Regt, RCA, sworn, states:

On 5 Nov I was guard at 76 Bty MT lines when I saw at 1730 hrs Gnr Guss the accused carrying a charge box. I saw him on half hour before around the MT lines. Did not see where he got the box. It looked empty he was carrying it under his arm. Did not speak to him. He was walking on the side of the road going towards RHQ away from town. He was alone and walking normally.

Cross exam:

Did not walk as thought the box were full. I did not see him come out of the park with the box. Did not watch to see if he went to the offrs mess--it is possible to get to the offrs mess that way.
Did not notice anyone with him. He was alone at 1730 hrs. at1700 hrs there were three of them, Lockett, Hamilton and Guss. When the 3 left they took nothing with them.

Re-Exam

at 1700 hrs when I saw the 3 they were moving away from a veh. I was about 50 yards away. Lot of vehs and trees between us.

Exam by the court:

Had just the one box.

R.P. 83(b) complied with.

EVIDENCE FOR THE DEFENCE.

First witness forthe defence:-

Cont'd page 2

M.23684 Gnr R.E. Guss, 17 Fd Regt, sworn, states:

On afternoon of 5 Nov went on 1300 hrs parade. I helped driver of Y was truck until 1430 hrs. I then gathered up Mr Atheys laundry and handed in his binoculars. The 4.5 charge box and kit bag were in H and the remainder of his kit was in Y on 5 Nov at FOSSOMBRONE in Car park.

I went uptown to a cafe and had a few drinks. Stayed about 1 and one half hours and came back for supper. Barracks are about 500 yards from the car park. After supper I went to the car park to get cigarettes. Believe summar at 1630 hrs. Gnrs Hamilton and Lockett with me. After getting cigs went back to brks. I had a 4.5. box and took it up to my brother in the offrs quarters. Did not see anyone on pd at MT park. I do not recall now I carried the box. My Bro had asked for the box.

I then returned to the cafe met Hamilton and Lockett there. Later met couple of English chaps, were drinking, they asked if we would like to go to Fano, so we went. Left Fano 7 o'clock or so and arrived Ancona about 10 o'clock. Stayed at Ancona 5 or 6 hours, left by 15 cwt and went to Rome. Returned to Jail and gave myself up.

Left offrs kit in MT lines. Had asked Mr McIntyre what to do with it and he thought it best to leave it where it was. I had heard the bty offrs were crowded and might not stay in their mess, the kit on 5 Nov was in the vehs under a tarp.

Cross-exam.

When Mr Athey left he did want laundry done. Did not take it out then

---

3

because not sure how long we would be in action.
Guess laundry is still in Fossombrone, I did not tell Mr Athey where it was.
I had picked my box up on the road, Am not sure if it is 4.5 or 5.5 box.
My bro lived in the offrs quarters. We had been in Fossombrone 2 days I figured I was taking the shortest route. I had not been to the offrs quarters before.
Had just got a kit bag and just decided to take the box up to my bro.
Left Ancona 5 or 5.30. Left with Gnr Lockett, arrived Rome 9 or next morning. Lockett and I rode in the back. Only saw the driver when we hailed them. We were dropped in Rome. Did not see Mr Athey on the road.
Spent night of 5 Nov outside of Fano at farm house. Left it about 9 or 915.
Believe the list is about what the box and kit bag of Mr Athey's contained.

Re-Exam.

Did not spend all time in Rome.

Exam by the court:

Hamilton and Lockett left me at MT Park.

Left Fano next morning. I had greatcoat in box and some other kit. It was an English 15 cwt. We did not speak to the others when we made stops.

Mr Bd (b) Complied with.

Second witness for the defence.

M.290?? Bdr Lalonde M.I., 17 Fd Regt, sworn, states:

On afternoon of 5 Nov I was uptown in FOSSOMBRONE. I had haircut and then went to a cafe. Saw Gnrs Hamilton, Lockett and Guss there, they were intoxicated.

Cont'd page 3

No exam.

A.F. 63 (b) complied with.

Third witness for the defence:

M.543 Gnr Guss, D.H., 17 Fd Regt sworn, states:

Was driver of Maj Brook's jeep in FOSSOMBROME. When we moved to FOSSOMBROME it had no windshield, no top and it was muddy. On afternoon of 5 Nov I washed jeep. Found it had a board wired on in placeof a bumper. I took this board off. Were no signs on the front except the RAF bullseye. There was a 74 tac sign on the rear. I last saw my bro the accused before he went AWL at entrance to offrs mess when he brought charge box to me. It was 4.5 amm box, I still have it.

Cross-exam:

Had spoken to him re charge box several times. I gave him a kit bag while we were in action and he was to give me a charge box.

A.F. 63 (b) complied with.

Fourth witness for the defence:-

L.104822 Gnr Heinrich H, 17 Fd Regt Sworn, states:

On 5 Nov I was Maj Brook's batman. I helped Gnr Guss wash the jeep It had RAF bullseye marking and no bumper. We took a wooden bumper off it when we were washing it..Do not remember tac signs but it had a 74 sign on the rear. It had no windshield.

When we arrived at FOSSOMBROME I left some of Maj Brook's kit in y because we could not keep all of it in the quarters. Only 4 batmen stayed in the offrs quarters, the others stayed about 100 yards away.

Cross exam:

I noticed in FOSSOMBROME that Guss, accused's brother, had a charge box I did not notice when he got it.

Do not remember where spare tire was carried in jeep. Do not know if had rear bumper.

A F 63 (b) complied with.

-4-

Defending officer Address:

Let us go over the actions of the accused from 5 Nov on.----He could therefore not have been in the jeep. Mr Athey must be mistaken. Re Kit, there was doubt whether offrs going to stay in the mess where they were. Accused faced with taking kit to quarters where unguarded or to leave it in veh where there were guards. He has not shown any neglect. Fact that he turned binoculars in shows his good faith. All his actions accounted for in a logical manner.
Not sufficient evidence to convict and no neglect shown re Offrs Kit.

Prosecutor in closing:

Kit should have been taken to offrs quarters. Accused went AWL and left kit with no precautions for safety. Re laundry it is strange that he did not take the laundry out for so many days afterbeing told to do so Or it is stranger still that he has not to this day told Mr Athey where that laundry is.
Rather strange that accused memory so good re times after all the drinking he claims to have done and yet it is so faulty re people he took such a long ride with and the veh it was taken in.
Also seems strange why the accused's clgs were kept in a veh while the remainder of his kit was kept in his quarters.
Suggest Mr Athey straightforward witness and worthy of belief.

Speech in Mitigation for M.28684 Gnr Guss R.E.

The accused is a volunteer in the Cdn Army. He has 3 5/12 years of service of which fourteen months were spent in Italy with the 17 Cdn Fd Regt. His record in action has been good. Although he is shown on strength now as a batman, it is know that he never wanted to be one. Of the fourteen months here six were spend as a gunner on the guns in 37 Bty.

"A.M. Ross Lt".

" EXHIBIT "A".

2	Bottles scotch Whisky	3.60
6	Shirts	12.00
1	Pistol	25.00
3	Underwear	3.00
6	Socks	3.00
2	Cardigans	3.00
1	Slide Rule	4.00
	Toilet Articles	2.25
1	Tunic, S/D.	10.00
1	Shoes, prs.	10.00
2	Trousers, S.D.	8.00
2	Pyjamas, prs.	6.00
		86.85

This is exhibit "A" referred to in the summary of evidence in the case of M.28684 Gnr Guss, R.E., 17 Fd Regt R.C.A., taken before me this 28th day of Nov 1944.

"D.H. Weir"
(officer Taking Summary)

Ex "C" "EF"

SUMMARY OF EVIDENCE

Summary of Evidence in the case of M.28684 Gnr Ross Edward GUSS, 17 Cdn Fd Regt R.C.A., Cdn Army, Central Mediterranean Forces.

The Commanding Officer directs that the evidence be taken on oath.

FIRST WITNESS L.35065 Sgt Payne, C.O., 76 Bty, 17 Cdn Fd Regt R.C.A., having been duly sworn deposed as follows:

I am a Signal Sgt in the 17 Cdn Fd Regt RCA. On 5 Nov 44 at 2200 hrs I called the roll of the 76 Bty H.Q. billets, Gnr Guss was absent. I did not see Gnr Guss again until 11 Nov 44 nor had he returned to the unit during this period. I submit as evidence a certificate of surrender received from 183 Pro Coy (Ports) C.M.

The accused declines to cross-examine this witness.

"C.O. Payne"
(L.35065 Sgt Payne, C.O.)

The certificate of surrender referred to by the witness, produced read over to the accused, marked exhibit "C", signed by me and attached hereto.

"D.H. Weir Capt RCA"
(offr taking Summary)..

SECOND WITNESS — Major F.D. Brooks, 76 Bty, 17 Cdn Fd Regt R.C.A. having been duly sworn deposed as follows:

I command 76 Bty, 17 Cdn Fd Regt RCA. At about 1700 hrs 5 Nov 44, I parked a Willys 5-cwt W.D. No. 5468222 in front of the officers Mess. I first noticed its absence at 0730 hrs, 6 Nov 44, and it is still missing.

The accused declines to cross-examine the witness.

"F.D. Brooks"
(F.D. Brooks)Major RCA.

THIRD WITNESS — Lieut W.T. Athey, 76 Bty, 17 Cdn Fd Regt RCA., having been duly sworn deposed as follows:

I am an Officer in the 17 Cdn Fd Regt R.C.A. On 5 Nov 44, I was returning from Florence. At approximately 1030 hrs I was travelling east on the road between Fabriano and Jesi when I notice a jeep approaching with three men in it. The jeep bore a 74 unit sign. I recognized Gnr Guss as one of the men riding in the jeep. For approximately one month prior to 28 Oct 44, Gnr Guss had been employed as my batman. Before proceeding onleave on 28 Oct 44, I instructed Gnr Guss to pack my kit and take it to the rest area. When I returned from leave I made a thorough search for my kit. A 4.5 cartridge box and a kit bag were missing. The missing articles are enumerated in the attached list.

Q:- Where was your kit normally carried?
A:- The charge box and kit bag in "H", remainder in "Y"

Cross-Examined by the accused.

Q.- Was there just a 74 sign on the jeep?
A:- The only sign I noticed was a 74.

" W.T. Athey Lieut"
(W.T. Athey)Lieut RCA.

...../2

SUMMARY OF EVIDENCE — PAGE 3

THIRD WITNESS (continued)

The list referred to by the witness, produced, read over to the accused, marked Exhibit "A" signed by me, and attached hereto.

"D.H. Weir Capt"
(officer taking Summary)

FOURTH WITNESS — L.35134 Sgt Parr, W.J.W., 76 Bty, 17 Cdn Fd Regt R.C.A. having been duly sworn deposed as follows:-

I am W.T. Sgt 76 Bty, 17 Cdn Fd Regt R.C.A. On 6 Nov 44 no authorization was given to Gnr Guss, R.L. to have a veh, neither was there any authority given to anyone to have a jeep on the road between Fabriano and Jesi on that date.

Q. What were the tactical and other signs on Willys 5-cwt WD no. 5468222?

A. There was a 74 unit sign on the front bumper and an American star on the hood.

The accused declined to cross-examine this witness.

"W.J.W Parr"
(L.35134 Sgt Parr, WJW)

FIFTH WITNESS:

B.11778 Gnr McCue, A.S. 76 Bty, 17 Cdn Fd Regt R.C.A., having been duly sworn deposed as follows:

I am a gunner in the 17 Cdn Fd Regt R.C.A. On 5 Nov 44 at about 1750 hrs, I was on guard at 76 Bty Vehicle Park when I noticed Gnr Guss carrying a 4.5 ammunition box. He was proceeding to the road that runs on the east side ofthe vehicle park.

Cross-examined by the accused.

Q.- Did you see me at any other time during the day?
A:- Yes. In the vehicle park around 03 (a jeep) at about 1700 hrs.

" A.S. McCue"
(B.11778 Gnr McCue, A.S.)

Cont'd on Page 5.

SIXTH WITNESS:

A.35061 BQMS Terry, A.J., 76 Bty, 17 Cdn Fd Regt R.C.A. having been duly sworn deposed as follows:

I am B.Q.M.S. in 76 Bty, 17 Cdn Fd Regt RCA. The kit of Gnr Guss, R.E. was examined by me on the 21 Nov 44 and found to be short the items enumerated in the attached list.

The accused declines to cross-examine this witness.

"A.J. Terry"
(A.35061 BQMS Terry, A.J.)

The list referred to by the witness, produced, read over to the accused, marked Exhibit "B", signed by me and attached hereto.

"D.H Weir Capt"
(Officer Taking Summary)

STATEMENT OF THE ACCUSED:

The accused was warned as follows:

"Do you wish to make any statement or to give evidence upon oath? You are not obliged to say anything or give evidence unless you wish to do so, but whatever you say or any evidence you give will be taken down in writing and may be given in evidence."

The accused: "I have nothing to say at this time".

"R.E. Guss"
(M.28694 Gnr Guss, R.E.)

Certified that rules of Procedure 4 (C), (D), (E) and (F) have been duly complied with.

Taken by me in the Field in the presence and hearing of the accused this 28th day of November 1944.

"D H Weir Capt"
(D.H. Weir) Capt RCA
Officer taking summary.

EXHIBIT "B"

Kit Deficiencies of: M.28684 Gnr Guss, R.E.

1	Drawers, Woollen	1.20	1.20
1	Gloves, knitted	.47	.47
1	Overalls, comb.	2.72	2.72
2	Socks, prs	.37	.74
1	Vest, woollen	1.20	1.20
1	Brasses, cleaning	.04	.04
1	Brushes, clothes	.48	.48
1	Cap, comforter	.34	.34
1	Knife	.15	.15
1	Fork	.07	.07
1	Spoon	.07	.07
1	Knife, clasp	.86	.86
1	Housewife	.17	.17
1	Field Dressing	.24	.24
1	Belts, waist, large	.74	.74
1	Braces, W.E. right	.30	.30
1	Helmets, steel.	1.50	1.50
1	Braces, W.E. left	.30	.30
2	Straps, web, Supp.	.13	.26
1	Tins, Mess, Rect.	.35	.35
1	Mug, enamel.	.13	.13
		Value	$12.33
		75% Value	$ 9.25

This is Exhibit "B" referred to in the Summary of evidence in the case of M.28684 Gnr Guss, R.E., 17 Fd Regt RCA., taken before me this 28th day of Nov 1944.

"D.H. Weir"
(Officer taking Summary)

DUPLICATE EXHIBIT "C"

Certificate under Sec 163 (1) (j) Army Act.

Lieut G.H. Cuttell certify that M.28684 Rank Gunner.

Name Guss, R. E. of the 17th field Royal Canadian Artillery Surrendered himself to No.1555857 Rank L/Cpl Name Thain. at [illegible] on the November 17th 1944. at about 2100 hrs ~~was~~ as a absentee withcut leave.

"G H Cuttell Lieut"
Commanding. Provost Detachment M. P.
(CO of the person or portion of the forces to whom surrender was made

over

This is Exhibit "C" referred to in the summary of evidence in the case of M.28684 Gnr Guss, R.E., 17 Fd Regt RCA taken before me this 28th day of Nov 1944.

"D H Weir Capt RCA",
(Officer taking Summary)

Ex "B" "EF"

MFM 6 (AFB 122) 40/PAS/136 (3458)

No. M. 28684 Name GUSS, Rose Edward | Sqn. Battery or Company | Corps RCA | Date of enlistment 26-6-41 | QC Badges N/a | Service or Proficiency Pay n/a

Date of last entry in Company Conduct Sheet N/a | No and date of last drunk Nil | Period not reckoning towards freedom from extra fine n/a | Sheet No 1 | Signature OC Company, etc | Character

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Name of Witness	Punishment awarded	Date of award (if of order differing with date of offence)	By whom awarded	Remarks
Field	7Jun 43	(Old sheet destroyed 7 Jun 43) Nil cases of drunkenness.							"Gs"
At Sea	30 Oct 43	Gnr		AA Sec 11, WOAS Neglecting to obey ship's Part I Orders "Smoking on deck during the hours of blackout		Documentary	28 days F.F.	31Oct 43	R.S. Brown Major RCA	Forf 28 dy pay FWeI 149 (2)
Field	7 May 44	Gnr		AA Sec 11, WOAS Neglecting to obey Regtl Orders -found in village that was out of bonds.		Documentary	28 days Fp	7 Jun 44	R.A.Armstrong Lt Col RCA	Forf 28 dy pay FWeI 149 (2)
Field	15 Jul 44	Gnr		AA Sec 15(1) WOAS AWL from 0645 hrs 15-7-44 until 0030 hrs 22-7-44 (absent 6 days 17 hrs 45 mins)	BSM Lloyd	28 days F.F. forf 28 days FR &I 149 (2)	26 Jul 44	A powess Major RCA	Forf 7 days pay FR &I 149 (1)-(a)

CERTIFIED TRUE COPY IIIII See Overleaf

(A.N. Fair) Capt RCA Adj 17 Fd Regt RCA.

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
				Certified true copy from the Regtl Books in my custody.					
				Dated in the Fd. This 29 day of Nov 1944		"A.W. Fair Capt" (A.W. Fair) Capt RCA Adjt 17 Cdn Fd Regt RCA.			

"Ex A "EP"

ARMY FORM B.296 (WAR).

Statement as to Character and Particulars of Service of Accused

(For Use at Trials by Field General Courts-Martial only)

Number.	*Rank.*	*Name.*	*Regiment (or as the case may be).*
M.28664	Cpr	Guss, Ross Edward	17 Cdn Fd Regt RCA.

NOTE.—The Field Conduct Sheet is to be produced in Court with this statement but is not to be annexed to the proceedings. The numbers herein stated should correspond with the number of entries in the Field Conduct Sheet, prominence being given to the most serious offence in each entry. If the charge is for drunkenness or absence without leave, the entries for drunkenness or absence, as the case may be, should be stated separately. Any recognized special acts of gallantry or distinguished conduct recorded on the Field Conduct Sheet should also be inserted here.

1. The following is a fair and true summary of the entries in the Field Conduct Sheet of the accused, exclusive of convictions by a court martial or a civil court:—

For AA Sec 11 One time two times.

For AA Sec 15 (1) One time one times.

For ..... times.

For ..... times.

Date of first entry in Field Conduct Sheet .....

Date of last entry in Field Conduct Sheet .....

2. Previous convictions of the accused by a court martial or a civil court are set out in the Schedule overleaf.

*Strike out if not applicable.

*3. The accused at the present time is under sentence for .....

beginning on the ..... day of .....

4. The accused has been awaiting trial on the present charges for Nil days in civil custody; and for 35 days in military custody, *i.e.*, ... days in open arrest, ... days in close arrest; of which Nil days were spent in hospital.

5. The present age of the accused is 23 yrs.

6. The date of his ~~attestation~~ calling up for military service is 3 5/12 yrs.

7. The service which the accused is allowed to reckon is 3 5/12 yrs.

(State the military decorations (if any) held by accused.

8. The accused is in possession of CVSM & Clasp.

9. ~~(If the accused is a warrant officer or N.C.O.).~~ The accused has served continuously without reduction, to the present date—

Date of Promotion.

~~In the substantive rank of~~ .....

~~In the substantive rank of~~ .....

In the acting rank of .....

INSTRUCTION.—*If any matter in any of the above paragraphs cannot be stated from the regimental books the paragraph must be struck through.*

W1 44906/1602 20,000 5/44 GS 4751. Forms/B.296(War)8

"B"

SCHEDULE OF CONVICTIONS BY A COURT-MARTIAL OR CIVIL COURT

Description of Court by which tried.	Date and Place of Trial.	Charges upon which convicted.	Sentence of the Court.	Punishment remitted or sentence suspended.
		N/A.		

I HEREBY CERTIFY that the foregoing particulars, which have been extracted from the regimental books in my custody, are correct to the best of my knowledge and belief.

Signed this 23 day of December 1944

"A.N. Fair Capt"
Adjutant 19 th Field Regiment RCA

NNN-49

PTE GUTCHER N.R

RECEIVED 2 JUN 1944 JAG BRANCH

RECORDED AT CMHQ IN AB 160 NWE 49

FIELD GENERAL COURT-MARTIAL

CFAB6 (1st Rev. of AF B31)

Convened by Order of Brig J.R. Stewart Lough DSO, MC, VD. Comd "D" Gp CRU dated 31 May 44

ACCUSED.

(As to the trial of two or more charged jointly see RP 16, 71, 109. As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Con 308, 328, 330.)

Number.	(a) Prmnt R. (b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
B-55070	Pte.	Norman Robert	GUTCHER	3 CIRU

PROCEEDINGS REVIEWED 10 Jun 44 WS Grenfell Major REVIEWING OFFICER, JAG BRANCH

PROCEEDINGS OF TRIAL.

Held in the Fd in (country) England on (date(s)) 1 Jun 44

RECORD FORM A—OPENING PROCEEDINGS AND ARRAIGNMENT.

A1. The President, Members, ~~waiting Member, JA, if any, and Offrs under instr, if any,~~ assemble, and the Court is closed.

(PRINTED MATTER, NOT IN ITALICS FOR GUIDANCE, WILL BE DELETED, IF NOT USED OR APPLICABLE, AND INITIALLED BY PRES OR JA. The Schedule referred to throughout is on p 4. Citations do NOT include all relevant fmn ROs. For guidance on procedure when a variation in this form arises, see form for GCM in MML pp 741 to 759. A brief record of such variation will be made and given a number having reference to appropriate or preceding para number herein. See back of Convening Order, CF 895, for oaths and instrs on how to record addresses, evidence, etc, which instrs are hereafter called "Notes". As to general provisions for conducting the trial see AA 33, RP 36, 63-70, 73, 74, 94, 103, 119, 132.)

A2. The President initials and lays before the Court the Convening Order and Charge Sheet(1) attached thereto.(2) The Court is satisfied that it is properly convened and constituted(2), accused is [are] amenable to military law, and each charge discloses an offence.(3)

(1. As to use of Summary of Evidence see RP 17 fn 6. 2. AA 49, 50, RP 105-107. 3. RP 11-13, 23, 24.)

A3. The Court is opened. The accused is [are] brought before the Court. At 1100 hours trial commences.

A4. The Prosecutor produces a Medical Certificate that accused is (are) fit to undergo trial by court-martial.(1) ~~The Prosecutor informs the Court that accused elected to be tried by court-martial instead of being dealt with summarily by the CO.(2)~~

(1. KR Con 557. 2. AA 46(8), RP 60 fn 1. For effect see KR Con 563(c). Delete, if not applicable.)

A5. President to accused: Do you object to N.A. as interpreter? Ans N.A.
The Interpreter is sworn.(1) Do you object to N.A. as shorthand writer? Ans N.A.
The shorthand writer is sworn.(1)

(1. RP 72. Delete, if none employed.)

A6. The Convening Order and names of the President and Members of the Court are read to the accused.(1) President to accused: Do you object to be tried by me as President or by any of the Members of the Court?
Ans NO (2)

(1. RP 110. 2. If no objection, waiting member retires. RP 68(8). If objection, see procedure AA 51, RP 25, 71, 18, MML p 742.)

A7. The President, Members, ~~JA, if any, and Offrs under instr, if any,~~ are sworn.(1) The following are the ranks, names and units of the offrs comprising the Court, etc:

President	Major	J.M. Bowman	48th Highrs. 3 CIRU
Member	Capt.	A.M. MacKenzie	R.Regt.C 3 CIRU
Member	Lieut	R.A. Fairhead	R.Regt.C. 3 CIRU
Judge-Advocate	—		
Prosecutor	Lieut.	J.G. Hayes	2 QOR 3 CIRU
Defending Offr	Lieut.	J.W. Huxley	HLI of C 3 CIRU

Questions by President: Is the Prosecutor a lawyer? Ans NO Is the Defending Offr a lawyer? Ans NO (2)

(1. RP 26, 27, 109, 111. List of offrs under instr will be returned separately with proceedings for information of Conv Offr. 2. If Pros a lawyer and Def Offr not, accused is entitled to an adjournment when RP 89 (8) and fn 2 were not followed. See Dir p 83.)

A8. The accused ~~(s)~~ before arraignment make(s) (no) (no) plea (s).(1)

(1. If a special plea is made for separate trial on one or more charges (RP 62(E), 108), or as to the jurisdiction of the Court (RP 34, 35(A), 113), or as to accused's mental fitness to stand trial (AA 130, RP 57), or by one of several accused charged jointly to be tried separately (RP 16, 71), such plea, the addresses made in support or against, the evidence, if any, and finding are recorded per Notes. For forms of record see references in fns to RsP cited. Insert in A8 rank and name of the accused making the plea.)

A9. The accused is ~~(are)~~ arraigned ~~(separately)~~ on all charges in the charge sheet.(1) The accused does (does) not object to any charge.(2) There is no amendment to be made to the Charge Sheet.(3) The President records the pleas in Part I of the Schedule.

(1. RP 31, 112. See para 1 of Instrs p 2. When more than one Charge Sheet see RP 62; when several accused to be tried separately see RP 71(C), and use separate copies of CF 896 to record proceedings. 2. RP 32, RP 33. If otherwise, delete and make appropriate record per Notes.)

A10. The Court is closed and considers the Instrs on Procedure after Arraignment at top of p 2. The proceedings are continued on Record Form B

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS

SCHEDULE.

PART I. PLEA(S), FINDING(S) AND SENTENCE.

Accused: B-55070 Private Norman Robert GUTCHER, 3 CIRU

	Charge. (Insert "alternative" where applicable.)	Plea. (See Instrs p 2.)	Finding. (See note below.)	(Space for use as required for further charges, accused charged jointly, special findings, etc.)
1st	AA Sec 15(1)	Guilty	Guilty	
2nd				
3rd				
4th				
5th				
6th				

(Note: As to findings for lesser offences see AA 56, RP 44; findings on alternative charges see MML p 483 fn 4 para 2, RP 44; special findings see RP 44 and MML p 753, and in lieu of kit see RP 44 fn 6.)

At present under sentence for — (1) beginning on (date) — (2)
(1. Insert sentence being served, or delete, if not applicable. See RP 46(A). Information should be found on MF B355 or MF B296.)

Time in confinement awaiting present trial—a total of 44 days, of which Nil days were spent in hospital.(1)
(1. See RP 46(A) fn 2. Information should be found on MF B355 or MF B296 admitted in evidence under E2.)

Sentence Awarded by the Court: To undergo detention for a period of 90 (NINETY) days

(Sgd) — Judge-Advocate, if any. 1 June 44 Date awarded. (Sgd) [signature] President. (RP 45, 50.)
(See back of Convening Order as to assembly and disposal of record after trial.)

PART II. MINUTE WHERE CONFIRMATION RESERVED. (AA 54(5), RP 120(F), MML p 760.)

Date (Sgd) Commanding

PART III. DECISION OF CONFIRMING OFFR ON FINDING(S) AND SENTENCE.

(For duties and powers see AA 54, 57, RP 37(D) fn 6, 46(A), 51-56, 120, MML pp 759-761, KR Con 567-577. Acquittals require no confirmation and cannot be revised: AA 54(3). Sending back finding or sentence for revision by Court: AA 54(2), RP 120(G). If not confirmed, accused may be tried again: AA 157, MML p 64. Minute of confirmation or non-confirmation may be altered before promulgation: RP 53, MML p 65. Quashing after promulgation: KR Con 573. Duties and powers of reviewing offrs: AA 57, 57A, RP 53A, 54. The Confirming Offr must sign here personally. AA 172 fn 1.)

My decision on the finding(s) and sentence set forth in Part I is:
I confirm the finding of the Court but commute the sentence to forfeiture of ~~(90)~~ (45) days pay & future of part of the sentence so commuted
I direct that the accused be not committed to prison or detention barracks until further orders.(1)
(1. AA 57A. Delete if not used.)

Date 1 June 44 (Sgd) J. Stewart Lough Brig. Commanding 25th Gp. Con. Roy. Comds. Commanding Confirming Officer.

PART IV. PROMULGATED AND EXTRACTS TAKEN. (RP 53, KR Con 576, 577.)

Accused.	Date.	Signature of Offr.
B-55070 Pte. GUTCHER, N.R.	2 June 1944 (3 CIRU Pt II D.O. No. 129 dated 3 June 44)	(P. E. Rogers) Capt. Adjt.

ALL DELETIONS AND ALTERATIONS WILL BE INITIALLED. 3 C.I.B.U.

INSTRUCTIONS ON PROCEDURE AFTER ARRAIGNMENT.

1. *The accused may not plead or be found Guilty on more than one of two or more charges laid in the alternative (RP 37(A).) As to withdrawal of alternative charges by Prosecutor see RP 35(C). No other charge can be withdrawn for any reason without authy from Convening Offr. If Convening Offr concurs, Court may accept plea of Guilty to lesser, ete, offence. (RP 44(B).) Accused may change a plea of Not Guilty to Guilty during trial. (RP 38.) As to refusing to plead or not pleading intelligibly see RP 35(A). As to plea when sentence may be death see RP 35(D).*

2. *The proceedings on each charge sheet (RP 62) after arraignment will be conducted as follows in the respective circumstances stated :*

I. If pleas to all charges are GUILTY, use Record Form B below.

II. If pleas to all charges are NOT GUILTY, use Record Form D on p 3.

III. If pleas to some charges are GUILTY and to other charges are NOT GUILTY and,

(a) Such mixed pleas occur when there are no alternative charges in the Charge Sheet, use Record Form C below. (RP 37(A).)

(b) Such mixed pleas occur in a set of two or more charges laid in the alternative, see RP 37 (A) and fn 2 as to discretion of Court, (i) to try the accused on all such alternative charges as if he had pleaded Not Guilty thereto, or, (ii) to record the pleas as the findings of Court. After deciding between (i) and (ii), Court will proceed under foregoing instrs as may be appropriate to result of its decision. See MML p 744 Instrs (2).

3. *As to responsibility of President to accused see RP 59, 60(C) ; powers and duties of JA see RP 103 ; duty of Prosecutor see RP 60(A) (B) ; duty and privileges of accused and Defending Offr see RP 60(C), 87(C), 91, 92 ; swearing and withdrawal of witnesses from Court see RP 81, 82 ; questioning of accused see RP 80, 87(C), 92(H), and of witnesses see RP 83-85 ; calling or re-calling of witnesses by Court etc see RP 75-79, 86, 116 ; use of Summary of Evidence at Trial see RP 17(E) fn 6 ; and responsibility of JA or Pres to record proceedings see RP 94, 96.*

RECORD FORM B—PROCEEDINGS ON PLEAS OF GUILTY TO ALL CHARGES.

B1. The President or JA, if any, complies with RP 36(B) by explaining to the accused the nature and meaning of the charge(s).(1) and that on his plea of Guilty there will be no regular trial but merely a consideration of the sentence to be awarded after he has been given an opportunity to make a statement in reference to the charge(s), call witnesses as to character and make an address in mitigation of punishment.(2)
(1. *RP 35 fn 3.* 2. *MML p 54 para 47.*)

B2. President to accused : The Court will now receive any statement you desire to make in reference to the charge(s).(1) If it appears from your statement that there are circumstances which indicate that you do not understand the effect of the plea of Guilty(2), or which show provocation or extenuation in respect of which in your interest the witnesses for the Prosecution should be examined(3), we shall advise you to change your plea to Not Guilty. In making a statement you will not be sworn or subject to cross-examination ; and anything you say will not be used in evidence against you after you change your plea. If, however, it appears to the Court that your statement affects only the amount of punishment to which you are liable, you will not be advised to change your plea and you will be given an opportunity later to prove your statement by sworn testimony, if you so desire.(4)

President to accused : Do you wish to make a statement ? Ans NO (5)
(1. *RP 37(B).* 2. *RP 37(D) fn 6.* 3. *RP 35(B) fn 5 para 3, MML p 54 para 47.* 4. *See para E3 of Record Form E.* 5. *Statement, if any, recorded per Notes.*)

B3. The Court considers the accused's statement.(1) The Court decides (not) to advise accused to change his ~~(their)~~ plea(~~s~~) of Guilty to Not Guilty on NA charge(s). The accused is (~~are~~) so informed, and he (they) change(s) his (their) plea(s) on NA charge(s). Part I of the Schedule is amended accordingly.
(1. *Court may be closed to consider the statement. Delete whole or part not used.*)

B4. On the charge(s) to which the plea(s) of Guilty is (are) not changed the President records finding(s) of Guilty in Part I of the Schedule.(1)
(1. *RP 35(B). If any plea(s) is (are) changed, use Record Form C or D as appropriate.*)

B5. The Summary of Evidence is marked Ex D, initialled and read aloud by the President.(1)
(1. *If there is no Summary, or if it is inadequate, comply with RP 37(B). If there is any evidence inconsistent with any plea standing as Guilty, Court will advise accused to change such plea and, if changed to Not Guilty, try such charge(s) by use of paras D1 to D8 inclusive of Record Form D on p 3. RP 37(D).*)

B6. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

RECORD FORM C—PROCEEDINGS ON MIXED PLEAS OF GUILTY AND NOT GUILTY.

C1. As to the charges on which accused pleaded NOT GUILTY the trial is continued by using paras D1 to D8 inclusive of Record Form D on p 3 before proceeding with C 2.(1)
(1. *RP 37(A) (E).*)

C2. The charges on which accused pleaded GUILTY are read to him (them) again, and the trial is continued by using paras B1 to B5 of Record Form B above.(1)
(1. *Under B5 such parts only of the Summary of Evidence are read as relate to the charges dealt with under C2. If any plea is changed to Not Guilty, trial thereon proceeds by complying with paras D1 to D8 inclusive in Record Form D on p 3 and making an appropriate record thereof on a separate sheet.*)

C3. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

RECORD FORM D—PROCEEDINGS ON PLEAS OF NOT GUILTY TO ALL CHARGES.

D1. President to accused : Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity to prepare your defence ? Ans ..... (1)
(1. *If "yes", see RP 39(A) for procedure. Statement or evidence, if any, is recorded per Notes.*)

D2. The Prosecutor makes (an) (no) opening address.(1)
(1. *RP 39(B). 60(A) (B), 90, 92(C) (D). Record address per Notes, subject to RP 95(C).*)

D3. The evidence for the Prosecution is taken.(1)
(1. *RP 39(C), 114, KR Can 535. Record evidence per Notes. As to Prosecutor giving evidence himself see RP 39(D) (E).*)

D4. The Prosecution is closed.(1) The Defending Offr submits that the evidence for the Prosecution does not establish a prima facie case against the accused on the ..... charge(s).(2) The Court is closed, and considers the submission.(3) The Court is re-opened, and the President announces that the submission is disallowed on the ..... charge(s), and allowed on the ..... charge(s), and that, accordingly, the trial will proceed on the former, but the accused is (are) found Not Guilty on the latter charge(s).(4)
(1. *Delete remainder of this para, if submission not made.* 2. *Arguments on submission, answer and reply are recorded per Notes.* 3. *RP 40 fn 1. See MML p 72 paras 12-14 and p 81 para 42.* 4. *Delete part not used. If accused acquitted on all charges, use second alternative in para D8.*)
NB : If trial proceeds, accused must be allowed great latitude in making his defence, and the Court should not stop his defence solely on ground of irrelevance. (*RP 60(C), 114, 115.*)

D5. President to accused : You will now proceed with your defence.(1) You may, if you wish, give evidence yourself on oath as to the facts or your character or both, in which case you will be subject to cross-examination.(2) You may, however, make a statement without being sworn, and you will not be subject to cross-examination.(3) But a statement which could have been made on oath will not carry with the Court the same weight as sworn testimony.(4) You may call witnesses in your defence and as to character, whether you give evidence or make a statement or do neither.

President to accused : Do you wish to give evidence yourself as a witness, make a statement, or do neither ?
Ans .....
Do you intend to call witnesses on your behalf ?
Ans ..... Are they witnesses as to character only ? Ans .....
(1. *RP [illegible].* 2. *RP 40(A), see 80(D).* 3. *RP 40 fn 10.* 4. *RP 40 fns 2, 9.*)

D6. Consequent on the answers recorded in para D5 the appropriate procedure for the defence is followed.(1)
(1. *RP 114, 115, 116. For procedure see Notes on back of Convening Order, CF A95. Evidence for accused as to his character should, if in his interest, be given before the finding. See RP 46(A) fn 1, 86(C). Note the further opportunity in para E1 of Record Form E. Record per Notes addresses, statement, evidence and any summing up by the JA under RP 42, 103(e).*)

D7. The Court is closed to consider the finding(s).(1) The finding(s) of the Court is (are) recorded in Part II of the Schedule.(2) The Court is re-opened.
(1. *RP 43, 117(A). See Notes in Part I of Schedule.* 2. *RP 44(A).*)

D8. The President announces the finding(s), if any, of Not Guilty, and states to the accused that the finding(s) of the Court on the ..... charge(s), being subject to confirmation, will be promulgated later.(1)
Or, The President announces that the accused is found Not Guilty on all charges and is to be released forthwith, and that the proceedings are accordingly terminated. Part I of the Schedule is dated and signed.(2)
(1. *AA 54(2), (6), RP 45, 120(A).* 2. *AA 54(2), RP 45, 117. This alternative announcement is not applicable when there are pleas of Guilty outstanding and dealt with under Record Form B or C.*)

D9. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E below.

RECORD FORM E—PROCEEDINGS ON CONVICTION BEFORE SENTENCE.

E1. President to accused : Do you wish to give evidence yourself or to call any witnesses as to your character ?(1)
Ans NO
(1. *If evidence has already been given by accused or his witnesses as to his character, delete this para. RP 37(C) fn 4, 46 fn 1. Accused and witnesses are sworn. Evidence recorded per Notes.*)

E2. The Prosecutor produces Statement(s) as to Character and Particulars of Service(1), and certified true copy (copies) of Conduct Sheet(s)(2), purporting to refer to the accused, which he submits to the Defending Offr for examination, and then to the Court for admission in evidence. The Court is satisfied that these documents refer to the accused, because (i) they purport to be signed in the manner required by AA 163(2) (g) (h), and (ii) they purport to refer to (a) soldier(s) having the same number, rank, name and corps as the accused. Admitted in evidence and marked Ex G and Ex H respectively.(3)
(1. *MFB 355 or AFB 296.* 2. *MFM 6.* 3. *RP 46, KR Can 558. If above documents not produced, see RP 46 fn 1 para 1.*)

E3. President to accused : Do you wish to address the Court on the Statement(s) and Conduct Sheet(s), and in mitigation of punishment ?(1) Ans NO
(1. *RP 37(C), 46(D).* 2. *Address, if any, recorded per Notes. Court should permit accused or his witnesses to prove on oath anything here or previously stated which would affect the amount of punishment. RP 37(F) fn 7.*)

E4. The President states that the Court is closed to consider the sentence, and that the sentence to be awarded by the Court, being subject to confirmation, will not be announced, but will be promulgated later, and the proceedings in open court are accordingly terminated.(1)
(1. *AA 54(6), RP 120(A).*)

E5. The Court considers the sentence.(1) The President records the sentence in Part I of the Schedule, which is dated and signed by him and the JA, if any.(2)
(1. *When several accused tried separately see RP [illegible]. One sentence only, comprised of the punishment or punishments laid down in AA 41, 44 and its proviso, is to be awarded to cover all charges in all charge sheets on which accused found guilty. RP 48. As to sentences see AA 44, 138, 182, RP 46-50, see 118, 119(A), KR Can 308, 330, 563-566, Overseas RO 309, 2323, MML p 60, 757-759. As to sentences assigned for civil offences by the law of England see AA 41(5), MML p 130. When accused already under sentence of imprisonment or detention see AA 44 (8), 66(1), KR Can 564.* 2. *RP 50. As to release from arrest by Convening Offr see KR Can 567. As to assembly and disposal of record after trial see Instrs on back of Convening Order.*)

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

Ex A.

CHARGE SHEET

The accused Number B55070, Private Norman Robert GUTCHER, Canadian Infantry Corps, on the strength of 3 Canadian Infantry Reinforcement Unit, as a reinforcement, a soldier of the Canadian Army Overseas, is charged with:

FIRST CHARGE
ARMY ACT
SEC 15(1)

WHILE ON ACTIVE SERVICE, ABSENTING HIMSELF WITHOUT LEAVE,

in that he,

did absent himself without leave from 3 Canadian Infantry Reinforcement Unit from 2200 hours the 7th day of May, 1944, until surrendering himself to the Unit Guard Room at 3 Canadian Infantry Reinforcement Unit at 2145 hours the 27th day of May, 1944.

Total time absent: 19 days 23 hours and 45 minutes.

.....
(A.S. Pearson) Colonel
Commander,
3 Cdn Inf Rft Unit

In the Field
29th May,
1944.

TO BE TRIED BY FIELD GENERAL COURT MARTIAL

(J.R. Stewart Lough) Brigadier,
Commander "D" Group,
CANADIAN REINFORCEMENT UNITS.

Convening Officer.

In the Field
31 May 44.

E.X. B.

FIELD GENERAL COURT-MARTIAL

(CFAO (In lieu of AFAS) 40/Gen/1007 (2nd))

(Whether the accused to be tried is under his comd or not, a FGCM may on application to him be convened by any offr of Cdn Army Overseas, or of any other force if authorized in law, in immediate comd of troops on active service, subject to RP 105(C) and restrictions imposed by appropriate authy. AA 49, 50, RP 104-107, 114. As to the duties and privileges of the Convening Offr in dealing with the application see MML Chap V paras 20 and 23. RP 87(B).
There should be a separate Convening Order for each person to be tried separately by the same Court. RP 71(C), 109. As to separate charge sheets see RP 62, and as to separate trial on charges in the same charge sheet see RP 104. As to two or more accused charged jointly see RP 16, 109.
As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns. KR Can 308, 328, 330.)

ACCUSED.

Number.	(a) Prmnt R. (b) Appmt. A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
B-55070	Pte.	Norman Robert	GUTCHER	3 CIRU

CONVENING ORDER.

1. Whereas complaint has been made to me, the undersigned, that the person[X] named above as the accused, being subject to military law, has ([XXX] committed the offence[X] set forth in the Charge Sheet[X] attached and on (date) 31 May 44 endorsed by me, [XXXXXXXXXXXXXXXXXXXX]" To be tried by Field General Court-Martial".

2. And whereas I am of opinion that it is not practicable that such offence[X] should be tried by an ordinary General Court-Martial ; [XXXXXXXXXXXXXXXXXXX

OATHS FOR USE IN COURTS-MARTIAL.

1. PRESIDENT AND MEMBERS. *(AA 52, KR Can 562, RP 26, 29, 111.)*

I swear by Almighty God that I will well and truly try the accused (or accused persons) before the Court according to the evidence, and that I will duly administer justice according to the laws in force for the Government of the Militia of Canada, without partiality, favour or affection, and I do further swear that, except so far as may be permitted by instructions of the Minister for the purpose of communicating the sentence to the accused, I will not divulge the sentence of the Court until it is duly confirmed, and I do further swear that I will not on any account at any time whatsoever disclose or discover the vote or opinion of any particular member of this court-martial unless thereunto required in due course of law.

2. JUDGE-ADVOCATE. *(AA 52, MML 762, RP 27, 111.)*

I swear by Almighty God that I will not, unless it is necessary for the due discharge of my official duties, divulge the sentence of this court-martial until it is duly confirmed; and that I will not on any account, at any time whatsoever, disclose or discover the vote or opinion of any particular member of this court-martial, unless thereunto required in due course of law.

3. OFFR UNDER INSTRUCTION. *(AA 52, MML 762, RP 27, 111.)*

I swear by Almighty God that I will not divulge the sentence of this court-martial until it is duly confirmed; and that I will not on any account, at any time whatsoever, disclose or discover the vote or opinion of any particular member of this court-martial unless thereunto required in due course of law.

4. SHORTHAND WRITER. *(AA 52, MML 762, RP 27, 111.)*

I swear by Almighty God that I will truly take down to the best of my power the evidence to be given before this court-martial and such other matters as may be required, and will, when required, deliver to the court a true transcript of the same.

5. INTERPRETER. *(AA 52, MML 762, RP 27, 111.)*

I swear by Almighty God that I will to the best of my ability truly interpret and translate, as I shall be required to do, touching the matter before this court-martial.

6. WITNESS. *(AA 52, MML 763, RP 82, 111.)*

I swear by Almighty God that the evidence which I shall give before this court shall be the truth, the whole truth, and nothing but the truth.

POUR LES TEMOINS. *(RO (Can) 2693.)*

Je jure, par Dieu Tout-Puissant, que le témoignage que je rendrai devant cette Cour sera la vérité, toute la vérité, et rien que la vérité.

7. As to other forms for swearing see AA 52(4), RP 28, 30, 82, 111, MML p 763.

NOTES ON RECORDING PROCEEDINGS AND ON DEFENCE PROCEDURE.

(Referred to throughout CF A 96 as "Notes".)

1. RECORDING PROCEEDINGS: When no shorthand writer is employed the addresses of Prosecutor and Defending Offr (*RP 95(C)*), any objections (*RP 95(B)*), and any statements by accused, may be summarized and, the evidence, subject to RP 95(A) and 114(B), may be recorded in narrative form as follows:

First Witness for Prosecution.

A 12345 Cpl H. Jones, RWR, sworn, states:

I am a cpl of the pl to which Pte Smith belongs. The accd in Court is Pte Smith. About 1400 hrs on 15 Jan 43 I ordered the accd to go on parade. He refused and did not go on parade.

Cross-exam: He did not say he was sick. (*or*, None.)

Re-exam: None.

Exam by Court: He said—"I've had enough parades".

RP 83(B) complied with.

2. When a shorthand writer is employed, addresses, statements, evidence and objections need not, subject to RP 95(A), be taken by him verbatim. (*RP 95 fn 1.*) If the evidence is taken by him in narrative form, RP 83(B) should be complied with. If taken verbatim, RP 83(C) will be complied with.

3. The record of addresses, statements and evidence will be given a marginal number which corresponds with the number of the para in CF A 96, under which it is taken. Both sides of paper should be used.

4. DEFENCE PROCEDURE: RP 116 provides that for procedure on defence RP 40-42 will apply so far as practicable, having due regard to the public service. (*RP 132.*) If the Court consider such compliance not practicable, the following order of procedure (whether all items are used or not) is suggested as being fair to the accused:

(i) Opening address by Defending Offr. (*RP 60(C), 87(C), 92(C), (D).*)

(ii) At option of accused, statement by accused (*not sworn or subject to cross-exam by Prosecutor, Court or JA (RP 40 fn 10)*), or evidence by accused, as to facts or his character or both. (*See RP 41 fn 3, 46 fn 1, 86.*)

(iii) Evidence of witnesses for accused as to facts or his character or both. (*See RP 46 fn 1.*)

(iv) Evidence for prosecution in rebuttal or on new matter, if allowed by Court (*RP 86(B)*), or to prove previous convictions where accused has called witnesses as to character. (*RP 86(C).*)

(v) Closing address (*on matters other than in mitigation of punishment*) by Defending Offr or accused. (*See RP 40 fns 8-12, 87(C), 92(C), (D).*) But Defending Offr or accused will make his address after the Prosecutor, if there has been no statement by accused or any evidence given as to facts, or if accused alone has given evidence on oath as to facts, whether any evidence as to his character has been given or not. (*When accused charged jointly see RP 81.*)

(vi) Closing address by Prosecutor. (*See RP 40 fn 7, 87(C), 92(C) (D). Prosecutor has no right to address Court on subject of sentence except as provided by RP 46(E), KR Can 565(a).*)

(vii) Summing up by JA, if any. (*RP 42.*)

ASSEMBLY AND DISPOSAL OF RECORD AFTER TRIAL.

