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START ===

== FIRST ===

SIDE

UW-54. Ote Hyman.D.J.

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

Charge.	Plea.	Finding.	
(Insert " alternative " where applicable.)	(See Instra p 1.)	(See note below.)	(Space for use as required for further charges, occused charged jointly special findings, etc.)
and			
rd			
			* *
			4.
			1
(Note: As to find apacial findings see RP	fings for lesser offenc 44 and MML p 753.	ns see AA 55, RP 44 ; dnd in last of kit see	findings on alternative chargest see MML b 483 fn 4 para 2, RP 44; RF 44 (n.b.)
t present under sentene	e for	0	beginning on (4010)
ime in confinement awa	aiting present tr	ial-a total of £	e RF 46(A). Information should be found on MF B355 or AF B296.) M. days, of which. Pres. days were spent in hospital. SS or AF B296 admitted in evidence under EL.)

Judge-Advocate, if any.

Dute awarded.

(See bock of Convening Order as to ossembly and disposal of recard after trial.)

PART II. MINUTE WHERE CONFIRMATION RESERVED. (AA 54(5), R9 120(F), MAIL 9 760.)

Onto (Sgd)

Commanding

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

(for duties and powers see AA 54, 57, RP 37(D) fn 6.46(A), 51-56, 120, MAML pp 759-761, KR Can 567-577. Acquittain require na confirmation and cannot be revised: AA 54(3). Sending lock finding or sentence for revision by Court: AA 54(2), RP 120(G). If an obstituted, occused may be tried again: AA 157, MML p 64. Minute of confirmation as non-confirmation may be observed before paramilepton in RP 33, MML p 65. Quanting after promaligation in CR Can 573. Duties and powers of reviewing offs: AA 57, S7A, RP 53A, 54. The Confirming Offs must sign here personally. AA 172 fp 1.)

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

omfruit

Date / 7 723 45

(G S # Gestling) Brig

ommanding 2 CON BASE RFT GP

Confirming Officer

PART IV. PROMULGATED AND EXTRACTS TAKEN. (W 53, KR Con 576, 577.)
ocused. Date. Signature of Offr.

A 55712 Pt (4500) Donald FEB \$ 0 1945

The GART A ADAY.

Genes Hym AN,

9000 An ALL DELETIONS AND ALTERATIONS WILL BE INITIALLED.

	der of Brik	G S N Gostli	ng	Comd	2 CBRG		dated	3 Feb 45
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		Appmt, A/R or		Full Christ			rname.	Unit.
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		BRANCH C.M.			on (date(s)).	10	2 1	EB 45 A
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will be mud	e and given a numb tooths and linears o	is this form orises, as ser having reference to h how to record adder rial see AA 51, RF 56,	appropriate or p	treceding para .	manuter barein	trief rece Lev back	of Convening	Grater,
provisions)	for conducting the t	rici see AA 52, RF 56.	62-70, 72, 74, 94	1, 153, 119, 132		nied (Vi	A 10	general
di charge disc	loses an offence		M and constit	tuted('), acc	used is (pro)	amenat	de to mili	tary law, an
		of Evidence see RP 17		A 49, 50, RP 10.	5-107. 3. AJ	11-13, 2		
42 The C								
As. The C	ourt is opened.	The accused is	(pre) brought	before the (Court. At	0.0.0.	hours tris	d commences
A4. The P	rosecutor produ	ices a Medical Con	etificate that	accounted in to	see 6t to un	inema to	rial by one	net martial (1
A4. The P e Prosecutor meanify by th	resecutor prode informs the Co is CO.(*)	noes a Medical Cer ourt that accused	rtificate that	secused is the tried by	fit to und	iergo ti i inster	rial by cor pi of beir	net martial (1
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(6F 34, 15/4), (1/1), or in her of trial (6F 36), or as to occased a mental fisheses to stony trial (AA 18), (8F 57), or by one of sevents accessed charged jointly to be trial speciately (9F 16, 77), such place, the undersease made in support or against the evidence. If any, and finding one recorded per hisses. For forms of record use references in fine to Rel cited. Insert in Ad rank and once of the occurred making the place).

A9. The accessed is tasks arraigened (section field) on all charges in the phasese short (0). The accessed does

A9. The accessed is arraigned (separately) on all charges in the charge sheet. (1) The accessed does not object to any charge. (4) There is no amendment to be made to the Charge Sheet. (1) The President reports the pleas in Part I of the Schedule.

(I) RP 33, III. See pore I of Instra p 2. When more than one Charge Steet one RP 62, when several account to be tried importantly see RP 71(C), and was separate copies of CF AP6 to record proceedings. 2. RP 32, RP 32. If otherwise, delete and make appropriate record per Notata.)

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

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

2 CBRY AB HE Valin P. 44.

INSTRUCTIONS ON PROCEDURE AFTER ARRAIGNMENT.

1. The accused may not plead or be found Guilty on more than one of two or more charges laid in the alternative.

(RP 37(A).) As to withdrawal of alternative charges by Prosecutor see RP 35(C). No other charges laid in the alternative. for any reason without authy from Convening Offr. Townsing Offr concurs, Court may accept pieca of an be withdrawn to plead or not pleading intelligibly see RP 35(A). As to plea when sentence may be death see RP 35(D).

As to refusing the second of the sec

- 2. The proceedings on each charge sheet (RP 82) after arraignment will be conducted as follows in the respective 1. If pleas to all charges are GUILTY, use Record Form B below.

 - 11. If pleas to all charges are NOT GUILTY, use Record Form D on p 3.
 - 111. If pleas to some charges are GUILTY and to other charges are NOT GUILTY and,
 - (a) Such mixed pleas occur when there are no alternative charges in the Charge Sheet, use Record Form C below. (RP 37(A).)
 - (b) Such mixed pleas occur in a set of two or more charges laid in the alternative, see RP 37 (A) and fn 2 as to discretion of Court, (i) to try the accused on all such alternative charges as if he had pleaded Not Guilty thereto, or, (ii) to record the pleas as the findings of Court. After deciding between (i) and (ii), Court will proceed under foregoing instrs as may be appropriate to result of its decision. See MML p 744 Instrs (2).
- 3. As to responsibility of President to accused see RP 50, 60(C); powers and duties of JA see RP 103; duty and privileges of accused and Defending Offe see RP 60(C), 87(C), 91, 92; securing RP 83-85; calling or re-calling of witheases by Court, etc. see RP 51, 52, questioning of accused see RP 80, 87(C), 91, 92; securing RP 17(E) fn 6; and responsibility of JA or Pres to record proceedings see RP 90, 90, 100, and of witheases of Victoria, etc. see RP 35-79, 80, 116; use of Surmary of Evidence at Trade see RP 17(E) fn 6; and response

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

- B1. The President or JA, if any, complies with RP 35(B) by explaining to the accused the nature and meaning of the charge(s)(!), and that on his plea of Guilly there will be no regular trial but merely a consideration sentence to be awarded after he has been given an opportunity to make a statement in reference to the charge(s), (I. B) 35 ft 2. 2. MML p 54 pere (?)
- B2. President to accused: The Court will now receive any statement you desire to make in reference to the B2. President to accused: The Court will now receive any statement you desire to make in reference to the charge(s),(i) If it appears from your statement that there are circumstances which indicate that you do not understand the effect of the plea of Guilty(i), or which show provocation or extenuation spect of which is the witnesses for the Prosecution should be examined(i), we shall advise you to change your plea to not undermaking a statement you will not be sworn or subject to cross-examination; and anything you say will not be used affects only the amount of purishment to which you are liable, you will not be don't that your statement will be given an opportunity later to prove your statement by sworn testimony, if you so desure (*)

J. RF 31(8) 2. RF 31(0) fo 6. 3. RF 33(8) fo 5 pare 3, MML p 54 point 47. 4. See pare E3 of Record Form E.

Scansment H any, recorded per Notes.)

- B3. The Court considers the accused's statement.(1) The Court decides (not) is advise accused to change his (therix) plea(s) of Guilty to Not Guilty on. 7 search charge(s). The account is (after so informed, and he (they)
- (More) plents; one.

 Court may be dissed to consider the stotement. Delete whole or part are used.)
- B4. On the charge(s) to which the plea(s) of Guilty is (and) not changed the President records finding(s) of (i. M 15(2), if any picate) is (are) changed, see Record form C or D or appropriate.)
 - B5. The Summary of Evidence is marked Ex A., initialled and read sloud by the President (!) stone is a Summor, or if it is inconcern, compty with AF D(S). If there is any evidence inconsists with any place and it is designed to the form D on p 1. If D(D), ples and if changed to Not Guilty, by such charges, it are of the contract of the president of the contract of the president of the president of the contract of the president of the president
- B6. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by Record Form F on p 3. neing Record Form E on p 3.

RECORD FORM C-PROCEEDINGS ON MIXED PLEAS OF GUILTY AND

- As to the charges on which accused pleaded NOT GUILTY the trial is continued by using paras D1 to D8 (I. & D(A) (I))
- CZ. The charges on which accurated pleaded GUILTY are read to him (them) again, and the trial is continued by using paras Bl to B5 of Record Form B above.(1)

 (b) there is not sent any of the Summary of France art and a relate to the charges dealt with under CL. If any pine is appropriate record thereof on a supervise state.)
- The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Form E on a 3

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

Pin byra Loose Speets of Bressel.

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

D1. President to accused: Do you wish to apply for an adjournment on the ground that apy of the rules relating to procedure before trial have not been complied with, and that you have been projudiced thereby, or on D2. The Prosecutor makes (an) (no) opening address (1)
(i. RF 39(8), 60(A) (8), 90, 92(C) (D). Record oddress per Notes, subject to RP 95(C).)

- The evidence for the Prosecution is taken.(1)
 (1. RP 39(C), 114, RR Can 555. Record evidence per Notes. As to Prosecutor giving evidence himself see RP 39(D) (E).)
- D4. The Prosecution is closed.(1) The Defending Offr submits that the evidence for the Prosecution does not ... charge(s).(*) The Court
- - their collarge(s). (*)

 (*) Defete remainder of this para, if submission not made.

 (*) Arguments on submission, answer and reply are recorded for Notes.

 1. RP 40 fn. 1. See MML p.72 peros 12:14 and p.87 poro 42.

 4. Delete part not used. If accused arguitted solicy on ground of irrelevance, accused must be allowed great laurade in making his defence, and the Court should not stop his defence asserts on ground of irrelevance.

 (RP 60(C), 114, 115)
- D5. President to accused: You will now proceed with your defence (?) You may, if you wish, give evidence The president to accused: You will now proped with your defence (!) You may, if you wish, give evidence you may, however, suck a statement without being sworn, and you will be subject to cross-examination.(!) But a statement which could have been made of oath will not carry with the Court the same weight assworn testimony.(!) neither.

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

(I. AP 1/3. Are they witnesses as to character only ! Ans. 2. AP 40(A), see 80(D). 2. AP 40 fo 10. 4. AP 40 for 2. 9.) Do you intend to call witnesses on your behalf!

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

(1) FF 1/4, 1/5/1/6. For procedure see Notes on book of Convening Order, CF A95. Evidence for accused as to his
of Record Form E. Record per Notes addresses, statement, evidence and any summing up by the IA under RF 42, 103(e).

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

(1. \$2.43, 117(4). See Notes in Fact I of Schedule. 2. \$2.44(4).)

Ds. The President announces the finding(s), if any, of Not Guilty, and states to the accused that the finding(s)

the Court on the charge(s), if any, or not courty, and states to the accused that the immunity of the Court on the Court on the charge(s), being subject to confirmation, will be promulgated later (t). The President amountees that the accused is found Not Guilty on all charges and is to proceedings are accordingly terminated. Part I of the Schedule is dated and signed (t).

As \$4(1), \$2 \cdot 45, \$17, \quad \text{Phi}\$ alternative amountment is not applicable when there

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

RECORD FORM E-PROCEEDINGS ON CONVICTION BEFORE SENTENCE.

- President to accused: Do you wish to give evidence yourself or to call any witnesses as to your character 1(1)
 - O. If endonce has already been given by occupied or his witnesses as as his character, device this pare. At DICS is 6. 66 in 1.
- E2. The Prosecutor produces Statement(s) as to Character and Particulars of Service(1), and certified true copy (copies) of Conduct Sheetah(2), purporting to refer to the accused, which he submits to the Indending Offr for examination, and then to the Court for admission in evidence. The Court is satisfied that these documents refer to refer to (a) soldier(s) having she same number, rank, name and corps as the accused. Admitted in evidence and marked Ex C. and Ex al. respectively (*)

 pare (.) MFE 125 or AFE 286. 2 MFM 5. 2. 89 46, KR Can 538. If above documents not produced, see 28 46 ft 1
- E3. President to accused: Do you wish to address the Court on the Statement(s) and Conduct Sheet(s), and in mitigation of punishment 1(1) Ans.

 (i) AP DICC. 44(D). 2. Address. If any manded per Notes. Court should permit account or his witnesses to person and coupling here or previously stated which would offers the amount of punishment. AP 27(9) for 7.)
- E4. The President states that the Court is closed to consider the sentence, and that the sentence to be awarded the Court, being subject to confirmation, will not be announced, but will be promulgated later, and the (f. Ad Mar), as (2004).
- E.5. The Court considers the sentence (1) The Fresident records the sentence in Part I of the Schedule, which is dated and signed by him and the JA if any (2) is detected and signed by him and the JA if any (2) is desired and signed as a series occurs descently are sentence series, comprised of the punishment of the sentence series and the JA is a sentence series of the sentence series of the sentence series and sentence series and sentence series of the sentence series of the sentence series of sentence series of sentence series of sentence series of sentence of sentence series of sentence series of sentence series of sentence of sentence series of sentence series of sentence of sentence series of sentence series of sentence of

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

. .

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

- I. If pleas to all charges are GUILTY, use Record Form B below.
- II. If pleas to all charges are NOT GUILTY, use Record Form D on p 3.
- III. If pleas to some charges are GUILTY and to other charges are NOT GUILTY and,
 - (a) Such mixed pleas occur when there are no alternative charges in the Charge Sheet, use Record Form C
 - (b) Such mixed pleas occur in a set of two or more charges laid in the alternative, see RP 37 (A) and fn 2 as to discretion of Court, (i) to try the accused on all such alternative charges as if he had pleaded Not Guilty thereto, or, (ii) to record the pleas as the findings of Court. After deciding between (i) and (ii), Court will proceed under foregoing instrs as may be appropriate to result of its decision. See MML p 744 Instrs (2).
- 3. As to responsibility of President to accused see RP 59, 60(C); powers and duties of JA see RP 103; duty of Prosecutor see RP 60(A) (B); duty and privileges of accused and Defending Offr see RP 60(C), 87(C), 91, 92; swearing and withdrawal of witnesses from Court see RP 81, 82; questioning of accused see RP 80, 87(C), 92(B), and of witnesses see RP 83.85; calling or re-calling of witnesses by Court, etc., see RP 75-79, 86, 110; use of Summary of Evidence at Trial use of Summary of Evidence at Trial see RP 17(E) for 6; and responsibility of JA or Pres to record proceedings see RP 94, 96

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

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

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

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

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

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

(1. RF 35(E). If any piea(s) is (are) changed, use Record Form C or D as appropriate.)

B5. The Summary of Evidence is marked Ex A: initialled and read aloud by the President. (*)
(I. If there is no Summary, or if it is inodequate, comply with NF 37(5). If there is any evidence inconsistent with any pine stooding as Gailly, Court will africe occurred to thongs such pine and, if changed to Not Guilly, try such charge(s) by sen of parts 01 to Delinchwise of Recard From 0 on p 1. NF 37(6).)

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

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

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

(1. SP 37(A) (E).)

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

(1. Under 85 such ports only of the Summary of Evidence are read as relate to the charges dealt with under C1. If any plea is charged to Not Guilty, trial thereas proceeds by complying with parcs D1 to D8 inclusive in Record Form D on p 3 and making an appropriate record thereof on a separate wheet.)

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

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

Pin hets Loose Sheets of Record.

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

11. President to accused: Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on

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

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

D4. The Prosecution is closed.(1) The Defending Offr submits that the evidence for the Prosecution does not ...charge(s).(*) The Court establish a prima facie case against the accused on the... is closed, and considers the submission.(*) The Court is re-exened, and the President announces that the submiss charge(s), and allowed on the .. is disallowed on the charge(s), and that, accordingly, the trial will proceed on the former, but the accused is (are) found Not Guilty on

the latter charge(s). (1. Delete remainder of this pare, if submission not made.

[1. Delete remainder of this pare, if submission not made.

[2. Arguments on submission, onswer and reply are recorded per Notes.

[3. 89 40 fn i. See MML p 12 pares 12-14 and p 87 pare 42.

[4. Delete part not used. If accused acquitted on all charges, use second alternative in pare 05.]

[5. 16 triol proceeds, accused must be allowed great latitude in making his defence, and the Court should not stop his defence solely an ground of irrelevance.

[6. 40 fc. 15 fc. 15

D5. President to accused: You will now proped with your defence.(1) You may, if you wish, give evidence yourself on oath as to the facts or your character or both, in which case you will be subject to cross-examination. (*)
You may, however, make a statement without being sworn, and you will not be subject to cross-examination. (*)
But a statement which could have been made on oath will not carry with the Court the same weight as sworn testimeny. (*) You may call witnesses in your defence and as to character, whether you give evidence or make a statement or de

President to accused: Do you with to give evidence yourself as a witness, make a statement, or do neither ? Do you intend to call witnesses on your behalf ! Ans... (I. RP 115. 2. RP 40(A), see BO(D). 3. RP 40 (n 10. 4. RP 40 (ns 2, 9.)

D6. Consequent on the answers recorded in para D5 the appropriate procedure for the defence is followed.(*)
(1. Rf 114, 115, 116. For procedure see Notes on book of Convening Order, CF A95. Evidence for accused as to his character should, if is his interest, be given before the funding. See Rf 46(A) [n], 86(C). Note the further opportunity in para E1 of Record Feer McL. Record per Notes addresses, stochaster, evidence and any summing up by the [A under A9-42, 103(e).)

D7. The Court is closed to consider the finding(s).(1) The finding(s) of the Court is (are) recorded in Part I of the Schedule (9) The Court is re-opened.
(1. ## 43, 117(A). See Notes in Part 1 of Schedule. 2. RP 44(A).)

D8. The President announces the finding(s), if any, of Not Guilty, and states to the accused that the finding(s)

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

RECORD FORM E-PROCEEDINGS ON CONVICTION BEFORE SENTENCE.

E1. President to accused: Do you wish to give evidence yourself or to call any witnesses as to your character 14% (I. If evidence has aireally been jeven by accused or his witnesses as to his character, delete this para. RF 37(C) fo 4. 46 fn I. Accused and witnesses are system. Evidence recorded per Notes.)

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

marked Ex C. and Ex of respectively (*)

(). MFB 355 or AFB 296. 2. MFM 6. 2. RF 46, KR Con 558. If above documents not produced, see RF 46 fs i para ().

E3. President to accused: Do you wish to address the Court on the Statement(s) and Conduct Sheet(s), and in mitigation of punishment 1(1). And

(1. N. D. D. (1. 1). Address. If unfil recorded per Notes. Court should permit occused or his witnesses to prove
as each angeling here or previously stated which would affect the consum of punishment. No 20(4) (6.7).

E4. The President states that the Court is closed to consider the sentence, and that the sentence to be awarded by the Court, being subject to confirmation, will not be announced, but will be promulgated later, and the proceedings in open court are accordingly terminated (1) proceedings in open court are acc (I. AA 54(6), RF (20(A))

E5. The Court considers the sentence (*) The President records the sentence in Part I of the Schedule, which is dated and signed by him and the JA, if any (*) (D). One sentence only, comprised of the punishment of punishment and down in AA 1.4 down in powers, is to be not control to cover of the control of the punishment of the punishment of the cover of

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

The court recommend that an investigation

g sto Hymonio domestic offairs be made.

10/208/45

See.

CHARGE SHEET

Donal d James

The accused, A-55712 L/Gpl. HTMAN, D.J. on the strength of 65 Coy., 9 Bh., 2 CBRG., a soldier of the Canadian Army Overseas, is charged with:

FIRST CHARGE A.A 500 (50) WHILE ON ACTIVE SERVICE, ABSENTING HIMSELF WITHOUT LEAVE

in that he

In the Field, did absent himself without leave from 1600 hours, 8 Nov 44 until surrendering himself at 2230 hours 6 Dec 44.

TOTAL TIME ABBENT: - 28 days, 6 hours and 30 minutes.

(H.W. Rick)Lieut-Colonel, Commanding Officer,

9 C.B.R.Bn

In the Field, 26 Jan 45

TO BE TRIED BY FIELD COMERAL COURT MARTIAL

Mutmitting (G S M Gostling) Brig Comd

2 Cdn Bese Rft Gp

In the Field 3 Feb 45



FIELD GENERAL COURT-MARTIAL

(Whether the accused to be tried is under his comd or not, o FGCM may on application to him be convened by any offr of Cdn Army Overseas, or of any other force if authorized in law, in immediate came of troops on active service, subject to RP 105(C) and restrictions imposed by appropriate authy. As 49, 50, RP 106-107, 114. As to the duties and privileges of the Convening Offr in dealing with the application see MML Chap V paras 20 and 23, RP 87(B).

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

There should be a separate Convening Order for each person to be tried separately by the same Court. RP 71(C), 109. As to separate charge sheets. BP 2.5, and as to separate trial on charges in the same charge sheet see RP 108. As to two or more accused charged jointly see RP 16, 109. BP 2.5, and as to separate trial on charges in the same charge sheet see RP 108. As to two or more accused charged jointly see RP 16, 109. BP 2.5, and as to reasons for showing (a) permanent or confirmed rank, and (b) uppmt. Alronk or Ajapant. If any, see AA 182, 183, fns. KR Can 308, 328, 330,)

ACCUSED.

Number. (a) Prmnt B. (b) Appmt, A/R or A/Appmt.

Full Christian Names. Surname.

A-5 5712 Fte (I/Cpl)

Donald

James

HYMAN,

9 CBR Bn

CONVENING ORDER.

has been made to me, the undersigned, that the perschift named above as the accused, w, has that committed the offence(f) set forth in the Charge Sheet(f) attached and on endorsed by me, for by an offen of my staff for me). "To be tried by Field General Court-

- And whereas I am of opinion that it is not practicable that such offence(s) should be tried by an ordinary General Court-Martial; (and that it is not practicable to delay the trial for reference to a superior qualified offen) (Delete pert in brocket when not required for compliance with AP 105(C).)
- I hereby convens a Field General Court-Martial to try the said person(*), and to consist of the Offrs appointed or detailed hereunder
- -4. I am unable to appoint (a) three Offrs to form the Court, (b) a Fd Offr as President, for the rea (AA 49, RF 106(6), 107(A). Delete the whole or part, if not applicable.)
 - 5. I also appoint as Judge-hissome therest the Offs mentioned hereunder.

 (IF IGEE). Delete, if none appointed.)

PRESIDENT.

Major

O G MACKENZIE, VAE, FOR

FOR X-9 List ett 3 Cdn MBTO

MEMBERS.

Major

D MacKENIZIE,

Essex Scot, X-9 List att 3 cdn NETD

Bestein

E. I. E. ERASTER.

sts.

II CBR Bo 11 (Unit.)

WAITING MEMBER

(Named or detailed, if any. RF 106.)

(Unit.)

Dat

On Active Service in the Fd

BELGIUM

(Country.) 3 FEB 45

650

Brigedier

(C S M Gostlibe)

Commanding & CIN BASE RFT GP

Convening Officer

CONVENING OFFR WILL INITIAL ALL DELETIONS AND ALTERATIONS

4/38A CFA SS (In Date of AFA 5)

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

CANADIAN MEDICAL SERVICE DAR 706 45 No. No., Rank and Name 7557/> 4cpl Hyman D.S. Re The myn has keen referred for psychestic interview but as yet he not bed a Consultation, 292 her been sent to 14.0 of But or avery ment Signature of M.O. 344. Inner to recomme To be filled at Medical Inspection a Dogstay ,

DEDICAL OFFICER CERTIFICATE

(HR(Can)Para 557)

I certify that I have this day examined 455-7/2 // y MAN D. J. and in my opinion he is

fit to undergo trial by Court Martial

M. M. Wasserman Const

Station_ FIELD.

Date 7-2-45

MEDICAL OFFICER CERTIFICATE

(KR(Gan)Para 557) GHQ CL 173

I certify that I have this day examined A55712 (Number)

HYMAN D. J. and in my opinion be is

fit to undergo trial by Court Mart 1

Station FIELD.

10 F.E.B. 45 Date

Statement. A 55712 depe Hyman D. J. 9. CBR Bn Mot on our On & Nov. 44 9 mes. a friend of mine and we went down there in ghent & Hood quel a few chinks. The news. I know was 5- Dec 44. I was in Southgrandon Fondon. I immediately Hantice back to Shent. The 6 der I could not get any Sperter than Lyon. I was unable to get a nom or a train. I turned myres ful the america M. M. 4. " P.P. 83(B) confirmed were Nonacas Wachinger major sunting lout.

Cinioralla hiltonia. Statement of C 40532. Let Cartainger C.G. 65. coy 9 Bm Under Dair "The accurred was were the cop of where I am P. E. on two vorous occasions. During his stay were the cay 9, on severe sanow occasions, here file for the 1100 Capace is the time of duty. Q. P. 83 B) Conformed were Houses Marlenger

Caracla Welvers C.B.R.G. Le 8. G. Paleties Muly som The accurace has been but me some some sence Her character Hor Teer alwe represed the Leyborney his duties the has along the very relace & any chiles conjunct him so how along, teen were seem and a seem with the seem of the little on an enuel then by trots the fourors evening is because they have freed themelos seliable & were his take any unaultonged high " I continue I copy to account as a stoner again to Three less flowed ander ofen anost of most right responde to the C.O. of 12 Bin of his conduct. I had no histolion for clony to. R.P. 83 (0) Conformed went Mound Machinger menter of course.

:: Plea of muligistion A 55 412 L/ept Hyman D. J. 15 an American who crossed from Detroit to Windsor 10 Oct 41 to join the 1st Base Ordnaneo Workship . Come overseas with the advance party of this und Jan 42 + remained wiel them in England aprox 6 months. Ale was the posted to # 1 CORU - posted from the to 934AD. Was with this unit till any 43 who he was posted to the EREME of 2 Corps He came to France with This unit 8 Jul 44. Ale was injured in a me accident in England damaging his back but was only hospitalized a couple of days. This injury was agrovated in any 44 7 he was again wacuated to an any 14 17 he he was sent to 20BRG, awaiting reboard a reallocation The board reserved its decision, sending hem to # 2 Convalencent depot for observation His ease was to be reviewed again in a month of then returned to ECBRE He was due to be sent for reboard again the day he went missing that his wife had been unfactiful and had a child by another the order to arrange for the custody of

3 Stept Hyman Finally was brought back to care 8 Jan 45 and has been held have since that date. His case was first officially reverised at cay orderly room aprox 15 Jan 45. We was remanded for Further evidence (the cheeting of his proper date of surrender) the brought up before but Rick and remanded for T. S. C. On none of there occasions was the man your an apportunity to give his full story I we to his apparent loss of memory I brought him before a medical offices (lapt Wasserman 13 08 12 12) He and another hio. questioned him for over an hour and recommended a psychiatrio consultation and arrangements were started for this These have not been completed but the decision of the consultant should be war into considuation before sertine is Finally ensorded.

athoteto is since

Plea of Miligation A 55 yea Lope Hyman D. ot. 15 an American who crossed from Debroit to Windsor 10 Oct 41 to join the 1st Base Ordnanco Workshop. Came overseas with the advance party of this unit Jan 42 + remained will Them in England aprox 6 months - de was the posted to # 1 CORU - posted from the to 934AD. Was with this unit will any 43 when he was posted to the EREME of 2 Corps He came to France with This unit 8 Jul 44. Ale was injured in a myo accident in England damaging his back but was only hospitalized a couple of days. This injury was agravated in any 44 4 he was again wacuated to august ath. Here he was sent to 200 RG, awaiting rehoard a reallocation. The board reserved its decision, sending whenis to " 2 Convalencent depot for observation His ease was to be reviewed again in a month of then returned to ecos the. He was due to be sent for reboard again the day he went messing In march 43 he received news that his wife had been unfactiful and had a child by another the order to arrange for the custooly of

his own two sons but this was not granted the then fried to dransfer to the american army as he hoped to go ente Bomb Ordance as in this manner he could get home on a course. The necessary authority came through Tet 44 but was automatically concelled when all on account of that preparations for the envasion the was an enting the outcome of his reloand before making smather application for compassionale Feeling very depressed he went out on a drinking spice with a freind 8 hoo kit and his next recollect us was finding himself in the part of Toulon 5 Dec 44. Ale, commediately sharted back intending to come direct to Chart, or Fairing this to surrender hunself to the Canadian military Palice Reached of you 6 Dec and as he could not get any further that day or could not find accomodation he surrendered Simself to the american In Pi They held hem a short time in Lyons a then from ferred his to the Paris defention barrooks which apparently is jointly run by all branches of the allied in Pi. The

3 Stept Hyman Finally was brought back to esses 8 Jan 45 and has been held here since that date. His case was first afficially reverwed at coy orderly room aprox 15 Jan 415. He was remanded for Further evidence (the cheeting of his proper date of surrender) the brought for F. S.C. On now of these opportunity to give his full story Due to his apparent loss of memory I brought him before a medical offices (Eapt Wasserman 13 08 12) He and another his questioned him for over an shows and recommended a psychiatric consultation and arrangements were started for this I have have not been completed had the decision of the consultant should be take into considuation before sentince is Finally ensorded. a thotato is since

in the case of

A+55712 L/Cpl. HYMAN, D.J. on the strength of 65 Coy., 9 En., 2 C.B.R.G., a sidier of the Canadian Army Overseas, who is charged with:

WHILE ON ACTIVE SERVICE, ABSENTING HIMSHLF WITHOUT LEAVE, A.A. Sec. 15(1)

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

FIRST WITNESS:

C-40522 Sgt. CARTWRIGHT, C.G., CIC, on the strength of 65 Coy, 9 Bm., C.B.R.G. (formerly 12 Bm), having been duly sworn states:

"I am C-40532 Egt. Cartwright, C.C. of 68 Goy 9 En. I am Egt Instructor on the P.E. At 1600 hours 8 Hov 44, I was hended a draft notice posting L/Cpl. homan, D.J., to No. 8 Re-Allocation Centre. I in editately checked Goy training parases, forigue parties, barrack rooms, and Camp Area but was unable to Locate L/Cpl. Hyman. The result was, the draft to No. 8 Re-Allocation Centre left without this man. This man was not previously warned for draft!

The accused declines to cross-examine this without.

C-40532 Set. Certwright, F.G.

BECOMD WITHESS:

Certificate under the Army Act, Section 163(1)(1) was shown to the accused, marked by me as Exhibit and is attached hereto.

The accused declines to cross-engine this witness.

(v.D. neuron) tent (v.D. neuron) tent officer detailed to take the summary of evidence.

The accused was cautioned as follows:

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

The accused declines to make any statement.

The accused does not call any witnesses in Defence.

I certify that the foregoing Simmary of Evidence, consisting of one page, was taken down by me in the presence of the accused and that Mules of Procedure 4(c),(d), (e) (f) and (g) have been compiled with.

(V.B. Kenyon) Lieut.
Officer detailed to take the
Summary of Evidence

In the Field 26 Jan 45

This is Exhibit "A" referred to in the "Summary of Eindrace in the case of A. 59712 4/gel. The before me this 26th Jan 1945. T (G. Regulne) . Maut. . A. . R.M. . . Gdo. Mil. State Rania Sertify that Reg No 4-25/212 Rank A/Gpl. .. Name ... Ayuna, . A.J. THIT B/A ST TION D T . N/A Surrendered himself to Fo55041214 Rank Sgt... Pame ... Jones, of the ...weepiges Givil. &Coalgo, ... Glormont Renread........ on the 6 th ... dev of Deg. ... 1944, at .39.50.. Hours inivilian alabies) Signature of Provost-Marshal, assistant Provost-Marshal or other officer or the Commanding Officer of the portion of His Majesty's Forces or the officer, warrant officer or non-commissioned officer in charge of the detachment of the Canadian Provost Corps, Conadian gray, into whose custody the above named person was taken on surrender. . Reares Tre

F141d 30-Ded-44 D.A.P.M. Laure

D. A. P.M. Con. Mil. Staff Parks

Regiment (or as the case may be).

65 Coy 9 C.B.R. Bn

Stement as to Character and Particulars of Service of Accused (For Use at Trials by Field General Courts-Martial only)

Name.

Number.

Rank.

A-55712	L/Cpl. HYMAN, D.J. 85 Coy 9 G.B.R. Bu
hDTE—The field- Conduct Shart is to be pro- ducing in Count with this statement but is not to be anneadt to the proceeding. The numbers freeze interes- to numbers freeze interes- sounders of EFRISCS in the field Conduct Sheet, promo- ence kaing your to the rest- teres and the proceeding. If the Sharps is for double- ness or absence without leave, the Artifice for discharance in should be stand expected. Any incognities special exit of galactery or discharance in conduct Sheet should also be invested lines.	1. The following is a fair and true summary of the entries in the Field Conduct Sheet of the accused, exclusive of convictions by a court martial or a civil court;— For times. For times. For times. For times. Date of first entry in Field Conduct Sheet Date of last entry in Field Conduct Sheet
	Previous convictions of the accused by a court martial or a civil court are set out in the Schedule overleaf. The coursed at the present time to under sentence for
Sintant or CE.	4. The accused has been awaiting trial on the present charges for 770
	days in civil custody; and for
	6. The date of his attestation attestation is 10 Oct. 1941
	7. The service which the accused is allowed to reckon is 3/85 3 months 2009
State the military descriptions (If any) hard by attained	8. The accused is in possession of t None 9. (If the accused is a warrant officer or N.C.O.). The accused has served continously, without reduction, to the present date— 10 1944. Date of Promotion.
	In the substantive rank of 2.0
	In the war substantive rank of LL.S. In the acting rank of L/G ₂ L.
	INSTRUCTION.—If any matter in any of the above paragraphs cannot be stated from the regimental books the paragraph must be struck through.
WL 13479/2857 30,900 1/44	51-622 Tire Formuch 296-98-92

SCHEDULE OF CONVICTIONS BY A COURT-MARTIAL OR CIVIL COURT

escription of Court by which tried	Date and Place of Trial	Charges upon which convicted.	Sentence of the Court	Punishment remitted or sentence suspended.
	1			

I HEREBY CERTIFY that the foregoing particulars, which have been extracted from the regimental books in my custody, are correct to

the best of my knowledge and belief. Signed this 10 th

•	A=5571.2 No. Date of last Company Co	Name entry in		No.	or Company and date Period not reckening towards set drunk freedom from extra fine	(Tempt Date of enlistment) Sheet No	ac .	Barvice or Profloiency	Poy 3/17 Character	MFM 6 (AFB 122) FAX/136 (14)Jar	
	Place	Date of offence	Rank	Cases of decalem-	TOS FROM 18 CBR In 22-1-45	Names of Witnesses	Punistment awarded	Date of award or of order dispen- sing with trial	By whom awarded	Remarks	*
					Certified that original N.F.M. not available and that this is copy of all information available	true					
		27	Jan	45	(O.L. Helson) Capt	e Adj					

LIST OF DEITSITS

in the case of

A-55712 L/Opl. HYMAN, D.J.

Exhibit "A"

- Certificate of Asprehend on, under AA 360 163(1) (3).

170045

20089

1. I hereby asknowledge receipt of one copy of Dearns sheet and one copy of the Summary of Evidence relivered to us

X(a) I remoss that

(b) I reject that an officer be appointed as my

D. J. Hyman

Ass 112 Hope Hyma, D.J. at his cortace to term by court wartist and that the said Lot a. 7. Mediah was notified that he was defending officer on 1 7 cb 45.

CAPT 4 ROJT.

LIST OF STUMESES IN THE CASE OF A-56712 L/Cpl. HOMAN, D.J.

0-4053E Set. CAPTERIGHT, C.G.

65 Coy., 9 C.B.R.Bn

CONTINUE, T.D. Kellyon

MINIBUSES FOR THE DEFENCE

WIL

SCHEDULE.

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

Accused:	A-55712	Pte (L/Cpl): Donald	James	HYMAN,	9 CBR Bn	
Charge	ð.	Plea.	Finding.				

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

nt under sentence for:

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

Time in confinement awaiting present trial—a total of 66 days, of which N11 days were spent in hospital.(1) (I. See RP 46(A) fn 2. Information should be found on MF B355 or AF B296 admitted in evidence under E2.)

Sentence Awarded by the Court :

To undergo one years detention.

(Sgd)	10 Feb 45	(Sgd) G.G. MacKenzie Major
Judge-Advocate, it	any. Date awarded, se back of Convening Order as to assembly and disposi	President. (RF 45, 50.)
PART II. MINL	TE WHERE CONFIRMATION RES	ERVED. (AA 54(5), RF 120(F), MANL p. T60.)
		Sc
		,
Date TSgd1	Commi	anding J'.

PART III. DECISION OF CONFIRMING OFFR ON FINDING(5) AND SENTENCE.

(For duties and powers see AA 54, 57, RP 37(D) fn 6.46(A), 51-56, 120, MML pp 759-761, KR, Can 547-577. Acquitted proceedings and connected the revised: AA 54(3), RP 120(G), if not confirmed, accused may be tried again. AA 137, MML p 64. Minists of cultimation or non-confirmation may be othered before promising on: RP 53, MML p 65. Quanting ofter promising on: RP 53, MM, p 65. Quanting ofter promising one and powers of reviewing offer: AA 57, 57A, AF 53A, 54. The Confirming Offer must sign here personally, AA 172 fn 1.)

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

Confirmed

(I. AA STA. Delete if not used.) I direct that the arrested be not own.

(Sgd) G. S.N. Gostling Brig

Date 17 Feb 45

2 Cdn Base Rft Gp

Confirming Officer.

PART IV. PROMULGATED AND EXTRACTS TAKEN. (89 53, KR Can 576, 577.)

Accused.

Date.

Signature of Offr.

A55712 Pte (L/Cpl) Donald James HYMAN 9 CBR Bn

20 Feb 45 (Sgd) C.L. Nelson Capt Adjt 9 Bn 2 CBR Gp

ALL DELETIONS AND ALTERATIONS WILL BE INITIALLED.

FIELD GENERAL COURT-MARTIAL

Convened by Order of Brig G.S.N. Gostling Comd 2 CBRG

9 CHR

ACCUSED.

(As to the trial of two or more charged jointly see RF 18, 71, 109. As to reasons for showing (a) permanent or confirmed rank, and (b) appint, Aironk or Ajappint, if any, see AA 182, 183, fns, KR Can 308, 328, 330.) Number. (a) Prmnt B. (b) Appmt, A/R or A/Appmt. Full Christian Names.

Surname.

A.55712

Pte

(L/Cpl)

Donald James

HYMAN

CERTIFIED TRUE OP Line PROCEEDINGS OF TRIAL.

Held in the Fd in (country) BELGIUM

on (date(s)) 10 Feb 45

RECORD FORM A-OPENING PROCEEDINGS AND ARRAIGNMENT. 23/11.5

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

PRINTED MATTER, NOT IN ITALICS FOR GUIDANCE, WILL BE DELETED, IF NOT USED OR APPLICABLE, AND INITIALLED

A2. The President initials and lays before the Court the Convening Order and Charge Sheet's attached thereto. each charge discloses an offence.

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

A3. The Court is opened. The accused is (are) brought before the Court. At 1000 hours trial commences.

A4. The Prosecutor produces a Medical Certificate that accused is (see) fit to undergo trial by court-martial.(8)

The Prosecutor informs the Court that accused elected to be tried by court martial instead of being dealt with

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

A5. President to accused: Do you object to ______ as interpreter ! Ans The Interpreter is sworn.(1) Do you objection as shorthand writer ! Ans. The shorthand writer is sworn.

(1. RF 72. Delete, if now employed.)

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

(). RF 110. 2. If so aspection, *sating momber retires. RF 68(8). If objection, see procedure AA 31, RF 25, 71. 18, 8686, 9.742.).

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

G.G. Macker ZIE, MBE, FGH, K-9 List att 3 Odm Major President D. MacKENZIE, Essex Scot, X9 List att 3 Gin Member CPC 11 CBR BRETD Lieut B. LAMARHE Member Judge-Advocate Lieut A.T. MANN CIC 11 CBR Bn Prosecutor Lieut A.F. MCINTOSH CAC 9 CBR Bn Defending Offr

Questions by President: Is the Prosecutor a lawyer ! Ans Is the Defending Offr a lawyer ! Ans [8]

(1. RP 26, 27, 109, 11). List if offes under instr will be resumed separately with proceedings for information of Conv Offe.)

(2. If Pres a lawyer and Def Offer not, occused is entitled to an adjournment when RP 89 (6) and fn 2 were not followed. See DI p 3.)

AS. The accused A55712 Pte (L/Cpl) HYMAN, D.J. before arraignment make(s) (no) / plea

(1. If a special plea is mode for separate trial on one or more charges (RP 52(E), 108), or as to the jurisdiction of the Court (RP 34, 35(A), 113), or in bor of trial (RP 36), or as to occured's mental (fitness to stand trial (AA 13), RP 57), or by one of several occused charged jumily to be tried separately (RP 16, 71), such piec, the addresses made in subport or against, the evidence, if any, and finding one recorded per Notes. For forms of record see references in first to RuP citric. Insert in AB rank and name of the occused making the piec.)

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

(1. RF 31, 112. See pans 1 of lintro p.2. When more than one Charge Sheet see RF 61; when several occused to be tried apparently see RF 71(C), and use separate copies of CF RF6 to recurd proceedings. 2. RF 32, RF 33. If otherwise, delice and make apparate record per Notes.)

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

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

2 CBR G AB 160 Vol III p. 77

INSTRUCTIONS ON PROCEDURE AFTER ARRAIGNMENT.

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

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

- 1. If pleas to all charges are GUILTY, use Record Form B below.
- II. If pleas to all charges are NOT GUILTY, use Record Form D on p 3.
- III. If pleas to some charges are GUILTY and to other charges are NOT GUILTY and,
 - (a) Such mixed pleas occur when there are no alternative charges in the Charge Sheet, use Record Form C
 - (b) Such mixed pleas occur in a set of two or more charges laid in the alternative, see RP 37 (A) and fn 2 as to discretion of Court, (i) to try the accused on all such alternative charges as if he had pleaded Not Guilty thereto, or, (ii) to record the pleas as the findings of Court. After deciding between (i) and (ii), Court will proceed under foregoing instra as may be appropriate to result of its decision. See MML p 744 Instra (2)
- 3. As to responsibility of President to occused see RP 59, 60(C); powers and duties of JA see RP 103; duty of Proscenter see RP 60(A) (B); duty and privileges of accused and Defending Offr see RP 60(C), 87(C), 91, 92; successing and withdrawed of witnesses from Court see RP 81, 82; questioning of accused see RP 80, 87(C), 92(R), and of witnesses see RP 80, 50; calling or re-calling of witnesses by Court, etc., see RP 73-79, 86, 115; use of Summary of Evidence at Trial see RP 17(E) fn 6; and responsibility of JA or Pres to record proceedings see RP 94, 96.

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

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

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

President to accused: Do you wish to make a statement 1. Ans... (1. RF 37(B), 2. RF 37(D) fo 6. 3. RF 35(B) fo 5 para 3, MML p 54 para 45. 4. See para E3 of Record Form E. 5. Statement, if any, recorded per Notes.)

B3. The Court considers the accused's statement.(1) The Court decides (not) to advise accused to change his (theff) plea(s) of Guilty to Not Guilty on July at charge(s). The accused in (any) so informed, and be (they)

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

(1. AF 35(5). If any plea(s) is (are) charged, was Record Form C or D as appropriate.)

B5. The Summary of Evidence is marked Ex A., initialled and read aloud by the President (1) (1. If there is no Summary, or if it is indequate, comply with PF D(8). If there is not service inconsistent with any pleas standing or Southy. Court will drive occursed to change such plea and, if changed to Non Guiley, try such charge(s) by use of pares DI to D8 inclusive of Record form D on p 3. RF 27(D).)

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

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

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

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

(1. Under 85 such para sais of the Sammory of Evidence are read as relate to the charges dealt with under C1. If any piec is charged to Not Guille, rated therene becomed by complying with paras D1 to D8 inclusive in Record Form D on p 1 and making an appropriate record thereof on a supplier sheet.)

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

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

a hope Loose Sheets of Revord. CORD FORM D-PROCEEDINGS ON PLEAS OF NOT GUILTY TO ALL CHARGES.

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

D2. The Prosecutor makes (an) (no) opening address (1)
(1. RP 29(E), 60(A) (B), 90, 92(C) (D). Record address per Notes, subject to RP 95(C).)

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

D4. The Prosecution is closed.(1) The Defending Offr submits that the evidence for the Prosecution does not charge(s).(*) The Court is disallowed on the charge(s), and allowed on the charge(s), and that, accordingly, the trial will proceed on the former, but the accused is (are) found Not Guilty on

Othergo(8).(*)

(1) Defete remainder of this pare, if submission not mode.

2. Arguments an submission, answer and reply are recorded per Notes.

3. RP 40 fn 1. See MML p 72 pares 12-14 and p 81 pare 42.

4. Delete part not said. If accused acquitted on all charges, use second alternative in pare 06.)

N8: If this proceeds, occused must be allowed great latitude in making his defence, and the Court should not stop his defence solely on ground of irrelevance. (RP 60(C), 114, 115.) the latter charge(s).(*)

D5. President to accused: You will now proceed with your defence. (1) You may, if you wish, give evidence yourself on oath as to the facts or your character or both, in which case you will be subject to cross-examination. You may, however, make a statement without being sporn, and you will not be subject to cross-examination. But a statement which could have been made on oath will forcur the some weight as sworn testimony.

President to accused: Do you wish to give evidence yourself as a witness, make a statement, or do neither ! Do you intend to call witnesses on your behalf ! (i. 89 115. 2 89 40(A), see \$6(D). 2. 89 40 fs 10. 4. 89 40 fs 2. 9.)

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

(1. RF 114, 115, 116. For procedure see Notes on back of Convening Order, CF RFS. Evidence for accused as to his character should, if in his interest, be given before the finding. See RF 46(A) for 1. B6(C). Note the furniture apparature in para E1 of Record Fer Notes addresses, subtement, evidence and any summing up by the JA waden RF 42, 103(e).

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

(i. RP 41, 1/368). See Notes in Part I of Schedule. 2. RP 44(A).)

D8. The Proplent announces the finding(s), if any, of Not Guilty, and states to the accused that the finding(s) of the Court on the

charge(s), being subject to confirmation, will be promulgated later.(1)

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

(1. As Satz (6, 87 43, 1204). 2. As 54(3, 87 45, 117. This character announcement is not applicable when there

are pleas of Guilty outstanding and deal with under Record From 8 or C.)

D0. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using

RECORD FORM E-PROCEEDINGS ON CONVICTION BEFORE SENTENCE.

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

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

C and Ex D respectively (*)

MFB 255 or AP 276. 2 MeM 6. 3 RP 46, KR Con 558. If above documents not binduced, see RP 46 fn I marked Ex ... pere ()

E3. President to accused: Do you wish to address the Court on the Statement(s) and Conduct Sheet(s), and in

mitigration of punishment (1). And

(1. AP 37(C), 44(D). 2. Address, if any, recorded per Notes. Court should permit occused in his witnesses to prove an earth onything here or previously stated which would offect the amount of punishment. AP 37(F) to 7.)

E4. The President states that the Court is closed to consider the sentence, and that the sentence to be awarded by the Court, being subject to confirmation, will not be announced, but will be promulgated later, and the proceedings in open court are accordingly terminated (!) proceedings in open court are ac (). As Se(s), 89 (20(A).)

E5. The Court considers the sentence (1) The President records the sentence in Part I of the Schedule, which is district and signard by him and the JA, if any (2) (1). When severel secured tried separately see M 71 (D). One sentence only, comprised of the pusishment or punishments laid down in AA 4.4 and as person, is no be executed to meet all charges in all charge thect in which occusion found party. Mr. at a sentence see AA 44. Class (4), AB 45. Class (4)

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

The court recommend that an investigation of Pte Hyman&s domestic affairs be made.

10 Feb 45

G.G. MacKenzie Major President CHARGE SHEET

Donald James The accused, A.55712 L/Cpl. HYMAN, D.J. on the strength of 65 Coy, 9 En., 2 CBRG., a soldier of the Canadian Army Overses, is charged with:

First Charge AA Sec 15(1)

WHILE ON ACTIVE SERVICE, ABSENTING HIMSELF WITHOUT LEAVE

in that he

In the Field, did absent himself without leave from 1600 hrs, 8 Mov 44 until surrendering himself at 2230 hrs 6 Dec 44.

TOTAL TIME ARSENT: - 28 days, 6 hours and 30 minutes.

(Sgd) H.W. Rick Lieut-Col. Commanding Officer 9 C.S.R. Bn

In the Field, 26 Jan 45

TO BE TRIED BY FIELD GENERAL COURT MARTIAL.

(Sgd) GSN Gostling Brig 2 Cin Base Rft Gp

In the field 3 Feb 45.

FIELD GENERAL COURT-MARTIAL

(Whether the accused to be tried is under his comd or not, a FGCM may on application to him be convened by any offr of Cdn Army Overseas, or of any other force if authorized in law, in immediate comd of troops on active service, subject to RP 105(C) and restrictions imposed by appropriate authorized in law, in immediate comd of troops on active service, subject to RP 105(C) and restrictions imposed by appropriate authorized AA 49, 30, RP 104-107, 114. As to the duties and privileges of the Convening Offer in dealing with the application see MML Chap V paras 20 and 23, AR 97(B).

There should be a separate Convening Order for each person to be tried separately by the same Court. RP 71(C), 109. As to separate convening Order for each person to be tried separately by the same Court. RP 71(C), 109. As to separate trial on charges in the same charge sheet see RP 106. As to two or more accused charged jointly see RP 16, 109.

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

ACCUSED.

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

A.55712

Pte (L/Cpl)

Donald James

HYMAN 9 CBR Bn

CONVENING ORDER.

- 1. Whereas complaint has been made to me, the undersigned, that the person(s) named above as the accused being subject to military law, has (BEXES committed the offence(s) set forth in the Charge Sheet(s) attached and on (date). S. Feb. 45. endorsed by me, onchrom attached asking week, "To be tried by Field General Courts (date).
- And whereas I am of opinion that it is not practicable that such offence(s should be tried by an ordinary General Court-Martini; Born elica Nicht annichtation un diegest au und ferzeigen auf der eine Nicht annichte Munt (Deiete part in brackets when not required for compliance with RF [05(C)]
- 3. I hereby convene a Field General Court-Martial to try the said person(s), and to consist of the Offrs appointed or detailed hereunder.

konom nondono reprincipi de mondificación en encincia de la discolar de la descena de la conomición de la co (AA 49, RP 106(B), 107(A). Delete the whole or port, if not applicable.)

AC MOREO Appear on during a divine of the excite of the extended divine a solid

PRESIDENT.

G.G. MacKERZIE, MRE FGH, K-9 List att 3 9an NETD (Dat) Major MEMBERS. Essex Scot X-9 List att 3 Oin NETD D. MacKEN ZIE, Major CPC 11 CBR Bn B. Lamarre Captain (Unit.) (Named or detailed. RF 106.) WAITING MEMBER. (Cinit.) (Named or described, if any. RF 106.) JUDGE-ADVOCATE. (Cinit.) (Must be named, if any. AP 106.) (Rank.) On Active Service in the Fd Brigadier G S N Gostling (Signed personally. RP 105 fo 2) in BELGIUM (Country.) 2 Cdn Base Rft Gp 3 Feb 45 Commanding Convening Officer

CONVENING OFFR WILL INITIAL ALL DELETIONS AND ALTERATIONS

4/38A WASS IN DELL OF ATAS

(See overleaf for auths and nates for use on trial.)

CANADIAN MEDICAL SERVICE

DATE 7 Feb 45 No.

No, Rank and Name A. 55712 L/Cpl HYMAN, D.J.

R

The m/n has been referred for psychiatric interview but as yet has not had a consultation. 292 has been sent to MO of 8 Bn for arrangement of interview.

Signature of MO MM Wasserman Capt

MEDICAL OFFICER SERTIFICATE

(KR(Can) Para 557) CMHQ CL 173

I certify that I have this day examined A55712 L/Cpl HYMAN, D.J. end in my opinion he is fit to undergo brial by Court Martial.

Station Field

(Sgd) M M Wasserman Capt

Date 7-2-45

9 CBR Bn.

MEDICAL OFFICER CERTIFICATE

(KR (Cen) Para 557 CMHQ CL 173

I certify that I have this day examined A55712 L/Cpl HYMAN, D.J. and in my opinion he is fit to undergo trail by Court Martial.

Station Field

(Sgd) M M Wasserman Capt

Date 10 Feb 45

9 CBR Bo

STATEMENT A.55712 L/Cpl HYMAND D.J. 9 CBR Bn

NOT ON OA TH

"On 8 Nov 44 I met a friend of mine and we went down town in Ghemt and had guite a few drinks. he next I knew was 5 Dec 44. I was in Toulon. I immediately started back to Ghent. he 6 Dec I could not get any farther than Lyon. I was unable to get a room or a train. I turned myself into the American MP's.

R.P. 83 (B) complied with.

(Sgd) Donald Mackenzie Major Member of Court.

Character Witness

Statement of C.40532 Sgt Cartwright C.G. 65 Coy 9 Bn.

Under Cath.

"the accused was with the coy on where I am FE on two previous occasions. During his stay with the coy I, on several various occassions, had jobs for this NCO to do and found that he was quite capable in his line of duty."

RF 83(B) conformed with.

Donald MacKenzie Major Member of Court.

Character witeness.

Lt E.G. Patchell CBRG

Duly sworm

The accused has been with me since some time in Sept 44 and has given excellent service. His character has been above reproach. In performing his duties he has always been very reliable and any duties assigned him as have always been well passed out. For the reason that drivers are issued their log books the servence provious evening is because they have proved themselves reliable and were not take any unauthorized trips. I continued to employ the accused as a driver after he had been placed under open arrest and made myself responsible to the CO of 12 Sn for his conduct. I had no hesitation in doing so.

R.P. 83(B) conformed with.

Donald MacKenzie Major Member of Court. A55712 L/Cpl Hyman D.J. is an American who crossed from Detroit to Windsor 10 Oct 41 to join the 1st Base Ordnance Workshop. Came overseas with the advance party of this unit Jan 42 and remained with them in England approx 6 months. He was then posted to "1 OORJ and posted from this to 93 LAD. Was with this unit tall Aug 43 when he was posted to the CHEME at 2 Corps. He came to France with this unit 48 Jul 44.

He was injured in a M/C accident in England, damaging his back but was only nospitalized a couple of days and his injury was agravated in Aug 44 and he was again evacuated to hospital. Here he was sent to 2 CBRG 20 Aug 44 awaiting rebeard and reallocation. The board reserved its decision sending him to #2 Convalescent depot for observation. His case was to be reviewed again in a month. However he was kept there for 2 months, and then returned to 2 CBRG. He was due to be sent for reboard again the day he went missing.

In March 43 he received news that his wife had been unfaithful and had a child by another. He applied for compassionate leave in order to arrange for a divorce and the custody of his own two sons but this was not granted. He then tried to transfer to the American Amy as he hoped to go into Somb Ordinance as in this manner he could get nome on a course. Thencessary authority came through Feb 44 but was automatically cancelled when all transfers were frozen at this time an account of final preparations for the invasion. He was awaiting the outcome of his repeated before making another application for compassionate

Feeling very depressed he went out on a drinking spree with a friend 8 Nov 44 and his next recollection was finding himself in the port of Toulon 5 Dec 44. He immediately started back intending to come direct to Ghent, or failing this to surrender himself to the Canadam Miltary Police. Reached Lyon 8 Dec and as he could not get any further that and could not find accommodation he surrendered himself to the American MP's. They held him a short time in Lyons and then transferred him to the Paris detention barracks which apparently is jointly run by allo ranches of the allied MP's. He finally was brought back to CBRG 8 Jan 45 and

has been held here since that date.

