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START =

FIRST -

SIDE

4h-114 Refn Russell L.C.

by Order of Pria V G Spreade Comd / Con / Of Cod dated 18 200 44

ACCUSED.

(As to the triol of two or more charged jointly see RP 16, 71, 109. As to reasons for showing (a) permanent of confirmal rank, and (b) appmt, Ajrank 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.

H. 49849

Lawrence Charles RUSSELL R Wpg Rif

PROCEEDINGS OF TRIAL.

Held in the Fd in (country)

on (date(s)) 19 Dec 44

RECORD FORM A-OPENING PROCEEDINGS AND ARRAIGNMENT. 171-12

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

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

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

A3. The Court is opened. The accused is (are) brought before the Court. At 1400 hours trial commences.

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

The Prosecutor informs the Court that accused elected to be tried by court-martial instead of being dealt with summarily by the CO.(4)—
(I. KR. Can 557. 2. AA 46(B), RF 60 fn I. 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.(!) Do you object to as shorthand writer !

(I. RP 72. Delete, if none 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 3

[1. RP 110. 2. If no objection, weiting member retires. RP 68(B). If objection, see procedure AA 51, RP 25, 71, 16, MML p 742.)

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

GAH Edwards CORPT

Gier Richardson

NR DONOGH Defending Offr Lizet

Questions by President: Is the Prosecutor a lawyer | Ans. 725. Is the Defending Offr a Iswyer | Ans. 727. (*)

(1. AP 26, 27, 109, 111. List of offer under linstr will be returned separately with proceedings for information of Conv Offer.)

12. If Pros a lawyer and Def Offer not, occused is entitled to an adjournment when RP 89 (8) and fin 2 were not followed. See D1 9.3.)

The accused #49549 Ren & Courter or Change Rossell before arraignment make(s) (no) (a) place

(1. If a special plea is made for separate trial on one or more charges (RP A1(E), 108), or as to the jurisdiction of the Court (RP 34, 35(A), 1/3), or in bor of trial (RP 36), or as to accused a mortal fitness to stand trial (AA 30, RP 57), or by one of several accused charged jointly to be tried separately (RP 16, 71), such plot, the addresses made in support or against, the elicitence, if any, and finding ore recorded per Niotes. For forms of record see references in fins to RuP cited. Insert in AB rank and name of the occused making the plea.)

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

. RP 31, 112. See para 1 of lestrs p. 2. When more than one Charge Sheet see RP 62; when several occused to be trie tely see RP 71(C), and use separate copies of CF A96 to record proceedings. 2. RP 32, RP 33. If otherwise, delete an appropriate record per Nates.

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

PRESIDENT OF 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 alternative (RP 37(A)) As to withdrawal of alternative charges by Prosecutor see RP 35(C). No other charges and in the atternative for any reason without authy from Convening Offr. If Convening Offr concurs, Court may accept yield 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 plea! 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
 - 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 in 2 as to discretion of Court, (i) to try the accused on all such alternative charges as if he had pleaded Net 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 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 Offices, RP 60(C), 87(C), 01, 02; swearing and withdrawai of witnesses from Court see RP 81, 82; questioning of accused see RP 80, 87(C), 02(B), and of witnesses see RP 83-85; calling or recalling of witnesses by Court, etc, see RP 75-79, 86, 116; use of Summary of Evidence at Trial RP 17(E); 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.

Bt. 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), call witnesses as to-character and make an address in mitigation of punishment.(2)

(1. 89 35 fe-2, 2. MML p 54 pers 47.)

B2. President to accused: The Court will now receive any statement you desire to make in reference to the D2. President to accuss! The Court will now receive any statement you desire to make in reference to the charge(s).(!) If it appears from your statement that there are circumstances which indicate that you do not understand the effect of the plea of Guilty? In 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 of 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-? Ans. (J. RF 37(B). 2. RF 37(D) fn 6. 3. RF 35(B) fn 5 para 3, YAML p 54 pare 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 change(s) his (their) plea(s) on eharge(s). Part I of the Schedule is amended accordingly. (I. Court may be closed to consider the statement. Delete whale 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.(1)

(i. RF 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 Summary, or if it is indequate, comply with RP 37(B). If there is any evidence inconsistent with any sint standing or Guilty. Court will advise accused to change such piec and, if changed to Not Guilty, try such charge(i) by use by paras D1 to D8 inclusive of Record Form D on p 1. RP 37(D).)

B8. 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)
- 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 B5 such ports any of the Summery of Evidence are read on religion to the Charges dealt with under C2. If any piec is changed to Not Guilty, trial thereon proceeds by complying with pares D1 to D8-inclusive in Record Form D on p 3 and making an oppopriate record thereof on a sparoute sheet.)

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

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

Pin here 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 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 (art (no) opening address.(1)
(1. RP 39(B), 60(A) (B), 90, 92(C) (D). Record address per Notes, subject to RP 95(C).)

[Part 7]

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 is disallowed on the charge(), and allowed on the

charged and that, accordingly, the trial will proceed on the former, but the accused is (are) found Not Guilty on the inter charge(s):(*)

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

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

3. BP 40 fn 1, See MML p 72 paras 12-14 and p 81 para 42.

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

MB. If trial processis, accused must be allowed great latitude in making his defence, and the Court should not stop his defence solely an ground of irrelessone. (RP 80(C), 114, 115.)

D5. President to accused: You will now proceed with your defence. (1) You may, if you wish, give evidence ourself on oath as to the facts or your character or both, in which case you will be subject to cross-examination. (1) 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 a worn testimony. (*) You may call witnesses in your defence and as to character, whether you give evidence or make a statement or do

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

D6. Consequent on the answers recorded in para D5 the appropriate procedure for the defence is followed.(1) (1. BF 114, 115, 116. For procedure see Notes on back of Correning Order, CF A95. Evidence for accused as to his observate thould, if in his interest, be given before the finding. See RF 46(A) ft. 1. B6(C). Note the further appropriative to pare E1 of Record Form E. Record per Notes addresses, statement, evidence and any summing up by the flu under RF 42, (Olies).

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

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

D8. The President assurances the finding and any, of Not Guilty and states to the accused that the finding a

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.

President to accused: Do you wish to give evidence yourself or to call any witnesses as to your character 1(3)

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

E2. The Prosecutor produces Statements as to Character and Particulars of Service(1), and certified true copy (especial of Conduct Sheeth)(2), purporting to refer to the accused, which he submits to the Thefending Offi 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(3) (g) (h), and (ii) they purport to refer to (a) soldiera) having the same number, rank, name and corps as the accused. Admitted in evidence and marked Ex.

2. and Ex.

3. respectively (*)

4. RP 46, KR Con 558. 2 clove documents not produced, see RP 40 (s.)

4. perc).

E3. President to accused: Do you wish to address the Court on the Statement(s) and Conduct (Sheet(s), and in mitigation of punishment 3(3). Ans. What will ration of punishment 3(3). Ans. What will ration of punishment accused or his witnesses to 90 me on each onything here or previously stoned which would offect the chosent of punishment. AP 37(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.(1)
(1. A4.54(6), RP (20(A).)

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 occased tried seharately are RF 71 (D). One sentence only, comprised of the punishment or punishments lead down in A4 1,4 and its provise, is to be esserted to cover x'l charges in all charges these on which occused found guilty. RF 48. As to sentences use A4 44, 138, 182, RF 46-50, 69, 118, 119(A), RR cm 26, 320, 543-56c. Oversees RO 208, 323, MML p 69, 757-759. So to sentences assigned for civil offences by the low of Engined see A4 41(B) MMR p 120. When occused already under sentence of imprisonment or desention see A4 44(B), 86I), RR Cm 564. The SO, As to release from onest by Confirming Offic see RR Can 567. As to assembly and disposal of record after trial see instra on back of Convening Orden.)

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

SCHEDULE.

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

Charge.	Plea.	Finding.	
	(See Instrs p.2.)	(See note below.)	(), see for use as required for further charges, accused charged jointly,
nsert " niternative " where applicable.)	(see matra h 1-1)		special Image Far sand
AA Sec/2(10)	Not Gully	Not Guilly	of Desertion but quilty of Absence
d			exilaset have
I			
1			
			findings on alternative charges see MML p 483 fn 4 para 2, RP 44 ; rRP 44 fn 6-3
(hipte L. As to f)	ndings for lesser offer RP 44 and MML 5 75	nons see AA 56, RP 44 3, and in loss of Kit sei	The 44 To 6.7
	e being served, or des		See RP 46(A). Information should be found on MF 8355 or AF 8296.) 14 / days, of which days were spent in hospital.(1) 1355 or AF 8296 admitted in evidence under £2.)
		OV SIX MONTH	s and to be put under stoppedes
at Day until	110 705 17	7 45 65 40 14 40 11 11	and the second s
of crets of a	pprenens	ion and es	Y (/)
		10/	Dec 22 (Sud Mays 4 m 6 dalars.
(ligd) Judge-Adv	ocate, if any.	Date	President. (RP 45, 50.)
(figd) Judge-Adve	ocate, if any. (See book of (Date	
(figd) Judge-Adv	(See back of I	Date Convening Order as to	awarded. essembly and disposal of record after trial.)
Judge-Advo	(See back of I	Date Convening Order as to	awarded. President. Warney
Judge-Adv	(See back of I	Date Convening Order as to	awarded. essembly and disposal of record after trial.)
Judge-Adv	(See back of I	Date Convening Order as to	essembly and disposal of record after trial.) MATION RESERVED. (AA 54(5), RP 120(F), MML p 760.)
Judge-Adv	(See back of I	Date Convening Order as to	awarded. essembly and disposal of record after trial.)
Judge-Advi PART II.	(See bock of (Date Convening Order as to HERE CONFIRM	MATION RESERVED. (AA 54(5), RP 120(F), MML p 760.) . Commanding NG OFFR ON FINDING(5) AND SENTENCE.
PART III. Unite PART III. (For duties and parelifermane and not confirmed, and promulgation - 5 57A FF 53A AF.	(See back of 6 MINUTE WH (Sgrd) DECISION of 6 DECISION o	Date Convening Order as to HERE CONFIRM AP 37(D) fn 6.46(A), AS 54(3), Sending bot gain: AA 157, MML by Queshing ofter promul, r must sign hare perso	Commanding NG OFFR ON FINDING(S) AND SENTENCE. Standing or sentence for revision by Court: AA 54(3), RP 120(6), MML b 760.) Commanding NG OFFR ON FINDING(S) AND SENTENCE. Standing or sentence for revision by Court: AA 54(3), RP 120(G), MML be 789-789. Admitted of confirmation or non-confirmation may be aftered before pation: RR Con 572. Duties and powers of reviewing offrs: AA 57, notify, AA 172 fn (1-)
PART III. (For duties and partirimation and not confirmed, as promulgation 15 STA FF STA AFF.)	(See back of 6 MINUTE WH (Sgrd) DECISION of 6 DECISION o	Date Convening Order as to HERE CONFIRM AP 37(D) fn 6.46(A), AS 54(3), Sending bot gain: AA 157, MML by Queshing ofter promul, r must sign hare perso	Commanding NG OFFR ON FINDING(S) AND SENTENCE. Standing or sentence for revision by Court: AA 54(3), RP 120(6), MML b 760.) Commanding NG OFFR ON FINDING(S) AND SENTENCE. Standing or sentence for revision by Court: AA 54(3), RP 120(G), MML be 789-789. Admitted of confirmation or non-confirmation may be aftered before pation: RR Con 572. Duties and powers of reviewing offrs: AA 57, notify, AA 172 fn (1-)
PART III. Unite PART III. (For duties and parelifermane and not confirmed, and promulgation - 5 57A FF 53A AF.	(Sgd) DECISION (Sgd) The Confirming Off the finding (s) and	Date Convening Order as to HERE CONFIRM AP 37(D) fn 6.46(A). As 54(3). Sending be goin: A 157. May be goin: A 157. May be r must sign here person d senitence set for	Commanding NG OFFR ON FINDING(S) AND SENTENCE. Standing or southern for resistant of confirmation or non-confirmation may be altered before pation : RS Con 572. Duties and powers of reviewing offis: AA 57, notify. Ad 172 fn (1-)
PART III. Unite PART III. (For duties and parelifermane and not confirmed, and promulgation - 5 57A FF 53A AF.	(See book of 6 MINUTE WH (Sgd) DECISION 1 Owers see AA 54, 57 cannot be revised 1 Custed may be tred a 69 53, MM, p 65. 1 The Confirming Off the finding (s) and	Date Convening Order as to HERE CONFIRM OF CONFIRMI AP 37(D) fn 6.46(A), AS 54(3), Sending 30 again: AA 137, MML & Queshing offer promul of must sign here perso d sentence set for Approach	Commanding NG OFFR ON FINDING(S) AND SENTENCE. S1-56, 120, MML pp 759-761, KR Con 567-577. Acquitable require no ck finding or sentence for revision by Court: AA 54(3), RP 120(G). If 64. Minute of confirmation or non-confirmation may be attered before the finding of finding of the finding
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PART II. Date PART III. (for duties and part confirmation and not confirmed, as promulgation in \$150.00 My decision on the second se	(See bock of the MINUTE WE (Seet) DECISION to the control be revised to true of the St. AMM, p. 82. The Control be revised to the finding (s) and the finding (s) and the finding to the Control be the seet of the seet of the control be the seet of the see	Date Convening Order as to HERE CONFIRM RP 37(0) fo 6.46(A), A4 157. MML Opening ofter promai d sentence set fort MATMA (I. A6.57A.)	Commanding NG OFFR ON FINDING(5) AND SENTENCE. Street, D. MML po 159-761, RR Can 597-577. Acquirable require no ck finding or sentence for revision by Court: AA 54(5), RP 120(G). Nf 64. Minute of confirmation or non-confirmation may be altered before gation: RR Can 512. Duties and powers of reviewing offis: AA 57, nolly. AA 172 fn 1.) th in Part I is: Detection or detectation barracke until further orders (1) before if not used. (Sgd) (Sgd) (JCDTRAGC E) BRIG
PART III. Date PART III. (For duties and particular and not confirmed and not con	(See bock of the MINUTE WE (Seet) DECISION to the control be revised to true of the St. AMM, p. 82. The Control be revised to the finding (s) and the finding (s) and the finding to the Control be the seet of the seet of the control be the seet of the see	Date Convening Order as to HERE CONFIRM RP 37(0) fo 6.46(A), A4 157. MML Opening ofter promai d sentence set fort MATMA (I. A6.57A.)	Commanding NG OFFR ON FINDING(S) AND SENTENCE. S1-56, 120, MML pp 759-761, KR Con 567-577. Acquittals require no commanding of recipients by Court. As 44(2), RP 120(6). If 64. Minute of confirmation or non-confirmation may be altered before total or for the state of the state

ALL DELETIONS AND ALTERATIONS WILL BE INITIALLED.

CHARGE SHEET

The accused, K49849 Rifleman Lawrence Charles RUSSELL, Royal Winnipeg Rifles, a soldier of the Canadian Army, Overseas, is charged with:

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

WHEN ON ACTIVE SERVICE, DESERTING HIS MAJESTY'S SERVICE

in that he

while his unit was engaged on active operations against the enemy, absented himself without leave with intent to avoid such operations, from 1000 hrs 7 Nov 44 until he surrendered himself to the Civil Police at 2200 hrs 5 Dec 44, incurring costs of apprehension and return to his unit in the amount of £1-15-4.

Total Time Absent: 28 days, 12 hours.

In the Field 16 Dec 44

> (LR FULTON) Lt-Col OC, THE ROYAL WINNIPEG RIFLES

To be tried by Field General Court Martial:

Date: 19 Dec 44

Convening Officer
G SPRAGGE) Brigadier. Comp 7 Canadian Infantry, Brigade.



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 offr of Cdn Army Overseas, or other force if nutherized in law, in immediate camd of troops on active service, subject to RP 105(C) and restrictions imposed by appropriate authy. 50, RP 104-107, 114. As to the duties and privileges of the Convening Offr in dealing with the application see MML Chap Y paras 20 and 23,

RP 87(8).

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 62, and as to separate trial on charges in the same charge sheet see RP 108. As to two or more accused charged jointly . ** 00 16, 109.

As to reasons for shawing (a) permanent or confirmed rank, and (b) appmt, Alrank or Alappmt, 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. Unit

K. 49849 Rfn

Lawrence Charles RUSSELL

R Wpg Rif

CONVENING ORDER.

1. Whereas complaint has been made to me, the undersigned, that the person named above as the accused, being subject to military law, has (mase) committed the offences) set forth in the Charge Sheets) attached and on (date). 10 Dec 149 endorsed by me, (or by an offence my staff for ms), "To be tried by Field General Court Martial".

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. Tandrida evalubir yanarkkolofis exakki naxxar zekkebbba ekobba erakkiki yak bis ekake k kas managehoadstreeto.

(AA "r, rsP 106(B), 107(A). Delete the whole or part, if not applicable. V thorest the Offir mentioned hereunder.
(RF 106(E). Delete, if none appointed.)

PRESIDENT.

Maj

G A M EDWARDS (Must be named. RP 106.)

H L I of C

MEMBERS.

Capt

CRMISTON

R Wpg Rif

Capt

Regina Rif

FORBES

(Unit.)

(Named or detailed. RP (06.)

WAITING MEMBER.

Capt

K A J SUNSTRUM (Named or detailed, if any. RP 106.) Ho 7 Can Inf

Bde (Unit.)

JUDGE ADVOCATE

(Rank.)

(Rank.)

On Active Service in the Fd

in Holland

(Country.)

HR 105 fn 2.)

Brigadier (Ronk.)

Dat: 18 Bec 44

Spragge) Commanding 7

Canadian Infantry Brigade

CONVENING OFFR WILL INITIAL ALL DELETIONS AND ALTERATIONS

4/38A CPA 95 (In Hell of APA 3)

(See swerleaf for ooths and notes for use on trigl.)

Smile.

THE ROYAL WINNIPES RIFLES (AF) (LITTLE BLACK DEVILS) IN THE FIELD

19 Dec 44

L.C., and I find him...fot........ to undergo trial by Court Martial.

(R.M. Caldwell) Capt., RMO, R Wpg Rif

Plea in mitigation of Sentence RE RUSSELL LC. drong almost two years, 8 months of that as an instrictor, and your months in action with a there cay due to the fact what his confluct sheet up to this offense has be clear, and Talso of his service, I feel that as light a sentence as possible should be imposed the high quality of selvine is much to the Canadian army . 2'm sure Le's learned his lesson. September 25

.

The President explained to the accused that as RP 59 (B) and fn 2 had not been followed the accused was entitled, if he so desired, to an adjournment. Asked if he wished an adjournment the accused replied, "No Sir".

1st Witness for Prosecution

H9443 L/Bgt GOODALL, J, R Wpg Rif, sworn states:

"I am H9443 L/Sgt GOODALL, R Wpg Rif, 7 Sec 12 Pl
"B" Coy. On 7 Nov 44 I was a Cpl in charge of 8 Sec 12 Pl "B" Coy
R Wpg Rif. I recognize the accused, here present, as he was a
member of my section. When we went for breakfast 7 Nov 44, 8gt
HRANKOWSKI, J warned us of a move from GHENT and told us to warn
our sections. At 1000 hrs I went to the billets where we were
staying and could find no trace of Rfn RUSSELL. At 1030 hrs I
went back to the house and asked at the house for the accused. I
went up to the rooms where the accused was billeted and found
the accused's equipment there but no trace of him. I reported
the absence to the Sgt, We waited around till dinner and after
dinner reported for the pareace for which we had been warned that
morning. The roll was called and Rfn RUSSELL was absent. After
the parade we loaded on our trucks and moved off. All this happened
in GHENT. We moved into action. I next met RUSSELL at "A" echelon
after he was returned under escort."

Cross Examination

If I had looked at the section billet the day before, I would have found all my section there after breakfast. There was no order that they must be there at 1000 hrs. We usually had a parade 0930 hrs. There was no parade that morning. This was the reason I went to the billets.

Re- Examination

No parade was held that morning because we were getting ready to move.

Examined by Court

I did not see the accused at anytime between 7 Nov his and the time I saw him at "A" schelon approx 17 Dec 44. We had been told we would be moving but had not been told where or when. The Coy had definitely been told we would be moving. The Pl Sgt told me at breekfast time and I warned my section to get their equipment ready. This was afer breakfast. I could not find Rfn RUSSELL. The Bn was in GHENT for a rest, I had not been told what the Bn would be doing when it left GHENT. I did not hear the accused say snything about going away and not returning to the Bn. I did not personally warn Rfn RUSSELL of a move because I could not find him.

RP 83 (B) has been complied with.

2nd Witness for the Prosecution

H43054 Sgt HRANBOWSKI, J, sworn states:

I am H43054 Sgt HRANBOWSKI, J and at present I am Pl Sgt of 12 Pl "B" Coy R Wpg Rif. On the 7 Nov 44 I was holding the same position. I recognize Rfn RUSSELL, here present as the accused and he has been in my Pl since the latter part of July.

On 6 Nov 44 we were still in GHENT and the CSM that night at meal parade warned all the Pl Sgts to see that all big packs were ready in the morning and to have the men ready to move off sometime the in the morning and to have the men ready to move off sometime the next day 7 Nov 44. The Sec Comds were warned by myself at approx 1700 hrs 6 Nov 44 that the regular morning parade was cancelled. On the morning of the 7 Nov 44 they were warned again to see that the packs were there at 1000 hrs and to have the men ready to move off at 1300 hrs. At approx 1000 hrs 7 Nov 44 Opl GCODALL, now 1/3gt GCODALL, came to me and reported that he could not find RUSSELL. I sent Opl GCODALL back an hour and a half later to see if he could find him again. He returned with the same reply as before that the scoused was not there. At approx 1245 hrs 7 Nov 44 I lined the platoon up prior to embussing and called the roll. 14 I lined the platoph up prior to embussing and called the roll.

Rfn RUSSELL was not present. We received orders to embuss at 1300

hrs and left CHENT without RFN RUSSELL. I have not seen the accused from that time until the Summary of Evidence was taken a few days ago.

Cross-Examined by Defense

My orders were given to me by the CBM and I warned the Sec Comds whose duty it was to warn their sections. I coul not warn my men individually as we were billeted around town. I could Sec Comd did not warn his section they would not be warned at

Examined by Court

As Rfn RUSSELL was still on my Pl strength for about 3 or 4 days his name was called by myself and he was marked absent each day. I have not heard the accused at anytime mention any intention of leaving the En and not returning.

Hr 83 (B) has been complied with

3rd Witness for Prosecution

H17362 CSM WHITLOCK, B, sworn states:

I am H17362 CBM WHITLOCK, B, CBM "B" Coy R Wpg Rif I sm H17362 CSM WHITLOCK, B, CSM "B" Coy R Wpg R11. Cn 7 Nov 44 I was holding the same position. Cn the night of 6 Nov 44 I was warned that there was a move the next day. I warned all the Fl Sgts of a parade at 1300 hrs 7 Nov 44. At the parade at 1300 hrs 7 Nov 44 I was present and checked the platoons. The accused was reported to me at that time as being absent. Since that parade I have not seen or heard of the accused. The accused's duties on the 7 Nov 44 would be to pack up and get ready for the move at 1300 hrs. There was usually a parade at 0930 hrs but 7 Nov 44 it had been cancelled.

Cross-Examined by Defense

on the parale at 0930 hrs 6 Nov 44 the coy was not warned of a move as we did not know at that time. There was not a company parale between that time and 1330 hrs 7 Nov 44. It was a duty of the sec comds to wern the men of their sections. I warned the NCOs of the coy that the 0930 hrs parale was cancelled.

I have never heard the accused state any intention of leaving the Bn and not coming back.

RP 83 (B) has been complied with

4th Witness for Prosecution

Capt BROOKS, W, sorn states:

I am Capt Brooks, W, acting OC "B" Coy R Wpg Rif. On 7 Nov 44 I was 2 IC "B" Coy R Wpg Rif. On the 7 Nov 44 at a parade of "B" Coy the men were ordered to make ready for operational duty. It was reported to me that 3 men were missing among whom was the Rfn RUSSELL, whom I recognize, here present as the accused.

Cross-Examined by Defense

The coy was warned to make ready for a move and that would be doing operational work,

Examined by Court

I personally did not warn enyone for a move. The order was given to the NJOs and they were to pass it on to the men. The parade was called at approx noon,

Rule of Procedure 83 (P) has been complied with

5th Witness for Prosecution

Lieut Grey RICHARDSON sworn states;

I am Lieut Grey RICHARDSON, Pl Comd 17 Pl "D" Coy R Wpg Rif. As prosecutor of this case I have custody of two documents which I now produce before this court. The first is a certificate of apprehension of K49849 Rfn RUSSELL, L C at 2200 hrs 5 Dec 44. The second is a certificate costs of apprehension also of K49849 Rfn RUSSELL, L C.

RP 63 (B) has been complied with

The court admits the documents as evidence and makes them Exhibits "D" and "E" respectively.

The Prosecution is closed

The defense submits that a prima facia case has not been made by the prosecution on the grounds that (1) although the unit was in a theatre of operations, it was at the time of the charge, resting in GHENT and not in action against the enemy, (2) Rfn RUSSELL was not warned of any move.

The Prosecution submits that regarding the first point this does not enter into the picture. They were in an operational
theatre and the fact that the unit was at rest has no bearing on the
charge. Due to the method of warning the men, we cannot prove
that RUSSELL was warned to be on that parade but we have evidence
that RUSSELLS duty was to be in or around his quarters and that he
was not there. Under AA Sec 15 fn 1 it states that absence
an essential element of desertion, "must be from the place where
it is his duty to be, and where he ought to be found if wanted".

RP 83 (B) has been complise with

The court does not allow the submission on the grounds that at least a case of "absence without leave" has been established.

CASE FOR THE DEFENSE 1st Witness for Defense Klaska Rfn RUSSELL, L C, sworn states: I sm K49849 Rfn RUSSELL, L C of & Sec 12 Pl "B" Coy B Wpg Bif. I joined the army 3 Feb 43 at the age of 19. I joined a Lt AA Regt. Shortly after I was posted to ENGLAND where I became an Aircraft Recog Instructor. I held that position for about & months. The Regt was called to Active Service in another area and I was left behind as an instructorand I was told in April that I would be transferred to Infantry. I did not like this as I wanted to stay with the Lt AA. At the end of June I was cent to FRANCE as an infantry man where I joined the R Wpg Rif. I had tried before to get back to the AA but as I could not transfer out of the infantry I thought I might as well stick it out. I have been with the R Wpg Rif from the time of CARPIQUET it out. I have been with the R Wpg Rif ir Cross-Examined by Prosecutor I went absent because I wanted to get back to ENGLAND I went absent because I wanted to get back to ENGLAND and see my girl friend. Some English soldiers had told me it was easy to get there and back by plane. In ENGLAND I stayed with my girl friend for awhile and then went with Rfn WASS to RAMSBOTTOM to see his girl friend. I had the intention of coming back but I knew a charge of absence without leave would be laid against me. I intended to go to MANCHESTER and give myself up to the Cdn Provost Corps. I had tried to fly back once but was unable to manage it. I flew to ENGLAND with the American Air Force. to menege it. I flew to ENGLAND with the American Air Force. They did not know we were on the plane until it was in the air as we had stowed away. After the plane took off we showed ourselves to the engineer. He was the only one who knew we were on the plane. Examined by Court We tried to get a ride back after we had been away for about 16 days. The sirfield that we landed at and tried to get back from was near GRANTHAM. I was not with WESS when a police constable came over and apprehended me. RP 83 (B) has been complied with SKRKKKARKEREKKE SWXXXXXXXXX HANNEY NEXALLANDARENGALANA KENNAMAKANAKANALANDEN ANTAKANAKANAKANAKAN RUNK KHAK MA KKAKAMA KRAKA KRAKAMAMA KARAK KAL KAKAKAK KAKAMA MA KAKAKAK AN BIX KU A A E AMAK KA KAMAKAMAKAMA AMAK AN KAN KA KANAK KANAKAKAKA AN KANAK AND KAAPARAANNY NY NERANGRANA NI NERAKANA KERAMBARANA KENY KENY KENANY KARAMBARANA NI NERAKANA KENAKANA KE AN R A EXRIA AMBARATAGAN KRIZAKA AMMA AMMANA KRIZAA AA KANA KANA KRIZAKA KRIZA TAKKAMBANKAMAAN MAKBAKBARBARA KAKAMBARA MAKAKAMBANA KAKAMBANA KAKA INKARNAALIAKANARKANAKKANAKKANAKKANAKANAINAKANANANAINAKANKANKANKAKANKAN CRARRAGRANATA A X PA A BRANCH CA KAR. KANA AMANA MANAKANA M

weder or on the case of K 49849 Rfn Russell J. adjournment, the accused replied "ho. Sa # \$7 See. 12 Pl B Coy. On 7th how 44 relivas a Cal uncharge of 8 See will B' long Ruly g Refles. I recognize the accused, like present. throw on the was a member of mil section. So when we went for breakfast 7th sections at 1000 his churen't to the bellets when we were staying could find istrace of the fin Rugar OV, 630 Deven back to the louise and asked that the house for the

occused closed up to the rooms where the accused was billited found the accused equipment there but no trace of him. I reported denner rafter denner reported for the parade for which we had been warned that moin up moved into action show I mit Russell at It echelon after he warreturned under except. In the time between Cross Examination States et an bellet after break of a few found all my becton their There was mo order that they must be there as the reas on I went to the bellets Examination hoparade was held that morning because we were getting ready to move.

I did not see the accused all any time. between 7 how - 44 & the time I saw him as H" Ech approve of Dec att. We had been told use would be moving but had not been told where The any had definitely been told we would be moving the le lat told me in the amendance was the president of could not fund for Russell tox the Bn was in Shen for a red I had not been told what the Br. would be doing when it left Shink. I did not hear the accused say anything about going # 10th away vota for growing not returning to the Bon I did not seromally warm to fin Russell P 83 (B) has been completed with

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I sen'l them back so hour and a half later to see if be could find him again He returned with the same uply as before that the execused was in there. Or open 1245 hrs empusying & called the Rel. Ren Russell was mot plesent. We received orders to embussed 1300 hrs & left I dead without Etn Russell. I have not seen the accuracy from that time until the fun many of Evidence was taken a few days ago. Cross. Examined by Defense. my orders were green to me to the CS My warned the Sec. Conders. whose duty it war my men individually as we were belleted around lown. If in all and he did mot warmed at warmed at were belleted around town. It a See, Ender Examined by Court, as Rfn Russell was still on my le strongth

for about 3 on I days his many localled by myself " he was marked about each day I have not hard the accused at anytime mention any intention of leaving the Bn. Sol nettoning. Wilness for house than H 17362 CSM Whitelock B. sowom states: clam H 1736 x CSM whillock B C.SM B' Coy R Wag Refles. On 7th how 14 I was holding the same position. Do the might of 6 hor 44 when wound that there was a know thenight day Iwarned all the Rl. Sqt. of a parade at Books Thos 44. Or the parade 21/300his Thoward, I was greated to the platoons it accused was reported to parade Shave mit seen or heard of the accused. The accused's duties on the 7 house would be to pack up and got ready for the move at 1300 hrs. The was usually a...

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"Bo Coy R Wpg Refles. On the 7 how my sta parade of B Coy the men were ordered to reported to me that 3 men were Incosing among whom was the forward, whom I recognize, herepresent as the accused. the con was warmed to make ready for a move that they would be doing operational Examined by Could Epersonally did notwardanyone fora move Shorder was given to the ACO's & they were to gars it on to the men fle parade was called at approx hoon. Rule of Procedure 83 (B) has bun complete

Level they Richardson sever States Jam Je they kickend son. Be Coders of Pl "D' Coy R. wpg Ryles. as Prosecutor of this The lourd admits the Documents as Evidence modesthem Exhibits "D", "E" respectively The Crosecution is closed on the grounds that a sell ough the unit was matteatre of guations, it was at the time of the change, realing in Gland.

and not in action against the enimit and Revosel was not warned fails be on that parade we have underes that Russells duty was to be in occaround his quarters y was not there I will pot Under AA see 15 for it states Thotalience of exerting element of descrition of sound befrom the place when it is his duty to he, and where he right to be found if wanted? He Court does not allow the submission on the grounds that a't exact a case of absence without leave has been exhibited. Post the Defence Jam K 49849 Rfn Russell & C of I Sie 17 Pl. "B" Coy & Wyg Refles I found the a & H H Legy. Shortly after of wang inted to England when I became an average to active Service in France & I was called behind as aminstructor I was told in april that of would be transferred to Infantry I did mit like the as of wanted I stay will the Light HH. Ox the end Rifler. I had true kelos toget back to

well stick it out. I have been with the ereamed by Presentar I went about because I wanted to all I had the intention of coming back but I know a charge of absence with six mysel up I had tried to fly backones They did mat know we were on theyla until it was in the circome had stowed away after the plane took off

He was the only me who knew here were came over & apprehended he. fl. 83(B) Lastier complete with.

PART 1.

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

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

Instructions for the Guidance of the Police.

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

In such a case a telegram should be despatched to the Officer Commanding the Man's Unit*t in the case of soldiers and in the notifying that he has surrendered, and stating the number, rank, name and unit of the man, and that officer will at once arrange to send an escort for the man to be taken into military or Ar Force custody. Where an absentee's unit is stationed overseas (outside Great Britain, Northern Ireland District and the Channel Islands) the telegram will be despatched to the O.C. Regimental Depot in the case of a soldier and in the case of an airman to the O.C. No. 1 R.A.F. Depot, Uxbridge, who will arrange escort. This certificate will be handed to the escort on arrival.

^{*} Stations of Units and Deputs are shown in the Monthly Army List

^{*} Nove .- Special instructions apply in war for the disposal of absenters and discreters from the Army, who surrender to the caval police | e.g., each personnel will be taken over from the civil authorities by the O.C. the nearest military unit or the O.C. Troops at the nearest military station: (A.C.I. 489/1940).

I CERTIFY that the man whose personal description it given
below surrendered himself to* P.C.525 Wearden
at Ramsbottom at (hour) 22.00 on the 5th day of December as being N.K49849
(Rank and Name) Rifleman Russell. L. C. Royal Winnipeg Rifles, a deserter (or absentee without leave) from Ghent, Belgium and it appears to me from his confession that he is a deserter or
absentee without leave.
*After the word " to " to be inserted the more and tank of the police officer concerned."
Age 20 Height 5 Feet 61 Inches Complexion Fresh Hair Brown
Eves Brown
Marks Small scar on forehead.
In uniform or plain clothes Uniform.
Probable Date and 1-2-43, Vancouver, B.C.
Probable Date of Described or beginning of absence, and from what place
Signature of Officer of Poice Rams bottom Station.
5th December 1944 of Signature.

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

PART 2.

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

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

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

No.	
ho surrendered to the Police at	
Touce at	- 90
Payable to	
	1

Date of Signature.

This is Exhibit "A" referred to in the Summary of Evidence in the case of K49849 Rfn RUSSELL, L.C., taken before me this 16th day of December 1944.

Officer taking Summary

A 5/1	the above statement of Expenses is Correct, and that the amounts are	ted shirts I
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INSTITUTED HIS

Officer Issuing Bailway Warrant and Expense money A. THOMSON. Cape No. 6 Area Provost Company, Canadian Provost Carles, London P. M. B. C. M. H. Q.

1/32 407 W (6762)

This is Exhibit "B" referred to in the Summary of Evidence in the case of K49849 Rfn RUSSELL, L.C., taken before me this 16th day of December 1944.

Officer taking Summary



Regiment (or as the case may be).

Statement as to Character and Particulars of Service of Accused.

Name.

Rank.

Number.

K49849	Rfn	RUSSELL ,L C	R Wpg R11	
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4. The acc	used has been in c	onfinement, awaiting trial on the present char	nges, for D	o v days
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6. The da	te of his attestati	specified in his attestation paper is	3 Feb 43	
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9849 (IN:	Rank STRUCTION	Rfn A verbatim e	Name druct from ti	RUSSELL,	ks, stating these convictions	Wpg Rif	Regiment (or as the cas	e may be).	In the Swere cough, core	In th	F =
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Summary of Evidence in the case of K49849 Rfn Russell, L.C., 1st Battalion, Royal Winnipeg Rifles, a soldier of the Canadian Army, Overseas, charged with deserting His Majesty's Service. (AA Sec 12) (1).

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

1st Witness

H43054 Sgt Hrankowski, J., Royal Winnipeg Rifles, having been duly sworn states:-

On 7 Nov 44 I was Pl Sgt of 12 Pl, B Coy, R Wpg Rif. At that time K49849 Rfn Russell, L.C., the accused, whom I recognize, was a member of my pl. The Pl was billeted out in private houses. On the morning of 7 Nov 44 I instructed H9443 Cpl Goodall, J., to have his sec ready to move off at 1245 hrs. At about 1000 hrs Cpl Goodall reported to me that he was unable to find the accused at his billets. I sent him back about one and a half hours later to make a further search and he returned with the same reply. At 1245 hrs the pl was formed up and I called the roll and Russell was not present. At about 1300 hrs we received orders to load on vehicles. Rfn Russell was still absent and I reported the fact to the CSM. After this I did not hear of or see Rfn Russell until 15 Dec 44 when I was advised that he had been apprehended.

The accused declines to cross-examine this witness.

Signature of Witness

Dranppulsker

2nd Witness

H9443 L/Sgt Goodell, J., Royal Winnipeg Rifles, having been duly sworn states:-

On 7 Nov 44 I was a Opl in charge of 8 Sec, 12 Pl, B Coy, R Mpg Rif. The accused, K49849 Rfn Russell, L.C., whom I recognize was in my sec. On the morning of 7 Nov 44 I was warned at breakfast time to prepare my sec for a move at 1245 hrs. I went around to the billets of my sec and warned them. I was unable to find the accused in his billets or in the area, I reported this fact to Sgt Hrankowski. I made a further check about one and a half hours later. I could not find the accused although his equipment was in the billet. The pl was paraded at 1245 hrs and the roll called. The accused was not present, I did not see or hear of the accused until 15 Tec 44 when I was informed that he had been apprehended.

The accused declines to cross-examine this witness.

F. Moodall Signature of Witness

3rd Witness

H17362 CSM Whitlock, B., Royal Winnipeg Rifles, having been duly sworn states:-

On 7 Nov 44 I was A/CSM of B Coy, R Wpg Rif. At 1300 hrs on 7 Nov 44 I formed up the coy and checked them for the number of men on parade. I was informed that K49849 Rfn Russell, L.C., the accused, whom I recognize was absent from 12 Fl. I have not seen or heard of him until 15 Dec 44 when I was advised he was apprehended.

The accused declines to cross-examine this witness.

Signature of withess

Capt W. Brooks, Royal Winnipeg Rifles, having been duly sworn states:
I am Capt W. Brooks, A/OC B Coy, R Wpg Rif.
While in the city of Ghent, Belgium on 7 Nov 44, a parade was called and the men warned to be ready to proceed on operational duty. It was reported to me by OSM Whitlock that K49849 Rfn Russell, L.C., was absent. At that time I was 2 IC of B Coy and in due course reported the matter to the OC B Coy. It was well known that we ware again source into action and

The accused declines to cross-examine this witness.

well known that we were again going into action and everyone was present with the exception of K49849 Rfn Russell, L.C.

... W. Swab....

The Certificate of Apprehension, (Army Form C1617), produced as documentary evidence, was read over to the accused, marked Exhibit "A", signed by me and attached hereto.

Officer taking Summary

The Expense Voucher, (CMHQ 100:55), produced as documentary evidence, was read over to the accused, marked Exhibit "B", signed by me and attached hereto.

Officer taking Summary

The accused was cautioned as follows:

Question:

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.

Answer:

I do not wish to make a statement.

The accused does not call any witnesses.

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

(G Richardson) Lt., R Wpg Rif

In the Field 16 Dec 44

Garage .

I, K49849 Rfn Russell, L.C., Royal Winnipeg Rifles, request an officer to donduct my defence at Field General Court Martial, in connection with Charge Sheet dated 16 December 1944.

I desire the services of Lt R.M. Fortune, R Wpg Rif.

Witnesses for the Prosecution: -

Capt W. Brooks,
H43054 Sgt Hrankowski, J.,
H17362 CSM Whitlock, B.,
H9443 L/Sgt Goodall, J.,
R Wpg Rif
R Wpg Rif

Witnesses for the Defence: -

The accused declines to summon witnesses for his defence.

List of Exhibits: -

Exhibit "A" - Certificate of Apprehension (AF 01617) Exhibit "B" - Expense Voucher (CMHQ 100:55)

45-136 Epl. Russell L. 7.

on fened by Order	of Brigadier 1	G Blackader Comd 15 CTT	dated 2 Feb 48
12 Car	pao, mc, m		
Rs to the	trial of two or more charg	ed jaintly see RP 16, 71, 109. As to reasons for show any, see AA 182, 183, fns, KR Can 308, 328, 330.)	ring (a) permanent or confirmed
No. 1774 F.	mnt R. (b) Appmt,		s. Surname. Unit.
		.,,,	
SACORE BING	REVIEWED		
bill OOME BILL	. 11 mx	1.10	
M	al Um	PROCESS OF TRIAL.	
BEYEWING	OFFTULA, JAN DE	THE PROPERTY OF TRIAL.	1 4
Held in the Fd in	(country)	nglandon (date)	1) 6 Febry 45
RECOR	RD FORM A-O	PENING PROCEEDINGS AND	ARRAIGNMENT.
Al. The Pro	sident, Members, was	ting Member, JA, if any, and Offrs under	r instr. if any, assemble, and th
Court is closed.			
BY PRES OR	JA. The Schedule referred	OR GUIDANCE, WILL BE DELETED, IF NOT USED OR to throughout is on p. 4. Citations do NOT include al.	relevant fron ROs. For guidance
on procedure will be made	when a variation in this for and given a number having	m arises, see form for GCM in MML pp 741 to 759, reference to appropriate or preceding para number her	A brief record of such variation ein. See back of Convening Order,
GF A95, for s provisions for	eaths and instra on how to r conducting the trial sec Al	reference to appropriate ar preceding para number her record addresses, evidence, etc., which instruure hereal 53, RP 56, 63-70, 73, 74, 94, 103, 179, 132.)	fter called "Nates". As to general
A2. The Pre	sident initials and Jaya fied that it is properly	before the Court the Convening Order and to veconvened and constituted(*), accused is (a	Charge Sheet (2) attached thereto.; ge) amenable to military law, ar
each charge disclo	uses an offence.(3) to use of Summory of Eviden		
		scused is (a/e) brought before the Court. A	
A4. The Pro	osecutor produces a M	edical Certificate that accused is (are) fit to	o undergo trial by court-martial.
The Prosecutor i		t accused elected to be tried by court-m	artial instead of being dealt wi
		RP 60 fn 1. For effect see KR Can 563(c). Delete,	
	nt to accused: Do		as interpreter! Ans -
The shorthand wi	s sworn.(1) Do you of riter is sworn.(1) 72. Delete, if none employ	pject test: For 30. Let Thiankedy ht 6 an n	horthand writer Ans No
		ames of the President and Menrbers of the jet to be tried by me as President or by	
Ans No. Sic.		set to be tried by me as Fresident or by i	any of the atempers of the Court
(1. RF 110		oiting member retires. RP 68(B). If objection, see pr	rocedure AA 51, RP 25, 71, 18, MML p Te
A7. The Pr ranks, names and	esident, Members, JA units of the offrs com	s, if any, and Offrs under instr. if any, ar aprising the Court, etc.:	e sworn.(1) The following are t
President	47-504	D.L. REDMAN VD	HQFRU
Member	CAPT	LA BOURGEOIS	1 CITR
Member	4.7	BY MELEOD	3 CITR
Judge-Advecate	LT	R.B. ALLAN	IGITR
Judge-Adversac Prosecutor		J. COWAN	
Prosecutor	LT	U. CUWAN	1 6 1 6
Prosecutor Defending Offr	LT		ding Offr a lawyer ! Ans yes

(1) If a special plea is made for separate 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 bor of that (RP 36), or as to accused's mental fitness to stond trial (AA 130, RP 57), or by one of several occused charges jointly to be tried separately (RP 16, 71), such plea, the oddresses made in support or against, the evidence, if any, and finding are recorded per hotes. For forms of record see references in fins to Rub circle. Insert in AB nank and name of the occused making in pleas hotes. For forms of record see references in fins to Rub circle. Insert in AB nank and name of the accused insert of separately) on all charges in the charge sheet. (1) The accused does (dee) not object to any charges. (2) There is no amendment to be made to the Charge Sheet. (2) The President records the pleas in Part I of the Schedule.

(1. RP 31, 112, See para I of listra p 2. When more than one Charge Sheet see RP 62; when several occused to be tried separately see RP 71(C), and use supports copies of CF AB6 to record proceedings.

2. RP 32, RP 33, H otherwise, delete and make appropriate record per Notes.)

A10. The Court (is elected and) considers the Instrs on Procedure after Arraignment at top of p 2. The proceedings are continued on Record Form "8"

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 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).
- The proceedings on each charge sheet (RP 62) after arraignment will be conducted as follows in the respective circumstances stated:
 - 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 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 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 withdrawed 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) In 6; and responsibility of JA or Pres to record proceedings see RP 94, 90.

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 mconing 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.(2)

 (1. RP 35 fn 3. 2. MML 9 54 pare 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 reference to the standing the place of country in the court will now provocation or extenuation in respect of which in your interest the witnesses for the Prosecution should be examined(2), 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 f

 (1. RF 37(8), 2. RF 37(D) fn 6. 2. RF 25(6) fn 5 bord 3.

 5. Statement, if any, recorded per Notes.) 3. RP 35(B) in 5 Cord 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)
- 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. RP 25(5): 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) W: If there is no Summary, or if it is inadequate, comply with 89 37(8). If there is any evidence inconsistent with any piece stopping of Guity, Court will obviae accused to though such piece and, if changed to Not Guilty, try such charge(s) by use of paras D1 to D8 inclusive of Record Form D on p 3. R9 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.

- 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)

 (I. RF 27(A) (E))
- C2. The charges on which accused pleaded GUILTY are regar 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 Summers of Evidence are read as relate to the charges decit with under C2. If any plea is changed to Nat Guilty, trial thereon proceeds by completing with parts D1 to D8 inclusive in Record Form D on p 3 and making an appropriate record thereof an apparate 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 n 2

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

- RECORD FORM D-PROCEEDINGS C

 EAS OF NOT GUILTY TO ALL CHARGES.

 DI. President to necused: Do you wish to apply adjournment on the ground that any of the rules relating to procedure before trial have not been complier an adjournment on the ground that any of the rules the ground that you have not had sufficient to an adjournment on the ground that any of the rules the ground that you have not had sufficient to accuracy to any that you have been prejudiced thereby, or on

 - D2. The Prosecutor makes (the) (no) opening address.(1) (1. RP 39(b), 60(A) (B), 90, 92(C) (D). Record address per Notes, subject to
- D3. The evidence for the Prosecution is taken.(1) > 0 (E. R 39(5), 50(6), 114, KR Can 555. Record evidence per Notes, as to Prosecution giving the Prosecution is closed.(1) The Defending Offr submits that the evidence for the Prosecution is closed.(1) The Defending Offr submits that the evidence for the Prosecution is closed.(1) The Defending Offr submits that the evidence for the Prosecution does not the Prosecution is closed.(1) The Defending Offr submits that the evidence for the Prosecution does not the Prosecution is closed.(1) The Defending Offr submits that the evidence for the Prosecution is closed.(2) The Defending Offr submits that the evidence for the Prosecution is closed.(3) The Defending Offr submits that the evidence for the Prosecution is closed.(4) The Defending Offr submits that the evidence for the Prosecution is closed.(4) The Defending Offr submits that the evidence for the Prosecution is closed.(5) The Defending Offr submits that the evidence for the Prosecution is closed.(6) The Defending Offr submits that the evidence for the Prosecution is closed.(7) The Defending Offr submits that the evidence for the Prosecution is closed.(8) The Defending Offr submits that the evidence for the Prosecution is closed.(9) The Defending Offr submits that the evidence for the Prosecution is closed. | Opence nimsel see of price of the Prosecution is closed.(1) The Defending Offr submits that the evides. For the Prosecution does not see against the accused on the form of the President announce, that the submission (2) The Court is re-opened, and the President announce, that the submission is closed, and considers the submission.(2) The Court is re-opened, and allowed on the plant of the submission of the plant of the proceed on the formor, but the accused is (are) found its consider of this part. If submission not mode. The latter charge(s), and allowed on the plant of the plant
- - - D5. President to accused: You will now proceed with your defence.(1) You may, if you wish, give evidence
 - Ob. President to accused: You will now proceed with your defence. (P) You may, if you wish, give evidence or your character or both, in which case you will be subject to cross-examination. (8) You may, however, mute a statement without being aworn, and you will not be subject to cross-examination. (8) But a statement which could have been made on each will not carry with the Court the same weight as sworn testimony. (9) You may call witnesses in your defence and as to character, whether you give evidence or make a statement neither.
 - President to accused: Do you wish to give evidence yourself as a witness, make a statement, or do nothing ... Do you intend to call witnesses on your behalf !
 - Ans (1. 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) L. A. RP 40 (A) 1.15, 116. For procedure see Notes on bock of Convening Order, CF A95. Evidence for accused as to his O. C. A. R. A. C. A
 - of Record Form E. Record per Notes addresses, statement, evidence and any summing up by the JA under RP 42, 103(e).

 D7. The Court is closed to consider the finding (a).

 Of the Schedule. (b) The Court is re-opened.

 Of the Schedule. (c) The Court is re-opened.

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

 - D8. The President announces the finding(e), if any, of Not Guilty, and states to the accused that the finding(s)
 - DR. The President amounces the linding(s), if any, of Not Guilty, and states to the accused that the finding(s) of the Court or the Court or the Court of the Cou

 - 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.

- Do you wish to give evidence yourself or to call any witnesses as to your character 1(%)
- (I. If evidence has already been given by occurred or his witnesses as to his character, delete this pane. RP 37(C) in \$, \$6 in).

 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 (courses) of Conduct SheetN(2), purporting to refer to the accused, which he submits to the Defending Off for examination, and then to the Court for admission in evidence. The Court is satisfied that these documents reter to the accused, to consider the court for admission in evidence. The Court is satisfied that these documents to the accused. Admitted in seridence and to the accused, to consider to the Court for admission in the transfer required by AA 163(1) (g) (h), and (ii) they purport to be signed in the transfer required by AA 163(1) (g) (h), and (ii) they purport to refer to the accused. Admitted in evidence and to refer to the accused. Admitted in evidence and the accused.

 Admitted in evidence and corps as the accused.

 Admitted in evidence and corps as the accused.

 Admitted in evidence and corps as the accused. Admitted in evidence and corps as the accused.

 Particularly by AA 163(1) (g) (h), and (ii) they purport to be signed in the transfer required by AA 163(1) (g) (h), and (ii) they purport to be signed in the transfer required by AA 163(1) (g) (h), and (ii) they purport to be signed in the transfer required by AA 163(1) (g) (h), and (iii) they purport to be signed in the transfer required by AA 163(1) (g) (h), and (iii) they purport to be signed in the transfer required by AA 163(1) (g) (h), and (iii) they purport to be signed in the transfer required by AA 163(1) (g) (h), and (iii) they purport to be signed in the transfer required by AA 163(1) (g) (h), and (iii) they purport to be signed in the transfer required by AA 163(1) (g) (h), and (iii) they have purport to be signed in the transfer required by AA 163(1) (g) (h), and (iii) they have purport to be signed in the transfer required by AA 163(1) (g) (h), and (iii) they have purport to be signed in the transfer required by AA 163(1) (g) (h), and (iii) they have purport to be signed in the transfer required by AA 163(1) (g) (h), an
- - E3. President to accused: Do you wish to address the Court on the Statement and Conduct Sheet and in
 - Mitigation of punishment (1) Ans 12.4 For recorded to Notes, Gurt should per on the State (1. RF 37(C. 46(D)) 2. Address, if the recorded to Notes, Gurt should per on octh anything here or previously stated which sould affect the amount of punishment.
 - 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)

of here tone	She'ts of Record.	EASC	ENOT GUILTY TO ALL CHARGES.
RECOR	D FORM D-PROCEEDINGS ON PI	LEAS C	F NOT GUILTY TO ALL CHARGES.
101	President to accused: Do you wish to apply	for an a	enjournment on the property of the state of the con-
relating to	o procedure before tran have not to		The Administration of the Control of
he groun	ad that you have not had sufficient opportunity of if "yes", see RP 39(A) for procedure. Statement or	evidence.	nor south defension 1 Asset 1 2 2 2 2 2 2 2 2 2 2 2 2 2 2 2 2 2 2
D2.	The Prosecutor makes (In) (no) opening address (I. RP 39(5), 60(A) (B), 90, 92(C) (D). Record address p		pinct to AP 95(C).
D3.	(1. RP 39(8), 60(A) (8), 90, 22(C) (0). The evidence for the Prosecution is taken (1) (1. RF 39(C), 114, KR Can 555. Recard evidence per h	Notes. As 1	e Prosecutor giving evidence himself see #F 39(D) (E).)
D4.	The Decemention is closed.(1) The Defending	OHIT SUDI	A A di The Court
establish is closed,	a prima facie case against the and considers the submission.(2) The Court is ah	re-opene	i and the President announces that the submission ad allowed on the
is disallor charge(%) the latter	and that, accordingly, the trial will proceed a reharge(s). (4)	on the Io	Arguments an submission, answer and reply are recorded and 4. Delete part not used, if accused acquitted
-01	er Notes: a all charges, use second alternative in para D8.) N8: If trial proceeds, occused must be allowed great lati- alely an ground of irrelevance. (RP 6D(C), 114, 115.)	tude in mak	ing his defence, and the Court should not stop his defence.
D5. yourself You ma But a sta	President to accused: You will now proceed on oath as to the facts or your character or bo ty, however, make a statement without being attement which could have been made on oath will call witnesses in your defence and as to char	sworn, a I not earry racter, wh	or defence.(1) You may, if you wish, give evidence ich case you will be subject to cross-examination.(2) and you will not be subject to cross-examination.(3) with the Court the same weight as sworn testimony.(4) either you give evidence or make a statement or do
neither.			of as a witness, make a statement, or do neither
Pre	sident to accused: Do you wish to give evide	Flo vo	n intend to call witnesses on your behalf?
Ans	And A A Are they witnesses as to char	moter onl	Ans. 1/20 200
D6.	Consequent on the answers recorded in pars (I. RP 114, 115, 116, fee procedure see Notes on	back of Co	appropriate procedure for the defence is nonwell as a special of the defence of accused as to his Al C & Red In 1. 86(2). Note the further apportunity in para El Al T (6(A) In 1. 86(2). Note the further Al 2, 103(e).)
200	The Court is closed to consider the finding!	N.(*) Ti	e finding of the Court is (tre) recorded in Part I
of the S	Schedule. (2) The Court is re-opered. (1. RP 43, 117(A). See Notes in Part 1 of Schedule.	2. RP-44	(4))
DS of the C	The President announces the finding(s), it ar	to bein	and it is a subject to confirmation, will be promuleated inter (1)
write the	at the process of the as (2014). 2. AA 54(3), RP	45, 117,	of the charges, the proceedings are concluded by using
Record	Form E below.		
	CORD FORM E-PROCEEDINGS	ON C	ONVICTION BEFORE SENTENCE.
E	p	widence y	ourself of to can and
Ans	N U 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1	is witnesses	es to his character, delete this para. RP 37(C) In 4, 40 In 1.
	Accused on Management (N as 200 from the Prosecutor produces Statement (N as 200 from s) of Conduct Sheet (N), purporting to remaining, and then to the Court for admission in mation, and then to the Court for admission is accused, because (i) they purport to be signed in	to Chara- fer to the a eviden- a the and ak, name	ceter and Particulars of Service(), and consider of services and consider which he submits to the Defending Offr for the The Court is satisfied that these documents reference required by AA 163(1) (g) (h), and (ii) they purport and corps as the accused. Admitted in evidence and
to ref	ed Ex B and Ex c respec ively.(*)	RP 46, KR 1	con SSB. If above documents not produced, see RP 46 fn 1
1	(i. MFB 355 or MFB 356. E3. President to accused: Do you wish to add ration of punishment (i.) Ans (i. RP 37(C), 46(D), 2. Address, if also, record on acth anything here or previously storted white would a	Secure Ohio I	Court on the Statement (A) and Conduct Sheets, and a
by t	E4. The President states that the Court is subject to confirmation, will the Court, being subject to confirmation, will be court, being subject to confirm the court is subject to confirm the	1 not be d.(1)	announced, but will be promugated later,
proce	(I. AA 54(6), RP 120(A).)	D- 11	t records the sentence in Part I of the Schedule, which
M is da	(I. When several occused tried separately see RP 7 loid down in AA 41, 44 and its provisa, is to be awards loid down in AA 41, 44 and its provisa, is to be awards to be a separate see AA 44, 138, 182, RP 46-5	71 (D). One od to cover 50, 69, 118,	at records the sentence in Part I of the Schedule, which a sentence only, comprised of the punishment or punishments all charges in all charges theets on which occused found guilty, 119(A), 8R Can 308, 330, 583-566, Overson RO 309, 2323, 119(A), 8R Can 508, 2423, 119(A), 8R Can 564. 2 RP 50. As to release from arrest by 8(I), 8R Can 564. 2 RP 50. As to release from arrest by 8cord after trial see linstra on back of Convening Order.)
	MML p 60, 757-759. As to sentences assigned for Civil already under sentence of imprisanment or detention see A Confirming Offir see KR Can 567. As to assembly and d	tispasol of n	DELETIONS AND ALTERATIONS.

SCHEDULE.

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

Charge.	Plea.	Finding.	
(Insert " alternative" whe	(See Instra.p. 2.)	(See note below.)	(Space for use as required for further charges, accused charged jointly, special findings, etc.)
Ist AA Sag 15(1	TOILIY	TUILIY	
2nd			
gret			
4th			
dth			
det.			
At present under sent	www.for	and in 1052 of KIS See	Navignature on Admit
At present under senter (I. Intert senten (I. See RP 46) Sentence Awarded by O LL MA LL DALL (Sgd)	where for the being served, or delet swaiting present to A) (n 2. Information she the Court:	e. If not applicable. See it also a total of I ald be found an MF B3 L. Co. L. J. V. 6 7. U. Date as	RP 64 (1.6.)
At present union wents (I. Intersection (I. See Rt 46) Sentence Awarded by O LL YAL LO VALL (Sgd) Judge-Advi	thee for the being served, or delet swaiting present to A) (n 2. Information sho the Court :	e, if not applicable. So rial—a total of I all be found an MFB3 L. Co L. J. L.	in 46 (no.) Ingining on (600) 19 AP 46(A). Information should be found on MF BJS5 or AF B296.) 19 Anys, of which N I Ledays were spent in hospital (1) So of AF B296 admitted in evidence under E2.) An Raully and to furth a jalled of month of month of month of the perfection of the perfect of the perf

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

(For duties and powers see AA 54, 57, RP 327(D) fit 6.46(A), 51-56, 120, MML pp 759-761, KR Can 567-527. Acquitatis require no confirmation and cannot be revised: AA 54(3). Sending lock finding or sentence for revision by Court: AA 54(2), RP 120(G). If not confirmed occusion may be tried again: AA 157, MML p. 64. Minute of confirmation or non-confirmation may be othered before promulgation: RP 53, MML p 65. Quanting ofter promulgation: KR 60, 673. Duties and powers of reviewing affirs: AA 51, RP 53A, 34. The Confirming Offer must sign here personally. AA 172 fo (1)

My decision on the finding(s) and sentence set forth in Part I is: I confirm the findings and sentence of the Court but remit forfeiture of 45 days ordinary pay of the sentence.

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

(K G Blackader) Brig

Commanding

13 Cdn Inf Trg Bde

Confirming Officer

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

Accused.

Date.

Signature of Offr.

H-19057 Cpl Russell L.F.

15 Feb 48

(J.D.Forin)A/Commander 1 cdn. Inf. Trg. Regt

Date 10 Feb 45

Fromulgated in Part 11 DO 1 cdn. Inf. Tr 38 d/16 Feb 45. ALL DELETIONS AND ALTERATIONS WILL BE INITIALLED.

In the Field, absented himself without leave from 2359 hours on the first day of December 1944 until surrendering himself at 2815 hours on the 17th day Commander, In the Field. 26th day of January 1945.

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 offr of Cdn Army Overseas, or of any other farce if authorized in law, in immediate comd of troops on active service, subject to RP 105(C) and restrictions imposed by appropriate author. AA 49, 50, RP 104-107, 114. As to the duties and privileges of the Convening Offr in dealing with the application see MAN. 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 same 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 108. As to two or more accused charged jointly see RP 16, 107. As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, Ajrank or Ajappmt, If any, see AA 182, 183, fis, KR Can 308, 328, 330.)

ACCUSED.

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

Full Christian Names. Surname. Unit.

CONVENING ORDER.

- 1. Whereas complaint has been made to me, the undersigned, that the person 00 named above as the accused being subject to military law, has though committed the offence 00 set forth in the Charge Sheet 31 attached and os (date). 3. 37 5 5. 45. endorsed by me, (or by an offence may staff for me), "To be tried by Field General Court Martial".
- And whereas I am of opinion that it is not practicable that such offence (e) should be tried by an ordinary Ger Court-Martial; (and that it is not practicable to delay, the trial for references to a superior quastract offic.)
 (Delete part in brackets when not required for compliance with 8P 105(C).)
- I hereby convene a Field General Court-Martial to try the said person(x), and to consist of the Offrs appoints or detailed hereunder
- 4. Unity minible to appoint (a) three Offre to four the Court, (b) a F4 Offr as President, for the reasons I have attached heresto:
 - (AA 49, RF 106(B), 107(A). Delete the whole or part, if not applicable.) I nled appoint as lange Advocate thereat the Offe mentioned herounder (RP 10e(E). Delete, if none appointed.)

PRESIDENT.

(Rank.)	(Must be named. RF 106.)	(Unit.)
	MEMBERS.	
	to be detailed by Commanding Stricer	
1.1 outenant	to be detailed by Commending Officer (Named or detailed. RF 106)	3 CITE (Unit.)
	WAITING MEMBER.	
Captain (Ank.)	(Nonned or detailed by Commanding Officer (Nonned or detailed, if any. RF 106.)	1 CITR (Unit.)
6	L SUDGEADVOCATE:	
(Renk.)	(Must be named, if any. RF 106.)	
On Active Service	in the Fd	
in England (Country.)	Aligned personelly. NP 105 fn 2.) (K. G. Biscksder)	Brigadier (Ronk.)
Date 3 Feb		icer.

CONVENING OFFR WILL INITIAL ALL DELETIONS AND ALTERATIONS

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



MEDICAL OFFICER'S CERTIFICATE

K.R. (CAN) PARA 557

Lang B. follow Last.



The Prosecutor presented a certified true extract from a Part II Order of No.1 CITR, Order No.14 dated 19 Jan 45. (Extract marked exhibit 1 by Court).

DEFENCE

The Dfg Offr said - "I submit that the Prosecution have not satisfied the onus of proving the charge beyond a reasonable doubt, or sufficiently to warrant a conviction by this Court. If the Court decides there is sufficient evidence, then it must be that many officers and generals in the Canadian Army are missing an opportunity to obtain evidence to convict soldiers where the ordinary evidence is not available. If you convict, there is then no reason why a Part II Order should not be the only evidence on any absence without leave charge before this Court, no matter when the absence occurred or when the Part II Order was published. The special privilege of having a Part II Order as evidence was never intended to be a method by which Part II Order as evidence was never intended to be a method by which evidence could be manufactured against an accused person, and if you convict on the present charge that will be the result of your decision. I submit that there should be evidence before this Court that the accused was on the strength of a Coy or Plt and was absent from a roll call or parade and that he could not be found in the camp and that he continued to be absent until the date stated in the charge."

PROSECUTION'S REPLY

The Prosecutor said - "I would like to refer the Court to O.R.O. 5352 made lawful by P.C.8563 (Prosecutor reads). I submit first of all that the paragraph referred to in rule 497 of K.R.(Can) is overridden by that P.C. Order and secondly I submit that if it is not authority the Court must take into consideration the exigencies of the service in that K.R.(Can). Rule 497 was made up to be used in peace time and it is necessary, due to the exigencies of the service in such a case as this and many other case it is quite impossible for Records Office of Trg Regts to receive information to publish in Orders on that day which is laid down in rule 497 of K.R.(Can). I submit therefore that the evidence is admissable and that a prima facie case therefore that the evidence is admissable and that a prima facie case is made out."

> COURT WAS CLOSED TO CONSIDER THE SUBMISSION. COURT RE-OPENED AND DISALLOWED SUBMISSION.

FIRST CHARACTER WITNESS FOR DEFENCE

Lt. J.Dickson, Asst. Tpt Offr, 1 CORU being duly sworn states:

- Do you recognize the accused?
- I recognize the accused. A.
- How long have you known him?
- Since Sept 43.
- What was your job in relation to his? He joined the Camerons and came to us in 1943. He was a Cpl. Driver Mechanic. I was Pln Comdr.
- How long were you Pln Comdr? From first week in Mar 44 until I was wounded in France 20 Jul 44.
- What work did the accused do for you at that time? Just previous to that he was made a L/Sgt and given command of a section. He worked with me with that rank and gave excellent service.

- What can you say in regard to his ability and character? With regard to his ability, on his trade he would have no difficulty holding his work anywhere. With regard to his character I would say he is of very good character, he was never on Orders and I don't remember ever having to check Cpl. Russell.
- Would you say that he is a man of exemplary character? Yes I think so.

He is an excellent man on his job? He is a very good man on his job.

SECOND CHARACTER WITNESS FOR DEFENCE

Lieut. ANDERSON of No.1 CGRU having been duly sworn states:

Do you recognize the accused? I recognize the accused.

How long have you known the accused? Since August 41 when he first came to the Camerons Carrying Plt.

Will you tell the Court the work he did?
At the time Russel came to the Carrying Plt I was a Cpl. in the Plt and fortunately had Russell as a member to train. He worked very good and caused no trouble to anyone and at no time do I remember him being on Orders or checked for lack of discipline. He became an NCO and carried on and did a good job and when I left he was still doing a good job.

What do you know about his character? He has a very good character, he never beefed around amongst the men and was a good soldier.

Was he trustworthy? Very, when he was given a job to do he did it. A .

When did you leave the unit?

In May 44. A.

What rank was the accused then? He was a L/Sgt at that time. Q.

DETAILS TO COURT IT IS UNDECESSARY TO COMPLY WITH RF 83(B) DFG. OFFR. SAID - "I submit to the Court a certified true extracts of all entries pertaining to changes of rank and wounds from the MFM.2 which I obtain from Records Office, CMHQ regarding the accused." (Extract marked exhibit 2 by Court) Court)

PROSECUTION ADDRESSES THE COURT ON THE FINDINGK.

"I have nothing further to say in addition to what I have said on the submission."

DFG OFFR ADDRESSES THE COURT ON THE FINDINGS.

I submit again that the original evidence, exhibit 1, by the

I submit again that the original evidence, exhibit 1, by the Prosecution is not admissable in that it states that Cpl. Russell was absent without leave from 2359 hrs 1 Dec 44. We have evidence that he was an A/Sgt on 13 Sep 44 on which date he was wounded and in accordance with ORO 4668, Para.12 (READS).

I submit that at the time referred to in Part II Orders time had not elapsed and at that time the accused was an A/Sgt as well as on the 8th day. It is up to the RU to take action to do away with acting ranks as well as other entries and any error or oversight must be mentioned in that Part II Order. It is ruled by law that if you are going to prove evidence by producing documents that you must have special record made and must comply with the statute strictly. You cannot make an error of

. 3 .

of any sort and still take advantage of that statute which gives the Prosecution the right to produce Part II Order. In that regard we have a case I know of which has been decided on that question by our Gdn Court Martial in this country and I know that the Court will be able to find record of that case although I have not got it with me. I submit again that the Prosecution have not proven their case, first on the ground that the Part II Order did not contain the proper entries and in accordance with O.R.O.5352. If you are going to make use of a Part II Order you must comply strictly with the law and see that it is correct.

COURT IS CLOSED. TO CONSIDER THE FINDING.

COURT RE-OPENED.

No. 15

1 CANADIAN INFANTRY TRAINING REGIMENT PART II ORDERS SHEET NINE

THIS ORDER No. 14 19 Jan 45

"B" OTHER RANKS

18. ABSENTEES

(a) Ret'd from AWL w e f times and dates shown:

H.19057 Cpl. ROSSELL L.F. 2215 hrs 17 Jan 45

(b) Absent from times and dates shown:

H.19057 Cpl. RUSSELL L.F. 2359 hrs 1 Dec 44

(f) Absent from 2359 hrs 1 Dec 44.
Still absent 2359 hrs 9 Dec 44 (8th dwy).

H.19057 Cpl. RUSSELL L.F.

(g) Absent from 2359 brs 1 Dec 44. Still absent 2359 22 Dec 44 (2lst day).

H.19057 Cpl. RUSSELL L.F.

(Signed) B.J. Mothersill, Major for Col C.B.Ware, Comd, 1 Cdn Inf Trg Regiment.

Certified true extract from the original now in my possession.

(J.H. Calloway) Record Officer, 1 Cdn Inf Training Regiment. 25 Jan 45. EXHIBIT A

Etm

MFM 1 & 2a 40/P & 8/119 (4391)

Name

RUSSELL. Leonard Fredercik.

Recent of Prometons, Reductions, Transfers, Carnallins, Reports, etc.	Book Shows	Effective Date	Unik		Place		Luthority	
Record of Prometicas, Medicalons, Transfers, Canadaton, Aspana, Sac						Lity Number		
T.C.S Camerons of Canada	Pte	5 Sep 39	Cam.of	C.	Wpg.		5 Sep	
Appt'd A/Cpl	A/Cpl	1 Aug 43	Cam. of	C.	Ualla		7 Aug	
Confirmed Cpl.	Cpl	1 Nov 43	Cam.of	C.	U.K.		17 Ho	
Appt'd A/L/Sgt	A/L/Sgt	9 Feb 44	Cam. of	C.	U.K.		25 Fai	
To be L/Sgt To be A/Sgt.	L/Sgt	9 May 44	COCH		U.K.		16 Ju	
To be A/Sgt.	A/Sgt	18 Aug 4	4 Cam. of	C.	21 A.Grp.		31 Aug	3 4
Wounded		13 Sep 4	4		A.E.F.	A.491		
CERTIFIED TRUE EXTRACTS OF ALL EFFRIES PERTAINING TO CHANG	IS							l
OF RANK AND WOUNDS FROM THE M.F.M. 2 IN MY CUSTODY RELATIN	G							
OF RANK AND WOUNDS FROM THE M.P. M. 2 IN MY CUSTODY RELATING TO NO. H.19057 A SGT. RUSSELL. Leonard Frederick.								F
								H
(c.s. school capt., 5 Feb 45								Ð
- (C.E.DETRIOS) Capt.,								1
Officer having custod of documents	1							£
RECORDS OFFICE C.N.H.O.								
		Ma -						-
	V	1						Æ
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								n
			100					

STATEMENT AS TO CHARACTER AND PARTICULARS OF SERVICE OF ACCUSED

			Name		Regiment (o	r unit).
Sumber	Rank	0	sse 14	14.	Tre Million Co.	
11-19057	Cpl.	1(11	55C LA	L T.		
			land hade		Service and (leneral
1. The following is a fair	and true sum	mary of the e	ntries in the	Regimental a	nd Squadror, 1	lattery-
Conduct sheets or Company Conduct sheets of	the accused,	exclusive of c	onvictions by	a Court-Ma	rtial or a Civil	Court,
of summary awards under Sect with.	ion 47 of the	Air Force Act Army Act	and of cases	in which tr	ial has been dis	spensed
For AA Sec 15(1)	(Ohe	: timek				times
						120.0%
For		times				times
For		times				times
For						
Number of instances of gr	diantry or dis	tingmaner co	IIIIII .			
		to the see	and			
There are no entries in th	e conduct she	ols of the acc	LIMITE .		stated constate	v
Nore.—If the charge is fo	or drunkennes	s, the entries	for drunkenn	ess must be	stated selvarase	
2. The accused has not	been previous	ly convicted				
Previous convictions of		-07.				
Section 47 of the Army Act annexed to this statement.	and dispens		trial under A	F.A. 73 .A. 73 are	set out in the	Schedult
 The accused is not u 	nder sentence	at the preser				
		-07-				
The secured at the pres	ent time is u	nder sentence	. Int	beginn	ng on the	
-day of						
4. The accused has been civil custody, and 19 of which the	days in	military cus	tody, making	esent charge a total of	s, for 20 19 days is	days in custody,
5. The present age of	the accused a	ecording to b	is record of se	paper is	4 yrs.	
6. The date of his cos	entission speci estation	fied in his res	ord of service estation paper	is 5 Set	39.	
7. The wavice which	the accused is	allowed to re	ckon towards	discharge is	5 yrs 146	deyex
8. The accused is enti						
9. The accused is in					or sir force reco military	ard (or is in
possession of or entitled to). State any	air force dec military	Cdn Vol	Service He	ed#1 & Clwsp	
-10. (If the somsed is	a warrant offi	cer.) The ac	1939-43 cused before t	se was made	a warrant offic	er last beld
Air Force					E+ 1)	
the regimental rank of					- 1 10	

dated		and in his	regiment (or corps	, the rank of
dated				
			and without rod	
 The accused has servent date:— 	ed as a non-com	missioned officer continu		of promotion.
		publicant the domination		and parameters.
In the rank of A/CA	4. 3	mes your 1 ang 4.	3	
		mor years 9 days /	ADV. 43	
In the rank of A/4/5 Nore.—If any matter in graph must be struck thr	any of the above	paragraphs thanot be state	ed from the Regide	ntal books, the
		SCHEDULE		
				-Air-Force
Of convictions by a com-	rt-martial or vivil	court, of summary award	ls under Section 47	or the army
, and of cases in which tr	ial has been dispe	nsed with of accused. Nur	nter navor	Unit
RUSSELL, L F		T CLIK		
Note.—A verbatim extr d must be inserted.	ract from the regit	nental books stating these	convictions and on	
		The second second	Sentance of the	Panishment
Description of Court by which tried	Date and Place of Trial	Charge upon which convicted	Court	Remitted
	4.	Carlo	5 Jon His	+ M 2.
	. ^'	Certific	S from the	M 2.
	. ^	Cert fie	Som the	M 2.
	- "	Cert for	Sourch	M 2.
	, 2,	Cert for	South Tart	START STARTS
	, 2,	Cert for	Sourch March	10.0 ART
	, "	Cert for	Jan His	10.0 ART
	, "	Cert for	Jan H.	10.0 ART
	, "	Certific Lacus Egannsi.	Jan H.	
			4000	ART SCHOOLSENSE ACCUSANCE
I hereby certify that from the regimental book	the foregoing schol	sdule of convictions and di	ispensations with tr	ial is a true extract
from the regimental book	the foregoing schol		ispensations with tr	ial is a true extract
from the regimental book Signed this	the foregoing scha s in my custody.	edule of convictions and di	ispensations with tr	ial is a true extract
from the regimental book Signed this The above statemen	the foregoing scha s in my custody.	day of dams r)	ispensations with try 1945 (J.H.Ga)	inl is a true extract
from the regimental book Signed this	the foregoing scha s in my custody.	day of dams r)	ispensations with try 1945 (J.H.Ga)	ial is a true extract

otal No. H - 19057 Bank

Sheet No. (4015) 4 2119 (4384)

Att Sic 15(1) awarded severe reprimend - Just 1869 for " 1861 31 Dec 44 400 H. Certified true copy M.F.H. 6 Machel. Record of Promotions, Reductions, Transfers, Cascallies, Reports, etc. 50000 Name Russell L.F THE PERSON AND REPORTED TO SERVICE STATES AND PARTY OF THE PERSON. Rank Shows Effective Date Unit uk. Authority
DO Number Dated 44 31 DET 44

The PIEA IN MITIGATION are in which the excellent word of the accused should be given the protect of consideration the entitled on 5 hets 39. He came ourses in December 1940, and fought at Duffe with the Camerons in august 19 4 2. He went to France with his regiment on o July 44, and served there until he was wounded on 13 feft 44. The is now willing and anxion, & return to some as fruitlethe Overis Own 6 amen Highlander in France, the regiment be has been with This court has heard the winderes of At. Dockers, his platon commander until he line self was would last July, and the evidence of It. anderson who was in the tame Heaton as the account for som from years. They could boundly give better testimeny about anyone, then they excellent recommendations they gave the accused to - day. He is an hourt, trustworthy mon with a frist class word and a first class character ofunte flame therver, he is a qualified to drive mechanic and a qualified carrier wan with over three years experience in a carrier platon and two years

experience in a rifle company. He is anxious to return to his unit at the earlist possible woment and I submit he should be allowed to do so. This capable man with his long service will serve the Cavadian army best, not in detention or as a purate, but in action or an a. C.O.

SUMMARY OF EVIDENCE

In the case of H19057 Corporal Leonard Prederick Russell, Canadian Infantry Corps, on the strength of 1 Canadian Infantry Training Regiment, a soldier of the Canadian Army Overseas.

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

FIRST WITNESS FOR THE PROSECUTION

Lt F.L. Dunbar having been duly sworn, states:
I am Lt F.L.Dunbar, on the strength of 1 CITR. I produce
certified true extract from 1 CITR Fart II Daily Order
No. 14 dated 19 Jan 45 purporting to be signed by Major
B.J. Mothersill. This document relates to the accused
and is marked Exhibit "A" and initialled byme for purposes
of identification.

The accused declines to cross-examine this witness.

(F.L. Dunbar) Lt.

The accused was cautioned as follows: "Do you wish to make any statement or to give evidence on eath? You are not obliged 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 a statement and reserves his defence.

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

(R.B. Allan) Officer detailed to take the Summary of Evidence.

In the Field. 27th day of January 1945



I hereby acknowledge that I have been served with a true copy of the Summary of Evidence taken at 1 CITR, In the Field, preliminary to my trial by Court Martial. I further acknowledge that I have been served with a true copy of the charge under which I am being brought to Court Martial.

L. J. Runell

I hereby request that the convening Officer appoint an Officer to represent me at my trial.

I desire the services of if he is available.

LIST OF EXHIBITS IN THE CASE

H19057Cpl Russell, L.F., Canadian Infantry Corps,

EXHIBIT "A" - Certified true extracts from 1 CITR Part II Order No.14 dated 19 Wan 45.

LIST OF WITNESSES IN THE CASE

H19057 Cpl Russell, L.F., Canadian Infantry Corps.

FIRST WITNESS Lt F.L. Dumber FOR THE

1 CITE

REGIMENTAL DOCUMENTS

H.Q. FILE No.

CONTENTS	NON-EFFECTIVE BY
COMBINED DECLARATION FORM OR ATTESTATION AND MEDICAL HISTORY (M.F.M.1 & 1A) OR (M.F.M.2 & 2A)	DEATH
SERVICE AND CASUALTY FORM (M.F.M.4 & 4A) (A.F.B.103)	DATE
PARTICULARS OF FAMILY (M.F.M.5)	CAUSE
FIELD CONDUCT SHEET (M.F.M.6) (A.F.B.122)	AUTHORITY
CERTIFICATE OF SERVICE (M.F.M.8) COPY OF, OR DISCHARGE CERTIFICATE (M.F.M.7) COPY OF	
FORM OF WILL (M.F.M.10 OR M.F.M.10A)	
DENTAL HISTORY SHEET	DISCHARGE
MEDICAL REPORT OR CASE HISTORY SHEET	DATE
MEDICAL EXAMINATION ON LEAVING THE SERVICE	REASON
TRANSFER CLOTHING STATEMENT	AUTHORITY
LAST PAY CERTIFICATE (M.F.D.930A)	
PROCEEDINGS ON DISCHARGE	
PROCEEDINGS COURT OF ENQUIRY	DESERTION
DECLARATIONS COURT OF ENQUIRY	DATE
PAY SHEETS	AUTHORITY
CARDS	
SUNDRY	

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

PROCEEDINGS.

On Active Service, this Sixteenth June , 19 42,

Whereas it appears to me, the undersigned, an officer in Command of 5 dansaish Infortry Brigade Group Law, have committed the offences in the said Schedule mentioned.

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.

* Omit if not applicable.

* Lann unable to appoint.

"ir. Three Officers to form the Court.)

*(2) A Field Officer as President.)

6(3. Three Officers having more than one year's

service.)

for the policiwing reasons, namely been namely the dispersion of units, difficulties of communication, and other difficulties, render it inexpedient to comply with those rules incommunication. And other manel in the margin.

Rank

Lieut.

President.

Name.

H. B. Gourlay,

Regiment

Regiment.

Pus M R W Sign 2 can p

Inf Bde Group

Convening Officer.

SCHEDULE.

Number, Rank (a), Name and Unit of Accused (b)	Offence charged	*Plea	Finding, and if Convicted, Sentence (c)	How dealt with by Confirming Officer (4)
75705, Pte. Leslie amos Russell, Tor leat R (MG), a reldier of the Cdn lesy (A) is sharged with	FIRST CHARGE A.A.S.A. 18(1) Absorting Minaclf without leave (Soc charge shoet attached)	Gulley	· Gulty .	
Lo.	unargo. bod	ays	JA Dous	er) tourn

nding 5 Odn Inc Bile Group Convening Officer (s)

President.

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

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

cuses 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 of the Schedule to be initialled by him.

I certify that the above Court assembled on the 22day of June 1 guth and duly tried the persons named in Ceruscase of President as to the Schudule, 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 :--

1. The members of the Court

2. The witnesses

*(3- The interpreter)

*(4. The officers under instruction)

Signed this 22 nd . day of June

This B. D'mald mayor President of the Court Martial Asi

* See footnote (b) on page 762 M.M.L. 1929	I certify that the complied with.	e terms of	*A.C.1. 570	of 1918	have beer	Continuate in case of death sentences.
	Signed this		day of		10	
			President	of the Cou	rt Martial	

stated in the last column of the Schedule, and, subject to what control

"I direct that the soldier named in the margin belief some

day of June 1942 all helited Beig.

recommunds suspension		- PUFT
(a) (D	ated) 24 June	(Signed) WWCDell Front.
Pro	omulgated and extracts taken in the ca	ise of
(D	ated)	(Signed)
Pr	omulgated and extracts taken in the c	ase of
	N-4-41	(Signed)

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

MEDICAL OFFICER'S CENTIFICATE

This is to cortify that - 875793 Ptc. Russel, L. J. has been examined by me this date and found fit to undergo a FIELD GENERAL COUNT MARTIAL.

Modical Officer att'd Tor Scot R (MS)

DATE 22 June /42

100

CHARGE SHEET

The accused, B.75793, Ptc. Leslie James RUSSELL. Tor Scot R (MG), a soldier of the Canadian army (A.F.) is charged with:

A.A. SEC. 15(1)

ABSENTING HIMSELF WITHOUT LEAVE

In the field absented himself without leave from 2359 hrs 16 May 42 until 2350 hrs 5 Jun 42.

THE ABSENT 19 days 23 brs 31 mins.

gobblilled

(G.S.N. Gostling) Lt.-Col, Comd - Tor Scot R (MG), Prosenting office. Le. S. H. Depen Z. Jan. Stort R.
D. Jending " by R.T. Comese."

broughis - a love mend mand of 675793 Pa Russie Capt P. Samuel has hear J. H. J. Degas lawyer . The Resoult dear heart on my please of broads broads have broad of 2th years angood bottom. he are vall from to lay Me Cartura statement and accounts A Tho By her then have any time on or off 22 June 1/2 server hot 7939. Elmer Edmin dep & Can Dis Caly suga In Sail R

Bir, at Toat Farm Camp on 16 May 42 T was Goy Ord Cpl. Pts., Russell failed to report in and hand me his midnight pass before 2359 hrs 16 May 42, so I marked him absent as from that time. I did not see him again partil 2 The 42

Cwing to the exigencies of the service it is found im possible to produce D 1006 3pl. Yates, S.E., pro Cpl of No. 1 C.M.G.R.V., but a certificate of surpender concerning this case is attached as appendix

TAKEN DOWN BEFORE ME IN THE PRESENCE AND HEALTHG OF THE ACCUSED THIS 11 DAY OF JUNE 1942.

(D.J. Wilkins) Capt, Aladit-Tor Scot R (40) 0.4.0.

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Place	Date of offence	\$.00	Cases of drunkan- ness	OFFINES			Date of eward or of order dispeti- sing with titlet	hy whom seei seet	Kemara
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(or M.F.B. 080.)

но. В.757	93 mmo Russel W.	Unit Tor, Scot, R' (MG)GA
		Married No. of Dependents I
	meration 9 wept	
		et (To Date of Trial)
OIVIL	STLTEMY	I days. MANYTAL
TOTAL	i days.	

STATICE: In the Field.

7-122 PTE RUSSELL L.J.

 \nearrow

Army Form A.S.

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

PROCEEDINGS.

On Active Service, this

, 1943

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

, 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; form that is is not proceeded to delay the trial forty reference to a experier qualified officer.

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

*H-am-unable-to-appoint:

41_ Three Officers to form the Court

42 -- A-Field-Officer as Presidents)

in the bhowing reasons, namely ---

President.

Rank.

Name.

Regiment.

Major

L.W.F. Wakefield

"B" Inf Bn

Members.

Rank.

Name.

Regiment.

One Lieutenant to be detailed by C.O. "B" Inf Bn

One Lieutenant to be detailed by C.O. "A" Inf Bn

One Lieutenant to be detailed by C/O/47A" Inf an

Convening Officer

March

Command of "X" Infantry Brigade

Law, have committed the offences in the said Schedule mentioned.

SCHEDULE.

Number, Rank (a), Name and Unit of	Offence charged	*Plea	Finding, and if Convicted,	How dealt with by
Accused (b)			Sentence (c)	Confirming Officer (d)
The accused, B 75793 Private Leslie James RUSSELL, 1st Battalion Tor Scot R (MG), a soldier of the Canad-	lst Charge: A.A. Sec. 15(1) Absenting himself without leave in that he in the	Foilly	guilly 90 Days. Delention	Searlin the
ian Army Overseas; is charged with:-	field, on 21 Feb 43, absented him- self without leav from 0700 hrs 21 Feb 43 to 2300 hr 2 Mar 43.	10	9/3/43	Sentence of
			la Mai	y Basher Rel.

* Question to be asked of accused, if he pleads not guilty (R. of P. 89 (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 be sufficient opportunity for preparing your defence?"
* You'very (by be recorded on separate sheet if necessary):—

Colonel(Signed) 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

(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 of the Schedule to be initialled by him.

I certify that the above Court assembled on the AIN/H day of 277 RRCH. , and duly tried the persons named in certificate 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.

Lalso	- maile	Car Al.	and a
1. (3.1281)	CONTRACTOR	LV UI	HELD I

- The members of the Court
- 2. The witnesses
- *(8. The interpreter)
 - *(4. The officers under instruction)

were duly sworn.

Signed this Nin/h day of 277 RRCh 1948

President of the Court Martial.

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

I certify that the terms of A.C.I. 570 of 10 8 have been C. complied with

President of the Court 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 condensates I have there stated, I hereby confirm the above findings and

*(I street that the soldier named in the margin be n mitted to prion or setention barrack until further orders.

Signed this 91%.

	and extracts taken i	n the case of B
	mar. 43	(Signed)

Mater Basher Glouds Infirming Officer. Pase of B7 5793 Pto. Redie James. Signed RK Templeton St.

Promulgated and extracts taken in the case of

(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.

CHARGE SHEET

The accused, B.75793 Private Leslie James RUSSELL, Tor Sect R (M3), a soluter of the Canadian Army Overseas; is charged with:-

FIRST CHARGE A.A. SEC.15(1

ABSENTING HIMSELF WITHOUT LEAVE

in that he

In the rield on 21 Feb 45, absented himself without leave from 0700 hrs. 21 Fub. 45 to 2300 hrs. 2 Mar. 45.

ABSENT 9 days, 16 hours,

(F. W. dourt), Major. A/T/Cond - Tor Scot h (Mg C.A.O.

Date - 2 Mar 45 To be tried by Field General Court Martial.

In the Field

8 Mar 43

Col /catalog

Commanding "X" The Bi

Locay 57 .

I wish a Defending Officer

I desire the services of Lieut, S.R. Smith if he is available.

In the Field

(L. J. Massell), Pte.

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

I cortify that I have this morning examined No. 375793

Pt Russell L. J. of TORINTO Scotish Regt and in my opinio

he is fit to undergo trial by Court Martial

Station - In the Florid

Date 9 mar 43

John hu Cast

Form of Proceedings for General and District Courts-Martial

Proceedings of a Field General Court-Martial held at in Pull on the 9 day of match 19 4 3 by order of Gol. 9 N. Basher Commanding X Sufacily Organie

major L. lo F. wakefield " S. Inf. Bu. Luit. O. S. mace "A" Lut. Bu

Trial of B 75793 Fte Lussell, L

The order convening the Court, the charge-sheet and the summary

The Court satisfy themselves that to serve owing to

, Judge Advocates

, waiting member takes his place as a member of the Court.

The Court satisfy themselves as provided by Rules of Procedure 22

The accused is brought before the Court.

Prosecutor, + Lieut. J. H. H. Depew Jor Sect (MG) Counsett or defending officert Luit, L. W. Tue Lean

At //55 o'clock the Trial commences.

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

The names of the President and members of the Court are read over in

President to the whose names you have heard read over?

no six

Answer by

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

* Here insert No., Rank, full Nome, Regiment, and Appointment (if any).

† Here state Rank and Name, and Regiment (if any).

† Qualification to be stated.

(1)

Mil. Form B. 271 10M -8-41 (1519) H.Q. 1772-39-224

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

The following officers under instruction are duly sworn.

Luit w. a. Stickland, Sor Scot. Kegt (M. G.)

Charge-Sheet

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

Instruction.

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

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 Question to the you have heard read?

Quilty Liv

Answer

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

NA

Anmoer.

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

N/A

Answer

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

N/A

Anguer

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

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

Proceedings on Plea of Guilty

in case no plea of "[The Court having been re-opened, the accused in a see no plea of "Not Guilty" has it, and the charge to which he has pleaded "Guilty been proceeded him again.] *To be struck out ____*[The Court having been re-opened, the accused is again brought before

> The accused B 75 793 Pt. Russell, L. F is found guilty of the charge

D15886 Ept withen it was called by the accused had not appeared on parade or hale tall during the intervening south ward

Question to the Do you wish to make any statement in mitigation of punishment? accused.

The Defending Officer

The accused in mitigation of punishment says - referred to accused character and clated that the Awa charge was the state and the sure to his accuse the sure and the sure of the sure of

Instruction.

^{*} If there is no summary or abstract of evidence, sufficient evidence to enable the Court to determine the sentence, and to enable the confirming officer to know all the circumstances connected with the case, will be taken on a separate sheet in the same manner as on a plea of "Not Guilty."

If from the statement of the accused, or from the summary or abstract of evidence or otherwise, it appears to the Court that the accused did not understand the effect of his plea of "Guilty," the Court shall alter the record, and enter a plea of "Not Guilty, and proceed with the trial accordingly.

Do you wish to give evidence yourself or to call any witnesses as to $\frac{Question\ to\ the\ accused.}{accused.}$

Answer.

Evidence as to character.

In the case of B.75793 Private Leslie James RUSSELL, Tor Scot R (MG), a soldier in the Canadian

The accused is informed of his Rights.

The accused does not demand and the G.O. does not direct the evidence be taken on oath.

FIRST WITHERS for the prosecution: 8.75886 Cpl. Wilken, E.J. states:-

At 0700 hrs. 21 Feb 45 I called the Roll in No. 8 Pl, of which the accused is a member. He was absent.

The accused declines to cross-examine. Lat Julken

SECOND WITHERS for the prosecution: B.76572 Sgt. Bayes, J.V. states:-

The accused declines to cross-examine Barn of ...

The accused, having been duly cautioned in accordance with R.P $4(\Xi)$, suys:

"I do not wish to make a statement".

CERTIFIED THAT R.P. 4 complied with.

In the Field 5 March 1943

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

Finding

The Court closed for the consideration of the finding.

The Court and that the accused in quilty as charged.

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

Evidence of character, &c.

 $\begin{array}{c} Question\ by\ the \\ President. \end{array}$

Proceedings on Conviction before Sentence

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

Luit & H. H. Depew, Lov Scot. is duly sworn .-

Have you any evidence to produce as to the character and particulars of service of the accused? Answer by the Wilness. I produce AFB 296 and restricted Free look of MIN. 6

The above statement [with the selectule of convictions and of cases in

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.

Question by the President.

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

Question.

Have you compared the contents of the above statement with the regimental books? Answer.

Ougstion

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?

Answer.

Illustration—If he reuse at the section of the scale of the section of the department of the department of the department of the department of the court reader him fails to support the section of the Court the promotion much could feel to the court the promotion and could the distribution of the Court the promotion much could could be departmented by the Court that the fail of the Court that the court feel to the court feel the court feel to the court feel t

Question to the accused.

Cross-examined by the accused.

Do you wish to address the Court? Answer. Thouse. The Court is closed for the consideration of the sentence.

F

Sentence

The Court sentence the accused See Schedule

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Field 87 Bep42 The A.A. Sec 15(1) 12 hrs 30 mins		maying exhibiting the second of the second o	y Tisons E Initial	9 .C.M.	an the traction

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•	Piace	Date of offence	Hank	Cases of dronken- ness	OFFENCE	Nature of Witnessee	Punishmedt swarded	Date of award or of order dispen- ing with trial	By whom awarded	Remarks
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/iei	la 80	Usn45			A.A. See il Gembling in but A.A. See il Mrbts on in but a after time for 'Lights Out'	Sgt. obertson H.J.	Forf S days a	E 29543	Fohnson	
•					9/3/42 6	18/16	Sheet of a			
	***************************************		,,,,,,,,,			die mannen ander			here meganorum	PT03

10 875793 Nama Ross Ext No. of days in olose arrest (To date DATE OF APPESTATION & CC. 9 TH Age 36 Harried or Single MARRIED to of Dependents of Trial) 1939

CIVIL MILITARY

A CERCIFIC TRUE COPY OF M.F.M. 6 MUST ACCOMPANY THIS FORM.

Mr. Cout. rager

9 mar 43 4/7/ comd The TOR SOOT B (H

9/3/43 All Sofiele

M.F.W.2584

REGIMENTAL DOCUMENTS

H.Q. FILE No.

CONTENTS	NON-EFFECTIVE BY
COMBINED DECLARATION FORM OR ATTESTATION AND MEDICAL HISTORY (M.F.M.1 & 1A) OR (M.F.M.2 & 2A)	DEATH
SERVICE AND CASUALTY FORM (M.F.M.4 & 4A) (A.F.B.103)	DATE
PARTICULARS OF FAMILY (M.F.M.5)	CAUSE
FIELD CONDUCT SHEET (M.F.M.6) (A.F.B.122)	AUTHORITY
CERTIFICATE OF SERVICE (M.F.M.8) COPY OF, OR DISCHARGE CERTIFICATE (M.F.M.7) COPY OF	
FORM OF WILL (M.F.M.10 OR M.F.M.10A)	
DENTAL HISTORY SHEET	DISCHARGE
MEDICAL REPORT OR CASE HISTORY SHEET	DATE
MEDICAL EXAMINATION ON LEAVING THE SERVICE	REASON
TRANSFER CLOTHING STATEMENT	AUTHORITY
LAST PAY CERTIFICATE (M.F.D.930A)	
PROCEEDINGS ON DISCHARGE	
PROCEEDINGS COURT OF ENQUIRY	DESERTION
DECLARATIONS COURT OF ENQUIRY	DATE
PAY SHEETS	AUTHORITY
CARDS	

Army Form A.3.

Contemporario de la Partico Dance. Form for Assembly and Proceedings of Field General Court Martial on Active Service.

PROCEEDINGS.

On Active Service, this thirtieth of

, 19 42

111

Whereas it appears to me, the undersigned, an officer in Command of "F" Group, Canadian Reinforcement Units,

Canadian Army Overseas . , on active service, that the 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 Martial; *[and_that_it_is not practicable to delay the trial for a stereme to a superior qualified officer.

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

*[I/am unable to appoint; *[I. Three seniors to form the Court.]

*(277 A Field Officer as President.)

you the following reasons, namely

JUDGE ADVOCATE

Lieut, G.M. Morrison, N.N.S.H. H.Q., Gdn Reinf. Units.

President.

Name.

Regiment,

Members.

J. Warner

Name.

Regiment.

Capt

Rank

Rank

Lieut.

#1 Cdn Ord R. U. RCJ

L. A ngus

10 Mon Div Ord.

Commanding H. Q. , Man Gp. Can Reinf. Urder Convening Officer.

SCHEDULE.

Number, Rank (a), Name and Unit of Accused (b)	Offence charged	*Plea	Finding, and if Convicted, Sentence (c)	How dealt with by Confirming Officer (d)
84897				
te. (A/U/Cp1)				
osted to c.T.a.	First Charge A.A. Sec. 15(1)	not Guila	Guilty	Finding and Denlines Confir
	Second Charge A. A. Sec. 19	not Give	Guilty	but sentines to a
	Third Charge	wit comiety	Hot Guila	detention for
		34	To one day	
			E Re ranks	
			/ /	

JUNA GARAND ULT, Brigadier. (Signed).

J. P. ARCHAMD ULT, Brigadier. (Signed).

Commanding "F" Group,

Commanding officer (e)

Incellarous on St.

(a) Appointment acting rank or acting appointment, if any to be stated in brackets after the (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 of the Schedule to be initialled by him.

*** :*.	N. Corposed T				
/	theets here.	3			
Endance and to be pr	I certify that the day of the Schedule, and the of each such person of that Schedule.	e above Court ass 1942, and du nat the plea, find were as stated in	ly tried the pers		
* Omit if not applicable.	I also certify that 1, 7, 7, 7, 7, 7, 7, 7, 7, 7, 7, 7, 7, 7,	The members of the he witnesses he interpreter		Judge Co	advocate
	Signed this 2	day	of Very	19 12	
* See footnote (b) on page 762 M.M.L. 1929.	I certify that to	Potential Potent	Creation ine Con		St. J.a.
	Signed this	dayo	1	19 .	Certificate in case of death sentences.
	Spec	Pr	esident of the Cou	ert Martial.	
*To be omitted	I have dealt wit stated in the last col I have there stated, sentences. *(I direct that the	h the findings ar umn of the Sche I hereby confir	white and militia	and to the	D, Confirmation.
unless penal servitude, im- prisonment or detention having been awarded, the Confirming Officer either has no authority to commit to prison or detention barrack, or, having such authority, recommends suspension.	Signed this 7	day of	Hanka	19 42. MBAULT, Bright Property of the control of t	gadier. Group. Unss
Promula (a) (Dated)	gated and extracts take	n in the case of	6d) 650	Ding	ool.

Promulgated and extracts take	n in the case of	COMMANDANT.
(Dated)	(Signed)	TRAINING SCHOOL
Promulgated and extracts taken	n in the case of	
(Dated)	(Signed)	

need only sign once.

[84] Wt. 18092-1316 Flow 2,41 W. & Co., Ltd. Gp. 745-2

At Leyters reagon The accused, B.84897, Pte. (A/U/Cpl.) Russell, Louis Willington, Royal Danadian Army Service Corps, posted to the Canadian Training School,

First Charge

Absenting himself without leave

in that he

at Chobham Ranges, Surrey, on 16 June 42, did absent himself from place of duty appointed by his superior officer from approximately 1315 hours to 1330 hours.

at Chobham Ranges, Surrey, at approximately 1545 hours on 16 June 42, was drunk,

at approximately 1545 hours on 16 June 42, was unfit for duty by reason of previous indulgence in alcohol-

Ow Derry.

(C. W. beley) Colonel, Ld. S.H., Commandant, Canadian Training School.

To be tried by Field General Came Martial

Bodon Hant 30 June 1942

Jankanlemak I. P. ARCHAMBAULT, Brigadier. Commanding "P" Gross,

Can. Reinforcement Units.

I certify that No. B. 64897 - Pte. (A/U/Opl.) Russell, L. W. is fit to undergo trial by Court-Martial.

Geo & Congle oft. (0. S. Long), Capt. R. C. A. M. C.

Periles lugar

No. B-24897, Pte. (A/U/Opi) MUSSELL, L.W., M.U.A.S.U., posted to Odn Tg School, tried by Field General Court Martial at BORDON, Hants. on 2 Jul 42.

The order convening the Court, the 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 accused is brought before the Court.

Prosecutor:
Defending Officer: Lt. W.A. Murray,
Lt. W.A. Delrymple,

At 1010 hrs the trisi 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 secused, and they severally answer

Q1. Do you object to be tried by me as President, or by any of the officers whose names you have heard read over?

The President, members and judge advocate are duly sworn,

The officers under instruction are duty sworn.

QE. Do you object to Boog44, Sgt. T. Pypurn (R.Regt.C.), H.Q., C.K.U., Scring as shorthand writer? The shorthand writer is duly sworn.

The charge sheet is signed by the President and snnexed to the charge sheet.

The accused is arraigned upon each charge in the above mentioned

Q3. Are you gufity or not guilty of the first charge against you, which you have heard read? A3. Not Guilty.

A2. Not Guilty.

24. Are you guilty or not guilty of the second charge against you, which you have heard read? A4. Not Guilty.

As. Not Guilty.

Qb. Are you guilty or not guilty of the third charge against you,

which you have heard read?

Do you wish to apply for an adjournment on the ground that any of the rules relating to procedure before trial have not or on the ground that you have been prejudiced thereby, for preparing your derence? Ao. No. sir.

The prosecutor makes no opening address.

No. B-84897, Pte. (A/W/Cpl) MUSSELL, L.M., M.C.A.S.C., posted to Cdn Tg School, tried by Field General Court Martial at BORDON, Hants. on 2 Jul 42.

The order convening the Court, the 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 accused is brought before the Court.

Prosecutor: Lt. W.A. Murray, Defending Officer: Lt. W.A. Dairympie, C. T. S. C.T.S.

At 1010 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 mombers of the Court are read over in the hearing of the accused, and they severally answer to their names.

Q1. 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. sir.

The President, members and judge advocate are duly sworn.

The officers under instruction are duly sworm.

QZ. Do you object to Boo944, Sgt. T. Pyburn (R.Regt.C.), H.Q., C.m.U., scring as shorthand writer? A2. No. sir.

The shorthand writer is duly sydra.

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.

Q3. Are you gufity or not guilty of the first charge against you, which you have heard read?

.

Q4. Are you guilty or not guilty of the second charge against

you, which you have heard read? Qb. Are you guilty or not guilty of the third charge against you, which you have heard read

A5. Not Guilty.

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

Ab. No. sir.

The prosecutor makes no opening address.

CAPT. E. McIntine, H.U.R., posted to Cdn Tg School, being duly sworn, is examined by lat witness) for prosecution) the prosecutor: -

The witness identifies nimself.

Q7. What is your position in this school? A7. I am O.C. of the sub-wing for morters.

Are you posted to C.T.S.?

A8. T am.

Q9. On 15 Jun 42 were you 1/6 of a party going to Chobham Ranges?

A9. WRE.

- 210. Will you tell the court what time you arrived there?
- Roughly about helf past 9, but I am not sure of the exact time. What time approx did the party leave there? ALO.

All. About 3 o'clock, shortly after 3.

- During that time, between 9.30 and 3 o'clock, was anything reported to you in regard to the drivers or the trucks which had transported your party
- One of my Sgts asked me if I had given permission for the drivers to leave the area and take away one of the trucks.

Which Sgt was that?

Al3. Sgt Hosegood,

Q14. What did you do when that was reported to you?

At that stage I didn't do anything except speak to the Sgt-Major and I told him I wanted to see those men when they came A14. back; that was Sgt-Major Schmitz. What happened next?

215.

I didn't myself see them go out, and I didn't see them returning because there was a bidg blocking my view; but I did see later on the truck drive out for what I take to be the second time. I didn't see it come in, but I saw a truck drive out. What shout the drivers?

216. The two drivers were missing; I investigated that myself. At the time I saw this truck go out it had already been reported to me one truck and the two drivers were missing. I didn't

gee them come in, but I saw them go out.

Q17. At the time when you went over, at the time of the second going out of the truck, what time approx was it when you personally investigated the matter?

I imagine about half past

How long to your knowledge were those drivers missing? I didn't see them myself from lunch time, until that time, from shortly after 12 until then.

Q19. Who were the drivers?

Al9. Cpl Russell and Pte Hill. Q20. Were there any other drivers with the party? A20. No, just those two.

When next did you see the drivers? When they pulled out a third time; once again I didn't see them come in because I was conducting a mortar firing course, and the second time I distinctly saw both drivers, and Cpl Russell was driving with Pte Hill sitting beside him.

Which truck were they driving?

A22. Pte Hill's truck

923. How did you identify it as Pte Hill's truck?
A23. Because I myself took the work ticket afterwards and marked one, which was Cpi Rissell's truck, which I was driving, and I myself at that stage had removed the key of Cpi Russell's truck so it could not be taken out.

Q2b. Is that the work ticket (producing document?)

A2b. Yes sir, that is the work ticket of the truck they had out, but not the truck of which I had the key.

EXHIBIT A - Work Ticket.

Q27. Later on, previous to going home, did you again see the drivers?

A27. As soon as they came back, the next time I happened to see

them come in, the last time, and CSM Schmitz placed both drivers under arrest for being AWL and for taking a truck drivers under arrest for being AWL and for taking a truck without permission.

When did you last see them yourself?

I didn't see them until we were ready to come home, roughly would say about 3 o'clock.

A28.

A30. I was. 431. What was the condition of the two drivers? Did you allow shem

A31. The condition of the two drivers, they were both unsteady on their feet and slurred in their speech, and I considered them until to drive and ordered them into the back and ordered them to drive one and I drove them. unfit to drive and ordered them into the back and ordered Sgt Hoseyood, who was a licensed driver, to drive one and I drove in your opinion, was Gpt Russell drunk? A32. (No reply).

J.A.: I think if he would tell their condition it is up to the court to determine whether they were drunk or not; what they were doing and so on, and how beneving.

WITNESS: They were not behaving in a sensible manner. Opinosell did not seem to know exactly what he was truck. He didn't realise all that was trying to one of the nuts, it dropped on the ground undernests and he smelt of liquor, was definitely insteady on his feet, and his peech was surpred.

133. J.A.: Was his speech incoherent?

CHOSS EXAMINATION BY DEFENDING OFFICER

You stated you saw Opl Russell driving the lorry out the second or third time it left?
At the time I saw him drive out was the third time.

Betinitaly, ing the lower himself at that time?

Was the lorry being driven reasonably safe at the time? That is a very difficult question to answer, because owing to this blag blocking the view I could only see that truck for a matter of 10 or 15 yds before it disappeared benind Did you hear any crashing of gears?

No. he did take it and bring it back in without causing any and he did take it and bring it back in mirror bauser is made to the lorry?

a far as I am eware, yes.
id he go through any trees?
is exit from the ranges turns to the left benind some ishes and trees and you cannot see it then.

stated the truck was out of commission and would have to be towed home. On askirg Cpl Russell why it was out of commission he simply stated it would not work, and I then mentioned the fact we had the key which I thought would be necessary before the truck was driven. Previous to that Opi Russell stated he had lost the key. I then pointed out that the CSM had the key. We put the key in the truck but it would not start owing to the switch wires being disconnected by Opi Russell. I myself put them back in place, myself.

Q30. Now we have come to the point where the incident of the key being missing took pince and so on. You were ready for the party to go nome? I was.

Q31. What was the condition of the two drivers? Did you allow them to drive?

A31. The condition of the two drivers, they were both unsteady on their feet and slurred in their speech, and I considered them unfit to drive and ordered them into the back and ordered Sgu Hosewood, who was a licensed driver, to drive one and I drove the other one myself.

Q32. In your opinion, was Cpi Russell drunk?

A32. (No reply).

J.A.: I think if he would tell their condition it is up to the court to determine whether they were drunk or not; what they were doing and so on, and how behaving.

WITHESS: They were not behaving in a sensible manner. Cpl Hussell did not seem to know exactly what he was trying to do with the truck. He didn't realise all that was wrong with the truck was he didn't have the ignition key. He had lost one of the nuts, it dropped on the ground underneath and he didn't have the sense to go and pick it up. He definitely smelt of liquor, was definitely insteady on his feet, and his speech was slurred.

Q33. J.A.: Was his speech incoherent? A33. I would say so, yes sir.

CHOSS EXAMINATION BY DEFENDING OFFICER

Q34. You stated you saw Cpl Russell driving the lorry out the second or third time it left?

A34. At the time I saw him drive out was the third time.

Q35. He was driving the lorry himself at that time?

A35. Definitely.

Q3b. Was the larry being driven reasonably safe at the time? A30. That is a very difficult question to answer, because owing to this bidg blocking the view I could only see that truck for a matter of 10 or 15 yds before it disappeared benind the trees.

237. Did you hear any crashing of gears?

A37. No.

Q38. And he did take it and bring it back in without causing any damage to the lorry?

A38. As far as I am aware, yes. Q39. Did he go through any trees?

A30. The exit from the ranges turns to the left benind some bushes and trees and you campt see it then.

Q40. There is considerable turning to do to get out of the ranges?

A40.

One turn, that is all. Then if there was no crashing of gears and no marks on the 241. lorry, it must have been driven reasonably?

It was driven without being smashed, I can say that, but I didn't see it driven except for that matter of 10 yds or so.

The first charge is for absenting himself from the place of duty appointed by his superior officer at Chobham Ranges, Surrey on 1b Jun 42. Were you his superior officer at that date?

Yes, sir.

943. Did you appoint a place of duty for him?

A43. They were detailed to take us to the ranges and wait there and bring us back.

Detailed by you? Detailed by 2 Wing; they belong to a different Wing. AUU.

945. And

Detailed by 2 wing; they belong to 1330 hrs; do you know and for being absent from 1315 hrs to 1330 hrs; do you know whether or not the accused was absent during that time? I would not like to set down a definite time, but they were definitely absent. During the second period of absence I myself went to investigate and found only the one venicle and that was the time I am sure I removed the key from it, that would be Approx around 2 o'clock.

Q46. THE COURT: Can you state definitely that the accused left the vehicle to which he was detailed?

A4b. Ch, yes sir, otherwise I would not have been able to remove the key; I am positive of that, sir.

I understand the second occasion on which this vehicle was removed, I believe you stated it was approx 2.30 and there was a later time or a third time you saw it go but you did not see it come back?

A47. Only the last time, that is all. I simply saw the truck disappearing out. There were a lot of trucks and a lot of carriers going by at the time, and hearing an engine start up, you didn't . appearing out. pay any particular attention to it. Between lunch time, from 12 to haif past 12 I any them, but I didn't actually see the drivers themselves, only the last time they took the truck out. The first time they went out I simply inferred they had gone out but I didn't know when.

Q48. Their noon meal was -12 to 1 at the ranges. A48.

Q49. Was proper provision made for it? A49. Yes, lunch consisted of sandwiches and cake, and one of these b-gal jars of tem was supplied.

Q50. PHOSECUTOR: Finally, just before returning, you had Opi Russell and Pte Hill pisced under arrest?

Abo. Yes, sir. 251. Am I right in saying the main reason for doing this was that you felt neither of them ---

J.A. This is not cross-examination. You had better not suggest the answer to the witness.

252. In your opinion was Opi Hussell unfit to entrust a vehicle with,

and if he was so unfit what was the reason?

In my opinion the reason was he had been drinking and I did not consider him fit to take charge of the vehicle.

Q53. THE GOURT: Do you know where they got anything to drink? A53. No sir, I don't know that neighbourhood very well. Q54. You don't know positively where they got it or whether they had it with them?

In answering that am I allowed to use previous evidence given by the witnesses themselves when they were remanded for court martisi?

PROSECUTOR: That will be brought out in evidence, sir.

Q55. THE COURT: You at first hand don't know that they had anything with them?

A55. No sir, I didn't see them partaking of liquor and I have no way of saying they went into a certain place to have a drink or had it with them.

No. P-22228, C.S.M. (W.O.II) J.R. SCHMITZ, PPOLI, posted to C.T.S., being duly sworn, is 2nd witness) for prosecution) examined by the prosecutor:-

The witness identifies himself.

Q5b. What are your duties?

Abb. I am Sub-Wing Sgt-Major of the 3 in. mortar, No. 3 Wing, CTS. 257. On 16 Jun you were at Chopham Ranges with a party under the

command of Capt. McIntyre, is that right?

Yes, sir.

Was any report turned in to you by any of your AI's concerning the accused, Opi Russell and the other driver, Pte Hill?

A58. Not by one of the AT's.

Q59. J.A.: As a result of some information he reed he probably did something.

Qoo. PROSECUTOR: Did you receive any instructions from Capt McIntyre

regarding the two drivers? Yes, sir, that when the truck came back to place the drivers A60. under arrest.

Ohl.

ADL.

When did the truck come back?
I could not state the time.
When the drivers did come back did you place them under arrest? 202.

Ab2. sir.

Qo3. What were the drivers doing at that time, when they came back? Ab3. When they came back I was told by Capt McIntyre to place them under arrest, but before I could do so they had putied out again, and when they came back that time I placed them under open arrest, and then they were working on the truck; they had the hood off and were working on the wires of the ignition, believe.

Qb4. Earlier on, had you been with Capt McIntyre at the truck park?

No, sir, Did Capt McIntyre give you the key of the truck at any time? Ab4. Qob.

Abb. Yes, sir. Qbb. When was that?

Abb. About approx 2.30. Qb7. But you weren't with him when he got the key of the truck?

A67. No. sir.

Qo8. When the two men were finally working on the wires of the truck

you were with Capt McIntyre, when you went to the truck park? Ab8.

Abs. Yes, sir, Qb9, What happened then?

A09. We asked Cpl Russell what he was doing and he said the truck was out of commission and would have to be towed home. Capt McIntyre and I walked to the side of the truck and looked in and noticed no key in it, and Capt McIntyre asked if the truck wouldn't work better with the key in the switch, and Cpl Russell said he had lost the key, so Capt McIntyre told him to put the wires back and he started the truck.

Q70. Did Capt McIntyre give you any further orders regarding Cpi

MUCSell?

A70. He told Cpl Russell he would see the trucks were dr ven home and to give him his work ticket. Did Cpl Russell do so?

Yes, after some hesitation.

A/1. Tes, after some nesitation.
Q/2. What do you mean by "some hesitation?"
A/2. A short pause of two or three mins.
Q/3. Was there sny reason for that?
A/3. Not that I know of, sir.

Would you have felt safe with Cpl Russell driving you in the condition he was in?

A74. Not knowing him before I would say No, he was a strange driver to me.

Q75. What was Cpl Russell's condition at the time?

A75. I would say he was unfit to carry out his duties as a driver. Q76. Why?

A76. In my opinion due to previous indulgence in alcohol.

CROSS EXAMINATION BY DEFENDING OFFICER

Q77. You said you were there at the lorry when Cpi Russell was working inside the hood?

Yes, 81 7

Q78. Cpl | A78. Yes, Opl Russell put those wires back on again, did he?

sir.

Q79. Are you sure it was Cpi Russell and not Capt McIntyre? Capt McIntyre told Cpl Hussell to put the wires on and Cpl Russell put the wires on or held the wire up to make contact to start up the motorand he picked up a screw and dropped it

Q80. But Cpl Russell did put the wires on satisfactorily so that the truck would work?

I am not sure whether it was him or Cept McIntyre, but Cpi Russell put the wires in their proper place but dropped a screw and bent down to pick it up. ASO.

Q81. You saw t You saw the lorry driving out?

Q82. How was it being driven?

A82. There was only a short distance, about 15 yds or aco, where you could actually see it, and the truck would have to be driven in low gear to get out to the road.

Q83. Did it appear to be driven satisfactorily for that distance?

A83. Except when they got to the road, there is a bank of 3 or 4 ft and they stopped there and had to come down again.

Q84. That could happen with anyone driving?

AS4. Yes, sir.

You say you would not feel safe driving with Cpl Russell because you didn't know him previously, is that right?

Q8b. In other words, if you had known him previously you might have had a different opinion?

A86. Yes, sir.

Q87. J.A.: What exactly was the accused's condition at the time he was working around the car?

A67. Slightly unsteady on his feet. Q88 . Was he staggering?

ASS. No, sir.

Q89. What signs of alcohol were there about him? A89. When he was standing on the bumper of the engine he slipped once.

290. Could you smell any liquor?

A90. No sir, I was not close enough to smell it.

conversation'

His conversation seemed steady enough to me. Did he talk intelligently? I setually was not talking to him, sir.

204. Then you would not know anything about his conversation?

A94. No, sir.

Q95. Do you know whether he had any instructions as to what to do with his vehicle that day while at the ranges?

A95. No sir, I don't know anything of that.

DEFENCE: The witness said he was not sctusily conversing with Opl Russell. I believe he stated previously he placed him under open arrest, being told to do so by Capt Cointyre. Q96. DEFENCE:

997. J.A.: When placing the accused under open arrest did you have any conversation with him?

A97. No, sir.

Q95. THE COURT: You simply told him he was under open arrest? A95. Yes, sir. Q99. Did you visit the car park at any time when Crl Russell was not there? Acq. No. sir.

2100. Did you visit the car park at any time when he was there?

Aloo, No sir, except the last time.

3rd witness) No. H-16162, SGT. J.B. HOSEGOOD, PPCLI, posted to C.T.S., being duly sworn, is examined by the prosecutor: for prosecution)

Witness identifies himself.

Q101. What is your position?

AlOl. A.I. instructor, No 3 Wing of 3 in. mortar. Q102. On 16 Jun 42 were you with a party at Chobbam Ranges under the command of Capt McIntyre?

WAS.

During the day

2103. During the day did you have any occasion to go to the truck park, and what did you find there?

A103, Just after one 6 clock I went to the truck park to get my small pack from one of the trucks. The truck with the small

pack in it was missing.

Q104. What did you do then?
A104. Reported it to Capt McIntyre.
Q105. When did you next go to the truck park?
A105. The next time was when we were getting ready to pack up and Leave.

2106. Did you see the accused, Cpl Russell?

Alob. Yes, I did. Q107. What was he doing?

Alo7. At the time standing up on the bumper of the Chev truck and doing something to the wiring inside the engine hood.

Q108. What was his condition?

I could not say very well, but he seemed to be unsteady on Alog. his feet.

Were you put 1/c of one of the trucks by Capt McIntyre? Yes sir, 1/c of the Ford V-S. 0109.

A109.

Q110. Did you see the work ticket of that truck?

A110. I did.

Is this the work ticket (Ex A)?

Alli. That is the one,

Q112. It is not completely made out, is it?

All2. No, sir. Ql13. Are there any figures on the front or back which indicate the mileage govered?

It is shawn on the back. It was 4621 I took the truck at, On taking the same route back the mileage was 4641.

Q114. What was the original mileage? A114. It was 4590 when the truck was taken out.

CHOSS EXAMINED BY THE DEFENDING OFFICER

Q115. Did you see these lorries moving at all other than on the way home?

I did.

211b. While at the ranges?

Yes, sir.
Did you see Cpl Russell driving a lorry at all?
Did you see Cpl Russell driving a lorry at all? A117. Q118.

In what way were they moving, properly or not?

In what way were they moving, properly or not?

In one spot they were moving toward the main road and it was not exactly the way out for a truck, and they went up on a kind of sharp slope to the road and then had to stop and try to take it sgain. A118.

1119. Did whoever was handling the vehicle seem to drive it with more or less reasonable assurance?

All9. Not by the sound of the motor; he seemed to be speeding up

Q120. Were you a licensed driver at that time?

Algo. Yes, sir. Q121. I mean at the time you were at the ranges?

AISI. Yes, sir.

9122. COURT: How long have you had your license?

A122. The license was given to me when I was with the M.G. Hldg Unit. Q123. How long ago was it given to you? A123. In the summer of 40.

Q124. J.A.: Were you or not a licensed driver on 16 Jun 427 A124. Yes, sir.

Q125. COURT: Did you have any conversation with Cpl Russell at all? A125. No, sir. Q126. Did you see him driving the truck?

A126. No, sir,

Q127. When you went for your pack you did not find it?

A127. No sir, I didn't.

Q128. Was your pack in Cpi Russell's truck or in the other truck? A128. It was in Cpl Russell's truck when I left it and the truck that had my pack in it was missing.

Q129. Then the one you drove back was not Cpl Russell's truck? A129, No, sir.

Q130. Were both drivers missing when you went to look for your pack?

A130. Yes, sir.

The prosecution is closed.

Q131. J.A.: Do you apply to give evidence yourself as a witness? A131. Yes, sir.

R.P. 40 & 41 duly complied with.

2132. Do you intend to call any other witness in your defence?
Al32. DEFENDING OFFICER: Witnesses as far as the defence is concerned are few and far between, owing to the prosecution's witnesses being practically all the people who were there. The only other people were the two drivers themselves, so all I can do is call the accused himself and the other driver and a recognite. and a mechanic.

No. 8-84897, PTE. (A/U/CPL) L.W. RUSSELL, RCASC, posted to C.T.S., being duly sworn, is examined by the defending officer:-1st witness) for the defence)

The Accused identifies himself.

Q133. When Capt McIntyre and the others came to the oar park they found you working inside the hood, is that right?

A133. Yes

Al34. You stated you had lost the key, is that right?
Al34. You stated you had lost the key, is that right?
Al34. Yes, sir. I was connecting up the wires on the switch to start the truck, because I thought I had lost my key.
Q135. Do you take the key out of a vehicle usually?

Al . No sir, because it is very seldom I drive that truck; my own vehicle has a stationary key.

Q13b. You usually take the key out of the car, do you?

J.A.: That is a leading question.

A130. No, sir. Q137. What do you usually do with a vehicle that has a key in it

when you leave it? A137. Usually take it out.

Q138. What did you think had happened to the key?

Q139. Did you take the lorry at any time and go and get a drink?

A139. No, sir.

COURT: You have two questions in one there.

Q140. DEFENCE: Did you take the Lorry out at any time?

A140, Yes, eir. Q141. What was your reason for taking it out? A141. The first time I took my own vehicle out on account of the distributor being set so far shead it had no power on the nills, and I took it out to see if it was all right when I

Q142.

set it back; I was out approx 5 mins.
Did you take the other torry out?
Yes, I took the other torry out which Pte Hill was driving.
He complained to Sgt-Major Schmitz on the way down that the steering was very stiff and I took it out to see if he was Yes, A142. right, which he was.

Was there any difficulty driving when you had them out? 2143.

A143. No, 81r.

Did you have anything to drink from the time you took the torry out until the time Capt McIntyre and the Sgt-Major placed you under open arrest? Q144.

A144. I had nothing to drink while out with the trucks, sir.

CROSS EXAMINED BY THE PROSECUTOR

Q145. When you took Pte Hill's truck out, approx how far did you go and how long were you out?

I was out approx 10 mins in Pte Hill's truck. A145.

Q140. How far did you go in that time? A140. Approx a mile and a quarter.

Did you have anything to drink during the day? Q147.

A147. Yes, sir. Q148. When was that, and where was 117

A148. In the noon hour.

Q149. Where was that?

A149. I don't know just where it is, but at a pub, Q150. And what did you have to drink?

I was drinking beer.

Q151. Approx how much?

Albi. Approx 2 pts. Q152. What did Pte Hill have?

He was drinking whisky and beer. Alb2.

This was previous to your taking the trunks out?

A153.

Alog. Yes, sir. Q164. Did you seek any permission to take them out?

No sir, I figured they needed testing, that is all. ALDH. Q155. In spite of the fact you were away from DKs and were under command of Capt McIntyre for the day, you simply took them

out on your own?

A155. Yes, sir. Q150. You were the senior driver there?

Albo. Yes, sir.

Q157. J.A.; How did you get to the pub?

A157. We walked down from the range.

Q158. How far suny was 17?

The pub I think, sir, is probably a mile and a half or a mile and three-quarters.

Q159. Were you there more than once?

A159. No sir, we just went down and dime back in the moon hour, arriving back at approx one o'clock.

Did you walk back? QLOO.

AlbO. Well, we hitohed a ride.

Qibi. How many times did you have one or the other of these

vehicles out of the car park at the ragges?
Aloi, The truck I was driving I had it out once, and Pte Hill's truck was out twice.

glo2. Why did you take Pte Hill's truck out a second time?

Alo2. I came back for the tools out of my own truck because I could not get the tools from Pte Hill's truck because I had no key for the lock, and I was trying to adjust his steering, and I find out now you can't fix it the way it is fixed.

You took it out to test the steering? 2103.

A103.

Yes, sir. Then came back to get tools? Q154.

AloH.

Yes, sir. And then what? 0105.

I went out on the road. Alob.

Qlob. Wny?

To adjust the steering. Alob.

Q107. Why could you not adjust the steering right where you were? A107. It is better to do it on the road. Q108. You have heard the evidence of Capt McIntyre about your being unsteady on your feet, incoherent speech and so on?

AlbS. Yes, sir.
Q169. Is that not true?
AlbS. I don't think so. I siways did kind of stutter a bit at times,

Were you unatesdy on your feet?

A170. No, sir.

You were not?

Q171. A171. No, sir.

9172. COURT: Are your tools kept locked?

A1/2. No sir, there are no locks on my truck as far as tools are concerned, but there is on the other truck.
Q173. The truck you were driving that particular day, there were

keys for the ignition?

Yes, sir, Were there keys for the tool box? 2174. A174. No sir, no locks on the tool pox.

Q175. J.A.: What instructions did you have that morning in setting out?

A17b. To take a party out to the range and bring them back in the afternoon, and we were told we would be there practically all day.

Q170. COURT: What is your trade, driver i/c or driver mechanic? A170. No sir, just driver i/c, class 3. Q177. Are you a driver mechanic? A177. That is what I have in my pay book, I don't know, but on my license it just shows "Driver."

2178. Are you drawing trades pay? A178. No. sir.

Q179. What time did you return from the pub?

A179. At approx one o'clock.

Q180. What time did you take the truck out?

A160. Approx 10 mins after we arrived at the ranges.

2181. What time did you take the truck out imply after Lunch?

I was not there for lunch. I went to the pub. Yes, I know, but you resurned to the ranges, and then what time did you take the truck out?

A182. Between ten and a quarter after one. Q183. In other words, a lapse of 10 or 15 mins?

A183. Yes, sir. Q184. Did you est any lunen?

A184. No, sir.

2nd witness) No. B-592bb, PTE. S.J. HILL, RCASC, attached to C.T.S., being duly sworn, is examined by the derending officer:for the defence)

The witness identifies himself.

Q 185. Were you with the lorries that went to Chobnam Ranges on the to Jun?

A185, Yes, sir. Q18b, You had a Ford V-8 at the time, did you?

Also. Yes, sir,

ALSO, les, strain and the scale of the take that QLS7. Did the accused at any time take that ALS7. Just to adjust the steering on it. QLSS. Did you go to a pub at any time?

ALSS. Do you mean with the lorry? No, sir. QLS9. Did you to a pub at any time, with or without the lorry?

A190. Walked down. Q191. About how far is 117

A191. I would judge about a mile, possibly a mile and a half. 2192. Did you walk back or ride back from the pub?

A192. walked back.

Did you at any time take the lorries out to go to a pub or Q103. to get a drink any here?

A193. No.

Q194. Were you there when Cpi Russell was working on the motor or on the ignition of his own lorry?

A194. Yes, sir.
Q195. Did you know what he was trying to do at the time?
A195.I am not so sure. I think the timing was shead or solng a

Q19b. What did you have to drink?

A196. Beer and whisky.

Q197. What did Cpi Russell have? A197. He was drinking beer.

2198. He didn't have any whisky?

A198. Well, I wouldn't swear to that.

Q199. Were you very clear about what was nappening at the time? A199. No, I was not.

CROSS EXAMINED BY THE PRODECUTOR

Q200. In going to the pub, when you went there, did you have permission or did Cpl Russell have permission to go there?

A200. Not that I know of,

Did you or Cpi Russell have permission to take the trucks out later, when you did take them out? 9201.

.10SA

Q202. You seem somewhat hazy in some of your evidence. You don't completely remember the full details of that afternoon, do you? A202. No, sir.

Q203. J.A.: How much di A203. I don't know, sir. How much did the accused have to drink?

9204. How many times did you go to the pub?

A204. Just the once, sir, Q205. Have you sny idea how much he had to drink there? A205. No, I have not, sir, Q206. Were you with him all the time?

A200. Yes, sir. Q207. Surely you must have some idea?

A207. I couldn't say, sir.

q208. DEFENCE: Ware you placed under close arrest at any time? A208. Yes, when I returned. q209. Was Opl Russell placed in open or close arrest?

A209. I couldn't say.

Q210. Were you charged with being drunk? A210. Yes, sir. Q211. Were you tried?

A211. Yes, sir. Q212. Was the case dismissed?

A212. No sir, I got a \$5.00 fine for being drunk. Q213. How did you get back from the pub? A213. I walked back.

Q214. All the way? A214. Yes, sir.

Q215. Do you know that for a fact?

AP15. I can't remember getting a ride at all.
Q215. Would you know if you did get a ride?
AP16. Yes, I should do, sir. I don't remember us getting a ride

or anything about that.
Q217. What time did you arrive at the pub?

A217. I don't know, sir. Q218. Do you know what time you left the range?

A218, Approx around quarter to 11, or 10,30, about that,

Q219. J.A.: The accused was with you, was he, when you went to the pub?

A219, Yes, sir.

3rd witness) for the defence) No. B55974, SGT. E.N. BIGLEY, RCASC, attached to C.T.S., being duly sworn, is examined by the defending officer;-

The witness identifies himself.

Q220. What is your work at this school? A220. I am a Sgt Fitter at this school, sir.

Q221. Are you receiving trades pay as a fitter?

A221, Yes sir, class class A fitter. class B trades pay now, and I am qualified as a

9222. Do you recognise the number on this work ticket (Ex A)?

Do you remember if that lorry was one of the two lorries taken out under Cpl Russell's charge on lo Jun? I can't say it went or didn't, sir, because I didn't age it go. Did Cpl Russell bring that vehicle in to you afterwards?

A223.

A224. Yes. Q225. Did he state it was the vehicle he had had out at Ghopham Hanges?

A225. Yes, sir.
Q22b. Was there snything wrong with that wenicle?
A22b. Nothing that could not be repaired, but it had been repaired
A22b. Nothing that could not be repaired right and it needs a par shortly before. It is not steering right and it needs a part which it is impossible to get, it is a bushing which has to be turned out on a lathe, and it makes the steering very stiff. If it is explained to the driver of a truck he will understand but to a stranger it would be very stiff and strange. This truck was a strange one to Cpi Russeil.

Q227. COURT: Would it be Opl Russell's duty to undertake any mechanical adjustment if he were out with the truck?

A227. Yes sir, to keep it on the road until it got back to the shop, if it was possible to bring it back by driving it.

The steering was stiff, was 11?

A228. Yes, but not impossible to drive it without further adjustment.

2229. Do you know his trade rating? A229.

I don't, sir. Is he one of your regular men? 0230.

AP30. Is he one of your regular men.

AP30. Yes, he has been around about a year and I have had him in
the snop and I know he understands the work, but I don't think
he is drawing trade pay at all.

Q231. In your opinion would he be qualified by practice to undertake. a minor adjustment of a vehicle?

A231.

A231. Yes sir, he helped me fix about eight of them. Q232. He had no occasion to know about stiff steering on that venicle?

A232. No sir, it was just recently this modification came through, and it is now this modified part to the steering.

Upon the conclusion of closing addresses by defending officer and prosecutor, the Judge Advocate made the following summing up:-

J.A.:- It is my duty now, gentlemen, to say a few words, perhaps more particularly in regard to the law involved than the Actual facts, because the facts are matters you will have to deal with yourselves, and you are perhaps more qualified to come to a conclusion on them than I am. I want to state, with regard to the first charge, that the main offence is I want to state, absenting himself without leave - that is more important absenting himself without leave - that is more important than the time he was absent, as set out in the particulars. Now it is possible for the court, if they come to the conclusion the accused was absent at some time on 10 Jun 42 from his place of duty, whether it is the hrs mentioned in the particulars in the charge or not, to bring in a special finding that he was absent for a certain period other than the time mentioned in the particulars of the charge. Special findings are somewhat requirer to Military Law: they are not common in somewhat peculiar to Military Lau; they are not common in civil law, but it is provided in Military Law, by the Army Act, that if the main charge is proven, special findings can be made as far as the particulars are concerned. With regard to the second charge, drunkenness, I just want to point out that from the military point of view drunkenness on duty is considered from the soldier being fit or unfit for duty. There can be no distinction between various degrees of drunkenness on duty. Now you will keep in mind the evidence that was presented. You will recall what Capt McIntyre said begarding the accused, and determine in view of that, as well as in view of the accused a nwn evidence, and that of the other witnesses, whether or not he was drunk within this definition of drunkenness from the military point of view. The third charge is alternative to the second, and you cannot of course find him guilty of both the second and third charges; it must be one or the other. And finally, gentlemen, the accused must be proven guilty beyond a reason-able doubt which, to put it bluntly, is the doubt any reasonable man might have - not a foolish or silly doubt, but the doubt of a reasonable man. If you have any such doubt, of course it most be resolved in favour of the accused. I will now leave the matter in your hands to deal with in accordance with the oath you have taken this morning.

The Court is closed for the consideration of the finding.

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

THE COURT: The accused is found Not Guilty of the third charge.

The Prosecutor, LIEUT. W.A. MURHAY, C.T.S., being duly sworn, is examined by the J.A.:-

Q233. Have you any evidence to produce as to the character and particulars of service of the accused? A233. Yes bir, I produce AF B296 and copy or MFM-6.

The above statement is read, signed by the President, and annexed to the proceedings.

Q234. Is the accused the person named in the statement which you have heard read?

A234. Yes.

Q235. Have you compared the contents of the above statement with the regtl books?

A235.

A235. Yes, sir. Q236. Are they true extracts from the regtl books, and is the statement of entries in the conduct sheets a fair and true summary of those entries?

A23b. Yes, sir.

No cross-examination.

LIEUT. R.G.S. BRADSHAW, Officer 1/c No. 2 Technical Wing, (RCASC) attached to C.T sworn, is examined by the defending officer:-R.G.S. BRADSHAW, Officer 1/c Vehicle Sec, Wing, (RCASC) attached to C.T.S., being duly

The witness identifies himself.

Is Opl Russell in your sec? Yes, he is attached to that sec. Q235. How long has he been under you?

A238. Approx six moe.

Q239. Would you please tell the court how you found Cpi Hussell, the way he has carried out his duties, and his general character?

A239. During the past six mos I have known Cpi Russell I have found him a very efficient, honest and hard working WCO. I can say that with all sincerity. Cpl Russell has been 1/c of a group of drivers and I have found him very capable and very sincere in all his work in the past. I cannot think of anything all which would lead me to make any different statement. I cannot think of anything at

Q240. Have you ever had to check him for anything he has done whong?

A240. Absolutely not.

J.A.: Do you wish to address the court?

DEFENCE: I would like to draw the court's attention to the DEFENCE: I would like to draw the court's attention to the crime sheet of the accused; there is very little on it. His work, as you have heard, has been absolutely satisfactory. I would also like to point out that the only reason me has not been paid for his rank long before this is because it was not in the establishment; that is the reason for that. We have wanted to ray him for some time now and have not been able to, simply because the establishment would not allow it. But not because of his conduct or snything/like that. He has been doing a NCO's job, with six or eight drivers under him, and has done it on a Pte's pay.

PHOSECUTOR: I would like to call the C.O. trying this case, 471, K.R. (Can) which would prevent the C.O. trying this case, or rather giving detention to a man of the accused a rank. All nowers are limited.

J.A.: Have you anything to say to the court as to further punishment than reduction?

PROSECUTOR: The prosecution is definitely not asking for any more than the C.O. could have given him, but at the same time it is felt, as the man is not being paid, the reduction to his permanent rank would hardly be sufficient punishment in this case.

The Court is closed for the consideration of the sentence.

CERTIFIED a true and correct transcript of my shorthand notes:-

Kyhure.

SGT.

Shorthand Writer.

EXHIBIT "A"

One Transport Work Ticket, A.F. G.3518, No. 2-67, dated 16 June 48:, issued to B.89268 Ptc. Hill, S.J., R.G.A.S.C., attached to C.T.S.

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SUMMARY OF EVIDENCE IN THE CASE OF NO. B. 84897
Pte. (A/U/Cpl.) RUSSELL, L.W. (R.C.R.S.W.) posted
to Carallan Training School, a Soldier of the Canadian Army Overseas.

By direction of the Commandant, the Summary of evidence is taken on oath.

lat. WITHLSS I'ou rosecution. No. H. 16162 Sergeant HOSEBOOD, J.B. (P.P.C.L.) posted to Canadian Thalains School, a Soldier of the Canadian Army Overseas, having been duly sworn, states as follows;

states as follows; "On 18 Jun 42, in the morning, I accompanied a party from No. 3 Weapons Wing, Jenadian Fraining School, to Universal Manages, seriving there at approximately 0900 hours. On reaching there we removed the stores from the two vehicles and commenced to fire our practices. At 1200 hours we broke off for dinner. About one hour afterwards we re-commenced our practices. I went to the trunk park about ten sinutes later to get my haverafterwards we re-commenced our practices. I went to the truck park about ten minutes later to get my haver-sack from the truck, but the vehicle was gone. I rep-orted the absence of the vehicle to Captain McINTYRL.

"How many vehicles were there with the party?" orr. exam.

"Two trucks, a Ford V-8 and a Shevrolat 60 cwt" 1.

2. "Was it the Chevrolet that was missing?"

Exam. Off. HYes." 3 .

"What is your position at Canadian Training School?" 4. By Exam. off. 4.

"I am an assistant Instructor in 3" Mortars in No. 3

The Witness continues his evidence:

re you certain that it was the Chevrolet truck that was Q. 5.a. By Exam. Off.

the V-B was the one closer to the building, facing Elisabeth the Chevrolet was off to the right, and it was also facing blaudhoods, that was shen the desparal was fixing the wiring

J. G. Hosegood

"Which was the longer mileage recorded, from Canadian Training School to Choshan RANGES or from CHOBHAN RANGES Exam Off.

"From Canadian Training School to UNUBLEE RANGES"

H. 1/10 By Hosegood

By direction of the Correndent, the Summery of evidence is taken on onth. Cenedian Army Coerses. COMMENT OF EVIDENCE IN THE CASE OF NO. B. S4897

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witho the telestration of the Game and a second own "How many vehicles were there with the party?"

"The which vehicle was your pack?"

" golu

5 toll al avaitod "5 al redendami drafalesa an me in "Ficones gainiary naihanath da noldlacq quoy at Jadk"

The witness continues his evidence:

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BRINTEM . JAI

"Later on in the alternoon I saw a truck leaving the truck spark, and it was not very long alternards that I again spark, and it was not very long alternards that I again saw a truck leave. After the precises were finished, we such setting the the period of the content of the the the truck same told that I was to drive the vorse to be trucks were, and told that I was to drive the pord V-8 home, at that the Chart and the Collection to the front bummer of the drawing account to the sensition of the war up there. I seemed to be quite whrea lastice he was to there. I the truck I was to drive, and the collection took the anti-section of the analyse of the truck I was to drive, and seemed the same route inome. Then the truck is allege from the such the speciments. The truck is alleged from the struck is alleged on the struck is alleged on the struck is alleged on the struck is alleged.

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"can and aminous of loodes galafary aslbanas move"

Summary of Evidence....B.84397 Ptc.(A/U/Cpl) RUSSELL, L.W. Page....2. No. P. 22238 C.S.R. (W.O. II) SCHMITZ, J.R. (P.P.C.E.T.) posted to Denadish Training School, a Soldier of the Canadish Army Overseas, having been duly sworn, states as follows;-

follows;
On 16 Jun 42, at 1320 hours, I was informed by Sgt.
HOSEGOOD that one of the trucks and the two drivers,
Cpl. RUSSILL and Pte. Will were missing. I was told
by Captain McINTYKE to place the two drivers under open
arrest when the truck came back. The truck came back,
but before I couldnover to it, it was gone again. When
it came back the third time, I was notified by Captain
McINTYRE that it was pulling in, so I immediately went
over and placed Cpl. RUSSILL and Pte. Hill under open
arrest. I then went back to the firing point, carried
on and finished our firing for the day, and Captain
McINTYRE and I walked back to the trucks. The two drivers
had the top of the hood off and were fixing the wires.
Captain McINTYRE asked Cpl. RUSSILL what was wrong. Cpl.
RUSSILL informed us that the truck was out of commission
and would have to be towed home. We asked again what was
wrong and were just told that something was wrong and that
they would have to be towed. Captain McINTYRE and I wrong and were just told that something was wrong and that they would have to be towad. Captain MolkTYRE and I moved around to the side of the truck and looked in at the panel board, and found that there was no key in the switch. Gaptain MolkTYRE then asked the drivers if the truck would not work better with the key in the switch. They said nothing. Captain MolkTYRE asked me for the key, which he had given to me previously, after having taken it out of the truck earlier in the afternoon. Captain MolkTYRE then told the drivers to connect the wires up the way they had them. Captain MolkTYRE got into the truck and started it. He then informed the drivers that they would not drive their trucks home. He then asked Cpi. RUSSELL for his work ticket, and after some hesitation, Cpl. RUSSELL gave it to Captain WolkTYRE. Captain MolkTYRE sent Cpi. RUSSELL around to the back of the truck, and Captain MolkTYRE, Captain MolkTYRE sent Cpi. RUSSELL drove the truck around to the firing point, and then drove it back to Canadian Training School. Cpi. RUSSELL was in no condition to drive the truck owing to previous indulgence in alcohol.

"I was beside Cpl. Husball by the truck,"

By Exam, Off.

"No."

C3M Selm

Exam. Off.

6.

2nd. WITHESS

Prosecution.

"What do you mean by thesitation! in your statement?"

"I mean that there was a matter of three or four minutes before the work ticket was handed over"

The accused Seclines to Further cross examine this witness.

Summary of Evidence....B.04897 Pts(A/U/Cpl) RUSSELL, L.W. Page.....

2nd. WITNESS For the Prosecution.

Q. 8a. "Was Cpl. RUSSELL drunk?"

By Exam. Off.

"Thats a pretty hard question to answer."

Q. 8b. "Would you have felt safe with opl. RUSSELL driving

By Exam. Off. you in the condition in which he was?"

What knowing him previously, I would say no."

9. Bc. "You have stated previously that Cpl. RUBSELD was in no

gence in alcohol. Do you mean by that, that he was incapable of performing his duty owing to previous indulgence in alcohol?"

A. Bc. "In my opinion, yes."

2. 22220 U.M. SOMMENTA, J. M.

The accused declines to further cross examine this witness.

Evidence.... H.84897 Pte. (A/U/CP1) RUSSELL, L.W. ord. WITNESS Captain E. McIRTYRE (R.C.R.) posted to Canadian Training School, an Officer of the Canadian Army Overseas, having been duly sworn, states as follows; School, an Officer of the Canadian Army Overseas, having been duly sworn, states as follows;

"I was the Officer in charge of a party at Chobham Ramons on 16 Jun 42. The party left Havannah Berracks at approximately OBSO hours and proceeded to Chobham Ramons.

After unloading the vehicles, they were parked behind a reported to me that the two truck drivers, one of whom was the ranges. At approximately 1530 hours Sgt. MOSEGOOD that they were missing. Later I noticed one of our that they were missing. Later I noticed one of our that they were missing. Later I noticed one of our that they were missing. Later I noticed one of our that they were missing. Later I noticed one of our than only one truck parked in the parking lot. I them return, but did see the same trucks pull out sgain, but did see the same truck pull out again, arrest, I went over to the vehicles to find only returned arrest, I went over to the vehicles to find only returned standing on the bumper and altering the electric skitch he had left it in the truck, as he did not have the key.

Alven it to C.S.E. Schaltz, as he did not have the key.

Given it to C.S.E. Schaltz, and red removed it and had back of the truck, and made other arrangements for the when you first investigated the space of the two drivers, when you first investigated the space of the two drivers, "When you first investigated the absence of the two drivers, how many trucks were there in the parking lots" By Exam. Off. A. 9 "I did not so over to the truck park at that time" "When you investigated the second time, and found one truck in the lot and one missing, can you state which truck was in the letter Exam. Off. A. 10. "Truck CL-4217868, a Ford V-8 was missing, and CPL. RUSSILL'S swn truck CL-4203821 was there." 11. "Was it at that time that you found and removed the key?" "I take it then, that when you said you saw the same truck leaving the second time, that the above answer was why you knew it was the same truck, namely the Ford V-6?" Exam, Off. A. 13 "In your opinion, was opi, Russian dranks" "In my opinion he was unfit to drive the vehicle owing to previous intulgence in alcoholic liquor," accused declines to further cross examine this mitness. vid you actually see me driving the truck?"

The accused declines to further cross exemine this witness.

"Yes"

Summary of Evidence....8.84897 Pte. (A/U/Cpl) RUSSELL, L.W. Page.....3.

3rd. WITNESS Por the Prosecution.

Captain D. Nollith (R.C.R.) posted to Canadian Training School, an Officer of the Canadian Army Overseas, having been duly sworm, states as follows:

"I was the Efficer in charge of a party at CHOBHAM RANDED on 16 Jun 42. The party left Heraman Berracks at approximately OSJO hours and proceeded to CHOBHAM RANDES.

After unloading the vehicles, they were parked behind a tin shed out of view from the position where we were on the ranges. At approximately 1530 hours Sgt. HOSEGOUD reported to me that the two truck drivers, one of whom was Opl. HOSSELL, had disappeared. I investigated and found that they were missing. Later I noticed one of our trucks being driven off, and went around to investigate to find only one truck parked in the parking let. I then gave instructions to USJE. SUBJECT to place the two drivers under arrest on their return. I did not see them return, but did see the same truck pull out again, and being driven by Opl. RUSSELL. When they returned the third time, USJE. SUBJECT placed them under open arrest. I went over to the vehicles to find Opl. RUSSELL standing on the bumper and altering the electric switch wires on his own vehicle, as he did not have the key.

He stated that he had lost it from his pocket, when actually, he had left it in the truck, and I had removed it and had given it to U.S.E. SUBJECT. I then noticed that Opl. RUSSELL was under the influence of liquor, and ordered him into the back of the truck, and made other arrangements for the truck to be driven home."

Q. 9 "When you first investigated the absence of the two drivers, By Exam. Off. how many brucks were there in the parking lot?"

A. 9 "I did not go over to the truck park at that time"

G. 10

"When you investigated the second time, and found one by Exam. off. truck in the lot and one dissing, can you state which truck was in the lot?"

A. 10. "Truck CL-4217965, a Ford V-8 was missing, and Opl. RUSSELL'S own truck CL-4203821 was there."

By Exam. Off.
A. 11. "Was it at that time that you found and removed the key?"

"Yes."

3. 12. "I take it then, that when you said you saw the same By Exam. Off. truck leaving the second time, that the above answer was why you knew it was the same truck, namely the Ford V-89

. 12 "Yes."

The Witness continues his evidence;

"On shecking the work ticket of vehicle CL-4217955, which I now recognize, it appears that the vehicle had been driver approximately five miles without authority. The mileage out in the morning was 4596, and the mileage on leaving thousand manufa was 4631, showing twenty five miles, whereas the return trip home, over exactly the same road, under similar conditions, only showed a mileage of exactly twenty miles, being 4641."

(b.MoIntyre) Captain, R.C.R.

"Did you notually see me driving the truck?"

"Yes"

By accused.

The accused doclines to further cross execine this witness.

Summary of Evidence.... 8.84897 Pte. (A/U/Gpl) RUSSELL, L.W. Pagareret. "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 declines to give evidence. The accused called No. 8 89266, Pte. Hilb, S.J. (R.C.a.S.C.) as lst. witness for the defence. No. B. 89266 Pte, BLL, B.J. (R.C.A.S.C.) attached to Canadian Training School, a Soldier of the Canadian Apmy Overseas, having been duly sworn, states as follows;lat. WITNESS By accused. "The steering was very stiff in the Pord V-8, and we took it out to see if we could loosen up the stiffness." "Did I do any work on the steering gear when we were out?" By accused. "I remember we were working around the truck." orr. "Not that I remember." Exem. Off. "I am not sure." orr. "Did you drive the truck yourself when it was out?" Q. 20 By Exam. 021. "No." "Where did you go with the truck?" orr. "We just went down the road a ways, I am not sure as to the distance." "You stated that you stopped and did some work on the truck. Did you stop for any other purpose?" Excus. orr. "Did you have a drink while you were out with the truck?" Exam. Off. "No." "Can you remember Cpl. RUSDELL having a drink while you were out with the truck?" By Exam. Off. "I cannot remember,"

Summary of Evidence....B.84897 Ptc.(A/U/Cpl) RUSSELL, L.W. Page 8 .

lst. WITNESS For the Defence (Cont'd)

. , " ...

"Did you at any time during the day of 16 Jun 42 have a drink of alcoholic liquor?" 9. 25 By Exam. Off.

"Do you know if Cpl. RUSSELL had a drink of alcoholic liquor at that time?" A. 25 Q. 26 By Exam. Off.

""Did you bring the liquor with you, or did you get it A. 26 Q. 27 By Exam, Off.

"We got it during the day."

"When and where did you get it?" Q. 38 By Exam. Off. "I do not remember the name of the Pub,"

A. 28 "Had you driven to the Pub, or did you walk?"

Q. 29 By Exam. Off.

"We walked." A. 29

"Was it afterwards that the truck was taken out?" By Exam. Off. "Afterwards,"

A. 30 "What drink did you have?"

Q. 51 By Exam. Off. "I was drinking beer and whisky," A. 31

"Can you remember what Cpl. HUSSELL was drinking?" By Exam, Off. A. 32

"I think he was drinking beer,"

B. 89266 Pte. Hill, S.J.

a stanographe I certify that the foregoing Summary of Evidence on the consisting of five pages was taken down by the presence of the accused and that Rules of Protection of the presence of the accused and that Rules of Protection of the presence of the accused and that Rules of Protection of the presence of the accused and that Rules of Protection of the presence of the accused and that Rules of Protection of the presence of the accused and that Rules of Protection of the presence of the accused and that Rules of Protection of the presence of the accused and that Rules of Protection of the presence of the accused and that Rules of Protection of the presence of the accused and that Rules of Protection of the accused and the accused accused and the accused accused and the accused and the accused accused accused and the accused accused accused and the accused prosen with.

Bordon,

Hents., 17 Wun 42.

(W.A.Murray) Mout. (V.R.D)

Wot Murray

Att miny lugion

Army Form B296.

Statement as to Character and Particulars of Service of Accused.

B.84897, Pte. (A/U/Cpl.) Russell, L. Wofthe Royal Canadian Army Service Corps, Posted to Canadian Trng. School

	Fosted to Canadian Trng.
	 The following is a fair and true summary of the entries in the gimental and Squadron, Battery or Company Conduct sheets† of the used, exclusive of convictions by a court martial or a civil court, of amary awards under Section 47 of the Army Act, and of cases in which I has been dispensed with:—
*The numbers, herein	
stated should correspond with the num- ber of Earlies in the Conduct sheets, pro- minence being given, to the most serious offence in each entry, and in our recognised	*Within last *Since 12 months. Enlistment.
special sets of gallan- by or destinguished, conduct.	For Failing to comply with Carr-limes 1 times.
Instruction — If the disting in his dramation room the entries for dramations and the stated apparatuly and	For I L times times
	For times times.
	Fortimestimes
	Number of instances of gallantry or distinguished conduct. NIL
	XX
	There are no entries in the Conduct sheets of the accused.

2. The accused has not been previously convicted.

XX.

ABEL SANDERS SELECTION OF VALIDERS SELECTION RESIDENCE SANDERS SELECTION OF SELECTI

3. The accused is not under sentence at the present time,		et e
× 20024		remitted.
S C C C C C C C C C C C C C C C C C C C		
Khox neorised at the spresent time as another sentences for other accommon to the spresent at the spread		
d d		8 9
4. The accused has been in confinement, awaiting trial on the present charges		the and the second seco
or No days in Civil Custody,	7	of the
and , o	THE SET	of the state of th
Total /5 days. 質	100	disp
Ot which No days were spent in hospital.	2	the the transfer of the transf
5. The present age of the accused according to his attestation paper	- 18	2 5
6 The date of his attention specified in his attentation paper	agtions and	5 0
AREASANDOSTEVARAMASANDANANDANDANDANDANDANDANDANDANDANDANDAN	ith.	Tuni
XXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXX	of the	-
**************************************	spense of	ct of which
9. The accused is entitled to reckon 1 yrs. YKKK service for the purpose of determining his pension, &c.	een dis	with, with,
10. The accused is in possession of, or entitled to, no military decoration or	s be	to bear of
The state of the s	H S	davicte I I
minutary reward (w. and report of the control of th	Trial Trial	the saw
XEDIXALIGATED REPORT AN ALABORED AND ADDRESS AND ADDRE	which	odn.
XXXXXX DIAGA AASU DAGA		Charges
XXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXX	1	
XXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXX	100	
13. The accused has served as a non-commissioned officer continuously.	1	
13. The accused has served as a non-commission without reduction, to the present date,	100	Trial, d. Tria
Date of Promotion.	N 64	The second secon
In the rank of A/cpl (unpeid) 7/12 years. 16th November 1941	ns l	nary na or
in the rank of A/CDI (dispose)	Nar Nar	de d
In the rank of	and	Date or Order
In the rank of	of Convic Rank and	
(INSTRUCTION.—If any matter 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 signed by the	Schedule , Number,	in the state of th
has been dispensed with is read, market	S	Section of the sectio
president, and annexed to the proceedings.	S	le. fe

Description of Court by which tried, or status of Officer sposing of the charge or dispensing with Trial	Date and place of Trial. or summary award or of Order dispensing with Trial.	Charges upon which convicted, or in respect of which Trial was dispensed with.	Sentence of the Court or Authority disposing of the charge, Order of the Dispensing Authority.	Punishment remitted
I HEREBY CER	TIEV that the foresting 5 to			
I HEREBY CER	TIFY that the foregoing Sched	tule of convictions and dispensations with trial is a true ex-	tract from the regimental books in my	custody.

CANADIAN
TRAINING SCHOOL

-	No. Date of last of Company Co	Name entry in	RUSSE	ILL, I	Corps fo. and date f last drunk f last drunk f last drunk	CA (A) Date of enlistment Sheet No.	Signature O.	Serv Prof	ice or iciency Pay	M.F.M. 6 (A.F.M. 122) 175M—7-11 (1225-20) H.Q. 1712-30-1882
	Place	Date of offence	Rank	Carea nt drunken ness	OFTENCE	Names of Witnesses	Company, et	Date of award or of uniter diagen-	Characte	
	Control of the Control		amenda i hada ta		No entries 5/3/41			sing with trial	By whom awarded	Homoria
					TOS RCASC/TC AS ATTACHED	eff. 6-3-43	DO pt 11	# 57 d.	6_3_41	
					80Son ceasing to be attached on Attachment to General Holdin					
		24-3-	42 _{0pl}		AA Secil Failing to comply with Gerrison Orders in that he did wear his respirator during	not	TOTAL STREET, THE			
	Re	Boantmater	Documentary	Reprimended	27 mar	42 Lt Gol	C.W.Devay			
		lag mana	(HOUSE)	Proposition,					Parside	

PRECEDENT.

To :- O.C., Canadian Training School

With reference to my pending trial by Field-General Court-Martial.

I wish that an officer be assigned to act as defending officer. (If Lieut. W.A. Dalrymple, Essex Scottish Regiment is available, I wish that he may be assigned for this purpose.)

B.84897 Pts. (A/J/Cpl) Russell, L.W. R.C.A.S.C. - C.T.S.

Brig. Cormanding,

H.Q., "F" Group

The above officer is recommended as defending officer in this case.

(C.W. Davey) Clonel, Ld. S.H.,

Cormandant, Canadian Training School.

5'K - 15'0.

Mr. Russel, L. W.

RECORDED AT CIMHO IN AB 168 516-150. FIELD GENERAL COURT-MARTIAL of the Order of Brig J.C. Jefferson Cond 10 CIB dated 15 Apr 45 ACCUSED. (As to the trial of two or more charged jointly see RF IA. 71, 109. As to reasons for showing (a) permanent or confirmed k, and (b) apport, Alrank or Alapport, if any, see AA 182, 183, 7ns, KR Can 308, 328, 330.) (a) Print R. (b) Appint, A/R or A/Appint. Full Christian Names. ERTIFIED PROCEEDINGS REVIEWED proceedings received AR Miguelan all Kose Cuit REVENUES OF TRIAL Colon Sulter DAG BRANCH C.M.H.Q. 18 Ppr 45 HEL 2 Held in the Fd in (country) Germany RECORD FORM A-OPENING PROCEEDINGS AND ARRAIGNMENT. The President, Members, waiting Member, JA, if any, and Offrs under instr, if any, assemble, and the A2. The President initials and lays before the Court the Convening Order and Charge Shoot (6) attached therein (4) of the Court is satisfied that it is properly convened and constituted (7), accused is (2007 amenable to military law, and accept charge discloses an offence (8) A3. The Court is opened. The accused is Kart brought before the Court. At 1940 hours trial commences.

A4. The Prosecutor produces a Medical Certificate that accused is Kart brought before the Court. At 1940 hours trial commences.

The Prosecutor produces a Medical Certificate that accused is Kart brought before the Court. At 1940 hours trial commences. CHO TRUST AND THE STREET OF TH The Interpreter is sworn (1) Do you object toll, 11436 S/Sgt PW Ellis Arthand writer (Ans NO AS).
The shorthand writer is sworn (1) (1. RF 72. Delete, if none employed.) A6. The Convening Order and names of the President and Members of the Court are read to the accused, by President to accused: Do you object to be tried by me as President or by any of the Members of the Court i (I. RF (IG. 2. If no objection, working member retires. RF 65(5). If objection, see procedure AS 51, RF 25, 71, 18, MANL p 742.) L & W Regt Member LT. W.W. SOLKIN CAPT 4 Cdn Armd Div Questions by President: Is the Prosecutor a lawyer ! Ans Zes " (i) BP 25, 27, 109, 111. List of offer under jets will be returned separately with proceedings for information of Conv. Offer a Co. of Prox a lawyer and Def Offer not, account is excited to an adjournment when AP 80 (6) and for 2 were not followed. See Di p 2,0 (I) If a special place is made for separate trief on one or more charges (RF 6.1(E), 100), or as to the jurisdiction of the Court.

(RF 34, 13(A), 11(I), or in box of trief (RF 36), or as to accused a mental fitness to some trief (AA 130, RF 37), or one of several accused charged jointly to be tried separately (RF 14, 71), buth plac, the addresses mode in support or against, the evidence. If any, and finding our recorded per Notes. For furnis of record sex references in fine to 83P cited. Insert in AB rank. A9. The accused is XXX arraigned Corporatory on all charges in the charge sheet. (1) The accused does XXX not object to any charge. (2) There is no amendment to be made to the Charge Sheet. (2) The President records the pleas in Part I of the Schedule. (I. RP 3), 112. See pare 1 of lastrs p.2. When more than one Charge Sheet see RP 62: when several accused to be tried does appropriate record per house.)

When more than one Charge Sheet see RP 62: when several accused to be tried does not seen that seems are charge seen as the second per value. A10. The Court is closed and considers the Instra on Procedure after Arraignment at top of p 2. The pro-

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

ceedings are continued on Record Form D

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 airly from Convening Offr. If Convening Offr convers, Court may accept plea of Guilty to lesser, ste, affence (RP 44(R).) 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 plended 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 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 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, 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 RP 35(B) by explaining to the accused the nature and bearing 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), call witnesses as to character and make an address in mitigation of punishment.(2) (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).(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(2), or which show provocation or extenuation in respect of which in your interest the witnesses for the Prosecution should be examined(2), 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? Ans (1. RP 37(E). 2. RP 37(D) fn 6. 3. RP 35(B) fn 5 para 3, MAIL 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.(4) 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 Sefiedule. (). 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 Summary, or if it is inadequate, comply with RP 37(8). If there is any evidence inconsistent with any plea stanging as Guilty, Court will odvite occure to change such piec and, if changed to Not Guilty, try such charge(s) by use of gotton D1 to D8 inclusive of Recard form D on p 1. RP 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
- C2. The charges on which accused pleaded GUILTY are read to him (them) again, and the trial is continued
- by using parties B1 to B5 of Record Form B above (1)

 (1. Under B5 such parts only of the Summers of Evidence are read as relate to the charges dealt with under C2. If any plea is changed to Not Guilty, tried thereon proceeds by complying with pares D1 to D8 inclusive in Record Form D on p 3 and making on oppropriate 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 here Legal Sheets of Becord.

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

 - D2. The Prosecutor makes (ab.) (no) opening address.(1)
 (1. RP 39(b), 60(A) (B), 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, KR Com 555. Record evidence per Notes. As to Prosecutor giving evidence himself see RP 39(D) (E).)
- D4. The Prosecution is closed.(1) The ANNALING ORD Submits that the Andales for the Prosecution does not charge(s).(4) The Panet
- Later of the second of the sec
 - Los dissipations (11). Delete remainder of this para, if submission not made.

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

 3. RP 40 fn 1. See MML p.72 bares [2-14 and p.81 para 42.

 4. Delete part not used. If accused sequitted on all charges, use second alternative in para 06.

 N8: If trial procedul, accused must be allowed great latitude in making his defence, and the Court should not stop his defence solely an ground of 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 You may call witnesses in your defence and as to character, whether you give evidence or make a statement or do

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

Do you intend to call wignesses on your behalf f no get Do you intend to call yithesees on your behalf !

(I. RP 115. 2. RP 40(A), see 80(D). 3. RP 40 fn 10. 4. RP 40 fns 2, 9.) Ans

- General Touristics of the procedure see Notes on book of Convening Order, CF ASS. Evidence for occused as to character should, if in his Interest, be given before the finding. See RF 46(A) In I. Bol CI., Nate the further apportunity in pero of Record Form E. Record per Notes addresses, statement, evidence and any summing up by the JA under 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 (I. RP 43, 117(A). See Notes in Fart Lof Schedule. 2. RP 44(A).)
- D8. The President announces the finding(s), flany, of Not Guilty, and states to the accused that the finding(s) of the Court on the first & fourth & charge(s), being subject to confirmation, will be promulgated later (*)
- The President amounts that the acceptation found backwilling on albeitance and respekt where if attimate, ... and that Michaeledings are associately terminated: Fark Let the Nelectube to disordered separately;
 (i. As 54(3), (b), RP 45, 120(4), 2. As 54(3), RP 45, 117. This attenuate announcement is not applicable when (1. AA 54(3) (6), RP 45, 120(A), 2. AA 54(3), RP 45, 117. To are pleas of Guilty outstanding and dealt with under Record Form B or C.)
- D9. 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 its wall may with a set of your bhat a test (15) Ans Do you wish to call a witness as to your character Yes.

 (). If evidence has already been given by accused or his witnesses as to his character, delete this pane. AP 37(C) fo 4, 46 fo 1, Accused and witnesses are powers. Evidence recorded per Notes.)
- E2. The Prosecutor produces Statement(s) as to Character and Particulars of Service(t), and certified true copy (copies) of Conduct Sheet(s)(t), 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(s) having the same number, rank, name and corps as the accused. Admitted in evidence and
- marked Ex. A and Ex. / respectively (7)

 (1. MFB 355 or AFB 296. 2. MFM 6. 3. RP 46, KR Con 558. If above documents not produced, see RP 46 fo (
- .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. XOS. AND Control of the Notes. Court should permit account or his witnesses to prove an acts are thing here or previously stated which would offect the amount of punishment. AP 37(1) for 1,3
- 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 rt are accordingly terminated.(1)
- E5. The Court considers the sentence.(1) The President records the sentence in Part I of the Schedule, which is disted and signed by him and the JA, if any (5)

 (1) When revered occused tired apparately see RF 71 (D). One sentence only, comprised of the punishment of punishments is led down in AA 41, 44 and its presion. It is be assented to cover of therefore beech on which occused found guilty.

 RF 48, As to instructive see AB. 2, 182, RF 48-53, 89, 184, 184, RF 48, 308, 123, 532-56. Oceanism ND NY, 222,

 MAM, p 80, 787-789. As to sentences chapped for covir affences by the law of fundaments of MA 4125, MM p 103. When occused already under sentence of impressements are detention see A4 44(18), 89(1), AR 420 564.

 Canfirming Offer see RR 420 527. As to assentionly and dispassed for recar of their tries see instructs an back of Convening Order.)

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

SCHEDULE.

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

Charge.	Plea.	- Finding	
(Insert " oltamotive " where opplicable.)	(See Instrs p 2.)	(See note helow.)	(Space for use as required for further charges, occused charged jointly, special findings, etc.)
1st AA SEC 41	Hot guilty	Guilty	
2mdAt 288.49ve	Nat g 11ts	. Wat guil	ty
Sml AA sec 40	Not guilty		
4th AA sec 41	Not guilty	guilty	
5th			
6th			
(Flore) As to fir	dings for lesser offen 18-44 and MAN, p.753	ces see AA 56, RF 44 , and in loss of Alt se	; fundings no alternative charges see MML p 483 fo 4 para Z, RP 44 ; ec. RP 44 To. 6.)
(8gd) A. Al. Judge-Advo	TO BE DISC tan (april cate, if any (See back of Ca	THARGED WI	TH IGNOMINY PROM HIS MAJESTI & SERVED. (8gd) Freedom. (89 45, 505) Mag MATION RESERVED. (AA 54(5), RP 120(F), MAL p 760.)
	emerva con	firmation	of the finding and sentence for high
Darl 26 Apr 45	(Sad) \$6 74	f.usun	Commanding 10 GdH 1111 Edw
1 8	DECISION O	E CONFIRM	NG OFFR ON FINDING(S) AND SENTENCE.
not confirmed, according to the	erers see AA 54, 57, R onnot be revised : AA	P 37(D) (n 6.46(A), 1.54(3). Sending box in : AA 157, M/NL p ashing after promuly	\$1-56, 120, MAML pp 759-761, KR Can 567-577. Acquittals require on ck finding or sentence for revision by Court: AB 45(2), RP 126(3), If 64. Minute of confirmation or non-confirmation may be altered before potion: KR Can 573. Duites and powers of reviewing offs: AA 57,
y decision on th	he finding(s) and	sentence set fort	h in Part I is:
100		NFIRMED	
\$ poecococce	DOUGOOD DOC	CANGE CONTRACTOR	COUNTY TOOL OF THE COUNTY NAME OF THE PARTY AND A STATE OF THE COUNTY OF

PART IV. PROMULGATED AND EXTRACTS TAKEN. (RP 53, KX Con 576, 577.)

Accused.
B.45809 L/Cpl.
Lewrence William Russell

Date. 23 May 45 A S H of C

(H.D.G. CRERAR) GENERAL GOC in C FIRST CDN ARKY Confirming Officer. STRUCKL OFFICERIS CUPTUR CAPE (KR(Can) Para 557 and in my opinion he is fit. There to

HQ Sqn 4 Cdn Arad Div

FIELD GENERAL COURT-MARTIAL

CFASS (In lies of AFAR)

(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 Oversnot, 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 author. AA 49, 50, RP 104-107, 114. As to the duties and privileges of the Convening Offr in dealing with the application see MAML Chap Y 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), 109. As to separate charge 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 16, 107 as to reasons for shawing (a) permanent or confirmed rank, and (b) appmt, A|rank or A|appmt, If any, see AA 182, 183, fnt, KR Con 308, 328, 330.)

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

Surname.

Pto.

Lawrence William RUSSELL

A & S H of C

CONVENING ORDER.

- 1. Whereas complaint has been made to me, the undersigned, that the person(1) named above as the accused, being subject to pulltary law, has (have) committed the offence(1) set forth in the Charge Sheet(4) attached and on (date) IS MARK AS endorsed by me, (or by an offence my staff for me), "Thy be tried by Field General Court-Martial".
- 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 offr.):
 (Delete port in brockets when not required for compliance with RP 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 (a) three Offrs to form the Court, (b) a Fd Offr as President, for the reasons I have attached hereto: (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, if none appointed.)

PRESIDENT.

(Must be named. RP 106.) MEMBERS. 29 Cdn Armd Recce Regt Line & Welland R KIDD (Named or detailed. RP 106.) (Rank.) WAITING MEMBER. Alq R W.W. SOLKIN LIEUT. (Named or detailed, if any. RP 106.) (Unit.) JUDGE-ADVOCATE. (Must be named, if any. RP 106.) On Active Service in the Fd in GERMANY (Kank.) (Country.) lo Cdn Inf Bde 15 Apr 45 Commanding Date Convening Officer

CONVENING OFFR WILL INITIAL ALL DELETIONS AND ALTERATIONS

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

CHARGE SHEET

The accused No. B.45809 (L/Cpl) Pte. Lawrence William RUSSELL, Headquarters Company, 1st En The Argyll & Sutherland Highlanders of Canadian a soldier of the Canadian Army Overseas, is charged with:

First Charge Sec 41 Army Act WHEN ON ACTIVE SERVICE COMMITTING A CIVIL OFFENCE, THAT IS TO SAY, RAPE

in that he

in the field in Garmany, on 10 Apr 45, had carnal knowledge of Frau Elfreide Dahmen, without her consent.

Second Charge Sec 40 Army Act WHEN ON ACTIVE SERVICE CONDUCT TO THE PREJUDICE OF GOOD ORDER AND MILITARY DISCIPLINE

in that he,

in the field in Germany, on 10 Apr 45, did fraternize with Frau Elfreide Dahmen, a German civilian and resident of Germany, by having carnal knowledge of the said Frau Elfreide Dahmen with her consent

Third Charge Sec 40 Army Act

WHEN ON ACTIVE SERVICE CONDUCT TO THE PREJUDICE OF GOOD ORDER AND MILITARY DISCIPLINE

in that he,

in the field in Germany on the 10 Apr. 45 did fratemize with German civiliens at the house Paul Strasse 6 by drinking and wonversing.

Fourth Charge Sec 41 Army Act WHEN ON ACTIVE SERVICE COMMITTING A CIVIL OFFENCE, THAT IS TO BAY, ROBBERY WITH AGGRAVATION CONTRARY TO Sec 23(1) (a) of THE LARCENY ACT 1916.

in that ne.

in the field in Germany on 10 Apr 45 being armed with a pistol robbed Frau Elfreide Dahmen of one gold wrist watch.

In the field 14 April 45

(R.D. Mackenzie) Mefor A/Commending Officer A & S H of C

TO BE TRIED BY FIELD GENERAL COURT MARTIAL

In the field 15 Apr 45

(J.C. JEFFERSON) Brig Comd 10 Cdf Inf Bde O. If you decide to confirm the findings and sentence, you should write "confirmed" in Part III of page 4 of G2 A98, and sign the minute as GCC-in-C, First Cdn Army. This case being one of the first in Germany in which an accused is charged with rape, you may in your discretion order that the findings and sentence be promulgated on parade, so that it may act as a deterrent to other personnel in the Division.

10% After the proceedings have been dealt with by you, they should be passed to the AJAC, First Cdn Army for transmission in order that the same may be promulgated.

"T.G.Norris" (T.G.Norris) Col DJAG Cdn Sec 1 Ech - HQ 21 Army Gp

The evidence in this case may be summarized as follows: Between 1400 and 1500 hrs 10 Apr 45, Paul Stachlschmidt, the father of prau Dahmen, went to his house at 6 Paul Strasse, Meppen, Germany, where he found four Canadian soldiers, including the sacused and Pta Forek, seeted in a Camantalian the accused and Pte Kozak, seated in a downstairs room. were on a table. Also present were Stachlschmidt's wire, his eldest daughter, his granddaughter and another woman. Kozak ordered Stachlschmidt to produce schnapps and glasses, which he and his mention is made of them thereafter. Kozak made Stachlschmidt and his wife drink from both bottles which were produced. Rozak proceeded ordered Stachlschmidt to get the amunition, loaded the gun and fired his wife drink from both bothles which were produced. Rozak proceeded to search the house and in the writing-room found a shot-gun. Forak as shot into the ceiling. The accused was seated in a chair throughout. Later on Stachlischmidt's youngest daughter, Frau Dahmen entered the house. Kozak took her by the arm and ordered her to sit down, which she did when her father told her to do so. She stated that both soldiers were armed with pistols and adopted a "fighting attitude" which frightened her. The accused pointed to her wrist-watch, and she save it to him. On cross-examination, Frau Dahmen admitted that the father to him the meantless, Kozak kept walking up and down the room and if any her in a short time. She intimated to her father that nothing with offered her a chocolate bar. The accused continued to sit in the father a chocolate bar. The accused continued to sit in the table - talking to the eldest daughter who understood a little English. Rozak then ordered Stachlschmidt to get his radio from the writing-room. Rozak then ordered Stachlschmidt to get his radio from the writing-room the threw the radio on a sofa and pushed Stachlschmidt on it. At this He threw the radio on a sofa and pushed Stachlschmidt on it. At this time Herman Bornhein, a neighbour, entered the house. Kozak made Stachlschmidt remove his coat and vest and made both him and Bornheim lie down on the floor, Bornheim claimed he was robed. Kozak then went upstairs with Frau Dahmen, leaving the accused to guard those they went into a bedroom, Kozak caught he court, Frau Dahmen stated that they went into a bedroom, Kozak caught her by her jumper, ordered her intercourse with her, Frau Dahmen did not cry out or struggle. She intercourse with her, Frau Dahmen did not cry out or struggle. She conversation took place between the two, most of which Frau Dahmen did not understand but she did hear Kozak say "another two minutes". The managed to effect his escape. The accused returned to the bedroom pushed Kozak aside and had sexual intercourse with Frau Dahmen. She managed to effect his escape. The accused returned to the bedroom pushed kozak aside and had sexual intercourse with Frau Dahmen. She claimed there was penetration. The accused's pistol was on a chair. Braid the accused would shoot her. When the accused went upstairs, Stachischmidt jumped out of a window and went to get his son-in-law. Stachischmidt jumped out of a window and went to get his son-in-law. While the accused was upstairs, Lt LB Walker, 221 Det Mil Gov, accompanied by Lt GTJ Boxseau, Netherlands Army, arrived at 0 Faul Strasse. It Walker went upstairs and entered the bedroom, where he accused was clad only in vest and underpants; the woman in vest and accused was clad only in vest and underpants; the woman in vest and underneath them were a loaded posts were on the floor and underneath them were a loaded p.36 revolver, a loaded Colt revolver and belts. Frau Dahmen and the accused to meb a loaded ... Frau Dahmen and the accused proceeded to dress. When the accused was putting on his pants, Prau Dahmen's husband arrived. He and his wife conversed in German and then speaking in English he told Lt Walker his wife claimed to have been raped by the accused and the other soldier. The accused said nothing. Frau Dahmen was crying.

There is some & milict in the soldence here. Herr Dahmen stated it was not until later that evening that his wife complained he was raped, while Fran Dahmen said she told her husland when he rived in the bedreom. It walkerts evidence bears out her evidence in this respect. Lt Walker then cautioned the accused and on being asked by him if he wished to say an thing, the accused remained asked by him if he wished to say an thing, the accused remained silent. Herr Dahmen then stated that his wife alleged the accused had atolen her watch. The accused fented doing so. He was made to empty his pockets, and a watch was found in his left breast pocket. It was identified by Fran Dahmen. Hen Lt Walker was talking to Herr Dahmen, the accused ran downsteirs and out into the street. Lt walker gave chase and caught the accused about 400 yards from the walker gave chase and caught the accused about 400 yards from the walker had been drinking but neither of them were drunk. The accused gave no evidence in his own defence.

- with respect to the first charge, it is submitted that the Prosecution established the accused had carnal knowledge of Frau Dahmen and that penetration was proved. As to consent, she admits she made no physical resistance to the accused, but alleged she submitted through fear. It is considered that the action of the accused and through fear, the continued display of weapons and the fact that Kozak downstairs, the continued display of weapons and the fact that excused was armed when he entered the tedroom substantiate her evidence in that respect. There is some conflict of evidence regarding the early complaint made by Frau Dahmen, but taking her evidence and that of Lt Walker, it seems that an actual complaint was made. It is further submitted that there is ample corroboration of the complainant's story the finding of the pistols in the bedroom, the demeanour of the accused on the arrival of Lt Walker, the fact that he did not deny the accusation before he was cautioned by Lt Walker and his attempt to escape afterwards, are all corroborative matters.
- As to the fourth charge, it is my opinion that there is sufficient evidence to support the finding. Prau Dahmen handed over the wrist-watch, which was subsequently found on the accused a person, because she was in fear, caused by the presence of the accused and Kozak who were armed with pistols. Even though the accused may not have been holding the weapon at the time of receiving the watch, the weapon was in plain sight; it is a lso reasonable to believe that fear would be caused by the action of the accused and those of Kozak immediately prior to the robsery.
- 6. I must therefore advise that there are no illegalities or irregularities which would warrant widhholding confirmation of the findings and sentence.
- 7. The accused called a witness as to character, Capt W H Wills, who stated that he has known the accused since July 1940 and that his general character is very good, that he is very willing and co-operative and he always believed that the accused was an honest man.
- B. In mitigation the Defending Officer stated that the accused is 25 years of age, that he joined his unit in July 1940. He is a Lance-Corporal. He was with the unit in Jamaica and in England and that he has always been a very good soldier. He parents are living in Canada and recent trouble in his family may have interested in the a certain degree. His father is a retired medical fluenced him to a certain degree. His father is a retired medical practitioner and has recently separated from his mother. Kozak was the real leader, as the accused is the type of person who can be easily led. On the day of the incident the accused had been drinking and he is not used to the wines and spirits of the continent.

O. If you decide to confirm the findings and sentence, you should write "confirmed" in Part III of page 4 of CP A96, and sign the minute as GCC-in-C, Pirst Cun Army. This case being one of the first in Germany in which an accused is charged with rape, you may in your discretion order that the findings and sentence be promulgated on parade, so that it may act as a deterrent to other personnel in the Division.

10 after the proceedings have been dealt with by you, they should be passed to the AJAG, Pirst Cdn Army for transmission in order that the same may be promulgated.

"T.G.Morris" (T.G.Morris) Gol DJAG Cdn Sec 1 Ech - HQ 21 Army Gp

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Stachlachmidt jumped out of a window and went to get his son-in-law. While the secused was upstairs, It I' Walker, 221 Det Mil Gov, accompanied by Lt GTW Boxseau, Hetherlands Army, arrived at 6 paul Strasse. Lt Walker went upstairs and entered the bedroom, where he found the accused on the bed with Prau Dahmen underneath him. The stockings. The accused's penis was exposed and partly erect. He ordered the accused to dress. His clothes were on the floor and underneath them were a loaded p.38 revolver, a loaded Colt revolver and a loaded ..22 rifle. The revolvers were in holsters attached to web belts. Fran Dahmen and the accused proceeded to dress. When the accused was putting on his pants, Fran Danmen's husband arrived. He and his wife conversed in German and then speaking in English he told It Walker his wife claimed to have been raped by the accused and the other soldier. The accused said nothing. Frau Dahmen was crying.

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RECORDED AT CHHQ IN AB 160

Frau Elfreide Dahmen, Harst Wessel, Meppen Germany, having been duly swor. is examined by the Prosecution Witness If there is no objection I will lead the witness in some parts in view of the heur and of the previous trial?

Defence - I have no objection I will object if it goes to 0.1 A. 1 You are Frau Elfreide Dahmen, Harst Wessel, Meppen, Germany 1.2 Yes. What is your husband's name? 9.3 You are a German civilian and an inhabitant of Germany? 2.4 A . 4 On the 10th of April this year at about 3.30 in the afternoon you visited your parents at Paul Strase 6? Please tell the court who were there when you arrived and 2.6 When I entred the home I met a Canadian soldier. Was it the Canadian soldier here in court or someone else? A.6 3.7 A.7 What was his name, do you know? 9.0 Yes, Kozak. No the accused? 2.10 A.10 No. Kozak brought me by the arm and brought me in the big room. Around the table were sitting my father and mother my sister and a woman of the neighbourhood. I understand from Kozak I had to sit down on a chair.

Do you see the other Canadian soldier in court, the one What happened then? 9.11 A.11 in the corner on the chair? Yes (Identifies the accused) A.12 Yes (identifies the actual)
Go on please.
I did not want to sit down but my father told me to sit down. I was not allowed to speak. "hen someone was talking both the soldiers had a fighting attitude with the pistol, this soldier pointed to my watch and I gave him the watch.
Who was that, this accused? 9.14 A.14 Q.15 His name is Russell, try to call him that. Why did you give him the watch? I could not do anything and I like to give my watch before a A.15 they shoot me down.
Were you afraid of being shot down?
Yes I was afraid for the pistol had a fighting attitude.
Who was holding the pistol?
Poth of them. Q.16 A.16 Q.17 A.17 Q.18 Glo on please. Kozak walked the room up and down and as soon as someone moved or was talking Kozak had a fighting attitude with A.18 moved or was talking rozac into the pistol.

Just what do you mean by this fighting attitude with the pistol? I suppose this would be a threatening or menacing attitude, is that correct?

Most of the time they both had a pistol in the hand, and sometimes it was laying before them on the table.

This fighting attitude would it be a menacing manner? 9.19 4.19 Q.20 It was ferocious. A. 20 Go on from there? Kozak took my by the arm and said I would go with him, went with him to the small hall. 9.21 A.21

rosecutor This evidence that I am introducing is admissable as it bears on the question of consent. It involves the previous bears on the question of consent. It involves incident I know. Do you feel it is reasonable So far I have no objection. If so, I will make it known, he took you upstairs, tell 9.22

the story from there?

Kozak was up in my room and the door opened and Russell came in. Just tell what happened please from the time you went upstairs and A. 22 0.23

Just tell what happened please from the time you went upstairs as Russell came in?
I cannot tell other than what I said before.
Explain to her interpreter that this is a deparate trial and it is just as if nothing had been said in the other case, and as if the other case had not been before the court.
The witnesses breaks down and the presecutor requests that the A.23 Q.24

A.24 be allowed to stand down while other witnesses are heard,

THE COURT ALLOWS THIS WITNESS TO STAND DOWN

Georg Dahmen, Harst Wessel, Meppen, Germany having been duly sworn is examined by the Prosecutor:

9.25

Yes, that is correct. I understand you are a manufacturer? A. 25

I am a merchant now with my father.
On the afternoon of loth April, this year I understand you were called by your sister in law to your father in law's home at Paul Strasse 6? Q.26 A.26 2.27

Yes.
Will you tell the court what you saw on arrival there?
I came in and met Herr Bornheim at the front door, and
asked where my wife was, he told me she was upstairs, so I went
up and saw Lt Walker in the room of my wife, and her she was
sitting before her bed. I asked her what had happened and she only
cried, she could not tell me anything. Looking around in the toom
I saw this one (points to the accused)
What was his state of drass?

What was his state of dress? He had his trousers in his hand and was putting them on and 9.29 A. 29

was standing on one leg. What was the state of dress of your wife?

Q.30 A.30 Q.31 A.31 She was dressed without shoes. Did you have any conversation with her? No, I could not it was impossible.

EXAMINED BY THE DEFENCE CROSS

In your mind was the accused drunk at this time?

Q.32 A.32

No not this one, as I told you before.

Prosecutor - Forget about the old trial this is a new one. because he was strnding on one leg and Q.33 A.33 Prosecutor - forget about the was strading on a res, I am sorry, because he was strading on a putting on his trousers. Did you notice if he had a gun or was armed? I could not notice that,

You say you received no answer from your wife? When you asked her what was wrong she was not lucid at the moment? 9.35 Yes, sir. A.35

2.36

She was crying and I asked her what happened and she said I cannot tell you, it was awful, awful.

- Do you think the wife is sufficiently recovered to tell us

- Do you think the wife is sufficiently recovered to tell us now, or do you think it would be b tter if the husband stayed in now that his evidence has been taken.

PROS - I had that in mind myself.

COURT - On further thought there may be the odd incrimminating statement or question, if we could get her to tell it on her own let us try it without. What do you think Mr. Dahmen?

Witness- Yes I think so, I don't know exactly what happened.

IN THE OPINION OF THE COUBT AND THE JUDGE ADVOCATE IT IS NOT NECESSARY TO COMPLY WITH THE PROVISIONS OF R.P. 83 (B)

WITNESS WITHDRAWS

FIRST WITNESS FOR THE PROSECUTION FRAU ELFREIDE DAHMEN IS RECALLED

This witness is already sworn, just start at the point please where you were in this room with Kozak and then when the accused first appeared first appeared, please start

When Kozak upstairs was with me then the door opened and Russell came in. He was talking with the other person and I did not understand him, I only heard Kozak say "another two minutes", Russell went downstairs, I could hear that and after two minutes he entered the room again and started to undress himself, pushed away Kozak and did the same

with me. What did he do literally?

He raped me.

Did he actually put his organ inside your body?

Q.38 A.38 Q.39 A.39 Yes. 1.40 Did you fight or make a noise, or scream?

No.

0.41

Why did you not? I was scared if I did fight he would shoot me. He had a pistol but it was not on his body. A.41 9.42

Where was it?

The pistol was on a chair. What happened after that? A. 43 2.44

A. 44

When happened after that?
After that I got up and dressed myself.
When. "id anyone else come to the room?
When I started to dress myself, I was sitting on the bed, the door opened and an officer came in, I forget that came in another time before the officer entrered the room.
What did Kozak do? 4.45

9.46

A.46

What did Kozak do?

He entered the room when I was dressing and pointed out with gestures I was to undress myself again.

Did he go out of the room or did he stay in the room?

He remained in the room and I was sitting on the bed and Kozak was standing before me and then the door opened and the officer came in and he came right up to Russell. 2.47 A. 47

9.48 What did Kozak do?

Kozek must have left the toom. I don't know exactl happened I only know the officer entered the room. Did anyone come upstairs with the officer? I think there was another one, he wore a black hat. I don't know exactly what

A.49

9.50

Yes. I heard my husband downstairs and I called to him and he came.

Pid you tell anyone at that time what had happened? Yes, my husband.
What did you say, what were your words, do you remember?
I told him the whole story, and told him that this man had 4.51 A.51 Q.52 A.52 raped me.
Did you tell him this at that time in the house?
No. I told him that night.
What did you say to your husband then and there in the room?
My husband entered the room and he was pretty nervous and
he asked if they did something to me and I said yes. Q.53 A.53 Q.54 "hen Russell pointed to your watch did he have his pistol in Then you were in the room previous to this time was he pointing his pistel sround or was it always on his side, as soon as someone was talking or made a movement he drew his pistel. 8.56 have it pointed a Q.57 A.57 Q.58 After you were in the room with Kozak and Russell came in and Kozak left you did you make any movement to get up? How do you mean movement Pid you start to get up and dress or anything like that? A.58 Q.59 A.59 No, I did not.
Just what did you do.
I do not understand.
Then Kozak left you was Russell at the immediate beside? 2.60 A. 60 Q.61 A.61 Yes at once. Did he make any attempt to hold you down? 9.62 I was not yet allowed to get up. Did you try to get up? A.62 I don't know anymore, I was only scared, Did you start to cry anytise? I was swfully nervous and scared and I did not know that Q.63 A.63 Q.64 A.64 Did Russell appear to be drunk or very drunk? He had drinks in the room downstairs. Did he seem drunk in the room upstairs with you? 9.65 He was not drunk in the room upstairs with you?

At the summary of evidence her statement is "I hated the second soldier" A. 65 I think that is a mistake in the copying in the summary, that is a copy the defence has.

The summary in the hends of the cort is checked and reads"I noticed the second soldier was drunk and I pushed him away" in the summary of evidence the statement is made, the second soldier was drunk and I pushed him away, why did you make that 9.67 I did think about it later on if he was really drunk but he could statement then? be tired.
Your statement at this trial is that he was not drunk, the
Your you made at the summary is incorrect?
One you made at the summary is incorrect?
I cannot tell I con't know the difference between drunk and under
the influence, I only know if someone is fairly drunk.
What would you say the accused was at this time?
What would you say the accused was at this time?
I could tell you one person candrink five glasses and other ones
Ten drink more. 0.68 A. 68 9.69 A. 69 can drink more. QUESTIONED BY THE COURT Will you tell briefly what happened when you came in the room in the first place? 0.70 I entered the room. A.70

No, way did you go up to the room in the first place? I went up to my room for in my room were two chairs, it was I went up to my room for in my room were two chairs, it was a living room and bedroom at the same time.

Why did you go upstairs at all?

I had to go because he grabbed me by the arm?

Did you see the accused, can you tell us briefly what you saw of the accused only downstairs, what was he doing?

Most he was sitting in a chair and Kozak was speaking, he appeared to be the person who had to say most.

What was the accused doing? 0.73 A.73 What was the accused doing? 2.74 The accused only did what Kozak said and he watched us when 4.74 we were moving or standing up Will you clear that up, did he just watch you or something else? As soon as somebody was moving in the room he drew his pistol A.75 and pointed it out to several people in the room.
When you left the downstairs where was your father in the room?
When I left the first time or the second time? 2.76 4.76 4.77 4.77 9.78 4.78 9.79 The second time? My father was lying on the floor. my father was lying on the floor.

And Mr Bornheim, where was he?

Mr Bornheim was lying beside my father in the same attitude.

Under what circumstances did they come to be in that attitude?

Kozak came into the room from the writing room, he was carrying a readio set, he threw the radio set on the sofa and

pushed my father on it. 0.80 A.80 There was Russell? Where was kusselly
fie was sitting on a chair in the corner.
Did he have his pistol in his hand or in his hister at the time?
I cannot tell you that exactly, but I think it was on the
table in front of him.
Continue from there, from where you left off, Kozak forced your
father on the sofs? A.81 9.82 Rather on the solar Kozak got my father and put him on his legs and showed him he had to undress his waistcoat and jacket. How did he get on the floor? A. 82 He took away my father's stuff, he was saying in English to my father and he did not understand, to lay on the floor, and he showed him. Your father did lay on the floor? 1.84 Yes. You say you went upstairs because he took you by the arm, who do you mean by he? 0.85 Kozak. He took you upstairs into what room?
He went to the room of my parents and I went straight to my
own room and he followed in behind me.
Why did you go upstairs with him? he grabbed me, I could not leave the house, so I had to go upstairs with him.
Why could you not leave the house?
I was afraid I would be shot if I tried to do anything like A. 87 Q.88 A.88 9.89 Did you believe your would be shot if you ran away? Yes I believe that I would. A.89 9.90 YEN Now you went upstairs and Kozak followed you into your room? A. 90 Yes, What did he do then? A.91 Would you explain to the witness the only reason she is being questioned again on this is to make the story come out in the proper order in the record. Tell us briefly what happened when you came into the room with 9.92 A.92 I was sitting on the chair and he was standing in front of me and after a while he pointed out to the bed.

'not want to do that and I told him to let me sit in my own chair. Then he pointed to the bed and ordered me that I would lay down on the bed. Then I sat down on the hed and he said to me I should undress myself. I did not want to do that and he caught me by the jumper and I was scared if I did fight I would be shot down. After that I undressed myself and after thet he raped me. rou have said that Russell came into the room and Kozak said another two minutes, is that right? Q.93 A. 93 Yes At that time was Kozak having sexual intercourse with you 9.94 or had he finished? No, he had not finished. You said Russell came back into the room a few minutes later? 1.94 Q.95 A.95 Q.96 A.96 Q.97 Yes. Where was Kozak when he came into the room? He was always with me. Where in the room was he when Russell came in the second time, on the bed or standing up by the bed. A.97 In the bed. When Kozak finished this sexaual intercourse, Russell was 9.98 Yes. Meanwhile he undressed himself. Bussell undressed himself while Kozak was still having --9.99 A. 99. "hen Kozak completed the act he left the room? Q.100 A.100 Ves. Did Russell then come into the bed with you? 2.101 A.101 Yes at once. Did you see whether or not Russell had a pistol when he came into the room? 0.102 Yes he had a pistol in his belt. Did he have it out at any time in there? A. 102 Q.103 A.103 No, he did not. Why did you not fight Russell to prevent him having intercourse with you? Q.104 I could not do it because I cannot fight against a man A.104 and I had to think that he would shoot me down. Did he threaten you with a pistol at any time? 1.105 A.105 No he did not. IN THE OPINION OF THE COURT AND THE JUDGE ADVOCATE IT IS NOT NECESSARY TO COMPDY WITH PROVISIONS OF R.P. 83 (B) WITNESS WITHDRAWS Paul Stachlschmidt, Paul Strasse 6, Meppen, Germany, having been duly sworn is examined by the Prosecution IRD WITNESS or the Your name is Paul Stahlschmidt, of Paul Strasse 6, in Meppen, 0.106 Germany?

Paul Stachlschmidt, Paul Strasse 0, meppen, Germany? Q.106 Your name is Paul Stahlschmidt, of Paul Strasse 6, in Meppen, Germany? A.106 Yes. Q.107 You are a german civilian and an inhabitant of Germany? A.107 Yes Q.108 You are the father of the woman Frau Elfreide Dahmen? A.108 Yes Q.109 On the 10th of April this year were you in your home in Meppen, Germany? A.109 Yes. Q.110 What time did you go to your home? A.109 Yes. Q.110 What time did you go to your home? A.110 It was between two and three c'clock in the afternoon.

7

Who did you find there when you got there? In the house were four Canadian soldiers. 9.111 A.111 Q.112 Look around the court and see if you recognize anyone that was there? Yes (Identified the accused) A.112 Just tell us what was going on? When I entered the room the four soldiers were sitting Q.113 A.113 When I entered the room the four soldiers were sitting on chairs and there were two bottles on the table, one of the soldiers, he was in here this morning, ordered a couple of glasses, I fetched down the galsses and the one who was in here this morning ordered schnappes. I did not want to get it, but my older daughter fetched two bottles with some schnappes. He ordered me to fetch down another two glasses, poured out of the bottle and ordered my wife and me to drink, then after that he took the second bottle and we had to drink again. After that he started to open my writing desk, and then he searched it. Meanwhile, he discovered in my writing room my shot gum which was ready to turn in, and then he came to the room with the small rifle and ordered me to get the ammunition and then he loaded the rifle and fired a shot into the ceiling. What then? When someone was talking he shouted at them. Then my youngest daughter entered the room and the one who was here this morning pushed her into the room and made her sit down it a chair, and then after a while he took out of the room my youngest daughter.

What is her name? Elfreide Dahmen. He then returned with her to the room and he did not appear to do something to my daughter and my daughter toid a he is not so bad. Then he had a talk with my granddaughter he took her beside him and a talk with my granddaughter he took her beside him and a talk with my granddaughter he took her beside him and a talk with my granddaughter he took her beside him and was very nice to her and offered her a bar of chocoate Q. 115 A. 115 Was very nice to her and offered her a bar of chocoate. Then at once he jumped up and shouted something in the room and I had a feeling he said it is different now. Who is the he through all this?

It is the one that was this morning in here, 9.116 Where was the accused at this time?
The accused was sitting in the corner and trying to talk to my eldest daughter who could speak a littel school English and then he ordered me to go in my writing room and his pistol was out.
Which one ordered you? A.116 Q.117 A.117 0.118 the one from this morning. Where was he when he did this? It was in the same room in the big room. A.118 Q.119 A.119 Q.120 Was the accused there? Yes, the one Kozak pulled his pistol and ordered me to to to my writing room where my radio was. Did you come back to the room where Bussell was? When I entered the room again the accused was watching A.120 0.121 us, then Kozak went upstairs with my daughter. I was on the floor at that time.
How did you get to the floor? A.121 Kozak ordered me to lay down on the floor, before that he took all my stuff and my waistcoat and jacket. Was Bussell present when Kozak ordered you to lay 0.122 A.122 0.123 on the floor? Pid anyone else come i to the room at that time ? Herr Bornheim entered the room and had to do the same Yes. A.12 3 Q.124 A.124 Were any goods taken away from anyone that you saw? I did not see that I only heard Herr Bornheim ask for them to give back his wife's jewels. Did you see anything taken from anyone else? My watch which I gave him, my pocket knife and my hunting dagger and my keys. 0.125 Q.126 A. 126

0.127

A.127

9.128 Were these taken from you in the room where Russell was?

Yes.

A.128 Was anything taken from anyone else there? I cannot tellyou that.

A.129

What happened after that, you are lying on the floor, Kozak has gone upstairs with your daughter.
A fter that Herr Bornheim had to lay down beside me the 0.130

accused watched us and as soon as someone moved he was shouting and had his pistol in his hand. Herr Bornheim succeeded in getting away when the accused did not watch him. He was getting behind Herr Bornheim and after came back and was sitting on a chair, and then he ordered my wife and the woman of the neighbourhood and my daugher my wife and was sitting on a charr, and the new my wife and the women of the neighbourhood and my daugher to lay down beside me. He watched us always with his pistol out, and after a while he stood up and went to the door and I heard he went upstairs. After a moment he came back. After a moment he stand up again and went out of the room and sent upstairs, I heard him climb the second part of the

stairs. hen what did you do? Aftar that I jumped up, opened the window and jumped out and went away. I wanted to go to my son-in-law who speaks very good Englas 0.131

and we want to go to a unit somewhere.

CROSS EXAMINED BY THE DEFENCE

These drinks that were offered and that you had to drink, were they the first ones out of the bottle? Q.132

A.132 Q.133 Yes

At the time the accused Russell came to your house, when you came in did he seem drunk? No he was not . A.133 At any time during his stay there would you say he appeared

Q.134

I could not notice it. Both knew what they were doing. From their actions did it at any time appear that they had been drinking previously rather than drunk? A.134 0.135

A. 135

What happened to the other two soldiers you mentioned? the other soldiers went out of the room, they were ordered to go out of the room, and then I heard them go upstairs and then downstairs, and I did not see them

after that.
Who seemed to be the leader of this group?
Kozak, he did the talking.
Kozak, he was 1.

Nozak, he did the talking.

Did Kozak give you the impression he was looking for firearms, or radios, or anything like that?

I put it on the paper on my door, I know that Kozak reads the paper on the door, where my radio, hunting rafle was ready to turn in.

Did Kozak give you the impression that at any time he was looking for your guns, radios, cameras, or anything the first time. A.138

0.140 your guns, radios, cameras, or anything like tat?

Was looking for your game, ho, ho, the first time, no.
Do you remember telling your daughter to acede to the wishes of one of the soldiers when he told her to sit down when she 9.140 0.141 entered the house?

No, not at all. A.141

IN THE OPINION OF THE COURT AND OF THE JUDGE ADVOCATE IT IS NOT NECESSARY TO COMPLY WITH THE PROVISIONS OF R.P. 83 (B)

WITNESS WITHDRAWS.

A.156 Q.157 liquor, I could not tell you for he was sitting on the chair.

A.157 IN THE OPINION OF THE COURT AND JUDGE ADVOCATE IT IS NOT NECESSARY TO COMPLY WITH PROVISIONS OF R.P. 83 (B)

WITNESS WITHDRAWS

FIFTH WITNESS Lieut. L.B. Walker, 221 Det Mil Gov 4 Cdn Armd Div having been duly sworn is examined by the Prosecutor Your rank, full name and unit please.
Lieut. Leonard Bryan Walker, 221 Det Mil Gov.
On the 10th of April this year were you in the town of
Meppen, Germany?
Yes, sir.
As the result of a complaint made to you did you go anywhere?
I went to No. 6 Paul Strasse in company with Lieut. Boxseau.
What did you find there?
I entered the house and could find no one downstairs, and
went upstrirs and looked into a bedroom and there I saw
L/Cpl. Russell. A.158 0.159 9.161 A.161 went upstrirs and looked into a bedroom and there I saw L/Cpl. Russell.

Q.162 Was that the accused?

A.162 Yes, he was lying face down on the bed, I pushed the door open and entrered the room, he was then commencing to neath him. He was clad only in his vest and underpents, she was clad in a vest and stockings. I notice that his penis was exposed, partly erect and was steaming. He stood at the side of the bed and looked at me. The girl looked at me and spoke in German, but I did not understand her, but from her actions I felt that are was alpealing for help. I told the Cpl. to dress. His when I noticed weapons on the floor under his clothes. I took possession of the weapons which consisted of one German P.38 revolver, which was loaded with one in the breach, that one cartridge was only a blank shell, and the blank one round in the breach and two in the mag. The two revolvers we taken possession of the weapons, I heard Frau Dahmen crying and clothes being scattered on the bed. Her husband then came into the room, made himself known to me and I requested him to ask German and he spoke english. He spoke to his wife then German and he spoke English. He spoke to his wife then turned to me and said Did he say this in the presence of the accused? Q.163 DEFENCE - I don't think this is admissable because he asked the question in German which the accused does not understand. What the husband said was in English and well understood by the accused. Q.164 Continue My wife says she has been raped by this soldier and by one A.164 other. 9.165 Was the accused standing there at the tie? A.165 He was there. Q.166 What did he say?
He was dressing but he said nothing. I took the accused to one side after he had finished dressing and left the woman to her husband who was crying and told the accused of the compalint received, that this woman said he had raped her. I cautioned him, I said, You are not obliged to say anything in answer to the compalaint but anything you do say I shall take down in writing and it may be used in explain your presence here. He made no reply. The husband then said to me, my wife states that the soldier has stolen her watch from her wrist. I turned to him and to empty his pockets and from the first pocket on the left breast he produced a gold wrist watch and bracelet, which What did he say? A.166

A.167 I retained it until after the orderly room and was instructed then to hand it back. I then took the accused into custody and while talking to the husband I aw the accused running downstairs. I gave chase and he ren into the road and I lost sight of him for a while. At that time I was still carrying the rifle and pistols, and I saw fresh footprints through a fresh dug flower bed, and I threw the weapons under a bush and followed across several gardens and saw the accused running across a field. I overtook him and stoped him about 400 yards away from the house. I was walking him back towards the detachment office and an officer with a jeep overtook us going towards the office and I requested his assission.

stance, put the accused in the jeep and going towards the office with Rozak and took them into the jeep and proceeded to the office. I then communicated with the 2 i/c of the accused's regiment, Major MacKenzie.

the office. I then communicated with the 2 1/c of the accused's regiment, Major MacKenzie.

What did you do after that?

I returned to the house and found in the sitting room a fresh hole in the ceiling and particles of plasteron a fresh hole in the ceiling and particles of plasteron a fresh hole in the settee. On the table were five or six the back of the settee. On the table were five or six glasses, and four bottles, one contained liquor similar to conyac, one red wine, and another bottle containing conyac, and one of vermouth all partly consumed.

What was the condition of the house?

It was in good condition except the contents of the dra

0.169 It was in good condition except the contents of the drawers A. 169 were strewn aro nd the rooms.

CROSS EXAMINED BY THE DEFENCE

What was the condition of the accused with reference to 9.170

He definitely had had something to drink but he was far from drunk.

He did not say anything.
Did he say anything after?
He found one or two papers then handed me the watch.
Did he not say one word from the time you entered this room? A.171 0.172 A.172 0.173 A.173

Not one word.

IN THE OPINION OF THE COURT AND OF THE JUDGE ADVOCATE IT IS NOT NECESSARY TO COMPLY WITH PROVISIONS OF R.P. 83 (B)

WITNESS WITHDRAWS

Lieut, G.T.J. Boxseau, Netherlands Army att 4 Cdn Armd Div having been duly sworn is examined by the prosecutor: You are Lieut G.T.J. Boxseau, Netherlands Army attached to 4 Odn Armd Div? On the doth of April this year did you go in company with Lieut Walker to Paul Strasse 6 in the town of Meppen, Germany? A.174 A.175 Q.176 A.176 What did you find there? We found nothing downstairs and went upstairs and I found a soldier in a bedroom. Was it the accused?

Q.178 A.178

What happened next?

He went downstairs and I brought him back, and then in another bedroom I saw the accused and Lieut. Walker and a woman who later proved to be Frau Dahmen, she was getting dressed. The girl was crying and seemed very excited. Lieut. Walker told the soldier to dressnimself Lieut. Walker ask the soldier and the soldier took it out of his pocket and gave it to Lieut. Walker. Then the but I understood the girl was saying about being raped. What language was she speaking? Q.179 What language was
A.179 German
DEFENCE - That would be inadmissable.
PROSECUTION - It would beevidence of early complaint
A.180 She did not say it exactly.
What were the words she used?

She did not say he raped me she said, He was it who took me. What happened after that?

When the soldier was dressed Lieut. Walker ordered him to go downstairs and in a few minutes I missed him and saw them running downstairs. Mrs. Walker and I ran after them he went after the accused, and later I met them on the street and he had the accused and then we went to the office of the soldier's unit.

CROSS EXAMINED BY THE DEFENCE

Did you accused seem to be under the influence of Q.183 I cannot say that I was not close enough to him. A. 183

IN THE OPINION OF THE COURT AND OF THE JUDGE ADVOCATE IT IS NOT NECESSARY TO COMPLY WITH THE PROVISIONS OF R.P. 83 (B)

WITNESS WITHDRAWS

CLOSING ADDRESS OF THE PROSECUTION

If it please the court the first charge is rape.

I don't intend to deal with any of the evidence at great length, the judge advocate will advise you as to the law. You have seen the complainant and you have heard her story. She alleges that she was raped, that there was penetration. There is evidence of fresh complaint, and there is co-oboration of the strongest character and it is surpluous to say anything further.

That eliminates at the same time the sec nd charge.

With regard to the third charge I submit that it is a fact of which the court can take knowledge of under RP 74 in respect to fraternization. It has been proven that the accused was in the house of a German civilian and he was conversing with members of the family. It is true that at ti es he was menacing this family, but at other times he was drinking and conversing with civilians. It is my contention that is fraternization.

with regard to the fourth charge of robbery with aggravation, is robbery under dircumstances. I think the JA will say that the threat of firearms if fobbery with aggravation. As I recall the threat of firearms if fobbery with aggravation. As I recall it, the accused did not have a pistol in his hand when he took the watch, however, he was carrying a pistol and there were two armed soldiers in the room, the arms had been freely displayed and pointed at various people, and I submit that robbery under these circumstances is robbery with aggravation. The robbery is proved in t that there is the wvidence of the complainant and evidence that the that there is the wvidence of the complainant and evidence that the accused had the watch, it was taken from him by Lieut. Walker. It is accused had the watch, it was taken from him by Lieut. Walker. It is my submission that the first, third and fourth charges have been proven.

CLOSING ADDRESS OF THE DEFENCE

With reference to all the charges, I must point out to the court that the witnesses in the most are German people, members of the Reich, and their evidence no doubt will be comewhat biased against any allied soldier. This must be given consideration when considering this case.

With reference to the first charge the defence is taking no issue that there was the actual act. Of course the only thing to bring in the question, is the question of consent and what actually means consent in the case at bar. There was another soldier previously who was upon the same charge before the same court and the facts in his case may be considered, that the girl when she went upstairs with him was under a certain amount of duress, and she allowed this chap Kozak to have intercourse under the circumstances. However, km in the case of the accused the circumstances are somewhat different and it is a question of fact whether or not there was consent. The circumstances are that the accused goes into the room and there is his comrade who is having intercourse and the sight in itself plus the fact he had been drinking, excited him and naturally he wishes to fall in line and starts to undress and at the first chance gets into bed with the girl. She makes no every act to stop him. The only evidence as to her condition of mind was that she was still frightened of the pistol which the accused might have and I bring to the attention of the court it is part of the dress of a soldier to be armed. He had brought it out on one occasion but that was to stop any movement in another room. At this time then, I wish to submit to the court that the girl by her actions in this case didnot make any move of not consenting to the act. I think she was really past the stage of thinking whether or not in this case the accused would shoot her or her father and the fact that she did not cry or scream amounts to a form of consent. Consent in a case of this type would not be one that has to show openly that she is willing and that is the case at bar.

As to fraternization, the accused took little or not part in the affair, he sat in the corner on a chair. The only time he had anything to do with it was when the men were lying on the floor and he was standing and when they goved were lying on the floor and he was standing and when they goved were lying on the floor and he was standing and when they goved were lying or fraternization. The evidence shows they may definition of fraternization. The evidence shows they were looking for firearms or wireless, and it would be reasonable for the court to assume that the accised felt they were doing a military duty rather than being friendly with civilians.

The fourth and last charge is one where robberty took place, robbery with aggravation, is the charge itself, and it is my submission here that the evidence shows the girl gave him the watch when he po need to it. There was no action on his part to take the watch, he pointed to it and no action on his part to take the watch, he pointed to it and she handed it to him. The evidence shows that when the girl she handed it to him. The evidence shows that when the girl she handed it to him. I submit that this is a girl who always told to by her father. I submit that this is a girl who always obeyed her father and she felt that weatever happened after that she was to acede to it, and when the accused pointed to her watch, she saw he wanted it and gave it to him. I feel that does not come within the meaning of robbery with aggravation, and such is my submission to the court.

Sir, the court must now determine what facts have been proven. The evidence is not excessive in quantity and the issues are quite clear cut. The most confusing element in this case is the fact that the court has only today completed the hearing of another case very similar in the evidence and in the charges. I therefore must emphasize the necessity of the court eleminating from their minds all evidence given in that case and likewise the addresses by the Prosecuting and Defending Officers and the summing up by myself.

Because of that last fact I must now sum up in this case as if no other case had been heard. On those questions of fact the court is of course the absolute and only judge. On questions of law I must advise the court and the court should follow the advice of the Judge Advocate.

The first charge is a charge of rape, that
in Germany on the 10th of April the accused had carnal nowledge
of Frau Elfreide Dahmen without her consent. Garnal knowledge
is complete upon penetration to any extent. The definition of
rape is the act of a man having carnal knowledge of a woman who
is not his wife without her consent, or even with her consent,
when such consent has been exhorted by fear of death or bodily
harm. The feet that a woman has consented to submit to an act
of sexual intercourse is definitely a factor to be goneidered
whether or not the voluntary consent has been given, but
submission in itself does not necessarily prove voluntary
consent. There has been conflicting evidence with regard to an
early complaint made by the girl in this case. It will be for
the court to determine whether or not the complaint was made
at the earliest reasonable opportunity and if so what was the
complaint of. If the court finds that there was in fact a
complaint made by Frau Dahmen that this accused had raped her
they can consider that fact in deciding whether or not such a
complaint is consistent with the evidence which he tells and
they may consider that complaint as evidence tending to disappro they may consider that complaint as evidence tending to disapprove consent. Such a complaint is not independent substantive of consent. Such a complaint is not independent substantive evidence of the facts contained in the complaint nor is it cooborative of the complainant's evidence. It is my duty to warn the court of a fact which in any event is self évidence to warn the court of a fact which in any event is self evidence namely, that it is most dangerous to convict an accused person of an offence of this nature up n the evidence of the complainant, unless it is cooborated in some material way by independant evidence. Such evidence may be direct evidence or it may be circumstantial evidence. In the latter case, however, it would not be considered cooborative if it were not consistent with one not coming from the complainant herself, and should cooborate not coming from the complainant herself, and should cooborate not only the identity of the accused as the person implicated not not he evidence of Lieut. Walker is evidence which cooborated the identity of the accused and the fact that an act of sexual intercourse took place. The weight to be given that evidence is a matter for the court. There remains the question of consent. The complainant has testified that she submitted to consent. The complainant has testified that she submitted to the accused's actions preceding the offence and subsequent to the accused's actions preceding the offence and subsequent to the offence and as to the conduct of the complainant herself immediately before and after, but it is also pro or for the court to take Judicial notice of the fact that we are at war, the stage that war has reached and the relations existing between the stage that war has reached and the relations existing between the seriors must assist the court in deciding whether or the German people and ourselves. A thorough consideration of all these factors must assist the court in deciding whether of not it is reasonable to accept the complement's evidence, that

fear was engineered into her mind by the actions of the accused in the particular place and at the particular time that he did those acts. Much evidence has been produced relating only to the question fo consent and relevant only to the state of mind of the complainant. I particularly wish to point out that if the soldier Kozak is guilty of rape then this accused cannot be held in any way responsible for the act of Kozak in this trial, even though it has been admitted in evidence, its purpose is only on the question of the state of mind that the complainant had on this night. Similarly evidence of any offence or acts committed by Kozak downstairs before the offence took place are admitted in evidence not for the purpose of fixing responsibility for those acts on the accused, but in order to show what the state of mind of Frau Dahmen was and whether or not her explanation of her conduct is reasonable. It Walker has given evidence that her conduct is reasonable. It Walker has given evidence that he told the accused that the complainant had alleged that he had raped her and that the accused did not reply. (The J.A. reads from page 84 MML)

If the court feel that on this occasion the circumstances were such that they called for a reply then it is open to them to find that because of Russell's silence he was to some extent admitting the truth of the allegation. I wish to point out however, that one of the circumstances which they must consider in determining whether or not a reply was called for, was that on the second occasion when Mr Walker repeated the accusation, he also advised the accused that he need not say anything.

With respect to the second and third charges, it will be necessary for the court to comprehend the scope of the policy of non-fraternization. If they find that the extent of that policy is a notorious fact, they do have power under the rules of procedure to take judicial notice of that policy. It is obvious that the standards of behaviour which we expect from a schdier vary from age to age and from time to time and the court must consider whether the act of the accused complained of in the second and third charges, under their own peculiar circumstances, is such that it is culpably improper I want particularly to point out that the wording of the third charge is seth that the court has to decide on that charge, whether the actions of the accused in the living room downstairs were culpably improper. They are deciding whether his actions in drinking and conversing with the civilians was in fact fraternization, that no matter how reprehensible his actions were, he could not be found guilty of the third charge as it is worded, however, in deciding whether or not he was fraternizing I again emphasize that the court must consider the evidence heard in this case and not be influenced by any other evidence

With respect to the last charge:

(TA reads from Archbolds' page 597)
It is not necessary that the good be removed by forcible or physical act of the accused. It is sufficient to prove the crime of robbery if the evidence is such as to satisfy the court that the complainant was in such an apprehension of danger as to induce her to part with her property and that she delivered them up through feer and apprehension caused by the accused. In this case the charge is robbery with aggravation. That differs from simple robbery in that it is necessary to prove that the person at the time of the robbery was armed or had an offensive weapon. Provided the elements in the definition of robbery are present, it is only necessary to prove that he used that weapon in a threatening manner.

It only remains to advise the court that the accused is innocent until he is proven guilty and the onus of proof remains on the Prosecution throughout, not only to prove the guilt of the accused but to prove his quilt beyond all reasonable dou't. A reasonable doubt is not a remote possibility that a cowardly court might clutch at for acquittal. It is a doubt of some substance. This term which is incapable of a

precise definition, but it is one that can be comprehended without difficulty. If there remains in the minds of the court a doubt as to the accused's guilt then he must be given the benefit of that doubt.

Is there anything further you wish me to say Mr. President?

And you Capt Wasson

No, that covers it

And you Capt Lewis

NO.

Capt. W.H. Mills, Argyle and Sutherland Highlanders of Canada, having been duly sworn is examined by Defence. Do you know the accused in this case? I do. 6.1 How long have you known him or of him? 0.2 Since July, 1940 How long has he been with your Regiment? 9.3 Bow long has he deel with your solutions and solution of the Bn? What is his general character in the Bn?
What is his general character in the Bn?
Very good.

I am interested in him as Coy Comd and I usually make inquiries about the progress and I have been informed on different occasions about the progress and I have been informed on different occasions. Ar. 9.4 4.5 that he is very willing and cooperative. Is he the type of man you would be willing to have with the Regt?

Yes. A.6 Would you like to have him back? 9.7

A.7 Do you know anything about his honesty? I have no reason to doubt his honesty.

WITNESS WITHDRAWS

PLEA IN MITIGATION

The case has been before the court and the circumstances surrounding it for the better part of the day. However, there are a few points which I think should be taken into consideration by the Court in considering the sentence.

Facts about the person of the accused, are, he is 23 years, il mos old and joined his present unit in July 40 and has been with them since that time. He is a L/Cpl, and must have had some ability. The character witness has pointed out to the court that he had been the character witness has pointed out to the court that he had been the unit in Jamaica and in England and up to the time of the attack at Meppen. He has been well forward on many occasions and has done verything that a soldier could do and has been a very good soldier. His parents are living in Canada and there has been some family trouble which may have to some degree influenced him. The fact that this mother and father have separated, his father is a retired medical practitioner. Quite recently his mother has left his retired medical practitioner, Quite recently his mother has left his father and he has felt quite bedly from the situation and wants to get home and see the family again. As the evidence pointed get home and see the family again, As the evidence pointed out this Kozak was the real leader the accused merely followed him, but is the type of person easily led and finds himself in this unfortunate position. However, I think the court would be in unfortunate position, However, I think the court would be in Consideration must also be given to the fact that the accused had been consideration must also be given to the fact that the accused had been consideration must also be given to the fact that the accused had been drinking and was not used to the wines and spirits of the continent. As pointed out in respect to the robbery there was no overt act, he pointed out in respect to the robbery there was no overt act, he pointed out in respect to the robbery there was no overt act, he pointed out in respect to the robbery there was no overt act, he pointed out in respect to the robbery there was no overt act, he pointed out in respect to the robbery there was no overt act. as they possibly can do.

STATISLANT AS TO GLARACTER AND PRETTOULING OF SURVIOL OF ACCUSED

(For Use at Trials by Field Honoral Courts-Forbiel only)

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B.45809 Pte. (L/Cpl.	Lawrence William RUSSELL A & S H of
NOTE - The Field Conduct	1. The following is a fitty and true seems we at the
Shoot is to be preduced in Court with this state- ment but is not to be	ontries in the Sild Conduct Short of the Accused, ex- clusive of convictions by a court martial or a civil court
the numbers herein et ted	NO FIELD CONDUCT SHEET AVAILABLE FOR THIS MAN
number of entries in the	For timbs
minence being given to the most serious offence in cach entry. If the charge is for drunkenness or absence without leave, the entries for drunkenness or absence, as the case may be, should be stated separately. Any recognized special acts of gallentry or distinguished conduct recorded on the	For times
	Fer ,, times
	2. Provious convictions of the accused by a court martial or a civil court are set out in the Schodule overloaf.
	3.8 The accused at the present time is under
	contonce for
Field Conduct Shoot shoots	
alse be inserted here.	boginning on the day of
# Strike out if not	4. The necured has been awaiting trial on the
	prosent thereos for days in civil custody; and
	for 8. days in military custody, making a total as
	days of which DP. days were spant in hesp.
	5. The present ups of the section is 21.773 11 m
	6. The date of his attestation is 8 July 1949
# State the military descriptions (if my) held by accused.	7. The service which the accused is allowed to
	rockon is A yrs 9 months.
	8. The secused is in possession of
	CYDM & Clasp
	9, (If the agreed is a warrant officer or 100), the
	accused has served continuously, without reduction,
	to the present date .
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FIELD GENERAL COURT-MARTIAL TANDER ARAN

Convened by Order of Brig J.C. Jefferson Comd 10 C.I.B. dated 15 Apr 45

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) appmit, Afrank or Ajappmit, 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.

Surname.

B 45809 Pte L/Cpl

Lawrence William RUSSELL A & S H of

CERTIFIED TRUE COPY

PROCEEDINGS OF TRIAL.

Held in the Fd in (country)

Germany

on (date(s)) 18 Apr 45

RECORD FORM A-OPENING PROCEEDINGS AND ARRAIGNMENT.

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

(PRINTED MATTER, NOT III ITALICS FOR GUIDANCE, WILL BE DELETED, IF NOT USED OR APPLICABLE, AND INITIALIED BY PRES. OR JA. The Schedule referred to throughout is an p. 4. Citations do NOT include all relevant four ROs. For guidance on proceeding when a variation to this form orbit, the form for GCM in MAIL to NOT include all relevant from RDs. But he incide and given a number having reference to appropriate an preceding hard number herein. Such of CAPS, for ouths and interes on how to proceed out of the country. So for oaths and instress having reference to appropriate or Mr. Mr. 1997. A brief recard of such varieties of authors on how to record addresses, evidence, est, which instru ore hereafter called "Notes". As to general on President initials and lava before. As to general or President initials and lava before.

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(2), accused is (arc) amenable to military law, and each charge discloses an offence.(3)

(1. 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.)

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

(I. KR Can 557. 2. AA 4618), RP 60 fn I. For effect see KR Can 563(c). Delete, if not esplicable.

A5. President to accused: Do you object to 2707 Sgt Van Bruggen in interpreter! Ans No. The Interpreter is sworn.(1) Do you object to M11436 S/Sgt Elliott as shorthand writer # Ans No....

(1. RP 72. Delete, if none 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? Ans No

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

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

Maj G.L. Cassidy Member Capt J Kidd L & W R Lt W.W. Solkin Judge-Advocate Capt D. G. Dean 2 Cdn Corps Prosecutor Capt E.E. Wasson 4 Cdn Armd Div D.E. Lewis Capt

Questions by President: Is the Presecutor a lawyer ! Ans. Yes Is the Defending Office lawyer ! Ans. Yes (*)

(1. AP 26, 27, 109, 111. List of offer under instr will be returned exporately with proceedings for information of Conv Offe.)

(2. If Pros a lawyer and Def Offer est, accused is entitled to an adjournment when AP 87 (8) and In 2 were not followed. See DI p 3.)

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

(I. If a special plac is indefor separate trial on one or more charges (RP &1(E), 108), or as to the jurisdiction of the Court (RP 34, 35(A), 113), or in bor of strial (RP 36), or as to occured's mental fitness to stand and land Ax 30, RP 51, or exidence, if any, and finding are recorded per Notes. For farms of records are references in fine to RAP crue. Insert in AS rank and accurate making the piec.)

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

(I. RF 31, I12. See part: I of Instrs p 2. When more than one Charge Sheet see RF 62; when several occured to be tried nake appropriate record per feates.)

2. RF 32, RF 33. If otherwise, delete and

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

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 ollernative.
 (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 Offs. If Convening Offs concurs, Court may accept plea of Guilty to lesser, etc., offence. (RP 44(II).) 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 plens occur in a set of two or more charges laid in the alternative, see RP 37 (A) and fu 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 insers 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; succuring 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, 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, 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 consist ration 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) (I. RF 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).(1) If it appears from your statement that there are circumstances which indicate that you do not understand the effect of the plea of Guitty (8), or which show provocation or extenuation in respect of which in your interest the witnesses for the Prosecution should be examined (8), we shall advise your to change your plea 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 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.(4)

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

- 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). Part I of the Schedule is amended accordingly.
- B4. On the charge(*) to which the plea(s) of Guilty is (are) not changed the President records finding(s) of Guilty in Part I of the Schaffule.(2)
 (1. AP 35(8). X any plea(s) is (are) changed, use Record Form C or D on appropriate.)
 - The Suprimary of Evidence is marked Ex. initialled and read aloud by the President.(1)

 (1. Space is no Summary, or if it is indebugute, comply with RF II(B). If there is any evidence inconsistent with any pleading of Guity. Court will advise accused to those such piec and, if changed to Not Guity, try such charge(s) by use of guit to Be actually a Guitan and Read Form D on p. 2. RF II(D). B5. The St
- The accused having been found Guilty on one or more of the charges, the proceedings are concluded by

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.(1) (1. AF 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 Becord Form B above.(1)
 the state of the second form of the Summary of Evidence are read as relate to the charges dealt with under C1. If any piec is charged to NG Guilty, trial thereop proceeds by camplying with paras D1 to D8 inclusive in Recard form D on p 3 and making an 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.

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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

 - D2. The Prosecutor makes (\$\delta\$n) (no) opening address.(1) (1. RP 39(B), \$\text{60}(A)\$ (\$B), \$90, \$92(C)\$ (\$O). 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. Recard 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 noteharge(s).(2) The Court establish a prima facie case against the accused on the... is closed, and considers the submission. (*) The Court is resopened, and the President announces that the submission charge(s), and allowed on the
- the latter charge(s).(1).

 (i) Delete remainder of this para, if submission not made.

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

 3. RP 40 fn 1. See MML 8.72 paras 12-14 and p 81 para 42.

 4. Delete part not used. If accused acquitted and il charges, use second alternative in para DS.)

 NB If this proceeds, accused must be slowed great latitude in making his defence, and the Court should not stop his defence safely an ground of 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 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. (2)
 But a statement which could have been made on oath will not carry with the Court tile same weight as sworn testimony. (4)

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. RP115. 2. RP40(A), see 80(D). 3. RP40 fo 10. 4. RP40 for 2. 9.)

- D0. Consequent on the names recorded in para D5 the appropriate procedure for the defence is followed (*)— (1. RP 114, 115, 116. For procedure see Notes on book of Convening Order, CF A95. Evidence for occused as to his choracter should, if in his interest, he goes before the finding. See RP 46(A) for 1. Be(C). Note for the propriously in para E1 of Record Ferm E. Record per Notes addresses, statement, evidence and any 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.(2) The Court is re-opened.
 (1. RP 43, 117(A). See Notes in Fart 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) of the Court on the first & fourth charge(s), being subject to confirmation, will be promulgated later.(4) s that the aroused is found Not Coulty on all charges and is to be released forthwith, Or. The President ann
- and that the proceedings are accordingly terminated. Part 1 of the Schedule is dated and signed.(2)

 (1. AS 54(3) (6), R9 45, 120(8). 2. AS 54(3), R9 45, 117. This alternative announcement is not applicable when there are pleas of Guilty outstanding and dealt with under Record Form B or C.)
- D9. 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 with the your character 1(2) Ans Do you wish to call a witness as to your character?
 - If evidence has already been given by occused or his witnesses as to his character, delete this para. RP 37(C) fn 4, 46 fn 1.
 Accused and evidences are sworn. Evidence recorded per Notes.)
- E2. The Prosecutor produces Statement(s) as to Character and Particulars of Service(1), and certified true copy (conics) of Conduct Shade (1), perporting 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 162(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. A. and Ex. Technologicals (F)

 (I. MFB 355 or AFB 296. 2. MFM 6. 2. RP 46, KR Can 550. If above documents not produced, see RP 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 punishment 1(1) Ans. Yes.
 (1. 8F 37(c), 46(5). 2. Adores, if any, recorded per Notes. Court should permit accused or his witnesses to prove an each anything here or previously stated which would effect the amount of punishment. RF 37(F) in 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 ac (I. AA 54(5), RF (20(A).) urt 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. (3)

 (1. When several secured tried separately see RF 71 (D). One sestence only, comprised of the punishment or punishments look down in AA 41, 44 and its provine, is to be awarded to cover all charges in all charge theets on which accused found guits. RF 48. As to sentences see A4 44, 138, 128, 28 44-530, 69, 118, 119(A), RR Con 308, 330, 543-546. Oversees RO 309, 2323, MMM, p.60, 757-759. As to sentences conjugate for civil affectes by the low of England use AA 41(5), AMM, p.130. When accused already under sentence of imprisonment or electronian see AA 44(18), 86(I), RR Con 547.

 Confirming Office RR Can 557. As to exceedibly and disposal of record ofter trial see instra on back of Convening Order.)

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SCHEDULE.

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

Charge.	Plea.	Finding.		
(Insert " alternative " where applicable.)	(See Instrs p 2.)	(See note below.)	(Space for use as r	required for further charges, occused charged jointly special findings, etc.)
st AA Sec 41	Not Guilt	v Guilty		7,000,000
and Al Sec 40		y Not Guil	tv	
And And Sec 40		y Not Guil		
th AA Sec 41	Not Guilt	y Guilty		
5th				
(Nate : As to fin	idings for lesser offens	Des age AA 56, PP 44	findings on alternativ	ve charges see MML p 483 fn 4 para 2, RP 44 ;
At present under sentence (7. Insert sentence	being served, or delet	te, if not applicable.	See RP 46(A). Informat	beginning on (date) tion should be found on MF B335 or AF B296.)
Time in confinement as	valling present t	rial—a total of	6 days, of w	hich n11days were spent in hospital ted in evidence under E2.77
Sentence Awarded by the	he Court :	×		man hand and in
be di	scharged w	with ingnor	niny from H	Majesty's Service
	Capt	18 Date	Apr 45	(Sgd) G.L. Cassidy Maje President. (RP 45, 50.)
(Sgd) D. G. De an Judge-Advoc	Capt cate, if any. (See back of Co	18 , Date envening Order as to o	Apr 45 awarded, szembly and disposul a	(Sgd) G.L. Cassidy Majo President. (RP 45, 50) of record after trial)
(Sgd) D. G. Dean Judge-Advoc	Capt oate, if any. (See back of Co	18 Date nvening Order as to a	Apr 45 awarded, ssembly and disposal a	(Sgd) G.L. Cassidy Maje President. (RP 45, 50.)
(Sgd) D. G. De an Judge-Advoc	Capt oate, if any. (See back of Co	18 , Date envening Order as to o	Apr 45 awarded, ssembly and disposal a	(Sgd) G.L. Cassidy Majo President. (RP 45, 50) of record after trial)
(Sgd) D. G. Dean Judge-Advoc	Capt Onte, if any (See book of Co	18 Date nvening Order as to a	Apr 45 awarded. szembly and dispasal o	(Sgd) G.L. Cassidy Majo President. (RP 45, 50) of record after trial)
(Sgd) D. G. Dean Judge-Advoc	Capt vate, if any (See back of Co	18 Date Date Overling Order as to a ERE CONFIRM Or weat to Affersance	Apr 45 awarded. szembly and disposel o	(Sgd) G.L. Cassidy Naje President. (RP 45, 50.) of record after triel.)
(Sgd) D. G. Dean Judge-Advoi PART II. PART III. PART III. If or duties and por confirmation and so not confirmed, actus tempulser to: No.	Capt onte, if any (See book of Co	18 Date Invening Order as to a ERE CONFIRM In para Unit F CONFIRMIN 137(D) In 6.46(A). S 54(3). Sending Seck n. As 157. MM, p. a his after permular	Apr 45 awarded, ssembly and disposal a IATION RESERVANT Command ISO OFFR ON 1 ISS 120, MML po 73 finding or sentence for Minute of confirm tion : KR Can 571.	(Sgd) G.L. Cassidy Rajo President. (RP 45, 50) of record after triel.) RVED. (AA 54(5), RP 120(F), MAML p 760.)
(Sgd) D. G. Dean Judge-Advoi PART II. PART III. PART III. If or duties and por confirmation and so not confirmed, actus tempulser to: No.	Capt onte, if any (See back of Co MINUTE WHE for example DECISION OF crs see As 54, 57, 87 nous be resised: AA see may be tried again 33, Minut p 65, Que be Confirming Offe m of finding(s) and so	Date nvening Order as to a series of the confirming of the confirming of the confirming to the confirming of the confirming of the confirming to the confirming the confirming of the confirming the confirming of the confirming of the confirming th	Apr 45 awarded, ssembly and disposal a IATION RESER Comman GOFFR ON 1 1-56-120, MML po 75 finding or sentence fit Minute of confirm tion: KR Can 572. in Part I is:	(Sgd) G.L. Cassidy Rajo President. (RP 45, 50) (record after unid.) RVED. (AA 54(5), RP 120(F), MANL p 760.) Ching Illian Influence. (S.74) KB Con W. 577, Amountain records as
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ALL DELETIONS AND ALTERATIONS WILL BE INITIALLED.

I hereby certify that I have this day examined L/Cpl RMAXXI Lawrence William Russell, B 45809 and in my opinion he is fit to ungergo court martial.

"H.???????Ca t RCAMC

HQ Sqn 4 Cdn Armd Div

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 farce if authorized in law, in immediate comd of troops on active service, subject to RP 105(C) and restrictions imposed by oppropriate authorized by 100 and 100 an

ACCUSED.

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

Lawrence William Russell A & SH of C B 45300 Pte L/Cpl

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 that the offence(s) set forth in the Charge Sheet(s) attached and on (date). 1D. Apr. 4D.—endorsed by me, (or by an offence my staff for my), (4Ts be tried by Field General Court-Martini.".

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 trial for reference to a superior qualified off) (Delete part in brackets when not required for compliance with \$P\$ 105(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

4. 4 am unable to specific (a) three Office to form the Court, (b) a Fd Office as President, for the reasons I have

(AA 49, RP 106(B), 107(A). Delete the whole or part, if not applicable.) 5. I also appoint as Judge-Advocate thereat the Offr mentioned hereunder.
(RP 106(E). Delete, if none appointed.)

PRESIDENT.

Alq R G.L. Cassidy (Must be named. RP 106.) MEMBERS. 29 Cdn Armd Recce Regt J.L. Summers Capt Line & Welld R Capt (Rank) J.Kidd (Named or detailed. RP 106.) WAITING MEMBER. Alq R W.W. Solkin (Named or detailed, if any. RP 106.) JUDGE-ADVOCATE. 2 Cdn Corps Capt D.G. Dean Capt (Mast be noticed, if any. RP 106.) On Active Service in the Fd Brig ".J.C. Jefferson" Germany (Signed personally. RF 105 fe 2.) (Country.) Commanding 10 Cdn Inf Bde Dat 15 Apr 45

CONVENING OFFR WILL INITIAL ALL DELETIONS AND ALTERATIONS

Convening Officer

(See overleaf for ooths and notes for use on trial.) 4/38A OFA 95 (In lieu of AFA 3)

CHARGE SHEET

gre.

The accused No. B45809 Pte (L cpl)
Lawrence William RUSSELL, Headquarters Coy,
1st Bn The Argyll & Sutherland Highlanders
of Canada, a soldier of the Canadian Army
Overseas, is charged with:-

First Charge Sec 41 Army Act WHEN ON ACTIVE SERVICE COMMITTING A CIVIL OFFENCE, THAT IS TO SAY, RAPE

in that he in the field in Germany, on 10 Apr 45, had carnal knowledge of Frau Elfreide Dahmen, without her consent.

Second Charge (ALTERNATIVE) Sec 40 Army Act WHEN ON ACTIVE SERVICE CONDUCT TO THE PREJUDICE OF GOOD ORDER AND MILITARY DISCIPLINE

in that he
in the field in Germany, on 10 Apr 45, did
fraternize with Frau Elfreide Dahmen, a German
civilian and resident of Germany, by having
carnal knowledge of the said Frau Elfreide Dahmen
with her consent.

Third Charge Sec 40 Army Act

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WHEN ON ACTIVE SERVICE CONDUCT TO THE PREJUDICE OF GOOD ORDER AND MILITARY DISCIPLINE

in that he in the field in Germany, on 10 Apr 45, did fraternize with German civilians at the house Paul Strasse 6 by drinking and conversing.

Fourth Charge Sec 41 Army Act WHEN ON ACTIVE SERVICE COMMITTING A CIVIL OFFENCE, THAT IS TO SAY, ROBBERY WITH AGGRAVATION CONTRARY TO See 25(1)(a) OF THE LARGERY ACT

in that he in the field in Germany, on 10 Apr 43, being armed with a pistol robbed Frau Elfreide Dahmen of one gold wrist watch.

In the field 14 Apr 45 (RD Mackenzie) Major ACommanding Officer A & S H of C

To be tried by Field General Court Martial.

In the Field 15 Apr 45 (J) Jerren manaria com 10 com Inf Bde

First Witness for the Prosecution Frau Elfreide Dalmen, Harst Wessel, Meppen Germany, having been duly sworn is examined by the Prosecution Q.1 If there is no oebjection I will lead the witness in some parts in view of the hour and of the previous trial? Defence I have no obejction I will object if it goes to far. Q.2 You are Frau Elfreide Dalmen, Harst Wessel, Meppen, Germany A.2 Yes Q.3 What is you husband's name? A. 5 Georg Dahmen. 0.4 You are a Gorman civilian and an inhabitant of Germany? A.4 Yes. Q.5 On the 10th of April this year at about 3:30 in the afternoon you visteed your parents at Paul Strase 6? A.5 Yes 0.6 Please tell the court who was there when you arrived and what happened? A.6 When I entered the home I met a Canadian soldier. 0.7 Was it the Canadian soldier here in court or someone else? 0.8 What wis his name, do you know? A.8 No Q.9 Do you know it now? A.9 Yes, Kozak. Q.10 Not the accused? A.10 No Q.11 What happened then? A.ll What happened then? A.ll Kozak brought me by the arm and brought me in the big room. Around the table were sitting my father and mother mysister and a woman of the neigh orhood. In a chair in a corner was another Ganadian soldier. I understand from Rozaki had to sit down on a chair. in the corner on the chair? A.12 Yes (Identifies the accused) Q.13 Go on please? A.13 I did not want to sit down but my father told me to sit down. I was not allowed to speak. When some one was talking, both of the soldiers had a fighting attitude with the platol, this soldier pointed to my makes watch and I gave him the watch. Q.14 Who was that, this accused? A.14 Yes Q.15 His name is Russell, try to call him that. Why did you give him the watch? I could not do anything and I like to give my watch A.15 before they shoot me down. Q.16 Were you afraid of being shot down? A.16 Yes I was afraid for the pistol had a fighting attitude. Q.17 Who was holding the pistol? A.17 Both of them. 0.18 Go on please? A.18 Kozak walked the room up and down and as soon as someone moved or was talking Kozak had a fighting attitude with the pistol. Q.19 Just what do you mean by this fighting attitude with the pistol? I suppose this would be a threatening or menacing attitude, is that correct? A.19 Not of the time they both had a pistol in the hand, and scaetines it was laying before them on the table. Q.20 This fighting attitude would it be a menasing memmer? A.20 It was manuar fercoious. Q.21 Go on from there? A.21 Konsk took me by the arm and said I would go with him. I went with him to the small hall. pistol? I suppose this would be a threatening or

Prosecutor This evidence that I am introducing is admissable asit bears on the question of consent. It invites involves the previous incident I know. Do you feel it is reasonable. So far I have no objection,

0.22 If so, I will make it known, he took you upstairs, tell the story from there?

A,22 Kozak was up in my room and the door opened and Russell

came in.
Q.23 Just tell what happened please from the time you went upstairs and Russell came in?
A.23 I cannot tell other than waht I said before.
Q.24 Explain to her interpreter that this is a separate trial and it is just as if nothing had been said in the other case and as if the other case had not been before the

A.24 The witnesses breaks down and the prosecutor requests that she be allowed to stand down while other witnesses are

The court allows this witness to stand down,

Second witness for the proseention

having been duly sworn is examined by the Prosecution

Q.25 Your name is Georg Dalmen and you live at Harat Wessel A.25 Yes, that is correct.

A.25 Yes, that is correct.

Q.26 I understand you are a manufacturer?

A.26 I am a merchant now with my father.

Q.27 on the afternoon of 10th of April this year I understand you were called by your sister in law to your father in law's home at Paul Strasse 6?

Defence

A.27 Yes

Q.28 Will you tell the court what you saw on arrival there?

A.28 Icame in and met Herr Bornheim at the front door, and
asked where why wile was, he told me she was upstairs
and her she was sitting before her bed. I saked her what
anything. Looking around in the room I saw this one

Q.29 What was his state of dress?

A.29 He had his trousers in his hand and was putting them on

A.29 He had his trousers in his hand and was putting them on and was standing on one leg.

4.30 She was dressed without shoes.

0.31 Did you have any conversation with her?

Cross examined by the defence

A.32 No not this one, as I told you before
A.35 Prosecutor - Porget about the old trial this is a new or
A.35 Ped, I am sorry, because he was standing on one leg and
putting on his trousers.

4.34 I could not notice that

questioned by the court

Q.35 You say you received no answer from your wife; when you grass asked her what was wrong she was not I ucid at the moment

0.36 What actually happened?

A.36 She was crying and I asked her what happened and she said I cannot tell you, it was awful awful.

now, or do you think the wife is sufficiently recovered to tell us now, or do you think it would be better if the husband stayed in now that his evidence has been taken.

I had that in mind myself.

On further thought there may be the odd incrimminating statement or question, if we could get her to tell it on her own, let us try it without. What do you think Mr. Dahmen?

witness Yes I think so, I don't know exactly what happened.

In the opinion of the court and the judge advocate it is not necessary to comply with the provisions of R.P. 85(b)

THE WITHESS WITHORAWS

First Witness for the prosecution, Frau Elfreide Dahmen

Q.37 This witness is already sworn, just start at the point please where you were in this room with Kozak and then when the accused first appeared first appeared, please start there?

A.37 When Kozek upstairs was with me then the door opened and Russell came in. He was talking with the other person and I did not understand him, I only heard Kozak say "another two minutes", Russell went downstairs, I could hear that and after two minutes he entered the room again and started to undress himself, pushed away Kozak and did same with me

9.38 Whatdid he do laterally?

A.38 He raped me.

Q.39 Did he actually put his organ inside your body?

A.39 Yes.

0.40 Did you fight or make a noise, or scream?

A. 40 No

Why did you not?

I was scared if I did fight he would shoot me? A. 41

0.42 Did he have any weapon with him? A.42 He had a pistol but it was not on his body.

2.43 Where was it?

A.43 The pistol was on a chair.

Q.44 What happened after that? A.44 After that I got up and dressed myself.

Did anyone else come to the . com?

A.45 When I started to dress myself, I was sitting on the bed, the door opened and an officer came in, I forget that Kousk came in another time before the officer entered the

Q.46 What did Kozak do? A.46 He entered the room when I was dressing and pointed out with gestures I was to undress myself again.
Did he go out of the room or did he stay in the room?

A.47 He remained in the room and I was sitting on the bed and Hozelt was standing before me and then the door opened and the officer came in and he came right up to Russell.

Q.48 What did Kozak do? A.48 Kozak must have left the room. I don't know exactly what

happened I only know the officer entered the room Did anyons come upstairs with the officer?

A.49 I think there was another one, he were a black hat. Q.50 Did you husband come? A.50 Yes, I heard my husband downstairs and I called to him and he came.

and ald not lave it pointed at you when he took the watch? 1.0 * V wend of driend on a sham to Buildist new emeanes as most as 9 obla ald no evawia it saw to bruous lodelq ald galdadog Q.56 When you were in the room previous to this time was he fotald aid evad ed bib deter move of bedried Lleasnii nonw 88.9 pable aid no viewer no bnad aid ai pred aid aid no lotald aid evad for bib ed ow 88.A and saw and aid at aid over seen and aid and saw now made aid. soneleb end yd becluaxe sacub bns anovaen titeng saw ed bns amot edt beredne bnsdaud til fo.A. acey bins I bns em of galddemes bib yedd it beses ed end at evert bas need bandaun quoy of yas not bib fadw bd. dright dadd min blod o. 53 Mid you tell him this at that time in the house? As I told you say, which were your words, do you remember? S.S. what did you say, which should be sound and man be set it say. shonequan ban tank eatt tant ta enoyms Ifed nov bid Id.o

. bnaderstend. 09.4 Just what did you do? Did you start to get up and dress or enything like that? 09.0 69.A

and Nozak Lerk you did you make any movement to get up?

After you were in the room with Kozek and Kussell came in

Toblasd stall-smul and ta Lieszum asw poy flei Mszon nadw 18.9

89.7 Yes at once.

ord Aon pal to Sep not And he make any attempt to hold you down? 29.5 V. 62

dadw word for hib I bus belses bus amovien tilming caw I Did you start to cry snytime? BO *F . becases time ask I . seemins work times I P9 *? 29 'Y

*.65 He had drived in the room downstairs and the year too. Think there to do damen of or seeing Liesank bid

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one you made at the summery is incorrect? 89 . A and a time of the trial at the trans of the transfer the 89 * 5

end under the influence, I only know if a omedia is fairly

Q. 69 What would you say the accused was at this time; A.A. I could bell you one person can drink five glasses and the constant man sent the court

ends also not near benedand design that also not all the co. of a feet of a dustioned by the court

69.

89*1

to thort of Butbrade and on bue Tianto end no Butdite zaw I Se. A 9.92 Tell as breedily what herpensed when you can first so. o ome grove and exam of al atin to miss a benefit and prince.

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6.72 Wing day use the grabbed me by my semi peoting; he specific the west the scoursed only downstrings what was he doing?

6.72 Wing was the scoursed only downstrings what was he doing?

6.72 Wing was the scoursed only downstrings what was appealing, he can you belt us or the scoursed for the constant and kozak was appealing, he old wing the work of the constant which will not be the scoursed doing? saw if , safedo ow seem moor ym ni voem yn od qu inew I The why did you go up to the moon in the first place?

-- g ---

0.71 No, why did you go to the room in the first place? A.71 I went up in my room because in my room were two charrs, it was a sleeping room and harm lying me and after a while he pointed out to the bed. I did not want to do that and I told him to let me sit in my own chair. Then he pointed to the bed and ordered me that I would lay down on the bed. Then I sat down on the bed and he said to me I should undress myself. I did not want to do that and he caught me by my jumper and I was scared if I did fight I After that I undressed myself and after would be shot down.

that he raped me. Q.93 You have said that Russell came into the room and Kozak said another two minutes, is that right?

Q.94 At that time was Kozak having sexual intercourse with you or had he finished?

A. 94 No, he had not finished.

Q.95 You said Russell came back into the room a few minutes later?

A. 95 Yes

Q.96 Where was Kozak when he came into the room?

A. 96 He was always with me. Q. 97 Where in the room was he whon Russell came in the second on the bed or standing up by the bed. time,

A.97 In the bed. Q.98 When Kozak finished this sexual intercourse, Russell was already in the room then?

A. 98 Yes.

XXX Meanwhile he undressed himself Q.99 Russell undress ed himself while Kozsk was still having sexual intercourse with you?

A. 99 Yes.

Q.100 When Kozak completed the act he left the room?

A.100 Yes. Q.101 Did Russell then come into the bed with you?

A.101 Yes, & once. Q.102 Did you see whether or not Russell had a pistol when he came into the room?

A.102 Yes he had a pistol in his belt. Q.103 Did he have it out at any time in there ?

A.103 No he did not.

- Q.104 Why did you not fight Russell to prevent him having
- intercourse with you?

 A.104 I could not do it because I cannot fight against a man and I had to think that he would shoot me down.
- Q.105 Did he threaten you with a pistol at any time?

A. 1.05 No he did not.

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

THE WITNESS WITHDRAWS

Third Witness for the Prosecution

Germany, having been duly sworn is examined by the Prosecution

Q.106 Your name is Paul Stahlschmidt, of Paul Strasse 6, in Meppen, Germany?

A.106 Yes.

Q.107 You are a German civilian and an inhabitant of

A.107 Yes. Q.108 You are the father of the woman Frau Elfreide Dahmen?

A.108 Yes.
Q.109 On the 10th of April this year were you in your home in
Hoppen Germany?
A.109 Yes.
Q.110 What time did you go to your house?
A.110 It was between two and three oclock in the afternoon.

A.111 Who did you find there when you got there? A.111 In the house were four Canadian soldiers. Q.112 Look around the court and see if you recognize anyone

that was there?

A.112 Yes (Identifies the accused)

Q.113 Just tell us what was going on?

A.113 When I entered the room the four soldiers were sitting when I entered the room the four soldiers were sitting on charts and there were two bottles on the table, one of the soldiers, he was in here this morning, ordered a couple of glasses, I fetched down the glasses and the one who was in here this morning ordered schappes. I did not want to get it, but my older daughter fetched two bottles with some schmappes. He ordered me to fetch down another two glasses, poured out of the bottle and ordered my wife and me to drink, then after that he took the second bottle and we had to drink again. After that he started to open my writing desk, and then he searched it. Meanwhile he discovered in my writing room my shot gun which was ready to turn in, and then he came to the room with the small rifle and ordered me to get the ammunition and then he loaded the rifle and fired a s how

into the cealing.

A.114 When someone was talking he shouted at them. Then my youngest duaghter entered the room and the one who was here this morning pushed her into the room and made her sit down in a chair, and then after a while he took out of the room my youngest daughter.

A.115 Elfreide Dehmen. He then retu med with her to the room A.11b Elfreide Delmen. He than retained with her to the room arith and he did not appear to do something to my daughter and my daughter told me he is not so bed. Then he had a talk with my grandaughter he took har beside him and a talk with my grandaughter he took har beside him and was very nice to her and offered her a bar of checolate once he jumped up and shouled something in the c.ll6 Who is the he through all this?

A.116 It is the one that was this morning in here.

0.117 Where was the accused at this time? A.117 The accused was sitting in the corner and trying to talk to my eldest daughter who could appear a little school English and then he ordered se to go in my writing room and his pistol was out;

Q.118 Which one ordered you?
A.118 The one from this morning.
Q.119 Where was he when he did this?

A.119 It was in the sums room in the big room,

A.120 yes, the one Kozak pulled his pistol and ordered me to
go to my writing room where my radio was
Q.121 Did you come back to the room where Russell was?

A.121 When I entered the room again the accused was watching A.121 When I entered the room again the accessed was watching us, then Kozak went upstairs with my daughter, I was on the floor at that time.

Q.122 How did you get to the floor?

A.122 Kozak ordered me to lay down on the floor, before that he took all my stuff and my wasisteest and jacket.

Q.125 Was Russell present when the Kozak ordered you to lay on the floor?

on the floor?

2.224 Did anyone else come into the room at that time?
A.124 Herr Bornheim entered the room and had to do the same

Q.125 Were any goods taken away from anyone that you saw?
A.125 I did notsee that I only heard Herr Baraheim ask for
them to ''we back his wife's jewels.
Q.126 Did you see anything taken from anyone else?
A.126 My watch which I gave him, my pocket knife and my
hunting dagger and my keys.

Q.127 Who got these?

A.127 Kozak.

Q.128 Were these taken from you in the room where Russell was?

A.128 Yes

Q.129 Was anything taken from anyone else there?

Q.129 Was anything taken from anyone else there?
A.129 I cannot tell you that.
Q.130 What happened after that, you are lying on the floor,
Kozak has gone upstairs with your duaghter?
A.130 After that Herr Bornheim had to lay down beside me the
accused watched us and as soon as someone moved he was
shouting and had his pistel in his hand. Herr Bornheim
succeeded in getting away when the accused did not
watch him. He was getting behind Herr Bornheim and after
came back and was sitting on a chair, and then he
ordered my wife and the woman of the neighborhood and ordered my wife and the woman of the neighborhood and my daughter to lay down beside me. He watched us always with his pistol out, and after a while he stood up and went to the door, and I heard he went upstairs. After a moment he came back. After a moment he stand up again and went out of the room and went upstairs, heard him climb the second part of the stairs.

0.131 Then what did you det A.131 After that I jumped up, opened the window and jumped out and went away, I wanted to go to my son in law who speaks very good English and we want to go to a unit somewhere.

Cross examined by the Defence

Q.132 These drinks that were offered and that you had to drink, were they the first ones out of the bottle?

A.132 Yes

Q.133 At the time the accused Russell came to your house, when you came in #16 he seem drunk?

A.133 No he was not.

- Q.134 At any time during his stay there would you say he appeared drunk?
- A.134 I could not notice it, both knew what they were doing. Q.135 From their actions did it at any time appear that they had been drinking previously rather than drunk?

A.135 No

Q.136 What happened to the other two soldiers you mention?
A.136 The other soldiers went out of the room, they were ordered to go out of the room, and them I heard them go upstairs and then downstairs, and I did not see them

after that.
Q.137 Who seemed to be the leader of this group?
A.137 Kozak, he did the talking.
Q.138 Did Kozak give you the impression he was looking for

firearms, or radios, or entyhing like that?
A.138 I put it on the paper on my door, I know that Kozak reads the paper on the door, where my radio, hunting rifle was ready to turn in.

q.140 Did Kozek give you the impression that at any time he was looking for your gander guns, rations radios, cameras, or anything like that?

A.140 No, the first time, no.

Q.141 Do you remember telling your daughter to acede to the wishes of one of the soldiers when he told her to sit down when she entered the house?

A.141 No, not at sll.

and the judge advocate it is not necessary to comply with the provisions of R.P. 85(b)

THE WITNESS WITHDRAWS

Fourth Witness for the Prosecution

Hermann Bornheim, Paul Strasse, & Meppen, Germany, having been duly sworn is examined by the Prosecution

Q.142 Your name is Hermann Bornheim and you reside at Paul Strasse 4 in Meppen, Germany, is that correct?

A.142

Q.143 I understand you are a retired major in the police force?

A.143 Yes

Q.144 On the 10th of April this year did you go to the house of your neighbor at Paul Strasse 6?

A.144 Yes

Q.145 About what time?

A.145 It was about 4 o'clock or 4:30.

A.146 Both soldiers who are accused today and the family of Stahlschmidt.

0.147 How many soldiers were there?

A.147 Two soldiers.

Q.148 Do you see any of them in this court?

4.148 Yes (Identifies the accumed)
Q.140 What members of the family were there?
A.149 Horr Stehlschmidt, Frau Stehlschmidt, two daughters, the grandchild and a woman whom I do not know.

Q.150 What happened?

A.150 After Herr Stahlscmidt was order to lay down on the floor and I was robbed, the other soldier went out of the door with the daughter of Herr Stahlschmidt and ordered the other soldier to watch us. I was laying on the floor and I saked the soldier a couple of times if I could go away. Q.151 Which soldier?

A.151 The other soldier was upstairs andthis one was alone

Q.152 How did you come to be on the floor?

A.152 The other soldier who was upstairs ordered me to lay

down.

Q.153 Go on from there?

A.153 I was thinking about fleeing somewhere and I saw that one door to the other room was open and jumped up and ram through the door and went away through the serden on the street. When I was fleeing I heard someone calling on me, but if he came behind me I do not know.

Q.154 You do not know who it was?