1. All deletions and alterations in printed and written record MUST BE INITIALLED by President or JA, *if any*. RECORD FORMS B, C OR D NOT USED MUST BE DELETED BY A DIAGONAL LINE AND INITIALLED.

2. All loose sheets of record and exhibits comprising the proceedings of the trial MUST BE INITIALLED by President or JA, *if any*, and then pinned by top left corner to p 3 of CF A 96 in following order:

(i) Charge sheet. (*On top.*)

(ii) Convening Order with any deliberations made by Convening Offr under RP 104, 106, 107, 114.

(iii) Medical Certificate(s). (*KR Can 567.*)

(iv) Addresses, statements and evidence in order taken during trial, pages being numbered and on both sides when both sides used.

(v) Exhibits numbered Ex A, Ex B, etc. (*As to admitting in evidence a certified copy in lieu of original see KR Can 560. As to certified copies of equivocal books see AA 165 (1) (g) (h).*)

(vi) Summary of Evidence, if not already an exhibit.

3. Any report or remarks by President or Court for attention of Confirming Offr will be attached to p 4 of CF A 96 and not form part of record of proceedings. (*RP 95(D).*) A recommendation for mercy will be inserted in Part 3 of Schedule on p 4 *after* minute of sentence awarded. (*AA 53(9), RP 118(C), MML p 759.*)

4. The President or JA, if any, will return proceedings promptly with covering letter and in an envelope marked "Confidential", or as otherwise directed.

EXC.

3 CANADIAN INFANTRY REINFORCEMENT UNIT

Medical Officers Certificate
K.R.(CAN) Para 557.

I certify that I have this morning examined No. B.55070

Pte GUTCHER, N.R. of 3 C.I.R.U. and in my opinion he is

fit to undergo trial by Court Martial.

Station Field

DATE 1 June 44

Medical Officer,
3 Cdn.Inf.Rft.Unit.

JWB

Ex. 1.

CANADIAN LEGION WAR SERVICES Inc.

CANADIAN KNIGHTS OF COLUMBUS WAR SERVICES

ON ACTIVE SERVICE

CANADIAN Y.M.C.A. OVERSEAS

THE SALVATION ARMY CANADIAN WAR SERVICES

PLEA OF MITIGATION IN THE CASE OF B 55070 Pte GUTCHER N.R.

The accused enlisted 7 August 1940 with the Algonquin Regt.

Since 28 December 1942 the accused has had a clean M F M 6 until 15 April 1944 when he had one small entry of AWL 1 hour 40 minutes.

Pte Gutcher arrived overseas with the Algonquin Regt in the Spring of 1943 and at the end of August 1943 returned to 3 C I R U with a Category B1.

Since November 1943 Pte Gutcher has been employed in transport as a driver. Upon receiving a letter from his girl friend in Carlisle who was ill and asking for him to come and see her this caused the accused to worry.

This was the cause of the accused

(JAG)

PLEASE WRITE ON BOTH SIDES

Ex 1.

CANADIAN LEGION WAR SERVICES Inc.

CANADIAN KNIGHTS OF COLUMBUS WAR SERVICES

ON ACTIVE SERVICE

CANADIAN Y.M.C.A. OVERSEAS

THE SALVATION ARMY CANADIAN WAR SERVICES

Page 2.

going A.W.L.

Pte Gutcher has been in a reinforcement unit for 10 months as a category B1 man and has had only one entry on his M.F.M.6 since 28-12-42. The accused has been examined by the medical officer of 3 C.R.U. and it is found that Pte Gutcher will have to have investigation for high blood pressure.

J. W. Hartley Lt.

JWB

CFA 170 (1485)

PLEASE WRITE ON BOTH SIDES

Ex F.

Last Order #110
d/12 May 1944.

3 CANADIAN INFANTRY REINFORCEMENT UNIT
PART II ORDERS
ISSUED BY
COLONEL A. S. PEARSON, O.B.E., E.D.
COMMANDER

This Order #111
d/13 May 1944.

21. ABSENCE WITHOUT LEAVE

(a) The u/m are absent without leave from times shown:

B.55070 Pte GUICHER, N.R. (CIC) 2200 hrs 7 May 1944.

(sgd) Capt W. E. Thorne
for Thomas E Rogers (Capt & Adjt)
3 Cdn Inf Rft Unit.

CERTIFIED TRUE EXTRACT OF ORIGINAL DOCUMENTS IN MY POSSESSION.

29th day of May
1944.

.....
(Thomas E Rogers) Capt & Adjt
3 Cdn Inf Rft Unit

EXE.

I hereby acknowledge that I have been served with a true copy of the Summary of Evidence together with list of names and addresses of witnesses taken at Nawton, Yorks, on the 29th day of May 1944, preliminary to my Field General Court Martial.

I further acknowledge that I have been served with a true copy of the charge under which I am being brought to Court Martial.

Essex H Gutcher N.R.
.....
(B.55070 Pte Gutcher, N.R.)

Dated at Nawton, Yorks.,
this 29th day of May, 1944.

I hereby request that the Convening Officer appoint an Officer to represent me at my trial.

I desire the services of Lt. J W. Hinsley HLI - 3 C.I.R.U.
if he is available.

Essex H Gutcher N.
.....
(B.55070 Pte Gutcher, N.R.)

Dated at Nawton, Yorks,
this 29th day of May, 1944.

Fld D

SUMMARY OF EVIDENCE

In the case of Number B.55070 Private GUTCHER, Norman Robert, Canadian Infantry Corps, on the strength of 3 Canadian Infantry Reinforcement Unit, as a reinforcement, a soldier of the Canadian Army Overseas.

By Direction of the Commanding Officer this Summary of Evidence is taken on Oath.

FIRST WITNESS FOR THE PROSECUTION

Lieut J. H. Galloway, Canadian Infantry Corps, Acting Assistant Records Officer, 3 Canadian Infantry Reinforcement Unit, having been duly sworn states:

I am Lieut J. H. Galloway, Canadian Infantry Corps, Acting Assistant Records Officer, 3 Canadian Infantry Reinforcement Unit I produce a certified true extract of 3 Cdn Inf Rft Unit Part II Daily Order No. 111 dated the 13th day of May 1944, showing the accused whom I now recognize as absenting himself without leave from 2200 hours the 7th day of May 1944. This document purporting to be signed by Captain W. E. Thorne, for Capt T.E. Rogers, Adjutant 3 Cdn Inf Rft Unit, is marked Exhibit "A".

.....
(J. H. Galloway Lieut)

The accused declines to cross examine this witness.

SECOND WITNESS FOR THE PROSECUTION

Number C.100013 A/Corporal Payment, W.A., Canadian Infantry Corps, Regimental Police, 3 Cdn Inf Rft Unit, having been duly sworn states:

I am No. C.100013 A/Corporal Payment, W.A., Canadian Infantry Corps, employed on the Regimental Police at 3 Cdn Inf Rft Unit. I was on duty in the Unit Guard Room on the 27th day of May 1944 when B.55070 Pte Gutcher, N.R., surrendered himself to me at 2145 hours as an absentee. I immediately placed him under close arrest. This evidence pertains to the accused whom I now recognize.

C 100013 A/Cpl Payment W.A.
(C.100013 A/Cpl Payment, W.A.)

The accused declines to cross examine this witness.

The accused having been warned according to Rules of Procedure 4(E) reserves his defence.

I certify that the foregoing Summary of Evidence consisting of One Page was taken down by me in the presence and hearing of the accused and that Rules of Procedure 4 (C) (D) (E) (F) and (G) have been complied with.

(Thomas E Rogers Capt)
Officer detailed to take Summary of Evidence.

In the Field
29th day of May
1944.

MFM 6 (AFB 132) 40/PAS/139 (3458)

No B55070 Name GUTCHER N.R. Sqn, Battery, or Company | Algonquin R Corps C.I.C. | Date of enlistment 7 Aug 40 | GC Badges | Service or Proficiency Pay

Date of last entry in Company Conduct Sheet 23 Jan 41 | No and date of last drunk N/A | Period not reckoning towards freedom from extra fine N/A | Sheet No 1 | Signature OC Company, etc B.J.Mothersill Major. | Character

Ex H

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
				1st Sheet destroyed 7 Feb 41.					
Pt Arthur	20/2/41	PTE	(1)	Drunkenness	Sgt Pidgeon	Admonished	3 Mar 41	Capt Monk	
Pt Arthur	12/3/41	PTE		Breaking Bks, AWL 4 hrs.	Sgt Peters	168 hrs Det'n	14 Mar 41	Col Stewart.	
Pt Arthur	16/3/41	PTE		Insubordination in Detention.	Sgt Pidgeon	3 days Bread and Water.	18 Mar 41	Col Stewart	
Pt Arthur	16/5/41	PTE		Breaking Bks, AWL 3 hrs.	CSM Harvey	72 hrs Detention	on 17 May 41	Col Stewart	
Pt Arthur	23/5/41	PTE	(2)	Drunkenness	L/C Porteous	Fined $5.00.	17 Jun 41	Col Stewart	
				Cond.FOOMD-secured pass under false pret. AWL from duty 3 hrs	Cpl McCauley				
				Breaking barracks while in open arrest. AWL 21 days.	Cpl Evans.	1 days forf. 28 days Det'n	17 May 41 17 Jun 41	Col. Stewart. Col Stewart.	
Shilo Camp	2/11/41	PTE		AWL 4 days 7 hrs, 45 minutes.	Sgt Culbertson	14 days CB	7 Nov 41	Col Stewart.	5 days pay
Chippawa	20/11/41	PTE		AWL 8 hrs 30 minutes	Sgt McCauley	14 days C.B.	22 Dec 41	Col Stewart.	1 days pay
Chippawa	3/1/42	PTE		AWL 16 days, 7 hrs.	Sgt McCabe	10 days Det'n	20 Jan 42	Major Troy.	Forf 17 days pay (PTO)

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or if under disposing with trial	By whom awarded	Remarks
Niagara	3/2/42	PTE		AWL 17 hrs	CSM Godefroy	48 hrs Det'n	4/2/42	Col Stewart	Forf 1 days pay.
Botwood	17/8/42	PTE		AWL 5 hrs 30 minutes	Cpl H Brunette	2 days pay	18/8/42	Major Troy	
Botwood	23/9/42	PTE		Failing to appear on parade.	Sgt Armstrong	4 days C.B.	24 Sep 42	Major Mason	
Botwood	16/10/42	PTE		Conduct to the prejudice etc.,		168 hrs Det'n	19 Oct 42	Col Stewart	
				leaving convoy and consuming liquor, disobeying command to go on	Sgt McCabe.	2 days pay.	19 Oct 42	Col Stewart	
				parade. AWL 16 hrs 30 minutes.		2 days pay.	19 Oct 42	Col Stewart	
				AWL 5 hrs 45 minutes in a place					
				out of bounds. Conduct to the pre-	Sgt				
				judice etc., taking a vehicle with-	Bradley				
				out permission.	McCauley.	10 days Det'n.	29 Dec 43	Maj.Johnston	
Botwood	28/12/42	PTE		AA 15(1) NCAS AWL from 2300 hrs	Sgt				
				15 Apr 44 until surrendering to	H 17664				
				Orderly Cpl. at 0040 hrs 16 Apr 44	Cpl	Forf 5 days			
Field	15/4/44	PTE		Total time absent 1 hr 40 min.	Lawrence	pay P&T 139(2)	17 Apr 44	E.J.Motherall	
				Certified true copy of original AFW 6.	R.C.			Major.	

(W.E. THORNE) CAPT.
Records Officer, 3 Can Inf Rft Unit.

Ex G.

ARMY FORM B.296 (WAR).

Statement as to Character and Particulars of Service of Accused.

(For Use at Trials by Field General Courts-Martial only).

Number.	*Rank.*	*Name.*	*Regiment (or as the case may be).*
[illegible] 55070	PRIVATE	GUTCHER, M.R.	C.I.C. 3 C.I.R.U.

NOTE.—The Field Conduct Sheet is to be produced in Court with this statement but is not to be annexed to the proceedings. The numbers herein stated should correspond with the number of Entries in the Field Conduct Sheet, prominence being given to the most serious offence in each entry. If the charge is for drunkenness or absence without leave, the entries for drunkenness or absence, as the case may be, should be stated separately. Any recognised special acts of gallantry or distinguished conduct recorded on the Field Conduct Sheet should also be inserted here.

1. The following is a fair and true summary of the entries in the Field Conduct Sheet of the accused, exclusive of convictions by a court martial or a civil court :—

For A.A. 15(1) 11 times.

For A.A. 40 5 times.

For A.A. 19 2 times.

For [illegible] times.

Date of first entry in Field Conduct Sheet 28 Feb 41

Date of last entry in Field Conduct Sheet 10 Apr 44.

2. Previous convictions of the accused by a court martial or a civil court are set out in the Schedule overleaf.

*Strike out if not applicable.

~~*3. The accused at the present time is under sentence for~~

~~beginning on the~~ day of [illegible]

4. The accused has been awaiting trial on the present charges for 0 days in civil custody; and for 4 days in military custody, viz., 0 days in open arrest, 4 days in close arrest; of which 0 days were spent in hospital.

5. The present age of the accused is 27 years, 4 months,

6. The date of his ~~enlisting up for military service~~ attestation is 5 Jun 40

7. The service which the accused is allowed to reckon is 3 years, 9 months,

‡State the military decorations (if any) held by accused.

8. The accused is in possession of‡ C.V.S.M. and Clasp.

9. (*If the accused is a warrant officer or N.C.O.*). The accused has served continuously, without reduction, to the present date—

	Date of Promotion.
~~In the substantive rank of~~	
In the war substantive rank of	[illegible]
In the acting rank of	

[illegible]

INSTRUCTION.—*If any matter in any of the above paragraphs cannot be obtained from the regimental books the paragraph must be struck through.*

(21114) W1.26670/869 100,000 4/42 A.& E.W.Ltd. Gp.698
(22460) W1.29250/1572 60,000 8/43 Forms/B.296(War)/2

SCHEDULE OF CONVICTIONS BY A COURT-MARTIAL OR CIVIL COURT.

Description of Court by which tried.	Date and Place of Trial.	Charges upon which convicted.	Sentence of the Court.	Punishment remitted or sentence suspended.

I HEREBY CERTIFY that the foregoing particulars, which have been extracted from the regimental books in my custody, are correct to the best of my knowledge and belief.

Signed this 1ST day of JULY 44

(W.E. THORNE) Capt.,
Records Officer, 3 Cdn Inf Bde

XX-150

PTE GUTHRIE W.M.

XX-156

FIELD GENERAL COURT-MARTIAL

CFA86 (In lieu of AFA3)
G.P.S. R. 1808 (2684)

Convened by Order of Brig. G. Kitching, DSO Comd 11 Cdn Inf Bde dated 9 Dec 43

ACCUSED.

(As to the trial of two or more charged jointly see RP 16, 71, 109. As to persons (a) promoted or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

Number	(a) Prmnt R. (b) Appmt. A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
C.30576	Pte	Norman Melville	GUTHRIE	73 LAD att HQ 11 Cdn Inf Bde

Proceedings Reviewed
Reviewing Officer (A.A.G.) MMHQ

PROCEEDINGS OF TRIAL.

Held in the Fd in (*country*) ITALY on (*date(s)*) 10 Dec 43

RECORD FORM A—OPENING PROCEEDINGS AND ARRAIGNMENT.

A1. The President, Members, waiting Member, JA, if any, and Offrs under instr, if any, assemble, and the Court is closed.

(PRINTED MATTER, NOT IN ITALICS FOR GUIDANCE, WILL BE DELETED, IF NOT USED OR APPLICABLE, AND INITIALLED BY PRES OR JA. The Schedule referred to throughout is on p 4. Citations do NOT include all relevant fmn ROs. For guidance on procedure when a variation in this form arises, see form for GCM in MML pp 741 to 759. A brief record of such variation will be made and given a number having reference to appropriate or preceding para number herein. See back of Convening Order, CF A95, for oaths and instrs as how to record addresses, evidence, etc, which instrs are hereafter called "Notes". As to general provisions for conducting the trial see AA 53, RP 56, 63-70, 73, 74, 94, 103, 119, 152.)

A2. The President initials and lays before the Court the Convening Order and Charge Sheet(*s*) attached thereto.(1) The Court is satisfied that it is properly convened and constituted(2), accused is (not) amenable to military law, and each charge discloses an offence.(3)

(1. As to use of Summary of Evidence see RP 17 fn 1. 2. AA 49, 50, RP 105-107. 3. RP 11-13, 23, 24.)

A3. The Court is opened. The accused is (not) brought before the Court. At 0930 hours trial commences.

A4. The Prosecutor produces a Medical Certificate that accused is (not) fit to undergo trial by court-martial.(1) ~~The Prosecutor informs the Court that accused elected to be tried by court-martial instead of being dealt with summarily by the CO.~~(2)

(1. KR Can 553. 2. AA 46(B), RP 60 fn 1. For effect see KR Can 563(c). Delete, if not applicable.)

A5. President to accused: ~~Do you object to~~ as interpreter? Ans ~~The interpreter is sworn.~~(1) Do you object to Lt. L.A. Smith (C2 Stf) as shorthand writer? Ans NO
The shorthand writer is sworn.(2)

(1. RP 72. Delete, if none employed.)

A6. The Convening Order and names of the President and Members of the Court are read to the accused.(1) President to accused: Do you object to be tried by me as President or by any of the Members of the Court?

Ans NO (2)

(1. RP 110. 2. If no objection, waiting member retires. RP 68(B). If objection, see procedure AA 51, RP 25, 71, 18, MML p 742.)

A7. The President, Members, JA, if any, and Offrs under instr, if any, are sworn.(1) The following are the ranks, names and units of the offrs comprising the Court, etc:

President	Major	J.B. Humphreys	1 Bd Regt RCAC
Member	Capt	H.I. Wainman	Perth Regt
Member	Capt.	P.T.F. Baker	Perth Regt
Judge-Advocate			
Prosecutor	Capt.	Stewart	73 LAD
Defending Offr	and/or	Reade	P.P.F.

Questions by President: Is the Prosecutor a lawyer? Ans NO Is the Defending Offr a lawyer? Ans NO (3)

(1. RP 26, 27, 109, 111. List of offrs under instr will be returned separately with proceedings for information of Conv Offr.)
(2. If Pros a lawyer and Def Offr not, accused is entitled to an adjournment when RP 89 (B) and fn 2 were not followed. See DI 2.)

A8. The accused Pte Norman Melville Guthrie before arraignment makes (no) plea. (1)

(1. If a special plea is made for separate trial on one or more charges (RP 62(E), 108), or as to the jurisdiction of the Court (RP 34, 35(A), 112), or as to bar of trial (RP 36), or as to accused's mental fitness to stand trial (AA 130, RP 57), or by one of several accused charged jointly to be tried separately (RP 16, 71), such plea, the addresses made in support or against, the evidence, if any, and finding are recorded per Notes. For forms of record see references in fns to RoP cited. Insert in AB rank and name of the accused making the plea.)

A9. The accused is (not) arraigned (separately) on all charges in the charge sheet.(1) The accused does (not) not object to any charge.(2) There is no amendment to be made to the Charge Sheet.(3) The President records the pleas in Part I of the Schedule.

(1. RP 31, 112. See para 1 of Instrs p 2. When more than one Charge Sheet see RP 62; when several accused to be tried separately see RP 71(C), and use separate copies of CF A86 to record proceedings. 2. RP 32, RP 33. If otherwise, delete and make appropriate record per Notes.)

A10. The Court ~~is cleared and~~ considers the Instrs on Procedure after Arraignment at top of p 2. The proceedings are continued on Record Form 3

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

4

SCHEDULE.

PART I. PLEA(S), FINDING(S) AND SENTENCE.

Accused: C30576 Pte Norman Melville GUTHRIE

Charge. (Insert "alternative" where applicable.)	Plea. (See Instrs p 2.)	Finding. (See note below.)	(Space for use as required for further charges, accused charged jointly, special findings, etc.)
1st AA 40	Not Guilty	Not Guilty	
2nd AA 9(2)	Not Guilty	Not Guilty	
3rd AA 40	Not Guilty	Not Guilty.	
4th			
5th			
6th			

(Note: As to findings for lesser offences see AA 56, RP 44; findings on alternative charges see MML p 483 fn 4 para 2, RP 44; special findings see RP 44 and MML p 753, and as loss of kit see RP 44 fn 6.)

~~At present under sentence for~~ beginning on (date) (1)

(1. Insert sentence being served, or delete, if not applicable. See RP 46(A). Information should be found on MF B355 or AF B296.)

Time in confinement awaiting present trial—a total of 10 days, of which Nil days were spent in hospital.(1)

(1. See RP 46(A) fn 2. Information should be found on MF B355 or AF B296 admitted in evidence under E2.)

Sentence Awarded by the Court:

(Sgd) ..... Judge-Advocate, if any. 10/2/43 Date awarded. (Sgd) ..... President. (RP 45, 50.)

(See back of Convening Order as to assembly and disposal of record after trial.)

PART II. MINUTE WHERE CONFIRMATION RESERVED. (AA 54(5), RP 120(F), MML p 760.)

Date ..... (Sgd) ..... Commanding .....

PART III. DECISION OF CONFIRMING OFFR ON FINDING(S) AND SENTENCE.

(For duties and powers see AA 54, 57, RP 37(D) fn 6, 46(A), 51-56, 120, MML pp 759-761, KR Can 567-577. Acquittals require no confirmation and cannot be revised: AA 54(3). Sending back finding or sentence for revision by Court: AA 54(2), RP 120(G). If not confirmed, accused may be tried again: AA 137, MML p 64. Minute of confirmation or non-confirmation may be altered before promulgation: RP 53, MML p 65. Quashing after promulgation: KR Can 573. Duties and powers of reviewing offrs: AA 57, 57A, RP 53A, 54. The Confirming Offr must sign here personally. AA 172 fn 1.)

My decision on the finding(s) and sentence set forth in Part I is:

Noted.

I direct that the accused be not committed to prison or detention barracks until further orders.(1)

(1. AA 57A. Delete if not used.)

Date 14 Dec 43 (Sgd) ..... Commanding 11 Cdn Inf Bde Confirming Officer.

PART IV. PROMULGATED AND EXTRACTS TAKEN. (RP 53, KR Can 576, 577.)

Accused. Date. Signature of Offr.

ALL DELETIONS AND ALTERATIONS WILL BE INITIALLED.

INSTRUCTIONS ON PROCEDURE AFTER ARRAIGNMENT.

1. *The accused may not plead or be found Guilty on more than one of two or more charges laid in the alternative (RP 37(A).) As to withdrawal of alternative charges by Prosecutor see RP 35(C). No other charge can be withdrawn for any reason without authy from Convening Offr. If Convening Offr concurs, Court may accept plea of Guilty to lesser, etc, offence. (RP 44(H).) Accused may change a plea of Not Guilty to Guilty during trial. (RP 38.) As to refusing to plead or not pleading intelligibly see RP 35(A). As to plea when sentence may be death see RP 35(D).*

2. *The proceedings on each charge sheet (RP 62) after arraignment will be conducted as follows in the respective circumstances stated:*

I. If pleas to all charges are GUILTY, use Record Form B below.

II. If pleas to all charges are NOT GUILTY, use Record Form D on p [redacted] 3.

III. If pleas to some charges are GUILTY and to other charges are NOT GUILTY and,

(a) Such mixed pleas occur when there are no alternative charges in the Charge Sheet, use Record Form C below. (RP 37(A).)

(b) Such mixed pleas occur in a set of two or more charges laid in the alternative, see RP 37 (A) and fn 2 as to discretion of Court, (i) to try the accused on all such alternative charges as if he had pleaded Not Guilty thereto, or, (ii) to record the pleas as the findings of Court. After deciding between (i) and (ii), Court will proceed under foregoing instrs as may be appropriate to result of its decision. See MML p 744 Instrs (2).

3. *As to responsibility of President to accused see RP 59, 60(C); powers and duties of JA see RP 103; duty of Prosecutor see RP 60(A) (B); duty and privileges of accused and Defending Offr see RP 60(C), 87(C), 91, 92; swearing and withdrawal of witnesses from Court see RP 81, 82; questioning of accused see RP 86, 87(C), 92(B), and of witnesses see RP 83-85; calling or re-calling of witnesses by Court etc see RP 75-79, 86, 116; use of Summary of Evidence at Trial see RP 17(B) fn 6; and responsibility of JA or Pres to record proceedings see RP 94, 96.*

RECORD FORM B—PROCEEDINGS ON PLEAS OF GUILTY TO ALL CHARGES.

B1. The President or JA, if any, complies with RP 35(B) by explaining to the accused the nature and meaning of the charge(s).(1) and that on his plea of Guilty there will be no regular trial but merely a consideration of the sentence to be awarded after he has been given an opportunity to make a statement in reference to the charge(s), call witnesses as to character and make an address in mitigation of punishment.(2)

(1. RP 35 fn 3. 2. MML p 54 para 47.)

B2. President to accused: The Court will now receive any statement you desire to make in reference to the charge(s).(1) If it appears from your statement that there are circumstances which indicate that you do not understand the effect of the plea of Guilty(2), or which show provocation or extenuation in respect of which in your interest the witnesses for the Prosecution should be examined(3), we shall advise you to change your plea to Not Guilty. In making a statement you will not be sworn or subject to cross-examination; and anything you say will not be used in evidence against you after you change your plea. If, however, it appears to the Court that your statement affects only the amount of punishment to which you are liable, you will not be advised to change your plea and you will be given an opportunity later to prove your statement by sworn testimony, if you so desire.(4)

President to accused: Do you wish to make a statement? Ans.....(5)

(1. RP 37(B). 2. RP 37(D) fn 6. 3. RP 35(B) fn 5 para 1, MML p 54 para 47. 4. See para E3 of Record Form E. 5. Statement, if any, recorded per Notes.)

B3. The Court considers the accused's statement.(1) The Court decides (not) to advise accused to change his (their) plea(s) of Guilty to Not Guilty on.....charge(s). The accused is (are) so informed, and he (they) change(s) his (their) plea(s) on.....charge(s). Part I of the Schedule is amended accordingly.

(1. Court may be cleared to consider the statement. Delete whole or part not used.)

B4. On the charge(s) to which the plea(s) of Guilty is (are) not changed the President records finding(s) of Guilty in Part I of the Schedule.(1)

(1. RP 35(B). If any plea(s) is (are) changed, use Record Form C or D as appropriate.)

B5. The Summary of Evidence is marked Ex....., initialled and read aloud by the President.(1)

(1. If there is no Summary, or if it is inadequate, comply with RP 37(B). If there is any evidence inconsistent with any plea standing as Guilty, Court will advise accused to change such plea and, if changed to Not Guilty, try such charge(s) by use of paras D1 to D8 inclusive of Record Form D on p 3. RP 37(D).)

B6. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

RECORD FORM C—PROCEEDINGS ON MIXED PLEAS OF GUILTY AND NOT GUILTY.

C1. As to the charges on which accused pleaded NOT GUILTY the trial is continued by using paras D1 to D8 inclusive of Record Form D on p 3 before proceeding with C 2.(1)

(1. RP 37(A) (E).)

C2. The charges on which accused pleaded GUILTY are read to him (them) again, and the trial is continued by using paras B1 to B5 of Record Form B above.(1)

(1. Under B5 such parts only of the Summary of Evidence are read as relate to the charges dealt with under C2. If any plea is changed to Not Guilty, trial thereon proceeds by complying with paras D1 to D8 inclusive in Record Form D on p 3 and making an appropriate record thereof on a separate sheet.)

C3. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

RECORD FORM D—PROCEEDINGS ON PLEAS OF NOT GUILTY TO ALL CHARGES.

D1. President to accused: Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity to prepare your defence? Ans. No Sir. (1)

(1. If "yes", see RP 39(A) for procedure. Statement or evidence, if any, is recorded per Notes.)

D2. The Prosecutor makes (~~a~~) (no) opening address.(1)

(1. RP 39(B). 60(A) (B), 90, 92(C) (D). Record address per Notes, subject to RP 95(C).)

D3. The evidence for the Prosecution is taken.(1)

(1. RP 39(C), 114, KR Can 555. Record evidence per Notes. As to Prosecutor giving evidence himself see RP 39(D) (E).)

D4. The Prosecution is closed.(1) The Defending Offr submits that the evidence for the Prosecution does not establish a prima facie case against the accused on the 1st, 2nd & 3rd charge(s).(2) The Court is closed, and considers the submission.(3) The Court is re-opened, and the President announces that the submission is ~~dismissed on the~~ ~~Charge(s)~~, ~~but~~ overruled, and allowed on the 1st 2nd, 3rd charge(s).(4) and that, accordingly, ~~the trial will proceed on the former, but~~ the accused is (~~are~~) found Not Guilty on the ~~latter~~ charge(s).(5)

(1. Delete remainder of this para, if submission not made. 2. Arguments on submission, answer and reply are recorded per Notes. 3. RP 40 fn 1. See MML p 72 paras 12-14 and p 81 para 42. 4. Delete part not used. If accused acquitted on all charges, use second alternative in para D8.)
NB: If trial proceeds, accused must be allowed great latitude in making his defence, and the Court should not stop his defence solely on ground of irrelevance. (RP 60(C), 114, 115.)

D5. President to accused: You will now proceed with your defence.(1) You may, if you wish, give evidence yourself on oath as to the facts or your character or both, in which case you will be subject to cross-examination.(2) You may, however, make a statement without being sworn, and you will not be subject to cross-examination.(3) But a statement which could have been made on oath will not carry with the Court the same weight as sworn testimony.(4) You may call witnesses in your defence and as to character, whether you give evidence or make a statement or do neither.

President to accused: Do you wish to give evidence yourself as a witness, make a statement, or do neither?

Ans.....Do you intend to call witnesses on your behalf?

Ans.....Are they witnesses as to character only? Ans.....

(1. RP 155. 2. RP 40(A), see 80(D). 3. RP 40 fn 10. 4. RP 40 fns 2, 9.)

D6. Consequent on the answers recorded in para D5 the appropriate procedure for the defence is followed.(1)

(1. RP 114, 115, 116. For procedure see Notes on back of Convening Order, CF A95. Evidence for accused as to his character should, if in his interest, be given before the finding. See RP 46(A) fn 1, 86(C). Note the further opportunity in para E1 of Record Form E. Record per Notes addresses, statements, evidence and any summing up by the JA under RP 42, 103(e).)

D7. The Court is closed to consider the finding(s).(1) The finding(s) of the Court is (are) recorded in Part I of the Schedule.(2) The Court is re-opened.

(1. RP 43, 117(A). See Notes on Part I of Schedule. 2. RP 44(A).)

D8. The President announces the finding(s), if any, of Not Guilty, and states to the accused that the finding(s) of the Court on the.....charge(s), being subject to confirmation, will be promulgated later.(1)

Or, The President announces that the accused is found Not Guilty on all charges and is to be released forthwith, and that the proceedings are accordingly terminated. Part I of the Schedule is dated and signed.(2)

(1. AA 54(3) (c), RP 45, 120(A). 2. AA 54(2), RP 45, 117. This alternative announcement is not applicable when there are pleas of Guilty outstanding and dealt with under Record Form B or C.)

D9. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E below.

RECORD FORM E—PROCEEDINGS ON CONVICTION BEFORE SENTENCE.

E1. President to accused: Do you wish to give evidence yourself or to call any witnesses as to your character?(1)

Ans.....

(1. If evidence has already been given by accused or his witnesses as to his character, delete this para. RP 37(F) fn 4, 46 fn 1. Accused and witnesses are sworn. Evidence recorded per Notes.)

E2. The Prosecutor produces Statement(s) as to Character and Particulars of Service(1), and certified true copy (copies) of Conduct Sheet(s)(2), purporting to refer to the accused, which he submits to the Defending Offr for examination, and then to the Court for admission in evidence. The Court is satisfied that these documents refer to the accused, because (i) they purport to be signed in the manner required by AA 143(1) (g) (h), and (ii) they purport to refer to (a) soldier(s) having the same number, rank, name and corps as the accused. Admitted in evidence and marked Ex..... and Ex..... respectively.(3)

(1. MFB 355 or MFB 296. 2. MFM 6. 3. RP 46, KR Can 558. If above documents not produced, see RP 46 fn 1 para 1.)

E3. President to accused: Do you wish to address the Court on the Statement(s) and Conduct Sheet(s), and in mitigation of punishment?(1) Ans.....(2)

(1. RP 37(F), 46(D). 2. Address, if any, recorded per Notes. Court should permit accused or his witnesses to prove on oath anything then or previously stated which would affect the amount of punishment. RP 37(F) fn 7.)

E4. The President states that the Court is closed to consider the sentence, and that the sentence to be awarded by the Court, being subject to confirmation, will not be announced, but will be promulgated later, and the proceedings in open court are accordingly terminated.(1)

(1. AA 54(3), RP 120(A).)

E5. The Court considers the sentence.(1) The President records the sentence in Part I of the Schedule, which is dated and signed by him and the J.A., if any.(2) qv(2)

(1. When several accused tried separately see RP 208. One sentence only, comprised of the punishment or punishments laid down in AA 40, 44 and its partners, is to be awarded to cover all charges in all charge sheets on which accused found guilty. RP 48. As to unanimous see AA 94, 138, 182, RP 46-50, 69, 118, 119(A), KR Can 308, 330, 563-566, Overseas RO 309, 2323, RP 48. As to sentences for civil offences by the law of England see AA 41(3), MML p 130. When accused already under sentence of imprisonment or detention see AA 44(1)(i), 68(1), KR Can 564. 2. RP 50. As to release from arrest by Confirming Offr see KR Can 507. As to assembly and disposal of record after trial see instrs on back of Convening Order.)

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

CHARGE SHEET

The accused, C30576 Pte Norman Melville GUTHRIE, 73 LAD RCOC, att HQ 11 Cdn Inf Bde Canadian Army, Central Mediterranean Forces, is charged with,

FIRST CHARGE
AA Sec 40

WHEN ON ACTIVE SERVICE, CONDUCT TO THE PREJUDICE OF GOOD ORDER AND MILITARY DISCIPLINE, in that he, on 28 Nov 43, was creating a disturbance in a house known as the "Casino", in ALTAMURA.

SECOND CHARGE
AA Sec 9(2)

WHEN ON ACTIVE SERVICE, DISOBEYING A LAWFUL COMMAND GIVEN BY HIS SUPERIOR OFFICER, in that he, on the 28 Nov 43, refused to return to his lines when ordered to do so.

THIRD CHARGE
AA Sec 40

WHEN ON ACTIVE SERVICE, CONDUCT TO THE PREJUDICE OF GOOD ORDER AND MILITARY DISCIPLINE, in that he, on 28 Nov 43, was in the town of ALTAMURA without proper authority.

(T D Jotcham) Major
BM 11 Cdn Inf Bde

In the Field
9 Dec 43

To be tried by Field General Court-Martial.

(G. Kitching) Brig
Comd 11 Cdn Inf Bde

In the Field
9 Dec 43

FIELD GENERAL COURT-MARTIAL

CFA98 (In lieu of AFA3)
407/P&S/1697 (2603)

(Whether the accused to be tried is under his comd or not, a FGCM may on application to him be convened by any offr of Cdn Army Overseas, or of any other force if authorized in law, in immediate comd of troops on active service, subject to RP 105(C) and restrictions imposed by appropriate authy. AA 49, 50, RP 104-107, 114. As to the duties and privileges of the Convening Offr in dealing with the application see MML Chap V paras 20 and 23, RP 87(B).

There should be a separate Convening Order for each person to be tried separately by the same Court. RP 71(C), 109. As to separate charge sheets see RP 62, and as to separate trial on charges in the same charge sheet see RP 108. As to two or more accused charged jointly see RP 16, 109.

As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fn, KR Can 308, 328, 330.)

ACCUSED.

Number.	(a) Prmnt R.	(b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
C30576	Pte		Norman Melville	GUTHRIE	73 LAD att HQ 11 Cdn Inf Bde

CONVENING ORDER.

1. Whereas complaint has been made to me, the undersigned, that the person(s) named above as the accused, being subject to military law, has (have) committed the offence(s) set forth in the Charge Sheet(s) attached and on (date) 9 Dec 43 endorsed by me, ~~(or by an offr of my staff for me)~~, "To be tried by Field General Court-Martial".

2. And whereas I am of opinion that it is not practicable that such offence(s) should be tried by an ordinary General Court-Martial; ~~(and that it is not practicable to delay the trial for reference to a superior qualified offr.)~~
(Delete part in brackets when not required for compliance with RP 105(C).)

3. I hereby convene a Field General Court-Martial to try the said person(s), and to consist of the Offrs appointed or detailed hereunder.

~~4. I am unable to appoint (a) three Offrs to form the Court, (b) a Fd Offr as President, for the reasons I have attached hereto.~~
(AA 49, RP 106(B), 107(A). Delete the whole or part, if not applicable.)

~~5. I also appoint as Judge Advocate thereof the Offr mentioned hereunder.~~
(RP 106(E). Delete, if none appointed.)

PRESIDENT.

(Rank.)		(Must be named. RP 106.)	(Unit.)
Major	J B Humphreys		Dr RC

MEMBERS.

Capt	H I Wainman	Perth Regt
Capt (Rank.)	P J F Baker (Named or detailed. RP 106.)	Perth Regt (Unit.)

WAITING MEMBER.

(Rank.)	(Named or detailed, if any. RP 106.)	(Unit.)
Lt	L A Smith	C B Highrs

JUDGE-ADVOCATE.

(Rank.)	(Must be named, if any. RP 106.)	(Unit.)

On Active Service in the Fd

in ITALY (Country.)

(Signed personally. RP 105 fn 2.)

Brigadier (Rank.)

Date 9 Dec 43

Commanding 11 Cdn Inf Bde
Convening Officer.

CONVENING OFFR WILL INITIAL ALL DELETIONS AND ALTERATIONS

(See overleaf for oaths and notes for use on trial.)

EXHIBIT 'D'

Cape Breton Highlanders,
10 Dec 43

This is to certify that I have examined this day C.30576 Pte [illegible] Guthrie, .N. Of The R.C.O.C. and find him fit to undergo trial by Court Martial.

H. A. Klein (R.C.A.M.C.) Capt.,
Medical Officer

Prep.
1st Thursday - Northern District duly sworn.
1:30 P.M. Pvt. Smith (1)
- Counsel pleaded not guilty to
Spec thereof.
EXHIBIT E
8 PAGES
Pros. Exh.
18 witness - Cpl Saunders
11576 No 8 Project
Co Ser Bn
- Testified previously
Q - Will you take the Board and
recount previously your
apprehension of Pvt Smith
on 28 Nov 43.
A - On 28 Nov we O.C. 2 men
on duty at approx 1725 hrs
there was call from Paddock
one by Sgt Boyett we proceed
to Paddock he say prisoner
at home on 2nd floor pick
up I found the [illegible]
was arguing with him [illegible]
I told him for a good Af
asked he was not to
Paddock

I said "Johnson, return to
your lines. The Captain is
dying. Captain, I command that
that order go." After he had
refused to go out I pushed
him out the door. I took
hold of Smith Johnson right
sleeve with help of Capt Bryant
Brown men Pringle & Smith
to fall over a wall 15 ft above
ground. He refused to get
up. He turned over and
began crawling off. I
dragged across approx 10 x
& ordered him to
get out of H.Q. - took his pistol
and ordered him & Sergeant
Pringle to lead Smith in &
escorted him to his own
lines.

Q - What was nature of
argument.

A. - I wanted to go upstairs
& Smith wanted me to

Q. Objected not main witness
with women
A. Yes sir
Q. Just a discussion of
disagreement.
A. Yes
Q. Did you escort her to court
house?
A. Escorted her to station then
she drove down to her office
Q. Where was that in Altamont?
A. Yes
Q. Have you worked the Cases
for another other purposes
since Dusty
A. No sir.
— No further questions —

Recs. Q. Have you been arrested
since 26 Nov
A. No
Q. How did you plead guilty

the deceased.
A When we had change.
Q In the deceased putting
there, the man whom you
saw on the Casino
A Yes sir.
2nd Witness. Witness sworn
10447 T/Sgt Reed R.
Q I have here a paper
prepared on 27th Feb
which you say you
wrote. Is that
A Yes.
Q Date
A 22 Nov.

Q. Deeds record.
A. Orders ~~[illegible]~~
Q. Is not a part true copy
A. Yes
- Order read. (Ext. A.)
No more questions
Def. Off.
Q. You admit that
Wil. is not a bona fide
purchaser without a duty to
A. Yes sir.
Q. Is the want to which see
belongs Methodist Episcopal
A. I don't know sir
Q. ~~[illegible]~~ portion in Alta
A. I don't know.
Q. Have you a power of
at present to come up here
A. No sir.
No further questions.

Q. Read on.
A. Order.
Q. Is it a part true copy
A. Yes
= Order read. (Ext. A.)
= No more questions
Off
Q. The order states that
Lt. is not A bonded to act
as witness without a duty fee.
Q. Yes sir.
Q. Do the want to what use
Allen of Statement in Attorney
A. I don't know sir
Q. Under subscription in Alt.
A. I don't know
Q. Have you a paper on you
at present? If come up here.
A. No sir
No further questions

Cross - any further statement
by the Prosecution?

Mr. Officer - No sir.

Cross Any statements from defendant?

R. I make motion that
charges be dismissed.

Court finds accused
not guilty on 3 charges.

girls wanted him outside.

(3)

Def. Officer: Did you say you didn't want to leave because of disturbance

A - Yes

Q - How long to get to Parris Island

A - Approx 15 hours

Q - Can you say whether disturbance for which you called on was broken up

A - Yes

Q - Then can you say what A - It was pinched out. Time

Q - Were there any other disturbances at that time

A - Didn't know for

Q - Was there anyone else in room when you arrived besides yourself and girl

A - Approx - five persons

Q - Why did you ask Corporal

for a pass.
A He was in prohibited area.
Q Do you know what 73rd AD was stationed?
A Have a good idea.
Q Are they not stationed in Oklahoma.
A Yes sir
Q What the accused was drinking
A Corn & wet liquor
Q Did you take what he said
A No sir.
Q Did accused give any reason why he wanted to delay clearance.

A. Yes Sir
Q. What was person
A. She wanted to go up there
with the woman
Q. Did he steal personal property
A. Yes, a wallet
Q. Any other watch?
A. No.
Q. Did he steal any valuables
A. A pocket watch
Q. Yes
Q. Did you pay anything
to upon it stolen
A. No.
Q. Have you seen it since
A. Several times
Q. Are you handicapped in hearing
A. Yes
Q. Do you have any of obstacles
A. Yes
Q. Do you understand Italian
A. No

Q. Did you have other calls for disturbances at any time

A. Yes

Q. Was it a disorderly house

A. Yes

Q. Is it true that Dick Howard have been picketing Pecan

A. Yes No

Q. Have others been charged with picketing & disturbance

A. Yes

Q. Has Mr Pecan been placed out of bounds from there

A. Yes

Q When you [illegible] Q
in the [illegible] (3)
Q You said according to
Christian & disturbances —
did he actually destroy [illegible]
[illegible] anything [illegible]
anybody?
A He did.
Q Then return A recalled
disturbances you employ a
description [illegible]
and [illegible]
A Yes
Q Do you see [illegible] in the
Court? [illegible]
recall [illegible] disturbances?
A No one
No further questions.

2nd Witness. Witness sworn
B93850 L/Cpl Lajeth A.S.
P.O. – Q When after
arrival A Ist Aide group
in Act. was Cpl sent
out A from to?
A I understand that
all trucks got out
Q? Do Cpl was placed to
to transfer
A Yes Sir.
Q What was nature of
disturbance as the
trucks?
A There was an argument

Delivery 3 rounds Good
For Cattle. Replaced Tread
to go upstairs portion
Q. Why required redelivering
to Cave Springs
A. Dr stated not enough
Leading upstairs
— No further questions

Def Atty Q You sent in evidence
that Horses were produced
by you to be out of bounds
A Yes
Q Why did you not check
and see all were out of the
Corral on 28 Nov.
A Col Davidson was in
charge of pasture. When we
left Cave it was cleared.
Q This is not Closing time
A No

Q Did you place charges against all men.

A No.

Q Why not.

A We usually warned all men to leave premises and to go to their lines.

Q Have you visited Penn

A Yes Been there on patrol 2 or 3 times

Q Do you know any of the occupants of homes

A No

Q Do you understand Hal.

A No.

Exhibit "B"
M. Humphreys

HEADQUARTERS ELEVEN CANADIAN INFANTRY BRIGADE

PART I ORDERS

by

Brigadier G. Kitching - Commanding

Order No 1
In the Field (CA)CMF
22 Nov 43

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1. DUTIES

	DUTY OFFICER	DUTY CLERK
22 Nov 43	Capt Abbott	Cpl Hogg CMSC
23 Nov 43	Capt Reith	L/Cpl de Paiva CMSC

	ORDERLY SGT
22 Nov 43	Sgt Miller
23 Nov 43	Sgt Mutch

2 2. PAYBOOKS

All Part I Soldiers Service Book to be turned in to Bde HQ Orderly Room by 1600 hrs this date.

3. AIR MAIL AND AIRGRAPH LETTER FORMS

The m/n forms will be issued from the Orderly Room each Saturday at 1400 hrs.

These forms are NOT accumulative and individuals must call for their own.

4. OUT OF BOUNDS

The town of ALTAMURA is out of bounds to all ranks, unless in possession of duty pass.

5. CIGARETTE ISSUE

There will be an issue of cigarettes and blankets at the Vehicle Park at 1600 hrs this date.

6. WATER

All water must be tested and sterilized before using.

7. MEPHACRINE

Pills will be taken until 1 Dec 43.

8. MOSQUITO NETS

Mosquito nets and all malaria equipment will continue in use until 1 Dec 43.

9. HOSPITALIZATION

Personnel admitted to 24 Cdn Fd Amb for treatment will NOT be S.O.S. 24 Cdn Fd Amb will advise units when it has been necessary to evacuate beyond the General Hospital. Until this is done personnel will be returned to units.

10. MAIL

All out going mail will be forwarded to Bde H.Q. Arrangements will be made to clear this mail to a Can Postal Unit as regularly as possible.

(N E Clarke) Capt
SC 11 Cdn Inf Bde

Certified True Copy.

C10647 S/Sgt Drew, N
Chief Clerk

EXHIBIT "C"

List of witnesses in the case of C30576 Pte Norman Melville GUTHRIE

For the Prosecution:

H.5176	Cpl. DAVIDSON, J L	No 5 Pro Coy
B.93850	L/Cpl GUIETTE, A F	No 5 Pro Coy
C.1047	S/Sgt DREW, N.	HQ 11 Cdn Inf Bde

SUMMARY OF EVIDENCE

EXHIBIT "B"
3 PAGES

IN THE CASE OF C-30576 Pte GUTHRIE, N.M. No. 73 L.A.D., R.C.O.C. att H.Q. 11 Cdn Inf Bde, all evidence being taken on oath by order of the Commanding Officer.

CHARGES - First Charge AA Sec 40
Second Charge AA Sec (9(2))
Third Charge AA Sec 40

FIRST WITNESS

H.81760 Cpl. DAVIDSON, J.L., No. 5 Pro Coy, having been duly sworn states:-

28 Nov, 1725 hrs report come up to the Pro H.Q. that there was trouble at the CASINO. I, in company with L/Cpl GUIETTE, A.F., proceeded to the CASINO. When we arrived at the CASINO I found Pte GUTHRIE arguing and making a general nuisance of himself. I asked him for a pass; he was not in possession of one. I ordered him to go home which he refused. I ordered him again to ho home, and again he refused. When he still refused; with a little trouble we escorted him to the Pro H.Q. I took down his particulars, and told him a charge would be laid. Later on he was escorted to his unit lines.