His case was first officially reviewed at Coy Orderly room approx 15 Jan 45. He was remanded for further evidence (the checking of his proper date of surrender) then brought up before Col Bick and remanded for FGCM. On none of these occasions was them man given an opportunity to give his

full story.

Due to his apparent loss of memory I brought him before a medical officer (Capt Wasserman 13 UBR Bn). He and enother MO questioned him for over an hour and recommended a psychiatric consultation and arrangements were started for this. These have not been completed but the decision of the consultant should be taken into consideration before sentence is finally awarded.

(Sgd) A.F. McIntosh Lt 9 CBR Bn Defending Officer

the section of least a	Name HYN		No. 6	and date Gendam from extra fine	Sheet No	Company, ste	Date of award or of order discon-	By whom assurded	Benark
Company Co	onduct Sheet		Cases of	TOS from 12 CBR Bn 22-1-45	Names of Witnesses	Punishment awarded	of order dicorn-		
Place	Date of offence	Rank	Sees.	1 - 2 WWW 6 1	6		MEN SA		
				Certified that original MFM 6 inot available and that his is	g true				
	1			not available and that hers is copy of all information availab	ole.		17. 11. 11		
			V. III	goby or are all	& Adit		EURO		
			Tour state	(sgd) C.L. Nelson Cupt 9 CBR En					75
	27	Jan	45.	a new art	W Landson St.			THE REAL PROPERTY.	E STATE
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in the case of

A.55712 L/Cpl, HYMAN, D. on the strength of 65 Coy., 9 Bn, 2 CBRG, a soldier of the Canadian Army Overseas, who is charged with:

WHILE ON ACTIVE SERVICE, ABSENTING HIMSELF WITHOUT LEAVE, A.A. Sec. 15(1)

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

FIRST WITNESS

C.40532 Sgt CARTWRIGHT, C.G., CIC, on the strength of 65 Coy, 9 Bn., CBRG. (formerly 12 Bn), having been duly swom states:

"I am C.40532 Sgt Cartwright, C.G. of 65 Coy
I am Sgt Instructor on the P.S. At 1 600 hours
1 am Sgt Instructor on the P.S. At 1 600 hours
1 44, I was handed a draft notice posting L/Cpl. B Nov 44, I was handed a draft Hotto Centre. I immed-Ryman, D.J., to No. 3 Re-Allocation Centre. I immed-iately checked Coy training parades, fatigue parties, iately cannot be result was, the draft to No. 3 Re-Allocation Centre left without this man. This man was not previously warred for draft. Re-Allocation Centre.

The accused declines to cross-examine this witness.

(Sgd) C.G. Cartwright.

SECOND WITNESS Certificate under the army Act, Section 163(1)(1) was shown to the accused, marked by me as Exhibit "B" and is attached he reto.

The accuseddeclines to cooss-examine this witness.

(Sgd) V.D. Kenyon Limit Officer detailed to take the summary of evidence.

The accused was cautioned as follows:

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

The accused declines to make any statement.

The accused doesnot call any witnesses in Defence.

I certify that the foregoing Summary of Evidence consisting of one page, was taken down by me in the presence of the accused and that Hales of frocedure 4 (c),(d),(e),(f) and (g) have been complied with.

(Sgd) V.K. Eenyon Lieut Officer detailed to take the Summary of Evidence.

In the Pield 26 Jan 45.

This is Exhibit "A" referred to in the Summary of Evidence in the case of A.55712 L/Cpl Hyman, D.J. taken before me this 26th Jan 1945.

(Sgd) D Kenyon Lieut

CERTIFICATE UNDER THE ARMY ACT SECTION 163(1)(1)

I C. Geaulmo Lieut D.A.P.M. Can Mil Staff Paris Co rtify that

Regt No A55712 Rank L/Cpl Name Hyman, D.J.

Regiment No. 2 C.D.R.G.

Unit N/A

Stationed at N/A

Surrendered himself to No 35641214 Bank Sgt Bame Jones

of the American Civil Affairs, Clermont Ferrend

on the 6th day of Dec 1944, at 2230 hours

as An absentee without leave

at the time of his surrender he was wearing (Military uniform)

Signature of Provost-Marshal, Assistant Provost-Marshal or other officer or the Commanding Officer of the portion of His Majesty's Porces or the officer, warrant officer or non-comissioned officer in charge of the detachement of the Canadian Provost Corps, Canadian Army, into whose custody the above named person was taken on surrender.

Field 30 Dec 44. (Sgd) C. Beaulne Lieut DAPM Paris 2 CBRO

1. I haveby acknowledge receipt of one copy of Charge Sheet and one copy of the Summary of Lyidance delivered to me

2. (a) I request that

if available, be appointed, OR

(b) I request that an officer be appointed as my Defending Officer at my trial by Court Martial.

(Sgd) D.J. Hyman.

I hereby certify that Lt A F McIntosh was appointed to defend A.55712 I/Cpl Hyman D.J. at his forthcoming trial by Court wartial and that the said Lt A.F. McIntosh was notified that he was defending officer on 1 Feb 45.

(Sgd) C.L. Welson Capt Adjt 9 an 2 Car op.

No 2 General Hospital R.C.A.M.C.

WEDICAL UNIT DEPARTMENT OF Psychiatry

No. A55712 Rank L/Opl Name HYMAN, D.J. Unit 2 Cps Tps RCEME

Age 31 Cat A Service

Enl - Oct 44 0/S Jan 42 Fr 8 Jul 44

Date 16 Peb 45.

MARKED - V2

Referred for psychiatry report request Admin Authority - Confirming Authority - pending promulgation of sentence FGCM AWL 28 d. Was pending return to 3 CRC for review SMB. Got drinking with a friend 5 Nov and woke up in Toufon on Dec 5. of memory for period unable to recall anything since - never happened before worried a bit about wife etc. Back trouble-PG-CM. happened before worried a bit about wife etc. "ack trouble-some - Can't lift or do much bending - Couldn't go back to unit or front - feel I would be better employed in a pay office at work I can do better". Give long history of army maladjustment - WS citizen enlisted in RODC in a mechanic W/S posted to 1 SOW/S - fed up didn't like work not a mechanic, no trades fag returned to Ro, asked for and obtained job as clerk regular hours time off - was posted 2 LAD poor attitude - little interest low efficiency no trades pay growled largely did GD and a little DR work. Fr employed as DR claims he had a minor fall and was hurried p. Too busy at 30 BCI and Aug 44 - 2 wks no improvement and referred to to 2 CCS f or 1 mon - couldn't into hosp. to 3 CRC do exercise and retained for 2 mons on return to CBR Bn went - Claims domestic trouble started in Dec 42 letter from wife in 42 illegimate drild let things slide for a while corresponding finally applied for devorce to legal aid. investigation showed condition of children was satisfactory refused compassionate leave, wished to transfer to US Forces but didn't follow up application etc. No acute anxiety evident to secure confortabele home - no psychopartry parents or sebs
has 7 sebs, no neuropathic traits early life aggressive high
strung type - over reactive impulsive rather locking in restraint
mixed well active in sports educational - record adequate
ode XII (US) Civil adjustment indicative of same justability,
changed jobs frequently seasonal state skilled work in inchanged dustry in Detroit Mich Married in 39 No domestic disharmony Has attended slack directive purpose perserverance and some defendancy. He is avge intelligence but shows immaturity in defendancy. He is avge intelligence but shows immaturity in adjustments rebelious judgement. Egocentive in outlook, avoi ed responsiblety and seeks easyst way out, readily tires of distraint and refuses to meet difficulties lacks self discip-Egocentive in outlook, avoidof frustration. is short medicore plauseible voluble irrelable evasive statements tends to be superficial and irresponsible unrresesonable in attitude - no objetive signes of tension or significant affective state elegeled morale is poor motinations and volition poor In-ificiency- Psyclapachic Personality inadequate MS2 level and Bo not see any evidence of nuedissoliation state hysterical Feel he is ammeses in this case elcohol no doubt was a factor responsible for his act, in a measure his personality defects He is fit to serve sentence and should are a mitigation factor. be dealt with in disciplinary base.

SCHEDULE.

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

A-55712 Pte (L/Cpl) Donald James HYMAN, 9 CHR Bn

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

nt under sentence for (i. Insert sentence being served, or defeld. If not applicable. See RF 46(A). Information should be found on MF 8335 or AF 8396.)

Time in confinement awaiting present trial—a total of 66 days, of which #11 days were spent in hospital.(4) (I. See RP 46(A) fn 2. Information should be found on MF B355 or AF B296 admitted in evidence under E2.)

Sentence Awarded by the Court :

To undergo one years detention.

	10 Feb 45	(Sed) 0.0. MacKenzie
Judge-Advocate, if any.	Date awarded.	President. (AP #5,
the back of the	wening Order as to assembly and disp	and of money of courses
SHE DOLY IN CO.		Obdi Of PRISTO STIEF INGL.)
Ott pay if co	recting prices of to describing and drap	otax of record after trigi.)
		SERVED. (AASKS) RP 120(F) MANL p. 1

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

(For duties and powers see AA 54, 57, RP 27(D) in a A6(A), 51-56, 120, MML pp 759-761, KR Can 567-577. Acquirate require an confirmation and commant be revised. AA 54(3). Sending bock finding or sentence for revision by Court. AA 54(3), RP 120(G), if not confirmed, accessed may be trace again. AA 157, MML p 64. Monates of confirmation or non-confirmation may be othered before promulgipation. AF 37, MML p 61. Quantum grifter promulgipation. AF 37, MML pp 61. Quantum grifter promulgipation. AF 73, MML pp 61. Quantum grifter promulgipation. AF 71, Duties and powers of reviewing office are set of the promulgipation.

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

Confirmed

detention barracks until further ordered and Q

(Sgd) G. S.N. Gostling Spig

Date 17 Feb 45

2 Cdn Base Hft Gp

Commanding

Confirming Officer.

PART IV. PROMULGATED AND EXTRACTS TAKEN. (#F 53, FR Com 576, 577.)

Date.

A55712 Pte (L/Cpl) Donald James HYMAN 9 CBR Bo

20 Feb 45 (Sgd) C.L. Welson Capt Adjt 9 Bm 2 CBC Gp

ALL DELETIONS AND ALTERATIONS WILL BE INITIALLED.

FIELD GENERAL COURT-MARTIAL

Convened by Order of Brig O.S.N. Gostling

Comd 2 CBBG

ACCUSED.

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

Number. (a) Prmnt R. (b) Appmt, A/R or A/Appmt. Full Christian Names

(L/Opl)

Donald James

BEVM AND

CERTIFIED TRUE COPYLS T PROCEEDINGS OF TRIAL.

Held in the Fd in (country) NELGIVE

A.55712

on (date()) 10 Peb 45

RECORD FORM A-OPENING PROCEEDINGS AND ARRAIGNMENT. 23/115

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

(PRINTED MATTER, NOT IN ITALICS FOR GUIDANCE, WILL BE DELETED, IF NOT USED OR APPLICABLE, AND INITIALLED

A2. The President initials and lays before the Court the Convening Order and Charge Sheetist attached thereto.(1) The Court is satisfied that it is properly convened and constituted(*), accused is (are) amenable to military law, and

(I. As to use a, Summory of Evidence see 82 I7 fn 6. 2. AA 49, 50, RP 105-107. 3. RP 11-13, 23, 24.)

A3. The Court is opened. The accused is (arc) brought before the Court. At 1000 ... hours trial commences.

A4. The Prosecutor produces a Medical Certificate that accused is (and fit to undergo trial by court-martial.(1)

The Prosecutor informs the Court that accused elected to be tried by court martial instead of being dealt with

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

A5. President to accused: Do you object to ______ as interpreter! Ans The Interpreter is sworn.(1) Do you object to as shorthand writer ! Ans The shorthand writer is sworn (1

(I. RF 72. Delete, if none employed.)

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

(1. AP 110. 2. If no objection, working member retires. AP 66(B). If objection, see procedure AA 51, AP 25, 71, 18, MANL p.742.)

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

President G.G. MacKEN ZIE, MBE, FOH, X-0 List att 3 Och Member Major D. Hackmille, Essex Scot, X9 List att 5 Gin Lieut CPC 11 CAR METD B. LAMAREE Member Judge-Advocate Lieut A.T. MANY CIC 11 CBR an Prosecutor Liest Defending Offr A.F. MCTRTOSH CAC 9 CBR In

(1. 88 2s, 27, 107, 111. List of offer under instr will be returned separately with proceedings for information of Care Offe).

(2. If Pros a lawyer and Def Offer not, accused is entitled to an adjournment when RP 89 (8) and in 2 were not followed. See Di p 2).

AS. The access 55712 Pto (L/Cpl) HYMAN , D. ii . before arraignment make(s) (no) (c) plea

(RP 34, 35(A), 113), or in bar of trial (RP 36), or as to occurred trial on one or more charges (RP 62(E), 108), or as to the jurisdiction of the Court (RP 34, 35(A), 113), or in bar of trial (RP 36), or as to occurred a mental filters so sound that (AA 180, AP 57), or be several excussed immaged jointly to be tried separately (RP 16, 71), such plac, the addresses make in support or against, the exidence, the occurred making the recorded per hister. For forms of record see references in fine to RuP cited. Insert in AB rank and name, of the accuracy among the place.

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

(I. 88 31, II.2. See para I of listry p.2. When more than one Charge Sheet see 8F 62; when several accused to be tries apparately see 8F 71(C), and use separate copies of CF A96 to record proceedings. 2. AF 32, BF 33. If otherwise, delete and make apparative record per Notes.)

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

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

2 CBR G AB 160 Vol III p. 77

INSTRUCTIONS ON PROCEDURE AFTER ABRAIGNMENT.

- The accused may not plead or be found Guilty on more than one of two or more charges laid in the alternative. (RP 37(A).) As to withdrawal of alternative charges by Prosecutor see RP 35(C). No other charge can be withdrawn for any reason without authy from Convening Offr. If Convening Offr concurs, Court may accept plea of Guilty to lesser, etc, offence. (RP 44(H).) Accused may change a plea of Not Guilty to Guilty during trial. (RP 38.) As to refusing to plead or not pleading intelligibly see RP 35(A). As to plea when sentence may be death see RP 35(D).
- 2. The proceedings on each charge sheet (RP 62) after arraignment will be conducted as follows in the respective
 - 1. If pleas to all charges are GUILTY, use Record Form B below.
 - 11. If pleas to all charges are NOT GUILTY, use Record Form D on p 3.
 - III. If pleas to some charges are GUILTY and to other charges are NOT GUILTY and,
 - (a) Such mixed pleas occur when there are no alternative charges in the Charge Sheet, use Record Form C below. (RP 37(A).)
 - (b) Such mixed pleas occur in a set of two or more charges laid in the alternative, see RP 37 (A) and fn 2 as to discretion of Court, (i) to try the accused on all such alternative charges as if he had pleaded Not Guilty thereto, or, (ii) to record the pleas as the findings of Court. After deciding between (i) and (ii), Court will proceed under foregoing instrs as may be appropriate to result of its decision. See MML p 744 Instrs (2).
- 3. As to responsibility of President to accused see RP 59, 80(C); powers and duties of JA see RP 103; duty of processoular see RP 90(A) (B); duty and privileges of accused and Defending Offr see RP 60(C), 87(C), 91, 92; securing and withdrawal of witnessee from Court see RP 81, 82; questioning of accused see RP 89, 87(C), 92(B), and of witnessee RP 83-85; calling or re-caling of witnessee by Court, etc., see RP 75-79, 86, 119, use of Summary of Evidence at Trial see RP 17(E) fo 6; and responsibility of JA or Pres to record proceedings see RP 94, 96.

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

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

 (1. 87 35 fo 3. 2. MML p 54 pere 47.)
- B2. President to accused: The Court will now receive any statement you desire to make in reference to the B2. President to accused: The Court will now necesse any statement you desire to make in reference to the charge(s), (i) If it appears from your statement that there are circumstances which indicate that you do not understand the effect of the plea of Guilty(*), or which show provocation or extensation in respect of which in your interest the witnesses for the Prosecution should be examined(*), we shall advise you to change your plea to Not Guilty. In making a statement you will not be sworn or subject to cross-examination; and anything you say will not be used in evidence against you after you change your plea. If, however, it appears to the Coart that your statement affects only the amount of punishment to which you are lable, you will not be advised to change your ploa and you will be given an opportunity later to prove your statement. will be given an opportunity later to prove your statement by sworn testimony, if you so desire.14)

President to accused: Do you wish to make a statement ! Ans. (I. RF 37(E), 2. RF 37(D) (n.e. 3. RF 35(B) (n.5 para 3. MML p.54 para 47. 4. See para E3 of Record Form E. 5. Statement, if any, recorded per Notes.)

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

 (). Court may be closed to consider the statement. Delete whole or part not used.) B4. On the charge(s) to which the plea(s) of Guilty is (are) not changed the President records finding(s) of Guilty in Part I of the Schedule (*)
- (I. AF 35(B). If any piec(s) is (are) changed, use Record Form C or D as operagricts.)
- B5. The Summary of Evidence is marked Ex. 7. initialled and read aloud by the President. (1) if there is no Summary, or if it is inodequote, comply with RF 37(8). If there is not evidence inconsistent with any piece parts Di to DB inclusive of Record Form D or p 1. Af 37(D).
- B6. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

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

- C1. As to the charges on which accused pleaded NOT GUILTY the trial is continued by using paras D1 to D8 inchasive of Record Form D on p 3 before proceeding with C 2.(1)
- C2. The charges on which accused pleaded GUILTT are read to him (them) again, and the trial is continued by using paras B1 to B5 of Record Form B above. (I. Under S5 such parts only of the Saperstry of Evidence are read as release to the charges dealt with under C2. If are piec is charged to Not Cuities, trial therecan justices by complying with parts D1 to D6 inclusive in Record Form D on p 3 and making an appropriate record thereof on a particular steet.)

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

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

Pin here Lone Sheets of Record.	
CORD FORM D-PROCEEDINGS ON PLEAS OF NOT GUILTY TO ALL CHAR	
DI. President to accused: Do you wish to apply for an adjournment on the ground that any of the relating to procedure before trial have not been complied with, and that you have been prejudiced thereby,	7
the ground that you have not had sufficient opportunity to prepare your defence? Ans	or on
D2. The Prosecutor makes (an) (no) opening address.(1) (1. RP 39(B), 60(A) (B), 90, 92(C) (D). Record address per Notes, subject to RP 95(C).)	1
D3. The evidence for the Prosecution is taken.(1) (1. AP 39(C), 1/4, KR Con 355. Record evidence per Notes. As to Prosecutor giving evidence himself see RP 39(D) (E)	/
D4. The Prosecution is closed.(1) The Defending Offr submits that the evidence for the Prosecution dosestablish a prime force of the Prosecution dosestablish as prime for	
is closed, and considers the submission.(*) The Court is re-opened, and the President announces that the submission and that, accordingly, the trial will proceed on the former, but the accused is (are) found Not Guilt the latter clarge(s), (*) (1. Delete remainder of this pare, if submission not made. 2. Arguments on submission, answer and reply are remainder.	
(I. Delete remainder of this para. If submission not made. 2. Arguments on submission, answer and reply are recorded on all charges, use second alternative in para Bd. NB. If trail proceeds, occused must be allowed great latitude in making his defence, and the Court should not stop his defence about on ground of irrelierance. (M. BOIC), 114, 115.)	
D5. President to accused: You will now proceed with your defence.(1) You may, if you wish, give evi- yourself on eath as to the facts or your character or both, in which case you will be subject to cross-examinate You may, hisever, make a statement without being event, and you will not be subject to cross-examinate But a statement which could have been made on eath will not earry with the Court has see weight as sworn testimo You may call witnesses in your defence and as to character, whether you give evidence or make a statement.	
President to accused: Do you wish to give evidence yourself as a witness, make a statement, or do neit	
Ans Do you intend to call witnesses on your bet (1. RP 115. 2. RP 40(A), see 80(D). 3. RP 40 fn jd. 4. RP 40 fn s 2, 9)	
D6. Consequent on the answers recorded in pars D5 the appropriate procedure for the defence is follows: (I. FF 1/4, 1/5, 1/6. For procedure see Notes as back of Convening Order, CF A93. Evidence for occused as to his of Record for in its interest, be given before the #feding. See RF 46(A) in 1.86(C). Note the further opportunity in pare E1 Record Form E. Record per Notes addresses, systement, evidence and any summing up by the file under RF 41, (D8(e), 1.00).	ed.(1)
D7. The Court is closed to consider the finding(s).(1) The finding(s) of the Court is (are) recorded in P. (1. 87 42, 17(4). See Nors is jet of Schedur. 2. 87 44(4).)	art I
DS. The President announces the finding(s), if any, of Not Guilty, and states to the secured that the finding of the Court on the	
of the Court on the Or, The President announces that the accused is found Not Guilty on all charges and is to be released forths and the proceedings are accordingly terminated. Part I of the Schedule is dated and signed. (*) (i) As 54(3) [4], FF 45, [20]6. 2. As 54(3), FF 45, [17]. The structive assumement is not applicable when there are plan of Guilty automating and cent with under Record form B or C.)	
D0. The ascused having been found Guilty on one or more of the charges, the proceedings are concluded by a Record Form E below.	exing
	TOTAL DE
RECORD FORM E-PROCEEDINGS ON CONVICTION BEFORE SENTENCE.	STORY.
El. President to accused: Do you wish to give evidence yourself or to call any witnesses as to your character	1(2)
(I. If evidence has already been guiden goussed or his witnesses as to his character, delete this para. AP 27(C) fo. 4, 46 fo. 1. Accused and witnesses are awarn. Evidence recorded per Nices.)	
E2. The Prosecutor produces Statement(s) as to Character and Particulars of Service(1), and certified topy (copies) of Conduct Sheet(s)(2), purporting to refer to the accused, which he submits to the Defending Office examination, and then to the Court for admission in evidence. The Court is satisfied that these documents to the accused, because (i) they purport to be signed in the manner required by AA 163(1) (g) (h), and (ii) they purport to (a) soldier(s) having the same number, rank, name and corps as the accused. Admitted in evidence marked Ex. — and Ex. — respectively (2).	r for
(1. MFB 355 or AFB 296. 2. MFM 6. 3. RP 46, KR Can 558. If above documents not produced, see AP 46 fo 1	

- E3. President to accused: Do you wish to address the Court on the Statement(s) and Conduct Sheet(s), and in mitigation of ponishment $\binom{1}{4}$ Ans. $\binom{1}{4}$ Ans. $\binom{1}{4}$ Ans. $\binom{1}{4}$ Ans. $\binom{1}{4}$ Ans. Court should permit occused or his witnesses to prove an acth anything here or previously stated which would affect the amount of punishment. NF 32(F) fo 7.
- E4. The President states that the Court is closed to consider the sentence, and that the sentence to be awarded by the Court, being subject to confirmation, will not be announced, but will be promulgated later, and the proceedings in open court are accordingly terminated. (2)

 (1) As \$4(4), SF (20(4).)

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

(1. When several occused tred separately see \$8.71 (D). One sentence only, comprised of the punishment or punishments led down in A4.1, 44 and its pressus, is to be exceeded to cover all charges in all charge sheets on which occused found guilty.

AF 48. At its sentences see A4.44 (18. 182. 87.46.35. 48. 118. 183. KC co. 303. 18. 53-546. Overseas SK 309. 1222. already under sentence of imprisonment or detencion see A4.44(18.) 48(1), 56(1), 56. Co. 304. 1. 9. 95. 3. As it is sentence to detencion see A4.44(18.) 48(1), 56(1), 56. and 54. 1. 95. 30. As or release from arrest by Confirming Offic see KR Con. 587. As its assembly and dispasal of record after treal see instra on back of Convening Order.)

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

The court recommend that an investigation of Fte Hymanis domestic affairs be made.

10 Feb 45

G.G. MacKenzie Major President CHARGE SHET

The accused, A.55712 L/Cpl. HYMAN, D.J. on the atrength of 65 Coy, 9 Rh., 2 CBRG., a soldior of the Canadian Army Overseas, is charged with:

First Charge AA Sec 15(1)

WHILE ON ACTIVE SERVICE, ABSENTING HIMSELF WITHOUT LEAVE .

in that he

In the Field, did absent himself without leave from 1800 hrs. 8 Nov 44 until surrendering himself at 2230 hrs 6 Dec 44.

TOTAL TIME ADSENT: - 28 days, 6 hours and 30 minutes.

(Sgd) H.W. Mick Lieut-Col. Commanding Officer 9 C.B.R. Bn

In the Field, 26 Jan 45

TO BE TRIED BY PIELD GENERAL COURT MARTIAL.

(Sgd) GSN Gos tling Brig 2 Oin Base Rft Op

In the field 3 Feb 45.

FIELD GENERAL COURT-MARTIAL

(Whether the accused to be tried is under his comd or not, a FGCM may an application to him be convened by any off of Cdn Army Overseas, or of any other force if authorized in law, in immediate cand of trops on active service, subject to RP (05(C) and restrictions imposed by appropriate authorized in law, in immediate cand of trops on active service, subject to RP (05(C) and restrictions imposed by appropriate authorized in law, in immediate cand of trops on active service, subject to RP (05(C) and restrictions see MMI. Chap V paras 20 and 23, AR P 87(b).

RP 87(b).

There should be a separate Convening Order for each person to be tried separately by the same Court. RP 71(C), 109. As to separate charge sheets. There should be a separate trial on charges in the same charge sheet see RP 108. As to two or more accused charged jointly see RP 16, 109. As to reasons for showing (a) permanent or confirmed rank, and (b) appmt. A)rank or A)appmt, if any, see AA 182, 163, fns. KR Can 308, 328, 330.)

ACCUSED.

Number. (a) Print R. (b) Appint, A/R or A/Appint. Full Christian Names. Surname. Unit. Donald HYMAN 9 CBR Bn A.55712 Pte (L/Cpl) James

CONVENING ORDER.

- Whereas complaint has been made to me, the undersigned, that the person of named above as the accused, being subject to military law, has (2002) committed the offence(s) set forth in the Charge Sheet(s) attached and on (date). S #25. 45.... endorsed by me, (2002) committed the offence(s) set for suc). To be tried by Field General Court-Martial.".
- 2. And whereas I am of opinion that it is not practicable that such offence(y should be tried by an ordinary General Court-Martial; Real that NC is consequent as a for candidate that when not required for compliance with \$P\$ 105(C).)
- I hereby convene a Field General Court-Martial to try the said person(f), and to consist of the Offre appointed or detailed hereunder.

Acrism numbers reprinted the strength of the series of the (AA 49, R9 106(B), 107(A). Delete the whole or part, if not applicable.)

BOHOLO Appoint as during nameds the search a side mondo and harmater

PRESIDENT.

Major (Rank)	G.G. MACKETZIE, MEE FUE, X+9 List att 3 C. (Must be normal. RP (Oc.) MEMBERS.	in t	ETD (UNL)
Major	D. MacKEN NIE, Essex Scot X-9 List at	t 3	Oin METD
Captain	B. Lamerre CPC	11	CBR Bn
(Rank-)	(Numed or detailed. RP 106.) WAITING MEMBER.		(Linit.)
(Rank.)	(Named or detailed, if any. RP 106.) JUDGE-ADVOCATE.		(Unit.)
(Rank.)	(Must be named, if any. RF 106.)		(Unit.)
On Active Service i			rigadior
in BELGIUM	G S N Gostling (Signed personally. RP 105 fn 2)		(Rank.)
(Country.) Date 5 Feb	9 Cán Boan Réi		

CONVENING OFFR WILL INITIAL ALL DELETIONS AND ALTERATIONS

4/38A CFARO (In lies of AFAS)

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

CANADIAN MEDICAL SERVICE

DATE 7 Feb 45 No.

No. Rank and Name A. 55712 L/Cpl HYMAN, D.J.

12

The m/n has been referred for psychiatric interview but as yot has not had a consultation. 292 has been sent to MO of B En for arrangement of interview.

Signature of MO MM Wasserman Capt

MEDICAL OFFICER REPETPICATE

(KR(Can) Para 557) CMHQ CL 173

I certify that I have this day exemined A55712 L/Cpl HYMAN, D.J. and in my opinion he is fit to undergo brial by Court Martial. Station Field (Sgd) M M Wasserman Capt Date 7-2-45

MEDICAL OFFICER CERTIFICATE

(KR (Can) Para 567 CMHQ CL 173

I certify that I have this day examined A56712 L/Cpl HYMAN, D.J. and in my opinion he is fit to undergo trail by Court Martial.

Station Field Date 10 Feb 45

(Sgd) M M Wasserman Capt 9 CBR Bb STATEMENT A.55712 L/Cpl HYMAND D.J. 9 CBR Bo

NOT ON OATH

"On 8 Nov 44 I met a friend of mine and we went down town in Ghent and had guite a few drinks. he next I knew was blee 44. I was in Toulon. I immediately started back to Chent. he 6 Dec I could not get any farther than Lyon. I was unable to get a room or a train. I turned myself into the American MP's.

R.P. 83 (B) complied with.

(Sgd) Deneld Mackenzie Major Member of Court.

Character Witness

Statement of C.40532 Sgt Cartwright C.G. 65 Coy P Bn.

Under Oath.

"The accused was with the coy on where I am PE on two previous occasions. During his stay with the coy I, on several various occassions, had jobs for this ECO to do and found that he was quite capable in his line of duty."

RP 83(B) conformed with.

Donald MacKengie Major Member of Court.

Character witeness.

Lt E.G. Patchell CBRG

Duly sworn

The accused has been with me since some time in Sept 44 and has given excellent service. His character has been above reproach. In performing his duties he has always been very reliable and any duties assigned him as have always been well passed out. For the reason that drivers are issued their log books the servers previous evening is because they have proved themselves reliable and were not take any unauthorized trips. I continued to employ the accused as a driver after he had been placed under open arrest ani made myself responsible to the Co of 12 hm for his cunduct. I had no hesitation in doing so.

R.P. 83(B) conformed with.

Donald MacKensie Major Member of Court. A55712 L/Cpl Hymen D.J. is an American who crossed from Detroit to Windsor 10 Oct 41 to join the 1st Base Ordnance Workshop. 'ame overseas with the advance party of this unit Jan 42 and remained with them in England approx 6 months. He was then posted to "1 OOMJ and posted from this to 93 LAD. Was with this unit till Aug 43 when he was posted to the CMMM at 2 Corps. He came to France with this unit 8 Jul 41.

He was injured in a M/C accident in England, damaging his back but was only hospitalized a couple of days and his injury was agravated in aug 44 am he was again evacuated to hespital. Here he was sent to 2 CBRG 20 Aug 44 awaiting reboard and reallocation. The board reserved its decision sending him to #2 C hvalescent depot for observation. His case was to be reviewed again in a month. However he was kept there for 2 months, and then returned to 2 CBRG. He was due to be sent for reboard again the day he went missing.

In March 43 he received news that his wife had been unfaithful and had a child by another. He applied for compassionate leave in order to arrange for a diverce and the distoir of his own two sons but this was not granted. He then tried to transfer to the American 'may as he hoped to go into bomo ordinance as in this marmer he exald get home on a course. Hencessary authority came through Peb 44 but was automatically cancelled when all transfers were frozen at this time an account of final preparations for the invasion. He was awaiting the outcome of his re-oward before making another application for compassions to leave.

leave.

*coling very depressed he went out on a drinking spree with a friend B hov 44 and his next recollection was finding himself in the port of Toulon 5 Dec 44. He immediately started back istending to come direct to Ghent, or falling this to surrender himself to the Canadan Military Police. Reached Lyon 8 Dec and as he could not set any further that and could not find accommodation he surrendered himself to the American WPIs. They hald him a short time in Lyons and then transferred him to the aris detention berracks which apparently is jointly run by allo ranches of the allied WPIs. He finally was brought back to CHRG 8 Jan 45 and has been held have since that date.

His case was first officially reviewed at Toy Orderly room approx 15 Jan 45. He was remained for further evidence (the checking of his proper date of surrender) then brought up before Gol Sick and remained for FUCM. On none of these occasions was then man given an opportunity to give his

full story.

Due to his apparent loss of memory I brought him before a medical officer (Capt *asserman 13 GBR Bn). We and enother MO questioned him for over an hour and recommended a psychiatric consultation and arrangements were started for this. These have not been completed but the decision of the consultant should be taken into consideration before sentence is finally awarded.

(Sgd) A.F. McIntosh bt 9 cos an Defending Officer

No.A55712 Date of last Company Co	entry in	1	No.	Sqn, Battery, or Company and date	Coy, 9 CBR Bn (Corps Period not reckoning towards freedom from extra fine	Temporary) Date of enlistment Sheet No	GC Badges Signature OC Company, etc	Service or Proficiency		7 MFM 6 (AFB 122) (P45/150 (6.
Place	Data of offence	Bank	Cases of drankes- moss	TOS from 12	CBR Bn 22-1-45	Names of Witnesses	Punishment awarded	Date of award or of order dispen- sing with trial	By whom awarded	Remai
				not availabl	nat original MFM 6 i le and that htis is information availab	a true				
	27	Jan	45.	(Sgo	1) C.L. Nelson Capt 9 CBR Bn	& Adjt				

in the case of

A.55712 L/Cpl, HYMAM, D.J. on the strength of 65 Coy., 9 Bn, 2 CBRG, a soldier of the Canadian Army Overseas, who is charged with:

WHILE ON ACTIVE SERVICE, ASSENTING HIMSELF WITHOUT LEAVE, A.A. Soc. 15(1)

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

FIRST WITNESS

C.40532 Sgt CARTWRIGHT, C.G., CIC, on the strength of 65 Coy, 9 Bn., CBRG. (formerly 12 Bn), having been duly sworn states:

"I am C.40532 Sgt Cartwright, C.G. of 65 Coy 9 Br. I am Sgt Instructor on the P.E. At 1 600 hours 8 Nov 44, I was handed a draft notice posting L/C.1. Eyman, E.J., to No. 3 Re-Allocation Centre. I immediately checked Coy training parades, fatigue perties, barrack rooms, and Camp Area but was unable to locate L/Cpl. Hyman. The result was, the draft to No. 3 Re-Allocation Centre left without this man. This men was not previously warmed for draft."

The accused declines to cross-examine this witness.

(Sgd) C. G. Cartwright.

SECOND WITNESS

Co. tificate under the Army Act, Section 165(1)(1) was shown to the accused, marked by me as Exhibit end and is attached he reto.

The accuseddeclines to cross-examine this withess,

(Sgd) V.D. Kenyon that Officer detailed to take the summary of evidence.

The accused was cautioned as follows:

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

The accused declines to make any statement.

The accused doesnot call any witnesses in Defence.

I certify that the foregoing Summary of Dvilence consisting of one page, was taken down by me in the presence of the accused and that males of 'rocedure 4 (c),(d),(e),(f) and (g) have been complied with.

(Sgd) V.K. Ken you Lisut Officer detailed to take the Summary of Evidnence.

In the Field 26 Jan 45. This is Exhibit "A" referred to in the Summary of Evidence in the case of A.55712 L/Cpl Hyman, D.J. taken before me this 26th Jan 1945.

(Sgd) D Kenyon Lieut

CERTIFICATE UNDER THE ARMY ACT SECTION 165(1)(1)

I C. Geaulne Light D.A.P.M. Odn Mil Staff Paris Ce rtify that

Regt No AS5712 Sank 5/Cpl Name Hyman, D.J.

Regiment No. 2 C.B.R.G.

Unit N/A

Stationed at M/A

Surrendered himself to No 35641214 Pank Sgt Fame Jones of the American Givil Affairs, Cleraont Perrend on the 6th day of Dec 1944, at 3250 hors

as An absentes without leave

at the time of his surrender ho was wearing (Military uniform)

Signature of Provost-Marshal, Assistant Provost-Marshal or other officer or the Commanding Officer of the portion of His Majesty's Porces or the officer, warrant officer or non-comissioned officer in charge of the detachment of the Canadian Provost Corps, Canadian Army, into whose custody the above named person was taken on surrender.

(Sgd) C. Besulme Lieut DAPM Paris

Field 30 Dec 44. 2 CBRO

- 1. I repety admowledge receipt of one copy of Charge Sheet and one copy of the Summary of Evidence delivered to me
- (a) I request that
 if available, be appointed, OR
 - (b) I request that an officer be appointed as my Defending Officer at my trial by Court Martial.

(agd) D.J. Hymen.

I heraby certify that Lt A P Meintosh was appointed to defend A.55712 L/Cpl Hyman D.J. at his forthcoming trial by Court Martial and that the said Lt A.P. Meintosh was notified that he was defending officer on 1 Feb 45.

(Sgd) C.L. Helson Cart Adjt 9 Bn 2 dSR Sp. No 2 General Hospital R.C.A.M.C:

MEDICAL SHIT DEPARTMENT OF Psychiatry

No. A55712 Rank L/Opl Name HYMAN, D.J. Unit 2 Ope Tpa RCAME

Age 31 Cat A Service

Enl - Oct 44 Date 16 Feb 45. 0/S Jan 42 Pr 8 Jul 44

MARRIED - V2

Referred for psychiatry report request Admin Authority - Confirming Authority - pending promulgation of sentence FOCM. AWL 28 d. Was pending return to 3 CRC for review SMB. Got drinking with a friend 5 Nov and woke up in Touron on Dec 5. of memory for period unable to recall snything since - never happened before worried a bit about wife etc. "ack trouble-some - Can't lift or do much bending - Couldn't go back to unit or front - feel 1 would be better employed in a pay office at work I can do better". maladjustment - US citizen enlisted Give long history of army maladquatment - VS citizen enlist in RCCC in a mechanic W/S posted to 1 DDW/S - fed up didn' a mechanic, no for and posted 2 Lab poor attitude - little interest low efficiency no trades pay growled largely did GD and a little DR work. In Fr employed as DR claims he had a minor fail and was harded into hosp. Too busy at 30 aCI and Aug 44 - 2 wks no improvement to 3 CRC and referred to to 2 CCS f or 1 mon - couldn't do exercise and retained for 2 mons on return to CBR Bn went aw exercise and retained for 2 mons on return to CBR & went awt - Claims domestic trouble started in Dec 42 letter from wife in 42 illegimate child let things slide for a while corresponding finally applied for devorce to legal aid. DAB investigation showed condition of children was satisfactory refused compassionate leave, wished to transfer to US forces but didn't follow apapplication etc. No scute enxiety evident to secure confortable have to secure confortabele home - no psychopartry tarents or sees has 7 sebs, no nemropathic traits sarly life agreeative high strung type - over reactive impulsive rather locking in restraint well adtive in sports ed cational - record adequate mixed Ode XII (US) Civil adjustment indicative of same justability, changed jobs frequently seasonal state skilled work in in-Has attended slack directive purpose perserverance and size defendancy. He is avge intelligence of shows homestrity in adjustments rebelious judgement. Exocentive in outlook, avoided responsiblity and seeks casest way out, readily times of distraint and refuses to meet difficulties lacks self discipline intolrent of frustration. He is short mediacre physique plauseible voluble irrelable evasive statements tends to be superficial and irresponsible unprecasonable in attitude a no objetive signes of tension or significant affective state elegated morals is poor motinations and volition poor inficiency. Psyclapachic Fersonality inadequate MSS level and some sea any evidence of nuedissolision state hysterical samesea in this case alcohol no doubt was a factor feel he is responsible for his act, in a measure his personality defects are a mitigation factor. He is fit to serve sentence and should be dealt with in disciplinary base. dustry in Detroit Mich Married in 30 No domestie disharesmy

O. H. M. S.



Army Form A.3.

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

PROCEEDINGS.

On Active Service, this

December

toll .

Whereas it appears to me, the undersigned, an officer in Command of CANADIAN REINFORCEMENT UNITS, CDN ARMY

, on active service, that the

persons named in the annexed Schedule, being subject to Military

And whereas I am of opinion that it is not practicable that such offences should be tried by an ordinary General Court Martial: * MANACEMPOREXISTANDECHRICONMUNICANCHERMENTRICONDRECTION

A DESCRIPCIO CO AN AMBIENO ADMINISTRA NITURAL

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

- MARIOCECKA KARIOCERI KOROKEO *

*#1. THERECOMMENT DOX GOOD CONTROL

A Field Officer to President

Three Officers having more story (400) NAMES

sarvice.)

President.

Name.

Rank Major

M.F., H. Browse M.M.

No.1 Can Div Inf Reinf. Unit

Members.

Rank

D.P. STEWART

Cantain

Lieutenunt

D.F. Newson

No.1 Cdn Arm'd Corps H. W.

No.1 Can Div Inf Reinf Umit

Regiment.

Lieutenant

W.M. Oxley

No.1 Cin Sigs Hldg Unit

Brigadier

Commanding Cin Reinforcement Units. Convening Officer.

PROCEEDINGS

				''N'.
Number, Rank (a), Name and Unit of Accused (b)	Offence charged	*Plea	Finding, and if Convicted, Sentence (s)	How dealt with by Onfirming Officer (d
A-9000			Ja kris	
TE. HYMAN, H. V.	First Charge	Quely.	٥ المركولين ١١	
.1 Gdn ASC Reinf	A.A. sec 15(4) Second Charge	May CH	Manager De Co	ja ja
	A.A. sec 15(1)	1	he bodes	· limi
	Third Charge	Que	The for	Part I M
	A.A. sec 24(2)		North Street	Alla
	See charge sheet attached.			

Question to be asked of accused, if he pleads not guilty (R. of P. 30 (A)):—
The you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trail have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity for preparing your defence?

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

Brigadier

Commanding Cdn Reinforcement Units. Convening Officer (4)

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

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

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

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

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

I certify that the above Court assembled on the /0 day of December 1941, and duly tried the persons named in Certificate of the Schedule, and that the plea, finding, and sentence in the case President as to proceedings. of each such person were as stated in the third and fourth columns of that Schedule.

I also certify that :--

I. The members of the Court

2. The witnesses

*13 The interpreter)

were duly sworn.

day of December 1941

President of the Court Martial

* To be omit unless penal servicude or im resonment hav oven a warded. Louismag Oth-either has no authority to co

* Omit if not

applicable

I certify that the terms of *A.C.I. 570 of 1918 have been * See footnote I cettify t (b) on page 762 complied with.

B.

Signed this

President of the Court Martial.

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

41 direct that the soldier named in the margin be not com-

Confirming Officer.

Promulgated and extracts taken in the case of

(a) (Dated) 19-12-41

Promulgated and extracts taken in the case of

(Dated)

(Signed)

Promulgated and extracts taken in the case of

(Signed)

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

The accused A-9000 Pte. Harry Victor HYMAN, of No.4 Holding Company, 1 Cdn. ASC Reinf. Unit, Blenheim Barracks, Farnborouch, Hampshire, a soldier of the Canadian Army (Overseas) is charged with, when on active service: -

Let CHARGE

STEALING PROPERTY BELONGING TO A PERSON SUBJECT TO MILITARY LAW

in that he

16(4)

at the Salvation Army Hostel, Aldershot, Hampshire on the 19th or 20th November 1941 stole Five Pounds sterling from No.930354 Pte. Bernard BORNY, 437 Field Battery, 53 Field Regiment, Royal Artillery, a person subject to military law.

2nd CHARGE

ABSENTING HIMSELF WITHOUT LEAVE in that he

at Blenheim Berracks, Farmborough, Hampahir, absented himself without leave from 2300 hours on 25th October 1941 until apprehended by the civil authorities at Aldershot, Hampshire, at 2525 hours on 22nd November 1941.

3rd CHARGE

LOSING BY NEGLECT HIS EQUIPMENT, CLOTHING AND REGINSOFIAL NEGESSARIES

29(2)

in that he

at Blenheim Barracks, Parnborough, Hampshire on or about 29th November 1941 was deficient of:-

Boots, angle pro in Brushes, blacking in Brushes, polishing in Brushes, hair in Brushes, shaving in Brushes, shaving in Brushes, shaving in Brushes, woollen in Holdeli	Razor Socks, prs Speon Towels, han Gym shorts, Gym shirts Bags, raid Haveraacks Tins, mess
	Mugs, enses

M.B. MarDon (N.B. MacDonald) Lt Col cdn. ASC Reinf. Unit

Blenheim Barracks Parmborough, Hampshire

29th November 1941.

.Court Martial To be tried by Field General

(7.R. Facies)Brightler Consending Con Reinforcement Unite

Faracorough, Heats This ath day of Dec 41.

PROCEEDINGS OF A FIELD GENERAL COURT MARTIAL HEL AT Blenheim Bks. ON THE 10th DAY OF DEC 4

TRIAL OF: - NO. A- 9000 PAE HYMAN, H.U

The order convening the Court, charge sheet, summary of evidence and medical certificate are laid before the court.

The Court satisfy themselves as provided by R.P. 22 & 23.

The socused is brought before the Court.

Prosecutor:- (Name Lieut. W.D.S. Careless (Unit)(RCASC R.U.)

Defending Officer:- (Name) 2/Lieut. C. Hersom (Unit)RCASC R.U.

At 1500 hrs the trial commences.

The order convening the Court is read, signed by the President and

attached to the proceedings.

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

Cl. Do you object to be tried by me as President or by any of the officers whose names you have heard read over? Al-No
The President, members and judge-advocate (if any) are duly sworn.
The officers under instruction are duly sworn.
C2. Do you object to M15888 Pte. Gottselig, P.F.

A2. No. M15888 Pte. Gottselig, P.P.
The shorthend writer is duly sworn.
The accused pleading Guilty to the charges in the above mentioned charge sheet, R.P. 35(B) is duly complied with.
The summery of evidence is read, signed by the President, and

attached to the proceedings.

Q3. Do you wish to make any statement in mitigation of punishment?

A3.- No.

Q4. Do you wish to give evidence yourself or to call any witnesses as to character?

A4.- No.

BRIEF SUMMARY OF STATEMENT IN MITIGATION OF PUNISHMENT AND EVIDENCE AS TO CHARACTER.

No statement.

Michally and May

SUPPARY OF EVIDENCE IN THE CASE of A-9000 Harry Victor HYMAN, 1 Can: ASC Reinforcement Unit, Blenheim Barresks, Farmborough, Hampsh

The Commanding Officer, Lt Col W.B. MacDoneld, 1 Cdn. ABC Reinforcement Unit, Odn. Army (Overseas), Blenheim Barracks, Farnborough, Hampshire, directs that evidence be taken on oath.

1st Witness

Lieut. R.E. Betes, having been tuly sworn states: -

I am Lieut. R.R. Bates, Acting Records' Officer, 1 Cdn. ABC Reinforcement Unit, C.A. (0), Blenheim Barracks, Farnborough, Hampshire.

I have knowledge of captain documents pertaining to this case and relative to the scoused. I produce herewith the following:-

- (a) Letter-Ref.A.Hy/41/11/908-d/27 Nov. 41 signed S. Bennett,
 Superintendent Police, Aldershot, enclosing Statement of
 Evidence (mentioned in "3") and relative to the accused being
 brought before the Civil Authorities 97 Nov. 41.

 (b) Estement of Evidence of 920534 Ptc. Bernard Bonny-437 Pield

 (b) Estement of Evidence of 920534 Ptc. Bernard Bonny-437 Pield
- Kit deficiencias since reduced).

The secused declined to cross-examine this witness.

R. B. Gare

End. Witness

930334 Ptc. Bernard BORNY-437 Field Battery-58 Field Regiment, R.A.

3rd Witness

Albert James Francis MAY-Police Constable, Hampshire Constabulary, Alderwint.

I certify in my opinion that the attendance of the Collowing, Ptc. Bernard BORNY and P.C. Albert James Francis MAY, owing to the expense and loss of time involved are not procurable and a written statement signed by them has been read to the accused and is etpacked hereto.

> G. Herson WLiaut. Cdn. ASC Reinf, Unit Investigating Officer.

I do not require the ettendance of these witnesses for the purpose of pross-examination

SUMMARY OF EVIDENCE -- (A-9000 Pto. Harry Victor HYMAN) cont'd.

4th Witness

D-91308 agt. KINSELIA, J.A. having been duly sworn states: -

I am D-91308 Sgt. Kinsella, J.A. of Mo. 4 Molding Company i Cdn.
ASC Reinforcement Unit, C.A.(G) Blenheim Barracks, Farnborough, Hampahire.

I am performing the duties of C.O.M.S. and have checked the equipment, clothing and regimental necessaries against the MPC 800 of A-9000 Pte. EYMAN, Harry Victor, and produce herewith a certified list of deficiencies totaling 62-11-92.

The secused declined to cross-examine this witness.

p-92008 sgt. Kinsella, J.A.

5th Witness

B-83965 A/L/Col. WILES, E., having been duly sworm states: -

I am B-83965 A/L/Cpl. Wiles, R., a L/Cpl of the Regimental Police, 1 Cdn. ASC Reinforcement Unit C.A.(0) Blenheim Barracks, Paraborough, Humpahire.

I was on duty in the Guard Detention Room on 27th November 1941 when I received instructions from Command Post to de mil an escort to proceed to Aldershot Police Station to pick so Pte. Hyman. Upon return of the escort with the scowed, I placed him in confinement at 1130 hours 27th November 1941.

The accused declined to cross-examine this witness.

P. Wiles

The accessed soldier was thereupon serned in accordance with R.F. 4 (a)

Do you wish to make any statement or to give evidence upon on the You are not obliged to by anything or give evidence unless you sish to do so, whetever you say or any evidence you give will be taken down in writing, and may be given in evidence.

The accused soldier declined to make a statement.

A.O. Hyman, H.V.

SUBMARY OF SYIDENCE --- (A-9000 Pte. Herry Victor HYMAN) Continued.

I certify that the foregoing aumary of evidence was taken down by me in writing this 30th day of Meyember 1941 at Blenheim Barracks, Parnborough, Tampahire, in the presence and hearing of the accused and that R.P. I (c) (d)(e)(f) and (g) have been complied with.

Cdn ASC Reinf. Unit Investigating Officer.

1, A-9000 Pte. Harry Victor YMAN desire the assignment of an orricer to represent me et my Court-Martial.

Lieut. R.E. BATES 930334 Pta. Bernard BOHN Albert James Francis MAN D-91308 Sgt. KIMSELLA, J.A. B-83965 A/L/Cpl. WILES, R.

1 Cdn ASC Heinfercement Unit 437 Field Battery-52 Fld. Regt.R.A. Homoshire Genatabulery Aldershot 1 CDN ASC Reinforcement Unit 1 Cdn ASC Reinforcement Unit.

List of exhibits

Letter - Ref. A.Ry/41/11/908 d-37 Nov 41 Signed by S.Bennett Supt. Police, Aldershot. Statement of Evidence 930334 Pto. BORNY & P.C. MAY A.F.S. 116 Record of Declaration-Court of Inquiry d/20 Nov 41;

1 SDM. ASO DETUR, UNIT - Blenheim Barracks, Farnberough, Harmshire

t certify that on 39th November 1941 I checked the equipment, clothing and regimental necessaries a sinst the M.F.C. 800 or A-9000 Pte.

ARTIUM	MUMBER	YALUE
Brushes blacking Brushes polishing Brushes heir Brushes shaving Brushes tooth		2 6 1 2 6 1 2 5
Gloves woollen, prs. Holdall Housewife Table knife Razoz	1 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1	1 11 9 7
Socks, pra. Spoon Towns hand Oym shorts, pra. Oym shirts, hage ration Haverasoks Tine meds	1 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1	1 11 6 1 6 1 1 1 1 1 1 1 1 1 1 1 1 1 1
Mugs enamel	i	3 3 5

TOTAL.

B-9100 Sgt. Kinsella, acting as C. G.B.S. No. 4 Holding Company Cdn. ASC Seinf. Unit.

HANTS CONSTABULARY.



Ref: A. Hy/41/11/908.

SUPERINTENDENT'S OFFICE. POLICE STATION.

ALDERSHOT.

27th November, 1941.

Sir.

Harry Victor HYMAN, Private no. A9000.

I enclose statements of evidence relating to the above named of your unit, who appeared at Aldershot Police Court this day, charged with feloniously stealing from the dwelling house of Bernard Borny, the sum of 25, the monies of the said Bernard Borny, at Aldershot on the 19th or 20th November, 1941! and 'being an absentee from the Royal Canadian Army Service Corps at Aldershot on the 22nd November, 1941', and was handed over to the Military Authorities to be dealt with.

I would be glad if you sould in due course inform me of the date of proceedings, by whom dealt with, the actual charge of which found guilty, and the sentence awarded Hyman.

I am, Sir,

Your obedient Servant,

Superintendent.

The Officer Commanding, Royal Canadian Army Service Corps, Blenheim Barracks, FARNBOROUGE.

Aldershot Division, 23rd November, 1941.

Sir,

HARRY VICTOR HYMAN @ RIDDELL - in custody - Larceny from house.

I beg to submit statements of evidence relative to the above.

BERNARD BORNY states:-

"I am Private No. 930334, of the 437 Field Battery, 52 Field Regiment, Royal Artillery, stationed at South Walsham, near Morwich, and am at present residing at the Salvation Army Soldiers' Home, Victoria Rosa, Aldershot.

On Wednesday the 19th November, 1941, I was granted seven days' leave, and came to Aldershot. I booked rooms at the Salvation Army Hostel for the night of the 19th/20th November, 1941, and was given a bed in a room where there were a number of other beds. I went to bed at 9.30 p.m. but did not go to sleep.

At some time between 10 p.m. and 11 p.m. that evening, a Canadian moldier came into my room, and took the bed next to mine. We sat conversing for a while and during the course of the conversation I told him that I had 55. to last me during my leave. He then suggested to me that I should put the money whiler my pillow whilst I slept for safety.

I sid as he suggested, and later went to sleep. When I placed the money under my pillow, it was in a Brown leather wallet. At about 8.50 a.m. on the 20th November, 1941, I awoke and felt under my pillow and found that the wallet was still where I had left it, but on examining it I found that the £5. had gone. On looking around the room I saw that the Cenadian soldier was missing.

I did not give anyone permission to take the money, and if I saw the Canadian soldier sgain, I would recognise him.

Signed - B. HORNY.

ALBERT JAMES FRANCIS MAY states:-

"I am a Police Constable in the Hampshire Constabulary, stationed at Aldershot.

At about 2 p.m. on Saturday the 22nd November, 1941, I received a report of this case from the aggrieved person. In consequence I made enquiries, and ascertained that the Canadian soldier who had shared the room at the Salvation Army Hostel, with BORNY on the night of the 19th/20th instant, had given the name of "H.V. RIDEBLL", and further, that he had left the premises early in the morning of the 20th instant.

In consequence of this report I made enquiries with D.C. Long and found that a person giving the name of 'KIDDELL' had bucked a room at Miss Daniels Soldiers' Home, Aldershot, for the night of the 22nd/23rd November, 1941.

At about 11.25 p.m. on the 22nd instant, I accompanied D.C. LONG to the Soldiers' Home, where we saw the accused, HYMAN, as he was about to get into bed. I told him that I was a Police Officer, and that I was making enquiries about 25. which was stolen from a soldier's bed, at the Salvation Army Hostel, on the night of the 19th/20th November, 1941.

HYMNN admitted that he was the soldier who had given his name as 'RINNEM' and who had slent in the same room as ROMY on the night in question, but he denied all knowledge of the 25, stating that he had left the premises early for reasons which were his business. I told him that I was not satisfied with his statement, and asked him how much money he had on him. He stated that he was an absentee from his regiment, and that he only had is.6d.

I escorted him to Aldershot Police Station, where he was searched, and in his respirator haversack I found a One Pound Bank of England Note. When asked to account for possession of this he stated that he had been saving it up. He then said: "I might as well tell the truth, I took it, it's the first time

KWX

/ P.T.O.

Record of the Declaration of a Court of Inquiry on the Illegal Absence of a Soldier.

RECORD of the Declaration of a Court of Inquiry assembled at Blenheim Barracks Farnborough, Hants.
on the 20th day of November 19 41, for the purpose of investigating and recording the absence, without leave, from his duty, and deficiency, if any, in the Arms, Ammunition, Equipments, Instruments, Regimental Necessaries, or Clothing of No. A-9000 Pto. Hyman, H.

DECLARATION.