A.154 It must be that soldier he was the only one in that house do not know what he was telling me for I do not understand.

Q.155 Did the accused have any weapon when he was shouting at you? A.155 Yes he had his pistol out.

Cross examined by the Defence

Q.156 During this little episode on the 10th was there anything to lead you to believe that the adoused had been drinking!

He had been drinking something but he was not drunk Q.157 Did he act as though he were under the influence of liquor?

A.157 I could not tell you for he was sitting on the chair.

In the opinion of the court and the judge advocate it is not necessary to comply with the provisions of R.P. 85(b)

THE WITNESS WITHDRAWS

ifth Witnes, for the Prosecution

Div having been duly sworn is examined by the Prosecution

Q.158 Your rank, full name and unit please?

A.158 Lieut Leonard Bryan Walker, 221 Det Mil Gov.

Q.159 on the 10th of April this year were you in the town of Meppen, Germany?

A.159 Yes sir.

Q.160 As the result of a complaint made to you did you go enywhere?

A.160 I went to No 6 Paul Strasse in company with Lieut Boxseau Q.161 What did you find there?

A.161 I entered the house and could find no one downstairs, and went upstairs andlooked into a bedroom and there I saw L/Cpl Russell.

0.162 Was that the accused?

A.162 Yes, he was lying face down on the bed. I pushed the door open and entered the room, he was then commencing to climb off Frau Dahmen, who was lying face upward underneath him. He was clad only in his vest and underpants, she was clad in a vest and stockings. I notice that his penis was exposed, partly orest and was sheaming. stood at the side of the bed and looked at me. T girl looked at me and spoke in German, but I did not understand her, but from her actions I felt that she was appealing for help. I teld the Cpl to dress. His clothes were lying on the floor and he was almost dressed when I noticed weapons on the floor under his clothes. I took respective of the weapons which consisted of one when I noticed weapons on the floor under his clothes. took possession of the weapons which consisted of one German P.38 revolver, which was leaded with one in the breach, one felt type revolver fully loaded with the exception that one cartridge was only a blank shell, and theblank shell was at 12 o'clock, and there was a .22 rifls which had one round in the breach and two in the mag. The two revolvers were in holsters and had web belts attached. Having taken possession of the weapons I heard Frau Dahmen crying and on locking around I saw that she had commenced to dress, her clothes being that she had commenced to dress, her clothes being scattered on the bed. Her husband then came into the room; made himself known to me and I requested him to ask his wife exactly what had happened because she only spoke German and he spoke English. He spoke to his wife then turned to me and said

Q.163 Did he say this in the presence of the accused?

Defence:- I don't think this is admissable because he asked the question in German which the accused does not understand

:- What the husband said was in English and well J.A. understood by the scoused.

Q.164 Continue?

A.164 My wife says she has been raped by this soldier and by one other.

Q.165 Was the accused standing there at the time?

Q.166 What did he say? A.166 What did he say?
A.166 He was dressing but he said nothing. I took the accused to one side after he had finished dressing and left the woman to her humband who was crying and told the accused that the said had been accused to the said had been accused that the said had been accused to the said had been accused that the said not said he had the said not said he had the said not said he had the said not said he said not said not said he said not said not said he said not said he said not said he said not said he said not said not said he said not said of the complaint received, that this worm a said he had reped her. I cautioned him, I said, You are not obliged to say anything in answer to the complaint but anything you do say I sahll take down in writing and it may be us in evidence. I then said do you wish to say many anything in evidence. I then said do you wish to say any anything to explain your presence here. He made no reply. The busbend then said to me, my wife states that the soldier has stolen her watch from her wrist. I turned to him end said have you taken the watch. He said no. I told hi to empty his pockets and from the first pocket on the He said no. I told him left breat he produced a gold wrist watch and bracelet, which the wife identified as hers.

Q.167 Then what happened to the watch? A.167 I retained it until after the orderly room and was instructed then to hand it back. I then took the accused into cusbody and while talking to the husband I saw the accused running downstairs. I gave chase and he ran into into cusbody and while talking to see chase and he ran into accused running downstairs. I gave chase and he ran into the road and I lost sight of him for a while. At that time I was still carrying the rifle and pistols, and I saw fresh footprints through a fresh dug flower bed, and I threw the weapons under a bush and followed across a ever all gardens and saw the accused running across a field. al gardens and saw the accused running across a field. I overtook him and stopped him about 400 yds away from the house. I was walking him back towards the detachment office and an officer with a jeep overtook us going towards the office and I requested his axatisams assistance, put the accused in the jeep and going towards the office I saw Lt Boxseau proceeding towards the office with Kozek andbook them into the jeep and proceeded to the office. I then communicated with the 2 1/c of the accused in part, help was and to the eccused in part, help was and to the eccused in part, help was and to the secused in part, help was and to the eccused in part, help was and to the secused in part, help was a secused in the secused accused's regt, Major MacKenzie.

A.168 I returned to the house and found in the sitting room a fresh hole in the scaling and particles of plaster on the back of the settee. On the table were five or six the back of the settee. On the table were five or six glasses, and four bottles, one contained liquor similar to conyac, one red wine, and another bottle containing conyac, and one of vermouth all partly consumed.

4.169 What was the condition of the house?

A.169 It was in good condition except the contents of the drawers were strewn around the rooms.

Cross examined by the Defence

Q.170 What was the condition of the accused with reference to alcohol?

A.170 He definitely had had something to drink but he was far from drunk.

Questioned by the court

Q.172 When you ordered the accused to turn out his pockets and he turned out this wakes watch did he say antyhing? 1.171 He did not say anthing.

Q.172 Did he say anythingafter?

A.172 He found one or two papers then handed me the watch. Q.173 Did he not say one word from the time you entered this room?

A.173 Not one word.

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

THE WITNESS WITHERAWS

Sixth Witness for the Prosecution

Lieut G.T.J. Boxseau, Netherlands Army att Prosecution

Q.174 You are Lieut G.T.J. Boxseau, Netherlands Army attached to 4 Cdn Armd Div?

A.174 Yes Q.175 On the 10th of April this year did you go in company with Lieut Walker to Paul Strasse 6 in the town of Meppeny A.175 Yes

Q.176 What did you find there? A.176 We found nothing downstairs and went upstairs and I found

A.177 No

Q.178 What happened next?

A.178 What happened next?

A.178 He went downstairs and I brought him back, and then in a woman who later proved to be Frau Dahmen, she was getting dressed. The girl was crying and seemed very and the girl asked about a golder to dress himself Lieut Walker told the soldier to dress himself Lieut Walker ask the soldier and the soldier took it out husband came,in, I did not understand all that was said e.179 What language was she speaking?

A.150 Defence: That would be anadmissable.

A.150 She did not say it exactly.

A.18 what were the words she used; Q.182 What happend after that?

A.182 When the soldier was dressed Lieut Walker ordered him to go downstairs and in a few minutes i missed him and saw them running downstairs. Mr. Welker and I ran after them be went after the accused, and later I met them on the street and he had the accused and then we went to

Cross examined by the defence

Q.183 pid the accused seem to be under the influence of

A.183 I connot say that I was not close enough to him.

advocate it is not necessary to comply with the provisions of R.P. 83(b)

THE WITNESS WITHDRAWS

THE PROSECUTION IS CLOSED

Closing address of the Prosocution

If it please the court the first charge is rape. I don't intend to deal with any of the evidence at great Kantharn length, the judge advocate will advise you as to the law. You have seen the complainant and you have heard her story. She alleges that she was raped, that there was penetration. There is evidence of fresh complaint, and there is cooboration of the strongest character and it is surpluous to say anything further.

That eliminates at the same time the second

charge.

With regard to the third charge I submit that it is a fact of which the court can take knowledge of under RP 74 in respect to fraternization. It has been proven that the secured was in the house of a German civilian and he was conversing with members of the family. It is true that at time he was menacing this family, but at other times he was drinking and conversing with civilians. It is my contention that is fraternization.

with aggravation, is robbery under circumstances, I think the JA will say that the threat of firearms if robbery with aggravation. As I recell it the accused did not have a pistol in his hand when he took the watch, however he was carrying a pistol and there were two armed soldiers in the room, the arms had been freely desplayed and pointed at verious people, and I submit that robbery under these circumstances is robbery with aggravation. The robbery is proved in that there is the evidence of the complainant and evidence that the accused had the watch, it was taken from him by hieut alker. It is my submission that the first, third an fourth charges have been proven.

Closing address of the Defence

point out to the court that the witnesses in the most are Cerman people, members of the Reich, and their evidence no doubt will be somewhat biased against any allied soldier. This must be given consideration when considering this case.

With reference to the first charge the defence is taking no issue that there was the actual act. of course the only thing to bring in the question, is the question of consent and what actually means consent win in the case at bar. There was another soldier previously who was up on the same charge before the same court and the facts in his case may become ered, that the girl when she went upstairs with him was under a certain amount of duress, and she allowed this chap Kozak to have intercourse under the circumstances. However, inthe case of the accured the circumstances are smewhat different and it is a question of fact whether or not there was consent. The circumstances are that the course goes into the room and there is his conrade who is having intercourse and the sight in ixx itself plus the fact he had been drinking, exciteshing and naturally he wishes to fall in line and starts to undress and at the intercourse and the sight in ink itself first chance gets into bed with the girl. She makes no overt act to stop him. The only evidence as to her condition of mind was that she was still frightened of the pistol which the accused might have end I bring to the attention of the cort it is part of the dress of a soldier to be armed. He had brought it out on one occasion but that was to stop any mo ement in another room. . At this time then, I wish to submit to the court that the girl by her actions in this case did not make any move of not consenting to the act. I think she was really past the stage of thinking whether or not in this case the accused would shoot her or her father and fact that she did not cry or scream amounts to a form of consent. Consent in a case of this type would not be one that use so show openly that she is willing and that is the case at bar.

of no part in the affair, he sat in the corner on a chair. The only time he had anything to do with it was when the men were lying on the floor and he was stending and when they moved then his pistol came into evidence. I submit that is far from any definition of fratermization. The evidence shows they were looking for firearms or wireless, and it would be reasonable for the court to assume that the accused felt they were doing a military duty rather than being friendly with civilians.

The forth and last charge is one where itself, and it is my submission here that the evidence shows the girl gave him the watch when he pointed to it. There was no action on his part to take the watch, he pointed to it and she handed it to him. The evidence shows that when the girl entered the room and was told to sit down she obeyed when told to by her father. Isubmit that this is a girl who always obeyed her father and she felt that whatever happened after that she was to acade to it, and when the accused pointed to her watch, she saw he wanted it and gave it to him. I feel that does not come within the meaning of ro bery with aggressition, and such is my submission to the court.

have been proven. The evidence given is not excessive in quantity and the issues are quite clear cut. The most confusing element in this case is the fact that the court has only today completed the hearing of another case very similar in the evidence and in the charges. I therefore must emphasize the necessity of the court eliminating from their minds all evidence given in that case and likewise the addresses by the Prosecuting and Defending Officers and the summing up by myself.

Because of that last fact I must now sum up in this case as if no other case had been heard. On those questions of fact the court is of course the absolute and only judge. On questions of law I must advise the court and the court should follow the advice of the Judge Advocate.

The first charge is a charge of rape, that in Germany on the 10th of April the accused had carnal knowledge of Frau Elfreide Dalmen without her consent. Carnal knowledge is complete upon penetration to any extent. a man having carnal knowledge of a woman who rape is the act of is not his wire without her consent, or even with her consent, when such consent has been exhorted by fear of death or bedily harm. The fact that a woman has consented to submit to an act of sexual intercourse is definitely a factor to be considered of sexual intercourse is definitely a factor to be considered whether or not the voluntary consent has been given, but submission in itself does not necessarily prove voluntary consent. There has been conflicting evidence with regard to an early complaint made by the girl in this case. It will be for the court to determine whether or not the complaint was made at the earliest reasonable opportunity and if so what was the complaint of. If the court finds that where was in fact a complaint made by Frau Dalmen that this accused had raped her they can consider that fact in deciding whetherer not such a complaint is consistent with the evidence which he tells and they may consider that complaint as evidence tending to dispress they may consider that complaint as evidence tending to disprove Such a complaint is not independent substantive of consent. evidence of the facts contained in the complaint nor is it cooborative of the complainant's evidence. It is my duty to warn the court of a fact which in any event is self evidence, namely, that it is most dangerous to convict an accused person of an offence of this nature upon the evidence of the complainant, unless it is cooborated in some material way by intependant evidence. Such evidence may be direct evidence or it may be circumstantial evidence. In the latter case however, it would not beconsidered cocborative if it were not consistent with one or more points of view. The cooboration must be evidence or more points of view. The cooperation must be evidence not coming from the complainant herself, and should cooperate not only the identity of the accused as the person implicated but also the fact that a crime has been committed. In this case the evidence of Lieut Walker is evidence which cooperates case the evidence of Lieut Walker is evidence which coolorates the identity of the accused and the fact that an act of sexual intercourse took place. The weight to be given that evidence is a matter for the court. There remains the question of consent. The complainant has testified that she submitted to the act because of fear of being shot. It is quite proper for the court to consider not only the evidence they have here as to the accused's actions preceding the offence and subsequent to the offence and as to the conduct of the complainant hervelf immediately before and after, but it is also proper for the court to take Judicial notice of the fact that we are at war, the stage that war has reached and the relations existing between the German people and ourselves. A thorough consideration of all these factors must assist the court in deciding whether or not it is reasonable to aspept the complainant's evidence, that

feab was engineered into her mind by the actions of the accused in the particular place and at the particular time that he did those acts. Much evidence has been produced relating only to the question of consent and relevant only to the state of mind of the complainant. I particularly wish to point out that if the soldier Kozak is guilty of rape then this accused cannot be held in any way responsible for the act of Kozak inthis trial, even though it has been admitted in evidence, its purpose is only on the question of the state of mind that the complainant had on this night. Similarly evidence of any offence or acts committed by Kozak downstairs before the offence took place are admitted in evidence not for the purpose of fixing responsibility for those acts on the accused, but in order to show what the state of mind of Frau Dahmen was and whether or not her explanation of her conduct is reasonable. It walker has given evidence that he told the accused that the complainant had alleged that he had raped her and that the accused did not reply.

(The J.A. reads from page 84 MML)
If the court feeld a that on this occasion the circumstances were such that they called for a reply then it is open to them to find that because of Russell's silence he was to some extent admitting the truth of the allegation. I wish to point out however, that one of the circumstances which they must consider in determining whether or not a reply was called for, was that on the second occasion when Mr Walker repeated the accusation, he also advised the accused that he need not say anything.

With respect to the second and third charges, the policy of non-fraternization. If they find that the extent of that phiry policy is a notorious fact, they do have power under the rules of procedure to take judicial notice of that policy. It is obvious that the standards of behaviour which we expect from a soldier vary from age to age and from time to time and the court must consider whether the act of the accused has complained of in the second and third charges, under their own peculiar circumstances, is such that it is culpably improper. I want particularly to point out that the wording of the third charge is such that the court has to decide on that charge, whicher the actions of the accused in the living room downstairs were culpably improper. They are deciding whether his actions in drinking and conversing with the civilians was in fact fraternization, that no matter how reprehensible his actions were, he could not be found guilty of the third charge as it is worded. However, in deciding whether or not he was fraternizing I again emphasize that the court must consider the evidence heard in this case and not be influenced by any other evidence.

With respect to the last charge:

(J.A. reads from Archbolds' page 597.

It is not necessary that thegood be removed by foreible or shrunting physical act of the accused. It is sufficient to prove the crime of robbery if the evidence is such as to satisfy the court that the complainant was in such an apprehension of danger as to induce her to part with her property and that she delivered them up through fear and apprehension caused by the accused. In this case the charge is robbery with apprehension. That differs from simple robbery in that it is necessary to prove that the person at the time of the robbery was armed or had an offensive weapon. Provided the elements in the defaition of robbery are present, it is only necessary to prove that he used that weapon in a threstening manner.

accused is innocest until he is proven guilty and the court that the proof remains on the Prosecution throughout, not only to prove the guilty of the accused but to prove his guilt beyond all reasonable doubt. A reasonable doubt is not a remote possibility that a cowardly court might clutch at for acquittal. It is a doubt of some substance. This term which is inempable of a

precise definition but it is one that can be comprehended without difficulty. If there reamins in the minds of the court a doubt as to the accused's guilty then he must be given the benefit of that doubt.

Is there anything further you wish me to say Mr. President?

Mo.

And you Empt Wasson

No, that covers it.

And you Capt Lewis

No

First Witness for the Defence

Gapt W.H. Hills, Argyle and Sutherland Highlanders of Canada, having been duly sworn is examined by the defence

Q.1 Do you know the accused in this, case?

A.l I do.

Q.2 How long have you known him or of him?

A.2 Since July 1940. G.3 How long has he been with your Regt? A.3 Since July 1940 G.4 What is his general character in the Bn?

A.4 Very good

Q.5 Do you know anything about his ability?
A.5 I am interested in him as Coy Gomd and I usually make inquiries about the progress and I have been informed on different occasion that he is very willing and cooperative.

Q.6 Is he the type of man you would be willing to have with the

Would you like to have him back? 1.7

A.7 Yes

Q.8 Do you know emything about his honosty?

A.S I have no reason to doubt his honesty.

The Prosecution declines to cross examine

In the opinion of the cort and the judge advocate it is not meessary to comply with the provisions pr R.P. 83(B)

THE WITHESS WITHIRAWS

Plea in Mitigation

The case has been before the court and the circumstances surrounding it for the better part of the day, However, there are a few points which I think should be taken into consideration by the court in considering sentence..

hs is 25 years, limes old and joined his present unit in July 40 and has been with them since that time. He is a L/Cpl and must have had some ability. The character witness has pointed out to the court that he has been a very good type of soldier and the type that is wanted in the Regt. and type of soldier and the type that is wanted in the Regt. and I think that should be taken into consideration. He was with the unit in Jamaica and in England and up to the time of the attack at Heppen. He has been well forward on many occasions and has done everyting that a soldier could do and has been a very good soldier. His parents are living in Canada and there has been some featly trouble which may have to some degree i fluenced him. The fact thathis mother and fakeur father have separated, his father is a retired medical practitioner. Ouite recently his mother has left his father Quite recently his mother has left his father practitioner. and he has felt quite badly about the situation and rents to get home and see the family again. As the evidence pointed out this Kozak was the real leader the accusednerely followed him, he is the type of person easily led and finds himself in this unfortunate position. However, I think the court would be in because with the source. in this unfortunate position. However, I think the court would be in keeping with the general practice if they were to give the accused greater lengioncy in respect to sentence than the person he followed. Consideration must also be given to the fact that the accused had been drinking and was

not used to the wines and spirits of the continent. As pointed out in respect to the robbery there was no overt act, there was no threatening manner, he merely pointed to the watch and the girl gave it to him. I think that with all the circumstances of this case the court should deal with this accused as lenient; as they possibly can do.

Runell Jun Elfreide Dahren

Suggary of Evidence in the case of P45809 Ed Russell, Lawrence william, Eg Company, lat Ed The Argyll and Sutherland Highlanders of Canada, Charay Overseas, charged with (1) COMMITTING A GIVIL OFFENCE, THAT IS TO SAY, RAPE (See 41 AA) and ILITARY DISCIPLINE, IN THAT HE, DID FRATERIES OF CAMBAN CIVILIANS (See 40 AA).

By direction of the domainding officer, the

As the first four witnesses are German civilians their sworn statements were recorded and translated into English by 102707 Set van Bruggen Leendert, Royal Rederlands Army (Interpreter, attached to A & S H of C, CAU). The accused consented to have set van Bruggen Leendert act as interpreter.

Frau Elfreide Danson residing at Harst Wessel Strasse, Meppen, Germany, Sworn, States:-

husband at Marst wearel Strames, Mepen, Germany. About 1550 hours 10 Apr 45 I went to visit my parents who reside at real strames 6 and when I arrived there and extered the house I was stopped by a Canadian soldier whom I recognize in this room (witness points out pte Eczak, A L). This was in the hall and no one she was in the hall and no one to see us in the hall at that time. He did not speak but did not know what he was saying but understood by off the hall. I want into the room and he followed we in. In the room were my parents, my sider and a mean man I know. They were all sitting around the table, except the mean who was although a corner. Also in the room was enother demands in a corner. Also in the room was enother demands and soldier whose I resognize in this room (witness points out L cal mes in (the Komak) told as to sit down on a chair. I did not know I was not allowed by his words I was to points to pite known I was not allowed by his words I was to points to pite Komak) was wanking up and down the room with his pistol and later a hanting rifle belon ing stand what he was saying. He had a threatening attitude, some other person was talking in the room which his pistol and later a hanting rifle belon ing stand what he was saying. He had a threatening attitude, some other person was talking in the room and in the stand what he was saying. He had a threatening attitude, some other person was talking in the room and in the first has attitude. The said and the chart canadian soldier (witness points to pic Kozak) that I was to leave the room which is did and the followed as and to want into the hall. Before we went out, the other Canadian soldier farmed and was a first watch and tack it off. The first wearing and in which I had some sone which I did not understand. His firearm was not in his head of sin or schooles because also when I this the corridor and he mai talking to his in the corridor and he had on an account whe said the stand and this power. Lending off the corridor was another room.

Sheft. Ramelle Frank Watch Not CHARGED

FRAU MADE TO DRINK. DRINKING

I entered the first room there were a bottles or da on the table and y were partly full. The bee bonadis soldiers had been drinking from three bottles so f acked him to take me ough to the other room as I was seared about by preats. We came bask to the other room shore the other people were and I was ordered to all down and to boys, a gring. I just book a litt room shore the other people were man I was ordered to sit down and to have a drink. I just took a little bit and was ordered to empty my class by his words. In that room share my parents were, I was toth the Ganadian solcies (witness points to both anguese) or the other woman drinking, but in front of my father or the table was an empty class. One lines fell and he floor and knows at empty class. One lines fell and he floor and knows at the Canadian solcies (witness points to pie Kanada) and to my mother to brink in a new class which my mother eid. One of the Sanadian solciers (witness points to pie Kanada) and to my mother to brink in a new class which my mother eid. One of the Sanadian solciers (witness class to the Kanadian solciers (witness distance of the sanadian solciers (witness d and he entered at father to the at futh and he are a text a manualtion white each feet as full heating witho and he sudored by father so take it many to another room. My father sid not uncommitment and the soldier passed a rifle in his back. I told my father what he conted out my father took it seems The Generales soldier (witness points to ris some) wont out of the room. I heard a shot and was afraid my father had been hurt until he came back into the room. The same soldier pushed up a radio and threw it on a sora and pushed my father on the sora as well. He pushed my father, took his cost off and ordered my father to his deem on the floor. Another canesan olvilian entered the room and the man canadian soldier (witness points to rie more) out his doen soldier (witness points to Pte Rozar) out him does on a chair and took his wallet. He ordered wis man to lie on his storech beside my rather on the floor and if any person in the room spoke to other count soldier (witness points to L spl Rus ell) should be plated. One soldier (L cpl Russell is collicat out other Canadian sollier (witness colds to the sold said he wanted to a s. first. I went out on the said started towards the door entrance to the solde and he pushes as covered the stairs. Such that a part of the property of the stairs of mnew what he wanted from me, we stayed in the sale room, he gave me a bor or anoccalate but I did not sent it. He ordered no to lie down on hom has but it did not sent to the I set down on it. He ordered me to take off all my clothes and ne still had a pistol in his hand. I took off my clothes ap self and was lying down on the bed. He did not remove an of his slother, he had saxual intersoon me with me, while we were in the room, the other days den models while so are in the room, the other canadian soldier came into the room (without points to t e.i. assell) and I understood the paradian soldier (without points) to rte Kozak) to say "smother two minutes" and the

CLOTHES OFF

RAPE ACT

other goldier away and then mortly came back and took off all his clothes. The first soldier east took off all his clothes. The first soldier east of druss. I had all my chothes off. The other canadian soldier (with me. he had several intersource at the set of the second coldier was drunk and I pushed him away and got dreesed. I was marriy dressed when the other soldier returned and wanted to be a caval intersource as the second soldier returned and wanted to have sexual Intercourse again. He ordered on to

Runell Father

WITNESS IT. WALKER

undress myself. I did not do it and then an officer came into the room. The second soldier with me was not fully dressed but the first one was. The officer said something to the two soldiers of which I did not understand and he told me to leave the room which I did and met my husband who had come upstairs.

The accused declines to cross-examine this witness.

Frau Elfreide Dahmen,

DECOND WITHESS

Paul Stahlschmidt of Paul Strasse 6 Heppen, Germany, sworn, states: "

I am Paul Stahlschmidt residing at Paul strasse 6 Meppen, Germany and am the Tather of Frau Elfreide Dahgen who resides at Horst Messel Strasse Meppen, about 1500 hrs 10 Apr 45, four Canadian soldiers appeared at my home, when I entered the room the soldiers had two bottles of

"Schnaps" with them and asked for four glasses which I gave them. One of the soldiers with

which I gave them. One of the soldiers with a black moustache (witness points to Pte Kozak) told me several times that he was a Russian. They drank much "Schnaps" and asked for more which I gave them. I was ordered to drink as well as my

They drank much "Schnaps" and asked for more which I gave them. I was ordered to drink as well as my daughter and my wife which we all did. They cold my wife and me to drink a glass with them out of each bottle which we did. We were now allowed to speak and he pointed his pistol several times at me. FATHER + HIS WIFE

ne gave my niece two bars of chosolate. Then he judged up and suddenly asked for the assumition for the small calibre rafte which I had prepared for handi in at the town hall which I gave him. He loaded the

rifle and fired a shot into the ceiling. My daughter strau Elfreide Dahmen then came in. Then he ordered My daughter me to go up andasked no at pastol point to come with him to another room which I did. To satisfy

wireless set he put on the writing desk and ordered work, he got more and agree the set did not him I gave him my watch which he took, work, he got more and more excited and as I opened the back of the set, he fired into the set. (this

the back of the set, he fired into the set. (this Ganadian soldier is pointed out as Pte Rozak) Then he took me back into the room and ordered me to undress. He took off me a bunch of keys, a fountain pen and he captied the contents of my purse on the table and pushed me back. During this, Mr Bornhein - a neighbour - entered the room. Suddenly the same soldier ordered me to lie down facing the floor. Out of my desk, he took my hunting dagger, opened everything and threw my contents on the floor. Then he went away with my youngest daughter - Frau Elfreide Dahmen - by grabbing her arm and taking her out of the room. He were

her arm and taking her out of the room. We were watched by the other soldier (witness points to I cpl Russell). The other two moldiers who accompanied the two accused, had several drinks and were ordered by the two, who remained (witness points to the two accused) to leave the room which they did. In the

accused) to leave the room which they did. In the meantime he who remained ordered my wife, my claest daughter, a woman of the neighbourhood and my Bornheim to lie down on the floor as well. My Bornheim scon jumped up and ran away. The soldier who was watching us, ran with his pistol after him but did not get him. After a short time, thin soldier got up and went upstairs as well, came back down and want upstairs again. I took this oppurtunity to run away. I jumped through the window and succeeded

FRAU CNTERED

WITH 2 BUTTLES.

+ DAUGHTER.

DRINKING.

NEIGHDOUR ENTERED

Russell Neighbour Habband

In escaping. I wanted to fetch my son-in-law to nelp us. My eldest daughter who also escaped went and brought my son-in-law. I have not ma yet rodelved back my fountain pen, pocket waten nor hunting dagger.

The accused declines to cross examine this witness.

Paul Stahlschmidt.

THIRD PATER AN

Regiline
Hermann Fornheim, residing at raul Strausse 4
Happin, Germany, sworn, states; +

I as Hermann Bornheim residing at real or ranks a replace of rand stable had a real strauge of and an acquainted of the his campiter from the first of and an acquainted with his campiter from the first of the allied army of, I went to rall the his chalds palman. It is now that the his palman and the Allied army sitting and stableshold's family and one other when, Standing at the door, a soldier approached as and reagged me into the room (witness points to te toma, He was dealing with a stable chaidt and then came to me. He searched me and took a brilliant diamond - collier, two diamond rings, one gold gentlemen's watch thein, one magnifying class, one gold gentlemen's watch thein, one magnifying class, one points thife and one pencil. During the aearch, I was besten several times. I had to take off my jacket and vest and had to lie down on the floor where Mr stablech with a pistol, then I was lying on the floor, a collier (witness points out ste total was done under three-tening with a pistol, then I was lying on the floor, a collier (witness points out ste total y as the same was the field of the stable of the stable watch as a fiter a short time, I jumped up and floor watch as a fiter a short time, I jumped up and floor watch as a fiter two soldiers here to-day as the same was and were present at my stableshalatis house on that day. I had nothing to drink in the house but was those two soldiers drinking a champs and class I have not recovered any of the artisles above manifessa taken from me.

The accused declines to cross exacting the witness.

Hermann Bornheim. Physikan

FOURTH STORES

70, Mey in, Germany, sworm, states;-

I am Goorg parmen, residing at soret come strasse 70, sepila, Germany and an the bashead as real lifeside behaves, who is the daughter of and stableshaist, and strausse 6 mercan. Atomit 1830 has 10 apr 43, my sister in law Miss L. Grunde same to ay home and to 16 me to come to paul trausse 6. her I arrived there I set in bornheim at the front door who told me wise was a patairs. I went upstairs and came and the front door who told me wise was a patairs. I went upstairs and came and the front door who told me wise was a patairs. I went upstairs and came and the former bedroom of my wife. Amount first saw my wife, abe was fully dressed except for a best, who was crying and I sent to her. Then I saw the soldier (witness points to L opl aussell) traightening his trousers. I asked what he meaned later that night and she said to woldiers had had segual intercourse with her and hid me all that took

place. I saw the other Canadian soldier (witness points to rte Kozak) there that day when he handed the hunting rifle to LP walker. This was upstairs. I could see that this soldier (rte Kozak) was drunk. I saw the other but he did not a pear to be drunk.

The accused declines to cross examine the witness.

Georg Dahmen. Ansbord.

FIRTH WITHKIS

Dept., 4 Odn Arma "iv, sworn, states: "

f am Ligut Leonard Bryan Walker 221 Mil Gov't Dept., 4th cdn armd Div. Bout 1700 hrs 10 Apr 45, information was recieved by se th my office that two Canadian soldiers were in paul atrausse 6. In company with Lieut Boxaeu we proceeded to that address. We entered by the rear door and could find no one on the ground fibor. I went upstairs and through a bedrace door partly opened, I could see a soldier whom I thee recognize as L chl Russell on the bed face down. At that time I heard a noize further along the passage and sent Licut nemeau to investigate. I then opened the door of the room and entered and them saw L chl Russell who was clad in his vest and under pasts climbing off a woman whom I subsequently learned to be frau Dahmen. His penus was pertly exect and steaming. She was clad in a yest and stockings. She was terrified and appealed to as in serman which I did not understand, but from her actions, I knew it was for help. I told L cpl Rwseell to dress and the girl commenced to put her elothes on. L cpl Russell's clothes were lying on the floor and I col Russell's clothes were lying on the floor and underpeath them, I found a relat 22 fills which was loaded including the breach. I also found two revolvers - one p.35 also loaded. I took possession of them. I of russell mas under the laftuence of drink, but not drunk. At this stage, or behaven the husband, rushed up the stairs and he spoke English. Lieut Boxseu had come back along the prasage with another canadian soldier whom I recognize as Pterforsk. I sake the hand of a mean to be the tipe. Pteckozak. I asked the hasband to speak to his wife who was in a state of collapse and crying bitterly exactly what had happened. I was then informed by him that his wife had been raped by L. C.I. Russell and prior to that by another soldier. She then pointed out Pte Rozak who was standing in the doorway to her husband and he told me she identified posses as the soldier she had raced her first, hier houseu chisred the room and I took both soldiers on one side away from the hus hand and wire who were crying to-gother, and cautioned them and told them of the Frants complaint and asked them if they wished to give any explaination for their presence in the house. They mad no reply. The husband then informed me that I opl Russell had taken his wire's gold watch from her wri I asked I opl Russell if this was true and he said "Mio". I asked him to empty his pockets and the first pocket emptied - left breast pocket - he produced the match which the woman identified as her property.

Rusself Wilher

I took both somewise late custody, and whilst telkind to the husband, telling I would return later and
somaine the house. I saw both soldiers russing down
the stairs. I called to Lieut. Sozzer, and we both
ran down the stairs after them. On leaving the house,
I ren into the street and turned left rollowing fast
I ren into the street and turned left rollowing fast
through the flower beds and scross fields, and later
caught L of Russell about four huser dyers a many
caught L of Russell about four huser dyers a many
i was matking him to the debastion office, when I
get a lift is a jeep and whilst proceeding I saw
Lieut. Boxacu valking in the same direction with releate. Boxacu valking in the same direction with releated. The soldiers units - A & B H of 0 - the 2 i/c
and he ordered them to be placed under close arrest.
I then returned to the house and has a hole in the
colling with freshly fallen placer on the action.
On the bable was flow classes and to be connec;
one of the many fall of which had been
wine; one with no labot, but appeared to be connec;
one of many and one vermouth, all of which had been
evidence of many and and articles the roll and a rifte,
a comment, which have been retained by military govern-

The accused declines to cross examing the witness,

Leoner & E Walker

SIXTH SIMPLES

Lieut. Gomma Timen Jozeph hussan, Notherlands army, ablauned to 4 can arma Div, sworn, states:-

I sa Lieut. Occase Tijmen Tole, h Bernam,
Schmerlands Ars, steached to 4 Cdr Arsa Div. About
1700 hours 10 April 45, Lieut. Malker and syself
were intermed that there were some soldiers at
raul Strames 6. We processed there and when we see
the desire and I followed him. I entered a beak
ent apsteirs and I followed him. I entered a beak
rom and saw one canadian soldier whom I recognized
as the lozas, here today. He was drawed but was
straightening which was in disorder. I saked him
the west doing, and he gave no reply. I told him
to go down stairs and weit there until Lieut. Welker
came down. He tried to go out of the house, so I
ordered him against to follow me unstairs, we want up
and entered another bedroom in which were Lieut.
Welker, the other canadian soldier whom I recognized
as I of Russell, and a German woods whom I subsequently learned another parameter and Frau Dehman and
maderweer only on, but no underpants. She was crying
and feeses in his underwear and Frau Dehman and
maderweer only on, but no underpants. She was crying
upstairs whom I later learned was her humband, and he
could speak anglish. He spoke to loub, maker and
heard him say that one of the Schaiers had raped her,
and the other had done the same. She lieuthied I off
Russell and fee Ecras as the two soldiers had reped her,
and the other had done the same. She lieuthied I off
raped her. I saw Lieut, welker pick up a rifle and
two pitcle and the wowen said she almost her wrist
watch. Lieut.

After asset for it am out it from
stairs and they tried to escape by leaving the back
and disappeared.

Lieut. Walker started after I. opl Russell and I started after Pto Kozak and caught him several hundred yards away as he was walking along a road. Subsequently I set Lieut. Walker with L opl Russell and they were in a jeep and we all came back to the office. I could see Pto Kozak had been drinking and he told me he had, but he was not drunk.

The accused declines to cross examine the witness.

G T Boxseu

The accused was cautioned as follows:-

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 avidence you give will be taken down in writing and may be given in evidence.

A. I do not wish to make a statement.

The accused does not call any witnesses.

Evidence, consisting of seven pages, was taken down by me in the presence of the accused and that RF 4(C), (D), (E), (F) and (C) (13) have been complied with.

In the Wield 13 April 45

Hoya Hielin (A & B H of C

(officer detailed to take Summary of Syldence)

B45809 Pte(L spl) Lawrence William RUSSELL A & S H of C

1. The following is a f-tr and true magning of the entries in the Fiold desput sheet of the account, uselusive of convictions by

NO FIELD CONDUCT SHE T AVAILABLE FOR THIS MAN.

Pass of lest onter to Picts Conduct sweet N/A

Tr... The eponse' has been uniting trial on the present charact fordays to divid sustody; and for .. 8 days in collicar.

charony, i.e., No. Here is copy arrest man. B. they in

The present upon of the secured by the ... 23 years

The some is in mossession of: CVSM & Clesy

o. (If the account is a surrent officer or HOC). The account

Lance Corporal

SCHEDOLF OF CONVICTIONS BY A COURT-MARTYAL ON CIVIL COURT

Description Date of Court by and Place which tried Place of

Charges upon Sentence which convicted of Court

Punishment remitted or sentence suspended

I wereast descript that the foregoing particulars, which have been extracted from the Regimental books in my sustedy, are correct to the best of my knowledge and belief.

Signed this .. 18 th any or .. april.

CAT. BISSER Capt , A4T

FIELD GENERAL COURT-MARTIAL

Convened by Order of Brig J.C. Jefferson Cound 10 CIE

dated 15 Apr 45

ACCUSED.

(As to the trial of two or more charged jointly sep EP 16, 71, 109. As to reasons for showing (a) permenent or confirmed renk, and (b) opport, A/rank or A/opport, I/ any, see AA 162, 183, 7ms, KR Can 308, 328, 330.) Number. (a) Prmnt R. (b) Appmt, A/R or A/Appmt. Full Christian Names.

B.45809

Pte. L/Cpl. Lawrence William

RUSSELL A&S H of C

(KRTIFIED COPY

Crouding received Makan Capit

PROCEEDINGS OF TRIAL.

Held in the Fd in (country) Germany

18 hop 450 20 16 60

RECORD FORM A-OPENING PROCEEDINGS AND ARRAIGNMENT.

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

charge discloses an offence. (3)
(1. As to use of Summary of Evidence see RP 17 for b. 3, A3 49, 50, RP 105-107. 3. RP 11-13, 23, 24)

A3. The Court is opened. The accused is \$3300 cought before the Court. 41 undergo trial by court is a country of the court.

A4. The Prosecutor produces a Medical Certificate that accused is A44 through trial by contract the A44 through through the A44 through through the A44 through the A44 through through the A44 through through through through the A44 through through through the A44 through throug

MINISTER AN AREA MANUEL

(I. KR Can 557 2. AA 45(8), RP 50 fn I. For effect see KR Can 553(c). Delete, if not applicable.

(I. KR Can 557 2. AA 45(8), RP 50 fn I. For effect see KR Can 553(c). Delete, if not applicable.

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(I. KR Can 557 2. AA 45(8), RP 50 fn I. For effect see KR Can 553(c). Delete, if not applicable.

The Interpreter is sworn.(1) Do you object to M. 11436 B/Sgt FW Ellighthand writer ! Ans EQ Zec-

A3. The Convening Order and names of the President and Members of the Court are read to the accused (1)

R5. The Convening Order and names of the President and Members of the Court if

R6. The Court is accused. Do you object to be tried by me as President or by any of the Members of the Court if

R6. The Court is accused.

(I. RF IID. 2. If no objection, welling member settles. RP 68(8). It abjection, see procedure AA 51, RF 25, 71, 10, man; 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 un	its of the office comprisu	G.L. CASSIDY	ALQ E
President	CAPT	J. KIDD	L & W Regt
Member	LT.	W.W. SOLKIN	ALQ R
Member	CAPT	D.G. IEAN	2 Cdn Corps
Judge-Advocate		E.E. WASSON	4 Cdn Armd Div
Prosecutor	CAPT	D.E. LEWIS	HQ 10 C. IB
Defaulies Offe			Vas

Questions by President: Is the Prosecutor a lawyer | Ans. Yes Is the Defending Offr a lawyer | Ans.

11. RF 2s. 27. 109, 111. List of offer under limits will be recommed separately with proceedings for information of Conv. (

A.S. The accurated Def Offer net, accused is entitled to an adjustment when RF 89, (8) and fo 2 were not followed. See

A.S. The accurated

(1. If a special plea is mode for separate trial on one or more charges (RP 62(E), 108), or as to the jurisdiction of the Cause (RP 34, 35(A), 173), or in bor of trial (RP 36), or as to accused's mental fitness to stand trial (AA 120, RP 52), or one of several accused charged painty to be triad separately (RP 16, 71), such plea, the addresses made in support or agreest, the primary of the second making transfer of the second primary of the second making transfer or the second primary of the second pri

A9. The accused is (an array of pers) all charges in the charge sheet.(1) The accused does (an array of person of the pleas in Part 1 of the Schedule.

(1. RP 31, 1/2. See para I of Instra p 2. When more than one Charge Sheet see RP 62; when several occused to be tried separately see RP 71(C), and use separate capies of CF Abb to recard proceedings.

2. RP 32, RP 32. If sobervise, delete and make appropriate recard per Notes.)

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

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 withdrawed of alternative charges by Prosecutor see RP 35(C). No other charge can be withdrawen for any reason without authy from Concerning 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).

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,
- If pleas to all charges are NOT GUILTY, use Record Form D on p 3.
- HI. 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 vistrs as may be appropriate to result of its decision. See MML p 744 Instrs (2).

Prosecutor see RP 00(L) (B); duty and privileges of accused and Defending Offr see RP 00(C), 87(C), 91, 92; swearing and withdrawed of vatnesses from Court see RP 81, 82; questioning of accused see RP 80, 87(C), 92(B), and of witnesses see RP 83-85; culting or re-calling of witnesses by Court, etc., see RP 75-79, 86, 116; we of Summaryof Evidence at Trial

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

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 plen(s) of Guilty is (are) not changed the President records finding(s) of Guilty in Part I of the Schedule. (1)
(1. BP 35(8). If any plea(s) is (are) changed, use Recard Form C or D as appropriate.)

B5. The Summary of Evidence is marked Ex., initialled and read aloud by the President.(1) (i. If there is no Summary, or if it is inodequate, comply with RF 37(8). If there is one evidence inconsistent with only piece standing as Guilty, Court will advise occurred to change such piec and, if changed to Not Guilty, try such charge(s) by use of parts D1 to D8 inclusive of Record Form D on p 2. RF 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 inclusive of Record Form D on p 3 before proceeding with C $2 \cdot (l^3)$ (J. RP 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 Summers of Evidence are read as relate to the charges dealt with under C2. If any piec is charged to Net Geilty, trial thereon proceeds by complying with para D1 to D8 inclusive in Record Form D on p 3 and making on appropriate record thereof on a separate sheet.)

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

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

Pin here Loose Shows Wer Record.

RECORD 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 relace to procedure before trial have not been complied with, and that you have been prejudiced therebye or, on the ground that you have not had sufficient opportunity to prepare your defence | Ans (1) (I. If "yes", see RP 39(A) for procedure. Statement or evidence, if any, is recorded per Notes.)

D2. The Prosecutor makes **3.2** (no) opening address.(1) (1. RP 39(B), 60(A) (B), 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 Con SSS. Record evidence per Notes. As to Prosecutor giving evidence himself see RP 39(D) (E).)

The Prosecution is closed. (3) bunderenthous authorization the exchange for the description of the contract of KEKARAMOKEMAWAKAKA A VENEZIA CONTRACTOR DE LA CONTRACTOR DE EXECUTED THE RESIDENCE HERE IN THE PROCESS OF THE COMMENT OF THE C XXXXXXXXXXXX

(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 parus 12:14 and p 81 para 42.

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

NB: If trial proceeds, accused must be allowed great latitude in making his defence, and the Court should not stop his defence solely on ground of irrelevance.

(RP 50(C), [14, 115)

You may, however, make a statement without being sworn, and you will not be subject to cross-exumination. But a statement which could have been made on eath will not earry with the Court the same weight as sworn testimony. You may call witnesses in your defence and as to character, whether you give evidence or make a statement es-

President to acquest: Do you wish to give evidence yourself as a witness, make a statement, or do neither t NO Do you intend to call witnesses on your behalf ? (I. RP IIS. 2. RP 40(8) see 80(D). 3. RP 40 fo ID.

(1. RF 114, 115, 116. For procedure see Notes on back of Convening Order, CF APS. Evidence for accused as so his character should, if in his interest, be given before the finding. See RP 46(A) fn 1, 86(C). Note the further apportunity in para E1 of Recard Form E. Record per Notes addresses, statement, evidence and any 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.(3) The Court is re-opened.
(1. RP 43, 117(A). See Notes in Part 1 of Schedule. 2. RP 44(A).)

D8. The President announces the finding(s) stans, of Not Guilty, and states to the accused that the finding(s) of the Court on the first & fourth charge(s), being subject to confirmation, will be promulgated later (*)

BESTANDEREN BESTELDE BETTELDE BESTANDEREN SOOREN BESTANDE BETTELDE BETTELDE

are pleas of Guilty outstand

RECORD FORM E-PROCEEDINGS ON CONVICTION BEFORE SENTENCE.

President to accused: Do you wish to give evidence yourself Do you wish to call a witness as to your character Xes. If evidence has already been given by accused or his witnesses as to his character, delete this par Accused and witnesses are swarn. 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 Defending 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. A refrectively.(*)

(1. MFB 355 or AFB 296. 2. MFM 6. 2. RF 46, KR Con 558. 8 shows documents not produced, see RF 46 fn) NS Ex and Ex pore /.)

A spore /.)

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) Ans
(1. RP 37(C), 4e(D)). 2. Andress, if any, recorded per Notes. Court should permit accused or his witnesses to prove on each anything here or previously stated which would offect the amount of punishment. RP 37(E) 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.(1)

(i. AA 54(6), 88 120(AL)

E5. The Court considers the sentence.(1) The President records the sentence in Part I of the Schedule, which

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

SCHEDULE.

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

Accused: B.45809 Pte. (L)Cpl) Lawrence William RUSSELL A & S H OF C (See instrs p.2.) (See note below.) (Space for use as required for further charges, occused charged jointly, LA AA SEC 41 Not guilty Guilty Not g ilty Not guilty 2nd At Bana 49va and AA sec 40 Not guilty Not guilty Not guilty guilty 4th AA sec 41 And Administration of the Markette St. MANAGENANAAKKANGAK Time in confinement awaiting present trial—a total of . 6 days, of which . NIL days were spent in hospital.(1) (1. See RP 46(A) in 2. Information should be found on MF 0355 or AF 8296 admitted in evidence under E2.) Sentence Awarded by the Court : TO SUFFER PENAL SERVITUDE FOR THE PERIOD OF FIVE YEARS AND TO BE DISCHARGED WITH IGNORINY PROM HIS MAJESTY'S SERVICE I'X Carredy Alexan Capt 18 Apr 45 President (89 45, 50) Majar PART II. MINUTE WHERE CONFIRMATION RESERVED. (ALSHID, RF 1200F), MALE 7-760.) I reserve confirmation of the finding and sentence for higher authority 10 Cdn Inf Bde PART III. DECISION OF CONFIRMING OFFR ON FINDING(S) AND SENTENCE. If or deflet and powers see AA 54, 57, RP 37(D) fin 6.8e(A), 51-86, 120, MAML pp 759-761, KR Can 567-577. Accultable require no confirmation and connet be revised: AA 54(3). Sending back finding or sentence for revision by Court: AA 54(3), RP 120(G). If not confirmation were be tried again: AA 57, MML p 64. Minute of confirmation or non-confirmation may be aftered before proving ton. RP 53, MML p 65. Quashing clifts premulgation: RR Con 573. Duties and powers of reviewing office: AA 57, 574, RF 53A, 54. The Confirming Offic misst high here personally. AA 172 fin 1.) CONFIRMED JANY Buras Date 10 May 45 (H.D.G. CRERAR) GENERAL Commanding GOC in C FIRST CDN ARMY

PART IV. PROMULGATED AND EXTRACTS TAKEN. (RF 52, KR Com 576, 577.) Signature of Offr. Line

B.45809 L/Cpl. Lawrence William Russell

23 May 45

ASH of C

L/Cpl Lawrence William RUS.

XXXXX and in my opinion he is "It-August to undergo

FIELD

18 Apr 45

Lawell (4xt

HQ Sqn 4 Cdn Armd Div

FIELD GENERAL COURT-MARTIAL

CFA95 (in New of AFAS 40/P&S/1697 (2863)

Unit.

(Whether the accused to be tried is under his camd 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 cond of troops on active service, subject to RP 105(C) and restrictions imposed by appropriate authorized and privileges of the Convening Offr in dealing with the application see MML Chap V paras 20 and 23. As 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 paras 20 and 23. As 97(B).

RP 87(8).

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 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 16, 109.

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

ACCUSED.

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

B. 45809

Pte. L/Cpl.

Lawrence William

RUSSELL

A & S H of C

CONVENING ORDER.

1. Whereas complaint has been made to me, the undersigned, that the person of named above as the accused, being subject to initiary law, has (have) committed the offence(s) set forth in the Charge Sheet of attached and on (date). 13 Mark 15 endorsed by me, (or by an offence in staff for me), "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 trial for reference to a superior qualified offic.)

(Delete part in brockets when not required for compliance with RP 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 (a) three Offrs to form the Court, (b) a Fri Offr as President, fo. the reasons I have attached lights.

(AA 49, RP 106(8), 107(A). Delete the whole or part, if not applicable.)

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

PRESIDENT.

Alq R G.L. CASSIDY MAJOR (Must be named. RP 106.) MEMBERS. 29 Cdn Armd Recce Regt J.L. SUMMERS CAPTAIN Linc & Welland R KIDD CAPTAIN (Named or detailed. RP 106.) (Rank.) WAITING MEMBER. Alq R W.W. SOLKIN LIEUT. (Unit.) (Named or detailed, if any. RF 106.) JUDGE-ADVOCATE. 2 Cdn Corps D.G. DEAN CAPT lust be named, if any. RP 106.) On Active Service in the Fd

in GERMANY (Country.)

Date

15 Apr 45

Commanding

10 Cdn Inf Bde Convening Officer.

R# 105 fn 2.)

Brig

(Rook.)

CONVENING OFFR WILL INITIAL ALL DELETIONS AND ALTERATIONS

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

CHARGE SHEET

The accused No. B.45809 (L/Cpl) Pte. Lawrence William RUSSELL, Headquarters Company, 1st Bn The Argyll & Sutherland Highlanders of Canads a soldier of the Canadian Army Overseas, is charged with:

First Charge Sec 41 Army Act WHEN ON ACTIVE SERVICE COMMITTING A CIVIL OFFENCE, THAT IS TO SAY, RAPE

in that he

in the field in Garmany, on 10 Apr 45, had carnal knowledge of Frau Elfreide Dahmen, without her consent.

Second Charge Sec 40 Army Act (alternative) WHEN ON ACTIVE SERVICE CONDUCT TO THE PREJUDICE OF GOOD ORDER AND MILITARY DISCIPLINE

in that he,

in the field in Germany, on 10 Apr 45, did fraternize with Frau Elfreide Dahmen, a German civilian and resident of Germany, by having carnal knowledge of the said Frau Elfreide Dahmen with her consent

Third Charge Sec 40 Army Act WHEN ON ACTIVE SERVICE CONDUCT TO THE PREJUDICE OF GOOD ORDER AND MILITARY DISCIPLINE

in that he.

in the field in Germany on the 10 Apr 45 did fratemize with German civilians at the house Paul Strasse 6 by drinking and conversing.

Fourth Charge Sec 41 Army Act WHEN ON ACTIVE SERVICE COMMITTING A CIVIL OFFENCE, THAT IS TO SAY, ROBBERY WITH AGGRAVATION CONTRARY TO Sec 23(1) (a) of THE LARCENY ACT 1916.

in that he,

in the field in Germany on 10 Apr 45 being armed with a pistol robbed Frau Elfreide Dahmen of one gold wrist watch.

In the field 14 April 45

(R.D. Mackenzie) Major A/Commanding Officer A & S H of C

TO BE TRIED BY FIELD GENERAL COURT MARTIAL

In the field 15 Apr 45

(J.C. JEFFERSON) Brig Comd 10 Cdn Inf Bde

Frau Elfreide Dahmen, Harst Wessel, Meppen Germany, having been duly sworn is examined by the Prosecution Witness. If there is no objection I will lead the witness in some parts in view of the hour and of the previous trial?

Defence - I have no objection I will object if it goes to far. Prosecution Q.1 You are Frau Elfreide Dahmen, Harst Wessel, Meppen, Germany A. 1 Q.2 What is your husband's name? You are a German civilian and an inhabitant of Germany? Yes. A.2 Q.3 A.3 Q.4 On the 10th of April this year at about 3.30 in the afternoon you visited your parents at Paul Strase 67 Georg Dahem A.4 Please tell the court who were there when you arrived and 0.5 When I entred the home I met a Canadian soldier.
Was it the Canadian soldier here in court or someone else? A.5 0.6 Q.7 A.7 Q.8 What was his name, do you know? Do you know it now? No A.B 9.9 Yes, Kozak. No the accused? A.9 Q.10 A.10 What happened then?

Kozak brought me by the arm and brought me in the big

Kozak brought me by the arm and brought me in the big

Kozak I had to sit town on a chair.

Trom Kozak I had to sit down on a chair.

To you see the other Canadian soldier in court, the one

in the corner on the chair?

Yes (Identifies the accused)

Go on please. Q.11 A.11 9.12 I did not want to sit down but my father told me to sit down. I was not allowed to speak. When someone was down. I was not allowed to speak. When someons was talking both the soldiers had a fighting attitude with the pistol, this soldier pointed to my watch and I gave him the watch.

Who was that, this accused? Go on please. Q.13 A. 13 his name is Russell, try to call him that. Why did you give Q.14 A.14 I could not do anything and I like to give my watch before 9.15 him the watch? Y's I was afraid for the pistol had a fighting attitude. Who was holding the pistol? A.15 0.16 A.16 Q.17 Kozak walked the room up and down and as soon as someone moved or was talking Kozak had a fighting attitude with A.17 Q.18 A.18 Just what do you mean by this fighting attitude with the pis-tol? I suppose this would be a threatening or menacing attisdo? I suppose this would be a threatening or manacing a work of the time they both had a pistol in the hand, and sometimes it was laying before them on the table. This fighting attitude would it be a menacing manner? It was ferocious. Qo on from there?

Kozak took my by the arm and said I would so with him. the pistol. 0.19 A.19 Go on Irom there? Kozak took my by the arm and said I would go with him, went with him to the small hall. Q.20 A.20 Q.21 A.21

Presecutor This evidence that I am introducing is admissable as it bears on the question of consent. It involves the previous incident I know. Do you feel it is reasonable to far I have no objection. refence If so, I will make it known, he took you upstairs, tell Q.22

the story from there? Kozak was up in my room and the door opened and Russell came in. A. 22 Just tell what happened please from the time you went upstairs and Q.23

Russell came in? I cannot tell other than what I said before.

A. 23 Explain to her interpreter that this is a deparate trial and it is just as if nothing had been said in the other case, and as Q.24

if the other case had not been before the court.
The witnesses breaks down and the presecutor requests that she be allowed to stand down while other witnesses are heard. A. 24

THE COURT ALLOWS THIS WITNESS TO STAND DOWN

Georg Dahmen, Harst Wessel, Meppen, Germany having been duly sworn is examined by the Prosecutor: SECOND WITNESS Prosecution

Your name is Georg Dahmen and you live at Harst Wessel in Meppen, 2.25 Germany? A. 25 Yes, that is correct. understand you are a manufacturer? I am a merchant now with my father.
On the afternoon of loth April; this year I understand you were called by your sister in law to your father in law's home at Q. 26 A. 26 Q.27 Paul Strasse 6?

Yes.

Will you tell the court what you saw on arrival there?

Will you tell the court what you saw on arrival there?

I came in and met Herr Bornheim at the front door, and asked where my wife was, he told me she was upstairs, so I went up and saw Lt Walker in the room of my wife, and her she was sitting before her bed. I asked her what had happened and she only cried, she could not tell me anything. Looking around in the moom I saw this one (points to the accused)

What was his state of dress? A. 27 Q.28

What was his state of dress? 9.29 He had his trousers in his hand and was putting them on and A. 29

was standing on one leg. What was the state of dress of your wife? Q.30 She was dressed without shoes. A.30 Did you have any conversation with her? Q.31 A.31

CROSS EXAMINED BY THE DEFENCE

In your mind was the accused drunk at this time?

No not this one, as I told you before.

Prosecutor - Forget about the old trial this is a new one.

I am sorry, because he was standing on one leg and
putting on his trousers.

Did you notice if he had a gun or was armed?

I could not notice that. Q.32 A.32 Q.33 A.33

Q.34 A.34

QUESTIONED BY THE COURT

You say you received no answer from your wife? When you asked her what was wrong she was not lucid at the moment? Q.35

A. 35 Yes, sir. Q.36 A.36 What actually happened? She was crying and I asked her what happened and she said I cannot tell you, it was awful, awful.

- Do you think the wife is sufficiently recovered to tell us CURT now, or do you think it would be b tter if the husband

now, or do you think it would be better it.

Li had that in mind myself.

On further thought there may be the odd incrimminating PROS COURT statement or question, if we could get her to tell it on her own let us try it without. What do you think Mr. Dahmen?
Witness- Yes I think so, I don't know exactly what happened.

IN THE OPINION OF THE COURT AND THE JUDGE ADVOCATE IT IS NOT NECESSARY TO COMPLY WITH THE PROVISIONS OF R.P. 83 (B)

WITNESS WITHDRAWS

FIRST WITNESS FOR THE PROSECUTION FRAU ELFREIDE DAHMEN IS RECALLED

This witness is already sworn, just start at the point please where you were in this room with Kozak and then when the accused first appeared first appeared, please start

theres When Kozak upstairs was with me then the door opened and A. 37 Russell came in. He was talking with the other person and I did not understand him, I only heard Kozak say "another two minutes", Russell went downstairs, I could hear that and after two minutes he entered the room again and started to undress himself, pushed away Kozak and did the same with me.

What did he do literally?

Q.38 A.38 Q.39 A.39 Q.40 He raped me. Did he actually put his organ inside your body?

Yes. Did you fight or make a noise, or scream?

No. A. 30

Q.41

Why did you not? I was scared if I did fight he would shoot me. He had a pistol but it was not on his body. A. 41

0.42 2.43 Where was 1t?

The pistol was on a chair. A. 43 What happened after that?

2.44 A. 44

After that I got up and dressed myself.
When. Did anyone else come to the room?
When I started to dress myself, I was sitting on the bed,
the door opened and an officer came in, I forget that
came in another time before the officer entrered the room. Q. 45 A. 45

Kozak What did Kozak do? Q.46

He entered the room when I was dressing and pointed out A.46

with gestures I was to undress myself again. 9.47

Did he go out co the room or did he stay in the room?
He remained in the room and I was sitting on the bed and
Kozak was standing before me and then the door opened and the
officer came in and he came right up to Russell. A. 47

Q.48 A.48 What did Kozak do? Kozak must have left the boom. I don't know exactly what happened I only know the officer entered the room.

Did anyone come upstairs with the officer? 9.49

I think there was another one, he wors a black hat.

A. 49 Q. 50 A. 50 Did your husband come? Yes, I heard my husband downstairs and I called to him and he came 4

Did you tell anyone at that time what had happened? 0.51 A.51 Q.52 A.52 Yes, my husband.
What did you say, what were your words, do you remember?
I told him the whole story, and told him that this man had Did you tell him this at that time in the house?
No, I told him that night.
What d'd you say to your husband then and there in the room?
My husband entered the room and he was pretty nervous and Q.53 A.53 Q.54 A.54 ne asked if they did something to me and I said yes. CROSS EXAMINED BY THE DEFENCE When Russell pointed to your watch did he have his pistol in his hand or merely on his side. No he did not have his pistol in his hand. Q.55 When you were in the room previous to this time was he pointing his pistol around or was it always on his side, As soon as someone was talking or made a movement he drew KXXXXXXXXXX. 2.56 his pistol. He did not have it pointed at you when he took the A.56 2.57 A.57 Q.58 After you were in the room with Kozak and Russell came in and Kozak left you did you make any movement to get up? How do you mean movement

How do you mean movement

Did you start to get up and dress or anything like that?

No, I did not.

Just what did you do.

I do not understand.

Then Kozak left you was Russell at the immediate beside? A.58 Q.59 A.59 Q.60 A. 60 2.61 Yes at once. Did he make any attempt to hold you down? I was not yet allowed to get up. A. 61 2.62 A.62 Did you try to get up? I don't know anymore, I was only scared. Did you start to cry anytime? Q. U3 A. 63 I was awfully nervous and scared and I did not know what 2.64 A.64 0 00. Did Russell appear to be drunk or very drunk? 2.65 He had drinks in the room downstairs. 4.65 Did he seem drunk in the room upstairs with you? He was not drunk anyway.

At the summary of evidence her statement is "I hated the second 9.66 A. 66 DEFENCE soldier" I think that is a mistake in the copying in the summary, that is a copy the defence has. The summary in the hands of the curt is checked and reads"I PROS noticed the second soldier was drunk and I pushed him away" In the summary of evidence the statement is made, the second soldier was drunk and I pushed him eway, why did you make that 9.67 I did think about it later on if he was really drunk but he could statement then? Your statement at this trial is that he was not drunk, the one you made at the summary is incorrect? I cannot tell I con't know the difference browen drunk and under the influence. I only know if someone is fairly drunk. What would you say the accused was at this time? I could tell you one person can drink five glasses and other ones can drink more. A. 67 9.68 A. 68

QUESTIONED BY THE COURT

9.69 A. 69

Will you tell briefly what happened when you came in the room in the first place? 9.70

I entered the room. A.70

can drink more.

No, why did you go up to the room in the first place? I went up to my room for in my room were two chairs, it was Why did you go upstairs at all?
I had to go because he grabbed me by the arm?
I had to go because he grabbed me by the arm?
If you see the accused, can you tell us briefly what you saw of the accused only downstairs, what was he doing?
Most he was sitting in a chair and Kozak was speaking, he appeared to be the person who had to say most. living room and bedroom at the same time. Q.72 A.72 Q.73 A.73 The accused only did what Kozak said and he watched us when What was the accused doing? 0.74 we were moving or standing up will you clear that up, did he just watch you or something 4.74 9.75 As soon as somebody was moving in the room he drew his pistol and pointed it out to several people in the room. When you left the downstairs where was your father in the room? When I left the first time or the second time? else? A. 75 Q.76 A.76 Q.77 A.77 Q.78 A.78 My father was lying on the floor.
And Mr Bornheim, where was he?
And Bornheim was lying beside my father in the same attitude
Mr Bornheim was lying beside my father to be in that attitude The second time? Under what circumstances did they come to be in that attitude? Kozak came into the room from the writing room, he was carrying a radio set, he threw the radio set on the sofa and
pushed my father on it.
Where was Russell? Where was Russell?
He was sitting on a chair in the cormer.
Did he have his pistol in his hand or in his haster at the time?
I cannot tell you that exactly, but I think it was on the table in front of him.
Continue from there, from where you left off, Kozak forced your father on the sofa? Q.80 A.80 0.81 A. 81 Q.82 Kozak got my father and put him on his legs and showed him he had to undress his waistcoat and jacket.

How did he get on the floor? A.82 He took away my father's stuff, he was saying in English to my father and he did not understand, to lay on the floor, and he showed him. 2.83 1.33 Your father did lay on the floor? 9.84 You say you went upstairs because he took you by the arm, who A.84 Q.85 do you mean by he? He took you upstairs into what room? He went to the room of my parents and I went straight to my own room and he followed in behind me. Q.86 A.86 Why did you go upstairs with him? He grabbed me, I could not leave the house, so I had to go upstairs with him.
Why could you not leave the house?
I was afraid I would be shot if I tried to do anything like Q.87 A.87 Q.88 A.88 Did you believe your would be shot if you ran away? Yes I believe that I would. 9.89 New Now you went upstairs and Kozak followed you into your room? A. 89 9.90 A.90 Q.91 Yes. What did he do then? No answer Mould you explain to the witness the only reason she is being questioned again on this is to make the story come out in the proper Tell us briefly what happened when you came into the room with order in the 9.92 I was sitting on the chair and he was standing in front of me and after a while he pointed out to the bed. I did A.92

- not want to do that and I told him to let me sit in my own chair. Then he pointed to the bed and ordered me that I would lay down on the bed. Then I sat down on the bed and he said to me I should undress myself. I did not want to do that and he caught me by the jumper and I was scared if I did fight I would be shot down. After that I undressed myself and after
 - that he raped me. You have said that Russell came into the room and Kozak said another two minutes, is that right? 9.93

A.93 Yes

0.94 At that time was Kozak having sexual intercourse with you

or had he finished?
No, he had not finished.
You said Russell came back into the room a few minutes later? A.94 Q.95 A.95 -Yes.

0.96 Where was Kozak when he came into the room?

A.96 He was always with me. 9.97 Where in the room was he when Russell came in the second time,

on the bed or standing up by the bed.

In the bed.
When Kozak finished this sexaual intercourse, Russell was already in the room then?
Yes. Meanwhile he undressed himself. A.97

A.98 Q.99 Bussell undressed himself while Kozak was still having sexual intercourse with you?

A.99 Q.100 A.100 Yes. When Kozak completed the act he left the room?

Yes. Did Russell then come into the bed with you? Q.101 A.101 Yes at once. Did you see whether or not Russell had a pistol when he came Q.102

into the room? A. 102

Q.103 A.103

- into the room?

 Yes he had a pistol in his belt.

 Did he have it out at any time in there?

 No, he did not.

 Why did you not fight Russell to prevent him having intercourse with you?

 I could not do it because I cannot fight against a man 8.104
- A. 104 and I had to think that he would shoot me down. Did he threaten you with a pistol at any time?

1.105

A.105 No he did not.

IN THE OPINION OF THE COURT AND THE JUDGE ADVOCATE IT IS NOT NECESSARY TO COMPBY WITH PROVISIONS OF R.P. 83 (B)

WITNESS WITHDRAWS

WITNESS for the Prosecution

Paul Stachlschmidt, Paul Strasse 6, Meppen, Germany, having been duly sworn is examined by the Prosecution

9.106 Your name is Paul Stahlschmidt, of Paul Strasse 6, in Meppen, Germany?

A.106 Yes.

9.107 You are a german civilian and an inhabitant of Gormany?

Yes

A.107 Q.108 A.108 You are the father of the woman Frau Elfreide Dahmen? Yes

9.109

On the 10th of April this year were you in your home in Meppen, Germany? A.109 Q.110 Yes.

What time did you go to your home?

A. 110 It was between two and three o'clock in the afternoon.

Who did you find there when you got there? . 3.11 In the house were four Canadian soldiers. Look around the court and see if you recognize anyone .111 that was there? Yes (Identified the accused) Just tell us what was going on? When I entered the room the four soldiers were sitting Q.113 A.113 on chairs and there were two bottles on the table, one of the soldiers, he was in here this morning, ordered a couple of glasses, I fetched down the galsses and the one who was in here this morning ordered schnappes. I one who was in here this morning ordered schnappes. I did not want to get it, but my older daughter fetched two bottles with some schnappes. He ordered me to fetch down another two glasses, poured out of the bottle and ordered my wife and me to drink, then after that he took the second bottle and we had to drink again. After that he started to open my writing desk, and then he searched it. Meanwhile, he discovered in my writing room my shot gun which was ready to turn in, and then he came to the room with the small rifls and ordered me to yet the appropriate with the small rifle and ordered me to get the ammunition then he loaded the rifle and fired a shot into the ceiling. and What then? When someone was talking he shouted at them. Then my youngest daughter entered the room and the one who was here this morning pushed her into the room and made her sit down in a chair, and then after a while he took out of the room we youngest daughter. Q.114 of the room my youngest daughter. What is her name? 9.115 Elfreide Dahmen. He then returned with her to the room A. 115 and he did not appear to do something to my daughter and my daughter told me he is not so bad. Then he had a talk with my granddaughter he took her beside him and was very nice to her and offered her a bar of chocoate Then at once he jumped up and shouted something in the room and I had a feeling he said it is different now. Who is the he through all this? Q.116 It is the one that was this morning in here. A.116 Q.117 Where was the ocused at this time? The accused was sitting in the corner and trying to talk to my eldest daughter who could speak a littel school English and then he ordered me to go in my writing A. 117 room and his pistol was out. Which one ordered you? The one from this morning. A. 118 Where was he when he did this? It was in the same room in the big room. Q.119 A.119 Was the accused there? 9.120 Yes, the one Kozak pulled his pistol and ordered me to to to my writing room where my radio was. Did you come back to the room where Russell was? When I entered the room again the accused was watching A.120 Q.121 A.121 us, then Kozak went upstairs with my daughter. I was on the floor at that time.

How did you get to the floor?

Kozak ordered me to lay down on the floor, before that he took all my stuff and my waistcoat and jacket.

Was Russell present when Kozak ordered you to lay Q.122 A.122 Q.123 on the floor?
Yes.
Did anyone else come i to the room at that time ? A.12 3 Q.124 Herr Bornheim entered the room and had to do the same A.124 thing Were any goods taken away from an one that you saw? I did not see that I only heard Horr Bornheim ask for them to give back his wife's jewels. 9.125 A.125

Did you see anything taken from anyone else? My watch which I gave him, my pocket knife and my hunting dagger and my keys.

Q.126 A.126 Who got these?

Kozak

Q.127 A.127 128 A.128 Q.219 Were these taken from you in the room where Russell was? Yes.

Was anything taken from anyone else there?

I cannot tellyou that. A.129 What happened after that, you are lying on the floor, Kozak 0.130

has gone upstairs with your daughter.
A fter that Herr Bornheim had to lay down beside me the A.130 accused watched us and as soon as someone moved he was shouting and had his pistol in his hand. Herr Bornheim succeeded in getting away when the accused did not watch him. He was getting behind Herr Bornheim and after came back and was sitting on a chair, and then he ordered my wife and the woman of the neighbourhood and my daugher my wife and the woman of the neighbourhood and my daugher to lay down beside me. He watched us always with his pistol out, and after a while he stood up and went to the door and I heard he went upstairs. After a moment he came back. After a moment he stand up again and went out of the room and went upstairs, I heard him climb the second part of the stairs.

0.131 hen what did you do? After that I jumped up, opened the window and jumped out and went away, I wanted to go to my son-in-law who speaks very good English and we want to go to a unit somewhere.

CROSS EXAMENED BY THE DEFENCE

These drinks that were offered and that you had to drink, were they the first ones out of the bottle? Q.132

A.132

Q.133 At the time the accused Russell came to your house, when

you came in did he seem drunk?

A.133 Q.134 No he was not At any time during his stay there would you say he appeared drunk?

I could not notice it. Both knew what they were doing. From their actions did it at any time appear that they had been drinking previously rather than drunk? A.134 Q.135

No

A.135 What happened to the other two soldiers you mentioned? The other soldiers went out of the room, they were ordered to go out of the room, and then I heard them Q.136 A.136 go upstairs and then downstairs, and I did not see tham

after that.
Who seemed to be the leader of this group?

Kozak, he did the talking.

Q.137 A.137 Q.138

Did Kozak give you the impression he was looking for firearms, or radios, or anything like that? I put it on the paper on my door, I know that Kozak A.138 reads the paper on the door, where my radio, hunting

rafle was ready to turn in. Did Kozak give you the impression that at any time he was looking for your guns, radios, cameras, or anything like tat? 9.140

4.140

No, the first time, no.
Do you remember telling your daughter to acede to the wishes of one of the soldiers when he told her to sit down when she 0.141 entered the house?

A. 141 No, not at all.

IN THE OPINION OF THE COURT AND OF THE JUDGE ADVOCATE IT IS NOT NECESSARY TO COMPLY WITH THE PROVISIONS OF R.P. 83 (B)

WITNESS WITHDRAWS.

Hermann Bornheim, Paul Strasse, Meppen, Germany, having been duly sworn is examined by the Prosecution the Prosecution 9.142 Your name is Hermann Bornheim and you reside at Paul Strasse 4 in Meppen, Garmany, is that correct? Yes A.142 Q.143 A.143 I understand you are a retired major in the palice force? Yes. Q.144 On the 10th of April this year did yougo to the house of your neighbour at Paul Strasse 6? A. 144 Yes. Q.145 About what time? It was about 4 0 clock or 4:30 Who did you find there? A. 145 Q.146 A. 146 Both soldiers who are accused today and the family of Stahlschmidt. Q.147 How many soldiers were there? Two soldiers.
Oo you see any of them in this court? A. 147 Q.148 Yes (Identifies the accused)
What members of the family were there?
Herr Sta lschmidt, Frau Stahlschmidt, two daughters, the grandchild and a woman whom I do not know.
What happened? A.148 2.449 A. 149 Q. 150 After Herr Stahlschmidt was order to lay down on the floor and I was robbed, the other soldier went out of the door with the daughter of Herr Stahlschmidt and ordered the A. 150 other soldier to watch us. I was laying on the floor and I asked the soldier a couple of times if I could go away. Which soldier Q. 151 A. 151 The other soldier was upstairs and this one was alone (pointed to the accused)

How did you come to be on the floor?

The other soldier who was upstairs ordered me to lay down. Q.152 A.152 Q.153 A.153 Go on from there? I was t inking about fleeing somewhere and I saw that one throughthe door and went away through the garden on the street. When I was fleeing I heard someone calling on me, but if he came behind me I do not know.

CROSS EXAMINED BY THE DEFENCE

You do not know who it was?

you? Yes, he had his pistol out.

During this little episode on the 10th was there anything to lead you to believe that the accused had been drinking? Q. 156 he had been rinking something but he was not drunk, A. 156 Q.157 I Did he act as though he were under the influence of liquor. I could not tell you for he was sitting on the chair. A. 157

It must be that soldier he was the only one in that house I do not know what he was telling me for I do not understand Did the accused have any weapon when he was shouting at

IN THE OPINION OF THE COURT AND JUDGE ADVOCATE IT IS NOT NECESSARY TO COMPLY WITH PROVISIONS OF R.P. 83 (B)

WITNESS WITHDRAWS

Q.154

A. 154

9.155

A. 155

Lieut. L.B. Walker, 221 Det Mil Gov 4 Cdn Armd Div having been duly sworn is examined by the Prosecutor WITNESS for the Your rank, full name and unit please. Lieut. Leonard Bryan Walker, 221 Det Mil Gov. On the 10th of April this year were you in the town of Prosecution Q.158 Meppen, Germany?

Yes, sir.

As the result of a complaint made to you did you go anywhere?

I went to No. 6 Paul Strasse in company with Lieut. Boxseau.

What did you find there?

Unitered the bound and could find no one downstairs, and A.158 Q.159 A.159 Q.160 A.160 I entered the house and could find no one downstairs, and went upstrirs and looked into a bedroom and there I saw Q.161 A. 161 Yes, he was lying face down on the bed, I pushed the door open and entrered the room, he was then commencing to climb off Frau Dahmen, who was lying face upward underentable him. He was clad only in his vest and underpants, L/Cpl. Russell. 2.162 A. 162 she was clad in a vest and stockings. clad in a vest and stockings. I notice that his penis was exposed, partly erect and was steaming. He at the side of the bed and looked at me. The girl looked at me and spoke in German, but I did not understand her, but from her actions I felt that she when I noticed weapons on the floor under his clothes. I noticed weapons on the floor under his clothes. I took possession of the weapons which consisted of one took possession which was loaded with one in the head of the correct P.38 revolver, which was loaded with one in the head of the correct P.38 revolver, which was loaded with one in the head of the correct P.38 revolver. took possession of the weapons which consisted of one derman P.38 revolver, which was loaded with one in the breach, one colt type revolver fully loaded with the exception that one cartridge was only a blank shell, and the blank shell was at 120 clock and there was a .22 rifls which had shell was at 120 clock and there was a .22 rifls which had shell was at 120 clock and two in the mag. The two revolvers were in holsters and had web belts attached. Having one round in the breach and two in the mag. Having were in holsters and had web belts attached. Having taken possession of the weapons, I heard Frau Dahmen crying and looking around I saw that she had commenced to dress, her cle clothes being scattered on the bed. Her husband then came into the room, made himself known to ms and I requested him to ask his wife exactly what had happened because she only spoke forman and he spoke English. He spoke to his wife then Did he say this in the presence of the accused? DEFENCE - I don't think this is admissable because he asked the question in German which the accused does not What the husband said was in English and well understood understand. JA by the accused. My wife says she has been raped by this soldier and by one Q.164 Continue A.164 Was the accused standing there at the tile? Q.165 A.165 Q.166 A.166 He was there. What did he say? but he said nothing. I took the accused He was dressing but he said nothing. I took the accused to one side after he had finished dressing and left the woman to her husband who was crying and told the accused of the compalint received, that this woman said he had raped her. I cautioned him, I said, You are not obliged to say anything in answer to the compalaint but anything to say I shall take down in writing and it may be used in evidence. I then said do you wish to say anything to explain your presence here. He made no raply. The evidence. I then said do you wish to say anything to explain your presence here. He made no reply. The husband then said to me, my wife states that the soldier has stolen her watch from her wrist. I turned to him and has stolen her watch from her wrist. I turned to him and have you taken the watch. He said no. I told him said have you taken the watch. He said no. I told him to empty his pockets and from the first pocket on the left breast he produced a gold wrist watch and bracelet, which the wife identified as hers.

Then what happened to the watch? 0.167 I retained it until after the orderly room and was instructed then to hand it back. I then took the accused into custody and while talking to the husband I mw the accused running downstairs. I gave chase and he ran into A.167 accused running downstairs.

the road and I lost sight of him for a while. At that
time I was still carrying the rifle and pistols, and I
saw fresh footprints through a fresh dug flower bed, and
I threw the weapons under a bush and followed across seve saveral gardens and saw the accused running across a field.

I overtook him and stoped him about 400 yards away from the house. I was walking him back towards the detachment office and an officer with a jeep overtook us going

office and an officer with a jeep overtook us going towards the office and I requested his assistance, put the accused in the jeep and going towards the office I saw Lt. Boxseau proceeding towards the office with Kozak and took them into the jeep and proceeded to the office. I then communicated with the 2 i/c of the accused's regiment, Major MacKenzie. What did you do after that?

2.168 I returned to the house and found in the sitting room a fresh hole in the seiling and particles of plasteron the back of the settee. On the table were five or six glasses, and four bottles, one contained liquor similar A.168 to conyac, one red wine, and another bottle containing conyac, and one of vermouth all partly consumed.

What was the condition of the house? 2.169 It was in good condition except the contents of the drawers A.159 were strewn around the rooms.

CROSS EXAMINED BY THE DEFENCE

What was the condition of the accused with reference to 0.170 alcohol?

He definitely had had something to drink but he was far A.170 from drunk.

QUESTIONED BY THE COURT

When you ordered the accused to turn out his pockets and 9.171 he turned out this watch did he say anything?

He did not say anything. A.171 Did he say anything after?

Q.172 A.172

He found one or two papers then handed me the watch. Lid he not say one word from the time you entered this room? Not one word.

IN THE OPINION OF THE COURT AND OF THE JUDGE ADVOCATE IT IS NOT NECESSARY TO COMPLY WITH PROVISIONS OF R.P. 83 (B)

WITNESS WITHDRAWS

Lieut. G.T.J. Boxseau, Netherlands Army att 4 Cdn Armd Div having been duly sworn is examined by the prosecutor: Prosecution

You are Lieut G.T.J. Boxseau, Netherlands Army attached 2.174 to 4 Cdn Armd Div?

A.174 Yes On the 10th of April this year did you go in company with Lieut Walker to Paul Strasse 6 in the town of Meppen, Germany? Q.175

Yes.

What did you find there? We found nothing downstairs and went upstairs and I found a soldier in a bedroom. Was it the accused?

What happened next? He went downstairs and I brought him back, and then in another bedroom I saw the accused and Lieut. Walker and another bedroom is saw the actions and the soldier was dressed in underwear and vest and the soldier was getting dressed. The girl was crying and seemed very excited. Lieut. Walker told the soldier to dresshimself excited. Lieut. Walker told the soldier to dressnimself and the girl asked about a gold wrist watch and I heard Lieut. Walker ask the soldier and the soldier took it out of his pocket and gave it to Lieut. Walker. Then the husband came in, I did not understand all that was said but I understood the girl was saying about being raped. What language was she speaking?

Q.179 What language was she speaking?
A.179 German
DEFENCE - That would be inadmissable.
PROSECUTION - It would beevidence of early complaint

A. 180 She did not say it exactly. What were the words she used?

Q.181 A.181 She did not say he raped me she said, He was it who took me. What happened after that?

Q.182

When the soldder was dressed Lieut, Walker ordered him to go downstairs and in a few minutes I missed him and saw them running downstairs. From Walker and I ran after them he went after the accused, and later I met them on the street and he had the accused and then we went to the office of the soldier's unit. A.182

CROSS EXAMINED BY THE DEFENCE

Did you accused seem to be under the influence of Q.183 luquor?

A. 183 I cannot say that I was not close enough to him.

IN THE OPINION OF THE COURT AND OF THE JUDGE ADVOCATE IT IS NOT NEW JESSARY TO COMPLY WITH THE PROVISIONS OF R.P. 83 (B)

WITHESS WITHDRAWS

THE PROSECUTION IS CLOSED

CLOSING ADDRESS OF THE PROSECUTION

If it please the court the first charge is rape.

I don't intend to deal with any of the evidence at great length, the judge advocate will advise you as to the law. You have seen the complainant and you have heard her story. She alleges that she was raped, that there was penetration. There is evidence of fresh complaint, and there is co-oboration of the strongest character and it is surpluous to say anything further.

That eliminates at the same time the sec nd charge.

With regard to the thied charge I submit that it is a fact of which the court can take knowledge of under RP 74 in respect to fraternization. It has been proven that the accused was in the house of a German civilian and he was conversing with members of the family. It is true that at ti es he was menacing this family, but at other times he was drinking and conversing with civilians. It is my contention that is fraternization.

with regard to the fourth charge of robbery with aggravation, is robbery under circumstances, I think the JA will say that the threat of firearms if fobbery with aggravation. As I recall it, the accused did not have a pistol in his hand when he took the wat watch, however, he was carrying a pistol and there were two armed soldiers in the room, the arms had been freely displayed and pointed at various people, and I submit that robbery under these circumstances is robbery with aggravation. The robbery is proved in t that there is the wyidence of the complainant and evidence that the accused had the watch, it was taken from him by Lieut. Walker. It is my submission that the first, third and fourth charges have been prover

CLOSING ADDRESS OF THE DEFENCE

With reference to all the charges, I must point out to the court that the witnesses in the most are German people, members of the Reich, and their evidence no doubt will be comewhat biased against any allied soldier. This must be given consideration when considering this case.

With reference to the first charge the defence is taking no issue that there was the actual act. Of course the only thing to bring in the question, is the question of consent and what actually means consent in the case at bar. There was snother soldier previously who in his case may be considered, that the girl when she went upstairs with him was under a certain amount of duress, and she allowed circumstances. However, the in the case of the accused the circumstances are somewhat different and it is a question of fact whether or not there was consent. The circumstances commade who is having intercourse and the sight in itself the fact he had been drinking, excited him and naturally first chance gets into bed with the girl. She makes no covert act to stop him. The only evidence as to her condition of mind was that she was still frightened of the pistol which the accused might have and I bring to the attention of the court it is on one occasion but that was to stop any movement in another room. At this time then, I wish to submit to the court that the girl thinking whether or not in this case didnot make any move of not consenting to whether or not in this case the accused would shoot her or her father and the fact that she did not cry or scream amounts to a form has to show openly that she is willing and that is the case at

As to fraternization, the accused took little or not part in the affair, he sat in the corner on a chair. The only time he had anything to do with it was when the men wers lying on the floor and he was standing and when they moved then his pistol came into evidence. I submit that is far from any definition of fraternization. The evidence shows they were looking for firearms or wireless, and it would be reasonable for the court to assume that the accused felt they were doing a military duty rather than being friendly with civilians.

The fourth and last charge is one where robberty took place, robbery with aggravation, is the charge itself, and it is my submission here that the evidence shows the girl gave him the watch when he pointed to it. There was no action on his part to take the watch, he pointed to it and she handed it to him. The evidence shows that when the girl entered the room and was told to sit down she obeyed when told to by her father. I submit that this is a girl who always obeyed her father and she felt that we atever happened after that she was to accede to it, and when the accused pointed to her watch, not come within the meaning of robbery with aggravation, and such is my submission to the court.

Sir, the court must now determine what facts
have been proven. The evidence is not excessive in
quantity and the issues are quite clear cut. The most confusing
element in this case is the fact that the court has only today
completed the hearing of another case very similar in the evidence
and in the charges. I therefore must emphasize the necessity
of the court elaminating from their minds all evidence given in that
case and likewise the addresses by the Prosecuting and Defending Officers
and the summing up by myself.

Because of that last fact I must now sum up in this case as if no other case had been heard. On those questions of fact the court is of course the absolute and only judge. On questions of law I must advise the court and the court should follow the advice of the Judge Advocate.

The first charge is a charge of rape, that in Germany on the 10th of April the accused had carnal knowledge of Frau Elfreide Dahmen without her consent. Carnal knowledge is complete upon penetration to any extent. The definition of is complete upon penetration to any extent. The definition of rape is the act of a man having carnal knowledge of a woman who is not his wife without her consent, or even with her consent, when such consent has been exhorted by fear of death or bodily harm. The fact that a women has consented to subm t to an act of sexual intercourse is definitely a factor to be goneidered whether or not the voluntary consent has been given, but submission in itself does not necessarily prove voluntary consent. There has been conflucting evidence with regard to an It will be for early complaint made by the girl in this case. It will be the court to determine whether or not the complaint was made at the earliest reasonable opportunity and if so what was the complaint of. If the court finds that there was in fact a complaint made by Frau Dahmen that this accused had raped her they can consider that fact in deciding whether or not such a complaint is consistent with the evidence which he tells and they may consider that complaint as evidence tending to disapprove consent. Such a complaint is not independent substantive of evidence of the facts contained in the complaint nor is it cooborative of the complainant's evidence. It is my duty to warn the court of a fact which in any event is self svidence to warn the court of a fact which in any event is self syldence namely, that it is most dangerous to convict an accused person of an offence of this nature up n the evidence of the complainar unless it is cooborated in some material way by independent evidence. Such syldence may be direct evidence or it may be circumstantial evidence. In the latter case, however, it would not be considered cooborative if it were not consistent with one or more points of view. The cooboration must be evidence evidence of the complainant, or more points of view. The cooboration must be evidence not coming from the complainant herself, and should cooborate not only the identify of the accused as the person implicated but also the fact that a crime has been committed. In this case the evidence of Lieut, Walker is evidence which cooborated the identity of the accused and the fact that an act of sexual intercourse took place. The weight to be given that evidence intercourse took place. The weight to be given that evidence is a matter for the court. There remains the question of ownsent. The complainant has testified that she submitted to the act because of fear of being shot. It is quite proper for fear of being shot. It is quite proper for the court to consider not only the court to consider not only the evidence they have here as to the accused's actions preceding the offence and subsequent to the offence and as to the conduct of the complainant herself immediately before and after, but it is also proper for the court to take Judicial notice of the fact that we are at war, the stage that war has reached and the relations existing between the German people and ourselves. A thorough consideration of all these factors must assist the court in deciding whether or not it is reasonable to accept the complainant's evidence, that

fear was engineered into her mind by the actions of the accused in the particular place and at the particular time that he did those acts. Much evidence has been produced relating only to the question fo consent and relevant only to the state of mind of the complainant. I particularly wish to point out that if the soldi r Kozak is guilty of rape then this accused cannot be held in any way responsible for the act of Kozak in this trial, even in any way responsible for the act of Kozak in this trial, even though it has been admitted in evidence, its purpose is only on the question of the state of mind that the complainant had on this night. Similarly evidence of any offence or acts committed by night. Similarly evidence of any offence or acts committed by evidence not for the purpose of flxing responsibility for those acts on the accused, but in order to show what the state of mind of Frau Dahmen was and whether or not her explanation of mind of Frau Dahmen was and whether or not her explanation of her conduct is reasonable. Lt Walker has given evidence that her conduct is reasonable. Lt Walker has given evidence that he told the accused that the complainant had alleged that he had raped her and that the accused did not reply.

(The J.A. reads from page 54 MML)

If the court feel that on this occasion the circumstances were such that they called for a reply then it is open to them to find that because of Russell's silence he was to some extent admitting the truth of the slegation. I wish to point out admitting the truth of the slegation. I wish to point out not the second occasion when Mr Walker repeated the accusation, he also advised the accused that he need not say anything.

With respect to the second and third charges, it will be necessary for the court to comprehend the scope of the policy of non-fraternization. If they find that the extent of that policy is a notorious fact, they do have power under the rules of procedure to take judicial notice of that under the rules of procedure to take judicial notice of that under the rules of procedure to take judicial notice of that under the rules of procedure to take judicial notice of that expect from a soldier vary from age to age and from time to time expect from a soldier vary from age to age and from time to time expect from a soldier vary from age to age and from the accused and the court must consider whether the act of the accused and third charges, under their own peculiar circumstances, is such that it is culpably improper to point out that the wording of the third charge is such that the court has to decide on that charge, whether the actions of the accused in the living room downstairs were the actions of the accused in the living room downstairs were culpably improper. They are deciding whether his actions error actions, that no matter how reprehensible his actions were, ernization, that no matter how reprehensible his actions were, ernization, that no matter how reprehensible his actions were, ernization, that no matter how reprehensible his actions were, ernization, that no matter how reprehensible his actions were, ernization, that no matter how reprehensible his actions were, ernization, that he court must consider the evidence heard in this emphasize that the court must consider the evidence heard in this case and not be influenced by any other evidence

With respect to the last charge:
(JA reads from Archbolds' page 597)

It is not necessary that the good be removed by forcible or physical act of the accused. It is sufficient to prove the crime of robbery if the evidence is such as to satisfy the court that the complainant was in such an apprehension of danger court that the complainant was in such an apprehension of danger them up through fear and apprehension caused be the accused. In this case the charge is robbery with aggravation. That in this case the charge is robbery with aggravation. That differs from simple robbery in that it is necessary to prove that the person at the time of the robbery was armed or had an offensive weapon. Provided the elements in the definition of robbery are present, it is only necessary to prove that he used that weapon in a threatening manner.

It only remains to advise the court that the accused is innocent until he is proven guilty and the onus of proof remains on the Prosecution throughout, not only to prove the guilt of the accused but to prove his quilt beyond all reasonable doubt. A reasonable doubt is not a remote possibility that a cowardly court might clutch at for acquittal. It is a doubt of some substance. This term which is incapable of a

precise definition, but it is one that can be comprehended without difficulty. If there remains in the minds of the court a doubt as to the accused's guilt then he must be given the benefit of that doubt.

is there anything further you wish me to say Mr. President?

HO

And you Capt Wasson

No, that covers it

And you Capt Lewis

NO.

Capt. W.H. Mills, Argyle and Sutherland Highlanders of Canada, having been duly sworn is examined by WITNESS for the the Defence Defence Do you know the accused in this case?

How long have you known him or of him? A.l 0.2

Since July, 1940
How long has he been with your Regiment?
Bince July 1940 A.2 9.3

Very good.

I am interested in him as Ccy Comd and I usually make inquiries about the progress and I have been informed on different occasions that he is a company and company. A.3 A.4 that he is very willing and cooperative.

Is he the type of man you would be willing to have with the Regt? 4.5

0.6

Yes.

Would you Tke to have him back? A.6

Q.7 A.8 A.8 Do you know anything about his honesty? I have no reason to doubt his honesty.

THE PROSECUTION DECLINES TO CROSS EXAMINE

IN THE OPINION OF THE COURT AND OF THE JUDGE ADVOCATE IT IS NOT NECESSARY TO COMPLY WITH R. P. 83 (B)

WITNESS WITHDRAWS

The case has been before the court and the circumstances surround-it for the better part of the day. However, there are a few PLEA IN MITIGATION points which I think should be taken into consideration by the Court

Facts about the person of the accused, are, he is 23 yeard,

ll mos old and joined his present unit in July 40 and has been with
them since that time. He is a L/Cpl, and must have had some ability.
The character witness has pointed out to the court that he had been
the character witness has pointed out to the court that he was with
very good. I think that should be taken into consideration. He was with
the unit in Jamaica and in England and up to the time of the attack
the unit in Jamaica and in England and up to the time of the attack
at Meppen. He has been well forward on many occasions
at Meppen. He has been well forward on many occasions
and has done verything that a soldier could do and has been
a very good soldier. His parents are living in Canada and there has been
a very good soldier. His parents are living in Canada and there has some femily trouble which may have to some degree influenced him.

some femily trouble which may have to some degree influenced him.

The fact that this mother and father have separated, his father is a
trived medical practitioner. Quite recently his mother has left his
father and he has felt quite badly bout the situation and wants to
father and he has felt quite badly bout the evidence pointed
get home and see the family again. As the evidence pointed father and he has felt quite badly bout the situation and wants to get home and see the family again. As the evidence pointed out this Kezak was the real leader the accused merely followed him, he is the type of person easily led and finds himself in this unfortunate position. However, I think the court would be in unfortunate position. However, I think the court would be in the person with the general practice if they were to give the accused keeping with the general practice if they were to give the accused keeping with the general practice in the person he followed. Consideration must also be given to the fact that the accused had be continent and was not used to the wines and spirits of the continent. As pointed out in respect to the robbery there was no overt act, as pointed out in respect to the robbery there was no overt act, and there was no threateneing manner, he merely pointed to the watch and there was no threateneing manner, he merely pointed to the watch and there was no threateneing manner, he merely pointed to the watch and there was no threateneing manner, he merely pointed to the watch and there was no threateneing manner, he merely pointed to the watch and there was no threateneing manner, he merely pointed to the watch and there was no threateneing manner, he merely pointed to the watch and there was no threateneing manner, he merely pointed to the watch and there was no threateneing manner, he merely pointed to the watch and there was no the continuous near the had been the girl gave it to him. I think that with all the circumstances of this case the court should deal with this accused as leneantly as they possibly can do.

STATES OF SECTION SET SELECTION OF SEALING eneral Courted attel only)

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each charge discloses an offence.(*)	17 (n 6. 2. AA 49, 50, RF 103-107.
(I. As to use of summer, The accused in	17 (n 6. 2. AA 49, 50, RP 105-107. 3. RP 11-13, 23, 24.) s (are) brought before the Court. At 1700 hours trial commences. Certificate that accused is (are) fit to undergo trial by court-martial.(*) controlled to be tried by court martial instead of bring dealt with
The Presentor informs the Court that are	CAST Delete if not application
A5. President to accused: Ho you o	SISATE // a tas shorthand writer Ans.
A The Interpreter is sworn.(1) Do you object to	o #1/916 S/Sq & E // in the shorthand writer 1 Ans The day
The shorthand writer is sworn.(1) The shorthand writer is sworn.(1) AP 72. Delete, if none employed.)	Members of the Court are read to the accused.(3)
As The Convening Order and names	of the President and Members of the Court are read to the accused.(*) be tried by me as President or by any of the Members of the Court ?
I. Limitarian and	1 P P 75 71 18 MML D 752
Ans No fee (2)	mamber retires. RP 68(8). If objection, see procedure AA 51, RP 25, 71, 18, MML 9 742) say, and Offrs under instr, if any, are sworn. (1) The following are the say, and Court, etc. Sch. A. T. L. Reg. Y.
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(I. If a special plea is made for sep-	orate trial on on as to accused's mental rathess made in support or against. The ial (RF 36), or as to accused's mental rathespectation of the support or against the ial (RF 36), such plea, the addresses made in support or AB rank
evidence, if any, and making the plea- and name of the accused making the plea-	(a) On all charges in the charge sheet. (1) The accused door
A9. The accused is () There is to	of per Notes. For forms of record as the charge sheet.(1) The accused does not design to the charge sheet.(2) The President records the manded ment to be made to the Charge Sheet.(2) The President records the manded ment to be made to the Charge Sheet.(2) The President records the manufacture of the president sheet.(2) When more than one Charge Sheet see RP 62; when several accused to be tried as 32, RP 33. If otherwise, decide and
not object to any charge.	to amendment to be made the new charge Sheet see RP 62; when several occused to be tried tried tried tried to 9.2. When more than one Charge Sheet see RP 62; when several occused to be tried t
(I. RP 31, 112 See parts 1 of this separately see RP 71(C), and use separate	e copies of CF A96 to record products
man opposite the second	onsiders the Instra on Procession
ceedings are continued on Record Form	TO THE STICK AND ALTERATIONS.
ceedings are continued in OR IA V	VILL INITIAL ALL DELETIONS AND ALTERATIONS
PRESIDENT ON POR	

- 1. The accused may not plead or be found Guilty on more than one of two or more charges laid in the alternative 1. The accused may not plend or be found Guilty on more than one of two or more charges and in the distribution (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 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(U).
- 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, we 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 Ned Guzlty thereto, or, (ii) to record the pleas as the findings of Court. After deciding between (i) and (ii), Court will
- 3. As to responsibility of President to accused see RP 59, 60(C); powers and duties of JA see RP 103; duty of Proscietor see RP 90(A) (B); duty and privileges of accused and Defending Office see RP 90(C), 87(C), 91(B), and exchange 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 88-85; 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 RP 35(B) by explaining to the accused the nature and meaning of the charge of), and that on his plea of Guilty there will be no regular trial but merely a consideration of the sentence to be a greed 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)
- B2. President to accound: The Court will now receive any statement you desire to make in reference to the charge(s). (!) If it appears from our statement that there are circumstances which indicate that you do not understand the effect of the plea of Guility), 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 swort 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 stement by sworn testimony, if you so desire.(1)

President to accused: Do you wish to make a statement! Ans. (1. RP 37(B), 2. RF 37(D) fn 6. 3. RP 35(B) fn 5 pon 3. MML p 54 pore 47. 4. See pore 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 charge(s). The coused is (are) so informed, and he (they) (their) plea(s) of Guilty to Not Guilty on
- B4. On the charge(s) to which the plea(s) of Guilty is (are) not changed the basident records finding(s) of ilty in Part 7 of the Schodule(!) Guilty in Part 7 of the Schedule.(*) (i. RP 35(8). If any pleo(s) is (are) changed, use Record Form C or D as appropriate.)

 - B5. The Summary of Evidence is marked Ex., initialled and read alond by the President (1. If there is no Summary, or if it is inadequate, comply with RF 37(8). If there is any evidence inconsistent wis standing as Guilly, Caurt will obeing occused to change such plea and, if changed to Not Guilly, try such charges per points of in the inclusive of Record form D on p 3. RF 37(Cs).
- B6. The accused having been found Guilty on one or more of the charges, the proceedings are co 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 usive of Record Ferm D on p 3 before proceeding with C 2.(1)inclusive of Re
- C2. The charges on which accused pleaded OHLITY 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 ports only of the Summary of Evidence are read as relate to the charges could with under C1. If one piece is charged to Nat Guilly, trial thereo proceed by complying with porus Di to D8 inclusive in Record form D on p 3 and nicking an appropriate record thereof on a separate sheet.)
- C3. The accused having been found Guilty on one or more of the charges, the proceedings are conclude Record Form E on p 3.

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

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

- D1. President to recused: Do you wish to apply for an adjournment on the ground that any of the rules
 - D2. The Prosecutor makes (1) (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 RP 39(D) (E).)
- D4. The Prosecution is closed (*) The Defending Offic submits that the evidence for the Prosecution does not establish a prima facto case against the accused on the is closed, and considers the submission (*). The Court is re-opened, and the President announces that the sub-

is disaffered on the ekargete), and that, accordingly, the trial will proceed on the former, but the accused is (are) found Not thully

the later charge(s):15 |

(1) Delete remainder of this poro, if submission not mode. 2. Arguments on submission, answer and reply are recorded per Notes. 3. RP 40 fn | See MML p 72 paras | 2:14 and p 81 para 42. 4. Delete part not used. If accused acquitted on all charges, use second alternative in para 08.)

NB: If trial process, accused must be allowed great latitude in making his defence, and the Court should not stop his defence solely an ground of 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 self on oath as to the facts or your character or both, in which case you will be subject to cross examination. You may call witnesses in your defence and as to character, whether you give evidence or make a statement or do

President to accused: Do you wish to give evidence yourself as a witness, make a statement, or do neither? Aus Same are denet on Jack Do you intend to call witnesses on your behalf?

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

(I. RP 60; 2. RP 40(8), see 80(D). 3. RP 40 fn 10. 4. RP 40 fn 2, 9.)

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

(I. RP 172, 115, 116, for procedure see Notes on bock of Consume Order, CF A95. Evidence for accused as to his character should, if in his interest, be given before the finding. See RF 46(A) in 1, 86(C). Note the further opportunity in para E1 of Recard form E. Recard per Notes addresses, statement, evidence and any summing up by the A under RF 42, 103(e).

D7. The Court is closed to consider the finding(s).(1) The finding(s) of the Court is (and recorded in Part I 3) of the Schelule.(*) •lule.(*) The Court is re-opened.
(I. RP 42. IIT(A). See Notes in Part I of Schedule.
2. RP 44(A).)

DS. The President amounts the findingts), if any, of Not timity, and states to the accusal that the find of these court out there. charged in the same of the same

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

(i. AA 54(3) (s), RF 45, 120(4).

2. AA 54(3), RF 45, 117. This alternative annuncement is not applicable when there are pleas of Guilly cuntonding and decit with under Record Form 8 or C.)

RECORD FORM E-PROCEEDINGS ON CONVICTION BEFORE SENTENCE.

- $\textbf{President to accused}: \ \, \textbf{Do you wish to give evidence yourself or to call any witnesses as to your character} \ \, !(^1)$
 - (1. If evident has already been given by accused or his witnesses as to his character, delete this para. RP 37(C) fin 4, 46 fin 1. Accused and witnesses as two. Evidence recorded per Notes.)
- E2. The Prosecutor produce Statement(s) as to Character and Particulars of Service(1), and certified true reporting to refer to the accused, which he submits to the Defending Offr for t for Amission in evidence. The Court is satisfied that these documents reference to be showed in the manner resourced by AA 163(i) (g) (h), and (ii) they purport same number, book name and corps as the accused. Admitted in evidence and copy (copies) of Conduct Sheet(s)(to the accused, because (i) they purport to be set to refer to (a) soldier(s) having the same number

marked Ex and Ex respectively. (*)

(1. NFB 255 or NFB 296. 2. MFM 6. 3. RF 46, KR 50: 558. If above documents not produced, and RF 46 fo)

pore (.)

- E3. President to accused: Do you wish to address the Court on Statement(s) and Conduct Sheet(s), and in
- mitigation of purishment 1(1). Ans.
 (1, RP 33)(2, 46)(b). 2. Address, if any, recorded per Notes. Court should permit desired or his witnesses to prove on ooth onything here or previously stated which would affect the amount of punishment. RP 37(4) (5-7)
- E4. The President states that the Court is closed to consider the sentence, and that the expense 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), RF (20(A).)

E5. The Court considers the sentence (*) The President records the sentence in Part I of the Schedule, will is dated and signed by him and the JA, if any (*) 179.

Is dated and signed by him and the JA, if any (*) 179.

It is described to the sentence of the sentence of the purishment are punishment sold from the sentence of the sen

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

SCHEDULE.

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

Accused: CAG237 BJM (40011) BJM Roy Daug las Russell

	Charge.	Plea.	Finding.	
(Insert	' alternative " where applicable.)	(See Instru p 2.)	(See nate below.)	(Space for use as required for further charges, accused charged jointly, special findings, etc.)
st		not Sully	11 South	
nd		action management		
rd				
th				
th				
th				
l'ime	in confinement of (1. See RP 46(A	being served, or delet waiting present 4) fn 2. Information sho	rial a total of	Assignment (date) es RP 46(A). Information should be found on MF 8355 or AF 8296.)
Time .	(I. Insert sentence	being served, or delet waiting present 4) fn 2. Information sho	rial a total of	Assigning on (date) ee RP 46(A). Information should be found on MF 8355 or AF 8296.) theye, of which they were spunt in hospital
Time .	(). Insert sentence in confinement a: (I. See RP 46(A nee Awarded by t	being served, or deleterating present to the Court: Wayne Court:	rind in total of suld be found on MF B	Assignming on (date) ee RP 46(A). Information should be found on MF 8355 or AF 8296.) theye, of which they were spont in hospital
ime	(I. Insert sentence in confinement as (I. See RP 46(A nee Awarded by t	being served, or deleterating present to the Court: Wayne Court:	rind in total of suld be found on MF B	des RP 46(A). Information should be found on MF 8355 or AF 8296.) dayer of which days were sport in hospital 355 or AF 8296 admitted in evidence under E2.) (Sgd) President (87 45.50.)

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

User duties and powers see AA 54, 57, RP 37(D) fn 6.46(A), 51-56, 120, MML pp 759-761, KR Can 567-577. Acquittais require no confirmation and cannot be revised: AA 54(3), Sending book finding or sentence for revision by Court: AA 54(3), RP 120(G). If not confirmed, occused may be tried again: AA 157, MML p 64. Minute of confirmation or non-confirmation may be altered before promulgation: KR Con 573. Duties and powers of reviewing affrs: AA 57, S7A, RP 53A, 54. The Confirming Offr must sign here personally. AA 172 fn (-)

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

I direct that the accused be not committed to prison or detention barracks until further orders.(3)
(I. AA 57A Delete if out used.)

Date 22 Joy 44

Commanding.

(Sgd)...

3.36.70 (W. C. HYDE Brig CRA 4 CON ARMO DIV

Confirming Officer:

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

Accused.

Date.

Signature of Offr.

CHARGE SHEET

The accused, C-26327(WO II) Ray Douglas RUSSELL,

(Special Increment) 23 Field Regiment, SP, RCA, a soldier of the CANADIAN ARMY OVERSEAS, is charged with: - CONDUCT TO THE PREJUDICE OF GOOD ORDER AND MILITARY DISCIPLINE

First Charge Sec.40.AA

in that he

in the field, on 24 Dec 43 improperly and without authority took and used a Canadian Army Motorcycle

In the Field 10 Jan 44 Commanding Officer 23 Fd. Regt., Sp., RCA

To be trued by 7. b. 6. M.

15 Jane 44

(W. C. HYDE) BOX

Busident May

FIELD GENERAL COURT-MARTIAL

CFA95 (In Heu of AFAS) 40/P&S/1697 (2968)

(Whether the accused to be tried is under his comd or not, a FGCM may an application to him be convened by any affr of Cdn Army Overseas, or of any other farce if authorized in law, in immediate comd of troops on active service, subject to RP 105(C) and restrictions imposed by appropriate authy. AA 49, 30, RP 104-107, 114. As to the duties and privileges of the Convening Offr in dealing with the application see MM. Chap V paras 20 and 21, RP 87(B).

Three should be a separate Convening Order for each person to be tried separately by the same Court. RP 71(C), 109. As to separate the see RP 63, 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 shawing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fas, KR Can 308, 328, 330.)

ACCUSED.

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

Surname.

C.26327

CONVENING ORDER.

- 1. Whereas complaint has been made to me, the undersigned, that the person of named above as the accused, being subject to military law, has (bave) committed the offence of set forth in the Charge Sheet's, attached and on (date). Is form: Y.S. endorsed by me, (or by an offs of my staff for me), "To be tried by Field General Court-Martial".
- 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 offs.) (Delete part in brackets when not required for compliance with RP 105(C).)
- I hereby convene a Field General Court-Martial to try the said person(N), and to consist of the Offrs appointed or detailed hereunder.
- appoint (a) three Offics to form the Court, (b) a Fd Offic as President, for the reasons I have t. Law unabio attached hereto (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). Delete. if none appointed.)

PRESIDENT.

H Warverk (Must be nomed. RP 106.) MEMBERS

(Named or detailed. RP 106.)

WAITING MEMBER.

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

Melville

JUDGE-ADVOCATE.

Will D Gerry (Must be named, if any. AP 106.)

On Active Service in the Fd.

in brokens

Date 15 Jan 44

(Signed personally. 89 105 (n 2.) (W. C. HYDE) Brig

Commanding.

CRA 4 CDN ARMD DIV

Convening Officer.

CONVENING OFFR WILL INITIAL ALL DELETIONS AND ALTERATIONS

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

I have examined B-11414 - BSM Russell, R.D., this morning and certify that he is fit to undergo triel by MICHAEL F.G.C.M.

15 Jan 44

I Wolfing Got Capt RCANC

Besident

First Witness for the Prosecution Capt N Stavent, 23 Fd Regt SP RCA being duly sworn is expained by the Prosecutor You are Capt N Stavent, 31 Bty 23 Fd Regt SP? A.1 I am. 2.8 You were and still are on the 24th of Dec Bty Comd 31 Bty? I produce a certified copy of an extract from Regtl Part I orders do you recognize that? The Defending Officer consents to the Presecutor introducing a certified true copy of an extract from Part I Orders No. 70 d/10 Oct No. which is accepted by the court and marked Exhibit A by the President for the purposes of identification. A.h No.
2.5 In this Regt is anyone other than the Bir Cosd, Biy Capt or C.P.O. authorized to issue work tickets?
6.P.O. authorized to issue work tickets?
6.P.O. authorized to issue work tickets for carriain authorized work.
6.S Acting Bir Cosds, Acting Biy Capts and acting C.P.Os and also the tpt Sgt is authorized to issue work tickets for carriain authorized work.
6.S Who was the tpt Sgt on the 20th of Dec?
6.S L/Sgt Aston R.H.L.
6.7 I have here a rough sketch showing Meads Rd, Darley and Derwent roads and Chesterfield rd, is that a recommittee exect of the area?
6.7 Yes I can recognize the area. The Defending Officer consents to the Presenter introducing a rough sketch of the area which is accepted by the court and marked Exhibit B by the President for the purposes of indentification. 2.8 Can you point to the Jist Bty M.T. lines?

A.8 They extend from here point X on Darley Rd to point Y on Darley rd and from point A to point B on Derwent rd.

1.9 De they extend sround the beni?

A.10 De Bty personnel live on Derwent rd?

A.10 Yes, between Darley and where the rd bends, they live on the west side.

2.11 De any of them live where Derwent rd runs east and west?

A.11 None of the Bty personnel.

2.12 About what is the distance from A to B?

A.12 Between 125 and 150 yds.

2.13 And from B to Heads rd?

A.13 About 50 yds. Cross exactings by the Defence 2.14 How long have you been with the 31st Bty? A.14 Since the spring of 1943. 2.15 Your position in the Bty at that time was what? A.15 Bty Capt. 0.15 Mour position in the bly a A.15 Bty Capt.
2.15 What is your position now?
A.16 Bty Capt. 2.17 Have you ever been acting as Bty Cond? A.17 I have. 2.18 For what length of time? 2.18 For what length of time?
A.18 A total period of about two months.
2.19 During the time you were acting in that capacity has it been the custom for officers other than those mentioned to sign work tickets? in the capacity of an officer with authority to A.19 When acting in the capacity of an officer with sign work tickets an efficer could sign, but on the shah bee lobt only the three mentiones could sign. LAND

2,20 Now long has Sgt Major Russell been with the 31st Bty?
A.20 Since about the first week in Dec.
2.21 On the 24th of Dec do you think Sgt Major Russell would have known the M.T. lines and where they extended to, of the 31st Bty? A.21 I would think so.

2.22 Have the motorcycles of the 31st Bty always been kept in the one spot? A.22 They were kept on the one spot f r about two months prior to the 24th of Dec.

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

THE WITNESS WITHDRAWS

Major F.A. Robertson 23 Fd Regt SP RCA being duly sworn is exemined by the Prosecution.

are Major P.A. Robertson, Bty Comd 31st Bty 23 Fa Regt SP Did you at any time authorize the taking or use of a motorcycle by the accused fro the 24th of Dec 1943?

Oross examined by the Defence

Could the C.O. 21/C or Adjt sign work tickets? Yes they could, but they would not.

A.4 Because in part I orders it was laid down that only Bty Cords Bty Capts and the C.F.O. would sign.

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

THE WITNESS WITHDRAWS

Third Witness for the Prosecution

Light T.K. Meliroy 23 Fd Regt MP RCA being duly sworn is examined by the Prosecution.

Q.1 You are Lieut T.K. Mellroy 31st Bty 23 Fa Rest SP RGA? A.1 I am 2.2 You were and still are on the 24th of Dec 1943 C.P.O. of the

A.C. I am.

2.3 Did you at any time authorize the accused Russell to use a motorcycle on the 24th of Dec 19432

The Defence declines to cross examine

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

THE WITNESS WITHDRAWS

Fourth Witness for the Prosecution

Liest S.M. Pickerton, 23 Ft Regt SP RCA being duly sworm is examined by the Prosecution

Q.1 You are Lieut S.M. Pinkerton, 31st Bty 23 Fa Rest SP RCA A. 1 That is correct.

WAS

2.2 Will you tell the court what happened on the night of the 24th of Dec 1943 in relation to the accused?

2.3 On the night of the 24th of Dec in company with another officer of the Bty Mr. Hood we left the officers mess and went up to the bus stop on Meed and Derwent rd. We decided not to wait for a bus but to walk to town and as we passed Derwent rd in which we knew our MC lines were, we heard a motorcycle start. We went across the rd to investigate and I recognized Sgt Major Russell and Sgt Major Harris astride two machines. I asked where they were going and Sgt Major Harris said up on the hill. I told them they were both under arrest and to return the bikes to the MC lines and I asked if that was clear and Sgt Major Harris said Ves sir and I am not sure if I got an answer from Sgt Major Russell. I did not ask for the work tickets nor did I take the number of the mechines.

2.3 Were they Can Army machines?

A.3 Yes. A. 2 kes.

3.1 When you spoke to the accused did you give him an opportunity to answer when you first aloke to them?

A. 4 Yes I asked them where they were going.

3.5 Did you give 8gt Major Russell a chance to answer?

A. 5 Not individually no, everything I said was addressed to poth of them. 0.5 How long did it take, was there any opportunity for them to give an explanation?

A.6 Oh yes, they both had an opportunity of making an explanation and when I told them to return the bikes to the lines and at the last when I said is that clear, they both had an opportunity then.

2.7 You got an mander from Spt Major Harris? 2.7 You got an asnow from Sgt Major Harris?
A.7 I got an asknowledgement from him. I am not sure if Russell said enything.
Q.8 How fast did you walk off, did you give them an opportunity to answer?
A.5 I did not walk off, just turned and strolled away at a normal pace.

2.9 Here is a sketch of the area can you mark on there the place where you found the motorcycles? (Exhibit B)

A.9 The place meried with red cross is the spot the witness. 1 61 cated. 2.10 How far is that from the corner? 2.10 How far is that from the copper.

A.10 About 10 yds.

2.11 Where did the M.T. lines on Derwent pd eirend?

A.11 Indicates point from A to B on Exhibit B.

2.12 Are the motorsycles kept in any particular place?

A.12 Yes they are kept in a 15 yd area between the Bty office the Men's mess.

C.17 How far is 1t from A to B?

A.12 Between 125 and 150 yds.

C.14 From B to Musde rd how far is that?

1.14 Anneximately 30 to 50 yds. A.10 Approximately 30 to 50 yds. Cross examined by the Defence Q.15 When you arrived at the bus stop why did you decide to walk? A.15 There was no decision made, we just decided to walk. Q.16 What cide of the street were you walking on? 16 The west bide. 2.17 That free your attention as you were walking slong?
A.17 A motorcycle angine coughed over.
Q.18 Will you describe that?
A.18 It is the effect you get from a gold motor, it fires once and A.18 It is the stops.
2.19 Could you see the accused on the actor bike?
2.19 Yes, Russell was closest to me. I stopped beside him and best over him to recognize him.
2.20 What did you say to 5st Major Russell?
2.20 What did you say to 5st Major Russell?
3.20 Everything I said was addressed to both of them, I said A.20 Everything I said was addressed to both of them, I said a second to be said you said. Bussell, I got no answer, Set Mejor Harris, he said yes str. I said where are you gaing and Harris answered and said up LINXY

on the bill, and I said take the bikes back you are both under arrest, I am not sure if Sgt Major Russell deknowledged it, but Sgt Major Harris said yes sir.

2.21 De you think Sgt Major Russell sould have heard what you said A.21 Absolutely, I was closest to him.

2.22 All the conversation passed between you and Sgt Major Marris? A.22 Yes.
4.23 You were a member of the 31st Bty?
A.23 Yes at that time.
4.24 How long has Bgt Major Russell been with the Bty?
A.24 I am almost sure he had been with us three weeks.
4.25 Do you think he had become familiar with the M.T. lines of the 51st Bty?
A.25 Yes. A.25 fes.
Q.26 You maked for no work ticket, why not?
A.26 Because to an officer if they had any authority they would have offered it then, an explanation I mean.
Q.27 Why did you not take the number of the machine? A.27 For the same reason. 0.28 You did not think it was necessary? Not more than five minutes.
It might have been considerably less?
Not considerably no.
Do you know if the bikes were returned to the M.T. Lines? You did not inquire further? You found two Sgt Majors on bikes which you thought were being used improperly yet aid not check the work tickets, aid set bother to take the number, and did not check to see if they returned the bikes to the M.T. lines? That is correct. A.33 That is correct.
2.34 Do you know if the machines were running?
A.54 They were not running when we were there. Questioned by the pourt

There was an attempt to start one, which one was it? It was the Norton. Which one was Sat Major Aussell on? The Harley. A.36 The Harley.

Q.37 Was there a key on the Harley?

A.37 I don't know.

Q.38 Will a Harley run without a key?

A.38 Yes sir, providing the ignition is unlocked.

Q.39 Do the Sats live over the men's mess?

A.39 Yes

Q.40 You cannot definitely state either of these bikes had been remaine? A.40 No.

In the opinion of the court and the judge advocate it is not necessary to somply with the provisions of R.F. 63(b)

THE WITHESS WITHDRAWS

Fifth Witness for the Prosecution

Lieut J.D. Hood, 23 Fd Regt SP RCA being duly sworn is examined by the Prosecution

Q.1 You are Lieut J.D. Hood 31st Bty 23 Fd Regt RCA?

A.1 I am Q.2 Will you tell the court what you know concerning the accused in connection with the 24th of Dec 1943? A.2 On the 24th of Dec walking along Mead Rd with Mr. Pinkerton we heard & motorcycle kick over and walked across the street

ANY

to investigate and discovered the accused together with Sgt Major Harris on a motorcycle. On questioning them where they ere going Sgt Major Harris replied up on the top of the hill. Mr. Pickettoi informed them they were under arrest and ordered them to take the bikes back to the lines. Did the accused have an opportunity to reply to Mr. Pink-rton's question?
A.3 Yes
Q.E Was it addressed to him as well as Harris?
A.5 It was addressed to both of them.
A.5 When Mr. Finkerton ordered them to return the bikes to the lines.
A.5 When Mr. Finkerton ordered them to reply then? was an opportunity given to them to reply them? Was the order given in such a way it night have been a joke? Were these motorcycles Cdn Army machines? Here is a rough sketch, Exhibit 2, will you show on there where you found the machines?
The witness indicates the red cross on the sketch. It is out How far? A.11 10 or 15 yds. Q.12 Were the mechines on the pavement op on the sidewalk? 4.12 Were the machines on the pavement of on the sidewalk?
A.12 They were on the pavement.
2.17 Do you remember if Sgt Major Russell gave a reply?
A.17 I did not hear him
2.14 Did he have an opportunity?
A.14 Yes, when Mr. Pinkerton gave the order he could have replied. Cross examined by the Defence When walking down the street what attracted your attention? We heard, a motor bike kick over. Q. 15 A. 15 Q. 16 2.15 What do you mean by that?
A.16 When you kick the starter there is a splutter from the motor.
Q.17 When you went to investigate how far behind Mr. Pinkerton were A.17 Within a yard. Q.16 When you found Egt Major Russell on the motor blac was the motor blac going? Do you know if it had been going? Do you know if it had been go to Ho. Ho. Did Bet Major Bussell make any reply to enything that was said? I don't recall him saying anything.
Was the coversation between Mr. Pinkerton and Bet Major Harris? The greater part of it was.
Why did you not ask Bussell for his work ticket?
They were ordered to return the bikes and if they had one they would have produced it.
You did not ask for one? Dis you take the number of the mathine? Did not consider it necessary. Did you check to see if the vehs had been returned to the lines? A.25 Did you check to see if the vehs not Q.26 Did you check to see if the vehs not A.26 No we did not. Q.27 At that time you just walked on or away? How long do you think this whole business would take? A.27 Two or three minutes Q.25 Not very lung? A.25 Long enough to do what was necessary. Q.29 Did youtake any active part in this? A.29 I took no active participation.

way

Did you see Sgt Major Russell rising the machine? No I saw him sitting astrice it Are you famillar with the MC lines? A. 32 How far is it from where they were found to the MC lines? A. 32 Just over 100 yds. In the opinion of the court and the judge advocate it is not necessary to comply with the provisions of R.P. E3(b) Sixth Witness for the Prosecution B 23570 L/Sgt Aston, 23 Fd Regt SP RCA being duly evern is examined by the Prosecution. A.1 Right sir. Blat Sty Tot Set Sir. As such did you have a thority to lesue work tighter for motor csoles? .3 Yes sir. 4 What puthority was that? .4 That was from Alat Bty to R.H.Q., LAD and garage. .5 Did you issue any such authority to the accused for the 24th? 2.5 Die E No sir. Q.6 Have you a motorcycle assigned to yourself? A.6 Yes etr. A.6 Yes sir.
Q.7 What make of machine was it?
A.7 Harley sir.
Q.8 What is the number of it?
A.8 CG 4924265 sir.
Q.9 When did you put that web away on the 24th?
A.9 I parked it in the MG lines approximately 1630 has
Q.10 Were all the other machines there?
A.10 Yes sir.
A.10 Yes sir. A.10 Yes air.
2.12 How many were there?
A.12 With my own it made six.
2.13 Do you remember just bow you parked your bike?
A.13 I parked it the second machine from the right hand side.
2.14 When did you maxt see it?
A.14 At approximately 2330 hrs that night.
2.15 What happened?
A.15 I checked the metarqueles and felt them and they were all cold.
2.16 Was your machine where you had left it?
A.16 No sir, it had been moved.
2.17 How far?
A.17 Approximately 10 ft facing at an angle. Approximately 10 ft facing at an angle. Was your bike looked? Was your bire tooged.
It was sir.
Were any other bikes locked?
Not to my knowledge sir.
Are the Harleys equipped with keys?
No sir, I have one of my own.
Do the Nortone have keys?
No sir, to way of locking a Norton.
When locked will a Harley start?
No sir. C.83 A person would have no way I showing it was looked until they tried to turn on the switch? A. 23 No. Cross examined by the Defence Q.24 How do you know your motorcycle had been moved? A.24 I seen it.

Q.25 Did you check over the notorcycles at 2375 here to see it they had been running!

A.29 Yes sir, and I round the metors were point.

Q.26 If they had been running how long would they take to cost?
A.26 That depends on how far they had run.
Q.27 If the bike ran from the corner of Mead and Derment rand to
Dirley road how long would it take to soil?
A.27 A short space like that it would be sold in half an hour.
A.28 Did you check the work ticket against the speedometer?
A.28 No sir.

Questioned by the court

2.29 Can you definitely say your machine was moved that night? A.29 No sir, I just know it was moved out of the line up.

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

THE WITNESS WITHDRAWS

Seventh Witness for the Prosecution

B 23727 Our Francan, A.W. 23 Fd Regt SP BOA being duly sworn is examined by the Prosecution

You were MT guard on the 2h Dec?

A.2 Yes sir.

Q.3 What we your tour of duty?

A.3 1700 to 2120 oir.

Q.4 What did you do during that time?

A.4 Patrolled the area sir, from Mend rd down Darley to Chesterfield

rd and up Derwent rd.
Is there any regular method of patrolling?
No sir.

A.5 No sir. Q.6 What is the longest time you would be away from your different

points? 10 minutes sir.

A.7 No sir.

Cross exemined by the Defence

Q.2 While you were on guard on the cath was any motorayele moved from the lines?

A.5 Not to my knowledge sir.
Q.9 Did you see Bet Major Russell with a machine?

A.9 No sir.

Q.10 At any time during that night could you see across the street?

A.10 No sir, it was pretty dark.

In the opinion of the court and the judge advecate it is not necessary to comply with the rovisions of R.F. 63(h)

THE WITHESS WITHDRAWS

First Witness for the Defence

C 26327 BSM (W.O.II) Bussell, B.D. Special Increment 23 Fd Regt SP BCA being duly sworn is examined by the Derence.

Q.1 How long have you been with the 31st Bty? A.1 I am no sure whether it was the 11th or 12th I serived with the

23rd.
Q.2 In what capacity are you with the Rest?
A.2 Attached to Special Increment sir.
Q.7 What duties have you been performing?
A.3 I took Sat Major Rarris's place for the shoot.
A.4 No cir.

WY

This is Exhibit A were you familiar with that order? 2.6 Were you familiar with the MT lines and MT customs of the 31st Bty? A.6 No sir, I was not.

Q.7 On the evening of the 20th of Dec would you tell so what happened before Mr. Pinkerton and Mr. Hood found you on the motorbike?

A.7 I left quarters to go to the canteen and from there to the

26 Bty Sgts Mess.

The 36 Bty Sgts mess is? 2.8 Do you know where the 36 Bty Sgts mess is? A.S No sir.

2.9 Were you being led there by Sgt Kajor Harris?

A.9 Yes sir, just before we got to Meads rd we same on two bikes sitting on their stands and Sgt Major Marris indentified them as belonging to the 31st Bty. I got on the Harley and Harris got on the Norton and we tried to start them to return them to got on the Norton and we tried to start them to return them to the MT lines. I tried the switch and found it was looked.

Set Major Herris kicked his bike over several times and all it would do was backfire. Just about a minute after two den came up and one leaned over the bike and said Set Major Russell, Set Major Harris and Marris said yet sir. He said where are you going and Marris said up on the hill. He said you both are under arrest, return the rikes to the lines. Herris said yes air and we returned the tikes to the lines and meet to our manuters. Did you reacgnize the person that came up to yea?

No sir, it was quite dark and I was not very well acquainted with the personnel of the last by.

Tell me exactly in what position you found the metorcycles?

They were side by side the Norton on the stand and the Harley on the Jiffy stand.

Were they on the road? Yes sir. they question you about a work ticket? A.13 No sir. Q.14 Did you have a work ticket? Did that person take the number of thebike? Mo sir. How long was it from the time that person came up till he walked away?

A.16 It was just a winute or two sir.

Q.17 Why did you not tell him about finding the machines?

A.17 Because I did not have a chance sir, he was no hesty be put us under arrest and we lked away.

Q.18 Were you rather amazed?

A.18 Yes sir I was.

Q.19 How did it register?

A.19 I thought this men is an officer, he recognized us on the motor bikes and I thought he would inquire what we were doing with them but he immediately put us under arrest and welked away.

Q.20 Did you have any intention of taking the metorcycle to the 26 Bty mess?

A.20 No sir.

Q.21 The following morning did you have any opportunity of talking no sir.
The following morning did you have any opportunity of talking with anyone about this?
Only with Sgt Major Marris.
When you were brought before the Sty Comd and Comd Officer did you tell them the story you have told me here? A.22 Yes sir. Oross exemined by the Prosecution You say you were going to the Canteen when you found these bikes?

A.27 Yes sir.
3.26 Did you look at them yourself, was one assigned to you?
4.24 No sir.
3.25 There did you find them, how far from the bend in Derwent rd?
4.25 About thirty yards sir.

2.26 Were they in the MT lines?
A.26 I don't know where they are.
2.27 Do you know where the MC lines are?
A.27 Yes sir, in front of the olderly room.
Q.28 Why did you not reply when you heard your name mentioned?
A.28 It was done in such a hursy I had not an apportunity.
2.29 When did you find out you were under arrest?
A.29 The next day sir.

2.29 When did you find out you were under arrest?

A.29 The next day ein.

2.70 What time?

A.30 Approximately 10 o'clock sir.

2.31 How did it come about?

A.31 Sgt Major Rimmer toldime. I was relieved of my duties.

3.20 Did you offer any explanation?

A.32 I don't remember that sir.

3.27 You are under acrest forwhat, and make no objection?

A.33 He told me what it was sir

2.51 Did you make any reply to this person who acrested you at the ties?

A.35 Did you make any reply to this person who acrested you at the ties?

9.36 Have you been riding a Harley rush?

7 Have you been staing a Morton much?

A.37 Yes sir.

38 Hove you ridden a Marley in England at all?

38 Yes sir.

A.36 Yes sir. Q.39 Did you have a key for the Harley Davidson?

ho hid you have a jeep key?

A.40 Mo sir.
Q.81 When you got on the Harley did you try to start it?
A.41 I tried to turn on the ignition but it was locked.
Q.82 Did you tell Sgt Major Harris you machine was locked?
A.82 Yes sir, he replied I can't get this thing going who the

think is the eather with it. 0,47 While welking along the road did you see the guard on auty? A 47 No sir, I did not.

In the opinion of the sourt and the judge advicate necessary to camply withthe provisions of R.F. 83(b)

Clearing address of the Prosecution

Sire, the evidence has shown that the accused was found a sotorhike outside the M.T. lines and I say that constitutes taking and using. It is not alleged that the accused tone it anywhere the crus is on him to show that he was not taking it anywhere the crus is on him to show that he was not taking it anywhere the crus is on him to show that he was not taking it anywhere the crus is on him to show that he was not taking it has a discharged that some by saying he found the bigs. anywhere the one is on his to show that he was not taking it snywhere. Be discharges that some by saying he found the bike there and leaves us the question of whether he is to be believed or not. We have no reason not accept he aid not say saything about finding the bike when accosted by the officer and when he was arrested he still said nothing. It is a question of whether he made up that story or not and that he a question for the court to decide. I feel it my duty to point out that it is entirely reasonable to assume that the accused tog ther with his friend decided to use them and knowing the guard was walking beek and forth they pushed them to where they were found. He found his machine looked and could not get it started and then they were discovered. The thing boils down as to whether the accused had and opportunity to explain that he found the motorcycles there.

Closing address by the Decence

Mr. Fresident and Gentlemen, the evidence of the prosecutionhe was found on the bike and he bimself numits he did not have a
work ticket. However, the accused is charged with (The charge is
the accused no one saw him take it and the M guard said I did not
brought forward is that he was sitting on a bike and from that
he inference may be drewn that he took the bike thus linking the
M.K.I. page at the top of the page (this is rena). How the
accused with the charge. I would like to point out from that
secused with the charge. I would like to point out from the
accused has met the inference to be drawn from the evidence of the
prosecution by enying he found the motorcycle, found it standing on
Then comeons came up and questioned them. Certainly the actions
without bothering to find out if they had work tickets, without
to see the machines returned to the lines. Certainly the actions
without bothering to find out if they had work tickets, without
to see the machines returned to the lines. His actions do indicate
haste, he cays five minites, Mr. Hood says two or three. There is
a question of conflicting evidence, I wais near the wars
hantes. I think it is reasonable to assume his actions were
himser she informed him, it is fairly simple, it was none or
guist. He dress not have to explain to every Took, Diak or Harry,
haster, be super should have been brought. More than that any
considerable number of people to the Bty Goma and the C.O. the proper
number of people could have taken this motorcycle, there are a
considerable number of people in the Bty anyone of them who was
teyond a reasonable doubt that the facts are considered to the
purely circumstantial.

Summing up by the Judge Advocate

Summing up by the Judge Advocate

Summing up by the Judge Advocate

Mr. President and Gentlemen, I agree with the Extending the accused was seen riding on this particular motorcycle. I think it is well known that the sverage orine is consisted under cormits a crime they don't do it in front of other people and a gerean tending on this accordance when the sverage orine is consisted under commits a crime they don't do it in front of other people and a gree also that the evidence is circumstantial. I will also read from the M.M.L. page 31 para +2 (This is read).

The accused admitted being on this actorcycle on this night and his explanation is that he and acother chap found these machine and then two officers came up and one of the officers entered into men the conclusion you would come to is that the accused would produce his explanation at the time he was arrested by the officer. I am only throwing that out as orinion of mine which opinion you guidance, but it does strike as as strange that he explanation was offered as to finding the bikes when the officer questioned them but I don't think a need say anything some about the evidence was remember the principle of English law that the accused is the burden of proof rests upon the prosecution. Unless, therefore, south, the accused must be acquitted, as the prosecution has failed to sustain adequately the burden of roving his suit. Such a dout would be one that soubt, the accused must be acquitted, as the prosecution has failed to sustain adequately the surfer of roving his guilt. Such a doub would be one that reasonable membered have. It is more than mere suspicion. In other words the court must be satisfied not only the accused but also that they were inconsistent with the guilt of the accused but also that they were inconsistent with any other retional encourters. al conclusion. Have you any further you wish me to say Mr. Defending Officer

182

And you Mr. Prosecutor

6xhibit A Certified True Copy of Extrac | Part I Regimental Orders 736. It has come to the attention of the Commencing Officer that many unauthorized tries are being made by drivers of this Rest. In future BHQ vehicles will not move unless the trie is authorized by a work ticket signed by the C.O. 2 1.c. or Adjutant. Sty. vehicles will not sove unless the trip is authorised by a work ticket signed by B.C. Sty. Capt. or C.P.O. Drivers will be checked regularly and if found to be

> Certified true copy from the Regt'l Books in my quetody

on an unauthorized trie, they will be charged is addingly and paraded before the Gossanding Officer and will automatically be remanded for a Court Mertial

(b. P. Althona) Lieut, RCA

A/Adjt., 23 Cdn Pd. Regt. SP. NOA

Chibit B. MGADS DARLEY

in the case of

6 HNawick Magn

C-26327 WO. II Ray Douglas Russell, of the 31 Field Battery, SP, Army placed on active service.

Did use a W.D. vehicle and petrol for private purposes.

The Commanding Officer directs that the evidence be taken on

First Witness

Lieut. S.M.Pinkerton, 31 Field Battery, SP., R.C.A., 23 Field Regiment, SP., R.C.A., having been duly sworn, states:-

HI am a member of the 31 Field Battery, SP., R.C.A., 23 Field Regiment, SP., R.C.A. On 24 Dec 43, Mr. J. D. Hood and I were proceeding on foot towards the centre of town along Mead's road shout 1000 hours. about 1900 hours. As we passed the end of Derwent Road we heard a motorcycle start and then stop. We crossed the road to heard a motorcycle start and then stop. We crossed the road to investigate and I recognized Sergeant-major Harris and Sergeant-major Russell astride two machines. I said "Sergeant Russell made no answer. Sergeant-major Harris said "Sergeant-major Then I asked where they were going. Sergeant-major Harris said "yes, Sir." said "to the top of the hill". And with that answer I felt and ordered them to return the bikes to the M.T. lines.

I did not ask them if they had a work ticket.

I do not know the number of the machines.

5m Parketon Tuent RCA

Cross-examined by the accused Sergeant-major Russell,

Question

What do the M.T. lines of the 31st Battery consist of?

Answer

There are two M.T. lines. The truck lines and the motorcycle lines. The truck lines consist of the run from the road junction at Derwent and Meads roads and from Darley road and Meads road to the "T" junction at Chesterfield road and

The M.C. lines is a 15 yard area between the Battery Office and the Men's Mess, at the junction of Darley road and Derwent

Second Witness

Lieut. J. D. Hood, 31 Field Battery, SP., R.C.A., 23 Field Regiment, Sp., R.C.A., having been duly sworp, states: 5m Kinterton

"I am a member of the 31 Field Battery, SP., R.C.A., 23 Field Regiment, SP., R.C.A. On the night of 24 Dec 43 at 1900 hours Mr. the junction of Derwent Road, We heard a motor bike kick over and a horn blow. We went over to investigate and recognized Sergeant major Harris and Sergeant major Russell astride motorbikes. Mr. Pinkerton asked where they were going and Sergeant Major Harris major harris and Sergeant major hussell astride motorbikes. Mr. Pinkerton asked where they were going and Sergeant Major Harris replied "Up on the hill." Mr. Pinkerton placed them both under open arrest and ordered them to return the motorbikes to the lines. We did not ask for work tickets but assumed they would not the motorbikes. We did not notice the numbers

The accused declined to cross-examine.

Question to the Accused:-

Do you wish to make any statement or to give evidence upon 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

Answer by Accused -

I have nothing to say.

I certify that Rules of Procedure 4 (C), (D), (E) and (F) have been complied with.

Taken down by me in the presence of the accused at Eastbourne Sussex, this 26th Day of December, 1943.

(J. Blain), Lieut. RCA., 23rd Field Regiment, SP, RCA. ADDITIONAL SUMMARY OF EVIDENCE CHINARUS MEGA in the case of

C-26327 WO. II Ray Douglas Russell, of the 31 Field Battery, Sp., RCA., 23 Field Regiment, Sp., RCA, a soldier of the Canadian Army placed on active service.

Charge-

Did use a W.D. vehicle and petrol for private purposes.

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

First Witness

Lieut. S.M. Pinkerton, 31 Field Battery, Sp., R.C.A., 23 Field Regiment, Sp., R.C.A., having been duly sworn, states:-

"The map of Eastbourne produced herewith and marked "A" "The map of Eastbourne produced herewith and marked "A" is a reasonable map showing the 31 Battery area, and the rough sketch produced and marked "B" is a reasonable sketch showing Derwent Hoad in Meads, Eastbourne. Lieut. Pinkerton now marks in red the point "X" on the said sketch "B" the place in which he found the accused on the evening of 24 Dec 43 in question. He also marks the points "Y - Z" showing the extent of the 31 Battery M.T. lines on Derwent Road, and also marks the square "M.C." showing the battery M.C. lines.

In reply to questions by Lieut, Cameron, Mr. Pinkerton also states:-

"I found the accused astride the M.C's definitely out-"I found the accused astride the M.C's definitely outside the battery M.T. lines, i.e. about fifty yards from the M.T. lines and about 175 - 200 outside the battery motorcycle lines. The motorcycles are never kept in any other place in the M.T. lines other than the M.C. lines which I have indicated on the sketch marked "P". The motorcycles astride of which I found the accused were motorcycles astride of which I found the accused were motorcycles astride of which I found the accused were Canadian Army motorcycles, one was a Harley-Davidson and one was a Norton. No authority for taking or using the M.C's was produced to me by the accused, none being asked for by me. On my order to the accused to return the motorcycle to the M.T. lines the accused Sergeant-Major Harris replied "yes sir". I do not remember receiving any reply from Sergeant-Major Russel.

The accused declines to cross-examine.

Sm tinterton Frent

Second Witness Capt. N. Stavert, 31 Field Battery, Sp., R.C.A., 23 Field Regiment, Sp., R.C.A., having been duly sworn states:-

"I recognize the certified extract from Regimental Daily Orders now produced and marked "C" hereto. In this batte on 24 Dec 43, the senior M.T. sergeant had verbal author-ity to issue work tickets for vehicles and M.C's for the In this battery sole purpose of proceeding from the battery M.T. lines to the L.A.D. lines for repairs. The M.T. sergeant so authorized on 24 Dec 43 was L/Sgt. Aston, R.H.L. B-23570. I personally did not authorize the taking or use of any motorcycle for 24 Dec 43. As far as Derwent Road is concerned, the battery M.T. lines extend from Darley up the East side of Derwent as far as the place where Derwent Road turns WEST. The area "Y - Z" outlines in red on the rough sketch is now produced and marked "B" indicates reasonably accurately the extent of the 31 Battery M.T. lines on Derwent Road which is an area about 125 - 150 yds in length. There are no battery M.T. lines on Meads. sole purpose of proceeding from the battery M.T. lines yds in length. There are no battery M.T. lines on Meads

(Statement of Capt N. Stavert Continued)

Road shown on the said sketch. The junction of Derwent and Meads Road is about fifty yards from the nearest 31 battery M.T. lines. On 24 Dec 43 it was the definite practice to keep the battery M.C's in an area on Derwent Road within twenty five yards from Darley Road, and in no other place. Personnel of this battery live on Derwent Road where it runs approximately North and South, No battery personnel live on Derwent Road where it runs approximately East and West, I was on 24 Dec 43, and still am battery captain of the 31 Battery, 23 Field Regiment SP., R.C.A.

The accused declines to cross-examine the witness.

W Havel

Witness

Lieut, J. Hood, 31 Field Battery, Sp., R.C.A., 23 Field Regiment Sp., R.C.A. having been duly sworn states:-

"When Lieut, Pinkerton and myself came upon the accused on motorcycles on 24 Dec 43 at the time in question the motorcycles were side by side on the right hand side of Derwent Road pointing towards Meads Road. They were about five yards from the junction of Derwent and Meads Roads. The motorcycle on which the accused was astride was a Canadian Army Motorcycle. When Mr. Pinkerton ordered the accused to return the motorcycle to the lines, the accused Sergeant-Major Harris replied: "Yes Sir". I do not remember Sergeant-Major Russell saying anything in reply to that order.

held The accurred declines to was examine John A Hard Fourth Witness Major F.A. Robertson, 31 Field Battery, Sp., RCA., 23 Field Regiment, Sp., RCA., having been duly sworn states:

I was on 24 Dec 43 and still am the Battery Commander of the 31 Battery, 23 Field Regiment, Sp., R.C.A. I did not at any time authorize the taking or use of any motorcycle for 24 Dec 43.

The accused declines to cross-examine

Mchaine My

Fifth Witness

Gnr. Freeman, A.R., B-23727, 31 Field Battery, Sp., RCA., 23 Field Regiment, Sp., R.C.A. having been duly sworn states:-

I was M.T. guard for the 31 battery on 24 Dec 43 from 1700 hrs to 2120 hours. During this time I patrolled the beat on Darley Road from Meads Road to Chesterfield Road and up Derwent Road to the turn in the road where the end of the vehicles are. There is no regular method of patrolling this beat, but there would never be an interval greater than ten minutes at the outside between the times I was in or passing by the junction of Derwent and Darley Roads. I did not notice anything unusual or contrary to regulations in the M.T. lines during my tour of duty aforesaid.

Coto The accursed declines to coops warning

Question to the accused by Lieut, Cameron

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

Answer by the accused

I have nothing to say.

I certify that Rules of Procedure 4 (C), (D), (E), and (F) have been complied with

Taken down by me in the presence of the accused at Eastbourne,
Sussex, this tenth day of January 1944

(W.H.Q. Cameron) Lieut, RCA. 23rd Field Regt. Sp., RCA.

Certified True Copy of Extract Part I Regimental Orders Order No 70 d/10 Oct 43

336. VEHICLES

It has come to the attention of the Commanding Officer that many unauthorized trips are being made by drivers of this Regt. In future RHQ vehicles will not move unless the trip is authorized by a work ticket signed by the C.O. 2 1.c. or Adjutant. Bty. vehicles will not move unless the trip is authorized by a work ticket signed by B.O., Bty. Capt. or C.P.O. Drivers will be checked regularly and if found to be on an unauthorized trip, they will be charged immediately and paradel before the Commanding Officer and will automatically be remanded for a Court Martial

Certified true copy from the Regt'l Books in my custody

(D.P. Atkens) Lieut, RGA

A/Adjt., 23 Cdn Fd. Regt. SP. RCA

Exercise & RCA.

0.00-143 SGT RUSSELL WA. 48 files

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FII	ELD GENERA	AL COO	KI-LIW.	117.2
Convened by Order of Bi	rig J D B Smith,	OBE Con	nd5 Cdn Arm	d Bdelated 16 May 44.
A the matterial of	two or more charged jointly see frank or Ajappmt, if any, see AA I	RP 16, 71, 109. As 82, 183, fns, KR Can	308, 328, 330.)	Samuel Columit.
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A) The Presiden	t, Members, waiting Mem	ber, JA, if any	, and Offes under	instr, if any, assessment
Court is closed. (PRINTED MATTER BY PRES OR JA	NOT IN ITALICS FOR GUIDAN	ICE. WILL BE DELE	TED. IF NOT USED OR ons do NOT include all MML op 741 to 759	APPLICABLE AND INITIALLED relevant from ROs. For guidance A brief record of such variation ein. See back of Convening Order, ter called "Notes". As to general
an procedure when will be made and gi	ven a number having reference to	appropriate or preci	which instrs are hereal	ter called "Notes". As to general
A2. The Presiden	nt initials and lays before the	e Court the Cone	vening Order and (ed(2), accused is (Charge Sheet(f) attached thereto.(1)
The Court is satisfied	in offence.(3)		. co. pp. 105 107	3 RP 11-13, 23, 24.)
(I. As to use	of Summary of Evidence see his	(are) brought be	fore the Court	At 18276 hours trial commences. to undergo trial by court martial.(1)
40 The Court is	commed. The accuses in	filtrich service Breeze	19-50	o undergo trial by court-martial.(1) partial instead of being dealt with my
The Prosecutor informatily by the CO				
II. KR Con-	557. Z. AA 40(0), Nr 500 111	1. For effect see K	K Can sos(c). Delete	as interpreter (Ans
	to accused: Do you obj		48	shorthand writer ! Ans
The shorthand writer	Defete, if none employed.)			G at an and to the accused (1)
A6. The Conve President to acc	tisted : 100 years surprise			
Ans (5) 6 (2)		20.44	ran W shiertion, see	procedure AA 51, RP 25, 71, 18, MML p 742.)
A7. The President	 If no objection, washing medient, Members, JA, if any lits of the offrs comprising 	e and Office unc	ler instr, if any,	
ranks, names and un	Haj	I F	DOUGLAS	WESTER R (Mot)
President	Cool-	R.G.	Crimes	2 Gdn Armd Regt
Member	Lient	G.G.	1311	5 Cdn Armd Regt
Member				
Judge-Advocate		J.R.	Jewell	9 Cdm Anned Rag
Prosecutor	Lieut	00	Ballant	The 18m 2CBRD C
Defending Offr	Lient	K.0.	Na	Conding Office lawyer 1. Ans. N. D. (5)
Questions by Presi	dent: Is the Prosecutor a	lawyer ! Ans	and separately with a	fending Offr a lawyer ? Ans Pin (*) recredings for information of Cans Offr.) recredings for a followed, See Di p 2.
11 RF 26, 27,	109, 111, List at wiles acres.	the contradent to make that	increment when RF B	s (p) dud to a water too have
As. The acct	used Kilty agi and	CK and Proper	in Colom Arms Blant	(1)
(I. If a (RF 34, 35() by one of seve exidence, if a	special ples is made for separate A). 113), or in bor of trial (i eral accured charged jointly to be my, and finding are recorded per	trial on one or mon RP 36), or as to tried separately (RP) Notes. For forms	s charges (RP 62(E), 1) accused's mental fith 6, 71), such plea, the of record see reference	(26), or as so the jurisdiction of the Court ess to stand triol (AA 130, RP 57), or coolings made in support or against, the in fins to RsP cited. Insert in AB rank in fins to RsP cited.
and name of	the occused making the plea.)	eparately) on al	charges in the c	tharge sheet.(1) The accused does (see Sheet.(2) The President records the
not object to any pleas in Part 1 of	charge.(3) There is no at the Schedule. 31, 112. See para i of leates p.	2. When more than	one Charge Sheet see	RP 62; when several occuped to be tried RP 32, RP 33. If otherwise, delete and
separately se make approp	riote record per Notes	lers the Instra	on Procedure after	Arraignment at top of p 2. The play
ceedings are cont	IDENT OR IA WILL	INITIAL AL	L DELETIONS	AND ALTERATIONS
PRES	MOEINT OR JA TITLE			

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

Fig. The Court considers the sentence (i) The President records the sentence in Part I of the Scheelule, which is dated visit desired by him and the 3.4, if any (i) the sentence only compound of the sentence on the Ast in consecuent or the sentence on the sentence on the sentence on the sentence of the sent

proceedings in open court are accordingly terminated (*) by the Court, being subject to confirmation, will not be announced, but will be promulgated later, and the

8.4. The President states that the Court is closed to consider the sentence, and that the sentence to be awarded

militarious of punishment (if) Ans.

(i. 82 Zi(C), 46(D).

2. Address, if any, recarded per Notes. Court should germit occused or his solitestees to prove on each capturing here or previously stated which would effect the amount of punishment. 85 Zi(S) fo 1).

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

montheed Ex. B. and Ex. C. respectively (8)

(1) Milk 155 or MR 155 or MR 155 or MR 15 is 46, KR Con 558. If obove documents not produced, see 89 40 (n.).

Are focused and subsense one resonn. Evidence recorded per places of the character, defects this pare. At 31(C) for 4, 4e for 1.

E.2. The procedures for resonn. Evidence recorded per places.)

E.3. The procedures for recorded per places of the country of the manner of the country of the co

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

RECORD FORM E-PROCEEDINGS ON CONVICTION BEFORE SENTENCE.

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

Or, The President amounces that the accused is found to it the School of the School of

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

dule. (*) The Court is re-opened. (*) Ap 45, \$17(A). See Motes in Purt I of Schedule. 2. Ap 44(A).) I rad at bedroost (sta) st root out to (s)gainfait aft (t).(s)gainfait after she course of st root out of the distribution of the course of st root out of the contract of the course of

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

(1, 84 184, 15, 116, 16, 16, 16, 16, 16) and the section of consening Order, CF 895. Evidence for accused as so but chances a notice in the industry and reference to the following in the section before the finding. See 88 46(4) fin 1, 88(C). Most find the para E1 of the section of account of the section of the secti

Are they witnesses as to character only ? Ans 2.9.) 2. 82 40(A), 48e 60(D). 3. 82 40 fn 10. 4. 82 40 fm 2.9.) (I. NP 155. Do you intend to call witnesses on your behalf I

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

You may call witnesses in your defence and as to character, whether you give evidence or make a statement of do You may, bowever, make a statement without being sworn, and you will not be subject to exact the interference of the following (4) a statement which could be not mean made on our manufacture of the following the manufacture of the following the manufacture of the following the foll (b) notabilities are the facts of your character or both, in which case you will be subject to store some and the more examination of the most partial partial

Do. President to accused. You will now proceed with your defence (*) You may, if you wish, give evidence (1) Defects section and this pore, if submission not made.

2. Arguments on submission, answer and reply are recorded on submission, answer and reply are recorded on oil charges, use second elegements in pare 0.6). So for 12-14 and p 81 pore 42.

A. Delete part not used. If accused area deleted second elegements in proceeds, accused must be allowed great deleted in module; if this defence, and the Court should not stop his defence solely as ground of irrerevence. (AP 60(c), 114, 115)

obsuge(s), and then, accordingly, the trial will proceed on the former, but the accused is (are) found Not Guilty on a latter charge(s), (t)

establish a prime facie case against the accused on the considers the submission. (*) The Court is re-opened, and the President announces that the submission is closed, and considers the submission.

D4. The Prescention is closed,(4) The Defending Offr andmits that the evidence for the Prescention does not

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).)

D2. The Prosecutor makes (an) (no) opening address for Motes, subject to δP 95(C).)

the ground that you have not had sufficient opportunity to prepare your defence? Ans. (1. if "yes", see 82-39(A) for procedure. Statement or evidence, if any, is recorded per Mates.) relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on

DI. President to accused: Do you wish to apply for an adjournment on the ground that any of the rules

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

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

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

(2). The charges on which accused pleaded GULITY are read to them; again, and the trial is continued by using paras Bi to B5 of Record Form B alove.(1)

(1, these B5 and ports only of the kernenty of Eucords are read as relate to the charges does not make C2. If one pice is appropriate record district monotonic with porter D1 to D8 inclusive in factor b on p 3 and module on appropriate record district on a separage and.)

Cl. As to the charges on which accused pleaded NOT GULLTY the trial is continued by useng paras D1 to D8.

(i. 8: M(4) (E).)

NOT GUILTY.

RECORD FORM C-PROCEEDINGS ON MIXED PLEAS OF GUILTY AND

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

BG. The Summary of Evidence is marked by A. initialled and read about by the President. (1) (if there is no Summary, or if it is insidentely much by 13(8). If there is not swidness incomment with now piece potent is any swidness incomment with now piece potent in the change such a factories of factories of factories from D on p. a. 31(0).)

(1. RF 35(B). If any plea(s) is (are) changed, use Record form C or D as oppropriate.)

Charge(s) his (then) Disaster on the intersect. Gette whole as port and used.

(I. feern may be chosed to consider the iterated. Gette whole as port and used.)

B4. On the charge of to which the phea(s) of Guillty is (see) not changed the President records findings of Guillty in Part 1 of the Soldedule. (1)

charge(s). The accused is (are) so informed, and he (they) (speit) plea(s) of Guilty to Not Guilty on

K3. The Court considers the accused's statement (i) The Court decides (not) to advise accused to change his

(), RP 37(6) 2, RP 37(0) fin 6, 3 or 35(6) fin 5 para 3, MML p 54 para 4. See para E3 of Record Form E. Stotement, if only, recorded per Wolts) President to accused: Do you wish to make a statement 1 hours of .

charge A.() If the appears from your statement that there are circumstances which indicate that you do not under-stand the older of the place of Guilly(*), or which show provocation or extensition in respect of which in your interests the witnesses for the Prosecution as found be examined?, we shall devise you to change your plea to Nost Guilly. In making a statement you will not be soron or subject to cross-examination; and snything you are that your extension in evidence, eighnst you after you change your plea. If, however, it appears to the Court that your extension affects only the amount of purishen to which you are incide, you will not be advised to change your plea and you will be given an opportunity of market to prove your statement by sworn testimony, if you so desire (*) B3 Dresident to accused: The Court will now receive any statement you desire to make in relevance to the

of the charge (N(*), and that on his plea of Guilty there will be no regular trial but merely a consideration of the sentence to be awarded after be has been given an opportunity to make a subsement in reference to the character and make an address in mitigation of punishment.(*)

(1. 89 35 a. 2. AMM p. 34 page (N. 2.)) III. The President or J.A. if any, compiles with RP 35(B) by explaining to the accused the mature and mean of this charge. We have a presented that on the consideration of this charge.

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

Prosecutor as RP 6014) (B): daily and principles of accessed and Defending Olfr see RP 6014) (B): daily and principles of accessed and Defending Of accessed see RP 75-79, 80, 116; use of Summing of victories as RP 81-82; during or ve-califing of victories as RP 75-79, 80, 116; use of Summing of birdening of victories as RP 176-10 (B): use of Summing of Accessed from Court according to the victories of victories and responsibility of A.A. or Pres to record proceedings as RP 91-96. to giab , E01 93 see At to sound and the Ed. (CO) , powers and duties of At to think of the constraint of the constraint

proceed under foregoing that's as may be appropriate to result of the decision. See M.M. p. 744 Instra (2). (b) Such mixed pleas occur in a set of two or more charges laid in the alternative, see RP 33' (4) and fire 2 or to discrete, or, (i) be treed or the consist of mercing set of the charges as if he had pleaded Net Court and thereto, or, (ii) to record the pleas as the findings of Court. Alter decelling second or the pleas as the findings of Court. Alter decelling second makes the pleas as the findings of court in the decelling and the first decelling the property of the decelling the decelling

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

III. If pleas to some charges are GULLTY and to other charges are NOT GULLTY and, 11. If piens to all charges are NOT GULLTY, use Record Form D on pag.

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

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

1. The accused may not plead or be found Unity on more than one of two or more charges load in the alternative than one of two or more charges by Froncentor see RP 35(f). As other charges by Froncentor see RP 35(f), As to the wildedness of treathy from Comment Light of Contenting Light concerns. Found may accept pleas Contenting Light of Continue Contents and accept pleas the statement of the see RP 35(f), As to return the please of the see RP 35(f), As to return the see RP 35(f), As to please the see RP 35(f), As to plea

INSTRUCTIONS ON PROCEDURE AFTER ARRAIGNMENT.

SCHEDULE.

		PLEA(S), FINI	DULE.	SENTEN	CE.	
	PART I.		OOD AND	O (10 90%	Arms Righ (150
coused: KU47	51-	William	m account	ras	/	
Charge.	Plea.	Finding.				
(Insert " alternative " where applicable.)	(See Instrs p 2.)	(See note below.)	(Space for use as	required for fu special (rther charges, acc findings, etc.)	used charged jointly.
st	Guilly	avilly	The table			
nd	armaning on the		V			
rd			and the contact of th			
th		-months (million and in the	- I was a second			
ith						
0th						
(Note : As to f	indings for lesser off	fences see AA 56, RP 44 53, and in lass of kit.	4 ; findings on aftern	ative charges se	e MML p 483 fn 4	pare 2, ILP 44 ;
	awaiting present (A) fn 2. Information	t trial—a total of should be found on M				
To be	· redu	red to	tre	nauk	- 2	troper
Date	(8gd)		Com	manding		
zhrunkin ar ann				EINIDII	IC(E) AND	SENTENCE.
PART III. (For duties and confirmation an not confirmation in pramulgation :	DECISION powers see AA 54, d connot be revised accused may be tried RP 53, MML p 65.	OF CONFIRM 57, RF 37(D) fn 6,46() : AA 54(3). Sending d again: AA 157, MM Quashing after prob Offr must sign here pe	A), 51-56, 120, MML back finding or sense L p 64. Minute of consideration: KR Can irrangly, AA 172 fn i	pp 759-761. KR ence for revision onfirmation or ni 573. Duties and	Can 567-577. A by Court : AA 50 on-confirmation m d powers of review	cquittois require no N(2), RP 120(G). If ay be altered before wing offrs: AA 57.
57A, RP 53A, 5	the finding(s)	and sentence set f	orth in Part I is			
my decision on	I confirm		edvice mo	a xestle	are.	
			1			
I direct that	the accused be	not committed t		(JB	Smith furth	er orders (1)
	1872	wet	(Sgd)			
Da	te (I I nay		Commanding	1 B CAR	Cont	irming Officer.
	T IV PRO	MULGATED	AND EXTRA	CTS TAKE	N. (AP 53, KR	Can 576. 577.)
Accused.			Date.		Signature of	Our.
K1147 Ast		(MA)	2 May 44		Idrida	Bey Caps Real
		TIONS AND	AL TERATION	NS WILL	-	
	ALL DELE	TIONS AND	ALTERATION	10 11100		

LIST OF WITNESSES

1 - Lt W I Stanton
2 - A/Capt L Macdonald

9 Cdn Armd Regt (BCD) C A

Alic

. I desire the convening officer to detail an officer to represent me at my forthcoming trial by Field General Court

I desire the services of Lt J C McKinnon, 9 Cdn Armd Regt

In the field

14 May 44

(W A Russell) Sgt 9 Cdn Armd Regt(BOD) C A / Lacknowledge that I have this day received one cope of the Charge Sheet and one copy of the Susmary of Evidence in my case

In the Field

Date -

(W A Russell) Sgt 9 CDN ARMD REGT (DD) C A

The accused K 1147 Sergeant William Albert RUSSELL, 9 Cdn Armd Regt(BCD) C A, a solsier of the Canadian Army Overseas, is charged with

FIRST CHARGE A A Sec 15(1)

WHEN ON ACTIVE SERVICE ABSENTING HIMSELF WITHOUT LEAVE

in that he

in the Field did absent himself without leave from 1800B hrs 28 April 44 until surrendering himself to military police at Naples at 1715B hrs 4 May 44

(absent 5 days 23 hrs 15 mine)

In the Field 14 May 44 (F A Vokes) Lt-col Comd 9 Cân Armd Regt (BOD) C A

To be tried by Field General Court Martial

In the Fd 16 May 44 (5 D B Smith) Brig Sound 5 Cdn Armd Bde

FIELD GENERAL COURT-MARTIAL

CFASS (In lies of AFAS) 40/PASJ (097 (2803)

(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 dustry. As 49, 30, RP 104-107, 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), ID7. As to separate trial on charges in the same charge sheets 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, 183, fns, KR Can 306, 328, 330.)

ACCUSED.

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

Full Christian Names. Surname.

Set

William Albert RUSSELL 9 Cdn Armd

CONVENING ORDER.

- Whereas complaint has been made to me, the undersigned, that the person(f) named above as the accused being subject to military law, has thave) committed the offence(f) set forth in the Charge Sheet(f) attached and offence(f) are law as the accused for me, the charge Sheet(f) attached and offence(f) are law as the accused for me, the charge of the first property of the charge of
- 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 trial for reference to unsuperior qualified offic.)

 (Delete part in brackets when not required for compliance with RP 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. 4 nor numble to appoint (a) three Office to form the Court, (b) a Ed Offic as President, for the remove I have the attached-hereto:

(AA 49, RP 106(B), 107(A). Delete the whole or part, if not applicable.) 5. I when appoint as Judge-Advocate the officerentiated incomments.

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

PRESIDENT

(Must be named. RP 106.) (Rank.) MEMBERS. 2 Cdn Arod Regt Cdn Armd Regt (Rank.) WAITING MEMBER (to be detailed) Armd Regt (Named or detailed, if any. RP 106.) JUDGE-ADVOCATE.

On Active Service in the Fd

Italy (Country.)

16 May 44

(J D B Smith)

(Signed personally. RP 105 fo 2 \ Brig (Rank.)

Commanding

5 Cdn Armd Bde Convening Officer

CONVENING OFFR WILL INITIAL ALL DELETIONS AND ALTERATIONS

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

I certify that I have this morning examined K 1147 Sgt Russell W A, 9 Cdn Armd Regt(BCD) C A and in my opinion he is fit to undergo trial by Field General Court Martial

In the Field Date - 16 may 44

(F C Datie) Capt RCAMC 9 CDM ARMD REGT (BCD) C A

The defending officers address in the statement of good conde shet and motigation of sentend. Mr President - I week to ground out to the court in secured's beholf that while drunkerers is no wouse for his actions never the hos druke was many responsible for his action to his served 2 years 10 mos in the landsmy wie the 9 CAR (BCD) he has been awarded CV.SM. and claye for robustary service and good conduct. The accused wish me to point out my strongly that he would like to go to the front with his regiment and I would ask the court to find a setence which would great accused his wish Milatyne Led

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

Commanding 111 PROVOST COMPANY I, Captain H.E. HOBBS certify that No K.1147 Rank 3GT. Name RUSSELL W.A. of theBRITISH COLUMBIA DRAGOONS surrendered himself to

Noll15084 Rank L/CPL, Name HUGHES K.

246 PROVOST COMPANY, attached PROVOST COMPANY, C.M. POLICE at NAPLES

at hrs., 1715 on the 4th day of MAY

as a deserter (or absentee without leave).

Date 4th MAY 1944.

Capt.

O. C. 111 Provost Coy C. M. P. Officer of the person or portion of His Mayesty's Forces

to whom the Surrender was made

Summary of evidence in the case of K 1147, Sgt William Albert RUSSELL, 9th Cdn Armd Regt (BCD), Cdn Army Overseas, charged with absence without leave from 1800 hrs 28 Apr 44 to 1715 hrs 4 May 44.

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

FIRST WITNESS

Lieut W.I. Stanton, "B" Ech, 9th Cdn Armd Regt (BCD) C A, sworn, states:

On 28 Apr 44 I was in charge of a party from "B" Ech, 9 Cdn Armd Regt (BCD). The party went to Caserta for the day on recreational tpt. At about 1755 hrs, that is five minutes before the vehs were due to leave for camp, Sgt Russell, the accused, came up to me and reported that the "B" Ech party were all present and correct. At the time I was checking the "A" Ech party and I told him it was time to mount the vehs. I completed my check and the vehs left about 1800 hrs. About 1900 hrs when we reached camp I noticed that the accused was not there and I accordingly reported him to the 0 C "B" Ech as AWL. Accused was supposed to to return to unit lines with the trucks and I accordingly reported him to the 0 C "B" Ech as AWL. Accused was supposed to to return to unit lines with the trucks and I accordingly reported him to the 0 C "B" Ech as AWL. Accused was supposed to to return to unit lines with the trucks and a supposed to the accused. After 1800 hrs.

488

- Q. Sir, when I reported to you at the vehs at Caserta at 1755 hrs would you say that I was under the influence of alcoholic stimulants?
- A. You might have been drinking but in my aminion you were not drunk.

 (W I Stanton Lieut

SECOND WITNESS

Capt L. Macdonald, Adjutant, 9th Cdn Armd Regt (BCD) C A, sworn, states:

I am Adjutant of 9th Cdn Armd Regt (BCD) C A and have custody of Regtl documents. I have in my custody and new produce a Certificate Under Army Act Sention 163 (1)(3) which was received from 111 Pro Coy, CNP, which shows that the accused surrendered himself as an absentee without leave to 246 Pro Coy att 111 Pro Coy, CNP, at Naples at 1715 hrs 4 May 44

The accused declines to cross examine this witness.

(L Macdonald) Capt W.

"The Certificate referred to by the witness, produced, read over to the accused, marked Exhibit A, signed by me,

(G E Eastman) Najor Officer Taking Summary

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

The accused: I desire to make an unsworn statement. The accused, K 1147, Sgt William Albert Russell, 9th Cdn

Armd Regt (BCD) C A, states:

On the morning of 28 Apr 44 I was given permission from 0 C "B" Ech, to join a party going to Caserta on Recreational Tpt. I was warned that I had to return to the veh at 1755 hrs the same day. I returned to the veh at that time, checked the personnel of "B" Ech and reported to Lieut Stanton, the witness, that all personnel were present. I did not return with the veh myself. At approx 1630 hrs 4 May 44 I surrendered myself to 111 Pro Coy, Naples, as AWL and was detained by them.

(Signature of Accused)

The accused declined to call witnesses in his own behalf.

I certify that RP 4 has been complied with.

Taken by me in the field in the presence and hearing of the accused this 12th day of May , 1944.

(G E Eastman) Najor Officer Taking Summary.

Company	st entry in Conduct Sho	et	No.	and date Period not reckoning towards ast drunk freedom from extra fine	Sheet No.	2 / Company, etc.	1 5 500	ord McHaracte	
Place	Date of officies	Rank.	Classe of drunken- ness	OVERCE	Names of Witnesses	Puntahment awarded	Date of sward or of order disperi- sing with trial	By whom awarded	Remarks
				CERTIFIED TRUE COPY OF REGT BOL		(L Macdonald	Capt &	Adit	Holy
				IN MY CUSTODY					

10

Statement as to Character and Particulars of Service of Accused. Name. Regiment (or as the case may be).

Number.	Rank.	Name.	Re	giment (or as the c	ase may be).	
К 1147	SGT	RUSSELL Willia	am Albert	9 CDN AR	MD REGT(BCD)	
1. The follow	ving is a fair and	true summary of the entries in t	he regimental and	squadron, battery of summary aware	or company con- ds under section 47	
auct sheets† of the a	iccused, exclusiv	e of convictions by a court mark	Marior a civil come;			
of the Army Act, an	d of cases in wh	ich trial has been dispensed with				
form.—At a trial by field accord court martial this ammery may be compiled from the field our		* Within last 12	months.		ince Enlistment.	
The conduct sheet(s) mentioned should be	For			times]-	
with this elairment	For			times	times	
the proceedings.		المرابات المرابات		J times	times	
1940	For					
* The combine herein stated about costs amond with the name			13-	times		
ber at enterer in the conduct shorts, pro-	For					
to the most actions oftenic in each entry,	For	111111		times	times.	
and to any recognised special arm of gallan- try or distinguished		13-1-				
kandud.	ym Nu	ment of instances of rections y or	SHRING III SHRING III SHRING	M.L.		
Instruction - If the		or or				
Instruction - If the charge is for drunken- ness the chitres for drunkenness must be stated separately and	The	re are no entries in the conduct	sheets of the accus	sed		
The second secon						
2. The acc	used has not bee	n previously convicted, or		over read to the state of the	ON BOTH TOPONO HISTORY	
of markets and prescribed	ananamental	armement by a country market is	CIL COVE LAME, IS OU	HEAT HEAT IS	and the same of th	
	an annual person wealth.	or any other protten 23 of tipe Aming	Ant market delik	TIME SINGE OF THE ATTEMENT	Walter the beautiful	
744119-10-1		r sentence at the present time.	nor fittin manousestrax.	norposensisma.	as maley sourcesce. Ki	EX
3. The acc	used is not units	20% stregimotous our time	- very very very viny at	tc		
					day	
4. The acc	used has been in	confinement, awaiting trial on the	he present charges,	101		
in civil custody,		days in military o	ustody, making a !	total of V	- slay	
of which	nil	days were spent in hospital.				
5. The gar	esent age of the	accused according to his record	of service 30	yrs 1 m	on th	
6. The de	ate of his	specified in his record of se	rvice is 21 J			
7. The se	rvice which the	accused is allowed to reckon tows	ards discharge or tr	ansfer to the reser	ve 18 2 year 100	W/05.
s. The a	ccused is entitles	to deferred pay or gratuity in	respect of 2-7-	as. 10 mis.	_service.	
6. The a	consed is entitled	to reckon	service for th	e purpose of deter	mining his Pesisson, c	
×10the	accused is in pos	ssession of accumulated to commi	beary decoration se	romitionycamourdo	OKIS II (XISSISSION K	SIN
J SERVICE THE LOSS	te any military i	lecoration or reward)) Can	VSM & Clasp			
11. (l)	the accused is a t	carrant officer.) The accused be	fore he was made	a warrant officer !	last held the regimen	ital
rank of		. II/2				
12. (In	the case of an offi	cer.) The accused holds in the arr	my the rank of	N/A	, dated	*
and in his reg	iment (or corps of	or department) the rank of		tated		
(*18548) W1.20	15,000 ED/W	AAEWIM Open				

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 14th day of Lay 44

X Macdonald Cop Andy (I Macdonald) Capt & Adjt

ccused has served as a non-commissioned officer continuously, without red

years,

3

Date of Promo

WWW-61 Ote Qussell WV

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CEIVED 25 SEP HORE

n

N

1/2

RECORDED AT CMHO IN AB 160

FIELD GENERAL COURT-MARTIAL THE MET AND ASSESSED.

by Order of Colonol H.R. Tymer A/Comd "B" Op CRU dated 29 Aug 44

ACCUSED.

	1.7.4.4.4.4.4.4.4.4.4.4.4.4.4.4.4.4.4.4.	and the second
The second second second second second	y see RF 16, 71, 109. As to reasons for showing (a) permonent AA 182, 183, fns, KR Can 308, 328, 330.)	or confirmed
(As to the trial of two or more charged jointly	1 100 NF 10. 11. 107 NR 708 708 700 1	
rank and (b) opport. Alrenk or Alappmt, if any, see	AA 182, 183, fns, KR Can 300, 320, 330.)	

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

Wilfred Vernon RUSSELL 1 Cdn Para Trg Coy

PROCEEDIUS REWEWED is uslad capt. 25 Sept PROCEEDINGS OF TRIAL. REVIEWING OFFICER, JAG

Held in the Fd in (country) England

F-517 6 Pte

on (date()) JO AUG-44

RECORD FORM A-OPENING PROCEEDINGS AND ARRAIGNMENT.

Al. 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 (PRINTED MATTER, NOT IN STALLCS FOR GUIDANCE, WILL BE DELETED, IT NOT USED OF APPLICABLE, AND STALL BY PRES OR LA. The Schedule referred to throughout it on p.4. Citations do NOT include all relevant from RDs. For guidance a procedure when a sustaintie in this form arises, see form for GCM in MML, pp.741 to 759. A brief record of such verticable will be made and given a number having reference to opposition our preceding para number having. See book of Commission Gribers, will be made and given a number having reference to opposition our preceding para number having. See book of Commission Gribers, which in the same have to record addresses, evidence, etc., which inters are hereafter called "Notes". As to general previsions for conducting the trial see AA S3, RP 56, 63-70, 73, 74, 94, 102, 119, 132.)

A2. The President initials and lays before the Court the Convening Order and Charge Sheet(a) attached thereto.(1)
The Court is satisfied that it is properly convened and constituted(2), accused is (380) amenable to military law, and each charge discloses an offence.(3)

(1. As to use of Summary of Evidence see RP 17 fn 5. 2. AA 49. 50. RP 105-107. 3. RP 11-13, 23, 24.)

A3. The Court is opened. The L. cused is (he) brought before the Court. At 12.20 hours trial commences. A4. The Prosecutor produces a Medical Certificate that accused is (anc) 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

summarily by the CO (2)

2. AA 46(8), RP 60 fn I. For effect see KR Can 563(c). Delete, if not applicable.) (I. KR Can 557. as interpreter ! Ans-

A5. President to accused: Do you object to \$232716 The Interpreter is sworn (1) Do you object to \$252 SHILAT Z & F as shorthand writer | Ans NO SIR. The shorthand writer is sworn.(1)

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

A6. The Convening Order and names of the President and Members of the Court are read to the accused.(4)
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 () 2. If no objection, waiting member retires. RP 68(B). If objection, see procedure AA 51, RP 25, 71, 18, MANL p 742.) (I. RP 110.

A7. The President, Members, J.A. if any, and Office under instr. if any, are sworm.(1) The following are the ranks, names and units of the office comprising the Court, etc. HQ CRU

D.L. Redman VD President 10 GRU CE. LAFOND CAPT Member

U.R. SHAW ICONPARATES COY LT Member

Judge-Advocate

ICON PARA TRE COY F.W. COOPE LT Prosecutor R. J MITCHALL ICON PARA TRO COY LT Defending Offr

Questions by President: Is the Prosecutor a lawyer ! Ans No Is the Defending Offr a lawyer ! Ans No (*)

RP 26, 27, 109, 111. List of offrs under instr will be returned separately with proceedings for information of Conv. Offs.).
 If Prox a lawyer and Def Offr not, activated is untitled to an adjournment when RP 89 (8) and fn 2 were not followed. See Dr. p. 3.3.

before arraignment make(s) (no) (a) plea

(I. If a special plea is made for separate 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 bor of trial (RP 36), or as to occused a mental friends to stand trial (AA 30, RP ST), or by one of several accused charged jointly to be tried separately (RP 16, 71), such plea, the addresses made in support or against, the evidence, if one, and finding over recorded per Notes. For forms of record see references in fin to RP cited. Insert in AB rank and nome of the occused making the pine.)

The accused is (arc arraigned (separately) on all charges in the charge sheet.(1) The accused does that to any charge.(2) There is no amendment to be made to the Charge Sheet.(4) The President records the not object to any charge.(2) T pleas in Part I of the Schedule

RP 31, 112. See para I of Instra p 2. When more than one Charge Sheet see RP 62; when several accused to be tried y see RP 71(C), and use separate copies of CF RP6 to record proceedings. 2. RP 32, RP 33. If otherwise, delete and propriete record per Notes.)

A10. The Court sis closed and) considers the Instrs on Procedure after Arraignment at top of p 2. The parceedings are continued on Record Form

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-(RP 37(A).) As to wilderwal of alternative charges by Prosecutor see RP 35(C). No other charges and in the alternative charges by Prosecutor see RP 35(C). No other charge can be withdrawn for any reason without authy from Convening Offic. If Convening Offic concurs, Core may accept plea of Guilty to lesser, etc., affence. (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
 - (b) Such mixed pleas occur in a set of two or more charges laid in the alternative, see RP 37 (A) and fa 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).

As to responsibility of President to accused acc 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 Offices RP 60(C), 87(C), 91, 92; accurring and withdrawal of witnesses from Court see RP 81, 82; questioning of accused very RP 80, 87(C), 92(B), and of witnesses from Court see RP 81, 82; questioning of accused very RP 80, 87(C), 92(B), and of witnesses RP 83,88); cathing 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 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).

(I. RP 35 fo 3. 2. MML p 54 pero 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 reference to the charge (8,t) If it appears from your statement that there are circumstances which indicate that you do not understand the effect of the plea of Guilty(7), or which show provocation or extenuation in respect of which in your interest making 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 punishment to which you are liable, you will not be advised to change your plea 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 (4)

President to accused: Do you wish to make a statement ! Ans NO -5/K (J. RP 37(8), Z. RP 37(D) for 6. 3. RP 35(B) for 5 para 3, MML p 54 para 47. A. 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 accused is (are) so informed, and be taken

change(s) his (their) plea(s) on chargo(s). Part I of the Schedule is amounted accordingly (I. Court may be closed to consider the statement. Delete whole or port not used.)

B4. On the charge(N to which the pleak) of Guilty is (Are) not changed the President records finding (s) of (1. RP 35(B). If any pleu(s) is (are) changed, use Record Form C or D as appropriate.)

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

(1. If there is no Summary, or if it is inadequate, comply with RP 37(6). If there is any evidence inconsistent with any piece at atomicing as Guilty, Court will odvice occurred to change such piece and. If changed to Not Guilty, try such charge(s) by use of pares D1 to D8 inclusive of Record Form D on p 3. RP 37(DL)

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 NOF GUILTY the trial is continued by using paras DI to DS inclusive of Record Form D on p 3 before proceeding with C(2,4)

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 55 such parts only of the Summory of Evidence are read at facts to the charges don't wish under C2. If one piec it charged to Not digit, trial thereon proceeds by complying with paras D1 to D8 includes in Record Form D on p. I and moking an appropriate record thereof an a separate sheet.)

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

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

Pin here Leque Shorts 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 Mereby, or on the ground that you have not had sufficient opportunity to prepare your defence ? Ans ... (1. If "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. RP 39(B), 60(A) (B), 90, 92(C) (D). Record address per Notes, subject to RP 95(C).)

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 establish a prima facie case against the accused on the closed, and considers the submission. (2) The Court is re-opened, and the President announces that the submissioncharge(s).(2) The Court

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

charge(s), and that, accordingly, the trial will proceed on the former, the latter charge(s), (4)

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

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

3) RP 40 fn. See MML p 72 para 12:14 and p 81 page 42.

4) Delete part not used. If accused equitied not 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.)

D5. President to accused: You will now proceed with your defence.(*) You may, if you wish, give evide yourself on eath as to the facts or your character or doth, 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 ooch will not carry with the Court the same weight as sworn testimony. (*)

You may call witnesses in your defence and as to character, whether you give evidence or make a statement or do

President to accused: Do you wish to give evidence yourself as a witness, make a statement, or do neither t Do you intend to call witnesses on your behalf ! (I. RP 155 2. RP 40(n) see 80(0). 3. RP 40 fn 10. 4. RP 40 fn 2. 9.)

Dis. Consequent on the answers recorded in para Do the appropriate procedure for the defence is followed to the Re 114, 115, 116. For procedure see Notes as back of Convening Order, CF ASS. Evidence for accused as to his character should, if in his interest, be given before the finding. See RP 46(A) in 1, 86(C). Note it further apportunity in para El of Record form E. Becord per Notes addresses, statement, evidence and any summing up by the JA under 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 edule (2) The Court is re-opened.
(1. 88/43, 117(A). See Notes in Port I of Schedule. 2. 88/44(A).)

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

of the Coup on the

Cir. The President announces that the accussed is found Not faulty on all charges and is to be released forthwith.

(i. AA 54(3), (6), BF 45, 120(6).

2. AA 54(3), BF 45, 177. The alternative announcement is not applicable when there

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 $\hat{\gamma}(z)$ NO -518

(). If evidence has already been given by accused or his witnesses as to his character, delete this para. RP 37(C) fn 4, 46 fn 1.

Accused and witnesses are swarn. Evidence recorded per Nices.)

F2. The Prosecutor produces Statement's) as to Character and Particulars of Service(1), and certified true copy (comics) of Conduct Sheefts)(2), 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(1) (g) (h), and (ii) they purport to refer to (a) soldier(b) having the same number, rank, name and corps as the accused. Admitted in evidence and

E3. President to accused: Do you wish to address the Court on the Statement and Conduct Sheet (), and in mitigation of punishment (1) Ans Yes also we then the offering NOTES HE TOT on each crysting here or previously stated which would affect the amount of punishment. NOTES HE TOT on each crysting here or previously stated which would affect the amount of punishment. NOTES HE TOT on witnesses to prove

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. (5)

(6) AS 54(6), 89 (20(A).)

ES. 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.(1) 2.2 \$\infty\$ Considers the several occused treal supported to the supported treal supported to the supported to the supported treal supported to the punishment or punishments for 48. As to sentences see A8.44. [38, 182, 87.44.50, 48]. [3, 187.45, 87.65]. [3, 187.45]. At the sentences supported for civil directly the first of the law of configurations of the supported to t

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

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

Accused: F-51706 Pte Wilfred Vernon RUSSELL 1 Cdn Para Trg Coy

	Charge.	Plea.	Finding.	
	('nsert '' alternative '' where applicable.)	(See Instrs p 2.)	(See note below.)	(Space for use as required for further charges, accused charged jointly, special findings, etc.)
	Ist A.A.9(2)	101214	20171	
	2nd			
	Brd			
LA	4th			
n	bth			
	loth			

native charges see MML p 483 fn 4 para 2, RP 44 (Note: As to fin-lings for lesser affences see AA 56, RP 44; findings on-alternativ special findings see RP 44 and MML p 753, and in lass of kit see RP 44 fn 6.)

Theginning on (date)

At present under sentence for Degraning on (date)

(1. Insert sentence 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 15 days, of which fyll days were spent in hospital.(1) (1. See RP 46(A) fn 2. Information should be found an MF B355 or AF B296 admitted in evidence under E2.)

Sentence Awarded by the Court :

To underyo Activition por a period of

Date

30 aug /4 4 (Sgd) Judge-Advocate, if any

(See back of Convening Order as to assembly and disposal of reco

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

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

PART III. (For duties and powers see AA 54, 57, RP 37(D) (n.6,46(A), 51-56, 120, MML pp 759-76), KR Can 567-577. Acquittals require no confirmation and cannot be revised: AA 54(3). Sending back finding or sentence for revision by Court: AA 54(2), RP 120(G).

not confirmed, accused may be tried again: AA 157, MML p. 64. Minute of confirmation or non-confirmation may be altered before promulgation: RR 53, MML p. 65. Quasting after premalgation: KR Can 573. Duties and powers of reviewing offs: AA 55.

\$7A, RP 53A, 54. The Confirming Offs must sign here personally. AA 172 (n.1.)

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

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

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

Accused. F-51706 Pte Russell W. Vate. 8 Sep 44. Promulgated. Extract Part II D.O. No. 86 dated 8 Sep 44

Do Delding Fruit, Pe

ALL DELETIONS AND ALTERATIONS WILL BE INITIALLED.

CHANGE CHEST

The sociaed F-21706 Pte Wilred Verson 1939ELL & Con Fern Tron Coy., Canadian army Overseas, a soldior of the Canadian April Overseas placed on Active Service is charged with:

CHARGE AA 9 (2) WHILE ON ACCIVE SERVICE DISOBEYING A LAWFUL COMMAND BIVEN BY HIS SUPERIOR OFFICER

in that h

by Lt A.G. Meen by Lt A.G. Meen and the draw a par

JA modden

Pield 29

TO BE WRIED BY FIRLD GENER I. COURT MARTIAL

Field 29 Aug 44 (H.R. Tymer) Colonel
(Bibyysbields) Dulg
A Cond Bir Gp
Cdn Rft Units

m

FIELD GENERAL COURT-MARTIAL

CFA35 (In lieu of AFAB) 40/PAS/1697 (2863)

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

RB 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 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 jointy see RP 16, 109.

As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/oppmt, If any, see AA 182, 183, fin. KR Can 369, 328, 330.)

ACCUSED.

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

Full Christian Names. Surname.

pte

Wilfred Vernon RUSSELL

1 Cdn Para Tra Coy

CONVENING ORDER.

Whereas complaint has been made to me, the undersigned, that the person(s) named above is the accused, being subject to military law has thavel committed the offence(s) set forth in the Charge Sheet(s) at acceleration of the community of the commun

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

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

4. I am unable to appoint (a) three Offra to form the Court, (b) a Fd Offr as President, for the attached hereto. (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). Delete, if none appointed.)

PRESIDENT.

(Cank 1

D.L. Redman, (Must be named. RP 106.)

HQ CRU

MEMBERS.

to be detailed by

1 CORT

Lieutenant (Hank.)

1 Cdn Para Trg Coy

(Nomed or detailed. RP 106.)

WAITING MEMBER.

Lieutenant (Rank.)

to be detailed by (Named or detailed, if any. RP 106.)

(Unit.)

(Unit.)

JUDGE-ADVOCATE.

(Rank.)

(Must be named, if any. RF 106.)

On Active Service in the Fd

in England (Country.)

Date 29 Aug 44

(M.R. Poner) Colonel Convening Officer.

CONVENING OFFR WILL INITIAL ALL DELETIONS AND ALTERATIONS

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

NO 1 CAMADIAN COMERAL RED FORCEMENT UNIT

Medical Officer's Certificate K.R. (Can) para 557.

I cortify that I have this day examined,

No. F.51706 Rank Pte. Hora RUSSELL, Wilfred Vernon

and in my opinion is Fit to under to trial by Court Hartial.

Field Date: 30 Aug 44

W Modelo

Modical Orrigory Cont

F.G.C.M. IN THE CASE OF

F 51706 Pte RUSSELL, W.V., 1 Cdn Para Trg Coy

30 Aug 1944

EVIDENCE AS TO CHARACTER

NOTE E-1

Lst WITNESS AS TO CHARACTER
Lt G.A. MEEN, on strength No 1 Cdn Para Trg Coy, having been duly
 sworn states:

I have known the accused for some months and throughout that time he has been an efficient and reliable soldier. I have been impressed by his ability and willingness to carry out his orders promptly and to the best of his ability.

In the opinion of the Court it is unnecessary to comply with RP 83(B)

STATEMENT BY THE ACCUSED

NOTE E-3

Sir,

I qualified as a paratrooper in Canada and then came to ingland and found out that I had to go on a conversion course. I went along with the detachment to Ringway, we had an instructor there who told us that if we had any doubts about being paraters while we were at Ringway was the place to find out and if we wanted to drop out then was the time to do it. This officer was P/L Denzey of the RAF who was in charge of us. I do not think this statement had any effect on my decision to quit the parates, I was not much afraid to jump from planes and I did not feel anything about a balloon until I saw the balloon and then I got scared and did not want to, I did not draw the parachute when told to and was placed under arrest.

PLEA IN MITIGATION

NOTE E-3

Sir,
Russel is 21 years of age. He joined the army on the
3 Dec 42, and spent six months of that time in an armd unit.
He volunteered for the paratps and was a qualified paratpr,
while on this course and under the instruction of an RAF instructor he heard this statement about getting out and when he
saw the balloon he decided it was a good time to quit. I am
not bringing up the RAF officer's statement as evidence in def but
merely in miltigation of his punishment, that I hope the Court
will see fit to consider when sentencing him. This man has done
his best and will do so when he gets into some other service,
I am sure of that he will be a credit to whatever service that
will be. He was able to jump from planes, but there is a
difference between that and jumping from a balloon where the
chute is not opened for 180 feet. I ask the Court to make
this Man's punishment as light as possible to enable him to
be out and doing the good service that he is capable of as
soon as possible.

SUMMARY OF EVIDENCE

in the case of

F-51706 Pte Wilfred Vernon RUSSELL, let Con Park Try Coy Goog a coldier of the Canadian Army Oversees placed on Active Bervice.

WHEN ON ACTIVE SERVICE disobeying a lawful command given by his appearor officer, in that he in the field on 15 Aug liberatured to draw a parachute in preparation for a balloon descent when ordered to do so by Lieut J.A. Heen.

THE CONCANDING OFFICER DIRECTS THAT THE EVIDENCE BE TAKEN ON CAPH.

TTRAT WITTER Lieut 3, A. Meen, 1 Can Pare Try Coy CAC.

I certify that owing to the exigencies of the service (witness in hospital) the attendance of this witness cannot (witness in hospital) the attendance of this witness cannot existly be propured today. A statement purposing to be signed by the has been read to the accused and is attached to this proposecutation have today.

Statement garked "A" attache

(W. B. Foward) Lieut 1 Odn Pars Try Coy

Question to the accused: Do you wish to make any statement or to rive syldence upon eath? You are not obliged to say anything or tive syldence unless you wish to do so, but whatever you say or any evidence you give will be taken fown in writing and may be given in evidence.

Answer by the accused: - I do not wish to give evidence or to make a statement at this time.

I certify that rules of procedure h (C) (D) (E) and (F) have been compiled with. Taken down by we in the precence of the accused at Center Barracks, Sulford Cosp this 20th day of Sugust 1985.

1 00n Para The Coy

an Pers Tup Coy CAO, having been duly aworn States: On 15 Aug th, while attending a paraclute conversion source at Ringway, England I was in charge of a group of other ranks who were also attending the same course. At approximately 2030 hrs 15 Aug it the class was ordered to draw parachutes for a descent from the balloon, I as informed that Fite Russell, M.V. refused to draw a parachute. I spoke to Pte Russell, W.V. and said: "Pte Russell draw a parachute." He answered "No, eir." I repeated the order twice more to make sure that it was understood and also explained to Pte Buscell, W.V. that his refusal would mean that he would be placed on charge. I received the same reply as hefors. Then Pte Russell, W.V. was placed under close arrest by F/Lt Bensey, RAF Station, Ringway and under A/Sgt Gough J.O. he was paraded to the guard room. Sworn before se at Tidworth Military Hospital 20 Aug 10kk, (W.B. (Howard) Lieut, 1 Cdn Para Tra

B.TATEMENT AS TO CHARACTER AND PARTICULARS OF SERVICE OF ACCORD

(For use at Trials by Field General Courts-Martials Colv.)

Milford Mannan . Sugsell . 1. Cdp . Fers . Try . Tox \$61706Rts .. 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 divil court:to be produced to statement but 18 For Awa Peders (1) not to be annexed to the proceedings, .. D. D. timen The numbers herein ..D.Q.....timestimes Date of first entry in Field Conduct Sheet . 19/6/49 Date of last entry to Field Conduct Sheet Willy the entries for drunkeness or absence as the case may (** t -max 61 = 7 - op g - o 1 94 7 should be stated separately. Any recognized special acts of gallentry or distinguished conduct sheats should also be inpohodulo overlesf. The resuced at the present the An sheats should serted here. present charges for had days in civil custody and for . 18 . . days in silitary oustody i.e. . Mil days in open ar lat. 18 . . days in close arrest; of which Mildays were spent in X- Strike out if not applicable. The present age of the accused tag

The date or his calling up for military is, 30 Dec 1942...

The serice which the gooded is allowed to

recon 16...... The accused is in possession of

(If the accused is a warrant officer or

The accused has served continuous date of promotion

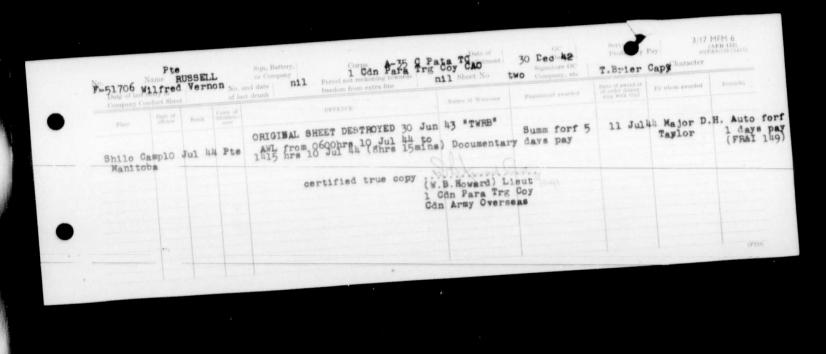
INSTRUCTION: If any matter in any of the above paragraphs cannot be stated from the regimental books the paragraph must be struck through.

I HEREPY 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 .. 739 day of Aug 1944 ...

EXH

Cleroux) Lieut Adjutant 1 Con Para Try Coy.



Canadian Army Overseas, desire to have an officer defend me at my trial by court martial.

I desire the services of Lt R.J. Mitchell, if he is available.

El Aug lih.

Bigned J. P. Berger

an

FIRE OF EXHIBITS

Exhibit "A"

Vd bengas of or graphorting to be algued by the Ook, to or or safe and to the order of the order

C.A. O. 9.-1-60 Pt. Russell, H.

100	FIELD GENE	RALC	OURT-MAR	TIAL CPASS (In then of APAR) 40/12/2 5/10/8 (6144) 4/38B
Converse Order o	Brigadier W.	Megill	Comd 1/9 Cdm Inf 7	Bile dated is NOT HIS
11 11		ACCU	SED.	11
(As to the tr	ial of two or more charged join mt, A/rank or A/appmt, if any, se	ly see RP 15, 71,	109. As to reasons for showin	g (a) permanent or confirmed
	mt, A/rank or A/appmt, if any, se nt R. (b) Appmt, A/R o		Full Christian Names.	Surname, 3 Bate
163691 7	te.		William	Russell &SDIG Highes
IONEFOTHAS AZÓI				N. C.
5 ARLUS A	Bridgh PRO	CEEDING	S OF TRIAL.	
Held in the Fd in (co	LAS BRAINHOM	7.0.		15 1/04 45
RECORD	FORM A-OPEN	ING PRO	CEEDINGS AND	ARRAIGNMENT.
	dent, Members, waiting	Member, JA,	if any, and Off Inder	instr, if any, assemble, and the
	TER. NOT IN ITALICS FOR GU A. The Schedule referred to this			
on procedure will be made an	he a variation in this form arising a variation in this form arising a number having referents and instruction have to record anducting the trial see AA 53, AF	s, see form for C te to appropriate o iddresses, evidence	GCM in MML pp 741 to 759, or preceding para number hetelo e. etc., which instre are hereafte	A brief record of such variation by See back of Convening Order, r called "Notes", As to general
4.04 2011 - 75 - 1	the state of the state of the same developed	say the first of the country of the first	a Communitie Office Bridge Bridge Co	arge Sheet attached thereto.(1) amenable to military law, and
each charge disclose	s an offence.(*) use of Summary of Evidence see			RP 11-13, 23, 24.)
A3. The Cour	t is opened. The accused	is (are) brous	tht before the Court. At	1010 hours trial commences.
2 200 200	A 31 M	Charlittante 41	at accounted in total the fit to	undergo trial by court-martial.(1)
The Prosecutor inf	orms the Court that acc	used elected	to be tried by court-man	that metend of being deans with
(I, KR C	an 557. 2. AA 46(8), RP 60	fn 1. For effect		
A5. President	to secused: Do you	object to	(0) a	e interpreter 7 Ans
The shorthand writ	worn.(1) Do you object or is awnrn.(1) 2. Delete, if none employed.)	to d'	A l	orthand writer f Ans
50 m. C.		of the Preside	ent and Members of the me as President or by ar	Court are read to the accused.(1) ny of the Members of the Court †
Ans (V.) (1)			
(1. RP 110.	2. If no objection, waiting	member retires.	RP 68(6). If objection, see pro	cedure AA 51, RP 25, 71, 18, MML p 742.)
A7. The Pre	sident, Members, JA , if ι units of the offrs comprising	my, and Offre	distr instr, if any, are	sworn.(1) The following are the
	Major	R. E.	Pickard	3/HLI+C (CAO)
President	Crit	HA	Staples	SIMO N.S. Highes VAO
Member	17.	P.F	Metcalfe	3/H-L.2 of C (CA)
Member Judge-Advocate	P			
Prosecutor	14.	H.R.	Nicholson	3/S.P+6 Highers CA
Defending Offr	ht.		Burns.	18716 Highes CA
	entifolio mare morror man	110-2000-000		
				ling Offr a lawyer 1 Ans MC (*) dings for information of Conv Offr.) and in 2 were not followed. See Di p 3.)
12. If Fros 0 1	awver and Det Offr not, accuse	is the continued to o	to distributioning account the account	And the American Control of the Cont
A8. The acc	used B 168691 Pts.	William	Kusse// before	arraignment make(s) (no) (s) plea (1)
(RP 34, 35)	A), 113), or in per of trici	(RF 30), or as	ED (4 7)) such blac the original	e as to the jurisdiction of the Court o stand triol (AA /30, RP 57), or uses made in subbort or against, the
evidence, if and name of	any, and finding are recorded pe the accused making the plea.)	r reutes. rur peri	us al ternia ser relecences in to	VOP .
not object to any	charge.(*) There is no a	separately) on mendment to	be made to the charge o	e sheet.(1) The accused does (de) heet.(2) The President records the
pleas in Part I of (1. RP separately se	31, 112. See para I of instrs p. e RP 71(C), and use separate cos	2. When more to	than one Charge Sheet see RF 62 record proceedings. 2. RF 1	; when several accused to be tried 12. RP 33. If otherwise, delete and
make approp	riate record per riaces.)			aignment at top of p 2. The pro-

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

ceedings are continued on Record Form

FIELD GENERAL COURT-MARTIAL CHARGE TO BENERAL COURT-MARTIAL Converget Order of Brigadier W. S. Megill Comde 9 Cas Inf Bole dated and Mellitis ACCUSED. (As to the triel of two or more charged jointly see RP 16, 71, 169. As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, Arank or Ajappmt, if any, see AA 182, 183, frs, KR Can 300, 328, 330.) Full Christian Names. (a) Prmnt R. (b) Appmt, A/R or A/Appmt. Number. SYSDIG. Highes Russell William B. 463691 HOS NEVIEWED 5 DELAS L& Bondy APROCEEDINGS OF TRIAL. REVIEWING OFFICER, JAG BRANCHOOMER RECORD FORM A-OPENING PROCEEDINGS AND ARRAIGNMENT. Al. The President, Members, waiting Member, JA, if any, and On Challer instr. if any, assemble, and the (PRINTED MATTER, NOT IN ITALICS FOR GUIDANCE, WILL BE DELETED, IF NOT USED OR APPLICABLE, AND INITIALLED BY PRES OR IA. The Schedule referred to throughout is on p.4. Citations do NOT include all relevant from ROs. For guidance on presedure when a variation in this farm arises, see form far GCM in MML pp. 74! to 759. A brief record of such variations will be made and given a number having reference to appropriate or preceding para number hersin. See book of Convening Order, CEAS, for each and instruction, no, how to record addresses, evidence etc., which instruct are hereafter called "Notes". As to general provisions (ar conducting the trial see AA 53, RF 50, 63-70, 73, 74, 103, 119, 132.) provinces for conducting the trial see AA 51, RF 56, 63-70, 73, 74, 74, 103, 119, 132.

A2. The President initials and lays before the Court the Courtming Order and Charge Sheeter attached thereto. (1)

The Court is satisfied that it is properly convened and constituted (3), accused is (40) amenable to military law, and each charge discloses an offence. (2) (I. 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 IRIO..... hours trial commences.

A4. The Prosecutor produces a Medical Certificate that accused is (are) 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 summarily by the CO.(2) (1. KR Can 557. 2. AA 46(8), RP 60 fn 1. For effect see KR Can 563(c). Delete, if not applicable. as interpreter I Ans. A5. President to speused: Do you object to as shorthand writer ! Ans The Interpreter is sworn.(1) Do you object to The shorthand writer is sworn.(1) (1. RF 72. Delete, if none employed.) A6. 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 (V) (3) 2. If no objection, waiting member retires. RP 68(8). If objection, see procedure AA 51, RP 25, 71, 18, MML p 7425 A7: The President, Members, JA, if any, and Offer dietr instr. if any, are sworn.(1) The following are the ranks, names and units of the offrs comprising the Court, etc: (1. RP 110. J. E. Pickard 3/HLI+C Major President 3/10 N.S. Highes (HOR) H. A. Staples (apt Member (CADE) 3/411010 Metcalfe Member Judge-Advocate 3/S.Pt6 Highes (CAOF) H. R. Nicholson Prosecutor \$ S. DIG Highes (CHOI) T. A. BUTHS Defending Offr Questions by President : Is the Prosecutor a lawyer | Ans. MO. Is the Defending Offr a lawyer | Ans. MO (7) (1, RP 26, 27, 109, 111. List of offer under instr will be returned separately with proceedings for information of Canv Offe.)
(2. If Pros a lowyer and Def Offr not, accused is entitled to an adjournment when RP 89 (8) and fn 2 were not followed. See D1 p 3.) AS. The accused B 163691 74e William Kussell before arraignment make(s) (no) (p) plea (1. If a special plea is made for separate trial on one or more changes (RP 42(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 occused's mental fitness to stand trial (A4 120, RP 51), or by one of several accused charged jointly to be tries separately (RP 16, 71), such plea, the addresses made in support or against, the evidence, if any, and folding ore recursed per Notes. For forms of recurse see references in finite RAP cited. Insert in AB rank and mome of the accused making the plea.) A9. The accused is (are) arraigned (separately) on all charges in the charge sheet.(1) The accused does (de) object to any charge.(1) There is no amendment to be made to the Charge Sheet.(2) The President records the not object to any charge.(2) The pleas in Part I of the Schedule. 3 Tart 10 Line occurrence.

(I. RP 31, III. See para I of Instri p 2. When more than one Charge Sheet see RP 62; when several occursed to be tried separately see RP 71(C), and use separate copies of CF RP6 to record proceedings.

2. RP 32, RP 33. If otherwise, delete and make appropriate record per Notes.) A10. (he Court (is closed and) considers the Instrs on Procedure after Arraignment at top of p 2. The proceedings are continued on Record Form. Caofik PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

E.G. The Court considers the sentience (*) The President records the sentience in Part I of the Schedule, which is dated and signed by him and the 1.4, if any (*)

(1. When neved security the date of the presidence of the sentience only, compensate of the protections are set in the sentience only. Set in the sentience only compensate of the protections are set in the lower of the sentience of t

proceedings in open court are accordingly terminated (*)

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 confirm ation, will not be announced into the promulgated later, and the proceedings in open court are accordingly terminated [4].

(), As 71(c), 46(0). 2. Address, if one, recurred per Motes. Court should permit occused or his witnesses to prove on outstanding same or previously stated which would effect the amount of punishment. As 71(5) for 7, 524

Fig. President to accused: Do you wish to address the Court on the Statements and Conduct Sheets.

Accused and witnesses one from the forested or the witnesses on the chorecter, defect this pore. No III() for 4. 66 for 1.

Fig. The Prosecutor produces Statemently as to Character and Particulars of Service(1), and certified true copy common of Conduct Shreethy? , purporting to refer to the accused, which he submitte to the Court is satisfied that these documents refer to the accused, because (1) they purport to be signed in evidence. The Court is satisfied that these documents refer to also soldierly having the same number, rank, name and corps as the accused. Admitted in evidence and marked Ex. A and Ex. A respectively (2) the name and corps as the accused. Admitted in evidence and ports (1, Mrs 155 or Mrs 2) and Ex. A respectively (2) the name and corps as the accused. Admitted in evidence and ports (1, Mrs 155 or Mrs 2) as at the KR can 158. We show a produced, net Mr 46 for 1

El. President to accused : Do you wish to give evidence yourself or to call any witnesses as to your character i(t) SUV

RECORD FORM E-PROCEEDINGS ON CONVICTION BEFORE SENTENCE.

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

are pleased the presentation of the acceptance of the second plant of the Schedule is dated and support there are being subtracting and dealt such under facult forms but there is dealty such and subtract forms but to the chemother amount of the second the second that the second the second that are second to the second that the secon After the breadent amounted that the accuracy is found to thought the best someone and in the best forthwest. of the Court on the / 6.8

Ds. The President senounces the finding to dark findly and states to the accused that the finding of

of the Schedule (f) The Court is re-opened (i. 89 44.0)) Dr. The Court is closed to consider the finding(N) The finding(N) of the Court is (are) recorded in Part I

Are they witnesses as to character only 1 Ans 2, 9, 2 As 40 (n. 2, 9, 2) A 48 40 (n. 2, 9, 2) 1 Haded to you intend to call witnesses on your behalf ! President to accused: Do you wish to give evidence yourself as a witness, make a statement, or do neither !

You may call witnesses in your defence and as to character, whether you give evidence or make a statement or do Courselt on eath as to the facts or your character or both, in which case you will be subject to cross-examination (*). Fou may, however, make a statement without the court the same weight assuor testimony. (*)

You may call winch could have been made on eath will not carry with the Court the same weight assuor testimony. (*)

You may call witnesses in your defence and as to character, whether you give evidence or make a stakement or do

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

before kindle of this pore, if submission not made. I Arguments on submission, onswer and reply are recorded on all founds in this proceed, accurated acquisted of trelevance. (AP 60(C), 114, 115) and p 81 poro 42. A Delete port not used. If accused acquisted who are a solety on ground of irrelevance. (AP 60(C), 114, 115)

charge(s), and that, accordingly, the trial will proceed on the former, but the accused is (are) found Not Guilty on establish a prime facie once against the accused on the L (A) and the President announces that the submission (A) The Court is closed, and covaident announces that the submission (A)

D4. The Prosecution is closed.(1) The Defending Offir subming that the evidence for the Prosecution does not

The evidence for the Prosecution is taken.(1) (1, At 39(C), 114, At Can 555. Attack evidence thimself see AP 39(D) (E).)

D2. The Prosecutor makes (list) (b). Second address (1) (i. Re 39(8), 60(A) (8), 90, 92(C) (D). Record address per Wotes, subject to MP 95(C).

the ground that you have not had sufficient opportunity to prepare your defence! Ans. (i. if 'yet', see M. 59(A) for procedure. Stelement or evidence, if any, is recorded per Motes.) relating to procedure before trial have not been compiled with, and that you have been prejudiced thereby, or on III. President to accused: Do you wish to apply for an adjournment on the ground that any of the rules

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

Pin here Loose Sheets of Record.

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

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

Office 85 such ports only of the Summers of Endence created Africates in the charges dealt with under CZ. If any pinc is charges dealt with under CZ. If any pinc is charges dealt with under CZ. If any pinc is charges dealt with under CZ. If any pinc is an opposite record thereof on a separate street.) C2. The charges on which accused plended GULITY are read to him (them) again, and the trial is continued by using paras bit to B5 of Record Form B above (1)

It closes 85 neck need some set of the Someon of Everes are set of the someon of Everes and the set of the Someon of Everes are the Someon of Everes are the Someon of Everes are the set of the Som

melusive of Record Form D on p 3 before proceeding with C 2 (*) (f.) Cl. As to the charges on which accused pleaded NOT GUILTY the trial is continued by using parts DI to Ds

NOT GUILTY.

RECORD FORM C-PROCEEDINGS ON MIXED PLEAS OF GUILTY AND

Be. 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.

Bb. The Summery of Evidence is marked Ex. , initialled and read aboud by the President (1) (1) there is no Summory, or if it is incohequets, comply with fit \$1(8). If there is not switcher, early make accounting a Guilly. Court will other account to the piece and, if there is not switcher; my not charges used piece and, if there is not switcher; my not charges in the constitution of factors from D on p.3. RP 37(D).)

RF 35(B). If gaty plea(s) is (are) changed, use Record Form C or D as oppropriate.)

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 1 of the Schodule (!)

change(s) his (their) plea(s) on charge (s). Part I of the Schedule is amended accordingly. (their) plea(s) of Guilty to Kot Guilty on Antennot. The accused is (are) so informed, and he (they)

B3. The Court considers the accused's statement (*) The Court decides (not) to advise accused to change his

(I. BP 37(8). 2. SP 31(0) In 6. 3. SP 35(8) In 5 point. MML P 54 point 47. 4. See point E3 of factord from E. President to accused: Do you wish to make a statement I

Der, Irsender, to Resident for Norder will how receive any statement you desure to make in reservance to defende () (i) It appears from your effections that there are circumstances which indicate the pea of Guilry(s), or which show provention or scientarion in prepeted of which in your interest the whitnesses for the Prosecution should be examined(s), we shall advise you to change you will not be sure in each of change your plea. It however, it appears to the Court that your interest affects only the amount of punishment to which you are liable, you will not be such your end of 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 still be given an opportunity later to prove your statement by sworp testimony, if you so desired!) B2. President to accused. Type Court will now receive any statement you desire to make in reference to the

of the charge(s)(1), and that on his piez of Guilty there will be no regular trial but merely a consideration of the same as to character and make an address in miligation of punishment in reference to the charge(s).

(i. 69 35 fo 3. 2. MML p 54 pere 47.) BI. The President or JA, if any, complies with RP 35(B) by explaining to the accused the nature and manning

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

Prosecutor are RP 60(A) (B); duty and privaleges of accused and befording Offir see RP 60(C), 67(C), 91, 92; aucuring and withdrawal of witnesses from Court see RP 81, 82; questioning of accused see RP 80, 87(C), 62(B), and of witnesses By Court, do, see RP 15, 98, 116; use of Summary of Evidence at Trial see RP 11 (B) and casponshing of witnesses by Court, do, see RP 15, 98, 116; use of Summary of Evidence at Trial see RP 17, B) and responsibility of JA or Pres 10 record proceedings are RP 94, 96, 3. As to responsibility of President to accused see Rp 59, 60(C); powers and duties of AA see Rp 103; duty of

proceed under foregoing insits as may be appropriate to result of its decision. See M.M.L. p 744 Insits (2). (b) Such mixed pleas occur in a set of two or more charges laid in the alternative, see RP 37 (A) and In 2 as to discretion of Court, (i) to try the accused on all such alternative charges as if he had pleaded Not Cuttley thereto, or, (ii) to record the pleas as the fundings of Court. After deciding backness (i) and (ii), Court will proceed under foregoing insits as may be appropriate to result of its decision. See M.M.b. 344 Insits (2).

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

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

II. If pleas to all charges are NOT QUILTY, use Record Form D on p 3. I. If pleas to all charges are GUILITY, use Record Form B below.

2. The proceedings on each charge sheet (RP 62) after arraignment will be conducted as follows in the respective 1. The accused may not plead or be found Untilly on more than one of two or more charges laid in the alternative (RP 37(A).) As to without authy from Conventing Office of Not Graitly to Grainy section of Childy to be withdrawn of the conventing Office of Court many accept pied of Guildy to lesser, to plead or not pleading indelligibly see RP 35(A). As to plea when sentence may be death see RP 35(A), as to plead or not pleading indelligibly see RP 35(A), as to plead when sentence may be death see RP 35(A).

INSTRUCTIONS ON PROCEDURE AFTER ARRAIGNMENT.

SCHEDULE. PART I. PLEA(8), FINDING(8) AND SENTENCE.

coused: B/68691			
Charge.	Plea.	Finding.	
		(See nate below.)	(Space for use as required for further charges, accused charged jointly,
(Insert " alternative " where applicable.)	(See Instrs p 2.)	(see man account	(space for use us requires special findings, etc.)
A. A. Sec. 40.	Not Guity		
nd			
rd			
th			
5th			
6th			
	to the for lesser offe	nces see AA 56, RP 44	; findings on alternative charges see MML p 483 (n 4 para 2, RP 44 ; ee RP 44 in 6.)
Time in confinement (I, See RP 46 Sentence Awarded by	awaiting present (A) fn 2. Information a	trial—a total of should be found on Mf	See RP 46(A). Information should be found on MF B355 or NF B296.) (5 days, of which 10 days were spent in hospital.(2) F B355 or AF B296 admitted in evidence under E2.) 40 Retention for Section (Sgd) & Sichard Afrika.
Judge-Ad		Convening Order as s	te awarded. V President. to assembly and disposal of record after trial.) RMATION RESERVED. (AA 54(5), RF 120(F), MAIL p 780.)
Judge-Ad		Convening Order as s	RMATION RESERVED. (AA 54(5), RF 120(F), MAIL p 760.)
Judge-Ad	MINUTE W	Convening Order as s	to assembly and disposal of record after trial.) RMATION RESERVED. (AA 54(5), RF 120(F), MAIL p 780.) Commanding.
PART II. Date PART III. (For duties and confirmation at not confirmed promulgation:	MINUTE W (Sgd) DECISION powers see AS 54, 5 d cannot be revised siccused may be tilled siccused may be tilled ST, MML y 55, The Carlindar O	Convening Order as 6	Commanding MING OFFR ON FINDING(S) AND SENTENCE. A) 51-55-120, MML pp 759-75-1, KR Can 567-577. Acquitely require no back finding or sentence for revision by Court: AS 54(3), RP 120(5), if back finding or sentence for revision by Court: AS 54(3), RP 120(5), if post, finding or sentence for revision by Court: AS 54(3), RP 120(5), if post, finding or sentence for revision by Court: AS 54(3), RP 120(5), if post, finding or sentence for revision of powers of reviewing offers: AS 57, remoily, AA 172 fn 1.) Orth in Part I is: Adult Adult Adult Adult Court of Adult Adult Court of Adult Adul
PART II. Date PART III. (For duties and confirmation as not confirmed, promulgation, 57A, 8F 53A, 3 My decision of the confirmed of the con	DECISION Decisi	OF CONFIRM OF CONFIRM 7, AP 37(D) fo 5.46(f) AA 54(3), Sending agoin: AA 537, Magoin stay prompting of the prompting mass sign here per prompting the prompting of the prompti	Commanding MING OFFR ON FINDING(S) AND SENTENCE. (A) 51-56-120, MML pp 759-761, KR Can 567-577, Acquittels require no book finding or sentence for revision by Court. In Serial, RP 120(G), if book finding or sentence for revision by Court. In Serial, RP 120(G), if book finding or sentence for revision by Court. In Serial, RP 120(G), if book finding or sentence for revision by Court. In Serial, RP 120(G), if the pool of the serial powers of reviewing offers: AA 57, repondity. AA 172 for 1.) Optimize Table Court of the serial powers of reviewing offers: AA 57, repondity. AA 172 for 1.) Optimize Table Court of the serial powers of reviewing offers: AA 57, repondity. AA 172 for 1.)
PART II. Date PART III. (For duties and confirmed, promulgation of softmed, promulgation of the confirmed	MINUTE W (Sgd) DECISION powers see AS 54, 5 de cannot be revised sucused may be tied sucused may be tied sucused may be tied and sucused may be tied the source of the sucused may be the findings of the findings of the accused be ate. 27 Nov	OF CONFIRM 7. RF 37(D) for 6.46(A AS 54(3). Sending agoin: A A 137. MM. Quashing ofter promise from the firm and tigh here beind sentence sor for the firm and tigh here being the firm and	Commanding MING OFFR ON FINDING(S) AND SENTENCE. A) 51-55-100, MM pp 759-751, KR cm 567-577. Acquitely require no back finding restricted for revision by Court: A 54(3), RF 120(5), RF 1
PART II. Date PART III. (For duties and confirmed promulgation of sortimed promulgation of the promulga	MINUTE W (Sgd) DECISION Dowers see AS 54. 56 de cannot be revised as 62. 53. MML y 35. 4. The Confirmance on the findings of the accussed beater 17. Nov	OF CONFIRM OF CONFIRM 7. RP 37(0) fo 5.46(1) AS 34(3). Sending again: AA 157, MM Quashing Cater prior for must sign here per not sentence sor for the form of	Commanding MING OFFR ON FINDING(S) AND SENTENCE. A) 51-55-120, MM pp 759-7501, KR Can 567-577. Acquittels require no back finding or sentence for revision by Court: AS 54(3), RP 120(G). If back finding or sentence for revision by Court: AS 54(3), RP 120(G). If pock finding or sentence for revision by Court: AS 54(3), RP 120(G). If pock finding or sentence for revision by Court: AS 57(3), RP 120(G). If pock finding or sentence for revision of the first polymore for the first p
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The accused elects trial by Court-Hartial.

CHARGE SHEET

The accused, B-163691, Ptc. William RUSSELL, RQ Goy, 3/SD&G Highrs (CAOF), a soldier of the Canadian Army Overseas, is charged with:-

FIRST CHARGE SEC 40 ARKY ACT WHEN ON ACTIVE SERVICE, CONDUCT TO THE PREJUDICE OF GOOD ORDER AND EILITARY DISCIPLINE,

in that he,

In the Field, in Germany, on the night of 31 Oct/1 Mov, 1945, did have a German female in a Military billet, namely, the sleeping quarters of the Officers' Mess.

In the Field, 7 Nov 1945.

(D.C. CAMERON,) Lt-Col. Officer Commanding, 3/SDMG Highrs (CAOF)

To be tried by Field General Court-Wartial.

O. 16. to Resident Miles

(W.J. Megill) Brig Comd 2/9 Ond Inf Bde CAOF

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 offr of Cdn Army Overseas, or of any other farce if authorized in law, in immediate cand of troops on active service, subject to RP 105(C) and restrictions imposed by appropriate author. A 49, 30, RP 104-107, 114. As to the duties and privileges of the Convening Offr in dealing with the application see MML Chap V paras 20 and 23, There should be a separate Convening Order far each person to be tried separately by the same Court. RP 71(C), 107. As to separate charge sheets see RP 62, and as to separate trial on charges in the same charge sheets see RP 62, and as to separate trial on charges in the same charge sheets see RP 68. 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. Alrank or Ajappint, if any, see AA 182, 183, fns. KR Can 308, 328, 330.)

ACCUSED.

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

Full Christian Names.

Surname. * Unit.

William RUSSELL 3/SD&G Highrs

CONVENING ORDER.

1. Whereas complaint has been impde to me, the undersigned, that the person(s) named above as the accused, being subject to military law, has (hade) committed the offence(s) set forth in the Charge Sheet(s) attached and on (date). No. 4.5 endorsed by me, (or by an effect my staff for me), "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 such practicable to doing the trial for reference to a superior qualified effe.)

(Delta part in brackets when not required for compliance with BR 105(C).)

3. Thereby convene a Field General Court-Martial to try the said person(*), and to consist of the Offic appointed or detailed hereunder.

V. I am anable to appoint to three Offics to form the Court, (h) a fed Offices Provident, for the reasons I have attached bareto.

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

5. Laborappointing Judge Advocate theres the Offs mentioned hereunder.
(RP 106(E). Delete, if non-oppointed.)

PRESIDENT.

(Must be named. RP 106.)

MEMBERS.

Capt

H.A.

3/Nth NS Highrs

F.F. METCALFE

(Named or detailed. RP 106.)

WAITING MEMBER.

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

3/Nth NS Highrs

JUDGE-ADVOCATE.

On Active Service in the Fd

(Must be named, if any. RF JOb.)

in Germany

Brig

Dat 13 Nov 45

2/9 Cdn Inf Bde CAGF

CONVENING OFFR WILL INITIAL ALL DELETIONS AND ALTERATIONS

4/38A CFA 85 (In light of AFA 8)

(See averleaf for auths and notes for use on tripl.)

CERTIFICATE OF MEDICAL FITNESS

f.8.p.

I hereby certify that B: 163.691. P.T. Russek. W.M. has been medically examined and declared fit to stand trial by F.G.C.M.

.. Moscule Arrow. Plans

Date. 10 - 11 - 45

Statements of witnesses during the court-martial proceedings in the case of B163691 Pt William Russell, 3 5 DB Highlanders C.A.O. 7. Taken This fix teenth day of October nine teen hundred and forty five at Yarel, Germany Prosecution , it witness. Major bol 87 mms, 21/c of 3 S D & Highlanders, sworn, states: Pros. Q. State to the court any thing sut of the usual happening on morning J. Nov 1445- 3 I was not of the lines and returned it 8200 hours Nov. I got something to cat in The mess and then went upstains to my room on the second floor - had been in my room about 15 minutes and lift to go to the lavotay. To get to it you must go through The room of The can manding Officer, top Col. Comerns which is seroes the landing from my own room. I miew that the colonel was out living of the time of Bde H. Q. the lights

were off in his noom. Went to open Undoor of Col. Cameron's command felt an obstanction of some sot, which later turned out to be a chair, against the door. This was learning against The cloor be Cow the handle. I pushed ay ainst the obstruction and the door of encel, the chair falling to The floor. I awitched on the light, I cooked mount the room I saw lying in the colonel's leed, which is in front and alightly to the left of the door, a man by my on the bed fully clothed with the exception of ginters and blouse I cam't be sur of guiters but he had bootsom I went men toward the bed to see who was there and on moving close to the main I ne cognized him as the accused At. Ansach When I moved over to waken Knowll up I then saw that lying ceside him asleep also was a civilian woman. I woke Russell tops at the same time - the woman wake up. is told him to get up and get out and get the woman out. It was obvious to me that Russels had been drinking sometime during the evening but when I woke him, in my estimation, he was not chunk, Award after some hesetation got up

and the woman died lithewise. He then started to put on his bottle dress blouse and started to put on his bottle dress blouse and put on the woman arranged her clothing and put on the short was going in she shot he shoes. While this was going in she shot which I per

he would to Russell by which I serneveral words to Russell by which I serreveral words to Russell by which I serceived that she was a German civilian. She picked up several article of clothingsweater, scarf which had been knocked

both went down stains. They both went down to the bose ment floor where the mess down to the bose ment floor where the mess witchen is and after talking a quick book witchen is and after talking a quick book around the room to see that nothing was missing I fall reveal them down to see that missing I fall reveal them down to see that the women left the premises. I heard them the women left the premises. I heard them

ordered Russell to get viel of the woman. He said " yes sir," and words to the effect that " a he is just going row" - as in fact she did.

O net would to the CO's quarters, had another

look at the room and both room and joining and a one person had been ill in the washbein in the both room. all this took above between, I should say, 0245 and 0315 hours,

on the maring of 1 od (Nov). That morning

laid against Private - I had a change Aussell. Pros. Q. Could you recognize pto Russell? A. Jes, he is next to mr. Burns. C +40 your in Nef. O To your knowledge, is this woman you saw in military custody somewhere or in con custody for trespossing on military property: A. not that I know of. 2 nd witness C 52 48 Cpl Cun mingham, 19. th. Q. Con 35. D. G. Highlanders CADE; 12.00. Q. Will you state to the count anything unusual on the sight of Ret. 31 4/945. A. I went dron to the lectchen at approximately 11 o'clock (P.17) and found Pte Aussell standing in the doorway with a girl. I told him he had bitten get her out of the lines, He said he had been try by to get rid of her. afterwards he stated out the door. Pros Q. what time was this? A. Between + 4 11000 eleven & cleven - thirty Pros Q. when he started out the door

did he take the woman with him? A. 300. cross examined Def. P. Ope Cunning han, did you see the occurred any twis before eleven or eleven thirty? A. yes 24 Q. Where did you are him! A. We went to the dance Objection by Procedin alowed ong rounds that feeting more questions such as last above should be used - plea of mitigations but not elevened him def. O. when you sow the accuract in The loss way did you hear any conversation? I as ked the accused what she in these and he said that he was trying to getried of her. I told him to get aid of her right away. Def. Q what was condition of accused at this time A. Drunk. Def. D. Did you see him take her A. They were standing at the door auray so if to go out - with the door open

Cross- examined count. O. when did you lost see A. Between cleven and clover. Thirty count. Q. where did you go the A. I went up stains, looked into the CO's room to see of the lights wenter. Court Q Did you give any thought with accused after that. A. No sin. count Q. why did you not place the accused under anest when you saw that he was chunk. A. I died not see that the he was cousing my trouble. End of Prosecution. el ef en al Pte Rossell W= The accused 13163691 answers me following questions and makes sellowing statements month. ely. Q. will you tell the court in your own words what happened 3, \$8 st. A. Started out to a dance with cyl Canning how at approximately wight

D'clock. 4pm Upon arriving of the dance we found it to be out of bounds to me in uniform. There were a great deal of do ldiers around the primises and were drowning him corrows; of not being able to get in to- on dance, in drink. I had a number of chanks given we and Then we decided to return to our lines to a show which was being held in The Allee Hotel. On the way back to our lines I stopped and talked to a woman, I tried to talk in Germon to her and she did not understand. We started off with her back to the lines which is quite proper To their bring a female person to The show them - inside our lines. Upon arriving at the hotel we found the show was over and Istanted to take The women out of the lines. I head he come quite sich through the influence of The liquor and returned to the motchen of the officers ness of which I am the cook. I noticed, whilst of I was in the witchen the woman had followed me

I stood takking to her of the door trying to tell him to get out of the lin and started out to take her not of The lines. I took her as for as the road run ming in front of the office miss. I then left her and started to return to my billets which is in the same building my me floor higher Than the ostmel's noom. The. reason Idid not excert her right out of the lines was because I had become too much under the influence I and wanted to get to my led. I started upstains and spon washin - M second floor I was very sich. West into the colonel's room where I lanew the was a lavatory. I was sich in the colonels room and quite diggy. I at anted back out of the noon and went and out on the colonel's heat and the next of can remember was the 21/2 waking me up and telling me to get the hell seit of here. I stanted out and then was told to take this

witch with you. This was the first Amountedge I had of any other person being mesent. I im mediately led her clown the stairs, you though my witchen, put her out the back door and went to wash off he front of my clothes, I then went upstains to my sever hed, When del Cun ming han water me at 530 in the morning of was etill fully clathed. Pros. Q. what the died you start out to dance? A. about eight o'clock. Pros. Q. How for was this dance? A. One & a half or two silometres. pos. a what him did you get boch by the theatre? A. I de not know. Pros. Q. How diet goes know they was a lavatory in the C.O's room? A. The Col, being the balman for the C.O. has often taken me into the room begond the lovatory - his pressing court Q. what live do shows generally finish in your lines?

10. A. From ten to a granter after ten. court Q. Was that the only lavatory on that floor? A. yes sin- The next meanest land ory would be three flights down from our quarters. count of. Were you in the habit of using the C.O.'s land on y? A. no sin - it was gust that 1 no sich. Trace ? metcale A. fr. member of the Court,

Her.

If it please the Court, I would like to bring to their attention the following :

The C.O's room is on the second floor and it is hardly possible for a person who did not know the house to be able to find their way around, also if a person was wandering around some one would have seen or beard them.

There is a toilet on the main floor, across from the bar. It is only about seven yards from where the accused said he left the woman. The C.O's room is one floor above.

The accused states that he sat on the C.O's bed and then passed out, but when he was found by Major Symmes he had his tunic off.

Also, it was a known fact that the C.O's room would not be occupied that night, as he was acting Bde Commander.

If it please the Gourt, the Prosecution asks that the accused be found -

GUILTY AS CHARGED.

M. nicholson, it.

the defense B16 2691 Pte William Just. First wilnes where that a momen was present in the eleging quarters of a military willet and that the accused was found in the same loom the The presentions does not peous that the accused to angle her in the willb as knew of her trying to get list of her contacts at 2 3 20, and lates for went to be to come waterty such to such he had to his down on the 6.0. had. an which he get acted. I willy female, hungry & Cald would go to any Court to aftern freed and tudding the secured difference is that and teness that when he was annahened at 0 2 20 and saw the warman he was lately surgered With this in mend, I ask the court to bring lacunary a fending of "Nat Guelly 24 04

Blosuri Pto Braself. the Revel too her hand quarters of the officers mes The fact that he sund found in the 6.0; quarters engl to whow he was not in his lawret season I say he was the witin of donce. The water of a willy female. This he is military custody not the ack you to be leavent as

Statement as to Character and Particulars of Service of Accused

Number.	Rank.	Name.	Regiment (or as the case	may be).
B-163691	Pte.	RUSSELL, W.	3/S.D.&G. Highrs	(GAOF)
NOTE. The Field Conduct Sheet W to be conduced in Court with	4 70	to following is a fair and true su	mmary of the entries in the Field C	Conduct Sheet
the statement but it not be amounted to the pro- ceedings. The numbers of the state		For A.A. Sec. 40		1 times
		For		times.
		For		times.
for drankenness of are- an the case may be, should be stated segurately. Any	Date of I	first entry in Field Conduct She	not available	
	Date of	last entry in Field Conduct Shee	25 BUE +2 .	
	2. 1			ourt are set out
*nerske out it not appleable.	*3. 5	l kur-acutamel-sit élar-tarmarik ésam aga ara-bisa	u ander session so fur via y efe	
	days ir	nil days in open are	est, 19 7	custody, i.e.,
	which		ent in hospital.	
		The present age of the accused The date of his colling up for	-7 7 2 30	44.
		The service which the accused		
guate the military	8.	The accused is in possession of	NIL.	
decorations (H Awy) held by screen.	9. wishes	the size access which a security who alto show the service of the security which	er est NeCeO2) - The consumed has seen D	ate of Promotion.
		-Inchesidationine nak	ef	
		- brethe war-almantine	per pole- ord —	
		In the acting and of		
		INSTRUCTION.—If any n from the s	natter in any of the above paragrap regimental books the paragraph must	hs cannot be stated the struck through

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

Description of Court by which tried.	Date and Place of Trial	Charges upon which convicted.	Sentence	of the Court.	Punsament renuttled or sentence suspended.
					*
		_ N I L -			
			4		

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

sizaed this 9th day of November 1945

Hay Geralay

Date of Compan	net ent y Cond	try in uet Bheet		of la	and date Period not receive a fine receive freedom from extra fine	Names of Witnesses	Punishment awarded	Date of award or of order dispen- sing with trial	By whom awarded Remarks
Place		Date of offence	Hank	Cases of drunken- ness	OFFENCE	Asine is whomas			
				ORI	GINAL NOT AVAILABLE.	a s Dagas I	y 28 days det	n. 24 Aug	D.C.Cameron, L
Field		Aug .	Pte		AA Sec 40 - cond to prej of GO & Mil Disc, etc - in imprope possession of a Ronson lighter- and pen & pencil set.	Sgt.Defoe,L r Cpl.Aube,J Pte.Carlson O.R.	LR	47	PR&I-149(1
								14.	ON TOUS
					Certified true copy from regtl	books in my	custody.	in custo	of regtl books
					Certified true copy 110m 155			G Highrs	(CAOF)

-

SUMMARY OF EVIDENCE

in the case of,

B-163691, Pte. RUSSELL, W., HQ Company, 3/SD&G Highrs (CAOF), a soldier of the Canadian Army Overseas, charged with conduct to the prejudice of good order and military discipline (AA Sec 40).

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

FIRST WITNESS

Major G.L. SYMMES, BHQ, 3/SD&G Highrs (CAOF), sworn, states:-

I am Major G.L. SYMMES, BHQ, 3/SD&G Highrs (CAOF).

I returned from a party to the unit lines at approx 0230 hrs, 1 Nov 45. I went upstairs to my own quarters. Shortly after, at 0245 hrs, I had occasion to go through the G.O's room to the bathroom beyond. As I opened the door to the G.O's room I felt an obstruction against the door. This later turned out to be a chair which had been placed under the handle of the door. I pushed the door open and switched on the light and looked around to see what the obstruction could be. In doing so I noticed the figure of a soldier in battle dress and boots, but with his blouse removed, lying apparently asleep on the C.O's bed. I moved over to the bed with the intention of waking the soldier, and then recognized the sleeping figure to be the accused, B-163691, Pte. RUSSELL, W., the cook from the Officers' Mess, and also with him was sleeping a German civilian woman. I awakened Pte. RUSSELL, W. and the woman and told him to get up and get the woman out of there. From the few words that I heard the woman speaking, as she was adjusting her clothing and putting on her shoes, I realized she was a German woman. At this time, although it was apparent that Pte. RUSSELL, W. had been drinking earlier in the evening, Pte. RUSSELL, W. was not under the influence of alcohol. I told Pte. RUSSELL, W. to take the woman out of the building and get rid of her. This he did. The following morning the charge was placed against him.

The accused declines to cross-examine this witness.

(G.L. SYMES,) Major

SECOND WITNESS

C-5248, Cpl. CUNNINGHAM, R., HQ Coy, 3/SD&G Highrs (CAOF), sworn, states:-

I am C-5248, Cpl. CURNINGHAM, R., HQ Coy, 3/SD&G Highrs(CAOF). On 31 Oct 45 at approx 2230 hrs, I returned to my billets. I went upstairs and took off my tunic and then went downstairs to the kitchen to see if the lights had been turned off. I saw B\$\frac{163691}{163691}, Pte. RUSSELL, W. standing in the doorway with a woman. They appeared to be leaving the premises. I told Pte. RUSSELL, W. he had better get her out of the lines. They started out the door. I went upstairs to bed.

BUMMARY OF EVIDENCE

in the case of,

B-163691, Pte. RUSSELL, W., HQ Company, 3/SD&Q Highrs (CAOF), a soldier of the Canadian Army Overseas, charged with conduct to the prejudice of good order and military discipline (AA Sec 40).

By direction of the Commanding Officer, the evidence is taken on eath.

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Ch Lynnes Maj.

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SUMMARY OF EVIDENCE in the case of, B-163691, Pte. RUSSELL, W., HQ Coy, 3/S.D.&G. Highrs (CAOF), (continued) -

SECOND WITNESS (continued)

Cross-examined by Accused: -

- Q. Is the hour stated the correct time that I was on the premises?
- A. As far as I know it is the correct time. I did not look at my watch.

Col. Manningham C-5248, Cpi / CUNNINGHAM, R.)

The accused was cautioned as follows: -

- Q. Do you wish to make any statement or 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.
- A. I do not wish to make any statement.

D.m. Runee.

I certify that the foregoing Summary of Evidence, consisting of two (2) pages, was taken down by me in the presence of the accused, and that R.P. 4 (C), (D), (E), (F) and (G) have been complied with.

(H.R. Nicholson,) Lt. 3/S.D. & G. Highrs (CAOP)

In the Field, Officer taking Summary of Evidence. 6 Nov 1945.

SUBMEARY OF EVIDENCE in the case of, B-163691, Pte. RUSSELL, W., HQ Coy, 3/S.D.&G. Highrs (GAOF), (continued) -

SECOND WITNESS (continued)

Cross-examined by Accused:-

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- A. I do not wish to make any statement,

iom Russes

I certify that the foregoing Summary of Evidence, consisting of two (2) pages, was taken down by me in the presence of the accused, and that R.P. 4 (C), (D), (E), (F) and (G) have been complied with.

(M.R. HIGHOLSON,) Lt. 3/S.D. & G. Highrs (CAOF)

In the Field, 6 Nov 1945.

Officer taking Summary of Evidence.

LIST OF WITNESSES

in the case of,

B-163691, Pte. RUSSELL, W., HQ Goy, 3/S.D.&G. Highrs (CAOF), a soldier of the Canadian Army Overseas.

Major G.L. SYMMES, BHQ, 3/SD&G Highrs (CAOF).

C-5248, Cpl. CUNNINGHAM, R., HQ Coy, 3/SD&G Highrs(CAOF).

LIST OF EXHIBITS

in the case of,

B-163691, Pte. RUBSELL, W., HQ Coy, 3/SD&G Highrs (CAOF), a soldier of the Cdn Army Overseas.

- N T T -

STATEMENT BY ACCUSED

I, B-163691, Pte. RUSSELL, W., hereby state that I (#) detre/do not desire to have an officer assigned by the Convening Officer to represent me at my trial, under provisions of R.P. 14 (B).

> D. M. Russel (B-163691, Pte. RUSSELL, W.)

(#) - Strike out whichever is inapplicable.

In accordance with R.P. 14 (B), I destre do not desire to have an officer assigned by the Convening Officer to represent me at my trial.

... (X-6011, Pto. FISHER, T.)

Recused requests:

Capt. F. R. Plourde,

3/ North Share Rego.

CROF.

1496. Ste. Rustulka-6.

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

PROCEEDINGS.

On Active Service, this twentieth August

, 1941

Whereas it appears to me, the undersigned, an officer in Command of 2 Canadian Division

And whereas I am of opinion that it is not practicable that Martial: gospodochostoch isomuczniczonadsiochocychosychiacychologia WANTED BEING WANTE

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

жихже испортительного положения

hereunder.

Rank

Major

Lieut.

X CONTRACTOR AND A SECOND AND A SECOND AND A SECOND ASSESSMENT OF A

Name.

R. Thompson

Regiment,

Camerons of C

A. D. Devine

S Sask R

Rutherford

Camerons of C

Commanding 2 Can Div.

Convening Officer.

SCHEDULE.

Number, Rank (a), Name and Unit of Accused (b)	Offence charged	*Plea	Finding, and if Convicted, Sentence (c)	How dealt with by Confirming Officer (d)
12139 Pte. Carl Rustulka,	First Charge AA Sec	41		
Sask R.	Committing a civil offence in that he at Seaford, Sussex, on 17 Jul 41 did ster onion to the value of two shillings. (See Charge Sheet Att	1	Juilly	
	Second Charge AA Sec (Alternative)	41		
	Committing a civil offence that is to say, receiving stoler goods. (See Charge Sheet Att	" origins		Confirme d
	Third Charge AA Sec 1	0		le con
	Conduct to the pre- judice of good order and military discipli (See Charge Sheet At	ne.	Juilly	7.0
	Fourth Charge AA Sec	22		
	When in lawful custon attempting to escape, (See Charge Sheet Att	Souly	July	
Sentine	: To under	90	relention	got to suonik
	1			126 days
	1			

Commanding 2 Cdn Div. 0 1 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 farekases 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.

(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 initialled by him.

I certify that the above Court assembled on the 25 th day of Aug - , and duly tried the persons named in the Schedule, and that the plea, finding, and sentence in the case President at the proceedings. of each such person were as stated in the third and fourth columns of that Schedule.

	IV t	

The members of the Court

2. The witnesses Shorthand writer (3) *(4. The officers under instruction)

were duly sworn.

25th

1. 0 hombom Mayor President of the Court Martial.

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

Signed this

President of the Court Martial.

stated in the last column of the Schedule, and, subject to what I have there stated, I hereby confirm the above findings and

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

Promulgated and extracts taken in the case of

(a) (Dated) & Sep

Promulgated and extracts taken in the case of

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.

24; Wi. 28092-2320 70m; J.-H.I. W. & Co., Ltd. Gp., 748/2

The accused, No. 1-12139 Pte. Carl Rustulka, South Saskatchewan Regiment, a soldier of the Canadian Army, Active, is charged with:

FIRST CHARGE A.A.Sec. 41

COMMITTING A CIVIL OFFENCE, THAT IS TO SAY, STEALING

in that he

At Seaford, Sussex, on 17 Jul 41, did steal onions to the value of two shillings, the property of charles Roland Elliott, of Seaford, Syssex.

SECOND CHARGE (Alternative) A. A. Sec. 41

COMMITTING A CIVIL OFFENCE, THAT IS TO SAY, RECEIVING STOLEN GOODS.

in that he

at the place and on the date aforesaid did receive the aforesaid onions of aforesaid value, the property of the said Charles Roland Elliott, knowing them to have been stolen.

THIRD CHARGE A.A. Sec 40

CONDUCT TO THE PREJUDICE OF GOOD ORDER AND MILITARY DISCIPLINE.

in that he at Seaford, Sussex, on 17 Jul 41, when questioned by detective constable George White, of East Sussex Gonstabulary, knowingly gave false information. In that he gave a wrong name and number, that is L10456, Pte. Carl Jackson, "C" Company, S. Sask. R. whereas his name and number are L-12139, Pte. Carl Rustulka, "B" Company, S. Sask. R., and he further stated he did not have his ray Book (M.B.1), with him, when he had it in his tunic pocket,

A.A.Sec. 22

FOURTH CHARGE WHEN IN LAWFUL GUSTODY ATTEMPTING TO EACAPE

in that he At Seaford, Sussex, on 17 Jul 41, when proceeding under escort to Newlands School, Seaford, Sussex broke away from his escort and attempted to escape.

(Signed) J.E. Wright, Lieut-Colonel, Comd. S. Sask. R. C.A.(A.F.)

Dated in the Field, this 7th day of August, 1941.

TO BE TRIED BY F.G.C.M.

Certified true copy.

dino Capt Sask.

Q.S

MEDICAL OFFICER'S SERTIFICATE

25 Aug 41

I certify that No. L-12139 Pte. Rustulka, C. South Saskatchewan Regiment is to undergo trial by Court-Martial.

Signature of Medical Officer.

Insert 'fit' or 'unfit'.

PROCEEDINGS OF A FIELD GENERAL COURT MARTIAL HELD IN THE FIELD, 25 AUG 41.

TRIAL OF NO. 112139 Pte. Carl Rustulka, S. Sask, R.

- The Order Convening the Court is read to the accused.
- The accused is asked the following questions:
 - Q Do you object to being tried by me as President or by any of the Members of the Court whose names you have heard
 - No, sir. Do you object to having evidence taken down in shorthand by the shorthand writer?
 - A No, sir.
- The accused answers to his name and number and is duly arraigned 3. on the charges.
- The accused pleads "Guilty" and R. P. 35(B) is complied with.
- The Abstract of Evidence is read. 5.
- The Prosecutor files M.F.M. 6 which was formally admitted by the defending officer.

The accused makes no statement in mitigation of punishment.

THE COURT IS CLOSED FOR CONSIDERATION OF SENTENCE

I HERSBY CERTIFY THAT THE PORECOING IS A TRUE RECORD OF THE PROCEEDINGS OF THE ABOVE TRIAL.

A. Janpoon (R. Thompson) Major President.

Summary of Evidence in the case against No.1-12139 Pte. Carl Rustulka, Bouth Saskatchewan Regiment, a soldier of the Canadian Army (Active)

1st Witness for the Prosecution:

Charles White, a detective constable of the East Sussex Constabulary, Lewes Division, stationed at Seaford Sussex having been duly sworn states:-

I am Charles White, Detective Constable of the East Sussex Constabulary, Lewes Division, stationed at Seaford. On the night of 17 Jul 1941 at approx. 2230 hrs. in the performance of my duties I took up an observation post in an empty house from which I could see the garden allotments on Marine Crescent Seaford Sussex. I took up this post in order that I could watch the garden as there had been complaints that people were stealing from these gardens.

At approx. 2255 hrs on 17 July 1941 I saw a soldier enter the allotment which I had previously ascertained to belong to C. Elliott of Seaford. I saw him pull something from the allotment and run up the bank and wall along Marine Crescent which street runs past these allotments. I saw that he had the bundle of onions, now produced before me, and marked for certification by me, in his hand. I informed him that I was a plain clothes police officer and showed him my authority and after onions, he told me his name was Carl Johnson and his number was No.L-10465 of "C" Goy S. Sask. E. Cuckmere. I asked fof his pay book to rectify these facts but he replied that he had left it at home. I then informed him he could consider himself in custody and that he would have to go with me to Newlands School, Seaford where Regimental H., of the S. Sask. R. are located.

We proceeded together along the road and after going a short distance accused suddenly ran away from me into a chump of bushes. I gave chase and caught him and held him to the ground at which he agreed to accompany me from there on peacefully. On reaching Newlands I escorted acc. into presence of duty officer Lieut was Gardner and explained to that officer the full facts. Accused then advised me that he had not given me his correct name and number and took from his tunic pocket is pay book A.B.64 which he handed to me. From it found that his correct name is Carl Rustulka Mo. L-12139 South Sask, Megt. 'B' coy. The duty officer Mr Gardner then placed accused under open arrest.

(Signed) Charles White Det.Cons

The accused declined to question the witness.

29

2nd Witness for Prosecution

Lieut William Gardner, South Baskatchewan Regiment an officer of the Canadian Army (Active) being duly sworn states:

I am Lieut William Gardner, South Saskatchewan Regiment, Canadian Army (Active).

I was duty officer for the segment on 17 July 1941 and was on duty at Battalion HQ. on that night. At approximately £330 hrs Const White of the local constabulary escorted the accused into my presence and gave me the cercumstances in which he had found Rustulka and that he was bringing a charge of stealing onions against him. Accused then told the Constable he had given him the wrong name and number and handed to the constable his Fay Book A.B.64.

The constable took down particulars from the book and returned same to accused. I then placed accused under open arrest.

(Signed) W.J. Gardner Lieut.

The accused declined to question the witness.

3rd Witness for Prosecution

Mr. Charles Roland Elliott of No.4 Clinton Lane Seaford Sussex having been duly sworn states:

I am Charles Roland Elliott of No.4 Clinton Lane Seaford Sussex. I have a garden allottment at Marine Crescent Seaford. On this allottment among other vegitables I have a large bed of growing onions. During the 10 days preceding 17 July 1941 I had found that several number of onions had been stolen from this onion bed and that the bed had been trampled on. As I am a married man doing only occasional work I could not afford to lose these onions so I reported the matter to the police.

On 18 July 1941 Det. White produced a bunch of 21 onions before me. I stated that I could not identify them as having been taken from my allottment but on visiting the garden I found several more onions missing than had been on the previous day and that further damage had been done to the allotment by people trampling in it. The bunch of onions shown me by Det. White and now produced before me I value at 2 Shillings.

(Signed) C. Elliott

The accused delined to question the witness.

cuestion to Accused: Do you wish to make any statement or give evidence upon 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.

Answer by Accused; No Sir.

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

(Signed) Jack Braden, Liouts

Date 30 July 1941 Place Seaford, Sussex.

Certified true copy.

adjutant S. Sask, H. Capt.

	Rank	Cases of	of last drunk Period not reekoning towards freedom from extra fine	Shoot N	Dad Signature	O.C. Ph	Vice or M.F.M.
		dranies.	OFFINCE:		Company	, etc.	Character "1.Q. 1772-45
			Attale 4 days 21 hrs 20 minutes	Names of Withouses	Punishment awarded	Date of award or of order dispes- sing with trul	
			Insubordinate Language A. C.L. S. Says 18 hrs 35 sinutes				Lt.Col. Tright
					A SAYA CAR.		Major R. C. Milto
			Late on parada Absent from parada Lisfaulters) Conduct to Fred, good order A Mil Dis Absent from parada		The state of the s		tt.Col, Tright Major Maite Major Maite Major Maite Major Maite

STATEMENT AS TO CHARACTER AND PARTICULARS OF SERVICE OF ACCUSED

	Rank	Name	Regiment (or unit)
		Rustulka, C. South Baska to	
1 The following			
Conduct sheets		summary of the entries in the Field Regimental a	Service and General and Squadron, Battery
er Company Conduct	Caberts of the accu-	sed, exclusive of convictions by a Court-Ma	rtial or a Civil Cours,
of summary awards with.	under Section 47 of	Air Force Act the Army Act and of cases in which tr	al has been dispensed.
		Since enlisting	
For Aslisha		S times A.W.L.	
por Ensubordinate			
For Absent from 1			
For and Military ate on parad Number of insta	e judice asod or discipling, or nees of gallantry or	Ture aimes. Absent from parado gorder times and Military diselection good time fact that the parado distinguished conduct parado distinguished conduct	one times
		or,	
There are no ent	ries in the conduct	sheets of the accused.	
Note:If the c	harge is for drunken	nness, the entries for drunkenness must be a	ated separately.
The averaged	has not been previous		
		003 1001 1003	
Provious convict	tions of the money		
		d by a court-martial or a civil court, of s A.F.A. 73	
Section 47 of the annexed to this state	Army Act and dis-	spensations with trial under A.A. 73 are s	
		ce at the present time.	
The accused at		under sentence for teginning	
4. The accused	bas been in confinen	nent awaiting trial on the present charges, for	or NAA days in
civil custody, and I		military custody, making a total of \$130	
	days were spe		
5. The present i	age of the accused a	eccording to his record of service is attestation paper is	Years
6. The date of l	nis commission speci attestation	ified in his record of service is 12 Supt attestation paper	
7. The service w	which the secused is One year	allowed to reckon towards discharge is	
8. The accused		11 month aservice for the purpose of deter 10 days	mining his pension, etc.
9. The accused	is in possession of or	rentitled to no air force decoration, or ai	
in possession of or er	ntitled to). State a	military many air force decoration or reward. military	ulitary
10. (If the accu	sed is a warrant off	ficer.) The accused before he was made a w	arrant officer last held
the regimental rank			

			ermanent Force tinit	
	dated	, and in l	nis regiment (or cor	ps), the rank of
	dated			
12. The necessed has a	served as a non-co	mmissioned officer contin	mously, without re	duction, to the
			Dat	e of promotion.
In the rank of		years.		
In the rank of		years.		
In the rank of		years.		
Note:—If any matter aragraph must be struck		paragraphs cannot be sta	ted from the Region	ental books, the
		SCHEDULE		
of convictions by a co-			under Section 47 o	I the Army
Same.				Regiment
Nore:-Averbatim ex	stract from the regi	mental books stating these	convictions and di	
rial must be inserted.				
Description of Court by which tried	Date and Place of Trial	Charge upon which mnyicted	Sentence of the Court	Panishment Remitted
		1 - 11 - 11		
		ule of convictious and dis		is a fine extrang
		Allgothal	941	is a true extract
from the regimental book Signed this	s in my custody.	day of a	ng 141	
from the regimental book Signed this	s in my custody.	day of convictions and of car	ng 141	us been dispensed

48.61 PTE RUSTULKA C.

		AT CMHQ IN AB 160	173-8	
RECEIVED FIELD GE	NERAL CO	URT-MARTIA	L CPASS (In t)	1811 OF APAS 5/1095 /6144)
Convened by Order of Frigadier J				4/38B
continue by Order of the manner of			dated 19	Ogt 44
(As to the trial of two or more charges	ACCUSED	l. 		
(As to the trial of two or more charged rank, and (b) appmt, A/rank or A/appmt, if a	iny, see AA 182, 183, fns, KR	Can 308, 328, 330.)	manent or confirm	led.
Number. (a) Prmnt R. (b) Appmt, A	/R or A/Appmt. F	ill Christian Names. S	urname.	Unit.
L 12139 Pte		Carl RUS	TULKA S	SASK R
PAR STRINGS REWEWED	-1		1	CIRU "
Doyo Figes Aineres Lein				
REDEWING OFFICER, JAG BRANCH	ROCEEDINGS O	F TRIAL.		
Held in the Fd in (country)	SM H. Stand	on (date(s)) 2	0 00%	
	ENUME DOGGE			
RECORD FORM A-OPE				
A1. The President, Members, waiting	ig Member, JA, if any	, and Offrs under instr, if	any, assemble	o, and the
(PRINTED MATTER, NOT IN ITALICS FOR BY PRES OR JA. The Schedule referred to an procedure when a variation in this form of	GUIDANCE, WILL BE DELE	TED, IF NOT USED OR APPLICAB	LE, AND INITIALI	
on procedure when a variation in this form a will be made and given a number having refe	throughout is on p.4. Citati Trises, see form for GCM in	ins do NOT include all relevant fini	n ROs. For guida	ince
CF A95, for oaths and instruction how to reco provisions for conducting the trial see AA 53.	rd. addresses, evidence, etc., w., RF 56, 63-70, 71, 74, 94, 10	ong para numper herein. See back Nich instru are hereafter called "F L. 179 135:	of Convening Ori Notes". As to gene	
each charge discloses an offence (3)		of 12 accused is (also) mineria	ble to military	law, and
(1. As to use of Summary of Evidence s	ee RP 17 fn 6. 2. AA 49,	50, RP 105-107, 3. RP 11-13,	23, 24.)	
A3. The Court is opened. The accus A4. The Prosecutor produces a Madi				
A4. The Prosecutor produces a Medi The Prosecutor informs the Court that a summarily by the CO (2).	ecused elected to be t	ised is (ipe) fit to undergo tried by court-martial inste	rial by court- ad of being a	martial (1) feel
(1. KR Can 557. 2. AA 46(8), RP	60 fn I. For effect see KR	Can 563(c). Delete, if not applica	ble	Their
A5. President to accused: Do you	object to	A as interpre	eter I Ans	N. F.
The Interpreter is sworn.(1) Do you object The shorthand writer is sworn.(1)	t to CPI	W. J Reek shorthand w	riter ! Ans	No.
(1. RP 72. Delete, if none employed.)				
A6. The Convening Order and name President to accused: Do you object	s of the President and	Members of the Court are	read to the a	consed (1)
President to accused: Do you object Ans (2)	to be tried by me as i	resident or by any of the	Members of th	ie Court †
	member retires. RP ARIA)	If objection, see procedure AA SI		
		instr. if any are sworn (1)	Thu Kallaman	MAKL p 742.)
40	1 11 12		the lonowin	g are the
President //9/4C	J. M. Down	148	Highes	35180
Member 6.097.	D.M. Jacq	uest L.E.	Inn A	15180
Member 4/eut	A. C. GOW	Nth.	N.S. HIGA.	4118
Judge-Advocate				E. F. II. U.
Prosecutor Lieut	8.8. Allan			
Defending Offr 6097	F.C. Monto	2	00	C/192.
Questions by President : Is the Prosecutor			Z.J	
Toseculor	sawyer : Ans of F 5	Is the Defending Offr a l	awron f. Ann	401 12

(R) [1, If a special plea is made for separate trial un one or more charges (RP 0.1(E), 10E), or as to the jurisdiction of the Court by one of several accused charged jointly to be trial (RP 36), or as to accused's monital fitness to stand trial (AA 120, RP 57), or evidence, if any, and finding are recorded per bioless. For forms of record see references in fins to RsP cited. Insert in AE rank and name of the occused making the pieu.)

A9. The accused is (are) arraigned (separately) on all charges in the charge sheet.(1) The accused does (de) 1400 pleas in Part I of the Schedule.

-(1) 190

(I. RF 31, II.2. See para I of Instrs p.2. When more than one Charge Sheet see RF 62; when several occused to be tried separately see RF 71(C), and use separate capies of CF A96 to record proceedings.

2. RF 32. RF 33. If otherwise, delete and make appropriate record per Notes.)

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

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

4. The accused may not plead or be found Guilly 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 Guilly to lesser, etc. offence. (RP 44(H).) Accused may change a plea of Not Guilly to Guilly during trial. (RP 38.) As to refusing the control of the cont 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 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, 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 Offe 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 83.85; calling or re-calling of witnesses by Court, etc, see RP 75.79, 86, 116; use of Summary of Evidence at Trial RP 17(F) 6.8. 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)(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), call witnesses as to character and make an address in mitigation of punishment.(2)

(1, RF 35 fo 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 charge(s).(f) If it appears from your statement that there are circumstances which indicate that you do not understand the effect of the plea of Guilty(f), or which show provocation or extenuation in respect of which in your interest the witnesses for the Prosecution should be examined(f), we shall advise you be change your plea to Not Guilty. In making a statement you will not be sewon 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 syorn testimony, if you so desire.(*)

President to accused: Do you wish to make a statement Ans.

(1. AP 37(B). 2. RF 37(D) fo 6. 3. RF 35(B) fo 3 pero 3. MML p 54 pero 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 charge(s). The accused is (are) so informed, and he (they) (their) plea(s) of Guilty to Not Guilty 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)
(1. RP 35(B). If pleo(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 loodequote, comply with 8F 37(8). If there is any evidence inconsistent with any piece standing of Guilty. Court will doing accused to thonge such piec and, if changed to Not Guilty, try such charge(s) by use of pares of to D8 inclusive of Record form D on p 3. RP 37(D).)

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 inclusive of Record Form D on p 3 before proceeding with C 2.(1) (I. RP 37(A) (E).)