The accused questions the witness.

Q-1 What was I doing to cause a disturbance?
A-1 You were arguing just inside the door as I went in.

The accused declines to question the witness further.

J.L. Davidson Cpl.
H.81760 Davidson, J.L. #5 Pro Coy

Pte.
C-30576 Guthrie, N.M. 73 LAD.RCOC.

SECOND WITNESS

B.93850 L/Cpl Guiette, A.F., #5 Pro Coy, having been duly sworn states:-

28 Nov I was called by Cpl DAVIDSON to go with him on a call to the CASINO. When we got there there was quite a crowd and Pte GUTHRIE was in there arguing with them. Cpl DAVIDSON ordered the man to leave the place, which he would not, and Cpl DAVIDSON asked for his Pay book and if he had a pass. He said he never possessed a pass, so Cpl DAVIDSON took his particulars and told him to leave again, which he would not, so Cpl DAVIDSON told me to take him out to the truck, which I did, having to use force. We took him to our H.Q., and later on escorted him to his unit.

The accused declines to question the witness.

A F Guiette L/Cpl.
B-93850 Guiette, A.F. #5Coy Pro.

Pte.
C-30576 Guthrie, N.M. 73 LAD RCOC.

(see Page 2)

The question is put to the accused. "Do you wish to make a statement, or give evidence upon oath? You are not obliged to say anything, or give evidence unless you wish to do so, but, whatever you say or any evidence you give, will be taken down in writing and may be given in evidence".

The accused, having been duly warned, replies "No, Sir".

N Guthrie Pte.
C-30576 Pte Guthrie, N.M.
73 L.A.D., R.C.O.C.
att
H.Q. 11 Cdn Inf Brigade.

Rules of Procedure 4 (c) (d) (e) and (f) have been complied with.

The foregoing Summary of Evidence was taken down by me in the presence of the accused at 11 C.I.E. H.Q., Italy, on the 8 Dec 1943, A.D., having been deputed by the Commanding Officer to do so.

Signed in the Field
THIS -Eighth- day
of - November - in
the year 1943, A.D.

R B MacNeill Lieut
(R.B. MacNeill)
S.L. 11 Cdn Inf Bde.

ADDITIONAL SUMMARY OF EVIDENCE

IN THE CASE OF C-30576 Pte GUTHRIE, N.M. 73 L.A.D., R.C.O.C. att H.Q. 11 Cdn Inf Bde, all evidence being taken on oath by order of the Commanding Officer.

THIRD WITNESS

C-1047 S/Sgt Drew, N. H.Q. 11 Cdn Inf Bde, having been duly sworn states:-

I am C.1047 S/Sgt. Drew, N., Supt Clerk at H.Q. 11 Cdn Inf Bde. I submit H.Q. 11 C.I.E. Part I Order No. 1, dated 22 Nov 43, marked Exhibit "A". These orders were posted in the Mens' Mess Hall and various other places in the H.Q. lines available for personnel of the H.Q., and att personnel to read.

The accused declines to question the witness.

N Drew S/Sgt.
C.1047 Drew, N. HQ 11 C.I.E.

Pte.
C.30576 Pte Guthrie, N.M.
73 L.A.D., R.C.O.C.
att
H.Q. 11 Cdn Inf Brigade.

(See page 3.)

Rules of Procedure 4 (c) (d) (e) and (f) have been complied with.

This Additional Summary of Evidence was taken down by me in the presence of the accused at H.Q. 11 C.I.B., Italy, on the 9th Dec 43, A.D., having been deputed by the Commanding Officer to do so.

Signed in the Field
this 9th day of Dec 1943, A.D.

R.B. MacNeill Lieut.

(R.B. MacNeill)
S.L. 11 Cdn Inf Bde.

List of Exhibits in the case of C30576 Pte Norman Melville GUTHRIE

Exhibit "A" Part I Order No 1. HQ 11 Cdn Inf Bde, dated 22 Nov 43

EXHIBIT "B" SUMMARY OF EVIDENCE

EXHIBIT "C" LIST OF WITNESSES IN THE CASE OF C30576 PTE NORMAN MELVILLE GUTHRIE

EXHIBIT "D" MEDICAL CERTIFICATE OF FITNESS OF ACCUSED.

EXHIBIT "E" RECORD OF PROCEEDINGS IN THE CASE OF THE ACCUSED.

NN-123
PTE GUTHRIE R

Correspondence to be PINNED here.

Army Form A.3.

95-1-5 AA-123
H.Q. 6th CANADIAN INFANTRY BRIGADE 30 APR 1943

Form for Assembly and Proceedings of Field General Court Martial on Active Service.

PROCEEDINGS.

A.
Order convening the Court.

On Active Service, this Twenty-fourth day of April, 1943.

Whereas it appears to me, the undersigned, an officer in Command of Royal Canadian Army Service Corps, 2 Cdn Div Canadian Army Overseas, on active service, that the persons named in the annexed Schedule, being subject to Military Law, have committed the offences in the said Schedule mentioned.

And whereas I am of opinion that it is not practicable that such offences should be tried by an ordinary General Court Martial; *[redacted]

* Omit where Convening Officer is a Commanding Officer or is of Field Rank.

I hereby convene a Field General Court Martial to try the said persons, and to consist of the Officers hereunder named.

* Omit if not applicable.

*[redacted]

Proceedings Reviewed [illegible] Judge Advocate General

118

Captain W.M.W.Shaw, A.D.J.A., 2 Cdn Div, is hereby appointed Judge Advocate.

President.

Rank.	Name.	Regiment.
Major	G/ H.W. Shearer	Regina Rifles

Members.

Rank.	Name.	Regiment.
Major	P J. Guillemette	Regt de Joliette
Capt.	H.A. Tucker	S Sask R.
Waiting Member Lieut.	F. Beaudoin	Fus M R.

* Must be signed personally by the Officer actually in command at the time, and all alterations in the composition of the Court to be initialed by him

*Signed (W.H.Montague) Lt-Col
Commanding R.C.A.S.C., 2 Cdn Div.
Convening Officer.

SCHEDULE.

Number, Rank (a), Name and Unit of Accused (b)	Offence charged	*Plea	Finding, and if Convicted, Sentence (c)	How dealt with by Confirming Officer (d)
L-12649 Pte. Reginald GUTHRIE S Sask R.	FIRST CHARGE A.A. Sec 41 See charge sheet attached	guilty	guilty To undergo Imprisonment for 6 months 29 April 43 W.H.Chiarel Maj	~~Imprisonment~~ Confirmed Jaimeus Brig. 6 Cdn. Inf. Bde. 29 Apr 43.

* Question to be asked of accused, if he pleads not guilty (R. of P. 39 (a)):—
"Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity for preparing your defence?"
Answer (*to be recorded on separate sheet if necessary*):—

(Signed) (.WWH.Montague)Lt-Col
Commanding R.C.A.S.C.,2 Cdn Div.
Convening Officer (e).

(Signed) W.H.Chiarel Major
President.

(a) Appointment acting rank or acting appointment, if any, to be stated in brackets after the substantive rank.
(b) Unless unavoidable, not more than three names are to be entered on one form, and in serious cases one only.
(c) Recommendation to mercy, if any, to be inserted in this column.
(d) It is not necessary that the Confirming Officer should sign his name in this column. Initials are sufficient.
(e) Must be signed by the same Officer who signs on the first page, and all alterations in the first two columns of the Schedule to be initialled by him.

Evidence and Charge Sheets (if necessary) to be PINNED here.

B. Certificate of President as to proceedings.

I certify that the above Court assembled on the 29th day of April 1943, and duly tried the persons named in the Schedule, and that the plea, finding, and sentence in the case of each such person were as stated in the third and fourth columns of that Schedule.

I also certify that :—

1. The members of the Court
2. The witnesses
*(3. ~~The interpreter~~)
*(4. The officers under instruction)

were duly sworn.

* Omit if not applicable.

Signed this 29th day of April 1943.

W.H.Chiarel Major
President of the Court Martial.

* See footnote (b) on page 76a/ M.M.L. 1929.

C. Certificate in case of death sentence.

I certify that the terms of *A.C.I. 570 of 1918 have been complied with.

Signed this day of 19

President of the Court Martial.

D. Confirmation

I have dealt with the findings and sentences in the manner stated in the last column of the Schedule, and, subject to what I have there stated, I hereby confirm the above findings and sentences.

* To be omitted unless penal servitude or imprisonment having been awarded, the Confirming Officer either has no authority to commit to prison, or, having such authority, recommends suspension.

*(I ~~direct that the soldier named in the margin be not committed to prison until further orders~~.)

Jaimeus

Signed this twenty-nine day of April 1943.

Jaimeus
Confirming Officer. Brig.
6 Cdn. Inf. Bde.

Promulgated and extracts taken in the case of

(a) (Dated) 30 April 1943 (Signed) L.R.England Capt.

Promulgated and extracts taken in the case of

(Dated) (Signed)

Promulgated and extracts taken in the case of

(Dated) (Signed)

(a) When several cases are promulgated in one unit on the same day the Officer need only sign once.

(42233) Wt. 40123—462 100m 3/40 D.H.Q. 6-40

CHARGE SHEET

The accused L-19649 Pte Reginald Guthrie of the S.Sask.R., a soldier of the C.A.(O) is charged W.O.A.B. with:-

FIRST CHARGE
SEC. 41
A.A.

Committing a civil offence, that is to say, stealing

in that he

In the field on or about 1 Mar 43 fraudulently converted to his own use a civilian bicycle owned by L-19830 Cpl Carr R.C., contrary to the larceny act, 1916.

Recommended for F.G.C.M.

24 Apr 43

G. R. Matthews
(G. R. Matthews) Major
A/C.O., S.Sask.R., C.A.(O)

TO BE TRIED BY F.G.C.M.

In the field
24 Apr 43

(W.H.Montague)Lt-Col
C,R.C.A.S.C.,2 Cdn Div.

MEDICAL CERTIFICATE (K.R. (Can) 567)

I certify that I have this morning examined No. 4126-4

Gulbuck, R. of South Sask. Regt

and in my opinion he is FIT / UNFIT to undergo trial by Court-Martial.

Station In the field

Date 29 April '43

H. L. Needham Capt
Medical Officer

Trial of L12649 Pte Reginald Guthrie S.S.R
held in the field 28 apr 43

Pres. - Major G J Shearer, Regina Rifles
membs - Major P Guillemette, Regt de Joliette
Capt H.A. Tucker S.S.R.
Judge Advocate - Capt W.M.W Shaw HQ 2 Cdn Div
Officer under instruction :- Lieut E Beaudoin, 1 Can M.R.
Court satisfy themselves as to R.P. 22 + 23
Court opened
Convening order read + marked X
accused is asked if he objects to Pres or members and answers "No, Sir"
President, members, Judge Advocate and officer under instruction duly sworn
accused is arraigned and pleads "guilty" to the charge
R.P. 36 (B) complied with
Summary read + marked "H"
accused in mitigation says "No, Sir"
Character evidence "Lieut A Matheson, S.S.R. duly sworn, states :- For a time last yr accd was member of my Pl + was my batman - We had little trouble but he has no sense of responsibility - carried out orders punctually + willingly but no sense of responsibility. He lacks initiative + anything had to be explained to him -
no cross-exam.
Court seems to get along well with other members of the coy but don't think he associated much with other members of the coy.
Prosecutor, duly sworn. presents AFM6, states accused is 30 yrs old, married with one child, 7 days in close arrest awaiting trial, no promotions (no cross-exam)
Defending officer in mitigation :- long record but it is all with exception of 1 charge. got permission to marry overseas. accd practically illiterate, now married + has family, cannot write to them, AWL's were to go home. cannot fully appreciate. Record bad. Has spent long time in detention. Personnel selection board should look into his case. Home life not happy. Used to get someone to write for him but now is unable to do so. Detention does not seem to do him any good. didn't realize the seriousness of the offence. Went home to get the money from his wife to get the bicycle back but was picked up before he had opportunity to see if he could get it back
Court closed to consider sentence

Prosecutor :- Capt N.P. Adams, S.S.R.
Def officer :- Capt G Stiles, S.S.R.

G J Shearer Major
President

SUMMARY OF EVIDENCE IN THE CASE OF L-12649 Pte.Guthrie R., S.Sask.R. a soldier of Canadian Army Overseas.

The accused is informed of his rights.

The C.O. directs that the evidence be taken on Oath;

FIRST WITNESS for the prosecution: -- L-12835 Cpl.Dey F.C. of S.Sask.R. having been duly sworn states.

I am the Educational Cpl. of the S.Sask.R. and at the time of the loss of my bicycle was the mail Cpl. On the 20 Feb.43 at approximately 1200 hrs I left the camp for the purpose of proceeding to Waltom-On-Thames going via [redacted]-Billingshurst station by bicycle, the make of the bicycle being a 3 speed Raleigh, sports model No. [redacted]0850. I checked the bicycle at Billingshurst station. On returning to camp from Victoria station I came to Horsham instead of Billingshurst.

Pte.Guthrie came into the Post Office on 22 Feb.43 and during his conversation with me mentioned going into Billingshurst that evening. I asked him if he would pick up the bicycle and he consented to do so. I then gave him the shit to hand to the station authorities. I did not see Pte.Guthrie until 23 Feb.43 at approximately 1130 hrs, when he told me he had cleaned the bicycle, he was then going to the villages of Kirdford and asked me whether I needed anything from the Post Office. I told him to bring me a book of stamps and gave him 0-2-6 to cover the cost. Before he left I asked him to bring the bicycle when he came back with the stamps which he told me he would do. This was the last time I saw Pte.Guthrie until his return from Hedley Detention Barracks on 4 Apr.43. at approximately 1230 hrs on this date he called in to see me and I asked him for an explanation of the where abouts of the bicycle. He told me that he had left the bicycle in the neighborhood of Horsham and that he would bring it to me that same evening. Pte.Guthrie failed to return as he promised and I next saw him on 6 Apr.43. I notified the Adj. Capt.Buchanan that my bicycle was gone and Capt.Buchanan turned the case over to the unit Provo. I never saw the bicycle again until 19 Apr.43 when it was brought to me by Provo Sgt. for identification. The bicycle in his possession was the bicycle I had lost.

CROSS EXAMINED BY THE ACCUSED.

Q1 Did I not ask you for the loan of your bicycle to go to the Post Office.

A1. No you did not.

666 F C Dey
L-12835 Cpl.Dey F.C.

SECOND WITNESS for prosecution: -- L-12482 Sgt.McPhail L.A. ,S.Sask.R. having been duly sworn states .

I am the Provo Sgt. of S.Sask.R. on 4 Apr.43 at about 1230 hrs I saw Pte.Guthrie come into camp in a 15 cwt vehicle. I told him that Cpl.Dey would like to see him. Next time I saw Pte.Guthrie was on the station at Fulborough being escorted by Cdn.Provo. He was turned over to me and I escorted him back to camp and placed him under close arrest. A few days after this I was ordered by the A/Adj.Capt.England to go to Brighton with Pte.Guthrie to see if I could find a bicycle that he had sold to a civilian. When I got to Brighton I got in contact with Detective Lambing. I told him the story of Pte.Guthrie having sold a bicycle in Brighton not belonging to Pte.Guthrie. Detective Lambing came with Pte.Guthrie and myself to a garage where Pte.Guthrie had claimed to have sold the bicycle. The man who was supposed to have bought the bicycle was working for H & G Simmons in Brighton and was not around at that time so Detective Lambing told me if I was to go back to the unit that he would look into the matter and get the bicycle I gave the phone number of the unit to him and asked him if he would give us a call when he got the bicycle.

L A M

I did not return to the unit that morning but went back to the police station at 1600 hrs and got in touch with Detective Lambing again. We went back to the garage where Pte.Guthrie was supposed to have sold the bicycle and found the man still out. Detective Lambing then took me to another man who he thought new something about the transaction. This man told us that the bicycle had been sold again and would not be able to get it back that evening. I returned that evening to the unit.em-ajf

On 17 Apr.43 I was ordered by the Adj. to return to Brighton and see about the bicycle. I saw Detective Lambing and we both went to the garage and inquired if the bicycle was there. The foreman of the garage said it was and after I identified the bicycle as the one I was looking for he turned the bicycle over to me and I signed a receipt for it. I then brought the bicycle to the unit and it has been identified by Spl.Day as the bicycle belonging to him.

ACCUSED DECLINE TO CROSS-EXAMINE.

Lt Lt Mac Phail
Lt/12469 Sgt.MacPhail L.A.

THIRD WITNESS FOR THE PROSECUTION I Richard Deans of 216 A Fresnfield Rd. Brighton, a truck driver employed by H & G Simmons, Brighton having been duly sworn states.

On 1 Mar 43 at approximately 1500 hrs Pte.Guthrie whom I now recognize and whom I had never seen prior to 1500 hrs. on 1 Mar.43. Came to the firms garage on Blommsbury, Street with a Raleigh sports model bicycle for sale at £ 4-0-0. I definitely asked Pte Guthrie if the bicycle was his own property and he stated that it was. I was not prepared to pay 4-0-0 for the bicycle and offered 3-10-0. With this offer Pte Guthrie went away, with the hopes of getting his price of 4-0-0 for it. He returned in approximately half an hour and excepted 3-10-0. that I had offered to pay for the bicycle. With this Pte. Guthrie took the 3-10-0 and went on his way. I later sold the bicycle and as soon as I was informed by my foreman that it was stolen property recovered it and had it available for the police to pick up at any time they called. A Sgt.McPhail, a provo Sgt of the R.A.S.C. called on 17 Apr.43. and recovered the bicycle leaving me a receipt which I have in my possession.

ACCUSED DECLINE TO CROSS-EXAMINE.

Richard Deans

FOURTH WITNESS FOR THE PROSECUTION I W.H.Holloway, a workman in H & G Simmons Brighton of Alton House, flat 1, Hilton Rd. having been duly sworn states.

I W.H.Holloway was with Richard Deanswhen Pte.Guthrie whom I recognise offered a bicycle for sale to Richard Deans. I heard Richard Deans ask Pte.Guthrie if the bicycle was his own property. Guthrie stated that it was and that all the soldiers had to give up there bicycles and that was the reason he was getting rid of his. He did not take the original price offered but went away some other place, he returned in about half an hour and said he would take the price offered by Richard Deans. he took the money and went on his way.

ACCUSED DECLINE TO CROSS-EXAMINE.

W.H.Holloway

The accused, having been duly cautioned in accordance with R. P. 4(2), declines to make a statement.

CERTIFIED THAT R. P. 4 complied with.
In the Field
20 Apr.43.

N.A.Adams,(Capt).
Officer detailed to take the summary

I request Captain G. Stiles, if available, to be my defending officer at my trial.

22 Apr 43

R Guthrie
L-12049 Pte. Guthrie,R.

No. L-12649 Name GUTHRIE, R. Sqn., Battery, or Company 'B' Corps 55 IR

Date of last entry in Company Conduct Sheet | No. and date of last drunk | Period not reckoning towards freedom from extra fine | Date of enlistment 3-4-40 | G.C. Badges | Sheet No. | Service or Proficiency Pay | Signature O.C. Company, etc. E.C. WHITE CAPT | Character F.G.

M.F.M. 5
A.F.B. 122
(11M—7-41 (1255—20))
H.Q. 1771-10-1032

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
WESBURN	14-5-40	PTE		AWL From 22 hrs 14-5-40 until 0130 hrs 20-5-40 Under Close Arrest until	Sgt Glew H.A.	Remanded C.C.S.		CAPT WHITE	Forfeits 6 days
SHILO	15-6-40	PTE		0130 hrs 20-5-40 absent 5 days 3 hrs 30 mins AA (a)	Sgt Reynolds L/Cpl Channells	7 days C.B.	20-6-40	Capt E.C. WRIGHT	Pay F.P.No.1
SHILO	22-7-40	PTE		AWL 7 days 16 hrs AA 40(1)	Sgt Reynolds L/Cpl Channells	25 days det	24-8-40	Lt&Adj E.C. WRIGHT	Forfeits 25 days
SHILO	7-8-40	PTE		AWL 1 day 2 hrs 30 mins AA 40(1)	Sgt Roberts L/Cpl Thomson	7 days C.B.	20-8-40	Maj Kirkwhite	Pay F.P.No.1 Forfeits 7 days
TORONTO	27-11-40	PTE		AWL 22 days 2 hrs 30 mins AA (3)(a)	Cpl Hudson	23 day det	27-3-40	Capt WRIGHT	Forfeits 23 days Pay F.P.No.1
TORONTO	11-12-40	PTE		AWL From 1400 hrs 11-12-40 To 2300 hrs 13-12-40 absent from place of parade 0620 hrs 20-12-40 and FF parade 0620 hrs 5-1-41 Sec 15(1)	Cpl Richardson Sgt TANNER 3C Sgt FELDERFIELD	96 hrs det 7 day C.B. 10 hrs pay	2 DEC 40 13-12-40 5-2-41	Capt WRIGHT E.C. WHITE MAJOR LEACH DJ	Forfeits 23 days Pay F.P.No.1 Forfeits 2 days pay Pay F.P.No.1

(P.T.O.)

Place	Date of offence	Rank	Cause of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
JASPER CAMP	20-9-41	Pte		AWL From 6.00 hrs 20-9-41 to 0600 hrs 23-9-41 absent 3 days 2 hrs	S/T ELDERFIELD	10 days CB	23-9-41	LT/COL DEARMAN	4 days subs. from 02 pay
SEAFORD	21-11-41	Pte		AWL 2 days 7 hrs 30 mins AA 12(1)	C/J CHANNELL	Fd 4 days CB	22-11-41	MAJ J. ERSKINE	C.W.O.
In the field	19-2-42	Pte		AWL 38 hrs 0 mins AA 12(1)	S/T Passmore	2 days pay subs			
					(A)12 mins marching	2 days pay	23-2-42	S. LT. [illegible]	
In the field	21-3-42	Pte		AWL 7 hrs 45 mins AA Sec 12(1)	S/T Passmore	2	22 March 42		
In the field	29th 3 42	Pte		AWL 3 hrs 40 mins AA Sec 12(1)	S/T Passmore	Forfeits 3 days pay	3 May 42	W.A.F. Merritt	
JASPER CAMP	19th Jun 42	Pte		AWL 1 day 11 hrs 40 mins AA Sec 12(1)	R. SINCLAIR	Forfeits 2 days pay	21 Jul 42		
JASPER CAMP	24th Aug 42	Pte		AWL 12 days 9 hrs 12 mins AA Sec 12(1)		Forfeits 22 days pay FRSLR			
C.E.F.				23.58 hrs 5-8-42 To 0700 hrs 18-8-42		Forfeits 12 days pay FRSLR	19-8-42	MAJOR S. KAY	TOTAL FORFEITURE 41 DAYS PAY

CERTIFIED TRUE COPY OF THE ORIGINAL

M.F.M. 6
A.F.B. 127
(15M—3-41 (1215-30))
H.Q. 1772-39-1602

No. J-12647 Name P.GUTHRIE. R Sqn., Battery, or Company "B" Corps S.A.A.F. Date of enlistment 3-4-42 G.C. Badges Service or Proficiency Pay

Date of last entry in Company Conduct Sheet | No. and date of last drunk | Period not reckoning towards freedom from extra fine | Sheet No. | Signature O.C. Company, etc. R.L.STEPHEN-Capt | Character

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
In the field	17 Oct 42	Pte		A.W.L. 23 hrs 17 Oct 42 to 0745 hrs 18 Oct 42. Absent 4 hrs 15 mins. R.A.Sec 15(1)	Cpl Marget. Pte I. Nichols G.W.	28 Days Detention. Forfeits 28 days pay Pte.	28 day Cetf'n May 5 E.M. Pte	R.L.S.	
In the field	3 Dec 42	Pte		Conduct to Prej = Dirty boots, kit not made up properly. Bunks in bad repair.	Lt S.M. Mather F. Quartermaster	7 days C.B. 28 days det	14 Dec 42. 7 Mar 43.	Lt Col E.A.CLIFT C. Brigade Capt	
In the field	24 Feb 43	Pte		A.W.L. 4 24 hrs 24 Feb 43 - 1415 hrs 4 Mar 43 = 7 days 15 hrs - 39 mins. R.A. 15(1)		RELEASED FROM CANADIAN DETENTION BARRACKS S.C. 21 APR 43 SENTENCE HALTED & EXPIRED COMMANDANTS Initials J.B.			

CERTIFIED TRUE COPY OF THE ORIGINAL N Addams Capt

(P.T.O.)

Place	Date of offence	Rank	Cases of previous convictions	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
FIELD	5 APRIL	Pte		AWL 2 DAYS 7 HRS R.R. 15(1)	Cpl BRIMMACOMBE	14 days detention 14 days pay 14 9d PM	5 APR 43	F.A. CLIFFE (Capt)	FORFEITS 2 days pay 7 HRS

JJJ-59

PTE GUY AH

SCHEDULE.

PART I. PLEA(S), FINDING(S) AND SENTENCE.

Accused: F86525 Pte Alfred Arnold GUY 1 C.G.P.C.

	Charge. (Insert "alternative" where applicable.)	Plea. (See instrs p 2.)	Finding. (See note below.)	(Space for use as required for further charges, accused charged jointly, special findings, etc.)
1st	Sec 8(2) AA	Not Guilty	Guilty	
2nd				
3rd				
4th				
5th				
6th				

(Note: As to findings for lesser offences see AA 56, RP 44; findings on alternative charges see MML p 483 fn 4 para 2, RP 44; special findings see RP 44 and MML p 733, and in loss of kit see RP 44 fn 6.)

At present under sentence for ~~beginning on (date)~~ (1)

(1. Insert sentence being served, or delete, if not applicable. See RP 46(A). Information should be found on MF B355 or AF B296.)

Time in confinement awaiting present trial—a total of 2 5 days, of which NIL days were spent in hospital.(1)

(1. See RP 46(A) fn 2. Information should be found on MF B355 or AF B296 admitted in evidence under E2.)

Sentence Awarded by the Court:

To undergo detention for a period of Imprisonment (90) Days

(Sgd) Judge-Advocate, if any. 14 April 44 Date awarded. (Sgd) President. (RP 45, 50.)

(See back of Convening Order as to assembly and disposal of record after trial.)

PART II. MINUTE WHERE CONFIRMATION RESERVED. (AA 54(5), RP 120(F), MML p 760.)

Date (Sgd) Commanding

PART III. DECISION OF CONFIRMING OFFR ON FINDING(S) AND SENTENCE.

(For duties and powers see AA 54, 57, RP 37(D) fn 6, 46(A), 51-56, 120, MML pp 759-761, KR Can 567-577. Acquittals require no confirmation and cannot be revised: AA 54(3). Sending back finding or sentence for revision by Court: AA 54(2), RP 120(C). If not confirmed, accused may be tried again: AA 157, MML p 64. Minute of confirmation or non-confirmation may be altered before promulgation: RP 53, MML p 65. Quashing after promulgation: KR Can 573. Duties and powers of reviewing offrs: AA 57, 57A, RP 53A, 54. The Confirming Offr must sign here personally. AA 172 fn 1.)

My decision on the finding(s) and sentence set forth in Part I is:

Confirmed

~~I direct that the accused be not committed to prison or detention barracks until further orders.~~(1) (1. AA 57A. Delete if not used.)

Date 17 Apr 44 (Sgd) J.E. Sager (J. E. SAGER) Brig. Commanding Confirming Officer

PART IV. PROMULGATED AND EXTRACTS TAKEN. (RP 53, KR Can 576, 577.)

Accused F-86525 Pte Guy, A. Date 18 Apr 44. Signature of Offr.

D.O. #31 Dated 21 Apr 44. P. Lunch Capt., O.C. 1 Dn Gen Pioneer Coy.

ALL DELETIONS AND ALTERATIONS WILL BE INITIALLED.

RECORDED AT CMHQ IN AB 160 777-57

FIELD GENERAL COURT-MARTIAL

CFA80 (In lieu of AFA2) 40-P.S.R/1808 (2864)

Convened by Order of Brigadier J.E. SAGER Comd "F" Gp dated 13 Apr 44

ACCUSED.

(As to the trial of two or more charged jointly see RP 16, 71, 109. As to reasons for showing (a) permanent or confirmed rank, and (b) apptmt, A/rank or A/apptmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

Number.	(a) Prmnt R. (b) Apptmt, A/R or A/Apptmt.	Full Christian Names.	Surname.	Unit.
F.86525	Pte	Alfred	Arnold	GUY 1 C.G.P.C.

PROCEEDINGS REVIEWED 3 May 44 W.C. Lynch Lieut for REVIEWING OFFICER, JAG BRANCH C.M.H.Q.

PROCEEDINGS OF TRIAL.

Held in the Fd in (country) England on (date) 14 Apr 44

RECORD FORM A—OPENING PROCEEDINGS AND ARRAIGNMENT.

A1. The President, Members, ~~waiting Member, JA, if any,~~ and Offrs under instr, if any, assemble, and the Court is closed.

(PRINTED MATTER, NOT IN ITALICS FOR GUIDANCE, WILL BE DELETED IF NOT USED OR APPLICABLE, AND INITIALLED BY PRES OR JA. The Schedule referred to throughout is on p 4. Citations do NOT include all relevant fmn ROs. For guidance on procedure when a variation in this form arises, see form for GCM in MML pp 741 to 759. A brief record of such variation will be made and given a number having reference to appropriate or preceding para number herein. See back of Convening Order, CF A95, for oaths and instrs on how to record addresses, evidence, etc, which instrs are hereafter called "Notes". As to general provisions for conducting the trial see AA 53, RP 14, 43-50, 73, 74, 94-103, 119, 132.)

A2. The President initials and lays before the Court the Convening Order and Charge Sheet(1) attached thereto.(2) The Court is satisfied that it is properly convened and constituted(3), accused is (are) amenable to military law, and each charge discloses an offence.(3)

(1. As to use of Summary of Evidence see RP 17 fn 6. 2. AA 49, 50, RP 105-107. 3. RP 11-13, 23, 24.)

A3. The Court is opened. The accused is (are) ~~in custody~~ brought before the Court. At 11.20 hours trial commences.

A4. The Prosecutor produces a Medical Certificate that accused is (are) fit to undergo trial by court-martial.(1) ~~The Prosecutor informs the Court that accused elected to be tried by court-martial instead of being dealt with summarily by the CO.~~(2)

(1. KR Can 557. 2. AA 46(2), RP 60 fn 1. For effect see KR Can 563(c). Delete, if not applicable.)

~~A5. President to accused: Do you object to an interpreter? Ans~~

~~The Interpreter is sworn.~~(1) Do you object to P28126 SJT SINCLAIR ~~as shorthand writer~~? Ans No

The shorthand writer is sworn.(1)

(1. RP 72. Delete, if none employed.)

A6. The Convening Order and names of the President and Members of the Court are read to the accused.(1) President to accused: Do you object to be tried by me as President or by any of the Members of the Court? Ans No, Sir.

(1. RP 110. 2. If no objection, waiting member retires. RP 68(2). If objection, see procedure AA 51, RP 25, 71, 18, MML p 742.)

A7. The President, Members, ~~JA, if any,~~ and Offrs under instr, if any, are sworn.(1) The following are the ranks, names and units of the offrs comprising the Court, etc:

President	Lt-col	D.L.	REDMAN	HQ C.R.U.
Member	Capt	A.G.	LAING	1 C.A.C.R.U.
Member	Lt	J.A.	McGINNIS	3 C.A.C.R.U.
~~Judge-Advocate~~				
Prosecutor	Capt	A.A.	KELSEY	2 C.G.P.C.
Defending Offr	Lt	A.E.	BRODIE	1 C.A.C.R.U.

Questions by President: Is the Prosecutor a lawyer? Ans No. Is the Defending Offr a lawyer? Ans No (2)

(1. RP 26, 27, 109, 111. List of offrs under instr will be returned separately with proceedings for information of Conv Offr.)
(2. If Pros a lawyer and Def Offr not, accused is entitled to an adjournment when RP 89 (B) and fn 2 were not followed. See DI p 33.)

A8. The accused before arraignment make(s) (no) (a) plea. (1)

(1. If a special plea is made for separate trial on one or more charges (RP 62(E), 108), or as to the jurisdiction of the Court (RP 34, 35(A), 113), or in bar of trial (RP 36), or as to accused's mental fitness to stand trial (AA 130, RP 57), or by one of several accused charged jointly to be tried separately (RP 16, 71), such plea, the addresses made in support or against, the evidence, if any, and finding are recorded per Notes. For forms of record see references in fns to RsP cited. Insert in AB rank and name of the accused making the plea.)

A9. The accused is (are) arraigned (separately) on all charges in the charge sheet.(1) The accused does (do) not object to any charge.(2) There is no amendment to be made to the Charge Sheet.(3) The President records the pleas in Part I of the Schedule.

(1. RP 36, 112. See para 1 of instrs p 2. Where more than one Charge Sheet see RP 62; when several accused to be tried separately see RP 71(C), and use separate copies of CF A96 as record proceedings. 2. RP 36, RP 33. If otherwise, delete and make appropriate record per Notes.)

A10. The Court (is closed and) considers the Instrs on Procedure after Arraignment at top of p 2. The proceedings are continued on Record Form "B".

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

INSTRUCTIONS ON PROCEDURE AFTER ARRAIGNMENT.

1. *The accused may not plead or be found Guilty on more than one of two or more charges laid in the alternative (RP 37(A).) As to withdrawal of alternative charges by Prosecutor see RP 35(C). No other charge can be withdrawn for any reason without authy from Convening Offr. If Convening Offr concurs, Court may accept plea of Guilty to lesser, etc, offence. (RP 44(H).) Accused may change a plea of Not Guilty to Guilty during trial. (RP 38.) As to refusing to plead or not pleading intelligibly see RP 35(A). As to plea when sentence may be death see RP 35(D).*

2. *The proceedings on each charge sheet (RP 62) after arraignment will be conducted as follows in the respective circumstances stated :*

I. If pleas to all charges are GUILTY, use Record Form B below.

II. If pleas to all charges are NOT GUILTY, use Record Form D on p 3

III. If pleas to some charges are GUILTY and to other charges are NOT GUILTY and,

(a) Such mixed pleas occur when there are no alternative charges in the Charge Sheet, use Record Forms C below. (RP 37(A).)

(b) Such mixed pleas occur in a set of two or more charges laid in the alternative, see RP 37 (A) and fn 2 as to discretion of Court, (i) to try the accused on all such alternative charges as if he had pleaded Not Guilty thereto, or, (ii) to record the pleas as the findings of Court. After deciding between (i) and (ii), Court will proceed under foregoing instrs as may be appropriate to result of its decision. See MML p 744 Instrs (2).

3. *As to responsibility of President to accused see RP 59, 60(C) ; powers and duties of JA see RP 103 ; duty of Prosecutor see RP 60(A) (B) ; duty and privileges of accused and Defending Offr see RP 60(C), 87(C), 91, 92 ; entering and withdrawal of witnesses from Court see RP 81, 82 ; questioning of accused see RP 80, 87(C), 92(B), and of witnesses see RP 83-85 ; calling or re-calling of witnesses by Court etc see RP 75-79, 86, 116 ; use of Summary of Evidence at Trial see RP 17(E) fn 6 ; and responsibility of JA or Pres to record proceedings see RP 94, 96.*

RECORD FORM B—PROCEEDINGS ON PLEAS OF GUILTY TO ALL CHARGES.

B1. The President or JA, if any, complies with RP 35(B) by explaining to the accused the nature and meaning of the charge(s)(1), and that on his plea of Guilty there will be no regular trial but merely a consideration of the sentence to be awarded after he has been given an opportunity to make a statement in reference to the charge(s), call witnesses as to character and make an address in mitigation of punishment.(2)
(1. RP 35 fn 3. 2. MML p 54 para 47.)

B2. President to accused : The Court will now receive any statement you desire to make in reference to the charge(s).(1) If it appears from your statement that there are circumstances which indicate that you do not understand the effect of the plea of Guilty(2), or which show provocation or extenuation in respect of which in your interest the witnesses for the Prosecution should be examined(3), we shall advise you to change your plea to Not Guilty. In making a statement you will not be sworn or subject to cross-examination ; and anything you say will not be used in evidence against you after you change your plea. If, however, it appears to the Court that your statement affects only the amount of punishment to which you are liable, you will not be advised to change your plea and you will be given an opportunity later to prove your statement by sworn testimony, if you so desire.(4)

President to accused : Do you wish to make a statement ? Ans .....(5)
(1. RP 37(B). 2. RP 37(D) fn 6. 3. RP 37(D) fn 5 para 3, MML p 54 para 47. 4. See para E3 of Record Form E. 5. Statement, if any, recorded per Notes.)

B3. The Court considers the accused's statement.(1) The Court decides (not) to advise accused to change his (their) plea(s) of Guilty to Not Guilty on ..... charge(s). The accused is (are) so informed, and he (they) change(s) his (their) plea(s) on ..... charge(s). Part I of the Schedule is amended accordingly.
(1. Court may be closed to consider the statement. Delete whole or part not used.)

B4. On the charge(s) to which the plea(s) of Guilty is (are) not changed the President records finding(s) of Guilty in Part I of the Schedule.(1)
(1. RP 35(B). If any plea(s) is (are) changed, use Record Form C or D as appropriate.)

B5. The Summary of Evidence is marked Ex ....., initialled and read aloud by the President.(1)
(1. If there is no Summary, or if it is inadequate, comply with RP 37(B). If there is any evidence inconsistent with any plea standing as Guilty, Court will advise accused to change such plea and, if changed to Not Guilty, try such charge(s) by use of paras D1 to D8 inclusive of Record Form D on p 3. RP 37(D).)

B6. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

RECORD FORM C—PROCEEDINGS ON MIXED PLEAS OF GUILTY AND NOT GUILTY.

C1. As to the charges on which accused pleaded NOT GUILTY the trial is continued by using paras D1 to D8 inclusive of Record Form D on p 3 before proceeding with C 2.(1)
(1. RP 37(A) (E).)

C2. The charges on which accused pleaded GUILTY are read to him (them) again, and the trial is continued by using paras B1 to B5 of Record Form B above.(1)
(1. Under B5 such parts only of the Summary of Evidence are read as relate to the charges dealt with under C2. If any plea is changed to Not Guilty, trial thereon proceeds by complying with paras D1 to D8 inclusive in Record Form D on p 3 and making an appropriate record thereof on a separate sheet.)

C3. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

RECORD FORM D—PROCEEDINGS ON PLEAS OF NOT GUILTY TO ALL CHARGES.

D1. President to accused : Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity to prepare your defence ? Ans NO - SIR(2)
(1. If "yes", see RP 39(A) for procedure. Statement or evidence, if any, is recorded per Notes.)

D2. The Prosecutor makes (has) (no) opening address.(1)
(1. RP 39(B), 60(A) (B), 90, 92(C) (D). Record address per Notes, subject to RP 95(C).)

D3. The evidence for the Prosecution is taken.(1) NUIL HIT
(1. RP 39(C), 114, KR Can 555. Record evidence per Notes. As to Prosecutor giving evidence himself see RP 39(D) (E).)

D4. The Prosecution is closed.(1) ~~The Defending Offr submits that the evidence for the Prosecution does not establish a prima facie case against the accused on the ..... charge(s).~~(2) The Court is closed, and considers the submission.(3) The Court is re-opened, and the President announces that the submission is disallowed on the ..... charge(s), and allowed on the ..... charge(s), and that, accordingly, the trial will proceed on the former, but the accused is (are) found Not Guilty on the latter charge(s).(4)
(1. Delete remainder of this para, if submission not made. 2. Arguments on submission, answer and reply are recorded per Notes. 3. RP 40 fn 1. See MML p 72 paras 12-14 and p 81 para 42. 4. Delete part not used. If accused acquitted on all charges, use second alternative in para D8.)
NB : If trial proceeds, accused must be allowed great latitude in making his defence, and the Court should not stop his defence solely on ground of irrelevance. (RP 60(C), 114, 115.)

D5. President to accused : You will now proceed with your defence.(1) You may, if you wish, give evidence yourself on oath as to the facts or your character or both, in which case you will be subject to cross-examination.(2) You may, however, make a statement without being sworn, and you will not be subject to cross-examination.(3) But a statement which could have been made on oath will not carry with the Court the same weight as sworn testimony.(4) You may call witnesses in your defence and as to character, whether you give evidence or make a statement or do neither.

President to accused : Do you wish to give evidence yourself as a witness, make a statement, or do neither ? Ans NO Some evidence. Do you intend to call witnesses on your behalf ? Ans Yes Sir. Are they witnesses as to character only ? Ans NO Sir
(1. RP 155. 2. RP 40(A), see 80(D). 3. RP 40 fn 10. 4. RP 40 fns 2, 9.)

D6. Consequent on the answers recorded in para D5 the appropriate procedure for the defence is followed.(1)
(1. RP 114, 115, 116. For procedure see Notes on back of Convening Order, CF 895. Evidence for accused as to his character should, if in his interest, be given before the finding. See RP 46(A) fn 1, 86(C). Note the further opportunity in para E1 of Record Form E. Record per Notes addresses, statement, evidence and any summing up by the JA under RP 42, 103(e).)
NUIL HIT

D7. The Court is closed to consider the finding(s).(1) The finding(s) of the Court is (are) recorded in Part I of the Schedule.(2) The Court is re-opened.
(1. RP 43, 117(A). See Notes in Part I of Schedule. 2. RP 44(A).)

D8. ~~The President announces the finding(s), if any, of Not Guilty, and states to the accused that the finding(s) of the Court on the ..... charge(s), being subject to confirmation, will be promulgated later.~~(1)
Or, The President announces that the accused is found Not Guilty on all charges and is to be released from arrest, and that the proceedings are accordingly terminated. Part I of the Schedule is dated and signed.(2)
(1. AA 54(3) (b), RP 45, 120(A). 2. AA 54(3), RP 45, 117. This alternative announcement is not applicable when there are pleas of Guilty outstanding and dealt with under Record Form B or C.)

D9. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E below.

RECORD FORM E—PROCEEDINGS ON CONVICTION BEFORE SENTENCE.

E1. President to accused : Do you wish to give evidence yourself or to call any witnesses as to your character ?(1) Ans NO - SIR
(1. If evidence has already been given by accused or his witnesses as to his character, delete this para. RP 37(C) fn 4, 46 fn 1. Accused and witnesses are sworn. Evidence recorded per Notes.)

E2. The Prosecutor produces Statement(s) as to Character and Particulars of Service(1), and certified true copy (copies) of Conduct Sheet(s)(2), purporting to refer to the accused, which he submits to the Defending Offr for examination, and then to the Court for admission in evidence. The Court is satisfied that these documents refer to the accused, because (i) they purport to be signed in the manner required by AA 163(1) (g) (h), and (ii) they purport to refer to (a) soldier(s) having the same number, rank, name and corps as the accused. Admitted in evidence and marked Ex B and Ex C respectively.(3)
(1. AFB 355 or AFB 299. 2. MFM 6. 3. RP 46, KR Can 558. If above documents not produced, see RP 46 fn 1 para 1.)

E3. President to accused : Do you wish to address the Court on the Statement(s) and Conduct Sheet(s), and in mitigation of punishment ?(1) Ans By Def Offr NOTE - HIT(2)
(1. RP 37(C), 46(D). 2. Address, if any, recorded per Notes. Court should permit accused or his witnesses to prove on oath anything here or previously stated which would affect the amount of punishment. RP 37(F) fn 7.)

E4. The President states that the Court is closed to consider the sentence, and that the sentence to be awarded by the Court, being subject to confirmation, will not be announced, but will be promulgated later, and the proceedings in open court are accordingly terminated.(1)
(1. AA 54(6), RP 120(A).)

E5. The Court considers the sentence.(1) The President records the sentence in Part I of the Schedule, which is dated and signed by him ~~and the JA, if any~~.(2)
(1. Where several accused tried separately see RP 34(b). One sentence only, comprised of the punishment or punishments laid down in AA 43, 44 and its proviso, is to be awarded to cover all charges in all charge sheets on which accused found guilty. RP 46. As to sentences see AA 44, 130, 182, RP 46-50, 69, 118, 119(A), KR Can 308, 330, 563-566, Overseas RO 3089, 2323, MML p 60, 757-759. As to sentences assigned for civil offences by the law of England see AA 43(5), MML p 130. When accused already under sentence of imprisonment or detention see AA 64(1)(b), 68(1), KR Can 564. 2. RP 50. As to release from arrest by Confirming Offr see KR Can 561. As to assembly and disposal of record after trial see instrs on back of Convening Order.)

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

CHARGE SHEET

The accused, F-86525 Private Alfred Arnold GUY, on the strength of 1 Canadian General Pioneer Company, a soldier of the Canadian Army Overseas, is charged with:

FIRST CHARGE
SECT 6(2)
ARMY ACT

WHILE ON ACTIVE SERVICE

Striking his Superior Officer

In that he,

At Lindford, Hants, at approximately 2310 hrs 16th March 1944, did strike with his fist, in the face H-17326 Private (Acting Sergeant) Burgess, H. on the strength of 5 Canadian General Pioneer Company, attached to 1 Canadian Equipment Assembly Unit.

P. Kench

(P. Kench) Capt.,
A/Officer Commanding,
1 Cdn. Gen. Pioneer Coy.

In the Field,
7th day of April,
1944.

To be tried by Field General Court Martial

Bordon, Hants
7 April 1944

J.E. Sager

(J.E.SAGER) Brigadier
Commander "F" Group, C.R.U.

FIELD GENERAL COURT-MARTIAL

CFA95 (In lieu of AFA5)
40-Pads-1607 (2668)

(Whether the accused to be tried is under his comd or not, a FGCM may on application to him be convened by any offr of Cdn Army Overseas, or of any other force if authorized in law, in immediate comd of troops on active service, subject to RP 105(C) and restrictions imposed by appropriate authy. AA 49, 50, RP 104-107, 114. As to the duties and privileges of the Convening Offr in dealing with the application see MML Chap V paras 20 and 23, RP 87(B).

There should be a separate Convening Order for each person to be tried separately by the same Court. RP 71(C), 109. As to separate charge sheets see RP 62, and as to separate trial on charges in the same charge sheet see RP 108. As to two or more accused charged jointly see RP 16, 109.

As to reasons for showing (a) permanent or confirmed rank, and (b) apptmt, A/rank or A/apptmt, if any, see AA 182, 183, fns, KR Con 308, 328, 330.)

ACCUSED.

Number.	(a) Prmnt R.	(b) Apptmt, A/R or A/Apptmt.	Full Christian Names.	Surname.	Unit.
F-86525	Pte		Alfred Arnold	GUY	1 C.G.P.C.

CONVENING ORDER.

1. Whereas complaint has been made to me, the undersigned, that the person(x) named above as the accused, being subject to military law, has ~~been~~ committed the offence(s) set forth in the Charge Sheet(x) attached and on (date) 7 April 1944 endorsed by me, (or by an offr of my authority), "To be tried by Field General Court-Martial".

2. And whereas I am of opinion that it is not practicable that such offence(x) should be tried by an ordinary General Court-Martial; ~~and that it is not practicable to delay the trial for reasons connected with the service~~

(Delete part in brackets when not required for compliance with RP 105(C).)

3. I hereby convene a Field General Court-Martial to try the said person(x), and to consist of the Offrs appointed or detailed hereunder.

4. ~~I am unable to appoint Officers to form the Court, (b) a Fd Offr as President, for the reasons I have~~ ~~attached hereto~~

(AA 49, RP 106(B), 107(A). Delete the whole or part, if not applicable.)

5. ~~I also appoint as Judge-Advocate~~ the Offr mentioned hereunder.

(RP 106(E). Delete, if none appointed.)

PRESIDENT.