The Court declare, that No. A-9000 Pte. Hyman, H. No. 4 Holding Company, 1 R.C.A.S.C. Holding Unit C.A. (0) illegally absented himself without leave from Blenheim Barracks, Parmborough, Hents. at 2200 hrs. On the 28th day of October 1941 that he is still absent, and that on the 20th day of November 1941 he was deficient and that he is till deficient of the following articles:

and phas he we saw			£ 8. A.
Anklets, web	1 pr. £	8. d. Shirt, flannel 1	
B.D. blouse B.D. trousers Boots, ankle Braces Brushes, shaving tooth Combs, hair Drawers, woollen Dressing, F.F. Gloves, woollen Razor	1 pr. 1 1 pr. 1 1 pr. 1 1 pr. 1	Socks 2 2 0 6 Towels, hand 1 8 6 Resp. container: 1 6 " facepiscel 1 2 " haversack 1 5 " Outfit Aidl 2 " Eyeshields6 7 6 " Oint. A/0 1 1 1 1 1 5½	5 10 1 6 4 3 4 3 2 5 6 7

TOTAL £5 -18-8

Tit. Col.

Names of President and Members

Lieut. J.F. Burton
1 R.C.A.S.C. Holding Unit
Lieut. A.K. Innes
Lieut. R.A. Bell

1 R.O.A.B.O. Holding Uni

CERTIFIED THUE CO. O. Holding Unit

Signature of Officer having custody of the

Aldershot Division, 23rd November, 1941.

Sir,

HARRY VICTOR HYMAN @ RIDDELL - in custody - Larceny from house.

I beg to submit statements of evidence relative to the above.

BERNARD BOHNY states:-

"I am Private No. 930354, of the 437 Field Battery, 52 Field Regiment, Royal Artillery, stationed at South Walsham, near Norwich, and am at present residing at the Salvation Army Soldiers' Home, Victoria Road, Aldershot.

On Wednesday the 19th November, 1941, I was granted seven days' leave, and came to Aldershot. I booked rooms at the Salvation Army Hostel for the night of the 19th/20th November, 1941, and was given a bed in a room where there were a number of other beds. I went to bed at 9.30 p.m. but did not go to sleep.

At some time between 10 p.m. and 11 p.m. that evening, a Canadian moldier came into my room, and took the bed next to mine. We sat conversing for a while and during the course of the conversation I told him that I had 65 to last me during my leave. He then suggested to me that I should put the money under my pillow whilst I slept for mafety.

I did as he suggested, and later went to sleep. When I placed the money under my pillow, it was in a firown leather wallet. At about 8.50 a.m. on the 20th November, 1941, I swoke and felt under my pillow and found that the wallet was still where I had left it, but on examining it I found that the £5. had gone. On looking around the room I saw that the Canadian soldier was missing.

I did not give anyone permission to take the money, and if I saw the Canadian soldier again, I would recognise him.

Signed - B. BURNY.

ALBERT JAMES FRANCIS MAY states:-

"I am a Police Constable in the Hampshire Constabulary, stationed at Aldershot.

At about 2 p.m. on Saturday the 22nd November, 1961, I received a report of this case from the aggrieved person. In consequence I made enquiries, and ascertained that the Canadian soldier who had shared the room at the Salvation army Hostel, with BOHNY on the night of the 19th/20th instant, had given the name of 'H.V. AINELL', and further, that he had left the premises early in the morning of the 20th instant.

In consequence of this report I made enquiries with D.C. Long and found that a person giving the name of 'RIDDELL' had booked a room at Miss Dahlels Soldiers' Home, Aldershot, for the night of the 22nd/23rd November, 1941.

At about 11.25 p.m. on the 22nd instant, I accompanied D.C. LANG to the Soldiers' Home, where we saw the accused, HYMAN, as he was about to get into bed. I told him that I was a Police Officer, and that I was making enquiries about £5. which was atolien from a woldier's bed, at the Salvation Army Hostel, on the night of the 19th/20th November, 1941.

HYMAN admitted that he was the soldier who had given his name as 'RIDDHLA' and who had slept in the same room as BURNY on the night in question, but he denied all knowledge of the 25, stating that he had left the premises early for reasons which were his business. I told him that I was not astisfied with his statement, and saked him how much money he had on him. He stated that he was an absentee from his regiment, and that he only had 3s.6d.

I escorted him to Aldershot Police Station, where he was searched, and in his respirator haversack I found a one Pound Bank of England Note. Then asked to account for possession of this he stated that he had been caving it up. He then said: "I might as well tell the truth, I took it, it's the first time

AWA

/ P.T.D.

that I have ever stolen snything, but I did take that 25."

I then cautioned and charged his with the offence, and in reply he said: "That's right, I did it."

He was detained.

(Signed) A.J.F. MAY, P.C.519.

To/ Superintendent S. Bennett,



Record of the Declaration of a Court of Inquiry on the Illegal Absence of a Soldier.

RECORD of the Declaration of a Court of Inquiry assembled at Blenheim Barracks
Farmborough, Hents.

on the 20th day of November 19 41, for the purpose of investigating
and recording the absence, without leave, from his duty, and deficiency, if any, in the
Arms, Ammunition, Equipments, Instruments, Regimental Necessaries, or Clothing of
No. A-9000 Pts. Hyman, H.

DECLARATION.

The Court declare that No. A-9000 Pte. Hyman, H. No.4 Holding Company, 1 R.C.A.S.C. Holding Unit C.A. (0) illegally absented himself without leave from Blenheim Barpacks, Farmborough, Hents. at 2200 hrs. On the 28th day of October 1941 that he is still absent, and that on the 20th day of November 1941 he was deficient and that he is till deficient of the following articles:

Anklets, weh	1 pr.	£ 8. d	. Shirt, flannel 1	e s. d.	
B.D. blouse B.D. trousers Boots, ankle Braces Brushes, shaving tooth Combs, hair Drawers, wcollen Dressing, F.F. Gloves, woollen Razor	1 pr. 1 pr. 1 pr. 1 pr. 1 pr. 1 pr. 1	1 8 6 1 0 6 1 8 6 1 2 5	Socks 2 pr Towels, hand 1 Resp. container1	3 10 1 6 7 6 4 3 4 7 2 3 6	

TOTAL 65 -18-85

Names of President and Members

Lieut. J.F. Burton President

Lieut. A.M. Innes Lieut. R.A. Bell

1 R.C.A.S.C. Holding Unit

Signature of Commanding Officer

have the col.

CERTIFIED THUE Corp. of C. Holding Unit

Signature of Officer having custody of the Original Record. RCASC, H.U.

Members

This is to menticy that Rogs to A. 9000 to Pte Name. H.Y.M.A.N., H.U.

Statement as to Character and Particulars of Service of Accused.

A-9000 Pte. Hymnn, M.W. of the 1 Odn. ASC Roing. Unit

1. The following is a fair and true summary of the entries in the or -The Regimental Regimental and Squadron, Battery or Company Conduct sheets† of the accused, exclusive of convictions by a court martial or a civil court, of

		*Within last 12 months.	*Since Enlistmen	t.
For AW	Z 15 (1) A.A.		times ¶	tim
For			times	time
For			times	time
For			times	time

influence no entries in the Conductations of the sound. REA 2. The accessed has not here previously evaluated.

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

W1. 6264-0002 NO. 200 W. S. Ltd. 51-6004

status of Officer spents of the Carge or dispensing with Trial	Or Summary award. or of Order dispensing with Trial	Charges upon which convicted, or in respect of which Trial	Sentence of the Court or Authority disposing of the charge. Order of the Dispensing Authority.	Punishment remitted
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ER IC RECORDS

3.	The accused is not under sentence at the present time,
	or, 188A
the	arguered at the present time is under sentence tor. Desinning on the first day of RES.
4.	The accused has been in confinement, awaiting trial on the present charges
	days in Civil Custody,
	days in Military Custody.
Т	otal days.
which	
5.	The present age of the accused according to his attestation paper. The date of his communities specified in his reconvergenced in attestation paper.
7.	The service which the accused is allowed to reckon towards discharge or
nsfer	to the reserve is
ars' se	
	The accused is entitled to reckon years' service for the purpose nining his pension, &c.
	The accused is in possession of, or entitled to, no military decoration or reward $\{or \text{ is in possession of } or \text{ entitled to}$
	(If the accused is a warrant officer.) The accused before he was made a officer last held the regimental rank of
12.	(In the case of an officer.) The accused holds in the army the rank of , dated , and in his regiment (or corps
depar	tment) the rank of dated
	The accused has served as a non-commissioned officer continuously, reduction, to the present date,
	Date of Promotion.
In	the rank of , years,
In	the rank of , years,
	the rank of , years,

(Instruction.—If any manier in any of the above paragraphs cannot be stated from the regimental books
the paragraph must be struck through.)

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

president and annexed to the proceedings.

47 of the Army Act, and of Cases in Schedule of Convictions by a Court Martial or Givil Court, of summary awards under Sewedule of Convictions by a Court Martial or Civil Court, of Summary awards under Sewedule of Convictions of Court Martial Court, of Summary awards under Sewedule of Court, of Summary awards under Sewedule of Court Martial Original Court, of Summary awards under Sewedule of Court, of Sewedule of

A-9000 Pte.

by which terrel, or closure of Official depending of the Charge Or Accounting with Trial	Date and place of Irial, or summery award, or of Order dispensing with Telal.	Charges upon winch convicted, or in respect of which Trial was dispensed with.	ver Authority disposing of the charge. Order of the Disposing Authority	Punishment remitted.
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The Hyman, H.V.

SCHEDULE.

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

Charge.	Plea.	Finding.	
(Insert " alternative " where	(See Instrs p 2.)	(See note below.)	(Space for use as required for further charges, accused charged jointly, special findings, etc.)
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special findings sen /	RF 44 and MML 9 75.	L and in loss of kit to	
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PART II.		Convening Order as to	arranded. Presidents. / Prof. Constitution of the street
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PART II.	(See back of C	OF CONFIRM	MATION RESERVED. (AA 54(5), RF 120(F), MAIL p T40.) Commanding. NG OFFR ON FINDING(S) AND SENTENCE.
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(1. 88 26, 27, 11	09, 111. List of offer war and Def Offer not, acc	or a lawyer ! Ans #2. Is the Defending Officeder instr will be returned separately with precedings for used is entitled to an adjournment when MP St [3] and fn 2. Approximate ## before arranged	a lawyer? Ana M9 (* information of Conv Offr.) were not followed See Di p 3.) moest make(s) (ne) M plos

(A) If a special pine is made for separate trial on one or more charges (AP 63(D), 108), or as to the jurisdiction of the Court (AP DA, 152,A), 113), or in bor of trial (AP DA, 15 to occupied) remain follows to stand trial (AP DA, 15 TD), or by one of several occupied charged junity to be trial separately (AP (A, 71)), such pine, the addresses made in support or against, the relations, if any, and following our recurrence per Nutria. For forms of recurred see references in fine to Ref. cited. Insert in AB man and name of the occupied making the pine.)

A2. The accused is arraigned (see the) on all charges in the charge sheet. (1) The accused does (1) not object to any charge? There is no amendment to be made to the Charge Sheet. (2) The President records the pleas in Part I of the Schedule.

(1) 89 21. (12. See por.) of letter p. 2. When more than one Charge Sheet we 89 42; when averal occused to be tried suppresses are 89 71(C), and are separate capital of Cl. 896 to record proceedings.

2. 89 22. 89 33. (1 otherwise, delear and mode appropriate recard pre-Notes).

A10. The Court considers the Instra on Procedure after Arraignment at top of p 2. The proceedings are continued on Record Form B . E

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

HB3 (BR6 VOL. 1 P. 17

INSTRUCTIONS ON PROCEDURE AFTER ARRAIGNMENT.

- The accused may not plead or be found Guilty on more than one of two or more charges laid in the alternative.
 (RP 37(A).) As to withdrawal of alternative charges by Prosecutor see RP 35(C). No other charge can be withdrawn for any reason without authy from Convening Offr. If Convening Offr concurs, Court may accept plea of Guilty to lesser, etc. offence: (RP 44(H).) Accused may change a plea of Not Guilty to Guilty during trial. (RP 38.) As to refusing to plead or not pleading intelligibly see RP 35(A). As to plea when sentence may be death see RP 35(D).
- 2. The proceedings on each charge sheet (RP 62) after arraignment will be conducted as follows in the respective circumstances stated.
 - I. If pleas to all charges are GUILTY, use Record Form B below.
 - II. If pleas to all charges are NOT GUILTY, use Record Form D on p 3.
 - III. If pleas to some charges are GUILTY and to other charges are NOT GUILTY and,
 - (a) Such mixed pleas occur when there are no alternative charges in the Charge Sheet, use Record Form C below, (RP 37(A).)
 - (b) Such mixed pleas occur in a set of two or more charges laid in the alternative, see RP 37 (A) and fn 2 as thereto, or, (ii) to try the accused on all such alternative charges as if he had pleaded Not Guilty thereto, or, (ii) to record the pleas as the findings of Court. After deciding between (i) and (ii), Court will proceed under foregoing instrs as may be appropriate to result of its decision. See MML p 744 Instrs (2).
- 3. As to responsibility of President to accused see RP 59, 60(C); powers and duties of JA see RP 103; duty of Prosecutor see RP 60(A) (B); duty and privileges of accused and Defending Offr see RP 60(C), 87(C), 91, 92; succaring and withdrawal of witnesses from Court see RP 81, 82; questioning of accused see RP 80, 87(C), 92(B), and of witnesses see RP 83-83; colling or re-calling of witnesses by Court, 4c, see RP 75-79, 85, 116; use of Summary of Evidence at Trial see RP 17(E) fn 6; and responsibility of JA or Pres to record proceedings see RP 94, 96.

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

- B1. The President or JA, 3 day, complies with RP 35(B) by explaining to the accused the nature and meaning of the charge (1), and that on his pies of Guilty there will be no regular trial but merely a consideration of the sentence to be awarded after he has been given an opportunity to make a statement in reference to the charge(s). sees as to character and make an address in mitigation of punishment.(3)
 (1. RP 25 fc 3. 2. MML p 54 perc 47.)
- B2. President to accused: The Court will now receive any statement you desire to make in reference to the charges (i) If it appears from your statement that there are circumstances which indicate that you do not understand the effect of the piec of Guitty(*), or which show provocation or extenuation in respect of which in your interest the sitnesses for the Prosecution should be examined(*), we shall advise you to change your piec to Not Guitty. In making a statement you will not be sworn or subject to cross-examination; and anything you say will not be used in evidence against you after you change your piec. If, however, it appears to the Court that your statement affects only the amount of punishment to which you are liable, you will not be advised to change your plea and you will be given an opportunity later to prove your statement by sworn testimony, if you so desire (*)

President to accused : Do you wish to make a statement ? Ans 444 244 (1. RF 37(B), 2. RF 37(D) (n. 6. 1. RF 35(B) (n. 5 pera 3, MML p. 54 pera 47. 4. See pera E3 of Record Form E. 5. Statement, if any, recorded per Nates.)

- B3. The Court considers the accused's statement.(1) The Court decides (not) to advise accused to change his (the please of Guilty to Not Guilty on the charge of The accused is (see so informed, and he state)
- B4. On the charge (\$\frac{1}{2}\$ to which the please of Guilty is (\$\frac{1}{2}\$ not changed the President records finding (\$\frac{1}{2}\$) Guilty in Part I of the Schedule (\$\frac{1}{2}\$) (1. \$\text{RP}\$ 35(8). If any please) is (are) changed, use Record Form C or D us appropriate.)
 - B5. The Summary of Evidence is marked Ex. A, initialled and read aloud by the President.(1)

 (1. If there is no Summery, or if it is inodequote, cample with R9 II(B). If there is any evidence inconsistent with any standing as Guilty, Court will advise accused to change such plea and, if changed to Not Guilty, try such charge(s) by a pares D1 to D6 inclusive of Record Form D on p 3. NO III(D).)
- accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

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

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

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

 (1. Under 85 such parts only of the Summory of Erisbuck are read as relate to the tharges dealt with under C2. If any piec is changed to Not Guilty, trial therecape purceads by complying with parts D1 to D8 inclusive in Recard form D on p 3 and making an oppopriete record thereof on a separate sheet.)
- C3. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

Pin hers Loose Sheets of Record.

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

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

D2. The Prosecutor makes (an) (no) opening address (1)
(1. RP 39(8), 60(A) (8), 90, 92(C) (D). Record address per Notes, subject to RP 95(C).)

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

D4. The Prosecution is closed.(1) The Defending Offr submits that the evidence for the Prosecution does not ...charge(s).(2) The Court establish a prima facie case against the accused on the... is closed, and considers the submission. (2) The Court is re-opened, and the President announces that the submission .charge(s), and allowed on the ... is disallowed on the...

rge(s), and that, accordingly, the trial will proceed on the former, but the accused is (are) found Not Guilty on the latter charge(s).(*)

Active Clarge(s). (*)

(1. Delete remainder of this para, if submission not mode.

(2. Arguments on submission, answer and reply are recorded per Notes.

3. RP 40 fn 1. See MML p 12 paras 12-14 and p 81 para 42.

4. Delete part not used. If accused acquitted on all charges, use second alternative in para 08.

81. If trial proceeds, accused must be allowed great latitude in making his defence, and the Court should not stop his defence solery on ground of trelevance. (RP 80(C), 114, 115).

D5. President to accused: You will now proceed with your defence.(1) You may, if you wish, give evidence yourself on oath as to the facts or your character or both, in which case you will be subject to cross-examination. You may, however, make a statement without being section, and you will not be subject to cross-examination. But a statement which could have been made on oath will we burry with the Court the same weight as sworn testimous. es in your definition to this state, whether you give evidence or make a statement or de

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

D6. Consequent on the answers recorded in para D5 the appropriate procedure for the defence is followed.(1) (1. RF 1/14, 1/15, 1/16. For procedure see Notes on back of Convening Order, CE A95. Evidence for occused as to his character stand of, in his interest, be given before the finding. See RF 46(A) fit, 186(C). Note theyther opportunity in para E1 of Record Form E. Record for Notes addresses, statement, evidence and ony summing up by the JA under RP 42, 103(e).)

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

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

D8. The President announces the finding(s), if any, of Not Guilty, and states to the accused that the finding(s) of the Court on the. charge(s), being subject to confirmation, will be promulgated later.(1) Or. The President announces that the accused is found Not Guilty on all charges and is to be released forthwith, and that the proceedings are accordingly terminated. Part I of the Schedule is dated and signed (*)

(1. As 54(3) (4), 59 45, 120(4). 2. As 54(3), 89 45, 117. This distanctive announcement is not applicable when there are pleas of Guilt soutmenting and short with under Recent form 8 or C.)

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

RECORD FORM E-PROCEEDINGS ON CONVICTION BEFORE SENTENCE.

E1. President to accused: Do you wish to give evidence yourself or to call any witnesses as to your character 1(4) Ans No SIR

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

E2. The Prosecutor produces Statements as to Character and Particulars of Service(1), and certified true copy (see 1) of Conduct Sheetig 1), purporting to refer to the accused, which he submits to the Defending Offr for examination, and then to the Court for admission in evidence. The Court is satisfied that these documents refer to the accused, because (i) they purport to be signed in the manner required by AA 163(1) (g) (h), and (ii) they purport to refer to (a) soldiers maxing the same number, rank, name and corps as the accused. Admitted in evidence and marked Ex.

B. and Ex. C. respectively (2)

[1. MFB 255 or AFB 216. 2. MFM 6. 3. RF 46. KR Con 558. If sheer documents not produced, see RF 46 fn 1

perc 1. MFB 255 or AFB 216. 2. MFM 6. 3. RF 46. KR Con 558. If sheer documents not produced, see RF 46 fn 1

pere (.)

E3. President to accused: Do you wish to address the Court on the Statements and Conduct Sheet and in

mitigation of punishment ((*) Ans. 400 see by my difference of \$27(C), 46(D).

1. 89 27(C), 46(D).

2. Address if any, recorded pel Notel. Court should be mit occuped or on sorth anything here or previously stated which would offect the amount of punishment. 89 37(F) fo T.)

E4. The President states that the Court is closed to consider the sentence, and that the sentence to be awarded by the Court, being subject to confirmation, will not be announced, but will be promulgated later, and the proceedings in open court are accordingly terminated.(1) (1. AA 54(6), RP (20(A).)

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

(1. When several occused tried separately see RF 71 (D). One sentence only, comprised of the purishment or punishments led down in AA 41, 44 and its provine, is to be owneded to cover oil charges in elicitatives which occused found guilts. RF 48. As to sentences see AA 44 (138, 182, RF 46-53, 69, 182, 194A, 182 co. 306, 330, 563-566, Overseas RO 309, 2223, MAM, p. 60, 757-739. As to sentences suggested for civil offences by the law of England see AA 41(3, MR 5) p. Meen occused already under sentence of impressions see AA 44(6), 88(1), RF co. 564. 2. 2. RF 50. As to release from arrant by Confirming Offr see KR Can 587. As to assembly and disposal of record offer tried see instess on back of Convening Order.)

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

55.

The accused, A-9000 Pts Harry Victor KMAN, 86 Cdn Bridge Goy, RCASC, attached to 1 Cdn Disciplinary Centre, a soldier of the Canadian Army Overseas, is charged withi-

FIGURE OF ACCIVE SERVICE AREESTING HIMSELF WITHOUT LEAVE

in the Field, absented himself without leave from 1200 hrs 14 Har 45 until apprehended in FREDA, Holland at 1145 hrs 14 Apr 45.

(Total absence: 30 days 23 hrs 45 minutes)

Remanded for Summary of Evidence

In the Pield 7 May 45 (3 Whether H) to col Committing

counded for Stald Congral Court-Martial

In the Field 1 May 45 (J & District) It col
Commanding
1 Can Disciplinary Centre

To be tried by Field General Court-Wartial

In the Field,

(J S H Lind) Brig Comd 3 Cdn Base Rft Gp

FIELD GENERAL COURT-MARTIAL

(Whether the accused to be tried is under his comd or not, a FGCM may on application to him be convened by any offr of Cdn Army Oversecis, or of any other force if authorized in low, in immediate comd of troops on active service, subject to RP 105(C) and restrictions imposed by oppropriate authorized in low, in immediate comd of troops on active service, subject to RP 105(C) and restrictions see MML Chap Y paras 20 and 23, A 49, 50, RP 104-107, 114. As to the duties and privileges of the Convening Offr in decling with the application see MML Chap Y paras 20 and 23, RP 87(6).

There should be a separate Convening Order for each person to be tried separately by the same Court. RP 71(C), 109. As to separate charge sheets see RP 6, and as to separate trial on charges in the same charge sheet see RP 6, and as to separate trial on charges in the same charge sheet see RP 6, and as to separate trial on charges in the same charge sheet see RP 108. As to two or mare accused charged jointly see RP 16, 109. As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fnt, KR Can 306, 328, 330.)

Number. (a) Prmnt R. (b) Appmt, A/R or A/Appmt.

Full Christian Names. Surname. Unit.

A.9000

Pte

Harry Victor

HYMAN (86 Cdn Bridge Coy RCASC) att linary Centre

CONVENING ORDER.

1. Whereas complaint has been made to me, the undersigned, that the person(s) named above as the accused, being subject to military law, has (have) committed the offence(s) set forth in the Charge Shect(s) attached and on the charge Shect(s) attached and on the charge Shect(s). As a market was a subject to military law, has (have) committed the offence(s) set forth in the Charge Shect(s) attached and on the charge Shect(s). To be tried by Field General Court.

Martial ".

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

(Delete port in brockets when not required for compliance with AP 105(C).)

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

4. - I am unable to appoint to three Offer to form the Court, (b) a Fd Offer as President, for the reasons & hard (AA 49, RP 106(B), 107(A). Delete the whole or part, if not applicable.)

By Advanced theread the OHF mentioned hereunaker.

(AF 10A/F). Delete, if none appointed.)

PRESIDENT.

Major (Rank)	G.E. JERMYN (Must be named AP (06.) MEMBERS.	(HCA) 1 Cdn Court-Martiel Centre (Unit)
Major	A.E. LEFROY	(Seaforth Highrs) 1 Cdm Court-Martial Centre
Cept (Aunk.)	R.G.L. MILES (Named or detailed. AP 106.) WAITING MEMBER.	(X-10) 1 Cdn Court-Mertial Centre (Gent.)
(Rank.)	(Nomed or detailed, if any. RP 106.) JUDGE-ADVOCATE.	(Unit.)
(Mark.) On Active Service in the Fd	(Must be named. If any. RF 106.)	(Unit.)
n BELGIUM (Country.)	(Signed persually. AP (J S H Lind)	105 fo 2) Bris (Rook)

CONVENING OFFR WILL INITIAL ALL DELETIONS AND ALTERATIONS

Commanding 3 Cdn Bese Rft Op

Convening Officer

4/38ACPASS IT HELD OF APAS

Date /5 May 45

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

MEDICAL OFFICERS CERTIFICATE

(KB(Gan) Para 55) (GMPQ GL 173)

I certify that I have this day examined A 9000-HYMAN. HV and in my ominion he is

rit to undergo trial by Court-Martial.

Station FELD

Date 2 6:45

8-2 Statement by account in Reprines & Change

A. 9000 Pto Kymen, H. V. To then he lay at I con the center. relater,

I man A We once before and 3 got handfored to a new platon. Hey told me they delat want me. I was just an aplia man in the platon. Then when they went to bewords they went me to beek to help build up a cookdomer for advance bridging. It hept up lesh that all the him so I went town I came heals the rame day we founded building the cookdown and the went was in Accounts to I went we founded building the cookdown and the went was in Accounts to I went to grand they would be back in a coupl of day. One they led to another and finally I wan probed up in buckar. I have notwarded for the business company, and finally I wan probed up in buckar. I have not want to the business company, to cost of redam my self. I can do it if I get into another unit.

E-3

defending officer in miligation

Accord entisted in heat 39 can viences on day 40 what you her excely four years of overces removes. Regard 80 hs log in the 43 and was with them with the his log he offices. He arrived in France 2 any 44 and are series to keep here with the his log he has been a again man with no job a do.

As first aggle his M.F.M. 6 books had her him last the ways on Fel 42 and to hear him last the surrey wight series that except for mina changes, limiting and to series that except for mina changes, limiting the heart should be learned in the week of this offices.

John 1 24

Summary of Evidence in the case of A-9000 Pte HYMAN H V, 86 Canadian Bridge Coy RCASC, attended to 1 Odn Disciplinary Centre, a soldier of the Canadian Army Oversess.

Charge - Absence without leave

By directions of the GO the evidence is taken on oath.

The follows documents are read over to the accused, parked as Exhibits and are attached to the proceedings.

Exhibit "A" - Certified true copy of Extract from Pt II Order No 14 dated 24 Har 45

Exhibit "B" - Certificate of apprehension dated

- q. Do you wish to make any st tement or to give evidence on cath? You are not obliged to say anything or give evidence unless you wish to do so but whatever you say or any evidence you give will be taken down in writing and may be given in evidence.
- A. I have nothing to say.

The accused does not call any witness.

I certify that the foregoing Summary of Evidence consisting of one page was taken down by me in the sresence of the accused and that RF 4(c) (D) (E) (F) and (O) have been complied with.

officer detailed to take Survey of Evidence

M Tourslave Cay

Dated in the Field 7 May 45



EXTRACTS FROM:

Originating Clerk's Initials ... CAM

ECH-6 40/P & S/1276 (4032)

Unit 86 CANADIAN BRIDGE COY RCASC Part II Order No. 14 dated 24 MAR 45

ABSENT WITHOUT LEAVE

TO: A-8 2 Ech

(a) AWL from 1200 hrs 14 MAR 45 A9000 Pte HYMAN H V

Cartified to be a true extract from the regimental books and pocuments in my Officer IC Records &

Officer in Charge

Canadian Section, GHQ, 2nd Echelon

Cdn. Seo. 2 Ech. HQ 2) A Gp. participal to Plance with several expense section of the distributions.

custody.

DROUGHTEWAY SOTT TO MAKE TO TO THE STORY OF THE STORY OF

CRETTETIONS OF ARTHUR IN ASSESSMENT WITH ALL AND GRANTON (63 (2) CAR I cortify that No. 49000 Payle, .. Pto., . Neso ... H. V. HYMAN .. of. 86th Bridging Cox, B.C.A.S.C.....(undt) was arrested at.... where . P.R.E.P.A. no was are seed in uniform /xxxxxxxxxxxxxxx. Eigneture of Provest Wrenel, Abl., or omer Officer into Dato Apr -45whose custody the e/n purson was tolden on arrest. Att tunnell Sout signature & renk) Staff A. G. DARM. HOSL of C. unit or appointm't....

- This cortificate must be signed personally by the efficer ecocornel.
- In no circumstances we it be signed by one efficier " for" enother, or by
- enyone not holding comissioned rank.
- In se directatives a cult to place of appointment to executed as "in the sield",

1037

LIST OF EXHIBITS

Certified thus wary of Extract from Pt II Order No 14 Natod 24 Mar 45

Sertificate of apprehension dated 14 Apr 45

750

I, the undersigned hereby admissledge receipt of one copy of Charge Sheet and one copy of Summary of Evidence free of charge on 7 May 45

20. Figure

Army Form B 296 (War)

STATEMENT AS TO CHAI ACTER AND PARTICULARS OF SERVICE OF ACCUSED

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

A 9000	Pte	HYMAN	ну	86	Cdn	Bridge	Goy RCAS
Field C	following is ondust Sheet artial or a	of the accus	true su	mmary of	the	1 Cd	n Disc Cent:
	Sec 15 (1)				2	times	
For						times	
For						times.	
				******		times	
Date of	first entry	in Field Co	nduot Sh	eat	20 T	2 42	
	last entry						
2. Pre	vious convictors set out in	tions of the	Accused	by a Co			a oivil
	accused at						*/*
	ng on the			STORY AND LONG TO		150000000000000000000000000000000000000	
custody Arrest,	days in days in of which	civil custom days in days we	ng trial dy and f Open Ar re spent	on the or #	prose	inys in	military
5. The	present age	of the accu	pod is _	24 year	02	mouth	us old.
6. The	date of his	Attestation	18	5 Sen 2			
	service whi				STATE OF THE STATE		
	secused is					THE RESERVE	
9. (If	the accused	is a Warran	t Office	r or NCO). T	he acou	sed has
In	the substans	ive rank of			Da	te of P	romotion
	the Wer subs						
In	the acting r	ank of					

FCCM

AA Sec 15(1)

AA Sec 15(1)

FIELD

AA Sec 24 (2)

1 year imprisonment with hard labour

19 Oct. #2

AA Sec 15(1)

AA Sec 24 (2)

of pay in the amt of £2-15-10

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

Signed this 2 nd day of the 1945

Description of Court by which tried

FGCM

FGCM

					i only axive mont meleent i alcounts :	CAMPS - APR		description of the same of	E P. William Cont. T.	
Nemerica	bobrana moder vii	to brawn to trad! compath tolone ha faith drive sola	betrawa insontalaud	smeantilly to sintell	OFFERER	So soken of anyonest	बंदकी	to stadi watello	Company C	
tyse 62 days the fact you (a)(I	d model to	thr 62	90 days det		TR TR (T) Wheent OS deve	9 14.	TV .	ET VD	Meth	
Forse 26 deg may FRGI LAG(1)(e) Fors 17 dey may FRGI LAG(1)(e) Close erres	MOON TO	TO DOG OT	-alvani vavy I IH dilu insum		TOT CHANCE: AA 18(A) Stealing to you not		a TV	58 000	Meld	•

Place	Date of offence	Back	Cases of streakers		Names of Witnesses	Punishment awarded	of order dispension by whom awarded alog with trud	Remarks
	9 Oct	42	Pte	1ST CHARGE AA 15(1) AWL from 0800 hrs 19 Oct 42 to 0145 hrs 22 Nov 4 (absent 33 days 17 hrs 45 min 2nd CHARGE	\$)	18 mos det Stop of pay 1 the amt of £2-15-10	0	Forfs 34 days pay FRBI 149(1)(a) Forfs 5 days pay FRBI 149(1)(c)(1) (close arrest)
Field 17	Feb	44.3	Pte	AA 15(1) ANL from 1530 hrs 17 F to 2345 hrs 22 Feb 44 (absent 5 days 8 hrs 15 mins)	eb 44	28 days FP 28 days pay	23 Feb 44	Forfs 6 days pay
Field 4	Hoy A	A Pto		AA 15(1) AWL from 2300 hrs 4 Nov to 2300 hrs 23 Nov 44 (absent 1	days)	28 days PP 28 days pay	21 Dec 44	Forts 19 days pay
			PROL	MEN 4 14 April 44 RECORD OF C	INDIAN DE GA	UADA		
					to Lolett	conv of 1044	4 in my phasession	

79T (3rd Case) Ple Thyman, NV. Ser 367B ga 181 can

791. Army Form A.3. Form for Assembly and Proceedings of Field General Court Martial on Active Service. PROCEEDINGS. twenty-fifth On Active Service, this , 1942 . Whereas it appears to me, the undersigned, an officer in on active service, that the 1 Cdn Inf Bde persons named in the annexed Schedule, being subject to Military Law, have committed the offences in the said Schedule mentioned. And whereas I am of opinion that it is not practicable that such offences should be tried by an ordinary General Court WENDERS IN NUMEROUS VARIABLES NIBERT I hereby convene a Field General Court Martial to try the said persons, and to consist of the Officers hereunder named. "NULXIXERY EMBORING THEO RESERVED AND VALUE OF STREET BENEVE Y Regiment President. 1 Can Div Sige Name. E.F. Hersey Rank Regiment Members. Major Sask LI (MG) Name. 1 Cán Div Ord Wkshop A.H. EWER Rank 4 can Fd Amb P.G. Ingram capt. F.J. Argue Capt. Brigadier Capt. *Signed Convening Officer. Commanding

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

PROCEEDINGS.

On Active Service, this

twenty-fifth 1042

November

Whereas it appears to me, the undersigned, an officer in

1 Can Inf Bde

, on active service, that the persons named in the annexed Schedule, being subject to Military

such offences should be tried by an ordinary General Court

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

MERKER SHREETSKEET

"MEX X XIMMES A NUMBER HE XIXXXX MARK E BUD

* KX XXX ANALYSON NER BE XIX MINERIX

* MX X STREET EMERGES STREET STREET X DESCRIPTION OF STREET

ECKEND Y

(BEXTHER SERVED NINE SERVED NEW TORKER

President.

Name

E.F. Hersey

Regiment. 1 Cdn Div Sigs

Members

Name.

Regiment.

A.H. Ewan

Sask LI (MG)

Rank

Rank.

Major

1 Cdn Div Ord Wkshop

Capt.

P.G. Ingram

Capt.

F.J. Argue

Cdn Fd Asb

Commanding

Convening Officer.

SCHEDULE.

Number, Rank (a), Name and Unit of Accused (b)	Offence charged	*Pica	Finding, and if Convicted, Sentence (c)	How dealt with by Confirming Officer (d)
A.9000 Pte. HYMAN, H.V. 1 Cdh Div Sup Coy	1st charge A.A. 15(1) 2nd charge A.A. 24(2)	builty builty	Finding, and it Convicted, Sentence (c) Somewhat 18 months 18 m	E Privile
			57 Harry 17	Park Shire
				75.

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

(SE. Simonds) Brigadier

Commanding 1 Cdn Inf Bde

Contening 0

Convening Officer (e)

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

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

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

(c) Must be signed by the same Officer who signs on the first page, and all alterations in the first two columns of the Schedule to be snittailed by how.

I certify that the above Court assembled on the - by - 1942 and duly tried the ners

acc. The	the Schedule, and that the plea, finding, and sentence in the case proceedings of each such person were as stated in the third and fourth columns of that Schedule.
	I also certify that :
	I. The members of the Court
	2. The witnesses
Omit if not	*(3. The interpreter)
licable.	*(4 The officers under instruction)
	were duly sworn.
	Signed this 27th day of norther 1942
	5 7 Herry Major

I certify that the terms of *A.C.I. 570 of 1918 have been * See footnote I certify to (b) on page 762 M.M.L. 1919 complied with. Certificate in case of death septences IQ Signed this day of

President of the Court Martial.

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

Signed this 29 5

30 1190 42	(Signed) W. W. W. Darker val
Promulgated and extracts	O.O. 1 Odn. DIV. Sup. Coy. (3 Coy.) R.C.A.S.C.
Promuigated and extracts	ancia ili tito case se
(Dated)	(Signed)
Promulgated and extracts	taken in the case of
(Dated)	(Signed)
(a) When several cases at	e promulgated in one unit on the same day the Officer

need only sign once.

The accused, A9000 Pte. Hyman, H.V., 1 Can Div Sup Coy(3 Coy) BCASC, a soldier of the Canadian Army (0's) is charged with, while on active service:

ABSENCE WITHOUT LEAVE 1ST CHARGE in that he, at Cross-IM-Hand, Sussex did absent himself without leave from 0800 hrs 19 Oct 42 until apprehended BEC 15(1) AA by the Brighton and Hove Military Police in Preston Park at 0145 hrs, 22 Nov 42. (33 days 17 hours and 45 minutes)

LOSING BY NEGLECT HIS EQUIPMENT? CLOTHING and 2ND CHARGE REGIMENTAL NECESSARIES SEC 24(2) AA

in that he, in the Field, on 23 Nov 42 was deficient the articleslisted below with values set opposite each in the amount of £2-15-10g computed at 75% of the Vocabulary

Price in accordance with Can Army Routine Order (Oversess) 1398. 75% Vocabulary Price Vocabulary Price Article Boots ankle Braces Brushes tooth Gloves woollen Holdall Respirator anti gas(complete) 31 5 Eyeshields Anti dim Haversacks RAG 4 111 5 Knives clasp Covers Mess tin Shorts Gym prs Belts Waist small 10 Sheets ground

> € 3-14 -6} 2-15-10

> > J.G. O'Brien) Capt A/Officer Commanding 1 Cdn Div Sup Coy(3 Coy) R.C.A.S.C.

To be tried by Field General Court Martial.

25 Nov 42

18 du Dir Sup. Boy. R.P. AS. P. 27 Sive 19 42 MORNING SICK REPORT Whether for duty a prisoner or defaulter Medical Officer's Remarks and Initial RANK AND NAMES DISEASE Age Religion Regt'l No. (Christian Name in full) Fit for Hyman. H.V. 21 Bapt S. Examinid Y found free of downt martial wheteous desiare & 6 Mr Harry major Orderly N.C.O. (OVER)

Thousand of a Field General Court Mortiel held at N. a I can this hip lay on the 27th day of november 1942 by order of Brigadies & G. Limones Commanding I Can off Bole dated 25 day of november 1842 Prendant 1 st Can His hipards E. F. Herry major members Sash L. cl. (A 6) a T. Evan Twich of A 9000 Ote Hyman N. V. 1 Can His Sup. Cog (3 12) R C. a A. C. a wholis of the Consula thing Overseas. and assurbled and the stand st read. Court convened in all ordere with their rubes Court spened 1005 hrs 27 hor. 42 account, aux, intreset, possessor and refunding officer enter Covering order read and secured answered to his name. account what if he har many objection to be tried by myself is heriout or any member of the suit. Conver, no sir in each case. President weeks members, - member overspresident. Witnesset muched out. medical welficity presented to court and examined. It plans in the set trial and found court girt along und , - accused place builty beand alongs read , - necessar pleads builty. R. P. 35 (B) implied with Court aloud to seein if accept plea of mily bed wings Summary of widone read by number of court 5+ Hourshage · Court re woundled and recursed informed his place of builty accepted on both charges. ash accused if closing make a statement on storge Consier "no ni" assund wheat if he would to give or tall character sivance Course "no sis" Those what to produce MPM 6 and 14 16 B 296 and fround for court in FM 6 stort statement (accorded) Seferding Officer makes statuet in mitigation Court alond - prison accused informed that he is to be remanded in whose crust to await promulgation of rentence and his attendance not furthe reprised in the standance of further spring this to forther the standard to the stan By Direction of the Officer Commanding, the summary of evidence is taken on oath.

1st Witness - A9043 Sgt. Aldridge, W., 1 Cdn Div Sup Coy(3 Coy) RCASC.

1st Witness - Aldridge, W. of the 1 Cdn Div Sup Coy(3 Coy) RCASC.

I am A9043 Sgt. Aldridge, W. of the 1 Cdn Div Sup Coy(3 Coy) RCASC. As administrative Sgt. of Headquarters Platoon it is my duty to call the roll daily at 0800 hrs. On 19 Oct 42 at 0800 hrs roll call, A9000 Pte. Hyman, H.V., failed to answer to his name and was subsequently marked Hyman, H.V., failed to answer to his name and was subsequently marked absent. This matter was reported to the C.S.M. and to the Company Orderly Room. I called the roll each day from the 19 Oct 42 to the 12 Nov 42 erly Room. I called the roll each day from the 19 Oct 42 to the 12 Nov 42 and at no time was Pte. Hyman present or did answer to his name. He was s.O.S. the platoon on 12 Nov 42(Ref Part One Orders-No. 210, d/12 Nov 42)

All aidriles W.

The Accused declines to cross-examine this witness.

2nd Witness - A9195 Cpl. Ricketts, H.E., 1 Cdn Div Sup Coy(3 Coy) RCASC having been duly sworn, states:

I am A9195 Cpl. Ricketts, H.E. of Headquarter's Platoon, 1 Cdn Div Sup Coy(3 Coy) RCASC. On the 19 Oct 42 I was Platoon Orderly Corporal and as such it was my duty to call the roll at Tattoo (2300 hrs). When calling the roll I found that A9000 Pte. Hyman, H.V., was absent. I reported the same to the Orderly Officer on my Tattoo Report.

40 fiketh.

The accused declines to cross-examine this witness.

3rd Witness - A9883 Cpl. Lord, G.W., 1 Cân Div Pup Coy(3 Coy) RCASC having been duly sworn, states:

On the night of 11 Nov 42, I, as Section Orderly Corporal, called the roll at Tatoo. A9000 Pte. Hyman, H.V. did not answer to his name, This was reported on the subsequent Tattoo report to the Orderly Officer.

A9483 Opt. Lord, G. 9463

The Accused declines to cross-examine this witness.

4th Witness - B88448 Sgt. (A/CQMS) Mathews, T.F.G., 1 Cdn Div Sup Coy? (3 Coy) RCASC, having been duly sworn, states: I am B88448 Sgt. (A/CQMS) Mathews, T.F.G., 1 Cdn Div Sun Coy(3 Coy) RCASC. This is a list (Exhibit B) of regimental kit and necessaries deficient in the case of A9000 Pte. Hyman, H.V., 1 Cdn Div Sup Coy(3 Coy) RCASC., on Article Vocabulary Price 75% of Vocabulary Price. Anklets web prs Z B Boots ankle Braces Brushes tooth Gloves woollen Holdall Respirator anti gas (complete) 16 Eyeshields 12 19 Anti dim

Haversack RAG. Knives clasp Covers mess tin Shorts Gym pra Belts welst small Sheets ground

3 -14- 64

Total

£2 -15-10}

The accused declines to cross-examine this witness.

5th Witness - L/Cpl Stevens, A., Brighton and Hove Military Police .

Sir: At Brighton on the 22 Nov 42 at about 0145 hrs I was ordered to

proceed to Preston Park to pick up the s/m soldier, who was being detained by the Wivil Police as an absentee. He informed me that he had been absent a week from his unit. I obtained his particulars from

him verbally as he was not in possession of his MB 1 or 2. L/Cpl. Stevens, A.

The Accused does not demand the presence of this witness for cross-

Due to the exigencies of the service and the high cost of transport. the presence of this witness is in my estimation unnecessary.

(F.B. Permott) Capt-1 Cdn

6th Witness - L/Opl. Hall, Brighton and Hove Military Police.

Sir: I have read over and corroborate the statement of L/Cpl. Stevens, A. Brighton and Hove Military Police.

L/Cpl. Hall

The Acquised does not demand the presence of this witness for cross-exam-ination.

Due to the exigencies of the service and the high cost of transport the presence of this witness is in my estimation unnecessary.

(F.B. Perrott) Capt 1 Can Div Sup Coy(3 Coy) RCASC

The accused having been duly cautioned in accordance with R.P. 4 e

The accused reserves his defence

Certified that the R.P. 4(c), (d), (e), (f) and (g) have been complied with.

Taken down by me in the presence and hearing of the accused this 23rd day of November 1942 at 1 Cdn Div Dup Coy(3 Coy) RCASC? Field, England.

(F.B. Perrott) Capt

· Edda A CHARGE

R.C.A.S.C. HO 1 Div Supply Co.

Regiment Battery

pte

Squadron Troop or Company

CHARGE against No. A 9000

Rank

HYMAH H.V. Name

Place Brighton Date of Offence 42

OFFENCE W.O.A.S. absent from .. until

apprehensed by the Military Police 1 th Preston Perk at shout out or

Names of Witnesses ;-

L/Gnl Stevens

Signature of O.C. Battery velice

Squadron, Troop or Company Punishment |

Awarded

By whom Awarded

Adjutant. P.T.O.

20123 SERVINESS 2,000,000 EVA R & H 1/4 GARDAY.

A 9000 Pte Hyman H.V.

HQ 1 Div Supply Go.

Bir,

At Brighton on the 32 Novr 42 at about 0146 hrs I was ordered to proceed to Preston Park to pick up the s/n schier who am being detained by the Civil Police as an absortee.

He informed me that he had been absent a week from his unit. I conducted him to the Givil Police Station under close errest to assit an accept from his

verbally as he was not in possession of his 28 1 or 2.

Brighton

. allever 1 1001

Sir,

I have rend over and corroborate the above statement.

Brighton 22 Soy 42

REMARKS

5+ Hunging

Statement of mitigation re case of ste. Hymen.

while it is acknowledged that the accused old absent himself without permission for the period already mentioned, surely this Military Court would not want to having committed an offence, that is to say, merely in retaliation for

Because of previous indiscretions, Byman has been labelled by almost everyone as a bad actor " . He was returned here after having served out a certain sentence, from the Reinforcement Unit, in spite of his entreaties to be transferred to the Amazanition Company, where he could have started " on the right foot ", and where common sense, he maked to be trained on the metarcycle in order that he might be able to secure a job as pispatch Rider. This request was also turned own, and he was interviewed by the racre and properly advised by anasone who knew season the problems of human behaviour, but instead, where was inscribinly of his platon, instead positive days and apparently ignored by the officer and account the problems of human behaviour, but instead, where was inscribedly of his fellow coluters, and apparently ignored by the officer and account handle account a start worth actoring about the problems of a same than a parently ignored by the officer and account and account and account the problems are the fell that years was a trust actoring about the problems are the fell that years as a trust worth actoring about the provided when the same account in any case, for rively grown has an account to a greatency training here. See cannot handle a bring her, cannot fire the greatency was not been account to bothered to taken him.

anything more towards the far Effort, a an mash floors, but a strong, healthy young that because of this improper handling, Nymen goon lost interest in the jab of work by this unorthudex, if not inhuman breatment, that absenting himself without leave, did not appear to his mind, the scrious offence it actually is.

I ask you, gentlemen, before his spirit is broken completely, mot to punish them by sending him to detention or jail, where he will nost likely spand him time guidence that mould fit him to do him so that he can have the training and hold for the Camanian Army. I say, Gentlemen, in all sincerity that it by the sending the fitting and hold for the Camanian Army. I say, Gentlemen, in all sincerity that it of that group of anitiese, distillusioned dereilate, the country was burdened after the lest ear.

toni Can Lie Bygg Con

ompany Con	duct miles	1	-december	last drunk freedom from extra fine			flote of award or of order direct	By whom awarded	Betracks	
Place	Date of offence	Rank	Cases of strastors-	OFFENCE	Names of Witnesses	Panishment searded	sing with trial	We would hearded	Annual Re	
orden.	3.6.1	O Pte		Absent without leave - Sec 15(1)	L/Cpl Rowe Cpl Wilkinso	THE REPORT OF THE PERSON OF TH	10.6.40	Major G.D Ross-Smith	Frfts 5	iys
ield a	31-4.	1 Pte	B	Sec.15(1) A.W.L. from 0500 hrs 21 Apr 41 to 1530 hrs 22 Jun 41 (62 Ays, 7) hrs)		90 dys Detn. Pay stoppage £2-2-45 FR&I Can 1580		F.G.C.M.	Frfts 90 pay FSAI 149 1 b Frfts 65	da Ce
				Bec 24(2) A.A. Losing by neglect his clothing & regtl necessaries amounting to £2-2-45					pay FRAI 149 1 a Frfts 35	d
				Released from detention Base Setence having expired. Refor Detention Barracks and	rracks Alder mission earn Military Pr	shot on 26 Sep ed under "Rule isoners 30 ds;	9 41. 98		pay FR&I	C

Pince	Date of offence	Hank	Crans of drunken- nuse	OFFENCE	Names of Witzenson	Punishment awarded	Date of award or of order diagon- sing with trial	By whom awarded	Remarks *
Field 1	10.12.	41 Pt	e	Sec 16(4) A.A. Stealing property belonging to a person subject to Military Law to the value of £5	Documen- tary	tary prisonment with hard lab	our		149 (1) (a)
				Sec 15(1) A.A. A.W. from 2200 hrs 28 Oct 41 to apprehended by civil authorities at Aldershot of 22 Nov 41	the amount of apprehended by £2.11.9g the at Aldershot on £2.11.9g total forfeiture 40		pay FRAI Can 149 (1) (b) Frits 16 dye		
				Sec 24(2) A.A. Losing by leglect equipment, clothing and regtl		Total	forfeit	ure 407 da	arrent management of the second
				CEMULATED CHUE COPY					
				(F.J.G. O'Brien) Capt					

SHORT STATISHENT AS TO PARTICULARS

Complied as at 24 Nov 42

(a) The accused has been in confinement for

TWO DAYS

(b) The date of his attestation is

2 SEP 39

(c) The present age of the accused according to his attestation papers is

21 YRS

(d) The accused is not entitled to any military decorations or awards.

I hereby certify that the foregoing particulars are true extracts from the register book in my custody.

a/o.d. (1.3.0. O'brien) Capt (1.3.0. O'brien) Capt (3.0.0) RCASC Ate N. W. Hyms

Andread and I reputed them. Form for Assembly and Proceedings of Field General Court Martial on Active Service.

PROCEEDINGS.

On Active Service, this

July

Whereas it appears to me, the undersigned, an officer in

1st Canadian Division , on active service, that the persons named in the annexed Schedule, being subject to Military

such offences should be tried by an ordinary General Court Martial; *[and that it is not practicable to delay the trial for reference to a superior qualified officer.)

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

*I am unable to appoint

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

*(x. A Field Officer as President.)

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

for the following reasons, namely:--]

President.

Rank.

Name.

Major

J.W. Johanson

Regiment 1 Cdn Div Sigs

Members

Rank

Name.

Regiment.

Capt.

G.L. Cowerd

13 Cdn Tp C Goy

Lieut.

N.H. Ballingall

1 Cdn Div Sup Coln

J.W.R. Le Blond

Sask L.I. (MG)

Lieut.

Commanding 1st Canadian Division

Convening Officer.

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

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

Sil Pearles (G.R. Pearkes) Major-General Commanding 1st Canadian Division

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

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

(c) Recommendation to mercy, if any, to be inserted in this column.
 (d) It is not necessary that the Confirming Officer should sign his name in this column. Initials are sufficient.

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

I certify that the above Court assembled on the 29th day of the Schedule, and that the plea, finding, and sentence in the case proceedings. of each such person were as stated in the third and fourth columns of that Schedule. I also certify that :-I. The men, bers of the Court 2. The witnesses *(3. The interpreter) *(4. The officers under instruction) were duly sworn. President of the Court Martial I certify that the terms of *A.C.I. 570 of 1918 have been • See footnote I certify to the see footnote in the see footnote i Signed this President of the Court Martial I have dealt with the findings and sentences in the manner stated in the last column of the Schedule, and, subject to what Conferences I have there stated, I hereby confirm the above findings and . To be omitted day of July 1941.

Sil Pearles
Confirming Officer. 208. Promuigated and extracts taken in the case of A 9000 (a) (Dated) 2 any " Promulgated and extracts taken in the case of (Dated) (Signed) Promulgated and extracts taken in the case of

(a) When several cases are promulgated in one unit on the same day the Officer

need only sign once.

The accused, A.9000 Pte. Hyman, H.V., 1 Cdn. Div. Sup. Col., H.C.A.S.C., a soldier of the Canadian Army (Overseas) is charged with, while on active service

1. Army Act ABSENT WITHOUT LEAVE Sec 15 (1)

in that, he, in the field, absented himself without leave from 0000 hrs 21 Apr 41 until apprehended by Brighton Police at 1530 hrs 22 Jun 41.

sel.

2. Army Act LOSING BY NEGLECT HIS CLOTHING AND Sec 24 (2) REGIMENTAL NECESSARIES in that he, in the field on 22 Jun 41 was deficient the following articles:

Brushes, tooth	· 51
Combs, hair	. 2
Housewives	. 0
Knives, clasp	2.10
Gloves, knitted	1. 8
Socks, worsted	1.11
Towels, hand	1. 4
Vests, wollend Eyeshields A/G (6)	13.
Eyeshields A/G (6)	2.
Gloves A/G	2. 9
Helmets, steel	7: 3
Tins, mess	2. 3
Covers, tin mess	.)

2 2. 2. 42

O.C. 1 Cdn./Div. Sup. Col., RCASC

Do Daning

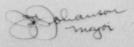
MEDICAL OFFICER'S CERTIFICATE

K.R. (CAN) PARA 557

	I certify that I have this morning examined
No.	A.9000. PTE. HYMAN. H.V.
of	ICAN Din SupplyCol. R.CRS.C. and in my opinion he
is	Unfit.to.undergo Trial by Court Martial.

Date 2.9 Jul. M.

G. G. Mr Harry Capt. Medical Officer M.O. R. C. A. S. C.



TRIAL of No. A 9000 Ate Alyman H.V.

PROSECUTOR Levent. B. L. Pryce I lan to whap holm DEFENGING OFFICER Livert Bardner I land our larger lay

OFFICERS under INSTRUCTION:

 The order convening the court is read in the presence of the accused.
 The accused is asked the following question;

"Do you object to be tried by the President or any Mambers of the court whose names you have heard read over?"

ANSWER;

3. The President, Members, Indee Advante, Officers under Instruction, Shorthand Writer and Interpreter are duly sworm.

(a) The accused answers to his name and number, and is duly arraigned on the charges.

(b) The accused having pleaded guilty to Lott the Charges, R.P-36 B) is complied with.

of A.F. A. 3, and his answer is recorded beneath the

6. The Prosecutor makes (ac) (the Following) opening address:

Address by Prosecution

I submit the following exhibits

Exhibit A Declaration of Court of Inquiry

Exhibit B Army Form 0,1618

Exhibit C Deficiencies of kit.

The Defence Council states that the accused states that he had not heard the Sections 4-44 which is a statement of facts and should this tentence should be out.

Daniege .

OTATAMENT BY DEPENDE

A 9000 Fte. Hyman, H.V. has an absolutely clear drime sheet since he had been in England. The total lack of ignorance regarding the Army Act. At no time since he has been in England can be remember the Sections 4 to 44 being read to him. The main point in his defence is that his drime sheet is clear and due to lack of ignorance it is not as slear as it should be.

De Johnson

AFTER FINDING

Sapt & Doney Is sworn and states;

I produce a certified true copy of A.F. B.122 relating to the accused. (THE said copy is marked signed by the President, and attached to the proceedings.)

QUESTION TO THE ACCUSED;

Do you wish to address the Court, or to call evidence as to character?.

ANSWER. VO

The (Accused) (Defending Officer) makes the following ples in mitigation of sentence. he attacked page of,

Page K Summary of Evidence in the case of A 9000 Pte Hyman H.V. IST WITNESS A9155 Sgt. Skuttleworth J. E. Section Sergeout "B" Section Soft. Shuttleworth J. E. Laving been duly awarn states I was section seargeant of B Section, I Can Di. Sup. Col. R.C.a. S. C. , A9000 Pta Hyman H. U. was one of my man. He was issued a weak-end pass from 1200 his 19 april 41 to 0800 km 21 april 41. at 0800 km 21 april 41. Pte Hyman failed to answer his name at roll call. I have not seen him since with I heard he had been appealed at Brighton on 22 nd fine 41. J.C. Shutthworth of The accuracy declined to cross examine the witness

WITNESS

hiert. a. G. Hudson

a/administration officer

heart. G. S. Hudson Rawing bean duly swow states

I am the a/ aministration officer, I can Dis Sup. Col. R.C. a. S.C.