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

(i) Under 85 such ports only of the Summers of Esistence on road as relote to the charges dealt with under C2. If any pine is charged to Not Guilty, trial therene proceeds by complying with paras D1 to D6 inclusive in Recard Form D on p 3 and making on oppropriate record thereof on a separate sheets?

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 hern Loose Shrets 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

D2. The Prosecutor makes (an) (p6) opening address.(1) (1. RF 37(B), 60(A) (B), 90, 92(C) (D). Record address per Notes, subject to RP 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 RP 39(D) (E).)

D4. The Prosecution is closed.(1) The Defending Offr submits that the evidence for the Prosecution does not charge(f).(*) The Court AGS establish a prima facie case against the accused 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).(4)

(i. Delete remainder of this para, 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 accused acquitted on all charges, use second alternative in para D8. N8: if train proceeds, accused must be allowed great lightly and proceedings of the Court should not stop his defence solely on ground of 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 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 eath will not carry with the Court the same weight as sworn testimony. (*)
You may call witnesses in your defence and as to character, whether you give evidence or make a statement or do neither.

President to accused: Do you wish to give evidence yourself as a witness, make a statement, or do neither ! Ans little hand to call witnesses on your behalf t Ans. 4 (1. 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 114, 115, 116. For procedure see Notes on back of Convening Order, CF A95. Evidence for accused as to his
character should. If in his interest, be given before the finding. See RP 46(A) in 1. 86(C). Note the further opportunity in para E1

of Record Farm E. Record per Notes addresses, statement, evidence and any summing up by the JA under RP 42, 103(e).)

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

(1. RP 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) he Court on the charge(f), being subject to confirmation, will be promulgated later.(1)

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 accused or his witnesses as to his character, delete this para. RF 37(C) fin 4. 46 fin 1. Accused and witnesses are swarm. 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)(2), 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(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 Ex / and Ex / respectively (*) respectively (*) (*) APP 255 or APP 270. 2 M/M 6. 2 RP 46. KR Can 558. If above documents not produced, see RP 46 fn I pere (.)

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) Ans. 10 of explorer 10 of the process of the state of

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. A& 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 (*) to be unitence only, comprised of the punishment or punishments (1. When several occured tried superately see RF 71 (D). One unitence only, comprised of the punishment are punishments in the description of the property of the punishment of the property of the punishment of the punishm

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

SCHEDULE.

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

Accused: L 12139 Pte C-rl HUSTULKA, S BAEK R - 1 CIRU

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.)
AA Sec 12(1)	Dat Excity	Not builty	Not quilly describe but quity of
nd			absence without leave. H. H. sec.
rd	2006	Limbert Comme	
th			
th			
th			
(Note : As to fin	dings for lesser offen	ces see AA 56, RP 44 ;	findings on alternative charges see MML p 483 fn 4 para 2, RP 44 ; RP 44 fn 6-)
at present under senten	ce for	te, if not applicable. S	beginning on (date) M. (1) Liee RP 46(A), Information should be found on MF B355 or AF B296.)
ime in confinement av	vaiting present t	rial—a total of	days, of which days were spent in hospital (4) 255 or AF 8296 admitted in evidence under E2.)
internet in mariator in a	/0	200170	Detention for seventy five do
Judge-Advo	(See back of Co	Date onvening Order as to a	awarded. President. (89 45, 50.) ssembly and disposal of record after trial.)
Judge-Advo	(See back of Co	Date onvening Order as to a	awarded. President. (RP 45, 50.)
Judge-Advo	(See back of Co	Date onvening Order as to a	awarded. President. (RP 45, 50.) ssembly and disposal of record after trial.)
Judge-Advoc	(See back of Co	Date onvening Order as to a	awarded. President. (RP 45, 50.) ssembly and disposal of record ofter trial.) MATION RESERVED. (AA 54(5), RP 120(F), MML p 760.) Commanding
PART II. Date PART III. (for duties and power confirmation and soon not confirmed, and soon not confirmed, and soon not confirmed, and soon not confirmed.	(Sgd) DECISION O Pers are AS 54, 57, R and any be tried age and and a 65 500	Date onvening Order as to a ERE CONFIRM F CONFIRMIN F 37(0) fn 6.46(Å) 5 54(3) Sending back in : AA 137, MML po	awarded. President. (RP 45, 50.) ssembly and disposal of record ofter vial.) IATION RESERVED. (AA 54(5), RP 120(F), MML p 760.) Commanding IG OFFR ON FINDING(5) AND SENTENCE. 1-56, 120, MML pp 759-761, KR Com 567 577. Acquittels require no finding or sentence for revision by Court. AA 54(2), RF 120(G). If 4. Minute of confumction or non-confirmation may be oftered before time: KR Go 573. Duties and powers of reviewing 617s. AM 57.
PART II. Date PART III. (for duties and power confirmation and soon not confirmed, and soon not confirmed, and soon not confirmed, and soon not confirmed.	(Sgd) DECISION O Pers see AS 54, 57, R nonot be revised: AS and may be fuel age \$33, MML p.65, Que be Confirming Offr a	Date onvening Order as to a ERE CONFIRM F 37(0) fn 6.46(A). 5 54(3). Sending back in : A4 137, MML p 6 eathing ofter promoting to the promoting back must sign here persona	awarded. President. (RP 45, 50.) ssembly and disposal of record ofter trial.) IATION RESERVED. (AA 54(5), RP 120(F), MML p 760.) Commanding IG OFFR ON FINDING(S) AND SENTENCE. 1-56, 120, MML pp 759-761, KR Con 567 577. Acquittels require no finding or sentence for resistant by Court. AS 54(1), RF 120(G). If 4. Minute of confirmation or non-confirmation may be aftered before time: KR Gon 573. Duties and powers of reviewing affrs: AM 37, life, AM 172 fn 1-)
PART II. PART III. (For duties and power confirmation and constrained, extended by promulgation in Research State Res	(Sgd) DECISION O Pers see AA 54, 57, R noot be revised: A sed may be tried age of the Confirming Offr is e finding(s) and	Date onvening Order as to a ERE CONFIRM F 37(0) fn 6.46(A). 5 54(3). Sending back in : A4 137, MML p 6 eathing ofter promoting to the promoting back must sign here persona	awarded. President. (RP 45, 50.) ssembly and disposal of record ofter trial.) IATION RESERVED. (AA 54(5), RP 120(F), MML p 760.) Commanding IG OFFR ON FINDING(S) AND SENTENCE. 1-56, 120, MML pp 759-761, KR Con 567-577. Acquittels require no finding or sentence for residue by Court: AS 54(1), RP 120(G). If 4. Minute of confirmation or non-confirmation may be oftered before time: KR Con 573. Duties and powers of reviewing affrs: AS 37, lly, AS 172 fn 1.)
PART II. PART III. (For duties and power confirmation and constrained, extended by promulgation in Research State Res	(Sgd) DECISION O Pers see AA 54, 57, R noot be revised: A sed may be tried age of the Confirming Offr is e finding(s) and	Date onvening Order as to a ERE CONFIRM F CONFIRMIN F 37(D) fin 6.46(Å), 5 4(3), Sending back in : An 157, MML p & cashing other promules must sign here personal sentence set forth	awarded. President. (RP 45, 50.) ssembly and disposal of record ofter vial.) IATION RESERVED. (AA 54(5), RP 120(F), MML p 760.) Commanding IG OFFR ON FINDING(5) AND SENTENCE. 1-56, 120, MML pp 759-761, KR Can 567-577. Acquittels require no finding or sentence for revision by Court. AA 54(1), RP 120(6). R 4. Monute of confumition or non-confirmation may be oftered before time: KR Can 573. Duties and powers of reviewing affra: AA 37, hip. AA 172 fn 1.) in Part I is:
PART II. PART III. (for duties and post confirmation and construmed to not confirmed, continued, except promulgation: RF 57A, RF 53A, 54. 1 My decision on the	(Sgd) DECISION O Pers see AA 54, 57, R nnot be revised: AA and may be tried age 33, MML p 65, Ge the Confirming Offer e finding(s) and	Date onvening Order as to a ERE CONFIRM F CONFIRMIN F 37(D) fin 6.46(Å), 5 4(3), Sending back in : An 157, MML p & cashing other promules must sign here personal sentence set forth	Available of received ofter vial.) IATION RESERVED. (AA 54(5), RP 120(F), MML p 760.) Commanding IG OFFR ON FINDING(5) AND SENTENCE. 1-56, 120, MML pp 759-751, KR Con 567-577. Acquittels require no finding or sentence for resistant by Garri. AA 54(1), RP 120(5). If 4. Minute of confirmation or non-confirmation may be altered before time it KR Can 571. Duties and powers of reviewing offrs: AA 37, big. AM 172 fat.) In Part I is:
PART II. PART III. (for duties and post confirmation and co not confirmed, control from the confirmed of t	(Sgd) DECISION O Pers see AA 54, 57, R noot be revised: A sed may be tried age of the Confirming Offr is e finding(s) and	Date onvening Order as to a ERE CONFIRM F CONFIRMIN F 37(0) fo 6.46(A) 5.4(3), 5.4(3	awarded. President. (RP 45, 50.) ssembly and disposal of record ofter trial.) IATION RESERVED. (AA 54(5), RP 120(F), MML p 760.) Commanding IG OFFR ON FINDING(S) AND SENTENCE. 1-56, 120, MML pp 759-761, KR Con 567 577. Acquitatis require no finding or sentence for residue by Court. AA 54(1), RF 120(G). If 4. Minute of confunction or non-confunction may be oftered before tione: KR Con 572. Duties and powers of reviewing offrs: AA 37, lily. AA 172 fn 1.) in Part I is: Ison or detention togracks until further orders (1) less if not used.) (Sgd) Brig Cond.
PART II. PART III. (for duties and post confirmation and co not confirmed, control from the confirmed of t	(Sgd) DECISION O Pers see AA 54, 57, R nnot be revised: AA and may be tried age 33, MML p 65, Ge the Confirming Offer e finding(s) and	Date onvening Order as to a ERE CONFIRM F CONFIRMIN F 37(0) fo 6.46(A) 5.4(3), 5.4(3	Available of received ofter vial.) IATION RESERVED. (AA 54(5), RP 120(F), MML p 760.) Commanding IG OFFR ON FINDING(5) AND SENTENCE. 1-56, 120, MML pp 759-751, KR Con 567-577. Acquittels require no finding or sentence for resistant by Garri. AA 54(1), RP 120(5). If 4. Minute of confirmation or non-confirmation may be altered before time it KR Can 571. Duties and powers of reviewing offrs: AA 37, big. AM 172 fat.) In Part I is:
PART III. [Fer duties and pow confirmation and co not confirmed, accurate promulgation: RP 57A, RP 53A, 54, 7 My decision on the	(Sgd) DECISION O Pers see AS 54, 57, R Annot be revised: AA Body tired age St. MARL p. 65. Que the Confirming Office e finding(s) and	Date onvening Order as to a ERE CONFIRM F CONFIRMIN F 37(D) fn 6.46(A), 5 54(3), 5 64(3), 5	Awarded. President. (RP 45, 50.) Samply and disposal of record ofter viol.) IATION RESERVED. (AA 54(5), RP 120(F), MML p 760.) Commanding IG OFFR ON FINDING(5) AND SENTENCE. 1-56. 120, MML pp 759-761, KR Con 567 577. Acquittals require no finding or sentence for revision by Court. AA 54(1), RF 120(G). If 4. Minute of confumetion or non-confirmation may be altered before time: KR Con 571. Duties and powers of reviewing affn: AA 57. hip. AM 172 fn 1.) in Part I is: Income or detention terracks until further orders (1) less if not used.) (Sgd) Brig Cond., manading "D" Gp., Can Rft Units

ALL DELETIONS AND ALTERATIONS WILL BE INITIALLED.

KUB

Ex. A. The Accused, No. L-12139 Private Carl RUSTULKA, South Saskatchewan Regiment, on the strength of No. 1 Canadian Infantry Reinforcement Unit, a soldier of the Canadian Army Overseas, is charged with:-WHEN ON ACTIVE SERVICE, DESERTING HIS MAJESTY'S SERVICE. FIRST CHARGE Section 12(1)(a) ARMY ACT in that he, In the Field, at 1045 hours on the 28th day of September, 1944, having been warned for draft for the performance of a special duty, absented himself without leave from No. 1 Canadian Infantry Reinforcement Unit, with intent to avoid such special duty, until surrendering himself at No. 1 Canadian Infantry Reinforcement Unit at 1115 hours on the 10th day of October, 1944. Total Absence: 12 days, 30 minutes. B.B. Mari .B. Ware) Con Inf Rft Unit. In the Field, 13th day of October, 1944. To be tried by Field General Court Martial. Gamong) Brigadier In the Field Group, Can Rft Units 19 Oct 44 JUB

Ex: B

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 offr of Cdn Army Overseas, or of any other force if authorized in law, in immediate camd of troops on active service, subject to RP 105(C) and restrictions imbosed by appropriate author. 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 Y 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 as 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 15, 104.

As to reasons for showing (a) permanent or confirmed rank, and (b) appmt. Alrank or Alappmt, if any, see AA 182, 183, fns. KR Can 308, 326, 330.)

ACCUSED.

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

L 12139 Pte Carl

RUSTULKA

S SASK R CIRU

CONVENING ORDER.

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

 (Delete part in brackets when not required for compliance with RP (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.
 - (a) three Offrs to form the Court, (b) a Ed Offr as President, for the reasons I have 4. I am unabi (AA 49, RP 106(B), 107(A). Delete the whole or part, if not applicable.)
 - 5. Lalso appoint as Judge Advocate thereat the Offr mentioned hereunder (RP 106(E). Delete, if none appointed.)

PRESIDENT

J.M. Bowman 48 Highrs (Must be named. RP 106.) 3 CIRU Major MEMBERS. to be detailed by Commanding Officer 1 CIRU 1 Captain 4 CIRU to be detailed by Commanding Officer 1 Lieutenant (Named or detailed. RP 106.) (Rank.) WAITING MEMBER

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

(Unit.)

JUDGE-ADVOCATE.

(Must be named, if any. RF 106.)

On Active Service in the Fd

England (Country.)

(Rank.)

RF 105 fn 2)

Brigadier (Rank.)

Dat 19 Oct 44

Commanding HQ "D" Group, Cdn Rft Units

CONVENING OFFR WILL INITIAL ALL DELETIONS AND ALTERATIONS

4/38A CPA 95 (In Bett of AFA 3)

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



EX. C. MEDICAL CHRISTIAN METERICARE

K.R. (CAL) PARA 557

C corticy that T have this morning examined

or ICA 18.14. Ote Rustulka 6.....

to undergo Triel by Court Martial.

Date As 16 . H.4.

Hedical Officer

MB

. Ex. K. PLEA OF MITIGATION L 12/39 Pto Rustulka, C The accused is 24 yrs of ago, A calegory and a well trained soldier, 2. He fought gallantly in France most willing to regain his unit in action at the earlist possible moment. He is denoted to his wife I suggest that the cause of fretice and the allied was effort will best be served my a very short sentence and an earlige return to the gd. Defending The

EX. D

In the case of Number L.12139 Private C. RUBTULKA, SouthSaskatchewan Regiment, on the strength of No. 1 Canadian Infantry Reinforcement Unit.

OPENING ADDRESS BY THE PROSECUTING OFFICER

Just a few words to say that the witnesses I will call, I anticipate, will state that the accused was on a parade which was warned for draft and that some time later when an inspection parade was called before the draft was to move that the accused was absent.

FIRST WITNESS

Number H.16489 Sergeant Longmuir, W.G., P.P.C.L.I., on the strength of 1 Canadian Infantry Reinforcement Unit having been duly sworn states as follows:

I am No. H.16489 Sgt Longmuir, W.G., P.F.C.L.I., on the strength of 1 Canadian Infantry Reinforcement Unit, employed as clearing NCO of the Training Incre-ment of F Company at 1 CIRU.

What are your duties in that repect? Clearing all men getting them ready to go on draft.

Will you tell the Court what you know about this case? I am clearing NCO of the Training Increment F Company at 1 CIRU. I was present on this parade held at 1300 hours the 27 September 1944 for the purpose of warning all personnel proceeding on draft. L.12139 Pte Rustulka, C. was present on this parade. I know for sure that his name was on the nominal roll for draft. I also know for sure that no-one's name that was on the nominal roll was absent from this parade. 2.2 A.2 was on the nominal roll was absent from this parade.

What happened on that parade? The roll was called sir.

Will you tell the Court just how it was called --9.4

what was the manner of calling?
The officer called the roll and hollered out RUSTULKA and he answered by giving his number, L.12139, and his initial, C. Then he fell out on a different parade in a hollow square and the warning read.

Would you explain what you mean by a different parade? Them fell out in one place and then moved them over in a hollow square so that they could hear the warning easily.

There was no question of the first parade breaking off No sir.

Do you know the accused to see him?

No sir.

Will you go on from there?
The warning order was then read by Capt M. G. Burgess. You have been selected to proceed on a fast for the performance of a special duty and you are now warned that you must be present and ready to go 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 while the draft is in transit or at any intermediate point or before its final destination will result in your being charged with desertion on active service. If you are convicted of desertion the Court has the power to sentence you to a maximum sentence of penal servitude Will you go on from there? sentence you to a maximum sentence of penal servitude for life.

FIRST WITHISS FOR THE PROSECUTION

At any time prior to the departure of the draft a parade will be called on which you must be present and at which time the correct date and time of departure will be told you. The draft was also warned by Capt. W. G. Burgess that they were confined to barracks. Repeat confined to barracks. I was standing in the rear of the parade and could hear the warning order clearly and distinctly.

Rules of "rocedure 83(b) have been complied with.

SECOND WITHESS FOR THE PROSECUTION Number H.16160 C.S.M. Hosegood, T., P.P.C.L.I., on the strength of No. 1 Canadian Infantry Reinforcement Unit, having been dily sworn, states:

I am No. H.16160 CSM Hosegood, T., P.P.C.L.I., on the strength of No. 1 Canadian InfantryMeinforcement Unit, employed as Sergeant Major of F Company.

- A.1 My duties are preparing men for draft for the ctold
- A.2 Will you tell the Court about this particular incident?
 Pte RUSTULKA was in my Company on the 27 September 1944.
 We called a parade for 1300 hours 27 Sep 44 for the
 purpose of a warning order being read to the men proceeding on draft. Roll call was called and Pte RUSTULKA
 and name which was L.12139 Pte RUSTULKA, C. He then
 was forming them up again in a hollow square for the
 purpose of the warning order being read. The warning
 order was then read by Capt. Burgess. When the warning
 order was being read I stood behind the draft and heard
 him quite distinctly.
- Q.3 Do you know the accused to see him?
- Q.4 Did you at the time?

Rules of Frocedure 83(b) have been complied with.

THIRD WITNESS FOR THE PROSEUCTION Captain W. G. Burgess, R.R.M., on the strength of 1 Canadian Infantry Reinforcement Unit, employed as 2 i/c P Company, having been duly sworn states:

I am Capt. W.G. Burgess, R.R.R., on the strength of No. 1 Canadian Infantry Reinforcement Unit, employed as 2 i/c F Company, as draft officer for the field.

Q.1 Will you tell the Court what you know about this case? On the 27 September 44 at approximately 1300 hours I called a nominal roll of draft UKAG/9. The personnel on the parade answered by giving their number and initials. There was no absentees on this draft warning.

A document is passed to Capt Burgess and he recognizes it as the nominal roll of UKAG/9

Q.2 Is there anything about this nominal roll that has anything to do with this case?
 A.2 The number, rank and name of Pte RUSTULKA is on this nominal roll.

Kun

Ex. D

- 3 -

Do you know anything about this particular docu-THIRD WITNESS 2.3 ment? That is the nominal roll that I called on that FOR THE PROSECUTION (CONT'D) parade.

> This is the one? 2.4

A.4 Yes.

Will you go on from there Capt Birgess?
As I called the roll personnel whose names I called answered and fell out to the right of the parade, where they were formed into a hollow square by a sergeant. After calling the complete roll I read the draft warning order to the parade. 4.5

Will you tell the Court what this documentis? This is the draft warning order which I read the 27th September 1944, draft demand UKAG/9.

Rules of Procedure 83(b) have been complied with.

FOR THE PROSECUTION

Number M.15894 Sgt Benson, T.R., 49th Edmonton Reinforcement Unit Reinforcement Unit, having been duly sworn states:

I am No. M.15894 Sgt Benson, T.R. 49th Edmonton Regiment, on the strength of I Canadan Infantry Reinforcement Unit, employed in F Company as the clearing NCO at No. 1 CIRU. Pte RUSTULKA L.12139 was in my squad. On 27 September 1944 at 1300 hours Pte RUSTALKA was present when the draft warning was read by Capt. Burgess and warned that they were Confined to Barracks. At 1045 hours on 28 September when I fell in my squad Pte RUSTULKA was absent. He was also absent at 1400 hours on draft pay parade.

Do you know this Pte RUSTULKA to see him?

Have you seen him today? Yes sir.

Sgt Benson identifies the accused Pte RUSTULKA.

Do you know if he was present on the warning 9.3 parade? Yes sir. A.3

Did you see him there? Yes sir.

How did you find him absent? When I called the roll he was absent and I checked the quarters and there was nothing there but his equipment. This was about 1045 hours 28 Sep 44.

Rules of Procedure 83(b) Leve Veen complied with. All Arwinan, Siaja

WITNESS PROSECUTION

Number G.18154 L/Corporal Brayall, M., Carlton & York Regiment, on the strength of 1 Canadian Infantry Reinforcement Unit, having been duly swor states:

Jula

(CONT'D)

I am C.18154 L/Corporal Brayall, M., Carlton & York Regiment, on the strength of No.1 Canadian Infantry Reinforcement Unit.

- How are you employed at 1 CIRU? Employed as Regimental Police 1 CIRU.
- 4.2
- What do you know about this case? At approximately 1115 hours 10 Oct 44 while on duty as NCO 1/c Guard Room Pte RUSTULKA surrendered himself to me.
- Do you know this man to see him?
- Yes sir.
- Can you point him out?
- Yes sir.

- That is the man who surrendered himself? Yes sir he was sober and properly dressed
 - Question by the Defending Officer
- Was he in uniform?
- Yes sir.

Prosecution is closed.

Rules of Procedure 83(b) have been complied with.

Statement by the Defending Officer:

I am making formal application for dismissal of this charge at this time.

Number L.12139 Pte RUSTULKA, C., South Saskatchewan Regiment, on the strength of No. 1 Camedian Infantry Reinforcement Unit, having been duly sworn states:

I am No. L.12139 Pte RUSTULKA, C., South Saskatchewan Regiment, on the strength of No. 1 Canadian Infantry Reinforcement Unit.

- You are the accused in this case?
- A.I Yes sir.
- How old are you?
- 23 sir.
- What education have you?
- Grade eight sir.
- Are you married? Yes sir.
- 4.4
- You have heard the evidence of the witnesses for the prosecution that you were warned for draft on a warning parade on the 28th September what have you to say to that?
- Is was on the 27th sir not the 28th.
- Were you on that parade? Yes sir.

1413

FIRST WITNESS FOR THE

- Pid you go AWL after the parade? 9.7 Yes sir.
- You don't deny the evidence that has been given that you surremered yourself voluntarily to the Guard Room on the 10 October?
- A.8 No sir.
- 0.9 "hen did you enlist? A.9 17 Sep 39.
- Q.10 When did you proceed oversess?
- A.10 13 Dec 40.
- Q.11 How long have you served in England and where else
- have you served? I served about 3 years and ten months in England with the South Saskatchewan Regiment and then I proceeded to France and was there for about one month with the South Saskatchewan Regiment.
- Q.12 Then what happened? A.12 I was wounded and sent back to England.
- 4.13 Where were you wounded? A.13 In the right thigh sir.
- Q.14 How long were you in hospital? A.14 A little over three weeks sir.
- 9.15 You have told us that you are married? A.15 Yes sir.
- Q.16 Were is your wife living? A.16 In Reading, England.
- Q.17 What is the state of her health? It is very poor sir. She's been doing a lot of worrying and she has also been ill for some time. I have been to France and back and she is going to have a child in seven months time and she is very nervous and has bad health. She does a lot of worrying about me and our home. That is the reason worrying about me and our home. That is the rea I tried to get home and try and do something for I think quite a lot of my wife and do a lot of worrying about her. When I went home I tried to get a good home for her so she would be able to live confortably. We have only one to a lot of live confortably. We have only one room which she is living in now and it is very small and is not big enough to live in and when she get's the child it will not be big enough. She has no washing facilities or anything.
 - Q.18 When you went absent where did you go? A.18 Home to my wife. At that time my wife was ill in
 - A.19 What did you do while there?
 A.19 I was looking for a home for her and trying to do the best I could for her. When I'm homedo feels pretty good but when I'm away she can't eat or sleep or can't do without me sir.
 - Q.20 Mid you go absent for the purpose of avoiding the draft? A.20 No sir.
- Q.21 Why did you go absent? A.21 To see my wife and get things straightened out.

AMO

TT BET WITHINGS O DO How I am been been	
FOR THE A.22 How long have your been in the reinfo	rcement unit?
DEPENCE (CONT'D) Q.23 Have you been physically fit and ava draft during that time? A.23 No during that time sir but they did category and were holding me until the record of my medical history.	ilabla for
The witness is examined by the Prose	cuting Officer
Q.1 You say that you heard the warning o	
A.1 Yes sir.	
Q.2 Did you hear all of it?	
Q.3 Did you know that you might be charg ion if you went? A.3 Yes sir.	ed with desert-
A.3 Yes sir.	
4.4 And that you would therefore miss th	e draft?
Q.5 What did you expect would be the resu away for twelve days?	At of staying
A.5 I knew I'd be put in orders about the	at and asked
Q.6 Did you expect that you would be pun A.6 Yes sir.	is hed for it?
4.7 When you're doing punishment you can No necessarily sir. There are lots who are doing minor punishment.	't go on draft? going on draft
The accused is questioned by the Cou	rt.
Q.1 What is the length of stay in camp of draft after they have been marned? A.1 I don't know sir.	f the average
Q.2 Did you ask to be paraded to your Co	v Conte to
A.2 I paraded a week before that sir but	only got AR
hours and I couldn't do anything in	48 hours.
Rules of Procedure 83(b) have been co	
fle Sowies	
SECOND WITNESS FOR THE On the strength of No. 1 Canadian In formcement Unit, having been duly sw	wan Regiment, fantry Rein- orn states:
I am Capt. Smith, C.E., South Saskaton the strength of No. 1 Canadian Inforcement Unit.	chewan Regiment fantry Rein-
Q.I Do you know the accused?	
Q.2 How long have you known him? A.2 Since 1939.	
4.3 Would you tell the Court where you had a.3 I have known Pte RUSTULKA personally this year having taken over a Support	since May of
July	

POR THE DEFENCE (CONT'D) which Pte RUBTULKA was a member at that time. Previous to that I had known him in the Regiment but not personally. In Mey I took over the Coy and then Pte RUSTULKA was a member in the antitank platoon. Shortly after taking over the Coy I had the opportunity of meeting Pte RUSTULKA's wife when he at one time came to me to take his wife home, as he wanted my permission. After meeting his wife I had a talk to Pte RUSTULKA in regard to his conduct and after this talk I have had no trouble with him. He did a good job and willingly. In July of this year I took the Support Company over to France with the Battalios and Pte RUSTULKA went over as a member of the Anti-tank platoon and during the time he was in France he did an excellent job and during one particular action he was taken forward with his officer during an attack acting as a guide to his platoon to take them into position. He for four hours at that time worked in an exposed position under heavy fire to get them in the position. He didn't have the help of any officer or NGO and was personally responsible for getting the only gun in the platoon into action, that was got into action. He carried on in this manner until he was wounded when he made his own way back. He was recommended for a decoration by two officers of the Unit but unfortunately at the time I was unable to get the recommendation into Brigade by the deadline, otherwise I feel sure he would have received the K.S.

Rules of Procedure 83(b) have been complied with

Number B.72644 Sgt F. S. Farndon, 48th Highrs of Canada, on the strength of No. 1 Canadian Infantry Heinforcement Unit, having been duly sworn states:

1 am No. B.72644 Sgt F. S. Farndon, 48th Highrs of Canada, on the strength of No. 1 Canadian Infantry Reinforcement Unit, employed as Provost Sergeant at No. 1 CIRU.

Q.1 Do you know the accused?

1.2 Tell us how you came to know him?
1.2 The accused is a soldier awaiting sentence in my Guard Room at 1 CIRU and he surrendered himself to the Guard Room.

On 18 Oct 44 at approximately 1415 hours I was called to the door of the Guard Room as I was sitting in my office, by one of the provost staff, a corporal, and he told me there was a woman outside who wished to speak to me. Going outside I saked the woman her business and she told me she wished to speak to the accused as she was his wife. I asked her if she had received the permission of the adjutant and she told me she was in no condition to see anybody.

Tell us about the state of her health? She looked to be very much upset, there was tears in her eyes, and when I asked her if she had seen the adjutant she said she couldn't see

AUB.

THIRD WITHES
FOR THE
DEFENCE
(CONT'D)

.4 anybody as she wasn't in a fit state of mind and her eyes filled up with tears and she seemed to be in a very very nervous state.

Q.5 A.5

Did she break dwn in the guard room?
Yes sir. I admitted her into my office to see the accused and the woman did cry and at different times I had to go into my office and this woman had tears in her eyes. She was very upset.

Rules of Frocedure 83(b) have been complied with.

Address by the Defending Officer:

I should like to refer the Court to Note 1 Section 12 of Page 437 of the MML which states:

To establish desertion it is necessary to prove some circumstance justifying the inference that the accused intended not to return to military duty in any corps, or intended to avoid some important particular service, such as active service embarkation for service abroad or service in aid of the civil power. If the basis of the charge is an intent to avoid embarkation, or some other special duty or service, the particulars should comban an allegation to this effect.

The essence of the charge of desertion is the intention of the accused at the time he went absent. The facts in this case Mr President are not in dispute, the accused admits that he was on roll call parade. That he heard the warning read and that he surrendered himself. If it is shown that he went absent for any purpose other than to stay absent indefinitely or to avoid this special service alleged then I submit he is not guilty of desertion at law. The evidence that the accused has given under both is that he went absent to see his wife who is pregnant and was ill at the time and further that he worries a lot about her condition which I suggest is a very normal thing under the circumstances. He states that she is living in a house, in a room which is not big enough for her and that he was subjous to get her a better place before returning to France again. His wife's condition, he states, is one of extreme nervousness and I have called Sgt Farndon who corroborates that fact. For the information of the court I wish to state that I spoke to the wife of the accused yesterday and she said she was willing to give evidence but she wasn't fit and I have therefore called the Sergeant in with the hope that that will prove to be sufficient and accept the fact that the wife is sick and in a nervous condition. The accused is charged with desertion. If he is convicted he is guilty of a cowardly act, Capt Smith who has been with the accused in action has given a very good recommendation of him. He has said that he conducted himself with gallantry and honour in France and that is a fact which in a case of this kind should weigh very heavily with the Court. I should like to direct the attention of the Court. I should like to direct the attention of the Court. The draft that the accused was on has not yet, as far as we know, left England, and that is a weakness in the case of the Prosecution.

MB

Address by the Defending Officer - Continued:

I would further like to refer the Court to Section 189(1) which defines active service as "The expression "on active service" as applied to a person subject to military law means whenever he is attached to or forms part of a force which is engaged in operations against the enemy or is engaged in military operations in a country or place wholly or partly occupied by an enemy, or is in military occupation of any foreign country." I suggest that the occupation of any foreign country." I suggest that the particular service which the accused intended to avoid by going absent must be shown to be in the face of the enemy to ascertain a found tion for desertion. This section is not meant to apply to soldiers who by being absent avoid a particular service hundreds of miles from the front lines. It is most desirable I suggest that punishments in the army should be uniform. The fact is punishments in the army should be uniform. The fact is that Canadian soldiers who have missed boats from Canada England have seldom been convicted of desertion and more dangerous thing than crossing the channel today. I suggest gentlemen that this particular service which it is alleged the accused missed by going absent has got to be shown to be on active service in the strictest sense of the word which means up front. This part of the desertion section is meant to apply to a fellow who goes absent a half an hour before H Hour before an attack. It is not meant to apply to a fellow who goes absent to woid a particular service like a draft leaving Canada for England or for an exercise in England. The burden of proof is on the Prosecution as always. It is up to the Prosecutor to show that the accused went absent to avoid this particular service. Isuggest that the evidence before you is of such a nature that you might reasonably conclude that the crossing the Atlantic for a good many years was a such a nature that you might reasonably conclude that the accused went absent to see his wife for very good reasons accused went absent to see his wife for very good reasons and that it was incidental thereto that he did miss the draft, if any. In conclusion I would like to direct your attention to the possibility of reasonable doubt which attention to the possibility of reasonable doubt which applies in all criminal proceedings, if the Court entertains any reasonable doubt as to the intention of the accused it must be resolved in his favour. That is our law. With the facts before the Court I suggest that you cannot conclude beyond a reasonable doubt that the accused who is a brave soldier in action went away to avoid going to France. I think the more likely interpretation of these facts are that he went away to see his wife and he wore uniform all the time he was away and returned voluntarily after he had things straightened out a little bit in the hope of going to France. in the hope of going to France.

Rules of Procedure 83(b) have been complied fith.
Address by the Prosecuting Officer.

I feel there are two points I must answer. The first one is my friend's reference to the fact that there is no evidence to the fact that this draft left and I point out that that is not part of the charge. The mere fact of intention to avoid such draft is the thing that matters. The other thing is his reference to Section 189. The mere reading of Section 12 of the Army Act should be sufficient to clear that up. Active service has as its object was punishment shall be awarded in cases of desertion. All through the reading of this section it is clear that you can be convicted of desertion and not be on active service.

JUB Case closes. JUB

I hereby request that the convening officer appoint an Officer to represent me at my trial.

able.

1 Cdn Inf Reinf Unit

DRAFT WARNING

Certified that personnel whose names are listed on this Nominal Roll consisting of 5 pages were present at a parade held at 1300 hours 27 Sep 44, and that said personnel were warned for draft by major 3.8. Turber. The Draft Warning was in the most definite terms and included the following statements:

- (a) "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 is sent off."
- (b) "Any unauthorised failure on your part to go with the draft when it leaves, will result in your being charged with Desertion on Active Service."
- (c) "Similarly, any unauthorised 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."
- (d) "If your are Convicted of Desertion, the Court has the power to sentence you to a maximum sentence of penal servitude for life."
- (e) "At some time prior to the departure of the drait, a parade will be called on which you must be present and at which time the exact date and time of departure will be told you."

1 C.I.R.U. PERSONNEL (mo. Burgoss) Brest Officer 1.(1) (1.D. Lowden) Lieut. t.b) HISIEO C.S.M. Hosegood, A(3) HI5489 Sgt. Longmuir, W.G.

EXHIBIT A.

level3

4/ Burger

(3.000000) Warning Officer

27 Sep 44

Exhibit B

1 CALADIAN INFARTRY RELEPONDED IN UNIT

Ex. F.

P. A.R. T. C. R.D. E. R.S. (Supplementary) by Colonel C.D. Ware, D.S.O. Commander

Order No. 2420

28 Sep 44

Certified that personnel whose names are listed on this Nominal Roll, as under, were present at a parade held at 1300 hrs, 27 Sep 44, and that said personnel were warned for draft. The Draft Warning was in the most definite terms and included the following statements:

(a) 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 is sent off.
(b) Any unauthorised failure on your part to go with the draft when it leaves, will result in your being charged with Desertion on Active

it leaves, will result in your being charges on your part while the draft for its intransit or at any intermediate point before its final destination will result in your being charged with Desertion on Active Service. (d) If you are convicted of Desertion, the Court has the power to sentence you to a maximum sentence of penal servitude for life. (e) At some time prior to the departure of the draft, a parade will be called on which you must be present and at which time the exact date and time of departure will be told you.

Warning Officer: Capt. W.G. Burgess

Witnesses: UKAG/9 Personnel 1 CIRU Personnel Lt. W.L. Brown Lt. A. Wilkins Sjt. Lamb, H. A/Sjt. Black, J.K. Lt. W.D. Lowden H-16160 CSM Hosegood, T. H-16489 Sjt.Longmuir, W.G.

DRAFT PERSONNEL

Lt. W.L. Brown K-37179 Pte L-17041 Pte L-17041 Pte L-17041 Pte L-16569 A/Sjt G-17423 Pte K-40984 Pte L-1297 Pte H-62791 Pte K-75123 Pte K-75123 Pte K-40139 Pte K-75123 Pte K-40139 Pte L-107293 Pte K-4013 Pte L-107293 Pte K-66775 Cpl H-8044 Cpl K-65984 Pte K-75221 Pte K-66775 Cpl H-8044 Cpl L-12385 Pte L-64520 Pte M-18108 Pte L-12385 Pte L-64520 Pte M-18099 Pte K-18099 Pte K-18099 Pte K-18099 Pte	Allen, G. J. Bassett, H.R. Black, J.K. Broad, E.E. Burleigh, J.C. Chisholm, A.D. Collard, T. Crawford, L.R. Dodd, R. Lurocher, H. Dykoman, B.C. Fred, E. Gordon, J. Grimshaw, S. J. Henry, C.L. Hindnarch, F.E. Hodgson, J.S. Irving, J.E. Johnson, E.J. Kennody, B.C. Kish, P. Kowzowy, A. LaFlour, S.N. Lezanski, M. Littletent, J.J. Linnell, S.H. Love, C.E.	Lt. A. Wilkins B-116051 A-105865 Pta L-105865 Pta L-14997 Pta L-66655 Pta L-27061 Pta D-114997 Pta L-86655 Pta L-27061 Pta M-49862 A sgt L-155539 Pta H-9660 Pta M-38612 Pta M-77204 Pta M-77204 Pta M-77204 Pta M-77204 Pta M-103571 Pta M-103571 Pta M-105199 Pta L-64687 Pta M-107426 Pta M-36191 Sjt M-654333 Pta M-107426 Pta	Baskett, L.T.C. Bissonnette, L.L. Driard, E.J. Brown, M.B. Cauldwell, D.W. Clark, J.C. Cranston, J.A. Cranston, J.A. Coron, H.J. Duval, F.G. Fairbairn, H.T. Ganly, D. Grant, C.A. Hanson, C.S. Hoffart, A. Huitt, A. Jacobson, H.O. Johnson, W.E. Kenyon, D. Kirk, S. Lavigne, O.J. Lamb, H. Line, H.A. Litke, R.H. Long, C.T.
H-18099 Pto	Linnell, S.H. Love, C.E. Lundin, J.E.		Long, C.T. Lyttle, A. Mansell, R.P.

1413

ram

DRAFT TARNING (cont)

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Meffon, J.
Mullis, C.C.
MacLood, R.A.
McLood, R.A.
McCusker, F.C.
McDowell, R.D.
McMowan, M.E.
McKowan, M.E.
McLood, P.
McMowan, M.E.
McLood, P.
McMowan, M.E.
   H-1426
                                                                                                    D-144490 Pto
                                                                                                                                               Morrison, J.R.
                                                                                                    D-131171 Pto
F-56580 Pto
   K-1482
                              Pto
                                                                                                                                               Murray, J.
   K-1482
F-57744
M-107317
H-12626
B-138576
M-8111
                              Pte
                                                                                                                                              MacKinnon, O.J.
                                                                                                    D-142159
K-2128
                              Pte
                                                                                                                             Pte
                                                                                                                                              HeCroa, H.
                                                                                                                                             McDonald, J.A.A.
McGarr, J.D.
Mc Kenzie, G.L.
McLarry, B.F.
                              Pte
                                                                                                                              Pto
                                                                                                   D-140352
H-11837
K-168
                              Pto
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                              Pho
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                              Pte
                                                                                                                              Pto
                                         McKowan, n.s.
McLaod, ...
McModil, ...
Maugler, R.S.
Oldurshaw, R.F.
Oslund, A.L.
Olynyk, M.P.
Pagen, G.L.
Parker, F.C.
Percival, C.A.
Quissy, G.L.
Reich, H.H.
Ricker, L.R.
Roce, ...
Russell, D.
Schnidt, F.K.
Scratton, J.H.
Sodgwick, G.
Shupak, J.
Slater, H.T.
Spring, J.K.
Stephens, J.T.
Stirling, R.
   L-52836
L-64114
F-36527
K-71253
M-8844
                                                                                                    H-195709
B-116548
D-135112
B-145693
                                                                                                                                             McMary, 5.1.
McMalan, A.R.
McRae, J.A.
O'Connell, M.P.
O'Loary, L.
Ottenbreit, G.
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   K-46922
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Pfiofor, J.A.
Power, D.S.
Read, D.J.
Roich, H.
   L-106217
 L-106217
K-1472
B-74629
K-1855
H-14853
H-204597
H-8427
K-5774
M-8517
L-64794
L-153014
H-66909
E-107366
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L-107084
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L-107062
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                                                                                                                                           Rosch, C.
Richardson, D.H.
Rustulka, C.
Sayers, S.H.
                            Pte
                                                                                                  K-1908 Fte
K-92476 A/L/Sjt
                             Pto
                                                                                                  N-92470 A/L/S,
L-12139 Pto
L-27571 L/Cpl
L-103804 Pto
B-116571 Pto
K-50835 Pto
L-154062 Pto
                             Pto
                             Pto
                                                                                                                                             Sayers, Schreiner, J. Schreiner, J. R.
                            Pte
                                                                                                                                            Seckington, N. Sekulich, F.N. Silvius, N. Steadman, G.D. Stabner, N.
                            Pte
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                                                                                                  M-8105
H-42004
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  L-34091
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                                                                                                                                             St. Laurent, R.
 K-62347
K-50809
                                           Stirling, R.
Thirsk, S.J.H.
Thompson, J.D.
Tisdale, G.A.
                            Pto
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                                                                                                                                             Syms, G.
                                                                                                 C-123641

K-4389

I-14994

I-18799

I-101241
                                                                                                                                            Thomas, R. Thompson, J.F. Thrift, D.H. Vancoughnott,
                            Pto
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 11-31174
C-44687
                            Pto
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                                            Tisdale, G.A.
Tolvor, R.H.G.
                            Pte
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 L-106710
                            Pte
H-8170
K-1943
                            Pto
                                           Vladesav, S.
Tallace, H.F.
Tilliams, N.E.
                                                                                                                           Pto
                                                                                                                                            asdon, H.D.
latson, L.A.
liliams, L.H.
lilmor, N.N.
lilson, J.A.
                           Pto
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1-8839
1-103732
1-8622
1-1550
1-4188
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                            Pto
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H-8900
N-75998
K-50814
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                                             illiams, H.T.
ittich, A.L.
oodbury, J.E.
right, L.E.
ynnychuk, A.
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lison, C.G.
Young, G.D.
                           Pto
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L-8671
L-38912
L-39624
I-105463
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K-1971
H-14322
M-38608
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                           Pte
                                                                                                                                           Zahara, J. Zuber, M.
                                           Yvon, G.
                                                                                                                           Pto
                                                                                                                                           Zuber,
                                           Zlomanchuk, M.F.
                           Pte
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for (S. T. Powier) Adjutant.

13 Pat 414

Certified true copy in head.

MIB

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77740-9

1TUDER		MARCE	
			Q ALICICATIONS
	Lieut.	W.L. Brown	
	Liont.	A. Wilkins	
100.000.000			
K37179 8116051	Pto.	Allen C. J.	Dvr 1/e
51.7041		Baskett L. r.	Dvr 1/c
A105865		Bassett W.R.	0.D.
1146569	Cpl A/Set	Bismonnette L.L.	0.D.
1114907	Pte.	Black J.K.	D/Mech
017423	Cpl.	Briard E.J. Broad E.R.	(.P.
166655	Pto.	Brown W.B.	C.D.
10.04537		Burlaigh J	C.T.
127061		Chuldwell h.w.	0.D.
F40984		Chisholm 1.D.	Brickeyer C
1149756		Clark J.J.	C.D.
111.4042.4 MADRED		Colland T.W.	Direch
M 207	Pin A/Spi	Granaton J.A.	Clark C
1155510	Ptn	Cunwford L.R.	r.h.
H62701		Cote J.	0.1.
119660		Findd R.	D/Mach
1135446		Doran H.J.	Dvn 1/c
138612		Turacher 11. Divel 7.0.	3" Corter
Y75123		Polegon F. C	Dur 1/e
774 594 ·	1.70%1	Pokeman .K.C. Polybolyn W.T.	W/Mach
100000A	Pte.	PMRO C.	Ctoranan C
111 0100	,	Onelw c	Dur 1/e
122108		Common W.J.	
1014070	,	Gmant C.A.	
10501.70		Colemban 1.J.	Bur I/o For I/o
1014104		Hanson H.L. Nepry C.I.	
HF034		Menson C.	
1,107293			
1103571		Hoffart A.	1.7
872711 10.6899		Hodgson J	T/Wech
E66775	1.	Hoths A	Dvr 1/c
1163717	Cpl.	Irvin J	C.D.
HROAM	Ptm. Cpl.	Jacobson W.O.	D/Mach
10.051.99	Pte.0	Johnson E.J.	C.D.
K65984		Johnson H.E. Kennedy G.C.	C.D.
1.64687		Kenyon W.D.	Pup 1/e
K11244		Kerr A.	When typ 1/p
F1.546		Firk S.	Shoema ay B
£10385		Fish P.	C.T.
1.64 gan		Kopitoski f.A.	c.n.
K354		Forgowy A.	n.D.
10.05705		Lariene O.Je	Dwg 1/e
1061.01	fleet,	LaFlaur C.F.	
100 410	Pte.	Laub U. Leganeki U.	Thorone n
1165433		line W	D/lech
1.11.254		Littletont J.J.	C.D.
M107426		Litke A.C.	Dog 1/0
H16099		Linnell / A.	3" bortes 141B
225mt		Long C.7.	Por. 1040
101402 M56536		Love C. L.	ter ach
W14645		Lyttle A.	5.0.
K46679		Enndin J.E.	Tyr 1/e
		Manaell H.P.	Tor 1/0 3" Morton //40 Tor ach Tor 1/e Der 1/e Der 1/e Der 1/e Der 1/e

	H1426	Pto.	Veffen J.	Dyr 1/e
	D144490		Morrison J.R.	
	K1482			0 .D .
	2222212	*	Mullis C.C.	D/Mech
	B131171	,	Mirrny J.	Dyr 1/c
	257744		MacDonald A.W.	n.n.
	#5658n		ManKinnon O.J.	Clark C
	M102317		MacLord R.A.	c.b.
	11/421/50			1,411
		,	MaCran H.	6 PAr.
	1012626		McChakar F.C.	a.r.
	10121		"chonsid J.A.A.	Trop 1/e
	P1 58576		Webawell h.h.	.D.
	D140352		McCar- J.h.	
	107111		MODEL NAME.	n/wech
		*	WeIntosh C.P.	3" Mortar
	101,837		Mel engle G.L.	G. D.
	1719		McFownn M.E.	Dow 1/c
	11168		Velovey 1.2.	Toy I'm
			Volose V.	
			1071080 It*	
			Weldillan A.R.	
			McMail .D.	
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SUMMARY OF EVIDENCE EX. H. Page 1.

In the case of L-12139 Pte. Rustulka, C., South Saskatchewan Regiment, on the strength of No. 1 Canadian Infantry Reinforcement Unit, a soldier of the Canadian Army Overseas.

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

FIRST WITNESS for the PROSECUTION H-16489 Sgt Longmuir, W.G., Princess Patricia's Canadian Light Infantry on the strength of No. 1 Canadian Infantry Reinforcement Unit, a soldier of the Canadian Army Overseas, having been duly sworn states as follows:

I am H-16489 Sgt Longmuir, W.G. I am employed as a clearing N.C.O. on the Training Increment of F Coy, No. 1 Canadian Infantry Reinforcement Unit, I was present on a parade held at 1300 hrs on 27 Sep 44 for the purpose of warning personnel proceeding on draft. L-12139 Pte. Rustulka, C. was on that parade. I know his name was on the nominal roll for draft and I also know that no one whose name was on the said nominal roll was absent from this warning parade. I know for certain that a man of his name and number was on the warning parade and enswered when "Pte. Rustulka" was called and replied by saying "L-12139" "C", thus giving his number and his initial. The parade, after it was ascertained that all were present, were warned by Capt. W.G. Burgess in the following words: "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 is sent off. Any unauthorized failure on your part to go with the draft when it leaves will result in you 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 you being charged with desertion on active service. If you are convicted of desertion the court has the power to sentence you to a maximum sentence of penal servitude for life. At some time prior to the departure of the draft a parade will be called on which you must be present and at which time the exact date and time of departure will be told you." Capt. Burgess also warned this parade that they were confined to barracks. He repeated "Confined to Barracks" The warning was given clearly and distinctly. I was standing behind the parade and could hear the warning distinctl

The accused declines to cross-examine this witness.

(W.G. Lowenit) H-16489.

SECOND WITNESS for the PROSECUTION H-16160 C.S.M. Hosegood, T., Princess Patricia's Canadian Light Infantry, on the strength of No. 1 Canadian Infantry Ecinforcement Unit, a soldier of the Canadian Army Overseas, having been duly sworn states as follows:

I am H-16160 C.S.M. Hosegood, T., and am employed as C.S.M. of P Coy, No. 1 Canadian Infantry Reinforcement Unit, P Coy is the Coy which prepares men to be sent on draft to the field. L-12139 Ptc. Rustulka was in P Coy on 27 Sep 44 and on that date at approximately 1300 hrs a draft warring was read by Capt. Burgess. Ptc. Rustulka answered his name by giving his name and number. I heard him answer in this manner. He then fell out of the squad and fell in on the right in a squad which a Sgt was forming in a hollow square. The warring order for draft was then read to this squad including the said Ptc. Rustulka by Capt. Burgess. The men were warned for special duty and that they would proceed on a draft and that they would be ready to proceed on draft from then on and any failure to be present and ready to proceed or such failure at any intermediate point before the destination was reached, would result in them being charged with desertion on active service. They were also warned that they would be confined to Barracks until the

Mus

Ex. H. Page 2 In the case of L-12139 Pte, Rustulka, C., South Saskatchewan Regiment, or strength of No. 1 Canadian Infantry Reinforcement Unit, a soldier of the Canadian Army Overseas. By direction of the Commanding Officer, this Summary of Evidence is, taken on I was standing behind the parade and heard

draft left. I was standing behind the parade and heard quite clearly and distinctly everything that Capt. Burgess

The accused declines to cross-examine this witness.

Hosebood H-10160

I am Capt. W.G. Surgees, 2 1/c of F Coy, No. I Canadian
Infantry Reinforcement Unit. I am employed as Draft Officer
and as such am in charge of preparing outgoing drafts to the
field from this Unit. On 27 Sep 44 at approximately 1300
hrs I called a nominal roll of Draft UKAC/9. All the
personnel whose names I called answered by giving their
regimental number and initials. There were no absentees
from this roll-call. After answering their names the man
moved to the right of the parade and were formed into a
hollow square by a Set. Then I called the name "Rustulka"
hollow squared with his regimental number and initial which
I checked with the nominal roll. When the roll-call had
been completed and a new parade formed up on the fight, I
placed the witnessing officers and WCOs in the rear of this
parade. I then read the draft warning. I produce the
nominal roll which I called on that parade and the draft.
warning order which I read to the personnel on that parade.
This document is marked Exhibit "A" and initialled by me for
purposes of identification. I further warned this parade
that they were confined to Larracks until the time of
movement.

The accused declines to cross-examine this witness.

ABurger Capt.

FOURTH WITNESS for the PROSECUTION

movement.

M-15894 Egt Benson, T.R., Loyal Edmonton Regiment, on the strength of No. 1 Canadian Infantry Reinforcement Unit, a soldier of the Canadian Army Overseas, A written statement of this witness's evidence purporting to be signed by him soldier of the Canadian Army Overseas, A written statement of this witness's evidence purporting to be signed by him has been read to the accused and is included in this Summary of Evidence, and marked Appendix "A".
"I am MISB94 Szt Benson, T.R. I am employed as a clearing NCO on the Training Increment of F Coy 1 CIRU. L12139 Fte. Rustulka, C. was in my squad. Pte. Bustulka, was present on a parade at 1300 hrs 27 Sep 44 when the draft warning was read by Capt. Burgess. The draft was also warned that they was absent from inspection parade at 1045 hrs on the 25 Sep 44. He was absent from the draft pay parade which was at 44. He was absent from the draft pay parade which was at 1400 hrs 28 Sep 44.

Signed: M15894 Sgt Benson, T.R.

Having regard to the loss of time involved the attendance of this witness cannot in my opinion be readily procured,

R.B. a (R.B. Allan) Officer detailed takt the Summary of Svidence. r detailed to

SUMMARY OF EVIDENCE

In the case of L-12139 Pte. Rustulka, C., South Saskatchewan Regiment, on the strength of No. 1 Canadian Infantry Reinforcement Unit, a soldier of the Canadian Army Overseas.

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

FOURTH WITNESS (Continued) The accused does not demand the attendance of this witness for cross-examination.

Lieut, K.A. McKenzie, Canadian Infantry Corps, on the strength of No. 1 Canadian Infantry Reinforcement Unit, an officer of the Canadian Army Overseas, having been duly for the PROSECUTION officer of the Canadian Army Overseas, having been duly sworn states as follows:
I am Lieut. K.A. McKenzie, Acting Adjutret of No. 1 Canadian Infantry Reinforcement Unit. I produce Part I Order No. 2420 dated 25 Sep 44 published by this Unit which relates to L-12139 Pte. Rustulka, C. This document is marked Exhibit "B" and initialled by me for purposes of identification.

The accused declines to cross-examine this witness.

(K.A. McKenzie)

G-18154 L/Cpl Brayal, M., Canadian Infantry Corps, on the strength of No. 1 Canadian Infantry Reinforcement Unit, a soldier of the Canadian Army Overseas, having been duly SIXTH WITNESS for the PROSECUTION sworn states as follows:

I am G=16154 L/Gpl Brayall, M. and am employed as an NCO of the Regimental Police, No. 1 Canadian Infantry Reinforcement Unit. At approximately 1115 hrs on 10 Oct 44 I was NCO in charge of the Guard Room of this Unit when Pte. Rustulka, C. whom I now recognize surrendered to me. I this personal belongings from him and placed him under arrest. He was sober, clean-shaven and properly dressed.

The accused declines to cross-examine this witness.

M. Brayalf G-18154

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 elects to make a statement:

L-12139 Ptc. Rustulka, C., South Saskatchewan Regiment, on the strength of No. 1 Canadian Infantry Reinforcement Unit, a soldier of the Canadian Army Overseas, states:

I am not guilty of desertion.

Pte.

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

In the Field,

(R.B. Allan) Officer detailed to take the Summary of Evidence.

13th day of October, 1944

Ex. F

Statement as to Character and Particulars of Service of Accused.

			R., 1 C.I.R	
luct sheets† of the accused he Army Act, and of case	is a fair and true summary of the en I, exclusive of convictions by a court m is in which trial has been dispensed w	nartial or a civil court, of	d squadron, battery summary awards ur	or company con- nder section 47 of
GOTE.—At a trial by field general court martial this summaria this summary may be compiled from the field conduct sheet, the conduct sheet, mentioned should be produced in court with this statement but not annexed to	* Within last 3	2 months.	* 1	Since Enlistment
be conduct sheet(r) mentioned should be produced in court	For AA.15(1)	3	times	16 times
with this statement but not annexed to the proceedings. See para, 677, K.R.,	For AA.40	1	times	1 times
The numbers breen stated should corre- spond with the number of entries in the conduct the commence	For		times	times
number of entries in the conduct slowers, prominence	For		times	
in the conduct shores, prominence heres given to the most serious offence to each entry, and to any recognized special acts of gallantry or distinguished conduct.	For		times	
	Number of instances of ga	liants or distinguished cor	nduct;	
the charge is for drunkenness the entries for drunken- ness must be stated separately and dated.	There are no entries in the	conduct Skeets of the accuse	ed.—	
2. The accused l	has not been previously convicted, o	M.		
Previous conviction	ns† of the accused by a court martial	or a civil court, summary	awards under secti	on 47 of the Atmy
in civil custody, and of which.	days were spent in hospita	ary custody, making a total		d days
	-constitution 100	estation paper		
6. The date of	his specified in his attestation	os do service is 17 Se estation paper	; 1939	A ure 100
6. The date of	his attestation specified in his attestation attention att	estation paper is 17 Se estation paper on towards discharge or trans	p 1939 ofer to the reserve is	
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Schedule of Convictions by a Court Martial or Civil Court, of summary awards under Section 47 of the Army Act and of cases in which trial has been dispensed with of accused.

Regiment (or as the case may be). of S.S.R. L-12139 Rank Private Name Carl RUSTULFA (INSTRUCTION—A verbatim extract from the regimental books, stating these convictions and dispensations with trial, must be inserted.)

Description of court by which ed, or status of ficer disposing of e charge or dis-	with trial	Charges upon which convicted, or in respect of which trial was dispensed with	Sentence of the count or authority disposing of the charge, or order of the dispensing authority.	Punishment remitted.
nsing with trial	25 Aug 41 Field		126 days Detention	A3 days
F.G.C.M.	11924			

I HEREBY CERTIFY that the foregoing schedule of convictions and dispensations with trial is a true extract

from the regimental books in my custoffy.

Signed this 26th day of Oct. day of Oct 414

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Place		iste of idence	Bank	OFFENCE	Names of Witnessey	Punishment Awarded	Instant award or of union dispen- sing with trial	By whom awarded	Hemarks
Field			Pte			126 days Detn	25-8-40	DO 60 FOCM	Forf 140 days
				Granted remission of					pay 1 mil
Field			Pte	wef 15-11-41 (DO 282) AA.15(1) AWL 3 hrs 10 mins	Supp 1) d/1	Dec 41)	17-3-42		Forf 8 days
			Pte	AA.15(1) AWA		14 Jays F.F.			Forf 22 days
Field			Pte	AA.15(1) AWL-11 hrs-15 mins		B-Baye-Detn	6-10-42-	-3 0- 99	Forf) days
Field				AA.15(1) AVI 25 Oct - 27 Oct			28-10-43	DO 84	Forf 17 dava pay
Field	1		Pte	AA.15(1) AWL 23 hrs		168 hrs Detn	10-5-43	D0 32	Forf 8 days
Field	1		Pto	AA.15(1) AWL		7 days C.B.	13-9-43	DO 57	Forf 7-days
Field	d		Pte	AA.15(1) AWL	141/3		15-11-43	DO 67	Forf 9 days

Place	Date of offence	Bank	Cases of drunken- tiess	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispen- sing with trial	By whom awarded	Remarks
Field		Pte		AA.15(1) AWI.		10 days C.B.	29-12-43		Forf 7
				AA.40 Conduct to the Prej etc		7 days F.P.			
		Pte				7 days Pay 28 days F.F.			
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Marto the t	rial of two or more charged joints omt, A/rank or A/appmt, if any, see	y see RP 16, 71,	109. As to reasons for showing	(a) permanent or confi	rmed
Number. (a) Pru	ant R. (b) Appmt, A/R or	A/Appmt.	Full Christian Names.	Surname.	Unit.
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KENEMING	OFFICER, JAG DEAS	REFRIME:	OF TRIAL.		
Held in the Fd in (e	country) England		on (date(f)	16 F.B.	¥≥
	D FORM A-OPEN				
At. The Pres Court is closed.	ident, Members, waiting M	fember, JA, i	f any, and Offrs under t	nstr, if any; assen	ible, and the
(PRINTED MA BY PRES OR) on procedure w will be made a CF APS. (or pa	TTER, NOT IN ITALICS FOR GUI A. The Scliedule referred to throw then a variation in this form acise, d given a number having reference, the and instra on hew to record a conducting the trial see AA S3, RP	aghout is an p.4. Lee form for G to appropriate a ddreases, evidence 55, 63-70, 73, 74,	Citations do NOT include all 16 CM in MML pp 741 to 759. A is preceding para number hereio atts, which instry are hereafter 94, 103, 119, 132.)	See back of Convening called "Nates". As to	artiotion g Order, general
A2. The Pres The Court is satisfi each charge disclos	ident initials and lays before ied that it is properly conv es an offence.(3)	e the Court the	dituted(2), accused is (a/c		
4 A9 The Cou	use of Summary of Evidence see R rt is opened. The accused				al commences.
	secutor produces a Medical forms the Court that acci CO.(*)	Certificate thused elected t	at accused is (age) fit to a	indergo trial by co tial instead of bei	urt-martial.(*)
A5. Presiden	t to accused: Do you e	bjeet to		interpreter 1 Ar	198
The Interpreter is The shorthand wri	sworn.(1) Do you object t	0 P. 1 M.6 S.	I SINCLAIR A Sis sho	erthand writer ! A	ins 120
10 00 0	avening Order and names accused: Do you object to	of the Preside	nt and Members of the (me as President or by an	Court are read to y of the Members	the accused.(1) of the Court †
Ans (1. RP 110.	2. If no objection, walting a	nember retires.	RP 68(B). If objection, see proc	edure AA 51, RP 25, 71	, 18, MML p 742.)
A7. The Pre ranks, names and	esident, Members, JA, if a units of the offrs comprisin	ny, and Offre g the Court, s	under instr, if any, are te:	sworn (*) The tot	lowing are the
President	AT-COL	2.6	KERMAN	17.9	CRU
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(1. RF 26, 2 (2. If Pros a	a contract the second	a large will be a	eturned separately with proceed a adjournment when RP 89 (B)	fings for information a and fn 2 were not folk	owed. See DI p 3.)
As. The so				arraignment make	(1)
(RP 34, 35 by one of se exidence, if	a special plea is made for sepanas (A), 113), or in bar of trial veral accused charged jointly to be any, and finding are recorded pe f the accused making the plea.	e triol on one or (RF 36), or as tried separately (r Notes. For fari	more charges $(RP, 62(E), 108)$, or to occused's mental fitness to $RP, (6, 71)$, such plea, the oddress as a frecord see references in fit	r as to-the jurisdiction of a stand trial (AA I X), see made in support or a to RuP coted. Insert	Filip Court
M A9. The ac	ccused is (are) arraigned (s y charge.(1) There is no as	eparately) on mendment to	all charges in the charge be made to the Charge Si	e sheet.(1) The acheet.(2) The President	cused does (døf dent records the
pleas in Part I o	if the Schedule. P 31, 112. See para 1 of Instra p use RP 71(C), and use seps, ate cusp priate record per Notes.)				

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

- 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).
- As to responsibility of President to accused see RP 59, 60(C); powers and duties of JA see RP 103; duty of 3. As to responsibility of Frestien to accused see RI '0M, 00(0); powers and duties of JA see RF 103; duty of prescutor see RP 60(A) (B); duty and privileges of accused and Defending Offr see RP 60(C), 87(C), 91, 92; secaring 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 of 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), call witnesses as to character and make an address in mitigation of punishment.(*)

(1. RP 35 fo 3. 2. MML p 54 paro 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 reference to the charge(f).(!) 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 making 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 punishment to which you are liable, you will not be advised to change your plea. If, however, it appears to the Court that your statement 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... NO 113 (J. RF 37(B). 2. RF 37(D) fn 6. 3. RF 35(B) fn 5 page 3, bML p 54 pare 47. 4. See pare E3 of Record Form E.

5. Statement, if any, recorded per Notes.)

B3. The Court considers the accused's statement (i). 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 be (they)

B4. On the charge of to which the please of Guilty is (are) not changed the President records findingies of 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. [7], initialled and read aloud by the President.(1)
(1. If there is no Summary, or if it is inedequate, tempty with RF 37(8). If there is any evidence inconsistent with any piece paras B1 to 08 inclusive of Recard form D on p 3. RF 37(D).)

B8. 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 3 (1) 18 37(4) (5)

C2. The charges on which accused pleaded GUILTY are read to him (them) again, and the trial is continued

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

(1. Under 85 such parts only of the Summary of Evidence are read as relate to the charges dealt with under C2. If any piec is changed to Not Guilty, trial thereon proceeds by complying with paras D1 to D8 inclusive in Record Form D on p 3 and making an appropriate record thereof on a separate theet.)

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

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

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 > > (PL.....(1)

D2. The Prosecutor makes (and (no) opening address.(1)
(1. RP 39(S), 60(A) (B), 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 RP 39(D) (E).)

D4. The Prosecution is closed.(1) The Defending Offr submits that the guidence for the Prosecution does not establish a prima facie case against the accused on the is closed, and considers the submission. (3) The Court is re-opened, and this President announces that the submissioncharge(s).(2) The Court is disallowed on the.... 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 the latter charge(s). the charge [31.[4]

(I. Delice remainder of this para, if submission not mode.

21) Arguments on submission, onswer and reply are recorded on all charges. We seem that the para (2.14 and p. 8) for A2.

4. Delice part not used. If accused acquitted N8: If trial proceeds, occused must be allowed great leaburge in making his defence, and the Court should not stip his defence solely on ground of irrelevance. (AP 60(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.(*)

yourself on oath as to the facts or your character or both, in which case you will 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. (*)

You may call witnesses in your defence and as to character, whether you give evidence or make a statement or do President to accused: Do you wish to give evidence yourself as a witness, make a statement, or do neither ?

Ans Your Continued Do you intend to call witnesses on your behalf? Ans. NO -5 1 M Are they witnesses as to character only 1 Ans (1. RP 115. 2. RP 40(A), see 80(D). 3. RP 40 (a) 0. 4. RP 40 (ns 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 R65. Evidence for accused as to his character should, if in his interest, be given before the finding. See RF 46(A) in 1. 86(C). Note threshe opportunity in pare E1 of Record Form E. Record per Notes addresses, statement, evidence and any summing up by the 14 under RF 42, (03(e).)

D7. The Court is closed to consider the finding () The finding (of the Court is () recorded in Part I of the Schedule.(*) The Court is re-opened.
(1. SF 43, 177(A). See Notes in Fart 1 of Schedule. 2. RF 44(A).)

D8. The President announces the finding(s), if any, of Not duilty, and states to the accused that the finding(s) M of the Court on the M of the Cours on the

Qr. The President announces that the accused is found Not Guilty on all charges and is to be released fact. (1)

and that the proceedings are accordingly terminated. Fast 1 of the Schedule is dated and signed forthwith,

(1. As 54(2) (8), 87 45, 120(A) 2. As 54(3), 87 45, 127 (A) 7 85, 187. This citernative consumement is not applicable when there

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.

E1. President to accused : Do you wish to give evidence yourself or to call any witnesses as to your character 1(1) NU-514

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

E2. The Prosecutor produces Statement() as to Character and Particulars of Service(1), and certified true copy (copies) of Conduct Sheet(s)(2), purporting to refer to the accused, which he submits to the Defending Offs for 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 the soldier(s) having the same number, rank name and curred as the accused. Admitted in evidence and to refer to (a) soldier; having the same number, rank, name and corps as the accused. Admitted in evides marked Ex B and Ex Co respectively (*)
(1. MFB 335 or AFB 296. 2. MFM 8. 3. RF 46, KR Con 558. If above documents not produced, see RF 46 fn (

E3. President to accused: Do you wish to address the Court on the Statementies and Conduct Sheeties, and in

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 mays (2) (1). When several accused trued separately see RF 71 (D). One sentence only, competized of the positionments of the position of the position of the president of the position of the position

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

SCHEDULE.

PART I. PLEA(5), FINDING(5) AND SENTENCE.

	Plea.	Finding.	
Insert " alternative" where applicable.)	(See Instra.p 2.)	(See note below.)	(Space for use as required for further charges, accused charged jointly, special findings, etc.)
AA Sec 9 (2)	tuiliy	MILIY	
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th:			
			100 100 100 100 100 100 100 100 100 100
(Note : As to fin special findings see R	dings for lesser offer P 44 and MML p 75.	ices see AA 56, RP 44 ; I, and in lass of kit see	findings on alternative charges see MML p 483 fo 4 para 2, RP 44 ; RP 44 (n 6.)
A nament under control	on for		beginning on (date)(t
(1. Insert sentence	being served, or dela	ete, if not opplicable. 5	es RP 46(A). Information should be found on MF B355 or AF B296.)
ime in confinement av	vaiting present	trial—a total of	days, of which days were spent in hospital (*) 355 or AF B296 admitted in evidence under E2.)
Sentence Awarded by the		_	- 10
	un A	elent	in fire ferron
one	TO X	6814	1000
ulining!	ught	(60)4	0.00
PART II.	MINUTE WH	ERE CONFIRM	ATION RESERVED. (AA 54(5), RP 120(F), MML p 760.)
		ERE CONFIRM	ATTOM RESERVED. CONSIGN OF THE PARTY OF THE
	10. 1	ERE CONFIRM	
	(Sgd)	ERE CONFIRM	Commanding
Date PART III	DECISION O	e confirmin	Commanding
Date	DECISION O	e confirmin	Commanding
Date PART III	DECISION O vers see AA 54, 57, A nnoat be revised: Ai seed may be tried ago 53, MML p 65. Qi The Confirming Offr	DF CONFIRMIN RP 37(D) fn 6.46(A), 5: 4 54(3). Sending bock in: AA 157, MML b 6 coshing after promulgo must sign here persona must sign here persona	Commanding IG OFFR ON FINDING(5) AND SENTENCE. 1-56. 120. MML pp 759-761, KR Can 567-577. Acquittals require no finding or sentence for resistant by Court: AA 54(2), RF 120(G). If 4. Minute of confirmation or non-confirmation may be ditered before tion: KR Can 573. Duties and powers of reviewing offs: AA 57, lly, AA 172 fn (-).
PART III. (For duties and per- confirmed, diccu- promulgation : RP 5TA, RF 53A, 541	DECISION O vers see AA 54, 57, A nnoat be revised: Ai seed may be tried ago 53, MML p 65. Qi The Confirming Offr	OF CONFIRMIN P 37(D) fn 6.46(A), 5: 454(3), Sending bock in: AA 137, MML p 6 seating diter primules must sign here persona sentence set forth	Commanding IG OFFR ON FINDING(S) AND SENTENCE. 1-56. 120. MML pp 759-761, KR Can 367-577. Acquittuls require no finding or sentence for revision by Court: AA 34(2), RF 120(G). If 4. Minute of confirmation or non-confirmation may be ditered before tion: KR Can 373. Duties and powers of reviewing offrs: AA 37, ily. AA 172 (n 1.) In Part I is:
PART III. (For duties and per- confirmed, diccu- promulgation : RP 5TA, RF 53A, 541	DECISION O vers see AA 54, 57, A nnoat be revised: Ai seed may be tried ago 53, MML p 65. Qi The Confirming Offr	of CONFIRMIN P 37(D) fn 6.46(A), 5: 454(3), Sending book in: AA 137, MML p 6 woshing diter promulge must sign here persona sentence set forth	Commanding IG OFFR ON FINDING(S) AND SENTENCE. 1-56. 120. MML pp 759-761, KR Can 367-577. Acquittuls require no finding or sentence for revision by Court: AA 54(2), RF 120(G). If 4. Minute of confirmation or non-confirmation may be ditered before tion: KR Can 373. Duties and powers of reviewing offrs: AA 57, ity. AA 172 fn 1.) In Part I is:
PART III. (For duties and per- confirmed, dicus promulgation : RP STA, RF STA, St.4.	DECISION O vers see AA 54, 57, A nnoat be revised: Ai seed may be tried ago 53, MML p 65. Qi The Confirming Offr	of CONFIRMIN P 37(D) fn 6.46(A). Si \$34(3). Sending book in: An 137, MML p 6 working ofter promulge must sign here personal sentence set forth	Commanding IG OFFR ON FINDING(S) AND SENTENCE. 1-56-120, MML pp 759-761, KR Can 567-577. Acquittals require no finding or sentence for revision by Court: AA 54(2), RF 120(G), If 4. Minute of confirmation or non-confirmation may be distend before tion: KR Can 573. Duties and powers of reviewing offs: AA 57, life, AM 172 (n 1.) Im Part I is: Limit 1 is: Limit 1 is: Limit 2 is: Limit 2 is: Limit 3 is: Limit 3 is: Limit 4 is: Limit 4 is: Limit 4 is: Limit 5 is: Limit 6 is: Limit 6 is: Limit 6 is: Limit 6 is: Limit 7 is: Limit 7 is: Limit 7 is: Limit 8 is: Limit 8 is: Limit 8 is: Limit 9 is: Limit 9 is: Limit 9 is: Limit 9 is: Limit 1 is: Limit 2 is: Limit 1 is
PART III. (For duties and post- confirmation and co- net confirmation and co- promulgation: PF 57A, RF 53A, 54. 1 My decision on the	DECISION Corrasses As S4, S7, Innoct be revised: A seed may be tried age 53, MML p 65. Quite Confirming Office finding(s) and	PF CONFIRMIN SP 37(D) fo 6.46(A). 5 8.54(3). Sending book so As 157, MML to 6 soshing after promulgo must sign here persona sentence set forth committed to pr (1. AA 57A. be	Commanding IG OFFR ON FINDING(S) AND SENTENCE. 1-56. 120. MML pp 759-761. KR Can 567 577. Acquittuls require no finding or seitence for resistant by Court: AA 54(2), RF 120(G). If 4. Minute of confirmation or non-confirmation may be diseased before too. KR Can 573. Duties and powers of reviewing offs: AA 57, by, AA 172 fn 1.3 In Part I is:
PART III. (For duties and post confirmation and construction and construc	DECISION O vers see AA 54, 57, A nnoat be revised: Ai seed may be tried ago 53, MML p 65. Qi The Confirming Offr	DF CONFIRMIN P 37(D) In 6.46(A), 51 54(3). Sending book in: AA 157, MML p 6 soshing ofter promulge must sign here persona sentence set forth Consmitted to pur (1. AA 57A. De	Commanding IG OFFR ON FINDING(S) AND SENTENCE. 1-56-120, MML to 159-761, KR Can 567-577. Acquittals require no finding or sentence for revision by Court: AA 5423, RF 120(G). If 4. Minute of confirmation or non-confirmation may be distread before tion: KR Can 573. Duties and powers of reviewing offrs: AA 57, lly, AA 172 (n l.) in Part I is: Limit Soon or detention barracks until fasther orders (1) (Sgd). A Mare A. (Sgd). A Mare A.
PART III. (For duties and post confirmation and construction and construc	DECISION Corrasses As S4, S7, Innoct be revised: A seed may be tried age 53, MML p 65. Quite Confirming Office finding(s) and	DF CONFIRMIN P 37(D) In 6.46(A), 51 54(3). Sending book in: AA 157, MML p 6 soshing ofter promulge must sign here persona sentence set forth Consmitted to pur (1. AA 57A. De	Commanding IG OFFR ON FINDING(S) AND SENTENCE. 1-56, 120, MML pp 759-761, KR Can 567-577. Acquittuls require no finding or sentence for revision by Court: AA 5473, RP 120(5). If A. Minute of confirmation are non-confirmation may be distend before ton: KR Can 573. Duties and powers of reviewing offis: AA 57, by AA 172 (n 1.) In Part I is: Limit (1) The confirmation of the confirma
Date PART III. (For duties and post- confirmation and co- net confirmation and co- net confirmation and co- promulgation: RP 57A, RF 53A, 54. 1 My decision on the I direct that the	DECISION Covers see AA 54, 51, 14, 16, 16, 16, 16, 16, 16, 16, 16, 16, 16	of CONFIRMIN P 27(D) In 6.46(A). 5: 54(3). Sending book in: AA 137, MML p 6 suching ofter promulge must sign here personal sentence set forth Committed to pr (1. AA 57A. De	Commanding IG OFFR ON FINDING(S) AND SENTENCE. 1-56, 120, MML pp 759-761, KR Can 567-577. Acquittels require no finding or sentence for revision by Court: AA 5473, RP 120(5). If A Minute of confirmation or non-confirmation may be ditered before toon. KR Can 573. Duties and powers of reviewing offs: AA 57, by, AA 172 (n 1.) In Part I is: Limit (Sept.) (Sept.) (Sept.) (Sept.) (Sept.) (Sept.) (Confirming Officer.
PART III. (For duties and post confirmation and construction and construc	DECISION Covers see AA 54, 51, 14, 16, 16, 16, 16, 16, 16, 16, 16, 16, 16	DE CONFIRMIN BP 27(D) fo 6.46(4). 5 8 54(3). Sending back in : AA 157 MML p. 6 consmitted to pr (I. AA 57A De COLUMN CONTINUES TO COLUMN	Commanding IG OFFR ON FINDING(S) AND SENTENCE. 1-56. 120. MML pp 759-761, KR Can 567-577. Acquittals require no finding or sentence for revision by Court: As 5412, RP 120(G). If Alloute of confirmation or non-confirmation may be distrest before tone: RR Can 573. Duties and powers of reviewing offrs: As 57, by As 172 fn 1.) in Part I is:
PART III. (for duties and pos- confirmation and co- not confirmed, actus promulgation: RP 57A, RF 53A, 54. 1 My decision on the	DECISION Of the property of the control of the cont	of CONFIRMIN P 27(D) In 6.46(A). 5: 54(3). Sending book in: AA 137, MML p 6 suching ofter promulge must sign here personal sentence set forth Committed to pr (1. AA 57A. De	Commanding OG OFFR ON FINDING(S) AND SENTENCE. 1-56-120. MML pp 759-761, KR Can 567-577. Acquittuls require no finding or sentence for revision by Court: As 5412, RP 120(G). If A Minute of confirmation or non-confirmation may be disress before toon. KR Can 573. Duties and powers of reviewing offis: As 51, lly, As 172 (n 1.) In Part I is: Limit (Sept.) (Sgd.) (Sgd.)

CHARGE SHEET

The accused, No. A. 118257, Private Joseph Jacob RUSZCZAK, Canadian Infantry Corps, No 5 Depot Eattalion, No 5 Canadian Infantry Training Regiment, a soldier of the Canadian Army Overseas, is charged with:--

GHARGE SEC. 9 (2) Army Act WHEN ON ACTIVE SERVICE DISOBEYING A LAWFUL COMMAND GIVEN BY HIS SUPERIOR OFFICER

in that he in the Field at 1330 hours on the 7th February, 1945, when ordered by Captain H.W. McIntosh, RCAMC, a medical officer attached to No 5 Canadian Infantry Training Regiment, to submit to inoculations did not do so.

elulleldiam col.

J. M. Meldram) Officer Commanding No 5 Canadian Infantry Training Regiment

In the Field, 10th February, 1945

To be tried by Field General court Martial.

(K G Blackader) Brig

13 Cdn Inf Trg Bde

In the field 14 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 offr of Cdn Army Overseas, or d any other force if authorized in law, in immediate camd of troops on active service, subject to RP 105(C) and restrictions imposed by appropriate authy. RP 87(B), 104-107, 114. As to the duties and privileges of the Convening Offr in dealing with the application see MML Chap Y paras 20 and 23,

RB 87(8).

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 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 16, 1099 and to reasons for showing (a) permanent or confirmed rank, and (b) appmt, Alrank or Alappmt, If any, see AA 182, 183, fins. KR Can 308, 328, 330.)

ACCUSED.

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

Full Christian Names.

Surname. Unit.

A-118257 Pte

Joseph Jacob

RUSZCZAK CIC 5 CITR

CONVENING ORDER.

- Martial"
- 2. And whereas I am of opinion that it is not practicable that such offence(E, should be tried by an ordinary General Court-Martial; (EXPRESEE EAS.) (Delete part in brackets when not required for compliance with RP
- I hereby convene a Field General Court-Martial to try the said person , and to consist of the Offrs appointed or detailed hereunder
- 4. 某队企长为其重要实现的企业发生来来,就需要对策的来说的现在分词,在现在实现的大型的现在分词,并不是不是不是不是不是不是一个人, MINING ANTHONY (AA 49, RP 106(B), 107(A). Delete the whole or part, if not applicable.)

PRESIDENT.

LT COL

D L REDMAN, VD

(Must be named. RP 106.) MEMBERS.

HQ CRU

Captain

to be detailed by Commanding Officer

2 CITR

Lieutenant

to be detailed by Commanding Officer

4 CITR

(Rank.)

(Named or detailed. RP 106.)

WAITING MEMBER.

Captain

to be detailed by Commanding Officer

2 CITR

(Must be named, if ony

On Active Service in the Fd

England

(Country.)

Dat 14 Feb 45

RP 105 fn 2.)

Brigadier

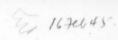
(K G Blackader)

13 cdn Inf Trg Bde

CONVENING OFFR WILL INITIAL ALL DELETIONS AND ALTERATIONS

4/38A CFA 95 (In Beu of AFA 3) 40/P & 8/1697 (6143)

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



MEDICAL OFFICER'S CERTIFICATE

I certify that No. A-118257, Private Joseph Jacob RUSZCZAK, CIC, No. 5 Depot Battalion, No. 5 Cdn Inf Trg Regt, CAO, is in a fid state of health and is fid to undergo trial by Court Martial.

Mice Chipsond Capt.
Signature of Medical Officer
R.C.A.W.C. Attis b Chiffe, CAR.

I recognize the accused, and on 7 Per 45 at about 1830 hrs I was on duty in the Yed Inspection Room 5 SITE, and I saw the accused and told him it would be necessary for him to submit to needles and he said "I'm not taking any needles". I then called Fte Swanston, the med orderly, into the office and I then explained to the accused the reason for taking the office and I then explained to him that he would be disobeying insculations and further explained to him that he would be disobeying a lawful order if he refused to take them and asked him if he understood what I told him and he said he did and he rejected that he was not taking any needles and refused to take the needles. He was then taken eway. He wasn't incaulated, and I cave him time to samply with the order

THIRD STREETS

dapt MN CHERESIUM, ROAMS, ALL & CITA, having been halv sworm,

I recognize the accused, and I examined him about 10.00 on 10 Feb 4D and examined his Service Book and asked him medical questions regarding his reat history and found nothing to indicate that incombations might in any way injure his health.

GROSS-INCAPIDED

- Un the occasion did the acoused appear insubordinate or insulent?
- Are you a fully qualified physician?

IN THE OF THE OF THE OTHER OF THE IN IN THE UNIXONAL COURSE OF THE PROPERTY OF SERVICE

THE PROSECUTOR PRODUCED C.R.O. 1809

C.R.O. 1809 BARKED BUTTETT ST

THE PROSECUTTOR IN GLOUID

DEFE

The socused, having been duly sworn, states:

I proviously have had inoculations and didn't first well from them. I had hanches and a ringing sound in my head and a seen sincles and sot are spin coulant wises well at which and it will comes back on me once in a while. Lefore I was incomested I never had them symptoms, and I don't think these incomistions to me any good at all, in fact I think they do me harm.

NO CHORD-L'CLUTT TION

THE THE STREET STATES OF THE CHARGE IN IS THE TREETS ASY NO GOALLY SATE AN OSCIENT



STATE OF BY THE THOUSENING ON THE PINDING

In this, p. 444, there is a statement to the offset that no secured cannot be unlabed for requeste to submit to an incontation and I will read this to the Court (Pros reads this section), on that is the opinion of the person who wrote the note is the book and as I understand the law we take this AA and his notes for what they are worth, not if they conflict with our own law. That it conflicts I submit is shown in O.R.O. 1809, and I signife that this has the authority of PC 634. (Pros quetes the order). It this case while the onus was on the scoused to prove it would be detrimented to his health the ironesution has brought a witness that it would not be, and it would arress that the derence of bis health has been auswered and the nefence of religion has not been raised. That is all, 51r.

DEATHERN DE TEX DES DES DIFE DE TRE PERMITE

a point I would like L bring one is mentioned in the order eiter in regards to the intracematic respond on behalf it as an entering to the interest of the interest of the secured. The mental hexard within the secured body of the secured. The accused is a voluntour, his had previous thoughtful and has talk the effect of them on his. He has done nothing prejudicial to his good behaviour at the time and there was no insolence shown, and I would like to bring in the point that the frame of this man's wind is such, whatter or not the inoculations are detrimental to is good health, he thinks they are , and simply feels that they don't to him one pood and has that thought fully placed in his mind that it is densarous to him.

THE GOURT IS CLOSED TO CONSIDER THE PERDING

FLEA IN MITTION TION (BY DPO WEER)

In view of the fast that the socused has riested trial by Fush may his punishment be only such as he would receive from his to and in someiveration of any punishment amorted to assumed I request that the sourt take into consideration the high tension psychologically of this man. I believe the ansower can be found if this can was submitted to psychiatrist for examination. He was singered in his belief that the innoculation would be harmful to him. I do not believe that any time it was the mane intention to clog up the wheels of justice but he has done this to show that his refusal was apparently for a reason other than xx seen onthe surface. The socused has spent 7 days in confinement awaiting this trial, this should be taken into consideration in awarding excience sentence.

THE COURT IS CLOSED TO CONSIDER ITS BANTANCE.



SUMMARY OF EVIDENCE

In the case of No. A. 118257 Private Joseph Jacob RUSZCZAK, Canadian infantry Corps, No. 5 Depot Battalion, No 5 Canadian Infantry Training Regiment, a soldier of the Canadian Army Overseas, charged with disobedience of a lawful command given by his superior officer (AA Sec 9 (2))

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

First Witness FIRST WITNESS Captain Hamish William McINTOSH, Royal Canadian Army Medical Corps, Attached to 5 Canadian Infanty Training Regiment, Canadian Army Overseas, having been duly sworn states;

"At 1830 hours on 7th February , 1945 while on duty as medical officer at the medical inspection room of 5 Canadian Infantry Training Regiment, Canadian Army Overseas, I told the accused No. A. 118257 Frivate Joseph Jacob RUSZCZAK (whom I now recognize) that he was then required to submit to inoculations. He replied "I am not taking any needles". I then called No. B. 64403 Frivate Leslie MacDonald SWANSTON into my office and in the presence of the said Swanston, explained to the accused the reasons for inoculations and further explained that the accused would be disobeying a lawful command were he to refuse after being ordered to submit to inoculations. I then asked the accused if he understood what I had just said. He replied "Yes". I then said to the accused. "You will take the inoculations now." The accused then replied "I am not taking any needles". He, the accused, did not submit to the inoculations although he was given ample time to comply with the order so to do.

The accused declined to cross-examine.

thor this capt

R.C.A.M.C. Att'd. 5 CITR.

Second Witness SECOND WITNESS No. B. 64403 Private Leslie MacDonald SWANSTON, 5 CAUADIAN INFANTRY TRAINING REGIMENT, Canadian Army Overseas, having been duly sworn states;

At 1330 hours on 7th February, 1945, I was on duty in the medical inspection room at 5 CITR when I heard No. A. 118257 Private Joseph Jacob RUSZCZAK, (whom I now recognize as the accused) asked by the medical officer on duty, Cept. H. W. McIntosh, the first witness, to submit to inoculations. The accused replied "I am not taking any needles". The seid medical officer then explained to the accused the reasons for inoculations and that the accused would be disobeying a lewful command if he were to refuse to submit to inoculations. The said medical officer then ordered the accused in the following words: "You (meaning the accused) will take these inoculations now." The accused thereupon said "I refuse to take any needles!" The accused did not submit to inoculations as ordered and was removed from the medical inspection room by an N.C.O.

The accused declined to cross-examine

L'Andwarder Pte.

5 CITE

M

Third Witness

THIRD WITNESS. Captain Maurice William CHEPESIUK, Royal Canadian Army Medical Corps, attached to 5 Canadian Infantry Training Regiment, Canadian Army Overseas, having been duly sworn states;

At 1035 hours on 10th February 1945, while on duty in the medical inspection room at 5 Canadian Infantry Training Regiment, Canadian Army Overseas, I personally examined the service book and past medical history of No. A. 118257, Private Joseph Jacob RUBZCZAK, (whom I now recognize as the accused) and now certify that it is very unlikely that the proposed inoculations would be injurious to the health of the said accused. I am fully qualified physician and am a medical officer at 5 Canadian Infantry Training Regiment. C.A.O.

The accused declined to cross-examine.

new Chepesink cape.

Question to the accused ----

Do you wish to make any statement or to give evidence upon 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.

Answer by accused ---

I have nothing to say.

The accused declined to call any witnesses.

I certify that Rules of Procedure 4 (C), (D), (E) and (F) have been complied with and that this Summary of Evidence consisting of this and the one preceding page was taken down by me in the presence of the accused, and that the evidence of the first two witnesses was taken down on the 9th February 1945 and the evidence of the third witness was taken down this 10th February, 1945.

(E. J. McCormick, Lt)
5 CITR CAC Officer detailed
to take the Summary of Evidence.

Statement as to Character and Particulars of Service of Accused.

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

Number	Rank	Name.	Regiment (or as the	e caso may be).
118257	Private	RUSZCZAK CI	C, 5 CITR CA	0
NOTE.—The Fiel Conduct Steed in the I produced in Court within statement but in a to be amounted to the presentings. The number bers in stated should corre	of the accu	following is a fair and true su sed, exclusive of convictions by For Absence without	y a court martial or a civil co	
pond with the number Entwice in the First Co- duct Sheet, prediction being given to the ma- mericus efficience in ea- morten. If the charge is f	of no- ce at at	For Neglect (no	shave on parade)	1 times.
drunkenness or absen- without heave, the entri for drunk-mess or absen- as the case may be, show		For Loss of kit ((neglect)	1 times.
he stated separately. As recognized absolute acts gallantsy or distinguish conduct recorded on a Field Conduct Short shot also be inserted here.	Date of fir	st entry in Field Conduct Shee st entry in Field Conduct Shee		
	2. Pro	vious convictions of the accus		ivil court are set out
*Strike out it not		e necessee o bridge proprieta bridansis	a under-sentence for _	
	days in which	days were spe the present age of the accused i	rial on the present charges for days in mi	in close arrest; of open arrest of close arrest 7
		ne date of his	Aprilia in manage -	*0
think the unilitary description (M. any) held by accused.		no accused is in possession off	Medal	
	without t	- wind in to come description or beginning or the section of the s		- Burnist ghoun-
Ē	Y B	In the forth miners		
(*ESO7E) W&.807E1	9701 82.000 V.11	INSTRUCTION — If any mai from the reg a.s.e.w.lia. Gp. 496	tles in any of the above parag- simental books the paragraph i	rafits cannot be stated must be struck through.

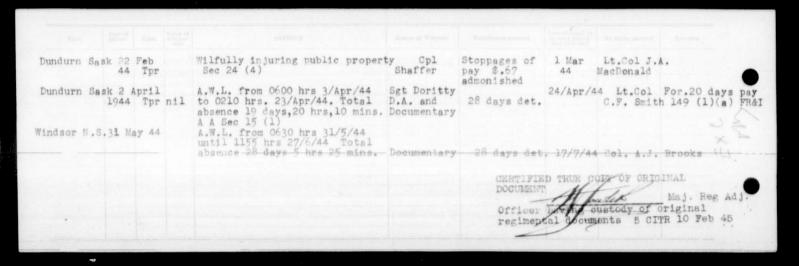
SCHEDULE OF CONVICTIONS BY A COURT-MARTIAL OR CIVIL COURT.

SCHEDULE	OF CONVICTIONS BY A CO	Sentence of the Court.	Punishment remitted or sentence suspended,
otion of Date and rt by Piace a tried. of Trial.	Charges upon which convicted	Sentence of the	
let -			
	At		
	IFY that the foregoing particulars, which have been		

of my knowledge and belief.

	No. Date of last s Company Cos	intry in		No	or Company or and date Period not reskoning towards last drunk freedom from extra fine		Signature OC Company, etc	Proficien	y 1 my 1 40/P)	(AFB 122) AN/130 (7010) oter -
	Place	Date of officiere	Hank	Cases of drunken- ness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award of of order dispen- alog with trial	By whom awarded	Remarks
			. m		Old sheet destroyed (6mo's) cert	ified (1) Re	egt'l entry		Lieut.	T/Adjt
	Dundurn	27/9/4	3 Tpr		Ast Charge: Neglect to the prejudice of good order and Military discipline, in that he appeared on parade	Lieut C.J. Pratt	168 hrs detention	28/9/43	J.A. MacI Lt.Co.	
)					without being shaved. 2nd Charge: Neglect to the prejudice of good order and Military discipline in that he appeared on parade with	Lieut C.J. Pratt	168 hrs detention (concurrently	28/9/43	J.A. Macl	
	Dundurn	29/12	/43 T	pr	a dirty rifle. A.W.L. from 2359 hrs 29/12/43 to 0130 hrs 6/1/44. Absent 7 days, 1 hour, 31 mins.	Documentary	8 days C.B.	6/1/44	J.A. MacDonald Lt.Col	8 days pay Sec 46 (2)(

1 to 3



I, No. A. 118257, Private Joseph Jacob RUSZCZAK, No 5 Canadian Infantry Training Regiment, acknowledge that I have this day at #### hours been served with the following documents free of charge; (a) Copy of Summary of Evidence, and (b) Copy of Charge Sheet both in connection with my forthcoming trial by Field-General Court Martial.

In the Field, 12 Feb. 45

I Rusgegek

I, No. A. 118257, Private Joseph Jacob RUSZCZAK, No 5 Candaian infantry Training Regiment, acknowledge that I have been informed that the convening officer may appoint or apply for the services of an officer holding legal qualifications to act as prosecutor at my trial by Field-General Court Martial and I have been advised of my rights to retain counsel . I do not intend to retain the services of counsel but desire to have a Defending Officer assigned to represent me at my said trial. I desire the services of Capt. F. C. Peters, SCITE. a belending officer assigned to represent me at my said tri I desire the services of <u>Capt.</u> F. C. Peters, 5CITE he is available for this purpose. I waive the 7 days notice mentioned in Rule of Procedure 89 (B). In the Field,

12 Feb. 45

IJ Ruszeyek

I, No. A. 118257, Private Joseph Jacob RUSZCZAK, No 5 Canadian Infentry Training Regiment, acknowledge that on the 9th day of February 1945, I elected to be tried by Field-General Court Martial and that on 10th day of February, 1945, I was given an opportunity of reconsidering my decision to be so tried. I do not wish to change my decision.

In the Field 12 Feb. 45

If Rusyeyek

LIST OF WITNESSES

Capt. Hamish William McIntosh, RCAMC, Att'd 5 CITR Capt. Maurice William Chepesluk, RCAMC, Att't 5 CITR No B. 64403 Pte. Leslie MacDonald Swanston, 5 CITR.

STATE OF TRAINING OF ACCUSED

No. A. 118257, Pte. Joseph Jacob RUSZCZAK, No 5 CITR requires 6 weeks infantry training.

MEDICAL CATEGORY OF ACCUSED

No. A. 118257, Ptd. Joseph Jacob RUSZCZAK, No 5 CTTR is 24, 1111111. Pulhems.

5E-17 ore. & Rusgozak, J.J. minin

Pte. Kuthven, &.

MHO IN AB 1600 57-138 FIELD GENERAL COURT-MARTIAL Comd 2 CDN BEN TPTCALLED 19 SEP # RECEIVED Convened by Order of LT COL WA LUCAS ACCUSED. AG BHANDH (As to the trial of two or more charged jointly see RP 16, 71, 109. As to reasons for showing (a) prants, and (b) appmt, Arank or Ajappmt, if any, see AA 182, 183, firs, KR Can 308, 328, 330.) B.M.H.Q (a) Prmnt R. (b) Appmt, A/R or A/Appmt. Full Christian Names. Number: RUTHVEN GEORGE PIE D 72236 PROGREDINGS REVIEWED 20) Ly Brody May PROCEEDINGS OF TRIAL. god 45 Held in the Fd in (country) HOLLAND RECORD FORM A-OPENING PROCEEDINGS AND ARRAIGNMENT. Al. 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 BY PRES OR 7A. The Schedule referred to throughout is on p. 8. Citations do NOT include all relevant from RDs. For guidance on procedure when a varietion in this form arises, see form for GCM in MML, pp. 74. 10 759. A BYENT record of such varietion will be made and given a number having reference to appropriate or preceding pero number herein. See back of Convening Order, will be made and given a number having reference to appropriate or preceding pero number herein. See back of Convening Order, will be made and given a number having reference to appropriate or preceding pero number herein. See back of Convening Order, will be made and given a number having reference to appropriate or preceding pero number herein. See back of Convening Order, will be made and given a number having reference to appropriate or preceding pero number herein. See back of Convening Order, will be made and given a number having reference to appropriate and period of the pe provisions for conducting the triof see AA 53, RP 56, 63-70, 72, 74, 94, 103, 119, 192.)

A2. The President initials and lays before the Court the Convening Order and Charge Shestiff attached thereto (1). The Court is satisfied that it is properly convened and constituted(2), accused is (21) amenable to military law, and each charge discloses an offence (2).

(1. As to use of Summary of Evidence see RP 17 fn b. 2. AA 49, 50, RP 105-107. 2. RP 11-13, 22, 24.)

A3. The Court is opened. The accused is (41) brought before the Court. At 1/0.0 hours trial commences.

A4. The Prosecutor informs the Court that accused elected to be tried by court-martial instead of being dealt such summarily by the CO.(2). KR Can 557.
 AA 46(8), RP 60 In I. For effect see KR Can 563(c). Delete, if not applicable. as interpreter i Ans A5 President to accused the you object to ne shorthand writer ! Ane he Interpreter is sworn (1) Do you object to be shorthand writes is sworn (1) (1. AP 72. Delete, if note employed.) A6. The Convening Order and names of the President and Members of the Court are read to the accussed. President to accused: Do you object to be tried by me as President or by any of the Members of the Court. Alla N.J. S.I.R. (2)
(1. RP 110. 2. If no objection, waiting member retires. RP 68(B). If objection, see procedure AA S1, RP 25, 71, 18, MANL 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: A.F. TULLOCK MAJOR President G.S. WRIGHT CAPTAIN Member HARTIGAN LIEXT Member + K K100 Judge-Advocate 47 CON ARMY TAT CO G. 6. Seo11 LIEUT F.E MURPHY 47 CON ARRY FOT COY Prosecutor CAPTAIN Questions by President: Is the Prosecutor a lawyer | Ans. Ni516 Is the Defending Offr a lawyer | Ans. Ne 3 /16 (1. RF 26, 27, 109, 111. List of offer under instr will be returned separately with proceedings for information of Cost (2005).

(2. If Pres a lawyer and Def Offer net, accused is entitled to an edgourement when RF 89 (8) and for 2 were not followed. See 20 p 3.)

A8. The accused D 72234 PTE R v TH v EN G before arraignment make(s) (100) I plea (R) If a special piece is mode for separate trial on one or more charges (RF 62(E), 108), or as to the jurisdiction of the Court

(RF 16, 15,A, 113), or in bor of trial (RF 26), or as to occure's mental fitness to stand trial (As 130, RF 57), or
the open of several occured charged pointly to be trial separate (RF 16, 71), such piec, the addresses mode in support or ogeless, the
providence, if ony, and finding one recorded per Notes. For forms of record are references in fits to RH otted. Insert in AB ronce
and nome of the occured moving the piece)

AB. The accuracy is [Ar] arraigned (separately) on all charges in the charge sheet. (1) The accuracy does not object to any charge (RF 16, 71), such piece in Part I of the Schockile.

(4, RF 11, 112) See part I of Instra D. 2. When more than one Charge Sheet on AB 3. The accuracy is the trial of the Schockile. # 31, 112. See para i of Instrs p 2. When more than one Charge Sheet see RP 62; when several accused to be tries separately see RP 71(C), and use separate capies of CF A96 to record proceedings.
 # 32, RP 33. If otherwise, delete as made appropriate record per Notes.)

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

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 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

- If pleas to all charges are GUILTY, use Record Form B below.
- 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 occused see RP 50, 60(C); powers and duties of JA see RP 103; duty of Presecutor see RP 60(A) (B); duty and privileges of accused and Defending Offic see RP 60(C), 87(C), 91(B), and of witnesses from Court see RP 81, 82; questioning of accused see RP 80, 87(C), 92(B), and of witnesses from Court 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 115-79. see RP 17(E) fn 6; and responsibility of JA or Pres to record proceedings see 7.P 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.(2)

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).(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(2), or which show provocation or extenuation in respect of which in your interest the witnesses for the Prosecution should be examined(2), 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. a change your plea and you will be given an opportunity later to prove your statement by sworn testimony, if you so desire (4)

President to accused: Do you wish to make a statement ! Ans. NO SIR.

(I. RF 37(8). 2. RF 37(D) fa 6. 3. RF 35(8) fn 5 pere 3, MML p 54 pere 47. 4. See pere 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 charge(s). The accused is (are) so informed, and he (they) (their) plea(s) of Guilty to Not Guilty on s. this (thinit) plen(s) on charge(s). Part I of the Schedule is amended accordingly.

(i. Court may be closed to consider the statement. Defets whole ar part not used.)

B4. On the charge () 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) RP 35(B). Many plea(s) is (are) changed, use Record Farm 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 inadequate, comply with RP 37(8). If there is no serious inconsistent with any plea standing as Gailty, Court will doin a coursed to change such piec and, if changed to Not Gailty, try such charge(s) by ute of ports D1 to D6 inclusive of Recard form D on p 3. RP 37(D).)

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 C1. As to the charge on when a continuous of Record Form D on p 3 before proceeding with C 2.(*) (1. RF T(A) (E))

C2. The charges on which accused pleaded OULLTY are send 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 a rester to the charges deadt with under C2. If any plea is charged to Not callify, trial thereon proceeds by complying with paras D1 to D8 inclusive in Recent form D on p 3 and making an appropriate record thereof an 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 here Those 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.

(1. If "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. RP 39(B), 60(A) (B), 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 RP 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 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 the latter charge(s).(*)

ter charge(n). (*)

(1. Delete remainder of this para, 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 port not used. If occused acquitted on all charges, use second atternative in para D8.)

N8 : If trial proceeds, accused 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.)

D5. President to accused: You will now proceed both your defence.(1) You may, if you wish, give evidence yourself on oath as to the facts or your character or boths in which case you will be subject to cross-examination. [2]
You may, however, make a statement without being aworn, and you will not be subject to cross-examination. [3]
But a statement which could have been made on oath will not carry with the Court the same weight as sworn testimony. [4] Dut a statement which could have been made on oath will not carry with the court the same weight as sworn countries.

You may call witnesses in your defence and as to character, whether you give evidence or make a statement or d

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

DB. Conseque 3 on the answers recorded in para DB the appropriate procedure for the defence is followed (*)

(1. RF 114, 115, 116. For procedure see Notes on back of Convening Order, CF APS. Evidence for accused as to his
character should, if in his interest, be given before the funding. See RP 46(A) fn 1, 86(C). Note the further opportunity in para £1

of Record Form E. Record per Notes addresses, statement, evidence and any summing up by the 3A under RP 42, 103(e).

D7. The Court is closed to consider the finding(s),(i) The finding(s) of the Court is (are) recorded in Part I

of the Schedule. (1) The Court is re-opened.

(1) RP 42, 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)

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.

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

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

F2. The Prosecutor produces Statement(s) as to Character and Particulars of Service(1), and certified true copy (copies) of Conduct Sheet(s)(?), purporting to refer to the accused, which he submits to the Defending Offir 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(l) (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 2 respectively.(*)

MFB 355 or AFB 396. 2 MFM 6. 1 RP 46, KR Can 558. If above documents not produced, see RP 46 fn | marked Ex /

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) Ans BJ MY DEFEN DING & FILER (5)

(1. RF 37(C), 46(D). 2. Address, if any, recorded per Notes. Court should permit occupied or his witnesses to prove on ooth anything here or previously stated which would affect the amount of punishment. RF 37(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.(1)

(1. AA 54(8), 87 120(8))

E.5. 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 served occused tries exponency see RP 7(D). One sentence only, comprised of the punishment or punishments loud down in AA 41. 44 and its previse, is to be exerted to cover oil charge sheets on which occused found guilty. RP 48. As to sentence: see A4. 138, 128, 2. RP 46.5, 9, 9, 118, 119, 118, KR Cm 308, 230, 585-566, Oversoot RD 309, 2323, RP 48. As to sentence to exponence of the cover of the section of England see AA 44(15), MR 10 and accused MAM, p 50, 757-759. As to sentence a consumence of sections are AA 44(18), 68(1), KR Cm 564. 2. RP 50. As to release from arrest by aircrody under sentence of imprenament or descendance see AA 44(18), 68(1), KR Cm 564. 2. RP 50. As to release from arrest by Confirming Offir see KR Can 56?. As to examinably and disposal of record ofter trial see instant on back of Convening Order.)

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

SCHEDULE.

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

N 91224	Program	12	SEN B. 47 CAN ADMY TOS
secused: D 72236	PTE	NUTHI	YEN G. 47CON ARMY TEN
Charge.	Plea.	Finding.	
(Insert "alternative" where applicable.)	(See Instru p 2.)	(See note below.)	(Space for use as required for further charges, accused charged jointly, special findings, etc.)
lat AA 4 b	GULTY	GUILTY	
2nd /4 A 4 0	GULLTY	GUILTY	
3rd	man man man		
4th			
5th			
6th			
(Note : As to fine special findings see Ri	tings for tesser offer	TES SEE AA 56, RP 44	findings on alternative charges see MML p.483 fo 4 pare 2, 9P 44
(Sgd) J K Kud Judge-Advoc	RESPE A Capt cate, if any. (See back of Co	HAS MA TC F & F 2 S S Date convening Order as to a	TO BE PUT UNDER STEPPE ADE GOOD THE SUM OF DAMAGES TO C. M. Y. CL 42778 SEP 75. (Sgd) President (RP 45, SOY MALL) awarded. assembly and disposal of record after trial.)
Date	(Sgd)		Commanding
And the Lates of t	ers see AA 54, 57, R nnot be revised: AA sed may be tried ago 53, MML p 65. Qu The Confirming Office	RP 37(D) fn 6.46(A), 5 A 54(3). Sending back in : AA 157, MML p o rashing after promulge must sign here persons	NG OFFR ON FINDING(S) AND SENTENCE. 51-56, 120, MML pp 759-761, KR Can 567-577. Acquitals require no kk finding or sentence for revision by Court: AA 54(2), KP 120(G). If 64. Minute of confirmation or non-confirmation may be altered before pation: KR Can 573. Duties and powers of reviewing offrs: AA 57. https://doi.org/10.1016/j.can.273.0016/j. AA 172 fn 1.)
	C	infe	imed.
I direct that the	2 & Dep.	4.	ommanding H Q. Co. d. 2 Charge A. S. Confirming Others RC
PART I	V. PROML	LIGATED AN	D EXTRACTS TAKEN. (RP 53, KR Car 576, 577.)
Accused.		Date	Signarde of Offr.
72236 Pte G.R.	thven	160	175 W Jacke Haja
	II DELET	NE AND	TERATIONS WILL BE INITIALLED.

1	MEGTOAL CERTIFICATE (K.M. (Can) 557)
r I	certify that I have this morning examined No. D 72236' RUTHVEN G. of 47 Ca. Gray The Read, in ay opinion,
	is fit to undergo trial by Court-Martial
	to 25 Sept 45 At Martin Cart

and could not see our see one one one one one one one one

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 farce if authorized in law, in immediate cand of troops on active service, subject to RP 105(C) and restrictions imposed by appropriate active. A 49, 50, RP 13+107, 114. As to the duties and privileges of the Convening Offr in dealing with the application see MML Chap Y paras 20 and 23. 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 see RP 62, and as to separate trial an charges in the sume charge sheet see RP 108. As to two or more accused charged jointly see RP 16, 109. As to receives for showing (a) permanent or confirmed rank, and (b) appint. A)rank or A)appmt, 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.

D-72236 Pte George

47 Cdn Army

Tot Coy

CONVENING ORDER.

- 1. Whereas complaint has been made to me, the undersigned, that the person(3) named above as the accused, being the et to military law, has (\$2.30) committed the offence(s) set forth in the Charge Sheet(5) attached and on the charge Sheet(5) atta
- (Delete part in brackets when not required for compliance with RF 105(C).)
- I hereby convene a Field General Court-Martial to try the said persons), and to consist of the Offrs appointed or detailed hereunder.
- 4. Xk am simable, to appoint (a) three Offer twices the Court (k) a Ed Offers Freedom twice the research know a pattacked Landon X (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 (SP 106(E). Delete, if none appointsd.)

PRESIDENT.

A.F. Tulloch 45 Odn Army Tpt Coy (Must be named. RP 106.) MEMBERS. To be detailed by OC 69 Cdn Gen Tpt Coy To be detailed by 00 66 Cdn Gen Tpt Coy (Rank.) (Named or detailed. RP 106.) WAITING MEMBER. (Named or detailed, If any. RP 106.) (Rank.) (Unit) JUDGE-ADVOCATE. J.K. Kidd HQ A Tps Ares (Must be named, if any. RP 106.) Holland Lt-Col (Country.) RP 105 fo 2.7 C.F.ASC

CONVENING OFFR WILL INITIAL ALL DELETIONS AND ALTERATIONS

Commanding HQ Comd 2 Cdn Gen Tpt Coln

Convening Officer

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

4/38A CFA 95 (In Beu of AFA 8

Dat 19 Sep 45

CHARGE SEELT

The Accused, D.72236, Pte, Buthven, G., 47 Can Army Tpt Coy, ROASC, a soldier of the Canadian Army Overseas, is charged with:

FIRST CHARGE A. A. Sec 40 WHAN ON ACTIVE BERVIOL

OCHDUOT TO THE PREJUDICE OF GOOD ONDER AND MILITARY DISCIPLINE

in that he

in the Field on jo Jul 45, on or about 2000 hrs, laproperly and without authority used Gdn Mil ven GL. 4077500 for his own private purposes, resulting in damage to the bold volices in the amount of Fifteen Founds, learness shillings (215-14-0).

A. A. Sec 40

WHEN ON ACTIVE BERVICE

NEGLECT TO THE PREJUDICE OF GOOD ORDER AND MILITARY DISOIPLINE

in that he

in the Field, 30 Jul 45, on or about 2330 hrs, did drive Odn Mil Veh OL.4277840 in a neglegent manner, thereby becoming involved in an accident

In the Field 5 Jep 45 Officer Commanding, UASO 47 Odn Army Tpt Coy UASO

To be tried by Field General Court Martial.

In the Field 19 Sep 45 (W.A. Lucas)Lt-Col C.RASC BQ Comd 2 Odn Gen Tpt Colm

Hea of Mitigation in the case of D 72236 Pte Ruthven S. Sir, the Ruthven Las pleaded guilty to the two charges for which he is appearing before this Court, handy, using a til veh. for his own proots purposes and secondly, hybjently becoming involved in an accident. However, I feel that one purticular fact affecting the aircunstances of the case, should be hought to the Courts attention. That fact is suigh the, that Rithmen took the web in question in company with an NCO. He NCO being Loge Dominie R. I wish to point out, Sir, that by his presence in the vehicle when hether drove away from the wh lives, L/gl Downie encouged hithren in this act. I trust you will give the fact full correlating when arriving at your decision with regard to the sortered.

With respect to the lathrens character as a soldier and as a non, I feel I am quite quitified to speak, as I was his Il offer for approx 2 years. Os can be seen from Ruthwer & MAMB de has not been in trouble for over 21/2 years. During all that time Ruthren has been suployed as a direct and has been a very good diver. He has carried out all tasks, no motter how ardreous or manish, it a cheefel and copolle mouner. In connection will this, I right mertion that on one occasion when Rethrees was divery a 10 ton who on an ammo detail. a VI bout louded less thou 10 years from his vehale, blasting it off the rood. Luthren was severally enjured and bot a considerable hospitalization. I would like you, Sir, to take sets full account, butbereis specillent record as a soldier. I know him very wall and I Can assure you that I have no heatotim in comments of lettering character and construct. It I can't Shouphy Copt A

Summay of Endance in the come of D72736 Pte Ruthur G, 47 colo army The log R. C.A.S.C. a soldier of the Canadian arrong, on active service, charged with: A. See to conduct to the Prejudice of Good order and military Discipline First change night to the Prejudice of Good arder and Second charge A. A. Ser 40 military Dissipline I haid though conduct to the prejudice of book order out A.A. See Xe Inditary Disripline 7/11 By direction of the Commanding Office, evidence is then on soll. First Witness 32976841 Gel. Levill . E. of U.S. mellong Police, Sittard Holland having been duly sworn, "On 3 1 July 45 at 0105 hrs will ght. V mion, I was called to the overs of a rehule accident near susteren. On arriving there, I found that a Canadian mark truck had overtrained and a reldies had been talked while to, other soldiers were lying on the ground seriously on questioning momen, who was standing another I hearned that at least three women has been riding on the buck. I questioned these three momes as; women briffy and they gave their mames as; Elizabeth war of winted, Catherine flagen, and Christine Smeets, all of Sustern.

I was not directly in contact with the and there was no sign of legens in of a bothlo in the wehick at that line. I be men were by then lung placed in the authorized." The accused declined to cross assuring the Second Waters mo Slanger, 4 Vincentrusplein, Sustary having been duly swon, states: "On monday so get last we went to a party of Rooston at 110'clock we went house, When he rare outside there was a trailer in front of the place and the solders told us they would take us honar, so we want will them If they was completely drunk, I cannot say, but they carried a bollo with them. Fine of we were there weren on the 1th day was setting will a wom on top of the ran, when we were on the may to the edge of the road, and then sweeting happened very quietly before breally because them and of the while and when I was atomding on my legs egain I now that soldiers wer lying word to me. One soldier was halled immediately and the other was talking to Ture. V. d. Winkel!

was not to the found. Question by officer (their survey ... Q1. Dogor recognize argon in this ron as the drawin of the which on the english of the ancident a. 1. yes, I recognize him (The waters part to or Did you artually see we trusking enquar on the Ar ho. Third Waters Mrs. Smeets, 24 Vincentinsplain, On monday ropular unt to the fair in Rootern at Klinkens (dans) Hall. Who he dans was finished we left the Hall for house, and or are can entirely he saw a trust with three soldiers. It so girl was from Foostern got mits the buch west a the brien. The fact the was riding to Sustern and the driver told us we would go too, so wewent. We not in the eat with 2 soldiers and 3 is I we rolder and one women not on top. There were 3 women from Sustern and one from Lorden. When we came to the bridge the truck went off the road and into the side causing the trush to him over into the verge. We only just noticed what hippoind where we came out. One soldier was

I led indularieously and the time others is on meanisher on the ground. Mrs. Van do Wingel toy with the wick and the soldiers lay bride The mails. hur Slanger and I were first is see such other. We saw no more of the girl from Rosetern. I went to the house to alean my wounds and then want hack to the meadon to doch at was wan de Wirdel who long anconscious. mas the Hed has less cause and had esto I count say if the rolding were drunk out they ped a lobble of cognac while them. has examed by the accused as. Do you remerbe the the down on the right of the arendent at. no it was too down. at sid you see me father drinking dainy which we have ar ho. Forth Water Butha Enstjours, 121 Pas, anderen energy " I done that the Bullion on monday at pentingent a quarter to elever and I also info to to he out of the car. They willed a wille of

cojnac with them." legion on the neget of the accident? B Pury in AI. no. Kell Witness Ms 3918 P. S. Samen J. of John army of the P. CA.S.C. after we frished loading and of Heesten we returned to Sitters about 1830 hrs. 30 July after I got all cliened up Interted down the road about 1930 hrs. I saw one of our whiches pulling out the gate so I granted on the numming board. Hope Domenic and It authorn were in the cale of the long, I arded them when they were going. They said to a done so I went along with them . we went to a place collect doostern. after the Donnie, the Parties and myself were coming out the door and met some guilo. them we we going board to Settand, doit was in the same direction as they were going we rand it was about for them to road. The next thing I know the truck was relling over. after I wanted

Topled and I ested the to get in the hospital. It was about another how bufue the including arrived and took us to 298 4.3 years The state of the section of the sight of atornetry smith at the time of the as who maid it was alog to pe to A2. 2/98 3 mini. The accord declins to co J. Seamen light Witness FRO 6 6 gd. Councill R. M., 47 com an The log R C. A.S.C., having been duly mor "Low F8066 get. Connell R. M., 47 colo army The lay R. CA. St. wo returned from Hearlen approximately 1930 his and published the rating station at Stand. when is was getting abound up, thend are engine going I went to see who had their organs running. I saw the tail and of a turk going out through the gate. I thought finishly ting the while so I checked to

The Rullwens long approximately 2 300 his still warn't in. at approximately 0300 hrs. 31 July, the annean military Whice with no up and told is about the accident. I went to the scene of the ac deart to Sittend, I stoyed up 5726 to 47 agrand reported at to by 9. 0. and estion by offen Taking the Seminary to Take this while the sale this while with the take this A 1. he sin the policy in your platoon by the lying of my and the land of the lying of As If we are not my lt in a town or hang our told that it is any to protocom is a hough of the production of the later to and a doing to a way of the production of the later of R.M. Connell. Senth Witness Capt. J.R. D anaher, 47 Edn army Tet Tay R.C.A. S.C., having been duly swom, states: "San workshop officer in 47 any That by. On 15 Any 45, Isrammed to for mack, W.D. mareloen CL 4277840 which was

lones which bought at from Bree, Melgische) I wrees the damages at Tiften Powers, Foulen Slillings . (\$ 15-14-0) The ascerned declared to cross examine they witness Robert Jan Godding, interpretor for U.S. military Arline at Settered Rest Centre, Holland wid the interpoeting for mrs. Slanger, hurs, Smeets and Butha Ruetjans, the second, third and fourth witnesses. Do you with to make a statement or give and obliged to my anything or give endence unless you with to do no, but whatever you got any any widowe you give will be laken down wer by the accused I have nothing to say. gentify that the Rules of Procedure & his to, the Taken down by me in the presence of the account in the Fuld, this thirty first day of August 19 45 Global II 47 can amy Tpt by RIASE. CARTIFIED True and Correct copies of the Original Summary.

(G. U. Scott) Lieut, Officer Taking Summary, 47 Can army Tpt Gey ROASC.

SUMMARY OF EVIDENCE

D.72230, Pte. Ruthven, G., 47 Cdn army Tpt Coy, RGASC, a goldler of the Canadian army, on active Service, charged with:

FIRST CHARGE A. A. Bec 40

CONDUCT TO THE PREJUDICE OF GOOD ORDER AND MILITARY DISCIPLINE

A. A. Dec 40

NEGLECT TO THE PREJUDICE OF GOOD ORDER

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

FIRST WITNESS 32970841, Opt. Levitt, E., of U. S. Military Police, Sittard, Holland, having been duly sworn, states:

On 31 July 45 at wis5 hrs with Opi. Vincen, I was called to the scene of a vehicle accident near Susteren. On arriving there, I found that a Canadian Mack truck had everturned and a seldler had been killed, while two other soldiers were lying on the ground, seriously injured.

On questioning women, who were standing around, I learned must at least three women had been riding on the truck, I questioned these three women briefly and they gave their names as; blizabeth van de Winkel, Catherine Siegen and Onristine Basets,

I was not directly in contact with the injured men, myself, but I searched the Yehlole and there was no sign of liquor or of a bettle in the venicle at that time. The men were by then being placed in the ambulance.

The Accused declines to cross-examine the Witness.

(Signed) "Edward Levill" Cpl.

SECOND WITHERS Mrs. Blangen, + Vincentiusplein, Susteren, having been duly sworn, states;

On Menday 30 Jul last, we went to a party

Page 2

at Heesteren. At il e'cleck we went home. When we came outside there was a trailer in front of the place and the seldiers teld us they would take nome, so we went with them. If they were completely drunk, I cannot say, but they carried a bettle with them. Five of us were sitting in front of the car, two seldiers and three women. One seldier was sitting with a women on top of the car.

When we were on the brigge I saw at once that the car was moving to the edge of the read, and then everything happened very quickly before I really knew what was going on.

I was thrown out of the vehicle and when I was standing on my legs again I saw that soldiers were lying next to me. One soldier was killed immediately and me other was taking to Mrs. v.d. Winkel, who was lying under the car. The girl from Roostern was not to be found.

QUESTIONS BY OFFICER TAKING SUMMARY:

Q.1 Do you recognize anyone in this reom as the driver of the vehicle on the night of the accident?

A.1 Yes. I recognize him. (The Witness points to Pte. Ruthyon).

CROSS_EXAMINED BY THE ACCUSED:

Q.1 Did you actually see me drinking compace on the night of the accident?

(Signed) "C. Slangen Niessen"

THIRD WITNESS

Mrs. Smeets, 24 Vincentiusplein, Sustern, having been duly sworn, states:

On Menday 30 Jul 80 went to the fair in Reestern at Klinkens (dance) Hall. When the dance was finished we left the Hall for home, and as we cand outside we saw a truck with three seldiers. One girl from Reestern got into the truck next to the driver. She said she was riding to Sustern and the driver told us we could go too, so we went.

We sat in the cab with two soldiers and three women. One soldier and one women sat on top. There were three women from Sustern and one from Resistern. Men we came to the bridge the truck went off the road and into the side causing the truck to turn over into the verge. We only just noticed what

happened when we came out. One soldier was killed instantaneously and the two others lay unconscious on the ground. Mrs. Van de Winkel lay under the truck and the soldiers lay beside the vehicle.

Mrs. Slangen and I were first to see each other. We saw no more of the girl from Rosstorn. I went to the house to clean my wounds and then went back to the meadow to look at Mrs. van de Winkel who lay unconscious.

Afterwards, the priest and decter came, an hour afterwards the Red Cross ambulance came and took her to Sittard.

I cannot say if the soldiers were drunk but they had a bottle of cognac with them.

GROSS-EXAMINED BY THE ACCUSED:

- Q.1 Do you resember who the driver of the vehicle was on the night of the accident?
- A.1 No. It was too dark,
- Q.2 Did you see me drinking any intoxicating liquor on the night of the accident?
- A.Z No.

(Signed) "A. O. Smeets Ohlenforst"

FOURTH WITHESS Bertha Rustjons, 131 Pas, Roostern, naving been duly swern, states:

I dended with Ptc. Ruthven on Monday at Roostern. At a quarter to eleven I also spoke to him. We went away at ten minutes past eleven and he gave me a lift part way and before the accident I jumped out of the car. They had a bottle of cognac with them,

CROSS_EXAMINED BY THE ACCUSED:

- Q. Did you see me drinking any intexicating liquer on the night of the accident?
- A. No.

(Signed) "B. Rustjens"

FIFTH WITNESS M. 53918, Pte. Seamen, J., 47 Gdn Army Tpt Cey, RGASC, naving been duly sworn, states:

I am M.53918, Ptc. Seamen, J., 47 Can Army Tpt Coy, RGASC.

After we finished leading coal at Heerian we returned to Sittard about 1830 hrs, 30 July. After I got all cleaned up I started down the road about 1930 hrs. I saw one of our vehicles pulling out of the gate so I jumped on the running-board.

L/Cpl. Deminic and Fite. Ruthven were in the cab of the larry. I asked them where they werre going. They said, "To a dance." So I went along with them. We went to a place called Roostern.

After the dance was finished about 2315 hra, L/Opl. Deminic, Pte. Ruthven and myself were coming out the deer and met some girls. They asked for a rido to their home. We told them we were going back to Sittard. As it was in the same direction as they were going, we said it was alright for them to come along.

We started off down the r.ad. The next thing I knew the truck was relling over, after I crawled out of the truck, I lay there for about an hour. Some Americans, who happened to be going by, stopped and I asked them to get us to the hespital. It was about another hour before the ambulance arrived and teak us to 298 U. S. General Hespital, Liege.

QUESTIONS BY OFFICER TAKING THE SUMMARY:

- Q.1 Was Pte, Ruthwen under the influence of an intexicating drink at the time of the accident?
- Q.z Who said it was alright for the civilians to ride in the vehicle?
 A.z L/Opl. Deminic, sir.

THE ACCUSED DECLINES TO CHOSS-EXAMINE THE WITHESS.

(Signed) "J. Seamen"

SIXTH WITHESS

44 1

F.8055, Cpl. Cennell, R. M., 47 Cdn Army Tpt Gey, EOASG, having been duly swern, states:

I am F. 8000, Opl. Connell, R. M., 47 Odn Army Tpt Coy, RCASC.

We returned from Heerlen approximately 1930 hrs and parked at the railway station at Sittard, When we were getting cleaned up, I heard an engine going. I went to see who had their engine running. I saw the tail-end of a truck going out through the gate. I thought possibly one of the drivers or vehicle mechanics was testing the vehicle so I checked to see which one was gone. I found that it was Pte. Ruthwen's lerry.

ppreximately 2300 hrs I went to bed. At that time the renicle still wasn't im. At appreximately 0300 hrs, 31 Jul, the American Military Pelice wake me up and teld me about the accident.

I went to the scene of the scenent and checked the vehicle for personal kit. There was nothing else I could so, so I went back to Sittard. I stayed up till breakfast. After breakfast, I went back to 47 Coy and reported it to Coy HQ there.

QUESTIONS BY OFFICER TAKING THE SUMMARY:

- Q.1 What is the policy in your plates regarding taking vehicles out of the lying-up area at night?
 A.1 If we are not right in a town we have been told
- A.1 If we are not right in a town we have been told that it is alright for wheever is in charge of a detail to send a lerry to a hearby town providing an HOO is in charge of it.
- Q. H Did you give anyone authority to take this vehicle out?

A.E No. sir.

1 1 15 15

(Signed) "R. M. Connell "

BEVERTH WITNESS Capt, J. M. Danaher, 47 Cdn Army Tpt Coy, RCASC, having been duly sworn, states:

I am Workshop Officer in 47 Cdn Army Tpt Cey, RCASC. On 15 Aug 45, I examined ten ten Mack, W. D. Mumber CL. 4277840, which was brought into our workshop free Bree, Belgium, by one of our breakdown legrics.

1 assess the damages at Fifteen Pounds, Fourteen Bhillings (£15-14-0).

The Accused declined to cross_examine the Witness,
(Signed) "J. R. Danaher" Capt.

Rebert Jan Gedding, Interpreter for U. S. Military Pelice at Sittard Rest Centre, Heliand, did the interpreting for Mrs. Slangen, Mrs. Smeets and Bertha Rustjons, the second, third and fourth Wilmesses.

QUESTION TO THE ACCUSED:

Do you wish to make a statement or give evidence upon eath? You are not collect to say enything 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.

ANSWER BY THE ACCUSED:

I have nothing to say.

(d), (e) and (f) have been complied with.

Taken down by me in the presence of the Accused in the Field, this thirty-first day of August, 1945.

(Signed) (G. C. Scott) Lieut. +7 con Army Tpt Coy, R.C.A.S.C.

Statement as to Character and Particulars of Service of Accused.

M. M.	(For Use a	Trials by	Field General	Courts-Man
1 118			Name	

Number.	Rank.	Name.	Regiment (or as the	
D. 72236	Private	GEORGE RUTHVEN	47 Odn Army Tpt	Jey, HOASO.
NUTL.—The Field contact, there is no to- contact in Court with in attement but in not in another the form with in attement but in not to another the pro- contact in the contact in a term of the contact in a term of the contact in the field Cou- ton of Short, prosing at the contact in the field Cou- ton of Short, prosing at the contact in the field in the contact in the short in the critical in a contact in the critical in the interface in	of the accus	following is a fair and true sum sed, exclusive of convictions by i For A. W. O. L. For Neglect to t For stentry in Field Conduct Sheet t entry in Field Conduct Sheet	ne Frejudice	4 times. 5 times. times.
* Strike ont II and		runned and opposit time to		
	bagkminte	propherica netonal carriera a	many day of mean in	ananananana
	days in	civil custody; and for na.	days in mili	tary custody, i.e.,
	25		nil days	in close arrest;
	which_I	days were spen	in hospital.	11
		se present age of the accused is		hs. U
		ne date of his calling up for mu		
		he service which the accused is a		
Mission that military	8. TI	he accused is in possession of:	C.V.S.M., with Cl	вер.
State the military descrations (if any) held by sounced.	nmti	fishemososi sempanyemingilon s minemino prodisempensamini mesa	nland and the around has	
		In the ambahantisa rank of	nananananan an an a	anananananana
			butanananiinananan	

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

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

Scription of Court by which tried.	Place of Trial.	Charges upon which convicted	Sentence of the Court.	Punishment remitted or sentence suspended
		N/A		
		N/A		

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

Signed this

Date of last entry in No. A of last drain? No. A correct Names of Wilnesses Punishment awarded Place Place Rank Cases of Wilnesses Punishment awarded Remarks of drainer of the drainer of	Company Got	Name RUTHVEN G. D. conduct Sheet! No and	Sqn. Battery or Company of Corps R. O. A. S. date Period not reckoning towards drunk N. A freedom from extra fine	N/A Sheet No 1	Highature OC Company, etc	Proficiency	cy Pay : 40/På	AFR 122) &8/130 (3438) Very E94
Original cheet destroyed on completion of gix months service in accordance with 0.4.0.R.0. Big Date of last entry 30-9-41 Field 30-8-42 Opi Nil AWL (18 hrs, 30 min.) Pocumentary 1 days pay 2 Jul. 42 0.0. Osk Birch 5 extra 2-7-42 Opi, Dien Guard duties Field 14-9-42 Pte Nil AWL (1 hr. 35 min.) Sgt. Terry 3 days pay 15-9-42 Opi. Starzey Field 0-10-42 Pte, Nil Aeglect to the prej. &c. Opi, Knott 7 days pay 7-10-42 Major Gagnen	VA -	Date of Cases of	11/8		Punishment awarded			
Field 30-8-42 Opi Nil AML (18 hrs, 30 min.) Pocumentary 1 days pay 2 Jul. 42 0.0. Pheld 7-7-42 Pte Nil A.A. Bec 40 QBM Birch 5 extra 5-7-42 0.0. Field 14-9-42 Pte Nil AWL (1 hr. 35 min.) Sgt. Terry 3 days pay 15-9-42 0.0. Sgt. Btarzey Field 5-10-42 Pte. Nil deglect to the prej. &c. Opi. Knott 7 days pay 7-10-42 Major Gagnen Did not report at appointed place L/Opi Nedemu	W Original		completion of gix months serv	voce in accer	Gance With O.	, H, U,	319 Date of entry 30-9-	last .
Field 7-7-42 Pte Nil A.A. Bec 40 QBM Birch 3 extra 27-42 0.0. Field 14-9-42 Pte Nil AWL (1 hr. 35 min.) Sgt. Terry 3 days pay 15-9-42 0.0. Field 0-10-42 Pte, Nil Neglect to the prej. &c. Opi, Knett 7 days pay 7-10-42 Majer Gagnen	M.					2 Jul. +2	0.0.	
Field 14-3-42 Pte nil and the second				OBM Birch	3 extra Guard duties	8-7-4K	0,0,	
Field b-10-42 Pte, Nil Neglect to the prej. &c. Opi. Knott 7 days pay (-10-42 Gagnen Gagnen	Fleid	14-9-42 Ptm N11	aWL (1 hr. 35 min.)	Sgt. Terry Sgt. Starks	3 dwys pwy	15-9-42	0,0,	
When ordered to do so. (P10)		belocks Pte. Nil	deglect to the prej. &c.	Opi. Knott	7 days pay	7-19-42	Major Gagnen	
			when erdered to do so.					(PTO)

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10/07/332/ Pto Rullegs C. S. 484 Highlanden. 2396.

Andreadalphoto to be Principle by Form for Assembly and Proceedings of Field General Court Martial on Active Service.

PROCEEDINGS.

On Active Service, this

March

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

, on active service, that the

such offences should be tried by an ordinary General Court

ZMARKARRIKIKKARRIKIKAKAKKAKKAKKAKKAKKA

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

SEXVIXX)

--- MAKKIN XANKANAXXANKANA

President. Name.

Rank

Regiment

Major

A.T. Dixon

No.1 R.C.A.S.C. Hldg Unit

Rank.

Name.

Regiment

Captain

J.K. McCullough

No. 2 Cdn Arty Hldg Unit

Lieutenant

D.H. Jupp

No.1 Cdn Arty Hldg Unit

Lieutenant

T.W. Bryant

No.1 Cdn Arty Hldg Unit

*Signed L. T. Thy . Brigadier

Commanding Canadian Base Units, Con Army Convening Officer.

SCHEDULE.

First Charge A. Sec 9 (1) per charge sheet Second Charge	Not Guilty	Not Guilly	
A. Sec 9 (1) per charge sheet	Not Guilty	Not Guilly	
per charge sheet	Guilty	Not Guilly	
	1		
A. Sec 15 (1) ber charge sheet Third Charge	100	To unders.	Continue B.
A. Sec 15 (1) ber charge sheet Alternative to First Charge	Guilty	actention to he	illy
. Sec 9 (2) er charge sheet	Not. Quilty	Not Guilty	
	Chird Charge A. Sec 15 (1) Der charge sheet Alternative to Cirst Charge	Chird Charge A. Sec 15 (1) Der charge sheet Guilty Alternative to Cirst Charge	A. Sec 15 (1) Der charge sheet Guilty Octantion to historiative to part Charge

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?"

(Signed L. + Fra

Brigadie

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Commanding Canadian Base Units, Cdn Army.

Presiden

- (a) Appointment acting rank or acting appointment, it 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 of the Schedule to be initialled by him.

I certify that the above Court assembled on the 28 1. day of March 1904, and duly tried the persons named in Cerubcate of President as to 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 I also certify that :--1. The members of the Court 2. The witnesses I certify that the terms of *A.C.I. 570 of 1918 have been -M M L. 1920. complied with 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 Confirm sentences. *'s(I direct that the soldier named in the margin be not committed to prison until further orders.) > 31st day of March 1941 B-73236 Pts. Sutledge, C.G. (48th) 3rd April 1941 No. 1 CON- INFANTRY HOLDING UNIT Promulgated and extracts taken in the case of (Signed)

(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.

(1779) Wh. antig-san low = high in St. G. Ago

CHARGE-SHEET

The accused, No. B-73936 Pte. RUTLEDGE, C.G., (48th Highlanders of Canada), on the strength of No. 1 Canadian Infantry Holding Unit as a reinforcement, a soldier of the Canadian Army (Overseas), is charged with:-

While on active service, disobeying in such a manner as to show a wilful defiance of authority a lawful command given personally by his superior officer in the execution of his office --

in that he

at Kingswood, Surrey, on the 46th December, 1940, did throw down his shovel and leave his work whilst on fatigue duty, after being personally ordered by Sgt. Stoutley, who was in charge of the fatigue, to shovel a pile of cinders.

(or in the alternative)

charge Sec 9 (2) Army Act

When on active service, disobeying a lawful command given by his superior officer --

in that he

while on fatigue duty, when ordered by his superior officer to shovel a pile of cinders disobeyed the command, throwing down his shovel and leaving his work.

When on active service, absenting himself without

in that he

at Kingswood, Surrey, did absent himself without leave from 1730 hours on the 4th December 1940 until 2230 hours on the 4th December 1940.

Third charge Sec 15 (1) Army Act When on active service, absenting himself without leave--

in that he

when in confinement, at Boedean College, Brighton, did absent himself without leave from about 0545 hours, 24th December 1940, until about 1900 hours, 14th January 1941.

To be tried by Field General Court-mertial.

(L.W.W. Slack) Commanding Officer No. 1 Cdn. Infantry Holding Unit

... L. t. Dyw. . Brigadier

leave--

ardino

Mar 25/41

MEDICAL OFFICER'S CERTIFICATE

I certify that this day I have examined No. 1373936

Pte Rulledge G. G , and find him fit to stand trial by

Court-Martial.

25 March 1941 Witley, Surrey,

40 John De Capt De Aune Medical Officer, No. 1 Cdn. Inf. Holding Unit

B-73936, Pte. Rutledge, C.G., (48th H of C Fd. Unit) No. 1 Cdn. Inf. Holding Unit, tried by Field General Court-Martial at Witley, Surrey, on the 25th day of March, 1941.

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

Prosecutor - Lieut. H.M. Howell Defending Officer - Capt. A.A. Kennedy

At 1000 hours 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.

Q1 - 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, Bir.

The President and members are duly sworn.

Q2 - Do you object to M-15577 Sgt. Stanley Fidler, The Edmonton Regiment, C.M.H.Q., acting as Court Stenographer?

A2 - No, Bir.

The Court Stenographer 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 chargesheet.

Q3 - Are you guilty or not guilty of the first charge against you, which you have heard read?

- Not guilty, sir.

- Are you guilty or not guilty of the alternative to the first charge against you, which you have heard read?

A4 - Not guilty, sir. Q5 - Are you guilty or not guilty of the second charge against you, which you have heard read?

A5 - Not guilty, sir. Q6 - Are you guilty or not guilty of the third charge against you, which you have heard read?

Guilty, sir.

R.P. 35(B) is complied with by the Court in connection with the third charge.

Prosecutor - This offence is under Section 9(1) of the Army Act and in view of the fact that the accused has pleaded not guilty to the first and second alternatives it will be necessary to try him on the two alternatives and for the Court to decide. On the first alternative it is incumbent upon the prosecution to prove six separate elements; firstly, that it was a lawful command; secondly, that it was given by the accused's superior officer; thirdly, that it was in the execution of his office; fourthly, that it was disobeyed; fifthly, that it was disobeyed in such a way as to show wilful defiance of authority, and; sixth, that the command itself was a lawful one and could be carried out by the accused.

The Prosecutor proceeds to call witnesses,

First witness for the prosecution, B-73262, Sgt. Stoutley, E.E., 48th Highlanders of Canada, being duly sworn, is examined by the prosecutor.

tley, the accused, Pte. Rutledge, is charged under Section ne Army Act (reads charge). That is the charge against the Will you tell the Court what you know, if anything, about 97 - Sgt. Stoutley, 9(1) of the Ar accused.

events that took place on December 4th? I was in charge of a fatigue party of fifty men and one Wicio. There were several jobs around camp and as soon as any member finished a job we put him on another job. Khy

What kind of a job was 1t?

Building a detention camp. AS Was it a platoon fatigue or a company fatigue?

A company fatigue. A9

Q10 - What company?

"C" Company, 48th Highlanders o Where was this work being done? 48th Highlanders of Canada. Alo

011

At Cormongers. All

012

How did you happen to be over there? Twenty-five men from my company were ordered to go on Brigade fatigue and I got over there and found twenty-five men and an N.C.O. from "B" A12 Company so I took command of the fatigue party of fifty men. How did "C" Company happen to be on?

Q13

- We were duty company and any brigade duties we did, sir, - Tell the Court what happened on this fatigue as far as it concerns the A13 accused.

A14

When we found out that men weren't working we put them on another job. The accused and another man were not working at the time and I ordered them to go over to a pile of cinders to fill wheelbarrows. You ordered them to shovel cinders. How did you give this order? "You two go over there and shovel cinders into the wheelbarrows."

over and stayed a few moments. They went

Q16 - How long?

then Rutledge threw down his shovel and came Three or four minutes, the past where I was standing. A16 -

- How far were you from the pile of cinders? 917

A17 - Fifteen yards.

Was anybody with you?

I asked where he was going and he said he was going Als - Corporal Newton. I asked where he was going and he said he was going to eat. We had equipment and sandwiches down over the hill about 500 yards from where the actual fatigue was.

About what time was this? 019

I told him dinner was between 1150 and one o'clock and 1430 hours. I told him dinner was between 1150 and one o'cloto go back to work. He went back and stayed a few moments an left again and I asked him where he was going and he said "If fucking well don't work." I place on a charge and he went on down to where the sandwiches were. A19 He went back and stayed a few moments and then I placed him

You say he left his work? 920 -

A20 Yes, sir.

Where you watching the pile of cinders? 221 -

A21

Yes, sir. What happened?

He laid his shovel down and he had to come past me and a told him to go back and he went back, A22 -

How long should he have stayed there?

Until the job was finished and then he would be moved to another job. He came back and I asked where he was going and he said he was going to get something to eat and I said to get back to work, that dinner was between twelve and one, and I did ask him why he had no dinner at noon and he said he didn't feel like it. He said the we don't fucking well eat, we don't fucking well work" and went down to where the sandwiches were.

What was the condition of the accused; was he alright whysically? Q24 -

A24 -

What was the construction of the same of the had had not seen anything wrong with him?

Was anything wrong with him?

Was anything would be had a few drinks. He wans! drunk but he had had only that he had had something to drink.

In your opinion was he capable of working? Yes, sir, he proved that by going back to the job and flatching it A26 later on.

027

What did you do about this? I placed him under arrest there, sir. A27 -

In open or close arrest? 028 -

A26 - Open arrest, I didn't have enough men to place him under close arrest.

I had already lost a man who had been taken away under close arrest and a couple of officers from the Engineers said that a certain amount of work had to be done by a certain time.

What time did you place him under arrest; was it the first or second 429 time?

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A29 - The second time.
030 - Where was he going then?
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A30 - To where the sandwiches were.

Cross-examination by the defending officer.

Q31 - You say you put this man under open arrest as he went past you and he still continued down and you let him eat his sandwiches?

A31 - I knew he couldn't go very far away and I said he was on charge.

Q32 - Do you think that was a proper way?

I should have placed him under close arrest but I didn't have men to do it with. I had fifty men to look after and two officers were on my neck. I was worried about getting the job done. You had to put other people under arrest the same morning?

Q33 A33

- Yes, sir. Q311

A 34 The same thing. Were there other people down getting sandwiches too?

- No, sir.

- How far away was the place where they were getting sandwiches?
- I would say three to five hundred yards. 936

Could you see the place?

- No, sir, it was down below the hill.
- But you are sure nobody else was there? We were working in the bush and it was A38 - I couldn't say positively.

very hard to keep track. Was anybody else with the accused at the time? 239 -

Yes, sir. Who was that? A39 -Q40 - Who

Scott, sir. The first time you saw these people ou just ordered them to go up A40 241

and shovel cinders? A41

Yes, sir.
Did you stay around to watch them?
I was right there. I could see from where I was and there were four other men working there at the time. A42

Did you go around to visit them? Q43

A43 I could see them.

244 You didn't go near them?

A44 Yes, sir. And as they walked past you stopped them?

A45 Yes. About this drinking; you claim you could smell his breath? 246

A46

- Yes, sir.
- Yes, sir.
- Had he been away at noon?
- I couldn't say, I didn't check. As long as the men were in the area and ready to start working I wasn't bothered about them. A47

Q48 - How were they dressed?

A48 - In denim dress. Would you think it possible to conceal drink on his person?

Q49 A49 Yes, sir. You could smell this man's breath; had you had any trouble with him 250

before?

A50 No, sir. You would suggest that he started some time during the day?

I don't know, sir. He had been drinking at noon?

didn't see him at noon. A52 -

253 - He marched there:
253 - We went by truck, it was a long distance
253 - We went by truck, it was a long distance
254 - Then from seven until ten-thirty you were riding in trucks?
254 - Then from seven until ten-thirty. it was a long distance and we didn't get started

From eight to ten-thirty.
Then there wouldn't be much opportunity to do any drinking. Were there any pubs near this place?

A55 . I couldn't say.

Q56 . Was it near a village or out in the bush?

. In the bush and there was a highway about a hundred yards from where we were and this man may have left his particular party and gone to a pub, but I couldn't say. 九

- Q57 There were three N.C.O's7 A57 No, sir, myself and another N.C.O.
- A57 No, sir, myself and another N.C.O. Q58 But there were twenty-five men from "B" Company?
- There was myself and twenty-five men from "C" Company and one N.C.O. A58 and twenty-five men from "B" Company.
 Two of you couldn't keep track of fifty men?
- A59 -Not on a lob like that. The engineers supervised and the engineers told us what they wanted and we had to keep order.
- Q60 And you had to put another man under charge? A60 I said there was a man who had been taken away under close arrest.
- He had nothing to do with me at all, sir. Q61 - What was the reason?
- I don't think it has any bearing on the case. Two men came for him A61 -
- from the battalion. Q62 - So that you actually lost only one man from your fatigue party?
- A62 -Yes, sir.
- 063 -
- Why, when you found him drinking at first, why didn't you put him under arrest then. And apparently you just let him go down. I don't think it is customary to put a man under charge every time he A63 is found drinking.
- Q64 You say he started to disobey your order and started to disobey again and he had been drinking and then you kept on having trouble.

 A64 I placed him under open arrest and I thought that was good enough.

- 965 -A65 -It wasn't placing him under open arrest that brought him back?
- No, sir. In the summary of evidence did you make the statement that at two 266 o'clock Rutledge came up to you and asked if you wanted a drink and
- you declined? A66 - Yes, sir.

Questions by the President

- Q67 On each of the occasions you ordered the accused to go to work, did he comply with the order?
- Yes, sir, he did in a kind of slovenly manner. How long did he stay away from his work? 968 How
- Between half an hour and an hour.
- Q69 He had time for his lunch and didn't take it then? A69 He said he didn't feel like it before.
- 270 Had he complained before about not being well?
- No. sir.
- A70 -Q71 -A71 -Q72 -A72 -Aside from that one time he did any work you asked him?

- Why do you say he did it in a slovenly manner?

 He seemed to be grumbling. I couldn't make out what he was saying, but he was kind of dallying around and grumbling.

 Dut he was kind of dallying around and grumbling.
- Q73 Before you quit for the day did Rutledge carry out the duty that was
- given to him completely?
 Yes, sir. At one time he wanted to quit and go home and the majority of the fellows thought we should only be working until four o'clock A73 and then gone home, and I am not holding that against him. When he did get to work he did his work?
- 274 -
- A74 Yes, sir.

Questions by the Court.

- Q75 Did the accused make any remark when he was placed under open arrest?
- A75 No, sir, he just went on down.

Re-examination by the Prosecutor.

- Q76 Did the accused ever finish shovelling this pile? When he went back did he finish the job?
- A76 He went back and helped finish up the job and after shovelling the cinders went on with the wheelbarrow.

 Q77 Did he do his share of the job?

 A77 Ko, sir, that is why he was on charges.

- Prosecutor That is the case for the prosecution except I reserve the right to call witnesses in rebuttal to the defence evidence.

05 - There were three N.C.O's? - No, sir, myself and another N.C.O.

A - There was myself and twenty-five men from "C" Company and one N.C.O.

- Two of you couldn't keep track of fifty men?

Not on a job like that. The engineers supervised and the engineers told we what they wanted and we had to told us what they wanted and we had to keep order.

I said there was a man who had been taken away under close arrest. And you had to put another man under charge? He had nothing to do with me at all, sir.

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Q74 - When he did get to work he did his work?

A74 - Yes, sir.

5 - Did the accused make any remark when he was placed under open arrest? Questions by the Court. A75 - No, sir, he just went on down.

276 - Did the accused ever finish shovelling this pile? When he went back Re-examination by the prosecutor.

A76 - He went back and helped finish up the job and after shovelling the cinders went on with the wheelbarrow.

Q77 - Did he do his share of the job?

A77 - No, sir, that is why he was on charges. Prosecutor - That is the case for the prosecution except I reserve the right to call witnesses in rebuttal to the defence evidence. XX Q78 - Do you apply to give evidence yourself as a witness?

A78 - Yes, sir.

Q79 - Do you intend to call any other witness in your defence? A79 - Yes, sir.

Q80 - Is he a witness as to character only?

A60 - One is a witness as to character and the other a witness as to fact.

First witness for the defence, B-76351, Pte. Scott, K., 48th Highlanders of Canada, being duly sworn, is examined by the defending officer.

Q81 - Will you tell us in your own words what happened on the 4th December

when you were on a working party with Pte. Rutledge?

AS1 - I was on this fatigue party at Redhill on the 4th December and in the afternoon about two-thirty we were working shovelling cinders and decided to go down and get a couple of sandwiches and on the way down Sgt. Stoutley stopped us. Q62 - How far away were these sandwiches?

Q82 - How far away were these sandwiches?

A83 - About fifty yards, I think. Sgt. Stoutley stopped us and asked where we were going and we said we were going flown to get a couple of sandwiches. He said "You can't go down there" so we turned back to our work and we were standing there waiting for the wheelbarrow to come back and Sgt. Stoutley said "You two bastards better get back to work." We kept on working and a few minutes later went back down the hill to get some sandwiches.

Wes there anybody down there?

AB3 sir, three or four other fellows,

- Yes, sir, three or - Eating sandwiches? 284

A84 - Yes, sir. Q85 - What happened then?

- We came back, - How long would that take? A85

A86

About fifteen min.tes.
You went back and continued to work? Q87

Yes, sir. Is that all that you have to say? sir. A87 988 -

Yes, sir. A88 -

I want to review what you said. You started to go down for sand-wiches and the first time you were stopped by Bgt. Stortley and you 989 went back to work and when you had a break you went down and got them and returned? Yes, A89

sir. - After you returned you continued to work? 290

A90 -

991 -

A91

- Yes, sir.

- Were you with the accused all the time; were you working together?

- We were working together all the time.

- At any time did you hear Sgt. Stoutley place this man under open 992

A92

No, sir. Had the accused been drinking at all; was there any evidence that 293 -

No, sir, there wasn't.

When Sgt. Stoutley told you to get back to work did he do it in what you would consider to be a usual army command or what did he say?

He just walked up and said "You two bastards better get back to work. 994

Cross-examination by the prosecutor.

Q95 - You say that you and Rutledge were working together all the time?

A95

Yes, sir.
When you say "all the time" what time would that cover?
Well, all afternoon we were working together.
You were working on it all day, were you? A96 -97 -A97 -

About ten in the morning we atarted.
Until when?
About four-thirty.
And you were on the job all that time?

998

A98

999

Except for the time we went down for sandwiches.
You are also telling me that you were with Rutledge all that time
We were working together.

9101 - Did you go for sandwiches together?

Alo1 - Yes, sir.

Q102 - Were you put under arrest at any time during that day?

A102 -No, sir, You weren't?

Q103 -A103 No, sir.

2104 - Were you later charged with any offence arising out of what you did that day?

I didn't know until next day. A104 -

0105 You weren't put under arrest at all?

A105 No, sir,

2106 -When were you charged?

A106 The next morning.

2107 - On what charge?

Absence without leave and disobeying an order. A107

Q108 - What happened? Alos - I got ninety days.

Questions by the President.

Q109 - Did you, while you were with Rutledge, hear Sgt. Stoutley inform Rutledge at any time that he was going to lay a charge against Hutledge?

sir. I didn't

Q110 - He never mentioned charging a man for any offence?

Allo - No, sir. I did hear him say abo Qlll - How far away from them were you? Alll - About two or three feet. I did hear him say about losing a lot of pay.

Q112 - So you could hear?

All2 - Yes, sir.

Ql13 - And you didn't hear him say he was going to lay a charge or place him under arrest of any description?

Al13 - No, sir.

Second witness for the defence, B-73936, Pte. Rutledge, C.G. 48th Highlanders of Canada, being duly sworn, is examined by the defeniing officer.

G114 - Rutledge, I would like you to tell us your story of events on the

All4 - There were twenty-five men taken from "C" Company to Cormonger where they were constructing a new Canadian glasshouse and as far as I knew Sgt. Stoutley was our sergeant. "e got turned around quite a bit and the company arrived on the job sometime between ten and eleven and proceeded with the work. It was coming around to dinner time and I had a couple of chocolate bars with me and I ate those in preference to sandwiches and returning to work after dinner I was put on the job of shovelling cinders. Pte, Scott was with me practically all day and during the afternoon we seen several boys going down for sandwiches and they were fifty yards away over the brow of the hill. We weren't trying to pull a fast one and we went where Sgt. Stoutley was standing. by where Sgt. Stoutley was standing. He stopped Scott and myself and I told him we were going for sandwiches and that I hadn't had any dinner. He said I should have eaten at dinner time and to go back to work. We went back to work and Sgt. Stoutley came up behind us and said "Come on you two bastards, get busy." I had to wait for a wheelbarrow and it made me peeved by being told that by an N.C.O. I have known Sgt. Stoutley for some time and he came from my home town and we returned to our duty. uring the afternoon Sgt. Stoutley and I had no conversation whatsoever and he made no more statements. He stopped Scott and myself and I had no conversation whatsoever and he made no more statements about what we should do and shouldn't do and I didn't know I was on about what we should do and shouldn't do and I didn't know I was on a charge until the following day when we moved to the coast. I didn't know I was on a charge although it was rumcured around that I would be on court-martial. The day after we arrived at the coast I was brought up by the C.O. and there were several other charges they couldn't prove and I was remanded for court-martial without being given a chance to speak. I asked for a chance to explain and said about Sgt. Stoutley calling us bastards and the CD. said he propably had good cause to and that I was remanded for courtmertial. That was all that took place.

- Q115 When you went down to get sandwiches were there other people down there?
- A115 Yes, sir,
- Q116 How many?
- Two or three. A116 -
- And other people had been going down? 2117 -
- Yes, sir. Were they put on charges? A117 Q118 -
- Al18 No, Bir. 0119 -
- About this business of drinking, had you anything to drink? No, sir, the nearest place I could think of to get a drink would be A119 -
- Redhill. Did you offer the sergeant a drink? 9120 -
- Al20 No, sir. Q121 Had you anything to drink the night before?
- A121 Yes, sir.
- When? 0122 -
- Al22 Near our company billets was a little pub and it was quite handy
- and the gang was in nearly every night.
- Were you late for parade in the morning?
- No, sir.

Cross-examination by the prosecutor.

- Q124 You said you decided not to have any lunch and to eat chocolate bars is that correct?
- Q125 Subsequently you decided that you did want lunch?
- Al25 I returned to work and found that a couple of chocolate bars wasn't enough and other people were eating and it naturally made me hungry couldn't see any reason for not going down.
- You and your friend Scott took it on your own hook to go down for 0126 -
- food. Al26 - Sgt. Stoutley was standing beside us and we didn't feel we were doing anything out of the way and we were going directly past him
- when he stopped us.
- Were you going to ask him? No, sir, but I didn't feel that we were doing anything out of the 2127 A1.27 way .
- Q128 You knew how many men there were?
- A128
- Yes, sir. And you knew how many N.C.O's?
- A129 -
- Yes, sir. And you and Scott were typing to take advantage of the situation?
- No. sir.
- Q130 -A130 -Q131 -Then how do you account for leaving to go for sandwichest Sometimes five or ten minutes elapsed before the wheelbarrow re-A131 turned. As a matter of fact we were back to work before the
- wheelbarrow returned. Is that what you usually do on fatigue; leave your work?
- 0132 -
- A132 -Q133 -A133 -No, sir. You say you were not doing any drinking that day at all?
- No, sir. Have you any way of accounting for the fact that you and Scott 21 34
- were charged and not anybody else? No, sir, except that I had a clean sheet during all my service and sir, A134 then I got into domestic trouble at home and I wrote a letter and my wife tried to fix things up for me and my company commander, Major Merritt, was picking on me. I felt I was being pushed on Major Merritt, was picking on me. several occasions. A good exampl A good example is the case of court-martial.

Re-examination by the defending officer.

- Q135 I would like to hear a little more about this persecution you speak of.
- I was given twenty-eight days detention for my first crime of any importance in the army and during my detention I taught myself
- signalling. Q136 During your time off?

Al36 - I was working in the Bergeants' Mess and got permission from the R.B.M. to study at night.

2137 - Was it customary for peopls in detention to work there?

Al37 - People they felt they could trust, we were put in the kitchen and the others were out under escort digging.

2138 - You taught yourself signalling.

0138 -A138 -

You taught yourself signalling.
Yes, sir, and what I knew about it was satisfactory to the Signal
Yes, sir, and what I knew about it was satisfactory to the Signal
Yes, sir, and he said he would give me a break and I went to Major
Officer and he said it would be necessary for me to prove myself
Merritt and he said it would be necessary for me to prove myself
and later in November I went and asked for a week-end pass and he told me I had a nerve asking for a pass and as long as he was in command I wouldn't get one and if I came on parade with as much as a shoelace undone I would be for it. I tried to get a transfer to the clones and transfer to the pioneer platoon and he refused to accept a man in exchange for me and he refused to let me go.

Questions by the Court

Q139 - What time did you go back to work after the regular break for dinner? About 1330 hours.

0140 - About 1430 hours you were going for sandwiches?

- Yes, sir. - You made a statement that you saw other people eating sandwiches? A140 -

Q141 Yes, sir. A141

How was it you were able to see them?

A142 - They were getting them from about thirty yards away over the brow of of the hill and from where we were we could see over the brow of

One of the reasons you went was because other people were eating Q143 -

Al43 - Different ones were coming back with sendwiches and pieces of cake

Al43 - Different ones were coming back with sandwiches and pieces of cak and I thought it would be alright if the rest had it.

Q144 - How long have you been in the army?

Al44 - January 10th I enlisted, sir.

2145 - Have you been told of the method of redress for grievances?

Al45 - Yes, sir, you can take it to the O.C. of the regiment.

Al45 - Yes, sir, you can take it to the Sandwiches were from where Q146 - I would like to know the distance the sandwiches were from where

Approximately fifty yards from the point where we were working on the side of the nill. They were on a pathway where we had taken our equipment off and we had gone up the hill and were working over A146 the brow of the hill.

The first witness for the prosecution, B-73262, Bgt. Stoutley, E.E., Highlanders of Canada, is recalled by the prosecutor and re-examined. 48th

Q147 - Did you call wither Pte. Scott or Pte. Rutledge a bastard at any

C148 - How far were these sandwiches away from the dinder pile?

A148 - I couldn't exactly say, but I figure about 300 yards, sir.

A149 - Going right over the brow of the hill, is that the shortest route?

A149 - It could be, sir. I just went down the same way myself.

A150 - Was Scott with Rutledge during the whole of that day?

The defending officer declines to cross-examine this witness,

Questions by the Court.

Q151 - You say the distance the sandwiches were from where they were working, you say that dictance was about 300 yards? by normally direct?

A151 - You would have to go a bit around; there was a path.
Q152 - It could be shorter? That is, if you went over the top?
A152 - Yes, sir. I would say by going over the top it would be a hundred yards shorter.

When these men passed you, where were you on the hill?

I was back in the opening where they were building the camp and you had to walk around the opening and then down around the side of the hill. The camp was built on the side of the hill.

Going from the cinder pile to you to the sandwiches, how far was Q154 that; what would be the distance?

I imagine about a hundred yards, - How long did you say they were away?

- About half an hour to an hour I wouldsay, sir.

Defending Officer -- I would like to point out that we have two witnesses who disagree with Sgt. Stoutley's evidence. In the first place he said he was standing in the one place and the two witnesses said he came to them at the cinder pile. That seems to be the more reasonable way of watching over things; he couldn't stand stationary. If these men were away between half an hour and an hour and Sgt. Stoutley who was in charge didn't go down and see where they were it seems a funny thing to me as he said he placed them under open arrest when they went down the hill and were absent half an hour or an hour and he didn't worry at all. think you would give any N.C.O. of yours as severe going over for doing exactly that same thing. The evidence brought forward shows that others were eating sandwiches at the same time. If I could have brought in Pte. McLean, who is in hospital, he would have been able to verify that fact. I fail to see where wilful defiance of authority has been proven. As far as disobeying a lawful command is concerned they were carrying on in the same manner as the rest of the fatigue party were carrying on. They went and got a sandwich and came back as the rest of the fatigue party were doing. The summary of evidence shows that the accused got sandwiches and came back eating them and went to work. I think the general picture seems to tie into this. If you believe the story that Sgt. Stoutley told them to go to work and called them bastsrds, and that Rutledge replied to him at one time saying "If we don't fucking well eat we don't fucking well work," I think this seems to be the usual word to be used in and around the barrack room and is commonly used as an adjective and is not addressed to anyone and I think it should be considered as such. and is not addressed to anyone and I should be considered as such it think the wording of the phrase is sufficient evidence. I have heard hundreds of soldiers use the very same thing and it didn't mean anything. Up until a quarter to ten the defence did not have this chargesheet and we have not had a chance to prepare on the alternative charge. but we are anxious to get the case cleared up. As far as we can see, accused was carrying on his duties and doing his job the same as the remainder of the fatigue party. The sergeant says he placed him under open arrest and two people were there and they say there was no suggestion of him being placed under open arrest. We will have to bring the third of him being placed under open arrest. We will have to bring the thir charge in here and you will note that he was charged with being absent without leave and the charge doesn't say while under open arrest. The is no place in the summary of evidence that would suggest that the man was placed in open arrest. The company was warned that they were c.b. on the 4th December.

Prosecutor -- The defence is apparently besing their case on the fact
that there was negligence on the part of Sgt. Stoutley, I might
remind the Court that there were fifty men and two N.C.O's. To my mind
these two men were taking advantage of the situation. They say that other
men were eating sandwiches, but there is no evidence to show that they
were not brought in their packets from lunch. It is unfortunate that It is unfortunate that were not brought in their pockets from lunch. It is unforth 1 learned this morning that he is in hospital and could not be here. Even if men were the only ones misbehaving, certainly a sergeant couldn't very well put half a fetigue party under arrest. A further position of the defende is the fact that they were called bastards. That is denied by Sgt. Stoutley and they were not justified in acting in the way they did. As far as the new charge-sheet is concerned that apparently was over-looked in my absence. I just came back shortly after nine this morning and the charge under Section 9(1) was in the hands of the defence a matter of twelve days ago. In connection with the third charge, it is submitted that "when in arrest" means "close arrest". I might also mention that the summary of evidence is not before the Court in this case. I might also men 15

It is only used before the Court in order to check a contradictory statement by a witness. Going back to the six different ingredients, that the command was a lawful one doesn't need much elaboration. The man was ordered to shovel cinders on fatigue. Secondly, that command was given personally by Sgt. Stoutley and Sgt. Stoutley has testified to that. Sgt. Stoutley is of course, their superior officer and Sgt. Stoutley was in the execution of his duty because he was in charge of the fatigue. This man admits to being the army for approximately thirteen months and he was told to do this in the army for approximately thirteen months and he was told to do this job and it certainly was physically possible. Then the last element, that of wilful defiance of authority. That is not only proved by the fact that he lay down his shovel and left the cinders and, although he had had a previous opportunity of obtaining lunch, said "If we fucking well don't eat, we fucking well don't work." Apparently that was the attitude of the accused all the way through and there were only two N.C.O's for fifty men. I submit that the prosecution has proved its case.

The Court is adjourned for luncheon.

Prosecutor -- In connection with the alternative charge under Section 9(2) would like to produce my witnesses,

First witness for the prosecution, B-73262, Sgt. Stoutley, E.E., 48th Highlanders of Canada, being recalled, is examined by the prosecutor.

Q156 - Sgt. Stoutley, you have given evidence against the accused on the charge under Section 9(1) of the Army Act, is there anything you wish to subtract from that evidence, or add to that evidence; we are now dealing with Section 9(2) of the Army Act. A156 - No. sir.

Cross-examination by the defending officer.

Q157 - You made a statement that on the 4th December you were duty company?
A157 - Yes, sir, that is what I understood, sir.
Q158 - Did you take any particular care to find out whether you were?
A158 - I understood we were duty company for the day, sir.
Q159 - Have you any reason to change your mind at all now; it has quite a bearing on the case?

I understood we were duty company but I was speaking to Sgt. Waite at noon and I found we were standing by and not duty company. I suggest that if you don't remember whether or not you were duty company you are not able to remember the balance of the facts. If I wanted to charge a man it would have no bearing whether we Q160 -

A160 -

were duty company or not. Q161 - I think it does affect your credibility.

Al61 - It was just a misstatement, sir, I was pretty certain we were duty company.

Re-examination by the prosecutor.

Q162 - You have not since sonsulted Part I Orders as to whether or not you were duty company?

A162 - No, 81r.

Second witness for the prosecution, B-73169, Cpl. Newton, F., 48th Highlanders of Canada, being duly sworn, is examined by the prosecutor.

Q163 - I want you to tell the Court as briefly as possible the eventa that took place on the 4th December. The accused is being tried under Section 9(2) of the Army Act (Reads charge). Would you tell the Court what you know relative to these events.

Al63 - On the 4th December Rutledge was on a fatigue party at Cormongers and Sgt. Stoutley met him going by and asked him what he was

doing. 9164 Were you present?

Yes, sir. He said he had finished his task and Sgt. Stoutley tol him to go back and shovel cinders. He did go back and shovelled only a few minutes and started walking away from his task. A164 tola Q166 - Where were you?

A166 -- Standing beside Sgt. Stoutley. Rutledge said he was going to have something to eat because he had no dinner and Sgt. Stoutley told him to go back and finish his task and Rutledge proceeded to throw down his shovel and went down for something to eat.

9167 Do you remember his exact words?

I couldn't exactly swear to his exact words, I think he said he A167 wouldn't do any more fucking work until he got something to eat, Then what happened?

Al66 - Sgt. Stoutley ordered him back to work and he refused to go and went

Q169 A169 Did he eventually come back?

Yes, sir.
Were you with Sgt. Stoutley all afternoon?
Yes, sir, and one of the Engineer officers. Q170 -A170 -Did he ever finish his share of this work?

Al71 - Well, he finished it in a way, but not his share of the work; after he told him to go back to finish shovelling he picked up a wheelbarrow and started wheeling cinders.

Cross-examination by the defending officer.

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Q172 - How long do you think Rutledge was away?
A172 - About an hour and a half.
Q173 - From when to when?
A173 - From 1400 hours to 1530 hours.
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- From 1400 hours to 1530 hours. - Your picture of the thing is that he started down the hill to where the food was and Sgt. Stoutley stopped him? A174

- That was before he got as far as the hill. - He said he didn't have a job to do?

A174 - That was before he got as far 175 - He said he didn't have a job A175 - He did have one to do. 9176 - Did he start to work at the t A176 - Yes, sir, he started to work. 9177 - He was standing about fifteen 9178 - He stood there all this time? A178 - Yes, sir. 9179 - Eventually Rutledge proceeded A179 - Yes, sir. Did he start to work at the task Sgt. Stoutley gave to him?

- Yes, sir, he started to work.

- Where did Sgt. Stoutley go?

- He was standing about fifteen or twenty yards away.

Yes, sir. Eventually Rutledge proceeded with his work?

Yes, sir. What happened after that? 9180 -

Q180 - What happened after that?

Al80 - We no sooner got back to where/were talking to the Engineer officer and Rutledge threw down his shovel and started down hill and he said he was going to get something to eat as he had had no dinner end he said he fucking well wouldn't wark until he got something

to eat.

Q181 - Did Sgt. Stoutley do anything about it at all?

A181 - He couldn't do very much about it at the time as he had fifty men

Q182 - You are sure of that?

A182 - Yes, sir.

Q183 - He didn't say he was under arrest?

A183 - Not then sir, but he did when he came back.

Al83 - Not then, sir, but he did when he came back.
Q185 - He told him later in the afternoon, what time would that be?
Al84 - About 1530 hours after Rutledge went down. I went down to see if

A185

my men were working and Rutledge was coming back then.

- He didn't go back to shovelling cinders?

- He picked up a wheelbarrow and started wheeling cinders. - Sgt. Stoutley told him? 2186

Also - Bgt. Stoutley told him had a stoutley. Also - He didn't report back to Sgt. Stoutley. Q187 - Did Sgt. Stoutley tell him he was under arrest? Also - He said he was up for orderly room.

Alss - Yes, sir, positive, sir.

Questions by the Court.

Q189 - Was Butledge alone when he went past the sergeant? A189 - No, sir, there was another man. Q190 - Who was that man?

Algo - Pte. Scott, sir.

0191 - Do you apply to give evidence yourself as a witness?
A191 - No, sir.
0192 - Do you intend to call any other witness in your defence?

- Is he a witness as to character only? A192 - Yes, sir.

0193 - Is he a w A193 - Yes, sir.

First witness for the defence, Lieut. E.N. Harringdon, 48th Highlanders of Canada, being duly sworn, is examined by the defending officer.

Q194 - I would like you to tell the Court what you know about the accused.

A194 - I first knew the accused in the Infantry Training Centre in Toronto.

We both joined the army in January as 45th Highlander reinforcements.

About the beginning of February I was given my first platon and

Rutledge was in it. We had permanent establishment N C.O.B who were corporal and sergeants and our lance-corporals were picked were corporal and sergeants and our lance-corporals were picked from the smartest of the reinforcements. Rutledge was a reinforcement in my platoon. He was an exceedingly good and smart soldier indeed. I saw him on parade from, I suppose, early in February indeed. I saw him on parade from, I suppose, early in February until the middle of July at Camp Borden when Rutledge went overseas until the middle of July at Camp Borden when Rutledge went overseas to the regiment. Uring all that time he was certainly an exemplary to the regiment. Uring all that time he was certainly an exemplary soldier, very smart on parade and he had a very nice style indeed. Soldier, very smart on parade and he had a very nice style indeed. I don't think I wmm particularly naive as far as people are concerned and I was shocked and surprised when I went down to Brighton and found my former N.C.O., Rutledge, under arrest, because he was certainly one of the smartest soldiers I had seen; a good man on and off parade. As far as credibility is concerned I would certainly and off parade. As far as credibility is concerned I would certainly be prepared to accept all his statements at their face value except so far as a man may make an honest mistake, but if he says a thing I am prepared to believe him.

Cross-examination by the prosecutor

9195 - How much of the accused have you seen since he came over to England? Alg5 - Nothing here at all in England, except in the digger at Brighton.

Alg6 - You don't know anything about his conduct since he left Canada?

A196 - Nothing except what I can give as hearsay evidence.

Defending Officer - I would like to point out the conflicting evidence. ing Officer - I would like to point out the conflicting sydence.

Set. Stoutley says that the man, after going away, went back to
his shovelling. The Corporal says he didn't go back to his shovel.

The sergeant says he was absent half an hour to an hour. The
corporal says it was for an hour to an hour and a half.

prosecutor - I have nothing to say except about the remarks of the defending officer. There have been discrepancies and there will always be slight discrepancies in regarding different events. The element of time enters into this and I would remind the Court that these events took place on the 4th December.

The Court is closed for the consideration of the finding.

President - From the evidence submitted, the Court finds you not guilty of the first charge or the alternative.

The Court proceeds to hear evidence in connection with the second charge.

The prosecutor proceeds to call witnesses.

First witness for the prosecution, B-72653, Sgt. Waite, C., 48th Highlanders of Canada, being duly sworn, is examined by the prosecutor.

Q197 - On this charge of absenting himself without leave the accused is charged with being absent from 1730 hours on the 4th December until 2230 hours the 4th December. Will you tell the Court of your per-

al97 - On December 4th, prior to a move of the company, we were warned by the C.S.M. that the company was c.b. and that there would be a roll that evening. When I took the roll call at 1700 hours Rutleage call that evening. was absent.

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0198 - Is Rutledge in your platoon?
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A198 -

Yes, sir, "hen did you say you took the roll call?

Q199 -A199 -At 1700 hours.

When did you next call the roll?

0200 believe an hour or a little later after that. At 1800 hours or a ittle later and Pte. Rutledge was not in billet at any time until A200 -2230 hours.

When did you next see Butledge? 0201 -

A201 - At 1155 hours, sir, in bed sound asleep. Q202 - When were you informed the company was c.b.? A202 - At 1400 hours on company commander's parade.

Q203 - At 1700 hours when you called the roll was this fatigue back?

A203 - Yes, sir. Q204 - Was anyone else absent that evening?

platoon, sir. from my

XXXXXXXXXXXXXXXX

Cross-examination by the defending officer.

9205 - You are sure it was at 1700 hours you called the roll? A205 - Yes, sir. Q206 - Because you mid it was at 1730 hours in the summary of evidence.

A206 - I may have said that, sir. Q207 - When the information was clear in your mind you said half past

A207 - when the information was clear in your mind you said half past five instead of five o'clock?

A207 - When that summary of evidence was given it would be clearer in my mind. I haven't had an opportunity of having it read to me; it would likely be five-thirty.

Q208 - When you called the roll at 1730 hours they were c.b.?

A208 - The whole company was warned at company commander's parade at 1400 hours and we always knew when we were breaking off to warn the boys again.

Q209 - Then again, in the summary of evidence, you stated you again called the roll at seven-thirty instead of six o'clock as you said here?

A209 - I said about an hour afterwards.

0210 - One hour afterwards would be six o'clock. Again I presume that is

the correct time? That would likely be more correct because that all happened last

December. Q211 - Normally if you didn't know about the c.b. you would think it perfectly alright to quit the barracks after coming in off fatigue?

A211 - Yes, I would say so, sir.

Re-examination by the prosecutor.

Q212 - I understand from you that Butledge was not present at 1730 hours?

A212 - At my first roll call.

Q213 - Ane he was not present when again?
A213 - At my second roll call; 1930 hours.
Q214 - Did you make any effort to find Rutledge after the first roll call?

I went through the billet, sir, we were in a big house with several rooms and I checked his room and different rooms because I A214 wanted to see if he was playing cards with the boys.

Q215 - Did you make another effort?

A215 - At 1155 I made a final check and found him fast asleep.

Questions by the Court.

2216 - At the time he came off duty was there any dismissal merade?

A216 - I couldn't answer that, sir. I had nothing to do with the fatigue party. On these fatigue parties they usually draw them from the book by the duty roster and I had two men on fatigue that day so therefore those two men wouldn't be on the 1400 hour parade.

Q217 - Then the next time you would see those two men would be on the 1730 hour parade?

1730 hour parade?

Yes, sir. Then he was let go from that fatigue parade would be be warned? Not individually. Prior to any move we make it is officemary to Agis - Not individually. have the company c.b.

Questions by the President

Q219 - How was the communication given that the company was c.b. Were the N.C.O's in charge of fatigues there?

A219 - No, sir.

Q220 - Have you any direct knowledge or information that these n.c.o's

were warned to inform their fatigue parties? Mo, sir, it wasn't in Part I Orders and it was given out by the C.S.M. and the n.c.o's in charge of the fatigues were not there.

Second witness for the prosecution, B-73262 Sgt. Stoutley, E.E., 48th Highlanders of Canada, being duly sworn, is examined by the prosecutor.

Q221 - Did you at any time tell Rutledge that he was under open arrest? A221 - Yes, sir, I believe I gave that in evidence this morning. Q222 - Did you release him later?

A222 - No. sir. Q223 - Did anyone else release him?

- Nobody could, sir.

The defending officer declines to cross-examine this witness, Questions by the President 0224 - Did you know during the afternoon that the company was c.b. that day?
A224 - I couldn't say whether I knew about it before, but I found out about
it at five o'clock that we were.

you released them from fatigue you didn't warn them of a Q225 - When possible move?

A225 - No, sir.

Q226 - Do you apply to give evidence yourself as a witness?

A226 - Yes, sir.

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

- Yes, sir,

Q228 - Is he a witness as to character only?

A228 - Yes, sir.

First witness for the defence, B-73936, Pte. Rutledge, C.G., 48th High-landers of Canada, being duly sworn, is examined by the defending officer.

you tell the Court what did happen when you went away after Q229 - Will

returning from fatigue?

A229 - Some time previous to this move to the coast I had a good watch in a jewellry shop getting it fixed and the only opportunity to get it was to get in before blackout and get the watch. We returned on the truck and were dismissed in the regular way to the billets and, without waiting for supper, I left and went to Reigate and returned by 1015 for regular roll call. The next morning Sgt. Waite told me I was on charge for a.w.l. I hadn't known anything about the c.b. add I made quite certain that I was back for the regular roll call add I made quite certain that I was back for the regular roll call that night and had no intention of going a.w.l.

2230 - That time did you have to be in normally?

A230

Ten-thirty, sir. Did anyone see you come in at 1030?

A231 Was it a normal thing for people to leave billets as you did? In many cases quite a number of boys had friends who invited them out for supper. We usually broke off at 1630 hours and that gave out for supper. We usually broke off at 1630 hours and that gave the boys ample time to meet their girl friends and boy friends and go for supper.

The prosecutor declines to cross-examine this witness.

Defending Officer - The only point upon this absence without leave is whether this man was placed under open arrest in the afternoon or not. He did quite a normal thing in going for his watch as the unit had been o.b. without his knowledge. The question of being under open arrest brings up the point I raised this morning. Mr. Howlett suggested it didn't matter and that it was a normal thing to charge him as was done,

normal section under which to charge this man would be Section 22 rather than for absence without leave. Had he been in lawful arrest they would have brought in the more serious charge too. We have brought forth two witnesses to say that Sgt. Stoutley did not place the man under open arrest.

The Court is closed for the consideration of the finding.

The Court finds the accused not guilty of the second charge.

Lieut, D. Ivor, Records Officer, No. 1 Cdn. Inf. Holding Unit, is duly sworn.

Q233 - Have you any evidence to produce as to the character and particulars

of service of the accused?

I produce A.F.B. 296 and M.F.M. 6 of the accused.

Is the accused the person named in the statement which you have heard read?

A234 - Yes, sir.
Q235 - Have you compared the contents of the above statement with the regimental books?

Yes, sir. Are they

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

A236 - Yes, sir.

The accused declines to cross-examine this witness.

Q237 - Do you wish to address the Court? Q237 - Do you wish to address the Court?
A237 - (Rutledge) Bir, I realize, of course, that there is no excuse for absence without leave but I was remanded for Field General Court-Martial and it was quite a slap in the face and it was rumoured around that I would be given an awful riding and that, with domestic broubles at home, had me worried. I had been in detention seventeen broubles at home, had me worried. I had been in detention seventeen days and hadn't seen an orderly officer or defending officer and the

door was open one night and I took the opportunity to get away. I realize I must face the punishment. I have been in detention seventy days plus seventeen days before. I hope the Court will be as lenient as possible. I have been offered a transfer when I get out and intend to prove my worth as a soldier.

B-67300, Sgt. Kelly, T., No. 1 Cdn. Inf. Holding Unit, being duly sworn, is examined by the defending officer.

9238 - You are at the present time in the provost corps of the No. 1 Cdn. A238 - Yes, sir.

A239 - Yes, sir.

A239 - Yes, sir.

A239 - Yes, sir. Q240 - What about his conduct for the past seventy days? A240 - I am in charge of No. 2 Detention Block and I have had no complaints against the man. His conduct while a prisoner has been excellent. He is always clean and soldierly.

Lieut. E.N. Harringdon, 48th Highlanders of Canada, being duly eworn, is examined by the defending office:

Q241 - Will you describe to us as best you can the mental state of the accused at Brighton while he was in detention?

A241 - I went in to see him at Brighton and he was in the detention barracks I went in to see him at Brighton and he was in the detention parraculance arrest awaiting court-martial. He told me his whole long sad story and I gathered that he felt that somebody had been trying to pin one on him and he was for it, and I tried to cheer him up and told him that everything would be alright, as I thought it would, but he was sad about the whole thing and when he went I thought it was the end of a good man and it was a foolich thing to do, but in a way I understood why he had gone in spite of the fact that it was the worst thing he could have done.

You think he was worried and when the opportunity came he buzzed of:

0242 - You think he was worried and when the opportunity came he buzzed off? A242 - I think he felt desperate, but he did the worse thing he could do

Defending Officer -- You have the man's conduct sheet and you will see that it is a good one. He is not in the habit of going absent without leave and as Sgt. Kelly saye, he has been a good soldier in detention and I hope the Court will consider the 87 days he has spent in detention awaiting trial. He did come back of his own free will and we were rather in a dilemma because he came back here and at the time we would hardly take him into detention. He tried to get to the holding unit because he knew this was where he would come finally.

The Court is closed for the consideration of the sentence.

STATERENT as to CHARACTER & PARTICULARS of SERVICE of ACCUSED B-73936 Ptc. RUTLEDGE, C.G., No.1 Cdn. Infantry Holding Unit. The following is a fair and true summary of the entries in the regimental conduct sheet of the accused, exclusive of convictions by a court-martial or a civil court, and of cases in which trial has been dispensed with: Since Enlistment Within last 12 months Number of instances of gallantry or distinguished conduct: Nil. The accused is not under sentence at the present time. The accused has not been previously convicted by a Court-Martial or a civil court.

The accused has been in confinement, awaiting trial on the present charges, for no days in civil custody, and 87 days in military custody, making a total of 87 days in custody, of which no days were spent in hospital. The present age of the accused according to his attestation paper is 22 years.

The date of his attestation specified in his attestation paper is 5th February 1940.

The service which the accused is allowed to reckon towards discharge or transfer to the reserve is 13 months.

The accused is entitled to deferred pay or gratuity in respect of 13 months' service.

The accused is entitled to reckon 13 months' service for the 9. purpose of determining his pension, etc.

The accused is in possession of or entitled to no military decoration or military reward,

of convictions by a court-martial or a civil court and of cases in which trial has been dispensed with of the accused.

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

Witley, Surrey, 25th March, 1941.

2.

Extubil A

C . Sqn., Battery. II CII No. 8-7393 Name Rutledge Corps G.C. Service or anligemane Date of last entry in Proficiency Pay No. and date (A.F.B.112) Period not reckoning towards Signature O.C. C. L. Monty Character Company, atc. C. L. Monty Company Conduct Sheet H.Q. 1772-41-18 of last drunk freedom from extra fine Sheet No. Cases of drunken-Date of Place Kank offence OFFENCE Hames of Witnesses. mess Purishment awarded of order dagen. By whom awarded Ramarks cong with trial

SUBMARY OF EVIDENCE

In the case of B-73936 Pte. Rutledge, C.G.

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

Lieut. R.M. Dillon, No. 1 Canadian Infantry Holding Unit, being duly sworn, states:

I am Officer in charge of Records, No. 1 Canadian Infantry Holding Unit, and as such produce the following documents in evidence:

- (a) Copy of the Record of the Declaration of a Court of Inquiry assembled at Kingswood, Surrey, on the 20th day of February, 1941, 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. B-73936 Pte. Routledge, C.G.
- (b) Confession of the accused, No. B-73936 Pte. Rutledge, C.G.

These documents refer to B-73936 Pte. Rutledge, C.G., whom I now recognize.

(The accused declines to cross-examine this witness)

Certified that Rules of Procedure No. 4 (c), (d) and (e), have been fully complied with.

H.M. Howell, Lieut., Officer taking Summary.

Witley, Surrey 10th March 1941.

Sussary of evidence in the case of No. B-73936 Private Rutledge C.

48th Highlanders of Genada.

By direction of the Officer Commanding "C" Company 48th Highlanders of Canada, the summary of evidence is taken on outhin my presence 7th Dec to

Alllaskeny sapr.

1at witness for the prosecution

No. B-73169 Cpl. Newton F

48th Highlanders of Ganada

after having been duly sworn, states :- while on Brigach Laligne At Cormongers, at 1430 hrs., on 4th Dec. 40, Pte Rutledge was detailed to shovel sinders into the wheel barrows. At 1445 hrs. Pte. Rutledge threw down his shovel and proceeded to walk away from his task when he met Sgt. Stoutley who asked him where he was going. Pte. Rutledge replied "I am going to get something to eat as I had no dinner." Set. Stoutley told him to get back to work as the noon hour was the time to eat. Pte. Rutledge's reply was, "I am going to get something to eat before I do my more work", and proceeded down to the place where the fatigue party nad eaten lunch. On his return, half an hour later, Sgt. Stoutley told him to take a wheel barrow and wheel cinders which he did at 1530 hrs. Pte. Rutledge lay down his wheel barrow and demanded to go nome and said " I have done grouph work for one day". Sgt. Stoutlay persuaded him to pick up the wheel barrow and continue as the Officer of the R. C. E's said we couldn't leave the job until 1630 hrs.

Every order Sgt. Stoutley gave Pte, Rutledge, he seemed to resent and carried it out in a slovenly manner.

Croos examined by the accused

ckl. newsty. F.

Q. 1. This is the just charge against me. W. Q. A. B. Disoberia, in such manner as to show a wilful defiance of authority, a lawful command given by his N. C. D. Is this charge correct Cpl. Newton.

A.R. Yes I was. I see with Sgt. Stoutley at all times.
Q.3. Cpl. Newton can you give me any good reason if I was shovelling cinders. May I would throw down my pick when there were no picks on the job.
I said in my evidence that you threw down your movel.

2.4. Do you realize Cpl. that the statements that you made here are coing to either put he in jail or suffer loss of pay and you are quite satisfied that they are true and correct.

A.4. I am quite satisfied that they are correct.

No. B-73262 Sgt. Stoutley E.E. 48th Highlanders of Canada after having been duly sworn, states to

whom Brigade Palique At Cormongers, at 1430 hrs., on 4th Dec. 40. Pte. Rutledge threw down his shovel and came past where I was standing. I stopped him and asked him where he was going. This man had been drinking as he was very close to me, I could smell his breath and his eyes were Bort of bleary, He said, "I am going down for a sandwich". I told him that from 1 150 to 1300 hrs. was the lunch hour and if he had wanted to eat, that was the time to have done so. He then returned to his work where he stayed for a few minutes and then he droppedhis shovel again and started off in the direction of where the packs and the remainder of the lunches were. I asked him where he was going again and he said he was going for a sandwich. I ordered him back to his work and he said," If we fucking well don't eat we fucking well don't work". He then went on down to where the sandwiches were. He returned with sandwiches, eating one of them and went back to his work. Later on about 1530 hrs. he was told to wheel cinders in a wheel barrow to a shack some distance away. About 15 minutes later I found his wheel barrow lying down on the ground inside the shack. I told him to pick up the wheel barrow and set back on the job, and he said we were supposed to quit work at 1530 hre. and hat if he did wheel the wheel barrow he did not care if there was anything in it or not. He then went on with his work. 6 & Stoully Set.

Cross examined by the accused

Q.1. What does alcohol smell like.

A. 2. No.

Q. 3. Could it have been for water.

I could not say.

J. 73×62

A. 1. I have smelt alcohol in different bewerages for the last ten years and I am quite familiar with the Smell. At 1400 hrs. Pto-Rutledge came up and asked me if I wanted a drink and I declimed Q.2. Did I state what the nature of the drink was.

A.3. I could not say. Q.4. You said that my eyes were bleary, could not the sun or wind have done it.

A.4. There was no sum or wind that day.
Q.5. Were you with Cpl. Newton all the time this was taking place.
A.5. All except when the man asked me to have a drink.

1rd witness for the prosecution

No. B-78055 Set. Walte C.

40th Highlanders of Ganada

after naving been duly sworn, states :-

At Coneybury House, at 1730 hrs., on 4th Dac. Ad., I called the roll in my platoon, all were present except Pte. Rutledge mom I reported to the C.S. a. at approximately 1930 hrs. I called a second roll of the platoon and foundall present again except Pte. Rutledge mom I reported main to the C.S. a. Rutledge L.C. To was reported to me by Cpl. Gunn that me came in just before 2130 hrs. I went through the nouse around aldnight and I looked in Pte. Rutledge's room and I found him fast aslees.

The Company had been warned that they were C.B. prior to a move. cross examined by the accused. (p. Walk af.

Q.1. What time was the Company warned that they were C.B.
A.1. The Company was warned at a Company Commanders Parade in the afternoon at 1415 hrs.

ars

The accused having been duly cautioned in accordance with Rules of Proceedure 4 (e)

Elects to make a statement.

The accused No. B-73936 Pte. Rutledge C. 48th Highlanders of Canada, States :-

In reference to the evidence given and sworn to by Sgt. Stoutle, and Cpl. Newton, there are a few points contradicting each others evidence. The cause of my becoming preved and disobeying Bet. Stoutley's orders was that he had deliberately galled me a bastard".

With reference to charge No. 2 , I returned from Brigade Fatigue at 1700 hrs. and left billets immediately, unawares of the fact that the Company had been warned by the Company Commander of being C.B. at 1415 hrs. I went to Relgate to get my watch and returned at 2215 hrs.

of to C. 4 wellder Certified that Rule of Proceedure 4 (D) (E) (F) have been

Taken down by me in the presence and hearing of the accused this Seventh day of December 1940. In the Field.

Signed States and Capt.

43.62

PTE RUTLEDGE HOW.

ACCUSED.

(As to the triol of two or more charged jointly see RF 16, 71, 109. As to reasons for showing (a) rank, and (b) about, Airank or Ajapont, 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.

29ml 44

Head in the Fa in Connected BRANCH CANALO

PROCEEDINGS OF TRIAL

on (date(a))

RECORD FORM A-OPENING PROCEEDINGS AND ARRAIGNMENT.

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

EPRINTED MATTER, NOT IN ITALICS FOR GUIDANCE, WILL BE DELETED, IF NOT USED OR APPLICABLE, AND INITIALLED on pracedure when a suriation in this form crises, see forms for GM in MMI, by 741 to 759. A brief record of such variotion will be made and given a number having reference to appropriate or preceding para number herein. See buck of Convening Order, CF A93, for auth and intits on how so recognicalizes as evidence, site which intits are beneafter culted "Notes". As to general previous for conducting the trial see A93, AP 85.6, 8-70, 73, 74, 94, 103, 119, 122.

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

(1. As to use of Summary of Evidence see RP 17 fn b. 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 // O bours trial commences.

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

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

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 (!)

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

A6. The Convening Order and names of the President and Members of the Court are read to the accessed (3) President to accused: Do you object to be tried by me as President or by any of the Members of the Court

(1. RP 110. 2. If no objection, waiting member retires. RP 68(8). If objection, see procedure AA 51, RP 25, 71, 10, 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.:

Member

Member

Defending Offr

Questions by President : Is the Prosecutor a lawyer ! Ans ... Is the Defending Offr a lawyer ! Ans

(1), 89 26, 27, 109, 111. List of affer under instr will be returned separately with praceedings for information of Conv OCol. (2). If first a lawyer and Oct Offi not, occurred is entitled to service when My 89 (8) and fo 2 were not followed. See 20 p 2.)

As The account of Conv OCol. (10) (a) please the convergence of the convergence

A8. The accused 4 Gest 3 >

(1. If a special plea is made for supports trial on one or more charges (RP 62(E), 108), or at to the jurisdiction of the Challe (RP 34, 35(A), 113), or in bor of trial (RP 36), or as to accused's mental filters to stood trial (AA 130, 88-51), are by one of sterral accused charged jointly to be timed separately (RP 16, 71), such plac, the oddresses made in support or against, the exidence, if any, and finding are recorded per Notes. For forms of record see references in first to RSP cited. Insert in AS rank and name of the seconder mobility the place.

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

RP 31, 112. See para 1 of Instrs p 2. When more than one Charge Sheet see RP 62; when several accused to be Irind yies RP 71/C), and use separate copies of CF A96 to record proceedings.

2. RP 32, RP 33. If otherwise, delete and response second per Nates.]

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

PRESIDENT OR JA WILL IN:TIAL 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 withdrawn for any reason without authy from Convening Offic. If Convening Offic concurs, Court may accept plea of Guilly to lesser, etc. affence. (RP 44(H).) Accused may change a plea of Not Guilly to Guilly 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 eircumstances stated
 - 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 Outlity 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 Offe 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, 80, 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.

- B1. The President or JA, if any, complies with RP 35(B) by explaining to the accused the nature and meaning of the ${\rm charge}(s)(^1)$, 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), call witnesses as to character and make an address in mitigation of punishment.(*) (1. RP 35 fo 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 B2. President to accused: The Court will now receive any statement but the 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 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! 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 (r .,) 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.

 (i. Court may be closed to consider the statement. Delets whole or part not used.)
- B4. On the charge(s) to which the plea(s) of Guilty is (are) not changed the President records Hidding(s) of
 - (I. RP 35(B). If any plea(s) is (are) changed, use Recard 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 indequate, comply with RF 37(B). If there is any evidence inconsistent with any plea standing as Guilty, Court will advise accurate to change such plea and, if changed to Nrt Guilty, try such charge(s) by use of parts D1 to D8 inclusives of Recard Form D on p 1. NP 37(D).)
- Bô. 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 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.(*)

 (i) Under B5 such parts only of the Summistry of Evidence are read as relate to the charges dealt with under C2. If any plea is charged to Not Guilty, trial threeop specrett by camplying with paras D1 to D8 inclusive in Record Form D on p 3 and making an appropriate record thereof an 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 hop: Local Streets of Recent.

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

- - D2. The Prosecutor makes (an) (no) opening address.(1)
 (1. RP 29(8), 60(A) (B), 90, 92(C) (D). Record address per Notes, subject to RP 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 RP 39(D) (E).)
- D4. The Prosecution is closed.(1) The Defending Offr submits that the evidence for the Prosecution does notcharge(s).(*) The Court establish a prima facie case against the accused on the is closed, and considers the submission.(3) The Court is re-opened, and the President announces that the submission ... 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
 - (I. Delete remainder of this para, if submission not made. 2. Arguments on submission, answer and reply are recorded per Notes. 2. RP 40 fn 1. See MML p 72 paras i 2:14 and p 81 para 42. 4. Delete part not used. If accused acquitted on all charges, use second alternative in para D6.

 N8 : If thing proceeds, accused 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.)
- 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.(2) You may, however, make a statement without being sworn, and you will not be subject to cross-examination.(2) But a statement which could have been made on oath will not carry with the Court the same weight as sworn testimony.(3) You may call witnesses in your defence and as to character, whether you give evidence or make a sta

President to accused: Do you wish to give evidence yourself as a witness, make a statement, or do neither Are they witnesses as to character only 1. Ans.
(1. RP 1/3. 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 para D5 the appropriate procedure for the defence is followed.(1) (1. RF 114, 115, 116. For procedure see Notes on back of Communing Order, CF A95. Evidence for occused us to his character should, if in his interest, be given before the finding. See RF 45(A) fn 1. 86(C). Note the further approximative para E1 of Record Fee Notes and designs, statement, evidence and any summing up by the JA under RP 42, (03(c).)
- 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.
 (1. RP 42 117(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)

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 ?(*)
 - If minimize has already been given by accused or his witnesses as to his character, delete this para. RP 37(C) fin 4. 46 fin 1.
 Accused and witnesses are swarm. 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)(3), 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(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 Ex
 - d Ex respectively.(*)

 (i) MSE 355 or AFB 296. 2. MFM 6. 2. RP 46, KR Con 558. If chove documents not produced, see RP 46 fn i
- 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. 8P 20C), 46(0). 2. Address, if any, recorded per Notes. Court should permit occused or his witnesses to brove on each anything bees or prescriptly stated which would effect the amount of punishment. RP TI(F) (n 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 asmounced, but will be promulgated later, and the proceedings in open court are ac (i. AA 54(s), RF / 20(A).) court are accordingly terminated.(1)
- E5. The Course 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. (5)

 (1) When several occurred tries appareties see RF 71 (D). One sentence only, comprised of the punishment or punishments laid to the sentence of the sentence only, comprised on the course found full laid to the sentence of the sentence

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

SCHEDULE.

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

	1	Co	nimanding	CON BASE BET OBOUP
Date	17 64	44		COMMANDER
		(1. AA 57A. De	(Sud)	Carlaidenty price
Labrect that the	account he not	committed to m	mon or detection	barracks mutil forther orders;
			(onfirmed C
. sty decision on th	e manngis) and	semence ser forti	/ /	7 ,
not confirmed, accs promulgation: RP 57A, RP 53A, 54. 1	sed may be tried ago 53, MML p 65. Qu the Confirming Offi o finding (s) and	in: AA 137, MML b i vashing after promulgi must sign here person contamon set forth	64. Minute of confinition: KR Can 573. olly. AA 172 fn (.)	59-761, KR Can 367-577. Acquittals require an far revision by Court: AA 54(2), RP 120(G). His moutation or non-confirmation may be altered defore. Dubies and powers of reviewing offrs: AA 57,
PART III, (for duties and pay confirmation and so	DECISION O	37 (7) fn 6.46(A), 5 4.54(3). Sending her	1-5a, 120, MML pp. 7 k finding or sentence	FINDING(S) AND SENTENCE. 199-761, KR Can 367-577. Acquittals require no for twiston by Court: AA 54(2), RP 120(G). If
		r coverno	ic orre ou	FINDING (C) AND SENTENCE
Date			Comma	nding
PART II.	MINUTE WH	ERE CONFIRM	WILDIA KESE	(M. 24(2), Nr. (20(P), MML () (90.)
DART II	MINITE WALL	ERE CONSIDE	ATION RESE	RVED. (AA 54(5), RP (20(F), MML p 760.)
Judge-Advo	cate, if any. (See back of C	Date onvening Order as to c	awarded. issembly and disposal	President. (RP 45, 50.) of record after trial.)
Sgd)				BED THE ENGLY
			-	7 7
To 5 "		ALC OR	during By	PAY FOR A PERMI
entence Awarded by t	he Court :			
(1. See RP 46(A	fn 2. Information st	ould be found on MF b	355 or AF 6296 admit	tted in evidence under E2.)
(I. Insert sentence	being served, or dele vaiting present	ste, if not applicable, trial—a total of	days, of	which days were spent in hospital (
d-present-under sonten	au for			beginning on (date)
(Note: As to fir apacini findings see R	idings for lesser offer P 44 and MML p 251	ices see AA 50, RP 44 L and in last of kit to	findings on alternati RP 44 (n.b.)	ive charges see MML p 483 fn 4 para 2, RP 44 ;
h.				
ti				
ď				
id 777 - 3 - 1	The second second			A comment of the comm
00 10 61	1			
applicable.)				special findings, etc.)
Insert " olternative " where	(See Instra p 2.)	(See note below.)	(Space for use as	required for further charges, accused charged jointly,
Charge,	Plea.	Finding.		

The accused, K68532 Frivate Harry George William RUFLEDGE, (Seaforth Highlanders of Canada), 2 Cemadian Base Reinforcement Battalion, 1 Canadian Base Reinforcement Depot, a soldier of the Canadian Army Cverseas, is charged with:

FIRST CHARGE Sec 15 (1) Army Act WHEN ON ACTIVE SERVICE, ABSENTING HIMSELF WITHOUT LEAVE

in that he

in the field in Italy at about 0800 hours on 5th August 1944 absented himself without leave until apprehended at about 0905 hours 13th August 1944. (Total absence 8 days 1 hour and 5 minutes.)

SECOND CHARGE Sec 15 (1) Army Act WHEN ON ACTIVE SERVICE, ABSENTING HIMSELF WITHOUT

in that he

in the field in Italy at about 1800 hours on 18th August 1944 absented himself without leave until apprehended at about 0015 hours 26th September 1944. (Total absence 38 days 6 hours and 15 minutes.)

Minimu

(R. W. LEST) Lt.-Col., O.C., 2 Con Base Mft Em, 1 C.B.A.B., Con Army, C.E.F.

In the Field 3rd Cetober 1944.

TO BE TRIED BY FIELD GENERAL COURT MARTIAL

In the Field In Italy 10 Oct 44

(E. W. HALDERBY) Brigadier Ound 1 odn Bese Eft Op Odn Army-OLY

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 offer of Cdn Army Overseas, or of any other face if authorized in law, in immediate comd of troops on active service, subject to RP 105(C) and restrictions imposed by appropriate authorized for any other face in a subject to RP 105(C) and restrictions imposed by appropriate authorized for any other face of the face in a subject to RP 105(C) and restrictions are MMI. Chap Y pares 20 and 23, AA 49, 50, RP 104-107, 114. As to the duties and privileges of the Convening C) for in dealing with the application see MMI. Chap Y pares 20 and 23, RP 87(8). There should be a separate Convening Order for each person to be tried separately by the same Court. RP 31(C), 109. As to separate Convening Order for each person to be tried separately by the same Court. RP 31(C), 109. As to separate charge (a) initially see RP 16. 105.

There should be a separate Convening Order for each person to be tried separately by the same Court. RP 31(C), 109. As to separate Charge (a) initially see RP 16. 105.

There should be a separate Convening Order for each person to be tried separately by the same Court. RP 31(C), 109. As to see a reare accused charge (a) initially see RP 16. 105.

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The should be a separate tried on charges in the same charge sheet see RP 108. As to see a reare accused charge (a) initially see RP 16. 105.

The should be a separate tried on charges in the same charge sheet see RP 108. As to see a reare accused charge (a) initially see RP 16. 105.

The should be a supported tried in the same charge sheet see RP 108. As to see a reare accused the see RP 108. As to see a reare accused the see a reare accused the see a reare accused the see and 32, and 32, and 33, and 34, and 34

ACCUSED.

Number. (a) Prmnt R. (b) Appmt, A/B or A/Appmt. Full Christian Names. Surname. Unit. Harry George William RUTLEDGE 2 Bm 1 CHRD K68532 Pte

CONVENING ORDER.

von complaint has be	en made to me, the undersigned, that the	personial named above as the acco	
being subject to military law, has	en made to me, the undersigned, that the (have) committed the offence(a) set forth i ed by me, (or by an offe of my staff for me	"To be tried by Field General C	ourt-
(date) 10 Oct 44 endor	and by this, the by the	a boot to seind by an ordinary We	moral

- 2. And whereas I am of opinion that it is not practicable that such offence(s) should be tried by an ordinary Meneral Court-Martial; (and that it is not practicable to delay the trial for reference to a superior qualified offers (Delete part in brackets when not required for compliance with RP 105(C))
- I hereby convene a Field General Court-Martial to try the said person(s), and to consist of the Offrs appointed
- 4. I am unable to appoint (a) three Offrs to form the Court, (b) a Fd Offr as President, for the reseons I have or detailed hereunder. (AA 49, RP (Ge(B), 107(A). Delete the whole or part, if not applicable) attached herete 5. I also appoint as Judge Advocate thereat the Offr mentioned herounder (RP 106(E), Delete, if none appointed)

PRESIDENT.

(CIC) 1 Bm 1 CERD A M RUSSELL (Must be named. RP 106.) Major MEMBERS. Capt or Lieut to be detailed by OC 2 Cdn Reallocation Centre (Named or detailed. RF 106.) WAITING MEMBER. Capt or Lieut to be detailed by OC 2 Cdn Beallocation Centre (Named or detailed, if any. RP (Ob.) HIDDE ADVOCATE. GWI

(Must be nomed, if any. RF 106.) On Active Service in the Fd

Colotlandenty

(Signed personally. RP 105 fn 2.) (E. W. HALDENBY)

Commanding 1 Cdn Base Aft Co-CMF

Brigadier

Date 10 Italy

Italy (Country.)

CONVENING OFFR WILL INITIAL ALL DELETIONS AND ALTERATIONS

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

2 BN 1 CDN BASE RFT DEPOT

I certify that I have this morning examined

1.1.1.532. P.A. B. artholys . H

and he is fit to undergo trial by Court Martial.

14.904 1.7. 44

. Jam Landa capt

M.O. 2 Bn. 1 C.B.R.D.

PLEG 14 INITIGATION 1400844 Her fredent and Members of Court: The accused K 68 5 32 Pote / Sarry / Eulle Sye elited to plead quity to the two charges of absence Wilhout Leave of his own volution / however, it is my opinion that there are wramstances that should be brought to your altention in connection with these whences which have where ourning you them Lobe buf: When Pullelye was 4 yes It her prients were divocal, his mother instigating the proceedings two grs later she remarried laking truttedge ente nor. 16 was none too nypy with his sty father under the first opportunity, 6 be yout on March 27/41 when only 19 yrs. dd he indisted voluntarily in the Ering Previous to this he had attended school in A.C. passing his inhance Examinations it 17 then working for 1 1/2 yes as a swanger and driver with the filled Wood of to. Part of Ruthedge's earnings took from his on indistment work and her thing Pay have been given to his mother. This in spile of the fact that she was has

bun well proceed for bythis stypfactory Judelye joined the sugorths in Oct 43 and was with them until wounded at Orlona on the 23rd of weember of the same year. After convalisance received to nee Unit in spril 44. Hear the first of May he unived two allers one from his mother and the ther from a M. R. D. Wright. The substance these aller is one same. It sams that his mother had become ill andon the adore of princes and issiled to Waght about 18 months ago Muording to both, there mile resulted in mutual love. In Mught is a muried man he her letter Medledge 's mother tille him that she will take no action in agard to sworing her husband until she rears hom him, and by his advice . Rutherly. has both of these littles in his possession Needless to ray he brookeday on his mother's difficulties and was of hemely anxious to to home Near the end of May he was sent to hospital such and subsequently here to

A.W. f. to Come. His offer in going there was to contact funds in me imerican as hove and obtain hamportation some. The longabrence was occurrenced by the his constant yours to yet the Admittelly willedge was very mistance to have altempted to get home in the manner, but submit has there are meligating accumstances as his record shows he has been in very little houble until this quisale He is theifty and industricis. In the connection re has now a 170 outer in nor lay book. My sensibly headmets his fault in this made and by the ouris There is no doubt out that his love for his mother has embroiled him in me mesent defruitus. Of Nychesen A

SUMMARY OF EVIDENCE EXPRIT. Surmary of Byidence in the case of K-58532 Pts RUTLEDGE, R.G. of the Seaforth Highlenders of Canada, on strength No. 2 Cm adian Base Neinforcement Bettalion, 1 0.8.R.D., a soldier of the

By direction of the Cormonding Officer the evidence is taken

Canadein Army, Overseas.

FIRST WITNESS PROSECUTION

M-50876 West Larson, P., Seaforth Righlanders of Canada.

"Owing to the exigencies of the service the attendence of this witness is not in my opinion readily progurable. The accused does not demend his presence for the purpose of cross examination. A written statement of this witness's evidence purporting to be signed by him, marked Exhibit "A" signed by me and attached hereto."

The accused declines to cross exemine this witness.

SECOND WITHESS . FOR THE

Ligut D.A. Smith, Records Officer, No. 2 Cdn Base Rrt Bn., 1 G.B.R.D., having been duly sworn states:

I am Lieut D.A. Smith, Records Officer, 2 Odn Bese Rft Bm. 1 G.B.R.D. I produce a certificate of arrest as under section 163 (1) (jj) of the Army Act certifying that K685% Pte Rutledge, R.G. .. , was arrested at Rome at 0905 brs, 13 Mag 44. (Marked Exhibit "B") I also produce a certified true copy of a Declaration of a Court of Inquiry showing that Keebal Pte Entlage, S.C.W., had excented himself without leave in the Field at 1800 hra on 18 (Marked Exhibit *C"

T else produce a certificate of arrest as under section 163 (1) (jj) of the Army Act certifying that K66532 Pte Batledge, H.O.O., was arrested in Rome at CO15 hre, 26 Sept 44."

The accused declines to cross examine this witness.

Page two

EXIBITION

The accused was cautioned as follows.

"To you wish to make any statement or to give any evidence on eath? You are not obliged to say anything or give any 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 scensed declines to make any statement or give evidence on eath.

Cartified that Rules of Procedure 4 (c), (d), (e) and (f) have been complied with.

I certify that the foregoing Summary of Swidence consisting of two pages, was taken down by me in the presence and hearing of the accused this End day of October, 1944.

(Officer detailed to take Gusmary)

In the Field, 2nd October, 1944.

Front .

Exhibit A') CANADIAN Sin. 8532. Pto Rettergo. H. Si. I M50876 A Syt Leron Pon the 5 august 44 at 2 800 his. when forming up the paral-Sound of AM absent of percet. tite abunt fir. Spaceon Hubre Call. PLEASE WRITE ON BOTH SIDES

(Thilly 3.)

Certificate in accordance with the Army Act Sec. 163 (1) (jj)

I certify that

NaK/68532 Rank PRIVATE Name RUTLEDGE H.G.W.

of the SEAFORTHS OF CANADA

was arrested at ROME

at 09.05 Hrs.

on the 13th day of AUGUST

Signature of P. M., A. P. M., or other Officer Into

whose custody the above named person was taken RankCaptain

Appointment (if any)

Commanding 111 Provost Company, C.M. Police

Date 13th August 1944

on arrest.

CERTIFIED TRUE COPY FROM THE RECORD of the Declaration of a Court of Inquiry assembled at In the Field on the 9 th day of September 19 44, 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 Ciothing of No. K68532 Pte RUTLEDGE, H. G. W.

DECLARATION

The Court declare that					E, H. G.	
illegally absented himself without		In the		1.4		
1800 hrs	on	18 th		day of	August	1944
and that he is still so absent and that on the 9th Sep 44		deficient,	and	that he	is still de	ficient o

the following articles:-

ARTICLES	100 %	VALUE	ARTICLES	100 %	VALU	E 75
Bonnet, Tam (1) Jersey, Pullover (1) Trousers, Denim (1) Socks (3 Pr) Badges, Gap (1) Brushes, Clothes (1)	.60 1.94 2.51 1.29	1 45 1 45 1 88 96 05	Towel, hard (1) Trousers, K. D. (1) Shorts K. D. (1) Shirts, Bush (2) Hosetops (1) Boots Ankle, (prs, 2)	.32 1.58 1.34 3.50 .43 10.92	1 2	24 18 00 62 32 18
Brush, Shaving (1) Brushes, Tooth (1) Holdall (1) Knife, Clasp (1) Razor, Safety (1) Vests, Cotton (1)	.37 .11 .19 .65 .06	27 08 14 64 04 27	TOTALS	\$ 26.93	\$ 20	19

this 9 th	day of Sep		J. J. MURPHY	Lieut	Member
Signed at	In the Field		E. R. STAUFFER		Member
		(Signed) _	J, H, SMELL	Capt	President

RECORD of the Declaration of a Court of Inquiry assembled at on the day of 19, 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.

DECLARATION

illegally absented himself wi	thout leave		
at	on the	day of	
and that on the	he was de	ficient, and that he is	still deficient o
the following articles:-			
ARTICLES	VALUE	ARTICLES	VALUE
			Presiden
Signed at			Member
			Member

Exhit o

GENERALE IN DOCKDARDS WITH Sec. 163 (4) (43)

RUTLEDGE, H.G.W. of the No. 8 COY, 2nd Bn. CANADIAN BASE REIN.

ROME

Was agreeted at.

On the 26th day of September.

Signature of 7/8., C. 1., or other Officer

Into whose castedy the above mased person

Appeintment (if any).

Capt.

To Provost Company C.M. Police.

26th Sept 44.

ARMY FORM B.208.

Statement as to Character and Particulars of Service of Accused.

Number,	Rank.	23.0000		1 2 2 7
K 68532		Rutledge, 3		
1 177 - f-11-m	doe to a fair and true	e summary of the entries in th	ie regimental and squadror	, battery or company con-
1. The follow	ing is a nur and tro	convictions by a court marti	al or a civil court, of summa	ary awards under section 47
duct shrets of the a	d of coons in which	trial has been dispensed with		
	d of cases in which	trial into the control of the contro		
Mays, -A: a trial by field symmetric count martial this but-makey soay he i-inplied from the but-som		* Within just 12		*Since Enlistment.
The sandier shorts)	For A	a Sec 151	times	times.
	For od		/ times	/ times.
f has burn, 677, W.R., 1990	Alm		time	times
* The latter to hearth	-		# times	timus.
			100	
	Alson			1)19079.*
and to one recognized special acts of golden- tive of distinguished conductions	118	r of instances of gallantry or	distinguished conduct,	
Inchestion - It the	As ir illino	Or and the state of the state o		
pea the entries het	1/4	are no entries in the conduct	sheets of the accused	
dated.	0			
7 The acct	used has not been p	reviously convicted, as		
		and have court martial or	a civil court, summary as	varies under section 47 of the
Marian	ALCO AND THE STATE OF THE STATE	under section 73 of the Army	Act, are set out in the sched	ule annexed to this statenses.
As Army Act, and dis	Delications serve			a sime is applied sourced for-
# 3. The acci	used is not under se	intence at the present time, a	or The accused at the prese	nt time is under sentence less-
41		beginning on the	day of	
4 The acc	used has been in con-			N.Dr. Says
			istody, making a total of	
ed which		days were spent in hospital.		
, 6. The pro	esent age of the acci	used according to his record o	d service is 2/3/3-	years:
M. The da	te of his commission	specified in his attestation ;	uper - 15 - 22 - 22 (2000)	12.77
Mr. Times	vice which the accu	sed is allowed to reckon towar	ds discharge or transfer to t	the reserve to
M 8. The ac	cused is entitled to	deferred pay or gratuity in t	espect of	NOVICE
Ho Timor	cored is entitled to	reckun	service for the purpose	of determining his pension, sec.
Af 10. The	accused is in passes	sion of ex entitled to, no mili	tary decoration or military	award (or is in possession of or
Committee of the later	e our military decar	ration or request) by	18 111 9-4.	
ff 11 ++=	to assured to a warr	and officer). The accused belo	are he was mude a warrant	officer last held the regenceral
Mrank oi				
PL 12 Har	he case of an officer.)	The accused holds in the arm	y the rank of	lated
Mond in his twee	ment for corps or de	epartment) the rank of	dated	
(*18080) W4.1588	E/144 155.000 0:41 A.	A.B.W.Los. Cp.488		

buription of hirt by which ac or status of summary award under their dispensing of a charge or dispensing with trial.	Charges upon which convicted, trial was dispensed	or in respect of which	Sentence of the court wanteners disposing of the charge other of the disposing authority.	Panishment constitution	that he the case
					State to
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			ensations with trial is a true		result be stress

Date of Promotion

No K68532 N	H		W. No.	or Company	of Corps C.I.C.	Sheet No			By whom awarded	Remarks
Company Con	duct bheer		Cases of		WEEK NOE	Names of Witnesses	Punishment awarded	Date of award or of order dispen- sing with trial	D3 WINGS PERSON	Fonf 2 days
Place	Date of offence	Bank	drangen.				6 days forf	of 24 Mar		pay FR&I 149 (1)(a)
Field	24 Ma:	r Pte		AA Sec 15(1)	AWL 1 day 14 hrs		pay	44		Forf 6 days pay FR&I 149 (2)
	F 711	m Pts		AA Sec 15(1)	AWL 4 hrs		14 days CB & 14 days forf	5 Jun 44		Forf 14 days pay FR&I 149 (2)
Field	44	III FUE		AA Sec 40		Si	gned "W.H.La	ughlin"	aut.	
				Certifie	d True Entries Tak	en from MEM	4. (W.H.Laug for Cdn Sec	Officer 1	Ech.,	
								A.A.1.		(PTO)

Com	of last entry in any Conduct S	heet)		W. No of h	ast dru	nk)	fre	edom fro	eckoning towa m extra fine		Sheet	No on	e Signature Of Company, et		Charac	ter
P	ace Dute	of 1	Rank	Cases of dronkens ness			010	PENCE			Names of Witn	15474	Punishment awarded	Date of award or of order dispen- sing with trial	By whom awarded	Bemarks
Field	24 1		Pte		AA	Sec 15	(1)	AWL 1	day 14	hrs			days forf	of 24 Mar		Forf 2 d pay FR&1
																Forf 6 d
Field	5 .	un	Pte			Sec 15		AWL 4	hrs			14	days CB & days forf	5 Jun 44		Forf 14 pay FR&1
												Signe		ughlin"		
						Certi	ified ?	True	Entries	Taken	from M		(W.H.Laug	hlin) Lie	C.	
														GHQ, 2nd	Len.,	-

								The second section with		management,
Place	Date of offence	Hank	Cases of drunken- ness		OPPENCE .	Names of Witnesses	Punishment awarded	Date of award or of order dispen- sing with trial	By whom awarded	Remarks
AA				Certified	true copy from the	regimental b	ooks in my cus	tody		
	N					Mitcheres				
						I lin I Con these its	eminer eminer the part			
-	-	+	-	***			-	-	-	
						1	Augustinia de la composição de la compos			

in

LIST of WITNESSES in the case of

K-SHUER Rto Butledge, M. O. S.

For the Prosecution:

- (1) M-50876 A/Bgt Larson, P.,
- (2) Ligut D.A. Smith,
- (3)

Sectorth Highlanders of Canada

Records Officer, 2 Odn Base Rft Bn., 1 C.B.E.D.

For the Defence:

(1) HIL

LIST of EXHIBITS in the case of

			in the case of
			K-68532 Ptc Butledge, R.G.W.
EXHIBIT	"A"		Statement of Evidence (written) by M-50876 A/Sgt Largen, P.
EXHIBIT	nBn	,-	Certificate of Apprinension of E68532 Pte Butledge, H.O. W.
	нСи		Certified true copy of a Declaration of a Court of Inquiry.
EGHIST	nDa		Certificate of Apprehension of E6.55% Pto Entledge, h.C.S.
I,	K-61	SEE P	to Butledge, H.C
2 Cán B	ase Ri	ft Bn	, 1 C.B.R.D., request that
(or) an	offi	cer b	be appointed to represent me at my trial by Court Mar-
tiel.			
Date .	, ş.Qube		1944. H-68030 Pto Spiledge, M.414.

I certify that I have been given gratis, a copy of the Charge Sheet, a copy of the Summary of Evidence, a copy of the List of Witnesses, and a copy of the List of Exhibits pertaining to my trial by Court Martial.

Date ... 3 October 194 5.

A Thomas . M. K-6855E Pto Rutledge, M.G.E.

PTE RUTLEDGE J.

1111-67

FIELD GENERAL COURT-MARTIAL

Convened by Order of Hayon Thomas & h. M. Bending Count 2 color Dea dated 12 How of a

ACCUSED.

(As to the trial of two or more charged jointly see RF 16, 71, 109, As to reasons for showing (a) permanent or confirmed rank, and (b) appint, Arrank or Alaborat, if any, see AA 182, 183, Ins. KR Con 306, 326, 330.)

(a) Print R. (b) Apput, A/R or A/Appint. Full Christian Names. Surname. Unit. Number.

676343

James RUTLEDGE, 2 carpenter to Revision Seat R

PROCEEDINGS OF TRIAL.

on (date(s)).

Held in the Fd in (country) England

RECORD FORM A-OPENING PROCEEDINGS AND ARRAIGNMENT.

Al. 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 INITIALIED BY PRES OR JA. The Schedule referred to throughout is on p.4. Chotions do NOT include all relevant from ROs. For guidance on procedure when a variation in this form arises, see form for GCM in MML; p.741 to 759. A brief record of such variation will be made and given a number having reference to appropriate as preceding pole number havion. See back of convening Distar. CF A95, for oaths and instra on how to tencord addresses, evidence, ctd., which instra are hereafter called "Notes". As to general provisions for conducting the trial see As 53, RP 56, 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.(*) The Court is satisfied that it is properly convened and constituted(*), accused is (are) amenable to military law, and each charge discloses an offence.(*)

L1. 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.)

The Court is opened. The accused is (are) brought before the Court. At 14-35, hours trial commences.

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

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

2. AA 46(8), RP 60 fn 1. For effect see KR Con 563(c). Delete, if not applicable.) KR Can 557 X A5. President to accused: Do you object to as interpreter / Ans-The Interpreter is sween (1) Do you object to as shorthand writer ! Anse The shorthand writer is sworn (1)-(1. RP 72. Delete, if none employed.)

A6. 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 Alor 2. If no objection, waiting member retires. RP 68(8). If objection, see procedure AA 51, RP 25, 71, 18, MML p 742.) (1. RF 110

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

Leframpbell Colgary Sighlow President Member J. 6. Stewart Member

A Judge Advocate

Prosecutor Lefending Offr

Questions by President: Is the Prosecutor a lawyer ! Ans of Is the Defending Offr a lawyer ! Ans yes (t) (1. RP 26, 27, 109, 11). List of offrs under instr will be returned separately with proceedings for information of Cone Offr.)

(2. If Pros a lawyer and Def Offr not, occused is entitled to an adjournment when RP 89 (8) and fin 2 were not followed. See DI p 3.) Ochs. The second before arraigment makers (no) tal plea-

(1. If a special piec is made for separate trial on one or more charges (RP 82(E), 108), or as to the jurisdiction of the Court (RP 34, 35(A), 113), or in but of trial (RP 36), or as to accused's mental fitness to stand trial (AA 30, RP 57), or by one off several occused charged jointly to be tried separately (RP 16, 71), such piec, the addresses made in support or against, the seriounce, (I are, and finding are recorded per Notes. For forms of record see references in fins to RuP cited. Insert in AB rank and name of the occused making the piec.)

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

(i. RP 31, i.12. See pare i of instrs p.2. When more than one Charge Sheet see RF 62; when several accused to be tried separately see RF 71(C), and use separate copies of CF A96 to record proceedings. 2. RP 32, RP 33. If otherwise, desires and make appropriate record per Notes.)

A16. The Court is closed and) considers the Instrs on Procedure after Arraignment at top of p 2. The proceedings are continued on Record Form P

PRESIDENT OR IA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

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 withdrawen for any reason without authy from Convening Offs. If Convening Offs 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

- 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 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 please as the findings of Court. After deciding between (i) and (ii), Court will proceed under foregoing insise as may be appropriate to result of its decision. See MML p 744 Insise (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 Offe see RP 60(C), 87(C), 91, 92; succurring 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 et see RP 75-79, 86, 116; use of Summary of Kvidence 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.

B) 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). address in mitigation of punishment (*) call witnesses as to character and make an add

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 undercharge(s).(*) If it appears from your statement that there are circumstances which indicate that you do not under-stand the effect of the pha 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 with 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 purplement 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. (1. RP 37(B) 2. RP 37(D) fn to 3. RP 35(B) fn 5 para 3, MML p 54 para 47. 4. See para E3 of Record Form E.

5. Statement, if any, recorded per Notes 1.

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

change(s) his (their) plea(s) on (1. Court may be closed to consider the stateme

On the charge(s) to which the plea(s) of Kuilty is (are) not changed the President records finding(s) of Guilty in Part 1 of the Schedule.(3)
(1. RP 35(B). If any plea(s) is (are) changed, use Record form C or D as appropriate.)

Summary of Evidence is marked Ex., initialled and read aloud by the President. (1) If there is no Summers, or if R is incdequate, comply with \$2.37(8). If there is any evidence inconsistent with any plea as Guilty, Court will advise accused to change such plea and if changed to Not Guilty, try such charge(s) by use of to D6 inclusive of Record Form D on p.3. RP 37(D). B5. The Summary of Evidence is marked Ex

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 inclusive of Record Form D on p 3 before proceeding with C 2.(1)

(i. 87 37(4) (f.)

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 B5 such parts only of the Summerry of Evidence are read as relate to the charges dealt with under C2. If any plea is charged to Not Guilty, trial thereon proceeds by complying with parts D1 to D8 inclusive in Record Form D on 3 and making an 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

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.

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

D2. The Prosecutor makes (an) (and opening address.(1)
(I. RP 39(B), 60(A) (B), 90, 92(C) (D). Record address per Notes, subject to RP 95(C).)

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 RP 39(D) (E).) D4. The Prosecution is closed.(*) The Defending Offr submits that the evidence for the Prosecution does not

establish a prima facie case against the a cused on the restance of the Prosecution the South is closed, and considers the submission. (2) The Court is re-opened, and the President announces that the submission is disallowed on the submission of the submission of

ter charge(p).(4)
(1. Delete remainder of this para, if submission not made. 2. Arguments on submission, answer and reply are record.
(1. Delete remainder of this para, if submission not made. 2. Arguments on submission, answer and reply are record.
(2. RP 40 fn 1. See MML p 72 baros 12-14 and p 81 para 42. 4. Delete part not used. If accused acquition all charges, use second alternative in para D6.)
(Nh : If trial proceeds, occused must be allowed great latitude in making his defence, and the Court should not stop his defencity on ground of irretrovate. (RP 60(C), 114, 115.) the latter charge(f).(1)

red great latitude in making his defence, and 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 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. (a)
But a statement which could have been made on oath will not carry with the Court the same weight as sworn testimony. (4)
You may call witnesses in your defence and as to character, whether you give evidence or make a statement or do
settlers.

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 yes

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

[1. RF 114, 115, 116. For procedure see Notes on bock of Convening Order, CF A95. Evidence for accused as to his character should, if in his interest, be given before the finding. See RF 46(A) fi. 86(C). Note the further opportunity in para E1 of Record Form E. Record per Notes addresses, statement, evidence and ony summaing up by the JA under 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.(2) The Court is re-opened.

(1. AF 43, 1/7(A). See Notes in Part I of Schedule. 2. RP 44(A).)

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

Or. The President announces that the extract is found Not Civilian and all charges and is to be released for flowith. of the Court on the Third and that the proceedings are accordingly formulated. Fact 1 of the Schedule is detected and significable (if. AS 543), 68, 45, 117. This alternative announcement is not applicable when there are pleas of Guilty outstanding and dealt with under Record form B or C.)

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

PECORD 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)

(J. If evidence has already been given by accused or his witnesses as to his character, delete this para. RP 37(C) fn 4, 46 fn 1.
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)(2), 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(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 Ex Ex # and Ex B respectively (2)
(1. MFB 355 to MFB 356 2. MFM 6. 2. RP 46. KR Can 558. If above documents not produced, see RF 46 fr 1

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) Ans y L.S.;

(1. RP 37(C), 45(D). 2. Address. If any, recorded per Notes. Court should permit occused or his witnesses to prove an ooth anything here or previously stated which would affect the amount of punishment. RP 37(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.(1) proceedings in open court are so

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. (1) \(\gamma \) \(\gamma \)

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

SCHEDULE.

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

2nd Mot Guilly Not Lively 4th 5th	recused: \$ 76543	Pto Jame	CO RUTLE	Dat, 2 Canda	is AbBn (sor seet R)
Included the second of the sec	Charge.	Piea.	Finding.		
Act Country Not Junly Other Act to Indicate the Internal Place and Act 25. Pt 4. "Endings on internation charges are shall a 422 (a. 4 para 1. 87 44 para) Other Act to Indicate the Pt 46 and 1000, p 130, and in less of late on the 44 (n. 6.) Act personal familiar test for the form of 1000, and in less of late on the 44 (n. 6.) Act personal familiar test serious being served, or delete, if not applicable. See RP 46(A) to Internation should be found an MF 255 or MF 25% admitted to evidence under 62.) Time in continuous awaiting present trial—a total of 7. days, of which AC days were spent in hospital. (I. insert serious being served, or delete, if not applicable. See RP 46(A) to Information should be found an MF 255 or MF 25% admitted in evidence under 62.) Sentence Awarded by the Court: ACT Act Act Act Court (See book of Convening Order as to assembly and disposal of second after trial) PART 11. MINUTE WHERE CONFIRMATION RESERVED. (AA 345), RP 120(9), MMR 5 760.) Date (Sight) Connumering PART 11. DECISION OF CONFIRMING OFFR ON FINDING(S) AND SENTENCE. (For duties and powers see AA 54, 51, 32 37(0) in A4(A), 51-56, 120, MMR 59 725-721, ACQuarted and second be revised. AM 5473. Second pack for fining the formation and connect be revised. AM 5473. Second pack for fining the fining of the mast applicate as 52 and 62	(Insert " alternative " where applicable.)				d for further charges, accused charged jointly, apecial findings, etc.)
Accused. Most (Sight) Obsta : As to findings for least offsees the A.S. AP 44: findings on naturalise charges see MMI p. 482 fa A para 1. 8P 44. Obsta : As to findings for least offsees the A.S. AP 44: findings on naturalise charges see MMI p. 482 fa A para 1. 8P 44. Obsta : As to findings for least offsees the A.S. AP 44: findings on naturalise charges see MMI p. 482 fa A para 1. 8P 44. Obsta : As to findings for least offsees the A.S. AP 310. and to leas of AI fa 6. Deglinning on setue. (I. Insert sentence being served, or delete, if not coplicable. See BP 46(A), Information should be found on MF 8355 or AF 8396. Time in confinement awaiting present trial—a total of ./ 7 days, of which ./ 9 days were spent in hospital. (I. See BP 46(A) for 2. information should be found on MF 8355 or AF 8396 admitted in evidence under E2.) Sentence Awarded by the Court: Do days deleted on President (BP 45, 80) Date awarded. PART 11. MINUTE WHERE CONFIRMATION RESERVED. (AA 54(5), RP 120(9), MMI, p. 760.) Date PART 11. DECISION OF CONFIRMING OFFR ON FINDING(S) AND SENTENCE. Use deletes and powers see AA 54, 37, 87 31(0) for AsA(A), Si-Se, 120, MMI, p. 753-76, K.C. 565-77. Accounted to be roaded the promotion of content of the roaded of the promotion of the promot	let	Not Guilty	Nor Swilty		
Open : As to findings for least of government of the second process of the second point of the second poin	2nd	HOT Guilly	Not Juilty		
Other Management awaiting present trial—a total of 17 days, of which 100 days were spent in hospital. (I. instructions being served, or delete, if not applicable, see RP 44 (n. 6.) Time in confinement awaiting present trial—a total of 17 days, of which 100 days were spent in hospital. (I. fee RP 44(A) for 2. information should be found on MF 8355 or AF 8296 admitted in evidence under £2.) Sentence Awarded by the Court: 20 days deleted. (Sgd) Judge-Advocate, if any Date awarded. (Sgd) President (RP 45, 80.) PART II. MINUTE WHERE CONFIRMATION RESERVED. (MS 34(5), RF 120(6), MME, 3 760.) Date (Sgd) Date (Sgd) Commanding PART III. DECISION OF CONFIRMING OFFR ON FINDING(5) AND SENTENCE. (For duties and powers see AS 54, 51, RF 20(6) in Assets, Sign School, Sc	rd alternative	Not Guitt	July		
(Sgd) Date	4th				
(Sgd) PART II. DECISION OF CONFIRMING OFFR ON FINDING(5) AND SENTENCE. (For duties and powers see AS 54, 57, 87 34(1), 16 a. 64(A), 51-56, 120, MML pp 159-161, KA Can 567-57, Acquestes involve to restriction on the finding (see the first sentence of the confirmation on the finding (s) and sentence of the confirmation on the finding (s) and sentence of the confirmation on the finding (s) and sentence of the confirmation on the finding (s) and sentence of the confirmation on the finding (s) and sentence of the confirmation on the finding (s) and sentence of the confirmation on the finding (s) and sentence of t	5th again				
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(I. Insert sentence being served, or delete, if occupationals, see RP 46(A), information should be found on MF 8355 or AF 8296.) Time in confinement awaiting present trial—a total of 17 days, of which. No days were spent in hospital. (I. See RP 46(A) fin Z. Information should be found on MF 8355 or AF 8296 admitted in evidence under \$Z.) Sentence Awarded by the Court: 20 days detection Date awarded. (See bods of Convening Order as to assembly and disposal of record after trial.) PART III. MINUTE WHERE CONFIRMATION RESERVED. (AA 54(5), RP 120(p), MAML p 760.) PART III. DECISION OF CONFIRMING OFFR ON FINDING(5) AND SENTENCE. (For duties and powers see AA 54, 57, RP 37(D) fit 6.44(A), 51-56. (20, MML pp 752-751, KR cm 557-57). Acquatation require no confirmed account be revised. (AA 54(3), RP 120(g), MML pp 752-751, KR cm 557-57). Acquatation require no confirmed account to tensive (AA 54(3), RP 130(g), B 54 Mall pp 752-751, KR cm 557-57). Acquatation require no confirmed account of the first of the second of the property of the pro	(Nate : As to fi special findings see	ndings for lesser ofto RP 44 and MML p 75	2, and in lass of kit se	e RP 44 (n b.)	
(I. Insert sentence being served, or delete, if not applicable. See RP 46(A), Information should be found on MF 8355 or AF 8296.) Time in continument awaiting present trial—a total of 7 days, of which. No days were spent in hospital. (I. See RP 46(A) for 2. Information should be found on MF 8355 or AF 8296 admitted in evidence under £2.) Sentence Awarded by the Court: 20 days defended. (Sgd)		and the		begi	uning on (date)
Time in confinement awaiting present trial—a total of / days, of which. You days were spent in hospital. (I. See BP 46(A) for 2. Information should be found on MF 8355 or AF 8296 admitted in evidence under £2.) Sentence Awarded by the Court: Date awarded. Date awarded. Presistent. (RP 45. 80.) PART III. MINUTE WHERE CONFIRMATION RESERVED. (As 54(5), RP 120(5), MML p 760.) Date PART III. DECISION OF CONFIRMING OFFR ON FINDING(S) AND SENTENCE. (For duties and powers see AS 54, ST, AF 37(D) for 646(A), Si-56. (20, MML pp 753-76), KR (an 563-57). Acquatation require no confirmation and courts for retriet. As 54(3), Sending back finding or sentence for reviewing by a street before paramilyction. RP 53, MML p 65. Quanting after promitigation: KR (an 573, Dunes and powers of reviewing after stransigation: KR (an 573, Dunes and powers of reviewing after: As 57, STA, RF 33A, St. The Confirming Officer. PART IV. PROMULGATED AND EXTRACTS TAKEN. (IP 51, 82 66-554, ST.) Signature of Offic.	At present amore center	hours served or del	ute. If not applicable.	See RP 46(A), Information s	hould be found on MF B355 or AF 8296.)
(Sgd) Judge-Advocate, if any (See bock of Convening Order as to assembly and disposal of secard after trial.) PART III. MINUTE WHERE CONFIRMATION RESERVED. (As \$4(5), RP 120(9), MML p 76.0.) PART III. DECISION OF CONFIRMING OFFR ON FINDING(5) AND SENTENCE. (For duties and powers see As 54, 57, RP 37(0) for \$45(4), 81-56, 120, MML pp 752-761, RX can \$67-571. Acquiring and confirmation and cannot be revised: As \$4(3), MML pb 46, Minute of confirmation and cannot be revised: As \$4(3), MML pb 46, Minute of confirmed concerning to the confirmed concern may be rised constanting for promulgation: PR 53, MML pb 55, STA MS 536, ST AND SENTENCE. My decision on the finding(s) and sentence set forth in Part I is: Order and the content be not communitied to pursue to determine honoraction and the finding(s) and sentence set forth in Part I is: Order and Date Commanding Confirming Officer. PROMULGATED AND EXTRACTS TAKEN. (PF 53, ES Con 514, 571) Signature of Offic.	(1. Insert sentence	e peing serveu, or our		down of which	No days were spent in hospital.
(Sgd) Judge-Advocate, if any Date awarded. (See bock of Convening Order as to assembly and disposal of second after trial.) PART II. MINUTE WHERE CONFIRMATION RESERVED. (AA 54(5), RP 120(F), MARL § 760.) Date PART III. DECISION OF CONFIRMING OFFR ON FINDING(5) AND SENTENCE. (For duties and powers see AA 54, 51, RP 37(0)) fo 546(A), 51-56, 120, MML pp 759-761, KR Can 567-577. Acquireable require to confirmation and cannot be revised; AA 54(3), Sending back finding or sentence for revision by Caut. AA 54(3), RP 120(F), MARL § 760.) PART IV. PROMULGATED AND EXTRACTS TAKEN. (RP 52 KB Can 514, 571) Accused. Date. Signature of Offr.	Time in confinement a	waiting present	trial—a total of	6355 or AF B296 admitted in	evidence under EZ.)
(Sgd) Judge-Advocate, if any: Date awarded. Date awarded. Prosident. (RP 45, 30.) PART II. MINUTE WHERE CONFIRMATION RESERVED. (AA 54(5), RP 120(6), MMR. 9 760.) Date (Sgd) Commanding PART III. DECISION OF CONFIRMING OFFR ON FINDING(5) AND SENTENCE. (For duties and powers see AS 54, 57, RP 37(0) for e.46(A), Si-56. (20, MMR. 99 759-76), IR Can 569-577. Acquittable magains no approximation and country provided in AS 44(3). Sending back finding or sentence for revision by Caust. AA 54(2), RP 120(6), MR 100 (20),			tuatu de juana sit iro	0.00 W. 30 W. 20 W. 10 W	
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Actuary.					MENT OF STREET, STREET
		IV. PROM			KEN. (RP 53, KR Cam 574, 577.)

ALL DELETIONS AND ALTERATIONS WILL BE INITIALLED.

JAG BRANCH - REVIEW RECORD

1376343 Ate Rutledge J. 2 cdu And Sphon (In Seat R. Renarks 15 Nn K3 Charges See19 etc 17Nn43 Sentence 20 days duty 29 NA 63 Rec'd from CE at JAG Branch To EPL for (pf) (post) rev 30 Na 43 Recommendations by (1) Pass and record. (2) Itr on irremlanities Rettd to JAG New 1 by Passed to Passed to To AC 5 for Ret'd from AG 5 to JAG Rev 1 Instra by JAG Rev 1 on disposal Reend of File

Instra completed by

CHARGE SHEET

Jo.

No B.76343 Pte JAMES RUTLEDGE of the 2 Cdn Div Sp Bn (Tor Scot R), as a soldier on active service with the Canadian Army (Active Force) is charged with:-

First Charge

DRUNKENNESS In that he, on the London-Brighton train at about 2315 hrs 31 Oct 43, was drunk.

Second Charge

Committing a civil offence, that is to say

in that he, on the London-Brighton train at about 2315 hrs 31 Oct 43, assaulted Pamela MacDoneld, of Haywards Heath, Sussex, a passenger on the said train, by touching her against her will.

Third Charge

A.A. Sec. 40

(Alternative)

CONDUCT TO THE PREJUDICE OF GOOD ORDER AND MILITARY DISCIPLINE In that he, on the London-Erighton train at about 2315 hrs 31 Oct 43, interfered with and caused annoyance to Pemela MacDonald, of Haywards Heath, Sussex, a woman passenger on the said train.

El Janeon

(E G Johnson) Lt Col Comd-2 Can Div Sp Bn (Tor Scot R)

Field 4 Nov 43

TO BE TRIED BY FIELD GENERAL COURT MARTIAL

(E L M Burns) Maj-Gen Comd - 2 Cdn Div

MEDICAL OFFICER'S GERTIFICATE

26

I certify that I have this day examined No. B/0242

Frivate RUTLENGE, James

and find him FIE Do

undergo trial by Court Martial.

(Medical Offices)

Date 15900 H3

MEDICAL OFFICER'S OWNTIFICATE I certify that I have this day gramined Bo _ 87634 3 and find him FIT to . Pt Rutlidge of. undergo trial by Court Martial. Date 17780-113 .

FIELD GENERAL COURT-MARTIAL

CFADA (In ties of AFAS)

(Whether the accused to be tried is under his camid or not, a FGCM may on application to him be convened by any off of Cdn Army Overseas, or of any other force if authorized in law, in immediate come of troops on active service, subject to RP 105(C) and restrictions imposed by appropriate authy. As 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 parts 20 and 23, RP 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 see RP 63, 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. As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns. KR Can 308, 328, 330.)

ACCUSED.

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

B 76343 Pte James RUTLEDGE - 2 Cdn Div Sp Bn (Tor Scot R)

CONVENING ORDER.

1. Whereas complaint has been made to me, the undersigned, that the person(x) named above as the accused, being subject to military law, has (BCAN) committed the offence(x) set forth in the Charge Sheet(X) attached and on (date) 12. NOV 45 endorsed by me, (NON) ALTERNATION NEW MEMORIAL TO be tried by Field General Court-Martial"

And whereas I am of opinion that it is not practicable that such offence(s) should be tried by an ordinary General (Delete part in brockets when not required for compliance with RP 105(C).)

I hereby convene a Field General Court-Martial to try the said person(20, and to consist of the Offrs appointed or detailed hereunder.

oment k nemnerski në dindringitë be i ki kundrindkanjë nemik ngalik ar dikan na në ngar ka k **xxxxxxxxxx** (AA 49, RP 106(B), 107(A). Delete the whole or part, if not applicable.)

SAKKKARAKKKAK AKKAI KKAKCARAKARAKARAKAKKKK

PRESIDENT.

Ma jor J Campbell

(Must be named. RP 106.)

Calg Highrs

MEMBERS

Capt

J G Taylor

RHC(BW)

Capt or Lt to be detailed by ADMS 2 Cdn Div

(Rank.)

(Named or detailed. RP 106.)

RCAMC

WAITING MEMBER.

Capt or Lt to be detailed by O.C. 2 Cdn Div Sp Bn (Tor Scot R)

led, if any.

XXXXXXXXXXXXXX

(Rank.)

On Active Service in the Fd

England

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

Maj-Gen RP 105 fo 2 (BLM Burns) (Signed personally

12 Nov 43

Commanding

2 Cdn Div Convening Officer.

CONVENING OFFR WILL INITIAL ALL DELETIONS AND ALTERATIONS

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

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atting, tore condo a next wal. I had to step over a soldier lying in The coach to reach her. I assume I asked a railway afficial to summon to practice who arrived about few menter later any identity you have of These new was obtilized after lights went out as wellow station Coulder ten of Their men left The seed without The lade decreased leave Could you tell my why a clarge Company Spand 4 - I have The ilang because I would mot lete to see occurences lete This he pregnant in the country

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Lot well ! " Clarge" my " max Dounts dales , as ale las me real 151 centiners for defence B76310 Che Peacock Warrow status of was on the Roudon : Buglion Gain The night of The 3/25 Of october I sat opposed derose The ande from the Hullings and 1 to wright an English Major out Tares or four seats down The san To my turnledge The The hage and The long of liver solver I was rathing to Them during to trip except for a short interest before reacting Really at that This I reacted whole to Them and received no answer when The light came on at Textill I moved down the and later war Them being Taken off The trans his military tolumen rosentino questions: on blan autions you rearing to yes - lus survey while rear teenthe arrow

Q. The you hear a lady may startup - or get up and in. it is a party you land travel 9 St ATE Rather offered The andy a eigenett how do you Amous she Tout it in dal Pro Rollidge of fores Engantles you are not sure That The Lady Smales her own against on The Kulledger Decous Continues for Westerner 876075 Sqt Tyreman E 4 swow states I was not on handow Brighton frain. I was told to pusting These two men from they als const Time being worm, Hairow. It weekly transferred to and her Plasson Mountin survey graya Tomkwan man Toured and the Feared at the age of the ment of accused and the also has the trum was dark and money (over)

mis That Donald and That There was no real doubt on her mind rear accused but her hand on his fines and also crossed to her was and timed her major Tomkuson corrobustes un man fronts on may made Hatenens. Gol Percock's dalement on Contrary 18 least Them Sakment. The actions of The accuracy were that of Charge to in home out by lack of good Conduct and military dishiplens cut to actions of the accused Troop Defence may bound do undance a hadge frades - no meins dant of dentifying to seemed The woman said it was nothing removes and was prompted by a major to Take action to certainly as to whood committed assault. Statement as to Charocker and MFM6 praduced circulat claimed an error in in FAN 6 STonecross-2446642- Flass Dunkenners - A 119- Dunking Nois during point How 4 & See 40 pangliment awarded to days detailing and for for 241 Statemen by accused burnston 1.68 hours details on and 10 fine Jamphell

I request that an officer be detailed to assist me with my defence at my F G C M. If available I should like Lieut K Kidd, 2 Cdn Div Sp Bn (Tor Seet R)

James Justledge

LIST OF WITNESSES

Prosecution

L/Cpl D R Grimes, Corps of Military Police, Reigate, Sy. Major J W Tomkinson, 1 Bn, The Worcestershire Regiment,
Maresfield Camp, near Uckfield, 8x

Mrs Pamela MacDonald, 6 Mayflower Rd, Haywards Heath, Sx.

Set E A Tyreman, 6 Cdn Inf Bde Sp Op (Tor Scot R) Cpl William Feacock, 2 Cdn Div Sp En (Tor Scot R)

EVIDENCE in the case of :-Statement of

> B. 76343, PTE. J. RUTLEDGE, "H" COY., 2nd CANADIAN DIVISIONAL SUPPORT EN. , 6th INFANTRY BRIGADE GROUP, CANADIAN FORCES CVERSEAS.

Sir,

At REDHILL on SUNDAY 31st OOTOBER 1943, at about 2325 hours I was on duty at REMILL S.R. STATION, where I was summoned to No. 3 PLATFORM where the 2228 train from LONDON to BRICHTON was standing. I there saw MAJOR J. TONKINSON, 1st BN. THE WORDESTER REGIO, MARESTIELD CAMP, UCKFIELD, SUSSEX, who informed

I boarded the train and saw the above named sol-Sier seated in the rear coach, accompanied by No. B. 76266, PTE. WRIGHT T, of the same unit. MRS. P. MACDONALD of 6 MAYFLOWER ROAD, HAYWARDS HEATH, STESSEX, identified the two men provider who but womin don't bin

MANUAL THRONOGRAM

Statements were obtained from MAJOR TOMKINSON and MRS. MACDONAID, copies of which are attached. I placed both men under close arrest and conducted them to the COMMAND GHARDROOM, where I handed them over to the CHARD COMMANDER to be detained.

REIGATE. 1 Nov 43. Silymed Wople, REMARKS(D.R. Grimes).

C.M. Police.

Sir, I have read over and corroborate the above statement.

RETGATE.

All word 498 Warren).

MES, P. MACDOMALD, O.M. POLICE. LACEL. A. WARRIEW. C.M.POLICE. LYCHE, D. CHIMES, Wames, of Witnesses :--APPLIED TO PROVOST COY, has coss assaulted and any F. M. Est between MIAST MOTHER - IDEAL and and a standard and a standard accomposition and a standard and OFFENCE W.O.A.S. Counttting a civil offence. A.S. Date of Offence 32 our 43 place RUTIEDGE, J. "Hige" CHARGE against No. Combany Troop or norbanpe ANVERDO "H" Battery Regiment HALLTIDOS OTMOROT (prosignizing a surry erg) Army Form B.252 CHARGE

.(bedastta tnemetatk).

Paprewy. lumishment | Squadron, Troop or Company. Maior rooming (Statement attended). (Statement att.).

Awarded) By whom Statement of minimum magazine that he was a state of the forcestershire Regiment.

who states:-

. On Sunday 31 Oct 43 I was travelling on the 1028 pm. train from Victoria to Haywards Heath.

On taking my seat I noticed two Canadian soldiers sitting in the Fow in front and on the opposite side of the compartment to me. A lady was sitting between the window and one of these soldiers. I observed almost immediately that the two soldiers appeared to be making a nuisance of themselves to the lady and they told her that she could go and sit somewhere else if she wanted to.

Before the train pulled out of Victoria station the Air Raid Alert sounded and the lights of the train were all extinguished. During the course of the journey I overheard the lady asking the soldiers to shut up and behave themselves several times, but I could not hear any exact words of the men's conversation, either between themselves or to the lady, owing to the noise of the moving train.

A few minutes before reaching REDHILL I heard a final objection by the lady who was forced to leave her seat and stand in the corridor

as a result of their behaviour.

I rose from my seat and shome my torch over in their direction. One of the men got up to follow the lady and immediately fell to the floor where he remained until arrival at REDHILL. I asked the lady if the two men were making a nuisance of themselves and she said yes, she thought they were drunk.

On arriving at REDHILL I asked a railway official to summon the Military Police and after some delay two Police arrived and I explained the reason I had sent for them. The lady, who by then was sitting in another coach identified the two men, who had been so objectionable, and the Military Police removed them from the train.

I am of the opinion that both the accused were under the influence of drink, and at the same tune were acting in a manner contrary

to the most elementary rules of decency.

(Sgd) JOHN W. TOMKINSON,
Major,
lst Bn. The Worcestershire Regt.

lst Bn. The Worcestershire Regiment. Maresfield Camp. 1 Nov 43. Exhibit B P.T.O. PAND The above is a true copy of the statement taken down by me in my A.B. 466 and signed by MAJOR JOHN W. TOMKINSON in my presence.

REIGATE. 1 Nov 43. G.M.Police. (D.R. Grimes).

A few minutes later, two soldiers entered the coach. One sat down beside me and the other in the seat opposite. Immediately they sat down they endeavoured to start a conversation with me. I do not remember their exact words.

Before the train left VIOTORIA, at about 2215 hours, the AIR RAID WARKING sounded and all lights were extinguished. Between KAST CROYDON and REDHILL STATIONS the soldiers seated beside me put his arm around me, the other leant over and put his hand on my knee. I pushed both away from me. Shortly before reaching REDHILL the soldier beside me left his seat and went into the corridor. The other immediately left his seat, sat beside me, took hold of me and missed me. I then got up and left the compartment. I stood in the corridor where I remained till REDHILL STATION.

I was addressed by an officer who asked if I had been molested. I replied that I had been. He then contacted the MILITARY POLICE. When the MILITARY POLICE arrived the officer asked me to identify the men in the presence of the MILTYARY POLICE. This I did.

(Sgd) PAMELA MACDONALD.

I certify that the above statement is correct, made in the presence of SGT. EVANS and L/CFL. GRIMES, C.M. POLICE.

(Sgd) PAMEIA MACDONALD.

6 Mayflower Road, HAYWARDS HEATH, Sussex.

The above is a true copy of the statement taken down by me in my a.B. 466 and signed by PAMELA MACDC'AID in my presence.

Olling Worl.,

(D.R. Grimes).

REIGATE. 1 Nov 43. SUMMARY OF EVIDENCE in the case of No B.76343 Pte Rutledge, J, 2 Cdn Div Sp En (Tor Scot R), C.A.(A.F.). lst Witness - L/Cpl D R Grimes, Corps of Military Police, Reigate, Surrey.

Owing to the exigencies of the service and the time and distance involved, this witness was not present in person. A statement of evidence of this witness is attached as exhibit "A" hereto. The abovementioned statement was read to the accused. The accused does not demand the attendance of this witness for crossexamination. 4HHRebew (J H H Depew) Capt 2nd Witness - Major J W Tomkinson, 1st Bn, The Worcestershire Regiment, Maresfield Camp. Owing to the exigencies of the service and the time and distance involved, this witness was not present in person. A statement of evidence of this witness is attached as exhibit "B" hereto. The abovementioned statement was read to the accused. The accused does not demand the attendance of this witness for crossexamination. IH40 open (J H H Depew) Capt 3rd Witness - Pamela MacDonald, of 6 Mayflower Road, Haywards Heath, Sussex.

Owing to the exigencies of the service and the time and distance involved, this witness was not present in person. A statement of evidence of this witness is attached as exhibit "C" hereto. The abovementioned statement was read to the accused. The accused does not demand the attendance of this witness for crossexamination. althousew (J H H Depew) Capt The accused was cautioned in accordance with R.P4(e) and declined to make a statement. Taken down by me in the field this 3rd day of November, 1943, in the presence and hearing of the accused. Certified that rule of procedure 4 was complied with. JAH Debew (J H H Depew) Capt 2 Can Div Sp Bn (Tor Scot R) Field 3 Nov 43

		Name Rt	itled	ge J 1-41 ^N	Sqn, Hattery, H Corps 1 C.T.C and date 1 Period not reckoning towards freedom from extra fine	Date of enlistmer Sheet No 1	23 Nov39 GC Badges L Signature Octomany	Service Profici William	ency Pay	MFM 6 w/AFF Massist (19738)
	Place	off nee	Bank	Cases of drinken ness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order disper-		Terror .
Stor	ne Cross 2 stbourne 3 pton 1	41 23-8 41 -11- 41 4-2- 42	Pte Pte Pte Pte	3	Drunk AA Sec 19. Drinking during parade hours, AA Sec40. Failed to rise at reveille AA Sec 40	Upl Yarick L Cpl Williamson Lt Cochrane L Cpl Baken	161(2) 14 days Det. Forf 4days pa FR. 149(2) 16 days Dtn Fined \$10.FR&	All 19-5- 41 27-8-41 27-12-41 4-11-4 27-12-41 I 161(2) 31-3-42	Carpenter Maj Roach	46
										(PTO)

Field 25-12- Pte AWL 6days 30 mins Expenses L Cpl Rampton Documentary FR&I 149(1)b) Field 9-2-43 Pte AWL 8 days 20hrs 30mins AA Sec Sjt Miller Pte House FR&I 149(2) Field 8-8-43 Pte AA Sec 15(1) AWL 22hrs Documentary Opl Barrett Sjt Skarott GERTIFIED TRUE COPY CL. Mitchell) Capt., & Adjt., 2 Gdn Div Sp Bn (Tor Scot R).		Date of offence	Rank	Cases of drunken-	OFFECE	Names of Witnesses	Funishment awarded	Date of award or of order dispen- sing with trial	by whom awarded	Remarks
Field 9-2-43 Pte AWL 8 days 20hrs 30mins AA Sec bjt Miller Pte House In 10 days pay In 2-2-43 Maj Johnson For 9 days pay Frield 8-8-43 Pte AA Sec 15(1) AWL 22hrs L Cpl Holan Documentary AA Sec 15(1) AWL 1hr 25 Mins Opl Barrett Sjt Skarott CHATTFIED TRUE GOPY (C. L. Michell) Capt. A Adjt.		5-12-		11094		Dogumentary	TRET TABITION		et.	FR&I 149(1/8)
Field 8-8-43 Pte AA Sec 15(1) AWL 2Ehrs L Cpl Nolan Documentary AA Sec 15(1) AWL 1hr 25 Mins Cpl Barrett Sit Skarott CENTIFIED TRUE COPY (G. L. Mitchell) Capt Adjt.	rield 9		Pte		AWL 8 days 20hrs 30mins AA Sec	Sjt Miller	14 days C.B	ву	-5-	EHOUT TANITION
Field 4-10-43 Pte AA Sec 15(1) AND IN 25 MAIN SJt Skarott ORRETIFIED TRUE COPY Junithal (G. L. Marchell) Capt c. Adjt.						L Cpl Nolan Documentary	6 days U.B		Maj 401	Morr idevs Day Fi
(C T Manhell) Capt. Addt.	Field 4	10-4	0 256		ORNETTED TRUE COPY	Bjt Skarett				FR&I 149(1)b)
					(C T MAtchell) Capt Adjt.	ot R).				

EX # 86

STATESENT AS TO CHARACTER AND PARTICULARS OF SERVICE OF AGOUSED

No. 876343 Rank Pte Name Rutledge, James Datt Tor Scot R) Age Married or Single Single. No. of Dependents?...... Date of Attestation 65 Nov 29

Dates of promotions, appointment and confirmation of _a.k, if any --

(A certified true copy of MFM 6 must accompany this form)

Dated at 17 Nov. 43

d AGIL.

a non min ab sultor scor H)

000.64

PTE RUTTER W.