(Rank.)	(Must be named. RP 106.)	(Unit.)
Lt.Col.	D.L. Redman, E.D.	H.Q., C.R.U.

MEMBERS.

(Rank.)	(Named or detailed. RP 106.)	(Unit.)
A Capt.	from	1 C.A.C.R.U.
A Lieut.	from	3 C.A.C.R.U.

WAITING MEMBER.

(Rank.)	(Named or detailed, if any. RP 106.)	(Unit.)

JUDGE-ADVOCATE.

(Rank.)	(Must be named, if any. RP 106.)	(Unit.)

On Active Service in the Fd

in England (Country.)

J.E. Sager (Signed personally. RP 105 fn 2.) Brigadier (Rank.)

Date 13 April 1944

(J.E. SAGER) Brigadier
Commanding "F" Group, C.R.U.
Convening Officer.

CONVENING OFFR WILL INITIAL ALL DELETIONS AND ALTERATIONS

(See overleaf for oaths and rules for use on trial.)

MEDICAL OFFICER'S CERTIFICATE

K.R. CAN PARA 557

I certify that I have this morning examined ... F. 86575.
... Pte. ... G.Y. ... A.A. of ... 1 Can. Tun. Pioneer Coy
and in my opinion he is fit ~~unfit~~ to undergo Trial by Court -
Martial

Station ... Field ...
Date ... 17. April. 44 ...

... Jeston ...
Medical Officer
1. CDN. GEN. PNR. COY.

Case of

F.86525 Pte Alfred Arnold GUY 1 C.G.P.C.

PROSECUTION

First Witness

M.17326 Sjt BURGESS H, 5 CGPC, having been duly sworn, states:

On 16 Mar about 2300 hrs I was in the YMCA Recreation Room att to the NAAFI bldg at LINDFORD Camp, when Pte Guy came into the room. On entering Pte Guy counted five men and he said he was going to clean up No 5 Coy, that is No. 5 Pioneer Coy. He then grabbed Pte Gariepy and struck him with his fist. I got up and started towards the door to go out to call the Orderly Sjt. As I was going out Pte Farmer, who also had come in with Pte Guy, stopped me, then Pte Guy attacked and struck me in the face with his fists. Sjt Baxter the Orderly Sjt then came in and got them away from me. I can suggest no reason for this attack, as I gave him no provocation whatsoever by any word or action, and neither did anybody in my party. I have never referred to his colour.

CROSS-EXAMINED BY THE DEFENDING OFFR

Q. Sjt Burgess, what is your category?
A. My category is "A", Sir, and I am in reasonably good health. On the night of 15th March I was in the Robinhood pub in the company of Lt Smale, offr IC of the Pioneers working at the Ordnance. I saw the accused there and he struck me. Lt Smale did not place him under arrest, he took the accused home. This punch marked my face. That is the first time he struck me. Some time previous I had no trouble with Pte Guy in the Hollybush pub. I was an NCO at the time. I was friendly with the accused and I did not follow this incident up by laying a charge nor did my offr. In this recreation room we were sitting in the NAAFI playing a game of poker for money. The accused did not ask to join the game of cards. I was the senior in the room playing poker for money with other ranks. I don't think I could have stopped Pte Guy from fighting at the time Sir. My idea was that I could not control whatever was going to take place and I figured we should have the Orderly Sjt there. I did not strike back. I covered my face up with my arms and hands as best I could. Pte Farmer and Pte Guy both struck me in the face after each other. When the fight started Guy was chasing Garipy around the room. When I made a move toward the door Pte Farmer struck me. At this time Pte Guy was behind me. I did not cover my face after I had been punched in the face by Pte Guy. I backed into a corner when Pte Guy started to attack me. By this time I was getting fairly well dizzy. I was struck the last few blows that were struck by Pte Guy.

PROSECUTOR DECLINES TO RE-EXAMINE THIS WITNESS

IN THE OPINION OF THE COURT IT IS NOT NECESSARY TO COMPLY WITH RP 83(B).

THE WITNESS WITHDRAWS.

Second Witness

A.9304 Spr McCAFFREY, H, 5 CGPC, having been duly sworn, states:

On 16 Mar this year about 2240 hours I was in the YMCA hut and at approx 11 o'clock Guy waked into the room, turned on the radio then walked over to our table. After this he did the same thing and walking over to our table he said he was going to clean out No 5 Coy. He grabbed Garipy pulling him off his chair. They struggled and Garipy escaped to the corner of a room where Pte Guy struck him in the face with his fist. Pte Garipy picked up a chair which was taken away from him, and later a billiard cue which was also taken away from him. The last thing I remember was Pte Guy then striking Sjt Burgess. The result of this blow knocked Sjt Burgess over the table. In getting up he was struck

by Pte Guy again, but he missed his blow. At approx this time the Orderly Sjt walked into the hut. There was no word addressed to the accused whom I now recognize. No one requested him to turn off the radio the first time. No word whatsoever was spoken to him to cause this fight. The only thing he said first was that he told Garipy he would start with him first after he said he was going to clean out No 5 Coy.

CROSS-EXAMINED BY THE DEFENDING OFFR

Q. After you had witnessed this mixup you left the bldg?
A. Yes, and I was leaving Sjt Baxter was coming in. He was not there when this took place. He was just coming in as I was going out.

PROSECUTOR DECLINES TO RE-EXAMINE THIS WITNESS

IN THE OPINION OF THE COURT IT IS UNNECESSARY TO COMPLY WITH RP 83(B).

THE WITNESS WITHDRAWS.

Third Witness

K.43143, Sjt BAXTER, W, 5 CGPC, having been duly sworn, states:

I recognize the accused, Pte Guy. On the night of 16 Mar at approx 2315 hours I heard a disturbance in the unit lines. As Orderly Sjt I investigated this and found it to be in the NAAFI Recreation Room. When I arrived there L/Cpl Sherbonneau was going out of the room. I opened the door and walked into the room and the first thing I saw was Pte Garipy backing up towards the door wit a chair in his hands, protecting himself from Pte Farmer who apparently had been attacking him. I saw no blows being struck. Pte Garipy then escaped from the room. Pte Farmer then attacked Sjt Burgess who was cornered in the room. I tried to break up the disturbance by telling him to go back to his quarters. Pte Guy and Pte Farmer then both attacked Sjt Burgess. At one time I saw Pte Guy lift his kneed as if to strike, but he did not strike with it. Pte Guy and Farmer were scrapping away and several men tried to break it up. During this time Sjt Burgess went to the Coy Orderly Room and I followed him and phoned to the Provost. I went back to the NAAFI, locked the door and returned to the Orderly Room and was followed by Pte Guy and Farmer where I found Lt Smale. Pte Guy then made statements in front of myself, Pte Farmer and Sjt Burgess. Sjt Burgess was in another section of the bldg at the time.

THE PRESIDENT RULED AT THIS TIME THAT ANY STATEMENTS MADE BY THE ACCUSED SHOULD NOT BE ADMITTED IN EVIDENCE.

(Witness continues)

I placed both men under arrest and sent them to the Gd Room.

Q. Will you please repeat the statement that you definitely saw Pte Guy hit Sjt Burgess?
A. I definitely did, Sir, on the arms and on the body. He may have struck him in the face as he did have a bruise over his left eye, but who struck that blow, Pte Guy or Pte Farmer, I don't know.

Q. How far from the door would Sjt Burgess be at the time you mentioned?
A. About 12 or 16 feet, about 2/3 of the length of the room I should think.

CROSS-EXAMINED BY THE DEFENDING OFFR

Q. On this particular night you were Orderly Sjt?
A. Yes, Sir. This particular room is a YMCA room, and we retain a key to that room and some nights it is locked at 1015 and other nights at 1030. It is the duty of the caretaker of the room to lock it that night. When I entered the room I had an

battledress, but no head gear. Pte Farmer struck the first blow to Sjt Burgess. When I heard this disturbance I was lying in bed, then got up, dressed, and covered the ground to the door where I heard someone say "shut that door" then I came in and witnessed the start of the fight. There was no evidence of fighting prior to that to my knowledge. Pte Farmer attacked first, then Pte Guy attacked afterwards

PROSECUTOR DECLINES TO RE-EXAMINE THIS WITNESS

IN THE OPINION OF THE COURT IT IS UNNECESSARY TO COMPLY WITH RP 83(B).

THE WITNESS WITHDRAWS.

THE PROSECUTION IS CLOSED

-D E F E N C E-

STATEMENT BY THE DEFENDING OFFICER:

May it please the Court. In this case the Defence feels that not only is the evidence of Pte Guy in question, but a greater issue will emanate from the decision of the Court today. For that reason the Defence proposes to have the accused give evidence on oath in order to substantiate his unshaken statement "I did not strike Sjt Burgess in the face on the night of 16 Mar 44". Two witnesses will be introduced to substantiate the statement of the accused, but there will be no witnesses as to character as the Defence feels that the facts and the truth that will be brought to light will be sufficient to establish not only his innocence but a foundation of his good reputation, clean record and ability in the Canadian Army overseas.

First Witness

The accused, F.86525, Pte GUY AA, having been duly sworn, is examined by the Defending Officer:

Q. Pte Guy, on my first meeting you, you made certain remarks to me in connection with the charge against you, will you tell the Court what you said to me?

A. Yes, Sir. I said that my plea would be not guilty. Then I told you my story. Here is what I told you. I said when Sjt Burgess was a Cpl I happened to go to the pub with him. After going to the pub we went to the dance and I took the woman I had along with me. This was about two months ago. I was having a quiet drink talking with my girl and Burgess was talking to another girl in the middle of the floor and he said "alright black man it's your turn to fill up the glasses". I started to take off my X tunic but the landlady of the pub came along with a mallet and there was no fight. We then went and started dancing and Burgess's XX friend started talking my woman away from me. After that I did not try to dance any more. That was the first time he insulted me. On 15 Mar I went to the Robinhood pub and while in there drinking Sjt Burgess came in and said to me "this is your hideout huh?". I never paid any attention to him. Sjt Burgess stood in the corner and Lt Smale was also standing there and Sjt Burgess said "I don't like the look of that black face". I hauled off and hit him in the mouth twice. Lt Smale then took me away. He suggested that I apologize to Sjt Burgess and Burgess refused to accept an apology. I walked home with Lt Smale when it came time for the pub to close, XXXXX after asking the people who owned the pub if I caused them any trouble and they said no. On Mar 16 I was in the recreation room pressing my uniform. While doing this Pte Mulligan came along and said "let's go for a drink". I did not want to go to the pub he mentioned as I knew we would have trouble on account of my nationality. I borrowed a bicycle from Sjt Baxter and Mulligan and I went to to another pub. After closing time we

came back to camp. While I was in the kitchen Pte Farmer came in and we had a cup of tea. Later we went to the Recreation Room, Farmer, Mulligan and I. I turned on the radio and went over to the table where Sjt Burgess Pte McCaffrey and others were playing poker for money. I asked if I could play and Pte Garipy said there was enough playing now, and as he jumped up I grabbed him, having no intention of touching Sjt Burgess. I might say here my job is on sanitation in the camp, cleaning up all the dirt in the yard, and making hot water for the boys. XXXX The men were getting sick, urinating outside and inside the door and I reported this matter to an offr as when I told the men myself they slammed the door in my face. A few days before Pte Garipy took hot water out of a tub which I filled, and I told him to put an equal quantity back which was customary, and he would not put it back. While doing this he tried to strike me over the head with the bowl in his hand. When going through the door he tried to kick me and I hit him, so that on the night of 16 Mar I only repaid the compliment. As far as striking Sjt Burgess I definitely did not strike him. I had hit him before in the pub, but I was not put under arrest for that and I had nothing against him as I thought I had given him what I thought he deserved the night before. I might say here that there is a great deal of horseplay and statements made to me by offrs, NCOs and men of this coy which are hard to take. We have feelings the same as anyone else and we cannot solder under these circumstances. I had been 2 yrs in the Army before I came to this coy and this is my first crime since coming to this coy. I joined the Army in June 41 and am 23 yrs of age. I had no trouble while in Canada on account of my race and I had no trouble with the unit with which I came to England with until MM I joined this coy. I have had trouble in peace time on the streets with people passing me and the same trouble in this country - all about my race. I feel that the punishments which have been awarded me has been greater than that awarded white soldiers for similar offences.

CROSS-EXAMINED BY THE PROSECUTOR

Q. Pte Guy, you don't like Sjt Burgess do you?
A. I have nothing against Sjt Burgess whatsoever, Sir. With respect to the insults he gave to me in the pub I realize he would not have said them if he were more sober. I think it was the duty of Lt Smale to place me under arrest when I struck Sjt Burgess in the pub.

Q Why did you say to Garipy "I will clean up No 5 Coy and will start with you first?"
A I never said anything of the kind, Sir. I remember Sjt Burgess after the trouble started. He was standing up in the corner alone. At the time I saw him there was no one near him. I saw Pte Farmer attack Sjt Burgess. I did not go to Farmer's assistance. I definitely did not attack Sjt Burgess, before, during or after the fight, except that night in the pub.

NO RE-EXAMINATION BY THE DEFENDING OFFR

IN THE OPINION OF THE COURT IT IS NOT NECESSARY TO COMPLY WITH RP 83(B).

Second Witness:

F.60241 Pte BAGLOLE JW, 1 COPC, having been duly sworn, states:

Q. Do you recognize the accused?
A. Yes. He is an acquaintance of mine. On the night XXX of 15 Mar we were at a pub. I was in company with the accused and another. Just before closing time this Sjt Burgess said "I don't like that black faced Bastard". I was talking to another soldier and when I turned around I saw the accused making for Sjt Burgess. I never seen him strike Sgt Burgess. Me and an offr took him away. Next morning Burgess had a little cut on his lower lip. I saw on the morning of the 15th it was swelled in the same place. I saw no other cuts or bruises on his face. I have known the accused about 1½ yrs. I have heard others in the coy refer to the accused as a coloured chap and they said they did not like the coloured chaps.

CROSS-EXAMINED BY THE PROSECUTOR

Q. Would you mind repeating about the injuries on the face of Sjt Burgess on the morning of the 16 Mar?
A. I noticed a little cut on his right lip. It was on the morning of the 17th I noticed his face was xxxxxxx swollen.

DEFENDING OFFR DECLINES TO RE-EXAMINE THIS WITNESS.

IN THE OPINION OF THE COURT IT IS UNNECESSARY TO COMPLY WITH RP 83(B).

THE WITNESS WITHDRAWS.

Third Witness

B.9690 Pte MULLIGAN ME, 1 COPC, having been duly sworn, states:

I recognize the accused, and have known him since I can't remember when, but for some time anyway. On the night of 16 Mar I spent some time in his company. In the NAAFI they were playing cards and there was some money on the table as far as I know. Then there was a racket started between Pte Guy and a french guy. I don't know whether Guy hit him or not. Sjt Burgess was there also playing cards. I did not pay particular attention to Sjt Burgess as I was watching Guy and this French fellow. I later noticed Sjt Burgess stooped down sort of stooped down behind a chair. Guy was in the room at the time. I did not see Guy strike Sjt Burgess, nor did I see anyone strike Sjt Burgess.

Q. Do you recall at any time of Pte Guy being called names by people in public houses?
A. Yes, I have heard members of this Coy calling him a black bastard, and a black son of a bitch. The accused's disposition has always been alright any time he is or has been out with me in a pub though. I myself have been treated alright so far in this coy.

CROSS-EXAMINED BY THE PROSECUTOR

Q. You saw Sjt Burgess in the corner, you also saw Pte Farmer and Pte Guy, but you weren't actually able to see who was making the attack as there were so many there running around - is that not right?
A. Yes, that is right, Sir.

NO RE-EXAMINATION BY THE DEFENDING OFFR.

IN THE OPINION OF THE COURT IT IS NOT NECESSARY TO COMPLY WITH RP 83(B).

THE WITNESS WITHDRAWS.

THE DEFENCE IS CLOSED

DEFENDING OFFR ADDRESSES THE COURT ON THE FINDING

The first witness Sjt Burgess after having testified that he had no previous difficulty with the accused admitted that he had been struck by the accused on the previous night. He admitted that he was somewhat dizzy, that Pte Farmer had struck him in the face and the body and on the arms. He stated he had his face covered and that the accused did strike him in the face claiming that he had a bruise on his forehead. He admitted that he did not attempt to stop the quarrel at it's inception, he admitted that he made no attempt to place the accused under arrest or to cause this to be done. In view of this and in view of his previous difficulties with the accused the Defence does not feel that his evidence is of sufficient strength to prove the accused guilty. With regard to the second witness, Pte McCaffroy, he stated that as he was leaving the bldg he saw Sjt Baxter enter. The third witness, Sjt Baxter, was tucked in bed. There was nothing unusual about the Recreation Room being open at allhours of the night but the Sjt was awakened by the noise of this riot, which from the evidence, could not have lasted very long, but with speed and despatch, attired

himself in battle dress and repaired to the scene in time to see the first blow being struck which he referred to as the first blow. The fact that Pte Garipy was assaulted first, no charge was laidor did not appear as a witness xx would lead the Defence to believe that the Prosecutor did not consider him quite a suitable witness or that he would bear the same weight as two Sjts, therefore this was apparently overlooked and he was left out. In conclusion, the Defence would like to point out that the evidence has not been absolutely conclusive that Pte Guy struck Sjt Burgess in the face with his fists. If there is one small particle of doubt as to this evidence then the Court will I am certain, take this into consideration and bring in a verdict of insufficient evidence.

PROSECUTOR ADDRESSES THE COURT ON THE FINDING

Mr. President and Members of the Court. You have been patient in listening to a lot of evidence which has been distinctly irrelevant to the case in point which is whether or not the accused Pte Guy, struck Sjt Burgess in the face on the night of 16 Mar 44, and I would respectfully ask the Court to confine its consideration to that issue alone. We have got to remember whatever deficiencies in character Sjt Burgess may have, he is not on trial for anything, whether it is for errors of judgment or having been in a card game where money was involved, as was suggested during the taking of the evidence. His evidence is distinctly clear as to the events which took place on 16 Mar. The evidence also of Sjt Baxter is very clear as to its essentials. Of the other witnesses it is perfectly clear that Pte Guy attacked Sjt Burgess without any provocation. The question that this Court has to decide is simply this; did or did not Guy strike Sjt Burgess. That I think has been amply proved.

PLEA IN MITIGATION BY THE DEFENDING OFFR

The Court I know will take into consideration the length of time the accused has spent in his unit gd room. There is one plea to which the accused adds his heartfelt desire that at the conclusion of his punishment the Court would recommend that every effort will be made that he might join the Forestry Corps or any other than the one in which he is now a member, as his experience in forestry work would fit him for this type of unit.

ACKNOWLEDGEMENT BY THE ACCUSED AND REQUEST FOR REPRESENTATION

1. I hereby acknowledge that I have been served with a true copy of the Summary of Evidence taken at In the Field. preliminary to my Court-Martial. I further acknowledge that I have been served with a true copy of the charge under which I am being brought to Court-Martial.

Dated at In the Field.
this 30th day of
March 1944.

A A Hunt
P-86525 Pte Guy, A.A.

2. ~~I hereby acknowledge that I have been served with a true copy of an additional Summary of Evidence taken at~~ preliminary to my Court-Martial.

3. I hereby request that the Convening Officer appoint an officer to represent me at my trial.

I desire the services of Lieut. S. Brodie If he is available.
6 Cdn. Gen. Fwr. Coy.

Dated at In the Field
this 12th day of
April 1944.

A A Hunt
P-86525 Pte Guy, A.A.

L I S T O F W I T N E S S E S

List of witnesses in the case of F-86525 Private Alfred Arnold GUY, on the strength of 1 Canadian General Pioneer Company, a soldier of the Canadian Army Overseas,

FOR THE PROSECUTION

1. K-42143 Sgt. Baxter, W. on the strength of 5 Canadian General Pioneer Company, a soldier of the Canadian Army Overseas.

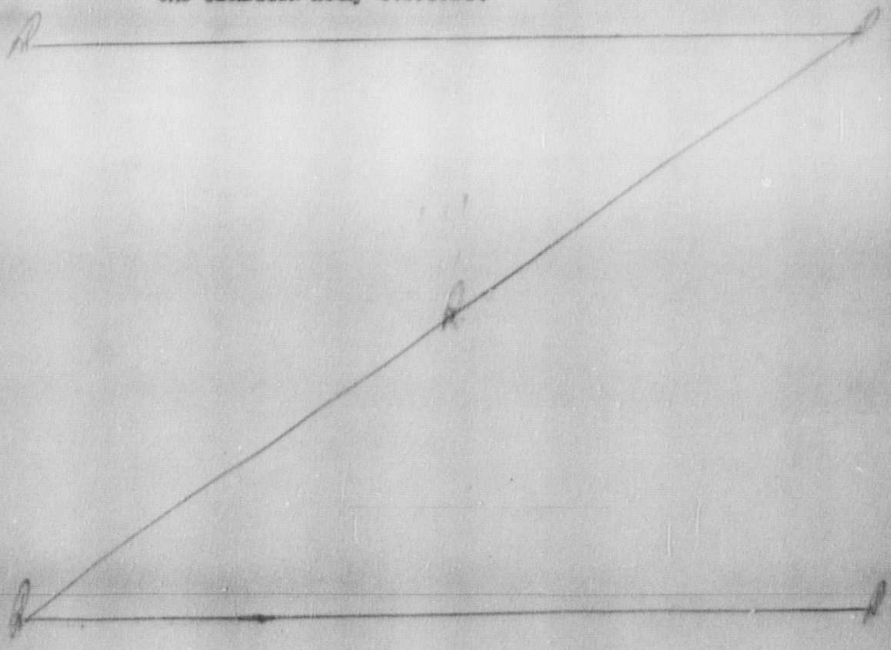
2. M-17326 Private (Acting Sergeant) Burgess, H. on the strength of 5 Canadian General Pioneer Company, a soldier of the Canadian Army Overseas.

3. A-9304 Sapper McCaffrey, H. on the strength of 5 Canadian General Pioneer Company, a soldier of the Canadian Army Overseas.

FOR THE DEFENCE

1. B-9690 Gunner Mulligan, M.E. on the strength of 1 Canadian General Pioneer Company, a soldier of the Canadian Army Overseas.

2. F-60241 Private Baglole, J.W. on the strength of 1 Canadian General Pioneer Company, a soldier of the Canadian Army Overseas.



OFFICERS UNDER INSTRUCTION

Lt	H.R.	DOWLING	3 C.A.C.R.U.
Lt	H.B.	PERRIN	3 C.A.C.R.U.
Lt	R.H.	NEALE	3 C.A.C.R.U.
Lt	S.	BREEN	3 C.A.C.R.U.

3 cac ru 14 apl 144

SUMMARY OF EVIDENCE

In the case of F-86525 Private Alfred Arnold GUY, on the strength of 1 Canadian General Pioneer Company, a soldier of the Canadian Army Overseas.

By direction of the Commanding Officer this Summary of Evidence is taken on Oath.

FIRST WITNESS FOR THE PROSECUTION

K-42143 Sgt Baxter, W. on the strength of 5 Canadian General Pioneer Company, attached to 1 C.E.A.U. a soldier of the Canadian Army Overseas, having been duly sworn states:-

At about 2310 hrs 16th March 1944, I heard a disturbance and in the capacity of Orderly Sergeant, I investigated and found the disturbance was in the recreation r room of the N.A.A.F.I., in the unit lines. Lance Corporal Sherbonneau, J. came out of the room, and I heard someone call "Close that door and keep it closed." I opened the door and saw Private Gariepy backing up towards the door with a chair, legs facing away from him for protection from Pte Farmer, who appeared to be attacking him. I saw no blows being struck. Pte Gariepy escaped, then Pte Guy and Pte Farmer turned their attention to Sergeant Burgess who was cornered, he backed up into the rear right hand corner of the room. I told Pte Guy to go back to his quarters. I then saw Pte Farmer attack Sgt Burgess giving him several blows in the face and body but mainly on the arms, then Pte Guy attacked Sgt. Burgess, both Pte Guy and Pte Farmer were attacking by using their fists at the same time. Sgt. Burgess was powerless at this time, and could only defend himself with his arms, shielding his face. I saw Pte Guy lift his right knee, but he did not strike Sgt Burgess with it. Several of the men tried to stop Pte Guy and Pte Farmer and Sgt Burgess escaped to the Company Orderly Room where he stayed. I returned to the Company Orderly Room, and telephoned the Orderly Officer of 1 C.E.A.U. requesting that he send an escort as I had two men to place under close arrest. I then went out and locked the N.A. A.F.I. recreation room. Pte Guy and Pte Farmer then came to the Company Orderly Room, where they jointly stated they had nothing on me, but that they would get the other Sergeants as their own men had no use for them. They also said that they had others behind them to do the job, and that they would go to the Sergeants Quarters and get Sgt Johnston too. The M.Ps. from 1 C.E.A.U. arrived, and I placed Pte Guy and Pte Farmer under close arrest and turned them over to the M.Ps. Sergeant McBride returned to Camp from Aldershot, and came to the Company Orderly Room. Sgt Burgess returned to his quarters with Sgt McBride at approximately 0030 hrs 17th March 1944.

Cross-examined by the accused

Q.1 Did you see me hit Sergeant Burgess?
A.1 Yes.

W. Baxt.
K-42143 Sgt. Baxter, W.

SUMMARY OF EVIDENCE

In the case of F-86525 Private Alfred Arnold GUY, on the strength of 1 Canadian General Pioneer Company, a soldier of the Canadian Army Overseas. (Cont'd)

SECOND WITNESS FOR THE PROSECUTION

M-17326 Private (Acting Sergeant) Burgess, H. on the strength of 5 Canadian General Pioneer Company, attached to 1 C.E.A.U. a soldier of the Canadian Army Overseas, having been duly sworn states:-

At about 2300 hrs on the 16th March 1944, whilst sitting in the Recreation Room of the N.A.A.F.I. at Lindford Camp. Pte Guy and Pte Farmer and one man unknown to me came into the room. Pte Guy counted the ones in the room and said he was going to clean up No. 5 Company. He then grabbed and struck Pte Gariepy with his fist. I tried to get to the door to go out and call the Orderly Sergeant, but was blocked by Pte Farmer, and was struck three or four times in the face by Pte Farmer. The Pte Guy attacked me by striking me in the face with his fists. A few moments later Sgt Baxter got them away from me. I left the room and went to the Orderly Room where I took shelter until Pte Guy and Pte Farmer were taken to the Guard Room.

.....
M-17326 Private (A/Sgt) Burgess, H.

"The accused declines to cross-examine this witness."

THIRD WITNESS FOR THE PROSECUTION

A-9304 Sapper McCaffrey, H. on the strength of 5 Canadian General Pioneer Company, attached to 1 C.E.A.U. a soldier of the Canadian Army Overseas, having been duly sworn states:-

At approximately 2240 hrs 16th March 1944, I went into the Y.M.C.A. Room of the N.A.A.F.I. at Lindford Camp. At approximately 2300 hrs whilst sitting at a table with Sgt. Burgess, Pte Guy walked into the room and turned on the radio, a few minutes later he turned off the radio and left the room. At approximately 2315 hrs Pte Guy and Pte Farmer walked into the room, Pte Guy immediately went over and turned on the radio, and then began walking over to our table counting the men of No. 5 Company at the same time. On reaching our table he said that he was going to clean up No. 5 Company, as that is the way it should be. He turned to Pte Gariepy who was sitting next to Sgt. Burgess and said "I will start on you first." He then pulled Gariepy off the chair. Pte Gariepy tried to break away from him, and on doing so ran to the door, where he was caught again by Pte Guy. Pte Gariepy then pulled a table out from the wall in order to get by and Pte Guy also pulled the table in order that he could get by. Pte Guy caught Pte Gariepy there and struck him with his fist in the face. Gariepy then turned round, and ran towards the billiard table where he picked up a chair. Pte Farmer then stepped in and took the cair from Pte Gariepy, who ran to the other end of the table picking up one of the cues. Pte Farmer then took it away from him.

SUMMARY OF EVIDENCE

In the case of F-86525 Private Alfred Arnold GUY, on the strength of 1 Canadian General Pioneer Company, a soldier of the Canadian Army Overseas. (Cont'd)

Sergeant Burgess tried to leave the room, and Pte Guy struck him in the face with his fist knocking him down over a table. Sgt Burgess tried to get up and Pte Guy aimed another blow at him which missed. I then went to the door to go to my billets and Pte Guy told me not to let anyone out, he then walked away and left the room as Sergeant Baxter was entering.

H. McCaffrey
A-9340 Sapper McCaffrey, H.

"The accused declines to cross-examine this witness".

The accused was cautioned as follows: Do you wish to make any statement or to give evidence on oath? You are not obliged to say anything or give evidence, unless you wish to do so, but whatever you say or any evidence you give will be taken down in writing and may be given in evidence.

The accused, F-86525 Private Alfred Arnold GUY, on the strength of 1 Canadian General Pioneer Company, a soldier of the Canadian Army Overseas, having been duly sworn states:-

At approximately 2030 hrs on 16th March 1944, I was pressing clothes in the Y.M.C.A. room of the N.A.A.F.I. in Lindford Camp. At 2100 hrs I left the room with Pte Mulligan and we went to the refreshment room of the N.A.A.F.I. We had supper and at 2115 hrs we left the N.A.A.F.I. and went to the Company Orderly Room, where I saw Sgt Baxter. I asked him if I could borrow the bicycle. He said "Yes", so I took the bicycle and went to my hut where I met Pte Mulligan. We then went out to the "Robin Hood" Public House and we each had three pints of beer. A few minutes after 2200 hrs we left the Public House and returned to Camp, arriving at approximately 2300 hrs. Pte Mulligan and I then went into the Cookhouse and asked the Sgt-Cook for a cup of tea, which he gave us. Then Pte Farmer came into the Cookhouse, and we all left at approximately 2330 hrs. Pte Farmer and Pte Mulligan and I went to the hut from the Cookhouse. Then we went to the Y.M.C.A. Recreation Room of the N.A.A.F.I. I walked in and turned on the radio, and then walked over to a table at which Sgt. Burgess and Pte Gariepy and Spr McCaffrey and three other men whose names I do not know, were gambling. I counted the men at the table, and asked if I could join the game. One man said "No", there are six playing now." I then grabbed Pte Gariepy and he jumped up from the table, and backed towards the door as I held him. I then hit him in the face with my fist, and he broke away from me and went out the door. Sgt. Burgess had a chair in front of him, which was on the floor, so I kicked it away from him. At that moment Sergeant Baxter entered the room and said "What are you doing, you have broken all the furniture in the room." Sgt. Baxter and I then put the room in order. The he said "Come with me, I'm going to lock the door".

SUMMARY OF EVIDENCE

In the case of P-86525 Private Alfred Arnold GUY, on the strength of 1 Canadian General Pioneer Company, a soldier of the Canadian Army Overseas, (Cont'd)

We then left the Y.M.C.A. Room of the N.A.A.F.I. and went to the Company Orderly Room where he phoned Lieut. Smale, who is the Pioneer Detachment Commander at 1 C.E.A.U. and asked him to come down, as he was having trouble in the Camp. I then left the Company Orderly Room, and as I was walking away from the hut Sgt. Baxter called out asking if I had the bicycle. I said "Yes", I'll bring it right over". I brought the bicycle back into the Company Orderly Room, where Sgt. Baxter was waiting with two M.Ps. He then placed me under close arrest.

.....Guy A.A.....
P-86525 Pte Guy, A.A.

I certify that the foregoing Summary of Evidence consisting of Four pages was taken down by me in the presence and hearing of the accused, and that Rules of Procedure 4(c), (d), (e), (f) have been complied with.

.....Lieut.
Officer taking Summary.

In the Field,
29th day of March,
1944.

No. F-88525 Name Guy. A.H. Sqn., Battery, or Company Corps Revised in accordance with R.O. 2084. 26 Dec 41.

Date of last entry in Company Conduct Sheet | No. and date of last drunk | Period not reckoning towards freedom from extra fine | Date of enlistment 26 Jan 41. | G.C. Badges | Service or Proficiency Pay | Sheet No. 1. | Signature O.C. Company, etc. P Lynch Capt

M.F.M. 6 (A.F. B.122) 40/P & /6136 (2965)

Character

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order (Interposing with trial	By whom awarded	Remarks
Field	4 Oct 42	Pte		Neglect to the prejudice, etc. Failed to have rifle cleaned and properly A.A. Sec 40.	C.S.M. Jarvis Sgt. King. R.W.	3 days C.B.	17 Oct 42.	Maj P.H.L. Woodall	
Field	17 Oct 42	Pte		1st Charge: Maliciously inflicting certain grievous bodily harm. 2nd Charge: Wilfully damaging 2 panels of a Police Cell.		4 and 56-7-6 FR&I 159 (1)(2)	17 Oct 42.	Civil Court.	[illegible]
Field	7 Jun 43	Pte		Using insubordinate language to a superior officer A.A. Sec 5(2)	Sgt Cook R.T. L/Cpl Mason (W).	Admonished.	7 Jun 43	Major H.H.L. Davis	3 days pay FR&I 149 (3)
Field	12 Jun 43	Pte		AWL from 2000 hrs to 2230 hrs. 12 Jun 43. (Absent 2 hrs 30 mins) AA Sec 15(1)	Lt. Col Taylor, F.S. Pte Vasey	1 day pay. under FR&I 149(3)	12 Jun 43	Major H.H.L. Davis	

(P.T.O.)

Issued in Accordance with A.O. 2054, 26 Dec 41. M.F.M. 6

(A.F. B.122) 40/P & /5136 (2065)

No. F. 96525 Name Cox, A.A. | Sqn., Battery, or Company | Corps | Date of enlistment | G.C. Badges | Service or Proficiency Pay | Character

Date of last entry in Company Conduct Sheet | No. and date of last drunk | Period not reckoning towards freedom from extra fine | Sheet No. 2. | Signature O.C. Company, etc. P Lieut Coy

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order directing trial	By whom awarded	Remarks
Field	16 Nov 41	Pte		(1) AWL from 1200 16 to 1600 hrs 16 Nov 41 (about 4 hrs) AA Sec 15 (1) (2) Act to the prejudice of g.o. in that he did enter a Public House, known as "The Duke of York" at approx 1310 hrs 16 Nov 41. AA Sec 40	Sgt Johnston W.G. C/C Company H.Q. Capt Cattell A.J.	14 days F.P.	16 Nov 41.	Major R.D.F. Richmond	Forfeit 14 days pay (1) [illegible] 14 days (2)

Certified true copy
P Lieut Coy

O/C 1 CDN. GEN. PNR. COY.

ARMY FORM B.296 (WAR).

Statement as to Character and Particulars of Service of Accused.

(For Use at Trials by Field General Courts-Martial only).

Number.	*Rank.*	*Name.*	*Regiment (or as the case may be).*
F-86525	Pte	Guy, A.A.	1 Cdn. Gen. Pnr. Coy.

NOTE.—The Field Conduct Sheet is to be produced in Court with this statement but is not to be annexed to the proceedings. The numbers herein stated should correspond with the number of Entries in the Field Conduct Sheet, prominence being given to the most serious offence in each entry. If the charge is for drunkenness or absence without leave, the entries for drunkenness or absence, as the case may be, should be stated separately. Any recognized special acts of gallantry or distinguished conduct recorded on the Field Conduct Sheet should also be inserted here.

1. The following is a fair and true summary of the entries in the Field Conduct Sheet of the accused, exclusive of convictions by a court martial or a civil court :—

For	A.A.Sec. 8(2)	One times.
For	A.A. Sec. 15(1)	Two times.
For	A.A. Sec. 40.	Two times.
For		times.

Date of first entry in Field Conduct Sheet 17 Oct 42.

Date of last entry in Field Conduct Sheet 16 Nov 43.

2. Previous convictions of the accused by a court martial or a civil court are set out in the Schedule overleaf.

*Strike out if not applicable.

*3. The accused at the present time is under sentence for ~~imprisonment~~ beginning on the ~~day of~~

4. The accused has been awaiting trial on the present charges for No days in civil custody; and for ~~27 28~~ days in military custody, *i.e.*, No days in open arrest, ~~27 28~~ days in close arrest; of which No days were spent in hospital.

5. The present age of the accused is 23 years 225 days

6. The date of his ~~attestation~~ ~~enlisting up for military service~~ is 26 Jun 41.

7. The service which the accused is allowed to reckon is 2 years 289 days.

†State the military decorations (if any) held by accused.

8. The accused is in possession of† Cdn. Volunteer Medal & Clasp. D.O. #5 d/15 Jan 44.

*9. ~~(If the accused is a warrant officer or N.C.O.). The accused has served continuously~~ without reduction, to the present date—

	Date of Promotion.
In the substantive rank of	
In the ~~war~~ substantive rank of	
In the ~~acting~~ rank of	

ET 8 AM

INSTRUCTION.—*If any matter in any of the above paragraphs cannot be stated from the regimental books the paragraph must be struck through.*

[11111] W4-4670/662 100,000 4/42 A.& E.W.Ltd. Gp.698
[21555] W1-29456/1972 60,000 9/42 Forms/B.296(War)/2

SCHEDULE OF CONVICTIONS BY A COURT-MARTIAL OR CIVIL COURT.

Description of Court by which tried.	Date and Place of Trial.	Charges upon which convicted.	Sentence of the Court.	Punishment remitted or sentence suspended.
Civil	1 Feb 43. Reading,	1st Charge: Maliciously inflicting certain grevious bodily harm. 2nd Charge: Wilfully damaging two panels of a Police Cell.	Fined, £8-7-6 under FR&I 159 (1)(a)	

I HEREBY CERTIFY that the foregoing particulars, which have been extracted from the regimental books in my custody, are correct to the best of my knowledge and belief.

Signed this ~~12th~~ 14th day of April, 1944.

P Kent Capt.
A/Officer Commanding,
1 Cdn. Gen. Pioneer Coy.

52-90
1st Lt. Guy, F.

RECEIVED 10 SEP 1945 JAG BRANCH G.H.Q.

RECORDED AT CMHQ IN AB 160 54-90

FIELD GENERAL COURT-MARTIAL

CFA86 (To form of AFAB1 40/1 & B. 1698 (6144) 4/38B

Convened by Order of Brig H.O.N. Brownfield DSO MC Comd "C" Gp, CGRU dated 25 Aug 45

ACCUSED.

(As to the trial of two or more charged jointly see RP 16, 71, 109. As to reasons for showing (a) permanent or confirmed rank, and (b) apptmt, A/rank or A/apptmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

Number.	(a) Prmnt R.	(b) Apptmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
C70303	Private		Provin	GUY	1 CGRU

PROCEEDINGS REVIEWED 10 Sept 45

REVIEWING OFFICER, JAG BRANCH C.M.H.Q.

PROCEEDINGS OF TRIAL.

Held in the Fd in (*country*) ENGLAND on (*date(s)*) 27 AUG 45

RECORD FORM A—OPENING PROCEEDINGS AND ARRAIGNMENT.

A1. The President, Members, ~~waiting Member, JA, if any, and Offrs under instr, if any~~, assemble, and the Court is closed.

(PRINTED MATTER, NOT IN ITALICS FOR GUIDANCE, WILL BE DELETED, IF NOT USED OR APPLICABLE, AND INITIALLED BY PRES OF JA. The Schedule referred to throughout it on p 4. Citations do NOT include all relevant fnns RDs. For guidance on procedure when a variation in this form arises, see form for GCM in MML pp 741 to 759. A brief record of such variation will be made and given a number having reference to appropriate or preceding para number herein. See back of Convening Order, CF A85, for oaths and instrs on how to record addresses, evidence, etc, which instrs are hereafter called "Notes". As to general provisions for conducting the trial see AA 53, RP 36, 63-70, 73, 74, 94, 103, 119, 132.)

A2. The President initials and lays before the Court the Convening Order and Charge Sheet(s) attached thereto.(1) The Court is satisfied that it is properly convened and constituted(2), accused is (are) amenable to military law, and each charge discloses an offence.(3)

(1. As to use of Summary of Evidence see RP 17 fn 6. 2. AA 49, 50, RP 105-107. 3. RP 11-13, 23, 24.)

A3. The Court is opened. The accused is (are) brought before the Court. At ..... hours trial commences.

A4. The Prosecutor produces a Medical Certificate that accused is (are) fit to undergo trial by court-martial.(1) ~~The Prosecutor informs the Court that accused elected to be tried by court-martial instead of being dealt with summarily by the CO.~~ (2)

(1. KR Can 557. 2. AA 46(B), RP 60 fn 1. For effect see KR Can 563(c). Delete, if not applicable.

A5. ~~President to accused:~~ Do you object to ..... ~~as interpreter?~~ Ans .....

~~The Interpreter is sworn.~~ (1) Do you object to C/H/4754 Sgt BROADBENT, AE as shorthand writer? Ans NO

The shorthand writer is sworn.(1)

(1. RP 72. Delete, if none employed.)

A6. The Convening Order and names of the President and Members of the Court are read to the accused.(1) President to accused: Do you object to be tried by me as President or by any of the Members of the Court?

Ans NO, SIR (1)

(1. RP 110. 2. If no objection, waiting member retires. RP 60(B). If objection, see procedure AA 51, RP 25, 71, 18, MML p 742.)

A7. The President, Members, ~~JA, if any, and Offrs under instr, if any~~, are sworn.(1) The following are the ranks, names and units of the offrs comprising the Court, etc:

President	LT-COL	D.L. REDMAN	HQ CGRU
Member	CAPT	J.E. CLARK	7 Cdn Repat Dep
Member	LIEUT	W. RACINE	7 Cdn Repat Dep
~~Judge-Advocate~~			
Prosecutor	CAPT	E.A.C. REYNOLDS	1 CGRU
Defending Offr	CAPT	A.C. HOLLAND	1 CGRU

Questions by President: Is the Prosecutor a lawyer? Ans NO Is the Defending Offr a lawyer? Ans NO (2)

(1. RP 26, 27, 109, 111. List of offrs under instr will be returned separately with proceedings for information of Conv Offr.) (2. If Pros a lawyer and Def Offr not, accused is entitled to an adjournment when RP 89 (B) and fn 2 were not followed. See Def p 3.)

A8. The accused ..... before arraignment make(s) (no) ~~(a)~~ plea .....(1)

(1. If a special plea is made for separate trial on one or more charges (RP 62(E), 108), or as to the jurisdiction of the Court (RP 24, 25(A), 113), or in bar of trial (RP 30), or as to accused's mental fitness to stand trial (AA 130, RP 57), or by one of several accused charged jointly to be tried separately (RP 16, 71), such plea, the addresses made in support or against, the evidence, if any, and finding are recorded per Notes. For forms of record see references in fns to RoP cited. Insert in A8 rank and name of the accused making the plea.)

A9. The accused is (are) arraigned (~~separately~~) on all charges in the charge sheet.(1) The accused does (do) not object to any charge.(2) There is no amendment to be made to the Charge Sheet.(2) The President records the pleas in Part I of the Schedule.

(1. RP 31, 112. See para 1 of Instrs p 2. When more than one Charge Sheet see RP 62; when several accused to be tried separately see RP 71(C), and use separate copies of CF A96 to record proceedings. 2. RP 32, RP 33. If otherwise, delete and make appropriate record per Notes.)

A10. The Court (~~is cleared and~~) considers the Instrs on Procedure after Arraignment at top of p 2. The proceedings are continued on Record Form B

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

INSTRUCTIONS ON PROCEDURE AFTER ARRAIGNMENT.

1. *The accused may not plead or be found Guilty on more than one of two or more charges laid in the alternative.* (RP 37(A).) *As to withdrawal of alternative charges by Prosecutor see RP 35(C). No other charge can be withdrawn for any reason without authy from Convening Offr. If Convening Offr concurs, Court may accept plea of Guilty to lesser, etc, offence.* (RP 44(H).) *Accused may change a plea of Not Guilty to Guilty during trial.* (RP 38.) *As to refusing to plead or not pleading intelligibly see RP 35(A). As to plea when sentence may be death see RP 35(D).*

2. *The proceedings on each charge sheet (RP 62) after arraignment will be conducted as follows in the respective circumstances stated:*

I. If pleas to all charges are GUILTY, use Record Form B below.

II. If pleas to all charges are NOT GUILTY, use Record Form D on p 3.

III. If pleas to some charges are GUILTY and to other charges are NOT GUILTY and,

(a) *Such mixed pleas occur when there are no alternative charges in the Charge Sheet, use Record Form C below.* (RP 37(A).)

(b) *Such mixed pleas occur in a set of two or more charges laid in the alternative, see RP 37 (A) and fn 2 as to discretion of Court, (i) to try the accused on all such alternative charges as if he had pleaded Not Guilty thereto, or, (ii) to record the pleas as the findings of Court. After deciding between (i) and (ii), Court will proceed under foregoing instrs as may be appropriate to result of its decison. See M M L p 744 Instrs (2).*

3. *As to responsibility of President to accused see RP 59, 60(C); powers and duties of JA see RP 103; duty of Prosecutor see RP 60(A) (B); duty and privileges of accused and Defending Offr see RP 60(C), 87(C), 91, 92; swearing and withdrawal of witnesses from Court see RP 81, 82; questioning of accused see RP 86, 87(C), 92(B), and of witnesses see RP 83-85; calling or re-calling of witnesses by Court, etc, see RP 75-79, 86, 116; use of Summary of Evidence at Trial see RP 17(E) fn 6; and responsibility of JA or Pres to record proceedings see RP 94, 96.*

RECORD FORM B—PROCEEDINGS ON PLEAS OF GUILTY TO ALL CHARGES.

B1. The President ~~or JA, if any,~~ complies with RP 35(B) by explaining to the accused the nature and meaning of the charge(s)(1), and that on his plea of Guilty there will be no regular trial but merely a consideration of the sentence to be awarded after he has been given an opportunity to make a statement in reference to the charge(s), call witnesses as to character and make an address in mitigation of punishment.(2)

(1. *RP 35 fn 3.* 2. *MML p 54 para 47.*)

B2. President to accused: The Court will now receive any statement you desire to make in reference to the charge(s).(1) If it appears from your statement that there are circumstances which indicate that you do not understand the effect of the plea of Guilty(3), or which show provocation or extenuation in respect of which in your interest the witnesses for the Prosecution should be examined(4), we shall advise you to change your plea to Not Guilty. In making a statement you will not be sworn or subject to cross-examination; and anything you say will not be used in evidence against you after you change your plea. If, however, it appears to the Court that your statement affects only the amount of punishment to which you are liable, you will not be advised to change your plea and you will be given an opportunity later to prove your statement by sworn testimony, if you so desire.(4)

President to accused: Do you wish to make a statement? Ans. NO SIR (5)

(1. *RP 37(B).* 2. *RP 37(D) fn 6.* 3. *RP 35(B) fn 5 para 3, MML p 54 para 47.* 4. *See para E3 of Record Form E.*
5. *Statement, if any, recorded per Notes.*)

B3. ~~The Court considers the accused's statement (1). The Court decides (not) to advise accused to change his (their) plea(s) of Guilty to Not Guilty on charge(s). The accused is (are) so informed, and he (they) change(s) his (their) plea(s) on charge(s). Part I of the Schedule is amended accordingly.~~

(1. *Court may be closed to consider the statement. Delete whole or part not used.*)

B4. On the charge(s) to which the plea(s) of Guilty is ~~(are)~~ not changed the President records findings of Guilty in Part I of the Schedule.(1)

(1. *RP 35(B). If any plea(s) is (are) changed, use Record Form C or D as appropriate.*)

B5. The Summary of Evidence is marked Ex 'A', initialled and read aloud by the President.(1)

(1. *If there is no Summary, or if it is inadequate, comply with RP 37(B). If there is any evidence inconsistent with any plea standing as Guilty, Court will advise accused to change such plea and, if changed to Not Guilty, try such charge(s) by use of paras D1 to D8 inclusive of Record Form D on p 3. RP 37(D).*)

B6. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

RECORD FORM C—PROCEEDINGS ON MIXED PLEAS OF GUILTY AND NOT GUILTY.