I produce the following documentary evidence in the case of A 9000 Pte. Hyman H. V.

1. Declaration of Court of Inquiry and list of deficiencies of clothing and agricument . Exhibit A

2. Cartificate of approhention by Brighton Constabulary.

I wish also to state the following Pte. Hyman was returned to this wint on 23 June et 1. On 24 June 41 le was evacuated to 5 % field amb. to be treated for scalies. He was later at 8th field amb. and was released on 20 July 41 and brought buck to 1 Cdm. Dir. Sup. Col. on that date. During this period he was under close arrest.

all luce line

The accused declined to cross-excomma the witness.

Delanson

3 WITNESS P28118 C. Q. M. S. Davis J. Quartermaster C. O. M. S. Davis J. Rawing been duly sworm states Daw the Brantemaster, I Can Die. Sup. Col. R. C. a. S. C. 3 Rave checked the but of A 9000 Pta. Hyman H.V. on 2, July 41 and declare the list of deficiencies of elothing and equipment shown on the attached to be a true list Exhibit C' How Coms The accured declined to crass examine the witness. The accused was asked if he wished to make any statement after having been duly wormed in accordance to Rules of Personaure Para 4 8. He declined I certify the above Summary of Evidence has been taken down in accordance to the regulations set forth in Rules of Procedure in the a.a. Cox Somewille Papt 1 Can Din Sup Col. 21 July 41 Delanson major

LIST OF SCHOOL

Exhibit o

Exhibit a .- Declaration of Court of Inquiry Exhibit 3 / Lray Form D.1018 Deficiencies of wit

DECLARATION

	No	W.C.A.S.C.	
ILLEGALLY ADSENTED HIMSE	LF WITHOUT LEAVE	from his unit and A	
AT		ON THE 21st	
		DEFICIENT, AND THAT HE	
DEFICIENT OF THE FOLLOWI	NG ABTICLES,- SI	in THIRIT "A" at	tashed.
Art ic les	Value	Articles:	Value
		1 2 Sing	PERSONA

Polanson

M.F.B. 259 58674019.8 1772-79-504

PART II.

Army Form O.1618.

Apprehension of No			
Regiment at.		by	
who was committed as a Deser	ter (or Absentee		
RECOM	MENDATIO	N FOR REWARD.	
1 RECOMMEND*	5.5		
Address			
for a reward of.'			

"The Magistrate will insert the name and address (in ruli) of the person for whom the reward is recommended, and the amount (5]-, 10/-, 10/-, or 20/-) which in his opinion should be granted in this particular case, having regard to the following rules :--

- 1. When soldiers are apprehended in uniform near their quarters it is considered that as a general rule 5/- is a sufficient reward. Not more than 10/- will be allowed in any case where the soldiers were in uniform.
- 2. When soldiers are apprehended in plain clothes, at a distance from their units, and after having been absent for some time, the reward may be increased to 10 /- or 15 /- according to the nature of the cases and the trouble incurred in apprehension. A reward in excess of 15 f-
- 3. The reward of 20%- should be strictly reserved for cases where superior intelligence has been displayed in apprehending men in plain clothes, or under difficult or exceptional

Rewards and expenses attendant upon apprehensions will be paid by the Command Paymaster of the Command or District in which the soldier's Cust is statumed.

4. No reward can be authorised if the Deserter or Absentee volumerity surrendered or if it shall appear that he was in collusion with the person who apprehended him, or if the apprehended man was not a Deserter or Aleeman.

Carr should be taken to unsert Army No. and Rank Insert "was apprehended" or "surrendered," as the uses may be

It is important for the public Service, and for the interest of the Decerter or Alexander subbasis case, that this part of the return should be accurately tilted on and the details about de moeried by the Justice in his own handwriting, or under his direction, by his clerk. * Insert a or a not a baserser or "Absentee without leave ton, or "belongs," or "does not lector, to," as the case may be

The following Statement of expenses (if any) incurred by the Police and chargeable to Army Funds should be certified by a Superintendent or Officer in charge of a station.

No expenses incurred in conveying a Deserter or Absentee from the trmy funds. Such expenses can be included in the claim made on the l	Timer Samming Control of the Control
The total amount allowed on account of expenses before commi- accest 40/-	ttai will not together with the reward
I CERTIFY that the following expenses were incurred	by the
Police in connection with the apprehension of	
	and are
payable to	
	(Superintendent or Officer
Date	(E- A-my use only)
AUTHORITY for the PAYMENT of a REWARD.	(For Army use only.)
The Command Paymaster	is hereby authorised to
pay tobein	g the person recommended by the
Commission Magistrate, a reward of	for the apprehension
el .	
	(O,C, Unit)

Where on reward is authorised though one was recommended by the Magistrato, or where the reward authorised is less than that recommended, a brief explanation will be given below ;— IMMEDIATE.

Army Form O.1518.

PART I.

DESCRIPTIVE RETURN of a Deserter or Absentee without Leave.

INSTRUCTIONS FOR THE GUIDANCE OF MAGISTRATES.

- (1) When a man is apprehended by the Civil Power as an absentee without leave, or as a deserter, if the information tendered leaves no doubt in the mind of the Magistrate that the prisoner is a soldier, this return should be completed and given to the Police to hand to the escort on arrival.
- (2) To avoid delay in the arrival of the escort a telegram stating the Namier. Mank, Name and Unit of the solder should be sent by the Police, as soon as the man is committed, to the Officer commanding the soldier's Unit. The place where the month is required to attend chould be stated, also whether the soldier surrendered or was errected.
 - (3) Any recommendation for a reward should be trade on Part II of this return.
- (4) The Court iees chargeable for Descriptive Returns should be claimed personally from the Command Paymaster of the Command in which the Court is situated.
- (b) The stations of all Units are shown in the Monthly Army List, as are also the Depots of Corps.

In the case of doubt as to the location of a particular Unit reference abouid be made to the nearest O.C. Troops. Where the soldier's Unit is stationed overseas (out-ride Great Bertain, Northern Ireland District, and the Channel Islands) the telegram for an escort should be despatched to the O.C. Depot, who will take all necessary action for its provision.

(*anit) \$1,0070,007 30,000 11,00 3.0 6.9 had \$9,800 \$9000 0.108/60

Certified that the above clothing and equipment was in my possession on this date

Data On 13 194 00

(380) J. J. Chyman

mitness | Maris

____C.G.M.S.

(attike out any item not in possession of Soldier.)
(add any item of Government equipment or slothing not enumerated)
(will in seriel number of any articles so marked)

Marion

Deficiencies in clothing and Equipment Pte. Hyman, H.V. A 9000.

Brushes tooth Combs hair Housewives Knives clasp Gloves knitted drab Socks worsted Towels hand Vests woollen Drawers woollen Drawers woollen Eyeshields A/G (pkt of 6)	-/5½ -/2 -/6 2/10 1/11 1/4 13/ 6/3 2/9 7/2/3
Eyeshields A/G (par of cloves A/G (loves A/G Helmets steel MkI mins mess covers tin mess	2/ 3 2/ 3 2 2-2-4

£ 2-2-4

let con Div Sup Col acasc.

i, the accomed. Pte. Hyman, H.V. wish to have an officer defend me at my trial by risk Ceneral Bourt Martial

11 The Peter (N.V. Hyman) Ste. Col., Rd 10

Blandy.

Date of last en Company Con	try in	1	N	o and date last drunk Period not reckoning towards freedom from extra fine Teachers freedom from extra fine	Sheet No.	1 Signature O Company, 6		Character	Aemark
Tiace	Date of offence	Kank	Cases of drunken-	OFFENCE	Mames of Witnesses	FUNISHMENT SWEEDER	sing with trial		
This o	ROASO	TO		OF BORDER 26-2-40 Pt. II or.	58 4,27 F	0 40			
Camp Bords		Pte		Sea 10(1) A.A. ANA	1/001 Bowe	7 Asya C.B.	10-6-40	Major Ross	5 da pay
	303.1	o Ge	nera	Holding Whit w.e.f. 14-7-40	art II Order	No. 182, 8/1	7-40		
	303.	n be	ing i	declared a desertor w.e.f. 21 10	r 41.				
					2Ha	olië Major		blance	

Pta Hyrda N.R.

	PART I.	SCHE	ING(S) AND SENTENCE.
used: At5988 Pts	AND DESCRIPTION OF THE PARTY OF	OBERT	3D4 . R. R. g. R. 10 CHR RD.
Charge.	Plea.	Finding. (See note below.) Guilty	(Space for use as required for further charges, accused charged jointly, special findings, etc.)
A A Sec 124	Grulty	d bing	
d			
db			
th		fances see AA 56, RP 4 753, and in loss of kit	14 : Findings on alternative charges see MML p 483 fn 4 para 2, RP 44 : see RP 44 (n 6-)
	-0	ers deter	-m 0 1 - m .
-		of Convening Order of	is to assembly and disposal of record after triol.)
PART II.	MINUTE	of Convening Order of	Sign President (RP 45, 50) Path awarded, In to essembly and disposal of record after triol.) FIRMATION RESERVED. (AA 54(5), RP 120(F), MML p 760.) Commanding
PART II.	MINUTE (Sgri)	of Convening Order a	FIRMATION RESERVED. (AA 54(5), RF 120(F), MALL p 760.) Commanding
PART II. PART II (For duties is confirmation promutgate 57A, 875 35) My decision	(Sgrd) 1. DECISIO and powers see As 5 a and counsed the resisted, occurred may be to an A 54. The Confirming on the findings:	of Convening Order a WHERE CONF N OF CONFII 4, 57, 8F 33(D) fo 6, 6 ed : AA 54(3). Seed ed : AA 54(3). S	Commanding RMING OFFR ON FINDING(S) AND SENTENCE 14(A), 51-56, 120, MML pp 759-761, 132 Construction requires requires regular regul
PART II. Date PART II (For duties i confirmation promulgate 57A, 8 5 53) My decision	(Sgri) 1. DECISIO and powers see AA 5 a said consust for resist of the first of th	WHERE CONFIDENCE OF THE PROPERTY OF CONFIDENCE OF THE PROPERTY	FIRMATION RESERVED. (AA S4(5), 8P 120(F), MML p 760.) Commanding RMING OFFR ON FINDING(5) AND SENTENCE 46(A), 515 120, MML pb 759-761, KR Can 567-577. Acquitately require my fine plack findings or sentence for revision by Court: As 54(2), RF 120(G). The processing or sentence for revision by Court: As 54(2), RF 120(G). The processing or sentence for revision by Court: As 54(2), RF 120(G). The processing or sentence for revision by Court: As 54(2), RF 120(G). The processing of the confirmation or non-confirmation she elected before MANING the confirmation or non-confirmation of reviewing offra: As 57, processingly, AA 172 fn (.) et forth in Part I is: Out of the processing of the court of the c
PART II. Date PART III (For daties is confirmation not confirm promutgette 57A, 875 33) My decision I direct th	(Sgd) 1. DECISIO and powers see AA 5 a and connet be resisted, occurred may be to in . R 53. MMs p to on the finding(s) and the finding(s) and the finding(s) and the finding(s) and the finding(s) are the finding(s).	WHERE CONFIDENCE OF THE PROPERTY OF CONFIDENCE OF THE PROPERTY	Commanding Commanding RMING OFFR ON FINDING(S) AND SENTENCE 16(A), 51-50, 120, MML pp 759-761, KR Can 567-577. Acquittely require no ning by the processing of the processi
PART II. PART III (For daties i confirmation not confirm promulgate 57A, 8753) My decision	(Sgri) 1. DECISIO and powers see As 5 a and connet for resis a sort connet for resis a sort connet for resis a on the findings a on the findings but 18 = PART IV.	WHERE CONFI	Commanding RMING OFFR ON FINDING(S) AND SENTENCE 16(A), 51-56, 120, MML pp 759-761, KR Can 567-577. Acquitteds require no ping by the processing of receiving by Court: AA 54(2), RP 120(G). If includes of continuation or non-conformation may be distant better personally AA 172 fn 1.) 18 of the processing of receiving processing office is an A 51, personally AA 172 fn 1.) 19 of forth in Part I is: 19 of the processing office in the processing of the processi

RECORDED AT CMHQ IN AB 160, YVV FIELD GENERAL COURT-MARTIAL CPANE TO THE APART _____dated_33-98F_44-5 12007 1990 Comd. 2 SBB9. ACCUSED.

ACCUSED.

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

Full Christian Names.

Full Christian Names. Number. (a) Prmnt R. (b) Appmt, A/R or A/Appmt. Full Christian Names. K-5088 Fto ROBERT Jefe R. Livermonett PROCEEDINGS REWEWED 126 det PROCEEDINGS OF TRIAL. REVIEWING OFFICER, JAG BRANCH C.M.H.Q. on (date(s)) 13,14,16 RECORD FORM A-OPENING PROCEEDINGS AND ARRAIGNMENT. 16/144 Held in the Fd in (country) FRANCE. Al. The President, Members, waiting Member, The President, Members, waiting Members, and the IPRINTED MATTER, NOT IN ITALICS FOR GUIDANCE, WILL BE DELETED, IF NOT USED OR APPLICABLE, AND INITIALLED. President for conducting the usual are AA 53, AF 3c. e.s.70, 73, 74, 94, 103, 119, 132.)

The Court is satisfied that it is properly convened and constituted by accused is amenable to military law, and each charge discloses an offence (b).

(I) As to use of Summers of Epidence are RF 12 to 5. each charge discloses an offence [1].

(I. As to use of Summery of Eridence see RF 17 to 6. 2. AA 49, 50, RF 105-107. 3. RF 11-13, 23, 24.)

A3. The Court is opened. The accused is [2] brought before the Court. At 1010. hours trial examinences.

A4. The Prosecutor produces a Medical Certificate that accused is [2] it to undergo trial by court smartial (1).

The Prosecutor informs the Court that accused elected to be tried by court-martial instead of being death with summarily by the CO.(2).

(I. KR Con 557. 2. AA 46(8), RF 60 fo 1. For effect see KR Con 563(c). Delete, if not opplicable. President to account the year object to as interpreter t Am Interpreter is excent?) To you A6. The Convening Order and names of the President and Members of the Court are read to the accused.(!)
President to accused: Do you object to be tried by me as President or by any of the Members of the Court ! Phonesissianist water in annual Capt: D.E. McFEE RCA RCBR Bn
Lieut: F.E. WALSH CIC 11 CBR Bn President Momber Lieut. L. HERRING CIC II CBR Bn. Member Lieut. J.D. TOBIN CIC II CBR Bm Questions by President: Is the Prosecutor a lawyer | Ans NO. Is the Defending Offr a lawyer | Ans NO. (5)

(I) If a special piece is made for separate trust on one or more charges (87 62(E), 108), or or to the jurisdictive of the Court (87 34, 15(A), 113), or is her of trust (87 36), or or to occased a mental fitness to stand trust (AA 130, 87 57), or by one of several accused charges sincised the residence, if one, one finding one recorded per before, or formed one of the occusion of several per before, for formed one of the occusion of the occasion of the occusion occusion of the occusion occusion of the occusion occus

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

2 CBRG VOLD # 11

INSTRUCTIONS ON PROCELURE AFTER ARRAIGNMENT.

- 1. The accused may not plead or be found Guilty on more than one of two or more charges laid in the alternative (RP 37(A).) As to withdrawal of alternative charges by Prosecutor see RP 35(C). No other charge can be withdrawn for any reason without authy from Convening Offr. If Convening Offr concurs, Court may accept plea of Guilty to lesser, etc, offence. (RP 44R).) Accused may change a plea of Not Guilty to Guilty during trial. (RP 38.) As to refusing to plead or not pleading intelligibly see RP 35(A). As to plea when sentence may be death see RP 35(D).
- 2. The proceedings on each charge sheet (RP 62) after arraignment will be conducted as follows in the respective
 - I. If pleas to all charges are GUILTY, use Record Form B below.
 - 11. If pleas to all charges are NOT GUILTY, use Record Form D on p 3.
 - 111. If pleas to some charges are GUILTY and to other charges are NOT GUILTY and,
 - (a) Such mixed pleas occur when there are no alternative charges in the Charge Sheet, use Record Form C
 - (b) Such mixed pleas occur in a set of two or more charges laid in the alternative, see RP 37 (A) and fn 2 as to discretion of Court, (i) to try the accused on all such alternative charges as if he had pleaded Not Guilty thereto, or, (ii) to record the pleas as the findings of Court. After deciding between (i) and (ii), Court will proceed under foregoing instra as may be appropriate to result of its decision. See MML p 744 Instrs (2).
- 3. As to responsibility of President to accused see RP 50, 60(C); powers and duties of JA are RP 103; duty of Prosecutor see RP 60(A) (B); duty and privileges of accused and Defending Offr see RP 60(C), 87(C), 91, 92; swearing and withdrawal of witnesses from Coart see RP 81, 82; questioning of accused see RP 80, 87(C), 92(B), and of witnesses see RP 85-85; calling or re-culling of witnesses by Coart, 6c, see RP 75-79, 86, 110; use of Summary of Evidence at Trial see RP 17(E) fn 6; and responsibility of JA or Pres to record proceedings see RP 94, 96.

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

The President or JA, if any, complies with RP 35(B) by explaining to the accused the nature and meaning $(s_i(s))^{(1)}$, and that on his plea of Guilty there will be no regular trial but merely a consideration of the between the has been given an opportunity to make a statement in reference to the charge(s), of the chart sentence to be haracter and make an address in mitigation of punishment.(2)

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

President to accused : Do you wish to make estatement ! Ans (1. RF 37(B), 2. RF 37(D) (n. 6. 2. RF 35(D) (n.5 para 3, MML p.54 para 47. 4. See para E3 of Record Form E. 5. Statement, If any, recorded per Nates.)

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

B4. On the charge(s) to which the plea(s) of Guilty is (are) not changed the President records finding(s) of Guilty in Part I of the Schedule.(1)
(1. AF 35(8). If any plea(s) is (are) changed, use Record Form C or D as appropriate.)

B5. The Summary of Evidence is marked Ex..., initialled and read aloud by the President.(1)
(1. If there is no Summary, or if it is inodequate, comply with RF 27(E). If there is any evidence inclusions with any place standing as Guilty. Court will advise accused to change such place and, if changed to Not Guilty, try such thereof; by use of pores D1 to D8 inclusives of Record Form D on p 1. RF 27(D).)

ed having been found Guilty on one or more of the charges, the proceedings are using Record Form E on p 3.

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

- Cl. As to the charge on which accused pleaded NOT GUILTY the trial is continued by using paras Dl to DS inclusive of Record Form D on 1 before proceeding with C 2.(1)
- C2. The charges on which accused pleaded ONLLTY are read to him (them) again, and the trial is continued by using paras B1 to B3 of Record Form B above.(1)

 (1) Under 85 such parts only of the Summers of Evidence are read at minute to the charges dealt with under C2. If any piec is charged to Not Californ, trial thereon proceeds by complying with paras D1 to D8 inclusive in Recard Form D on p 2 and making on appropriate record thereof on a separate sheet.)

C3. The accused having been found Guilty on one or more of the charges, the pre-centings are concluded by using

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS

Pin here Loose Sheets of Record.

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

D1. President to accused: Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity to prepare your defence? Ans. No. 512.

(i. if "res", see RF 39(A) for procedure. Statement or evidence, if any, is recorded per Notes.)

D2. The Prosecutor makes (an) (ho) opening address, (1)

(1. RF 39(8), 60(A) (8), 90. 92(C) (D). Record address per Notes, subject to RF 95(C).)

The evidence for the Prosecution is taken.(1)
(I. RP 39(C), 114, KR Can 555. Record evidence per Notes. As to Prosecutor giving evidence himself see RP 39(D) (E).) D4. The Prosecution is closed.(1) The Defending Offr submits that the evidence for the Prosecution does not ablish a prima facte case against the accused on the establish a prime facie case against the accused on the charge of the charge of the court is closed, and considers the submission. (3) The Court is re-opened and the President announces that the submission is disallowed on the charge of the

OK charged, and that, a

(1. Delete remainder of this baro, if submission not made. 2. Arguments on submission, answer and reply are recorded per Notes. 3. RP 40 fn 1. See MML p 72 paras 12-14 and p 81 para 42. 4. Delete part not used. If occused acquitted on all charges, use second diternative in para 08.)

NB: If trial proceeds, accused must be allowed great letitude in making his defence, and the Court should not stop his defence solely on ground at irrelevance. (RP 60(C), 114, 115.)

D5. President to accused: You will now proceed with your defence.(1) You may, if you wish, give evidence

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

Ans yes, a statement. Do you intend to call witnesses on your behalf! Ans NO, SIV Are they witnesses as to character only ! And Ditte RP 115. 2. RP 40(A), see 80(D). 3. RP 40 fn 10. 4. RP 40 fns 2, 9.)

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

(1 88 | 14, 115, 116. For procedure see Notes so book of Convening Order, CF 895. Exidence for accused as to his
therefore should, of in his interests, be given before the finding. See 89 454.9 in 1, 866.(C). Note the further opportunity in pare E1
of Record Form E. Record per Notes addresses, statement, evidence and any summing up by the jk under 89 41, [93(c).)

D7. The Court is closed to consider the finding (*). The finding (*) of the Court is exposured.

of the Schedule.(2) The Court is re-opened.
(1. RP 43, 117(A). See Notes in Part I of Schedule. 2. RP 44(A).)

graph Day The President appropriate the finding(s), if any, of Not Guilty, and states to the escaped that the finding(s) - charge(a), being anhiest to confirmation, will be promulgated later (3) On The President approximate that the recovery is found Not Guilly on all charges and is to be released forthwith and the president age accordingly terminated. Part I of the Schoole's is dated and signed (2).

(I. AA 54(3) (6), RF 45, 120(A). Z. AA 54(5), RF 45, 117. To are pleas of Guilty outstanding and dealt with under Recard Fator B or C.)

D0. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E below.

RECORD FORM E-PROCEEDINGS ON CONVICTION BEFORE SENTENCE.

second . Do you wish to give evidence yourself or to call any witnesses as to your character \$(*)

(i. if exidence has already been given by accused or his witnesses as to his character, delete this part. BF D(C) fo 4, 46 fn 1.

Accused and witnesses are swim. Evidence recorded for Notes.)

E2. The Prosecutor produces Statement 1 on to Character and Particulars of Service(1), and certified true copy of Conduct Sheet(s)(1), purporting to refer to the accused, which he submits to the Defending Offr for examination, and then to the Court for admission in evidence. The Court is satisfied that these documents refer to the accused, because (i) they purport to be signed in the manner required by AA 163(1)(g) (h), and (ii) they purport

to refer to (a) soldier; baving the same number, rank, name and corps as the accused. Admitted in evider marked Ex. B and Ex. BC. respectively (2)

(1. MFB 355 or AFB 296. 2. MFM 6. 3. AF 46, KR Con 558. If showe documents not produced, see RF 46 fn 1 perc ()

E3. Freedent to accused: Do you wish to address the Court on the Statement and Conduct Sheet(s), and in mitigation of punishment (1). Ans. (2), 511" (1. A7 DIC), 46(D). 2. Address if one, recorded per Notes. Court should permit occused or his witnesses to prove an auth anything here is previously stated which would riflect the amount of punishment. AF 31(F) (5 1)

E4. The President states that the Court is closed to consider the sentence, and that the sentence to be awarded by the Court, being subject to confirmation, will not be announced, but will be promulgated later, and the exceedings in open court are ac (/. AA 54(6), AF (20(A)) urt are accordingly terminated.(1)

E5. The Court considers the sentence (*) The President records the sentence in Part I of the Schedule, which is dated and signed by him and the JA, if any (*) (*). One sentence solv, comprised of the positioned or positioned to down as A4 (*), 44 and at provise, a to be described to cave although it will be a non-sentence solved spuller. Set the summaries are A4 (*), 45 and as provise, as to be described to cave at the part of the positioned and the set of the positioned set A4 (*), 45 and a set of the positioned set A4 (*), 55 and 56 (*), 56 (

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

The accused, K 5038 Pte HYNDA, N.R., R Mpg Rif on the reinforcement strength of 10 Cdn Base Rft Bn, a soldier of the Cdn Army Overseas

is charged with

FIRST CHARGE A.A. Sec 12(1) MERN ON ACTIVE SERVICE DESERVING HIS MAJESTY'S FORCES

in that he

In the Field, on 3 Sep 44, having been warned for draft to proceed to the Field, with intent to avoid so proceeding, absented himself a without leave from 1530 hrs 3 Sep 44 until surrendering himself at 2100 hrs 4 Sep 44. (Absent 1 day 5 hours 30 minutes).

In the Field 8 Sep 44

(A T Lew) Lt-Onl 00 10 0 B R Bn

TO BE THISD BY FIRED GENERAL SCHOOL MARTIAL

(G Francour) Brig

Cond 2 Cdn Base Rft Gp

In the Field 11 SEP 44



FIELD GENERAL COURT-MARTIAL

(Whether the accused to be tried is under his comd or not, a FGCM may on application to him be convened by any affr of Cdm Army Chernest, or of any other force if authorized in low, in immediate comd of troops an active service, subject to RP 105(C) and restrictions imposed by appropriate nuthy. As 49, 30, RP 104-107, 114. As to the duties and privileges of the Convening Office in dealing with the application see MML. Chap Y pharms 20 and 23, There should be a separate Convening Order for each person to be tried separately by the same Court. RP 71(C), 109. As to separate change sheets see RP 62, and as to separate trial on charges in the same charge sheet see RP 108. As to two or more accused charged jointly see RP 10, and as to reasons for showing (a) permanent or confirmed rank, and (b) appmt. A/rank or A/appmt. if any see AA 182, 183, fms. KR Com 200, 328, 330.)

ACCUSED.

Number. (a) Prmnt R. (b) Appmt, A/R or A/Appmt. Full Christian Names. Surname.

Unit.

K+5088

ORMAN OBERT

R Wos R, 10 lin ho

CONVENING ORDER.

- And whereas I am of opinion that it is not practicable that such offence(s) should be tried by an ordinary General Court-Martial; (and that at the tree practicable to delay that the for reference to a superior qualified cells.) (Delete part in brocket when not require is compliance with RP 105(C).)
- or detailed hereunder.
- I hereby convene a Field General Court-Martial to try the said person(s), and to consist of the Office appointed illed hereunder.

 Less unable to appoint (s) three Office to form the Court, that Fid Offices President, for the seasons I have been been as the season (AA 49, 89 106(8), 107(A). Delete the spoke of part, if not applicable.)
 - (RF 106(E). Delete, I none appointed.)

PRESIDENT

	DW N COOPE		
(Rank.)		(Must be named. AP 106.)	(Sex.)
		MEMBERS.	
9,91	To be detail	led by 00 21 CHR Bu	1 , 33,538,3m
Seut. (Rank.)	To be detail	and by 00 11 DBR Bn (Normed or detailed. RF 106.)	11 CBR 9n
		WAITING MEMBER.	
apt	To be detail	ind by OC 12 CBR Bo	22.038.3n
(Rank.)		(Named or decalled, if any. RP 10s.)	(Gites)
		- HIDSEADVOCATE OF	
(Rank.)		(Must be named. if any. RP (Q6.)	(Shirk.)
Active Service	in the Fd	69	
PRANCE		And a little with the little programmer, or all the programmer and the little programmer and the	cer brigadier
(Country.)		(Signed personally. AP 105 (a 2.) (C Francoeur)	(Part.)
ate 11 SE	P 44	Commanding 2 CDN BASE HYT C	if the second second

CONVENING OFFR WILL INITIAL ALL DELETIONS AND ALTERATIONS

4/38A PAR ID HELD OF APAT

(See overled for noths and notes for use on trial.)

16 SFPT44 . II. CBRBN THIS IS TO CERTIFY THAT I HAVE THIS PRY EXAMINED K 50881 PE. MNYDR. N.R. AND FOUND HIM fet TO UNDERGO TRIAL BY COURT-MARTIAL Septleagh gme

11 CBR Bn

I HAVE THIS DATE EXAMINED K 50881 PTE HNYDA. N.S.- 8.W.R. (No) (Rank) (Name) (Unit)

AND FIND HIM TO UNDERGO TRIAL BY COURT MARTIAL

Signed ... Augall bobt Com

DATE 14. 55 P.T. 44

DATE ... 13 Septes I HAVE TRIS DATE EXAMINED ... KSPSS / Pts. ... Have tris Date Examined ... (No.) (No.) (Unit) AND FIND HIMTO UNDEEGO TRIAL BY COURT MARTIAL. Stand ... Stephelloft Conu

11 CBR Br

DATE ... 13 Sep. 1 44 I HAVE THIS DATE EXAMINED .. HOOF (No. HAYDE .. HAYDE .. HAYDE .. HOYDE (Unit) and FIND RIM TO UNDERGO TRIAL BY COURT MARTIAL

signed ... A Signilles follower

Page 1 9

One

Evidence in the lase of K 5088 for Nerman Robert Nynda, R wyg R. 10 CORON tried by Geld General Court Martial, in the field & Sep Hel

The bourt having assembled and no objections being raised as to its constitution was duly severn. Charge was red to the accused and a plea of not quilty entired

he in he luly swam states:

On 3 Sept 44 I was detailed to witness the reading of a draft warning orders and the calling of the maminal roll of men proceeding en draft The received whom I recognize answered his name, an that parade at approx 1230 hr. Later in the afternoon but M. Beak

reported to me that the Synda, the accused was absent when the dight moved off.

bears from to who called the Kall?

4. Could you say, from memory, if 2.3. M. Cook read draft warning beder to troops in accordance with K.R. 1099 warning order to troops) and if he followed amendments as detailed in a rectione beder Sated & Juniof of from Jan. H. N. G. 1 Ech. ?

A. 44.

a definite time and place, where and when the deaft was to move off.

A. Con Cook stated the time of

rage 8. 07. DNe a sacade in the Boy lines and warnes the men that they were E.B. Cham by Court: Could you give agreed wording of warning arder that was real to the accused. A. yes appear. you see warned, for special duty and anyone who is absent from a parade that will be called later will be charged with Q. loss anighing said what the diegt was to do between time of draft warning and time of moving of A. They were to have Med. inspection Q was accused present for med propon A. I don't know I was not there & was suffing said to the men if they CB A. yes. Can Cook in warning cities stated they, the draft, were c. s. court adjacened , to give the prosecution time to obtain the attendance gesm feat they welves for the presecution 14 sept of Court adjusted sine die On 16 dep 44 The court succeeded wethert CSM feek, whose attendance fould not be obtained in the near future, after having referred the matter to the Convening Officer

Page 3 of. 1st Witness Capt W. Bucks was recalled (by) & In answer to question could you Day from memory if com Cook read draft in accordance with KR 1099 warning arder to troops) your answer A. yes. Q. Could you remember if C. S. M. Cook said office the following at some time prior to departure of this dieff a parade well be called at which parade the exact date and time of departies will be told to you. A. So the best of my knowledge and belief I do semember CSM giving those instructions, (aux) Q. To your belief, the warning given on this serade, the warning read out En this serale was a definite warning as to draft. A. It was a defente warning, to typewritten form, and read but before before the reading of which, C.S. M. Cook asked all ranks if they could hear his vace there were no lessenting (by) Q. After the warning was read out to the parade were they guerred as to whether they understood the deaft warning A. I remember C.S. M. Cock Asking y they were clear regarding the maning of what he sad read. a end were there may querien A. No there were none.

aut) Q. I am believe I am carrect in Daying that you heard Com Cook read off a printed form the following (do before, the step question) as words to that effect and also in answer to you stated that the time of a suide in the cay lines was given out by C. S.M. Cook and the men wained they were C. G. On the 1230 his parale A. Yes, Ser, He time "a parede may have referred to a G.M as M.O.s parade. 2 MD Welness duly swam 8.74684 Sgt. Donald of Lune Set 11 BN. Q Cm 3 rep It you were at what Da. A. I was on the Strength of 10 Bar 41 Cay Q. What was your duty H. Jewas Orderly Lat. a would you tell the court your duties on the afternoon of the 3 dep of A. On Sunday 3 Sept 4, as orderly segt. a draft was called out I was the of the evetnessing N.C.O. at 1230 her C.s.m Cook had the Gry formed up. He Celled out the names of a draft and they fell in on the right of the Cey. The recused whom Precognize fell out with this draft on the right of the Lay. When the draft was fermed up C'S.M Cook then read the warning order to them. There was no defente time set as to when the draft would move of hey were told they would parade to the GM the 100 and the BD. at 1230 hrs

Page 5 of. all men on the draft were called But and CSM and Called the coll It which time to Hynda the accused was missing, C.S.M. Cash Ordered me as orderly tet to check tents and lines to see if he could be located. after I looked drawnd for a Certain length of time I reported back that he fould not be found. The draft left the parade ground at approx. 1630 his and the accused did not go with it. (aus) & after the draft warning order was read out was the draft asked if they understood the warning order. A. yes they were asked of they understand and no one disserted by) & I want you to try and remember is well as you can y C.S.M. Cook told the droft at the time of Meading the draft warning tider (1230 has 35 gra) the least time and place of departure of the deaft A. not that I recall, at the time, ded be give any special time or place for the deapt to move off Q. Ded & s. M. Cook say the following to the droft, after reading the draft Warning order at 1230 his 3 dept of 4 The time of the last parade for this draft of do not know at the great A. yes these on the words f. S.M. Look said to the men.

(Two) Q. Did the C.S. M. warn the draft that they were confined to their lines after they had attended the M.O. parade until the draft was to move off. H. I don't know I did not stay until the end of the 1230 has parade. (Court)Q. Was the draft told while you were on the 10 30 parale that they were 3. B. A. I den't recall them being told that a Were you on the M.O. & M. or D.O. parades A. de see & was not Q. Do you know where the MO. farede was held A dan't know sie diedund by Pros & musseine leve were no further questions. The following motion is peopletfully submitted by the defence at this point. In as much so the evidence produced by the prosecution is in places at variance and also sence it has been shown from evidence of The last witness called by the prosecution and publisheded in part at least by statement of the first coetness for the prosecution that the draft willing Order in question, lead to the accused an parade at 1000 his 3 sap shi did not Centain paragraph relative to bederapam Gila Section B. Ha - 1 set, relative to dreft warning Orders in that the

Page 7 9 exact time and place of the final movement of the draft was not given The Defence submits theypre that a reasonable doubt could have existed in the mind of the accused agarding the movement of the draft. Maryover the Defence is supered to introduce for the courts inspection a specialic report stating that the socused is of newous temperment from apprience in section the above being so the Defence respectfully asks the court to consider this motion that under army act 59 the accused be lived under the lesser offence of AWL. and not desertion. The Court adjaurned to Consider motion The putmission on 125 charge is disallo and case will present. Vare DS was read. (aut) Q. Do you wish to make a statement A The accused will make a Statement not on Oath. a do you entend to call welvers an your to behalf H. No This man is not known around here as to Character his unit being for Latement by accused I tame to recekber 1444. was there one day the mest day

Do you wish intend to call DML A This man be not progress as to character here his unit king for Statement by secured of came to 10 CBEB 1st 44 from there one day she rest day we were called on draft I went three farales QM. M.C. art D.O. I came tack to the lines do ser A was under never. Strain as I had just Come from hospital I den't know what I was doing and I wandered of the lines and went into Delwerarde, of Stayed around the maple Leaf club trying to see if I knew anytody around there and I couldn't see anybody that I knew night came on and I found a barn to sleep in I slept there until I woke up the next maining and I religed what I had done. I became frightened and reserted to the military Jolice they brought me back that is all Der.

Jage 9 Jums us prosecution has shown that the man attended the East warning reade and that he understood the Surpose & Becommon of that perede. artnesses have proved that altho no time was set for the dreft to move fud. The dieft was warned that it was confined to their times effect Mending the necessary admin lared so that they would be wallable for final movement. The accused widently understood the warning and as he did not question the warning order, and

Page 10. 96 Dire Summary for defence. The defence has pointed out that the testimony of the is witnesses called by the presecution is at variance The Defences has pointed out by from examination that a possibility I doubt lould have existed in the account regarding the Stead time of draft, The Sepace points best in closing the unusual mature of this case due to the absence of the main witness for the prosecution and the lack I definite proof of intent on the fact of the accused The Court Closed to consider finding

Conduct Sheet thea of mitigation forbluding the def makes the following plea in miligation. I wish to point out that the accused is a man who has served with his reg. in the front lines for approx a period of I weeks the areas sent to hospital suffering from stock and after of days was devalued. for the field the dep submits within man may have been motivated by feelings stronger then himself and in view of his service auts the faults clemency. It is unfeiturate that he is unable to produce wilness as to his character as his reg is freed. his record up to this offence as for as is known has been clear. Here points the day asks the sout to Consider when passing sentence on the occused. And you Court now closed.

CENTERIGATE UNDER THE ARMY ACT, DECTION 163 (1) (J)
I. A. W. L. K. A. Apt. where the the
Reg No K 5:988.4. Rank L. T Name . Hory de M. IR.
REGIMENT SUCCESSION
UNIT
STATIONED AT DOWN. 18 E.S.
Surrendered himself to No 638. 188. Bank Speech Hame Rendered . The delication
of the Me A Softer I of Son Browness
on the A Doy of Appel 194 , at Who Hours
AS AN ABSENTEE WITHOUT LEAVE
at the time of his surrender he was wearing (military uniform) or [elvittan oluthos]
Signature of Provost-Marchal, Assistant Provost-Marchal or other officer or the Commanding Officer of the portion of His Majesty's Forces or the officer, warrant officer or non-commissioned officer in charge of the detachment of the Canadian Provost Corps, January, into whose custody the above maked pass an war taken on successes.
Sch Lun 1822113,

119 Ch. Luf C. arm. Sec.



Statement as to Character and Particulars of Service of Accused.

Number.	Rank.		A Committee of the last of the	N. C. Company of the Local Division in which the Local Division in	Regiment (or a		
5088	Pte	HYNDA	MR	10 Gdn	Base Rft Br		2 (0.00)
1. The follow	accused, exclus	ive of convicti	ions by a court	es in the regimental martial or a civil co	and squadron, bourt, of summary	awards under	pany con- section 47
the Army Act, and	d of cases in w	which trial has	been dispense	MILIT :			
ory.—At a trial by field general court martial the tummary may be compiled from the field con-			• Within is	ast 12 months.		*Since Enh	istment.
he conduct sheet(s)	For	ORIGINA		OT AVAILABLE	times		times.
mentioned should be produced in court with the statement out not quarred to the proceedings.	For				times		times
the proceedings. Then purs. 615, N.R., 1940.	Fo				times		times
The missions berein stated should be seen appears with the mon-					times		
spoint with the month ber of sectors in the availant shears, pro- minence being given to the most serious	Fo				times		times
ther of emerges to the monitories being aluses to the most serious offence in each softry, and to now see gained aperial acts in axilian- try or distinguished conducts.	Fo						
conduct.	N	umber of insta	ances of gallant	try or distinguished	conduct,		
issignation It the charge is for drunken- sess the entires for drunkenness must be stated separately and dated.	T	here are no en	tries in the cor	aduct sheets of the a	accused.		
Previous co	nensations with	the accused b	y a court mar ection 73 of the	tial or a civil court,	ut in the schedule	STREET, SO SAME	
Previous co	onvictions† of	the accused b	ection 73 of the	tial or a civil court. Army Act, are set on	don'the property	STREET, SO SAME	
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Punishme remitted	bentonce of the court or authority disposing of the charge. Or order of the dispensing authority.	Charges open which convicted, or in respect of which trial was dispensed with.	Date and place of trial, or summary award under A.A. 47, or of order dispensing with trial.	Description of court by which nied, or status of finer disposing of the charge or dis- ensing with trial
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l control		the foregoing schedule of convictions and dispen-	-	

Signed this

. K 5086 Name Billion	a, Battery, Corps Company Company	PORARY Date of enlistment	GC Badges Signature OC Compony, etc	Service of Profesency Pay	Character
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Bul

In the case of K 5068 Fte HYNDA M. R., N Mpg Rifi on strength 10 Cdn Base Rft En, a soldier of the Canedian Army Overseas.

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

FIRST WITNESS

F 21313 CSM COOK, JL, 10 CRR Rn, having been duly sworn, states:

I am F21313 GSM COOK, JL, CSM of 41 Coy 10 GBR Bn. at approximately 1230 hrs 3 Sep 44 I was given a list of names and instructed to parade these men and warn them for draft. I paraded the draft and called the roll. The accused answered his mane and number on that parade. I saw him at that time. I read out the draft warning order as follows:

'You have been selevted to proceed on a draft for the performance of a special duty, and you are now sarned that you must be present and ready to so when the draft is sent off.

any unauthorized failure on your port to so with the draft when it leaves will mealt in your being sharped with desertion on active Service.

Similarily any unsufficized absence on your part shile the draft is in transit or at any intermediate point before its final destination will result in your being charged with desertion on active

If you are convicted of desertion the Court has the power to sentence you to a maximum sentence of penal servitude for life. The time of the last parade for this draft I do not know at present but you are now warmed that as

but you are now warned that as soon as you have finished your hits inspection you will return to your lines and remain there. By your lines I mean your tent in the area between that fence and this permission.

permission. At 1530 hrs I paraded the draft prior to moving off. The accounted was not present. I then sent the Orderly derment through the lines but he could not find him. I then reported him as a deserter. The draft that afternoon and the accused was not on it.

The accused declines to cross examine the withess.

scorte.

(J I Cook) CSE

SECOND WITHESS

Capt W. BROOKS, 2 Wpg Rif att 10 OBS Bm, having been duly sworm, states:

I am Capt N SROOKS, E Mpg Bif on the rft strength of 10 Can Base Aft Bn. On the afternoom of 3 Sep 44 I was delegated to witness the reading of the draft marming order used by this Ch. This warning order paras (s) to (d) inclusive were read by CSE 0002. He further marmed the draft that after the 10's inspection they must not leave the lines without his permission. The accused answered his name when it was called from a nominal roll on the draft marming parade. I remember useing the accused on that parade.

The accused declines to cross emmine the witness.

W. Povoko Caper

THIND WITHEST

A 42007 Cpl Pattlason JD, 10 CBS En, having been duly meorn, states:

I as a 42007 Opt PA TIMOUN, ND. Orderly Room Upl of 41 Coy 10 Odn Base Rft En. at 1230 bre 3 Sep 44 I was present when the draft FOURTH WITHESS

B 74684 Sgt DONALD, J. Lorne Scots, 10 CBR Bn, having been duly swarm,

I wa B 74534 Bgt MONATH, J., Lorens Scots, on the rft strength of 10 Gen have Rft Bn. as approximately 12% bry 3 Sep 44 a parade sea called to mare personnel for draft. I beard the accused's name called cut and I hourd him answer. I also eas him present on that parade. The draft worning order used by this Bn was read out to the draft by Gen GOOK in a loud voice. Then he had finished he asked if there set any cook in a loud voice.

one who did not understand, and no one replied.

At approximately 1530 hrs when the draft formed up to move off I was present and heard the roll called by GSM GOCK. The accused sixtemat was present.

I searched the Coy lines but could not find him. The not present.

I searched the Coy lines but could not find him. The not present.

I did not see him again until the morning of 5 Sep 44 in the fusardroom. From 3 Sep 44 to 5 Sep 44 I called the roll every sorving and night and the accused did not answer his name during that interval nor did I see him in the Coy lines.

The accused declines to gross examine the witness,

d. Donald Spot

The accused, laving been duly marned in accordance with RF 4(2), declines to make a statement and reserves his defence.

Certified that the foregoing summary of evidence consisting of two (R) pages was taken down by me in the presence and hearing of the accused, Certified that Rules of Procedure 4 (C) (E) 6 (F) have been complied with.

O'N C arthurs) Capt 10 Cim Base Rft Br Officer Detailed to Take The Summery of Evidence.

8 Sep 44

LIST OF WITNESSES

P 21313 CSM CCCK JL CCCK JL RECORS A 42007 Gp1 PATTINSON JD BONAID J

10 Cdn Base Rft Bn R Mpg R 11 Cdn Base Rft Bn 10 Cdn Base Rft Bn Lerne Scots 11 Cdn Base Rft Bn

LIST OF EXHIBITS

Gertificate under army act Section 163(i)(j).

STATEMENT OF THE ACCUSED

I certify that I have received free of charge a dopy of the charge sheet, summary of evidence, list of witnesses am list of exhibits.

I do desire the services of an officer to represent me at my trial by Gourt Eartisi.

(N R HYNDA) Pte K 50881

No. 503 DEPARTMENT OF 15 50881 Rank Man Name Hongs N. R. Unit R. W.R. Disk DATE 12 Seft 44 Ann Poland 1926 - Stert & Comola - 1934 Pare to alive to join father . Truther died who he was in for I glo to thinks, started to school in Tole of to the flotted quade ? in Harming aged 16. Norther Thins, governile I with gutten Left home lage 16 + west to Yam netermed love on juight uple a mouth. Shorty afterwards returned to Newmours with upo several Jobs - Coldon't wille down. formed amy 31 march 43 -Placed on C.18 The of he did it want to be a conductant. and, 2 min comes, 3 hopeful getions - scalins, not thrown. Links England 1 af 144 - The former from 11-RWR about 28 year Evacuated about a gargest, from the go was getty effective. he thinks up till time governation - It is not class whether he was knowled out by blast or went into a hyperical state a dear of the same of the hyperical state and the hyperical approach - he was for the same of the hyperical approach - he was for the same of the highest of of the h because he had been fut on dragt on if it of his complaints about leadache. T.T.O. Specialist, RCAMC ANT 28 1016 14404)

Without knowing whether or not he had any coverasion it is imprille to be some whiten or most there so any ham alie chement on his headashe. Egypon do + retiral mond no newdogical segms. Headarla mot y clean cut fort traumate lde is very immative - stated age probably covert 18-11 - muches mustable in fast - never had much confidence as fighting man though he wants that was effective up tell time he was everented. now demoralized or sure he couldn't stand the fourt again. Psychonewoter herdache - dypfifice doesn't sleep well -Dingwin Pogshofathin Personally natury -53 Ide in get to stand then and To undergo franches or gan as mental condition is consumed. often by mi

4 . SCHEDULE.

PART I. PLEA(S), FINDING(S) AND SENTENCE. K-5088 Pte Morman Robert HYNDA. R Wpg R. 10 CBR Bn

Charge. (Insert "olternative" where applicable.) Lat AA SEC 12(NOT	Finding. (See note below.) GUILTY	(Space for use as required for further charges, accused charges jointly, special findings, etc.)
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3rd			
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Sentence Awarded by			
2	years dete	ntion	
PART II.	MINUTE WHE	ERE CONFIRM	ATION RESERVED. (AA 54(5), RF 120(F), MML p 760.)
Date	(8gd)		Commanding
	wers see AA 54, 57, 89 onnot be revised. AA used may be tried again 53, MML p 85. Qua The Cardieming Offs m	37(D) fn 6.46(A), 51 54(3). Sending back is - AA 157, MML b 64 shing after principles out upo here personal continue Confirme	d
	18th Sep		(Sgd) "G. Francouer" Erig
Date	Total Sep		manding 2 CERG
			Confirming Officer.
PART	V. PROMUI	LGATED AND	EXTRACTS TAKEN. (Nº 51, KR Can 576, 577.)
Accused.	ean .	20 Se	Signature of Offr.
R5088 Pte Nors		STATE OF THE PARTY	"F.M. Pardee" Capt

FIELD GENERAL COURT-MARTIAL

Convened by Order of Brig G FRANCOUER Comd 2 CBRG dated 11 Sep 44

ACCUSED.

rank	(As to the trial of two, and (b) appmt, A/ra	va or more charged jointly see RP 16, 71, nk or Ajappmt, if any, see AA 182, 183, fns,	109. As to reasons for showing (KR Can 308, 328, 330.)	CONTRACTOR OF THE PARTY OF	(1)
umber.	(a) Prmnt R.	(b) Appmt, A/R or A/Appmt.	Full Christian Names.	Surname	2000 8 2
5088	Pte	derhour due was	Norman Robert	HYNDA	R Wpg R
		1 Juin		W.	7 >

PROCEEDINGS OF TRIAL Held in the Fd in colding Sec G H GRANCE 21 Army Cp.

on (date(s)) 13, 14, 16 Sep 44

RECORD FORM A-OPENING PROCEEDINGS AND ARRAIGNMENT.

A1. The President, Members, waiting Member AFACTARIAN MEMBERS COMMUNICATION Assemble, and the

IPRINTED HATTER NOT IN ITALICS FOR GUIDANCE WILL BE DELETED IF NOT USED OR APPLICABLE AND INITIALIED If PAES OR IA. The Schedule referred to throughout is on p. 4. Challons do NOT include all referred to throughout is on p. 4. Challons do NOT include all referred to throughout is on p. 4. Challons do NOT include all referred to throughout is on p. 4. Challons do NOT include all referred to throughout is on p. 4. Challons do NOT include all referred to throughout is on procedure para number herein. See back of correcting Creter. Or ARS, for outstanding the challons of the procedure para number herein. See back of Correcting Creter. Or ARS, for outstanding the trial see AR S.S. 89. Se. 63-70, 73, 74, 94, 102, 119, 132.)

A2 The President initials and lays before the Court the Convening Order and Charge Sheets) attached thereto.(*)
The Court is satisfied that it is properly convened and constituted(*), accused in 1996 amenable to military law, and each charge discloses an offence.(*)

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

A3. The Court is opened. The accused is **) brought before the Court. At 1010 hours trial commences.

A4. The Prosecutor produces a Medical Certificate that accused is man fit to undergo trial by court-martial (*)***DMC** the first all of the contract of the contract

(I. KR Can SS7. Z. AA 46(8), RF 60 fn I. For effect sen KR Can S63(c). Delete, if not applicable.

TO THE M. A.S. H. S. A. S. A.

K.

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

El. RF 110. 1. If no objection, woiting member retires. RF 68/B). If objection, see procedure AA S1, RF 25, 71, 18, MAM, p.742.3

"DMC" AT. The President ASABARANGARANGARANGARANGARANGARANGARANG RESIDENT AT SWOTH (*) The following are the

President	Major	D W M GOOPER	RCA	12 CBR Bn
Member	Capt.	D E MCFRE	RCA	11 CER En
DMC Nember	Lieut.	F E WALSE	cic	11 CBR Bn
THE PARTY AND ADDRESS OF THE PARTY AND ADDRESS			~~~	
Prosecutor	Lieut.	L HERRING	CIC	11 CER Pa
Defending Offr	Lieut.	J D TOBIN	CIC	11 CBR Bn

Questions by President: Is the Prosecutor a lawyer ! Ans No Is the Defending Offr a lawyer ! Ans No (*)

(1. 87 24, 27, 109, 111. List of offin under instr will be returned separately with proceedings for information of Conv Offin)

(2. If from a lawyer and Def Offices, occused is entitled to an adjournment when 87 87 (8) and in 2 were not followed. See Di p 2)

A8. The accused K=5088 Pto Bynda, N R

before arraignment making (no Ma) relative before straignment make(s) (no) a) plea D

(i. If a special piec is made for separate trial on one or more charges (AF \$2(E), 10E), or as to the jurisdiction of the Court (AF 32(E), 113), or in both of trial (AF 30), or as to secund's mental fitness to stood trial (AF 12(AF 37), or by one of several occupied charged jointly to be treat approach; (AF 16, 11), such piec, the addresses made in support or against, the evidence, if only, and familiar are recorded per Notes. For farms of record see reference in first to KAF close, baset to AF court and none of the occupied to piec.)

The accused is the charge of the piec.)

The accused is the charge of the sequence do A9. The accused is the carried arraigned to be made to the Charge Sheet. (*) The accused does not object to any charge. (*) There is no amendment to be made to the Charge Sheet. (*) The President records pleas in Part I of the Schedule.

(1. 82 3), 1/2. See para 1 of linears p.2. When more than one Charge Sheet see RP 62; when several accounts to be tried separately see RP 71(C), and use separate capies of CF AR6 to record proceedings. 2. RP 12, RF 23. If otherwise, delete and make appearate recent per Notes.)

A 10. HE BOOK WHEN THE VACUUM DALYS AND ON HOLDS IN VISIT VALUE OF DEPOSIT OF VACUUM O TOPOGRADIO STATE S

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

- The accused may not plead or be found Guilty on more than one of two or more charges laid in the atternative.
 (RP 37(A).) As its withdrawal of alternative charges by Prosecutor see RP 35(C). No other charge can be withdrawn for any reason without authy from Convening Offr. If Convening Offr concurs, Court may accept plea of Guilty to lesser, etc. offence. (RP 44(H).) Accused may change a plea of Not Guilty to Guilty during trial. (RP 38.) As to refusing to plead or not pleading intelligibly see RP 35(A). As to plea when sentence may be death see RP 35(D).
- 2. The proceedings on each charge sheet (RP 62) after arraignment will be conducted as follows in the respective
 - I. If pleas to all charges are GUILTY, use Record Form B below.
 - 11. If pleas to all charges are NOT GUILTY, use Record Form D on p 3.
 - III. If pleas to some charges are GUILTY and to other charges are NOT GUILTY and,
 - (a) Such mixed pleas occur when there are no alternative charges in the Charge Sheet, use Record Form C below. (RP 37(A).)
 - (b) Such mixed pleas occur in a set of two or more charges laid in the alternative, see RP 37 (A) and fn 2 as to discretion of Court, (i) to try the accused on all such alternative charges as if he had pleaded Not Guilty thereto, or, (ii) to record the pleas as the findings of Court. After deciding between (i) and (ii), Court will proceed under foregoing instre as may be appropriate to result of its decision. See MML p 744 Instrs (2).
- 3. As to responsibility of President to accused see RP 50, 60(C); powers and duties of JA see RP 103; duty of Prosecutor see RP 60(A) (B); duty and privileges of accused and Defending Offr see RP 60(C), 87(C), 91, 92; escensing and withdrawal of witnesses from Court see RP 81, 82; questioning of accused see RP 80, 87(C), 92(B), and of witnesses see RP 83-85; calling or re-calling of witnesses by Court, etc, see RP 75.79, 86, 116; use of Summary of Evidence at Trial see RP 17(E) fn 6; and responsibility of JA or Pres to record proceedings see RP 94, 96

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

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

2. MML p 54 para 47.)

PE2. President to occused: The Court will now receive any statement you desire to make in reference to the charge(s),(1) If it appears from your statement that there are circumstances which indicate that you do not understand the effect of the plea of Spilty(*), or which show provocation or extenuation in respect of which in your interest the witnesses for the Prosecution bould be examined(*), we shall advise you to change your plea to Not Guilty. In making a statement you will not be used in evidence against you after you change your plea. If, however, it appears to the Court that your statement affects only the amount of punishment to blich you are liable, you will not be advised to change your plea and you will be given an opportunity later to prove four statement by sworn testimony, if you so desire.(*)

President to accused: Do you wish to make a natement ! Ans. 2. RP 37(D) fn 6. 3. RP 35(B) fn 5 para 3, MML p 54 para 47. 4. See para E3 of Record Form E.

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

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

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

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

(1) If there is no Summery, or if it is inodequate, comply with RF 37(8). If there is any evidence inconsistent in any pine standing as Guitty, Court will advise occupied to change such pine and, if changed to Not Guilty, try such charges by use of parent D1 to D6 inclusive of Record Farm D on p 3. RF 37(D).

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

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

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

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

(1. Under B5 such parts only of the Summary of Evidence are read as relate to the charges decit with under C2. If any plea is charges to Not Guilty, read therein proceeds by complying with paras D1 to D8 inclusive. Second form D on p 3 and making as appropriate record thereof on a separate sheet.)

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

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

"Pin ners Loose Sheets of Record.

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

President to accused: Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on the ground that you have not had sufficient opportunity to prepare your defence ? Ans No. 11.

(i. 11 "res", see RF 37(i) for precedure. Statement or evidence, if any, is recorded per Notes.)

D2. The Prosecutor makes (iii) (iv) opening address.(i)
(i. RF 37(8), 60(A) (8), 90, 92(C) (D). Record oddress per Notes, subject to RF 95(C).)

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

D4. The Prosecution is closed.(1) The Defending Offr submits that the evidence for the Prosecution does not charge(s) 19 Molle Court ord on the 1st charge and that, accordingly, the trial will proceed manufactures to the normal manufactures from the normal manufact disallowed on the

(1. Delete remainder of this para, if submission not mode.

(2. Arguments on submission, answer and reply are recorded per Notes.