	SELD CEN	ERAL COURT-	MARTIAL	CPARE I In lies of APAS)
,	IELD GEN	LINAL COOKI	MANTIAL	##7/7000mm A/38B
Convened by Order of	Brig G Franco	eur Comd 2 (OBRO da	ted. 7 700 44
		ACCUSED.	(20m Ve)	8 / / 6 8
(As to the trial	of two or more charged jo	intly stc RP 16, 71, 109. As to reason see AA 182, 183, fns, KR Can 308, 328.	s for moving (a) permus	ent or only gred _ *
	R. (b) Appmt, A/R			The South
D-121422 Pte	MEWED H Ju	William	RUTT	ERS ROASC P
1. ax tu	my word			E a
	DD:	OCEEDINGS OF TRIA	L.	ROOM ST
Held in the Fd in (cour	itry) E	NGLAND	on (date(s))	JUN 44
RECORD	FORM A-OPE	NING PROCEEDINGS	AND ARRAIG	NMENT. 7/136
	nt, Members, waiting	Member, JA, if any, and Of	frs under inal?, if a	y, assemble, and the
Court is closed. (PRINTED MATTER BY PRES OR JA. on procedure when will be made and g	R. NOT IN ITALICS FOR C The Schedule referred to a a variation in this form as iven a number having refer and instra on how to recor	SUIDANCE, WILL BE DELETED, IF NO proughput is on p. 4. Custions do NOT rises, see form for GCM in MML pp 7 ence to appropriate or proceding para in addresses, evidence, act, which instru	T USED OR APPLICABLE, include all relevant from I 41 to 759. A biref recon- number herein. See book i are hereafter called 'No	AND INITIALLED ROs. For guidance d of such variation
	fucting the trial see AA 53.	30° 38, 63-70, 73, 74, 94, 103, 119, 132 fore the Court the Convening Or		
The Court is satisfied each charge discloses a	that it is properly co in offence.(*)	nvened and constituted(*), acci	used is (mor) amenab	ie to military law, and
	of Summary of Evidence se	e RP 17 fn ϕ . 2. AA 49, 50, RP 105 ed is (a.e.) brought before the C		
		cal Certificate that accused is to		
The Prosecutor information by the CO.	ne the Court that a	ccused elected to be tried by	court-martial instea	d of being deast with
6 (I. KR Can		60 fn 1. For effect see KR Can 563(c)		
AN President L	o accused: Do you	object to		
The Interpreter is switch		t to	as shorthand wr	iter i Ans
A6. The Conver	ing Order and name	s of the President and Membe to be tried by me as Presiden	rs of the Court are; t or by any of the 3	read to the accused (2) dembers of the Court 1
Ans Mar (2)				
(1. RP*110.		g member retires. RP $68(B)$. If object		
A7. The Preside	ent, Members, JA, if ts of the offrs compris	any, and Offrs under instr. it sing the Court, etc :	ahy, are sworn.(1)	The following are the
President	Majer	M G CLENNETT	West NSR,	11 CBR Bm
Member	apl.	11 yordon	cac	9004 Bm
Member	Trent	R M allan	1ca	9 CBA Bu
Judge-Advocate				
Prosecutor	Level -	MAW Bosly	Rea	9 000 00
Defending Offr	Least	w. y. and ball	ACASC.	9 451 Bm.
Questions by Preside	nt : Is the Prosecute	or a lawyer Ans Me Ist	he Defending Offr a	lawyer I Ans God (2)
11 00 24 27 11	00 III list of offer up	der instr will be returned separately sed is entitled to an adjournment when	with proceedings for info	emotion of Conv (Mile.)
	1 8121422	Pa July		nt make(s) (no) 🎏 plea

(1. If a special plea is made far separate trial on one or more charges (RP 62(E), 108), or as to the jurisdiction of the Court (RP 34, 35(A), 1/3), or in bar of trial (RP 36), or as to occured's mental fitness to stood trial (AA 130, RP 57), or by one of several occured charged jointly to be tried separately (RP 16, 71), such plea, the addresses mode in support or applicat, the evidence, if any, and finishing are recorded per Notes. For farms of recard see references in this to RsP cited. Insert in AB mark and name of the occused making the plea.)

and name of the occused making the piece.

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

(1. RF 31, 112. See pare 1 of instrs p 2. When more than one Charge Sheet see RF 62; when several occused to be tried separately see RF 71(c), and use separate copies of CF RFs to record proceedings.

2. RF 32, RF 33. If otherwise, delete and the charge Sheet see a RF 71(c), and use separate copies of CF RFs to record proceedings.

A10. The Court (is cleaned) considers the Instrs on Procedure after Arraignment at top of p 2. The proceedings are continued on Record Form . 3

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 withdrawed of alternative charges by Prosecutor see RP 35(C). No other charge can be withdrawn for any reason without outby from Convening Offr. If Convening Offr concurs, Court may accept plea of Guilly to lesser, etc, offence. (RP 44(H).) Accused may change a plea of Not Guilly to Guilly 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 below. (RP 37(4).)
 - (b) Such mixed pleas occur in a set of two or more charges laid in the alternative, see RP 37 (A) and fu 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; succurring 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

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)(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). call witnesses as to character and make an address in mitigation of punishment.(*) (1. RP 35 fn 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 charge(s),(f). 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 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; stement by sworn testimony, if you so desire.(*)

President to accused: Do you wish to make a statement ! Ans 200. (j. RP 37(b). 2. RP 37(0) fn 6. 3. RP 35(b) fn 5 pare 3. MML p 54 pare 47. 4. See pare 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 charge(s). The accused is (are) so informed, and he (they)

Atheir) please) of Guitty to Not Guilty on

B4. On the charged to which the please) of Guilty is (and) not charged the President records finding of Guilty in Part I of the Schedule.(1) (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. A., initialled and read aloud by the President.(1)

(1. If there is no Summary, or if it is inadequate, comply with RF 37(B). If there is any evidence inconsistent with any plea

standing or Guilty, Court will dayle accused to change such plea and, if changed to Not Guilty, try such charge(s) by use of

paras D1 to D6 inclusive of Record form D on p 3. RF 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 inclusive of Record Form D on p 3 t-dore proceeding with C 2.(1)

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

(i. Under 85 such parts only of the Summory of Evidence are read as gride to the charges dealt with under C2. If any pice is charged to Net Guilly, trial thereon proceeds by complying with paras D1 BrOg inclusive in Record Form D on p 3 and making an 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.

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

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

D2. The Prosecutor makes (an) (no) opening address.(1)
(t., 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)
11. RF 37(C), 114, KR Can 555. Record evidence per Notes. As to Prosecutor giving evidence himself see RF 39(C) (E).) D4. The Prosecution is closed.(1) The Defending Offr submits that the evidence for the Prosecution does not

D5. President to accused: You will now proceed with your defence.(1) You may, if you wish, give evidence yourself on eath as to the facts or your character, or both, in which case you will be subject to cross-examination (*) You may call witnesses in your defence and as to character, whether you give evidence or make a state

President to accused: Do you wish to give evidence your as a witness, make a statement, or do neither ! ... Do you intend to call witnesses on your behalf ! Are they witnesses as to character only ! Ags (1. RP 115. 2. RP 40(A) see BO(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 114, 115, 116. For procedure see Notes on back of Convening Order, E-PASS. 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). Nose the further opportunity in para E1
of Record Form E. Record per Notes addresses, statement, evidence and any summing up by the JA under RF 42, 103(c).)

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

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

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

Do. 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 !(*) 210 If evidence has already been given by occurred or his witnesses as to his tharacter, delete this para. AF \$7(C) fn 4, 46 fn 1.
 Accused and witnesses are sworn. Evidence recorded per Notes.)

The Prosecutor produces Statement as to Character and Particulars of Service(1), and certified true copy (decrees) of Conduct Sheetin(f), 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(l) (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 vidence and

E3. President to accused: Do you wish to address the Court on the Statemential and Conduct Shoetins, and in mitigation of punishment 1(1) Ans 448 y siefer doing 7/4 Ce4)
(1. 89 37(C), 46(D). 2. Address/If any, recorded per highs. Court thould the first accused or his witnesses to prove an each anything here as previously stated which would affect the discuss of punishment. 89 37(F) (n 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 accordingly terminated.(1) proceedings in open II. AA 54(6), RP (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 now (*).

(I. When several accused fined separately see 88.71 (D). One sentence only, comparised of the punishment or punishments laid down in AA 41, 44 and its provisio, is to be exerted to cover all there is an old charge thesis an which occursed found guillet.

RF 48. As to isotionics see AA 44, 126, 182, RF 46-SO, SP, 188, 199, A, 82, 735-735-85. Overson RO 309, 2223, MML, SC, 735-735-75. As to sentence consigned for civil offerces by the loss of England see AA 41(5), MML p 130. When socialed already under sentence of imprisonment or detention see AA 44(18), SS(I), KR can Sob. 2, RF SO. As to release from antenut by Confirming Offr see KR Can SO. As to essentially and disposal of record offer trial see insire so back of Convening Other.)

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

SCHEDULE.

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

used: MTAKAAKK A	te William	RUTTER, RCAS	
* *Charge.	Plea.	Finding.	
Insert " alternative " where applicable.)	(See Instrs p 2.)	(See note below.)	(Space for use as required for further charges, occused charged jointly, special findings, etc.)
1 CA fee 15(1	1 yearly	guily	
ıd			
d			
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th			
			Commence of the second of the
(Note : As to Fin special findings see B	P 44 and MML p 753	ond in loss of kit se	; findings on alternative charges see MML p 463 fn 4 para 2, RP 44 ; e RP 44 fn 6.)
"ime in confinement ay (I. See RP 46(A) Sentence Awarded by the	waiting present to fn 2. Information sho he Court:	rial—a total of ould be found on MF I	See RP 46(A). Information should be found on MF B355 or AF B296.) days, of which Mr
	del	inhunder	days (90 days) and to be
to as	naugo n	mune cy	days (90 days) and to be
(8gd) Judge-Advo		Date	awarded. Sed) President. (AP 45, 50.) + psembly and disposal of record after trial.)
Judge-Advo	(See back of Co	Date pressing Order as to a	awarded. President. (89 45, 50.)
Judge-Advo	(See back of Co	Date parening Order as to a	awarded. President. (AP 45, 50.) + essembly and disposal of record after trial.)
PART II. I	(See back of Go	Date overning Order as to deep the confirm of the c	awarded. Secondly and disposal of record after trial.) MATION RESERVED. (AA 54(5), RP 120(F), MML p 760.)
PART II. I	(Sgd) DECISION O cers see AS 45, 37, 8, 11 minot be readed: A seed may be tried ago 33, MMI p 65. Que the Confirming Office	Date overning Order as to a ERE CONFIRM F CONFIRMIN P 37(D) fo 6.46(A), S 4(3), Sending bosion A 157, MML p saying start promuting to a saying ofter promuting to a saying start promuting to a saying start promuting there person	awarded. Provident. (RP 45, 50.) + provident.
PART II. PART III. (For duties and pos- confirmation and ca- not confirmed, accu- promulgation : RP 37A, RF SJA, 54, 7	(Sgd) DECISION O cers see AS 45, 37, 8, 11 minot be readed: A seed may be tried ago 33, MMI p 65. Que the Confirming Office	Date overning Order as to a ERE CONFIRM F CONFIRMIN P 37(D) fo 6.46(A), S 4(3), Sending bosion A 157, MML p saying start promuting to a saying ofter promuting to a saying start promuting to a saying start promuting there person	awarded. Provident. (RP 45, 50.) + provident.
PART II. PART III. (For duties and paccordinates and can confirmed, accurate and paccordinates and paccordinates and page 25 As RF 53A, 54, 7	(Sgd) DECISION O cers see AS 45, 37, 8, 11 minot be readed: A seed may be tried ago 33, MMI p 65. Que the Confirming Office	Date overning Order as to a ERE CONFIRM F CONFIRMIN P 37(D) fo 6.46(A), S 4(3), Sending bosion A 157, MML p saying start promuting to a saying ofter promuting to a saying start promuting to a saying start promuting there person	awarded. Provident. (AP 45, 50.) + provident. (AP 45, 50.) + provident. (AP 45, 50.) + AATION RESERVED. (AA 54(5), RP 120(F), MML p 760.) Commanding NG OFFR ON FINDING(5) AND SENTENCE. \$1-56, 120, MML pp 759-761, KR Can 567-577. Acquittels require no trinding or sentence for revision by Court: AA 54(2), RP 120(3), If 44. Minute of confirmation or beau-confirmation may be altered before tion: KR Can 572. Duties and powers of reviewing offers: AA 57, aligh, AA 177, for 1.) b in Part I is:
PART II. PART III. (For duties and paccordinates and can confirmed, accurate and paccordinates and paccordinates and page 25 As RF 53A, 54, 7	(Sgd) DECISION O cers see AS 45, 37, 8, 11 minot be readed: A seed may be tried ago 33, MMI p 65. Que the Confirming Office	Date overning Order as to a ERE CONFIRM F CONFIRMIN P 31(D) fn 6.46(A), 3 54(3), Sending boto on AA 157, MML p to promule on the person sentence set Tortl	awarded. Provident. (RP 45, 30.) + passenbly and dispasal of record after trial.) MATION RESERVED. (AA 54(5), RP 120(F), MML p 760.) Commanding NG OFFR ON FINDING(S) AND SENTENCE. 11-56. 120, MML pp 758-761, KR Com 567-577. Accustools require no k finding or sentence for revision by Court: AA 54(2), RP 120(G). If 64. Minute of confirmation or non-confirmation may be altered before notion: KR Con 5712. Duties and powers of reviewing offrs: AA 57, ulty. AA 172 fn 1.) In Part I is:
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PART II. PART III. If or duties and posicionation and can as continued, decupromorphisms. Rep 37A, RF 33A, 54. 7 My decision on the Ladings that the Date.	(Sgd) DECISION O OPEN SER AS 37. R. and minor the resisted: AN ased may be tried ago. 23. MMI p 65. Que the Confirming Offire of inding(s) and the confirming Offire of inding(s) and the confirming Offire of inding(s).	Date overning Order as to a service of the confirm of the confirm of the confirm of the confirm of the confirmation of the con	awarded. provident. (RP 45, 50.) MATION RESERVED. (AA 54(5), RP 120(F), MML p 760.) Commanding NG OFFR ON FINDING(5) AND SENTENCE. S1-50, 120, MML pp 753-761, KR Can 567-577. Acquittals require no a finding or sentence for revision by Court: AA 54(2), RP 120(G). If defining or sentence for revision by Court: AA 54(2), RP 120(G). If defining or sentence for revision by Court: AA 54(2), RP 120(G). If defining or sentence for revision by Court: AA 54(2), RP 120(G). If defining or sentence for revision by Court: AA 54(2), RP 120(G). If defining or sentence for several powers of reviewing offrs: AA 57, bit in Part I is: A
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PART III. For deties and post confirmed are not confirmed are promulgation RP 57A RP 53A 54. 7 My decision on the Library Library PART II. PART III.	(Sgd) DECISION O OPEN SER AS 37. R. and minor the resisted: AN ased may be tried ago. 23. MMI p 65. Que the Confirming Offire of inding(s) and the confirming Offire of inding(s) and the confirming Offire of inding(s).	Date overning Order as to a ERE CONFIRM F CONFIRMIN P 37(D) In 6.46(A), 3 Senting both on A 1.57, MMC, prosting for the person of the promule representation of the Confirmit tenth for the Confirmi	awarded. **provident.** (## 45, 50.)** **provident.** (## 45, 50.)** **MATION RESERVED.** (AA 54(5), RP 120(F), MML p 760.)* **Commanding** **NG OFFR ON FINDING(5) AND SENTENCE.** **S1-50. 120. MML pp 759-761, RR Con 567-577. Acquittols require no a finding or sentence for revision by Court: AA 54(2), RP 120(0). If the finding or sentence for revision by Court: AA 54(2), RP 120(0). If the finding of sentence for revision by Court: AA 54(2), RP 120(0). If the finding of sentence for revision by Court: AA 54(2), RP 120(0). If the finding of sentence for finding of sentence for finding of the fin

The accused, D-121422, Pte. William RUTTER, RCASC, on strength 9 Bn, 2 Cenadian Base Reinforcement Group, a soldier of the Canadian Army Gverseas, is charged with

WHEN ON ACTIVE SERVICE, ABSENTING HIMSELF WITHOUT

in the Field, absented himself from 9 Bn, 2 C.B.R. Group, from 2230 hours, 28 May 44, until appro-hended by Canadian Provest Gorps, in London, at 0330 hours, 5 Jun 44. Total time absent, 9 days, 5 hours. Cost of apprehension and return to unit, gnounting to go.9.0.

> 20 Wick (H.W. Riok), Lt.-Col. Commanding,

9 Bn, 2 C.B.R.Gp.

TO HE TRIED BY FIELD GENERAL COURT MARGITAL

FIRST CHARGE Sec 1500 ARMY ALT

6 Jun 44

In the Field

7 JUN 44

Comd 2 Cdn Base Rft Gm

(G Francoeur) Bris

My Ken



(Whether the accused to be tried is under his comd or not, a FGCM may on application to him be convened by any offs of Cdn Army Overseas, at 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 author. As 49, 50, RP 104-107, 114. As to the duties and privileges of the Convening Offs in dealing with the application see MML Chap V paras 20 and 23, RP 871(5).

There should be a separate Convening Order for each person to be tried sebarately by the same Court. RP 71(C), 109. As to separate charge sheets see RP 62, and as to separate trial on charges in the same charge sheets 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, Ajrank or Ajappmt, If any, see AA 182, 183, fns, RR Can 308, 328, 330.)

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

Surname. Unit

D-121422

William

RUTTER

RCASC, 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 (burn) committed the offences) jest forth in the Charge Sheet(s) attached and on (date)... 7 JUN 44. endorsed by me, (or by or of the property shall for me), "To be tried by Field General Court-Martial"

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

(Delete part in brackets when not required for compliance with RP 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. 4 am anable-to-appoint (a) three Olive to form the Court play which Olives Brendont for the reasons & have attanioni-isoreto (AA 49, RP 106(B), 107(A). Delete the whole or part, if not applicable.)

Judge Advocate thereat the Offe reartified horsen der 5. I wise-appoint-as

PRESIDENT.

11 CBR Bn M G CLENNETT West N S R, Majer (Must be named. RF 106.) MEMBERS. te be detailed by OC 9 CBR Bm 9 CBR Bn Capt 9 CBR Bn te be detailed by OC 9 CBR Bn Lieut (Named or detailed. RP (06.) (Unit.) WAITING MEMBER. to be detailed by OC 9 CBR Bm 9 CBR Bn Capt (Named or detailed, if any. RP 106.) (Rank.) -JUDGE-ADVOCATE (Must be named. If any. RF 106.) (Ronk.)

On Active Service in the Fd

ENGLAND (Country.)

(Signed personally. RP 105 fn 2.) (G Franceeur)

Convening Officer

Brigadier

(Runk.)

7 JUN 44

2 Cdn Base Rft Gp Commanding

CONVENING OFFR WILL INITIAL ALL DELETIONS AND ALTERATIONS

4/38ACFA95 (In lieu of AFAS)

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

(Name) and in my opinion he is

fit to undergo trial by Court-Martial.

Station FIFED

I would like to point out to do count that Pte Butte joined the curry whatey in 1939. He served for 3 months and was dislayed as under age the again sines volations is 1940, and was dicharged as medically whit day to some last aibust. In the dist two is 1941 to whately gain to Ch and presented making the state of my will set for ome stocan swam to NE.T.D. at hips I would point out that his orlayer was lost emfored in 144 And I was the question Why le was rest to N.E. T. D. 26 otherward set love All With was sette CASCRU. the fault went to hapital after 3 months service with 86 & Bidge Cy. One, this period of review to han 17/1944 to seephin camp aldustot. and letwer of antil 21 day, for Rupling to CASCRU, for CASCRU # 13 CBR By, for 13 CBR By & 9 CBR By Insile, of 20 days. Happlied for being it the can't the places and was delet will very statly. He has also her aprel sich leve. It mined has will his moral definitely low to do souls mardes. is its chief support of his mother address of his facely

15 could age is 21 year, and is andred street suplained meday AND in clean to face as comments I sertify that NO 121422 . Renk . Pte: . . Fame . Rutter, W. . .

Unit. 9 C.B.R.B. . . . , was agrested at . -ondon . . . (place)

at 0330 . . . (hour) on 5 June 44 . (dete) and that at the time of his arrest ho was wearing (military uniform) xamkakwkkaxxxkakkxxxk Army into whose sustedy the above named poyson was taken on arrest.

(Strike out part inemplicable).

· · · · En	xpense Voucher Re—:	Ref: K.R. & O (Can) 530	ic m
		Ruthery A unid	CA.R.Z
The fo		apprehending and returning the M.	N Soldier to b
Date		Particulars (& partism)	Amount
1	Escorts return fare from LON		4

Prisoners single fare to LONDON

Prisoners fare from

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

Escorts & Prisoners expenses for Bed, Meals, Bus fares

LIEUT.

Officer Issuing Railway Warrant and Expensequence Com-

No. 5 Provost Company, Canadian Provad Ministration D. P. M's BR. CM.H.Q. 1000:55 40/P & S/483

The Commanding Officer directs the evidence shall be taken on B-22430 L/Cpl Pinchen F.W. on strength 9 Bh 2 C.B.R.G. First Witness having been duly sworn states:-Prosecution "At 2230 hrs 26 May 44 I called the roll of the R.C.A.S.C. platoon. D-121422 Pte Rutter W. whom I now recognize did not answer his name. I searched the R.C.A.S.C. lines and questioned his tentmates but was unable to locate him. I then placed his name on the Tattoo Report as an absence. I did not see Pte Hutter again until 5 Jun 44. B-22430 L/Cpl Pinchen F.W. The accused declines to cross examine this witness. Second Witness

Documentary Certificate in accordance with P.C.2797

of 10 Apr 42 signed by Capt R.J. Stinson D.A.P.M.

C.M.H.Q. and dated at London 5 Jun 44. This evidence has been shown to the accused and marked by me as Exhibit "A" for the prosecution. (M.A.W. Bosley) Lieut Officer detailed to take Summary of Evidence Bocumentary, (CMHQ 1000:55) being expense voucher in the amount of £0:9:0 signed by Lieut R.E. Birch Admin Officer D.P.M's Branch C.M.H.Q. This evicence has been shown to the accused and marked by me as Exhibit "B" for the prosecution. Third Witness Prosecution (M.A.W. Bosley) Lieut Officer detailed to take Summary of Evidence The Accused was cautioned as follows :-Do you wish to make any statement or to give any evidence on eath? 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 give evidence on oath or to make a statement. The accused does not call any witnesses for the 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 Rules of Procedure 4(c)(d)(e)(f)&(g) have been complied with.

(M.A.W. Bosley) Lieut in the Freld Offr detailed to take Summ of Evid. 6 Jun 44.

D-121422 Pte Rutter W. (R.C.A.S.C.) on strength 9 Bn 2 Canadian Base Reinforcement Group, a soldier of the Canadian Army

(i) When on active service, absenting himself without

Overseas who is charged with: -

leave. A.A. Sec 15(1)

5. Wa.

NOMINAL ROLL

	To: O.C.		From : O.C.		
	Field Unit		1101111	Rft. Unit	
2.	Demand No. Date of Demand Officers Demanded	8. 9.	Departure Date	Time	
4.	Officers Despatched O.R's Demanded	H.	How Despatched S.O.S. Rft. Unit To be T.O.S. Field Uni		
6.	O.R's Despatched. Last Meal	13.	Part I Pay Book Comp	eted to date	

Regt. No.	Rank	Name	Unit	Trade or Spec. Qual.	Type and Date last leave

DISTRIBUTION

Records Officer

O.C. Reception Camp

O.C. Field Unit

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GLILL D ME (WAR).

Statement as to Character and Particulars of Service of Accused.

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

Nursher.	Rank.	Name.	Regiment (or as the case may be).
D-121422	Pte	William RUTTER	RCAEC (9 Bn, 2 CBRGp)
NOTE.—The Field Conduct Sheet is to be produced in Court with this statement load is not be produced in Court with this statement load is not because the court of the court o	Date of fi Date of fi 2. Pr in the Sc Leginnine 4. T days in	For Taken of Fort Taken of For Taken of Fort	d by a court martial or a civil court are set out under sentence for
	which		
	5. T		24 (Born 14 Jun 20)
		the date of his calling up for mile. The service which the accused is a	itary service
State the military decorations (if any) held by accused.	8. 1	The accused is in possession of:	r N.C.O.;. The accused has served continuously,
(A	wikhout	reduction, to the present date—	Pale of Fromotion.
	. 4	In the substantive rank of fir the acting rank of	
			er in any of the above paragraphs cannot be stated nental books the paragraph must be struck through.

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

Description of Court by which tried.	Date and Place of Trial.	Charges upo	n which convic	ted.	Sentence of	f the Court.	Punishment remitted or sentence suspended.

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

day of June, 194

(C.L. Welson), Capt & Adjt., 9 Bn. 2 C.B.R.Op. Cpl Ruttle, C.A.

FIELD GENERAL COURT-MARTIAL

ACCUSED.

(As to the trial of two or more charged jointly see RP (6, 71, 109. As to reosons for showing (a) perank, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, firs, KR Can 308, 328, 330.)

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

ROCEEDINGS REMEWED TO SEN 44

PROCEEDINGS OF TRIAL.

VIEWING OFFICEB JAG BRANCH 8.M.H.Q.

RECORD FORM A-OPENING PROCEEDINGS AND ARRAIGNMENT

At. 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 (a) attached thereto. (*)
The Court is satisfied that it is properly convened and constituted (*), accused is sare) amenable to military law, and each charge discloses an offence. (*)

(1. 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 \$235 hours trial commences.

A4. The Prosecutor produces a Medical Certificate that accused is (are) 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 arily by the CO (7)

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

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

The Interpretor is sworn (1) Do you object to Afficher haffer, & w as shorthand writer ! Ans Ho, Sie

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

A6. 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 1 Ans Mo

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

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

RCA all CRASCSCAD Member

Judge-Advocate

Defending Offr

(i). 8P 26, 27, 109, 111. List of office under instr will be returned sep. (2. If Pros a lowyer and Def Office pot, accused is entitled to an adjournment

(i. If a special place is made for separate 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 bor of trial (RP 36), or as to occured's mental fitness to stand trial (AL 30, RP 57), or by one of several accused charged junity to be tried separately (RP 16, 71), such place, the addresses made in support or against, the evidence, if any, and finding are recorded per Notes. For forms of record see references in fins to RsP cited. Insert in A8 mank and name of the accused making the pine.)

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

(I. RP 3), 112. See para I of Instrs p. 2. When more than one Charge Sheet see RF 62; when several occused to be tried separately see RF 71(C), and we separate copies of CF AP6 to record proceedings. 2. RP 32, RF 33. If otherwise, delete and make appropriate record per houses.)

A10. The Court (is closed and) considers the Instrs 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.

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 for any reason without authy from Convening Offre. If Convening Offre concurs, Court may accept plea of Guilty to lesser, etc. offence. (RP 34(H).) Accused may change a plea of Nat Guilty to Guilty during trial. (RP 38.) As to refusing to plead or yet already in tellibridge are PP 35(D). 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

- If pleas to all charges are GUILTY, use Record Form B below.
- 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
 - (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 plended Not Guilty thereto, or, (ii) to record the pleas as the findings of Court. After deciding between (i) and (ii), Court will occed under foregoing instes as may be appropriate to result of its decision. See MML p 744 Instes (2).
- 3. As to responsibility of President to accused see RP 59, 60(C); powers and duties of JA see RP 103; duty of Presecutor see RP 60(A) (B); duty and privileges of accused and Defending Offr see RP 60(C), 87(C), 91, 92; succurring 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 76.79, 80, 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 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), call witnesses as to character and make an address in mitigation of punishment.(*)

(h. RF 35 fo 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 charge(s).(1) If it appears from your statement that there are circumstances which indicate that you do not under-stand the effect of the ples of Guilty(2), or which show provocation or extenuation in respect of which in your interest the witnesses for the Projecution should be examined(4), we shall advise you to change your plea to Not Guilty. In 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 Court that your statement affects only the amount of punkyonal to which you are liable, you will not be advised to change your plea and you will be given an opportunity futer of prove your statement by swora testimony, if you so desire.(*)

President to accused: Do you wish to make a statement † Ans.

(*)

(*)

(*)

(*)

2. RP 37(D) fn 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 Matement.(1) The Court decides (not) to advise accused to change his charge(s). The accused is (are) so informed, and he (they) (their) plea(s) of Guilty to Not Guilty on charge(s). Part I of the Schedule is amended accordingly.

change(s) his (their) plea(s) on ... chi (i. Court may be closed to consider the statement.

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

(1) If there is no Summary, or if it is inadequate, comply with RF X(B). If there is now swidence inconsistent with any plea standing as Guitty, Court will odive eccused to change such plea and X changed to Not Guitty, try such charge(s) by vie of parex DI to DB inclusive of Record Form D on p 3. RF 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

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-(1) (i. RF 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)

Linder 85 such parts only of the Summers of Evidence are read as relate to the charges decit with under CA. If one piec is charged in Net Guilt, trial thereon proceeds: | complying with paras D1 to D6 inclusive in Record Form D on p 3 and making an appropriate recard 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 here Loose Store is of Record

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

relating to procedure before trial have not been complied with, and that you have been prejuniced thereby, or on the ground that you have not had sufficient opportunity to prepare your defence? Ans. (1)

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

D2. The Prosecutor makes (N) (no) opening address.(1) (i. RP 39(6), 60(A) (B), 90, 92(C) (D). Record address per Notes, subject to RP 95(C).)

D3. 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 _____charge(s).(2) The Court establish a prima facie case against the accused on the closed, and considers the submission.(*) The Court is re-opened, and the President announces that the submission charge(s), and allowed on the

wharge(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)

(1. Delete remainder of this para, if submission not made. 2. Arguments on submission, ontwer 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 ocquitted on all charges use second atternative in para 68.)

NB - If trule proceeds, occused must be allowed great latitude in making his defence, and the Court should not stop his defence solely an ground of irrelevance. (RP 60(C), 114, 115.)

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 f 400 Ans (1, RP 115, 2, RP 40(A), see SO(D). 3, RP 40 fn 10, 4, RP 40 fcz 2, 9,) No

D6. Consequent on the answers 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 A95. Evidence for accused as to his character should, if in his interest, be given before the finding. See RP 46(A) In 1, Be(C). Note the further opportunity in para E1 of Record Form E. Record per Notes addresses, statement, evidence and any 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.(2) The Court is re-opened.
(1. RP 43, 117(A). See Notes in Part 1 of Schedule. Z. RP 44(A).)

DS. The President announces the finding(s), if any, of Not Guilty, and states to the accused that the finding(s) charge(s), being subject to confirmation, will be promulgated later 4) of the Court on the

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. (*)

(*) AS \$4(3), (6), Rf 45, [20,8), 2. AS \$4(3), RF 45, !17. This elemetries unsouncement is not applicable when there are place of Guilty outstanding and decit with under Recard Farm B or C.)

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

Becom Form E below

RECORD FORM E-PROCEEDINGS ON CONVICTION BEFORE SENTENCE.

E1. President to accept: Do you wish to give evidence yourself or to call any witnesses as to your character †(*)

If evidence has already been given by accoused or his witnesses as to his character, delete this para. RP 37(C) fn 4, 40 fn 1.
 Accoused and witnesses are swarn. Evidence regarded per Notes.)

E2. The Prosecutor produces State of the state of the state of the secured, which he submits to the Defending Offr for examination, and then to the Court for admired by evidence. The Court is satisfied that these documents refer to the accused, because (i) they purport to be submit to the Defending Offr for examination, and then to the Court for admired by evidence. The Court is satisfied that these documents refer to the accused, because (i) they purport to be submit to the purport to refer to (a) soldier(s) having the same number, and pame and corps as the accused. Admitted in evidence and

marked Ex and Ex respectively (F),

(I. MFB 355 or AFB 296. 2. MFM 6. 3. RF 46, KR Cup 558. If above documents not produced, see AF 46 (n | poro |)

E3. President to accused: Do you wish to address the Court on the Statement(s) and Conduct Sheet(s), and in mitigation of punishment ((*) Ans.
((*) RF 37(C), 46(C)). 2. Acciress, if any, recorded per Notes. Court should permit occused or his witnesses to prove on such anything here 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. (1)

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

SCHEDULE.

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

(Spot for use as required for further charges, accused charged jointy, appelliable). (Onto As to findings for leaver afforces use AA 50, PP 44; [indings on distriction therefore the page 12 and MME, p 183], and in lists of As to go to the page 12 and MME, p 183, and in lists of As to go to the page 12 and MME, p 183, and in lists of As to go to the page 12 and MME, p 183, and in lists of As to go to the page 12 and MME, p 183, and in lists of As to go to the page 12 and MME, p 183, and in lists of As to go to the page 12 and MME, p 183, and in lists of As to go to the page 12 and MME, p 183, and in lists of As to go to the page 12 and an As to go to the page 12 and 13 and to go to the page 12 and 13 and to go to the page 12 and 13 and to go to the page 12 and 13 and to go to the page 12 and 13 and to go to the page 12 and 13 and to go to the page 12 and 13 and to go to the page 12 and 13 and to go to the page 12 and 13 and to go to the page 12 and 13 and to go to the page 12 and 13 and to go to the page 12 and 13 and to go to the page 12 and 13 and to go to the page 12 and 13 and to go to the page 12 and 13 and to go to the page 13 and to go to the page 14 and 14	Charge.		Plea.	Finding.				
(Assa). As to feeding for inser offences are AA 56, FP 44 Gologs to discretize charges see MML p 483 fo 4 pero 3, RF 44 ; special feedings jet 81 48 and 6ML p 251, and in less of lot see RF 44 [n 6]. Leptersont: Unclose continues for. (I. Insert societies being serred, or delete, if not applicable. See RF 44(A), information about be found on MF 8355 or AN 829-6.) The inconsiliermont awaiting present trial a total of days, for whitely. (I. See RF 44(A) fo 2. Information should be found on MF 8355 or AF 829-6 admitted in evidence under 82.) The awarded. (I. See RF 44(A) fo 2. Information should be found on MF 8355 or AF 829-6 admitted in evidence under 82.) PART II. MINUTE WHERE CONFIRMATION RESERVED. (AA 54(5), RF 120(F), MML p 260.) PART III. DECISION OF CONFIRMING OFFR ON FINDING(5) AND SENTENCE. (Sgd) Commanding PART III. DECISION OF CONFIRMING OFFR ON FINDING(5) AND SENTENCE. (Sgd) Commanding PART III. DECISION OF CONFIRMING OFFR ON FINDING(5) AND SENTENCE. (Sgd) Commanding PART III. DECISION OF CONFIRMING OFFR ON FINDING(5) AND SENTENCE. (Sgd) Commanding PART III. DECISION OF CONFIRMING OFFR ON FINDING(5) AND SENTENCE. (Sgd) Commanding PART III. DECISION OF CONFIRMING OFFR ON FINDING(5) AND SENTENCE. (Sgd) Commanding I dP eect that the accused be not committed to prison or detention barracks until further orders. (12) (I. AA 37A. Delete if not used.) (III. AN 37A. Delete if not used.) (Sgd) Date. Commanding	osert " alternative applicable.)	where (5	se Instra p 2.)	(See note below.)	(Space for use as I	equired for furthe special find	er charges, accused c lings, etc.)	harged jointly,
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CHARGE SHEET

The accused, G-37203 CFL RUTTLE, CLARENCE ARTHUR, 5 Company, Cdn. Provost Corps, a soldier of the Canadian Army Overseas, is charged with:

First Charge WHEN ON ACTIVE SERVICE CONDUCT TO THE FREJUDICE Sec 40 AA OF GOOD ORDER AND MILITARY DISCIPLINE.

in that he

In the Field on 21 July 44 neglected to obey an order given by a military policeman in the execution of his duty in that when advised by L/Cpl Findlay, B. that he could not proceed up a certain road never the less did so.

In the Field 23 July 44 J. death'

communicating

Company, Cdn. Provost Corps

To be trind by Field General

gourt farthal.

CHARL SCON AND D

In the Field,

FIELD GENERAL COURT-MARTIAL

CFASS (In lieu of AFAS)

(Whether the accused to be tried is under his comd or not, a FGCM may on application to him be convened by any offir 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. A 49, 50, RP 104-107, 114. As to the duties and privileges of the Convening Offir in dealing with the application see MML Chap V paras 20 and 23, RP 87(B).

There should be a separate Convening Dider for each person to be tried separately by the same Court. RP 71(C), 109. As to separate charge sheets en 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 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, fns, KR Con 308, 328, 330.)

ACCUSED.

Number. (a) Print R. (b) Appint, A/R or A/Appint.

Full Christian Names.

Surname.

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 Sheet(s) attached and on (date) and the endorsed by me, (or by an offence of my staff for ms), "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; fand that it is not practicable to delay the trial for reference to a superior qualified with (Delete part in brackets when not required for compliance with RP 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 (a) three Offrs to form the Court, (b) a Fd Offr as President, for the reasons I have attached hereto. (AA 49, RP 106(B), 107(A). Delete the whole or part, if not applicable.)

I also appoint as Judge-Advocate threat the Offr mentioned heraunder. (8P 106(E). Delete, if none oppointed.)

PRESIDENT.

(Must be named. RP 106.)

(Named or detailed. RF 106.)

WAITING MEMBER.

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

(Unit.)

JUDGE-ADVOCATE.

(Rank.)

On Active Service in the Fd

Date

RP 105 fn 3.)

Convening Officer.

CONVENING OFFR WILL INITIAL ALL DELETIONS AND ALTERATIONS

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

MEDICAL OFFICER'S CERTIFICATE

I certify that I have this morning examined No. C-37203

Cpl Ruttle, C.A of 5 Company, Cdn. Provost Corps and in my opinion he is fit/unrit to undergo trial by court martial.

Station Field

Medical Officer

First Witness: 62384 Sgl Jan, FR - 5 Pro Coy, duly sworn states: " recognize aced, Ept Ruttle - recoll 21 Jul 44. con duty after dinner - on a scheme with 10 Hd son Everine "Bings" about 1000 his " To consisting of CRE, maj. Amech, he whettington, soche offis Jenetion of rd Rocomanana - Parties no veloste Center ra - only & allowed belonged to Engrs at approx 1808 his or slorely after was about mile up id with sweeping party & about 'h mile down rd saw fig With 3 persons thought was CRE's jely shortly after travely came up & we had found mine a result. of conversation gathered he wanted to para up Jed & others following. Instr him not to go + tell friends not allowed up there. XX-am. Instr Findly that Engirecheme on . Id blown in places , no one to go up. he knew it was empassable - Hatherly came up & I said "How did you get in here" did not object when told here could not pass - do not know who laid charge . Findley Regarded to me a I reported to my offer . Findley told he had no right to allow wet in there aced not in Edmi see as Fundlay. Ke tram - mil RP83(B) complied with. Bros C+436 4/Gel Findlay, B. 5 Brs Coy. duly Cros on duty day day at Roce aronana Latina first If it hat function in I Road leading a Latina stere of local of village - was detailed as frinks man I had telephone there also had instes no one went up road saw acch that day was jag will X/g to Hunter, Hallerly xmeother, driving Told him sould not go up road. Hunter told him sould not go up road. Hunter asked if kidding + I said. "No : - I stepped

off road + aced faired up road. saw Allem come out - Reported to Sgt Farm. XXam: knew scheme on road, a crater in the road- did not know it had been mered. no trouble stopping Jag was smiling always do + said no one tallowed up road moved away just normally - did not say anything shoul road being whered they haden load was blocked. the them only once no action daten against me for allowing this. Just at Alter writer do not know about mines was about 5, 30 in afterno enster given by sign tarn was told only 3 enge vilo couled go up rose - was a R. P. 83(B) compleid with. Brown states . L. 18183 LIGHT Hunter, Pt. - 5 Pro Coy, duly " know seed. Get Ruttle (Points) - recall 21 Jul was with acced on that date . about 7800 his went out for entre messing - came to eide roa + aand Findley there can't men to Jap explains where we were going from attitude figured he was goes foling whent up road sow engr & told not to go further & to cleel with 3go 7 ain - spoke & but 7 aint then came down again," Whilden, Hockerly, Kuttle x & Cross Exam: had been going out with Jug to get messing no joy rade I impression of Findley that he was John Knew Finley my improven is that he fles bakers with us thought he was fooling on that occasion said nothing sugar " you'll ser when we pulled our stopped when we came backs then spoke to Findlay something about accd being get & Findley only 4/ God. Re Gram Words "You le sue" interpretes as chough Findley throwing perting jut as us alley. R. P. 83(B) completed with

4th Wit. Food + Wege Hatherly, JR - 5tho Coy. duly somoin states: " am opt now. - know aced, Gel Rudle, (Paints) recall 24 Jul 44 - saw aced & went out with him aced + 2 ochers, Whidden + Weinter + I went not in juig - proceeded towards Letine. come to red juine turned to logs - was for there induly -If Got Findley - aced stopped spoke to Findling & Findlay sails not to you up road until Stopped of Jup we proceed by road until Stopped by polaries went up to spoke to ago town then returned way we had come. Kan - Findley and not make definite saying as "did not seed signs - do not recall I Indlay raying any scheme on: Re-Eram - hie. RP83(B) complied with. Def Offe : submits no guina facie Prom offer - submits grima facio case established Court closed to consider submission. Court re-opens. Sulmission is des allowed. Defence "Was actuled by Age to buy entre mercy The aced, took a juj & accompanied by Wheader, Hunters Hatherly Whiader knew where ago so followed his directions - met Findlay at Ld fruit. was instructed to turn left & then saw 7 come from side of red- stopped & just made remark ipon can't go lythere henter continued I Findlay thentimed nothing about scheme not in same see not award fickmenter for traffic control or traffic check thul tendlay since coming a lay bley promined with hel juding. hardly know whether servous dought was Goding this time would not heregone

frealy definite order spoke to Finlay to the to the order of chought you were finder french lay in Juned drewed lay in July 41 - cofine dversed with them tokaye the approx sence months prio to baning Ly treal - sugges did not suggest or try to convenie me I should revert but haid he could possibly accept reversion - others not placed on charge. Xxam - told could not go up is had knowledge scheme in Dis area Junimally not aware partimen not usually them. my second try down there - may there been there on pains should withey side given by MP some cases some their said of dres with mean anything. was told could not go up rd. Khawlaffin checks in area - saw sign up road " Stays Curves, keep right" no sego that this was traffic check faint," Frem way order given gave influence not meant : 0 R. P. 93(B) complied with. Defence do not desire to call any other witness thos Affr - point rout & Judmit that Jundley on duty I spole to aced & told him could not proup road. accd disregarded order given by MP. Consequently submit thange prove Dif Offer submit that wrong man on charge duty a stop anyone going up this road clays a peterial and contradelling advice not an border-evidence shown that an order but stone acch out on humans try witnesses in wel got empression Findlay was plang. borne oils by theenter & accd doe Findlay a John in that in this care was juding made submit that acce should be found the free that the face should be found the free that the found of the found the found of the found of

BUMMARY OF EVIDENCE

taken by Lieut. C.B. Macdonell, 5 Company, Gdn. Provost Corps, on the 23rd day of July 1944, In the Field, by order of the Officer Commanding 5 Company, Cdn. Provost Corps, who directed that the evidence by taken on oath, in the case of C-37205 GPL. RUFFLE, C.A., 5 Company, Cdc. Provost Corps.

Summary of Evidence in the case of C-37203 CPL RUTTLE, C.A., 5 Company, Cdn. Provost Corps, Canadian Army Overseas, charged with:
WOAS: Neglecting to obey an order given by a Military Policeman in the execution of his office, in that when advised by C-4435 L/Cpl Findlay, B., that he could not proceed up a certain road never the less did so, on 21 July 44, contrary to the provisions of Sec 40 AA.

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

First Witness

L-2384, Sgt. Farn, F.R., 5 Company, Gdn. Provost Corps, sworn, states:

On the 21 July 44 there was an Ops. Gp. held consisting of the C.R.E., 5 Cdn. Armd. Div., Major Smith, C.O., 10 Rd. Sqn., R.G.E., Lieut. Whittington, 5 Company, Cdn. Provost Corps and three other R.C.E. officers. I was present. As a result of this meeting I placed a pointsman, L/Cpl Findlay, 5 Company, Cdn. Provost Corps, on the Junction of Roccaronana Latina Rd. with instructions to let no vehicles enter that road except the CRE's personal jeep and one Secut Car belonging to the CRE as the road had been mined and blasted away in different places. This was at approximately 1700 hrs 21 July 44.

At approximately 1800 hrs same date I was with the Engineer's mine sweeping party about one mile along this road beside a very steep mountain. We had halted as mines had been found and was sitting under the cliff when L/Cpl Hatherly same up to me and spoke to me. I gathered from what he said that he wanted to proceed and that there were others following him. I instructed L/Cpl Hatherly to return as he could not proceed, and any others with him to leave the road as it was dangerous.

At approximately 1830 hrs that date I returned to L/Opl Findlay and asked why that party had entered the road. I had seen a jeep with what looked like three persons in it on the road but it was too far away for me to distinguish who the occupants were.

The accused declines to cross examine this witness.

C-4436 L/Cpl Findley, B., 5 Company, Cdn. Provost Corps, sworn, states;

on Friday 21 Jul 44 I was detailed by Sgt Parn, 5 Company, Con.
Provost Corps, for point duty at the T Rd Roccaronana Latina. My duty
was to let no vehicles except three to go up that road, belonging to
the R.C.E. About 1730 hrs that date Cpl Ruttle, the accused, appeared
at my point with three other persons in the vehicle. He was driving,
a jeep. I stopped him and told him he could not proceedup the Latina
Road. He stopped the jeep at my signal and remained here for a few
minutes. L/Cpl Hunter, one of the passengers in the jeep, spoke to me.
He asked me if I was kidding about proceeding up the road and I replied,
"No". The three passengers in the jeep were members of 5 Company, Cdn.
Provost Corps. Just after I replied, "No", Cpl Ruttle started up the
jeep and went up the Latina road where I had told him he sould not go.
There was no one else present at my point at that time.

Opl Ruttle and the same three passengers came back past my point about half and hour later, and I waved them through.

Sgt Parn visited my point about 1830 hrs that date and I reported the incident to him.

L/Cpl Hatherly was one of the three passengers with the accused but I don't remember the name of the third.

The accused declines to cross examine this witness.

B. Findlay, L/Cpl Signed C-4436

L-18183, L/Cpl Hunter, P.E., 5 Company, Cdn. Provest Corps, sworm, states:

on the 21 July 44 Cpl Ruttle, the accused, L/Cpl Whidden, L/Cpl Hatherly and myself went out to purchase eggs. It was roughly about 1000 hrs. We went by jeep. Cpl Ruttle was driving. We have a mess fund in our section and we are in the habit of going out and buying extra messing. We tion and we are in the habit of going out and buying extra messing. We usually go to a certain place by a certain road. At the entrance to this usually go to a certain place by a certain road. tion and we are in the habit of going out and buying extra messing. We usually go to a certain place by a certain road. At the entrance to this road we met L/Cpl Findlay. He was standing at the side of the road. When we saw him we stoped. He didn't signal to us in any way that I noticed. We just stopped to speak to him. He said, "You cant go up there". I knew what he meant by "there" as we had partly turned into the side road. I believe it is the road to Latima. I thought that he was joking from his attitude. To my knowledge no one in the jeep asked him if he was joking. I didn't ask it. I did not know that he was on duty. I thought that he was. He had his arm band on. We more or less joked with him for a few minutes about it, then we proceeded up the road. That is, up the road that L/Cpl Findlay had told us that we could not go. We proceeded up there until we were stopped by an officer of the Engliser's. He told us that we could go no further as there was firing further up the road. He also told us that one of the Provost Sgts was just around the corner. L/Cpl Hatnerly went to see when the road would be open. He returned shortly and said that he saw Sgt Parn and that Sgt Parn had told him that the road would not be as w Sgt Parn and that Sgt Parn had told him that the road would not be a saw Sgt Parn and that Sgt Parn had told him that the road.

The accused declines to cross examine this witness.

P.E. Hunter, L/Cpl L-18183 Signed

Fourth Witness

P-50064 L/Cpl Hatherly, J.R., 5 Company, Cdn. Provost Corps, sworn, states:

I was with Cpl Ruttle, the accused, in the jeep that he was driving on the 21 July 44. L/Cpls Whidden and Hunter of our section were also in the jeep. We drove up to the road where L/Cpl Pindlay was on duty, I had never been up here before. I think that this was somewhere around 1900 never been up here before. I think that this was somewhere around 1900 hrs. We were going along the main road and came to a side road. This was where L/Cpl Pindlay was. We stopped beside L/Cpl Pindlay. I wen't know where L/Cpl Pindlay was standing at the aide of the road. He why we stopped. L/Cpl Findlay was standing at the aide of the road. He stepped up to the jeep. I couldn't say whether it was before ar after it atopped. L/Cpl Pindlay spoke to Cpl Ruttle. I didn't hear exactly what he said. I con't recall his exact words. He said something about not he said. I con't recall his exact words. He said something about not being allowed to go up the side road. I understood from what L/Cpl Findlay being allowed to go up the side road. He just isushed, stepped said that we were not allowed to go up that road. He just isushed, stepped to one side and we went up the road that he told us that we could not go up. We went up this road a piece and a soldies held up his hand for us to stop. We went up this road a piece what unit or formation this soldier belonged We went up this road a piece and a soldies held up his hand for us to stop me stopped. I didn't notice what unit or formation this soldier belonged to. All I know is that he was a soldier. He told us we couldn't go up any further and that a Provost Sgt was up the road a bit further. Cpl Ruttle asked me to go up and see the Sgt. I did. It was Sgt Parn. I Ruttle asked me to go up and see the Sgt. I did. It was Sgt Parn. I spoke to Sgt Parn and then went back to the jeep. I told Cpl Ruttle that we would have to go back down and that Sgt Parn hald told me this. I go in the jeep then and we went pack. in the jeep then and we went pack.

The accused declines to cross examine this witness.

Signed - J.R. Hatherly, L/Cpl P-50064

P-78865, L/Gpl Whidden, R.K., No. 5 Company, Cdn. Provost Corps, aworn,

I was in the jeep with Cpl Ruttle and L/Cpls Hatherly and Hunter on the I was in the jeep with Cpl Ruttle and L/Cpls Hatherly and Hunter on the 21 July 44. Cpl Ruttle was driving. We came to a side road where we started to turn off. L/Cpl Findaay was on duty there. Just as we turned into the side road we stopped. I don't know why we stopped. L/Cpl Findaay the side road we stopped. I don't know what he said because I didn't hear. I spoke to Cpl Ruttle. I don't know what he said because I didn't hear. I wasn't paying any attention. Then we started up and drove up the side road wasn't paying any attention. Engineer's. He told us that a Provest ast wasn't paying any attention. Then we started up and drove up the side road ways and were stopped by the Engineer's. He told us that a Provoat Sgt was up shead. That is all he said that I know of. He said something about that we couldn't get through. L/Cpl Hatherly got out of the jeep to go up that we couldn't get through. L/Cpl Hatherly got out of the jeep to go up and see the Provoat Sgt. He then returned to the jeep and told us that it was impossible to ge, on up through. So we turned around and went back down the same way we had come up.

When the Engineer stopped us he first said something about that we n't get through. Then he told us that the Provost Sgt was up shead,

and see the Frovost Sgt that I know of.

The accused declines to cross examine thes witness.

R. Whidden, L/Opl Signed -F-78665

The accused was warned as follows:

"Do you wish to make any statement or to give evidence upon cath? You are not obliged to say anything or give evidence onless 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 eyidence.

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

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

Taken by me in the field in the presence and hearing of the accused this 23rd day of July 1944.

66.8, Macdonell) Lieut,

5 X-10 0 RUZYCKT. A.F.

.

B-142617 Pte RUZYCKI A F 29 Gdn Recreational Increment

Charges:

Charge

AA Sec 40 WOAS, Conduct to the Prejudice of Good Order and Military Discipline, in that he,

in the Field, Holland, on 25 Sep 45 did improperly without authority use WD Vehicle No. CM 4275575 for his own private purposes.

Charge

Findings: First

Guilty

Not Guilty

Charge

Charge

NOT CONFIRMED, by (C G Wood) Col, ADMS, C.F.M.

Promilgated and extracts taken.

Accused.

Date. 22 Ac 45

1. 20 Track Majo

Comu. No.47 Recreat

	REC	CORPUD AT C	MHQ IN AS 1691	5 X-100	
	FIELD GE	NERAL	COURT-MA		4/38B
Convenied by Order of	Bris 16 SP	PAGGE	Comd A TAS	area dated /	26 c 43
8 A 3 3 3	1	ACC	USED.		
(As to the t	rial of two or more charg	ed jointly see RP 16,	71, 109. As to reasons for sh fns, KR Can 308, 328, 330.)	owing (a) permanent or confi	rmed
	ant R. (b) Appmt,				Unit.
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REVIEWING OFFICER	ountry) HCL	AND	on (dat	e(0)) 18 stee.	4
		PENING PR	OCEEDINGS ANI		
	ident, Members, wai	ting Member, JA	, if any, and Offrs une	ler instr. if any, assen	sble, and the .
Court is closed.	ITER, NOT IN ITALICS FI	OR GUIDANCE, WIL	BE DELETED, IF NOT USED I	OR APPLICABLE, AND INIT	IALLED
BY PRES OR I	A. The Schedule referred	to throughout is on p	 Citations du NOT include CCM in MMI no 741 to 75 	all relevant from EGs. For a	
will be made at CF-A95, for oc	nd given a number having the and instrum how to		to or preceding pure number lance etc., which instra are here 74, 94, 103, 119, 132.)	erein. See buck of Convening outlier called "Nates". As to	porder, general
each charge disclose			onstituted(2), accused is		tary law, and
			2. AA 49, 50, RP 105-107. night before the Court.		d commences.
A3. The Cour	t is opened. The assentor produces a M	edical Certificate	that accused is (are) fit	to undergo trial by co	net-martial.(1)
The Prosecutor in summarily by the (forms the Court the CO.(2)	t accused electer	to be tried by court- lect see KR Can 563(c). Delet	martial instead of ber	ng dealt with
	t to accused: Do			as interpreter ! Ar	1 7/4 1
The shorthand wri			71/u as	shorthand writer # J	ins 7/x
A6. The Con-	 Delete, if none employ vening Order and necessed: Do you ob 	ames of the Presi	dent and Members of t y me as President or by	he Court are read to to any of the Members	the accused (1) of the Court 7
Ans 7/0	8)				
			RP 68(B). If objection, see irs under instr. if any.		
	units of the offrs con	prising the Court	, etc		
President	MAJOR	H. G. P.	EACOCK		Charlet 4
Member	CAPT	8 M.5	NCL#18		Str Bas 14h 19
Member	LIEUT	1.5.R.	FF.S	1 Rdal	5 of amot depot
Judge-Advocate		May 1. Language			
Prosecutor	CAPE	4.W.	DOUTHWICK		extional Increm
Defending Offr	Lieut.	1.15.	MARTIN	29 NE	creational ment
			Ans Mo Is the Def		
(1. RP 26, 27 (2. If Pros a)	, 109, 111. List of officery and Def Officers.	s under lostr will be accused is entitled to	returned separately with pis an adjournment when RP 89	(B) and for 2 were out follo	wed. See DI p 3.)
As. The acc	used 8.743677	PG RUZYSK	/ , AF bel	ore arraignment make	
(RP 34, 35) by one of sevi evidence, if a	A), 113), or in bar of seal accused character spirit.	trial (RF 36), or a v to be tried separatel ded per Notes. For f	r more charges (RP 62(E), 108 s to accused's mental fitnes (RP 16, 71), such plea, the ad arms of record see references	is to stand trial (AA (30,7) dresses mode in subbact or as	NF 57), or roinst, the
pleas in Part 1 of	the Schedule.		on all charges in the charge to be made to the Charge		
(I. RF setaroteir se	31, 112. See para 1 of la e RF 71(C), and use separa riate record per Notes.)	ote copies of CF A96 t	than one Charge Sheet see RF o record proceedings. 2. I	P 62; when several occused (RP 32, RP 33. If otherwise,	ts be tried delete and

A10. The Court (is closed and) considers the Instrs on Procedure after Arraignment at top of p 2. The pro-

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

ceedings are continued on Record Form $\ ^{\prime}$ C $^{\prime}$

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 allocative (RP 37(A).) As to withdrawal of alternative charges by Prosecutor see RP 35(C). No other charge can be withdrawned, offered the second of two contracts of the charge can be withdrawned; offered (RP 44(H).) Accused may change a plea of Not Guilty to 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
 - 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
 - (b) Such mixed pleas occur in a set of two or more charges laid in the alternative, see EP 37 (A) and fn 2 as to discretion of Court, (i) to try the accused on all such alternative charges as if he head pleuded Not Guilty thereto, or, (ii) to record the pleas as the findings of Court. After deciding between (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 didies of JA see RP 103; duty of Presiduous 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 ee RP 83-85; calling or re-calling of witnesses by Court, etc., see RP 75-79, 80, 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 93, 90.

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)(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), call witnesses as to character and make an address in mitigation of punishment.(2)
- 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 recover any statement you desire to make an reference to the charge(s).(!) 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 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, so desire.(*)

RF 37(B), Z. RF 37(D) fn 6. 2. RF 35(B) fn 5 para 3, MML p 54 para 47.0 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 (ther) please of Guilty to Not Guilty on 71/a charge(s). The accused is (are) so informed, and he (ther)
- 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,(P)(I. 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 H., initialled and read aloud by the President (1) If there is no Summary, or if it is inodequate, camply with RF 37(B). If there is any evidence inconsistent with any pire parts Di to DS inclusive of Recard form D on p 1. RF 37(B).
- 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 $2\,(^4)$ (I. RF 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 B5 such parts only of the Summer; of Evidence are road as relate to the charges dealt with under C2. If any plea is appropriate record thereof on a separate lines, the summer of Evidence are road as relate to the charges dealt with under C2. If any plea is appropriate record thereof on a separate lines,
- C3. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

Pin here Loose Spects of Record.

Record Form E below.

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

	TO ALL CHARGES.
the ground that you have not be	Do you wish to apply for an adjournment on the ground that any of the rules have not been complied with, and that you have been prejudiced thereby, or on d sufficient opportunity to prepare your defence Ans

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

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 RP 39(D) (E).)

D4. The Prosecution is closed.(1) New Defending Offr submits that the evidence for the Prosecution does not establish a prima facic case against the secused on the charge(s).(3) The Court is closed, and consider the submission.(3) The Court is re-opened, and the President announces that the admission is disallowed on the harge(s), and showed on the harge(s), and that, accordingly, the trial will proceed on the former, but the accused is (alx) found Not Guilty on the latter charge(s). charge(s)-and that, accordingly, the trial will proceed on the former, but the accused is (alc.) found not time
the latter change(s).(1)

Delete remainder of this para, if submission not made.

2. Arguments on submission, answer and reply are recarded
on all charges use second discretative in para (2-14 and p 8) para 42.

A. Delete part not used. If occured acquitted
in the first proceeds, accused must be allowed great latitude in making his defence, and the Court should not stop his defence
solves as ground of irrelevance. (RP 6O(C), 114, 115.)

D5. President to accused: You will now proceed with your defence.(1) You may, if you wish, give evidence yourself on cath 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 used as earth will not carry with the Court the same weight as sworn testimony. (§)

President to accused: Do you wish to give evidence yourself as a witness, make a statement, or do neither tDo you intend to call witnesses on your behalf!

Are they witnesses as to character only ? Ans na Ans. 10 ... Are they witnesses as to character only ? Ans ... (1. RF 1/15. 2. RF 40(A), see 80(D). 3. RF 40 fn 10. 4. RF 40 fn 2. F.)

D6. Consequent on the answers 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, E7 A95, Evidence for occured as to his character should, if in his interest, be given before the finding. See RF A6(A) for 1, Bc(C). Note the further opportunity in para E1 of Record Form E. Record per Notes addresses, statement, evidence and any summing up by the JA under EF 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.
(1. RP 43, 117(A). See Notes in Part I of Schedule. 2. RP 64(A).)

Ds. 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

Or, The President announces that the accessed is found Not Guilty on all charges and is to be released forthwith,

11. 48.54(3) (2), 8F 45, 120(4).

2. 88.54(3), 8F 45, 170, 7 and distribution of Guilty outstanding and some piece of Guilty outstanding and dealt with under Record form 8 or C.)

D9. 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 ca'll any witnesses as to your character l(!) 770

 If evidence has already been given by accumed or his witnesses as to his character, delete this para. RP 37(C) fn 4, 46 fn 1, Accused and witnesses are swarn. Evidence reconded per Notes.) E2. The Prosecutor produces Statement(s) as to Character and Particulars of Service(1), and certified true

expy (copies) of Conduct Sheet(s)(2), purporting to refer to the accused, which he submits to the Defending Offr for to the accused, which he submits to the Defending Offr for to the accused, is considered in the court for admission in evidence. The Court is satisfied that these documents refer to the accused, is considered 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 Ex B and Ex C respectively. (*)
(1) MFB 355 or AFB 276. 2. MFM 6. 3. AF 66, KR Con 558. If above documents not produced, see RF 66 to 1

E3. President to accused: Do you wish to address the Court on the Statement(s) and Conduct Sheet(s), and in mitigration of punishment I(1) Ano
(I. RF 37(C), 46(D), 2. Address, if one expended per Notes. Court should permit occured or his witnesses to prove an auth onesting here or previously stated which would affect the amount of punishment. RF 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.(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 (*) is dated and signed by him and the JA, if any (*) is dated and signed by him several occased tired separately are \$8.71 (D). One sentence only, compared of the punishment or punishments \$8.90 (A) and the sentences are \$8.00 (A) to be described to cover all charges in all charges there so which occused found guilty. AMM, p. 60, 75.75.9. At to sentences assigned for call difference for low (all of the low of the sentence of large isoment or detencion use \$4.44(16), 63(1), \$8.70, \$1.50. \$4.50. (MMM, p. 130. When occusing Confirming Offe see KR Can 567. As to assembly and dispense of record offer this see instant on back of Convening Order.)

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

SCHEDULE.

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

Unsert "alternative" where opplicable.) Ist AA Ses 40 2nd AA Ses 49 3rd 4th 5th 6th (Note: As to findings for special (andings see RA 44 and At present under sentence for (I, lasert sentence being ser Time in confinement awaiting (', See RA 44(A) fn 2. inf Sentence Awarded by the Court	rved, or delet present t formation sha rt:	To day te. If not ophicable. trial—a total of auld be found on MF. Thion for	(Space for use as required for further charges, accused charged jointly special findings, etc.) [midings on disernative charges see MML p 483 fn 4 para 2. RP 44; es. RP 44 in 6.) [hegistning on (date) See RP 46(A). Information should be found on MF B355 of AF B296.) [hegistning on MF B355 of AF B296.] A days, of which AD. days were spent in hospital B355 or AF B296 admitted in evidence under E2.) [hegistning of 90 (mint) days. [hegistning of Principles (RP 45, 80.) [hegistning of disposal of record after trial.]
opplicable.) Let HH See 40 Mot A 2nd HH See 19 Ath 6th (Note As to findings for special lander sea RP 44 and At present under seathere for (), insert sentence being ser Time in confinement awaiting (). See RP 46(A) fn 2. Int Sentence Awarded by the Cour Let Mot Cour Let Mot Cour (Sgd) Judge Advocate, if (Se	hielty reser of form reserved reserved	Smilty Smilty Smilty Mo Stap To Date This for the service of the service The Adapticable This found on MFI Date	i findings on alternative charges see MML p 483 fn 4 para 2. RP 44; ce RP 46 (A). Information should be found on MF B355 of AF B296.) The days, of which Ao. days were spent in hospital B355 or AF B296 admitted in evidence under E2.) A period of 90 (ninety) days. (8gd) Hot I a 2004.) a paraled. (8gd) President. (89 45, 30.)
2nd HR 585 19 3rd 4th 5th 6th (Plote As to findings for special Immings see RF 44 and At present under sentence for (1, Insert sentence havining of See RF 46(A) for 2 lof Sentence Awarded by the Cour Louding Country (Sed) Judge-Advocate, if (Sed)	r lesser offense model p 152. rved, or delet prosent to formation short:	Limitly ces see AA 55. AP 44 and in loss of AH 50 To Lang tes If not ophicable. Tail—a total of suld be found on MF. Date	See RP 46(A) Information should be found on MF B355 of AF B296.) # days, of which 10. days were spent in hospital B355 or AF B296 admitted in evidence under E2.) # period of 90 (ninety) days. lee #5 (8gd) #10 La 2064.) a pariod of 90 (ninety) days.
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Office As to findings for special findings see RF 44 and At present under sentence for (I, lossert sentence being ser (I), forest sentence being ser (', See RF 46(A) fn 2. lef Sentence Awarded by the Court of th	rved, or delet present t formation sha rt:	To day te. If not ophicable. trial—a total of auld be found on MF. Thion for	See RP 46(A) Information should be found on MF B355 of AF B296.) # days, of which 10. days were spent in hospital B355 or AF B296 admitted in evidence under E2.) # period of 90 (ninety) days. lee #5 (8gd) #10 La 2064.) a pariod of 90 (ninety) days.
Sth Special Indings for special Indings for special Indings see RP 44 and At present under sentence for (1, Insert sentence being ser (2, See RP 44(A) for 2, inf. Sentence Awarded by the Court of the	rved, or delet present t formation sha rt:	To day te. If not ophicable. trial—a total of auld be found on MF. Thion for	See RP 46(A) Information through the found on MF B355 of AF B296) # days, of which Ao. days were spent in hospital B355 or AF B296 admitted in evidence under E2.) A period of 90 (ninety) days. lee #5 (8gd) #. of Feet accepts awarded. (8gd) President. (8F 45, 50.)
(Proce As to findings for special findings see AP 44 and AI present under sentence for (I, Insert sentence being ser Time in confinement awaiting (2. See AP 46(A) In 2. Inf. Sentence Awarded by the Court of the	rved, or delet present t formation sha rt:	To day te. If not ophicable. trial—a total of auld be found on MF. Thion for	See RP 46(A) Information through the found on MF B355 of AF B296) # days, of which Ao. days were spent in hospital B355 or AF B296 admitted in evidence under E2.) A period of 90 (ninety) days. lee #5 (8gd) #. of Feet accepts awarded. (8gd) President. (8F 45, 50.)
At present under sentence for (1, Intert sentence being in (1, Intert sentence being in (2, See R) 4(A) (n.2. in Sentence Awarded by the Court of th	rved, or delet present t formation sha rt:	To day te. If not ophicable. trial—a total of auld be found on MF. Thion for	heginning on (dots) See RP 46(A). Information theorist be found on MN B355 of AN B296.) H. days, of which Nodays were spent in hospital B355 or AF B296 admitted in evidence under E2.) A period of 90 (ninety) days. lee H5 (8gd) H. of Local or president (PF 45, 30)
At present under sentence for (1, Insert sentence being set Time in confinement awaiting (2, See RF 46(A) fo 2, lef Sentence Awarded by the Court Laurence Laurence Court L	rved, or delet present t formation sha rt:	To day te. If not ophicable. trial—a total of auld be found on MF. Thion for	See RP 46(A) Information through the found on MF B355 of AF B296) # days, of which Ao. days were spent in hospital B355 or AF B296 admitted in evidence under E2.) A period of 90 (ninety) days. lee #5 (8gd) #. of Feet accepts awarded. (8gd) President. (8F 45, 50.)
		ERE CONFIRM	MATION RESERVED. (AA 54(5), RP /20(F), MML 9 760.)
Date (8gd)			Commanding
			NG OFFR ON FINDING(S) AND SENTENCE. 51-56-110, MML pp 759-761, KR Con 567-577. Acquittain require to ack finding or sentence for revision by Court: AA 54(2), RP 120(G). If 64. Minute of confirmation or non-confirmation may be altered before gotton: KR Con 573. Duties and powers: rf reviewing offrs: AA 57, nolly, AA 172 fn 1.)
My decision on the finding			
ras	· .c	onfin	eh,
I direct that the accuse	d be not	committed to p	orison or detention barracks until further orders.(2)
Date 20	Dec		ommanding PDM5 C.F.N. Confirming Officer.
PART IV.			

ALL DELETIONS AND ALTERATIONS WILL BE INITIALLED.

HQ 29 Recreational Increment

This is to certify that I have examined B 142617

Pte Ruzycki, A.P. this date and he is fit/unfib to undergo
trial by FOCM.

Al Collins Cost.

poplared

The accused B-142617 Adam Frank RUZYCKI, 29 Recreational Increment, a soldier of the Canadian Army Overseas, while on active service is charged with:-

PIRST CHARGE Army Act Section 40 WHILE ON ACTIVE SERVICE, CONDUCT TO THE PREJUDICE OF GOOD ORDER AND MILITARY DISCIPLINE,

in that he

in the Field, Holland, on 25 Sep 45 did improperly without authority use WD Vehicle No. CM 4275575 for his own private purposes.

SECOND CHARGE Army Act Section 19 WHILE ON ACTIVE SERVICE, DRUNKENHESS,

in that he

in the Field, Holland, on 25 Sep 45, was drunk.

Jo Jo Link Major (W.W. LEACH) MAJOR Officer Commanding 29 Recreational Increment

Norbank.

aurum - a rumile or a rumile and a half. Sustion - by the househing office. He then you had but reton seemed to terms the thyphe deemed rolling the stand a small but as his their. siso his I are the 25 hythered of the other of the shire of the stand that I bear the second of the second that the second that the second that the second that the second of the second the second of LISHOII Pite Houns FW. houng how duly seen 1st Witness

1st. withers page 2. Question by Court. Aid you see anyone in the diving cab of the truck auswer. Mo sir

and Witness. 8133892 Cpl. Hill B. J. baving been duly owom states, at approximately 21.00 his on the night of the 25th . September 1945 the Haines and I arrived back from Bussels in a 10 For Mack fully loaded Pte. Haines entend the Mess and proceeded to the toibt. I followed immediately behind him and proceeded to the serving counter to ander two late meals. at present in the Wess the Huggelie who was setting at a table by himself who appeared dunk in that he was weaving in his chair. Phrs. Tullet, the Willman, the Carswell and Che Cutturs were playing bellards. also present in the Wess was the white as poor the Haines came out of the toilt the Casswell asked him, "Is that your Truck" the Haines did not answer but immediately left the Upers and started to chave the which dans the Street as I approached the sering countre I saw the Roychileave the Wess as I looked into the minor in front of me approximately tur minutes after the Haines had left the others a soldier came in and said that their had been an accident. I proceeded to the seem of the accident which was about two hundred yards from the one years. I gaw Chls. Whelville and Bush and the. Ruggelsi at the seem of the accident.

and witness page ? Quistion by Prosecuting Officer. Whe I did you see the Phyyelse leave? It was after I had ordered the meals and before I heard the Casswell say "Is that your Smek." Inestion by algending officer. at the scene of after the accident did you arive Sustion by Defending officero How warmy the people were present outside of the three you have mentioned. to fifteen civilians or four similary and ten Question by the Court. Ded the Haines uninobilize his vehicle Justion by the Court .
When the Ruggelie left the Where was he

2nd witurs page 3 Dustion by the Court. How long was it from the time the Prayelar left the Mess, till you saw him at the accident. Between fifteen and twenty minutes.

3rd. Witness 862854 Cfol. Bush. Kh. having been duly swom states, On the night of 25 September 1945 at approximately 21.00 hrs. I was standing in the Unit which park and I noticed a for Far verliebe pass going in the duction of sportstatt in the direction of the sound which was approximately 100 yards. Instead the Prayelie just behind the damaged vehicle. I passed him to see if there was anyone in the Truch then I arrived at the Luck there was no one there in the drivers seat. Tuestion by the Prosecuting office. Did you see arryon ela at the scene of the accident when you arrived. Question by the Proceeding officer. you heard the sound and the time you amind at the seem of the accident. approximately one minute.

page 2. Bedwetry Tuestion by the Procenting officer. When was the Rugyelse in relation to the Such. Diretty behind the vehicle and about fifteen fut away Sustion by the Defending Office. Could you see the vehicle charly form Sustion brothedefending officer.

And Court Would it be possible for someone to leave the vehicle in the opposite direction without auswer Duestion by the Court. Did you see the Mayoke before the accident.

heed of time to get to want by other method. 1. Draw de tily ?

tute a wall as I opporareled the selected the selected the selected the selected the selected the selected the read the read better foods of the read better and as the read better as the read better of the read of the read of the read better of the read better of the read better of the read of it went at at right. a few rinnents take I have it had divertion of the relief where I had a coold highto an the which and Iwatehad it with continued down the spoortoticat. The war no 1945 while at the right of the 25th depluder 21.00 his I enclounty saw a sen to make the described 2140191 Apple Wolvelle J. B. haring been duly 4th. Withurs.

Capt. Southwill . Intund to the seem of the accident with Capt. Southwick. Question by the hoscenting offen. and the time of your arrival as the scene. Instion by the Prosecuting officer.
Was dry one else at the scene of the accedent rolan you abried. Justin lof the trock cuting officer are half a minute from the time you heard the wash and the time you arrived It the scene of the accident. Distin by the Court. What would be the approximate length of time from when you finst heard the wash until you saw the vehicle. approximately are half a minute. Trestion by the Pourt. How was the vehicle situated when you arrived at the scene of the accident.

auswer by the Court. an ortgutting wall or the left of the road. Justion by the Court or left or right band It was a left hand drive.

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

(*			Reniment (or as the	case may be).
Number.	Rank.	Name.		
B 142617	Pte	RUZYCKI, A.	P. 29 Recreation	HQ, CFN
NOTE.—The Field onduct Sheet is to be reduced in Court with its statement but is not be annexed to the proceeding. The numbers even unted should correspond to the court of th	1. The fo		ummary of the entries in the by a court martial or a civil under AA Sec 40	
men stated should consult on ministry of mental should be seen to the present of the provided state of the st		For		
		For		times.
runkenness or absence without leave, the entries		For		1,413,45,017
	Date of first	entry in Field Conduct Shee	1	
is the case may be, shiddle be stated separately. Any recognized special acts of gallantry or distinguished conduct recorded on the Field Conduct Sheet should	There of last a	entry in Field Conduct Shee		
Field Conduct Sheet should also be inserted here.	2. Previ	ous convictions of the accu	used by a court martial or a	
*Sinke out if not applicable.		the BAA	is under sentence forday of	
	days in civi	days in open arro	trial on the present charges	mines / Comments of the commen
	which	nil days wer	e spent in hospital.	nths
	5. The	present age of the accused		Feb 43
	6, The	date of his willings are for	or military service	
	7. Th	e service which the accused	is allowed to reckon is.	yra y mons
	0 75	accused is in possession	oft	
State the military decorations id any) held by accused.	9. (If without re	the accused is a avarrant office duction, to the present date	er or N.C.O.). The accused	has served continuously, Date of Premotion
		In the substantive ran		
		In the war substantive	rank of	
		In the acting rank of		
		INSTRUCTION.—If any the regim	matter in any of the above para cental books the paragraph must	igraphs council be stated from be struck through.

SCHEDULE OF CONVICTIONS BY A COURT-MARTIAL OR CIVIL COURT

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

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.

day of De 45.

20 2 head Map.

I am B 142617 Pte Ruzycki, A.F. of 29 Recreational Increment.

I volunteered for service with the Canadian Active Army of the 9th Feb 1943. I arrive overseas in May 1944. In November 1944 I arrived in Belgius, I served three months with the Lincoln and Welland Regiment in action, On 28th Jan 1945 I was removed to hospital as I was considered exhausted. I again volunteered for front line duty but the authorities would not allow me to proceed to the front.

During all this time I have had no crimes in the army and at the present date am entitled to one good conduct badge. I have qualified for the CVSM & Clasp, 1939 - 45 Star and the France - Germany Star

45 Rayyohi.

(Shatement submitted under 50.)

Date of I. Company	set entry in Conduct Sh	ent	or Company No. and date of last drunk Corps C Inf Period not reckoning towards freedom from extra fine	Sheet No, One Signature O.C. Service or Proficiency Pay \$1.50 M.F.	M. 6 IL122) IL36 (2965)
Place	Date of offence	Rank	Cases of drunken- trees OFFENGE	Company, etc. Character Names of Witnesses Punishment awarded light of award or	
Debert N.S.	15 Apr11	Pte	SHEET DESTROYED 15 FEB 44. DATE of	P LAST ENTRY MIL. CASES OF DRUNKENNESS MIL	rmarks
			order and Military Discipline (Gambling) A.A. Sec 40	Cpl Gragg E.J. 18 April 44	
			CERTIFIED TRUE COPY		
			- U.A. W. A. Sibiar		

SUMMARY OF EVIDENCE

Taken by Capt J.W. Southwick at HQ 29 Recreational Increment, H.Q., C.F.N. in the presence of the accused B-142617 Pte RUZYCKI, A.F.

FIRST WITHESS: L-154011 Pte HAINES, P.W. having been duly sworn states:

I am L 1540 11 Pte Haines, F.W. of 29 Recreational Increment and employed as a driver of WD vehicle No 4275575. On the 25th of September 1945 at 2150 hours I arrived back from Brussels on duty with a full load of beer. I parked my truck in a moblie condition in front of the OR's mess while I went into the mess to use the toilet. Present in the mess when I entered were Ptes Casswell, Wellman, Teillet and Cpl Cuttress playing billiards. There were also several others. As I came out of the toilet several minutes later I heard the truck drive away from the door. I immediately left the mess and ran after the truck which was proceeding ahead of me without lights. The truck rounded the corner in the Spoorstraat and upon my reaching the corner I heard a crash. I arrived at the scene of the accident one minute later to find Cpls Melville, Bush, Pte Ruzycki and a few civilians present. Also presentwas one guard whom I did not know by name. Pte Ruzycki appeared drunk because he was staggering and nervous. I tried to find out who was driving the truck but no one seemed to know. I myself did not see anyone get out of the truck. On examination I found the front of the truck was smashed and the corner of the building damaged. The motor of the truck was stalled and it was in the third gear of the five.

Aul Mand L 154011 Pte Haines, FW

The accused declines to cross examine the witness.

SECOND WITNESS: B-133892 Cpl Hill, B.T. having been duly sworn states:

I am B 133692 Cpl Hill, B.T. of 29 Recreational Increment. On the 25th of Spt 1945 at approx 2150 hours Pte Haines and I arrived at the men's mess in WD veh No 4275757 fully loaded with beer. The veh was left unattended in a mobile condition and we proceeded to enter the mess. Pte Haines was the first to enter the mess. I followed immediately and noticed Cpl Cuttress, Ptes Wellman, Casswell and Teillet playing billiards. Pte White was also in the mess and Pte Ruzycki who was sitting alone at a table and who appeared to be drunk in as much as he was weaving about in his chair. Pte Haines entered the lavatory and I proceeded to the serving counter to order two late meals. As I approached the counter I saw in the mirror Pte Ruzycki leaving the mess. Approx one minute later Pte Haines came out of the lavatory and Pte Casswell asked him "Is that your truck?". Pte Haines did not answer but immediately left the mess and started running after the truck. At the time the truck was driven off all those previously named as being in the mess, with the exception of Pte Ruzycki, were still there. Approx ten minutes after Haines left a red-headed soldier came into the mess and reported there had been an accident. I immediately left the mess a accompanied by Ptes Wellman, Teillet and Casswell proceeded to the xcene of the accident. On arrival I saw Cpl Bush, Pte Turnbull, Pte Ruzycki and one other soldier. On talking to Pte Ruzycki he appeared drunk as he was staggering and very

excited. The door of the building at 45 Spoorstraat was damaged. I did not examine the truck for damage.

The accused decline to cross examine the witness,

B 133892 Cpi Hili, B.T.,

THIND WITNESS; H 42373 Rfn TEILLET, J. having been duly sworn states:

I am H 42373 Rfn Teillet, J. of 29 Recreational Increment. I was playing billiards in the men's mess on the night of 25th Sept 1945 when at approx 2200 hrs Cpl Hill and Pte Haines entered the mess. With me were Ptes Wellman and Casswell. Later a soldier entered the mess and informed us there had been an accident. Cpl Hill and I immediately left the mess and proceeded to the scene of the accident. At this time I cannot recall who was at the scene of the accident. I remember Cpl Hill questioning those who were there while Cpl Cuttress proceeded to have the beer unloaded from the truck. I did notice the corner of the building and the front of the truck was damaged.

The accused eclines to cross examine the witness.

HC42373 Rfn Teillet, J

FOURTH WITNESS:D 140191 Cpl Melville, J.B. having been duly sworn states:

I am D 140191 Cpl Melville, J.B. of 29 Recreational Increment. On the evening of 25th Sept 45 at approx 1 2100 hrs I was at the unit veh park entrance when I suddenly saw a 10 ton Mack truck approaching the park. It was dark and the truck had no lights on. I could see the driver but because of the darkness I could not recognize him. The vehicle was travelling about 15 mph and instead of entering the park it wheeled right and continued down the Spoorstraat. It disappeared from view and several seconds later I heard a loud crash. I ran in the direction of the crash and in the centre of the road I met B 142217 Pte Ruzycki, A.F. coming towards me. He was in the centre of the road approx apposite the rear end of the vehicle. This was about one half minute after I heard the crash. I did not see anyone else at the scene of the accident. Pte Ruzycki was stag ering. He said something he me which I did not understand as I by passed him to see if there was anyone in the vehicle. There was no one there. B 62854 Cpl Bush, K.L. and L 154011 Pte Haines, F.W. came running up close behind me. I immediately returned to the guard which I called from the building and psted him at the scene of the accident. Then I proceeded to the mess to order Cpl Cattress Rfn Teillet to the scene of the accident to take charge of the load of beer. I then went to the Officers' Mess and reported the accident to the acting O.C. He then brought me to the scene of the accident.

The accused decline to cross examine the witness,

D 140191 Cpl Melville, JB

FIFTH WINTESSA B 62854 Cpl BUSH, K.L. having been duly sworn states:

I am B 62854 Cpl Bush, K.L. of 29 Recreational Increment. On the night of 25th Sept 45 at approx 2100 hrs Cpl Melville and I were talking at the entrance to the unit vehicle park when we noticed a 10 ton Mack truck rounding the corner to proceed down the Spoorstraat. I thought it blocked like one of our trucks but because of the darkness I could not see the driver. About one minute later we heard a crahs and ran in the direction from which it came. Cpl Melville was a few steps in front of me when we arrived at the sceme of the accident. Pte Ruzycki was in the centre of the road just behind the damaged vehicle. We ran past him to see if there was anyone in the truck. There was no one there. As we passed Pte Ruzycki he was running him what had happened and he replied something about there having been an accident. Pte Ruzycki was staggering and appeared drunk. At the time I saw no one class at the scene of the accident. This was about one minute after I heard the crash.

The accused declines to cross examine the witness.

B 62854 Cpl Bush, KL

SIXTH WITNESS: K 1205 Pte Turnbull, E. having been duly sworn states;

I am K 1205 Pte Turnbull, B. of 29 Recreational Increment, employed as a guard. On the night of 25 Sept 45 about 2100 hrs I was on there had been an accident and that I was to guard the truck. I proceeded to the scene of the accident and there I saw Pte Jones, Cpl Melville and other soldiers whome I did not know. Pte Ruzycki there, I guarded the truck until my tour of duty finished at 2300 hours.

The accused declines to cross examine the witness.

K 1205 Pte Turnbull, E.

SEVENTH RITHESS: B 110759 Cpl Cuttress, C.D. having been duly sworn states;

I am B 110759 Cpl Cuttress, C.D. transport corporal of 29
Recreational I crement. On the night of 25th Sept 45 at approx
2015 hrs I went into the mess. The fellows were plains playing
billiards. Present in the mess when I entered were Ptes
Wellman, Casswell, Teillat, Ruzycki and others. At approx
2100 hrs I saw Cpl Hill and Pte Haines enter the mess. Shortly afterwards Haines ran out of the mess. Later Cpl Melville
entered and informed me that one of our 10 ton trucks had been in
the men in the mess. There I saw Ptes Tauson and Teillet and
a crowd of civilians. The truck was smashed into the side of
the building with its left front wheel and left side damaged.
The door and wall of the building was also damaged. I could
not find out who was driving. The load was transferred

. /4

and a guard put on the vehicle.

The accused declines to cross examine the witness,

B 110759 Col Cuttress, CD

After being duly cautioned the accused declines to make a statement.

This certifies that all the requirements of RP 4 (c), (d), (e), (f) and (g) have been camplied with.

Hilversum, Holland 12 Nov 45

(J.W. SOUTHWICK) Capt 29 Recreational Increment H.Q., C.F.N. C.A.O. NAME Ruggi, A.

Reg. No. 2-170020

Tr. Centre No.____

Contents	H. Q. File No.	Non-Effective By
M. F. M. 103 or 103A (Enrol. Form)		
M. F. M. 101 or 101A (Enrol. Form)		
M. F. M. 82 or 82A (Enrol. Form)		
N. WS 1AR or 1AR FR (Med. Exam)		
M. F. B. 227 (Med. Board)		
CASE HISTORY SHEETS		
MORNING SICK REPORT (M. F. B. 292)		
CONDUCT SHEETS		
DECLARATION of C. of I. (Copy of Record from M. B. 68)		
M. F. M. 110 (Particulars of Family)		
M. F. M. 30 or 30A (X-Ray Report)		
M. F. D. 930A (Last Pay Certificate)		
M. F. B. 350 or 350A DISCHARGE CERT. (Copy)		
M. F. M. 7A or 7C DISCHARGE CERT. (Dup.)		
M. F. B. 483 DESERTERS-DESCRIPTIVE RETURN OF		
M.F.W. 2589A. 100M-9-42 (6190)	DOCUMENTS N.R.M.A.	

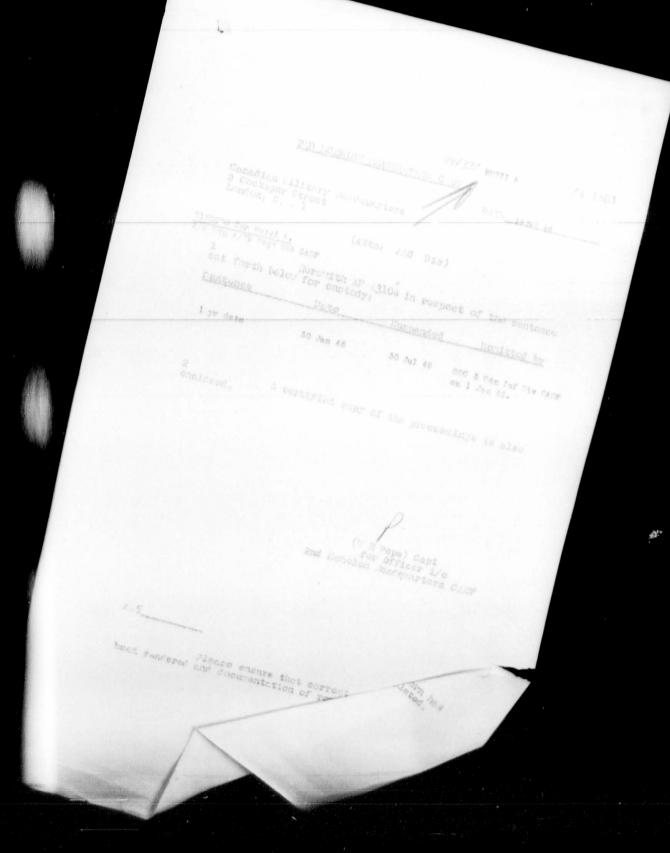
500M -- 8-43 (1552) 11.Q. 1772-39-440

DEPARTMENT OF NATIONAL DEFENCE—(ARMY)

Possible SIW Case XUK 287 D170020 Gnr Ruzzi A - 6 Cdn A Tk Regt

CROSS REFERENCE

CENTRAL REGISTRY	DATE	P. A. OR B. F.	INITIALS	REFEREND TO	FOR REMARKS	Intrials	DATE
	(If purpose for which referred cannot be expressed on one line add minute to file, and outer here "With Minute")						
OCT 1945	la W.		MA	84	Per BF	CR	9 Oct 4
NOV 1948	2000	6 6	90	194	BF	CK	10/11
NOV 1945	10 DEC	BF	R	A8	Pagera	SA	13/4
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1

1 Garanta in 3104 in respect of the

30 Jul 46

one 3 odn Inf The care on 1 Jan 46.

and Lohelon Joseph Capt
for Officer 1/e

fundament on the contract completed as completed.

ODW FIG 2 EGG BG BHIT ARMY OF THE RELEXI A

De	19				-
				0 4	-e-spin

HQ

3 Cdn Inf Div (CAOF)

HEVIEW OF STRPENDED SENTENCE

D170020 Gar Russi A. 2/7 Cdn A/Tk Regt (CAOF) AF A3104 is enclosed herowith for motion in accordance with Overseas HC 4732, para 4 (b):

> On completion of Part VI, may the form be returned direct by the reviewing authority to this IN.

COURIER/

EMCL(1)

(JA V Cade) Major for Officer i/c

Odn Sec 2 Rob HQ Brit Army of the Rhine

D.170020 Onr Ruzzi A RCA 9 CBR Bn

detn for one year

30 Jan 45

19 yrs 2 Sep 42

VI. No remission BF 30 Apr 45

KLM BURNS MAJ GEN GO IC CON SEC 1 ECH

HQ 21 A Gp 21 Mar 45

No remission BF 18 Jul 45

· do 2 May 45

Suspend wef 30 Jul 45

do 12 Jul 45

AA Sec 40 - in the field, on 31 Oct 44, while with his regt, so nigligently handled his rifle as to shoot himself though the right foot thereby rendering himself unfit for service.

777777

IX.

9 Feb 45

No comments at this time.

????Lt.col

30 Jan 45

X.

Normal review

ELM BURNS MAJ GEN GO IC CDN SEC 1 ECH HQ 21 A Gp 17 Feb 45

Sentence suspended wef 30 Jul 45 Marks earned wef 30 Jul 45 - 1454 Days in suspension - 183 Date of release - 30 Jul 45 Capt No 1 Fd Punishment Camp, C Pro C

remain in suspension BF 1 Jan 46 C Vokes, Me j-Gen GOC 3 CID CACF 30 Oct 48

REMIT REMAINDER OF SENTENCE

do

1 JAN 46

REVIEWS OF SUSPENDED SENTENCE

RCA 3 Cdn Inf Div (CAOF)

Herewith AFs A3104 for the following with the endorsement that sentence remain in suspension.

D-170020 Gnr Ruszi A F-13332 Gnr McNeil M

E-47119 Gnr Bedard A

2/3 Cdn A Tk Regt RCA (CAOF) 2/12 Cdn Fd Regt RCA (CAOF) 2/13 Cdn Fd Regt RCA (CAOF)

EHKH/ewts

Encl (3)

SHaug Hall bull

(C Vokes) Maj-Gen Cdn Inf Div (CAOF)

CON REC 2 BOW TO DRIVE ABOY OF THE BUILDING

Date 10 Oct 45

HQ S Cdn Inf Div (CAOF)

RIVLEW OF SUSPENDED SEPTENCE

D170020 Gnr Ruzzi A 2/3 Cdn A/Tk Regt (CAOF)

- 1. AF A3104 is enclosed becewith for aution in accordance with Overses : RO 4732, para 4 (b).
- On completion of Part VI, may the form he returned direct by the reviewing authority to this TQ.

COURTER Encl. (1) (I a Cade) Major

Udn Bac 2 Feb HC Brit Army of the William

REF

NS Cain.

of pepting of title

nerended NOT remarked

reduct may lead to its reinjestion

Cdn Sec GHQ 1 Ech 21 A GP

SENTENCE UNDER REVIEW



- Reference 510/1009/1(AG 12)d/3 May 45 relative to sentence under review for the m/n soldier.
- (a) Date sentenced by FGCM

- Attentiveness to drill and parade square work Reaction to strict military discipline Appearance and bearing Cleanliness in person and clothing
- 4. Application to work and ingenuity

- Cheys without questions Olean and tidy soldier Smart and soldierly
- A reliable worker on details
- 5. Military employment upon release from detn Wishes to return to Osnada.
- - will give useful service upon release.

SECOND REVIEW OF SENTENC

1. ADC to GO 1/c

Date 1 May 45

II. No D.170020 Rank Gnr Name RUZZI A
Unit RCA & CBR Bn

Date of Enlistment 2 Sep 42

Offence: Was found Guilty:

AA Sec AO: Neglect to the prejudice...so negligently handled his
rifle as to shoot himself chrough the right foot thereby rendering

Sentence: To undergo detention for one (1) year

West 30 Jan 45

Date of Last Review 21 Mar 45.

Direction on Last Reviews

"No remission - BF 30 Apr 45"

III. Report by: Comd, 1 Cdn Detn & F P Bks;

- (a) Desires transfer to RCASC as driver.
- (b) Satisfactory
- (c) Yes, if transferred to price

1945 - FAN FEB MAR APR MAY JUN JUL AND SEP OCT NOW DEC

IV. Recommendation: A.G. 12: Work-sheet for the first review is flagged at folio 13.

The soldier was doing Guard duty and, according to his own statement, picked up his rifle and slung it over his right shoulder with the sling to the front and his rifle pointing to the ground. The rifle suddenly went off and wounded him in the right foot.

(D. S. Clapperton) Cart A.G. 12 Cdn Sec 1 Ech HQ 21 A Go 1 Dan Deth 8

3 May 45

D170000 Onr Ruzzi A 10 CBR Bn RCA your No 1 Can Detn/1009 dated 23 Apr 45.

30 Jan 45

E May 45

"No remission B.F. 15 Jul 45".

DSR. Pape

- DEVAPORED P

Cdn Sec GHQ 1 Ech 21 A GP

SENTENCE UNDER REVIEW



Reference 510/Ruzzi A/1 (A011) d/23 Mar 45 relative to sentence under review for the m/n soldier.

The u/m infm is appended

(a) Date sentenced by FGCM.

(c) Number of days remission already lost (d) Number of marks already earned

(e) Date of release with full remaining remission

Attentiveness to drill and parade square work Reaction to strict military discipline Appearance and bearing

Cleanliness in person and clothing

Application to work and ingenuity

. A fair worker

5. Military employment upon release from detn

He wishes to redeem himself at the first opportunity.

(b) Conduct and deportment has been atisiattory.

should be be transferred to RCASC and his sentence suspended.

() achan Commandant (APM)

510/Ruzzi A/1 (AG 11)

COM SEC 1 KEN HU EL A OF

23 Mar 45

DJA (Reviews)

REVIEW OF BENTLINGE

D170020 Gmr Ruzzi A RCA (9 GBRBn)

Ber 99/37/Ruzzi A/1 (DJA) d/9 Mar 45.

2. The sentence awarded by FGOM to the m/n soldier on 30 Jan 45 was reviewed by the GO 1/c this BQ on 21 Mar 45 and the following direction was made:

"No remission - BF 30 Apr 45"

5. Sermith Woossdings of FGOM for your

asciapputa lapt

DRLS, POST/HAND

Conv to: Cond. 1 Cdn Detn & FP Bke

WORK SHEET

REVIEW OF SECTEMORS ALAROND BY COURT-MARITIAL

		Date80 Nar_45
	No D 170020 Rank Gnr	Kame BUZZI A
	Unit RCA 9 CBR Bn	Age 22 yrs 1 month
		Date of Enlistment 2 Sep 42
	rifle as to shoot	sjudiceso negligently handled his himself through the right foot thereby unfit for service.
	Sentence: To undergo detent	on for 1 year.
	WEF 30 Jan 45	Last Reviewed First Review.
111.	Extenuating Circumstances: Nil	
	Rec by Court: Nil	
	Character (previous conviction AA Sec 15(1) - One offence -	AWL for 3 days 19 hrs 20 mins.

- IV. Rec by CO: 9 CBR Bn made no comments, GO 1/c Cdn Sec 1 Ech MQ 21 A Gp, Confirming Officer, recommended normal review.

VI. Rec re review by AG.10

During the trial Gar Ruzzi stated that the rifle which he had slung over his choulder with the muzzle pointing to the ground accidently discharged when he was returning to his beat as he was on Guard duty. It is noted that the court did not find Gar Ruzzi guilty of the charge under Sec.18(2) but under Sec.40 on negligence in the handling of his personal weapon. Recommend -

"No remission - BF 50 Apr 45"

Simi Cap Perrie Captain, (AG 11)

19 MAR 1945 OPH BEO OHQ 1 EQH

ST ARMY GROUP

No 1 Can Detn & FP Bes 213 47 Cdn Pro C 16 Mar 45

Cdn Sec GHQ 1 Ech 21 A Gp

Sentence under review D 170030 Gnr RUZZI A 6 Cdn A/T Tk Regt



The u/m infm is appended:

(a) Date sentenced by FGCM - 30 Jan 45 (b) Date admitted to deth bks - 12 Feb 45

(c) Number of days remission already lost - 1 day (d) Number of marks already earned - 328 out of 2160

(e) Date of release with full remaining remission - 27 Sep 45

- An attentive and elert soldier on the parade square, reacting favorably to strict military discipline. Soldierly in appearance and bearing, clean in kit and person. This soldier is still in the first stage therefore no comment can be made on his ability and application in work.
- 4. This soldier is servinga sentence for negligence in fire arms. He states thathe was on guard duty and had his rifle slung over his shoulder reversed with muzzle pointing to the ground. He was walking on his beat over rough ground when his rifle discharged and a bullet went through the rear of his right ankle. He states that it was purely accidental.
- this soldier is a driver i/c and does not wish to return to his former unit, but to be posted to the RCASC as a driver. He seems a good all round man who no doubt will become a useful soldier upon his release,
- It is recommended that consideration be given upon his next review of sentence.

Commandant (APM) No 1 Cdn Detn & FP Bks Cdn Pro C.

DRL S

COM/ BJ.

510/Ruggi A/1 (AG.7)

CDN SEC GHQ 1 ECH - 21 A GP

2 odn Detn & F F Dkg Distrace on rinder Review

The m/n soldier was sentenced by FGCM on 30 Jan 48 to undergo deth for one year,

2. aentence AP A3104 has been received for review or St A Gb, from "Holding Authority" Odn Sec Ghq 2 Ech -

forwardad Accordingly, it is requested that a report be since date of this Ha on the soldier's conduct and behaviour antence.

DRLS/POST





CDN SEC GHQ 1 ECH - 21 A GF

Comd 1 Cdn Detn & F P Dks 11 Mar 45

DGL70000 cerinder Review

1. The m/n soldier was sentenced by FGCM on 30 Jan 45 to undergo detn for one year.

2. AF A3104 has been received for review of sentence from "Holding Authority" Cdn Sec GHQ 2 Ech -

3. Accordingly, it is requested that a report be forwarded to this HQ on the soldier's conduct and behaviour wings date of commitment to assist in review of sentence.

Cd Sec GHQ 1 Ech - 21 A Gp

DRLS/POST

0

HO 21 Army Gr

(Attn A G 5)

D-170020 Gnr Ruzal A - # /4

Herewith att AFA 3104 together with certified true On completion of Part VI of AFA 3104 may the same

be returned to this HQ. It is understood that this soldier's present dim-

position is 6 cdn A/Th Regt BOA, 10 CTR Bn,



FOCM - Suspected SIW D.170020 Gnr Ruggi A 6 Cdn A/Tk Regt RCA

Ref folio 8, as it appears that disc action has now been completed, please advise finding

(C. T. Ferris) Captain

neg under AA 40 only delention for you Confirmed 27 eb 45

Showari (B.W. Howard) Major DIA

Odn Sec 1 Ech HQ 21 A Go

1/SIW/1 (RUZZI)

Standing Court Martial Board, c/o ADJA HQ 2 CBRG, 31 Jan 45.

Cdn Sec GHQ 1 Ech, 21 A Gp.

FGCM - 30 Jan 45 / D.170020 Gnr Ruzzi, A., 6 Cdn A Tk

1 Reference your message VA

2 The witnesses in this case of for the m/n trial and were return morning.

/blc

6 PARY

on 25 Jan fir unit this

(R.F. Willson Major

- 61
MORT

REPRESENTATION OF THE PROPERTY OF THE PROPERTY

MATTIAW AN TRAINING AND HIS HOLD THE TOTAL THE YEAR THE Y

THE ORTANT

THISTOR

MESSAGE FORM ARMY FORM C2136 (Small) 510/Ruggi, 8/1 ABOVE THIS LINE FOR SIGNALS USE ONLY FROM 221630A CANFOR (EXFOR REAR) For Action ADM HO FIRST CON ARMY XXXXX 12 CER Bn - 9 CER Bn (Attn: Maj R F Wilmon) "A747" HESTRICTED . FGCM on D170020 dar RUGGI, A 6 dan A TK Regt RCA suspected of SIW ready to proceed . B143215 Onr MATTHEMS, W E and P4524 Sgt GARGAN, L E both same unit required as witnesses . despatch earliest to 12 CBR En upon arrival personnel will report to Maj H F Whison Le Petit Paleis Justice GHENT . sdvice forthwith if personnel not available THIS MESSAGE MAY BE SENT AS WRITTEN FALL INTO ENEMY HANDS, THIS MES THI or TOR BY ANY MEANS | EXCEPT BAGE MUST BE BEST IN CIPHER Capt SIGNED SHONED-

Perm Court Nartial, c/o ADJA HQ 2 GBRG, 20 Jan 45.

DJAG, Cdn Sec GHQ 1 Ech, 21 A Gp.

Application for FGCM D.170020 Gnr RUZZI, A., 6 Cdn A tk Regt RCA

Herewith m/n application for FGCM.

Evidence of B.143215 Cnr Matthews, W.E., 6 Cdn A Tk Regt RCA, does not appear in the Summary but I have served notice to Capt Hungerford under R.F. 76. P.4524 Sgt Gargan, L.E., 6 Cdn A Tk Regt RCA will also be required as a witness. May we be informed if these witnesses are available, please.

(R.F. Willson) Major.

/blo

428

15 Jan 45

Major R.F. Willson, c/o ADJA HQ 2 CBRG

D-170020 Gnr Ruzzi, A. 6 Cdn A Tk Hegt RCA

1. Reference your 1/Recom/1 (Ruzz1) dated 12 Jan 45.

2. It has been decided that proceedings will be taken

3. The documents enclosed in your letter a/m are returned herewith.

(B.W. Howard) Major

Gdn Sec 1 Ech HQ 21 A Gp.

Enel DRLS BF the action

DO 6 COM A/TE RUST "

OR SOUR ON C

gar 12 w/2s.

201105

11 AD /A disposition Pls advise present of this care

Foreir

11) notquete wady for break

Blinoward DUA

ADM BY CAMER THESE CON ARRAY (AT THOMPSON) OF G CON GEN HOSP (ATEN LET JOL SEG THOMPSON) OLD CON GEN HOSP (ATEN LET JOL SEG THOMPSON)

A 06 (.) RESTRICTED (.)

W/m personnel have recently been transferred from 111 (Brit) den Hosp to 8 can Gen Hosp for further investigation re possibility of Sis (.)

1) 170090

S GUN A/TH REDT TOTAL OF C MOGEL OF

Expedite despatch all relevant information and swidence earliest direct to 8 cln den Nosp attn LP_OOL JNG THOMPSON (.)

DISTRIBUTION:

64-11

\$510/Ruggi A/1 510/Gartis

510/Aghitt/HD/1 510/Makson H

PSA Date 00 1640 A From: AG 5 suspected siw 0 1200 20 Cm Ruggi A. Subject: Herwith att arrespondence which is self explanatory - Have you ar inform in this soldier - if not if will write to so are further dala. - Reply -To: no data come fued.

MESBAGE FORM

A SQ (.) RESTRICTED (.)

Pollowing personnel new patients at 111 (Brit) Gen Hosp to be transferred to 5 Gir Gen Hosp for further investigation repossibility of STW .

D.17002C GHR RUGGI A 6 Gir A/Th Regt ...
H.20452O PTE CURTIS R GOOD OF C. A.116566 SPR HACHINISH B 1 GIR M Pk Goy HG. Can adapted for hor later as all. 510/Ruggi A/1 510/Curtis E/1 510/Curtis E/1 510/Eachyniski S/1 510/Cress J/1 510/Simpson Ha/1 510/Doe GL/1 510/Hewitt HD/1 510/Jackson HE/1 510/Modford G/1

DEPARTMENT OF NATIONAL DEFENCE-(ARMY)

CROSS REFERENCE

Possible SIN Case
D170020 Gnr Roget, A - 6 Cdn A Tk Regt
R0221

-		-	Mark Street, S	-		Managember 1975 (King)		
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4W-44.

Im Ruzzie. a

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(1. If a special piec is mode for separate trial on one or more charges (RF &P(E), 108), or as to the jurisdiction of the Court (RF 34, 35(A), 113), or in box of trial (RF 36), or as to accused a mental fitness to stand trial (AA 130, RF 37), or by one of several accused charged jurisdy to be tried separately (RF 16, 71), such piec, the addresses mode in support or against, the evidence, if any, and finding are recursed per Notes. For forms of recard see references in fins to fail sited. Insert in AB rank and name of the occused making the piec.)

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

RP 31, 112. See para I of Instri p 2. When more than one Charge Sheet see RP 62; when several occupied to be tried separately see RP 71(C), and use separate capits of CF RP6 to record proceedings.
 RP 32, RP 33. If otherwise, delete and make appropriate record per Notes.)

A10. The Court is elected and considers the Instrs 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.

- 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 was be withdrawn for any reason without authy from Concerning 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 35.) 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,
 - 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 to discretion of Court, (i) to try the accused on all such alternative charges as if he apleaded 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).

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)(1), and that on his plea of Guilly 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)
 (1. RP 35 in 3. 2. MML p 54 pero 47.)
- B2. President to accused: The Court will now receive any statement you desire to make in reference to the bit. Tresident 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(2), or which show provocation or extenuation is respect of which in your interest the witnesses for the Prosecution should be examined(2), 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 syern testimony, if you so desire.(4)

President to accused: Do you wish to make a statement & Ans. (1. RP 37(8). Z. RP 37(0) fn b. 3. RP 35(8) fn 5 July 3, MML p. 54 pura 47. 4. See pure £3 of Record Form £. 5. Statement, if any, recorded por Nates.)

- B3. The Court considers the accused's statement.(1) The Court decides (not) to advise accused to charge 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) plen(s) on charge(s). Part I of the Schedule is amended accordingly.

 (i. Court may be claud to consider the attenuat. Delets 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 Schodule.(1) (I. RF 35(B). Wany plea(s) is (are) changed, use Record Form C or D as appropriate.)
 - B5. The Suprimary of Evidence is marked Ex. mittalled and read aloud by the President (1) (1. #flore is no Summary, or if R is independent comply with RF 37(8). If there is not evidence inconsistent with any pine standing as Gally, Court will advise occased to change such pine and, if changed to Not Gally, try such charge(r) is use of party to De inclusive of Record Form D on p 3. RF 37(0).)
 - Bd. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by

RECORD FORM C-PROCEEDINGS ON MIXED PLEAS OF GUILTY AND

- 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.(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 L'hovo.(1)

 (I. Under B5 such parts only of the Summary of Evidence are read as relate to the charges dealt with under C1. If one plac is charged to Note Gallet, trial thereon paper68 by complying with paras D1 to D5 inclusive in Record Form D on p 3 and making an appropriate record thereof an a septime theet.)
- (ii). 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.

m

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

- 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) (1) If "yes", see RP 39(A) for procedure. Statement or evidence, if any, is recorded per Notes.)
- The Prosecutor makes (art (no) opening address.(1)
 (1. RP 39(8), 60(A) (8), 90, 92(C) (0). Record oddress per Notes, subject to RP 95(C).)
- The evidence for the Prosecution is taken.(1)
 (1. RP 39(C), 114, KR Can 555. Recard 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 primu facio case against the accused on thecharge(s).(3) The Court is classed, and considers the submission (*) The Court is re-opened, and the President announces that the submission is disaffored 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 the latter charge(p).(4)

(L. Delete remainder of this pare, if submission not mode.

(L. Delete remainder of this pare, if submission not mode.

per Notes.

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

4. Delete part not used. If accused acquitted an all charges use second alternative in pare DB.)

NB: If trail praceeds, accused must be allowed great labitude in making his defence, and the Court should not step his defence salely on ground of irrelevance. (RP 60(C), 114, 115.)

President to accused: Do you wish to give evidence yourself as a witness, make a statement, or do neither I \$\langle \text{NP} \cdot \text{.} \text{ Are they witnesses as to character only (Ans (1. 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. R8 114, 115, 116. For procedure see Notes on back of Convening Order, CF A95. Evidence for occused as to his
character should, if in his interest be given before the finding. See R8 46(A) in 1, 86(C). Note the further opportunity in para E1
of Record Form E. Record per Notes addresses, stochement, evidence and any summing up by the IA under RP 42, 103(e).

D7. The Court is closed to consider the finding(s) (4) 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 Schedulg. 2. RP 44(A).)

D8. The President announces the finding of M any, of Not Guilty, and states to the accused that the finding of the Court on the charge (s) being subject to confirmation, will be promulgated later (4) On The President announces that the accused is found Not Coulty on all charges and is to be released forthwith, for

and that the proceedings are accordingly terminated. Fast 1 of the Schedule is dated and signed.(9).

(1. AA 54(3) (6), RP 45, 120(A). 2. AA 54(3), RP 45, 117. This districtive annumement is not applicable when there are pixes of Guilty outstanding and dealt with under Reseal Form B or C.)

RECORD FORM E-PROCEEDINGS ON CONVICTION BEFORE SENTENCE.

- El. President to accused: Do you wish to give evidence yourself or to call any witnesses as to your character f(1) U. If evidence has almost been given by occurred or this witnesses as to his character, delige this para. AP 27(C) fn 4, 46 fts 1.
 Accorded and witnesses are poors. Evidence recorded per Nazac.)
- to refer to (a) addict(s) having the same number, cank, name and corps as the accused. Admitted in evidence and marked Ex. D. and Ex. respectively (*)

 (1. MFS 255 or MFS 298. 2. MFM 8. 2. RF 46, KR Con 558. If above documents not produced, see RF 46 ft 1.

mitigration of postal-insent (1). Ans
(1. AP 37(C), 48(D)). 2. Address, if any, recentled per bists. Court should period occused or his witnesses to price on each anything here as previously stated which would effect the amount of positionness. (IF 37(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

E5. The Court considers the sentence (*) The President records the sentence in Part I of the Schodule, which is dated and signed by him and the JA, if any (*) [1]. One sentence only, comprised of the punishment or punishment with the sentence only in the sentence only in the punishment of the punishment of the sentence of the sentence on the sentence of the senten

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

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

Charge.	Plea.	Finding.	
	(See Instrs p 2.)	(See note below.)	(Space for use as required for further charges, accused charged jaintly,
Insert " alternative " where applicable.)			special findings, etc.)
d		hot quilly	
nd alternative	het quilly	quily.	
rd		The second	
h			
		1474 00 44	Findings on alternative charges see MML p 483 fn 4 para 2, RP 44 ; RP 44 fn 6-)
ime in confinement a (1. See RF 460)	e being served, or del swaiting present A; fn 2. leformation si the Court :	trial—a total of hould be found on MF1	beginning on (date) See RP 46(A). Infariotics should be found on MF B355 or AF B396.) 12. days, of which days were spent in hospital. 3355 or AF B396 admitted in evidence under E2.)
to the	dugo of	uce re ung	01007
	1		
(Rad)			a 45 (sgd) to the aids
Judge-Adv		Date Convening Order as to	awarded. are mbir and disposal of record after trial.) MATION RESERVED. (AA 54(5), RP 120(F), MML p 760.)
Judge-Adv	(See back of	Date Convening Order as to	awarded. President. (RP 45, 30) assembly and disposal of record after trial.) MATION RESERVED. (AA 54(5), RP 120(F), MAL p 760.)
Judge-Adv	(See back of	Date Convening Order as to	awarded. President. (88-45, 50.). assembly and disposal of record after trial.)
PART II.	(Sgd)	Unter Convening Order as to HERE CONFIRM	awarded. President. (88 45, 30) ATTEMPT AND DESCRIPTION OF PROPERTY OF PROPE
PART III. PART III. For duties and p confirmation and promuligation: 18	(Sgd) MIN JTE WE (Sgd) DECISION Owers see AA 54, 57, cannot be revised custed may be titled a by 53, MML p 65. The Confirming Off	OF CONFIRMI AP 37(D) fn 6.46(A). AS 54(3), Sending both goin A A 157, MML p. Quanting ofter promul	awarded. President. (RP 45, 30.) assembly and disposal of record after trial.) MATION RESERVED. (AA 54(5), RP 120(F), MML p 760.) Commanding NG OFFR ON FINDING(S) AND SENTENCE. 51-56. 120. MML pp 759-761. KR Com 567-577. Acquitols require no ck finding of sentence for resistion by Court: AB 44(2), RP 120(G). if children or sentence for resistion by Court: AB 44(2), RP 120(G). if children or son-confirmation may be altered before colour. KR Con 573. Duties and powers of reviewing offs: AA 57, molty. Ad 173 fp 1.)
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PART III. PART III. For duties and p confirmation and confirmed, on the promulgation: 18 Sta. 8F 53A, 54. Sty decision on the promulgation is a promulgation in the promulgation in the promulgation in the promulgation is a promulgation in the promulgation in the promulgation in the promulgation in the promulgation is a promulgation in the pr	(See bock of of MIN JTE Wh (Sgd) DECISION of the seed of the see	OF CONFIRMI AP 37(D) fn 6.46(A). AS 54(1). Sending be goin: AA 157, AMAL p Jouching ofter formula sign here person distinction of the sentence set for (1. AA 57A.	awarded. President. (RP 45, 30) Assembly and disposal of record after trial.) MATION RESERVED. (AA 54(5), RP 120(F), MML p 760.) Commanding. NG OFFR ON FINDING(5) AND SENTENCE. 51-56, 120, MML pp 759-761. KR Can 567-577, Acquittols require as a ck finding or sentence for revision by Court: AA 54(2), RP 120(G). If 64. Minute of confirmation or non-confirmation may be altered before gotton: KR can 572. Duties and powers of reviewing offs: AA 57, nolly, AA 172 fp 1.) th in Part I is:
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CHARGE SHEET

The accused, D.170020 Gnr Albert RUZZI, 6 Canadian Anti-Tank Regiment, Royal Canadian Artillery, on strength 12 Battalion 2 Canadian Base Reinforcement Group, a soldior of the Canadian Army Overseas, is charged with:

FIRST CHARGE Army Act Sec 18(2) WHEN ON ACTIVE SERVICE WILFULLY INJURING HIMSELF WITH INTERT THEREBY TO REDDER HIMSELF UNFIT FOR SERVICE

in that he

In the Field, on 31 Oct 44, while with his regiment, by discharging his rifle wilfully injured himself by shooting himself through the right foot with intent thereby to render himself unfit for service.

SECOND CHARGE (Alternative) Army Act WHEN ON ACTIVE SERVICE NEGLECT TO THE PREJUDICE OF GOOD ORDER AND MILITARY DISCIPLINE

in that he

In the Field, on 31 Oct 44, while with his regiment, so negligently handled his rifle as to shoot himself through the right foot thereby rendering himself unfit for service,

In the Field,

(A.O. Hood) Lt-Col OC 12 Bn. 2 C.B.R.G.

TO BE TRIED BY FIELD GENERAL COURT MARTIAL.

In the Field,

(E.L.M. Burns) Maj-Gen

Cdn Sec GHQ 1 Ech, 21 A Gp.

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 offr of Cdn Army Overseas, or of any other force if authorized in law, in immediate cand of troops on active service, subject to RP 105(C) and restrictions imposed by appropriate authy. As 49, 30, RP 104-107, 114. As to the duties and privileges of the Convening Offr in dealing with the application see MMM, Chap Y paras 20 and 23, RP 87(B).

7(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 W 64, and as to separate trial on charges in the same charge sheet see RP 108. As to two or more accused charged jointly see PP 16, 109.

As to reasons for showing (a) permanent or confirmed rank, and (b) appint. Alrank or Alappint, if any, see AA 182, 183, (ns. KR Can 208, 328, 330.)

ACCUSED.

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

Full Christian Names.

Surname. Thrit.

D170020

Albert

RUZZI (6 Cdn A tk Regt RCA)12 Bn 2 CBRG

CONVENING ORDER.

1. Whereas complaint has been made to me, the undersigned, that the person (**) named above as the accused,

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 trial for reference to a superior qualified petry)

(Delete pert in brackets when not required for compliance with RP 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 he eunder.

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

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

PRESIDENT.

R.P. III G. L. Mardougall (Must be named. RP 106.)

CAC- 9 BN REDRO 1 Keh-21 & (Unit.) Gp-

MEMBERS.

F.A. BAILLARGEON

(Rank.)

(Named or detailed. RP 106.)

1 Ech-21 A Go. RGASC-att Cdn Sec GHQ

1 Ech+21 A (Unit) Op

WAITING MEMBER

(Rank.)

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

JUDGE-ADVOCATE

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

On Active Service in the Fd

(Country.)

body burns

(Rank.)

Date 32 Jan 45

(Signed personally. AF 105 fn 2.)
(E.L.M. Burns) Commanding Cdn Sec GMQ 1 Ech, 21 A Gp.

Convening Officer.

CONVENING OFFR WILL INITIAL ALL DELETIONS AND ALTERATIONS

4/38ACFASS (In Heu of AFAS) appropriation may (See overleaf for soths and notes for use on crial.)

&

MEDICAL CERTIFICATE

I certify that I have this morning examined D.170020 GAR

Court Martial.

Date 29 JAN 45

Ne misselli my.

8

MEDICAL CERTIFICATE

Pto. Hopsi A and find him fit to undergo trial by Court Martial.

Date 30 Jan 1945.

Del dall Cent Riane.

the Prosention Constantination lewise he ask to go tack to be have the most that not show the most most Infamined to ley I found a though of and through wound of his right fort one would one would one would one would one other other other about senter of melecture and other about senter of 5.60 I can ben voy his present buy snow the still walks with a limp but by weapon expect they will be heath on no disability up to two mondo. The to com wer I saw the account at 2 can han thop. I what it myself and upod a statement to kins. He read it and what find it is his own, He said he had lowing bear only severn states: I recognize the accused On Dec 11 fan 45. B 7.451 CPC S low W.C. SIS CPLOC Est. Both wombs are healed. He R. R. 83 (8) completed with held in his own 0170020 due Ruggi att in for 2013R6 3 identified

bear cartioned. He adopted it as known. The Defending offer has no objections. Statement read to the court and marked Exhibit A. RP 83 (B) compliations. P. 4524 Sqt Gargan L. E. 74 Cdn. A-TK Third Witten By RIA bowing ben any swoon states. To the Prosection I recognize The accused. On 11 Oct 44 at about 2145 less I was informed that one of our chaps was shot. I proceeded to The guard port. The accused had been moved to a nearly blody. I went to the blody. The accused informed me that on sory, to The letime he had lain down his rifle and when he picked it up by the sting he sting it over his sholder, barrel toward the ground; the & slenging over his shoulder had counted the action to go off. he one sow the shooting. I made a check in the area but so one had sean the accident. He was onduty and quard on a arm. dump. They were ordered to load The rifles but there were to be no ids in the chamber. The safety catch was to be on. The mags were to be changed. to cross examination. I found the rifle after the accident. There were about 6 ids. in the mag. It was by The court. Then in the bours whale he was being tracked. Here was an offended antidge in the ch

wo Elected the 8 SNO The bolt was closed. We checked the & own eifte. RP 83 (B) complied with Defording offer has been served votried Fourth Wition for the Propertion de this witness winder RP 76. D-143215 Gns Hatthews. W. E. 74 Cen AIK Bty BIA avery bean duly swan of out 2130 less. I was posted on guard at Ortacher Dump, 2 Cde Corps. h/Bdr Cooper was ported with me. Gur Ruggi relieved me at 2100 hrs. I was taken down to The extreme and of The beat. There I was reported by 89t. Francis and told to stay there counted while carries. at beat when I heard a shot. in the direction and there found 6 ms. Ruggi lying on the ed. I went up to him and tuned him over. He ground & asked him where he was shot. He said it loas his foot. I cut off his boot and surved his stocking. We carried to to a house, with a circlian. a Religion lad went to get an N.C.O. On the way to The grands Al he got a civilian doctors. The civilian doctor deemed the wound. Soft toargan came often the wormed was

dremed. I ded not talk to Gus Reggi I did not see the accident. I gave The e- pty contridge to soft brangace out of the rifle. It was pretty dark. It was hard gound. There was a path he pronexamination. The right was loging along ride The accused to had been sawying it of think the muzzle was toward his feet. He was on his best when I found him He was donneions when I found him. I am not a particular fliend of his. I great River RP83(B) complied with. The account, D. 170020 Cars. Ruggi A. 6 Chy ATTHE Ray + REAT knowing bear duty swom states. 12-6 It was not a good rifle. The lody both you Occased denoustrates. He looked the rifle slang it over his shoulder, maybe donnored Sting to the front He says than it want off who he started to walk. It was sliftery. It could have been my other on the web belt or any Thing that made it go off. I had no bayonet. The trigger must have come into contact with Something. There was nothing bothering my mind of the time. I se been over since

July 4, 1844. I'd been with The Regit all The time. I was driving a truck for a time to the bottom. I did a lot of great duty. Our Reg't had is par. I was on gen crew but we never. This was about in ; ? I after I had fired on lifte in practice. We had Fit like to go back to The Rog't when d'is fit. I can't sementer soying and Thing ofter I was let. I came to in a house Cron-examination. I ceide to see my order life of terwards. I was the only one around when the acceptant happened. It was my the deanthise is a was never told how to large the deanthise is a were told to keep the rifle bracked. I had a round in the barrel. I'm pretty sure 3 wound in the chamber I should have bed the safety catch on. The owny was over 10 miles away I think I had withing to do with prelling the trugger My hand was not near the tugger. It must have Caught on some of my equipment. I'd Seem some shalling but moved bear close to the There I had no reason to want to word service. I know a let of people in my own by the count It was an old rifle. I don't namember if the safety catch was loose or stiff. I'd had

it about a month. I cleaned it once & day. The safety catch was not very stiff. I carry the sife might down often It was damp and there was I went on quard. RP83(B) complied with Cloning address The accured has 5 won his explanation You have observed the demonstration. I cook you to diomin the it change. Reply by the Prosecution: There is not much evidence to convict under 18(1). Post there is devidere as to negligence. There is now to this case them has been demonstrated here. It does take quete a tig to anchage a weapon under normal cercurstances, Gedelately of the witness will play a big part in the decision. I leave it to the court.

arout our 12 fan 45. to his mother has been under alos Honbert P. & before entistenent to was born 8 Dec 1922. Sugle are from Hoa in Miligation:

8 le du. Gen. Harp. Kig No: D- 170020, Inr. RUZZI, albert, of See 44. 14 Battery, 6 A/1. Regt., RCA., 2 ben bayes. Ex States: I have been cautioned by sport. Chester, S.1.5. 6 dn. Proved bages, that I am not obliged to say anything unless I wish to do so, but that whatever I do say will be taken down in writing and may be given in evidence. I understand the SIGNATURE A. Ruggi. meaning of this warning Jam 22 years of age. I enlisted for active Service at Patawawa, Out in august + 2 in the R.C.A. and came to the V. K. in aug 43 with my present unit. I have had some training in 6 ngland as a gunner, but until about the end of September of this year I have been a driver in the unit, using a 15 cut for the Battery. In Sept I became an active gunner following a four day absence from the unit in September. on 31 Oct 44, having been detailed to great armunition and explosiver, I was taken by Sgt GARGAN to my port for the period of quard from 2100 to 6100 krs. I was the only quard on that sport. Soon efter hors. Yargan left me I went into a nearly ledge to perform a necessity of nature. I had a touch dysentry at the time and for 2 weeks prepares. When Anished dressing, I also wore my gestioat, - I started back to my post, first stopping to load my rifle. I had no baymet. The rifle was cocked but I cannot be sure whether the safety was on or not. I slung the rifle on my right shoulder, the strap in front and the rifle pointing at the ground believed me. The ground was rough over which of walked back to my post and it was dark.

A. Ruggi I don't know how it happened but suddains the everpow fired. I felt a hot pain in my right. foot and I fell down. My head hit the ground and I remembered nothing more until I came to in the house of some civilians near the amms dump. A civilian doctor was dressing my wound. I don't know how long this was after the shot. a boy who lived in the house went and brought by Hargan and a Il Bdv. from the billets about 2 km away. They came in a Quad and took me to 2005 where the wound was operated on and after two days 2 was moved to 9 (Br) Lew Hosp, later to 108 (Br) Hosp, then to III (Br) Hosp. Yesterday I was transferred to No 8 Can. Gen. Hosp. My wound which was in the fleshy part If the right side of my right fort has almost healed completely. I feel that I am ready for duty again. don't know what became of my rifle. I don't know the name of the people in whose house I found myself, but it was one of two houses on the out skirts of Oostacker, on a dirt road leading onto the main road between Oostacker and Theat. That is where the ammo dump was. I gave a statement regarding my wound to Sgt. Yargan, and another at no 4 (Dr) Horp and at no 111 (Br) Hosp. My wound was caused accidentally and I do not tensider that I was negligent . It was necessary for me to carry a cocked and loaded releasing for action. I have read this statement and rifle relady for action. I have read this statement and SIGNATURE. B. Ruggle.
Statement reduced to writing by Alloh heter 4591. Witness Philadeland, A S.I.S., CANADIAN PROVOST CORPS Incre C' Can Sec GHQ 1 Ech, 21 A Gp.

STATBMENT

Reg. No. D.170020, Gnr. RUZZI, Albert, of 74 Battery, 6 A/T Regt, R.C.A., 2 Cdn Corps, (attached 8 Cdn Gen Hosp.)

STATES:

I have been cautioned by S/Sgt Chester, S.I.S., Cdn. Provost Corps, that I am not obliged to say anything unless I wish to do so but that whatever I do say will be taken down in writing and may be given in evidence. I understand the meaning of this caution.

(Sgd) A Ruzzi

I am 22 years of age. I enlisted for Active Service at Patawawa, Ont., in August 42 in the R.C.A. and came to U.K. in Aug 43 with my present unit. I have had some training in England as a gunner, but until about the end of September of this year I have been a driver in the unit, using a 15 cwt for the Battery. In September I became an active gunner following a four day absence from the unit in September.

On 31 Oct 44, having been detailed to guard ammunition and explosives, I was taken by Sgt GARGAN to my post for the period of guard from 21.00 to 01.00 hrs. I was the only guard on that spot. Soon after Sgt Gargan left me I went into a nearby hedge to perform a necessity of nature. I had a touch of dysentry at the time, and for two weeks previous. When finished dressing - I also wore my great-coat - I started back to my post, first stopping to load my rifle. I had no bayonet. The rifle was cocked but I cannot be sure whether the safety was ca or not. I slung the rifle on my right shoulder, the strap in front and the rifle pointing to the ground behind me. The ground was rough over which I walked back to my post and it was dark.

I don't know how it happened, but suddenly the weapon fired. I felt a hot pain in my right foot and I fell down. My head hit the ground and I remembered nothing more until I came to in the house of some civilians near the ammo dump. A civil doctor was dressing my wound. I don't know how long this was to in the house of some civilians near the ammo dump. A civilian doctor was dressing my wound. I don't know how long this was after the shot. A boy who lived in the house went and brought Sgt Gargen and a L/Bdr from the billets about 2 km away. They came in a 'Quad' and took me to 2 C.C.S. where the wound was operated on and after two days I was conved to 9(Br) Gen Hosp, later to 108 (Br) Hosp, then to 111(Br) Hosp. Yesterday I was transferred to No. 8 Cdn Gen Hosp.

My wound, which was in the fleshy part of the right side of my right foot, has almost healed completely. I feel that I am ready for duty again. A civilian

ready for duty again.

I don't know what became of my rifle. I don't know the name of the people in whose house I found myself, but it was one of two houses on the outskirts of Oostaker, on a dirt road leading into the main road between Oostaker and Ghent. That is where the ammo dump was.

I gave a statement regarding my wound to Sgt Gargan, and another at No.9 (Br) Hosp and at No.111 (Br) Hosp.

My wound was caused accidently and I do not consider that I was negligent. It was necessary for me to carry a cocked and loaded rifle ready for action. I have read this statement and it is true. (Sgd) A. Ruzzi

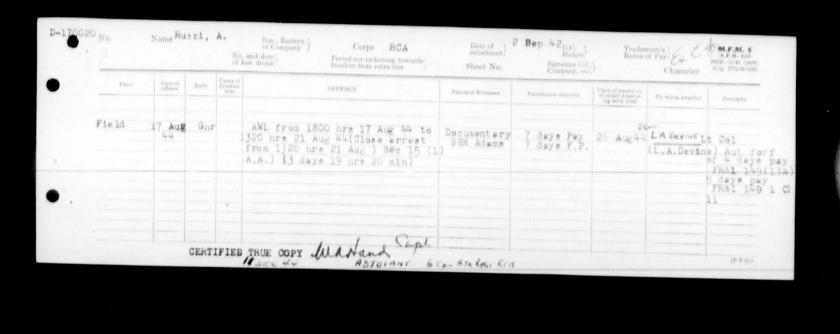
Statement reduced to writing by (Sgd) H.W. Chester, S/Sgt Witnessed by Pte. Collard, A.N.

M.F.B. 485 60M - 1-12 1390 H.Q. 1779-80-60

STATEMENT AS TO CHARACTER AND PARTICULARS OF SERVICE OF ACCUSED

Number	Rank	Name	Regiment (or unit)
D-170020	Gunner	Ruzzi, A	6 Cdn A Tk Regt RCA
1. The following	g is a fair and true summary s	of the entries in the	XXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXX
Conduct sheets	of the accused, exclusi	ve of convictions by a Co	ourt-Martial or a Civil Court,
	inder Section 47 of the Arm		
			t or appointment
For A.A. 15		ок О	
For			times
For		rs.	times
For	tim		times
A SIA DESIGNATION OF THE PROPERTY.	CKKKKKKKKKKKKKKKKKKKKKKKKKKKKKKKKKKKKK		
Her makhananan	an Adrian (garage of the control of	XX	
There are no en	tries in the conduct sheets of t	he accused.	
	harge is for drunkenness, the o		ust be stated separately.
NOTE.—If the c	marge is the distinctions, the s		
2. The accused	I has not been previously conv	icted	
		X.	
3. The accuse	d is not under sentence at the	present time.	
		×	
MAXXXXXXX	XXXXXXXXXXXXXXXXXXX	XXXXXX	XXXXXXXXXX
XXXX			
4. The accuse	this been in confinement awa	A	
*XXXXXXXXXXXXXXX			d of days in custody,
of which	days were spent in h	ospital.	
600 5. The preser	it age of the accused according	to his XXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXX	MX 8 Dec 22
5. The date of	of his KXXXXXX specified in h	is XXXXXXXXX is attestation paper	2 Sep 42
7. The service	e which the accused is allowed	to reckon towards discha	rge is ^N
8. The accus	ed is entitled to reckon	service for the purpose	of determining his pension, etc.
9. The accus	ed is in possession of XXXXX	XXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXX	**************************************
	dal and Caasp. KNAM	<u> </u>	he Canadian Valunteer
XXXXXXX	XXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXX	XXXXXXXXXXXXXXXX	XXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXX

dat	and a		Permanent Force unit regiment (or corpe	o, the rank of
		, and in the	regiment (or corp.	
dat				
12. The accused has seesent date:—	erved as a non-comm	issioned officer continu		luction, to the
			1700	o ni Jaminotanii
In the rank of		years.		
In the rank of	and the state of t	years.		
In the rank of	in any of the above no	years. ragraphs cannot be state	ad from the Regime	notal books, the
ragraph must be struck t	hrough,	ulkabus cannor or scie	Quantum to the	
		HEDULE		
et, and of cases in which ame Ruzzi, A	trial has been dispense	urt, of summary award ad with of accused, Nun of 6 Cdn A Tk ital books stating these	nber D-170020 Regt RCA	tank Gunn er MXXX & Regiment
Description of Court	Date and Place	Charge upon which	Betteron of the	Panishment
by which tried	of Trial	convirted .	Coast	Ramitted
	NIL			
	1122			
I hereby certify that from the regimental book		of convictions and disp	pensations with trip	Tua Fa
			pensations with tris	Wara
from the regimental book Signed this 11th	in my custody.	day of Dece	mber 194	Maria .
from the regimental book Signed this 11th	in my custody.	day of Dece	mber 194	as been dispense



This is Exhibit 'A' referred to in the Summary of Evidence in the case of D.170020 Gnr RUZZI, A., taken this 17th day of January 1945.

Officer taking Summary.

Statement of Sgt. Gargan L. E. P. 4524 " In 31st bet. 44 I was a fun It in the 14th Can. a. Tang Bly R. C.A. attached to the Guard detact at the Oostacher Rom. Dump, a Edn. Carps. Rhout 2145 hrs on that date a civilian lad came to sur Short post and informed me that one of our men had been Short, The O/ It and the Office 1/2 were away one duly. I strained a vehicle and minediality proceeded to the devoling adjacent to # 6 quard Post from where yes. Ruggi had been removed. I as sed you. Ruggi what had happened, and he told me that he had laid his rifle down to go to the latrine, and when fin ished, he had seized his refle by the sling, and slang it over his, right shoulder, muyth down this, action had eaused the location to go of or as a result, he had being wriended in the right floot. At the time of my arrivel a ewilian doctor, had dressed Gar. Pergh's Turnend, and I removed dein to To 2 c. c. S. I made extensive my viries but sould find no one who had actually seen the sporting. writing. In reference to this statement Ins. Progri surviving and 2 C. C. S. Ins. Progri in writing. In reference to this statement Ins. Progri Said. "That's wastly how is happened, Large." The apm briginal document was handed to freint The Gilton by me on my return to the wint. In reference to regulations covering the loading My Gilfon his trueted that the pregions were to be charged, but no rounds were to be placed in the

This is Exhibit 'B' referred to in the Summary of Evidence in the case of D.170020 Gnr Ruzzi, A., taken this 17th day of January 1945.

Officer taking Summary.

On 31 Oct 44 I was a Gun Sgt in the 74th Cdn A th Bty RCA attached to the Guard detail at the Oostacher Amm Dump, 2 Cdn Corps. About 2145 hrs on that date a civilian lad came to our unit post and informed me that one of our men had been shot. The O/Sgt and the Officer i/c were away on duty. I obtained a vehicle and immediately proceeded to the dwelling adjacent to #6 Guard Post from where Gnr Ruzzi had been removed. I asked Gnr Ruzzi what had happened and he told me that he had laid his rifle down to go to the latrine and when finished he had sezied his rifle by the sling and slung it over his right shoulder, muzzle down. This action had caused the weapon to go off and as a result he had been wounded in the right foot. At the time of my arrival a civilian doctor had dressed Gnr Ruzzi's wound and I removed him to No.2 C.C.S. I made extensive enquiries but could find no one who had actually seen the shooting.

Upon arriving at 2 C.C.S. Gnr Ruzzi volunteered a statement to me which I took down in writing. In reference to this statement Gnr Ruzzi said, "That's MUNICIPE exactly how it happened, Sarg."

The a/m original document was handed to Lt McGilton by me on my return to the unit.

In reference to my regulations covering the loading of weapons by the guards I was present when Lt McGilton instructed that the magazines were to be charged but no rounds were to be placed in the chamber and the safety was to be applied. (sgd) "L.E. Gargan" 11-12-44

assigned to represent me at my trial by Field General Court

Martial.

I desire the services of Capt W.G.D. Hungerford if he is available.

Date 17 Jan 45

(Signature) of Accused)

SUMMARY OF EVIDENCE

Summary of Evidence in the case of D.170020 Gnr RUZZI, A., 6 Cdn A Tk Regt RCA, on strength 12 Bn 2 GBRG, charged with, when on active service wilfully injuring himself with intent thereby to render himself unfit for service (AA Sec 18(2)), alternative, when on active service neglect to the prejudice of good order and military discipline (AA Sec 40).

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

FIRST WITNESS

Major J.P. Middleboro, RCAMC, att 2 Cdn Gen Hospital, sworn, states:

On examination I find evidence of a through and through wound of the right foot. One wound is situated on the latersal side of the foot one inch in front of the external maleolus, the other wound is on the sole just in front of the heel in about the mid-line of the foot. The axis of the wound is about forty-five degrees to the maxis of the foot. Both wounds are healed. Examination of the ex-rays shows the os calcis to have been traversed but no serious damage done. The foot is still tender but he is walking up to two miles. I expect there will be no disability after one to three months' further convalences own hands. own hands.

The accused declines to cross-examine this witness.

Dre miselleri.

SECOND WITNESS DA:71451 Cpl SHAW, W.C., Cdn Provost Corps, att 'C' Inc Cdn Sec GRQ 1 Ech, 21 A Gp, sworn, states!

On 17 Jan 45 at 2 Cdn Gen Hospital I interviewed the accused. I identified myself and produced a written voluntary statement. I read over the statement to the accused and asked him to identify it. He said it was his signatures and chimed it to be a true statement and admitted it being his own statement. I asked him if he admitted it being his own statement. I asked him if he had been cautioned at the time and he replied that he had had the statement over to the accused and he read it I read the statement over to the accused and he read it over himself. He admitted the statement was in the same condition as when he first signed it. This is the statemen (Statement attached hereto as Exhibit 'A').

The accused declines to cross-examine this witness.

Witness,

THIRD WITNESS

P.4524 Sgt Gargan, L.E., 6 Cdn A Tk Regt RCA

I certify that in my opinion the attendance of this witness is, owing to the exigencies of the service, not readily procumable and a written statement of his evidence, signed by him, has been read to the accused and is attached hereto as Exhibit 'B'.

Officer taking Summary.

I do not require the attendance of P.4524 Sgt Gargan, L.E., for the purpose of cross-examination.

coused.

The accused is cautioned as follows:

Do you wish to make a statement or give evidence on oath? You are not obliged to say anything or give evidence unless you wish to do so but whatever you do say may be given in evidence.

The accused declines to say anything.

The accused does not call any witnesses.

I certify that the foregoing summary of evidence consisting of two pages was taken down by me in the presence of the accused and that RP 4 has been complied with.

In the Field, 17 Jan 45.

Officer detailed to take the Summary of Byidence.

Certified true CPPIELD GENERAL COURT-MARTIAL

ComdCdn Sec GHQ dated 22 Jan 45 sed by Order of Maj Gen E.L.M. Burns

ACCUSED. 1 Ech - 21 A Gp

(As to the trial of two or more charged jointly see RR 16: 71, 109. As to reason for showing (a) permanent of konfigurations, and (b) appent, Alrank or Ajapent, if any, see AA (62: 163, [ms. KR Carl 308, 328, 330.) Number. (a) Print R. (b) Appint, A/B or A/Appint. Full Christian Names.

Albert

Ruzei 6 Cdn AKYK

Rego RCAN 12 GBB B

PROCEEDINGS OF TRIAL.

Held in the Fd in (country) Belgium

D170020

on (data(a)) 29/30 Jan 45

RECORD FORM A-OPENING PROCEEDINGS AND ARRAIGNMENT.

President for conducting the that see AA 52, AF 56, 63-79, 73, 74, 94, 193, 719, 1923

A2. The President initials and lays before the Court the Convening Order and Charge SheeXX attached thereto (*) The Court is satisfied that it is properly convened and constituted(*), accused in the Court is satisfied that it is properly convened and constituted(*), accused in the Court is satisfied that it is properly convened and constituted(*), accused in the Court is satisfied that it is properly convened and constituted(*), accused in the Court is satisfied that it is properly convened and constituted(*), accused in the Court is satisfied that it is properly convened and constituted(*), accused in the Court is satisfied that it is properly convened and constituted(*), accused in the Court is satisfied that it is properly convened and constituted(*), accused in the Court is satisfied that it is properly convened and constituted(*), accused in the Court is satisfied to military law, and case is a convened and constituted(*).

(1. As to use of Summary of Evidence use RP 17 fn GLLM. AA 49, 50, RP 105-107. 3. RP 11-13, 27, 24.)

A3. The Court is opened. The accused is XXXX brought before the Court. At 1545 hours

A4. The Presentor produces a Medical Certificate that accused is XXXX LLM undergo trial by At 1545 hours trial commences.

AS AND AND REPORTED HER STANKERS OF THE STANKE

A6. The Convening Order and names of the President and Members of the Court are read to the accused.(3) President to accused: Do you object to be tried by me as President or by any of the Nembers of the Court #

If no objection, waiting marrier fetties. AP 65(8). If objection, see procedure AA 51, RF 25, 71, IR, MAYL b. 42.

Major G L Macdougall CAC 9 CBR Bn mingaxsmaxsmax Capt F A Baillargeon Gen List att Cdn Sec GHQ 1 Ech

Capt E B VanDine RCASC att Cdn Sec GHQ 1 Ech Member

Major R F Willson Lk W R att Cdn Sec GHQ 1 Ech

Capt WGD Hungerford RCASC att Cdn Sec GHQ 1 Ech

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

(I. RP 2n. 27, 109, III). List of offer under least will be returned separately with proceedings for information of Core Offe.)

(I. If Proc. o lowyer and Oof Offe and, accound it emisted to an adjournment when RP EV (E) and fin 2 were not followed. See Di p 3.)

(i). If a special plea is made for separate trial on one or more charges (RP \$21E), 108), or as to the jurisdiction of the Court (RR 94, 35/R, 117), or in but of trial (RP 30), or as to accused a mental fitness to stand trial (AA 130, RP 57), or by one of several occused charges, juinity to be tried separately (RP 6, 21), such pivo, the addresses made in support or against, the exidence, if any, and finding are recorded per Notes. For forms of record see extensions in fine to RoP cited. Insert in AB rank and name of the accused making the plea.)

one name of the accused making the proc.)

All. The accused is ALM arraigned (**Tourness** on all charges in the charge sheet.(1) The accused does **Tourness** of th not object to any charge.(2) There is no amendment pleas in Part 1 of the Sch-dule.

RP 21, 112. See pand 1 of listins p.2. When more than one Charge Sheet see RP 62: when several procured to be tried apparently see RP 71(C), and we separate copies of CP A96 to record proceedings.
 RP 32, RP 33. If scherwise, delete and make appropriate record per Notes.)

ceedings are continued on Record Form D

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

A Vel 3 p8

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 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.
 - 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 Nat 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).
- 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; 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; ralling 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)(!), 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.(*)
- 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 under-stand the effect of the plea of Guilty(*), or which show provocation or extegnation 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 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. (4)

President to accused: Do you wish to make a statement! Ans. (1) RF 37(B). 2. RF 37(D) fn 6. 3. RF 35(B) fn 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 Gr. ilty to Not Guilty on ______ charge(s). The accused is (are) so informed, and he (they) change(s) his (their) plea(s) op ______ charge(s). Part I of the Schedule is amended accordingly.

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

- 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.(*)
- 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 selly of the Summary of Evidence are read as relate to the charges dealt with under C2. If any pice is changed to Not Guilty, trial thereon proceeds by complying with paras D1 to D8 inclusive in Record Form D on p 3 and making on opportunity record thereof on a toportic 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 here Loose Sheets of Record-

REDRD 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. (I. If "res", see RP 39(A) for procedure. Statement or evidence, if any, is recorded per Notes.)

 D2. The Prosecutor makes (ALC TIM) opening address.(1)
 (I. RP 39(B), 60(A) (B), 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 RP 39(D) (E).)
- D4. The Prosecution is closed.(1) The Anternocondition industrial anthonocons, for the Anternocons are not a karakarah kali mangangunden likat karakangan midik kerakandak karakandak da karakan karakan karakan karakan ka
- - (1. Delete remainder of this pare, if submission not made.

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

 3. RP 40 fn 1. See MML 572 pares 12-14 and p 81 pare 42.

 4. Delete part not used. If accused acquitted on all tharges, use second alternative in para 081.

 NB : If trial proceeds, accused must be allowed great latitude in making his defence, and the Court should not stop his defence safety or ground of irrelevance. (IP 60(C), 114, 115.
- 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 each will not carry with the Court the same weight as sworn testimony.

President to accused: Do you wish to give evidence yourself as a witness, make a statement, or do neither ! Accused as witness . 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. 8F 1(4, 115, 116. For procedure see Notes on hock of Convening Order, CF A85. Evidence for occurs on to his
 character should, if in his interest, be given before the finding. See RF 44ch for 1. 8c(C). Note the further apparently in powe E1
 of Record Form E. Recard per Notes addresses, settlement, evidence and any summing up by the JA under RF 41, 102(ec).
- D7. The Court is closed to consider the finding(s).(1) The finding(s) of the Court is (are) recorded in Part I
- D7. The Court is closed to constant of the Schedule. The Court is re-opened.

 of the Schedule. The Court is re-opened.

 (I. 89 43, 197(a). See Notes in Part 1 of Schedule.

 D8. The President announces the finding of the President announces the finding of the Schedule. The President announces the finding of the Schedule. The President announces the finding of the Schedule. The President announces the finding of the Schedule.

 Charge of the Schedule. The President announces the finding of the Schedule.

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D9. 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(%)
- Yes. Accused gives evidence

 (I. If evidence has already been given by accused or his witnesses as to his character, delete this para. RP 37(C) for 4, 40 fm I.

 Accused and witnesses are seven. 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)(†), 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(l) (g) (h), and (ii) they purport to refer to (a) soldier(s) having the same number, rank, name and corps as the accused.

marked Ex. B. and Ex. C. respectively (*) (1. MFB 355 or AFB 29c. 2. MFM 6. 2. RF 46, KR Con 538. If above documents not produced, see RF 46 ft 1. pare L3

- 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) Ans No. (1. RP 37(C), 46(D). 2. Address, if any, recorded per Notes. Court should permit occused or his witnesses to prove an acts anything here or previously stated which would affect the amount of punishment. RP 37(F) fn 7.)
- E4. The President state: 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(2), RF (2D(A).)
- E5. The Court considers the sentence (1) The President records the sentence in Part I of the Schedule, which
- is dated and signed by thim and the JA, if any (?).
 (1) When reverse created are described in the part I of the Schedule, is dated and signed by thim and the JA, if any (?).
 (1) When reverse created ared separately set #7 ? (D). One sentence only, comprised of the punishments field down in AA #1, 44 and its prevent. is to be sourced to caver all charges in all charges are which accused found quilty.
 AF 48. As to sentences see AA 44, 138, 182, 87 46-53, 69, 118, 119(A), RF Can 308, 130, 553-566, Overnoss AD 309, 12713, MML p 40, 753-753. As to sentences assigned for cost offerences by the low of finglined see 4(1), MML p 130. When constant classes of investigations are all received from sentences.
 As to restore the management of the part of the p

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

SCHEDULE.

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

Charge.	Plca.	Finding				
(Insert " eiternative " where applicable.)	(See Instra p 2.)		(Space for use at			ed jointly.
let	NOT GUILTY	NOT GUIL	TY			
2nd Alternative	NOT GILTY	GUILTY				
3rd						
4th						
5th						
6th						
					p. 463 (n. 4 pero 2, 10)	
(Note: Au t. f.) Special (addings ass	RP 44 and MVAL p 733	L and in loss of his s	10 AF 44 (1 6)			
	owniting present A) in 2. Information si			f which di nitted in evidence unde		
Sentence Awarnest of				ana (1) we	a r	
	to un	dergo dete	ntion for	one (1) ye		
Gp. Gp.						
Dan d						
1 Daw					AND SENTE	NCE
Dan	DECISION (bowers see AA 54, 57, i cannot be revised: ccused may be tried or RP 53, MML p 65. The Confirming Off	OF CONFIRM AR 37(0) fo 6.46(A AR 54(3). Sending I gain: AR 157, White Quashing after prom 9 must sign here per	IING OFFR O), 51-50, 120, MML back finding or sente p 64. Minute of co ligation: KR Con 5 senally. AA 172 fn 1	op 759-76), KR Con 56 nec for revision by Cou offirmation or non-confi 73. Duties and power	if-577. Acquittals rest: AA 54(2), RP 12 remotion may be altered and the second	autre no NG. If nd before AA 57,
My decision on	the finding(s) am	d sentence set fo	eth in Part I is			
Section 1		Co	nfirm			
XXXXXXXXX	********	KNEKKERKE (I. AA 57A.		KK KKKKKKKK		
De D				E.L.M. Bur Officer 1/	c Canadian	Section
1 100			Commanding	2 Feb 45	Confirming O	dicer.
PAR	T IV. PROM	MULGATED A	ND EXTRAC	TS TAKEN.	P 53. KR Can 576, 57	73
Accused.			ate.	Signi	sture of Offr.	
RCA 9 CB	Gnr RUZZI	A Feb08	1942	Čģ	Bn 2 C.B.	R. Gp
CR 8 Shee 8 Feb		2112 4115	AT TER ATION	s WILL BE II	NITIALLED	

CHARGE SHEET

The accused, D.170020 Gnr Albert RUZZI, 6 Canadian Anti-Tank Regiment, Royal Canadian Artillery, on strength 12 Battalion 2 Canadian Base Reinforcement Group, a soldier of the Canadian Army Overseas, is charged with:

FIRST CHARGE Army Act Sec 18(2) WHEN ON ACTIVE SERVICE WILFULLY INJURING HIMSELF WITH INTENT THERES TO RENDER HIMSELF UMPIT FOR SERVICE

in that he

In the Field, on 31 Oct 44, while with his regiment, by discharging his rifle wilfully injured himself by shooting himself through the right foot with intent thereby to render himself unfit for service.

SECOND CHARGE (Alternative) Army Act Sec 40 WHEN ON ACTIVE SERVICE NEGLECT TO THE PREJUDICE OF GOOD ORDER AND MILITARY DISCIPLINE

in that he

In the Field, on 31 Oct 44, while with his regiment, so negligently handled his rifle as to shoot himself through the right foot thereby rendering himself unfit for service.

"A.O. Hood"

In the Field,

(A.O. Hood) Lt-Col OC 12 Bn. 2 C.B.R.G.

TO BE TRIED BY FIELD GENERAL COURT MARTIAL.

"ELM Burns"

In the Field, 22 Jan 45.

(E.L.M. Burns) Maj-Gen G OIC Cdn Sec GHQ 1 Ech, 21 A Gp.

FIELD GENERAL COURT-MARTIAL

CFA95 (In lieu of AFAS) 40/P&8/1697 (2808)

(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 only 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 imposed by oppropriate author. 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'y pares 20 and 23, RP 87(B). There should be a separate Convening Order for each person to be tried separately by the same Caurt. RP 71(C), 109. As to separate charge sheets are RP 62, 00d or to separate trial an therges in the same charge sheet see RP 108. As to two or more accused charged jointy see RP 16, 109.

See RP 62, and as to separate trial an therges in the same charge sheet see RP 108. As to two or more accused charged jointy 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, fm; KR Can 308, 328, 330.3

ACCUSED.

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

Gmm

Albert

Convening Officer.

(6 Cdn A Tk Regt RCA) 1 En 2 CBRG

CONVENING ORDER.

- 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 describe the for reference to a superior qualities with a such court of the part in brackets when not required for compliance with AP 105(C).)
- I hereby convene a Field General Court-Martial to try the said person@, and to consist of the Offrs appointed or detailed hereunder.
- 4. Pena anathous appoints to bine. Other to form the floors, the a Provident, for the reasons I have "ELMB" (AA 49, RP 106(B), 107(A). Delete the whole or part, if not applicable.) restauotued; horotuex
 - 5. Fig. 15. All and appoint as Jodge Adversate thereans the conditions of the ELMB (RP 106(E). Delete, if none appointed.)

PRESIDENT.

G.L. Macdougall (Must be named. RF (06.) MEMBERS. Gen List - att Cân Sec GHQ 1 Ech Zi A Gp F.A. Baillargeon Dine RCASC - att Odn Sec GHQ 1 Ech (Named or detailed. AF 10c.) 21 Å Gp (Unit.) E.B. Van Dine (Rank.) WAITING MEMBER. (Named or detailed, if any. RF 106.) JUDGE-ADVOCATE. (Must be named, if any. RF 106.) (Rank.) On Active Service in the Fd Maj-Gen "ELM Burns" (Signed personally. RF 105 fn 2.) (E.L. M. Burns) (Ronk.) (Country.) Commanding Can Sec GHQ 1 Ech 21 A Sp

CONVENING OFFR WILL INITIAL ALL DELETIONS AND ALTERATIONS

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

"B.W. Howard" Major

Date 22 Jan 45

DJA

MEDICAL CENTIFICATE

I certify that I have this morning examined D-170020 Gar RUZZI, A., and find him fit to undergo trial by Court-

"J.P. Middlebro!" Major (Medical Officer)

Date - 29 Jan 45

MEDICAL CERTIFICATE

I certify that I have this morning examined D-170020 Pte Ruzzi, A., and find him fit to undergo trial by Court Martial.

"J, S. Tindall" Capt ROAMO (Medical Officer)

Date - 30 Jan 45

11/25 12/11

the Prosecution:

Major J.P Middleboro, RCAMC, att 2 Cdn Gen Hosp., being duly sworn is examined by the prosecutor.

I recognize the accused whom I examined today. I found a through and through wound of his right foot one wound one through and through would of his right lost the would she inch below lateral maleolus and other about centre of sole 3 inches in front of back of the heel. Both wounds are healed. He still walks with a limp but I expect there will be little or no disability after two months. The wound could have been caused by weapon held in his own hands

I expect he will be able to go back to his unit but not before two months from now. He will have to go to a don

RP 83(B) complied with.

Prosecution:

Second Witness for the D-71451 Opl Shaw, W.C., SIB, C Pro C, having been duly sworn states:

I recognize the accused. On 17 Jan 45 I saw the accused at 2 Cdn Gen Hosp. I identified myself and read a statement to him. He read it and identified it as his own He said he had been cautioned. He adopted it as his own.

The Defending Offr has no objections.

Statement read to the court and marked Exhibit "A".

RP 53(B) complied with.

Third Witness for P-4524 Sgt Gargan, L.E., 74 Odn A Tk Bty, RCA., having

I recognize the accused. On 31 Oct 44 at about 2145 hrs
I was informed that one of our chaps was shot. I
proceeded to the guard post. The accused had been moved
to a nearby building. I went to the building. The
accused informed me that on going to the latrine he had
lain down his rifle and when he picked it up by the sling
he slung it over his shoulder, barrel towards the ground;
The slinging over his shoulder had caused the action to
go off. No one saw the shoulder had caused the action to
area but no one had seen the accident. He was on duty as a
guard on a amn dump. They were ordered to load the rifles
but there were to be no ras in the chamber. The safety
catch was to be on. The mags were to be charged.

No cross-examination:

I found the rifle after the accident. There were about 6 rds in the mag. It was then in the house where he was being treated. There was an appended cartridge in the chamber the bolt was closed. As far as I know it was the accused own rifle.

RP 83(B) complied with.

Fourt 11mess for the Prosecution: Defending Officer has been served notice re this witness under RP 76.

B-143215 Onr Matthews, W.E., 74 Cdn A Tk Bty ROA having been duly sworn states:

I know the accused. On 31 Oct 44 about 2130 hrs
I was on gaurd at Optacher Dump, 2 Cdn Gorps. L/Ber
Cooper was posted with me. Gnr Ruzzi relieved me at 2100
hrs. I was taken down to the extreme end of the beat.
There I was reported by Sgt Francis and told to stay
there until relief came. At 2130 hrs I was walking up
my beat when I heard a shot. I ran in the direction
and there found Gnr Ruzzi lying on the rd. I went
up to him and turned him over. He groaned. I asked him
where he was shot, He said it was his foot. I out off
his boot and removed his stocking. We carried him
to a house with a civilian. A Belgian lad went to
get an NGO. On the way to the guards HQ he got a
civilian doctor. The civilian doctor dressed the
wound. Sgt Gargan came after the wound was dressed
I did not talk to Gnr Ruzzi. I did not see the
accitent. I gave the empty cartridge to Sgt Gargan
out of the rifls. It was pretty dark, He was hard ground.
There was a path there.

No Cross-examination:

By the Court:

The rifle was lying along side the accusedwhen I found him. I couldn't tell how he had been carrying it. I think the muzzle was towards his feet. He was on his beat when I found him. He was conscious when I found him. I am not a particular friend of his. I just know him to see him.

RP 83(B) complied with.

The accused, D-170020 Gnr Ruszi, A., 6 Cdn A/Tk Regt ROA having been duly sworn states:

It was not a good rifle. The body bolts were loose.

Accused demonstrates. He loaded the Fifle slung it over his shoulder, muzzle downwards, sling to the front. He says then it went off when he started to walk. It was slippery. It could have been my straps on the web belt or snything that made it go off. I had no beyonet. The trigger must have come into contact with something. There was nothing bothering my mind at the time. I've been over since Jul & 1948. I've been with the Regt all the time. I was driving a truck for a time for the battery. I did a lot of guard duty. Our Regt had 17 pdr. I was on gun orew but we never fired. We were in a defensive posn. This was about my 3rd rifle. I had fired my rifle in practice. We had never been in action with the enemy, I'd like to go book to the Regt when I 'm fit. I can't remember saying enything after I was hit. I came to in a house.

Orose-Examination:

I didn't see my own rifle afterwards. I was the only one around when the socident happened. It was my rifle. I was never told not to have a rd in the chamber. We were told to keep the rifle loaded. I had a round in the barrel. I'm pretty sure I put the safety catch on. If I had a round in the chamber I should have had the

n 6

safety catch on. The enemy was over 10 miles away I think. I had nothing to do with pulling the trigger. My hand was not near the trigger. It must have caught on some of my equipment. I'd seen some shelling but never been close to the enemy. I had no reason to want to avoid service. I know a lot of people in my own battery.

By the Court:

It was an old rifle. I don't remember if the safety catch was loose or stiff. I'd had it about a month. I cleaned it once a day. The safety catch was not very stiff. I carry the rifle muzzle down often. It was damp and there was rain. I loaded the rifle every night I went on guard.

RP 53(B) complied with.

Closing address:

The accused has given his explanation. You have observed the demonstration. I ask you to dismiss the lat charge.

Reply by the Prosecution:

There is not much evidence to convict under 18(2). But there is evidence as to negligence. There is more to this case than has been demonstrated here. It does take quite a tug to discharge a weapon under normal circumstances. Credibility of the witness will play a big part in the decision. I leave it to the court.

Plea in Mitigation:

Born & Dec 1922. Single and from Montreal P.Q. Before enlistment he was a truck driver. Assigns \$20.00 per month to his mother. Has been under close arrest since 17 Jan

TATHMENT

Reg. No. D.170020, Gnr. RUZZI, Albert, of 74 Battery, 6 A/T Regt, R.C.A., 2 Cdn Corps, (attached 8 Cdn Gen Hosp.)

STATES:

I have been cautioned by S/Sgt Chester, S.I.S., Cdn. Provost Corps, that I am not obliged to say anything unless I wish to do so but that whatever I do say will be taken down in writing and may be given in evidence. I understand the meaning of this caution.

(Sed) A Ruzzi

I am 22 years of age. I enlisted for Active Service at Patawawa, Ont., in August 42 in the R.C.A. and came to U.K. in Aug 43 with my present unit. I have had some training in England as a gunner, but until about the end of September of this year I have been a driver in the unit, using a 15 cwt for the Battery. In September I became an active gumer following a four day absence from the unit in September.

on 31 Oct 44, having been detailed to guard ammunition and explosives, I was taken by 5gt GARCAS to my post for the period of guard from 21.00 to 01.00 hrs. I was the only guard on that spot. Soon after 5gt Cargan left me I went into a nearby hedge to perform a necessity of nature. I had a touch of dysentry at the time, and for two weeks previous. When finished dressing - I also wore my great-coat - I started back to my post, first stopping to load my rifle. I had no bayonet. The rifle was cooked but I cannot be sure whether the safety was on or not. I slung the rifle on my right shoulder, the stray in front and the rifle on my right shoulder, the strap in front and the rifle pointing to the ground behind me. The ground was rough over which I walked back to my post and it was dark.

I don't know how it happened, but suddenly the weapon fired. I felt a hot pain in my right foot and I fell down, My head hit the ground and I remembered nothing more until I came to in the house of some civilians near the anno dump. A civilian dector was dressing my wound. I don't know how long this was after the shot. A boy who lived in the house went and brought Sgt Gargan and a L/Bdr from the billets about 2 km away. They came in a 'quad' and took me to 2 C.G.S. where the wound was operated on and after two days I was moved to 9(Br) Gen Hosp, later to 108 (Br) Hosp, then to 111(Br) Hosp. Yesterday I was transferred to No. 8 Cdn Gen Hosp.

My wound, which was in the fleshy pert of the right side of my right foot, has almost healed completely. I feel that I am ready for duty again. A civilian

ready for duty again.

I don't know what became of my rifle. I don't know the name of the people in whose house I found myself, but it was one of two houses on the outskirts of Oostaker, on a dirt road leading into the main road between Ostaker and Chent. That is the ammo dump was.

I gave a statement regarding my wound to Sgt Gargan, and another at No.9 (Er) Hosp and at No.111 (Er) Mosp.

by wound was caused accidently and I do not consider that I was negligent. It was necessary for me to carry a cocked and loaded rifle ready for action. I have read this state ent and it is true. (Sed) A Ruzzi

Statement reduced to writing by (Sgd) H.W. Chester, 6/Sgt Witnessed by Ptc. Goldard, A.N.

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

Number.	Rank.	Name.	Regiment (or as the	case may be).			
D-170020	Gunner	RUZZI, A.	6 Odn A Tk R	egt RCA			
NOTE-The Field onshirt Sheet in to be reduced the Fourt, with an examination of Fourt, with an examination of Fourt, which is statement, not in the reduced of the reduced of the control	1. The following is a fair and true summary of the entries in the Field Conduct S of the accused, exclusive of convictions by a court martial or a civil court:— Within Last 12 months						
		or AA 15 (1)		1 times.			
	F	or Since Enlists or AA 15(1)		O times.			
		in Field Conduct Sheet					
also be inserted here.	2. Previous of in the Schedule of	convictions of the accused biverleaf.	y a court martial of a c	wil court are set out			
*Strike out if not applicable.	*3. The acro beginning on the	ised at the present time is und	day of				
		street to make a service of the serv	n the present charges for days in milit	ary custody, i.e.,			
	which	days were spen					
	6. The date	of his maling superfor and	in 2 inacy asservice M	Sep 42			
*Sizes the military decreations (d any) held by sourced.	8. The accs 9. (If the ac	ice which the accused is allow used is in possession off. The countries a warrant offers or Son, to the present date—	on Consider Vol.	unteer Service served continuously,			
		the substantive rank of					
	lr.	the war substantive rank	м				
	Ir	the acting rank of					
			s any of the above paragrap oks the paragraph must be s	hs cannot be stated from truck through.			
	Acres de carro Minimo (St. 66)	MCW LAND					

SCHEDULE OF CONVICTIONS BY A COURT-MARTIAL OR CIVIL COURT

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

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 day of December 1944

"W.A. Hand" Capt Ad Jutant

6 Cdn A Tk Regt, BCA.

Date of last of Company Cor	duct Sheet		No of I	or Company and date ast drunk	Corps RUA Period not reckoning towards freedom from extra fine	Date of enlistmen Sheet No	Badges Signature O	ic i	ency Pay	MFM 6 (AFB 124) 40/PAS 130 (3438)
Place	Date of officine	Bank	Cases of drunken- ness		OFFENCE		Company, a	te	Charac	•
						Names of Witnesses	Punishment awarded	Date of award or of order dispen- sing with trial	By whom awarded	Bemarks
Field	17 Aug	(Gnr			hrs 17 Aug 44 to ug 44 (Close arrest 21 Aug (Sec 15(1)) hrs 20 mins)		7 days pay 7 days F.P.		LA Devin	e Lt-dol Aut forf
	-			Certified 1	True Copy "W.A ec 41 Adj	. Hand" Capt utant - 6 0	ân A Th Rest	RCA.		149(1)(A days pay 149 1 (C

SUMMARY OF EVIDENCE

Summary of Evidence in the case of D.170020 Gnr RUZZI, A., 6 Cdn A Tk Regt RCA, on strength 12 Bn 2 GBRG, charged with, when on active service wilfully injuring himself with intent thereby to render himself unfit for service (AA Sec 18(2)), alternative, when on active service neglect to the prejudice of good order and military discipline (AA Sec 40).

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

FIRST WITNESS

Major J.P. Middleboro, RCAMC, att 2 Cdn Gen Hospital, sworn, states:

On examination I find evidence of a through and through wound of the right foot. One wound is situated on the latersal side of the foot one inch in front of the external maleclus, the other wound is on the sole just in front of the heel in about the mid-line of the foot. The axis of the wound is about forty-five degrees to the exis of the foot. Both wounds are healed. Examination of the ex-rays shows the os calcis to have been traversed but no serious damage done. The foot is still tender but he is walking up to two miles. I expect there will be no disability after one to three months' further convalescence. The wound could have been caused by a weapon held in his own hands.

The accused declines to cross-examine this witness.

"J.P. Miadleboro"

Witness.

SECOND WITNESS

A.71451 Cpl SHAW, W.C., Cdn Provost Corps, att 'C' Inc Cdn Sec CHQ 1 Ech, 21 A Gp, sworn, states:

On 17 Jan 45 at 2 Cdn Gen Hospital I interviewed the accused. I identified myself and produced a written voluntary statement. I read over the statement to the accused and asked him to identify it. He said it was his signatures and chimed it to be a true statement and admitted it being his own statement. I asked him if he had been cautioned at the time and he replied that he had. I read the statement over to the accused and he read it over himself. He admitted the statement was in the same condition as when he first signed it. This is the statement (Statement attached hereto as Exhibit 'A').

The accused declines to cross-examine this witness.

WW.C. Shaw"

Witness.

THED WITNESS

P. 4524 Sgt Gargan, L.E., 6 Cdn A Tk Regt RCA

I certify that in my opinion the attendance of this witness is, owing to the exigencies of the service, not readily procumable and a written statement of his evidence, signed by him, has been read to the accused and is attached hereto as Exhibit 'B'.

"J.R. Barre" Lieut

Officer taking Summary.

I do not require the attendance of P.4524 Sgt Gargan, L.E., for the purpose of cross-examination.

"A. Russi"

Accused.

The accused is cautioned as follows:

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

The accused declines to say anything.

The accused does not call any witnesses.

I certify that the foregoing summary of evidence consisting of two pages was taken down by me in the presence of the accused and that RP 4 has been complied with.

In the Field, 17 Jan 45. Officer detailed to take the Summary of Evidence.

This is Exhibit "A" referred to in the Summary of Evidence in the case of D-170020 Gnr Ruzzi, A., taken this 17th day of January 1945.

"J.R. Barre" Lieut Officer taking Summary.

On 37 Oct 44 I was a Cun Set in the 74th Can A th Bty RCA attached to the Guard detail at the Oostacher Amm Duman. 2 Cdn Corps. About 2145 brs on that date a civilian lad came to our unit post and informed me that one of our men had been shot. The D/Bgt and the Officer 1/c were away on duty. I obtained a vehicle and immediately proce ded to the dwelling adjacent to #6 Guard Post from where Car Ruggi had been removed. I asked Gru Ruzzi what had hap ened and he told me that he had laid his rifle down to so to the latrine and when finished he had sexied his rifle by the sling and slung it over his right shoulder, pussle down, This action had caused the weapon to so off and as a result he had been wounded in the right foot. At the time of my arrival a civilian doctor had dreaged One Fuzzi's wound and I removed him to No.2 C.C.S. I made extensive enquiries but could find no one who had actually seen the shooting.

Upon arriving at 2 C.C.S. Our Ruzzi volunteered a statement to me which I took down in writing. In reference to this statement Our Ruzzi said, "That's MMKXIME exactly how it happened, Sarg."

The a/m original document was handed to Lt McCilton by me on my return to the unit.

In reference to my regulations covering the loading of weapons by the guards I was present when Lt McGilton instructed that the magazines were to be charged but no rounds were to be placed in the charger and the safety feed "L.E. Gergan" 11-12-44

This is Exhibit "B" referred to in the Summary of Evidence in the case of D-170020 Gar Ruzzi, A., taken this 17 day of January, 1945.

"J.R. Barre" Lieut Officer taking Summary. I, D-170020 Onr RUZZi, A., desire to have an officer assigned to represent me at my trial by Field General Court Martial.

I desire the services of Capt W.G.D. Hungerford if he is available.

Date - 17 Jan 45

"A. Ruzzi" (Signature of Accused)

M. F. B. 270 1000M 12-10 (2008-20-70) B.Q. 1772-20-67

'S 'W 'H 'O

37 NAVA . 29 I E

Army Form A.3.

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

PROCEEDINGS.

On Active Service, this

, 1942.

Whereas it appears to me, the undersigned, an officer in Command of CANADIAN RETHFORCEMENT UNITS, CON ARMY, , emccaptive/ckervice, 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: *pandxinacxitxis/motxpoactinabiaxtox/dekeyx/thaxxtriatx/fox reletedate x tox as superior squalified cofficers .

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

- * A am smable to appoint .-*(1. Three Officers to form the Court.)
 - *(z. A Field Officer as Presidents)
 - *(3. Three Officers having more than one wearx service/)

for the fullowing measons coamely. --]

President

Name.

Regiment No. 1 Can M. G. Reinf Unit

Regiment.

Gdn M.G. Reinf Unit

Rank

Rank

Odn Div Inf Reinf Unit

Brigedier

Odn Reinforgement Units. Convening Officer.

Commanding

Contributed to to be Printed were.

* Omit if not applicable

• Question to be asked of accused, if he pleads not guilty (R. of P. 30 (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 (to be regarded on separate sheet if necessary):— NO. SeR.

Communding Cdn Reinforcement Units 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

(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 of the Schedule to be initialized by him.

I certify that the above Court assembled on the day of april 1942 , and duly tried the persons named in Coruñante of President as to 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 :-

The members of the Court

The witnesses

*(3 The interpreter) Court CLERK

*(4. The officers under instruction)

were duly sworn.

* Omit if not applicable.

Signed this 10 th day of april

President of the Court Martial.

I certify that the terms of *A.C.I. 570 of 1918 have been complied with 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 Confern I have there stated, I hereby confirm the above findings and

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

day of april 1942

Promulgated and extracts taken in the case of

Promulgated and extracts taken in the case of

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.

1175g: Wt. 40125-483 HOS IN S. 40 P. St. G. 64:

CHARGE SHEET

The accused, B-51570 Pte. RYAM, F.E., No. 1 M.T.V.R.D., R.C.A.S.C., Canadian Army (Overseas), is charged with,

WHILE ON ACTIVE BERVICE:

let CHARGE A.A. Sec. Absenting Himself Without Leave,

in that he, at Louisburg Barracks West, Borden, Hents, at 2200 hrs, 10 MARCH 1992, absented himself a that leave until 1300 hrs. 27 MARCH 42.

> (Enox Thomson) Major Temporary Officer Con anding No.1 Mivap, R.C.A.S.C. (Overce s)

Hordon, Hants.

To be tried by Field Central Court Martial

ro, R. Phelan) Brigadler Consending Odn Reinfordement Units. Convening Officer

Paraborough, Hents This bid day of April 42.

MEDICAL OFFICER'S REPORT

I have this morning examined B-81570 Pte. RYAN, F.E. of No. 1 M.T.V.R.D., R.C.A.S.G., Cdn. Army, (Overseas) and found him free of infectious and contagious diseases and fit to stand trial by Court Martial.

A. Onefry

Capt. HCAMC

Bordon, Hants., 8 April, 1942 I have to-day examined B-81570 Pte. Ryan, F.E. and have found him fit to be tried by Field General Court Martial.

Acherry Cast. Resme

9 April, 1942 Bordon, Hants.

No. 1 M.T.V.R.D. R.C.A.S.C. C.A. (Overseus)

10 APR 42

This is to certify that I have this morning examined B-21570 Pte. Byan, F.E., of No. 1 M.T.V.R.D. R.C.A.S.C. C.A.(Overseas), and find him fit unfit; to undergo trial by Field General Court Martial.

acherry Capt., RCAMC

No Bi81570, PTE RYAN F.E., No 1 MTVRD, RCASC, tried by Field General Court Martial at BORDON, Hants on 8th, 9th and 10th April, 1942.

PRESIDENT: MEMBERS:

345 7

Major G.M. Soper, Capt. C.C. Tarbuck, Lt. R. Currie,

1 CMGRU 1 CDIRU

The order convening the court, the 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 accused is brought before the Court.

1 CASCRU Lt. R.J. Sweezey, Major E.M. Miller, Prosecutor:-1 CORU. Defending Officer:-

At 1025 hrs the trial commences.

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

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

Q1. 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, sir.

The President and members are duly sworn.

The officers under instruction are duly sworn.

Q2. Do you object to 866944, Sgt. T. Pyburn, HQ, C.R.U., acting as shorthand writer?

A2. No, Eir.

The shorthand writer is duly sworn,

The charge sheet is signed by the President and annexed to the proceedings.

The accused is arraigned upon the charge in the above mentioned charge sheet,

Are you guilty or not guilty of the charge against you, which you have Q3. heard read?

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?

A4. No, sir. PROSECUTOR: On 10 Mar 42 Pte Ryan applied for a week end pass for 14-15

Mar 42. This application was handed in in the usual manner, but the bass was not granted. On 14 Mar 42, a Saty, Pte Ryan objected to the bass not being granted, and the matter was gone into with his Sub-Park officer, who told him he was to remain on duty. That Sat night, at tattoe roll wall, Pte Ryan was not in his guarters, but had gone AWL. He returned to the unit on 27 Mar 42 at 1330 hrs from 15 Gen Hosp and during that time he was AWL from the unit.

No H-37252, CPL SCARFF H.J., No 1 MTVRD, ROASC, being duly sworn, is examined by the prosecutor:lst witness) for prosecution)

The witness identifies himself.

95. On 14 Mar 42 did you take the tattoo roll call?

At. Yes, Sir. 96. Was Pte Ryan present at that roll call? A6. No, sir.

Q7. What did you do when you found he was not present? A7. Reported his absence to the Orderly Sgt. Q5. Did you investigate to find out if he was in the c he was in the camp area? No, sir, the Orderly Sgt did.

CROSS EXAMINED BY DEFENDING OFFICER

Do you know Pte Harrison?

Yes, sir. Was Pte Harrison present at the time? A10.

No, sir. Did you mark him absent on the tattoo report? No, etr. But he was absent?

A12.

He was on duty, sir; the boys in the room said he was on duty. Q13. A13. Q10. A14. But he was absent?

From his quarters, yes sir. But you did not mark him absent?

Then you did not mark him absent because the boys told you he was not

Yes, elr.

And you subsequently found out he was not on duty? He was on duty at the switchboard. Did you find that out yourself? No sir, the Orderly Sgt did.

No P-28079, SGT SMITH J.C., No 1 MTVRD, RCASC, being duly sworn, is examined by the prosecutor:-2nd witness) for prosecution)

The witness identifies himself.

Q18. On the night of 14 Mar 42 it was your duty to check up on tattoo roll calls, I believe?

Yes, sir.
Did you check up on the tattoo roll call with Cpl Scarff?

Q19. A19.

Yes, sir.
What did he report to you?
That Pte Ryan was AWL from tattoo roll call.
Was there any mention of Pte Harrison?

When Pte Ryan was reported absent did you check up at the switchboard 022.

to find out who was on duty? Yes sir, I did. Unsuccessfully? A22.

923. 423. 924. Yes, sir

you find out who was on duty at the switchboard? Did

No sir, I just locked in there and saw it was not Pte Ryan; I could not say for sure who was there on duty at the time.
But Pte Ryan was definitely not on duty at the switchboard?

A25. No. sir.

CROSS EXAMINED BY DEFENDING OFFICER

926. Do you know if Pte Ryan was supposed to be on duty at the switchboard?

Q26. Do you know if Fte Ryan was supposed to be on duty at the switchcoard A26. No sir, I don't.

Q27. So long as they conform to the tour of duty so the switchboard is operated there is no outside interference from you?

A27. If they are not on duty they will be in their bk room at tattoo roll call Q28. But is it not a fact the arranging for that duty is done entirely among

A28. Yes, sir

Q29. And all that is essential is that somebody be on duty at the switch-board?

\$30. THE COURT: You did not inquire from the person on duty at the switchpoard where Pte Ryan was? Ato. No sir, I did not.

Q31. You have no idea who this man was who was on duty at the time? A31. No sir, I have not.

No D-81532, L/CPL HENDERSON R.M., No 1 MTVRD, RCASC, g duly sworn, is examined by the prosecution:-3rd witness) being duly sworn,

prosecution)

The witness identifies himself.

How are you employed? With the RP, No 1 MTVRD. On 27 Mar 42 I understand you were sent for by Lieut McDougall?

Yes, sir. Q34.

A34. He asked me to escort Pte Ryan to the guard room.

035

A35.

Where was Pte Ryan at this time? In "A" Bk Orderly Room. Were any papers handed to you at that time?

sir

What time of the day was this? Approx 1330 hrs on 27 Mar 42.

PROSECUTOR: * wish to submit to the court documentary evidence in connection with the hospitalization of the accused.

The defence offering no objection, the above mentioned documents are read, signed by the President, and attached to the proceedings.

The prosecution is closed.

DEFENCE: Sir, we have heard evidence that the accused was absent from a tattoo roll call and nothing more, except documentary evidence which shows he was in hospital, and there is nothing before the court to prove the period of absence. It is essential that two things be shown: shows he was in hospital, and there is nothing before the court to prove the period of absence. It is essential that two things be shown: one, that he was absent and when he returned or was apprehended, or when his absence ceased, and involuntary absence is not to be charged against him. It is clear from the evidence that he was in hospital. I refer you to A.A. 15, p.441 of the MML. "As about as an absence is taken into custody (either civil custody, or open or close arrest), whether on surrender or on apprehension, his absence ceases to be voluntary; K.R. 567. If, however, he is merely ordered (e.g. by an assistant provost marshal or rly tot officer) to rejoin his unit at once, his absence without leave continues until he so rejoins." The para above that reads, "Involuntary absence due, for example, to illness or arrest by the civil power, is not ordinarily an offence under this section." Still higher up it reads, "The particulars should state the date when the absence began, and the date when it ended." We have here evidence that the accused was absent from tattoo roll call and was in hospital, but the length of his involuntary absence is not before the Court. Court.

THE COURT: You have no witnesses to call?

perence: No sir, I think there are two alternatives for the court, to either dismiss the charge for want of evidence or refer it to the convening officer for what action he considers necessary

PROSECUTOR: Pte Ryan was AWL as of 14 Mar 42. We have no record of his going into hospital or of being apprehended. We have some record of him being admitted to 15 Gen Hosp, or being turned over to 15 Gen Hosp, and of being turned into our guard room as of 1330 hrs, 27 Mar 42.

THE COURT: Is there any evidence as to when this man was admitted to hospitel?

PROSECUTOR: No, sir.

THE COURT: Is there any way of getting evidence on this?

PROSECUTOR: I presume it would be possible, sir, but I don't know.

DEFENCE: I pointed this out to the prosecutor before we came into court, because it is the duty of both of us to see the matter is put before the court properly.

THE COURT: Is Putney Hosp a civil or a military hosp?

DEFENCE: I don't know, sir.

The Court is closed to consider their decision.

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

THE COURT: The ruling of the Court is that we adjourn for further evidence against Pte Ryan.

WHEREUPON THE COURT ADJOURNED BIND DIE

On 9 Apr 42, at 1400 hrs, the Court resssembled, pursuant to mijournment; present the same members as heretofora.

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

THE COURT: We will now continue with the evidence. Will the prosecutor please continue where we left off?

PROSECUTOR: I have here, sir, a statement from the Metropolitan Police, signed by Frederick Joselyn.

DEFENCE: May I see it for a moment, please? I have no objection to it, but it is not evidence. This is actually a police statement. For the purposes of a summary of evidence it would be admissible, but it is not admissible as evidence here. To prove this document it would be necessary for a police officer or some other person to be present.

THE COURT: Produce the statement to the court, please.

The prosecutor presents the document to the Court.

DEFENCE: It is a signed statement by a Police Supt. I would refer the court to p.14 of "The Green Book," which is an authority on FICEs. This is actually a policeman's statement which might conceivably be accepted in a summary of evidence. The certificate must comply strictly with the requirements of the Act, and must be produced at the trial by a witness on eath, identifying the accused as the person referred to therein.

PROSECUTOR: I don't see how it is not evidence unless the prosecutor wishes to put the Govt to more expense in bringing someone here to swear to it.

THE COURT: The statement will not be accepted by the Court in view of the footnote to s.185 of the AA, at the top of p.570, NNL. Have you further avidence to produce that this man was admitted to this hosp?

PROSECUTOR: I have no further evidence to produce, sir.

THE COURT: Therefore I will have to ask you to produce the person who signed this statement.

PROSECUTOR: Owing to the expense to the Govt, we certainly cannot have the man produced today. That statement was taken this morning and a special D.R. was sent to get it.

DEFINCE: If AF 0.1618 was signed it is admissible in evidence and no expense is required. There is a RO which sets out A.F.O.1618 as being the coppect form. This man was brought in by the Prov, who should have delivered that certificate with him; they do it every day.

THE COURT: I will have to ask you to produce this proper certificate or the policeman to identify the accused.

PROSECUTOR: I eshnot do it right now; it is impossible. We will have to adjourn the court again. In fairness to the accused we will adjourn the court until 1100 hrs tomorrow morning.

DEFENCE: If the accused had been charged for the period he was absent he would have been prepared to plead Guilty, but when the prosecutor suggests the accused and myself are unfair in putting them to this expense, I assure the court that the accused and myself have done everything possible.

THE COURT: It is not a question of expense to the Govt at all; the man is on trial and he is entitled to a fair trial.

Upon the shorthand writer pointing out to the Court that he would be unable to attend on 10 Apr 42 owing to another assignment, the President announced that the remainder of the proceedings would be completed without a shorthand writer, same to be attached to this transcript.

Whereupon the Court adjourned at 1440 hrs, 9 Apr 42, until 1100 hrs, 10 Apr 42.

CERTIFIED a true and correct transcript of that portion of the proceedings I attended:-

Hyper Agt. Shorthand Writer.

at NTV.R.D. Bondon F. G. C. M. 10/4/42. Case of Pte Ryan BE B81570. Michial certificate produced. Evidence of Prosocuting officer: Define agreel to looke this as evidence which has been submitted to count as exhibit A Terosouter had no adolitional evidence to que le court. Court was cleared for finding Court required. I tall ment Prospecter sustro in and gave leciolines of character (AFB 296 and. I taliment in miligation of unichound given by Defending officer. Ex hibit "B". Court cloud. Aprofen Juja

Army Form B 290. Army Form B 290. (In sheets of 6). Date 15 3 - 522. Date 15 3 - 522. Orderly Sergeant.

Department of National Defence Worch 24 12 1942 Dr. Frank Ryan B81570 This man was sent to this Lospital from Patney Hospital. Examination shows no disease. He is to to his units as fit for daty. All has Lood Cajo + escon of No 6 Person and 1305 his

goph to fingin

9n e 2 mg 12 no les 27/2/42 M. F. B. 220 MOM-1-10 (1911-24)

Exhibit "A METROPOLITAN POLICE.

No. 992.

STATEMENT OF WITNESS.

Banus

Station. V

april 9 1942.

Name Zrederick Joslin

Address Bames Police Station

Ago 34. Occupation Special Constable 193 V Statement: On March 24 1942 at 11.57 AM at Priesi Bridge Barnes I saw Private Frank Ryan No B. 81570 Royal Caradian army Service Corps lying on the pavement, obviously in great pain and unable to move. The Banes Borough ambulance was called and conveyed The Ryan to Putrey Hospital accompanied by me, he was seen there by D' West who detained him but and informed me that he was unable to diagnose the nature of his illness. I the Jonuarded Ke: Ryano faticulars to the Station Offices at Barnis by Police Kelephone so that the necessary alithorities could be informed.

Who major

Signature Vinderick Josli - Je 193 V. Signature witnessed by Ledney Linewood 18. 53

Exhibit "B" Rotes by Defending officer accused Delephone orderey on duty 8 hrs daily and hur orderly days when working highlis Relighons operators had duty Theave Rosier. appeal for heave when due, arranged to need brother Reave refused. Longhours, hard works, tiresome Natural disappointment and mentment - bear and Intended to return who heave would have her up. Dick Reported & police ofter & days-2 1/2 years-No record for + years, hominor offences lately. Returned & lines, loronly charged with 1st days absonce. Should have been tried by at. selay i applying for C. A. delay in not having groper evidence accused assisted to avoid furite trouble or delay. accused were love pay. 7.8. I and 9 days - 13 hy . 57 mins Chosp. In Close 11 waiting 29cm. Not accounted for arrest Come Setung due to want of presenta evido luggest this loss of pay and close arress ample Juniohment, Considering record and evidence auture of limit in refusing leave In asking for 3 & CM! for charging accused write it days he Should not be charged with I in delaying application / in not obtaining proper evidence Thous accused not only one to blame for aut. Shopingia

MITHESITS FOR THE PROSECUTION

- 1. H=37252 Col. Scarff, H.J., No. 1 M.T.V.R.D., R.C.A.S.C.
- 2. P-28070 Bgt. Smith, J.C., Mo. 1 N.T.Y.B.D., R.C.A.S.C.
- 3. B-61552 L/C. Henderson, R.M. Mo. 1 M.T.V.R.D., R.C.A.S.C.
- W. A-3051 Set. Hantin, E.P., Mo. 1 M.T.V.R.D., H.C.A.B.O.

MITHEBEES FOR THE DEFENSE

- 1. B-81501 C.S.M. Hutenisen, T., No. 1 W.T.V.R.D., R.O.A.S.C.
- 2. 8-86387 Pte. Harrison, I.B., No. 1 M.T.V.S.D., R.C.A.S.C.

No. 1 M.T.V.R.D., R.C.A.B.C., Cdn. Army, (Overseas)

Officer Commanding, No. 1 M.T.V.R.D., R.C.A.B.C., C.A.(O.)

It is my desire to have an officer appointed to defend me at my trial by FIELD GENERAL COURT MARTIAL.

Pt HRyan. (B-21570 Pte. Ryan, F.E.)

SUMMARY OF EVIDENCE

By direction of the Officer Commanding, the evidence of all witnesses is taken under oath.

1st WITHESS

H-37252 Cpl. SCARFF, H.J., No. 1 M.T.V.R.D., R.C.A.S.C., Cdn. Army, (Overseas), having been duly sworn, testifies as follows:

- Q. 1 Who are you and how are you employed?
- A. I am H-37252 Cpi. Scarff, H.J., # 1 M.T.V.R.D., R.C.A.S.C., C.A.(C.), employed as administration corporal of No. 4 Sub Park.
- Q. 2 You have heard the charge sheet read concerning Pte. RYAM, F.E. What do you know of this case?
- A. At 2200 hours, 14 March, 1942, I took the Tatoo Roll call and Pte. Ryan was not present. I marked him as absent on the report and reported his absence to the orderly sergeant.
- Q. 3 Pte. Ryan, do you wish to cross examine this witness?
- A. Yes, Sir.
- Q. 4 (Pte. Ryan) Cpl. Scarff would I not have been on duty at tatoo roll call and therefore not in my room?
 - That is so, but another switchboard operator was not present in the room and upon investigation. I found that he was taking your place at the switchboard.
- Q. 5 (Pte. Ryan) Did I not give you a written application for a pass for seven days on Tuesday loth March?
- A. Yes, I received the application in question and submitted same to Lieut. ERSKINE, my Sub Park officer, for his approval. Lieut. Erskine informed me that he would submit the application to the 2 i/c for his approval. Since thirty days had not elapsed since you had undergone punishment your leave was not granted.
- Q. 6 (Pte. Byan) Did I not point out to you that according to the duty roster, the week-end 14/15 March was my week-end off duty?
- A. Yes. According to for the duty roster it was your week-end off duty and I referred you to the C.S.M.
- Q. 7 (off. taking summary) Pte. Ryan have you any more cuestions to ask this witness?
- A. No, Sir.

of Soarf (H.J.)

Pageora Set. Smith, J.C., No. 1 M.Y.V.B.D., R.G. . S.C., Cdb. arey, (Overseas), having been duly sworn testifies as follows:

- Tim P-20079 Set. Smith, F.C., No. 1 N.T.Y.R.D., R.C.R.B.C., C. A. (0.) employed as duty surgeant of No. B Sub Perk.
- Pto. Syan is char ed with being A. J.I. from 14th tirch, 1945 until 57th March 1945, that do you know of this d 807
- On the 14th March, 1942, I wan Orderly Hereacht and it was my duty to check up on Talco Roll Calls at Each Hours, On saking my check it was resolved to an every larger of No. 4 Cab Earl that ste. Sen was absent without lave from his augustera, I as do further untilizing the sake and to locate him in the barrack wren. I as do surface until to locate him in the barrack wren. I as do sat ac specitive report the following moralm, and turned it into the guard resax orderly room.
- Tus, Mir, but it is kept among the three switch-
- From your check up can you tell me who the was the operator on duty at 2000 hrs. 14th Gren, 1743?
- No. Bir, I on not pure but there are only three
- Yes Sir.
- (Pte. Ryan) Set. Seith, a you have any knowledge prior to 4800 Ars., 14th harch that I was a.w.L.?
- No. I had none.

B-81582 L/Col. Handerson, R.M. No. 1 M.T.V.H.D., R.C., S.C., Cdn. Army, (Overseas), having been duly award testifies as follows:

- Who are you and now are you employed?
- I am B-81888 L/Cpl. Menderson, E.M., No. 1 M.C.V.B.D., R.C.A.S.C., Cdn. Army, (Cyarsons), amployed am on regimental police duties. 4.2
- Pte. Wyon is charged with being a. .. b. iron 14th 2.50 Moren, 1942 until 27th March 1942, West do you know of this case?

3rd WITNESS

(Continued) L/Cpl Henderson

On 27th March, 1942 at approximately 1345 hrs., I was called by Lieut. MacDougal to escort Pte. Ryan to the guard room, I did so and turned him over to the sergeant of the guard. That is all I know of the case, Sir. Left Mendesson Red. A.

THE ACCUSED DECLINED TO CROSS EXAMINE THIS WITNESS.

4th WITHESS

A-9051 Sgt. Martin, E.B., No. 1 M.T.V.R.D., R.C.A.S.C., C.A.(C.), having been duly sworn testifies as follows:

- I am A-9051 Sgt. Martin, E.B., No. 1 M.T.V.R.D., R.C.A.S.C., Canadian Army, (Overseas) employed as duty sergeant of No. 2 Sub Park.
- Pte. Ryen is charged with being A.W.L. from 14th March until 27th March. What do you know of this case? 2. 8
- Sir, on 27th March, 1942, I was the guard commander at No. 1 M.T.V.R.D. At approximately 1330 hrs. L/Cpl. Henderson turned over Pte. Ryan to me to be held under close arrest. I locked him in the guard room and entered his presence in the guard commanders report. That is all I know of this case, Sir. C.B. Martin Lyt.- A905; A.

The accused was shown a signed statement by Capt. D.R.E. MacLeod of the 15th General Hospital with a notation on the same paper by Lieut. MecDougal of No. 1 M.T.V.R.D. and was asked:

"Have you any obejection to these statements being admitted as evidence?"

accused answered: "No, Sir."

The accused was asked: "Have you any wish that these officers be compelled to attend this Summary of Evidence, having due regard to the exigencies of the Service and the expense incurred in having them appear, in order to cross examine them?"

accused answered: " No, Sir."

5th WITNESS

15th Gen. Hosp. March 27th, 1940

Dvr. FRANK RYAN B-81570
This man was sent to this hospital from
PUTNEY HOSPITAL. Examination shows no disease. He is to return to his unit as fit for duty.

Signed (D.R.E. MacLeod, Capt.) .

(Documentary)

Statement of Lieut, MrcDongall No. 1 M.T.V.R.D.

" Ryan checked in from London under escort of No. 6 Provost Coy, at 1345 hra,

Signed (G. McDougall, Lieut.) "

Documentary Evidence ABBENTEE REPORT dated 15-3-42 signed " J.C. Smith, Orderly Sergeant."

The accused, having been duly cautioned in accordance with Rule of Procedure 4 (E), declines to make a statement.

Q. 1 Pte Ryan do you wish to call any further witnesses?

7th WITNESS

A.

Yes Sir. C.S.M. Hutchison, T. and Pte. Harrison, I.B. B-81501 C.S.M. Hutchison, T., No. 1 M.T.V.R.D., R.C.A.S.C., Cdn. Army, (Overseas), having been duly sworn in testifies as follows:

- 2. 1 Who are you and how are you employed?
- I am B-81501 C.S.M. Hutchison, T., No. 1 M.T.V.R.D., R.C.A.S.C., Canadian Army(Overseas) employed as C.S.M. of No. 1 M.T.V.R.D.
- Q. 2 Pte. Ryan has been charged with being A.V.L. from 14th March, 1942 until 27th March 1942, What do you know of this case?
- Pte, Ryan approached me at approximately 1530 hrs. 14th March, 1942 regarding Pte. Clermont going on week-end leave as Pte. Ryan claimed that it was his own week-end off duty. I informed Pte. Ryan that he would have to remain on duty as Pte. Clermont had been granted his pass, Pte. Ryan was still not satisfied; I therefore telephoned his sub Park officer, Lieut. Erskine, who informed me that ask Pte. Clermont had capplied for his week-end pass and Pte. Ryan had not, Pte. Ryan would re main on duty. I conveyed this message to Pte. Ryan.
- Q. 3 (Pte. Ryan) Did you know, Sir, that I was A.W.L. prior to 2200 hrs. on the fourteenth of March?
- A. No, I did not.

(C.S.M. Hutchison, T.)

8th WITHESS

B-58357 Pte. Harrison, I.B., No. 1 M.T.V.R.D., R.C.A.S.C., Odn. Army, (Overseas), having been duly sworn testifies as follows:

- Q. 1 Who are you and how are you employed?
- A. I am B-65357 Pte. Harrison, I.B., No. 1 M.T.V.R.D., R.C.A.S.C., Canadian Army, (Overseas) employed as a switchboard operator at A.Park H.Q.
- Q. 2 Pte. Ryan has been charged with being A.W.L. from 18th March, 1942 until 27th March, 1942. On the night of 14th March, 1942 at 2200 Hours were you on duty at the switchboard?
- A. Yes Sir.

8th WITHESS

Pte. Harrison (Continued)

- Q. 3 According to the duty roster was it your turn to be on duty?
- A. Yes Sir.
- Q. 4 At what hour did you come on duty?
- A. At about 1230 hours 14th March.
 - 2. 5 At what time was the next operator to come on duty?
 - A. One was to relieve me for one hour at supper time and the next operator was to take over at 0830 hrs 15th March.
 - o a was this carried out?
 - A. No. Sir.
 - Q. 7 Who was to relieve you at 0830 hrs. 15th March?
 - A. According to the duty roster Pte. Clermont was to relieve me but he mad been granted a page and was on leave.
 - Q. 8 Mho relieve you next morning at 0830 hrs.?
 - A. Pte. Griffiths relieved me.
 - 2. 9 (Off. taking summary) Pte. Ryan do you wish to ask this witness any questions?
 - A. Yes Sir.
 - Q.10 WPte. Ryan) Was there ever any other deviations from the duty roster as drawn up without mutual as reament of the parties concerned?
 - A. So far as I can remember, no.
 - O.11 (Pte. Ryan) When you were not relieved for supper what action did you take?
 - A. Nobody came to relieve me at 1730 hrs., and at approximately 2030hrs., I telephone the Orderly Officer who had the Orderly Sergeant detail Pte. Joe to relieve me.

(Pte. Harrison, I.B.)

Certified that Rules of Procedure 4 (c), (d), (e), and (g) have been complied with.

Taken down by me in the presence and hearing of the accused on the thirtieth day of March, 1942, at Louisburg Barracks, West, Bordon Hants.

h.J. Sweepsy) No. 1 Can. a.S.C. Reinf. Unit C.A.(0.)

Statement as to Character and Particulars of Service of Accused.

B-81570 Ptc, Ryan, F.E. of the No. 1 M.T.V.R.D. R.C.A.E.C. C.A.(0)

I. The following is a fair and true summary of the entries in the and sections, it. Regimental and Squadron, Battery or Company Conduct sheets† of the following accused, exclusive of convictions by a court martial or a civil court, of the product is accused, exclusive of convictions by a court martial or a civil court, of the section as the product is summary awards under Section 47 of the Army Act, and of cases in which productions. It trial has been dispensed with:—

he numbers herein total should corre- pond with the num- er of Entries in the conduct sheets, pro- minence being given to the most serious dense in each entry and in any recognised			*Within 12 mont		*Since Enlistment	
pental arts of galtan- ry or distinguished module.	For	A.A. SEC 15	(1)	2 times	2	times.
Vanction -11 the bright in for structure see the seriors for ranketores must be ranketores must be taked separabely and uted.	For			times		times,
atest.	For			times		times
	For			times		times.
A	Number -	d instances of gallan	try or dis	inguished e	ominet, "	

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

2. The accused has not been previously convicted,

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 Sebadule annexed to this statement.

4

Description of Cours by which tried, or states of Officer inpenting of the Kintze or dispensing with Trial	Date and place of Trial or summary award. or of Onice diagensing with Trial.	varies upon which convicted, or in respect of which Trial was dispensed with.	Sentence of the Court or Authority disposing of the charge, or Order of the Dispensing Authority	Punishment remitted.
		NZ C		
		35	5	
		1		

THEREBY CHAPTY that the foregoing Schedule of convictions and dispensations with trial is a true extract from the regimental books in my custody.

Thereby Chapty that the foregoing Schedule of convictions and dispensations with trial is a true extract from the regimental books in my custody.

Thereby Chapty that the foregoing Schedule of convictions and dispensations with trial is a true extract from the regimental books in my custody.

No881570 Date of last of Company Con	ntry in	1	No	Sqn., Battery, or Company or Company Period not reckoning towards last drunk Presedom from extra fine	A.S.O. pate of enlistment Sheet No.	Rismature O.	C.	en or ciency Pay Character	M.F.M. 6 *A V B. 122 5531 - 11 - 50 (5000) 11 - 1 1772 - 45 - 18
Place	Date of	Rank	Cases of drunton.	OFFENCE	Number of Witnesson	Pasishment prescried	Those of meant or or order dispea- sing with trul	By whom awarded.	Remarks
XXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXX	25-12 1941 1-3 1948	NO XXXX Pte Pte	NTRI	LS OR COMPLETION OF THE YEAR XXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXX	XXXXXXXXXXX Cpl Loree R L/Opl Jeff- -rey F.	forfeiture o 5 days pay A 7 days C.B.&	30-12-41 5 04ys pt 149(1) 3-3-42	Lt Col OH Day Art 141	E.Burrett (1)(a)& (1)(a)& (1)(a) & (1)(a) & (a) a
***************************************				8 Septem 42	-0.6.(0)	April	for major		(P.T.O.)

42-26 Nte. Ryan 9.

FIELD GENERAL COURT-MARTIAL Acomd 4 CDN INF BDMated 25 Jan 45 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) opport. A/rank or A/oppint. if any, see AA 182, 183, fns. KR Con 308, 328, 330.) Number. (a) Prmnt R. (b) Appmt, A/R or A/Appmt. Full Christian Names. HERENING OFFICER, JAG BRANCH C.M.H.Q. PROCEEDIA.

RECORD PROCEEDINGS REVIEWED D-158002 PROCEEDINGS OF TRIAL. on (date(s)). RECORD FORM A-OPENING PROCEEDINGS AND ARRAIGNMENT. 20134 Al. The President, Members, waiting Member, JA, if any, and Offrs under insig, if by, disemble, and the (PRINTED MATTER, NOT IN ITALICS FOR GUIDANCE, WILL BE DELETED, IF NOT USED OR APPTICABLE, AND INITIALIED BY PRES DR LA. The Schedule referred to throughout is on p.4. Cutations do NOT include all relevent from ROL. For guidance on structure when a verification in this form critics, see form for CCM in Athil, pp. 141, to 259. A brief record of such verticities when a verification in this form critics, see form for CCM in Athil, pp. 141, to 259. A brief record of such verticities will be made and given a number having reference to abpropriets at preceding para number herein. See back of Convening Onter, will be made and given a number having reference to abpropriets at preceding para number herein. See back of Convening Onter, and the such as the sum of the such as the such as the sum of the A2. The President initials and lays before the Court the Convening Order and Charge Sheet (v) attached thereto (!) The Court is satisfied that it is properly convened and constituted(*), accused is (**) amenable to military law, and each charge discloses an offence.(*) thisoloses att offence.(*)
(1. As to use of Summary of Evidence see RP 17 fp.6. 2. AA 49, 50, RP 105-107. 3. RP 11-13, 23, 24-) A3. The Court is opened. The accused is (be) brought before the Court. At 1045 hours trial commences. A4. The Prosecutor produces a Medical Certificate that accused is (M) fit to undergo trial by court-martial (b).

The Prosecutor informs the Court that accused clouted to be tried by court-martial instead of being dealt with summarily by the COC?

(I. KR Can 557, 2. At 46(8), RP 60 fn 1. For effect see KR Can 563(c). Delete, if not opplicable. as interpreter ! Ans A5. Bresident to needed: Do you object to The Interpreter is sworm(1) - Do you object to The shorthand writer is aworn.(1) (J. RP 72. Delete, if none employed.) A6. 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 † AIN No SIR (F) If no objection, working member ratires. RP 68(E). If objection, see procedure AA 51, RP 25, 71, 18, MANL p 7423 II. RP 110. A7. The President, Members, JA, if any, and Offrs under instr, if any, are sworm.(1) The following are the ranks, names and units of the offrs comprising the Court, etc.: MAJOR J.M. BOSTWICK CAPT. R. L. Goodenough Essex Kots Member J. H. TAYLOR KRAT S Member LIEUT. C.D. GATTON Prosocutor

Prosecutor

LIRAT.

C. D. GATTON

ESSEX Sco7

Defending Offr LIRAT J. M. Haqqans

Essex Sco7

Quentions by President: Is the Prosecutor a lawyer! Ans No. Is the Defending Offr a lawyer! Ans No. (1)

(1) BP 26, 27, 109, 111. List of offrs under instr will be returned separately with proceedings for information of Cons. Offrs. (2)

(2) If Pros. a lowyer and Def Offr not, accused is entitled to an adjournment when RF by (B) and for 2 were not followed. See DI p. 3.)

A8. The accused D 158002 P. R. M. A. G. before arraignment make(s) (no.) (a)

If a special plea is mode for separate trial on one or more charges (RP 62(E), 108), or as to the paradiction of the Court
(RP 34, 35(A), 113), or in but of trial (RP 36), or as to accorded mental fitness to stand trial (AA 130, RP ST), or
by one of exceed occused charged jointly to be tried separately (RP 16, 71), such plea, the addresses made in support or against, the
evidence, if any, and finding are recorded per Notes. For forms of record see references in fins to RIP cland. Insert in AB rank
and nome of the occused making the plea.)

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

RF 31, 112. See pare I of Instrs p 2. When more than one Charge Sheet see RF 62; when several accused to be tried separately see RF 71(C), and use sebarate copies of CF AR6 to record proceedings.
 RF 32, RF 33. If otherwise, delete and make appropriate record per Notes.)

Alto The Court (is closed and) considers the Instrs on Procedure after Arraignment at top of p 2. The pro-

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 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.
 - 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(4).)
 - (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 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 Presecutor see RP 60(A) (B); duty and privileges of accused and Defending Offr see RP 60(C), 87(C), 91, 92; securing and withdrawed of witnesses from Court see RP 81, 82; questioning of accused see RP 80, 87(C), 92(B), and of witnesses are RP 83.88; calling or re-calling of witnesses by Court, etc, see RP 75.79, 86, 116; use of Summary of Evidence at Trial and Physics 1, 84, 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 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.(4) (1. RP 35 fn 3. 2. MML p 54 pero 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 undercharge(s).(') If it appears from your statement that there are circumstances which indicate that you do not understand the effect of the plea of Guilty(s), or which show provocation or extenuation in respect of which in your interest the witnesses for the Prosecution should be examined(s), 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 testinancy, if you so desire.(*)

President to accused: Do you wish to make a statement ! Ans No 51A (f. RP 37(B), 2, RP 37(D) fin 6, 1, RP 35(B) fin 5 para 1, 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 (*) The Court decides (not) to advise accused to change his (their) plea(s) of Omity 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. (I. Court may be closed to consider the statement. Delete whole or part not used.)

B4. On the charge (to which the plead) of Guilty is (**) not changed the President records finding (of Guilty in Part I of the Schedule.(1)
(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 Summers, or if it is inadequate, comply with RP IN(B). If there is any evidence inconsistent with any piece standing as Guilty. Court will observe accused to change such piec and, if changed to Not Guilty, try such charge(s) by use of peres DI to D8 inclusive of Record Form D on p 3. RF IN(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 inclusive of Record Form D on p 3 before proceeding with C 2.(2)
- 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 B5 such parts only of the Summery of Evidence are read as relote to the charges dealt with under C2. If any pine is charged to Not Guilty, trial therean proceeds by complying with parts D1 to D8 inclusive in Recard Form D on p 3 and making an appropriate recard 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.

Sometrado Stone of Record.

RECORD 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 onthe ground that you have not had sufficient opportunity to prepare your defence ? Ans.

(i, If "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. RP 37(B), 60(A) (B), 90, 92(C) (D). Record address per Notes, subject to RP 95(C).)
- D3. The evidence for the Prosecution is taken.(1)

(I. AP 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 establish a prima facie case against the accused on the... ...charge(s),(2) The Court is closed, and considers the submission.(8) The Court is re-opened, and the President annualness that the submission 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 is disallowed on the

(I. Delete remainder of this para. If submission not made. 2. Arguments on submistion, 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 on all charges, use second alternative in para D8.)

NB: If trial proceeds, accused 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.)

D5. President to accused: You will now proceed with your defence.(1) You may, if you wish, give evidence 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. You may call witnesses in your defence and as to character, whether you give evidence or make a statement or the

	President to accused	: Do you wish to give	cyfdence y		fas a w		s, ma	ke a staten	nent,	or do	
Ans		· · · · · · · · · · · · · · · · · · ·	Do	you	intend	to		witnesses	OD	your	behalf 1
Ans	(1. RP 115.	Are they witnesses as to 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 follows. If P 114, 115, 116. For procedure see Notes on book of Convening Order, CF A85. Evidence for accused as to his character should, if in his interest, be given before the finding. See R# 46(A) for 1, 86(C). Note the further apportunity in para E1 of Record Form E. Record per Notes addresses, statement, evidence and any summing up by the JA under 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 Court is re-opened.

(1. RP 43, H7(R). See Noses in Part I of Schedule. 2. RP 44(A).)

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

Or, The President announces that the accused is found Not Gullty on all charges and is to be released forthwith, of the Court on the

and that the proceedings are accordingly terminated. Part I of the Schedule is dated and signed (?)

(i. As 54(3), (a), 89-45, 120(4). 2. As 54(3), 89-45, 117. This alternative announcement is not applicable when there are pleas of Guilty outstanding and dealt with under Record Form B or C.)

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 [15] H 4.85 H 16655 H 547 J ACK 50N G.

(). If evidence has already been given by accused of his witnesses as to his character, delete this pare. AP 37(C) fn 4, 46 fn 1.

Accused and witnesses are swarn. Evidence recorded per Notes.)

E2. The Prosecutor produces Statemental as to Character and Particulars of Service(1), and certified true copy (2016) of Conduct Sheeto P), 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 marked Ex. 7. and Ex. 7. respectively.(*)

[I. MFB 255 or AFB 256] 2. MFM 6. 3. RF 46, KR Con SSS. If above documents set produced, see RF 46 for 1 page 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. M.S. - has a fundamental of the distribution of punishment 1(1). As ST(C), 4e(C). 2. Ascense, if any, recorded per Notes. Court should permit excelled or high-wavesses to prove an each anything here ar previously stated which would effect the amount of punishment. Bit 37(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 (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.(*)

(1. When record account tried separately set RP 71 (D). One isotence only, comprised of the punishment or punishments loid down in AA 41. 44 and in previous, is to be encoded to cover all thereps in all charge theets on which account found guilty.

RP 48. As to isotence see AA 44, 138, (82. RP 46-50. 65. 118, 119(8), RR Cm. 308, 330, 530, 545-56b, Overseas RO 309, 332, MML p. 50, 737-739. As to sensence assigned for civil affected by the law of England see AA 44(10, MML p.) 30. When secund already under sentence of improvements are AA 44(16), (81), KR Cm. 564.

Confirming Office or RR Cm. 827. As to assembly and disposed of receive deter trial see instance of conversing Orders.)

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

SCHEDULE.

TITE	8007	DIEK	MAN STORY
eused: 13	006-	1 12 12	74.5
Charge.	Plea.	Finding.	
insert" alternative " where	(See Instrs p 2.)	(See nate below.)	(Space for use as required for further charges, accused charged jointly, special findings, etc.)
applicable.) +5 (1)	GAILTY	GuILTY	
d	A CONTRACTOR OF THE PARTY OF		
d			
			Continue on alternative charges see MML to 483 for 4 pers 3, RP 44 ;
special findings see	RP 44 and MML p 753	, and in loss of kit see	; findings on alternative charges see MANL p 463 fn 4 pera 2, RP 44 ; RP 44 [n 6.)
entence Awarded by		el ord	mary pay for a perus
Judge-Advi	ocate, if any. (See bock of C	26. Date onvening Order as to	Jan 45 (8gd) The Berlinik A awarded, essembly and disposal of record after trial.) MATION RESERVED. (AS \$4(5), RF 120(9), MAL & 760.) Commanding
PART III. PART III. (for duties and p confirmation and not confirmed, do promutgation: 8 531, AP 53A, 54, 54	Ocate, if any. (See bock of C MINUTE WH (Sgd) DECISION C owers are AA 54, 57, cannot be revised: A, cannot be revised: P 33, MAI, p 85. The Confirming Offi	Date onvening Order as to DERE CONFIRMI DEF CONFIRMI RP 37(D) fn 6.46(A). A 34(3). Sending both in A 317, AMAL probability offer promisely must sign here person	An H5 (8gd) President. (RP 45, 50) awarded, essembly and disposal of record after trial.) MATION RESERVED. (AA 54(5), RF 120(F), MAIL p 760.) Commanding NG OFFR ON FINDING(S) AND SENTENCE. \$1.56, 120, MML pc 759-761, KR Con 567-577. Accountable require no extending enterpolation for the finding or isentence for review by Court. A 54(7), RF 120(G). If the Minist of Confirmation or non-confirmation may be obtained before fully. Ak 172 (n 1). Duties and powers of reviewing utilis: A A 57, willy Ak 172 (n 1).
PART II. PART III. (for duties and p confirmation and not confirmed to a promulgation: 8 STA, RF SSA, SA	Ocate, if any. (See bock of C MINUTE WH (Sgd) DECISION C owers are AA 54, 57, cannot be revised: A, cannot be revised: P 33, MAI, p 85. The Confirming Offi	Date onvening Order as to Date onvening Order as to DERE CONFIRM! RP 37(D) fin 6.46(A). A 54(3). Sending Dos lin: AA 137. MAIL by a pomula wast slign here person sentence set fort	awarded. Septiment. (RP 45, 50.) ATTION RESERVED. (AA 54(5), RP 120(F), MALL p 763.) Commanding NG OFFR ON FINDING(5) AND SENTENCE. 31-56. 120, MAL to 759-761, KR can 567-577. Acquisition require no kit finding or sentence for revision by Court: AA 54(2), RP 120(G). H 64. Minute of confirmation or non-confirmation may be othered before getting: KR ac 573. Duties and powers of reviewing affix: AA 57, nully, AA 172 fn 1.) In Part 1 is:
PART III. PART III. (for duties and p confirmation and not confirmed, do promutgation: 8 STA, RP SSA, SA, PS	Ocate, if any. (See bock of C MINUTE WH (Sgd) DECISION C owers are AA 54, 57, cannot be revised: A, cannot be revised: P 33, MAI, p 85. The Confirming Offi	Date onvening Order as to DERE CONFIRMI DEF CONFIRMI RP 37(D) fn 6.46(A). A 34(3). Sending both in A 317, AMAL probability offer promisely must sign here person	awarded. awarded. prosident. (RP 45, 50.) MATION RESERVED. (AA 54(5), RP 120(F), MAIL 9 760.) Commanding NG OFFR ON FINDING(S) AND SENTENCE. 81-56. 120, MML po 759-761, KR Con 567-577. Acquition require no ke finding or sentence for revision by Court: AA 54(2), RP 120(C). If 64. Minute of confirmation or non-confirmation may be obtained before gotton: KR Con 573. Duties and powers of reviewing offs: AA 57, notly, AA 172 fo 1.) th in Part I is:
PART II. PART III. (for duties and p confirmation and not confirmed, do promulgation: R 51A, RF 52A, 54. My decision on t	(Sgd) DECISION C overs are As 54, 51, conent be revised: A cused may be trice ago by 53, MM, p 55, 0, The Confuming Offiche finding(s) and	Date onvening Order as to Date onvening Order as to Determine Order as to Determine Order as to Determine Order or Determine Order or Determine Order or Determine Order or Or	awarded. Septiment. (RP 45, 50.) ATTION RESERVED. (AA 54(5), RP 120(F), MALL p 763.) Commanding NG OFFR ON FINDING(5) AND SENTENCE. 31-56. 120, MAL to 759-761, KR can 567-577. Acquisition require no kit finding or sentence for revision by Court: AA 54(2), RP 120(G). H 64. Minute of confirmation or non-confirmation may be othered before getting: KR ac 573. Duties and powers of reviewing affix: AA 57, nully, AA 172 fn 1.) In Part 1 is:
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PART II. PART III. (for duties and promigation: A STA, RF 52A, 54. My decision on the part of the p	DECISION Covers are AS 54, 51, 10, 10 the finding(s) and accused be not accused by accused the finding(s) and accused by accused the finding(s) and accused by accused the finding(s) and accused the finding(s) and accused by accused the finding(s) and accused the finding(s) and accused the finding(s).	Date onvening Order as to Date onvening Order as to DERE CONFIRM! RF 37(D) fin 6.46(A). A 54(3). Sending Date of A 137. MAIL by a 138. MAIL by a 148. MAIL	An H5 (8gd) Prosident. (RP 45, 50) awarded. essembly and disposal of record after triol.) MATION RESERVED. (AA 54(5), RF 120(F), MAIL p 760.) Commanding NG OFFR ON FINDING(S) AND SENTENCE. \$1.56. 10, MML p 759-761, KR can 567-577. Accountable require no calculation or instance for revision by Court. AS 44(7), RF 120(G). W 64. Minute of confirmation ar non-confirmation may be altered before portion 1.65 Can 573. Duties and powers of reviewing after 1. AA 57, will, AA 172 (n. 13). Duties and powers of reviewing after 1. AA 57, which is Part I in: (Sgd). (Sgd). (Sgd). (Sgd). (Sgd). (Spd). (RP 53, KR Can 576, 577.) (Signature of Offr.)

The accused, D 158002 Pte George RYAN, a soldier of the Canadian Army Overseas, 1st Bn Essex Scottish Regiment on active service is charged with: FIRST CHARGE: WHEN ON ACTIVE SERVICE ABSENTIN; HIMSELF WITHOUT DEAVE Army Act Sec 15(1) in that he in the field, on 8 Jan 45 absented himself without leave from 1300 hrs 8 Jan 45 until surrendering himself at Brussels at 1400 hrs 18 Jan 45 (T.E. STEELE) Maj In the field A/Officer Commanding 22 Jan 45 To be tried by Field General Court Martial In the field Comd 4 Cdn Inf Bde 25 Jan 45

I wish the services of a defending officer to be detailed by the Adjutant

In the field 22 Jan 45

Sgd "G Ryan"

D-158002 Pte Ryan. G.

I have medically examined the a/m, and find him to be physically fit to stand trial by FGGM.

9. Soucie Gart.

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 only other force if authorized in law, in immediate comd of troops an active service, subject to RP (OSIC) and restrictions imposed by appropriate outhough 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 poros 20 and 33, AP 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 research as the separate charge sheets are RP 108. As to two armore accused charged plantity see RP 16, 109.

As to reasons for showing (a) permanent or confirmed rank, and (b) appint, Airank or Ajappont, if any, see AA 182, 183, fns, ER Can 308, 328, 330.)

ACCUSED.

Unit. Surname. Full Christian Names. Number. (a) Prmnt R. (b) Appmt, A/R or A/Appmt D-158002 PTE

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 Sheet(s) attached and on being subject to military law, has (have) committed the offence(s) set forth in the Charge Sheet(s) attached and on the Charge Sheet(
- 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; RAG Disk RAG ROTE INSTRUMENT OF STREET OF S
- 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.
- A SERVING MARK TO APPRICE (A) three Official form the Court, three Followides to Approximate for abstraction at Law (AA 49, RP 106(B), 197(A) Delete the whole or part, if not applicable.) KURKKULENKE
 - 5. Ixka appoint as John a always the structure mentional kersunder.
 (Af Ocid) Deite, if none appointed.)

PRESIDENT.

		RHLI
Maj	J K Bostwick (Must be named. RP 106.)	
(Rank-)	MEMBERS.	
	A Capt to be detailed by CO Essex Scot	
(Ronk.)	A Secret to be detailed by CO R Regt C (Named or detailed. RF 104.)	(Link)
(Addres)	WAITING MEMBEB.	
(Bank.)	(Named or detailed by 00 Regt 0	(Unit.)
(Nank-)	JUDGE-ADVOCATE.	
	N/A	
(Rank-)	(Must be named. If any. RF 106.)	
n Active Service in th	ie Fd Allana	* 11 (0.07
HOLLAND	Allwere.	Lil = UCL (Rank.)
(Country.)	(Signed personally. AP 105 fo 24) (J E C PANGMAN)	
Dat 25 JAN 45	A Commanding 4 CD INF BDE Convening Off	icer.
		SHOULE

CONVENING OFFR WILL INITIAL ALL DELETIONS AND ALTERATIONS

4/38A CFA 05 (In Heu of AFA 3)

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

Statement of Character Wit for Pte Ryan & LI left Jucken for H 16655 on hung cluby revern in states - Peter Ryan's conclud leaves nothing to be derived, I close't honger drang neuron for him toy the line Ourtin by the county - How long hour Pite Ryan hun in the fraterny. L/ lyt Jackron - He was in the fitn hiffen them four months.

Statement in plea of mitigation for Pte RYAM. G.

I have talked to this soldier and to some of his comrades and have gathered some information that I desire to present to the court. Pte RYAN joined the unit at ANTWERP. He was remustered involuntarily from the CAC, after having served in it for one year. He has never had a term of LOB or a 48 hr. leave since that time. He had asked to see his Coy Comdr. through the proper channels, regarding the matter and was repeatedly put off. He saw others having these privileges over whom he had priority. This, combined with inactivity, led him to do wrong.

I wish to point out that Pte RYAN has no parent living. His father died before he enlisted, and his mother, some years previous to that. He is only 20 yrs old now, and so, as you can see from that, he did not have the guidance to stabilize the mind, to teach a man to think for himself, for all the time a boy turning to man should have it. As a result he took this matter in his own hands.

Pte RYAN realizes now what he did and is willing to accept the consequences, so that he can return to his comrades soon. I request the court to consider the above before deciding those consequences.

Exhibit Summary of Evidence in the case of D-158002 Pto George lyan, It Bon The Roses Geothish Right a Goldin of the Canadian army Overseas. The accuse d is suformed of his rights The C.O. directs that the widence be taken on oath Just within for the prosecution: A. 103385 a / Sql Dalisham, 1.5. 1st on The Sosiex Settish Right a written statement of this witness widence, purporting the signed by him has been read to the accused and is included in this summary (attached as Establit "A") Having regard to the loss of time morbed the attendance of this witness cannot in my opinion be readily procured. The accused does not dom and the attendance of this within for evors . examination. (Womenweel a) Capt Officer detailed Stake the summon, Second bothers for the Prosecution: It. C.J. Jefrey, D. Con, Ist In the tosex Scottish Regli a written statement of this witness evidence, purporting to be signed by him has been read to the accused and is melnded in this summary (attached as Rehibit "B") Having regard to the loss of time involved, the attendance of this writing cannot in my punion be readily procured. the accused does not dimand the altendance of this when for warmination awmianwell aflagst Opicer detailed & take the Gummany

I am Alo3385 A/Sgt Salisbury VS of 18 pl 'D' Coy of the Essex I am AlU3585 A/Sgt Salisbury vs of 18 pl 10, Coy of the Essex Scottish Regt. I took a roll call of my pl at 1300 hrs 8 Jan 45 and found D158002 Pte Ryan G who is a member of my plateon to be absent. I made a complete search of the billet and area and could not locate him. I have not seen Pte Ryan since that time and to the best of my knowledge he is still absent.

In the field 8 Jan 45

Sept. Salisburge A103385 A/Sgt Salisbury VS Essex Scottish Regiment

STATEMENT OF EVIDENCE IN THE CASE OF

DISBOO2 PTE RYAN G

"I am Lt CJ Jeffrey of "D" Coy, The Essex Scottish Regiment. I had been detailed as offr IC leave party proceeding to Brussels. On 18 JAN 45 at about 1400 hrs, I listed the names of those personnel present at the RV in Brussels for the return trip to the unit. I took the name of a soldier who identified himself to me as D158002 Pte Ryan, G. He came back to the unit with our transport and on arrival at "A" Echelon was turned over to his Coy. When I returned, I discovered that he had not been on the authorized leave party of which I was in charge."

Effethey.

(C.J. JEFFREY) Lt THE ESSEX SCOTTISH REGIMENT.

bisk sortium for the prosecution: A. 103385 a flog Cohistray

15. A Box the house bether left:

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sorthwest in this summan (abached so Establish A.) Having

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The accused socs wilder and the attendame of this Summary of widered on the last o - 158002 George byson. A for the boxes bestish legt a In seemad is my smed I his rights . In 10. much that the windere be taken in outh Con 1st In The love destroy Eng! Let C.J. Jefrey "O" the water destroy the solvers sordence purpostry the segred by him has her red to the excused and a included in this summery attached as Rehibit '8")

knowing regard to the board from mortal the opinion

coten dance of this where cannot in my spinion he salensed does not demand the alterdance of minoro - cross of amount the when one or warming atter Expir detailed & take the brime Opin attailed State the summery Monument ascapet alion.

motified . The occured having him duly continued in occurred when the wife of sup. his the annies of a definding of him the bette field RP a complied with. his defence at this print. The accused does not wish track intresses in Opin detailed thate the burnmany 8 Kon

EXHIBIT "B"

STATEMENT OF EVIDENCE IN THE CASE OF

D158002 PTE RYAN G

"I am Lt CJ Jeffrey of "D" Coy, The Essex Scottish Regiment. I had been detailed as offr IC leave party proceeding to Brussels. On 18 JAN 45 at about 1400 hrs, I listed the names of those personnel present at the RV in Brussels for the return trip to the unit. I took the name of a soldier who identified himself to me as D158002 Pte Ryan, G. He came back to the unit with our transport and on arrival at "A" Echelon was turned over to his Coy. When I returned, I discovered that he had not been on the authorized leave party of which I was in charge."

Offethey.

(C.J. JEFFREY) Lt THE ESSEX SCOTTISH REGIMENT. I am Alo3385 A/Sgt Salisbury VS of 18 pl 'D' Coy of the Essex Scottish Regt. I took a roll call of my pl at 1300 hrs 8 Jan 45 and found D158002 Pte Ryan G who is a member of my plateen to be absent. I made a complete search of the billet and area and could not locate him. I have not seen Pte Ryan since that time and to the best of my knowledge he is still absent.

In the field 8 Jan 45 A103385 A/Sgt Salisbury VS 18 Pl 'D' Coy Essex Scottish Regiment

1	No. D1580 Date of last Company Co	entry in		N	o. and date last drunk Period not reckoning towards freedom from extra fine	Sheet No		43 G.C Badge Signature O Company, e	C.	vice or Hiciency Pay Character	M. F. M. (A. F. B. 123) 100H - 8-38 (1762) H. Q. 1772-45-18
	Place	Date of offence	Rarik.	Cases of drunken- ness	OHENCE	Names of Witnesses	Punishm	ent examinal	Date of award or of order dispen- sing with tripl	By whom awarded	Ramarks
	Dundurn Sask		Tpr		SHEET ONE DESTROYED 6 MONTHS O	RTIFIED NO				McWorth Ma Win: A 27	1
	Field :	14Jun4	Tpr		AA 40 Newleat etc. on but inspe	tion	7 Max		Cdn Rec	ace TC	
	Field :	Nov44	Pte	- 4	had dirty rifle WL from 2300 hrs 2 NOV to 2345 hrs 5 Nov 44 (3 dys 45 min)AA 15	L/Cpl Allre				Maj Garen	
-					Certified	true copy				4 LtCol JE Pangman	dys pay
					22 Jan 45 Officer h	RWMeans	vell a	(Capt of	edjr.		

D-158002 Pte George Ryan or the 1st In Essex Scottesh legt

1. The following is a fair and true summary of the entries in the Regimental and Company Conduct Sheets of the accused, exclusive of convictions by a Court Martial or a civil Court, of summary swards under Section 47 of the Army Act; and of cases in which trial has been dispensed with:

unlistment

For Abunce without heave

The cime's

OF F

There are no entries in the Conduct Sheets of the accused

Number of instances of gallantry or distinguishedoonduct,

2. The accused has not been previously convicted,

or.

Previous convictions of the accused by a Court Martial or a civil Court, mary 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 arms and to this statement.

account of the contract of the

The accused is not under sentence at the present time,

The accused at the present time is under sentence

D2* 8

were spent in hospital. 5. 29 may 1924 age of the accused according to his The date of his contestor enestried in his record or norvice to They The service which the assumed to allowed to Pecken towards sischer 142 14 dys The accused in entitled to deferred pose of determinant his pension, etc. 10. The accused is in malitary reward for is in possession of or entitled to CUSM and clasp. 11: (If the accused is a warrant of Close,) The accused *Arrent officer last hold the regiments | renk of 12. (In the case of an officer, The accused holds in the department) the rank of , and in his regiment(or 13. The accused has served as a non-commissioned officer continuously, withe reduction, to the present date, In the rank of Date of Promotion In the rank of years, In the rank of years, (Instruction, --- If any matter 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 triel has been dispensed with) is read, marked........, signed by the President, and annexed to the proceedings.

SCHIDULY OF CONVICTIONS BY A COURT-MARTIAL OF CIVIL COURT, OF SUMMARY ANARDS UNDER SECTION 47 OF THE

hescription of court by which misd, or status in off dispos- ing of the charge or dispensing with trial	Deta and Place of Trial, or summary award, or of Order dispensing with Trial	charge upon which convicted, or in respect of which Trial was dispensed with.	Sentence of the Court or Author- ity disposing of the charge, or Order of the Dispensing Author- ity.
		kil	

PTE RYAN H.J.

Army Form A.3.

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

PROCEEDINGS.

On Active Service, this Twenty-Eighth

September

, 1943 .

Whereas it appears to me, the undersigned, an officer in Command of 3 Odn Inf Bde

such offences should be tried by an ordinary General Court Martial; Agand that it is not practicable to alchy the trial for reference in a supenar qualities afficient

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

* II amanabindoxappoints: x

Mixx Three Officers to form the Caneta MEXX A Right Officer as PresidentA

for the following reasons, sanst ax xx

Rank.

Capt

Lieut

Lieut

President.

Name

Regiment. R 226 R

E.A.A. Doiron

G. Gmuyreau

D.R. Sharpe

E.D. Hersey

Regiment.

Carlt & York R

West NSR

Brigadier, Commanding 3 Cdn Inf Bde.

Convening Officer.

SCHEDULE

Number, Kank (a), Name and Unit of Accused (b)	Offence charged	*Plea	Finding, and if Convicted, Sentence (c)	How dealt with by Confirming Officer (d)
Pte RYAN, t James, SR	lat Charge Sec 19 A.A.	Lilly	Builty	Continued
	2nd Charge Sec 8(2) A.A. 9	ot quilly	Simly	engineed
	3rd Charge Sec 9(2) A.A.	Builty	Quilty	- Not confirmed
	4th Charge Sec 9(1) A.A.	0 1	11 1	1 30 Asp.
	To medage &	Exa	wairon	major

uestion to be asked of accused, if he pleads not guilty (R. of F. 39 (a)).

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

uswer (to be recorded on apparate sheef if necessary).

ab leuke Brigadier

Commanding 3 Can Inf Bae Convening Officer (c)

(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 cause 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 of the Schedule to be initialled by him.

I certify that the above Court assembled on the 29 72 day of lepterulas /3 and duly tried the persons named in Certificate of Provided as to the Schedule, and that the plea, finding, and sentence in the case proof each such person were as stated in the third and fourth columns of that Schedule.

I also certify that :-

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

Signed this 29TR day of September 43

President of the Court Martial

(b) on page 'M.M.L. 1929.

I certify that the terms of *A.C.I. 579 of 1918 have been complied with.

day of

Signed this

19

President of the Court Martial.

stated in the last column of the Schedule, and, subject to what

(Dated).

"A direct that the soldier named in the margin be not conunited to prison or detention barrack until Lusther orders.) -

301 day of September 1943

(a) (Dated) 1 0 d +3 (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.

(25573) Wi.46179.802 00.000 2.13 8.2 E.W.Lts. Gp.498 (24256) Wi.1118271 100.230 2.43

ago 3 RGE SHEET

F29594 Pte Herbert James RYAN, West Nova Scotia Regiment, a soldier of the Canadian Army Overseas, stationed in the Field, on Active Service, is charged with:

1st CHARGE Sec 19 Army Act.

While on Active Service, DRUNKENNESS,

in that he.

in the Field, while on duty in POTENZA, as a member of "D" Coy picquet, at approx 1300 hrs; was drunk.

2nd CHARGE Sec 8 (2) Army Act.

While on Active Service, USING INSUBORDINATE LANGUAGE TO HIS SUPERIOR OFFICER,

in that he,

in the Field, at POTENZA, on 24 Sep 43, at approx 1300 hrs, when ordered by Lt. SiF. Williams to go into the Guard Room, said, "Fuck you Mr Williams".

While on Active Service, DISOBEYING A LAWFUL COMMAND GIVEN BY

3rd CHARGE Sec 9 (2) Army Act.

4th CHARGE Sec 9 (1) Army Act.

in that he,

in the Field, on 25 Sep 43 at approx 1430 hrs, while on Staff Farade, after being ordered by Lt.-col. M.P. Bogert to be quiet until he was asked to speak, said, "You can shoot me right now if you like" or words to that effect.

While on Active Service, DISOBEYING IN SUCH A MANHER AS TO SHOW WILFUL DEFIANCE OF AUTHORITY, A LAWFUL COMMAND GIVEN PERSONALLY BY HIS SUPERIOR OFFICER IN THE EXECUTION OF HIS

in that he,

in the Field, on 24 Sep 43, at approx 1300 hrs, at POTENZA when ordered by Lt. S.F. Williams to go into the Quard Room threw his revolver in the direction of Lt. S.F. Williams and said, "Come and get me, I'll fight fair".

In the Field 27 Sep 43.

DUTY,

HIS SUPERIOR OFFICER,

(M.P. Bogery, bc. Comd. West N.S.R. -col.,

TO BE TRIED BY FIELD GENERAL COURT MARTIAL

Las bender .H.S. Bonhale), Brigadier, Commanding 3 Cdn Inf Bde.

In the Field 28 Sep 43

solow maries best CAL REAM 31. 3. Litelle.

PAGE 1
Burn West had Colling
129594 Pt Herbert Lewel Minute) (Unit)
(No.) (route)
(No.) (Maly on 31 (Date)
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Major KAA DOCTOR 10 30 R
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Lawyer?
AND THE A CONTRACT OF THE PARTY
(The following procedure day order, Charge Sheet(s) and
President produced (18) 22(A)).
The President produced the Convention (RSP 17(E), 22(A)). Suggary of Evidence. (RSP 17(E), 22(A)).
The President produces. (RSP 17(E), 22(A)). Survey of Evidence. (RSP 17(E), 22(A)). The President, in closed court (RP 22, fn 1), reads the Court sat- ing Order and the Charge Sheet(s) to the Lambers, and the Court sat- ing Order and the Charge Sheet(s) to the Lambers, and the Court sat- ing Order and the Charge Sheet(s) to the Lambers, and the Court sat- ing Order and the Charge Sheet(s) to the Lambers, and the Court sat- ing Order and the Charge Sheet(s) to the Lambers, and the Court sat- ing Order and the Charge Sheet(s) to the Lambers, and the Court sat- ing Order and the Charge Sheet(s) to the Lambers, and the Court sat- ing Order and the Charge Sheet(s) to the Lambers, and the Court sat- ing Order and the Charge Sheet(s) to the Lambers, and the Court sat- ing Order and the Charge Sheet(s) to the Lambers, and the Court sat- ing Order and the Charge Sheet(s) to the Lambers, and the Court sat- ing Order and the Charge Sheet(s) to the Lambers, and the Court sat- ing Order and the Charge Sheet(s) to the Lambers, and the Court sat- ing Order and the Charge Sheet(s) to the Lambers, and the Court sat- ing Order and the Charge Sheet(s) to the Lambers, and the Court sat- ing Order and the Charge Sheet(s) to the Lambers, and the Court sat- ing Order and the Charge Sheet(s) to the Lambers, and the Court sat- ing Order and the Charge Sheet(s) to the Lambers, and the Court sat- ing Order and the Charge Sheet(s) to the Lambers, and the Court sat- ing Order and the Charge Sheet(s) to the Lambers, and the Court sat- ing Order and the Charge Sheet(s) to the Lambers, and the Court sat- ing Order and the Charge Sheet(s) to the Lambers, and the Court sat- ing Order and the Charge Sheet(s) to the Lambers, and the Charge Sheet Shee
ing Order class that it is project (are) amenable
constituted, that the accused is (are).
and that each charge discount before the Court, and at
The accused is the
The accused is (are) the trial contences. The Prosecuting Officer produces a medical Certificate under the Prosecuting Officer produces a medical Certificate is the proceedings.
The Prosecuting Officer produces a Medical Certificate under the Prosecuting Officer produces a Medical Certificate under the Prosecuting Officer produces a Medical Certificate is the County of the Certificate is the County of the Proceedings (are) fit to undergo trial by Court Martial. The certificate is the proceedings of the Prosecution of the Proceedings initialled by the President and attached to the Proceedings.
(can) 557 (see that by Court Martintal Proceedings.
initialled by the President
to accused: African as interf
Do you object to
the interpreter is duly South
manus of Oath on Page 'D')
The Shorthand Writer is duly sworn. (Forms of Oath on Page *p*) The Shorthand Writer is duly sworn. (Forms of the accused. The Convening Order is read in the hearing of the accused. The Convening Order is read in the hearing of the Court are read
The Shorthand Writer is duly sworn. (Forms of the accused. The Convening Order is read in the hearing of the Court are read The names of the President and Hambers of the Court are read to the accused (RP 10)
manes of the Prosition
to any of the ore
addent to accused as by me as President or we
president to accused by me as President of Ans possible tried by me as Preside
The President, Memoers, 26-27 (Forms of teath struction are duly sworn (RP 26-27 (Forms of teath structure))).
The Charge Sheet(s) is (are) initiation

The Prosecuting Officer informs the Court that the accused has (has not) elected trial by Court Martial (AA 46(8)).

(If special plea/s is/are made for separate trial on one or more charges (RsP 62(E), 108); or as to the jurisdiction of the Court (RP 34); or in bar of trial (RP 36); or as to accused's mental fitness to stand trial (AA 130, RP 57), record such pleas and evidence (if any) on separate trial on one or more charges to stand trial (RP 36); or as to accused's mental fitness to stand trial (AA 130, RP 57), record such pleas and evident and attached to the proceedings.

Each Charge is read to the accused and he is asked as each charge is read whether he pleads guilty or not guilty (RP 112).

First Charge Luilty	Fifth Charge	
Second Charge of July	Sith Charge	1.
Third Charge Luilty	Seventh Charge	
Fourth Charge at fully	Eighth Charge	

(For procedure on alternative charges, see RP 37, fn 2)

Further proceedings are recorded on pages hereto attached.

Lewann lay

(For use when there are pleas of 'Guilty' and 'Not Guilty')

(All printed matter not applicable to be struck out an all alterations, crasures and additions to be initialled by the President)

- 1. RP 35(B) is complied with, in respect to 'Guilty' pleas, by the President ascertaining that the accused understands the nature of the charges(s) (m 3) and his plea thereto, explaining the difference in procedure by the plea (RP 37(B)) and advising him to withdraw his plea if he thinks the accused ought to plead 'Not Guilty' thereto.
- 2. President to accused:
 Q. 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 that you have not had sufficient time for preparing your defence? (RP 39(A)).
- The Prosecutor's opening address (if any) (RP 39(B) and the evidence for the Prosecution are recorded on separate sheets, in-itialled by the President and attached hereto. (See RECORD OF EVIDENCE on Page 'D').
- 4. The Prosecution is closed. (If submission that no prima facio case established, see RP 40 fn 1; RP 70 fn 1).
- 5. The accused is informed that he may, if he wishes, give evidence, but if he does so, he will be liable to cross-examination. (RP 40, fn 2) or that he may, if he wishes make an unsworn statement upon which he can not be cross-examined. (PP 40(D)(ii)(a)).
- President to accused:
 Do you apply to give evidence yourself as a witness? Ans
 Do you intend to call any other witnesses in your defence? 90. Ans_
- Q. Is he a witness as to character only? (RP 40(B)) Ans 100
- 7. The evidence for the defence (if any) is recorded on separate sheets, initialled by the President and attached hereto.
- 8. The closing addresses of the Prosecutor, Defending Officer and Judge-Advocate (if any) are recorded on separate sheets, initialled by the President and attached hereto. (For order of addresses, see RsF 40, 41 and 42).
- 9. The Court is now closed to consider the Yinding. (RsF 43 and 117). (Record Finding on page 2 of AFA.3).
- 10. The Court being re-opened, the accused is again brought before it and the findings of 'sot Guilty' (if any) are pronounced.

 (RP 117(B)). are faulth charge. charge
- The charges, to which the accused pleaded 'Guilty' are read to the accused.
- Prosident to accused: you desire to make any state ent of the circumstances in ference to the charge(s) to which you have pleaded 'Guilty'? (RP 37(B)) Ans 4041

(Statement (if any) not on oath is recorded on separate sheet, in-itialled by the President and attached hereto. Accused is not sub-ject to cross-examination thereon).

13. Summary of Evidence is read about in the presence of the accused, initialled by the President and attached to the proceedings. (If not such Summary, it is necessary for determination of sentence

(contid)

PAGE 'C' (CONTINUED)

that sufficient evidence be taken and recorded on separate sheet, initialled by the President and attached to the proceedings). RP . 37(B).

- 14. President to accused:

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

 (RP 37(C)) Ans (A)

 No cross-examination.

 (Statement (if any) is recorded on separate sheet, initialled by the President and attached hereto).
- 15. President to accused:
 Q. Do you wish to give evidence yourself or call witnesses as to character? (RP 37(C)) ans 40-4.
- 16. Statement of Character and Service (AFB.296) and Field Conduct Shoet (FFI.6), signed in the manner required by AA 163 (i) (h) and purporting to refer to the accused by his number (if any), rank, name and Corps, are produced to the Court, read, marked "7", and "70", initialled by the President and attached to the proceedings. (RP 46; Overseas RO 3131).
- 17. President to accused:
 Q. Do you wish to accress the Court on the Statements of Character,
 Service, and Conduct in mitigation of punishment? (RP 46(D)).

 Ans No cross-examination.

(Record address (if any) on separate sheet, initialled by the President and attached hereto).

18. The Court is now closed to consider the sentence. (Record on Page 2 of AFA.3).

(Punishments AA 44; RR (Can) 563 - 566; one sentence only awarded, RP 48. Sentence should be dated).

The sentence is not announced to the accused by the Court.

(Simature of President)

Rage 5 Opening addient the actempting of Probaculain to 2nd y 4 a changer of shall call two withnesses only; built of whom will give evidence and it belowing of the accused in Polanga on 24 Says 13, which belowing constitute en offense under der 8(1) HH. Les 9(1) 012 Bresident Region

Page 6

That when of prosecution worse. Long duly more of ster. I am heart S. T. william , W Cong heat S.7. williams Deog pregint to police to town of Polege from 18 20 her 23 sep 43 months 0 8 00 her 25 sep 45. I was o.c. of lat proquet. Pt. agan 43. was a member of that progress, on the morning of the 25th say 43 I feel the on duty at 1000 his 24 Say x3. at about or during at 1000 he pole Ryon, he had been humbing but more most during all the go get washed whomas of cleaned up nearly of his town of during at 1000 her. at 1000 he ay 84p vs Pt Byan was not available of his tous of duty assister man was delailed to the same of the way of the wa his life was slowing on his ordeneder of he was stagging in the coils with road to the state one n.c.o. y 2 min to plan him in the grand your maken close areal They went up to him y he would not give up for night, They will "6 take I from him by oforce: Pt Ryan was using loud clanguage during all the time the was then brought into a grand now was the still related Chi right il was standing in the al quard soon " 14 said " Tunk you. mid w Eliano."

Page 7 the sign was taken from him the Time. He the backed down the country about 3 min.
If the class trest the new to take 3 min.
If necessary but play to get the Ryan high took from his packet a Buella revolve which he threw up the country of said. Forme of get me, ell fight fair it I stopped the nevolves with my yout. Pt. abbox 1. 2. one of the man destailed by The Dico to help place the Regard in the Then helped hald his feel of he sies Thuggling, I files using load propos Language into the great room. I ordered him tick so a to prevent any fruits dighting. He was till I left alone on the Stan in the guardroom while awaiting Il truck the remove him to he " Coy are Coul of profons Conquery could be heard bearing from the Byon out in the · placed on it of dance book to be buy The defence declines to cross, examine Whe withers .. and witness of East Rogers, a. w. Le Eoy w nsk. being duly swon state: . I am cays noon on the 23 Septs it received order from By H& To supply Two platoon to police its town of Henry beginning 1886 he Wal might.

The company as a whole

that the best turned and men in the cay.

I that the men would he alone of a parade at 1700 hor at That Time is close the man & vistometal ten in their duties. I be accuracy was one of the neen chosen.

lage 8

The mett line I vow who was whorldy exter during on to following day who it was him of anding in the middle of its sheat outside it building used as grand A. Q. in a very drunker Condition. I ordered mr. wellows to have him taken to the ground woom on he was unfit of deely, and was creating a seeme in front of a large would people in the street. It's men detailed by mr. wellow to take him to the grown nife so I talked of reasoned with him after Celling me will me williams of he frielly after Celling me willowing "Fresh your me. wellowing this he flow of the consider of allowing this he bounded down in the direction of Mrs. Williams & myself I yelled something about fighting fair & believe "il fight ofai" was paid of it Them one of the men delaited by mister isting tacked the account of their time to the floor from where I was comed of the grandroom, where he was hid up to prevent any ofwerles and of violence. Se continued could be heard outside in the object mil be withers he was taken back to his Can area unde

Vage 9 loving address That on Two changes - and & will be change that.
The factor presented to the court of the prosecutions can are afried. That head williams to go into the grand by witnesse are also on the point Secondly with regard to the 4th change on the change that both witnesses. when ordered to go and the grand . revolves in head to clean decention of neade some comment which according to the cividence of one witness was come and get me, was fright fair." There are the facts necessary to ambotantict proven by the surdame of boil introme Carilent wyer

Page 10

Comy address - her in askery of places of most gently on the second of changes whom on the change wheel I would refer to change with evidence as 6 arrandom of developments ferries the accurate has pleaded girly to the accurate development of the change of developments of the accurate development of the accurate development of the accurate was accurate that the accurate

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Fage 11 At alement by Il was morning of its 2x to that Mr. williams told me that led be as patigued duty 1000 her He informed me to go and wach and shave and not to duck any more il did an I wan told I want to have a work and show and from them in I ha no recollection of what hoppened will I wok up in my land somet Boardison wajor President

Page 12 Fagger Po Ryon N. J. States Statement by accord - Lis on the six see we with Reducin to 3 wol il was wound spretapl 1 change sperade. I was very newour that morning due to the fact that I had been drinking a lot the day before I am not used to drinking wines I think see, if I had been night or in a normal condition that I wouldn't have broken in the way I did on Waff

of the Contract have belowed as to die to money and of he durking the day before held it is 4 on the third shorps was sendined the the man was deared to have here a meet beloved solder. some to the occasion of his content and of her been weed the west seen some and eracky from your his can account beingly to assess was one I such your of -El olog

Page 14 of account duly surous states: where Known the accord personally sense taking over command of no 18 to 3 Con Laking over command of no 18 to 2 Cong wask, on 23 day 43. Ap until to time we were in Potenge on great duty are platon and I clought him to be Caron Hugos President

29594 Pte Herber Oldier of the Cl , on Active Ser Ficer Commandin

SUMMARY OF EVIDENCE in the case of F29594 Pte Herbert James RYAN, West Nova Scotia Regiment, a soldier of the Canadian Army Overseas, stationed in the Field, on Active Service.

By Order of Lt.-col. M.P. Bogert, Officer Commanding, West Nova Scotia Regiment.

Evidence taken on Oath.

First Witness for Prosecution.

Lt. S.F. Williams, West Nova Scotia Regiment, having been duly sworn states:

"I was 0.C. of the Town Picquet supplied by "D" Coy, West 0.S.R. for the town of Potenza from 1830 hrs 25 Sep 45 until 0.800 hrs 25 Sep 43. Pte Ryan was on this picquet. On the 24 Sep 43 I had two street patrols which worked in relays. Pte Ryan was on the relay that went on duty at 1000 hrs. At about 0.815 hrs I noticed Pte Ryan had been drinking, he was not drunk and was then capable of performing his duties. I told him that if he drank anymore he would be unfit for duty and would get and to go and get shaved and cleaned so as to be ready for that time. Gpl Smith G.G., NGO 1/c of the relay reported to me at 1000 hrs that Pte Ryan was absent. I then instructed him (Cpl Guard HQ. Shortly after dinner Pte Ryan appeared in front of the one NGO and two men to place him in the guard room under close which obscene and loud language was used by him. He was finally brought into the hawlway of Guard HQ but still retained his rifle woith the NGO to take three men if necessary and get Ryan in the Guard room. He then used more obscene language and threw a small revolver, which he had in his pocket and had not been discovered, up the hallway where I stopped it with ay feet and effect. Pte Abbot, L.E. went up to him and threw him on the finest were sided. He was carried into the Guard room by force. He continued using obscene language and trying to fight all the time. I ordered him tied to prevent any further fighting, his hands and feet were tied. He was left to the floor in the Guard room, while awaiting the truck to remove him to his Coy Area, he used loud and obscene language which could be hear out in the streets. When the vehicle arrived he was returned to the Coy area under close arrest.

Signed: If Williams Kint

The accused declines to cross-examine this witness.

Second Witness for Prosecution.

Capt. A.W. Rogers, West Nova Scotia Regiment, O.C. "D" Coy, having been duly sworn, states:

"At approx 1200 hrs 23 Sep 43 I received orders from BnHQ to provide a picquet of two Pl strength to police the town of Potenza at 1800 hrs the same date. I dissued a warning order to the Coy as a whole that the picquet would be chosed at 1700 hrs from the Coy and only the best turned out would be chosen for this picquet. At 1700 hrs I chose the picquet and instructed them in their duties as members of this picquet. Pte Ryan was on this picquet. I then warned them to stand by for picquet duty at 1730 hrs. The next time I saw Pte Ryan was on the following day shortly after dinner when I saw him standing in

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Page 2.

6ag = 16

Second Witness for Prosecution Cont'd.

front of the Guard HQ in a drunken condition. I ordered Lt. Williams to have him placed in the Guzrd room, as there were williams to have him placed in the Guard Foom, as there were quite a few people on the street watching him, and he was totally unfit for duty. Men detailed by Mr Williams to escort him into the guard room could not persuade Ryan to give up his rifle. I talked and reasoned with him and finally threw his rifle on the floor. On being ordered by Mr Williams to go into the Guard room he said "Fuck you Mr Williams" and continued to use loud and profane language and to defy anyone to make him go into the guard room. He threw a small Italian revolver down the hallway towards the doorway where Mr Williams stopped it. Following this a member of the picquet tackled Ryan and threw him to the floor where he was carried to the guard room. to the floor where he was carried to the guard room. I ordered him to be tied to prevent further trouble. He continued shouting and cursing while in the guard room until escorted back to his Coy area under close arrest.

Signed: a. a. Rogers Capt

The accused declines to cross-examine this witness.

Third Witness for Prosecution.

F41556 RSM Dean, G.Stc., West Nova Scotia Regiment, having been duly sworn, states:

"Approx 1430 hrs 25 Sep 43 I marched the accused Pte Ryan "Approx 1430 hrs 25 Sep 43 I marched the accused Fte Ryan before the Commanding Officer. During the period of Mr Williams giving evidence, Pte Ryan, said "Thats a lie". The Commanding Officer told him to be quiet and he still continued to talk and said, "Take me out and shoot me" or words to that effect. I then on the Commanding Officers'orders marched him off the parade.

Questioned by the accused as follows:

Q. Was I in a fit condition for Staff Parade?

A. You seemed a bit nervous otherwise OK.

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Signed:

The accused declines to further cross-examine the witness.

Fourth Witness for Prosecution.

Capt. C.B. Higgins, West Nova Scotia Regiment, having been duly sworn states:

"On 25 Sep 43 at approx 1430 hrs I was Adjt on Staff Parade held by Lt.-col. Bogert of the West N.S.R. Pte Ryan whom I now recognize was paraded before the Commanding Officer on charges laid by his Coy Comd. Lt Williams a witness on this case was giving evidence, when Pte Ryan broke in saying "That is not true". Pte Ryan was then ordered by Lt.col Bogert to keep quiet true". Pte Ryan was then ordered by Lt.col Bogert to keep quiet and not to speak until he was asked to speak. A minute or two later while Lt. Williams was still giving evidence Pte Ryan again broke in and said "You can shoot me right now if you like" or words to that effect. The Commanding Officer then ordered the RSM to march Pte Ryan off and additional charges laid.

Signed:

The accused declines to cross-examine this witness.

Page 2.

Page 16

Second Witness for Prosecution Cont'd.

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Signed: a. a. Ropers Capt

The accused declines to cross-examine this witness.

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Staned: Call Otan Ren

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Fourth Witness for Prosecution.

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Signed:

CRotigin Capt.

The accused declines to cross-examine this witness.

......./3

Page 17

The accused having duly cautioned in accordance with RP 4 (e) reserves his defence.

Certified that Rule of Procedure 4 (c) (d) (d) & (f) have been complied with.

Taken down by me in the presence and hearing of the accused this 26th day of September 1943.

In the Field 26 Sep 43.

(D.McG. Archibald), Capt., Officer taking Summary.

Board

. O	Date of last	Name RYAN, H.J. Sqn. Battery, or Company or	towards Short No.	20=9-39 G.C. Bignature O.C Company, etc			M.F.M. 6 A.F.B. 1223 A: 5/186 (3687)
• 2	Place	Date of Gank Cases of Office Rank Organics OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of under dispen- sing with frish	By whem awarded	Remorts.
30		Criginal not available, lost due to e	nemy action.				
-	Field	5 Aug 43 Pte Sec 15 (1) A.A. AWL from 5 Aug to 0730 hrs 6 Aug 4	1 2359 hrs 13. L/O Elsner	7 days C.E.		Major Thom	pson. Forfalts 1
		man of of	of temperature above	· CBN	ian Co	nt.	days pay 149
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F29594

Pte

Ryan, H.J.

Original MFM 6 lost due to enemy action, temporary sheet only, available

Sec 15 (1) A.A.

1 times Sec 15 (1) A.A.

The agains d has been under Close arrest awaiting trial on the present charge for. 4. days of which HO days were spent in hospital.

Of convictions by a cart-martial, of summary awards under the army Act, and of cases in which trial has been dispense. of the Army Act, and of cases in shi of accused, No. F14744 Bunk. Ple Hama Pryan, H.W.

Original MFM 6 lost due to enemy action, temporary sheet only, available. No Court Martial entries.

Signed this 27 th ...day of September 1943.

Creident President

Off He Right Runds

West flove mostla Regiment. 1. Lt. S.F. Williams, West N.S.R.
2. Capt. A.W. Rogers, West N.S.R.
3. F41556 RSM Dean, G.Std. West N.S.R.
4. Capt. C.B. Higgins, West N.S.R. me, I wish to have Lt McPhee West N.S.R. to act on my behalf. In the Field 26 Sep 43. This is to certify that I, F29594 Pte Ryan, H.J. have been given free of charge, a copy of the Summary of Evidence, Charge Sheet, documents, etc., relative to my trial by court Martial. In the Field 26 Sep 43.

5 P. 9. Ale Byan, J. 5 P- 9.

He Byan, J.

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RECORDED AT CMHQ IN AB 160 FIELD GENERAL COURT-MARTIAL CPAGE ITS LIEU OF A BY LODGE OF Convened by Order of Colonel J A Wilson ED Comd 13 CITB dated 10 Jul 45 ACCUSED.

ACCUSED.