C1. As to the charges on which accused pleaded NOT GUILTY the trial is continued by using paras D1 to D8 inclusive of Record Form D on p 3 before proceeding with C 2.(1)

(1. *RP 37(A) (E).*)

C2. The charges on which accused pleaded GUILTY are read to him (them) again, and the trial is continued by using paras B1 to B5 of Record Form B above.(1)

(1. *Under B5 such parts only of the Summary of Evidence are read as relate to the charges dealt with under C2. If any plea is changed to Not Guilty, trial thereon proceeds by complying with paras D1 to D8 inclusive in Record Form D on p 3 and making an appropriate record thereof on a separate sheet.*)

C3. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

CHARGE SHEET

The Accused, C.70303 Private GUY, Provin, Canadian Forestry Corps, on the strength of General Coy, No 1 Canadian General Reinforcement Unit, a soldier of the Canadian Army Overseas, is charged with:

First Charge

Section 15 (1)

Army Act.

WHILE ON ACTIVE SERVICE

ABSENT WITHOUT LEAVE

in that he

at Field, did absent himself without leave from 1300 hrs 17 May 45 until apprehended by C.M. Police at 1830 hrs 10 Aug 45. (Absent: 85 days 5 hrs 3 mins)

(B H Ker) Colonel
Comd No 1 Cdn Gen Rft Unit
Canadian Army Overseas

In the Field

This 21st Day of August, 1945.

To be tried by Field General Court Martial,

Commanding 6th Group, Cdn Reinforcement Units. Brigadier,
(Convening Officer)

Bordon, Hants.
25 Aug 45

FIELD GENERAL COURT-MARTIAL

(Whether the accused to be tried is under his comd or not, a FGCM may on application to him be convened by any offr of Cdn Army Overseas, or of any other force if authorized in law, in immediate comd of troops on active service, subject to RP 105(C) and restrictions imposed by appropriate authy. AA 49, 50, RP 104-107, 114. As to the duties and privileges of the Convening Offr in dealing with the application see MML Chap V paras 20 and 21, RP 87(B).
There should be a separate Convening Order for each person to be tried separately by the same Court. RP 71(C), 109. As to separate charge sheets see RP 62, and as to separate trial on charges in the same charge sheet see RP 108. As to two or more accused charged jointly see RP 16, 109.
As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

ACCUSED.

Number.	(a) Prmnt R.	(b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
C-70303	Pte		Provin	GUY	1 CGRU

CONVENING ORDER.

1. Whereas complaint has been made to me, the undersigned, that the person named above as the accused, being subject to military law, has committed the offence set forth in the Charge Sheet attached and on (date) this date endorsed by me, ~~[illegible]~~), "To be tried by Field General Court-Martial".

2. And whereas I am of opinion that it is not practicable that such offence should be tried by an ordinary General Court-Martial; ~~[illegible]~~
(Delete part in brackets when not required for compliance with RP 105(C).)

3. I hereby convene a Field General Court-Martial to try the said person, and to consist of the Offrs appointed or detailed hereunder.

4. ~~[illegible]~~
(AA 49, RP 106(B), 107(A). Delete the whole or part, if not applicable.)

5. ~~[illegible]~~
(RP 106(E). Delete, if none appointed.)

PRESIDENT.

(Rank.)	(Must be named. RP 106.)	(Unit.)
Lt-Col	D.L. Redman, VD	HQ CRU

MEMBERS.

(Rank.)	(Named or detailed. RP 106.)	(Unit.)
Captain	to be detailed by CO	7 Repat Depot
Lieutenant	to be detailed by CO	7 Repat Depot

WAITING MEMBER.

(Rank.)	(Named or detailed, if any. RP 106.)	(Unit.)

JUDGE-ADVOCATE.

(Rank.)	(Must be named, if any. RP 106.)	(Unit.)

On Active Service in the Fd

in ENGLAND (Country.)

(Signed personally. RP 105 fn 2.) Brigadier, (Rank.)

Dat 25 Aug 45

Commanding "C" Group, Cdn. Reinforcement Units.
Convening Officer.

CONVENING OFFR WILL INITIAL ALL DELETIONS AND ALTERATIONS

4/38A CPA 95 (In lieu of AFA 2) 40/P & E/1597 (5142)

(See overleaf for oaths and notes for use on trial.)

MEDICAL OFFICER'S REPORT

I certify that I have this morning examined ..C.70303 Private.....

GUY, Provin.....

of.....No.1.C.G.H.U..... and in my opinion he is fit to undergo

trial by Court-Martial.

.....
Medical Officer
No 1 Cdn Gen Hft Unit
Canadian Army Overseas

In the field

27 AUG 45.

TRIAL OF

C-70303 PRIVATE GUY P 1 CGRU

Theaccused, sworn, states:-

I've been 4½ years in the army. I've had only five leaves; I've asked every month to get a 48-hr week-end pass. I just got one of them. They were all turned down becuase they said I was too late in asking for them. Some time I asked for them on Tue and they still said it was too late. Some fellows from the same company got their week-end pass pretty near every month. We are allowed a 48-hr week-end pass a month. I got a girl friend in Scoltant whom I intend to marry. I'm not married and I'm 26 years old. It often happened that after a week-end pass that I wouldn't have enough money to take long leaves. I did have the intention to give myself up; I tried twice and I went down town for that purpose but didn't have enough nerve to do as this is my first big offence in the army.

IN THE OPINION OF THE COURT IT IS NOT NECESSARY TO COMPLY WITH RP 83 (B).

7033 Pte. Terry P.

Plea in mitigation of Sentence

27 Aug. '45

Accused enlisted in February 1941, & for one half years service, of which four months from [illegible] have been spent overseas, has [illegible] a clean conduct sheet. His character is described as good.

In his plea of service Accused has had [illegible] Pte. Terry [illegible] 45 days [illegible] all [illegible] for [illegible] Accused has [illegible] Accused [illegible] Accused [illegible] Pte. Terry [illegible] turned [illegible] to [illegible] so [illegible] know, and [illegible] greater [illegible] Accused is a first offender, a young soldier only twenty-one years of age. The Accused [illegible] get married later on. He has had only one [illegible] given [illegible]

A.C.H. Holland Capt.

E-3

SUMMARY OF EVIDENCE

in the case of

C-70303 Pte. Provin GUY, Canadian Forestry Corps, on the strength of General Company, No 1 Canadian General Reinforcement Unit, a soldier of the Canadian Army Overseas.

I produce the following documents pursuant to Overseas Routine Order #5352, which have been read over and shown to the Accused, and which are attached hereto as exhibits.

(1) Certified True Copy of the Declaration of a Court of Inquiry on the Illegal Absence of the Accused, C-70303 Pte. GUY, P. (Att as Exhibit "A")

(2) Certificate of Apprehension of the Accused C-70303 Pte. GUY, P. by the 72 H.Q. Provost Coy., C.M.P. (Att as Exhibit "B")

(J.P. Hughes) Lieut.
Officer detailed to take Summary of Evidence.

THE ACCUSED WAS CAUTIONED AS FOLLOWS:

"Do you wish to make any statement or give evidence on oath? You are not obliged to say anything or give evidence unless you wish to do so, but whatever you say or any evidence you give will be taken down in writing and may be given in evidence."

After the above caution, the Accused does not wish to make any statement or give evidence on oath.

The Accused does not call any witnesses.

"I certify that the above Summary of Evidence, consisting of one page, was taken down by me in the presence and hearing of the Accused, and that Rules of Procedure 4 (c) (d) (e) (f) and (g) have been complied with.

Officer detailed to take Summary of Evidence.

IN THE FIELD
THIS 10 DAY
OF AUG 1945.

EXA

EXHIBIT "A"

REINFORCEMENT SECTION
CANADIAN FORESTRY CORPS

12 Jun 45

D-E-C-L-A-R-A-T-I-O-N

The Court declare that C 70303 Pte GUY, P., Reinforcement Section, Canadian Forestry Corps, illegally absented himself without leave at BEAULY, INVERNESS-SHIRE, SCOTLAND, on the Seventeenth Day of May 1945; that he is still so absent, and that on the Twelfth Day of June 1945, he was deficient of the following articles:-

ARTICLES	No.	PRICE	AMOUNT
B.D. Blouse Serge	1	£ 6.50	£ 6.50
B.D. Trousers " prs	1	6.55	6.55
Boots Ankle prs	1	5.81	5.81
Beret, Khaki	1	1.21	1.21
Drawers Cellular prs	1	.43	.43
Shirts Flannel Khaki	1	2.40	2.40
Socks Woollen prs	1	.46	.46
Badges Cap, CFC	1	.09	.09
Brushes Cloth	1	.48	.48
Combs Hair	1	.04	.04
Forks N.S. Table	1	.07	.07
Knife Table	1	.15	.15
Spoons N.S. Dessert	1	.09	.09
		TOTAL.....	£ 24.28

PRESIDENT

CAPT. R.S. PIMM — Adjt.Reinf.Sec.CFC

MEMBERS

CAPT. C.A. HOWES — O.i/c CAM Sec HQ CFC

CAPT. G.H. MARTIN(RCAMC) — HQ Reinf.Sec. CFC

Certified true copy of Declaration of Court of Inquiry assembled at Reinforcement Camp, Beauly, on 12th June 1945 for the purpose of inquiring into the illegal absence of C 70303 Pte GUY, P.

(R.S. Pimm) Capt., Adjt.,
Reinforcement Section,
Canadian Forestry Corps.

CASE OF C-70303 Private GUY, Provin

(i) LIST OF WITNESSES FOR PROSECUTION

Nil

(ii) LIST OF WITNESSES FOR DEFENCE

Nil

(iii) LIST OF EXHIBITS FOR PROSECUTION

(a) Certified True Copy of the Declaration of a Court of Inquiry on the Illegal Absence of the Accused, C-70303 Pte GUY, P. (Att as Exhibit "A").

(b) Certificate of Apprehension of the Accused C-70303 Pte GUY, P. by the 72 H.Q. Provost Coy., C.M.P. (Att as Exhibit "B").

(iv) LIST OF EXHIBITS FOR DEFENCE

Nil

(v) RECEIPT BY ACCUSED FOR COPY OF CHARGE SHEET AND SUMMARY OF EVIDENCE

I hereby acknowledge that I have been served with a true copy of the Summary of Evidence taken at Field, preliminary to my Court-Martial. I further acknowledge that I have been served with a true copy of the charges under which I am being brought to Court-Martial.

Guy. P.
.....
(C.70303, Provin GUY) Private.

(vi) APPLICATION BY ACCUSED FOR DEFENDING OFFICER

I hereby request that the Convening Officer appoint an Officer to represent my at my trial.

I desire the services of .....
if he is available.

Guy. P.
.....
(C.70303, Provin GUY) Private.

SIGNED AT FIELD

THIS 27 DAY

OF AUGUST, 1945.

EXHIBIT "B"

Certificate in accordance with the Army Act, Sect. 163 (1) (a).

I Certify that No. 6270303 ..... Rank Private ... Name [illegible] .....

Unit [illegible] ..... was arrested at [illegible] .....

at ..1830..... hours on 10 AUG 45.....

Signature of Provost [illegible]hal, A.P.M., or other officer into whose custody the above-named person was taken on arrest.

P.B. Davidson
Staff Lieut.
372 M.G. Provost Company
C.M.F.

ARMY FORM B.296 (WAR).

Statement as to Character and Particulars of Service of Accused.

(For Use at Trials by Field General Courts-Martial only).

Number.	*Rank.*	*Name.*	*Regiment (or as the case may be).*
C-70303	Pte	GUY, Provin	No 1 C.G.R.U.

NOTE.—The Field Conduct Sheet is to be produced in Court with this statement but is not to be annexed to the proceedings. The numbers herein stated should correspond with the number of Entries in the Field Conduct Sheet, prominence being given to the most serious offence in each entry. If the charge is for drunkenness or absence without leave, the entries for drunkenness or absence, as the case may be, should be stated separately. Any recognized special acts of gallantry or distinguished conduct recorded in the Field Conduct Sheet should also be inserted here.

1. The following is a fair and true summary of the entries in the Field Conduct Sheet of the accused, exclusive of convictions by a court martial or a civil court :—

For NIL ..... times.

For ..... times.

For ..... times.

For ..... times.

Date of first entry in Field Conduct Sheet Nil

Date of last entry in Field Conduct Sheet Nil

2. Previous convictions of the accused by a court martial or a civil court are set out in the Schedule overleaf.

*Strike out if not applicable.

*[redacted] day of

4. The accused has been awaiting trial on the present charges for ..... days in civil custody; and for 16 days in military custody, *i.e.*, ... days in open arrest, 16 days in close arrest; of which ..... days were spent in hospital.

5. The present age of the accused is (YOB) 29 Dec 18

6. The date of his attestation is 25 Feb 41

7. The service which the accused is allowed to reckon is .....

8. The accused is in possession of† CVSM & Clasp

†State the military decorations (if any) held by accused.

9. [redacted] Documentation error corrected by [illegible] in the proper place. [illegible].

In the substantive rank of .....

In the war substantive rank of .....

In the temporary rank of .....

2 X B

INSTRUCTION.—*If any matter in any of the above paragraphs cannot be stated from the regimental books the paragraph must be struck through*

(*28072) Wt.30751/3782 30,000 9-44 A.& E.W.Ltd. Gp.686

SCHEDULE OF CONVICTIONS BY A COURT-MARTIAL OR CIVIL COURT.

Description of Court by which tried.	Date and Place of Trial.	Charges upon which convicted.	Sentence of the Court.	Punishment remitted or sentence suspended.

I HEREBY CERTIFY that the foregoing particulars, which have been extracted from the regimental books in my custody, are correct to the best of my knowledge and belief.

Signed this 27 day of AUG 45

W.T. Murray Capt.

[W. Murray] Capt & Adjt
No 1 Cdn Gen Rft Unit C.A. (O)

3/17 MFM 6
(AFB 122)
69/P&S/136 (54545)

C.70303 Name GUY, P. Sqn, Battery, or Company — Corps C.F.C. — Date of enlistment 25 Feb 41 — OC Badges — Signature OC Company, etc — Service or Proficiency Pay — Character

Date of last entry in Company Conduct Sheet 27 Mar 43 — No. and date of last drunk — Period not reckoning towards freedom from extra fine — Sheet No 3

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
				Last Sheet Destroyed 25 Feb 43	NO Regt'l entries to date.				
				CERTIFIED TRUE COPY OF ORIGINAL DOCUMENT IN MY POSSESSION (W Murray) Capt & Adjt. No 1 Cdn Gen Rft Unit Canadian Army Overseas 28 Aug 45.					

SCHEDULE.

PART I. PLEA(S), FINDING(S) AND SENTENCE.

Accused: C.70303 Pte Provin GUY 1 CGRU

Charge. (Insert "alternative" where applicable.)	Plea (See instrs p 2.)	Finding. (See note below.)	(Space for use as required for further charges, accused charged jointly, special findings, etc.)
1st AA SEC 15(1)	GUILTY	GUILTY	
~~2nd~~			
~~3rd~~			
~~4th~~			
~~5th~~			
~~6th~~			

(Note: As to findings for lesser offences see AA 56, RP 44; findings on alternative charges see MML p 483 fn 4 para 2, RP 44; special findings see RP 44 and MML p 753, and in lieu of kit see RP 44 fn 6.)

~~At present under sentence for~~ beginning on (date) (*)
(I. Insert sentence being served, or delete, if not applicable. See RP 46(A). Information should be found on MF B355 or AF B296.)

Time in confinement awaiting present trial—a total of 16 days, of which NIL days were spent in hospital. (*)
(I. See RP 46(A) fn 2. Information should be found on MF B355 or AF B296 admitted in evidence under E2.)

Sentence Awarded by the Court:
10 months detention for absence
& forfeiture of one hundred and fifty (150) days.

27 Aug 45 [illegible] President. (RP 45, 50.)
(Sgd) Date awarded.
Judge-Advocate, if any.
(See back of Convening Order as to assembly and disposal of record after trial.)

PART II. MINUTE WHERE CONFIRMATION RESERVED. (AA 54(5), RP 120(F), MML p 780.)

Date (Sgd) Commanding

PART III. DECISION OF CONFIRMING OFFR ON FINDING(S) AND SENTENCE.

(For duties and powers see AA 54, 57, RP 27(D) fn 6,46(A), 51-56, 120, MML pp 759-761, KR Can 567 577. Acquittals require no confirmation and cannot be revised: AA 54(3). Sending back finding or sentence for revision by Court: AA 54(2), RP 120(G). If not confirmed, accused may be tried again: AA 157, MML p 64. Minute of confirmation or non-confirmation may be altered before promulgation: RP 53, MML p 65. Quashing after promulgation: KR Can 573. Duties and powers of reviewing offrs: AA 57, 57A, RP 53A, 54. The Confirming Offr must sign here personally. AA 172 fn 1.)

My decision on the finding(s) and sentence set forth in Part I is:

Confirmed

I ~~direct that the accused~~ be not committed to prison or detention barracks until further orders. (*)
(I. AA 57A. Delete if not used.)

(Sgd) [illegible] (H.O.B. BROWNFIELD) Brigadier

Date 18 Sep 45 Commanding "C" Group Cdn Rft Units. Confirming Officer.

PART IV. PROMULGATED AND EXTRACTS TAKEN. (RP 53, KR Can 576, 577.)

Accused.	Date.	Signature of Offr.
C-70303 Pte Guy, P.	30 Sept 45.	J.T. Hodgins Capt.

ALL DELETIONS AND ALTERATIONS WILL BE INITIALLED.

RECORD FORM D—PROCEEDINGS ON PLEAS OF NOT GUILTY TO ALL CHARGES.

D1. President to accused: Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity to prepare your defence? Ans.....(1)

(1. If "yes", see RP 39(A) for procedure. Statement or evidence, if any, is recorded per Notes.)

D2. The Prosecutor makes (an) (no) opening address.(1)

(1. RP 39(B), 60(A)(B), 90, 92(C)(D). Record address per Notes, subject to RP 95(C).)

D3. The evidence for the Prosecution is taken.(1)

(1. RP 39(C), 114, KR Can 555. Record evidence per Notes. As to Prosecutor giving evidence himself see RP 39(D)(E).)

D4. The Prosecution is closed.(1) The Defending Offr submits that the evidence for the Prosecution does not establish a prima facie case against the accused on the.....charge(s).(2) The Court is closed, and considers the submission.(3) The Court is re-opened, and the President announces that the submission is disallowed on the.....charge(s), and allowed on the.....charge(s), and that, accordingly, the trial will proceed on the former, but the accused is (are) found Not Guilty on the latter charge(s).(4)

(1. Delete remainder of this para, if submission not made. 2. Arguments on submission, answer and reply are recorded per Notes. 3. RP 40 fn 1. See MML p 72 paras 12-14 and p 81 para 42. 4. Delete part not used. If accused acquitted on all charges, use second alternative in para D8.)

NB: If trial proceeds, accused must be allowed great latitude in making his defence, and the Court should not stop his defence solely on ground of irrelevance. (RP 60(C), 114, 115.)

D5. President to accused: You will now proceed with your defence.(1) You may, if you wish, give evidence yourself on oath as to the facts or your character or both, in which case you will be subject to cross-examination.(2) You may, however, make a statement without being sworn, and you will not be subject to cross-examination.(3) But a statement which could have been made on oath will not carry with the Court the same weight as sworn testimony.(4) You may call witnesses in your defence and as to character, whether you give evidence or make a statement or do neither.

President to accused: Do you wish to give evidence yourself as a witness, make a statement, or do neither?
Ans.....
Do you intend to call witnesses on your behalf?
Ans.....Are they witnesses as to character only? Ans.....

(1. RP 115. 2. RP 40(A), see 80(D). 3. RP 40 fn 10. 4. RP 40 fns 2, 9.)

D6. Consequent on the answers recorded in para D5 the appropriate procedure for the defence is followed.(1)

(1. RP 114, 115, 116. For procedure see Notes on back of Convening Order, CF A95. Evidence for accused as to his character should, if in his interest, be given before the finding. See RP 46(A) fn 1, 86(C). Note the further opportunity in para E3 of Record Form E. Record per Notes addresses, statement, evidence and any summing up by the JA under RP 42, 103(e).)

D7. The Court is closed to consider the finding(s).(1) The finding(s) of the Court is (are) recorded in Part I of the Schedule.(2) The Court is re-opened.

(1. RP 43, 117(A). See Notes in Part I of Schedule. 2. RP 44(A).)

D8. The President announces the finding(s), if any, of Not Guilty, and states to the accused that the finding(s) of the Court on the.....charge(s), being subject to confirmation, will be promulgated later.(1)
Or, The President announces that the accused is found Not Guilty on all charges and is to be released forthwith, and that the proceedings are accordingly terminated. Part I of the Schedule is dated and signed.(2)

(1. AA 54(3)(b), RP 45, 120(A). 2. AA 54(3), RP 45, 117. This alternative announcement is not applicable when there are pleas of Guilty outstanding and dealt with under Record Form B or C.)

D9. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E below.

RECORD FORM E—PROCEEDINGS ON CONVICTION BEFORE SENTENCE.

E1. President to accused: Do you wish to give evidence yourself or to call any witnesses as to your character?(1)
Ans. Yes, I would like to call WO1C 417

(1. If evidence has already been given by accused or his witnesses as to his character, delete this para. RP 37(C) fn 4, 46 fn 1. Accused and witnesses are sworn. Evidence recorded per Notes.)

E2. The Prosecutor produces Statement(s) as to Character and Particulars of Service(1), and certified true ~~copy~~ (copies) of Conduct Sheet(s)(2), purporting to refer to the accused, which he submits to the Defending Offr for examination, and then to the Court for admission in evidence. The Court is satisfied that these documents refer to the accused, because (i) they purport to be signed in the manner required by AA 163(l)(g)(h), and (ii) they purport to refer to (a) soldier(s) having the same number, rank, name and corps as the accused. Admitted in evidence and marked Ex B and Ex C respectively.(3)

(1. MFB 355 or AFB 296. 2. MFM 6. 3. RP 46, KR Can 558. If above documents not produced, see RP 46 fn 1 para 1.)

E3. President to accused: Do you wish to address the Court on the Statement(s) and Conduct Sheet(s), and in mitigation of punishment?(1) Ans. Yes, I do. (NOTE ATT)(2)

(1. RP 37(C), 46(D). 2. Address, if any, recorded per Notes. Court should permit accused or his witnesses to prove on oath anything here or previously stated which would affect the amount of punishment. RP 37(F) fn 7.)

E4. The President states that the Court is closed to consider the sentence, and that the sentence to be awarded by the Court, being subject to confirmation, will not be announced, but will be promulgated later, and the proceedings in open court are accordingly terminated.(1)

(1. AA 54(6), RP 120(A).)

E5. The Court considers the sentence.(1) The President records the sentence in Part I of the Schedule, which is dated and signed by him ~~and the J.A. if any~~.(2)

(1. When several accused tried separately see RP 71(D). One sentence only, comprised of the punishment or punishments laid down in AA 41, 44 and its proviso, is to be awarded to cover all charges in all charge sheets on which accused found guilty. RP 48. As to sentences see AA 44, 138, 182, RP 46-50, 69, 118, 119(A), KR Can 308, 330, 563-566, Overseas RO 309, 2323, MML p 60, 757-759. As to sentences assigned for civil offences by the law of England see AA 41(5), MML p 130. When accused already under sentence of imprisonment or detention see AA 44(18), 68(1), KR Can 564. 2. RP 50. As to release from arrest by Confirming Offr see KR Can 567. As to assembly and disposal of record after trial see instrs on back of Convening Order.)

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

KKK-116
PTE GUYETTE RD

Certified True Copy "A.M. RUSSELL"
(R. Cordeau) Maj
Capt.

Army Form A.3.

Form for Assembly and Proceedings of Field General Court Martial on Active Service.

PROCEEDINGS.

A.

Order convening the Court.

On Active Service, this Twentieth day of March, 19 44.

Whereas it appears to me, the undersigned, an officer in Command of 3 Cdn Inf Bde., on active service, that the persons named in the annexed Schedule, being subject to Military Law, have committed the offences in the said Schedule mentioned.

And whereas I am of opinion that it is not practicable that such offences should be tried by an ordinary General Court Martial; * [and that it is not practicable to delay the trial for reference to superior qualified officers] "T.G.G."

*Omit where convening Officer a Commanding Officer or is of Field Rank.

I hereby convene a Field General Court Martial to try the said persons, and to consist of the Officers appointed or detailed hereunder.

*Omit if not applicable.

* [I am unable to appoint
*(1. Three Officers to form the Court)
*(2. A Field Officer as President
for the following reasons:] "T.G.G."

Note.—The President must be named. The members and waiting members (if any) may be mentioned by name, or the number and ranks and the unit to which they belong may alone be named. In the latter event, the ranks, names, &c., of the members of the Court, as constituted, will be recorded on the proceedings.

President.

Rank.	Name.	Regiment.
Major	A.M. Russell	West NSR

Members.

Rank.	Name.	Regiment.
Captain	R.G. Thexton	W.NSR.
Captain	J.B. Jalbert	R.22e R.
Lieut.	R. Piche	R.22e R.

Waiting

*Must be signed personally by the Officer actually in command at the time, and all alterations in the compositions of the Court to be initialled by him.

*Signed, "T.G.Gibson" Brigadier

Commanding 3 Cdn Inf Bde
Convening Officer.

SCHEDULE

Number, Rank (a), Name and Unit of Accused (b)	Offence charged	*Plea	Finding, and if Convicted, Sentence (c)	How dealt with by Confirming Officer (d)
A67997 Pte Roy Donald GUYETTE, Carlt & York R.	First Charge Sec 12(1)(a) AA	Not Guilty	GUILTY Two Years imprisonment with hard labour "A.M. Russell" Maj 21 Mar 1944	Confirmed "T.G.G."

*Question to be asked of accused, if he pleads not guilty (R. of P. 39 (A)) :—
"Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity for preparing your defence ?"
Answer (*to be recorded on separate sheet if necessary*) :—

(Signed) "T.G. Gibson" Brigadier (Signed) Major "A.M. Russell"
Commanding 3 Cdn Inf Bde Convening Officer (c) President.

(a) Appointment acting rank or acting appointment, if any, to be stated in brackets after the substantive rank.
(b) Unless unavoidable, not more than three names are to be entered on one form, and in serious cases one only.
(c) Recommendation to mercy, if any, to be inserted in this column.
(d) It is not necessary that the Confirming Officer should sign his name in this column. Initials are sufficient.
(e) Must be signed by the same Officer who signs on the first page, and all alterations in the first two columns of the Schedule to be initialled by him.

Evidence and Charge Sheets (If necessary) to be PINNED here.

B. Certificate of President as to proceedings.

I certify that the above Court assembled on the 21 day of March 1944, and duly tried the persons named in the Schedule, and that the plea, finding, and sentence in the case of each such person were as stated in the third and fourth columns of that Schedule.

I also certify that :—
1. The members of the Court
2. The witnesses
*(3.—~~The Interpreter~~)
*(4. The ~~officers under instruction~~)
were duly sworn.

*Omit if not applicable.

Signed this 21 day of March 19 44.

"A.M. Russell" Maj.
President of the Court Martial.

C. Certificate in case of death sentence.

*See footnote (b) on page 702 M.M.L. 1928

I certify that the terms of *A.C.I. 570 of 1918 have been complied with.

Signed this day of 19

"A.M.R."
President of the Court Martial.

D. Confirmation.

I have dealt with the findings and sentences in the manner stated in the last column of the Schedule, and, subject to what I have there stated, I hereby confirm the above findings and sentences.

*To be omitted unless penal servitude, imprisonment or detention having been awarded, the Confirming Officer either has no authority to commit to prison or detention barrack, or, having such authority, recommends suspension.

*(1.) ~~direct that the sentence awarded to the undermentioned non-com-~~ "T.G.G."
~~missioned officer or detention barrack authorities.~~

Signed this 25 day of Mar 19 44.

"T.G. Gibson"
Confirming Officer.

Promulgated and extracts taken in the case of A.67997 Pte R.D. Guyette

(a) (Dated) 30 Mar 44 (Signed) "F.L. Nicholls" Lt. Col Cond. Carleton & York R.

Promulgated and extracts taken in the case of

(Dated) (Signed)

Promulgated and extracts taken in the case of

(Dated) (Signed)

(a) When several cases are promulgated in one unit on the same day the Officer need only sign once.

M.F.M. 6
(A.F.B. 1272)
40/P & /8136 (2065)

No. A 67997 Name GUYETT R.D. | Sqn., Battery, or Company | Corps C.I.C | Date of enlistment 19-11-42 | G.C. Badges | Service or Proficiency Pay | Character -

Date of last entry in Company Conduct Sheet | No. and date of last drunk | Period not reckoning towards freedom from extra fine | Sheet No. | Signature O.C. Company, etc.

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
				FECM: AA 12 (1)(a)		2 YEARS imprisonment	24-3-44.		
				CERTIFIED TRUE EXTRACTS OF MFM 4 43 of 10 AUG 44.					
				G.E. CAMPBELL CAPT for O/C Cdn Sec GHQ 2nd Ech AAI.					

(P.T.O.)

CHARGE SHEET

The accused, A67997 Private Roy Donald Guyette, a soldier of the Carleton and York Regiment, Canadian Army Overseas, C.M.F., when on Active Service, is Charged with:

First Charge
Sec 12 (1)(a) WHEN ON ACTIVE SERVICE DESERTING HIS MAJESTY'S SERVICE

in that he

In the Field, when under orders to move forward to a front line position absented himself without leave from 1950 hrs on 10 Feb 44 until apprehended by the Military Police at BARI at about 2300 hrs on 2 Mar 44, with the intent to avoid proceeding to the front line.

Total absence: 21 days 3 hrs 10 mins.

In the Field
Date: 15 Mar 44

"E.D. Danby" Major
T/Comd Carl and York R.

TO BE TRIED BY FIELD GENERAL COURT MARTIAL

In the Field
Date

"W.C. Gibson" Brigadier
Comd 3 Cdn Inf Bde

B 2
"A.M. Russell"

MEDICAL OFFICERS CERTIFICATE

K.R.(Can) Para 357

I certify that I have this morning examined No. A67997, Guyett, R.D. of the Carleton and York Regiment and in my opinion he is fit/~~unfit~~ to undergo trial by Court Martial.

Station: In the Field

Date. 21 Mar 44

"C.B. Caswell" Capt.,
Medical Officer
R.M.O. Carleton & York Regt.

"A.M. Russel"
Maj

A

Army Form A 9.

**All printed matter not applicable to the particular Court being held should be struck out and initialled by the President.

**Form of Proceedings for General and District Courts-Martial.

Proceedings of a Field General Court-Martial held at Field

on the 21 day of March 1944 by order of

Brigadier T. G. Gibson

Commanding 3rd Cdn Inf Bde

dated the 20 day of March 1944

President.

Major A.M. Russell West N.S.R.
~~Capt J.B. Jolbert~~ R.22e R.

Members.

Capt R. G. Thurston West N.S.R
Capt. J. B. Jolbert R 22e R.

~~Judge Advocate~~

Trial of* A. 67997 Pte Roy Donald Guyette
Carlt & York Regt

The order convening the Court, the charge-sheet and the summary ~~(or abstract)~~ of evidence are laid before the Court.

~~The Court satisfy themselves that~~ ~~is not available~~ to serve owing to "A.M.R."

~~, waiting number to take his place as a member of the Court.~~

The Court satisfy themselves as provided by Rules of Procedure 22 & 23.

The accused is brought before the Court.

Prosecutor,† Lieut. H.A. Record

Counsel‡ or defending officer† Lieut. J.A. Poirer

At 1545 o'clock the Trial commences.

The order convening the Court is read, and is marked X signed by the President, and attached to the proceedings.

The names of the President and members of the Court are read over in the hearing of the accused, and they severally answer to their names.

Question by the President to the accused.

Do you object to be tried by me as President, or by any of the officers whose names you have heard read over? *Answer.*

NO

(N.B.—If objection is made it should be recorded, together with the decision of the Court, on a separate sheet.)

*Here insert No., Rank, full Name, Regiment, and Appointment (if any).
† Here state Rank and Name, and Regiment (if any).
‡ Qualification to be stated.

8002 W13643/2571 10,000,000 12/41 K. & H. Ltd. (A6701) Forms A9-20

B

The President, members ~~and judge-advocate~~ are duly sworn. "A.M.R."

~~The following officers under instruction are duly sworn.---~~". A.M.R."

Charge-Sheet.

Instruction. *If the accused has elected to be tried under Army Act, sec. 46 (3) the fact should be here recorded.*

The charge-sheet is signed by the President, marked B 2 and annexed to the proceedings.

The accused is arraigned upon each charge in the above-mentioned charge-sheet.

Are you guilty or not guilty of the [first] charge against you, which you have heard read? *Question to the accused.*

Not Guilty *Answer.*

"A.M.R. ~~Are you guilty or not guilty of the second charge against you, which you have heard read?~~ *Question.*

Answer.

"A.M.R." ~~Are you guilty or not guilty of the third charge against you, which you have heard read?~~ *Question.*

Answer.

"A.M.R. ~~Are you guilty or not guilty of the fourth charge against you, which you have heard read?~~ *Question.*

Answer.

The accused having pleaded Guilty to M/A charge, the provisions of Rule of Procedure 35 (B) are here complied with.

If the trial proceeds upon any charge to which there is a plea of "Not Guilty," the Court will not proceed upon the record of a plea of "Guilty," until after the finding on that other charge. *Instruction.*

C

Proceedings on Plea of Not Guilty.

*Instruction. (See R. P. 39 (A).)

Question. *Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity for preparing your defence?

Answer. NO SIR

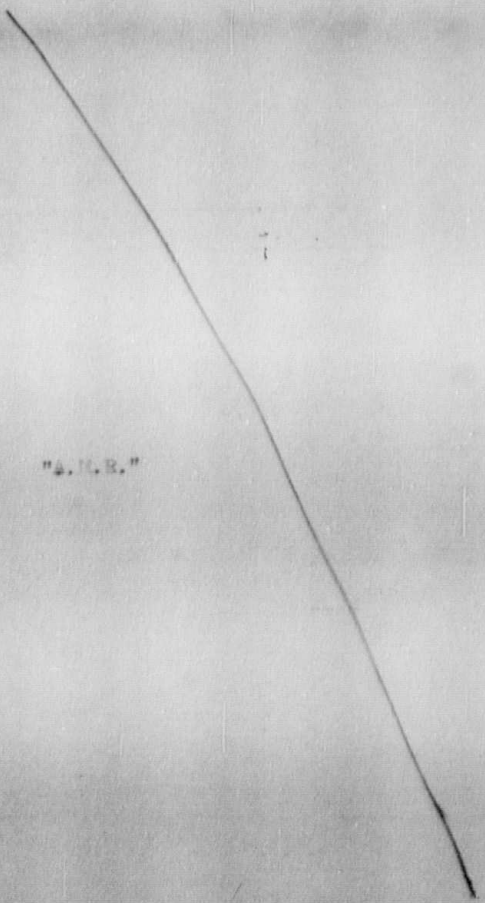
The ~~prosecutor makes his opening address, handing in a written address which is read, marked~~ , signed by the President, and attached to the proceedings. "A. M. R."

The prosecutor proceeds to call witnesses.

First witness for prosecution. APPENDIX C.1

being duly sworn, is examined by the prosecutor.

C 2



"A.M.R."

Statement and certificate of Apprehension refer C.4

The prosecution is closed.

Defence.

Question to the accused. Do you apply to give evidence yourself as a witness?

Answer. No. Sir.

Question. Do you intend to call any other witness in your defence?

Answer. No Sir

Question. Is he a witness as to character only? *Answer.* N/A

INSTRUCTIONS TO THE COURT.

(i) When the answers to the above questions have been recorded, the Court will follow the provisions of Rules of Procedure 40 and 41 respecting the order of evidence and addresses which is applicable to the circumstances of the case.

(ii) All addresses by prosecutor, counsel or defending officer, whether recorded by the Court or handed in in writing will be attached to the proceedings in the order in which they are made. Any address which the accused is entitled to make pursuant to Rules of Procedure 40 (C) (iv) and 41 (A) (i) and (iii) will be similarly dealt with. Written addresses will be read to the Court, marked and signed by the President. If any person who is entitled to make an address declines to do so, a record will be made to that effect.

(*Where any evidence is given for the defence.*)

The evidence of the accused (and of the witnesses for the defence including witnesses as to character) is recorded on a separate page (*see overleaf*).

(*Where the accused does not give evidence upon oath.*)

Question to the accused. Have you anything to say in your defence? D.1

Answer. The accused in his defence ~~says~~ "A.M.R."

[hands in a written address which is read, marked

signed by the President and attached to the proceedings.]

"A.M.R."

Instruction. † In this space will be recorded any oral statement or address made by the accused in his defence when he has not given evidence as a witness. (For any additional address which he is entitled to make, *see* Instructions to the Court *above*.)

D 2

The evidence of the witnesses for the defence, including that of the accused, if he is a witness, will be taken here in the order in which they give evidence.

"A.M.R."

The Prosecutor makes closing address. See O attached.

The defending Officer makes closing address. See P. attached.

E

Finding.*

*To be struck out except in cases where trial has taken place on a plea of "Not Guilty."

The Court is closed for the consideration of the finding.

The Court find that the accused

A.67997 Pte Roy Donald GUTTERIDGE, Carlt & York Regt.

is guilty of the first charge.

"A.M.R."

Proceedings on Conviction *before Sentence.*

*When the Court is already open this sentence will be struck out.

*The Court being re-opened, the accused is again brought before it.

Evidence of character, &c.

Lieut. H.A. Record is duly sworn.

Question by the President.

Have you any evidence to produce as to the character and particulars of service of the accused? *Answer by the Witness.*

The above statement (with the schedule of convictions and of cases in which trial has been dispensed with) is read, marked signed by the President, and annexed to the proceedings.

Question by the President.

Is the accused the person named in the statement which you have heard read? *Answer by the Witness.* Yes

Question.

Have you compared the contents of the above statement with the regimental books? *Answer.* Yes

Question.

Are they true extracts from the regimental books, and is the statement of entries in the conduct sheets a fair and true summary of those entries? *Answer.* Yes

Cross-examined by the accused.

[Instruction.—If by reason of the nature of the service of the accused as a supernumerary rank, or otherwise, the framing of the Court renders him liable to any exceptional punishment on adjudication in trial to be awarded by the Court the prosecutor should call the attention of the Court to the fact, and the Court must inquire into the nature and amount of the additional punishment.]

Defence declines to cross-examine

Question to the accused.

Do you wish to address the Court? *Answer.* Yes.

The Court is closed for the consideration of the sentence.

F

Sentence.

Sentence

The Court sentence the accused

A.67997 Pte Roy Donald GUYETTE, Carlt & York Regt

Two years imprisonment with Hard Labour

"A.M.Russell"
Maj

Field 21 Mar 1944

"A.M. Russell"
Maj

First Witness for the Prosecution

C.5639 Cpl Smelt[illegible] R.M. having been sworn states:

Will you tell the Court what happended prior to the move and issue of orders in regard with that move?

1.A On the morning at approximately 0950 hrs I warned Pte Guyette that at 2010 hrs we were moving to the front. During the course of the day the time of the move was changed to 1950 hours. At 1700 hours I warned Pte Guyette of the change of the time. The parade was called at 1950 hrs and Pte Guyette was absent. I reported his absence to the C.S.M. That is all

Defence

2.Q You said that you warned the accused. Did you warn him personnally?

2.A. Yes Sir.

By the Court

3.Q Do you know on what day that happened?
3.A On the 10th of February.

R.P. 83(b) has been complied with.

2nd Witness:

F.49947 CSM Noiles, A.F., C.Y.R.
having been duly sworn states:

4Q Will you tell the Court just what happened in regard to the charge against the accused.
4A At approximately 2000 hrs on the 10th Feb 44 before moving in a front lane position, I checked the Coy and had reported to me that Pte Guyette was absent. He did not report to the Coy. I never saw him again till I had word that he was in the Guard Room.

5Q Do you recognize the accused.
5A Yes Sir, Pte Guyette, R.D.

6Q Did you call the roll personally or have that reported to you?
6A It was reported to me by Cpl Smelton.

Defence declines to cross-examine

R.Pl 83(b) has been complied with.

Question by the Court.

7Q What time did Cpl Smelton report the absence to you.
7A At about 2000 hours.

"A.M.R."

"A.M. Russell"
Maj

C. 4

Capt D.R. Sharpe, C.Y.R. having been duly sworn states;

"I am Capt W.R. Sharpe Adjutent of C.Y.R. I hereby produce documentary evidence: Certificate under 163 (1) AA pertaining to arrest of the accused, marked A.

Q. By the Court.

"Is the accused the person named in the document.

A. Yes Sir

R.P. 83 (b) has been complied with.

D.1 "A.M. Russell"
Maj

Guyette, R.D. - I left for Bari for a few days, did not hide in any way, caused no trouble or disturbance, nor disposed of any clothing of any kind. I was intending of coming back before we were picked up and on the night of being picked up was in bed sleeping.
I went to Bari for a rest, my nerves were jittery and I was tired.

"Guyett R D.

CLOSING ADDRESS PROSECUTION "A.M. Russell"
"O"

The accused was warned, along with the rest of his section, that the unit was moving forward to the front line. I think the Cpl went to great pain to tell him. But when the time came for the unit to move he failed to put in an appearance. He wasnt going to the front. He left his pals and his unit. When they needed him most. He ran away when the time came to face the enemy. He stayed away and shows no proof that he intended to return. Until apprehended by the C.M.P.. He says he was nervous. His nerves needed a rest. We are all nervous. We all need a rest. Why didnt the rest run.
In closing I think this man should pay the full penalty of the law.

" H.A. Record" Lt.

"P" "A.M. Russell"
Maj

Guyette R.D.

There is no indication that the accused wanted to desert his Majesty Forces, on the contrary he was apprehended in Bari, where all soldiers go for rest and amusement, why would he go to a place like Bari, if he wanted to desert the forces. Furthermore, the accussed did not in any way sell or disposed of any part of his uniform or equipment. He has made a mistake, and did not realize that leaving at that time would be so serious. He had planned to return in the following day. As Defending Officer I ask the Court to dispose of the offence as one of absence without leave

"J.A. Poirer" Lt.

"A.M.R."

"A.M. Russell"
Maj

C. 4

Capt D.R. Sharpe, C.Y.R. having been duly sworn states:

"I am Capt W.R. Sharpe Adjutant of C.Y.R. I hereby produce documentary evidence: Certificate under 183 (1) AA pertaining to arrest of the accused, marked A

Q. By the Court.

"Is the accused the person named in the document.

A. Yes Sir

R.P. 83 (b) has been complied with.

"A.M. Russell"
Maj

D.1

Guyette, R.D. - I left for Bari for a few days, did not hide in any way, caused no trouble or disturbance, nor disposed of any clothing of any kind. I was intending of coming back before we were picked up and on the night of being picked up was in bed sleeping.
I went to Bari for a rest, my nerves were jittery and I was tired.

"Guyett R D.

CLOSING ADDRESS PROSECUTION "A.M. Russell"
"O"

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In closing I think this man should pay the full penalty of the law.

" H.A. Record" Lt.

"P" "A.M. Russell"
Maj

Guyette R.D.

There is no indication that the accused wanted to desert his Majesty Forces, on the contrary he was apprehended in Bari, where all soldiers go for rest and amusement, why would he go to a place like Bari, if he wanted to desert the forces. Furthermore, the accussed did not in any way sell or disposed of any part of his uniform or equipment. He has made a mistake, and did not realize that leaving at that time would be so serious. He had planned to return in the following day. As Defending Officer I ask the Court to dispose of the offance as one of absence without leave

"J.A. Poirer" Lt.

"A.M.R."

Final Address of Defence in case of

Pte GUYETTE, R.D. "A.M. Russell"
Maj

Sir:

The accused has been in the Army since Nov 42. He has always carried himself in a proper manner. There are no crimes layed against him. Should this man have a black mark behind his name, due to the fact that he made a slight mistake, which he did not fully realized the seriousness off. I do not think that he should be charged under so serious an offence as Desertion.

As Defending Officer I ask the Court to be lenient in their judgment.

"J.A. Poirer, Lieut.

"A.M.R."

4W-83.
Pte. Guyette. S.

SCHEDULE.

PART I. PLEA(S), FINDING(S) AND SENTENCE.

Accused : C.36605 Pte Stillman GUYETTE, 64 Cdn Army Tpt Coy RCASC

Charge. (Insert "alternative" where applicable.)	Plea. (See Instrs p 2.)	Finding. (See note below.)	(Space for use as required for further charges, accused charged jointly, special findings, etc.)
1st AA 8(2)	Not Guilty	Guilty	
2nd AA 40	Guilty	Guilty	
3rd AA 19	Guilty	Guilty	
4th			
5th			
6th			

(Note : As to findings for lesser offences see AA 56, RP 44 ; findings on alternative charges see MML p 483 fn 4 para 2, RP 44 ; special findings see RP 44 and MML p 753, and in loss of kit see RP 44 fn 6.)

At present under sentence for ..... beginning on (date) ..... "ASWW" (1)

(1. Insert sentence being served, or delete, if not applicable. See RP 46(A). Information should be found on MF B355 or AF B296.)

Time in confinement awaiting present trial—a total of 13 days, of which 0 days were spent in hospital.(1)

(1. See RP 46(A) fn 2. Information should be found on MF B355 or AF B296 admitted in evidence under E2.)

Sentence Awarded by the Court :

To undergo detention for
one year

(Sgd) ..... 8 Dec 44 ..... (Sgd) ASW White Maj

Judge-Advocate, if any. Date awarded. President. (RP 45, 50.)

(See back of Convening Order as to assembly and disposal of record after trial.)

PART II. MINUTE WHERE CONFIRMATION RESERVED. (AA 54(5), RP 120(F), MML p 760.)

Date ..... (Sgd) ..... Commanding .....

PART III. DECISION OF CONFIRMING OFFR ON FINDING(S) AND SENTENCE.

(For duties and powers see AA 54, 57, RP 37(D) fn 6.46(A), 51-56, 120, MML pp 759-761, KR Can 567-577. Acquittals require no confirmation and cannot be revised : AA 54(3). Sending back finding or sentence for revision by Court : AA 54(2), RP 120(G). If not confirmed, accused may be tried again : AA 157, MML p 64. Minute of confirmation or non-confirmation may be altered before promulgation : RP 53, MML p 65. Quashing after promulgation : KR Can 573. Duties and powers of reviewing offrs : AA 57, 57A, RP 53A, 54. The Confirming Offr must sign here personally. AA 172 fn 1.)

My decision on the finding(s) and sentence set forth in Part I is :

Confirmed

~~I direct that the accused be not committed to prison or detention barracks until further orders.~~(1) "RG"

(1. AA 57A. Delete if not used.)

(Sgd) R Gough Brigadier

Date 11 Dec 44 Commanding COMD ARMY TROOPS AREA FIRST CDN ARMY Confirming Officer.

PART IV. PROMULGATED AND EXTRACTS TAKEN. (RP 53, KR Can 576, 577.)

Accused.	Date.	Signature of Offr.
C-36605 Pte Stillman GUYETTE	13 Dec 44	(Sgd) G. Gibb (G. Gibb) Maj Offr Comd 64 Army Tpt Coy R.C.A.S.C.