3. RP 40 fn 1. See MML p 72 paras 12-14 and p 81 para 42.

4. Delete part not used. If accused acquitted NB: if trial proceeds, accused must be allowed great latitude in making his defence, and the Court should not stop his defence safely on ground of irrelevance.

(RP 60(C), (14, 1)5.)

D5. President to accused: You will now proceed with your defence.(1) You may, if you wish, give evidence yourself on oath as to the facts or your character or both, in which case you will be subject to cross-examination (*You may, however, make a statement without being sworn, and you will not be subject to cross-examination (*But a statement which could have been made on oath will not carry with the Court the same weight as sworn testimony.

ent to accused : Do you wish to give evidence yourself as a witness, make a statement, or do neither I Yes, a statement. Do you intend to call witnesses on your behalf? No. 827 (I. RP 115. 2. RP 40(A), see 80(D). 3. RP 40 (a) 4. RP 40 (a) 2, 9)

D6. Consequent on the answers recorded in para D5 the appropriate procedure for the defence is followed.(1)
(I. RF 114, 115, 116. For procedure see Notes on back of Convening Order, CF A95. Exidence for occused as as his character should, if in his interest, be given before the finding. See RP 46(A) in I. 86(C). Note the further opportunity in pare E1 of Record form E. Record per Notes addresses, statement, evidence and any summing up by the JA under RF 42, 1(3)(e).)

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

(1. RF 43, 117(A). See Notes in Part | of Schedule. 2. RF 44(A).)

D. SEED THE SEED OF THE CONTROL OF T

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

RECORD FORM E-PROCEEDINGS ON CONVICTION BEFORE SENTENCE.

"DCM" EL SENERICE EN EN EN CONTRACTO DE E CEL DES EN COMPETENDE EN CONTRACTO DE LA CONTRACTOR DEL CONTRACTOR DE LA CONTRACTOR DE LA CONTRACTOR DELA CONTRACTOR

(i. If evidence has circuity been given by occused or his womense as to his character, delete this pare. No 17(C) fo 4, 46 fo 3.

F2. The Prosecutor produces Statement is as to Character and Particulars of Service(1), and certified true copy copies) of Conduct Sheed(s)(1), purporting to refer to the accused, which he submits to the Defending Offr for to the accused, because (i) they purport to be signed in the manner required by AA 163(i) (g) (h), and (ii) they purport to refer to (a) soldier(s) having the same number, rank, name and corps as the accused. Admitted in evidence and marked Er.

(i) MFB 155 or AFS 296. 2 MFM 6. 2 NF 46, KR Can 158. If above documents not produced, see RF 46 fo 1

E3. President to accused: Do you wish to address the Court on the Statemera(s) and Conduct Sheet(s), and in mitigation of punishment I(1) Ans Yes, 817

(I. RF 37(C), 46(D). 2. Address, if any, recorded per Notes. Court should permit occused or his witnesses to prove an auth anything lare or previously stated which would affect the amount of punishment. RF 37(F) in 7.)

E4. The President states that the Court is closed to consider the sentence, and that the sentence to be awarded by the Court, being subject to confirmation, will not be announced, but will be promulgated later, and the proceedings in open court are accordingly terminated.⁽³⁾
(1. At 54(6), 87 (20(4).)

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS

CHARGE SHEET

The accused, K 5088 Pte HYNDA, N.R., R Wpg Rif on the reinforcement strength of 10 Cdn Base Rft En, a soldier of the Cdn Army Overseas

is charged with

FIRST CHARGE A.A. Sec 12(1) WHEN ON ACTIVE SERVICE DESERTING HIS MAJESTY'S PORCES

in that he

In the Field, on 3 Sep 44, having been warned for draft to proceed to the Field, with intent to svoid so proceeding, absented himself without leave from 1530 hrs 3 Sep 44 until surrendering himself at 2100 hrs 4 Sep 44. (Absent 1 day 5 hrs 30 minutes).

In the Field 8 Sep 44 "A.T.Law"
(A T Law) Lt-Col
CO 10 C B R En

TO BE TRIED BY PIELD GENERAL COURT MARTIAL

"G. Francouer"
(G.Francouer) Brig
Comi
2 Cdn Base Rft Gp

In the Field 11 SEP 44

CFA95 (In lies of AFAS) 40/P425/1697 (2863)

FIELD GENERAL COURT-MARTIAL

(Whether the accused to be tried is under his come or not, a FGCM may an application to him be convened by any offr of Cdn Army Overseas, or a great of the accused to be tried is under his come or not, a FGCM may an application to him be convened by any offr of Cdn Army Overseas, or a great or the second of the convenient of the second of the second

R Wpg Rif 10 CER Bn Number. (a) Print R. (b) Appint, A/R or A/Appint. Norman Robert pte K-5088

- 1. Whereas complaint has been made to me, the undersigned, that the personial named above as the accused, being subject to military law, has the committed the offenced set forth in the Charge Sheet(a) attached and one did to the charge Sheet (a) and one of the charge Sheet (a) and one
- 2. And whereas I am of opinion that it is not practicable that such offence (a) should be tried by an ordinary General County of the County of Thereby convene a Field General Court-Martial to try the said person(a), and to consist of the Offre appointed place to be a field of the Offre appointed to the field formulation.
 - 1. * CRESCRIPTION TOX SEPTEMBERS (SECTION OF A SECTION OF

 - **国状 新洲 拉虾 医卵**叉型

12 CEE En D W M COOPER (Must be nomed. AP (06.) 11 CM En MEMBERS. Major To be detailed by OC 11 CER BE 11 CHR En To be detailed by OC 11 CHR En Capt WAITING MEMBER. 12 CER EM Lieut To be deatiled by OC 12 CFR Fm. BEREITE ... NE DOBDER Capt (Unit)

(Most be named, if any RP 106.) Brigadier

"G. Francouer"

(G Francouser) (G Francouser)

(G Francouser)

(G Francouser)

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(G Francouser)

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(G Francouser)

(G Francouser) On Active Service in the Fd PRANCE

CONVENING OFFR WILL INITIAL ALL DELETIONS AND ALTERATIONS 11 SEP44

FIELD GENERAL COURT-MARTIAL

CPASS (In lies of AFAS) 40/PAS/1607 (2863)

(Whether the accused to be tried is under his comd or not, a FGCM may an application to him be convened by any offr of fin Army Oversous, or of any other force if authorized in law, in immediate cand of troops an active service, subject to RP (05(C) and restrictions imposed by appropriate authorized and the service of the convening Offr in dealing with the application see AMAL Chap Y paras 20 and 23. RP 87(B).

There should be a separate Convening Order for each person to be tried separately by the some Court. RP 71(C), 109. As to separate charge sheets see RP 62, and as to separate trial on charges in the same charge sheet see RP 10B. As to two or more accused charged jointly see RP 16, 109. As to reasons for showing (a) permanent or confirmed rank, and (b) apprint. A)rank or A)appoint, if any, see AA 182, 183, (ns. KR Can 308, 328, 330.)

ACCUSED.

Number. (a) Prmnt R. (b) Appmt, A/R or A/Appmt. Full Christian Names. Surname. Unit. Norman HYNDA R Wpg Rif K-5088 Pte

CONVENING ORDER.

- Whereas complaint has been made to me, the undersigned, that the person(a) named above as the nocused, being subject to military law, has (happe committed the offence(a) set forth in the Charge Sheet(a) attached and on (date).
 Sep 44. endorsed by me, (note an affect of the former). To be tried by Field General Court.
- P* 2. And whereas I am of opinion that it is not practicable that such offence(a) should be tried by an ordinary General Count.

 **Exact Mixture I link and on the brackets when not required for compliance with \$P\$ [05(C).]

 Link I lait.

 **Country of the brackets when not required for compliance with \$P\$ [05(C).]
 - I hereby convene a Field General Court-Martial to try the said person(s) and to consist of the Offrs appointed or detailed hereunder.
 - 4. di marcini del marcini d mix within him Rich Kill (AA 49, RP 106(B), 107(A). Delete the whole or port, if not applicable.)
 - 5. It amy mamme, we lead which which the year of the my mix my man and the man opposited.)

PRESIDENT

Date 11 SEP44	(G Prancouer)			
in FRANCE	"G. Prancouer" (Signed personally. Nº 105 fn 2)	Bı	(Renk.)	11 05
On Active Service in	the Pd			
(Aunk.)	(Must be named. If any. RF 106.)		(Unit.)	
	Wildenstandsom			
(Rank.)	(Nomes or detailed, if any. RP 106.)		(Unit.)	
Capt	To be deatiled by OC 12 CFR En	12	CER	Pm
	WAITING MEMBER.			
(Rank.)	(Named or detailed. RF (06.)		(Unit.)	
Lieut	To be detailed by OC 11 CHR En	11	CHR	Bn
Capt	To be detailed by OC 11 CER Bn	11	CHR	Bn
	MEMBERS.			
Major (Rock.)	D W M COOPER (Must be named. RF (Ob.)		(Unit.)	D. 654
		20	CBR :	ED mar

CONVENING OFFR WILL INITIAL ALL DELETIONS AND ALTERATIONS

Convening Officer.

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

This is to certify that I have this day examined K 5088 Pte Hynda, N. R., and found him fit to undergo trial by Court-Martial.

"S.Segall" Capt M.O. 11 C B R Bn

HE WEET

11 CBR Bn

14 Sept 44

I HAVE THIS DATE EXAMINED K 5008 Pto Hynda, N.R., R.W.R., AND FIND HIM fit TO UNDERGO TRIAL BY COURT MARTIAL

Signed "S. Segall" Capt, RCAMC M.O. 11 C R B Bn

III) MO II

11 CER En

13 Sept 44

I HAVE THIS DATE EXAMINED K 5088 Pte Hynda, N.R., 11 CMB Bn, AND FIND HIM fit TO UNDERGO TRIAL BY COURT MARTIAL.

Signed "S.Segell" Capt RCAMC M.O. 11 CFR Pm

"DHC"

Evidence in the case of K 5088 Ptw Norman Robert Hynda, R Wpg R, 10 CBR En, tried by Field General Court Martial in the Field 14 Sep 44.

The Court having assembled and no objections being raised as to its constitution was duly sworn. Charge was read to the accused and a plea of not guilty entered.

1st Witness Capt W Brooks, CIC, 11 CPR Bn, being duly sworn, states:

On 2 Sep 44 I was detailed to witness the reading of a draft warning order and the calling of the nominal roll of the wake men proceeding on draft. The accused whom I recognize answered his name on that prade at approx 1230 hrs. Later in the afternoon CSM Cook reported to me that Pte Hynda, the accused, was absent when the draft moved off.

Cross-Rxam: 0. Who called the roll?

A. CSM Cook. Q. Could you say from memory if CSM Cook read draft warning order to troops in accordance with KR 1099 (warning order to troops) and if he followed amendments as detailed in a routine order dated

Jun 44 from CDN GHQ 1 Ech?

A. Yes.
Q. Would you recall if CSM Cook stated a definite time and place where and when the draft was to move off?
A. CHM Cook stated the time of a parale in the coy lines and warned the men that they were C.B.

Exam by Court:
Q. Could you give approx wording of warning order that was read
to the accused?

A. Yes, approx. "You are warned for special duty and anyone who is absent from a parade that will be called later will be charged with desertion".

the draft was to do between time of Q. Was anything said what

Q. Was anything said what the draft was to do between time of draft warning and time of moving off.
A. They were to have Med inspection.
Q. Was the accused present for Med. inspection?
A. I don't know. I was not there.
Q. Was anything said to the men if they C.B.?
A. Yes, CSM Cook, in warning order, stated they, the draft, A. Yes, C. were C.B.

Court adjourned till 1300 hrs 14 Sep 44 to give the prosecution time to obtain the attendance of CSM Cook, chief witness for the prosecution.

14 Sep 44 Court adjourned Sine die.

On 16 Sep 44

The Court proceeded without CSM Cook, whose attendance could not be obtained in the near future, after having referred the matter to the Convening Officer.

1st Witness, Capt W Brook, was recalled.

(Def) Q. In answer to question could you say from memory if CM Cook mathematics read draft in accordance with K.R. 1099 (warning order to troops) your answer was? A. Yes.

Q. Could you remember if CSM Cook said approx the following, "At some time prior to departure of this draft a parade will be called at which parade the exact date and time of departure will be tood to you"?

A. To the best of my knowledge and belief I do remember CSM givin

those instructions.

- Q. To your belief, the warning given on this parade, the warning read out on this parade was a definite warning as to (Court) draft? A. It was a definite warning, a typewritten form, and read out, before the reading of which, CSM Gook asked all ranks if they could hear his voice. There were no dissenting answers.
 - (Def) Q. After the warning was read out to the parade were they queried as to whether they understood the draft warning?
 A. I remember CSM Cook askingif they were clear regarding the meaning of what he had read. Q. Ans were there any queries? A. No there were none.
- Q. I believe I am correct in saying you heard CSM Cook read off a printed form the following (as before the Def question) or words to that effect and also in answer to a previous question of the defence you stated that the time of a parade in the coy lines was given out by CSM Cook and the men warned they were C.E. on the 1230 has parade?

 A. yes, eir, The term "a parade" may have referred to a QU. (Court) A. yes, sir. To Mo's parade.

2nd Witness E.74684 Sgt Donald, J, Lorne Scots, 11 CBR En, duly sworn:

- (Pros) Q. On 3 Sep 44 you were of what Bn?
 A. I was on the strength of 10 Bn, 41 Goy.
 Q. Would you tell the court your duties on the afternoon of
 3 Sep 44? What was your duty? 3 Sep 44? What was your duty?
 A. On Sunday, 3 Sep 44, I was Orderly Sgt. As Orderly Sgt.
 a draft was called out. I was one of the witnessing NCOs. At 1230 hrs CSW Cook had the Coy formed up. He called out the name of a draft and they fell in on the right of the Coy. The accuse whom I recognize fell out with this draft on the right of the of a draft and they fell in on the right of the whom I recognize fell out with this draft on the right of the Coy. When the draft was formed up CSM Cook then read the warning order to them. There was no definite time set dut as to when the draft would move off. They were told they would parade to the tM, the MO and the DO. At 1830 hrs all men on the draft were called out and CSM Cook called the roll at which time Pte Hynia the accused was missing. CSM Cook ordered me as Orderly Sgt to check tents and lines to see if he could be located. After I looked round for a certain length of time I reported back that he could not be found. The draft left the parade ground at approx 1630 hrs and the accused did not go with it.
- Q. After the draft warning order was read out also was the draft asked if they understood the warning order?
 A. Yes they were aksed if they understood and no one dissented. (Court)
- Q. I want you to try and memember as well as you can if CSM Gook told the draft at the time of reading the traft warning order (1230 hrs 3 Sep 44) the exact time and place of departure of he (Def) A. Not that I recall, at that time, did he give any special time or place for the draft to move off.

 O. Did CSM Cook say the following to the draft, after reading the warning order at 1230 hrs 3 Sep 44, the time of the last parade for this draft, I do not know at the present time?

 A. Yes those are the words CSM Cook said to the men. draft?
- (Pros)
- Q. Did the CSM warn the draft that they were confined to their lines after they had attended the MOB parade until the draft was to move off?

 A. I don't know. I did not stay until the end of the 1230 parade. Was the draft told while you were on the 1230 hrs parade that they were CB?

 A. I don't recall t em being told that.

 Q. Were you on the QM, MO's or DO's parades?

 A. No sir, I was not. (Court)

Q. Do you know where the MO's parade was held? A. I don't know, sir.

Certificate or apprehension produced by Prosecution and marked Exhibit "A".

There were no further questions.

D4 "DMC"

The following motion is respectfully submitted by the the prosecution is in places at variance and also since it been shown from evidence of the last witness called by the been shown from evidence of the last witness called by the prosecution and substantiated in part at least by statement of the first witness for the prosecution that the draft warning order in question read to the accused on parade at 1230 hrs of 3 Sep 44 did not contain paragraph relative to Orders from Cdn Sec GHQ 1 Ech relative to draft warning orders in that the axact fime and place of the final movement of the first was not given, the Defence submits therefore that a reasonable doubt could have existed in the mine of the accused regarding the warning existed in the mind of the accused regarding the could have existed in the mint of the accused regarding the movement of the draft. Moreover the Defence is prepared to introduce for the Court's inspection a psychopathic report stating that the accused is of nervous temperament from experience in action. The above being so the Defence respectfully asks the Court to consider this motion that under Army Act 57 the accused be tried under the Lesser offence of ANL and not desertion.

The Court adjourned to consider the motion.

The submission on 1st charge is disallowed and case will proceed.

Para n5 was read.

D5 "DMC"

(Court)

Do you wish to make a statement? A. The accused will make a statement not on cath.

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

A. No this man is not known around here as to character, his unit being fwd.

Statement by accused

I came to 10 CERE 1 Sep 44. I was there only one day. The next day we were called on draft. I went to three parades, QM, MO, not DO. I came back to the lines as sir I was under nervous strain as I had just come from hospital. I don't know wiat I was doing and I wandered off the lines and went into Deliverance. I stayed aaround the Maple Leaf Club trying to see if I knew anybody around there and I couldn't see anybody that I knew. Night came on and I found a barn to sleep in. I slept there until I woke up he next morning and I realized what I had done. I became frightened and reported to the Military Police and they brought me back. That is all, sir.

D6 "DWD"

Prosecution has sown that the man attended the 'reft warning parade and that he understood the purpose and seriousness of that parade. Witnesses have proved that altho' no time was set for the 'reft to move fwd the draft was warned that it was confined to their lines after attending the necessary Admin Parades, so that they would be available for final movement. The accused evitently understood the warning as he did not question the warning order.

Summary for defence
The defence has pointed out that the testimony of two
witnesses called by the prosecution is at variance. The defence has pointed out by cross-examination that a possibility of do
could have existed in the accused regarding the exact time of
draft. The defence points out in closing the unusual nature

of this case due to the absence of the main witness for the prosecution and the lack of definite proof of intent on the part of the accused.

The Court closed to consider finding.

E3 RIMEMIN "DIMC"

Conduct Sheet

Plea of Mitigation.

Concluding the def makes the following plea in mitigation.

I wish to point out that the accused is a man who served with his reg. in the front line for a period of approximately seven weeks. He was sent to hospital suffering from shock and after 4 days ammshapmam was discharged. One day later he was again on draft for the field. The defence submits that this man may have been motivated by feelings stronger than himself and in view of his service asks the court's clemency. It is unfortunate that he is unable to produce witnesses as to his character as his reg. is fwd. His record up to this offence as far as is known has been clear. These points the defence asks the court to consider when passing sentence on the accused.

Court now closed.

CERTIFICATE UNDER THE ARMY ACT, SECTION 163 (1)(J)

I, E 22883 Sgt Suess, W.G., No 9 Cdn L of C Pro Sec,
certify that K 5088 Pte Hynda, N R, R Wpg Rifles, 10

En, C.B.R.G., stationed at Douvres, surrendered himself
to No L-38350 L/Cpl Amirews, H.W., No 9 Cdn L of C Pro Sec,
on the 4th day of September, 1944 at ABAMM 2200 hrs
as an absentee without leave. At the time of his surrender
he was wearing military uniform.

Signed "Sgt Suess" RAMA E22883 No 9 Cdn L of C Pro Sec

Army Form B.296

STATEMENT AS TO CHARACTER AND PARTICULARS OF SERVICE OF ACCUSED

Number	Rank	Name	Regiment (or unit)
K 5088	Pte	HYNDA NR	10 Cdn Base Rft B
		of the exterior in the	Service ambiguees
	g is a fair and true summary	Regi	mental and Squadron, Battery
or Company Conduct	sheets of the accused, exclu-	sive of convictions by a C	Court-Martial or a Civil Court,
of summary awards u	nder Section 47 of the Arn	ay Act and of cases in t	which trial has been dispensed
Within las	t 12 months	Since enlistmer	nt or appointment
For ORIGINAL MF	M6 NOT AVAILABLE		times
For			times
For		nee	times
Number of instar	oces of gallantry or distingui-		
773	ries in the conduct sheets of	OF,	
	arge is for drunkenness, the		met be stated separately.
NOTE.—If the Co	arge is for drunkenness, sue	endies for dismacinese m	and the practice of the control of t
2. The accused	has not been previously con-	vieted	
		ot.	
Previous convict	ions of the accused by a co	surt-martial or a civil cou	of summary awards under
Section 47 of the A annexed to this state		with trial under A.A. 7	3 are set out in the Schedule
3. The accused	is not under sentence at the	present time.	
		or,	
参加 发型火炬发炬发 (1)	KONGNAMO DIKERKAKAKA	n ocome ande ente e ancienta ente	tegin nexperien when nearth minimum
а вупчита			
		cition taint on the recount	charges, for nil days in
	has been in confinement aw	the state of the present	
0		y custody, making a tota	al of 12 days in custody.
of which	days were spent in h	oepital.	
5. The present	age of the accused accordin	g to his total action paper	20 years.
6. The date of	his attestation	bis AMERICAN PAPER IS 3	31 Mar 43
7. The service	which the accused is allowed	to reckun towards discha	arge is 1 yr 8 mos 9
8. The accused	is entitled to reckon	service for the purpose	of determining his pension, etc.
9. The accused	is in possession of or entity	led to no air force decora-	tion, or air force reward (or is in military
possession of or enti	tled to). State any air force militar		
10. (If the accu Air Force the regimental rank		he accused before he was	made a warrant officer last held

dated	I	, and in his re	giment (or corps),	
dated	d	anadmit.		
2. The accused has ser	v	ioned officer continuou	isly, without redu	ction, to the
 The accused has ser ent date:— 	ved as a non-commiss	Joues with the second	Date	of promotion.
In the rank of .		years.		
In the rank of		years.		
			t from the Regimes	ital books, the
In the rank of Norg.—If any matter in agraph must be struck th	any of the above para prough.	graphs cannot be stated	1 from the magni-	
	SCI	IEDULE		
			under Section 47	of the Army
	urt-martial or civil cou			
t, and of cases in which t				
unje	tract from the regimen	of tal books stating these	convictions and dis	pensations with
NOTE.—A verbatim ex				
Discription of Court	Date and Plans	Charge spot which	Sentence of the Court	Facialities.
by which tried	of Trial	nousietad		
				A STATE OF THE PARTY OF THE PAR
		the of convictions and	hispensations with	trial is a true ex
I hereby certify the from the regimental be	nat the foregoing sched-			trial is a true sa
from the regimental of	Olive in and same	Percentian .	ember, 1944	MC M G
from the regimental of	nat the foregoing sched- ooks in my custody. 16th ment (with the schedule	day of Septe	ember, 1944	MC M G

No. K5088 Date of last Company Co	entry in	1	No.	Sqn., Battery, or Corps CTC or Company and date Period not reckoning towards to freedom from extra fine		G.C. Badges Signature O.C Company, etc	Service Proficie	or ney Pay 40/P a	M.F.M. 6 FH. 122) EF/106 (2037
Place	Date of offence	Bank	Cases of drupken-	OPPENCE	Names of Witnesses	Punishment awarded	Dute of award or of order dispen- sing with trial	By whom awarded	Remarks
				Original MFM6 not available					
				Certified to be a true co	apy of regime	ntal books in	my posse	ssion	
					(("C.M.G.Art	capt		

(P.T.O.)

In the case of K 5088 Pte HYNDA, N R, R Wpg Rif, on strength 10 Cdn Base Rft En, a soldier of the Canadian Army Overseas.

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

FIRST WITNESS

F 21313 CSM CCOK, JL, 10 CBR Bn, having been duly sworn, states:

I am F21313 CSM COOK, JL, CSM of 41 Coy 10 CBR Pn. At approximately 12 30 hrs 3 Sep 44 I was given a list of names and instructed to parade these men and warn them for draft. I paraded the draft and called the roll. The accused answered his name and number on that parade. I saw him at that time. I read out the draft warning order as follows:

'You have been selected to proceed on a draft for the performance of a special duty, and you are now warned that you must be present and ready to so when the draft is sent off.

Any unauthorized failure on your part to go with the draft when it leaves will result in your being charged with desertion on active service.

Similarly any unauthorized absence on your part while the draft is in transit or at any intermediate point before its final destination will result in your being charged with desertion on active service.

charged with desertion on active service.

If you are convicted of desertion the Court has the power to sentence you to a maximum of penal serviture for life.

life.
The time of the last perade for this draft I do not know at present but you are now warned that as soon as you have finished your MO's inspection you will return to your lines and remain there. By your lines I mean your tents in the area between that fence and this one (pointing to both). No one will leave the lines without my permission.

at 1530 hrs I paraded the draft prior to moving off. The accused was not present. I then sent the Orderly Syt through the lines but he could not tim him. I then reported him as a deserter. The draft left that afternoon and the accused was not on it.

The accused declines to cross examine the witness.

"J.L.Cook" (J L Cook) CSM

SECOND WITNESS

Capt W Brooks, R Wpg Rif att 10 CBR Bn, having been duly sworn, states:

I am Capt W.BROOKS, R Wpg Rif on the rft strength of 10 Cdn Base Rft Bn. On the afternoon of 3 Sep 44 I was delegate to witness the reading of the draft warning order used by this Bn. This warning order paras (a) to (d) inclusive were read by CSM COOK. He further warned the draft that after the MO's inspection they must not leave the lines without his permission. The accused answered his name when it was called from a nominal roll on the draft warning parade. I remember seeing the accused on that parade.

The accused declines to cross examine the witness.

"W. Brooks" Capt

THIRD WITNESS

A 40027 Cpl PATTINSON JD, 10 CBR En, having been duly

I am daminomentation 4 42007 Cpl PATTINSON, JD, Grderly Room Cpl of 41 Coy 10 Cdn Base Pft Bn. At 1230 hrs 3 Sep 44 I was present when the draft warning parade was called. When the roll was called Rfn HYNDA's name was on that roll and I heard a soldier whom I presumed was Rfn HYNDA answer. The draft warning order used by this En was read but loudly and clearly by CSM COOK on this parado.

The accused declines to cross examine the witness.

"J.D.Pattinson" (J D Pattinson) Cpl

FOURTH WITERSS B 74684 Sgt DONALD, J., Lorne Scots, 10 CBR Bn, having been duly sworn, states:

I am B 74684 Sgt Donald, J., Lorne Scots, on the rft strength of 10 Cdn Base Rft Bn. At approximately 1230 hrs 3 Sep 44 s parade was called to warn personnel for draft. I heard the accused's name called out and I heard him answer. I also saw him present on that parade. The draft warning order used by this Fn was read out to the draft by CSM CCOK in a loud voice. When he had finished he asked if there

order used by this En was read out to the draft by CSM COK in a loud voice. When he had finished he asked if there was anyone who did not understand, and no one replied.

At approximately 1530 hrs when the draft formed up to move off I was present and heard the roll called by CSM COOK. The accused was not present. I searched the cay lines but could not find him. The draft left the unit at appeoximately 1630 hrs. I did not see him again until the morning of 5 Sep 44 in the guardroom. From 3 Sep 44 to 5 Sep 44 I called the roll every morning and every night and the accused did not answer his name during that interval nor did I see him in the coy lines.

The accused declines to cross examine the witness.

"J,Donal"" (J Donald) Sgt

The accused, having been duly warned in accordance with RP 4(B), declines to make a statement and reserves his defence.

Certified that the foregoing summary of evidence consisting of two (2) pages was taken down by me in the presence and hearing of the accused. Certified that Rules of Procedure 4 (C) (D) (E) & (F) have been complied with.

"C.M.G.Arthurs" Capt (C M G ARTHURS) Capt 10 Cdn Base Rft Bn Officer Detailed to Take The Summary of Evidence.

8 Sep 44

LIST OF WITNESSES

P 21313 CSM COOK JL 10 Cdn Base Rft Bn
Capt W BROOKS R Wpg Rif 11 Cdn Base Rft Bn
A 42007 Cpl PATTINSON JD 10 Cdn Base Rft Bn
E 74684 Sgt DONALD J Lorne Scots 11 Cdn Base Rft Bn

LIST OF EXHIBITS

Certificate under Army Act Section 163(1)(1)

STATEMENT OF THE ACCUSED

I certify that I have received free of charge a copy of the charge sheet, summary of evidence, list of witnesses and list of exhibits. I do desire the services of an officer to represent me at my trial by Court Martial.

"N.R.Hynda"

(N R HYNDA) Pte E 5088

Department of Neuropsychiatry - 11 CBR Bn

K 5088 Rfn Hynda N R R W R

MENGEMENT "DINC"

REPORT :-

DATED 12 Sep 44

Born Poland 1926. Went to Canada in 1934 to join father.
Mother died when he was an infant. Started to school in Poland.
Completed Grade 7 in Winnipeg aged 16. Rather timid, juvenile
court once. Poor understanding with father. Left home age 16
and went to Vancouver but returned home on freight after n
month. Shortly afterwards returned to Vancouver, but left
several jobs - couldn't settle down.
Joined Army 31 March 43.
Joined Army 31 March 43.
Placed in CIC though he did not want to be a combatant. Only 2
minor crimes. 3 hospitalizations - scabies, sore throat. Placed in CIC though he did not want to be a compatant. Only 2 minor crimes. 3 hospitalizations - scabies, sore throat.
Endurance in training apparently fair. England 1 April 44 France June 11 - R W R about 28 June 44 - evacuated, about
end of August, presumably for exhaustion. He doesn't remember.
He says he was pretty effective he thinks up till time of
evacuation. It is not clear whether he was knocked out by
blast or went into a hysterical state. On about 3 Sep having
blast or went into a hysterical state. On about 3 Sep having
been warned for draft went AWL. Returned next day and gave himblast or went into a hysterical state. On about 3 Sep having been warned for draft went AWL. Returned next any and gave himself up. This was not a hysterical spisole - he was frightened and worried and resentful because he had been put on draft in spite of his complaints about headache. Without knowing whether or no he had any concussion it is impossible to be sure whether or not there is any traumatic element in his headache. Eye grouds and retinae normal no nonrological signs. Headache not of clean cut post traumatic type.

He is very immature - stated age probably correct - 18, 11 - rather unstable in past - never had much confidence as fighting man though he Anain insists that he was effective up till time he was evacuated. Now demoralized and sure he couldn't stand the front again. Psychoneurotic headache and dyspepsia, doesn't sleep well. sleep well.

Diagnosis Psychopathic personality (inadequate).

RATING - 83

He is fit to stand trial and to undergo punishment as far as mental condition is concerned.

managerers an Major

	trial of two or more charge apmt, A/rank or A/oppmt, if mnt R. (b) Appmt,	ed jaintly see RP 16, 71, 109. As to ony, see AA 182, 183, fns, KR Can 30 A/R or A/Appmt. Full Cl	o recsons for showing (co. 328, 330.) pristian Names.	Surname. Duni.
-5088 Pt		No	rman bert	HYNDA SE TO CER
-		PROCEEDINGS OF T	TRIAL	S C S S S S S S S S S S S S S S S S S S
Can Sec.	G.H.Q. 2 Eab. 27	Army Gp.		13. 14. 16 Sep 44
Held in the Fd in (country) Ki	RANCE	on (date(s))	
Name and Address of the Owner o	A STREET OF STREET STREET, STR	PENING PROCEEDIN		TO THE PARTY.
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BY PRES OR on bracedure will be made a CY AYS, for or provisions for	JA. The Schedule referred when a variation in this for and given a number having aths and instrument on how so conducting the shall see Al	OR GUIDANCE WILL BE DELETED to throughout is on p.4. Criations to markets, see form for GCA in MM reference to observate and preceding sectors delicities, reidence, act, which is a process of the process of the control of the contr	i pp 741 include all refe i pp 741 in 759. A b parti number berein i mitta are herenftur c (9, (32.)	vant Ima Nos. For gardones
mark charge diaches	and any offerment (*)	ce see AP 17 fn 6. 2. AA 49, 50,		"17.585"
A3 The Con	et is opened. The ac-	eused is (me brought before	the Court. At	1010 hours trial commences.
(I. KR)	Can 557. 2. AA 46(8).	RP 60 fn 1. For effect see KR Car		
(I. KR) On A5. ubberschad Place dotten present Sc The about ten och est (I. KP)	Can 557. 2. AA 46(8). In termsometers with 22 measurement ten 400 miles and 12 mil	n one shiper he ancers man as bjeck suc man am am an as ed.)	mxmxmxmxmxmxmixmi	was you sector the American Manney are to a coursed to the accused ()
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(I. Ka (I. Ka (I. Ka)) The hoter present & C. Ka (I. Ka) A6. The Cor President to a Ans NO SIT (I. Ka) (I. K	Con 557. 2 At 46(8). In temperature day 22 to 12 to 22	nown which we make mount in the color of the President and March to be tried by me as Proving scener retire. RP 68(8). 1.5 Table 3 and 6 Mins makes in prising the Court, etc. D. W. M. COOPER.	mx m	warderstoon by August Maximum and in the accused (*) of the Members of the Court of the Members of the Court (*). The following are the 12 CER BD
CH A5. uber ckim ke This those piesum ke This short innoch yes (1. 88 7 A6. The Con President to a Ans NO, Sir (1. 88 110. CO A7. The Pre ranks, names and President	Con 557. 2 A4 46(8) In KNIKKURSKIM MANUAL MA	nown which we make mount in the second of the President and M second to be tried by me as Providing exember retires. RF 68(8). LISTARS SING OF THE MINISTERS IN THE COURT, etc. D. W. M. GOOPER D. E. MCFEE	max	was a stocch x augmax maximum and the accused (*) of the Members of the Court (*) un AA SI, RF 25, 71, 18, MML p 742, voru.(*) The following are the 12 CER BR 11 CER BR
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PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

INSTRUCTIONS ON PROCEDURE AFTER ARRAIGNMENT.

- The accused may not plead or be found Guilty on more than one of two or more charges laid in the alternative, (RP 37(A).) As to withdrawal of alternative charges by Prosecutor see RP 35(C). No other charge can be withdrawen for any reason without authy from Concening Offr. If Concening Offr concurs, Court may accept plea of Guilty to lesser, etc, offence. (RP 44(H).) Accused may change a plea of Not Guilty to Guilty during trial. (RP 38.) As to refusing to plead or not pleading intelligibly see RP 35(A). As to plea when sentence may be death see RP 35(D).
- The proceedings on each charge sheet (RP 62) after arraignment will be conducted as follows in the respective circumstances stated
 - 1. If pleas to all charges are GUILTY, use Record Form B below.
 - II. If pleas to all charges are NOT GUILTY, use Record Form D on p 3.
 - III. If pleas to some charges are GUILTY and to other charges are NOT GUILTY and,
 - (a) Such mixed pleus occur when there are no alternative charges in the Charge Sheet, use Record Form C below. (RP 37(A).)
 - (b) Such mixed pleas occur in a set of two or more charges laid in the alternative, see RP 37 (A) and fn 2 as to discretion of Court, (i) to try the accused on all such alternative charges as if he had pleaded Not Guilly thereto, or, (ii) to record the pleas as the findings of Court. After deciding between (i) and (ii), Court will proceed under foregoing inetrs as may be appropriate to result of its decision. See MML p 744 Instrs (2).
 - 3. As to responsibility of President to accused see RP 59, 60(C); powers and duties of JA see RP 103; duty of Prosecutor see RP 50(A) (B); duty and privileges of accused and Defending Offr see RP 60(C), 87(C), 91, 92; succarring Prosecutor see RP 50, 63 (C), 92(B), and of writnesses from Court see RP 81, 82; questioning of accused see RP 80, 87(C), 92(B), and of writnesses RP 83-85; colling or re-valing of writnesses by Court, etc, see RP 57-79, 80, 116; are of Summary of Evidence at Trial see RP 17(E) In 6; and responsibility of JA or Pres to record proceedings see RP 94, 96.

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

The President or JA, if any, complies with RP 35(B) by explaining to the accused the nature and meaning to the accused the nature and meaning to the average of the consideration of the consideration of the average of the has been given an opportunity to make a statement in reference to the charge(s), to character and make an address in mitigation of punishment. (*)

(I. R. 16 1. 2. MM. 9 54 perc 47.) of the

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

President to accused: Do you wish to make a stanment? Ans.

(1 & 9 37(5). 2 & 97 37(5) fe 6. 3. & 935(5) fe 7 3 cc 3, MML 9 54 perc 47.

5. Statement, if any, recorded per Notes.) 4. See para E3 of Record Form E.

B3. The Court considers the accused's statement.(1) The Court decides (not) to advise accused to change his charge(s). The accused is (are) so informed, and he (they) nige(s) his (their) plea(s) on.

charge(s). Part I of the Standale is amended accordingly.

(1). Court may be closed to consider the statement. Deirts whole or part ast used.) (their) plea(s) of Guilty to Not Guilty on.

change(s) his (their) plea(s) on. ci

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

(1. 87 35(8). If any plea(s) is (are) changed, use Record Form C or D as appropriate.)

B5. The Summary of Evidence is marked Ex. initialled and read aloud by the President (1) If there is no summary, or if it is modequote, comply with RF 27(8). If there is no summary, or if it is modequote, comply with RF 27(8). If there is non-evidence inconsistent with a standing as Guilty, Court will odvise occursed to charge such piec and, if changed to Not Guilty, try such charge(s) by pores D1 to D6 inclusive of Recard form D on p 3. RF 27(D).)

ed having been found Guilty on one or more of the charges, the proceedings are co B6. The accu using Record Form E on p 3.

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

- C1. As to the charges of thich accused pleaded NOT GUILTY the trial is continued by using paras D1 to D8 inclusive of Record Form D on p 3.5 fore proceeding with C 2.(1)

 (i. At N(A) (C)
- C2. The charges on which accussed pleaded GHITY are read to him (them) again, and the trial is continued by using paras B1 to B5 of Record Form B above.(1)

 (1) Under 85 to the part only of the Summer of Evidence are read to adjust to the charge dealt with under C2. If any piec is charged to Not Guilty, trial thereon proceeds by complying with pares D1 to be includive in Record form D on p 3 and moving an appropriate record thereof on a separate wheet.)
- C3. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

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

E5. The Court considers the sentence.(1) The President records the sentence in Part I of the Schedule, which is dated and signed by him and the JA, if any (7) he sentence self, compared of the punishment or punishment in the server accessed interest wise separator's see RF71 (D). One sentence self, compared to the punishment self-down in AA 41, 44 and in previous in the description of charge sheets on which occursed found givity. RF As to sentences sentences assigned for civil offences by the low of England see A4 4(5), MML p 10, 757-759. As to sentence suspend for civil offences by the low of England see A4 4(5), MML p 10, When occursed all offences by the low of England see A4 4(5), MML p 10, When occursed to directly under sentences of imprisonment or detections see A4 4(18), 86(1, 26, 0.05). As to release from green by Confirming Offic see K8 Can 567. As to assembly and disposal of recars after trial see instruction back of Contenting Order.)

SCHEDULE.

PLEA(5), FINDING(S) AND SENTENCE.

Accused: K-5088 Pte Norman Robert HYNDA, R Wpg R, 10 CBR Bn							
Charge.	Plea.	Finding.					
(Insert "alternative" where applicable.)	(See Instra p 2.) NOT GUILTY	(See note below.) GUILTY	(Space for use as required for further charges, occused charged jointly, special findings, etc.)				
2nd		(1) 1 - 1 - 1 - 1 - 1 - 1 - 1 - 1 - 1 - 1					
3rd							
4th							
5th							
145							

SCIENTED MAN METER DE HOUSEN METER DE HOUSEN MAN DE MAN MAN MEN DE MONTON DE MONTON DE MONTON DE MONTON DE MAN DE MONTON DE MO

(). Insert sestence being served, or delete, if not applicable. See RP 46(A). Information should be found on MF 2255 or AF 229a.)

Time in continuent awaiting present trial—a total of 12 days, of which 0 days were spent in hospital.(2)

(). See RP 46(A) fn 2. Information should be found on MF 2355 or AF 2296 admitted in evidence under E2.)

Sentence Awarded by the Court :

2 years detention

"DCM" (Sgd) 16 Sep 44

"D.M.Cooper" Major

President. (AF 45, 50.)

AND DESCRIPTION OF THE PROPERTY AND THE PROPERTY OF THE PROPER

Date awarded.

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

MINUTE WHERE CONFIRMATION RESERVED. (AA 54(5), 89 (20(7), MAL 9 760.) PART II.

Date

(Sgd)

Commanding

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

(for duties and powers see AA 54, 57, RF 37(D) fo 6.46(A), 51-56, 120, MANL pp 759-76; KR Can 567-577. Acquisitely require me confirmation and cannot be revised: AA 54(3). Sending book finding or sentence for revision by Caurt: AA 54(2), RF 10X(D). R not confirmed, accused may be tried again: AA 137, AMAL p. 64. Minute of confirmation or non-confirmation may be altered before promulgation if RF 33, AMAL p. 65. Quanting ofter premiugation: KR Can 573. Duties and powers of reviewing affects: AA 37, RF 53A, 54. The Confirming Offs must sign here personally. AA 172 fo 1.)

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

Confirmed

"GP"

ete of not used.) WARREN IN COLUMN TO THE STATE OF THE

(Bgd)....

18th Sep 44

"G. Francouer" Brig

2 CBRG

Confirming Officer.

PROMULGATED AND EXTRACTS TAKEN. (AP 53, KR Cor 576, 577.) PART IV.

Accused.

Signature of Offr.

K5088 Pte Norman Robert Hynda, R.W.R. 20 Sep 44

"F.M. Pardee" Capt Adjt, 11 CBR Bn

ALL DELETIONS AND ALTERATIONS WILL BE INITIALLED.



The accused, K 5008 Pte HYNDA, N.R., R Wpg Rif on the reinforcement strength of 10 Cdn Base Rft En, a soldier of the Cdn Army Overseas

is charged with

A.A. Seo 12(1)

WHEN ON ACTIVE SERVICE DESERVING HIS MAJESTY'S PORCES

in that he

In the Field, on 3 Sep 44, having been warned for traft to proceed to the Field, with intent to avoid so proceeding, absented himself without leave from 1530 hrs 3 Sep 44 until surrendering himself at 2100 hrs 4 Sep 44. (Absent 1 day 5 hrs 30 minutes).

In the Field 8 Sep 44

"A.T.Law" (A T Law) Lt-Col CO 10 C B R Bn

TO BE TRIED BY FIELD GENERAL COURT MARTIAL

"G. Francouer" (G.Francouer) Brig Comd 2 Cdn Base Rft Gp

In the Field 11 SEP 44



FIELD GENERAL COURT-MARTIAL CYANG (In line of AFAS)

(Whether the accused to be tried is under his comd or not, a FGCM may an application to him be convened by any offr of Cdn Army Overseas, or any other force if authorized in law, in immediate camd of troops on active service, subject to RF 105(C) and restrictions imposed by appropriate authy. As 49, 50, RF 104-107, 114. As to the duties and privileges of the Comening Offr in dealing with the application see MML Chap' V paras 20 and 23, RF 87(B). There should be a separate Convening Order for each person to be tried separately by the same Court. RF 71(C), 109. As to separate charge sheets are RF 62, and as to separate-trial on charges in the same charge sheet see RF 108. As to two or more accused charged jointly see RF 16, 109. As to separate charged jointly see RF 16, 109. As to separate charged jointly see RF 16, 109.

ACCUSED.

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

K-5088 . Pte Norman HYNDA R W

Norman HYNDA R Wpg Rif Robert 10 CBR Bn

CONVENING ORDER.

- Whereas complaint has been made to me, the undersigned, that the person(s) named above as the secures, being subject to military law, has (issue) committed the offence(s) set forth in the Charge Sheet(s) attached and on (date)
 Sep. 44 endorsed by me, (ordersemultant superstant forme), "To be tried by Field General Court Martial".
- PH 2. And whereas I am of opinion that it is not practicable that such offence(*) should be tried by an ordinary General Courtitems in an analysis of the complete of the co nGFn 2.
 - I hereby convene a Field General Court-Martial to try the said person(s), and to consist of the Offrs appointed or detailed hereunder.
 - nama auto dan exesoran (AA 49, RF 106(B), 107(A). Delete the whole or part, if not applicable.)
 - 5. It came appearant am hadronder vente (the set the difficure extended her seasibir in (RP 1066). Delete, if none oppointed.)

PRESIDENT.

Date	Convening Office	Convening Officer.				
Date 11 SEP44	(G Francouer)					
in FRANCE	"G. Francouer" (Signed personelly. NP 105 fo 2)	P	Brigadier (Acek)			
On Active Service in				44.00		
(Fank.)						
	(Must be named, if any. RF 10s.)		(Unit.)			
	ACTORODOVARIONO "CE"					
(Rank.)	(Named or detailed, if any. RP IOE.)		(Unit.)			
Capt	To be deatiled by OC 12 CER En	12	CBR	Bn		
	WAITING MEMBER.					
(Rank.)	(Nomed or detailed. AP 106.)		(Unit.)			
Lieut	To be detailed by OC 11 CBR Bn	11	CER	Bn		
Capt	MEMBERS. To be detailed by OC 11 CER Bn	11	CBB	Bn		
(Aank.)	(Must be named. RP 106-)		(Unit.)			
Major	D W M COOPER	12	CBR	Bn.		

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

This is to certify that I have this day examined K 5088 Pte Hynda, N. R., and found him fit to undergo trial by Court-Martial.

"S.Segall" Capt

"DMC"

11 CBR Bn

14 Sept, 44

I HAVE THIS DATE EXAMINED K SOPE Pre Hynda, N.R., R.W.R., AND FIND HIM fit TO UNDERGO TRIAL BY COURT MARTIAL

Signed "S. Segall" Capt, RCAMD M.O. 11 C R B Bn

11 CPR BD

13 Sept 44

I HAVE THIS DATE EXAMINED K 5088 Pte Hynda, N.R., 11 CEB En, AND FIND HIM fit TO UNDERGO THIAL BY COURT MARTIAL.

Signed "S.Segall" Capt RCAMO M.O. 11 CFR Fm



Evidence in the case of K 5088 Ptw Norman Robert Hynda, R Wpg R, 10 CFR En, tried by Field General Court Martial in the Field 14 Sep 44.

The Court having assembled and no objections being raised as to its constitution was duly sworn. Caccused and a plea of not guilty entered.

Witness Capt W Frooks, CIC, 11 CFR Bn, being duly sworn,

on 3 Sep 44 I was detailed to witness the reading of a draft warning order and the calling of the nominal roll of the manh men proceeding on draft. The accused whom I recognize answered his name on that parade at approx 1230 hrs. Later in the afternoon CSM Cook reported to me that Pte Hymas, the accused, was absent when the draft moved off.

Cross-Exam: 7. Who called the roll? A. CSW Gook. G. Could you say from memory if CSM Cook read draft warning order to troops) to troops in accordance with KR 1099 (warning order to troops) and if he followed amendments as detailed in a routine order dated 8 Jun 44 from CDN GHQ 1 Ech?

A. Yes.

Q. Would you recall if CSM Cook stated a definite time and place where and when the draft was to move of?

A. CSM Cook state! the time of a para'e in the coy lines and warned the men that they were C.P.

Exam by Court:
O. Could you give approx wording of warning order that was read to the accused?
A. Yes, approx. "You are warned for special duty and anyone who is absent from a parade that will be called later will be

Q. Was anything said what the draft was to do between time of

. Has anything send what the drait was draft warning and time of moving off.

draft warning and time of moving oil.

A. They were to have Med inspection.

G. Was the accused present for Med. inspection?

G. I don't know. I was not there.

G. Was anything said to the men if they C.P.?

A. Yes, CSM Cook, in warning order, stated they, the draft,

Court adjourned till 1300 hrs 14 Sep 44 to give the prosecution time to obtain the attendance of CSN Cook, chief witness for the presecution.

14 Sep 44 Court adjourned Sine die.

On 16 Sep 44

The Court proceeded without CSW Cook, whose attendance could not be obtained in the near future, after having referred the matter to the Convening Officer.

1st Witness, Capt W Brook, was recalled.

(Def) Q. In answer to question could you say from memory if CM Cook mainimagemen read draft in accordance with K.R. 1099 (warning order to troops) your answer was?

A. Yes.

Q. Could you remember if CSM Cook said approx the following, "At cook you remember if CSM Cook said approx the following, "At some time prior to departure of this draft a parade will be called at which parade the exact date and time of departure will be at which parade the exact date and time of departure will be told to you"?

A. To the best of my knowledge and belief I do ramember CSM giving

those instructions.

- (Court) Q. To your belief, the warning given on this parade, the warning read out on this parade was a definite warning as to draft?

 A. It was a definite warning, a typewritten form, and read out, before the reading of which, CSM Cook asked all ranks if they could hear his voice. There were no dissenting answers.
 - (Def) Q. After the warning was read out to the parade were they queried as to whether they understood the draft warning?
 A. I remember CSM Cook askingif they were clear regarding the meaning of what he had read.
 Q. Ans were there any queries?
 A. No there were none.
- (Court) Q. I believe I am correct in saying you heard CSM Cook read off a printed form the following (as before the Def question) or words to that effect and also in answer to a previous question of the defence you stated that the time of a parade in the coy lines was given out by CSM Cook and the men warned they were C.B. on the 1230 hgs parade?

 A. yos, fir. The term "a parade" may have referred to a QM of Mo's parade.

2nd Witness B.74684 Sgt Donald, J, Lorne Scots, 11 CFR Bn,

- (Pros) Q. On 3 Sep 44 you were of what En?

 A. I was on the strength of 10 Pn, 41 Coy.
 Q. Would you tell the court your duties on the afternoon of
 I Sep 44? What was your duty?
 A. On Sunday, 3 Sep 44, I was Orderly Sgt. As Orderly Sgt.
 a draft was called out. I was one of the witnessing NCOs. At
 1230 hrs CSM Cook had the Coy formed up. He called out the names
 of a draft and they fell in on the right of the Coy. The accused
 of a draft and they fell in on the right of the read the warning
 Coy. When the draft was formed up CSM Cook then read the warning
 order to them. There was no definite time set but as to when
 the draft would move off. They were told they would parade
 the draft would move off. They were told they would parade
 to the SM, the MO and the DO. At 1530 hrs all men on the draft
 ware called out and CSM Cook called the roll at which time
 Pte Hynda the accused was missing. CSM Cook ordered me as
 Pte Hynda the accused was missing. CSM Cook ordered the
 Orderly Sgt to check tents and lines to see if he could he
 Orderly Sgt to check tents and lines to see if he could he
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 orderly Sgt to check tents and lines to see if he could he
 orderly Sgt
- (Court) Q. After the draft warning order was read out the was the draft asked if they understood the warning order?
 A. Yes they were aksed if they understood and no one dissented.
- (Def) Q. I want you to try and memember as well as you can if CSM Cook told the draft at the time of reading the draft warning order (1230 hrs 3 Sep 44) the exact time and place of departure of the draft?

 A. Not that I recall, at that time, did he give any special time or place for the draft to move off.

 Q. Did CSM Cook say the following to the draft, after reading the warning order at 1230 hrs 3 Sep 44, the time of the last parade for this draft, I do not know at the present time?

 A. Yes those are the words CSM Cook said to the men.
- (Pros) 0. Did the CSM warn the draft that they were confined to their lines after they had attended the MOS parade until the draft was to move off?
- A. I don't know. I did not stay until the end of the 1230 parade.

 Was the draft told while you were on the 1230 hrs parade that they were CB?

 A. I don't recall t'em being told that.

Q. Here you on the QM, MO's or DO's parades? A. No sir, I was not.





Q. Do you know where the MO's parade was held?

Certificate or apprehension produced by Prosecution and marked Exhibit "A".

There were no further questions.

D4 "DMC"

The following motion is respectfully submitted by the Defence at this point. Inasmuch as the evidence produced by the prosecution is in places at variance and also since it has been shown from evidence of the last witness called by the prosecution and substantiated in part at least by statement of the first witness for the prosecution that the draft warning order in question read to the accused on parade at 1230 hrs. 3 Sep 44 did not contain paragraph relative to Grders from Cin Sec GNQ 1 Ech relative to draft warning orders in that the exact time and place of the final movement of the iraft was not given, the Defence submits therefore that a reasonable doubt could have existed in the mind of the accused regarding the sovement of the draft. Moreover the Defence is prepared to introduce for the Court's inapection a psychopathic report stating that the accused is of nervous temperament from experience in action. The above being so the Defence respectfully asks the Court to consider this motion that under Army Act 57 the accused be tried under the lesser offence of AWL and not desertion.

The Court adjourned to consider the motion.

The submission on 1st charge is disallowed and case will proceed.

Para D5 was read.

D5 "DMC"

(Court)

Do you wish to make a statement?
A. The accused will make a statement not on oath.
A. Do you intend to call witnesses on your behalf?
A. No this man is not known around here as to character, his unit being fwd.

Statement by accused

I came to 10 CERB 1 sep 44. I was there only one day. The
next day we were called on draft. I went to three parades, (M,
MC, not bo. I came tack to the lines as sir I was under nervous
strain as I had just come from hospital. I don't know wat I
was doing and I wentered off the lines and went into beliverande.
I stayed aaround the Maple Leaf Club trying to see if I know
anybody around there and I couldn't see anybody that I knew.
Might came on and I found a barn to sleep in. I slept there
until I woke up 'he next morning and I realized what I had done.
I became frightened and reported to the Military Police and they
brought me back. That is all, sir.

D6 "PMC"

Prosecution has sown that the man attended the traft warning parade and that he understood the purpose and seriousness of that parade. Witnesses have proved that althoung the time as set for the draft to move five the draft was warned that it was confined to their lines after attending the necessary Admin Parades, so that they would be available for final movement. The accused evitently understood the warning as he did not question the warning order.

Summary for defence
The defence has pointed out that the testimony of two
witnesses called by the prosecution is at variance. The defence
has pointed out by cross-examination that a possibility of doubt
could have existed in the accused regarding the exact time of
draft. The defence points out in closing the unusual nature



of this case due to the absence of the main witness for the prosecution and the lack of definite proof of intent on the part of the accused.

The Court closed to consider finding.

E3 WINDIAM "DIAC"

Conduct Sheet

Plea of Mitigation.

Concluding the def makes the following plea in mitigation.

I wish to point out that the accused is a man who served with his reg. in the front line for a period of approximately seven weeks. He was sent to hospital suffering from shock and after 4 days mannampmam was discharged. One day later he was again on draft for the field. The defence submits that this man may have been motivated by feelings stronger than himself and in view of his service asks the court's elemency. It is unfortunate that he is unable to produce withesses as to his character as his reg. is fwd. His record up to this offence as fer as is known has been clear. These points the defence asks the court to consider when passing sentence on the accused.

Court now closed.

CERTIFICATE UNDER THE ARMY ACT, SECTION 163 (1)(J)

I, E 22883 Sgt Suess, W.G., No 9 Cdn L of C Pro Sec,
certify that K 5088 Pte Hynda, N R, R Wpg Rifles, 10

Bn, C.B.R.G., stationed at Douvres, surrendered himself
to No L-38350 L/Cpl andrews, H.W., No 9 Cdn L of C Pro Sec,
on the 4th day of September, 1944 at mammam 2200 hrs
as an absentee without leave. At the time of his surrender
he was wearing military uniform.