A the trial of two or more charged jointly see RP 16, 71; 109; As to reasons for showing (a) permanent or confirmed with the property of two property of the property of t Print R. (b) Appmt, A/R or A/Appmt. Full Christian Names. Surname. WMW3 RYAN CIC 5 CITR PLAVIEWED PROGEEDINGS on (date/) / Boolucy RECORD FORM A-OPENING PROCEEDINGS AND ARRAIGNMENT. The President, Members, waiting Member, IA IPRINTED MATTER, NOT IN ITALICS FOR GUIDANCE, WILL BE DELETED, IF NOT USED OF APPLICABLE, AND INITIALLED (PRINTED MATTER, NOT IN ITALICS FOR GUIDANCE, WILL BE DELETED, IN NOT USED OF A PERILABLE, AND INTITULES BY PRES OR LA. The Schedule referred to inroughout is on p.4. Citations do NOT include all referont fine ROs. For guidance on procedure when a variation in this form arises, see form for GCM in MML, pp. 741 to 337. A brief record of such variation will be made and given a number having reference to appropriate or preceding para number herein. See back of Convening Order, will be made and given a number having reference to appropriate or preceding para number herein. See back of Convening Order, will be made and given a number herein. See back of Convening Order, with provision of the provision for conducting the trial see AA 53, RP 56, 63-70, 73, 74, 94, 103, 119, 132.) A2. The President initials and lays before the Court the Convening Order and Charge Sheet), attached thereto.(1) The Court is satisfied that it is properly convened and constituted(2), accused is (a) amenable to military law, and each charge discloses an offence.(3) (1. 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 (ax) brought before the Court. At 1. 2.1,5 hours trial commences. A4. The Prosecutor produces a Medical Certificate that accused is (apr) fit to undergo trial by court-martial.(1) arily by the CO (2) (I, KR Can 557. 2. AA 46(8), RP 60 fn I, For effect see KR Can 563(c). Delete, if not applicable. as interpreter? Ans An President to accused 1 Do you object to 126 The Interpreter is awarn (1) Do you object to SET AH SINCLAIR as shorthand writer ! Ans NO The shorthand writer is sworn.(1) (1. RP 72. Delete, if none employed.) A6. 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 S 179 2) 2. If no objection, waiting member retires. RP 68(8). If objection, see procedure AA 51, RP 25, 71, 18, MAML p 742) U. RP 110. A7. The President, Members, JA, if any, and Offre under instr, if any, are sworn. (1) The following are the ranks, names and units of the offrs comprising the Court, etc. LT-COL D.L. REDMAN HOGAU H.R. GOLE CAPT TOUGAS

Member

47 Member MEMBER THRES HES PLACE

RECEIVED

TP_SC

SCITA C.N. DUBOSE Prosecutor F.E. STEPHEN 17 Defending Offr

Questions by President: Is the Prosecutor a lawyer ! Ans AD Is the Defending Offr a lawyer ! Ans AD (*) (1. RP 26, 27, 109, 111. List of offis under instr will be returned separately with proceedings for information of Cone Offic.)
(2. If Fros a lawyer and Def Offi not, accused is entitled to an adjournment when RP B9 (8) and in 2 were not followed. See D1 p 2.)

before arraignment make(s) (no) (of plea-The accused

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

A9. The accused is (yee) arraigned (separately) on all charges in the charge sheet.(1) The accused does (durant object to any charge.(2) There is no amendment to be made to the Charge Sheet.(2) The President records the pleas in Part I of the Schedule.

(i. RP 31, 112. See pare 1 of Instrs p 2. When more than one Charge Sheet see RF 62; when several accused to be tri-surcely see RF 71(C), and use separate capies of CF A96 to record proceedings. 2. RF 32, RF 33. If otherwise, delete a se oppropriate record per Notes.)

Alo. The Court (is closed and) considers the Instrs 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.

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

- If pleas to all charges are GUILTY, use Record Form B below.
- 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, 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, 116; use of Summary of Evidence at Trial see RP 17(E) fs 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 (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 (2), call witnesses as to character and make an address in mitigation of punishment. (2)

(1. RF 35 fn 3. 2. MML p 54 pers 47.)

President to accused: The Court will now receive any statement you desire to make in reference to the B2. charge (.(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(2), or which show provocation or extenuation in respect of which in your interest the witnesses for the Prosecution should be examined(2), 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 making a statement 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 ? Ans NO SIB (1. AP 37(B). 2. RP 37(D) fn 6. 3. RP 35(B) fn S para 3, MML p 54 para 47. 4. See para E3 of Record Form E. S. Statement, if any, recarded per Nates.]

(1. 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 (age) not changed the President records findings) of Guilty in Part I of the S

(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 Summary, or if it is inodequete, comply with RF 37(8). If there is any evidence inconsistent with any pleas standing as Guilty. Court will advise accused to change such piec and, if changed to Not Guilty, try such charge(s) by use of paros DI to DB inclusive of Recard Form D on p 3. RF 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 pertinued by using paras D1 to D8 inclusive of Record Form D on p 3 before proceeding with C 2.(1)

C2. The charges on which accused pleaded GUILAX 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 Summary of Evidence are read as relate to the charges dealt with under C2. If any piec is changed to Not Guilty, triel thereon processes by complying with paras D1 to D8 inclusive in Record Form D on p 3 and making an appropriate record thereof are septimed from the paras D1 to D8 inclusive in Record Form D on p 3 and making an

(I. Under 85 such parts only of the Su changed to Nat Guilty, trial thereon process appropriate record thereof on a separate like

This been found Guilty on one or more of the charges, the proceedings are concluded by using thi. The acct Record Form E on p

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 rytes relating to procedure before trial have not been complied with, and that you have been prejudiced thereby the ground that you have not had sufficient opportunity to prepare your defence ? Ans.

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

D2. The Prosecutor makes (an) (no) opening address.(1) (1. RF 39(8), 60(A) (8), 90, 92(C) (0). Record address per Notes, subject to RF 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 the RP 39(D) (E).) D4. The Prosecution is closed.(1) The Defending Offr submits that the evidence for the Prosecution does not

.charge(s).(1) The Court establish a prima facie case against the accused on the ounces that the submission is closed, and considers the submission.(3) The Court is re-opened, and the Presider charge(s), and allowed on th is disallowed on the used is (are) found Not Guilty on

charge(s), and that, accordingly, the trial will proceed on the former, but the

the latter charge(s), and task accordingly, the high latter charge(s), and task accordingly the latter charge(s), and the latter charge charge

D5. President to accused: You will now proceed with you 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 swopt, and you will not be subject to cross-examination. (*) But a statement which could have been made on oath will no carry with the Court the same weight as sworn testimony. (*)
You may call witnesses in your defence and as to character, whether you give evidence or make a statement or do You may call witnesses in your defence and as to chap

President to accused: Do you wish to give vidence yourself as a witness, make a statement, or do neither ! ... Do you intend to call witnesses on your behalf ! Ans (1. RF 115. 2. RP 40(A), see 80(B) as to character only ! Ans. 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) R\$\tilde{\text{P}}\$ | 14, 115, 116. For obsecture see Notes on back of Convening Order, CF R\$\tilde{\text{P}}\$. Evidence for accused as to his character should, if in his interest be given before the finding. See R\$\tilde{\text{P}}\$ 46(A) fo 1, 86(C). Note the further opportunity in para E1 of Record Form E. Record periods addresses, statement, evidence and any summing up by the JA under R\$\tilde{\text{P}}\$ 42, (03(e).)

to consider the finding(s).(1) The finding(s) of the Court is (are) recorded in Part I D7. The Court is clos of the Schedule (*) The (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) charge(s), being subject to confirmation, will be promulgated later.(1)

Or, The Provident announces that the accused is found Not Guilty on all charges and is to be released forthwith,

that the proceedings are accordingly terminated. Part I of the Schedule is dated and signed.(2)

that the proceedings are accordingly terminated. Part I of the Schedule is dated and signed.(2)

As 54(3) (c). RP 45, 120(s). 2. As 54(3), RP 45, 117. This charactive announcement is not applicable when there

or these of Guilty autstanding and dealt with under Record form B or C.) of the Court on th

and that th

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 eyidence yourself or to call any witnesses as to your character !(2) NO -2 12

 If evidence has already been given by occursed or his witnesses as to his character, delete this para. RP 37(C) fn 4, 46 fn 1.
 Accused and witnesses are sworn. Evidence recorded per Notes.) VI E2. The Prosecutor produces Statement(*) as to Character and Particulars of Service(*), and certified true copy (copies) of Conduct Sheet(*)(*), 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 having the same number, rank, name and corps as the accused. Admitted in evidence and marked Ex. and Ex. ... respectively (8)

MFS 255 or AFS 296. 2. MFM 6. 3. 8F 46. KR Con 558. If obers documents not produced, see RF 46 fo 1

E3. President to accused: Do you wish to address the Court on the Statement and Conduct Sheets, and in mitigation of punishment 1(1) Ans 144 4 4 2 6 6 7 F AT TO (I. 89 37(C), 46(D). 2. Assers: (f.des. recorded per Notel. Kourt should permit occused or his witnesses to prove on ooth anything here ar previously stated while would affect the amount of punishment. RP 37(F) (n. 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)

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

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.)
applicable.)	EUILIY	サレノレアン	Abson Innuity and
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<i>j</i> h			
(Note : As to fin special findings see R	adings for lesser offen P 44 and MML p 753	ces see AA 56, RP 44 ; , and in loss of kit see	findings an alternative charges see MML p 483 fn 4 para Z, RP 44 ; RP 44 fn 6.)
N/0/W	UNVU		
Judge-Advo	(See back of Co	Date invening Order as to a	awarded. Prosident. (RP 45. 50.) AATION RESERVED. (AS 54(5), RP 120(F), MML p 760.)
Judge-Advo	(See back of Co	Date invening Order as to a	awarded. President. (RP 45, SO.) ssembly and disposal of record after trial.)
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Part II D.O. 169 dated 19 Jul 45.
ALL DELETIONS AND ALTERATIONS WILL BE INITIALLED.

The accused, No F. 89484, Private RYAN, J., Canadian Infantry Corps, 5 Canadian Infantry Training Regiment, C.A.C., is charged with:

CHARGE Sec.8(2) Army Act

WHEN ON ACTIVE SERVICE STRIKING HIS SUPERIOR OFFICER

in that he, in the Sgts. Mess at 5 Can. Inf. Depot Bn. of 5 C.I.T.R. in the Field about 0030 hrs on 1st July, 1945 struck with his fist in the face, No A. 34095, C.S.M. A/R.S.M. Harper, H., of 5 C.I.D.B. of 5 C.I.T.R.

In the Field, July, 1945.

(J.D. FORIN) Colonel Officer Commanding 5 Canadian Infantry Training Regiment

To be tried by Field General Court Martial.

IN THE FIELD 10 Jul 45

(J A Wilson) Col Temporary Comd 13 Cdn Inf Trg Bde

FIELD GENERAL COURT-MARTIAL

(Whether the accused to be tried is under his come ar not, a FGCM may an application to him be convened by any offir of Cdn Army Overseas, or of any other force if authorized in law, in immediate cama X troops on active service, subject to RP 105(C) and restrictions imposed by appropriate authy. AA 49, 59, RP 104-107, 114. As to the duties and privileges of the Convening Offir in dealing with the application see MML 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 same Court. RP 71(C), 107. As to separate charge sheets see RP 108. As to two or more accused charge fountly see RP 10, 109.

As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 82, 183, fns, KR Can 308, 328, 330.)

ACCUSED.

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

Full Christian Names. Surname.

Unit

F-89484

Pte

RYAN

CIC 5 CITR

CONVENING ORDER.

- 1. Whereas complaint has been made to me, the undersigned, that the person 20 named above as the accused, being subject to military law, has \$\mathrm{CLOS}\$ committed the offence 30 set forth in the Charge Sheet 30 attached and on (date) 1.0 Jul 45 endorsed by me, \$\mathrm{KRYMANDERSYMBE
- And whereas I am of opinion that it is not practicable that such offence on should be tried by an ordinary. General Court-Martial; (and other in incourt printension for sinking the street from soft son southern son son the street.
- I hereby convene a Field General Court-Martial to try the said person(x), and to consist of the Offrs appointed or detailed hereunder.
- 4. Emportmental tension of practices in the second define the life month is presented by the second second desired the second se XARK-Shird DeckinX (AA 49, RP 106(B), 107(A). Delete the whole or part, if not applicable.)
 - Koshermennötmönn abnögmatni yaxante röönnönn yöre xivitx menni yöne dobornted.)

PRESIDENT

LT COL

D L REDMAN, VD (Must be named. RP 106.)

HQ ORU

MEMBERS.

Captain

to be detailed by Comd

5 CITE

Lieutenant

to be detailed by Comd

4 CITE

WAITING MEMBER

Captain

to be detailed by Comd

CITE

MEDICE: ADMINISTRY

(Must be named, if any RF 806)

On Active Service in the Fd

(Country.)

Colonel

aw

Date 10 Jul 45

Temporary Commanding

13 Cdn Inf Trg Bde

CONVENING OFFR WILL INITIAL ALL DELETIONS AND ALTERATIONS

4/38ACFASS (In theu of AFAS)

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

MEDICAL OFFICER'S CERTIFICATE

July 12th, 1945.

I certify that No. F. 89484, Private RYAN, J., CIC, 5 Canadian Infantry Training Regiment is in state of health and is fir to undergo trial by Court Martial.

A John Capt.

I submit a plea of mitigation in the case of F89484, Pte Hyan J.

Pte Ryan joined the army on the 1st of August 1941, and from that date he had been undergoing training in various places and forms as wost soldiers usually do. When he arrived overseas he came as a reinforcement for the Cape Breton Highlanders, joining the same unit on the 31st January 1943. He served with this unit in action for a period not less than 13 months, at the end of this time he was wounded and sent to hospital and thus back to England.

What I have just stated is the outline of this man's career in the srmy-but I am concerned, and I hope the court will feel the same way--that this man, F89484 Pte Ryan J., is perhaps a victim of events; what I mean by that is-- that Ryan, who has had 13 months of action and when doing so served in my platoon for quite some time - his conduct as fighting man and soldier was unquestionable. A morale build-er to the men and myself, and never once shirking the unpleas-ant jobs that are very numerous when in action against the enemy.

I believe most of us know that some men are very adept when they are doing a job of work, as I have just mentioned, and perhaps on the other hand I may state that they do not make excellent barrack soldiers, After being so many months in action in the field that life and its problems seem totally different to us. And it takes one monthato get back to the life in barracks again, especially after coming out of hospital with severe wounds that perhaps have healed physically, but there would be a great mental change in a soldier's life.

As I have stated, the mental adjustment might, and must have had a bearing on the Fte Ryan's actions, perhaps a climax to preceding events, as Hyan told me his family life has been disturbed. His father is dead, and his mother is very ill. Ryan tried to return to Canada on compassionate grounds. received a certificate from his family doctor, and one from the family priest. While in Con Hospital at #4 CCD he turned them over to the BC Padre at #4 CCD and since that time, the 22nd of March, he has not heard anything concerning his case.

Now--I ask you. Wouldn't things like this tend to make a man disgruntled and perhaps more or less a bit careless of his position. He has tried, and really made a broad attempt until he was introduced to #5 CITR and certain parties at this training regiment -- who I may add know nothing of man management but only the way of the whip, and this I can say in all sincer-ity is not the method of handling men,

Therefore, I ask that this man, F89484 Fte Ryan J be treated and dealt with in such a manner that he will be able to come. out of this with a clearer view point on Army life. This punishment should not be a sentence given to an incorrigable character, because the man is not a soldier who has the army licked. He needs quidance and help from those in command, not abuse and non-interest.

Il. 76 Steplen Ex 3

C.O. 13 CITBde C.O. 5 CITR.

Sir .

In regard to a statement in a Field General Court Mertial on a Fte. FE9484, Ryan, J., whom I was defending, I made a statement which referred to the Unit and was detrimental to the Office of the Commanding Officer of 5 CITR. I wish to tender an explanation and apology.

During the hearing and the plea of mitigation, which I submitted on behalf of F 89484 Pte Ryan, J., I said things which I duly regret. Perhaps this being my first defending case, and this man, who once served in my platoco in action, I felt that I should try my utmost to have a light sentence passed on him. Apparently while doing so I was thinking more of Ryan and his position than I was of my own and therefore wrote without any head at all,

As I was informed of this I saw clearly that this statement I had made had no grounds whatsoever and during the case I said things that should never have been mentioned.

I sincerely hope that you will accept my apology and statement.

Your Most Obedient Servant,

DE Stephen Last.

(F.E. Stephen)Ligut., 10 Try Bn. 5 CITH.

SUMMARY OF EVIDENCE

In the case of No. F. 89484, Private RYAN, J., Canadian Infantry Corps, 5 Canadian Infantry Training Regiment, a soldier of the Canadian Army Overseas.

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

FIRST WITNESS: No. A. 34093, C.S.M. A/R.S.M. HARPER, H., 5 C.I.T.R. having been duly sworn states:

About 0030 hrs 1 Jul 45 when I was closing the Sgts.
Mess, 5 G.I.D.B. where I am A/R.S.M., the accused,
whom I recognize and identify as Mc. F. 89484, Private
Ryan, J., CIG, 5 G.I.D.B. of 5 G.I.T.R. approached me
in the entrance porch to the said mess and asked for
a drink of beer. He was dressed in uniform less bat—
tledress blouse and cap. I told him that he could
not have any beer and to go to bed. I then added
"Your name is Ryan and you are on C.B.". The accused
immediately replied to me "No, my name is MacDonald".
I left the porch but returned in a few minutes with
I left the porch but returned in a few minutes had
gone and could not be found. A few minutes later I
gone and could not be found. A few minutes later I
noticed the accused standing in the corner of the same
porch. The accused suddenly stepped into the mess
room and in the full view of about 12 N.C.Os. and with—
rot warning violently struck me in the face several
times with his clenched fist knocking me to the floor.
I was perfectly sober though I had had a few drinks
during that evening. I saw the accused about 20 min—
utes later when he was in arrest at which time on being
informed by me of his charge he stated that he was going
to make a fool of me because he was not the man who had

Harper C.S.M. A/R.S.M.

The accused declined to cross-examine this witness.

SECOND WITNESS: No. B. 45785, Sergeant HEDDLE, J.D., 5 C.I.T.R., having been duly sworn states:

About 0030 hrs 1 Jul 45 in the Sgts. Mess, 5 C.I.D.B.
I saw the accused, whom I recognize and identify as
No. F. 89484, Private Byan, J., CIC, 5 C.I.D.B. of
5 C.I.T.R., suddenly step into the mess from the porch
and without warning violently strike No. A. 34093, C.S.M.
A/R.S.M. Harper, H., 5 C.I.D.B. of 5 G.I.T.R. in the
face with his elenched fist, knocking him to the floor.
I immediately grabbed the accused and pushed him into
a corner of the porch where I turned him over to another
N.C.O. while I helped C.S.M. A/R.S.M. Harper to his feet.
When I turned back to the accused, he had escaped.

Addle. Set.

The accused declined to cross-examine this witness.

Page - 2 -

THIRD WITNESS: No. F. 43571, C.S.M. HANN, F.L., 5 C.I.T.R., having been duly sworn states:

About 0050 hrs 1 Jul 45 acting on instructions in the 5 C.I.D.B. lines, I searched the hut in which the accused, whom I recognize and identify as No. F. 89484, Private Ryan, J. CIG, 5 C.I.D.B. of 5 C.I.T.R., is quartered and found him in bed under the blankets but dressed in boots and battledress uniform but without his cap. I shook the accused who may have been asleep. I placed him in the unit barrack detention room where No. A. 54055, C.S.M. A/R.S.M. Harper identified him a few minutes later.

Mamm cam. C.S.M.

The accused declined to cross-examine this witness.

Question to the accused: --

Do you wish to make any statement or to give evidence upon eath? You are not obliged to say anything or to 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.

Answer by accused: --

I have nothing to say.

The accused declined to call any witness for the defence.

I certify that Rules of Procedure 4 (C) (D) (E) and (F) have been complied with, and that the foregoing summary of evidence consisting of 2 pages was taken down by me in the presence of the accused on the 4th July, 1945.

In the Field, 5th July, 1945. E.J. McCormick, Lt. 5 C.I.T.R. Officer detailed to take the summary of evidence.

EXMY

Statement as to Character and Particulars of Service of Accused.

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

Number.	Rank.	Name.	Regiment (or as the case may be),
F 89484	Private	RYAN, J.	CIC, 5 C.I.T.R.
NOTE.—The Field Conduct blood is to be	1. The	following is a fair and true ed, exclusive of convictions	summary of the entries in the Field Conduct Sheet by a court martial or a civil court :
This statement but is not to be atmend to the pro- seedings. The numbers		For A.W.L. (15 (1) 8_ times.
to be amosted to the tro- cordingt. The returbers begin stated should sugges- uend with the consider of Exercises in the Field Later food. See a recommendation		For Breaking out	of Quarters (14(4) 1 times.
days Sheet, prominence being given in the most serious offence in each entry. It the charge is for		For A.A. Sec. 40	
without leave, the sorries		For	times.
he stated separative. And	Date of first	entry in Field Conduct Sl	neet 25 Sep 41
Field Conduct Sheet should		entry in Field Conduct Sh	
also be inserted here.	2. Pres		cused by a court martial or a civil court are set out
Patricipe and It had			e is under sentence for
			day of
	days in co	days in open at days were	
	5. The	present age of the accuse	dis 22 yrs., 3 months.
	6. The	date of his atte	station 1 Aug. 41
	7. Th	e service which the accused	is allowed to reckon is
\$State the military	8. Th	e accused is in possession of	it Can Vol Serv Medal and Clasp
decorations (if any) held by attume).		the accused is a warrant offi duction, to the present da	1939 - 45 Star. Cer of N.C.O.). The accused has served continuously, te- Date of Promotion.
		In the substantive rank	
EV 1	4	In the war substantive	rank of
41	las	In the acting rank of	
//		INSTRUCTION —If any i from the	nation in any of the above paragraphs cannot be stated regimental books the paragraph must be struck through

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

Description of Court by which tried.	Date and Place of Trial.	Charges upon which convicted.	Sentence of the Court.	Punishment remitted of sentence suspended.
		Assaulting Police Officer at Bow Street Police Court.	2 months imprisonment with hard labour	
		£9.7		

Place	Date of Har offense	Case of drunken-	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispens- ing with trial	By whom awarded	Remarks
7 CIRU	27Mar43 1	Pte.	A.W.L. (A.A. 15(1))	C	Forf. 1 Aays			
7 CIRU 2.B.H.	14Jun43 81Ju143 17Aug43	11 11 11	A.W.L. (A.A. 15(1)) 4 yrs, 15min A.A. Sec. 40 A.W.L. (A.A. 15(1)) A.W.L. (A.A. 15(1)) A.A.40	1. & & & & & & & & & & & & & & & & & & &	forf. 23 Asys 2 Asys pay con 1th sentence a Asys F.F. & Asys F.P. & 1 Asys F.P.,	pay neurrent 22 Apr.43 forf. 8 A forf. 1 A forf. 21	ays pay ays pay ays pay	U E
7 GIRU 7 GIRU G.B.H.	82Apr43 15Apr43 18Mar44	" "	A.A. 15 A.A. 15(1) A.A. 18(1)	7	ays F.F., f. days F.F., f.	orf. 9 de	ys pay	141
			Officer having custody of	Lt.&Assi	stant Asjutant		compiled fo	om M.F.M. 2

No.F 89484 _{Nat}	me RYA	AN,	No. 1	Sqn., Battery, or Company and date)	Corps Period not reckoning towards freedom from extra fine	Date of enlistment Sheet No.	G.C. Badges) Signature O.C. Company, etc.)	Tradesme Rates of I	Pay Character	M.F.M. 6 (A.F.B. 177) 500M—11-41 (7459) H.Q. 1772-39-1467
			Cases of	ast drunk)	OFFENCE	Names of Witnessers	Punishment awarded	Date of award or of order dispens- ing with trial	By whom awarded	liemarks.
Place	Date of offence	Rank	drankin-			M.F.M. 2			2	
Joliette 25	Sep41	Pte.			F.M. 6 compiled from A. 15(1) of Querters (AA 14		forf. 16 days 14 days Detn.	pay O	C 14	days pay 1
N.S. 5 CIRU 1	88Nov41 18Jul42 21Jul42	O 11		- ? - - ? -		f	forf. 6 days pa forf. 6 days pa 3 days F.P.	12 17	To	tal Forf.
11 2	29" 4%	72			25/31	I I	Forf. 5 days pa	A	Fo	orf. 27 Asy
5.CIRU 2 C.B. High	SOAUGA	2 "		A.W.L. (A.A	4. 10(1)	- 1	21 days F.P.		pay	FRI 149(1)
	13Feb4			Assaulting I Street Police	Police officer at Bo ce Court (continued over)		2 mons. Impt. h	n • 12 •	FRI	149(1)(B)

I, No. F. 89484, Private RYAN, J., 5 Canadian Infantry Training Regiment, acknowledge that I have this day at 14.40 hours been served with the following documents free of charge; (a) Copy of Summary of Evidence, and (b) Copy of Charge Sheet both in connection with my forthcoming trail by Field-General Court Martial.

In the Field, 6 July 1945.

Pte. 9 Pyan

I, No. F. 89484, Private RYAN, J., 5 Canadian Infantry Training Regiment, acknowledge that I have been informed that the convening officer may appoint or apply for the services of an officer holding legal qualifications to act as prosecutor at my trial by Field-General Court Martial and I have been advised of my rights to retain counsel. I do not intend to retain the services of counsel but desire to have a defending officer assigned to represent me at my said trial. I desire the services of ht. F.E. Stephen, 5 C.I.T.R. if he is available for this purpose. I waive the 7 days notice mentioned in Rule of Procedure 89 (B).

In the Field, 6 July 1945.



LIST OF EXHIBITS

NIL

LIST OF WITNESSES

For the Prosecution
No. A. 34093, R.S.M. HARPER, H., CIG, 5 C.I.T.R.
No. B. 45785, Sergeant HEDDLE, J.D., CIG, 5 C.I.T.R.
No. F. 43571, C.S.M. HANN, F.L., CIC, 5 C.I.T.R.

NIL

STATE OF TRAINING OF ACCUSED

No. F. 89484, Private RYAN, J., 5 C.I.T.R. is a fully trained soldier who served with the Cape Breton Highlanders in Italy from November, 1943 to October, 1944 and was wounded in action.

MEDICAL CATEGORY OF ACCUSED

No. F 89484, Private RYAN, J., 5 C.I.T.R. is 23, 1411111 Pulhems.

56-128.

Sgt. Kyan, J.M.

*

FIELD GENERAL COURT-MARTIAL CPAGE IN THE OF A PROPERTY OF applied by preer of COLONEL CEF JONES Comd I CON FORELDRY GP dated & 4 ACCUSED. (As to the trial of two or more charged jointly see RP 15, 71, 109. As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, Alrank or Ajappmt, if any, see AA 182, 183, fmr, KR Can 306, 328, 330.) Number. (a) Prmnt R. (b) Appmt, A/R or A/Appmt. Full Christian Names. JOSEPH MALCOLM 817132 PROCEEDINGS REVIEWED REVIEWING OFFICER, JAG BRANCH CHARLEN NGS OF TRIAL. RECORD FORM A-OPENING PROCEEDINGS AND ARRAIGNMENT. 26 124 Al. The President, Members, waiting Member, JA, if any; and Offrs under instr. if any, assemble, and the Court is closed (PRINTED MATTER, NOT IN ITALICS FOR GUIDANCE, WILL BE DELETED, IF NOT USED OR APPLICABLE, AND INITIALLED (PRINTED MATTER, NOT IN ITALICS FOR GUIDANCE, WILL BE DELETED, IN NOT USED ON APPLICABLE, AND INTITISED ON BY PRES OR IA. The Schedule referred to Unsuphout is on p.4. Cristians do NOT include all relevant from ROs. For guidance on procedure when a variation in this form arises, see form for GCM in MML, pp. 141 to 759. A brief recard of such variation will be made and given a number having reference to appropriate or precading para number herein. See back of Convening Order, CF A95, for actis and insirts on how to record addresses, redemented, which instra use hereafter called "Notes". As to general provisions for conducting the trial see AA S3, RP 56, 61-70, 73, 74, 74, 103, (19, 132.) A2. The President initials and lays before the Court the Convening Order and Charge Sheet(1) attached thereto. (3) The Court is satisfied that it is properly convened and constituted(*), accused is (are amenable to military law, and each charge discloses an offence.(*) (I. 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 #09..... hours trial commences. A4. The Prosecutor produces a Medical Certificate that accused is (are) 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 automarily by the (COT) (1/5).

(1. KR Can 557. 2. AA 461 RP 50 fn 1. for effect see KR Can 563(c). Delete, if not applicable. The shorthard verifier is sworn.(1) A6. 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. (2) 2. If no objection, waiting member retires. RP 68(B). If objection, see procedure AA 51, RP 25, 71, 18, MAML p 7423 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 : Not boy. 6.76 MAJOR R. BONNAR Dessident H.Q. 1 C.F.G. CAPT. G.M. THOMAS Member X4A LIST ATT. HQ. 18FG. LT. E.H. SMEETH Member NONE Judge-Advocate No. 16 boy 6.76. LT. L.V.E. MERCER Defending Offer CAPT. G.E. CURTIS M.M. H.Q. No 7 6.F.D Questions by President : Is the Prosecutor a lawyer ! Ans No Is the Defending Offr a lawyer ! Ans No (*) (I. RP 25, 27, 109, 111. List of offer under instr will be returned sepan very with proceedings for information of Cons Offe.)

(2. If Pres a lawyer and Def Offe not, accused is entitled to an adjournment when RP 89 (8) and fn 2 were not followed. See D1 p 2.) AS. The accused B. 17132 SGT. Joseph MASCALM RYAN before arraignment make(s) (no) of piece AD (1. If a special piec is mode for separate 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 bor of trial (RP 36), or as to occusiod's mental fitness to stand trial (AA 130, RP 57), or by one of several occused charged jointly to be tried separately (RP 16, 71), such plea, the addresses made in subport or against, the evidence, if any, and finding ore recorded per Notes. For forms of record see references in fits to RAP cited. Insert in AB mask and name of the occused making the plea! A9. The accused is (and) arraigned (separately) on all charges in the charge sheet.(1) The accused does (as) object to any charge.(2) There is no amendment to be made to the Charge Sheet.(2) The President records the not object to any charge.(2) The pleas in Part I of the Schedule. RP 31, 112. See pera 1 of Instrs p 2. When more than one Charge Sheet see RP 62; when several occused to be tried ely see RP 71(C), and use separate copies of CF A96 to record proceedings.

2. RP 32, RP 33. If otherwise, delete and phylophoriate record per Modes.) A10. The Court (is closed and) considers the Instrs on Procedure after Arraignment at top of p 2. The proceedings are continued on Record Form. D. PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

A coduply

The accused may not plead or be found Guilty on more than one of two or more charges laid in the alternative. L. The accused may not plead or be found Guitty 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 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,
 - II. 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).
- As to responsibility of President to accused see RP 59, 60(C); powers and duties of JA see RP 103; duty of 3. As to responsibility of President to accused see RP 00, bu(C); powers and auries of JA see RP 100; away 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 willdamwal of witnesses from Courl 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, 80, 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 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), call witnesses as to character and make an address in mitigation of punishment.(2)
(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).(4) If it appears from your statement that there are circumstances which indicate that you do not understand the effect of the plea of Guilty(2), or which show provocation or extenuation in respect of which in your interest the witnesses for the Prosecution should be examined(2), 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 will be given an apportunity later to prove your statement when the court cathering the same proportion of the pleasant of the court of punishment to which you are liable, you will not be advised to change your plea and you will be given an apportunity later to prove your statement. will be given an opportunity later to prove your statement by sworn testimony, if you so desire.(4)

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

B3. The Court considers the arched's statement.(1) The Court decides (not) to advise accused to change his (their) plea(s) of Guilty to Not Guilty on change(s) his (their) plea(s) on (their) plea(s) on charge(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.(1) (I. 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 Summary, or if it is inedequate, comply with RF 37(8). If there is any evidence inconsistent with any piece pares DI to D8 inclusive of Record form D on p 3. RF 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.

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 2.0 (1. AP 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. (*) (i. Under 85 such parts only of the Summary of Evidence are read as relate to the charges dealt with under C2. If any piec is changed to Not Guilty, trial thereon proceeds by complying with parts D1 to D6 inclusive in Record Farm D on p 3 and making an appropriate record thereof an a separate wheet.)

C3. The accused baving 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.

RECORD 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 procedure before trial have not been complied with, and that you have been prejudiced thereby, or on
 - D2. The Prosecutor makes (a) (no) opening address (1) (1. RP 39(8), 60(A) (8), 90, 92(C) (D). Record address per Notes, subject to RP 95(C).)

 - DS. 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 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 facio caso against the accused on thecharge(s).(*) The Court is closed, and considers the submission (*) The Court is re-opened, and the President announces that the submission is disallowed on thes. 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 the latter charge(s) (4) the later charge(s), (4) (7) (7)

(1. Delete remainder of this pare, 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 accused acquitted on all charges, use second alternative in para 0.6).

NB : If trial proceeds, accused must be allowed great latitude in making his defence, and the Court should not stop his defence salely on ground of 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 yourself on outh 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. (*) You may call witnesses in your defence and as to character, whether you give evidence or make a statement or do

President to accused: Do you wish to give evidence yourself as a witness, make a statement, or do neither d Ans a consend twicked to give by deares. Do you intend to call witnesses on your behalf? YES

Are they witnesses as to character only ! Ans. Y. E.S.

(1. RP 115. 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 para D5 the appropriate procedure for the defence is followed.(4)
(1, RF 114, 115, 116. For procedure see Notes on back of Convening Order, CF A95. Evidence for accused as to his character should, if in his interest, be given before the finding. See RF 46(A) in 1. 86(C). Note the further apportunity in para E1 of Record Form E. Record per Notes addresses, statement, evidence and any summing up by the JA under RF 42, 103(e).)

D7. The Court is closed to consider the finding(s).(1) The finding(f) of the Court is (are) recorded in Part I of the Schedule.(*) The Court is re-opened.
(1. 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 Guity, 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 serminated. Part 1 of the Schedule is dated and signed (2)

(1. AA 54(3), 6), 58 45, 12(3), 2. AA 54(3), 84 55, 117. This alternative announcement is not applicable when there are pleas of Guilty outstanding and dealt with under Record form 8 or C.)

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.

- E1. President to accused: Do you wish to give evidence yourself or to call any witnesses as to your character 1(1)
 - (i). If evidence has already been given by accused or his witnesses as to his character, delete this para. RP 37(C) fn 4, 46 fn 1. Accused and witnesses are pwarn. Evidence recorded per Notes:)
- E2. The Prosecutor produces Statement(4) as to Character and Particulars of Service(1), and certified true copy (seems) of Conduct Sheet(b)(*), 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(s) having the same number, rank, name and corps as the accused. and Ex (* respectively (*)
 MFB 355 or AFB 296. 2. MFM s. 3. RP 46, KR Can 558. If above documents not produced, see RP 46 [n] marked Ex ...

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

 (1. RF II(C, 48(D). 2. Accress # one, recorded per Notes. Court should permit occused or his witnesses to prove an each caything here or presiously stated which would effect the amount of punishment. RF II(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 acc (U. AA 54(6), RF 120(A).) court are accordingly terminated (1)

E3. The Court considers the sentence (3) The President records the sentence in Part I of the Schedule, which

Ed. The Court considers the sentence (*) The President records the sentence in Part 1 of the Sentence is dated and signed by him and the JA, if amy (*) (*). One sentence only, comprised of the punishment or punishments and down in As 41, 44 and its provine, as in he eworded to triver oil charges in all charge sheets on which occused found guitty. Set 46. As to sentences see As 44, 128, 182, 182, 88, 48, 51, 182, 1940, 182, 1940, 182, 1940, 183, 1940, 187, 1940, 187, 1940, 187, 1940

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

SCHEDULE.

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

Charge.	Plea.	Finding.	
(Insert " alternative " where applicable.)	(See Instrs p 2.)	(See note below.)	(Space for use as required for further charges, occused charged jointly, , special findings, etc.)
at	NOT GUILTY	GUILTY	
nd			
rd			
th			
th			
th			
(Note : As to f)	ndings for lesser offenc	es see AA S6, RP 44 ; and in less of kit see	findings on alternative charges see MML p 483 fn 4 para 2, RP 44; RP 44 (n 6-)
			1.0
th present under mater (1) Insert sentence	being served, or delet	e, if not applicable. 5	ee RP 46(A). Information should be found on MF 8355 or AF B296.)
Cinco in confinement a	waiting present to	rial a total of	days, of which days were spent in hospital (2)
			355 or AF 8296 admitted in evidence under E2.)
7 days	automati	i Forfula	of pay FR! 149 ()(A)
Rede	and to t	he rank	of Private
Judge-Adve	(See back of Co	Date nvening Order as to a	awarded. President. (RP 45, 50.) ssembly and disposal of record after trial.)
-	(See back of Co	Date nvening Order as to a	awarded. President. (AP 45, 30.)
Judge-Advo	(See back of Co	Date nvening Order as to a	awarded. President. (N° 43, 30.) ssembly and disposal of record after trial.)
Judge-Advo	(See back of Co	Date myening Order as to a ERE CONFIRM F. CONFIRMIN	Avarded. 14 President. (N° 43, 30.) 15 Stembly and disposal of record after trial.) 16 IATION RESERVED. (AA 54(5), RP 120(F), MML p 760.) 17 Commanding 16 OFFR ON FINDING(S) AND SENTENCE.
Judge-Advo	(See back of Co	Date myening Order as to a ERE CONFIRM F. CONFIRMIN	ASSISTED AND SENTENCE. (AA 54(5), RP 120(F), MML p 760.) Commanding IG OFFR ON FINDING(S) AND SENTENCE. 1.56. 120, MML p 759-761, KR Can 567-577. Acquitals require no finding or sentence for revision by Court: AA 54(7), RP 120(G). If A. Minute of confirmation an non-confirmation may be altered before tion: KR Can 573. Duties and powers of reviewing offrs: AA 57, III, MA 127 (R 1-1).
PART II. Date PART III. (For duties and po- confirmation and not confirmed, acc promulgation : R 57A, RP 53A, 54.	(Sgd) DECISION OI wers see AA 54, 57, 81 annal be revised: AA used may be tried again. 53, MML p 65. Que The Confirming Offr n	Date overling Order as to a property of the confirming of the confirming property of the confirming property of the confirming	AS STATE OF THE ST
PART II. Date PART III. (For duties and po confirmation and of not confirmed, acc promulgation : Rf 57A, RF 53A, 54. My decision on ti	(Sgd) MINUTE WHE (Sgd) DECISION OF wers see AS 45, 57, 81 and see As 49, 57, 81 and see As 49, 57, 81 and see As 51, 61 and see As 51, 61 and see As 51, 61 and see As 51 and see As	Date nvening Order as to a ERE CONFIRM F CONFIRMIN P 37(D) fo 6.46(A). 5 \$4(.3). Sending back or AA 157, MML po sating ofter promules used sign here person entence set forth of (be 6.6.6.6.6.6.6.6.6.6.6.6.6.6.6.6.6.6.6.	A Solidary of Section 19, 120 (S), RP 120(F), MML p 760.) Commanding GOFFR ON FINDING(S) AND SENTENCE. 1-56. 120, MML pp 759-761, KR Can 567-577. Acquitals require no finding or sentence for revision by Caurt: AM 54(3), RP 120(6). If 4. Minute of confirmation on non-confirmation may be altered before the ine if RC and 573. Duties and powers of revision for its Can 1971. Its initial in Part I is:
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PART II. Date PART III. (For duties and po confirmation and or not confirmed, acc promulgation : R 57A, RP 53A 54. My decision on the confirmation of the confirma	(Sgd) DECISION OF Section Of Sec	Pate overling Order as to a series of the confirmed of th	ASSISTANCES TAKEN. (RP 53, KR Cos 576, 577.)

ALL DELETIONS AND ALTERATIONS WILL BE INITIALLED.

AB.

CHARGE SHELT

The accused, No. B.17132 Sgt Joseph Malcolm Ryan, No.16 Company, Canadian Forestry Corps, a soldier of the Canadian Army Overseas, is charged with:-

First Charge Sec 15 (1) Army Act WHEN ON ACTIVE SERVICE ABSENTING HIMSELF WITHOUT LEAVE

in that he

in the field, absented himself without leave from 2230 hours 22 December 44 until reporting to No.16 Company, Canadian Forestry Corps Detachment, at 1000 hours 29 December 44 (Absent 6 days, 11 hours and 30 mins.).

(M. MacLaggan) Major, O.C., No.16 Company, Canadian Forestry Corps, Canadian Army, (Overseas).

In the Field 30 Dec 44.

Remended for summary Vevidence.

(M. MacLaggan) Major, O.C., No.16 Company, Canadian Forestry Corps, Canadian Army, (Overses).

In the Field 2 Jan 45.

Remanded for Field General Court Martial,

In the Field, 13 Feb 45.

(C.A. WILLIAMS) Lt.-col., Officer Commanding, 8 Cdn Forestry District (B), Canadian Army Overseas.

In the Field 23 Feb 45

To be Tried By Field General Court Martial.

(G.E.P. JOHES) Colonel Commander No.1 Caradian Forestry Gr

No.1 Canadian Forestry Group Canadian Army Overseas.

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 Oversous, or of any other force if authorized in law, in immediate camd of troops on active service, subject to RP 105(C) and restrictions imposed by appropriate authy. As 49, 30, RP 104-107, 114. As to the duties and privileges of the Convening Offr in dealing with the application see MML Chap Y paras 20 and 21, 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 trial on charges in the same charge theets 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, 183, fns. KR Can 308, 328, 330.)

ACCUSED.

Number. (a) Prmnt B. (b) Appmt, A/B or A/Appmt. Full Christian Names. Unit. Surname. B-17132 Sgt JOSEPH MALCOLM RYAN 16 COY OFC

CONVENING ORDER.

- 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 Sheet(s) attached and on (date). 23. Feb. 45. endorsed by me, (or by an offer of my staff for me). To be tried by Field General Court.
- 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 trial for reference to a superior qualified offer) (Delete part in brockets when not required for compliance with RP 105(C).)
- 3. I hereby convene a Field General Court Martial to try the said person(f), 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 reasons I have. (AA 49, RF 106(B), 107(A). Delete the whole or part, if not applicable.)

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

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

PRESIDENT.

R. BOINAR (Must be named. RF 106.) NO.1 COY OFG MAJOR MEMBERS HQ 1 CDN FORESTRY GP CAPT G.M. THOMAS X-4A LIST OFC (ATT ba)1 OFG) E.H. SMEETH LIEUT (Named or detailed RP 106.) (Rank.) WAITING MEMBER. H.J. DOHENY No.14 Coy CFC No.25 COY CFC Major L.A. SCHOFIELD Lieut (Named or detailed, if any. RF 106.) (Rank.) JUDGE-ADVOCATE. (Must be named, if any. RF 106.) On Active Service in the Fd a. co. BELGIUM Colonel (Signed personally. RP (05 18) (Country.) (Rank.) (C.E.F. JONES) Commanding 1 Canadian Forestry Group Convening Officer.

CONVENING OFFR WILL INITIAL ALL DELETIONS AND ALTERATIONS

4/38A OFA 96 (In Heu of AFA 3)

Dat 24 Feb 45

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

R.B.

NO. 16 Company, Canadian Forestry Corps Canadian Army - Overseas

"I certify that I have this day examined

B17132 Sgt. RYAN, J.M. Reg'l No. Hank Name

and in my opinion he is fit to undergo trial by Court Martial,"

Bed born flutter

Date. ... March 1945.

EVIDENCE FIELD GENERAL COURT MARTIALQ 2 MAR 45
on charge against
B-17132 Bergeant Joseph Malcolm Ryan
No. 16 Company, Canadian Forestry Corps. L 50184 CSM Thomson, S., Company Sergeant Major, No. 16 Company, Canadian Forestry Corps, Cdn. Army Overseas, having been duly sworn, states:-FIRST WITNESS FOR THE PROSECUTION. Do you recognize the accused? I do. (Witness indicates accused) The accused is charged with being absent without leave from 2230 hrs. 22 Dec 44 until reporting to No. 16 Gey. G.F.C. Detachment at Spa, at 1600 hrs 29 Dec 44. Total time absent 6 days, 11 hours and 30 minutes. Will you tell the Court, please, what you can about this matter? Sir, on 22 Dec 44, No. 16 Gey. C.F.C. moved into billets at Westerloo arriving there shortly before noon. Just after we arrived, I was notified that all personnel within the billet area were confined to that srea owing to an elert being in force at that time. This information was passed on to the members of the Company in a general way and that evening, I ordered the Orderly Sergeant, E-1018 Sgt. Lemelin, A.C. to make a check of the Commany and see that they were in their quarters at 2230 hours. At Reveille the following morning, 23 Dec 44, the Orderly Sergeant, Sgt. Lemelin, A.C., informed me that the accused had been absent from his quarters when the check was made at 2230 hours the previous evening. At approximately OSOO hrs, 23 Dec 44, the Company was paraded and I personnally celled the roll. The accused feiled to answer to his name. I then reported his absence to the Commanding Officer, after having made a search of the Sergeants Q uarters without finding any trace of the accused. 9.2. A.2. W hen did you yourself last see the accused? Sometime after we arrived in Westerloo on the 22 Dec 44. I could not state when. Do you remember if hexx was present for the supper parade? No, Sir. I do not remember. We were messing at irregular intervals with No. 1 Cdn. Forestry Group personnel. I don't remember having seen him. A.4. CROSS-EXAMINED BY OFFICER FOR THE DEFENCE: -Is it possible that Sgt. Ryan did not hear the order confining the Company to the billeting area? Yes, Sir. That is possible. No one was warned individually. Q.5. A.5. How long has Sgt. Ryan been one of your N.C.Ost Sgt. Ryan was a sergeant with No. 16 Coy. C.F.C. when I was first appointed to the Coy. as Sergeant Major late in April, 41, and has continued as a Sergeant ever since. Has he usually performed his duties and responsibilities as a good N.C.O. should? Q.7. as a good Yes, Sir. A.7. Would any of his past activities lead you to believe he Q.8. would have left the billets if had received the order?

Page TWO follows

A.S.

No. Sir.

PAGE 1.

PAGE 2.

- A.9.

SECOND WITNESS FOR THE PROSECUTIO

W hile the Unit was in Westerloo, and afterwards in Louvain, was the usual discipline maintained or was there a sort of let down?
I would say discipline was maintained but the normal routine was relaxed quite a bit.
R.P. (83 (B) complied with.
E-1018 5gt. Lemelin, A.C. Orderly Sergeant, No. 16 Coy.
Canadian Forestry Corps; Odn. Army Overseas, having been duly sworp, states: duly sworn, states:-

EXAMINED BY PROSECUTION:

- Do you recognize the accused? Yes, Sir. (Witness indicates accused) Q.10. A.10.
 - What were your duties on the 22 Dec 44? I was Orderly Sergeant, Sir. 0.11.

- The accused is charged with being absent without leave from 2230 hrs. 22 Dec 44 mutil reporting to Mo. 16 Goy. The 22 Dec 44 mutil reporting to Mo. 16 Goy. The 22 Dec 44 mutil reporting to Mo. 16 Goy. The 22 Dec 44 mutil reporting to Mo. 16 Goy. The 22 Dec 44 mutil reporting to Mo. 16 Goy. The 22 Dec 44 mutil reported as Orderly Sergeant by On the 22 Dec 44 mutil reported at Westerloo, I was CBM Thomson, S., and when we arrived at Westerloo, I was to the billeting area. Later on in the evening, I was to the billeting area. Later on in the evening, I was to the billeting area. Later on in the evening, I was to the billeting area. Later on in the evening. I was to the billeting area. Later on in the sevening. I was to the billeting area. Later on in the sevening. I was to the Sergeants 2 warters. This was about 2230 hrs on the 22 Dec 44 mutil then noticed that Sgt. Ryan was absent. I reported this to CSM Thomson on the morning of 23 Dec 44. A.12.
- About what time did the Company arrive at Westerloo? About dinner time. A.13.
- It was right after that thet the order was passed around warning the men that they were confined to the billets? It was announced at the meal parade, 2.14.
- A.14:
- Did you yourself see Sgt, Ryan at meal time? I don't remember.
- When was the last time that you saw Sgt. Ryan? Right after we arrived at Westerloo and got out of the Q.16. A.16.

Officer for Defence declines to cross-examine witness.
R.P. 83(B) complied with Officer and Officer 1/c Spa
Lieut, W.B.Lawton, Bush Officer and Officer 1/c Spa
Detachment, No. 16 Company, C.F.C., having been duly sworn, states: -

THIRD WITNESS FOR THE PROSECUTION.

- Do you recognize the accused? Yes, Bir. I do. (Indicates the accused) A:17:
- Q.18.
- The accused is charged with being absent without leave from 2230 hrs. 22 Dec 44 until reporting to No. 16 Cov. C.F.C. Detachment at Spa, at 1000 hrs. 29 Dec 44. Total time absent 6 days 11 hours and 30 minutes. Will you time absent 6 days 11 hours and 30 minutes. Will you time absent 6 days 11 hours and 30 minutes. Will you time absent 6 days 11 hours and 45 minutes. Will you time about this matter? tell the Court, please, what you can about this matter? tell the Court, please, what you can about this matter? of No. 16 Cov. C.F.C. At approximately 1000 hrs. Sgt. of No. 16 Cov. C.F.C. At approximately 1000 hrs. Sgt. of No. 16 Cov. C.F.C. At approximately 1000 hrs. Sgt. Interviewed Ryan reported to my headquarters there. I interviewed him for a few minutes and asked him what he was doing him for a few minutes and asked him what he would have to him under open arrest and told him that he would have to him under open arrest and performed any daties which I allots under open arrest and performed any daties which I allots. A.18. under open arrest and performed any daties which I allotted to him quite satisfactorily.

Page THREE follows

PAGE 3.

- Was his presence with your Detachment reported to the Q.19.
- Yes, it was. A.19.
- What happened then?
- Bgt. Ryan's presence was reported to the Commanding Officer and Bgt. Ryan came up for office before me and was remanded to the C.C. Q.20. A.20.
- Where was the main body of the Unit 1 on the 29 Dec 447 It was located at Heeze and Mille-Heeze, Holland. Q.21. A.21.

Officer for Defence declines to cross-examine witness.

R.P. 53(B) complied with.
L 50154 OSM Thomson, S., Company Sergeant Major, No. 16
Coy. C.F.C., Cdn. Army Overseas, being recalled, states:

FIRST WITNESS

- Can you tell the Court when the Comapny moved from Westerloo? The Company left in two detachments. The first left on 23 Dec 44 to Heeze, Holland, and the second to Mille-Heeze, Holland, on the 24 Dec 44.
- Was Sgt. Ryand with either of these Detachments? Q.23. A.23. No, Sir.

for Defence declines to cross-examine witness, R.P. 83(B) complied with. Prosecutor declines to make any statement.

Officer for Defence declines to make any statement.

The accused expresses the desire to give evidence on his own behalf on oath.

FIRST WITNESS

B-17132 Sgt. Ryan, J.M. Shipping Sergeant, No. 16 Company Canadian Forestry Corps, Cdn. Army Overseas., having been duly sworn, states:-

Examined by Officer for Defence:-

- Sgt. Ryan, did you hear the order confining the Unit to billets on the 22 Dec 44? 0 .24.
- No, Sir. A.24.
- When you left the billets on the 22 Dec 44, did you go to Westerloo Village and meet up with some hospitality?
 Yes, Sir. A little too good. Q.25.
- A.25.
- Why did you not return to the Billets on the morning of 23 Dec 44? Q.26.
- I was on my way to the Billets when I stopped at a barbershop. While in there I noticed a convoy paging of which
 some of the trucks belonged to No. 16 Coy. C.F.C. I
 therefore came to the conclusion that the Company was
 moving back to Spa. From there on I endeavoured to get
 back to Spa as best I could. A.26.
- Please tell the Court in your own words what harmened from that time on until reporting to Lieut, W.R.Lawton 2.27.
- at Spa.

 I started back to Spa on the afternoon of the 23 Dec 44.

 I started back to Spa on the afternoon of the 23 Dec 44.

 By nightfall, I had arrived within seven or eight miles of Louvain, where I stayed overnight in a house. A.27.
- What mode of transport did you use? Q.28. I travelled by freight train this far. A.28.

"On the 24 Dec 44, after walking some distance, I was picked up by a Belgian Naval Officer and arrived in Louvain between 1600 hrs and 1700 hrs. On the 25 Dec 44 I started out from Louvain and was given two lifts by Louvain between 1600 hrs and 1700 hrs. On the 25 Dec 44 I started out from Louvain and was given two lifts by American Jeeps. Between that and walking I finally arrived at Tirhemont where I stayed with an American Unit that night. On the 26 Dec 44, I started out from Tirhemont and was given a short lift after which I waited on a tram car for Liege. I arrived in Liege about 2000 hrs. I stayed at an English Artillery Billet after reporting to the Sgt. of the Guard. He took my Service Bock and Identity Card to his Orderly Officer. I stayed there that night. On the 27 Dec 44, I reported to the American RTO at Liege and told them I wanted to get to Sps. He referred me to an American Postal Officer. This Postal Officer arranged with me to ride from Liege to Verviers late in the afternnon. I stayed in Verviers that night. On the 25 Dec 44, I walked about two miles out of Verviers and was picked up by a civilian truck who drove me to Pepinster. From there I walked for a while and was finally picked up by an American Jeep. We were stopped at the bridge entering Sps and had to show out identity cards. I got off downtown and walked to what was known as our old "B" Billets and in which there was an American Red Cross Unit. As it was near 1800 hrs. I stayed there all night, as Curfew was at 1800 hrs. I stayed there all night, as Curfew was at 1800 hrs. On the 29 Dec 44, I inquired of some of the neighbours around the Billet where No. 16 Coy. C.F.C. Detachment were located and I was told they were at the Hotel de L'E urope where I reported at 1000 hrs. neighbours

Cross-examined by Officer for the Prosecution:

- Q.29. What time were you in the barber shop at Westerloo on the 23 Dec 44? At about 1100 hours.
- A.29.
- You say you endeavoured to get back to Spa as quickly as possible. The first day you say you got within seven Yes, Sir. 0.30.
- A. 30.
- Q. 31. And so, step by step, you finally arrived at Verviers on the 27 Dec 447
- Yes, Sir. A. 31.
- How far is from Verviers to Spa? I don't remember.
- Q.32. A.32.
- Q.33. A.33. How far is the L'Hotel de L'Europe from "B" Billets? About five minutes walk. (R.P. 83(B) complied wit (R.P. 83(B) complied with.

WITNESS FOR THE

Lieut. A. Seed, Mill Officer, No. 16 Goy, Cdn. Forestry Corps, Cdn. Army Overseas, called as Character Witness, having been duly sworn, states:

- Q .34. A. 34. How long have you known Sgt. Ryan? Over 45 years.
- Q.35. A.35. What is your especial work with No. 16 Coy. C.F.C? At present I am the Mill Officer and in charge of production, shipping, mill records, etc.

PAGE 5.

Who has been your assistant? Sgt. Ryan has been my assistant all along. Previously while in Scotland, Sgt. Ryan was in complete charge of shipping while I was stationed in Aberdeen. Q.36. A.36.

Has his work always been entirely satisfactory? Yes, it has always been excellent.

Q.38.

Did Sgt. Ryan have any special job of a similar nature while in Normandy?
Tes, he was chosen to go to the C.F.C.Lumber Yard in view of his ability and was used to some length there. A.38.

The Defence is closed,

Officer for Prosecution declines to oross-examine witness, R.P. 83(B) complied with.
CLOSING ADDRESS BY PROSECUTOR.

The Prosectuion respectfully submits that the evidence given substantiates the charge. The length of time the accused took to rejoin his Unit, in the opinion of the Prosecutor, shows lack of initiative on the part of the accused. accused.

The Court is Closed to Consider the Findings.

FINDING.

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

By consent of the Accused, the Prosecutor handed to the Defence AFB. 296 - Statement of Character and Particulars of the Accused, and MFM 6 - Conduct Sheet, which in turn were handed to the Court.

AFB 296 submitted to the Court, examined and marked as Exhibit "A".

MFM 6 submitted to the Court, examined and marked as

The Defending Officer makes the following Plea in Mitigation of Sentence:-

"President, Sir and Gentlemen:

From 19 Dec of last year until the end of the year, No. 16 Coy. C.F.C., was very much in a state of unsettled operations and billets. No. 16 Coy. moved from Spa to Louvain, remained there for a day or so, and then moved into Westerloo Billets with personnel of H.Q. No. 1 Cdn. Forestry Group, amidst a certain degree of confusion. While settleing in, a "C.B." order was passed around in a general way but it was not defintely certain that all personnel had heard the order. Bgt. Ryan was one who apparently did not hear the order and consequently he strolled into the adjoining little village of Westerloo" some three minutes walk from the billets. While there he met some of the hospitable civilians and partook a little too freely of the offered hospitality with the result that he was found absent from his quarters at 2230 hrs 22 Dec 44.

While in the local barber shop for a shave the following morning, he noticed a convoy of trucks move by through the window and by the time he realized that it was his own Coy. on the move it was too late to do enything so he undertook to do what he thought was the next best thing - try to join the Coy. at their destination. His efforts to do this have been given in his own evidence under oath.

The value of Sgt. Ryan's services to his Coy. have elso been given in evidence.

Realizing that his unauthorized absence might necessitate the ordering of a FGCM, with the extra trouble entailed he volunteered to give up his stripes. He was not allowed to do this but in turn is before this Court today. Why a soldier with Sgt. Ryan's record of good work done should be forced to have an entry or "FGCM" entered on his MFM. Safter nearly five years of service in the rank of Sergeant is something that seems hardly justified. The Defence respectfully appeals for consideration of these points.

It is admitted that some degree of punishment must be expected but in the interest of the Service and the 10D we are here to do, how much better it would be to have

PAGE 7.

/have Sgt. Ryan retain rather than lose his rank so as he will be in a position to carry on his own specialized work. We are still "Civilian" and not professional soldiers and the rigidity of the "written word" in the Good Red Book may through the wisdom of the Court be somewhat slackened.

Such consideration is respectfully asked for,

The Court is closed for the consideration of the sentence.

100

RA

ARMY FORM B.206 (WAR).

Statement as to Character and Particulars of Service of Accused.

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

Number.	Rank.	Name.	Regiment (or as	s the case may be)			
B 17132	Sgt	RYAN, J.M.	Forestry	pany, Canadian Corps,			
NOTE The Field Conduct Sheet is to be produced in Court with this statement but is not to be support to the pro-	 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:— 						
this statement but is not to be assezed to the pro- ceedings. The numbers herein stated absold cogres- pend with the number of		One time&					
ENTRIES IN the Field Con- duct Sinet, prominence being given to the most serious offence to each		For Drunkenness	Two times.				
dronkennes or absence		For ************************************		times.			
without rave, the entries for drunkennest or absence, as the case may be, should be stated upparately. Any recognited special acts of gallantry or dislinguished		For		times.			
	Date of firs	t entry in Field Conduct Sheet 1	3 April, 1948				
Enselect recorded on the Field Conduct Short should also be innerted here.	Date of last entry in Field Conduct Sheet 7 July, 1944						
		ringananang sebeba anang ang sebig Singanang sebiga	жжжжжжжжжжжж	WHEN KHINGS HOUSE			
Astrine out if not applicable	*3 XXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXX						
	MERIORDIE FOR XIXX						
	4. The accused has been awaiting trial on the present charges for						
	CHANNENDEN KENNEY NOOT Sixty four days in military custody, i.e.,						
	Sixty fout days in open arrest,dwxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxxx						
	5. The	present age of the accused is	39 years				
	6. The	date of his attestation	esense 18 24 Au	igust 1940			
	7. The service which the accused is allowed to reckon is 4 years, 5 months						
Shate the military decorations (if any) held by accused.	6. The accused is in possession off N11 and 15 days,						
	9. (If the accused is a warrant officer or $N.C.O.$). The accused has served continuously, without reduction, to the present date—						
				Date of Promotion.			
		In the substantive rank of					
		In the war substantive rank of	Sergeant	2 Oct 41			
		In the acting rank of					
	IN	STRUCTION —1f any matter in from the regimenta	any of the above para l books the paragraph	igraphs cannot be stated must be struck through.			

SCHEDULE OF CONVICTIONS BY A COURT MARTIAL OR COURT

NIL NIL NIL 1	iption of Date an urt by Place cla tried of Trial	Charges upon w	duch codvicted.	Sentence of	the Court.	Punishment remitted or sentence suspended.
	NIL	NIL		NIL		NIL
			-			

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.

2nd day of March 1945 O., 1/c Records, No.16 Coy., C.F.C.

Lieut.

Company Conduct		1	Adjustment of the last	Dadges J and	ong Service } d G.C. Pav	Signature O.C.)	R.T	Colaubana 1	
Place	Date of offence	Rank	Coses of Draok- enness	Official	Names of Witnesses	Company, etc.)	I Date of smooth	Colquhoun, 1	Major
				Original sheet destroyed af	ter 6 months	Punishment Awarded		By whom swarded	Remarks
Blackhall Camp	10-4-42	Sgt	lst		CSM	Reprimanded lat offence.	13-4-42		No entries
Blackhall Camp	16-9-43	Sgt		WCAS, AWL from 0730 hrs 16-10-43 to 2200 hrs 18-10-4	Thomson in Sat	Repremanded Forf. 3 days pay FR&I 149(1)(a).	20-10-4	3 Major M.T.	MacLaggar
field.	5 Jul44	Sgt	2nd	Drunkenness, 2nd offence A.A.Sec 19.	CSM Thomson,S.	Severa	7 Jul 41	4 LtCol.	Burchett.
leid.	5 Jul 44	Sgt	2nd	Drunkenness, 2nd offence A.A.Sec 19.			7 Jul 41	4 LtCol.	Burc

SUMMARY OF EVIDENCE

Summary of Evidence in the case of B.17132 Sgt Ryan, Joseph Malcolm of No.16 Company, Canadian Forestry Corps, C.A.O., charged with absenting himself without leave from 2230 hours 22 December 44 to 1000 hours 29 December 44 (Absent 6 days, 11 hours and 30 minutes) A.A.15(1).

The Commanding Officer does not direct or the accused demand, that the evidence be taken on oath.

First Witness

L50184 C.S.M. Thomson, S., No.16 Company, Canadian Forestry Corps, states:-

I am Company Sgt Major of No.16 Company, Canadian Forestry Corps and Sgt Ryan is in my Company. On the night of 22 December 44, while we were in quarters at Headquarters, I Canadian Forestry Group, I instructed the Orderly Sergeant, Sgt Lemelin, to make a check of the beds at 2230 hours. This he did and reported to me that Sgt Ryan was absent. The whole Company Had been ordered confined to barracks by the Officer Commanding on our arrival at Group H.Q. which was about midday on 22 December 44. There had been a warning issued that it was believed that there might be German Parachutists in the vicinity and the whole Camp had been confined to barracks.

At 0830 hours the following morning, 23 December 44, I called the Company out on parade and, myself, called the roll. Sgt Ryan failed to answer his name. I ascertained that he had not been seen by any of the other Sgts since late the previous afternoon, and reported his absence to the Officer Commanding. The accused was still absent when the Company left Westerloo for destinations in Holland on the 23 and 24 December 44.

- Q.1 Do you know if Sgt Ryan heard the order that the Company was confined to barracks?
- A.1 No, I can't be sure of that as the order was passed to the Company in a general way.

The accused declines to cross-examine this witness.

S. Thomson

Second Witness

E1018 Sgt Lemelin, A.C., No.16 Company, Canadian Forestry Corps, states:-

On 22 December 44, I was detailed as Company Orderly Sergeant by C.S.M. Thomson, B. The Unit was confined to quarters on orders issued by the Officer Commanding. At 2230 hours I made a bed check of the Unit as ordered by the C.S.M. and found that Sgt Ryan was absent from his quarters and that he had not been seen by any of the other Sgts since late afternoon. I reported his absence to C.S.M. Thomson.

The accused declines to cross-examine this witness.

A.C. Lemelin

Third Witness

Lieut. W.R. Lawton, No.16 Company, Canadian Forestry Corps, states:-

I am the officer in charge of a detachment of the Company at Spa, Belgium, and on 29 December 44 at 1000 hours, Sgt Ryan reported to my detachment. I asked him where he had come from and he replied, "I have been absent without leave". I placed him under open arrest and he has remained as such.

The accused declines to cross-examine this witness,

W.R. Lawton

Fourth Witness

B20157 Sgt Martin, A.C., No.16 Company, Canadian Forestry Corps, states:-

I am the Orderly Room Sergeant of No.16 Company, Canadian Forestry Gorps and on 31 December 44 I was instructed to send a letter to Headquarters, 1 Canadian Forestry Group, referring to the absence of Sgt Ryan. I herewith submit certified true copy of this letter in confirmation.

Fourth Witness (Cont'd)

Gertified true copy of letter file 16/5-4, dated 31 December 44 and addressed to Headquarters, 1 Canadian Forestry Group, is submitted and to be known as exhibit "A".

The accused declines to cross-examine this witness.

ac martin

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 writing and may be given in evidence.

A. I do not wish to make a statement.

The accused does not call any witnesses for the defence.

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

La hener

(L.V.E. Mercer) Lieut., Adjutant, No.16 Company, Canadian Forestry Corps, Canadian Army, (Overseas).

In the Field 29 Jan 45.

LIST OF EXHIBITS

The following will be know as exhibits:-

"A" - A.F.B. 296. "B" - M.F.M. 6.

(R. Bonnar)

President of F.G.C.M. held on 2 March 1945.

LIST OF WITNESSES

- L50184 C.S.M. Thomson, S., No.16 Company, Canadian Forestry Corps, Canadian Army, (Overseas).
- 2. Elold Sgt Lemelin, A.C., No.16 Company, Canadian Forestry Corps, Canadian Army, (Overseas).
- Lieut. W.R. Lawton, No.16 Company, Canadian Forestry Corps, Canadian Army, (Overseas).
- 4. B20157 Sgt Martin, A.C., No.16 Company, Canadian Forestry Corps, Canadian Army, (Overseas).

Les meren

(L.V.E. Mercer) Lieut., No.16 Company, C.F.C. 135 T. Sofe RYAN, J.T.

Army Form A.3.

Contemporaries to be printed here. Form for Assembly and Proceedings of Field General Court Martial on Active Service.

PROCEEDINGS.

On Active Service, this

26th

NOVEMBER of

19 42

Whereas it appears to me, the undersigned, an officer in Command of"A" GROUP CANADIAN REINFORCEMENT UNITS. , on active service, that the C.A.(0). persons named in the annexed Schedule, being subject to Military Law, have committed the offences in the said Schedule mentioned

such offences should be tried by an ordinary General Court NAME OF STREET, WHATEVER, WHATEVER, WAS A CONTRACT OF

* Omit if not

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

AXREAX OFFINE XXX PresidenCX

KAXING KODGATIKA TERBAHA, YARMEDA XAXX

Rank

Rank.

Captain

Captain

Captain

MAJOR

Waiting Member

President.

Name.

A.E.T. PAQUET (P.P.C.L.I.)

Regiment. 1 C.D.I.R.U.

Members.

Name.

Regiment.

J.D. Fairhead (R.Regt.C.)

2 C.D.I.R.U.

A.C. Holland (Hast.& P.E.R.)

1 C.D.I.R.U.

A.S. Eadie (Perth R.)

5 C. L.R. U. (Arm'd

Commanding"A" Group Cdn. Reinf. Units, Convening Officer. C.A. (0).

SCHEDULE.

Number, Rank (a), Name and Unit of Accused (b)	Offence charged	*Plea	Finding, and if Convicted, Sentence (c)	How dealt with by Confirming Officer (d)
F-78524 L/Cpl. emiah Thomas RYAN B. Fighrs. C.I.R.U.(Arm'd Div.	First Charge A.A. Sec. 40	NoT Gu	Diy. NOTEUDA.	Castaranto Con
			osperlamp.	
	SEE CHARGE SHEET			

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 base 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 sheat if nocessary):— NO DETA 5 DECEMBER.

La s Colonel, (signed) A. E. T. Fauet Magin Convening Office Q.A. (0). angen Omn - & Deck

- (a) Appointment acting rank or acting appointment, if any, to be stated in brackets after the
- (b) Unless unavoidable, not more than three names are to be entered on one form, and in serious
 - (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.
 (ε) 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.

A Separate S I certify that the above Court assembled on the 5 7L day of December 1942 and duly tried the persons named in Certificate of the Schedule, and that the plea, finding, and sentence in the case of each such person were as stated in the third and fourth columns of that Schedule. I also certify that :-2. The witnesses A The Williams . A. G.T.O. 1. The members of the Court *(8. The interpreter) FI E TO

* Omit if not applicable.

AGTO

*(4. The officers under instruction)

were duly sworn.

Signed this 6 Th

day of December 1942

A. E. T. Taquet major President of the Court Martial.

* To be omitted mless penal ervitude, im-prisonment or

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

day of Docomba 19 4 3, C. A GTO.

Signed this 5 1

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 I have there stated, I hereby confirm the above findings and

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

Signed this

day of hovember 1940

Promulgated and extracts taken in the case of F-78524 E/C Ryan J.T., C.B. (& C.I.R U. (Arm'd Div.)) Highrs

				Lt.	Col.
(a)	(Dated) 5 Dec 42 Part 11 Orders 140 d/8	Dec 42 (Signed) Officer	Commanding	5 CIRU(Arm'	d Div
	Promulgated and extracts take	en in the case of			

(Signed) (Dated).

Promulgated and extracts taken in the case of

(Signed) (Dated).

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

CHARGE SHEET

Jeremiah. ah a.c.

The accused No. F-78524 L/Cpl. Jerustae Thomas Ryan, C.B. Highrs. on strength of 5 C.I.R.U. (Arm'd Div.) a soldier in the Canadian Army Overseas, is charged with:-

FIRST CHARGE When on Active Service, An Act to the Prejudice of Good Order and Military Discipline,

In that He,

At the Church Hall, Farncombe, at about 2200 hours 13 Nov. 42 did participate in a brawl, thereby causing a disturbance.

JASPER CAMP, Witley, Surrey, 25 Nov. 42

(A.B. Noble) Lt.-Col., Officer Commanding, 5 C.I.R.W. (Arm'd Div.)

To be tried by Field General Court Martial.

(J.R. Stewart Lough) Colonel, Commanding, "A" Group Cdn. Reinf. Units,

C.A.(0).

Convening Officer.

Witley, Surrey, 26 Nov. 42.

5 Dec. 42.

I certify that I have this morning examined No. F-78524, L/C. EVAN. J... of C.B.H. 5 CIRU(AD and in my opinion he is fit to undergo trial by unfit Court Martial.

Station. Willey. Surrey..... Medical Officer. 710.

A.E.T. taques refor DV?

A3.

EVIDENCE AS TO CHARACTER GIVEN ESPORE THE COURT IS CLOSED THE THE SHARING TO NOTE THE THE THE SHARING WELLES - AA Trajosrono ud as seasen Do you wish to give evidence yourself or to cell any wit--811 mi Juemetata van swiem of makw nov od - (bezussa of) extracte of the same, he cases examination, above documents read, and to the wedecedings. which have been compared by him with Megt's recopds and are true . penode -a. e. const. e. tinding. Gourt is re-opened. .asalbescord ent of bedeathe. thouse observe sheet, R.P.35(E) at duly compiled with. -new eveck and at regrado and of variable antened persons and name with at addition bracks one one . n'sows thub gas nettours and tobitio od!

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The second and stored induced at besides and induced at the control of the contro (Unite) R. is that beco.

JAN MASH (TINU) The Court settery themselves as provided by R.P. 22 & 23. The order convening the Court, charge sheet, summary of anticence and convenience and process and convenience and convenience

THISE OF TO SOLD THE SALE WIND THE SALE OF TO WATER TA SOCI TO YAR THE WOOD LAHEND GLEIN A TO SONIGEDORY

1st Witness

for the C.5573 Cpl. S.F. Ray, No. 7 Provost Coy., Cdn. Provost Corp., Prosecution having been duly sworn states:

I am C.5573 Cpl. S.F.Ray, No. 7 Provost Coy., Cdn. Provost Corp.

The Prosecutor declines to make an opening address.

- Q. 3 Tell the Court what happened on the night of 13 Nov. 42.
- A.3 Sir, at about 2200 hrs. 13 Nov. 42 I was asked by the civilian police to report to the Farncombe Church Hall as there was trouble there. On arrival, accompanied by L/Cpl. Higgins, we found a number of fights in process. As the main part of the fight was in the kitchen we at once proceeded there. As man I now identify as L/Cpl. Ryan commenced throwing things at us. Some of the articles thrown hit L/Cpl. Higgins, such as cups. L/Cpl. Johnson, Provost, then entered the Hall and the Accused disappeared after that. The
- Q.4 Can you swear that articles were being thrown about the room and can you identify anyone in this Court who threw articles about.
- A. 4 Yes Sir. L/Cpl. Ryan.

Examined by the Defence:

- Q.5 Who was fighting as you entered the kitchen.
- A.5 They were fighting amongst themselves. There were four or five different Regiments.
- Q.6 $H_{\rm n}w$ do you explain that as soon as they saw you were Provost they rushed at you.
- A. 6 Just that they identified us as Provost.
- Q.7 They forgot all their previous animosity and turned on you, correct?
- A.7 Not exactly. Some did. The fighting was of a furious nature when we entered,
- Q.8 Who else did you see throwing articles in the kitchen.
- A. S L/Cpl. J.well, Pte. Campbell.
- Q.9 When did you first see the Accused after this fight,
- A.9 I believe he was taken to civil police station shortly afterward, but I wouldn't swear to it. Next morning on identification parade I did see him.
- Q. 10 Did you pick him out.
- A. 10 Don't remember. Other Provost who were there shead of us had already picked out a number of soldiers.
- Q.11 Is it not a fact that the Provost, including yourself, walked up and down a muster parade held for identification purposes, and the Accused was not picked out until the Corporals had been segregated, and only then by the civilian police.
- A.ll I did walk up and down the ranks. When the Corporals fell out by themselves there was only one who was picked out, and he was a full forporal.

Re-examined by the Prosecution.

Q.12 When did you arrive for the identification parade.

A.12 About 1130 hrs. There was no need for me to identify the Accused at that time. The civilian police who were there knew him as one who had participated in the fight.

Rule 83 B has been complied with.

2nd Witness for the Prosecution

A.3306 L/Cpl. M.J. Higgins, No. 7 Provost Coy., Cdn. Provost Corp. having been duly sworn states:

I am A.3308 L/Cpl. M.J. Higgins, No. 7 Provost Coy., Cdn. Provost Corp.

Q.13 Tell the Court what happened on the night of 13 Nov. 42.

A.13 We went to the Farncombe Church Hall. There were swveral fights going on when we arrived. During one of these fights I saw Accused throwing articles at myself and Cpl. Ray.

Examined by the Defence:

Q.14 About how many were in the kitchen.

A.14 About thirty, but I am not sure. The kitchen is about the size of this Court Room -- about 25' x 30'.

Q.15 You are sure you were in the kitchen.

A.15 Yes Sir.

Q.16 You're not sure of the number of people, judge the kitchen to be about 25' x 30' but you are certain the Accused was there.

A. 16 Y.s Sir.

0.17 Did you know Accused before this night.

A.17 No Sir,

Q.18 When did you next see him.

A.18 On the N.C.O.'s Parade next morning. Accused was picked out of this parade, I believe by a civilian policeman.

2.19 Did you walk through the muster parade.

A.19 Not all the way. The N.C.O.'s were told to fall out by themselves.

Q,20 Do you remember Pte, Johnstone of the Calgary Highrs. speaking to you about being assaulted by Accused that night.

A, 20 Yes, Sir,

Rule 83 B has been complied with,

3rd Witness for the Prosecution

P.C. 307, Owen Havilard Breach, County Police, Godalming, having been duly sworn states:

I am P.C. 307, Owen Havilard Breach, County Police, Godslming.

Q.21 Tell the Court what happened on the night of 13 Nov. 42.

q. 2 Do you wish to apply for 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.

A.2 No.

The Prosecutor declines to make an opening address.

A.21I was called to a disturbance at the Church Rooms, Farncombe, where I saw a policeman had been injured. I asked a nearby soldier for a field dressing which he gave me. I recognize the Accused who was fighting in the Hall, but with whom I cannot say.

Examined by the Defence:

Q.22 This fighting was in the Hall.

A. 22 Y s the Hall, not the kitchen.

Q.23 Did you attend an identification parade next morning.

A. 23 Yes Sir.

Q.24 Didn't you walk through the ranks and fail to identify Accused.

A.24 I can't remember.

Rule 83 B has been complied with,

4th Witness for the Prosecution

T.C. 55, Albert Harry Hall, County Police, Godalming having been duly sworn states:

I am T.C. 55, Albert Harry Hall, County Police, Godalming.

Q.25 Tell the Court what happened on night of 13 Nov. 42.

A.25 On 13 Nov. I was at the Farncombe Church Hall. A dance was in progress. I was in civilian clothes but on duty. About 2130 hrs. a fight commenced in the side entrance kitchen doorway. I tried to stop it but found it too much for me. I went outside into Tottehham Road and saw T.C. Johnson and T.C. Smith who were on patrol. We all went back into the Hall, about 2150 hrs. Fighting was going on in the Hall. I recognize Accused fighting with other soldiers.

Examined by Defence;

Q.26 What is the kitchen's size.

A. 26 About 10' x 18'.

Q. 27 Where was Accused fighting.

A, 27 In the dance hall and with other soldiers, but not Provost to my knowledge.

Rule 83 B has been complied with.

The Prosecution is closed,

D. Defence

R.P. 41-41 Have been duly complied with and the accused is cautioned.

Q. 28 Do you apply to give evidence yourself as a witness.

A. 28 Y. 8 Sir.

- Q.29 Do you intend to call any other witness in your defence.
- A.29Yes Sir.
- Q.30 Is he a witness as to character only.
- A.30 No. Sir.

lst Witness for the

Befence

- F.78524 L/Cpl. Jeremiah, Thomas Ryan, C.B. Highrs., 5 C.D.I.R.U., having been duly sworn states:
- I am F.78524 L/Cpl. Jeremiah Thomas Ryan, C.B. Highrs., 5 C.D.I. R.U.
- Q.31 Tell the Court your actions night of Nov. 13, 1942.
- A.31 I went to the Farncombe Church Hall dance about 2000 hrs. I had about three dances, then left for the Pub for a few beers. There was an argument in the Pub and I returned to the dance about 2100 hrs. I was at the dance for about forty-five minutes when Pte. Campbell told me head two girls and asked me to go with him. We left with the girls.
- Q.32 What was happening at the Hall when you left.
- A.32 There were a few arguments. They were broken up. Another was started with some fighting and most the girls left the Hall. This is when I left with Pte. Campbell and his two lady friends. We took the girls home. I then returned to billets.
- Q.33 Who did you strike at the Hall.
- A.33 No one Sir.
- Q.34 Tell what happened at the Muster Parade next morning.
- A.34 Civilian police and Provost walked up and down our ranks, and picked out soldiers they claimed were in the fight. I was not picked by wither police or Provost, Cpl. Ray and L/Cpl. H. ggins with other P. ovost passed me. The two civilian police who were in this Court (Breach and Hall) passed me. Then Major Gunn called the N.C.O.'s to one side. We lined up and the Police and Provost looked at us. I was picked out by a policeman. I was taken to a lecture hall and questioned.

Examined by the P.osecution:

- 0.35 You said fighting was going on in the Hall,
- A.35 It was in the Dance Hall.
- Q.36 What were you doing while the fighting was going on.
- A.36 I was dancing with some girls. When the fight started I was standing near the stage when Pte, Campbell came to say he had two girls for us to take home. I then left. The crowd was still there.
- Q.37 Did you see the two police constables who gave evidence here to-day.
- A.37 I saw one. He was near me by the stage, not making any attempt to stop the fight.
- Q.38 Did you know one of these constables took L/Cpl. MacDonald out of the Hall.
- A.38 No Sir.

- Q.39 Did you know one of the police was injured requiring first aid.
- A.39 Yes Sir. I saw a policeman with a handkerchief round his forehead.
- 0.40 Were you in the kitchen.
- A.40 No Sir.
- 0.41 Did you see anything being thrown.
- A.41 No Sir.
- Q.42 Did you see Cpl. Ray and Higgins.
- A.42 No Sir. I saw no Provost.
- 0.43 When did you first see them.
- A.43 On the identification parade. They were also on the N.C.O.'s identification parade.
- 0.44 Who else was there.
- A.44 The two civilian police, a few more Provost. The policeman identified me. (T.C.Breach).
- Q.45 During the parade was T.C. Breach in front of Cpls. Ray and Higgins.
- A.45 Yes Sir. T.C. Breach identified me before the P ovost approached our N.C.O.'s identification parade.
- R.P. 83 B has been complied with.

2nd Witness for the Defence

- K.67098 Pte. Johnstone, J., Calgary Highrs., 2 C.D.I.R.U. having been duly sworn states:
- I am K.67098 P.e. Johnstone, J., Calgary Highrs., 2 C.D.I.R.U.
- Q.46 What was your impression of your relations with Accused, at the Cance Hall 13 Nov. 42.
- A.46 He resembled the party who first struck me. When the Provost on the first identification parade asked me if this was the man who struck me I said I did not think so as he was too short. This was at No. 3 Guard House.
- Q.47 What had you told the Provost regarding the Accused.
- A.47 Nothing.
- Q.48 Were you helping the Provost.
- A.48 Yes Sir. Opls. Ray and Higgins.
- Q.49 What did you see of the Accused's fighting.
- A.49 I did not see him fighting. I did not see him at the Hall. I was helping the Provost in the kitchen for about five minutes until reinforcements arrived.

Prosecution declines to cross-examine the Witness,

R.P. 83 B has been complied with,

3rd Witness for the D_fence

F.54764 Pte. Campbell, V., C.B. Highrs., 5 C.D.I.R.U., having been duly sworn states:

I am F. 54764 Pte. Campbell V., C.B. Highrs., 5 C.D.I.R.U.

Q.50 Tell the Court what happened at the Dance Hall 13 Nov. 42 in relation to the Accused.

A.50 I was in the Hall, A fight started, I saw Pte. Ryan near the stage, I went to him and said I had two girls and asked him to take them home with me. We took them home. That was about 2150 hrs.

Q.51 What happened at Muster Parade in the morning.

A.51 The Provost and policemen went around. They didn't pick out Accused the first time. He was picked out in the N.C.O.'s parade later.

Cross-examined by the Prosecution.

Q.52 Were you on the N.C.O.'s parade.

A.52 No Sir.

Q.53 Then how did you know the Accused was picked out on that parade.

A.53 We all fell in together, the N.C.O.'s fell out later by themselves. They were three or four feet from us and I could see Accused being picked out.

Q.54 Were you in the kitchen 13 Nov. 42.

A.54 No Sir.

R.P. 83 B has been complied with.

4th Witness for the Defence

F.89745 Pte. Whitehead, M. G., C.B.Highrs., 5 C.I.R.U., having been duly sworn states:

I am F.89745 Pte. Whitehead, M.G., C.B.Highrs., 5 C.I.R.U.

Q.55 Did you see Accused night of 13 Nov.

A.55 Yes Sir, coming in A 3 Hut Door, Jasper Camp.

Q.56 What time.

A.56 Before 2300 hrs.

Cross examined by the Prosecution,

Q.57 Were you up at that hour.

A.57 Yes Sir.

Q.58 Were the lights on,

A.58 No. Sir.

Q.59 How did you identify Accused in the dark,

A.59 It was rather light that night.

Q.60 Do you know when we have blackout time.

A.60 About 1710 hrs.

Re-examined by Defence.

- Q.61 Where were you coming from when you saw the Accused.
- A.61 The toilet Sir.
- Q.62 How long have you know Accused,
- A.62 About seven months Sir,
- R.P. 83 (B) has been complied with.

Appendix A.= Defending Officer's closing address. Appendix B.= Prosecutor's.

The Court is closed at 1245 for consideration of the finding.

The Court reopens at 1415 hrs. 5 Dec. 42.

The Court find that the Accused F.78524 L/Cpl. Jeremiah Thomas Ryan, C.B.Highrs., 5 C.I.R.U., a soldier of the Canadian Aray Overseas in NOT Guilty of the charge laid against him.

The finding is read in open court and the Accused is released.

The Court closes at 1430 hrs.

(A.E.T.PAQUET), Major, Pres.

Jasper Camp, Witley, Surrey.

Closing address by the Defending Officer in the case of F.78524, L/Cpl. Jeremiah Thomas Ryan, C.B.Highrs., on strength of 5 C.I.R.U.(A.D.

Mr. President, Gentlemen:

When you have such evidence of vagueness and contradiction that is before you, the acquittal of the Accused should be made.

We find Cpl. Ray failing to recognize the Accused on the first parade. So also L/Cpl. Higgins. Constable Breach fails even to remember when he identified him. Constable Hall only the bare and bald fact that he saw him fighting.

The Accused has stated he has been avoided in the first identification parade. What sort of an identification parade it would be when, three quarters are eliminated completely for a second trial, is surprising.

Here we see also Cpl. Ray who says that some dozen men are fighting and he claims, they drop all their fighting and attack the Pfovost. They lease all the fury, that he describes, and switch over their rage to the Provost. A likely story indeed. Likely only to the effect that they are out to convict some Cape Breton Higher to the effect that they are out to convict some Cape Breton Higher landers. That is a strong statement, I make it with full knowledge of its implications.

The Charlie McCarthy individual L/Cpl. Higgins wehoes all the facts that tend to incriminate the Accused, but to such simple questions as the size of the kitchen, he puts it three times the size by one witness. Indeed by my figures 4 times the size. Nor will be venture to state how many were in the kitchen, without will be venture to state how many were in the kitchen, without pressure, and he knows the difference of kitchen and hall well enough in the past cases.

What is an identification parade? It is a plan of lining people up and having an investigator pick out a certain party. Now once this cannot be done with the whole numbers it vitiates all the power or virtue out on identity parade. If you start limiting to somall group the efficacy of the plan is struck to the root. I leave that for your earnest attention and consideration.

Now the vagueness of the evidence of the Constable Breach that he does not remember whether or not he identified the Accused is, I suggest explicable by the fact that he forgot the Accused face. I suggest explicable by the fact that he forgot a face. How otherwise would he not know this, which happened only a fortinght ago, and whom he has seen all through this and the two previous trials.

Finally with the Constables there is the vague statement by Const. Hall that he saw him fighting. How long, with whom, how, are not alleged. Indeed the only point he makes is that it was in the Hall, though by the Prosecution's own witnesses that is refuted.

Gentlemen, I but it to you, are you not entitled to believe my witnesses as well as the Prosecution. If so, an acquittal is logically demanded.

We have shown the actions of the accused when he was at the hall, Clearly for you.

There has been two convictions from these same set of circumstances before this Court. This is another case. I do not fear that this Court will be prejudiced in any way because of this, regarding the Accused.

The Accused has told a straightforward enough story and is entitled to be credited. It will be component with the views of justice that he be acquitted. Indeed I ask that you be doing your duty and give him the benefit of any doubts you may have.

Appendix A cont'd

So often a military trial often leads to thoughts of guilt, because all of us in the Army dielike bringing a person up for trial. But in this melee when so many persons were invovled a number could be rounded up and it is so likely that an innocent person taken in the confusion, along with the guilty.

Appendix B.

Summing up of the Prosecutor in the case of F. 78524 L/Cpl. Jeremiah Thomas Ryan, C.B. Highrs., on strength of 5 C.I R.U. (A.D.).

There is no attempt by the defence to deny that there was fighting going on at Church Hall, Farncombe. Prosecution witnesses have described the fighting as furious. The two Provost have identified the Accused as throwing articles about the kitchen. Some of these articles struck one of the Provosts.

The two civilian police identify the Accused as one who was fighting. They remain firm in their identification despite the regorous cross-examination to which they were subjected.

Much has been made of the fact that the two Provosts did not recognize the Accused during the N.C.O.'s identification Parade. The Provosts stated that the accused had already been identified by someone else before they reached the Accused or before they had an opportunity to identify the secused. The accused admits that the constable who did identify him preceeded the Provosts.

The accused admits th t he saw fighting in the hall but denies that he was involved. He admits to being near a civilian policeman whom he states did not try to stop the fighting. But, the accused admits that he knew of a constable being injured during the fighting and saw one constable with a bandage on his forehead. The constable whom he claims did nothing to prevent the fight is the constable whom he admits being near while the fighting was going on. Is it possible that the accused being in the centre of the action avoided a participant? Is it possible that the constable being only a few feet from the accused could be wrong in his identification.

The defence ask that the evidence given by the two Provost be be largely discredited. It is suggested that the Provost have some fancied grievance against the C.B. Highrs., hence the zeal with which they persued their duties. The Court is reminded that the Provost did not appear on the scene after the police who were already at the Hall were reinforced by still more civilian police. The Court can judge of the extent of the disorder when it was twice necessary to obtain assistance to deal with the disturbance.

mg hue hat

SUMMARY OF EVIDENCE

Summary of Evidence in the case of F.78524 L/Cpl. Joremiah Thomas Ryan, C.B.Highrs., on the strength of 5 C.I.R.U.(Armid. Div.) a soldier in the Ganadian Army Overseas.

By Direction of the Commanding Officer the Summary of Evidence is taken on Oath.

PIRST WITNESS

0.5573 Opl. Ray, S.P. No. 7 Provost Coy., Canadian Provost Corps, a soldier in the Canadian Army Oversess, being duly sworn states:-

I am C.5573 Cpl. Ray, S.F. No. 7 Provost Coy., Canadian Provost Corps. I was on duty on 13 Nov.42, at Godelming, at 2500 hours I was called to the Church Hall, Perncombe. When I arrived in company with L/Cpl. Higgins we found fighting in progress. There were a number of fights. As the main fight was in the Ritchen part of the Hall we went there. In the Ritchen I waw L/Cpl. Ryan, whom I now identify. He was in the background not actually fighting but throwing everything he could get his hands on. Some of the things he threw such as cups, pans and trays landed on L/Cpl. Higgins. After more help arrived to assist us L/Cpl. Ryan left the kitchen and I never saw him after that.

Cross-examined by the accused

Q.1 What time did you say you saw we throwing

A.1 At approximately 2215 hours.

0.2

SECOND WITNESS POR THE PROSECUTION (Signad) S. F. Ray.

A.3308 L/Opl. Higgins, M.J. No. 7 Provost Coy Canadian Provost Corps, a soldier in the Canadian Army Overseas, on being duly sworn

I am A.3508 L/Cpl. Higgins, M.J. No. 7 Provost Coy Canadian Provost Corps, I was an duty in Codalming 18 Nov. 42 in company with Cpl. Hay. We were called to the Church Hall about 2200 hours 18 Nov.48 to quell a disturbance. When we sprived fighting was in progress. We tried to stop the scrap. We went to the kitchen part where fighting was going on. We tried to stop this fight. Certain soldiers started to throw stuff at us. One of these soldiers I now recognize as L/Cpl. Hyan. Some of the things thrown struck me.

Gross-examined by the accused

Q.1 If you recognize me now why couldn't you recognize me when we were paraded for adentification?

A.l You were picked out by someone else before I got to you.

before I got to you.
2.2 Isn't it true that during the Company
parade and the N.C.O. identification
parade which followed, I was not picked
out by the Provost?

RETO

SUMMARY OF EVILENCE

Summary of Evidence in the case of F.78524 L/Cpl. Jeremiah Thomas Ryan. (Contid.)

SECOND WITNESS FOR THE PROSECUTION (Cont'd.)

A.2 You were not picked out by the Provost

2.5 If you recognize me now why didn't you and the other Provest Recognize me dur-

and the other Provest Recognize me during the parades?

A.Z The Officer of the Parade was asked to form up all his N.J.O.s on parade as there were a few N.C.O.'s at the dance whom we could recognize.

Signed: (M.J. Higgins)L/Cpl.

THIRD WITNESS

Police Constable 507, Owen Hovilard Breach, County Police, stationed at Godalming. At about 2145 hours on 13 Nov.42 I was called to the Church rooms at Farncombe. When I arrived I afound fighting in progress. I saw that a Temporary Policeman had been injured and Iasked a soldier if he would give me a field dressing to bandage the wound. He willingly gave me this and just after this he was attacked. I did not see the accused strike the first blow as it was done by L/Cpl. McDonald. I saw the accused was fighting and he was in company with L/Cpl. McDonald who was also fighting. I am not able to say who the accused fighting with but he was near the soldier who had given me the bendage and adopted a very aggressive attitude. If it had been possible to get near him I should have arrested him.

Cross-exemined by the accused

Q.1 Why was it not possible for you to get to me to arrest me?

A.1 Because you were rushing about and I also was then taking away L/Cpl. McDonald.

Owen Dreach Signed; (O.H. Breach) P.C. 307

POURTE WITHESS POR THE PROSECUTION

Temporary Constable 55 Albert Harry Hall, attached to County Police Station, Godelming on being duly sworn states:-

I am Temporary Constable 55 Albert Harry
Hall, attached to County Police Station,
Godalming. I was in the Church Hall about
2145 hours 15 Nov. 42. I was in civilian
clothes. A number of fights broke out. I
kept observation on quite a few who were
doing the fighting. One of those fighting
was the accused whom I now recognize.
Fighting continued for quite a time until
it reached the proportions of a riot.
The accused declines to Cross-examine the Witness.

ANTHALL TREE. Signed: (A.H. Hall) T.G. 55

DET!

PIFTH WITNESS FOR THE PRODEGUTION

Temporary Constable 89, George Albert Johnson, County Police Stationed at Godalming on being duly sworn states:-

I am Temporary Constable 89, George Albert Johnson, County Police stationed at Godelming. I went from the Duke Of Wellington Pub to the Church Hall where I arraved about 2145 hours This was on 13 Nov. 42. When I arrived fighting was in progress. I saw the accused whom I now recognize at the dance hall but I cannot say that I saw him fighting.

Stopped & A Johnson

C.41316 Pte Hunter, H.H. P.E. Regt. on the strength of No. 1 C.D.T.R.U. a soldier in the Canadian Army Overseas being duly aworn states:-

I am C.41316 Pte Hunter H. H.P.P. Regt. on strength of No. 1 C.D.I.R.U. at about 2200 hours 13 Nov. 42. I was in the dance hall at Farncombe. At about 2210 hours two Fro-vosts were fighting with men of the C.B.Highrs, I helped the Provosts. Several soldiers were throwing things. One of the men whom I saw throwing things was the accused whom I now recognige.

Questioned by the accused.

How can you recognize me and not any of the others? You were the only N.C.O. I saw fighting other than the two Provost.

Signed:

(H. Hunter)Pte.

SEVENTH WITNESS FOR THE PROSECUTION

D.E IS

I am C.4185 Pte Storms, J. Hastings Prince Edward Regt. on strength of 1 C.D.J.R.U. on 13 Nov.42. I was at a dance in Farncombe at the Church Hall. I saw the accused whom I now recognize fighting and throwing things during the fighting which was going on that night. This would be between 2200 hours and 2230 hours.

Cross-examined by accused.
Q.1 With whom was I fighting?
A.1 You were fighting with one of the Propost
in the corner of the kitchen. Signed: (

SUMMARY OF EVIDENCE

Summary of Evidence in the case of F.78524 L/Cpl. Jeremiah Thomas Ryan. (Cont'd.)

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 has been duly warned in accordance with Rules of Procedure 4 (E) and reserves his defence.

T certify that the foregoing Summary of Evidence consisting of four pages was taken down in the presence and hearing of the accused, and that Rules of Procedure 4 (C), (D), (E) and (F) have been complied with.

Jasper Camp, Witley, Surrey, 25 Nov. 42.

(M.J. Geller) Lieut., Officer Taking Summary.

H.E.T. Paquet major, pres. 5 Dec 42. Jaspa Camp.

Bernay of Evedence A.5.(1) Summary of Emberes in the cone of F71524 Hope Jereman Thomas Regard, C. R. Heghis, on the strength of 5. C. I. P. O. (D. 10) I saldie in the canadia any muses. by writing the commencing Their the demances of Enderes is taken on outh. Last wither In the Rescention C 5573 ge Pay, QF. 257 Provet Con, Carolini Provest corps, a soldier in the Coralin army ormans, being buly sevor states: en (5573 gl, key, DE 207 Grown Cg, Carden Moont Corps. I was on luty on 13 20, 42, at bordating at 7200 his swar called to the thereof trace, Formerabe than I arrived in Company with Efept the yours we found property in progress. There were a number of projets as the many Jugas was in the ketchen hant of the Wall we want there has the hetoten I ve High Regan, below a now education. He was in the background not actually fregeting but throwing brighting he cause got his bonds on Done of the things he know many on Cups spons and troys londerd or High Heggins : after more sugar arrived, as High Regen left his retiber and I vever too him efter, that Cross referenced by the accounted me teroning things? 91. What has did you say forcer Al at approximately 2245 has. Cpl Raf. d. 5. A.ETP.

Deisenous of Empires a the core of \$ 785 24 Pept. Jeround Thomas Regard, Continued Accord between A3308 Myse Hygin, ng. 20.7 hours co. For the homentin Corners Words Cops, a soldier in the Carmers sung treeses, on being duly seven states; I am A 3361 Frage Heggins A. g. 20,7 Brown Cy. Coradio Rovers Cops. I was on Ruty in Intoloning, 1 starts, is Company with gel. Roy for some called to the church Hall whom to 2 200 hrs 13 novy to guella distritores, When we arrived fighting was in progress. We tried to stop the samp. natural to the hetiter that where biguting was going on the trus to dop the people took Centering solding started to them stuffet us. one of these solding one recognize to tightigh. Done of the theory thrown struck me. 91. If you recognize me som they couldn't you recognize ne When we pere paradre for the tipe ation? Al. you were persed out by someone that before I that he you. 93. Init it true that during the cooping provide and the n. C.O. existiguation posses wheel followed, sen vit present ent by the brooms? A 2. How were not pules out by the Provot its my knowledge 93 of you mayings we may like leave you and the other Grovest reagning me wing the parader? A 3. The office of the rousewor what to form up an his h. C. 25 or horade as there were a per h. C. O. a at the dance when he and acognize . · my Hypra A.ETA.

M3.A many Treath 20 hered they beard Al. Because of the how unding stand and dates has hely Arrite to pet my his some how are the course how excepts a my exquering whites , of ext has hen not ist to my the the remed to festiving that has he med fresh has con our absent that has brooked from The Board. Down the account frequency as to war in the accuracy that he found thou as it has bone expert you he this and land after the red about stad not an you is a feeled derived to be says the brown, the bearingly follows had been regard and and a soldier if he was dinered a found destroy a proposed house a beaut Der collect to the decree we so somether han a Notioned at Lokaling; at along 48/ him on 12 hours I am P C 309 Bleen Herebond Knows, hold below Take bolovey hing lake woon state. D.C. 309, other Hoodens Brook, bunk, bleco In the mounter any program Thomas lega coloured. mand tole is sel to com in more general

summary of Endine w the cone of \$ 788 24 Hell James Thomas Regar . Cortemes . Fourt betrem T.C. 55 albert Harry Hall, attaches to Court, Polices In the Mosecution Staten, badalning on awing luly swom states. I am T. C. 55 albust Harry Hall, it awas to Carety Polices Station, Gadalning. I was in the derman House want 2445 his 13 no. 42 I swam anter dother a newton of hights broke out. I hope observation on just a few who were doing the fighting. One of these fighting was the account whom now recognize Degating Continues for quits a time legted it reached the proportion of a rest accused destant to Cross examine his between ctititule TC.55 Lifth witness Forthe homenten 7.0.89 being albest Johnson, Courty Police datind at badaling on being duly seven states: I am T.C. 89 George elbert Johnson, Courty Police, States at tradaling I went from the same of wellington with to the church that where I arrived about 345 his. This was on 13 no. 4. When I arraved fighting was in progress I am he accused when I now recognize it the some has but I Council soy hat I san him frighting. accused becleves to cross - exercise their bottoms - 64 Johnson T89. D.ETP.

Surrary of Evidence in the cose of F 785 24 pts from in Thomas Rejon Continued sext witness C 47846 ple Hunter, H. H. P. E. Reg. on the stronger For Persenten of the 1 C. D. P. A. U. a soldier in the Consider army oversion Day 41316 the Hearter H, AH 18. Ray on strongth king duly sever slats: 1 10.10.1.1. at about 2200 hrs 1320, 40 m the dures trese et 3 arrente. at about 2210 has two Brownts were projecting with man of the C. b. Hegger. I keeped the Provosto. Several soldino were throwing things. One of the men whom I saw throwing throng was the accused whom I now recognize. questioned by the assert 91 - How can you energy so and not my of the others? PI- Gan were the only n.C.o I son Jugating other than the Henry Hunter too Provost. Severth intres C 4155 ste Otoms, g. Hastery Prin Edward, Rg, Forthe Persentin on strength 10 0 D. 1. 0. A soldier on the Carlin any oreres being duly suorn states: or dungth of 10 . L. D. R. U. on Brown Dwo at a Lance in Farcoste of the church Hall. I on the account whom I now necognize peopling and themony they devery the Brokery which was going on that night. This would be between 2200 his and 2231 his. for wax then want front word frighting the Proports in The town of the hation

December of Emerican in the con of \$78524 Hype Learning thomas Regard, Contil &

The accuracy too Continues as follows:

The your train to make any deleased to to pin sindence to total ? you are not thought to your anything or to give traderice waters for track to loss, then the train you say to any creations you want to loss, the total that we want of any creations you pain train to total down in tricky and may be print in trusping.

The secured has been duly warmed in accordance with Rules of Procedure 4 (8) and warmers has deposed.

I estify that the foregoing Ocemory of Evidence Commiting of and stopes to do token down in the December and heaving of the account, and that such of Procedure 4 (2) (4) (4) (4) (4) (4)

The Belle heart

Looker Comp.

25 may

A. E. T. Taquet hope pres

5 1200 112

Jeremiah.

In the case of L/Cpl. James Thomas Ryan, C.B. Highrs., on the Strength of 5 C.I.R.U. (Arm'd. Div.), a soldier in

- 1.
- C.5573 Cpl. B.F. Ray, No. 7nProvost Coy., Cdn. Provost Corps. A.3308 L/Cpl. M.J. Higgins, No. 7 Provost Coy.,
- Police Constable 307, Owen Hovilard Breach, County

- Police Constable 507, Gwen notitate process of police, Godalming.
 Temporary Constable 55, Albert Harry Hall, County Police, Godalming.
 Temporary Constable 89, George Albert Johnson, County Police, Godalming.
 C.41316 Fig. H. Hunter, Hastings and Prince Edward Regt. on strength of L.D.I.R.U.

A.E.T. Toquel hafri poss.

(1) I hereby acknowledge that I have been served with a true copy of the summary of evidence taken at Jasper Camp, Witley, surrey, preliminary to my court-marked. I further acknowledge that I have been served with a true copy of the charge under which I am being brought to Court-Marked.

Cuted at Witley, Surrey, this 25th day of November , 1942 Spepl. Ayan J.T

- (2) I hereby acknowledge that I have been soreme at the a time copy of an additional surmary of evidence taken to be per camp, witley, Surrey, preliminary to my Courtespection
- (3) I hereby request that the Convention of the

I desire the services of it he is available.

Dated at Witley, Surrey, this 25th day of November 1942, Little Lake Kits

Tycpl. Ryan J. T.

A. E. T. Paquel major

YY-145 (Case #2)
PTE RYAN J.T.
Lee T-135 for let case

FIELD GENERAL COURT-MARTIAL CARRY TO STREET AFFAIT.

Convened by Order of C. Francoeur, Brigadier Comd "D" Gp. CRU dated 27 DEC 43.

ACCUSED.

			showing (a) permanent or confirmed
rank, and (b) appmt, A/rank	or A/appmt, 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. Surname. Unit. F+78524

Or Taken

PROCEEDINGS OF TRIAL.

Held in the Fd in (country).

England

on (date(s)) 29 Dec 43 and

RECORD FORM A-OPENING PROCEEDINGS AND ARRAIGNMENT.

Al. The President, Members, waiting Member, JA, if any, and Office under instr, if any, assemble, and the Mill

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

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

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

The Court is opened. The accused is (see) brought before the Court. At 14.50 hours trial commences.

A4. The Prosecutor produces a Medical Certificate that accused is (an) 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 summarily by the CO.(2)

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

A5. President to accused to you object to

The Interpreter is sworn (1) Do you object to as shorthand writer 7 As The shorthand writer is sworn.(*)

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

A6. The Convening Order and names of the President and Members of the Pourt 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?

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

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

C. B. Mighes H. H. A. Parker President T.M. Lowe Member H.B. Boales Member (Burnais at how) AN. O. HO, CRL Judge-Advocate Coult + York Regt A.E. Willy Prosecutor 7 C. I Ken and Capa +. R. Plourde Defending Offr

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

(1. RP 26, 27, 109, 11). List of offrs under instr will be returned separately with proceedings for information of Came Offr.

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

before arraignment make(s) (no) (at ples AM) A8. The accused

(1. If a special plea is made for separate trial on one or more charges (RP 62(E), 10E), or as to the jurisdiction of the Court (RP 34, 33(A), 113), or in bor of trial (RP 36), or as to accused's mental filtness to stand trial (AA 130, RP 57), or one of several accused charged planty to be trial separately (RP 16, 77), such plea, the addresses made in support or against, the evidence, if any, and finding are recorded per Notes. For forms of record see references in fins to RSP cited. Insert in AB rank and names of the accused making the plea.)

A9. The accused is tors, arraigned expansively, on all charges in the charge sheet. (1) The accused does (4) the not object to any charge. (2) There is no amendment to be made to the Charge Sheet. (2) The President records the pleas in Part I of the Schedule.

RP 31, 112. See para i of instrs p 2. When more than one Charge Sheet see RP 62; when several accused to be tried pace RP 71(C), and use asparate copies of CF AP6 to record proceedings.

2. RP 32, RP 33. If otherwise, delete and reoprists record per Notes.)

A10. The Court is closed and considers the Instrs 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.

- 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.
 - II. If pleas to all charges are NOT GUILTY, use Record Form D on p 1 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).
- 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(4) (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, 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 e President or JA, if any, complies with BP 35(B) by explaining to the accused the nature and meaning), and that on his plea of Guilty there will be no regular trial but merely a consideration of the of the charge (4), and that on his plea of Guilty there will be no regular trial but hierery a sentence to be a preded after he has been given an opportunity to make a statement in reference to the charge(s), call witnesses as to be practer and make an address in mitigation of punishment.(2) call witnesses as

MML p 54 para 47.)

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

President to accused: Do you wish to make a stater (1. RP 37(B). 2. RP 37(D) fn 6. 5. Stytement, if any, recorded per Notes.) 3. RP 35(B) fn 5 para 100MUg/54 para 47. 4. See para E3 of Record Form E.

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

change(s) his (their) plea(s) on

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. 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. If there is no Summary, or if it is indequate, comply with RP 37(B). If there is any evidence inconsistent with standing as Guilty. Court will advise occured to change such piec and, if changed to Not Guilty, try such charge(s) is parso D1 to D8 inclusives of Record Farm D on p 3. RP 37(D).)

B6. The accused having been found Guilty on one or more of the charges, the proceedings are cone 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 proceeding with C 2.0)

C2. The charges on which accused pleaded GUILTY are took to him (them) again, and the trial is conby using paras B1 to B5 of Record Form B above. (1)
(1) Under 85 such parts only of the Summer of Evidence are read at relate to the Company dealt with under C2. If any pinc is changed to Not Guilty, trial thereon proceeds by complying with paras D1 to D8 inclusive in Record form D on p 3 and making an appropriate recard thereoff on a separate sheet.) e roll to him (them) again, and the trial is continued

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

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

Pin hers Doose Sheets of Record.

is disallowed on the

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

both

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

D3. The evidence for the Prosecution is taken (1) See Notes D. 3 attacked

(1. R) Prosecution is closed.(1) The Defending Offr submits that the evidence for the Prosecution does not charge (1). The Prosecution is closed.(1) The Defending Offr submits that the evidence for the Prosecution does not charge (1).(2) The Court is closed, and considers the submission.(3) The Court is re-opened, and the President announces that the submission (4) 14411

chargo(s), and allowed on the former, but the necessary is (ure) found Not Unity on the former, but the necessary is (ure) found Not Unity on the former but the necessary is (ure) found Not Unity on the former but the necessary is (i. Delete remainder of this pare, if shamission not made. 2. Arguments on submission, answer and reply are recorded per Notes. 2. RP 40 for 1. See MM p 72 pares [2-14 and p 81 para 42. 4. Delete part not used. If accused acquitted on all charges, use second alternative in para D8.)

NB : If triais proceeds, accused 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.)

D5. President to accused: You will now proceed with your defence.(1) You may, if you wish, give evidence But a statement which could have been made on oath will not carry with the Court the same weight as sworn testimony. (*)
You may call witnesses in your defence and as to character, whether you give evidence or make a statement or do

President to accused: Do you wish to give evidence yourself as a witness, make a statement, or do neither ! A winds to give windows so a winters Do you intend to call witnesses on your behalf? Ans yes six Are they witnesses as to character only ! Ans [AD 761A. . (I. RP 1885 2. RP 40(A), see 80(D). 3. RP 40 fn 10. 4. RP 40 fns 2, 9.)

Moles Maliked Consequent on the answers 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 A95. Evidence for accused as to his
character should. If in his interest, be given before the finding. See RP 46(A) fi 1, 86(C). Note the further opportunity in pare E1
of Record Form E. Record per Notes addressed, statement, evidence and any 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 (are) recorded in Part I for the Schedule.(2) The Court is re-opened.

(1. RP 43. 1/7(A). See Notes in Part I of Schedule. 2. RP 44(A).)

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

On The Provident amount that the account is found Not Cuitty on all charges and is to be released forthwith, and that the providings are accordingly terminated. Part 1 of the Schedule is dated and signed it.

(1. As Set.) (6), RP 45, 190(A) 2. As \$4(3), SP 45, 1/7. This alternative announcement is not applicable when there are pleas of Guilly outstanding and dealt with under Record Form B or C.)

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.

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

E2. The Prosecutor produces Statemential as to Character and Particulars of Service(1), and certified true copy scopies of Conduct Sheet f(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) (ii), and (ii) they purport to refer to (a) soldier; having the same number, rank, name and corps as the accused. Admitted in evidence and

marked Ex. A and Ex. B respectively.(*)
(I. MFB 355 or AFB 296. 2. MFM 6. 2. RF 46, KR Can 558. If above documents not produced, see RF 46 in I

E3. President to accused: Do you wish to address the Court on the Statement(s) and Conduct Sheet(s), and in ligation of punishment 1(1). Ans to, Six Truly Lay any defending of living a court of the statement of punishment. SP 37(f) for 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)

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS

SCHEDULE.

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

Account P-78524 Fte Ryan, Jeremiah Thomas - CBH - 7 CIRU

Charge.	Plea.	Finding.	
sert " alternative " where	(See Instrs p 2.)	(See note below.)	(Space for use as required for further charges, accused charged jointly, special findings, etc.)
applicable.) AA Sec 15(1)	not quilly	not Guilli	
	not quilly	Guilla	except that the offence (ook
MA Sec 5(2)	mo francia	1	place between 2200 and
Lamentania	23 22		2230 hrs 16 Dec 43.
		A AMERICAN CONTRACTOR	
(Note: As to f	indings for lesser offen	ces see AA 56, RP 44	; findings on alternative charges see MML p 483 fn.4 para 2. RP 44;
special findings see	RP 44 and MML p 753	l, and in loss of kit so	R RP 44 [II D-]
present under sente	nee for		hogimming on (date) (**
		ete, if not applicable.	See RP 46(A). Information should be found on MF B355 or AF B296.) 144 days, of which had days were spent in hospital. (1-B355 or AF B296 odmitted in evidence under E2.)
ime in confinement	A) fn 2. Information sh	trial—a total of could be found on MF	B355 or AF B296 admitted in evidence under E2.)
entence Awarded by		To im	dugo detention for a
period		15 (01	. 0
			down
(Spt) 2771	Cade K	paris 300 Date	Dec 43 (Sed) Application (RF 45 &) 2 mg
(8gd) Judge-Adv	Cade Locate, if any.	Convening Order as to	assembly and disposal of record after trial.)
(8g1) ATV	Case Locate, if any.	Convening Order as to	MATION RESERVED. (AA 54(5), AP 120(F), MAL 9 760.)
(8gd) Judge-Adv	Case Locate, if any.	Convening Order as to	assembly and disposal of record after trial.) MATION RESERVED. (AA 54(5), RP 120(F), MAL p 760.)
(8gd) Judge-Adv	Case Locate, if any.	Convening Order as to	assembly and disposal of record after trial.)
(Sgd) Judge-Adv PART II.	Cade A coate, if any (See bock of C MINUTE WH	Convening Order as to	mation reserved. (AA 54(5), RP 120(F), MAL p 760.) Commanding ING OFFR ON FINDING(S) AND SENTENCE.
PART III. (For duties and p	Cade A pocate, if any (See bock of G MINUTE WH (Sgd) DECISION C Owers see AS 54, 51,	DF CONFIRM RP 31(D) fo 6.46(A), 45(4), 54(4).	MATION RESERVED. (AA 54(5), RP 120(F), MML p 760.) Commanding ING OFFR ON FINDING(S) AND SENTENCE. 51-56, 120, MML pp 759-761, KR Can 567-577. Acquittals require no tack finding or sentence for revision by Court: AA 54(2), RP 120(G), M
PART III. (For duties and p confirmation and not confirmed, on promulgation 1 57A, RF 51A, 54	Carde, Konete, If any (See bock of Community	DF CONFIRMI RF 37(D) fn 6.46(A), A 5443). Sending by ain: All 57, MML g ueshing ofter promule must sign here perse	Commanding ING OFFR ON FINDING(S) AND SENTENCE. 51-56, 120, MML pp 759-754, KR Can 567-577. Acquittals require no ck finding or sentence for revision by Court: A 54(2), RP 120(G). If 64. Minute of confirmation may be altered before giption. KR Can 517. Ducket and bowers of reviewing offrs: AA 57, mally. AM 72 (En.)
PART III. (For duties and p confirmation and not confirmed, on promulgation 1 57A, RF 51A, 54	Cade A pocate, if any (See bock of G MINUTE WH (Sgd) DECISION C Owers see AS 54, 51,	DF CONFIRMI RF 37(D) fn 6.46(A). A 54(3). Sending be also 154 A 137, Mills and must sign here personal must sign here persona	MATION RESERVED. (AA 54(5), RP 120(F), MML p 760.) Commanding ING OFFR ON FINDING(S) AND SENTENCE. 51-56, 120, MML pp 759-761, KR Can 567-577. Acquittals require no ck finding or sentence for revision by Court: AA 54(2), RP 120(G), H 64. Minute of confirmation or non-confirmation may be altered before getting. KR Can 573. Ductes and powers of reviewing offrs: AA 57, noally, AA 172 (n l.) th in Part I is:
PART III. (For duties and p confirmation and not confirmed, on promulgation 1 57A, RF 51A, 54	Carde, Konete, If any (See bock of Community	DF CONFIRMI RF 37(D) fn 6.46(A). A 54(3). Sending be also 154 A 137, Mills and must sign here personal must sign here persona	MATION RESERVED. (ALS4(5), RP 120(F), MML p 760.) Commanding ING OFFR ON FINDING(5) AND SENTENCE. 51-56, 120, MML pp 759-761, KR Can 567-577. Acquittais require no ck finding or sentence for revision by Court: Als 54(2), RP 120(6). If 64. Minute of confirmation may be altered before gettion: KR Can 573. Ducies and powers of reviewing offrs: Als 57. Inclin M 172 fn 1.) th in Part I is:
PART III. [For duties and partition and not confirmed; on promulgation: 157A, RF 53A, 54]. My decision on	Cade A peate, if any (See bock of C MINUTE WH (Sgd) DECISION C connot be revised: A custom by tried op 9 53, MM p 85. 9 53, MM p 85. The Confirming Offr the finding(s) and	DF CONFIRMI RF 37(D) fn 6.46(A). A 54(3). Sending be also 154 A 137, Mills and must sign here personal must sign here persona	MATION RESERVED. (AA 54(5), RP 120(F), MML p 760.) Commanding ING OFFR ON FINDING(S) AND SENTENCE. 51-56, 120, MML pp 759-761, KR Can 567-577. Acquittals require no ck finding or sentence for revision by Court: AA 54(2), RP 120(G), H 64. Minute of confirmation or non-confirmation may be altered before getting. KR Can 573. Ductes and powers of reviewing offrs: AA 57, noally, AA 172 (n l.) th in Part I is:
PART III. (For duties and p confirmation and not confirmed, on promulgation 1 57A, RF 51A, 54	Cade A peate, if any (See bock of C MINUTE WH (Sgd) DECISION C connot be revised: A custom by tried op 9 53, MM p 85. 9 53, MM p 85. The Confirming Offr the finding(s) and	DF CONFIRMI RF 31(D) In 5.46(A), A 54(A), Seeding to a seeding ofter promule in the seeding to a seeding to	Commanding ING OFFR ON FINDING(S) AND SENTENCE. 51-56, 120, MML pp 759-781, KR Can 567-577. Acquittals require no ck finding or sentence for revisuo by Court: A 54(2), RP 120(G). If 64. Minute of confirmation are non-confirmation may be altered before gettion: KR Can 573. Ducties and powers of reviewing offrs: AA 57, and In In In Part I is: What One (I) month further reviewed: Selection of determining of the confirmation of the confirmation of the confirmation may be altered before gettion: KR Can 573. Ducties and powers of reviewing offrs: AA 57, and I was a selection of the confirmation of the
PART III. [For duties and partition and not confirmed; on promulgation: 157A, RF 53A, 54]. My decision on	Carle, If any (See bock of Community of Comm	DF CONFIRMI BF 37(D) fn 6,46(A), A 5413. Sending by a sentence set for the committee set for the	Commanding ING OFFR ON FINDING(S) AND SENTENCE. 51-56-120, MM. pp 759-751, KR Can 561-577. Acquittals require no cock finding or sentence for revision by Court: AM 54(2), RP 120(G). Whole the continuous or non-confirmation may be altered before getting. M 172 fn 1.) th in Part I is: While Confirm Description by Court: AM 54(2), RP 120(G). Whole the confirmation of reviewing offrs: AM 57. Inclined the confirmation of th
PART III. [For duties and partition and not confirmed; on promulgation: 157A, RF 53A, 54]. My decision on	Cade A content of Cont	DF CONFIRMI RP 37(D) fn 6.46(A), A 54(3). Sending both an interpretation of the promise sentence set for the committed to (1. As 57A.	MATION RESERVED. (AA 54(5), RP 120(F), MME p 760.) Commanding ING OFFR ON FINDING(5) AND SENTENCE. 51-56, 120, MML pp 759-761, KR Can 567-577. Acquittals require no rick finding or sentence for revision by Court: AA 54(2), RP 120(6), If 64. Minute of confirmation or non-confirmation may be altered before gettion; KR Can 573. Duties and powers of reviewing offrs: AA 57, andly, AA 172 fn 1.) th in Part I is: Ultil Confirmation to determine barranches until further orders (*) prisons or determine barranches until further orders (*)

PART IV. PROMULGATED AND EXTRACTS TAKEN. (AP 53, KR Con 576, 577.)

F-78524 Pt. Ryan, 2. T. CBH #7CFRU. Pt. II oran 13 2/5 gan 44 Date. 3 gon44

Signature of Offr. S. E. W illey Lieut # 7 C. T. R. U.

ALL DELETIONS AND ALTERATIONS WILL BE INITIALLED.

CHARGE SHEET

The accused No. F78524 Private Jeremiah Thomas RYAN, Cape Breton Highlanders, on the strength of 7 Canadian Infantry Reinforcement Unit, a soldier of the Canadian Army Overseas, on Active Service, is charged with:

FIRST CHARGE SEC 15(1) ARMY ACT When on Active Service, absenting himself without leave,

in that he,

at Haig Lines, Crookham, absented himself without leave from 2200 hrs 16 Dec 43 until apprehended by the Cdn Provost Corps in Aldershot at 2345 hrs 16 Dec 43.

Total absence - 1 hour 45 minutes

SECOND CHARGE SEC (8) (2) When on Active Service, striking a superior officer.

in that he.

in Aldershot, at approximately 2345 hrs 16 Dec 43 struck with his fist in the face Lt. E.A. Michon, Calgary Highlanders, 1 Cdn Inf Rft Unit

In the Field 21 Dec 43 (J.R. Calkin) Colonel Commander 7 Cdn Inf Rft Unit

TO BE TRIED BY PIKED GENERAL COURT MARTIAL.

IN THE FIELD 27 DEC 1943 (G. Francogur) Brigadier.

Commander, "D" Group, Cdn Rft Units.

1

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 Overseau, or of any other force if authorized in law, in immediate comd of troops on active service, subject to RP 105(C) and restriction imposed by appropriate author. AA 49, 50, RP 104-107, 114. As to the duties and privileges of the Convening Offr in dealing with the applications see MML Chap't because 20 and 23, RP 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 charges sheets see RP 63, and as to separate trial on charges in the same charge sheets see RP 108. As to two or more accused charged junity see RP 16, 109. As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, Ajrank or Ajaphmt, If any, see AA 182, 183, fns. KR Cun 308, 328, 330.)

ACCUSED.

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

Full Christian Names.

Surname

F-78524

CONVENING ORDER.

- Whereas complaint has been made to me, the undersigned, that the person(e) named above as the accused, being subject to military law, has (have) committed the offence(s) set forth in the Charge Sheet(e) attached and on the first set of the set of the
- 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 trial for reference to a superior qualified offe.)

 (Delete part in brackets when not required for compliance with RP 105(C).)
- I hereby convene a Field General Court-Martial to try the said person(*), and to consist of the Offrs appointed or detailed hereunder.
- appoint (a) three Office to form the Court, (b) a Fd Offices President, for the re 4. I am unab
 - (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). Delete, if none appointed.)

PRESIDENT.

48 Highra 4 CIRU H.H.A. Parker (Must be named. RP 106.)

(Named or detailed. RP 106.) (Unit.)

WAITING MEMBER.

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

JUDGE-ADVOCATE.

J.A.V. Cade (Barrister at Law) H. CRU (Muss be nomed. of any. Ap 106.)

On Active Service in the Fd

(Signed personally. RP 105 fp 2.) (Rock.) (Country.)

Commanding "D" Group, Cdn Rft Units. Date 27 DEC 43

CONVENING OFFR WILL INITIAL ALL DELETIONS AND ALTERATIONS

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

I certify that I have this morning examined No. 7 Cdn. Inf. Reinf. Unit, and in my opinion,

to undergo trial by Court - Martial. he is unktt

(Medical Officer) 7 Cdn Ing Rft Unit

MHan.

30 Dec 43 MEDICAL OFFICERS CERTIFICATE I certify that I have examined this morning No. F78524 Pte Ryan J.T. 7 Cdn. Inf. Reinf. Unit, and in my opinion,

to undergo trial by Court-Martial.

he is 如如文文文

First Witness for the Prosecution Motes D-3
F45568 Cpl Mac Level 7. Ty, sworn, states
from on strength 70, PM Jam on strength 7 CIRU. On night 16 Dec 43 7 was orderly corporal for "A" wy. Chrehest I Fork wel callat 200 his. Ple Kyan did not answer his name. Ireported him abound. ORs are supposed to be in their quarters by 1000 hours with the exception of late parces. Pte Ryan to my knowledge did not have a late pass on the 16 thec. Cross exam. The 16 Dec was a Thursday. Exam by Court . I do not know Ryan personally . The roll call is taken in the hat. I do not believe there is anybody in the but or in the coy by the name of Ryan except the accused. I had just joined the unit & it was my first bur of Second Wilness for the Prosecution 6- 4070 Agt. Hovey HB, 7 Pro Cy, sworn states. on 16 Dec 43 at approx 2345 krs, on duly in aldershot. at Corner of Victoria Road opposite marine's novelly shop my attention was drawn to a scrittle in front of the Victoria Hotel

1. I could see by the lights flashing that two soldiers were running towards me with someone in pursuit cpl Franche and I proceeded to stop the two soldiers. Frecognize the accured as one of them heart mishon arrived. The group consisted of the two soldies michon muchon stated that he had been insulted I struck by one of the soldiers. I placed the their particulars under wrest, and becomed them to the quard room. Cross-exam & said at approx 2345 bours; it could be before or after, as my watch is not accurate. Enam ley Pourt I heard levots scuffling, too lad talk y a general rumpus but I did not hear a blow. Laroued the Victoria Lotal. It was a fairly dark night + one could see veron the road but would not be able to distinguish an officer from a soldier or a soldier from ciochen from that distance I did not observe any signs on head medon which would indicate he had were taken from them at the civilian were taken from their robertely police station, and their identity established. My attention was first

haven to the reaffle my the lights Huning in the air. I her m kreut Michon first arrived I did not recognize him as an officer though he stated he was an officer. I first recognized bem as an officer in the police station. I do not know if hewas Wearing a greateral or nameral NP (83) 15 complied with Third Witness for the proxecution D 410 18 Opt Franske PN, 7 Pwl, 4 worm. states: on 16 Dec 43 at 2345 hours 2 was on duly will Agt. Hovey in aldershot. We were standing at the corner of Victoria Road in front of marina; morely thop when I heard what seemed to be a struggle in pout of the Victoria Hotel. I walked towards · Victoria Hotel when I saw two toldress coming in our develors with someone running ofter them I stopped one of their and found out later that it was the Ryan We both went to the ground when ! stopped here and an officer thanked me. We stood up and the officer said this manufed but them. Ple Ryan was placed under close arrest and Rescorted him to the police station The offeel came to the police stations

I and gave us his particulars as heart Michon ? recognize the accured as the Re Ryan on the 16 Dec Cross Enam I have a water but ? did not look at the time when the place accused was placed under Re-exam & knew that it was furly late in the evening somewhere between eleven and Twelve midnight and closer between 1100 to 1130 rather than between 1130 and 1200 the puls must have been closed for toture approx. an Lour. Exam by Court. I knew the pubsions closed as the the Palais de Dance also was at it when it closed also there was more traffic on the Theard of loud voices, saw a touch flanking, & saw heard the sound of a body and fleshigh filling down. I was about 30 yds from the scene of the struggle 21 was a dark night of at 30 yds could see bodies standing there had would not be able to distinguish if it were a soldier, civilian a woman Agt. Howey flashed his lovel on that went michon was on officer the

was wearing a greater at I don't know what hind of hat he was wearing. I did not see anything unusual about him mechans face in the police station there were no other people between as and the scene of the scuffle. after & left the Palais de Dance I went to the Cufe Hippodrome, Lad something to east eat, & went to meet Agt. Howey RI83 (B) complied will Frouth witness for the Prosecution Lint E A mirkon, Calg Higher, on strengt In 16 Dec 43 at approx 2200 Lours I was crossing Victoria Road and met two soldiers who spoke to me ? ignored them and started walking past them They used fool and absursers language, and grant them & turned to them & told them not a speak that way on the street they kept on of I told them they were openhing to an office. The soldier then straighted up traid he was only asking when he would find a place to eat. I told him I did not know when I was hit by the other. I then herned my tored on the face of the man Who struck me I saw two officers on the ordewalk varked them weall

the Provol. They said they would . The Abldurs then started down the shut I followed them down it where they were apprehended by the Provost I told the Provist that I wanted to layotherges y gave them my statement of walkers into the Browst room at the prhee station it was somewhere in the neighborhood 1/2200 Lours - I identify the accused as the man who struck me, on a later slay actended an identification parade on one parade of approx 100 men I did not ucognize anybody. on the second parade of 20-25 min I recognized the arrived as the man who struck me on the 160 on the left side of my face with his hand. & know he had nothing in his hand as his hat came It and ? turned the light on him as he was bending to pick it up. The two soldiers I do not remember Crots Exam the first words that the his soldiers used. I ignored them as I was talking to the friend & was well. I did not notice if the two soldiers had lights & had a torch. my partner may have had & torch but not to my knowledge I told the two orldiers distinctly that

in my hand and at first stid not flash it on the of men. I ignored the language I walked around them I was about 200 3 paces from them when one of them said fuck you, you bastard" neither made a more to fel me when these words were spoken; Those are the furt words & recall actually heaving the clearly. I then turned towards them or told them not to use that language. I was quite close to this as that the start time I did not flash the light on my pips as I did not think it was necessary when I told them that Dwas an officer. The two officers are from the same holding and as I am. Exam by Court one of the ficus as A my bolding and but but but and now there names I was facing towards them roughly 10 to 15 yes, and the most of recognized them from the light of my flashlight. I had been in the bar of the Victoria Hetal of When they called Time or shortly after I came out on to the street. When I was hit I actually battle sund & a quetcoak

7. Examined by JA. my evidence on the summary of evidence I do not believe that I stated 2345 hours of I did it was a mistake I may have overlov-ked the time before I do not think the other how officers signing it Could have seen the blow. RP83 (B) complied with

In Re: F78524 Per Jeuniah Thomas Ryan the elepines manes for elemined of the case on the gravendo that the themention gailed to establish -a trimo Placis lace, far the fellewing reactors on the first charge there is a material disagreement as to time. Igh Many of the MP. claims the time of The incident to have hier 2345 his But Is admits

What his match was not exact. Coal. Franch also of the M. P. admits that he dit not lask at his match his relied an Agt. Many for the time. All admits also that ple Vine could have been between 2 200 his and 23 to her Juin michen claims it was 22 as his. It these witnesses Khurfar do not agus an the Kime. Jim Willow game conflicting initiace as to Kime. As the summary, under dath and one his ergs abus he chains the time to have have 2344 hrs. Before the court, also under dath, he tratific that the term was 2200 dro.

on the second charge there's only the endone of him michon that he was skined. All did not see who assuce him: the permedo dispitus that their men no marus as him. marsoner, Som can his indense he relied an fac he areand charge when it was unuliable as to the record charge. Ale claims the below thrown him down buch a bless march leave a mara.

Wohnteaper elepending offices

cloted 29 the 43

Insenters submit that a Prime Facile case has MM been established in footh changes for the vosons 11 absence at 2200 las definitely proved by orderly gol - territors of absence and anot at 2345 defentes from les à Provost - lest Hover + Gel Franche. 121 In organs to 2nd change blow being stones of His Junes by Lt. michon-circumstatio eviden supported by two Provot in the fact solding running away for the reason they would not be running unless the was something they wanted to un away from. Time is not of the assure of this change have robutly submission by defence in vgodstilenie.

(Notes - D.6) First Witness for the Define TORN F78524 Pte g. T. Ryan, a sworn, states on 16 Dec 43 I was with the midougall AA. We left camp about 1800 his I went to a put in alderthof where we stayed until they called time. We diants what beer we had in our glasses & walked out to the street. We met a soldier and a girl coming up as street. We asked if there was a tea shop landy. He did not answer you or words to that effect. The holling to us then. We stopped , he came up to us of told us we should not use our language like that on the street to an officer. He told as he was an officer and planted down the street The followed us down the street will a flashlight. Then we started to run. We only ran a little ways y the Provid stopped as the officer came up I laid a charge, + we were flowed under close arrest. I Taken back to our The first words we used to the officer were "If he knew of there was a tea shop handy. I did not have a touch a to my knowledge medougals did not the soldier of girl went approximately 5 to 6 yes before the office the office topped. We made no move to go towards him.

The soldier came back alone. The Rad a torch. It was a very dark night. I know be war a soldier when we asked him the question. We did not leave the put a during the evening we drank bus & some whishey there. There were other people in the put when we left it. I first saw an officer in the police station when he came in to lay a charge so I delieve that is the man I was talking to. Cross-exam. The incident must have taken place around 22 00 hours as that is when pubs close. I drank - 800 9 beers and 2013 whishies. The wed the Rovort he was an officer on the street of ter they are topped me. I do not know what The officer was wearing. I did not know the Brownt were such. tran away because the soldies the tarted following us down the street to I did not want to get in to trouble. The I do noturnally run away wastle first officer of bumped into so. I ran away. It was after I had said to hell with him and I thought il would get me in trouble. I did not strike anyone that night. I did not attempt to strike anyone. I did run away Re-exam. The well call was made of one regularly every night in our but. If one regularly every night in the babit of ist a little late of not in the babit of

being late the orderly corporal fixes it up. I did not have a pass that night. I was a part sheeted me they apard of the Provost sheeted me they apard of find I did not have a hor would find I did not have a pass. I do not know the name of the pub. It Exam by the Court Victoria Hotel. I had turned about two The offer the soldiers words were "you should not be using language like corners. that on a street to a superior officer. I do not know how the girl in the Street was dressed. I shall not actually bump the officer I mean it was the first time I had been stepped by on officer. We walked away at first of then started running. The officer was standing three when I last saw him. The flashlight went on the us. There were a few others on the street we passed some walking down the street. It was a pay night there was quite a lot in the pub but not many on the street. I did not hear the soldier say anything of the head said he was just followed us along the street. RP 83 (B) complied with.

Second Wilness for the Defence F 32134 Pte mc Dougall. A. 7CIRU, swim, stales, on 16 Dec 43 I left camp about 1800 his with Ple Ryan vologed there I went to a pub where we stayed until aloting lime. When Time was. called we finished half a glass of beer & walked down the street a short way. West saw two persons coming up the road of asked them where the sharest lea-shopwas. There was no answer. They started to crots the road + we said to hell with them. He came back & said the should not be talking like that on the street to a superior officer as soon as I found out he was an officer I started down the street the Provost came along of stopped used took as to their HG. me michon come in y laid the might the officer has the soldier was actually an officer in the Rivort games Cross-exam. We were dunking souble whisteres and beer all-night. The time on the 16 Ree was about 2200 his. there were a few people on the street?

did not take particular notice. Exam by Court I think the pub was the newmarket. It is about five minutes walk from the Victoria Hotel. The soldiers words were "That is no way to talk on the street to a superior officer! I turned & walked away as I turned he was just standing there the started talking, I do not know what about, & shone his light on as I would not say to was showing at us to stop. I could not see hour he was dressed in the dark but in the Provost room he had on a greatcoal. I do not benow who the other person was The incident occurred not more than 5 min after the pub closed. I did not strike or attempt to strike anyone that night nor did I hear or see anyone struck that night. I was pretty drunk & may not have heard clearly all the officers remarks. no one said to me that they had struck anybody. RP 83 (B) complied with. This Witness for the Defence 175586 Pte June V Smith ATS, A Coy, on 16 Dec 43 at about 2155 hours ? left the Victoria Hotel will heard Michon we went over the road and two

Lavadians asked us where they could. turned around & swore. head michon went tack to him & spoke & while be was speaking the one chap shuch the officer in the face. The officer slipped to the ground He then called to the m P's and the two men started to run then & stopped at the end of the road. When I got there there was the two MPs the two men, the officer & myrelf. Wewere then taken to the station at about 221062215 bours. I waited what downstains until about 2220 when him mishou took me back a camp which I reached about 2230 hours we reached the Police Station. The men looked as though they were drunk match had his cap off y the the with how his on watch just as I put I looked at my watch just as I put my hat on in the hotel & it was about 2155 hr. the bu was just 1 The first winds the soldiers addressed to us were "was there any place to eat. I stopped but the officer keept walking I pulled me no cross-exam. The roldier that struck the officer cham by lourt not actually see the strucking

but I could section michon falling I heard the blow-while the officer was speaking to the man that swore. The other man turned around to the side of the officer whale the officer was talking to the one who swore. I identify the accused as the manths moved to the side of the officer. The & saw this man's face before the blow was struck as the touch of the officer had flashed on his face when he walked back to them. I was about 3 or 4 yes away. The two men were side by side with the light more or less on was on the touch was not moved to the side. The torse was not on when the blow was struct. Lieut michon was not made he just total them not to use that longuage. We had only one pint of beer lack in the hotel though I could not say what he had to drink before. RP 83 B complied with. Jourth Wilness for Defence. on 16 Dec 43 I booked fto Smith in not later Than in myself wbout 22 ooks, Profest getting ready for bed when Ple Smith came in not later 2245 hrs. I remembered the right because Ptermits Cross-exam. He see was a Thursday.

By Court: It takes about 10 minutes to walk from the Police station to our ramp RP 83 (B) complied with. Fifth Wilness for the Definer Al Major WR Burnett, 701RU, swom, states, Fam OC of E Coy 7CIRU. The accused is known by me as he has come under my observation y has impressed me as being reliable and trustworthy. He enlisted in June 41 & arrived overseas in July 42 where he took a 4 weeks unit MB is course On the formation of 7 CIRO being a member of the Cope Brelow Higher hereported their. The accused has held positions of trust at 7 @ 1RU in that he for 3 mouths attended the officers bar Itaig hims. He later became relief Head Waiter of Keipzig officers meas & still later was attached to the Chuningsale anobile canteen in alderskot until may. He returned to 701RU folding the rank of h/apl. The accused is married & has one child His marilal relationship is good. He is the 5th child of 14. Human His family has a good military service. The acculated worked as a mines at toms. He is good combetant material and prefers field service to specialist

training & appears action to join his field unit as quickly as possible as he has treturned from 4 months convalencent from an ankle broken on an obstacle course with his field wint. Horis & consider him as NCO material. I knew the accused in the field & remember the day of the accident. His conduct so far as I am aware was explany exemplany. I am only certain that he was a private as I have not seen fim as an N.Co. RP 83 (B) complied with.

Sunning ups for the eligence. D.6. John

- I the inidence of the elepinee shared, the incident to have occurred at space his and mad at 2345 his as attalled by the presention.
 - 2. what the excused had no means of knowing he was dealing with another, excuse that office's word. It was very daix and hims michan kept planting his darch in the accused's face.
- Francist and the fact of the offices in I walking brack to take account the account to leaving his first friend buding the thereby shawing that he expected travell; 21 flashing his back in account is face; 3) refusing to answer a civil & palit furching to him by account; 41 middling with 0. Po under the influence of higher; 3) when not an dudy is in the course of his dukers.
- 4. No one som the actual blam not men the Offices himself. A blam that mould bring down a man of bring michen's eige would everly hans a maix and get all the witnesses testified that they did not see any maix an him trieden's there.
 - 6. he one could Identify true michen as an Office until
- 4. Uf there he any doubt in the cared's mind as to whater or not hues breaken was attract or as to undo others him the securit about ham the henepit of that doubt.

Marine Mines.

31 Ulu 43

Inscentor's Summary DG 985 1. Intent - proved by fet 2. Provocation- none established silene of ffin o 3. Blockout - non-identification of Moices testimony of 3
butnesses state accused was till by St. Newhon 4. Evidence of man Dongold mot acceptable without conrobotelier sine accomplice. 5. A Trubon's Sindone Conobrated by defend hitues Of Smith heart blow stree by some him fall 6. Time not essental to and change. & wills his

.

Second Charge must be natisfied, if they convict, that the evidence shows that the accused knew the afficer to be such, that is that he knew he was his superior officer. In the dark was the verbal statement of the office clearly heard of understood by the accused. The court must elso satisfy itself that the striking took place and that it was the accused who did the striking-identification. The Court can arrive at a special finding as to the time of they consider that the actual Lour of striking is not a material fact. provocation it is not of there was any proprima facescere! but tends grounds by thelf of alguitte! but tends to mitigate the punishment. The Court is refused to AA 56 in refusey to a finding on a lesser offence.

E-31

MR PRESIDENT, MEMBERS OF THE COURT:

You have heard evidence for and against the accused. The decision of guily or NOT guilty, as you are well aware, rests with you. I would like to remind the court of the seriousness of the charge (s). If the man is guilty, he must of necessity be punished; but if there is the slightest suspicion of doubt then the accused should be given the benefit of that doubt.

Pte Ryan, from evidence produced, has carried out all duties assigned to him in a soldierly marner. At one time he held the rank of Lance Corporal and as such must have possessed a somewhat higher intellectual qualification than the average run of men in the ranks. He is supposed to be dependable and trustworthy beyond a doubt. I feel he has proved this, having as the evidence has shown, held positions of trust. Entered in June 41 - 0/5 July (12

It is my duty as defending lawyer to point out to you that many human beings, and soldiers are human beings, are provoked into doing things which under ordinary conditions their better judgement would prevail. Should you find in the course of your deliberations, the soldier guilty I beg you to remember that the situation may have been aggravated by blatant discourtes; and inconsideration of the feelings of one human being for snother.

May I also point out that the accused is a married ran with one child. He was, and is, endowed as the rest of us, with a sense of duty and loyalty. He wears the Kings uniform and is Overseas. He is, in a measure, friendless ---- very recently discharged from hospital. He has sacrificed much and is willing to sacrifice more ----- given the outportunity. I cannot but think there are extenuating circumstances in this case.

He respects authority for at one time he had to administer it: he respects rank for at one time he was an N. C. O. He is the type which realizes that a crime committed must be repaid. I feel, and rather strongly so, that in view of the ewidence submitted, that the life of this soldier should NOT be ruined. He should NOT be branded as a criminal --- a mark which would not only effect his army career, but his future as a citizen. Pte Ryan comes from a family of fourteen. He has a first class scholastic record. He worked as quite a young lad to help ease the family financial situation. His is a loyal family for he has two brothers in the Army and Navy. Two others were rejected on physical grounds.

Gentlemen, again, if a reasonable doubt exists the accused should be given the benefit of that doubt.

What reflection on army administration, what a travestry of justice, if such a lad as this were prevented from finishing the job he enlisted to do because of some doubtful, and the least one can say, an undetermined crime.

List of Witnesses in the case of F-78524 Pte. Ryan, J.T.

FOR THE PROSECUTION

First Witness	F-45568 Cpl. MacLeod, J.T.	CIC - 7 CIRU
Second Witness	G-4070 Sgt. Hovey, H.E.	7 Prov Coy, Cdn Prov Corps

Third D-41018 Cpl. Franche, N.P. 7 Prov Coy, Cdn Prov Corps
Witness

Edunth Lt. E.A. Michon Calg Highrs - 1 CIRU

Fourth Lt. E.A. Michon Witness

FOR THE DEFENCE

First Pte. June Smith A.T.S. Witness

Second F-32134 Pte. McDougall, A. CIC - 7 CIRU Witness

1. I hereby acknowledge that copy of the Summary of Evidence preliminary to my court-martial that I have been served with a which I am being brought to Compared at Leipzic Bks this 20th day of December 194 3 2. I hereby acknowledge that copy of an additional Summary Barracks, preliminary	true copy of the charge under urt-Martial. (J.T. Ryan) t I have been served with a true
Dated at farm Bruch this 10 day of 1943	
I hereby request that the officer to represent me at my I desire the services of if he is available. Dated at Leipzic Bks this 20th day of December 194 3	Capt F.R. Plourde (J.T. Ryan)

SUMMARY OF EVIDENCE

In the case of F78524 Private Jeremiah Thomas RYAN, Cape Breton Highlanders, on the strength of 7 Canadian Infantry Reinforcement Unit, a soldier of the Canadian Army Overseas.

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

PROSECUTION

FIRST WITNESS F45568 Cpl MacLeod J.T., Canadian Infantry Corps, on FOR THE the strength of 7 Cdn Inf Rft Unit, having been sworn statest

> I am F45568 Cpl MacLeod J.T., Cdn Inf Corps, on the strength of 7 Cdn Inf Rft Unit. On the night of 16 Dec 43 I was company orderly corporal for "A" Coy. At 2200 hours that date I called the roll and found the accused, whom I now recognize, to be absent. I checked the company robl, and found that he had not been issued with a pass, Other Ranks are supposed to be in their Quarters by 2200 hrs.

- I Dreg feet ---- CDI (The accused declines to cross examine this witness)

SECOND WITNESS PROSECUTION

G 4070 Sgt Hovey H.B., Canadian Provost Corps, at present on strength of 7 Provost Company, having been sworn states:

I am G 4070 Sgt Hovey H.B., Cdn Provost Corps, on strength of 7 Provost Coy. At approximately 2345 hrs 16 Dec 43 while on patrol in the town of Aldershot in company with Cpl Franch, we were on duty at the corner of Victoria Road, opposite Marinas N velty Shop. My attention was drawn to a scuffle opposite the Victoria Hotel. I heard loud talk and saw two soldiers running towards us with someone in pursuit. We stopped the two soldiers and questioned them. The accused whom I now recognize was one of the above two soldiers who we stopped. At this time Lt. Michon, Calgary Highlanders, 1 C I R U, came up and stated that he had been struck and insulted by the soldiers. I placed the two soldiers in close arrest and escorted them to their guard room where a body receipt was obtained and is on file at this The two soldiers we stopped were Pte Ryan and Pte MacDougall. I recognize the accused here in my presence as Pte Ryan.

(The accused declines to cross examine this witness)

THIRD WITNESS PROSECUTION

D41018 Cpl Franche N.P., Canadian Provost Corps, on strength of 7 Cdn Provost Coy, having been swron states;

am D41018 Cpl Franche N.P., Cdn Provost Corpo of 7 Cdn Provost Coy. At approximately 2345 hrs 16 Dec 43 I was on patrol in the town of Aldershot in company with Sgt Hovey: We were at the corner of Victoria Rd., opposite Marinas Novelly Shop. My attention was drawn to a scuffle opposite the Victoria Hotel. I heard loud talk and saw two soldiers running towards us with someone in pursuit. We stopped the two soldiers and questioned them. The accused whom I now recognize was one of the above two soldiers who we stopped. At this time Lt. Michon, Calg. Highrs, 1 CIRU, came up and stated that he had been struck and insulted by the soldiers. We placed the two soldiers in close arrest and escorted them to their guard room where a body receipt was obtained and is on file in this H.Q. The two soldiers we stopped were Pte Ryan and Pte Mac. Dougall. I recognize the accused here in my presence as Dougall. I recognize the accused here in my presence as Pte Ryan.

(The accused declines to cross examine this witness)

Page 2

SUMMARY OF EVIDENCE

In the case of F78524 Private Jeremiah Thomas RYAN, Cape Breton Highlanders, on the strength of 7 Canadian Infantry Reinforcement Unit, a soldier of the Canadian Army Oversess.

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

PROSECUTION

FOURTH WITNESS Lt. E.A. Michon, Calgary Highlanders, on the strength FOR THE of 1 Canadian Infantry Reinforcement Unit having been sworn states:

I am Lt. E.A. Michon, Calg Highrs, on strength of 1 C I R U. At 2345 hrs 16 Dec 43 while crossing Victoria Street, two soldiers questioned me. I ignored them as they had been drinking. After I had gone past, they used foul and abusive language. I told them they should not use such language when talking to an officer. While I was talking to one, the other hit me. I told two other officers nearby to report the matter to the Provost and I then followed the two soldiers down the street, when they were apprehended by the Provost. At the time I was struck I had a flash light and I had a good look at the soldier that hit me. I recognize him here now as Pte Ryan, the accused. At the Haig Lines 7 CIRU on 20 Dec 43 at about 1600 hrs I attended two identification parades. I did not see Pte Ryan on the first one but I did recognize Pte Ryan as soon as I saw him on the second identification parade and I recognized him immediately as the soldier that had struck me in the face, immediately as the soldier that had struck me in the face, with his fist, Coule & Michan-It.

(The accused declines to cross examine this witness)

The accused was cautioned as follows:

Do you wish to make any statement or give evidence on oath? You are not obliged to say anything or give elvdence 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 or to give evidence on oath.

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

In the Field 20 Dec 43

V. I. Willy Lt. (Officer taking Summary)

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Pt RYAN, M.J.

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85R, MANANT

Contespondent to the Printing has

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

PROCEEDINGS.

On Active Service, this

Whereas it appears to me, the undersigned, an officer in Command of 2nd Canadian Arthured Brigade, C.A.

, 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; Mand 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 appointed or detailed hereunder.

*(I am unable to appoint :-

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

*(2. A Field Officer as President.)

for the following reasons, namely :--):

Rank

Rank

President.

Name.

Members

Name.

Convening Officer.

Regiment.

Regiment.

* 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 that have not been complied with, and that you have been prejudiced thereby, or on the ground Anyte (to be recorded on separate sheet if necessary).—

(G.E. Bradbrooks) Brig Cond 2 Cdn Armd Bde

5 Edn. land. Righ (PNBH). President.

(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. (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 initialled by him.

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

	i also certify that :
* Omit if not pplicable.	1. The members of the Court 2. The witnesses *(3. The interpreter) 2, 9, 9, 6, 6, 6, 6, 6, 6, 6, 6, 6, 6, 6, 6, 6,
	Signed this 28 d day of October 1942
	Mul Officer So Sp of mag.
See footnote on page 762 M.L. 1929	I certify that the terms of *A.C.I. 570 of 1918 have been C.
	Signed this day of A. 19 Certificate case of deat sentences.

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 I have there stated, I hereby confirm the above findings and

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o be omitted a penal tude, im- tment or	*(I-direct the	at the cole	Har named in	the margin	be not com-
tion having awarded, the runing reither has thority to sit to preson ention ck. or. & such nity. Incode	Signed this	31	day of	aburne Confirmin	1942.
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	(Dated)		

(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.

[84] Wt. 38092 3330 70m 2:41 W. & Co. Ltd. Gp. 745:2

The accused No. A 11505 Fte Michael Joseph RYAN, The Perth Regt (Motor) CA a soldier of the Canadian Army placed on Active Bervice is charged with: when on Active Service, striking his superior officer, being in the execution of his office in that he at Pippingford Park, Sussex, on 16 Oct 42, did strike A 11325 Bgt L Madon, The Perth Regt (Motor) CA, who was at the time taking into custody one A 54687 Pte Westrop W, The Perth Regt (Motor) CA. When on Active Service, disobeying in such a manner as to show a wilful defiance of authority, a lawful command given personally by his superior officer, in the execution of his office in that he at Pippingford Park, Bussex, on 16 Oct 42, when personally ordered by Lieut T Anderson, The Perth Regt (Motor) CA, En Orderly Officer, to go to bed and stop causing a disturbance, did not do so, but attempted by violence to prevent one A 11325 Sgt L Nadon, and an escort, from the performance of their duty. When on Active Service, resisting an escort whose duty it was to apprehend him in that he et Pippingford Park, Sussex, on 16 Oct 42, resisted the escort whose duty it was to apprehend him, by flanting and struggling with said escort. (J S H Lind) Lt-Col In the Field 23 Oct 42 Comà Brigadier amondas 2rd Calo, Armd. Bde.

MEDICAL OFFICER'S CERTIFICATE

K.R. (Can.) Para 557

I certify that I have this morning examined No 4 // 505 Phi. RYAN MJ of Pack Pyr. and in my opinion he is

untit to undergo trial by court-martial.

Station & of tall

Date 28/ 7 42

Co Rundert

for about apt Medical Officer

Trist of A 11008 Fts. Pierest Jasens RYAM, The Parth Rest (Noter) CA.

Held In the Visid on BS Oct 42.

HERSIDWIT

Young G.R. Ross

S Ared Rest (SHEE) CA

LINEARY

Capt. F.J. Struthers
S Ared Rest (SHEE) CA

VALUE ANNOTATE

Mador M. C. Fraser, ADJA

S Gdn Ared Div

The Order convening the Court, the Charge Sheet and the Summary of Evidence are 1sid before the Court.

The Cent switchy Hemseltes as provided by Rules of Frenches Folia St.

Cha assessed in brown by before the Court.

Freezember - Lieut, J.E. Freezember B Ared Rest (SHEE) CA

The Order Convening the Court is read and is marked "G", signed by the Freeident and attached to the Proceedings.

The asses of the Procident and Members of the Court are read over in the hearing of the socused and they saverally answer to their names.

The secused does not object to the President or the Westers of the Court.

The President, Members was Julye Advocate are duly sworn.

The following Officers unler lustraction are duly sween,

Lieut, G.S. Wasa Lieut, J.A.D. Thomson Capt, J.O. Cann Lieut, T.A. Williams Lieut, G.T. Bisir Cant, G.A. McDwer Lieut, T.H. White Tient J.B. Varguer S Armed Regt (9980) GA 18 GAn Lt PM Amb BGAMG 9 Armed Regt (870) GA 18 Lt AL Bty RGA 1st Td Syn RGE 5 Armed Regt (8788) GA 1st Regt (1) GA 2 GAN Goy GGANG.

The sound does not object to 2 0931 A/Set. Finbow, H.T.,

The Shorthard Melter la sworn,

The sourced ensures his move and number and is excellent on the share. Observe-Sheet nerved "O", signed by the Freddent, and attached to the Proceedings.

PLOA - The secured placed Not Guilty on all three charges.

The sociated was asked the question at the foot of page 2 of A.F.A. 5 and his enswer is recorded beneath the question.

Have you any remain to say that Eyen was in that fight other then when you saw him before it started? It was only a few seconds. No sir. 4.45 No sir.

Where was Fig Run when thet order was given?

He was present.

Yes str. 0.79 Yes sir.

He ren around in front of me. Everything was in a confunite and everybody was running around. He didn't want to to interfere. You were facing the accused and you turned around to go to Mr. Anderson's emptance?
You sir, I changed my position. M 65516 Pte. Byers, T.W. "G" Goy, Ferth Re t (M) Bid you see any disturbance in "A" Coy lines that might? In the epision of the Court and the Judge Advecate, it is not necessary to comply with R.P. 85 (8).

- Whire was Pte Rmin than? I den't know mir. He was there, but I only may him case in a while. He was trying to talk the two assumed into going to bed.

The withern withdraws.

Oth Million

(1) Chy having been duly maken, is exceeding the Exception.

- A.90 What is your number, rank, dame and inity also cal tensor, E.E. was lay, Forth Bagt
- 1.100 Do pen know the amount Pic Ryon?
- 1.101 "has t were your letter on the allet or 10 Get 429
- 4-200 Did you man there emissed on black with tity
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 - his in
- a. 104 Chief may be disting the set the set of the set
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- A.105 Fushibly twelve or firtuen feet.
- 1.106 Did you hear the erder given?
- 4.107 In that sort of a tone was it given?
- NAME OF STREET
- A. LOS It assent and a.
- 1.100 Bld you have any Marinelty in hearing law
- A.110 The temperal error the order was alread in A.110 The guryd then tried to about them under any
- A. 11.0 The guryd then tried he place them under expert. There was a structle with the under experts and the sure unable to place then under expert. They brake up and I returned to the Orderly Rose.
- A.111 Did this common exemplist
- 1.112 Did you know the flow he did no triotee
- Alls To str, I didn't sen the structs of the sen of the years.

No Description to the

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In the opinion of the Court and the Judge Adversary, it is not accessive to comply with R.P. 85 (8).

The witness withdraws,

The Prosecution is desed.

aret (

The Defend of Offic a new Liet is agains not wird on real to I miled

With reasont to the extend and third over as, I subsite with respect to the siri force first. Fr.

And from in his writings a natural that he did not see whether the Ryan did and be could not say the him Ryan was in the translation of Syars rights that there were no the Least the by five men around. With respect to the mode of and the regs, I subsite that it was posse placed order to the mode of whom you have not not greater a fraction of There is some evidence when the discharge of dark, but I mutain there is included an order of the first and the respect of the first that the discharge of the respect of the first consideration to so to be said, and I mutain the Charles at the arrest of Testing was not one of first darkenes or notherly two but to say the same as a first independent of the arrest of Testing was not one of first darkenes or notherly, but to say the same the smaller for those,

tions of the proof for a first one

at Bgt Nadan and he tried to they so order, he to do a suday at Bgt Nadan and he tried to intercare with the averyies out of an order by Sgt. Madan. This, I think, shown a

The Court was closed for consideration of the Metian.

The Court allowed with the motion with respect to the third abunes and disallowed it was to the second charge.

unding The Gourt was opened and the decision of the Court announced. The accus at is thank not Guilly as the third and advantage. R. P. 45(c) Is complied with. Ph.

DEFERRE

more an extra as 100 and according with

non, as fat there is in non-plical with.

The sounded states that he does not desire to give switches

Stanton Address by Two south or Officer

pir, in surming up for the prosecution, in the first charge the charge is read as watriking a Superior Officer' and as stated under Sc, he may be found nuith of affering violator to a superior officer. The evidence of Sct Madon shows that the did offer to strike him. Maden aum in the execution of his doty and I sminit that this evidence should be taken as the furth of the age and I is erefore substituted to the first old read in the fir

as regards the second charge, Lieut. And read definitely give the short of an order and the accessed must have heard the order. The house of failed to carryent that order and not only failed to carry it out, but he did it in such a way as to show wilful defiance of authority. We also attempted to interfere with the Spt who was attempting to carry out Mr. Andersona orders and I think that this is sufficient proof to show that he showed wilful defiance of authority.

and Sgt Madon says himself that he had turned away to go to the assistance of Ur. Anderson.

Judge Advocate

I would like to direction of the Court to the provisions of A.A. So (4) (s), under which it states that if the evidence warrants it, a court severind a man guilty of a leaser clarge of aftering violence, but before following such source. I would sak the court to fully arraine the evidence. The only other observation I wish to make in view of the first charge where Set Madon is the only witness. You will find the question of there only heirs one witness and I refer you to MML pare 48, which says that there only needs to be one witness, provided that the one witnesses evidence is believed. In the present case, it is legally paraliable to make the finding on the one persons evidence. With reference to the second charge, I believe that the mane observation is applicable, because to the best of my recollection, lieut, Anderson was the only sitness who trafficed presidency to the Court may consider in question. Memory, sithough the Court may consider the vidence, I would like to boint set that the accused has the benefit of the bubb and where the misrge is only supported by the evidence of one witness, the Court should be careful to accusing that evidence are fully and deliberately.

the Second charge, and on the first hat guilty of "striking" but guilty of "When on active surve offering violence to his supunity of his before "Second Charge," and on the first hat guilty of "striking" but guilty of "When on active surve offering violence to his supunity of his before "Second Charge and the breather of his before "Second Charge and "Second

Evidence as to Character

Gapt. E.F. Hutchison, adjutent, Perth Re to [1] GA,
Having been duly meern, states: "I produce MTS 355,
which I have comered with the Restmental Space and which
is a true statement as to the character and popularies
of service of the accused, and I also produce TFM 6,
which is the Yield Gandant Shoot of the accused. A 1805
pta. Michael Joseph RTAM, Ferth Rest [M] GA, [The loss
pta. Michael Joseph RTAM, Ferth Rest [M] GA, [The loss
pta. Michael Joseph RTAM, Ferth Rest [M] GA, [The deceimments are read by Sept. Matchison, marked are and mixrespectively, signed by the Freeldent and attended to the
Proceedings).

Mo Grass Examination

Place for Laminer by the Defending Officer

The strength of the street where, Towns of a sale
and that I have it as accused as a second accused, I
would like to being up the question that the scannel
attempted to quietes down other use and accused, I
would like to being up the question that the scannel
attempted to quietes down other use and set them to their
heds. That constignation should be shown, becomes alone
15 New 41, when he came every here, he had accusting allow
two minor offunges under Section 40 and the other one of
neglecting to wear his respirator at 1600 hrs under Gestion
40.

The Sourt manteness the scaused, A 11808 Pts. Michael Fosch 2008, Perth Rept (M) CA, to undergo detention for sixty (60) days.

Detn.for

destified a true second of this trial twis 28th

Jul Drasu

prosident Tolor

Exhibit Y"

STATEMENT AS TO CHARACTER AND PARTICULARS OF SERVICE OF ACCUSED

Number	Rank	Name	Regiment (or unit)
A 11505	Pie	RYAN Michael J	oseph Perth Regt (Motor) CA
1. The following	g is a fair and true summa	ry of the entries in the	Service and General 977
Conduct sheets (7)	ct sheets of the accused, ex		Court-Martial or a Civil Court.
		have become a of a large	which trial has been dispensed
	last 12 months	Since	e enlistment
		times Conduct to th	
Por		times	times &
For		times	/m
For		times	times
Number of inst	ances of gallantry or distir	guished-conduct- 972	
		ary gon	
There are no er	ntries in the conduct sheets	ef-the accused.	
Nors:If the	charge is for drunkenness,	the entrice for drunkenness	must be stated separately, 972
2. The accused	has not been previously o	onvicted	
		-or, - Dr	
Previous convi A Section 47 of the annexed to this sta	- Army Act and dispense	a court-martial or a civil e A-R-A stions with trial under A.A.	ourt, of summary-awards-under 77-78-48- are set out in the Schedule 77-
3. The accused	d is not under sentence at	the present time.	
		ar, M.	
The accused at	221	sentence for a season and	beginning on the
			charges, for no days in
civil custody, and.	days in milite	ary custody, making a total	of days in custody,
of which	days were spent in	hospital.	
5. The present	m-	ing to his record of service is attestation paper in his record of service is attestation paper	26 years 10 months 5 :
7. The service	which the accused is allow	wed to reckon towards dischi	arge is 3 years 25 days
8. The accuse	ed is entitled to reckon 25	days service for the purp	ose of determining his pension, etc.
9. The accuse	d is in possession of or ent	itled to no air force decorat	ion; or air force saward (or is
in-possession of or		ir-ferce deceration or reward	
10. (lf-the as		The accused before he wa	e made a warrant officer-last heid-

11. (In the case of an offi	cer.) The accused	holds in the I	Royal Canadi Permanen	an Air Force t Force Xunit	the rank of
X X date	ed	, and	i in his regim	ent (or corps)	the rank of
X			CSK.		
X date	EM ALL LOS DAMES COLOR	- I - Many	continuously.	without redu	ction, to the
X 12. The Accused has serv	ed as a non-commi	ssioned officer	X		f promotion
sent datx:-			X	Date	of promotion.
X		years.	X		
Ingthe rank of		years.	ζ.		
The the rank of		years. X			and the state of t
NOTE:—If any matter in tragraph must be struck the	any of the above parough.	ragraphs cannot	be stated fro	m the Regime	itisi Dooks, eiie
	80	HEDULE			
			eds onde	r Section 47 of	Air-Force
Of convictions by a counter, and of cases in which	rt-martial or civil co	art, of summary used with of acc	used, Number	rA 11595R	ank Flow
act, and of cases in white			in mark 1	Matari CA	Regiment
Name RYAN Michael Note — A verbatim exterial must be inserted.	ract from the regime	ental books stati	ing these con		
Description of Court	Date and Place	Charge upon		Sentence of the Court	Punishment Remitted
by which tried	of Trial	convicte	d		
		NIL			
		+			
				1	
	at the foregoing sch	edule of convict	ions and disp	ensations with	trial is a true ex
I hereby certify the from the regimental b	nat the foregoing schooks in my custody	edule of convict	ions and disp	ensations with	trial is a true ex
I hereby certify the from the regimental b	nat the foregoing schooks in my custody	edule of conviction day of			trial is a true ex utchinson Perth B al has been disp t, and annexed

Sheet 1 - Destroyed, 28/3/40 No.A 1150 Name Ryan M. J. Sqn., Battery, or Company

Date of last entry in Company Conduct Sheet \$19/1/41 No. and date of last drunk Sqn., Battery,] CorpsPerth Regt. Date of enlistment 28/9/39 G.C. Badges or Company. Period not reckehing towards C A Sheet No. 2. Signature O.C. Company, etc. Character Date of offence 1941 Hamilton Ont. 5 Mar Pte Conduct to the prejudice etc., Disorderly conduct in Berracks. A.A. Sec 10. P/S.Sgt. 28 days Detn 10Mar41 Maj RL Tindall JET Ferguson W. ROMS Mogg G Sgt Christie Camp Borden ont 24 Jun " Conduct to the prejudice etc., Making an improper reply to an officer. A.A. Sec 40. Lt H Smith. 10 days Detn. 25 Jun41Lt Gol G.W. JET Adjt. Ltttle, In the Fd. Conduct to the prejudice etc., Sgt Stone B 3 days C.B. 16 Sep RS Reid Capt In the Fd. 30 Dec " Conduct to the prejudice (ie) Cpl Handley J 2 days C.B. 31 Dec EC Shelley Major Neglecting to put Respirators on at 1000 hrs A.A. Sec 40. Certified True Copy: Schullen 28 der +t (E M Hutchinson) Capt. Adjt Perth R. (P.TO.)

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Ryphy 0. P. 1635 ou sould

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2/11

PROCESDINGS OF FIELD GENERAL COURT MARTIAL COURT

D-16200, Spr. Ryan, O.P.

B-88586, Epr. Sharkey, J.J.

4th Canadian Field Coy. R.C.S.

The Prosecutor proceeds to call Witnesses.

Lieut. G.E. Smith, R.G.E. being duly sworn,

Will you tell the court what transpired between you and the accused on the morning of the 28th, of September, 1940. At what time did you see the accused. Where were they.

Answer.

About twenty to nine on the morning of September 28th, a detail of about 15 Detentioners were digning alit trenches to the east of the Barrack Ruts. I went there with Sgt. Backs intending to get 4 men to dig up an unexploded bomb. The C.R.E's orders were to get the Detentioners to dig it up as no unexploded bomb has been known to go off after 7 days in the ground. I questioned the C.R.E. on this point and was reassured by him that there was little danger of the bomb going off as it had then been in the ground for 8 or 9 days. I was ordered to go ahead with it and I took Sgt. Backs to the field and celled all the detentioners over and told them about the bomb. I told them that the bomb had told them about the bomb. I told them that the form had been there for over 7 days and told them that no bomb went off after 7 days. I then asked for 4 volunteers to dig up the bomb. No one volunteered. I then detailed a corporal to get 4 men. When he said "these four men", back chat started, I don't know from which of the 4 men, and guestions such as "We don't have to do this do we, wer'e not criminals". I then ordered them to do it. Back chat started again and instead of arguing with them I marched them back to the

some tools to dig the bomb up with and when I returned I told some tools to dig the bomb up with and when I returned I told Sgt. Sacks to go end bring the men cut. He went in and came cut by himself. The men refused to come cut. I went in and again explained to the 4 men that this bomb had been there 7 days and ordered them to do it. The men still refused, each separately. I told them it was disobeying an order and could lead to Jourt Martiel. I asked them again and they all said no. I said, "I will give you an order and you will have to obey it, you 4 men follow me to the site of work now". I went to the site of the work and no one followed. I then reported it to the Officer Commanding.

The accused declined to cross examine this witness.

Attheuse napi

Second Witness for Prosecution.

B-28007, Sgt. Sacks, W. R.C.Z. being duly sworn, is examined by the Prosecutor.

Question.

You are a Sergeant in the 2nd Canadian Field Park Coy. R.C.E.

Answer.

Wyos Str"

Question.

Will you tell us what happened on the morning of 28th

Answer.

As Provest Sergeant on that date, I was detailed to take charge of the working party of detentioners. Mr. Smith was the officer in charge. I was given to understand that detention men were to be given the job of diraing up the bomb. I went to these and explained the job and asked for volunteers. There was no response. A men were then detailed. The first 4 men on the right. We then had the men returned to the detention barracks. We went for tools and then returned to pick up the 4 men. I went inside and told the men to come along and they refused. I explained again what the job was then hieut. Smith came in and explained again and told them that it would meen if they did not some. We then left for the bits of the work and no one came.

Question. How many men were there in the working party.

Answer.

"About 12 or 14 sir".

Question. What was the method of detailing the men by the corporal.

Answer, "The first four men on the rights.

The accused declined to cross examine the witness.

Attenser mayor

(The defence read over the charges "It was the impression of the accused

that the removal of this bomb constituted an ellegal order, they thought that they had a right to refuse to obey such an order. A superior officer has no right to take advantage of his military rank to give right to take advantage of his military rank to give a command not relative to military duty and a soldier is within his rights in discbeying such an order. As the field was only used as a car park and the bomb was not close enough to the Barracks to cause any damage to the personnel of the Unit, it is therefore thought that the removal of the bomb would not come under "Impeding military duties, etc.," The men had no training and were given no instructions as to how to go about the removal of this bomb. The point I am trying to bring out is that the removal of the bomb in question was not necessary. I maintain that the act of digging the bomb was not of military importance and that the command therefore could not be considered legal as the soldier has the right to refuse and therefore it was not wilfull defiance.

Re-Examination of Lieut. G.E. Smith, R.C.E.

Examined by Accused.

Question.

"Lieut. Smith, what details were given the men? Four to dig, three more to carry timbers?

Answer.

Answer.

"I thought we might blow it down there and did not imply that the 4 men should carry it out. I did not imply what was to be done with the bomb when we got down to it". I thought the men were balking and just wouldn't do it".

Gross Examined by

Question.

I would like to ask Mr. Smith if he would repeat the order that the men disobeyed, the way he gave it on the day of the occurrence.

ADSWET.

"I do not remember the exact words now but I think that I said something like this, "You 4 men follow me to the site of work, now!"

Question to Accused.

Do you apply to give evidence yourself as Witness?

Answer.

No.

Question.

Do you intend to call any other witness in your defence

answer.

Alberton May

Question.

Have you anything to say in your defence.

Answer. D-16200 Spr. Ryan, O.F.

"I did not want to dig up the bomb because I thought I was unnecessarily endangering my life as the bomb was not hindering enything and therefore felt it was an illegal order. The men did not know what they were to do with the bomb. They thought have were to dig out the bomb and dispose of it.

Answer. E-88586, Bur. Sharkey, J.J.

"The reason why I disobeyed the order was not with the intention of disobeying the order itself as it was given, but was because I understood that I had to dig up the bomb and carry it sway. I thought that I might accidently strike the bomb with a pick or a shovel in the process of disging it out and cause it to go off. I was not worried about obeying the order had accounted about what the bomb would do".

Summing up, Prosecutor.

"It falls to me to point out that according to Mr. Smith's testimony he had received instructions from a higher authority and he went ahead prepared to do it. He gave an order to the men as he had been ordered to do. If it comes to a point of whether or not an order should be obeyed I distinctly refute the suggestion that the order was either illegal, ilegally given, or had any illegal object in being given.

The Court was closed for consideration of the finding.

The Court was re-opened, the accused were again brought before it.

Evidence of Character.

M.F.M. 6, Field Conduct Dheets were produced as to character and particulars of service of the Accused.

The Accused declined to cross-examine.

Question to the accused.

Answer.

Do you wish to address the Court.

The Court was closed for the consideration of the Centence,

Alleuxer Mayor

R. C. E. SQUADRON, BATTERY OR COMPANY

CHARGE against No. D-16200. Sapper, Ryan, O.P.

Place	Opin of Offence	OFFENCE	Name of Witness	Punishment Awarded	by whom Awarded
ondon,	12-10-40	W.A.A.S. was A.W.I. from until	ndian Prov		

Berrice

Years

Number of good conduct badges

Date of last sotry in company conduct book

Character

Date of last entry for an act of drunkenness

Number of cases of drunkenness within the last 12 months

Commanding.

M F B 264

Affreixer ng.

Statement of evedence in the case of D-16200, Sapper, Ryan, C.P. Royal Canadian Engineers,

Bir: At London, on the 12-10-40. at about 2325 hrs while on duty at C.P.C.M.C. L/Cpl Robinson, C.M.P. brought in the a/m soldier as absentee. He was charged with being A.W.L. and placed in the cells to be detained.

London. 12-10-40. J. W. Ochonic . set

Sirt

I have read over and corroborate the above statement.

London. 12-10-40. I Gillette

falle all ramps, the chief bayal

SQUADRON, BATTERY OR COMPANY.

CHARGE against No. D 16200 Spr. Ryan, O.P. (4th Cdn Fd Coy., R.C.E.)

Piace	Date of Offence	OFFENCE	Name of Witness	Punshment Awarded	By whom: Awarded
n the		A.A.Sec 9 (1) W.O.A.S. In that hes at approx hrs on 28 Sep 40 did not carry out the order of Lieut. G.E.Smith, R.C.E., "to follow him to the sit of work.",	0900 Sgt. Sa		
		diesberges in such name as to show a world defe of authority a lamped arm given paragradly by his suffering of the office.	Monda	for Court martial	1 / Serve

Number of good conduct badges Date of last entry in company conduct book

Date of last entry for an act of drunkenness Number of cases of drunkenness within the last 12 months C.O. 2nd Cdn Fd Fk Coy., R.C.E., GASF.

M F. B. 264.

H. Q 1772-39-90.

Albuser Man

CRIME,

2nd Cdn Field Park Coy. R.C.E. CASF.

BOUATH XBAKKERY XXX COMPANY

D 16200 Spr. Ryan. O.P.

Place	Osce of Offence	OFFENGE	Name of Witness	Punishment Awarded	By whom Awarded
n the Fic	10/10/40	A.A. 22xt2x W.O.A.S. When in confinement es in that he on the nigh 10 Oct-40, when in con (in the detention barra Alderstead Heath, escap	finement cks) at ed. L/Cpl. Thompso Spr. Cassa		En English

Number of good conduct badges Date of last entry in company conduct book

Character

Date of lest entry for an act of drunkenness

Number of cases of drunkenness within the last 12 months

Annaed General Rice. R.C.E.

C.O. 2nd Field Park Coy. W.C.E. CASF.

M. F. B. 264

H. Q 1772-39-90. Albuxer Mg



CANADIAN MILITARY POLICE

LONDON AREA

TELEPHONE: WHITEHALL 4468. EXT. 337

30 Henrietta Street. CENTRAL CONDOM RECRUITING DEBOT

KREAT SOUTEARD YARD.

Covent Garden. LONDON, S.W.1

Officer Commanding, R.C.E. \$TH Fld Coy. C.A.S.F.

RE: D=16200 Pte. Ryan, O.P.

Attached is charge form B-264 with

for Major A.D. Cameron, A.P.M.

reference to a/m.

Please advise what action is taken.

13-10-40

11

one FLD. OK. COV. R.C.E.

attention & necessary action, please

CAL JACES CY

Atheuxer Mgoi

9

In the Pield, on 28 Sept 40, at approximately 0900 hrs lieut Smith detailed four men from the detention berracks to dig down to the unexploded hamb which is lying in the field bordering on the camp. The acquised Spr Ryan whom I recognize was one of the four men. While lieut Smith and I made further preparation, the four men were returned to the detention barracks to await our calling for them. On completion of the pieparations lieut Smith and I went to the barracks (detention) and I went inside to have the men trought out. When I ordered the men to get their tools and come out, each in turn told me that they refused to do the job. I explained to them that they were in no position to do so and then reported to Lieut Smith. Lieut Smith then came into the barracks himself and once again explained the job to be done and ordered them to follow him to the site of the interest of the inte

The accused declines to cross examine the witness

24. dacks.

Set.

Second Witness for the Prosecution

Lieut G.H. Smith 2 Gdn Field Park Coy., R.C.E. states:-In the Field on 28 Sept 40.

As instructed by Capt. E.W. Oddleifson C.O. 2nd Cdn Field Park Coy., R.C.B. this morning at approximately 0840 hrs I went to get a perty of detentioners to dig up an unexploded bomb on Alderstead Feath. The detentioners were called over to me. I told them that there was an unexploded bomb which had been in place over seven days. I told them that no delayed action bomb was known to go off after seven days. I called for four volunteers, no one volunteered, then the four men on my right were detailed to do the work. There was some back talk and argument as to whether they had to do it. They were told that it was an order . There was further discussion at which I ordered a guard to fix his bayonet and get the four men moving. They went to the guard room where they were to meet me some minutes later. At approximately 0900 hrs I went wit with Sgt Sacks to the guard room to take the men to the site of work. Sgt Sacks went in, I remained outside. He presently returned saying the son were not coming. I went in and again explained to the men that the bomb had been in place over seven days, and that chances of it now exploding were neglible. I told them that it was an order for them to do the work. Each one of the four men separatley distinctly told me that they were going to disobey the order. I further explained the seriousness of disobeying an order and that it could load to a gourt-martial. Each of the four men again separately, told me that they would not do it. I gave an order in words to this mile effect "You four men follow me to the site of the bomb, now". I then left the guard room with Sgt Sacks. None of the four men made a move to follow.

R/Buser Majo Continued

Sort System 0.F. Ath Can Piel Cov. 1.C.L.

In the Field, on 28 Sept 40; at approximately 0900 hrs Lieut Smith detailed four men from the detention barracks to dig down to the unexploded bamb which is lying in the field bordering on the camp. The accused Spr Ryan whom I recognize was one of the four men. While Lieut Smith and I made further preparation, the four men were returned to the detention barracks to await our calling for them. On completion of the preparations Lieut Smith and I went to the barracks (det intion) and I went inside to have the men brought out. When I ordered the men to get their tools and come out, each in turn told me that they refused to do the job. I explained to them that they were in no position to do so and then reported to Lieut Smith. Lieut Smith then came into the barracks himself and once again explained the job to be done and ordered them to follow him to the site of the jakk works, he also explained to them that it was a court-martial charge to disobey. He then left the detention barracks and no men followed.

The accused declines to cross examine the witness

It facks set

Second Witness for the Prosecution

Lieut G.E. Smith 2 Cdn Field Park Coy., R.C.E. states:-In the Field on 28 Sept 40.

As instructed by Capt. E.W. Oddleifson C.O. 2nd Cdn Field Park Coy., R.G.B. this morning at approximately 0840 hrs I went to get a party of detentioners to dig up an unexploded bomb on Alderstead Heath. The detentioners were called over to I me. I told them that there was an unexploded bomb which had been in place over seven days. I told them that no delayed action bomb was known to go off after seven days. I called for four volunteers, no one volunteered, then the four men on my right were detailed to do the work. There was some back talk and argument as to whether they had to do it. They were told that it was an order . There was further discussion at which I ordered a guard to fix his bayonet and get the four men moving. They went to the guard room where they were to meet me some minutes later. At approximately 0900 hrs I went wit with Sgt Sacks to the guard room to take the men to the site of work. Sgt Sacks went in, I remained outside. He presently returned saying the men were not coming. I went in and again explained to the men that the bomb had been in place over seven days, and that chances of it now exploding were neglible. I told them that it was an order for them to do the work. Each one of the four men separatley distinctly told me that they were going to disobey the order. I further explained the seriousness of disobeying an order and that it could lead to a gourt-martial. Each of the four men again separately, told me that they would not do it. I gave an order in words to this affice effect "You four men follow me to the site of the bomb, now". I then left the guard room with Sgt Sacks. Home of the four

men made a move to follow.

The accused declined to cross examine this witness

& Chmitty H

The secused having been duly cautioned in accordance with Rule of Procedure 4 (E), declines to make a statement.

Certified that rule of procedure A(G)(D)(E)(F) and G have been compiled with. Taken down by me in the presence of the accused this 28 day of September 1940. In the Field,

11. H. Bayne frent.

Albure Majo

Place	Date of offence	Rank	Chees of strunkes.	or and date Period not reckoning towards flast drunk freedom from extra fine	Sheet No	Badg Signature (Company,	Pro	vice or ficiency Pay M.F.M. 122 Character Character
ALDERSHOT	19 June	Spr		W.O.A.SA.W.O.L. from 2200 hrs. 19 Jun 40 + 5 from 2200	Numes of Witnesses	Parishment awarded	Date of award or of order dispen- sing with trial	
	40			8 Jul 40 (Absent 20 days) A.A.15	L/S Bannati	Forfeits 40 n days pay	11 Jul 40.	E.C. Thorne Cant
Brigade Camp	21 Aug.	Spr		W.O. A. G. A.	20 days:-A.	A.46(2)(d) Aug	h F.R.E	4 Cdn. Fd. Coy. I. 149 (1) (8)
	4.0			failed to appear at the place of parade appointed by his C.O. Namely: -Marching Out parade. A.A. 15 (2)	Sgt. Stevens	on DETENTION	21 Aug 40	H.F. Seymour Ma O.G. 4 Cdn Fd C

Place	Date of offence	Rank	Cuses of stranscen- ness	OFFESCE Names of Witnesser Punishment awarded Date of award or a forther thepen- sing with trial
rigade 	13 Sep 40	Spr		W.O.A.SA.W.L. from 2200 hrs. L/C.Hamilton 14 days 19 Sep R.J. Cassidy Capt. RCE 13 Sep 40 to 1400 hrs 19 Sep 40L/S.Bennett DETENTION 40 O.C. 4 Cdn Fd Coy
				A.A. 15 (1)
Field	10 Oct. 40	Spr		1. W.O.A.S. A.A. 22 When in confinement escaping in that he on the night bf 10 L/C Thompson H 112 days 19 Oct F.G.C.M. Spr Casselman H DETENTION 40
DATES OF STATES				Oct 40 when in confinement (in the detention barracks) at Alderstead Heath escaped.
				2. W.O.A.S. R.A. 9 (1) Disobeying in such manner as to show a wilful defiance of auth-
				ority a lawful command given personnally by his superior officer in the execution of his
				office.

Statement by the accused # D.16200 Spr. RYAN, O.P.

"I desire to have an Officer appointed by the Convening Officer to represent me at the trial."

Monara.....

At & working had by all

Atherse Magni

First Titness for the Prosecution.

B28161 L/Cpl. Thompson. H.H., 2nd Cdn Field ark Coy. R.C.E.

I was Spl. of the guard on 10th Sat. 40, when I took over my duties everything was as it should have been, hen I shanged the guard at 0200 hrs, 11 Sat. 40 the prisoners were there. At 0400 hrs everything was quiet. At 0600 hrs when I went to awakes them I found that Spr. Syan and Spr. Sharkey had escaped. I reported it to C.S.M. Weadmark, who then brought Lieut. Bayne. M. H. to where I was and I explained the details to Lieut. Bayne.

The accused, declines to cross examine the witness.

Herold N. Thompson Styl

2nd Witness for the Presecution

02325 Spr. Casselman. H. End Field Park Coy. R.C.E. states:-

I was one of the first men to go on piquet when it was mounted at 1800 hrs. I came off at 2000 hrs. I went over to the detention barracks and stoyed with the prisoners until about 2340 hrs, whe when I got ready to go back on piquet again. I was then on piquet again from 2400 hrs. till 0200 hrs. Then I came off I was sold and wet, and tried to get some sleep in the guard room, and don't think I went to sleep but might have dozed. I heard 1/Cpl. Thompson arcusing to go on guard at 0400 hrs. I know nothing of the ascape till I was to go on at 0600 hrs.

The accused declines to cross examine the witness,

La dimensional de la basica de la como

The accused having been duly cautioned in accordance with Rule of Procedure 4 (E) declines to make a statement.

Certified that Rule of Procedure (A) (D) (C) (E) (F) and (C) having been complied with.

Taken down by me in the presence of the accused this 16th day of Oct.-40, In the Field.

DE Smit fung

Mkeuser Major

N.F.W 2000

REGIMENTAL DOCUMENTS

H.Q. FILE No.

NIT OF ENLISTMENT	
CONTENTS	NON-EFFECTIVE BY
OMBINED DECLARATION FORM OR ATTESTATION AND MEDICAL HISTORY (M.F.M.1 & 1A) OR (M.F.M.2 & 2A)	DEATH
ERVICE AND CASUALTY FORM (M.F.M.4 & 4A) (A.F.B.103)	DATE
ARTICULARS OF FAMILY (M.F.M.5)	CAUSE
TELD CONDUCT SHEET (M.F.M.6) (A.F.B.122)	AUTHORITY
ERTIFICATE OF SERVICE (M.F.M.8) COPY OF, OR DISCHARGE CERTIFICATE (M.F.M.7) COPY OF	
ORM OF WILL (M.F.M.10 OR M.F.M.10A)	
DENTAL HISTORY SHEET	DISCHARGE
MEDICAL REPORT OR CASE HISTORY SHEET	DATE
MEDICAL EXAMINATION ON LEAVING THE SERVICE	REASON
TRANSFER CLOTHING STATEMENT	AUTHORITY
LAST PAY CERTIFICATE (M.F.D.930A)	
PROCEEDINGS ON DISCHARGE	
PROCEEDINGS COURT OF ENQUIRY	DESERTION
DECLARATIONS COURT OF ENQUIRY	DATE
PAY SHEETS	AUTHORITY
CARDS	V. Santa and San
SUNDRY	

deputation to be Printed to Form for Assembly and Proceedings of Field General Court Martial on Active Service.

PROCEEDINGS.

On Active Service, this

21st

May

, 1942.

Whereas it appears to me, the undersigned, an officer in Command of "B" GROUP CANADIAN REINFORCEMENT UNITS,

And whereas I am of opinion that it is not practicable that such offences should be tried by an ordinary General Court Martial; *[and/time/it/is/names.publicipable/tevadelsys/the/epide/for references have superfor application and heavy

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

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

*(2. sky. Fieldt schfinger, ask sPre-skilmar.)

Three Officers having more than value visits

service.)

top the following teasons, namelie:

President

Name.

Regiment

R.H.PERRY (Lincoln & Welland) #1 C.G.R.U.

Regiment.

A Captain

from

1 Can. A.S.C.R.U.

A Lieutenant

from

1 Con. ENG. R.U.

A Captain from

*Signed

CDN. REIN. WNITS.

Convening Officer.

Commanding"B"

SCHEDULE.

Number, Rank (a). Name and Unit of Accused (b)	Offence charged	*Plea	Finding, and if Convicted, Sentence (c)	How dealt with by Confirming Officer (d)
D.16200				
R. RYAN, O.P.	First Charge.	Guday	Justy	
Cdn. Eng. R.U.	A.A. Sec. 15(1)		3 minds	(Constraint
			Stoffo gus \$ 24-79	Marie
	See charge sheet attached,			

BRIGADIER

Commanding "B" GROUP CDM. RMIN. UNITS.

(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.

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 of the Schedule to be initialled by him.

I certify that the above Court assembled on the 22 day of Auy AZ , and duly tried the persons named in Certificate at President as to 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 :--1. The members of the Court 2. The witnesses *(3. The interpreter) Ref-*(4. The officers under instruction) were duly sworn. Signed this 22 20 day of heavy President of the Court Martigl. I certify that the terms of *A.C.I. 570 of 1918 have been See footnote
 (b) on page 762
 M.M.L. 1929.
 Complied with. 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

Promulgated and extracts taken in the case of \$16200 \$h Ryan 0. P.

(a) (Dated) 29 may 1942 Promulgated and extracts taken in the case of (Signed). (Dated) Promulgated and extracts taken in the case of (Dated)___

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

Bapal?

MERCAN MERCAN

The accused, D-16200 Sapper Owen Patrick Ryan, No.1 Cdn. Engineer Reinforcement Unit, a soldier of the Canadian Army (Overseas) is charged with;

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

in that he.

Army Act.

at Guillemont Barracks, Cove, Hants., absented himself without leave, at 2359 hrs. on the 30th day of November, 1941 until he surrendered himself to the Provost Coy. C.A.S.P. M.D. No.7 at 0905 hrs. on the 14th day of February 1942, thereby incurring costs of apprehension amounting to \$24.79.

Cove, Hants., 19th May 1942. (G.H.WHYTE) Colonel, M.C., V.D., Commanding Officer, No.1 Cdn. Eng. Reinf. Unit, Cdn. Army (Overseas)

To be tried by Field General Court Martial

BRIGADIER

GROUP COMMANDER
ME" GROUP CANADIAN REINFORCEMENT UNITS.

K.R. (Qui) Lake 197 110 D. 16220. Ahr. Flyan. O.R. or . M. J. Can Engl. H. Moult, and in my opinion he is fift to under so Trial by Court Martill.

Dato ... 22-5-42. John Sylves & Chi

B. Car

Evidence taken down at the trial by F.G.C.M. of D-16200 Spr. Ryan, O.P. #1 C.E.R.U. Canadian Army, on active service Overseas, held at Cove, Hants., 12 May 42.

The Order convening the Court (R.P.105)(1) the charge sheet(R.F.108)
(2) and the Summary of Evidence (3) are laid before the Court.
(R.P.22(A)).

The Court complies with Rs.P. 22 and 23.

The accused and all persons including all witnesses (5) are now brought in (R.P.20)

Prosecutor: Lt. H.C. Baker, R.C.E.

Defending Officer: Lt. H.G. Hess, R.J.E.

Medical Certificate is laid before the Court by the Prosecutor,
The convening Order is read by the President to the accused.
The President & members of the Court answer to their names.

Q. Do you object to be tried by me as President or by any of the

officers whose names you have heard read?

A. No Sir.

The President & members are duly sworn.

The Court is constituted as follows President Major, R.H. Perry, M.C., No 1 C.G.R.U. Members Capt. L.A. Gemmill, No 1 C.A.S.C.R.

Lt. W.K. Lye, No 1 C.E.R.U.

The Charge Sheet is signed by the President and annexed to the proceedings.

The accused is arraigned upon the charge in the a/m charge sheet.

Q. Are you guilty or not guilty of the charge against you which you have heard read?

A. Guilty, Sir.

R.P.35 (B) is complied with in respect to the charge,

The Summary of Evidence is read, signed by the President and annexed to the proceedings.

The Prosecutor Lt. H.C. Baker, R.C.E. is duly sworn.

Q. Have you any evidence to produce as to the character and particulars of service of the accused?

A. I produce A.F.B.296 & certified copy of M.F.M. 6.

A.F.B. 296 is marked, signed by the President & annexed to the proceedings.

Q. Is the accused person named in the statement which you have read?

A. Yes, Sir.

Q. Have you compared the contents of the above statement with the Regimental Books.

A. Yes, Sir.

Q. Are they true extracts from the Regimental Books (and is the statement of entries in the conduct sheets a fair and true summary of these entries.

A. Yes Sir.

Q. Have you any other evidence?

A. I produce M.F.B. 1481, certificate in accordance with Order in Council P.C. 58/4015 d/ 5 Jun 41.

Record of the Declaration of a Court of Inquiry held on 23 Dec 41 Certificate in accordance with Sec. 163 (1) (m) of the Army Act, M.F.B. 254.

The accused declines to cross examine this witness.

Q. Do you wish to address the Court in mitigation of sentence?

A. Yes, Sir. I have been in the Field, was reverted and returned here for basic training which I didn't think necessary. I was contented in the Field. I was fed up to have to do this training all over again, I went absent, realized the mistake I made and surrendered myself as soon as I possibly could.

The Defending Officer,

I want to point out that the accused on A.W.L. did not go out on a drinking spree but rather returned to see his wife and family. This being duly accomplished he surrendered himself to the authorities. The Court will please take cognizance that he has been it custody since 14 Feb 42.

The accused declines to give evidence as to character.

The Court is closed for the consideration of the sentence.

Summary of Evidence in the case of D-18200 Sapper Owen Patrick Ryan, No.1 Cdn. Engineer Reinforcement Unit, a soldier of the Canadian Army (Overseas)

Evidence taken on oath by order of Colonel G.H. Whyte, M.C., V.D., Commanding Officer, No.1 Cdn. Eng. Reinf. Unit.

FIRST WITNESS: Lieut. G.D. Gibson, No.1 Cdn. Eng. Reinf. Unit, being duly sworn, states;

I am Records Officer, No.1 C.E.R.U.. I produce the following documents, which, I have satisfied myself, refer to the accused;

refer to the accused;
A.M.F.B. 1481 Certificate in accordance with Order-in-Council P.C. 58/4015 d/5 Jun 41.
B. Record of the Declaration of a Court of Inquiry, held on 25rd, day of December 1941.
C. Certificate in accordance with Sec. 163 (1) (m)

of the Army Act. D. M.F.B. 264 and Statement of Evidence .

Lieut.

The accused declines to cross-examine this witness.

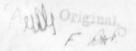
The accused after being cautioned in accordance with R.P. 4(E) declines to make a statement, reserving his defence.

Certified that R.P. 4 (C) (D) (E) and (F) have been complied with.

Taken down before me in the presence and hearing of the accused at Guillemont Barracks, Cove, Hants., this 18th day of May 1942.

(H.O.BARD) Lieut. R.C.E. No.1 Cdn. Eng. Reinf, Unit Cdn. Army (Overseas)

H.F.B. 1481



CERTIFICATE IN ARBORDANCE WITH ORDER-IN-GOUNGIL P.G. 58/4015
DATED JUNE 5th, 1941, AS PUBLISHED IN GAMADIAN ARRAY
ROUTING ORDER 1099, 1941.

(Transportation Only)

i,	LieutenantJ.W.	åu	Manoir	

hereby certify that I issued the hereinafter itemized transportation for excert to proceed

From Fredericton, N.B. To Riviere du Loup, F.Q.

And Return to Fredericton, N.B. for the purpose of

escorting D-16200, Spr. Ryan, D.P., No.7 District Depot

alleged to be a deserter or absentee without leave, the facts, date and particulars of (transport warrants leaved) (the transportation required) and the cost thereof for said soldier and escort being as follows:--

.....

PARTICULARS

COST

Total \$24.79

Dated at Fredericton this 27th day of Merch A.D.; 1942

Aw. dum auxin Hout.,

Certificate to be completed by Officer who issued or sufferized the transport warrants or trans ortation for the return to ble corps unit or station of a soldier alleged to be a deserter or absentee without leave and of the escort for said soldier.

Transportation Only.

3. 04/2

SEC. 1539 (1) (n) O THE ADMY ACT

l certification below was arrested (o Saint John N.B	y that the reveon chose desc intion is r surrendered) at
Regimental particulars of Office or and for some formed to above.	Sapper Ryan O.R. Unit Lat. Divn. Ath Field Cox. R.Q.N.
	Hei Eh, 5.ft.6v
Description:	EyesBlw9

Signature of Officer or Police in charge of Station where the above aread person...Sgt.Merritt.D.F....

Stone war (S. .) by her hade by



lst Divn. 4th Field Coy. R.C.E. squadron, Battery or Company

HUA

CHARGE against No. D16200 Spr. Ryan O.F.

Date of Offence	OFFENCE	Name of Witness	Punishment Awarded	By whom Awanted
0905Hrs	A.W.L.			
14/2/42	Sec. 15 A.A.	p.		
		itt D		
		Sat Meri		
		Optrace Opprace Opprace Opprace	Offence OFFENCE Witness 0905Hrs A.W.L. 14/2/42 Sec. 15 A.A.	Office OFFENCE Witness Awarded 0905Hrs A.W.L. 14/2/42 Sec. 15 A.A.

Danier

Number of good conduct badges Date of last entry in company conduct book

Cheracter

Date of last entry for an act of drunkenness

Number of cases of drunkenness within the last twelve months

M. F. B. 264

900w-6-4 (872-3) H.Q 1772-39-99 Thos.E. Guy) Major, O.C. No. 17 Provost Company, (CA)

Marmy Form B 115 Lieut, R.C.E. 2/Lieut, R.C.E. 2/Lieut, R.C.E. Doubt with by Co.

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 Guillemont Barracks, Cove, Hants,, on the 23rd, day of December 1941, 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. D-16200, Spr. Ryan, O.P., No.1 Cdn. Eng. Reinf. Unit, a soldier of the Canadian Army (Overseas)

DECLARATION

The Court declare that D=16200 Spr. Ryan, 0.P. of No.1 Cdn. Engineer Reinforcement Unit, C.A.(OS)., illegally absented himself without leave, at Guillemont Barracks, Cove, Hants, at 2359 hrs. on the 30th day of November 1941 and that he is still so absent and that on the 23rd. day of December 1941, he was deficient and that he is still deficient of the following as shown in appendix "A" (attached) to the value of £8-13-34

Article Anklets, web Battle Dress, Serge,	Blouses Trousers
Braces, prs.	
Greatcoat, dismounted	1
Comb. Gloves, woolen, prs.	
Jacket, sweater	
Blouses, denim	
Socks, worsted, prs. Spoon, table	* . *
Brushes hair Bags ration	
Covers, messtin	
Slings, rifle	
Respirator, complete Wallet, A/C.	

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		13	0.8	

Signed at Guillemont Barracks, Cove, Hants., this 24th day of December 1941

> President E.A.Ballantyne Members

J.A. Miller S.W. Keston

Concurred in:-

L.P.Barnes Lt.=Col., R.C.E. Commanding Officer No.1 Cdn. Eng. Reinf. Unit C.A.(OS)

CERTIFIED TRUE COPY M.B. 68:-

funded the Lit. Addit.



1st Divn. 4th Field Coy. R.C.E.

SQUADRON, BATTERY OR COMPANY

Place	Disce of Offence	OFFENCE	Name of Witness	Punishment Awarded	By whom Awarded
rmouries	0905Hrs	A.W.L.			
aint John N.B.	14/2/42	Sec. 15 A.A.	tt D.F.		
			Sgt Merritt		

Number of good conduct budges

Date of last entry in company conduct book

Character

Date of last entry for an act of drunkenness

Number of cases of drunkenness within the last twolve months.

M. F. B. 264

900m -0-4 (873-33 31.Q. 1772-35-69

(Thos.E. Guy) Major, O.C. No. 17 Provost Company, (CA)

DOCUMENTARY EVIDENCE.

While in Charge of the St. John Armoury Guard Saint John, N.B. on the morning of the 14/2/42. at 0905 Hrs. Spr Ryan O.P. came into the Guard Room with his wife and Rev. Mr. Morrissey. He told me he was A.W.L. from his Unit in England, and he was giving himself up, I placed him under Arrest and placed him in the Guard Room Saint John, N.B. and reported it to No. 17 Provost Company, (CA) Saint John, N.B.

Sgd. Sgt Merritt D.F.

Certified True Copy:

Jul Melerdy Major,

Thos.E. Guy, D.C. No. 17 Provost Company, (CA)

WARMY FORM B 115 Record of the Declaration of a Court of Inquiry on the Illegal

Record of the Declaration of a Court of Inquiry assembled at Guillemont Barracks, Cove, Hants., on the 23rd. day of December 1941, 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. D-16200, Spr. Ryan, O.P., No.1 Cdn. Eng. Reinf. Unit, a soldier of the Canadian Army (Overseas)

The Court declare that D-16200 Spr. Ryan, O.P. of No.1 Cdn. Engineer Reinforcement Unit, C.A.(OS)., illegally absented himself without leave, at Guillemont Barracks, Cove, Hants., at 2359 hrs. on the 30th day of November 1941 and that he is still so absent and that on the 23rd. day of December 1941, he was deficient and that he is still deficient of the following as shown in appendix "A" (attached) to the value of £8-13-5

Article	Def.	Value
Anklets, web Battle Dress, Serge, Blouses " Trougers	1	1 2 6
Boots, ankle, prs. Braces, prs. Greatcoat, dismounted Comb. Gloves, woolen, prs. Jacket, sweater Blouses, denim	1 1 1 1 1 1 1	1 2 6 0 1 6 2 8 6 0 0 2 0 1 11 0 8 6
Socks, worsted, prs. Spoon, table Brushes hair Bags ration Covers, messtin Slings, rifle Respirator, complete Wallet, A/G.	3 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1	0 5 9 0 0 41 0 2 6 0 0 21 0 0 3 0 1 3 0 19 01 0 0 9

Signed at Guillemont Barracks, Cove, Hants, this 24th day of December 1941

> Lieut. R.C.E. 2/Lieut. R.C.E. E.A.Ballantyne J.A.Miller President Members 2/Lieut. R.C.R. S.W.Keston

L.F.Barnes Lt.-Col., R.C.E. Commanding Officer No.1 Cdn. Eng. Reinf. Unit C.A.(08) Concurred in:-

CERTIFIED TRUE COPY M.B.68:-

Absence of a Soldier

Doul well

1 C. Eng. R.U.

LIST OF WITNESSES

List of Witnesses in the case of D=16200 Sapper Owen Patrick Ryan, No.1 Cdn. Eng. Reinf. Unit, a soldier of the Canadian Army (Overseas)

For the Prosecution

Lieut, G.D. Gibson, No. 1 Cdn. Eng. Reinf. Unit

For the Defence

L, st of Exhibits in the case of D-16200 Sapper Owen Patrick Ryan. No.1 Cdn. Eng. Reinf. Unit, a soldier of the Canadian (Army (Overseas)

A. M.P.B. 1481 Certificate in accordance with Order in Council P.C. 58/4015 d/ 5 Jun 41.

B. Record of the Declaration of a Court of Inquiry held on the 23rd, day of Dec 41

C. Certificate in accordance with Sec 163 (1) (m) of the

Army Act.

I THE UNDERSIONED RECEIVE THAT AN OFFICE BE FROM TO REPREDENT HE AT MY TRIAL.

I REQUEST THAT LOUT THE OR OR REPREDENT HE IN TOSSIBLE

Spr Byan Of

									E. ASK	40
1			DVAN	0.9	Sqn. Battery or Corps or Corps or Corps or Corps towards		3=9+39 G.C. Signature O.C	Profi	ce or ciency Pay	M.F.M. 6 (A P B 132) 500H - 4 15 (1763) H.Q. (107-45-15
	NoD⇒16200 Date of last en Company Con	ary in			or Company and date last drunk Period not reckoning towards freedom from extra fine	Sheet No.	1 Company, et	Date of sward or of order dispen- sing with trial	By whom swarded	Remarks
•	Flace	Date of offence		Cases of drunken- ness	WOAS-AWL- from 2200 hrs. 19 Jun	Col Machière	Fifts 40 dys	11 Jul 40	E.C. Thorne	, CAPT.RCE
Aldersho	t	19 Jun 40	Spr.		WOAS-AWL- from 2200 hrs. 19 Jun 40 to 2200 hrs. 8 Jul 40 (Abs. 5 20 dys) A.A.15(1)	/Sgt.Bennet	20 dys.AA 46(1 20 dys FRI	(d) Aut	1	
		0.3	Con		WOAS- AWL-in that he failed to	L/s Bennett	168 hrs.	21 Aug 40	OC 4 Cdn	Maj. RCE Pd. Coy.
Brigade	Camp	AUE 40	Spr.		appointed by his C.O. Namely varehing Out parade AA 15(2)		y Returned to	17 Feb	4) J. J.	rifts.3 dy
Tregant	tie	13 Peb	Spi		A.A.15(1) AWL- from 2759 hrs. 13 Feb 41 to 0900 hrs. 18 Feb 4 (absent 105 hrs. 1 min.)	Documentar	Unit		Lt.=GQ1x	PRI 149
		1 41			Association					

			CERT	TPIED TRUE COPY:-					-
Flace	Dysk of affence	Kana	Cales of drunken- ness	ourier	Names of Witnesses	* Furniture of searched	Date of award or of order dispen- ting with trial	By whom awarded	Kerali
Brigade Cemp	13 Sep 40	Spr.		WOAS-AWL-from 2200 hrs. 13 Sep 40 to 1400 hrs. 19 Sep 40 (abs. 5 dys 16 hrs.) A.A.15(1)	L/C Hamilton L/S Bennett	14 dys Detn	. 19 Sep 40	RJ Cassidy OC 4th Cdn	Capt. RCE . Fd. Coy.
Field	Qat 40	Spr.	2.	. WOAS- AA 22 When in confinemer escaping inthat he on the night of 10 Oct 40 when in confinement in the detention barracks at Aldershot Heach escaped WOAS-AA 9 (1) "teobeying in sua manner as to show a wilful defor authority a lwaful command gersonally by his superfor offinthe execution of his office.	in Ciance iven	en a Deth.		F , U , U , M ,	
	Rela	esed Br	ron	the Detention Barracks - "Iders for Detention Barracks and Milit	ary Frisons	ay dys. Commi	mounts 1	derigin 11	11111

CERTIFIED TRUE COPY:- Hower, a thank Let 80.8,

	No. D=162 Date of last e Company Co	intry in		N	Sqn.,Battery, or Company o and date; last drunk Period not reckoning towards freedom from extra fine	Date of enlistme Sheet No	ent Badge	Pro	rvice or oficiency Pay Darw Character	M.F.N. 6 (A.F.B. 122) 100H - 6. In (7/1) H.Q. (7/17-45-16
•	Place	Oste of offince	Karia	Cases of drunken- ness	omsex	Names of Witnesses	Purishment awarded	Date of sward or of order dispensing with trial	fix whom awarded	Longin
Bordon	Mar	17 41	Spr.		A.A.15(1) AWL- 17 Mar 41 to 17 Mar 41 (Abs 13 brs. 55 mins)	Documen tary	27 days Detn.		Lt-Col.	Pifts 1
					Miessed form the Detention Barrs Remission earned under "Rules fo Commandants Initials 222222	cks /Witley r Detention	on Apr 10 19 Harracks and		FRI 1	49 (1) (e)
• Field		17 Sep	Spr.		A.A.15(1) AWL- from 2559 hrs. 17 Sep to 18 Sep 41 (0800 hrs.) (Abs. 8 hrs. and 1 min.)	CSM Murdoe)	Reverts Spr.	19 Sep	RJ. Cassid	y Fifts 1
Field		20 Sej 41	Spr		AA.15(1) AWL- from 2359 hrs. 20 Sep 41 to 0800 hrs. 15 Oct 41 (abs 24 dys 8 hrs.)		14 dys CB Deprived of 28 dys pay FRI 149 (1)(e	41	RJ. Cassidy	FRI Ferts 25 dys pay FRI

Place	Date of offence	Rank	Cases of drunken ness	OFFINCE	Names of Witherses	Punishment availed	Date of award or of order dispen- ting with trial	By whom awarded	teran.
				S.O.S. to No.1 E.H.U. 14 Nov 41 M.F.M. 6 verified to date					
				J.S.Osborne Lieut.					
				CERTIFIED TRUE COPY:- /	say co	raker	Lies	P.O. 8	
	1	1							

No.D=16200 Date of last enti Company Good	ry in		N	Sqn.Battery, 4th Fd. Corps 1st. Div. or Company (Covy. pariod not reckoning towards freedom from extra fine	R.C. R. Date of enlistme. Sheet No.	Simple on O	C.) Pr	ervice or roficiency Pay) Character	M.F.M. 6 (A.F.B. 122) 1884 - 8-39 (1702) H.Q. 1777-45-18
Place	Date of offence	Kank	Cases of drunken- ness	OFFENCE	Names of Witnesses	Psinishment awarded	Date of eward or of order dispersions with cost	Pr whom swended	Remarks
rederic-l		Spr.		(1) When in confinement escaping in that he at Fredericton, N.B., on the 9th day of March 1942 at 1915 hrs. escaped from the Detention Barra ks, No.7 Dist. Depot. C.A. Sec. 22(A.A.)	C.B.	Forfeits 10. days' pay FR& 149(1)(A)	I	Lt.Col. W.A. McDoug M.C.	all
						For feits 12 days' pay und BR&I 149(1) (c)(11) 14 days' Dete			

.

DARP -

Statement as to Character and Particulars of Service of Accused.

D-16200 Sapper Owen Patrick Ryan of the No.1 Cdn. Eng. Reinf. Unit

1. The following is a fair and true summary of the entries of specimental Regimental and Squadron, Battery or Company Conduct sheets? It is because accused, exclusive of convictions by a court martial or a civil court with a second accused, exclusive of convictions by a court martial or a civil court with second accused, exclusive of convictions by a court martial or a civil court with second accused, exclusive of convictions by a court martial or a civil court with second accused	
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*The numbers between states should contemporal states about contemporal states of the conduct should be the province being given to the most arrivant in the most arrivant in the most arrivant in the processing and to any recognised special sets of gillion.

The numbers between the contemporal states are also as a second of the contemporal states are al

insystemion.—If the charge is to dramken ness the entires too dramkensess must be stated separately and

			*Within 12 mor		E	*Since nlistment	
For	WOAS-	-AWL- A.A.15	(1)	3	times	f	times.
For	WOAB	While disco Escaping	nfinem A.A.	ent 1 22	times	1	times.
For					times		
For					times		times.
New	se heart and a	in stanges of calls	RMOVORN	disting	androdeiu	L beninse	M

OF,

bluers are no entries in the fundant sheets of the gaptient

OF.

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.

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			acc	accused is not under sentence at the

The accused has been in confinement, awaiting trial on the present charges days in Civil Custody,

The areased as street present stime as sunder sentence for

beginning on the

day of

days in Military Custody

and

days were spent in hospital.

Of which

The present age of the accused according to the backatation paper is 26 yrs.

transfer to the reserve is 2-6/12 yrs. The date of his attestable specified in his product services 9 Nov 1939 The service which the accused is allowed to reckon towards discharge or

The accused is entitled to deferred pay or gratuity in respect of 2-6/12

of determining his pension, &c 9. The accused is entitled to reckon 2+6/12 years' service for the purpose

military reward (orxix in passession of or orthicladetor 10. The accused is in possession of, or entitled to, no military decoration or

хиатанх жийский экона вы вединений ини в в в в The synthetic and the sand and the sound of the substitution and an an an analysis of the synthetic of the sound of the so

(For through of an afficiency of the successed of Adeline the section that washeselve and in his regiment to

and in his regintent (or corps dated

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xontheast anciention, and the present the beg

Date of Promotion

in the rank of in the rank of In the rank of years,

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

Schedule of Convictions by a Court Martial or Civil Court, of summary awards under Section 47 of the Army Act, and of Ca which Trial has been dispensed with. Army Number, Rank and Name D-16200 Sapper Owen Patrick Ryan of the No.1 Cdp. Eng. Reinf. Unit

Description of Court by which tried, or status of Officer isposling of the charge or dispensing with Trial.	Date and place of Trial, or winneary award, or of Order dispensing with Trial.	Charges upon which convicted, or in respect of which Trial was dispensed with.	Sentence of the Court or Authority disposing of the charge, or Order of the Dispensing Authority.	Punishmen remitted.
F.O.C.M.	19 Oct 40	(1) WOAS- A.A. 22 - When in confinement escaping in that he on the night of 10 Oct when in confinement in the detention barrac at Aldershot Heath escaped. (2) WOAS- A.A.9(1) - Disobeying is such a manner as to show a wilrul defiance of authority, a lawful command given by his superior officer in the execuation of his office.		

	ar in respect of which Trial	Sentence of the Court or Authority disposing of the classes, or Authority.	Punishment remitted.
Description of Court Date and place of Trial, by which trees, or status at Officer status of the property of the Court of	Charges upon which convicted, or in respect of which Trial was dispensed with	Order of the Dispensing Authority.	
by with all Officer status of Officer or of of status in Configuration of the charge or or of status of the charge or or or of status of the charge or or or of status of the charge or or of status of the charge or			
	MY		
			1
		entract from the regimental b	ooks in my custody.
energy that the foreg	oing Schedule of convictions and dispensations with trial is a of May 19 42	Allihan	trust.
Signed this 22 day	of May 12 to		

RR-150 (case #3) (AFRICA) SPR. RYAN O.P. See 142 for Ist case "I-50" 2nd" Syrtesponderice to be Printed here.

Army Form A.3.

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

PROCEEDINGS.

A.

On Active Service, this

30th

av On

of August

, 19 43.

Whereas it appears to me, the undersigned, an officer in Command of the Royal Canadian Emgineers, 1 Cdn. Div.

, on active service, that the

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 Martial; * [andxibiatxitxisxnot:practicable toxicles xivisk for reference toxic supercomposition references.]

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

* Lenguarde to appoint

*klexx Three Officers to force the Courter

#12xxxxx Highs Officences Presidents

for the following reasons, memory x + 3/x

Note.—Ine President must be named. The members and waiting members did any may be mentioned by mentioned by mentioned by monther and ranks and the out to which they belong may alone be named. In the latter event, the ranks, names, &v., of the members of the Court, as constituted, will be

President.

Namo

L.G.C. Lilley

Regiment.
1 Can, Fd, Coy., R.C.E.

Members.

Rank

Rank

Major

Name

Regiment.

Capt.

L.D. Publicover

3 Cdn,Fd,Coy., R.C.E.

Capt.

F.H.Nuttall

2 Cdn.Fd.Pk.Coy., RCE.

Waiting Member To be detailed by C.R.E. 1 Cdn.Div. from RCE 1 Cdn.Div.

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

*Signed 7. Lt. Col.

Commanding (G.Walsh)

Convening Officer.

			Sentence (c)	Confirming Officer (d)
0-16200 Sapper Owen Patrick	First Charge A.A. 19 Second Charge A.A. 15 (1)	Hugher States	ywilling y	Godfmet. Gwalter
RYAN 4 Cdn.Fd.Coy., R.C.E.	Third Charge A.A. 11 Fourth Charge A.A. 40	Wast die	in youth	
	(See charge she	et)	Destantie	uy Pi
			*	

*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 (to be recorded on separate sheet if necessary):— (Signed) wan 9. Lt. Col. (Signed) X40 piece

(G.Walsh) Commanding R.C.E. 1 Cdn.Div. Convening Officer (e)

President

(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

(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.

(s) 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 3(day of Gara. 1943, and duly tried the persons named in Certificate 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 :-

1. The members of the Court

2. The witnesses

*(3. The Interpreter)

*(4. The officers under instruction

310 day of aug President of the Court Martial.

I certify that the terms of *A.C.I. 570 of 1918 have been *See tootnote I certify that $\stackrel{\text{(b) on page 762}}{\text{M-M-1. 1999.}}$ complied with.

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 I have there stated, I hereby confirm the above findings and *(I direct that the soldier named in the margit be not com-

mitted to prison or detaction barrack until further orders.)

day of September 1943

Walt helas

Promulgated and extracts taken in the case of 1670, San Kyam, CP.
(Dated) 24 80943 (Signed) Junior Lays.

Promulgated and extracts taken in the case of

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.

(20078) W146179 850 50,000 F43 A.S.E.W.Ltd. Gp.498

CHARGE SHEET

The accused D.16200 Sapper Owen Patrick Ryan of the 4th Canadian Field Coy, R.C.E. a soldier of the Cdn Army (Overseas) C.M.F. is charged with: -

While on active Service.

1st Charge Drunkeness in that he, In the Field, in the town of AA 19 LENTINI on 19 Aug 43 was drunk.

2nd Charge Absenting himself without leave, in that he, In the AA 15(1) Field on 19 Aug 43 absented himself from 1630 hrs 19 Aug 43 until apprehended by the R.C.M.P. in LENTINI at 2000 hrs 19 Aug 43 (Absent 3 hours 30 mins).

AA 11 Orders, in that he, In the Field, on the 19 Aug A3 was found in the town of LEMTINI which said town was out of bounds, contrary to unit Pt. I orders No. 13 dated 10 Aug 43.

Ath Charge

AA 40

Conduct to the prejudice of good order and military
discipline in that he, in the field on 19 Aug 43 in the
town of LENTINI was in improper possession of a 500 Lira
ITALIAN note being the property of a civilian one ALFIO
D. PUPILLO of via FIERI 30.

Field 28 aug 43

No.C. A Folly Ref

To be tried by Field General Court humbal

Tuld aug 43

CREI Com Dir.

MEDICLA OFFICER'S CERTIFICATE

I certify that No D-16200 Spr. Ryan O.P.

to undergo tria 1 by Court-Martial

Ma

. Proceedings of a Field General Court martial Spr. RYAN, Owen Patrick, 4 Odle Ad on . D 16200 Coy Res. Held at 1100 his. 31 aug. 43 at HB, 4 Colu Fel Coy Res. 1. Court properly constituted in occordance with R.P. 22 \$23, as modified by R.P. 106. 2. Court is opened. 3. Convening order read by President. of accused asked if any objection to members of Court. - (Ho) 5. President sevens members. 6. member swears president. 2. accused has no objection to interfreter.

8. Court is cleared and received and person reported.

9. artificate of littless to brought in. 9. Certificate of fetuess to undergo trial sul. mitted by Proseculion (Exhabit "A") 10. Could proceed to take evidence on second change: 1st Witness Having been duly sworn states: am D 16144 Soft hallette, I.J., platoon Sgt. of #2 Pl. of 4 7d lay. On 19 aug. 43, 9 held a plation parade at 1630 hrs., and on certing the roll who accused was absent. I did not see him again until he was returned by the RCMP-elast evening 9 - Had the accused been volified that there was a parade. A = a training syllabus, showing this parade, was posted in the platon lines. This had being a regular parade for the last 2 or 3 platon at that parade?

· A: No Sir. 9 - was there not a possibility that the seplatus may have been removed by some one?

A. There was a possibility, but the orders

had been posted for 2 days, and everyone also in the series one Defende aroso examines. else in the platon was aware of it. 3rd charge D 16153 CBL. Hicks, H., Laving been duly 1st witness RCE. Jane Orderly Room cpl. for this Coy. I hereby present a copy of unit PT I orders are 10 aug. 43, which states that are towns are out of bounds to all troops. 8. - was & his ordered posted on Coy. Order board A - Yes, six. Defense to quist to aros - examine. Sgt. he andle, R.C.M.P. having been duly and witness swow states: Do you recognize the accused? yes sir 9 - will you explain, on the 19th aug. where you picked this man up? A - at approx. 1900 hes. 19 ling, an Halian entered she det sog we fentine and reported that he had lost 500 fire and that some soldiers had taken same. civilian, and at approx. 2000 heo, the civilian pointed out the accused as one of the men he had seen leaving his

I took him to det. Hig a searched him, finding a 500 Line water as the accused had been drinking, I did not question him to his unit, beeping the 500 fine note. where, in fentine did you pick up the arrused he one of the side streets in fentine proper what was the condition of the accused. He was drunk, borely able to walk. Defending offer cross examines: or on the outskirts. De A- Just definitely in fantini. 4th Change: of witness: Pupilo haired (unable to speak English war not sworm in but warned though waterpotes as to necessity for giving proper evidence). 9 - Do you rerognize accused: A- yes. I what evenustances did you meet him and when?

At on 19th aug. between 5.30 and 6 oclock, he came to my house in company and asked to cook him some eggs. B- was he alone?

A- ho where were five of them.

B. What air they do when they came
and how did they enter? A - They just walked in and demanded that I cook some eggs, which they had with them. 9- How did they act enside? And when I had cooked whe eggs, ale where. g - Did you see The accused take any

(cont.) A - yes a 500 Line note from under a lottle: (Exhibit "C" - 500 Riva note)

8 - Dia you see there recused put it in his pocket? money . A - yes. g - How did the accused know the money was A. Stefter finishing where meal, whey were looking around for wine, and found the note was 9 - Did you definitely see the accused part A - Yes. Then my grand moiles actimpted to get the many heak, and the accused pushed her away heak this note as yours? A - yes, that is the one. the money in his pocket. (NOTE: - ho definité identification could be g - what time did the new leave? about 6.30 oclock. 8 - who's did you do after the men left. A. I sent my chied after my husband, and told him the story. He then went to the police. Cross examination by the defense - reclaration a questioning along lines above. god withers Danno alfie having been wormed shough interpreter states:

6 on the night of 19 and, my young some come to me, and said that item were some soldiers at the house who wanted some eggs find. I returned, and sow the I had left a 500 lina note in the house, and an returning, may wife told

that the soldiers had taken it No you recognize this note as yours lyfood and you do there? went and reported the irraident to the A police. 3rd Listues Sigt. Mc andle recorded: This 500 line note as The me taken from the accused:

A. yes. Here are my initials, the date, and the initials of a witness on it. 4th witness: Cpl. hunkman, E.T. R.CMP, Laving been duly morn stales; On or about the 23th aug. it's I Coy to interview the accused. I warned him statement (app. Exhibit "D") to questions by defense. The secured did not wish to give evidence or make a statement. The Resecution gave closing address (attored the Defense gave closing address () The court closed for finding. The lower re-opened - Capi EaN Pretchard presented AFB 296 and certified copy of MFM 6. Particulars contified as correct from documents in his custody (Exhibits

The defense soes not wish to make plea in mitigation. for to consider sentence. Le Lily maj.

prior to the accused being askent, it seems when the remainder of the bl was present seems for fetched and entury unreasonable. Clasively that this specific order had been published and duly posted. any excuse to the effect that orders were not seen due to theory probably been removed from

Charge's conta them place of pooling, seems to me to be an enture hollineation on the part of the accused, who, as afore stated has already inferred not having sun a haining sylbahus givens parade least (Charge #2). Transed one alom of doubt exist son behalf of the accused, it seems to me too much to expect that the accused would not have seen or, in the course of any bravelling failed to have noticed the glaving seg to boards outside town and hearing in guestion taking "Out of bounds to all holps not or duty! The prosecution person.

Charge (# 4)

Sever wind point blank accurs so kyon

The occured of being the man who perhed

up and posteked a 500 hun note (definitely

Toursheemore son his by her husband on wichinge)

Farthermore son hyper husband or wichinger

session of this note when picked up

and searched by the R.C. m. I sept.

(Syl markets by the R.C. m. I sept.

(Syl markets). Note submitted a cordence

To me and I know to all in wew of

the evidence submitted, if seems a fallocy by the first order (though I must state it has not been inferred by defence) that owner one else may had removed said note from residence of maria Rupp ite and later planted to passed it on the the occurred Surely no one could but doubt the tatent by by a person is. no up canation is forthcoming from accused or defere as to how accused came by the actor, except possibly statement (writer) by account to effect that I don't know how I came about hading this note or words strenched to shot effect. any excuse that accused might proselety, been under the influence of liquor and may not have realized his allions at the line (note was taking) i des counted by the statement (verbally) in Evenue by maria Puppile that the soldiers at her house of which she accured was one were, at the home quite solve In ween by the one whelmong levidence set milled that the full of account is beyond the shadow of a doubt. The prosecution redo.

will force The accused was not actually seen taking it said 500 her note. no one could make a direct states cht it accused was seen do the note. It hatterty

r orders

Major J. Blair, R.C.E. Commanding 4th Cdn Field Company R.C.E.

IAST PART ONE ORDER NO. TO 479 A

Cylitax "B Dec to ery

Marian Santa Cara Cara Cara Cara Cara Cara Cara Ca		A STATE OF THE STA
BARADEE.	REVEILLE BREAKPAST	0600 hrs 0700 hrs
	MORNING PARADE DINNER	0300 hrs 1230 hrs
	APTERNOON PARADE	1730 hrs

11. R. RADS STATS. H.Q. -1 - 2 - 3 pls will shait to the CSM before 0,000 hrs daily a parade state.

OFFICERS' KIT.
Officers will submit complete lists of all hit, personal or otherwise, through enemy action. This report will state circumstances, dates ato. These will be consolidated for the Coy and reswarded to Hq i Cdn Dfv

OUT OF HOUDS. All towns will be OUT OF HOUNDS to all troops.

14. Task for 10 Aug 43 is NO.2

Officer Commanding 4th Can Pield Coy, R.C.E. 1 Cdn Div.

Soo has referred tolle mes

O Sapper th 19.C.M.P fy the R.C.M.P alpoone Chon to find

Sapper Owen Patrick RYAN D.16200 4th Cdn Field Coy, R.C.E.

By direction of the Commanding Officer, this summary is taken under oath, 26th day of August 1943.

1st WITNESS:

Pupillo Marie, having been duly sworn states: At 1750 hours of 19 Aug. Spr. Ryan came to my home and demanded that I cook some eggs for him I cooked the eggs. I saw him take 500 Lira from under a bottle on the table.

Cross examined by accused:-

QUESTION: Do you remember seeing me in the house ?

ANSWER: Yes.

QUESTION: How many soldiers in the house at the time.

AMSWER: Five soldiers

QUESTION: Do you know who took the money ?

AMSWER: I'm not sure.

(Signed) Pupillo Marie

2nd WITHESS:

I Danua Alfio Pupillo having been duly sworn

I was uptown at the time my wife sent for me, saying that, there were some drunken soldiers at home who wanted some eggs fried. I had put 500 Lira under the bottle an hour before, and as I came home heard my wife saying that the soldiers had stolen 500 Lira from the table.

The accused declined to put question to the witness.

(Signed) Danna alfio

I Bgt. McArdle having been duly sworn state: That at approx 1900 hours 19 Aug 43. An Italian entered police detachment at LMWTINI and reported that he had post 500 Lira and that 3 soldiers had taken same.

I proceeded through town of LENTINI at 2000 hrs and picked up Spr. Ryan and on his person was found

a 500 Lira note.

EXIBIT "A" now produced, the man I cautioned and as he had been drinking I did not question him. I retuened him to his unit. Retaining the 500 Lira note.

Accused declines to question witness.

(Signed) Sgt. McArdle.

4th WITHESS:

On or about 23rd Aug 43. I, C.41981 Cpl. Burkmar, E.F. came here to enterview Spr. Ryan and I obtained the following statement from Spr. Ryan before witnesses. C.S.M. Chartres and Capt. Prichard which reads as follows.

I Spr. Ryan O.P., was picked up in LENTINI drunk by R.C.M.P. on my person was found a 500 Lira note, how I came by this note, I do not know as I was drunk at the time.

(Signed) Spr. Ryan

EXHIMIT "B" now presented.

Accused declines to question witness.

(Signed) Murkmar, E.T., Col.

Accused declines to make a statement.

5th WITHESS:

D.16144 Sgt. Mailette, I.J., having been duly sworn

states:
I am D.16144 Sgt. Mallette, I.J., platoon Sgt of Mo. 2 platoon of the 4th Cdn Field Coy, R.C.E. On the 19th Aug 43. I held a platoon parade at 1630 hrs on calling the roll, the accused, whom I recognize, was absent. I did not see the accused again until he was returned by the R.C.M.P. in the evening.

(Signed) I.J. Mallette, Sgt.

The accused declines to cross examine the witness.

D.16153 Cpl. Hicks, H., having been duly sworn states:

I am D.16153 Cpl. Hicks, Orderly Room Corporal of the 4th Cdn Field Coy, R.C.E. I hereby produce as EXHIBIT "C" Unit Pt I orders dated 10 Aug 43, Para 13 stating that all towns will be out of bounds to all troops.

(Signed) Hicks, H., Cpl.

The accused declines to cross examine the witness.

The fifth witness, D.16144 3gt. Mallette, is recalled and having been duly sworn states:

T am D.16144 3gt. Mallette of No. 2 platoon of the 4th Cdn Pield Coy, R.C.Z. Pt. I orders for Aug 10th, EXHIBIT "C" were posted on our platoon notice board on the 9th Aug 43 which is the normal practice.

(Signed) I.J., Mallette, Skt.

QUESTION:

Can you remember definitely if this Pt. I order,

EXHIBIT "C" was posted on the notice board and remained
there long enough to be read.

ANSWER: I know the order was posted but just how long it stayed there I do not know.

The actused having been duly cautioned in accordance with R.P.(e) reserves his defence.
Certified R.P. 4 (cXi)(e) and (f) have been complied with.

Taken before me in the presence and hearing of the accused this 27th day of Aug 43. In the field.

(Signed) S. J. Simons, Capt. R.C. S.

. Statement as to Character and Particulars of Service of Accused.

Number.	Say Or	YEN PATRICK RY	AN - 4 tiels	1 107/566	
16200			and emadron ba	attery or compar	ny con-
I. The following	g is a fair and true sum	mary of the entries in the regin	avil court of summary	awards under sec	tion 47
	and exclusive of convi-	ACTIONS MY W. COST.	THE COURT OF SHARING		
ne Army Act, and	of cases in which trial l	has been dispensed with :—			
				*Since Enlist	tment.
2. At a trial by dd general court gettal this numerical are the compiled out the hold com- out sheet.	4.	• Within last 12 months	s. times	Nine	times.
	For A.W.L.	2 - escaping from de		Once	times.
tut mit annexellen he proceedings	For H.H. 2	1 / / /	command times	Once	times.
tor yers 677, E-F-	For AA. 9	ur disoberry a langul	FRIDAY THE		
The musters farring			tinies		times.
ber of select to the conduct shorts, yet mineste being given	For.		times		times.
offence in each entity, and to any recognised special acts of ghilan-	For		ruished conduct		
try or distinguished conduct.	Number of	instances of gallantry or disting	Burney Politicals		
I syrguction 1) the charge is for drinken our the entries for					
ness the antilia for drankenness must be stated separately and	There are I	no entries in the conduct sheets			
dated.		analy convicted or			
2. The accu	used has not been previous	iously convicted, er used by a court martial or a civ	vil court, summary awa.	rds under section	on 47 of the
Previous co	onvictions† of the accus	ised by a court show Army Act	are set out in the schedul	le annexed to this	s statement.
Army Act, and dis-	pensations with trial cin-	need by a court martial or a cavader section 73 of the Army Act,		t tune is under	sentence for
9.71	used is not under sente	ence at the present times of		to thinks	
	NA			NY	days
	most has been in south	ement, awaiting trial on the pre	sent charges, for	THAKE	days
	/Were	days in marin y constraint	ty, making a total of	IMENIC	11178
in civil custody.	Total Nil	ys were spent in hospital.			
of which	And May	record of see	vice is		
5 There	resent age of the accuse.	ed according to his record of ser	Harpert		
a, the p	commission	specified in his attestation paper	3.9.39		
6. The d	late of his attestation	attestation pape	lischarge or transfer to a	the reserve is	-
e Their	service which the accused	ed is allowed to reckon towards of	Traction Posts	servi	Ce.
1. 1100 1	occused is entitled to de	leferred pay or gratuity in respe	123 OL		
				of determining	no pension, é
10 The	e accused is in possessio	on of, or entitled to, no military	y decoration or military	award (or is in	Prostagion of
10. The	tate any military decorat	tion or reward)).			the recons
11 (1)	the accused is a warran	ution or reward); int officer.) The accused before	he was made a warran	s sincer tast beli	
					tated
Laur of	with any of an officer's	The accused holds in the army t	the rank of		
12. ()	In the case of an officer.) egiment (or coers or de)	partment) the rank of	dated		
annun mu	DUDAN, NOZ TS, 000 12/40 A.A	E-W-Ltd Gp. 849			
	THE RESERVE OF THE PARTY OF THE				

Schedule of Convictions by a Court Martial or Civil Court, of summary awards under Section 47 of the Army Act and of cases in which trial has been dispensed with of accused. Name Oder latice Ryan of 4 hield by Red Regiment for as the case may be).

No D/6 200 Rank UNSTRUCTION - A verbalim extract from the regimental books, stating these convictions and dispositions with trial, must be inserted; Description of Sentence of the court court by which | Date and place of trial, or Charges upon which convicted, or in respect of which or authority disposing of the charge, summary award under trial was dispensed with officer disposing of A.A. 47, or of order dispensing order of the dispensing authority. with trial the charge or dispensing with trial. A9 20 - Whey is confront escaping from FGCM 10 Det. 40 detention bus. 1/2 days detertion 21 days AA-90 Discorry a larged command, 3 Mes detention 30 Nov. 42 A.A. 1500 A.K.L. 29

I REREBY CERTIFY that the foregoing schedule of convictions and dispensations with trial is a true extract from the regimental books in my custody. Signed this 27 day of /ful 43

No.7. 16200 Name RYAH, O.P., Son., Battery. Date of last entry in 178M T 81 C Company Conduct Sheet MA of last drunk | M/A KINIH Spr. WOAS - AWOL from 2200 hrs 19 Jun Cpl.McGuire, Forfeits 40 ll Jul Aldershot E.C. Thorne, Capt. RCB 40 to 2200 hrs 8 Jul 40 (abs. 3gt.Stevenson, days pay 40 4th Cdn Pd Coy 20 days) A.A. 15(1) 20 da ys: + A.A.46(2)(d)Auth: F.R.&I.149(1)(e) 20 days:- PR&I.149(1)(a) 21 Spr. WOAS - AWL in that he failed to L/Sgt.Bennett, 168hrs 21 aug H.F. Seymour, Major, RCE Aug appear at the place of parade Sgt.StevensonDETENTION 40 OC 4th Cdn Pd Coy. 40 appointed by his C.O., Namely:-Marching Out Farade. AA 15(2) AA.15(1) AWL from 2359 hrs 13 Peb Documentry Returned to 17 Feb41 Tregantle Spr. 41 to 0900 hrs 18 Feb 41(Abs. 105hrs 1 min) Porfeits 3 dys Lieut .- Colpay PR&I . 149

									£	
Place	Date of offence	Hauk	Cases of drugsen-	OPENCE	Names of Williams	Punishment awarded	Date of a word or of order dispet- sing with trial	By where awarded	flemorie	
Rde, Camp	13 Sep	Bpr.	2000	WOAS - AWL from 2200 hrs 13 Sep 40 to 1400 hrs 19 Sep.40.(Abs. 5 days 16 hrs)4.4.15(1)	L/C.Hamilto L/B.Bennett	n 14 days detention	19 Sep.	R.J.Cassi OC.4th Cdn	dy Capt. Fd Coy	
Field	10. Oct. 40	Bpr.		1. Woad A.A.22 When in confine escaping in that he on the night of 10 Oct 40 when in confinement (in the detention bks) at Ilderst Heath escaped. 2. Woad A.A.9(1) Disobeying in such a manner as to show a wilful defience of authority a lawful command given personne by his superior officer in the execution of his office.	L/C.Thompso Bpr.Casseln	Milyn, Marania	from th	P.G.C.M.		dershot

No. Date of last Company C	entry in	1	N	Sqn, Battery, ar Corps R.C.E. To and date Period not reckoning towards freedom from extra fine	Date of enlistment Sheet No.	William I	O.C. R.Q. 1772-01-1618
Place	Date of officere	Rank	Coses of drunken- noss	OFTENCE	Namer of Witnesses	Punishment awarded	Date of award or of order dispens. By setsom awarded Bamarka sing with strial
BORDON	17Ma 41	r.Spr		A.A. Sec.15(1) AWL 17 Mar 41 to 17 Mar 41 (Abs.13 hrs 55 mins)	Documentary	27 dys Det.	18, Mar. 41 LTGol. Forfeits L.F. Barnes, 1 dys pay
					Released 10 A pr	from Detenti 41	ion bks Witley on 149(1)(a)
Pield	17 Sep 41			A.A.15(1) AWL from 2359 hrs 17 Sep. to 18 Sep 41 (0800 hrs) (Abs.8 hrs 1 min)		Reverts to Sapper	19 Sep.41 R.J. Cassidy, Forfeits Major., 1 dys pay
							P&I,



Place Date of officer ledd 20 Sep 41	Rank dry	taken of runken- ness	AA 15(1) AWL from 2359 hrs 20 Sep 41 to 0300 hrs 15 Oct 41 (Abs. 24 days 8 hours)		14 dys C.B. Deprived of 20 dys pay PR&I.149(1)(e	Oct,41	Major.,	dy Forfsits 2: days pay FR&I.
Sep	Spr.		AA 15(1) AND hrs 15 Oct 41	and the same to the same of	ag dvs pav		200 200 4.2	FR&I.
			SOS to No.1 E.H.U. 14 Nov 41 MPM 6 verified to date. (Signed) J.S.Osborne)Likut 4th Field Goy,	An			7 7 C C N	Confirmed by
llemont 30	Spr.		AA.15 (1) AWL from 2359 hrs 30 Nov 41 until 0905 hrs 14 Peb, 42		3 months DE	22, may	2	Confirmed by A.E. NASH 20 May 42

	Date of last er Company Con	stry in	1	N	Sqn., Battery, or Company or Company or Company or Deriod not reckning towards freedom from extra fine	Date of enlistmen Sheet No	nt Jo. 7. 37 Badge		ice or liciency Pay Characte	M.F.M. 6 (A F-B 122) 17634 - T-8 (1219-20) H.Q. 1771-20-1012
	Place	Date of officers	Bask	Cases of drinken- ness	OFTENCY		Punchment awarded	Date of award or of order dispen- ating with trial	. Ity whom wearded	Tomarka
1	Meld	14.8.4	13 8		WOAS - Absent without leave fro 0800 hrs 14 aug 43 to 0830 hrs 14 aug 43.(Abs. 1/2 hrs)Aa.5(1)	m Sgt. Mallette	Deprived 7 days pay PR&I 149(2)	16,8,43	J.Blair. Major.R.C	,2,
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50-102. Pre. Ryan, P.J.

Dalla Coma Six no ACCUSED. to the trial of two or more charged jointly see RP 16, 71, 109. As to reasons for showing (a) p (b) appmt, Alrank or Alaphmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330, (a) Prmnt R. (b) Appmt, A/R or A/Appmt. Full Christian Names. PROCEEDINGS REVIEWED G.32873 Poter Joseph S Con Bdg Wkspl REVIEWING OFFICER THE BRANCH C.M.H.Q. JE. M. Held in the Fd in (country) on (date(9)) 12 18 / 42 RECORD FORM A-OPENING PROCEEDINGS AND ARRAIGNMENT. Al. The President, Members, warning Member, JA, 16 PRINTED MATTER, NOT IN ITALICS FOR GUIDANCE, WILL BE DELETED, IF NOT USED OR APPLICABLE The President initials and lays before the Court the Convening Order and Charge Sheet (attached thereto.() A2. The President initials and lays before the Court the Convening Order and Charge Sheet (p) attaches the Court is satisfied that it is properly convened and constituted(*), accused is (apr) amenable to military law, and each charge discloses an offence. (*)

(I. As to use of Summory of Evidence see RP 17 fn 5.

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 101 × hours trial commences.

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

The Prosecutor informs the Court that accused elected to be tried by court-martial instead of being dealt with (1. KR Can 557. 2. AA 46(B), RP 60 fm 1. For effect see KR Can 563(c). Delete, if not applicable. (i. RP 72. Deleto, if none 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 ? 2. If no objection, waiting mamber retires. RP 68(B). If objection, see procedure AA 51, RP 25, 71, 18, MINUL 9 742.) (1. RP 110. A7. The President, Members, JA, if any, and Offrs under instr. if any, are sworn.(1) The following are the is, names and units of the offrs comprising the Court, etc: Ma Reost CAPP Member PIERRE ANURE JOUR DAIN CAPT Member Prosecutor Defending Offr A9. The accused is (art) arraigned (separately) on all charges in the charge sheet.(1) The accused does object to any charge.(2) There is no amendment to be made to the Charge Sheet.(2) The President records not object to any charge (2) T pleas in Part I of the Schedule (i. RF 31, ii.2. See para i of instrs p.2. When more than one Charge Sheet see RF 42, when several occused to be transportately see RF 71(C), and use separate copies of CF A86 to record proceedings.

2. RF 32, RF 33. If otherwise, delete a make appropriate record per house.) A10. The Court (is closed and) considers the Instrs on Procedure after Armignment at top of p 2. The proceedings are continued on Record Form PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

FIELD GENERAL COURT MARTIAL

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.

 (A).) As to withdrawal of alternative charges by Prosecutor see RP 35(C). No other charge can be withdrawn 1. The accused may not plead or be found Guilly on more than one of two or more charges and in the auternative. (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 Guilly to lesser, etc. offence. (RP 44(H).) Accused may change a plea of Not Guilly to Guilly 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 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).
- As to responsibility of President to accused see RP 50, 60(C); powers and duties of JA see RP 103; duty of Proxecutor see RP 90(A) (B); duty and privileges of accused and Defending Offr see RP 90(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, 116; use of Summary of Evidence at Trial see RP ViE) 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 $\operatorname{biarge}(s)(^i)$, and that on his plea of Guilty there will be no regular trial but merely a consideration of the ce b be awarded after he has been given an opportunity to make a statement in reference to the charge(s), these as to character and make an address in mitigation of punishment.(i) el as to character and make an a 2. MML p 54 para 47.)

B2. Presiden 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 ples of Guilty(2), or which show provocation or extenuation in respect of which in your interest the witnesses for the Prosection should be examined(2), 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 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 have a statement † Ans RP 35(B) fo 5 para 3, MML p 54 para 47. 4. See para E3 of Record Form E.

B3. The Court considers the accused's statement. The Court decides (not) to advise accused to change his

B4. On the charge(s) to which the plea(s) of Guilty is (are) not charged the President records finding(s) of Guilty in Part 1 of the Schedule.(1)
(I. RP 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 inadequate, comply with RP 37(B). If there is any evidence inconsistent with any plea standing as Guilty, Court will advise accused to change such piec and, if changed to Not Guilty, try such charges) by use of ports D1 to D8 inclusive of Record form D on p 3. RP 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 inclusive of Record Form D on p 3 to log proceeding with C 2.(9) (i. 88 37(4) (E).)

C2. The charges on which accused pleaded GUTLCY 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 and 94 the Summer of Evidence one read at these to the charges deaft with under C2. If any pice is changed to Not Guilty, trial thereon proceeds by complying with paras D1 to D6 inclusive in Record Form D on p 3 and making an oppropriate record thereof on a sparoute sheet.)

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

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

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.

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

The Prosecutor makes (aff) (no) opening address (1) (1. RP 39(B), 60(A) (B), 90, 92(C) (O). Record oddress per Notes, subject to RP 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 establish a prima later case against the accused on the 2/2/2 charge(f).(*) The Court is closed, and considers the submission.(*) The Court is re-opened, and the President announces that the submissions is disallowed on the charge(f), and allowed on the

charge(s), and that, accordingly, the trial will proceed on the former, but the accused is (prf) found Not Guilty on the latter charge(s).(4)

(1. Delete remoinder of this para, if submission not mode.
2. Arguments on submission, answer and reply are recorded per Notes.
3. RP 40 fo 1. See MML p.72 paras 12:14 and p.81 para 42.
4. Delete part not used. If accused acquisited on all charges use second alternative in para (58).
85: 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 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 You may sail witnesses in your defence and as to character, whether you give evidence or make a statement or do

President to accused: Do you wish to give evidence yourself as a witness, make a statement, or do neither ! Ans y = 5 ... Do you intend to call witnesses on your behalf ! Are they witnesses us to character only : Ans (1, RP 115, 2, RP 40(A), see 80(O), 3, RP 40 fn 10, 4, RP 40 fns 2, 9.) Ans ..

D6. Consequent on the answers 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 A95. Evidence for occured as to his characters should, if in is interest, be given before the finding. See RP 46(A) for 1. 86(C). Note the further objectivity in para E1 of Record Form E. Record per Notes addresses, statement, evidence and any summing up by the jA under RP 42, 103(c).

D7. The Court is closed to consider the finding () The finding () of the Court is (a) recorded in Part I

he Schedule (*) The Court is re-opened.

(i. 89 43, 117(4). See Notes in Part | of Schedule. 2. 89 44(4))

DS. The President assounces the finding (f), if any, of Not Gullty, and states to the accused that the finding (f) of the Court on the CARE charges, being subject to confirmation, will be promulgated later (1) CARE President announces that the accused is found Not Guilty on all charges and is to be released for the with, and that the proceedings are accordingly terminated. Part I of the Schedule is dated and signed (1) (1) (A.A. 54(1), 6), 6, 8 45, 17(1) (2) (A.A. 54(1), 6), 8 45, 17(7). This oldernative announcement is not applicable when there are places of Guilty actionding and dealt with under Record Form 8 or C.) of the Court on the

D9. 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 f(1) V < 3 .

U. If évidence has already been given by accused or his witnesses às to his character, delete this para. RF 37(C) (n 4, 45 fm 1. Accused and witnesses are swarm. Evidence recorded per Notes.)

E2. The Prosecutor produces Statement(s) as to Character and Particulars of Service(1), and certified true (Diacopy (copies) 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(i) (g) (h), and (ii) the to refer to (a) soldier(s) having the same number, rank, name and corps as the accused. Admitted in evalence and

marked Ex. X. and Ex. Y. respectively (*).

1. MFB 355 or AFB 296/ 2. MFM 2. 2. RP 46, KR Con 558. If above documents not produced, see RP 46 in 1

E3. President to accused: Do you wish to address the Court on the Statement of and Conduct Sheet of, and in mitigation of punishment (1). Ans. 1/-0.5

(i). RP 37(C). 46(C). 2. Address: If any, recorded per Notes. Court should permit occused or his witnesses to prove an aech crysting here or previously stated which would affect the amount of punishment. RP 37(F) fin 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)
(1. AA 54(6), RF /2D(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.(2) to the sentence only, comprised of the punishment or punishments for the sentence of the sentence of the punishment of the sentence of the sent

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

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ALL DELETIONS AND ALTERATIONS WILL BE INITIALLED.

PROMULGATED AND EXTRACTS TAKEN. (88 53, KR Con 576, 577.)

Date.

Signature of Office

3 LON INE BORWARD ROLL STARE &

VI TAA9

The accused, No. 0.32873 Pte. Peter Joseph KYAN, 3 Odn inf sde wksp K.C.E.M.E., a soldier of the Canadian Army Overseas, is charged with:

First Charge Sec 41 Army Act WHEN ON ACTIVE SERVICE, COMMITTING A CIVIL OFFENCE, THAT IS TO SAY, MANSLAUGHTER

in that he

In the Field, in Holland, on 8 June 45, unlawfully killed A.31127 our JOHNSTON, A.J., 3 Fld Regt, R.C.A., G.A.O.

Second Charge Sec 40 Army Act ODIOS OF GOOD ORDER AND MILITARY DISCIPLINE

in that he

In the Field, in Holland, on 8 June 45, so negligently drove a WD motor vehicle as to cause it to become involved in an accident, thereby injuring A.31127 Gnr JOHNSTON, A.J., 3 Fld Regt., R.O.A., C.A.O.

(C.C. RANKIN) Major Officer Commanding, 3 Cdn Inf ode Wksp, K.C.E.M.E.

In the Field 14 June 45.

10 be tried by F. G. C. 200.

15 June/45: CA 200 200 in 15 June/45: CA 200 200 in 15 June/45:

Date

FIELD GENERAL COURT-MARTIAL

0 20

Convening Officer.

(Whether the accused to be tried is under his comd or not, a FGCM may an application to him be convened by any offir 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 authorized AA 49, 50, RP 104-107, 114. As to the duties and privileges of the Convening Offr in dealing with the application see MML Chep V paras 20 and 23, RP 87(B).

There should be standard by the convening of the Convening Offr in dealing with the application see MML Chep V paras 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 charge sheets see RP 108. As to two or more accused charged pintly see RP 16, 109. 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 pintly see RP 16, 109. As to reasons for showing (a) permanent or confirmed rank, and (b) appmt. Airank or Ajapmt. If any, see AA 182, 183, fas. KR Can 308, 328, 330.)

ACCUSED.

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

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 (have) committed the offence(s) set forth in the Charge Sheet(s) attached and on idate).
 June 45 endorsed by me, (ar by an offs of my staff for me), "To be tried by Field General Court. Martial".
- And whereas I am of opinion that it is not practicable that such offence(s) should be tried by an ordinary General Court-Martial; found that it is not practicable to dolay the telability reference to a superior (qualified offen) (Delete part in brackets when not required for compliance with RP 105(C).)
- I hereby convene a Field General Court-Martial to try the said person (8), and to consist of the Offrs appointed
- or detailed herounder. bam unable to appoint (a) three Offics to form the Court, (b) a Fd Offic as President, for the reasons I have (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 (RF / Ob(E). Delete, if non appointed.)

PRESIDENT.

(Must be named. RP 106.) MEMBERS. Pierre Andre JoukDalk (Named or detailed. RP 106.) (Unit.) (Rank.) WAITING MEMBER. (Unit.) (Named or detailed, if any. RP 106.) JUDGE-ADVOCATE. (Must be named, if day. RF 106.) On Active Service in the Fd in elleain lant les (Country.) Commanding Alef R C EUUS/ Color Des 16 June 45

CONVENING OFFR WILL INITIAL ALL DELETIONS AND ALTERATIONS

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

To: Medical Officer, DMA no., 1 Can Inf Div.

MEDICAL OFFICER'S CERTIFICATE

I certify that No. G.32873 Pte. RYAN, P.J. - 3 Con Inf Ede Wksp, RCEME, is to undergo trial by Court-Martial.

pate..18..444.. 45

Signature of the medical Officer

Insert "fit" or "unfit".

he prosenting officer stated that he did not intend to with a wither who agrand in the surroug on they interest the A/Syt Cooke J. E, and Blue Shelds, A.C. The Dy. Mire stated that he had no officion and did not require the wilmen

wirness was called duly sworn, being unable to speak English, testified through as interprete Follows: Under what circumstances did you last see this soldier?
At the time of the accident,
What accident was this? The accident on the Friday when another solutor was killed, What Priday was this, or what date? One week ago last Priday. Did you see the accident? Yes. Give a statement of the scoldent and what you saw. I was coming from the direction of Rotterdam and from the direction of Cordrecht came a truck. From the direction of Rotterdam came a soldier on a bicycle. The soldier on the bicycle was riding on the right-hand side of the road. The truck was riding on the middle of the road, more to the left-hand side of the road. When they approached the truck swerved and hit the soldier on the bicycle. The man with the ticycle was thrown in the air and landed on the side of the road. The truck stoped. It was going very last and therefore could not stop very of the accident in a truck and saw he could be of the help and left.

He returned to get a Doctor. Later on he returned with two other
Military persons and a Doctor and as they appeared on the scene the
soldier just died.

Was the truck going fest or slow? Very Fast. Gould you estimate the speed in miles per hour? I have no idea of the speed in Miles per hour or Kilometres. Did you see any erratic driving prior to the collission? Pefore the accident happened I noticed that the truck was driving very fast. Was the road wide enough for the truck to pass the bicycle without which file want the witness prepare a would shitch of the road showing water plants of the fleetiest. To four consents that we obtain mortal & A. The Lefending Officer then cross-examined the witness as follows:

The Lefending Officer then cross-examined the witness as follows:

Now fer were you from the bicycle when you first noticed it?

As a rough guess, ap roximately 65 metres.

What made you notice the soldier on the bicycle?

Nothing happened for me to take special notice of the bicycle. Only that I just noticed it.

When you first noticed the bicycle was it going fast?

As I noticed the bicycle he was putting on the brukes, therefore I did not notice if he was going fast.

Why would he be putting on his brakes?

He seemed to be putting on the brakes because the truck was swerving and made a great deal of noise.

What first made you notice the truck? What first made you notice the truck? At first I sew the truck and it was going fast and then it swerved and made so much noise, You did not notice snything until the truck has swerved? was it from when the truck first swerved until it hit the cannot estimate the time but it seemed to be a minute. The moment the track swerved, did it hit the bicycle? (Witness could not understand) Hos for was truck from the bicycle when it swerved? (Again the witness could not comprehend)
Did you only notice the wehicles when the collission happened?
I only noticed the vehicles when the collission happened.
You took particular notice only when the socident happened and therefore you do not know the jositions of the vehicles prior to the socident?
I only noticed when the collision happened.
This there any other traffic on the road?
Cally those two. Q As a matter of fact, is this bighway a two-lane highway with bicycle roads separate?

As a matter of fact the bloycle was using the wrong lene? Yes; the bicycle should have been on the bicycle ath. Why was it not on the proper lane? Because it was under water and barred. hand side, was not, I have driven from Do Rotterdam in twenty minutes. How far is it? 28 kilometres. After the accident, in time, how long did it take for the truck to stop? I think about two minutes.
How for in metres?
I think at least seventy-five metres. When the truck stopped, what happened? When the truckstopped, it was standing nearly on the gress on the upposite side of the road from the socident. The driver stepped out of the truck and welked to the back of the truck and returned to the front and got in again.

What did the driver do when he walked to the back of the truck?

The driver looked in my direction and then went back to the front of the truck. When the driver finally came back to the body of the man he had hit how did he appear? The driver seemed to be very nervous and sat down and felt the pulse of the other soldier.
Cutside of that did you notice snything unusual about the accused?
The Driver seemed to be very drunk.
Why did you think the driver was drunk?
It seemed to be that the Driver was almost unable to stand and almost unable to stand and almost unable to talk. Did you notice an Approximately two or three yards. Did the Driver appear to know what he was doing? The Driver knew what he had done. The Driver knew what he had done.
When the accused came back did he know what he was doing?
I do not want to say. I think he was drunk and did not know.
Tell the Court what he actually did when he came back.
This soldier approached the other, shook his chin, called "Boy, Boy",
felt his pulse and sat smoking a cigarette with the other soldier's
pulse in his hand.
Did the accused say enything to you?
When the accused say enything to you? The Prosecuting Officer than questioned the witness:
When you spoke of the cositi as of the bicycle and the truck before the
actident you stated that the bicycle was on the right-hand side of the
road and the fruck in mid-centre. How close was the bicycle to the
side of the road was the bicycle when the truck hit it?
I dannot say as it looked to me that the bicycle was headed to the side
of the road trying to avoid the scuident. The bicycle was alose to the grees. The A.D.J.A. then questioned the witness: Do you recognize the driver involved in the socident? Yes, (and indicated the accused) Approximately what hour of the day did the socident of 7.15 A.M. What was the condition of the read? CAR day did the socident occur? It was a paved road. What were the the weather conditions? Dry weather.

you see the truck before it had swerved? Have you any idea how far the truck was from the bicycle when it amerved? I think approximately seventy metres.
When the truck hit the bicycle were they on the right-hand side of the road or the left-hand side? 114 Hed you ever seen the acquised or the decessed previous to the accident? No. In the opinion of the Gourt and J.A. it is not necessary to comply with H.P.-63b. SECOND WITNESS, Capt. A.M. Park, Madical Officer with 3rd Fld. Hegt.,
R.C.A., presently 5th Fld. Ambuland, was called by the Prosecuting Officer
and having been duly sworn, testified as follows:
Q Would you give a short atetement regarding the death and prior events
leading up to the death of Onr. Johnston, A.J.?
A I know nothing of the prior events. I was called after the man was dead.
I was called two weeks ago last Friday. I was called from my bed by
my own Orderly, wh. told me there had been a bad socident on the
Autobahn, I got creased, came down to the R.A.F., got the necessary
equipment and my orderlies, and we proceeded immediately to the
accident approximately ten minutes after we were called. He errived
there and Lund the body of Onr. Johnston and as we drove up it was
quite obvicus he was dead. We jumped out of the truck and infirmed
he was dead an then removed the body. In a cursory examination at
that time we found that he had a frestured left thigh smo left fore
arm. That was all we could find on our first examination. After the
body was placed in our vehicle, I questioned a man, whom I recognize
as the accused and identified him by his pay book, about the accident.
He could tell me nothing or what had happened. He pointed to a scrape
on the body of the truck and asid. He must have hit here." but he
could not tell me how it happened at all. He was quite unstandy on
his feet and there was a lot of dry spittle in the corners of his mouth.
We then looked at the truck and asw that the left fron fender of the
truck had been crumpled. There were a lot of civiliens standing around
and I saked if any had seen the secident. One girl, whose nexe I book
said she had, and she was placed in our truck end taken along with us to
our own Hesdowarters for questioning. The Driver of the truck was taken
back to his Unit and the truck was driven by my own Driver, Corn. Brooks),
When we arrived here I went into the Orderly Room and told the Officer
of the secident. of the socident. e Autobahn there is double and he was propped up on the bank in Verlice in a sitting resition perhaps two feet off the road. We toked up the bicycle also, with a badly bent front wheel and we took it with us. I do not not not the priver of the vehicle seem to realize that he had killed a manifold not ask him. I did not ask him.
What c ndition would you say he was in?
From his oppearance I would say he was drunk.
Had he been drinking? I did not ask him. Did you smell Alcohol? Why did you place another driver in the truck? On what side of the deceased's body were the injuries?