ALL DELETIONS AND ALTERATIONS WILL BE INITIALLED.

No illegalities or irregularities such as would warrant withholding confirmation

(Sgd) D. Dean Capt ADJA Army Troops Area First Cdn Army

RECORDED AT CMHQ IN AB 160

RECEIVED 23 Mar 45

FIELD GENERAL COURT-MARTIAL

CFA98 (To take the place of AFA81) 40/P & S. Issue (6144) 4/38B

Convened by Order of Brig RHR Gough Comd A Tps Area dated 5 Dec 44 First Cdn Army

ACCUSED.

(As to the trial of two or more charged jointly see RP 16, 71, 109. As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

Number.	(a) Prmnt R.	(b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
C.36605	Pte	Pte	Stillman	GUYETTE	64 Cdn Army Tpt Coy RCASC

PROCEEDINGS REVIEWED
(Sgd) RK Laishley Capt
REVIEWING OFFICER, JAG BRANCH, CMHQ
24 Mar 45

PROCEEDINGS REVIEWED
Date 13 Jan 45
(Sgd) Wm Thompson Capt
"ASWW" D J A
Cdn Sec CMHQ & HQ

PROCEEDINGS OF TRIAL.

Held in the Fd in (country) Belgium on (date(s)) "ASWW" 8 Dec 44

RECORD FORM A—OPENING PROCEEDINGS AND ARRAIGNMENT.

A1. The President, Members, waiting Member, JA, if any, and Offrs under instr, if any, assemble, and the Court is closed.

(PRINTED MATTER, NOT IN ITALICS FOR GUIDANCE, WILL BE DELETED, IF NOT USED OR APPLICABLE, AND INITIALLED BY PRES OR JA. The Schedule referred to throughout is on p 4. Citations do NOT include all relevant fns RQs. For guidance on procedure when a variation in this form arises, see form for GCM in MML pp 741 to 759. A brief record of such variations will be made and given a number having reference to appropriate or preceding para number herein. See back of Convening Order CF A95, for oaths and instrs on how to record addresses, evidence, etc, which instrs are hereafter called "Notes". As to general provisions for conducting the trial see AA 53, RP 56, 63-70, 73, 74, 94, 103, 119, 122.)

A2. The President initials and lays before the Court the Convening Order and Charge Sheet(s) attached thereto.(1) The Court is satisfied that it is properly convened and constituted(2), accused is (are) amenable to military law, and each charge discloses an offence.(3)

(1. As to use of Summary of Evidence see RP 17 fn 6. 2. AA 46, 50, RP 105-107. 3. RP 11-13, 23, 24.)

A3. The Court is opened. The accused is (are) brought before the Court. At 1500 hours trial commences.

A4. The Prosecutor produces a Medical Certificate that accused is (are) fit to undergo trial by court-martial.(1) ~~The Prosecutor informs the Court that accused elected to be tried by court-martial instead of being dealt with summarily by the CO.~~(2) "ASWW"

(1. KR Can 557. 2. AA 46(B), RP 60 fn 1. For effect see KR Can 563(c). Delete, if not applicable.

A5. ~~President to accused : Do you object to ..... as interpreter ? Ans .....~~ "ASWW"

~~The Interpreter is sworn.(1) Do you object to ..... as shorthand writer ? Ans .....~~ "ASWW"

~~The shorthand writer is sworn.(1)~~ "ASWW"

(1. RP 72. Delete, if none employed.)

A6. The Convening Order and names of the President and Members of the Court are read to the accused.(1) President to accused : Do you object to be tried by me as President or by any of the Members of the Court ?

Ans NO (2)

(1. RP 110. 2. If no objection, waiting member retires. RP 66(B). If objection, see procedure AA 51, RP 25, 71, 18, MML p 742.)

A7. The President, Members, JA, if any, and Offrs under instr, if any, are sworn.(1) The following are the ranks, names and units of the offrs comprising the Court, etc :

President	Major	A.S.W. WHITE	66 Cdn Fd Coy
Member	Capt	W.E. ARMOUR	7 Cdn Gen Hosp
Member	Capt	T.W. SWIVEURNE	9 Mob L & E Unit
Judge-Advocate			
Prosecutor	Capt	T. OLDFORD	64 Cdn Army Tpt Coy
Defending Offr	Capt	S.E. THOMPSON	64 Cdn Army Tpt Coy

Questions by President : Is the Prosecutor a lawyer ? Ans No Is the Defending Offr a lawyer ? Ans No (2)

(1. RP 2a, 27, 109, 111. List of offrs under instr will be returned separately with proceedings for information of Conv Offr.)
(2. If Pros a lawyer and Def Offr not, accused is entitled to an adjournment when RP 85 (B) and fn 2 were not followed. See 2a p 3.)

A8. The accused ..... before arraignment make(s) (no) (a) plea ..... (2)

"ASWW"

(1. If a special plea is made for separate trial on one or more charges (RP 62(E), (G)), or as to the jurisdiction of the Court (RP 34, 35(A), 113), or in bar of trial (RP 36), or as to accused's mental fitness to stand trial (AA 130, RP 57), or by one of several accused charged jointly to be tried separately (RP 16, 71), such plea, the addresses made in support or against, the evidence, if any, and finding are recorded per Notes. For forms of record see references in fns to RoP cited. Insert in A8 rank and name of the accused making the plea.)

"ASWW" "ASWW"

A9. The accused is (are) arraigned (separately) on all charges in the charge sheet.(1) The accused does (do) not object to any charge.(2) There is no amendment to be made to the Charge Sheet.(3) The President records the pleas in Part I of the Schedule.

(1. RP 31, 112. See para 1 of Instrs p 2. When more than one Charge Sheet see RP 62 ; when several accused to be tried separately see RP 71(C), and use separate copies of CF A96 to record proceedings. 2. RP 32, RP 33. If otherwise, delete and make appropriate record per Notes.)

A10. The Court (is closed and) considers the Instrs on Procedure after Arraignment at top of p 2. The proceedings are continued on Record Form C, D, E & E

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

Vol 2-10

Certified true copy of original proceedings herein.

"ASWW"

INSTRUCTIONS ON PROCEDURE AFTER ARRAIGNMENT.

1. *The accused may not plead or be found Guilty on more than one of two or more charges laid in the alternative.* (*RP* 37(*A*).) *As to withdrawal of alternative charges by Prosecutor see RP* 35(*C*). *No other charge can be withdrawn for any reason without authy from Convening Offr. If Convening Offr concurs, Court may accept plea of Guilty to lesser, etc, offence.* (*RP* 44(*H*).) *Accused may change a plea of Not Guilty to Guilty during trial.* (*RP* 38.) *As to refusing to plead or not pleading intelligibly see RP* 35(*A*). *As to plea when sentence may be death see RP* 35(*D*).

2. *The proceedings on each charge sheet* (*RP* 62) *after arraignment will be conducted as follows in the respective circumstances stated :*

I. If pleas to all charges are GUILTY, use Record Form B below.

II. If pleas to all charges are NOT GUILTY, use Record Form D on p 3.

III. If pleas to some charges are GUILTY and to other charges are NOT GUILTY and,

(a) Such mixed pleas occur when there are no alternative charges in the Charge Sheet, use Record Form C below. (*RP* 37(*A*).)

(b) Such mixed pleas occur in a set of two or more charges laid in the alternative, see RP 37 (*A*) *and fn* 2 *as to discretion of Court, (i) to try the accused on all such alternative charges as if he had pleaded Not Guilty thereto, or, (ii) to record the pleas as the findings of Court. After deciding between* (i) *and* (ii), *Court will proceed under foregoing instrs as may be appropriate to result of its decision. See MML p* 744 *Instrs* (2).

3. *As to responsibility of President to accused see RP* 59, 60(*C*) ; *powers and duties of JA see RP* 103 ; *duty of Prosecutor see RP* 60(*A*) (*B*) ; *duty and privileges of accused and Defending Offr see RP* 60(*C*), 87(*C*), 91, 92 ; *swearing and withdrawal of witnesses from Court see RP* 81, 82 ; *questioning of accused see RP* 80, 87(*C*), 92(*B*), *and of witnesses see RP* 83-85 ; *calling or re-calling of witnesses by Court, etc, see RP* 75-79, 86, 116 ; *use of Summary of Evidence at Trial see RP* 17(*E*) *fn* 6 ; *and responsibility of JA or Pres to record proceedings see RP* 94, 96.

RECORD FORM B—PROCEEDINGS ON PLEAS OF GUILTY TO ALL CHARGES.

B1. The President or JA, if any, complies with RP 35(B) by explaining to the accused the nature and meaning of the charge(s)(1), and that on his plea of Guilty there will be no regular trial but merely a consideration of the sentence to be awarded after he has been given an opportunity to make a statement in reference to the charge(s), call witnesses as to character and make an address in mitigation of punishment.(2)
(*1. RP 35 fn 3. 2. MML p 54 para 47.*)

B2. President to accused : The Court will now receive any statement you desire to make in reference to the charge(s).(1) If it appears from your statement that there are circumstances which indicate that you do not understand the effect of the plea of Guilty(2), or which show provocation or extenuation in respect of which in your interest the witnesses for the Prosecution should be examined(3), we shall advise you to change your pleas to Not Guilty. In making a statement you will not be sworn or subject to cross-examination ; and anything you say will not be used in evidence against you after you change your pleas. If, however, it appears to the Court that your statement affects only the amount of punishment to which you are liable, you will not be advised to change your pleas and you will be given an opportunity later to prove your statement by sworn testimony, if you so desire.(4)

President to accused : Do you wish to make a statement ? Ans NO (5)
(*1. RP 37(B). 2. RP 37(D) fn 6. 3. RP 35(B) fn 5 para 3, MML p 54 para 47. 4. See para E3 of Record Form E. 5. Statement, if any, recorded per Notes.*)

B3. ~~The Court considers the accused's statement (4) The Court decides (not) to advise accused to change his (their) plea(s) of Guilty to Not Guilty on ..... charge(s). The accused is (are) so informed, and he (they) change(s) his (their) plea(s) on ..... charge(s). Part I of the Schedule is amended accordingly.~~
(*1. Court may be closed to consider the statement. Delete whole or part not used.*)

B4. On the charge(s) to which the plea(s) of Guilty is (are) not changed the President records finding(s) of Guilty in Part I of the Schedule.(1)
(*1. RP 35(B). If any plea(s) is (are) changed, use Record Form C or D as appropriate.*)

B5. The Summary of Evidence is marked Ex A , initialled and read aloud by the President.(1)
(*1. If there is no Summary, or if it is inadequate, comply with RP 37(B). If there is any evidence inconsistent with any plea standing as Guilty, Court will advise accused to change such plea and, if changed to Not Guilty, try such charge(s) by use of paras D1 to D8 inclusive of Record Form D on p 3. RP 37(D).*)

B6. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

RECORD FORM C—PROCEEDINGS ON MIXED PLEAS OF GUILTY AND NOT GUILTY.

C1. As to the charges on which accused pleaded NOT GUILTY the trial is continued by using paras D1 to D8 inclusive of Record Form D on p 3 before proceeding with C 2.(1)
(*1. RP 37(A) (E).*)

C2. The charges on which accused pleaded GUILTY are read to him (them) again, and the trial is continued by using paras B1 to B5 of Record Form B above.(1)
(*1. Under B5 such parts only of the Summary of Evidence are read as relate to the charges dealt with under C2. If any plea is changed to Not Guilty, trial thereon proceeds by complying with paras D1 to D8 inclusive in Record Form D on p 3 and making an appropriate record thereof on a separate sheet.*)

C3. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

RECORD FORM D—PROCEEDINGS ON PLEAS OF NOT GUILTY TO ALL CHARGES.

D1. President to accused : Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity to prepare your defence ? Ans NO (1)
(*1. If "yes", see RP 39(A) for procedure. Statement or evidence, if any, is recorded per Notes.*)

D2. The Prosecutor makes (an) (no) opening address.(1)
(*1. RP 39(B), 60(A) (B), 90, 92(C) (D). Record address per Notes, subject to RP 95(C).*)

D3. The evidence for the Prosecution is taken.(1)
(*1. RP 39(C), 114, KR Can 555. Record evidence per Notes. As to Prosecutor giving evidence himself see RP 39(D) (E).*)

D4. The Prosecution is closed.(1) ~~The Defending Offr submits that the evidence for the Prosecution does not establish a prima facie case against the accused on the ..... charge(s).(2) The Court is closed, and considers the submission.(3) The Court is re-opened, and the President announces that the submission is disallowed on the ..... charge(s), and allowed on the ..... charge(s), and that, accordingly, the trial will proceed on the former, but the accused is (are) found Not Guilty on the latter charge(s).(4)~~
(*1. Delete remainder of this para, if submission not made. 2. Arguments on submission, answer and reply are recorded per Notes. 3. RP 40 fn 1. See MML p 72 paras 12-14 and p 81 para 42. 4. Delete part not used. If accused acquitted on all charges use second alternative in para D8.)*
NB : If trial proceeds, accused must be allowed great latitude in making his defence, and the Court should not stop his defence solely on ground of irrelevance. (*RP 60(C), 114, 115.*)

D5. President to accused : You will now proceed with your defence.(1) You may, if you wish, give evidence yourself on oath as to the facts or your character or both, in which case you will be subject to cross-examination.(2) You may, however, make a statement without being sworn, and you will not be subject to cross-examination.(3) But a statement which could have been made on oath will not carry with the Court the same weight as sworn testimony.(4) You may call witnesses in your defence and as to character, whether you give evidence or make a statement or do neither.

President to accused : Do you wish to give evidence yourself as a witness, make a statement, or do neither ?
Ans Yes, give evidence Do you intend to call witnesses on your behalf ?
Ans Yes Are they witnesses as to character only ? Ans Yes NO
(*1. RP 115. 2. RP 40(A), see 80(D). 3. RP 40 fn 10. 4. RP 40 fns 2, 9.*)

D6. Consequent on the answers recorded in para D5 the appropriate procedure for the defence is followed.(1)
(*1. RP 114, 115, 116. For procedure see Notes on back of Convening Order. CF #85. Evidence for accused as to his character should, if in his interest, be given before the finding. See RP 46(A) fn 1, 86(C). Note the further opportunity in para E1 of Record Form E. Record per Notes addresses, statement, evidence and any summing up by the JA under RP 42.* (*2*)(*e*).)

D7. The Court is closed to consider the finding(s).(1) The finding(s) of the Court is (are) recorded in Part I of the Schedule.(2) The Court is re-opened.
(*1. RP 43, 117(A). See Notes in Part I of Schedule. 2. RP 44(A).*)

D8. The President ~~announces the finding(s), if any, of Not Guilty~~, and states to the accused that the finding(s) of the Court on the first charge(s), being subject to confirmation, will be promulgated later.(1) ~~Or, The President announces that the accused is found Not Guilty on all charges and is to be released forthwith, and that the proceedings are accordingly terminated. Part I of the Schedule is dated and signed.(2)~~
(*1. AA 54(3) (c). RP 45, 120(A). 2. AA 54(3), RP 45, 117. This alternative announcement is not applicable where there are pleas of Guilty outstanding and dealt with under Record Form B or C.*)

D9. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E below.

RECORD FORM E—PROCEEDINGS ON CONVICTION BEFORE SENTENCE.

E1. ~~President to accused : Do you wish to give evidence yourself or to call any witnesses as to your character ?~~ (1)
Ans .....
(*1. If evidence has already been given by accused or his witnesses as to his character, delete this para. RP 37(C) fn 4, 46 fn 1. Accused and witnesses are sworn. Evidence recorded per Notes.*)

E2. The Prosecutor produces Statement(s)(1) as to Character and Particulars of Service(2), and certified true copy (copies) of Conduct Sheet(s)(3), purporting to refer to the accused, which he submits to the Defending Offr for examination, and then to the Court for admission in evidence. The Court is satisfied that these documents refer to the accused, because (i) they purport to be signed in the manner required by AA 163(d) (g) (h), and (ii) they purport to refer to (a) soldier(s) having the same number, rank, name and corps as the accused. Admitted in evidence and marked Ex B and Ex C respectively.(4)
(*1. MFB 355 or AFB 296. 2. MFM 6. 3. RP 46, KR Can 258. If above documents not produced, see RP 46 fn 1 para 1.*)

E3. President to accused : Do you wish to address the Court on the Statement(s) and Conduct Sheet(s), and in mitigation of punishment ?(1) Ans No Yes
(*1. RP 37(C), 46(D). 2. Address, if any, recorded per Notes. Court should permit accused or his witnesses to prove on oath anything here or previously stated which would affect the amount of punishment. RP 37(F) fn 7.*)

E4. The President states that the Court is closed to consider the sentence, and that the sentence to be awarded by the Court, being subject to confirmation, will not be announced, but will be promulgated later, and the proceedings in open court are accordingly terminated.(1)
(*1. AA 54(6), RP 120(A).*)

E5. The Court considers the sentence.(1) The President records the sentence in Part I of the Schedule, which is dated and signed by him and the JA, if any.(2)
(*1. When several accused tried separately see RP 71 (D). One sentence only, comprised of the punishment or punishments laid down in AA 41, 44 and its proviso, is to be awarded to cover all charges in all charge sheets on which accused found guilty. RP 48. As to sentences see AA 44, 138, 182, RP 46-50, 69, 118, 119(A), KR Can 308, 330, 563-566, Overseas RO 309, 2322, MML p 60, 757-759. As to sentences assigned for civil offences by the law of England see AA 61(3), MML p 130. When accused already under sentence of imprisonment or detention see AA 44(10), 98(1), KR Can 564. 2. RP 50. As to release from arrest by Confirming Offr see KR Can 567. As to assembly and disposal of record after trial see instrs on back of Convening Order.*)

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

"ASWW"

CHARGE SHEET

The accused C.36605 Pte S Guyette, 64 Cdn Army Tpt Coy, RCASC, a soldier of the Cdn Army Overseas, is charged with:

FIRST CHARGE
AA Sec 8(2)

WHEN ON ACTIVE SERVICE, STRIKING HIS SUPERIOR OFFICER

in that he

in the field on 24 Nov 44 struck with his fist G.42606 CSM Watson, R.M., his superior officer.

SECOND CHARGE
AA Sec 40

WHEN ON ACTIVE SERVICE, CONDUCT TO THE PREJUDICE OF GOOD ORDER AND MILITARY DISCIPLINE

in that he

in the Cafe Mermans, Arendonck, Belgium, on 24 Nov 44, improperly took part in a disorderly fracas.

THIRD CHARGE
AA Sec 19

WHEN ON ACTIVE SERVICE, DRUNKENNESS

in that he

in the field at approx 2130 hrs, 24 Nov 44 was drunk.

(Sgd) G. Gibb

In the field
3 Dec 44

(G. Gibb) -Major
Officer Commanding
64 Army Transport Coy,
R.C.A.S.C.

TO BE TRIED BY FIELD GENERAL COURT MARTIAL

(SGD) R Gough

(JRR Gough) Brig
Comd A Tps Area
First Cdn Army

In the field
5 Dec 44

FIELD GENERAL COURT-MARTIAL

(Whether the accused to be tried is under his comd or not, a FGCM may on application to him be convened by any offr of Cdn Army Overseas, or of any other force if authorized in law, in immediate comd of troops on active service, subject to RP 105(C) and restrictions imposed by appropriate authy. AA 49, 50, RP 104-107, 114. As to the duties and privileges of the Convening Offr in dealing with the application see MML Chap V paras 20 and 23. RP 87(B).

There should be a separate Convening Order for each person to be tried separately by the same Court. RP 71(C), 109. As to separate charge sheets see RP 62, and as to separate trial on charges in the same charge sheet see RP 108. As to two or more accused charged jointly see RP 14, 109.

As to reasons for showing (a) permanent or confirmed rank, and (b) apptmt, A/rank or A/apptmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

ACCUSED.

Number.	(a) Prmnt R.	(b) Apptmt, A/R or A/Apptmt.	Full Christian Names.	Surname.	Unit.
C.36605	Pte	Pte	Stillman	GUYETTE	64 Cdn Army Tpt Coy RCASC

CONVENING ORDER.

1. Whereas complaint has been made to me, the undersigned, that the person(s) named above as the accused, being subject to military law, has (have) committed the offence(s) set forth in the Charge Sheet(s) attached and on (date) 5 Dec 44 endorsed by me, (or by an offr of my staff for me), " To be tried by Field General Court-Martial ". "RG"

2. And whereas I am of opinion that it is not practicable that such offence(s) should be tried by an ordinary General Court-Martial ; ~~(and that it is not practicable to delay the trial for reference to or report (until) etc)~~ "RG"

(Delete part in brackets when not required for compliance with RP 105(C).)

3. I hereby convene a Field General Court-Martial to try the said person(s), and to consist of the Offrs appointed or detailed hereunder.

4. ~~I am unable to appoint (a) three Offrs to form the Court, (b) a Fd Offr as President, for the reasons I have attached hereto.~~ "RG"

(AA 49, RP 106(B), 107(A). Delete the whole or part, if not applicable.)

5. ~~I also appoint as Judge-Advocate thereat the Offr mentioned hereunder.~~

(RP 106(E). Delete, if none appointed.)

PRESIDENT.

(Rank.)		(Must be named. RP 106.)	(Unit.)
Major	A.S.W. WHITE		86 Bridge Coy

MEMBERS.

(Rank.)		(Named or detailed. RP 106.)	(Unit.)
Captain	To be detailed by OC 7 Cdn Gen Hospital		
Captain	F.W. SWINBURNE		9 Mob Ldry & Bath Unit

WAITING MEMBER.

(Rank.)		(Named or detailed, if any. RP 106.)	(Unit.)

JUDGE-ADVOCATE.

(Rank.)		(Must be named, if any. RP 106.)	(Unit.)
~~Captain~~	~~D.G. DEANy ADJA~~	~~HQ A Tps Area, First Cdn Army~~	"ASWW" "RG"

On Active Service in the Fd

in HOLLAND (Country.)

R. Gough (Signed personally. RP 105 fn 2.)

(JRR Gough)

Commanding A Tps Area, First Cdn Army

Convening Officer.

Brigadier (Rank.)

Dat 5 Dec 44

CONVENING OFFR WILL INITIAL ALL DELETIONS AND ALTERATIONS

4/38A CFA 88 (In lieu of AFA 3) 40/F&S/1697 (8148)

(See overleaf for points and notes for use on trial.)

MEDICAL CERTIFICATE

This is to certify that Regt No C-36605 Rank PTE

Name GUYETTE S is ~~UNFIT~~/FIT to undergo

trial by Courts-Martial.

8 Dec 44 (Sgd) G. Steeds Capt
(Date) (Medical Officer)

SUMMARY OF EVIDENCE AT THE TRIAL OF

C36605 Pte STILLMAN GUYETTE.

FIRST WITNESS FOR PROSECUTION

G42606 CSM WATSON R.M. 64 Cdn Army Tpt Coy RCASC, having been duly sworn, states:

" At approximately 2045 hours 24 Nov 44 I left "C" pl Orderly Room. As I entered on to the sidewalk I heard loud voices coming from three soldiers using abusive language. Their blouses were unbuttoned. I cautioned the soldiers to be more quiet and to button up their blouses.

They came toward me. While in conversation I noticed GUYETTE made an action drawing his arm back to the rear as if to strike me. I said "Dont do that". Pte MURDOCH on the right of the accused was talking to me and I was hit by the accused, Pte GUYETTE. The force of the blow caused us both to fall over the ledge. I told GUYETTE that that was enough. He got up and I got up and told Pte MURDOCH to take the accused to his billets. I went down to the HQ Orderly Room and ordered Sgts LAWFORD and TABOR to come with me. We walked down to the place of the incident but could not find the accused. We walked around. He could not be found. We then reported to the Orderly Room. I was notified by the night DR that there was a brawl in one of the cafes. I reported to the Orderly Officer and went down to see about the brawl. When we got there there were no Canadian soldiers in the cafe.

Questions by the Court.

Q 1. Did Pte GUYETTE hit you with his fist?

A 1. Yes Sir.

Q 2. From what direction did the men come when you first met them?

A 2. From the direction of "A" pl Orderly Room.

Q 3. How many men were with GUYETTE?

A 3. Two. One was MURDOCH. The other I did not recognize.

Q 4. Could your time of 2045 be wrong either way?

A 4. Only 2 or 3 minutes later I asked a civilian the time and his watch showed 2047.

Q 5. Had you been drinking?

A 5. No sir, not a drink.

Cross-examination by the Defence.

Q 1. It was 2045 hrs?

A 1. Yes, Sir.

Q 2. It was dark at the time?

A 2. About 100 yards on the right.

Q 3. How many were there with you?

A 3. Just GUYETTE and myself.

Q 4. What time was it when you left GUYETTE?

A 4. About 2100 hours.

Q 5. Was GUYETTE drunk?

A 5. Not very drunk, Sir.

Q 6. Had you been drinking?

A 6. I had two glasses of beer about 1800 hours.

Q 7. Was GUYETTE drunker than you?

A 7. Yes, Sir.

Q 8. How long was it from the time you left GUYETTE until the disturbance in the cafe?

A 8. About ½ hour.

Q 9. Where did you meet GUYETTE?

A 9. I met him in a cafe around 1800 hours and then we went into other cafes as we came down the street.

Q 10. You previously stated that you left "A" pl orderly room with him. Now you say it was a pub. Which was it?

A 10. The orderly room and the pub are in the same building.

Q 11. Who left the pub with you?

A 11. Just GUYETTE, but another soldier joined us at the second cafe.

Q 12. Did he go as far as the corner with you?

A 12. Yes, Sir.

Q 13. You previously stated that you and GUYETTE arrived at the corner alone. Now you say there was another man with you. I must remind you, PARKER, that you are under oath and warn you that giving false evidence before a Court Martial is a serious offence. I don't want to confuse you but think back. How many were in your party when you reached the corner?

A 13. Just the two of us, although there people ahead of us and behind us.

SUMMARY OF EVIDENCE AT THE TRIAL OF

C36605 Pte STILLMAN GUYETTE.

FIRST WITNESS FOR PROSECUTION

G42606 CSM WATSON R.M. 64 Cdn Army Tpt Coy RCASC, having been duly sworn, states:

" At approximately 2045 hours 24 Nov 44 I left "C" pl Orderly Room. As I entered on to the sidewalk I heard loud voices coming from three soldiers using abusive language. Their blouses were unbuttoned. I cautioned the soldiers to be more quiet and to button up their blouses.

They came toward me. While in conversation I noticed GUYETTE made an action drawing his arm back to the rear as if to strike me. I said "Dont do that". Pte MURDOCH on the right of the accused was talking to me and I was hit by the accused, Pte GUYETTE. The force of the blow caused us both to fall over the ledge. I told GUYETTE that that was enough. He got up and I got up and told Pte MURDOCH to take the accused to his billets. I went down to the HQ Orderly Room and ordered Sgts LAWFORD and TABOR to come with me. We walked down to the place of the incident but could not find the accused. We walked around. He could not be found. We then reported to the Orderly Room. I was notified by the night DR that there was a brawl in one of the cafes. I reported to the Orderly Officer and went down to see about the brawl. When we got there there were no Canadian soldiers in the cafe.

Questions by the Court.

Q 1. Did Pte GUYETTE hit you with his fist?

A 1. Yes Sir.

Q 2. From what direction did the men come when you first met them?

A 2. From the direction of "A" pl Orderly Room.

Q 3. How many men were with GUYETTE?

A 3. Two. One was MURDOCH. The other I did not recognize.

Q 4. Could your time of 2045 be wrong either way?

A 4. Only 2 or 3 minutes later I asked a civilian the time and his watch showed 2047.

Q 5. Had you been drinking?

A 5. No sir, not a drink.

Cross-examination by the Defence.

Q 1. It was 2045 hrs?

A 1. Yes, Sir.

Q 2. It was dark at the time?

A 2. Yes, Sir.

Q 3. How could you identify GUYETTE?

A 3. He was standing 18 inches in front of me and, having seen a lot of him, I am certain it was he.

Q 4. Are you sure he knew you were the CSM?

A 4. Yes, sir.

Q 5. How?

A 5. He spoke my name.

RP 83(b) complied with. "ASWW"

STATEMENT BY THE ACCUSED

C36605 Pte Stillman GUYETTE having been duly sworn.

Questions by defending officer.

Q 1. On 24 Nov 44 at what time did you start your round of pubs?

A 1. Between 1730 hours and 1800 hours.

Q 2. Are you clear in your own mind as to everything that happened between then and 2045 hours?

A 2. No, Sir.

Q 3. Do you recall being spoken to by the CSM?

A 3. No, Sir.

RP 83(b) complied with. "ASWW"

FIRST WITNESS FOR THE DEFENCE

Lt. J.T. SMITH, 64 Cdn Army Tpt Coy RCASC, having been duly sworn states:

" Pte GUYETTE, since coming to my platoon about 3 months ago was placed in a section driving a vehicle and his section Commander has often made the statement that he is one of his best men. On no occation have I ever had any trouble with him. All NCOs consider him a very good driver and soldier."

RP 83(b) complied with. "ASWW"

SECOND WITNESS FOR THE DEFENCE

B9859 Pte R.M. PARKER, 64 Cdn Army Tpt Coy RCASC having been duly sworn states:

" I came from "A" pl orderly room with GUYETTE down as far as the main corner in town and thats where I left him. There was nothing happened up till then."

Questions by the Court.

Q 1. To reach the corner from "A" pl orderly room is it necessary to pass "C" pl orderly room?

A 1. Yes, Sir you pass it just before you come to the corner.

Q 2. How far before?

Q 14. Were you in GUYETTE'S company continuously from 1800 hours to 2100 hours?

A 14. Yes, Sir.

Cross-examination by the Prosecutor.

Q 1. Were MURDOCH and LIVINGSTON in the first pub with you?

A 1. I think so, yes, I saw them.

Q 2. Did they come out with you?

A 2. No, Sir. I don't know if they went out before or after us.

RP 83(b) complied with. "ASWW"

A 2. About 100 yards on the right.

Q 3. How many were there with you?

A 3. Just GUYETTE and myself.

Q 4. What time was it when you left GUYETTE?

A 4. About 2100 hours.

Q 5. Was GUYETTE drunk?

A 5. Not very drunk, Sir.

Q 6. And you been drinking?

A 6. I had two glasses of beer about 1800 hours.

Q 7. Was GUYETTE drunker than you?

A 7. Yes, Sir.

Q 8. How long was it from the time you left GUYETTE until the disturbance in the cafe?

A 8. About ½ hour.

Q 9. Where did you meet GUYETTE?

A 9. I met him in a cafe around 1800 hours and then we went into other cafes as we came down the street.

Q 10. You previously stated that you left "A" pl orderly room with him. Now you say it was a pub. Which was it?

A 10. The orderly room and the pub are in the same building.

Q 11. Who left the pub with you?

A 11. Just GUYETTE, but another soldier joined us at the second cafe.

Q 12. Did he go as far as the corner with you?

A 12. Yes, Sir.

Q 13. You previously stated that you and GUYETTE arrived at the corner alone. Now you say there was another man with you. I must remind you, PARKER, that you are under oath and warn you that giving false evidence before a Court Martial is a serious offence. I don't want to confuse you but think back. How many were in your party when you reached the corner?

A 13. Just the two of us, although there people ahead of us and behind us.

Plea in Mitigation - C.36605 Pte Guyette, S

Pte Guyette on the night in question had just returned from a 4 day transport detail, during which time he had been in his lorry almost continually. Being tired and slightly "fed-up" after the long detail, he left his platoon lines and went in search of relaxation, unfortunately drinking too much while in the company of others. His platoon commander has given evidence the Pte Guyette is considered, in the platoon, to be a first-class soldier and driver, and has never given any trouble to anyone. It is submitted that, although drunkenness is no excuse for committing a crime, in this case it was the combination of circumstances, ie, too much to drink and then the excitement when the cafe fracas started which caused Pte Guyette to lose control of himself and join in the fracas, behaving in a manner which he normally would not.

SUMMARY OF EVIDENCE

Summary of Evidence in the case of G-38805 Pte. Guyette, S.,
64 Cdn Army Tpt Coy RCASC.
Charged as attached.

FIRST WITNESS FOR PROSECUTION: Lt. O.M. Fisher, 64 Cdn Army Tpt Coy R.C.A.S.C., having been duly sworn states:

At approx 2230 hrs, 24 NOV 44, I was present at "A" Pl Orderly Room which was situated next to a Public House. The door of the Pub was open and I saw the accused, whom I recognize, drinking beer at the bar. I heard Lt. J.G. Smith order the accused to get into a lorry which was to take them to the Coy Orderly Room awaiting the arrival of the C.M.P. I did not interfere, as the appearance of further senior NCOs and Officers only seemed to aggravate the situation.

The accused declines to cross-examine the witness.

(Sgd) OM Fisher Lt
(O.M. Fisher) Lt.
64 Cdn Army Tpt Coy RCASC

SECOND WITNESS FOR PROSECUTION: G-42606 CSM Watson, R.M., 64 Cdn Army Tpt Coy R.C.A.S.C, having been duly sworn states:

2045 "RMW"

At approx ~~2130~~ hrs, 24 NOV 44 I came out of "C" Pl Orderly Room and as I entered onto the sidewalk I saw three soldiers walking down the road. They were using abusive language very loudly and improperly dressed - jackets unbuttoned. The accused, whom I recognize, when the three soldiers stopped and came toward me, was not speaking as loud as the other two soldiers. I cautioned the soldiers to be more quiet and button up their jackets. The accused was standing directly in front of me. I saw the accused make a motion to bring his right hand back, as I thought he intended to hit me I said "Don't do that". As I was talking to Pte., Murdoch I was hit by the accused, Pte. Guyette. The force of the blow knocked me against the hedge and we both fell over the hedge. While we were on the ground I told Pte. Guyette that was enough, he got up and then I got up and ordered Pte. Murdoch to take Pte. Guyette back to his billets under close arrest. As these men were drinking, they would not obey the direct order. I then proceeded to the Coy Orderly Room and ordered Sgt. Lawford, & Sgt. Tabor, to come with me. We looked for the three soldiers but they could not be found. On returning to the Orderly Room, I was informed that there had been a brawl in a Pub. We proceeded to the Pub, found it a shambles but there were none of our soldiers in or near it. We took another look around for the soldiers and I reported the incident to the Orderly Officer.
At approx 2130 hrs, I saw the accused and ordered him to his billets.

The witness is questioned by the accused.

Q.1. "Who else was with me when I was supposed to have struck you"?

A.1. "I could not recognize the third soldier. Pte. Murdoch was on the right hand side of the accused".

(Sgd) RM Watson CSM
(G.42606 CSM Watson, R.M.)
64 Cdn Army Tpt Coy RCASC

THIRD WITNESS
FOR PROSECUTION: 1711252 Cfn. Gibbs, A.C., of 856 Lt. Recovery Sec. R.E.M.E., having been duly sworn states:

I entered Mermans Cafe in Arendonck about 2100 hrs, 24 Nov 44, I was on my own but there were other English soldiers in the Cafe. About 2130 hrs about six or seven Canadian soldiers entered the Pub. One looked in first and said "O.K. fellows there are only a few in here". They came in and they stood around the Cafe, one of them, not the accused, asked me to drink with him. I answered "No - I already have one". He asked me if I was English in a tone of voice I didn't like and when I said "Yes", three came up behind me, dragged me to the door and threw me out.

Q.1. "Do you recognize the accused Pte. Guyette as being one of the Canadians who was in the Cafe"?.

A.1. "No, I can't recognize him."

The accused declines to cross-examine the witness.

(Sgd) Cfn A.C. Gibbs
(17112152 Cfn.Gibb, A.C.)
856 Lt. Recovery Sec. R.E.M.E.

FOURTH WITNESS
FOR PROSECUTION: 71931 Cfn. Hunt, R.V. of 856 Lt. Recovery Sec. R.E.M.E., having been duly sworn states:

At about 2140 hrs, 24 NOV 44 in front of Mermans Cafe I was stopped by a British soldier who asked me to go in and get his coat as he was afraid to go in because he had been thrown out by some Canadian soldiers. I went in and picked up the coat, when one of the Canadians pointed at me and said "Get out". I didn't like the way he said it and walked over and said "What's the matter". With that there was a rush and several of them attacked me. We fought for about ten minutes and then the Canadians left. I was the only British soldier in the fight. There were about five Canadians. I recognize Pte. Guyette as one of the soldiers who was fighting. One of the soldiers tried to hit me on the head with a chair while I was lying on the floor but the floor received the brunt of the blow. I do not know who swung the chair.

The accused declines to cross-examine the witness.

(Sgd) Cfn R.V. Hunt
(71931 Cfn. Hunt, R.V.
856 Lt. Recovery Sec. R.E.M.E.

FIFTH WITNESS
FOR PROSECUTION: 2722481 Pte. Ward, A., of 314 Pioneer Coy., having been duly sworn states:

I was in the Pub Mermans at about 2100 - 2130 hrs, 24 NOV 44, when some Canadians came in. I had my coat off and was over by the gramaphone. The Canadians started to throw the English boys out. They threw me out as well. I was standing outside awaiting a chance to go in and get my coat when some of the Canadians came out. One of them struck me

several blows and knocked me down in the gutter. I asked a British soldier who came along to go in for my coat. He went in and a fight started. While the fight was going on I slipped in and got my coat.

Q.1. "Do you recognize the accused Pte. Guyette as one of the soldiers in the Cafe"?.

A.1. "Yes sir".

Q.2. "On your oath do you recognize Pte. Guyette as the man who hit you outside the Cafe"?.

A.2. "Yes sir".

The witness is cross-examined by the accused:

Q.1. "Was the soldier you sent into the Cafe carrying any arms"?.

A.1. "The soldier was carrying a Sten gun".

(Sgd) Pte A Ward
(2722481 Pte. Ward, A)
314 Pioneer Coy

SIXTH WITNESS
FOR PROSECUTION: B-9589 Pte. Parker, R.M., 64 Cdn Army Tpt Coy R.C.A.S.C., having been duly sworn states:

I was drinking a bit on 24 NOV 44. I met up with Ptes. Guyette, Livingston, O'Brien and Murdoch. They left me and went to another Pub. I heard they were in a fight and I went to get my pay Guyette out of the fight. When I asked him to come out he hit me. After the fight was over, he apologized and I took him back to "A" Pl Orderly Room.

The accused declines to cross-examine the witness.

(Sgd) R M Parker.
(B-9589 Pte. Parker, R.M.
64 Cdn Army Tpt Coy RCASC

The accused, C-36605 Pte. Guyette, S., having been warned and duly sworn elects to give evidence on oath, states:

O'Brien, Livingston and myself were drinking together on the 24 NOV 44. We were drinking Cognac and got pretty drunk. We went up town and went into the Marmans Cafe and found the English soldiers there. I decided to put them out and went over and told them so. I followed Pte. War outside and there we had a fight. I turned around and went back in the Cafe and Pte. Hunt followed me in. One of the boys told him to get out and Pte. Hunt walked over towards him, taking a Sten gun off his shoulder. That was when the fight started with him. I don't know who struck the first blow. He was knocked down and then we left. I do not remember meeting up with CSM Watson that evening.

(Sgd) S. Guyette
(C-36605 Pte. Guyette, S.)
64 Cdn Army Tpt Coy RCASC

The Expense Voucher for costs of damage to Cafe Mermans produced as documentary evidence, was read over to the accused, marked Exhibit "B" signed by me and attached hereto.

(Sgd) T. Oldford
(T. Oldford) - Capt
64 Army Transport Coy, R.C.A.S.C.

Unit Part I Order No. 220 d/3 Nov 44 produced as documentary evidence, was read over to the accused, marked Exhibit "A", signed by me and attached hereto.

(Sgd) T. Oldford
(T. Oldford) - Capt
64 Army Transport Coy, R.C.A.S.C.

I certify that the foregoing Summary of Evidence, consisting of four pages was taken down by me in the presence of the accused and that RP 4(c), (D), (E) and (G) have been complied with.

(Sgd) T. Oldford
(T. Oldford) - Capt.
64 Army Transport Coy, R.C.A.S.C.

In the Field
28 Nov 44

ADDITIONAL SUMMARY OF EVIDENCE

Additional Summary of Evidence in the case of C-36605 Pte. Guyette, S., 64 Cdn Army Tpt Coy R.C.A.S.C.

SEVENTH WITNESS FOR PROSECUTION

B-56363 Sgt. Masterton, A.E., 64 Cdn Army Tpt Coy R.C.A.S.C., having been duly sworn states:

I was attached to "A" pl at the time of the incident on 24 NOV 44 and I was called to assist in Placing Ptes. O'Brien, Livingston, Guyette and Murdoch under close arrest. I found them in a Cafe next to "A" Pl Orderly Room. This was not the Cafe in which the fight took place. When I first saw Guyette, I was aware that he had been drinking but he came quietly to the truck and in fact was helpful in getting the others into the truck. At the Coy Orderly Room he was less boisterous than the others. He was drunk but seemingly in a quiet sort of way.

The accused declines to cross-examine the witness.

(Sgd) A.E. Masterton
(B-56363 Sgt. Masterton
64 Cdn Army Tpt Coy RCASC

EIGHTH WITNESS FOR PROSECUTION

M-35600 Cpl McMurdo, J.P., 64 Cdn Army Tpt Coy R.C.A.S.C., having been duly sworn states:

I was Coy Guard NCO on duty 24 NOV 44 when Sgt. Masterton brought Ptes., O'Brien, Guyette, Livingston and Murdoch to Coy Orderly Room awaiting the arrival of C.M.P.s. From his appearance and talk I would say that the accused was drunk. He was quieter than the others but he used abusive language to some of the personnel present.

The accused declines to cross-examine the witness.

(Sgd) J.P. McMurdo
(M-35600 Cpl. McMurdo J.P.)
64 Cdn Army Tpt Coy RCASC

I certify that the foregoing Additional Summary of Evidence, consisting of one page was taken down by me in the presence of the accused and that RP 4 (C), (D), (E) and (G) have been complied with.

(Sgd) T. Oldford
(T. Oldford) Capt
64 Cdn Army Tpt Coy RCASC

In the Field
4 DEC 44

64 ARMY TPT COY R.C.A.S.C.

DAILY ORDERS - PART I

by

Major G. Gibb
Officer Commanding

Last D.O. No. 219 2 Nov 44

This D.O. No. 220 3 Nov 44

Friday

TO BE READ BY ALL RANKS - IGNORANCE OF PUBLISHED ORDERS WILL NOT BE ACCEPTED AS A REASON FOR THEIR NON-OBSERVANCE

1. PARADES FOR SATURDAY, 4 Nov 44

Reveille	0630 hrs	Parade	1315 hrs
Breakfast	0730 to 0800 hrs	Supper	1700 to 1730 hrs
Parade	0815 hrs	Blackout	1900 hrs
Sick Parade	0830 hrs	Tattoo Roll Call	2159 hrs
Dinner	1200 to 1230 hrs		

2. DAILY MAINTENANCE TASK
Daily Maintenance Task for SATURDAY: CHASSIS & BODY.

3. DISCIPLINE - OUT OF BOUNDS
PUBS (Cafes, Estaminets, etc.) are OUT OF BOUNDS AFTER 2100 hrs daily. This order is to be strictly adhered to. Severe disciplinary action will be taken against personnel disregarding this order.

4. INSPECTION - SMALL ARMS
The small arms inspection carried out by RCEME of all arms of this coy was very unsatisfactory. Eff this date, pl comds will make certain that inspection of arms is carried out at regular intervals.

5. NOTICE - PAYBOOKS
Personnel of this coy on being SOS on adm to hosp etc., will report to pay office before leaving coy lines, to have paybooks checked and if necessary entries made in them.

6. INTER PL POSTINGS

B.11990 Pte FILGIANO H A	ceases att to "B" pl and posted from GD to HQ pl wef 3 Nov 44
B.52484 Pte DEMMINGS G E	ceases att to HQ & posted from GD to HQ pl wef 3 Nov 44
G.14544 Pte MARTIN E	ceases att to "B" Pl & posted from GD to "B" pl wef 3 Nov 44
M.31671 Pte BROWN C E	ceases att to "B" Pl & posted from GD to "B" pl wef 3 Nov 44
D121542 Pte LAUZON J M	ceases att to "A"Pl & posted from RDI to HQ Pl wef 3 Nov 44
D140453 Pte PIPE WOLFERSTAN RD	ceases att to "C" Pl & posted from RDI to "C" pl wef 3 Nov
B.62519 Pte O'NEILL P D	posted from "A" Pl to RDI & att to Wksp wef 3 Nov 44
B.63397 Pte LAWR S W.	posted from "B" pl to "A" pl w.e.f. 3 Nov 44
B.55419 Pte BOUCHER LAJ	posted from "A" Pl to RDI and att to "A" Pl wef 3 Nov 44

7. POLICY ON RELATIONS BETWEEN ALLIED OCCUPYING FORCES & INHABITANTS OF GERMANY GERMAN ATTITUDE AND PROPAGANDA (Cont'd)
The German contention of themselves as a "MASTER RACE" has been too freely implanted to be eradicated outright; many Germans will accept defeat as only a temporary phase of a continuing struggle, and strong efforts will no doubt be directed towards remaining commanding positions in Europe. Plans for underground continuation of the struggle are believed to exist.

(SGD) (C.M. ANFOSSI) Lt
for (G. Gibb) Major
Officer Commanding
64 Army Transport Coy, R.C.A.S.C.

/RMR
Field

PTO

CERTIFIED TRUE COPY: (Sgd) Charles Anfossi

(C. M. Anfossi) Lt
64 Army Transport Coy, R.C.A.S.C.

This is Exhibit "A" referred to in the Summary of Evidence in the case of .C.36605 Pte.Ouvette.E..... taken before me this 28th day of November 1944.

(Sgd) T. Oldford Capt

(T. Oldford) Capt
.....
Signature of Officer taking Summary

Gemeentebes uur
van
A R E N D O N K

Schade toegebracht, aan meubels in cafe Mermans Schoolstraat alhier op 24 November 1944, te 9 u. s'avonds.

25 glazen gebroken	300 frs
1 stoof kapot	500 frs
1 stoel kapot	150 frs
1 tafel kapot	20 frs
totaal...	970 frs

Arendonk, den 29 November 1944

De Burgemeester

SGD: J VAN POPPEL

CERTIFIED TRUE COPY: (Sgd) Charles Anfossi

(C.M. Anfossi) Lt
64 Army Transport Coy, RCASC

This is Exhibit "B" referred to in the Summary of Evidence in the case of C. Le Roy, Pte Guyette S..... taken before me this 28th day of November 1944.

(Sgd) T. Oldford Capt

.....(T. Oldford) ..Capt.....
Signature of Officer taking Summary

"ASWW"

ARMY FORM B.296.

Statement as to Character and Particulars of Service of Accused.

Number.	*Rank.*	*Name.*	*Regiment (or as the case may be).*
C-36605	Pte	GUYETTE, S.	64 Cdn Army Tpt Coy RCASC

1. The following is a fair and true summary of the entries in the regimental and squadron, battery or company conduct sheets† of the accused, exclusive of convictions by a court martial or a civil court, of summary awards under section 47 of the Army Act, and of cases in which trial has been dispensed with :—

Note.—At a trial by field general court martial the summary may be compiled from the field conduct sheet.

The conduct sheets mentioned should be produced in court with the statement but not entered in the proceedings.

† See para. 677, K.R., 1940.

* The number hereby stated should correspond with the number of entries in the accidental awards, punishments below given in the most serious offence in each entry, and to any recommendation for special mention, gallantry or distinguished conduct.

Instructions.—If the charge is for drunkenness the entries for drunkenness must be stated separately and dated.