Signed "Sgt Suess" MASA 222883



STATEMENT AS TO CHARACTER AND PARTICULARS OF SERVICE OF ACCUSED

Number	Rank	Name	Regiment (or unit)
		HVNDA	NR 10 Cdn Base Rft Bn
K 5088	Pte	Market The	
1. The following	ng is a fair and true summary	of the entries in the	Regimental and Squadron, Battery
Altern charen streets	at shorts of the accused, exchu	sive of convictions by	a Court-Martial or a Civil Court.
of summary awards	under Section 47 of the Arn	winder by Act. and of cases	in which trial has been dispensed
with.		Since enlis	tment or appointment
Within D	es 12 months FM6 NOT AVAILABLE		times
			times
			times
For		nes	times
For	ances of gallantry or distingui		
Number of met	ances of gamanay or manager	or.	
Whose are no m	ntries in the conduct sheets of	the accused.	
Note.—If the	charge is for drunkenness, the	entries for drunkenn	ess must be stated separately.
2. The accuse	ed has not been previously con	victed	
		or.	
Previous conv	ections of the accused by a c	ourt-martial or a civ	il court, of summary awards under
Section 47 of the annexed to this sta	Army Ast and dispensation	s with trial under A	.A. 73 are set out in the Schedule
3. The accuse	ed is not under sentence at the	e present time.	
		or.	
Show memory is	to sharoway timents maken	en besenvide son x mxm	en andre sin mare sen above more more more more sen and sen an
dayrein			
MERCHANISH NAMES OF			record charges for nil days in
4. The accus	sed has been in confinement as	waiting trial on the pr	esent charges, for
civil custody, and	12 days in milita	ary custody, making	a total of 12 days in custody.
of which	days were spent in	hospital.	
5. The press	ent age of the accused accordi	ng to his mmoniment	paper is
6. The date	of his camerboard specified in attestation	his recent of service attentation paper	is 31 Mar 43
	ice which the accused is allowed		
			urpose of determining his pension. etc.
			decoration, or air force reward (or is in military
possession of or e	entitled to). State any air fo milit	rce decoration or rew ary	ard.
10. (If the a Air Force the regimental ra		The accused before l	e was made a warrant officer last held

1. (In the case of an off	icer.) The accused	Per	manent Force unit	it much of
dated		, and in his rep	giment (or corps),	the rank of
dated		. ertimuoti	usly without reduc	etion, to the
12. The accused has serv	ed as a non-commi	saioned officer continuo		of promotion.
sent date:-			Date c	il bromoveni
		years.		
In the rank of		years.		
THE PROPERTY OF				. I be do the
In the rank of Nore.—If any matter in	any of the above pa	ragraphs cannot be state	i from the Regimen	tal books, the
Note.—If any matter to ragraph must be struck the	rough.			
		HEDULE		
			Section 47	Air Force
	rt-martial or civil co	ourt, of summary awards ad with of accused, Num	under section 4.	
		nfthose	convictions and dis	pensations with
Nore A verbatim ext	tract from the regime	of ental books stating these		
erial must be inserted.		Charge sport which	nestence of the	guickment Benitted
Description of Court	Date and Place of Trial	assvirted	Court	2000
by which triad				

from the regimental books in my

m the regimental books in my custody.

Signed this 16th day of September, 1944 "C M G Arthurs" Capt.

The above statement (with the schedule of convictions and of cases in which trial has been dispensed.

ADJT 10 C R Bn.

signed by the president, and annexed to the with) is read, marked proceedings.

Company C	Conduct Shee	et i	of i	ast drunk freedom from extra fine		Company, etc	· ·		
Place	Date of offence	Rank	Cases of drunken- ness	OFFENCE	Names of Witnesses	Punjshment awarded	Date of award or of order disper- sing with trial	By whom awarded	Remarks
				Original MFM6 not available					
				Certified to be a true cor	y of regime	ntal books in	my posse	sion	
						"C.M.G.Arth			
						M G Arthurs)			

In the case of K 5088 Pte HYNDA, N R, R Wpg Rif, on strength 10 Cdn Base Rft En, a soldier of the Canadian Army Overseas.

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

FIRST WITNESS

F 21313 CSM COOK, JL, 10 CBR Bn, having been duly sworn,

I am F21313 CSM COOK, JL, CSM of 41 Coy 10 CBR En. At approximately 12 30 hrs 3 Sep 44 I was given a list of names and instructed to parade these men and warn them for draft, and instructed to parade these men and warn them for draft. I paraded the draft and called the roll. The accused answered warn them for draft.

I paraded the draft and called the roll. The accused answer, his name and number on that parade. I saw him at that time. I read out the draft warning order as follows:

You have been selected to proceed on a draft for the performance of a special duty, and you are now warned that you must be present and ready to go when the draft

any unauthorized failure on your part to go with the draft when it leaves will result in your being charged

with desertion on active service.

Similarly any unauthorized absence on your part while the draft is in transit or at any intermediate point the draft is final destination will result in your being before its final destination will result in your being charged with desertion on active service. that the pow-If you are convicted of desertion the Court has the power to sentence you to a maximum of penal servitude for

The time of the last parade for this draft I do not know The time of the last parade for this draft I do not know at present but you are now warned that as soon as you at present but you are now warned that as soon as you have finished your Mo's inspection you will return to have finished your Mo's inspection you will return to your lines and remain there. Ey your lines I mean your tents in the area between that fence and this one (pointing to both). No one will leave the lines (pointing to both). No one will leave the lines without my permission. I then sent the Orderly Set through accused was not present. I then sent the Orderly Set through accused was not present. I then sent the Orderly Set through a deserter. The draft left that afternoon and the accused was not en it.

a deserter. The was not on it.

The accused declines to cross examine the witness.

"J.L.Cook" (J L Cook) CSM

Capt W Brooks, R Wpg Rif att 10 CBR En, having been duly SECOND WITNESS

I am Capt W.BROOKS, R Wpg Bif on the rft strength of 10 dn Base Rft Bn. On the afternoon of 3 Sep 44 I was delegated to witness the reading of the draft warning order used by to witness the reading order paras (a) to (d) inclusive were this Bn. This warning order paras (a) to (d) inclusive were read by CSN COOK. He further warned the draft that after read by CSN COOK. He further warned the draft that after the MO's inspection they must not leave the lines without lines without the MO's inspection they must not leave the lines withou

The accused declines to cross examine the witness.

"N. Brooks" Capt (W Brooks) Capt

HT MCH

WITNESS

A 40027 Cpl PATTINSON JD, 10 CBR Bn, having been duly sworn, states:

I am mixmxmmxmxmxmx 4 42007 Cpl PATTINSON, JD, Ordarly Room Cpl of 41 Coy 10 Cdn Base Rft Bn. At 1230 hrs 3 Sep 44 I was present when the draft morning parade was called. When the roll was called Rfn HYNDA's name was on that roll and I heard a soldier whom I presumed was Rfn HYNDA answer. The draft warning order used by this Bn was read but loudly and clearly by CSM COOK on this parade. when

The accused declines to cross examine the witness.

"J.D. Pattinson" (J D Pattinson) Cpl

FOURTH WITHESS B 74684 Sgt DONALD, J., Lorne Scots, 10 CBR Bn, having been duly sworn, states:

I am B 74684 Sgt Donald, J., Lorne Scots, on the rft strength of 10 Cdn Base Rft En. At approximately 1230 hr 3 Sep 44 a parade was called to warn personnel for draft.

I heard the accused's name called out and I heard him answer. I also saw him present on that parade. The draft warning order used by this Fn was rread out to the draft by CSM CCCM in a loud voice. When he had finished he asked if there was anyone who did not understand, and no one replied.

At approximately 1530 hrs when the draft formed up to move off I was present and heard the roll called by CSM COOK. The accused was not present. I searched the coy lines but could not find him. The draft left the unit at approximately 1630 hrs. I did not see him again until the morning of 5 Sep 44 in the guardroom. From 3 Sep 44 to 5 Sep 44 I called the roll every morning and every night and the accused did not answer his name during that interval nor did I see him in the coy lines.

The accused declines to cross examine the witness.

"J.Donal" (J Donald) Sgt

The accused, having been duly warned in accordance with RP 4(E), declines to make a statement and reserves his defence.

Certified that the foregoing summary of evidence consisting of two (2) pages was taken down by me in the presence and hearing of the accused. Certified that Rules of Frocedure 4 (C) (D) (E) & (F) have been complied with.

"C.M.G.Arthurs" Capt (C M G ARTHURS) Capt 10 Cdn Base Rft Bn Officer Detailed to Take The Summary of Evidence.

8 Sep 44



LIST OF WITNESSES

P 21313 CSM COOK JL 10 Cdn Base Rft En Capt W BROOKS R Wpg Rif 11 Cdn Base Rft En A 42007 Cpl PATTINSON JD 10 Cdn Base Rft En B 74684 Sgt DONALD J Lorne Scots 11 Cdn Base Rft En

LIST OF EXHIBITS

Certificate under Army Act Section 163(1)(1)

STATEMENT OF THE ACCUSED

I certify that I have received free of charge a copy of the charge sheet, summary of evidence, list of witnesses and list of exhibits.

I do desire the services of an officer to represent me at my trial by Court Martial.

"N.R. Hynda" (N R HYNDA) Pte K 5088



Department of Neuropsychiatry - 11 CBR Bn

K 5088 Rfn Hynda N R R W R

MENGMANN "DMC"

REPORT :-

DATED 12 Sep 44

Born Poland 1926. Went to Canada in 1934 to join father.

Mother died when he was an infant. Started to school in Poland.

Completed Grade 7 in Winnipeg aged 16. Rather timid, juvenile
court once. Poor understanding with father. Left home age 16
and went to Vancouver but returned home on freight after a
month. Shortly afterwards returned to Vancouver, but left
several jobs - couldn't settle down.

Joined Army 31 March 43.
Placed in CIC though he die not want to be a combatant. Only 2
minor crimes. 3 hospitalizations - scabies, sore throat.
Endurance in training apparently fair. England 1 April 44 France June 11 - R W R about 28 June 44 - evacuated, about
end of August, presumably for exhaustion. He doesn't remember.

He says he was pretty effective he thinks up till time of
evacuation. It is not clear whether he was knocked out by
blast or went into a hysterical state. On about 3 sep having
been warned for draft went AM. Returned next day and cave himself up. This was not a hysterical episods - he was frightened
and worried and resented because he had been put on draft in
spite of his complaints about headache. Without knowing whether
or no he had any concussion it is impossible to be sure whether
or not there is any traumatic element in his headache. Eye
gronds and retinae normal no neurological signs. Headache not
of clean cut post traumatic type.

He is very immature - stated age protably correct - 18, 11 man though he insis insists that he was effective up till time
he was evacuated. Now demoralized and sure he coulin't stand
the front egain. Psychoneurctic healache and dyspepsia, doesn't
sleep well.

Diagnosis Psychopathic personality (inadequate).

RATING - 33

He is fit to stand trial and to undergo punishment as far as mental condition is concerned.

#999999999 ?" Major

296 to Ble. Hyadevan. Ell.

Army Form A.3.

Companyable to be Franke were Form for Assembly and Proceedings of Field General Court Martial on Active Service.

PROCEEDINGS.

On Active Service, this

June

Whereas it appears to me, the undersigned, an officer in Command of CANADIAN BASE UNITS, CDN ARMY

, on active service, that the

And whereas I am of opinion that it is not practicable that such offences should be tried by an ordinary General Court Martial . * экнястинасторожного формация и мосторожного мостор

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

* TANKSHANANAN SANGARAN -

- *(1. TRICKETOHROPENCH VICKERX MERCHINA.)
- *(2. TAX TENNENDENDENDENDENDENDE

SMXXX.)

TOPOCKER SANK KNOKK KONTON

Judge-Advocate Capt. A.H. Friedgut C.M.H.Q.

President

Rank Name Regiment

Major

K.J. Southern

No.1 Cdn Eng Hldg Unit

Members

isank.

Name.

Regiment.

Captain

G. Gibb

No.1 RCASC Hldg Unit

Lieutenant

C.C. Chapman

No.2 Det R.C.O.C.

Lieutenant

G. Hepburn

No.1 Cdn Sigs Hldg Unit

Brigadier

Commanding Cdn Base Units, Cdn Army Convening Officer.

Number, Rank (a). Name and Unit of Accused (b)	Offence charged	*Plea	Finding, and if Convicted, Sentence (c)	How dealt with by Contirming Officer (d)
B-93621			5. Carely.	
TE. HYNDKAN, G. W.	First Charge	ungo	Notice ,	· d
lo. 15 Odn Gen losp.	A.A. sec 15(4) as per charge she	25		Continu
	Second Charge	1,5	Genilly 9 2rd	(cm)
	A. A. sec 40	Mar	Change with The	The words
	as per charge she	et	follow of to	market
	Third Charge		the sould?	
	A. A. sec 40	at Wilder	ty. Not Guilt	7
	as per charge she			
			, de un	les.
			Jan Jan 1	0 1
			Santa Land	
			27	
	- 1 1'			
			1774	
let.				

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

Answer to be recorded on advanta sheet if necessary):— Acceptable.

(Signod)	Communiting Con. Appointment acting tank or	adler (Signed)	Menth	in Myin
	Communiting Can	Base Units, Con Convening Officer (e)	Army. No	· Eng. H.V.
(4)	Appointment acting rank or	acting appointment, if	any, to be stated in	brackets after the

substantive rank

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

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

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

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

day of learning that the above Court assembled on the day of learning that the plea, finding, and sentence in the case proceedings of each such person were as stated in the third and fourth columns of that Schedule.	
I also certify that :— I. The members of the Court 2. The witnesses 4. The interpreter) *(4. The officers under instruction)	
were duly sworn. Signed this 27 = day of Leure 10 21.	
President of the Court Martigle	
See footnote I certify that the terms of *A.C.1. 577 of 1918 have been C. Certificate in case of death sentences	
Signed this day of 19 President of the Sourt Martial	
I have dealt with the findings and sentences in the manner D. stated in the last column of the Schedule, and, subject to what confermation I have there stated. I hereby confirm the above findings and sentences. ***********************************	
irrains Officer which no northy to some to pursue, or age such correctly correctly correctly controls contr	^
Promulgated and extracts taken in the case of B-93621 Pt Mysture 9.W.	
Promulgated and extracts taken in the case of (Dated) 12 July 1941 (Signed) SRN fermus Claud. O.C. 18 Ch. ga. Hop.	
(Dated) (Signed)	
Promulgated and extracts taken in the case of	
(Dated) (Signed)	
(a) When several cases are promulgated in one unit on the same day the Officer need only sign once.	

The accused No. H-936Pl Ptc. George William Hyndman, No. 15 Canadian General Hospital, R.C.A.M.C., a soldier of the Canadian Army Overseas is charged with, when on active service:

First Charge

Stealing Public Property

A.A. da 18 (4)

in that he, between 4th April and 4th May 1941, at No. 15 Canadian General Hospital, Bramshott, stole a quantity of cigarettes, cent to Canadian Soldiers Overseas, duty free and not for re-sale.

second charge

An act to the prejudice of good order and military discipline

a a dec 40

in that he, at Witley Camo on B May \$1, sold digarettes, being olgerettes sent to Canadian Soldiers overseas, duty-free and not for re-sale, contrary to Canadian Army Routine Order (Overseas) No. 635 dated 25th March 1941 and republished in Unit Part 1 Order No. 86/41, dated lat April 41.

A A de 40

An act to the prejudice of good order and military discipline

in that at approximately 1830 hrs & Moy &1, near the Recex Scottish barrack block *C*, Witley Camp, Surrey, he was concerned in the improper use of a truck, the property of the Grown, in the right of the Dominion of Canada, namely truck No. C.A.25038.

Bramshett Chase Hindhead, Surrey.

14 June 41.

(G.R.D. Farmer) Molonel, R.C.S.M.C. Officer Commanding No. 15 General Hospital, R.C.A.M.C.

To be tried by Field General Court Martial

Commanding on Dage Units.

Bordon, Hants This / gladay of June \$1.

as Je

MEDICAL OFFICER'S REPORT

I certify that No. B.93621, Pte. Hyndman, G.W.

of this unit is in a fit state of health, and able to undergo Trial by Court martial.

Cellerhord. Capit.

Medical Officer

Station No.15 General Hospital, R.C.A.M.C.

Date 27 Jun 41

M. F. B. 246 2M-8-25 (1724) H.Q. 1772-39 480

No. B93621, Pte. G. W. HYNDMAN, No. 15 General Hospital, R.C.A.M.C., tried by a Field General Court Martial at BORDON, Hants. on the 27th day of June, 1941.

The order convening the Court, the charge sheet, summary of evidence and medical certificate are laid before the Court.

Prosecutor:- Lieut. H.M. Howell, No. 1 C.I.H.U. (Lawyer)
Defending Officer:- Lieut. Richard B. McDougall, No. 3 C.I.H.U.

At 1000 hrs the trial commences.

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

Do you object to be tried by me as President, or by any of the officers whose names you have heard read over?

No, sir.

. . . !

The President and members are duly sworn,

Do you object to B66944, Sgt. T. Pyburn, R.Regt.C., Cdn Base Units, acting as shorthand writer?
No, sir.

The shorthand writer is duly sworn.

The charge sheet is signed by the President and annexed to the proceedings.

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

Are you guilty or not guilty of the first charge against you, which you have heard read?

Not guilty, sir.

Deffending Officer: Before pleading, sir, I would like under rule

Deffending Officer: Before pleading, sir, I would like under rule

62 (E) to apply for the accused to be tried separately on each

62 (E) to apply for the accused to be tried separately on each

63 (E) to apply for the accused to be tried separately on each

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65 (E) to apply for the accused to be tried separately on each

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67 (E) to apply for the accused to be tried separately on each

68 (E) to apply for the accused to be tried separately on each

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67 (E) to apply for the accused to be tried separately on each

68 (E) to apply for the accused to be A3

04

charge in the order in which they appear on the charge sheet, twill be satisfactory.

PROSECUTOR: I have no objection to that, sir.

Dealing with the first charge, are you guilty or not guilty of the first charge against you, which you have heard read?

Not guilty, sir.

Not guilty, sir.

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

No, sir.

The prosecutor makes no opening address.

for) examined by the prosecutor:-NEILL, being duly sworn, is

96

Miss Neill, what are your lattes at the 15th General Hospital insofar as cigarettes are conserned? I am sent cigarettes from time to time by different organizations; I am sent cigarettes from time to time by different organizations; some of them are specifically designated to be given to patients and some are for the Nursing Sisters, which I give out according to whom they are intended for.

Where are those cigarettes which are sent to the 15th General 46

97

CV J.

Hospital, kept?
They are sent to me directly - that is, if they are sent directly to me they are kept in my office, or if they are sent to the C.O. they are kept in his office.
During the period covered from 4 Apr 41 to 4 May 41, did you have also also at a your custody in your office? A7 28 have any cigarettes in your custody in your office?
Yes, I did.
Were any of those cigarettes found missing at any time? 48 49 Yes.

Now, will you just tell the Court as near as you remember just when it was and what happened?

I am not absolutely definite as to the date, but it would be about the end of April or the beginning of May, I had two thousand cigarettes which had been sent to me by the Toronto Hotels' Soldiers Fund. They were sent to me for distribution to the Nursing Sisters and I put them in my cupboard in my office, and then one morning I went to get them and they were Yes. 210 A10 not there. Was that supboard kept locked? No, it wasn't. 211 A11 No, it wasn't. Who has access to your office besides yourself? the day the Assistant Matron and myself are there Well, during the day the Assistant Maring our rounds, most of the day except when we are making our rounds, but our office door is never locked, and then the Night Sieter is there in charge of it during the night, but of course any person can go in and out of that office if we are not there person can go in and out of that office if we are not there at the time, for instance being at a meal.

Who else would you may has access to that office of yourse?

Well, practically any person can come into our office.

Does anybody go into that office regularly in the course of cleaning the hospital?

On, yes, the cleaners are in there at night. You see, the cleaning of the administration block is done at might, and they start about six o'clock and they are of course in and out a good deal while they are doing the cleaning.

Do you know of any soldiers in particular who were on duty Q13 A13 Q14 A14 Do you know of any soldiers in particular who were on duty 215 the night before you missed the cigarettes? No, I would not like to say that. Are these cigarettes from the Toronto Hotels' Soldiers Fund A15 216 ever sent to any private individuals? Not to my knowledge. A16 And you say it was about the end of April that these digarettes were found to be missing?
Yes.
Did you ever see them again? A17 418 No. 019 419 020 Or were they ever returned to you? No. Have you any idea who took those cigarettes? DEFENDING OFFICER: I object to that question; that is purely a matter of opinion.

CROSS EXAMINATION BY THE DEFENDING OFFICER

Miss Neill, at the time you lost these cigarettes, you say it was the end of April or the beginning of May. Taking from say the 29th or 30th April until the 1st or 2nd of May, or anything like that, could you swear just when they were missing?

A21 I am afraid I couldn't.

But you are reasonably certain it was some time about the end of April or the beginning of May?

Yes.

A22 Yes.

A23 Now about these cigarettes, does a covering letter come with

A23 Yes, it does; it comes usually addressed to the Superior Officer or Nursing Sister.

60.2

And you are the Matron of the hospital? The parcels, I take it, are all addressed in the same way? 924 A24 025 A2 5 026 Was a covering letter received with these particular cigarettes? Do you happen to have in your possession the covering letter? Do you happen to have in your possession the covering letter?

I am sorry, but I haven't.

Do you remember in a general way what was in that letter? To have a letter here which whom was it addressed, for inetance? I have a letter here which my friend has seen but I do not want it to go in as evidence, my friend has seen but I do not want it to go in as evidence, but it might be an aid to you, Miss Neill, to assist your memory. This letter was received on 6 May all and therefore I take it it covers a subsequent shipment of cigarettes?

Yes, this is the type of letter I get.

Yes, this is the type of letter I get.

This letter is addressed to the Buperior Officer, and it says the cigarettes are for distribution to the members of your staff? A26 Q27 A27 Q28 A28 929 The staff of your nurses, of course, is a known quantity; you know just how many are on the staff at any particular time? know just how many are on the staff at any particular time? well, of course it varies from time to time, but I know naturally how many are on the atgength at any one time. And when you receive these eigerettes you give them out according to the number on your staff at the time? A30 231 In other words, it is a known body of people? A31 Q32 A32 Q33 Quite.

Are Nursing Bisters subject to military law?

Are Nursing Bisters subject to military law?

BY JUDGE ADVOCATE: That surely is a matter of law.

DEFENDING OFFICER: Yes, but it affects this case; possibly the Court will take notice of it.

BY JUDGE ADVOCATE: Well, they ought to know.

BY DEFENDING OFFICER: This parcel, Miss Neill, was it ever opened? 934 opened? No, it wasn't. There was a brown paper wrapping on it? Do you happen to know what kind of cigarettes were in this parcel?
Well, it had "Sweet Caporal" on the outside of it.
Do you know the size of the package?
I don't know in that particular box, no, because you see it was A34 435 435 436 437 437 I don't know in that particular box, no, because you see it was not opened.

How many digarettes did this parcel contain?

Two thousand.

How then, this question of access to your room, you say the room is not locked at any time during the day or night, and the supposeral in which these digarettes were kept was not locked; is that right?

They were not locked. right?
They were not locked up, no.
In the building in which your office is in, - take for instance
In the building in which your office is in, - take for instance
on the night, or during any night, how many people are in that
building? As I undepetand it - correct me if I am wrong - the
building? As I undepetand it - correct me if I am wrong - the
building your offices are in are in a separate wing, but it is all
connected up by corridors? 439 Yes. About how many patients would be in that building that is connectable to the same patients would be in that building that is connected by a corridor? They are not shut off or locked off from your ed by a corridor? They are not shut off or locked off from your ed by a corridor? They are not shut off or locked off from your ed by a corridor to see you from the patients? part of the building, there would be no doors or anything to stop them from walking in, would would be no doors or anything to stop them from walking in, A40

would be no doors or anything to stop them from uniting in, would there?

There would be someone on duty in the Admitting Office, though.

There would be someone of the building and the Admitting You come in the main entrance of the building and the Admitting Deak is on the right hand side as you come in?

Aug You come in the front door and through double doors into the Admitting Desk.

And is there always somebody there all through the night?

And there would of course be a certain number of nurses on 044 duty at night?

AUU Yes

They would have access to your quarters?

Q45 Q46 Yes.

And if a nurse wanted to see the Night Supervisor could she go and look for her in your room?

Yes.

Then there were men on duty - the accused was one - cleaning up A46 947 the building?

A47

Is there more than one man doing that, do you know? 2118

There is also a switchboard operator on duty there? A48 949

That is during the night. Now, during the daytime there is a A49 250 constant stream of people passing in and out?

And occasionally during the day, as you have said, your office 05% is empty?

Yes, when I am out for meals. A51

RE-EXAMINATION BY THE PROSECUTOR

In regard to these "Sweet Caporal" cigarettes you have ment-ioned, what is the usual size of package that come in? Is it a small package or large? Packages of 10 cigarettes. Have you ever received them in any other size from this Fund? 952

A523344 A5344

No, I have not. And have they always been "Sweet Caporal?"

Yes.

JUDGE ADVOCATE: I should point out that those questions asked just now on re-examination were not questions, as I recall it, that arose out of cross-examination.
THE PROSECUTOR: I think they were. My friend brought out the THE PROSECUTOR: I think they were. My friend brought out the make and size of the package in his cross-examination.

JUDGE ADVOCATE: Then the questions are quite in order, but in yiew of the fact there are some Officers for instruction I wish to point out for general consideration that questions in re-examination must arise out of the cross-examination, otherwise they cannot be asked without permission of the Court.

2nd witness)

No. B93533, Q.M.S. J.J. EVERETT, No. 15 General for) Hospital, R.G.A.M.C., being duly sworn, is examined prosecution) by the prosecutor:-

955

Have you anything to do with the duty roster for other ranks at the 15th General Hospital?
Yes, sir.
What generally are your duties?
I warn the Orderly Sergeant that I want men for different duties, and my job is really the allocation of the men to those warlous duties.
Does that also include the men who are detailed for fatigue, to sweep the floors, for instance, and clean up the building cenerally?
Yes, sir. 957

Tee, sir.
Do you recognize the assumed, Pto. Hyndman, in the Court?
I do.

Indicate him? That is Pte. Hyndman, sir (indicating).

Has Pte. Hyndman been detailed for fatigue to clean up the administration block of the hospital? 260 administration block of the nospetal?

He was, yes, sir.

We are concerned now with the time between the # Apr #1 and the # May #1; was Pte. Hyndman on duty during that period?

Where was he employed, in what part of the building?

In the Administration Block, which included the Colonel's room, in the front as well.

What time did he go on duty? A60 Q61 A61 Q62 A62 463 463 What time did he go on duty?
Well, they usually start at six o'clock at night and work for five or six hours. 264 Do you know whether Pte. Hyndman during that period would have to these offices you have mentioned? A64 Q65 A65 He would. And how is that access gained?
They get the keys from the switchboard operator.
Have you the duty roster with you? 266 Yes, sir, it is one over for it just outside; shall I get it? I can send some DEFENDING OFFICER: To wieh Hyndman was on duty between those dates.

THE PROSECUTOR: Would the Court like to see the duty roster?

THE COURT: I do not think it is necessary in that case. am quite prepared to admit that Pte. THE COURT: CROSS-EXAMINATION BY DEFENDING OFFICER How many men were detailed at nights for the work of cleaning up? Two men were detailed, sir. Were there ever any more?
Well, at times we have had three.
Were they detailed to do work in particular rooms? No sir, they were not.
Then it follows that you could not say on any specific night who cleaned out the Matron's room? You said they could gain access to the rooms by getting the keys from the wwitchboard operator. Were the rooms kept looked? All in the Administration Wing with the exception of the A71 972 472 973 You said the last night duty the accused did was on the 25th? You said the last night duty the accused did was on the 20th? I think that would be right, sir.

And at night there are two separate switchboard operators on; one does until midnight? One from 12 moon until midnight, and the other from midnight until 5.00 in the morning.

And they also would have access to these rooms in the Administration Wing if they wanted to alip away from their post? The accused or any other person doing the cleaning up there of or six hours?

The accused or any other person doing the cleaning up there of or six hours?

Yes, sir. 473 674 A74 975 or all body.

Yes, sir.

So they went on at six o'clock and would be off about eleven or twelve at night?

Yes, sir.

Yes, sir. Yes, 'eir.

And in that time moving in and out of the offices and cleaning up the hallways and offices and so on, after twelve o'clock the would not be any of these men in the hallways or the offices?

They wouldn't be, no sir. A76 **▲77**

ar I

No. B93675, Col. C.S. GROUNDWATER, No. 15 General Hospital, R.C.A.M.C., being duly sworn, is examined by 3rd witness) for prosecution) the prosecutor:-Cpl. Groundwater, what are your duties?

I am the postal orderly.

As such, have you a record of the parcels received by the personnel of the hospital?

I keep a record of all cigarettes received, sir.

I keep a record of all cigarettes received, sir.

Can you tell me from your records what cigarettes Pte. Hyndman has received, if any, during the last few months?

Yes sir - two parcels, on the 10 Feb 41 and 12 May 41.

On 10 Feb 41 he received what size parcel?

Three hundred cigarettes. A78 Q79 A79 On 10 Feb 41 he received what elze parcel?

Three hundred cigarettes.
And on 12 May 41?

Three hundred also.
As Postal Orderly, do the packages of cigarettes when they arrive from the Toronto Hotels' Soldiers Fund come through you? ARO Q81 A81 082 A82 283 Yes, sir.

And to whom are they generally addsessed?

To the C.O. or one of the senior officers like the Matron.

Can you tell us anything about what size they usually are? AS3 080 Usually a large size, about 2500, sir, Do you know what units they are in inside those parcels? ASI 285 ASS 086 A86 Have you ever seen one of those packages addressed to a private individual? Not that I know of, sir. 987 A87 CROSS-EXAMINATION BY THE DEFENDING OFFICER Now the second lot of cigarettes which Pte. Hyndman received, you said that was 300? One was 300, but there was no definite quantity states, so I assume they were both 300. 088 A88 I assume they were 300. Presumably a great number of digarettes come into that Then actually you do not know? 089 ARG Yes, sir.

About how many? Could you give us an average?

I could not just say, but in the thousands anyway.

I could not just say, but in the thousands anyway.

This package in question with which we are dealing here, the parcel Miss Neil lost, that was what = 2,000 or 2,500, and parcel Miss Neil lost, that was what = 2,000 or 2,500 cigarettes.

Well, sir, there are not very many parcels of 2,500 cigarettes.

Well, sir, there are not very many parcels of 2,500 cigarettes.

Yes, quite a few.

The amount of cigarettes occaing into that hospital would be what = would you say 25,000 or 30,000 per month, providing the shipments are fairly regular?

Yes, sir. 090 A90 Q91 A91 Q92 494 RE-EXAMINATION BY THE PROSECUTOR You mentioned the second shipment of cigarettes to Pte.

Hyndman was 300; what made you think it was 300?

Hyndman was 300; what made you think it was 300?

Well, one package definitely stated 300 and the other just simply bore a number, with no quantity shown.

Do you happen to remember which one stated it was 300?

To you happen to remember which one stated it was 300?

If I remember correctly, sir, the one which did not have any serial number on it.

And which one would that be?

I couldn't say exactly without reference to my records. 995 195

K. 7.

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No. B83789, Dvr. C. BARNHAM, No. 15 General Hospital, R.C.A.M.C., being duly sworn, is examined
4th witness)
       for
prosecution) by the prosecutor:-
                      What are your duties at the hospital?
                      I am an ambulance driver.
Do you recognised the accused present in this Court?
A98
Q99
A99
                      Do you recognised the accused present in this Court?
Yes, sir.
Just indicate him?
Yes sir, Pte. Hyndman, sitting over there (indicating).
The accused man is charged, as you have heard, with the theft of some cigarettes between 4 Apr 41 and 4 May 41.
Will you just tell the Court in your own words what you know, if anything, about Pte. Hyndman and the cigarettes?
Well sir, we were at breakfast one morning and he asked me where I was going that day and I said I was going to Witley.
We go to different places with patients from the hospital and on that day I was booked for Witley. He asked me if I
 2100
 A100
 2101
 A101
                       and on that day I was booked for Witley. He asked me if I knew where he could sell some cigarettes and I told him to take them to Witley, and we went up there and that is where
                         the cigarettes were sold.
                       Do you remember what day that was?
Yes air, On Sunday 4 May 41 I think it was.
I show you here a transport work ticket; can you identify
  2102
   A102
   2103
                         that work ticket?
                        Yes sir, it is my work ticket for 4 May 41.
Is your signature on that work ticket?
   A103
   0104
                         Yes, sir.