All the injuries were in the left side.

You seid you examined the truck and that you round the left front fender orumpled. Did you find any other marks?

There are a scrape on the side near the back which appeared fresh. That A is the mark the accused showed me. Was there flesh or blood? Were there any marks which would indicate where the accident had taken lace? What disposal did you make of the body? to 3rd Pield Regiment to discuss we took it to 3rd Fld. Ambulance, thence to 3rd Pield Regiment to discuss with the Pedra and Officer Commanding its disposal and subsequently to 4 C.O.S. at Amsterdam. A

In view of the nature of the man's death and the absence of what we would consider fatel injuries it was decided a Post Mortem should be held. The Defending Officer than cross-examined the witness:
How long after the accident occurred did you appear on the scene?
Roughly half an hour.
When you ap cared, was the accused with the deceased.
No, beside his truck.
Gould the unsteadiness and general appearance be a natural consequence of The fact that he did not know what happened would tend to rule that but but it could possibly be so.
Gould his carbled speech be a natural impadiment? ed intexicated. I think you stated that you did smell The accused appeared interleased. I think you stated that you did smell no Alcoholic Stimulant on the Accused's breath. Am I wrong in suggesting that you might smell it if he had been drinking?

Not necessarily in the open.

I am suggesting that what you saw was the consequences of the accident but was he "bleary-eyed"?

I deny the existence of a condition of a "bleary-eye".

In your orinion could a man drink and still be quite capable of driving? Yes, that is also quite correct.

Is there any determining factor?

There is one's capacity to hold liquor and this wantes with each individual. AC Therefore, if the accused had been drinking, he could have been still capable of driving anddriving good? The A.D.J.A. then questioned the witness: here was the body in relation to the road if you where going in the direction of Dordrecht? Has Medical Science ascertained what effect Alcohol has on the re-sotion of the normal individual?

The affect of Alcohol is to depress brain function and with regard to re-actions it is definitely known that it slows re-actions. the ri ht-hand side. performed the autopsy on the body.

ould you briefly tell the Court the result of the autopsy?

ould you briefly tell the Court the result of the autopsy?

he result of the autopsy was that he had received a fracture of the

left thigh and that he had a fracture of both bones of his left fore

arm. He had a small haemorrhage of the brain and a rather small

bruise of his left lung. The injuries in my opinion were the cause

of his death and I was unable to find any evidence of any other Was there may evidence of Alcohol or evidence of drinking that the deceased might be able to function properly?

The stomach contained about 200 c.c. of digested material and there was no odour of slochol. organic diseass. A Cart. Park neadled at the segret of the production of the fact of the park (second & Capt. Park (Second witness). The A.D.J.A. then questioned the witness: Capt Do you recall the number of the truck? GL-4273306 (This from a notebook inhis pocket.) Do you recall Gur. Johnson's number and home? Initials were A.J. I believe but as not sure of his number.

Prosecuting Officer then called the FOURTH WITHESS, Ofn. Dumont, (L-154214) of 3 C.I.B. Wksp., R.C.E.M.E., who, having been saly sworn, bestified as follows: Un the 5th of June what did you see with regard to the accused? I saw him sitting in his truck.
On what occasion, was he parked?
He drove up to the gate.
Were you on guard?
Yes. 6.10 s.m. anything peculiar in his attitude or manner? No, he seemed quite normal. You had no reason to doubt that he was going on a Duty call? The Defending Officer then cross-examined the witness: Ten or fifteen feet. Did you speak to him? He did look cuite normal? The A.D.J.A. then questioned the witness: Did he say where he was going? No. In which direction did he turn? I don't know.
Why not when you were on Guard?
I did not notice as I turned to close the gate. The Prosecuting Officer then called the FIFTH WITNESS, A/S/Sgt. Smith, J.E.W., (K-82065) 1/c R. & I. at 3 J.I.B. Wksp., R.J.E.W.Z., and having been duly sworn, testified as follows: You were asked by ALIS Taylor to check a vehicle which had some in efter a accident. Would you give the Court the results of your imspection?

I checked the vehicle. I know it was our own vehicle but I don't know the number. I first made an undercarriage check and found everything alright except for a slight bend in the right front fender and nothing else, so I Road Tested the vehicle, and found the steering heavy. Would you say the steering of the vehicle would affect it seriously?

The vehicle was in a servicesble condition and pred-morthy would be a seriously than the steering of the vehicle would affect it seriously?

By heavy steering would it cause the vehicle to be difficult to hendle? By heavy steering it would take more effort to steer the vehicle. by heavy staering it would take more effort to steer the vehicle.

Would it cause the vehicle to veer?

It would not. It would have a tendency to cause the vehicle to run

along a straight line.

Then if hands were removed just for a second it would cause the vehicle

to veer if the wheels were turned that way?

It would, for the type of steering geometry that is used on the vehicles

now have a tendency to centralize themselves. If the wheels were turne
ed to a slight angle the heavy steering would cause the vehicle to what camage sid you find of the left front fender?
What camage sid you find of the left front fender?
What camage sid you find of the left front fender?
Would it take a solid jer to so that?
I would say that a slight jer would do that.
If it were a heavy impact it would be more badly bent?
I would say not badly bent, but more of a curve. The Prosecuting Officer than questioned the witness: a vehicle has loose adjustment it has a tendency to wander on the Yes. A

The A.D.J.A. then questioned the witness; What type of vehicle did you examine? Pord, 80-owt. The Prosecuting Officer then called the SIXTH WITHESS, Gnr. Brooks, R., (D-132557) of 3rd Cdn. Fld. Regt., R.O.A., who having been duly sworn, testified as follows: What is your particular job? Driving a Medical Officer. Did you accompany him a week or so sgo to an accident? Did you go with Capt. Park? I met him at the accident, but did not go with him. What happened after the accident? Did you have a specific job? He told me to follow him back to the Workshop in the 60-cwt. Do you recognize anyone here to take accident?
The accused,
What was he do no at the scene of the accident?
He was just stending there by his truck.
Was it his truck you drove?
I drove his truck back to the Workshop.
What was your impression of hyan's condition?
I thought he had been drinking.
Were you close to Ryan to get a good look at him?
I think within two yards of him.
In the truck did you smell liquor from him?
No. The Defending Officer then cross-examined the witness; Were there screens on the truck? On my side I notices none but did not notice the other side. On my side I notices none but did not notice the other side.
What made you think the accused had been drinking?
Just by his eyes.
Tell the court about his eyes.
The way they moved. When a fellow is drunk his eyes wink slow like, sharp winks like normally.
Dil he appear to know what he was doing?
I sid not talk to him but a couple of words.
Did he enswer logically?
Yes. Did he appear upset? When he walked, did he walked steady? When you drove the truck did you notice anything wrong with the vehicle? It was hard to steer.
What was wrong with the steering?
The steering was too tight. A steering wheel should have two inches play and it did nothage this.
If you turned a corner would the wheel swing back? No.

Address of Defending officer

Motion is made for Ron-Suit pursuant so Articles 40 and 70 in that the Prosecution have not a prima facio case and the defence is not to be called upon to produce any evidence.

Monsiaranter is a very serious charge, practically next to murder. Monsiaranter is a very serious charge, practically next to murder. There is a very definite onus on the prosecution to proof mit that the accused is guilty without any reasonable doubt. But the only evidence accused is guilty without any reasonable doubt. But the only evidence admitted by the Prosecution to prove mansisurate was, first a young girl, produced by the Prosecution to prove mansisurate was, first a young girl, produced by the prosecution to prove mansisurate was, first a young girl, produced by the prosecution of prove mansisurate was, first a young girl, produced by the prosecution to prove mansisurate was, first a young girl, produced by the Prosecution to prove mansisurate was, first a young girl, produced by the provent had been drinking. But that is the only evidence produced. Gefinitely know what had happened. But that is the only evidence produced. The accused had been drinking. That may be so. The accused may have been drinking. However, Capt. Fark admitted that a man can be a competent drinking. However, Capt. Fark admitted that a sman can be a competent drinking. However, Capt. Fark admitted that a seal drinking. The other witness, driver and drive well, although he had been drinking. The other witness, driver and drive well, although the had been drinking. The other witness, driver and drive well, although the had been drinking. The other witness, driver and drive well, although the had been drinking. The other witness, driver and drive well, although the had been drinking. The other witness, driver and drive well, although the had been drinking heavily the odour form the accused. We know on the way home to the cather washed the definition.) Has the definition of Mansiaughter. (He read again.) I would reed to the Gourt form the accused has not been charge.

Address of Prosecuting Officer

So far as the case against Gar. Syan, the Frosecttion has tried to show that there was a negligence and disregard to life in that his driving was reckless, probably brought on by the **Mixing** fact that he had been drinking or was drunk. We have the statement of the Medical Officer to state and see was at the scene of the accident. A man who is trained to state and see was at the scene of the accident. A man who is trained to state and see what is the matter with a preon and he made the statement that myan was frothing slightly at the mouth, that his speech was incoherent and he had frothing slightly at the mouth, that his speech was incoherent and he had frothing slightly at the mouth, that his speech was incoherent and he had from the large sale of the road and that the first stated that the floyle of you, was a competent Medical Officer. The first stated that the floyle of you, was a competent Medical Officer. The first stated that the floyle of you at the edge of the road and that just immediately prior to the wollison, at the edge of the road and that just immediately prior to the wollison, set the edge of the road and that just immediately prior to the work he was not that he was endeavouring to evold the collision. He seemed to realize that he was about to be hit and was waking an attempt to get out of the way. The same about to be hit and was waking an attempt to get out of the way the wenicle vehicle to pass. Her original statement stated that the sew the vehicle are very towards the bicyclist in which case it looks as if the vehicle from the bicycle down, instead of the bicycle ranning the vehicle down. From the bicycle down, instead of the bicycle ranning the vehicle down. From the bicycle down, instead of the bicycle ranning the vehicle was not hardward the road the fender had caught him under the arm. He was not hardward the road and the seasoft on the way the week of the was not backed to the wind of the according to where the claim to was not be set to be supplyed to the serve to the way to the

J. A. On Submission The court should disallow the submission of there is loidence, which if uncontraducted, more than a scintilla of evidence. which suggets the charge and which the court at this stage was one not prejend to distribut. He court is certing an a judy and not a Jury and wed not consider a decide the redibility of witness of In case beyond a reasonable doubt. I lyon think that me eindere given - and you were to bear no more you would find the course not guilty, you should allow the subminer of allow the submission.

Would you tell the court what happened?

Around 0600 hours I left the Shop in a truck and went towards the centre of this city for about a mile. On my way back to the shop some artillery Personnel helled me for a drive. They said they were in a hurry and asked me how far I was soing. I told them that I would drive them down a little way for about ten minutes and then turn. I turned and headed back towards the shop. I was going down the road and I heard my truck hit someting. I then stepped by the road not off the pavement, got out and went around to the tail-end of my truck and saw them carrying a soldier off the road. I then got in my truck and saw them carrying a soldier off the road. I then got in my truck and backed it off the road on the grass, off the pavement. There was a soldier there end he left to get First Aid or a Doctor. Then came the Red Gross Ambulance. He said he had no room to take the man but would notify the nearest Soldiers Barracks. An Artillery Sergeant came back in a 15-owt. One Red Cross man was still there wish me. The Sergeant went for the Medical Officer. He came and took over. That is about all. Had you been drinking previous nights? A few drinks the night before. How long have you been driving a truck? Off and on for ebout three years. Are you able to estimate the speed of a vehicle, in particular, a 3-ton wehicle, when you are driving it?

Not very accurately.

How fast were you going when you became involved in the accident?

About 30 miles per hour, maybe a little faster.

The stere any other traffic? A No. Did you expect to see a wehicle or any other object coming in the opposite direction to you? Why? Now did you find the steering on the vehicle that morning? Quite stiff, where in relation to the centre of the road were you driving? Near the centre, maybe a little off to the right. Did you see this particular bicycle? Have you no explanation as to how the accident occurred?

No. I just heard the impact and then I stopped.

How far after the impact did you vehicle travel before you stopped?

Houghly two numbered feet.

Did you know what you were doing?

After the accident, I became quite nervous.

Here you upset?

Yes. Yes. How do you feel about the scaldent? The Prosecuting Officer than cross-examined the witness: Have you ever driven in big Sities? Yes, in London, England. (P.C. I can't damy that Gipy is big!) Did you have any difficulty in London in the traffic? A Neve you driven in big Sities other than London, Angland? Quite s lot in Rome, Florence and Esples. You have had considerable experience in Sities? A Yes. Any accidents before? No.

Why not?
I usually let the Orderly Sergeant take it to the Mess and bring the
Sorgeants back, because it had seats in it.
What time did the Orderly Sergeant usually go for the Sergeants?
When we used to take it over, it used to be about 7.15 a.m.
And you left at 0600 hrs., and thought that you might not be back in time? Because your own vehicle was being used to pick up Sergeants you took No. There was no driver for the truck involved in the socident and I just took it. You knew that it was not your own truck? That is right. You said you had some drink the night before? What time did you I inish drinking? About midnight, Where did you spend the belance of the night? In the Camp. In the back of the truck I took out in the morning.
When you left here you went up-town and then you receded to take
Artillery was in the Daybrecht direction?
That is right. On the merging you drave to Dordrecht, what lane did you drive in?
The left-hand lane.
Would you think it unusual that you arove back on that same left lane,
that a man might be proceeding towards you on that lane?
No, they drive all over here.
But in fiew of the fact that you went down that lane, it would not be
unusual for someone to come down that lane? Approximately what time did the accident occur? A witness states that the scene of the accident, just prior, that your truck swerved. What would you say? truck swerved. What would would not say it swerved. What would you say?
It was going straight on.
On the right-hand side?
In the middle. You did not see the bicycle? How fast were you going? About 30 miles per hour. Have you driven over the road before? Yes, once. A The A.D.J.A. then questioned the accused: You were returning in the same lane you went down? Yes. When you say you were driving in the centre of the road, do you mean that you were straidling the centre line? What would you say as to your condition that morning? I would not say I was drunk.

Were you sober?
I would say I was sobar.
What did you do crom 06.10 to a perceimately 7.00?
Went down-town and was driving the boys back. A

I'think the origin I place to start with this address is to go back to the night before, where a man has a few drinks before midnight. Then he sleeps in the back of a 60-owt. In preference to his own bed which is only a matter of a short distance away. The next morning at 00.10 a.m. or shortly after 06.00 o'clock he awakes and decides he must drive someplace on some errand which takes him out of the Unit and Into Rotberdam a short distance, at which time he picks up some Artillery soldiers, whom he coes not know. The benevelence of a suldier is to as appreciated. He proceeds to drive them home and then turns for home. Ithink he is still "shaking cobwebs" from his evening before. He is involved in an accident resulting in the death of mother soldier, an accident, which the evidence tends to show the other soldier was well within his rights in driving his bloyds when he was. One witness on the scene states that he truek swerved from the centre to the left to rund down the bicyclist, who it seems was well in his own side of the road. This witness in cross-examination, this girl, does not produce evidence concrete enough to say that the man was drunk, but size seems to believe that there was something in his behaviour that was not quite right. Inother witness arrives on the scene, the Doctor, and he is almost sure there is something "fishy" but the technicalities of the law do not per it him to say the man is drunk, but who must say it is his impression. The other wan had teen drunking. All statements are weak samittedly, but still a very competent Medical Officer felt that the men was so incapable of driving that he ordered another man to drive the truck home, possibly tecause he feared the consequences should this man drive any further. It is my duty to prosecute this case and try to procure evidence strong enough to get a conviction of the charge. I maintain that the negligence as shown by the ariver while driving this vehicle was such as to be culpable and therefore the charge as laid should stick. I'think the origin I piece to start with this address is to so back to as to be culpable and therefore the charge as laid should stick.

ADDRESS OF THE DEFENDING OFFICER

ADDRESS OF THE DEPENDING OFFICER

What we are interested in, in this court today is whether this man is guilty of manslaughter or not, not what he did the previous night. There is no doubt that the accused had been drinking the previous night, so why the prosecution stresses that point, I do not know. It is admitted, that he had been. Was the accused guilty or nagligence so gross and so great that he is guilty of man-slaughter? I submit he is not. This is a criminal charge, and negligence must be so great as to be culpable.

The first witness was the Dutch girl, She stated in cross-examination and I believe her syidence, that she sid not see what happened until the moment of impact. So far a speed is conserved she cannot estimate the special states it took two minutes to stop but he was only 75 feet from the point of impact which proves he was not going excessively rast. She calls states it took two minutes to stop but he was only 75 feet from the point of impact which proves he was not going excessively rast. She states it took two minutes to stop but he had been drinking. Again I submit, she was right, he had been drinking, but no doubt, he was nervous and tense due to the accident. All that must be taken into consideration. Gept. Fark, second witness, says he considered the accused drinks in cross-examination he admitted that the man's appearance and even behaviour could possibly be consequences of the socident. He elso stated that a man could Gapt. Fark, second witheses, says he considered the accused drunk. On cross-examination he admitted that the man's appearance and even behaviour could possibly be consequences of the sociaent. He also stated that a man could drink and be causable of driving and driving well. Sofaras speech is accorded, there is a more or less a natural impediment and does not speak well at the best of times and you may well imagine what his speech sounded like after a serious accident, like the one he was involved in.

Third witness, Dumant, Frivate suider on guard, who say the socused or arive out says he appeared quite normal.

Fifth witness, Smith, stated that the vehicle's steeping was heavy. I would like to stress this for it is the first time the accused has driven the vehicle. If he should take his hunds off the wheel for a second, the vehicle may veer. The accused cannot give any exclanation for the socident so we must take every possibility into consideration. So I stress the fact that the steering may be a very potent factor in the accident.

Ghr. Brooks who drove the vehicle home says his only indication that he had that the accused had been drinking was his eyelids. I submit, that Brooks, should be able in a warm with the accused, to have smelled the lique rom the accused. He states the accused apeared to know what he was deling and spoke to him a few words. He did speak quite logically.

We must also take into consideration the fact that there was there a bicycle path. True, the bicyclists here in Holland are not good traffic disciplinarians. What was the soldier doing at 7.00 a.m. on a bicycle?

We do not know, the poor laddle, is dead but again we must take into

consideration every assibility and winder to curselves what the brayels was doing on the road at that time.

I have read in my original account, the definition of Manslaughter and the amount to prove it. The Goas of Froof lies with the prosecution. If there is the slightest doubt a verdict of Not Guilty should be brought in, by the Gourt. The evidence produced by the Prosecution is uncorroborated. Just a young butch girl, who even in her evidence does not indicate that the accused is guilty of gross negligence. I would like to suggest, that at this atage of the same, a soldier who has been in the army for four years, it would be most difficult for him if he should be found guilty and I would ask the court to be as Isnient with him as possible because, in my opinion, there is a doubt and I will leave to the Court.

List. G. C. Grant, of 3 G.I.B. Wksp., R.G.B.M.E. and having been duly sorn testified as follows:

Do you know the eccused person?

I know him as an C. ricer knows a Private soldier.

Would you give the Court your opinion of this man?

Bis work has been a tisfratory and he is fairly conscientious. As a driver he has a vehicle in good shape and a consistent driver in all respects. He has never been in trouble here concerning his conduct by performance of duties.

DEFENDING OFFICER

Just a short statement on the accused's character. You will notice that he has been a very good soldier. He joined the Army in 1980. The only marks on his M.F.K.-6 are very minor. One A.W.L. of 45 minutes and an A.W.L. of 5 hours an 45 minutes, in a period of five years of soldiering. The soldier is thirty-one years oil and the Court has seen fit to his guilt on some offenes. Some punishment must be meted out. I would ask the gourt, very seriously, to consider of Suspended Sentence. The accused has assured me will volunteer for the Far East and any period of imprisonment in Detention will prevent his going to the East. He still is willing to offer his services in the East though the war in Except is over and therefore I think that the Court should be dealing very laniently and I therefore, again very seriously, urge the Court to consider a punishment of Suspended Sentence.

BULBING UF BY JUDGE-ADVOCATE

as The Judge-Advocate appointed for this trial, it is my duty to advise the Court upon the law relating to this case.

I wish first of all to commend both the Prosecutor and the Defending Officer for the abls and conscientious manner in which they have carried out their respective duties during this trial.

If this were a civil trial by the judge and jury, it would be the function of the judge to decide the law, and the function of the jury to decide the facts. In the case of a trial by Court-Martial, however, it is the responsibility of the court-martial to decide both the law and the facts relating to the case. It is my responsibility as judge-advicate to give this court correct advice with respect to the law relating to this case. The Court are not bound to accept my advice as to the law. The dourt however should do so, and should not disregard my advice us to the law, except for very weighty reasons. If the Court should see fit not to accept my opinion on any question of law, they should record in the proceedings their resears for disregarding my advice.

I wish to make it perfectly clear in the beginning, that this court are the sole and only judges of the facts of the case. Although I have as Judge-advocate, not merely the right but the duty to give the Court the behefit of my opinion on any question of law arising in this case, it would be improper for me to express any opinion to this Court with respect to any question of fact arising in this case. If I have at any time during this trial said anything, or if I should at any time during this Summing-Up say anything which might in any way be construed as an expression by me of an opinion with respect to targof the questions of fact arising in this case, it is the duty of this Court to entirely diaragard any such statement or statements by me.

I will now deal apprirably with the points of law relating to this case. The law applicable to this case is the law of England.

BURDLE OF PROOF

Resd Sec 42 120 Page 115 Read Sec 46 120 Page 1164 para 1,2,3,

It is no defence to an indictment for manslaughter, where the death is shown to have been caused in part by the negligence of the prisoner that the deceased was also guilty of negligence, and as contributed to his own death. ARCHBOLD Page 903.

order to establish the orine of manclaughter; the facts must be such that in the opinion of the court the negligence of the ageused went beyond a mere matter of compensation between subjects and showed such disregard for the life and safety of others as to amount to a crime against the state and condust deserving punishment.

In my opinion the court in determining whether or not the accused is guilty of negligenes, and the degree of negligenes, if any, amount also in that respect consider the evidence as to the accusedmondition—as to his state of appriety or inactricty. If the court finds the accused not guilty manufacture they can if the cyclicnes as warrant and they so desire find the accused guilty of reckless or dangerous driving.

Read 24 & 25 Geo 5 0 50 3 34 Page 877 ARCHBOLD Read the 1st para 20 & 21 Geo 5 ch 45 (Rd Traffic ace 1930) 5.11 at P 368 ARCHBOLD Read ARCHHOLD Page 906 pura on Motor cars.

The court have a complete and accurate record of the evidence of each witness which it can study when considering the finding of the court and that by reason or this fast and as the evidence is not involved and also to avoid the langer of inavertently expressing what might be considered to be an opinion by me on a question of fact arising in the case, both I and the court do not consider the summing-Ep of the evidence to be necessary. I sum up the case as follows:

The prosecution claims that on the morning of 8 June the accused while driving along the Automome-December Mighway so negligently drove his vehicle as to hit and hill a-fil27 Our function, a.s. jet we have a to he prosecution claims that the accuse was according and company negligent as to be guilty of manufacturer. The accuse on the other hand contends that the accused was not driving negligence if any, was not of such a degree as to warrant a finding or guilty of manufacturer. As I have already said, the court are the sole judges of all questions of facts arising in the case. In weighing the evaluates the witness gave evidence before this court; the impression the witness sade upon the court as to the homesty or reliability of that witness; another the switness given by the witness of such a nature as to likely be true or false, in the usual course of events; the existence of any motive which might induce or influence any witness to not telling the true or false, in the usual course of events; the existence of any motive which might induce or influence any witness to not telling the true or false, in the usual course of events; the existence of any motive which might induce or influence any witness to not telling the true in false. The impact of the court are the scale with in part 10 and 11 ch. William page 72 which read as follows: (read part 10 and 11 ch. William page 72 which read as follows: (read part 10 and 11 ch. William page 72 which read as follows: (read part 10 and 11 ch. William the evidence, any private information which may have come to his attention regarding this case.

In conclusion 1 wish to repeat gain that the accused may have come to his attention regarding this case.

In conclusion I wish to repeat again that the accused must be presumed to bw imagent until proven guilty beyond a reasonable doubt, and that if after sua honest and fair consideration of the whole evidence, a reasonable doubt as to his guilt remains in the mint of the court, then it is the duty of the court to find the accused "not guilty".

asto the law or the court desire any further instructions

BrevLE PATH ROAD BOULEVARD DORDRECHT, Point of impact. ROTTERDAM ROAD BICYCLE PATH Rutterdon

in all such cases it must appear,

cangloughter, where the description of the priso

death was the

a light decreas of parligence must be groved in crime of manufactories; the facts must be such court the negligence of the scenaed want beyond satisfactories and aboved such digrect of others as to smount to a erime against the

n by opinion the dourt in determining whether or not the accused y of negligence, and the degree of negligence, if any, should all respect consider the evidence as to the accused condition— as the scottlety of insobriety. If the court finds the accused whiley manufacted they can if the evidence so warrant and they willty principles or damperous driving.

a) (ad Practice see 1950)

The court have a chilless and accounts the rinding of the witness which it and Study when considering the finding of the call that by reason of this fact and as the evidence is not investigated what which the court to be an opinion by no on a question of fact arising what which with both I and the court do not consider the summing-Up of the

And the procession of the time the bridge of 8 the the government of the process of the time account of the process of the time account of the process of the time account and the self-gent of the circumstances, but the firm and the accurate the circumstances, but the firm and the accurate the circumstances, but the firm and the self-gent the self-gent the circumstances, but the firm and the self-gent the

In conclusion I wish to repeat such that the scouled must be and trust to by inspect that I prove suity beyond a reasonable doubt, evidence, a reasonable doubt as to his guilt remains in the mind of the court, then it is the duty of the court to find the accused most guilty.

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JORDRECHT, BYCKLE PATH なも ROAD BRIDGE DICYCLE PART WITHERS BOULEVARD Paint affinger Consus C FROM ROTTERDAM

- 1. Sub-arach tots langurhage [----].

- 4. Simple fracture of left femur with a large amount of

7.3. 800 May (I. J. M. OKE) Lt.-Gol., 4 Cdn C.C.S., H.C.A.M.C.

Let x

M.F.B. 555 22M - (-41 (572-8) 11 Q 1772-80-620 A F.B. 206

STATEMENT AS TO CHARACTER AND PARTICULARS OF SERVICE OF ACCUSED

				and the second second second				
47		Rank		Name :		Regit	ment (or unit)	
Number			HY	AN, Fade	3 Gdr	Inf	pde wksp	RCE
32873		rt.e.	45.40					
		a fair and true sum				ad Aqin	e and Denoral Elemy Habbery	1
Conduct shee	ets Conduct she	ets of the accused,	exclusive of Air Force A	convictions by a	Court-Mi	artial or	a Civil Court	
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Numbe	F-OI-Instance	e in gammay or se	or,					
401	no antrio	s in the conduct sh	ects of the s	ecused.				
There	are no entre	ge is for drunkenne	ss the entri	es for drunkenne	ss must be	stated s	eparately.	
2. Tl	he accused he	us not been previou	sly convicte	d				11
			or.					7.
Section 47	ous conviction Air F of the Arr this statem	ns of the accused orce Act and disperent.	nsations with	γ trial under Δ.	A. 73 are	set out	in the Sched	ule
		s not under sentenc	e at the pre-	ent time				-11
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	tody, and		ment awaitii Air Force military pent in hosp	ustody, making	sent charg a total of	1.2	days in custo	
5.	The present	age of the accused	according to	bis record of se	rvice is paper is		no. 10 9tu	
6.	The date of	his commission spe attestation	and in	Precional infan		- ,	906 40 906 101 N	
7.	The service	which the accused	is allowed to					
		l is entitled to recke		165 7 1			ing his pension d tree reward (o	
		d is in possession o	1.65	military		mil	tary	
possessi	ion of or ent	itled to). State as	w air wron military	decoration or rew	CV5	486		
10	. (If the acc	used is a warrant of	fficer.) The	accused before h	ie was mad	le a war	rant officer las	t held
the reg	r Force imental rank	of NA						

date	rd .	, and in his	regiment (or corp	s), the rank of
date	ed			
12. The accused has seent date:—	rved as a non-comn	nissioned officer continu	lously, without re-	duction, to the
			Dat	e of promotion.
In the rank of	NA.	years.		
In the rank of	NA.	years.		
In the rank of	NA.	years.		
Note.—If any matter is ragraph must be struck th		ragraphs cannot be stat	ed from the Regim	ental books, the
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exhibit y Jean. M.F.M. & enlistment / AuG 40 Badger No G 32873 Name RYAN, P. J / Signature O.C. Company, stc. Company Conduct Sheet WORS AWL FROM 2215 HRS IT MAY POLYMENTRY FORFS 5 DAYS 17.5-47 MATOR LF 14.5.44 PTE FIELD PAY FROI HOIS MACDONALD 44 UNTIL APPREHENDED BY CMP AT 1158 HRS IY MAY 44 (ABSENT 43 mins) SEL 15 (1) AA WORS ABSENTING HIMSELF WITHOUT LITTLE SOT LELAUNER TO DAYS FR FIELD 8.7.4 PTE LEAVE FROM ALOO HRS & TUL HY 1. TY761 PTC HIKALSKY FORF 10 BAYS WHIL D348 HRS 9 TUL 44 . D. 139513 PIE COULINEAU PAY FR. 1 (149) (5) ABSENT SHES 48 MINS TO THE WY FR CONAGO AA SEC IF (1) certified true copy: Ahacking holor 3018 why

rage 1 Summary of Evidence in the case of G32873 PTE RYAN P.J. 3 CON. INF. BDE. WESP R.C.E.M.E. By direction of the bounding Officer, the evidence is taken on oath, Tust Wilness 389178 Igt booke F.E. 3 bdu In Bde Wksp RCEME sworn states Fam B 19118 Sqt Cooke 4. 5 and I certify that Pite Ryan P. J. was not on authorized driving duty between the hours of 05 30 to 0800 hrs on Friday 8 Jun 45. The damage to the vehicle was on the left front fender which was slightly bent under, there was no other damage to other parts of the vehicle The accused declines to crosschamine the witness St. J. C. Cooke Second Witness L 154214 Efu. Dumout A 3 Cdn Inf Bde UKOP R.C.E.M.E sworn states .-Jam LIS4214 Cfu Duwout A of 36der Suf Bide Whit and was on guard when the accused drove out of the gate at 0610 hrs 8 June 45. He drove up to the gate and stopped and asked me to open the gate which I did. I don't remember which way be turned. the accused declines to cross examine this wilness

Tage 2 Wilness -Miss Cetzina adriana Krim Koninginnistraat I Rood bordrecht. sworn states chrough an interpreter Kremer H 64870. Coming I am Miss Cetzina advand frium and on Friday 8 June 48 I was coming from Rotterdam and saw a banadian soldier on a briggle also corning in the same derection and a military truck come from the direction of bordrecht. The soldier on the briggle was truck was riding in the centre of the road the When they came logether the truck sweing towards the left and hit the soldier on the bicycle, the soldier and bicycle were chrosen to the side of the road and staight there. The soldier moved a little & The driver of the truck stopped, looked and was about to step in again when are a uglish soldier came along and. stopped him from driving off. Then a vehicle. of the N.B.S. came, it was stopped and they went for a doctor to the banadian soldiers who in turn went for a doctor to the scene of the accident and then for a doctor. The vehicle was trevelling fast and after impact took about 75 meters. The accused declines to cross examine this witness

Page 2. Capt A.M. Park Medical Officer of 3 Fld Right. RCA sworm states: Dans Capt AMPark Medical Officer of 3 held. Regt R. C. A. approximately 0700 has to see what I was told was a serious accident. I gathered my necessary equipment and my orderlies and proceeded to a place on the autobahn where the sendent occurred. Upon arrival we found the body of the dereased identified by papers in his packet as 4-31727 Gur. Johnston A. J. 3mFulley propped up an the bank on the left side of the road as we approached. He was already dead. a cursory examination of the body revealed that he had suffered sivere compaund fractures of the left chigh and left arm. The body was placed in a vehicle. I questioned the driver of a 60 cent no. C.L. 4273306 who identified himself to me by presenting his paybook as fte Ryan P. J. of 3CIBWksp. He was unable to tell me augthing of the circumstances of the accident he appeared confused, undeady, and in my opinion was definitely under the influence of alrohol and in no fit condition to down. We examined the truck up C1.4273306 and found that the left front fender was reposed

point of impact of the body, we picked up a breight with a badly bent & smarked. frontwheel identified by a civilian witness as the bicycle on which Gur. Johnston was reding We then questioned a lot of civilians standing by and one god adriana Prim stated that she had been the only wilness to the accident. The was brought to the vehicle & returned to the june HQ. for questioning and a statement to an of my drivers drove the 60 cut with. Pte lyan as passenger to 3 CIB wksp. I went in and reported the accident to an offerer in the Orderly room of 3 ct Bwksp. and suggested that Pte Ryan be placed under arreston a clarge of drunkenness. There were no tire marks or other marks at the placed of assident to given any chies as to what happened. We went to 4th Id ambulance for a stretcher jeep and brought the body to RHQ. 3 Id Regt R.C.A. where its disposal was discussed: It was decided that in view of the lack of widence of fatal injury on external examination that a post mortem should be held to definitely establish the cause of death and the body was taken to 4 CC. 5. in assister dam where are autopsy was performed by May or a phaston on Sat. We have not yet received a way when the fort. The accused declines to cross cramine thewelness

lage 6 Durlify that in my opinion the allendance of this witness is, owing to the absence of this officer on draft to banada not readily procurable and a written statement of his adence signed by him in the presence of the accured is attached hereto a white A. I certify that the foregoing Summary of Evidence consisting of two six pages was taken down by me in the presence of the accured and that RP 4 (0), (D), (E), (F) and (6) (13) have been complied with to Frank

BICYCLE PATH BOULEVARD ROTTERDAM DORDRECHT BOULEVARD 40yds -> do BICYCLE BRIDGE VEHICLE BOULEVARD BICYCLE PATH I certify that this is a true drawing of the scene of the accident M.R. \$18693 ROTTERDAM, Sheet 4.

Supplementary Summary 1. Evidence in By duction 1, the commanding officer the evidence is taken on oath. Difth Witness D 132557 Gur Brooks, R., 3 Com Flat Regt, R.C.A, swow states:-Jam 2132557 your Brooks R, driver of RAP vehicle for 3 to Right R.C.A. On the ingrining of 8 June 45 at approx 0745 hrs, It there top accompanies Capt. a. M. Park, Thed for 3 3d Regt to the scene of an accident which occurred on the rollerdam Dordrecht highway. On arriving at the scene of the accident Capt Park examined the enjured man A 31127 Gm Johnston. A. J. 3 Fd Rigt R C.A. and Sound him to be dead. Iwas then detailed by Eapt Pack to drive the R.C.E.M.E. 60 aut back to the workshops which I did. as Capt Pack said Pte Kyan was not in pat condition to drive the vehicle back. Thy impression warnthat the Ryan had been drinking and was

in no condition to drive because he was dazed and appeared to know little of the accord Allines to ley jup Copt what was going on. Cross enamined by accused in -A. How did you find the vehicle steered? A. I found the vehicle when driving it, very difficult to steer. Sinth Witness M 3322 Bdr Shields & R.C., 3 Cdn Fd Rigt R.C.A. states :for Cast. a.M. Park, 3 Fix Regt, RCD. Jacompan apt Park to the siene of an accident it about 1745 his 8 une 45. A31127 Jun Johnson was lying in the bank of the road already dead When we arrived. The v chicle that struck him was a so cut from REEME. The driver The boot was there walking about in a dayed condition. The accused to now

recognize as being the driver of the schools that struck In Johnston capt lack instructed for thetelo to brooks to driver THE REEME GO CENT and driver back to The accused deling to cross drawing the welness K 83065 A/S/Sgt Smith JEW, NCO /c R. BI.,
3 Chr Inf Bde Wksp., RCEMA, www. taker. on 8 June 45 I was asked by ADHS Taylor E.A. to road-test Ford 60 cot W.D. No. CL 4273306 for its mechanical performance. I found the long to be in a serviceable Condition. The only defects noted were that the sleering was heavy & the Speedometer was no. The left front funder was blightly bent back. Slightly bent back. The accused delines to cross exame the witness JEW Smith.

tredence 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 give in widence. I certify . that the foregoing supplementary Summary of Evidence, consisting of four pages was taken down by me in the presence of the accused and that R.P. 4(c) (D) (E) (F) and (6) have been complied with. alog upp last 3 lan In But Wkep In the fuld

HOTICE FURSUANT TO R.P. 76

Re: G.32873 Pte. RYAN, P.J.

Take note that the prosecution intends to call Major L.G. Johnson, 4 Cdn C.C.S., RCAMC, at the Court Martial of Pte RYAN, F.J. as to the cause of death of Gnr. Johnson, A.J., 3 Fld Regt, R.C.A.

akoy Jupp lapt

LLL-49 . TPR RYAN T.J

*



RECORDED AT CMHQ IN AB 160 1 LL L-49

Convened by Order of Briss T. J. Butherford Comd St Sp. Call dated 12 May 44

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, A/rank or A/appmt, 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. Surname.

PROCEEDINGS REVIEWED 27 May 44

R. Dean wills Capt.

PROCEEDINGS OF TRIAL.

Held WAR Hall Country R. JAG BRANCH G.M.H.Q. on (date(s)) 19 May 44

RECORD FORM A-OPENING PROCEEDINGS AND ARRAIGNMENT.

The President, Members, waiting Members-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 BY PRES OR JA. The Schedule referred to throughout is on it 4. Citations do NOT include all relevant from ROL. For guidance on procedure when a variation in this form arises, see form for GCM in MML by 141 to 759. A brief record of such variation will be made and given a number having reference to appropriate or 50° about 750 and 750 by 50° by

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

(1. 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.)

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

A4. The Prosecutor produces a Medical Certificate that accused is (mre) 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 summarily by the CO (2)

(I. KR Can 557. 2. AA 46(8), RF 60 (n I. For effect see KR Con 563(c). Delete, if not applicable.)

The interpreter a sworn (*) Do you object to 28126 SJT SINGLAIR as shorthand writer ! Aus NO. Sir. The shorthand writer is sworn.(1)

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

Defeading Offe

A6. 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. 31.7. (F)
(I. RF 110. 2. If no objection, waiting member retires. RF 68(B). If objection, see procedure AA 51, RF 25, 71, 18, MANL p 742)

A7. The President, Members, #A, if any, and Office under instr, if any, are sworm.(1) The following are the ranks, names and units of the office comprising the Court, etc.:

President Member Member Judge-Advocate Prosecutor

N.J. WEINER Questions by President: Is the Prosecutor a lawyer ! Ans. NO. Is the Defending Offr a lawyer ! Ans. NO. (*)

(I. RP 26, 27, 109, 111. List of offrs under losts will be returned separately with proceedings for information of Conv Offr.)
(2. If Pros. c lawyer and Def Offr not, accused in entitled to an adjournment when RP 89 (8) and in 2 were not followed. See DI p 3.)

A8. The accused before arraignment make(s) (no) (g) plea

(I. If a special bloa is made for separate 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 bor of trial (RP 36), or as to accused's mental filmess to stand trial (AA 130, RP 57), or by one of several accused charged jointly to be tried separately (RP 16, 71), such piec, the advisesses mode in subport or opinist, the evidence, (I any, and floating are recorded per Notes. For forms of record see references in first to Rub sited. Insert in AB rank and name of the accused making the piec.)

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

(i. RP 3), il 2. See parc i of Instrs p 2. When more than one Charge Sheet see RP 62; when several occused to be intellige see RP 71(C), and use separate opies of CF AP6 to record proceedings.

2. RP 32, RP 33. If otherwise, delete to appropriate record per Notes.

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

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 withdrawn for any reason without authy from Convening Offic. If Convening Offic 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 2 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 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 83-80; calling or re-valling of witnesses by Court etc see RP 75-79, 86, 116; use of Summary of Weidence at Trial see RP 17(K) 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 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.(2)
(1, RP 35 fo 3. 2. AMML p 54 pers 47.)

B2. President to accused: The Court will now receive any statement you design to make in reference to the charge(s),(†) If it appears from your statement that there are circumstances which indicate that you do not under-stand 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 ochange your plea to Not Guilty. In the winnesses for the Prosecution should be examined(*), we shall advise you of 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 soon testimony, if you so desire.(*)

President to accused: Do you wish to make a statement (1. RP 37(8). 2. RP 37(D) (n. 6. 3. RP 35(8) (c. 5-Para 3, MML p. 54 para 47. 4. See para E3 of Record Form E. 5. Statement, (f. 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 accused is (are) so informed, and he (they) (their) plea(s) on charge(s). Part I of the Schedule is amended accordingly. Court may be closed to consider the statement. Delete whole or port not used.) change(s) his (their) plea(s) on

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 Schooline.(1)
(1. RP 35(8). [Converged(s) is (are) changed, use Record form C or D as appropriate.)

tomary of Evidence is marked Ex., initialled and read aloud by the President. (2) fore is no Summery, or this is indequate, comply with RF 37(8). If there is any evidence inconsistent with any plea Guilty, Court will odvise active to change such plea and. If changed to Not Guilty, try such charge(s) by use of DB inclusive of Record Form D on § 3. RF 37(O). B5. The Su

d having been found Guilty on one or more of the charges, the proceedings are concluded by 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.(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 U.

(i. Under 85 such parts only of the Summon of Africa are read as relate to the charges dealt with under C2. If any piec is changed to Not Guilt, trial thereoe proceeding company with paras D1 to D8 inclusive in Recard form D on p. 3 and making an appropriate record thereof on a separate select.)

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

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

Pin here Loos 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

D2. The Prosecutor makes (sub) (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) NOTE-AII
(1. RP 39(C), 114, KR Can 555. Record evidence per Notes. As to Prosecutor give

or 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 facic case against the accused on the $I \supset U \supset U \supset U$ charge(s).(*) The Court is closed, and considers the submission.(*) The Court is re-opened, and the President announces that the submission is disallowed on the \$1.25 \to 2 \to 5 \to 1 \to # The latter charge(s).(4)

D5. President to accused: You will now proceed with your defence.(1) You may, if you wish, give evide From the factors of your character or both, in which case you will be subject to cross-examination. (2) You may, however, make a statement without being sworn, and you will not be subject to cross-examination. (3) But a statement which could have been made on oath will not carry with the Court the same weight as sworn testimony. (5) You may call witnesses in your defence and as to character, whether you give evidence or make a statement or do

President to accused: Do you wish to give evidence yourself as a witness, make a statement, or do neither ! Ans To Time Evistence .. Do you intend to call witnesses on your behalf ! YIS Are they witnesses as to character only | Ans 200 - 300 (1. RF 155. 2. RF 40(A), see 80(D). 3. RF 40 (n 10. 4. RF 40 (n 2.5.)

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

(1. RP 114, 115, 116. For procedure see Notes on bock of Convening Order, CT A55. Evidence for accused as to his NOTE character should, if in his interest, be given before the finding. See RP 46(A) in 1, 88(C). Notes the further opportunity in para E1 of Record form E. Record for Notes addresses, statement, evidence and any summing up by the JA under RP 42, 103(e).) ATI

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.(2) The Court is re-opened.
(1. RP 42, 117(A). See Notes in Part I of Schedule. 2. RP 44(A).)

DS. 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)

charge(s), being subject to conformation, will be promugated into 1.

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 disted and signed. (*)

(1. AA 54(3) (6), RP 45, 120(8). 2. AA 54(3), RP 45, 117. This distensive consumment is not opplicable when there are pleas of Guilty outstanding and dealt with under Record Form B or C.)

199. The accused having been found timity on one or more of the charges, the proceedings are concluded by using R Second 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 yo

If eridence has already been given by accused or his witnesses as to his character, delete this para.
 Accused and witnesses are swarm. Evidence recorded per Notes.)

E2. The Prosecutor produces Statement(s) as to Character and Particulars copy (copies) of Conduct Sheet(s)(*), purporting to refer to the accused, which be examination, and then to the Court for admission in evidence. The Court sat mits to the Defending Offr for satisfied that these documents refer AA 163(I) (g) (h), and (ii) they purport a accused. Admitted in evidence and to the account of the to the court of annual in the manner re-to refer to (a) soldier(s) having the same number, rank, name and or

d Ex and Ex respectively.(3) pere 1.) PRE 355 or AFB 296. 2 MFM 6. 3 3. RP 46. KR Copy 558. If above documents not produced, see RP 46 fn |

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

mitigation of punishment (*) Aus.

(1. 8F 27(5), 46(0).

2. Address, if any recorded per Notes. Court should permit accussed or his witnesses to prove on ooth onything here or previously stated which would offect the amount of punishment. RF 27(F) fo 7.)

E4. The President states that the fourt 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 well be promulgated later, and the proceedings in open court are accordingly terminated. (1)

(i. As 54(6), 87 12347
E5. The Court cost does the sentence (2). The President records the sentence in Part I of the Schedule, which is dashed and signed by firm and the JA, if any.(2).
(i. Who is even) accused tried separately see RP 7(D). One sentence only compensed of the punishment or punishments lost down As 41, 44 and its presums is to be executed to cover all charges in oil offere wheets on which occused found guilty. RP 45, https://dx.doi.org/10.1008/10.100

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

SCHEDULE.

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

Charge.	Plea.	Finding.		
(Insert "alternative" where applicable.)	(See Instrs p 2) Not Guilty	(See note below.)	(Space for use as required sp	for further charges, accused charged jointly, eccul fundings, etc.)
nd AA Sec 15(1)	ouliky.	Fully		
rd				
th			an administration of the second	
ith				
5th				
INote: As to	(indings for lesser offer RP 44 and MML p 75.	nces see AA 56, RP 44 ;	findings on alternative charg	res see MML p 483 fn 4 paro 2, RP 44 ;
Sentence Awarded by		szele	naid	
Sentence Awarded by	the Court:	19 Mm. Date- Convening Order as to a	MALL Notes and disposal of record	President (96° 45, 50.)
Sentence Awarded by BALLAS (Sgd) Judge-Ad	the Court:	19 Mm. Date- Convening Order as to a	144 Ngg	President (96° 45, 50.)
(Sgd) Judge-Ad	vocate, if any (See bock of (19 Phy Date- Convening Order as to a HERE CONFIRM	AATION RESERVED	D. (AA 54(5), RF 120(F), MML 9 760.)
Sentence Awarded by GACAS (Sgd) Judge-Ad PART II. PART III. (For duties and confirmation on not confirmed, promulgicion: 57A, NF 53A. 5	vocate, if any (See book of 6 MINUTE WH (Sgd) DECISION (powers see AA 54, 57, 6 cannot be revised via cann	19 /h.s Date- Convening Order as to a HERE CONFIRM AP 37(D) In 6.46(A). 1 AS 4(B). Sending boot plantal formula Lip promising offer promising offer promises and approximate type must support and services.	AATION RESERVED Commanding NG OFFR ON FINI 51-56, 120, MMM, pp 759-761, 8 finding or sentence for rese	President. (8P 45, 90.) Ind after trial.) D. (AA 54(5), RP 120(F), MML p 760.) DING(S) AND SENTENCE. , KR Can 567-577. Acquittable require no usen by Court: AA 34(2), RP (2NG). If
Sentence Awarded by GACAS (Sgd) Judge-Ad PART II. PART III. (For duties and confirmation on not confirmed, promulgicion: 57A, NF 53A. 5	vocate, if any. (See bock of (MINUTE WH (Sgd) DECISION (powers are AA 54, 57, 6 counts be revised)	19 /h.s Date- Convening Order as to a HERE CONFIRM AP 37(D) In 6.46(A). 1 AS 4(B). Sending boot plantal formula Lip promising offer promising offer promises and approximate type must support and services.	AATION RESERVED Commanding NG OFFR ON FINI 51-56, 120, MMM, pp 759-761, 8 finding or sentence for rese	President (8P 45, 90.) In after trial.) D. (AA 54(5), RP 120(F), MML p 760.) DING(S) AND SENTENCE.
Sentence Awarded by GACAS (Sgd) Judge-Ad PART II. PART III. (For duties and confirmation on not confirmed, promulgicion: 57A, NF 53A. 5	vocate, if any (See book of 6 MINUTE WH (Sgd) DECISION (powers see AA 54, 57, 6 cannot be revised via cann	19 /h.s Date- Convening Order as to a HERE CONFIRM AP 37(D) In 6.46(A). 1 AS 4(B). Sending boot plantal formula Lip promising offer promising offer promises and approximate type must support and services.	AATION RESERVED Commanding NG OFFR ON FINI 51-56, 120, MMM, pp 759-761, 8 finding or sentence for rese	President (RP 45, 50.) of after trial.) (AA 54(5), RP 120(F), MML p 760.) DING(S) AND SENTENCE. , KR Can 567-577. Acquittain require no assor by Court. AA 34(2), RP (20(4), If
(Sgd) Judge-Ad PART II. Date PART III. (For duties and confirmed on promigetime or promise or	vocate, if any (See bock of (MINUTE WI (Sgd) DECISION (counted be revised / counted may be tried of the finding(s) and	Date- Convening Order as to a HERE CONFIRM OF CONFIRM AP 37(D) in 6.46(A). 3 AS 54(3). Sending bac point : AA 137, MML p or must sign here person I sentence set forti	Commanding Comman	President (RP 45, 50.) Ind after trial.) O. (AA 54(5), RP 120(F), MML p 760.) DING(S) AND SENTENCE. ASK Can 567-577. Acquattable require no sale by Court. AA 54(2), RP (20(6)) for reconcentrisection may be oldered before a reaction and powers of reviewing after: AA 57,
(Sgd) Judge-Ad PART II. Date PART III. (For duties and confirmed on promigetime or promise or	vocate, if any (See bock of (MINUTE WI (Sgd) DECISION (counted be revised / counted may be tried of the finding(s) and	Date- Convening Order as to a HERE CONFIRM OF CONFIRM AP 37(D) in 6.46(A). 3 AS 54(3). Sending bac point : AA 137, MML p or must sign here person I sentence set forti	Commanding Comman	President. (8P 45, 90.) Ind after trial.) D. (AA 54(5), RP 120(F), MML p 760.) DING(S) AND SENTENCE. , KR Can 567-577. Acquittable require no usen by Court: AA 34(2), RP (2NG). If

The accused elects to be tried by Court Martial CHARGE SHEET

The accused, No. A.59440 Trooper Thomas Joseph RYAN on strength of No. 3 Canadian Armoured Corps Reinforcement Unit, a soldier of the Canadian Army Overseas is charged with

FIRST CHARGE ARSEL 9 (0) WHEN ON ACTIVE SERVICE, DISOBEYING A LAW-FUL COMMAND GIVEN BY HIS SUPERIOR OFFICER

in that he

at in the Field did not report to No. 3 C.A.C.R.U. Guard Room, Block 3, for Guard Duty after having been ordered by B.67236 SSM McAlister, J., of No. 3 C.A.C.R.U. to do so.

SECOND CHARGE WHEN ON ACTIVE SERVICE, ABSENTING HIMSELF

in that he

at in the Field did absent himself without leave from 1930 hrs, 6 May 44, until he surrendered himself at 1100 hrs, 7 May 44. (Total time absent 15 hrs, 30 mins).

In the Field 13 May 44 (9.W. Little Colonel Commanding No. 3 C.A.C.R.U.

To be tried by Field General Court Martie!

In the Field,

The could be for B

LIMITITAL

FIELD GENERAL COURT-MARTIAL

CFA95 (In New of AFAS) 40/PAS-1897 (1968)

(Whether the occused to be tried is under his comd or not, a FGCM may an application to him be convened by any affr 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 authy, A 47, 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).

Then should be a separate Convening Order for each person to be tried is pharately by the same Court. RP 10, 107. As to separate charges sheets see RP 63, and as to separate tried on charges in the same charge sheet see RP 108. As to two or more accused charged jointly see RP 10, 109.

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

ACCUSED.

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

CONVENING ORDER.

- Whereas complaint has been made to me, the undersigned, that the person(s) named above as the accused, being subject to military law, has (hoggs) committed the offence(s) set forth in the Charge Sheet(s) attached and on (date). 1.2 May him endorsed by me, (or by any other charge staff for ane), "To be tried by Field General Court-Martial".
- And whereas I am of opinion that it is not practicable that such offence(s) should be tried by an ordinary
 Court-Martial; (and that it is not practicable to delug the file file before not to be agreen; practically of the file file file file.
- 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 man amable to appoint the three three to know the Court, (b) as Fit the us President, for the charges I than a attached hexete. L. (AA 49, RP 106(B), 107(A). Delete the whole or part, if not applicable.)
 - 5. I also apparet as Judge-Advocate thorest the the contents hereaster: 2/26 (RP 106(E). Delete, if none oppointed.)

PRESIDENT.

Ltcol	D. L. Hedman, VD	HQ CHT
(Rank.)	(Must be named. RP (06.) MEMBERS.	
Capt	to se detailed by 90 1 CAGRU	1 CACET
Lt	to be detailed by CO 1 GAGAU	1 CACHU
(Rank.)	(Named or detailed. RP 106.)	(Unit.)
	WAITING MEMBER.	
(Rank-)	(Named or detailed, if any. RP 106.)	(Unit.)
	JUDGE-ADVOCATE.	
(Rank.)	(Must be named, if any. RP 106.)	(Unit.)
n Active Service in ti	he Fd	
England	Mulhuford	Prig
(Country.)	(7. J. RUTHLEFORD) Brig	(Renk.)
Nate 18 May 144	Commanding "E" Group, CRU,	
	Convening Offi	CRIF.

CONVENING OFFR WILL INITIAL ALL DELETIONS AND ALTERATIONS

(See averleaf for eaths and notes for use on trial.)

I certify that I have this morning examined:-

Regt'1 No A59440. Rank Jps. Name Ryan T. J. of # 3C.A.C. R. 4. (unit) and in my opinion he is

Fit to undergo trial by Court Martial. #(cross out one F/A and initial)

Station Field

Date (of Court Martial May 19/44 Unit Medical Officer, RCAMC.

B.57236 A/SSK MeallSTER J. 3 GACRU, having been duly sworn, states

On the evening of 6 May I went to the Carrison Cinema Canteen at approx 1845 hours. The accused, whom I now recognize, was at the FAAFI Bar. He was sitting there with another trooper. The Nuest. I took their names down and told them that they would report to the Guard Room immediately for guard duty. About an hour later I went to the Guard Room to check to sea if the guard was complete. The Ryan did not report for duty. The following morning I contacted CLI Smith and as a result of the conversation I had with him I contacted "-r Ryan who was carrying some of his sculpment at the time. The time then was about 1100 hours. I asked him why he had not been on guard and he stated that he start In one of the spider huts. I then placed him under arrest on two charges, one, tacause he did, not report for guard, and the other for AWL. He stated that he slept in "A" Spider which belongs to the Admin Wing.

- any remark to you? He says "how's chances of buying a drink before going on guara?"
- Could he have failed to understand the nature of your command? We, Sir, he was not drunk, and could understand,

- At the table which he was citting, what is it used for?
 Some use to sit and drink, some use it to wait I'r the show to
 go in. He was sitting at this table with a beer glass in front
 of him. I don't know if there was beer in it or not, but he
 came after I told him right out of the theatre with me. He went
 to nack his small pack. The last time I saw him he was going towards the quarters to go on guard duty.

- Thy was the guard not detailed at an earlier hour? The slip-up was in the Admin Wing, Sir, and I was detailed to detail 8 men.
- When did the guard mount?
- 1900 hours.
- Did you attempt to find him when you found him not present?
- No. Sir. THE OPINION OF THE COURT IT IS UNDECESSARY TO COMPLY WITH RP 63(B).

R.11648 Cpl SMITH W.J., 3 CACRU, having been duly sworn, states:

On the evening of 6 May 44 I had conversation with the accused whom I now recognize. At 1920 hours I was talking to him in Block 2, Room I of the barracks. He was getting his small pack ready to go on guard and told me when calling the roll not to mark him absent on he was soing on guard and was late now as it was.

- Would you say he was sober when you saw him and were talking to
 - him? I could not say that, Sir.
- Was he drunk? He had been drinking, Sir, but I could not say if he was drunk,
- I will read a part of your statement from the Summary Cpl Smith and you say "he had been drinking and appeared to be worse off for it".

 Yes, Sir, I said that he had a few drinks it seemed to me.

IN THE OFINION OF THE COURT IT IS UNLICESSARY TO COMPLY SITE HE ESTED

A.59686 Tpr MUEST R.P., 3 CACRU, having been duly sworn, states:

- Were you warned for a guard on the evening of 6 May &c at about 1845 hours by SSN McAlister?
 Yes, Sir. I was in the Carrison Canteen with Ter Ryan at the time.
- What did you do when warned for guard? I went outside and told the girl friend I could not go to the show with her.
- What was the exact instruction given to you by SSM McAlister?
 He did not give me any definite instruction at all, Sir. At
 the time he said in the canteen he said he had a special duty
 for me. I went outside and told the girl friend and he came out
 later and told me it was guard duty.
- Would you say that both of you had been drinking very heavily? I just had one glass, Sir. Tor Ryan had been drinking very heavily. When we had a glass he was feeling a little under the

That was the condition of the accused?

The condition of the accused?
The condition of the accused, Gir? --- he had been drinking quite a bit I could tell. As soon as I came in the slarped me on the back and said "how about a glass of beer". He doesn't usually do a thing like that. He was nort of lazy like, his speech not being very plain.

THE PROSECUTION IS CLOSED

First, the only evidence submitted that the accused was warned for guard is that of SSM McAlister's own statement. Becondly, under see 9 of the Army Lot. Note 1, para 2, it states definitely an one-ission erising from misarcrehension or forgetfulness is not en ission erising from misarcrehension ar forgetfulness is not en ission erising from misarcrehension ar forgetfulness is not en ission by accounts upon the ground that they are incorrect. Nor to sign his accounts upon the ground that they are incorrect. Nor is feilure to obey a command where obedience would be physically impossible. Now, the evidence as submitted by the prosecution, primarily it leads to the point that the accused was not in full possession of his faculties, and also evidence brought out by the Prosecution points to the fact that the accused did attempt to carry out this duty after he had been warned for it. What harpened afterwards we do not know, but hed every intention of seing en duty if it is true that he had been warned, but it was impossible for him to go on that duty.

The Prosecutor stated that in his opinion the submission of the Defending Officer should be disallowed as a prime facie case had

THE COURT REOPENED AND THE PRESIDENT ADVOUNCED THAT THE SUBMISSION HAD BEEN DISALLOWED.



The accused, A.59440 Trr RYAN T.J., 3 CACRU, having been duly sworn,

What 14 SSM Wealister say to you when you saw him that morning? He asked me where I had been and I told him I had been sleeping in Spider Hut, and he then placed me under arrest.

Do you remember going to Block 2 and preparing your equipment, and telling Opl Smith you were going on guard?

0.78701 Tor CLARKE J.D., 3 CACRU, having been duly sworn, states:

Yes, Sir, 1 saw Rim on Room 13, "A" Spider barrack room, Room 13,

- Was he under the influence of liquor.
 He was under the influence of liquor on 6 May 44 at approx 2200 hrs Bir. I came into my barrack room and he was below my bunk. I talked to him and he did not talk to me. I asked him if he was going up to his but and he just slurred his words in answer to me. The next morning I saw him going out and he told me he was going to see what harrened to him the night before.
- You say he was under the influence of liquor the night before? Yes, Bir, I would even say be was drunk.

- Did you see him at 1845 hours the night before?
- No, Sir,
- You didn't see him at 1845 hours?

IN THE OPINION OF THE COURT IT IS UNNECESSARY TO COMPLY WITH RP 63(B).

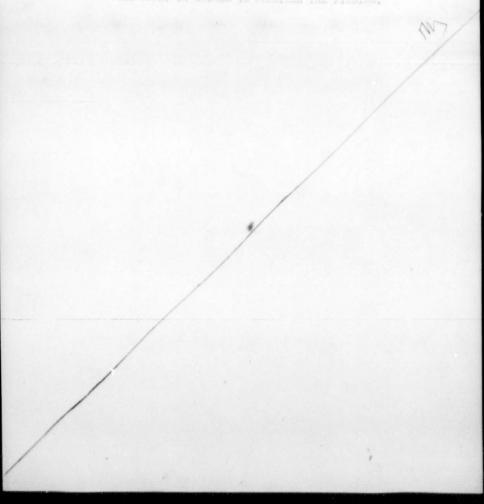


DEFENDING OFFICER ADDRESSES THE COURT OF THE FINDING

I would like to point out the fact on behalf of the accused that the evidence submitted by both the Prosecution and the Defence shows definitely that the man was not sober. He either has to be sober or drunk, at there has been no evidence to propie any definite point in that he was between the two. The Prosecution has not propied that he was definitely sober. Maybe the words did register on his subconscious mind, but having drank that much liquor, that takes a little time to work on him and may have gotten the best of him and he forgot about going on duty. This accused should not be charged under the Section of the army act that he has been charged and therefors he cannot be found guilty. With regard to the absence without leave, if the man had been drinking a lot it was not fair to place him on a job of that sort. There were probably lots of other people around who could have been detailed for guard that evening - sober people, and this accused who was under the influence of liquor should not have been detailed for that duty in a canteen. I would like to point out the fact that the limit accused with being absent from 1950 hours & May 44. If he was under the influence of liquor, therefore that amount of absence without leave cannot be proven, which makes a good defence.



The Prosecution feels that the evidence as pointed out was not due to forgetfulness. We have heard the evidence of a senior warrant Officer that the accused was warned for duty, and the evidence of an NCO that the accused reported to his hut and made preparations to go on duty, and the opinion of both these witnesses he was in a condition to go on duty. It has been shown that he was drunk at a later hour, granted, but the Prosecution has shown that he was in a condition to go on duty at an earlier hour. After hearing the said warning and by preparing for that duty I therefore contend he is guilty of the offence under the section of the Army act he has been charged. With regard to the second charge under AA 15(1), the Prosecution has shown that the accused was absent from the guard when it was mounted at approx 1900 hours and that he did remain absent from his duty and from his proper quarters until 100 hours 7 May 44. On the testimony of the Crl in charge of his but he was absent from both tattoo and reveille roll calls, but was not so marked because he was prefuned to be on guard, from which he was also absent, therefore I also contend that he did not have a condition of the proper quarters also absent, therefore I also contend that he lived to be a guard.



LIST OF WITNESSES IN THE CASE OF

A59440 Tpr. Ryan, T.J.

FOR THE PROSECUTION

B67236 SSM McAlister, J. 2. Bl1648 Cp1 No. 3 C.A.C.R.U. Smith, W.J. 3. No. 3 C.A.C.R.U.

A59686 Tpr Wuest, R.P. FOR THE DEFENCE No. 3 C.A.C.R.U.

NIL

I, A59440 Tpr. Ryan, T.J., do desire to have an officer assigned de not desire to defend me at my trial by Court Martial.

I desire the services of LANJ. Oxeiner if this officer

is available.

(A59440 Tpr Ryan, T.J.)

Summary of Evidence in the case of No. A59440 Tpr. Ryan, T.J. on strength of No. 3 Canadian Armoured Corps Reinforcement Unit, a soldier of the Canadian Army Overseas.

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

First Witness for The Prosecution

B67236 SSM McAlister, J. on strength of No. 3 C.A.C.R.U., a soldier of the Canadian Army Overseas, having been duly sworn, states:-

At approx 1845 hrs on 6 May 44 I contacted Tpr. Ryan, whom I now recognize before me, in the canteen of the Garrison Cinema.

I took his and Tpr. Wuest's name and said "You will report to Guard Room Block 3 for duty on unit Guard right away".

On checking the Guard at 1900 hrs

On checking the Guard at 1900 hrs
Tpr. Wuest was present, Tpr. Ryan was
absent. He remained absent from all
roll calls until 1100 hrs 7 May 44.
On being questioned he stated that
he had slept in another Barrack Building
i.e. one of the spider huts, during the
night of 6 May 44.
At approx 1100 hrs 7 May 44 the
accused, Tpr. Ryan, reported to me
personally outside of No. 2 Block, I
immediately placed him in close arrest.

The accused declines to cross-examine this witness.

Second Witness for The Prosecution

Bl1648 opl Smith, W.J. on strength of No. 3 C.A.C.R.U., a soldier of the Can-adian Army Overseas, having been duly sworn, states:-

At 1920 hrs 6 May 44 I was talking to Tpr. Ryan in Room 1 of Block 2 where he was working on his small pack and he

told me he was going on guard.
He had been drinking and appeared worse off for it.

The accused declines to cross-exemine this witness.

Third Witness for The Prosecution

A59686 Tpr. Wuest, R.P. on strength of No. 3 C.A.D.R.U., a soldier of the Can-adian Army Overseas, having been duly sworn, states:-

PAGE 2

Third Witness for The Prosecution (cont*d)

,) 1,

At 1845 hrs 6 May 44 I was drinking beer with Tpr. Ryan when SSM McAlister came into the Canteen and said he had a special job for us. I left to cancel a date with my girl so do not know if Tpr Ryan acknowledged SSM McAlister's order or not. Outside SSM McAlister told me to report to the Unit Guard Room for duty which I did.

The accused declines to cross-examine this witness.

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 declines to give evidence on oath or to make a statement.

The accused does not call any witnesses for the defence.

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

(S. Besen) Lieut. Officer detailed to take The Summary of Evidence

In the Field 10 May 44

my

56-1 Kfn. Ryan, T. C. J.

FIELD GENERAL COURT-MARTIAL

Convened by Order of ... Brig. J. G. SPRAGGE

Comd 7 Gan Inf Baedated 5 Feb 45

ACCUSED.

(As to the trial of two or more charged jaintly see RP 16, 71, 109. As to reasons for showing (a) permanent or confirmed rank, and (b) appart, A/rank or A/appart, 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

Thomas Clarence James

Regine Rifles

CERTIFIED TRUE COPY OF A STREET

PROCEEDINGS OF TRIAL.

Held in the Fd in (country) HOLLAND

.....on (date(s))..... 26 Fris 45

RECORD FORM A-OPENING PROCEEDINGS AND ARRAIGNMENT.

A1. The President, Members, waiting Member, JA, if any, and Offrs under instr. if any, assemble, and the 24/22

IPRINTED 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.(1)
The Court is satisfied that it is properly convened and constituted(1), accused is (are) amenable to military law, and

(I. As to use of Summery of Exidence see RP 17 fn 6. 2. AA 49, SO, RP 105-107. 3. RP 11-13, 23, 24.)

The Court is opened. The accused is (are) brought before the Court. At $\underline{1.345}$... hours trial commences.

A4. The Prosecutor produces a Medical Certificate that accused is (are) fit to undergo trial by court-martial.(*) The Bracouts informs the Court that second aboted to be first by court-martial instead of being dealt with (I. KR Con 557. 2. AA 46(5), RP 60 fn I. For effect see KR Con 563(c). Delete, if not opplicable.

A5. President to accused . Do you object to

as interpreter L. Ap-

Title distancementar in assessmile) - discount object to The shorthard writer is sworn (1)
(4. RP 72. Delete, if none employed.)

_ns_shortband_writer_L_Ans

A6. The Convening Order and names of the President and Members of the Court are read to the accused (1) Ab. The Convening Group 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 1

(1. RP 110. I. If no objection, waiting member retires. RP 68(B). If objection, see procedure AA 51, RP 25, 71, 18, MAIL 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	Lt-Col	J.W.	G Thompson	Mild Ritt	HCA
Member	Major	N L	TROY	ED	010
Member	Capt	E.F.	GARRIE	100	010
			54 4 LO		CAC

Lt J H ROBEY CIC REGINA RIFLES R Defending Offr Capt D C HOWAT

BEGIEA RIFLES B Questions by President: Is the Prosecutor a lawyer ! Ans Mo ... Is the Defending Offr a lawyer ! Ans Mo ... (*)

(1. RP 16, 27, 109, 111). List of affre under instr will be returned separately with proceedings for information of Conr Offr.)
(2. If From a hower and Def Offr not, accused is entitled to an adjournment when RP 89 (8) and fin 2 were not followed. See DI p 1) As. The accused 27912 Mfn Ryan T C J before arraignment make(s) (no)/a) plea

(i. If a special plea is mode for separate triol on one or more charger (RP 62(E), 108), or as to the jurisdiction of the Court (RP 34), 35(A), 113), or in bor of triol (RP 36), or as to occused's mental fitness to stond triol (AA 130, RP 57), or evidence, if any, and finding are recorded per Hotes. For forms of record see references in fine to RsP cite 1. Insert in AB rank and name of the accused moking the piec.)

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

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

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

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 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 GUH/TY 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 of Prosecutor see RP 60(A) (B); duty and privileges of accused and Defending Offr see RP 60(C), 87(C), 91, 92; succuring and withdrawed of witnesses from Court see RP 81, 82; questioning of accused see RP 80, 87(C), 91, 92; succuring see RP 83.85; calling or re-calling of witnesses by Court, see, see RP 75.79, 86, 116; 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.

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)(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), all witnesses as to character and make an address in mitigating of making at the charge (s). call witnesses as to character and make an address in mitigation of punishment.(2)

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 stand the effect of the plea of Guilty(3), or which show provocation or extenuation in respect of which in your interest the witnesses for the Prosecution should be examined(3), we shall advise you to change your plea to Not Guilty. In in evidence against you after you change your plea. If, however, it appears to the Court that your statement will be given an opportunity later to prove your statement by sworn testimony, if you so desire. (4)

President to accused: Do you wish to m	your statement by sworn testimony,	if you so desire.(*)
(1. RF 37(8), 2. RF 37(0) fn 6. 3. 5. Statement, if any, recorded per Nates.)	RP 35(5) for 5 part 3, MML p 54 puro 47.	4. See para E3 of Record Form E. (1)

B3. The Court considers the accused's statement (i) 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.

(I. Court may be timed to spesifier 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 (1)

(1. RF 25(B). If any plea(s) is (are) changed, use Record Form C or D as appropriate.)

B5. The Sammary of Evidence is marked Ex., initialled and read aloud by the President (1) (1-1) there is no Summary, or if it is inodequate, comply with RF 37(6), if there is any evidence inconsistent with any plea sense D to DB inclusive of Record Form D on p 3. RF 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.

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)

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

(i. Under 85 such parts only of the Sammery of Evidence was 250 as relate to the charges dealt with under Cl. if any piece is charged to Note Guilty, trial thereon proceeds by complying with paras D1-to D8 inclusive in Record form D on p 3 and making on appropriate record thereof on a superior sheet.)

C3. The accused having been found Guilty on one or more of the charges, the proceedings 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 ng to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on ound that you have not had sufficient opportunity to prepare your defence | Ans (I. H "yes", see RP 39(A) for procedure. Statement or evidence, if any, is recorded per Notes.)

D2. The Prosecutor makes (ser) (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. 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).(2) The Court

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

(I. Delete remainder of this para, if submission not made.

2. Arguments on submission, onswer and reply are recorded on all charges, use second alternative in para D6.)

3. If 40 fn 1. See MML p.72 paras 12-14 and p.81 para 42.

4. Delete part not used. If accused acquitted no making his defence, and the Court should not stop his defence solely an ground of 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 You may, however, make a statement without being sworn, and you will be subject to cross-examination. (?)
But a statement which could have been made on each will not carry with the Court the same weight as sworn testimony. (4)
You may call witnesses in your defence and as to character, whether you give evidence or make a statement or do
notified.

President to accused: Do you wish to give evidence yourself as a witness, make a statement, or do neither \dagger . Do you intend to call witnesses on your behalf? Ans (I. 8F 115. Are they witnesses as to character only ? Ans 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 114, 115, 116. For procedure see Notes on back of Corresing Order, CF A95. Evidence for accused est to his of Record Form E. Record per Notes addresses, sustainent, evidence and only summing up by the JA under RF 42, 103(c).)

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, II7(A), See Notes in Part I of Schedule. 2. RP 44(A).)

Ds. 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

or, The President announces that the accused is found Not Guilty on all charges and is to be accused that the finding(s) and that the proceedings are accordingly terminated. Part I of the Schedule is dated and is to be released forthwith, are pleas of Guilty annualing and deal with under Record form B at 1. As 34(3), 8, 44(3), 8, 45(3), 8, 45, 117. This alternative consumments a set applicable when there

Dy. 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(1)

If exidence has already been given by accused or his witnesses as to his character, delete this pane. RP 37(C) fn 4. 46 fn 1.

F2. The Prosecutor produces Statement(s) as to Character and Particulars of Service(i), and certified true copy (copies) of Conduct Sect(s)(i), 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(l) (g) (h), and (ii) they purport to refer to refer to (a) soldier(s) having the same number, rank, name and corps as the accused. Admitted in evidence and marked Ex and Ex propositively (*).

[1] AFB 255 or AFB 296.

2. AFM 6. 2. RF 46, RR Con 558. If above documents not produced, see RF 46 fo I

E3. President to accused: Do you wish to address the Court on the Statement(s) and Conduct Shert(s), and in mitigation of punishment (1) Ans.
(1. RP 37(C), 46(D), 2. Address if any, recorded per Notes. Court should permit occused or his witnesses to prove on each anything here or previously stated which would affect the amount of qualishment. RP 37(F) (n. 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 proxenlgated later, and the proceedings in open court are accordingly terminated. (1)

E.S. The Court considers the sentence. (2) The President records the sentence in Pact I of the Schedule, which is dated and signed by him and the JA, if any. (2) [1. When several accused tried separately see RP 71 (2)). One sentence only, comprised of the punishment or punishments in load down in AA and and its provise, is to be owerfeed to cover oil charges in all charges theets on which occurred found guilty. AR 46. So. 128. So.

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

SCHEDULE.

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

Accused: L27912	nen nyan	1 0 9	The state of the s
Charge.	Plea.	Finding.	
(Insert " alternative " where applicable.)	(See Instra p 2.)	(See note below.)	(Space for use as required for further charges, accused charged jointly special findings, etc.)
lst AA Sec 40	HOT GUIL	FV NOW OUR	
2nd		1101 001	LTY HOTED (7 WILBORT) Brig
3rd			
#th			
5th			
		re-g-4 ground mass	
5th			
		or one AA SA DO AA	
	44 and MAL p 753,	and in loss of kie see	findings on alternative charges see MML p 463 fn 4 para 2, RP 44 ;
(). Insert sentence b	eing served, or delete.	if not applicable. Se	tograming on (date) or RP 46(A). Information should be found on MF B355 or AF B296.)
Sentence Awarded by the	Cover .	d be found on MF 83	55 or AF 8296 admitted in evidence under E2.)
Sgd)		26 22.5	
Judge-Advoca	te, if any.	26 Feb.	variled
	(See back of Conve	ning Order as to asse	embly and disposal of record ofter trial.)
PART II. MI	NUTE WHER	E CONCIDMA	TION PROPERTY.
	THE THIER	L CONTINMA	TION RESERVED. (AA 54(5), RP 120(F), MAIL p 760.)
Date (S.			
			Commanding
PART III. DI	CISION OF	ONEIRMING	OFFI ALL VIII
(For duties and powers	see AA 54, 57, RP 37	(0) fo 6 46(4) 51-51	OFFR ON FINDING(5) AND SENTENCE.
confirmation and canno not confirmed, accused	t be revised ; AA 54(, may be tried again ;). Sending book fin	i. 120, MML pp 759-761, KR Con \$67-577. Acquittals require no ding or sentence for resision by Cours: AA \$4(2), Rh 120(G). If Minuted confirmation or non-confirmation may be situred before KR Con \$73. Duties and powers of resieving offin: AA \$7, AA 172 fn 1:)
57 A. RF 53 A. 54. The (MML p 65. Quashin Confirming Offr must	g ofter promulgation	KR Can 573. Duties and powers of reviewing offm: AA 57.
My decision on the fit	nding(s) and sent	ence set forth in	Part I is
T down at a con-			
I direct that the acc	used be not com	mitted to prison 7. AA 57A Delets	or detention barracks until further orders.(1)
			(8gd)
Date			
		Comma	
			Confirming Officer.
PART IV.	PROMULGA	TED AND E	XTRACTS TAKEN. (RP 53, KR Con 574, 577)
		The second by	XTRACTS TAKEN. (RP 53, KR Can 576, 577.)
Accused.		Date.	Signature of Offr.

CHARGE SHEET

The accused, L27913 Rfn Thomas Clarence James RYAN, 1 Bn The Regima Rifle Regiment (attached 11 Cdn FDS) a soldier of the Canadian Army Overseas, while on active service,

is charged with

First Charge Sec 40 A A REGLECT TO THE PREJUDICE OF GOOD ORDER AND MILITARY DISCIPLINE

in that he

in the field, on 13 Jan 45, at approximately 1900 hrs, so negligently handled a pistol as to cause it to be discharged and thereby injuring his left thigh and rendered himself unfit for service.

In the field 20 Jan 45

"J B Bundock" Hajor RCAMC Offr Comd 11 Cdn FDS

To be tried by Field General Court Martial.

5 Feb 45

"J B Spragge" Brig (Convening Officer)

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 offr of Cdn Army Overseas, or of any other force if authorized in law, in immediate cand of troops on active service, subject to RP 105(C) and restrictions imposed by appropriate author. 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 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) As to separate charges sheets see RP 62, and as to separate trial on charges in the same charge sheet see RP 10B. As to two or immer accused charged jointly see RP 16, 109.

As to reasons for shawing (a) permanent or confirmed rank, and (b) appint, Afrank or Ajappmt, if any, see AA 182, 183, fis, KR Can 30B, 32B, 330.)

ACCUSED.

Number. (a) Prmnt R. (b) Appmt, A/R or A/Appmt Full Christian Names. Surname. Thomas Clarence James RYAN Regins Sif 1,27912

CONVENING ORDER.

- And whereas I-am of opinion that it is not practicable that such offence(e) 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 offe.)
 (Delete part in brackets when not required for compliance with RP 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.
- I am unable to appoint (a)-three Offrs to form the Court, (b) a Fd Offr as President, for the reasons I have attached hereta. (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). Delete, if none appointed.)

PRESIDENT.

LT COL				
(Rank.)		(Must be named. RP 106.)		(Unit.)
		MEMBERS.		
HAJOB	M L TROY		CIG	
CAPT	K E GAREN		CAC	
(Rank.)		(Named or detailed. RP 106.)		(Unix.)
		WAITING MEMBER.		
CAPT	L A GIBSON		CIC	
(Rank.)		(Named or detailed, if any. RP 106.)		(Unit.)
		JUDGE-ADVOCATE.		
(Rank.)		(Must be named, if any. RP 10e.)		(Linit.)
On Active Servi	ce in the Fd			
in HOLLAN	D	"J G Spragge"		Brig
(Countr	y.)	(Signed personally. RP 105 fn 2.)		(Rank.)
Date 5 Feb	45	Commanding 7 Gdr. Inf	Bde	
and the same of th			maning Officer	

CONVENING OFFR WILL INITIAL ALL DELETIONS AND ALTERATIONS

4/38A FASS (In lieu of AFAS)

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

This is to certify that I have this day examined L27912 Rfn RYAN and find him fit to undergo trial by Field General Court Martial, on a stretcher.

"J Men Corston" Capt

Medical Officer

Date Feb 26/45 Time of signature 1245A (1) Defence addresses court on objections to the President, Lt-Co THOMPSON MM ED:

Objections considered and disallowed by Major M L Troy and Capt K F Garen ddress att.

(2) Defence addresses court on objections to the member Capt K F Garen Objections considered and disallowed by Lt-Col Address att. J W G Thompson and Major M L Troy.

(3) Defence addresses court on objection to the member Major M L Troy

Objections considered and disellower by Lt-Col.
J W G Thompson and Capt K F Garen Address att.

D 3 First Witness for Prosecution: L27522 CSM Wood I J, "SP" Coy 1 En Regina Rif R.

I know and recognize the accused of the SP Coy Regina Rif. On the night of 13 Jan -5 at app 1900 has I was in the Sgts Q and CQMS Holt rushed into the roce and from information I redeived I proceeded to the accused's quarters. I saw the accused lying on a bed and being attended by a member of the RCARC. I inquires if the RMO had been sent for and checked the time by my own watch, it was then 1903 hrs. I posted sentry's on each door to make sure no one left the rocm, I posted sentry's on each door to make sure no one left the rocm, I posted sentry's on each door to make sure no one left the rocm, I tigation. I then lined up all present and Capt Luxton took their tigation. I then lined up all present and Capt Luxton took their names. A search was made for the weapon that the secuse was shot names. A search was made for the weapon that the secuse was shot names and been lying on and produced a .38 S & W pistol. I now forget the number of that pistol. The pistol was handed to Capt Luxton and Capt Luxton handed it to me, I smelt the pistol and I would say that it had been discharged very recently. Capt Luxton took the mistol into his custody. I made aninquiry and the accused was authorized to carry a pistol. The pistol I examines, that is the pistol in question, had a number, and the number corresponded with the issue entry in the accused service book. I saw the pistol picked up by the platoon sgt and it was in such a position that in my opinion it could have been dropped there by the accused or anyone.

d: I am not a qualified amm examiner. I would say it was only a matter of minutes from the time the pistol was fired and I smelt the barrel. Cross Examined:

On examination I found one expended and five live rounds in the cylinder. I did not examine the mechanics of the pistol. It was not bright in the room but there was sufficient light to see. The regt, was not in the line The Court: at the time. I did not have conversation with the accused. I do not know of any conversation that took place in the presence of the accused re arding the facts of his injury. The accused was employed as a DR.

RP 83 (B) complied with.

Second witness for Prosecution: L27729 Cpl Clark A 3 Sec 4 Pln "SP" Coy sworn states:

I know and recognize the accused of Sp Coy. I was playing cards with Rfn Dotzler, Rfn Court and the accused in own billets, in a large room. We were playing on a bed spring and the game was hearts. It was in the evening, after supper and I was score keeper and as I was recording the score I heard a shot, I looked up and noticed the accused had been shot, and the accused said "get a tourniquet", and "Get a shell dressing", a crowd rathered around and I was pushed into the background. Capt. Luxton arrived. The accused was still in the game at the time of the shot. I did not see the accused with a pistel in his hands. It was just a matter of minutes from the last time I actually saw the accused and when I heard the shot. did not hear at any time, the accused say, 'he was going to clean his pistol.' No Cross Examination

The accused was sitting apposite me during the game. The accused was sitting on a bench. Rfn Court was ting on the same bench or another bench. The report sounded very cose. To my knowledge Dotzler did not fire the shot, I think Court was dealing the cards, I was recording the score. The accused was not on the bed that we had played cards on. It was spp. 1900 hrs. A guard was to be mounted. I was going to mount the guard and the accused was on guard. The guard was to go on at 1900 hrs. The accused normally would carry a pistol on muard. I did not hear the accused normally would carry a pistol on muard. I did not hear the accused say what happened. The only time I saw the weapon was when someone handed it to Capt Luxton. I have never examined the accused pistol. The accused was wearing a pistol case on his belt and at the front of his body. The accused usually wore his pistol on his left side. The accused was sitting on a bench. Rfn Court was the accused's left side. RP 83(B) complied with. Third witness for prosecution: Hajor R B Eaten 5 FSD sworn:

I recognize the accuse as a patient under my care. He is suffering from a through and through 65% wound of the left thigh. There were no powder burns. The wound is at the junction of the mid and lower part of the thigh, one wound on the inside and one wound on the outpart of the thigh, one wound on the larger of the two an could side. The wound on the outside was the larger of the two an could have been the exit wound. I operated on the accused but not on his nitial admittance to hospital. The accused was treated in the normal manner when admitted then a pulsation mass was noticed on the inner side of the leg. There is no serious nerve damage. The accused should be held under observation for several months, I cannot say at this time if there will be a lowering in category.

RP 83 (B) complied with. No cross examination.

Fourth witness for prosecution: L58276 Rfn Montgomery J 6 Pl Sp Coy Regina Rif R sworn states:

I know and recognize the accused from my coy. I was in the billets on the night the accused was injured. I was sitting on a bed watching a card game. Opl Clark, Doltzer another chap, and the accused ing a card game. I was sitting behind Cpl Clark. The cards were were playing cards, I was sitting behind Cpl Clark. The cards were being dealt and I heard a shot as I was looking down toward my bed. I heard someone yell for a tourniquet.

No cross examination.

The Court: I cannot say from what direction the shot came from.

I saw the accused later having a tourniquet applied.

I did not hear any conversations in the presence of the accused,

regarding his injuries. The accused's leg was bleeding.

RP 83(B) complied with.

OBJECTION TO LT COL J W G THOMPSON

The accused feels that Lt-Col J W G Thompson as a member of a standing court is inclined to judge negligent SIW cases in the light of wilful lW cases and thus mates out harsher punishments.

- 2. The accuse feels that as Lt-Col J % G Thompson has not served in the front lines in this war, he does not fully appreciate the conditions a man lives in, and he wishes therefor to be tried before a court composed of front line officers, viz RP 19B ss 5 note 3.
- 3. The accused feels that due to the serious nature of the charges the ADJA should be present in order to prevent any breaches of pro-cedure by inexperienced defending and prosecuting officers.
- 4. The accused feels that as Lt-Col J W G Thompson lives at 11 FDS where the accused is a patient and as investigation by Provest personnel has been carried out whilst the accused was suffering from shock. Therefor he feels that Lt-Col J W G Thompson is bound to hear, know and be interested in the case beforehand and is not impartial.

As there have been no acquittals on any of these cases in 3 , the accused is firmly convinced that no is practically con-uted before his trial commences, viz RP 25 note 8. OBJECTION TO CAPT K F GAREN L. The accused feels that Capt K P Caren as a member of a stand-ing court is inclined to judge neglignet SIW cases in the light of wilful SIW cases and thus metes out harsher punishment. 2. The accused feels that as Capt K P Garen has not served in the front lines in this war, he does not fully appreciate the conditions a man lives in, and he wishes therefor to be tried before a court composed of front line officers, viz RP 19B ss 5 note 3. 3. The accused feels that due to the serious nature of the charges the ADJA should be present in order to prevent any breaches of procedure by inexperienced defending and prosecuting officers. 4. The accused teels that as Capt K F Garen lives at 11 FDS where the accused is a patient and as investigation by Provest personnel has been carried out whilst the accused was suffering from shock,

5. As there have been no acquittals on any of these cases in 3 CID, the accused is firmly convinced that he is practically convicted before his trial commences, viz RP 25 note 8 ("D C Howat") Capt

OBJECTION TO MAJOR M L TROY

1. The accused feels that Major M L Troy as a member of a standing court is inclined to judge negligent SIW cases in the light of wilful SIW cases and thus metes out harsher punishments.

therefor he feels that Cost K F Geren 3 beind to hear, know and be interested in the Case terorenand and is not impartial.

- 2. The accused feels that as Najor Troy has not served in the front lines in this war, he does not fully appreciate the conditions a man lives in, and he wishes therefor to be tried before a court composed of front line officers, viz RP 19B ss 5 note 3.
- The accused feels that due to the serious nature of the charge the ADJA should be present in order to prevent any breaches of pro-cedure by inexperienced defending and prosecuting officers.
- 4. The accused feels that as Major M L Troy lives at 11 FDS where the accused is a patient and as investigation by Provost personnel has been carried out whilst the accused was suffering from shock Therefor he feels that Major M L Troy is bound to hear, know and be interested in the case beforehand and is not impartial.
- As there have been no acquittals on any of these cases in 3 5. As there have been no acquittals on any of these casts of CID, the accused is firmly convinced that he is practically convicted before his trial commences, viz RP 25 note 8

("D C Howat"/ Capt

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(As to the trice	al of two or more charged jo	sintly see RP 16, 71, 109. As to reasons for s.	howing (a) permanent or co	nfirmed 3 114
	it R. (b) Appmt, A/R			Unite
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PROCEEDINGS F	EVIEWED	Thomas Clarer	nce RYAN	Regina Rif
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10 apr. 4. P	JAG BRAN	OCEEDINGS OF TRIAL.		3
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RECORD	FORM A-OPE	NING PROCEEDINGS AN		
	ent, Members, waiting	Member, JA, if any, and Offes un	der instr. if any, ass	emble, and the
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	given a number having refers and instra on how to recorr aduction the trial see AA 52	ence to appropriate or preceding para number d addresses, evidence, ztc., which instru are her RP 56, 63-70, 73, 74, 94, 103, 119, 131	nerein. See book of Conver reafter called "Natus". As	to general
A2. The Presid-		ore the Cdurt the Convening Order an	rd Charge Sheet(#) att.	
each charge discloses	an offence.(*)			
				vial commonose
A4. The Proses	cutor produces a Medic	al Certificate that accused is (ase) fit	to undergo trial by	court-martial.(1)
The Prosecutor info	ems the Court that ac	censed elected to be tried by court	martial instead of 1	poing dealt with] =_
(I, KR Cur	PRINTED MATIER, NOT IN ITALICS FOR GUIDANCE, WILL BE DELETED. If NOT USED OR APPLICABLE AND INITIALIED BY PRES OR IA. The Schedule referred to throughout is on p. 4. Creations do NOT include all relevant from NOL. For guidance as precedure when a variation in this form arises, we form for GCM in MML pp. 141 to 159. A brief record of such variation will be made and given a number having reference to appropriate or preceding pairs number herein. See back of Convening Orders, CC ASS, for eachs and mains on have to researd advisants, evidence, exist, which finance beneatic colled "Notes", As to greated provisions for conducting the trial see AA 53, RP 36, 63-70, 73, 74, 74, 103, 11 A2. The President initials and lays before the Court the Convening Order and Charge Sheet(f) attached thereto.(1) e Court is satisfied that it is properly convened and constituted(2), accussed is (are) amountable to military law, and h charge discloses an offence.(2) (1, At to we 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 accussed is (are) brought before the Court. At . (3 - 5 hours trial commences. A4. The Prosecutor produces a Medical Certificate that accussed is (are) fit to undergo trial by court-martial.(3) e. Prosecutor informs the Court that accussed elected to be tried by court-martial instead of being dealt with [2] (1, KR cas 557, 2, AA 48,69, RP 60 fn 1, for effect see KR can 563(c). Delete, if not applicable. A5. President to accused: Do you object to			
4				Ans
		t to	s shorthand writer t	Ans. J
(f. RF 72.	Delete, if none employed.)	of the Doublant and Monkey C.	the Court on too I	the second to
Ans Y £5. (2)		a manufact entires RE ARCH If whitestive in	homodore At 51 pa 51	71 18 MM - 742
		any, and Offrs under instr. if any.		
President	LT COL	J.W. G. THOMPSON M	MED	ROA.
Member	MAJ	ML TROY K	Τρ.	C./.C.
Member	CAPT	K.F. GAREN		C-44.C.
Budge Advocati				
Prosecutor	AT.	SH RONEY	C10 RE	GINA RIFR
Defending Offr	CHPT	D. C. HOWAT	C/C Q1	EGINARIER.
	ent : Is the Prosecuto	ralawyer? Ans #9. Is the Del	fending Offr a lawyer	I Ans No (B)
(I RP 26 27	100 111 list of offee and	ier instr will be returned separately with pr	occedings for information	of Core Offe)
As. The accus	nd L 279/2 R	Cyan T.C. J		dated of Fermi and Alask dated of Convening Order, Nation, As to general need (f) attached thereto (l) able to military law, and high and before the accused (l) ended of being dealt with] coble. The following are the Alask date of Fermi and Alask dates of the Court for the Alask date of Fermi and Alask dates of the Court following are the Alask dates of the Court
			A 138B and 7 Cov. /w.f. Now. dated 2 F. N. A.	
(RP 34, 35(A), by one of severa evidence, if any	113), or in bor of trial occused charged jointly to b	(RP 36), or as to accused's mental films be tried separately (RP 16, 71), such pina, the di- or Notes. For forms of record see references	ss to stond triol (AA I-X) lidresses mode in support or	1, RP 57), or against, the
A9. The accurate and object to any circles in Part I of ti	sed is (see) arraigned (harge.(2) There is no a he Schedule.	(separately) on all charges in the chamendment to be made to the Charge	e Sheet.(1) The Pres	ident records the
(1. RF 31 separately see F	, II2. See para I of instra p RP 7I(C), and use separate co te record per Notes.)	p 2. When more than one Charge Sheet see RI opies of CF RI6 to record proceedings. 2.	P 62; when several occuse RP 32, RP 33. If otherwise	d to be tried to delete and
A10. The Cou	irt (is closed and) cons	iders the Instrs on Procedure after	Arraignment at top of	of p 2. The pro-
THE RESERVE OF THE PROPERTY OF THE PERSON OF	ued on Record Form			
PRESID	DENT OR JA WIL	L INITIAL ALL DELETIONS	AND ALTERATIO	ONS.

- The accused may not plead or be found Guilty on more than one of fice 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 withgrown for any reason without authy from Convening Offs. If Convening Offs concurs, Court may accept pleas of Guilty to leave etc. offence, (RP 44(R).) Accused may change a plea of Not Guilty to Guilty during trial. (RP 38.) As to reason 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
 - 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 RF 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 Gusley thereto, or, (ii) to record the pleas as the findings of Court. After deciding between (i) and (ii), Court wall 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 Proxecutor see RP 60(A) (B); duty and privileges of accused and Defending Offr see RP 60(C), 87(C), 91, 92; suversing 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 RF 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 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. RF 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 by. Presument to accused: The Court will now receive any statement you desire to make in reference to the statement that there are circumstances which indicate that you do not understand the effect of the plea of Gulfy(*), 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 Gulfy. In making a statement you will not be swon 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 among 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 ty accused: Do you wish to make a statement ! Ans.

(i Re 37(6), 2. Re 37(b) (n.6. 2. Re 35(6) (n.5 para 3, MML p.

5. Spitement, if any, recorded per Notes) 3. RP 35(8) fn 5 para 3, MML p 54 para 47.

B3/ The Court considers the accused's statement.(1) The Court decides (not) to advise accused to change his (thefr) plea(s) of Guilty to Not Guilty on _______charge(s). The accused is (are) so informed, and he ishey) charge(s). Part I of the Schedule is amended accordingly, ent. Delete whole or port not used.) change(s) his (their) plea(s) on a change(s) his (their) plea(s) on a change the statement.

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 Schodule.(*)
(1. RF 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 Summary, or if it is inodequate, comply with RP 37(8). If there is any evidence inconsistent with any plea standing as Guilly. Court will obtain accused to change such plea and, if changed to Net Guilly, try such charge(s) by use of pares D1 to D8 inclusive of Record Form D on p 3. RP 37(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.

- CI. As to the charges on which accused pleaded NOT GUILTY the trial is cantinued by using paras DI to DS inclusive of Record Form D on p 3 before proceeding with C 2 (1) (1. SF 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 a above (1).

 (1) Under B5 such ports only of the Sumbers of Evidence are read as relate to the charges dealt with under C5. If any pine is charged to Not Guilty, trial thereon proceed by complying with paras D1 to D8 inclusive in Record Form D on p 3 and making an appropriate record thereof on a separate sheet.)
- C3. The accused having been found Guilty of one or more of the charges, the proceedings are concluded by using Becord Form E on p 3.

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

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 are other force if authorized in law, in immediate comd of troops on active service, subject to RP IOSIC) and restrictions imposed by appropriate authy, AA 49, 50, RP IO4-IO7, II4. As to the duties and privileges of the Convening Offr in dealing with the application see MML Chap Y pures 20 and 23, RP BT(b).

NP B(16).

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 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 16, 109, see RP 62, and as to reasons for showing (a) permanent or confirmed rank, and (b) appint, Airank or Alappint, if any, see AA 182, 183, fms, KR Can 308, 328, 330.)

ACCUSED.

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

L.27912 Rfn Thomas Clarence RYAN Regina Rif

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 (bexo) committed the offence(s) set forth in the Charge Sheet(s) attached and on (date)) FeD 4 endorsed by me, (beauty when the accused, for the control of the cont
- 2 X WAR WAR HE I AIR OPOSITION TIME IT SHOWN AND AND MAKE AIR SECRECATION SHOULD SHOW A COMMON OF SHOWN AND A
- I hereby convene a Field General Court-Martial to try the said person(8), and to consist of the Offrs appointed
 or detailed hereunder.
- 4. Along nonthe man appoint (a) their limits loss that Court (b) a Fri Cork by Persident, for line transmit 1 Law annument before XX.

 (AA 49, RF 106(B), 107(A). Delete the whole or port, if not applicable.)
 - I also appoint as Judge-Advocate thereat the Offr mentioned hereunder. (RP 106(E). Delete, if none appointed.)

PRESIDENT.

Lt Col	J W G Thompson	RCA
(Renk.)	(Must be named, RP 106-)	(Unit.)
	MEMBERS.	
Maj	M L Troy	CIC
	K E Garen	CAC
(Ronk.)	(Named or detailed. RP 106.)	(Unit.)
	WAITING MEMBER	
Capt	L A GIBSON	CIC
(Rank.)	(Named or detailed, If any. RP (Q6.)	(Unit.)
	JUDGE-ADVOCATE.	
(Ronk.)	(Must be named, if any. RP (06.)	(Unit.)
		0.
on Active Service in the Fd	4nth	1010
Holland	111/2/95	Brigadier
(Country.)	(T C Shippers) RP (05 fr 2)	(Rank.)
Dat 5 Feb 45	(J G Spragge) Commanding 7 Canadian Infant	ry Brigade
Dat 7 Feb 47	Convening (

CONVENING OFFR WILL INITIAL ALL DELETIONS AND ALTERATIONS

4/38A CFA 95 (In Reu of AFA 3)

(See overloof for eaths and notes for use on trief.)

CHARGE SHEET The accused, L.27912 Rfn Thomas Clarence James RYAN, 1st Bn The Regime Rifle Regiment (Attached 11 Gdn FDS), a soldier of the Canadian Army Overseas, whale on a soldier of Active Service, 1s charged with NEGLECT TO THE PREJUDICE OF GOOD ORDER AND MILITARY DISCIPLINE First Charge Sec. 40 Army Act. in that he, in the field, on 13 Jan 45, at approximately 1900 hrs, so negligently handled a pistol as to cause it to be discharged and thereby injuring his left thigh and rendered himself unfit for service. DB Bundock In the field 20 Jan 45 (J.B.Bundock) Major RCAMC Offr Comd 11 Cdn FDS To be tried by Field General Court Martiel Maggs Ong 5 76 45 (Convening Officer)

NO.L27912 Rank. Rfmm Hamo. RYAN Field General Court Martial .- on a stretcher J. mcs. Corston Capt Date Feb 26/45 1245A-

Kesarded Proceedings A.b. (1) De lence addresses court on objections to the Pusident St. Cal. J. W. G. Thompson M.M. F. II. address att. Olysetimo considered and disallamed, by () I we add uses court on alyeotims to the men her. East. Atharen Oddress att. Olijestions considered and disallowed by It ld. J. W. & Thompson & maj. In. L. Tray. the member maj. In L. Tray. F.D. address att. Objections considered and disallamed by At Cal J. W. G. Thompson & Bapt I. F. aren.

Fust Witness In Presentivin 1 27 5 22 0 5 17. Ward D. J. "Sp" Cay. I know and never nize the accused of the "De" Coy Regina Rej. On the might of is Down 48 at app 1900 his Duras in the Soft a. and be M. S. Solt rushed into the rooms and from information I received I proceeded to the accuseds quarters. I saw the accused lying on a hed and heing attended by a member of the RCAPTO I inquired of the R.M.O. had been sent and and checked the time by my own watch two then 1903 her I gested sentrys on each door to make sine no one left the room, bast Lyton the bay are left the room, bast Lyton the bay quesent and baget Suxton took their name a search was made by the weapon that the accused was shot with and the accused solution sat reached under the head Jorget the muches of that jistal.

I The gotal was handed to least Suxton and East Juxton handed it to me, I small the south and Invoided say that I had been discharged very recentlyleast Juxton took the justal into his cristody. I made an inquiry and the accused was out to carry a pistal. The pictor Dexamined, that is the factal in question, line a mumber carries junded with the issue entry in the accused service look I saw the justal siched was by the platan ogt and it was in such a position that in my opinion it could have been stropped there by the accused as anyone. ters Framined I am not a qualified amm examiner. I would say two only a matter of minutes from the time the postal was fined and Ismelt On examination I amy de me expended and fine line ramide at I did not examine the mechanics of the sistat. It was not longled in the room but there was sufferent light to see.

I did not have comercation with the accused. I do not have conversation with the accused. I do not know of any conversation that tooks place in the presence of the accused regarding the facts of his righty. The accused was every as a D.R.

RP 82 (0) complied with

Decond Witness for Kinseen Ivin.

4 27729 Colarle A. 3 Sec & Platar So Cay

I know and sever nize the accused of Sir bay.

I have playing cardo with Rep Dotzler, Repr

Count of the accused in our lielets, in a

large room. We were playing on a

lad a pring and the game was hearto.

It was in the evening, of the supp per and of

was some harper and as I was recording

the accused hard a shot Ilesked up and

"he tied the accused had been shot and

the accused paid "get a turniquet," and

"he a shell dressing", a crowned gathered

around and I was pushed into the hack

ground. Capt Sustan arrived. The accused

was stell in the game of the time of the shot.

Soud not see the accused with the posted in his hands

It was just a matter of my water from the last time Dastrally same the accused and when I heard the shot. I did not bear at any time the accused way, "hemas going to clean his protot." no le mos Examination The accused was sitting appoints me during the game. The accused was sitting on a beach. Rfn Court mas sitting either on the same liench as another stelench. The report to sounded the very close. To my Humber did not fire the shot, I think Court mas dealing the colds, Iwas recording the score. The accused was jut a the hed that me had played couds a. It was app gooher a grand was to be mounted. I was going to mount the quard and the accused was on quard. The quard was to go a at 1900 his. The accused normally would carry a pister on quard. Ided not hear the accused boay what hap pered. The only time I can the meagen was when someone bounded it to Boot Justa I havened have never examined the accused potat Theorement was meaning a justal case on his belt and at the fronts his history. The accused usually were his stie the side in later RP 83"8" Complad with

Thud Witness in Viscontino.

Major R. B. Eaton: 5 7 S. V. surom states. Diecognize the accused as a patient a though and through stround of the left thingto . There were no founder lurus, The mound is at the junction of the mid and lower fact of the money one would on the inside and one mound on the artiste The mound on the outside was the larger of the two and could have been the exit mound. I appealed on the accused but not on his initial admittance to his juital. The accused was treated in the normal manner when admitted then a poleation ser iano nerve damage. The accused should be held under observation for seneral months. I can not vary at this time us the mel be a lowering in category, as transmation RP. 83 "B" complete with. 26 Febration PRESIDENT

& Fourth Witness for Vroscontini Regina Reg R. summer states. I know and se grize the accused from my cay. Iwas in the liebets on the right the accused was injured. I was setting on a hed watching a said Jame. Epl Clark Doltzer another chap, and the accused well playing ands. Inlas sitting behind bed Clark. The conds were being dealt and Theard a shot as Imas lasking down toward my hed, Theard some one yell of a turniquet. ho lessos Cram mating I can not may from what direction the shot came from. I saw the accused later having a through applied. Ided not hear any corner sortions on the guerne of the accuracy, regarding his injuries. The accuracy beguns bleding. RP 83 (6) complied with 26 Feb 45 MESIDENT. 120 Objection to Those for Thompson 1. The recused feels that Af-bely WI Thompson as a member of a standing court is inclined to judge negligent S. I. W. cases in the light of willful S. I.W. cases and hus meter out harsher, sumshments 2. The accused feels that as Thebal J. W. I Thompson has not served the front live the war, he lives in, and he wishes therefor to be treed before a court compared of front line officers. The accused feels that due to the serious nature of the charges the ADJA should be present in order. brevent any breaches of crocedure by metherienced desending spraseculing officers, A The accused feels that as toplal 1.71 I Thomas lines at 11FDS where the accused is a felical and as investigation by Proved personnel has been carried out white the accused was infle from Look Therefor he gade that The find the is bound a hear, know and hearterested in the case beforehand and is not in bestal 5. As there have been no acquillats on any of these cases in 3 C 1D, the accused is firmly columned that he is practically connected before his tral common niz TT 7 35 mate 8

Defiction to bept 11 F Laren He accused feels that before I Laren as a member of a standing court is inclined to find go may agent SIN cases in the light of without SIN cases and this meter out haroles finishment The accused feels that as well of housen has mot gerned in the front lines in the war he has not fully appreciate the conditions a man lives in ... rig. T. F. 19B so 5 mate 3 3. The accused Julothal due to the reriow nature of the charges the ADJA should be present in order to frement. and breaches of procedure by inexteriored defending and resecuting officers. II FDS where the accessed is a patient and is investigated by Crowst personnel has been carried out while! the secured was suffering from shock. There for he good tat heft & F Laven is bound to hear know and be interested in the case be proband and is not imposted, 5. As there have been no acquiltals many of these cases in 3010, The accused no firmly consinced that he is practically convicted before his trial commences. siz FP 25 mote 8 lotowa lept.

1 The accused feels that May It L. Long as a municipal to standing court is inclined to judge negligent S. W. cases in the light of melful S. W. cores a thus meter and harsher funishments 2. The accused feels that as Wagar Troy has not miz TIF 19B so 5 mote 3 1 3. The accused feels that due to the seri of the charges the ADJA should be crosent order to crement any breaches of bracedure but at 11708 where the accused is a futual and as and whelst the accused was so filling from street. Therefor he feels that Major M. L. no regulate on any of these cases in 3 (1) the accused is firmly downered that he is fractically convicted before his treat ring BP 25 note 8 Serana lush

SUMMARY OF EVIDENCE

In the case of L.27912 Rfn RYAM, T.C.J., No. 4 pl "Sp" Coy., lst Bn The Regima Rifle Regiment, Canadian Army Overseas.

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

First Witness

L.27522 A/CSM WOOD, I.J. "Sp" Coy, 1st Bn The Regine Rifle Regiment having been duby sworn, states:

"I am L.27522 A/CSM Wood, I.J., CSM of Sp Coy 1st Bn The Regine Rifle Regiment. On the night of the 13th of Jan 45 I was in the "I am L.27522 A/CSM Wood, I.J., CSM of Sp Coy 180 M. ...

Rifle Regiment. On the night of the 13th of Jan 45 I was in the sergeants quarters talking to the sergeants of the coy. Between 1910 hrs and 1915 hrs L.27478 CMS Holt, T. came in and said that L.27912 Rfn Ryan, T.C.J. had been shot. I immediately proceeded to the mens' quarters. L.27912 Rfn Ryan, T.C.J. was lying on a bed. He was being attended to by an O.R. member of the RCAMC. I immediately checked to see if the unit Medical Officer had been sent for. On being informed that he had I inquired as to what had happened. At this point Capt E.C.Luxton came in and took charge. We posted a sentry at each door to make sure no one got out and Capt E.C.Luxton and I took the name of every man in the room. Having completed this, we started to search for the weapon. A Smith and Wesson .38 calibre pistol was produced from under the corner of the bed by L.27742 Sjt Smith, E.A. who stated "Here's Ryan's pistol". I immediately smelt this weapon to see if it had been discharged and passed it to Capt E.C.Luxton. The weapon had been recently discharged. There was E.C.Luxton. The weapon had been recently discharged. There was E.C.Luxton. The weapon had been recently discharged. There was one discharged round in the chamber and five live rounds. Capt E.C. Luxton took this pistol into his custody. I checked to see if L.27912 Rfn Ryan, T.C.J. was in proper possession of this weapon and I was informed by his platoon sit L.27742 Sjt Smith, E.A. that the issue was authorised and that it had been issued to L.27912 Rfn Ryan, T.C.J. at Canadian Base Reinforcement Group as part of despatch rider equipment. I submit Smith and Wesson pistol No. 923790, handed to me by L.27742 Sjt Smith, E.A. as Exhibit NA.

I have whecked L.27912 Rfn Ryan's Part III paybook and find that he was issued with a pistol No.923790 (according to an entry on page 5) I submit Part III paybook as Exhibit "B".

The accused declines to cross-examine this witness. The accused is cross-examined by the officer taking the summary

How is L.27912 Rfn Ryan, T.C.J. employed in Bp Coy. He is a despatch rider in No. 4 platoon.

Is it normal for despatch riders in your coy to carry pistols.

Shirt.

(I.J. Wood)

Msjor R.B. Eaton, 5 Cdn FSU, having been duly sworn, states:

"I am Major R.B. Eaton, OC 5 Cdn FSU att to 11 FDS in surgery connected with SIW.

L.27912 Rfn Ryan, T.C.J., 1st Bn The R gina Rifle Regiment was admitted to 6 Odn C.C.S at approx 2300 firs 13 Jan 45 with a three hour perforating wound of the left thigh. He was moderately

Both entry and exit wounds were small, circular in outline and cosing blood. No powder stains evident. There was considerable swelling of the thigh, pulsation of the arteries in the foot could not be felt, however, the foot was warm and all movements and sensation present. No bony injury. It was thought that he might have not be felt, however, the foot was warm and all movements and ser sation present. No bony injury. It was thought that he might be some vascular injury which required observation and conservation treatment. He will require medical care and offer. I am un of two to three months because of this vascular injury. I am un to finally assess this case without further fallow up, but in my to finally assess this case without further fallow up, but in my He will require medical care and observation for a period have months because of this vascular injury. I am unable

The accused declines to cross-examine this witness. Cross examined by the officer taking the summary.

Did Rfn Rgan state how he received his injury ?

Where did the bullet enter Rfn Ryan's thigh? It was impossible for me to detect which was the entry and which was the exit wound. It was a through and through wound and gave the appearance of being produced by a small arms missile.

Where exactly were the two holes? One on the inner side of thigh 82 inches above the knee cap. One on outer side of thigh 82 inches above the knee cap.

B.Eaton) Mapr

Third Witness

L.27729 A/Cpl CLARK, A., 3 s., 4 platoon "Sp Coy, sworn, states:

" I am L.27729 A/Cpl CLARK, A., 3 Sec. 4 platoon Sp Coy., lst Bn
The Regima Rifle Regiment. On 13 Jan 45 at approximately 1900 hrs,
four of us, K.76375 Rfn Court, F.D. L.27912 Rfn Ryan, T.J. am
four of us, K.76375 Rfn Court, F.D. L.27912 Rfn Ryan, T.J. am
L.102763 Rfn Dotzler, C.J. were sitting around a bed playing a card
L.102763 Rfn Court was starting to deal a new hand and I was marking the game called "hearts". I had been beeping score and we had just finished a hand. Rfn Court was starting to deal a new hand and I was marking the score down. A few minutes before this I had mentioned to the group I was playing cards with that a two man guard would have to be mounted from 1900 hrs to 2100 hrs. As I was marking the score down I heard a shot fired and Rfn Ryan said, "Get a tourniquet" and then he said

Rfn Ryan was holding his left thigh in both hands and there was blood around his hands. With the number of people around, I was forces to the background. Capt E.C.Luxton took my name saying no one was to leave the room until further orders.

uross examined by the accused.

Q. During the previous hand do you remember me saying anything to the effect that I was going to quit the game as it was getting dull and I was getting tired of the game?

A. I remember you saying sometime during the game that if it didn't liven up you were going to quit but I can't remember what hand we were

playing at the time.

Cross examined by officer taking summary.

Pld you see anyone fire the shot or see anything that would indicate where the shot was fired from?

No, sir.

Was there any money involved in the game?

Where were you sitting in relation to Rfn Ryan.

I was facing him.

Did you see Rfn Ryan with any kind of weapon in his hand at any time during the game 2

No, sir. A.

How much of Rfn Ryan's body was visible to you across the bed tha you were playing on? I could see down about half his thighs.

Who was due to go on guard at 1900 hrs? Two men from No.3 Section, it being No.3 Sections turn to supply the guard. It was mine and Rfn Ryan's turn to go on guard next. A.

What kind of a guard was it? A vehicle guard, on the vehicle park

a. elach (A. Clark)

Fourth Witness

Regiment, having been duly sworn, states:
Regiment, having been duly sworn, states:
" I am L.53276 Rfn Montgomery, J., 6 pl, Bp Coy., lst Bn The Regima
Rifle Regiment. At approx 1900 hrs 13 Jan 45 I was watching a card game
Rifle Regiment. At approx 1900 hrs 13 Jan 45 I was watching a card game
in Sp Coy quarters. I was sitting behind the man who was keeping the
in Sp Coy quarters. I was sitting behind the man who was keeping the
score. I heard a shot fired and I heard someone say "Get a tourniquet".

During the last few hands did you, by any chance, hear me say that the game was dakk getting dull, and I was tired of it and I was Cross examined by the accused;

No, I was paying no particular attention to the conversation at the table?

Gross examined by officer taking summary: 4. Did you see anyone handling a weapon just before the shot was fired?

Did you see anything that would indicate approx where the shot was fired from or who fired the shot?

No. I was looking down at the opposite end of the boom when the

shot was fired.

Ala J. Montgomery

Fifth witness

L.106980 Rfn PATRICK, F., Scout pl, BnHQ, let Bn The Regina Rifle Regiment, having been duly sworn, states:

"I am L.106980 Rfn Patrick, F., Scout pl, BnHQ, let Bn The Regina Patrick Partick, F., Scout pl, BnHQ, let Bn The Regina

Rifle Regiment.
On night of 13 Jan 45 at approx 1900 hrs I was in Sp Coy quarters,
having gone there with Rfn Helgerson who wished to borrow a housewife. We decided to stay a few minutes and watch a card game. same bench that Rfn Ryan was sitting on, on his left side about two feet from him. I heard a bang and felt a sting in my leg, I was looking sway from the players and the card game at that moment. I heard Rfn Mway from the players and the card game at that moment. I heard with Ryan call for someone to put a tourniquet on and saw blood around him. I then looked to see how badly I was hurt. I had only a slight graze on the calf of my right leg. There were several helping put ax a tourniquet on Ryan. Someone from the RAP came down to assist.

Cross

Did you, within a second or so before the shot, feel the beach give a jolt?

Icould not say for sure, it could have jolted and I paid no attention to it. I don't remember.

Within a hand or two before the shot did you happen to hear me make a statement to the effect that the game was getting dead and I was getting tired of it?, and I was going to quit?

A. I heard someone say that they would have to bust the game up to go on guard but who, I couldn't say. I don't remember hearing you say on guard but who, I couldn't say. I don't remember hearing you say anything about the game getting dead and you were going to quit.

Cross examined by the officer taking summary Did you observe anything that would give you any idea who fired the

shot?

A. No. Did you see anyone at the game handling a weapon?

& & Patrick (J.F.Patrick)

Sixth Witness

K,76375 Rfn COURT, F D, 3 Sec., 4 pl, Sp Coy, 1st Bn The Regina Rifle Regiment, having been duly swonn, states:

I am K.76375 Rfn Court, F.D. 3 Sec., 4 pl., Sp Coy., 1st Bn The R gina Rifle Regiment. At approx 1900 hrs 13 Jan 45 Cpl Clark, The R gina Rifle Regiment. At approx 1900 hrs 13 Jan 45 Opl Clark, Rfn Ryan, Rfn Dotzler and myself were playing a game of hearts in our quarters. We had just finished one game and I had dealt another hand. I was straightening out the cards in my hand when I heard a shot. I looked around and Ryan was holding his left thigh and he said "Get a xxx tourniquet, quick, I'm shot". I had a shell dressing and I pulled it out and gave it to someone who was trying to stop the bleeding. I dont know who it was. The medical orderlies came and went to work on Ryan, I was sitting to the right of Rfn Ryan, approx 3 to 4 feet from him across the end of the bed that we were playing cards on, I saw no one with a weapon and had no idea who fired the shot.

Cross examined by the accused: Within the last hand or two do you remember me making a statement that the game was dead and I was going to quit?

I believe you did, I couldn't say definitely.

IN Court

Seventh Witness

Venth Witness

L.102783 Rfn DOTZLER, C.J., 3 Sec, 4 pl, Sp Coy., 1st Bn The

Regina Rifle Regiment, having been duly sworn, states:

"I am L.102783 Rfn Dotzler, C J, 3 Sec, 4 pl, Sp Coy., 1st Bn

The Regina Rifle Regiment. At approx 1900 hrs on 13 Jan 45 Rfn Ryan,

Rfn Court, Opl Clark and I were playing "Hearts" around a bed. There

were a few other people sitting around near where we were playing.

Opl Clark mentioned something to Ryan about it being about time to
go on guard. Court had just dealt the cards and Opl Clark was marking

down the score. There was a Maple Leaf newspaper sitting in front of

me, I was glancing at it while playing cards. I had just passed three

cards to Opl Clark and seked Ryan to pass me three. He said "Just a

minute". All at once I heard a shot and Ryan fell back over the bench

that he had been sitting on, holding his left leg, which was bleeding

badly. He said "Get a tourniquet, quick". I think I was saw a

revolver near him but couldn't be certain, with all the confusion and was

blood. I saw nothing that would indicate who fired the shot. Someone

went for the medical officer. Rfn Ryan was sitting on my immediate

Cross examined by the accused:

- During the period of the last couple of hands did you hear or remember me make a statement about the game getting dead and I
- was going to quit? I can't really say, its quite a while back, you may have said it.

Are you sure it was right after the shot or a little while after the shot that you saw me leaning back? I believe it was right after the shot, he was leaning back holding his leg and said "Get a tourniquet". A.

(Dotzler C J)

l. J. Dotalen.

The accused was cautioned as follows:

- 2. Do you wish to make a 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.
- A. I want to make a statement.
- Q. On oath or not on oath?

amin of

(Tom C Ryan)

The accused does not call any witnesses.

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

In the field 20 Jan 45. (E.A.Fowle) Lt. Regins Rif

Officer taking summary

LIST OF WITNESSES

Prosecution

L.27522 A/CSM WOOD, I.J. - lat Bn The Regime Rifle Regiment Canadian Army Overseas

Major R.B.EATON - 5 can FBU, att 11 can FDS, Canadian Army Overseas.

L.27729 A/Opl CLARK, A - lst En The Reg na Rifle Regiment Canadian Army Oversess.

L.53276 Rfn HOWTSONERY, J. - lst Bn The Regime Rifle Regiment Canadian Army Overseas.

L.106980 Rfn PATRICK, F -6 Canadian Casualty Clearing Station, Canadian Arm Oversess.

K.75775 Rfn COURT, P.D. - 1st Bn The Regime Rifle Regiment Cenedian Army Overseas.

L.102783 Rfn DOTZEER, C.S. Canadian Army Overseas.

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

- relating to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on
 - The Prosecutor makes (AP) (no) opening address (i) (I. RP 39(B), 60(A) (B), 90, 92(C) (D). Record address per Notes, subject to RP 95(C).)
 - 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 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 $F \sim 3T$ charge(s).(2) The Court is closed, and considers the submission.(3) 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 Guilty on is disallowed on the
- the Intur Charge (F).(4)

 (I. Delete remainder of this para, if submission not made

 (I. Delete remainder of this para, if submission not made

 per Notes.

 3. RP 40 ft 1. See RML 972 paras 12-14 and p 81 para 42.

 4. Delete part not used. If occused acquitted
 an all charges use second alternative in para 08.)

 NB: If trial proceeds, accused 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.)
- D6. 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 or oath will not carry with the Court the same weight as sworn testimony. (*)
 You may call witnesses in your defence and as to character, whether you give evidence or make a statement or do
- President to accused: Do you wish to give evidence yourself as a witness, make a statement, or do neither ! No you intend to call witnesses on your behalf? Are they witnesses as to chiracter only ! Ans. 2. RP 40(A), see 80(D). 3. RP 40 fn 10. 4. RP 40 fns 2, 9.) Ans
 - DB. Consequent on the answers recorded in para D5 the appropriate procedure for the defence is followed. (2)
 (1. RF 114. 115. 116. For procedure see Notes on back of Convening Order, CE A95. Evidence for accused on to his
 character should. (I in his interest, be given before the finding. See RF 46(A) ft 1, 86(C). Note the further opportunity in para E1
 of Record Form E. Record per Notes addresses, statement, evidence and any summing up by the 18 under RF 42, 103(c).
- 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 to opened.

 (I. RP 43, 117(A) See Notes in Part I of Schedule. 2. RP 44(A).)
- D8. The President amounces 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, (2)

 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. (2)

 (1) AA 54(3) (6) AF 45. (2004). 2. AA 54(3), 89 45, 117. This alternative announcement is not applicable when there are place of Guilty outstanding and dealt with under Recard form B or C.)
- Dy. 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)
- If evidence has already been given by accused or like witnesses as to his character, delete this par and witnesses are swarn. Evidence recorded per Nides.) RP 37(C) fn 4, 46 fn 1. Acused and witnesses are sworn.
- The Prosecutor produces Statement(s) as to Character and Particulars of Servinc⁽¹⁾, and certified true slice) of Conduct Shect(s|⁽²⁾, purporting to refer to the accused, which he submits to be Defending Offr for low, and then to the Court for admission in evidence. The Court is satisfied that these documents refer cused because (i) they purport to be signed in the manner required by AA 163(1) (g) (h), and (ii) they purport to (a) coldier(s) having the same number, rank, name and corps as the accused. Admitted in evidence and E2. to refer to (a and Ex 355 or AFB 296. respectively.(2)
 2. MFM 6. 3. RF 46, KR Con 50
 - para 7.) If above documents not produced, see RF 46 (n)
- the Statement(s) and Conduct Sheetis), and in E3. Presiden mitigation of punishment (f) Ans (i. RP 37(C), No(D). 2. Address, if any, recorded per Notes. Court should be an auth anything here'ver previously stated which would affect the amount of punishment.
 - ermit occused or his witnesses to prove RP 37(F) fn 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)
- B.S. 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 severel accused the approach see RP71 (D). Gre sentence only, comprised of the punishment or punishments in the second form of the punishment of the severel accused to the server of charges in call charges in the charge theret on which accused found pulls.

 RM 48. As the server of the server of the server of charges in call charges in the server of the server of

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

SCHEDULE.

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

Charge. Pleu. Finding. (Spote for use as required for further charges, occused charged joint for the special regions eye.) Aft SEC HO NOT (FULLY) (10.7 (FULLY) (10.7 (FULLY)) Whate I As to findings for lesser afforces see AA SE, RP 44: Findings on alternative charges see MML p. 483 for 4 pero 2. RP 44: special standards see RP 44 and MML p. 733, and in loss of hit see RP 44 for 6.3 The substantive charges see RML p. 483 for 4 pero 2. RP 44: findings on alternative charges see MML p. 483 for 4 pero 2. RP 44: findings are standards see RP 44 and MML p. 733, and in loss of hit see RP 46 for 6.3 The substantive charges see RML p. 483 for 4 pero 2. RP 44: findings on alternative charges see MML p. 483 for 4 pero 2. RP 44: findings on alternative charges see MML p. 483 for 4 pero 2. RP 44: findings on alternative charges see MML p. 483 for 4 pero 2. RP 44: findings on alternative charges see MML p. 483 for 4 pero 2. RP 44: findings on alternative charges see MML p. 483 for 4 pero 2. RP 44: findings on alternative charges see MML p. 483 for 4 pero 2. RP 44: findings on alternative charges see MML p. 483 for 4 pero 2. RP 44: findings on alternative charges see MML p. 483 for 4 pero 2. RP 44: findings on alternative charges see MML p. 483 for 4 pero 2. RP 44: findings on alternative charges see MML p. 483 for 4 pero 2. RP 44: findings on alternative charges see MML p. 483 for 4 pero 2. RP 44: findings on alternative charges see MML p. 483 for 4 pero 2. RP 44: findings on alternative charges see MML p. 483 for 4 pero 2. RP 44: findings on alternative charges see MML p. 483 for 4 pero 2. RP 44: findings on alternative charges see MML p. 483 for 4 pero 2. RP 44: findings on alternative charges see MML p. 483 for 4 pero 2. RP 44: findings on alternative charges see MML p. 483 for 4 pero 2. RP 44: findings on alternative charges see MML p. 483 for 4 pero 2. RP 44: findings on alternative charges see MML p. 483 for 4 pero 2. RP 44: findings on alternative charges see MML p. 483 for 4 pero 2. RP 44: findings on alternat	cused: 229	12 R/m	layan	7: C V		
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The shortmand misse	tis awarn.(1) Detect, if none employed.)		- of the Court at	e read to the accused.(*)
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(1. RP 110.	TA	F ARE RIGHT UHITS MILLION	, if any, are sworn.(The milowing and
A7. The Pres	ident, Members, s.a., in its of the offrs compr	ising the Court, etc		ply frakes
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INSTRUCTIONS ON PROCEDURE AFTER ARRAIGNMENT.

- The accused may not plead or be found Guilly 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 reson without authly from Convening Offr. If Convening Offr concurs, Court may accept plea of Guilly to lesser, etc., offence. (RP 44(H).) Accused may change a plea of Not Guilly to Guilly dwing 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
 - 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 to 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 thereta, or, (ii) to record the pleas as the findings of Court. After deciding between (i) and (ii), Court will proceed under foregoing instres as may be appropriate to result of its decision. See MML p 744 Instre (2).
- 3. As to responsibility of President to accused see RP 59, 60(C); powers and duties of JA nee RP 103; duty of Prosecutor see RP 60(A) (B); duty and privileges of accused and Defending Offr see RP 60(C), 87(C), 81, 92; secaring and withintened of witnesses from Court see RP 81, 82; questioning of accused ser RP 80, 87(C), 92(B), and of witnesses see RP 83-85; calling or re-valing of witnesses by Court etc see RP 75-79, 86, 116; use of Summary of Evidence 21, Fig. , 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 Tesident or JA, if any, complies with RP 35(B) by explaining to the accused the nature and meaning
- B1. The pesident or JA, if any, complies with RP 35(B) by explaining to the accused the nature and meaning of the charge [8]), and that on his plea of Guilty there will be no regular trial but merely a consideration of the of the charge [8]), and that on his plea of Guilty there will be no regular trial but merely a consideration of the call witnesses as to character and make an address in mitigation of punishment. (*)

 [8] 8 25 fn 2. 2. MMl p 54 pars 47.)

 [8] 6 charge [7]. 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 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 (*) 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 NO

(1. RP 37(B). 2. RP 27(D) fin 6. 3. RP 35(B) fin 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 ac-

Name) please) of Guilty to Not Chilty on charge(s). The accused is (are) so it is

change(e) his (their) pleats) on charge(s). Part I of the Schedule is amended accordingly.

(I. Court may be closed to consider the statement Delete whole or put for used.)

B4. On the charge(s) to which the pleats) of Guilty is Lore) not changed the President records findingly of Guilty in Part I of the Schedule.(1)

(I. 88 35(8). If any pleats) is (are) changed, use Record form C or D as appropriate.) MIN

- 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 inadequete, comply with RP 37(8). If there is any evidence inconsistent with any piles standing as Guilty, Court will devise occured to change such piles and, if changed to Not Guilty, try such charge.) by use of parts D1 to D8 inclusive of Record Form D on p 3. RP 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 inclusive of Record Form D on p 3 before proceeding with C 2.(1)
- C2. The charges on which accused pleased GUILTY are read to him (them) again, and the trial is continued by using paras B1 to B5 of Record Form B aboves 1).

 (1. Under 85 such parts only of the Summory of Evidence are read as relate to the charges dealt with under C2. If one place thereof such parts only thereof proceed by complying with power D1 to D8 inclusive in Record form D on p 3 and making by appropriate record thereof on a separate sheet.)
- C3. The accused having been found Guilty on one or more of the charge, the proceedings are concluded by using Record Form E on p 3.

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS

7 in here Loose Sheets of Record.

CAN

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

Q1. 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 ! Ana...

[I. If "yes", see RP 39(A) for procedure. Statement or evidence, if ony, is recorded per Notes.)

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

The evidence for the Prosecution is taken.(1)
(1. RP N(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 establish a prima facio case against the accused on the charge(s). $^{(2)}$ 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(s), and allowed 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 the latter charge(s). (1) Delete remainder of this pour, if submission not made. 2. Arguments on submission, answer and reply are recorded per Notes. 3. RP 40 fn i. See MML p. 72 parts 12-14 and p. 81 parts 42. 4. Delete part not used. If occused ocquitted on all charges, use second distribution in Data DS.)

NB: If trial proceeds, accused must be placed by the second proceeds accused must be placed by the second part between solely on ground of irrelevance. (RP 60(C), (Ne. 115.)

D5. President to accused: You will now proceed with your defence.(1) You may, if you wish, give evidence surself on oath as to the facts or your character or both, in which case you will be subject to cross-examination (*)

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 Ans (1. RP 155 2. RP 40(A), see 80(D). 3. RP 40 (n 10. 4. RP 40 (n 2. 9.)

D6. Consequent on the answers recorded in para D5 the appropriate procedure for the defence is followed. (1)
(1. 88 118, 115, 116. For procedure use Notes on back of Convening Order, CA, 885. Evidence for accused as to his character should, if in his interest, be given before the finding. See RP 46(A) for 1, 86(C). Note the further opportunity in pare E1 of Record Form E. Recard per Notes addresses, interment, evidence and any summing up 20 to 14 under RP 42, 103(c).)

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 (2). The Court is re-opened.

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

Ds. 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. (*)

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 signal. (*)

(*) As 45(1), (*) Compared to the schedule is dated and signal. (*)

ore plots of Guilty outstanding and dealt with under Record Form 8 or C.)

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

RECORD FORM E-PROCEEDINGS ON CONVICTION BEFORE SENTENCE.

EI.	Prosident to accused :	Do you wish to give evidence you	irself or to call any	witnesses as to your charact	er (1)
Ans	No	Do you wish to give evidence you	to his character, dulars	this page. RP 22(I') for 4, 46 for 1.	

(i) If evidence has circuity been given by occurred to the interest at to his character, desire this para. RF 27(C) for 4, 44 for 5.

Fig. The Prosecutor produces Statements as to Character and Particulars of Service(*), and certified true star (copies) of Conduct Sheet(s)(*), purporting to refer to the accused, which he submits to the Defending Offir for examination, and then so the Court for admission in evidence. The Court is satisfied that these documents refer to the accused, becaused it they purport to be signed in the manner required by AA 103(1) (g) (h), and (ii) they purport to refer to (a) soldier(*) having the same number, rank, name and corps as the accused. Admitted in evidence and marked Ex.

and Ex.

Tospectively(*)

(I. MFS 255 or MFS 256. 2. MFM a. 3. RF 46, KS Can 558. If above documents not provide, see RF 46 for 1.

E3. President to accessed: Do you wish to address the Court on the Statement of and Conduct, Sheet(s), and in intion of punishment 1(1). Ans. I stiest my defeation of bridge to write a 4 factorist (0).

(I. RP 37(C), 46(D). 2. Address if any, recorded per Notest Court should permit accused or his witnesses to prove an ooth anything here or previously stated which would affect the amount of punishment. 10 37(F) fn 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)
(1. AA S4(8), RF 120(8).)

E5. The Court considers the sentence. (3) The President records the sentence in Part I of the Schedule, which is dated and signed by him and the JA, if any (2) 7 1/4 Core sentence poly, comprised of the positionest or purishments (in When several second tried approxing as the approximation of the positionest or mind down on As 4, 144 and its previous, as the approximation of the control of the positionest are As 48, 183, 183 for the control of the positionest are As 48, 183, 183 for the control of the control o

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

SCHEDULE.

	862 Pte		
Charge.	Plea.	Finding.	
(Insert " alternative " w applicable.)	here (See Instrs p 2.)	(See note below.)	(Space for use as required for further charges, accused charged jointly, special findings, etc.)
a Charge	- Guicty	quilty	
nd			
rd			
th			
th	and the second s		
ith			
(Note : As special finding)	to findings for lesser offer see RF 44 and MML p 75.	sces see AA 50, RP 44; I, and in loss of kit see	findings on alternative charges see MML p. 483 fa 4 para 2, 8P. 44 ;
tt present under a	mtmice for		beginning on (sots)
(I. Insert ser	tence being served, or dele	ete, if not opplicable. S	days, of which With days were spent in hospital.
(I. See RF	46(A) fn 2. Information sh	rould be found on MF B	355 or AF 8296 admitted in evidence under EZ.)
Sentence Awarded	by the Court :	1.4.4	on bon a period of 180 days
	To noung s	acreary	in a line a la l
		unvening Order as to a	lay 44 (Sgd) LANX Majo awarded. Provident (RP 45, 50.) ASSENDING AND SERVED. (AA 54(5), RP 120(F), MML p 760.)
Judge-J	(See back of C	unvening Order as to a	aw Arded. President (80 45, 50.) Freehily and disposal of record after trial.)
Judge-J	(See back of C	unvening Order as to a	aw Arded. President (80 45, 50.) Freehily and disposal of record after trial.)
Judge-J PART II.	(See bock of C	onvening Order as to a ERE CONFIRM OF CONFIRMIN	President. (RP 45, 90.) INTION RESERVED. (AA 54(5), RP 120(F), MML p 760.) Commanding IG OFFR ON FINDING(5) AND SENTENCE.
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PART II. PART III. For duties an confirmation not confirmed phromaly other 57A, AP 53A. My decision of the confirmation of	(See back of G MINUTE WH (Sigd) DECISION O of powers are AA 54, 57, 8 and cannot be revised: A, accused may be tried ago, accused may be tried ago. AF 53, MML p 65. Bo. 54. The Confirming Offirm the finding(s) and	OF CONFIRMING STATES OF CONFIRMING STATES OF CONFIRMING STATES OF CONFIRMING STATES OF CONFIRMING SERVICE SERV	President. (RP 45, 90.) ATTION RESERVED. (AA 54(5), RP 120(F), MML p 760.) Commanding IG OFFR ON FINDING(5) AND SENTENCE. 1-56, 120, MML pp 759-761, KR Can 567-577. Acquitain require no finding or sentence for revision by Court: AA 54(2), RP 120(G). If 4. Minute of continuation or non-confirmation may be attend before time: KR Can 533. Duties and powers of revisioning offs: AA 57, by. AA 172 (n 4.) in Part I is:
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CHARGE SHEET

The accused D-81862 Private Terrence Fatrick Michael Ryan, 1st Bn The Black Watch (RHR) of Canada, a soldier of the Canadian Army Overseas, on Active service, is charged with:

FIRST CHARGE Absenting himself without leave,

Sec 15 (1) Army Act

in that he,

in the field, on 8 May 44, absented himself without leave from 1200 hrs 8 May 44 to 1530 hrs 14 May 44. (Absent 6 days 3 hrs and 30 minutes).

SS. T Cantle Lt. - Col.

Officer Commanding, 1st Bn The Black Watch (RHR) of Canada.

To be find by

Condistanty Bode

ON Xumin

FIELD GENERAL COURT-MARTIAL CPASS (IS BUSY OF APAS)

(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 author. RB 67(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 see RP 63, and do so 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, 183, fns. KR Can 308, 328, 330.)

ACCUSED.

(a) Prmnt R. (b) Appmt, A/R or A/Appmt. Full Christian Names. Surname. Unit D-81862 Pte Terrance Patrick Michael RYAN RHC CONVENING ORDER. 1. Whereas complaint has been Whereas complaint has been reade to me, the undersigned, that the personal named about as the accused, being subject to military law, has (Ed. 5) committed the offences set forth in the charge Sheet of attached and on Martial".
 Bay 44 endorsed by me, (2000) Control of the personal name. "To be tried by Reid General Court. And whereas I am of opinion that it is not practicable that such offene And whereas I am of opinion that it is not practicable that such offences, should be tries, by an ordinary General
 (Delete part in brackets when not required for compliance with if p 105(C).) I hereby convene a Field General Court-Martial to try the said person , and to consist of the Offrs appointed or detailed hereunder. AN ASSERBERHEND AND DESCRIPTION OF THE RESERVED OF THE RESERVE (AA 49, RP 106(B), 107(A). Delete the whole or part, if not applicable.) A also appoint as Judge-Advocate thereat the Offr mentioned hereunder.

(RP 106(E). Delete, if some appointed.) PRESIDENT. Major C C A Nixon Calg Highrs (Must be named. RP 106.) MEMBERS. Captain or Charron R de Mais Lieut. J K Neil RHO (Named or detailed. RP 106.) WAITING MEMBER. Captain (SP0) L S Brown 5 Cdn Inf Bde HQ (Named of detailed, if any. RP 106.) JUDGE-ADVOCATE. On Active Service in the Fd UK

Convening Officer. CONVENING OFFR WILL INITIAL ALL DELETIONS AND ALTERATIONS

Commanding

(Country.) 16 May 44

(See averleaf for eaths and notes for use on trial.)

MANA M MAYO

Chnadian Infantry Brigade

Brigadier

E.B. (Can) Para 527

I certify that I have this morning examined No. D81862

PTE RYAN T of 1 B.H.G. and in my opinion he is

fit/www. to undergo trial by Court-Martial.

Station_IN THE FIELD

Date 17 May 1944.

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D81862 letter South South Little of Domain C. A. O.

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OMILXON Hodge

Statement of D-81862 Pte, Ryan, T.P.M.

"I wish a defending officer".

"I desire the services of Lieut. G.S. Cooke, is he is available".

Private D-81862,

1st Bn The Black Watch (RHR) of Canada.

Lieut.

In the Field 15 May 44.

Exhibit "A"

SUMMARY OF EVIDENCE

Summary of Evidence in the case of Number D-81862 Private
Terrence Patrick Michael Ryan, 1st Bn The Black Watch (RHR)
of Canada, a soldier of the Canadian Army Overseas, On active
Service: Clarack under AR 15 (1) AWA 6 days 3 km 30 mins.

The accused is informed of his rights.

The C.O. directs that the evidence be taken on oath.

FIRST WITNESS for the Prosecution: D-82031 Cpl. Parsons, L., 1st Bn the Black Watch (RHR) of Canada, sworn states:

"On the 8 May 44 my pl went into a nearby town on bath parade. Some of the men were allowed to go for haircuts, Pte. Ryan was one of them. At 1200 hrs when we were about to return back to camp, I called the roll and Pte. Ryan was absent."

Q. Was Pte. Ryan told to report back?

A. Yes, as soon as they had had their harrouts, by Capt. Louson.

The accused declines to cross-examine,

(Sgd) "D-82031 Cpl. Parsons, L."

SECOND WITNESS for the Prosecution: D-71629 Sgt. Gulline, R.L.F., 1st En The Elack Watch (RHR) of Canada, sworn states:

"Pte. Ryan has not been on parade with No.8 Pl since 1330 hrs 8 May 44. He reported back to me at 1535 hrs 14 May 44.

The accused declines to cross-examine,

(Sgd) "D-71629 Sgt. Gulline, R.L.F."

THIRD WITNESS for the prosecution: D-82764 Cpl. Smith, W., 1st Bn the Black Watch (RHR) of Canada, sworn states:

"I was Bn Guard Comd on 14 May 44. At 1530 hrs Pte. Ryan, under his will, sober and in good order, reported to me. I told him to report to his company. At 1630 hrs he was returned to me to be put under close arrest."

(Sgd) "D-82764 Cpl. Smith, W."

FOURTH WITNESS for the Prosecution: Capt. I.H. Louson, 1st Bn The Black Watch (RHR) of Canada, sworn states:

"In the morning of 8 May 44 I was in charge of the coy bath parade.

Fedore proceeding from camp I gave orders that we would return from

Anti-Marade at 1200 hrs, and that all those getting haircuts would

have that done immediately and return to the baths to wait for the
tpt to move off. I further ordered that there would be no lingering
in the town by any coy personnel either on bath or haircut parade.

At 1200 hrs when the coy was ready to move off, Cpl. Parsons reported
to me that Pte. Byan was missing."

The accused declines to cross-examine,

(Sgd) "Capt. I.H. Louson"

the state white

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

"I do not wish to say anything now".

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

CERTIFIED THAT R.P. 4 complied with.

"In the Field" 15 May 44. Office detailed to take summary.

Der & en Virilia

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Place	Date of offence	Rank	Cases of drunken- nose	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispen- sing with trial	By whom awarded	Remarks	
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Theld	145.40	One		The on letter Liverer All year 1000 has 14,940 to 22th pas 14,940 to 2	Paleson, R.	A days co	16.9,40	statist.		
hild	229.40	Phe		Walls Conduct to the provider of good order and military describes, within he might to comply will an all a supplied to comply pailed to want from Sec 40 API	Young go	Sdaypes-	28.10.40	Elawhings Capt		•

				Sqn. Battery or Company Corps C. / C and date last drunk N/A Period not reckoning towards freedom from extra fine	Date of enlishment		S S Cant	he Character	(AFB 172) P&S/136 (343)
Place	Date of offence	Bank	Cases of drunken- noss	огукиси	Names of Witnesson	Punishment awarded	Diste of award or of order dispen- sing with free	By whom awarded	Remarks
Auld	22 9.40	Ph		WAS Conduct to the prejudice of good order and melitary discipline, it want he was	DE1000 RSM	7 day 08	24,4.40	States May	
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	Place	Date of offence	Rank	Cases of drunken-	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispen- sing with trial	By whom awarded	Remarka
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	sield	(2.1.4)	Obe		1) and Awil from 2359 has 18 hours to 1555 has 26 966 41 (166 at 15 days 15 has 56 mins)	28134 Held Culaism	28 days deletion	1 Posts 47	KABbakadu M-GI	Maisted deposits for electric FAS 1440/m) State Oct pay FES
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Place	Date of offence	Hank	Onses of drunken- ness		Names of Witnesses	Punishment awarded	Date of award or of order dispen- sing with trial	By whom awarded	Remarks
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l'lace	Date of offence	Hank	Cases of drunken- ness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispen- sing with trial	By whom awarded	1
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			teld in	Octobill She	Japkacy.				
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(Substitute for AFB 296 or MFB 355)

STATEMENT OF CHARACTER AND PARTICULARS OF SERVICE OF THE ACCUSED.

No. D-81862 NAME Terrence Patrick Michael UNIT SHE BOY S RYAN No. of Dependents DATE OF ATTESTATION 28 Nov 39	The Black Watch) of Canada. s_none
NO. OF DAYS SPENT IN CLOSE ARREST (TO DATE OF TRIAL) CIVIL NIL MILITARY 3 HOSPITAL NIL TOT DATES OF PROMOTIONS, APPOINTMENTS AND CONFIRMATION OF RANK,	

CERTIFIED TRUE COPY OF MFM 6 MUST ACCOMPANY THIS FORM.

Officer 1/c Records, 1st Bn The Black Watch (RHR) of Canada

Dated at: In this Fild

This | The day of May 1944

(To be dated and signed as of date of trial)

OANAT" Najin

47-11 Lept. Ryan V.J.

SCHEDULE.

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.)
applicable.)		9	special findings, etc.)
st Sec 15(1)AA	Thealty	Luckty	
nd			
3 4.			
th/	1	a samment rooms and	
th			
th			
(Note: As to f		cas see AA 56, RP 44	findings on alternative charges are MML p 483 fn 4 para 2, 8P 44 ;
- Not -		i, and in tens in the land	
	being sarved, or dele	ite, if not applicable.	See RF 46(A). Infarmation should be found on MF B355 or AF B296.)
l'Ime in confinement a	waiting present	trial-a total of.	17 days, of which N/4 days were spent in hospital (
* (I, See RP 46(A Sentence Awarded by t		culs be found on MF B	1355 or AF B296 admitted in evidence under E2.)
To be red	ed to the	lanks a	nd to lendings Delention for
			cen disatopposes of payenus hel
made and G	to an of fo	3-16-8 (Carl	soprema) of n.
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(Md) Justin Adve	cate V any	Date	et 45 cm Mulhue
(Md) Judge-Advo	icate, Kany.	Date onvening Order as to a	awarded. (Sgd) President. (89 45.50.)
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	(See book of C	onvening Order as to a	awarded. (Spd) President. (RP 45, 50)
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PART III. If or duries and po- confirmation and continued, con- not confirmed, con- promulgation RF 57A, RF 53A, 54. My decision on the	(Sgrd) DECISION O wers see As 54, 51, 8 was may be tried ago styled the serviced as the serviced and serviced as the servic	F CONFIRMING STATE OF CONFIRMING STATES OF CONFIRMI	awarded. By Standard Commanding Commandi

ALL DELETIONS AND ALTERATIONS WILL BE INITIALLED.

· FIELD GENERAL COURT-MARTIAL

Convened by Order of Maj-Gen JH Roberts Comd Cdn Rft Unitsated 5 Feb 45 ACCUSED.

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

(a) Prmnt R. (b) Appmt, A/R or A/Appmt. Full Christian Names. PROOFEDINGS ALVIENCE 1 NETD Vernon James

Laitleylyn

REVENUE OFFICER, JAN PROCEEDINGS OF TRIAL.

Held in the Fd in (country) ENGLAND on (date(A)...

RECORD FORM A-OPENING PROCEEDINGS AND ARRAIGNMENT.

Al. The President, Members, sairing Member, JA, if any, and Offrs under instr. We now, assemble, and the

IPRINTED MATTER. NOT IN ITALICS FOR GUIDANCE, WILL BE DELETED, IF NOT USED OR APPLICABLE, AND INITIALLED BY PRES OR IA. The Schedule referred to throughout is an p.4. Citations do NOT include all relevant from ROs. For guidance on procedure when a vertication in this form arises, see form for CCM in MAIL pp 741 to 759. A brief record of such variation will be made and given a number harving reference to appropriate or preceding para number herein. See back of Convening Grider, CF A95, for option and in the form arises, see second orderes, evidence, etc. which instra are hereafter coiled "Notes". As to general provisions for conducting the trial see A8.33, RF 36, 63-70, 73, 74, 94, 103, 119, 132.)

A2. The President initials and lays before the Court the Convening Order and Charge Sheet () attached thereto. (1)
The Court is estissed that it is properly convened and constituted (5), accused is (acc) amenable to military law, and

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

A3. The Court is opened. The accused is (a/c) brought before the Court. At 10.15 hours trial commences. A4. The Prosecutor produces a Medical Certificate that accused is (a6e) fit to undergo trial by court-martial.(1)

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), RF 60 fn I. For effect see KR Can 563(c). Delete, if not applicable.

A5.	President to accused	He sou-object to		as interpreter	
The Inter	epreter is sween.(1) Do	you object to 916/	7 Sgt M Bushraner	as shorthand writer	Ans /LO

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

A6. 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 #

**The Court of the Court for the C

(1. RP 110. 2. If no objection, weiting member retires. RP 65(B). If objection, see procedure AA 51, RP 25, 71, 18, MANL p 742) A7. The President, Members, \$3. 15 ans, 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	Major	E. M. Muller EDKE	HOCKE
Member	Casi	S. L. Mumford	105Ru
Member	Lieur	with Pamenter	1 C S Ru
201101111	^		

A Judge Advocate Ceps At Cameron INETD Defending Offr

Questions by President: Is the Prosecutor a lawyer | Ans NO Is the Defending Offr a lawyer | Ans NO (*) (1, RP 26, 27, 109, 11). List of offin under lastr will be returned separately with proceedings for information of Cons Offin.)

(2. If Pass a lowyer and Def Offir not, accused is entitled to an adjournment when RP 89 (E) and fn 2 were not followed. See Di P 3.)

before arraignment make(s) (no) (at plea AS. The accused

(i. If a special pice is made for separate trial on one or more charges (RP 62(E), 10B), or as to the jurisdiction of the Court (RP 34, 35(A), 113), or in bor of trial (RP 36), or as to accused's mental fitness to stand trial (AA 130, RP 51), or by one of several occused charged pointly to be trial separately (RP 16, 71), such pins, the addresses made in support or against, the evidence, if any, and finding one recorded per Notes. For forms of record use references in fins to RP cited. I linear in AB rank and name of the accused making the pins.)

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

(1. RP 31, 112. See para 1 of linsurs p.2. When more than one Charge Sheet see RP 62, when several occused to be tried separately see RP 71(C), and use separate copies of CF AP6 to record proceedings. 2. NP 32, RP 33. If otherwise, delete and make appropriate record per Notes.)

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

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 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
 - 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 Guilly 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(B), and of witnesses and withdrawal of witnesses from Court see RP 81, 82; questioning of accused see RP 80, 87(C), 92(B), and of witnesses eee 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 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.

- B1. The President of JA; if any, complies with RP 35(B) by explaining to the accused the nature and meaning of the charge(k)(3), 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) call witnesses as to character and make an addi-(1. RF 35 fn 3. 2. MML p 54 pare 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 reference to the charge(f).(!) 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 stand the effect of the plea of Guilty(!), or which show provocation or extenuation in respect of which in your interest me 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 Court that your statement 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 are liable, you will not be advised to change your plea and 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 ... (1. RF 37(B). 2. RF 37(D) fo 6. 3. RF 35(B) fo 5 para 3, MML p 54 para 47. 4. See para E3 of Record Form E. 5. Statement, if any, recorded per Notes.)

- $B3_{\gamma}$ 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 B4. On the charge(f) to which the pleafs) of Guilty is (arc) not changed the President records finding(f) of
- Guilty in Part I of the Schodule.(1)
 (1. RP 35(8). If any piec(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.(1) if there is no Summary, or if it is inodequote, comply with RP 37(8). If there is any evidence inconsistent with any piece standing as Guilty. Court will advise accused to change such piece and, if changed to Not Guilty, try such charge(s) by use of pares Ot to D8 inclusive of Recard form D on p 3. RP 37(D).)
 - B6. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using Becord 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.(1)
 (1. 89 37(A) (E).)
- C2. The charges on which accused product GUILTY are read to him (them) again, and the trial is continued by using paras Bi to B5 of Record Form B above (1).

 (1. Under B5 such parts only of the homely of Bridenic are read or relete to the charges dealt with under C2. If any piec is charged to Not Guilty, triel therapy shocked by complying with parts Di to D8 inclusive in Record Form D on p 3 and making an appropriate record thereof on a superior shock.)
- C3. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

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

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 9.5(C).)

D3. The evidence for the Prosecution is taken.(1)
(1. RP 39(C), 114, KR Com 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 notcharge(s).(2) The Court

is disallowed on the harge(s), and that, accordingly, the trial will proceed on the former, but the accused is (are) found Not Guilty on the latter charge(s), and that, accordingly, the trial will proceed on the former, but the accused is (are) found Not Guilty on the latter remainder of this pero, if submission not mode. 2. Arguments on submission, onswer and reply are recorded per Notes. 3. RP 40 fn 1. See MML p.72 pages 12:14 and p.81 page 42. 4. Delete part not used. If accused acquitted on all charges, use second distriction to page 50.

No. If trial proceeds, accused must be ellowed great latitude in making his defence, and the Court should not step his defence solely on ground of irreference. (RP 60(C), 1(4, 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 sworn, and you will not be subject to cross-examination. (*)
But a statement which could have been made an oath will not carry with the Court the same weight as sworn testimony. (*)
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 wish to give evidence yourself as a witness, make a statement, or do neither i Do you intend to call witnesses on your behalf ! Ans (I. RP 115. 2. RP (D(A), ser SO(D). 3. RP 40 fn 10. 4, RP, 40 fns 2. 9.)

Db. Consequent on the answers recorded in para D5 the appropriate procedure for the defence is followed. (3)

(1. RP 114, 115,416. For procedure see Notes on bock of Convening Order. CF A95. Evidence for occused us to his character should. If in his interest, be given before the finding. See RP 46(A) for 1, 88(C). Note the further opportunity in para E1 of Record Form C. Record per Notes addresses, statement, evidence and any 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 (2). The Court is re-opened.
(1. AP 43. 117(A). See Notes in Fort I of Schedule.

Z. RP 44(A).)

Ds. 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. (*)

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. (*)

If AA 343) (6), 89 43, 170(A.

Z. AA 543), 89 45, 117. This citametries announcement is not opplicable when them

DO. The control is an accordingly and according to the second form 5 or C.)

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.

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

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

F2. The Prosecutor produces Statement(s) as to Character and Particulars of Service(1), and certified true (copy (Service)) of Conduct Sheet(f)(i), purporting to refer to the accused, which he submits to the Defending Offir 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 183(i) (g) (h), and (ii) they purport to refer to (a) soldier(f) having the same number, rank, name and corps as the accused. Admitted in evidence and

and Ex C respectively.(3)

MFB 355 or AFB 256. 2. MFM 6. 3. RF 46, KR Can 558. W cheve documents not produced, see RF 46 fo 1 marked Ex ...

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

(1. RP 37(C), 46(D). 2. Address, if one, recorded for Notes fourt should permit account or his witnesses to prove on oath onething here or previously stated which would offect the amount of punishment. RP 27(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.(*)

(1. AA 54(8), NF 120(8))

cc.(1) The President records the sentence in Part I of the Schedule, which

E5. The Court considers the sentence. (1) The President records the sentence in Part I of the Sch with the sentence of the punishment of punish is dated and signed by him and the 4. (6 any 4.)

(1) When several occured tried separately set RF 71 (D). One sentence only, comprised of the punishment of punish loid down in AA 41. (4 and is pressure in to be everyed to cover all charges in all charges in each charge sheets as which accused found loid down in AA 41. (4 and is pressure in to be everyed to cover all charges in all charges in each section of the second of the se

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

CHARGE SHEET

The accused B-SS160 Cpl Vernon James Byan (CIC) on P.E. strength •f No. 1 Cdn N.E.T.D. (Lorne Scots) a soldier of the Canadian Army Overseas is charged with:

WHILST ON ACTIVE SERVICE ABSENTING HIMSELF WITHOUT LEAVE

In That He

AA SEC(15)1

At No. 1 Cdn. N.E.T.D. (Lorne Scots) did illegally absent himself without leave from 1200 hours 7 Aug. 44 until apprehended by the Civilian Police at Llandudno, N. Wales at 9940 hours 20 Jan 45. Incurring cost of return to unit, amounting to 2 3 .16 .8 (Three pounds, sixteen shillings and eight pence). Total absence 165 days 21 hours, 40 minutes.

(John R. Earber) - Major A/Officer Commanding, No. 1 Cdn N.E.T.D. (Lorne Soots)

Tweedsmuir Camp Thumsley, Surrey

To be tried by Field General Court-Martial

(J.H.Roberts) Maj-Gen

In the Field, 5 Feb 45.

CdnRft Units

FIELD GENERAL COURT-MARTIAL

(Whether the accused to be tried is under his camd or not, a FGCM may an application to him be convened by any offr of Cdn Army Overseas, or of any other farce if authorized in law, in immediate comd of troops an active service, subject to RP 1035(C) and restrictions imposed by appropriate authy. AA 49, 30, AP 104-107, 114. As to the duties and privileges of the Gonvening Offr in dealing with the application see MML Chap Y paras 20 and 23, AP 2718).

IP B2/II).

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

ACCUSED.

Number. (a) Prmnt R. (b) Appmt, A/R or A/Appmt. Full Christian Names. Surname Unit. Vernon James RYAN 1 NETD

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 (horse) committed the offorce of set forth in the Charge Sheet(s) attached and on Martin 1. To be tried by Field General Court-Martin 2. And whereas I am of opinion that it is not practicable that such offence(s) should be tried by an ordinary General (Court-Martin); (and that it is not practicable to delay the trial for reference to a superior quantited office).

[Add General Court-Martin] [Add General Court-Martin]

I hereby convene a Field General Court-Martial to try the said person(e), and to consist of the Offrs appointed

- 4-1 am anable to appeting (a) three Olive to form the Court, (b) a Fd Offree President; for the reasons I have attacked-hereto-(AA 49, RF 106(B), 107(A). Delete the more appoint as fluidge-rady occube thereast the fifth mentioned horounder.

(RF 106(E). Delete, if none appointed.) (AA 49, RF 106(B), 107(A). Delete the whole or part, if not applicable.) PRESIDENT. Major E.M. Miller ED (Ronk.) (Must be named. RP 10a.) HQ CRU MEMBERS. A Capt To be detailed by OC 1 CBRU A Lieut To be detailed by OC 1 CSRU (Named or detailed. RP 106.) WXXXXXXXXXXXXXXX (Named or detailed, if all) XXXXXXXXXXXXXXXXXX On Active Service in the Fd England (Country.) Maj-Gen (J.H.Roberts) May-Gen Date 5 Feb 45 (Rank.) Commanding Cdn Rft Units

CONVENING OFFR WILL INITIAL ALL DELETIONS AND ALTERATIONS 4/38A CFARS (In lieu of APAS)

(See overleaf for boths and notes for use on trigi.)

Modical Officer's Certificate KR (Can) Para 557 I certify that I have this morning examined No B-8316A Rank . Ell.

Hame. R.yan ... V. J. of .. R. C. A.S. C. (unit) and in my

opinion he is fit to under go trial by Court Martial.

Station .. JCMETD

No. 1 Can. N.E.T.D.

(Lorne Scots)

CASE OF

E=1 1-88160

Corporal

BYAN, V.J.

(CIC) on PE No. 1 METD

PLEA IN HITIGATION OF SENTENCE

The accused here, Cpl Ryan, enlisted in 1939, came overseas, went to France with his unit, came back, went to Italy and served all through the campaign of Sicily and Italy.

While in Italy, he got a ster from his wife telling him about trouble at home. He asked his or for compassionate go on a pow draft. He came here to England, waited for awhile being in Sicily and Italy and being hock in England, waited for awhile being in Sicily and Italy and being hock in England, he went leave in England. He met somebody and went away with here sort of shy of coming hack until he found and he was all and was to the military police. He has a white Grine Sheet and I he is asking now is to be given a chance have the very bad misfortune of pleading guilty to-day but he was sent from NETD to "Overflow" NETD, pending his trip the FE of No. 1 NETD.

ni

SUMMARY OF EVIDENCE

In the case of E-88160 Cpl Vernon James Ryan (CIC) on P.E. strength of No. 1 Cdn N.E.T.D. (lorne Scots) a soldier of the Canadian Army Overseas.

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

First Witness for the Prosecution

Capt. H.E. Couch, RCA, Adjutant No. 1 Cdn N.E.T.D. (Lorne Scots) having been duly swern states as follow:

"I produce a certified true copy of Declaration of Court of Inquiry d/l Sept. 44 relating to the accused" (Copy of Declaration attached as Exhibit "A")

I also produce an Army Form 0,1618 d/20 Jan 45 purporting to be signed by Committing Magistrate at Llandudno, N. Wales, relating to the accused. (AFO 1618 attached as Exhibit "F")

I also produce Expense Voucher Relating to the accused, signed by Lieut. J.A. Thompson, Admin Offr - DPMs' BR C.M.H.Q.

(H. E. Couch) Capt.

The accused declined to cross examine this witness.

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

The accused declined to give any statement and reserved his

I certify that the foregoing Summary of Evidence consisting of one page was taken down in the presence and hearing of the accused and that Rules of Procedure 4 (c), (d), (a), (f) and (g) have

Tweedsmuir Camp Thursley, Surrey (G.F. Adamon) Heut.

Officer Detailed to take the Summary of Evidence.

Tweedsmir Camp

RECORD of the Declaration of a Court of Inquiry assembled at Thursley, Surrey
on the 1 day of September 19 44 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. B-88160 Cpl. RYAN, V.J.

DECLARATION

The Court declare that No. B-88160 Cpl. RYAN, V.J. formerly of No. 1

G.R.O. (RCASC) and now on transit strength of No. Cdn N.E.T.D. (Lorne Scots)

illegally absented himself without leave at Two-damuir Camp, Thursley Surrey, England at 1200 hours on the 7th day of August 1944, that he is still so absent, and that on the 28 August 1944 he was deficient, and that he is still deficient of the following articles:—

ARTICLES	VALUE	ARTICLES	VALUE
	AS FER LIST ATTACH	ŒD	

Capt. M. DeBlois President

Lieut. G. Guy Member

Signed at No. 1 Gdn N.E.T.D. (Lorne Sector)

Lieut. H.E. Gouch Member

this 1 day of September 19 44

Signature of Commanding Officer (Louis Keene) Col, #1 Can NETD (Lorne Scots)

Certified true copy

3/60B MFB 375-AFB 115 40/FBS/392 (6610) Certified

on the Twen tiethday leave) from the	of January, 1944 as a Deserter (or Abs. Bn. of the Foyal Canadian Army (Service Corps)	-
Age do years Complexion Pale Marks attoo on ne	Height 5 Foot Eximeet 5 Hair Lt.hrown Eyes 51uc K In uniform or plain clothes Unifor	inches
Probable date and place of at		
Probable date of desertion or be of absence and from wh	eginning 7th August, 1944.	
Name occupation and addre- person by whom or throu- means the Deserter (or- without leave) was app and secured	h whose P. Constable 12 Hughes,	
Particulars in the evidence on which the prisoner is committed, and show- ing in what manner and upon what grounds he was apprehended. The fullest possible details to be given.	*The Police Officers mentioned visited a flat at Lloyds suildi at 0040 hrs 20/1/45 following rinformation regarding the pressoldier there. EXAN was seen, a he later about the being a deser	ngs, Llandud eccipt of noe of a rrested, an
t DO BEREBY CERTIFY to has been duly examined by the circumstances herein a declared in my presence that a less refer from the before-mentioned Corp.	fore me as to ated, and has Awelon, Maesdu, Resider LLANDUDNO Post To	own lo mund Magastr
- &		ture of Prisoner ture of Informant infession is not then
Or where the Prisone toothcoming I HEKENY CHAIN that Prisoner conteged to allow stated, bit, that only or falsehood of sittle cases coming, and that the cases was the day of for the purpose of obtaining the conteger of the conteger	the above-named circumstance of the form of the control of the con	ure data da se da

Care should be taken to insert Army No. and Rank.

Insert "was apprehended" or "surrendered," as the case may be.

It is important for the public Service, and for the interest of the Deserter or Absentee subject is important for the public Service, and for the interest of the details should be leave, that this part of the return should be accurately filled up, and the details should be inserted by the Justice in his own handwriting, or under his direction, by his Clerk |

Insert "is "or " is not a Deserter "or "Absentee without leave from," or "belongs, or "does not belong to," as the case may be

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Exper	ise V	ou	cher	Re-		

Ref : KB & O (Can) 539

Reg No B8816 Grank Cpl. Name Ryow, V. J. Unit METH The following expectes were incurred in applehending and feturning the M/N Solding to his Unit from Escorts return fare from LONDON Colevyn Bay Prisoners single fare to LONDON Colory , Lay Prisoners fare from Escorts & Prisoners expenses for Bed, Meals, Bus fares

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

I.A. Komken LIEUT. J A THOMSON. ADMIN OFFICER-DPM's BR

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

Statement as to Character and Particulars of Service of Accused.

Number.	Rank.	* Name,		Regiment	(or us the case may	y ba),
B-88160	Cpl.	RYAN V.J.	No.	1 Gdn,	N.E.T.D.	
duct sheetst of the a	accused, exclusive o	ie summary of the entrie f convictions by a court trial has been dispensed	martial or a civil	al and squadre	on, battery or cou sary awards under	spany con- section 47
Noon. At a trial by seed general court						
sector general court searcraft this summary may be compiled from the field non-		* Within las	t 12 months.		*Since Enl	istment.
The conduct should be mentioped should be produced in court	For.	NIL		times		times.
to not annexed to the proceedings.	For			times		times.
1000 pera 877, K.H.,	For			times		
* The entailers between giated should every						times.
Ser or estres in the annihila sheets, pro- mathemat being given	For			times.		times.
to the most arrives emergin each entry, and to any recognised special acts of gallun-	For			times.		
try or distinguished conduct. Instruction — If the charge is for druppen-	Menumber	of instances of gallantry	or distinguished	conduct god		
arms the cutries for drankeners must be stated separately and dated.	There as	re no entries in the cond	act sheets of the a	ccused.		
Verny Act, and dispe	nsations with trial s	cused by a court martial inder section 73 of the Ari tence at the present time beginning on t	my Act, are set ou	t in the schedul	ie annexed to this	statement.
4. The second	of how boom in contin	nement, awaiting trial on			N11	198
in civil custody, and			custody, making		30 17	days
of which N11		ys were spent in hospita	L.	a total of		days,
6. The preser	The same	ed according to his statement pecified in his attestation	kutorxvinx is 3:	3 yrs 211 11-339	1 days	
The service	e which the accused	is allowed to reckon tow	ards discharge or	transfer to the	reserve is	
U 8. The accus	ed is entitled to de	ferred pay or gratuity in	respect of		service	
9. The accuse	ed is entitled to rec	kon	service for t	the purpose of	determining his p	ension, etc.
10. The accy	MB possession	of, or entitled to, no mj	litary decoration	or military aw	ard (or is in posse	1
		on or reward)). C.V.S.				
		officer.) The accused be	fore he was made	a warrant offi	icer last held the	Towns and A
rack of N.A						
1		e accused holds in the arr	my the rank of		dated_	
and in his regiment	(or corps or depart			dated	the	
(10906) WL\$5934/1499	20,500 10/45 A.& E. 12,000 2/44	W.Lid. Gp.598			100	

summery award under charges upon which convicted, or in respect of which or authority deposing of the charge, or order of the dispensing aschority. Sentence of the court or authority deposing of the charge, or order of the dispensing aschority.	
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88160 N	ame Rya	n, V.J	No.	Sqn, Battery, or Company	N/A Corps RGASC Period not reskoning towards freedom from extra fine	N/A Sheet No	Signature OC Company, etc	There of award of	Dy whom awarded	Homarke
onte of last e			of la	and date N/A		Names of Witnesses	Pimishtoria awarded	Date of award of of order disper- sing with trial		
			Cases of drunken-		OFFENCE OF A	minkenness	Signed S.	Shankman L	leut.	
		22 Ma	r 445	last entry 22	Mar 42; no cases of d					
					Certified True	copy of origina	1 document in my	(N. DeBlois		(pt:-
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	AM									CP CP

R BRIGG Col. Ryan. V.J.

B 88160 Cpl. Ryan, V.J.		Warah maka	Loss 25%
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Baughon, QLOUDS	1	1. 6	1, 3,
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"Certified that this is a true list of the kit deficiencies of B. 88160 Cpl. Ryan, V.J. as of 1 Sep 44" [Can. R.E.T.B. (J B. Lindner) Capt/OM 1 Cdn. R.E.T.B.

TIZI OF WITHESE

LIST OF EXHIBITS

Inits my wish that the Commending Officer detail an Officer as transfer to an officer defail an Officer as my trans. STATEMENT BY ACCUSED

8 81 6 % Tol 23 and 65 % Technicy eansign -

EXHIBIL SCH

Satisfam on the A/NO Jan 45 from committing. N. to from committing.

EXHIRIT "A" Certified true copy of Declaration of Court of Sapt. 44.

FOR THE PROSECUTION - A/Capt. H.E. Couch, B.C.A. Actation Salutant No. I Cdn. N.E.T.D. (Lorne Sacts)

FOR THE DEFENCE

TPR RYAN W.J.P.

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

PROCEEDINGS.

On Active Service, this

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

And whereas I am of opinion that it is not practicable that 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.

* Omit if not applicable

* I am unable to appoint *41. Three Officers to form the Court.)

*(2. A Field Officer as President.)

°11. Three Officers having more than on

President. Rank

Members.

Regiment. To be detailed by OC 32 Cdn Corps Tps Coy, ROASI Rank. Captain

To be detailed by OC 31 Can Corps Tps Coy, MCLSC Lightenent

*Signed

D.D.M.S. 1 Cdn Corps, Convening Officer.

Regiment.

1 Gdn Lt AA Rept, RCA

Commanding

Number, Rank (a), Name and Unit of Accused (b)	Offence charged	*Plea	Finding, and if Convicted, Sentence (c)	How dealt with by Confirming Officer
B-61398	First Charge			
Trooper	Army Act.	Not	Guilty	27 3 ch4 3
Joseph	Second Charge	Janay		confunda
Patrick HYAN	Section 40 Army Act.	Guilty	Guilty	2 a 17 6
	Third charge Bestlen 15 (1) Army Act.	Guilty	Guilty	p.D.*
	For particulars of	harea	o be putender steppoges of Pay	
	sheet atteched.)		antit be bassade	
	saget attached.)		3:18:4 in support of cante of	
	seet atteched.)		3:18:4 in sopret of cants of offerhanis.	
	seet atteched.)		3:18:4 in support of cante of	

• 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 that you have not been compiled with, and that you have been prejudiced thereby, or on the ground Answer (to be recorded on separate sheet if necessary):

At 16.

Tamelinku.
(E.A. McGuskar) Brigadier (Signamanding DDMS 1 Can Corps.

Contenting Officer (e)

(a) Appointment acting tank 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 (c) Recommendation to mercy, if any, to be inserted in this column.

(c) It is not necessary that the Confirming Officer should sign his name in this column. Initials are sufficient, of the Schedule to be initialled by him.

I certify that the above Court assembled

	Evidence a to b	day of Spirits a the Schedule, and that the plea, of each such person were	and duly tried the persons named it inding, and sentence in the case ed in the third and fourth solutions.	Ю.
		of that Schedule.	i, finding, and sentence in the case ed in the third and fourth column	President as to proceedings.
		I also certify that :		
		I. The members	of the Count	
	* Omit if no	4. The Witnesses		
	applicable.	"(3. The interpret	turni .	20
		the Highligan	Heler instruction	CAO.
		were duly sworn.	(16
		Signed this 22 rd	day of September 101	
			1 11 sol	
			Pandlell III	
			Development 100 mily	
			President of the Court Martial.	
	* See footnote	Prestify that the terms of		
		complied with.	A.C.I. 570 of 1918 have been	-
		The state of the s		
		Signed this		Certificate in case of death
			and 01 10 .	omitencies.
				140
				CARD
			President of the Court Martin.	
		I have dealt with the findings stated in the last column of the	s and sentences in the manager	
		stated in the last column of the stated in the stated, I hereby consentences	Schedule, and, subject to what	D.
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107	To be omitted mless penal crvitsde or im-	"(I direct that the soldier main militar to prison multi-further orders	mi in the margin be not com-	2
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	Promulgates	ed and extracts taken in the case of		The A. A. A.
	a) (Dated)	30 Sep 43 Signe		
	Promulgated	d and extracts taken in the case of	(J F Bingham) L Comd 1 Cdn Arm	t Col d C Regt (RCD)
	(Dated)			
	Promulgated	Signe	(d)	
		i and extracts taken in the case of		
	(Dated)			
	(4) 100	(Signed	d)	
	(a) when sex	veral cases are promulgated in one need only sign o		
		need only sign o	once. On the same day the Office	r

(41236) Wt. passy-1951 and in 1140 P. N. G. Sp.

CHARGE SHEET:

The accused, B 61398 Trooper Wilbert Joseph Patrick Ryan, 1st Armoured Car Regiment (RCD), a soldier of the Canadian Army Overseas, is charged with :-

FIRST CHARGE Sec 40 A.A.

CONDUCT TO THE PREJUDICE OF GOOD ORDER AND MILITARY

in that he

in the field, on the night of 17-18 August 1943 assisted C 51504 Tpr MacKay 3 E to escape from the Regimental Guard Room.

NEGLECT TO THE PREJUDICE OF GOOD ORDER AND MILITARY

in that he

in the field, on the 17th August 1943 after being duly warned by B 138 Cpl Burgess I D to be on Sqn Guard at 2300 hours neglected to be there.

THIRD CHARGE Sec 15 (1) A.A.

ABSENTING HIMSELF WITHOUT LEAVE

in that he

in the field, at approximately 2300 hours, 17th August 1943, absented himself without leave until apprehended by the Military Police at Manchester at 0700 hours, 28th August 1943. (Total absence 10 days, 8 hours) Incurring cost of apprehension and return to the extent of £ 3. 18. 4.

In the Field 16 Sep 43

January Cast. per success of success place Armd C Regt (RCD)

To be tried by Field General Court Mertial.

In the Field 18 Sep 45

Ta ma A. (S.A. McCusker) Origadier D.D.M.S. 1 Gds Corps.

IW Molicey

MEDICAL OFFICER'S CERTIFICATE

K. R. (Can.) Para 557

I certify that I have this morning examined No B 61398

The Ryan W J P of Armd C Regt (RCD) and in my opinion he is

Unfit to undergo trial by court-martial.

Station In the Field

Date 22 Sep 43

Medical Officer

apt

	13 17 Tpr. Nilbert Joseph Patrick Ryan Thes) (Route) (Christian Meneo) (Surname) (Fi Field in Country) on 21 dept 1903.	
***************************************	eapt N.B. Kelly 32 and T. Cay RIA	
TIDOR ADVOCA	3/ Can Cit. Co. Oca	SC .
PPIORES THE NETHODELON:	58	_ (40)
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DESCRIPTING 2 FIGUR: 2	t. V.m. Eriger Lawyer? Ans.	HO. OB
101	Lawyer? Ans. Lawyer? Ans. Lawyer? Ans. Disker Lawyer? Ans.	MO. OM

accused is/are emphable to Military Law and that each charge discloses an offence, (R.F. 100) The accused is/are brought before the Court and at 1030 hours

The Presecuting Officer produces a Medical Certificate (K.R. (Cen) 557; Cano Circul Littor 17; that the secured layers fit to undergo trial by court carried, the certificate is initialled by the President and attached to the Presectings.

The Convening Grass is reed in the nearing of the accused.

The names of the President and Members of the Court are read to the accused (R.P. 110),

President to accepted:

In you object to be tried by me as President or by may of the Officers
whose names you have heard read every (R.P. 110/6)]. Ans.

Instruction are duly sworn (Rs.P. 26, 27, and 111.) (Forms of Gath

The Charge Sheet(s)is/are initialled by the President.

The Presecuting Officer informs the Court that the adoused het/has not elected trial by Court Martial (A.A. 46 (8).)

If special plea(s) is/are made for separate trial on one or more charges (RS.F. 62 (E), 108); or as to the jurisdiction of the Court (R.F. 34); or in bar of trial (R.F. 36), or as to accused's mental fitness to stand trial (A.A. 130, R.F. 57), record such pleas and evidence (if any) on separate sheet(s), to be initialed by the President and attached to the Proceedings. Where accused does not plead intelligibly or refuses to plead, see R.P. 35(A).

Each charge is read to the accused and he is asked as each charge is read whether he pleads guilty or not guilty (R.P. 112).

He pleads as follows:

First Charge NOT GHILLY	Sixth Charge
Sacrad Charge Guilty.	Seventh Charge
Third Charge Guilty	Eight Charge
Fourth Charge	Ninth Charge
Fifth Cherge	Tenth Charge
(For procedure on alvernative	charges, see R.P. 37, ft. 2e)
THE PROPERTY APPROPRIES AFE PECCI	eded on Pages hereto attached.

I For use when there are pleas of 'Guilty' and 'Not Guilty'.)

(All printed matter not applicable to be struck out and all alterations, erasures and additions to be initialled by the President.)

The form ascertaining that the accused understands the nature of the process by the pleas (R.F. 57(B)), and advising that the accused understands the nature of the process by the plea (R.F. 57(B)), and advising the difference in the thinks the accused ought to pleas (New Guilty: theretain

. . . I place a simple proper

2. Prosident to accused:
Q. Do you wish to apply for an adjournment on the ground class of the rules reinvine to procedure before trial have not been accupiled with and that you have been projudiced thereby or that you have not been sufficient time for preparing your defence? (R.T. 39(A)) Ans. Apply

3. The Prosecutor's opening address (if any) R.F. 39(B)) and the evidence of the Prosecution are recorded an separate shorts, initially lage (D).),

4. The prosecution is closed. (If submission that no prima facto case established, see R.F. 10 fn.1; R.F. 70 fn.1.)

5. The accused is informed that he may, if he wishes, give evidence but if he does so, he will be liable to cross-examination (R.F. 40 fn.2), or that he may, if he wishes, make an unsworn statement upon which he may be cross-examined. (R.F. 40(3)(11)(a)),

President to accused:

Do you apply o give evidence yourself as a witness? Ans. No.

Do you intend to call any other witness in your defence. Ans yes

Jo he a witness as to character only? (R.F. 40(B)) ans. No.

The evidence for the Derence (if any) is recorded on chasts, initialled by the President and attached hereto.

The closing ad-resses of the Prosecutor, Deferding Officer and Tudos Advocate (Ir any) are recorded on separate sheets, initialled by the Prosident and attached hereto. (For order of addresses, see Rs.F.

The Court is now closed to consider the Finding, (Rs.F, 43, and 117)

The Court being re-opened, the accused is again brought before it the Findings of 'Not Guilty' (if any) are pronounced (R.T. 117(B)),

The charges to which the accused pleaded 'Guilty' are read to the accused.

Fredident to accused:

Quantum Do you desire to make any statement of the circumstances in reference to the charge(s) to which you have pleaded 'Guilty'? (R.F. (statement (if any)) not on eath, is recorded on separate sheet, to pross-examination thereon,)

17. Summary of Evidence is read sloud, in the presence of the accused, initialled by the President and attached to the Proceedings. (If no summary, it is necessary for determination of Sontence that sufficient evidence be taken and recorded on separate sheet, initialled by the President and attached to the Proceedings (R.F. 37(B)).

President to accused:
Lo you wish to call witnesses as to character? (R.F. 37(C)), Ans. No.

15. Statement of Character and Service (A.F.B. 296) and Field Comput.
Sheet (M.F.M. 6), righed in the manner required by A.A. 163 (1)(), and
Laporting to refer to the accused by his number (if any), and
und Gerps, are produced to the Court, read, marked (6! and 14).

The Proceedings of the Proceed sous R.O. 3131,/

And provident to accussion the Court on the Statements of the forest court and Connect and In mitigation of punishment? (Rs.P. 37/C).

46(D) Ans. (No cross-examinations)

17. President to secure.
The Colities should be sensed for every detailed of the sensence. The centime to be awarded by the Court, being subject to confirmation, will be becaused later, and the Proceedings in Open Court are accordingly terminated. (Overseas R.O. 3262).

(Record finning and persones on Person of A.T.A. D.)

(Punishments - A.A. 44, M.R. (Can) 569 - 566: Aentence of F.G.C'sall, should be deted,

40



PROSECUTION

Opening Address By Prosecution

Sir the only charge which is now in question is the first charge that of siding Trooper McKay to escape.

The evidence that I shall bring forward as regards to this charge is purely of a circumstantial nature. In other words I have no direct evidence that Trooper Ryan did actually aid McKay to escape. However have evidence which will show that the circumstances surroundings Ryan's actions on that particular night so intrically involve the accused in the escape that the Court can come to only one conclusion that is that, Ryan did aid McKay to escape.

that is that Ryan did aid McKay to escape.

I shall call evidence first to prove that on the night in question McKay did escape. 2nd. that some hour before the escape of Metay the access appeared at the Regt'l Guard Room and acted in a supplicous manner. 3rd. that the accused went absent at the same time McKay escaped and was apprehended in the same place as McKay and finally McKay escaped and was apprehended in the same place as McKay and finally that McKay when he escaped was werring a suit of coveralls and when

he returned was wearing a uniform of the accused

First Witness P1673 A/Sgt. Rescorl, P. having been duly sworn states: I am A/Sgt. Rescorl, P. 1Cdn armoured Regt. R.C. . D.

On the night 17/18 Aug. 43. How w I was the Regt'l Guard Commander. 43. How were you employed ?

A.

Q. On that day who was one of the prisoners ?

A.

On that day one of the prisoners ?
On that day one of the prisoners was Trooper McKay.
What was the last time you saw McKay in the Guard Room ?
The last time I saw McKay in the Guard Room was at 22.45hrs.
Did you later find that McKay was absent ?
After obtaining information from my sentry that the prisoner's door was open I went downstairs and found that McKay was absent from his cell which was at approximately Ol2Ohrs.

action did you take ? formed the Provost Sgt. and then went to RHQ to inform the informed Orderly Officer of the day.

CROSS EXAMINED BY THE DEFENCE

Would I be right in saying that the Guard as a whole and all the occupants of the building in which the prisoners were confined could have access to the bar on the Prisoners' Door and could

Yes Sir that would be right,

EXAMINED BY THE COURT.

Can you give a description of the building in which the prisoners

were confined ?

The prisoners were on the basement floor. The door leading down to the basement was in the hallway. There is also another door leading out to the street from the basement without coming up into the house atall. There are four rooms in the basement two only which are being used. The Guard Room is the Front Room of the first floor. There is also a door leading to the back of the building on the first floor. There are three floors to this building.
The Door Leading down to the prisoners is looked by a large bar with a small slide bar.

In the opinion of the Court it is unecessary to comply with R.P.83(B)

Second Witness

B61325 Trooper Lince, G.R.having been duly sworn states:

I am B61325 Trooper Lince #1 Can. Armoured Regt. Rxgxsxx.R.C.D.

On the night 17/18 Aug. 43, how were you employed ?

I was on Guard Duty Sir.

At approximately 000lhrs, that night what was your post ?

My post was in front of the Regt'l Guard Room from 1200hrs till 6200hrs. At approximately ODOOhrs, that night did you notice anything suspicous

At approximately obcours, that night did you notice anything suspicous? At approximately that time Trooper Ryan came up to me and asked to go up and see L/Cpl. Snider who slept upstairs over the Guard Room. I told him yes and he went inside and stopped in front of the Guard Room Door. At that time & saw a figure walking north on 4th, Ave. keeping close to the hedge, and stop behind the pillar which forms the gateway leading

the nedge and stop benind the pillar watch the nedge up to me and asked if the stood there for a few seconds then came up to me and asked if ne could use the lavatory which was at the back of the building. I then recognized this figure as Trooper Brown. I said he could and followed recognized this figure as Trooper Brown. I said he could and followed him in . At that time Trooper Ryan who was still standing in front of the him in . At that time Trooper Ryan who was still standing in front of the him in . At that time Trooper and Brown went through to the lavatory the Guard Room Door went upstairs and Brown came from the lavatory. In a short time Ryan came down stairs and Brown came from the lavatery. They stopped in front of where I was standing in front of the door into

Trooper Ryan asked me if there was anything to eat in the Guard Room and I said yes and then got them each a snadwich which had been left over from the Guard. Then they both went out and I followed them. They went as far as the gate again and stopped. From there they asked me if they could go around the back way to "A" Squadron Lines and I said

Later I heard the back door banging so I went through and closed it. On my way back to my post I noticed that the door leading down to the cells was slightly open. The bar which had held the door was lying on the floor. I called the guard Commander and he went down to see if yes. everything was alrightThis was at approximately olighrs.

Did you say that it was at approximately Oll5hrs when you saw that the Q. bar was down ? Yes Sir.

A.

Q.

When was the last time you saw the bar in position ?
When Brown was at the bakk back as I could see it from my post.
When Brown and Ryan went out of the building was the bar up ?
When Brown came from the back of the building but when they

went out I didn't see it.
Was the back door locked during the course of the evening ?
It was open when I came on duty.

Did you close it?

No Sir not till I went back to investigate later,

No Sir not till I went back to investigate later,

When you were standing guard what was your exact position?

At the top of the steps leading up to the Guard Room Building.

From that position could you see tha door leading down to the cells.?

No Sir.

Because there was equipment in the passage way which leads to the back Q.

From the time that Ryan and Brown went around the Guard Room Building to the back until you heard the back door banging did anyone else go around.?

Could a person enter the building from the back door which opens unto the yard and remove the bar from the door leading down to the cells without you seeing them ?

Yes Sir. dould the bar have fallen down by itself ? Q.

I don't think so Sir.

Second Witness Contined:

What action would be necessary to remove it from it's socket ?

It would take somephysical action.

It would take somephysical action.

Did the actions of Ryan and Brown that evening make you suspicous?

Not particularly at the time but later when they came up to me at
my post they seemed a little nervous and lingered in the hallway for Q. QA. awhile before they went out.
What did they do when they lingered in the hallway before going out?
They didn't do anything but just stood there.

Q.

Did they look around ? They might have done so but I didn't know it,

CROSS EXAMINED BY THE DEFENCE.

You say that when Ryan and Brown left the Guard Room you don't know whether the bar on the door leading down to the cells was up or down ?

A.

Do you recall making a statement on oath that the bar was up when they left

A.

I don't remember Sir.

RE/EXAMINED BY PROSECUTION

When was the last time you saw the bar up on the door. When Trooper Brown came from the back at approximately Olo5hrs. When was the first time that you noticed that the bar was down? QAQA.

At approximately 0120hrs.

Court EXAMINES

Would you be able to tell if anybody came downstairs from the 2nd.or 3rd. floors between the times you last time saw the bar in place and when you Q. saw it down ?

If someone came down quietly I could not.

In the opinion of the Court it is unnecessary to comply with R.P.S3(B)

Third Witness

L54619 Bgt. Zavergantiz, W. having been duly sworn states: I am L54619 Bgt. Zavergantiz, W. Regt'l Provost. Do you recognize this tunic?

Yes Sir.
Will you tell the Court where yous saw it before?
Will you tell the Court where yous saw it before?
Will you tell the Court where yous saw it before?
Will you tell the Court where yous saw it before?
This is the tunic that Trooper McMay was wearing when he returned
This is the tunic that Trooper Ryan.
And found that it belonged to Trooper Ryan.
What action did you take on discovering that the number on the tunic
What action did you take on discovering that the number on the tunic
Corresponded to Trooper Ryan's number?
Later on I questioned Trooper Ryan.
Later on I questioned Trooper Ryan.
Later on I questioned Trooper Ryan. A. A.

What did you ask him and what did he say to you ?

What did you ask him and what did he say to you?

I asked Trooper Ryan how McKay got hold of his uniform and Trooper
Ryan informed me that he gave the Battle Dress Blouss to McKay on
the night of his eschae between the hours of 2 and 3 in the morning. A. A.

Cross Examined By the Defence.

Did you say that you were told that the tunic was given to McKay be Rysn ?
Yes Sir Ryan told me himself.
At what time of the night did you go the Regt'l Guard Room to see if
Trooper McKay had escaped ?
At approximately Ol45hrs. I went to the cell and discovered that McMay
had escaped. Q. A. had escaped.

In the opinion of the Court it is not necessary to comply with R.P. 83(B)

all.

DEFENCE

Trooper McKay having been duly sworn states:
C51504 Trooper McKay, S.E. #1 Cdn. Armoured Regt. R.C.D.
Were you assisted in your escape from the Regt'l Guard Room by this 051504 a.m Q. man Ryan ? No Bir. A. When you were in the cell below did you hear any voices in the hall above ? A. Yes Sir. Q. Whose were they ? A. Trooper Ryan and Trooper Brown On hearing those voices did you make any decision ? Yes Sir. A. What was it.? I wanted to go up and see them. Did you ? A. Q. A. I went upstairs but did not talk to them, Why ? Q. Because they were not there. Did you expect to be visited that night ? Maxetr No Sir. A. When you left the Guard Room Building was there anyone in sight ? No Sir.

CROSS EXAMINED BY THE PROSECUTION

Q. McKay how well do you know Ryan ?

A. Very well Sir he is in my Troop.
Q. How long have you known him ?

A. Ever since I came Overseas.
Q. Did you ever go out with him ?

A. Yes Sir.
Q. How did you escape ?

A. I came up the stairs and the door was open.
Q. What was the first thing you did when you got outside ?

A. Well Sir I got out of there as fast as I could,
Q. Who was the first person you spoke to after you got out of there ?

A. I didn't spack to anyone for swhile and then I ran into Ryan in "A" Squadron Lines.
Q. Was this a chance meeting ?

A. Yes Sir.

In the opinion of the Court it is unnecessary to comply with R. F. 83(8)

DEFENCE

SUMMING UP BY THE DEFENCE OFFICER

Sir in the case of the prosecutor bringing forth witness Trooper Lince he has on their own evidence proven that the accused Trooper Ryan ENER entered the Guard Room Building by the front door went upstairs and on the avidence of one trooper Lince came down stairs enoke to him and the evidence of one trooper Lince came down stairs spoke to him and

The prosecution has not offered any evidence that the accused came anywhere near the barred door of the basement but on the contrary

have shown us that he definitely did not,

The charge of assisting the escape from the Regt'l Guard Room must be supported by concrete evidence that the accused did assist in his breaking out of a building or as a matter of fact one room of that

his breaking out of a building.

The prosecution has tried to establish a weak chain of purely circumstantial evidence that it was a pre-arranged and deliberately enabled escape. Again no evidence was produced that the accused did anythingelse other than to call at the Regt'l Guard Room and ask to see one L/Opl. Snider an occupant of one of the upper top floors of the building.

the building.

The prosecution has tried to establish a frieddship between the accused and the escaped McKay that was completely out of proportion to the comradeship existing between Ryan and McKay. The defence has submitted the sworn statement of Trooper Ackay to the fact that he was in no way to his certain knowledge assisted by the accused

In the opinion of the Coirt it is unnecessary to comply with R.P.83(B)

PROSECUTION

SUMMING UP BY THE PROSECUTING OFFICER.

On the basis of the evidence before the Court on this charge I will again

On the basis of the evidence before the Court on this charge I will again point out to the Court that the case for the prosecution rests solely on circumstantial evidence. I submit that fate has woven a chain of circumstances around McKay's escape and Ryan's actions that night that are much too intrically entwined to be mere coincidence.

It is too much to ask the Court to believe that on the same night with no purpose in view. This mark you, after he had been warned for chard Duty and had failed to show up.kershy Surely the accused by entering the Regt'l Guard Room was bearding the Lion in his den by previously committing a grievous offence that same evening.

Further we have the fact that for some time again mysterious reason the accused absent from his post was wandering simiably about

reason the accused absent from his post was wandering aimiably about 4th. Ave. at about approximately Ol2Ohrs. in the morning when he suddenly met a man to say the least he must have known was an example and who also remember of a Friend og his Further the accused takes McKay to his he auddenly quarters and gives him apparently quite voluntarily a Battle Dress Blouse The purpose again is obvious.

We have evidence given by Trooper Lince that at Olo5hrs. the bar was on the door, that some 15mins. later it was not, on the door, that some physical effort was required to move the b r from it's position, that been only people who were around the Regt'l Guard Room at that time was the

only people who were around the Regt'l Guard Room at that time was the accused and another fine soldier named Brown.

I submit to the Court that if they look at this diagram they can surmise as to how McKay managed to effect his escape. I submit again purely on the basis of the evidence that has been given that Ryan and Brown came in the front door of the building and did what is known as a brief recee of the building sufficient to make the guard on duty suspicous, that they then left the building went around to the back by the footnath in the back door up to the door leading down to the suspicous, that they then left the building went around to the back by the footpath in the back door up to the door leading down to the basement removed the bar from the door and permitted McKay to escape. This being possible because the guard could not fully command a view of all these exits and entrances which fact the accused became acquainted with at 0105hrs, that night.

I further suggest that it is a strange coincidence that McKay should have been **IRTHERMARKHER** awake at the time Ryan was there in the building and able to know that Ryan had been there ***IXI atall.

building and able to know that Byan had been there xiii atall.

As for the evidence of the defence such as it was I submit to
the court that it was absolutely untrue. Accordingly nit is my opinion the court can reach only one decision in this case because surely mere chance has played too big a part in these events.

Lieut. V.M. Singer having been duly sworn States:

The Prosecuting Officer Submits to the court

1. Expense Youcher for *3.6.5.

for +3.6.5. 2. Expense Voucher For 20.11.11,

AFB. 252

AXXXX GETTTTT ERTEX OF X REFERENT.

Blouse

Certificate of arrest Diagram of Building

7. MFB.296 statement of character and record of service

MFM6 Field Conduct Sheet.

These are read marked by the President and attached to the proceedings as exhibits "A" "B" "C" "D" "E" "F" "G" "H" respectively. In the opinion of the Court it is unnecessary to comply with R.P.83(B)

DEFENCE

STATEMENT IN MITIGATION OF PUNISHMENT BY THE ACCUSED.

The reason I went A.W.O.L. was because I was very dissatisfied in my Regt. I didn't join the R.C.D.s originally I was transferred from the Ontario Tank Regt. without my consent. I didn't like the Regt then and I would have preferred to stay in the tank Regt. I knew it would be hard to transfer back so if decided to stay and try to get to like the Regt. and the work I was doing. I first worked as a Qualified Driver Operator and then as a Driver Mechanic. I worked at both trades and I still didn't seem to get along the way I would have liked to in the Regt.

About three months ago I applied for a transfer and again lamonths

About three months ago I applied for a transfer and again lamonths ago . Both times my requests were denied on the grounds that I was too well qualified. I asked to be treamsferred to the Ontario Tank Regt If possible

and if not to any other Rget, that was in action in Sivily at the time.

On the night that I went A.W.O.L. I had not intended to do so but I

went out with permission of the Guard Commander and stayed longer than I had

figured on staying.

I started back and found that I was alreadylate for Guard and I knew
I would get into trouble over it and being already dissatisfied with the Regt

I decided to go A.W.O.L..

I am married and would not like to get a samtence which would mean that that my wife's allowance would be stopped.

In the opinion of the Court it is unnecessary to comply with R.F.83(B)

whilet A colo Ref. K.R. & O. (Can) 539

Reg. N. B 6/398 Rank Pte Name Ryan, W Unit / armid Car Regt The following expenses were incurred in apprehending and returning the M.N. Soldier to his Unit From Date Amount Escorts return fare from LONDON 6 Sept 43 From

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

No. 6 Area Provost Company, Canadian Provost Corps, London.

Expense Voucher Re—:

Escorts & Prisoners expenses for Bed, Meals, Bus fares

Officer Issuing Railway Warrant and Expense monies

artiful & cate

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

Expense Voucher Re--:

Reg. N. 86/398 Rank Jos. Name Lycen, 26. Unil lan frond Con

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

Date	Particulars	Amount	
401.43	Eacorts return fare from LONDON To Dughton	2	11
	Prisoners single fare to LONDON From		
	Prisoners fare from Landon Brighton	4	0
	Escorts & Prisoners expenses for Bed, Meals, Bus fares		
	Total £	11	11

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

.

Capt.

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

40/P & S/485(328

CHARGE Army Form B 252 A. C. R. (See King's Regulations) Regiment SANARIAN SORPS Battery Squadron Troop or CHARGE against No. By 613.98 Company Rank Pre Name PYRK, W. T. P.

Place

Date of Offence OFFENCE WHILLST ON ACTIVE SERVICE

ABSENT FROM UNTIL APPECHENSED

BY THE MINITARY CONSE IN THE KING GERRGE V. M. S. A. MANCHESTER ON THE 284 AVGUST 1943 AT ABOUT 0700 HEA

Names of Witnesses :--

788994 LICAL V. GREEN GLADE, C. M. PERISE Signature of O.C. Battery, Squadron, Troop or Company

Punishment

By whom Awarded ...

7688708 4584 G. Palad. CM. Conse

P.T.O.

51 FILE NO. R.O.D 5-5-3 REG No . 1794 STRIE MENT OF EVIDENCE IN COSE OF BI 10 BOR RED REST. W. J.P. at MANCHESTER on the 28th AUGUST 1943 about 0700 hours. I was on waty in the viva 480856. Y. M.C.A. accompanied by Hope GALENSLADE CM POLICE, when I raw the above named roldier. I raded him of to was on leave and he replied, "No Compared, I am about I arrested made amonged him to the BRIDER GREEN DRILL HOLL, John & handed him men to the N.ED 1/2 GUARD to be delamined the was notice and wearing mutay uniform 28. 8. 43 I Shaw High C. M. Porces REMARKS I have und over and corroborate the above statement. MANCHELTER U. grundale Jupe 28.8 +3 em. PALICE

Tourse of Provent Exchal, A.S. M. Corne of Military Police, or other orrigor into whom ountry on the hove named person we taken on hand and handles out of the shore named person we taken on handles and handles out of the shore named person we taken on handles and handles out or other named person we taken on handles and hardles out or other named person we taken on handles and hardles out handles out the shore named person we taken on handles and hardles out handles out

mits. April Award Liter

CARDEN WALL Back Doog Toront FIRST Door FROM BATTERNIT auto Dwler & ...

in the case of

B 61398 Tpr Ryan W J P, 1 Armd C Regt (RCD), 1 Cdn Gorps, a soldier of the Canadian Army Overseas.

The Commanding Officer directs that the evidence be

FIRST WITNESS for the Prosecution

B-61325 Tpr Lince G R, 1 Armd C Regt (RCD), having

" I am B 61325 Tpr Lince G R, "D" Sqn, 1 Armd C Regt (RCD). On the night of the 17-18 August 1943 I was on Regimental Guard duty stationed outside the Guard Room. At approxacture of the Guard Room and Sked me if he could be permitted to go upstairs and speak to L/Cpl could be permitted to go upstairs and speak to L/Cpl Snyder one of the Regimental Provost, who was sleeping upstairs. I said yes, Ryan went into the building and stopped in front of the Guard Room door. At this time a figure coming up Fourth Avenue towards the Guard building, keeping in close to the hedge. He stopped Room building, keeping in close to the hedge. He stop, show the pillar, which is in front of the Guard Room behind the pillar, which is in front of the Guard Room to he will be to me. It was moments later he came up to me. It was building. A few moments later he came up to me. It was Tpr Brown R W. He asked if he could enter the Guard Room The Brown R W. He asked if he could enter the Guard Hoom building in order to use the toilet. I said yes. I followed Brown into the building and took up a position in front of the room where the Regimental switchboard is. stairway leading down to the rooms where the prisoners At this time this door was barred, are kept. At this time this door was parred, the bar and fixtures for it are of such a nature that the bar can only be removed from the side on which the bar is can only be removed from the side on which the bar is situated. The bar was so fixed that it was unlikely that it could fall by itself, and to remove it would require some physical action. Ryan went upstairs and Brown went through to the back of the building where the toilet is The bar through to the back of the building where the toilet is situated. In a few moments Ryan came downstairs and said. "He's asleep", referring, I imagine, to L/Cpl Snyder. At approximately the same time Brown came out to the front of the building from where he had been. Together Brown and Ryan walked to the front door and I followed them. They then went down to the sidewalk and out to the street. They stopped there and asked me if it was alright if they They then went down to the sidewalk and out to the street. They stopped there and asked me if it was alright if they went around the Regimental Guard Building and through the backyard into the next street. I said yes. Ryan and the man went around the building beginning the man. backyard into the next street. I said yes. Ry Brown then went around the building towards the Approximately ten or fifteen minutes later I heard back door banging and I went through to the back of building and closed it. Coming back to the front of the building I noticed that the ber on the door, leading down rear. cells, had been taken down and the door now stood ly open. I replaced the bar and reported this to slightly open. the Guard Commander. ducted certain investigations. The Guard Commander came and conducted certain investigations. From the time that I saw the bar on the door, at approximately 0105 hours, until I later noticed that it had been removed no one had entered back door to the Guard Room Building to the best of my knowledge. The back door to the Guard Room Building previous access to the building and can be entered from the back yard.

FIRST WITNESS (cont'd)

for the

Prosecution

Cross-examined by the accused:

When Brown and I left the Guard Room Building was the bar on the door leading down to the cells on?

Yes it was. A 1.

Were the cells downstairs locked? 0 2.

A 2. No.

> Lines Signature First Witness

Prosecution

SECOND WITNESS for the Prosecution

P 1675 A/Sgt Rescorl P, 1 Armd C Regt (RCD), having

" I am P-1675 A/Sgt Rescorl P, "D" Sqn, 1 Armd C Regt (RCD). On the night of the 17-18 August 1943 I was acting as Regimental Guard Commander. Amongst the acting as Regimental Guard Commander. Amongst the prisoners in the Guard Room when I took over was one Tpr MacKay S E. The last time I inspected the prisoners was 2245 hrs that evening, at which time they were all was 2245 hrs that evening, at which time they were at present and correct. At approximately 0120 hrs that night, as a result of certain information I received, I went down to the cells to inspect the prisoners and I discovered that Tpr MacKay S E had escaped.

The accused declines to cross-examine the witness.

Signature - Second Witness Prosecution.

THIRD WITNESS for the Prosecution

B 138 Cpl Burgess I D, "B" Sqn, 1 Armd C Regt (RCD), having been duly sworn, state;

" I am B 136 Cpl Burgess I D, "B" Sqn, 1 Arma G Regt (RCD). On the night of the 17-18 August 1945 I was Guard Commander of "B" Sqn Guard. One of the members of this Guard was Tpr Ryan W J P, the accused. At 1800 hrs I gave out that he was to be on guard at 2300 hrs. At approximately permission to go to the canteen. I granted this permission to go. This permission to go to the canteen is usually permission to go to the canteen. I granted this permission to go. This permission to go to the canteen is usually granted to members of the guard whilst they are standing by to go on duty. At 2300 hrs Ryan did not show up to did not see Ryan again for the balance of that evening and at 0600 hrs the next morning I reported his absence

The accused declines to cross-examine the witness.

FOURTH WITNESS for the Prosecution L 53866 L/Cpl Snyder R A, HQ Sqn, 1 Armd C Regt (RCD), having been duly sworn states:

"I am L 53866 L/Cpl Snyder R A, H Q Sqn, l Armd C Regt (RCD). On the 6 September 1943 whilst acting as a Regimental Provost I went to Brighton Station and there took over B 61398 Tpr Ryan W J P, the accused, from an escort from No 6 Provost Company. At this time I was given certain documents amongst which were Expense Vouchers re apprehension and return of the accused from Preston to Brighton via London, (Exhibits 'A' and 'B'), and Certificate in Accordance with the Army Act Section 163 (1) (jj) (Exhibit 'E'). The accused is the person referred to in these documents."

The accused declines to cross-examine the witness,

Signature - Fourth Witness Prosecution

"The Expense Voucher Forms (CMHQ 1000:55) and Certificate in Accordance with the Army Act Section 163 (1) (jj) referred to by the witness, produced, read over to the accused, marked respectively Exhibits 'A', 'B' and 'E', signed by me and attached hereto."

Signature of Officer Taking Summary

FIFTH WITNESS for the Prosecution

B 61862 Tpr Upsdell J A, HQ Sqn, 1 Armd C Regt (RCD), having been duly sworn, states;

" I am B 61862 Tpr Upsdell J A, HQ Sqn, 1 Armd C Regt (RCD). On the 10 September 1943 I was employed in the Regimental Orderly Room as a clerk. Amongst the mail that I opened that day were certain documents including Army Form B 252. (Exhibit 'C') The accused is the person referred to in this document."

The accused declines to cross-examine the witness.

Signature of Fifth Witness Prosecution

"The Charge Sheet (AFB252) referred to by the witness, produced, read over to the accused, marked Exhibit 'C', signed by me and attached here to."

Signature of Officer Taking

SIXTH WITNESS for the Prosecution B 74656 Tpr Bell J C, Regimental Provost, 1st Armoured Car Regiment (RCD), having been duly sworn, states:-

"I am B 74656 Tpr Bell J C, Regimental Provost, 1st Armoured Car Regiment (RCD). On the night of 17 August 1943 amongst the prisoners in the Guard Room was one C 51504 Tpr MacKay S E. Two or three days previous to that day I took a uniform of Tpr MacKay's to a cleaner. MacKay had no other uniform amongst his kit, at that time. All he had was a pair of coveralls. His kit on the 17 August 1943 was the same as on the previous day. When MacKay escaped sometime on the night of 17-18 August 1943 he did not have in his possession any uniform of his own. All he had was his coveralls."

The accused declines to cross-examine the witness.

Signature - Sixth Witness Prosecution

SEVENTH WITNESS for the Prosecution L 54619 Sgt Zaverganietz W, Regimental Provost Sergeant, 1st Armoured Car Regiment (RCD), having been duly sworn, states:-

" I am L 54619 Sgt Zaverganietz W, Regimental Provost Sergeant, 1st Armoured Car Regiment (RCD). When, on the 11 September 1943, Tpr MacKay S E was returned to the Regimental Guard Room he was properly dressed. He was wearing a suit of battle-dress. He was wearing this tunic, (Exhibit 'D') which has written inside it the number B 61398, the accused's Regimental number. After discovering this I asked the accused if this was his tunic and he said yes it was. I asked him how MacKay had got hold of it and he said that he had given it to MacKay on the night of MacKay's escape sometime between the hours of 0200 and 0500 on the 18 August 1943."

The accused declines to cross-examine the witness.

Signature / Seventh Witness Prosecution

"The battle-dress tunic referred to by the witness produced, marked Exhibit 'D', signed by me and attached hereto."

Signature of Officer Taking Summary.

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 as evidence.

After the above caution the accused declined to give evidence.

The accused does not call any witness for the defence.

I certify that the foregoing Summary of Evidence consisting of five (5) pages was taken down by me in the mesence of the accused and that Rules of Procedure 4 (C), (D), (E) and (F) have been complied with.

Officer detailed to take Summary of Evidence

In the Field 16 Sep 43

	61398	Name Ri	1	201	Sign., BERN. See and date has drunk Period not reskenning towards freedom from extentions.	Date of enlistment \(\) Sheet No.	29-4-41 G.C. Signature O.C. Company, etc.	Major	H I T McLs	M.F.M. 6 P.R 127 304 - 7.41 (107 20) 11.31 177 29 4007 9 Od
	Company Con			Caars of	OFFENCE	Names of Witnesser				
		Distant offense		dronken- ness	1 1-though 29-10-41	Major	H I T McLeod			
		16-11-	Tor	-	A A Sec 40: PHILLING	Sgt Morgan Cpl Wambolt	96 hrs detn	17-11-41		
on board	E 354				with an order.	Cpl Howell Cpl Coney	5 C B	2-11-42	Major H	I T McLeod
	the Field	2-11-	Tpr		A A Sec 15 (1) A W L 5 hours	Sgt Gray			-10-1 A M	Paterson.
		46			A A Sec 15 (1) A W L from 2215	L/Cpl O A	3 days F P	16-2-43	LtGOI A T	Forfeits 7 day
In	the Field	12-2-	Tpr		Ers 12 Feb 40 this 2 has	Cpl Miller				149 (2)
•		and the same of				J J (RP)	Z dove C B	15-6-43	Major H I	T McLeod
In	the Field	15-6-	. Tp:	-	A A Sec 15 (1) A W L from morni parade for 5 minutes.	ng Sgt Malone	D days o b			# TO.3

		Date of offense	Rank		OFFENCE	Names of Witnesses				
	the Field	9					Punishment awarded	Date of award or of order dispen- sing with trial	By whom awayon?	
	- A	1-7-	Tpr	_	A A Sec 40 Conduct to the pre- judice in that he drove W D veh S/C CF61868 from Sen park with					
		43			Judice in that he drove W D veh	L/Cpl Reitm	elen			
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STATEMENT AS TO CHARACTER AND PARTICULARS OF SERVICE OF ACCUSED

B 61398 Tpr Ryan W J P OF THE 1 Armd C Regt (RCD)

1. The following is a fair and true summary of the entries in the Regimental and Squadron, Troop, Battery or Company Conduct sheets of the accused, exclusive of convictions by a Court-Martial or Civil Court, and of cases in which trial has been dependent

stated areas For A A Sec 15 (1) three (3) times

For A A Sec 40

two (2) times

For A A Sec 6 (2) one (1) times

N/A

2. The accused has not been previously convicted

MRXPRESENTATE OR FINANCE OF THE RESERVE OF THE RESERVE OF THE PROPERTY OF THE REAL REPORT OF THE PROPERTY OF THE REAL REPORT OF THE PROPERTY OF THE PROPERTY

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

BANKARAK KEKKKKKKARAKARAK BABIRAKERI KERKAKARAK KURIKAKARA

- 4. The accused has been in confinement awaiting trial on the present charges, for nil days in civil enstody, and 12 24 days in military custody, making a total of 19 24 days in custody, of which 6 days were spent in
 - 5. The present age of the accused according to his attestation paper is 25 years
 - 6. The date of his attestation specified in his attestation paper is 29 Apr 41
- 7. The service which the accused is allowed to reckon towards discharge or transfer to the reserve is 2 years 5 months
- 8. The accused is entitled to deferred pay or gratuity in respect of 2 years 5 months
- 9. The accused is entitled to reckon 2 years 5 mos service for the purpose of determining his pension, etc.
- 10. "The accused is in possession of or entitled to no man military or the decoration, or the military or the reward which the Court can forfeit (or is in possession of or entitled to).'
 - 11. The access to door in the access to be the access of t

12. The	accused holds in the army (air-force) the (honorary) rank of
dated	, and in his regiment (or corps	or department), the rank
of	, dated	
13. The reduction, to	accused has served as a non-commissioned office the present date:	er continuously, without
	and the state of t	Date of promotion.
	In the rank of	years
	In the rank of	years
	In the rank of	Vears

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

SCHEDULE OF CONVIOLITIES BY A COURT-MARTIAL OR CIVIL COURT, OF ACCUSED

RANE, NAME AND REGIMENTAL NUMBER.

of the

Note:—A verbatim extract from the regimental books stating the convictions, must be inserted.

Description of Court by which tried	Date and Piece of Trial	Charge upon which convicted	Sentence of the Court	Punishment Remitted
		. /		
		W.		
	/			
/				
/				

I hereby certify that the foregoing Schedule of convictions is a true extract from the regimental books in my custody.

Signed this 16th day of September 1943.

(R B Tacksberry) Capt
Adjt
1 Armd C Regt (RCD)

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SCHEDULE.

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

Charge.	Plea.	Finding.	
(Insert " alternative " where applicable.)	(See Instrs p 2.)	(See note below.)	(Space for use as required for further charges, accused charged joints special findings, etc.)
st AA Sec 15(1)	GULTY	GOULTY	
nd			
3rd			
ith			
5tb			
54h			
			findings on alternative charges see MML p 483 fn 4 para 2, RP 44 ; RP 44 fn 6.)
Time in confinement av (I. See RF 46(A) Sentence Awarded by th	fn 2 Information shi he Court :	ould be found on MF B	b days, of which 11th days were spent in hospital 355 or AF B296 admitted in evidence under E2.) a plical, of rice (9) were
(8gd) Judge-Advo	(See back of Co	Date onvening Order as to a	awarded. President. (\$P 45, \$0.) & AMATION RESERVED. (AA 54(5), RP 120(F), MML p 760.)
PART II.	(See back of Co	Date onvening Order as to a	awarded. President. (\$7 45, \$0.) At assembly and disposal of record after trial.)
PART II.	(See back of Co	Date onvening Order as to a ERE CONFIRM F. CONFIRMIN	Awarded. President. (RF 45, 80.) AMATION RESERVED. (AA 54(5), RF 120(F), MML p 760.) Commanding. AG OFFR ON FINDING(S) AND SENTENCE.
PART III. PART III. (For duties and pos- confirmation and co- not confirmed, accu- premulgation - RP 37A, RP 33A, 54. 1 My decision on the	(Sgd) DECISION O vers see AA 54, 57, R monot be revised: AA sed may be tried ago 33, MML p 65, Que he Confirmed Offer in	Date overling Order as to a ERE CONFIRM F CONFIRMIN P 37(0) fo 6.46(4). So foliant to particular trap here personal sentence set forth committed to particular trap here personal sentence set forth committed to particular trap here personal sentence set forth	Awarded. President. (RP 45, 80.) ASSERVED. (AA 54(5), RP 120(F), AMAL p 760.) Commanding. IG OFFR ON FINDING(S) AND SENTENCE. 1.55. 120, MML ps 759-761, KR Can 567-577. Acquites is vaquire no finding or sentence for resident by Court. AA 5417, RP 120(G). If the Minute of confirmation or non-confirmation may be oftened before the Minute of confirmation or non-confirmation may be oftened before the Minute of confirmation or non-confirmation may be oftened before the Minute of confirmation or non-confirmation may be oftened before the Minute of confirmation between the sentence of residence of the sentence of the
PART III. PART III. (For duties and pos- confirmation and co- not confirmed, accu- premulgation - RP 37A, RP 33A, 54. 1 My decision on the	(See back of Go MINUTE WH (Sgd) DECISION O vers see AS 58, 87, 88 seed may be tried ago seed tried ago the Confirming Offer of e finding(s) and of accuracy be not.	Date overling Order as to a ERE CONFIRM F CONFIRMIN F 37(D) fo 6.46(A), 5 (4), 5 ending back in : A4 157, MML po double of the promute must sign here personal sentences set forth committed to pre (I. A4 57A. De Confirmitted	Awarded. President. (RP 45, 80.) ASSEMBLY and disposal of record after trial.) IATION RESERVED. (AA 54(5), RP 120(F), MML p 760.) Commanding. IG OFFR ON FINDING(S) AND SENTENCE. 1-56. 120. MML pp 759-761, KR Can 567-577. Acquittels inquire no finding or sentence for recision by Court: AA 5421, RP 120(G). H. Minute of confirmation on non-confirmation may be elitered before tion: KR Can 573. Duties and powers of reviewing offrs: AA 57, at in Part I is:
PART III. (For duties and porconfirmation and construction and constructi	(See back of Go MINUTE WH (Sgd) DECISION O vers see AS 45, 37, 8 see AS 45, 37,	Date overling Order as to a ERE CONFIRM F CONFIRMIN F 37(D) fo 6.46(A), 5 (4), 5 ending back in : A4 157, MML po double of the promute must sign here personal sentences set forth committed to pre (I. A4 57A. De Confirmitted	Awarded. President. (RP 45, 80.) MATION RESERVED. (AA 54(5), RP 120(F), MML p 760.) Commanding. GOFFR ON FINDING(S) AND SENTENCE. 1-50. 120. MML pp 759-761, KR Con 567-577. Acquittels require no finding or sentence for revision by Court: AA 54(2), RP 120(G). If 4. Minute of confirmation or non-confirmation may be obtaved before tipo: KR Con 573. Duties and powers of reviewing offrs: AA 57, 11, AA 172 fp 1.3. In Part I is: Significant or detention barrache until fuether orders (1) letter if not used. (Sgd) AL BA Gordon Confirming Officer.

RECORDED AT CMHO IN AB 160, CAG-3-9 & FIELD GENERAL COURT-MARTIAL CPART AND A ROLL AND A ROLL

Comvened by Order of Colonel M B K OCEDON Comd 1 Cdn Repair dated 2 2 2 7 7 /2

on (date(1)) 28 OCT. 46

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, A/rank or A/appmt, 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. Surname. Harry Arthur RYERSE

DCT 2 8 1848

REVIEWING OFFICER, JAG BRAHPROCEEDINGS OF TRIAL

England

Challeld in the Fd in (country).....

RECORD FORM A-OPENING PROCEEDINGS AND ARRAIGNMENT.

Al. The President, Members, waiting Member, JA, If any, and Offer under instr. if any, assemble, and the Court is closed

UPRINTED MATTER, NOT IN ITALICS FOR GUIDANCE, WILL BE DELETED, IF NOT USED OR APPLICABLE, AND INITIALLED BY PRES OR IA. The Schedule referred to chroughout is on p.4. Chatles it in Include all responsibility of the procession of proceedure when a variation in this form arises, see form for GCM in MML pp.741 to 759. A brief record of such variation will be made and green a number having reference on appropriate or preceding pora number havein. See back of Corvening Order. CF 485 for solit and insists on how to record addresses, evidence, etc., which insists are hereafter colled "Notes". As to general processions for conducting the trial see AA 53, RF Se. 63-70, 73, 74, 94, 103, 119, 132.)

A2. The President initials and lays before the Court the Convening Order and Charge Sheet (A attached thereto. (1) The Court is satisfied that it is properly convened and constituted(3), accused is (ar6) amenable to military law, and each charge discloses an offence.(

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

A3. The Court is opened. The accused is (a/e) brought before the Court. At /C 45 hours trial commences.

A4. The Prosecutor produces a Medical Certificate that accused is (are) 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 Community by the CO (4)

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

A5. President to accused: Do you object to ... on interpreter! Ans The Interpreter is sworm(1) Do you object to PI 6915 K spt. Remarks # this shorthand writer 1 Ans. No. 1/12.

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

A6. 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 !

(1. RP 110. 2. If no objection, woiting member retires. RP 68(8). If objection, see procedure AA SI, RP 25, 71, 18, MAML p 742.)

A7. The President, Members, JA, if any, and Office under instr, if any, are sworn.(3) The following are the ranks, names and units of the offrs comprising the Court, etc.

1 Cdn Repat Depot President 1 Cdn Repat Desct Member 1 Cdn Repat Depot Member

MAJOR Prosecutor

VV FERGUSEN

Questions by President: Is the Prosecutor a lawyer ! Ans No. Is the Defending Offr a lawyer ! Ans No. (*)

(1. RP 26, 27, 109, 111. List of affre under instribuli be returned separately with proceedings for information of Conv Offr.)
(2. If Pros a lawyer and Def Offr not, occused is antitled to an adjournment when RP 89 (8) and fin 2 were not followed. See Di p 3.)

A8. The accused before arraignment make(s) (no) (s) ples

(i. If a special plea is made for separate trial on one or more charges (RP 62(E), 108), or as so the jurisdiction of the Court (RP 34, 35(A), 113), or in bor of trial (RP 36), or as to accused's mental fitness to atom trial (AA 13), RP 57), or by one of several occused charged pintly to be trial supportably (RP 16, 71), such piles, the addresses made in support or against, the evidence, if any, and finding our recorded per Nicoss. For forms of record see references in fins to RoP cited. Insert in AB rank and name of the accused making the piles.)

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

(I. RP 31, I.12. See pare 1 of Instrs p. 2. When more than one Charge Sheet see RP 62; when several occused to be tried sorotely see RP 71(C), not use separate copies of CF R96 to record proceedings. 2. RP 32, RP 33. If otherwise, delete and &s appropriate record per Nation.

A10. The Court (is closed and) considers the Instrs on Procedure after Arraignment at top of p 2. The pro-

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 alternative. (RP 37(A)) As to withdrawed 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 Guilly to lesser, etc, offence. (RP 44(H).) Accessed may change a plea of Not Guilly to Guilly 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
 - 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 wil 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 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 83.85; calling or re-calling of witnesses by Court, etc., see RP 75.79, 86, 116; use of Summary of Evidence at Trial

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(p\f()), 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 fn 3. 2. MMtp 34 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(s), or which show provocation or extenuation in respect of which in your interest the witnesses for the Prosecution should be examined(s), 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 ? Ans Notes 188 (1. RP 37(B). 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. 5. Stutement, 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 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 (1, RF 35(8). If any pleo(s) is (are) changed, use Recard 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 inadequate, comply with RF 37(8). If there is any evidence inconsistent with any place standing as Gallis, Court will advise occused to change such plea and, if changed to Not Guilty, try such charge(s) by use of para D1 to D8 inclusive of Recard Farm D on p3. RF 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.

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

C2. The charges on which accused pleaded CULTY are read to him (them) again, and the trial is continued by using paras B1 to B5 of Record Form B above (7).

(I. Under B5 such ports only of the Summary of Leadence are read as relate to the charges dealt with under C2. If any piece is charged to Not Guilty, trial thereon proceeds by complying with parts D1 to D8 inclusive in Record Form D on p 3 and making an opporpriate 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

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.... (I. If "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. 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 RP 39(D) (E).)

D4. The Prosecution is closed.(1) The Defending Offr submits that the evidence for the Prosecution does not ...charge(s).(1) The Court

the latter charge(s).(4)

(1. Delete remainder of this para, if submission not made. 2. Arguments on submission, answer and reply are recorded per Notes. 3. RF 40 fo 1. See MML p.72 paras 12-14 and p.81 para 42. 4. Delete part not used. If accused acquitted on all charges use second distrinctive in para 0.61.

M8: If trial proceeds, accused must be allowed great faithfule in making his defence, and the Court should not stop his defence solely an ground of irrelevance. (RF 40 (C), 114, 115.

D5. President to accused: You will now proceed with your defence.(1) You may, if you wish, give evidence yourself on eath 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. [8] But a statement which could have been made on oath will not carry with the Court the same weight as sworn testimony. (4) You may call witnesses in your defence and as to character, whether you give evidence or make a statement or do

President to accused: Do you wish to give evidence yourself as a witness, make a statement, or do neither ! Ans. ., Do you intend to call witnesses on your behalf ! (I. RP | | 15. 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 114, 115, 116. For procedure see Notes on back of Convening Order, CF A95. Evidence for accused as to his character should, if in his interest, be given before the finding. See RF 46(A) fn 1, 86(C). Note the further opportunity in para E1 of Record Form E. Record per Notes addresses, statement, evidence and any summing up by the JA under RF 42, 103(c).

D7. The Court is closed to consider the finding(s).(1) The finding(s) of the Court is (are) recorded in Part I edule.(*) The Court is re-opened.
(I. RP 43, II7(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) the Court on the charge(s), being subject to confirmation, will be promulgated later. (*) 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. (*)

(I. AA 54(3), (*), RP 45, 120(A). 2. AA 54(3), RP 45, 177. This siternative announcement is not applicable when there are pleas of Guilty outstanding and dealt with under Record Form 8 or C.)

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.

E1. President to accused: Do you wish to give evidence yourself or to call any witnesses as to your character 1(3) (I. If evidence has already been given by accused or his witnesses as to his character, delete this pare. RP 37(C) fo 4, 46 fn 1.

Accused and witnesses are sworm. Evidence recorded per Notes.)

E2. The Prosecutor produces Statement(s) as to Character and Particulars of Service(1), and certified true copy (sopies) of Conduct Sheet(s(!?), 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(l) (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 and Ex respectively (*)
(1. MF8 355 or MF8 296. 2. MFM 6. 3. RP 46, KR Con 558. If above documents not produced, see RP 46 fn)

E3. President to accused: Do you wish to address the Court on the Statement(s) and Conduct Sheet(s), and in Remitigation of punishment 1(1) Ans Affeldella Afellio fello tel nelligation (I. AF 37(C), 44(C)). 2. Addréss, if any, recorded per Notes. Court should permit occused of his witnesses to prove on ooth anything here or previously stated which would affect the amount of punishment. AF 37(F) fo 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 proceedings in open court are accordingly terminated.(1)

(1. AA 54(6), 87 /20(A),)

E5. The Court considers the sentence.(1) The President records the sentence in Part I of the Schedule, which

6.0. The Court's consisters the sentence of the President records the sentence in Part 1 of the Schedule, is disted and signed by him said-the-JA, if any (*)

(I. When several occused tried sepdrately see RF 71 (D). One sentence only, comprised of the punishments required down in A4 41, 44 and at a provisus is to be owneded to cover all charges in oil charges theets on which accused found pully. RF 48. As its sentences see A4 41, 38, 182, 87 44-50, 97, 118, 119, 44, KR Can 308, 330, 543-56, Overhaus AC 309, 2123, MML p 50, 757-759. As to sentences assigned for civil offences by the law of England see A4 41(5), MML p 100. When occused chroody under instance of imprisonment or destinations see A4 44(8), 88(1), KR Can 564. Z. 89, 90, As to release from arrest by Confirming Offr see KR Can 567. As to assembly and disposal of record offser trial see instra on back of Convening Order.)

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

The Accused, B15031 Ptc. Harry Arthur RYERSE, ROASO, on the strength of Wo 1 Canadian Repatriation Depot, a soldier of the Canadian Army Overses, is charged with:

FIRST CHARGE

in the field, absented himself without leave from 2359 hrs 13 JAN 46 until being apprehended by the Civil Police in London at 1930 hrs 31 JUL 46.

ABSENT: 198 days, 19 hours, 31 minutes,

(B M MACTHYNE) LV-Col., Officer Commanding, No 1 Can Repat Depot, Canadian Army Overseas.

TO BE TRIED BY FIELD GENERAL COURT-MARTIAL

Field

22 Oct 46

(M.B.K. Gorden) Col Commanding Officer #1 Cdn Repat Depot

MAX Godon

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 comd of troops on active service, subject to RP 105(C) and restrictions imposed by appropriate authorized to 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, PA 97(B).

PP 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 see RP 108. As to two or more accused charged jointly see RP 16. 109.

As to revisions for sheeting (a) permanent or confirmed rank, and (b) appint. Alrank or Ajappint. If any, see AA 182, 183, (ns. KR Can 308, 328, 330.)

ACCUSED.

Number: (a) Print R. (b) Appint, A/R or A/Appint Full Christian Names. Surname. B.15031 Pte Harry Arthur RYERSE & Cdn Repat

CONVENING ORDER.

And whereas I am of opinion that it is not practicable that such offences should be tried by an ordinary General And whereas I am of opinion that it is not practicable to delay the trial for reference to a superior qualitied with Court-Martial; Tand that it is not practicable to delay the trial for reference to a superior qualitied with Court-Martial; Tand that it is not practicable to delay the trial for compliance with RP 105(C).

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

4. Dam anable to appoint (a) three Offre to form the Court, (b) a FM Offr as President, for the reasons Disage (AA 49, RP 106(B), 107(A). Delete the whole or part, if not applicable.) astached berete.

5. Inner appoint as Judge Advocate thereat the Offr mentioned herounder (RF 106(E) Delete, if none appointed.)

PRESIDENT. Incr (A) Cên Repat Depat (Must be named. RF 106.) MEMBERS. 1 Cdn Repat Depot to be detailed by CO 1 Cdn Repat Depot to be detailed by CO (Named or detailed. RP 106.) (Unit.) WAITING MEMBER (DEX.) (Named at selected of any RF 106.) MINGE ADVOCATE. (Marca noned, if any) RF TOE.) On Active Service in the Fd England (Rank.) (Country.) Officer - 1 Cdn Repat Depot Date 22 Oct 46

CONVENING OFFR WILL INITIAL ALL DELETIONS AND ALTERATIONS

4/38A CFA 95 (In theu of AFA 3

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

MEDICAL OFFICER 'S REPORT (KR (Gan) 557)

This is to cortify that I have this morning modically examined and that in my opinion ho is (rit) units of the state of

Station / WEFOSMUIR CAMP.

pato 001. 28- 46.

18 Markerold Cont

Modical Officer

(All deletions and alterations will be initialled by the M.C.)

Extremet Af B15031 Pto. Harry Arthur RYERSE, on the strength of No 1 Canadian Repatriation Depot, a soldier of the Canadian Army Overseas. "I produce the following documents, pursuant to overseas Routine Order No 5352, which have been read over and shown to the Accused, and which are attached heroto as Exhibits." Certified True Copy of a Declaration of a Court of Inquiry Which declares that B15031 Ptc. RYERSE, H.A. absented himself from No 4 (Gen Rft) Wing, No 1 Canadian Expatriation (Marked Exhibit "A") (1) (m) of the Army Act signed by Officer In charge of Carter Street Police Station declares that BLOSI Ptc. RYPRESE, Harry, Charles are steed at Kennington Park, (Marked Exhibit "B") (F G RIVERS) Lieut, ROAC OCTIOET detailed to take the Summery of Evidence. "Do you, wish to make any statement or to give evidence on eath? You are not obliged to say do so, but whatever you say or any evidence pour give will be taken down in writing and may be given in evidence, " The Accused reserves his defence. The Accused does not call any witnesses. "I certify that the above Summary of Evidence, consisting of one (1) page was taken down by me in the presence and (d) (e) and (f) have been complied with," (F G MIVERS) Lieut, Acac. Officer detailed to take the Summary of Syldence. This 21 day of Cel 46.

- (a) Cort True Copy of a Decleration
 of a Court of Inquiry held on
 12 Marks concerning the absence
 without leave of B15031 Pte.
 Harry Arthur RYERSE.
 (Marked Exhibit "A")
- (b). Cert in Accordance with Section 183 (1) (m) of the Army Act concerning the arrest of S18031 Pto. Harry Arthur HYERSE. (Marked Exhibit "E")
- RECEIPT BY ACCUSED FOR COPY OF CHARGE SHEET AND SUMMARY OF EVIDENCE.

I hereby acknowledge that I have been served with a true copy of the Summary of Evidence, taken in the Field, preliminary to my Court Martial. I further acknowledge that I have been served with a true copy of the charge under which I am being brought to Court Martial.

(B18021 Pto Aperso, H.A.)

(B15031 Pto Ryerse, H.A.)

This 21 day of Oct 46

EXHIBIT 'A

ctib 5

RECORD of the Declaration of a Court of Inquiry assembled at No 4 (Gen Rft) Wing No 1 Gdn Repat Depot on the 12 day of March 19 46 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. B-15031 Pte. Ryerse H.A.

DECLARATION

The Court declare that No. B.15031 Pte. Ryerse H.A.

No 4 (Gen Rft) Wing NO 1 Odn Repat Depot --

illegally absented himself without leave No 4 (Gen Rft) Wing No 1 G.R.D.

at 2359 hrs on the 13 day of Jan

that he is still so absent, and that on the 12 Merch 46 he was deficient, and that he is still deficient of the following articles:—

ARTICLES	VALUE	ARTICLE5	VALUE
	1		

Capt G.L. Larose CIC President No4(Gen R\$t) Wing No 1 C.R.D.

Lt. K.L. Miller R.C.A. Member

this 19 day of Merch 19 46

Member

Signature of Commanding Officer W O. STOCKDALE STOCK

Certified true copy

C. S. Enui

Signature of Officer having custody of (C.E. MMN15) TLt. R.C.A. Legal Officer Nº 4 (Gen Rft) Wing

No 1 Cdn Repat Depot

3 60B HIFB 375-AFB 115

Signed at Bramshott

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Carter Street Police Station L. Division, End. August 1946

CERTIFICATE IN ACCORDANCE WITH SECTION 163 (1)(m) OF THE

I certify that the person whose description is given below was arrested at Kennington Park, S.E.11, at 7-30p.m. on the Slet July 1946 and he was then wearing uniform.

Regimental particulars of soldier referred to above.

No. B.15081. Private. Private. RYLESE Harry Arthur End Batt. Cameron Highlanders of Cham.

Height, 8' 11"
Comp. Sark,
Hair, Black,
Eyes, Hacel,

Signature of officer of Police Station where the above named person was taken on arrest.

Molunt

In charge of Capter St Folice Stn. L. Div.

EA IN MITIGATION CENT

B.15031 Pte RYERSE, H.A. --- 1 Cdn Repat Depot

HY_THE_DEFENDING_OFFICER

Pte Ryerse as you have said enlisted in 1940, overseas in 42 and has served in the army somewhat over six years. Has been in action and has the usual record of an army men and he has done his duty for Canada or should I put it that any man who has actually seen action is deserving of a certain amount of consideration.

consideration.

Last spring, last January when Ryerse was waiting to be repatted to Canada his wife is in the position where she had no accommodation and he was on the point of being sent to Canada and he is in the position of being sent away and not being able to do anything about it and she has changed her mind and does not want to go to Canada. He has taken leave wornsly admittably, he pleaded suilty to it. He knows he shouldn't do this. Should a man go and leave his wife in the street, should he go before having a charge to talk to her, persuade har to go to Canada. The and leave his wife in the street, should be go before having a charce to talk to her, parauade har to so to Ganada. The man has not went away with the intention of staying away. If the report is checked up you will find the man was in uniform when picked up, admittadly he didn't surrender himself. A man keeps going from day to day, knowing that his previous AML's were he knew he would be Court Martialled. The man is afraid of it. May I suggest to this Court a man with his record, you will pay attention to his MFM 6 where his previous convictions or AWL and been punished by Court Martial. He will have to be punished for this but rather than a severe punishment I suggest that this man should be put where he could have some sort of direction of character, somebody that could form him so that he would realize the sense of responsibility. He has been convicted several times, done punishment in detention which has done him is concerned he has had no other crime and I as suggesting to the Court taking into consideration the fact that he was in action and any man that has been shot at has done his bit for Canada he has given to Canada a lot because he has taken a chance of putting his life up against a country. I am asking the Court in their punishment not to disgrace this man, givenim a chance where he can go to some place in Canada, possibly back with his folks where he will possibly be able to take direction from them and make a living. If the man is disgraced and sent home to Canada and the people of his neighborhood and employers know he has been disgraced and dishonorably discharged he his behind Canada and the people of his neighborhood and employers know he has been disgraced and dishonorably discharged he his behind the "8 ball" for years to come. The man can't possibly go ahead and make an henest reasonable living or anything like that. Tak and put it in your own case, if you had to go back to people you know and had to live with them and asked somebody for a job and had to show that to them what would you get, nothing. So in the view of these things as I said before he has to be punished, make the punishment such that when he is sent back to Canada and possibly goes back to his neighbors and folks of his own who will be able to give the man a sense of responsibility again and take up his duties as a citizen. His maxigum fault in the army his crime have been AWL. He has done wrong, he has served honorably in action and I say again I ask you that you give him and allow him to go back to his position as an honorable citizen. The man can't possibly go ahead

Entiles By ARMY FORM B. 296

Regiment (or as the case may be)
Nol Cdn Repat Depot

Statement as to Character and Particulars of Service of Accused.

RYERSE, H.A.

Rank.

Number

B3.5031

C. At a trial by I general court			* Since Enl	
rial this sum- ry may be com- d from the field duct sheet.	* Within last 12 months.		Dilling And	
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2. The accused h	as not been fre busty convicted, or			
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Picytous conviction	th trial under section 73 of the Army Act, are set	out in the schedule anne	wed to this at	tatement.
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Schedule of Convictions by a Court Martial or Civil Court, of suramary awards under Section 47 of the Army Act and of cases in which trial has been dispensed with of accused. Name RYSRSE, H.A. of 1 C.R.D. Regiment (or as the case may be) RankPte (INSTRUCTION A verbatim extract from the regimental books, stating these convictions and dispensations with trial, must be inserted.) Sentence of the court Description of or authority disposing of the charge, Date and place of trial, or quust by which Charges upon which convicted or in respect of which trul was dispensed with summary award under tried or status of officer disposing of A.A. 47, or of order dispensing order of the dispensing authority. with trial the charge or dispensing with trial divil mos Whor. with H.L. Civil Offence Court 50 July 43 6 May 44 months detention 60 days A.A. Sec 15 (1) F.G.C.M. | 5 Jan 44 Sent Susp. 3/1/45 " Remit 50/10/4 yrs detn. A.A. Sec 15 (1) F.G.C.M. 25 Oct 44 Civil 3 mos Impr with H.L. Civil Offence. Court 15 Aug 46 I HEREBY CERTIFY that the foregoing schedule of convictions and dispensations with trial is a true extract from the regimental books in my custody. G. Rivers) Lieut, RCAC October, 1946. Signed this 23 day of

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	31Jul 46		I	Indecent Assert	0	yr Detn days pay	25-10-44 18-1-45	F.G.C.M.	•
			2 ;	3 Oct 46 F G Rivers) Lieu Legal Ofrice 1 OFFICER MAYIN	NAL MEM 4 HEL	D IN MY POSSI	15-8-46 ESSION	Civil Court	
				Legal Orrice 1 WORLD OFFICER MAVIN C	USTOD OF OR	epat Depot IGINAL DOCUME	NT		

40.149 PTE RYERSE HA.

SCHEDULE.

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

Accused: B-15031 Pte Harry Arthur RYMSR 1 CASCRU

Finding.

(Insert " alternative " where applicable.)	(See Instra p. 2.)			special findings, etc.)
st A.A.15(1)	GURTY.	GUILTY	The same statement and	
nd		-		
	The second secon			
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(Note : As to	findings for lesser offm e RP 44 and MML p 753	sces see AA 56, RP 44	; findings on alter	native charges see MML p 483 fn 4 para 2, RP 44 ;
sheriai Linaings sas		,		1.7w.
At present under sent	ence for //	16 Day	See RP 46(A), Info	rmotion should be found on MF B355 or AF B296.)
Company to confinement	namiting property	trial—a total of	9 days.	of which // days were spent in hospital.
(I. See RP 46	(A) fn 2. Information sh	ould be found on MF	8355 or AF 8296 ac	dmitted in evidence under E2.)
		1.7.14.	,	
Sentence Awarded by	the Court	5	1 17	the las a seried
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		25	alas	1 x/11.11, ama ma
(Sgd)			Del. 44.	(Sgd) J. F. Williams ma. President. (RP 45, 50.)
Judge-Adv	receite; if any		awarded.	
	(See back of C	onvening Order as to	assembly and dispo	osal of regord after trial.)
				L. V.
PART II.	MINUTE WH	ERE CONFIRI	MATION RE	SERVED. (AA 54(5), RP / 20(F), MML p 760.)
		ERE CONFIRI		
PART II.	MINUTE WH	ERE CONFIRI		SERVED. (AA 54(5), RP 120(F), MML p 760.)
Date	(8gd)		Comi	manding
Date PART III.	(8gd)	DF CONFIRMI	Comm	manding on FINDING(5) AND SENTENCE.
Date PART III.	(8gd)	DF CONFIRMI	Comm	manding on FINDING(5) AND SENTENCE.
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Date PART III.	(8gd)	DF CONFIRMI	Comm	manding on FINDING(5) AND SENTENCE.
PART III. (For duties and a confirmation and not confirmed, as promising : 57A, RF 53A, 54	(8gd)	DF CONFIRMII 89 37(D) fn 6.46(A), 4 54(3). Sending bas in: AA 157, MML p. must sign here person must sign here person	NG OFFR O \$1-56, 120, MML s k finding or senter 64. Minute of core total r solly, AA 172 (n 1.)	on FINDING(5) AND SENTENCE. pp 759-761, KR Can 367-577. Acquitals require no nee for revision by Court: AA 34(2), RF 120(G). If offirenction on non-confirmation may be altered before 73. Duties and powers of reviewing offs: AA 57.
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AT CMHO IN AB 160. REGEIVED FIELD GENERAL COURT-MARTIAL 14NOY 1944 MAG CRANGE Of Bris A.B. Connelly Comd "B" GD CRU dated 22 Oct 44 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 runk, and (b) appent, Airank or Ajappint, If any, see AA 182, 183, fins, KR Can 308, 328, 330.) Number. (a) Print R. (b) Appint, A/H or A/Appent. Full Christian Names. 1 CASCRU Harry Arthur RYERSE B-15031 MCEEDINGS REWEWED Tufiguelas Capt. PROCEEDINGS OF TRIAL. Held in the Fd in (country) on (date()) 25 Od. 44. RECORD FORM A-OPENING PROCEEDINGS AND ARRAIGNMENT. 97.10. Al. The President, Members, waiting Member, JA, if may and Offrs under instr. if any, assemble, and the Court is closed. (PRINTED MATTER, NOT IN ITALICS FOR GUIDANCE, WILL BE DELETED, IF NOT USED OR APPLICABLE, AND INITIALLED WRINTED MATTER, NOT IN ITALICS FOR GUIDANCE, WILL BE DELETED, IF NOT USED OR APPLICABLE, AND INITIALIED BY PRES OR IA. The Schedule referred to throughous is on p.4. Citations do NOT include all relevant from ROL. For guidance on procedure when o vortication in this form arises, see form for GCM in MAML pp.741 to 359. A brief record of such variation will be made and given a number having reference to eleptophistic or preceding para number having, See back of Convening Order, CF APS, for cottles and intris on how to record addressic, evidence, etc., which instars or hereafter called "Notes". See the general provisions for conducting the trial see AA \$2, RP \$6, 63-70, 73, 74, 94, 103, 119, 132.) A2. The President initials and lays before the Court the Convening Order and Charge Sheet () attached thereto.(1)

The Court is satisfied that it is properly convened and constituted(2), accused is (are) amenable to military law, and

(i) At a conf Convening Court () (I. As to use of Summary of Evidence see RP I7 fa 5. 2. AA 49, 50, RP 105-107. 3. RP 11-13, 23, 24.) 174 A3. The Court is opened. The accused is brought before the Court. At // 30 hours trial commences. A4. The Prosecutor produces a Medical Certificate that accused is (see) fit to undergo trial by court-martial.(1) (I. KR Can 557. 2. AA 46(8), RP 60 fn I. For effect see KR Can 563(c). Delete, if not applicable.) as shorthand writer 1 Ans The Interpreter is sworn.(1) Do you object to (1. RF 72 Delete, if none 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 I (I: RP.110. 2. If no objection, waiting member meters. RP 68(8). If objection, see procedure AA 51, RP 25, 71, 18, MML p 742.) A7. The President, Members, John to any, and Office under instr. of any, are sworm.(1) The following are the ranks, names and units of the office comprising the Court, etc: J.T. Milliams RCB 1 CERU Major President G. B. BENT. R.C.E. I CERU. CAPT. Member R.C.E. I CERU. P. F. PULLEN. Member W.D. FAULAFER R.C.A.S.C. | C.FS.C.RU. LIBUT. C.M. COOK. R.C.A.S.C. 1 CRASCRU. Questions by President : Is the Prosecutor a lawyer ! Ans No . Is the Defending Offr a lawyer ! Ans No . (*) (I. 80 2b. 25. 100. III. List of offrs under instr will be returned separately with proceedings for information of Cars Offrs.)

(2. If Press a lowyer and Def Offr not, accused is emitted to an adjournment when 80 80 (8) and fn 2 were not followed. See Di. p. 2.)

A8. The accused D-15051 Pre Pyerse, H. A. before arraignment make(s) (not plea (I. If a special plea is made for separate trial on one or more changes (RF 62(E), 108), or on to the jurisdiction of the Court (RF 34, 35(A), 113), or in bor of trial (RF 36), at as to occured's mental fitness to stand trial (AA 130, RF 37), or by one of several occured charged jointly to be tred separately (RF 16, 71), such piec, the addresses made in support or optimat, the evidence, if any, and finding are recorded per Nores. For farms of record use references in first to ReF cited. Insert in AB rank and nome of the occused making the plea.) and name of the occused many the plea.)

A9. The occused is (a faraigned to be shown) on M charged in the charge sheet.(1) The accused observed to be charge.(2) There is no amendment to be made to the Charge Sheet.(2) The President records the pleas in Part I of the Schedule.

RF 30, 112. See pare 1 of Instrs p 2. When mare than one Charge Sheet see RF 62; when several accused to be tried condition see RF 71(C), and was separate copies of CF ARe to record proceedings.
 RF 32, RF 33. If otherwise, deveto and kee appropriate record per Robets.)

aland) considers the Instrs on Procedure after Arraignment at top of p 2. The pro-A10. The Court six slow seedings are continued on Record Form 'B + E

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 withdrawal 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

- 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, 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 Offices RP 60(C), 87(C), 91, 92; succurring and withdrawed 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 dA; if any, complies with RP 35(B) by explaining to the accused the nature and meaning B1. The President or 4A, if any, complies with RI 33(15) by explaining to the accused the accused of the charge ()(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 (call witnesses as to character and make an address in mitigation of punishment.(*)

(I. R# 35 fn 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 ** Charge (!) If it appears from your statement that there are circumstances which indicate that you do not understand the effect of the plan 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 the witnesses for the Prosecution should be examined(*), we shall advise you to change your plea 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 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 | Ans No. (1. RP 37(B). 2. RP 37(D) fin 6. 3. RP 35(B) fin 5 para 3, MML p 54 para 47. 4. See para E3 of Record Farm 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 charge(s). The accused is (are) so informed, and he (they) (their) plea(s) of Guilty to Not Guilty on

chargets). Part I of the Schedule is amended accouchange(s) his (their) plea(s) on
(i. Court may be closed to consider the state

T. W. B4. On the charge of to which the please of Guilty is (200) not changed the President records finding of Guilty in Part I of the Schedule. (1)

(I. 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. A , initialled and read aloud by the President. (*) (1. If there is no Summary, or if it is indequots, comply with RP 17(B). If there is any evidence inconsistent with any pine standing as Guilly, Court will advise occured to change with pine and. If changed to Not Guilly, try such charge(s) by one of parts D1 to D8 inclusives of Record Form D on p 3. RP 37(D).)

7.60 B6. The accessed having been found Guilty on one or more of the charged 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-2 before proceeding with C 2.(1)

(1. RF 37(A) (E).)

C2. The charges on which accused pleated GUTTEV 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 Summirry of Existence are read as relate to the charges sholl with under C2. If any place is charged in Not Gully, trial thereon proceeds by complying with parts D1 to D6 including in Record Form D on p 3 and making an opprepriate record thereof as a separate sheet.)

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

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.

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

(i. If "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. RP 39(b), 60(h) (b), 90, 92(C) (D). Record address per Notes, subject to RP 95(C).)

The evidence for the Prosecution is taken.(1)
(1. RP 3NQ), 114, KR Can 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 does not charge(s) (2) The Court establish a prima facie case against the accused on the is closed, and considers the admission.(3) The Court is re-opened, and the President announces that the submission 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

charge(s), and that, accordingly, too trial will proceed on size former, one tablector charge(s), (1). Delete remoinder of this parely submission not mode.

(1). Delete remoinder of this parely submission not mode.

per Notes. 3. R 940 fn 1, See MMLb 72 pares 12-14 and p 81 pare 42. 4. Delete part not used. If accused occurring and it charges, use second alternative in pare-D8.

NB: If trial proceeds, accused must be altowed great latitude in making his defence, and the Court should not stop his defence solely on ground of irrelevance. (RP 60(C), 114, N(S))

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

But a statement which could have been made on oath will be carry with the Court the same weight as sworn testimony (*) You may call witnesses in your defence and as to character, whether you give evidence or make a statement or do 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? Are they witnesses as to character only | And (1. RP 135 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 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-A85. Evidence for accused as as his character should, if in his interest, be given before the finding. See RF 46(A) In 1, 86(C). Nee the further opportunity in pare E1 of Record Form E. Record per Notes addresses, softenent, evidence and any summing up by the IA under 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.(2) The Court is re-opened.
(1. 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)

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.

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 accused or his witnesses as to his character, delete this para. RP 37(C) fn 4, 46 fn 1. Accused and witnesses are swarn. Evidence recorded per Notes.)

1.1.11 E2. The Prosecutor produces Statement as to Character and Particulars of Service(1), and certified true the ruseculor produces Statements, as to character and Farthenars of Service, and Gerimed true copies) of Conduct Sheet(s)(*), purporting to refer to the accused, which he submits to the Defending Offi 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(I) (g) (h), and (ii) they purport to refer to (a) soldier; having the same number, rank, name and corps as the accused. Admitted in evidence and

marked Fx 8 and Ex. C. respectively. (3)

MFB 255 or AFB 296. 2. MFM 6. 2. RP 46. FR Can 558. If above decuments not produced, one RP 46 fn / pore (.)

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

(i) RP 27(C), 46(D). 2. Adopts, if any, recorded for Notes. Court should permit accord or his witnesses to prove on both anything here or previously stated which would affect the amount of punishment. RP 27(F) (n. 7.) mitigation of punishment (1) Ans.
(1, RF 37(C), 46(D), 2, Ad

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), 8F / 20(A).)

ES. The Court considers the sentence (1) The President records the sentence in Part I of the Schedule, which the dated and signed by him and the Ja, if sentent?

(1) When several occused tried separately see R 1609. One sentence only, comprised of the punishment or punishment lock down in AA 41. 44 and its provise, is to be considered to cover all charges in all charge sheets on which occused found guilty.

187 48. As its sentences see AA 44. 128. 181. 187 48-30. 85, 118. 119(A), RR Com 308, 233, 383-366, Overseen RO 309, 2323, MAN, p. 40. 733-739. As to sentences assigned for civil offences by the law of England see AA 44(15), MML p. 130. When occurred almostly under sentence of imprisamments or detention are AA 44(18), BS 644. 2. 187 30. As to relecte from arrest by Confirming Offr see RR Con 567. As to assembly one disposal of record after trial see instra on back of Convening Order.)

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

CHARGE BEERS TOBE TRIED BY FIELD GENERAL COURT MARTIAL. (A.B. Connelly) Brig Comd "B" Gp Gdn Rft Units . 23 Oct 44 1.7.w. 7x0m ...

1. T. U. man

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 Overseds, or day asther force if authorized in law, in immediate comd of troops on active service, subject to RP 105(C) and restrictions impaced by appropriate author. AA 49, 30, NP 104-107, 114. As to the duties and privileges of the Convening Offr in dealing with the application see MML 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 same Court. RP 71(C), 107. As to separate charge sheets see RP 61, 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.

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

ACCUSED.

Number. (a) Print R. (b) Appint, A/R or A/Appint. Full Christian Names. Surname. RYERSE

CONVENING ORDER

- 1. Whereas complaint has been made to me, the undersigned, that the personic named above as the accused, being subject to military law, has there's committed the offence'n set forth in the Charge Sheetje attached and on Martial". endorsed by me, (or by an offs 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 And whereas I am of opinion that it is not practicable that such ofference in a superior qualified offer.)
 Court-Martial; (and three it is not practicable to delay the trial for reference to a superior qualified offer.)
 (Delete port in brockets when not required for compliance with RP 105(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.
- 4. I am unable to appoint (a) three Office to form the Court, (b) a Fd Offices President, for the reasons I have attached hereto (AA 49, RF 106(B), 107(A). Delete the whole or part, if not applicable.)

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

	PRESIDENT.		
Major			
(Rank.)	7.7. Williams (Must be named. RP 106.)		1 GERU
	MEMBERS.		
Captain	G.B. Bent	ROB	1 CHRU
Lieutenant (Rank)	P.P. Pullan (Named or detailed. RP 106.)	RCB	1 CEMU
	WAITING MEMBER		(Unit.)
Lieutenert (Rock)	to be detailed by (Named or detailed, if any. AF 106.)		1 CSRU
	JUDGE-ADVOCATE.		(Unit.)
(Ronk.)	(Must be named, if any. RP (06.)		
On Active Service in the Fd			(Unit.)
in England	Al Can	1161	
(Country.)	(Signed personally. AP 105 fn 2)		
Date 23 Oct 44	Commanding		(Rank.)

(A.B. Connelly) Bris Cond "B" Op CRU Convening Officer CONVENING OFFR WILL INITIAL ALL DELETIONS AND ALTERATIONS

4/38A CFA95 (In lieu of AFAS)

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

A07. A. 1.T. W. 74007 . Modical Officers' Certif. K. R. (Can) para 557 R. V. F. F. H. q. and in my opinion he is fit to undergo trial, by Court Hartial. Station: Blenkein Aiks Date: 25 0-0 1944.

J.T.W. may. Intlemen! The accused, who stands before you, at the mercy this court is a volder who gained early in 1948 and begone any fear ansception was thought the 5th L. A.A. Rept Since arriving in England he has never received a garette or a gest hor from his story who wiched who into many her with the this woman for some time, he your out the was soldier had the Padre of the 15 th L. B.B. Regt write to his wife two or three times and the Padre's cules have never cheen answered, at this date, Truther this wom un allowance has been stopped as I look January. he meet a gut with whom the feel in love and is now Expecting the second. when he want B.W. O.L. he light with the knowledge that another body was expected, he left enough money to put this gut through her confirment January, when this was accomplished by returned against his wife he conada and getting in a drope her m a dragh this soften request to be part in a drogs immediately, as he finds ist impossible to soldly Here under the Oissumstances. This soldier, the accused, has been very sonely Line arrivery in this country described by histories he has had no news , his solders or his may brother who is also in the army, this mother cannot write and his factor was killed in the World war I rembert at oling were while servery week the 133 Don. and from toppeter. Being alone and deserted by chose of his

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Officers Ness O C A S C T C BORDEN ONTA

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· 1.00 . 101 1

. I, the accused, B-15031 Pto Ryerse, H.A. desire the services of Lieut J. Restall, BCASC, to defend me at my forthcoming Trial.by Field General Court Eartial.

H, A Referse

LIST OF EXCEPTED 100.

- (a) Certified Frum Copy of an Extract From 1 Cdn ASC Rft Unit Delly archers Part 11 No 171 4/31 July and northfylng that L-15-11 Tip myorse, N.A. segonted times! without leave from 2 July 1948.
- (b) AVE 25% purporting to to signed by U-2028 Sgt Brown, F.O. showing the accused, B-15031 Ptc Rycrae , M.A. surrendering bimself to S.I.S. at London at 1500 hrs 15 oct 14:

EXHIBIT THIS

1 CDN. A.S.C. REINFORCEMENT UNIT CANADIAN ARMY OVERSEAS DAILY ORDERS PART II

BY COLONEL H.P. BONNICK COMMANDING. SECTION "B"

ABBENT WITHOUT LEAVE AWL from 2230 hrs 8 May 44 (24 hrs) AWL from 2230 hrs 8 May 44 (8th day) B.15301 AWL from 2230 hrs 8 May 44 (22nd day) Pte Ryerse, H.A. Still absent.

Sgd.

for

Certified True Copy (T.M. Justice) Lt.,

LAST DO

1 Cdn A.S.C. Rft Unit.

forRecords Officer

T.W. -guy.

(H.P. Bonnick) Colonel, Commanding,

(J.A. Whitelaw) Capt & Adjt

1 Cdn A.S.C. Rft Unit Canadian Army Verseas

FYHIBITS Army Form B 252 CHARGE (See King's Regulations) No.R.C.A.R.U. (CRU) Regiment Battery Squadron Troop or Company CHARGE against NoB-15031 Rank Gnr. Name Ryerse H. Place London Date of Offence 15-Oct-44 OFFENCE W.O.A.S. was A.W.L. until surrender-· ing himself to S.1.S. London at about 1500 hrs. 16-Oct-44. Names of Witnesses :-Sgt. Brown F.C. S.I.S. Cdn. Provost Corps. Signature of O.C. Battery, Squadron, Troop or Company]

......Adjulant.

P.T.O.