	* Within last 12 months.	*Since Enlistment.
For	Absence Without Leave A.A. Sec. 15(1)	6 times.
For	Conduct to Prej etc AA Sec 40 times	3 times.
For	Drunkenness AA Sec 19 times	3 times.
	[illegible]	times.
	[illegible]	times.

Number of instances of gallantry or distinguished conduct,

or

There are no entries in the conduct sheets of the accused.

2. [redacted]

3. The accused is not under sentence at the present time. [redacted]

4. The accused has been in confinement, awaiting trial on the present charges, for 2 days in civil custody, and 11 "ASWW" days in military custody, making a total of 13 "ASWW" days, of which NIL days were spent in hospital.

5. The present age of the accused [redacted] is 22 Yrs

6. The date of his [redacted] is 28-7-41

7. The service which the accused is allowed to reckon towards discharge or transfer to the reserve is 3 yrs 4 month

8. [redacted]

9. [redacted]

10. The accused is in possession of, [redacted] CVSM

(*If the accused is a warrant officer.*) The accused before he was made a warrant officer last held the regimental rank of [redacted]

12. (*In the case of an officer.*) The accused [redacted] in the army the rank of [redacted] dated [redacted] and in his regiment (*or corps or department*) the rank of [redacted] dated [redacted]

[redacted]

Schedule of Convictions by a Court Martial or Civil Court, of summary awards under Section 47 of the Army Act and of cases in which trial has been dispensed with of accused.

No. _____ Rank _____ Name _____ of _____ Regiment (or as the case may be).

(INSTRUCTION.—A verbatim extract from the regimental books, stating these convictions and dispensations with trial, must be inserted.)

Description of court by which tried, or status of officer disposing of the charge or dispensing with trial	Date and place of trial, or summary award under A.A. ____ or order dispensing with trial	Charges upon which convicted, or in respect of which trial was dispensed with	Sentence of the court or authority disposing of the charge, or order of the dispensing authority	Punishment remitted

I HEREBY CERTIFY that the foregoing schedule of convictions and dispensations with trial is a true extract from the regimental books in my custody.

Signed this 2 Dec day of 44

Charles Anfossi Lt

13. That accused has served as a non-commissioned officer continuously, without reduction, to the present date.

Date of Promotion

In the rank of _____ years, _____

In the rank of _____ years, _____

In the rank of _____ years, _____

(INSTRUCTION.—If any matter in any of the above pre-exempt cannot be stated from the regimental books the paragraph must be struck through, except that in the case of a trial by field general court-martial the information may be collected from such records as are available and the paragraph inserted amended accordingly.)

C

"ASWW"

No C36605 Name Guyette, S. Sqn, Battery, or Company — Old Sheet destroyed 20 JAN 44 — Drunkenness 1st Offence

Corps R.C.A.S.C. Date of enlistment 28-7-41 GC Badges

Date of last entry in Company Conduct Sheet — No and date of last drunk — Period not reckoning towards freedom from extra fine — Sheet No — Signature OC Company, etc A.L.Moore Capt — Service or Proficiency Pay — Character

MFM 6 (AFB 122) 40/PA/5126 (3682)

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with award	By whom awarded	Remarks
U.K.	6-5-42	Pte		A.A.Sec 15(1) AWL WOAS	Cpl Erlendsen	168 hrs detn	6-5-42	Capt L Beauchamp	
U.K.	12-6-42	Pte		A.A.Sec 40 Left his rifle unprotected	Capt Eckold	3 days C.B.	6-6-42	Capt D.H.Eckold	
U.K.	16-6-42	Pte		A.A.Sec 19 Drunkenness(2nd Offence)	L/Cpl Hughes	Fined 10s	16-6-42	Capt D.H.Eckold	
Field	28-7-42	Pte		A.A.Sec 15(1) AWL 12 hrs 30 mins	Cpl Leavitt	8 days pay	29-7-42	Capt D.H.Eckold	
Field	29-9-42	Pte		Drunkenness AA Sec 19(3rd Offence)	Sgt Quirk	Fined $10	30-9-42	Capt D.H.Eckold	
Field	6-10-42	Pte		A.A.Sec 40 Neglected to carry out an order	Cpl Beattie	Extra duty 28 days detn	6-10-42	Major J.B.MacAuley	
Field	14-1-43	Pte		A.A.Sec 40 Driving W.D.Veh in such a manner to cause damage £20 damages Civilian prop damage 4s 9d	Pte Hooper	14 days pay & make good damage to veh		Major J.B.MacAuley	
Field	18-10-43	Pte		A.A.Sec 15(1) AWL 1 day 45 mins	Cpl Rigley	8 days pay 7 days F.F.	18-10-43	Capt A.L.Moore	

(PTO)

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Field	15-1-43	Pte		A.A.Sec 15(1) AWL 14 hrs	Cpl Burke	6 days pay	17-1-44	Capt A.L. Moore	FR&I 149(2) FR&I 149(1((a)
Field	19 JUN 44	Pte		A.A.Sec 15(1) AWL WOAS 1 hr 30 Mins	Sgt Sanofsky L/Cpl Townsend	Forfs 10 days pay	20 JUN 44	Capt A.L. Moore	FR&I 149(2)
Field	12 JUL 44	Pte		A.A.Sec 15(1) AWL WOAS 2 days 17 hrs. 30 mins	Sgt Sanofsky Sgt Cummins	10 days detn 3 days pay	22 JUL 44	Major H.J.Pollock	

CERTIFIED A TRUE COPY

(Sgd) T. Oldford Capt
(T. Oldford) Capt

FLASH NUMBER TWO

FLASH NUMBER TWO

FLASH NUMBER TWO

FLASH NUMBER TWO

FLASH NUMBER TWO

FLASH NUMBER TWO

5'b-24

Ens. Guyomard, 6

SCHEDULE.

PART I. PLEA(S), FINDING(S) AND SENTENCE.

Accused: F-10175 Gnr GUYOMARD, Charles - 2 CARU

Charge. (Insert "alternative" where applicable.)	Plea. (See Instrs p 2.)	Finding. (See note below.)	(Space for use as required for further charges, accused charged jointly, special findings, etc.)
1st AA Sec 15(1)	Guilty	Guilty	
2nd			
3rd			
4th	NP		
5th			
6th			

(Note: As to findings for lesser offences see AA 56, RP 44; findings on alternative charges see MML p 483 fn 4 para 2, RP 44; special findings see RP 44 and MML p 753, and in loss of kit see RP 44 fn 6.)

At present under sentence for NOT beginning on (date) (1)

(1. Insert sentence being served, or delete, if not applicable. See RP 46(A). Information should be found on MF B355 or AF B296.)

Time in confinement awaiting present trial—a total of 6 days, of which Nil days were spent in hospital.(1)

(1. See RP 46(A) fn 2. Information should be found on MF B355 or AF B296 admitted in evidence under E2.)

Sentence Awarded by the Court:

To undergo Detention for Six (6) months and to be dealt with under Regs of pay until he has made good the sum of £1-15-1 (Cost of return)

(Sgd) Judge-Advocate, if any. 4 Apr 45 Date awarded. (Sgd) Fld. Brigade President. (RP 45, 50) Major

(See back of Convening Order as to assembly and disposal of record after trial.)

PART II. MINUTE WHERE CONFIRMATION RESERVED. (AA 54(5), RP 120(F), MML p 760.)

Date (Sgd) Commanding

PART III. DECISION OF CONFIRMING OFFR ON FINDING(S) AND SENTENCE.

(For duties and powers see AA 54, 57, RP 37(D) fn 6, 46(A), 51-56, 120, MML pp 759-761, KR Can 567-577. Acquittals require no confirmation and cannot be revised: AA 54(3). Sending back finding or sentence for revision by Court: AA 54(2), RP 120(G). If not confirmed, accused may be tried again: AA 157, MML p 64. Minute of confirmation or non-confirmation may be altered before promulgation: RP 53, MML p 65. Quashing after promulgation: KR Can 573. Duties and powers of reviewing offrs: AA 57, 57A, RP 53A, 54. The Confirming Offr must sign here personally. AA 172 fn 1.)

My decision on the finding(s) and sentence set forth in Part I is:

Confirmed

I direct that the accused be not committed to prison or detention barracks until further orders.(1) NIL

(1. AA 57A. Delete if not used.)

Date 6 Apr 45 (Sgd) Hon Brownfield Commanding Confirming Officer.

PART IV. PROMULGATED AND EXTRACTS TAKEN. (RP 53, KR Can 576, 577.)

Accused.	Date.	Signature of Offr.
F 10175 Gnr Guyomard C.	6 Apr 45	Geo Cole Capt
Do + B3	9/9 Apr 45	Do Do Capt

ALL DELETIONS AND ALTERATIONS WILL BE INITIALLED.

RECORDED AT CMHQ IN AB 160 5C 24

RECEIVED 13 APR 1945 CMHQ

FIELD GENERAL COURT-MARTIAL

CFAGS (In lieu of AFAA) 40/P & S/1698 (61144) 4/38B

Convened by Order of Brig HON Brownfield, CBE, MC, Comd "C" Gp CRU dated 2 Apr 45

ACCUSED.

(As to the trial of two or more charged jointly see RP 46, 71, 109. As to reasons for showing (a) permanent or confirmed rank, and (b) apptmt, A/rank or A/appmt, if any, see AA 190, 190, fns, KR Can 308, 328, 330.)

Number.	(a) Prmnt R. (b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
F-10175	Gnr	Charles	GUYOMARD	2 CARU

PROCEEDINGS REVIEWED 13 Apr '45 Lt-Col. Asst. REVIEWING OFFICER, JAG BRANCH C.M.H.Q.

PROCEEDINGS OF TRIAL.

Held in the Fd in (country) England on (date(s)) 4 Apr 45

RECORD FORM A—OPENING PROCEEDINGS AND ARRAIGNMENT.

A1. The President, Members, ~~waiting Member, JA, if any~~, and Offrs under instr, ~~if any~~, assemble, and the Court is closed.

(PRINTED MATTER, NOT IN ITALICS FOR GUIDANCE. WILL BE DELETED, IF NOT USED OR APPLICABLE, AND INITIALLED BY PRES OR JA. The Schedule referred to throughout is on p 4. Citations do NOT include all relevant fore RQs. For guidance on procedure when a variation in this form arises, see form for GCM in MML pp 741 to 759. A brief record of such variation will be made and given a number having reference to appropriate or preceding para number herein. See back of Convening Order, CF 695, for oaths and instrs on how to record admissns, evidence, etc, which instrs are hereafter called "Notes". As to general provisions for conducting the trial see AA 53, RP 36, 53-70, 73, 74, 94, 103, 119, 132.)

A2. The President initials and lays before the Court the Convening Order and Charge Sheet(s) attached thereto.(1) The Court is satisfied that it is properly convened and constituted(2), accused is (are) amenable to military law, and each charge discloses an offence.(3)

(1. As to use of Summary of Evidence see RP 17 fn 6. 2. AA 49, 50, RP 105-107. 3. RP 11-13, 23, 24.)

A3. The Court is opened. The accused is ~~(are)~~ brought before the Court. At 1025 hours trial commences.

A4. The Prosecutor produces a Medical Certificate that accused is (are) fit to undergo trial by court-martial.(1) ~~The Prosecutor informs the Court that accused elected to be tried by court-martial instead of being dealt with summarily by the CO.~~(2)

(1. KR Can 557. 2. AA 46(B), RP 60 fn 1. For effect see KR Can 563(c). Delete, if not applicable.)

A5. President to accused: ~~Do you object to ..... as interpreter?~~ Ans ~~.....~~

~~The Interpreter is sworn.~~(1) Do you object to C/6167 Sgt R. Boudrault as shorthand writer? Ans No

The shorthand writer is sworn.(1)

(1. RP 72. Delete, if none employed.)

A6. The Convening Order and names of the President and Members of the Court are read to the accused.(1) President to accused: Do you object to be tried by me as President or by any of the Members of the Court?

Ans No (2)

(1. RP 110. 2. If no objection, waiting member retires. RP 60(B). If objection, see procedure AA 51, RP 25, 71, 18, MML p 742.)

A7. The President, Members, ~~JA, if any~~, and Offrs under instr, ~~if any~~, are sworn.(1) The following are the ranks, names and units of the offrs comprising the Court, etc:

President	Major	G. R. Mauro E.D.	HQ CRU
Member	Capt	J. M. Boyd	2 CARU
Member	Lieut	F. C. Trier	2 CARU
~~Judge-Advocate~~			
Prosecutor	Lieut	R. J. Mackwen	2 CARU
Defending Offr	Lieut	B. Walsh	2 CARU

Questions by President: Is the Prosecutor a lawyer? Ans No. Is the Defending Offr a lawyer? Ans No (2)

(1. RP 26, 27, 109, 111. List of offrs under instr will be returned separately with proceedings for information of Conv Offr. (2. If Pros a lawyer and Def Offr not, accused is entitled to an adjournment when RP 89 (2) and fn 2 were not followed. See Qs p 2.)

A8. The accused ..... before arraignment make(s) (no) (a) plea ..... (1)

(1. If a special plea is made for separate trial on one or more charges (RP 62(E), 108), or as to the jurisdiction of the Court (RP 24, 25(4), 113), or in bar of trial (RP 36), or as to accused's mental fitness to stand trial (AA 130, RP 57), or by one of several accused charged jointly to be tried separately (RP 68, 71), such plea, the addresses made in support or against, the evidence, if any, and finding are recorded per Notes. For forms of record see references in fns to RsP cited. Insert in AB rank and name of the accused making the plea.)

A9. The accused is ~~(are)~~ arraigned ~~(separately)~~ on all charges in the charge sheet.(1) The accused does (do) not object to any charge.(2) There is no amendment to be made to the Charge Sheet.(2) The President records the pleas in Part I of the Schedule.

(1. RP 31, 112. See para 1 of Instrs p 2. When more than one Charge Sheet see RP 62; when several accused to be tried separately use RP 71(C), and use separate copies of CF 695 to record proceedings. 2. RP 32, RP 33. If otherwise, delete and make appropriate record per Notes.)

A10. The Court (is cleared and) considers the Instrs on Procedure after Arraignment at top of p 2. The proceedings are continued on Record Form 3

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

INSTRUCTIONS ON PROCEDURE AFTER ARRAIGNMENT.

1. *The accused may not plead or be found Guilty on more than one of two or more charges laid in the alternative.* (*RP* 37(*A*).) *As to withdrawal of alternative charges by Prosecutor see RP* 35(*C*). *No other charge can be withdrawn for any reason without authy from Convening Offr. If Convening Offr concurs, Court may accept plea of Guilty to lesser, etc, offence.* (*RP* 44(*H*).) *Accused may change a plea of Not Guilty to Guilty during trial.* (*RP* 38.) *As to refusing to plead or not pleading intelligibly see RP* 35(*A*). *As to plea when sentence may be death see RP* 35(*D*).

2. *The proceedings on each charge sheet* (*RP* 62) *after arraignment will be conducted as follows in the respective circumstances stated :*

I. If pleas to all charges are GUILTY, use Record Form B below.

II. If pleas to all charges are NOT GUILTY, use Record Form D on p 3.

III. If pleas to some charges are GUILTY and to other charges are NOT GUILTY and,

(a) *Such mixed pleas occur when there are no alternative charges in the Charge Sheet, use Record Form C below.* (*RP* 37(*A*).)

(b) *Such mixed pleas occur in a set of two or more charges laid in the alternative, see RP* 37 (*A*) *and fn* 2 *as to discretion of Court,* (i) *to try the accused on all such alternative charges as if he had pleaded Not Guilty thereto, or,* (ii) *to record the pleas as the findings of Court. After deciding between* (i) *and* (ii), *Court will proceed under foregoing instrs as may be appropriate to result of its decision. See M M L p* 744 *Instrs* (2).

3. *As to responsibility of President to accused see RP* 59, 60(*C*) ; *powers and duties of J A see RP* 103 ; *duty of Prosecutor see RP* 60(*A*) (*B*) ; *duty and privileges of accused and Defending Offr see RP* 60(*C*), 87(*C*), 91, 92 ; *swearing and withdrawal of witnesses from Court see RP* 81, 82 ; *questioning of accused see RP* 80, 87(*C*), 92(*B*), *and of witnesses see RP* 83-85 ; *calling or re-calling of witnesses by Court, etc, see RP* 75-79, 86, 116 ; *use of Summary of Evidence at Trial see RP* 17(*E*) *fn* 6 ; *and responsibility of J A or Pres to record proceedings see RP* 94, 96.

RECORD FORM B—PROCEEDINGS ON PLEAS OF GUILTY TO ALL CHARGES.

B1. The President or JA, if any, complies with RP 35(B) by explaining to the accused the nature and meaning of the charge(s)(1), and that on his plea of Guilty there will be no regular trial but merely a consideration of the sentence to be awarded after he has been given an opportunity to make a statement in reference to the charge(s), call witnesses as to character and make an address in mitigation of punishment.(2)

(1. *RP 35 fn 3.* 2. *MML p 54 para 47.*)

B2. President to accused : The Court will now receive any statement you desire to make in reference to the charge(s).(1) If it appears from your statement that there are circumstances which indicate that you do not understand the effect of the plea of Guilty(2), or which show provocation or extenuation in respect of which in your interest the witnesses for the Prosecution should be examined(3), we shall advise you to change your plea to Not Guilty. In making a statement you will not be sworn or subject to cross-examination ; and anything you say will not be used in evidence against you after you change your plea. If, however, it appears to the Court that your statement affects only the amount of punishment to which you are liable, you will not be advised to change your plea and you will be given an opportunity later to prove your statement by sworn testimony, if you so desire.(4)

President to accused : Do you wish to make a statement ? Ans. No (5)

(1. *RP* 37(*B*). 2. *RP* 37(*D*) *fn* 6. 3. *RP* 35(*B*) *fn* 5 *para* 3. *MML p* 54 *para* 47. 4. *See para E3 of Record Form E.* 5. *Statement, if any, recorded per Notes.*)

B3. The Court considers the accused's statement.(1) The Court decides (not) to advise accused to change his (their) plea(s) of Guilty to Not Guilty on ..... charge(s). The accused is (are) so informed, and he (they) change(s) his (their) plea(s) on ..... charge(s). Part I of the Schedule is amended accordingly.

(1. *Court may be closed to consider the statement. Delete whole or part not used.*)

B4. On the charge(s) to which the plea(s) of Guilty is (are) not changed the President records finding(s) of Guilty in Part I of the Schedule.(1)

(1. *RP 35(B). If any plea(s) is (are) changed, use Record Form C or D as appropriate.*)

B5. The Summary of Evidence is marked Ex. A, initialled and read aloud by the President.(1)

(1. *If there is no Summary, or if it is inadequate, comply with RP* 37(*B*). *If there is any evidence inconsistent with any plea standing as Guilty, Court will advise accused to change such plea and, if changed to Not Guilty, try such charge(s) by use of paras D1 to D8 inclusive of Record Form D on p* 3. *RP* 37(*D*).)

B6. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on *p* 3.

RECORD FORM C—PROCEEDINGS ON MIXED PLEAS OF GUILTY AND NOT GUILTY.

C1. As to the charges on which accused pleaded NOT GUILTY the trial is continued by using paras D1 to D8 inclusive of Record Form D on p 3 before proceeding with C 2.(1)

(1. *RP* 37(*A*) (*E*).)

C2. The charges on which accused pleaded GUILTY are read to him (them) again, and the trial is continued by using paras B1 to B5 of Record Form B above.(1)

(1. *Under B5 such parts only of the Summary of Evidence are read as relate to the charges dealt with under C2. If any plea is changed to Not Guilty, trial thereon proceeds by complying with paras D1 to D8 inclusive in Record Form D on p* 3 *and making an appropriate record thereof on a separate sheet.*)

C3. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

RECORD FORM D—PROCEEDINGS ON PLEAS OF NOT GUILTY TO ALL CHARGES.

D1. President to accused : Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity to prepare your defence ? Ans. ..... .(1)

(1. *If "yes", see RP* 39(*A*) *for procedure. Statement or evidence, if any, is recorded per Notes.*)

D2. The Prosecutor makes (an) (no) opening address.(1)

(1. *RP* 39(*B*), 60(*A*) (*B*), 90, 92(*C*) (*D*). *Record address per Notes, subject to RP* 95(*C*).)

D3. The evidence for the Prosecution is taken.(1)

(1. *RP* 39(*C*), *114, KR Can* 555. *Record evidence per Notes. As to Prosecutor giving evidence himself see RP* 39(*D*) (*E*).)

D4. The Prosecution is closed.(1) The Defending Offr submits that the evidence for the Prosecution does not establish a prima facie case against the accused on the ..... charge(s).(2) The Court is closed, and considers the submission.(3) The Court is re-opened, and the President announces that the submission is disallowed on the ..... charge(s), and allowed on the ..... charge(s), and that, accordingly, the trial will proceed on the former, but the accused is (are) found Not Guilty on the latter charge(s).(4)

(1. *Delete remainder of this para. if submission not made.* 2. *Arguments on submission, answer and reply are recorded per Notes.* 3. *RP* 40 *fn* 1. *See MML p* 72 *paras* 12-14 *and p* 81 *para* 42. 4. *Delete part not used. If accused acquitted on all charges, use appropriate alternative in para* D8.)

NB : If trial proceeds, accused must be allowed great latitude in making his defence, and the Court should not stop his defence solely on ground of irrelevance. (*RP* 60(*C*), *114, 115.*)

D5. President to accused : You will now proceed with your defence.(1) You may, if you wish, give evidence yourself on oath as to the facts or your character or both, in which case you will be subject to cross-examination.(2) You may, however, make a statement without being sworn, and you will not be subject to cross-examination.(3) But a statement which could have been made on oath will not carry with the Court the same weight as sworn testimony.(4) You may call witnesses in your defence and as to character, whether you give evidence or make a statement or do neither.

President to accused : Do you wish to give evidence yourself as a witness, make a statement, or do neither ?

Ans. ..... Do you intend to call witnesses on your behalf ?

Ans. ..... Are they witnesses as to character only ? Ans. .....

(1. *RP 115.* 2. *RP* 46(*A*), *see* 80(*D*). 3. *RP* 46 *fn 10.* 4. *RP* 46 *fns* 2, 9.)

D6. Consequent on the answers recorded in para D5 the appropriate procedure for the defence is followed.(1)

(1. *RP 114, 115, 116. For procedure see Notes on back of Convening Order, CF A95. Evidence for accused as to his character should, if in his interest, be given before the finding. See RP* 46(*A*) *fn 1. B6*(*C*). *Note the further opportunity in para E1 of Record Form E. Record per Notes addresses, statement, evidence and any summing up by the JA under RP* 42, 103(*e*).)

D7. The Court is closed to consider the finding(s).(1) The finding(s) of the Court is (are) recorded in Part I of the Schedule.(2) The Court is re-opened.

(1. *RP* 43, 117(*A*). *See Notes in Part I of Schedule.* 2. *RP* 44(*A*).)

D8. The President announces the finding(s), if any, of Not Guilty, and states to the accused that the finding(s) of the Court on the ..... charge(s), being subject to confirmation, will be promulgated later.(1)

Or. The President announces that the accused is found Not Guilty on all charges and is to be released forthwith, and that the proceedings are accordingly terminated. Part I of the Schedule is dated and signed.(2)

(1. *AA* 54(*3*) (*d*). *RP* 45, 120(*A*). 2. *AA* 54(*3*). *RP* 45, *117. This alternative announcement is not applicable when there are pleas of Guilty surrounding and dealt with under Record Form B or C.*)

D9. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E below.

RECORD FORM E—PROCEEDINGS ON CONVICTION BEFORE SENTENCE.

E1. President to accused : Do you wish to give evidence yourself or to call any witnesses as to your character ?(1)

Ans. Yes Character statement by Sgt Graham

(1. *If evidence has already been given by accused or his witnesses as to his character, delete this para. RP* 37(*C*) *fn* 4, 46 *fn* 1. *Accused and witnesses are sworn. Evidence recorded per Notes.*)

E2. The Prosecutor produces Statement(s) as to Character and Particulars of Service(1), and certified true copy (copies) of Conduct Sheet(s)(2), purporting to refer to the accused, which he submits to the Defending Offr for examination, and then to the Court for admission in evidence. The Court is satisfied that these documents refer to the accused, because (i) they purport to be signed in the manner required by AA 163(3) (g) (h), and (ii) they purport to refer to (a) soldier(s) having the same number, rank, name and corps as the accused. Admitted in evidence and marked Ex. B and Ex. C respectively.(3)

(1. *MFB 353 or AFB 296.* 2. *AFW 6.* 3. *RP 46, KR Can 558. If above documents not produced, see RP 46 fn 1 para* 1.)

E3. President to accused : Do you wish to address the Court on the Statement(s) and Conduct Sheet(s), and in mitigation of punishment ?(1) Ans. Yes, read and pass up by Defence Offr (2)

(1. *RP* 37(*C*), 46(*D*). 2. *Address, if any, recorded per Notes. Court should permit accused or his witnesses to prove on oath anything here or previously stated which would affect the amount of punishment. RP* 37(*F*) *fn* 7.)

E4. The President states that the Court is closed to consider the sentence, and that the sentence to be awarded by the Court, being subject to confirmation, will not be announced, but will be promulgated later, and the proceedings in open court are accordingly terminated.(1)

(1. *AA* 54(*6*). *RP* 120(*A*).)

E5. The Court considers the sentence.(1) The President records the sentence in Part I of the Schedule, which is dated and signed by him and the JA, if any.(2)

(1. *When several accused tried separately see RP* 71 (*D*). *One sentence only, comprised of the punishment or punishments laid down in AA* 43, 44 *and its proviso, is to be awarded to cover all charges in all charge sheets on which accused found guilty. RP* 48. *As to sentences see AA* 44, 138, 182, *RP* 46-50, 69, 118, 119(*A*), *KR Can* 308, 330, 563-566, *Overseas RO* 309, 2323, *MML p* 90, 757-758. *As to sentences assigned for civil offences by the law of England see AA* 41(5), *MML p* 130. *When accused already under sentences of imprisonment or detention see AA* 44(10), 68(1), *KR Can* 564. 2. *RP* 50. *As to release from arrest by Confirming Offr see KR Can* 567. *As to assembly and disposal of record after trial see instrs on back of Convening Order.*)

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

CHARGE SHEET

The accused F-10175 Gunner Charles GUICHARD "p" Training Wing, No 2 Cdn Arty Rft Unit, a soldier of the Cdn Army, Overseas, is Charged with:

1st Charge
Section 15(1)
Army Act

WHEN ON ACTIVE SERVICE
ABSENTING HIMSELF WITHOUT LEAVE

In that he,

in the field, absented himself without leave from 1700 hrs 29 Jan 45 until being apprehended at Nottingham at 2310 hrs 27 Mar 45, incurring costs of return to his unit to the amount of £1:15:1. Absent 57 days 6 hours and 10 minutes.

Huron Camp
Bramshott, Hants
31 Mar 45

S.H. Dobell

(S.H. Dobell) Colonel RCA
Commanding Officer
No 2 Cdn Arty Rft Unit
Cdn Army (Overseas)

To be tried by Field General Court Martial,

H.W. Brownfield Brigadier,
Commanding "C" Group, Cdn Reinforcement Units.
(Convening Officer)

Bordon, Hants.
2 Apr 45

FIELD GENERAL COURT-MARTIAL

(Whether the accused to be tried is under his comd or not, a FGCM may on application to him be convened by any offr of Cdn Army Overseas, or of any other force if authorized in law, in immediate comd of troops on active service, subject to RP 105(C) and restrictions imposed by appropriate authy. AA 49, 50, RP 104-107, 114. As to the duties and privileges of the Convening Offr in dealing with the application see MML Chap V paras 20 and 23. RP 87(B).

There should be a separate Convening Order for each person to be tried separately by the same Court. RP 71(C), 109. As to separate charge sheets see RP 62, and as to separate trial on charges in the same charge sheet see RP 108. As to two or more accused charged jointly see RP 16, 109.

As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Can 306, 328, 330.)

ACCUSED.

Number.	(a) Prmnt R.	(b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
F-10175	Gnr		Charles	GUYOMARD	2 CARU

CONVENING ORDER.

1. Whereas complaint has been made to me, the undersigned, that the person(s) named above as the accused, being subject to military law, has (~~have~~) committed the offence(s) set forth in the Charge Sheet(s) attached and on (date) this date endorsed by me, (~~as have been~~) "To be tried by Field General Court-Martial".

2. And whereas I am of opinion that it is not practicable that such offence(s) should be tried by an ordinary General Court-Martial; (~~as to each of the offences mentioned in the said charge sheet~~)
(Delete part in brackets when not required for compliance with RP 105(C).)

3. I hereby convene a Field General Court-Martial to try the said person(s), and to consist of the Offrs appointed or detailed hereunder.

4. ~~I exempt the Judge-Advocate from attending the Court during the trial of the said accused.~~
(AA 49, RP 106(B), 107(A). Delete the whole or part, if not applicable.)

5. ~~I appoint the undermentioned officer to be Waiting Member.~~
(RP 106(E). Delete, if none appointed.)

PRESIDENT.

(Rank.)	(Must be named. RP 106.)	(Unit.)
MAJOR	E.M. MILLER, ED	HQ CRU

MEMBERS.

(Rank.)	(Named or detailed. RP 106.)	(Unit.)
CAPTAIN	To be detailed by CO	2 CARU
LIEUTENANT	To be detailed by CO	2 CARU

WAITING MEMBER.

(Rank.)	(Named or detailed, if any. RP 106.)	(Unit.)

JUDGE-ADVOCATE.

(Rank.)	(Must be named, if any. RP 106.)	(Unit.)

On Active Service in the Fd

in ENGLAND (Country.)

Dat 2 Apr 45

(Signed personally. RP 105 fn 2.) Hugh Bronfield Brigadier (Rank.)

Commanding "C" Group, Cdn Rft Units.
Convening Officer.

CONVENING OFFR WILL INITIAL ALL DELETIONS AND ALTERATIONS

4/38A CFA 98 (In lieu of AFA 3) 40/F & E/1697 (6143)

(See overleaf for oaths and notes for use on trial.)

Medical Officers' Certificate
I.R. (Can) para 557

I certify that I have this morning examined F-10175 Gnr GUYOMARD, C., of 2 CARU and in my opinion he is ~~fit~~ unfit to undergo trial by Court Martial. P.W. no 2 CARU.

.....(Medical Officer)

2 C.A.R.U.

4 Apr 45

No 2 Cdn Arty Rft Unit
Cdn Army (Overseas)

3 A pr 45

TO WHOM IT MAY CONCERN

"I, F 13115 Sgt Graham, W.F., am a Tp Sgt in "G" Bty "p" Wing No 2 C.A.R.U. I have known the accused, F 10175 Gnr Guyomard, C.V. for two and half years as his Tp Sgt in 3 Cdn Med Regt. While Gnr Guyomard was in my Tp in 3 Cdn Med Regt he was a very dependable soldier and his Tp Officers held much respect for him. He was a very good gun layer in our tp and at all times he was one who was willing to work.

In view of the above, I would not hesitate in giving character ~~reference~~ EVIDENCE for Gnr Guyomard."

W.F. Graham
(F 13115 Sgt Graham, W.F.)

SUMMARY OF EVIDENCE IN THE CASE OF F-10[illegible]
GUYCOURT, upn Training Wing, No 2 Con Grp
soldier of the Can Army Overseas.

By direction of the Commanding Officer the fo[illegible]
taken on oath.

"A" Produce the following documents pursuant to Crown
NO 5252 which have been red over and shown to the
accused and which are attached hereto as Exhibits "A",
upn to "G".

Certified True Copy of Record of the Declaration of a
Court of Inquiry. Exhibit "A"

Certificate of Appreciation. Exhibit "B"

Expense Voucher. Exhibit "C".

(C.W. Currie) Capt RCA
Administrative Officer
upn Wing 2 CARU

Officer detailed to take the Summary of Evidence.

The accused was cautioned as follows: "Do you wish to
make a statement or to give evidence on oath? You are
not obliged to do so, but whatever you say or give evidence unless you
wish to do so, but whatever you say or any evidence you
give will be taken down in writing and may be given in
evidence."

The accused declines to make a statement and reserves
his defence.

I certify that the foregoing Summary of Evidence con-
stitutes a true and accurate report of the proceedings
sisting of one page was taken down by me in the presence
and hearing of the accused and that Rules of Procedure
4(c), (d), (e) and (f) have been complied with.

(C.W. Currie) Capt RCA
Administrative Officer
upn Wing, 2 CARU

Officer detailed to take the Summary of Evidence.

NO. 2 CDN. ARTY. RFT. UNIT, CDN. ARMY (OVERSEAS).

TO:- THE PRESIDENT AND MEMBERS OF THE F.G.C.M. ASSEMBLED AT 1000 HRS. WED. 4 APR 45 AT HURON CAMP, "P" WING, 2 CDN. ARTY. RFT. UNIT, CDN. ARMY (OVERSEAS).

SUBJECT:- PLEA IN MITIGATION OF PUNISHMENT OF F10175 GNR. GUYOMARD, C.Y.

① THE ACCUSED ADMITS HIS GUILT AND IS READY TO ACCEPT THE JUDGMENT OF THE COURT. HE HAS DONE WRONG AND IS PREPARED TO PAY THE PENALTY FOR HIS WRONG DOING.

② THERE ARE, HOWEVER, SOME POINTS IN HIS FAVOUR WHICH SHOULD BE BROUGHT TO THE ATTENTION OF THE COURT.

③ HE JOINED AN N.P.A.M., COAST ARTILLERY, UNIT IN JUNE 1938 SIGNING ON FOR THREE (3) YEARS IN THE NORMAL MANNER. THUS HE WAS A GUNNER FOR OVER A YEAR WHEN WAR BROKE OUT.

④ THE ACCUSED IS TWENTY-THREE (23) YEARS OLD. HIS HOME TOWN IS SYDNEY, N.S., WHERE HE ENLISTED FOR ACTIVE SERVICE ON 2 SEP 39, AND WHERE HE WAS MARRIED THE FOLLOWING YEAR.

⑤ THUS HE IS ONE OF THE EARLY MEMBERS OF OUR ARMY AND LIKE A GREAT NUMBER OF OTHER "OLD TIMERS" HE HAS ALLOWED HIMSELF TO BECOME THOROUGHLY "BROWNED OFF."

⑥ HIS UNIT RECORD IN 1940 AND 1941 IS NOT GOOD. IT IMPROVES GREATLY IN 1942 AND 1943 WITH ONLY THREE (3) RELATIVELY MINOR CHARGES DURING THESE TWO YEARS.

⑦ HE KEPT UP THIS GOOD RECORD UNTIL ABOUT MAY 1944 WHEN HE CAME TO 2 C.A.R.U. THROUGH HOSPITAL AFTER THREE (3) YEARS IN THE FIELD WITH THE 3rd MED. REG., R.C.A.* *THIS MEMO ALSO SHOWS SERVICE WITH THE 2nd MED REGT. R.C.A. - ED.

CONT: FROM P. (1).

(8). HE HAS BEEN IN 2 CARR EVER SINCE (ABOUT A YEAR NOW) WHERE HE BECAME VERY DISSATISFIED. HE WAS ANXIOUS TO REJOIN HIS REGIMENT WHICH WAS NOW (JUL '44) IN ACTION AND UNHAPPY ABOUT THREATENED INFANTRY DRAFTS THAT WOULD PREVENT HIM GETTING BACK TO THE GUNS AND TO HIS FRIENDS IN THE FIELD. HE SAW JUNIOR MEN GOING OUT TO THE FIELD AND FOR VARIOUS REASONS* HE COULDN'T GET OUT HIMSELF.

IT WAS DURING THIS PERIOD THAT HE STARTED ON THE DOWN GRADE.

(9) I WOULD ALSO LIKE TO DRAW TO THE COURTS ATTENTION THAT THIS IS THE ACCUSED'S FIRST COURT MARTIAL. ALL HIS PREVIOUS CHARGES WERE SUFFICIENTLY MINOR TO BE DEALT WITH BY HIS UNIT COMMANDING OFFICER.

(10). FINALLY I WOULD LIKE TO SUBMIT THIS SIGNED STATEMENT OF CHARACTER EVIDENCE FROM F/SJTS SGT. GRAHAM, W.F.

(11) IN CLOSING MAY I REMIND THE COURT THAT A SENTENCE OF SIX MONTHS OR OVER STOPS ALL PAY AND ALLOWANCES - UNDER THAT PERIOD STOPS THE MAN'S OWN PAY BUT NOT HIS ASSIGNED PAY OR HIS WIFE'S ALLOWANCE.

RESPECT FULLY SUBMITTED BY,

[redacted] WALSH, [redacted] R.C.A.
BERTRAND WALSH, LIEUT. R.C.A.
RFT. OFFR. "A" BTY. NO. 2. CDN ARTY. RFT. UNIT,
CDN. ARMY (OVERSEAS).

IN THE FIELD,
4 APR '45.

*MOST OF HIS TIME WAS SPENT IN (1) A.W.O.L. (2) C.B. OR DETENTION (3) HOSPITAL. [REFERENCE HIS MEM. 4 AND 6].

SUMMARY OF EVIDENCE IN THE CASE OF F-10175 Gunner Charles GUYOMARD, "P" Training Wing, No 2 Cdn Arty Rft Unit, a soldier of the Cdn Army Overseas.

By direction of the Commanding Officer the Summary is taken on oath.

"I produce the following documents pursuant to Overseas RO 5352 which have been read over and shown to the accused and which are attached hereto as Exhibits "A", "B" & "C".

Certified True Copy of Record of the Declaration of a Court of Inquiry. Exhibit "A"

Certificate of Apprehension. Exhibit "B"

Expense Voucher. Exhibit "C".

(G.W. Currie) Capt RCA
Administrative Officer
"P" Wing 2 CARU

Officer detailed to take the Summary of Evidence.

The accused was cautioned as follows: "Do you wish to make a statement or to give evidence on oath? You are not obliged to say anything or give evidence unless you wish to do so, but whatever you say or any evidence you give will be taken down in writing and may be given in evidence.

The accused declines to make a statement and reserves his defence.

I certify that the foregoing Summary of Evidence consisting of one page was taken down by me in the presence and hearing of the accused and that Rules of Procedure 4(c),(d),(e) and (f) have been complied with.

(G.W. Currie) Capt RCA
Administrative Officer
"P" Trg Wing, 2 CARU

Huron Camp
Bramshott, Hants
31 Mar 45.

Officer detailed to take the Summary of Evidence.

Army Form B 115.

"A"

Record of the Declaration of a Court of Inquiry on the Illegal Absence of a Soldier.

RECORD of the Declaration of a Court of Inquiry assembled at Brookshott Hants on the 21st day of February 1945, for the purpose of investigating and recording the absence, without leave, from his duty, and deficiency, if any, in the Arms, Ammunition, Equipments, Instruments, Regimental Necessaries, or Clothing of No. F 10175 Gnr Guyomard C.V.

DECLARATION.

The Court declares that F 10175 Gnr Guyomard C.V. illegally absented himself witho t leave at 1700 hrs 29 Jan 45 and is still so absent, that on the 21 Feb 45 he was deficient, and that he is still deficient of the following articles:

DEFICIENCIES IN KIT OF F 10175 GNR GUYOMARD C.V.

Article	Quantity	100% Value	75% Value
Anklets web prs	1	£ 0-4-5	£ 0-3-4
Blouses BD	1	1-3-6	0-17-7½
Drawers prs woollen	2	0-10-9	0-8-1
Badges cap arty	1	0-0-4½	0-0-3½
Gloves knitted prs	1	0-2-1	0-1-7
Blouses denim	1	0-11-10	0-8-10½
Trousers denim prs	1	0-11-3	0-8-5
Shorts gym prs	2	0-3-10	0-2-10½
Socks worsted prs	1	0-1-8	0-1-3
Towels hand	1	0-1-5	0-1-1
Trousers BD prs	1	1-4-1½	0-18-1
Shoes canvas prs	1	0-2-11	0-2-2
Mugs drinking	1	0-0-7	0-0-5
Holdall	1	0-0-10	0-0-7½
Knife clasp	1	0-3-10	0-2-10½
Pack	1	0-8-3	0-6-2
Straps web support	2	0-1-2	0-0-10½
Boots ankle prs	1	1-4-5	0-18-4
Brushes shaving	1	0-1-8	0-1-3
Comb hair	1	0-0-2	0-0-1½
Vests woollen	2	0-10-9	0-8-1
		£7-9-10	£5-12-5

"B"

Certificate in accordance with Army Act. Sect. 16(1)(11)(and A.O.I. 1739 of 1941.

I certify that No. F.101725 Rank SNR. Name GUYOMARD...C.....

Unit. N.2. C.A.R.H. ROYAL CANADIAN ARTILLERY.....

was arrested at NOTTINGHAM.....at 1910 hrs. on 27th.....Date MARCH 45

and at the time of his arrest he was wearing military uniform.

Signature of Provost Marshal, A.P.M., D.A.P.M., or other officer into whose custody the above-named person was taken on arrest. ..... Capt. GARRISON ADJUTANT, NOTTINGHAM.....

PLACE. NOTTINGHAM.....

DATE. 27th MARCH '45.....

Army Form B 115.

Record of the Declaration of a Court of Inquiry on the Illegal Absence of a Soldier.

RECORD of the Declaration of a Court of Inquiry assembled at Bramshott Hants on the 21st day of February 1945, for the purpose of investigating and recording the absence, without leave, from his duty, and deficiency, if any, in the Arms, Ammunition, Equipments, Instruments, Regimental Necessaries, or Clothing of No. F 10175 Gnr Guyomard C.V.

DECLARATION.

The Court declares that F 10175 Gnr Guyomard C.V. illegally absented himself witho t leave at 1700 hrs 29 Jan 45 and is still so absent, that on the 21 Feb 45 he was deficient, and that he is still deficient of the following articles:

DEFICIENCIES IN KIT OF F 10175 GNR GUYOMARD C.V.

Articls	Quantity	100% Value	75% Value
Anklets web prs	1	£ 0-4-5	£ 0-3-4
Blouses BD	1	1-3-6	0-17-9½
Drawers prs woollen	2	0-10-9	0-8-1
Badges cap arty	1	0-0-4½	0-0-3½
Gloves knitted prs	1	0-2-1	0-1-7
Blouses denim	1	0-11-10	0-8-10½
Trousers denim prs	1	0-11-3	0-8-5
Shorts gym prs	2	0-3-10	0-2-10½
Socks worsted prs	1	0-1-8	0-1-3
Towels hand	1	0-1-5	0-1-1
Trousers BD prs	1	1-4-1½	0-18-1
Shoes canvas prs	1	0-2-11	0-2-2
Mugs drinking	1	0-0-7	0-0-5
Holdall	1	0-0-10	0-0-7½
Knife clasp	1	0-3-10	0-2-10½
Pack	1	0-8-3	0-6-2
Straps web support	2	0-1-2	0-0-10½
Boots ankle prs	1	1-4-5	0-18-4
Brushes shaving	1	0-1-8	0-1-3
Comb hair	1	0-0-2	0-0-1½
Vests woollen	2	0-10-9	0-8-1
		£7-9-10	£5-12-5

Names of President and Members

President: Lt R. MacPherson

Members: Lt R. Quinton

Lt R. Griffin

Signature of Commanding Officer (S.H. Dobell) Colonel

CERTIFIED TRUE COPY

(K.S. Mulholland) Major

Signature of Officer having custody of the Original Record.

Forms/B115/37.

Certificate in accordance with Army Act. Sect. 163(1)(11)(and A.O.I. 1739 of 1941.

"B"

I certify that No. E.10172..... Rank SNR. Name GUYOMARD...C.....

Unit. No. 2. CAR.U.....ROYAL..CANADIAN..ARTILLERY.....

was arrested at. NOTTINGHAM.....at 23.0. hrs. on 27th.....Date MARCH 45

and at the time of his arrest he was wearing military uniform.

Signature of Provost Marshal, A.P.M., D.A.P.M., or other officer into whose Custody the above-named person was taken on arrest.

Capt.

GARRISON ADJUTANT, NOTTINGHAM

PLACE. NOTTINGHAM.....

DATE. 27th MARCH '45.....

'6'

Expense Voucher Re— Ref: KR & O (Can) 539

Reg No. F10178 Rank Gnr Name Hayward, C Unit 2 C A R U

The following expenses were incurred in apprehending and returning the M/N Soldier to ~~his Unit from~~ London from Nottingham

Date	Particulars	Amount £	s	d
29/11/45	Escorts return fare from LONDON To Nottingham		19	0
	Prisoners single fare to LONDON From Nottingham		9	6
	Prisoners fare from to			
	Escorts & Prisoners expenses for ~~Bed~~, Meals, Bus fares		6	7
	Total £	1	15	1

I certify that the above statement of Expenses is Correct, and that the amounts are fair and just.

A J Simms Capt

Officer Issuing Railway Warrant and Expense Monies
No. 6 Area Provost Company, Canadian Provost Corps, London

1/35 CMHQ 100/55
40/P & R/483 (6782)

ARMY FORM B.296 (WAR).

Statement as to Character and Particulars of Service of Accused.

(For Use at Trials by Field General Courts-Martial only).

Number.	*Rank.*	*Name.*	*Regiment (or as the case may be).*
F-20175	Gnr	OTTOWAY, C.	No 2 C.A.E.U.

NOTE.—The Field Conduct Sheet is to be produced in Court with this statement but is not to be annexed to the proceedings. The numbers herein stated should correspond with the number of Entries in the Field Conduct Sheet, punishment being given for the most serious offence in each entry. If the charge is for drunkenness or absence without leave, the entries for drunkenness or absence, as the case may be, should be stated separately. Any recognized special acts of gallantry or distinguished conduct recorded on the Field Conduct Sheet should also be inserted here.

1. The following is a fair and true summary of the entries in the Field Conduct Sheet of the accused, exclusive of convictions by a court martial or a civil court :—

Within Year, if none since enlist

For A.A.Sec.15(1) FIVE FIFTEEN times.

For A.A.Sec.40 NIL THREE times.

For A.A.Sec.10(4) NIL ONE times.

For A.A.Sec.15(3) NIL ONE times.

Date of first entry in Field Conduct Sheet 2 Apr 40

Date of last entry in Field Conduct Sheet 24 Sep 42

2. Previous convictions of the accused by a court martial or a civil court are set out in the Schedule hereto.

*3. The accused at the present time is under sentence of

beginning to-day.

4. The accused has been awaiting trial on the present charges for

days in civil custody, and for 6 days in military custody, viz., Nil days in open arrest, 6 days in close arrest ; of which days were spent in hospital.

*Strike out if not applicable.

5. The present age of the accused is 23 yrs 326 days

6. The date of his attestation enlisting or being called up for military service 2 Sep 39

7. The service which the accused is allowed to reckon is 3 yrs 213 days

8. The accused is in possession of‡ CIVIL & CLASP

‡State the military decorations (if any) held by accused.

9. (*If the accused is a warrant officer or N.C.O.*) The accused has served continuously without reduction, to the present day

Date of Promotion

In the substantive rank

In the war substantive rank

In the acting rank

INSTRUCTION.—*If any matter in any of the above paragraphs cannot be stated from the regimental books the paragraph must be struck through.*

(*25072) Wt.30721/3701 80,000 9.41 A.2 E.W.Ltd. Gp.699

SCHEDULE OF CONVICTIONS BY A COURT-MARTIAL OR CIVIL COURT.

Description of Court by which tried.	Date and Place of Trial.	Charges upon which convicted.	Sentence of the Court.	Punishment remitted or sentence suspended.
		Nil		

I HEREBY CERTIFY that the foregoing particulars, which have been extracted from the regimental books in my custody, are correct to the best of my knowledge and belief.