Just read to the Court the entry for 4 May 417

It covers patients from Bramshot to Witley Camp and return, showing time taken being from 1330 hrs to 1500 hrs.
   A104
   Q105
A105
                         EXHIBIT A - Transport Work Ticket.
                         Now then, what happened as regards the digarettes on this occasion?
    2106
                          Well sir, we proceeded to Witley Camp and I discharged these patients, and on the way I picked up two soldiers at the Devil's Punchbowl and took them to the roudabout there.
    A106
                           Were there any digarettes in the vehicle?
    2107
                           Yes, sir. Were they yours?
     A107
     0108
                           No,
     ALOS
                                     sir.
                           Well, whose were they?
The accused's.
     0109
A109
C110
                           The accused's.
Roughly, how many where there; do you know approximately?
Roughly about 500, sir.
And what kind of container ware they in, if any?
In a big container about the size of the 1,000 packages
you receive here - the regular size.
What kind of cigarettes were they?
"Sweet Caporal," sir.
What size neckages?
      A110
0111#
       A111
      9112
       A112
       Q113
A113
Q114
A114
                            What size packages?
Size 10's.
                             Did you have occasion to open any of them?
                            Did you have occasion to open any or the yes, sir.
And what did you find inside them?
I never found anything; I just put them in my digarette case, just ten digarettes.
Was anything else inside the package?
Not to my knowledge, sir.
And what did you do with the digarettes?
They were sold at Witley, sir.
Did you mak Hyndman at any time as to where he got these digarettes?
No sir, I did not.
       2115
        A115
        9116
        A116
        9117
         A11
         0118
         A118
```

Q119 Or did he tell you where he got them? All9 No, sir, he didn't.

CROSS EXAMINATION BY DEFENDING OFFICER

Q120 The container in which these digarettes was contained was, you say, about the size of a package of 1,000?

A120 Yes sir, it looked to be about that; I never received them in the thousands myself, and perhaps it was not quite that big.

Q121 Did you sell all those digarettes?

A121 All but what were kept for our own personal use.

A122 Now, this was on a Bunday, was it?

Now, this was on a Bunday, was it? Yes, sir. Have you ever had other men go out for rides with you on a Sunday Ø155 A122 Under the authority to permit them or refuse them if you did not 2123

A123 2124 want them to go?

Have you any idea where Pte. Hyddman got these cigarettes? A124 0125

A125

I have not.
Or whether he had any more?
No sir, I could not state whether he had any more or not.

A126

BY THE COURT: In your evidence you said, "We went to Witley Camp."
By "we" do you mean the accused and yourself?
Yes, sir.
Did he help you to complete the transaction, or did you help him;
did you more or less assist each other?
Yes, sir. Q127 BY THE COURT:

2128

Pte. R. MacKINNON, No. 2 Canadian nit, being duly sworn, is examined by sir. Yes, A128) Infantry Holding Unit, 5th witness)

Pte. Mackinnon, do you recognise the accused in his Court? Just look around and see if you see him, Pte. Hyndman? No sir, I could not recognise him here. prosecution) the prosecutor:-2129

A129

No sir, I could not recommake sure?

9130 9131

No, sir.

No, sir.

All right. Some time around the beginning of May did anything all right. Some time around the beginning of May did anything unusual happen in the way of a vehicle coming in from another unit that you saw?

Yes air, one Sunday afternoon - I don't just know the date - but the beginning of May, it was in the afternoon, I was coming at the beginning of May, it was in the afternoon, I was coming from our barrack down here and I heard someone say, There is someone there selling cigarettes, and I went over and there was a wehicle that looked like an asbulance and there were two fellows a wehicle that looked like an asbulance and there were two fellows there, and I went over and asked them if they had any cigarettes and they said they had, and I wanted to buy some so I bought and they and these sen.

What did you pay for them?

What did you pay for them?

What did you pay for them? A131

back. What does that come to? How much did you pay for the digarettes? S-shillings for 50 digarettes. Could you recognise the type of package they were in if you saw it? Yes, eir. 0132 4132

3137445555 3137445555 Yes, sir.
What bread of cigarettes were they?
"Buset Caporals.
Does that represent anything to you (producing empty package of cigarettes)?

cigarettes)? Yes sir, that is the kind of package they were in, sir, A136

EXHIBIT "B" - Empty package of "Sweet Caporal" olgarettes (10's)

Q137 Have you ever seen that package before?

and.

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Do you mean that very package there, sir?
Yes, just look at it and see if in any way you can identify it?
Well, I don't know, sir; they all look alike to me.
But it is the same type of package, is it?
A137
Q138
A138
Q139
A139
                                   Yes, sir.

DEFENDING OFFICER: I suggest that it be marked "for identification" - we don't know where it came from or what it is. In the meantime it should be just marked "for identification."

JUDGE ADVOCATE: Yes, it will be marked, "Exhibit B - for identification."

THE PROSECUTOR: What else was in the package, if anything,
                                      besides cigarettes?
A small card, sir.
                                      A small card, sir.
What did it say on the card, do you remember?
What did it say on the card, do you remember?
I don't just know exactly, but something about The Toronto Hotels - I don't just recall exactly what it was, though.
Would you recognise the card if you saw it?
     2140
       A140
       0141
        Alul
                                          Yes sir, that is the card [produced]?
Yes sir, that is the card I produced myself.
Yes sir, that is the card I produced myself.
Just look on the back of it and say whether or not that is your name on the back of it?
         2142
         A142
          A143
          2144
                                             Yes, eir.
And is that card signed by yourself?
            A144
Q145
A145
                                             Yes, eir. And you say that is the very card which you found in the
                                             package?
Yes sir, in the last package I had.
             2146
                                              EXHIBIT *C* - Card of Toronto Hotels' Soldiers' Fund, signed
               A146
                                                                                                            on reverse by A22449, Pte. R. Mackinnen.
                                               Have you any idea how many cigarettes this man you have ref-
                                                   erred to, had? I have many digarettes that the set of him at I bought 100 off him myself; you see, I bought 50 off him at first and then went back half a minute after and bought another
                2147
                                                  erred
                                                                               that all you know about the circumstances of this case?
                 A147
                                                   50 cigarettes.
                                                    And 18
                   0148
A148
                                                                                       CROSS EXAMINATION BY THE DEFENDING OFFICER
                                                    Yes, sir.
                                                     In connection with this exhibit "C", you say you found that card in the last package. Did you find a similar card in every package?
                     2149
                                                       every package?

Yes, sir.

You first produced that card about 8 Jun 11, and you received You first produced that card about 8 Jun 11, and you received the cigarettes on the h May bl; is that right?

I don't know just what dage it was, sir.

I don't know just what dage it was, sir.

Well, in any event, it was a Sunday in May?

Yes, sir.
                        0150
                       A150
Q151
A151
Q152
A152
                                                         Well, in any event, it was a bunday in any yes, sir.

And you apparently kept that card for a month?

And you apparently kept that card for a month?

And you apparently kept that card for a month?

Well sir, I think it was about three days after I had bought the digarettes, the Orderly Corporal saked me if I had any the digarettes, the Orderly Corporal saked me if I had any shall be packages left and I said I thought I did have one, and he said, when must have been s tolen. He said, "The Major would like "They must have been s tolen." He said, "The Major would like "They must have been s tolen." He said, "The Major would like "They must have been s tolen." He said, "The Major would like "They must have been s tolen." I can be to see the package, and I told his, "I will keep the card to see the package, and I told his, "I will keep the card to see the package, and I told his, "I will keep the card to see the package, and I told his, "I will keep the card to see the package, and I told his, "I will keep the card to see the package, and I told his, "I will keep the card to see the package, and I told his, "I will keep the card to see the package, and I told his, "I will keep the card to see the package, and I told his, "I will keep the card to see the package, and I told his, "I will keep the card to see the package, and I told his, "I will keep the card to see the package, and I told his, "I will keep the card to see the package," and I told his, "I will keep the card to see the package, and I told his, "I will keep the card to see the package, and I told his, "I will keep the card to see the package, and I told his, "I will keep the card to see the package, and I told his, "I will keep the card to see the package, and I told his, "I will keep the card to see the package, and I told his, "I will keep the card to see the package, and I told his, "I will keep the card to see the package, and I told his, "I will keep the card to see the package, and I told his, "I will keep the card to see the package, and I will ha
                           0153
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us.

Q156 BY THE COURT: Did you see the container that these packages of

No, sir. All you saw, I take it, were the actual packets of cigarettes?

A156 Q157 A157 Q158 A158 Yes, sir.

I could not say whether I bought them from the driver or from the other fellow, but there were two fellows there selling these cigarettes, sir. I went right back into my hut; I didn't wait until the ambulance went away. It all happened in less than

2159

A159

what unit were these two soldiers from?

I couldn't say, sir.

Would you recognise the man from whom you bought the cigarettes if you saw him?

I don't think so, because you see I was not looking at him long A160 enough to identify him at all.

Q161 Why was this card signed?

Well sir, about three weeks ago I was taken sick and I went to Bramshott Hospital and the officer went up there to get evidence from me one day, and I gave him this card and I signed it them when I gave it to him. A1.61

for Holding Unit, being duly sworn, is examined by the prosecution) prosecutor:-

2162

A162

I believe you have a statement to make about a certain occurrence in connection with digarettes?

Sir, I don't remember the date, but anyway on a Sunday in the afternoon I went from the hut to the washroom and --Do you remember what month it was?

I wouldn't be sure, but I think it was the 4 May 41, and I saw a crowd of the boys around an ambulance thuck. I came closer to it and I wanted to find out what it was all about, and I found they were selling digarettes. Q163 A163

2164 Where was this ambulance?

Right in the Essex Scottish area, on the road. A164 0165

Which Essex Scottish area? A165

which Essex Scottish area?
Well, in this camp anyway, sir.
JUDGE ADVOCATE: Just a moment. I don't know what connection
this evidence and the evidence of the previous witness has with
the first charge. On the face of it, it must be connected with
the second charge.
THE PROSECUTOR: I am attempting to prove, sir, that the cigarettes taken from Matron Meil's office are either the same or
of course that is being done by offering the cards shown which
were contained in the packets of digarettes.
All right. Must happened?
I had been out of digarettes myself but I had ild, in my pocket
and I maked one of the men if I could get some digarettes for
ild, and he gave me two small packages, two small packages of
"Sweet Caporals." Two or three minutes after they start to
leave the place. I opened the digarettee and I found a little
sheet or card in the package, "Toronto Hotels' Soldiers' Fund,"
and this is my writing on the back of this card with the number
of the ambulance, "CA-2503E, Sunlay, May 4th, 41 - 1.1." Those
are my initials. Q166

and this is my writing on the back of this card with the of the ambulance, "CA-25038, Sunday, May 4th, 41 - J.J." Those are my initials.

When did you put that writing on there? When I opened the package and found this little card in it and I found out that a soldier could not get cigarettes like this from Canada for himself and that these cigarettes must be stoler or something, then I took the Number of the trunk and thought I would find out what had happened. 2167

	ers
by THE COUNT: Gould you sweet poststvely that Hyndman was the man you say on that oseasion in the Morderly Moos, and that it was the same man you say selling olgarettes?	Satv
recognise his then? " the breakly Room, did you	Sets
PARAMACH OFFICIAL This is re-examination anyway. Decause the men ones in here should the alter at the not	1010
When did you see his approximately after heavy been in the When did you see his approximately after h May 417, sir. In the Bn. Orderly floom. In the Whole where deter floom. I don't remember. I don't remember.	Caty Cate Cate Cate Cate Cate Cate Cate Cate
Could you have recognised the accused before today? If I saw both of them, yes, and the city the occasion on which the cigarettee were hended les all the this said offer the you see the city	0919 0919
ROTUDESORG BAT THE WOLTANIANE BA	6216
Yes, sir.	92tv
Why do you say "now?" Because now I see both of them here; I remember them now. In other words, due to the fact they were brought to your attention by being brought in here, you can recognise them; Is, sir.	571A 8719
You said you could identify the accused now it.	9/17 9/17
beaucos ent sa won beiltifnebt evan uov nam ent	921¥
CHORS EXAMINATION BY THE DEFENDING OFFICER	22.0
of them like that, exactly the same as that package, and there were ten cigarettes in sach. No sir, I could not say it was that very package; but I know it was the same kind of package.	1/2 TV
Where have you seen one before similar to that, on that one? Can you teal us anything about a package like that, or that it was a package you maye in your hand? Of them like that, exactly the same as that	ELTY
I am showing you a "Sweet Caporal" packet, a container for Yes, sir.	A172
and of Toronto Hotels! Soldiers! Fund,	6115
Yes all the new here (indicating accused). Yes alr, right here (indicating accused). Do you remember what this particular soldier was doing on that cocasion, what part of the transaction he was handling? The cigarettes and the other soldier was standing out atreet by the truck and selling the cigarettes and the other soldier was standing on the truck and selling the cigarettes and handing the cigarettes and handing the money to the ambulance.	ILIV OLIV OLIV
No. son maye any conversation with either of these soldiers. Would you recognise either of them if you say there	691 v 691 v 891 v

(The foregoing witness claims the right under R.P. 83(B) of having his evidence read to him. The shorthand writ reads the evidence, which is accepted in toto by the The shorthand writer the witness).

THE PROSECUTION IS CLOSED

DEFENDING OFFICER: In view of the feet this last witness testified that the accused, Pte. Hyndman, was in the truck, and selling the cigarettes, I would like permission to ask Pte. Barnham about that, to clear up just who was in the truck.

THE PROSECUTOR: I think that is entirely in the descretion of the Court; I personally have no objection.

DEFENCE

No. B63789, Dvr. C. BARNHAM, No. 15 General Hospital, R.C.A.M.C., being previously sworn, is recalled and examined by the defending officer:-4th witness for rosecution recalled on) behalf the defence))

Q186 When you were selling the cigarettes in the camp area one of you was in the truck and one outside? Yes, sir. Who was in the truck?

A186

9187 A187 I was in the truck, sir.

THE DEFENDING OFFICER: At the close of the case for the prosecution I am applying that the accused be dismissed, and quote as my authority for making this motion note 1 to R.P. 40, p. 644 M.M.L. There are two main grounds on which I feel I have not been put on my defence. The accused is charged under AA 18(4) with stealing public property. That same section provides for a charge to be laid against an accused person for stealing property belonging to persons subject to military law. Miss Neil testified in her evidence that these elgarettes are addressed to her as supervisor, that she is the supervisor at the 15th General Hospital. She also states, according to the letter she received, the eigarettes are for distribution to members of her staff, and she has admitted that that staff is at all times a stated body. When the time for distribution comes different individuals get the eigarettes; they are not distributed to patients or any person other than members of the staff. It is a gift from Canada to a definite, recognizable body of people, care of the person in charge of that body. In other words, under no consideration can I see where that can be called spublic property. That is something belonging to the public generally, usually in the right of the Crown and the right of the Government, and these eigarettes could not be deemed to be public property; they were gifts to certain definite people, and if the charge had been worded properly it might have been worded that the eigarettee this man is charged with stealing were the property of persons subject to military law. As yet we have no evidence of public property being stolen - the eigarettes were certainly not public property. The second ground upon which I feel I have not been put on my defence is on the ground of stealing. To prove the stealing there has to be a certain general --
JUDGE ADVOCATE: Just a moment. You were quoting 16(4). Have you the amendment? cigarettes are addressed to her as supervisor, that she is the super-

the amendment?
DEFENDING OFFICER: Yes, sir. He must be expressly charged with
stealing public property; in this case, if anything, I submit he
should be charged with stealing property belonging to a person subject
to military law. As you can appreciate, the gravity of the offence
may wary, according to whether public property or personal property.

If a man steals a rifle, which is public property, it is considered a
more serious charge than if he steals some article of personal property.

es to

My second objection is to the evidence of actual theft. The MML My second objection is to the evidence of actual theft. The MML looks upon stealing from comrades in arms as a very serious charge, but consequently the evidence must be very strong. The evidence we have first is of access, since no-one was caught in the act, and the evidence of the prosecution to prove access has certainly proved access on the part of the accused, but it has not limited it to him at all. There was access on the part of the switchboard operators, nurses during the day and at meal times particularly, and the opportunity for access on the part of anyone who cared to walk down the corridor. Furthermore, this cupboard was unlocked, so I do not see that the evidence of access is sufficiently strong in itself to raise any presumption that the accused stole the cigarettes. If see that the evidence of access is sufficiently strong in the raise any presumption that the accused stole the cigarettes. If it does not do that, then it follows that you must show he was in possession or was seen to be in possession of the cigarettes to connect him up with the alleged crime. In this case the accused sold in this camp packages of ten cigarettes sent by the Toronto Hotels' Soldiers' Fund. They have not been able to prove that the Hotels' Soldiers' Fund. They have not been able to prove that they were packages of ten received by Matron Neil, because the package she did receive was never opened. She says they were contained in a package of 2,000; the Postal Corporal stated he thought it was a package of 2,500, but the only evidence we have at this end was given by Barnham who said the cigarettes which were sold were contgiven by Barnham who said the digarettes which were sold were contained in a package of 1,000 or less. It seems to me that the connecting link between the digarettes sold here and the digarettes missing from Miss Neil's office is practically non-existent, because there is no proof except possibly that they were both "Sweet Caporal" digarettes. I think it is a matter worthy of note that the Postal Corporal said thousands of digarettes came into that hospital every month as well as the ones sent to Matron Neil, and I do not think the accused has been put on his defence because he does not come under those charges and the evidence of theft is inadequate.

THE PROSECUTOR: In regard to this motion, sir, the defending officer has brought up the question of the laying of the property in the right of someone, and states in this case it is not public in the right of someone, and states in this case it is not public property. That is a question of law which I am prepared to argue, but I hardly think it is relevant. It quite possibly could be public property, in that it was sent to a representative of H.M. Forces it distribution. However, I don't think it really matters in view of the section in the A.A. to the effect that if the evidence is different then the Court can find the accused guilty of what is proved in evidence. As regards the evidence for the prosecution, the prosecution has proved, firstly, the loss of the digarettes, eigarettes which were sent by the Toronto Hotels' Soldiers' Fund, and the loss took place at a date cowered by the charge. Now then, Matron Neil stated these digarettes have always been 'Sweet Caporals,' she has never known of these being anything but packages of 10. The prosecution has also proved that the accused was in possession of Sweet Caporal signrettes in packages of 10 with this foronto Hotels Soldiers' Fund card in them. It has been proved also that these digarettes are not sent to private individuals, and also that the accused could only have had legitimately digarettes that were sent to him in February, I believe, in the amount of 300.

DEFENDING OFFICER: I object to that, because there is no evidence it was 300.

THE PROSECUTOR: As I remember the evidence of Groundwater, I think he said it was a packet of the 300-size. However, regardle of the size, they were still not cigarettes sent by the Toronto Hotels' Soldiers' Fund.

DEFENDING OFFICER: There is certainly no evidence to that effect, that they were mot received from the Soldiers' Fund.

THE PROSECUTOR: There is evidence to this effect, that the foronto Hotels' Soldiers Fund only send eigerettes to institutions.

ast I

We have digarettes stolen, we find the accused in possession of the same brand of digarettes, and even if the accused could not be found guilty of theft, I suggest to the Court he could possibly be found guilty under A.A. 56 (5) of the lesser crime of receiving stolen guilty under A.A. 56 (5) of the lesser crime of receiving stolen guilty under A.A. 56 (5) of the lesser crime of receiving stolen guilty under A.A. 56 (5) of the lesser crime of receiving stolen guilty under A.A. 56 (5) of the lesser crime of the Same involving a higher degree of punishment, be found guilty of the same offence ... I submit the receiving of stolen goods is the same offence, because in A.A. 18 (4) the offence is, "Steals, embezzles or fraudulently misapplies or receives," - the receiving of course not being as serious an offence as that of actual theft.

DEFENDING OFFICER: If I might say a word in connection with that receiving question. You will notice that sec 18 (1) says, "...receives, knowing them to be stolen ..." and the question of knowing the articles in question to have been stolen has not been knowing the articles in question to have been stolen has not been knowing the articles in question to have been stolen has not been proved here today at all. It is quite a different offence, and as to the suggestion of the prosecuting officer in connection with public property in the lesser charge, once again I say it is another offence entirely and he is trying virtually to amend his charge, which he cannot do unless certain formalities are proceeded with in this case,

THE PROSECUTOR: A receiving case is seldom proved except by implication.

THE COURT IS CLOSED TO CONSIDER THEIR DECISION

THE COURT: Pte. Hyndman, the Court find a case has not been established against you in that you stole cigarettes under A.A. 16(4), and dismiss this charge against you.

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

Are you guilty or not guilty of the second charge against you, 0188 which you have heard read? Not Guilty, sir.

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

No, sir. ALES 0189

A189

DEFENDING OFFICER: In order to expedite the proceedings, may I point out in connection with the plea of not guilty to this charge, I as quite prepared to admit the actual sale of the cigarettes, I as quite prepared to admit that on a May all the accused, Ptc. Hymannan, did in fact sell sigarettes at this samp, being packages of 10 Sweet Caporais, early the for Machala. and Not for Re-Sale."

THE PROSECUTOR: I think my friend is wishing to adopt the procedure under rule 32, that the charge does not disclose an offence under the army Act.

DEFENDING OFFICER: The charge certainly does disclose an offence under the Army Act, but I am arguing that there is no evidence here at all and it is a matter only of law.

JUDGE ADVOCATE: To expedite matters, are you consenting that the evidence given on the previous charge, so far as applicable, shall apply to this second charge?

DEFENDING OFFICER: Yes, elr.

THE PROSECUTOR: That is agreeable to me, sir.

JUDGE ADVOCATE: Have you any further evidence to give in support of this charge, other than as already given on the previous charge? THE PROSECUTOR: I think before I could answer that, perhaps my friend should enlarge on what he said and submat what he can to the Court to show this is not an offence.

Court to show this is not an offence.

DEFENDING OFFICER: The only other thing I would like to see in as DEFENDING OFFICER: The only other thing I would like to see in as but it does not affect the evidence at all. In other words, I am but it does not affect the evidence at all. In other words, I am but it does not affect the evidence at all. In other words, I am but it does not affect the evidence at all. In other words, I am but it does not affect the evidence at all. In other words, I am but it does not gramment on a weakness in R.O. 635 does not prohibit the prosecutors: I think my friend means R.O. 635 does not prohibit the sale of cigarettes, which I am prepared to admit. Howell to put in his case as he thinks it needs to be put in, and Howell to put in his case as he thinks it needs to be put in, and then there will be no danger of revealing your defence too soon. THE PROSECUTOR: In that case the prosecution will adduce no further THE PROSECUTOR: In that case the prosecution of law on what we evidence, but I would like to argue a question of law on what we have been discussing. Perhaps my friend would go ahead first on have been discussing. Perhaps my friend would go ahead first on THE PROSECUTOR: Not as part of the case. Well, perhaps it would be just as well if I did put it in in that way. I will have to call someone to prove it, though, perhaps in the case of the case of the case. I will have to call someone to prove it, though, though the prove it, though, and the consent to that being put in as evidence without further proof. That is a certified copy; it is a unit order but it republishes the R.O. Are you submitting the order as evidence? without further proof. That but it republishes the R.O.

EXHIBIT "E" - No. 15 General Hospital Part I Orders dated 1 Apr 41.

THE COURT: Have you anything further you wish to add?
THE PROSECUTOR: That is all, sir, but I think the defending officer wishes to argue a point of law.

THE DEFENDING OFFICER: This man has a certain charge against him, "An act to the prejudice of good order and military discipline, in that he at Witley Camp on I May 41 sold cigarette being cigarettes sent to Canadian soldiers overseas, duty free a being cigarettes sent to Canadian soldiers discipline, in that he at wittley Camp on E May is sold digarettee, being digarettes sent to Canadian soldiers overseas, duty free and being digarettes sent to Canadian soldiers overseas, duty free and mot for re-sale, contrary to C.A.R.O.(O) No. 65/8 dated 15 Mar is not for re-sale, contrary to C.A.R.O.(O) No. 65/8 dated 12 Mar is not for re-sale, contrary to C.A.R.O.(O) No. 65/8 dated 12 Mar is not for published in Unit Part I Order No. 66/81 dated 12 Mar is not cannot divorce the charge the offence and the particulars.

If you will look at R.F. 17, (3), p. 62% M.M.L. you will find that the charge as a unit in itself is divided up into two component. If you will look at R.F. 17, (3), p. 62% M.M.L. you will find that the charge as a unit in itself is divided up into two component. It you will find that the offence is, because it is required by R.P. so that the accused knows offence is, because it is required by R.P. so that the accused knows offence is an set to the prejudice of good order and allitury discipline. Specify in detail just exactly what the offence is. The offence here is an set to the prejudice. We have to limit our defence from the particulars we have to find out just now or why we are charged with an act to the prejudice. We have to limit our defence to the manner in which we have been brought under this specific offence under the A.A. When you read the particulars you tind that to the the the accused sold digarettee, contary to C.A.R.O.(0) 635, which is in that the accused sold digarettee, contary to C.A.R.O.(0) 635, and the fact I do not think it constitutes an order at all, it is so wague.

All It reads as follows: (Reads CARO(0) 635). As a matter of fact I do not think it constitutes an order at all, it is so wague. That is the way the particulars are worded. Then if he sells these clarity in during the taken upon hisself to run that risk. There is no sells the sells in Junction.

All the secured has t

All I have to meet is the fact that he is charged with selling cigarettes - an act to the prejudice in that he sold cigarettes contrary to a R.O. There must be a definite prohibition laid down and in this R.O. there is nothing like that at all. He is not prohibited by the Canadian Army (0) R.O. 635 from selling cigarettes at all. That is the point of law I am arguing.

THE PROSECUTOR: I quite agree with everything my friend the defending officer has said. However, the accused is charged with an act to the prejudice of good order and military discipline; with an act to the prejudice of good order and military discipline; it is therefore incumbent upon the prosecution to say or to show that he has committed an act which is contrary of the prejudice of that he has committed an act which is contrary of the prejudice of that he has committed an act which is contrary of the prejudice of the sale of cigarettes or not I do not think is in issue prohibits the sale of cigarettes or not I do not think is in issue there. The point is, he admits selling cigarettes. Is that an act here. The point is, he admits selling cigarettes. Is that an act to the prejudice? I submit that it is. By so selling cigarettes he is imperilling the privilege that the Canadian Army enjoys of receiving cigarettes duty free from Canada, and by the mere fact receiving cigarettes duty free from Canada, and by the mere fact order is prejudiced. I think we can all well imagine if this privilege were stopped it would be quite the reverse of good order; in fact there would be a terrific hulabaloo about it, and I submit in fact there would be a terrific hulabaloo about it, and I submit in fact there would be a terrific hulabaloo about it, and I submit in fact there would be a terrific hulabaloo about a that by selling these cigarettes he is tending to bring about a state of condust or serious of actions in other men that are very prejudicial to military discipline and encouraging people to entirely prejudicial to military discipline and encouraging people to entirely prejudicial to military discipline and encouraging people to entirely prohibit the sale, but they certainly caution people that the substance of the charge.

THE DEFENDING OFFICER: One point. I may say I agree with my friend's contention that it is against good order, but I do not agree that it is against military discipline, because there is no order out that he shall not sell cigarettes, but whatever it comes under, I do not think I have to face that. If the charge had been under, I do not think I have to face that. If the particulars and not for re-sale, I would agree with him, but the particulars and not for re-sale, I would agree with him, but the particulars say, "contrary to a Canadian Army R.O." and when I look at that R.O. I find it falls to pieces because there is no prohibition in the Army R.O. referred to.

THE PROSECUTOR: I submit there does not have to be a direct order.

THE COURT IS CLOSED TO CONSIDER THEIR DECISION.

THE COURT: The Court will not uphold the plea of the defence for dismissal of this charge and ask the defence to go on with their case. Does the accused wish to give evidence himself? (R.P. 40 complied with by the Court).

DEFENDING OFFICER: No sir, I am not calling any evidence at all. As a matter of fact we have already admitted the fact of the sale, so there will be no evidence or defence on the part of the accused at all.

JUDGE ADVOCATE: The accused does not wish to give evidence himself or to make a statement. Are you calling any other witnesses at all?

DEFENDING OFFICER: No, sir.

THE COURT: Have you anything to say about the evidence brought out which we are accepting as evidence on this charge of selling cigarettes?

THE PROSECUTOR: In view of the fact the defending officer has admitted the sale of the cigarettes, and in view of the fact the Court has decided it is an act to the prejudice of good order and military discipline --JUDGE ADVOCATE: That has not been decided. The accused has been put on his defence.
THE PROSECUTOR: In that case I won't address the Court.
DEFENDING OFFICER: I have nothing further to add, but when it comes
to the question of mitigation of sentence I would like to speak

THE COURT IS CLOSED FOR THE CONSIDERATION OF THE FINDING

THE COURT: Have you any evidence to produce as to character and particulars of service of the accused?
THE PROSECUTOR: Yes, sir.

The Prosecutor, LIEUT. H. M. HOWELL, No.1 Canadian Infantry Holding Unit, being duly sworn, states:-

Sir, I produce firstly certified true copy of MFN-6, regimental conduct sheet of the accused. Secondly, Secondly, produce MFB-355, Statement as to character and particulars of service of accused.

of service of accused. BY THE COURT: Is the accused the person named in the state-2190

ment which you have heard read?

A190 Q191 Yes, sir.

Have you compared the contents of the above statement with the regimental books?

2192

Yes, sir.

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

Yes, sir.

A192

The defending officer declines to cross-examine this witness.

THE COURT: Now, before we give you an opportunity of addressing the Court we will try the last charge.

JUBGE ADVOCATE: Is that satisfactory?

DEFFNDING OFFICER: That is satisfactory, sir. I may say, sir, I am taking objection before the accused pleads to the third charge. My objection is submitted under sec 23 of R.P., (A) (ii). I have to refer once more to the particulars to find out what I have to meet and quite honestly, the way this charge is worded neither the accused nor myself know what we have to meet. He is charged with improper use of a truck, but in what way he was improperly using it I have not the faintest idea. I can only prepare my delence to meet the charge as I understand it; if they said, In that he did comething with this truck, them I would know what I have to meet, but as it is I haven't the faintest notion of what I have to meet, but as it is I haven't the faintest notion of what I have to meet, but as improper use is concerned. as it is I haven't the faintest notion of what I have to meet inso as improper use is concerned.

THE PROSECUTOR: The defending officer is referring to R.P.23. I presume the Court have already satisfied themselves that that R.P. has been complied with before the trial actually opened. However, I think again the rule applicable is R.P. 32 and it is therefore incumbent again upon the prosecution to show this improper use, whatever it may be, and I confess I am very much in the dark as to what it is myeelf. An ast to the prejudice of military discipline apparently it was the selling of eigenstees which constituted the improper use and I can only say the remarks I have already address to the Court as regards the same motion on the second charge apply to this one, and would merely add that the using of the truck for the purpose of selling those cigarettes is definitely improper use of a W.D. vehicle or a vehicle the property of the Crown in the right of the Dominion of Canada, if it is the property of the Grown right of the Dominion of Canada, if it is the property of the Grown.

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DEFENDING OFFICER: If I may answer that — these charges are being tried separately. Each must stand by itself and any evidence which appeared in the other two charges is not yet relevant to this charge. I might have been handed that third charge on a separate sheet of paper. If my friend will just refer to see 32 it says, "The accused, when required to friend will just refer to see 32 it says, "The accused, when required to friend will just refer to see 32 it says, "The accused, when required to friend will just refer to see 32 it says, "The accused, when required to friend will just refer to see 32 it says, "The accused, when required to friend will just refer to see 32 it says, "The accused, when required to friend will just refer to see 32 it says, "The accused that it does plead to any charge is under this see, standing alone on the third charge. I don't know what it alleges or what I have to meet. The remarks of my friend know what it alleges or what I have to meet. The remarks of my friend has not appeared in this charge.

JUDGE ADVOCATE: The question raised by the defence is that there are not sufficient particulars.

DEFENDING OFFICER: I am quite prepared to meet the charge that at 1430 hrs the seek Scottish barrack block "C" he was concerned in the charged, but it is presumed with the selling of cigarettes, therefore charged, but it is presumed with the selling of cigarettes, therefore charged, but it is presumed with the selling of cigarettes, therefore charged, but it is presumed with the selling of cigarettes, therefore charged, but it is presumed with the selling of cigarettes, therefore charged, but it is presumed with the selling of cigarettes, therefore charged, but it is presumed with the selling of cigarettes, therefore charged, but it is presumed with the selling of cigarettes, therefore charged, but it is presumed with the selling of cigarettes, therefore charged, but it is accused that a selling of cigarettes in this Court because I DEFENDING OFFICER: I would suggest we be very chary about

(By consent of both defending officer and the prosecutor the evidence as given on the first charge so far as it is applicable and relevant to the sale of digarettes shall be made to apply to the third charge).

THE PROSECUTOR: In that case the prosecution will not produce any further evidence but will confine itself to a question of law as to whether that does constitute prejudice to good order and military whether that does constitute prejudice to good order and military whether that does constitute prejudice to good order and military whether that does constitute prejudice to good order and military whether that does constitute prejudice to good order and military whether that does constitute prejudice to good order and military whether that does constitute prejudice to good order and military whether that does constitute prejudice to good order and military whether that does constitute prejudice to good order and military whether that does constitute prejudice to good order and military whether that does constitute prejudice to good order and military whether that does constitute prejudice to good order and military whether that does constitute prejudice to good order and military whether that does constitute prejudice to good order and military whether that does constitute prejudice to good order and military whether that does constitute prejudice to good order and military whether that does constitute prejudice to good order and military whether the property or the prejudice to good order and military whether the prejudice to good order and military whether the property of the prejudice to good order and military whether the property of the prejudice to good order and military whether the property of the prejudice to good order and military whether the property of the prope

THE DEFINDING OFFICER: The prosecution allege an act to the prejudice of good order and military discipline in that the truck was improperly used. The prosecution have produced in evidence that it was improperly used. The evidence we have from the first trial is that the witnesses used. The evidence we have from the first trial is that the witnesses used. The evidence we have from the first trial is that the witnesses as an ambulance outside this particular barrack block; in the rear of many and an ambulance outside this particular barrack block; in the rear of several trial cigarettes. To meet a charge of that kind there has to be some proof of the use of the vehicle. If the vehicle had not been there would he have been able to sell the cigarettes? If he had walked down would he have been able to sell the cigarettes? If he had walked down was not a large parsel and he did not have need of a truck to carry it. Gould he have sold them just as well if he had not had the behicle? Gould he have sold them just as well if he had not had the behicle? In other words, was this a factor in the sale of those sigarettes. In other words, was this a factor in the sale of those sigarettes. In other words, was the sale properly using it. That is the case I have to a W.D. vehicle he is improperly using it. That is the case I have to have on a Sunday afternoon, he did sell cigarettes in the vicinity of here on a Sunday afternoon, he did sell cigarettes in the vicinity of here on a Sunday afternoon, he did sell cigarettes in the vicinity of here on a Sunday afternoon, he did sell cigarettes in the vicinity of here on a Sunday afternoon, he did sell cigarettes in the vicinity of here on a Sunday afternoon, he did sell cigarettes in the vicinity of here on a Sunday afternoon, he did sell cigarettes in the vicinity of here on a Sunday afternoon, he did sell cigarettes in the vicinity of here on a Sunday afternoon, he did sell cigarettes in the vicinity of here on a Sunday afternoon, he did sell cigarettes in the vicinity of here of

the vehicle was an act to the prejudice, but we are not faced with that charge. You might do a lot of nefarious acts in the presence of a W.D. vehicle and if you were charged every time with improperly using a vehicle you would have it tacked on to the end of every Court Martial.

THE PROSECUTOR: The defending officer brought out the question of whether or not the vehicle was necessary or was a necessary factor in the sale of these cigarettes. He could quite conceivably have sold the sale of these cigarettes and also used more or less as a used to transport these cigarettes and also used more or less as a used to transport these cigarettes and also used more or less as a used travelling shop for the sale of the cigarettes. One man was outside and travelling shop for the sale of the disguise the fact the sale of the other man was inside it, handing them out. In other words, the vehicle was used as a form of cover to disguise the fact the sale of vehicle was used as a form of cover to disguise the fact the sale of a vehicle was going on. I submit that it does constitute improper use cigarettes was going on. I submit that it does constitute improper use of a W.D. vehicle. This vehicle was requisitioned for the sole purpose of a W.D. vehicle. This vehicle was requisitioned for the sole purpose of taking patients to witley Camp, but the evidence shows it was, in of taking patients to witley Camp, but the evidence shows it was, in addition to that, improperly used as a shop to sell cigarettes.

DEFENDING OFFICER: The word "shop" implies it did play a part in the sale, which it did not do, but whether or not he carried digarettes on the truck is not in question because the charge is laid at a different time and place. ferent time and place.

THE COURT IS CLOSED TO CONSIDER THEIR DECISION.

THE COURT: The Bourt finds they have to uphold the submission of the defending officer in that the evidence given for the prosecution does not establish a case against Pte. Hyndman, and we dismiss the third

DEFENDING OFFICER: I would just point out, speaking to the second charge, which is the only one left, there is considerable doubt as to just what military discipline would be affected if he did sell those just what military discipline would be affected if he did sell those just what military discipline would be affected in his area but it digarettes. He undoubtedly had the R.O. published in his area but it not definite by any manner of means, and I submit that a private olgarettes. He undoubtedly had the R.O. published in his area but is not definite by any manner of means, and I submit that a private reading that R.O. would not get a definite prohibition out of it, therefore there is some mitigation in his selling those olgarettes. it, and therefore there is some mitigation in his selling that are to character Furthermore, that company conduct sheet and statement as to character and particulars of service of the accused does not show any great charges against him - they are all merely AML's. He has no actual charges such as he is charged with today; his crimes on that sheet are crimes such as he is charged with today; his crimes on that sheet are crimes such as he is charged with today; his crimes on that sheet are crimes such as he is charged with today; his crimes on that sheet are crimes such as he is charged with today; his crimes on that sheet are crimes and it as horting all A.W.L. for a short period of time, I think the longest is a period all A.W.L. for a short period of time, I think the longest is a period all A.W.L. for a short period of time, I think the longest is a period all A.W.L. for a short period of time, I think the longest is a period all A.W.L. for a short period of time, I think the longest is a period all A.W.L. for a short period of time, I think the longest is a period all A.W.L. for a short period of time, I think the longest is a period all A.W.L. for a short period of time, I think the longest is a period all A.W.L. for a short period of time, I think the longest is a period all A.W.L. for a short period of time, I think the longest is a period all A.W.L. for a short period of time, I think the longest is a period all A.W.L. for a short period of time, I think the longest is a period all A.W.L. for a short period of time, I think the longest is a period or the same and the rest for eight or nine hours, and there is nothing the longest is a period or the same and I all the same all the same and I all the same all the same and I all the same all the same all the same and I all the same all that company conduct sheet and statement as to character

The Judge Advocate and the Court think a sussing up unnecessary. THE COURT IS CLOSED FOR THE CONSIDERATION OF THE SENTENCE.

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4th Witness 6. + A. 22537 Having been duly sworn in states as follows W: What do you know about this case: In the stated day two men came upon to buy eigenettes Did you want to boy agarette the what happened? red there were a lot of 4 Where did the like place: a) In front of the Come leathish Front How of and said drive over there and stood or he side of the runn where to go. after they drove over to Barrach Blook what a. In of the men should anyone w buy buy agarelles? And you see the men in the ambila sell any organelle. Just the accuration of the persons I do think o lan you shoutwely indestify him as me the ho. & Have you any when the amount forgeralls

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The Justily Setting the forg will you tell me what you he a. On the barrack Lits and the forther ten and the boys the and the boys the and the a pence but they gave me two forget Q. What happened offer the yes in the ply Establish is the ply your bought in Did you onte the number of the andlata a yes his ignoroustry on back from & Didyon how the men in the andle a. ho la. & the accused one of the men in the a for in. He was halfing to sall eigenatter

Did you are the accused sellary enqueller with had eigently in their had a it were Japoned 8th of hay which is (par 8) Have you any idea how many signette they ho du. Have you any idea how many we Between 20 + thinly Johngs. Do you printively identify the acon one of the man in the anhula 4. Didgoo see Were both men selling aguilte One man we inside handing the signally honey and harding the physover Which one was in the amblene. Gir Exam a . I am not certain but I think the accused was in the ambilance. Cross Exam. by accused. 9. Did you see me accept more for these cighrettes? a. & of them took movey but van hot certain which one. & Sport of the you that in you herrow enter collected the who was with the driver a fee sign but ho hat how hower the June 1 A22866

\$6 th wilness The Prusak K. A 22896 - Erren Schlich I yes. a yer. Did you see two men who were with that andulance selling engarettes. god you buy any enguette. I am not one them of the me?

Any come on Blackie try one work a get fin agarettes were sold. Q. Coldyon Lidentify the diwer of the ambilabree Q. Did you see the accused sollary organita. a Non not certain the man looked counting the the fighmen but Van met certain that le life all any enganables. Ot. K. f. Prusok,

#/th Witness . Htc. Barnum 6 B 83789. Franchart Cy Reade Having been duly swow in states as follow Q. On the 9th of may you were interviewed by *2 Holder a yes that statement correct. & Do you know where the Hyndman received love Charelles 4. You admit that the Hyndran wis wir a. he sir you helped the Hyndrian a yes si 9. How many did you self. 4. about 500 9. Did you sell all the signelles yes, all but a few for one own was Did you or the Hyndman well the exquester We were both selling the eigenetter, I was 9. What of I for were the eigenther in a They were in a large container that we and full and gold have contained may Mont what time were the cigarette soll. around 14, 30 or 1500 hrs. Did you know that the tryndrom was flaming to go to whitley lamp with you for the person a A selling organetter. yes, and for the ride Home you any idea when the tyndran got the

Hotel Blamstot a you in wending to hospital, frying a I was not very large, it was wraffed & Had you received permin any more ocigare so he had with him. How long lid it take to dispose of these eigenthe a. ho. m about twenty immenter to half an hour Cron Exam by Recure! Her there been any offer person you amblener on Loge of bends Has lit, young known of this. u Sidney from that it was making information with the purpose of selling cignettes 9 a 8 When we ald these cigarettes was brinke Q orderide the arbelines.

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of all house the prowledge yes. Charles Your avater.

The accused was cautioned as follows:

"Do you wish to make any statement or to give evidence on oath; you are not obliged to say anything or give evidence unless you wish to do so, but whatever you say or any evidence you give will be taken down in writing and may be given in evidence." The accused wishes to give evidence on oath, was duly sworn.

Statement of Pte. HYNDMAN, G.W. Reg No.B93621

"I asked Pte, BARNUM on Sunday, 4 May 41, if he know where I could get rid of some cigarettes. He said, 'I think you can get rid of them at Mitley'. I then asked him if he would drive me down. Pte BARNUM was sitting in the truck before I got into the truck. I had a box half full of cigarettes. I had found them behind the incinerator on the 3 May 41 at about 2130 hrs. We drove to Witley Camp 101 and there sold the cigarettes to soldiers of the unit there, the R.M.L.I. I gave Pte. Barnum ten shillings, it was a ten shilling note. I di not give Barnum any cigarettes. I did not warn the men I sold the cigarettes to to keep it under their hats as to where they bought the cigarettes. I sold all the cigarettes and di not have any left. I did not open a single package. I did not give Barnum any packages of cigarettes. We picked up two sailors on the way to Witley, but did not take them in to the Huts Hotel at Hindhead for a beer. On the way back to the Hospital we stopped (Barnum and myself) and had a beer apiece. I paid for the beer here. I was broke when I went to Witley to sell the cigarettes."

9 1 Nyndman, 19-93621 G.W. Hyndman, Private, B93621 12th #15 General Hospital, B.C.A.M.C.

Job Spain end.

(H.C. Hair) Captain, R.C.A.M.C.

"I certify that the foregoing summary of evidence, consisting of sixteen pages was taken down by me in writing in the presence of the accused and rules of procedure 4(c), (d), (e) and (f) have been complied with."

Bramshott Chase Hindhead Surrey.

8 June 41.

" K.T. A."

SUMMARY OF EVIDENCE IN THE CASE OF

B.93621, Pte. Hyndman, G.M. No.15 General Hospital, R.C.A.M.C.

June 41

The accused demands that the evidence be taken on oath.

Witness 1. B.93

B.93500 R.J.M. E. Miller (W.O.1), M.M. & Bar No.15 General Hospital, R.C.A.M.C.

having been duly sworn in states as follows:

. "Mr. Miller, what is your evidence in this case?"

A. Letter by Major Montgomer, from sagor magnifest of cigarettes, and I was told to take any steps necessary, a find out a

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A. WES. T

ment from Pte. Hyndrigh Dresent at the taking of contabe-

A. "Yes."

q. Wir. Miller, at the time of the passes was committed

A. "Three to four as a relieved from might dely when he had been working on the administration Building."

A. Want

2. dispublished the property of the letter?"

A. Sylvania

did Major Montgomery give you these cigarette

A. "Yes it is, sir, and I regognise the cigarette cartons."

The accused declined to cross-examine the witness.

E. Miller, (W.O.1) R.S.M. No.15 General Hospital, R.C.A.M.C.

A Contract

Great Charles from the profession

SUMMARY OF EVIDENCE - CONTINUED

Witness 2. B.93672, Sgt. Young, E.
N.C.O. i/c Transport
No.15 General Hospital, R.C.A.M.C.

Having been duly sworn in states as follows:

- Q. "3gt. Young, did you on 4 May 41, authorize a trip for Ambulance No. C.A. 25038, from Bramshott Hospital to Whitley Camp?" (See exhibit C. Transport work ticket 0-952839)
- A. "I did."
- . "What was the purpose of that trip?"
- A. "To carry patients from Bramshott Hospital to Whitley Camp."
- 2. "How long does that trip usually take?"
- A. "They generally leave at 1330 hrs, and arrive back here about 1500 hrs."
- . "Did you know Fte. Hyndman was going with that ambulance?"
- A. "No. I did not. He had no authority from me."

The accused cross-examined the witness as follows:

- Q. "Sgt. Young, who was in charge of the ambulance?"
- A. "Driver Barnum."
- Q. "Sgt. Young, has Dvr. Barnum the right to refuse me permission to ride in that ambulance?"
- A. "Yes."
- q. "Sgt. Young, did you ever know of me to ride in that ambulance before?"
- A. HNO. N

E.G. Young, Sergeant, B93672 No.15 General Hospital, RCAMC

Witness 3. A.22537 Pte. Simon, C.
No. 1 Cdn. Infantry Holding Unit (Essex Scottish)
having been duly sworn in states as follows:

- Q. "What do you know about this case?"
- A. "On the stated day two men came up in an ambulance and asked if I wanted to buy cigarettes?"
- Q. "Did you want to buy digarettes?"
- A. "I answered 'no'."
- Q. "Then what happened?"
- A. "One of the men said, 'Do you know anyone else wanting to buy cigarettes?'. I answered, there were a lot of boys around the camp who might want to buy some and said, 'Drive over there,' and stood on the running board to show them where to go."

SUMMARY OF EVIDENCE - Continued

Witness 3

- Q. "Where did this take place?"
- A. "In front of the Essex Scottish Barrack Block, Witley Camp"
- Q. "After they drove over to the Barrack Block what happened?"
- A. "One of the men shouted and I also shouted, 'Anyone want to buy any cigarettes?'"
- Q. "Did you see the men in the ambulance sell any digarettes?"
- A. "Yes."
- Q. "Was the accused one of the persons in the ambulance?"
- A. "I do think so."
- Q. "Have you any idea the amount of d garettes they had?"
- A. "No."
- Q. "Do you know the size of package for sale?"
- A. "I should know, as they gave me a package. The package was ten cigarettes."
- Q. "At what price were they selling these cigarettes?"
- A. "Six pence a package."
- Q. "Did they appear to sell a large number of these packages?"
- A. "Yes two to three hundred."
- 2. "Is the package in Exhibit A the type they were selling?"
- A. "Yes sir."
- Q. "Did you see the accused sell any cigarettes?"
- A. "One was selling cigarettes, the other was taking out of container. I do not remember which sold the cigarettes?"

The accused declined to cross-examine the witness.

Charles Simon, A.22537, Private Essex Scottish, No. 1 Can. Inf. Hold. Unit

Witness 4

A.22366, Pte. Jung, J. No. 1 Can. Infantry Holding Unit (Essex Scottish)

having been duly sworn in states as follows:

- Q. "Pte. Jung, will you tell me what you know of these events?"
- A. "Oh Sunday afternoon between 1400 and 1500 hrs., I came out of the barrack huts, Witley Camp, and I saw an ambulance standing in front. When I came close I found out the boys had been buying eigarettes from the boys in the ambulance."
- Q. "Did you go over to buy some cigarettes?"
- A. "Yes, they were selling them two for a shilling or six pence a package. I only had eleven pence but they gave me two packages for eleven pence."
- Q. "what happened after that?"
- A. "I opened that package and found a little card and read it over and found that the eigarettes were from the Hotels Soldiers Fund in Toronto."
- Q. "Is this card, Exhibit B, the card you found in the package?"
- A. "Yes,"
- Q. "Is this package, Exhibit A, the package you bought?"
- A. "Yes, sir."
- Q. "Did you note the number of the ambulance and write it on the card?"
- A. "Yes, sir."
- Q. "Is that your writing on the back of the card?"
- A. "Yes, sir."
- Q. "Did you know the men in the ambulance?"
- A. "No, sir."
- Q. "Is the accused one of the men in the ambulance?"
- A. "Yes, sir. He was helping to sell digarettes."
- Q. "Did you see the accused sell any d garettes?"
- A. "Both had eigarettes in their hands."
- Q. "Have you any idea how many cigarettes they had for sale?"
- A. "No, sir."
- Q. "Have you any idea how many were sold?"
- A. "Between twenty and thirty packages."

Witness 4

- Q. "Do you positively identify the accused as one of the men in the ambulance?"
- A. "Yes."
- Q. "Were both men selling digarettes?"
- A. "One man was inside handing the cigarettes to the other man, who was on the street taking the money and handing the packages over."
- Q. "Which one was in the ambulance?"
- A. "I am not certain, but I think the accused was in the ambulance."

Cross-examined by the accused.

- Q, "Did you see me accept money for these digarettes?"
- A. "One of them took money but I am not certain which one." Question by officer taking evidence:
- Q. "I point out to you that in your previous evidence, the soldier who was with the driver collected the money. Is that correct?"
- A. "Yes, sir, but I do not know who was the driver of the ambulance."

J. Jung, Private, A.22366 No. Cdn. Inf. Hold. Unit(Essex Scottish)

Witness 5

A.22396, Pte, Prusak, K. No. 1 Gan. Infantry Holding Unit (Essex Scottish)

having been duly sworn in states as follows:

- Q. "On about 4 May 41, did you see an ambulance drawn up in front of your barrack block at Witley Camp?"
- A. "Yes."
- Q. "Did you see two men who were with than ambulance selling eigerettes?"
- A. "Yes."
- Q. "Did you buy any cigarettes?"
- A. "No, sir."
- Q. "Was the accused one of the men?"
- A. "I am not sure. I heard one of the men say, 'Come on Blackie, hand out some more digarettes.'"
- Q. "About how many cigarettes were sold?"
- A. "Two or three hundred."
- "Did you hear the men impress on the purchasers not to mention where they bought the cigarettes?"

Page 6.

Witness 5

- A. "Yes, Sir."
 - Q. "Could you identify the driver of the ambulance?"
 - A. "No."
 - Q. "Did you see the accused sell any cigarettes?"
 - A. "I am not certain, the man looked something like Pte. Hyndman, but I am not certain that he did sell any cigarettes."

The accused declined to cross-examine the witness.

K.J. Prusak, Private, A.22396 No.1 Gdn. Inf. Hold. Unit (Essex Scottish)

Witness 6

B.83789, Dvr. Barnum, C. No. 1 Transport Company, R.C.A.S.C.

having been duly sworn in states as follows:

- Q. On the 9th of May, you were interviewed by No. 2 Field Security Section and made the following statement, (Parg. 12-14 attached evidence). Is that statement correct?"
- A. "Yes."
- Q. "Do you know where Pte, Hyndman received these cigarettes?"
- A. "No, sir."
- Q. "You admit that Pte, Hyndman was with you on the afternoon in question?"
- A. "Yes, sir."
- Q. "You helped Pte. Hyndman sell these cigarettes?"
- A. "Yes, sir."
- Q. "How many did you sell?"
- A. "About five hundred."
- Q. "Did you sell all the cigarettes?"
- A. "Yes, all but a few for our own use."
- Q. "Did you or Pte. Hyndman sell the cigarettes?"
- A. "We were both selling the cigarettes, I was handing them out the door."
- Q. "What sort of container were the cigarettes in?"
- A. "They were in a large container that was not full and could have contained many more than the amount I have stated."
- Q. "About what time were the digarettes sold?"
- A. "Around 1430 or 1500 hrs."

Witness (Cont'd)

- Q. "Did you know that Pte. Hyndman was planning to go to Whitley Camp with you for the purpose of selling cigarettes?"
- A. "Yes, and for the ride."
- Q. "Have you any idea where Pte. Hyndman got the digarettes?"
- A. "No, sir, I haven't."
- "On the day of 4 May 41, you took a package into Gorsline Hotel, Bramshott?"
- A. "Yes."
- Q. "Do you know what was in that package?"
- A. "Yes sir, mending for hospital, pyjamas, etc."
- Q, "What was the size of that package?"
- A. "It was not very large, it was wrapped in brown or purple paper."
- . "Had you received permission from Sgt. Young to have Pte. Hyndman in the cab with you?"
- A. "No. sir."
- Q. "Did Hyndman intimate to you that he had any more cigar-ettes to sell other than the five hundred he had with him."
- A. "No, sir."
- Q. "How long did it take to dispose of these digarettes?"
- A, "About twenty minutes to helf ar hour."

Cross examined by the accused.

- "Has there been any other person ride in your ambulance on their day off, besides me?"
- A. "Yes, at least half a dozen."
- Q. "Has Sgt. Young known of this?"
- A. "I doubt it."
- Q. "Did you know that it was making improper use of a W.D. vehicle to transport me to Whitley Camp for the purpose of selling cigarettes?"
- A. "I did not."
- Q. "When we sold these digarettes was I inside or outside of the ambulance?"
- A. "Outside the ambulance."
- Q. "Do you remember accused saying 'Come on, Blackie, hand out some more cigarettes?" Officer -
 - A. "Yes, sir."
 - . "Did you pick up two sailors between Bramshott and Hindhead?"

Witness 6 (Cont'd)

- A. "No, sir, I picked them up very near the Devil's Funch Bowl."
- Q. "The people you took into the Huts at Hindhead, were the patients in the ambulance and not the sailors?"
- A. "Yes, sir."
- Q. "Do you recognize your signature on A.F.G.3518, Serial #0952839?" (Exhibit 3)
- A. "Yes, sir."

Clifford Barnum, Driver, B.83789 #1 Transport Coy., R.C.A.S.C.

Witness 7

A21862, L/Cpl. Laforge, A. Essex Scottish Regiment

having been duly sworn in states as follows:

- Q. "What do you know about this case?"
- A. "Very little, All I know is that two soldiers drove up to the camp and were selling digarettes in Camp 101 at Essex Scottish Barrack Block, Witley."
- Q. "Do you know what day it was?"
- A. "It was a Sunday."
- Q. "Do you know the date?"
- A. "No, I don't, sir."
- Q. "Did you buy any digarettes?"
- A. Wo. sir.
- 2. "Do you remember the circumstances at the time of the cigarette selling?"
- A. "No, sir. All I remember is that they were selling fifty eigerettes for half-a-crown, and were beying to keep it quiet."
- Q. "Is the accused one of the men selling cigarettes?"
- A. "Yes sir."
- Q. "Do you remember where abouts in the ambulance they were selling cigarettes?"
- A. "They were both at the back."
- Q. "About how many sigarettes were sold?"
- A. "I saw nine or ten packages sold."
- Q. "Did you see the accused hand over packages?"
- A. "Yes sir."
- Q. "Did he take the money for them?"
- A. "No, the other man did."

The accused declined to cross-examine the witness.

A. Laforge, Lance Corporal, A21862 Essex Scottish Regiment. Witness 8

A22631, Pte. Cole, J.A.
Essex Scottish Regt., attached 2nd Btn. R.C.E.
having been duly sworn in states as follows:

- d. "Cole, do you remember on or about the 4th of May men in an ambulance selling cigarettes near the Essex Scottish Barrack Block at No. 1 Cdn. Infantry Holding Unit, Witley?"
- A. "Yes sir."
- Q. "Will you tell me what occurred?"
- A. "The ambulance came up about 2 p.m. and 1 was told that the men in the ambulance were selling digarettes. I then went out and bought some digarettes from the two men. I was told by the men not to resell or tell where I bought the digarettes."
- 2. "What did you pay for the digarettes?"
- . "Six pence for ten. Small package.
- Q. "Is exhibit A the type of package?" /
- A. WYes. H
- Q. "Did you find anything else in the package?"
- A. "There was a card but I do not remember what it said.
 I did not read."
- Q. "Is this card similar to the one in your package?"
- A. "I am not certain."
- Q. WYou stated in your previous testimony that you could identify the driver and another soldier with him. Is the accused one of whese two men?
- A. "I do not remember sir."
- Q. "Do you remember what either of the men looked like?"
- A. "No. I don't"
- Q. "You do not femember buying eigarettes from the accused?"
- A. "No sir, I Aon't."

Cross examination by accused:

- Q. "Cole, which of the two men told you not to say anything about where you got the cigarettes?"
- A. "I do not know."
- Q. "Have you ever bought Canadian cigarettes before?"
- A. "Yes."

J.A. Cole, Private, A22631 Esser Scottish att. 2 Btn R.C.E.

Witness 9

B93675 Cpl. Groundwater, C.S. Postal Orderly, #15 General Hospital, R.C.A.M.C.

having been duly sworn in states as follows:

- Q. "What shipments of cigarettes has Pte, Hyndman received since the first of the year?"
- A. "He has received two lots."
- Q. "Dates?"
- A. "The first arrived the 10th of February, dispatched on 22nd January. The second arrived here on the 12th of May."
- Q. "What size packages?"
- A. "The first one was 300 cigarette size. The second package was also 300. Although it did not state on the package '300 cigarettes' I assumed it was a 300 cigarette package."

Gross examination by accused:

- Q. "Corporal Groundwater, are you absolutely sure that is all the cigarettes I have received."
- A. "To the best of my knowledge, yes."

C.S. Groundwater, Corporal, B93675 No. 15 General Hospital, R.C.A.M.C.

Witness 10

B93533 Q.M.S. (WO2) Evered, J.J. #15 General Hospital, R.C.A.M.C.

having been duly sworn in states as follows:

- Q. "Q.M.S. Evered, was Private Hyndman ever on duty at any time in the Administration Offices?"
- A. "Yes, he worked nights."
- Q. "Between what dates was he on duty there?"
- A. "Between April 8th and 29th April 1941."
- Q. "While working in the Administration block, what were his duties?"
- A. "Cleaning all Administration offices, including the Colonel's, Major Montgomery's, the Orderly Room, Central Registry, and Miss Neill's office."
- Q. "Would he have access to all the rooms in the Administration block?"
- A. "Yes. This man got the keys from switchboard."
- Q. "Nould be be working in the Administration block by bimself at any time?"
- A. "There are times when he would."
- Q. "Having the keys, he would have access to any of the offices at any time during the night?"
- A. WYes."

SUMMARY OF EVIDENCE - CONTINUED

Witness 10 (Cont'd)

Cross examination of Q.M.S. Evered by accused:

- Q. "Q.M.S. Evered, how many work at night on this block?"
- A. "Two men."
- Q. "Was there any nights when there were more than two?"
- A. "Yes, sometimes three."
- Q. "Do you know what time we finish this job?"
- A, "No, I do not,"
- Q. "When we are finished, what do we do with the keys?"
- A. "Return them to switchboard as a rule, but occasionally we have to locate these keys in the morning."
- Q. "Did you ever have to go after me for the keys?"
- 0 Bio. 1
- Q. "Q.M.S. Evered, was there any period that the key to Major Montgomery's office was missing any length of time?"
- A. "I do remember a time when it was missing for a couple of days."
- Q. "Do you know where the key was found?"
- A. "I think it was found hung on the board in a different place."

J.J. Evered, Q.M.S. (WO2) B93533 No. 15 General Hospital, RCAMC.

STATEMENT OF EVIDENCE CONTINUED Evidence for the Deffense

Witness 11 B93706, Pte. Grimsley, J.H. #15 General Hospital, RCAMC.

having been duly sworn in was examined by accused as follows:

- Q. "Pte, Grimsley, do you recall when I was working nights on Administration?"
- A. "Yes."
- Q. "Can you tell me the usual time to finish the job?"
- A. "I would say about 2300 hours."
- Q, "Were the keys always handed in to you?"
- A. "Yes. That was the usual procedure."
- Q. Where are these keys kept?"
- A. "On the switchboard keyboard."
- Q, "Do you have a man working all night in there?"
- A. "Yes."
- Q. "Is he awake all the time in there or does he take a nap?"
- A. "I don't know."
- Q. "Do you remember the time when Major Montgomery's key was missing?"
- A. "Yes. It was missing for about two days."
- Q. "Can you give me any details on when it was missing, how long, and where it was found?"
- A. "It was noted missing about 24th April. It was missing two days and found on a spare hook on the keyboard not in its proper place."

Capt. Hair declined to cross-examine the witness.

\$93706 Pte Grimsley, S.H. #15 General Hospital, RCAMC

STATEMENT OF EVIDENCE - CONTINUED

EVIDENCE FOR THE DEFENSE

Witness

H17145 Pte. Nixon, D. #3 Inf. Holding Unit att. #15 Gen Hos. RCAMC

having been duly sworn in was examined by accused as follows:

- 2. "What are your duties in hospital?"
- A. "I work on the switchboard."
- Q. "What hours do you work?"
- A. "Twelve o'clock midnight to eight a.m."
- Q. "I believe the keys to the Administration offices are kept in the switchboard. Is that right?"
- A. WYes, "
- Q. "Are you awake all the night?"
- A. "I doze off, but do not sleep. I stretch out on two chairs."

Cross examination by Capt. Hair.

- Q. "If anyone went into the switchboard to remove a key would you know it?"
- A. "I would know the minute they opened the door into the R.3.M.*s office."

D.W. Nixon, Private, H17145 No. 15 General Hospital RCANG Miss Agnes C. Neill, Matron, No.15 General Hospital RCAMC

- Q. "Miss Neill, on or about the end of April did you lose a quantity of cigarettes from your office?"
- A. "Yes, I did."
- Q. "Would you give me an approximate date?"
- A. "I can not give you a definite date, but it was about the end of April or beginning of May."
- Q. "What kind of cigarettes were they?"
- A. "Sweet Caporals."
- Q. "From whom did you obtain these cigarettes?"
- A. "Toronto Hotels Soldiers Fund,"
- Q. "Have you received sigarettes from this source before?"
- A. "Yes, we have."
- q. "Were the previous gifts packages of ten signrettes?"
- A. "Yes."
- Q. "From previous gifts, although the present parcel was not opened, you would believe that these also would be packages of tens?"
- A. "Yes, I would, because that is the way they have always come to us."