Punishment Awarded By whom Awarded

5 5/84 GRQFP 200M

CHARGE

Statement of EVIDENCE B-15031 Gnr. Ryerse H. in the case of No. 2. C. A. R. U. (CRU)

At London at about 1500 hrs. 16-Oct-44. At London at about 1000 hrs. 16-Oct-44.

I was on duty at 8,1.2. orderly Room when the
soldier surrendered himself as an absente.

Over to N.C.O. 1/e of No.6.Cdn(Area) Prov.Coy.

Detention Room to be detained.

16-0ct-44

(U-2028 Brown F.C. Sgt. (S.I.S.) Cdn. Provost Corps.

REMARKS

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

Number.	7	mais by Field General C	ourts Martin
The second secon	Rank.	rrials by Field General C	ourts-Martial only)
		Name.	
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tino	usly without	d is a warrant officer or N.C. istion, to the present date	20 Jan 44
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SCHEDULE OF CONVICTIONS BY A COURT-MARTIAL OR CIVIL COURT

Description of Court by which tried	Date and Place of Trial	Charges upon which convicted.	Sentence of the Court.	Punishment remitted or sentence suspended.
etty Seso mel Divia on of Broi	1945	ARROTTE	6 Months Hard Labour	
P.G.O.N.		AA Sec 15(1) ATL from 2230 hra 25 May hA till 17hb hrs 26 Jul hA abs 61 days 19 brs 15 dina	6 Menths Data	
		efficer having custody (Gall	In Civat 6a ir 1/0 Regil Books Be Add Ret Unit Bolish Aver Cverseas tolus 1944

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.

				No. 10	er Company and date N/A	Corps RCASC Period not reckoning towards freedom from extra fine	N/A Shee	et No 3	Badges Signature OC Company, sec		Character	(AFR 122) 0/PAS/150 (3418
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6	No B. 15031Na		erse,	No. 8	nd date	Date of enliatment	19 Jul 4000 Badges Signature OC Company, etc	Service or Proficiency	Character	7 MFM 6 (AFB 123) 0P48/10010418
13	Bate of last ent Company Condi	ry in int Sheet	N/	A of las	t drank P/A Proctom Wan asset	Names of Wineses	Punishment awarded	Date of award or of order disject- alra with trial	by whom awarded	firmerks
● A-	Place'		Bank	Cases of drunken- ness	OFFESCE		7 days C.B.	29-5-42		Ffts 750 7 day
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	Field 1	8 Oc	t42	Gnr	A.A. 15(1) AWL from 2359 hrs 18 42 to 1200 hrs 19 oct 42(Absent 12 hrs)	oct Sgt Hase	elton 7 days C	B 20 000	A.B. Smit	
•	Field 5	39 Ne	v42	gnr	A.A. 15(1) AWL fr. 2330 hrs 29 N 42 to 28 0930 hrs 30 Nov 42(Abse 10 hrs)	Nov Sgt. You ent Bdr. Cla		2 Dec 4	Smith	A.B. Ffts 1 days pay FR& 149(1)(a) Ff 7 days pay
	Field	12 D	ec 42	Gnr	A.A. 15(1) AWL fr. 2300 hrs 12	Dec 42	8 days C.B.	15 Dec	42 LtTGel	Hypate (PTO)

Place							Names of Witnesses	Punishment awarded	Date of award or of union disjec- ning with trial	lly whom awarded	Howlarks
rield	19	јаг	4	5 G	nr	to 2230 hrs 13 Dec 42. A£ 15(1) AWL 1400 hrs 19 Jan 43 to 2300 hrs 20 Jan 43. Abs. 1 ds 9 hrs) 2nd Charge: AA 15(1) AWL 0900 hr	¥	of pay	9 Feb 4	Thorne	Ffts. 1 days pay J. Auto. For 2 days pay. Forfs. 1 10 days pay Close arrest Feofs. 9
Field	17	Ma.	r 4	3 G	nr	21 Jan 43 to 1450 hrs 29 Jan 43 A 8 days 5 hrs 30 mins. A.A. Sec 15(1) AWL fr. 2300 hrs 1 Mar 43 to 1800 hrs 18 Mar 43 Abs 19 hrs.	17 Bdr. Levr	eidge 14 days C			days pay. Total forf. 35 days pay. NJ Forfts. 1 days p ay FR&I 149(1)(a)
Bramley	(Ker	nt§3	0 J	ul	43 F	te Sentenced to 6 nonths by Pett, Sessimal Division of Bremley Ker	nt	6 months H.L. H. Down	30 Jul	Div. Brom. Kent	FR&I 149(1)((C)
Field	25	May	43	Pt	е	AA 15(1) AWL fr. 2230 hrs 25 M 43 until apprehended at 1745 hr 26 Jul 43 (Abs. 61 days 19 hrs	B Capt Blanc	T. Figg. T., 47		5 Jan 44 F Major FB Fink	pay FRAI 149(1)(1) COM Ferf. 62 days pay FR&I 149(1)(Ferfs. 182 days

CCC-75 PTE RYERSE H.A.

oused: B 150.	31 /2	Harry (arthur RYZENCE YEdn LAAN
Charge,	Plea.	Finding.	1,000
stert " alternative " where			
opplicable.)	(See Instrs p 2.)	(See note below.)	(Space for use as required for further charges, accused charged jointly special findings, etc.)
charge	July	quilly	
		- '	
	Per resumentation		
(Note: As to fine	dings for lesser offenc	Es see AA 56, RP 44 ;	findings on alternative charges see MML p 483 for 4 para 2. RP 44 ; RP 44 for 6.)
	fn 2. Information show	this a testal set	e RF 4c(A). Information should be found on MF B155 or AF B296.) O diays, of which: 77 O days were spent in hospital. (S or AF B296 admitted in evidence under E2.)
Awarded by the	Court:		
) Judge-Advocat	(See back of Conv.	Duty aw ening Order as to asse	en 44 (Sgd) Ad Yint or arded. Special of real after triat 14 4 9 12 14 1.
Judge-Advocat	te, if any. (See back of Canv	Duty aw ening Order as to asse	on 44 (8gd) Adjusting or
Judge-Advocat	te, if any. (See back of Canv	Duty aw ening Order as to asse	en 44 (Sgd) Program of and Supposed of real Assistant of the Assistant of
Judge-Advocat	te, if any, (See back of Canville WHER	Day aw Day aw ening Order as to asse	rarded. (Sgd) Program (Op 45 6) Program (Op 45 6) Program (Op 45 6) (AA 54(5), RF 120(F), MML p 760.) Commanding
PART II. MI	te, if any. (See back of Cannot NUTE WHER	Day aw Day aw ening Order as to asse E CONFIRMA	TION RESERVED. (AA 54(5), RF 120(F), MAIL p 760.) Commanding OFFR ON FINDING(S) AND SENTENCE.
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PART III. DE For duties and powers confirmation and common not confirmed, recursed promulgation of the promulgation on the first decision	te, if any. (See back of Cann NUTE WHER ed.) ECISION OF (see AA 54, 57, RP 37 the revised AA 544 may be tried agoin MML p 65. Question	Day aw Day aw ening Order as to asse SE CONFIRMA CONFIRMING (D) In 6.46(A), 51-56. B). Sending back finance As 157. MM p 64.	carded. (Rgd) Programs (9, 45, 50), mbly and disposal of reducenter trial) (9, 45, 50), mbly and disposal of reducenter trial) (1, 4, 5, 4, 5, 5), mbly and disposal of reducenter trial) (1, 4, 5, 6, 5, 6, 6, 6, 7, 6, 7, 6, 7, 7, 7, 7, 7, 7, 7, 7, 7, 7, 7, 7, 7,
PART III. DE For duties and powers confirmation and common not confirmed, recursed promulgation of the promulgation on the first decision	te, if any, (See back of Canw (See back of Canw (NUTE WHER gd). ECISION OF (see AA 54, 57, RP 37 t be revised: AA 54, may be tried again MMA p 65, Question adding(s) and sent	CONFIRMING (D) fo Ase(A), 51-55 S enter pork for the prison of the pork fine of the pork	contracted. Programmy (\$\text{8}\text{gd}), and september (\$\text{8}\text{gd}), and disposal of realisation trial). TION RESERVED. (\$\text{AA}\$ 54(5), \$\text{RP}\$ 120(F), \$\text{MML p}\$ 760.) Commanding OFFR ON FINDING(\$) AND SENTENCE. 120. \$\text{AML pp}\$ 759-761, \$\text{KR Can SoT-577}. Acquitals require no fing or sentence for remains by Court: AA 54(2), \$\text{RP}\$ 120(G), if all things of contracts of monitoring of many be obtained before \$\text{KR Can SoT}\$. Duties and powers \$\text{M}\$ reviewing offin: \$\text{AA}\$ 57, \$\text{M172} fn 1.) Part I is:
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PART II. MI PART III. DE (Far duties and powers confirmation and connect on formation on the firmal promulgation : RP 53, 57A, RP 53A, 54 The Confirmation on the firmal promulgation in the firmal promulgation	te, if any, (See back of Canw (See back of Canw (See back of Canw (See back of Canw (See May 1, 32, RP 37) (See Ma	CONFIRMING CONFIR	carded. Program (Program (Program)
Judge-Advocat PART II. MI PART III. DE (For duties and powers confirmation and connor hot confirmed, accused promulgation: P. P. 51. 51A. RP 51A. 54. The C. My decision on the fin direct that the acceptance of the confirmation of the final confirmat	te, if any, (See back of Canw (See back of Canw (NUTE WHER gd) ECISION OF (are M 54, 57, RP 17) to private A 54, 54, may be tried agoin (MML p 65, Queshing offirming Offirmi	Days aw Days aw ening Order as to asse E CONFIRMA CONFIRMING (D) In 6.46(A), 51-56. As 157, 8841, pd. 1. Souther presenting of their personality, is enine set forth in the confirmation of the confirmati	Commanding OFFR ON FINDING(S) AND SENTENCE. 120. MML pp 759-761, K8 Can 567-577. Acquittels require no ling or sentence for revision by Court: As 54(5), RP 120(6), If I KR Can 573. Duties and powers M resieving office. As 57. Part I is: OF detention harracks until further UNIVERSAL. (Reg) Confirming Officer. Contraction harracks until further UNIVERSAL. OF Confirming Officer. Continuing Officer.
Judge-Advocat PART II. MI PART III. DE (Far duties and powers confirmation and connect not confirmed accused promulgation: RP 53, 57A, RP 53A, 54 The C My decision on the fin Date 7 PART IV.	te, if any, (See back of Canw (See back of Canw (NUTE WHER gd) ECISION OF (are M 54, 57, RP 17) to private A 54, 54, may be tried agoin (MML p 65, Queshing offirming Offirmi	Days aw Days aw ening Order as to asse E CONFIRMA CONFIRMING (D) In 6.46(A), 51-56. As 157, 8841, pd. 1. Souther presenting of their personality, is enine set forth in the confirmation of the confirmati	carded. Programmed (Sgd) Commanding OFFR ON FINDING(S) AND SENTENCE. 120. MML pp 759-76). KR Con 507-577. Acquittals require no ling of sentence for residen by Court: AA 54(2), RP 120(G). If Minuted Configuration or non-confirmation may be oltered before 1 Ms. Con 573. Duties and powers of reviewing offrs: AA 57. APART I is: OF detention barracks until further orders (Sgd) Officer. Continuing Officer.

FIELD GENERAL COURT-MARTIAL THE SECOND AND ASSESSMENT ASSESSMENT AND ASSESSMENT ASSE Convened by Order of Brig D. R. agnew Comd / Pedy A. A. Belestated 2 Jan 144 (As so the trial of two or more charged jointly see RF 16, 71, 109. As to reasons for showing (a) permanent or confirmed rank, and (b) appint, Airank or Ajappint, if any, see AA 182, 183, fns, KR Can 308, 378, 320,) (a) Prinnt R. (b) Appint, A/R or A/Appint. Full Christian Names. Surname. Unit. 8 15031 Harry Certhus RYERSE Y Colm Kujegualan, Capi PROCEEDINGS REVIEWED LAA Regt. 23 FEL 44 EVIEWING OFFICER, JAG BRANPROCEEDINGS OF TRIAL. The Held in the Fd in (country) England on (date(s)) In Day day shop RECORD FORM A-OPENING PROCEEDINGS AND ARRAIGNMENT. Al. The President, Members, waiting Member, JA, if (PRINTED MATTER, NOT IN ITALICS FOR GUIDANCE WILL BE DELETED IF NOT USED OR APPLICABLE, AND INITIALLED President initials and lays before the Court the Convening Order and Charge Sheet (a) attached thereto.(1) The Court is satisfied that it is properly convened and constituted(*), accused is fare) amenable to military law, and each charge discloses an offence (*) (i. in 20 use of Summary of Evidence see RP 17.55.5 2. AA 49, 50, RP 105-107. 3. RP (1-13, 23, 24.)

A3. The Court is opened. The accused is the brought before the Court. At / A0 hours trial commences. A4. The Prosecutor produces a Medical Certificate that accused is (are) fit to undergo trial by court-martial.(1) The Prospector informs the Corp that accused elected to be tried by court-martial instead of being dealt with summarily in the CO 19. (I. RR Con 557. 2. AA 46(8), RP 60 fn I. For effect see KR Con 563(c). Delete, if not applicable.) A5. Decided the property the wolldespecture > > 2 2 no interpreter TAAL > 2. The Interpret warms of the for which to The stort Detromer incurrent (I. 39 72. Delete, if none employed.) A6. 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 1 (I. RF IND. 2. If no objection, waiting member retires. RF 68(8). If objection, see procedure AA SI, RP 25, 71, 187MAR 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, et-R. A. Sutles Yteln LAA Regt Member takt J. S. Wolesworth 2 Edn LAA Regt Member Judge-Advocate Ce. R. Luderman Your LAA Regt H. L. Morgan YEdn LAA Right Questions by President: Is the Prosecutor a lawyer ! Ans 200 Is the Defending Offr a lawyer ! Ans \$4.5 (2) (1. RF 25, Z. 109, 11). List of offrs under instruction of core offrs) (2. M Feat 2 mayor and Def Offr not, accused is amount to an adjournment when RF 69 (8) and In 2 were not followed, See D1 p 2.)

A8. The accused C180311 is highered. If A before arraignment make(s) (no) (a) ploss.

(I) if a special ping is made for separate trial or one or more charges (RP 62(E), 108), or as to the jurisdiction of the Court by are all superior charges (RP 36), or as in accused's mental fitness to stand trial (AA 130, RP 57), or evidence, if are, and finding are recorded per Notes. For forms of record see references in finite RP cited. Insert in AB rank 199.

The armount of the accused making the piec.)

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

(f. AP 30: 112. See pare I of Instrs p 2. When some than one Charge Sheet see RP 62; when several occursed to be tried separately one RP 71(C), and use separate copies of CF ARe to record proceedings. 2. AP 32, RP 33. If otherwise, delete and

A10. The Court (is closed and) considers the lasts 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.

- 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 withdrawed of alternative charges by Prosecutor see RP 35(C). No other charge can be withdrawed for any reason without authy from Convening Offr. If Convening Offr concurs, Court may accept plea of Guilty to lesser, etc. offence. (RP 44(R).) 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 instrs as may be appropriate to result of its decision. See MML p 744 Instrs (2).

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)(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) call witnesses as to character and make an address in mitigation of punishment.(*)

 (1. RP 35 fo 2. 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 B2. President to accessed: The Coart 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(2), or which show provocation or extenuation in respect of which in your interest the witnesses for the Prosecution should be examined(4), we shall advise you to change your plea to Not Guilty. In making a statement you will not be aworn 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.(4)

President to accused: Do you wish to make a statement ! Ans. (1. RP 37(b). 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. 5. Statement, if any, recorded per Notes.)

B3. The Court considers the account of a statement of The Court decides (not) to envise account to change by (their appears of tenity to Not Guilty on enaction of the security teny so informat, and ho (they

change(s) his (timir) pelesis) on the charge(s) his (timir) pelesis) on the statement. Order whole or part not used.)

B4. On the charge(s) to which the please of Guilty is (an) not changed the President records finding of Guilty in Part Lofths Schooling (f). RP 35(B). If any plea(s) is (are) changed, use Record Farm C or D as appropriate.)

B5. The Summary of Evidence is marked Ex. (1) initialled and read aloud by the President (1) (1. If there is no Summory, or if it is inadequate, camply with RP 37(8). If there is any evidence inconsistent with any plea standing as Guilty, Caurt will advise accused to change such piec and, if changed to Not Guilty, try such charge(s) by one of parts D1 to D6 inclusive of Record Form D on p 3. RP 37(D).)

B6. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by XA

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 parts DI to DS inclusive of Record Form D on p 3 before proceeding with C 2.(1) (1. RP 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 P.

 (i. Under 85 such parts only of the Summary of Evidence may read as relate to the charges dealt with under C2. If any piec is charged to Not Guilly, trial thereon proceeds by complying with pares D1 to D8 inclusive in Recard form D on p 3 and making on appropriate record thereof an a separate sheet.)
- C3. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by using

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS

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

DI.	President :	to accused:	Do you wish	to apply	for an	adjou	rnment	on the	ground	that an	y of the	rules
relating t	o procedure	before trial	have not beer	complie	i with,	and t	hat you	have	been pre	judiced t	hereby,	or on
the group	of that you	have not he	d sufficient or	mortunity	to pro	mare a	vour defi	once 7	Arm			

(i. If 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 Pr(8), 50(A) (B), 90, 92(C) (D). Record oddress 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 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(s).(2) The Court is closed, and considers the submission.(3) The Court is re-opened, and the President announces that the submission (3) $\frac{1}{2}$ $\frac{1}$ charge(s).(2) 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

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

2. Arguments on submission, answer and reply are recorded per Notes. 3. If # 40 fn 1. See MML p 72 paras 12:14 and p 81 para 42: 4. Delete part not used. If accused acquitted on all charges, are second differentive in para 0.61. MB: If send proceeds, accused must be allowed great lesitude in making his defence, and the Court should not stop his defence solely an ground of virely once, (If # 60(C), 114, 115.

D5. President to accused: You will now proceed with your defence.(1) You may, if you wish, give evidence But a statement which could have been made on oath will not carry with the Court the same weight as sworn testimony of You may call witnesses in your defence and as to character, whether you give evidence or make a statement or do

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. RP 485 2. RP 40(A), see 80(D). 3. RP 40 fn (0. 4. RP 40 fn 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 in his interest, be given before the finding. See RF 46(A) fo 1. 86(C). Note the further opportunity in para E1

of Record Form E. Record per Notes addresses, statement, evidence and any summing up by the 18 under 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 Court is re-opened.
(1. RF 42, 177(A). See Notes in Fort I of Schedule. 2. RF 44(A).)

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

Or. The President announces that the accused is found Not Guilty on all charges and is to be released forthwith. and that the processings are accordingly terminated. Part I of the Schedule is dated and signed.(2)
(i. AA SMID (b), RP 45, 120(A).

2. AA 54(3), RP 45, 117. This alternative announcement is not applicable when there are pleas of Goodle putstanding and dealt with under Record Form B or C.)

D9. The accessed 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)

(1) If evidence has already been given by accused at his witnesses or to his character, delete this pare. 89 37(C) fn 4, 46 fn 1.

Accused and witnesses are swam. Evidence recorded by Notes.)

F2.4 The Prosecutor produces Statements as to Character and Particulars of Service(1), and certified true copy to the Court of Conduct Sheet(s)(2), 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 singled in the manner required by AA 163(f) (g) (h), and (ii) they purport 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) soldiers, having the same number, rank, name and corps as the accused. Admitted in evidence and

marked Ex. A and Ex. C respectively (*)

MAPS 255 or AFB 296. 2. MFM 6. 2. RP 46. KR Can 558. If above documents not produced, see RP 46 fin (*)

pere?)

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

tritigations of psychologisms of (1). Ass.

(1) RF ST(C), 46(D). 2. Address, If phy, recontrol per Notes. Court should permit accused or his witnesses to prove on ooth anything here or previously stated which would affect the amount of punishment. RF ST(F) for 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.(2) proceedings in open court are ac (/. AA Sags, RF /20(A).)

E5. The Court considers the sentence.(1) The President records the sentence in Part 1 of the Schedule, which

is dated and signised by him and the JA, if any. (*)

In President records the sentence in Part 1 of the Scheduler, is dated and signised by him and the JA, if any. (*)

(1. When meerel secured tried separately see RP 20.). One instence only, comprised of the punishment or punishment included down in AA 40., 44 and its precisio, is to be ownered in cover all charges in all charge sheets so which occused found quilty. RP 48. As in mentances see AA 44, 126, 182, RP 46-50, 8P, 118, 119(A), KR Can 208, 320, 525-556. Oversea RO 307, 2223. Mink. pt. 05. 275-2758. As to sentences usuapped for civil afforms by the loss of England see AA 44(15, MA), pt. 10. When accessed already under manisters of imprisonment are detention see AA 44(18, 68(1), KR Can 564. 2, RP 30. As to release from arrest by Canfirming Offic me KR Can 567. As to assembly and disposant of record offer trial see instruments on back of Contening Office see KR Can 567. As to assembly and disposant of record offer trial see intern to back of Contening Office.

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

CHARGE SHEET

The accused No. B15031, Pte Harry Arthur RYERSE, 42 Light Anti-Aircraft Battery, 7 Light Anti-Aircraft Regiment, Royal Canadian Artillery, a soldier of the Canadian Army Overseas,

1st Charge Sec 15(1) Army Act

ABSENTING HIMSELF WITHOUT LEAVE

In that he, in the field, did absent himself without leave from 2230 hrs 25 May 43 until apprehended by Metropolitan Police at Eltham Hill, S.E.9. at 1745 hrs 26 Jul 43. (Absent 61 days 19 hrs 15 mins).

Field 30 Dec 43. Commanding, 7 Cân LAA Regt.

TO BE TRIED BY FIELD GENERAL COURT MARTIAL

In the Field 3 Jan 44

for Commander



FIELD GENERAL COURT-MARTIAL

(Whether the accused to be tried is under his comd or not, a FGCM may an application to him the convened by any offir of Cdn Army Overseas, or AA 49, 30, RF 104-107, 114. As to the duties and privileges of the Convening Offr in dealing with the application see MML Chap V paperseriate authy. 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 as Pa 43, and as to separate trial on charges in the same charge sheets see RP 108. As to two or mater accused charged jointly see RP 14, 109. As to separate charge sheets have a charge sheet see RP 108. As to two or mater accused charged jointly see RP 14, 109.

ACCUSED.

Number. B/15031

(a) Prmnt R. (b) Appint, A/R or A/Appint. Full Christian Names. Pte

Surname

Harry Arthur

RYERSE

7 cdn LAA Regiment

CONVENING ORDER.

- 1. Whereas complaint has been made to me, the undersigned, that the person(x) named above as the accused, being subject to military law, has (have) committed the offence(s) set forth in the Charge Sheet(s) attached and on Martial ". **CHANNEX RECENTION by an offr 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
- 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. ANNICH REPORT OF THE PROPERTY OF THE PROPER (AA 49, RP 106(B), 107(A). Delete the whole or part, if not applicable.)
 - 5. KARAMENAN HEREMANNAN KERKENAN KARAMENAN KARAMENAN AND ING (RP 106(E), Delete, if none appointed.)

MAJOR F.B. ZINK 2 Cdn HAA Regt (Must be named. RF 106.) MEMBERS. CAPTAIN R.A. BUTLER 7 Cdn LAA Regt CAPTAIN J.S. DINNICK 11 Odn LAA Regt (Named or detailed. RP 106.) WAITING MEMBER. LIEUT J.S. MOLESWORTH 2 Cdn HAA Regt (Named or detailed, if any. RF 106.) JUDGE-ADVOCATE. (Must be named, if any. AF 106.)

(Ronk.)

On Active Service in the Fd

England (Country.)

Date 3 Jan 44

(Signed personally. RP 105 fm 2.) Commanding (D.R. Agnew) Brigadier

CONVENING OFFR WILL INITIAL ALL DELETIONS AND ALTERATIONS

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

APPENDIX G(2 Corps RO 24)

MEDICAL OFFICERS CERTIFICATE

Selle Can Para		
I certify that I have this morning	examined No 8-15031	
SW RYERSE, H.A. OF TLAR Right	and in my opinion he is	
It will to undergo trial by court-martia	1.	
Station Field	S. E. Gertinis Got	
Date 5 Jan HH.	West and Accions	

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

METROPOLITAN POLICE,

No. 144A. (Unruled)

DIVISION.

A.R.M. London Area, Canadian Military Read Quart

REPORT for the information of the

* To / S.D. Inspector. D.D. Inspector.

I cortify that the person whose description is given below was errested at althom Hill, Olthon, 3.2.9, in uniform, at 5-15pm, 20-7-43.

igniture of officer in charge

2. Jockspur Street, 8, 01A., Brighton. DERTITIONTS IN ACCORDANCE SITH SEC. 165 (M)OF THE ABOVE ACT.

Dnit Will a Mark orthor.

Sight. 20 tilly sallow.

Omblesion. sallow.

Ayes. Rasel brown.

Ayes. Rasel brown.

(In charge of Aham Police of.

* Delete as necessary

(Continue overleaf if necessary

This is Establish A referred to in the Summary of evidence in the case of B 15031 Pte Ryante HA laken before in the sale of day of January, 1944,

Forwarded by direction of the Commissioner of Police of the Metropolis, * in reply to letter of

reference No. New Scotland Yard,

London, S.W.1

* Delete as necessary.

M.P. 23010/100,000 June 1941 w160 (2)

AAB/5-4-3

HQ 1 Cdn AA Bde 3 Jan 44

7 Gan LAA Regt

PGCM - 5 Jan 44 L/18606 Gnr Sonne, A.E. B/15031 Pte Ryerse, H.A.

MR Q 716 238

1. The m/n ORs will be tried by FGCM at 1000 hrs on 5 Jan 44 at 93 Pembroke Crescent, Brighton, by the Court detailed in 1 Cdn AA Bde Order No.592, dated 7 Jan 44.

The accused will be warned and the necessary steps will be taken to procure the attendance of witnesses.

A Hollock Cont

/ (Earl A. Olmsted) Captain, SCRA 1 Cdn AA Bde

RIP/SN

Copy to 2 Cdn HAA Regt (attn: Major F.B. Zink)

CONTILEISTIAL

AAB/5-4-3

HQ 1 Cdn AA Bde 3 Jan 44

2 Can HAA Regt

Attn: Major F.B. Zink

Field General Court Martial B/15031 Pte. Ryerse, H.A. 7 Cdn LAA Regt

1. Herewith the u/m documents in the m/n case:

(a) Original Convening Order

(b) Original Charge Sheet

(c) Original Summary of Evidence

(d) Application by the Accused for a Defending Officer.

(e) Fro forms for recording proceedings at trial.

1) Kat 1/ exhibits

RIP/JWRS ENGL D.R.LS (Earl A.Olmsted)Captain SCRA 1 Cdn AA Bde

Mailment by B 15 d 8 of The Ryerse, OH. a. Regt - Lawing been severn water . 7 Clar LAG En 28 Mar. 43, my wrife came it me at Granley should do. It was late at night a I went with her I find a place to estay. He could not had did find a warant house. I returned to hollets for my blankets -, we stayed in the laure were night. In the morning Ireturned my Wankets might. In the samming victorined my wanted by when with my winter find a place of the same what it is not a partie of the same I was ked at add your until I can stort of money my wife of how a girl in the area ? my marke years halle Than I did it goes gave me \$\$ 3.40 said at the end of a week. Duras not able to repay it or the and Police priced Juan remanded for a such so the court confidence for an efficer of the symment to the court contidaring had to defend myself to Received a rentime of month for for food he havior " The Brown med There was nothing said to windrest that Street he charged again. Understood I was fee mouth

(2) The most day of wint to 3 C.A. R. U. - staged there for 12 a day & Then omoved to the Cating Corpor at Farnborough. I was there for 3 weeks & while there had 1- 48 hr. pars 4 1-32 hr. pass. right for about a week when I was your under the stage was y was not told in what I have had no other cuclian charges against me a. Mail of sear an prison D. you were surprised at the delay of in the laying D. ges. your papers did not come in what the day Kione . of your arrest. 9. you told the civil court that you tad heen B.W. I about 2 months & the judge said he would take that ent consideration when given A. That was my feelings on themather: R. P. 83 (4) has been complied with.

Field General Court Martial 1515031 Pto Riginse, Hany A. Aus 5 January , 194 4. I, harne Hay alter margen, Kust. R.C. A., Caunal for the accused, B15031 Ptz Agorae, Harry arthur, let dis court martial held on the 5 th day & January 1994 would like A dring to the attention of the Court and such ather authorities as may be concerned the following points by way I plea for metigation O The condition of the Ryerse's wife - pregnant, turned not of her lower, punestment: excitable, crying and begging him not to leave her certainly had an effect on Ate Referre o extended absence & This is same out by the eventioned I Pte Regerse wherein he stated that he rejectedly asked his wife to ablanching Its return to no arried, and also by the Mandelted acter from I've Referre & wife to the office Community the #2 Bty, add LT. A. H. Rigt., R.C. A. which was filed with the Court. Dre Ryane was abrigary tern between two dictios and the human derivat won. Wettough this is not to be condoned I submit did the Record was abusing distressed mentally and the fact that he realized that his NWL. was not quelified and if mined a desire to have another chance to grove he can make good should receive the consideration and agong Ity of the court @ The fact that civil authorities arranged for defending counsel from Are Ryene's own Regiment, Ican N. A. A. Ryt., who is not appear at his trial (inil) is I feet that may have had for reaching effects - It is clear from the Ryune's suidere that he most destainly ded not understand all legal involvements conversed well his certificant rise And, it is further apparent that he believes his two monets absone was considered by the court as matter determental to his cause and influenced them in giving the rather source sentence I had months

And labour for the charge of steering by trick & 3-0-0. Therefore may or magnet have shew reflected by defending coursel it the willen trick but de pariebilly of med hould I submit be most 3 It soes not sum fair dat Be Ryune should be allowed to go free for one whole most most equively since he solicited the information as to weather he was charged who and received a rejetive reply, and then to be needlenly confronted by a dayse and placed under done strest. At no time after his release from ceveliar Fall while in the custody of the Propost cups, with the R. A. S. C.

probat the of car. A. A. A. Royt up until the time of his sadden area was I ever extendeted he would ever be tolely Tharged. Such procesure does not seen to indicate effected handly of the was I submit should be considered by the down & The six monds hard believe (reduced by a months forgard belowing) would sain to be more the sufficient gives In the correlated civil and military office. Queker junishment would only sum brut al and unwise and testainly would not augur weld for the ment at attitude of the accused This also I submit for the consideration of the court. (And finally, the account is a husband and also more a father the third being worn while he was in greson serving a sentence grackage that he does not believe himself to have beinguelty of out which in any event was only for the wideface of his wife at his faturched to expression strong durie to be able to de back wife and shield as a normal huchard and father and in view of the several paints above it would appear, I menit, that such plea how to foundation in merit and should receive the consideration The court, AMMargan, hist 1213ty 2 can F. A. A. Ryt., R.C. A.

LEGION A THE TOTAL CANADIAN WAR SERVICES

prison for other reasons and the has done. I feel how that in filere with make up for all > some made de Paparale Cours There of war The husband Emander of Rupe Me. you could be my to english the died it for me because I at that for being rische damp B. W. s. r. and he get a sampwed got hoogitish. time had nowhere to the of the have no I was expecting my bulong circumstances for time at I know how wrong he was but I am whiting to you torreasing the court martine is her has Dear Sir ナナマット かんかん Browniam District Start water なりる。 There are

SUMMARY OF EVIDENCE in the case

B15031 Pte. RYERSE, Harry Arthur, (RCASC) 7 Cdn LAA Regt a soldier of the Cdn Army Overseas.
Taken on oath by order of Lt.-col. H.J. Inns, Commanding B22597 Sgt. O'Donnell

Prosecution lst Witness:-

B22597 Sgt. O'Donnell, J., Tp Sgt "C" Tp 42 Bty, 7 Cdn LAA

"On 26 May 43 at approx 0900 hrs Bdr Drysdale reported to me
the absence of Pte Ryerse from tatoo at 2230 hrs on the night
of 25 May 43. Bdr Drysdale's statement concerning the accused was that at approx 1800 hrs on the night of 25 May 43.

Smith of 42 Bty and my tpacomd, Capt. H.A. Blanchard, of the
deserter or absente without leave. In that interval I had

The accused declines to cross examine the witness.

Prosecution

"In May 43 I was Tp Comd "C" Tp 42 Bty. In the later part of the month, I cannot remember just what day, my tp Sgt, Investigated and found that this was true. I have not seen on or about 22 Dec 43,"

The accused decilines to cross examine the witness.

After having read Par, 4(e) of the Rules of Procedure, the accused, having been duly sworn, states:

"On 25 May 43 my wife came to me at Bromley, Kent, and told me that she had been kicked out of her home and asked me what I should do. As she was pregnant and was about seven months gone I told her I would come with her and see what we could do. As we could not find a place to go and I, as a time, I was working at odd jobs and keeping the both of us time, I was working at odd jobs and keeping the both of us to pay her back within a week. As I did not pay her back within a week. As I did not pay her back in the money from her. The civil court charged me with stealing four months of this girl in which they sentenced me with stealing four months of the six and two months off for good behaviour. Chance and prove to you that I will make good.

The foregoing summary of evidence was taken before me on H Rejerse oath in the presence of the accused at 93 Pembroke Crescent, Hove, Sussex on the 30th day of Dec 1943. Faras 4 (c) (d) and (e) of the Rules of Procedure have been complied with.

Francis Capt

SUPPLEMENTARY SUMMARY OF EVIDENCE in the case of

B15031 Pte. RYERSE, Harry Arthur, (RCASC) 7 Cdn LAA Regt, a soldier of the Can Army Overseas. Taken on oath by order of Lt .- col. H.J. Inns, Commanding 7 Can LAA Regt.

Prosecution

063688 Bar. Drysdale, J., 42 Cdn LAA Bty, 7 Cdn LAA Regt. 3rd Witness:- having been duly sworn, states:- " I am NCO 1/c cooks C Tp, 42 Cdn LAA Bty. On 25 May 43 Pte Ryerse left his quarters after duty and was absent at tatoo roll call at 2230 hrs 25 May 43. On 26 May 43 Pte Ryerse failed to report for duty in the kitchen and at approximately 0900 hrs 26 May 43 I reported his absence to the Tp Sgt, Sgt O'Donnell. I have hot seen Pte Ryerse since that time until I returned from leave 1 Jan 44.

The accused decklines to cross examine the witness.

Lieut E.G. Campbell, Bty HQ Subaltern 42 Cdn LAA Bty, having been duly sworn, states:-"I submit certificate of apprehension in accordance with AA Sec 163(m), from Metropolitan Police dated 27 Jul 43, referring to B15031 Pte Ryerse, Harry Arthur, of the 7 Cdn LAA Regt RCA, apprehended at ELTHAM HILL S.E.9. in uniform at 1745 hrs 26 Jul 43. Certificate is signed by G. Goodbody, 1/c Eltham Police Stn."

The accused declines to cross examine the witness.

The document referred to lay the centers, produced, need over attacked hearth warless by the A, suggesting me, and

supplementary The foregoing/summary of evidence was taken before me on oath in the presence of the accused at 9 Pembroke Crescent, Hove, Sussex, on the 2nd day of Jan 1944. Paras 4 (c) (d) and (e) of the Rules of Procedure have been complied with.

> (a.P. Francis) Capt., Adjutant, 7 Can LAA Regt.

LIST OF WITNESSES

In the case of B15031 Pte RYERSE, H.A., 42 Bty, 7 Cdn LAA Regt.

For the Prosecution

Capt. H.A. Blanchard

42 Bty, 7 Cdn LAA Regt.

B22597 Sgt. O'Donnell, J.

063688 Bar. Drysdale, J.

Lieut. F.G. Campbell For the Defence

None

I hereby request that the Convening Officer appoint Lieut, H.L. Morgan, 42 Bty 7 Cdn LAA Regt, to represent me at my forthcoming Court Martial.

30 Dec 43

H Rig Coda H.A. Bi5031 Pte Ryerse, H.A.

I hereby acknowledge that I have received a true copy of the Summary of Evidence taken at 93 Pembroke Crescent, Hove, Sussex, preliminary to my Court Martial, and I further acknowledge receipt of a copy of the charge sheet under which I am being brought to Court Martial.

30 Dec 43

H. Rette Ryeree, H.A.

LIST OF EXHIBITS

Certificate in accordance with AA Sec 163(m), Certificate of Apprehension by Metropolitan Police, Eltham Hill, S.E.9, for Bl5031 Pte Ryerse, H.A., dated 27 Jul 43.

Sheet No.....

MPM 1 % 2A 40/P & B/119 (3013)

Name RYERSE Harry Arthu					A	othority
	Rapk Shown	Effective Date	Unit	Place .	DO Number	Dated
AA.15(1) 7 days C.B. forf. 8 days pay FR&I 149 (1)(a) AWL 12 hrs.Awd. 7 days CB. Forf. 8 days pay Pun. 8 days pay AWL 23 hrs. 30 mins. Forf. 1 days pay AWL 23 hrs. 30 mins. Forf. 1 days pay AWL 23 hrs. 25 may 43. Still AWL 2230 hrs. 2 Jun.43. AWL from 2230 hrs. 25 May 43. Still AWL 2230 hrs. 15 Jun.43. AWL from 2230 hrs.25 May 43. Still AWL 2230 hrs. 15 Jun.43. AWL from desertion on apprehension 1745 hrs. TOS from desertion on apprehension. Wormwood Scrubbs (6 month) Forf. 188 days pay.	Gnr. Gnr. Gnr. Gnr. d. Gnr. Gnr. Gnr. Gnr. Gnr. Gnr.	22 Jun. 42. 20 Oct. 42. 30 Nov. 42. 13 Dec. 42. 9 Feb. 43. 20 Mar. 43. 25 May 43. 25 May 43. 26 Jul. 4.	5 L.A.A. 5 L.A.A. 3 CARU 3 CARU 7 L.A.A. 7 L.A.A. 7 L.A.A. 7 L.A.A. 7 L.A.A.	U.K. U.K. U.K.	33 50 56 3 37 15 28 31 33 40 40 41	1 Jul. 42. 28 Oct. 42. 9 Dec. 42. 5 Jan. 43. 15 Feb. 43. 2 Apr. 43. 16 Jun. 43. 25 Jun. 43. 18 Aug. 43. 27 Aug. 43.
CERTIFIED TRUE EXTRACTS FROM 1	L.F.M. 2.		-			
	A.WICKWA fficer 1/ N MILITAN	RE) Lieut.		•		

Date of last of Company Co	entry in		114	A or Company o and date Period not reckoning towards freedom from extra fine	Sheet No	Company, e	Date of award or		-
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UK	-	- 11		AA15(1) AWL 23hrs 30min	+		1300048	forf 1 day	AWL
		11	-	AA15(1) AWL		14 days FP	9Feb43	plus stop	4/8
UK		D.L.		AA15(1) AWI		14 days CB	20Mar4	Part 1 da	rs n
UK		Pte		1.12 -000-00		6 months H.1	30Jul4	period of forf 188	lays
UK		11	-	Larceny, civil offence CERTIFIE	D TRUE EXTRA		1		
					1 190	ahcis) Cart.	11		1

STATEMENT AS TO CHARACTER AND PARTICULARS

STATEMENT AS TO CHARACTER AND FRANCE OF SERVICE OF ACCUSED Name Name Name Name Name Name Name Nam	
Name Name AYERE H.A. 42 Bty 7. Can LAA Regt Server and constitutions of the entries in the Regimental and Education States Regimental and Education of a civil court, Regimental and Education of Court, Regimental and Education of Court, Regimental and Education of the accused by a court of a civil court, of a civi	
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Note.—If any matter in any of the above paragraphs cannot be stated from the Regimental books, the paragraph must be struck through.

SCHEDULE

ADE FRICK DHIN Name RYERSE H.A. of 42 Bty 7 Gdn LAA Regt Regiment

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

	Description : by which		Date and Place of Trial	Charge upon which - consisted	Sentence of the Court	Punishment Remitted
Bromley	Petty	Sessions	Browley Kent 30 Jul 43	Conserved with Lillian Violet Ryerse in steal ing by means of a trick the sum of £ 3., the monies of Roset Folkard at Mott ingham	hard labou	2 months for r good behavio

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 day of January 1944 ADJT 2 COT L. Lyunes CAP

ADJT I COM LAA Signed this 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

3.4. Lange A. E. 811-8.6

SCHEDULE.

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

Ch	701	Planting 1	
Charge.	Piea.	Finding.	
(Insert " alternative " where applicable.)	(See Instrs p 2.)	(See nate below.)	(Space for use as required for further charges, accused charged jointly, special findings, etc.)
lst AA 5ec 15 (1)	FULLY	TUILTY	
2pd			
3rd			
4th			
9th			
(Note : As to fir special findings see 8	ndings for lesser offen P 44 and MML p 753	ces see AA 56, RF 44 ; , and in loss of kit see	findings on alternative charges see MML p 483 fo 4 para 2, RP 44; RP 44 fo 6.)
Sentence Awarded by the Mountain Awarded by the Mountain	myo 1	ml Fi	tion for a period of
Judge-Advo	(See back of Co	Date a nvening Order as to as	ATION RESERVED. (AA 54(5), RP 120(F), MAIL p 780.)
Judge-Advo	(See back of Co	Date a nvening Order as to as	President. (RP 45, 50.) ATION RESERVED. (AA 54(5), RP 120(F), MAIL p 780.)
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Alo. The Court (is classed and) considers the Instrs on Procedure after Arraignment at top of p 2. The proocedings are continued on Record Form

REGEORNED AT THE IN AN IAM & 5 5-118 REGEIVE 18SEP 1945 Convened by Order of Brightler J. E. Sager, Comd "F" St. GRU dated S.S. Aug AD 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. A/rank or A/appmt. 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. 4 VRD, 1 CCCD Harold Bugene PROCEEDINGS REVIEWED 18 Lept 40) PROCEEDINGS OF TRIAL. Held in the Fd in (country). Con 12 86 a mode on (dates) 30 DUG Id a RECORD FORM A-OPENING PROCEEDINGS AND ARRAIGNMENT. 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 BY FRES OR IA. The Schedule referred to throughout is on p.4. Cutations do NOT include all relevant from ROs. For guidance an procedure when a variation in this farm arises, see form for GCM in AMM, by T41 to T59. A brief record of such variation will be made and giren an number having, reference to approprietive to preceding para number havine. Back of Conventing Order, CF 485, for acts and instra on how to record addresses, evidence etc., which mass are hereafter called "Notes". As to general pressuants for conducting the trial see As 3.8, Res 5.6-5.07, 37, Res 49, 610, 37, Res 100, 110, 119, 1132. A2. The President initials and lays before the Court the Convening Order and Charge Sheet (*) attached thereto.(*) The Court is satisfied that it is properly convened and constituted(*), accused is (a**) amenable to military law, and each charge discloses an offence.(*) (1. As to use of Summary of Evidence see RP 17 fn 6. 2. AA 49, 50, RF 105-107. 3. RP 11-13, 23, 24.) A3. The Court is opened. The accused is (40) brought before the Court. At 1100 hours trial commences. A4. The Prosecutor produces a Medical Certificate that accused is (**e*) fit to undergo trial by court-martial.(*)
The Prosecutor informs the Court that accused elected to be tried by court-martial instead of being dealt with summarily by the CO.(1) (I. KR Can 557. 2. AA 46(8), RP 60 fn I. For effect see KR Can 563(c). Delete, if not applicable. A5. President to accused: Do you object to as interpreter ! Ans ____ The shorthand writer is sworn.(1) Do you object to OFTHH SINGLATIN as shorthand writer ! Ans NO. (1. RP 72. Delete, if none 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 1 Ans NO, J. 18 (*)

(f. RF 110. 2. If no objection, waiting member retires. RF 68(5). If objection, see procedure AA 51, RF 25, 71, 18, MML 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	And him the his bear	the start and the start of the total the start of the sta	they to it is
Member	6785	A.G. HO hada AND	16080
Member	h.I.	NF WILTON	160 80
Judge-Advocate			
Prosecutor	CHPT	HIV. DICKINSON	10000
Defending Offr	Lat	M HYGKENILE	10000

Questions by President: Is the Prosecutor a lawyer ! Ans M.I. Is the Defending Offr a lawyer ! Ans M.C.(*) (1. RP 26, 27, 109, 111. List of offer under instr will be returned separately with proceedings for information of Conv Offer.)

(2. If Prox a lawyer and Def Offer not, accused is entitled to an adjournment when RP 89 (8) and fin 2 were not followed. See DI p 3.)

An. The accused.... ... before arraignment make(s) (no) (s) plea

(i. If a special plea is mode for separate 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 bor of trial (RP 36), or as to occused's mental fitness to stand trial (AA 100, RP 37), or by use of several occused charged jointly to be tried separately (RP 61, 71), such plea, the addresses mode in support or against, the skidence, if any, and finding are recorded per Notes. For forms of record see references in fins to RuP cited. Insert in AB rank and name of the occused making the pleas.

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

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

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 alternative. (RP 37(4)). As to withdrawal of alternative charges by Prosecutor see RP 35(C). No other charge can be withdrawal of alternative charges by Prosecutor see RP 35(C). No other charge can be 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 Gwilly to lesser, etc., offence. (RP 44(R).) Accused may change a plea of Not Gwilly to Gwilly 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.
- 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 Offrese RP 60(C), 87(C), 91, 92; swearing and withdrawed of witnesses from Court see RP 81, 82; questioning of accused see RP 89, 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 Fruit. 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(p)(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(p), call witnesses as to character and make an address in mitigation of punishment.(2)
(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 If it appears from your statement that there are circumstances which indicate that you do not understand the effect of the plea of Guilty(2), or which show provocation or extenuation in respect of which in your interest the witnesses for the Prosecution should be examined(9), 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.(4)

President to accused: Do you wish to make a statement ? Ans. (1. RP 37(b). 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.

5. Statement, if any, recorded per Motes.)

B3. The Court considers the accused's statement (t). 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)

chargeis). Part I of the Schedule is amended accordingly. change(s) his (their) pleafs) on

Court may be closed to consider the statement. Delete whale or part not used.)

B4. On the charge of to which the plea(sf of Guilty is (apr) not changed the President records finding of of Guilty in Part I of the Sci

(I. 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. T. initialled and read aloud by the President. (1)

(1) If there is no Summary, or if it is inadequate, comply with RP 37(B). If there is any evidence inconsistent with any plea standing as Guilty, Court will advite occured to change such plea and, if changed to Next Guilty, try such charge(s) by use of pares D1 to D6 inclinite of Recard Farm D on p 3. RP 37(B).

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)

C2. The charges on which accused pleaded GUILTY are mad 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 Summer; of Evidence are read as relate to the charges dealt with under C2. If any piece is charged to Note Guilty, tried thereop proceeds, by complying with paras D1 to D8 inclusive in Recard form D on p 3 and making an appropriate recard thereof on a separate wheel.)

(3. The accused having been found Cuilty 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.

Regord Form E below.

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 Prosecutor makes (an) (no) opening address.(1) (1. RP 39(8), 60(A) (B), 90, 92(C) (D). Record address per Notes, subject to RP 95(C).)
 - D3. The evidence for the Prosecution is taken.(1
 - (I. RP 39(C), II4, 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 ...charge(s).(2) The Court establish a prima facie case against the accused on the ... is closed, and considers the submission. (3) The Court is re-opened, and the President announces that the submission .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).(4)

(1. Delete remainder of this para, if submission not mode. 2. Arguments on submission, answer and reply are recorded per Notes. 3. 8P 40 fn 1, See MML p 72 paras 12:14 and p 81 para 42. 4. Delete part not used. If accused acquitted on all charges, use second alternative in para 0.8.) Bs. If trial proceeds, accused must be allowed great latitude in making his defence, and the Court should not stop his defence solely on ground of irrelevance. (RP 80(C), 114, 115.)

D5. President to accused: You will now proceed with your defence (2) You may, if you wish, give evidence yourself on eath 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 eath will not carry with the Court the same weight as sworn testimony (*) But a statement which could have been made on onto our never that you give evidence or make a statem.

You may call witnesses in your defence and as to character, whether you give evidence or make a statem.

President to accused: Do you wish to give evidence yourself as a witness, make a statement, or do neither t Do you intend to call witnesses on your behalf ! Ans. (I. RP IIS. 2. RP 40(A), see 80(D). 3. RP 40 fo 10. 4. RP 40 for 2.9.) Ans.

- D6. Consequent on the answers 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 RF5. Evidence for accused as to his character should, if in his interest, be given before the finding. See RP 46(A) in 1, 86(C). Note the further opportunity in posm E1 of Recard Form E. Record for ME Converge addresses, statement, evidence and any summing up by the [A under 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 Court is re-opened.

 (1. RP 43, V7(A). See Notes in Part | of Schedule. 2. RP 44(A).)
- D8. The Projectent announces the finding(s), if any, of Not Guilty, and states to the accused that the finding(s) charge(s), being subject to confirmation, will be promulgated later.(1) of the Court on the 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. (*)

 (*), A 44(3) (6), R? 45, 120(A).

 2. M 54(3), R? 45, 117. This alternative announcement is not applicable when there greepers of Guilty outsing and dealt with under Second form 8 or C.)
- P9. 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) NO-21 If evidence has already been given by accused or his witnesses as to his character, delete this para. RP 37(C) fn 4, 46 fn 1.
 Accused and witnesses are sworn. Evidence recorded per Notes.)
- E2. The Prosecutor produces Statements as to Character and Particulars of Service(1), and cortified true copy (copyls) of Conduct Shectif^{*}(*), 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(l) (g) (h), and (ii) they purport to refer to (a) soldier a having the same number, rank, name and corps as the accused. Admitted in evidence and marked Ex.

 (i. MFB 355 or AFB 296. | MFM 8. 3. AF 46. KR Con 558. If obere documents not produced, see RP 48 fm 1

pere ()

- E3. President to accessed: Do you wish to address the Court on the Statements) and Conduct Sheeting, and in mitigation of punishment 1(1) Ans (1) Ans (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 proceedings in open court are accordingly terminated (1)
 (1. AA 54(6), RF 129(A).)

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

The accused, h-77563 Private Marold Lugene KYLKSE, on strength No. 4 V.E.D., 1 Odn Central Ordnence Depot, a soldier of the Canadian Army Overseas, is At Greenhills, No. 2 V.R.D., I Con Central Ordnance Depot, did absent himself without leave 15 June 45 until apprehended in blackpool at 1445 hrs 8 August 45. Aug 45.

TO BE TRIED BY FIELD GENERAL COURT MARTIAL

29 Aug 45

(J. E. SOER) Brinedier, Comd "F" Op, CHI.

m

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 offr of Cda Army Overseas, or of any other force if authorized in law, in immediate comd of troops on active service, subject to RP 103(C) and restrictions imposed by appropriate authy. 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 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 charge 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, 109. As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, Alrank or Ajappmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

ACCUSED.

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

B 77563 Pte Harold Eugene HYERSE 4 VRD 1 000D

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 (NEWE) committed the offence(s) set forth in the Charge Sheeton attached and on (date). It also support to military law, has (NEWE) committed the offence(s) set forth in the Charge Sheeton attached and on (date). It also support to military law, has committed the offence(s) set for may, "To be tried by Field General Court Martial".
- 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 offr.)
 (Delete part in brackets when not required for compliance with RP 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 (a) throw Office to form the Court, (b) a Fct Office President, for the reasons 1 have attached hard.

 (AA 49, RF 106(8), 107(A). Delete the whole or part, if not applicable.)
 - It also appoint as Judgo-Arlyaoute thereat the Offe mentioned hereunder. (RF | Uψ(E). Delets, if none appointed.)

PRESIDENT.

Hu, CRU (Must be named. RP 106.) MEMBERS. from and to be detailed by (Named or detailed. RP 106.) (Unit.) WAITING MEMBER. (Named or detailed, if any. RP 106.) (Unit.) JUDGE-ADVOCATE (Must be named, if any. RP 106.) On Active Service in the Fd Lager Brigadier, (Country.) (Rank.) 29 Aug 45 Cond "F" Gp, CHU, Commanding Convening Officer

CONVENING OFFR WILL INITIAL ALL DELETIONS AND ALTERATIONS

4/38A CFA 95 (In tieu of APA 3) (See overleaf for ooths and notes for use on trial.)

m

MEDICAL OFFICER'S REPORT

I certify the	at No. 11.77563 P	state of health
and $\not = \checkmark$ to u	ndergo Trial by	Court martial.
	Con I	edger Cont.
Station 4 VRD, 1 CCOD		W

M. F. B. 246 22M-9-41 (1742) H.Q. 1773-39 480

Date ..

PLEA OF MITIGATION in the case of B+77563 Pte RYERSE, HAROLD, EUGENE

B-77563 Pte Ryerse, H.E., having pleaded guilty to the charge on which he has been arraigned, there are a fewpoints I would like to bring to the attention of the Court before sentence is made resolute.

- 1. Pte Ryerse, born 8 Apr 24, attended Public and Technical School until he was sixteen years of age, at which time he became an apprentice watchmaker for nine months, thence a machinist in an armament factory till he joined his Majesty's Canadian Forces as a soldier on 4 Nav 42.
- Canadian Forces as a soldier of the second process of the goldier was eighteen years seven months old when 2. The accused was eighteen years seven months old when he joined the Bervice, and after completing basic and advanced training was transferred to hisown home town to attend classes training was transferred to hisown home town to attend classes training was transferred to his employment suited him and here he again at a trade school. This employment suited him and here he again to become a student after two years away from school. On transfer the become a student after two years away from school. On transfer from the trade school he was stationed at Barriefield Camp where from the trade school he was stationed at Barriefield Camp where the continued with his army career, being assigned to general duties. He is twenty years old at this stage of his training.
 - 3. At the age of twenty Pte Ryerse arrived Overseas (UK) where he underwent further training and carried out military duties at Yorkshire, Bordon, 5 VRD 1 CCOD, No. 1 COMERU, and 2 VRD. The accused isnow twenty-one years four months old.

I submit this pleg in the case of B-77563 Pte Ryerse, Harold, Rugene, that you may consider his schooling and Army career in conjunction with his youth and so alleviate the punishment you are about to impose.

30 Aug 45,

(M. MacKenzie Lieut., Officer forthe Defence.

L-3

Submary of Evidence in the case of E-77563, Private Harold Lugene HYERSE, on atrength No. 4 V.E.D., 1 Canadian Central Ordnance Depot, a soldier of the Canadian Army Overseas.

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

FIRST WITH SS For the Lieut, L.E. Anderson, on strength E.T. Tech Stores Goy., 1 Canadian Gentral Ordnance Depot, an officer of the Canadian Army Overseas, having been duly sworn, states:-

I am Lieut. L.F. Anderson, M.T. Tech Stores Coy., 1 Cdn Central Ordnance Lepot. I was Regimental Officer at No. 2 V.R.D., 1 Cdn Central Ordnance Depot from 21 June 45 till 6 August 45.

I produce the following document pursuant to
Cverseas RO 5352 which has been read over and shown
te the accused, and which is attached hereto as Exhibit "A".
I further produce a certificate pursuant to A.A. 163
(1) (j) purporting to be signed by the Adjutant for the
Officer in charge C.E. Folice at blackpool, Lancs.,
relating to the accused, whom I now recognize, and which
is attached hereto as Exhibit "h".

in 1 Cdn Central Ordnance Depot, Fart II Order No. 79, dated 22 June 45, which shows the accused as being Absent Without Leave from 2359 hrs 15 June 45.

"Exhibit B". Certificate of Apprehension, Army Form B 252, which shows the accused as having been apprehended in Blackpool, Lancs., at 1445 hrs on the 8 August 45.

talinder on &

The accused declines to cross examine the witness.

The accused was cautioned as follows: "Do you wish to make any statement or 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 say be given in evidence.

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

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

orricor setalled to take the summary of Evidence.

FXA



PART II ORDERS

Is sued By

BRIGADIER R.J. HENDERSON, C.B.E.

Commandent

Commandent

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Lest Order No. 78

1		This Order No. 79
1. STRENGTH INCREASE	"A" OFFICERS	
2. ATTACHMENTS	E) Tos e-	HQ (QAE Br) wef 15 Jun 45 MITS Coy (Auth: CNHQ (MSS
Supvr C J Girard	Cease att fa wer 18 Jun 4	p (except disc) from 1 cos
Capt George Zimmerman (C	Aux Serv (UK) (Pers) A 4397	ppt duty) to lVRD from Cdn Wer 13 Jun 45 (Auth: ORU
3. LEAVE OF ABSENCE	Wef 14 Jun 45	pt duty) to HQ from 1 OGRU (Auth: CMU/Dent 27 d/13
(1) C L Aldridge Lieut J S H Duke MT Coy Liout 2 VRD M MacKenzie (2 CAM (3) 2 VRD	Granted 7 days leave & entitle. 45 to 26 Jun 45 of rations under U) Granted 7 days p leave & entitles	s PL from 13 Jun 45 to money allce in lieu of RAI (0/S)Art 789(3)&(4). PL & 96 hrs pass (total with money allce in lieu r FRAI(0/S)Art 789(3)&(4) L & 96 hrs pass (total with money allce in lieu with money allce in lieu r frai (0/S)Art 789(3)&(4) FRAI (0/S)Art 789(3)&(4)
STRENGTH INCREASE D 156092 Pto McDonald J C (1)		
EVI I STREET	to Van Coy Auth;	wer 19 Jun 45 & posted (PTA)
Voluntoored for the Pacific Theatre 9864		
12234 Cfn Bisson F (Vol. 1921)	18 Jun 45 Dvr Mo	oh (Tank)"C"
TACHMENTS IN "B"	Voluntograd for the	Pacies -
12234 Cfn Bisson D F (Voh Moch 187 nBn) TACHMENTS 138393 Pto Bissillon J O		Theatre wer

D 138393 Pto Bisaillon J O

Cease att fap (except regtil duty) from (Dent 37) d/15 Jun 45 (Auth: ADDS, CMU (OVER)

1 CANADIAN CENTRAL ORDNANCE DEPOT, R.C.O.C.

PART II ORDERS

Sheet No. 2		This Order No. 79 d/22 June 45
3.ATTACHALIT	S (Cont'a)	
E 7506	Pte Soulard J P 4 VRD	Att fap (except regt'l duty) to 4 VRD from 16 CBDC CDC Wef 19 Jun 45 (Auth: ADDS, HQ CRU/Dent 43 d/18 Jun 45)
(Amend) H 41619 (3)	L/Opl Robinson H E	Part II DO 74 para 3(1), 4/9 Jun 45 insofar as it refers to this NGO is hereby am'd to read for "L/Cpl" read "A/Cpl"
4 • GONBIAND		
Proceeded 2030 hrs 1	on Command to Derby wef 08 2 Jun 45	00 hrs 10 Jun 45 Returned from on Command
B 57045 C 53150 B 142607 (1)	A/Gpl Rooney E J Ptc Crowe A D Ptc Ireland F M 4 VRD	M 50496 Pto Nelson P E L 100432 Pto Peterson J L A 9698 Pto Winstanley J R
(Amend) H 96066 (2)	Pto Jamieson N W C	Part II DO 73 para 3(5) d/8 Jun 45 insofar as it refers to this soldier is hereby am'd to read for "H 96066" read H 76066"
5. LEAVE OF A	BSENCE	
(1)	Sgt Agnow R A	Granted 14 days FL from 12 Jun 45 to 25 Jun 45 with money alloe in liou or rations under FREI (0/8)Art 789(3)&(4)
Granted 7	days PL & 48 hrs pass (total	al leave & entitlement 9 days) from 16 Jun lieu of rations under FREI (0/8)Art 789
K 68704	Orn 'Alvaro N J (ROZME)	K 83022 Cpl Carson F S (RCAME) K 71775 Crn Hunt A H (RCAME) B 94599 Pts Lockwood D W (RCAME) A 37762 Pts Saunders F A 50139 Pts Van Riemsdyke W
Granted 4	lays leave from 7 Jun 45 to for FREI (0/8)Art 789(3)&(4	
M 53231 L 110253 M 101325 C 15508 (3)	Pto Armstrong H W Pto Dunn 0 0 Cpl Elsworthy W CSM Jamison L 0 HQ	L 13434 L/Cpl Corry J P C 73661 Cpl Edwards J L H 9156 Pto Harris S H C 65435 Pto Jeffreys T
K 47118 L 35512 G23073 L 61848 (4)	Set Ballom O R I CGPC Gnr Clark C F 1 CGPC Pto McInnis H M 1 CGPC Gnr Rosnoski W 1 CGPC 2 VRD	Granted 7 days FL & 96 hrs pass (total leave & entitlement 11 days) from 16 Jun 45 to 26 Jun 45 with money allow in lieu of rations under FREI(O/S)art 789(3)&(4)
R 3757	Pto Bornuy G E HQ (OV	Cranted 7 days FL & 48 hrs pass (total leave & entitlement 9 days) from 15 Jun 45 to 23 Jun 45 with money alloe in lieu of rations under FR&I (0/S)Art 789(5)&(4) ER)

1 CANADIAN CENTRAL ORDNANCE DEFOT, R.C.O.C.

Sheet No. 3	PART II ORDERS	.0.0.0.
5. LEAVE OF ABSENCE (Cont'd)		This Order No. 79
Granted 7 4		

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Granted 7 days PL & 96 hrs pass (total leave & entitlement 11 days) from 16

A 64493

Pte Baxter J V
F 94611

Pte Betts J E
Golden H
F 51694

Pte Golden H
F 64694

B 85942

Pte Golden H
F 7694

B 80392

Pte Dube C
                                      F 30640

K 51694

K 51694

A 39885

B 85942

Fitzsimmons T R (RCEE) H 1003

Hawman H H (RCEE) F 5801

GWilliams G D letge W F (PC
                     Metcalfo A R
Nophew F G
Poh S
Price J W
F 31004
K 70536
B 53449
B 58199
B 1022
                                                                                                                                                    (ROEME)
                                                                                                                    Spencer L
                    L/Cpl Donnan H
Pto Kinnear R J
2 VRD
                                                                                                                    Whitcombe V
                                                                                                                   Whitelock W E
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Granted 7 days PL & 96 hrs pass (total leave & entitlement 11 days) with money allow in lieu of rations under FR&I (0/S)Art 789(3)&(4) wer dates shown:

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103362
7734
148875
17280
101094
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Dennison P T
Donovan T D
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Jun 45
Jun 45
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to 26 Jun 45
to 26 Jun 45
                                                                                                                                                                                                                                                                                                                Donovan T D