Signed this 4 day of Apr 45

[signature] Capt. Adjt.
"B" Trng. Wing R.C.A.F.W.

No. F-10175 Name GUYOMARD, C Sqn, Battery, or Company Corps RCA Date of enlistment 2 Sep 39 Service or Proficiency Pay NA 3/17 MFM 6 (AFB 122) 40/PAY/1500 (2010)

Date of last entry in Company Conduct Sheet NA No. and date of last drunk NA Period not reckoning towards freedom from extra fine NA Sheet No. 1 Signature OC Company, etc Character

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Name of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Field	2 Apr 40	Gnr		AA Sect 15(1) WCAS AWL from 0730 hrs 2 Apr 40 until 1430 hrs 9 Apr 40. Absent 7 days 7 hrs	Sgt Fraser Sgt Hearn	7 days CB	12 Apr 40	Capt R.R. Ward	8 days pay FR&I 149-1-a
Field	19 Jul 40	Gnr		AA Sect 15(1) WCAS AWL from 0930 hrs 19 Jul 40 until 1500 hrs 3 Aug 40. Absent 15 days 5 hrs 30 mins.	Sgt Hearn L/Bdr Farrell	21 days detn	5 Aug 40	Major Milburn	1b days pay FR&I 149-1-a 2b days pay FR&I 149-1-b
Field	1 Nov 40	Gnr		AA Sect 15(1) WCAS AWL from 1600 hrs 1 Nov 40 until 2200 hrs 8 Nov 40. Absent 7 days 6 hrs AA Sect 15(1) WCAS AWL from 2300 hrs 12 Nov 40 to 1600 hrs 19 Nov 40. Absent 6 days 17 hrs.	Sgt Hearn Bdr Elliott Lieut Hartigan Sgt Meneil	28 days detn	20 Nov 40	LieutCol J.J. McKenzie	1b days pay FR&I 149(1)(a) 2b days pay FR&I 149(1)(b)

(PTO)

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of Award or if under closure date with trial	By whom awarded	Remarks
Field	17 Jun 41	Gnr		AA Sect 15(1) WOAS AWL from 0900 hrs 17 Jun 41 until 2300 hrs 22 Jun 41. Absent 5 days 14 hrs.	BSM Smith Gnr Fraser	7 days CB 7 days pay FR&I 149-2	23 Jun 41	Major E.V. Colwall	6 days pay FR&I 149-1-a
Field	1 Jul 41	Gnr		AA Sect 40. WOAS refused to obey an order given by a superior officer	L/Bdr Williams Gnr Albert	5 days CB 3 days pay FR&I 149-2	5 Jul 41	Capt R.G. HATTIE	
Field	8 Jul 41	Gnr		AA Sect 10(4) WOAS Breaking out of barracks. AA Sect 15(1) WOAS AWL for 11 hrs.	L/Sgt Smith Gnr Fletcher	7 days CB 3 days pay FR&I 149-2	12 Jul 41	Capt R.G. Hattie	1 days pay FR&I 149-1-a
Field	2 Aug 41	Gnr		AA Sect 15(1) WOAS AWL from 1200 hrs 2 Aug 41 until 0030 hrs 21 Absent 18 days 12 hrs 30 mins	Bdr Bartlett Bdr Whatan	21 days detn	26 Aug 41	Lieut-Col Pettington	19days pay FR&I 149(1)(a) 21 days pay FR&I 149(1)(b)
Field	30 Oct	Gnr		AA Sect 15(1) WOAS AWL from 1630 hrs 30 Oct 41 until 1629 hrs 31 Oct 41. Absent 23 hrs 59 mins.	Sgt McVICAR	Admonished	3 Nov 41	Capt F.E. McKinnon	1 days pay FR&I 149-1-a

No. F-10175 Name GUYOMARD, C. Sqn, Battery, or Company R.C.A. Corps Date of enlistment 2 Sep 39 GC Badges

Date of last entry in Company Conduct Sheet | No. and date of last drunk | Period not reckoning towards freedom from extra fine | Sheet No. 2 | Signature OC Company, etc | Service or Proficiency Pay | Character

3/17 MFM 6 (AFB 122) 40/P&S/334 (7010)

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Field	9 Jan 42	Gnr		AA Sect 40 WOAS conduct to prej. etc, Improperly dressed.	Documentary	7 days CB	16 Jan 42	Major G.R. FLAWN	
Field	6 Apr 42	Gnr		AA Sect 15(1) WOAS AWL from 0600 hrs 6 Apr 42 until 1800 hrs 14 Apr 42. Absent 8 days 12 hrs.	L/Sgt Davidson	7 days CB	17 Apr 42	Major G.R. FLAWN	9 days pay FR&I 149-1-a
Field	9 Apr 43	Gnr		AA Sect 15(1) WOAS AWL from 2359 hrs 9 Apr 44 until apprehended at 0330 hrs 22 Apr 43. Absent 12 days 3 hrs 31 mins.	Sgt Graham Documentary	7 days F.P. 26 days pay FR&I 149 - 2	26 Apr 43	Lieut-Col. W.J.Brigger	13 days pay FR&I 149-1-a Cost of apprehn 0/19/11
Field	23-1-44	Gnr		AA Sect 15(1) Found beyond the limits fixed by regt'l orders without a pass.	Documentary BSM MacManus	7 days pay FR&I 149-2	25 Jan 44	Lieut-Col W.J. Brigger	Cost of appr 0/3/6

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispensing with trial	By whom awarded	Remarks
Field	23-1-44	Gnr		AA Sect 40 WOAS Conduct to the prej, etc. in possession of a false document.	Documentary BSM MacManus	15 days pay FR&I 149-2	25 Jan 44	Lieut-Col W.J. Briggs	
Field	21 May 44	Gnr		AA Sec 15(1) WOAS AWL from 2230 hrs 21 May 44 to 1050 hrs 25 May 44. (Absent 3 days,12 hrs,20 min.)	Bdr MacRAW Documentary	14 days F.P. 14 days pay FR&I 149(2)	25 May 44	Lt.Col R.M. Bishop	Forf 4 days pay FR&I 149(1)(a) Total forf 18 days pay.
Field	9 Jun 44	Gnr		AA Sec 15(1) WOAS AWL from 2039 hrs 9 Jun 44 until 1500 hrs 13 Jun 44. Absent 3 days, 18 hrs and 21 minutes.	Documentary	7 days F.P. (in close arrest from 1501 hrs 13 Jun 44 until 1330 hrs 24 Jun 44. Total 10 days, 22 hours and 29 minutes.)	11 Jul 44	(W--Taylor) Lt-Col	Forf 4 days pay FRI 149(1)(a) Forf 7 days pay FRI 149(2) Forf 10 days pay FRI 149(1)(c)(ii) Total forf 21 days pay

F-10175 GUYOMARD, C. R.C.A.

No. Name Sqn, Battery, or Company Corps

Date of last entry in Company Conduct Sheet | No. and date of last drunk | Period not reckoning towards freedom from extra fine | Date of enlistment 2 Sep 39 | GC Badges | Service or Proficiency Pay | 3/17 MFM 6 (AFB 122) 40/P&S/134 (7010)

Sheet No. 3 | Signature OC Company, etc | Character

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order (Insertions with title)	By whom awarded	Remarks
Field	25 Jul 44	Gnr		AA Sec 15(1) WOAS AWL from 0800 hrs 25 Jul 44 until 1600 hrs 10 Aug 44. Absent 1600 hrs 10 Aug 44. Absent 16 days, 8 hrs.	Bdr Cunningham	28 days pay (8 days to run concurrent with award of 11 Jul 44 Total forf 37 days pay)	10 Aug 44	(W.H.Taylor) Lt.-Col.	Forf 17 days pay FRI 149 (1)(a). Forf 28 days pay FRI 149(2) Total forf 45 days pay
Field	24 Aug 44	Gnr		AA Sec 15(1) WOAS AWL from 0800 hrs 24 Aug 44 until 1030 hrs 10 Sept 44. Absent 17 days 2 hrs, 30 minutes. Cost of return £1-14-10	Documentary	14 days C.B. 28 days pay	14 Sep 44	W.H.Taylor Lt-Col	Forf 28 days pay FRI 149(2) Forf 18 days pay FRI 149(1)(a). Total forf 46 days pay. Cost of ret £1-14-10

Place	Date of offence	Rank	Cases of drunkenness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order directing trial	By whom awarded	Remarks
Field	24 Sep 44	Gnr		AA Sec 15(1) WOAS AWL from 0630 hrs 24 Sep 44 until 1120 hrs 14 Oct 44. Absent 20 days, 4 hrs and 50 minutes.	Documentary	28 days F.P. 28 days pay	16 Oct 44	Lt-Col. W.G. Myatt	Forf 21 days FRI 149(1)(a) Forf 28 days pay FRI 149(2) Total forf 19 days pay.

CERTIFIED TRUE COPY OF ORIGINAL AFW 6

(G.P. Currie) Capt RCA
Administrative Officer
4th Training Wing
No 2 Con Arty Rft Unit.

Officer having custody of Original AFW 6

"P" TRAINING WING
NO 2 CARU

Commanding Officer
No 2 C.A.R.U.

PW/5-4-5
31 Mar 45

F-10175 Gnr GUYONARD, C.

1. It is respectfully requested that an officer be appointed to defend me at my forthcoming trial by Field General Court Martial.

C. Guyonard
.....
F-10175 Gnr Guyonard, C.

"P" TRAINING WING
NO 2 CARU

PW/5-4-5
31 Mar 45

Commanding Officer
No 2 C.A.R.U.

F-10125 Gnr GUYOMARD, C.

1. I acknowledge having duly received a copy of the Charge Sheet and a copy of the Summary of Evidence concerning my forthcoming trial by Field General Court Martial.

.....
F-10125 Gnr Guyomard, C.

LIST OF WITNESSES

FOR THE PROSECUTION NIL
FOR THE DEFENCE NIL

LIST OF EXHIBITS

Exhibit "A" Certified True Copy of Record Of Declaration of Court of Inquiry.

Exhibit "B" Certificate of Apprehension

Exhibit "C" Expense Voucher

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UUU-121

Pte Glynes, W.A.

SCHEDULE.

PART I. PLEA(S), FINDING(S) AND SENTENCE.

Accused: P-17117 Pte William Albert GYNES, Cdn Pro Corps, 12 CBR Bn

	Charge. (Insert "alternative" where applicable.)	Plea. (See Instrs p 2.)	Finding. (See note below.)	(Space for use as required for further charges, accused charged jointly, special findings, etc.)
1st	24 15 (1)	Guilty	Guilty	
2nd				
3rd				
4th				
5th				
6th				

(Note: As to findings for lesser offences see AA 56, RP 44; findings on alternative charges see MML p 483 fn 4 para 2, RP 44; special findings see RP 44 and MML p 753, and in loss of kit see RP 44 fn 6.)

~~At present under sentence for~~ beginning on (date) ~~.....~~ (1)

(1. Insert sentence being served, or delete, if not applicable. See RP 46(A). Information should be found on MF B355 or AF B296.)

Time in confinement awaiting present trial—a total of 28 days, of which ~~.....~~ days were spent in hospital.(1)

(1. See RP 46(A) fn 2. Information should be found on MF B355 or AF B296 admitted in evidence under E2.)

Sentence Awarded by the Court:

To undergo Detention for a period of 120 days

(Sgd) ..... Judge-Advocate, if any. 26 Aug 44 Date awarded. (Sgd) W G A Lambe President. (RP 45, 50.)

(See back of Convening Order as to assembly and disposal of record after trial.)

PART II. MINUTE WHERE CONFIRMATION RESERVED. (AA 54(5), RP 120(F), MML p 760.)

Date ..... (Sgd) ..... Commanding

PART III. DECISION OF CONFIRMING OFFR ON FINDING(S) AND SENTENCE.

(For duties and powers see AA 54, 57, RP 37(D) fn 6.46(A), 51-56, 120, MML pp 759-761, KR Can 567-577. Acquittals require no confirmation and cannot be revised: AA 54(3). Sending back finding or sentence for revision by Court: AA 54(2), RP 120(G). If not confirmed, accused may be tried again: AA 157, MML p 64. Minutes of confirmation or non-confirmation may be altered before promulgation: RP 53, MML p 65. Quashing after promulgation: KR Can 573. Duties and powers of reviewing offrs: AA 57, 57A, RP 53A, 54. The Confirming Offr must sign here personally. AA 172 fn 1.)

My decision on the finding(s) and sentence set forth in Part I is:

I confirmed

~~I direct that the accused be not committed to prison or detention barracks until further order.~~ (1. AA 57A. Delete if not used.)

Date 27 Aug 44 (Sgd) G Francoeur Commanding 2 C.B.R.G. Brig Confirming Officer.

PART IV. PROMULGATED AND EXTRACTS TAKEN. (RP 53, KR Can 576, 577.)

Accused.	Date.	Signature of Offr.
P-17117 Pte GYNES W.A. CDN. PRO. CORPS. (Y-N) 12 BN. 2 C.B.R.GP.	29 AUG 44	O.C., 12 Bn., 2 C.B.R. Group Lt.-Col.

ALL DELETIONS AND ALTERATIONS WILL BE INITIALLED.

RECORDED AT CMHQ IN AB 1604

FIELD GENERAL COURT-MARTIAL

CPX66 (In lieu of AFA31) 40/P & S/1608 (HQ)

4388

Convened by Order of Brig G FRANCOEUR Comd 2 CBRG dated 24 AUG 44

ACCUSED.

(As to the trial of two or more charged jointly see RP 16, 71, 109. As to reasons for shewing (a) permanent or confirmed rank, and (b) eppmt, A/rank or A/eppmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

Number.	(a) Prmnt R. (b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
P-17117	Pte	William Albert	GYNES	Cdn Pro Corps, 12 CBR Bn

PROCEEDINGS REVIEWED 5 Sep 44 W.C. Dil. REVIEWING OFFICER, JAG BRANCH C.M.H.Q.

PROCEEDINGS OF TRIAL.

Held in the Fd in (country) FRANCE on (date(s)) 26 AUG 44

RECORD FORM A—OPENING PROCEEDINGS AND ARRAIGNMENT. (10/27)

A1. The President, Members, waiting Member, ~~Judge-Advocate, if any~~, and Offrs under instr, if any, assemble, and the Court is closed.

(PRINTED MATTER, NOT IN ITALICS FOR GUIDANCE, WILL BE DELETED. IF NOT USED OR APPLICABLE, AND INITIALLED BY PRES OR JA. The Schedule referred to throughout is on p 4. Citations do NOT include all relevant fine ROs. For guidance on procedure when a variation in this form arises, see Form 3or GCM in MML pp 741 to 759. A brief record of such variation will be made and given a number having reference to appropriate or preceding form number herein. See back of Convening Order, CF A95, for oaths and instrs on how to record addresses, evidence, etc., which instrs are hereafter called "Notes". As to general provisions for conducting the trial see AA 53, RP 36, 63-70, 72, 74, 94, 103, 119, 132.)

A2. The President initials and lays before the Court the Convening Order and Charge Sheet(s) attached thereto.(1) The Court is satisfied that it is properly convened and constituted(2), accused is (are) amenable to military law, and each charge discloses an offence.(3)

(1. As to use of Summary of Evidence see RP 17 fn 6. 2. AA 49, 50, RP 105-107. 3. RP 11-13, 23, 24.)

A3. The Court is opened. The accused is (are) brought before the Court. At 1755 hours trial commences.

A4. The Prosecutor produces a Medical Certificate that accused is (are) fit to undergo trial by court-martial.(1) ~~The Prosecutor informs the Court that accused elected to be tried by court-martial instead of being dealt with summarily by the CO.(2)~~

(1. KR Can 557. 2. AA 46(8), RP 60 fn 1. For effect see KR Can 563(c). Delete, if not applicable.)

A5. President to accused: ~~Do you object to~~ ..... as interpreter? Ans. ~~The Interpreter is sworn.(1) Do you object to~~ ..... as shorthand writer? Ans. ~~The shorthand writer is sworn.(1)~~

(1. RP 72. Delete, if none employed.)

A6. The Convening Order and names of the President and Members of the Court are read to the accused.(1) President to accused: Do you object to be tried by me as President or by any of the Members of the Court? Ans. No.(2)

(1. RP 119. 2. If no objection, waiting member returns. RP 68(5). If objection, see procedure AA 51, RP 25, 71, 18, MML p 742.)

A7. The President, Members, ~~Judge-Advocate, if any~~, and Offrs under instr, if any, are sworn.(1) The following are the ranks, names and units of the offrs comprising the Court, etc:

President	Major	W G A LAMBE,	GAC,	9 CBR Bn
Member	Capt	W.H. JOHNSTON	RCA	12 CBR Bn
Member	Lieut	W.E. DALE	CIC	11 CBR Bn
~~Judge Advocate~~	~~Lieut~~			
Prosecutor	Lieut	K.H. TURNBULL	RCA	12 CBR Bn
Defending Offr	Lieut	G.A. SPEAR	RCA	12 CBR Bn

Questions by President: Is the Prosecutor a lawyer? Ans. No. Is the Defending Offr a lawyer? Ans. No.(2)

(1. RP 26, 27, 109, 111. List of offrs under instr will be returned separately with proceedings for information of Conv Offr.) (2. If Pros a lawyer and Def Offr not, accused is entitled to an adjournment when RP 89 (2) and fn 2 were not followed. See D1 p 3.)

A8. The accused P-17117 Pte GYNES W A before arraignment make(s) (no) ~~application~~ plea.(1)

(1. If a special plea is made for separate trial on one or more charges (RP 62(E), 108), or as to the jurisdiction of the Court (RP 34, 35(A), 112), or in bar of trial (RP 36), or as to accused's mental fitness to stand trial (AA 130, RP 57), or by one of several accused charged jointly to be tried separately (RP 16, 71), such plea, the addresses made in support or against, the evidence, if any, and finding are recorded per Notes. For forms of record see references in fns to RaP cited. Insert in AB rank and name of the accused making the plea.)

A9. The accused is (are) arraigned ~~separately~~ on all charges in the charge sheet.(1) The accused does ~~not~~ object to any charge.(2) There is no amendment to be made to the Charge Sheet.(3) The President records the pleas in Part I of the Schedule.

(1. RP 31, 112. See para 1 of Instrs p 2. When more than one Charge Sheet see RP 62; when several accused to be tried separately see RP 71(C), and use separate copies of CF A96 to record proceedings. 2. RP 22, RP 23. If otherwise, delete and make appropriate record per Notes.)

A10. The Court (is closed and) considers the Instrs on Procedure after Arraignment at top of p 2. The proceedings are continued on Record Form B.

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

INSTRUCTIONS ON PROCEDURE AFTER ARRAIGNMENT.

1. *The accused may not plead or be found Guilty on more than one of two or more charges laid in the alternative.* (*RP 37(A).*) *As to withdrawal of alternative charges by Prosecutor see RP 35(C). No other charge can be withdrawn for any reason without authy from Convening Offr. If Convening Offr concurs, Court may accept plea of Guilty to lesser, etc, offence.* (*RP 44(H).*) *Accused may change a plea of Not Guilty to Guilty during trial.* (*RP 38.*) *As to refusing to plead or not pleading intelligibly see RP 35(A). As to plea when sentence may be death see RP 35(D).*

2. *The proceedings on each charge sheet* (*RP 62*) *after arraignment will be conducted as follows in the respective circumstances stated:*

I. If pleas to all charges are GUILTY, use Record Form B below.

II. If pleas to all charges are NOT GUILTY, use Record Form D on p 3.

III. If pleas to some charges are GUILTY and to other charges are NOT GUILTY and,

(a) Such mixed pleas occur when there are no alternative charges in the Charge Sheet, use Record Form C below. (*RP 37(A).*)

(b) Such mixed pleas occur in a set of two or more charges laid in the alternative, see RP 37 (A) and fn 2 as to discretion of Court, (i) *to try the accused on all such alternative charges as if he had pleaded Not Guilty thereto, or,* (ii) *to record the pleas as the findings of Court. After deciding between* (i) *and* (ii), *Court will proceed under foregoing instrs as may be appropriate to result of its decision. See MML p 744 Instrs* (2).

3. *As to responsibility of President to accused see RP 59, 60(C); powers and duties of JA see RP 103; duty of Prosecutor see RP 90(A)* (*B*); *duty and privileges of accused and Defending Offr see RP 60(C), 87(C), 91, 92; swearing and withdrawal of witnesses from Court see RP 81, 82; questioning of accused see RP 80, 87(C), 92(B), and of witnesses see RP 83-85; calling or re-calling of witnesses by Court, etc, see RP 75-79, 86, 116; use of Summary of Evidence at Trial see RP 17(E) fn 6; and responsibility of JA or Pres to record proceedings see RP 94, 96.*

RECORD FORM B—PROCEEDINGS ON PLEAS OF GUILTY TO ALL CHARGES.

B1. The President or JA, if any, complies with RP 35(B) by explaining to the accused the nature and meaning of the charge(s)[1], and that on his plea of Guilty there will be no regular trial but merely a consideration of the sentence to be awarded after he has been given an opportunity to make a statement in reference to the charge(s) and call witnesses as to character and make an address in mitigation of punishment.[2]
(*1. RP 35 fn 3. 2. MML p 54 para 47.*)

B2. President to accused: The Court will now receive any statement you desire to make in reference to the charge(s).[1] If it appears from your statement that there are circumstances which indicate that you do not understand the effect of the plea of Guilty[2], or which show provocation or extenuation in respect of which in your interest the witnesses for the Prosecution should be examined[3], we shall advise you to change your plea to Not Guilty. In making a statement you will not be sworn or subject to cross-examination; and anything you say will not be used in evidence against you after you change your plea. If, however, it appears to the Court that your statement affects only the amount of punishment to which you are liable, you will not be advised to change your plea and you will be given an opportunity later to prove your statement by sworn testimony, if you so desire.[4]

President to accused: Do you wish to make a statement? Ans ..... [5]
(*1. RP 37(B). 2. RP 37(D) fn 6. 3. RP 35(B) fn 5 para 3, MML p. 54 para 47. 4. See para E3 of Record Form E. 5. Statement, if any, recorded per Notes.*)

B3. The Court considers the accused's statement.[1] The Court decides (not) to advise accused to change his (their) plea(s) of Guilty to Not Guilty on ..... charge(s). The accused is (are) so informed, and he (they) change(s) his (their) plea(s) on ..... charge(s). Part I of the Schedule is amended accordingly.
(*1. Court may be closed to consider the statement. Delete whole or part not used.*)

B4. On the charge(s) to which the plea(s) of Guilty is (are) not changed the President records finding(s) of Guilty in Part I of the Schedule.[1]
(*1. RP 35(B). If any plea(s) is (are) changed, use Record Form C or D as appropriate.*)

B5. The Summary of Evidence is marked Ex A, initialled and read aloud by the President.[1]
(*1. If there is no Summary, or if it is inadequate, comply with RP 37(B). If there is any evidence inconsistent with any plea standing as Guilty, Court will advise accused to change such plea and, if changed to Not Guilty, try such charge(s) by use of paras D1 to D8 inclusive of Record Form D on p 3. RP 37(D).*)

B6. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

RECORD FORM C—PROCEEDINGS ON MIXED PLEAS OF GUILTY AND NOT GUILTY.

C1. As to the charges on which accused pleaded NOT GUILTY the trial is continued by using paras D1 to D8 inclusive of Record Form D on p 3 before proceeding with C 2.[1]
(*1. RP 37(A) (E).*)

C2. The charges on which accused pleaded GUILTY are read to him (them) again, and the trial is continued by using paras B1 to B5 of Record Form B above.[1]
(*1. Under B1 such parts only of the Summary of Evidence are read as relate to the charges dealt with under C2. If any plea is changed to Not Guilty, trial thereon proceeds by complying with paras D1 to D8 inclusive in Record Form D on p 3 and making an appropriate record thereof on a supernote sheet.*)

C3. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

RECORD FORM D—PROCEEDINGS ON PLEAS OF NOT GUILTY TO ALL CHARGES.

D1. President to accused: Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity to prepare your defence? Ans ..... [1]
(*1. If "yes", see RP 39(A) for procedure. Statement or evidence, if any, is recorded per Notes.*)

D2. The Prosecutor makes (an) (no) opening address.[1]
(*1. RP 39(B), 60(A) (B), 90, 92(C) (D). Record address per Notes, subject to RP 95(C).*)

D3. The evidence for the Prosecution is taken.[1]
(*1. RP 39(C), 114, KR Can 555. Record evidence per Notes. As to Prosecutor giving evidence himself see RP 39(D) (E).*)

D4. The Prosecution is closed.[1] The Defending Offr submits that the evidence for the Prosecution does not establish a prima facie case against the accused on the ..... charge(s).[2] The Court is closed, and considers the submission.[3] The Court is re-opened, and the President announces that the submission is disallowed on the ..... charge(s), and allowed on the ..... charge(s), and that, accordingly, the trial will proceed on the former, but the accused is (are) found Not Guilty on the latter charge(s).[4]
(*1. Delete remainder of this para, if submission not made. 2. Arguments on submission, answer and reply are recorded per Notes. 3. RP 40 fn 1. See MML p 72 paras 12-14 and p 81 para 42. 4. Delete part not used. If accused acquitted on all charges use second alternative in para D8.*)
NB: If trial proceeds, accused must be allowed great latitude in making his defence, and the Court should not stop his defence solely on ground of irrelevance. (*RP 60(C), 114, 115.*)

D5. President to accused: You will now proceed with your defence.[1] You may, if you wish, give evidence yourself on oath as to the facts or your character or both, in which case you will be subject to cross-examination.[2] You may, however, make a statement without being sworn, and you will not be subject to cross-examination.[3] But a statement which could have been made on oath will not carry with the Court the same weight as sworn testimony.[4] You may call witnesses in your defence and as to character, whether you give evidence or make a statement or do neither.

President to accused: Do you wish to give evidence yourself as a witness, make a statement, or do neither?
Ans ..... Do you intend to call witnesses on your behalf?
Ans ..... Are they witnesses as to character only? Ans .....
(*1. RP 115. 2. RP 40(A), see 80(D). 3. RP 40 fn 10. 4. RP 40 fns 2, 9.*)

D6. Consequent on the answers recorded in para D5 the appropriate procedure for the defence is followed.[1]
(*1. RP 114, 115, 116. For procedure see Notes on back of Convening Order, CF A95. Evidence for accused as to his character should, if in his interest, be given before the finding. See RP 46(A) fn 1, 86(C). Note the further opportunity in para E1 of Record Form E. Record per Notes addresses, statement, evidence and any summing up by the JA under RP 42, 103(e).*)

D7. The Court is closed to consider the finding(s).[1] The finding(s) of the Court is (are) recorded in Part I of the Schedule.[2] The Court is re-opened.
(*1. RP 42, 117(A). See Notes in Part I of Schedule. 2. RP 44(A).*)

D8. The President announces the finding(s), if any, of Not Guilty, and states to the accused that the finding(s) of the Court on the ..... charge(s), being subject to confirmation, will be promulgated later.[1]
Or, The President announces that the accused is found Not Guilty on all charges and is to be released forthwith, and that the proceedings are accordingly terminated. Part I of the Schedule is dated and signed.[2]
(*1. AA 54(3) (b), RP 45, 120(A). 2. AA 54(3), RP 45, 117. This alternative announcement is not applicable when there are pleas of Guilty outstanding and dealt with under Record Form B or C.*)

D9. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E below.

RECORD FORM E—PROCEEDINGS ON CONVICTION BEFORE SENTENCE.

E1. President to accused: Do you wish to give evidence yourself or to call any witnesses as to your character?[1]
Ans .....
(*1. If evidence has already been given by accused or his witnesses as to his character, delete this para. RP 37(C) fn 4, 46 fn 1. Accused and witnesses are sworn. Evidence recorded per Notes.*)

E2. The Prosecutor produces Statement(s) as to Character and Particulars of Service[1], and ~~certified true copy (copies) of Conduct Sheet(s)~~[2] purporting to refer to the accused, which he submits to the Defending Offr for examination, and then to the Court for admission in evidence. The Court is satisfied that these documents refer to the accused, because (i) they purport to be signed in the manner required by AA 163(l) (g) (h), and (ii) they purport to refer to (a) soldier(s) having the same number, rank, name and corps as the accused. Admitted in evidence and marked Ex ..... and Ex ..... respectively.[3]
(*1. AFB 355 or AFB 296. 2. MFM 6. 3. RP 46, KR Can 558. If above documents not produced, see RP 46 fn 1 para 1.*)

E3. President to accused: Do you wish to address the Court on the Statement(s) and ~~Conduct Sheet(s)~~, and in mitigation of punishment?[1] Ans .....[2]
(*1. RP 37(C), 46(D). 2. Address, if any, recorded per Notes. Court should permit accused or his witnesses to prove on oath anything here or previously stated which would affect the amount of punishment. RP 37(F) fn 7.*)

E4. The President states that the Court is closed to consider the sentence, and that the sentence to be awarded by the Court, being subject to confirmation, will not be announced, but will be promulgated later, and the proceedings in open court are accordingly terminated.[1]
(*1. AA 54(6), RP 120(A).*)

E5. The Court considers the sentence.[1] The President records the sentence in Part I of the Schedule, which is dated and signed by him and the JA, if any.[2]
(*1. When several accused tried separately see RP 71 (D). One sentence only, comprised of the punishment or punishments laid down in AA 41, 44 and its proviso, is to be awarded to cover all charges in all charge sheets on which accused found guilty. RP 48. As to sentences see AA 44, 130, 182, RP 46-50, 69, 118, 119(A), KR Can 308, 330, 563-566, Overseas NO 309, 2323, MML p 60, 737-759. As to sentences assigned for civil offences by the law of England see AA 40(5), MML p 130. When accused already under sentence of imprisonment or detention see AA 44(18), 68(1), KR Can 564. 2. RP 50. As to release from arrest by Confirming Offr see KR Can 567. As to assembly and disposal of record after trial see instrs on back of Convening Order.*)

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

CHARGE SHEET

The accused, P-17117 Pte GYMES, William Albert, Canadian Provost Corps, 12 CBRBn, No 2 Canadian Base Reinforcement Group, a soldier of the Canadian Army Overseas, is charged with, WHEN ON ACTIVE SERVICE,

First Charge

A/I Sec 15(1)

ABSENTING HIMSELF WITHOUT LEAVE

in that he

In the field, did absent himself without leave from 1130 hrs 9 Jun 44 until 1830 hrs 27 Jul 44. Total time absent (48 days 7 hrs 5 min).

In the Field
.22....Aug 44

.....Lt-Col
(A. C. HOOD)
Commanding
12 Cdn Base Rft Bn, 2 C.B.R. Gp.

TO BE TRIED BY FIELD GENERAL COURT MARTIAL

(G Francoeur) Brig
Comd
2 Cdn Base Rft Gp

In the Field
24 Aug 44

FIELD GENERAL COURT-MARTIAL

(Whether the accused to be tried is under his comd or not, a FGCM may on application to him be convened by any offr of Cdn Army Overseas, or of any other force if authorized in law, in immediate comd of troops on active service, subject to RP 105(C) and restrictions imposed by appropriate authy. AA 49, 50, RP 104-107, 114. As to the duties and privileges of the Convening Offr in dealing with the application see MML Chap V paras 20 and 23, RP 87(B).
There should be a separate Convening Order for each person to be tried separately by the same Court. RP 71(C), 109. As to separate charge sheets see RP 62, and as to separate trial on charges in the same charge sheet see RP 108. As to two or more accused charged jointly see RP 16, 109.
As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

ACCUSED.

Number.	(a) Prmnt R.	(b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname.	Unit.
P-17117	Pte		William Albert	GYNES	Cdn Pro Corps, 12 CBR Bn

CONVENING ORDER.

1. Whereas complaint has been made to me, the undersigned, that the person(~~s~~) named above as the accused, being subject to military law, has (~~have~~) committed the offence(~~s~~) set forth in the Charge Sheet(~~s~~) attached and on (date) 24 AUG 44 endorsed by me, (~~or by an offr of my staff for me~~), "To be tried by Field General Court-Martial".

2. And whereas I am of opinion that it is not practicable that such offence(~~s~~) should be tried by an ordinary General Court-Martial; (~~and that it is not practicable to delay the trial for reference to a superior qualified offr.~~)
(Delete part in brackets when not required for compliance with RP 105(C).)

3. I hereby convene a Field General Court-Martial to try the said person(~~s~~), and to consist of the Offrs appointed or detailed hereunder.

4. ~~I am unable to appoint (a) three Offrs to form the Court, (b) a Fd Offr as President, for the reasons I have attached hereto.~~
(AA 49, RP 106(B), 107(A). Delete the whole or part, if not applicable.)

5. ~~I also appoint as Judge Advocate thereat the Offr mentioned hereunder.~~
(RP 106(F). Delete, if none appointed.)

PRESIDENT.

(Rank.)		(Must be named. RP 106.)	(Unit.)
Major	W G A LANGE,	CAC,	G CBR Bn

MEMBERS.

(Rank.)		(Named or detailed. RP 106.)	(Unit.)
Capt	to be detailed by OC 12 CBR Bn		12 CBR Bn
Lieut	to be detailed by OC 11 CBR Bn		11 CBR Bn

WAITING MEMBER.

(Rank.)		(Named or detailed, if any. RP 106.)	(Unit.)
Capt	to be detailed by OC 11 CBR Bn		11 CBR Bn

~~JUDGE ADVOCATE.~~

(Rank.)		(Must be named, if any. RP 106.)	(Unit.)

On Active Service in the Fd

in FRANCE
(Country.)

Date 24 AUG 44

(Signed personally. RP 105 fn 2.) Brigadier
(Rank.)
(G Francoeur)
Commanding 2 CDN BASE RPT GP
Convening Officer.

CONVENING OFFR WILL INITIAL ALL DELETIONS AND ALTERATIONS

(See overleaf for oaths and notes for use on trial.)

4/38A (CPARS 11in (mm) of AFAS) 40/P & S/1887 (4681)

MEDICAL OFFICERS CERTIFICATE

(KR(Can) Para
(CMHQ GL 173)

I certify that I have this day examined P.17117. (No.)

Pte (Rank) GYMES. W. A. (Name) and in my opinion I

~~fit~~ to undergo trial by Court-Martial.

Station FIELD

Date. 26 AUGUST 44.

Medical Officer
(unit)

MEDICAL OFFICERS CERTIFICATE

(KR(Can) Form 557)
(CMHQ CL 173)

I certify that I have this day examined P 17117. (No.)

Pte (Rank) GYMES, W.A. (Name) and in my opinion he is

fit to undergo trial by Court-Martial.

Station FIELD

Date. 26 AUGUST 44.

(Sgd) Medical Officer

(unit) 12 CBRD

Continued by accused

The reason I went about I had joined 13 Provost Coy at the first at Provost Depot Jan 43. Proceeded to the fld on a Provost Coy and I remained with it until I went A.W.L. Jan 3/44. During my service in the Provost Coy I tried several times to transfer to a more combatant arm of the service. I tried to join the R.C.A.F. on a ground and the pass too. I tried to go home to the depot together draft for Italy but they told me it was impossible to transfer as they were short of men. I then started forward and worked with the Coy until we were warned for duty overseas at which time I was warned that I was to proceed to 13 Inf C.B.D.O. on a ~~reinforcement~~ although we at the last moment proceed in the Coy. Draft was guarded to the D.C. and we had only passed in the Coy. Draft was guarded to the D.C. and we had only passed in the Coy. Draft was guarded to the D.C. and we had only pass

Exhibit A

S U M M A R Y O F E V I D E N C E

Summary of evidence in the case of:

P-17117 Pte GYNES, W.A., Cdn Pro Corps
12 C.B.R.Bn - 2 C.B.R.Gp.

A soldier of the Canadian Army Overseas.

The Commanding Officer directs that the evidence be taken under oath.

First witness for the Prosecution:- - Capt L.B. Skinner, Adjt 12 CBRBn, 2 CBRGp having been duly sworn states:-

I am Capt L.B. Skinner, Adjt 12 CBRBn, 2 CBRGp and present - EXHIBIT "A" - a Copy of Part II Order No 29A dated 18 Aug 44, X List Canadian Provost Corps showing P-17117 Pte GYNES, W.A. as AWL from 1130 hrs 9 Jun 44 until his return at 1830 hrs 27 Jul 44.

....L.B.Skinner.....Capt
(L. B. SKINNER)

THE ACCUSED DECLINES TO CROSS- EXAMINE THE WITNESS.

The accused was cautioned as follows:-

Do you wish to make any statement or to give evidence upon oath? You are not obliged to say anything or give evidence unless you wish to do so, but whatever you say or any evidence you give will be taken down in writing and may be given in evidence.

The accused declines to give evidence or make a statement and reserves his defence.

I certify that the foregoing Summary of evidence consisting of 2 pages was taken down by me in the presence of the accused and that R.P. 4 (C) (D) (E) & (F) have been complied with.

G.H. McManus.

(G. H. MCMANUS) Capt
Officer taking summary of evidence.
12 CBRBn - 2 CBRGp.

In the Field
22 Aug 44

This is Exhibit A. referred to in the
Summary of Evidence in the case of
P-17117 Pte Gynes, W.A. taken before me
this 22 day of Aug 1944
P.H. McLean

X LIST
CANADIAN PROVOST CORPS

PART II ORDERS No 29A
Issued By
LAST ORDER No 29
14 AUG 44 CANADIAN SECTION GHQ, 2nd ECHELON - 21 ARMY GROUP 18 AUG 44

"A" OFFICERS

N I L

"B" OTHER RANKS

1. ABSENT WITHOUT LEAVE

(a) AWL from 1130 hrs 9 Jun 44. Still absent 1130 hrs 17 Jun 44 (8thday)
P 17117 PTE GYNES W A

(b) AWL from 1130 hrs 9 Jun 44. Still absent 1130 hrs 1 Jul 44 (22nd day)
P 17117 PTE GYNES W A

(c) AWL from 1130 hrs 9 Jun 44. Returned from AWL at 1830 hrs 27 Jul 44
P 17117 PTE GYNES W A

B T Saunders
(B T SAUNDERS) CAPTAIN
for Officer IC
CANADIAN SECTION G H Q, 2nd ECHELON - 21 ARMY GROUP

JO'R

Exhibit B. W45b

NO DOCUMENTS AVAILABLE OTHER THAN MBM I PART I

ARMY FORM B.296.

Statement as to Character and Particulars of Service of Accused.

Number	*Rank*	*Name*	*Regiment (or as the case may be)*
P-17117	Pte	GYNES, W.A.	12 CBRBn - 2 CBRGp

1. The following is a fair and true summary of the entries in the regimental and squadron, battery or company conduct sheets† of the accused, exclusive of convictions by a court martial or a civil court, of summary awards under section 47 of the Army Act, and of cases in which trial has been dispensed with :—

NOTE.—At a trial by field general court martial this summary may be compiled from the field conduct sheet. The conduct sheet(s) mentioned should be produced in court with this statement but not annexed to the proceedings.

† See para. 627, K.R., 1940.

* The numbers herein stated should correspond with the number of entries in the conduct sheets, prominence being given to the most serious offence in each entry, and to any recognised special acts of gallantry or distinguished conduct.

INSTRUCTION.—If the charge is for drunkenness the entries for drunkenness must be stated separately and dated.

	* Within last 12 months	* Since Enlistment
For	times	times
For	times	times
For	times	times
For	times	times
For	times	times

Number of instances of gallantry or distinguished conduct LAS

~~XX~~

There are no entries in the conduct sheets of the accused. No MT AM C LAS

2. The accused has not been previously convicted, *or*

~~Previous convictions of the accused by court martial or a civil court, summary awards under section 47 of the Army Act, and dispensations with trial under section 53 of the Army Act, are set out in the schedule annexed to this statement.~~ LAS

3. The accused is not under sentence at the present time, *or* ~~The accused at the present time is undergoing sentence for~~ LAS

~~the offence mentioned in the charge.~~

4. The accused has been in confinement, awaiting trial on the present charges, for NIL days in civil custody, and 29 days in military custody, making a total of 29 days, of which NIL days were spent in hospital.

5. The present age of the accused according to his ~~XXXXXXXX~~ LAS MBMI PT I ~~XXXXXXXX~~ LAS is 31

6. The date of his ~~XXXXXXXX~~ LAS ~~attestation~~ specified in his ~~XXXXXXXX~~ LAS MBM I PT I ~~XXXXXXXX~~ LAS is 6 Sept 39

7. The service which the accused is allowed to reckon towards discharge or transfer to the reserve is .....

8. The accused is entitled to deferred pay or gratuity in respect of ..... service.

9. The accused is entitled to reckon ..... service for the purpose of determining his pension, etc.

10. The accused is in possession of, or entitled to, no military decoration or military award (*or* is in possession of *or* entitled to (*state any military decoration or reward*). C.V.S.M & clasp x5

11. ~~(If the accused has not attained the age of twenty-one years) The accused before or since enlistment has not been convicted of any offence.~~ LAS

12. ~~(Where any of the above) The accused holds or has held the rank of~~ LAS ~~and has served in the regular forces or department the rank of~~ LAS

Schedule of Convictions by a Court Martial or Civil Court, of summary awards under Section 47 of the Army Act and of cases in which trial has been dispensed with of accused.

No. P-17117 *Rank* Pte *Name* GYDE S. W.A. of 12 CBR Bn Regiment (or as the case may be).

(INSTRUCTION—A verbatim extract from the regimental books, stating these convictions and dispensations with trial, must be inserted.)

Description of court by which tried, or status of officer disposing of the charge or dispensing with trial	Date and place of trial, or summary award under A.A. 47, or of order dispensing with trial	Charges upon which convicted, or in respect of which trial was dispensed with.	Sentence of the court or authority disposing of the charge, or order of the dispensing authority.	Punishment remitted.

I HEREBY CERTIFY that the foregoing schedule of convictions and dispensations with trial is a true extract from the regimental books in my custody.

Signed this day of August 44

(L. S. SKINNER) Capt & Adjt
Officer having custody of Regt Records

13. The accused has served as a non-commissioned officer continuously, without reduction, to the present date.

In the rank of PTE. Date of Promotion.

In the rank of PTE.

In the rank of PTE.

(INSTRUCTION—If any matter in any of the above paragraphs cannot be stated from the regimental books the paragraph must be inserted as the case of a trial by court martial the information may be collated from such sources as are available and paragraph entered accordingly.)

COUNTER NUMBER 43932 S-

HOUR 9 05-

OPERATOR'S INITIALS RD

RELIEVING OPERATOR _____

Affidavit

PROVINCE OF ONTARIO
COUNTY OF CARLETON
TO WIT:

I, Rita M. Doyle of the City of Ottawa, in the County of Carleton, an employee of the Department of National Defence, make oath and say:

1. THAT I am presently employed as a camera operator making microphotographic copies of Departmental documents for the purpose of providing a permanent record of same.

2. THAT on the date indicated therein I did make microphotographic copies of files listed in Appendix "A" hereto and of all documents contained thereon.

3. THAT the said microphotographic copies may be identified from the indexing data and the job and reel numbers contained in Appendix "A".

SWORN before me at the City of Ottawa, in the County of Carleton, this day of A.D. 19

CAMERA OPERATOR

A NOTARY PUBLIC

Dated DEC. 11 19

APPENDIX "A" TO THE AFFIDAVIT

CAMERA OPERATOR'S REPORT

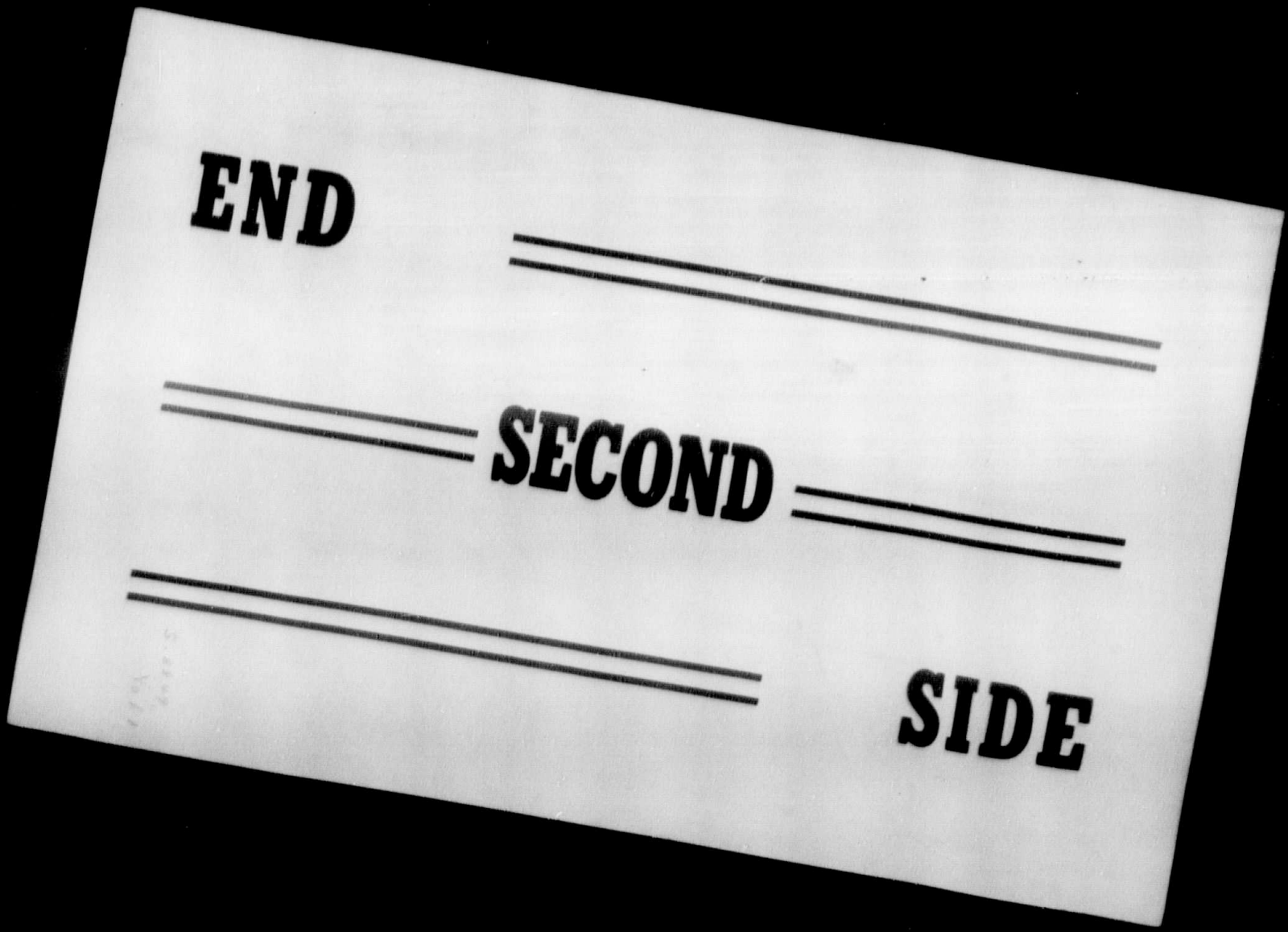
PRODUCTION DATA	DATE	HOUR
STARTED		
FINISHED		
TOTAL NO. OF HOURS		3 5/6
TOTAL NO. OF IMAGES		1333

JOB NO. 44 REEL NO. 76

BOOK NO. 1-4

INDEXING DATA 44-76A

BEGINS WITH: GREENWOOD W. GUADAGNOLA W.P.A.
1. GUEBO W.E. GUTMAN G.
2. GUGY A. GYOMAND G.
3.
ENDS WITH: GYSBOY J.J. HOBB W.A.
J.B.


END
SECOND
SIDE


REEL
NO. 44.26