- Q. "Miss Neill. Approximately how many digarettes did you lose?"
- A. "I am not sure, but a similar box at present has 2000 marked on the outside."
- "Previous digarettes that you have received were similar to exhibits A & B?"
- A. "Yes. All that have come from Toronto Soldiers Fund have been like Exhibit A and contain Exhibit B."

Gross examination by accused:

- Q. "Miss Neill, where did you keep these digarettes?"
- A. "I kept them in the bottom shelf of the middle cupboard of our office."
- Q. "Was this supboard locked, Miss Neill?"
- A. "No."
- Q. "Is there anytime during the twenty-four hours that your office is locked?"
- A. "No."
- 4. "At that rate, Miss Neill, I might assume that at any time day or night, the cigarettes might have been removed?"
- A. "The office is only alone about two and a half hours during the day, and at night is vacant several hours as the night supervisor is making her rounds.

Witness 14 A22447 Pte. McKinnon, R. Essex Scottish Regiment.

having been duly sworn in states as follows:

- Q. "McKinnon, do you remember on or about the 4th of May, two men in an ambulame selling digarettes near the Essex Scottish Barrack Block at No. 1 Cdn. Infantry Holding Unit, Witley Camp?"
- A. "Yes sir."
- Q. Will you tell me what occurred?"
- A. "I heard that some men outside the barracks were selling cigarettes, and I went out. One of the men asked me if I wanted to buy any. I said yes, and asked him if he would sell me fifty. He sold me fifty and I asked for another fifty. He sold me a further fifty."
- Q. "What kinds of cigarettes were they?"
- A. "Sweet Caporal ten to a package."
- Q. "What did you pay?"
- A. "Three shillings for fifty."
- Q. "Is exhibit A the type of package?"
- A. "Yes."
- Q. "Was there anything in the package besides digarettes?"
- A. "Yes, a small card, I think it was yellow."
- Q. "Do you remember what was on that card?"
- A. "Something about Toronto Hotels. I kept the card. I have one here." (Exhibit D.)
- Q. "Is the accused one of the men who were selling eigarettes?"
- A. "I could not say. I remember it was an ambulance that drove up, but I am not sure that the accused is one of the men."
- Q. "Does the accused resemble the men in the ambulance?"
- A. "I could not say. They were both about the same height."
 Cross examination by accused:
- Q. "Did eigher of the men tell you not to say where you got the cigarettes?"
- A. "No. I asked one of the men if they were full. He answered, 'Sure, you can see they have never been opened."
- Q. "Have you ever bought Canadian cigarettes before?"
- A. "Yes, many times."

R. MacKinnon, Private, A22449 Essex Scottish Regiment.

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Branshott Chase Hindhead Surrey.

Toercity that the foregoing surmary of evidence, consisting in the foregoing surmary of evidence, the taken down by me in writing in the taken down by me in writing in (a), (b), (c), and rules of proceedure 4(c), (d), (e), and writing of the account of the consistent with the constant of the constant

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The you wish to make any statement or to give evidence on oath; you are not oblised to say anything or give evidence on oath; you are not oblised to so, but whatever you say or any seldence you give will be taken down in writting and may be fiven in evidence." The acquest wishes were duly sworm.

To give evidence on oath, was duly sworm, neg No. 195621

WITHESSES FOR DEFENSE

1. B.93706 Pte. Grimsley, S.H. #15 General Hospital, HCAMC, Bramshott Ghase, Surrey.

#15 General Hospital, RCAMC, Bramshott Chase, Surrey. 2. H.17145 Pte. Nixon, D.

Siller A. XIE TRANSPORT WORK TICKET. W.D. 80 258 C. Hour of Parade Darner TIME TAKEN Driver's Name Signature of person and person pourney. ROUTE. FULL Details of load and server. For whom journey is performed TOTAL .. (16) Galls. (17) Signature of Driver SPEEDOMETER READINGS. TOTAL (12) Held at Start hours out Miles on duty (13) Add Amount drawn (18) Countersigned (14) Deduct Remains on completion . . . Quantity Consumed ... (15)

INSTRUCTIONS TO DRIVER FOR COMPLETING TRANSPORT WORK TICKET.

Items (7) and (8) will be completed by the driver. In the case of a number of details not requiring return to H.Q. until completion of the last detail, items (7) and (8) will be completed for each detail.

Item (9) will be completed by the driver after completion of each detail.

Items (10), (13), (14), (15), (16) and (17) will be completed by the driver after the last journey of the day. Item (20) will be completed as necessary.

(19) Special instructions to driver.

n breakdowns, accidents, reasons for delay, alterations to route, and anything which has appeared to him unusual in the running running adjustments may

(21) Reference to documentary authority (s.g., Army Form F 756, &c.) where such exists (see instructions for iterus 6 and 18).

B C

E G H

It is strictly forbidden to employ any M.T. vehicle, other than a tank or dragon, with a Work Ticket, which is the only authority for journeys and quest be shown if domain

Sheet 1

DUDGE T ARREST

Colonel C.A. Res officer Con anding Tsaved 1 Apr 41

1. DETAILS: Orderly Officer for week anding B Apr 41. Sept. B.A. Gordon Next for duty " " " 13 Apr 41. Sept. B.A. Gordon Sext for duty " " " 13 Apr 41. Sept. B.T. Fergin Gungicol Officer " day of 2 Apr 41. Sept. B.C. Tair Sext for duty for " " 17 Apr 41. Sept. W.E. Feasby Orderly Sergeant " day of 2 Apr 41. Set. Langiteld, T.P. West for duty " " " 3 Apr 41. Set. Langiteld, T.P. Gordon's Corporal " " " 2 Apr 41. Set. Langiteld, T.P. Gordon's Corporal " " " 2 Apr 41. Set. Langiteld, T.P. Gordon's Corporal " " 2 Apr 41. Set. Langiteld, T.P. Gordon's Corporal " " " 2 Apr 41. Set. Langiteld, T.P. Gordon's Corporal

2, PARADES: 0830 hrs. Reveille
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0945 hrs. Daty Parase
0800 hrs. Prockfast Pages Staff)
0810 hrs. Rough Frankf

1800 hrs. proberly Room 1800 hrs. to 1800 hrs. Sinker 2630 hrs. Sink erads 1630 hrs. Suppor 1730 hrs. Setrest 1745 hrs. Buty Parade

1745 hrs. Buty Parade 3005 hrs. Blackout on 8150 hrs. Last Post P15 hrs. Lights Out

3. Millide Disch helpers out respirators will be serviced to place of duty.

Meers of the land of the land

WARRIED 1. THESIAL CALL OF CLUTS WHEN CARADA.

The British coverament extract to allow gifts for the Canadian army to enter the United instan, free of duty, on the distinct unierstanding that these sifts were for personal use and not for re-sale.

The number of cases of re-sale of gifts, particularly discrettes and tobacot, are increasing to such an extent that the British Treasury have made representations that unless the practice is discontinued, they may have to reconsider their decision regarding duty free entry.

The effect of a decision of this meture is obvious and officers Commanding will take immediate steps to call to the attention of all ranks the fact that they are liable to lose this privilege, which is now enjoyed through courtesy of keep the dovernment of the United Fingdom, and to see that appropriate disciplinary action is taken immediately any cases are reported or some to their notice.

(NOUTING CEDER #635, dated 25 far 41)

2. STEED LINES. WITH V CAMP AND As a safety precention, and to stop units wear on the newly laid road surfaces, the speed limit of vahicles within the WITHTY CAMP AND Will be 15 W. M. effective 2 April 1941 (Routine order C.S.U. #79 d/21 War 41)

Like "E" original order

WITH THESE CIGARETTES WE SEND YOU OUR BEST WISHES FOR GOOD LUCK THE TORONTO HOTELS' SOLDIERS' FUND BUITE 612 CORONTO CANALL P WITH THESE CIGARETTES WE SEND YOU. OUR BEST WISHES FOR GOOD LUCK THE TORONTO HOTELS' SOLDIERS' FUND SUITE 612 141 WELLINGTON STREET WEST TORONTO PANADA Som for in boat 122449 R. Mackinn. Ence Scallish 0.40.25038 Whit'D"

PART 1 ORDER #98

WARNIERS (Contid

There will be a parade for all Corporals and Lance-Corporals at the Imboratory at 1430 hours, Privates whose initials are included from A to 8 will parade according to the following eshedule:

1500 hours - A and 8 1525 hours - C 1540 hours - S, H ens F. 1600 hours - C and H 1625 hours - J, H and L 1640 hours - H and H

NOTICE - Fig. 5.0 - Field Service in twent twin hell.

Fr. 5. These articles are day be hed from

Ex depression the Orderly Joseph al.

STATEMENT AS TO CHARACTER AND PARTICULARS OF SERVICE OF ACCUSED

Number	Rank	Name	Regiment (or unit)	
B.93621	Private		. No.15 General Hospi	
	ng is a fair and true summa		Service and General Regimental and Squadron, Battery	
Conduct sheets or Company Condu	ct sheets of the accused, er	sclusive of convictions by	a Court-Martial or a Civil Court.	
of summary awards	s under Section 47 of the	Air Force Act Army Act and of cases	in which trial has been dispensed	
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of which Ni	days were spent		leeve.	
5. The press	ent age of the accused acco			
6. The date	attestation	d in his execute execu	10 Sep 39.	
	MATERIAL STATE	lowed to reckon towards d	discharge is 1 year and nin	
8. The accu	used is entitled to reckon 1	yr. 9 months service for the	purpose of determining his pension,	, esc.
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present date:	ed has served as a nor	n-commissioned officer continuously, w	rithout reduction, to the
			Date of promotion.
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SCHEDULE

uen

Of convictions by a court-martial or civil court, of summary awards under Section 47 of the Army Ast, and of cases in which trial has been dispersed with of accused, Number, E935621 Rank Fig.

Nume Hyndman, G. W. of No.15 Gen. Hosp. RCAMC. Regiment

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

Dynamical of Court by which tried	Date and Place of Trial	Charge upon which somvieted	Sentence of the Court	Punishment Remitted
		NIL		
		" ' "		

I hereby certify that the foregoing schedule of convictions and dispensations with trial is a true extract from the regimental books in my custody. Signed this 27th day of June, 1941. For correct of the correct of

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

M.F.M. 6 (A.F.B.122)-

No. B93621 Name: HYNDMAN, George, William or Company | Hospital Corps: RCAMC enliatment 10/9/39

Date of last entry in) No. and date) Period not reckoning) Signature O.C.) (Signed) Company Conduct Sheet) Nil of last drunk) M.A. towards freedom from extra time) C.A.Rae Character: Fair

THE RESERVE OF THE PARTY OF THE	Date of offence	Rank	Cases of drunken- ness	Offence	Names of Mitnesses	Punishment awarded	Date of award or of order dispening with trial	By whom awarded
Toronto	6.11.39	Pte		A.W.O.L. WOAS	3gt Lane	Forfeiture one days pay & allow. Awarded 7 days CB	6.11.39	Maj.van Nostrand
Bramshot	15 Aug 40	Pte		AlW.01L: 9 hrs	L/Cpl McDonald	10 days C.B. Loss 1 days pay	17.8.40	Col. C.A. Rae
Bramshot	29 Dec 40	Pte		ANOL YOAR 34 hrs	L/Cpl LeTourneau	Loss 2 days pay		Col. C.A. Rae
Bramshot	17 Feb 41	Pte		Avol 11 hrs 46 min.	L/Cpl LeTourneau	Loss 1 days pay	19.2.41	Col. C.A. Rae
Bramshot	24 Mar 41	Pte		andl 86 hrs 20 min.	Sgt. Langfield	10 days detention	24 Mar 41	Col. C.A. Rae
Bramshot	12 May 41	Pte	121	Anol 34 hrs 5 min.	Sgt. Surrage Sgt. Baker.	Forfeits 8 days pa	12 May 41	Col.GÉD Farmer

Elir F.

Certified true copy.

8 June 41

Co.R.D. Farmer) Colonel, R.C.A.M.C. Officer Commanding,
No. 15 General Hospital, R.C.A.M.C.

HY 77 Ayr. ortyslop, g.

SCHEDULE.

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ort " alternative " where applicable.)	(See Instrs p 2.)	(See note below.)	(Space for use as required for further charges, accused cherged jointly, special findings, etc.)
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1/11	Smilto	Jaily	
		/	
			M.
	1	Con one AA SA SP 44	Findings on observative charges see MML p 483 (n 4 para 2, RP 44 ; sP 44 (n 6.)
special findings see	RF 44 and MML p 753	I, and in loss of kit see	1P 44 [n 6.]
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(I. Insert sentence	te being served, or dele	ete, if not opplicable.	See RP 46(A). Information should be found on MF B355 or AF B296.) See RP 46(A). Information should be found on MF B355 or AF B296.)
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AGENACH So the triel of two or more charged jointly see RP 16, 71, 109. As to reasons for showing (a) permanent of the permanent of the control of appinit, Alrank or Ajappint, if any, see AA 182, 183, fins. KR Can 308, 328, 330.) Vet ... John Mysolof, 10 Charles Hop (a) Prmnt R. (b) Appmt, A/R or A/Appmt. 4.26915 ROCEEDINGS REVIEWED The a farme PROCEEDINGS OF TRIAL. on (date(1) R7 Jan 75 OFFICER, JAG BRATCH Holland RECORD FORM A-OPENING PROCEEDINGS AND ARRAIGNMENT. 21/18-Held in the Fd in (country) ... Al. The President, Members, waiting Member, JA, if any, and Offra under instr. if any, assemble, and the PRINTED MATTER, NOT IN ITALICS FOR GUIDANCE, WILL BE DELETED, IF NOT USED OR APPLICABLE, AND INITIALIZED SY FRES DR JA. The Schedule referred to throughout is on p.4. Obtained on NCT include all referent from RDs. Per guidance on procedure when a variation in this form arises, see form for GCRn in ANAL pp. 741 to 759. A brief record of such variation will be made and given a unabler horizing reference to appropriate or preceding perior number herein. See back of Convening Order, will be made and given a unabler horizing reference to appropriate or preceding perior number herein. See back of Convening Order. FARS, for a point and instra on how to record addresses, evidence, etc., which instra are hereafter called "Notes". As to general CF ARS, for a conducting the trial see AA 53, RP S6, 63-70, 73, 74, 94, 103, 119, 132.) A2. The President initials and lays before the Court the Convening Order and Charge Sheet(s) attached thereto.(1)
The Court is satisfied that it is properly convened and constituted(1), accused is (see) amenable to military law, and each charge discloses an offence.(2) (1. As to use of Summary of Evidence see RP 17 fe 5. 2. AA 49, 50, RP 105-107. 3. RP (1-13, 23, 24.) A3. The Court is opened. The accused is (ese) brought before the Court. At 1000 hours trial commences. A4. The Prosecutor produces a Medical Certificate that accused is (see) fit to undergo trial by court-martial, (*)

The Prosecutor informs the Court that accused elected to be tried by the court indicated of being dealt with accused by the CO (*) U. KR Con SSI. 2 AA 666), AF 60 fn). for effect soy ER Con SSIC). Delete, if not applicable.)

A5. President to accused: Do you object the first of the control of the as interpreted to Ans. The as shorthand writer t Ans The interpreter is sworn.(1) Be you object to (1. RF 72. Delete, if nune employed.) A6. The Convening Order and names of the President and Members of the Court are read to the accused. (*)
President to accused: Do you object to be tried by me as President or by any of the Members of the Court *! U. RP 510. 2. If no objection, working member retires. RP 68(8). If objection, see procedure AA 51, AP 25, 71, 18, MANL 9 742) A7. The President, Members, JA, if any, and filling under incir, if any, are sworn.(1) The following are the a, names and units of the offer comprising the Court, etc. 11 M Levence 17 Bank Thank HOLEN & Bussell, & CHARLY HOUSE + Divergan No. 2 Cola Cop 17 Praviden, 10 CAR 1783) Luit ! ons by President: Is the Prosecutor a lawyer ! Ans // Is the Defending Offr a lawyer ! And / (5) (1. NP 26, 27, 109, 111. List of offic under lasts will be returned separately with proceedings for information of Corn Offic).

(2. If Press a lawyer and Onf Offic not, occurred in secreted to an adjournment where NP 89 (B) and fo 2 were not followed. See Dil 9 3.) before armignment make(s) (no) (a) ples As. The accused. (1. AP 3), 112. See parts I of leates p 2. When never then one Charge Shout see AP 42; when several occurred to be tried existing on AP 71(C), and was separate capitals of CP ASs to record proceedings.

2. AP 32, AP 33. If adherings, delete and proposed record proceedings. The Court in should und; considers the Instruction Proceedure after Arraignment at top of p 2. The procontinued on Record Form...

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

INSTRUCTIONS ON PROCEDURE AFTER ARRAIGNMENT.

- 1. The accused may not plead or be found Guilty on more than one of two or more charges laid in the alternative (RP 37(A).) As to withdrawal of alternative charges by Prosecutor see RP 35(C). No other charge can be withdrawn only ranson without authy from Convening Offr. If Convening Offr concurs, Court may accept plus of Guilty to lesser, etc, affence, (RP 44H).) Accused may change a plea of Not Guilty to Guilty during trial. (RP 38.) As to refusing to plead or not pleading intelligibly see RP 35(A). As to plea when sentence may be death see RP 35(D).
- 2. The proceedings on each charge sheet (RP 62) after arraignment will be conducted as follows in the respective circumstances stated
 - I. If pleas to all charges are GUILTY, use Record Form B below.
 - II. If pleas to all charges are NOT GUILTY, use Record Form D on p 3.
 - III. If pleas to some charges are GUILTY and to other charges are NOT GUILTY and,
 - (a) Such mixed pleas occur when there are no alternative charges in the Charge Sheet, use Record Form C
 - (b) Such mixed pleas occur in a set of two or more charges laid in the alternative, see RP 37 (4) and fn 2 as to discretion of Court, (i) to try the accused on all such alternative charges as if he had pleaded Not Gustly thereto, or, (ii) to record the pleas as the findings of Court. After deciding between (i) and (ii), Court will proceed under foregoing instrs as may be appropriate to result of its decision. See MML p 744 Instrs (2).
- As to responsibility of President to accused see RP 59, 60(C), powers and duties of JA nee RP 103; duty of Prosecutor to RP 50(A) (B); daty and privileges of accused and Defending Offe see RP 50(C), 87(C), 91, 92, secaring and withdrawal of witnessee from Court see RP 81, 82; questioning of accused see RP 80, 87(C), 92(B), and of witnessee RP 83, 85; calling or re-calling of witnessee by Court etc see RP 75-79, 86, 116; use of Summary of Evidence at Trial see RP 17(E) fo 6; and responsibility of JA or Fres to record proceedings see RP 94, 96.

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

- B1. The President or JA, if any, complies with BP 35(B) by explaining to the accused the nature and meaning of the charge(s)(1), and that on his plea of Guilty there will be no regular trial but merely a consideration of the sentence to be awarded after he has been given an opportunity to make a statement in reference to the charge(s), (1. RP 35 fe 3. 2. MARL p 54 para 47.)
- B2. President to accused: The Court will now receive any statement you desire to make in reference to the B2. President to accused: The Court will now receive any statement you desire to make in reservoic to the charge(s).(!) If it appears from your statement that there are circumstances which indicate that you de not understand the effect of the plea of Guility(!), or which show provocation or extenuation in respect of which is your interest making a statement you will not be sworn or subject to cross-examination: and anything you say will not be used in evidence against you after you change your plea. If, however, it appears to the Court that your statement to which you are liable, you will not be advised to change your plea and you will be given an opportunity later to prove your statement by sworn testimony, if you so desire.(*)

President to accused: Do you wish to make a statement ? Aps. (1. RF 37(E), Z. RF 37(E) (a. 2. RF 25(B) fo 5 pero 3, MML p 54 pero 47. 4. See pero E3 of Record Form E.

5. Statement, If any, recorded per Notes.)

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

 (i. Court may be closed to consider the statement. Delete whole or port not used)
- B4. On the charge(s) to which the plea(s) of Guilty is (are) not changed the President records finding(s) of Guilty in Part I of the Schedule (!)

 (I. 87 IS(8). If any plea(s) is (are) changed, use facord from C or D as appropriate.)
- B6. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

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

- Cl. As to the charges on which accused pleaded NOT GUILTY the trial is continued by using paras Dl to Ds usive of Record Form D on p 3 before proceeding with C 2.(1)
- C2. The charges on which accept pleaded GUILTY are read to him (them) again, and the trial is continued by using paras Bi to B5 of Record Lyap B above (1)

 (1). Under 55 such ports only of pleaders of Evidence are read as resists to the charges dealt with under C2. If any pine is appropriate record thereof an a separate sheet.)
- C3. The accused having been found Guilts on one or more of the charges, the proceedings are concluded by using Record Form E on p 3.

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

m fiberts of Record.

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

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

The Prosecutor makes (an) (no) opening address.(1)
(1. RF 39(8), 60(A) (8), 90, 92(C) (D). Record address per Notes, subject to RF 95(C).)

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

D4. The Prosecution is closed.(1) The Defending Offr submits that the evidence for the Prosecution does not establish a prima facie case against the accused on the charge of the charge of the court is closed, and considers the submission.(2) The Court is re-opened, and the President announces that the submission is disallowed on the Lecond, charge(f), and allowed on the

charge(s), and that, accordingly, the trial will proceed

(1. Delete remainder of this pare, if submission not made.

(2. Arguments on submission, answer and reply are recorded an all charges, use second alternative in pare 18.)

(3. B 40 for 1. See MML p 72 pares 12.14 and p 81 para 42.

(4. Delete part not used. If accused acquittee an all charges, use second alternative in pare 18.)

(5. If trial proceeds, accused must be allowed greet letitude in making his defence, and the Court should not stop his defence appropriate the court should not stop his defence.

D5. President to accused: You will now proceed with your defence.(1) You may, if you wish, give rself on oath as to the facts or your character or both, in which case you will be subject to cross exam on may, however, make a statement without being sworn, and you will not be subject to cross-examination. ou may easil witnesses in your defence and as to character, whether you give evidence or make a statement or do

ident to accused: Do you wish to give evidence gourself as a witness, make a statement, or do neither Ans Trust extendence the wife to CE Do you intend to call witnesses on your behalf !

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

D6. Consequent on the answers recorded in pars D5 the appropriate procedure for the defence is followed.(1)
(1. RF 114, 115, 116. For procedure see Notes on back of Convening Order, CF AFS. Evidence for occused as to his
character should, if in his interest, be given before the finding. See RF 46(A) in 1, 88(C). Note thrushe approximately in part E1
of Record Form E. Record per Notes addresses, statement, evidence and any summing up by the jA under RF 42, 103(e).

The Court is closed to consider the finding(s).(1) The finding(s) of the Court # (are) recorded in Part I of the Schedule (2) The Court is re-operand.
(1. RP 43, 117(A). See Notes in Fort 7 of Schedule. 2. RP 44(A).)

The President appropries the finding (), if may, of Not Guilty, and states to the accused that the finding ()

the Court on the CC of MCC chargely, being subject to confirmation, will be promolected later ()
for the Recording one accordingly terminated. Part 1 of the Recording and in to be released for the end.

(i. As 541) (b. 82 45, 120(A). 2. As 54(3), 82 45, 117. This observative annual ends of applicable when there are place of Guilty actions and depth with under facord form 8 or C).

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

RECORD FORM E-PROCEEDINGS ON CONVICTION BEFORE SENTENCE.

President to accused: Do you wish to give evidence yourself or to call any witnesses as to your character 100

If evidence has directly been given by occurred or his witnesses as to his character, beinte this pore. 89 37(C) fo 4, 44 fo 5, and witnesses are aware. Evidence recorded per Notes.)

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

E3. President to accused: Do you wish to address the Court on the Statement(s) and Conduct Sheekis), and in

mitigation of promishment 10) Ana Cole Cole State State Cole or or set asylinate permit occased or or set asyling here is previously stated which would affect the amount of plantenance. No 27(9) fo 7)

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

(I. At 54(6), Nr (25(4).)

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

(i. When several occused trief supervises on \$6.700). One sentence only, comprised of the purchanges or publishments for the first sentences are \$4.41, 41 and its persons. In the the sentences in other or charges in all though whether an which accused found golds.

\$6.50. to the sentences are \$4.44, (\$2.50. \$6

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS

The Deputy Judge Advocate General, Cdn Section 1 Echelon Headquarters 21 Army Group, having advised that the sentence in these proceedings is invalid, I hereby direct that the sentence be and the same is hereby removed and the accused relieved from all consequences of such sentence, and I do hereby sentence the accused H-26415 Sgt Hyslop, J. to be severely reprimanded, such sentence to be effective as if passed by the Court Martial on 27 Jan 45.

In the Field, 4.5.

GOC 2 Cdm Corps.

CHARGE.

In the field of a driving W. D. Vehicle No. CM-4243588 from Turnhout to Antwerp without authority.

SHEET

SECOND CHASCE A.A.Sec. 40 WHEN OR ACTIVE SERVICE CONDUCT TO THE PREJUDICE OF SCOD

in that he

In the Field on or about 4 Dec 44 did so negligently drive W. D. Vehiole No. GM-4245588 as to become involved in an accident with a trampar thereby causing damage to the said W. D. Vehicle in the sum of approximately \$55.00.

In the Field Jan 45

(F. T. Jeoner) Major A/Comd 10 Cds Armd Regt (FOR)

To be tried by FGCM.

In the Field 24 Jan 45 (G.N. ROBINSOM) A/Brig, Bry Good 2 Gin Arnd Bde.

Jest of mei

The Deputy Judge Advocate General, Odn Section 1 Echelon Headquarters 21 Army Group, having advised that the sentence in these proceedings is invalid, I hereby direct that the sentence be and the same is hereby removed and the accused relieved from all consequences of such sentence, and I do hereby sentence the accused H-25415 Sgt Hyslop, J. to be severely reprimanded, such sentence to be affective as if passed by the Court Martial on 27 Jan 45.

doc 2 Can Corps.

In the Field, H.S.

CHARGE SHEET

61 H 2543/
The accused, H.26415 Sergeant John HYSLOP, 10 Canadian Army Overseas, is charged with:

FIRST CHARGE A.A.Sec. 40 WHEN ON ACTIVE SERVICE CONDUCT TO THE PREJUDICE OF GOOD ORDER AND MILITARY DISCIPLINE

in thet he

In the field on or about 4 Dec 44 did proceed on a recreational trip driving W. D. Vehicle No. CM-4243588 from Turnhout to Antwerp without authority.

SECOND CHARGE

MODE ON ACTIVE SERVICE CONDUCT TO THE PREJUDICE OF GOOD

in that he

In the Field on or about 4 Dec 44 did so negligently drive W. D. Vehicle No. Ch: 4243588 as to become involved in an accident with a tramear thereby causing damage to the said W. D. Vehicle in the sum of approximately \$35.00.

In the Field Jan 45 (F. T. Jetner) Major A/Comd 10 Cdn Armd Regt (FGH)

To be tried by FOCH.

In the Field 24 Jan 45 (G. N. ROBINSON) A/Brie, Brug Comd 2 Odn Arms Bde.

9.1.51 fol mis

FIELD GENERAL COURT-MARTIAL. CPASS OF THE PROPERTY OF THE PROP

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

There should be a separate Convening Order for each person to be tried separately by the same Court. RP 71(C), 107. As to separate charge sheets Pares RP 62, and as to separate trial an charges in the same charge sheets tee RP 108. As to two or more accused charged jointly see RP 16, 109.

As to reasons for showing (a) permanent or confirmed runk, and (b) appint, Alrank ar Alapint, if any, see AA 182, 183, fm, KR Can 308, 328, 330.)

ACCUSED.

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

H-26415

Sgt

John HYSLOP - 10 Gdn Armd Regt (FOH)

CONVENING ORDER.

And whereas I am of opinion that it is not proficable had such offence(s) should be tried by an ordinary General Court-Martial; Roof that it is not profit that it is not profit to the profit of the p

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

4. Transporter to appoint the transporter as the section of the se (AA 49, RP 106(B), 107(A). Delete the whole or part, if not applicable.)

I also appoint as Judge-Advocate thereat the Offr mentioned hereunder. (RP 106(E). Delets. f come appointed.)

PRESIDENT.

MA jor (April.)	JC	ST JOHN	(Must be named. RP (D6.) MEMBERS.	EQ Sqn 2 Ode A	mid Bile (Unic)
Capt	104	LEVINE		17 Cdn Lt Fd A	nio ROMATO
Lt (Rank.)	370		Named or detailed. AF 106.) WAITING MEMBER.	g Cán Armi Báe	Goy RGASO (Unic.)
Lt (Aunx.)	DF		ned or detailed. If any. RF (56.) JUDGE-ADVOCATE.	X-4 List att "C 25 Cdn Arma	
Capt (Konk)	5/10.F	. WILLIGA	Lish.	HQ 2 Gdm Corps	(Unit.)
On Active Service in the in Holland (Courty.)	e Fd		Grand personals . No	ohmon 105 p 2)	A/Brig,
- Date 24 Jan 45			Commanding 2 Gdn A	rend Bde	

CONVENING OFFR WILL INITIAL ALL DELETIONS AND ALTERATIONS

(Sine overleaf for noths and notes for use on trial.)

MEDICAL OFFICER'S REPORT

of(FORT GARRY HORSE)	rtify that No. H26451 Set HYSIOP, John is in a Mermal state of health,
and fir	to undergo Trial by Court martial.
	Medical Officer Reame
Station Field	
Date 27 Jan 45	

M. F. B. 246 25M - 8-41 (792) 11.Q 1/72-97 450

The Caled while sales were was led to y the second and her for the contract of the contract as condeny of the contract Chouse of sity were are it want by the handled that the fraction of the fraction of the war and that was any one legs were work to the fraction of the war any one legs was an anadard lands deceled assessment towards. See assessment assessment toward towards. Enceptions to this privation & the Good Cape live . The avenues of my sym. Town were was not a control and with the section with a control and the section of a control and the section of Capt R. W. Evant 10 CAR work welch oraced and one Theorn a later 10 CMR. The account of regument and asyoned word we lake nouse

witten orders governing decreation Creps up to 7 Lee 44. Written orders have here published sende That State? AP 83 181 Complied with 1126319 dg 7. Thineton, O. W., 10. PAR. aworn of lates: The Referee does not object & this deluers giving widered. was a paisenger in the just driven by dy V. Kyralofo on 4 die 14. The accused told me he was going to turnout on because. He did not all me what the business was. We went to m/8. murs 10 Pdn. Ten Hoop in larnout. The accured came back and said be had were herseines to do med. be had to go to centwerft. Sweet celong with bein on that trip. While going down the crowd sevords Untwest, stortly before we got to lent weight, Insticted a bright light doming buards me. I gell the just start slew down. It severved and Veremember nathing after that. with we us hos pital. The accused isaid he know Euseiners emerming our des - I to mer in autwent. He did not let me what the kersenes cens

Page 3 That been a kenting in 1/6 news. The accused had one drink in Il & wees before veryper and one after dupper. Leton Enam none. By land - He accurred dropped me at M/5 Mess and lold me he was going down to rue a dy V. majorbulong and to cen dynat Bde Buttle School. He came back & 11/8 mess are have tales: Hwas henke lold are he had to go to autwerpt. We had suffer at 11/5 miss All fersel & there would a seried, Lou leut wer st. The accused tud That been dreuling nin to our arrivation surment. We arrived at 10 Column dosp. aggra 1600h. We left for alitaverst affer 1800 to AP 63481 Complied with. N. 26666 Tp. Farman, 1. 10 CAR. Swoon watales: accused & go well him to Varuant. 'S was to go along to water the feets. I don't know if he had a wart lichet. The decured and myself aft 10 0% You Most & went & Ball teled. Defore we got there the accused Except the bottles of Cognal.

rapie y when we got to Ballo school the 3 bottle of Cognal were left in pays. I so layed outside to watch the deep while accounted went in. We ded not have any drinks cether grayto or from Balle Jehort. no crow exam. My Court-Jan not the chance of the perf. The accused bought cognac in huneut the accused did all the driving . Defre going to Balls School the decured had a drink of scotch whiskey an 11/0 must apter supper in 11/5 men de had one more drive. The accused was no Balle Jehoof affer & min. That is only live the was cuit of my night PR 88 18 Comple & well A 6088 hood suffice. W.a. Bean. Prov. Cay. Subsyrontates! (4 2145 ho + kue 74 arrived at seem of an accident on Centwerft - Luriout Heganay near Mest mall MA 838038 He centwerft duct. a feet was ratalionary on roud cet an cuyle of after . 45° To rd. a transas also stoffed tude The peop. One of passengers in reep had and agard & suffer

an ambalonce and today and person taken & loop. Devoluce a whetch mude by me of the recen of accident, Ladwitted in auduel and marked En FI hewing the position of jup and accured whom I identify us retending teledo the peop when arrived the was standing where Topel an X on whelch . Christo the per was an enjured parsenger. willing on fieght first real. le man whom I now know to be for Harneau Was in back went. Left. Hunersey W. J. 11 tral Cay Cerried at hank and une deality left to get a creening wheale the accused remelled of trains. To received perf with get Menenery on the returns y could gall battle of Cognoc to a Etgenoved and tates tobelled. I produce the los bottles advicted the underee Tunked En. 8. 7 Ex 14 Thre was also sieces of a broken battle in the buck of the perf. The tabel had Coquas in it. He peip was their removed from whene I To Farman and laccused were taken to ear such . Me searched peop but could to find work leaked the did find tog

book in glove compail went. I questioned accused at See N.A. level be weit he was the drives of the keep. Crost Enam - when I arrived at verue of accident, the occurred gave two indications that to was drunk. This a coable in the wad. There is a Capple & tone Cers where I have croad arryce market about 5 in high Between Chert & Than time is clert affron wave level as copble stone croad. My Chait The accused did not Leve a drink after I got & weene of accident AP \$3 (B! Complied with. 7 30666 JyT. Rennessey 11 / 11 Can trove l'ay ouvorn ortales: Cu + kie ++ at allo tos of arrived at seems of accident on autwest tunket Liphway. The accused whom Ferenymize Domecul aguin of his breath. The browned no can widecation of thing having han drinking. no Com Enam-By Curt: 1/0,00. Hey his and myself arrived at weene of reffries was there when Jarrived

Courtain Zagers, 72 Lies les teeneveg Lecrufacil, rowows rolates: A tementes on accordent beil not the exact date. It was early in see. The tights Da my train were dies. The leip was to malies away when I first raw it. To speed was 30 or 40 Fillmeties Just before he hit my trass weathered down but not much. The peoplet the train with the toff hand wicke and he wit the crass on the tight hand wide. When I war the Just first he was coming sharp rieg it and hit the trains. Cross Exasi - It was dark. By Caux - The top ourt of tus of leghton than was denter o set. There were two bulls in regist let line of accident only the cen one who on . The welver all when costed to estimate they to Toron a rid 10 mater? Bu som being affeon 10 matres cong! The orped of my trans was about 90-45 Helospeties. FA 83 (15) Con paid with. N 26593 1/90 Me Pherson, 29. 10 C. A. A. worn whater: Schulips accused. 7 kes. 77 is the altring accurred waked we to

lest brakes on his perp to see which our daing the gripping. He kught post wheel was only me that was prisping. I am a dr. michaile while A. The acressed said he would take it to the getters 110 Crow dinani -By Cheer - This was only are imofficial chek up. Co justo Las Lydraulio Hahes, the trees it of the road. When devening at 6 to 7 miles per leur and apply in brakes to pass would neverve to thoright. The word we were leskief ou was wet I muddy. 8 53 (B) Compaid with. 1.75879 165. Morrison H.A., 10 C.B.A. scoon states: Cultury accused. I am moto weekanis wheled Cu noming 7 Les 11 accused came to me I asked que to muche adjust ment on the brakes of his fup. Intachened brake on right wont what, but it did not went water factorey. To & de secured salls fill . Toured when he tight their that they worked sulispactory. Wwas a Land purfeced road, but wet ? muldy was solisfied that the Leader were Cultury on all four while at same line.

Page 9 This periale for the hodes deme Deel of a discoment in 60-70 mules on son good was . Byereming me brake could tighter up to adjust brokes we lighter all face up and then relachen off. Cepter the accident I to shed at the broken Troaw a teak in brake tour flerid timo tendering to hos first wheels. This would not letter adjustment do retire dos front ap. which. Crow Enan . This provide bucause of bak that one front trake Reglieut. Ther leak musy have here Excered by Collerior with raw Carre any alles severe jost. a moin kal. AN 831181 Complied with H 63508 Syt. Bogan CK. 10 C.A.R. swom atito: Theogrape accused. Law transport Syr 10 Syn R. Come to me wentually through the Edrivers. Ou + Dec + + Twas in 3. C. C. &. Darried buch at unit & Die 17. June 5 hea. of Luce not nauced any work taket Ceclaring account to fairney Thatweight in the 44. Work

who hot the of & we the officer who had the south to account the sent in the second the second the second the second that we want the second th Les seen was restand and what were the could be seed and were the could all the seed and what was the could and the seed and were the could and the seed and were the could and the seed the seed to be seed to b devies has quiested in & me ofthe lane he fundadis the light of his production out for and looked was health of the form when the son whether the son when he so we were the son when he was the son when the s heat A & Caucian, 10. C. A. R. AR 83 181 Compleid with

was sworn and gave wedened as in 0. of 6 1 Evidence of accused in of 8 admitted his evidence 10 Cron Enam. FI. P 83 (18) Complied with. The proceention is chosed. the accured seven waln: 26 Con Fruit is my Co of Hear Major Joyce my C.O. of 15 ogn. Twee never wy outed that et wer necessary to have a work agest to go beyond Turnbert. have much treps bey ind humbout Older St. 7.000 Lad done thes. The was never any culturism of the medice by Comelle of H bear. Ign Condr. - They resplicate last never informed me of any A.C. Mercing with takets to 90 telyand loops area. When I lift in Terreleut I did not intent going to untwent I decided to go to centivers thereuse part of my useres cheeld not be transacted in Lunchant for mation of Syn. 1911 Igh me tod asked me to falchase IM. Leque, for them. They told me ut dear for troops at Christmas love. The they's tast on there a few days previous to 4 die 44 love

cuto, and yer a cust. I have Trevel be the in the cerus been cewolold in an accedent. I have theen in army over of gers. I was a truck driver in which the. Chon Crani -I went to surnbout a wentand of I could get tooch its ogn Cracies Ign S. M heller had at Belle School Celso to oblass agues for dy to of 10 Jan or could That get che engh liques as lum lout as the free was to light, so went on to lent weight. The are los or thee places in centweept where Po Chat I know of where I could get legios. Advedical Syl gave The the money to been beguess for Themselves adminibeally. May a gay ac has toldine that I would go a here The we the calcust of the sgn. the officer couldouged me to go on the trep. wieded not have a work lichet to my knowledge I did hot ned one. The tight of the treem bluided me. Twhen I show the light of the exprovehing very quietly miregat hand wide of road, I slewed down. ces the trans came closer to me of complet the trakes to slop audit et sand by as the trakes were applied the perp severued to the light very sharply. The motion

cup statled and I could not there out again. The was a Collision do the Naw Collided well my right port cotal knowing if off of this Gol out of pup and went around a crept wide To rece what happened. Ols I walked arrived I thoughthe wheel of The peep taying on the croad. & asked Jy V terution of he was tuit and to a did not answer as the coar concerned yest befries arrived and obtained on antilance a concernte det tenewell the prosent then cooked me and In Faridan. & Corac to their willeto where they right. I did not lack a druck after I test trember My Court was young to so me bu lour. I had have along this wad wise byone the tight was 100 geds duky when I first noticed it It bluded the there. I started to selow down, I took dey foot off accelerates the ward was dry when I forst applied the brakes I would be going about 10 miles for tour. I tel the record Coach of the train. San a qualified driver. The purpose of my Tree was not known to They's fayer of Cast Frant. Major Joyce had all me Sould go where I douted on Ign busing

Page 13

Page 19 cut xell + + cut ded 1181 have a sign of to mero. I was Cravelling 1 1 to 12 from werge. had holiet de tran tracke. Wien I wan the light In swear down because I did not enous what it was. I did not learns walt it was The sal will am said with about royals from me. I her applied the brakes There were three of neone front of perts 1/6 Center, If I tinewill I my welf. St. 5 5 10 1 Complied with Capt n. h Frant cualled Cut Kee 14 Juan must Course of a 2144 A.O. requering work lichet for Crips defond their Corps area. I never told the acoused it was necessary to have a with liebet for ony trip. Curs of of thee + the baly hepo any knowledge beyond seem but were tesue tripo to Breeneto and their work beliefs were wegned by A.O.M. AF 53 18/ Complied with. Hact85 of Jones 11.18. 10.64 sworn state: " am the week dyt 15 dyn. H "Eal. Jane been in John 1939 and wee Coming & Continent & Lave never teard that it was receivery

for a work lieket to go begond Korps bosen deries with a weliate Jwas one of to who askes med coderado a perchase lequis for me. There was not to Cron Earn. By Court - I consider Motor had Evalupiet to confust trades 1 A. P. 83 (B) Complied with December 19 by by of lawall a Terming - up by Bros , See all 1). Deenweingrees by George advocate On the first charge the Court of build Och themselves three sever (one): Ul alacit a Recreational tree (2) Was Cellority Mecessary? (3), How, did he have authority The consuler to the first question is sufficied by the decured himsel. when he intaled to durpose in good of autwent was to very liques some with in his right. On questions (2) & 31 de su tane evidence that tries way ma haw last anded authority for how andwer thatie vame cases le a/squ. J.M. Could authorize two own trips and you have edidence that brown were never published as to wellout accepting for which high. It is

for the court & decide on The evidence the answer of the questions and consequently the quest or ainocured of the aduped. I am not allowed to do no Course quently Deples no opendor on the abidoua. On the second Charge you sungly have to ask yourselves was trees Treg againer on part of accured welfer the definition as net out in M. M. A. 459 the ordered fu. to AA dec. To which wread to you. Wo to the cuidence. You have 1. Excidence of Trans drives (2) Chart on F alawer a position of westers certis collision. 61 Three lin from Tracat (41 Drinking (5) befreher trakes (6) Steed Clato (3/2/4) remunder to is not Charged with having 3 in fout or driving while drunk Chily courder these factors in cas for as they may bear or heglipice Now kow did Collision to Laffen? Was it coursed by the negligiant driving of explanation that if was caused by Occumatives over which he had to without. Hy on twee any death revolue that deduting week of the decured cut it mest be a redsonable deelt not a facciful one or one conjuit expair your den hinds A Theligan (des

1.1. Re. Trip : Capt Diant And ending Officero Jum mest, puchosy were business. "authority"; wk. tichet NOT and work NOT and work on leading strings high and work of the Dif was admin - romety ato. 2. Negligent driving: a) which was cheched before journey -B) Soft. was the proper driver of the och.

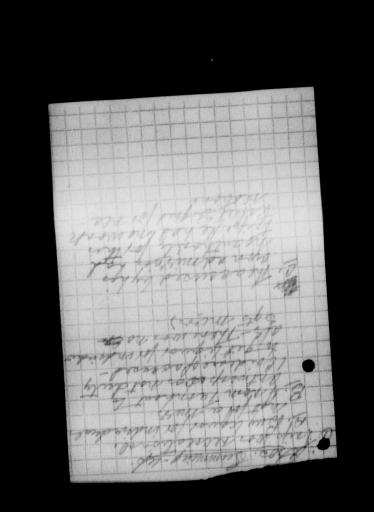
A the was a computed down

A the had not had to much to drive

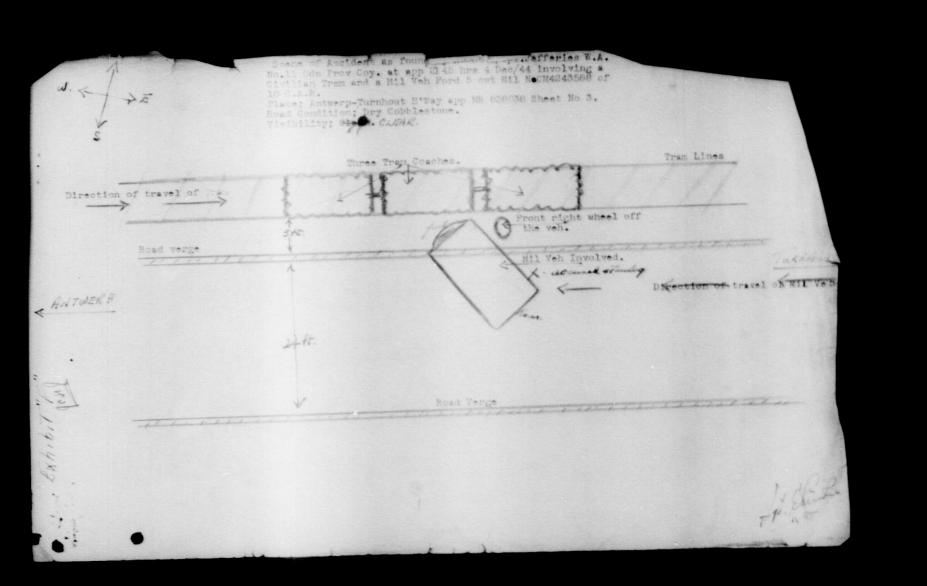
A He had not a reasonable speed.

A He drove at a reasonable speed.

By was a dark inte It was a don't mite The transce light we bluding Broks failed to respect as they had I have not experient and occident -



Description of Entitle to " IN I bottle of Cognac . (26 g fall) Carded true description of above Casi John My, Pro



Company	et entry in Conduct Sheet	N/A	Of le	and date N/A freedom from extra fine N/A	Names of Witnesses	Punishment awarded	Date of award or of order dispen- sing with trial	fly whom awarded	Remarks
Field	Date of offence	Hank Sgt	drunken- ness	WOAS Neglecting to obey Regt'l Order	Documentary	Severe Reprimend	The state of the s	E.B. Evens Major	
	42		1	#196 d/24 Aug 42 CERTIFIED A TRUE COPY FROM THE					
				REGIMENTAL BOOKS IN MY CUSTODY.					
				(H.W. Macswing)Capt & Adjutant 10 CDN ARMO REOT (FORT GARRY HORSE					
									(PT)

CHAPACTER AND PARTICULARS

XX				
1		Name		Regiment (or unit)
Number	Rank	HYSLOP,	John. 1	O CON ARMO REGT (FGH)
I-26451	Sargeant			Service and/Generaly
	is a fair and true summar			of sad Squadron, Battery
Curiort sizeta	sheets of the accused, ex-	clusive of convicti	ons by a Court	-Martial or a Civil Court,
of summary awards u	inder Section 47 of the	Army Act and o	f cases in which	h trial has been dispensed
with.			Since enlis	
Within	last 12 months		One (1)	times
For Neglecting to	obey Regt'l Order t		CHIO. LET	times
For		imes		times
For		imes		times
For		limes		
 Nikumbey ofkinika 	ncessof kalkating on disting	guasnatzon da ca		
		Cathor anomand		
There was no so	Mick in the window sheats charge is for drunkenness,	bot the apendent.		be stated apparately.
_ Beginne sonsis	has not been previously o	or, a n ourl mortial c	o -a ejuij eaupl -A F-A-78	of cummany awards under
Bections 49 of the control of the co	orane of the accused by- n-Parce Act Array Act - and dispense tensors	er, a-court mortini e ationa-with trini e	-A-F-A-73 under-A-A-73	of commany awards under age act-out-in the Sabadule
Bections 49 of the control of the co	divine of the accused by-	er, a-court mortini e ationa-with trini e	-A-F-A-73 under-A-A-73	of cummany amords under secont-out-in the Schwinds
Rection 47 of the annual to the case 3. The accused	origina of the accused by- in-Perce act Array Act - and dispense nemonal.	the present time.	4 F-A-78	of commany awards under are not out in the Sababule
Beeting 49 of the American 49 of the case	orane of the accused by- n-Parce Act Array Act - and dispense tensors	the present time.	4 F-A-78	of cummary awards under are not out in the Sababule
Description of the second of t	rives of the accused by- ne Forte Acc. Army Act and dispense temport. is not under sentence at the present time is under	the present time.	op Februaria	
Sections 47 of the - Annexed to the cial 3. The accused	the present time is under	the present time		rges, for B/A days in
Became 47 of the annual to the accused	the present time is under	the present time		rges, for B/A days in
Section 47 of the annual of the accused The accused the day of the accused th	rives of the accused by- ne Forte Acc. Army Act and dispense temport. is not under sentence at the present time is under	the present time.		rges, for B/A days in
3. The accused by the	tions of the accused by- in Fore het Army shet—and dispense tements is not under sentence at the present time is under it has been in confinement N/A days in milit days were spent in	the present time.		rges, for B/A days in
8. The accused by the civil outdoy, and of which K/A	tions of the accused by- in Fore het Army shet—and dispense tements is not under sentence at the present time is under it has been in confinement N/A days in milit days were spent in	the present time.	the present charing a total of	rges, for B/A days in
8. The accused by the day of which	the present time is under the present time time is under the present t	the present time. The present t		rges, for N/A days in N/A days in custody,
The accused The a	is not under sentence at the present time is under the present time is under the present time is under the days in milit days were spent it t age of the accused accor f his commission specified	the present time. The present t	the present chating a total of ation paper is paper 19 Se	rges, for N/A days in N/A days in custody, 28 years.
The accused 4. The accused of which 5. The present 6. The date of T. The service	the present time is under the present time i	the present time. The present t	the present chaining a total of paper 19 Sewards discharge	rges, for N/A days in N/A days in N/A days in custody, 28 years. sp 39 is 5 years, 4 months.
The accused 4. The accused of which N/A 5. The present of the course o	the present time is under the present time i	the present time. The present t	the present chaining a total of paper 19 Sewards discharge	rges, for N/A days in N/A days in N/A days in custody, 28 years. sp 39 is 5 years, 4 months.
The accused at the civil custody, and of which The bereion 6. The date of 7. The service 8. The accused service at the custody and the custody are cus	the present time is under the present time i	the present time. To awaiting trial on any custody, make in hospital. ding to his record attention attention attention owed to reckon to yrs 4 attentice	the present charing a total of	rges, for N/A days in M/A days in custody, 28 years. sp 39 is 5 years, 4 months. of determining his pension, etc.
The accused at the class of which The present 6. The date of 7. The service 8. The accused service at the class of which The service 8. The accused service at the class of the accused service servi	dispressed the accused by- in Force for Army Art - and dispense temporar is not under sentence at the present time is under the present time is under the days in milit days were spent in the accused accor of his commission specified attestation which the accused is alle ed is entitled to reckon 5; and is in present on of a reckon 5; and is in present on of a reckon 5;	the present time. The present t	the present charing a total of acroice is paper 19 Sewards discharge for the purpose	rges, for N/A days in M/A days in custody, 28 years. sp 39 is 5 years, 4 months. of determining his pension, etc.

UN MENHOW MINER TO THE

11. CONNE FOR ON	N/A			Popularianto	· mil
	SPECE.			amilyaring, regular	citations therein of
	Nocki				
12. The accused ha	s served as a	non-commissioned of	ffice	er continuously, w	ithout reduction, to the
		25 Jun	19	40	Date of promotion.
In the rank of	Cp1	years.	5	months	
In the rank of	L/Sgt	years.	4	months	
In the rank of	Sgt	3 years.	9	months	
NOTE:—If any matt aragraph must be struc		ne above paragraphs ca	unn	ot be stated from th	ne Regimental books, the
		SCHEDULE			
					Attrick bren

Name HYMLOP, John of 10 Cdn Armd Hegt (FGH) Norm—A verbatim extract from the regimental books stating these convictions and dispensations with trial must be inserted.

Description of Gourt by which tried	Date and Place of Trial	Charge upon which convicted	Sestence of the Court	Pusiebneest Resultied

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

Signed this 20th

day of Jan 1945

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

8-20401. Sgt. Mysles, J., volunteered for the Canadian Active Army on Sestember the hineteenth, 1939. For nearly four years, he has served as an N.C.O. He was a Crow commender of one of the assault aquadrons on 11-day. At VERSON, his tank was knucked out. The next day he was each in action with his squaeren. At TILLY LA CAMPAGRE, Sgt. Hyslop's troop leader was killed, and the sergeant took ever commune of the troop. The flext marning, Bgt. Hyelog'e tank was the only one to get inside the town of TILLY. The tank was knocked out. One wook later, Set. Hyslop had returned from T.D.R. with a new tank. In the drive to FALAISE, his troop leader was knocked out and the dergeant tesk over the troop for two days of bitter fighting.

At BOULOGHE, after his crew had accounted for at least two enery ordinance sieces. Sgt. Hyslow was wounded, and evenuated to 5th British Deneral Hospital in ROURS. Six weeks afterwords, wack with the regiment he had served for over five years, ogt. Hyrica was appointed to the wort of seting torguent-Rajor, since

Pleas Surgeant Myslop's record apeals for itself. If he was guilty of enything, it was of an error of omission, not, one sight say, of consission. There was no crisinal intent. There was no uncolsierly consuct. If there is blaze in this same, it should rest very largely, at least, on the groven fact that the 21st tray Group regulation in question was not known to the sergeant's superior officer. The defect is assinistrative, and one wonders if the resady might not, slop, se addnistrative. The Canasan Army requires Sgt. Hyslop's continued service, not that he be dish nored by the judgment of a Court Martial. We close our case, configent that this Court will consider the character, record, and value to his Beginent of Tergeant John Mysles. before imposing sentence.

t Hyslep is married .

SUMMARY OF EVIDENCE

in the case of H-26415 Sgt HYSLOP, J, 10 Cdn Armd Regt (FGH) charged with:-

- Proceeding on a recreational trip driving WD Vehicle No. CM 4243588 from TURNHOUT to ANTWERF without authority (AA Sec 40).
- Did negligently drive WD Vehicle No. CM 4243588 as to become involved in an accident with a tram car thereby causing damage to the said WD Vehicle in the sum of \$35.00. (AA Sec 40) (1)

By decision of the Commanding Officer, the evidence is taken on oath. (8)

First Witnes (3) certified some copy 1 50 and branday Capt R. D. Grant. OC ACA. I lapt R. D. Frant was be sublen - 4 Deciry for B" Ign a suith came under command heursay for som to get purinion to make duly trips to I humbout however an three any udualonal life to the heat or any other destination beyond the Buyade and required work webst. Is work webst was requested on the above date by tot. Hysty the Grant by accused liver que tien by tot Hyslip. Q West you autand out that, date that reasony " Bolder" " required that we her les gring Theyard how Hop area should have a week no but it was a Regt / tokey to user work teletifor wereatherlet life My Grant

Second autres (4) Sworn takement by H 26666 Tor Garnese J. D. H 26666 Ton Garreau Jof B fgn. 10 Cds. aund . Rest am employed as Due 1/C 3rd class an Dec 4) Twas ordered by Let Hyslifs I to accompany him to Turnhout as apare driver on his Jup. To my know ledge we did not have a work the let for the founday, Wowent first to access
to see Let legan and the 10 ldn Ger Hoop the lister men fot 4 work of Switch then tot Hyology and we loth miles and returned to Norpital for dinner during thee bottle of loghar en route often Let the ton Dort Sol Hyold was diving with hut Carter and repell of the war seat It has a very dack night, the traffic was normal, our speed to so dot our thinty MOV when about ty mules approaching on the right hand larde off the ward. trakes and I heard it that hang lot our right side and Tremembered nothing until that Section billets. The part morning the Proport returned us to the unit. We were notplaced under arest by the Roverst. Gramian

Bid Wetner (5) Attalement of Levet M. M. Cantin 1115 101.6.4. I Leat Mis Carter of "11 cln. Con Hosp at the line of the accident was riding in the hont realt of the top and talking to the estations in the tack. The first to knew of the accident was when selt a brings and my hatflew the was bleding from the though and did not respond to us. The other were all ught of. Theren was deportely unconscious pulye in fairly Good Geonation with a large recentle We had punious by to supper at 133the drank one tottle of tester letwen for supple and one bottle of lognac after Who left Turnbatt at about 2040ths on y hee. marie or fanting wet (NS)

FOURTH WITHARS (6)

ACOSS I/Opl Jefferies W.A. 11 Odn Pro Coy

Document purporting to be a signed statement of the evidence of A6088 L/Opl Jefferies W.A. Il Gdn Pro Goy, was read over to the accused, marked Exhibit A and attached hereto.

The statements (1), (2), (3), and (4) referred to in the document purporting to be a signed statement of the swidence of A6088 L/Cpl Jefferies W.A. 11 Cdn Pro Boy, were read over to the accused, marked Edubits B, C, D and E respectively and attached herets.

LL LL

A.G. Coulter

all

54 Witness (7) at effect 2 rock of Kenney ws wearing on lacedent or the artweep Turkdat of approx MR 738038. Dimmediately proceeded to the same and found A6088 A/golf Jefferes w. A. of menda Pu May we charge that the Lad bungene passengertin the fup one whom I now know the # 26319 fgt Thereton 1.6.4 Lowing Kun taken to the Lyth Unewcar Fld Hospill Al rad from accompanied by another parage whom I not know it he know the Cartin MAR 16 Cdn Gen Hesp. The diver whom I now know to be pot H26451 Aft Hystop V had been dinking as well at the fourth passenger Hiblet 1 pe Lagran I who had a shift outet is the proceed for a recovery while from the feet 1103. On my willing powerted CH Jefferes on reaching to while and Grace both full and one bother lettle of toyang taken bottle had buy opened. The wen was taken to hee. Letter 4.0. at offerd 646060. Janeau were placed under but and exercited to the seel bulleto where they were teterned overnight. It year not ascertained as to whether Let Hyslop was in possession of a work thelet To Il Project Cay. 1 st con army

Sween statement / C - ages hotoman (8) Charles hees leg of gemant len brier van den trambestimolen: O M: Bagers Constant Gierlestienneg 72 to Europa De auts huren langs de boun en had ezu lichtere of. By wastering me due tram, drawide his vlat tegensp den bunker. Of het organtlif van het augeluf reed if hig turchen de 40 eu so hom per euer. It o stopten de do meters. De aut had cutel zijn klein parkeerlichten op. Jetecklich Of generals of 4 Vecented 1744 to 20,30 may. Jane Canstant Layers Justemmen 72 to Gumbout The Jeep came down to road told his lights on; On morning the tram, he turned in at front and and hit the burger. Out this time of the accident i was going between forty and fifty how par have. We stopped in twenty (25) meters He had any small purking lights. Thy lights rue dive all the time Signed Lugues 25

Seworth Witness (4) Sworn statement by 4 26593 Hept Mac Phuson DJ. D. H26593 LIGH Me Pleason D. I. am employed as a Dun. Mech (w) - Byn Auch. On the to obselve which brakes on he pap were sperating while he applied the breke fort pedal lifter wedall trials of applying the Ruches to could conclude that the right front be wheel we the only one or notich the broke were specally proper The made the feets rederive when they a the right and fot styrlop stated that the would take it to the B det filler. Light phones

5 h Witness (9) Jusin clatement by MALS H 13568 gt Hogen CA. employed has transport light in 13 you much althe from the to the Two in Beances. at the to up to we ye I had no know ledge of a work thehet being usued since before I june which any founcy whatween y by unit CHHogan Sat

4 th Witness (10) K45:879 To Mouson KA is a wither · his trehalf: K45819 Tpe movison KA. being duly snow st Dwas on 4 Dec 44 and em now employed as a motor mechanic (w) in Bugn 10 CAR. On la morning of 4 Dec Lot Hyolip came to me and arted of Deould adjust the brakes or his frep woth cm 4243588. I noticed that the right for trake was grabbing whead of the other three as tried to correct this by bouning they brake of I his was not satisfactory to adjusty at four brakes and tot spray was the sea and states that he was Later per that they were all operations properly. All morrison

& h. Witness (9) Jusin talement by 11 18 11 13508 gt Hogen CA. employed for transport left in is sign much with from the to the Dwar in 3 con. C.S. At the F. Up to 48 se 44 had no knowledge of a work theket being issued since before I pund 44 for any founcy a laterene by by unit Clothogan Isat

Make out in Inglicate

A.C. Mornion were all operation perfect, four hale that he was lot the ful this they End to what the by bound to but the list of had und quething where of the thing their and was to hy y 24 3588. " I me trust that the ref the fort wheel if Desult defuelth tuke in his feet per me y mos frely the non to himerous as a Theto hechain (w) in 18 egs 12 chie, to the I was on 4 Du 44 and um now now com Ausson The memore HA lung duty were the Kussig The housen Kis is a suther he secured atoles that he wound to cold (o) comprant

STATEMENT BY THE ACCUSED

The accused was cautioned as follows:-

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

Sivoin Statement by H20451 Sqt. Toyslop 9. I H2645 1 Sgl. styslop g. 10th Coln. am. Vego. am employed as Sot Major of B' Sgn. On the 4th Dec 1944 at 1300 hrs. having me to go to Tunhout and take care of some incidental business which I had previously been unable to attend to. On the way down I slopped offat No. 300.5. to visit Sqt. Hogan Ch. a former member of our san. I his belongings. From there opposeded Fuch Turnhout to see if there was a chance of getting back the B' Syn. trailer which I S. S.M. Willy had taken with him to 2 C. R.B. Battle Study Troup I and agreed white in the Temport area to purchase some hogical who had come along with me from Balgois, to the 10th Can. General Boshita levher Musing Sister landin, an acquain tance of his invited we in to the Officers Wess for a clink. My second chiver If Guerran , a cecpted one think such and then and then left to attend to our business We bought The fattles of Cognac, but the fice was too high 26 I decided to go in to Untwich where frees were more regeronable I visited S. M. Willer at the Kalla school, the sugge that come rack takes to look their over

for supper, which we did after supper our llognac, but I myself, again only had one drink, as I know I would have to do the driving. The Cognac was of poor quality anyway. Topeh I old the gathering that I was doing to drive in to antione, Muse Cantin askelljes she might some along hoanse she had never been there I consented. On the way to antwerf I was travelling at an average shall of 30 M. P.H. My lights were very din't I saw a very brilliant light approaching the right hand side of the road. I slowed do as it was almost impossible to see. We the light approached to a distance of some 10 yels. I was conflictly blinded. I applied the highes to stop until it passed. as I applied them the Just swewed to wards the ham and collided with Sgt. Shineton was un conscious. Hoon else was thought heert, but take it was found the Farmacy had been hit on the head, and The affected somewhat daged. I asked him if he was abright, to which he answered yes. The thought arrived and obliqued whateness an ambulance to take Set. Shinelon & the hospital They then both statements from all Concerned. Muse Centin accompanied Shinton to the hospital. They look The Laineau and myself to hillets for the night they informed me that July had been deen to 1003 Colo Beauty land they also informed me they was the They also informed me there was no excess to worry about Sgt. Shineson. Myt day the Browdet brought The Farme In dy lof Set. our with

I certify that the foregoing Summary of Evidence, consisting of nine pages, was taken down by me in the presence of the accused and that RP 4 (C), (D) and (E) (13) have been complied with.

(A.G. COULTER) Lt

(A.G. COULTER) Lt 10 Cdn Armd Regt (FGH) ExhibiTA"

Officer Commanding, No.11. Cdn Provest Coy. First Cdn Army.

Field. 5 Dec/44.

STATEMENT OF "A6088 L/Gpl. W.A.Jefferies, No.11 Cdn Provost Coy. (re Accident involving Mil Veh of 10 C.A.R. and 2 Tran)

At about 2145 hrs 4 Dec/44 I was returning to billets on the Antwerp-Turnhour H way at MR 838038 where I saw that an accident had occurred. After despatching one of the passengers of W. D. Veh. No. CM-4243588 belonging to the 10th Cdm. Arm'd. Rejt. to the 29th Fld. Hosp. American Army, I proceeded to question the motorman of the tram and obtain statements from all parties.

Turnhout, gave the ettached statement (No. 1). He was in charge of tram No. 9688 on Route No. 41. He was then ellowed to proceed.

I ascertained that the driver of the jeep was K26451. Sgt. HYSLOP, J., 10 Cdn. Armid. Regt., On questioning he gave a statement, (No. 2). At the time of the accident Sgt. Syslop had been drinking.

Opl. Hennessey, W. J., Ho. 11 Goy., Gar. Fravost G rps arrived at the scene of the accident and immediately left no obtain the assistance of a wrecker. Refore leaving, he saw that Sgt. Hyslop and one of the other passengers, H26666, Tpr. CARNEAU, J. had been drinking.

On Cpl. Hennessey's return with the wrecker I searched the jeep in his company and found one bottle of gin, one bottle of Cognac, and a broken bottle of Cognac.

Sgt. Hyelop and Tpr. Garneau were then taken to the sect. billets and Cpl. Hennessey and I proceeded to the 29th American Pld. Hosp. were I questioned the M. O. who had examined the injured passenger whom I now know to be H26519, Sgt. SHINETOR, J. O. H., 10th Cdn. Armid. Hegt. Capt. LOGANGRAGO, Jr., No. 0478470, American Army, stated that Sgt. Shineton had been unconscious for two (2) hours but was responding. He was suffering from contusion to the right side of the face and temple and brain concussion.

A Bursing Sister, also a passenger in the jeep, whom I now know to be Lieut. CANTIN, M. R., 10th Cdn. Cen. Hopp. had gone with Sgt. Shineton to the hospital. I obtained a statement from her, (No. 4)

Opl. Hennessey and I then escorted Lieut, Cantin to her billets and returned to Sect. H. Q. at about. Dl.30 hrs., 5th Dec. 44.

all the occupants of the jeep had been dringing. It is my opinion that Sgt. Hyslop, mistaking the tran headlight for that of a vehicle on the highway, seerved to the right in an effort to avoid a collision.

Damage to the jeep was the front right wheel knocked off, the bolts being torn out of the wheel, bumper bent back, right fender completely flattened and body of the vehicle buckled with the windshield smashed.

At the time of the accident, and later, I was unable to obtain a statement from Tpr. Garnesu as he had been drinking.

Field 5 Dec. 44. W. G. Jefferies, W. A., AGORB deferies, W. A., No. 11 Prov. Coy,, Cdn. Provest Corps.

L/Cpl

KXbit B"

STATEMENT NO. 1.

Field, 5 Dec/44.

STATEMENT OF "Mr. Constan ZAGERS, (Motorman) 72 Cicrle Steenwey, Turnhout.

The jeep come down the road and had his lights on. On nearing the tram, he turned inot the front end and his the bumper. At the time of the accident W was going between forty and fifty (40-50) kilometers per hour. We stopped in twenty (20) meters.

He had only small parking lights. My light was dim sll the time.

Signed"C. Zacera"

Field 5 Dec/44.

the above statement of Mr. C. Zacers was given to me at approx. 22.00 hr., 4 Dec/44. The above is a Certified True Copy of the original.

W.C. Jufferies. L/Cpl. A6088 Forestes, W. A. No. 11 Can. Provost Coy., First Cdn. Army. Officer Commanding, No.11-Odn Provest Coy. First Cdn Army.

Field. 5 Dec/46.

STATEMENT OF "A5088 L/Cpl. W.A. Jofferies, No.11 Cdn Provost Coy.

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Field 5 Dec. 44. M. G. Jefferies, W. A., No. 11 Prov. Coy., Cdn. Frovost Corps. L/Cpl

O.C. 10 Cdn Arm'd Regt.

Pard, please, for your further action, together with copies of statement and animals and live bodies of Set. Hyslop and Tpr. Garneau. & hillies and live bodies of Set. Hyslop and Tpr. Garneau. & hillies and think of Captain

....

(E. Porter) Officer Commanding No. 11 Cdn Provost Company.

Exbit B

Field, 5 Dec/44.

STATEMENT OF "Mr. Constan ZAGERS, (Motorgan) 72 Cicrle Steenwey, Turnhout.

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Signed"O. Zecers"

Pield 5 Dec/44.

the above statement of Mr. C. Zacers was given to me at approx. 22.00 hr., 4 Dec/44. The above is a Certified True Copy of the original.

W.C. Jefferies. L/Cpl. A6088 defferies, W. A. Ho. 11 Cdn. Frovost Cov., First Cdn. Army. STATEMENT No. 2.

STATEMENT OF H26451 Sgt. HYSLOP, J.

10 Cdn. Arm'd. Regy.

I was driving the jeep in the

I was driving the jeep in the direction of Antwerp. My lights were very dim. When I noticed the tram I jammed on the brakes. There was a collision.

One of the passengers, Sgt. Shineton, J.O.H. was found to be unconscious and was taken to the hospital. Other passengers were Lieut. Nurse Shineton, Tpr. Carnesu, J. CANTIN.

I was doing about thirty (30) m.p.h.

Signed " J. Hyslop"

Field 5 Dec/46.

The above statement of HR6481 Sgt. Hyslop, J. wan given to me at approx. 22.00 hrs., 4 Dec/44. the above is a Gertified True Copy of the original.

W.G. Jeffenies. L/Cpl. A6088 Pefferies, W. A. No. 11 Cdn. Provost Coy., First Cdn. Army.

a jigiy xx

***/000 g prerd

Finat cdn. Army. Officer Commending,

STREET OF "F30666 Cpl. Hennesey, W. J., Ho. 11 Cdn. Frov. Coy. (re Accident involving Mil. Veh. of 10 C.A.R. and Trem)

and dent on the Aprox. 82.00 hrs., 4 Dec/44 I was informed of an analdent on the Artwerp-Turnhour H'way at approx. MR 858058. I immediately proceeded to the scene and found A6088 L/Cpl. Jefferles, W. A., of Mo. 11 Cdn. Provost Coy. in charge.

Centin, M.H., loth ddn. Gen. Hosp. secompanied by another passenger whom I now know to be Lieut. M.S. having been taken to the Seth American Fld. Hosp, he had been the jeep, one whom I now know to be HR6319 Sgt, Shineton, J.O. H. I was informed that there had been four passengers in

The diffuer, whom I mow know to he HS64bl Sgt. Hyelop, Indian to the town the Lagrange as well as the fourth peacetrain HS666 Tpr.

and a broken bottle of Cognac. And wen taken to hee, Sect.H.Q. vehicle and found one battle of Oin and one hottle of Cognac, full, I then proceeded for a recovery went I was necessary the to sect the searching the to. 2003. On my return I seatstad L/Cpl. Celferles in searching the

and escouted to the sect. billets, where they were detained over-Sgt. Hyslop and Top. Garnesu were placed under arrest

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99 / 9 # G S presd

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*Ido

Froeds Hennessey, W. J. Wo. 11 Cdn. rovoet Coy., 4 Hemmes

STATEMENT NO 4 Exhibitit

Field, 5 Des/44.

CANTIN STATEMENT OF "Liout M.R. ARTH" (Nursing Sister)

At the time of the accident I was riding in the front seat of the jeep and talking to the soldiers in the back.

The first I knew of the socident was when I felt the bump and my hat flow off.

Sgt. Shineten was bleeding from the mouth and did not respond to us. The others were all right, Sgt. Shineten was definitely unconscious, pulse in fairly good condition with large heonota above right eye.

We had previous to supper at 1730 hrs drank one half tettle of Scotch between five people and one bottle of Cognac after xxxx supper between six people.
We left Turnhout at about 2040 hrs.

Signed "M.R. Garbor Lieut. (N/S)"

Pield 5 Dec/44.

The above Statement of Lieut M.R. States was given to me at app 2585 hrs 4 Dec/44. The above is a Certified True Copy of the original.

> W. G. Jefferno. I/Opl. No.11 Gdn Provest Cor. Pirst Cdn Army.

COUNTER NUMBER_	1841997
HOUR 182	0
OPERATOR'S INIT	TIALS 0.9.
RELIEVING OPERA	ATOR

END

=== FIRST ===

SIDE

REEL NO.

CORRECTION

This document has been rephotographed to assure legibility

COUNTER NUMBER	1841997
HOUR 18 20	
OPERATOR'S INITIA	LE 0.91
RELIEVING OPERATO	OR

Affidabit

PROVINCE OF ONTARIO COUNTY OF CARLETON

of the City of Ottawa, in the County of Carleton, an employee of the Department of TO WIT: National Defence, make oath and say:

- 1. THAT I am presently employed as a camera operator making microphotographic copies of Departmental documents for the purpose of providing a permanent record of same,
- 2. THAT on the date indicated therein I did make microphotographic copies of files listed in Appendix "A" hereto and of all documents contained thereon.
- 3. THAT the said microphotographic copies may be identified from the indexing data and the job and reel numbers contained in Appendix "A".

SWORN before me at the City of Ottawa, in the County of Carleton, this day of A.D. 19

CAMERA OPERATOR

A NOTARY PUBLIC

Dated

NOT. 28 19 52

APPENDIX "A" TO THE AFFIDAVIT

CAMERA OPERATOR'S REPORT

			JOB NO 44 MEEL NO. 35
			воок No. 9-5
PRODUCTION DATA			44-358 INDEXUS DAYA 44-358
	DATE	HOUR	
		1	MEGINS WITH HYMAN D.J.
STARTED			
FINISHED			
TOTAL NO OF HOURS		1/4	
TOTAL NO OF IMAGES		330	ENDS WITH HYSICP J.

Affidabit

PROVINCE OF ONTARIO COUNTY OF CARLETON

NTARIO

TO WIT:

NTARIO

TO WIT:

NTARIO

TO WIT:

NTARIO

TO WIT:

NTARIO

Of the City of Ottawa, in the County of Carleton, an employee of the Department of National Defence, make oath and say:

CAMERA OFFICE

NOV. 28 19 52

- THAT I am presently employed as a camera operator making microphotographic copies of Departmental documents for the purpose of providing a permanent record of same.
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SWORN before me at the City of Ottawa, in the County of Carleton, this	
day of A.D. 19	
A NOTARY PUBLIC	Dated

APPENDIX "A" TO THE AFFIDAVIT

CAMERA OPERATOR'S REPORT

			108 NO. 14 REEL NO. 35
			800K NO 9=5
PRODUCTION DATA			44-354 INDEXING DATA 44-359
	DATE	HOUR	MEGINS WITH HYMAN D.J.
STARTED			
FINISHED			
TOTAL NO OF HOURS		1/4	,
TOTAL NO OF IMAGES		330	ENDS WITH HYSICP J.

END

=== FIRST ===

SIDE

#