Donovan 45 to 25 Jun 45

Donovan T D

Donovan 45 to 26 Jun 45

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B 22574
F 89604
F 30687
G 94808
F 1.115731
H 77834
H 77834
H 2051257
L 8233
H 27647
B 57536
L 27647
B 64743
H 40961
(7)
                                                                                                                                                                                                                                                          Pto
                                                                                                                                                                                                                                                       Pto
Cpl
Pto
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                                                                                                                                                                                                                                                          Pto
                                                                                                                                                                                                          L/Cpl
Pto
Tpr
Pto
                                                                                                                                                                                                               SQMS W.
Pto W.
MT Coy
```

Granted 7 days PL & 48 hrs pass (total leave & entitlement 9 days) from 15 Jun 45 to 23 Jun 45 with money allow in liqu of rations under FREI (0/8) art 789(3) & (4)

C 48534 E 10195	Pto	Bianco J F	an lion of ra	tions	under FRAI (e
F 602586 (8)	- 00	Lebiana G G	RU) D 82924	Pto Pto	Connamo P J Handsor F C
M 61505 L 28040	Pto	Brown F W	B 18922		Mertick A Weir T C
(9)	Pto	Caine T H (1 crm	. Granted 7	Ann	

Brown F W Gaine T H (1 CITR) Granted 7 days FL & 48 hrs pass (total loave & entitlement 9 days) from 19 Jun of rations under freI (0/8) art 789(3)&(4) Pto

PART II ORDERS

Sheet No. 4

This Order No. 79 d/22 June 45

5. LEAVE OF ABSENCE (Cont'd)

Granted 7 days FL & 96 hrs pass (total leave & entitlement 11 days) with money allow in lieu of rations under FR&I (0/S)Art 789(3)&(4) wer dates shown:

0 12643	Pte Bourgon J A L	23 May 45 to 2 Jun 45
B 50142 B 111913 F 65342 L 28375 (10)	Pte Hills V G Pte Shorry E T Pto Whalen J J Pte Williams J S MT Coy	24 May 45 to 3 Jun 45 25 May 45 to 4 Jun 45 25 May 45 to 4 Jun 45 25 May 45 to 4 Jun 45

Granted 4 days leave from 1 Jun 45 to 4 Jun 45 with money allce in lieu of rations under FR&I (0/S)Art 789(3)a(4)

м 61505	Pte	Brown F					Grant J B
H 64753	Pto	Hodgson	RE				Hutchison D
K 34497		Markell			95780		McKague E B
0 98478	Pte	Nosbitt	LF		127411		Rabin A
(11)	HO			L	13764	Pta	Scherer E

Granted 7 days PL & 48 hrs pass (total leave & entitlement 9 days) from 19 Jun 45 to 27 Jun 45 with money alice in lieu of rations under FR&I (0/s)Art 789(3) & (4)

B 91764 L 10273 (12)	2 Pte Campbell D G	M 388 Pto O'Callaghan J F 31285 Pto Smith A R C 5239 L/Cpl Huffman J L
	L/Cpl Campbell J B Pte Johnston J R 8 L/Cpl Ogroskin D Pte Williamson D C (1 S	Granted 7 days PL & 96 hrs pass (total leave & entitlement 11 days) from 19 Jun 45 to 29 Jun 45 with money allce in lieu P Sec) of rations under FR&I (0/S)Art 789 (3)&(4)
K 52930 (14)	Sgt Cathers W	Granted 7 days FL & 96 hrs pass (total loave & entitlement 11 days) from 17 Jun 45 to 27 Jun 45 with money alice in lieu of rations under FR&I (0/S)Art 789(3)&(4)
F 75921 (15)		Granted A days compassionate leave from 7 May 45 to 10 May 45 with money allee in lieu of rations under FRAI(0/S)Art 789 (3)&(4)
F 7592	2 Pte Dalton C 1 VRD	Granted 7 days PL & 48 hrs pass (total leave & entitlement 9 days) from 16 Mar 45 to 24 Mar 45 with money alloe in lieu of rations under FMEI(0/S)Art 789(3)&(4)

Pto DeMille I M Granted 14 days PL from 15 Jun 45 to 28 Jun 45 with money alloe in lieu of rations under FR&I (0/S)Art 789(3)&(4)

B 103061 Pto Dinsmore K D Cranted 7 days PL & 48 hrs pass (total leave & entitlement 9 days) from 17 Jun 45 to 25 Jun 45 with money allow in lieu of rations under Fasi (0/S)Art 789(5)&(4)

1 3502 S/Sgt Dunbar R Grantod 7 days PL & 48 hrs pass (total loavo & ontitlement 9 days) from 20 Jun 45 to 28 Jun 45 with money alloe in lieu of rations under FR&I (0/S)Art 789(3)&(4)

(OVER)

1 CANADIAN CENTRAL ORDINANCE DEPOT, R.C.O.C.

PART II ORDERS

	PART II	CRDERS	
Sheet No. 5			This Order No. 79 d/22 June 45
5.LEAVE OF ABSENCE (Cont'd)		
Granted 7 days PI allce in lieu of	& 48 hrs pass (tota rations under FR&I (l leave & entitlemen 0/S)Art 789(3)&(4) w	et 9 days) with money of dates shown:
H 60279 Gnr F B 2683 L/Cpl W (20) 1 VRD	avel C H l CGFC arrell H H	16 Jun 45 to 24 Jun 18 Jun 45 to 26 Jun	45 45
C 63322 Pto F D 127411 Pto R (21) HQ	erguson C abin A	Granted 7 days PL & loave & entitlement 45 to 28 Jun +5 with or rations under FRM.	48 hrs pass (total 9 days) from 20 Jun money alloo in lieu I (0/8)Art 789(3)a(4)
ti 101313 Pto G (22) HQ	authior D E	Grantod 14 days PL 1 28 Jun 45 with money rations under FR&I (rom 15 Jun 45 to alloo in lieu of O/S)Art 789(3)&(4)
SLICE IN 1100 OF	PARIONS HOGGE PRAT /	0 / Cl / wit	nt 9 days) with money of dates shown:
H 41928 Pto H G 53964 Pto K L 35140 Pto L A 3983 Pto M F 95672 Pto M M 101694 L/Cpl F L 100423 Pto R B 9247 Pto R H 86072 L/Cpl F (23) MT Goy	arvoy A irk A R eBockey G selrose G L leGill R B erry S S accette J L S ilkims L L rancis W J	19 Jun 45 to 27 Jun 14 Jun 45 to 27 Jun 19 Jun 45 to 27 Jun 19 Jun 45 to 27 Jun 14 Jun 45 to 26 Jun 18 Jun 45 to 26 Jun 16 Jun 45 to 24 Jun 14 Jun 45 to 22 Jun 14 Jun 45 to 24 Jun 16 Jun 45 to 24 Jun 17 Jun 45 to 24 Jun 18 Jun 45 to 25 Jun 18 Jun 45 to 25 Jun 18 Jun 45 to 25 Jun 18 Jun 45 Ju	45 45 45 45 45 45 45 45 45 45 45
M 67393 L/Gpl H K 63514 Cpl F B 111361 Pto L (24) HQ	orbert S F ones E L ay J C	Granted 4 days loave 24 Jun 45 with mones rations under FMGI (from 21 Jun 45 to rallog in liqu of O/S)Art 789(3)&(4)
K 53354 L/Cpl H B 86742 Pto S L 41564 Pto L (25) HQ	utchison D Wadron I OVO R M	Granted 7 days PL & leave & entitlement 45 to 26 Jun 45 with of rations under PM	48 hrs pass (total 9 days) from 18 Jun money alles in lieu I (0/S)Art 789(3)&(4)
	obin L Mchardson H M	Granted 7 days PL & leave & entitlement 45 to 25 Jun 45 with	96 hrs pass (total 11 days) from 15 Jun money allee in lieu I (0/8)Art 789(5)&(4)
5 2527 Cpl K (27) HQ		Granted 7 days FL & leave & entitlement 45 to 22 Jun 45 with of rations under FR	48 hrs pass (total 9 days) from 14 Jun money allos in lieu I (0/S)Art 789(3)&(4)
F 52020 Pto L (28) HQ	overman H J	45 to 28 Jun 45 With	96 hrs pass (total 11 days) from 18 Jun money allee in lieu I (0/S)Art 789(3)&(4)
· Granted 4 days le	ave from 14 Jun 45 to 1 (0/S) art 789(3)&(4	to 17 Jun 45 With more	ney alloo in liou of
		B 110549 Cpl Meik B 112086 Pto Pasc B 1654 L/Cpl Schu	oo A N
	(0)	TER)	

PART II ORDERS

This Order No. 79 d/22 June 45

Sheet No. 6

5. LEAVE OF ABSENCE (Cont'a)

P B	35679 21 .I	Sgt Pte /Cpl HQ	McKinnon	A R	COMMUNITY	Granted 7 days PL & 96 hrs pass (total leave & entitlement 11 days) from 12 Jun 45 to 22 Jun 45 with money alloe in 11eu of rations under FREI (0/8)Art 789(3)&(4)	
L 2	27422	L/Sgt 2 VR	McMaster D	J F) Granted 7 days FL & 96 hrs pass (total leave & entitlement 11 days) from 16 Jun 45 to 26 Jun 45 with money allce in lieu of rations under FR&I (0/8)Art 789(3)&(4)	
	30839	Pte				Granted 7 days PL & 48 hrs pass (total	

(32)	1 Vid	leave & entitlement 9 days) from 26 Feb 45 to 6 Mar 45 with money allos in liou of rations under FRAI (0/S)Art 789(3)&(4)
B 1746 (33)	L/Gpl Roden E R	Granted 7 days PL & 48 hrs pass (total leave & entitlement 9 days) from 14 Jun 45 to 22 Jun 45 with money allce in lieu of rations under FRAI (0/S)art 789(3)&(4)
L 9262 (34)	Sgt Summerville D J 1 VRD	Granted 14 days PL from 13 Jun 45 to 26 Jun 45 with money allce in lieu of

	Transfer and Armed Salarian Caraca Salarian
M 60707 L/Opl Watt D H (35) HQ	Granted 7 days FL & 96 hrs pass (total leave & entitlement 11 days) from 20 Jun 45 to 30 Jun 45 with money alles in 11 su of rations under FMEI (0/S)art 789(3)&(4)

6. ABSENT WITHOUT LEAVE

C 101821	Pte Campbell H G 1 VRD	Returned from absent without leave wef 2359 hrs 13 May 45
A 55723	Pto Hishon D F 2 VRD	Absent without leave wef 2359 hrs 15 Jun 45 Still absent without leave 2359 hrs 16 Jun 45 (lst day)
A 55723	Pto Hishon D F 2 VRD	Returned from absent without leave wef 0830 hrs 21 Jun 45
F 78471	Pto McKay A 1 VRD	Absent without beave wef 2359 hrs 16 Jun 45 Still absent without leave 2359 hrs 17 Jun 45 (1st day)
4 58276	Pto Molmos J 0	Returned from absent without leave wof

(5)	1 VRD	1600 hrs 18 Jun 45
B 77563	Pto Ryorso H B 2 VHD	Absent without leave wer 2359 hrs 15 Jun 45 Still absent without leave 2359 hrs 16 Jun 45 (1st day)

7. HOSPITALIZATION

B 1841 Cfn Gray J J (RCEME) Disch from 1 CMC wef 19 Jun 45

(OVER)

1 CANADIAN CENTRAL ONDNANCE DEPOT, R.C.O.C.

PART II ORDERS

		PAI	This Order No. 79
She	et No. 7	~ ~ ~ ~ ~ ~ ~ ~ ~ ~ ~ ~ ~ ~ ~ ~ ~ ~ ~ ~	d/22 June 45
7.	HOSPITALIZA	TION (Cont'd)	
	C 94658 (2)	Pte Logan B 2 VKD	Adm to 2 CMC wer 18 Jun 45
	D 129059	Pte McCoy F M 1 VRD	Disch from CRS Burnham (Bucks) wef 15 Jun 45
		Cpl Pettigrew R M (RCP L VRD	EME) Adm to 2 GMC wef 15 Jun 45
8,	PUNISHDENTS		
	C 101821 (1)	Pte Campbell H G 1 VRD	On 20 Jun 45 awarded a forf of 7 days pay FREI 149(2) for an offence under Sec 15 (1)AA AWL from 2230 hrs 16 Jun 45 to
			O930 hrs 18 Jun 45 (Absent 1 day 11 hrs) Forfs 2 days pay FR&I 149(1)(a) (Total forf 9 days pay)
	B 88659	Cpl Fick W B	On 18 Jun 45 severely reprimanded for an offence under Sec 11 AA
	D 94111 (3)	Pte Riopel J L	On 19 Jun 45 awarded 14 days CB for (1) an offence under Sec 15(1)AA AWL from 2250 hrs 13 Jun 45 to 2245 hrs 13 Jun 45 (Absent 15 mins) thereby incurring cost of apprehension in the am't of £0-17-2 FR&I 172(8) for (2) an offence under Sec 40 AA
	B 137645 (4)	Pte Riczo C P 1 VRD mir	On 18 Jun 45 awarded a forf of 14 days pay FR&I 149(2) for (1) an offence under Sec 15(1). A. A. Trom 1730 hrs 15 Jun 45 to 0700 hrs 16 Jun 45 (Absent 15 hrs 30 for(2). A. Trom 1700 hrs 16 Jun 45 to 0800 hrs 18 Jun 45 (Absent 1 day 15 hrs) Forfs 1 days pay FR&I 149(1)(a) Forfs 2 days pay FR&I 149(1)(a) (Total forf 17 days pay)
9.	REMISSION O	OF SENTENCE	
		Pte Airey G 4 VRD	Directed that 5 days of sentence of 30 days detention and 14 Feb 45 be resitted wef 31 May 45 (Auth: CAU/420/Sentences/1 (Dis 1) d/8 Jun 45)(Extract 1 COMMU DO 142 d/16 Jun 45)
	F 91439 (2)	Pto Warner J R 2 VMD	Released from H M Prison, Aberdeen wef 23 May 45 and granted 59 days remission of sentence awd by Civil Ct on 22 Jun 44 (Extract 1 COMERU DO 142 d/16 Jun 45)
10	.CONFIRMATIO		
			n Confirmed in the rank of S/Sgt wef 30 May pot)45 (Auth: CMU/801/Promotions/33 1/30 May 45)
	L 9056 1/S,	/Sgt Frudon L E (1 Cdn HQ Repat Do	Confirmed in the rank of S/Sgt wef 24 May pot)45 (Auth: CRU/801/Promotions/35 d/30 May 45) (OVER)

Sh	est No. 8		This Order No. 79 d/22 June 45
11.	TRADESCEN	QUALIFICATIONS	
	B 78063	Pts McKerracher G 1 VRD	Having been TT by a STTB as a Veh Mech NV "B" is now shown as Qualified wef 18 Jun 45 (Auth: Nom Roll for TT (27376) d/6 Jun 45)
	M 65280 (2)	Pte Richardson J G 1 VRD	Having been TT by a STTB as a Veh Mech MV "B" is now shown as Qualified Veh Mech MV "C" wer 18 Jun 45 (Auth: Nom Roll for TT (27376) d/6 Jun 45)
12,	TRADESTONS	RATES OF PAY	
	L 65473 L 66515 L 654 67 I	Pte Barthel A Pte Hillson E F /Cpi Petzel M J MT Coy	Cease to draw T/Pay Dvr Meon My "C" wer 11 Jun 45 Granted T/Pay as Veh Mechs My "B" wer 12 Jun 45
	A 9870 (2)	Opl Eady E G MT Coy	Granted T/Pay Dvr Moch MV "O" wef 1 Jun 45
	B 60910	Ptc Rainbird J T 1 VRD	Grented T/Pay Stmn "C" wef 18 Jun 45
13.	CHANGE OF	ADDRESS NEXT OF KIN	
	F 75922	Pte Dalton C 1 VRD	Change of address N-of-K to: Mrs Margaret Anne Palton (Wife) Brooklyn Ave, Sydney Mines, Cape Breton, N.S., Canada
	B 9377	Pta Gray N H 4 VRD	Change of address N-of-K to: hrs Louella- Gray (Mother) 62 Berwick Ave, Toronto, Ontario, Canada
	A 64750 (3)	Pte Ficklin R 4 VRD	Change of address N-of-K to: Mrs Francis Hicklin (Wife) 105% King St, Chatham, Ontario, Ganada
14.	CHANGE OF	NEXT OF KIN	
	B 56717	Pto Chowen J L	Change of N-of-K from: Mrs Ethel Marguerite Chowen (Mother) to: Mrs Ethel Marguerite Chamming (Mother) Midland Ave, Agincourt, Ontario, Canada
	H 40865	Pte Johnston H J 2 VRD	Change of N-of-K from: Mrs Mabel Hall (Sister) to: Mrs Rosemary Johnston (Wife) 30 Sunny Hill, Witley, Surrey, England
15.	PERMISSION	TO MARRY	
	D 124420	Pto Duffy E L	Granted permission to marry Mass Mary Gell on or after 18 Aug 45 (Auth: CMIQ - 1000:110a d/19 Jun 45)
	M 54231 (2)	Ptc Gaotz N J 1 VRD	Oranted permission to marry W 85269 Dvr Elizabeth Jane Longson on or after 18 Aug 45 (Auth: CMHQ/1000:110a d/20 Jun 45)
	D 129076		W.R.E.N. Elizabeth Shields, on or after 1 August 45 (Auth: Chard/1000:110m d/
		10	VER)
EL			

	I GANADIAN GENTRAL C	DADNANCE DEFOT, R.C.O.C.
	PART	II ORDERS
Sheet No. 9		This Order No. 79 d/22 Jun 45
15.PERMISSION	TO MARRY (Cont'd)	
A 59823	Pte Steeper 0 A 1 VRD	Granted permission to marry Miss Joan Walter on or after 15 Aug 45 (Auth: 0181Q/1000:110a d/19 Jun 45)
16.MARRIAGES,	BIRTHS & DMATHS	4,2,02.4,7
	Pte Johnston H J 2 VRD	Married with permission to Miss Rosemary Burrows at the Parish Church of England, Witley, Surrey on the 9 Jun 45
M 15549 (2)	Pto Kovac M -4 VHD	Daughter, Irene Anne, born at Caterhea,
17.GOOD CONDU	ICT BADGES	
C 21515 (1)	Pte Laderoute J A 1 VRD	Awarded 2nd good conduct badge wef 12 Jun 45 (Auth: OA(O/S)RO 308/40)
18. HONOURS AM	ID AWARDS	
A 106154 (1)		Awarded the Cdn Volunteer Service Medsl & Clasp wef 17 Aug 44 (Auth: CA(0/S)RO 4167)
19. POSTINGS I	NTER UNIT	
14 65448 (1)	Pte Lemp J 1 VRD	Posted from Gd Increment to Veh Coy Wef 15 Jun 45
20.ATTACHMENT	S INTER UNIT	
Att to MT	Coy wef 20 Jun 45	
A 102117 B 53603 B 111249 M 105336 B 86376 F 49805 D 166933 E 29349 B 155730 E 100728 D 142857	Pte Charron A F L/Cpl Henry C M Pte Lawson W H Pte Haseloh G Pte Hatch H Pte Laurette N J Pte Steinberg I Pte Beaulieu R Pte Leger A J Pte Beland R Pte Prezeau G A Pte Baird M D 2 VRD	H 63577 Pte Crasler J B B 1940 Fte Hookey C R L 110088 Pte Sayers H P M 104850 Pte Sauder E B 97536 Pte Howe W H C 121809 Pte Marchildon W L 19226 Pte Krahenbil P P C 4150 Pte Lott W C M 61628 Pte Unger E H 21092 Pte Anderson R R D 167243 Pte Schlepack I A 3206 Pte Smith H F
(2) 64750	Pto Hicklin H	Att to 4 VHD wer 19 Jun 45
D 143198 B 146603 (3)	Pto St Georges J P Pto Roppol E W 2 VRD	Att to HQ wef 19 Jun 45
21. STRENGTH I	DECREASE	
B 35035 I	L/Cpl Armstrong H S (Voh (Coy) SOS to 130 CD MD 2 wef 22 Jun 45 (Auth: CHQ/R4/1748 d/20 Jun 45)
G 59017 (2)	2 V.W	SOS to Y3 List 1 CONERU wef 19 Jun 45 on adm to 22 Cdn Gen Hosp

PART II ORDERS

This Order No. 79 a/22 June 45 Sheet No. 10

21. STRENGTH DECREASE (Contid)

SOS to 70 CD MD 1 wef 22 Jun 45 (Auth: CHRQ/R4/1741 d/20 Jun 45)

A 232 D 129464 A 108704	Sgt Pte Pte	Baker G F Dally H Day A Dicks F Lawless W J Leader B R Neish W J	MT Coy Veh Coy Veh Coy Veh Coy	Stmn "G"	MTD Coy 1 VRD 1 VRD 1 VRD
A 62099	Pte	Lawless W J	Veh Coy	Stmn "G"	LVRD
A 27028	Pte	Leader B R	MT Coy	27.6 may 11.7731	MT Coy
121					
		D 2 wef 22 Jun 45 (A			1
B 87587	Pto	Bonar V Carter C J Henderson W J Watson P A			4 VRD
B 58988	L/Cpl	Carter C J	Veh Coy		1 VRD
B 89403	Pte	Henderson W J	Ven Goy		4 VRD
(4)	200	WAVBOR F A	1.011 4.03		
SOS to 11	6 CD M	D 6 wef 22 Jun 45 (A	uth: CHEQ/R4	4/1578 d/20 Jun 45)
W 64616	1/001	Casey B E Curry F N Gow B J R Harding F A (RCEME) Langley J T Olding G C W (RCEME) Selig M R (RCEME) Smith C L Trask W A (RCEME) Whiteway 3 T	Veh Coy	Cook "B"	4 VRD
F 89339	Pte	Curry F N	Veh Coy		2 VRD
F 89624	L/Cpl	Gow B J R	Veh Coy	Danel Destan Hill	DA ALBID
F 96188	Crn	Langley J 7	Ven Coy	Lauer Degret	1 VRD
F 30901	A/Sat	Olding G C W(RCENE)	Ven Coy	Dyw Much WWC#	2 VRD
F 86658	Cfn	Selig M R (RCEME)	Veh Coy	Veh Mech WV "B"	2 VRD
F 31217	Pte	Smith G L	BR Coy	Them Marks 107 HOLD	
F 56549	Ci'n	Trask W A (RUSME		DAL MOON IN	
(5)	Pto	MULTOMAY C I			
	L9 CD I	MD 11 wer 22 Jun 45	Auth: CMEQ/	R4/1599 d/20 Jun	45)
W 3/107	Den	Chalmana E P B/DOW			1 VRD
K 45333	Cfn	Chalmers K P B(RCE McLay W F (RCEME Reimer M C (RCEME	Veh Coy	Dyr hach My "C"	4 VRD
K 98373	Cpl	Reimer M C (RCEME	Yeh Coy	Voh Mech IN "A"	4 VED
K 1500	Ofn	Sheven L (RCENE) Ven Goy	Panel Beater "O	E TILL
				1 /2 = / = 4 /00 Tim /	z.
		ND 4 wof 22 Jun 45 (
D 139842	Pte	Crichton J D Flynn A L Griffiths F H Littleton D E (ROE Poirier A (ROE Powers W D (ROE Tremblay F (ROE Wilders G A (ROE	Veh Coy		2 V MD
D 137235	Pte	Flynn A L		Dyr Mech MV "C"	2 VAD
D 96424	A/Col	Littleton D E (RCE	ME) Veh Coy	Yeh Hech HV "C"	2 VRD
D 92756	Sgt	Foirier A (RCE	ME Veh Coy	Stmn "C"	1 7.0
D 129750	A/Opl	Powers W D (RCL	Wan Coy	DAL MOD MA .C.	A VID
D 120075	CEL	WALAGE CA (DC)	nes) Van Gov	Stmn #0"	4 VAD
(7)	911	i maraora o ** /mor			
		1D 13 wof 22 Jun 45			
14 100429	Cp.	Dawson R K (ROES IN Drinnan W H (ROES IN DRINNAN W H (ROES IN DRINNAN ROES IN	E) Veh Coy	Veh Hech AFV ".	" 4 V.D
14 17125	Cr	n Drinnan W H (RCH	E) Veh Coy	Voh Moon AFV "1	2 V.D
H 50598	L/CP	I Bigio W J	SEL Von Gov	Dyr Hech IN HO	4 VAD
(8)	01	I MUDDIMIT IS IN THOSE			
			Comment.		

1 CANADIAN CENTRAL ORDHANCE DEPOT, R.C.O.C.

### Sheet No. 11 #### IT CADERS #### This Order No. 79 ### A/22 Jun 45	1 CANADIAN CENTRAL	ORDNANCE DEPOT	. R.C.O.C.	
### ### ### ### ### ### ### ### ### ##	PART	II ORDERS		
### ### ### ### ### ### ### ### ### ##	District No. 11		This Orde	r No. 79
(9) SOS to 120 CD MD 12 wer 22 Jun 45 (Auth: CM4Q/R4/1630 4/20 Jun 45) M 101313	21. STIGNOTH DECREASL (Contid)			
Sob to 120 CD MD 12 wer 22 Jun 45 (Auth: CM4Q/R4/1630 4/20 Jun 45)	503 to 126 CD MD 11 wer 22 Jun 45	Author Clare (s. c.		
SOS to 120 CD MD 12 wer 22 Jun 45 (Auth: CMMQ/R4/1630 d/20 Jun 45) M 101313 Fto Gauthier DE L 1970 ONL LHeureux W (RCEME) Web Coy Dvr Mech MV "C" 4 VRD L 11067 DIL LHeureux W (RCEME) Web Coy Veb Mech MV "C" 4 VRD L 110039 Fto Olson L J Veb Coy Veb Mech MV "B" 4 VRD L 110039 Fto Olson L J Veb Coy Veb Mech MV "B" 4 VRD L 110039 Fto Olson L J Veb Coy Veb Mech MV "B" 4 VRD L 110039 Fto Olson L J Veb Coy Veb Mech MV "B" 4 VRD L 110039 Fto Olson L J Veb Coy Veb Mech MV "B" 4 VRD L 110039 Fto Olson L J Veb Coy Veb Mech MV "B" 4 VRD ME	A 67 K 62926 Set Dunn A F	Ver C	098 d/20 Jun	45)
1006	(9) Pts Sinclair G	Veh Coy		2 17 1935
1006	868 to 120 CD MD 12 wef 22 Jun 45 (Auth. Own/h.		
(10) (11) (12) (13) (14) (15) (15) (16) (17) (17) (18) (19) (18)	M 101313 Pte Gauthier D E L 25709 Cpl L'Heureux W (RCEME) L 11067 Cpl Marlowe N (RCEME)	HQ Veh Coy Dyr Veh Coy Ush	30 d/20 Jun	45) HQ 4 VRD
C 15627 A/Sgt Harris W F C 32635 Pte Millor S B 9362 A/Sgt Harris W F B 9362 A/Sgt (Unpd) McGeshan M Veh Coy Clerk "C" 4 VRD C 94873 Orn McGale T R (RCEME) Veh Coy Veh Rech MV "B" MT Coy (11) Orn McGale T R (RCEME) Veh Coy Veh Rech MV "B" MT Coy M 60314 Pte Klinkhammar F J L (12) 1 VRD (Stam "G") (Veh Coy) Cleft / R4/1711 d/20 Jun 45) Jun 45 (Auth: Cleft / R4/1711 d/20 Jun 45) E 14396 Pte Masson F E J L SOS to 121 CD MD 13 wef 22 Jun 45 (Auth: Cleft / R4/1711 d/20 Jun 45) E 14396 Pte Masson F E J L SOS to 121 CD MD 13 wef 22 Jun 45 (Auth: Cleft / R4/1711 d/20 Jun 45) E 36939 L/Cpl McCraney G k (Veh Coy) AS List 1 GOLERU wef 18 Jun 45 E 36939 L/Cpl McCraney G k (Veh Coy) (Auth: Cleft / R5) d/15 Jun 45 H 100542 Crn Morrissette H R (RCEME) 4 VRD (Veh Moch MV "B")(Veh Coy) A/S (Auth: Cleft / R4/1692 d/20 Jun 45) F 97893 Ofn Nichelson A B (RCEME) 1 VRD (Dvr Mech MV "C")(Veh Coy) A/S (Auth: Cleft / R4/1692 d/20 Jun 45) L 12381 A/Set Mowilliams G D(Veh Coy) 1 VRD SOS to 120 CD MD 12 wef 22 Jun 45 (Auth: Cleft / R4/1703 d/20 Jun 45) K 47741 Pta Soles J E (Veh Coy) SOS to 119 CD MD 11 wef 22 Jun 45 (Auth: Cleft / R4/1703 d/20 Jun 45) A 11365 Pte Winch C (Veh Coy) SOS to 119 CD MD 11 wef 22 Jun 45 (Auth: Cleft / R4/1703 d/20 Jun 45) B 89406 Cpl Bun	(10) Pte Olson L J	Veh Coy	. month til affa	4 VRD 2 VRD
### System	J WOI 22 Jun 45 /A	the many		
(12) 1 VRD (Stmm"G")(Veh Coy) GH2/R4/1711 d/20 Jun 45 (Aut E 14396	C 15627 A/Sgt Harris W F	Voh G-	6 d/20 June 4	-51
(12) 1 VRD (Stmm"G")(Veh Coy) GIHQ/R4/1711 d/20 Jun 45 (Aut E 14396	B 9362 A/Sgt(Unpd) McGeehan M Cfn McGale T R (RCEME)	Ven Coy Ven Coy Ven Coy Ven Coy Ven Coy Ven Coy	rk "C"	4 VRD 2 VRD MT Coy
Solution	(12) 1 VRD (Stmn"C")(Volt Com)	SOS to 121 CD M	D 12 was so	
Coy) (Auth; Chit A 3018 (AG2B) d/15 Jun 45 (Auth; Chit A 3018 (AG2B) d/16 Jun 45) F 97893 (In Nicholson A B (RCEME) Sos to 118 CD ID 10 wer 22 Jun 45 (Auth; Chit A 3018 (AG2B) d/20 Jun 45) L 107535 Pto Simpson G H (Veh Coy) 1 VRD Sos to 110 CD ID 6 wer 22 Jun 45 (Auth; Chit A 3018 (AG2B) d/20 Jun 45) L 12381 A/Set Mowilliams G D(Veh Coy) 2 VRD 45 (Auth; Chit A 3018 (AG2B) Jun 45 (Auth; Chit A 3018 (AG2B) Jun 45) K 49741 Pto Soles J E (Veh Coy) Sos to 119 CD ID 11 wer 22 Jun 45 (Auth; Chit A 3018 Jun 45) (18) (Cook 18 10) (Chit A 3018 Jun 45) A 11365 Pto Winch C (Veh Coy) Sos to 70 CD ID 11 wer 22 Jun 45 (Auth; Chit A 3018 Jun 45) (19) 2 VRD (Veh Coy) Sos to 70 CD ID 1 wer 22 Jun 45 (Auth; Chit A 3018 Jun 45) Sos to 111 CD MD 2 wer 22 Jun 45 (Avveh Coy Cook 18 Jun 45) B 89406 Cpl Bush IN ROTHE Web Coy Cook 18 Jun 45 (Auth; Chit A 3018 Jun 45) B 89406 Cpl Bush IN ROTHE Web Coy Cook 18 Jun 45 (Auth; Chit A 3018 Jun 45) A 36945 Chit Bush IN ROTHE Web Coy Cook 18 Jun 45 (Auth; Chit A 3018 Jun 45) B 89406 Cpl Bush IN ROTHE Web Coy Cook 18 Jun 45 (Auth; Chit A 3018 Jun 45) A 36945 Chit Bush IN ROTHE Web Coy Cook 18 Jun 45 (Auth; Chit A 3018 Jun 45) A 36946 Cpl Bush IN ROTHE Web Coy Cook 18 Jun 45 (Auth; Chit A 3018 Jun 45) B 89406 Cpl Bush IN ROTHE Web Coy Cook 18 Jun 45 (Auth; Chit A 3018 Jun 45) A 36945 Chit Bush IN ROTHE Web Coy Cook 18 Jun 45 (Auth; Chit A 3018 Jun 45) A 36946 Cpl Bush IN ROTHE Web Coy Cook 18 Jun 45 (Auth; Chit A 3018 Jun 45) A 36946 Cpl Bush IN ROTHE Web Coy Cook 18 Jun 45 (Auth; Chit A 3018 Jun 45) A 36946 Cpl Bush IN ROTHE Web Coy Cook 18 Jun 45 (Auth; Chit A 3018 Jun 45 (Auth; Chit A 3	(13) Pto Masson P E J L 2 VRD (Vsh Cov)	SOS to Y3 List	20 Jun 45)	oun 45 (Auth
Coy) (Auth; Chit A 3018 (AG2B) d/15 Jun 45 (Auth; Chit A 3018 (AG2B) d/16 Jun 45) F 97893 (In Nicholson A B (RCEME) Sos to 118 CD ID 10 wer 22 Jun 45 (Auth; Chit A 3018 (AG2B) d/20 Jun 45) L 107535 Pto Simpson G H (Veh Coy) 1 VRD Sos to 110 CD ID 6 wer 22 Jun 45 (Auth; Chit A 3018 (AG2B) d/20 Jun 45) L 12381 A/Set Mowilliams G D(Veh Coy) 2 VRD 45 (Auth; Chit A 3018 (AG2B) Jun 45 (Auth; Chit A 3018 (AG2B) Jun 45) K 49741 Pto Soles J E (Veh Coy) Sos to 119 CD ID 11 wer 22 Jun 45 (Auth; Chit A 3018 Jun 45) (18) (Cook 18 10) (Chit A 3018 Jun 45) A 11365 Pto Winch C (Veh Coy) Sos to 70 CD ID 11 wer 22 Jun 45 (Auth; Chit A 3018 Jun 45) (19) 2 VRD (Veh Coy) Sos to 70 CD ID 1 wer 22 Jun 45 (Auth; Chit A 3018 Jun 45) Sos to 111 CD MD 2 wer 22 Jun 45 (Avveh Coy Cook 18 Jun 45) B 89406 Cpl Bush IN ROTHE Web Coy Cook 18 Jun 45 (Auth; Chit A 3018 Jun 45) B 89406 Cpl Bush IN ROTHE Web Coy Cook 18 Jun 45 (Auth; Chit A 3018 Jun 45) A 36945 Chit Bush IN ROTHE Web Coy Cook 18 Jun 45 (Auth; Chit A 3018 Jun 45) B 89406 Cpl Bush IN ROTHE Web Coy Cook 18 Jun 45 (Auth; Chit A 3018 Jun 45) A 36945 Chit Bush IN ROTHE Web Coy Cook 18 Jun 45 (Auth; Chit A 3018 Jun 45) A 36946 Cpl Bush IN ROTHE Web Coy Cook 18 Jun 45 (Auth; Chit A 3018 Jun 45) B 89406 Cpl Bush IN ROTHE Web Coy Cook 18 Jun 45 (Auth; Chit A 3018 Jun 45) A 36945 Chit Bush IN ROTHE Web Coy Cook 18 Jun 45 (Auth; Chit A 3018 Jun 45) A 36946 Cpl Bush IN ROTHE Web Coy Cook 18 Jun 45 (Auth; Chit A 3018 Jun 45) A 36946 Cpl Bush IN ROTHE Web Coy Cook 18 Jun 45 (Auth; Chit A 3018 Jun 45) A 36946 Cpl Bush IN ROTHE Web Coy Cook 18 Jun 45 (Auth; Chit A 3018 Jun 45 (Auth; Chit A 3	B 56939 L/Gpl McGranev C v (v)	adm to 22 Cdn G	on Hosp	10 Jun 45 or
(15) 4 VRD (Veh Moch MV "B") (Veh Coy) 50S to 118 CD 1D 10 wer 22 Jun 45 (Auth; Claig/R4/1692 d/20 Jun 45) (16) 1 VRD (Dvr Mech MV "C") (Veh Coy) 45 (Auth; Claig/R4/1692 d/20 Jun 45) 1 VRD (Dvr Mech MV "C") (Veh Coy) 45 (Auth; Claig/R4/1679 d/20 Jun 45) 1 VRD (Dvr Mech MV "C") (Veh Coy) 1 VRD SOS to 116 CD 1D 6 wer 22 Jun 45 (Auth; Claig/R4/1679 d/20 Jun 45) 1 VRD SOS to 120 CD MD 12 wer 22 Jun (17) 4/5 (Auth; Claig/R4/1679 d/20 Jun 45) (Auth; Claig/R4/1703 d/20 Jun 45) (Auth; Claig/R4/1703 d/20 Jun 45) (Auth; Claig/R4/1613 d/20 Jun 45) (Auth; Claig/R4/1612 d/20 Jun 45)	Coy)	[Auth: CLHQ/AT	pat Depot wer 3018 (AG2E) d	18 Jun 45 /15 Jun
(16) Orn Nicholson A B (RCEME) 1 VRD (Dvr Mech NV "C")(Veh Coy) 45 (Auth: CHEQ/R4/1679 d/20 Jun L 107535 Pto Simpson G H (Veh Coy) 1 VRD SOS to 120 CD MD 12 waf 22 Jun L 12381 A/Sgt McWilliams G D(Veh Coy) 2 VRD 45 (Auth: CHEQ/R4/1705 d/20 Jun K 47741 Pte Soles J E (Veh Coy) SOS to 119 CD MD 11 wer 22 Jun 45 (Auth: (18) HQ (Cook "E") CMHQ/R4/1613 d/20 Jun 45) A 11365 Pto Winch C (Veh Coy) SOS to 70 CD MD 1 wer 22 Jun 45 (Auth: (19) 2 VRD CMHQ/R4/1647 d/20 SOS to 111 CD MD 2 wer 22 Jun 45 (Aveh Coy Cook "B" SOS to 111 CD MD 2 wer 22 Jun 45 (Aveh Coy Cook "B" 10	(15) 4 VRD (Veh Moch MV "B")(Veh	E) SOS to 1	18 00	
L 12381 A/Set McWilliams G D(Veh Coy) 1 VRD SOS to 120 CD MD 12 wef 22 Jun (17) K 47741	- The there were My "C") (Ver	SOS to 1	16 00 10 1	
(Cook #g#) CMHQ/R4/1613 d/20 Jun 45 (Auth: (19) Evan Winch C (Veh Goy) Sos to 70 CD MD 1 wor 22 - 12 (Auth: (MHQ/R4/1647 d/20 - 22 - 12 (Auth: Sos to 111 CD MD 2 wer 22 Jun 45 (Aveh Goy Cook #B" 10 89406 Cpl Buah IN ROBE Veh Coy Cook #B" 11 10 5 wer 22 Jun 45 (Auth: Chic/R4/1512 d/20 Jun 45) 17002 A/Cpl Sec Clerke F A (ROBE) Gd Incr (OVER) Veh Moch MV #B AT Community Wen Cover Co	L 107535 Pto Simpson G H (Veh Coy) (17) A/Set McWilliams G D(Veh Coy	1 VRD SOS to 1	20 OD MD 18 w	of 22 Jun
(19) 2 Van Tinch C (Veh Coy) SOS to 70 CD MD 1 wor 22 - 22 (auth: CMHQ/R4/1647 d/20 Jun 45) SOS to 111 CD MD 2 wer 22 Jun 45 (AVeh Coy Cook "B" 1 89406 Cpl Bush	(Cook agai) C	0S to 119 CD 10	11 wor 22 Ju	n 45 (Auto.
17002 A/Cpl Beaulieu A (RCEE) Gd Incr (OVER) Veh Moch MV "B" 4 VRD 1 VRD	(19) Pto Winch C (Veh Goy) S	OS to 70 CD ND 1	Vor 20 +	o (auth.
17002 A/Cpl Beaulieu A (RCEE) Gd Incr (OVER) Veh Moch MV "B" 4 VRD 1 VRD	SOS to 111 CD MD 2 wef 22 Jun 45 /Aug	ND 6	18 Jun 401	
ven Moch My man Mr C-	# 89406 Crl Bush - Th RCEE Weh	Coy Cook "B" Veh Mech Coy Cook "C" Fitter "	MV "B" 4 V	
ven Moch My non Mr co	17002 A/Opl Besulies A (Don Cd -	HQ/24/1512 d/20	I VR	
aloch lay non lar con	(OVER) Ven Co	y Vah	vun 45) · *	
* VRD		Moch M	WAN ME CON	
			* VRD	

1 CANADIAN CENTRAL ORDNANCE DEPOT, R.C.O.C.

PART II ORDERS

		PART II ORDERS	This Order No. 79 d/22 Jun 45	
est No. 11				
	DECREASL (Contid)		(ma /2 / nR a / nn 7 mm A E)	
808 to 18			/R4/1698 d/20 Jun 45)	
A 67 K 62936 (9)	Sgt Dunn A F Pte Sinclair G		4 VRD 2 VRD	
808 to 1	20 CD MD 12 wer 22 J	un 45 (Auth: ClaHQ	/R4/1630 d/20 Jun 45)	
L 25709 L 11067 L 7839 L 110039 (10)	Pte Merrick S B Pte Olson L J	(ROEME) Veh Coy Yeh Coy Veh Coy	Dyr Mech My "C" 4 VRD Veh Mech My "B" 4 VRD 2 VRD HQ	
SOS to 1	12 CD MD 3 wef 22 J	un 45 (Auth: CMHQ/	'R4/1536 d/20 June 45)	
C 94873	Cfn MoGale T R	(RCEME) Ven Coy	Clerk "C" 4 VRD 2 VRD MT Coy Veh Lech MV "B" 2 VRD	
M 60314 (12)	Pte Klinkhammer 1 VRD (Stmn"C")	FJL SOS to 1 (Veh Coy) ChHQ/R4	121 CD MD 13 wef 22 Jun 45 (, /1711 d/20 Jun 45)	Auth:
E 14396 (13)	Pto Masson P E 2 VRD (Veh Co	JL SOS to adm to	Y3 List 1 COMERU wef 18 Jun 22 Can Gen Hosp	
	L/Gpl McGrancy G 2 VRD	K (Veh SOS to	1 Cdn Repat Depot wer 18 Jun OMHQ/AT 3018 (AG2B) d/15 Jun ensor AG 5647)	
H 10054 (15)	2 Cfn Morrissette 4 VRD (Veh Mech	HR (RCEME)	SOS to 118 CD ND 10 Wef 22 45 (Auth: CHIQ/R4/1692 d/20 45)	Jun Jun
		n (neme)	sos to 116 CD MD 6 wof 22 : 45 (Auth: CMHQ/R4/1679 d/2045)	Tun
L 1075 L 1238 (17)	A/Sgt McWilliams	G Diver colls and	0 808 to 120 0D MD 12 wef 22 0 45 (Auth: CMHR/R4/1703 d/20 45)	
K 4774 (18)	Pte Soles J E	(Veh Coy) SOS to (Cook "B") CMHQ/R	119 CD ND 11 Wor 22 Jun 45 4/1613 d/20 Jun 45)	(Luth
A 1136 (19)	5 Ptc Winch C (2 VRD	(Vah Coy) SOS to CMHQ/R	70 GD MD 1 wor 22 Jun 45 (14 4/1647 d/20 Jun 45)	ath:
SOS to	111 CD MD 2 wef 22	Jun 45 (Auth: CMH)	Q/R4/1009 d/18 Jun 45)	
B 8940 A 3494 B 1108 A 5924	Cpl Bush W 0 Cfn Crerar R H 70 Pte Kilsour W Cfn McLaughlir	HQ RCEME Veh Co	y Cook "B" 4 VED y Veh Mech MV "B" 1 VED Cook "G" HQ y Fitter "C" 1 VED	
SOS to	115 CD MD 5 Wef 22	Jun 45 (Auth: CMH	Q/R4/1512 d/20 Jun 45) *	
E 0221		Gđ Inc		

This Order No. 79

21. STRENGTH DECREASE (Cont'd)

BOS to 117 CD MD 7 wer 22 Jun 45 (Auth: CMRQ/ma/1439 d/20 Jun 45)

G 49507 G 19329 G 24037 (22)	Cfn Fullerton N J RCENE	Veh Coy Veh Meen AFV "B" 1 VRD Veh Coy Dyr Mech MV "C" 4 VRD Veh Coy Veh Mech MV "B" 4 VRD
D 62951 (23)	Pte Desormeaux A (Veh HQ Coy)	SOS to 1 Cdn Repat Depot wer 21 Jun 45 (Auth: 408/XUK/1/2 d/5 Sep 44)
808 to 114	CD MD 4 wef 22 Jun 45 (Au)	th: CMMQ/R4/1102 d/18 Jun 45)
D 129090 D 129292	Crn Hardie J C RCERE Cpl Lewis J J W RCERE	Veh Coy Veh Mech AFV "B" 4 VRD Veh Coy Veh Mech MV "C" 4 VRD

D 129292 Cpl Lewis J J W RCEME Veh Coy Veh Mech NV "C" 4 VRD D 132832 Cfn Maitland D RCEME Veh Coy Dvr Mech (Tank) "C" 4 VRD D 128711 Cfn Finkard W R H RCEME Veh Coy Fitter "C" 4 VRD (24)

SOS to 118 CD MD 10 wef 22 Jun 45 (Auth: CNHQ/R4/1468 d/20 Jun 45)

	9630		Jacobs J F	ROBLE	Veh	Coy	Veh Mech MV $^{11}\mathrm{B}^{11}$	2 VRD
H	64753 37111 39245 25)	Orn	Hodgson R E Snell T S Montigny F	RCEME	Veh Veh	Coy Coy	Dvr Mech MV "C" Fitter "A"	2 VRD 4 VRD

SOS to 122 CD MD 2 wef 22 Jun 45 (Auth: CM:Q/R4/1460 d/20 Jun 45)

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B 2436 Cfn Keates C H RCEAE Veh Coy Veh Mech MV "B" 2 VRD (27)

SOS to 119 OD ND 11 wef 22 Jun 45 (Auth: CNS19/R4/1160 d/18 Jun 45)

K 57155 S/Sgt Netcalfe S Veh Coy Fmn Dept11 *B* 4 VRD (28)

SOS to 121 CD ND 13 wof 22 Jun 45 (Auth: CHRQ/R4/1176 d/19 Jun 45)

M 36609 Cfn Metge W F RCEMES Veh Coy Veh Nech MV "A" 2 VRD (29) 2 VRD

SOS to 130 CD ND 2 wor 22 Jun 45 (Auth: CMEQ/R4/1491 d/20 Jun 45)

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1 CANADIAN CENTRAL ORDNANCE DEPOT, R.C.O.C.

			Trough	
Observation .		PART II ORDERS		
Sheet No.	13		T.	his Order No. 7 /22 June 45
21. STRENGTH	DECREASE (Cont'd)			
G 34508 B 58222 B 6264 B 36901 (30)	Cfn Yeo A B RC Cfn McFarland J W I Cfn Noble W RC Cfn McLennan A R RC	EME Veh Coy EME Veh Coy	Veh Mech My Veh Mech My Dvr Mech My Dvr Mech My	"C" 1 VRD
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for (R.J. Henderson) Brigadier Commandant, 1 Cdn Central Ord Depot

Adjutent. Orriger 1/0 C.M.Police Blackpool	*M.4.A Ladatak teovori To stutingili Violemo seche othe teoliti o tedit qo othi medat eze measer senam ovoda adi
ANXXX XX	now now and thoughts east to center and the line.
467 4-11-11-11-11-11-11-11-11-11-11-11-11-11	Mo.S. V.R.D. 1st C.O.D. Hoyel Carl
Fre HARMER' u.	A for which and some state of the belief of

Statement as to Character and Particulars of Service of Accused.

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

Number.	Rank.	Name.	Regiment (or as the c	ase may	be).
.77563	Pte	Ryerse H.L.	1 VRD, 1 GGOD,	KGOC.	
NOTE. The Falls conduct blacet is to be conduced in Court with his statement but is rest	1. To	he following is a fair and true summused, exclusive of convictions by a	mary of the entries in the Fic court martial or a civil court	ld Condu ;—	et Sheet
n be ameand to the pro- redings. The numbers series stated about corre- sord with the number of		For AA Sec 9(2)		5 2	times.
inct Sheet, prominence being given to the most		* **			limes.
entry. If the charge is for drunkerness or absence without leave, the entries		For AA Sec 15(1) For AA Sec 40		2	times.
for drunkeymess of also see as the case may be, should be stated separatory. Any recognized special acts	Date of I	first entry in Field Conduct Sheet	18 June 1943		
gallautry or distinguished conduct recorded on the Field Conduct Sheet should also be inserted here.		last entry in Field Conduct Sheet	1 June 1945		
		Previous convictions of the accused schedule overleaf.	11		(IL
Marries and the sale		the accused at the present time is u	xdux ni fet		
		The accused has been awaiting trial civil custody; and for 2. NIL days in open arrest,	22 days in milit	ary cust	ody, i.e.,
		7 days were spent			
	5.	The present age of the accused is	21 yrs 4 mos 20 d	ays	
	0.	The date of his attestati	tors service Het Nov 4	2	
	7.	The service which the accused is al	llowed to reckon is 2. YES	9 mos	24 063
there the military descriptions (if any)		The accused is in possession of: C			
held by access.		alf the necessal is a normal affection to respect the first property state.	1		ниниях. Респекси
		inche substantive rack of	Het		
FXB	,	HITTER WAS ARRESTED FOR			
n r v		MUSTER ROLLER FOR CO. DE			
m		INSTRUCTIONIf any matter	r in any of the above paragra	iphs cannust be stri	ut be stated uck through

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

Description of Court by which tried.	Date and Place of Trial.	Charges upon which convicted.	Sentence of the Court.	Punishment remuted of sentence suspended.
FACM.	26 Jan 45	A.A. Sec 15(1)		
		AWL 26 days 13 hrs 10 mins	50 days detn	15 days remittance

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

Signed this

52-26 Pile. Ryerse 74 E.	
· · · · · · · · · · · · · · · · · · ·	

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

Charge.	Plea.	Finding.	
nsert " alternative " where applicable.)	(See Instrs p 2.)	(See note below.)	(Space for use as required for further charges, accused charged jointly, special findings, etc.)
AA Sec 15()	GUILTY	GUILTY	
d	i innaniminani		
•			1 20 44
(Note: As to f	indings for lesser offer	Les see AA 56, RP 44 Land in loss of kit se	: Findings on alternative charges see MAIL p 483 fo 4 para 2. RP 44 ; e RP 44 fo 6.)
	150	DAVE	basis ning on (date) DO AUG 95 (1)
(1. Insert sentence	e being serves, or sen	total a total of	See RP 46(A). Information should be found on MF 8355 or AF 8296.) 3. days, of which A days were spent in hospital.(*) 8355 or AF 8296 admitted in evidence under E2.)
(I. See RF 466 entence Awarded by		nours pe Joung on MF	
	go acruis		a period of near (9) months.
Sgd) Judge-Adv	ocate, if any. (See back of C	27 Date Date Convening Order as to	e awarded. (Sgd) Prosident. (89 45, 50.) A.S. Consumbly and disposal of record ofter triol.)
Sgd)	ocate, if any. (See back of C	27 Date Date Convening Order as to	FEB 41 (Sgd) S. Trodatock
Sgd) Judge-Adv	ocate, if any. (See back of C	27 Date Date Convening Order as to	e awarded. (Sgd) President. (RP 45, 50.) A.S. Cadssembly and disposal of record ofter triol.)
Sgd) Judge-Adv	ocate, if any. (See bock of C	Date Date Convening Order as to HERE CONFIRM	awarded. assembly and disposal of record after trial.) MATION RESERVED. (AA 54(5), RP 120(F), MML p 760.) Commanding
PART III. PART III. For duties and p confirmation and not confirmed and not confirmed to 51A, RF 53A, SA, FF 53A, SA, FF 53A, SA, SA, SA, SA, SA, SA, SA, SA, SA, S	Ocate, if any, (See bock of C MINUTE WH (Sgd) DECISION (Owers see AS 54, 57, cannot be revised: 1, cased may be tried ag 9 53, MML p 65. 6 The Confirming Off The	Date Convening Order as to HERE CONFIRM RP 37(D) fn 6.46(A). AS 44(B). Sending by Journ As 137. MML p Justing ofter promul must kign here perso	awarded. By Prosident. (RP 45, 50.) (RE 45,
PART III. PART III. For duties and p confirmation and not confirmed and not confirmed and formulgation: 1 57A, RF 53A 54.	ocate, if any. (See bock of C	Date Convening Order as to HERE CONFIRM RP 37(D) fn 6.46(A), As 45(3), Sending be coin: As 157, MML p umust sign here perso Lentence set for Sufficient of the confirmation of the conf	AMATION RESERVED. (AA 54(5), RP 120(F), MML p 760.) Commanding NG OFFR ON FINDING(S) AND SENTENCE. 51-56. 120, MML pp 759-761, KR Can 567-577. Acquittals require no ck finding or sentence for revision by Court: AA 54(2), RP 120(G). If 64. Minute of confirmation or non-confirmation may be altered before gation: KR Can 573. Duties and powers of reviewing offrs: AA 57, nolly. AM 172 (n 1.) th in Part I is:
PART III. PART III. For duties and p confirmation and not confirmed and not confirmed and formulgation: 1 57A, RF 53A 54.	Ocate, if any, (See bock of C MINUTE WH (Sgd) DECISION (Owers see AS 54, 57, cannot be revised: 1, cased may be tried ag 9 53, MML p 65. 6 The Confirming Offi	Date Convening Order as to HERE CONFIRM RP 37(D) fn 6.46(A), As 45(3), Sending be coin: As 157, MML p umust sign here perso Lentence set for Sufficient of the confirmation of the conf	AMATION RESERVED. (AA 54(5), RP 120(F), MAL p 760.) Commanding NG OFFR ON FINDING(S) AND SENTENCE. 51-56. 120, MAL pp 759-761, KR Can 567-577. Acquittels require no ck finding or serience for revision by Court. AS 45(2), RP 120(G). If 64. Minute of Confirmation are now confirmation may be citered before gation: KR Can 577. Duties and powers of reviewing offer: AA 57, mally. AA 172 fm 1.) th in Part I is:
PART III. PART III. For duties and p confirmation and not confirmed and not confirmed to 51A, RF 53A, SA, FF 53A, SA, FF 53A, SA, SA, SA, SA, SA, SA, SA, SA, SA, S	Ocate, if any, (See bock of C MINUTE WH (Sgd) DECISION (Owers see AS 54, 57, cannot be revised: 1, cased may be tried ag 9 53, MML p 65. 6 The Confirming Offi	Date Convening Order as to HERE CONFIRM RP 37(D) fn 6.46(A). AS 4(B). Sending bo and 18.1 ST. AMM: p turshing ofter promule must kign here perso entence set for C(I. AA 57A.	AMATION RESERVED. (AA 54(5), RP 120(F), MML p 760.) Commanding NG OFFR ON FINDING(S) AND SENTENCE. 51-56. 120, MML pp 759-761, KR Can 567-577. Acquittols require no ck finding or sentence for revision by Court. 1 AS 44(2), RP 120(G). If 64. Minute of confirmation or non-confirmation may be aftered before gation: KR Can 373. Duties and powers of reviewing offrs: AA 57, notify. AA 172 fn 1.) th in Part I is: Comp. Call
PART III. PART III. For duties and p confirmation and not confirmed and not confirmed to 51A, RF 53A, SA, FF 53A, SA, FF 53A, SA, SA, SA, SA, SA, SA, SA, SA, SA, S	Ocate, if any, (See bock of C MINUTE WH (Sgd) DECISION (Owers see AS 54, 57, cannot be revised: 1, cased may be tried ag 9 53, MML p 65. 6 The Confirming Offi	Date Convening Order as to HERE CONFIRM RP 37(D) fn 6.46(A). AS 4(B). Sending bo and 18.1 ST. AMM: p turshing ofter promule must kign here perso centence set for C(I. AA 57A.	AMATION RESERVED. (AA 54(5), RP 120(F), MML p 760.) Commanding NG OFFR ON FINDING(S) AND SENTENCE. 51-56. 120, MML pp 759-761, KR Can 567-577. Acquittals require no ck finding or sentence for revision by Court: AA 54(3), RP 120(6). If 64. Minute of confirmation may be altered before gation: KR Can 573. Duties and powers of reviewing offrs: AA 37. mail. AA 172 In 1.) th in Part I is: COMMAND TO THE CONTROL OF THE CONTR

ALL DELETIONS AND ALTERATIONS WILL BE INITIALLED.

877563 Pt HE Ryerse 2 Wach 44

FIELD GENERAL COURT-MARTIAL CPAGE AT 188

dated

Convened by Order of

EGENT

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) appint, Airank or Ajappint, 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. Surname.

- (int. Tay.

REVIEWING OFFICER UNG BRANPROCEEDINGS OF TRIAL 1250Lattle on (date(f)) 27 Feb 46 Held in the Fd in (country) ..

RECORD FORM A-OPENING PROCEEDINGS AND ARRAIGNMENT.

Al. The President, Members, waiting Member, JA, if any, and Office under instr. if any, assemble, and the

(PRINTED MATTER, NOT IN ITALICS FOR GUIDANCE, WILL BE DELETED, IF NOT USED OR APPLICABLE, AND INITIALLED BY PRES OR JA. The Schedule referred to throughout is on p.4. Citations do NOT include all relevant from ROL. For guidance on procedure when a veristion in this form arises, see form for GCM in MML pp 741 to 739. A brief record of such validation will be made and sixen a number having reference to otherwise the such as the procedure when a number having reference to otherwise the such as the procedure that number having reference to otherwise the procedure than number having. See bork of Convenient Order. on procedure when a variation in this form driest, see print for short in most pp (4) to 24%. A first record of such visibilities will be made and given a number horizon to appropriate or preceding para number horizon.

CF APS for nother and forthy so how to accord addresses and on the procedure parameters and inspecting the conducting the trial size AA 53, RF 56, 63-70, 73, 74, 94, 103, 119, 132.)

A2. The President initials and lays before the Court the Convening Order and Charge Sheet (*) attached thereto.(!) The Court is satisfied that it is properly convened and constituted(*), accused is (**e*) amenable to military law, and pack charge discloses an offence.(*)

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

A3. The Court is opened. The accused is (see) brought before the Court. At 11 45. hours trial commences.

A4. The Prosecutor produces a Medical Certificate that accused is (acc) fit to undergo trial by court-martial (!) as 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(B), RP 60 fn I. 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 a sweet (1) Do you object to 100409 Set 0' Reill ar shorthand writer ! Ans Mo SIR

(1. RP 72. Delete, if none 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 t

Ans NOSIRO (I. RP IIO. 2. If no objection, woiting member retires. RP 68(B). If objection, see procedure AA 51, RP 25, 71, 18, MANL p 742) 17. The President, Members, JA, if any, and Offre under instr. if any, are sworn. (1) The following are the Tranks, names and units of the offre comprising the Court, etc :

President Capt F.M.PRITSHARP 1 Gdn Hepat Dep Member JFW. COLLINSON 1 Cdn Rogat Dep Member ICPN REPAT PEP D. D. SARVIS CAPT Prosecutor

LIEUT A.J. MAC DONALD ICPM REPAIRED Defending Offr Questions by President: Is the Prosecutor a lawyer ! Ans No. Is the Defending Offr a lawyer ! Ans No. (*)

(2. RF 26. 27. 109, 111. List of offrs under instr will be returned sebarately with proceedings for information of Conv Offic.)

(2. If Pros. o lawyer and Def Offices, occupied is entitled to an adjournment when RC (89 (8) and fo 2 were not followed. See D1 p.2.) before arraignment make(s) (no) [a] plea A8. The accused

(1. If a special pine is made for separate trial on one or more charges (RP 61/E), 108), or as to the jurisdiction of the Court (RP 34, 35/A), 113), or in bor of trial (RP 26), or as to occured's mental filmes to stand trial (AA 120, RP 51), or by one of several occured charged jointly to be tried separately (RP 16, 71), such piles, the addresses made in support or against, the evidence, if any, and finding one recorded per Notes. For forms of record see references in firs to RP cited. Insert in AB rank and name of the occused making the piles.)

A9. The accused is (accused is (accused does (does 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. RP 31, 112. See point 1 of Instrs p 2. When more than one Charge Sheet are RP 62; when several occused to be tried proceedings are RP 71(C), and was separate copies of CF A96 to record proceedings. 2. RF 32, RF 33. If otherwise, delete and a opporprinte record per history.

Alo. The Court is classed and considers the Instrs 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.

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 ples of Guilty to lesser, etc. offence. (RP 44(H).) Accused may change a plea of Not Guilty to 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

- 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).
- 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; 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 75-70, 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 RP 35(B) by explaining to the accused the nature and meaning of the charge(p)(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(p). s to character and make an address in mitigation of punishment.(*) (I. 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).(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 vay 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.(4)

President to accused: Do you wish to make a statement ! Ans. No 5:15. (1. RP 37(B). 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. 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 accused is (are) so informed, and he (they)

change(s) his (their) pica(s) on (their) pira(s) on charge(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 (ere) 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. A., initialled and read aloud by the President.(1)
(1. If there is no Summary, or if it is inodequote, comply with RF 37(8). If there is any evidence inconsistent with any plea standing as Guilty, Court will advise occused to change such plea and, if changed to Not Guilty, try such charge(s) by use of parts D1 to D8 inclusives of Record form D on p 3. RF 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 inclusive of Record Form D on p 3 before proceeding with C 2.(1)
(1. 8F 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 Summory of Evidence are part as relate to the charges dealt with under C2. If any piece is changed to Not Guilty, triol thereon proceeds by complying with port D1 to D8 inclusive in Record Form D on p 3 and making an oppropriate 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 E below.

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

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).)

D3. The evidence for the Prosecution is taken.(1)
(1. RF 39(C), 1/4, 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 .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 charge(s), and that, accordingly, the trial will proceed on the former, but the occused is (are) found Not Guilty on the latter charge(s). (*)

(1. Delete remainder of this para, if submission not made. 2. Arguments of submission, answer and reply are recorded per Notes. 3. RP 40 fn 1. See MML 5-72 paras 12-14 and p 81 para 42. • Delete part not used. If accused acquitted on all charges use second alternative in para 0.6-1.

MB: If trial proceeds, accused must be allowed great latitude in making be defence, and the Court should not stop his defence solely on ground of tries/evence. (RP 40(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 safet, 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 (*)
You may call witnesses in your defence and as to character, whether you give evidence or make a statement or do

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 ! Are they witnesses as to character only ? Ans.
(1. RP 115. 2. RP 40(A), see 89(D). 3. RP 40 fn 10. 4. RP 40 fns 2, 9.) Ans.

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

(1. RF 14. 115, 116. For procedure are Notes on back of Convening Order. CF A95. Evidence for occused as to his character should, if in his interest, be given before the finding. See RP 46(A) fin 1. 86(C). Note the further apportunity in para E1 of Record form E. Record get Notes addresses, successed, excessed and any 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.(2) The Court is re-opened.

(1. RP 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) charge(s), being subject to confirmation, will be promulgated later.(3) of the Court on the Or. The Desident 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. (?)

(i. AA 54(3), 63, 88 + 5, 120(8), 2, AA 54(3), 88 + 5, 117. This alternative announcement is not applicable when there are pleas of Guilty solutionsing and each with under Recard form 8 or C.)

Do. 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(t). NOSIR

 If evidence has already been given by occused or his witnesses as so his character, delete this para. RP 37(C) fn 4, 46 fn 1.
 Accused and witnesses are swarn. 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 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 convert to be signed in the most of the court of the court for admission in evidence. to the accused, because (i) they purport to be signed in the manner required by AA 163(l) (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. B. and Ex. C. respectively (*)

(1. MFB 355 or AFB 296. 2. MFM 6. 3. RP 46, KR Can 558. If above documents not produced, see RP 46 fn 1

pere 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(3). Ans. Referelecting Affecting filters are received from allecting (8).

(1. RF 37(C), 46(D). 2. Asteries, if any, referred per Notes. Court should permit accused or his witnesses to prove an arthonic harmonic and punishment. RF 37(F) for 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)

(1. AA 54(6). RF /20(A).)

E5. The Court considers the sentence.(1) The President records the sentence in Part I of the Schedule, which

E5. The Court considers the sentence. [*] I lift a summary is a sentence only, comprised of the punishment or punishments is dated and signed by him and the JA; if atty (*)

(I. When several occused tried apparetally see RP71 (D). One sentence only, comprised of the punishment or punishments isid down in AA 41, 44 and its primise, is to be awarded to cover all charges in all charge sheets on which occused found pulse. RP 48. As to sentences see AA 44, 138, 182, RP 46-S0, SP, 118, 119(A), KR Can 308, 330, S63-566, Overseas RO 307, 2223.

MML p 60, 757-759. As to sentences see Management for civil offences by the law of England see AA 44(15), MML p 130. When occused already under sentence of imprisonment or detention see AA 44(18), 68(1), KR Can 564. 2. RP 30. As to release from arrest by a consensity of the Control of Convening Order.)

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

The Accused, B77563 Pts Harold Eugene RYERSE, RCCC, on the strength of No 4 (den Rft) Wing, No 1 Canadian Repatriation Depot, a soldier of the Canadian Army Overseas, is charged

ANDIY ACT

in that he,

in the Field, absented himself without leave while held in custody at 1130 hrs 26 Sep 45, until apprehended at 0001 hrs 7 Dec 45.

Absent: 71 days, 12 hrs, 31 mins.

Cdn Army Overseas

Field,

. . . Feb 46

TO BE TRIED BY FIELD GENERAL COURT-MARTIAL

IN THE FIELD 26 Feb 46

Commanding Canadian Repatriation Units



(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, as As 5, 30, Pt O4-107, 114. As to the duties and printigges of the Canvening Offr in dealing with the applications imposed by appropriate such as plants of the convening Offr in dealing with the applications imposed by appropriate such. As to reasons for showing (a) permanent or confirmed rank, and (b) appint, Arrank or Ajapmit, flany, see AA 182, 183, Ins. KR Can 30d, 32s, 330.

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

Full Christian Names. Pto

Surname. Unit. Harold Bugene RYERSE 1 Cdn Repat Depot

- I. Whereas complaint has been made to me, the undersigned, that the persons named above as the accused being subject to military law, has discrete committed the offence(x) set forth in the Charge Sheet(x) attached and on a subject of the charge sheet (x) attached and on the charge sheet (x) attached and (x)
- 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 the critical part in brocket when not required for compliance with a 105C).

 Therefore appears a Field General Court-Martial to true the said necessity and to consist of the Offer appointed.
- I hereby convene a Field General Court-Martial to try the said person(st, and to consist of the Offrs appointed or detailed hereunder. mendad horizo
- Expringuistic to appoint ripolitica differentiation countries and one as I resident. For the resident I large 5. xlexion appoint an ibritain ait annin the tracks the section of the invite invite because of (RP 106(E)). Delite, if none opposited,)
- Lt.-Col PRESIDENT.

C. E. Woodrow, O. E. E., E. D.
(Muss be named. RP 106.) (Rank.) MEMBERS. HQ ORU (Unit.)

to be detailed from Lieut

to be detailed from

1 Odn Repet Depot (Named or detailed. RP 106.) WATTER DEMEET. 1 Cdn Repat Depot (Unit.)

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

TERMETIMOSTEE

On Active Service in the Fit England

(Linit) 26 Feb 46

Brigadier

Canadian Repatriation Units

CONVENING OFFR WILL INITIAL ALL DELETIONS AND ALTERATIONS 4/38A CFA/45 (In lies of APA 3) 40 P & 5/1697 (6143)

26

B77563. ATRYERSE, H.E.

27 Heb. 1946.

John and apt

Plea in witigation the Con 877563 Ple Ryerse H. E. R. CO.C. Enlisted nor 1742 into 605. England they 1944. and devel with CCOD, as a driver, until arrested bochis last absent the escaped from this earp for the sole purpose Two mying his frame. He could To his memil is 4 get there absence settled serve his destence of meny his francis

Exhelist " SUMMARY OF EVIDENCE in the case of, 877563 Pte Harold Eugene RXERSE, RCCC, on the strength of No 4 (Gen Mft) Wing, No 1 Canadian Repatriation Depot, a soldier of the Canadian Army Overseas. "I produce the following documents, pursuant to Overseas Routine Order No 5352, which have been read over and shown to the Accused, and which are attached hereto as Exhibits:" Certified True Copy of the Declaration of a Court of Inquiry held 20 Got 45, which declares that 577563 SUS Ryerse H. E. absented himself without leave at 1130 hrs 26 Sep 45 and to be deficient in kit in the amount of \$17.17. (Marked Schiblt "A") Certified True Extract from the "Y" List, No 1 Canadian General Reinforcement Unit Part II Order No 6 dated 10 Feb 46, which declares in Section "B", Para 1, sub-para (n) that B77563 Pte Ryerse, H. E. was apprehended from desertion at 0001 hrs 7 Dec 45. (C.A. Ennis) Lieut MA Officer detailed to take "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 A cused reserves his defence. The Accused does not call any witnesses. "I certify that the above Summary of Svidence, consisting of one page, was taken down by me in the presence and hearing of the Accused, and that Rules of Freedure 4 (c) (d) (e) and (f) have been complied with." C. E. Eurio ... (G.E. Ennis) Lieut SCA Officer detailed to take the Summary of Evidence Field, .. 7. . Feb 46

Exhibit if

RECORD of the Declaration of a Court of Inquiry assembled at Alton, Hants on the 20th day of October 1945, 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 B-77563 SUS Ryerse, H. E.

DECLARATION

The Court declare that No. B-77563 SUS Ryerse, H. E. a soleler

under Sentence at No. 5 Cdn Mil Pris & Detn Bks (B) illegally absented himself without leave No. 5 Cdn Mil Pris & Detn Bks (B)

at 1130 hours on the 26th day of September, 1945 .

that he is still so absent, and that on the 20th Ootober, 1945 he was deficient, and

that he is still deficient of the following articles:-

nat he is still deficient of the follow	VALUE	ARTICLES	
ote, Ankle eret khaki nawers cell, short pr l hirt khaki with collar nocks, woollen anges, cap races	1 35 33 35 35 36 36 36 36		
washes clothes rush hair rush hair rush hair rush hair rush hair rush hair rush rect in mess, rect in mess, rect teel Heimet owel hand renim, blouse renim, trousers	1 2 11 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1		
TOTAL	\$ 27 27		1

(W.A.Prest)Idout.(C.Pro C). (A.W.Hay)Ligut, CIC. 69 Morolat Rollin Member

Signed at Alton, Hants.

this 20th day of Databer, 1945

Signature of Commanding Officer

(c.c. Thorold) RSE 80,1) E-55520.

Certified true copy

Ng.5 can Mil Pris & Detn Bks(B).

President

Member

3/60B MFB 375-AFB 115

NO. 1 CANADIAN GENERAL REINFORCEMENT UNIT PART II ORDERS ISSUED BY COL. R.C. CLARK, DSO, COMMANDER Exhibit NO. THIS ORDER 21 JAN 46 10 FEB 46 SECTION "B" OTHER RANKS STRENGTH INCREASE (n) Apprehended from desertion at 0001 hrs 7 Dec 45 and T.O.S. Y-2 List wef 7 Dec 45. B-77563 PTE. RYERSE, H.E. "J.H.STEPHEN" Capt for (R.C. CLARK) COLONEL RO. 1 CDN GEN RFT UNIT, CERTIFIED TRUE EXTRACT FROM ORIGINAL DOCUMENT HELD IN MY POSSESSION. 18 Feb 46 (C.E. ENNIS) Lieut, RCA, Officer having custody of original document, /AJU

Ex heliet & ARMY FORM B. 214

Statement as to Character and Particulars of Service of Accused.

. B77563	Pte	DVEDOR ** **			as the case may be).
		RYERSE, H.E.	1 cdn 1	Repat D	epot
1. The follo	wing is a fair as	ad tone			A P. S. Paragraphy of the Control of
duct sheetst of the	accused exclusion	nd true summary of the entries	s in the regimental and s	squadron, b	attery or company
of the Army Act, ar	nd of cases in a	sive of convictions by a court relation trial has been dispensed	martial or a civil court, o	f summary	awards under section
Nore. At a trial by	THE OF CHECK IST W	which trial has been dispensed	with:		and diluter section 47
NOTE. At a trial by field general court martial this summary			,		
may be compiled from the field con- from the field con- pending the field con- mentioned should be produced should be produced should be produced to constitute the field field from the field from the field from the field from the field field from the field f		* Within last	12 months CEE		*Cinco P. V
mentioned should be	For	AA Sec 15 (1)		-	*Since Enlistment.
with this statement but not annexed to				times 7	times
# feer pura. 877, H.H.,	· For.	A Sec 15 (2)		times 3	
		AA Sec 35		d	times.
				tipe 1	times
let of entries in the				4 2	
	For	AA Sec 9 (2)		times 2	times.
and in one transposed special acts of gallen- try or distinguished conducts	2.00	AA Sec 11		imes 2	
		her of instances of gallantry		2	times,
INSTRUCTION If the charge as for dramaken- ness the cutter for dramaken- ness the cutter for dramakenness must be stated separately and dated.		Manual Manual Collegery D	e distinguished conduct,	ces	
stated separately and	Thorne	Of			
		are no entries in the conduct		u	
2. The accuses	d has not been	provincely convicted, or CEC			
Previous convi	ictions† of the	accused by a court martial or			
Army Act, and dispen-	sutions with mi	dwoden of a court martial of	a civil court, summary	awards ur	nder section 47 of the
		The second of the second string	Act, are set out in the set	redule anno	mode at the
les	is not under a	STANCED THE SELECT THE SECOND CONTRACTOR OF	The accused at the ac-	possen!	time is under sentar
150 days		beginning on the	30 Aug 45	LAF	is under sentence for
4. The accused			the balance	- chies	
in civil custody, and	6 -	finement, awaiting trial on the	present charges, for	N	// days
	, 82	days in military cus	stody, making a total of	8	
of which.	4	ays were spent in hospital.			days,
5. The research					
the language t	age of the accus	sed according to his record of	paper is 21 yrs	10 mos	
6. The date of h	io commission				
	attestation	ajlestation-par	TE TOV TE		
7. The service w	hich the accuse	d is allowed to neckon towards	4		
			machining or transfer to a	in reserve	CP 5
		derred pay or gratuity in resp	ect of		nervice, 172
9. (The accused i	s entitled to rec	kon.	Service for the		mirate.
10. The accused	17 In (1	of or outil to	THE PHIPPING	of determin	numbra bennoon security
		of, or ontitled to, no mulitary	decoration or military a	much in	in possession of or
		on or reward)). CVSM & C	lasp		
11. 41/ the accure	d is a mirrorit	officer.) The accused before h	e was made a w		
make Lice			e was made a warrant o	theer inst i	beid the regenerate face
12 -if with case of					
And in his second	an office of the				
and in his regiment for	an officer.) The	accused holds in the army the	rank of		
	an officer.) The	accused holds in the army the			dated EE
	corps or depart.	accused holds in the army the	dated Q	٤	
(*16548) Wt. 201246, Sept. 72,000	corps or depart.	accused holds in the army the		٤	
(*10048) W. SOCIACISME TRANS	corps or depart.	accused holds in the army the		٤	

Punishment remitted.	Sentence of the court or authority disposing of the charge,	tract from the eigenoutal books, stating these convictions and disp-n		(IN Description of
				Description of
	or order of the dispensing authority.	Charles upon 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.	court by which
15 days remission	50 days detn	AA Sec 16(1) ANL 26 days 13 hrs	26 Jan 45	GGM
		AA S ec 15(1) AWL 5 3 days 14 hrs 46 mi	30 Aug 45	GCM
TOWNS OF STREET				
Destablished to the second				
		C.E.		
consideration of the control of				
		50 days detn remission	AA Sec 15(1) AWL 26 days 13 brs 50 days detn remission	26 Jan 45 AA Sec 15(1) AWL 26 days 13 hrs 50 days detn remission and 45 AA Sec 15(1) AWL 5 3 days 14 hrs 46 min detention

at datace

THE CASE OF D77563 Pte RYEISE H. B.

(1) LIST OF WITNESSES FOR PROSECUTION

(411) LIST OF EXHIBITS FOR PROSECUTION

- (a) Certified True Copy of the Declaration of a Court of Inquiry held 20 Oct 45 concerning the absence without leave of D77565 SUS Ryerse H. E. (Marked Exhibit "A")
- (b) Cartified True Extract from "Y" List, 1 CORD Part II Order No 5 d/10 Pab 46 concerning the apprehension of E77563 Pte Rycres W.S. (Marked Exhibit "B")
- (1v) LIST OF EXHIBITS FOR DEFENCE Nil
- RECEIPT BY ACCUSED FOR COPY OF CHARGE SHEET AND SUMMARY OF EVIDENCE

I hereby acknowledge that I have been served with a true copy of the Summary of Evidence, taken in the Field, preliminary to my Court kartial. I further acknowledge that I have been served with a true copy of the charge under which I am being brought to court Martial.

A 6 1 4 Marie 11.2.)

(vi) APPLICATION BY ACCUSED FOR DEPERDING OFFICER

I hereby request that the Convening Officer appoint an Officer to represent me at my

I desire the services of if he is available, (Brisos kas Borse B. B.)

Signed in the Field,

this. A. day of Feb 46

Date of last and Company Cond	lry in Just Sheet	1	of	and date last drups	freedom from extra flue				Hy whom awarded	
Place	Date of offshor		Classes of dynastest- tors				150 days Detr			forf 54 days pay
	16 1 45	Pte			WOAS AWL from 235 to 1445 hrs 8 Au 5 days 14 hrs	g Docy	forf 150 4ay: pay FR&I 149	s Aug 45	PGOM	FR&I 149(1 forf 22 da; pay FR&I 149(1)(c)(
					TE COPY OF GRIGIN	AL MPM 6 HELP	IN MY POSSESS	TON		
**************************************				14 Peb 46	(C.E. Ennis) L Officer having of original d	ieut RCA custody				
									and or make the	9103

Date of last of Company Co	entry in onduct Sheet	}	of	n and date Period not reckoming to last drunk freedom from extra fin	ur :		Parishment awarded	Inche of award or of order dispet- sing with trial	By whom awarded	Remarks
Place	Date of offence	Basis	Charm of drunken- nose	OFFENCE		Nation of Witnesses			Capt HM	
m4 o 3 d		Pte.		Sec. 40. AA WOAS Conduct to	the	Sgt Lock- hart, W.L.	7 days C.B.	44	Richardson	
Field	44			prejudice of tood order	ae did					
				fall to make up his bed as	* * * * * * * * * * * * * * * * * * * *		7 days C.B.			1 days
Field	5 Nov	Pte		AA Sec 15(1) WOAS AWL Bro	G 1851A	Documentary		O MOA * 44	tyre Lt Col	Forf P
	44			las (absent 9 hrs 11 mins)		Sgt	7 days F.P. 7 days For	18.11.4	bridge Maj	
Field	17 No	y Pt	4	1 AA Sec 9 WOAS Pailed to to FAP when ordered to do			/ 4870 1000			
			(2	Il AA Ses 11 WOAS Neglect to in that he failed to make	up hi	sbed.				
				the constitute beauty and the formation to the control of the cont						

Date of last drunk) Pisce Date of Reak Company Conduct Elect Office of drunks of the Company Office of drunks Office of drunks Office of the Company Office of drunks Office of the Company Office of drunks Office of the Company Office of the Office	
Piece Date Raw drainer Sec.40 AA WOAS Conduct to the Sgt Lock- 7 days C.B. 25 Oct Capt Ha Richardson prejudics of good order and mil- hart, W.L. lary discipline in that he did tary discipline in that he did fail to make up his bed at re-	
prejudice of prejudice of that he did itary discipline in that he did itary discipline in that he did tary discipline in that he did itary discipline in that	
fail to make what had	
velle 24 UCV Miles	
Field 5 Now Pte AA Sec 15(1) Was AN to 0910 hrs 6 Nov Documentary 4 days Fort 0 adv. tyre Lt Col F	days
44 (absent 9 hrs 11 mins) 7 days F.P. 18.11.44 F.S. Show	
to PAP when to ect.	
(B) AA Sec 11 MOAS Augusto make up hisbed, in that he failed to make up hisbed,	
A minimum and a second production of the control of	17 130

1	AA Sec 15(1) WOAS AVL from 1200 hrs 26 Dec 44 until 0110 hrs 22 Jan 45 (Absent 26 dys, 13 hrs)	Documentary	50 daya Detn RELEASED FROM BARRACK H.	26 Jan 4	5 FGCM		•
				Down	ON		
			HAVING EXPIRED under "RULES BARRACKS AND	SE RRMISS FOR DETE MILITAR	NTION	compression in its	
and the later of	Vehicle at an excessive rate of	Documentary	Commandant I			Annangana Annangana Annangana Bumanan	
Pte	AA Sec 15(1) WOAS AWL 1 day	Pte Linton S.L.	POP 4 days FR&L 149(2)	4.6.45			ay 1)(a)
	m man he hand he bear in dog som						•
	Pte	Pte A Sec 15(1) Word AWL 1 day 2230 hrs 2.6.45 till 2330 3.6.45	Pte A Sec 15(1) WOAS AWL 1 day 2230 hrs 2.6.45 till 2330 3.6.45	Pte AA Sec 11 WOAS. Did drive a WD Venicle at an excessive rate of speed, contrary to Part 1 Orders Pte AA Sec 15(1) WOAS AWL 1 day Pte Linton POP 4 days 2230 hrs 2.6.45 till 2330 3.6.45 S.L. FR&L 149(2)	Pte AA Sec 11 WOAS. Did drive a WD Vehicle at an excessive rate of speed, contrary to Part 1 Orders Pte AA Sec 15(1) WOAS AWL 1 day 2230 hrs 2.6.45 till 2330 3.6.45 Pte Linton FOP 4 days FR&L 149(2) 4.6.45	Pte AA Sec 11 WOAS. Did drive a WD Venicle at an excessive rate of speed, contrary to Part 1 Orders Pte AA Sec 15(1) WOAS AWL 1 day Pte Linton Pop 4 days 2230 hrs 2.6.45 till 2330 3.6.45 S.L. FR&L 149(2) 4.6.45 Doty	Pte AA Sec 11 WOAS. Did drive a WD Venicle at an excessive rate of speed, contrary to Part 1 Orders Pte AA Sec 15(1) WOAS AWL 1 day Pte Linton Pop 4 days 2230 hrs 2.6.45 till 2330 3.6.45 S.L. FR&L 149(2) 4.6.45 Doty FR&L 149(

Place	Date of offence		. 43 of last drunk	OFFENCE		Names of Witnesses	Punishment awarded	Date of award or of order dispen- sing with trial	By whom awarded	Hemarks
			Now alongt	on completion of s	ix months	service 4.	5.43. 01d shee	t destro	yed 13.6,44	
Field	1.8=6	Pte,	(1) Abs	ent from plose of p	arade	CSM Watkins	14 days C.B.	21,6,43	Maj. J.B. Gzowski	FR&I 149(1
	43			from 1730 hrs 18.6 hrs 21.6.43 (s days		30 mins)	14 Days C D		Maj J.S. Growski.	
field		Pte.	Abse	nt from place of P	rade.	Dog manifest &	To Days o.b.		GROWERA.	a 2/ 2 t
rield		Pte.	A. A. 1	5(1) AWL from 0600	hrs 0.10	. 43 COM OTTA				
Field	18-11	Pte.	101-11-9	t undamodna daten	tion talk	- CDA - PARTER	48 hrs No.1 punishment	18.11.4	3 Capt. W. M MacAndrew	
	43			n parade after bei						
Field		Pte.	12 o 1 1 4	ng to appear at a a a appointed by his	place of	Sgt. Fodey	5 Days C.B.	28.1.44	Irvine	
	44		hrs i	parade 29-1-44).						(P.T.O.)

eld 9-2 Pte. (1) AA 15(1) AWL from 0745 hrs Cpl. Swallow 9.2.46 to 1600 hrs 9.2.44(8 hrs Cpl. Swallow 10 mins)(2) An act to the prejudice Chewing gum on parade Chewing gum on parade 17.5. Pte. AA 15(1) AWL from 2300 hrs 17.5.44 Cpl. J.J. 2 days F.P. 18.5.44 Lt Col W.J. Pingham 18.5		Digit of	Cases Novik Street		Names of Witnesses Puntshment awarded	lints of award or of order dispen- sing with trial	By whom awarded Esmarks
10 mins)(2) An act to the project Sgt Fraser chewing gum on parade chewing gum on parade parade parade services and services are services and servic	ield			(1) AA 15(1) AWL from 0745 hrs	Cpl. Swallow	10.2.44	
to 2330 hrs 17.5.44 (30 mmms) FREL 149 (1) (b) 7.9.44 F.M. Hearn 1eld 6 Sep Pte. AA Sec 9 (2) WOAS Failed to appear Cpl Cooke 7 days F.P. 7.9.44 oh parade when ordered to do so by Cpl. Turner? days Frof Pay his supertor offr. Cpl. RA Cooke	1.014	17.5.	Pte.	chewing gum on parade	44 Cpl. J.J. 2 days F.P.		Lt Col W.J. Pingham
has supermor offr. Cpl. An 2300 hrs. 16 Sep Pte: An Sec 15(1) WOAS AWL from 2300 hrs. 250 AF Documentaryl4 days C.B. 19,9,44 F.M. Hearn 2 days auto	rield	44		to 2330 hrs 17.5.44 (30 mins)	FREL 149 (1) (1	1 . 7 . 44	
	field	44 16 Se		AA Sec 15(1) WOAS AWL from 2300	hrs AK Documenteryl4 days C.B.		F.M. Hearn 2 days auto

4P-52 Pte Ryerse X E.

SCHEDULE.

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

(In-est " alternative " where	Plea.	Finding.	
(In est " alternative " where			
applicable.)	(See Instrs p 2.)	(See note below.)	(Space for use as required for further charges, occused charged jointly, special findings, etc.)
st AA Sec 15(1)	Tues	Quele	
NAK.	1		
SADX			
CEX	- francisco		
SULX			
SEX.			
	P 44 and MML p 753	ces see AA 50, RP 44 ; and in loss of kit see.	findings on alternative charges see MML p 483 fn 4 para 2, RP 44 ; RP 46 fn 5.)
At present under senten	on for		beginning on (300)
(f. Insert sentence	being served, or delet	e, if nut applicable, Se	te RP 46(A). Information should be found on MF 8355 or AF 8296.)
Time in confinement av	raiting present t	rial—a total of	4 days, of which NI - days were spent in hospital.(4
(1. Sec RP 46(A)	fn 2. Information sho	uld be found on MF B3	55 or AF 8296 admitted in evidence under £2.)
Sentence Awarded by the			
0.11.10	2- 2-	tenti	on for Fifty (50) days
ap certain	40		1 1 40
	-		embly and disposal of record after trial.)
PART II.	INUTE WHE	RE CONFIRMA	ATION RESERVED. (AA 54(5), RF 120(F), MML p 760.)
Date (Sgd)		Commanding
	DECISION OF	CONFIRMING	OFFR ON FINDING(S) AND SENTENCE.
PART III.			
	rs see AA 54, 57, RF	37(D) fn 6,46(A), 51-1	
	irs see AA 54, 57, RF not be revised: AA; ed may be tried again 3, MML p 65. Quas e Canfirming Offr mi	37(D) fn 6.46(A), 51-1 4(3). Sending back fi : AA 157, MML p 64, hing after promulgation ist sign here personally	
			 120, MML pp 759-761, KR Can 567-577. Acquittals require no inding or sentence for revision by Court: AA 54(2), RP 120(G). If Minute of confirmation or non-confirmation may be oftened before or: KR Can 73. Duties and powers of reviewing offrs: AA 57, AA 172 (n 1.)
(For duties and power confirmation and can not confirmed, accuss promulgation : RF STA, RF STA, S4. Th		entence set forth is	So. 120, MML pp 759-761, KR Can S67-577. Acquittals require no inding or sentence for revision by Court: A8 A510, RF 120(G). If Minuted Confirmation or non-confirmation are be distracted before in: KR Can S73. Duties and powers of reviewing offrs: AA S7, AM 172 fo 1. If I is:
(For duties and power confirmation and can not confirmed, accuss promulgation : RF STA, RF STA, S4. Th		entence set forth is	 120, MML pp 759-761, KR Can 567-577. Acquittals require no inding or sentence for revision by Court: AA 54(2), RP 120(G). If Minute of confirmation or non-confirmation may be oftened before or: KR Can 573. Duties and powers of reviewing offrs: AA 57, AA 172 (n 1.)
(For duties and power confirmation and can not confirmed, accuss promulgation : RF STA, RF S3A, S4. Th		entence set forth is	So. 120, MML pp 759-761, KR Can S67-577. Acquittals require no inding or sentence for revision by Court: A8 A510, RF 120(G). If Minuted Confirmation or non-confirmation are be distracted before in: KR Can S73. Duties and powers of reviewing offrs: AA S7, AM 172 fo 1. If I is:
(For duties and power confirmation and can not confirmed, accuss promulgation : RF STA, RF S3A, S4. Th		arfe	Se. 120, MML pp 759-761, KR Can 567-577. Acquittals require no inding or sentence for revision by Court: AA 54(1), RF 120(G). If Monitude (confirmation or non-confirmation may be set to set the sentence of the sent
(for duties and power confirmed season and can not confirmed, account promulgation : RF 3 578, RF 518, St. Th. My decision on the	finding(s) and so	arfo	Se. 120. MANL pp 759-761, KR Can S67-577. Acquittals require no inding or sentence for revision by Court: AA S4(1), RF 120(G). If Minute of confirmation or non-confirmation are be directed before on: KR Can S73. Duties and powers of reviewing offrs: AA S7, AA 172 fo 1.) The Part I is:
(For duties and power confirmed season and can not confirmed, secusion promotigation : RF 3 37A, RF 31A, St. Th. My decision on the		Committeed to prise (1. AA 57A Delete	Se. 120, MML pp 759-761, KR Can S67-577. Acquittals require no inding or sentence for revision by Court: AA 54(1), RF 120(G). If Minuted Confirmation or non-confirmation are be directed before in: KR Can 573. Duties and powers of reviewing after: AA 57, M 172 fol. 1. AM 172 f
(For duties and power confirmed season and can not confirmed, secusion promotigation : RF 3 37A, RF 31A, St. Th. My decision on the	finding(s) and so	Committeed to prise (1. AA 57A Delete	Se. 120, MML pp 759-761, KR Can 567-577. Acquittals require no making or sentence for revision by Court: AA 54(1), RF 120(G). If Monitor of confirmation or non-confirmation are be aftered before on: KR Can 573. Duties and powers of reviewing offrs: AA 57, AA 172 for 1. AA 172 for 1. Part I is: On or detention barracks until further orders (1) Re of not used.) AND
(for duties and power confirmed season and can not confirmed, account promulgation : RF 3 578, RF 518, St. Th. My decision on the	finding(s) and so	Committeed to prise (1. AA 57A Delete	Se. 120, MML pp 759-761, KR Can S67-577. Acquittals require no inding or sentence for revision by Court: A8 \$410, RF 120(G). If Minuted Confirmation or non-confirmation may be directed before in: KR Can 573. Duties and powers of reviewing offrs: AA 57, M 172 fol. 1. AM 172 fol. 1. The part I is: The or detention barracks until further orders (1) for the first or detention barracks until further orders (1) for the first orders (1) for the fi

PROMULGATED IN I COMERU PTIL DO. 26 DATED 31NAN. 45

ALL DELETIONS AND ALTERATIONS WILL BE INITIALLED.

RECORDED AT CMHQ IN AD 160 CIVED Convened by Order of Brig HON Brownfield CBE Moomd "C" GP. CRU dated 24 Jan 45 ACCUSED. (As to affect trial of two or more charged jointly see RP 16, 71, 109. As to reasons for showing (a) permanent or confirmed (, and (b) appmt, A/rank or A/appmt, if any, see AA 182, 183, fns, KR Con 308, 328, 330.) Number. (a) Prmut R. (b) Appmt, A/R or A/Appmt. Full Christian Names. B-77563 Harold Eugene 1 COMERU PROOFEDINGS REVIEWED Lucapor PROCEEDINGS OF TRIAL Meld in the Fd in (co on (date(s)) 26 Jan 4 13 RECORD FORM A-OPENING PROCEEDINGS AND ARRAIGNMENT. Al. 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 BY PRES OR JA. The Schedule referred to throughout is on p.4. Citations do NOT include all relevant from ROs. For guidance will be made and given a number having reference to appropriate or preceding para number nervent the CF. AFS. for outth and instra on how to record addresses, evidence etc., which instra are hereafter colled provisions for conducting the trial see AA S3, RF S6, 63-70, 73, 74, 94, 103, 119, 132.) A2. The President initials and lays before the Court the Convening Orde, and Charge Sheet(s) attached thereto,(!) The Court is satisfied that it is properly convened and constituted(!), accused is (are) amenable to military law, and each charge discloses an offence.(3) (I. 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 secusca is (are) brought before the Court. At hours trial commences. A4. The Prosecutor produces a Medical Certificate that accused is (ar-) fit to undergo trial by court-martial.(!)

Prosecutor informs the Court that accused elected to be tried by court-martial instead of being dealt with The Pro summarily by the CO (*) (I. KR Con 557. 2. AA 46(8), RP 60 fn I. For effect see KR Con 563(c). Delete, if not opplicable. A5. President to accused: Do you object to _______as interpreter ! Ans The Interpreter is evern (4) Do you object to Ca to Age A Battod guilt as shorthand siter ! Ans A.O. The shorthand writer is sworn (1) (1. RP 72. Delete, if none employed.) A6. 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 ! (I. RP 110. 2. If no objection, waiting member retires. RP 68(8). If objection, see procedure AA SI, RP 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 & M. Museer ED KX President Cape A a Mccahe CSRU Member & DMC Tugan Liller Member Todge-Advocate najor Prosecutor Defending Offr Questions by President : Is the Prosecutor a lawyer ! Ans AD Is the Defending Offr a lawyer ! Ans O (*) (1. RP 26, 27, 109, 11). List of office under instr will be returned separately with proceedings for information of Conv Offic.)

(2. If Pros a lawyer and Def Offices, occused is entitled to an adjournment when RP 89 (8) and fo 2 were not followed. See DI p 2.) A8. The accused before arraignment make(s) (no) (a) plea

(I. If a special plea is made for separate trial on one or more charges (RF 62(E), 108), or as to the jurisdiction of the Court (RF 34, 35(A), 118), or in bor of trial (RF 36), or as to accused's mental fitness to stand trial (AA 100, RF 37), or by one of several occused charged jointly to be tried separately (RF 16, 71), such plea, the addresses made in support or against, the evidence, if any, and finding one excavibed per Notes. For forms of record see references in fins to RSF cited. Insert in AB rank and name of the accused making the place.

A9. The accused is (are) arraigned (separately) on all charges in the charge sheet.(1) The accused does (do)

[As not object to any charge.(2) There is no amendment to be made to the Charge Sheet.(2) The President records the please in Part I of the Schedule.

(i. RP 31, i12. See para 1 of "satms p 2. When more than one Charge Sheet see RP 62; when serveral occused to be tried separately see RP 71(C), and use separate copies of CF AP6 to record proceedings.

2. RP 32. RP 33. If otherwise, delete and make appropriate record per Notes.)

Ald. The Court is elessed and; considers the Instrs 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.

D626 8

- The accused may not plead or be found Guilly 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 pleas of Guilly to lesser,
 etc, offence. (RP 44(R).) Accused may change a plea of Not Guilly to Guilly during trial. (RP 38.) As to refusing
 to plead or not pleading intelligibly see RP 35(A). As to plea when schlence 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 below. (RP 37(A).)
 - (b) Such mixed pleas occur in a set of two or more charges laid in the ulternative, see RP 37 (A) and fn 2 as to discretion of Court, (i) to try the accussed 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 and withdrawal of witnesses from Court see RP 81, 82; questioning of accused see RP 60(C), 87(C), 91, 92; swearing 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 revord proceedings see RP 94, 96.

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

- 31. The President or JA, if any, complies with RP 35(B) by explaining to the accused the nature and meaning 191. The President of As, if any, complies with RP 30(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. MML p 54 perc 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 reterence 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 making a statement you will not be examined(*), we shall advise you to change your plea to Not Guilty. In me 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 teatingory, if you so desire(*) 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 (1. RP 37(B), 2. RP 37(D) (n.6. 3. RP 35(B) fn 5 para 3, MML p 54 para 47. 4. See para E3 of Recard Form E.

5. Statement, if any, recorded par Notes.)

- B3. The Court considers the accused's statement.(1) The Court decides (not) to advise accused to change his
- change(s) his (their) plea(s) on ______ charge(s). Part I of the Schedule is amended accordingly.

 (I. Court may be closed to consider the statement. Delete whole or part not used.)
- Bt. 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. RP 35(8). If any plea(s) is (are) changed, use Ascord Form C or D as appropriate.)
 - B5. The Summary of Evidence is marked Fx , initialled and read aloud by the President (1) (1. If there is no Summary, or if it is inodequate, comply with RP 37(8). If there is any evidence inconsistent with any place barros DI to D8 inclusive of Recard form D on p3. RF 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 (i. 8P 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 Forur Dabova (!).

 (!) Under B5 such para only of the Summary of Eridance are read as relate to the charges dealt with under C2. If any piec is changed to Not Guilty, trial thereon proceeds by complying with pares D1 to D8 inclusive in Record Form D on p 3 and making an 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

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

Pin here Loose Sheets visitiocont.

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.

 (1. If "yes", see RP 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(B), 60(A) (B), 90, 92(C) (D). Accord address per Notes, subject to RP 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 notcharge(s).(2) The Court 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 (1. Delete remainder of this para, if submission not made. 2. Arguments on submission, answer and reply are recorded per Notes. 3. RP 46 fo 1. See MML p 72 paras 12-14 and p 81 para 42. 4. Delete part not used. If accused acquitted on all charges, use second alternative in para D8.

NB: If trial proceeds, accused must be allowed great latitude in making hit defence, and the Cou t should not stop his defence solely an ground of 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 Ob. President to accused: You will now proceed with your defenced; You may, a your 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 which could have been made on oath will not carry with the Court the same weight as sworn testimony. (!) You may call witnesses in your defence and as to character, whether you give evidence or make a statement or do without the court the same weight as sworn testimony.

President to accused: Do you wish to give syidence yourself as a witness, make a statement, or do neither ! Do you intend to call witnesses on your behalf? (I. RP IIS. 2. RP 40(A), 36 80(D). 3. RP 40 fn IO. 4. RP 40 fn 2, 9.)

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

 (1. RP 114, 115, 116. For procedure see Notes on back of Convening Order, CF A95. Evidence for accused as to his character should. If in his interest, be given before the finding. See RP 46(A) fil. 1, 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 RP 42, (03(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.(2) The Court is re-opened.

 (1. RP 43, [FF(A).) See Notes in Part I of Schedule. 2. RP 44(A).)
- D8. The President at mounces the finding(s), if any, of Not Guilty, and states to the accused that the finding(s) of the Court on the
- 20. 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.

- El President to acquised: Do you wish to give evidence yourself or to call any witnesses as to your character 1(4) (1. If exidence has already then given by accused or his witnesses as to his character, delete this para. RP 37(C) in 4, 40 in 1. Accused and witnesses are swarn. Evidence recorded per Notes.)
- F2. The Prosecutor produces Statement(s) as to Character and Particulars of Service(1), and certified true copy (copies) of Conduct Sheet(s)(2), 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(s) having the same number, rank, name and corps as the accused. Admitted in evidence and

marked Ex B and Ex : respectively (*)
(I. MFB 355 or AFB 256. 2. MFM 6. 2. RF 46, KR Con 558. If above documents not produced, see RF 46 fn I

- E3. President to accused: Do you wish to address the Court on the Statement (6) and Conduct Sheet (4), and in mitigation of punishment 1(1). Ans.

 (1. RP 37(S), 48(S). 2. Address if any, regarded per Notes. Court should permit occused or his witnesses to prove on ooth crything here or previously stoted which would offect the amount of punishment. RP 37(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. (i) Al S4(s), R^{s} (20(A))
- E5. The Court considers the sentence.(1) The President records the sentence in Part I of the Schedule, which
 - 55. The Court considers the sentence.(*) The President records the sentence in Part 1 of the Schedule, is dated and signed by him arms the 3h 4 says.(*) [1]. When several accused tried separately see RP 71 (D). One sentence only, comprised of the punishment or punishments in the control of them in AA at an arms and as provise, is to be owerfed to creer all thereps in all charge sheets on which occused found guilty. RP 48. As to sentence see AA 44. (38. 18. 28. 49.45.00, 59. 118. 119/40. KR Can 308. 120. 583-586. Overseas RO 309. 2122, MML pt. 0. 737-730. Says the control of the contro

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS

The accused B-77565, Private Harold Eugene Ryerse, Royal Canadian Ordnance Corps, on strength of No.1 Canadian Ordnance and Mechanical Engineers Reinf-seas is charged with,

FIRST CHARGE SECTION 15 (1) ARMY ACT

WHILE ON ACTIVE SERVICE ABSENTING HIMSELF WITHOUT LEAVE

in that he

at No. 1 C.O.M.E.R.U., Bordon, Hants, at 1200 hours on the 26th day of December 1944 absented himself without leave until reporting to No. 1 C.O.M.E.R.U. Guard Room, Bordon, Hants at 0110 hours on the 22nd day of January Total time absent - 26 days, 13 hours, 10 minutes.

Bordon, Hants. 22 Jan 45.

(H.M. Bailey)
Commanding Officer
No. 1 Cdn Ord 1 No. 1 Odn Ord & Mech Engr Rft Unit.

To be tried by Field General Court Martial

Mon Brownfuld "O" Gp, Cdn Heinforcement Units (Convening Officer)

Bordon, Hants 24 Jan 45

FIELD GENERAL COURT-MARTIAL CPAN GENERAL CPA

(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 of An 49, 50, RP 104-107, 114. As to the duties and privileges of the Convening Offr in dealing with the application see MML Chap Y paras 20 and 23.

These should be a separate Consession Office for

HP BY(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 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 16, 109. As to reasons for showing (a) permanent or confirmed rank, and (b) appmt, Alrank or Alappmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

ACCUSED.

Number, (a) Prmnt R. (b) Appent, A/R or A/Appent. Full Christian Names. Surname. Unit B-77563 Pte Harold Eugene RYERSE 1 COMERU

CONVENING ORDER.

- I. Whereas complaint has been made to me, the undersigned, that the person® named above as the accused, being subject to military law, has XDEXES, committed the offence® set forth in the Charge Sheet® attached and on (date). this date endorsed by me, (ACONXALER ADDAXALER ADD Martial"
- 2. And whereas I am of opinion that it is not practicable that such offence(X should be tried by an ordinary General Court-Martial: EXM NEX NOX EXACED AND EXACT EXACT
- I hereby convene a Field General Court-Martial to try the said person (36, and to consist of the Offrs appointed or detailed hereunder
- XXXXXXXXXXX
 - (AA 49, RP 106(B), 107(A). Delete the whole or part, if not applicable.) 5. Andrea America as Junior Advances, March of Advance (RP 106(E)). Delete, if none oppointed.)

PRESIDENT.

Maj (Rank.)	E.M. Miller ED (Must be named. AP (D6.)	HQ CRU (Unit.)
	MEMBERS.	
Capt	to be detailed by CO	1 CSRU
Lt (Rank.)	to be detailed by CO (Named or desailed. RP 106.) WAITING MEMBER.	1 CERU (Unit.)
(Rank.)	(Named or detailed, if any. RF 106.) JUDGE-ADVOCATE.	(Unit.)
(Rank.) n Active Service in the		(Unit.)
England (Country.)	Here Brown fulls (Signed personally. AP 105, (n. 2.)	Brigadier (Rook.)
at. 24 Jan 4	5 Commanding "C" Gp. Cdn Rft Units	

CONVENING OFFR WILL INITIAL ALL DELETIONS AND ALTERATIONS

Convening Officer.

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

MEDICAL CERTIFICATE

Court Martial.

Date 26: JAN: 4.5.

RENOW CAST.

No.1 Cdn. Ordnance Reinf. Unit.

PLEA IN MITIGATION

The accused No. 8-77563 Private H.E. Ryerse, voluntarily enlisted in the Janadian army in 1942 at the age of 18. After serving for 18 months in Janada he arrived in England 8 months ago. During his service abroad his record of conduct shows a few monor crimes and this occasion is the first of a serious nature.

Apart from his extreme youth, I would like the Court to hear some facts relative to this man's absence:

His category is H-3 and this only permits L Or C posting. Ryerse has been both disappointed and frustrated in his efforts to get into the thick of things.

During his embarkation leave the accused had sextual relations with his girl friend, whom he had known for over a year, and as a result of this a child was born on 15 Dec 44. The constant strain placed on the accused as a result of both his category and this mix up his future wife and signed over \$150.00 in Victory bonds which he had cause. In addition he has assigned \$50.00 per month to assist the

Despite the youth of the accused, surely these facts will satisfy the Court that Ryerse is far from irresponsible.

The accused has but two desires; first, to be posted to a theatre of war and help get the show over, and secondly to get home and marry the mother of his child.

I would ask the Court before passing sentence on this young man, to consider well his state of mind at the time he went absent. On your and most useful soldier.

(G. B. Batho) Ca

Defending Officer

SUMMARY OF EVIDENCE

In the case of B-77563 Pte Harold Eugene RYERSE, R.C.O.C., on strength of No. 1 Canadian Ordnance and Mechanical Engineer Reinforcement Unit, a soldier of the Canadian Army Overseas.

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

First Witness Prosecution

F-56446 Sgt Forrest, D.A., Administrative Wing, No.1 C.O.M.E.R.U. having been duly sworn states:-

"I am F-56446 Sgt Forrest, D.A. Transport Sergeant of Administrative Wing. On 26th December 1944, B-77563 Pte Ryerse, H.E., one of the drivers under my charge was absent from his place of duty and I did report this to the C.S.M. of Administrative Wing. I recognize B-77563 Pte Ryerse, H.E."

(F-56446 Sgt Forrest, D.A.)

The accused declines to cross-examine the witness.

Becond Witness Prosecution

H-32034 CSM Stobie, J.R. Administrative Wing No. 1 C.O.M.E.R.U. having been duly sworn states:

"I am H-32034 C3M Stobie, J.R., Company-Sergeant-Major of Administrative Wing.
On 26th December 1944 it was reported to me that R-77563 Pte Ryerse, H.E. was absent from duty. On further investigation I found that B-77563 Pte Ryerse, H.E. had been issued with a pass up to 1200 hours 26th December 1944, but it had not been turned in to the Unit Guard Room up to the time I checked with them at 1400 hours 26th Dec 44.
I produce Exhibit "A" - a certificate of surrender and evidence as to proper dress; Exhibit "B" Daily Part II Order No. 316 dated 2 Jan 45 on the absence of B-77563 Pte Ryerse, H.E. whom I now resognize."

(H-32034 CSM Stoble, J.R.)

The accused declines to cross-examine the witness.

The accused having been duly cautioned as follows:"Do you wish to make any statement or 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".

Reserves his defence,

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

BORDON, HANTS 22 Jan 45. (Major W.P. Mosher) Officer detailed to take down Summary of Evidence

"B" OTHER WANKS

Adm to #1 CMC wef dates shown. 8-58259 PTE. FRACER, A.C. 8-88006 SCOTT J.E. K-85507 A/SGT. MALCOIM, D.B. 2 Jan 45

Granted 7 days P.L. and 46 hrs leave with money alice in lieu of rations from 2 Jan 45 to 11 Jan 45. (Total entitlement-9 days).
U-1883 A/SGLS. DEER, F.G. ...-59566 A/SGT. FARRIER, A.E.
B-76694 CSM. HCPE, R.F. D-187262 PTE, LOUIDN, C.

Granted 7 days P.L. and 48 mrs leave with money alice in lieu of rations from 1 Jan 45 to 10 Jan 45. (Total entitlement-9 days).

L-22945 CPL. MORRISON, R.M.....

6. ABSENT WITHOUT LEAVE:

D-01998 PTE. ELWG.RTEN, W. 2350 hrs 18 Dec 44 D-1376 "EMBERLEY, H.B. 1200 hrs 26 Dec 44 2359 hrs 17 Dec 44 1200 hrs 26 Dec 44 1200 hrs 26 Dec 44 2230 hrs 30 Dec 44 1200 hrs 26 1200 hrs 26 Dec 44 2230 hrs 30 Dec 44 H-42025 1800 hrs 26 Dec 44

1200 hrs 26

Dec 44

or the Street of the

WL from 2230 hrs 30 Dec 44 FIE. NEWION, J.A., RIFFER, L.M. 15-90040 M-42025

7. MARRIAGES:

Married with permission to Miss Ruth Egglestone at Hayes, Middx on 0-32502 ./SOT. PURDIE, D.F.

8. NEXT OF KIN:

Change of N-of-Kin to W-58787 Sgt. Ruth Purdle (Wife) Queen Elizabeth Camp, Chilwell, Nottingham, England. C-38502 A/SGT, PURDIE, D.F.

9. STRENGTH DECREASE:

SOS to Y3 List one on to #22 .en Hosp wer 29 Dec 44.
F-1506 PTE. CONRAD, K.S.
F-89061 "NEARING, M.P.

SOS to Y3 List on adm to #22 Gen Hosp wef 30 Dec 44. B-57185 PTE, HAMLETT, L.R. (Storeman "O") (P/E)

SOS to 1 COOD wer 31 Dec 44. (with CRU 408/1 COOD/1 (PTA) 0/13 Oct 44). B-110549 ./SGT. MEIKLE, J.W.B. (Clerk "C") (Quota)

No. 31

RDR (COMPOSITE UNIT)

AND PAILY OR DESCRIPTION OF THE SORD NO. 1

SSUE 1 by COLONEL HAROLD M. RATHEY, O.B.E., V.D.

COMMANDING OFFICER

of other day

R.C.O.C. SECTION

"A" OFFICERS

LEAVE OF ABSENCE:

Granted 5 days P.L. with money allce in lieu of rations from 2 Jan 45 to 7 Jan 45. H/CAPT. Charles Joseph CARROLL

Granted 7 days P.L. and 48 hrs leave with money allos in lieu of rations from 2 Jan 45 to 11 Jan 45. (Total entitlement-9 days).

DIEUT. Arthur Sims HAMILTON

"B" OTHER RAVES

1. STRANGTH INCREASE:

TOS from Y3 List on disc from #22 Gen Hosp wer 31 Dec 44. B-110549 A/SGT, MEIKLE, J.W.B. (Clerk "C")

TOS from Y3 List on disc from #1 Spec Hosp wef 1 Jan 45. B-111125 PTE. TADASHORE, A.

2. ATTACHED: (IN)

ATTACHED: (OUT)

Attra (except Duty) to #4 CITR and for Duty to HQ CRU Ann Dump wer 2 Jen 45. (Auth CRU 444/Unfits/1 (PTA) 408/HQ CRU/1 452/Young-husband, G.B./1 d/27 Ds. 44).
P-55381 SGT, YOUNGHUSBAND, G.B.

3. COURSES:

Proceeded on Regt'l Water Duties Cree and att fap to Army School of Hygiene, Keogh Bks., Mytchett, Mr. Aldershot wef 2 Jan 45.

B-94701 PPE, AREARM, J.,
H-10079 " COURTL, R.

Proceeded on PAD Crse and att fag to Surrey County Rescue School, Hillfield, Leatherhead, Surrey wer 31 Dec 44. D-10803 PTS. McINTOSH, E.McK.

NO. I CANADIAN ORDNANCE AND LECHANICAL ENGINEER REINFORCEMENT UNIT THIS ORDER #1 2

R.C.E.M.E. SECTION

"A" OFFICERS

1. STRENGTH INCREASE: AMENDMENTS:

Part II Order #312 (para 1, page 1) d/26 Dec 44 insofar as it refers to u/n is hereby cancelled.
LIEUT. Melcolm Horses NICKERSON 2. COURSES:

Proceeded on Advanced War Equip Cree and att Tap to Mil Coll of Science, Stoke-on-Trent wer 2 Jan 45.

MLJOR Edgar Wilkinsbn COLEMAN AMENINENTS:

Part II Order #315 (para 1, page 5), 4/29 Dec 44 insofar as it refers to 4/2 Malcolm Horace MICKERSON 3. LEAVE OF ABSENCE:

Granted 14 days P.L. with money allow in lieu of rations from 1 Jan 45 to 14 Jan 45 (incl).

GAPT. John Edwin DELN 4. MEXT OF KIN:

Change of address N-of-Kin to Mrs. Agnes Elizabeth Ross (Vife) 1896 West 5th Ave., Vancouver, B.C., Canada.

"B" OTHER RAIKS

1. STRENOTH INCRE.SE:

Tos from YS List on disc from #1 Neuro Hosp wef 16 Dec 44.

GFN. CHAR.SSOL, B.A. (Fitter AFV "B")

Tos from Y3 List on disc from Roman Way Conv Hosp wef 19 Dec 44.

Tos from Y3 List on disc from F. Conv Depot wer 22 Dec 44. MENDMENTS:

Fart II Order #318 (pera 2, page 7) d/27 Dec 44 insorer as it refers to u/n name is hereby amended to read "FORMBY, J.H.".

Part II Order #313 (pare 2, page 9) d/27 Dec 44 insort refers to u/n regt; 1 number is hereby amended to read up.

H-99275 OFN. MERRIM.N., Fait.

Part II Order #309 (para 1, page 4) to u/n rank is hereby amended to M-11060 OFN. PIPER.

NO. I CANADIAN ORDNANCE AND MECHANICAL ENGINEER REINFORGEMENT UNIT

R.C.E.M.E. BECTION

"L" OFFICERS

1. STRENGTH INCREASE: AMENIMENTS:

Part II Order #312 (pare 1, page 1) d/26 Dec 44 insofar as it refers to u/n is hereby cancelled. .
LIEUT. Malcolm Horace NIOKERSON

2. COURSES:

Proceeded on Advanced War Equip Cree and att fap to Mil Coll of Science, Stoke-on-Trent wef 2 Jan 45.
MLJOR Edgar Milkinson COLEMN

AMENIMENTS:

Part II Order #315 (para 1, page 5). 4/29 Dec 44 insofar as it refers to u/n is hereby cancelled.

LIEUT. Malcolm Horace NICKERSON

3. LEAVE OF ABSENCE:

Granted 14 days P.L. with money alice in lieu of rations from 1 Jan 45 to 14 Jan 45 (incl).

CAPT. John Edwin DELN

4. MEXT OF KIN:

Change of address N-of-Kin to Mrs. Agnes Elizabeth Ross (Wife) 1896 West 5th Ave., Vancouver, B.C., Canada. LIEUT. Robert Aitken ROSS

"B" OTHER RAIKS

1. STRENGTH INCRE.SE:

TOS from Y3 List on disc from #1 Neuro Hosp wef 16 Dec 44. F-87662 OFN. CHAB.SSOL, B.A. (Fitter AFV "B")

TOS from Yo List on disc from Roman Way Conv Hosp wef 19 Dec 44. B-8446 PTE. ESCH, G.J.

TOS from Y3 List on disc from 7. Conv Depot wef 22 Dec 44, C-94177 SGT. RO HERTS, T.A.

AMENDMENTS:

Part II Order #518 (pare 2, page 7) d/27 Dec 44 insofer as it refers to u/n name is hereby amended to read "FORMBY, J.H.". C-94275 SOT. FORMBY, G.H.

Part II Order #313 (para 2, page 9) d/27 Dec 44 insofer as it refers to u/n regt'l number is hereby amended to read "H-99273".

H-99275 CFN. MERRIM.N., F.A.

Part II Order #309 (pars 1, page 4) d/21 Dec 44 insofar as it refers to u/n rack is hereby amended to read "CPL.".

M.2 ACO OFN. PIFER, L.W.

"B" OTHER RANTHEER RETNORGE TOT UNIT

OCHENOTH INCREASE: MICHIMENTS: (CONT. D)

part II Order #313 (para 2, page 10) d/27 Dec 44 to m/n name is hereby amended to read "ROBLDOUX, L. BB.it refers D-188313 GFW. ROBIDSAUX, L.

part II Order #313 (pare 2, page 11) d/27 Dec 44 insofar as 10 __fers to u/n regt'l number is hereby smended to read "B-84536".

B-64536 OFN, W.RDELL, D.H.

2. .TT..CHED: (IN)

C/att to 1 Base M/S on adm to #22 Gen Hosp wef 26 Dec 44. (Entract DO #175 d/28 Dec 44).
B-53668 OFN. COSTEN, ...J.

ATTACHED: (QUT)

Att fap to HQ CRU wer 2 Jan 45. (Auth GRU 408/HQ CRU/1 (PTA) 452/ Noel, J.C./1 4/27 Dec 44). D-132466 PTZ. NOEL, J.C.

3. COURSES:

Proceeded on P.D Cree and att fap to Surrey County Rescue School, Hillfield, Leatherhead, Surrey Wef 31 Dec 34.
D-114748 A/CPL. LUSSIER, L.Z.J.

Proceeded on Regt'l Senitary Duties Cree and att fap to Army School of Hygiene, Keogh Eks., Mytchett, Mr. Aldershot wer 2 Jan 45.

F-36071 CFN. MacKENZIE, G.L.

Proceeded on Plt Weapons Orse and att fap to Small .. rms School, Hythe Wing, Salisbury, Wilts wef 2 Jan 45.
F-96502 MCPL. MacKINNON, C.A.

4. COMMUNIDE

Proceeded on Command to Derby wef 1100 hrs 14 Dec 44. Returned from On Command -wef 2030 hrs 16 Dec 44. (Extract 1 COOD DO #181 d/27 Dec 44).

5. HOSPITAL:

.dm to #1 CMC wef 31 Dec 44. E-19042 CFN. TISDLE, A.W.

6. LEAVE OF ABSENCE:

Granted 7 days P.L. and 48 hrs leave with money alice in lieu of rations from 2 Jan 45 to 11 Jan 45. (Total entitlement-9 days).

B-134643 PTE. CLARK, E.L.K. B-184786 CFN. DAVIDSON, R.F.

L-9922 CFN. SCARFF, W.G. M-40989 POILE, H.

7. ABSENT WE SHOUT TEAVE:

ANL from time and dates shown. Still absent at 2359 hrs 31 Dec 44. B-55040 CFN. BLRBER, R.B. 1500 hrs 4 Dec 44 B-53268 PTS. D.VIES, R.A. 1400 hrs 16 Dec 44 B-55873 CFN. HILLEWELL, D.R. 1200 hrs 26 Dec 44

"B" OTHER BANKS

PRINCE WINDER (CONT. D)

Part II Order #318 (para 2, page 10) d/27 Dec 44 insofar as it refe to µ/n name is hereby amended to read "ROSIDOUX, L.".

Part II Order #313 (para 2, page 11) d/27 Dec 44 imeefar as it refe to u/n regt: 1 number is mareby spended to read "B-84536". B-84538 CEN. WIRDELL, D.H.

(111)

C/att to I Base N/S on adm to ##2 Gan Hosp wef 26 Dec 44. (Third Do #175 4/28 Dec 44). COSTEN, 18-1.

Att fsp to HQ CEU Wei 2 Jan 45. (Auth CMU 408/HQ CEU/1 (FT.) 458/Noe1, J.C./1 d/E7 Dec 44).
D-138456. PT3. NOEL, J...

Proceeded on P.D Gree and abt hip to Surrey Gounty Resous School, Hillfield, Leatherhead, Surrey was 31 Dec 34.
D-114748. L/CPL. IUSSIES, L.Z.J.

Proceeded on Regt: Senitary Duties Cree and att Isp to Army of Hygiene, Kuch Bas., Mytchett, Mr. Aldershot wel 2 Jan 45. F-56071 CYN. MacKINZIE, G.L.

Proceeded on Pit Jeanons Crae and att fap to Small ..ms School Eythe Wing, Salisbury, Wilts wer 2 Jan 45.
P-96502 1/OPL. MacKINJON, C.A.

COMMITTED:

Proceeded On Command to Derby War 1100 hrs 14 Dec 44. I on Command wat 2030 hrs 16 Dec 44. (Extract 1 COOD Do 64). C-70427 L/CPL. CHESCLIN, V.W. Returned from 0 #181 4/27 Dec

HOSPITAL:

Line to #1 OMC wef 31 Dec 44. K-19042 OFN. WISDLIE, A.T.

IZAVE OF ABSE

Granted 7 days P.L. and 48 hrs laave with money alice in lieu of tions from 2 Jan 45 to 11 Jan 45 (Total entitlement-9 days).

B-134645 PIE GLEE, E.L.E. B-124766 CEW. DAVIDSON, R.F. L-9925 CEW. SCLEFF, W.G. M-40969 " POILE, H.

BSENT WINDOW IEAVE:

B-55040 G B-53268 F B-55873 G ne and dates shown. Sti Still absent at 2559 hrs 31 Dec 1500 hrs 4 Dec 44 1400 hrs 16 Dec 44 1200 hrs 26 Dec 44 TO . I CANADIAN ORDNANCE AND MECHANICAL ENGINEER REINFORCEMENT UNIT

"B" OTHER RANKS

ABSENT VITEOUT LEATT: (SONT D)

L-41598 F-39773 B-7147 OFN, LIMENKO, F.G. 2350 hrs 24 Dec 44 FIE, WHYMOT, E.W. 2330 hrs 21 Dec 44 GFN, YOUNG, W.B. 2230 hrs 5 Dec 44.

Returned from ANT. Wet 1780 hrs 1 Jan 45. F-39778 PTE, VHYNOT, B.W.

8, TRADESMEN'S RATES OF PAY:

Ceasos T.P. as Armourer "B" on being TOS wef 21 Dec 44.

Awarded the Clasp to the CVEN wef 13 Dec 44. (..uth RO #4187).

Awarded the CVSK and Clasp wef 25 Nov 44. (Auth RO #4167). CFN. SCOTT, H.S.

10. STRENGTH DECREASE:

SOS to YJ List on adm to #1 Neuro Hosp wef 30 Dec 44. C-94178 CPL. BO ERS, J.G. (Shoemaker "B") (Quota) D-81809 PTE. DOWNEY, J....

SOS to Y3 List on adm to #22 Gen Hosp wer 26 Dec 44. B-63668 OFW. CCSTEN, A.J. (**mourer "B") (Quota)

SOS to Y3 List on adm to #22 Gen Hosp wef 28 Dec 44. D-117386 OFN. CRETEAU, J. (Welder "B") (AG 5465)

SOS to Y3 List on adm to #22 Gen Hosp wer 29 Dec 44. F-21292 SGT, KEDDY, R.A. (A.A. (Fitter)".") (AG 5465)

SOS to W3 List on adm to #22 Gen Hosp wef 26 Dec 44. L-9211 S/SGT, ROYS, W.R. (Blacksmith "B") (AG 5465)

AMSM/EBCH

Thursday for (HAMBING M. RATLEY) COL/, C.O. NO. I C.O.M.E.R.C. CDM. ..RMY O/S. O.B.E., V.D. LIBUT.

No.1 C.O.M.E.R.U.

DATE 23 Jam. 4.5...

SIR:

Number B: 77.56.3. Rank. Ata..... Name R.Y.E.R.S.E.:... H.E...

The above mentioned has been admitted to the UNIT GUARD ROOM REPORTED AT 0.110. HRS DATE 22 Jam. 4.5.. CHARGED WITH A.W.L.

FOR YOUR INFORMATION AND ACTION, PLEASE, ... B.M.C.

DOCUMENTARY EVIDENCE NO in Charge No. 4.12618, Rank Opt... ното. Смарин. В. Г... oc ADM: W Coy Sir. NoB:77.5.6.3. Rank. Homo R.Y.E.R.S.E. ... H: F. Reported to me at Q.I.. 10 hrs22 Jun date Remorks: Jober and Croperty Dressed NCO in Chargo, R.P. Witness Sir, I have read over and corroborate the above statement HO 1 COMERU. Signod a. E. Standen ADMUTANT

winesternam

Exhibit "A" - Certified true copy

STATEMENT AS TO CHARACTER AND PARTICULARS OF SERVICE OF ACCUSED

	top Rask			
	The second secon	Namo	Unit	
Pri			586A	
1.		nder Section /2 of th	entries in the Regimental Condu by a Court-Martial or a Civil Army Act and of cases in whice	
	Within lust 12 month	s Since	enlistment or appointment	
	For. A4. 15.(1)		5. [1.1	10.8
	For. A4.15.(2)		5.(&)	ion -
	For, A4.35			10.8
	For, A4, A0,		2	ing
	Number of instances of gall	entry or distinguishe	d conduct / NIL	
	Thorax enox an xontextus thoratox			
	Note If the charge is for separately.	drunkenness, the ent	ries for drunkenness must be st	ated
2,	The accused has not been pro	oviously convicted		
	Previous convictions of the sparie under Scution of all any set out in the soledule	ARREADED by to rearriest the Arrest Arte and other Arrest to this artest	erticles o rivil court, of suc continue with trial under asks country	BANK Y
3.	The accused is not under ser	stonce at the present		al
		The second second	OD,	
4.	total of fer days	in custody, of which	al on the present charges, for, days in military custody, mak days were spent in	ing a
5,	The prosent as of the accus	secording to his	structation poor is . 8. Genil	1.9.34
6.	The date of his connicate a	specified in his more	rd of service is 4 . Nov 1946	i
7,	The service which the accuse	d is allowed to rock	on towards dischargo is	
8,	The accused is entitled to r determining his pension, etc	4 nos 1911	service for the purpose of	
9,	Th accused is in possession of reard. V	of or estitled to no or estitled to) Stat	military decoration, or military any military decoration or	ary
LO.	(If the secused is a warrant officer last hold the regime	0001 1 m	d before he was made a warrant	
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			762	

renk of.,	.T.W.A/	deted	A 4	no (or unit) the
12. The accused h to the presen	t dato:	n-commissioned off	for continously	, without roduct
		ANA. Kayo	Date of prac	mation
In the rank o	£	Moyours.		
In the renk o	s	years.		
	c			
Note If any	matter in any or	a bove paragrap	hs cannot be st	ated from the
	SCHEDI	man be beidek bill	ough,	
Note A verb	Tours of the state of the	hi or civil court,	Namo	NA TEN OF
Note A veri and dispensati	etim extract from	the regimental book	Namo	NA TEN OF
Note A veri and dispensati	patim extract from one with triel mu Bate and place of trial	the regimental bookst be inserted.	Name	Unit.
Note A veri and dispensati	estim extract from one with trial mu	the regimental bookst be inserted.	Name	Unit.
Note A veri and dispensati	patim extract from one with triel mu Bate and place of trial	the regimental bookst be inserted. Charge upon which sonvicted	S ntence of the court	Punishment Remitted
Note A veri and dispensati	patim extract from one with triel mu Bate and place of trial	the regimental bookst be inserted. Charge upon which sonvicted	S ntence of the court	Punishment Remitted
Note A veri and dispensati	patim extract from one with triel mu Bate and place of trial	the regimental bookst be inserted. Charge upon which sonvicted	S ntence of the court	Punishment Remitted
Note, A veri and dispensati	patim extract from one with triel mu Bate and place of trial	the regimental bookst be inserted. Charge upon which sonvicted	S ntence of the court	Punishment Remitted

I hereby cortify that the is a true extract from the

I hereby request that the Convening Officer appoint an Officer to represent me at my forthcoming Court Martial.

Bordon, Hants. 22 Jan 45.

... H. P. Rylise (accused) (B-77563 Private Ryerse, H.E.)

I hereby acknowledge that I have received a true copy of the I hereby acknowledge that I have received a pick significant to my Court Martial and I further acknowledge receipt of a copy of the Charge Sheet under which I am being brought to Court Martial.

Bordon, Hants, 22 Jan 45

(B-77563 Private Ryerse, H.E.)

77563 Na	ame RY	irse	, H.E	* or C	Hattery,	Corps R . C	rowards so / a		Signatur	re OC	Service of Proficiency	Characte	MFM 6 (AFF) 122) 40/150/150 (3488)	
ate of last en								Names of Witnesses	Funishment awar	rded of or	g with trial	By whom awarded	Remarks	
Place			Shee	t- on	completion	n of six mor	nths serv	ice, 4.5.43 CSM Watkins	. Old she	et des	troyed -6-43	13.6.44 Maj J.S. Gzowski	3 days FRI 149	pa;
Liera	18=6 1943	Pte	1	2) AW	L from 17 21-6-43 (30 hrs 18-6 2 days, 12	hrs,30min	ns) Documentary	y 14 days	С.В.		Maj J.S. Gzowski	. 36 dys	pe
Field Field	2-7- 1943 6-10 1943	Pte		(Defs	(1) AWL fr	om 0600hrs	6.10.45 lays,14hrs	8)	28 days 28 days FRI 149 (48 hrs No	Pay (b)		Capt W.M.	1 KI 1 + 7	(1
Field	18=13	1 Pte	3	whil ing	st undergo	oing detent: after bein	ion talk- g duly	Opl Perry	punishmen Diet 5 days C.	t	8-1-44	MacAndre Maj J.C. Irvine	W	
374 = 3 4	28-1	- Pt	e	Fail	ing to ap	pear at a P	00 (0800							(0)
	194	ne RYI	stab,	H.E.	ing to ap de appoin parade 29 Sqn, Battery, or Company and date et drunk	ted by his	os R.C.C.	.C. Date entist		2 GC . Badges Signature OC Company, etc	Prot		MFI (AFG (AFG))	4 6
NoB=77	194 563Nam of last entry	ne RYI	erse,	H.E.	ing to ap de appoin parade 29 Sqn. Battery, or Company and date	pear at a P ted by his -1-44) Corp	os R.C.C.	.C. Date enlist	No 2	E Badges Signature OC	Prof	officiency Pay	MFI APE 40PAS(1)	9 6
NoB=77	194 563 Nam of last entry any Conduc	ne RYI	Rank	H.E. No of la Cases of la Case	ing to ap de appoin parada 29 Sqn, Battery, or Company and date et drunk	Corperate a Period not refreedom from OFFENCE WOAS - Corperate a	pe R.C.O. electring towards a extra fine nduct to the er and an that he is bed at	Names of Wilne	No 2 Punishna 7 days	Z Badges Signature OC Company, etc ent awarded	Prof	ed or By whom a)	MFR APG (APG APG APG APG APG APG APG APG APG APG	4 6 122) 10 (343
NoB=77 Date o Compa	194 56 5 Nam of last entry any Conduc	ne RYII y in ct Sheet Oct	Rank	H.E. No r of le Cases of le Ca	ing to ap de appoin parade 29 Sqn, Battery, or Company and date et drunk	Corperate A P ted by his -1-44) Corperate A P ted by his -1-44) Corperate A P ted by his -1-44 Corperate A P ted by his -1-	nauet to ter and n that he is bed at 1944. Will from 2) hrs 6 Nov	Names of Wilse the Sgt Lockhart,	No 2 Punishman 7 days	E Badges Signature OC Company, etc ent awarded C.B.	Date of awar of order day with a 25 Oct	ed or Dy whom as 44 Capt 1	MFF (AFG and AFG and A	9 6 122) of (3a)
NoB=777 Date o Compa Plac	194 563Nam of last entry any Conduc 24 15 1 5 1	ne RYII y in ct Sheet Oute of offence Oct 944	Rank Pte	H.E. No of la Cassey of drunker-ness	ing to ap de appoin parada 29 Sqn, Battery, or Company and date et drunk ec. 40 A.A. rejudice (ilitary d: id fail teveille 2: AA Sec 15 hrs 5 Nov 44. (Total Chge 1) A Sec 9 W. Co FAP whee Chge 2)	Corperate A President A President Reference Period not refreedom from OFFENCE WOAS - Corperate Period Resignation in the Cotober President A President	nduct to ter and n that he is bed at 1944. WL from 2; hrs 6 Now hrs 11 mi	Date ential Sheet I Sheet I Names of Winse the Lockhart, Joekhart, Joekhart Lockhart Lockhart Lockhart Lockhar	No 2 Punishno 7 days	E Badges) Signature OC Company, etc ent avaried C.B.	Date of every of order disputing with in 25 Oct 6 Nov Pay	of or By whom as the chart of the Richard of the Ri	haracter haracter wanted Rec H.W. rdson	M 6 122)

		see of OFFERCE	Names of Witnesses	Punishment awarded	Date of award or of order disper- sing with trial	By whom awarded	Bemarks
Plane		DERF	Set Griffit	h 7 days C.B.	1002-44	Maj J.C.	
Field	9-2- Pte	(1) AA 15 (1) AWL from 0745 hrs 9-2-44 to 1600 hrs 9-2-44 (8 hrs	Cpl			Irvine	•
	1944	10 mins) (2) An act to the prejuct		2 days F.F.	18-5-44	Lt Col W.J.	
Field	17-5- Pte	to 2330 hrs 17-5-44 (30 minutes)	Hutchinson	2 days pay FRI 149 (1) (b)	Pingham	
		A.A. Sec 9(2) WOAS Failed to ap	p= Cpl	7 days Fd Pun		F.M.Hearn Lt-Col.	
Field	6 Sep Pte	a when ardered to ac	LOUDING.	7 days Forf 1	ay	26-001	
	1944	so hysnis superior office	Turner	14 days C.B.	19=9=44	P.M. Hears	2 days Auto
Field	16 Sep Pte	A.A. Sec 15 (1) WOAS AWL from	Documentary rs Gpl	19 4.470			Forf Pay FRI
	1.944	10 Dep 44. Line Lucian	Pearce				
		18 hrs 20 mins.					

Place.	Date of offence	Bank	Cases of drunken-	OFFESCE	Names of Witnesses	Punishment awarded	ilate of award of of order dispete- aing with trial	By whom awarded	Hematks	
			\$1000							
				Muneu	two lest	OF REGIMENT	AL BOOKS			
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	6	-	9						,	
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		N								

SPR RYERSE RE

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SCHEDULE.

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

Charge.	Plea.	Finding.		
(Insert " oiternative " opplicable.)		(See note below.)	(Space for use as re-	quired for further charges, accused charged joint special findings, etc.)
a aa se	c 156) Gully	guilly.		
nd		4		
rd				
th				
th				
ith				
		ces one AA 56, RP 44	findings on alternative	charges see MML p 483 fn 4 para Z, RP 44 ;
	To see he as one mine b 23.	as some in these of Art. See	ne at lu nil	
Meanment and	Newsporter filt	production of the state of the		oglaning on (date)
(I. Insert	sentence being served, or dele	ete, if not applicable.	see KF 40(A). Information	on should be found on AUF B355 or AUF B296.) nich days were spent in hospita
lame in confinen	nent awaiting present RP 46(A) fn 2. Information sh	trial—a total of	days, of wh	nich days were spent in hospits
Sentence Awarde		and the found on the p	are at the serie squalities	a mandalise winder say
6.	endergo 46	days d	antia	
00 0	- Louge	200		
				- 1112 0
		2	-1	11.11
(Sad)		~	diene 44	(Sad) N 9 (Camer
(Sgd) Judge	Advocate, if any.	Date	awarded.	(Sgd) President. (RP 45, 50.)
Judge PART I	(See bock of C		awarded. ssembly and disposal of	
Judge PART I	(See book of C		NATION RESER	record after trial.) VED. (AA 54(5), RP 120(F), MML p 760.)
	(See bock of C			record after trial.) VED. (AA 54(5), RP 120(F), MML p 760.)
Judge PART 1	(See book of C	ERE CONFIRM	Command	record after trial.) VED. (AA 54(5), RP 120(F), MML p 760.)
PART I	(See back of C I. MINUTE WH (Sgd) H. DECISION O	ERE CONFIRM	Command	VED. (AA 54(5), RP 120(F), MAIL p 760.) ling HINDING(S) AND SENTENCE.
PART I	(See back of C I. MINUTE WH (Sgd) H. DECISION O	ERE CONFIRM	Command	VED. (AA 54(5), RP 120(F), MAIL p 760.) ling HINDING(S) AND SENTENCE.
PART I	(See back of C I. MINUTE WH (Sgd) H. DECISION O	ERE CONFIRM	Command	record after trial.) VED. (AA 54(5), RP 120(F), MML p 760.)
PART I Date PART ! (For duties confirmation not confirm promulgate \$7A, RF \$3.2	(See back of C I. MINUTE WH (Sgd) H. DECISION O	PECONFIRMIN PF 27 (D) fn 6.46(A), 5 34(3), Sending back on: AA 157, MAL p 6 ausbing date promulige must sign hera persona	Command IG OFFR ON F Joseph Joseph John John John John John John John Joh	VED. (AA 54(5), RP 120(F), MAIL p 760.) ling HINDING(S) AND SENTENCE.
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FIELD GENERAL COURT-MARTIAL

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RECORI	D FORM A-OP	ENING PROC	EEDINGS	AND ARE	AIGNME	INT.	FO
A1. The Presi Court is closed.	ident, Members, waitin	ng Member, M.	Lany, and Of	fre under instr	5	semble, and	the
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Will be made or CF ARS, for oat provisions for a	A. The Schedule referred to hen a variation in this form in given a number having raf the end instra on how to reconducting the trial see AA.5.	ference to appropriate a and addresses, evidence 3. RF 56, 63-70, 73, 74	r preceding para a etc. which instra 94, 103, 119, 132	are hereofter colle	back of Conver of "Notes". As	to general	
	dent initials and lays bed that it is properly a		Convening Or				to.(1)
each charge discloss	es an offence.(3)						
	use of Summary of Evidence	-				teis! commune	most.
A4. The Prox	t is opened. The accu- ecutor produces a Med	lical Certificate the	it accuraced in (fit to unde	ren trial hy	court-mart	ial (1)
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	vening Order and nan		st and Mombe	es of the Court	are read to	o the accus	unif (II)
President to a	ccused: Do you object	et to be tried by u	ne as Presiden	t or by any of	the Member	rs of the Ca	ourt I
Ans 70.							
(I. RF 110.	2. If no objection, well			-			
A7. The Pres	sident, Members, Jakonits of the offrs compr	rising the Court, et		and, are swor		following as	te the
President		CLEN	NETT 19				
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Defending Offr							
Questions by Presi	ident : Is the Prosecu	tor a lawyer 1 Ar	is Is t	he Defending C	offer a lawyer	Ans A	9 . (1)
(2. If Pros a li	109, 111. List of offers a conver and Def Offer not. occurred	cused is entitled to on	of ournment when	RP 89 (8) and fr	2 ware not fo	Howed. See D	(03)
A8. The age	sed 27 45 15	· du	yeur of	Sefore array	gnment mak	ce(s) (moints	
U. Wa	special plea is made for sep	urste trial on one or mu	ore sharges (RF 6)	2(E), 108), or es to	the jurisdiction	of the Court	
(RP 34, 35)/ by one of seve	special plea is made for sep b), 133), or in bor of tr not occused charged jointly to	ial (RF 36), (; as to a be tried separately (RI	16, 71), such ples	al fitness to ston a, the addresses ma	a trial (AA I 3) ide in support or	0, RP 57), or against, the	
evidence, if a and name of i	rel occused charged jaintly to my, and finding are recorded the occused many the plea- most is large arrangement	d per Nuces. For forms	of record see ref	erences in fax to R	of cited. Itseer	t in AS runk	-
			ill charges in				
not object to any	charge (*) There is no	tra movement for the	- COMMENT AND THE	Charge Sheet	7) The Free	sment recor	us the

not object to any charge (*) Line by the appearance of the charge Sheet (*) The President reco-pleas in Part I of the Schedule.

(I. RP 31, 1/2. See para I of Instra p 2. When more than one Charge Sheet see RF 62; when several accused to be tried separately see RP 71(C), and was selected upon a CP RFs to record proceedings.

2. RP 32, RP 33. R 30. Receives, delete and make appropriate record per Notes.)

Alo. The Court (is closed and) considers the Instrs on Procedure after Arraignment at top of p 2. The pro-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 1. The accused may not plead or or joind voting on more tour one of two or more charges into it less discensives.

 (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 outby from Convening Offr. If Convening Offr concurs, Court may accept plea of Guilly to lesser, etc. offence. (RP 44(H).) Accused may change a plea of Not Guilly to Guilly 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.
 - 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 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).
- esponsibility 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(U), 87(U), 91, 92; swearing and withdraval of witnesses from Court see RP 81, 82; questioning of accused see RP 80, 87(C), 92(B), and of witnesses see RP 85,85; calling or re-calling of witnesses by Court, etc., see RP 75-70, 80, 116; use 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.

- 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), call witnesses as to character and make an address in mitigation of punishment.(2) (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 piea of Guilty(?), or which show provocation or extenuation in respect of which in your interest the witnesses for the Prosecution should be examined(s), 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 (4)

President to accused: Do you wish to make a statement ! Ans... (I. RP 37(b), 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. Stotement, If any, recorded per Notes.)

- B4. On the charge to which the pleater of Guilty is (and not changed the President records finding of Guilty in Part I of the Schedule.(1)
 (1. RP 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 A, initialled and read aloud by the President.(1)

 (I. If there is no Summary, or if it is insdequete, comply with RP 37(B). If there is any evidence inconsistent with any plea standing as Goilly, Court will advise accused to thonge such pice and, if changed to Not Guilty, try such charge(s) by use of parts D1 to D8 inclusives of Recard Fear D on p 3. RP 37(D).)
- B6. The accused having been found Guilty on one or more of the charges, the proceedings are concluded by

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 D1 to D8 inclusive of Record Form D on $\sqrt{3}$ before proceeding with C 2 (3) (I. RP 37(A) (E).)
- C2. The charges on which accused pleased GUILTY are read to him (them) again, and the trial is continued by using paras B1 to B5 of Record Form B above?

 (i. Under 85 such parts only of the Summers of Evidence: feeds a relate to the charges dealt with under C2. If any pice is charged to Not Guilty, trial thereon proceeds by complying with particle to D8 inclusive in Record Form D on p. 3 and making an opprepriete record thereof on a separate sheet.
- (3). The accused having been found Guilty on one or more of the charges, the expecedings are concluded by using Record Form E on p 3.

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

Pul here Loose Sheets of Booms.

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

- ng to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on und that you have not had sufficient opportunity to prepare your defence? Ans.

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

 - No Prosecutor makes (an) (no) opening address,(1) (1. RP 39(8), 60(A) (8), 90, 92(C) (D). Record address per Notes, subject to RF 95(C).)
- The exidence for the Prosecution is taken.(1)
 (1. RP 20(C), 114, KR Can 555. Record evidence per Notes. As to Prosecutor giving evidence himself see RP 39(D) (E).)
- D4. The Prosection is closed.(1) The Defending Offr submits that the evidence for the Prosecution does not establish a prima facie ise against the accused on the charge(s).(2) The Court is closed, and considers the ubmission.(3) The Court is re-opened, and the President announces that the submission
- is disallowed on the charge(s), and that, according
- the latter charge(n).(4)
 (1. Delete remainder of this per Notes. 3. RP 40 fn). See on all charges, was second alternative.
 NB: If trial proceeds, accused. omission not made. 2. Arguments an submission, answer and reply are recorded 2 paras 12-14 and p 81 para 42. 4. Delete part not used. If occused acquitted 85.
 - wed great latitude in making his defence, and the Court should not stop his defence solely on ground of irrelevance. (RP 60(C),
- 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 You may, however, make a statement without I both, in which case you will be subject to cross-examination.(2)

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

- D6. Consequent on the answers recorded in para D5 the appropriate procedure for the defence is followed. (1) (1. 88 1)4, 115, 116. For procedure see Notes on back of Convening Order, CF N35. Evidence for accused as to his character should, if in his in-arest, be given before the finding. See RP 46(A) fo. 1, 86(C). Note the further apportunity in para E1 of Record form E. Record per Notes addressee, statement, evidence and one summing up by the A under RP 41, (1016).)
- 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 (1). The Court is re-opened. (1. RP 42, 117(A). See Notes in Fort 1 of Schedule. 2. RP 44(A).)
- D8. The President announces the finding(s), if any, of Not Guilty, and states to the accuse that the finding(s)
- of the Court on the

 Or, The President announces that the accused is found Not Guilty on all charges and is to be re
 and that the proceedings are accordingly terminated. Part I of the Schedule is dated and signed
 (I. A& 543, 16, 16, 18, 45, 120(A) 2. A& 543, 18, 74, 17. This alternative announcement is not applicable
 ore piece of Guilty outstanding and dealt with under Record form 8 or C.)
- D0. The accused having been found Guilty on one or more of the charges, the proceedings are concluded

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)
 - If evidence has already been given by accused or his witnesses as to his character, delete this para. RP 37(C) fn 4, 46 fn i Accused and witnesses are swarn. Evidence recorded per Notes.) E2 The Prosecutor produces Statement(s) as to Character and Particulars of Service(1), and certified true
- copy (sepies) of Conduct Sheet(s)(*), 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(l) (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. and Ex. respectively.(3)

 (1. MAPR 355 or APR 298. 2. MAPM 6. 3. RP 46, KR Can 558. If showe documents not produced, see RP 46 fm 1
- pare ()
- 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

 (1. 87 27(C, 48(D). 2. Address, if any, scored per Notes. Court should be remit addied on his bitnesse to prove on such anything here or previously stated which walld offect the amount of punishment. BF 37(f) fn 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) (I - AA S4(E), RP / 20(A),)

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

my Cleman whyn The accused, M-45155, Spr. Robert Edmard RYERSE, R.C.E., on strength 9 Bn, 2 Canadian Base Reinf-orcement Group, a soldier of the Canadian Army Overseas, is charged with:-WHEN ON ACTIVE SERVICE, ABSENTING HIMSELF WITH-OUT LEAVE in that he

in the Field, absented himself from 9 Bn, 2 C.B.R. Group, from 0700 hours, 28 May 44, until reporting in at 1055 hours, 28 May 44. Total time absent 3 hours, 55 minutes.

(H.W. Rick), Lt.-Col. Commanding, 9 Bn, 2 C.B.R.Gp.

In the Field 29 May 44

manie



FIELD GENERAL COURT-MARTIAL

(Whether the accused to be tried is under his camd or not, a FGCM may an application to him be convened by any offr of Cdn Army Overseas, or of any other farce if authorized in law in immediate camd of tradps on active service, subject to RP 103(C) and restrictions imposed by appropriate ouths. As 47, 30, RP 104-107, 114. As to the duties and privileges of the Convening Offr in dealing with the application see MML Chap Y paras 20 and 23, RP 87(E).

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 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 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, fns, KR Con 308, 328, 330.)

ACCUSED.

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

M=4.5155 Spr Report Re

CONVENING ORDER.

- 1. Whereas complaint has been made to me, the undersigned, that the person(s) named above as the actual being subject to military law, has since) committed the offence(s) set forth in the Charge Sheet(s) attached and on (date), 33. MAX. 44. endorsed by me, (or by an offence me), "To be tried by Field General Court-Martial".
- And whereas I am of opinion that it is not practicable that such offence(e) should be tried by an ordinary General Court-Martial; (and that it is not practicable to delay the trief for reference to a superior qualified offr.) (Delete part in brackets when not required for compliance with RP 105(C).)
- I hereby convene a Field General Court-Martial to try the said person(e), and to consist of the Offrs appointed
 or detailed hereunder.
- I am unable to appoint (a) three Offer to form the Court, (b) 4.7d Offe us President; for the reasons I have attached hereto.
 (AA 49, RF 106(b), 107(A). Delete the whole for form if not applicable.)
 - 5. I also appoint as Judge-Advocate thereat the Offe mentioned hereunder (IF 106(E). Delete, if now appointed.)

PRESIDENT. HO OT NIMETT (Must be named. RP 106.) IRank. MEMBERS. to be detailed by OC 9 CBR Rx (Rank.) (Named or detailed. RF 106.) (Unit.) WAITING MEMBER to be detailed by OC 9 CBR Bm (Named or detailed, if any. RP 106.) (Rank.) JUDGE-ADVOCATE (Must be named, if any. RF (06.) On Active Service in the Fd 200 margaria Brigadier (signed personally. RP 105 fn 2.) (Country.) (Rank.) (O Franceour) 31 MAY 44 Commanding Convening Officer

CONVENING OFFR WILL INITIAL ALL DELETIONS AND ALTERATIONS

4/38A CPAPS IID lieu of APAS 40 P & S LEDT 14931

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

(KR(Con) Para 557) (CMHQ CL 173)

RYERSE R.E. and in my opinion he in

fit to undergo triel by Court-Martial.

Station FIELD
Date, 2 June 14

Moderal Orridor (unit) Cor ac. 2 CONC

Proceedings in spelling ? The accused points out an even in his second name, The Court being said that the name of the accused to Poles Edward Ryers and not as stated in the charge sheet award the charge wheet according /4.

Procuding: Page 2 By the Defending of Address in metajatan of functions The account has for our three years been given externe training in specialists work in the RCE. It is his desire that who such fromed are so very the needed he will be given the first affecting with the unit the first offertunts to make are of his training with the unit is filled. I would also ask the court to take into consideration 5 days already effet well close arrest.

SUMMARY OF EVIDENCE

in the case of

M-45155, Spr. RYERSE, R.E., R.C.E., on strength 9 Bn, 2 Canadian Base Reinforcement Group, a soldier of the Canadian Army Overseas, is charged with:-

(1) When 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 for Prosecution

B-107548, Cpl. Hedden, R.A., 9 Bn, 2 C.B.R.Gp, having been duly sworn, states:-

"I am B-107548, Cpl. Hedden, R.A., and called reveille call at 0700 hrs,28 May 44, and Spr. Ryerse R.E., M-45155, failed to answer his name. As duty N.C.O. of R.C.E., attached to 43 Coy, 9 Bn, I looked in the lines and quarters and could not find Spr. Ryerse. I then handed in a report to the orderly room that Spr. Ryerse R.E. was absent."

The accused declines to cross-examine the witness.

B107548 Ept Hedden R. L

B-107548, Cpl. Hedden, R.A.

SECOND WITNESS for Prosecution M-65723, L/Cpl. Radcliffe, H.E., 9 Bn, 2 C.B.R.Gp, having been duly sworn, states:-

"I am M-65723, L/Cpl. Radcliffe, H.E., and was on duty at 1055 hrs on 28 May 44, when Spr. Ryerse, M-45155, reported to Guard Tent. I then placed Spr. Ryerse under close arrest. The accused was sober and properly dressed."

The accused declines to cross-examine the witness.

M-65723 L/Opl. Radeliffs H.E. M-65723, L/Opl. Radeliffe, H.E.

The accused was cautioned as follows:-

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

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

Se

The accused declines to call any witnesses for the defence.

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

D.W. Beaty It.

d

(D. W. Beaty), Lieut., Officer detailed to take the Summary of Evidence.

In the Field.

29 May 44

Erchild B ANNY FORM B. 206 (WAR).

Statement as to Character and Particulars of Service of Accused.

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

Number.	Rank.	Name.	Regiment (or as the	case may be	0).
	Spr	Robert Edward RYENE	R.C.E. (9 On	, 8 0.3,	(פַח.ה
NOTE.—The Field opduct Sheet is to be reduced in Court with its statement but is not	1. T	he following is a fair and true summa- cused, exclusive of convictions by a co	ry of the entries in the l	Field Conductor :	t Sheet
is statement but is not a be summed to the pro- edings. The numbers errinated abouit corres-	Of the acc	For A. W. L.		1	times.
erings the numbers organizated should corres- ond with the number of stress in the Field Con- uct Sheet, prominence		For Drunkenness -	- AA 19	1	times.
ing given to the most rious offence in wach try. If the charge is for unkenness or absence		For C.1.0.0. 11.11.	AA 40	-4	times.
unkenness or absence thout leave, the entries r drunkenness or absence,		For			times.
stated separately. Any	Date of	first entry in Field Conduct Sheet	Fan 48		
ellantry or distinguished onduct recorded on the seld Conduct Sheet should to be inserted here.	Date of	last entry in Field Conduct Sheet	1 Nar 44		
6	700 9-1	Previous convictions of the accused by chedule overleaf.	y a court martici or a d	ivi) court acc	set out
		The accused at the present time is und	er sentence for		•
Sirke out if not applicable.	SE T 1	ng on the	day of	nil	
	days in	The accused has been awaiting trial or a civil custody; and for days in open arrest, all days were spent in the present age of the accused is:	days in mi	in close an	rest; of
	6.	The date of his attestation	ry service is E Fun	40	
	7.	The service which the accused is allow	wed to reckon is	6, 11 5	
fitale the inditary decorations (if any)		The accused is in possession of:			
held by around.	. 9.	(If the accused is a warrant officer or A	(.C.O.). The accused in	a served cont	into usly
	A history	a reduction, to the present date-		Date of 1	
		In the substantive rank of			
		A lighthe war substantive rank o	-		
		In the acting rank of-			
		INSTRUCTION.—If any malter if from the regimen	n any of the above para dal books the paragraph	graphs canno must be strac	t be state it through
WARREN BANKSON	068 100,000 5	141 A.S.E.W.Ltd. Gp. 888 Formy D. 200/ War			

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

Sentence of the Court	CONVICTIONS BY A COURT-MARTIAL OF		SCHEDULE OF		
	Charges upon which convicted	Date and Place of Trial.	escription of Court by which tried.		
	Sentence of the Court	Charges upon which convicted.	Date and Place of Trial. Charges upon which convected.		

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

of my knowledge and belief.

V day of 1844 Signed this

						/A Sheet No 1	12-6-40 GC Badges Signature OC Company, etc	J.L. Mar	tin, Étameter
Com	pany Ce	entry in onduct Sheet		of la	at drunk freedom from easts nine	Names of Witnesses	Punishment awarded	Date of award or of order dispen- sing with trial	By whom awarded Remarks
	face	Date of offsnee	Blank			antod 21	7-41		
De be	ert	2-1-42		us si	meet destroyed 12-6-42. Last ent AWL 6 days 142 hrs from 2200 hr 2-1-42 to 1230 hrs 9-1-42.	What was	pay. A.A.Sec	9=1=42	LtCol W.P.Forf 7 days Bristowe pay
200					Found in a mil vehwhich was be-			19-3-42	Maj Wright
		15-3-4			ing driven without authority.	Documentary	7 days C.B.	3 Aug 43	LtCol. Kerry, AJ
Fie	1.d	24-7-4	3 Spr		drove WD wen at excessive rase	Documentary	7 days C.B.	29-11-43	
		22-11-			WOAS at 1000 hrs 22 Nov 43 was involved in an accident. AA 40. WOAS Conduct, etc, in that he	Documentary	7 days C.B.	10-1-44	Capt. Norten
Fie	e1.d	10-1-4	4		did not take proper care of his Paybook, allowing pages of it				(PTO)

Place	Date of offence	Kank	Cases of drunkens	OFFENCE				107/1		
Field	25 Mar	Spr	1	WOAS was drunk & incapable	Names of Witnesses	Funishmens awarded	Date-of award or of order dispension with trial	By whom awarded	Bemarks	
	44			A.A.19.		Admonished	27 Mar44	Maj E.H. Wright.		
				Certified true co	py taken fro	om Regimental	Books			•
				(c.	L. Nelson), 9 Bn, 2 C.	Captain & Adju B.R. Group.	itant,	4		
						· · · · · · · · · · · · · · · · · · ·				

Zay e

LIST OF WITNESSES

in the case of

M-45155, Spr. Robert Edward RYERSE.

FOR PROSECUTION

- (1) B-107548, Cpl. Hedden, R.A. 9 En, 2 C.B.R.Gp.
- (2) M=65723, L/Cpl. Radcliffe, H.E. 9 Bn, 2 C.B.R.Gp.

FOR DEFENCE

N 1 1

TRR RYCKMAN. M-A

		PART I.		DULE, ING(5) AN	D SENTENCE.
Accused :	A-87/7	1 The N	1. A. Rya	homa	~ 30 Risce Legt.
Accused ;	Chamber State of	1			. 0
(Charge.	Pica.	Finding.		
(Insert '' a	olternative" where pplicable.)	(See Instri p 2.)	(See note below.)	(Space for use o	os required for further charges, accused charged joints special findings, etc.)
lst A	H lee 40	Met guly	July		
2nd			Transmission of the second		
3rd					
4th					
5th					
6th					
	(Note : As to fi	ndings for lesser offer	ces see AA 56, RP 44 .	findings on aftern	nstive charges see MML p 483 fn 4 para 2, RP 44 ;
177					
At prese	art under senter	ice for	as if an applicable	4- 80 44/3\ Infor	heginning on (date) rmation should be found on MF 8355 or AF 8296.)
Time in	confinement a	waiting present	trial-a total of	days, o	of which O days were spent in hospita
	(1. See RF 46(A) fn 2. Information sh	ould be found on MF B	355 or AF B296 ad	(mitted in evidence under EZ.)
Sentence	e Awarded by t	he Court : Zo	frefer		durary pay for a
	6	envel	of ten (10/ pla	ago, II a
	PART II.	MINUTE WH	ERE CONFIRM	IATION RES	SERVED. (AA 54(5), RP / 20(F), MAIL p 760.)
Date		(Sgd)		Comm	nanding
	PART III.	DECISION O	F CONFIRMIN	IG OFFR O	N FINDING(S) AND SENTENCE.
	(For duties and par confirmation and a not confirmed, accu- promulgation : RF 57A, RF 53A, 54	vers see AA 54, 57, R connot be revised: AA used may be triod aga \$3, MML p 65. Qu The Confirming Offr	P 37(D) fn 6,46(A), 5 5.54(3). Sending back in : AA 137, MML p e ashing after promulga must sign here persona	1-56, 120, MML pg finding or senten 4. Minute of cont tion: KR Can 57, lly. AA 172 fn 1.)	p 759-761, KR Can 567-577. Acquittals require no ce for revision by Court: AA 54(2), RP 120(G). If firmation or non-confirmation may be altered before 3. Duties and powers of reviewing offes: AA 57,
			sentence set forth		
	F	inding & S	entence Co	firmed.	
b.	direct that the	semisi be not	committed to pr	ison or deterri	tion barracks until farther orders (%
				(8gd)	Moud reenely.
	Date	3 Mar 44	Co	umanding	(LOUIS KEENE) Colonel "F" Gp, CRU
			1.01	umanung	Confirming Officer.
100179744	PART	V. PROMI	LGATED AND	EXTRACT	S TAKEN. (RP 53, KR Con 576, 577.)
	Accused.	PROPIC	Date.	art mesca	Signature of Offr
	K	+ V			Jawarnica 100
A871	11 apr	Mary	wan M.A.	May HH	Jan Maria Band 100
			"		O. C., Souls Reces. No.

ALL DELETIONS AND ALTERATIONS WILL BE INITIALLED

FIELD GENERAL COURT-MARTIAL

Convened by Order of Colonel Louis Keene Comd F Gp, CRU dated 28 Feb 44

ACCUSED.

(As to the trial of two or more charged jointly see RP 16, 71, 109. As to reusons for showing (a) permanent or confirmed rank, and (b) appmt, A/rank or A/appmt, if any, see AA 187, 183, fns, KR Con 308, 328, 330.)

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

A PROCEEDINGS REVIEWED Mahlon Archibald RYCKMAN 30 Recce Regt (Essex Regt) alloward apt

17 May 44 PROCEEDINGS OF TRIAL

Held in the Fd in (country)

RECORD FORM A-OPENING PROCEEDINGS AND ARRAIGNMENT.

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 BY PPES OR 1A. The Schedule referred to throughout is on p. 4. Citations do NOT include all relevant from ROs. For guidance an procedure when a variation in this form arises, see form for GCM in MML pp. 741 to 759. A brief record of such variation will be made and given a number having reference to appropriate or precading para number herein. See back of Convening Order, CF APS, for ooth and instruction from the Tocard addresses, evidence, etc., which instructs are hereafter called "Notes". As to general provisions for conducting the trial see AA 53. RP 56, 63-70, 73, 74, 94, 103, 119, 132.)

prevision for conducting the trial see As 33, 88 56, 63-76, 73, 74, 94, 193, 119, 132.)

(A2. The President initials and lays before the Court the Convening Order and Charge Sheet 5 attached thereto.(1)

The Court is satisfied that it is properly convened and constituted(2), accused is tere) amenable to military law, and each charge discloses an offence. (3)

A3. The Court is opened. The accused is (acc) brought before the Court. At \$79.9 hours trial commences.

A4. The Prosecutor produces a Medical Certificate that accused is (acc). A4. The Prosecutor produces a Medical Certificate that accused is (nse) 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 summarily by the CO.(2

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

President to accused: Do you object to as interpreter i Ane The biscounter is sworm(1) Do you object to Ite G. S. Paddaning as shorthand writer ! Ans Ma

(1. RP 72. Delete, if none 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?

Ans No (5)

2. If no objection, working member retires. RP 68(8). If objection, see procedure AA 51, RP 25, 71, 18, MML p 742.) (1. RF 110. 2. If no objection, weiting member retires. RF 88(8). If objection, see procedure AA 51, RF 25, 71, 18, MAML p 742.)

A7. The President, Members, JAn if any, and Office under instr, if any, are sworn.(1) The following are the (L. RF 110.

President J. T. Shoebroge 1 Ste Base Los RCOK Member G. H. Roberts 1 CBW. RCOS

Judge-Advocate

Member

Prosecutor

Defending Offr

a. H. C. Conderson

J. a. Granford

Questions by President : Is the Prosecutor a lawyer ! Ans No Is the Defending Offr a lawyer ! Ans No at

(). RP 26, 27, 109, 111. List of offirs under instr will be returned separately with proceedings for information of Conr Offi.)
(2. If Pres a lowyer and Def Offir not, accused is entitled to an adjournment when RP 89 (8) and in 2 were not followed. See DI p 2.)

A8. The accused

before arraignment make(s) (no) (no) plea

(1. If a special pipe is made for separate 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 bor of trial (RP 36), or as to accused's inential fitness to stand trial (AA 130, RP 57), or by one of sertical occused charged junity to be tried separately (RP 16, 71), such piles, the addresses made in copport or against, the evidence, if any, and finding are recorded per histes. For forms of record see references in firs to RsP cited. Insert in AB rank and name of the accused making the piles.)

467 A9. The accused is (errs) arraigned (separately) on all charges in the charge sheet.(1) The accused does (40) object to any charge.(2) There is no amendment to be made to the Charge Sheet.(3) The President records the not object to any charge.(2) The pleas in Part I of the Schedule.

(I. RP 31, II2. See para I of Instra p.1. When more than one Charge Sheet sea RP 62; when several occused to be tried separately see RP 71(C), and use separate capies of CF AP6 to record proceedings.

2. RP 32, RP 33. If otherwise, delete and make appropriate record per Notes.)

Aio. The Court is closed and considers the Instrs on Procedure after Arraignment at top of p 2. The prooccidings are continued on Record Form D * E

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 for any reason without authy from Concening 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 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 Short, 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 instructs as may be appropriate to = ult of its decision. See MML p 744 Instruct)
- 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 Vi) duty and privileges of accused and Defending Offe see RP 60(C), 87(C), 91, 92 , invaring and withdrawal of witness. from Court see RP 81, 82 , questioning of accused see RP 80, 87(C), 92(R), and of witnesses see RP 83.85; calling or re-calling of witnesses by Court see we RP 75.79, 83 (18) got Summary of Evidence at Trial see RP 17(E) fn 6; and responsibility of JA or Pres to record proceedings see RP 93, 96, 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 meaof 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). call witnesses as to character and make an address in mitigation of punishment.(2)
(1. RP 35 fn 3. 2. MML p 54 para 47.) 90

B2. President to accused: The Court will now receive any statement you desire to make in reference to the If it appears from your statement that there are circumstances which indicate that you do not understand the effect of the plea of Guilty(2), or which show provocation or extenuation in respect of which in your interest the witnesses for the Prosecution should be examined(2), 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 ! Ans. (I, RP 37(B), 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 Farm 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 change(s) his (their) plea(s) on _______ charge(s). Part I of the Schedule is amended accordingly. (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 Guilly is (are) not changed the President records finding(s) of Guilty in Part I of the Schedule.(1) (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 Prosident (1) (1. If there is no Summary, or if it is inodequote, comply with RP 37(B). If there is any evidence inconsistent with any plea standing as Guilty, Court will advise accused to change such piec and, if changed to Not Guilty, try such charge(s) by use of parcs D1 to D8 inclusive of Record Form D on p 2. RP 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.

- 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 5 before proceeding with C 2.(1) (1. RP 374) (E).)
- C2. The sharges on which accused pleaded GUILTY are read to him (them) again, and the trial is continued by using pages BI 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 C2. If any piece is obtained to Not Guilty, trial thereon proceeds by complying with parts Di to D6 inclusive in Record Form D on p 3 and making an appropriate record thereof on a support sheet.)

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

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

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 I Ans NO:

(I. If 'yes', see RP 39(A) for precioure. Statement or evidence, if any, is recorded per Notes.)

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

(I. RP 39(B), 60(A) (B), 90, 52(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 Com 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 establish a prima facie case against the accused on the charge(s).(*) The Court is closed, and considers the submission (*) The Court is re-opened, and the President announces that the submission is disallowed on the ...eharge(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 the intter charge(s).(4)

(1. Delete remainder of this para. If submission not made. 2. Arguments an submission, answer and reply are recorded per Notes. 3. RP 40 fn 1. See MAML p 72 paras 12-14 and p 81 para 42. 4. Delete part not used. If accused acquitted on all charges, use second alternative in para D&. MB: If trial proceeds, accused must be allowed great latitude in making his defence, and the Court should not stop his defence solely an ground of 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 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. (*)

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

D. neichen JR.S 2. S. Are they witnesses as to character only ! Ans. (I. RPI 3 2. RP 40(A), see 80(D). 3. RP 40 fn i J. 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 114, 115, 116. For procedure see Notes on back of Convening Order, CF A85. Evidence for accused as to his character should, if in his interest, be given before the finding. See RP 46(A) fo 1, 86(C). Note the further opportunity in para E1 of Record Form E. Record per Notes addresses, totement, evidence and any summing up by the jk under RP 42, 103(e).

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

The Court on the charge(), being subject to confirmation, will be promulgated later. (2)

Or. The President announces that the accused is found Not Guilty or all charges and is to be released forthwith,
and that the proceedings are accordingly terminated. Part 1 of the Schedule is dated and signed (2)

(1) AA SA(D, 6), SR 84 1 2 4 5 (2), 20 4 5 (2). (I. AA 54(3) (6), RP 45, 120(A). 2. AA 54(3), RP 45, II7. This alternative announcement is not applicable when there are pleas of Guilty autstanding and small with under Record Form B or C.)

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.

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 accused or his witnesses as to his character, delete this para. RP 37(C) fn 4, 46 fn 1.
 Accused and witnesses are awarn. Evidence recorded per Notes.)

E2. The Prosecutor produces Statement(f) as to Character and Particulars of Service(1), and certified true copy (sopties) of Conduct Shect(*)(*), 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 183(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 A

A stud Ex Prespectively (*)

MF8 355 or AFB 296 2. MFM 6. 3. RP 46, KR Can 558. If above documents not produced, see RP 46 fin 1 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 I(1) Ams. Yes.

(I. RF 37(C), 46(D). 2. Acciress, if any, recorded per Notes. Court should permit accound or his witnesses to prove on ooth anything here or previously stated which would affect the amount of punishment. RF 37(F) fn 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 anneamed, but will be promulgated later, and the proceedings in open court are accordingly terminated.(4) proceedings in open court are act (1. AA 54(6), RF (20(A))

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 S.A. If any.(2) ??

(1) When reversal occurred true apparately see RP N(0). One sentence only, comprised of the punishment or punishments fold down in AA 41; at the contract of the punishment of the punishment or punishments and down in AA 41; at the contract of the contract of the punishment of the

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

The accused A-87171 Tpr Mahlon Archibald Ryckman, 30th Reconmaissance Regiment (The Essex Regiment) CAC, C.A., a soldier of the Canadian Army, placed on Active Service, is charged with:

FIRST CHARGE WHEN ON ACTIVE SERVICE NEGLECT TO THE PRE-ARMY ACT SEC 40 JUDICE OF GOOD ORDER AND MILITARY DISCIPLINE

in that he
In the Field, on Tuesday 1 Feb 44 at 0405 hrs,
so negligently handled a rifle as to cause
it to be discharged and thereby injured
M-51104 Tpr St.Denys, C.M. in the right leg
and rendered him temporarily unfit for service. vice.

> (D.S. Warnica) Lt.-Col. 30th Reconnaissance Regiment (The Essex Regiment) CAC C.A.

In the Field 17 Feb 44

To be tried by Field General Court Martial.

28 Feb 44

Mutexeene co (LOUIS KEENE) Colonel Comd "F" Gp, CRU

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 off of Cdn Army Overseas, or AM 49, 50, RF 104-107, 1/14. As to the diffies and privileges of the Convening Off in dealing with the application steparate Convening Off in dealing with the application steparate Convening Off of the Con

Number. (a) Print R. (b) Appint, A/R or A/Appint.

Full Christian Names, Surname.

A-87171

Mahlon Archibald Ryckman 30 Recce

Regt (Essex Regt)

CONVENING ORDER.

- 1. Whereas complaint has been made to me, the undersigned that the person of hamed above as the accused, the design of the control of the con
- And whereas I am of opinion that it is not practicable that such offence (X) should be tried by an ordinary General (Delete part in brackets when not required for compliance with RF 105(C)) of opinion that it is not practicable that such offence should be tried by an ordin
- I hereby convene a Field General Court-Martial to try the said person (20), and to consist of the Offrs appointed hereby convene a Field General Court-Martial to try the said person (20), and to consist of the Offrs appointed MINISTER STREET
- (AA 49, RP 106(B), 107(A). Delete the whole or part, if not applicable.)
 - SANANAKANAKANANA NEGANAKANAKANAKANAKANAKANAKANAKANA .

PRESIDENT.

Lt-Col. (Rank.)

F. D. Tweedie
(Most be named. RP 106.)

HQ CRU

MEMBERS.

A Major

A Lieut.

1 Static Base

(Named or detailed. RP 106.)

WAITING MEMBER.

1 C.B.W., RCOC

(Named or detailed, if any. RP 106.) JUDGE-ADVOCATE.

On Active Service in the Fd

(Muss be named, if any. RP 106.)

in England

(Signed personally. RP 105 fn 2.)

Date 28 FEB 44

Commanding

Mullene (LOUTS REAN ED Colonel

CONVENING OFFR WILL INITIAL ALL DELETIONS AND ALTERATIONS

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

Medical Officers' Certificate. R.R. (Can) Pera 557.

A-87171 Tpr Ryckman, M.A., of the 30 Recce Hert (Essex R.) and in my opinion he is fit for undergo trial by Court Martiel.

Liabe.

(b.A. Woodland Cont How of Sudical Officer, BO Recce hert (Suser S.)

C\$87.

F.G.C.M. in the case of A-87171 Tpr RYCKMAN, M.A., on the strength of 30 RECCE Regt (Essex Regt)

First Witness for the Prosecution

A-56951 Cpi BALKWILL, E.R., of the 30th Reconnaissance Regt, (Essex Regt) having been duly sworn, is examined by the Prosecutor:

- you kindly tell the court the nature of your ragimental duties
 - at 0405 hrs 1 Feb 44. At 0405 hrs on 1 Feb 44 I was Corporal of the Regimental Guard. is a permanent guard in as much as the man-power situation in this regiment makes it impossible to change men from one job to another. I had been on the job for some weeks as had the rest of the guard. the time in question the guard had been on duty for a period of 20 hours and some of the men, those not on duty, going on or coming off, were asisep. Tor St. Denys, a soldier under sentence was asisep in the guard room. The guard was composed of three men and a Corporal. This guard was relieved by another three men and a Corporal the following day.
- Will you tell the court how long these men had been actually employed 92 on duty and whether it was a guard which was on one day and off the next day?
- The guard had been on for a period of 20 hours at the time of the accident. They had mounted at 0500 hrs on 31 Jan 44 and had been on guard continuously. At 0500 hrs on Saturday 29 Jan 44 the guard was mounted and they worked through until 2400 hrs Sunday 30 Jan 44 in order to give the relieved guard a week-end.
- In other words the guard mounted at 0800 hrs Monday 31 Jan 44 and were on till 0800 hrs 1 Feb 44 and it was during this time that the incident 23 occured?
- Yes, Sir. A3 Do you recognize Tpr Ryckman as a member of that guard?
- A4 Yes, Sir; Will you tell the court what type of a personal weapon Tpr Ryckman was 95 carrying?
- A rifle, Sir. A5 26 Was he issued with live ammunition?
- Yes, he was issued with live amnunition which was passed between the A6 guards in the form of loaded magazines.
- Had you instructed the guard prior to mounting as to their duties? No, Sir. They had been on guard at various times before and I considered that their duties were well known to them. Were there ever any written instructions given to you concerning your
- guard? Written instructions were available in the guard room. They had been in force for some time.
- 29 What is this? That is a copy of the guard instructions. A9

28

- Q10 Will you tell the court exactly what were the instructions concerning the hendling and unloading of magazines?
 Alo The unloading of magazines was to be carried out by exchanging them
- They merely took the magazines off their rifles at the sentry posts. and handed them to the guard replacing them.
- Q11 Will you tell the court of the incident which occured in your guard house at about 0405 hrs on 1 Feb 44?
 All At 0400 hrs on 1 Feb 44 Tpr Ryckman was relieved by Tpr Marshall at
 - the sentry box. I was not present at the guard change since there was a prisoner in the guard house and rather than awaken the men who were asleep I remained in the guard house and watched the prisoner. When Marshall left the guard room I lay down on a bed. Ryckman entered the guard house, unloaded his rifle, drave home the bolt and pulled the trigger.

All I did not realize at first what he was doing until I heard the report of the rifle and the groan of Tpr St.Denys. I did not pay much attention actually to Ryckman when he came in because he had always been a very dependable guard.

Will you tell the court why Ryckman was carrying live rounds in his 212

magazine? He was relieved by Tpr Marshall who carried a sten gun and who there-A12 fore didn't require the magazine.

You said you were not paying much attention to Ryckman when he entered the guard room?
That is right, Sir. 213 A13

Could you give the court some ides of the way in which Ryckman un-loaded his rifle and what circumstances caused the rifle to be fired 014 while held in a downward position? Ryckmen was clearing his rifle and putting the rounds in a box which A14 we have on the wall for that purpose, and he dropped one of the rounds

on the floor. Did you see the round on the floor? Yes, Sir.

What else did you see with respect to the ammunition? 216 I saw the round on the floor and I saw four rounds in the box. A16 Did you check the ammunition after the shot had been fired?

Yes, Sir. There were four rounds in the box, one on the floor and a spent casing in the breech of the rifle. A17 Can you tell the court why Ryckman's rifle was loaded with six rounds

BIA I do not know why there were six rounds in the rifle, Sir, You mentioned St. Denys, the man who received the wound, why was he 219

in the guard room? He was serving a sentence of 14 days detention. A19

Was he in the same room as the guard? 020 He was in the same room because we have no facilities for keeping them A20 separate.

CROSS-EXAMINED BY THE DEFENDING OFFICER:

of ammunition?

218

You state this is a regimental guard? A21 Yes, Sir, 022 Did the R.S.M. ever inspect your guard?

No, Sir. A22

Q23 Who leid down your guard orders? They weredrawn up by the R.S.M., Sir, and Cpl Campbell. A23

224

Were the guard orders signed by anyone? I do not remember, Sir. A24

You were on duty?

Yes, Sir.

928

A28

Were the guard orders posted on the wall in the guard room? A25 I never saw them on the wall, Sir.

There were no orders on the well the day this incident took place? 926 A26

No, Sir, You say the guard which was on duty on Saturday stayed on duty over

227 the week-end so that the other members of the guard might have a weekend free. Were you one of the other members of the guard who had a week-end? A27 No, Sir.

At the time you also stated that there were prisoners in the guard 229 room? A29 Yes, Sir.

- You state that someone had to guard these people in detention? Yes, Sir. A30
- Was it ever a practice on this regimental guard that the guard would 231
- be taken to their positions properly by the N.C.O. of that guard? A31 It was done, Sir.
- 232 How long was it carried out? I did it myself from time to time, Sir. A32
- Do you know whether one of the purposes of that guard was to prevent vehicles from being taken from the vehicle lines without proper 933 authority? A33 I do not know, Sir.
- 234 Did you have any special instructions about checking vehicles which
- came in and out of the area? Yes, Sir. A34
- How many men were on the flying vehicle picquet? 235 Three men, Sir,
- 236 Were these men available at all times? A36 Yes, Sir.
- Why did you not have one of these men watch your prisoner? I do not know, Sir,
 - You never had any complaints about your guard from the R.S.M. or up? 238 I wouldn't say that, Sir, but any we had were of a minor nature. A38
 - 239 You had no complaints about the way in which the guard was mounted? A39 No, Sir.
 - 240 Did you think it was all right to allow people to go out from the guard room and take post without being properly paraded. understand that to be proper procedure? A40
 - Were you given proper instructions by the R.S.M? No, Sir, I was merely told to take over the guard. 941 441
 - 242 You had no instructions?

Did you always issue five rounds?

249

- A42 No, Sir. 243
- Why couldn't you have kept a man from the flying piquet and let the flying piquet go out on their own? No reason, Sir. A43 How many rounds are normally kept in the box in the guard room? 10 rounds of .303 smmn. and 36 rounds of 9 mm. ammn.
 - A44 245 What was the usual practice when you gave ammunition to the men on
 - your guard? I usually gave them five rounds, Sir. A45 046
 - Why did you make it a practice of giving five rounds? Because one magazine was carried by the flying piquet and the other by the guard at the main gate. A46 Then we might say that there should be five rounds in each of the two 247
 - magazines? A47 There was no rule laid down.
 - 248 Did you ever instruct any of the men on your guard how many rounds they should carry?
 - A48 No, Sir.
 - Yes, Sir. A49 When you took over the guard did you count the number of rounds in the Q50
 - bax? A50 No, Sir.

- When Tpr Hallman was going on duty on the night in question did you issue him with ammunition or did he take his own? 951 A51
- At the time of the accident how many rounds of ammunition did you see? At the time of the accident now many rounds of ammunition did you se Five rounds, Sir. Four in box on the wall, one on the floor and one spent casing in Ryckman's rifle.
- That meent there were eleven rounds in possession of the guard? Q54
- Do you think that the additional round could have been put in there A54
- You said you were lying on a bed when this accident took place. 255 A55 No, 81r. 256 You are sure?
- Yes, Sir.
- You clearly saw Ryckman unloading his rifle?
 I was not watching him, but I heard the action of his bolt and assumed that that was what he was doing.
- Did you count the number of times he eased springs? A58
- Did you check the personnel of your guard after the incident to see if you could find out anything about that extra round? I tried to find out about it and I believe that a court of inquiry was held the same day. 959 A59
- When you heard the action of Ryckman's bolt in the guard house, did 260 A60
- 261 A61
- Had other people unloaded their rifles in the guard house before? In the guard room before, but I had seen the magazines taken off 262 A62
- Was this an infraction of guard regulations?
- Had you checked anyone for doing this before? A63
- QUESTIONED BY THE COURT:
- 964 Was there a light in the guard room? A64
- 065 A65
- Were you facing Ryckman? No, 31r.
- 200 Was there anyone else in the guard room? There were the men sleeping. A66
- 267
- This St. Denys, you heard him grown, What did you do in connection A67
- We applied a tourniquet to his leg and sent for the Medical Officer. 268 A68
- Was the wound above or below the knee?
- 269 What type of a rifle was it? A Lee-Enfield .303. A69
 - 497

AS7171 Tpr RYCKMAN, M.A.

976

Do you know what instructions Ryckman has had in the use of a rifle? He has passed his basic training, Sir, and has been in the army over 18 months to my knowledge.

Do you know of any range practice he has shot? I do not know, Sir.

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

Second Witness for the Prosecution. A-87015 Cpl GAMPBELL, H.K. of the 30th Recce Regt (Essex Regt) having been duly sworn, is exemined by the Prosecutor:

What was the nature of your duty on the night of 31 Jan 44? I was sleeping in the regimental guard house prior to going on duty

the following morning at 0800 hrs. I had the permission of the Sergent Major to sleep in the guard house because my troop quarters were situated away from the Squadron and being on permament guard permission was granted to me to sleep in the guard house. I was ableep at the time of the accident.

Did Cpl Balkwill relieve you at 0800 hrs 31 Jan 44. Yes, Sir,

you count the number of rounds of ammunition in the box at that 974 Did time? Yes I checked the ammunition and found 10 rounds of .303 and 36 rounds

of 9 mm. ammunition. Would you look at Ryckman. Do you recognize him as a member of 975

Balkwill's guard that night? A75 Yes, Sir,

Can you tell us exactly what happened at 0405 hrs 1 Feb 447
I was awakened at 0405 hrs 1 Feb 44 by the sound of a shot and I
jumped out of bed immediately and noticed that St.Denys had his leg
over the adge of the bed. It was beeding quite freely. Balkwill and
I applied a tourniquet while Ryckman went to get the Medical Officer.
The Medical Officer arrived a few minutes later, I accompanied St.
Denys to the hearital and than returned a later. Denys to the hospital and then returned to my regiment.

During the time you have been on guard have you had Ryckman as a member 277 of your guard? A77 Yes, Sir, for a period of time.

278 A78

Have you ever instructed Ryckmen in the proper guard procedure? I cannot recall giving him any instructions. He has been on guard from the beginning, since the first of November I believe and I more or less took it for granted that he was familiar with the orders about the guard. Do you recall ever having given him any specific instructions? A79 No, I cannot remember having given him any specific instructions.

Do you know whether Ryckman ever had any instruction in the handling 950 of rifles? For myself I cannot say, Sir.

ASO What was Ryckman's general attitude on guard. Did he follow

regulations? I slways found Ryckman to be a very reliable and dependable guard. AS1 CROSS-EXAMINED BY THE DEFENDING OFFICER:

You say you chacked the ammunition that was issued to the guard at 0800 hrs 31 Jan 44? 282 A82 Yes, Sir.

Q83 How meny rounds did you find in the box?
A83 1 found 10 rounds of .303 and 36 rounds of 9 mm. ammunition.

- When a man did guard for you how many rounds did you issue? Five rounds in the case of a rifle and 10 rounds in the case of a Q84 Sten gun.
- Did you ever allow the men to take their own ammunition? 085 It had been done, Sir, yes.
- ARE Did you instruct the men that they were to have five rounds of .303 285
- ammunition in their magazines? They had siways been given five rounds, never more. A86
- Have you ever hed a man return to the guard room and unload his rifle 287 in the room? Sir, because it was the practice to exchange magazines at the A87
 - No, Sir, be guard post.
 - Q88 Did you have any men on your guard carrying Sten guna?
 A88 No, my guard all carried rifles, and therefore we exchanged magazines at the post instead of unloading each time.
 - Were there ever men posted at night on the main gate who carried 989 weapons other than rifles? No, Sir. AS9
 - At any time had you ever had a man on the main gate with any other 290
 - weapon? No, Sir, they always had rifles. A90
 - Have you ever seen a man enter the guard room with a loaded weapon? Yes, Sir, it has happened. The vehicle picquet has done it. 991 A91
 - Was there any rule laid down about a man unloading his rifle outside? 092
 - A92 No, 81r.
 - After the accident took place how many rounds of .303 were found to 293 be in possession of the guard? I did not check the ammunition, Sir, A93
 - How long after the accident did you take over as commander of the 294 guard?
 - Four hours after the accident, Bir. A94
 - When you took over how many rounds were there? Ten rounds of .303 and 36 rounds of 9 mm. and a spent casing in the possession of Cpl Baikwill. 0.95
 - Do you know if any check was made about men in the guard having 296 spare ammunition Not to my knowledge. A96
 - When men go on guard duty have you any instructions to parade them out? There were no definite instructions isid down, Sir. A97
 - Who made up the instructions in the guard room? 298 The R.3.M., Sir. A98
 - QUESTIONED BY THE COURT:
 - Was St. Denys on a bed? 299 Yes, Sir. A99
 - 2100 How high was the bed? Aloo He was on the lower part of a double-decker".
 - 2101 How far was this bed from the bex where the ammunition was kept? Alol About 6 or 8 feet.
 - Q102 Did you say you checked the ammunition after the socident? A102 I checked it in the morning at 0800 hrs before going on duty.
 - Q103 Prior to the dismissel of your guard is it inspected by anyone? Alog The guard is inspected every morning, Sir.

A87171 Tpr RYCKMAN, M.A.

2104 Are the rifles inspected at that time? A104 Yes, Sir.

What time do you mount guard? The new guard takes over at 0500 hrs, Sir. 2105 A105

Is the new guard inspected? Before going on, Sir. 2106 A106

9107 Who inspects the old guard? A107 The guard Corporal, Sir.

d

Has there been any recent musketry firing practice carried on in 2108 A108

Not for the last three of four months because we have not been training according to the syllabus due to the fact that we have practically all been working on the assembly line, a priority job. 2109 On the occasion of your last range practice, was a proper inspection made of all rifles?

A109 There was slways a proper inspection carried out, Sir. Were you on the range on the last occasion that firing practice was 0110 A110 Yes, Sir.

Q111 Did you see a proper inspection of all arms being made? A111 Yes, Sir.

Have you ever seen ammunition being loosely handled? 2112 A112 Yes, when we were at No.1 CACRU.

IN THE OPINION OF THE COURT IT IS UNNECESSARY TO COMPLY WITH RP 83(B). Third Witness for the Prosecution

M-106690 Tpr HALLMAN, W.S., 30th Racce Regt (Essex Regt) having been duly sworn, is examined by the Prosecutor; Were you on duty on Cpl Balkwill's guard on the night of 31 Jan 44 2113

A113 Yes, Sir, At 0200 hrs on 1 Feb 44 did Ryckman relieve you at the sentry box? 9114 A114

Q115 Will you look at Ryckman. Do you recognize Ryckman as the man who A115 Yes, Sir.

Did you pass any live ammunition to him when he relieved you? 2116 Allb Yes, Sir.

Q117 How many rounds? All7 A magazine containing six rounds, Sir,

Did you tell him that there were six rounds in the megazine? 9118 AllE

Where was St.Denys sleeping in the guard room? In the far bed on the right hand side of the guard room. The bed 9119 A119 was approximately one foot off the floor.

2120 Did you receive any instructions on that night from the guard A120 No, Sir.

CROSS-EXAMINED BY THE DEFENDING OFFICER:

Q121 You stated you were on guard on the morning of 1 Feb 44, What time Ald you go on? At 12 o'clock midnight on 31 Mgn 44, Sir. A121

Tpr RYCKMAN, M.A.

9122 What time did you some off? At 0200 hrs 1 Feb 44, Sir. A122

You state that you were relieved by Ryckman?

A123 Yes, Sir.

9124 You say now that you recognize him? A124 Yes, Sir.

Q125 When you exchanged guards with Ryckman did you use a light? Yes, Sir. A125

2126

Did you flash the light on him? I do not receil, Sir, but I recognized him by his voice. A126

2127 Did you tell him how many rounds were in the magazine? No, Sir. A127

2128 Were you ever told to place five rounds in your magazine? A128 No, Sir.

2129 You just picked up the ammunition and loaded your own magazines? A129

Yes, Sir.
QUESTIONED BY THE COURT:
How did you know there were six rounds in the magazine? 9130 A130

Where did you get the rounds? I got them in the box on the guard room wall. Q131 A131

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

Fourth Witness for the Prosecution

Major H.E. FOEX, RCAMC, attached to No.2 Cdn Gen Hospital, having been duly sworn, is examined by the Prosecutor:

Q132 Have you a patient at present in your hospital, M-51104 Tpr St. Denys? A132 Yes, Sir,

Will you tell the court of his condition upon admittance? Q133 A133 He had a gun-shot wound in the right lower leg about the junction of the middle and lower third. The wound of entry was on the postero-latero aspect of the leg and the wound of exit was on the anterior aspect of the leg. There is considerable loss of skin at the wound of exit and considerable soft tissue damage. A number of the muscles having to do with the pulling up of the foot having been severed. There was also loss of about one inch of the fibula due to the destruction of soft tissue. It was impossible to suture a number of the damaged muscles and their action will therefore It is impossible at this time to tell definitely be largely lost.

now much permanent disability will result but there will probably

be considerable permanent disability. DEFENDING OFFICER DECLINES TO CROSS-EXAMINE THE WITNESS.

IN THE OFINION OF THE COURT IT IS UNNECESSARY TO COMPLY WITH RF 83(8).

First Witness for the Defence

A-62058 Armourer/Sgt BROWN, J., RCOC, attached to 30th Recce Regt (Essex Regt) having been duly sworn, is examined by the Defending Officer:

0134 How long have you been an Armourer? Al34 Two years, Sir.

2135 In the time you have been an Armourer have you carefully examined any .303 ammunition? Yes, Sir. A135

Have you ever found a difference in the length of .303 ammunition? Yes, Sir. There are some rounds longer than others. Q136 A136

Tpr RYCKMAN, M.A.

2143

What would be the result of long rounds in the magazine? The spring in the magazine would remain down.

Is it possible that on essing springs the round would remain stuck Q138 in the magazine and upon violent action of the bolt the round would finally come up? A138 Yes, Sir.

If during a period of work particles of dust or dirt were lodged in a magazine what effect would this have? 9139 Dust would not interfere with the working of the magazine but grit A139

would, Bir. Q140 Could a rifle with ammunition in it after having been cleared by means of using the bolt have a round stuck in the magazine; then when springs were eased two or three times after the last apparent round came up could this last stuck round come up?

Yes, Sir. A140 What action would happen on the finishing of the clearing of the 0141 rifle when this last round came up? The round would be inserted in the breech by the bolt and when the A141 trigger was squeezed before applying the sefety catch the rifle would fire.

If a rifle were held loosely and a round went off would the rifle 2142 jump? Yes, Sir. A142 How far would it jump?

A143 About a foot. Could it jump more than a foot? It depends on how loosely the rifle was held but in any case it would 2144 A144 not jump much more than a foot.

When you examined the rifle which in this case is said to have injured St.Denys what kind was it? A Mark IV, One Star. Q145 A145

Has there been any trouble with these rifles? 0146 Not with ours, Sir. A146 Has there been trouble with ammunition sticking in the magazines? 2147

Yes, on the range. A147 In this case, could it have been the fault of the ammunition? It could have been, Bir. 2148

A148 Could it have been the rifle? 9149 I checked the rifle and it was O.K.

A149 Do you know that this was the actual magazine which was on the rifle 9150 at the time St. Denys was injured? No, Sir. A150

den you swear that the rifle you examined was the actual rifle that 9151 did the dampre? No, Sir. The rifle was brought to me and I was asked to examine it. No. Sir. A151

CROSS-EXAMINED BY THE PROSECUTOR

In order to fire a rifle you must place a round in the breach, close the bolt and press the trigger, is that correct? 2152 A152 Yes, Sir. Do you know if the rifle you examined was the one used by Ryckman? The rifle was brought to me for examination, Sir.

Q153 A153 In the case of this long ammunition which is long, the casing or 2154 the projectile? The projectile, Sir. A154

- TPT RYCKMAN, M.A. In other words the projectile has not been placed sufficiently far 2155
- in other words the projectile has not been placed satisfactory into the casing?
 That is correct, Sir. Sometimes when the ammunition has been used a number of times in loading and unloading practice the projectile A155
- Q156 In your experience with Mark IV rifles have you found in many cases that the spring in the msgazine has a babit of sticking?

 A156 Yes, I would say in a good 10% of cases.

- Q157 Were these rifles issued in this country? A157 No, Sir, they were new rifles issued in Canada.

BUMMING UP BY THE DEFENCE IS SUBMITTED TO THE COURT IN WRITING.

The prosecution has shown that A-57171 Tpr Ryckman, M.A. was negligent in the unloading of his rifle by unloading contrary to Army negligent in the unloading it to be discharged and wounding M-51104 Regulations thereby causing it to be discharged and wounding M-51104 Tpr. St.Denys in the right leg causing him to be rendered temporarily unfit for duty.

COURT IS CLOSED TO CONSIDER THE FUNDING.

COURT IS RE-OPENED.

PLEA OF MITIGATION IS SUBMITTED TO THE COURT IN WRITING.

COURT IS CLOSED TO CONSIDER THE SENTENCE.

The accused has been charged under section 40 A.A. with neglect to the prejudice of good order and military discipline in that he on Tuesday the 1st Pebruary 44 at 0450 hours, so negligently handled a rifle as to the left to be discharged and tinjure Tpr. St. Denis in the leg. cause it to be discharged and tinjure Tpr. St. Denis in the leg. It is a principle of English Law that the man is innocent till he is proven it is a principle of English Law that the man is innocent till he is proven guilty. It is therefore up to the prosecutaion to prove beyodd resonable guilty. It is therefore up to the prosecutaion to prove beyodd resonable guilty. It is therefore up to the prosecutation to the following the A.A. doubt that the man was negligent. Sec 40, Am. 30 June 42 of the A.A. doubt that the man was negligent be under this Act must be blame clearly states: Neglect to be punishable under this Act must be blame worthy, there has been no evadence produced to ippoint to this. It also worthy, there has been no evadence produced to ippoint to this. It also worthy, there has been no evadence to prove in this dase clearly does not apply because there is no evidence to prove in this dase clearly does not apply because there is no evidence to prove this intended to injure anyone. If it is caused by an honest error of jugment and invives no lack of zeal, no element of carelessness or jugment and invives no lack of zeal, no element of carelessness or intentional failure to take the proper action, it is equally clear that their was no willfull negligence en this is blameless and cannot be ground for a conviction. The evidence as this intentional failure to take the proper action, it is equally clear that the proper action, it is equally clear that the proper was no willfull negligence en presented clearly points out that there was no willfull negligence en presented clearly points out that there was no willfull negligence en error in the fact that he thought the fifte contained five rounds of ammunition instead of six. This err

The accused received five rounds of ammunitibheat 0800 hours the 31 Jan 44 from Tpr. McVicer. Whe turned them over on his guard change to his next releif. The evidence shows clearly that Tpr. Hallman inserted six rounds in his magazine when coming on guard the next time in place of the costumary rounds which had always been used. He presented Tpr. Ryckman with fiwe rounds magazine not making any mention that he had varied from the fix rounds magazine not making any mention. The assumed completed his practice by placing an additional round therein. The assumed completed his guard and was releived at 0400 hours, by Tpr. Marshall on the 1st of Feb 44 guard and was releived at 0400 hours, and it had been the sustom of the Sonce there was no change of magazine, and it had been the sustom of the sound to unload their weapons in the guard room when releived by a man guard to unload their weapons in the guard room when releived by a man regular custom as permitted by the N.C.O. of the Grard. The accused the regular custom as permitted by the N.C.O. of the Grard. The accused to the attention of the court the possibility of a round lodging in the to the attention of the court the possibility of a round lodging in the day the last easing of spring of the weapon and then inserted in the day before applying the safety catch. Thus the accused took all necessary before applying the safety catch. Thus the accused took all necessary precautions and had no way of knowing that the sixth round was in the magazine.

In addition, the discipline of the guard was clearly weak, little of no supervision was supplied by the N.C.O. which slight irregularities in the supervision was supplied by the N.C.O. which slight irregularities in the guard room almost a normal practive. It was evident that the Corporal of the guard was either asked or diminterested in the activity and supervision the guard. The military record and thouroughness of the accused was of the guard. The military record and thouroughness of the accused was not be unit as proved by the N.C.O's paying no attention to well known to the Unit as proved by the N.C.O's paying no attention to well known to the Unit as proved by the Scused is not guilty nor a his him. It is clear that the acion of the accused is not guilty nor a his action punishable under Sec 40 since amendment No. 30 June 42 points out section punishable under Sec 40 since amendment No. 30 June 42 points out action punishable under the accident is caused by an honest error of jugment and involves no if the accident is caused by an honest error of jugment and involves that it the proper action. Since the evidence throughout this case shows that it actually happenned by error of jugment which is not punishable under this actually happenned by error of jugment which is not punishable under this actually happenned by error of jugment which is not punishable under this

J57.

The accused has been with this unit since its formation and served on active service since June 1942. During that period he has an absolutely clean redor, so marked that the N.CO. of the guard was not even concerned over the releig 1942 and 43, I can verify his caracter and since punishment given under this charge would be very detrimental to his future service, He is definitely establishment. Since punishment is always a matter of discipline and an conviction that since he sha been found guilty of technical breach of minimum punishment should given, This man when not serving this regular company duty, is serving on the assembly line of NO. I C.E.A.U. which is the number one priority of the Canadian Army in England to-day. I would and efficient man.

Desprice

M

CPPENDIX 1

Trisl of A-87171 Tpr Mahlon Archibald Ryckman, 30th Reconnaissance Regiment (The Essex Regiment) CAC C.A.

LIST OF WITNESSES FOR THE PROSECUTION

Major H.E. Foex, RCAMC, att. No. 2 Con den Hosoital A-86951 Cpl. Balkwill, E.R. 30th Reconnaissance Regiment (The Essex Regiment) CAC C.A.

A-87015 Cpl. Campbell, H.K. 30th Reconnaissance Regiment (The Essex Regiment) CAC C.A.

W100380 Tpr. Hallmen, W.S. 30th Reconnaissance Regiment

LIST OF WITHESSES FOR THE ACCUSE

104.3

LIST OF EXHIBITS

Nil

1 Wicol 1+

(J. Nicol) Lt & A/Adjt 30th Reconnaissance Regiment (The Essex Regiment) CAR C.A.

Dated in the Field this 23rd of February 1944

M.

Summary of Evidence in the Case of A-87171 Tpr.Ryckman, M.A.

Receipt is acknowledged of one copy of the m/n summary of evidence and one copy of the Charge Sheet.

Field 25 Feb 44.

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A-87171 Tpr. Ryckman, M.A.

7 600 at 40

I, A-87171 Tpr Mahlon Archibald Ryckman, desire to have an Officer assigned to represent me my trial by Court Martial.

I desire the services of Major J.N. Wood if he is available.

2n. A Rychman (A-87171) Tor Ryckman, M.A.

In the field 23 Feb 44

in the case of

A-87171 Tpr Ryckman, M.A. 30th Reconnaissance Regiment (The Essex Regiment) C.A.C., a soldier of the Canadian Army Overseas,

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

FIRST WITHESS A-86951 CPl Balkwill, E.R. of the 30th Reconnaissance For the Regiment (The Essex Regiment) J.A.C., having been duly prosecution sworn states:

Jan 44 until 0800 hrs 1 Feb 44. I was in charge of six men which comprised 2 guards, 5 on the gate piquet and 3 on flying piquet. The men on the gate piquet were A-87171 Tpr Ryckman, M.A. with a rifle, M-106800 Tpr Hellman, W.S. with a rifle and A-87268 Tpr Marshall, H. with a Sten. The gate piquet is on from 0800 hrs one day to 0800 hrs the following day. The flying piquet is on duty from 1800 hrs one day to 0600 hrs the following day. The flying piquet is on duty from 1800 hrs sem men come on duty every second day. The men of my guard were on duty from 0800 hrs Saturasy 29 Jan 44 to 2400 hrs Sunday 30 Jan 44 and came back on duty again 0800 hrs Monday 31 Jan 44 to 0800 hrs Tuesday 1 Peb 44. The guard room was allotted 10 rounds of .305 amm and 36 rounds of 9 MM amm. The customary practice was to issue 5 rounds of amm to the gate piquet while on duty and 5 rounds to the flying piquet. In the case where one rifleman was relieving another rifleman on the gate piquet the man coming off guard would hand over his charged magazine to the man who relieved nim. In the case of a men who possessed a Sten Gun who relieved a rifleman the rifleman would be marched back to the guard room where he would remove his charged magazine and clear his rifle before entering the

At 0400 hrs on Tuesday 1 Feb 44 Tpr Marshall who carried a Sten Gun relieved Tpr Ryckman, a riflsman, from the gate piquet. I was not present at the guard change because there was a man underging sentence, M-51104 Tpr St.Denys, C.M., and the other men of the guard present in the guard room had been on duty 20 hrs and were sleeping at rie time. Rather than awaken them I watched the prisoner while the guard changed by themselves. When Tpr Marshall left to relieve Tpr Ryckman I laid down on an empty cot morely to get off my feet. Frior to the accident Ryckman had been a very dependable guard so I paid little or no attention to him when he entered the guard room at approximately 0405 hrs Tuesday 1 Feb 44. I noticed that he was unloading his rifle by the bolt action but did not realize at the moment what he was doing. I heard the report of a rifle and heard Tpr St.Denys groun. Almost immediately Tpr Ryckman, Cpl Campbell and myself examined St.Denys and found he had been shot in the leg. We then applied first sid to St.Denys. Men the wound had been attended to I checked the amm ejected from Ryckman's rifle and found 5 live rounds. There was a spent casing in the Breech. I can definitely state that the rifle was either loaded with one round in the chamber and 5 in the magazine or charged with 6 rounds in the magazine and none in the chamber.

ATT.

At 0600 hrs when the flying piquet went off duty I checked and found they possessed b rounds. This means there were eleven rounds in the quard roomewhere the eleventh round came from I do not know. Ryckman told me that the cause of the accident was due to the fact that he thought there were only 5 rounds in his magazine and when he had cleared his weapon of 5 rounds he fired the action and a shot was heard. I sent for the M.C. and Orderly Mergeant. The M.O. arrived at approximately 0415 hrs. St.Denys was removed to the hospital on the M.O.'s orders accompanied by the M.O., the Orderly Officer and Cal Campbell. When the Orderly Officer returned he placed Tar Kyckman under open arrest.

The accused declined to cross-examine this litness.

A-86951 cpl Balkwill, R.A.

SECOND ATTNESS A-87016 Cpl Campbell, H.K. of the 30th Reconnaissance For the Regiment (The Essex Regiment) C.A.C., having been duly Prosecution sworn, states:-

I was Corporal of the guard which was on duty from 2400 hrs Sunday 30 Jan 44 until 0800 hrs Monday 31 Jan 44 at which time I was relieved by the new guard commander Cpl Balkwill. I had been granted permission to sleep in the guard room by S3M Turkington of HQ Squadron because my quarters were a long way from the guard room. I was taken on ration strength of HQ Mess. During the evening of Monday 31 Jan 44 and the morning of 1 Feb 44 I was sleeping in the Regimental Guard Room and was to take over as guard commander from cpl Balkwill at 0800 hrs Tuesday 1 Feb 44. At approximately 0405 hrs the morning of 1 Feb 44 I was awakened by the sound of a shot. I got up immediately and noticed Tpr St.Denys, who was sleeping in the bed next to me, had been injured. His lag was bleeding quite freely. Cpl Halkwill and I applied a tourniquet and administered first aid while Tpr Ryckman went for the M.O. After the M.O. had taken care of St.Denys I accompanied him to the nospital and remained there with him until 0700 hrs at which time I returned to the regiment.

At 0745 hrs the morning of Monday 31 Jan 44 before Cpl Balkwill relieved me as guard commander I

At 0745 hrs the morning of monary 51 am 44 before Cpl Balkwill relieved me as guard commander I checked the amn which had been allotted to the guard room and found it to be correct i.e. 10 rounds of .303 amn and 36 rounds of 9 MM amn. Cpl Balkwill was in the room at the time but I cannot state definitely whether the man was counted by him. However, I left the specified amount of amn in a small cardboard container on the top of the guard report which stated the correct amount of amn in the container.

At one time Tpr Ryckman was a member of my guard and I found him to be a very dependable and conscientious soldier. I was very surprised to find that

ATT.

The above evidence has been read back to the witness. (A-87015 Opl Campbell, H.K.) I was one of the men of Cpl Balkwill's guard from 0800 hrs Monday 31 Jan 44 to 0800 hrs Tuesday 1 Feb 44. At 0200 hrs 1 Feb 44 Tpr Byckman relieved me from duty as gate piquet. We exchanged duties unexcorted by the Corporal of the guard. As we were both riflemen I exchanged my charged magazine with the prevention taking from him his empty magazine. I both riflemen I exchanged my charged magazine with I Tpr Ryckman taking from him his empty magazine. I personally loaded the charged magazine, which I exchanged with Ryckman, with 6 rounds of .303 amm and when I handed it to him I did not empty the rounds from the magazine and couldn't state whether he did. I did not till him there were 6 rounds in the magazine and I till him there were 6 rounds in the magazine and I am unaware that he knew the number of rounds the magazine was charged with. After proving my rifle I an unaware that he knew the number of rounds the mag-anine was charged with. After proving my rifle I . entered the guard room, laid down and went to sleep. I was not awakened at the time of the acident and slep through until 0545 hrs 1 Feb 44. Cross-examined by the accused. Were you told by the guard commander the number of rounds to charged the magazine with? No, there was no specified amount. Did you understand that there should have only been 5 rounds in the magazine? 110 . The above evidence has been read back to the witness. (M-106690 Tpr Hallman, W.S.) Major H.E. Forx RCANC No 2 Canadian General Hospital FOURTH WITNESS having been duly sworn, states:-For the Prosecution

in-still the second of the right lower of the still lower the secueption of the party to the sale of the sale of the solution of the sale of the sal The admined reserves his defences Toertify that the foregoing number of evidence consisting the control that the presence and in the of four pages was taken down 19th day of wabrusary 19th and of four pages was taken down 19th day of wabrusary 19th the commanding of four pages was taken down 19th day of wabrusary 19th the organization of four pages was the sounded that the commanding of four pages was the sounded that the commanding of four pages was the sounded that the commanding of four pages was the sounded to the commanding the sounded that the commandiant pages was the sounded to the commandiant to the sounded that the commandiant that the presence and the commandiant that the commandiant that the commandiant that the presence and the commandiant that t gules of Prosphure L(e), (d), (e) and (f) have been complied with-The Pourth without the state of the Pourth with the state of the state Marie The Blockers May P. Shirriss to Regiment
(F. G. Shirriss) to Regiment
(The Essex Regiment) C.A.C.

1 Feb 44 suffering from a gunshot would of the right lower leg. On admission X-Ray examination was carried out and under general anaesthesia would toilet was carried out. At operation there was an entry would on the postero-latero aspect of the leg, and a large gaping exit would on the anterior aspect of the leg. One inch of fibula was destroyed and there was destruction of a number of muscles having to do with dorsi-flexion and eversion of the foot, and considerable loss of skin on the anterior aspect of the leg. After operation the wounds were packed with gauze and plaster of paris cast applied. On 16 Feb cast was removed and under general anaesthesis secondary suture of the posterior wound was performed in a tube inserted into the depths of the wound. It was not possible to close the anterior wound which must granulate in from the bottom and probably require skin graft. Penicillin was used on the posterior wound until the 24th Feb. He will probably be hospitalized another month at the least and there will be considerable degree of permanent disability which cannot be estimated as yet

The accused declined to cross-examine the fourth witness.

(H.E. Foex) Mejor ROAMC

Do you wish to make any statement or to give any evidence upon 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 reserves his defence,

(a-87171 Tpr Tokman, M.A.)

I certify that the foregoing summary of evidence consisting of four pages was taken down by me in the presence and in the hearing of the accused this 19th day of February 1944, and the 26th day of February 1944 having been deputed by the Commanding Officer to do so.

Rules of Procedure 4(c),(d),(e) and (f) have been complied with,

(F.C. Shirriff) Lt

30th Reconnaissance Regiment (The Essex Regiment) C.A.C.

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STATEMENT AS TO CHARACTER AND PARTICULARS OF SERVICE OF ACCUSED

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SCHEDULE.

PART I PLEASS FINDINGS AND SENTENCE

Accused:			
recused:			
Charge.	Plea.	Finding.	
(Insert " alternative " where applicable.)	(See Instrs p 2.)	(See note below.)	(Space for use as required for further charges, accused charged joi special findings, etc.)
lst	Not Guilty	Guilty.	
2nd			
3rd			
łth			
5th			
5th			
(flotn). As (of)	indings for lesser offens RP 44 and MML p 753,	tes see AA 56, RP 44; and in loss of kit see	findings on alternative charges see MML p 462 fn 4 para 2, RP 44; RP 44 fn 6.)
At present under sente			boutinesses are ideas - OA.
			ice NP 46(A). Information should be found on MF B355 or AF B296.)
l'ime in confinement a	waiting present to	rial—a total of	17 days, of which #15 days were spent in hospi
(1. See RF 46()	h) fn 2. Information sho	uld be found on MFB	355 or AF B296 admitted in evidence under E2.)
Sentence Awarded by t	the Court :		
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D71085 Tpr Ashton Harry RYDBERG

Date. 7 June 44

ALL DELETIONS AND ALTERATIONS WILL BE INITIALLED.

FIELD GENERAL COURT-MARTIAL

Convened by Order of Brig J.C. Jefferson, 250, Comd 10 Cdn Inf Delated

AB 160 - NNN N - 146

ACCUSED.

(As to the trial of two or more charged jointly see RP 16, 71, 109. As to reasons for showing (a) permanent rank, and (b) appint, Alrank or Alappint, 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. D 71085 Ashton Harry

PROCEEDINGS REVIEWED 14 Jun 44 6 Vx Form worm

REVIEWING OFFICER, JAG BRANCH CALLEDINGS OF TRIAL. on (date(s)) 30 Lay 44 England Held in the Fd in (country)

RECORD FORM A-OPENING PROCEEDINGS AND ARRAIGNMENT.

Al. The President, Members, waiting Member, JA, if any, and Offra hinds inster 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 (N) attached thereto (1) The Court is satisfied that it is properly convened and constituted(*), accused is (1994) amenable to military law, and each charge discloses an offence.(*)

(I). As to use of Summers of Evidence see RP 17 fe 5. L. AA 49, 50, RP 105-107. 3. RP 11-(3, 23, 24)

A3. The Court is opened. The accused is (in brought before the Court. At 2,000. hours trial commences.

A4. The Prosecutor produces a Medical Certificate that accused is (in to undergo trial by court-martial.(3))

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

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

A5. President to accused: Do you object to as shorthand writer ? Aus-The Interpreter is sworn.(*) Do you object to The shorthand writer is sweet. (1)

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

A6. 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 #

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

A7. The President, Members, dA, if any, and Office noder insign if any, are sworn.(*) The following are the state.

haj A.K. Stirling Alu R

Capt G.E.Y. Theriault S Cdn A Tk Bty RCA Member

Lt G.U. Bullerton 10 Cdn Indep MG Coy (N.B. Rangers) Member

Nil

Maj T.B. Nash 29 Cdn Armd Reade Regt Prosecutor

Defending Offr Lt G.E. Irving 29 Cdn Armd Recoe Regt

Questions by President: Is the Prosecutor a lawyer | Ans NO Is the Defending Offr a lawyer | Ans A (*)

(1. RP 26, 27, 109, 111. List of offrs under lists will be returned separately with proceedings for information of Cons Offrs.)

(2. If Pros a larger and Def Offs not, occursed is emitted to an objectment when RP 89 (8) and fn 2 were not followed. See OF p 3.3.

AS. The accused D71085 Tpr Ashton Harry Rydbergefore arraignment make(s) ino) . plea

(). If a special plea is made for separate 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 occused's mental fitness to stand trial (AA i30, RP 57), or by one of several occused charged jointly to be tried separately (RP 16, 71), such piec, the addresses made in support or against, the evidence, if any, and finding are recorded per Notes. For forms of record see references in first bits to task closed. Insert in AB rank and name of the occused making the plea.)

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

RP 31, 112. See pare 1 of Instrs p.2. When more than one Charge Sheet see RP 62; when several occused to be tried separately see RP 71(C), and use separate copies of CP AP6 to record proceedings.
 RP 32, RP 33. If atherwise, delete and make appropriate record per Notes.)

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

PRESIDENT OR LA 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 3T(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 Offir. If Convening Offir 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.
 - 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 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 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 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, 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.

Bt., 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 warded after he has been given an opportunity to make a statement in reference to the charge(s), call witnesses as to cheracter and make an address in mitigation of punishment.(2)

(1. RF 35 7n.) 2. MML p 54 pero 47.)

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 Guilty or which show provocation or extenuation in respect of which in your interest the witnesses for the Prosecution should be examined(2), we shall advise you to change your plea to Not Guilty. In making a statement you will not be sworff a 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 not be advised to change your plea and you will not be advised to change your plea and you will be a given as more properties that your restrictions.

will be given an opportunity later to prove your statement by award testingny, if you so desire (*)

President to accused: Do you wish to make a statement of Ans.

(1. RP 37(6), 2. RP 37(5) f. 8. 3. RP 35(8) fn 5 pers from \$4. 54 pers 47. 4. See pers \$23 of Recent Form \$E.

5. Statement, if any, recarded 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 access 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

(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 road aloud by the President.(1)

(1. If there is no Summary, or if it is indefequence, comply with NP 37(8). If there is any evidence inconsistent with any pleas

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 inclusive of Record Form D on p 3 before proceeding with C 2.(*)

(1. 88 37(A) (E).)

C2. The charges on which accused pleaded GUINSY 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 \$5 such parts only of the Summary of Evidence are read as retose to the charges dealt with under C2. If any changed to Not Cultiv, trial thereon proceed by complying with paras D1 to D8 mesupes in Record Form D on p 3 and most appropriate record thereof on a separate 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.

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 enthe ground that you have not had sufficient opportunity to prepare your defence ? Ans. No. (1. If "yes", see RP 39(A) for procedure. Statement or evidence, if one, is recorded per Notes.)

D2. The Prosecutor makes (an) (33) opening address (1) (1. RP 39(8), 60(A) (B), 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), I14, 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 establish a prima facic case against the accused on the charge (2.1) The Court is closed, and considers the submission.(*) The Court is re-opened, and the President announces that the submiss is disallowed on the Acids is disallowed on the charge(*), and allowed on the AA charge(*), and that, accordingly, the trial will proceed on the former, but the accused is (are) found Not thully said the latter charge(*).* **EAA.

(1. Delete remainder of this pare, if submitsion not made. 2. Arguments on submission, answer and reply are recorded por all charges, use second alternative in pare 18-14 and p 81 pare 42. 4. Delete part not used. If accused acquitted on all charges use second alternative in pare 188. 9 if trial proceedy, accused must be allowed great latitude in making his defence, and the Court should not stap his defence solery on ground of irrelevance. (RP 80(C), 114.115.)

D5. President to accused: You will now proceed with your defence.(1) You may, if you wish, give evidence may call witnesses in your defence and as to be seter, whether you give evidence or make a statement or de-

	President to accuse	d : Do you wish			f as a w	tness, ma	ke a stater	nent,	or do	
Ans	Ven							on	your	behalf !
Ans	(1. BP 115.	Are they witness: 2. RP 40(A), see 80(D	es as to character). 3. RP 40 fn 10.	only	RF 40 fns	2.93				

D6. Consequent on the answers recorded in para D5 the appropriate procedure for the defence is followed. (*)
(1. R8 114, 115, 116. For procedure see Notes on back of Convening Order, CF A95. Evidence for accused as to his
character should, if in his interest, be given before the finding. See RP 46(A) fi 1.86(C). Note the further opportunity in para E1
of Record Form E. Record per Notes addresses, interment, evidence and any summing up by the JA under RP 42, (O3(e).)

D7. The Court is closed to consider the finding(\(\mathbf{Q}\), (1) The finding(\(\mathbf{Q}\)) of the Court is (\(\mathbf{m}\mathbf{Q}\)) recorded in Part I A edule (2) The Court is re-opened.
(i. RP 43, i17(A). See Nates in Part I of Schedule. 2. RP 44(A).)

D8. The President announces the finding (*), if any, of Not Guilty, and states to the accused that the finding (*) and of the Court on the charge (*), being subject to confirmation, will be promulgated later (*) the Court on the charges, being subject to confirmation, will be promulgated later. (2)

Or. The President announces that the occurred is found Not Guilly on all charges and is to be released forthwise.

said that the proceedings are accordingly terminated. Part 1 of the Schedule is dated and signed. (3) (1. AA 54(3) (6), 8P 45, 120(3). 2. AA 54(3), 8P 45, 177. This oliernative anneuncement is not applicable when there are pleas of Guilly outstanding and dealt with under Recard Form B or C.)

RECORD FORM E-PROCEEDINGS ON CONVICTION BEFORE SENTENCE

1	E1.	President to accused:	Do you wish to give evidence yourself or to call any witnesses as to your character †(*)
hns.		10	
	Ac	 If evidence has already caused and witnesses are swars 	been given by occused or his witnesses as to his character, delete this para. RP 37(C) fn 4, 46 fn /. Evidence recorded per Notes.)

E2. The Prosecutor produces Statement(N as to Character and Particulars of Service(1), and certified true copy (sepies) of Conduct Sheet(N)(*), 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 having the same number, rank, name and corps as the accused. Admitted in evidence and

E3. President to accused: Do you wish to address the Court on the Statement(s) and Conduct Sheet(s), and in No mitigation of punishment ((1) Ans.

(I. BP 270), 46(1), 2. Address, if on recorded per Nates. Court should permit occused or his witnesses to prove an each nexthing here or previously stated which would effect the amount of punishment. BP 27(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 (1) proceedings in open court are ac (1. AA \$4(e), RP (20(A).)

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)

d and signed by him and the JA, if any [2]
[1. When several occured treat separately see 87 I (D). One sentence only, comprised of the punishment or punishments loid down in AA 41, 44 and its provisio, is to be usered to cover all charges in all charge sheets on which accused found guiltream to be unknown to be unknown as AA 44, 184, 182, 89 46.50, 69, 118, 118/40, AR Can 300, 330, 533, 534, Oversees RO 309, 2323, MANL p 60, 757-759. As to sentences assigned for civil offences by the low of England see AA 44(12), MAL p 130. When accused already under sentence of imperisonment or detention see AA 44(18), 68(1), KR Can 544.

2. BP 50. As to release from arrest by Completing the Completing Complet

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

EXHIBIT

M.F.B. 355 E2M - 5-41 (5778-8) H.Q. 1772-89-6280 A.F.B. 200

STATEMENT AS TO CHARACTER AND PARTICULARS OF SERVICE OF ACCUSED

Number	Rank	Name	Regiment (or unit)
D71085	Trooper As	shton Harry RYDBERG	29 Cdn Armd Recce Regt
	ng is a fair and true summ	ary of the entries in the	Service and General
Conduct sheets Of summary awards with.	et-sheets of the accused, e	xelusive of convictions by a Cour ir Pence Act 2009. Army Act and of cases in white	t-Martial or a Civil Court, ch trial has been dispensed
		Since enlistment of	
For Conduct to	the prejudice,	times Disobeying a la	wful times
For	6.00	limes command	times
For Absence w	ithout leave	1 times	times
For		times	times
	amerol gallantsy or elisti	ngorahed conduct LAA.	
Agree as annual or man	annual or Business 2 or more	or p.40	
D. A. Hannes	otainoin disconnident algorit	and the annual Rida.	
		the entries for drunkenness must	he stated separately
			he stated separately.
2. The accuse	ed has not been previously		
		unkett.	
P.J.A. #	nding and Asses Ast - and disperse	را هنده کا داد بوده که انده فرهنده این دست. داده که داد که در داده تا را ما تا را با نام داد بر سرسانا	nd annuary course be under fitted fitted . mentions in the Solution fitted
0. 7%	ed is not under sentence at		
a, The accus	ed is not under sentence a	me RAP	
putt winnerment	re the rementations is and	er-watewarlus	www.pas.the
full they do no no no	TRANG.		
		t awaiting trial on the present of	
of which ni	days were spent	in hospital.	
5. The prese	nt age of the accused acce	ording to his name of arrange attestation paper is	25 years
6. The date	of his members specifies	d in his court of species of RAV	Warch 43
Reth-Maron	ce which also seemed in suff	mental de en la resta esta discherge	m kife
PAN Timen	се ј-је етија 4 - жијеж	excipcipt pe bedefine	description product etc.
9. The accu	sed is in possession of or	entitled to no military decoration	n, or mrken reward (or is in military
possession of or e		decoration or reward.	
1.10			

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	dated	and in h		KARA!
	dated	, and in h	is regiment (or cor	ps), the rank of
				/
12. The accused his present date:—	as served as a non-cor	umissioned officer contin	nuously, without z	eduction, to the
			D	of promotion.
In the rank of		years.	. /	
In the rank of		Venes		
In the rank of		years.	/	
Note.—If any mati aragraph must be struc	er in any of the above sk through.	paragraphs cannot be sta	ted from the Regin	sental books, the
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	en triai nas been disper	sed with of accused Nu	mber	Rank Unit
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	exitact from the regun	ental books storing these	convictions and di	spensations with
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I hereby certify that	the foregoing schedule is in my custody.	of convictions and dispe	asations with trial	is a true extract
	the foregoing schedule as in my custody.		4.11	is a true extract
Signed this nir	neteenth	day of May, 19	44 ENTA	is a true extract Loop) Capt. Ad Jima Reece Has
Signed this nir	neteenth	day of May, 19	44 ENTA	sopp) Capt Ad rmd Recce Reg been dispensed

· 0;	No. D 7/085	Name RY	DBER	No.	Sqn., Battery, A Corps CAC and date Period not reckoning towards freedom from extra fine	Date of enlistment) * Sheet No.	8 4 Freet 4 3G.C. Badges Signature O.C. Company, etc.	Tradesa Rates o		M.F.M. 6 (A.V.B. 122) 500M-11-41 (2008) 31 Q 1772-39-1652
Estable	Place	Trate of offence	Rank	Chare of dracken-	OYFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispens- ing with trial	By whom awarded	Hemarks
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north	Bay, ent	23 june,	3 pti		assumed an insubordinale attetude	Cal moore La Goldsmits Cal Boas Loc End	7 days C. B.	23 jun 43	WJ Band	
month.	Bay ont	30 Juna	s pte		AA See 40 Awa from 2200 km 30 June 8 would 630 pts 1 July 43. Total charans 8 Mo 36 mins AA Dec 15(1)	Lit Bethered Boas Boc. End.	& Admonished	1 July # 3	RS Harriso	pay FRE 14
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Piece	Date of sifence	Itanic	Cases of drunken- ness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispens- ing with trial	By whom awarded	Hemarka	
				MY CUSTODY	XX OBIGINAL MF	Bast	O M	A D		

SUMMARY OF EVIDENCE in the case of D71085 Tpr Ashton Harry FYDBERG 29 Cdn Armd Recce Regt (5 Alta R)

AA Sec 8(2). Using Insubordinate Language to his Superior Officer. CHARGE:

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

FIRST WITHESS: M44852 Cpl Watkins, H, 29 Cdn Armd Recce Regt (S Alta R). having been duly sworn, states:

I was on 13 May 44, and still am, a corporal in the 29 Cdn Armd Recce Regt (S Alta R). At approximately 0030 hrs of 18 May 44, I was awakened by the accused singing. I told him to be quiet and so to bed so that he sold not disturb the other men. He, Tpr Rydberg, A H, the accused whom I recognize here, said to me, "Fuck you, I don't have to take orders from you, you are just a corporal, you haven't had much exterience, we are fighting for democracy." He continued to sing. In a few minutes I again ordered him to be quiet. He said, "You're just a suck-holing bastard." He continued singing. Hemfollowe are in with "you're just a suck-holing bastard to Campbell.

I've done detention before, you can put be under class arrest if you want to." I placed him under open arrest at 0035 hrs. He continued talking and singing and went to bed. In the morning when I move him at reveille I asked him if he remembered what he had said last night. He said, "Yes". At 0930 hrs 13 May 44 the accused called me over and said, "You had better get me out of the troop before I cause any more disturbance". I told him he had better see the troop o ficer. He told me, "You are supposed to do that." I told him I would see Lieut Campbell about it.

the Witness: Q.1 Was the accused drunk, in your opinion? A.1 The accused was slightly intoxicated. 18Mathins

The Accused declines to cross-examine this witness.

SECOND WILLESS: M45577 Tpr Nissen, A, 29 Cdn Armd Recce Regt (S Alta R), having been duly sworn, states:

I was on 12 May 44, and still am a trooper in the 23 Cdn Arma Recce Regt (S Alta B). On Friday, 12 May 44, at 2345 hrs. after a dance held in a British camp, I checked out of the guard room and walked to harbour accompanied by the accused, Tpr Rydberg A H, whom I recognize here. We spoke of the event of the evening on the way home and I left the accused, to my own tent. the events to my own tent.

the Witness: 0.2 Was the accused under the influence of drink? question to

The accused declines to cross-examine this witness.

"Do you wish to make any statement or to give evidence upon as 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 QUESTION TO THE ACCUSED: evidence."

ANSWER BY ACCUSED: I have nothing to say.

Certified that the Rules of Procedure 4(c),(D),(E),(F)&(G), have been

complied with. Taken down by me in the Field in the presence and hearing of the accused this 17th day of May, 1944. (K F Martin Lieut

Officer detailed to take Summary of Evidence.

LIST OF WITNESSES in the case of

D71085 Trooper Ashton Harry RYDBERG 29 Cdn Armd Recce Regt (S Alta R)

FIRST WITNESS: - M44852 Cpl Watkins, H 29 Cdn Armd Recce Regt (S Alta R)

SECOND WITNESS: - M45577 Tpr Nissen, A (S Alta R) 29 Can Armd Recce Regt (S Alta R)

In the Field 19 May 44 CAAllsopp Eapt
(R H Allsopp) Capt
Adjutant
29 Gdn Armd Recce Regt (S Alta

ED ENECTED TRIAL ZY COURT MARTING CHARGE SHEET The accused No. D71085 Trooper Ashton Harry RYDBERG, 29 Can Arms Recce Regt (S Aita R), a soldier of the Canadian Army Overseas, is charged with :--WHEN ON ACTIVE SERVICE, USING INSUBORDINATE LANGUAGE TO HIS CHARGE L SUPERIOR OFFICER. Army Act in that he, in the Field, on 15 May 44 at 0005 hrs, after having been oracred by M44852 Cpl Watkins H, to keep quiet and go to bea, sais to Cpl Watkins, "Fuck you, we're fighting for democracy. I don't have to take orders from you, You're just a corporal, you haven't had much experience, You're just a suck-holing bastard, that's all, You're just a suck-holming bastare to Campbell, I've done demtention before, you can put me under close arrest if you Want to".

ANother four

(G D Wotherspoon) Lt Col

In the Field 19 May 44

Commanding 29 Can Arma Heace Regt (S Alta R)

To be tried by Field General Jourt Martial. Dis Serverson "

Field.

28 May 44

FIELD GENERAL COURT-MARTIAL

OFA95 (In lies of AFAS) 40/P&S/1007 (2803)

(Whether the accused to be tried is under his camd 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 camd of troops on active service, subject to RP 105(C) and restrictions imposed by operapriate authy. A 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 paras 20 and 23, RP 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 trial on charges in the same charge sheets 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, Afrank or Alappmt, if any, see AA 182, 183, fns, KR Can 308, 328, 330.)

ACCUSED.

Number.

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

Full Christian Names.

Surname.

Unit

D.71085

Ashton Harry

RYDBERG

29 Bdn Armd Recce

Regt

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 (MAXX) committed the offence(s) set forth in the Charge Sheet(s) attached and on (date) 25 May 44 endorsed by me, (ambusan attachem and contents). "To be tried by Field General Court-Martial "

And whereas I am of opinion that it is not practicable that such offence(3) should be trigd by an ordinary General Court-Martial; (antichlants is the macking an attorbish for relative the anticipation for a compliance with RP 105(C).)

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

konnunnablentemppenden fahrliven Gibertenformatien ikunnyn hija alkindiffix na firmidenny for also riffinger Karamethodest keeplem (AA 49, RP 106(B), 107(A). Delete the whole or part, if not applicable

therent the Offe mentioned harounder (RP 100(E). Delete, if none appointed.)

PRESIDENT.

Maj

A K Stirling

(Must be named. RP 106.)

MEMBERS.

To be desailed by 3 Gdn A Tk Sty RCA

Lt

To be detailed by Linc & Welld R

(Rank.)

(Named or detailed. RP 106.)

WAITING MEMBER.

(Rank.)

To be detailed by 10 Cdn Indep WG Coy

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

JUDGE-ADVOCATE.

(Rank.)

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

On Active Service in the Fd.

England

estined personally. RP 105 (n 2.)

Brig (Rank.)

Date 28 May 44

(J C Jefferson) Brig Commanding 10 Jdn Inf Bde

Convening Officer.

CONVENING OFFR WILL INITIAL ALL DELETIONS AND ALTERATIONS

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

30 May 44

This is to certify that I have today examined D71085 Tpr Rydberg, A H, and find him fit to undergo trial by FGCM.

Wastro day

One to an error in the part of the heavy the Court it was not considered that the sunt detailed by the OC. So he Regt had sufficient acres (& years). The regionment of box years since so Jung sufficient too since her drampte to his attention. Recause of this the Sunt debailed as waiting member by the 10 can englished. I lay not in the Court se mumber - ak stilling Buy

Record of Proceedings of the trial by FGCM of W71085 Tpr Ashton . Harry Rydberg, 29 Can Armd Recoe Regt, held in the Field, 30 May 44.

Opening address by Prosecutor- From the evidence which I shall bring out I will prove to the Court that the accused did use insubordinate language to his superior offr and that he did so while of sound mind. I shall prove to the court that the remarks made to his superior offr he had every opportunity to retract these remarks and did not do so. Instead he made further remarks and he should therefore be found guilty as charged.

- Lat Witness for Prosecution-M44852 Cpl Watkins, H. Crew Comd 4 Tp, A Sqn, 29 Gdn Armd Recce Regt (duly sworn)
- At approx 0030 hrs night 12/13 kay 44 Tpr Rydberg came home and although you were asleep at the time you woke up. Would you relate to the court what happened at that time.
- I was wakened by Tpr Rydberg at said time and he was singing. I asked him to keep quiet so as not to wake the rest of the lads. He said to me " Fuck you, we are fighting for demod-racy, I don't have to take orders from you". He continued singing. I waited a while and I ordered him to keep white again. He said "Fuck you, you are just a suck-holing bastard", he then said " You are just a suck-holing bastard to Campbell", referring to my Tp pffr. He then continued singing and talking to himself.
- Was he drunk or sober? 44
- He was to my judgement slightly intoxicated. Bo
- At 0900 hrs you had another conversation with him, tell the court the certain answers of the conversation and the conversation that took place.
- At said time I was walkinh back to our orderly room and was called by Tpr Rydberg, and he said to me, "You had better get me out of the crew and out of the tp before I cause any more trouble." I said to him, "You had better see the Tp offr. He said to me, "That is what you are for." I said th I would see the Tp offr about it.
- In the allotment of duties has Tpr Rydberg received a square deal?
- He has been dealt with just the same as the rest of the crem.
- The previous night when you were talking to him, that is the night of the 12/13 May, was his voice clear or thick?
- His voice was clear .

The Mitness is Cross Examined by the Defence

- Has Tpr Rydberg on other occassions asked you to get him out of the crew or kars a transfer from the Regt.
- He has asked to get out of the Tp, and it was put into an offr's hands, there was no deffinite question referring to the crew itself.

- .. Of the merring xerxlexx of right 12/13 May 44 when the accused awakened you, were there others in your tent?
- A. Yes, there were three others hesides myself.
- were these three others wakened by the accused.?
- A. No Sir.

The witness is questioned by the Court

- When was this application for transfer made by the accused ?
- A. I would say approx three weeks before.
- Had he made any application for transfer previous to that ?
- A. NO SIT. RP 83(A) examplied with ata.

2nd Witness For the Prosegution-

M 45577 Tpr Nissen, A., 29 Odn

- Armd Recce Regt. (duly sworn)
- Would you tell the court your number, rank, name, and your job in this Regt.
- A. I am M45577 Tpr Nissen, A., I am a dyr of a tk.
- on the night 12/13 May 44 did your see Tpr Rydberg at a dance ?
- A. Yes Sir.
- w. What time did you leave the dance ?
- A. Approx 1145.
- w. Who left the dance with you ?
- a. Ipr Rydberg.
- . What time did the two of you reach the harbour ?
- A. Approx 0020 hrs.
- . How did you get home from the dance ?
- A. We walked home.
- what was your general conversation on the way home ?
- A. We just talked about the events of the evening.
- w. Was Tpr Rydberg drunk or sober ?
- A. In my opinion he seemed all right.

The Witness is Gross Examined by the Defence

- 4. At the dance had you seen Tpr Rydberg drinking ?
- A. Yes Sir

- at any time during the evening had the accused been doing anything that was out of line ?
- A. There was only one thing I noticed, he was sitting on the band stage singing over the microphene.
- . Did you do anything about this ? If so why ?
- A. I tried to speak to him, there was no response so I left him alone.

Witness is questioned by the Court

- 4. Is it being out of line to sing over the mierophone.?
- A. Probably not during the dance, but this was during intermission.
- You felt that he was being out of line by doing this ?
- A. Yes SIT. RP 83 (4) esupplied with applied

ord Witness for the Prosecution

Maj A. Lavoie, 29 Cdn Armd Recce

- Regt. (duly sworn)
- will you tell the court your rank, name and appointment ?
- A. I am Maj Lavoie, Sun Leader, A Sun, 29 Cdn Armd Recce Regt.
- .. Is Tpr Rydberg in your Sun ?
- A. Yes he is.
- Did he appear before you on orders on the corning 13 hay 44 in connection with this charge ?
- A. He appeared before me on or about that date charged with insubordination. The charge was made out under Sec 40 of the A.A. Conduct to the prejudice of good order and military discipline in that he did use insubordinate language to a superior offr. I listened to the evidence and asked Tpr Rydberg what he had to say. Rydberg replied "I plead guilty to all the charges, but I should have been charged with drunkeness, not for insubordination". I remanded the case to the C.O. After the accused was paraded from my presence I re-framed the charge and charged him unner the proper section of the A.A. The preliminary hearing on the newly framed charge did not come up before me due to my absence on duty, Capt McKenzie 2 1/c of the Sqn heard the charge and remanded the case to the C.O.

Note- As this witness had not given evidence in the Summary of Evidence RP 76 were complied with. The Defence had no objection. The Defence did not cross examine this witness.

Witness is questioned by the Court

- w. When did Tpr Rydberg apply for transfer from your Sqn ?
- The Prosecution is closed

The Defending Offr submits that the evidence for the Prosecution does not establish a prima facie case against the accused on this

charge.

charge. Address of the Defence;

In the evidence put forth before the court by the Prosecutor the only evidence of the accused having used insubordinate language is that of the Cpls word. The fact that the accused has been unsatisfied in his crew and has caused some disturbances is shown by the fact that he has applied for transfer. The accused being under the influence of liquor does not remember using the insuborginate language.

Reply by the Prosecuting Offr

At this time I wish to bring certain points before the court which while they are aware of them. I wish to emphasize again,

when Tpr Rydberg came home that night in question and started making a noise Opl watkins asked him rather than ordered him to be quiet. When he still persisted, only then was he ordered to keep quiet.

The defence has brought out that Tpr Rydberg was anxious to get a transfer out of the Tp or out of the Regt. I submit that this has nothing to do with the case in question and can not be used as an excuse for his actions, as it is impossible for a Sqn Ldr to satisfy all wishes of the individual members or his Sqn.

The defence has stressed that he only made a small amount of noise and did not wake any other members of the drew. I submit that this has no bearing on the case and that in any case he was ordered to keep quiet and did not do so.

The defence has brought out the fact that he was "out of line" at the dance. I submit that this does not prove that he was under the influence of alcohol as any one with a natural inclination to show off would not need the stimulation of el cohol.

Tpr Rydberg left the dance at approx 2545 hrs and according to the evidence of Tpr Bissen be arrived home at approx 0050 hrs and had been walking all the time. Assuming that he had been under the influence of alcohol earlier in the evening be would have ample time to get sober on the way home and aspfpr Bissen pointed out they talked about the events of the evening as any two normal people coming home from a dance would do.

lst witness for the Defence L84550 Tpr Holms, R, 29 Cdn Armd Recce Regt (duly sworm)

- Will you tell the court your rank, name, number and job in the Sqn.
- I am 184550 Tpr Holms, R. operator CAC.
- will you tell the court what your occurences were with the accused on the night 12/13 May 44.
- On that night my pal Tpr Bell and I walked down to the NAAFL and met Tpr Rydberg. We had a round of bee Rydberg met an English soldier and left us. we had a round of beers apeice. Tpr
- During the evening did you see Tpr Rydberg drinking on any other occasion?
- I saw him drinking with the English soldier. The Prosecution did not cross examine this witness

End witness for the Defence

El 36079 Tpr Bell, J.A. 29 Cdn

Armd Reade Regt.

Will you tell the court your number, rank, name.

I am H.36079 Tpr Bell, J.A.

The questions and answers in the evidence of Tpr Holms were read to Tpr Bell.

The Bell corroborates the evidence given by The Bell.
No cross examination of this witness by the Prosecution.

Address by the Defence

From the evidence which has been given the accused has been charged with using insubordinate language to his superior off. I have showed to the court that the accused had been drining on that evening. Due to the influence of liquor he may have said something that evening. He dose not remember that a very have been used that the same transfer is never to the influence of liquor he may have said something that evening. He dose not remember having used this insubordinate language. Gpl watkins admits that the accused was slightly intoxicated and that he had also dissatisfied in his crew. He has had trouble with the Gpl before as shown by his desire for a transfer. NWe have only the Cpls word to say that insubordinate language was used that evening.

The endince of each intruo was read back to din at The end of his testiming.

dertified tint Rules of Procedure 4 (a) (a) and (e) have been at Somplied with.

(A.K. Stirling Ma)

CANGE ONI-1-6 WOLL REM EN. Poly

RECORDED AT CMHO IN AB 150, CAOFEGC M-1-4 **Form of Proceedings for General Courts-Martial. C.M Court-Martin held a Sight hy on the 25th day of Majo-Gen C. Vokes, CB CBE D50 Commanding 3 Cds Isf Div 0' dated the 18th day of President. rigadier W.J. Megill, DSO - 2/9 Cdn Inf Bde GAOF Lt-eof D.C. Cameron, 180 and Ber, ED - 3 5D & G Highrs CAO Maj S.L. Dymond - 3 CH of O (MG) CAOF Maj N.W. Reilander - 2/3 Cdm A Tk Regt RCA CAOP Major J.R. Miquelon, 3 Incr '8' (GAOF) Cdn JAG O/S Judge Advocate Trial of* 1.7098 WO I (RSM) George John Ryder, HQ ROASC CAOF The order convening the Court the charge-sheet and the summary Redical Certificate (a labelrast) of evidence are land before the Court as not available waiting member takes his placed as a member of the Court The Court satisfy themselves as provided by Rules of Procedure 22 & 23. The accused is brought before the Court. Prosecutor, + Capt D.R. Gaitens, 2/3 Cdm Inf Div Tps Goy ROASC CAOF Fundament, or defending officer + Hajor T.G. Watt RCASC At 1000 o'clock the Trial commences.

The order convening the Court is read, and is marked 15.1 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.

Do you object to be tried by me as President, or by any of the officers whose names you have heard read over? Answer

No Sir

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

CADF Bk II p.9

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

The President, members and judge-advocate are duly sworn

The following officers under instruction are duly sworn.

Capt R.M. McLeod, 1 Det (A) Gan JAG Overseas

Q. to Do you object to P.4610 WO II(QMS) Crone, NJ, 3 Incr 'B' (CAOF) Can JAG Overseas accomed acting as shorthest writer?

Augunos

No sir.

The shorthand writer is duly sworn,

Charge-Sheet.

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

If the accused has elected to be tried under Arty.

Sec. 40. (8) the first should be here recorded.

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?

Die accused.

Guilty sir.

Answer.

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

Answer

Are you guilty or not guilty of the third charge against you, which question have heard read?

Aucon

Are you guilty or not guilty of the fourth charge against you; which Outstien you have heard read?

Answer

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

Second charge mithdrawn in accordance with provisions of RP 35(C).

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

The accused, L.7098 Warrent Officer Glass 1,
(Regimental Sergeant-Me jor) George John RYDER,
Headquarters RCANE (CAOP), a soldier of the
Canadian Army Overseas, is charged with:

WHEN ON ACTIVE SERVICE MEGIECTING TO OBEY
CANADIAN ARMY ROUTINE ORDERS (21 ARM GROUP)

in that he

in the Field, in Germany, on 16 Mar 46, when proceeding
from Germany to Holland, had in his pensension
one hundred and twenty-one (121) Founds in
English currency and forty-one (41) Dollars
in American Currency contrary to Canadian
Routine Order (21 Army Group/ 1149, as republished
in Unit Part I Orders No. 359 dated 12 Feb 46.

in the Field, in German , on 16 Mar 46, when proceedings from Germany to Holland, was improperly in possession of one hundred and twenty-one (121) Founds in English Currency and forty-one (41) dollars in American Currency.

"W.H. Colling"

(W.H. Colling)Lt-sol

Comd RGASC

3 Cdm Inf Div C(ACF)

In the field 16 Apr 46

FIRST CHARGE See 11 Army Act

To be tried by General Court Martial,

"C. Vokes?

(C. Vokes)Maj-Gen GOC 3 Cdn Inf Div CAOF

In the Field 18 Apr 46

B

aw.J. Megill Brig"

I certify that No 1.7098 RSM(WO I) G.J. Ryder, Ho RCASC 3 Cdm Inf Div CAOF

Oldenburg 25 Apr 46

MEDICAL OFFICER'S GERTINICATE

"I Harper" Capt Signature of Medical Officer

"Apmy"

Proceedings on Plea of Guilty.

* In he struck out in some discipling to a Not. Guildy. To been presented with *The Court having been re-opened the accused is again brought before it, and the charge—to which he has pleaded "Guilty"—read-to-him again.

The accused L.7098 WO I(RSM) George John Ryder, HQ RCASC CAOF is jound guilty of the first charge.

(The summary (a project) of evidence is read, marked 'H'

Question to the

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

No Site

James 1

The accessed in mitigation of puntshment says -

or hands in a written statement, which is read, marked the President, and attached to the proceedings: signed by

Instruction.

[†] If there is no summary or abstract of evidence, sufficient evidence to enable the Court to determine the sentence, and to enable the conforming officer to know all the circumstances connected with the case, will be taken on a separate sheet in the same manner as on a pleas of "Not Guilty."

If from the statement of the accused, or from the summary or abstract of evidence, or otherwise, it appears to the Court that the accused did not understand the effect of his piece of "Guility," the Court shall alter the record, and enter a plea of "Not Guilty," and proceed with the trial accordingly.

Do you wish to give evidence yourself or to call any witnesses as to Question to the accused.

Def Offr: There are no actual witnesses as to character sir, but I would like to submit to the Court a written statement made by ideutenant-Colonel Colling, who is at present absent in the UK.

Evidence as to character.

The statement referred to by the Defending Officer is submitted to the Court, read by the President, market 'J' initialled by the President and assexed to the proceedings,

PROCEEDINGS ON CONVICTION BEFORE SENTENCE

Question by the Presidents

Have you amy evidence to produce as to the character and particulars of service of the accused?

Amower by the Prosecutors

Yes sir, AF B296 and certified true copy of MF M6.

The Prosecutor produces Statement as to Character and Particulars of Service and certified true copy of Conduct Sheet, purporting to refer to the accused, which he submits to the Defending Officer 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 having the same mumber, rank, name and corps as the accused. Admitted in syldence and marked 'K' and 'L' respectively.

question by the Presidents

Do you wish to address the Court in mitigation of pumishment?

Yes sir. Sergeant-Major Ryder has a record of Defending Officer: service that can be looked back on with pride. served with the Canadian Army for three and a helf served with the Canadian army for three and a hear years in World War I, attaining the runk of Corporal and in 1918, he won the Military Medal. In this present emergency he joined the Army on the fifth of September 1939, was made a Sergeent the same day and won his appointment as R.S.M. in Italy in December 1944. Early in 1945 he was mentioned in dispatcher.

Sergeant-Major Ryder was sent to C.A.O.F. Sm January 1946 at the special request of Meutemant-Colonel Colling.

The charge against Sergeant-Major Ryder is one of disobeying az Army Order which is turn is based on a Foreign Exchange Regulation of the United Kingdom. This Foreign Exchange Regulation controls the flow of Sterling Currency out of the United Kingdom.

The Army Order forbidding the retention of Sterling Currency has been well publicized and repeated but reason why there should be such as order has not been made known to the troops. The average officer domn't really know or care may this order is in affect.

Sergeant-Major Ryder was a butcher in civilian life and, although he is an intelligent man, he is not versed in International Finance. The current money eredit or deficit of the United Kingdon in any given foreign is of mo interest to COUNTRY

Sergeant-Major Ryder enjoys playing cards and during his service on the continent has non a compiderable amount of momey. The losers sometimes paid off their debts in Poumi Notes or Dollars. It is the feeling of the average person that dollars or pounds Sterling represent real tangible momey as opposed to the paper momey of any of the countries through which the Canadian Army has fought and so the average person wants to keep that real money.

Serges at-Major Ryder was taking the ourcement to Holland to leave it in safe-keeping with the young lady. His plans for civilian life are to take his discharge in Canada, spead a month or six weeks there in order to settle some business affairs and them to return to Germany to take we are not with the Control Commission. Germany to take up a post with the Control Commission.
The young lady with whom the money was to be left wants to emigrate to America. She does not expect to be able to go before mext winter and the thought was that this money in question would finance a nice leave together in England before Sergeant-Major Ryder assumes his duties with the Control Commission.

The Suggestion that Sergeunt-Major Ryder had any blackmarket dealings or that he contemplated selling the Sterling or American currency to European Mattomals at a premium. The off-sace is that having acquired the currency on the continent and not having the privilege of depositing the money in his pay account, he wanted to take the money to the UK where he could legally emjoy the benefits of it.

The defence respectfully suggests to the Court that in attempting to do this Sergeant-Major Ryder did contravene the letter of the law but did not contravene the spirit of the law. Should the sentence in this case be a severe one, it will jeopardize the position of the accused with the Control Commission of Germany and so have an effect on the future earning power of Sergeant-Major Ryder.

President:

The Court is now closed to consider the sentence and 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.

The Court sentence the accused L.7098 Warrant Officer Cl 1 (Regimental Sergeant Major) deorge John Ryder, Headquarters RCASC (CAOF) To be reduced to the rank of Warrant Officer Cl II and to be severely represented, "J.R. Miquelon Major "W.J. Megill" Brig Judge Advocate I confirm the finding and sentence of the Court Promulgated and extracts taken. "J. Malcolm" Capt & Adjt HQ RCASC 3 Cdn Inf Div (CAOF) In the Field 1 May 46

.64 Tylechenahm, Germany, 18 Apr &6. GOO 3 Cdn Inf Diw CAOF Orders by Mel-Jen C. Vokes, OB CBE LGO

faithem fruiof delujuid to Lamenas a lo yidmanea nol vabro lo smol

Acciono L. 7098 no 1(REM) Ryder, G.J. - Hg RCASC 3 Cdn Inf Div CAOF eldseass filw woled beneitses as greeflic to fisted eff annual collection of the standard of t

HOLD SAN THE MAD 9/8 - 080 Lillank .L.M attack

Lt-dol E, M. Hodson, DCO - 2/3 Cdn A Tk Rogt HOA CADY Lt-Col D.C. Cameron DSC and Bar ED - 3 SD & C Highrs CAOF

Maj S.L. Dymond . 3 CH of O (MG) CAOF

Maj H.W. Hellander - 2/3 Cdm A Tk Hegt RCA CAOF

HALTING MEASES.

Maj P.H. Stephes - 3 Mth MS Highrs

.bmetta or

STACOVOA SOULL

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berluper viub sessentia lis bas bearss ed like besussa en'l

. 62,61 Lind to tab dist sidi benal? The proceedings all be formered of behavior and Itim usantbecome and

Mad-LaM (sesou 0)

Sector On

GOO 3 CON IM. DIA CVOL

I am Mine F. Wison of 14 Westerstreat Meiden Melans. I was surface as a weitress at the country of the table of the country of the count

who first suggested that you get a sefety deposit hox ? Mr Du Chateau, accountant Amsterdam.

1204.

2nd Witness

Inspector van Marion of the Saarlas Civil Police,

I am Inspector van Harton of the Haarlam Civil Police, on Friday 18 Mar 46 I received a telephone call at my hems, one of my policemen teld me that a civilian had found a troise care on De Witstraat near Hampersingsl. In the case were found many things of great worth, the policemen asked me to some to the office so that we could make a list of the contents. We made a list of the contents and held them in my safe. The list consists of:

[two gold the pine, two pairs of samerings, and coldent coing, a sase with a resary, three loves cisprettes, two silver spouns, three procedes, seven hoxes meet, six cakes of some, 1 comera in case, 1 toy jeap, cisprette case, four ties, four bead necklaces, 1 bread bracelat, 5 wristwatch a, four wolden women wrist watches, two poleen watches (mens), 2 watch bracelets, 1 ladies gold pencil, eight colden rings, four twels, 1 shirt, me case toilet articles, two sild shawls, pround soffes, tea, and two lowers of bread, 14 English sound soffes, the ladies pounds, 41 American dollars, and one chaque.)

The box had the inscription George J. Ryder. I received instructions later from the Canadian Provost not to release the case a until hearing further from them.

The nox had the inscription George J. Ryder. I received instructions later from the Canadian Provest not to release the care until hearing further from them.

On Tuesday 21 Mar 46 a young lady by the name of Petronellu P. Dioen appeared here alone and told me that the came was the property of her finness Sulvaj Ryder. She told me that he had passed through Haarlem on Saturday solng to Leiden from Oldenburg and that the came had fallen or was stolen from the car in Hearlem. Ryder did not report the loss to the police as he did not expect it would be found. Miss ploen told me that she knew about the contents of the case and it was just as we found in the case. Miss Vicen stated one had read in the newspapers that a case from a Canadian had been found therefor she came to Haarlem. After Sunsay she returned with a member of the Canadian Provest from Amsterdam. I was not present but I spoke to the Frovest on the telephone and the provest requested the case and the contents to take with him. I refused as I had Javious instructions from Capt Hockandyk of a Ganadian on any not to release the case. Later Lt A.E. Prock on the 50 Mar, came with the Capt commander of the Provest and I gave him the case. On the second Apr. Lt W.J. Panagegies of 3 Cdn S.I.S. 3 Cdn Div SAOF came and requested a statement which I gave to him.

Question

Answer

Are you positive it was the night of the 15 March ?

No it is the might of the 16 Mar at 2200 hrs.

signed yan Marion

I am Simon Meyer of Reitzstraat 44, Wherlem, on Saturday 16 Mar 45 about 1030 in the evening I saw a car coming from the direction of Amsterdam going in the direction of the Hague. Just at the corner of Fleine Houtstraat I saw that a box dropped off the car and fell to the ground and I saw different things lying in the street. I want with my wife and took all the things off the street and put them in the 'Ox again, but there were so many people around that it is possible that some of these people did put some of the things in their colets. I saw a doy about 20 years putting something in the pocket of his jacket. My wife put the top on the ex and we walked to the police station with the box. I arrived at the solice station at a lost 1045 and when we want in the station I saw a policesam in uniform and the left and told them the shale story. The policesam opened the box and looked in they they then iso's a manife tox out of the larger one and it was full of jewels, they also took a camara and case out. I asked the policesam if I could that the box home but they refused saying they must report it to the C.T.D. The C.T.D. was not in at that memor but they told me to wait. I then asked them for a receipt but they said only the CIP could do so. I then returned home promising the policemen to return Sunday, but did not see the CID until Monday morning. I had a talk with Detective Officer Seerman who was very busy. When I handai the box into the police there were verious personal articles also some English money which was paper money. I did not recomine whether the car was a gray car as it was travelling fairly fast and it was dard.

The accused declines to cross-examine the witness.

Signed S Meyer

This evidence was interpreted under cath by

(D.R. Gaitans), Capt.

THE.

Alth Witness

Haris Christman Serman, Pelice davest sator,

I all Martine Christiann Lerman police investigator. Haarlan, on Saturday evening 16 Mar 46 at approx 5000 hrs I came to the colice station, the two Sgis was were in charge, Speelstra and Muruel, told me that a series called Meyer had found a nex with joyels ate in it.
They had made a list of the contents which I checked and found correct. The list espainted of various misers of jewelley, let angless pounds, 41 American dollars and personal thems. I called Inspector van Marion and maked him to the station, when he arrived I hadned the articles and the list to him. He checked tree and finding everything in order depasted the valuables in the safe. I had investigations to see if I could find the young can be a was seen taking superfix out sould not discover in.

The accused declines to areas-examine the witness.

signed M.C. Seerman

This evidence was interpreted under oath by relice

(D.R. Galtena), Cont.

5th Witness

Lieut W.J. Panagapko of No 3 Cdn SIS CAOF, sworn

I am lieut W.J. Panagapko of No 3 Cdn SIS CACF.
On 25 Mar 46 I received information to the effect that a suitcase belonging to the accused had been sean as it fell out of a truck in Haarlem Holland. As the case hit the cobbled street it burst open scattering part of the contents. Acting on instructions received from the APM 3 Cdn Div, I proceeded to CRASC HQ Oldenburg, interviewed the accused and obtained a voluntary statement, which is now in my pessession. In this statement, the accused made no mention of being in possession of jewelry and money at the time of his journey to Holland. Consequently I interviewed him again on the 28 Mar 46 and after stating that I already knew the contents of the suitcase the accused gave me a second statement. This is also in my possession. I then questioned the accused as to how he came to be in possession of such a lot of jewelry and foreign currency and he stated he had won it all gambling. I then proceeded to Holland where I interviewed Miss P.P. Viden an acquaintance of accused and Inspector Van Marion, Inspector of Dutch Folice Haarlem, meanwhile the APM 3 Cdn Div went down to this case and handed it over to me. Upon my return from Holland and procured all jewelry and money perusining to this case and handed it over to me. Upon my return from Holland I reveiwed all svidence and statements in my possession and submitted a complete recort to HQ 3 Cdn Div. I would like to state here that the accused was placed under close arrest on the 25 Mar 46 and released to open arrest on the 25 Mar 46 and released to open arrest on the 25 Mar 46 and released to open arrest on the 25 Mar 46 by ma. He has been under open arrest on the 25 Mar 46 by ma. He has been under open arrest on the 25 Mar 46 and released to open arrest on the 25 Mar 46 and released to open arrest on the 25 Mar 46 by ma. All foreign currency pertaining to this case is being held in safe custody by me.

Question

On the afternoon of the first interview did I not admit on being questioned that there were jewerlry and money in the suitease.

Answer

It was not until after the statement was finished and I began to question you that you admitted it.

signed Lieut W.J. Panagapko

The statements referred to in the evidence of the above witness attached hereto as Exhibit "A" & "B".

5th Witness

Lieutenant A.E. Brock of 2/4 Cdn Provost Coy CAOF duly sworn states:-

I am Lieut A.E. Brock of 2/4 Cdn Provost Coy CAOF
On or about the 27 Mar 46, whilst employed as an investigator in 11 Provost Coy CAOF, I was detailed by my 0.C. to
proceed to the civil police station, Haarlem with instructions to pick up money and valuables which were being held
by the Dutch civilian police. This money consisted of
approximately 120 English pounds and approximately 42
American dollars. Valuables were assorted watches, rings
etc. The civilian police also handed over to me a black
wooden box bearing the name George J. Ryder. I turned all
these articles over to Capt L.G. Magee, O.C., 11 Cdn
Provost Coy, from whom I obtained a receipt, which is now
in my possession.

signed A.E. Brock Lieut

The accused declines to cross-examine the witness.

7th Witness

Capt J.M. Malcolm, M.B.E. of HQ., RCASC, (CAOF), sworn, States:

I am Capt J.M. Malcolm adjutant of HQ RCASC 3 Cdn Inf Div CAOF. I hereby produce Daily Part I Order No 359 Fara 6 dated 12 Feb 46 issued by Lt Col W.H. Colling C,RCASC 3 Cdn Inf Div CAOF and signed on his behalf by Capt J.F.H. Clare on the above mentioned date. I further state that by Part II order No 3 dated 9 Feb 46 RSM Ryder was TCS this HQ 4 Jan 46, arrived at this HQ 5 Jan 46 and resumed duties of RSM 6 Jan 46 and has been so employed up until the present time. Daily orders are posted in the main Admin building second floor on the notice board which must be passed by any person residing on this floor. RSM Ryder has been billetted on this floor since his arrival.

The accused declines to cross-examine the witness

John M. Malcolm

The above mentioned document read out to the accused by me, marked Exhibit "C" and attached hereto.

The accused was cautioned as follows:

QUESTION

Do you wish to make any statement or 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.

ANSWER

I do not wish to make a statement.

The accused does not call any witnesses

signed Geo J. Ryder

I certify that the foregoing Summary of Evidence consisting of five; (5) pages was taken by me in the presence of the accused and that R.P. 4 (c) (d) (e) (f) have been complied with.

(D.R. Gaitens), Capt 2/3 Cdn Inf Div Tps Coy RCASC (CAOF) T have been warned that I am not obliged to say anything I have been warned that I am not obliged to say anything I wish to do so, but anything I do say will be taken down in writing and may be used as evidence.

Signed RSM Ryder, G.M.

On the leth of March 1946 at appx 1310 kms I left crass Eqs to go to Leyden, Holland. I was a passenger in a 60 cwt lorry with RCASC colours and markings. An RCASC corporal, whom I can recognize, was driving the truck. The purpose of his trip whom I can recognize, was driving the truck. The purpose of his trip was to take food supplies to the Colonial Institute in Amsterdam was to take food supplies to the Colonial Institute in Amsterdam was to take food supplies to the Colonial Institute in Amsterdam and I went along as I was on a week-end pass.

We left the Airport at Oldenburg and proceeded down routes of and 200 going through LINGEN, Handell Deventer, APELDOORN, AMERSFOORT and AMSTERDAM. We stopped at APELDOORN and had a cup of coffee and strived in Amsterdam at appx 2130 hms.

I helped the driver to unload his vehicle and then the griver took me from AMSTERDAM to LEYDEN going through HAARLEM. We arrived in LEYDEN appx 2330 hrs. I then went of the house of Miss F.F. Vicen at 14 Lysterstraat, LYDEN. I stayed there that night and all day and night of the 17th of March and left appx 1200 hrs on the 18th to come back to OLDENBURG.

When the driver of the truck dropped me off on the night of the 16th I did not see him anymore until he called for me on the 18th.

On our way back we stopped at the Colonial Institute, AMSTERDAM and picked up two barrels of Brandy for delivery to Recreational Increment, CLDENBURG. We then picked up a soldier who wanted a lift and left AMSTERDAM appx 1330 hrs.

We came back along the same route that we went up on and arrived at CLDENEURG about 2200 hrs where I reported into the Sgt's mess at CRASC HQs

WITNESS: W.J. Panagapko Lt W.J. Panagapko No 3 Gán S.I.S. signed L-7098 RSM Ryder, G.J.

Exhibit "A"

Geo J. Ryder

D.R. Ggitens Capt

SECOND STATEMENT OF L-7098 R.S.M. RYDER, G.J. I have been warned that I am not obliged to say anything unless I wish to do so, but anything I do say will be taken down in writing and may be used as evidence. signed. Geo.J. Ryder. L-7098 R.S.M. Ryder, G.J. On my trip to LEYDEN, Holland on the 16th of March, 1946
I was in possession of a black wooden suitcase, with my name painted
on it. This case contained the following; one dressing gown (grey
with blue trimmings), one pair of brown exfords, on complete
battledress, one clean change of clothing, holdall, one teakwood
battledress, one clean change of clothing, holdall, purse with some
cigarette case with silver pencil inside, one small purse with some
cigarette case with silver pencil inside, one small purse with some
comman Catholic medallions, rosary, silver cruisafix and two rings;
none Kodak camera, one bottle of Scoten Whisky, one bottle of Cognac,
about 150 Tartan and Legion cigarettes, some Chocolate bars and gum,
sacme toilet soap, two or three towels. The case also contained a box of jewellery consisting of; two gold pocket watches, three mens wrist watches, one tie pin with a rubie, two sets of ear rings, one diamond studded ladies wrist watch, two other ladies wrist watches, about eight asso; bed wrist watch, two other ladies wrist watches, about eight asso; bed rings, a ladies gold pencil, one solitary stone, one single ear-rings, two silver spoons, one gold colar pin, several ornamental ring, four assorted necklaces, one bracelet made of amber coloured stones, appx 126 English One-pound notes, four American ten-dollar bills, one American one dollar bill, and some English silver money. The wooden suti-case also contained my rations for 48 nrs and two white silk scarfes. All the jewellery and money mentioned in the above statement had been procured by me during my trips overseas since I left England I got most of it through gambling on my travels through Sicily, Italy, Prance, Belgium and Holland. Vicen, 14 LYSTERSTRART, LEYDEN, as on my previous trip I had already promised to turn these articles over to her for her sole benifit in order that she would have enough money to emmigrate to U.S.A. or CANADA after things were a bit more settled. WITNESS: signed Lt. W.J. Panagapko, No 3 Cdn S.I.S. Signed Geo J. Ryder Exhibit "B" Geb J. Ryder signed D.R. Gaitens, Capt signed

EXTRACT FROM

DAILY PART I ORDERS

Issued By

COMMANDER ROADS 3 CDN INF DIV CAOF

Last Order No 358 d/11 Feb 46 This Order No 359 d/12 Feb 46

MUST NOT, retain other currencies. Overseas RO (BAOR) No 1149 states persons subject to Military Law may have in his possession in dermany no currency other than Marks.

Exchanges of Currency will be made as the HO 20428. 3. Cdp. Inf Div (GAOF) Pay Office in the main Adm Bldg.

(To be repeated in Unit Part I Orders)

signed J.F. H Clare

for (W.H. Colling) Lt-Col 3 Cdn Inf Div GAOF

Ex ibit "C"

signed Geo J. Ryder

D.R. Gaitens Capt

Lists of Exhibits for the prosecution in the case of L-7098 RSM Ryder, G.J. HQ RCASC 3 CID (CAOF)

Exhibit "A" Original Statement of the accused.

Exhibit "B" Second Statement of the accused.

Exhibit "C" Part I Order HQ RCASC 3 GID (CACF) No 359 d/12 Feb

Cartified True Copy 2. Subject to the exceptions set out in para 3 hereof, no person subject to military law may have in his possession in GERMANY any currencies other than marks; this applies to public, PRI/regimental, as administrative reasons, exchanges of currency (other than in sivance account balances) on entering GER ANY will be carried out as bulk (b) Persons subject to military law who make short visits to GERMAINY (e.g. staff officers, cessory dyrs, personnel of units stationed near the frontier), may take with them currenules other than marks to the value of four days pay or in the case of voluntary workers, the squivalent of three pounds. Such currencies will be exchanged in the normal way if any such visit exceeds tendays. any such visit exceeds ten days, 4. Advance account balances will not be exchanged but will be paid into Field Cashiers. 5. Currencies other than marks will NOT either be paid out to the troops or temiered in payment for goods or services or labour in GERMAIN or exchange for marks except tarough official channels. "H.C. Pattison" Major HQ ROASC 3 Cdm Inf Div CAOF 23 Apr //6.

I have been acquainted with the accused, RED RYDER, since Apr 1941. During this time he has served under my command as a Egt (A7 Cdn GT Coy); NO II (CSM A1 GT Coy) and NO I (REM HQ - ROAEG 3 Odn Inf Div GAOF). RSM RYDER has always performed his duties in a most energetic I have always found him to be completely homes and him character beyond reproach.

To you and and realized to the state of the taon d any 12 . At Administration and To-min at season of 18 Too contains the east of no false galaters and a " he seron off a wood in a large of the seron off a wood in a large of the seron of th PROPRIES NO TO A STATE OF THE PROPERTY OF THE ARCHER KONER KENER KENER KENER KENER KENER KENER KENER KEN

No.L-7098 Name RYDER, GJ sqn., Rattery, or Company Date of last entry in Company Conduct Sheet of last drunk			or Company and date)	Corps RGASG Period not reckoning towards freedom from extra fine		enlistment Budges Proficiency Pay 40/P & /Bink (2000				
Place	Date of offence			OFFENCE	Names of Witnesses	Punistment assemble	Dute of award or of order distric- sing with trial	By whom awarded	Remarka	
			et destroyed Cdn Volunter		k of Set AUTH: asp wef 10 Jan 4	R.O. 319	J.B.			
				TED TRUE COLY "J. Malcol (J.M. Hels r having custody of orig		itim.				
									1	
									(P.T.0.)	

**Form of Proceedings for General and Distric Courts-Martial

Commanding 3 04

Proceedings of a General on the 25th day of April

Court-Martial held at 19 46 by order of

dated the 18th day of April

President

Brigatier W.J. Megill, DSO - 2/9 Cds Inf Bdomann

- 2/3 Gds A Tk Regt ROA GROE

Major J.R. Miquelon, 3 Inor 'B' (CADF) Odn JAG OverspJudge Advocate.

Trial of* 1,7098 NO I (RSM) George John Ryder, NG ROASE CAOF abetract) of evidence are laid before the Court.

The Court satisfy themselves that to serve owing to

, waiting member takes his place as a momber of the Court.

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

The accused is brought before the Court.

Prosecutor, Capt D.R. Gaitens, 2/3 Odm Inf Div Tps Coy ROASC CAOF Comment or defending officert Major T.G. Watt ROASO

At 1000 o'clock the Trial commences.

The order convening the Court is read, and is marked 191 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.

Do you object to be tried by me as President, or by any of the officers President to the whose names you have heard read over?

accused.

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

(1)

10M-8-41 (1519) H.Q. 1772-89-224

care su

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

2 feet

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

The following officers under instruction are duly sworn.

Capt R.M. MoLeod, I Det (A) Dim JAG Overseas

Q. to

Do you object to P.4010 WO II(QME) Grome, WJ, 3 Incr 'B' (CMOP) GEN JAG Overseas acting as shorthest spiter?

Asswer

The shorthand writer in duly sworm,

Charge-Sheet

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

If the accessed has elected to be tried under A r m y A c i, see 48 (8) the fact should be here recorded.

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 Question to the you have heard read?

But her ster.

Ansiner

Are you guilty fir and guilty of the second charge against you, which Question, you have heard read?

Answer.

Are you guilty at gard guilty of the third charge against you, which Question you have heard read?

Answer.

Are you guilty or not goilly of the fourth charge against you, which Quality

Angurer.

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

Second charge withdraws is accordance with provisions of RP 35(C).

If the trial proceeds upon any charge to which there is a plea of "Not Guilty," the Instruction.

Court will not proceed upon the record of a plea of "Guilty," until after the finding on that other charge.

Ope Yekes) hel-den to ye

To be tried by density dourt-Martial.

(W. H. Colling Lt-co Comd acksc 3 cdn inf Div (chor)

biett edt ni 84 rg&3/

American Gurrency. in the Field, in Germany when proceeding from the Cermany to Holland, was improperly in possession in or one hundred and twenty-one (121) Founds in English Currency and forty-one (41) dollars in Kinstlesh Currency and forty-one (41) dollars in Kinstlesh Currency. JU SA TEM ST NO

an tent ni

WHEN ON ACTIVE SERVICE CONDUCT TO THE PREJUDICE OF GOOD OF GOOD SHOW MILITARY DISCIPLINE

+ 505 SECOND CHARGE (** LANGE CHARGE)

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en dend mi

WHEN ON ACTIVE GERVICE NECLECTING TO OBEY (QUORD) SHEN CHOUP)

Joh VmrA

The accused, L.7096 Warrant Officer Class 1, TOER, C.7096 Warrant Officer John RYDER, et al. 10 to seld the Toes of the Helphon of CAOF), a sold ter of the Helphon of the Carter of

TERRS ROHAHO

ARENICAL SERVINGAN, OFFICER'S CERTIFICATE

To undergo trial by Court-Martial

Softmaker of the Medical Officer

Proceedings on Plea of Guilty

*To be struck out to the Court having been re-opened the accused is again brought before in case no plea of it, and the charge to which he has pleaded "Guilty" read to been proceeded him-again.]

The accused 1.7098 WO I (REW) George John Ryder, HQ RGADO CAO) is found guilty of the first charge.

*The summary (or distract) of evidence is read, marked signed by the President, and attached to the proceedings.

Question to the accused.

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

Annee

The accused in untigation of punishment says:-

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

Instruction.

^{*} If there is no summary or abstract of evidence, sufficient evidence to enable the Court to determine the sentence, and to enable the confirming officer to know all the circumstances connected with the case, will be taken on a separate sheet in the same manner as on a plea of "Not Guilty."

If from the statement of the accused, or from the summary or abstract of evidence, or otherwise, it appears to the Court that the accused did not understand the effect of his plea of "Guilty," the Court shall alter the record, and enter a plea of "Not Guilty," and proceed with the trial accordingly.

Do you wish to give evidence yourself or to call any witnesses as to Question to the character?

Def Offr: There are no actual witnesses us to character sir, but I would like to subsit to the Court a written statement made by Lieutenset-Colonel Colling, who is at present absent in the UK,

Answer.

Evidence as to

The statement referred to by the Defending Officer is submitted to the Court, read by the President, marked 'J', imitialled by the President and agmented to the proceedings.

Hul.

Zer sir, AF B296 and certified true copy of MP M6. The Prosecutor produces Statement as to Character and Farticulars of Service and certified true copy of Coadnot Sheet, purporting to refer to the accused, which he submits to the Defending Officer for examination and then to the Court for ministion in evidence. The Court is activited that these dominate refer to the accused, because (1) has provide to be signed in the manner required by AA 102 (1)(g)(h), and (ii) they purport to refer to a soldier having the same court and and nown as the accused. Similarly in evidence and Ica str. Sergesstelajor Tyder has a record of service that was be looked book on eith pride. Her served with the Casallan key for three and a half years in horld mar I, attaining the rank of Sergeral and in 1918, he won the Military Yeal. As this present emergency he joined the Army on the fifth of September 1979, was made a Sergerat the same day and won his appointment as R.E.N. in Italy in December 1944, Early in 1945 he was sentioned in dispatches. dispatches.

Sergoust-Hajor Ruder was sent to C.A.O.F. in January 1945 at the special repeat of Lieutenunt-Colonel

The charge against Sergeant asper Ryder is one of disobering an Army Order which he turn to based on Foreign Evaluage Regulation of the United Kingdom, Foreign Evaluage Regulation controls the film of Starling Correctly out of the Vaited Kingdom.

The Arry order forbidding the retaction of distring Currency has been well published and repeated but the reads to there should be such as order has not been make former to the troops. The average officer doesn't featly know or care may take order is in effect. Sergeant-Major Swier was a butcher in civilian life as although he is an intelligent man, he is not versed to intermational Finance. The current womey cradit or deficit of the United Himpion is any given foreign country is of an interest to him.

Sergeant-Major Ruder enjoys playing eards and during his service on the continent his won a considerable amount of nowey. The lovers summations paid off their debts in Touch Lutes or Bollers. In is the feating of the service person that collars or pounds Sterling represent real taughble scame as opposed to the paper money of any of the constrine through which the Canadlas Army his faught and so the average person wants to keep that real away.

Serges at-Major Ryder was taking the currency to Bolland to leave it is safe-keeping with the young lady. His plans for civilian life are to take his discharge in Canada, speed a mosth or air mesks there is order to actile some business affairs and then to return to dermany to take up a post with the Control Commission. The young lady with whom the money was to be left mante to emigrate to America. She does not expect to be able to

Presidents

. Delanimist Vigalbrooms are The Court is now closed to consider the sentence and the sentence and the court, being subject to confinential all the two confinentials all the proceedings is open court proceding at letter, and the proceedings is open court are coordinated.

At defeate respectfully suggests to the Court that it and defeate the contravene attending to do this Bergeant-Mejor Hyder did nonliveene the this letter of the law him did not contravene the spirit of the law Bhould the sentence in this description of the prostition of the prostice of the this description of the description of defeated with the description of description of describing power of the benchmark in effect on the fitting and so the fitting the description of the descripti

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sind faut ass injunct end has redain inter evoled og mendegod erast sols a sonsail birow mobiser; si yamon sid semmena rebyn rotsk-fausgirel evoled hastani at animetamod loudand end dits sellub

- That

E

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

Finding

The Court is closed for the consideration of the finding.

The Court find that the accused is suilly of the

fuit charge

Proceedings on Conviction before Sentence

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

is duly sworn.

*When the Court is already open this sentence will be struck out. Evidence of character, &c. Question by the Description

Have you any evidence to produce as to the character and particulars of service of the accused? Answer by the Witness.

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.

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

Question.

Have you compared the contents of the above statement with the regimental books? Answer.

Question.

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?

instruction of by present of the extern of the extern of the external corps, or observation, the finding of the Court renders him halds to superconduct in inside to superconduct him halds for that the presenter with the Court the presenter of the Court the presenter on the Court the presenter on the Court to the fact, and the Court must make upon the first the present of the Court must require with the nature and amount of this additional.

Question to the

Cross-examined by the accused.

Do you wish to address the Court? Answer.

The Court is closed for the consideration of the sentence.

Sentence

The Court sentence the accused 47098 Warrant affect of the Report of the Register (Report) Group folian Lyder (Report of the reduced of the rank of Warrant affect of the reduced to be severely reprinted to the severe

I confirm the finding and the septence of the Boart.

In the Field 30Apr 46

G Vokes) Maj-Gen 500 3 Gdn Inf Div GACF

Tromelgated and extracts taken

In the field Walcolut Cope & Ad).

1 Many 46 H. B. BLASC 3 Cd. IN Dr. (GAOF)

army form a 47 Ruf. G.

DOURTS-LARDIAL

Form of Order for the assembly of a General or District Sourt Martial

......Orders By Maj-Gen G. VOK Ed GB GBE DEG

GOO 3 Gan Inf Div GAOF

Bad Zwischenahn, Germany, 18 Apr 46

The detail of officers as mentioned below will

oldenburg at 1000 hrs Thurs 25 Apr 46 for the purpose of trying by a general court-martial the accused person named in the margin and such other person or persons as may be brought before them.

ACCUSED

L-7098 WO I (RBM) RYDER, G.J. - HQ RGASC 3 Cdn Inf Div CA6F

PRESIDEN

Brig W J MEGILL DSC

- 2/9 Udn Inf Bde CAOF

MEMBERS.

Lt-col D C CAMERON DSC and Bar ED - 3 SD & G Highrs CAOF

Lt-col E M HODSON DSO - 2/3 Cdn A Tk Regt RCA CAOF

Maj 3 L DYMOND - 3 CH of 0 (MG) CAOF

Maj N W REILANDER - 2/3 Gdn A Tk Regt RGA JAGF

WAITING NOMBER

Mai P H STEPHEN -

- 3 Nth NS Highrs

JUDGE ADVOCATE

Maj J R MIQUELON - 3 Inc "B" JAG Overseas CAOF is hereby appointed judge-advocate.

The accused will be warned and all witnesses duly required to attend.

The proceedings will be forwarded to AAAQMG HQ 3 Cdn Inf Div CACF.

Signed this 18th day of April 1946.

(G. Yokes) Maj-Gen GOC 3 Cdn Inf Div CAOF Haghet.

LIST OF TIMESIAS

THILL OF 1-7098 NO I (REAL) RIDGE J R - Ha ROARD & Odn Inc Div CAUP

	DIE P.P. VLORE		
		- Raurian Civil Police	
324	- Steen Hig/BR	- Reitzatract, 44 Haarlem	
		- Police Investigator, Huarles	
	Mout W.J. PANAGAPKO	- 3 Can Inf Div 318 CAOF	
	Lieut A. E. BROCK	- 2/4 dan Pro Goy CaOF	
	Dage J.M. MALGOIM MRE		

JRI

of 1 7098 R.S.M. Ryder & J. of H. Q. R.CASC. (CAOF). The office commanding directs that the evidence be taken on wath. 1st ditues In in P. P. Violen of it Lyster. I am miss P.P. Theorem of 14 Lystersteast Leeden Holland, I was employed as a waiture of the Corner House Cluby apple door Holland from 27 June 45 until 10 Ded 40 and while employed I came to know R. S. M. Ryder. I did not keep company with Soft major Ryder with the end of See when we began to got and together regularly. On the 10 of mand received a letter from Sgt hay Ryder stating that he had rome things to part away and from our previous converted that we satisfied a gathered that by "things" he meand the watches wings eta that he was in possession of, but The told me that he had

lost his box on the wa 1,5% witness down from Dermany. On the 18 of 19 of march I not. iced a piece in the news. paper about some fewellery.) went to the Police Station Haarlem and there I I chought the box men. may Ryder I was them asked if I could name the con. tents of the box which I did to the best of my ability, naming [watches ings, shoes, againstar] I was the asked to name the owner of the box and I stated that it was by may kyder. The police told me that they had Sot may kydus name as the owner of the box and that they still had possession of it, and that they would contact the provest in amsterdam. When I named the articles in the box dalar stated that there were a number of English pounds in the box

as Sgt mg. Ryder had tolled so Watness Continues see the provost in amoter. dam and since then I have been interviewed by the provoct at various times That is all I know. examined by the accurate Question . I'm the provad remove possession. from your Question - Vellom answer - GasBrock, 11 Gan Provost Gay Question - Did you receive a rend to. answer -I ha first suggested that Question -Smi Du Chatsan, che accountant amaterdam answer -

Impector marion, of the skills Haarlem Givil Police morn states. I am Impector lan masion of the Haarlem Civil Police, on Friday 15 mar 46 I received a tel show call at my home, one of my police men told me that a civilian had found a Craken case - En d. Relitational care work, the patiernan asked me to come to the office so that we could brake a list of the contents. We made a list of the con tents and held them in The list consists

of Eland gold the pino, two

soms of ear rings, one golden

ear ring, a blue stone, ea, brooch, three bracelets of coins, a case with a wrang, three botes eigenettes, two silver spoons, these brookles seven boxes meat, six cakes of soap, I camera in case, I tay jup, cigarette case, four ties of bead necklases, I bead brass. let, 3 wustwatches, four golden

matches (mens), 2 watch that lets, I ladies gold peniel, & golden ungs, four towels, I shirt, one case toiled articles, two tea, and two loaves of bread, 146 glish coing 121 6 nglish pounds, 41 lemenca dallars, and one cheque. I he bay had the chacrigo ceived instructions later for the Banadian Provost of to release the case until having further from On Tuesday 21 Mar 46 a ing lady by the mame of Petrongla P. Whoen appear ed here with a continue alone and told me that the case was the property of her france 8gt may kyder She told me that he had Saturday going to hidenford Oldenburg and chat the care had fallen on was Haarlem. Ryder did not report the loss to the police as he did not expect it would

be found. In is there the what ihr knew about the contents of the case an it was just as we found in the case miss Shoen state I she had read in che new apapers that a case from a Canadian had been found therefor she to Haarlem. after Sunday she returned with a member of the Canadian Provoid from amsterdam? was not present but I spoke to the Provost on the telephone and the provont requested the can and the contents to take with him, Infused as I had previous unstructions from Gapt Hoogendyk of the release the case, later & a 6. Brock on the 30 man, can with the Capt commande of the Provont and I gave 2 apr. H. Il Panagaphor 3 6dn S. J. S. 3 6dn Die 6. a. a. amand requested a statement which begave him.

7

nd Wetness at 2230 Res. Orm

Simon meyer, Restystraat sty, Haar 3rd Whitness lem, Holland swarn states the Lam Summ mayer of King stract 44, Haarlen, on Saturday 16 mar 46 about 1030 in the even ing I saw a car coming from the direction of Ahr Hague. and at the counter of & line Houtstay I nave that a box drapped off the can and feet to the ground and I saw differed things lying it my wife and took all the things off the street and put but there were s people around that it is possible that some of these people did put some of the sling in there polkets. Draw a bay about 20 years put the top on the box and we walked to the box Larived at the police at about 1045 and when

and looked in a took a mall box of fel of fewels] tely also look a camera and were only d the patienan of 2 Could take the look, holice they must uport it to the 6 d. D. the 6 d d was not at that moment but they told me to wait I then asked ihipolicemen for the God I could do so Itle returned home of policemen to return Lunday. but I did not me the 6.3 d a talk with Detection officer Bremen who was very when I handed the box into the police there were warrows al articles and also some of list money which was paper money. I did not reagnize whether the ca can as it was travelling fairly

Land and allower dark 35 The accused declines -J. Meyz Haarlem. J. A. Staitens Capt

marins Christian Berman, po. I sh Elitness her investigator, Haarlem, I am marins Christian Beer nan police investigator Haarlem, on Saturday evening 16 man 46, at approx 2300 his I came to the police station, the two lights who were in change. Spoelstra and Hummely major had found a box with gewels etc - I. They had made a list of the contents which I check ed and found correct, The list contricted of Coarons perces of pewelly 121 & nglish pounds, 41 american dollars and personal items, I called Inspector Han marien and asked him to come to the station, when he arrived I handed the articles and the list to to the He chocked then and finding energeting inder deposited the valuable in the safe, I made mue tigations to see if I could time the grand who but could not disioner to CHMY PROFE

Inher all I have ind, The accused declines to cros . the witness der rath by Palice Interpreter D. A. Saucens Capt

Sals Goof sunn states: - The I am heat wit. J. Danagapka of 1/0 3 6dn & & & 600 0 - 25 man 46 I received information to the effect that a suit ed had been seen an if fell and of a truck in Haar com Holland, as the consentit the cobbled street it burst, contents, acting on mature contents, acting on mature alm 36dn Div, 12 proceeded to Grase XA Oldenburg, inter viewed the accused and obtained a voluntary state ment, which is now y possession In this statement the acoused made no mention of being in A she time of the fourney to Holland. Consequently Inter 28 mar \$6 and after retating that I already knew the contents of the suitoseth statement this also

timed & chiltae to how he came to of Cot of purchy & foreign curry cy and he stated he lad won it all gambleing & where I interviewed mis). P. Vioen acquaintance of ·maion, In spector of date Police Haarlen, manufile the aPm 3 Edn Dio went down to Holland procured all puel chi, case and hande forer from Holland Drewined all evidence and statementois itted a complete regard to HQ 36dn dis. I would Cike sto state here that the accured was placed un der close arrest on the 25 mar 46 and released to open arrest on the 26 harts by me. He has been under open anest since that day. Dage 3

ongual first statements in take 20 and 28 of man all Continued on by me. P-8-4

find a die die disto and flut Ca . ladnit on being questioned that there will generally and money in the sentage It was not until afterthe and degan to greater and the The statements referred to interest above witness attached hereto as Exhibit A+B.

Lint a. B. Brook Not 2/4 odn Brown Coy Gacot duly sulon 2 tales Hill I am hierd at Brock of 2/4 Chris Provost Coy Gaste on as about the 21 man 46 whelst employed as an investigation in 18 de la proceed tailed by my o.c. to proceed to the civil police station y with instructions to pick by the dutch circlian police of appear 120 English pour dis and appear 42 american dollars valuables were accorded waters rings ets the civilian police also wooden box bearing the ed all there articles over to Capt L. a. mage o.c. mage o.c. The account declines to cross examine the witness On Brock Lind.

1 40 Rease, coof, se I am Gapt & m. malcolm adjutant of 4. Q. Rease. 3 cd 2 / Dis 6 90 7. 2 Part I Order No 359 Para 6 by A Gol W. W. Golding Grace 3 Code do fliv Gast lack by Eapt of F. X. Clave on the above mentioned date. I further state that by Part's order no 3 stated 9 Fil 46 RSm Ryder was Too this X.d. Dan 46 an. 46 and resumed duties TRSm 6 Jan 46 and has until the present time. I aily orders are ported in the main admin building record floor on person residing on this flow Cont on page

A. Sm. Ryder 19. Cas been bil. letted on this flood 33 The accused declines to cra examine the witness John Molevin and out to the accused by me marked Exhibit "6" and altaeld

Do you wish to make any state ment or give evidence on vach gon are not obliged to say anything or give evidence waters you wish to do so, but dence you give will be taken down in many and may and may be given in condense. I do not wint to make a around does not call I centify that the foregoing of 30 pages was taken by (E) (F) lave been complied with DR. Haitens Capt.

I have been warned that I am not obliged to say enything unlesss I wish to do so, but anything I do say will be taken down in writing and may be used as evidence 1-7098 RES Ryder, G.J. On the 16th of March 1946 at appx 1310 hrs I left CRASC His to go to LEYDEN, Holland. I was a passenger in a 60 cwt lorry with ROASC colours and markings. An ROASC corporal, whom I can recognize, was driving the truck. The purpose of his trip was to take food supplies to the Colonial Institute in Amsterdam and I went along as I was on a week-end pass. We left the Airport at Oldenburg and proceeded down routes. 69 and 200 going through LINGEN, HENGELO, DEVENTER, AFELDOOM, AMERSTOOK and AMSTERBAM. We stopped at AFELDOOM and had a cup of coffee and arrived in Amsterdam at appx 2130 hrs. I helped the driver to unload his vehicle and then the driver took me from AMSTERDAM to LINEWA LEYDEN going through HAAR WI. We arrived in LEYDEN appx 2350 hrs. I then went to the bouse of Miss F.P. Vicen at 14 Lysterstraat, LYDEN. I stayed there that night and all day and night of the 17th of March and left appx 1200 hrs on the 18th to come back to CLDENSURG. When the driver of the truck dropped me off on the night of the loth I did not see him enymore until he called for me on the On our way back we stopped at the Colonial Institute, AMSTERDAM and picked up two barrels of Brandy for delivery to Recreational Increment, Closenturg. We then picked up a soldier who wanted a lift and left AMSTERDAM appx 1330 hrs.

We came back along the same route that we went up on and arrived at OLDENBURG about 2200 hrs where I reported into the Sat's mess

Exhibit A

1-7098 RSM Ryder, 0.J.

Gearf Ayeller S. R. Saitens Gapt

at CRASC HRs.

WIT SSS: L. Hangapko Lt. W.J. Panegapko No. 3 Cdn S.I.S.

SECOND STATEMENT OF L-7098 R.S.M. RYDER, G.J.

I have been warned that I am not obliged to say anything unless I wish to do so, but anything I do say will be taken down in writing and may be used as evidence.

L-7098 REA Ryder, G.J.

On my trip toleyden, Holland on the leth of March, 1946 I was in possession of a black wooden suitcase, with my name painted on it. This case contained the following: one dressing gown (grey with blue trimmings), one pair of brown oxfords, one complete battledress, one clean change of clothing, holdell, own teakwood cigarette case with silver pencil inside, one small purse with some Roman Catholic medallions, rosary, silver cruisafix and two rings; one Kodak camera, one bottle of Scotch Whisky, one bottle of Cognac, about 150 Tartan and Legion cigarettes, some Chocolate bars and gus, some toilet soap, two or three towels.

The case also contained a box of jewellery consisting of:
two gold pocket watches, three mens wrist watches, one tie pin
with a rubie, two sets of ear rings, one diamond studied ladies
wrist watch, two other ladies wrist watches, about eight assorted
rings, a ladies gold pencil, one solitary atone, one single earring, two silver spoons, one gold colar pin, several ornamental
pins, four assorted necklaces, one bracelet made of amber coloured
stones, appx 126 English one-pound notes, Four American ten doller
bills, one American one dollar bill, and some English silver money.

The wooden suit-case also contained my rations for 48 hrs and two white silk scarfes.

All the jewellery and money mentioned in the above statement had been procured by me during my trips overseas since I left England. I got most of it through gambling on my travels through Sicily, Italy, France, Belgium and Holland.

I was taking the jewellery and the money to give to Miss Vicen, 14 LYSTERSTRAAT, LEYDEN, as on my previous trip I had albenifit in order that she would have enough money to emplarate to U.S.A. or CANADA.after things were a bit more settled.

WINNESS: W. Fanngepko, No. 3 Cdn S.I.S.

L-7098 R3M RYDER? G.J.

Exhibit B.

ejave of hy use A. Haitens Capt

Pale Kul.

DATE: PLAN I CAMBI

Issued by

THOOL IN COLLING

COLUMN TO ROUGH 3 CON THE DEV CACE

Last	rder No. 358 4/11 Feb 45 Tais Order No 359 4/12 Feb 46
	Reveille
2,	DUVING - ORGO hrs date shown until relieved
	Fin Ord Offr - 13 Feb 46 - Capt Meabley Fin Ord Offr - 14 Feb 46 - Capt Jarvis Fan Ord Offr - 15 Feb 46 -
	Fin Ord S t - 13 7eb 46 - Sat Scott, A.N. 2/3 Goy Fmn Ord Sgt - 14 7ab 46 - Cals Streeter, W.E. 2 MAC Fmn Crd Sat - 15 Feb 45 - Sgt Tynaki, A.S. 2/3 Goy
	Duty 100 - 13 Fab 46 - 2013 Fairs Duty 100 - 14 Fab 46 - A/Gpl Steaves Duty 100 - 15 Fab 46 - 1/Gpl Palmateer
	Outy Clark - 13 Feb. 46 - SOMS Fairs Outy Clark - 14 Feb. 46 - A/Opl Steeves Outy Clark - 15 Feb. 46 - Pte Feurela
	Duty D/R - 15 Folds - Pto Bourgeadt Duty-D/R - 14 Tolds - Pto Blanchard Duty D/R - 15 Feb 46 - Pto Garton
. 3.	MAD TEXA 02 Coist Manca T at for Vednesday 13 Peb 46.
	PACK NO. 3 COOLING STSTEE
. 4.	CACRD1 a NO. 3 6419, 6421, 6422, 6423, 6424 and 6426
	1. The attention of all ranks is directed the m/m Orders which are act as Appanaix 'A' to this Daily Order 2. Copies are att to the following Orders which will be found on BBI at Man's Querters, Offr's Meas and RES Office.
5.	CORRECT EXCLUSES AUTHORIZATION FORM 1. Completes are being received that personnel are arriving at leave Transfe traps was in the M without the proper currency exchange authorization form.

2. All personnel, repet, All Pinsonn H., prior to proce dia away from their unit, whather on FL to N'78, U.K., Actation or Repat to Connels, will report to the Pay Office.

(To be reported in Unit Part I Crears)

1. All personal when posted to G many must not , react 1937 MOT , retain other currencies. Cversess RO (BACR) No. 1129 states persons subject to military Law may have in his pessonal on ir G reamy no currency oth r than herks. Pessonal of currency will be redo at the Hamberto ; can Internate of currency will be redo at the Hamberto ; can Internate of currency will be redo at the Hamberto ; can Internate of currency will be redo at the Hamberto ; can Internate of currency will be redo at the Hamberto ; can Internate of Carlo and Ca

Enhalit "Co

Quest Ryder Capt

EXTRACT COPY

1149 - CURRENCY IN GERMANY

- 1. Attention is directed to Cdn RO (21 A Gp) No.651.
- 2. Subject to the exceptions set out in para 3 hereof, no person subject to military law may have in his possession in OERMANY any currencies other than marks; this applies to public, PRI/regimental, as well as private funds.
- 3. (a) Except where prevented by operational or administartive reasons, exchanges of currency (other than in advance account balances) on entering GERMANY will be carried out as bulk transactions before crossing the frontier. Exchanges of currency on leaving GERMANY will be carried after the state of the frontier.
 - (b) Persons subject to military law who make short visits to GERMANY (e.g. staff officers, convoy dyrs, personnel of units stationed near the frontier), may take with them currencies other than marks to the value of four days pay or in the case of voluntary workers, the equilyilant of three pounds. Such currencies will be exchanged in the normal way if any such visit exceeds ten days.
 - 4. Advance account balances will not be exchanged but will be paid into Field Cashiers.
 - 5. Currencies other than marks will NOT either be paid out to the troops or tendered in payment for goods or services or labour in GERMANY or exchange for marks except through official channels .
 - 6. Cdn RO (2 1 A Gp) No.1101 is hereby cancelled

(21 A Gp GRO 1129/45 Adapted)

(525/Ggn/1-PMOT)

- CHARACTER REFERENCE -

Thu.

I have been acquainted with the accused, RSM RYDER, since Apr 1941. During this time he has served under my command as a Sct (47 Cdn GT Coy); WO II (CSM 41 GT Coy) and WO I (RSM HQ - RCASC 3 Cdn Inf Div CACF).

RSM RYDER has always performed his duties in a most energetic and efficient manner.

I have always found him to be completely honest and his character beyond reproach.

Frila

(W.H. Colling) Lt-Gol G.HASO 3 Cdn Inf Div CAOF

Statement as to Character and Particulars of Service of Accused.

Number.	Rank. Name.	Regiment (or as the co	ase may bay.
I=7098 7	OI (RSM) RYDER, G,J.	H.Q RCASC 3 CDN INF DI	CV (CAOF)
duct sheets† of the ac	ng is a fair and true summary of the entries in the cused, exclusive of convictions by a court martial of cases in which trial has been dispensed with:	or a civil court, of summary award -	or company con- sunder section 47
from the field con- duct sheet.	* Within last 12 mo	nths. *Sir	nce Enlistment.
The confluct shorts; scentioned should be produced to court with this statement but not agnered to the proceedings.	For NIL	times	times.
† Nes para .677, K.R.,			
* The numbers berrin stated should gerre- spool with the num- ber of retries in the various shorts, po- sitionals being given in the years section	For		
and 10 30 y seeds notey and 10 30 y seeds had appeal acts of gainer- bry or distinguismed	For		
residuct. Interpretation — 11 the chapers for drucken for public for drucken for drucken for drucken for drucken for much be attained separately and dated.	Number of instances of galantry or distinct of There are no patries in the conduct sheet		
2. The accused	I has not been previously convicted, be		
XXXXXXXXXXXXXXXXXXX	CHARLES OF THE CONTROL OF THE CONTRO	XXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXXX	000000000000000000000000000000000000000
NIL	beginning on the		inder sentence for
4. The accused	has been in confinement, awaiting trial on the pre-	sent charges, for	
in civil custody, and.			X
of which NII			
b. The present	age of the accused according to his record of serv	ice is 51 yrs 6 mos	
6. The date of	his commission specified in his record of service attestation paper	s 5 Sep 39	
7. The service	which the accused is allowed to reckon towards dis-	charge or transfer to the reserve is	6 yrs 7 mos
	is entitled to deferred pay or gratuity in respect		
	is entitled to reckon 6 yrs 7 mos		
	d is in possession of, or entitled to ***Cockcockcockcockcockcockcockcockcockcock		n possession of or
rank of Sgt.	and is a warrant officer.) The accused before his	was made a warrant officer fast he	id the regimental
12. (In the case	of an officer.) The accused holds in the army the r	ank of N/A	
and in his regiment (or corps or department) the rank of	- dated	
PTROS: WILDSON 19402 CTROON: WILDSON 5224 J	25.000 A41 AAEWIN GAA95		

otion of py which status of specing of A.A.	ate and place of trial, or so-unary award under (, 47, or of order dispensing with trial.	Arme RYDER, G.J. of BLASS. from the regimental books, stating these convictions and de Charges upon which converted, of its suppose of which trial was dispensed with.	outsteam of the court or nationally dispersing of the charge, or order of the dispensing authoraty	Punistrorest constituted.	
with trial				- land	On the second
				terholds	2 0 0 1 M
					diver pa
					carried l
		NIL			e stated) e/ormain
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					Brand of

L=7098 Date of last Company C				and date Period not reckeping to part of the drunk freedom from exist line P	y No. ol Gen Date of oy enlistment ASC Sheet No	Signature OC Company, etc	W.H. Co.	ling Characte	r
Piace	Date of officie	Bank	Cases of drunken- ness	OFFENCE	Names of Witnesson	Punishment awarded	Date of award or of order disper- aling with trial	hy whom awarded	Hemarks
	Previ	ous S	heet he Ga	destroyed on confirmation in ran n Volunteer Service Medal and Cl	nk of Bgt AU Lasp wef 10 J	TH: R.O. 319 an 44.	J.B.		
						·V.la			
				(J.M. Malcolm)	Capt.	Ń,			
				offr having custody of original					

146.T. FUDER, T

.

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

PROCEEDINGS.

A.

October

Command of Royal Canadian Artillery

Martial; Tond that it is not practicable

to a superior qualified officer (67)

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

400

*(2 AXXIOLALXONIAGEX LEX PRESIDENCE

These connected having industrian inner essets

In my opinion, military exigencies, namely the dispersion of units, and difficulties of communication, and other difficulties, render it inexpedient to observe the provisions of those rules inconcistent with Appendix "A" to D.R.O. 772 on the trial of the person named in the annaxed schedule.

> President. Name

Rank

Regiment.

Major

6 Cdn Pd Regt

Members

Rank.

Regiment

A Captain

4 Cdn Fd Regt

A Lieutenant

4 Cdn Fd Regt

A Lieutenant (weiting member) (to be detailed

4 Cdn Fd Regt

Commanding R.C.A.

2 Cdn Div.

Convening Officer.

SCHEDULE.

Number, Rank (a). Name and Unit of Accused (b)	Offence charged	*Plea	Finding, and if Convicted, Sentence (c)	How dealt with try Confirming Officer (d)
G18519 Gnr RYDWR J	PIRST CHARGE A.A. SEC. 40 W O A S. Conduct to t prejudice of good ord etc. (see charge shed attached) BECOND CHARGE A.A. SEC. 8 (2) W O A S. Using threa ening language to hi superior officer (se charge sheet attached	t- fat	Silly Silly	wor Onfared
		e in the	se proceeding and of the case hereby residents and consequences.	Tool bis trial there

Question to be asked of accused, if he pleads not guilty (R. of P. 39 (A)) —
 To 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 projudiced 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)

(P.C. Tees) Brigadier

Commanding B.C.A. 2 Cdn Div. Convening Officer (e)

Tisigeni) L. E. Lick

(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.

(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 initialled by him.

I certify that the above Court assembled on the Lighth B.
day of Detailer 1944 and duly tried the persons named in 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.			
	1 also certify that :- 1. The members	of the Court		
	The state of the s	01 1110 00001		
	2. The witnesses			
Omit if not licable	*(4. The officers u	nder instruction)		
	were duly swotn.			
	Signed this eighth		tober 1942	
		- 4	Court Magtial.	
* Sec footnois on page 762 M.L. 1929	I certify that the terms of complied with.	*A.C.I. 570 of	1918 have hee	Certificate in case of death sentences
	Signed this	dayof	19	
		President of 1	the Court Martial.	
	I have dealt with the firstated in the last column of I have there stated. I here sentences.	by confirm the	above findings	
To be omitted eas penal	mitted to prison until further	orders.l.		
vitude or im- sonment having en awarded, the nfirming Officer her has no thority to com- it to prison, or, ving such thority, commends	Signed this 9th	day of C RCT De R.A. 2 Can Div	Confirming Office	Brigadier,
Promule	gated and extracts taken in the	case of C185	Ole DA	gang.
	12.10.42	(Signed).	July 10 FT	1000

ted and extracts taken in the case of c 18519 four higher (Signed) John & Bayers (Dated) 25 Nov 42 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.

2RA/5-4 RGA 2 Gdn Div 29 Nov 42

2 Cdn Div (A)

FINDING AND SENTENCE - F.G.C.M.
C18519 Gnr RYDER J., 4 Cdn Pd Regt RCA

- 1. Returned heresith are proceedings of FGCM in the case of the m/n soldier, with the findings on the lst charge quashed, as per instructions in CMHQ letter 10/Ryder, J/1 (JAG) dated 14 Nov 42.
- 2. It is recommended that, although the finding on this charge is quashed, the sentence awarded be allowed to stand, since the facts upon which the finding and sentence were made is identical in both charges.
- 3. The alteration of finding has not been conveyed to the soldier under sentence, since he is at present on strength of No. 1 GARD, while undergoing detention.

3 Dec 42

(P.C. Tees) Brigadier

course. de Timplion

wholus duy fam

. .

CHARGE SHEET

The accused C18519 Gnr Ryder, J. of the 2 Fd Bty, 4 Cdn Fd Regt, R.C.A., a soldier of the Canadian Army (Overseas) is charge with:

Sec 40

Army Act

WOAS "Conduct to the prejudice of good order and military discipline" in that he, In the Field, at approximately 2100 hrs chief Oct 42 when asked by Bdr Hughes, M.C. to cut his hair and during the discussion which followed said "Nothing would please me more than to poke you now, but I'll get you yet" or words to that effect.

Sec 8(2)

WOAS "Using threatening language to his Superior Officer" in that he, in the Field, at approximately 2100 hrs on 2/42 CC t 42 when asked by Ear Hughes, M.C. to cut his hair, and during a discussion which followed, said, "Nothing would please me more than to poke you now, but I'll get you yet", or words to that effect.

(P.A.S. Todd)Lt.-Col. Comd 4 Gdn Fd Regt, RCA

day of #=/: 1942

In the Field To be tried by F.G.C.M.

Brigadier

I, Clasis Gnr. Ryder, J., 2 Cdn Fd Bby, 4 Cdn Fd Regt, R.C.A. desire to have an officer assigned to represent me at my trial by Court-martial.

I desire the services of if he is available



inamera in the morning

Dated In the Field This 3 day of October 1942

4th Can left Ren. Unit or Battalion October 19 42 MORNING SICK REPORT Medical Officer's Remarks and Instal or fit for cour her had Alburgh C18519 Bur Ryder J. hatrica Celley Wike orderly NCO. Medical Officer COVERS

*All

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

Proceedings of a Field General Court-Martial held #In the Field on the 8th day of October 1942

by order of P.C. Joes Commanding, R. C.A. 2 Cdn Div.

dated the 8th day of

President.

Major L.E.Lick - 6 Cdn Fd Regt., R.C.A.

Capt. D.M. Wilson - 4 Can Fd Regt., R.C.A.

Lieut.R.S.Douglas- 4 Odn Fd Regt., R.C.A.

Lieut. Lewless- 4 Cdn Fd Regt., R.C.A.

No , Judge Advocate.

Trial of* C.18519 Gunner RYDER, J., 2 Fd Bty, 4 Cdn Fd Regt

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

The Court satisfy themselves that is not available to serve owing to

, waiting member takes his place as a member of the Court,

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

The accused is brought before the Court.

Prosecutor, Captain J.D. Harrison, 4 Cdn Fd Regt., R.C.A.

Counselt or defending officer? Lieutenant J.M.Owen - 4 Cdn Fd Regt.

At 2,000o'clock the Trial commences.

The order convening the Court is read, and is marked 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.

President to the occused.

Do you object to be tried by me as President, or by any of the officers

Annuer by accused.

whose names you have heard read over?

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

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

(1)

LE Lich

R.C.A.

Mil. Form B. 271 10M-3-41 (9670) H.Q. 1772-39-224

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

The following officers under instruction are duly sworn.

LIEUR Lawress 4 Edn. Fd. Regt R. E. R.

Charge-Sheet

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

If the accused has elected to be tried under A+my Aot, sec. 46 (8) the fact should be here recorded.

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 Question to the you have heard read?

Not Guilty

Answer

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

Not Guilty

Answer

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

N/A

Answer.

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

N/A

Answer

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

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

L. T. Link

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

Proceedings on Plea of Not Guilty

*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.

No

The prosecutor makes an opening address [hands in a written address,

First witness prosecution. 0.19682 Bar. HUGHES, M.C., 2 Bty., 4 Cdn Fd Rest., R.C.A. Canadian Army, Overseas,

being duly sworn, is examined by the prosecutor.

"I am a Bdr in 2nd Bty 4 Cdn Field Regiment, R.C.A. The accused C.18519 Gunner Ryder, J. is a gunner in the same Battery. On 1st October 1942 I went to see the accused in his quarters at about 1820 hours to have him cut my hair. Gunner Ryder has been cutting hair in the battery for some time. When

Ryder has been cutting hair in the battery for some time. When I saw the accused he informed me that he wanted to go to a show. I asked him if he would cut it after the show and he said he would be cutting some then.

At approximately 2040 hrs I went to Gunner Ryder's room and waited for him. Ryder came in and told me he wouldn't cut my hair as he was roing to clean his web. I had been trying to get Ryder to cut my hair for the past week and as I left his room said that I hoped he would not be allowed to cut any more hair.

Gunner Ryder hearing those words came after me and said, "What was that you said", I repeated the statement whereupon Gunner Ryder seized me by the shoulder and raised his fist. I grabbed hold of his elbow and told him to watch what he was doing. Gunner Ryder then said "Nothing would please me more than to poke you now but I will get you yet anyway" or words to that effect.

Questioned by the Court

Did you believe that Cunner Eyder was going to strike you ? The raised fist was coincidental with several motions leading me to believe I had to defend myself.

Prosecuting Officer requested permission to submit as evidence a statement on oath made by the accused, No objections were made by the defence and the statement is attached as Exhibit "A"

Statement made by the accused C.18519 Chr.RYDER, J., 4th Field Regiment, R.C.A. - Not on oath.

" I am not admitting raising my fist to Edr Hughes because if I had I would have hit him. E do not know whether or not in the dark Edr. Hughes would have known if I had raised my fist. I have kind of a temper and might have said what is in the charge sheet and I might not have."

Accused called no witnesses

Only evidence of character submit ed was A.F.B. 296 and M.F.M. 6 Exhibits "B" and "C" respectively, filed by Prosecuting Officer after finding.

In mitigation Defending officer submitted that there was proved in the threat of Edr. Hughes to prevent the accused from authing bar in the future.

The head

The prosecution is closed.

Defence

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

Ne

Answer.

Ouestion

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

Answer.

137

Churchion

Is he a witness as to character only? Answer.

INSTRUCTIONS TO THE COURT

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

(Where any evidence is given for the defence.)

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

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

Question to the

Have you anything to say in your defence? Yes

Answer.

The accused in his defence sayst

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

because if I had I would have hit him. I do not know whether or not in the dar Edr. Hughes would have known if I had raised my fist. I have kind of a temper and might have said what is in the charge sheet and I might not have."

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

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

Finding*

The Court is closed for the consideration of the finding.

The Court find that the accused has been found guilty on both charges.

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

Evidence of character, &c.

Question by the President.

Proceedings on Conviction before Sentence

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

Capt. J. D. Harrison, Prosecuting Obercor is duly sworn.

Have you any evidence to produce as to the character and particulars of service of the accused? Answer by the Witness, $5 = \frac{A}{A} + \frac{B}{A} = \frac{2.9}{6}$

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.

Question by the President. Is the accused the person named in the statement which you have heard read? Answer by the Witness. $\mathcal{G} = 5$.

Question.

Have you compared the contents of the above statement with the regimental books? Answer. 9 * 2

Question.

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? Answer. 3 * >.

(Instruction—I) by reason of the native of the events of the service of the feeling of the Court renders his bable to service of the theory of the service of the theory of the service of the Court the presental service of the Court to the fact, and the Court must require with the native od amount of that additional amount of that additional

Question to the accused.

Cross-examined by the accused. - Non-

Do you wish to address the Court? Answer. 72 0.

The Court is closed for the consideration of the sentence,

(5)

L. Z. Lich

Sentence

The Court sentence the accused

Sentence.

to undergo 60 days detention.

L. Z. Kick

What he said & he kept on going so Devant out and grabbed him it I told him to repeat it. It was pretty dark in the trall 9 I may have naised my fist we consolut see her each other in the hall Ican't just say what I said to him I was so mad I just cout remember what I said. I Iwent leach to my room and esecured my webb. 12 tinca Oliv Desaring Latita 18519 Gur Reyder J. having been duly warned. (MM L chap & p 92 sec 78 (5)) and having been duly swarm stated. Bar Hughes came into my rootings to was lusy on this hair & I told him there were about form waiting and that Iwasn't going to cut any more till after the Show after the show the came in my room of I told him we had sides to get our webb cleaned and Quant cultury any hair that might the proceeded to get pretty sou the swere that he would see that I nowee out and the bead of hair in the Ballery the said that as he was going out and I asked him to repeat

	No.ClB519 Name Ryder, J. Date of last entry in } N	Squ., Battery, D.4 Pd corps R.C.A. or Compsiny o, and date tree-dom from extra fine tree-dom from extra fine	Data of enlarment Sheet No.	5.9.59 G.C. Badge Signature O Company, e		no or	M.F.M. 6 (A.F.B. 122) (200 M - 8-39 (1100) 11 (2) 1777-43-18
	Company Conduct Sheet]	Table of the	Names of Witnesses		Deste of sward or of select dissec- sing with trial	Ity whom awarded	Ramarka
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	Field 19 Jul 42 CHF	Sec 40 A.A. Conduct, etc., com- municating with an unauthorized person.	Documentar	y Forfeits 10 dys pay	B AUE 4	P.A.S. T	pdd)
•		CERTIPIED FRUE COPY	121	nea			
					adaman any		gros,

(Substitute for AFB 296) or MFB 355

STATEMENT OF CHARACTER AND PARTICULARS OF SERVICE OF THE ACCUSED

AGE 33	MARRIED OR SINGLE	NO. OF DEPENDENTS 3
DATE OF ATTES	TATION 2 Sep 1939	
NO. OF DAYS S	PENT IN CLOSE ARREST (TO	DATE OF TRIAL)
CIVIL LU	WILITARY WIL	HOSPITAL MIL TOTAL MIL
	11. 7. 70	COMPIRMATION OF RANKO IF ANY
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Remerter	at his own require	5 mgen Hospital 20.5:41
Reverts to	Hoster on admission 1	rearest 866. 8.1.42.
	TRUE GOPY OF THE M.F.M. 6	7
		MUST ACCOMPANY THIS FORM
		MUST ACCOMPANY THIS FORM (Officer 1/c Records) And Reg Red DNT
A CERTIFIED T	TRUE COPY OF THE M.F.M. 6	MUST ACCOMPANY THIS FORM (Officer 1/c Records) And Regarded UNIT
A CERTIFIED T	TRUE COPY OF THE M.P.M. 6	MUST ACCOMPANY THIS FORM
A CERTIFIED T	TRUE COPY OF THE M.F.M. 6	MUST ACCOMPANY THIS FORM (Officer 1/c Records) And Reg Red DNT
Deted at this	TRUE COPY OF THE M.P.M. 6	MUST ACCOMPANY THIS FORM (Officer 1/c Records) A. L. Kuch

ZI-129 PTERYLANCE J. Conseponder to be brighted the e

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

PROCEEDINGS.

On Active Service, this Fourth

Whereas it appears to me, the undersigned, an officer in Command of 1 Canadian Infantry Brigade

, on active service, that the

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

Martial; START START OF MANAGEMENT AND AREA THE AREA TRUE TO A THE TRUE THE *Omit where Convening Officer is a Commanding Officer or is of Field Rank.

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

ANT ANY BRADIE XXX APPROVATE &X

X1 XX Throw officers tox forms then Emunts; XXXXXXXIIII OHIOXXXII POXICENTX

KANTIKA KARAMEN MANAKA DAMELY KAN

D. W. Banton Trajon

Note.—The resident must be amed. The numbers and

waiting

Major Rank.

Rank.

Members Name.

D.W. Banton

President.

Name.

Regiment.

48 Highrs

Regiment.

Capt

R.M. Dillon

Ho 1 can Inf Bde

Lieut. Lieut

A.G. Magee G.G. Brown

48 Highrs Lam Brigadier

*Signed (H.D. Graham Cdn Inf Bde Commanding 1

Convening Officer.

SCHEDULE.

Number, Rank (a), Name and Unit of Accused (b)	Offence charged	*Plea	Finding, and if Convicted, Sentence (c)	How dealt with by Confirming Officer (d)
B72767 Pte RYLANCE, John 45 Highlanders of Canada	FIRST CHARGE A.A. Sec 18 (4)	not	not builty	Finding and
	SECOND CHARGE A.A. Sec 18 (4) (ALTERNATIVE)	not	not builty	confirmed but Cremit
	THIRD CHARGE A.A. Sec 18 (4)	Not builty	Guilty	6 monthso detention
	FOURTH CHARGE A.A. Sec 40 (ALTERNATIVE)	not Guilly	not Builty	13 Mai 43
	FIFTH CHARGE A.A. Sec 40	Guilty	Swilty .	
			Detention De Danton.	Maj.
		-6	6 mar. 43	

*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):— No. Signed

(H.D. Greinem)

Commanding 1 Cdn Inf Bde

Concerning Officer (e)

President.

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

(b) Unless unavolciable, 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 of the Schedule to be initialled by him. I certify that the above Court assembled on the sixth B. day of March 1943, and duly tried the persons named in certificate 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.

		of that Schedule.		
		I also certify th	at :	
			The members of the Court	
		2.	The witnesses	
* Omi	t it not	1(3, 1	The interpreter) - SwB.	
pplicab	de.		The officer under instruction)	
		were duly sworn.		
			. +1	
		Signed this	inth day of March 10 4%	
			11. B 1= Tuis	
			Del. Banton Major President of the Court Martial	
	fortunat.	I certify that	the terms of A.C.I. 570 of 1918 have been C.	
(b) on p	footnote page 762 1929.	complied with.	/ Certificate in	
		Signed this	day of 19 case of death sentences.	
		signed this	/ / / /	0
		/ /	/ / / Dusts	2-
	/	/	/ Partition of Maria	
		1	President of the Court Martial,	
		I have dealt v	with the findings and sentences in the manner D.	
			column of the Schedule, and, subject to what connervative	
			ed, I hereby confirm the above findings and	
		sentences.	ca, a marcy sommin sac morre manage and	
* To	be omitted		the soldier named in the margin be not com-	,
unless	penal ude, im-		relatention barrick until further order	
prison	ment or tion having		16 11 12 +	
	iwarded, the	Signed this	13 day of 19 7,	
Officer	r either has thority to		Mahem	
comm	it to prison		(H.D. Graham) Brigadier	
barras	ck, or.			
author			Com Confirming Officer.	
nebei	mends nsion.		272712 Pt P 2 2 4 21	2 1
	Promui	gated and extracts t	taken in the case of 672767 Pte Rylance John 494	ag.k
(a)	(Dated)	14 Mon 41	(Signed) auch Marche to A/As	lit
	Promul	gated and extracts t	taken in the case of	
	(Dated)		(Signed)	
		gated and extracts t		
	(Dated))	(Signed)	
	(a) Wh	en several cases are	promulgated in one unit on the same day the Officer	
			need only sign once.	

NA ATTHE 1867 35 M. SINI KILISENSKID Gp. 498/3

The Accused B.72767 Fte. John RYLANCE of Sp. Coy 48th Highlanders of Canada, a soldier of the Canadian Army (0/8) is charged with:

FIRST CHARGENEXXXXXXXXXXX XXXXXXXX

When on Active Service, Stealing property belonging to a person subject to military law, 1942 10 in that he, In the Field, aid steal from Major L.M. Crawford-Brown 48th Highlanders of Canada, a person subject to military law a .32 automatic pistol (Savage).

XXXXXXXXXXXXXXXXXX

When on Active Service, Receiving, knowing it to have been stolen, property belonging to a person XXXXXXXXXXXX subject to military law,

SECOND CHARGE

ARMY ACT

ARMY ACT

FOURTH CHARGE

in that he, reperty belonging to a person subject to military law,

In the Field, did receive, knowing it to have been stolen, property belonging to a person subject to military law, a .32 automatic pistol (Savage).

XXXXXXXXXXXXXX CHARGE XXXXXXXXX

When on Active Service, Stealing public property, In the Field, did steal a Enfield .38 revolver

Ko.8577 No.2 Mk.1 being public property.

In the Field, was improperly in possession of Enfield .38 revolver No.8577 No.2 Mk.1. on Nahmt ARMY ACT (ALTERNATIVE CHARGE)

XXXXXXXXX When on Active Service, Conduct to the predjudice XXXXXXX of good order and military discipline,

FIFTH CHARGE

In the Field, was improperly in possession of 500 rounds of .22 Winchester "LEADER" amm. being public property.

In the Field, Mar. 43.

(J.S.F. ARMSTRONG) Major, moung lign Officer Commanding, 48th Highlanders of Canada.

To be tried by Field/General Court Martial

/ wham Brigadier

4 Feb 43.

(H.D. Graham) Comd., 1 Cdn Inf Bde.

D.W. Banton. Major

In the Field

I certify that I have this mornin examined No B72767 PTE. RYLANCE J. or 48 HIGHRS OF CAN MO, IN OF CANONS

Date 6 MAR. 43

teston IN THE FIELD

Tolon Congr. R.C.A.M.C.

Dw Banton Thejor

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

	Courts Triaiting
	Proceedings of a Field General Court-Martial held on in the Field
. 01	the 6 day of March 1943 by order of
Brig.	H.D. Graham Commanding / Can, Inf. Bde.
	D. W. Banton . Major President.
	48" Highlanders of Canada.
	Members

Capt. R. M. Sillon, R. C. R Lieut. W. G. Mager, H.Q. 1 Can. Inf. Bde

Judge Advocate Aut Trial of B72767 Pte. Kylance, John.

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

The Court satisfy themselves that

The Court satisfy themselves as provided by Rules of Procedure 22

The accused is brought before the Court.

Prosecutor, Fient H. Cassels - 48 Nights

Counsell or defending officer Lieut L. M. Mc Brise - Seaforth Dighers atta R.C At // 00 o'clock the Trial commences.

The order convening the Court is read, and is marked 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.

Do you object to be tried by me as President, or by any of the officers President to the whose names you have heard read over?

Answer by accused.

no ser

serve owing to

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

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

(1)

Mil. Form B. 271 10M-8-41 (1819) H.Q. 1772-39-224

D. W. Bautin . Major

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

The following officers under instruction are duly sworn. Lieut . G. G. Brown,

Charge-Sheet

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

Instruction.

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 Question to the

not Suitty

Are you guilty or not guilty of the second charge against you, which Question

not Gully.

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

not Stilly

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

Guilte

are you quelty or not guelly of the fifth charge against in which you have heard read? Suitty charge, the

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

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

D. W. Banton . Trajor

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

Proceedings on Plea of Not Guilty

*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

no sur

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

The prosecutor proceeds to call witnesses.

First witness for prosecution.

ON FIRST AND

Major L. M. Crawford-Brown, 48 Highers. SECOND CHARGES. being duly sworn, is examined by the prosecutor.

I am Major L. M. Crawford - Brown, at present Coy. Cound. of H. Q. Coy. 48 Higher and formerly O.C. of "C" Coy. 48 Highers, I recognise the accused as Pte. Rylance, formerly a member of "C" Coy. This gun, marked Exhibit "B" was purchased by me in TUNBRIDGE WELLS in July of 1940 in the presence of Capt. K.T. Whyte also of this unit. It remained in my possession until sometime about EXERCISE "TIGER" when it - disappeared. The loss was reported to the LITTLE HAMPTON Police and they were also given the sirial number of the gun which has since been filed off. While in TUNDRIDGE WELLS I cut a notch on the left side of the pistol grip, which you can see on the grip. This type of gun is extremely scarce and my guess is that there wouldn't be more Ithan a half-(2)-a - dozen like it in

(P.T.O.)

England.

D.W. Banton . Major . The last time I am definitely sure I had the gun was on EXERCISE "BEAVER THE" QUESTION: - Wid anyone else know that notch was ANSWER: - yes, Capt. K. T. Whyte and my batman QUEETION: - Was "BEAVER III" the last time you remember having the gun! Pte. Windsor. ANSWER: . It is the last time I can swear to QUESTION: - Where was the gun left after BEAVER III. ANSWER: - To the best of my knowledge it was left in my trunk in the billet prior to going on EXERCISE "TIGER" but I edund swear to that. QUESTION: - How did you discover the loss of the gun. ANSWER: The loss was discovered when my batman looked for the gun to clean it after our return from Home Guard Training at MIDHURST. R. P. 83 (B) complied with 2 ND WITNESS FOR PROSECUTION ON FIRST AND SECOND CHARGES. B72659 4/CPL. WILSON. E.L. 48 HIGHRS having been duly sworn states: -I am the assistant Pay Clerk of the 48th Highlanders of Canada. I recognise the accused as Pte. Rylance. Sometime approximately the 15 November 1942 I received from Pte. Rylance a , 38 revolver which & recognise as EXHIBIT "C" by the sawn - off barrel. He gave this to me in exchange for a kill. about the 10" February 1943 I met Pte. Kylance in BRIGHTON when he asked me lif I would consider trading my . 38 revolver for a . 32 sutomatic

own handwriting. This I now product (0.7.9) him, he made a statement in his again saw Ple Extance and after contioning that I would all him on my selusn. I that I would all approx. I shoo his. I I had to attend lount, so told Pt. Hylamed The resolver. Before further conversation he weeked to explain where he had got telling him who I was asked him if sown off; which I now recognise as . 38 ENFIELD recolver with the barrel partly detained. Temong his possessions was a Henritta dt. LONDON, where he was being The Repanse at lan. Prov. Corps H. G. in En 16 February 1943 at about 1000 his. I caw I now recognies the accused, the Rylance. Lection of the Constian Bowert Corps , "C. M. H. G. I am a deyeast of the Special Amerigation been duly sworn states: -CHI986. SGT. CARRIERE, J. R.R., CON, PROV. CORPS, hearing FIRST WITNESS FOR PROSECUTION ON THE THIRD CHARGE R.P. 83 (B) womplied with accused declines to cross examine Luce fills away. and by the fact that the number had out is received , by the notch in the butt I resque the que ExHIBIT "B" at the the 15 Jelimen 1943 we exchanged gine. I sould get ammunition for it. Wout which he had. I said I would producting (-1/2pc. WILSON. E.L.). A. W. Banda, hayer . 50

C4. (SUT. CARRIERE, V. R.R.) Pte Rylance made this statement of his The accused declines to cross-examine. R.P. 83(B) complied with. The written statement of Pte. Rylance and produced by Sit. Carriere is read and marked CB, signed by the President and attached to the proceedings. STATEMENT BY THE ACCUSED ON THE THING CHARGES. AuB. A. h. Banton Major

Proceedings on Plea of Guilty

*To be struck out *[The Court having been re-opened, the accused is again brought before "Not Guilty" has it, and the charge to which he has pleaded "Guilty" read to been proceeded him again.]

The accused B72767 Pte. Rylance, John . is found guilty of the fifth charge as read .

*The summary (or abstract) of evidence is read, marked \$

signed by the President, and attached to the proceedings.

Question to the Do you wish to make any statement in mitigation of punishment?

Answer. The accused in mitigation of punishment

for hands in a written statement, which is read, marked M , signed by the President, and attached to the proceedings.]

Instruction.

(3) D. t. Banton Major Pres.

^{*} If there is no summary or abstract of evidence, sufficient evidence to enable the Court to determine the sentence, and to enable the confirming officer to know all the circumstances connected with the case, will be taken on a separate sheet in the same manner as on a plea of "Not Guilty."

If from the statement of the accused, or from the summary or abstract of evidence, or otherwise, it appears to the Court that the accused did not understand the effect of his plea of "Guilty," the Court shall alter the record, and enter a plea of "Not Guilty," and proceed with the trial accordingly.

Do you wish to give evidence yourself or to call any witnesses as to $\frac{Question}{accused}$.

no. ser

Answer.

Evidence as to character.

D. W. Banton Major .

Summary of Evidence in the Case of 1372767 Ht. Ryland (John) Sp Cay 45 Trights a soldier of the Cha drawy courses. The Commanding officer directs that all widen as This I Crangerd Brown O. C. Ha Cay 45 Highen Li Withon the the Prosecution: Che army Oberries, Laving her duly swarn Atalis: "I am Thay to Cranjors Mon 9 45 Thighs. Now I/a Cay Come , formuly or & Cay I recognise the account on fell Rylance formuly 7 my old Cay. In July 1940 Swar stationed with Capt KT. Whyte 7 48 Thigh is TUNBRIAGE WELL & working a the Contraction Jaker was then known as the GHA. stop lin. While ther Two able toug 6.32 Advage automatic pister. The gue was perchased to by he is the present of Court Why to a leasured to my promosion leater sometime in the spring of 1942 when it was atalen from me. with me at the time of BEANER III. Between the time we went or exercise TIGER + the period fellowing Ouring which Clay was at MIDHORST Har Home Guara may I thought the gus had been boked in my think is my billets at LITTLEHAMPION However. the shocker state to a complete heart of the billet was made, aher an cospection of the Cay I wired to CANADA for the sures to of the gun which was In my forfait there & the along with an account Homeon the grant of the STILEHAMPION police 0/6 tay four accident, a few hights ago last Charpele mentioned a 38 levelor with appeared former which had been found in ft Rylands little 32 which had come to light intranction it was a savage 32. Those quarter very tare A. W. Banton Major

A. h. Bunden hayer Guest byth account: "On you man, the you dies and of the futer but that the gree was the the Guart by the account: "the year true the que a rollier athered to the tre. Che. The absolute, follow Thou it is the George by the account " he be yeared " The you happed to hangon how edusty it humans than, 9 for out to base about the bound about their beard beard brown to we done her cleans has que for he co -Astron the is 1940. "He he of the gue has been for the front son of the bray feeten of her sever but free of the off, toward," I he direction that by made of x-her, is asid the direction is deare to tracket soon. They between or castler had just been had poster sites
the bast etters fromen the que I be comprous
it sen tentes The que nentes Intilier to to the
que i the pates in the layer It beets to the tre. I to the 3th Gerden the hund Whow assistations The Cos yet hims as you have I at the sear than so to cust asserted better is TUNBAIDGE WELLS to the fleure of legal by to pie of the lost - the retes was last by the as Thought found of the gue to ache in a the Ur Jaska Khe it like it is that mile hy respection that the and I dear if the ai had a days have

. aux: " yes absolutely soure " Quant by the accessed: "When was the lass discound?" au : " within a week of our return from MID HORST." 2 NA Without for the B 72659 X/Gpe Wilon 2. L. Jay click 48 Highn Car army Overseas Leving area Phonecation : duly powers Atata. " Blant 15 how 1942 Pt Ky lines as ked he what I wrated to kill my Kilt Jon. I told him & 5-; leter, Le as ked me if I would take, a gua v £, for it. This. I did, the gus being best 3k a 35 Enfield revolver to hick I Am identify is marked Behiding c. approximenty 1726 43 7 met pto Kylone in BRIGHTON When he as Red me ex Twanted a 32 automatic which he owned. Jasis you, 40 Could ammunition for it. Then on 45 Feli 43 has rechanged que 1 I becired the 32 which I how identify, 6 marked Eschibit B. Righed Eteliha The without declined to Organ meaning the without 3/A his Tros for e 41986 Ril Carriers J. R.R. Cha Proporting the Projecution : Operas Francis atim Retin C. m. H. G. I certify ther the to peron , los of time simulated the attendance of the without to her his there is the forewards to attract therewith by him has been that the account it is alleted " werked Sahelit A of actules & tak Vamory. for purposen cros examination. Righed Pt J. Ryance. N. h. Banton hajor

B 73532 Sit Ranney J.g. arderly Room gt 48 Higher Can bruy England having HIT his Tross for the Mariatety: bega duly swara states: "T frances Themper files of marked Sochibit B; 6.35 Enfield grow issue revolver to B 8577 Thorped Mihibit C (it has a rawed of barrile) y 500 kounds of winchester . 22 long tipe. LEARER amuliation which is hacked Inhibit D. all I which were four in my Custody by a Gal J/k Cola prover large Shuthy apter Pto Kylancia arrents Right & Kanney Est. The account declined & Eron orcasion the withour 5th his tras for B 73311 Dit Thomas Trop Cay 48 Thighers Che army Overseas Laving been duly surra the Projecution! states: " 5 an PL G+ 9 ho 5 PL (G. JR) 7 h hich the accessed in & Twenter , as such her prisible for the PL stern. Quant by Exp taking the Vinemary: "How you keer any of the type (win charter 32 long ruge LATALER) of Communities to fore?" Cur: " eyes in my stern" of Thomas Righed The accused declined & Organ becamin the withers The accessed was duly warned y known his defined Rules of Phradur H (c) (d) (e) (f) Leas Bus Complied with. John begun to in the files of stoketham POSSEX this I day I harch 1943 in the Moria e 7 th decima. 48 Thigh typ delailes to J. W. Banton Trajor

RE CHEE ! I native to the Court that the accured has been phones gully It day of straling as personice Chy 1 The char sheet of the element of the office Totalling but out in fact 33 forge 32 Trutmit have been to hom. (1) It though property was larried away witheast the Corner of the more withour a clair of light That the of weapon belonged to maj Chair ford Brown I putmit has been established by his idealiqueation 2 th hunger. That the weagon was discovered in the formers The learnay ther a wand interes It heteres conqueres I his acts - he covered on foremed the face designing it hothers as his was therefor deglining the more ofil. The run therefore both with the accord to show to logue highel to the gun - this to the failes to do Phonestery 7/

S. W. Banton Major

CANADIAN PROVORT CORPS. special Investigation Section. The madden Provost Corpe, C.M.M.C., that I am not obliged to say anySectionless I wish to do so, but everything I do say will be taken down
thirting and may be used in evidence.
I understand this caution and wish to make a statement and to show that I
understand this caution I sign my name here. . l. to . John . Hylaner During a scheme called Breast Stoke I think this was in august 1942. I was driving a Jeep- for the arte tark Platoon. at a place near levres. I had occasion to take our lay. Commanders, to a conference given by the Bigadier I parked with a hunch of other Jeeps from racious units. When I returned to my rehicle I found that someone had placed withing equipment and a .38 resolver in the Jeep. as I know it did not belong to my officers because they were wearing their wegans I took the revolver and placed the equipment in the Jeep I alined it came from. agreece was no majuries made I look this gun lack to my unit. I kept the gun in my possession until about to end of October when I went on leane to Vigan. homes after long it that long. I considered it my property. so I incoled to have it made more convenient to keep around, so I had de lavel shortered in Bolton. Lance. Just previous to my leane at the end of November. I left this gan B 8507 much a friend in the unit, in exchange for a complete door uniform On hen 15/43 which was pay-day. I get the gun lack from him and as I was in a herry to go sent, I put it in my packet instead of in my hit-lag. I carried it there to bondon where it was found when I was searched by the Provist. With regards to the 6 rounds of . 38 ammention. I acquired it as secretics over a period of 3 years. Dw Banton Major

Noth regards to the or issued of . 22 Minchester ammunition .) seems months for use in target shorting, a girl in London offered me the use of fer large inth my own amountain so at the first apportunity I came to London with the ammunition. When I get here I could not find the right place, so I turned in the ammunition to the Police as I did not next to take it lacks with me. Ple John Ryance. Statement made in the presence of Sax IR Commente. 5.1.5. Com. Prov. Craft. CMH D. London 16 Feb. 43. A. No. Banton. Trajos Pres.

this amounts to the sop sounds of 22 Micheller amounting Issignalistic amounting from Company Store over a period of severals.

The use of he range with my own amounting so at the first operation of heavy front operations. Who I get here

operations from the right place, so I turned in the amounting to the first of the sight place, so I turned in the amounting to the first of the Statement made in the presence of bythe bane 5.1.5. Can. Prov. Guap. CMH & Godon 16 heb. 43. W.M. Banton Major

I would like to point out to the court the fact that the accured voluntarily turned in the 500 do al amo to the provent in landon. Set carrier at the Krausst Eg has told the court that the accured cooperated with them . In every way suhen giving information and she , 38 and the 500 mds. when considering judgment to blis is the first serious trouble ble accused has seen in after over three years of reldiering in this Eauntry. 6. M. McBite. Defending Officer D. L. Banton . Major .

Defence

Do you apply to give evidence yourself as a witness?

yes, ser

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

Answer.

No. sur.

Is he a witness as to character only? Answer.

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

(Where any evidence is given for the defence.)

The evidence of the accused (and of the witnesses for the defence including witnesses as to character) is recorded on a separate page (see

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

Question to the

Have you anything to say in your defence? Yes . ser

The accused in his defence says?

[Hands in a written arbitress which is read, marked

signed by the President and attached to the proceedings.) I admit that I did take the revolver but I would like the Court to consider it to be more in the nature of "scrounge than that of actual theft. I had always wanted a revolver and when the opportunity presented itself of getting one as easily as I got this one, I didn't look

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

(4)

A.h. Banton Major

on it as theft but just as "scrounging".

R.P. 83(B) complied with.

Instruction.
The evidence of
the witnesses
for the dejence, including that of the
uccused, if he
is a witness,
will be taken
here in the
order in which
they give evi-

Also. Banton Theyor

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

Finding

The Court is closed for the consideration of the finding.

the first and second charge as read but is GUILTY on the third charge as read.

The fourth charge was withdrawn.

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

Evidence of character, &c.

Question by the President. Proceedings on Conviction before Sentence

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

Lieut. H. Tassels, 48 Highers. is duly sworn

Have you any evidence to produce as to the character and particulars of service of the accused? Answer by the Witness. Less, services

The above statement [with the schedule of convictions and of cases in which trial has been dispensed with] is read, marked $\mathbf{E} \mathcal{Z}$, signed by the President, and annexed to the proceedings.

Question by the

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

Guestian

Have you compared the contents of the above statement with the regimental books? Answer. Yes six

Question

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?

of the sociate of the terminal the increased in a deportsounds corps, or othersten. At the follow of the Courtmades him highe to may comprised prevalenced in exceptional prevalenced in addition to that to be extended by the Court to the presentate word rail the sttenders of the Court to the fluct, and the Court to the

Question to the

Cross examined by the accused. Awis -

Do you wish to address the Court? Answer. The Nov.

(5)

D.W. Banton They's

Sentence

The Court sentence the accused to 12 months

Sentence.

Detention.

D.W. Banton . Major Pres. 6 March 1943.

The Court would like to point out that despite the fact that Pte. Rylance was found NOT GUILTY on the first and second charges as read, that they are quite satisfied on the evidence produced during the trial that the ownership of the 32 Savage automatic gun in question has been proven as that of major L.M. Crawford-Brown of the 48th Highlanders of Canada and recommend that after of Canada and recommend that after the review and promolgation of the case has been made that the said gun be returned to major Crawford-Brown.

A. W. Banton Major Pres.

48th Highlenders of Canada

Battalion Headquarters,

Gomd, Headquarters, 1 Gdn Inf Bde.

FIELD GENERAL COURT MARTIAL

1. I hereby certify that I desire an officer appointed by the Convening Officer to defend me at my pending trial by Court Wartial.

2. It is my wish that a officer be appointed from a Unit other than 48 Highrs.

B. 78767 Ste. Rylance, J.

Dh Banton Major Prea.

-	-	duct Sheet		Cases of	OFFENCE	Natura of Witnesses	Panishment awarded	Date of award or of order disper- sing with trial	By whom awarded	Hemarka
,			Rank	drunkon		Sgt. C.	2 days C.B.	3-8-40	Capt. D.A.	(En
Newdig	ate	2-8	Pts.		A.A. Sec. 40 Conduct to the Pre in that he was late for parade	Waite			Mackenzie	La
Reigat	te	17-10	Pte.	- monore	A A Sec. 40. Conduct to the Fre	C.S.M. Burdis	7 days C.B.	19-10-40	Capt. D.A.	
Reign		18-1	Pte.	in page 12	in that he was improperly dress A.A.Bec. 40 Conduct to the Prej.	Sgt. C.	7 days C.B.	18-1-41	Capt. D.A.	
		41			in that he was late for parade A.W.L. from 2358. 30-12-41 to	VV EL T. 10-82	14 days C.B.	15 Jan 6	2 Major L.	Forfs 28
Fiel	9	30-19	F. F. 0.0.	100011				Grawf 0	rd-Brown Major L.	
Piel	ld	23-4-	Pte.		A.A. Sec. 9(2) disobeying an order					
Fiel	ld	5-5-	Pto.		A.A. Bgc. 40. Conduct to the prej	L/Opl.Wiles	ax 4 days C.E	13-5-42	Major L.	Grawt ord-
		42			being called at 0630 hrs.					
Fie.	ld	48 5-5- 42		0.000 m	A.A.Sgc.40. Conduct to the prejstill in bed at 0700 hrs after being called at 0630 hrs.	L/Cpl.Wiles	ix 4 days C.E	. 13-5-42	Major L.	Grawfo

		Rank		Names of Witnesses	Puntabment swarded	Date of sward or of order dispen- sing with trial	By whom saurabal	Hemsela .	
Field	4-7-	Pte.	A.A.Sec.15. A.W.L. from 2359 hrs 4-7-42 tp 1900 hrs. 5-7-42 (absent 19 hrs. 1 min)	Craig-Murphi	14 days C.B	11-7-48 Crawf	Major L.M ord-Brown	. Forf 1 days FR&I 149(1)a	pay
Field	26-10 42	Pte.	AWL from 0830 hrs. 25 Oct.42 to 2030 hrs. 15 Nov.42.(18 dys 12 F 8cc. 15(1) AA	Sgt.Munro	eca il pira i persone con robino emissioni il con-	14-11-48	Lt-col.J. Ganong	Forf 19 DF FR&I 149(1)a 10 DF FR&I 1	49(2)
Field	5-12 42	Pte.	AWL from 2359 hrs. 5-12-42 to 0925 hrs 7-12-42 (1 day 9 hrs. 26 mins) Sec. 15(1)AA	Sgt.Bennett L/Cpl.Bain		7-18-48		2 DP FR&I 14 5 DP FR&I 14	9(1)0
Field	1-2-4	3 Pte	AWL from 2359 hrs. 1 Feb. 43. to 1800 hrs. 3 Feb. 43 (1 day 18 hrs 1 min) Sec. 15(1)AA	Sgt.Hogget	t 5 days C.B	. 4-2-43	Capt.J.C.	Clarke	
			I still documents				D.11	Bandon A	Lajor
			I hereby sertify that the	iis is a true	and exact co	Connsel		Mas.	
					4	Sth High	landers of	Canada.	

STATEMENT AS TO CHARACTER AND PARTICULARS OF SERVICE OF ACCUSED

Number	Rank		Name		Regiment	(or unit)
3.72767	Pte.	RY	LANCE,	J. 48	Highrs of	Canada.
1. The following	ng is a fair and true summ	nary of the	entries in the		Service and	
Conduct sheets or Company Conduc	ct sheets of the accused, e	exclusive of	convictions b		d and Squadron. Martial or a Civ	
	under Section 47 of the	City of the ment of second				
Within Is	ast 12 months		Since enl	istment or a	ppointment	
For A.A. Se	c 15 (1) Four	times	Five			times
For A.A.Sec	9 (8)		One			Limes
For A.A. Se	c.40 One	times	Pour			times
For		times				times
Number of instr	ances of gallantry or distin	nguished cor	duct N	4.		
		or,				
There are no an	tries in the conduct sheet	s of the accu	ment Alass	2-		
Note.—If the c	harge is for drunkenness,	the entries f	or drunkenn	ess must be	stated separate	ly.
2. The accused	i has not been previously	convicted	by Cour	t Marti	al or by C	ivil Cou
		01,				
	tions of the accused by a r Force Act Army Act and dispensationent.					
3. The accused	l is not under sentence at	the present	time NOT			
		or,				
The accused at day of	the present time is under	r sentence (or N/A	beginni	ng on the	
	has been in confinement					
	Four days in mil	itary custos	ly, making a	total of F	Our days in	custody,
of which None	days were spent i	in hospital.				
5. The present	age of the accused accor-	ding to his	record of serv	HRKX 2	3 years, 2	2 days.
6. The date of	his convinsion specified attestation	in his record	of service is	Sept.	5th 1939	
7. The service	which the accused is allow	wed to recko	a towards di	scharge is 1	N/A	
8. The accused	is entitled to reckon 5. 2	TS. 5 mo	nths, 26 e for the pur	days, pose hi dete	rmining his pens	ion, etc.
	is in possession of or en tled to). State any air fo				air force reward military	(or is in
	mili	tary		N/A		

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

S. W. Banton Trajor Pres.

N/A do	ited N/A	and to be	unit	
11/4	ited N/A	and in hi	is regiment (or cor	ps), the rank of
12. The accused has a present date:—	served as a non-com	missioned officer contin	nuously, without re	sduction, to the
		N/A		
In the rank of	N/A		Dit	te of promotion.
	N/A	years.		
	N/A	years.		
	in any of the above n	years. aragraphs cannot be sta	ted from the Regim	ental books, the
	8	CHEDULE		
Of convictions by a con-				Air Force
Of convictions by a co Act, and of cases in which		surt, of summary awars		
Name				
Nore.—A verbatim ex- trial must be inserted.	tract from the regime	ntal books stating these	convictions and di-	Regiment spensations with
Description of Court by which tried	Date and Place of Trial	Charge upon which	Newtonce of the	Pantiliment
	7.7	convicted	Court	Remissed
	This soldi	r has NOT been	manufacture to	
	Court Mart	ial or by Civil	Court.	tried by
			1, 1	nton Tray
			A.h. Oa	non has
				0. 1
				res.
I hereby certify that the from the regimental books i	e foregoing schedule on my custody.	of convictions and dispe	nsations with trial i	s a true extract
Signed this Sixth		day of Mer 43,		
The above statement (s	with the schedule of	convictions and of care	in which to I I	ham de la
with) is read, marked				
proceedings.			the president, and	
		48th Highland	ce Capt.	Adjt.
		worn nightand	iers of Canad	ia.

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

STATEMENT AS TO CHARACTER AND PARTICULARS OF SERVICE OF ACCUSED

EZ

	Rank	Name	Regiment (or unit)
Number		RYLANGE, J.	48 Highrs of Canada.
3.72767	Ptc.		
1. The follow	ing is a fair and true summ	ary of the entries in the MR Re	FM 6 Service and General , gimental and Squadron, Battery
Conduct sheets or Company Condu	nct sheets of the accused, ex	clusive of convictions by a	Court-Martial or a Civil Court,
of summary awards	s under Section 47 of the	Army Act and of cases it	which trial has been dispensed
		Since enlists	ment or appointment
	ec 15 (1) Four	times Five	times
A A 120		times One	times
A A B		times Four	times
		times	times
For	stances of gallantry or disti		
Number of in	STRICES OF EASIMANTY OF STRICE	ot,	
(#1)	entries in the conduct sheet	4 .71	
Their are my	the sees in for deankenness	the entries for drunkenness	s must be stated separately.
NOTE.—If the	e charge is for (indirectiness)		
2. The accu	sed has not been previously	convicted by Court	Martial or by Civil Cour
		or.	
Previous con	victions of the accused by	a court-martial or a civil	court, of summary awards under A. 73
Section 47 of the annexed to this st	Air Force Act Army Act and dispensa	tions with trial under A.A	1. 73 are set out in the Schedule
3. The acco	ised is not under sentence a	t the present time. NOT	
		01,	
The accused	at the present time is une	ier sentence for B/A	beginning on the
day of			
4. The acc	used has been in confinemen	at awaiting trial on the pres	sent charges, for None days in
civil custody. M	d Four days in a	EXPARA nilitary custody, making a	total of Four days in custody,
	e days were spen		
			0.0 4.000
5. The pro	esent age of the accused acc	eording to his record of serv	wice is 23 years, 22 days.
6. The da	te of his communication specific	ed in his record of service is	Sept. 6th 1939
	rvice which the accused is a		
8. The so	cused is entitled to reckon	yrs. service for the pu	days, pose of determining his pension, etc.

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

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

D. W. Banton Majo.

NN-137 GNR RYMAL H

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J

Army Form A.3.

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

PROCEEDINGS.

On Active Service, this

August

Whereas it appears to me, the undersigned, an officer in Command of Royal Canadian Artillery,

3 Cdn Inf Division , on active service, that the 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

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

* ik amemerika ka appoint

NET THE RELEASE TO SEE STORY AND THE VERY NEW YORK THE WAR THE

Lieut Member Lieut.

Rank

Major

President.

Name.

B.F. GOSSAGE

Members

Name

DALE

COX

HAIR

Regiment. 13 Fd Regt RCA

Regiment.

4 Lt A A Regt RCA

14 Fd Regt RCA

Commanding C.R.A., 3 Cdn Inf Division Convening Officer.

*Question to be asked of accused, if he pleads not guilty (R. of P. 59 (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 in separate sheet if necessary) :
[Signed]

(P.A.S. Todd) Brigadier,

(Signed)

(P.A.S. Todd) Brigadier,

Communing O.R.A., 3 Cdn Inf Div. 44 AAR Right RC

Convening Officer (s) President.

(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 of the Schedule to be initialled by him.

. *.	/			
nce and be the	I certify that the above Coy of August 1948, e Schedule, and that the pleach such person were as s	and duly tried the lea, finding, and se	ntence in the case is	B, entificate of endent as to posedings,
of	that Schedule.			
	I also certify that :— 1. The members of	of the Court		
	2. The witnesses			
*Omit if not applicable.	and (D) Total control	on Offe	1	
approximation.	*(4 The officers	meder instruction)	944	
	vere duly sworn.			
	rere duly sworn.	day of lenging	+ 1043	
	Signed this	day of Cluque	10 -7 -	
			Mugi Muji	
		President of	the Court Martial.	
*See footnote (b) on page 782 M.M.1. 1929	Locality that the temporarplied with.	- 4+AC 1-070	of this have been	C.
	Signed this	day of	19 ,	•
	Signed time			
		President of	f the Court Martial.	
			anos in the manne	D,
	I have dealt with the	and sent	and subject to wha	Confirmation.
	stated in the last column	of the Schedule, a	above findings an	d
	I have there stated, I h	ereby commin the	anove mining	
*To be omitted	sentences. *N direct that the se	wier named in the	marein be not con	- 87
unless pecal servitude, im-	"A direct time the sm mitted to prisoner detention	- barrack until for	ther orders.) 87	
prisonment or detention having been awarded, th	· · · · · · · · · · · · · · · · · · ·		1943	
Confirming	Signed this	day of	7 19.7	
Officer either has no authority to		1	- 20	
or detention			7	met
barrack, or.			C. Danie	2

Confirming Officer. (P.A.S. Todd) Brigadier,

Promulgated and extracts taken in the case of 3-11018 GVR RYMAL H

9/ Facylon 32TH FD. REST. R. C. A. A. F. ADJUTANT (a) (Dated) Promulgated and extracts taken in the case of-(Dated) Promulgated and extracts taken in the case of (Signed) (Dated)

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

(2000) Wilesia 411 80,000 If at A.k E.W.Ltd. Gp.A98

The accused No. B-11018 Gnr. RYMAL H., 12 Odn Field Regt RCA (AF) a soldier of the Canadisn Army (Overseas), being on active service is charged with:-

FIRST CHARGE Sec 15 (1)

A.A.

Absenting himself without leave,

in that he,

In The Field, absented himself without leave from 0800 hrs 3 June 43 until 2230 hrs 14 Aug 43 (72 days 14 hrs, 30 mins)

BECOND CHARGE Bgc 24 (2) Losing by neglect, his equipment, clothing and regt's necessities, A.A.

in that he,

In The Field, on 16 Aug 43 was deficient the following

1 - brush, shoe polishing

of which the total value of the unexpired wear is £0-15-0

Dated In The Field this 16th Day of August 1943

To be tried by F.G.C.M.

P.A.S. Todd) Brigadier, C.R.A., 3 Cdn Inf Div. 17 Aug 43.

I certify that I have this morning examined No. B/O/Fgur RYMAL, H of 12 Dat Regt RCA and, in my opinion

he is fit to undergo trial by Court-Martial.

Station In the Kield.

A

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

Field Gentrol Court-Martial held at Proceedings of a August 1943 by order of Commanding CR. A 2rd Color Inf Div on the $/\mathcal{E}$ day of Brig. P.A.S. Toda dated the /7 day of Major B. F. Bossa GE 4 KAA RUT ACA

Cont. J. C. Dole 13. Full Acet & CA -14 Fecta Aug ACA W. D. Cox 12 PILLS PLAT 954 W. A. Mair Waiting Mem 151

Judge Advocate. Trial of \$ 311018 GNR. RYMOL H. 12 CON FIELD REGISSION & CA

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

The Court satisfy themselves that Capt. J. Ook is not available to serve owing to Dory & Lt. W. R. Mair

, waiting member takes his place as a member of the Court.

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

The accused is brought before the Court. Prosecutor, + LT T. E Jarvis 12 Field Aug & CA Counsel; or defending officer; LT 7. J. Bell 12 File Ares Real Real

At 4 0 o'clock the Trial commences.

The order convening the Court is read, and is marked 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.

Do you object to be tried by me as President, or by any of the officers Question by the Do you object to be tried over? President to the whose names you have heard read over? accused.

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

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

The President, members and judge advocate are duly sworn.

all

The following officers under instruction are duty sworn.

Charge-Sheet

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

I the accussed has elected to be tried under A r m y A c t, sec. 40 (8) the fact should be here recorded.

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 Question to the you have heard read?

Guilty.

Answer:

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

Guilty.

Answer.

Are you guilty or not guilty of the third charge against you which Ownson you have heard read?

Answer.

Are you guilty or not guilty of the fourth charge against you, which quanta

Answer.

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

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

Proceedings on Plea of Guilty

The accused 3 1/0/F GNF Rymal H is found guilty of Charges one of two

*The summary (or abstract) of evidence is read, marked signed by the President, and attached to the proceedings.

Question to the Do you wish to make any statement in mitigation of punishment?

Gu On

Answer. The accused in mitigation of punishment says:—

all the time that I were about I figt in Timeh

[or hends in a written statement, which is read, marked ____, signed by the President, and attached to the proceedings.]

with the when exact of the figural to in sect of a nove of wanted to be sure to be seen to be what we have to be taken into consumition so that if they so much from here into action of can be excelled to finish my punishment in action downer.

Question by President. So that a socialisty way thing you wish to pay in the way of experienting of your absence

Instruction.

A. You fin I have add) exerce for being about. a Nothing further you wish to say?

A No die but I do vish to go with the Required

^{*} If there is no summary or abstract of evidence, sufficient evidence to enable the Court to determine the sentence, and to enable the confirming officer to know all the circumstances connected with the case, will be taken on a separate sheet in the same manner as on a plea of "Not Guilty."

If from the statement of the accused, or from the summary or abstract of evidence, or otherwise, it appears to the Court that the accused did not understand the effect of his plea of "Guilty," the Court shall alter the record, and enter a plea of "Not Guilty," and proceed with the trial accordingly.

Do you wish to give evidence yourself or to call any witnesses as to $\frac{Question}{accused}$.

No Dir

Answer

Evidence as to

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

Finding

The Court is closed for the consideration of the finding.

The Court find that the necessed

94g

*When the Court is already open this sentence will be struck out. Evidence of character, &c

Proceedings on Conviction before Sentence

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

Ct. T. E Jorna

is duly sworn.

Question by the President. Have you any evidence to produce as to the character and particulars of service of the accused? Answer by the Witness. An MFB 355

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

Question by the President.

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

Question.

Have you compared the contents of the above statement with the regimental books? Answer.

Question.

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?

Mathematical II a measure of the internal of the above of the review of the transit of the control of the Court tenders him failure to any carpetinal guardenard in addition to that to be available to the presenter most rail the above of the Court to the fail, and the Court to the failure of the fail

Cross-examined by the accused

None

Question to the accused.

Do you wish to address the Court? Answer.

The Court is closed for the consideration of the sentence.

The Court sentence the necused 1911618 Sur Morsol 17 Sentence.

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BUMMARY OF EVIDENCE IN THE CASE OF B-11018 GNR. RYMAL H. RHQ, 12 CDN FIELD REGIMENT R.C.A. The accused is informed of his rights. The accused does not demand and the 30 does not

direct that evidence be taken on oath.

FIRST WITNESS FOR THE PROSECUTION

A 35285 Opl Perry W.R., RCASC (att 12 Cdn Fd Regt RCA)

"On Monday 5 June 43 I returned from a pass and took charge of the Men's Kitchen. As a result of what Opl Johnson informed me, I reported to RSM Olayton that Gnr. Rymal had been absent without leave from 0500 hre 3 June 43. I did not see Gnr. Rymal again after that time until to-day 16 Aug 43. I was MCO 1/c Men's Kitchen, where his job was assistant cook; aside from his afternoons off and his shifts off duty he was supposed to be in the kitchen, but he was not there during this period.

The accused declines to cross-examine.

ANR ferry

SECOND WITNESS FOR THE

PROSECUTION

A-35235 Sgt. Lautenschlager E.J., 12 Cdn Fd Regt R.C.A. states:-

"On the night of 14 Aug 43 as Duty Sergeant, Gnr. Rymal reported in to me from AWL at 2000 hrs. I placed him under close arrest and sent for the Regt'l Police to take him to the guard room"

The accused declines to cross-examine,

Whaden chlan 9

THIRD WITNESS FOR THE

B-89159 Gnr. Marriner L.F., 12 Can Fa Regt RCA states:-

"I am storeman, Regt'l Q.M. Stores 12 Can Fa Regt RCA, I checked the kit of Onr, Rymal at the stores to-day 16 Aug 43. He was deficient the

.... cont'd ...

SUMMARY OF EVIDENCE IN THE CASE OF B-11018 GNR. RYMAL H. RHQ 12 CDN FIELD REGIMENT THIRD WITHESS - cont'd the following articles:-

One clottes brush 0-1-1 0-0-91 0-10-2 One brush, shoe polishing Two vests woollen @-5/1 Two drawers woollen @-5/3 11 0-10-6

The total value of these articles is £1-2-6]

The accused declines to cross-examine.

to Myaning &

The accused having been duly cautioned in accordance with R.P. + E says:-

"I do not wish to make any statement"

The accused does not wish to call witness in his defence at this time.

Certified that R.P.4 complied with, In The Field 16 Aug 43

(S.A. GILLIES)
12 CDN FIELD REGIMENT R.C.A.

-	Company Co	nduct Sheet		of I	ast drunk freedom from extra fine	Sheet No.	Signature 0.0 L Company, etc		Churacte	er .
	Place	Date of offence	Bank	Cases of drunken- ness	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispen- sing with trial.	By whom awarded	Remarks
Sus	sex	10-40	G _n r		AWL from 1900 hrs 1-10-40 to 1730 hrs 5-10-40 (3 days 22 . hrs 30 min)	Sgt. Metteson	7 dys pay 7 dys C.B.	8-10-40	Lt-Col. I	pay FRA:
Buss	ex 1	5-5-41	Gnr		AWL 5 (dys 22 -re)	Sgt.Forrand	Reverted to rank of gnr	24-4-41	GT I,oh	6 dye pa
Buss	e x	30-5-43	. Onr		AWL from 2200 hrs 30-5-41 to 2330 hrs 30-5-41 (1 hr 30 mins)	L/Sgt. Spence	3 dye CB	2-6-41	Major B,1	gger
3 uss	ex	1-6-14	1. G ₇		Improperly in possession of \$22,00 the property of Gar, Atme	Gnr.	14 dys Det.	2-6-41	Cal Inch	de

Sussex 3D-5-41 G.r. AWL 3 days 8 ers 45 mins L/Bdr.F.rd 10 dys pay 5-7-41 9T Inch S.nnybridge 25-5-41 G.r. Conduct to the prejudice L/Bdr Cook 7 dys C.B. 25-5-41 Major Brigger L.ipzic Bks 21-9-41 Gnr. AWL 30 mins AWL 1 day 18 hrs. TSM Ayers 7 dys F.P. 15-6-42 L.G. Clark Lt.Cgl. Field 15-6-42 Gnr.(1) AWL 17 ers 30 mins) (2) Conduct to the prejudice (2) Conduct to the prejudice (3) AWL 3 days 23 ers 35 mins) 14 dys FP 7-7-42 Lt.C.1 Clark fts h dys pay 5-7-41 9T Inch 10 dys C.B. 23-9-41 Major Brigger 12-11-41 Major Brigger 12-11-41 Major Brigger 13-6-42 L.G. Clark Lt.Cgl.	Place Date of Rank Chara of Street, Place of Street, Plac	OFFENCE	Names of Witnesses	Punishment awarded	Date of award or of order dispen- sing with trial	By whom awarded Remarks	-
Lipzic Bxs 21-9-41 Gnr. AXX 30 mins							•
Field 13-5-42 Gnr. AWL 1 day 18 hrs. TSM Ayers 7 dys F.P. 15-6-42 1.0 Clark Lt-Cal. Field 30-7-42 Gnr.(1) AWL 17 hrs 30 mins) L/Sgt. Samuels BSM Snider (2) Conduct to the prejudice	Laipzic Bks 21-9-41 Gnr.						
(2) Conduct to the prejudice	Field 13-6-42 Gnr.	AWL 1 day 18 hrs.		7 dys F.P.	15-6-42	L.O. Clark Liveal.	
		1 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1 1					•
				14 dys FP	7-7-112	Lt.C.1 Clark fts 4 ds	y p

No.B-1101			No.	Sqn., Battery, or Company and date ast drunk	Corps RCA Period not reskoning towards freedom from extra (line	Date of enlistme Sheet No			or ney Pay 40/ Characte	M.F.M. 6 (A.F. B.122) P.A. 78130 (2008)
Place	Date of officers	Hank	Cases of drinking-		OFFRICE	Names of Witnesses	Punishment awarded	Date of award or or emior dispen- sing with trial	lly whom awarded	Remarks
eld	22-1-	43 (AWL 6 days	2 hr6	SET, SHAW	25 dys FP	23-1-43	Puln	For fts 7 dys pay
					Certified true cop	y of origi	nal.			
						12 Oan J	Ollies (Ca Gillies)	C A	N	Name of the Party
										Mrs. No.
										(PTO)

STATEMENT AS TO CHARACTER AND PARTICULARS OF SERVICE OF ACCUSED

THE RESERVE OF THE PERSON OF T	Regiment (or unit)
B11013 Gnr,	RYMAL H. 12 Can Fa Regt RCA
I. The following is a fair and true summary of	the entries in the Service and Service
Conduct sheets or Campany Conduct above of the accused, exclusive	Regimental and Squadron, Battery of convictions by a Court-Martial or a Civil Court,
of summary awards under Section 47 of the Army with.	Net and of cases in which trial has been dispensed
Within last 12 months	
For A.W.L. No times	Since enlistment or appointment
For I proper possession of No times	Title times
For Conduct to the prej. No times	one times
For Fgiling to appear No times	
Number of instances of gallantry or distinguished	conduct N±1
OI OI	
There are our courses in the conduct sheets of the	
Nore.—If the charge is for drunkenness, the entr	ies for drunkenness must be stated separately.
2. The accused has not been previously convicte	d
or	x.
nazezodicznie subschent.	
3. The accused is not under sentence at the pres	ent time.
in in	
This are need not the present hims as nucler acuteur	ne. loz beginning on the XX
dayarc	
4. The accused has been in confinement awaiting	t trial on the present charges, for Q days in
civil custody, and four days in military cu	stody, making a total of 4 days in custody,
of which No days were spent in hospit	
5. The present age of the accused according to	nis remeror describe by attestation paper is 36 years
6. The date of his commission specified in his regardless at	existation paper 3 June 40
7. Ehromerake webich this accused is calle web to en	tokno. Navonde viteschoranoa
8. The accused is entitled to reckon N/A sc	rvice for the purpose of determining his pension, etc.
9. The accused is in possession of or entitled to	no xir forme decoration, or air formexpeward measurex
passion examinates to). State any air force decomilitary	military oration or reward. N/A military
10. Mr Ma naconochia a warrantioffaser.): The sec Airchiness theoresises sank of	oned hoforn he was made a warrain officervies their x

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	nat the foregoing schedule of convictions and dispensations with trial is a traceoks in my custody.	nat the foregoing schedule of convictions and dispensations with trial is a trucosk in my custody. day of August 1943 Lath the schedule of convictions and of cases in which trial has been near (with the schedule of convictions and of cases in which trial has been near (with the schedule of convictions and of cases in which trial has been near (with the schedule of convictions and of cases in which trial has been near (with the schedule of convictions and of cases in which trial has been near (with the schedule of convictions and cases in which trial has been near (with the schedule of convictions and cases in which trial has been near (with the schedule of convictions and cases in which trial has been near (with the schedule of convictions and cases in which trial has been near (with the schedule of convictions and cases in which trial has been near (with the schedule of convictions and cases in which trial has been near (with the schedule of convictions and cases in which trial has been near (with the schedule of convictions and cases in which trial has been near (with the schedule of convictions and of cases in which trial has been near (with the schedule of convictions and of cases in which trial has been near (with the schedule of convictions and cases in which trial has been near (with the schedule of convictions and cases in which trial has been near (with the schedule of convictions and cases (with the schedule of cases (with the schedule of convictions and cases (with the schedule of cases (with the schedule of cases (with the schedule of cases)).	nat the foregoing schedule of convictions and dispensations with trial is a trucked in my custody. Lath day of August 1947 and the schedule of convictions and of cases in which trial has been signed by the president, and same					N/A N/A
			6 John				by the president,	and same

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4P-98 Pt. Rynard H. C.

SCHEDULE.

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

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0.4.4.9	ACCUSED. Toh- 21801 days of the
(As to the trial of two or more rank, and (b) appmt, A/rank or A/app	charged jointly see RP 16, 71, 109. As to reasons for showing (a) permanent or confirmed the mt. If any, see AA 182, 183, free RP 16, 71, 109.
Number. (a) Prmnt R. (b) App	Fift Christian Names D. A.
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John May The wals	ye Capit. Hugh Cameron Rynard & the
1 NIM 4 30 PE	PROCEEDINGS OF TRIAL.
Hard in the Fd in (country)	elquu.
	00 (date(s))
ALCORD FORM A	OPENING PROCEEDINGS AND ARRAIGNMENT. 2016
Court is closed.	vailing Member, #A, if any, and Office under instr. if any assemble and the
BY PRES OR JA. Yhe Schedule refer on procedure when a variation in this will be made and given a number having CF-A9S, far oaths and intry on how a provisions for conducting the school of the provisions for the provisions of the provisi	FOR QUIDANCE, WILL BE DELETED, IF NOT USED OR APPLICABLE, AND INITIALLED and to throughout a no p.d. Citations do NOT include all relevant from ROs. For guidance form arises, see form for GCM in MML pp. 741 to 7-57. A birlef record of such survivals of reference to appropriate or preceding born number herein. See basic of Convening Order, a research of deresals cycledence, etc., which is the control of the c
each charge discloses an offence (2)	iy convened and constituted(*), accused is iare) amenable to military law, and
the state of the s	mcs see RP 17 fn 6. 2. AA 49, 50, RP 105-107, 3. RP 11-13, 23, 24.)
The Prosecutor informs the Court the summarily by the CO.(2)	deducal Certificate that accused is (arc) fit to undergo trial by court-martial.(1) at accused elected to be tried by court-martial instead of being dealt with
	, RF 60 fn 1. For effect see KR Can 363(c). Delete, if not opplicable. you object to Bs interpreter (Ans
	bient to
(1. RP 72. Delete, if none employ	ne emritional writer / Ana
A6. The Convening Order and n President to accused: Do you obj Ans #5.0. (*) (1. RP 110. 2. If no objection, w.	smes of the President and Members of the Court are read to the accused.(1) ect to be tried by me as President or by any of the Members of the Court #
A7. The President, Members, JA	wing member retires. RP 66(B). If objection see procedure AA 51, RP 25, 71, 16, MML p 742). If any, and Office under instr. if any, are sworm.(1) The following are the prising the Course etc.
ranks, names and units of the offrs com President Major	
Member Calt	The maid or gall CMC 90BPB.
Member Kleyt	EDTIL EIC 11 EBRB
Judge-Advocate	ER IDERRA
Prosecutor Rust	DAHA O
Defending Offr Lant.	Plate Connors REAME - Ch. Su burns.
	trapond Ex 10 CBRBs.
Questions by President: Is the Prosecu (1. 8F 25, 27, 109, 11). List of offer a (2. If Free s keyse and Def Offer as	tor a lawyer ! Ans. M.C. Is the Defending Offr a lawyer ! Ans. M.C. (8) once cast will be returned separately with proceedings for information of Conv. Diff.) and is excited to an objectment when RP \$0. (8) and for 2 were
A8. The accused	25 LI P J)
(I. If a shecial black is made a	before arraignment make(s) (no) (s) plea

A9. The accused is (are) arraigned (separately) on all charges in the charge sheet. (2) The accused does (sleet not object to any charge. (3) There is no amendment to be made to the Charge Sheet. (2) The President records the gives in Part I of the Schedule. (3. RF 31, 1/12. See pare 1 of instruct p. 2. When more than one Charge Sheet are RF 61; when several occused to be tried make appropriate record per Notes.)

Ale. The Court is closed and considers the Instrs on Procedure after Arraignment at top of p 2. The procedures are continued on Record Form.

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 35(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 Offre convens, Corn may accept plea of Guilty to lesser, etc, offence. (RP 44(B).) 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.
 - II. 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 Noi 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 Presecutor see RP 50(A) (B); duty and privileges of accused and Defending Offr see RP 60(C), 87(C), 92(B), and of and scillddrawal of witnesses from Court see RP 81, 82; questioning of accused see RP 80, 87(C), 92(B), and of witnesses see RP 88385; calling or re-calling of witnesses by Court, etc. see RP 755-79, 80, 110; use of Summary of Evidence at Trial see RP 17(E) for 8 ; 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)(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), 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).(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(1), or which show provocation or extenuation in respect of which in your interest the witnesses for the Prosecution should be examined(1), we shall advise you to change your plea to Net 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.(4)

President to accused: Do you wish to make a statement? Ans...

- (1 RP 37(B): 2. RF 37(D) fn 6. 3. RF 35(B) fn 5 pare 3, NML p 54 pare 47. 4. See pare 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 ...oharge(s). The accused is (are) so informed, and he (they) A (their) plea(s) of Guilty to Not Guilty on
- change(s) his (their) plea(s) on charge(s). Part I of the Schodulo is amended accordingly.

 (I. Court may be closed to cansider 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.(4)
 - (1. RP 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 f_m⁽ⁱ⁾, initialled and read aloud by the President.(3) (1) If there is no Summary, or if it is inadequate, camply with RF 37(B). If there is any evidence inconsistent with any pira atoming as Guilty, Court will advise occured to change use piece and, if changed to Not Guilty, try such charge(s) by use of paras D is to De inclusive of Record from D on p 3. No 7.7(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 inclusive of Record Form D on p 3 before proceeding with C 2.(1) (1. RF 37(A) (E).)
- C2. The charges on which accused pleaded GUHTY are read to him (them) again, and the trial is continued by using paras B1 to B5 of Record Form B above. (1)
 (1) there is Such parts only of the Summers of Evidence are read as relate to the charges dealt with under C2. If any place is charged to Not Guilty, trial thereor proceed by complying with parts D1 to D6 inclusive in Record Form D on p 3 and making an opprepriate record thereof on a separate 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.

in Labor Sheets of Record.

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

- DI. 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
 - If "yes", see RP 39(A) for procedure. Statement or evidence, if any, is recorded per Notes.)
 - (1. RP 39(B), 60(A) (B), 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. Recard svidence 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 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 the latter charge(s).(*)
 - (1. Delete remainder of this para, if submission not made. 2. Arguments on submission, answer and reply are recorded per Nutes. 3. RP 40 fn 1. See MML 5.72 paras 12:14 and p. 81 para 42. 4. Delete part not used. If accused acquisted on all charges use second diternative in para 06.1.

 M8. If trial proceeds, accused must be allowed great faitude in making his defence, and the Court should not stop his defence safety ang ground of virelevance. (RP 60(C), 114, 115.)
- D5. President to accused: You will now proceed with your defence.(1) You may, if you wish, give evidence You may call witnesses in your defence and as to character, whether you give evidence or make a statement or d

President to accused: Do you wish to give evidence yourself as a witness, make a statement, or do neither it . Do you intend to call witnesses on your behalf ! Ans. Are they witnesses as to character only ! Ans (1. RP 115. 2. RP 40(A), see SQLO). 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. R8 | 14, 115, 116. For Grocedure see Notes on back of Convening Order, CF R95. Evidence for occused as to his character should, if in his interest, his given before the finding. See RP 46(A) fi. 1.86(C). Note the further apportunity in pare E1 of Record Form E. Record ppt Notes addresses, attement, evidence and any summing up by the JA under R9 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.
 (1. RP 43. 11736). See Notes in Part 1 of Schedule. 2. RP 44(A).)
- Ds. The President announces the finding(s), if any, of Not Guilty, and states to the accused that the finding(s) charge(s), being subject to confirmation, will be promulgated later (1) of the Court on the
- PO. 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(3) Her the accused gives pordered (1. If evidence has circuly been given by occused or his witnesses as to his character, delete this para. RF 37(C) fo 4, 46 fo 1. Accused and witnesses are sworn. Evidence recorded per Notes.)
- E2. The Presecutor produces Statementis) as to Character and Particulars of Service(1), and certified true copy (copies) of Conduct Sheet(s)(2), 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(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 Ex and Ex prespectively (*)

pere (.) M/8 255 or AF8 296 2. M/8 6. 3. RP 46, KR Con 558. If above documents not produced, see RP 46 fn 1

- E3. President to accused: Do you wish to address the Court on the Statement(s) and Conduct Shert(s), and in mitigation of punishment $\mathbb{N}^{(1)}$ Ans $\frac{U_{i}^{\prime}(S_{i})}{(I,R^{2}I)(I)}$, $\frac{A(D)}{I}$. Address, if any, recorded per Notes. Court should permit accused or his witnesses to prove an acth anything here or previously stated which would offset the amount of punishment. RF 3I(F) in I.)
- 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. (*) The President records the sentence in Part I of the Schedule, which is dated and signed by him and the JA, if any. (*) Note that the sentence only, comprised of the positionness of purishments (if. When several occursed tried separation is to a converted to cover all therefore in all charges in all charges in all charges in the converted found fully, RP 48. As to sentence see A4 48. (38. (82. of the office of the converted to the conver

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

CHARGE SHEET

The Accused, No D=141949 Pte Hugh Cameron RYNARD, North Nova Scotia Highlanders, att Cdn Sec HQ Brussels Garrison, a soldier of the Cdn Army Overseas, is charged with

FIRST CHARGE SEC 41 ARMY ACT WOAS committing a civil offence, that is to say, common assault

in that he

in BRUSSELS at approx 2245 hrs 17 DEC 44 in the Cafe au Ballon, 108 Blvd Anspach, Brussels, assaulted Mr. Pierre Hubert REYNARD, manager of the cafe, by striking him on the right hand with a pistol, thus fracturing the 5th metacarpal bone in the hand.

SECOND CHARGE SEC 40 ARMY ACT

WOAS conduct to the prejudice of good order and military discipline

in that he

in BRUSSELS at approx 2245 hrs 17 DEC 44 in the Cafe au Ballon, 108 Blvd Anspach, Brussels, caused a disturbance by waving a pistol.

THIRD CHARGE SEC 19 ARMY ACT

THIRD CHARGE WOAS drunkenness

in that he

in BRUSSELS at approx 2245 hrs 17 DEC 44 in the Cafe au Ballon, 108 Blvd Anspach, Brussels, was drunk,

In the Field 15 Jan 45 (L. P. FAYAN) Lt-Col Commanding Officer Cdn Sec HQ Brussels Grn

To be Tried by Field General Court Martial.

In the Field 17 Jan 45 (E.L.M.Burns) Major-General GC 1/c Cdn Sec 1 Eeh HQ 21 A 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 Oversect, or of any other force if outhorized in law, in immediate comd of troops on active service, subject to RP 105(C) and restrictions imposed by appropriate authy. Of any other force if outhorized in law, in immediate comd of troops on active service, subject to RP 105(C) and restrictions imposed by appropriate authy. As A 99, 50, RP 104-107, 114. As to the duties and privileges of the Convening Offr in dealing with the application see MML Chap' y paras 20 and 23, RP 57(B). For exhaust the application see MML Chap' y paras 20 and 23, RP 57(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 training the RP 16, 109. See RP 62, and as to separate training and the same charge sheet see RP 10B. As to two or mare accused charged jointly see RP 16, 109. As to reasons for showing (a) permanent or confirmed rank, and (b) appint. Alrank or Alappint, if any, see AA 182, 183, fns, KR Con 308, 328, 330.)

ACCUSED.

Unit. Surname Number. (a) Prmnt B. (b) Appmt, A/R or A/Appmt. "Full Christian Names. RYNARD North Nova Scotis Righrs Hugh Cameron D-141949 Pte HQ Brussels Garrison

CONVENING ORDER.

- I. Whereas complaint has been made to me, the undersigned, that the person(8) named above as the accused, being subject to military law, has #33.73 committed the offence(s) set forth in the Charge Sheet(3) attached and on (date) 17 Jan 40 endorsed by me, (35.33.737 at 137.54.177 and 177.54.177 and 177.54.
- 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; (ANO MAR NOTATE MINISTRANCE MERGY THEORY OF THE PROPERTY AND THE PROPERTY AND THE PROPERTY OF THE PROPERT
- I hereby convene a Field General Court-Martial to try the said person(E), and to consist of the Offrs appointed
- 4. I amountable to appoint anothers some to finish the Constitute of the acountable for the togate I have attached beauty. (AA 47, RP 106(B), 107(A). Delete the whole or part, if not applicable.)
 - I also appoint and had perfect our technology about the title mentioned known for X

PRESIDENT.

X4 List CAC

G.L. MacDougall Major (Must be named. RF 106.) MEMBERS. (to be detailed by OC 11 CBR Bn) A Capt or Lieut (to be detailed by OC 10 CBR Bn) A Capt or Lieut (Unit.) (Named or detailed. RP 106.) (Rank.) WAITING MEMBER. (to be detailed by OC 10 CBR Bn) A Capt or Lieut (Named or detailed, if any. RP 106.) JUDGE-ADVOCATE. RF (06.) (Must be named, if any. On Active Service in the Fd Maj-Jen Belgium RP 105 fn 2) (Signed personally. (E.L.M. Burns) (Country.) Commanding Gdn Sec 1 Ech HQ 21 A Gp Dat /7 Jan 45 Convening Officer.

CONVENING OFFR WILL INITIAL ALL DELETIONS AND ALTERATIONS

4/38A CFA 95 (In Heu of AFA 3) Approved working

(See exerteof for acths and notes for use on trial.)

DJA

Sint-Pieters Hospitaal · Haital Saint-Pierre BRUSSEL, 322. Hoogeraat \$22, 7. Haute, BRUXELLES Clinique chirurgicale du Prof R. DANIS Heelkundige Kliniek van de 8 % 9 heures du marin Reynaid, Hubert 108. Od Ausgrach, Bresilles practice in 5 5 miliocorgoica de la moin soite - plates à garder cing semaine -Importance foration. Il total temporaire de la mais et de Phisio Child A spend to 12 199 plok would be seen of the seen of t l'avourt lan Ports.

" accused: D-141 gasq The Hugh Comern Joynard Worth Novy Leodie Nighlanders, ask the See X. O Bulesels Bu on the 17 Dec HN I came in to sown on leaver from nignegen to Bussele & sky now of the to by she sime I got settled it was 1700 the He had admething to est of went It hile we were in the copy of Jongs american soldier of purchased the fix-Larry German weathour Jory kind He was broke of I had quelle. but of money as the sime the mender ony sking more rented the next mothing I never trank they they jame, busine of for like it I had been drynk before but I never for the oyen Question by the Court How sed my you? I have been in the army. 02 A2 Love hery with my length wire the them in Scheld to less to product the winds of the control of the QQ. 83 (B) Complied with.

been a few victim of incomatamess want facts which he had no intentions to do at all. But Rynard define a telaph and plustered in small in round a late will me , or ; which yours buy and all sucher ignor but to med about land replied toursless be surred and the treatment of the horizon and be lind ambed now me that, escrope in him !!!!!wite no show Rynard round a disturbance dops this cite but to. therewher were snade in a way to much timble as he wished from an distribution from the other with all developmentand that at is a service of product ware a poster in a fulling four, but streament of to the bearing of endese. The justil was not would and I don't see any mention that the occurred had hallatom his godhatt. . for the reason, we symme that I bened because all tall about plurade moderne or an a tought yet". We Prene These Regions ortalisablut de wishes to because all fait buy to streak your good oraclastical tod so whating of harring me mangine was and along that be for seen unsidewater fighting and is worthy of the unsideration; Ala accused is a

Thousand Joseph Comment have the mille of a survey of the server of the

6.C Summary of Evidence in the case of NO: D141949 Pts RYMARD, Summary of Evidence in the case of NO: Dialy49 Pte HYRARD, Hugh, Cameron. North Nova Scotia Highlanders attached Canadian ian Section HR Brussels Carrison, a soldier of the Canadian Army Overseas. The Commanding Officer directs that the evidence be taken on oath.

Pirst Witness: Mr Pierre Eubert REVMARD (Cafe Manager) 108 Blvd ANSPACE, BRUSSELS being unable to speak English requires an interpretor.

Interpretor (French-English) D21226 L/Gpl LEGAULT, A 2 Sdn L of G Provest Coy sworn.

Witness having been duly sworn states as follows:

"On SUNDAY 17 DECEMBER 1944 at approximately 2245 hrs at my Cafe "On SUNDAY 17 DECEMBER 1944 at approximately 2245 hrs at my is AU BALLON, 108 ANSPACH, BRUSSELS two soldiers entered. This soldier I see here now wasone of them. They asked for something to drink and they were after the waitress for quicker thing to drink and they were after the waitress for quicker service, and that is how the trouble started. The waitress service, and that is how the trouble started. thing to drink and they were after the waitress for quicker service, and that is how the trouble started. The waitress service, and that is how the trouble started. The waitress stold them that she needed a bit of time, so this man pulled told them that she needed a bit of time, so this man pulled. This happened at the bar. Then they both went over to the trables and started arguing with some British soldiers. The tables and started arguing with some British soldiers. The tables and started arguing with some British soldiers. The tables are grabbed a chair throwing it on the floor and breaking rade grabbed a chair throwing it on the floor and breaking other duties. A short while after I saw the accused and his other duties. A short while after I saw the accused and his other duties. A short while after I saw the accused and his other duties. A short while after I saw the accused and his other duties. A short while after I saw the accused and his other duties. A short while after I saw the accused and his other duties, a short while after I saw the accused had his other soldiers. The other soldier (his friend) had a hand waving it around. The other soldier (his friend) had a hand waving it around. The other soldier (his friend) had a hand waving it around. The other soldier (his friend) had a nother chair, broke it on a table, also breaking some glasses another chair, broke it on a table, also breaking some glasses another chair, broke it on a table, also breaking some glasses another chair, broke it on a table, also breaking some glasses another chair, broke it on a table, also breaking some glasses another chair, broke it on a table, also breaking some glasses another chair, broke it on a table, also breaking some glasses another chair, broke it on a table, also breaking some glasses another chair, broke it on a table, also breaking some glasses another chair, broke it on a table, also breaking some glasses another chair, broke it on a table, also breaking some glasses another chair, and had a same and a some

Accused declines to cross-examine.



Second Witness: Mr Robert HUSTIN (decorator) 242 Ave BRUGMANN, BRUSSELS being unable to speak English requires an interpretor.

Interpretor (French-English) D21226 L/Cpl LEGAULT, A 2 Cdn L of C Provost Coy is sworn.

Witness having been duly sworn states:

"On I think SUNDAY, 17 DECEMBER 1944 at approximately 1100 PM I was on the street in fro t of the Cafe Au BALLON. I saw the manager, Mr REYNARD and this soldier - whom I recognize This soldier was waving a pistol around. I approached the accused and twisted his arm until he tropped the pistol. He hada knife in his belt which I removed for safety, although he had not tried to use it. I gave the knife and pistol to the Belgian Police. In my opinion the accused was drunk.

Accused declines to cross-examine this witness.

Knife and pistol not available for identification by the Witness.

Third Witness: Mr RANSKIN, Officer of the Belgian Police, BRUSSELS.

In my opinion the attendance of the above witness at this Summary of Evidence is impossible at the present time, but he will be available to give evidence on a Court Martial.

(H H HOUSE) CAPT Officer taking Summary,

Gertified correct translation of abstract from Records of Belgian Civil Police attached herewith, marked Exhibit "C".

(H H HOUSE) CAPT Officer taking Summary.

A-

Fourth Witness: having been duly sworn states as follows:

"I am 768923 Cpl JOHNSON, H., of 120 Provost Coy, Corps of Military Police. On the 17 DEC 44 I was called out to the Town Hall in the Grand Place, BRUSSELS. On arrival I saw the accused, whom I recognize, with another soldier. They had been drinking. The accused was semi-conscious and laid out on the floor. He was drunk. With the help of the Civil Police and the truck driver I carried him out and laid him in the truck. I then placed him under arrest to be detained. The accused caused no trouble. I returned to the Police Station (Civil) after placing the accused in the truck and the Police Inspector showed me a gun and knife. I collected the gun and knife and asked the other Canadian soldier, who had been drinking and was not drunk, to come with me to the vehicle which he did. When we got outside he became very violent, he tried to get the Civil Police Inspector by the threat. I tried to restrain him and he took a kick at me. The gun and knife was placed in the truck after a violent struggle which I had with the other prisoner. I handcuffed him with the help of the Civil Police, I brought both prisoners to Prince Albert Barracks. Exhibit "B" is a knife similar to the one received from the Belgian Folice but I did not see the scabbard before this. I cannot say that his is the same knife. I do not know what happened to the gun after I placed it in the truck.

The accused declines to cross-examine this witness.

8

The accused was cautioned as follows:

"Do you wish to make any Statement or to give evidence on eath? 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."

I do not wish to make a Statement or give evidence. I reserve my Defence.

(H H HOUSE) CAPT Officer taking Summary.

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

In the Field 10 JAN 45

(H H HOUSE) CAPT 10 C B R Bn.

Request for Defiending Officer

I request that an officer be appointed for my defence.

List of Witnesses for the Prosecution

Mr Pierre Hubert REYNARD 108 Blvd ANSPACH, BRUSSELS /Cafe Au BALLON

Mr Robert HUSTIN 242 Ave BRUGMANN, BRUSSELS Mr Ranskin Belgian Police Officer Town Hall, BRUSSELS 769623 Cpl JOHNSON H, 120 Provost Coy CMP

List of Witnesses for the Defence

NIL

List of Exhibits

Exhibit "A" - Medical Certificate Exhibit "B" - Knife and Sheath

Exhibit "C" - Certified correct translation of Belgian civil Police Record.

In the Field 10 JAN 1945 (H H HOUSE) CAPT 10 C B R Bn.

· chammery of tordence womany of condend withe case of Mytheiner navny arenduly sween No D-141949 Per Hymand H. Nous neader leading Klanders a constitu accounted to Com Vac H. Q Bushels may super necessary alice Turnou, a we dies of he to du through and the 1944 facador and with our spail mide ground from In former days fice ducts mal ine vidence ul ian u ou vathe Cafe ranager 05 B wd Cropach, Burrele we you with was drawn with the se of y the over purious and we along wall to speak English require men driver / carried nove and an interpreter not and now it in duch I Interpreted Lunch English) D2122 to Head new and proced an under error Legislet A more 2 ddu hof 6/ 6000 a delarged of a source con and no would. I whereast a cal , we wallow (will ag it prairies 1. Miners howing her duly swore lates es la loves. se me wyletes showed me a gun n dunday 1 dec 144 4 a to grand and truft, I were the form 22 45 his at my said in Sulon, 108 Blad and raife and armed in aires. repail wisels, wo dues alud. oder solded, a no nage wien drawing I is so dies see see now was one of trent and was not drunk, to some with I regarded as someting to auch and try me to ine whell a hich is did. will in the warteers for meny with, Min de gal artarde de ociand and hat is you are would soled, very wallet, as wed to get ac The weeters and have not be readed well jour inspector y'al issoul. a cut of am, a is now valled a I wid to whain him and he som pertotand wired I sound aging I a sich at us. I at your and any want que a servere l'ous ra, and el was placed in the which after a the hos I have my work wint well to we cent surger to which I had with the ables of a artifacquing with an alles presones. I navel un pred come of which widies. The English never with the negly re with a

secures didnet went to jugat as ide accusedo corraode autoral a chair chowing don it four and allowing I. It was durch. Frisman camed nown wer and went to myster senties I sout a rell after you the accounted well arguing with acoust to take is It was 1100 pm is , ang is well regralling the case was crosed. It can noment a saw the accused with his susbolin us rand and waving it around Tal olay soldies (us verd) rada chais in is hand with which he hit nove how one ong hick wished. Of this und I approached their aying It is now 11000 cerch and you will please leave now " The aller solder prophistonother chart, mobile it and table, also arealing some gosses where we are cat cable ongapaid of more would wied to get them autof we cafe, assisted my jour of well other soldiers we put aim outon the sheet It was and the accused rad me in a coat without land and with his albert land glien his problems tolding the barrel, at me, on my right hand facturing my It nelocalpat work, y left their wal the east thing I sow was the recureds postot falling 5 the suit, having Leen knocked for an land my a switten. Here is the medical but

which felded on the rospular Marchey examined my land. any opinion the accuract was durch and & wildow my companies. I yet that the accord rad no nienton of coming who any one else Jugaring worldy of is consideralis 1 reaccused a clines we cross comment. his welness they 2 Wilners Mr Robert Yustin (decoratos) 242 Out Bugmann Dussels wing wall is speak English yoursan interpreter religioned (Filman English) 121226 After Legacelt A. 26 da Lof 6 Provost is sworn Wilness rawing when duty morn sister on derink sinday 17 Dic 1944 at as loss 100 pm was an ide sheet in court of the baff ou ballow. I was the manager ma Reynard and this soldies a non Precagnize, This soldies was wavering a pested had not freached the accused and muselest tisarmental, , it dro, not the probable the rada bright in his next which, i moved for safetys actions he sad not wied to use it. I gave the walfe and what to the Be you paired to a my pinion The ground declines a work on the light of the

Clair Carraches. Exhibit Bisa anginetial of the or the remeded you the Sugar or repair total not are and eca ahard wifere inis learns agua cho o he ame ing 6. Solo not and what nathered with gon enty to mudden the to The accuracy declines to come exament on 3 Williams - mr Ramon RANSKIN. a given of Belgion Palice - Sunselv. In my aprimor in attendance of the anough withers attend unimary of Enounce is you people at the west and, and rewill a armine le for sque endere con a cont yell any change berefied careet was alion of aurual con under of o gran plustout charted herewith harmed them IC your array worms

Do you wish is made any statement or to gue widered on oath I you are not a viege of to say anything as give widence incers you wish to do so, antwaterer you say many andered you give will be taken down in wating and may a guen in found wish so make a waternen or give wedered. Treserve m oll fines H.C. Rynord + House East.

Langy that the ringary many Blancia, the advised and was thrown copt year of the rading appeal Auduit and an apply of affected for my dequale. H.C. By und Led we messe for the homewood Mr. heretylengheynaid 108 Stud as ach Smerela bage on Ballon The facilit Hustin 242 due Brugman Se An Ranskin, Delgian Calul Office, 1689 as why others of 17 120 Roverlay 60 Prince Clark Barragas Barrage and of winensespores lighted NIL Liste Medicalou tropped walk. being downstanna Calion - jon and paint mand in the field x x Your part 10 Jon 1995 OUSRAN

•	NoD141949 1 Date of last e Company Cor			the industrial and multiparing towards I a	A Sheet No. 1 Signature O.C. Company, etc. Character
	Place	Date of offence	Hank	Cases of drunken-, OFFENCE	Names of Witnessea Punishment awarded of order discretishing with trial
In	the FIELD	16 BEP 44	Pto	AWL from 0745 hrs 16 SEP 44 to 1320 hrs 19 SEP 44 (Absent 3 days 5 hrs 35 min)	7 days CB 19 SEP Forfs 1 d pay FR & 1 149(1)(a)
				"GERTIFIED TO BE A TRUE EXTRACT DOCUMENTS IN MY CUSTODY"	FROM THE REGIMENTAL BOOKS AND

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

Charge,	Plea.	Finding.	
(Insert " alternative " where applicable.)	(See Instrs p 2.)	(See note below.)	(Space for use as required for further charges, accused charged joints special findings, etc.)
1st 41	Guilty	Guilty	
2nd 40	Guilty	Guilty	
3rd 19	Chailty	Guilty	
4th			
5th			
6th			

(Note : As to findings for lesser offences size AA 36, RP 44 ; findings on alternative charges see MML p 403 fn 4 para Z, RP 44 ; special findings see RP 44 and MML p 753, and in loss of kit see RP 44 fn 6.)

(1. Insert rentence being served, or delete, if not applicable. See RP 46(A). Information should be found on MF 8355 or AF 8296.) in confinement awaiting present trial—a total of days, of which days were spent in hospital.(+) (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 six (6) months detention

(Sgd) G.L. MacDougall Wajor 20 Jan 45 Date awarded. President (RF 45, 52.) (See back of Convening Order as to assembly and disposal of record after trial.)

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

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

(For duties and powers see AA 54, 57, RP 27(U) fin 6.46(A), 51-56, 120, MAML pp 759-761, KR Can 567-577. Acquittels require no confirmation and connat be nexised: AA 54(3). Sending botk finding ar sentence for revision by Court: AA 54(2), RP 120(G), If not confirmed, accused may be cried again: AA 157, MAI, b. 64. Minated of confirmation or non-confirmation may be altered before pranulgation: RP 53, MAML p. 65. Quashing ofter pranulgation: KR Can 573. Duties and powers of reviewing offs: AA 57, 574, RP 53A, 44. The Confirming Offs must sign here personally. AA 175 (Fig. 1)

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

CONFIRM

remerence exercises adresses en crescos exercises exerci

(Sgd) B.L.M. BURNS Maj-Gen Officer 1/c Canadian Section Date 22 JAN 45 GHQ 1 Beh 21 A Gp Confirming Officer.

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

Signature of Offr. D.141949 Pte Rynard, H.C. 26 an 45 (Sgd) A.H. BYTTTTTMaj Promulgated CR 67 dated 26 Jan 45 2(Brussels) Inc Cdn Sec 1 Ech HQ 21 A Gp

ALL DELETIONS AND ALTERATIONS WILL BE INITIALLED.

FIELD GENERAL COURT-MARTIAL THE PROPERTY AND THE PROPERTY

Convened by Order of Maj Gen R.L.M. BURMS Comd Cdn Sec GHQ dated 17 JAN 45

ACCUSED. 1 Ech 21 A Gp

(As to the trial of two or more charged faintly see RP 16, 71, 109. As to reasons for showing (a) permonent or confirmation and (b) appent, Aironk or Alappent, If any, see AA 182, 183, fin. KR Can 308, 328, 330.)

Number. (a) Print R. (b) Appint, A/R or A/Appint. Full Christian Names.

Hugh Cameron RYNARD N Nova Scotia D.141949 CERTIFIED TRUE COPY

Henrs att Cdn Bed HQ Brussel Carrison

CAC 9 CBR Bn

CIC 10 CBR Bn

PROCEEDINGS OF TRIAL

Held in the Fd in (country) BKLGIUM on (date(s)) 20 JAN 45

RECORD FORM A-OPENING PROCEEDINGS AND ARRAIGNMENT. 20/16

(PRINTED MATTER, NOT IN ITALICS FOR GUIDANCE WILL BE DELETED, IF NOT USED OR APPLICABLE, AND INITIALLED BY PRES OR JA. The Schedule referred to throughout is an p.4. Citations do NOT include dil relevant from ROS. For guidance an procedure when a variation in this farm arises, see farm for GCM in MML pp 741 to 759. A brief record of nuch variation will be made and given a number having reference to appropriate as proceding part number having. See back of Convening Order, CF ARS, for outher and instray on how to record addresses, evidence six, which instra are hereafter called "Notts". As to general provisions for conducting the timi see AA 53, RF 36, 63-70, 73, 74, 74, 703, [19, 122].

A2. The President initials and lays before the Court the Convening Order and Charge Shoet(s) attached thereto. (1)
The Court is satisfied that it is properly convened and constituted(*), accused is the satisfied that it is properly convened and constituted(*), accused is the satisfied that it is properly convened and constituted(*), accused is the satisfied that it is properly convened and constituted(*), accused is the satisfied that it is properly convened and constituted(*), accused is the satisfied that it is properly convened and constituted(*), accused is the satisfied that it is properly convened and constituted(*).

A3. The Court is opened. The accused is (XXX) Frought before the Court. At ... At ... Ap. (1.13, 23, 24.)

A3. The Prosecutor recenses a Medical Certificate that accused is XXX if to undergo trial by court-martial.(1)

XOXOXOX OX CX CXC

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

A5. Remementance xenence xenen GLM желжежежежоменскомых окожез: X GROXOXOXOXOX CKG

Mexexexexexexexexex (F. RP 72. Delete, if none employed.)

Major

Lieut.

Defending Offr

A6. 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 ?

(). RF | 10. 2. If no objection, waiting member retires. RF 68(8). If objection, see procedure AA 51, RP 25, 71, 18, MAML p 742.)

A7. The President, Members, NAX GROUND AND WORLD WORKER CREME sworn.(1) The following are the G.L. MacDOUGALL

S. ROY Member Capt CIC 11 CBR Bn Lieut E. CUILLET CIC 10 CBR Bn Judge-Advocate RCAMC - Cdn Sec Brussel J.J. H. CONNORS Lieut Prosecutor

Questions by President: Is the Prosecutor a lawyer ! Ans No Is the Defending Offr a lawyer ! An No (*)

P. LAFOND

(1. RF 26, 27, 109, 11). List of offrs under instr will be returned separately with proceedings for information of Cons Offrs).

(2. If Pros a lawyer and Def Offr not, accused is entitled to an adjournment when RF IPF (B) and fo 2 were not followed. See D1 p 3.)

before arraignment make(s) (no) plea

. RP 31. I.12. See para I of Instrs p. 2. When more than one Charge Sheet see RP 62; when several occured to be tried tally see RP 71(C), and use separate capies of CF AP6 to record proceedings. 2. RP 32, RP 33. If atherwise, delete and appropriate record per Notes!

A10. The Court XOX CONSIDER Considers the Instrs 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.

Vol II p. 136

The accused may not plead or be found Guilty on more than one of two or more charges laid in the alte-(RP 37(A).) As to withdrawal of alternative charges by Prosecutor see RP 35(C). No other charge can be will for any reason without authy from Convening Offr. If Convening Offr concurs, Court may accept plea of Guilly to etc, offence. (RP 44(H).) Accused may change a plea of Not Guilty to Guilty during trial. (RP 38.) 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
 - 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
 - (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 741 Instrs (2).
- 3. As to responsibility of President to accused see RP 59, 60(C); powers and duties of JA sec RP 103; duty of Prosecutor see RP 60(A) (B); duty and privileges of accused and Defending Offe see RP 60(C), 87(C), 91, 92; successing 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 80, 85; calling or re-calling of witnesses by Court, etc. see RP 50-79, 80, 116; use 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.

Bl. The President oxicx dxcx 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), call witnesses as to character and make an address in mitigation of punishment.(2)

(1. 8F 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 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 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 ? Ans No (1. RP 27(B). 2. RP 33(D) fn 6. 2. RP 35(B) fn 5 para 3, MML p 54 para 47. 4. See para E3 of Record Form E. 5. Statement, if any, recorded per Nates.)

GLM ROMONOMER & EGRENCE NOMENICA CA CACA CACA CREMON CHOM CHECK CHECK CACACA CACACA CHECK CHECK CACACA CACACA CHECK CHEC

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. RF 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. C., initialled and read aloud by the President. (3)

(1. If there is no Summary, or if it is inadequate, comply with RF 37(B). If there is any evidence inconsistent with any plea standing as Gulfy. Court will oblig occused to change such plea and, if changed to Not Guilty, try such change(s) by one of pers B1 to D8 inclusives of Record from D on p 3. RF 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.

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. RP 37(A) (E).)

C2. The charges on which accused pleaded GUILTP 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 Summary of Evidence are read as relate to the charges decid with under C2. If one piec is charged to Not Cully, trial thereasy decides by complying with paras D1 to D8 inclusive in Record Form D on p. 2 and making an appropriate record thereof on a superior sheet.)

C3. The reused 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 Loose Steets of Record.

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

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

D2. The Prosecutor makes (an) (no) opening address (1) (i. RP 39(B), 60(A) (B), 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 use RP 39(D) (E).)

D4. The Prosecution is closed.(1) The Defending Offr submits that the evidence for the Prosecution does not charge(s).(3) The Court io disallowed on the eharge(s), and allowed on the

charge(s), and that, accordingly, the trial will proceed on the former, but the accord is (are) found Not Guilty on the latter charge(s), (4)

(1. Delete remainder of this para, if submission nat made.

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

3. RP 40 fs 1. See MML p 72 paras 12-14 and p 81 para 42.

4. Degree part not used. If accused acquitted on all charges, use second alternative in para DB.)

NS - If trial proceeds, accused must be allowed great latitude in making his defende, and the Court should not stop his defence solely an ground of irrelevance. (RP 60(C), 114, 115.)

D5. President to accused: You will now proceed with your defined.(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. (*) You may call witnesses in your defence and as to character, thether you give evidence or make a statement or do

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. RP 115. 2. RP 40(A), see 80(D). 2. RP 40 fn 10. 4. RP 40 fn x 2, 9.)

D6. Consequent on the answers recorded in para D5 the appropriate procedure for the defence is followed.(1)
(1. RF 114, 115, 116. For procedure set Notes on back of Convening Order, CF A95. Evidence for accused os to his
character should, if in his interest, be given before the finding. See RP 46(A) fo. 1, 86(C). Note the further opportunity in para E1
of Record form E. Record per Notes adjesses, subtement, evidence and on; summing up by the full winder RF 42, (13(6))

D7. The Court is closed to compiler the finding(s).(1) The finding(s) of the Court is (are) recorded in Part I of the Schedule.(2) The Court is re-opened.
(1. RP 43, 117(A). See Noys 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) charge(s), being subject to confirmation, will be promulgated later.(1) of the Court on the. 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. AA 54(3) & 8 + 45, 12(4).

2. AA 54(3) & 8 + 45, 12(4).

2. AA 54(3) & 8 + 45, 12(4).

3. AB 54(3) & 8 + 45, 12(4).

3

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

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 f(1)

Yes the accused gives evidence

(I. If evidence has already been given by accused or his witnesses as to his character, delete this para. RF 37(C) fn 4, 45 fn 1.

Accused and witnesses are sworn. Evidence recombed per Notes.)

GLM

copy (copies) of Conduct Sheet(s)(2), 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(I) (g) (b), and (ii) they purport to refer to (a) soldier(s) having the same number, rank, name and corps as the accused.

3. RP 46, KR Con 558. If above documents not produced, see RP 46 fn I

E3. President to accused : Do you wish to address the Court on the XOXOX CX CX CX CX CX CX CX (S), and in mitigation of panishment 1(1). Ans

[1. RP 371(), 480()], 2. Addrss, if any, recorded per Notes. Court should permit accused or his witnesses to prove
on each arything here or previously street which would offect the amount of punishment. RP 37(F) fit 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)

(1. AA 54(6), RF (20(A))

E5. The Court considers the sentence.(3) The President records the sentence in Part I of the Schedule, which

E.O. The Consisters the sentence. [1] The President records the sentence in Part I of the Schedule, is dated and signed by him and the JA, if any. [2] (1. When several occused rised separately see RP 71 (D). One sentence only, comprised of the punishment is punishment held down in AA 41, 44 and its provise, is in be awarded to cover all charges in al. Contexp sheets on which occused found points. RP 48. As to sentences see AA 41, 138. IRS, RP 84-50, 69, 118, 119A, KR Can 206, 230, 563-566. Overseas AO 307, 2321, MAK, p 60, 757-759. As to sentences cuipmed for civil affences by the low of England see AA 41(3), MAK, p 130. When occused already under sentence of imprisonment or determines see AA 44(5), 58(1), KR Can 564.
2. F.O. As to enless from great by Confirming Offir see KR Can 567. As to assembly and disposal of record after trial see instra on back of Convening Order.)

PRESIDENT OR IA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

	Company Date of			H C	or Company and date N/A Period not reckoning towards N tet drunk N/A freedom from extra fine	/A Sheet No	1 ;	ignature Or Iompany, et		Charact	er
	Place			Cases of drunken- pess	OFFENCE	Names of Witnesser	Funishmer	nt awarded	Inde of award or of order dispen- sing with trial	By whom awarded	Remarks
In the			Pte .		AWL from 0745 hrs 16 Sep 44 to 1320 hrs 19 Sep 44 (Absent 3 days 5 hrs 35 mins)		7 days	СВ	19 Sep 44		Forf 1 days pay FR&I 149(1)(a)
					DO CUMENTS IN MY CUSTODY"				AND		
•					9 Jan 45.	officer of Sec GHQ	C - Rec	cords "	8" 21 A Gp		
											970

CHARGE SHERT

The Accused, No D-141949 Pte Hugh Cameron RYNARD, North Nova Scotia Highlanders, att Cdn Sec HQ Brussels Garrison, a soldier of the Cdn Army Overseas, is

FIRST CHARGE ARMY ACT

WOAS committing a civil offence, that is to say, common in that he

in BRUSSELS at approx 2245 hrs 17 DBC 44 in the Cafe au Ballon, 108 Blvd Anspach, Brussels, assaulted Mr. Pierre Hubert REYNARD, manager of the cafe, by striking the 5th metacarpal bone in the hand.

SECOND CHARGE

WOAS conduct to the prejudice of good order and malftary in that he

in BRUSSELS at approx 2245 hrs 17 DEC 44 in the Cafe au Ballon, 108 Blvd Anspach, Prussels, caused a disturbance by waving a pistol,

CHARGE SEC

WOAS drunkenness

in that he

in BRUSSELS at approx 2245 hrs 17 DEC 44 in the Cafe au Ballon, 108 Blvd Anspach, Brussels, was drunk.

In the Field 15 Jan 45

(Sgd) L.P. Payan Lt-Col Commanding Officer Cdn Sec HQ Brussels Grn

To be tried by Field General Court Martial.

In the Field 17 Jan 45

(Sgd) B.L.M. Barns Major-General GO 1/0 Cdn Sec 1 Boh HQ 21 A Gp.

FIELD GENERAL COURT-MARTIAL

(Whether the occused to be tried is under his comd or not, a FGCM may an application to him be convened by any affr of Cdn Army Overseas, or of any other faces if authorized in law, in immediate comd of troops on active service, subject to RP 105(C) and restrictions impared by appropriate authy. AA 49, 30, RP 104-107, 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 charge sheets RP 63, 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. As to reason for showing (a) permanent or confirmed rank, and (b) appms, A/rank or A/appms, if any, see AA 182, 183, fns. KR Con 308, 328, 330.)

ACCUSED.

Number. (a) Print R. (b) Appint, A/R or A/Appint.

Full Christian Names.

Surname.

D-141949 Pte

Hugh Cameron RYNARD Nobth Nova

Scotia Highrs

att Cdn Sec HQ Drussels Garrison

CONVENING ORDER.

1. Whereas complaint has been made to me, the undersigned, that the persons) named above as the accused, being subject to military law, has XXXXXXX committed the offence(s) set forth in the Charge Sheet X attached and on (date) 17 Jan 45 endorsed by mexiconyxxxxix committee charge the tried by Field General Court-Martial".

And whereas I am of opinion that it is not practicable that such offence(s) should be tried by an ordinary Ger Court-Martial; Rox checked and manifestable subtiles Abstracke reason when remained in the RLMB (Delete part in brackets when not required for compliance with RP 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. xlowe werk lexic x province the better difference from the fourte from the difference between the transference were the control of the first terms and the west from the first terms and the first terms are the first terms and the first terms are the first terms and the first terms are the first terms are the first terms and the first terms are the first terms ar OKSK TASADK ELMB (AA 49, RP 106(B), 107(A). Delete the whole or part, if not applicable.)

5. Nadea repeat exchilence threshold the filter account broader RLMB (RF 106E). Delete, if none appointed.)

PRESIDENT

G.L. MacDougall

X4 List CAC 9 CBR Bn (Unit.)

MEMBERS.

A Capt or Lieut (to be detailed by OC 11 CBR Bn)

A Capt or Lieut (to be detailed by OC 10 CBR En)

(Unit.)

WAITING MEMBER.

A Capt or Lieut (to be detailed by OC 10 CBR En) (Nomed or detailed, if any. RP 106.)

JUDGE-ADVOCATE.

(Ronk.)

(Muss be named, if any. RF 106.)

On Active Service in the Fd

Belgium

(Sgd) B.L.M. Burns (Signed personally, 57 105 fn 2)

Maj-Gen

Dat 17 Jan 45

Commanding Gdn Sec 1 Ech HQ 21 A Gp Convening Officer

CONVENING OFFR WILL INITIAL ALL DELETIONS AND ALTERATIONS

4/38A CFA 08 (In New of AFA 3)

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

Approved:

Maj or

DJA

MEDICAL OFFICER'S CERTIFICATE

Regiment I certify that No Al41964 Pte RYNARD, M.C. is fit to undergo trial by Court-Martial.

(Sgd) C.P. Cion Capt Signature of the MO

Date 20 January 1945

122, T. Haute, BRUXELLES

BRUSSEL, 322, Hoogstraat

olinique Chirurgleale du Heelkundige Kliniek van

Prof R. DANIS

Consultations tous les jours de 8 a 9 heures du matin

Raadplegingen alle dagen van 8 tot 9 uur's morgens

REYNARD, HUBERT

108 Bd Anspach, Bruxelles -

fracture in is initercorpin de la moin moite - platre a yarder cing vemoina - impotence fouctionnelle rotyle temporoire de la moin at je 1 ovaouit - bar Moits 22.12.44

(Sgd) ???????????????

This is Exhibit "A" referred to in the case of D.141949 Pte Rynard H.C. taken before me this 9 day of January 1944.

(Sgd) H.H. HOUSE Capt

Case of:
I am accused: D141949 Pte Hugh Cameron Rynard North Nova
Scotia Highlanders att Udn Sec HQ Brussels Grn.
duly aworn states: Case of:

A.1. On the 17 Dec 44 I came in to town on leave from ligmegen to Brussels and there was no rooms at the Maple Leaf Club so to Brussels and there was no civilians and by the time I got billets were areaigned with civilians and by the time I got billets were areaigned with civilians and by the time I got billets were areaigned with civilians and by the time I got billets were areaigned by the b Q.1 What happened on the 17 Dec 44.

settled it was 1700 hrs.

We had somethine to eat and ment into a cafe and had a somethine to ear were in the cafe, I purchased to drink. While we were in the cafe, I purchased pistol No 45 Army issue from an American carry derman weapons the pistol because we are not allowed to carry to from the pistol because we are not allowed to a bit of any kind. He was broke and I had quite a bit more I never drank before at the time. We drank quite a morning. I never drank before anything more until the next morning. I had been drones anything more until the next morning. I had been drones anything more until the next morning. I had been drones anything more until the next morning.

A.2 20 sir, and I have been in the army 18 months now and since September I have been in Europe, and I always have been set time and I am a rifleman Nigmegen with my unit since that them in Scheldt and also in Nigmegen sir, I have been with them in Scheldt and private leave with my section since hovember. This is my first leave with my section since with is a man from the same Coy as I had.

I had, and would say that he is about 26 yrs old.

Q.3 Before the war I was working at the inspection board at

AA 83 (B) complied with. C.I.L.

On this present case we have a soldier who has been a poor victim of circumstances and facts which he had no intentions to do at all. Pte Rymand was on leave in Bruss intentions to do at all. On this present case we have a soldier who has been a poor victim of circumstances and facts which he had no intentions to do at all. The Rymard was on this state, a intentions to do at all. The drinks; of evidence, was almost he met a friend and had many drinks; of evidence, to occurre the met a friend who, according to the summary of evidence, to occurre friend who, according to this cafe where the I do understand that friend who took him to this cafe where the I do understand sober and took him to been prevented. The soldier which could have been prevented. The soldier which could have been prevented action of such an armkenness is no an excuse, but we can deduce on such as soldier had never the intention or premeditation of such action. PRESIDENT

pockets, for this reason, we should think that the accused atomic point anybody in danger or in a the case manager Mr. And I must bring up this point, the case manager Mr. Ard I must bring up this point, the wishes to windraw pierre Hubert Remard stated that the accused had no intention my complaints. I feel that the accused had he has seen of harming me or anyone else and also that he has seen of harming me or anyone else and sisterable fighting and is worthy of this consideration siderable fighting and is worthy of this consideration.

SUMMARY OF EVIDENCE

Summary of Evidence in the case of NO: D141949 Pte RYNARD, Hugh, Cameron. North Nova Scotia Highlanders attached Canad-ian Section HQ Brussels Garrison, a soldier of the Canadian Army Overseas.

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

First Witness: Mr Pierre Hubert REYNARD (Cafe Manager) 108 Blvd ANSFACH, BRUSSELS being unable to speak English requires an interpretor.

Interpretor (French-English) D21226 L/Cpl LEGAULT, A 2 Cdn L of C Provost Coy sworn.

Witness having been duly sworn states as follows:

"On SUNDAY 17 DECEMBER 1944 at approximately 2245 hrs at my Gafe AU HALLON, 108 ANSPAGH, DEUSSELS two soldiers entered. This soldier I see here now was one of them. They asked for something to drink and they were after the waitress for quicker thing to drink and they were after the waitress for quicker service, and that is how the trouble started. The waitress service, and that is now the trouble started. this man pulled told them that she needed a bit of time, so this man pulled a pistol and waved it around saying "I want quick service." a pistol and waved it around saying "I went quick service."
This happened at the bar. Then they both went over to the
tablet and started arguing with some British soldiers. The
English soldiers didn't want to fight so the accused's comEnglish soldiers didn't twant to fight so the accused's comrade grabbed a chair throwing it on the floor and breaking
rade grabbed. This man calmed down then and I went to my A short while after I saw the accused and his other duties. A short while after I saw the accused and his friend on the terrace and they were arguing with other soldiers. It was 1100 PM so I rang the beel signalling the Cafe was closed. At this moment I saw the accused with his pistol in his hand waving it around. The other soldier (his friend) had a hand waving it around. The other soldier (his friend) had a chair in his hand with which he hit more than one English soldier.
At this time I approached them saying "It is now 11:00 o'clock
and you will please leave now." The other soldier grabbed and you will please leave now. The other soldier grabbed another chair, broke it on a table, also breaking some glasses which were on the tabel. Being afraid of more trouble I tried to get them out of the Cafe, assisted by four or five other coldiers. which were on the Cafe, assisted by four of the them out of the Cafe, assisted by four of the time the soldiers, we put them out on the street. At this time the soldiers, we put them out on the street. At this time of accused had me by the coat with one hand and with his other accused had me by the coat with one hand and with his other accused had me by the coat with my right hand - fracturing my 5th metacarpal bone. I left my right hand - fracturing my 5th metacarpal bone. I left then and the last thing I saw was the accused's pistol falling then and the last thing I saw was the accused spistol falling to the street, having been knocked from his hand by a civilian. Here is the Medical Certificate which I received from the Here is the Medical Certificate which I received from the Here is the Medical Certificate which I received from the Here is the Medical Certificate which I received from the Here is the Medical Certificate which I wish to withdraw my I may opinion the accused was drunk. I wish to withdraw my In my opinion the accused was drunk. I wish to withdraw my complaints. I feel that the accused had no intention of harm ing me or anyone else and also that he has seen considerable fighting and is worthy of this consideration.

Accused declines to cross-examine.

nd Witness: Mr Robert HUSTIN (decorator) 242 Ave BRUGMANN, BRUSSELS being unable to speak English requires an interpretor.

Interpretor (French-English) D21226 L/Cpl LEGAULT, A 2 dn L of G Provost Coy is sworn.

Witness having been duly sworn states:

"On I think SUNDAY, 17 DECEMBER 1944 at approximately 1100 PM I was on the street in front of the Cafe Au BALLON. I saw the manager, Mr HEYNARD and this soldier - whom I recognize. This doldier was waving a pistol around. I approached the accused and twisted his arm until he dropped the pistol. He had a knife in his belt which I removed for safety, although the Belgian Phlice. In my opinion the accused was drank.

Accused declines to cross-examine this witness.

Knife and pistol not available for identification by the Witness.

Third Witness: Mr RANSKIN, Officer of the Belgian Police, BRUSSELS.

In my opinion the attendance of the above witness at this Summary of Evidence is impossible at the present time, but he will be available to give evidence on a Court Martial.

(Sgd) H H House Capt Officer taking Summary.

Certified correct translation of abstreact from Records of Belgian Vivil Police attached herewith, marked Exhibit "C".

(Sgd) H H House Capt Officer taking Summary.

"I am 768923 cpl JOHNSON, H., of 120 Provost Coy, Corps of Military Police. On the 17 DEC 44 I was called out to the Town Hall in the Grand Place, BRUSSELS. On arrival I saw the accused, whom I recognize, with another soldier. They had been drinking. The accused was seni-conscious and laid out on the floor. He was drunk. With the help of the Givil Police and the truck driver I carried him out and laid him in the truck. I then placed him under arrest to be detained. The accused caused no trouble. I returned to the Police Station (Civil) after placing the accused in the truck and the Police Inspector showed me a gun and knife. I collected the gun and knife and asked the other Ganadian soldier, who had been drinking and was not drunk, to come with me to the vehicle which he did. When we got outside he became very violent, he tried to get the vivil Police Inspector by the threat. I tried to restrain him and he took a kick at me. The gun and knife was placed in the truck after a violent struggle which I had with the other prisoner. I handouffed him with the help of the Civil Police. I brought both prisoners to Prince Albert Barracks. Exhibit "B" is a knife similar to the one received from the Belgian Police but I did not see the scabbard before this. I cannot say that his is the same knife. I do not know what happened to the gun after I placed it in the truck.

The accused declines to cross-examine this witness,

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."

I do not wish to make a Statement or give evidence. I reserve my Defence.

(Sed) H H House Capt officer taking summary.

I certify that the foregoing Summary of Evidence consisting of five pages was taken down by me in the presence of the accused and that R^P 4(c) (d) (d) and (f) have been complied with.

In the Field 10 Jan 45

(Sgd) H H House Cap t

Request for Defending Officer

I request that an officer be appointed for my defence.

List of Witnesses for the Prosecution

Mr Pierre Hubert REYNARD 108 Blvd ANSPACH, BRUSSELS /Cafe Au BALLON

Mr Robert HUSTIN 242 Ave BRUGMANN, BRUSSELS Mr Ranskin Belgian Police Officer Town Hall, BRUSSELS 769623 Opl JOHNSON, H. 12- Provost Goy CMP

List of "itnesses for the Defence

NIL

List of Exhibits

Exhibit "A" - Medical Certificate
Exhibit "B" - Knife and Sheath

Exhibit "C" - Certified correct translation of Belgian Fivil Police Record.

In the Field 10 Jan 1945 (Sgd) H H House Cap t

SCHEDULE.

	PART I.	PLEA(5), FINI	DING(S) AND SENTENCE.
Accused :			•
en 1	THE STATE OF THE S		The state of the s
Charge.	Plea.	Finding.	
(Insert " alternative " where applicable.)	(See Instra p 2.)	(See note below.)	(Space for use as required for further charges, accused charged joints special findings, etc.)
1st	On11ty		
2nd 40	Dullby	0x111 try	
3rd1.0		0u11ty	
4th			
5th			
6th			
Dista - As to Co.			Colors on disputing house, May 2 and 5 days of the
special findings see RI	P 44 and MML p 753	and in loss of kit see	findings on alternative charges see MML p 463 fn 4 para 2, RP 44 ; RP 44 fn 6.)
(8gd)		80 Jan	on the detention 45 (Sgd) 0.1. MacDougall Ma
Judge-Advoc	(See back of Co	nypning Order as to as	
Judge-Advoc	(See back of Co	Date i arening Order as to as	45 (Sgd) O.L. MacDourall Ma awarded. President (89 45, 30.) sembly and disposal of record after trial.)
Judge-Advoe PART II. M	(See back of Ca	Date in preming Order as to as	45. (Sgd) O.L. MacDougall Massarded. President, (RP 45, 50.) ATION RESERVED. (AA 54(5), RP 120(F), MAIL p 760.) Commanding
PART II. M Date PART III. If (for duties and row confirmation and connet confirmed, accus promulgation , SES 57A, RF SSA, S4. To	(See back of Ca MINUTE WHI Sign) DECISION OF Tra see AA 54, 57, R8 and to revised 1. AA ed may be tried again. 3, MML p.65. Quo a Canfirming Offi m	Disto a proposition of the propo	445. (Sgri). O. L. Mandourall Manawarded. President, (RP 45, 50.) aembir and disposal of record after stiel.) ATION RESERVED. (AA 54(5), RP 120(F), MAIL p. 760.) Commanding G OFFR ON FINDING(S) AND SENTENCE. -50, 120, MMM, pp 759-761, KR Can 567-577. Acquitals require no finding are sentence for revision by Court: AA 54(1), RF 120(F), Minute of confirmation or non-confirmation may be altered before ion 1 KR Can 573. Duties and powers of reviewing offrs: AA 57, ly, AA 172 for 1.
PART II. M	(See back of Ca MINUTE WHI Sgri) DECISION OI rs are AA 54, 57, Rs most be revised: AA d may be tried again 3, MML p 65. Que e Confirming Offe m finding(s) and s	Date a proming Order as to as ERE CONFIRM F CONFIRMIN 7 27(D) for 6.46(A), 51 54(3). Sending back 7 A 157, 46ML p 64 shing after promulgate user sign here persual entence set forth	445. (Sgri). O. L. Mandourall Manawarded. President, (RP 45, 50.) aembir and disposal of record after stiel.) ATION RESERVED. (AA 54(5), RP 120(F), MAIL p. 760.) Commanding G OFFR ON FINDING(S) AND SENTENCE. -50, 120, MMM, pp 759-761, KR Can 567-577. Acquitals require no finding are sentence for revision by Court: AA 54(1), RF 120(F), Minute of confirmation or non-confirmation may be altered before ion 1 KR Can 573. Duties and powers of reviewing offrs: AA 57, ly, AA 172 for 1.
PART II. M Date PART III. If (for duties and row confirmation and connet confirmed, accus promulgation , SES 57A, RF SSA, S4. To	(See back of Ca MINUTE WHI Sgri) DECISION OI rs are AA 54, 57, Rs most be revised: AA d may be tried again 3, MML p 65. Que e Confirming Offe m finding(s) and s	Disto a proposition of the propo	445. (Sgri). O. L. Mandourall Manawarded. President, (RP 45, 50.) aembir and disposal of record after stiel.) ATION RESERVED. (AA 54(5), RP 120(F), MAIL p. 760.) Commanding G OFFR ON FINDING(S) AND SENTENCE. -50, 120, MMM, pp 759-761, KR Can 567-577. Acquitals require no finding are sentence for revision by Court: AA 54(1), RF 120(F), Minute of confirmation or non-confirmation may be altered before ion 1 KR Can 573. Duties and powers of reviewing offrs: AA 57, ly, AA 172 for 1.
PART III. PART III. If (For duties and power confirmation and can not can firmed, accuss promulgation : RF 5 578. AF 533. 54. Th. My decision on the	(See back of Ca	Date a proming Order as to as ERE CONFIRM F CONFIRMIN 7 27(D) for 6.46(A), 51 54(3). Sending back 10 AA 157, 46ML p 64 shing after promulgate user times a proming after promulgate entence set forth 27 TRM	ALS (Sgrl) D. L. MRODOLICALI Management of the state of t
PART II. M Date PART III. I (for duties and row confirmation and connot confirmed, accus promulgation : RF 5 57A, RF 53A, 54. To My decision on the	(See back of Ca	Disto a newning Order as to as ERE CONFIRM F CONFIRMIN F 27(D) fo 6.46(A), 51 F 37(D) fo 6.46(A), 51 F 38(B). Sending back I AA 157. MML p 46 Generalization of the personal contents of the p	ALS (Sgrl) D. L. MRODOLICALI Management of the state of t
PART II. M Date PART III. I (for duties and row confirmation and connot confirmed, accus promulgation : RF 5 57A, RF 53A, 54. To My decision on the	(See back of Co	Date a price of the price of th	ALS (Sgd) O.L. MacDourall MacAwarded. President (PP 45, 50.) ATION RESERVED. (AA 54(5), RP 120(F), MML p 760.) Commanding G OFFR ON FINDING(S) AND SENTENCE. -56, 120, MML pp 759-761, KR Can 567-577. Acquitals require no finding or sentence for revision by Court: AA 54(2), RP 120(G). If MacAward of confirmation or non-confirmation may be altered before ion: KR Can 573. Duties and powers of reviewing offre: AA 57, yr. AM 172 (n 1.) in Part I is: Son on determine Carricolar until Timther orders (1) I in Part I is: Son on determine Carricolar until Timther orders (1) I in Part I is: Officer 1/0 Carridon Selection and I in Carricolar (Sgd) R.L. M. BURGS (

CR 67 dated 26 Jan 45 E(Smissels) Inc Gdn Sec 1 Sch HQ 21 A Op

ALL DELETIONS AND ALTERATIONS WILL BE INITIALLED.

FIELD GENERAL COURT-MARTIAL

Convened by Order of Maj Gen E.L.M. EURNS Comd Gdn Sac GHQ dated 17 Jak 45

ACCUSED. 1 Sch 81 A Op

(As to the trial of two or more charged jointly see RP [6, 71, 109. As to reasons for showing (a) permanent or confident rank, and (b) appmt, Ajrank or Alappont, 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.

Hugh Cameron RYNARD

GERTIFIED TRUE COPY

Scotia Sec No Brussel arrison

PROCEEDINGS OF TRIAL.

Held in the Fd in (country) INCLUME on (date(s)) 20 JAM 45

RECORD FORM A-OPENING PROCEEDINGS AND ARRAIGNMENT.

Al. The President, Members, waiting Member, Aboth new condition conditions of any, assemble, and the Court is closed.

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

(PRINTED MATTER, NOT IN ITALICS FOR GUIDANCE, WILL BE DELETED IF NOT USED OR APPLICABLE, AND INITIALIED BY PRES OR IA. The Schedule referend to throughout is on p. 4. Citations do NOT include all relevant fine ROs. Far guidance on pracedure when a variation in this form usues, see farm for GCM in AdML pp 341 to 759. A brief record of such variation will be mode and given a number having reference to appropriate or precedure para number herein. See back of Convening Order, CF A95, for outs and listers on how to record addresses, evidence, etc., which linates are hereafter colled "Notes". As to general previous for conducting the treat see As 33, 89 36, 63-70, 73, 74, 94, 103, 118, 1323.

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(2), accused Figure) amenable to military law, and each charge discloses an offence.(1)

(I. As to use of Summary of Exidence see RP I7 fn 6. 2. AA 49, 50, RP I05-I07. 3. RP II-I3, 23, 24.)

A3. The Court is opened. The accused is good brought before the Court. At 0930 hours trial commences.

A4. The Prosecutor produces a Medical Certificate that accused indexes the undergo trial by court-martial.(*)

**ARCFUSE-STOR INTERIOR AND COURT THREE RESERVED for the tries of a court-martial (*)

**Expenses/Nobecher E0.(*)

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

A5. Registrate engueres a les come sobjets to come différent to come de la company de

(1. RP 72. Delete, if name 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 ‡

Ans Mo (1)

D.141949 Pte

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

A7. This Procedure Manufacture LA, 16 page and Office modes for the Company of the Comp

A7. The President, Members and off any and office under in the second was sworn (1). The following are the ranks, names and units of the offes comprising the Court, etc.)

Major Gales MagDOUGALL CAG 9 G R Bn S. ROY Member Capt OIC 11 CBR Bn Liout E. QUILLET CIG 10 CBR En Member Judge-Advocate Lieut J.J. H. CONHORS ROAMC - Gdn S.c Brussel Prosecutor Defending Offr Lieut. P. LAPOND Questions by President: Is the Presecutor a lawyer ? Ans Mo. Is the Defending Offr a lawyer ? Anko (2)

Questions by President: Is the Prosecutor a lawyer f. Ans. Mg. ... Is the Defending Offr a lawyer f. Ark G. (F)

(1. RF 25, 107, 107, 111). List of affre under instrail be returned superstely with proceedings for information of Care Offr).

(2. If from a lawyer and Def Offr not, accused is entitled to an adjournment when RF B (8) and fo 2 were not followed. See Di p 2.)

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

(I. If a special plan is mode for separate 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 lear of trial (RP 36), or as to occured y mentur fitness to stand trial (AA 130, RP 37), or by one of several occused charged pointly to be tried separately (RP 16, 71), such plan, the addresses made in support or against the evidence. If any, and finding one reserved per Notes. For forms of record see references in fins to RIP cited. Insert in AB rank and name of the occused moking the plan.)

(II.M. 17)

A9. The accused isomer arraigned imperces of all charges in the charge sheet.(1) The accused document of the pleas in Part I of the Schedule.

(1. RP 31, 112. See para 1 of linstris p. 2. When more than one Change Sheet see RP 62; when several accused to be tried separatorily see RP 71(C), and use apparatic capies of CF A96 to record proceedings.

2. RP 32, RP 33. If otherwise, delete and make appropriate record per Noems.)

Alo. The Cource and and considers the Instrs 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.

Vol II p. 136

The accused may not plead or be found Guilty on more than one of two or more charges laid in the alte (RP 37(A).) As to withdrawal of alternative charges by Prosecutor see RP 35(C). No other charge can be verifor any reason without authy from Convening Offr, If Convening Offr concurs, Court may accept plea of Guilly tete, offence. (RP 44(H).) Accused may change a plea of Net Guilty to Guilty during trial. (RP 38.) As to 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.
- 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).
- 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 Offe 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 75-70, 86, 116; use of Summary of Evidence at Trial see RP 17(E) for 0 ε and responsibility of JA or Pres to record proceedings see RP 04, 06.

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

B1. The President or day energy 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), call witnesses as to character and make an address in mitigation of punishment.(2) (1. RP 35 fm 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 charge(s).(1) If it appears from your statement that there are circumstances which indicate that you do not understand the effect of the piea of Guilty(1), or which show provocation or extenuation in respect of which in your interest the witnesses for the Prosecution should be examined(1), 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! Ans Mo (1. RF 37(B), 2. RF 37(D) fn 6. 3. RF 35(B) fn 5 para 3, MML p 54 para 47. 4. See para E3 of Record Form E. S. Statement, if any, recorded per Nates.)

B3. The One respective accuse is statement (*): The Correlation (but) to advise accused to sharp his List Rhout please) of Guilty are Not thally and all all all all charge is a Thronousiack is such so inframed, welder (they)

plante is in the compression on the action of the state of the school of the school of the school of the state of the school of the school of the state of the st

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. RF 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. 0., initialled and read aloud by the President.(1)
(1. If there is no Summary, or if it is inadequate, comply with RF 37(B). If there is any evidence inconsistent with any plea standing as Guilty, Court will obline accused to change such plea and, if changed to Not Guilty, try such charge(s) by use of parts D1 to D8 inclusives of Recard Form D as p 3. RF 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 inclusive of Record Form D on p 3 before proceeding with C 2.4

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

(I. Under B5 such ports only of the Summory of Evidence are read as relate as the charges dealt with under C2. If any piec is charged to Not Callett, trial therefore proceeds by complying with paras D1 to D8 inclusive in Record form D on p 3 and making an appropriate record charges on a separate sheet.)

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

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

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

D1. President to accused: Do you wish to apply for an adjournment on the ground that any of the rules to procedure before trial have not been complied with, and that you have been prejudiced thereby, or on

The Prosecutor makes (an) (no) opening address (1) (1. RP 39(8), 60(A) (B), 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 Con 555. Record evidence per Notes. As to Prosecutor giving evidence higheif 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).(2) The Court

(1. Delete remainder of this para, if submission not made. 2. Arguments on submission, answer and reply are recorded per hostes. 3. RF 40 fn 1. See MML p 72 paras 12-14 and p 81 para 42. 3. Delete part not used. If accused acquitted on all charges use second alternative in pera D8.) No. If trial proceeds, accused must be allowed great latitude in making his defence, and the Court should not stop his defence solers on ground of irrelevance. (RF 40(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. [9]
You may, however, make a statement without being sworn, and you will not be subject to cross-examination. [9]
But a statement which could have been made on oath will not carry with the Court the same weight as sworn testimony. [9] You may call witnesses in your defence and as to character, whether you give evidence or make a statement or do

		cused : Do you v	rish to give girdene		as a witner	es, make a stat	ament, or a	to neither I
Ans			1	o you	intend to	call witnesse	s on you	
Ans	(i. RP 11		nesses as to character 80(Ox 3. RP 40 fn					

D6. Consequent on the answers proorded in para D5 the appropriate procedure for the defence is followed.(1)
(1. RF 114, 175, 116. For professor see Notes on back of Convening Order, CF 885. Evidence for accused as to his
character should. If in his interest, by given before the finding. See RP 46(A) ft 1, 86(C). Note the further opportunity in para £1
of Record Form E. Record per Hybris addresses, stotament, evidence and any 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.(3) The Court is re-opened.
(1. RF 43, 117(A). See Notes in Part I of Schedule. 2. RF 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 (*)

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 (*)

(*) A5 4(1) (6) & P 45. (1204). 2. A5 3(3) & P 45. (17. This alternative announcement is not applicable when there are played of Guilty substanding and dealt with under Record Form B as C.)

D9. 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.

E	President to accused: Do you wish to give evidence yourself or to call any witnesses as to your character !(
Ans	Tes that macros of gives avidences (I ferionic has already been given by occused or his winesses as to his character, delete this para. RF 37(C) fn 4. 46 fc 1. Accused one winesses are where. Evidence recorded her Notes.)
E	2. The Prosecutor produces State-Section Companies and Particular Con Service Pt. and certified tru

copy (copies) of Conduct Sheet(s)(f), 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(l) (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 and Ex D respectively (*)
(!. M/B 355 or AFB 296. 2. MFM 6. 3. RP 46, KR Con 558. If above documents not produced, see RP 46 fn !
pare !-)
(ST.35

E3. President to accused: Do you wish to address the Court on the TRANSCHO AGE Conduct Sheet(s), and in mitigation of punishment $\Gamma(1)$. Ans $\frac{\sqrt{2}}{(1-R^2)^2}$ $\frac{\sqrt{2}}{(1-R^2)^2}$ $\frac{\sqrt{2}}{(1-R^2)^2}$. Address, if any, recorded per Notes. Court should permit occused or his witnesses to prove on each anything here or previously stated which would affect the amount of punishment. RP T(F) in T_1

E4. The President states that the Court is closed to consider the centence, 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), RF 120(A),)

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)

(i. When several occused tried separately see RF 71 (D). One sentence only, comprised of the punishment or punishments laid down in AA 41, 44 and its provise, is to be exercised to cover all charges in all charge sheets on which occused found guills.

AF 62, As to sentence see AA 44, 123, 182, 87 4-53, 89, 118, 119(A), KR Con 308, 330, 553-564, Overseas AD 507, 2222, AMM, 96, 753-758. As to sentence assignment of covering the third of England see (15), MM, p. 130. When accused already under sentence of imprisonment extracted as A44(18), 68(7), KR Con 584.

Confirming Office & KR Con 567. As to assembly and dispased of record ofter trial see mission to book of Convening Order.)

PRESIDENT OR JA WILL INITIAL ALL DELETIONS AND ALTERATIONS.

CHARGE SHEET

The Accused, No D-141949 Pre High Cameron RYNARD, North Nova Scotia Highlanders, att Cdn Sec No Brussels Carrison, a soldier of the Cdn Army Overseas, is charged with

FIRST CHARGE SEC 41 ARMY AUT

WOAS committing a civil offence, that is to say, common assault

in that he

in BRUSS LS at approx 2045 hrs 17 DEC 44 in the Cafe an Ballon, 108 Blvd Anspach, Prussels, assaulted Mr. Pierre Hubert REYMARD, manager of the cafe, by striking him on the right hand with a pistol, thus fracturing the 5th metacarpal bone in the hand.

SEC 40

WOAS conduct to the prejudice of good order and military discipline

in that he

in BRUSSELS at approx 2045 hrs 17 DEC 44 in the Cafe au Ballon, 108 Blvd Anspach, brussels, caused a disturbance by waving a pistol.

THIRD CHARGES
SEC 19
ARMY ACT

WOAS drunkenness

in that he

in BRUSSMIS at approx 2245 hrs 17 DEC 44 in the Cafe au Ballon, 108 Blvd & spach, brussels, was drunk.

In the Field 15 Jan 45

(Sgd) L.P. Payan Lt-Col Commanding Officer Cdn dec NG Pressels Grn

To be tried by Field General Court Martial.

In the Field 17 Jan 45 (Sgd) E.L.M. Burns Major-General Go 1/c Gdn Sec 1 Ech Mc 21 A 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 Overseas, or of any other force if authorized in law, in immediate comd of troops on active service, subject to RP (DSIC) and restriction imposed by appropriate author. 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 Y paras 20 and 23, RP 87(8).

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 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, 109. As to reasons for showing (a) permanent or confirmed rank, and (b) appint, Airank or Ajappint, if any, see AA 182, 183, fis, KR Can 306, 328, 330.3

ACCUSED.

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

D=141949 Pto RMAID Ropth Nova Scotia Highes at Odn Sec HQ Prussels Carrison

CONVENING ORDER.

- 1. Whereas complaint has been made to me, the undersigned, that the persons named above as the accused, being subject to military law, has the committed the offence(s) set forth in the Charge Sheet@ attached and on (date). 17 Jun. 45 endorsed by meriandry amount of my statistic met." To be tried by Field General Court-Martial".
- And whereas I am of opinion that it is not practicable that such offence(s) should be tried by an ordinary General
 Court-Martial; Bend that it is not practicable to delay the trial for reference to a superior qualified with the Court-Martial; Bend that it is not practicable to the reference of the superior special court-Martial; Bend that it is not practicable that such offences with \$P\$ 103(C).
- I hereby convene a Field General Court-Martial to try the said person(s), and to consist of the Offirs appointed
 or detailed hereunder.
- 4. More resident appoint of a three Office of form the Courty (iv) a. Ed. Offices President; for the reasons Educe restricted bursto.

 (AA 49, RF 106(b), 107(A). Delete the whole or part. if not applicable.)
 - 5. Madeo appoint as Judge Adversate the east-the fifte mentioned bare under FLMB (RF 104E). Delete, if none appointed.)

PRESIDENT.

Major G.L.	MangDonggall X4 Islan CAG D C R E (Must be named. RF 106.) MEMBERS.	K). (Unit.)
A Capt or Lieut	(to be debatted by 90 11 GER Bn)	
A Capt or Lieut	(to be detailed by OC 10 CDR 2n) Walting MEMBER.	(Unit.)
A Capt or Lieut	(to be detailed by OC 10 GBR Pn) (Named or detailed, flam, RF 10e.) JUDGE-ADVOCATE.	(Unit.)
(Rack.) On Active Service in the Fd	(Must be named, if any. RP 106.)	(Unit.)
in Delgluss (Country.)	(Signed personally, R# 105 fn 2)	Had-Gen (Renk.)
Dat 17 Jan 45	Commanding Cdr Sec 1 Feb HQ 21	

CONVENING OFFR WILL INITIAL ALL DELETIONS AND ALTERATIONS

4/38A CFA 95 (In Reu of AFA 3)

Approvedt

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

Maj or

DJA

Regiment

MEDICAL OFFICER'S CERTIFICATE

I certify that No Al41964 Pte RYNARD, M.C. is fit to undergo trial by Court-Martial.

to A a a figure Cont.

Date 20 January 1945 (Sgd) C.P. Cion Cap t Signature of the MO

SINT-PIETER HOSPITAL OLM

negab elia negalgeldeaM anegrom atruu e tot 8 nav

> HORPIAN GALMY-PIRME 182, Y. HERCE, BRUXELES

Prof H. DANIE

ub elsolaumido supinilo nav seimila esibnoslees equol sei suot snotratiusnoo nitam ub sequent 8 a 8 eb

THERM , QUANTER

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Case of: I am accused: D141949 Pte Hugh Cameron Rymard North Nova Scotia Highlanders att Cdn Sed MQ Prussels Grn.

Q.1 What happened on the 17 Dec 44.

A.1.On the 17 Dec 44 I came in to town on leave from "ignegen to Brussels and there was no rooms at the Maple Leaf Club so billets were arraigned with civilians and by the time I got

billets were arraigned with civilians and by the time I get settled it was 1700 hrs.

We had something to eat and went into a care and had something to drink. While we were in the care, I bought a something to 45 Army issue from an American soldier. I purchased the pistol because we are not allowed to carry German weapons at the time. We drank quite a hit of money anything more until the next morning. I never drank the but I never had the accasion to get into trouble before. but I never had the occasion to get into trouble before.

Q.2How old are you?

- A.2 20 sir, and I have been in the army 15 months new and since September I have been in Turope, and I always have been with my unit since that time and I am a ri/leman in a platoon sir, I have been with them in Scheldt and also in higheren with my section since havember. This is my first leave am and would say that he is about 25 yrs old.
- Q.3 Before the war I was working at the inspection board at

AA 83 (B) complied with.

Mr PRESIDING

On this present case we have a soldier who has been a poor victim of circumstances and facts which he had no intentions to do at all. Pte Rynard was on leave in brussels he met a friend and had many drinks; so, in this state, a friend who, according to the summary of evidence, was elmost a thirg which could have been precented. I do understand that drunkenness is no an excuse, but we can deduce that if the action.

Rynard caused a disturbance in this care but there has friend made in a way as much trouble as he did, a thing which we must consider becase the other soldier pot away without a charge. I do understand that it is a serious the summary of evidence, the public place, but according to don't see any montion that the accused had bullets in his master. We should think that the accused friend made in a way as much trouble as he did, a thin,

don't see any montion that the accused had bullets in his pockets, for this reason, we should think that the accused didn't put anybody in danger or in a "tough spot". Pierre Bubert Reynard stated that the wishes to windraw my complaints. I feel that the accused had no intention of harming me or anyone else and also that he has seen considerable fighting and is worthy of this consideration

SUMMARY OF EVIDENCE

Summary of Evidence in the case of NO: D141949 Fte RYNARD, Hugh, Cameron. North Nova Scotia Highlanders attached Canad-ian Section HQ Brussels Carrison, a soldier of the Canadian Army Oversons.

The Commanding Officer directs that the evidence to taken on onth.

Mr Pierre Hubert REYMARD (Care Manager) 108 Blvd Al SPACH, irst Witness: Mr Pierre Mubert Water State En lish requires an interpretor.

Interpretor (French-English) D21226 L/Gpl LEGAULT, A 2 Gdn L of C Provost Goy sworn.

Witness having been duly sworn states as follows:

"On SURDAY 17 DECEMBER 1944 at approximately 2245 hrs at my Gare AU BALLOK, 108 ANSPACE, BELSELS two soldiers entered. Inta soldier I see here now was one of them. They asked for something to drink and they were after the weitress for quicker service, and that is how the trouble started. The waitress told them that she needed a bit of time, so this man pulled a pistol and waved it around saying "I want quick service." This happened at the bar. Then they both went over to the tables and started arguing with some british soldiers. The English soldiers didn't want to fight so the accused's company arabbed a chair throwing it on the floor and breaking tables and started arguing with some british soldiers. The English soldiers didn't want to fight so the accused's companies of grabbed a chair throwing it on the floor and breaking it. He was drunk. This man calmed down then and I went to my other duties. A short while after I saw the accused and his friend on the terrace and they were arguing with other soldiers. It was 1100 PM so I rang the beel signalling the Cafe was closed. At this moment I saw the accused with his pistel in his hand waving it around. The other soldier (his friend) had a chair in his hand with which he hit more than one English soldier. At this time I approached them saying "It is now 11:00 o'clock and you will please leave now." The other soldier grabbed another chair, broke it on a table, also breaking some glasses which were on the tabel. Being afraid of more trouble I tried to get them out of the Cafe, assisted by four or five other soldiers, we put them out on the street. At this time the accused had me by the coat with one hand and with his other hand drew his pistel my hadding it by the barrel, hit my on hand drew his pistel my both holding it by the barrel, hit my on hand drew his pistel falling holding it by the barrel, hit my on hand drew his pistel falling to the street, having been knocked from his hand by a civilian. Here is the Medical Certificate which I received from the hospital after they examined my hand, (Marked)Exhibit "A"). In my opinion the accused was drunk. I wish to withdraw my complaints. I feel that the accused had no intention of harming me or anyone else and also that he has seen desiderable ing me or anyone else and also that he has seen considerable cirhting and is worthy of this consideration.

Assused declines to cross-examine.

Second Witness: Mr Robert HUSTIK (decorator) 242 Ave BRUCHAMI, BRUSSELS being unable to speak English requires an interpretor.

Interpretor (French-English) D21226 L/Cpl LEGAULT, A 2 "dn L of C Provost Coy is sworn.

Witness having been duly sworn states:

"On I think SUNDAY, 17 DECEMBER 1944 at approximately 1100 PM .
I was on the street in front of the Gare An BALLON. I saw
the manager, Mr MCYNARD and this soldier - whom I recognize.
This coldier was maving a pistol around. I approached the
accused and twisted his arm until he dropped the pistol. He
accused and twisted his arm until he dropped the pistol. He
had a kmire in his belt which I removed for safety, although
he had not tried to use it. I gave the kmife and pistol to
the Belgian Phlice. In my opinion the accused was drunk.

Accused declines to cross-examine this witness.

Knife and pistol not evailable for identification by the Witness.

Third Witness: Mr RANSKIN, Officer of the Belgian Police, BRUSSKLS,

In my opinion the attendance of the above witness at this Summary of Evidence is impossible at the present time, but he will be available to give evidence on a Court Martial.

(Sgd) H H House Capt Officer taking Summary.

Certified correct translation of abstranct from Records of Belgian Fivil Police attached herewith, marked Exhibit "O".

(Sgd) H H House Capt Officer taking Summary.

Pour Witness: having been duly sworn states as follows:

"I am 768923 Cpl JOHNSON, H., of 120 Provest Coy, Gorpa of Military Police. On the 17 DEC 44 I was called out to the Town Hall in the Grand Place, BRUSSELS. On ar ival I saw the accused, whom I pecognize, with another soldier. They had been drinking. He accused was semi-conscious and laid out on the floor. He was drunk. With the help of the Civil Police and the truck driver I carried him out and laid him in the truck. I then placed him under arrest to be detained. The accused caused no trouble. I returned to the Police Station (Civil) after placing the accused in the truck and the Police Inspector showed me a gun and knife. I cellected the gun and knife and asked the other Ganadian soldier, who had been drinking and was not drunk, to come with me to the vehicle which he did. When we get outside he became very violent, he tried to get the Fivil Police Aspector by the throat. I tried to restrain him and he took a kick at me. He gun and knife was placed in the truck after a violent strucked which had with the other prizoner. I handcuffed him with the help of the Civil Palice. I brought both prisoners to Frince Albert Barracks. Exhibit "B" is a knife similar to the one received from the Belgian Police but I did not see the scabbard before this. I cannot say that his is the same knife. I do not know what happened to the gun after I placed it in the truck.

The accused declines to cross-examine this witness.

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."

I do not wish to make a Statement or give evidence. I reserve my Derence.

(Spd) H H House Capt officer taking Surmary.

I certify that the foregoing Summary of Evidence consisting of five pages was taken down by me in the presence of the accused and that RF 4(c) (d) (6) and (f) have been complied with.

In the Pield 10 Jan 45

(Sgd) H H House Cap t

Request for Defending Officer

I request that an officer be appointed for my defence.

List of Witnesses for the Prosecution

Mr Pierre Hubert REMEARD 100 Flvd ANSPACH, BRUSSELS /Care Au BALLON Mr Robert HUSTIN 242 Ave HHUGMAIN, BRUSSELS Mr Ranskin Belgien Police Officer Town Hall, BRUSSELS W60825 Opl JOHNSON, H. 12- Provost Goy CMP

List of "I tresses for the Defence

NIL

List of Batibits

Exhibit "A" Exhibit "B" Medical Certificate Knife and Sheath Certified correct translation of belgian civil Exhibit "C" Police Record.

In the Field 10 Jan 1945

(Sgd) H H House Cap t

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PROVINC	E O	F ON	TARIO
COUNTY	OF	CAR	ETON

of the City of Ottawa, in the County of Carleton, an employee of the Department of National Defence, make oath and say:

 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.

THAT on the date indicated therein I did make microphotographic copies of files listed in Appendix "A" hereto and of all documents contained thereon.

 THAT the said microphotographic copies may be identified from the indexing data and the job and reel numbers contained in Appendix "A".

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APPENDIX "A" TO THE AFFIDAVIT

CAMERA OPERATOR'S REPORT

	1	JOB NO	14	REEL NO. 8	9		
			7-9				
PRODUCTION DATA		44-89		INDEXING DATA	4h-898		
DATE	HOUR	BEGINS WITH		L.C.	RYAN P.J.		
STARTED		1,					
FINISHED		2.					
TOTAL NO. OF HOURS.	1 2/3	3.					
	417	ENDS WITH	RYAN 0	.P.	RYNARD H.C.		

END

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